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SENATE—*Friday, July 30, 1976*

The Senate met at 9 a.m. and was called to order by Hon. JOHN GLENN, a Senator from the State of Ohio.

PRAYER

The Reverend William Robert Senter III, rector, Epiphany Episcopal Church, Lebanon, Tenn., offered the following prayer:

Almighty God, who by Thy gracious providence has given us this good land, bless, preserve, and protect us as we conduct the business of government. Help us to remember the ideals of our forefathers, enable us to act for the good of our citizens, and show us how to chart the course of this Nation for the future.

Thou knowest it is not easy to sit in this hallowed Chamber. Lift us above those narrow, petty things of life that restrict our action, limit our vision, and compromise our principles. Give us that humility, wisdom, and maturity which comes from knowing who Thou art and who we are so that we may be the leaders and not the led, servers and not the served, faithful and not the faithless.

By Thy grace and good gifts we have been led to the dawn of a new age for mankind. Therefore, assist us in perceiving Thy purpose and discerning our destiny. Give the people of this Nation a unity of spirit and a willingness to work and sacrifice for their common good and the good of all mankind.

These things we pray in the name of Jesus Christ our Lord. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., July 30, 1976.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. JOHN GLENN, a Senator from the State of Ohio, to perform the duties of the Chair during my absence.

JAMES O. EASTLAND,
President pro tempore.

Mr. GLENN thereupon took the chair as Acting President pro tempore.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Thursday, July 29, 1976, be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

MAGNA CARTA—SENATE DELEGATION FINANCIAL REPORT

Mr. MANSFIELD. Mr. President, as the Senate knows, on display at this time in the rotunda of the Capitol is one of the original issues of the Magna Carta. It is on loan to the Congress as a contribution by the British Government to the celebration of the Bicentennial of the Nation's independence.

When the original is returned to Great Britain a few months hence, it will be replaced by a gold replica of Magna Carta. The replica and the magnificent case in which the document is now contained are gifts to the people of the United States from the British people. They will remain permanently.

Magna Carta has been on exhibit since early June. In scarcely 2 months, it has been seen by probably about one-half million visitors. In the years ahead, untold millions more will have an opportunity to obtain a sense of the long roots of freedom that is imparted by this document which dates from the 11th century.

If one were to point to the most significant and meaningful acts of the Bicentennial years, Mr. President, the generous gesture of the British people in transferring the Magna Carta to our custody would rank very high. Moreover, this gesture is enhanced by the gift of the artistic replica and display case. Finally, I would note that the ceremonies attendant on the presentation in the United Kingdom in which a joint congressional delegation under the chairmanship of the Speaker participated were perfectly attuned to the importance of the event. The joint congressional delegation, in turn, sought to receive the British delegation which came to this country for the dedicatory ceremonies in the rotunda in a similar vein. I must in this connection note the outstanding contribution of the Defense Department and, in particular, the Air Force in providing pageantry and other assistance for the occasion.

It seems to me, Mr. President, both countries—the United Kingdom and the United States—have gained something enduring from this unique Parliament-to-Parliament undertaking for the Bicentennial. The presence of the Magna Carta display in the rotunda adds to the relevance of the Capitol. It will serve for years to come to illuminate to the countless visitors to this building a great milestone on the road to human freedom. It will also serve to remind the Nation of its political origins and of the deeper meaning of the Bicentennial of independence long after the ribbons and bunting and the commercial paraphernalia of the year 1976 will have been forgotten.

Mr. President, for those who may be interested, I report at this point on the costs to the people of the Nation for the Senate's participation in the Magna Carta event:

SUMMARY OF EXPENSES OF THE SENATE ATTENDANT TO THE PRESENTATION OF THE MAGNA CARTA, UNDER AUTHORITY OF SENATE CONCURRENT RESOLUTION 98, AGREED TO APRIL 5, 1976

En Route to and in London, England (Senate Only):	
Meals and lodging	$676.36
Official entertainment	288.81
Local transportation	133.41
Foreign currency and travelers check fees	34.34
Support services furnished by executive agencies	4,107.33
Total	5,240.25
United States: (For Joint House-Senate Reception of British Delegation):	
Transportation	3,397.38
Food and entertainment	1,027.30
U.S. flag pinettes	198.00
Luncheons	3,999.73
Dinner	1,203.40
Telephone	15.30
Total	9,841.11
One-Half of U.S. expenses chargeable to the Senate	4,920.56
Grand Total	$10,160.81

NOTE.—Invoice for the official dinner held on June 3, 1976 at the National Portrait Gallery has not yet been submitted for payment, of which amount, one-half will also be chargeable to the Senate.

Mr. President, other than half of the cost of the dinner at the Portrait Gallery and the cost of transport by U.S. military craft to London and return, which was provided by the Air Force and which does not involve reimbursement, I know of no other charges of any consequence for this endeavor.

The Senate will recall that when the delegation returned from London, I estimated the Senate's cost for that initial part of the event, the overseas aspect, at $7,500.00. The total cost, Mr. President, was actually $5,240.25.

CONSIDERATION OF CERTAIN ITEMS ON THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Nos. 778, 981, and 984.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

CIVILIAN INTERNEES IN SOUTHEAST ASIA

The bill (H.R. 5360) to increase benefits provided to American civilian internees in Southeast Asia, was considered, ordered to a third reading, read the third time, and passed.

SIOUX BLACK HILLS, AND WICHITA TRIBAL CLAIMS

The Senate proceeded to consider the bill (S. 2780) to amend the Indian Claims Commission Act of August 13, 1946, and for other purposes, which had been reported from the Committee on Interior and Insular Affairs with an amendment to strike out all after the enacting clause and insert the following:

That, section 20(b) of the Act of August 13, 1946 (chap. 959, 60 Stat. 1054), as amended, is hereby further amended by adding a new sentence at the end thereof, as follows: "Notwithstanding any other provision of law, upon application by the claimants within thirty days from the date of the enactment of this sentence, the Court of Claims shall review on the merits, without regard to the defense of res judicata or collateral estoppel, the determination of the Indian Claims Commission entered February 15, 1974, adjudging that the Act of February 28, 1877 (19 Stat. 254) effected a taking of the Black Hills portion of the Great Sioux Reservation in violation of the fifth amendment, and shall enter judgment accordingly.".

SEC. 2. (a) Notwithstanding sections 2401 and 2501 of title 28, United States Code, and section 12 of the Act of August 14, 1946 (60 Stat. 1052; 25 U.S.C. 70k), jurisdiction is hereby conferred upon the Court of Claims under section 2 of the Indian Claims Commission Act of August 13, 1946 (60 Stat. 1050; 25 U.S.C. 70a) to hear, determine, and render judgment on any claims the Wichita Indian Tribe of Oklahoma and its affiliated bands and groups have against the United States with respect to any lands or interests therein which were held by aboriginal title or otherwise, which were acquired from such tribe, bands, or groups without payment of adequate compensation by the United States. Such jurisdiction is conferred notwithstanding any defense of res judicata or collateral estoppel, or any failure of such tribe, band, or groups to exhaust any available administrative remedies. Any party to any action under this section shall have the right of review with respect to any decision of the Court of Claims as provided by section 20(c) of the Act of August 13, 1946 (60 Stat. 1054; 25 U.S.C. 70s).

(b) Any award made before, on, or after the date of the enactment of this Act, under any judgment of the Indian Claims Commission or any other authority, with respect to any lands that are also the subject of a claim submitted under this Act shall not be considered as a defense, estoppel, or setoff to such claim, and shall not otherwise affect the entitlement, or amount of, any relief with respect to such claim.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

COSMETIC SAFETY AMENDMENTS OF 1976

The Senate proceeded to consider the bill (S. 1681) to amend the Federal Food, Drug, and Cosmetic Act with respect to cosmetic safety, which had been reported from the Committee on Labor and Public Welfare with an amendment, as follows:

That this Act may be cited as the "Cosmetic Safety Amendments of 1976".

TITLE I—COSMETIC SAFETY

SEC. 101. Chapter VI of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 361 et seq.) (hereinafter referred to as the Act) is amended to add a new section as follows:

"COSMETIC SAFETY

"Cosmetics Deemed Adulterated

"SEC. 604. (a) A cosmetic shall be deemed to be adulterated under section 601(a), if—

"(1) its safety has not been adequately substantiated prior to and during the commercial distribution of the cosmetic; or

"(2) requirements applicable to that cosmetic by or under subsection (c) of this section have not been met; or

"(3) it is a banned cosmetic; or

"(4) it is deemed unsafe under subsection (c)(5).

"Cosmetic Safety Substantiation

"(b)(1) The safety of a cosmetic shall not be considered adequately substantiated unless—

"(A) on the basis of all data and information relating to the safety of the cosmetic it can reasonably be concluded that the cosmetic is safe under the conditions of use prescribed in the labeling of the cosmetic, or under such conditions of use as are customary or usual;

"(B) such data and information are contained, or referred to, in records maintained by the manufacturer or the distributor who is designated under section 605(b)(1)(D) as responsible for maintenance of such records respecting that cosmetic; and

"(C) all data and information maintained in accordance with subparagraph (B) are submitted to the Secretary when he shall, by regulation, so prescribe, or upon his written notice or the written notice of a person designated by the Secretary for such purpose.

"(2) The data and information referred to in paragraph (1)—

"(A) shall include full reports of specific testing conducted by the manufacturer or his designated representatives in animals or humans by such methods as are methodologically adequate and reasonably applicable to determine the potential of the cosmetic for—

"(i) toxicity,

"(ii) sensitization, and

"(iii) irritation,

under such conditions of use as are prescribed in the labeling of such cosmetic, and under such other conditions of use as may be reasonably foreseeable except that, in lieu of conducting such tests, data and results of published scientific tests in animals or humans which are methodologically adequate to determine the potential of the cosmetic for toxicity, sensitization, and irritation may be substituted; and

"(B) may include published scientific literature or unpublished data and information in the possession of the manufacturer or distributor relevant to the cosmetic and the cosmetic ingredients.

"Cosmetic Safety Regulations

"(c)(1) Whenever the Secretary finds, after such consultation with members of the scientific community as he may deem appropriate, that existing safety substantiation data is inadequate to protect the public health with respect to any cosmetic, or class of cosmetics, he shall by regulation or order require such additional specific testing as he deems necessary to protect the public health, including testing of the cumulative and synergistic effects of such cosmetic, or class of cosmetics.

"(2) In requiring specific testing under paragraph (1), the Secretary shall by regulation provide that such testing be conducted by the manufacturer or manufacturers of such cosmetic or class of cosmetics, or by qualified persons independent of such manufacturer or manufacturers.

"(3) Whenever the Secretary finds that a cosmetic presents a substantial risk of illness or injury, he shall, by regulation:

"(A) prohibit the cosmetic from bearing or containing any substance which may render it injurious to users or limit the quantity of such substance in or on the cosmetic; or

"(B) require appropriate labeling pursuant to section 602; or

"(C) ban such cosmetic; or

"(D) require any combination of measures authorized in subparagraphs (A) and (B).

"(4) The Secretary may declare a proposed regulation issued under paragraphs (1) and (2) to be effective upon its publication in the Federal Register and until the effective date of any final action taken respecting such regulation if he determines that making such proposed regulation so effective is necessary to reduce or eliminate a significant hazard to any segment of the public associated with the use of the cosmetic which is the subject of the regulation. If the Secretary makes a proposed regulation so effective, he shall as expeditiously as possible give interested persons notice of his action under this subsection, promptly provide reasonable opportunity for an informal hearing and written expression of views, and thereafter, as expeditiously as possible, either affirm, modify, or revoke such proposed regulation.

"(5) A cosmetic shall be deemed adulterated—

"(A) for any use which will or may result in ingestion of all or part of such cosmetic or cosmetic ingredient if the cosmetic or cosmetic ingredient is found by the Secretary to induce cancer when ingested by man or animal, or if it is found by the Secretary, after tests which are appropriate for the evaluation of chemicals liable to be ingested by man, to induce cancer in man or animal, and

"(B) for any use which will not result in ingestion of any part of such cosmetic or cosmetic ingredient if, after tests which are appropriate for the evaluation of the safety of such cosmetic or cosmetic ingredient, it is found by the Secretary to induce cancer in man or animal.

"Definitions

"(d) As used in this section the term—

"(1) 'toxicity' refers to the short-term or long-term capacity of a cosmetic to produce personal injury or illness to human beings or experimental animals through ingestion, inhalation, or absorption through any body surface;

"(2) 'sensitization' refers to the capacity of a cosmetic to cause, following one or more prior nonreactive exposures, on normal living tissue through an allergic or photodynamic process, an injury to the original site or other sites;

"(3) 'irritation' refers to the capacity of a cosmetic on immediate, prolonged, or repeated contact with normal living tissue, to induce a local inflammatory reaction; and

"(4) 'testing' refers to the process of measuring, in terms of objective standards (as established by the Secretary in consultation with public and private individuals appropriately qualified by training and experience), the capacity of a cosmetic to cause illness or injury.

"Citizen's Civil Actions

"(e) (1) Except as provided in paragraph (2) of this subsection, any person may commence a civil action for mandatory or prohibitory injunctive relief, including interim equitable relief, on his own behalf, whenever such action constitutes a case or controversy—

"(A) against any person who is alleged to be in violation of this section or of any regulation issued under this section; or

"(B) against the Secretary where there is alleged a failure of the Secretary to perform any act or duty under this section which is not discretionary with the Secretary.

The district courts of the United States shall have jurisdiction over actions brought under this section, without regard to the amount in controversy or the citizenship of the parties.

"(2) No civil action may be commenced—

"(A) under paragraph (1) (A) of this subsection—

"(i) prior to sixty days after the plaintiff has given notice of the alleged violation to the Secretary and to any alleged violator in such manner as the Secretary may by regulation require; or

"(ii) if the Attorney General or the Secretary has commenced and is diligently pursuing judicial proceedings or administrative action with respect to such alleged violation,

"(B) under paragraph (1) (B) of this subsection, prior to sixty days after the plaintiff has given notice to the Secretary of such alleged failure to perform an act or duty.

"(3) In any action under this subsection, the Attorney General or the Secretary may intervene as a matter of right. The decision and rulings of the court, in any judicial proceeding commenced under this subsection, shall not be a bar to the institution of any judicial proceeding or administrative action by the Secretary against a party to such judicial proceeding, nor shall any factual finding by such court be determinative as to any fact in any subsequent judicial proceeding or administrative action, unless the Secretary is a party to the proceeding under this subsection.

"(4) The court, in issuing any final order in any action brought pursuant to paragraph (1) of this subsection, may award costs of litigation (including a reasonable attorney's fee, based on the prevailing rates for such services, and expert witness fees) to any party, whenever the court determines that such an award is appropriate.

"(5) Nothing in this subsection shall restrict any right which any person (or class of persons) may have under any statute or at common law to seek enforcement of any regulation or order or to seek any other relief.

"(6) Nothing in this subsection shall require the disclosure of any trade secret information or any other confidential information relating to cosmetics during discovery or at any time or place other than that which may be prescribed by the court.

"Defenses and Representations

"(f) Compliance with this section (1) shall not be an absolute defense in suits for product liability and (2) shall not denote certification by the Secretary that any cosmetic or cosmetic ingredient is safe. Any representation in labeling or advertising that creates an impression of certification shall be deemed misbranding.".

GOOD MANUFACTURING PRACTICES

SEC. 102. Section 601 of the Act (21 U.S.C. 361) is amended by adding at the end thereof the following new subsection:

"(f) If the methods used in, or facilities and controls used for its processing do not conform to, or are not operated or administered in conformity with, current good manufacturing practices, as determined by regulations issued by the Secretary.".

CONFORMING AMENDMENTS

Definition

SEC. 103. (a) Section 201 of the Act (21 U.S.C. 321) is amended by adding the following new subsection at the end thereof:

"(y) For the purposes of sections 604 and 605, the term 'commercial distribution' means any distribution of a cosmetic in interstate commerce except limited distribution for the sole purpose of safety testing where the recipient of the cosmetic provides no consideration and the distributor knows and records the name and address of each such recipient.".

Amendment to Section 303

(b) (1) Section 303(c) of the Act (21 U.S.C. 333) is amended by striking the period at the end thereof and inserting at the end thereof the following: "; or (6) for having violated section 301 (a) or (c) with respect to a cosmetic because the cosmetic is deemed adulterated under section 604(a), or misbranded under section 602 (g), (h), or (i), if such person establishes a guarantee, in a form and under such conditions as are established by the Secretary by regulation, to the effect that the person from whom he received in good faith the article complied with the requirements of section 604(a), section 605, or section 602 (g) and (h).".

(2) Section 301(h) of the Act (21 U.S.C. 331) is amended by inserting "or in section 303(c) (6),", immediately following "303(c) (3),".

Modification of Soap Exemption

(c) Section 201(i) of the Act (21 U.S.C. 321(i)) is amended by striking "soap" and inserting in lieu thereof: "any soap, the bulk of the nonvolatile matter of which consists of an alkali salt of fatty acids and the detergent properties of which are due to the alkali-fatty acid compounds, and which is labeled, sold, and represented only as soap.".

Prohibited Acts

(d) (1) Section 301(e) of the Act (21 U.S.C. 331) is amended by striking the word "or" before "512" and by adding a comma and "or 604" after "(m)".

(2) Section 301 of the Act is further amended by adding a new subsection as follows:

"(q) The maintenance or submission of any required data, information, records, or reports, which contain any false or misleading information or that omit any material information.".

Adulterated and Misbranded Cosmetics

(e) (1) Section 601(a) of the Act is amended to read as follows:

"(a) If it bears or contains any poisonous or deleterious substance which may render it injurious to users, or if it is injurious to users, under the conditions of use prescribed in the labeling thereof, or under such conditions of use as are customary or usual, or if it is deemed adulterated under section 604(a).".

(2) Section 601(e) of the Act is amended to read as follows:

"(e) If it is, or it bears or contains, a color additive which is unsafe within the meaning of section 706(a). This paragraph shall not apply to any hair dye other than any eyelash dye or eyebrow dye.".

(f) Section 602(e) of the Act is amended by striking "as defined in the last sentence of section 601(a))" from the second sentence and inserting "(other than any eyelash dye or eyebrow dye)" in lieu thereof.

(g) Section 701(e) (1) of the Act (21 U.S.C. 371) is amended by striking "or" the second time it appears, and by inserting after "502 (d) or (h)" the following: ", 601(f), 604 (b) or (c), or 605".

CIVIL AND CRIMINAL PENALTIES

SEC. 104. (a) Chapter III of the Act (21 U.S.C. 331, et seq.) is amended by adding at the end thereof the following new section:

"CIVIL PENALTIES

"SEC. 308. (a) Any person who is found by the Secretary, after written notice and an opportunity for a hearing, to have committed an act prohibited by section 301 of this chapter with respect to any cosmetic, shall be liable to the United States for a civil penalty of not more than $10,000 for each violation. If any such violation is a continuing one, each day of violation constitutes a separate offense for such purpose. The amount of such civil penalty shall be determined and assessed by the Secretary, or his delegate, by written notice.

"(b) Any person against whom a violation is found and a civil penalty assessed under paragraph (1) of this subsection may obtain review in the court of appeals of the United States for the circuit in which such person resides or has his principal place of business, or in the United States Court of Appeals for the District of Columbia, by filing a notice of appeal in such court within 30 days from the date of such assessment and by simultaneously sending a copy of such notice by certified mail to the Secretary. The Secretary shall promptly file in such court a certified copy of the record upon which such violation was found and such penalty imposed, as provided in section 2112 of title 28, United States Code. The finding of the Secretary shall be set aside if found to be unsupported by substantial evidence, as provided by section 706(2) (e) of title 5, United States Code.

"(c) If any person fails to pay an assessment of a civil penalty after it has become final and unappealable, or after the appropriate court of appeals has entered final judgment in favor of the Secretary, the Secretary shall recover the amount assessed in any appropriate district court of the United States. In such action, the validity and appropriateness of the final order imposing the civil penalty shall not be subject to review.".

(b) Section 303(a) of the Act is amended to read as follows:

"Penalties

"(a) Any person who violates a provision of section 301 shall be imprisoned for not more than one year or fined not more than $10,000, or both; except that such penalties shall apply to any individual who violates a provision of such section 301 with respect to cosmetics or who causes a violation of such section 301 to occur with respect to cosmetics, only if such individual knowingly, willfully, or negligently violates, or causes the violation of, such provision."

EFFECTIVE DATE

SEC. 105. (a) The provisions of this title shall take effect October 1, 1977, except as provided in subsection (b).

(b) The legend required to be placed on the label of a coal-tar hair dye by the proviso of section 601(a), prior to the enactment of this Act, shall continue to be required until the Secretary issues regulations under section 602 prescribing different requirements.

TITLE II—REGISTRATION AND COMPLIANCE

SEC. 201. Chapter VI of the Act (21 U.S.C. 361, et seq.) is amended by adding at the end thereof the following new section:

"REGISTRATION OF COSMETIC PROCESSORS

"SEC. 605. (a) (1) On or before December 31 of each year, every person who owns or operates an establishment engaged in processing a cosmetic shall register with the Secretary his name, principal place of business, and the location of each such establishment, in such manner and form as the Secretary shall prescribe by regulation.

"(2) Every person required to register under this subsection shall, within ten days after commencing operation of any additional establishment, register such additional establishment with the Secretary.

"(3) Every person required to register under this section shall promptly notify the Secretary if he ceases to process cosmetics in any establishment unless such cessation is temporary.

"Registration of Cosmetic Lists

"(b) (1) Every person required to register under his section shall, for each such establishment, include as part of such registration the following information regarding any cosmetic which is in commercial distribution—

"(A) a list of each cosmetic processed in each such establishment by brand name or names;

"(B) the class of cosmetics (as prescribed by the Secretary by regulation) of each such cosmetic;

"(C) a list of each ingredient used in each such cosmetic in descending order of predominance by weight, showing the percentage of each such ingredient within 5 percentage points of the actual percentage of the total weight of such cosmetic which the weight of each such ingredient represents, except that ingredients comprising less than 10 per centum of the total weight shall be indicated as within whichever of the following ranges is applicable: 0.1 per centum or less, 0.1 to 1 per centum, 1 to 5 per centum, and 5 to 10 per centum: *Provided*, That a flavor or fragrance may be designated as such if the manufacturer or distributor of such flavor or fragrance has separately submitted a registration statement containing a list of ingredients used in such flavor or fragrance which meets the requirements of this section:

"(D) the name and principal place of business of the person who is to be responsible, with respect to each such cosmetic, for the maintenance of records relating to safety substantiation required to be kept by section 604(b), and the location of such records; and

"(E) summary information on such cosmetic relating to hazards from accidental ingestion or misuse of such cosmetic (which information shall be based upon such investigations as are necessary to identify such hazards) and, where appropriate, information on antidotes or treatment.

"(2) The Secretary may also require the submission by any person required to register under this section of the following information concerning any cosmetic in commercial distribution if he finds that such submission is necessary or appropriate to carry out the purposes of this Act—

"(A) a quantitative list of the ingredients of any cosmetic,

"(B) a list of all cosmetics that include a particular ingredient or fall within a particular cosmetic class or for any particular use;

"(C) representative samples of the labeling or all labeling of any cosmetic or class of cosmetics.

"(3) The Secretary may by regulation require that information required by subsections (2) (A), (B), and (C) be included as part of an annual registration.

"Changes in Registration Information

"(c) If, at any time, material information submitted by any person required to register under this section is no longer accurate, such person shall file with the Secretary, within ninety days after the date on which such information is no longer accurate, such amendment or amendments as may be necessary to make the information accurate.

"Notification of New Cosmetic

"(d) The Secretary shall, by regulation, provide that any person required to register pursuant to this section who proposes to offer for commercial distribution a cosmetic—

"(1) which contains any ingredient which has not previously been used in cosmetics registered pursuant to this section, or

"(2) which is proposed to be used in an application for which such cosmetic was not previously offered for commercial distribution

shall, within twenty days before the date on which such cosmetic is first offered for commercial distribution, give the Secretary notice of the proposed commercial distribution of such cosmetic, along with a list of the ingredients used in such cosmetic and information as to its intended use as prescribed in the labeling thereof.

"Inspection, Reporting, and Recordkeeping

"(e) (1) Every establishment required to register under this section shall be subject to the inspection and reporting requirements of section 704.

"(2) Every person required to register under this section shall maintain records of all information submitted to the Secretary under this section. Such information, and other records relating to such information, may be inspected or required to be submitted under section 704.

"Availability of Information

"(f) (1) All formula data submitted under this section and section 604(b) shall be retained by the Secretary as confidential trade secret information, except that such information may be made available to a licensed physician, on a confidential basis, seeking such relevant information where necessary for the care and treatment of a patient.

"(2) Information submitted to the Secretary in compliance with requirements of paragraph (d) (2) of this section shall be retained by him as confidential trade secret information until the date on which the cosmetic to which such information applies is offered for commercial distribution.

"Filing of Adverse Reactions

"(g) The Secretary shall require every person required to register under this section to file with him information regarding every report of any adverse reaction received by such person which may have resulted, or is alleged to have resulted, from the use of a cosmetic processed by him, thirty days after the end of the calendar quarter in which such report was received. Each such person shall maintain, for at least five years from date of receipt all such reports, all information regarding such adverse reaction.

"Definitions

"(h) (1) As used in this section the term—

"(1) 'process', 'processed', or 'processing', with respect to cosmetics, includes the manufacturing, preparing, packaging, or labeling of a cosmetic, except that such term shall not include persons whose activities with respect to cosmetics are limited solely to transportation or storage of cosmetics or retail sales of cosmetics to consumers;

"(2) 'name' shall include in the case of a partnership the name of each partner, and in the case of a corporation the name appearing on the corporation's charter or certificate of incorporation and the name of each principal corporate officer and director and the State of incorporation;

"(3) 'owns or operates' means any person who owns, operates, leases, or controls any establishment used in processing a cosmetic;

"(4) 'establishment' means the premises, building, structures, and facilities used in processing cosmetics; and

"(5) 'adverse reaction' means any allergic reaction or other bodily injury associated with or contemporaneous with the use of a cosmetic.".

INSPECTION AND REPORTING

SEC. 202. Section 704(a) of the Act (21 U.S.C. 374) is amended by adding at the end thereof the following new sentence: "In the case of persons manufacturing, processing, preparing, packaging, labeling, or holding a cosmetic (1) inspection shall extend to all things therein (including records, files, papers, processes, controls, and facilities, but excluding those financial, sales, pricing, personnel, and research data not bearing upon whether the product may be adulterated or misbranded) bearing on whether a cosmetic may be adulterated or misbranded or on whether there has been a violation of section 301; and (2) the owner or operator of any establishment which may be inspected under this section shall, upon written notice from the Secretary, submit such information to him. The district courts of the United States shall have jurisdiction to enforce requests under the preceding sentence and to require access to such information upon application of the Secretary or the Attorney General, in an action brought in any district wherein the person or establishment involved is found or transacts business.".

ADMINISTRATIVE RESTRAINT AND SEIZURE

SEC. 203. (a) Section 304 of the Act (21 U.S.C. 334) is amended by adding at the end the following new subsection:

"Administrative Restraint

"(g) (1) If during an inspection conducted under section 704 of an establishment or a vehicle, a cosmetic which the officer or employee making the inspection has reason to believe is adulterated or misbranded is found in such establishment or vehicle, such officer or employee may order the cosmetic detained (in accordance with regulations prescribed by the Secretary, which regulations shall provide procedures for the prior approval of the detention of such cosmetic by an official having supervisory authority over the officer or employee making the inspection) for a reasonable period which may not exceed twenty days unless the Secretary determines that a period of detention greater than twenty days is required to institute an action under subsection (a) to seize the cosmetic, in which case he may authorize a detention period of not to exceed thirty days. A detention order under this paragraph may require the labeling or marking of a cosmetic during the period of its detention for the purpose of identifying the cosmetic as detained. Any person who would be entitled to claim a cosmetic if it were seized under subsection (a) may appeal to the Secretary a detention of such cosmetic under this paragraph. Within five days of the date an appeal of a detention is filed with the Secretary, the Secretary shall, after affording opportunity for an informal hearing, by order confirm the detention or revoke it.

"(2) (A) Except as authorized by subparagraph (B), a cosmetic subject to a detention order issued under paragraph (1) shall not be moved by any person from the place at which it is ordered detained until—

"(i) released by the Secretary, or

"(ii) the expiration of the detention period applicable to such order,

whichever occurs first.

"(B) A cosmetic subject to a detention order under paragraph (1) may be moved—

"(i) in accordance with regulations prescribed by the Secretary, and

"(ii) if not in final form for shipment, at the discretion of the manufacturer of the cosmetic for the purpose of completing the work required to put it in such form.".

Seizure of Any Adulterated or Misbranded Cosmetic

(b) Section 304(a)(2) of the Act is amended (1) by striking out "and" before "(C)", and (2) by striking out the period at the end and inserting in lieu thereof a comma and the following: "and (D) any adulterated or misbranded cosmetic.".

CONFORMING AMENDMENTS

Prohibited Acts

SEC. 204. (a) Section 301(j) of the Act (21 U.S.C. 331) is amended by changing the period at the end thereof to a comma, and by inserting the following immediately after such comma: "or any formula data entitled to protection under section 604(f).".

(b) Section 301 of the Act (21 U.S.C. 331) is further amended by adding the following new paragraphs:

"(r) The movement of a cosmetic in violation of an order under section 304(g) or the removal or alteration of any mark or label required by the order to identify the cosmetic as detained.

"(s) The failure of any person to register, or to submit information, when required to do so under section 605.".

Misbranded Cosmetics

(c) Section 602 of the Act is further amended by adding at the end thereof the following new paragraph:

"(i) If it was processed in an establishment which was not registered as required under section 605, or if information concerning it is not submitted or maintained as required under section 605, or if information concerning it is not submitted as required under section 704.".

Imports

(d) Section 801(a) of the Act (21 U.S.C. 381(a)) is amended by inserting "(1)" immediately after "(a)" and adding at the end thereof:

"(2) The Secretary shall refuse entry of any cosmetic offered for importation into the United States which has been processed in any establishment other than an establishment registered pursuant to section 605.".

EFFECTIVE DATES

SEC. 205. Every person who owns or operates an establishment engaged in processing a cosmetic shall first register pursuant to section 605 of the Federal Food, Drug, and Cosmetic Act on the first day of the third month after regulations promulgated under section 605 of the Federal Food, Drug, and Cosmetic Act take effect. All other provisions of this title shall take effect upon enactment.

TITLE III—COSMETIC LABELING

SEC. 301. (a) Section 602 of the Act is further amended by adding at the end thereof the following new subsections:

"Cosmetic Ingredient Labeling

"(8)(1) Unless labeling affixed to or within package in a manner that renders such labeling visible or readily accessible to prospective consumers at the point of retail sale bears—

"(A) the common or usual name of the cosmetic, if any, and

"(B) in case it is fabricated from two or more ingredients, the common or usual name of each such ingredient in alphabetical order, except that fragrance and flavor may be designated as such without naming each ingredient. The Secretary may, by regulation, require labeling of ingredients which are part of flavor or fragrance if he deems such disclosures to be in the public interest.

"(2) Subject to such conditions as the Secretary may by regulation provide, this subsection shall not apply to incidental additives that are present in a cosmetic in insignificant levels and which do not have any technical or functional effect in such cosmetic.

"(3) Subject to such conditions as the Secretary shall by regulation provide, labeling shall include a statement indicating that additional information shall be made available on request.

"Warning and Other Labeling

"(h) Unless its label or labeling bears adequate warnings against use where it may be hazardous to health, or such warnings or information as the Secretary may by regulation require with respect to use which the Secretary has determined to be necessary for the protection of the public health or appropriate as a guide to use.".

EFFECTIVE DATE

SEC. 302. The amendments made by this title shall be effective on the first day of the thirteenth calendar month following the month in which this Act is enacted.

TITLE IV—GENERAL PROVISIONS CONCERNING COSMETICS

SEC. 401. Chapter VI of the Federal Food, Drug, and Cosmetic Act, as amended by this Act, is further amended by inserting at the end thereof the following:

"GENERAL PROVISIONS CONCERNING COSMETICS

"Poison Control Information

"SEC. 606. (a) The Secretary shall establish a system for making publicly available, through poison control centers and other appropriate means, the summary information collected under section 605(b)(1)(E) relevant to hazards from accidental ingestion or misuse of cosmetics and antidotes or treatment. Such system shall assure that such information is available at any time to persons (including physicians, hospitals, clinics, and poison control centers) who request such information to aid in treatment of individuals who may be injured as a result of the ingestion of, contact with, or exposure to, any cosmetic. The system shall also include a continuing program by the Secretary to inform physicians, hospitals, clinics, and poison control centers, and other persons to whom such information may be useful, of the availability of such information and the methods by which it may be obtained at any time.

"Small Business Assistance

"(b) The Secretary shall cooperate with the Small Business Administration with respect to applications (under section 7(b)(5) of the Small Business Act, as amended (15 U.S.C. 631 et seq.)) for loans to assist affected small business entities to comply with requirements under sections 604 and 601(f). The Small Business Administration shall request the Secretary to review each such application. The Secretary shall evaluate each such application and shall report thereon to the Administrator (or to the bank or lending institution involved) within sixty days after the date of receipt thereof. Each such report shall include the Secretary's conclusion as to whether such proposed additions to or alterations in, the applicant's plant, facilities, or methods of operation are appropriate to enable or to assist the applicant to comply with requirements under sections 604 and 601(f).

"Effect on State Law

"(c)(1) It is declared to be the express intent of Congress to supersede any and all laws of the States or political subdivisions thereof, insofar as they may now or hereafter provide for information on the label or in labeling of a cosmetic which is in addition to or different from information required on the label or in labeling by or under section 602 of this Act, except as provided in this section.

"(2) Upon application of a State or political subdivision thereof, the Secretary may by regulation, after notice and opportunity for oral presentation of views, exempt from the provisions of paragraph (1) (under such conditions as he may impose) a proposed safety requirement described in such application, where the proposed requirement—

"(A) imposes a higher level of performance than the Federal standard,

"(B) is required by compelling local conditions, and

"(C) does not unduly burden interstate commerce.

"Procedures and Judicial Review

"(d)(1) Proceedings to issue, amend, or repeal a regulation under this chapter shall be conducted in accordance with the procedures prescribed by section 553 of title 5 of the United States Code.

"(2) In the case of any regulation under this chapter any interested person (including a consumer or consumer organization), who may be adversely affected by such regulation may, at any time within sixty days after the regulation is issued by the Secretary, file a petition with the United States Court of Appeals for the District of Columbia, or for the circuit wherein such person resides or has the principal place of business, for judicial review of such regulation. A copy of the petition shall be transmitted by the clerk of the court to the Secretary or other officer designated by him for that purpose. The Secretary shall file in the court the record of the proceedings on which the Secretary based his regulation as provided in section 2112 of title 28 of the United States Code. For purposes of this subsection, the term 'record' means all notices and other matter published in the Federal Register with respect to the regulation reviewed, all information submitted to the Secretary with respect to such regulation, procedings of any advisory committee with respect to such regulation, any hearing held with respect to such regulation, and any other information identified by the Secretary, in the administrative proceeding held with respect to such regulation, as being relevant to such regulation.

"(3) If the petitioner applies to the court for leave to adduce additional evidence, and shows to the satisfaction of the court that such additional evidence is material and that there was no opportunity to adduce such evidence in the proceeding before the Secretary, the court may order such additional evidence (and evidence in rebuttal thereof) to be taken before the Secretary in a hearing or in such other manner, and upon such terms and conditions, as the court may deem proper. The Secretary may modify his findings, or make new findings, taken, and he shall file such modified or new findings, and his recommendation, if any, for the modification or setting aside of his original regulation, with the return of such additional evidence.

"(4) Upon the filing of the petition under subsection (3) of this section, the court shall have jurisdiction to review the regulation of the Secretary in accordance with subparagraphs (A), (B), (C), and (D) of paragraph (2) of section 706 of title 5 of the United States Code. If the court orders additional evidence to be taken under subsection (4) of this section, the court shall also review the Secretary's regulation to determine if, on the basis of the entire record before the court pursuant to subsection (3) and (4) of this section, it is supported by substantial evidence. If the court finds the regulation is not so supported, the court may set it aside.

"(5) With respect to any regulation reviewed under this section, other than a regulation made effective upon publication in the Federal Register pursuant to section 604 (e) (2), the court may grant appropriate relief pending conclusion of the review proceedings, as provided in section 705 of such title 5.

"(6) The judgment of the court affirming or setting aside, in whole or in part, any such regulation of the Secretary shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification, as provided in section 1254 of title 28 of the United States Code.

"Advisory Committees

"(e) The Secretary may appoint advisory committees to assist in the administration of this chapter. Any such committee shall consist of members who are individuals appropriately qualified by training and experience. Not less than one-third of any committee shall be representatives of consumer interests. The Secretary shall prescribe by regulation the procedures to be followed by such committees and shall assure that each committee provides, to the maximum extent practicable, an opportunity for any interested person to submit data and views on all matters considered by the committee. All meetings of the committee shall be open in accordance with the requirements of the Federal Advisory Committee Act.".

SEC. 402. The provisions of this title shall take effect on the date of enactment of this Act.

UP AMENDMENT NO. 267

Mr. MANSFIELD. Mr. President, I send to the desk an amendment on behalf of the Senator from Maine (Mr. HATHAWAY) and the Senator from New Hampshire (Mr. DURKIN).

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. EAGLETON. Mr. President, the legislation embodied in S. 1681, the cosmetic safety amendments, is of great significance to all American consumers. Nearly every American uses cosmetic products of one kind or another, since the term includes everything from lipstick and mascara to toothpaste, shaving cream, and mouthwash. Cosmetics are a part of our daily lives, and there is survey data showing that most Americans use them in the false belief that these products are in some way "approved" by the Government, or that the Government requires manufacturers to meet certain standards of safety.

The fact is that the cosmetic industry is virtually unregulated and the consumer almost entirely unprotected from injury by these products.

The Federal Food, Drug, and Cosmetic Act of 1938 is woefully inadequate with respect to cosmetic regulation. At the present time, the Food and Drug Administration—FDA—can act to seize cosmetics only after they are on the market, if it determines that they are either "misbranded"—that is, their labeling is either false or misleading—or "adulterated"—that is, contaminated. FDA can neither require manufacturers to provide proof that their products are safe nor require that any safety testing be performed before cosmetics are put on the market. So lax is the law that even if a manufacturer's data established that his product was unsafe, it could be put on the market anyway.

The inadequacy of FDA's current regulatory authority over cosmetics is particularly relevant in view of the evidence developed as part of the committee's hearing record showing a significant incidence of cosmetic injuries to consumers. The National Commission on Product Safety estimated in 1970 that 60,000 people suffer such injuries every year. Other estimates of injuries resulting from cosmetic use are at lower levels, ranging from a 29,000 annual figure given by Mrs. Virginia Knauer, Special Assistant to the President for Consumer Affairs, to a figure of 9,700 given by a representative of a major cosmetic manufacturer. Despite the inability of informed parties to agree on the precise scope of the problem, it does seem clear that every year a very substantial number of American consumers suffer injuries as a consequence of cosmetic use.

A number of witnesses appearing before the committee reported cases of hair loss resulting from hair dyes and shampoos, lung lesions caused by the inhalation of talc products and aerosol propellants, temporary blindness caused by mascara, and severe burns caused by extremely flammable perfumes and after shave lotions.

In many other cases, injury occurs in the form of allergic reaction, usually less severe and of a more temporary nature. This is not to say that such reactions are totally idiosyncratic of a kind that a manufacturer cannot predict through testing, for there are a great many chemicals which provoke allergic reactions in a high proportion of those exposed to them. Perhaps the most notable example of such a reaction resulted from the incorporation of oil of bergamot in certain perfumes. Virtually every person using the perfumes developed a photosensitive reaction characterized by swelling and dermatitis of the area perfumed. Since that time, the products have been reformulated without the harmful ingredient.

Of even greater importance than such obvious injuries are those hidden or delayed adverse reactions to substances used in cosmetics, for example, investigations conducted at the University of California by Dr. Bruce Ames suggest that some hair dyes may be responsible for cancer and birth defects. Additionally, a recent report of an FDA advisory review panel charged with studying and evaluating the safety and effectiveness of certain antimicrobial drug products which are sold without prescription found that some ingredients in these products could not be included in the "generally recognized as safe" category and therefore should not be used in drug products until their safety is determined. The panel noted that some of the ingredients in question are also commonly used in cosmetics, but that due to the lack of regulatory authority over cosmetics, nothing could be done to require that their safety be shown when they are used as cosmetic ingredients.

Thus, the panel came to the anomalous conclusion that the Federal Government has a legal responsibility to protect consumers against risks posed by drug products of questionable safety, but has no authority to safeguard the public against risks stemming from the incorporation of the same substances in cosmetics used by millions of Americans every day.

S. 1681 addresses itself to all the major deficiencies in the current regulation of the cosmetic industry.

First, it requires that the safety of every cosmetic must be established prior to its being marketed; that is, based on all data and information relating to the safety of the cosmetic, it must be possible for it to be reasonably concluded that the cosmetic is safe for the use prescribed by its label or for such use as is customary or usual.

These safety provisions are the heart of the bill, and I would like to elaborate further on them. In order to substantiate the safety of a cosmetic, the manufacturer must perform specific tests in animals or humans to determine the cosmetic's potential for toxicity, sensitization, and irritation. Unless this is done, the cosmetic is deemed to be adulterated, a prohibited act subject to civil and criminal penalties.

The testing must be conducted by methods that are methodologically adequate and reasonably applicable to generate the data required to determine the potential of the cosmetic for toxicity, sensitization, and irritation. The terms "methodologically adequate" and "reasonably applicable" are sufficiently broad to authorize the FDA to issue regulations that will delineate with greater specificity the kinds of tests that it deems appropriate and adequate, depending on the kinds of finished cosmetics or cosmetic ingredients involved.

It is important to note that, by these provisions, a duty is imposed upon cosmetic manufacturers to develop safety data regarding their products. It is not enough that there merely be an absence of any adverse information respecting a product. In addition, although safety data may exist with respect to all of the ingredients in a cosmetic, the bill requires that the complete formulation be tested to assure the safety of the finished cosmetic. Moreover, the duty to assure the safety of a cosmetic and to be able to substantiate their safety through test data is a continuing one that extends beyond the introduction of a product into the marketplace and throughout the period during which it is in commercial distribution.

If the FDA finds that existing safety substantiation data is inadequate with respect to any cosmetic or general classification of cosmetics, it can, at any time, require additional testing by order or by regulation. This allows the Commissioner to proceed on an individual basis, manufacturer by manufacturer, or broadly across a number of manufacturers, or even the entire industry, with regard to a particular category of products or ingredients.

The only exception to the testing requirement is provided in the case where scientific tests have already been conducted on the substance in question, the test data and results have been published in reputable scientific journals, and the tests themselves are methodologically adequate to meet the statutory standard.

The bill requires that all safety substantiation data be maintained by the manufacturer and be submitted to the Secretary when he so requests. Failure to submit the data upon request is also a prohibited act subject to criminal and civil penalties.

Title II of the bill requires that each cosmetic manufacturer: First, register with the FDA; second, submit a list of each cosmetic he processes along with a list of each ingredient used in the cosmetic in descending order of predominance by weight; third, submit the name of the person responsible for maintaining the safety substantiation records with respect to each cosmetic; and fourth, submit quarterly reports of any complaints received from consumers about adverse reactions to cosmetics.

The submission of adverse reaction reports is directly related to the safety substantiation provisions in title I. I believe that the adverse reaction reports will serve to alert the FDA to potentially injurious ingredients or products and point to those ingredients which require further scrutiny.

Title II further requires 20 day premarket notification to FDA of any product which contains an ingredient not previously used in cosmetics, and of any product which is being marketed for a new use. This provision is intended to alert the Commissioner to possible new hazards arising out of the use of new chemical compounds or new applications before the products are marketed. Special trade secret protection is provided by the bill to guard against any disclosure of the marketing plans of any person submitting information relating to the new application of an "old" cosmetic.

Title III of the bill establishes clear authority for the Secretary to require ingredient labeling of cosmetics. At the present time, FDA has issued ingredient labeling regulations under the authority of the Fair Packaging and Labeling Act. Because of the somewhat tenous nature of the legal authority underlying these regulations, the FDA felt compelled to undertake extensive negotiations with the cosmetic industry to stave off further legal challenges; as a consequence, the labeling regulations contain broad exemptions.

S. 1681 differs from the current regulations in that it requires the alphabetical listing of ingredients on product labels rather than listing of ingredients in descending order of predominance by weight. Although it has been argued that alphabetical listing does not provide consumers with the information to make value comparisons as does a listing of ingredients by weight, the committee viewed ingredient labeling primarily as a safety concern. I believe that the consumer who knows he or she is allergic to a particular ingredient can more easily identify those products containing such an ingredient when the product's ingredients are listed in alphabetical order.

The bill does not require the listing of fragrance and flavor components, but does provide authority for the Secretary to require such labeling if he determines it to be in the public interest. Additionally, the bill requires the Secretary to issue regulations requiring that labels state that additional information shall be made available on request of the consumer.

Title IV of the bill requires that the Secretary establish a poison control information system. He is also directed to cooperate with the Small Business Administration in reviewing applications from small businesses for loans in order to comply with the safety substantiation and good manufacturing provisions of the bill. Title IV also provides for preemption of State and local law with regard to labeling requirements unless the State or local government can prove that a higher standard is required by compelling local conditions and does not unduly burden interestate commerce.

Finally, the bill invokes the informal rulemaking procedures of 5 United States Code 553, and standard judicial review provisions of chapter 7 of title IV.

Mr. President, the need for this legislation has been clearly demonstrated; indeed it is long overdue. Nearly every American is a consumer of some cosmetic product or another, but it is clear that the bulk of the cosmetic industry's products are intended for women, and that American women suffer most of the thousands of injuries that are caused every year in this country by toxic, allergenic and irritant cosmetic products. Until effective cosmetic safety legislation is enacted, American women will continue to be the guinea pigs for testing cosmetic products. Without such legislation, cosmetic products will continue to be marketed without having undergone thorough safety testing; consumers will continue to be unable to make informed choices about products based on their labeling; and the Food and Drug Administration will lack adequate authority to efficiently and effectively regulate the $6 billion a year cosmetic industry.

Finally, Mr. President, I want to pay tribute to a woman who has led the fight for cosmetic safety legislation in Congress for many years—Representative Leonor Sullivan, Democrat of Missouri, a dear friend of mine and a fellow St. Louisan. Congresswoman Sullivan first introduced a cosmetic safety bill more than a decade ago and it was her initiative that led me to take up the fight in the Senate. Mrs. Sullivan is retiring from Congress this year, after 24 years of exemplary service. She leaves behind her many legislative memorials in areas such as housing and consumer protection; today's Senate action on the Cosmetic Safety Amendments is a major step in the accomplishment of yet another of the legislative goals she established.

Mr. President, I urge passage of S. 1681.

Mr. HATHAWAY. Mr. President, this amendment deals with section 104(b) of S. 1681. This section, as reported by the Committee on Labor and Public Welfare represents a radical departure from the strict criminal liability standard imposed by the Federal Food, Drug and Cosmetic Act since 1906. This standard has served well in the intervening years as a powerful deterrent against any course of behavior which could potentially lead to a criminal prosecution. The Committee on Labor and Public Welfare would eliminate this strict liability standard as applied to individuals and substitute instead a requirement that the prosecution prove beyond a reasonable doubt that the individual charged committed the violation "knowingly, willfully, or negligently."

The Committee on Labor and Public Welfare, at the time it considered and debated the issue of strict criminal liability under the FDC Act in the context of this bill dealing with cosmetics, also considered the same issue with respect to violations of the act involving food, S. 641, the so-called Consumer Food Act. During the Committee's consideration of these provisions, we offered a number of amendments designed to preserve the deterrent features of existing law. In section 113 of the latter bill, as reported, the committee proposed a retreat from the strict criminal liability srtucture equivalent to that contained in section 104(b) of this bill.

On March 18, 1976, the Senate considered and approved the Consumer Food Act, but only after approving my amendment to section 113 of that bill which modified the amendment to be made to section 303 of the Food, Drug and Cosmetic Act. Instead of imposing criminal penalties only when the individual acted "knowingly, willfully, or negligently" with regard to a violation involving food, as in the reported version of S. 641, under this amendment such penalties would be imposed in circumstances where the individual acted "knowingly," "willfully," or "without the skill, care, prudence, and diligence under the circumstances then prevailing that a prudent man acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character".

This substitution of a "prudent man" positive duty of due care in lieu of the committee language, which would have imposed criminal penalties only on those who acted "negligently," represented a marked strengthening of the deterrent potential of the criminal penalties and preserved the Government's ability to so utilize such penalties.

The "negligently" standard, both in S. 641 as reported, and in S. 1681 as reported, would as a practical matter foreclose the use of criminal penalties as an enforcement tool except in the most outrageous fact situation.

S. 641 offers recent precedent for this body approving a prudent man standard of due care. The Employee Retirement Income Security Act, Public Law 93-406, offers further precedent for the utilization of such a standard in federal law. Section 404(a)(1)(B) of that act uses precisely the same prudent man language in establishing the fiduciary duty applicable to those charged with the responsibility of administering employee benefits plans in accordance with that act: to act prudently and diligently with respect to their administration of pension plans which involve the life savings and retirement security of a large number of Americans. No less a standard of care ought to apply to establish a positive duty upon those responsible for the manufacture of cosmetics to insure that such goods are free from the deadly hazard of adulteration.

The alternative of the committee, to impose criminal penalties only where it could be proven that the individual charged acted "negligently", would inhibit greatly the deterrent aspect of such criminal penalties because this standard would be very difficult for the Government to prove. The use of the word "negligently" in a criminal statute allows the defendant charged much greater leeway with regard to permissible behavior than does civil negligence.

For example, in prosecutions for vehicular manslaughter, a criminal offense requiring that the government prove that the defendant acted negligently, it is understood that gross, wanton, or reckless behavior must be demonstrated, typically involving driving while intoxicated. On the other hand, in an automobile liability case for civil negligence it might be sufficient to demonstrate that the defendant applied his brakes a tenth of a second too late.

The difference between civil and criminal negligence is underlined by reference to the model penal code promulgated by the American Law Institute of the American Bar Association, which represents a consensus of legal scholarship and practice. It states, concerning the state of mind applicable to criminal offenses:

> A person acts negligently with respect to a material element of an offense when he should be aware of a substantial and unjustifiable risk that the material element exists or will result from his conduct. The risk must be of such a nature and degree that the actor's failure to perceive it, considering the nature and purpose of his conduct and the circumstances known to him, *involves a gross deviation from the standard of care that a reasonable person would observe in the actor's situation*. [Emphasis added.]

It would not seem that this is the kind of standard which ought to be applied to those whose paramount duty and responsibility is to provide the public with unadulterated cosmetics. For example, under the committee's standard, what sort of behavior would represent a "gross deviation from the standard of what a reasonable person would observe in the actor's situation"? Would it be a gross deviation for an executive in the cosmetic industry to fail to take corrective action after receiving a warning from the Food and Drug Administration that one of his warehouses showed evidence of rodent infestation? What if he has a dozen or more warehouses? What if he routinely received warnings? What if he were very busy with his other duties and responsibilities? How would a jury react to such a standard and such a defense? The committee's language allows for a very great degree of leeway in executive behavior and misbehavior, an impermissible amount of leeway if the public is to be adequately protected from adulterated cosmetics.

Further, if S. 1 is enacted into law, this interpretation of "negligently" will become mandatory for all Federal courts. S. 1 as introduced states in section 302:

"INTENTIONAL", "KNOWING", "RECKLESS", AND "NEGLIGENT" STATE OF MIND

> The following definitions apply with respect to an offense set forth in any Federal statute:
>
> (d) "NEGLIGENT."—A person's state of mind is negligent with respect to:
>
> (1) an existing circumstance if he ought to be aware of a risk that the circumstance exists;
>
> (2) a result of his conduct if he ought to be aware of a risk that the result will occur.
>
> The risk must be of such nature and degree that failure to perceive it *constitutes a gross deviation from the standard of care that a reasonable person would exercise in such a situation*. [emphasis added]

This language on its face would require that a court looking at section 303 (a), as proposed to be amended by section 104(b) of S. 1681, would have to instruct a jury to find beyond a reasonable doubt that a defendant was grossly deviant from the reasonable man standard in order to impose a criminal penalty.

If we retain the committee's language we impose upon the Government an unrealistic burden of proof, and for all practical purposes eliminate the deterrent effect of existing law. In this regard, Mr. President, I ask unanimous consent that the opinion rendered by the Office of the Legislative Counsel at my request on the interpretation of the word "negligently" be inserted in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

MEMORANDUM FOR SENATOR HATHAWAY

This memorandum is in response to your request, dated July 19, 1976, for an opinion regarding (1) the interpretation of the word "negligently" as used in the amendment to section 303 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 333) as proposed in section 104(b) of S. 1681, Calendar Number 984, and (2) the burden of proof imposed on the government if the proposed amendment is adopted.

The provision in question is as follows:

"SEC. 104. (a) * * *

"(b) Section 303(a) of the Act is amended to read as follows:

"(a) Any person who violates a provision of section 301 of this chapter shall be imprisoned for not more than 1 year or fined not more than $10,000, or both; except that such penalties shall apply to any individual who violates a provision of such section 301 with respect to cosmetics or who causes a violation of such section 301 to occur with respect to cosmetics, only if such individual knowingly, willfully, or negligently violates, or causes the violation of, such provision.".

The provision cited above clearly provides for a criminal penalty, and is contrasted with the civil penalties provided for in subsection (a) of section 104 of the proposed legislation. Therefore, the discussion of the word "negligently" as used in the context of the proposed amendment to section 303 of the Federal Food, Drug, and Cosmetic Act shall be with regard to the criminal penalty which immediately precedes the limiting language of the proposed amendment.

INTERPRETATION OF CRIMINAL STATUTES

In most respects the interpretation of criminal statutes does not differ from the construction of other statutes. The standard of decision is either the intent of the legislature or what the statute means to others. *Holy Trinity Church* v. *United States*, 143 U.S. 457, 12 S. Ct. 511 (1892). The history of legislation, other statutes in pari materia, titles and headings, committee reports, and contemporary or practical interpretation may weigh heavily upon the issue of the meaning to be given a criminal statute. Such laws will be given their common and ordinary meaning so that they may be understood by all.

The courts are inclined to give health statutes a liberal interpretation (with regard to scope) despite the fact that such statutes may be penal in nature and frequently may impose criminal penalties. *United States* v. *Antikamnia Chemical Co.*, 231 U.S. 654, 34 S. St. 222 (1914). However, with regard to criminal penalties other rules of statutory construction are of course considered. The operation of traditional general rules of statutory interpretation in relation to Federal statutes also appears to continue unaffected by the decision repudiating a Federal substantive common law. *Deupree* v. *Levinson* 186 F. 2d 297 (1950).

NEGLIGENCE; CULPABLE OR CRIMINAL

In general the courts have found a marked distinction between simple or ordinary negligence, which gives one the right of action for damages, and negligence which renders one guilty of a criminal offense. The latter is generally termed "criminal" or "culpable negligence".

To establish guilt on a negligence basis the Model Penal Code would require conduct which "involves a gross deviation from the standard of care that a reasonable person would observe in the actor's situation." (Section 2.02(d))

The negligence concept as applied in criminal law has had the most elaborate consideration in homicide cases but the results found there are equally applicable elsewhere—*a greater degree of fault is required for guilt of a crime than is needed to establish civil liability* (emphasis added).

Standard of Proof

It has been held that whenever a legal duty of a public nature was imposed by statute or common law, neglect of that duty was indictable. *People* v. *Knapp* 206 N.Y. 373, 99 NE 841. A successful prosecution for a violation of section 301 of the Federal Food, Drug, and Cosmetic Act under section 303, as proposed to be amended, on the grounds of negligence would, given the common and ordinary meaning of the term and the context of the statute, require proving negligence in a higher and grosser degree than is sufficient to support a judgment in a civil case. *Weaver* v. *State*, 185 Tenn. 276 (1947). The trend has been to employ the word "reckless" for the purposes of showing a degree of negligence sufficient to warrant a criminal penalty. *State* v. *Scott*, 201 Kans. 134 (1968); *Penny* v. *People*, 44 Cal. 2d. 861 (1955).

SUMMARY

The legislation under consideration clearly provides for a criminal penalty and such criminal penalty applies to "any individual who violates a provision of section 301 with respect to cosmetics . . . only if such individual knowingly, willfully, or *negligently* violates, . . . such provision". Based on the prior material presented, it is my opinion that the interpretation of the legislation under consideration would be to require "culpable or criminal negligence" rather than simple or ordinary negligence which would be required in a civil suit for damages.

It would necessarily follow that the burden of proof for a successful prosecution under the proposed legislation would be commensurate with the degree of negligence required to sustain a criminal penalty, in this case culpable or criminal negligence.

Respectfully submitted.

DANIEL H. MURRAY,
Assistant Counsel.

July 28, 1976.

Mr. HATHAWAY. Mr. Presdent, the Pension Reform Act "prudent man" standard cures this defect and makes it clear that responsible officials are under a positive duty to implement measures which are reasonably designed to insure that violations will not occur. If they fail to take steps to fulfill this duty, if they act "without the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent man acting in like capacity and familiar with such matters would use in the conduct of an enterprise of a like character" to insure that violations would not occur, and if their action, without such care, causes a violation of the act involving the placing into interstate commerce of adulterated food, then we would insist that they ought to be subjected to criminal penalties.

In this way, it will continue to be possible under the law to punish the personal neglect of those responsible for the purity of cosmetics.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the amendment.

The amendment was agreed to.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the committee amendment as amended.

The committee amendment, as amended, was agreed to.

The ACTING PRESIDENT pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 1681

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Cosmetic Safety Amendments of 1976".

TITLE I—COSMETIC SAFETY

SEC. 101. Chapter VI of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 361, et seq.) (hereinafter referred to as the Act) is amended to add a new section as follows:

"COSMETIC SAFETY

"Cosmetics Deemed Adulterated

"SEC. 604. (a) A cosmetic shall be deemed to be adulterated under section 601(a), if—

"(1) its safety has not been adequately substantiated prior to and during the commercial distribution of the cosmetic; or

"(2) requirements applicable to that cosmetic by or under subsection (c) of this section have not been met; or

"(3) it is a banned cosmetic; or

"(4) it is deemed unsafe under subsection (c) (5).

"Cosmetic Safety Substantiation

"(b) (1) The safety of a cosmetic shall not be considered adequately substantiated unless—

"(A) on the basis of all data and information relating to the safety of the cosmetic it can reasonably be concluded that the cosmetic is safe under the conditions of use prescribed in the labeling of the cosmetic, or under such conditions of use as are customary or usual;

"(B) such data and information are contained, or referred to, in records maintained by the manufacturer or the distributor who is designated under section 605(b) (1) (D) as responsible for maintenance of such records respecting that cosmetic; and

"(C) all data and information maintained in accordance with subparagraph (B) are submitted to the Secretary when he shall, by regulation, so prescribe, or upon his written notice or the written notice of a person designated by the Secretary for such purpose;

"(2) The data and information referred to in paragraph (1)—

"(A) shall include full reports of specific testing conducted by the manufacturer or his designated representatives in animals or humans by such methods as are methodologically adequate and reasonably applicable to determine the potential of the cosmetic for—

"(i) toxicity,

"(ii) sensitization, and

"(iii) irritation,

under such conditions of use as are prescribed in the labeling of such cosmetic, and under such other conditions of use as may be resonably foreseeable except that, in lieu of conducting such tests, data and results of published scientific tests in animals or humans which are methodologically adequate to determine the potential of the cosmetic for taxicity, sensitization and irritation may be substituted; and

"(B) may include published scientific literature or unpublished data and information in the possession of the manufacturer or distributor relevant to the cosmetic and the cosmetic ingredients.

"Cosmetic Safety Regulations

"(c) (1) Whenever the Secretary finds, after such consultation with members of the scientific community as he may deem appropriate, that existing safety substantiation data is inadequate to protect the public health with respect to any cosmetic, or class of cosmetics, he shall by regulation or order require such additional specific testing as he deems necessary to protect the public health, including testing of the cumulative and synergistic effects of such cosmetic, or class of cosmetics.

"(2) In requiring specific testing under paragraph (1), the Secretary shall by regulation provide that such testing be conducted by the manufacturer or manufacturers of such cosmetic or class of cosmetics, or by qualified persons independent of such manufacturer or manufacturers.

"(3) Whenever the Secretary finds that a cosmetic presents a substantial risk of illness or injury, he shall, by regulation:

"(A) prohibit the cosmetic from bearing or containing any substance which may render it injurious to users or limit the quantity of such substance in or on the cosmetic; or

"(B) require appropriate labeling pursuant to section 602; or

"(C) ban such cosmetic; or

"(D) require any combination of measures authorized in subparagraphs (A) and (B).

"(4) The Secretary may declare a proposed regulation issued under paragraphs (1) and (2) to be effective upon its publication in the Federal Register and until the effective date of any final action taken respecting such regulation if he determines that making such proposed regulation so effective is necessary to reduce or eliminate a significant hazard to any segment of the public associated with the use of the cosmetic which is the subject of the regulation. If the Secretary makes a proposed regulation so effective, he shall as expeditiously as possible give interested persons notice of his action under this subsection, promptly provide reasonable opportunity for an informal hearing and written expression of views, and thereafter, as expeditiously as possible, either affirm, modify, or revoke such proposed regulation.

"(5) A cosmetic shall be deemed adulterated—

"(A) for any use which will or may result in ingestion of all or part of such cosmetic or cosmetic ingredient if the cosmetic or cosmetic ingredient is found by the Secretary to induce cancer when ingested by man or animal, or if it is found by the Secretary, after tests which are appropriate for the evaluation of chemicals liable to be ingested by man, to induce cancer in man or animal, and

"(B) for any use which will not result in ingestion of any part of such cosmetic or cosmetic ingredient if, after tests which are appropriate for the evaluation of the safety of such cosmetic or cosmetic ingredient, it is found by the Secretary to induce cancer in man or animal.

"Definitions

"(d) As used in this section the term—

"(1) 'toxicity' refers to the short-term or long-term capacity of a cosmetic to produce personal injury or illness to human beings or experimental animals through ingestion, inhalation, or absorption through any body surface;

"(2) 'sensitization' refers to the capacity of a cosmetic to cause, following one or more prior nonreactive exposures, on normal living tissues through an allergic or photodynamic process, an injury to the original site or other sites;

"(3) 'irritation' refers to the capacity of a cosmetic on immediate, prolonged, or repeated contact with normal living tissue, to induce a local inflammatory reaction; and

"(4) 'testing' refers to the process of measuring, in terms of objective standards (as established by the Secretary in consultation with public and private individuals appropriately qualified by training and experience), the capacity of a cosmetic to cause illness or injury.

"Citizen's Civil Actions

"(e) (1) Except as provided in paragraph (2) of this subsection, any person may commence a civil action for mandatory or prohibitory injunctive relief, including interim equitable relief, on his own behalf, whenever such action constitutes a case or controversy—

"(A) against any person who is alleged to be in violation of this section or of any regulation issued under this section; or

"(B) against the Secretary where there is alleged a failure of the Secretary to perform any act or duty under this section which is not discretionary with the Secretary.

The district courts of the United States shall have jurisdiction over actions brought under this section, without regard to the amount in controversy or the citizenship of the parties.

"(2) No civil action may be commenced—

"(A) under paragraph (1) (A) of this subsection—

"(i) prior to sixty days after the plaintiff has given notice of the alleged violation to the Secretary and to any alleged violator in such manner as the Secretary may by regulation require; or

"(ii) if the Attorney General or the Secretary has commenced and is diligently pursuing judicial proceedings or administrative action with respect to such alleged violation,

"(B) under paragraph (1)(B) of this subsection, prior to sixty days after the plaintiff has given notice to the Secretary of such alleged failure to perform an act or duty.

"(3) In any action under this subsection, the Attorney General or the Secretary may intervene as a matter of right. The decision and rulings of the court, in any judicial proceeding commenced under this subsection, shall not be a bar to the institution of any judicial proceeding or administrative action by the Secretary against a party to such judicial proceeding, nor shall any factual finding by such court be determinative as to any fact in any subsequent judicial proceeding or administrative action, unless the Secretary is a party to the proceeding under this subsection.

"(4) The court, in issuing any final order in any action brought pursuant to paragraph (1) of this subsection, may award costs of litigation (including a reasonable attorney's fee, based on the prevailing rates for such services, and expert witness fees) to any party, whenever the Court determines that such an award is appropriate.

"(5) Nothing in this subsection shall restrict any right which any person (or class of persons) may have under any statute or at common law to seek enforcement of any regulation or order or to seek any other relief.

"(6) Nothing in this subsection shall require the disclosure of any trade secret information or any other confidential information relating to cosmetics during discovery or at any time or place other than that which may be prescribed by the court.

"Defenses and representations

"(f) Compliance with this section (1) shall not be an absolute defense in suits for product liability and (2) shall not denote certification by the Secretary that any cosmetic or cosmetic ingredient is safe. Any representation in labeling or advertising that creates an impression of certification shall be deemed misbranding.".

GOOD MANUFACTURING PRACTICES

SEC. 102. Section 601 of the Act (21 U.S.C. 361) is amended by adding at the end thereof the following new subsection:

"(f) If the methods used in, or facilities and controls used for its processing do not conform to, or are not operated or administered in conformity with, current good manufacturing practices, as determined by regulations issued by the Secretary.".

CONFORMING AMENDMENTS

Definition

SEC. 103. (a) Section 201 of the Act (21 U.S.C. 321) is amended by adding the following new subsection at the end thereof:

"(y) For the purposes of sections 604 and 605, the term 'commercial distribution' means any distribution of a cosmetic in interstate commerce except limited distribution for the sole purpose of safety testing where the recipient of the cosmetic provides no consideration and the distributor knows and records the name and address of each such recipient.".

Amendment to section 303

(b)(1) Section 303(c) of the Act (21 U.S.C. 333) is amended by striking the period at the end thereof and inserting at the end thereof the following: "; or (6) for having violated section 301 (a) or (c) with respect to a cosmetic because the cosmetic is deemed adulterated under section 604(a), or misbranded under section 602 (g), (h), or (i), if such person establishes a guarantee, in a form and under such conditions as are established by the Secretary by regulation, to the effect that the person from whom he received in good faith the article complied with the requirements of section 604(a), section 605, or section 602 (g) and (h).".

(2) Section 301(h) of the Act (21 U.S.C. 331) is amended by inserting "or in section 303(c)(6)" immediately following "303(c)(3),".

Modification of Soap Exemption

(c) Section 201(i) of the Act (21 U.S.C. 321(i)) is amended by striking "soap" and inserting in lieu thereof: "any soap, the bulk of the nonvolatile matter of which consists of an alkali salt of fatty acids and the detergent properties of which are due to the alkali-fatty acid compounds, and which is labeled, sold, and represented only as soap.".

Prohibited Acts

(d)(1) Section 301(e) of the Act (21 U.S.C. 331) is amended by striking the word "or" before "512" and by adding a comma and "or 604" after "(m)".

(2) Section 301 of the Act is further amended by adding a new subsection as follows:

"(q) The maintenance or submission of any required data, information, records, or reports, which contain any false or misleading information or that omit any material information.".

Adulterated and Misbranded Cosmetics

(e)(1) Section 601(a) of the Act is amended to read as follows:

"(a) If it bears or contains any poisonous or deleterious substance which may render it injurious to users, or if it is injurious to users, under the conditions of use prescribed in the labeling thereof, or under such conditions of use as are customary or usual, or if it is deemed adulterated under section 604(a).".

(2) Section 601(e) of the Act is amended to read as follows:

"(e) If it is, or it bears or contains, a color additive which is unsafe within the meaning of section 706(a). This paragraph shall not apply to any hair dye other than any eyelash dye or eyebrow dye.".

(f) Section 602(e) of the Act is amended by striking "as defined in the last sentence of section 601(a))" from the second sentence and inserting "(other than any eyelash dye or eyebrow dye)" in lieu thereof.

(g) Section 701e(1) of the Act (21 U.S.C. 371) is amended by striking "or" the second time it appears, and by inserting after "502 (d) or (h)" the following: ", 601(f), 604(b) or (c), or 605".

CIVIL AND CRIMINAL PENALTIES

SEC. 104. (a) Chapter III of the Act (21 U.S.C. 331, et seq.) is amended by adding at the end thereof the following new section:

"CIVIL PENALTIES

"SEC. 308. (a) Any person who is found by the Secretary, after written notice and an opportunity for a hearing, to have committed an act prohibited by section 301 of this chapter with respect to any cosmetic, shall be liable to the United States for a civil penalty of not more than $10,000 for each violation. If any such violation is a continuing one, each day of violation constitutes a separate offense for such purpose. The amount of such civil penalty shall be determined and assessed by the Secretary, or his delegate, by written notice.

"(b) Any person against whom a violation is found and a civil penalty assessed under paragraph (1) of this subsection may obtain review in the court of appeals of the United States for the circuit in which such person resides or has his principal place of business, or in the United States Court of Appeals for the District of Columbia, by filing a notice of appeal in such court within 30 days from the date of such assessment and by simultaneously sending a copy of such notice by certified mail to the Secretary. The Secretary shall promptly file in such court a certified copy of the record upon which such violation was found and such penalty imposed as provided in section 2112 of title 28, United States Code. The finding of the Secretary shall be set aside if found to be unsupported by substantial evidence, as provided by section 706(2)(e) of title 5, United States Code.

"(c) If any person fails to pay an assessment of a civil penalty after it has become final and unappealable, or after the appropriate court of appeals has entered final judgment in favor of the Secretary, the Secretary shall recover the amount assessed in any appropriate district court of the United States. In such action, the validity and appropriateness of the final order imposing the civil penalty shall not be subject to review.".

(b) Section 303(a) of the Act is amended to read as follows:

"Penalties

"(a)(1) Any person who violates, or causes the violation of, a provision of section 301 of this chapter shall be imprisoned for not more than 1 year or fined not more than $10,000, or both.

"(2) The penalties provided by paragraph (1) for violations of section 301, with respect to cosmetics, shall apply to an individual—

"(A) who acts knowingly,

"(B) who acts willfully, or

"(C) who acts without the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent man acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character.".

(b) Section 303(a) of the Act is amended to read as follows:

EFFECTIVE DATE

SEC. 105. (a) The provisions of this title shall take effect October 1, 1977, except as provided in subsection (b).

(b) The legend required to be placed on the label of a coal-tar hair dye by the proviso of section 601(a), prior to the enactment of this Act, shall continue to be required until the Secretary issues regulations under section 602 prescribing different requirements.

TITLE II—REGISTRATION AND COMPLIANCE

SEC. 201. Chapter VI of the Act (21 U.S.C. 361, et seq.) is amended by adding at the end thereof the following new section:

"REGISTRATION OF COSMETIC PROCESSORS

"SEC. 605. (a)(1) On or before December 31 of each year, every person who owns or operates an establishment engaged in processing a cosmetic shall register with the Secretary his name, principal place of business, and the location of each such establishment, in such manner and form as the Secretary shall prescribe by regulation.

"(2) Every person required to register under this subsection shall, within ten days after commencing operation of any additional establishment, register such additional establishment with the Secretary.

"(3) Every person required to register under this section shall promptly notify the Secretary if he ceases to process cosmetics in any establishment unless such cessation is temporary.

"Registration of Cosmetic Lists

"(b)(1) Every person required to register under this section shall, for each such establishment, include as part of such registration the following information regarding any cosmetic which is in commercial distribution—

"(A) a list of each cosmetic processed in each such establishment by brand name or names;

"(B) the class of cosmetics (as prescribed by the Secretary by regulation) of each such cosmetic;

"(C) a list of each ingredient used in each such cosmetic in descending order of predominance by weight, showing the percentage of each such ingredient within 5 percentage points of the actual percentage of the total weight of such cosmetic which the weight of each such ingredient represents, except that ingredients comprising less than 10 per centum of the total weight shall be indicated as within whichever of the following ranges is applicable: 0.1 per centum or less, 0.1 to 1 per centum, 1 to 5 per centum, and 5 to 10 per centum: *Provided*, That a flavor or fragrance may be designated as such if the manufacturer or distributor of such flavor or fragrance has separately submitted a registration statement containing a list of ingredients used in such flavor or fragrance which meets the requirements of this section:

"(D) the name and principal place of business of the person who is to be responsible, with respect to each such cosmetic, for the maintenance of records relating to safety substantiation required to be kept by section 604(b), and the location of such records; and

"(E) summary information on such cosmetic relating to hazards from accidental ingestion or misuse of such cosmetic (which information shall be based upon such investigations as are necessary to identify such hazards) and, where appropriate, information on antidotes or treatment.

"(2) The Secretary may also require the submission by any person required to register under this section of the following information concerning any cosmetic in commercial distribution if he finds that such submission is necessary or appropriate to carry out the purposes of this Act—

"(A) a quantitative list of the ingredients of any cosmetic,

"(B) a list of all cosmetics that include a particular ingredient or fall within a particular cosmetic class or for any particular use;

"(C) representative samples of the labeling or all labeling of any cosmetic or class of cosmetics.

"(3) The Secretary may by regulation require that information required by subsections (2) (A), (B), and (C) be included as part of an annual registration.

"Changes in Registration Information

"(c) If, at any time, material information submitted by any person required to register under this section is no longer accurate, such person shall file with the Secretary, within ninety days after the date on which such information is no longer accurate, such amendment or amendments as may be necessary to make the information accurate.

"Notification of New Cosmetic

"(d) The Secretary shall, by regulation, provide that any person required to register pursuant to this section who proposes to offer for commercial distribution a cosmetic—

"(1) which contains any ingredient which has not previously been used in cosmetics registered pursuant to this section, or

"(2) which is proposed to be used in an application for which such cosmetic was not previously offered for commercial distribution,

shall, within twenty days before the date on which such cosmetic is first offered for commercial distribution, give the Secretary notice of the proposed commercial distribution of such cosmetic, along with a list of the ingredients used in such cosmetic and information as to its intended use as prescribed in the labeling thereof.

"Inspection, Reporting, and Recordkeeping

"(e) (1) Every establishment required to register under this section shall be subject to the inspection and reporting requirements of section 704.

"(2) Every person required to register under this section shall maintain records of all information submitted to the Secretary under this section. Such information, and other records relating to such information, may be inspected or required to be submitted under section 704.

"Availability of Information

"(f) (1) All formula data submitted under this section and section 604(b) shall be retained by the Secretary as confidential trade secret information, except that such information may be made available to a licensed physician, on a confidential basis, seeking such relevant information where necessary for the care and treatment of a patient.

"(2) Information submitted to the Secretary in compliance with requirements of paragraph (d) (2) of this section shall be retained by him as confidential trade secret information until the date on which the cosmetic to which such information applies is offered for commercial distribution.

"Filing of Adverse Reactions

"(g) The Secretary shall require every person required to register under this section to file with him information regarding every report of any adverse reaction received by such person which may have resulted, or is alleged to have resulted, from the use of a cosmetic processed by him, thirty days after the end of the calendar quarter in which such report was received. Each such person shall maintain, for at least five years from date of receipt all such reports, all information regarding such adverse reaction.

"Definitions

"(h) (1) As used in this section the term—

"(1) 'process', 'processed', or 'processing', with respect to cosmetics, includes the manufacturing, preparing, packaging, or labeling of a cosmetic, except that such term shall not include persons whose activities with respect to cosmetics are limited solely to transportation or storage of cosmetics or retail sales of cosmetics to consumers;

"(2) 'name' shall include in the case of a partnership the name of each partner, and in the case of a corporation the name appearing on the corporation's charter or certificate of incorporation and the name of each principal corporate officer and director and the State of incorporation;

"(3) 'owns or operates' means any person who owns, operates, leases, or controls any establishment used in processing a cosmetic;

"(4) 'establishment' means the premises, building, structures, and facilities used in processing cosmetics; and

"(5) 'adverse reaction' means any allergic reaction or other bodily injury associated with or contemporaneous with the use of a cosmetic.".

INSPECTION AND REPORTING

SEC. 202. Section 704(a) of the Act (21 U.S.C. 374) is amended by adding at the end thereof the following new sentence: "In the case of persons manufacturing, processing, preparing, packaging, labeling, or holding a cosmetic (1) inspection shall extend to all things therein (including records, files, papers, processes, controls, and facilities, but excluding those financial, sales, pricing, personnel, and research data not bearing upon whether the product may be adulterated or misbranded) bearing on whether a cosmetic may be adulterated or misbranded or on whether there has been a violation of section 301; and (2) the owner or operator of any establishment which may be inspected under this section shall, upon written notice from the Secretary, submit such information to him. The district courts of the United States shall have jurisdiction to enforce requests under the preceding sentence and to require access to such information upon application of the Secretary or the Attorney General, in an action brought in any district wherein the person or establishment involved is found or transacts business.".

ADMINISTRATIVE RESTRAINT AND SEIZURE

SEC. 203. (a) Section 304 of the Act (21 U.S.C. 334) is amended by adding at the end the following new subsection:

"Administrative Restraint

"(g) (1) If during an inspection conducted under section 704 of an establishment or a vehicle, a cosmetic which the officer or employee making the inspection has reason to believe is adulterated or misbranded is found in such establishment or vehicle, such officer or employee may order the cosmetic detained (in accordance with regulations prescribed by the Secretary, which regulations shall provide procedures for the prior approval of the detention of such cosmetic by an official having supervisory authority over the officer or employee making the inspection) for a reasonable period which may not exceed twenty days unless the Secretary determines that a period of detention greater than twenty days is required to institute an action under subsection (a) to seize the cosmetic, in which case he may authorize a detention period of not to exceed thirty days. A detention order under this paragraph may require the labeling or marking of a cosmetic during the period of its detention for the purpose of identifying the cosmetic as detained. Any person who would be entitled to claim a cosmetic if it were seized under subsection (a) may appeal to the Secretary a detention of such cosmetic under this paragraph. Within five days of the date an appeal of a detention is filed with the Secretary, the Secretary shall, after affording opportunity for an informal hearing, by order confirm the detention or revoke it.

"(2) (A) Except as authorized by subparagraph (B), a cosmetic subject to a detention order issued under paragraph (1) shall not be moved by any person from the place at which it ordered detained until—

"(i) released by the Secretary, or

"(ii) the expiration of the detention period applicable to such order,

whichever occurs first.

"(B) A cosmetic subject to a detention order under paragraph (1) may be moved—

"(i) in accordance with regulations prescribed by the Secretary, and

"(ii) if not in final form for shipment, at the discretion of the manufacturer of the cosmetic for the purpose of completing the work required to put it in such form.".

Seizure of Any Adulterated or Misbranded Cosmetic

(b) Section 304(a) (2) of the Act is amended (1) by striking out "and" before "(C)", and (2) by striking out the period at the end and inserting in lieu thereof a comma and the following: "and (D) any adulterated or misbranded cosmetic.".

CONFORMING AMENDMENTS

Prohibited Acts

SEC. 204. (a) Section 301(j) of the Act (21 U.S.C. 331) is amended by changing the period at the end thereof to a comma, and by inserting the following immediately after such comma: "or any formula data entitled to protection under section 604(f).".

(b) Section 301 of the Act (21 U.S.C. 331) is further amended by adding the following new paragraphs:

"(r) The movement of a cosmetic in violation of an order under section 304(g) or the removal or alteration of any mark or label required by the order to identify the cosmetic as detained.

"(s) The failure of any person to register, or to submit information, when required to do so under section 605.".

Misbranded Cosmetics

(c) Section 602 of the Act is further amended by adding at the end thereof the following new paragraph:

"(i) If it was processed in an establishment which was not registered as required under section 605, or if information concerning it is not submitted or maintained as required under section 605, or if information concerning it is not submitted as required under section 704.".

Imports

(d) Section 801(a) of the Act (21 U.S.C. 381(a)) is amended by inserting "(1)" immediately after "(a)" and adding at the end thereof:

"(2) The Secretary shall refuse entry of any cosmetic offered for importation into the United States which has been processed in any establishment other than an establishment registered pursuant to section 605.".

EFFECTIVE DATES

SEC. 205. Every person who owns or operates an establishment engaged in processing a cosmetic shall first register pursuant to section 605 of the Federal Food, Drug, and Cosmetic Act on the first day of the third month after regulations promulgated under section 605 of the Federal Food, Drug, and Cosmetic Act take effect. All other provisions of this title shall take effect upon enactment.

TITLE III—COSMETIC LABELING

SEC. 301. (a) Section 602 of the Act is further amended by adding at the end thereof the following new subsections:

"Cosmetic Ingredient Labeling

"(g)(1) Unless labeling affixed to or within the package in a manner that renders such labeling visible or readily accessible to prospective consumers at the point of retail sale bears—

"(A) the common or unusual name of the cosmetic, if any, and

"(B) in case it is fabricated from two or more ingredients, the common or usual name of each such ingredient in alphabetical order, except that fragrance and flavor may be designated as such without naming each ingredient. The Secretary may, by regulation, require labeling of ingredients which are part of flavor or fragrance if he deems such disclosures to be in the public interest.

"(2) Subject to such conditions as the Secretary may by regulation provide, this subsection shall not apply to incidental additives that are present in a cosmetic in insignificant levels and which do not have any technical or functional effect in such cosmetic.

"(3) Subject to such conditions as the Secretary shall by regulation provide, labeling shall include a statement indicating that additional information shall be made available on request.

"Warning and Other Labeling

"(h) Unless its label or labeling bears adequate warnings against use where it may be hazardous to health, or such warnings or information as the Secretary may by regulation require with respect to use which the Secretary has determined to be necessary for the protection of the public health or appropriate as a guide to use.".

EFFECTIVE DATE

SEC. 302. The amendments made by this title shall be effective on the first day of the thirteenth calendar month following the month in which this Act is enacted.

TITLE IV—GENERAL PROVISIONS CONCERNING COSMETICS

SEC. 401. Chapter VI of the Federal Food, Drug, and Cosmetic Act, as amended by this Act, is further amended by inserting at the end thereof the following:

"GENERAL PROVISIONS CONCERNING COSMETICS

"Poison Control Information

"SEC. 606. (a) The Secretary shall establish a system for making publicly available, through poison control centers and other appropriate means, the summary information collected under section 605(b)(1)(E) relevant to hazards from accidental ingestion or misuse of cosmetics and antidotes or treatment. Such system shall assure that such information is available at any time to persons (including physicians, hospitals, clinics, and poison control centers) who request such information to aid in treatment of individuals who may be injured as a result of the ingestion of, contact with, or exposure to, any cosmetic. The system shall also include a continuing program by the Secretary to inform physicians, hospitals, clinics, and poison control centers, and other persons to whom such information may be useful, of the availability of such information and the methods by which it may be obtained at any time.

"Small Business Assistance

"(b) The Secretary shall cooperate with the Small Business Administration with respect to applications (under section 7(b)(5) of the Small Business Act, as amended (15 U.S.C. 631 et seq.)) for loans to assist affected small business entities to comply with requirements under sections 604 and 601(f). The Small Business Administration shall request the Secretary to review each such application. The Secretary shall evaluate each such application and shall report thereon to the Administrator (or to the bank or lending institution involved) within sixty days after the date of receipt thereof. Each such report shall include the Secretary's conclusion as to whether such proposed additions to or alterations in, the applicant's plant, facilities, or methods of operation are appropriate to enable or to assist the applicant to comply with requirements under sections 604 and 601(f).

"Effect on State Law

"(c)(1) It is declared to be the express intent of Congress to supersede any and all laws of the States or political subdivisions thereof, insofar as they may now or hereafter provide for information on the label or in labeling of a cosmetic which is in addition to or different from information required on the label or in labeling by or under section 602 of this Act, except as provided in this section.

"(2) Upon application of a State or political subdivision thereof, the Secretary may by regulation, after notice and opportunity for oral presentation of views, exempt from the provisions of paragraph (1) (under such conditions as he may impose) a proposed safety requirement described in such application, where the proposed requirement—

"(A) imposes a higher level of performance than the Federal standard,

"(B) is required by compelling local conditions, and

"(C) does not unduly burden interstate commerce.

"Procedures and Judicial Review

"(d)(1) Proceedings to issue, amend, or repeal a regulation under this chapter shall be conducted in accordance with the procedures prescribed by section 553 of title 5 of the United States Code.

"(2) In the case of any regulation under this chapter any interested person (including a consumer or consumer organization), who may be adversely affected by such regulation may, at any time within sixty days after the regulation is issued by the Secretary, file a petition with the United States Court of Appeals for the District of Columbia, or for the circuit wherein such person resides or has the principal place of business, for judicial review of such regulation. A copy of the petition shall be transmitted by the clerk of the court to the Secretary or other officer designated by him for that purpose. The Secretary shall file in the court the record of the proceedings on which the Secretary based his regulation as provided in section 2112 of title 28 of the United States Code. For purposes of this subsection, the term 'record' means all notices and other matter published in the Federal Register with respect to the regulation reviewed, all information submitted to the Secretary with respect to such regulation, proceedings of any advisory committee with respect to such regulation, any hearing held with respect to such regulation, and any other information identified by the Secretary, in the administrative proceeding held with respect to such regulation, as being relevant to such regulation.

"(3) If the petitioner applies to the court for leave to adduce additional evidence, and shows to the satisfaction of the court that such additional evidence is material and that there was no opportunity to adduce such evidence in the proceeding before the Secretary, the court may order such additional evidence (and evidence in rebuttal thereof) to be taken before the Secretary in a hearing or in such other manner, and upon such terms and conditions, as the court may deem proper. The Secretary may modify his findings, or make new findings, by reason of the additional evidence so taken, and he shall file such modified or new findings, and his recommendation, if any, for the modification or setting aside of his original regulation, with the return of such additional evidence.

"(4) Upon the filing of the petition under subsection (3) of this section, the court shall have jurisdiction to review the regulation of the Secretary in accordance with subparagraphs (A), (B), (C), and (D) of paragraph (2) of section 706 of title 5 of the United States Code. If the court orders additional evidence to be taken under subsection (4) of this section, the court shall also review the Secretary's regulation to determine if, on the basis of the entire record before the court pursuant to subsection (3) and (4) of this section, it is supported by substantial evidence. If the court finds the regulation is not so supported, the court may set it aside.

"(5) With respect to any regulation reviewed under this section, other than a regulation made effective upon publication in the Federal Register pursuant to section 604 (e)(2), the court may grant appropriate relief pending conclusion of the review proceedings, as provided in section 705 of such title 5.

"(6) The judgment of the court affirming or setting aside, in whole or in part, any such regulation of the Secretary shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification, as provided in section 1254 of title 28 of the United States Code.

"Advisory Committees

"(e) The Secretary may appoint advisory committees to assist in the administration of this chapter. Any such committee shall consist of members who are individuals appropriately qualified by training and experience. Not less than one-third of the members of any committee shall be representatives of consumer interests. The Secretary shall prescribe by regulation the procedures to be followed by such committees and shall assure that each committee provides, to the maximum extent practicable, an opportunity for any interested person to submit data and views on all matters considered by the committee. All meetings of the committee shall be open in accordance with the requirements of the Federal Advisory Committee Act.".

SEC. 402. The provisions of this title shall take effect on the date of enactment of this Act.

WAIVER OF SECTION OF THE CONGRESSIONAL BUDGET ACT WITH RESPECT TO CONSIDERATION OF H.R. 10339

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 991.

The ACTING PRESIDENT pro tempore. The resolution will be stated by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 494) waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of H.R. 10339, an act to encourage the direct marketing of agricultural commodities from farmers to consumers.

The ACTING PRESIDENT pro tempore. Is there objection to the present consideration of the resolution?

There being no objection, the resolution was considered and agreed to, as follows:

Resolved, That, pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of H.R. 10339, an Act to encourage the direct marketing of agricultural commodities from farmers to consumers. Such waiver is necessary to permit consideration of explicit statutory authority to foster farmer-to-consumer food marketing in time for enactment for fiscal year 1977.

OCTANE DISCLOSURE ACT OF 1976

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 990.

The ACTING PRESIDENT pro tempore. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 1508) to require that certain information about gasoline be disclosed to consumers.

The ACTING PRESIDENT pro tempore. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Commerce with an amendment to strike out all after the enacting clause and insert the following:

That this Act may be cited as the "Octane Disclosure Act of 1976".

Sec. 2. Declaration of Policy.

The Congress finds and declares that many motorists unknowingly purchase automotive gasoline which has a higher octane rating than is necessary for the proper operation of their automobiles, and that the production and use of gasoline with unnecessarily high octane ratings constitutes a waste of scarce petroleum resources and results in an unnecessary expense for motorists. It is the purpose of the Congress in this Act to assist motorists in making such purchases and to enhance competition in the retail sale of automotive gasoline.

Sec. 3. Definitions.

As used in this Act:

(1) The term "Administrator" means the Administrator of the Environmental Protection Agency.

(2) The term "automobile" means any vehicle propelled by an internal combustion engine which is fueled with gasoline and which is manufactured primarily for use on public streets, roads, and highways. The term does not include any vehicle operated exclusively on a rail or rails.

(3) The term "commerce" means any trade, traffic, transportation, exchange, or other commerce (A) between any State and any place outside of such State, or (B) which affects any trade, transportation, exchange, or other commerce described in subparagraph (A).

(4) The term "Commission" means the Federal Trade Commission.

(5) The term "gasoline" means a refined petroleum product which is used or designed to be used to fuel an automobile engine. The term does not include (A) fuel used or designed to be used to fuel an airplane engine, marine engine, or other engine used in forms of transportation other than automobiles; (B) diesel fuel; or (C) motor oil.

(6) The term "octane rating" refers to the rating used to measure the antiknock characteristics of gasoline, and means one half of the research octane number plus the motor octane number, as defined by the Commission.

(7) The term "retail establishment" means a place at which a person is engaged in commerce in any State in the sale of gasoline for purposes other than resale.

(8) The term "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, or any other commonwealth, territory, or possession of the United States.

Sec. 4. Disclosure Requirements.

(a)(1) It shall be unlawful for any person who offers gasoline for sale in a retail establishment to fail to affix, to the gasoline pump from which such gasoline is dispensed, a label which states, in a clear and conspicuous manner, the octane rating of any gasoline which is dispensed through such pump.

(2) The Administrator of the Environmental Protection Agency shall inspect retail establishments, or shall cause such establishments to be inspected, to the extent necessary to enforce, and in the manner most likely to be effective in enforcing, paragraph (1).

(3) Any person who violates paragraph (1), or who fails to furnish to the Administrator information requested pursuant to paragraph (2), shall forfeit and pay to the United States a civil penalty of $100 for each and every day of the continuance of such violation. Such penalty shall accrue to the United States and shall be recovered in a civil suit in the name of the United States in the district court of the United States for the judicial district in which such person maintains his principal place of business or in any such district in which he does business. The Administrator may, upon application therefor, remit or mitigate any forfeiture provided for in this paragraph, and the Administrator is authorized to determine the facts upon any such application.

(b) The Federal Trade Commission Act (15 U.S.C. 41 et seq.) is amended (1) by striking out section 21 thereof; (2) by amending section 1 thereof by striking out "That a" in the first sentence thereof and inserting in lieu thereof, with appropriate paragraph indentation, the following:

"(a) This Act may be cited as the 'Federal Trade Commission Act'.

"(b)(A)";

(3) by redesignating section 20 as section 21; and (4) by inserting after section 19 the following new section:

"FUEL DISCLOSURE

"Sec. 20. (a) It shall be unlawful for any person engaged in commerce in the business of selling gasoline for the purpose of resale or distribution to fail to certify in writing, at or prior to the time of delivery of gasoline to a retail establishment, the octane rating of such gasoline.

"(b) After the effective date of this section, it shall be unlawful for any person who manufactures an automobile to fail to disclose, in accordance with this subsection, the minimum octane rating which is appropriate for gasoline used to fuel such automobile, together with additional information indicating that such octane rating requirement may change with increased age or with greater-than-average utilization of such automobile. Each such disclosure shall be made in a clear and conspicuous manner, by (1) a notification which shall be affixed to such automobile at the time of manufacture, and (2) by statements in literature furnished to the purchaser of such automobile.

"(c) The Commission shall, by rule, establish standard (1) methods for calculating octane ratings, and (2) methodologies and procedures for testing and assuring the purity and content of gasoline. The Commission may prescribe such rules as are necessary to further the objectives of this section and of section 4(a) of the Octane Disclosure Act of 1976. Any rule prescribed under this subsection shall be issued in accordance with section 109(a) of the Magnuson-Moss Warranty-Federal Trade Commission Improvement Act (15 U.S.C. 2309(a)).

"(d) A violation of this section, or of any rule issued pursuant to this section, shall constitute an unfair or deceptive act or practice in or affecting commerce within the meaning of section 5(a) of this Act. Any such violation shall be subject to enforcement under section 5(b), and to penalties under sections 5(l) and 5(m), of this Act.

"(e) As used in this section, the terms 'automobile', 'commerce', 'gasoline', 'octane rating', and 'retail establishment' shall have the meanings prescribed for such terms in section 3 of the Octane Disclosure Act of 1976.".

Sec. 5. Publication of Information.

Section 6(f) of the Federal Trade Commission Act (15 U.S.C. 46) is amended by inserting after "public interest" the following: ", including information correlating octane ratings required by law to be affixed to gasoline pumps with octane ratings contained in literature furnished by automobile manufacturers prior to the effective date of section 20(b) of this Act".

Sec. 6. Effective Date.

(a) Except as otherwise provided in subsection (b), the amendments made by section 4 shall take effect 1 year after the date of enactment of this Act. The requirements of section 20(b) of the Federal Trade Commission Act shall not take effect prior to the automobile model year which first commences after the effective date of the amendments made by section 4.

(b) The authority vested in the Federal Trade Commission pursuant to section 20(c) of the Federal Trade Commission Act shall become effective upon the date of enactment of this Act.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

NATURAL GAS PIPELINE SAFETY ACT OF 1968, AMENDMENTS

Mr. MANSFIELD. Mr. President, I ask for immediate consideration of a bill being held at the desk, H.R. 12168, an act to amend the Natural Gas Pipeline Safety Act of 1968 to authorize additional appropriations, and for other purposes.

The ACTING PRESIDENT pro tempore. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which was read twice by its title.

UP AMENDMENT NO. 268

Mr. MANSFIELD. Mr. President, I send to the desk an amendment in the nature of a substitute.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Montana (Mr. MANSFIELD) proposes an unprinted amendment numbered 268.

The amendment is as follows:

On page 1, strike all after the enacting clause and insert in lieu thereof the following: "That this Act may be cited as the 'Natural Gas Pipeline Safety Act Amendments of 1976'.

"SEC. 2. Section 2 of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. 1671) is amended—

"(1) by striking out '; and' at the end of paragraph (8) thereof and inserting in lieu thereof the following: ', except that it shall not include any facility which transports gas from an interstate gas pipeline to a direct sales customer purchasing gas for its own consumption;';

"(2) by redesignating paragraph (9) thereof as (10) thereof; and

"(3) by inserting after paragraph (8) thereof the following new paragraph:

(9) "Intrastate pipeline transportation" means pipeline facilities and transportation of gas within a State which are not subject to the jurisdiction of the Federal Power Commission under the Natural Gas Act, except that such term shall include pipeline facilities within a State which transport gas from an interstate pipeline to a direct sales customer within such State purchasing gas for its own consumption; and'.

"SEC. 3. Section 3(b) of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. 1672 (b)), is amended—

"(1) by adding before the word 'testing,' in the second sentence thereof, the following: 'emergency plans and procedures,'; and

"(2) by amending the last sentence thereof to read as follows: 'Any State agency may adopt additional or more stringent standards for intrastate pipeline transportation if such standards are compatible with the Federal standards. No State agency may adopt or continue in force any standards applicable to interstate transmission facilities, after the Federal standards become effective.'.

"SEC. 4. Section 4(a) of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. 1673) is amended by adding the following new sentence at the end thereof: 'The Committee shall meet at least twice during each calendar year.'.

"SEC. 5. (a) Section 5(a) of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. 1674(a)) is amended—

"(1) by striking out 'pipeline facilities and the transportation of gas (not subject to the jurisdiction of the Federal Power Commission under the Natural Gas Act) within a State' in the first sentence thereof and inserting in lieu thereof "intrastate pipeline transportation';

"(2) by striking out 'pipeline facilities and transportation of gas' in clause 1 thereof and inserting in lieu thereof 'transportation';

"(3) by amending clause (2) thereof to read as follows: 'has adopted each Federal safety standard established under this Act as of the date of the certification which is applicable to such transportation or, with respect to each such standard which was established less than 120 days before the date of such certification, is taking such steps as are necessary under State law to adopt such standard;';

"(4) by striking out 'and' at the end of clause (3) thereof;

"(5) by redesignating clause (4) thereof as clause (5) thereof; and

"(6) by inserting the following new clause immediately after clause (3) thereof:

'(4) is encouraging and promoting programs designed to prevent damage to natural gas pipelines and other subsurface utility equipment as a consequence of any excavation activity; and'.

"(b) Section 5(b) of such Act (49 U.S.C. 1674(b)) is amended by striking out all that begins with 'With respect to' and ends with 'actions to—' and inserting in lieu thereof the following: 'With respect to any intrastate pipeline transportation for which the Secretary does not receive a certification under subsection (a) of this section, the Secretary may, by agreement with a State agency (including a municipality) authorize such agency to assume responsibility for, and carry out on behalf of the Secretary as it relates to intrastate pipeline transportation the necessary actions to—'.

"(c) Section 5(c) of such Act (49 U.S.C. 1674(c)) is amended—

"(1) by redesignating paragraphs (2), (3), and (4) thereof as paragraphs (3), (4), and (5) respectively;

"(2) by striking out 'section 15(b)' and inserting in lieu thereof 'section 17(b),' and by striking out 'paragraph (1)' and inserting in lieu thereof 'paragraphs (1) and (2)' in newly redesignated paragraph (c) thereof; and

"(3) by striking out paragraph (1) thereof and inserting in lieu thereof the following two new paragraphs immediately after '(c)':

"(1) Except as otherwise provided in this section, if an application is submitted not later than September 30 in any calendar year, the Secretary shall pay out of funds appropriated or otherwise made available—

"(A) one hundred percent (but not to exceed $60,000 for each State) of the cost of not more than three full-time inspectors, as determined by regulations issued by the Secretary taking into account the needs of the respective States, and

"(B) up to 50 percent of the cost of such other personnel, equipment, and activities of a State agency reasonably required, during the following calendar year to carry out a safety program under a certification under subsection (a) or an agreement under subsection (b) of this section or to act as agent of the Secretary with respect to interstate transmission facilities.

"(2) The Secretary may, after notice and consultation with a State agency, withhold all or any part of the funds for a particular State agency if he determines that such State agency—

"(A) is not satisfactorily carrying out a safety program under a certification under subsection (a) or an agreement under subsection (b) of this section, or

"(B) is not satisfactorily acting as agent of the Secretary with respect to interstate transmission facilities.

No such payment may be made unless the State agency making application under this subsection gives assurances satisfactory to the Secretary that the State agency will provide the remaining cost of such a safety program and that the aggregate expenditures of funds of the State, exclusive of Federal grants, for gas safety programs will be maintained at a level which does not fall below the average level of expenditures for the last two fiscal years—

'(A) preceding the fiscal year for which the State agency is making application for payments made pursuant to subsection (c) (1) (A) of this section, or

'(B) preceding the date of enactment of this section with respect to payments for which the State agency is making application pursuant to subsection (c) (1) (B) of this section.'.

"(d) The first sentence of section 5(d) of such Act (49 U.S.C. 1674(d)) is amended to read as follows: 'A certification which is in effect under subsection (a) of this section shall not apply with respect to any new or amended Federal safety standards established after the date of such certification for intrastate pipeline transportation pursuant to this Act.'.

"SEC. 6. Section 7 of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. 1676) is amended by adding at the end thereof the following new sentence: 'The Commission may not attach any condition to the issuance of a certificate of public convenience and necessity, or to the exercise of rights granted under such a certificate, if such condition requires the applicant to comply with any safety standards for pipeline facilities or for the transportation of gas other than safety standards prescribed by the Secretary.'.

"SEC. 7. The first sentence of section 11 of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. 1680) is amended to read as follows: 'Each person who engages in intrastate pipeline transportation shall file with the Secretary or, with the appropriate State agency if a certification or an agreement pursuant to section 5 of this Act is in effect, a plan for inspection and maintenance of each such pipeline facility owned or operated by such person, and any changes in such plan, in accordance with regulations prescribed by the Secretary or appropriate State agency.'.

"SEC. 8. Section 14(a)(1) of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. 1683(a)(1)) is amended by striking out 'accidents' and inserting in lieu thereof 'leak repairs, accidents'.

"SEC. 9. The Natural Gas Pipeline Safety Act of 1968 is amended by redesignating section 15 thereof as section 17 thereof and by inserting the following two new sections after section 14 thereof:

'CONSUMER EDUCATION

'SEC. 15. Each person who engages in the transportation of gas shall, in accordance with the regulations prescribed by the Secretary, conduct a program to educate the public on the possible hazards associated with gas leaks and on the importance of reporting gas odors and leaks to appropriate authorities. The Secretary is authorized to develop materials suitable for use in such education programs.

'CITIZEN'S CIVIL ACTION

'SEC. 16. (a) Except as provided in subsection (b), any person may commence a civil action for mandatory or prohibitive injunctive relief, including interim equitable relief, whenever such action constitutes a case or controversy against any person who is alleged to be in violation of a provision of this Act or of an order or regualtion issued under this Act. The district courts of the United States shall have jurisdiction over actions brought under this section, without regard to the amount in controversy or the citizenship of the parties.

'(b) No civil action may be commenced (1) prior to 60 days after the moving party has given notice of the alleged violation to the Secretary and to any alleged violator in such manner as the Secretary may by regulation require; or (2) if the Secretary has commenced and is diligently pursuing administrative proceedings or the Attorney General has commenced and is diligently pursuing judicial proceedings with respect such alleged violation.

'(c) In any action under this section, the Secretary (with the concurrence of the Attorney General) or the Attorney General may intervene as a matter of right.

'(d) Nothing in this section shall restrict any right which any person (or class of persons) may have under any statute or at common law to seek enforcement of any provision, order, or regulation or to seek any other relief.

'(e) In any action under this section the court may, in the interest of justice, award the costs of suit, including reasonable attorney's fees and reasonable expert witnesses fees to a prevailing plaintiff. Such court may, in the interest of justice, award such costs to a prevailing defendant whenever such action is unreasonable, frivolous, or meritless. For purposes of this subsection a reasonable attorney's fee is a fee (1) which is based upon (A) the actual time expended by an attorney in providing advice and other legal services in connection with representing a person in an action brought under this subsection, and (B) such reasonable expenses as may be incurred by the attorney in the provision of such services, and (2) which is computed at the rate prevailing for the provision of similar services with respect to actions brought in the court which is awarding such fee.

'(f) As used in this section the term "person" includes a governmental entity.'.

"Sec. 10. Section 17 of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. 1684), as redesignated under section 9 of this Act, is amended to read as follows:

'AUTHORIZATION FOR APPROPRIATIONS

'Sec. 17. (a) There are authorized to be appropriated for purposes of carrying out this Act (other than section 5(c) of this Act) not to exceed $2,850,000 for the fiscal year ending June 30, 1976; not to exceed $650,000 for the transitional fiscal period ending September 30, 1976; not to exceed $4,500,000 for the fiscal year ending September 30, 1977; and not to exceed $5,000,000 for the fiscal year ending September 30, 1978.

'(b) There are authorized to be appropriated for purposes of carrying out section 5(c) of this Act, not to exceed $2,500,000 for the fiscal year ending June 30, 1976, and the transitional fiscal period ending September 30, 1976; not to exceed $4,500,000 for the fiscal year ending September 30, 1977; and not to exceed $4,500,000 for the fiscal year ending September 30, 1978.' ".

Mr. MANSFIELD. Mr. President, this amendment would substitute the text of S. 2042, a bill which the Senate passed on May 28, 1976, to amend the Natural Gas Pipeline Safety Act of 1968, to authorize additional appropriations, and for other purposes.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the amendment.

The amendment was agreed to.

The ACTING PRESIDENT pro tempore. The question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill (H.R. 12168) was read a third time, and passed.

Mr. MANSFIELD. Mr. President, I move that the Senate insist upon its amendment and request a conference with the House, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Acting President pro tempore appointed Mr. Magnuson, Mr. Hartke, and Mr. Beall conferees on the part of the Senate.

VETERANS' ADMINISTRATION EXCHANGE OF INFORMATION—H.R. 3348

AMENDMENT NO. 2121

(Ordered to be printed and to lie on the table.)

VETERANS POPPY PROGRAM

Mr. GRIFFIN. Mr. President, I submit for printing an amendment to H.R. 3348 on behalf of myself and Mr. Baker of Tennessee, Mr. Bentsen of Texas, Mr. Brock of Tennessee, Mr. Burdick of North Dakota, Mr. Chiles of Florida, Mr. Curtis of Nebraska, Mr. Dole of Kansas, Mr. Domenici of New Mexico, Mr. Eastland of Mississippi, Mr. Fannin of Arizona, Mr. Ford of Kentucky, Mr. Garn of Utah, Mr. Goldwater of Arizona, Mr. Hansen of Wyoming, Mr. Helms of North Carolina, Mr. Hruska of Nebraska, Mr. McClellan of Arkansas, Mr. McClure of Idaho, Mr. McGee of Wyoming, Mr. McGovern of South Dakota, Mr. Moss of Utah, Mr. Pearson of Kansas, Mr. Pell of Rhode Island, Mr. Roth of Delaware, Mr. Scott of Pennsylvania, Mr. Scott of Virginia, Mr. Stevens of Alaska, Mr. Thurmond of South Carolina, Mr. Weicker of Connecticut, and Mr. Young of North Dakota.

The ACTING PRESIDENT pro tempore. The amendment will be received and printed, and will lie on the table.

Mr. GRIFFIN. Mr. President, over the years the sale of memorial poppies has become an American tradition. Since World War I, the poppy program has raised millions of dollars for the aid of disabled veterans and their families. Working in State and Federal hospitals across the land, American veterans have made these paper poppies and have gained therapeutic benefits in the process. The program has afforded those who are in the hospital a sense of personal accomplishment by seeking to help others.

Unhappily, the poppy program now faces a regulatory crisis which threatens its continued existence. In an effort to preserve this unique and valuable project, I indicated last month my intention to offer an amendment to H.R. 3348, which is pending on the calendar.

As I understand it, the Labor Department recently indicated that the minimum wage requirements and administrative burdens of the Fair Labor Standards Act were to be applied to the poppy program. The sponsoring veterans organizations believe very strongly that enforcement of the act in this way would actually terminate the poppy program.

Furthermore, the Veterans' Administration is fearful that lawsuits to enforce Fair Labor Standards Act requirements would subject VA hospital officials and employees to civil and criminal penalties.

This is a ridiculous situation, Mr. President, and my amendment would seek to make clear that the poppy program is not to be subject to this new bureaucratic assault. The amendment would accomplish this by clarifying authority already given to the administrators of veterans hospitals to utilize the services of patients for rehabilitation and therapeutic purposes on a voluntary basis, as in the past.

It would not alter the language of the Fair Labor Standards Act in any way nor provide a precedent for exempting handicapped persons engaged in traditional work programs in other areas. There should be no confusion between the latter and patients who voluntarily assemble poppies on their free time in veterans' hospitals.

Mr. President, I hope that, at the appropriate time, when this amendment is offered, it will be adopted by the Senate to clear this matter up.

Mr. President, I ask unanimous consent that the amendment be printed in the Record.

There being no objection, the amendment was ordered to be printed in the Record, as follows:

AMENDMENT No. 2121

At the end of the bill, insert the following new section:

"Sec. 3. Section 618 of title 38, United States Code, is amended by (1) inserting '(a)' in the first sentence before 'The'; and (2) inserting at the end thereof the following new subsection:

'(b)(1) In providing therapeutic and rehabilitation activities, the Administrator, upon the recommendation of the Chief Medical Director, may provide for the participation of patients and members in Veterans' Administration health care facilities in the assemblage of poppies or other similar projects carried out at such facilities, which are sponsored by a national veterans service organization or its auxiliary.

'(2) Notwithstanding any other provision of law, patients and members shall be compensated for their participation in such programs at rates agreed upon by the Administrator and the sponsoring service organization. Compensation to participating patients and members shall be provided by the sponsoring service organizations, or their auxiliaries, and may be paid directly to participating patients and members, to the appropriation from which such patients and members are compensated under the provisions of subsection (a) of this section, or into the General Post Fund, a trust fund prescribed by section 725a of title 31, for the benefit of such patients and members, from which payment shall be made to the participating patients and members'."

QUORUM CALL

Mr. GRIFFIN. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. GRIFFIN. I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of routine morning business not to extend beyond 9:30 a.m., with statements therein limited to 3 minutes each.

EXECUTIVE REPORTS OF THE COMMITTEE ON ARMED SERVICES

Mr. STENNIS. Mr. President, as in executive session, from the Committee on Armed Services, I report favorably the nominations of 28 in the Marine Corps and Marine Corps Reserve to the grade of major general and brigadier general (list beginning with Edward A. Wilcox);

and Vice Adm. Robert C. Gooding, U.S. Navy, for appointment to the grade of vice admiral on the retired list; and Lt. Gen. Richard M. Hoban, U.S. Air Force, to be placed on the retired list in the grade of lieutenant general. Also, in the Army Reserve, there are 28 for appointment to the grade of major general and brigadier general; and Adm. Noel A. M. Gayler, U.S. Navy, for appointment to the grade of admiral on the retired list; and 42 in the Navy for permanent promotion to the grade of rear admiral (list beginning with Samuel H. Packer).

In addition, there are 25 in the Army for promotion to the grade of second lieutenant (list beginning with Paul D. Bennett); and 113 in the Air Force and Air Force Reserve for promotion to the grade of colonel and below (list beginning with Dennis W. Confer); and 866 in the Naval Reserve for temporary promotion to the grade of commander (list beginning with Paul F. Abrahams). Also, there are 3,378 for permanent promotion to the grade of lieutenant commander (list beginning with Charles Ervin Aaker); and 1,641 in the Air Force for promotion to the grade of lieutenant colonel (list beginning with George B. Aaron); and 128 in the Navy and Naval Reserve for promotion to the grade of captain and below (list beginning with Robert W. Bush). Also, there are 2,132 in the Army for promotion to the grade of colonel and below (list beginning with Donald C. Bludworth); and 2,112 in the Army for promotion to the grade of major (list beginning with Claude W. Abate). Also, there are 23 in the Air Force and Air Force Reserve for promotion to colonel and below (list beginning with Lee D. Badgett); and 36 in the Air Force Reserve for promotion to the grade of colonel (list beginning with Robert S. Adams). Since these names have already appeared in the Congressional Record and to save the expense of printing again, I ask unanimous consent that they be ordered to lie on the Secretary's desk for the information of any Senator.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(The nominations ordered to lie on the Secretary's desk were printed in the Record of June 24, July 2, and 19, 1976, at the end of the Senate proceedings.)

CONFIRMATION

Mr. STENNIS. Mr. President, I move the approval of the nominations unanimously reported from the Committee on Armed Services. These are nominations for promotion in all of the four services, including the Reserves. This has clearance on both sides of the aisle.

I ask unanimous consent that they be considered en bloc.

The ACTING PRESIDENT pro tempore. Without objection, the nominations will be considered and confirmed en bloc.

Mr. STENNIS. I thank the Chair.

Mr. President, I ask unanimous consent that the President be notified at once of the confirmation of these nominations.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(The nominations confirmed today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 12:30 p.m., a message from the House of Representatives delivered by Mr. Berry, one of its reading clerks, announced that the House disagrees to the amendment of the Senate to the bill (H.R. 5546) to amend the Public Health Service Act to revise and extend the programs of assistance under title VII for training in the health and allied health professions, to revise the National Health Service Corps program and the National Health Service Corps scholarship training program, and for other purposes; requests a conference with the Senate on the disagreeing votes of the two Houses thereon; and that Mr. Staggers, Mr. Roberts, Mr. Satterfield, Mr. Preyer, Mr. Symington, Mr. Scheuer, Mr. Waxman, Mr. Florio, Mr. Carney, Mr. Maguire, Mr. Devine, Mr. Carter, Mr. Broyhill, Mr. Heinz, and Mr. Madigan were appointed managers of the conference on the part of the House.

The message also announced that the House insists upon its amendments to the bill (S. 2184) to authorize appropriations for the winter Olympic games, and for other purposes, disagreed to by the Senate; agrees to the conference requested by the Senate on the disagreeing votes of the two Houses thereon; and that Mr. Staggers, Mr. Rooney, Mr. Adams, Mr. Metcalfe, Mr. Santini, Mr. Skubitz, and Mr. Madigan were appointed managers of the conference on the part of the House.

At 2:15 p.m., a message from the House of Representatives delivered by Mr. Berry announced that the House has passed the bill (H.R. 13876) to provide for Federal regulation of participation by foreign banks in domestic financial markets, in which it requests the concurrence of the Senate.

ENROLLED BILL SIGNED

The message also announced that the Speaker has signed the following enrolled bill:

H.R. 14514. An act to permit a State which no longer qualifies for hold harmless treatment under the supplemental security income program to elect to remain a food stamp cashout State upon condition that it pass through a part of the 1976 cost-of-living increase in SSI benefits and all of any subsequent increases in such benefits.

The enrolled bill was subsequently signed by the Acting President pro tempore (Mr. Glenn).

HOUSE BILL REFERRED

The following bill was read twice by its title and referred as indicated:

H.R. 13876. An act to provide for Federal regulation of participation by foreign banks in domestic financial markets; to the Committee on Banking, Housing and Urban Affairs.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. CANNON:

S. 3709. A bill to amend the Federal Aviation Act of 1958, as amended, to permit air carriers to hold both scheduled and supplemental certificates of public convenience and necessity. Referred to the Committee on Commerce.

By Mr. MAGNUSON:

S. 3710. A bill for the relief of Imelda Jayag Potter. Referred to the Committee on the Judiciary.

By Mr. PHILIP A. HART:

S. 3711. A bill for the relief of Samson Kossivi Kpadenou. Referred to the Committee on the Judiciary.

By Mr. BENTSEN:

S. 3712. A bill authorizing the extension of the American Canal at El Paso, Tex., and for other purposes. Referred to the Committee on Interior and Insular Affairs.

By Mr. McGOVERN (for himself, Mr. Abourezk, and Mr. Humphrey):

S. 3713. A bill to extend the Emergency Livestock Credit Act of 1974. Referred to the Committee on Agriculture and Forestry.

By Mr. BENTSEN:

S.J. Res. 209. A joint resolution authorizing the President to proclaim the week of October 10 through 16, 1976, as "Native American Awareness Week." Referred to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. CANNON:

S. 3709. A bill to amend the Federal Aviation Act of 1958, as amended, to permit air carriers to hold both scheduled and supplemental certificates of public convenience and necessity. Referred to the Committee on Commerce.

Mr. CANNON. Mr. President, I introduce a bill to amend section 401 of the Federal Aviation Act to make clear that supplemental airlines—or charter airlines as they are sometimes called—are not prohibited, by law, from seeking certificates to engage in scheduled air transportation.

In the past several months, my Subcommittee on Aviation has conducted extensive hearings on regulatory reform in air transportation. The administration, the Civil Aeronautics Board, and many in Congress are convinced that present airline regulation is badly outdated and in need of major change.

Particularly in the area of encouraging new and additional competition in the airline industry we find widespread support for ending the closed-door airline system that has existed for many years. I strongly believe that new entrants should be encouraged to enter the business to provide innovative services and existing airlines should consider new service alternatives.

In that regard, the Civil Aeronautics Board recently ruled, in an application filed by World Airways for a low-cost transcontinental air service, that the Federal Aviation Act prohibits a supplemental airline from applying for a scheduled route certificate. This bill will eliminate that legal prohibition.

The sole purpose of the proposed amendment to section 401(d)(3) is to permit the Civil Aeronautics Board to hear such cases and to grant "dual" certificates if it finds that the other statutory requirements are met. It would not require the Board to grant the application of World or any other application, any more than the present law requires that applications for certificates of public convenience and necessity be granted. The burden, as always, would be on the applicant to prove that its proposed air transportation is in "the public convenience and necessity" and that it is "fit, willing and able" to perform such transportation.

In the near future, I plan to introduce broad legislation aimed at a major overhaul of air transportation regulation. The bill will deal with the issues of new competition, freedom of pricing, and introduction of new services.

However, the issue of dual certification needs attention immediately, the matter has been extensively covered in our hearings, and a strong record exists indicating there is no merit in a statutory provision automatically eliminating any applicant from entering the scheduled airlines business.

By Mr. BENTSEN:

S. 3712. A bill authorizing the extension of the American Canal at El Paso, Tex., and for other purposes. Referred to the Committee on Interior and Insular Affairs.

AMERICAN CANAL IN EL PASO

Mr. BENTSEN. Mr. President, the people in southwest Texas have waited many years for the completion of the American Canal. The structure was proposed to carry water through El Paso, along the Rio Grande River, to the American farmers below the city. The canal was also intended to facilitate our satisfying the 1906 treaty with Mexico to deliver 60,000 acre-feet of water across the border a year.

At this time, the water is directed from the American Canal back into the Rio Grande where a net loss to seepage of 11,600 acre-feet is recorded every year. On its journey, the water is also sent into the Franklin Canal which runs through the heart of a densely populated neighborhood in El Paso. During the last 23 years, 35 people have drowned in this canal.

The engineering works authorized to be constructed by this bill consist primarily of a 1,200 feet per second, concrete-lined canal extending from the end of the existing American Canal adjacent to the International Dam in the city of El Paso, to the Riverside Heading, a distince of approximately 15 miles downstream on the Rio Grande. The new canal to be constructed will be comprised of two reaches:

First. A distance of about 1.1 miles from the existing American Canal terminus to connect with a 1.7 mile segment of Franklin Canal reconstruction as a part of the Chamizal Settlement of 1964.

Second. A reach of approximately 13 miles extending from the terminus of the reconstructed Franklin Canal to Riverside Heading.

The plan also involves construction of a major lateral from the American Canal Extension to serve the lower portion of the Frankin Canal service area, thereby enabling the first 5.2 miles of the Franklin to be abandoned. A small relift pumping plant will be installed at the point that the lateral connects with the existing Franklin Canal service through a pressure system, to a limited portion of the Franklin Canal Service area that cannot be served by gravity from the American Canal Extension.

The entire length of the American Canal Extension right-of-way will be fenced to limit unauthorized access to the canal for public safety.

Mr. President, this is an important problem, but one that has taken many years to be reckoned with. It is time to act to improve the situation before another precious life is lost or more valuable water is wasted. I ask for the Congress' consideration of this bill and I have every hope that it will be passed with all deliberate speed.

By Mr. McGOVERN (for himself, Mr. Abourezk, and Mr. Humphrey):

S. 3713. A bill to extend the Emergency Livestock Credit Act of 1974. Referred to the Committee on Agriculture and Forestry.

Mr. McGOVERN. Mr. President, the bill I send to the desk for appropriate reference together with the cosponsorship of my junior colleague from South Dakota (Mr. Abourezk) and the Senator from Minnesota (Mr. Humphrey) is simple and straightforward. It merely extends the authorization of the Emergency Livestock Credit Act of 1974 scheduled to expire on December 31, 1976, to September 30, 1978.

For the benefit of my colleagues not familiar with all aspects of this legislation, let me explain that in 1974 we experienced a disastrous drop in the cattle market. Livestock producers and feeders faced the possibility of closing their operations entirely or shifting to different forms of agriculture. The Congress responded with a guaranteed loan program with an 80-percent guarantee to banks willing to finance livestock farmers at commercial rates. In 1975 we amended the earlier legislation to provide for a 90-percent guarantee, a $350,000 limit, and reduced the authorization for outstanding loans from $2 billion to $1½ billion.

Generally, the program has met with reasonable successes. Two bankers from South Dakota who make substantial numbers of agricultural loans have called me recently to advise me of the wide acceptance of the program.

Mr. President, all Members of this body are aware of the crisis conditions that exist in the Upper Great Plains as a result of the most severe drought conditions in 40 years. Foundation dairy and beef herds are going to market in unprecedented numbers due to lack of feed. Many of the counties at least in my State have had multiple designations as disaster areas in the last 5 years. Agricultural losses in South Dakota have been estimated to be as high as $1 billion and these estimates do not include ripple effects that will be felt in small towns and cities in the coming years.

For these reasons, Mr. President, the bill I offer today would extend the Emergency Livestock Act until September 30, 1978. I choose this date as one that coincides with the termination of the fiscal year starting October 1, 1977. During this relatively short period of time farmers and ranchers in affected areas should have the opportunity to get back on their feet and hopefully there will be sufficient rainfall to provide a brighter outlook for their future.

I ask unanimous consent that the text of this bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 3713

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 8 of the Emergency Livestock Credit Act of 1974 (88 Stat. 391, as amended; 7 U.S.C. Prec. 1961) is amended to read as follows:

"Sec. 8. The provisions of this Act shall become effective upon enactment, and the authority to make new guarantees shall expire on September 30, 1978.".

By Mr. BENTSEN:

S.J. Res. 209. A joint resolution authorizing the President to proclaim the week of October 10 through 16, 1976, as "Native American Awareness Week." Referred to the Committee on the Judiciary.

NATIVE AMERICAN AWARENESS WEEK

Mr. BENTSEN. Mr. President, I am pleased to introduce a resolution to authorize the proclamation of Native American Awareness Week. The central theme of Native American Awareness Week is to spotlight the impressive collection of contributions to our society made by American Indians, Eskimos, and Aleuts. Among this collection of talents are current and historical figures who have made notable contributions in education, law, medicine, art, the military, science, and literature. We do not pause often enough to recognize how various groups of Americans have helped our country and society become what it is today. I think it fitting that we do so for the oldest citizens of this land.

I think it is also important for us to realize the struggle that native Americans have faced in developing their talents and maintaining their identity. It has been difficult for these Americans to survive as distinct ethnic groups. Indeed, many tribes and groups have disappeared from this land, and the loss of them has somehow made us less than we could have been. During Native American Awareness Week, we should reflect on this great loss.

Not so many years ago, several tribes and groups faced this same extinction. But thanks to a resurgence of interest and concern among Native Americans, it is safe to say that America will be able to maintain and develop this part of her cultural heritage. We should recognize and be grateful for the many groups and individuals who are actively working to preserve that which might have been lost.

Another area to focus on is the reality of the struggle faced by many Native Americans in taking part in the American dream. Too many of these Americans across our country lead a barely subsistence existence on some reservations and in rural and urban slums. Sadly, this happens all too often because we have neglected our responsibilities as leaders and because too many Americans have not been aware of and concerned about these problems. I think that during Native American Awareness Week, we should think of how we can do more to work with native Americans so that all may take their rightful place in society.

Finally, I feel that we should look toward the future of Native Americans. Their cultures are not static; what they are now doing is not just simple preservation of that which has passed. New literature, new art, and new thought is now emerging from Native Americans, all of which maintains its ties with a rich and colorful past, but which also looks to the present and the future. These developments are probably among the most exciting of this century, and we should learn to appreciate and encourage them.

I think that there are three groups of American Indians who deserve particular attention at this time, since I know that they are representative of the struggles and successes of all Native Americans.

The Alabama-Coushatta Indian tribe settled in the Big Thicket area of east Texas in the 1780's, where they became hunters, fishers, and farmers. Because of their friendship with Texas, they were granted reservation lands in 1854. However, the next century proved harsh for the Alabama-Coushatta. By 1910 there were only 202 members of the tribe left alive. The others had fallen victims to undernourishment, disease, and deprivation.

In the latter half of this century, the Alabama-Coushatta have demonstrated their ability to survive adversity and have recovered from these bad times. In fact, the tribe is thriving and is making a valuable contribution to Texas and the Nation. Once dependent on Government grants and appropriations, it is now projected that Alabama-Coushatta tribal enterprise revenues which are based on tourism and lumber, will total $1,500,000 by 1978, without outside assistance. Museums, tours, and campgrounds built and run by the Alabama-Coushatta offer education and recreation to hundreds of thousands of visitors every year.

The Tigua Indians of El Paso are also a people who have seen struggle and success. They are the oldest identifiable ethnic group in Texas. The Tiguas, a Pueblo tribe, came to Texas in 1680 and settled at Ysleta del Sur, just east of El Paso. There they built a mission to their patron, Saint Anthony, and the mission stands today as the oldest in Texas. But over the centuries the Tiguas began to lose their lands and their culture.

A few years ago, members of the tribe began to organize to preserve their culture and their rights. Their efforts have been successful. Today, there are over 650 Tiguas in the El Paso area, working in the community and making real contributions to industry and agriculture. The recently constructed Tigua Community Building now serves as a focal point for the tribe and also provides visitors with an insight into ancient and modern Native American ways of life.

But the part that Indians play in Texas is not limited to these two great tribes. Indeed, there are over 25,000 other native Americans now living in Texas. They reside in all our cities and in nearly all parts of our countryside. They are to be found teaching and learning in our colleges and universities, working on Texas farms and oilfields, and in our space-age industries. All have made valuable contributions to our economy and to our society.

I would like to conclude these remarks by saying that we have much to learn from the Alabama-Coushatta and Tigua tribes and from all Native Americans everywhere. We need to become more aware of what Native Americans have been in the past, what they are now, and how they will continue to contribute to America's greatness in the future. I feel that Native American Awareness Week is one small step in this direction and hope that my colleagues will join me in supporting this resolution.

ADDITIONAL COSPONSORS

S. 3393

At the request of Mr. Fannin, the Senator from New Mexico (Mr. Domenici) was added as a cosponsor of S. 3393, the Voting Rights Act Repealer Amendments Act of 1976.

S. 3494

At the request of Mr. Stevenson, the Senator from Pennsylvania (Mr. Hugh Scott) was added as a cosponsor of S. 3494, to establish a Federal Bank Examination Council.

S. 3554

At the request of Mr. Proxmire, the Senator from New Mexico (Mr. Domenici), the Senator from Minnesota (Mr. Humphrey), the Senator from North Carolina (Mr. Morgan), the Senator from Rhode Island (Mr. Pell), the Senator from Pennsylvania (Mr. Hugh Scott), and the Senator from Texas (Mr. Tower) were added as cosponsors of S. 3554, the National Neighborhood Policy Act.

SENATE CONCURRENT RESOLUTION 118

At the request of Mr. Jackson, the Senator from Ohio (Mr. Taft) was added as a cosponsor of Senate Concurrent Resolution 118, relating to religious freedom in the Soviet Union.

AMENDMENTS SUBMITTED FOR PRINTING

EDUCATION AMENDMENTS OF 1976—S. 2657

AMENDMENT NO. 2122

(Ordered to be printed and to lie on the table.)

Mr. ROTH submitted an amendment intended to be proposed by him to the bill (S. 2657) to extend the Higher Education Act of 1965, to extend and revise the Vocational Education Act of 1963, and for other purposes.

FOREIGN ASSISTANCE APPROPRIATIONS, 1977—H.R. 14260

AMENDMENT NO. 2123

(Ordered to be printed and to lie on the table.)

LEBANON RELIEF AND REHABILITATION

Mr. KENNEDY. Mr. President, I send to the desk for printing an amendment I propose to offer to the pending foreign assistance appropriations bill, H.R. 14260.

The purpose of this amendment is simply to fund the $20 million Lebanon relief and rehabilitation program authorized by Congress in Public Law 94-329, the International Security Assistance and Arms Export Control Act of 1976.

On the basis of hearings conducted by the Subcommittee on Refugees, which I serve as chairman, I believe there is no question today that relief and rehabilitation funds are urgently needed for Lebanon, and there is no question that they can be used by existing humanitarian relief programs now underway in Lebanon. One such program is the indispensible work of the American University Hospital in Beirut, which is in desperate need of funds.

I am hopeful that when the foreign assistance appropriations bill comes before Congress after the recess, that this amendment will be favorably considered by the Appropriations Committee, and adopted on the floor.

I ask unanimous consent that the text of my amendment be printed in the Record.

There being no objection, the amendment was ordered to be printed in the Record, as follows:

AMENDMENT NO. 2123

On page 5, between lines 16 and 17, insert the following new paragraph:

Lebanon Relief of Rehabilitation assistance: For necessary expenses to carry out the provisions of section 495C, $20,000,000.

TAX REFORM ACT OF 1976—H.R. 10612

AMENDMENT NO. 2124

(Ordered to be printed and to lie on the table.)

Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill (H.R. 10612) to reform the tax laws of the United States.

AMENDMENT NO. 2126

(Ordered to be printed and to lie on the table.)

Mr. GRIFFIN submitted an amendment intended to be proposed by him to the bill (H.R. 10612), supra.

POSTAL REORGANIZATION AND REFORM ACT OF 1976—H.R. 8063

AMENDMENT NO. 2125

(Ordered to be printed and to lie on the table.)

Mr. BUCKLEY. Mr. President, because of the inquiries I have received from colleagues, I would like to make a brief clarifying statement regarding the amendment I intend to offer to H.R. 8603, the postal organization bill. My amendment will not repeal the private express statutes.

My amendment is addressed to another inequity. For at least 70 years the Postal Service has permitted the private carriage of first class mail relating to "the current business of the carrier." An example being, company employees delivering their own bills, or interoffice mail. While the Postal Service does permit these exemptions from the private express statutes, it will not allow this mail to be deposited in mailboxes. I find this inconsistency to be disturbing, especially as mailboxes are paid for by the addressees for their own convenience and for the security of the mail that is delivered to them. Therefore, my amendment will allow mail delivered outside the Postal Service to be deposited in mailboxes. It does not in any way expand the longstanding exemptions already approved by the Postal Service.

Mr. President, I send my amendment to the desk. I also ask unanimous consent that it be printed at this point in the RECORD.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT NO. 2125

At the appropriate place, insert the following new section:

Sec. . (a) Chapter 6 of title 39, United States Code, is amended by adding at the end thereof the following new section:

"§ 607. Use of letter boxes by private carriers

"(a) A private carrier of mail may deposit any mailable matter in any letter box established, approved, or accepted by the Postal Service for the receipt or delivery of mail matter on any mail route.

"(b) For the purposes of this section, the term 'mailable matter' does not include any matter, which with respect to the Postal Service is nonmailable under section 3001(a) and (e), 3002–3006, and 3008–3010 of this title.".

(b) the table of sections for such chapter is amended by adding at the end thereof the following new item:

"607. Use of letter boxes by private carriers.".

(c) Section 1725 of title 18, United States Code, is amended by inserting "(a)" immediately before "Whoever" and by adding at the end thereof the following new subsection:

"(b) This section shall not apply to a private carrier authorized to deposit mail in a letter box under section 607 of title 39.".

(d)(1) Chapter 83 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 1738. Deposit of nonmailable matters

"Whoever knowingly and willfully deposits any matter which is nonmailable with respect to the Postal Service under section 3001(a) and (e), 3002–3006, and 3008–3010 of title 39, in any letter box established, approved, or accepted by the Postal Service for the receipt of delivery of mail matter on any mail route, shall for each such offense be fined not more than $300.".

(2) The table of sections for chapter 83 of title 18, United States Code, is amended by inserting at the end thereof the following:

"1738. Deposit of nonmailable matter.".

ADDITIONAL STATEMENTS

DIVESTITURE BY WHATEVER NAME, SPELLS TROUBLE FOR U.S. FUEL

Mr. FANNIN. Mr. President, even though the stark fact of America's increasing dependence upon foreign oil seems to be growing duller day by day in the public consciousness, there seems to be little reduction of enthusiasm on Capitol Hill for continuing to use the oil industry as a whipping boy. Under the guise of protecting consumers, Congress has rolled back crude oil prices, guaranteeing increased dependence upon greater quantities of foreign oil. To add insult to injury, some Members of Congress are anxious to dismember the oil companies, which would, of course, force even greater dependence upon imported oil.

Belatedly, the oil industry has begun to fight back, as it should. Various statements by the industry have been made as to the disadvantages of divestiture. Several examples of the industry's attempt to present the facts to the American people come to mind. The first is a Mobil Oil statement, making reference to a recent academic study prepared by the energy policy research project, pertaining to divestiture. Another Mobil statement covers the key issues associated with divestiture, which makes reference to various public officials and other prominent citizens' reasoning regarding the lack of wisdom associated with divestiture.

Another example is an interview with Clifton Garvin of Exxon. Another is a well-reasoned statement by Robert J. Samuelson, who properly concludes that divestiture would make absolutely no sense. Also of interest should be a column penned by John Chamberlain, which appeared in the Phoenix Gazette on July 20.

Most importantly, however, is a letter to the editor of the Arizona Republic, written by Mr. Walter Shoaff. He too presents compelling arguments as to the infeasibility of divestiture.

Mr. President, I ask unanimous consent that these statements be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

OIL INDUSTRY DIVESTITURE A (DANGEROUS?) DELUSION

(By Robert J. Samuelson)

Oil industry divestiture is a delusion—perhaps a dangerous one.

Its appeal, though, is understandable. "I don't know of anything that would convince people (more) that they are being heard in government than putting the oil companies in their place," says Sen. Birch Bayh, D-Ind., one of the sponsors of legislation to break up the 18 largest oil companies. That legislation has been voted onto the Senate floor.

Who could doubt that many people would draw satisfaction from this? Who can doubt that millions of Americans—perhaps a majority—hold the oil companies responsible for the "energy crisis"?

But they aren't, and to inflict retribution on a mistaken villain involves a hazardous self-deception, because it may obscure the genuine source of our problems.

When it comes to oil, America's troubles are rooted in two unhappy realities.

First, we are running out of it; according to the best geologic estimates, the U.S. oil reserves (including undiscovered supplies) probably will be depleted sometime between 1990 and, if we are lucky, 2030.

Second, the world's remaining crude oil supplies are concentrated in Arab, Persian Gulf countries, primarily Saudi Arabia, Kuwait and other Arab principalities; their reserves approach 300 billion barrels out of a total of about 500 billion for the entire Organization of Petroleum Exporting Countries (OPEC).

Divestiture will touch neither of these realities. Indeed, no conceivable tampering with the oil industry's structure will affect these conditions.

Shatter the industry into thousands of microscopic firms or consolidate it into one giant government monopoly and the underlying realities would remain undisturbed. It is those realities that make us vulnerable to international blackmail—on both price and politics—and constitute a more general threat to an economy that subsists on oil.

The harm of divestiture lies less in potential waste that might result—though this could be considerable, with 18 of the nation's largest corporations compelled to undergo a costly, time-consuming and contentious breakup into component parts—than in the fantasy that we are actually dealing with our oil problems.

Even if divestiture doesn't pass, the debate—unless the issues are substantially clarified—could promote the same fantasy. Indeed, if divestiture did pass and delivered what it implicitly promises our oil problem probably would become more grave.

What is the implicit promise of divestiture? Lower prices, nothing more and nothing less. The promise is oblique; proponents do not pledge lower prices directly. Rather, they talk about the virtues of increased competition.

The theme is pounded incessantly, and the average person surely understands it to mean lower prices. After all, that is what "added competition" has customarily meant in the language of economics.

But lower prices would represent a false, and temporary, victory. They would simply stimulate consumption. And the more oil we consume, the sooner our limited reserves will be depleted and the more exaggerated our dependence on foreign sources will become.

In this sense, divestiture would contain the seeds of its own failure. Our increased dependence on foreign oil would ultimately strengthen foreign oil producers, and OPEC would, sooner or later, find it easier to increase prices.

There is, however, a good reason why few divestiture supporters make outright promises of lower prices. Their reticence reflects an understanding that lower prices probably wouldn't result.

When pressed, all they claim is that divestiture would so alter the oil industry's structure that OPEC price increases would become more difficult. Thus, they argue, divestiture would be a force for price stability. This outcome is possible but improbable.

If divestiture has been oversold as a remedy, or partial remedy, to the energy crisis, it might have merit on other grounds. It might serve as a useful precursor to debate about the desirable size of business enterprise.

In breaking up the oil industry, divestiture would decimate some of the largest U.S. corporations, though even the survivors would still rank among the biggest.

Should these large concentrations of corporate power be fractured? How much do people really support this goal? Would it change the nature of our economic system?

If divestiture is to be debated seriously, these are some of the questions people ought to be asking. Do divestiture proponents eschew them because they suspect that public support is wafer thin?

The arguments for breaking up the giants has gone on for some years.

Whatever the merits of the classic divestiture debate, the consequences, for the consumer, never amounted to anything more than a few pennies on the price of a gallon of gasoline, either up or down.

The sums are virtually meaningless next to the price increases exacted by OPEC. Given these huge increases and the importance of imports, divestiture proponents have been compelled to adopt their old solution to a new problem.

For it is obvious that, so far as prices are concerned, the power either lies with OPEC (imports now amount to about 40 per cent of consumption) or Congress, which has controlled the price of most domestic oil. To be relevant, divestiture has to influence OPEC.

And it is here that the arguments do not seem convincing. Proponents contend that the oil companies have little interest in lower prices and, therefore, prove extremely weak bargainers with OPEC. They simply accept what OPEC dictates.

The reasons (so the argument goes) for this passivity are simple.

First, the integrated oil companies know that they can sell the crude oil, because they have their own refineries and gas stations; consequently, so long as the prices are relatively uniform among OPEC nations (allowing for differentials in transportation charges and the quality of crude oil), the companies are relatively indifferent to the price level.

Second, a few firms (the so-called Seven Sisters: Exxon, Mobil, Texaco, British Petroleum, Shell, Gulf and Standard of California) have historically controlled the vast volumes of oil coming from the richest Persian Gulf fields.

By acting aggressively with the Persian Gulf producers, critics contend, the companies would risk losing their privileged positions, which, with the decline of U.S. crude reserves, underpin the firms' pre-eminence in the industry. (The crucial point here is not whether the companies actually own the foreign oil—as they did before 1973—but whether they control its distribution.)

No one should dismiss these assessments lightly, because they probably explain much oil company behavior. But they do not locate the true sources of OPEC's power, and the result is a very shaky leap in logic; that by changing the industry's structure, OPEC's power can be weakened.

What are OPEC's genuine sources of power?

Most important is that the world is running out of oil. There will be a long-term sellers' market, and, if momentary events temporarily work to their disadvantage by creating a surplus of oil, all they must do is remain patient and the natural course of events will refortify their economic and political strength. This is probably the fundamental cement that keeps OPEC together.

With a minimum of grumbling, most producers have been willing to accept the production cutbacks of the last 18 months without slicing prices significantly.

The two other pillars of OPEC's power reflect and reinforce this perception. The first is the imbalance in reserves and producing capacity among OPEC's members.

Saudi Arabia possesses the potentially decisive influence within the cartel, because its production decisions alone can determine the will of the other OPEC members. With about 180 billion barrels of reserves (against OPEC's total of about 500 billion) and a production capacity of about 11.5 million barrels a day (against OPEC's total of 38 million barrels daily), the Saudis could undermine OPEC prices by stepping up production and selling at lower prices.

The other source of OPEC's strength is the likelihood that the world's current surplus of crude oil (resulting, again, from the recession and the price increases) will dwindle and disappear in the next five or six years.

Precise projections are difficult, because no one can accurately foresee the growth in demands. At the beginning of the year, OPEC was producing at about 75 per cent of its capacity, according to estimates by the Central Intelligence Agency. However, that probably overstates the true extent of slack, because Venezuela apparently does not want to produce at full capacity (it fears early depletion of its reserves) and Saudi Arabia, Kuwait and some of the other Persian Gulf principalities also are content to produce below capacity.

The reviving world economy already is absorbing some slack production capacity in other nations. There are offsetting trends, however.

Oil should start flowing from Alaska in late 1977 or early 1978, and North Sea production is beginning to rise rapidly. By the early '80's. North Sea output could total 4 to 5 million barrels daily, growing until then. Likewise, some of Japan's needs for the next few years probably will be met by China.

But even an optimistic reading of supply sources would have OPEC picking up most of Europe's, Japan's and the United States' added growth after the early part of the next decade. By the early '80s, most of the surplus in the non-Arab producing nations should be absorbed, and the disappearance of the surplus capacity should enhance OPEC's natural bargaining strength.

Divestiture, by itself, cannot alter these trends. The vision held out by the divestiture proponents is that with the big oil companies divided into separate producing and refining companies, the independent refiners (the former "upstream" operations of Exxon, Mobil, Texaco, etc.) will actively shop around the world, searching for the best possible price.

The producing companies in each of the OPEC nations would face active bidding, and, therefore, would be less able to pass along price increases mandated by OPEC. Seeing this resistance, OPEC would hesitate.

That's a plausible theory, so long as there's some place for the independent refiners to shop. But, as long as OPEC maintains a united price front, the shopping will be difficult. As M. A. Adelman, professor of economics at the Massachusetts Institute of Technology, argues, no one refiner probably would be able to offer to buy sufficient quantities of oil to tempt a producing nation to lower the price.

Free markets do not guarantee low prices. If we needed reminding of this, the spectacular rise in grain prices over the last years should have done the job. The grain market consists of literally thousands of buyers and sellers.

Indeed, some oil experts believe that splitting up the oil companies would lead to higher prices, because the OPEC nations will be able to set the new independent refiners bidding aggressively against each other, that is, bidding up the price.

The future is not written in granite. There is always the possibility that the bidding process envisioned by divestiture's proponents would prove so confusing that OPEC would be thrown into disarray. But skepticism about this outcome should be deepened by OPEC's resilience over the last few years when the massive surplus production capacity should have created the greatest internal stress.

Other forces—probably unpredictable—could weaken OPEC if they dethrone the idea of a long-term oil scarcity and alter the probable supply and demand situation.

Should Mexico become a major world producer (the jury is still out on the question of the nation's reserves and its willingness to produce), OPEC would face a formidable, though not insurmountable, problem in managing the cartel.

Likewise, if huge oil deposits were discovered far out at sea (and proved capable of being recovered), the oil outlook might quickly change. The same could happen if some other source of power (such as shale or solar energy) were the beneficiary of a technological breakthrough that displaced a significant amount of oil.

None of these events now seems likely, but, 10 years ago, much that has happened in the last five would have been dismissed as absurd. Until some new absurdity occurs, we should stop acting as if divestiture will create oil and happiness where none is today. It won't.

[From the Phoenix Gazette, July 20, 1976]

DIVESTITURE, BY WHATEVER NAME, SPELLS TROUBLE FOR U.S. FUEL

(By John Chamberlain)

The life our energy-producing companies lead recalls that ancient flicked serial, "The Perils of Pauline." Bing, bang, biff, they threw her off a cliff . . . but somehow she was always rescued before the next installment.

The Senate Judiciary Committee approved a bill to force "divestiture" on oil companies, which would have dismembered any corporation that combines production, refining, transportation and marketing. But Congress has not gone along with the idea. Nor has presidential aspirant Jimmy Carter, who does not care to face the wrath of Texas and Louisiana when it comes to penalizing the assembly of capital needed to produce new oil and gas.

Having escaped what is called vertical divestiture, poor Pauline is now being pushed toward the cliff all over again. This time it's horizontal divestiture. Namely, a drive to make it illegal for oil companies to own coal or uranium mines, or otherwise to invest in alternative sources of energy. Jimmy Carter has indicated he might be for this form of divestiture. He leaves himself an out, however, for he is asking for proof that owning oil, coal and uranium deposits would necessarily stifle competition.

It should be easy for some noble knight to snatch Pauline from the arms of the villains at the edge of the cliff on this one. Oil companies with coal subsidiaries (Occidental Oil owns Island Creek Coal, and Continental Oil makes a very good thing out of Consolidation Coal) are very far from domination of the coal business, and even if they did own it all there is no reason to believe they wouldn't try to maximize its sales. Coal in the U.S. happens to be a most fragmented business: The top eight coal companies account for only a fourth of the market. And the top 20 companies account for only 50 per cent of production. As for oil's penetration of coal, the nine companies that have the biggest coal production and reserves have less than 20 per cent of sales.

Uranium is a similar story. Oil companies produce about a fourth of our uranium.

The fact, as Jimmy Carter, a good businessman, can easily ascertain for himself, is that oil, coal and uranium do not compete with each other for many of their uses. Coal is not used in automobiles, airplanes or even railroad engines. All three forms of energy—coal, oil and uranium—can be used to generate electricity, but the utilities' purchase of fuel is determined by transportation and by pollution law realities, not by the competitive zeal of salesmen. So there is little temptation for any energy company to push one form of fuel at the expense of another. The drive is to sell a maximum of everything wherever it can be sold.

Oil companies, faced with the fact that oil is a wasting asset even in Saudi Arabia, know they need alternative fuels if they intend to remain in business after the turn of the 21st century. They have every incentive to carry on research on synthetic fuels. The Continental Oil Company, for example, is applying oil refining technology to coal gasification in South Dakota and in Scotland. It has also spent more than $50 million for uranium exploration.

In 1966, when Continental Oil acquired Consolidation Coal, the company's coal production was some 40 million tons. Last year Consolidation produced 49 million tons, and this was at a time of national decline in coal mining in general.

The technological interplay between oil, coal and uranium companies that are housed under the same ownership roof leads to fruitful discoveries—synergistic, they call them—that are unavailable to companies accustomed to dealing in only one form of fuel exploitation. Petroleum technology, which has to reckon with gas drilling as well as liquid transportation, has improved ways of removing dangerous methane gas from coal mines and pioneered the use of slurry pipelines.

Horizontal divestiture would kill valuable cross-fertilization in its tracks. It is even sillier than vertical divestiture, which would have been silly enough.

[From the Arizona Republic]

What is "Obscene" About Seven Cents Profit?

(By Walter R. Shoaff)

After listening to a candidate for President of the United States denouncing me (and others) on TV the other night, I'm beginning to wonder if I really am Public Enemy No. 1. I am the owner (with many "partners") of an oil company.

For some time now I have heard myself attacked as a conspirator, rip-off artist, monopolist, corruptor and enemy of the people robbing the public by making obscene profits of as much as 45 cents of every income dollar.

If I am guilty as charged, I would admit that a miscreant such as I should be punished to the fullest extent of the law; but my personal reaction is one of wonderment and asking. "Who? Me?

I'm the guy who, with other likeminded people, showed our faith in America by putting up hard earned savings to furnish services and products vital to raising standards of living of Americans and the other peoples of the world.

I "hired" organizers, administrators, geologists, specialists, managers, clerk engineers and laborers and sent many of them to all parts of the world to search for location where petroleum might be found. I provided equipment necessary to definitely locate the oil and gas and to extract it from the ground. Many wells proved dry—some were productive.

The searches were conducted in all sorts of hostile environments—steaming jungles, deserts where temperatures ran to 130 degrees, arctic regions where temperatures dropped to 70 degrees below zero, North Sea and off-shore platforms where raging storms are common.

I pumped the oil, transported it to tankers—ship, railroad, trucks and pipelines to refineries I constructed, where I converted the crude products into the finest fuels, lubricants, fertilizers and other valuable products. Then I transported those products to retail outlets—some independent, some I constructed and leased to individual operators and some I operated myself bringing the products and services conveniently to the people.

Such are the services I render to people including my next door neighbor who owns an Opel with gas tank capacity of a little over 10 gallons. Periodically he goes to the gas station and says, "Fill 'er up." When he gets a full 10 gallons he pays $5.79 for it and sometimes damns the oil companies for the "rip-off."

In due course I receive my share of the "obscene profits" made at his expense. The profit my company made last year on such a transaction was fourteen cents of which one half was retained in the business to insure that my neighbor can be assured of fulfillment of his future needs and hopefully continue to benefit from prices far below those charged in the other industrial nations of the world.

I suppose those "liberal" politicians attacking me would consider me bereft of morals when I say that when I receive my share of the seven cents profit on my neighbor's $5.79 purchase, I have no feeling of guilt.

The pseudo-liberals who are demanding divestiture are playing a dangerous game. With the well-being of every American at stake they are making vague, unproven and unprovable charges, emotionally presenting to the American people distorted images of one of the finest industries in the world efficiently operated and furnishing vital, highest grade products and services at fair prices.

Some of the proponents of divestiture even admit prices of gas would rise due to loss of coordination, but all that matters to them is to wipe out those "obscene profits" of seven cents for ten gallons received by us "profiteers." Beats me!

No, I do not work and have never worked for an oil company. I do own 210 shares of Texaco and in spite of inflation, in more than two years I have not received even a five cent increase from those "obscene profits."

Attempt To Punish the Oil Industry for Alleged Anticompetitive Behavior Are Contrary to the National Interest—The Oil and Other Energy Industries Are Among the Least Concentrated in the United States"

Those are not the words of an oil company. They are taken from George Washington University's Energy Policy Research Project. After 16 months of study and analysis, the project—directed by William A. Johnson, Professor of Economics at George Washington University—found that the oil industry was indeed competitive and that no special legislation was needed to break it up. In a 115-page paper published by George Washington University, Professor Johnson and his associates, Richard E. Messick, Samuel Van Vactor, and Frank R. Wyant, summed up their findings like this:

CONCLUSION

Energy Policy Research Project, the George Washington University, Washington, D.C.

There would seem to be little reason for special regulations being imposed on the oil industry other than normal antitrust laws generally applicable to all industries. The oil industry is one of the least concentrated in the United States. There is no evidence that the major oil companies have expanded their share of the marketplace at the expense of independents. Indeed, the evidence, if anything, suggests the opposite. Nor, as a rule, does it seem that the majors have used vertical and horizontal integration, joint ventures, exchange and processing agreements, or interlocking directorates to engage in anticompetitive practices. Finally, oil industry profits, when viewed in their historical perspective, have not been excessive; nor were recent short-lived increases in profits "unconscionable."

Why, then, are the major oil companies everyone's villain? What has brought about the current state of affairs where Congress and a number of state legislatures seem determined to enact punitive legislation that can only discourage needed investment by the major oil companies and dissuade them from doing what is necessary if the national goal of greater self-sufficiency in oil is to be achieved?

One important reason can be summarized in a word—size. Big oil is big. And it is also highly visible. In terms of total sales, four of the top ten, eight of the top 25, and twelve of the top 50 companies in the United States are major oil companies. In terms of assets, net income, stockholders' equity and total profits, the presence of the majors among the largest U.S. companies is even more pronounced. Yet, if one looks at measures that might indicate the presence of monopoly, such as net income as a percentage of both sales and stockholders' equity, or total return to investors, the major oil companies have generally lagged behind other large companies. Exxon, which is second in sales and first in assets among industrial corporations, is 74th in total return to its investors. Mobil, which is seventh in both sales and assets, ranks 235 in return to its investors. Bigness is not crime—at least at present. The evidence strongly suggests that the major oil companies' bigness has not been associated with anti-competitive behavior.

Another reason is politics. The oil industry is a highly visible target for many politicians, especially many congressmen. Why? Because, as one perceptive observer of the Washington scene has noted:

> [M]any congressmen are continuously surveying their political horizons in search of issues with which they can become personally identified and which can become the basis of subcommittee chairmanships, highly publicized hearings, and state or national visibility.

Leading the drive to break-up the monopolistic" oil industry presents such an opportunity. Many cannot resist it.

The regulatory and punitive face of federal energy policy continues to dominate federal energy policy and threatens to become more dominant in the future. Even the Federal Energy Administration has been preoccupied with regulation at the expense of other national goals, particularly increased productive capacity and greater self-sufficiency in oil. There is now growing concern over whether the current climate is sufficiently conducive for the major oil companies to undertake needed investment in the industry. The emphasis on punitive measures against the majors not only has no basis in fact, it is likely to be highly detrimental to the nation. While the Congress and the Administration mete out punishment to the major oil companies, OPEC and the Arab producing nations can only chuckle.

Divestiture

Blueprint for disaster. There's growing public outcry against the effort by certain Senators to smash the oil industry. A Senate bill would divide the 18 major companies into a host of splinter companies, each forbidden to engage in more than a limited part of the business. The efficiencies that help to brake energy price increases would be lost.

The voices of newspapers are challenging this election-year scapegoating of the oil industry. *The New York Times* calls divestiture of the companies a "dramatic and emotional nonsolution" to the country's energy problems. Score upon score of newspapers have taken similar stands. And concerned citizens in all walks of life are speaking out. Listen to what they are saying:

Higher petroleum prices ahead? If the oil companies are broken up, says Assistant Secretary of the Treasury Gerald L. Parsky, ". . . it is more likely that domestic prices will increase instead of decrease, and that domestic energy supplies will decline rather than rise." The *Kansas City Star* puts it more bluntly: "The people pushing divestiture are not doing anything to ease the energy shortage or bring down prices; they are just playing to the political galleries by trying to sock it to Big, Bad Oil."

American security weakened? For sure, says Roger E. Shields, Deputy Assistant Secretary of Defense: ". . . the bill would be highly detrimental to the nation's security and its defense. . . ." M. A. Adelman, professor of economics at Massachusetts Institute of Technology, and often a critic of the oil industry, tells why: "Vertical divestiture would keep Congress and the oil industry busy for years, spinning their wheels, going no place, postponing investment decisions, losing a chance for active defense against the cartel [of foreign oil-producing countries which sets the price of oil imported by U.S. companies]. . . ."

A hungrier America? Remembering that farms are tremendous users of energy, consider this comment from Edwin M. Wheeler, President of The Fertilizer Institute: "Proposals to break up the best and most effective energy supply system in the world endanger our role as the world's most efficient farmers and the best fed country in the world." To which Don Paarlberg, economist for the Department of Agriculture, adds: "Disruption caused by divestiture would impact not only at the farm level, but on through the economy. . . ."

Write your Senators and Representatives, now, if you agree that destroying a vital industry is bad for America. And while you're at it, tell them real solutions are still needed. Specifically: a sound national energy policy that, in addition to stressing conservation, actively encourages more U.S. energy supply to ease dependence on foreign oil. As one of the major oil companies, we want to get on with that job.

"LET'S TALK FRANKLY ABOUT ENERGY"

(By Clifton C. Garvin, Jr.)

Q. *Do we really need OPEC oil?*

GARVIN. Yes, because American's demand for crude oil today is running far ahead of our domestic supply. To look at a broader picture, the free world outside of the OPEC countries *produces* about 10 billion barrels of oil a year while it consumes 15 billion barrels (one barrel equals 42 gallons). This gap has led most countries in the world to depend on OPEC because OPEC countries have two-thirds of the free world's known oil reserves. The United States now depends on foreign countries for more than 40 percent of the oil it needs. Most of these imports come from countries belonging to OPEC. (OPEC is made up of six countries in the Middle East, plus Algeria, Libya, Gabon, Nigeria, Indonesia, Venezuela and Ecuador.)

Q. *How long must we depend on OPEC?*

GARVIN. Exxon's forecast indicates that by the year 1980, America may be importing 50 percent of its oil needs. In fact, the U.S. may have to depend on foreign countries to supply about half of its oil through at least 1990. We cannot be certain when we will be able to free ourselves from dependency on OPEC oil. However, we can reduce our dependency by developing additional oil and natural gas reserves and other fuels here at home. It's a job that's going to take years. At the same time, we've got to make a greater effort to use all forms of energy, including gasoline, more efficiently.

Q. *Don't the oil companies help hold OPEC together?*

GARVIN. No. The world's demand for oil is what holds OPEC countries together. The consuming countries need OPEC oil to keep their economies running.

Q. *Is there any chance that OPEC will collapse?*

GARVIN. Not likely in the foreseeable future. The economies of consuming countries are on the rise. This means their oil use will rise, too, and so will their demand for OPEC oil. Last year, because of the recession and efforts to conserve energy, the worldwide demand for OPEC oil dropped quite a bit. Some OPEC countries cut prices slightly to make their oil competitive with other OPEC countries' oil and to stimulate sales. Some people assumed incorrectly from this that OPEC's united front was cracking.

Q. *Who really benefits the most from today's high prices—the oil companies or the OPEC countries?*

GARVIN. OPEC. In early 1973, before the embargo, a gallon of Arabian light crude (which is representative of OPEC oil) sold for 5 cents. Exxon's producing profit on that gallon was about eight-tenths of a cent. Today, that same gallon of crude oil sells for 27 cents and our producing profit is down to six-tenths of a cent. Crude oil prices outside OPEC have also increased, though not as much as those in OPEC countries. Oil companies, including Exxon, have obtained some benefits from these increases.

Q. *Why is the cost of gasoline so high today?*

GARVIN. Because the price of foreign and domestic crude oil is up. In 1973, the average U.S. pump price of regular gasoline was 39 cents a gallon. Since then, the price (average domestic and foreign) of the crude oil which goes into that gallon has risen 15 cents. Over the same period dealer margins have gone up 2 cents a gallon and refining costs went up 1 cent a gallon. These increases brought the average U.S. pump price to 57 cents a gallon in 1975. As you can see, almost all the increase is due to increased crude oil prices.

Q. *Doesn't part of the increased price of crude oil mean higher profits?*

GARVIN. Yes. For the first quarter of 1976, Exxon's worldwide oil and gas profits averaged 2.3 cents per gallon on our total petroleum products sold, up from the first quarter of 1973 when our profits averaged 1.5 cents per gallon. But we must remember that the cost of replacing energy is also going up rapidly. If Exxon is going to participate in supplying our country's demand for energy, we need profits to help pay for finding and producing more energy. Over the next four years, Exxon plans worldwide capital and exploratory expenditures totaling about $19 *billion*. Profits as well as borrowed money will be necessary to finance these investments.

Q. *If the oil industry spent a lot of money, as our country did on the moon shot, wouldn't we be able to become energy self-sufficient?*

GARVIN. No, at least not in the near future. Just to reduce America's dependency on foreign oil is going to take an awesome amount of money. For example, the Apollo Program cost the Government $25 billion over a period of more than ten years. The Trans-Alaska Pipeline alone will cost nearly one-third as many dollars. It has been estimated that oil companies will have to spend $20 to $30 *billion per year* over the next ten years in the U.S. alone for developing oil and natural gas. That's two or three times the investment rate of the recent past. Even this much spending won't eliminate the need for imports. Obviously, a program of this magnitude can be carried out only by a financially sound industry.

Q. *What should be the objectives of America's energy policy?*

GARVIN. America's energy policy should be to encourage energy conservation and to increase domestic supplies of all forms of energy, including oil, natural gas, coal, uranium, synthetics and solar. Our government's policy of controls has held down U.S. oil and natural gas prices below the rest of the world's prices. This encourages consumption and discourages the development of new domestic supplies of energy. U.S. energy policy also should encourage development of new energy technology and orderly access by industry to the large domestic resources of oil, natural gas, coal and shale owned by the federal government. This will help decrease our dependency on foreign oil and gas.

Q. *What is Exxon and the industry doing to find more oil and natural gas in the U.S.?*

GARVIN. Last year, Exxon drilled 357 wells from Alaska to the Gulf of Mexico. This year we'll drill more than 500 wells to explore for, and develop, oil and natural gas. And it's been forecast that the entire oil and gas industry will drill 38,755 new wells in the U.S. in 1976. Unfortunately, there appears to be little chance of finding oil fast enough to significantly reduce imports in the near term. The fact is, we have to run hard just to stand still. Only a handful of free world countries outside of OPEC have the potential to become self-sufficient in petroleum during the 1980's—and unfortunately America is not yet on the list. Since 1971 our country has been using petroleum faster than we can find it here. So until we can develop alternative fuels, or reduce consumption, we'll have to import an increasing amount of oil.

. *Why can't we switch over to coal, or nuclear, or solar energy and use less oil?*

GARVIN. That's easier said than done. Other energy forms will certainly supplement oil, but none can be expected to totally replace it in this century. Coal is our nation's most abundant fossil fuel, but the development of coal will take time. Today, it cannot be directly substituted for all oil and gas applications. Nuclear power offers tremendous potential, but concerns over safety and environmental factors have limited nuclear plant construction. Solar power is promising, and it's being used on a small scale. But years of technical work still lie ahead before it can become a major source of energy. Based on Exxon's forecasts, oil and gas will continue to be America's main source of energy for the rest of the 20th century.

Q. *What's it really going to take to put our country back into a strong energy position?*

GARVIN. Getting on top of the energy problem will not be easy. It will be an expensive and time-consuming task. It will require courage, creativeness and discipline by our industry—courage to plunge ahead in some risky ventures, creative minds to discover and develop new energy resources, discipline to stay with the job, and public awareness of the high costs of developing new energy sources.

HUMANITARIAN PROBLEMS IN LEBANON

Mr. KENNEDY. Mr. President, yesterday the Judiciary Subcommittee on Refugees, which I serve as chairman, resumed hearings into the deepening human and political tragedy of Lebanon—and the response of the United States and the international community. We particularly focused on the problems many Lebanese face in seeking safe haven in the United States, or in joining their relatives or friends here.

The civil war in that country has now run for more than a year. The early days and months of scattered fighting and sporadic ceasefires have escalated into sustained conflict and heavy battle. And in recent days we have seen some of the most vicious and senseless violence of the war. Death and misery and destruction are now a way of life for the Lebanese people—and they cry out for peace and relief.

And today's total war is not only destroying the social fabric of the Lebanese people, but also threatening the very survival of their country and the peaceful development and stability of the entire Middle East.

The personal anguish and human misery of the civil war almost defies description and belief. The front lines are everywhere. And no one is safe from the sniper's bullet or the wanton artillery shell slamming into civilian areas. Estimates suggest that some 30,000 Lebanese have lost their lives. Thousands more have been injured and maimed. Many people are missing, and families are torn apart. Homes are destroyed. Villages and neighborhoods are beseiged. Refugees number in the hundreds of thousands, both within the country and beyond its borders. Beirut is devastated and public services are in shambles. Communications are disrupted. Water and electricity are in short supply. And the need for emergency relief—for food and medicine and blankets and shelter—has never been greater than it is today.

Mr. President, no one can minimize the problems and hurdles and dilemmas before us in responding to the crisis in Lebanon. But the subcommittee yesterday reviewed three areas of immediate concern to many Americans.

First, we wanted to know what our Government was doing to help bring peace and relief to Lebanon—in concert with other governments and the United Nations. The paralysis of diplomacy to end the violence is seen in the silence of the international community over the havoc in Lebanon—in the visible absence of any concerted and sustained effort to bring about an end to the violence.

Second, the subcommittee wanted to know what our country was doing to support international humanitarian relief efforts in Lebanon—particularly the very crucial and indispensible efforts of the International Committee of the Red Cross.

Mr. President, for countless thousands of beleaguered Lebanese, many with relatives in the United States, the International Red Cross is the only link to life and to food and relief. If ever there was a humanitarian effort deserving of American support it is the Red Cross program in Lebanon today.

Yet, the subcommittee has found that the administration's track record in responding to the appeals of the Red Cross has been abysmal. It defies understanding why the Agency for International Development has been so slow in supporting the Red Cross effort in Lebanon over the past several months.

Another important life line to the Lebanese people is the American University of Beirut's hospital. Althrough the United States has provided some $1.6 million, the hospital is currently $10 million in debt because of its treatment of civilian casualties. If funds are not immediately forthcoming, the director the hospital has told members of the subcommittee that it may face a strike by its employees—who have not been paid for over 2 months—threatening the continued functioning of the hospital.

Mr. President, this would be a tragedy. The American University Hospital is the single most important medical facility still functioning in Lebanon. In recent months it has treated some 1,500 casualties each month. Without it countless thousands of innocent victims of the violence in Lebanon would have died. I find it impossible to accept the AID has not come to the Congress and asked for immediate funding of the hospital, and to respond to its growing deficit—a deficit casued by its unending service to Lebanese war victims.

To provide some immediate funding for the hospital, and to make additional funding available for other humanitarian programs in Lebanon, I am introducing today an amendment to the pending foreign assistance appropriations bill (H.R. 14260) to partially fund section 495C, the Lebanon Relief and Rehabilitation Fund of $20 million.

Finally, Mr. President, the subcommittee yesterday reviewed in some detail what more our Government is prepare to do to give safe haven to Lebanese nationals outside of their country—especially those with family and other strong ties to the United States.

We found the record to date was one of bureaucratic delays and insensitivity.

How is it possible that our Government will not give a visa to a 15-year-old Lebanese child, stranded in Cyprus, so that he can join his mother living in Cambridge, Mass.?

How is it possible that the visa applications of Lebanese brothers and sisters of American citizens have been allowed to sit in limbo since February of this year?

How is it possible that Lebanese nationals in this country, whose visas have expired, are threatened with deportation to the war ravaged villages of their homeland?

I find it outrageous that these questions should become problems in the first place. To prod the Department of State and the Immigration and Naturalization Service, I wrote last month to Secretary of State Henry Kissinger regarding the plight of Lebanese seeking safe haven in the United States. The response I received this week was, I believe, totally inadequate. And at yesterday's hearing we reviewed this letter, and the questions it failed to answer.

For the record, Mr. President, I ask unanimous consent that this exchange of correspondence, and a memorandum on the July 6 meeting of staff representatives of the subcommittee with officials in the Departments of State and Justice, be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

U.S. Senate,
Washington, D.C., July 1, 1976.

Hon. Henry A. Kissinger,
Department of State,
Washington, D.C.

Dear Mr. Secretary: In late April, following inquiries to the Executive Branch and hearings on humanitarian problems in Lebanon before the Subcommittee on Refugees, the Department of State and the Immigration and Naturalization Service informed me of special immigration measures for Lebanese nationals present in the U.S. in non-immigrant status and for Lebanese nationals outside of the U.S. who were applying for visas to our country. In the context of listing these special measures, which are currently under review by the Subcommittee, the Department suggested that, apart from a general parole program, "the only other possible relief under existing legislation for Lebanese stranded abroad would be a conditional entry program under the Seventh preference" in Section 203(a) of the Immigration and Nationality Act, as amended. The Department pointed out in late April, however, that numbers available for conditional entry were "committed until July 1".

I am writing at this time to inquire about our national policy toward Lebanese stranded abroad, their eligibility for conditional entry into the United States, and the availability of numbers for this purpose. Given the growing pressures for Lebanese movement to the United States, especially among those with relatives in this country, I am extremely hopeful that additional flexibility can be introduced into the administrative practices and procedures of the special measures, and that serious considerations will also be given to including Lebanese nationals among those eligible for conditional entry into the United States.

Many thanks for your consideration, and I look forward to hearing from you soon.

Best wishes.
Sincerely,
Edward M. Kennedy,
Chairman, Subcommittee on Refugees.

Mr. KENNEDY. In conclusion, Mr. President, let me say that it is tragically clear today that the crisis in Lebanon will not easily be resolved. Cease-fires have been difficult to sustain. And a political settlement among the warring parties is a long road ahead.

But in the absence of any immediate progress in accomplishing these goals, perhaps the day has come when something less should be pursued. Perhaps the time has come for a truly concerted international effort to achieve a truce—even a limited truce—for urgent humanitarian purposes—to evacuate and aid the wounded, to feed the hungry, and to rescue the dying. A 7-day truce, under appropriate international auspices, would provide a respite from the daily onslaught of artillery barrages and wanton shootings. And with complete international support, it might even provide a new opportunity to pursue the elusive goal of restoring the peace and integrity of Lebanon. Such a truce should be the immediate goal of our diplomacy.

Mr. President, the Subcommittee on Refugees will continue to closely monitor developments in Lebanon, and to help overcome the bureaucratic insensitivity our Government has shown to the personal tragedy of Lebanese nationals stranded in the United States and elsewhere.

The memorandum follows:

Memorandum on July 6, 1976 Meeting of Staff Representatives of the Senate Subcommittee on Refugees With Officials from the Departments of State and Justice

1. In a July 1, 1976 letter to Secretary of State Henry A. Kissinger, Senator Edward M. Kennedy, Chairman of the Subcommittee on Refugees, and Senator James Abourezk, Member of the Subcommittee on Refugees, expressed concern over the implementation of the "special immigration measures" for Lebanese nationals communicated to Senator Kennedy in late April. The Senators suggested that "additional flexibility be introduced in implementing the special measures, and that "serious consideration" also be given to including Lebanese nationals among persons eligible for conditional entry into the United States under Section 203(a)(7) of the Immigration and Naturalization Act, as amended.

2. These general concerns were elaborated by staff representatives of the Subcommittee on Refugees in a July 6 meeting with appropriate representatives of the Executive Branch. The meeting was arranged by the Deputy Coordinator for Refugee and Migration Affairs in the Department of State's Office for Humanitarian Affairs.

3. The Subcommittee staff representatives suggested that visa and immigration problems involving Lebanese nationals seemed serious and growing. And, given their trend and the deteriorating situation in Lebanon, the staff members suggested that the Executive Branch should urgently review its policy and actions on the visa and immigration problems of Lebanese nationals. For humanitarian reasons, the staff representatives also suggested that immediate consideration be given to at least the following items:

a. that except for possible compelling reasons in particular cases, all Lebanese nationals in the United States in nonimmigrant status should be permitted to remain temporarily in this country if their visas expire and an application for additional stay is made;

b. that certain Lebanese nationals in such nonimmigrant status should be permitted to work;

c. that new flexibilities should be introduced in the expeditious granting of nonimmigrant visas to Lebanese applicants outside of the United States, especially among applicants with family or other strong ties to this country;

d. that new flexibilities, including priority consideration and progressing and waiving of certain documentation, should be introduced in the expeditious granting of immigrant visas to Lebanese applicants outside of the United States, especially among applicants with family or other strong ties to this country;

e. that any special visa or immigration measures for Lebanese nationals be clearly defined and uniformly applied; and

f. that immediate consideration be given to the eligibility of Lebanese nationals for conditional entry into the United States under the refugee provisions of Section 203(a)(7) of the Immigration and Naturalization Act, as amended, and to the availability of conditional entry numbers for their movement to the United States.

4. The Subcommittee staff representatives also suggested these additional items:

a. that the belated review of rejectees among Assyrian and Armenian UNHCR mandated refugees, who are currently in Greece, be carried out expeditiously and sympathetically; and

b. that active consideration be given to possible American initiatives involving the care and maintenance in the United States or elsewhere or unaccompanied children leaving Lebanon.

DEPARTMENT OF STATE,
Washington, D.C., July 27, 1976.

Hon. EDWARD M. KENNEDY,
Chairman, Subcommittee on Refugees and Escapees, Committee on the Judiciary, U.S. Senate.

DEAR MR. CHAIRMAN: The Secretary has asked me to reply to your letter of July 1 and the issues raised in a subsequent meeting on July 6 concerning your continued interest in assistance to Lebanese who have been stranded abroad because of the internal strife in Lebanon. I am sending a similar reply to Senator Abourezk.

With regard to Lebanese eligibility for seventh preference consideration and the availability of conditional entry numbers for this purpose, under the provisions of the Immigration and Nationality Act, 10,200 quota numbers are set aside each year for seventh preference use and made available to the Attorney General for disposition as he directs. The Department of State does not process seventh preference cases. The Immigration and Naturalization Service, which does process these cases for the Attorney General, is allocated 2550 of these numbers each quarter. As of July first 2550 numbers were made available to that Service.

The demands for these numbers are considerable. In recent months they have been used for special refugee programs in aid of the Kurds in Iran, the Assyrians and Armenian refugees from the USSR who are applying in Athens. In addition they are being sought in many individual cases by persons claiming to be refugees who cannot return to their native lands because of persecution. Many of these numbers are also used by the Service for adjustment of status cases in the United States. As a result and because of the competing priorities, it becomes quite difficult to allocate the numbers available.

In an effort to assist the maximum number of refugees who apply for conditional entry under the seventh preference the Department of State and the Immigration and Naturalization Service have established a procedure where under certain conditions a conditional entry number may be used for the principal member of a family of refugees and nonpreference immigrant visa numbers may be used for his spouse and children. Detailed information on this processing is contained in Department of State circular airgram of October 20, 1975. A copy of this airgram is enclosed for your information.

The Immigration and Naturalization Service has assured the Department that Lebanese outside of Lebanon who feel that they qualify for seventh preference consideration may apply at those offices in Europe where the Service processes conditional entry cases. These offices are located in Athens, Rome, Frankfurt and Vienna. For additional information concerning seventh preference consideration you may wish to contact the Commissioner of the Immigration and Naturalization Service directly.

Within the United States the Immigration and Naturalization Service has issued guidance to all of its offices instructing them to deal in a lenient and sympathetic manner on a case by case basis with all Lebanese citizens who are in the United States in a nonimmigrant status and who find themselves temporarily unable to return to Lebanon because of the civil strife in that country. The Services instructions specifically authorize District Directors to grant indefinite voluntary departure to such Lebanese because of compelling humanitarian reasons. Further, under the Services' instructions, Lebanese granted indefinite voluntary departure may also be given permission to seek employment in the United States if it is necessary for them to work to support themselves while waiting for an appropriate time to return to Lebanon.

The Immigration and Naturalization Service is not aware of any case where Lebanese citizens have experienced difficulties in this regard, but in order to insure that there is no confusion, the instructions have recently been reiterated to all of INS offices. The Service would be pleased to look into any specific cases in which there have been any alleged difficulties in the application of those instructions.

With regard to flexibility in the issuance of nonimmigrant visas to Lebanese applicants outside the United States, in recent months we have become increasingly aware of the particular difficulties faced by Lebanese nationals applying for nonimmigrant visas. We are sympathetic to their plight. Nonimmigrant visas can only be issued consistent with the provisions of the Immigration and Nationality Act. Accordingly each applicant for a nonimmigrant visa must establish to the satisfaction of the consular officer that he intends to depart the United States at the conclusion of a temporary stay, that he has reasons to do so and that he has a residence outside the United States to which he can return.

Most Lebanese nations applying for nonimmigrant visas are recent arrivals in third countries to which they have been admitted only temporarily. To evaluate their intention and ability for return to Lebanon constitutes a perplexing problem for consular officers charged with this responsibility.

In consideration of these special circumstances, the Department of State has provided appropriate guidelines to all of our consular offices abroad which may be applied to applications of Lebanese nationals for nonimmigrant visas. These guidelines, the pertinent positions of which are quoted below, are consistent with the provisions of our law and were developed to be of help to Lebanese applicants as well as to assist our consular officers in reaching their decisions.

Telegram of July 13, 1976:

"The Department is aware that NIV applications from Lebanese outside of Lebanon will constitute especially difficult problems. These application should not be turned down out of hand solely because the applicant cannot return to Lebanon at this time, but must be considered on an individual basis with every consideration possible extended consistent with the provisions of the Immigration and Nationality Act and current regulations."

Telegram of July 22, 1976:

"In telegram of July 13, Department points out considerations in cases of NIV applications from Lebanese outside of Lebanon. It is pointed out that these applications should not be turned down out of hand solely because the applicant cannot return to Lebanon at this time. Consistent with immigration law and regulations and given the assumption that sooner or later armed strife will come to an end and the country once more achieve stability, then the applicant's bona fides should be determined on the basis of whether he will within a reasonable period still have strong family, professional-employment, property, or investment ties in Lebanon which would attract him back to that country. While the civil strife will no doubt have loosened the ties of some Lebanese, there are undoubtedly many whose ties will remain strong. For example, an applicant may have substantial property and/or investments in Lebanon which have not been completely destroyed by the war which are susceptible of restoration. In such cases of manifest ties, the applicant can be considered to have a residence abroad which he has no intention of abandoning, and a visa may be issued to him if he is otherwise qualified. Consular officers are also reminded of availability of the maintenance of status and departure bonds to resolve border line cases."

With regard to the granting of immigrant visas to Lebanese, several administrative measures have been put into effect to expedite issuance. These measures include arrangements for telegraphic communication wherever possible and instructions to our consular offices on the exercise of discretionary powers to waive unobtainable documentation. In addition, we are completing arrangements for the transfer of the Beirut visa files to another nearby foreign service post. When this has been accomplished, we will notify all of our consular offices of the renewed access to information contained in Beirut's files. Furthermore, in response to State's recommendation, the Immigration and Naturalization Service is approving immigrant visa petitions conditional upon the presentation of required civil documents at the time of visa application in order to expedite the processing of visa applications from Lebanese.

Conditions governing issuance of immigrant visas are clearly defined in the Immigration and Nationality Act. Notwithstanding the humanitarian aspects of circumstances pertaining to Lebanese, each applicant must establish his eligibility to receive an immigrant visa before a visa can be issued.

At the request of your staff, officials of the Department met on July 13 with Mr. Issa of the Lebanese Humanitarian and Benevolent Society of America to discuss their proposal for care and maintenance in the United States or elsewhere of unaccompanied children leaving Lebanon. Following the meeting the President of the Society, Mr. Saad, informed us that his organization is presently reviewing several possible forms of action. You may be assured that we will offer them whatever assistance possible.

Finally, apart from the Lebanese situation, the Immigration and Naturalization Service has agreed to review cases of U.N.H.C.R. mandated Assyrian, Armenian and Coptic Christian refugees presently in Greece who were previously rejected by INS in Beirut. At present these cases are under review by the INS European District Director in Rome.

I hope that this will be helpful to you and the members of the Subcommittee.

Sincerely yours,

ROBERT J. MCCLOSKEY,
Assistant Secretary for Congressional Relations.

THE VOTING RIGHTS REPEALER AMENDMENT ACT OF 1976

Mr. DOMENICI. Mr. President, I am pleased to announce that I have been added as a cosponsor of S. 3393, a bill which would repeal the 1975 bilingual provisions of the Voting Rights Act, and is, therefore, known as the Voting Rights Act Repealer Amendment Act of 1976. After having evaluated the bill introduced by my distinguished colleague from Arizona, Senator FANNIN, and after having the proposed bill analyzed by the offices of both the Attorney General and the Secretary of State in New Mexico, I find that I must agree very strongly that these 1975 amendments are creating an undue burden on the local and State communities, which must attempt to comply with them. I describe the burden as undue, because there is not a sufficient benefit to justify their existence.

I shall ask that letters from the Secretary of State and the Attorney General of New Mexico be printed in the RECORD after my remarks.

The hardships I refer to are centered mainly around the cost of implementing the bilingual provisions of the amendments. For example, the costs are as follows in the six New Mexico counties most seriously affected: Dona Ana, $4,200; McKinley, $4,000; Taos, $300; Sandoval, $2,500; Santa Fe, $3,000; Bernalillo, $23,000. The total just for those counties is almost $40,000.

Mr. President, my State has recently completed a primary election and is just starting to realize the great magnitude of time and expense which is involved in complying with the bilingual requirement as compared to what little public benefit may be derived from them.

It also seems obvious that since few people who are affected by the amendments are taking advantage of the benefits intended to be provided by the amendments, there would be great amounts of waste incurred, both in printed materials and money spent on radio and TV announcements. This has, in fact, occurred during the last primary election held in my State.

The fact that relatively few people who are members of minority groups are deriving much benefit from these amendments, and the fact of excessive expenditures on bilingual election materials, combine to indicate to me that these amendments are not accomplishing what they were intended to do. They are, therefore, an unnecessary additional hardship on the State and local governments, both of which could better use those funds in other areas. These provisions should, therefore, be repealed.

I urge my colleagues to consider these points carefully and support S. 3393 at the appropriate time.

Mr. President, I ask unanimous consent that letters from the Secretary of State and the Attorney General of New Mexico be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

OFFICE OF THE SECRETARY OF STATE,
Santa Fe, N. Mex., June 30, 1976.
Hon. PETE V. DOMENICI,
U.S. Senator, New Mexico,
Dirksen Office Building,
Washington, D.C.

DEAR SENATOR DOMENICI: We have reviewed the materials provided by your office regarding the repeal of the 1975 amendments to the Federal Voting Rights Act. Since we do not have a copy of the entire bill we were not able to look at the overall bill; therefore, we have had to rely on information contained in the Congressional Record.

It is our understanding that Senate Bill 3393 would exclude New Mexico from the bilingual requirements of the amendments of the 1975 Act. It has always been our contention that New Mexico should not have been included under provisions of the Voting Rights Act. On the whole, New Mexico has had a consistently high percentage of voters of Spanish-American descent. Historically, Spanish-Americans do participate in local, state and national elections in large numbers.

The 1975 amendments have created unnecessary financial burdens on the Office of the Secretary of State, all county clerks and the taxpayers of the State of New Mexico. Election printing costs have more than doubled as a result of these requirements.

I am in favor of the repealer (S. 3393) as it applies to New Mexico. I feel that the 1975 amendments were ill-conceived and that the triggering mechanism for inclusion was overly broad. I am not totally convinced that the methods for increasing participation of language minorities in the electoral process have been particularly effectual under the Act.

In reference to Indian language requirements, we feel that a voter's registration, voter's education, and voter's assistance program would be a better approach to aid Indian voters.

It is my intention, therefore, to go before the 1977 Legislature to request funds to conduct registration drives in English for Indians throughout the State. The primary objectives of this program would be to encourage Indians of every county, rather than only the counties specified under the Voting Rights Act, and particularly 18-year-olds, to register and vote.

Sincerely,

ERNESTINE D. EVANS,
Secretary of State.

OFFICE OF THE ATTORNEY GENERAL,
Santa Fe, N. Mex., June 30, 1976.
Hon. PETE DOMENICI,
U.S. Senator,
New Senate Office Building,
Washington, D.C.

DEAR SENATOR DOMENICI: Thank you for the opportunity to respond to Senate Bill 3393 and House Bill 10997 pertaining to the 1975 amendments to the Voting Rights Act. These two identical pieces of legislation have the affect of repealing the 1975 amendments to the Voting Rights Act. The repeal of these amendments would mean that New Mexico would not find itself subject to the coverage of the Act.

Our office has been concerned about the effects of the 1975 Amendments to the Act on the electoral process in New Mexico for some time now, and after being included under the Act's coverage for over a half a year and conducting one statewide primary election we feel that some preliminary observations can be made. First, there can be no doubt that the overall goal of the Act, that of maximizing the participation of all citizens in the electoral process, is a highly worthwhile goal. What is not clear is that the Act aids in increasing the effectiveness of language minority voters in New Mexico. Perhaps the best way to discuss the Act, is to break the Act down into its component parts and analyze each separately. I will discuss (a) the triggering mechanism, (b) the remedy, and (c) the bail out provision for both Section 203 and Section 4 of the Act.

SECTION 4

A jurisdiction is included under the coverage of the Act if (a) there is 5% language minority voters within the jurisdiction and (b) if less than 50% of the total eligible voter population was registered or voted in the 1972 general election. The weakness of this triggering mechanism is that it does not focus on the participation of the language minority group. Thus, a jurisdiction can be brought under the coverage of the Act even if there is a high level of minority group participation, if the "majority group" participation is low. In New Mexico, we have found that two of the three counties included under Section 4 of the Act were probably included because of the low level of participation found among members of the non "minority" military community living within Curry and Otero counties.

The remedy prescribed under Section 4 of the Act is preclearance of all changes in voting procedures which have occurred since November 1, 1972. There is also a provision which would allow the justice department to call in federal voting registrars and voting officials if they feel that state voting officials are using tests or devices to prohibit the participation of language minority group members in the electoral process. Because New Mexico has a statewide election code, all changes in voting procedure and in the election code which have been passed since 1972 have been submitted to the U.S. Justice Department for preclearance. The inclusion of three counties in the State of New Mexico thus has resulted in the rather burdensome task of assembling and submitting every change in voting procedures for preclearance. It is sincerely felt that none of the statewide election laws will be disapproved. However, it is unclear what utility the exercise of assembling and documenting every change in the voter procedure has had in promoting language minority voting rights.

The provision for securing a declaratory judgment or bail out under Section 4 requires that jurisdictions show that no test or device has been used by that jurisdiction during the past ten years to discriminate against a language minority voter. This requirement, while being logically connected to the participation of language minority group members, places a large burden on the locality attempting to bail out. The burden is great not only because it is difficult to document events ten years in the past but also because it places the jurisdiction in the position of having to prove a negative, that is, that there was a lack of discrimination during the ten years previous.

SECTION 203

The triggering mechanism for Section 203 includes a jurisdiction under the coverage of the Act if (a) the population of the jurisdiction is over 5% language minority group members and (b) if the literacy rate of the jurisdiction is lower than the national average. The main problem with this triggering mechanism is that literacy is defined as completion of the fifth grade rather than functional literacy or ability to read well enough to exercise one's voting franchise. There was also a problem in the way that the Department of Justice and the Bureau of Census made their determination that a jurisdiction should be included under the Act. Because the Bureau of Census made a statewide determination of the literacy rate in New Mexico, several counties including Los Alamos County and Bernalillo County which may have otherwise been exempted, were included under the coverage of the Act.

The remedy under Section 203 of the Voting Rights Act is the printing of all election materials in the language of the language minority group, unless the language has been historically unwritten. We have observed that the printing of election materials more than doubles the cost of printing for an election. These costs would not be considered at all excessive were it not for the fact that language minority members in the State of New Mexico usually retain English as a first written language. This fact is especially true in the case of the voters who would be defined as "illiterate" under the Act.

In order to bail out of Section 203 a jurisdiction must show that in fact the literacy rate for the jurisdiction is higher than national average. Because it is difficult to generate statistical evidence, several counties including Bernalillo and Los Alamos County who may be able to meet the criteria for bail out have not done so. There is also a question as to the utility and saving which would result from having scattered counties exempted from the requirements of bilingual printing.

It is therefore our conclusion that although the goals and objectives of the Voting Rights Act and the 1975 amendments to the Act are lauditory, the difficulties of drafting legislation which contains an identification of the problem areas, formulating adequate remedies to meet the problems, and providing for jurisdictional bail out have not been met by this Act. We therefore feel that repeal of the present amendments to the Voting Rights Acts, with a mind of developing a better solution to the problems of minority voters where those problems exist would be a desirable step for the State of New Mexico.

Sincerely,

TONEY ANAYA,
Attorney General.

YOUTH UNEMPLOYMENT AND DEPRESSION IN THE HOUSING INDUSTRY

Mr. HUMPHREY. Mr. President, during our recent economic recession the housing industry was in a major depression, and it still is. Housing starts, which reached a peak of almost 2.4 million units in 1972, did not reach half that level—1.16 million units—in 1975 and have recovered to only 1.4 million units at a seasonally adjusted annual rate during the first half of this year.

The biggest drop came in multifamily housing structures with five or more units. In 1972, there were 906,000 units started in multifamily structures. In 1975, this plummeted to 204,000 units, and during the first half of this year, multifamily starts rose to only 234,000 units at an annual rate.

As a result, unemployment among construction workers is still 17 percent, almost as high as it was a year ago and almost 10 full percentage points higher than the unemployment rate for any other major industry.

There are many reasons why housing, and multifamily housing in particular, is still in a depression—high mortgage interest rates, high construction costs, sewer moratoriums, et cetera.

But according to Alan R. Winger, vice president for research services at the Federal Home Loan Bank of Cincinnati, there is another fundamental, but overlooked, reason for the housing depression—the unprecedented high rates of unemployment among our Nation's young people.

As Winger points out, apartment buildings boomed during the 4 years from 1970 to 1973 because millions of young people were employed in well-paying jobs, and using some of that income to move into the privacy and comfort of their own apartments. During the years 1970 to 1974, 749,000 single people formed their own households—almost double the number in any comparable previous period—with each wanting his or her own home—a house or an apartment.

But then the recession hit, and young people lost their jobs and incomes. For example, the unemployment rate among those in the 20–24 age bracket rose from an average of 8.8 percent in 1970–74 to 13.6 percent in 1975, and it is still over 11 percent. Young people were forced to move back home with their parents and into college dormitories. The apartment vacancy rate rose from about 5.5 percent in 1970–73 to almost 6.5 percent in 1975. And apartment construction plunged.

According to Winger, we are not going to get a revival in the construction industry until our young people begin again to form their own households, and this won't happen until they get jobs and job security.

Therefore, Winger argues, if we are going to stimulate a recovery in the homebuilding industry and get our construction workers back on the job, we have to get our economy moving back toward full employment and provide our young people with the jobs and income they need to form their own households.

Winger's analysis is contained in an article entitled "Whatever Happened to the Apartment Dweller?", from the July 1976 issue of the Federal Home Loan Bank Board Journal, and I ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

WHATEVER HAPPENED TO THE APARTMENT DWELLER?

The apartment market has, in the eyes of many housing market analysts, "fallen out of bed" recently with little hope of returning to its peak performance of 1972 and 1973 in the foreseeable future. Multifamily construction, at 270,000 units in 1975, was only about two-thirds of the 1974 figure and one-quarter of the number of multifamily units started in the record year of 1972.

Sharp changes in the direction and magnitude of residential construction are not uncommon. There is a housing cycle, the roots of which are found in financial market developments. Residential construction declines when the Nation's financial markets tighten: it shoots up during periods of financial ease. Cyclical considerations are, indeed, relevant to the explanation of the recent recession in the Nation's apartment market.

Apartment construction began its descent when financial markets tightened up in 1974. What it did not do, however, was move back up as the markets eased during the latter part of 1974 and early 1975. The apartment market also showed little sign of life throughout 1975 and the first quarter of 1976, when funds were available in abundance in the Nation's mortgage market. Clearly, the level of multifamily construction over the past year bears little relation to what happened to the financial factors which dominate most explanations of the housing cycle.

Why is it that the apartment market failed to respond to money market conditions over the past year? A common explanation is that apartment construction wasn't profitable enough. Builders have complained for some time now about the profitability of apartment development and for good reason. Rent levels have lagged behind inflation, in general, and the inflation in building costs, in particular. The rent component in the consumer price index, for example, showed increases of 5 percent both in 1974 and 1975, compared with respective increases of 11 percent and 9 percent in the overall index. For the 5-year period from 1970 through 1975, rents rose on the average of 4.7 percent per year compared with a 6.4-percent increase in the overall price level.

Why have rents failed to keep pace with the rate of inflation? Some talk about rent controls and the growing hesitancy of landlords to raise rents in the face of an assortment of pressures from consumer groups. This explanation is difficult to evaluate. Although there are no concrete indications of the spread of rent control programs beyond a select number of cities along the Eastern seaboard, facts about the absence or presence of rent controls throughout the country are not easy to gather. It is even more difficult to gather facts that reveal the kind of pressures, if any, consumerist groups bring to bear on landlords.

GROWING WEAKNESS IN DEMAND

While it is possible that consumerism accounts for some of the failure of rents to rise as rapidly as other prices, there are other, more fundamental, elements in the explanation. The most important of these fall under the heading of demand. There is certainly evidence of a growing weakness in apartment demand. The dramatic cutback in apartment construction noted above was partly a market response to the fact that multi-family starts during the boom years of 1972 and 1973 rose above real demands for additional apartment space.

The sharpness of the decline between 1972 and 1975, however, cannot be fully explained by a market adjustment to an excess inventory. Apartment vacancy statistics are revealing in this respect. The vacancy rate for rental housing units rose from a low of 5.2 percent in the fourth quarter of 1970 to 6.3 percent in the fourth quarter of 1974, reflecting the inventory problem that developed from the construction boom during this period. Yet, an upward movement of this magnitude surely cannot account for the 75 percent reduction in new apartment construction between 1972 and 1975. Moreover, until the fourth quarter of 1975, the apartment vacancy rate showed no signs of declining even in the face of dramatic falloff in new construction. (See table 1.)

TABLE 1. —RENTAL VACANCY RATES 1970–75

	Rental			
	1st	2d	3d	4th
1970	5.4	5.4	5.3	5.2
1971	5.3	5.3	5.6	5.6
1972	5.3	5.5	5.8	5.6
1973	5.7	5.8	5.8	5.8
1974	6.2	6.3	6.2	6.0
1975	6.1	6.3	6.2	5.4

Source: U.S. Department of Commerce.

What this implies is weakness in demand. Apparently, apartment dwellers, who seemingly came out of the woodwork in the late 1960's and early 1970's, disappeared just as quickly in the middle part of the decade. Where did they go? Why? Can we expect them back? If so, when?

Most housing analysts believed the 1970's would be the decade of the house and, in the beginning, there was every reason to believe that the experts were correct. How else could we account for the fact that construction almost doubled in a period of a couple of years in the early seventies, with only minor impact on the nation's vacancy rate?

EARLY OPTIMISM FOR HOUSING

Buoyant housing demand conditions were expected largely because of the anticipated movement of "war babies" into the age categories in which people begin to form new households; i.e., the ages between 20 and 30. That demographic factors strengthened clearly shows through in table 2, which indicates a sharp pick-up in household formations in the first half of the 1970's. Since net additions to the household population are the single most important construction demand factor, residential construction demands were expected to be exceptionally strong.

TABLE 2.—ADDITIONS TO THE HOUSEHOLD POPULATION BY TYPE OF HOUSEHOLD 1950–70

Annual average change for—	Total household—	Primary families total	Husband, wife	Other male head	Female head	Primary individuals	Male head	Female head
1950–55	864	579	435	32	112	285	78	207
1955–60	985	634	601	−20	54	351	131	219
1960–65	927	587	487	−12	112	341	112	228
1965–70	1,193	724	608	12	104	469	157	312
1970–74[1]	1,614	865	515	48	302	749	398	351

[1] March 1970 to March 1974.

Source: U.S. Bureau of the Census.

Significantly, this strengthening in housing demand was concentrated among household groups that are likely to rent. The biggest increases in the household population occurred among young married couples and young single-person households. These groups, of course, consist of people who typically live in rental, rather than owner-occupied, housing. Apartment dwellers did not come out of the woodwork in the early seventies. They increased in number because of certain basic demographic and economic forces which came into play.

The changing age distribution of the population increased substantially the number of potential entrants into the apartment market. The economic prosperity of the time helped translate the potential into effective demand. Rising real incomes, in effect, provided many of the young with the wherewithal they needed to strike out on their own, and many of those who did were single.

PROBING THE PROBLEM

More mysterious is the question of where these people went over the past year. If rental demands weakened, as we have noted, the number of people seeking rental units at prevailing rents must have declined. If so, where did they go? Certainly, the basic source of the recent strength in the Nation's rental market has not changed. The number of people in those age brackets who are likely to form households and move into rental units is still increasing. The demographic facts of life still provide a strong foundation for the rental market. The answer must lie in the change in the economic conditions which enabled many young people to move into apartments a few years ago.

What apparently happened to single-person households (*primary individuals* in table 2) provides the key to an understanding of what happened to the apartment dweller. The number of primary individual or single-person households has been increasing for a number of years. Relatively more of the single population now lives in separate living quarters largely because of the growing affluence of American society. Apparently, many Americans value the privacy and freedom provided by separate living quarters and, to the extent that economic conditions permit, they try to arrange their affairs so that they can live by themselves.

Note in table 2 that the number of single-person households increased significantly during the first four years of the 1970's. These were prosperous times for the Nation. Real per capita incomes were rising rapidly and unemployment was relatively low. (See table 3.) Many of those between the ages of 18 and 30 evidently had the money to go out on their own and move into an apartment. This happened both among those who worked and those who were going to college. This, in fact, was the time that the vacancy factor increased substantially in college dormitories as many students moved into the new apartment units coming onto the market in and around campuses.

TABLE 3.—PER CAPITA INCOME AND UNEMPLOYMENT RATE

	Per capita income (1972 dollars)	Percent change	Unemployment
1967	3,035	+3.0	3.8
1968	3,156	+2.8	3.6
1969	3,234	+1.5	3.5
1970	3,265	+3.0	4.9
1971	3,342	+2.6	5.9
1972	3,510	+3.3	5.6
1973	3,642	+6.0	4.9
1974	3,586	−2.1	5.6
1975	3,590	+.7	8.5

Source: Department of Commerce and Bureau of Labor Statistics.

Then came the year of double-digit inflation—1974—followed by a year of economic decline. Significantly, the recession of 1975 turned out to be the sharpest since that immedately following World War II. The U.S. economy, after having experienced more than a decade of unbridled economic prosperity, fell upon hard times. Now it was not a matter of inflation *or* recession, it was a case of inflation *and recession*. To a Nation that had grown accustomed to annual increases in real incomes, the reality of declining real incomes came as quite a shock.

ECONOMICS AS THE ANSWER

The economic problems stemming from inflation affected most people. When the economy toppled into the recession, the problems this created were concentrated among the young. Unemployment rates for the young are much higher than average, which means that unemployment becomes more widespread among this group during a period of economic recession.

There is no way to estimate with precision the impact of these problems on the real incomes of people between the ages of 18 to 30. Nor do we have much factual evidence that pinpoints the impact of these economic problems on the housing demands of the young. There is, however, every reason to believe that the impact was susbtantial. There are certainly many journalistic accounts of the empty nest—homes in which the children have gone—that became full again. Children moved back home, some after completing their college education. Dormitories on our college campuses also started to fill up again.

When economic adversity struck, people had to make adjustments. If there was no work, or work that provided income that did not measure up to earlier expectations, people had to cope by adjusting the way in which they lived. An area where significant savings could be realized was housing. All that was required was a willingness to live with less privacy and personal freedom. Many between the ages of 18 to 30 confronted this decision over the past year or two and chose to move back home or into a group arrangement such as a dormitory while living away from home.

While we cannot document the number of those who did this on the basis of available facts and figures, all indications are that the number was relatively large. Apartment dwellers did not go into the woodwork; many of them simply went home.

WILL THE APARTMENT DWELLER EVER COME BACK?

That the recent doubling up of the young with their parents and others was a consequence of the economic difficulties they encountered is significant. What it suggests is that apartment demands will strengthen considerably if the economy gets back on the full employment, noninflationary track.

If apartment construction currently lags because it is unprofitable, this could change. Unless the impetus for rent control measures is stronger than most housing analysts currently believe, rents should begin to rise when apartment demands strengthen. The key question is when these demands will begin to pick up.

If we were to achieve a full-employment, noninflationary economy by the end of the year, there would be undoubling and the apartment market would strengthen considerably. New apartment construction would, as a consequence, rise from its current depressed levels. The standard economic forecast, however, does not envisage this kind of economic performance. Unemployment in the neighborhood of 7 percent and price inflation of 6 percent is the majority forecast. These are not the kind of economic conditions likely to generate much undoubling among the young.

Beyond the end of this year, economic conditions could develop in ways that strengthen these demands. If we can derail the economy from the roller coaster of periods of double-digit inflation, followed by severe recessions, we shall reach the point at which undoubling will occur. The desire for separate living quarters is still very strong; what is needed is a set of economic conditions in which real incomes resume an upward trend.

If the economy begins to perform better in this sense, 1977 or 1978 coud be the year in which apartment construction begins to come back strongly. The demand potential is still there. The translation of this potential into effective demand only awaits getting our economic house back in order.

REPORT ON THE DEFENSE DEBATE

Mr. HATFIELD. Mr. President, I have prepared a report to my constituents on the defense debate that I wish to share with my colleagues. I have attempted to get away from sloganeering about who is No. 1 and deal with the comparative strengths of the United States and the Soviet Union in a more rational fashion. I hope it will be of interest. I ask unanimous consent that my report be printed in the RECORD.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

DEFENSE SPENDING

Whether the United States has the military strength to deter attack and to defend its interests at home and abroad is a matter of the utmost national importance and deserves thoughtful and rational debate. Yet, in this election year, the debate has lapsed into simplistic and emotional sloganeering about who is "number one." The rhetoric is reminiscent of the warnings in 1960 about a missile gap that later proved non-existent.

The American taxpayer should not be asked to pay for, nor does our national security require, a military machine that is qualitatively and quantitatively superior to that of our adversaries in all respects. It is only necessary that we have strength sufficient to perform the mission. I am convinced that we have that capacity and will maintain it, with proper vigilance, for the foreseeable future.

THE STRATEGIC BALANCE

Of greatest concern to the American people, since it involves the potential destruction of our society and perhaps the entire world, is the strategic balance between the United States and the Soviet Union. At the present time, the United States' "triad" of strategic forces includes 1,000 Minutemen intercontinental ballistic missiles (ICBM's) 54 Titan II ICBM's, 656 submarine-launched ballistic missiles (SLBM's), and 425 B–52 and 75 FB–111 strategic bombers carrying a variety of air-to-surface missiles and bombs. The Defense Department estimates the Soviet Union's strategic forces to consist of 1,500 ICBM's, 850 SLBM's, and 180 bombers. The latter are nearly obsolete and are definitely inferior to U.S. bombers.

Therefore, the Soviet Union has a numerical superiority in the number of launchers, 2,530 to 2,211. As Secretary of State Kissinger has pointed out, however, it is warheads, not missiles and bombers, that kill and destroy. The United States currently enjoys a more than two-to-one superiority on this score, with a total of 8,900 deliverable warheads to the Soviets' 3,500, and we are making more every day. Indeed, we could have as many as 21,000 warheads deployed by 1985.

Other critics of the present strategic balance cite the Soviet advantage in warhead yield (megatonnage) and missile throw weight (essentially the weight of the missiles's payload of warhead and guidance systems). The Soviets have chosen to deploy warheads with yields ranging up to 20 megatons, whereas our largest is the 5 megaton warhead used on the Titan II. However, if we so choose, our bombers can carry missiles and bombs of yields even higher than those of Soviet missile warheads, and this would compensate for the difference. We would probably not do so, for increasing megatonnage produces diminishing returns—a 5-megaton warhead destroys any conceivable target just as thoroughly as a 50-megaton one, and is easier to deliver.

Of greater concern is the Soviet advantage in missile throw weight, even though the payload capacity of our bombers reduces this advantage to insignificance. All other things being equal, greater throw weight means the ability to put more warheads on each missile. Once the Soviets master the technology necessary to deploy multiple, independently targetable re-entry vehicles (MIRV's) on their missiles, it is feared that they will be able to launch massive numbers of warheads against our increasingly vulnerable ICBM's in their fixed silos, delivering a counterforce punch that will cripple the retaliatory power on which our strategic doctrine is based.

There are a number of arguments against this frightening vision, however. First, the U.S. has far more warheads deployed than the Soviet Union, yet it is not suggested that this constitutes a pre-emptive strike threat. The same could apply to the Russians. Second, even if the Soviets could achieve the impossible and destroy our entire ICBM and reckon with the SLBM force, which alone is sufficient to inflict unacceptable damage in a retaliatory strike. Third, the Soviets would have to consider the retaliatory forces of our allies. The British have 64 SLBM's on four submarines. NATO forces in Europe control some 10,000 "tactical" nuclear weapons of yields up to 400 kilotons.

Fourth, if the Soviets are in pursuit of the kind of destructive force necessary to blow ICBM's out of the ground, they have a long way to go to catch up to the United States. The "kill capability" of a warhead is enhanced much more by increases in accuracy than by increases in yield. Improving accuracy three times increases "kill capability" by nine times; increasing yield by a factor of eight increases kill capability by a factor of only four. The United States lead in warhead accuracy is quite substantial already and is improving, so we have a tremendous advantage in the capability to destroy "hard" targets such a s ICBM's in their silos.

It is not by accident that the United States has chosen to deploy relatively smaller, more accurate warheads as opposed to larger, less accurate ones. We could easily build high-yield warheads in the multi-megaton range, but with no appreciable gain in destructive force or deterrent capability. Likewise, our space program conclusively demonstrated that we can build reliable missiles with much greater throw weight than those we now have. The point is that our present system is designed the way it is because it is more effective. We retain the ability to absorb a devastating surprise attack and still retaliate with sufficient force to destroy the aggressor. The Soviets' supposed lead in strategic weaponry is as ephemeral as the missile gap of the sixties. On closer inspection, it is simply not there.

THE CONVENTIONAL BALANCE

Of course, our national security is not entirely dependent on our strategic forces. While a nuclear attack is the ultimate deterrent to aggression, it cannot be idly threatened and remain credible. A North Korean push into South Korea, for example, is not likely to be deterred by nuclear sabre-rattling. Effective conventional forces can prevent such attacks or win the battle without resorting to nuclear weapons.

As with the debate over strategic forces, public discussion of U.S. conventional forces in comparison to those of the Soviet Union has been mired in a numbers game that gives a decidely wrong impression of American strength. The main points of contention have been the strength of our naval forces, the number of uniformed personnel, and comparative levels of defense spending.

Naval Forces: Aside from strategic deterrence, the primary missions of the U.S. Navy are to project U.S. power abroad and to keep the sea lanes open. There is no question that our Navy can perform these missions, and generalities comparing raw numbers of ships should not obscure this fact. For example, it has been charged that between 1965 and 1975, the United States built 165 "major surface combatants" while the Soviets built 205. This is supposed to indicate a Soviet superiority. When the numbers are considered in the context of the size of the ships and the overall tonnage involved, however, a considerably different picture emerges.

In the past fifteen years, the United States has built 122 surface ships of 3,000 tons or more. The Soviet Union, on the other hand, has built only 57 ships of that size, while building 83 ships of between 1,000 and 3,000 tons. These figures highlight the Soviet emphasis on coastal defense through the use of relatively small escort vessels, and the American emphasis on larger escorts for deep ocean duties necessary to keep the sea lanes open.

In terms of overall tonnage, the U.S. has built 3.3 million tons of new warships to the Soviet Union's 2.6 million tons in the last eighteen years. In the last seven years, the United States has constructed 12% more ships than the Soviets and has led in overall tonnage by 71%. These shipbuilding trends will continue; the Congress has recently approved the largest shipbuilding budget since World War II. The new ships will further reduce the average age of the U.S. fleet, and replace those World War II ships retired in "block obsolescence" in the past few years. The Soviets will face similar mass retirements in the next decade.

Our navy is also clearly superior in naval air power, the principal means of projecting power overseas. The Soviets have only one true aircraft carrier, and a handful of helicopter carriers, and these cannot be compared to the thirteen aircraft carriers of the U.S. Navy.

This carrier capability allows us to have 6,000 land and carrier-based naval aircraft, while the Soviets have only 1,500 land-based aircraft. We have 196,000 Marines; the Soviets have only 17,000. Our submarine force includes 65 nuclear powered attack submarines with 28 more under construction, but the Soviets have only 34 nuclear attack submarines.

This comparison extends to other categories as well. There is no doubt that the Soviet Navy has gained strength and attained a greater "blue-water" capability. There is also no doubt that the United States Navy is a superior fleet, and maintains its ability to perform its missions against the Soviet threat.

Uniformed Personnel: The Soviet Union has 4.8 milliion people under arms versus 2.1 million for the United States. This accounts for Defense Secretary Rumsfeld's statement that Soviet military manpower is "now more than double U.S. forces." What is not said, however, is that this has been the case for more than twenty years, excepting the time of our Vietnam build-up. Even when the draft was available to compel service and increase manpower levels, the United States did not see fit to match the Soviets man-for-man.

There are several reasons for this. One is the conviction that quality makes up for differences in quantity, and that Americans in uniform are better equipped, better trained, and better fighters than their adversaries. This convictions has not been abandoned on the basis of the Vietnam experience. A more tangible reason for confidence in spite of the disparity in numbers has to do with the deployment of Soviet troops. A half million of them are stationed along the Chinese border to counter a possible invasion or to launch one. Another 500,000 are assigned to air defense units designed to knock down bombers. But since U.S. bombers would not attack the Soviet Union except in conjunction with ICBM's targeted to destroy the air defense units and clear the way for the bombers, these forces are not of much practical use. Similarly, the Soviets have 350,000 personnel in strategic offensive forces to run roughly the same number of ICBM's, bombers, and submarines as the United States operates with only 75,000 people. Finally, our defense bureaucracy is run by civilians, while the Soviets use military personnel.

The net result of these differences is a balance of comparable opposing forces of 2,045,000 Soviet troops to 2,009,000 Americans. That is considerably different than the headlines about a two-to-one superiority.

Defense Spending Comparisons: Here again, advocates of larger defense budgets have used misleading figures to support dire warnings of Soviet military superiority. It is argued that in 1975, for example, the Soviets outspent us in defense by 42%—$114 billion to $80 billion. But the Soviets don't spend dollars. They spend rubles. The calculation of their overall defense spending levels is made by determining what the Soviets have in terms of personnel, missiles, tanks, and so forth, and then figuring out how much that would cost us to make in American dollars. Since their manpower costs are much lower than ours, and their centrally planned economy allows them to artificially suppress the cost of materiel, this method obviously inflates Soviet spending levels.

If the calculation was reversed so that the two defense budgets were calculated on the basis of how many rubles the Russians would have to spend to duplicate our effort, as compared to what they spend for theirs, the picture would be much different. The Russians would find it difficult, if not impossible, to duplicate the sophisticated technology of the American military. The amount of rubles they would have to pay to build a new military machine like ours would be much greater than what they are now spending. So, on a rubles basis, we outspend them.

Others who urge increased defense expenditures by the United States cite new CIA estimates of the percentage of Soviet GNP devoted to defense. It is now estimated that the Russians devote 11% to 13% of their GNP to defense, rather than the 6% to 8% previously estimated. This is just a revision of numbers, however, and does not give the Soviets any greater military strength. In fact, it means that they must devote a greater portion of their economy to maintain the strength they think necessary. By comparison, the United States spends about 6% of its GNP on defense. But our GNP is twice as great as the Soviet Union's and, if necessary, we could expand our defense capacity with less strain than the Soviets. We are simply more efficient.

A NEW ARMS RACE?

The danger of all the excited rhetoric about supposed Soviet military superiority is that it will mislead the American public into supporting a new surge of spending to ignite a new cycle in the arms race. That would be a tragic mistake. As I hope I have made apparent, the United States has not fallen behind the Soviet Union in military strength, and there is no reason to assume we have suddenly become a weak nation to be bullied about by the Russians or any other country. I do not believe, therefore, that this year's all-time record defense budget can be justified, nor should some of the new weapons systems it funds be developed.

The B–1 bomber has been the focus of considerable controversy, and rightly so. The Air Force wants to build 244 of these bombers by the 1990's to replace aging B–52's. The cost will be at least $25 billion, and perhaps as much as $92 billion over the life span of the aircraft for procurement, maintenance, armament, and supporting systems. Nevertheless, the cost is not the main point. The central question is whether this bomber, offering marginal improvements over the B–52, is needed to fly over Soviet territory hours after a missile exchange has devastated the countryside. There is a point after which using more nuclear weapons only "makes the ruble bounce," to use the phrase of Winston Churchill. The B–1 is not necessary and should not be built.

The Cruise Missile and MARV: Far more disturbing than the B–1 in terms of potential for starting a new phase of the arms race and seriously destabilizing the present strategic balance are the cruise missile and the MARV warhead. The cruise missile is basically a jet-powered, subsonic pilotless aircraft similar to the Germans' World War II V–1 "buzz bomb" but far more deadly. It can be launched from the air, the surface of the sea or land, or from a submarine's torpedo tube to follow a flight path of up to 2,500 nautical miles. The last few hundred miles it can hug the terrain at very low altitudes to escape radar detection, and it is expected to be extremely accurate—within a few meters of the target. Moreover, it is relatively cheap, making the production and deployment of thousands possible.

Actually, the cruise missile is not new. In the late fifties, the U.S. developed and deployed the "Snark" cruise missile on a few nuclear attack submarines. The Snark was considerably larger than the present design, and was housed in an external hangar on the deck of the submarine rather than launched from a torpedo tube. Once the Polaris submarines and missiles were developed, the Snark was abandoned.

The Soviets also developed a submarine-launched cruise missile, and they have kept theirs in their arsenal. They are similar to the obsolete Snark, however, and are considered tactical, anti-ship weapons. The U.S. cruise missile now being developed, on the other hand, can be deployed in either a tactical or strategic mode with either a conventional or a nuclear warhead. Its development has been made possible by the revolutionary advances in computer guidance miniaturization and the production of small, highly efficient turbofan jet engines.

Development of the sea-launched cruise missile, in particular, would pose tremendous problems for arms control, since every torpedo tube in every U.S. attack submarine would have to be considered a potential launching point for a weapon just as destructive as an SLBM. Furthermore, since an airplane such as the Boeing 747 could carry a hundred of the air-launched versions, the sheer number of cruise missiles ready for launching against an adversary would mean a quantum leap in the arms race. Simply because we have the technology to develop a certain weapon does not mean we should. For example, even though we have the capability to make biological warfare weapons, we have refrained from doing so. Similar restraint should be exercised in terms of cruise missile development.

Although not as far along in development at this time, the MARV warhead could be equally dangerous. MARV stands for maneuvering re-entry vehicle. It differs from a MIRV warhead in that a MIRV is thrown off a "bus" and follows a ballistic path to its target, while the MARV leaves the bus and is actively guided to its target. The difference in accuracy is like the difference between throwing a dart at a bull's-eye and it in the bull's-eye.

Improved accuracy is hard to resist, but improving accuracy to zero can put a hair trigger on nuclear war. A warhead with terminal guidance and zero accuracy can destroy an ICBM in its silo. If the United States were to develop and deploy a MARV warhead, the Soviets would have to adopt a launch-on-warning stance. That is, if they decided that their ICBM's were about to be attacked, they would launch them "out from under" the incoming missiles, rather than have them destroyed in their silos. Two things might happen: they might launch because of a false alarm, and if they did indeed successfully launch out from under a real attack, the U.S. missiles would be destroying empty holes.

Should the Soviets attain a MARV capability (and so far they have eventually matched us in every other technological advance in strategic warfare), then both countries would be very nervous about the vulnerability of their land-based ICBM's, and would be tempted to launch first in order to have the best chance of avoiding destruction of their ICBM's. The scene is like two gunfighters in a dusty street. One draws and shoots to kill with great accuracy; the other draws as soon as the villain's hand moves and fires with equal accuracy a split second later. Both die.

PAYING THE PRICE

Dwight Eisenhower used to say that military strength is only the sharp edge of the sword's blade. The strength of the blade, and therefore of the sword, is based on the economic might and political freedom of the American people. Any definition of national security cannot be confined to numbers games about military forces alone. I believe that as long as we continue to fund unnecessary and provocative weapons systems to the neglect of other pressing national needs, we will not be secure, no matter how many times over we can incinerate the world.

The United States and the Soviet Union spend 60% of the $300 billion spent annually on the means of war. The U.S. leads the world in arms sales to other countries, particularly to the less-developed nations that can least afford to pour their limited resources into defense. In the meantime, human needs both here and abroad go wanting. Ruth Leger Sivard puts it well in her study "World Military and Social Expenditures, 1976":

"The unmet needs of society stand in stark contrast to the record spending for arms and armies. Economic growth has stopped, worsening the plight of hundreds of millions who live at the margin of existence. There is hunger throughout the world. Half the world's school-age children are not yet attending school; one-third of the adults are illiterate. Governments spend two-thirds more for military force than for the health care of 4 billion people. Much could be done to promote economic and social progress and reduce the root causes of conflict, through cooperative international effort. So far that effort is dwarfed by the intense competition for arms."

The arms race has too often overshadowed the problems of the human race. There are a half billion hungry people in this world, growing increasingly restless under governments that blame the rich nations for the plight of their citizens. By 1985, forty nations will have sufficient plutonium from their nuclear reactors to build atomic weapons. In that volatile environment, the "balance of bread" will be at least as important as the "balance of terror" imposed by the superpowers' terrible weapons.

Certainly, arms control and reduction should be a goal for all countries, not the United States alone. But the challenges facing Americans have always been particularly great, and are more so now as we stand as one of the few free nations left on earth. We lead the world in military power, yet we lag behind other nations in literacy, per capita income, infant mortality, doctor-patient ratios, and other important indicators of a society's strength. We cannot allow ourselves to be caught up in a new phase of the arms race that will endanger us all and sap our ability to provide for other needs. If we cannot rid ourselves of our passion for being number one in the world in providing for the common defense, should not we have an equal passion for being number one in promoting the general welfare of our people?

SPEECH BY EPA ADMINISTRATOR RUSSELL TRAIN ON PROTECTION OF THE OCEAN ENVIRONMENT

Mr. PELL. Mr. President, I would like to draw the attention of my colleagues to a very fine and timely address which the Honorable Russell E. Train, Administrator of the U.S. Environmental Protection Agency, delivered before the Fourth International Seapower Symposium held in Newport, R.I., on July 8, 1976.

Mr. Train sets forth in a very persuasive manner the stake which the United States, and indeed the entire world, has in protecting the oceans from environmental damage from oil spills and other sources. He also emphasizes the need for the continuing development of a generally accepted set of international environmental rules as well as institutional mechanisms for their review.

In this latter connection, Mr. Train raises the issue of enforcing the international standards which are emerging and has suggested that one approach might be along the lines of the International Sea Guard concept which I proposed many years ago. I continue to believe that a Sea Guard will one day be accepted as a necessary element of the world community's management of the oceans, and Mr. Train has done a splended job of explaining why some of the reactions to the supranational aspects of such an enforcement mechanism are misplaced.

Mr. Train also points out that there is a critical need and opportunity for the navies of the world to assume a new mission not only to secure freedom of movement on the seas but to help secure the continued health of the natural systems of the seas—in other words a mission transcending the security of nations and concerned with the security of all life on this planet.

Mr. President, Mr. Train has provided a highly useful record of where we are and has made imaginative proposals concerning where we ought to be headed in protecting the world's marine environment. I commend his address to all of my colleagues and ask unanimous consent that the full text of his remarks be printed in the Record.

There being no objection, the speech was ordered to be printed in the Record, as follows:

Remarks by the Honorable Russell E. Train, Administrator, U.S. Environmental Protection Agency, Before the Fourth International Seapower Symposium Thursday, July 8, 1976, Newport, R.I.

PROTECTING THE OCEAN ENVIRONMENT: SOME IMPLICATIONS FOR MARITIME ACTIVITY

I greatly appreciate the opportunity to address this Fourth International Seapower Symposium here at the Naval War College at Newport. Many personal associations with Newport, with our Navy, and with this institution combine to make the occasion a particularly happy one for me. My paternal grandfather, who had a long and distinguished naval career, graduated from the Naval Academy in 1865 when it was located here in Newport during the Civil War. I was born about two miles from here at Jamestown on Conanicut Island in Narragansett Bay at a time when my father commanded a squadron of destroyers. Later, when I was a boy of twelve, my father was a student here at the Naval War College in a class that also included Admirals King, Spruance, and Halsey. That was the junior course and he came back later to the senior course. I remember well reading the "Influence of Sea Power on History" and most other works of Captain Mahan, the second President of the War College, during my youth. Finally, when I graduated from my own university in 1941, the subject of my senior thesis was "Naval War in the Pacific." I mention these matters simply to make the point that I am not a complete stranger to your concerns. Now, I will undo the whole effect by telling you that in World War II, I served in the Army.

A great many things have changed since I last had the pleasure of visiting the Naval War College. I do not recall what the curricula of the College consisted of in those days, but I suspect that my father might have regarded as a prime candidate for an early retirement anyone who suggested the protection of the marine environment as a subject worth a naval officer's time and attention. I imagine, in fact, that such a suggestion would have received much the same reaction only a few years ago.

I have been asked to speak today on the maritime aspects of international efforts to protect the environment. There are, in fact, relatively few *other* aspects of such efforts. For a number of reasons, there has been substantial international activity aimed at protecting the marine environment in recent years, but few comparable efforts in other fields. Let me begin by describing that activity and suggesting some of the reasons that have impelled it.

First, enormous international efforts have been devoted to the problem of pollution from tankers, with emphasis on operating discharges as well as on major incidents. As you all know, the wreck of the *Torrey Canyon* in 1967 was a watershed event. It led in very short order to the negotiation of two 1969 treaties, both of which are now in force. The Intervention Convention—the so-called "Public Law Convention" establishes the right of coastal states to take appropriate measures on the high seas to protect their coastlines from the effects of major incidents that threaten oil pollution. A 1973 Protocol will expand the coverage of that Public Law Convention to include pollution by other hazardous substances, including refined products. At the same time, the International Convention on Civil Liability for Oil Pollution Damage—the so-called "Private Law Convention"—provides a source of funds for persons injured by oil pollution incidents, giving such persons substantially greater protection than traditional doctrines of admiralty law have permitted.

To cover major incidents in which the shipowner's liability under the Private Law Convention might be exhausted, the international community went further, and negotiated in 1971 the so-called "Fund Convention," providing a further source of compensation, in the form of a fund to be established by the cargo owners.

Meanwhile, operating discharges have not been ignored. Although newspaper readers may have heard of the *Torrey Canyon*, the *Metula*, the *Showa Maru*, the *Sea Star*, the *Ocean Eagle* and the *Urquiola*, a far greater proportion of the total annual influx of petroleum to the marine environment comes from such ordinary and everyday sources as bilges, tank washings, and deballasting. A Convention to deal with such discharges was adopted in 1954 and implemented under the aegis of the Inter-Governmental Maritime Consultative Organization (IMCO). In 1969, the IMCO addressed itself to the obvious shortcomings in the 1954 standards, and developed amendments that imposed discharge standards on tankers, *irrespective of their distance from coastlines*, and included a ceiling on the total percentage of a cargo that could permissibly be discharged in the course of a voyage. I regret to report, however, that the 1969 amendments have not yet entered into force.

In any event, IMCO convened a further general diplomatic conference in 1973, at which time I was privileged to cochair the U.S. delegation with the Commandant of the United States Coast Guard. At that time, we engaged in a complete revamping of the 1954 treaty as amended, and produced the International Convention for the Prevention of Pollution by Ships. This package of over 100 pages of technical standards includes the discharge provisions of the 1969 amendments, as well as rules on cargo subdivision and stability, to protect against massive cargo loss in vessel casualties. In addition, we developed requirements for segregated ballast on new tankers of more than 70,000 deadweight tons, together with four technical annexes dealing with discharges of a host of hazardous liquid chemicals, containers, vessel sewage and garbage. Although the 1973 Convention did not contain everything that an environmentalist might have desired, its negotiation was surely an encouraging step. It, too, awaits ratification.

Other sources of marine pollution have also received attention. Making good on one part of the Action Plan of the 1972 U.N. Conference on the Human Environment held at Stockholm, the international Community negotiated the Ocean Dumping Convention in London that same year. At this time, also, I was pleased to be personally involved, as the head of the U.S. delegation. Although the 1972 dumping treaty falls far short of answering all questions for all time, it does include a "blacklist" of highly toxic substances which must not be dumped at sea; and, perhaps of greater ultimate importance, it requires each signatory State to think before it dumps—to establish a national permit program covering all ocean dumping, and to issue permits only after consideration of the relevant oceanographic and environmental factors set forth in one of the treaty's annexes. The Convention entered into force last August, and had been ratified, at last count, by 23 nations.

I do not wish to tax you with an exhaustive catalogue of all international activities in this area. I could mention some hopeful efforts, in which the United States has not been involved—such as the Paris Convention, which is a beginning effort to deal with the problem of land-based sources of marine pollution, or the recently-concluded Barcelona Convention, which will apply ocean dumping standards to the Mediterranean, and will seek to foster cooperation among the States bordering that enclosed sea to mitigate the effects of polluting incidents. There are other examples, such as in the Baltic and North Seas.

But I could not fail to mention the efforts currently underway at the Third United Nations Law of the Sea Conference. This Conference, of course, deals with almost every aspect of ocean use. In the environmental area, it will not establish technical standards of the kind we are used to seeing in the IMCO context. It will result, rather, in a constitutional document. In environmental terms, that document will do two things. First, it will state some general principles. I do not think that anyone can predict with confidence how great an impact such general principles will actually have on the behavior of States. But they can't hurt. And I take encouragement in the fact that the Revised Single Negotiating Text that emerged from the last session of the Conference incorporates Principle 21 of the Stockholm Declaration, which establishes the legal principle that States are subject to an obligation to protect the marine environment in areas *beyond* national jurisdiction.

In addition to such statements of principle, the emerging Law of the Sea text will provide answers to the vexatious jurisdictional problems that have, in my view, materially interfered with other, more technically-oriented efforts to protect the marine environment. It was my personal observation at the ocean dumping negotiations in 1972, and again at IMCO in 1973, that issues of substantive importance did not receive all the attention they merited, as a result of efforts by many delegations to jockey for position in another forum—the Law of the Sea Conference. Now, one may hope that the emerging Convention will firmly establish who can do what to whose ships, and where. Once those questions are answered, perhaps the international community can focus greater attention on the technical aspects of marine pollution. I might add that I believe that the outcome of the jurisdictional debate will have little, if any, effect on the nature and extent of marine pollution.

I have tried to give you some indication of the flurry of recent international activity relating to marine pollution. Why have we experienced it? I think there are some encouraging reasons, as well as some that bring out the cynic in me. First, it is clear that there is substantially greater sensitivity to environmental concerns. Departments or ministries of the environment are now commonplace. The formation of UNEP and the activities of groups such as OECD and NATO's Committee on the Challenges of Modern Society (CCMS) are not mere public relations exercises—they reflect, rather, a deeply-felt concern over environmental problems. As a case in point, I might add that CCMS played a major role in developing agreements in principle among the NATO nations on limiting the international discharge of oil at sea—an agreement which subsequently evolved into the IMCO Convention in 1973.

Second, there is the fact that marine pollution knows no boundaries, and that pollution which is seemingly localized at first may, in its cumulative impact, affect distant nations, who have no practical remedy that can be undertaken unilaterally.

Third, the oceans are not subject to any nation's exclusive dominion. Thus, international agreements to set environmental standards for oceans do not offend traditional notions of sovereignty to the same extent as would comparable standards applied to activities ashore. Accordingly, diplomats may have fewer anxieties in reporting agreement concerning the ocean environment to their capitals.

Fourth, a highly-publicized polluting activity—the transport of oil—is carried on by an interest group that is most apprehensive about inroads on its navigational freedoms. While Canada was passing legislation pursuant to which she could regulate vessel traffic within 100 nautical miles of her Arctic coastline, tanker owners, shipping ministries and oil companies were busily engaged in taking actions to which they might point as evidence of willingness to clean up their own houses. Partly as a result, it is now fairly clear that the Law of the Sea Convention will not grant coastal states standard-setting authority of any sort beyond their territorial seas. I suggest, then, that it is high time that the maritime states join Kenya, Jordan and Tunisia in ratifying the 1973 Convention and make a reality of the uniform international environmental standards that we have been told are preferable to a "crazy-quilt" or "hodge-podge" of differing coastal state standards.

We can look forward, then, in the very near future to the establishment of a generally-accepted set of international environmental rules applicable to maritime commerce as well as institutional mechanisms for their continuing review. These new rules and mechanisms will have at least two probable impacts.

First, increasing attention will be paid to the enforcement of international standards. As a result, attempt will likely be made to supplement the now predominant device of enforcement by the flag state. But attempts to utilize the new concepts of universal port state enforcement, and even of the limited coastal state enforcement powers currently reflected in the emerging Law of the Sea text, will, at first, merely emphasize the problems of surveillance, detection and evidence-gathering. I can think of two approaches to these problems, both of which should be carefully considered and evaluated.

One approach would be to seek to develop international enforcement mechanisms, perhaps along the lines of the International Sea Guard concept that is suggested from time to time. A major proponent of this concept is Senator Pell of Rhode Island. Now, I realize that those whose primary concerns relate to freedom of navigation may be offended by the notion of a supra-national authority with even limited enforcement powers. But while I well understand the fear and suspicion that even the prospect of such an authority can evoke, I also think these reactions may very well be misplaced. In the first place, surveillance and detection functions need not imply general powers of arrest and inspection, certainly not on the high seas. Furthermore, an international agency may be less inclined than an individual state to use its powers as a politically-motivated impediment to navigation—which is, after all, the usual objection to coastal state enforcement functions. Finally, few coastal states—let alone a port state that is geographically remote from the place in which a violation has occurred—are likely to have available the necessary resources to police the area within which they may have jurisdiction. Perhaps an internationally-established entity could undertake this burden, to ensure that the rules are uniformly effective, without regard to the level of resources or concern in the various coastal states.

As an alternative or supplement to an international enforcement agency, I believe we should look carefully at the possibility of remote sensing techniques for the detection of unlawful discharges. If and when the concept of universal port state enforcement is firmly in place, it will be of only minimal practical benefit if we lack the facts on which an enforcement proceeding could be based. Satellite or other aerial surveillance may provide an economically attractive means to gather such facts, and to make them available to the appropriate adjudicative authorities in ports-of-call. I recognize that such a system will not fall into place overnight, and that it would necessitate solution of a number of legal, political and logistical problems. In the final analysis, however, it may in fact enhance navigational freedoms by minimizing the need and desire of coastal states to stop, inspect, and arrest vessels operating far from their shores.

The second development which may be suggested by heightened environmental efforts in the maritime area pertains not to the oceans at all, but to the atmosphere. We tend to forget that it, too, like the ocean, is a shared resource. In fact, I know of one high-ranking naval officer, a firm believer in seapower, who was fond of pointing out that salt water covers some 70% of the earth's surface; his argument, however, did not particularly impress the Air Force, which could always point out that air covers some 100% of the planet.

Like marine pollution, much atmospheric pollution can be, and frequently is, transported beyond national boundaries. And, although we have never harvested the air as we have the seas, we are no less dependent on its environmental integrity, for reasons of public health, for reasons related to its role in protecting the surface of our planet from the ultraviolet rays that would, if unimpeded, consume us all in short order, because of the need to maintain a global climate that can sustain a high level of agricultural productivity. A worldwide trend toward a cooler climate is being widely forecast by climatologists, apparently as a result of both natural and man-made forces (including pollution), and such a trend could have disastrous impacts upon the ability of the world to produce food. Problems such as these will surely have to be dealt with internationally, if at all. And perhaps the level of concern and the emerging institutional mechanisms we are developing for the control of marine pollution will find their analogues in efforts to protect the atmosphere.

Now, what is the effect of all this on the world's navies? It may surprise you when I state that, in my view, there is none—certainly not in any direct sense. There are two main reasons for this: First, nobody would have much hope for a proposed treaty arrangement that impeded in any manner the operational capabilities of warships; and second, the military is not in fact responsible for substantial marine pollution. Accordingly, the treaties to which I have referred exempt the activities of warships. A typical provision in this regard is found in Article 3 of the 1973 Convention:

"The present Convention shall not apply to any warship, naval auxiliary or other ship owned or operated by a State and used, for the time being, only on government non-commercial service. However, each Party shall ensure by the adoption of appropriate measures not impairing the operations or operational capabilities of such ships owned or operated by it, that such ships act in a manner consistent, so far as is reasonable and practicable, with the present Convention."

This language, which has since reappeared in the current Law of the Sea text, makes warships virtually immune from the international regulation of environmental standards. To the extent that the second sentence has operative effect, it goes no further than existing principles of comity between nations would dictate in any event.

Not only are naval operations left unaffected by the flurry of international activity I have referred to, but freedom of the seas in its broadest sense has thus far been left almost totally unimpaired. To allude once more to the emerging Law of the Sea text, it will contain virtually no coastal state standard-setting beyond a 12-mile territorial sea. It will, moreover, provide for coastal state enforcement actions against foreign merchant ships only in the most outrageous (and I might add, unlikely) circumstances. And, while it provides for the principle of enforcement by a port state against violations committed anywhere *en route*, it unfortunately permits any such enforcement action to be preempted by a subsequent proceeding brought by the flag state, which may or may not be as zealous as the port state itself would have been. In short, it is simply wrong to say that pollution controls, as implemented in accordance with emerging international law, will retard global commerce.

The existence at long last of a broad body of environmental rules governing maritime commerce should render obsolete the traditional fear of what has been called "creeping jurisdiction." By this, I do *not* mean to suggest that coastal state jurisdiction cannot "creep." To cite developments in a different area, it is clear that the fisheries jurisdiction of coastal states has crept steadily in recent years. But coastal state jurisdiction, be it related to fisheries, to pollution control, to marine scientific research, cannot "creep" in the context of a generally-accepted legal regime that answers all of the jurisdictional questions at the same time.

Accordingly, I suggest that the international naval establishment—assuming, of course, that such a thing exists—can in the near future stop worrying about jurisdiction and procedure and turn its attention, instead, to a new task. That task, I suggest, is well stated in the second sentence of the military exemption clause I read a moment ago. Certainly, the navies of the free world must not restrict their operational capabilities on environmental grounds. But the fact that they are exempt from specific internationally-agreed standards does not eliminate the need for rational decision-making on a national level, including decision-making by the military itself. In my own view, it would constitute the height of irrationality to presume, on the basis of a legal exemption, that any activity that can be described as "military," however remotely connected with operational capability, must necessarily outweigh any environmental danger, no matter how grave. It must be recalled that the production of steel and wheat have vast economic—and indeed, strategic—significance. Nonetheless, we do regulate air emissions from smelters, and we do regulate the application of pesticides. So it should be with seapower. The navies of the world may not be subject to specific international legal obligations to protect the oceans from pollution, but they are subject, at least, to a moral obligation to engage in rational decision-making processes concerning the oceans, which are the planet's primary shared resource. And, on a less lofty plane, it might be suggested that an intelligent program of environmental protection on your part might well make your jobs easier, to the extent that such a program would give foreign ministries and local populations one less objection to a military presence.

In the final analysis, I am hopeful when I speak of environmental protection to this particular audience. Long before there was an International Whaling Commission, one of my country's favorite fictional characters had this to say:

"Whenever I find myself growing grim about the mouth; whenever it is a damp, drizzly November in my soul; whenever I find myself involuntarily pausing before coffin warehouses, and bringing up the rear of every funeral I meet; and especially whenever my hypos get such an upper hand of me, that it requires a strong moral principle to prevent me from deliberately stepping into the street, and methodically knocking people's hats off—then, I account it high time to get to sea as soon as I can. This is my substitute for pistol and ball. With a philosophical flourish Cato throws himself upon his sword; I quietly take to the ship. There is nothing surprising in this. If they but knew it, almost all men in their degree, some time or other, cherish very nearly the same feelings toward the ocean with me."

There is cause to hope that those who have elected to spend a major portion of their adult lives at sea take, like Ishmael, a special solace in its grandeur. If so, it may be that I have been preaching to the choir. I sincerely hope so.

The sailormen of the world have special reason to know and to respect and to cherish the seas. You, more than most others, know the ocean's beauty, its grandeur and its power. As man's activities increasingly threaten the marine environment, there is a critical need and opportunity for the navies of the world to assume a new mission—a mission not only to secure freedom of movement on the seas but to help secure the continued health of the natural systems of the seas. That is a mission that is vital not just to the security of nations but to the security of all life on this earth for all time.

IN CHATTANOOGA, THEY ARE SPREADING THE TRUTH ABOUT THE FREE ENTERPRISE SYSTEM

Mr. HELMS. Mr. President, hardly a day passes without some public figure attacking the American free enterprise system. Terms such as "profiteer," "reactionary," and "oppressor," are applied to the business community with such frequency that it comes as no surprise to many of us that portions of the American population have a grossly distorted view of the free enterprise system. This is indeed a sad fact since this system has enabled Americans to attain the greatest personal liberty with the highest standard of living in the world.

Nevertheless, the business man and woman is repeatedly charged with being responsible for virtually all of the problems facing contemporary Americans. But who are these profiteers and oppressors who constantly exploit Americans? According to one Senate Committee, there are well over 8.5 million small businesses in the United States. And if we include the agriculture, fishing, and forestry industries, this number reaches 12 million.

The alleged culprits, then, are the average Americans who own and operate these businesses and who are the backbone of our economic system. They are also the first to feel the impact of inflation; the first to feel the "hard times" of recession; and the least able to afford the lawyers, tax advisers, and accountants necessary to find their way through the maze of rules and regulations to which the Federal Government increasingly subjects them.

Mr. President, if we turn our attention from "small" business to "big" business, we find that the old myths here too should give way to new realities.

As one example, John Fischer of Harper's magazine writes in the July 1976 issue of that publication on the effect of company pension systems on American industry:

> When we speak of Big Business, then, we don't mean some bloated capitalist with dollar signs on his vest. We mean the teacher next door, Joe, down the street, who works in the foundry, the retired couple who moved to Florida last week. In sum, everybody who collects a pension now, or expects to someday. To paraphrase Pogo: "We have met Big Business, and he is us."
>
> It follows that the workers, through their pension funds, already are harvesting the biggest share of the profits from American industry. Such funds collect about 35 percent of all dividends, which are then passed on to retired employees or held in reserve for those yet to retire. Another third of all corporate profit goes to the tax collectors—federal, state, and local—and much of that, too, is passed on to the workers through Social Security, Medicare, and other welfare programs. Less than a third of all profits is left to the traditional "independent investors" or what used to be called The Capitalists.

Great misapprehensions exist concerning the nature of the American economic system. Part of the blame, however, must be shared by business. Private enterprise must take the lead in informing Americans of the role it performs in a free society. If businessmen are slow to do so, then unfortunately there are those who will be quick to blame American business for all our trouble.

However, some businesses have welcomed this opportunity. As part of its American Revolution Bicentennial activity, the Greater Chattanooga Area Chamber of Commerce and the Pioneer Bank of Chattanooga, Tenn., have sponsored a series of advertisements setting the record straight on the nature of the free enterprise system. A friend of mine with whom I visited briefly recently in Chattanooga, George M. Clark, is chairman of the board of Pioneer Bank, and to him belongs a great deal of credit for his determination that as many Americans as possible may understand the blessings of living in a free enterprise society.

Mr. President, I would like to share with my colleagues, and with others who read the Congressional Record, the text of four of the advertisements to which I referred a moment ago. Each contains important information, clearly stated. I ask unanimous consent that the text of the advertisements be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

Update Report—One Year Later—Myths Versus Facts

Last year we quoted from various nationwide opinion polls, certain economic fallacies held by some people concerning business profits. These myths are exploded again in updated reports by Fortune Magazine.*

BUSINESS PROFITS CONTINUE DOWN

Contrary to the 33% estimated by 1,209 adults (Opinion Research) and the 45% estimated by students at 57 colleges (Gallup Poll) U.S. manufacturers earned 3.9% profits on sales in 1975, down from 4.3% in 1974. (The report on retailers isn't published yet, but they'll do well to hold at or near the 1.3% profit level of 1974.)

$37,929 PER JOB* NOW INVESTED BY U.S. INDUSTRY

Up from $33,658 in 1974, this investment per employee in more sophisticated, efficient equipment makes it possible for American labor to produce more and earn more.

We're for labor earning more . . . and for American business and industry earning the profits that make it all possible.

Pioneer Step Ahead Banks.

*May, 1976, pages 337–341.

U.S. Industry Now Invests $33,658* (Per Employee) To Create a Job

By investing more than any other nation in the world for sophisticated, efficient equipment, American industry produces more per employee. And by producing more, American labor earns more.

We're for labor earning more . . . and for industry earning the profits necessary to buy the equipment that makes it all possible.

*Average capital investment—"500 Largest Industrial Companies," Fortune, May, 1975, page 232.

Last Year the Average U.S. Industry Earned 4.3% Profit*

Of course, a few companies earned a good deal more, but the average of 4.3% is surprisingly low!

Too low, in fact, for generating the cash flow needed for satisfactory growth and creation of new jobs so essential to a sound economy. Consider, for example, that for each additional person employed in industry it takes an average investment of $33,658 in equipment, tools, etc. to provide that job.* The point is this. Encourage industry to generate more cash flow, and we'll all prosper.

Profits. We're for them.

*"500 Largest Industrial Companies", Fortune, May, 1975, page 232.

Retailers Earn Only 1.3% Profit

The low return on sales of the 50 leading retail companies in the U.S.* indicates how reasonable business profits are. Without sufficient earnings, the economy and employment suffer.

Yet, in spite of low profits, these very same retailers averaged a capital investment of $7,396 per employee* last year to finance their operations.

We're for reasonable retail profits . . . not only for the benefit of the largest segment of white collar workers in the nation, but also for the beneficial effect on our entire economy.

*Fortune, July 1975, pages 122–23.

OBJECTIONS TO COAL LEASING BILL ARE UNFOUNDED

Mr. JACKSON. Mr. President, on August 3, the Senate will vote to override the President's veto of the Federal Coal Leasing Amendments Act (S. 391). In vetoing this bill, the President said that it would impede Federal coal development. The President is wrong. A careful analysis of his veto message demonstrates the veto is based on factual errors, misunderstandings, and a desire to retain power in the executive branch that is properly subject to congressional guidelines.

The American Mining Congress and the National Coal Association have echoed the President's statements. The Coal Association went a step further in this "Alice in Wonderland" exercise by stating in a July 8 press release that S. 391 was "hastily passed" by the Senate. That is ridiculous. The Coal Association knows that we have been working on this legislation during the last two Congresses and that the Senate first passed it in 1974.

I ask unanimous consent that the Interior Committee staff analysis of the veto message be printed in the Record at the close of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

[See exhibit 1.]

Mr. JACKSON. Mr. President, the statements by the President and the energy companies remind me of the exaggerations and funny numbers with which we were bombarded after the President's tragic veto of the surface mining legislation. Subsequent investigation of those allegations demonstrated that they were not based on facts.

The same is true on S. 391. According to the Northern Wyoming Daily News, Secretary of the Interior Kleppe told the National Coal Association that—

> If the President signs the bill (S. 391) now on his desk, our schedule for coal development will not be seriously hampered.

The Secretary went on to observe that—

> 75 Senators are asking for it to be signed. Congress is not going to accept not passing a leasing bill.

I think the Secretary is right. The Congress will not be deceived about this bill. It is our responsibility under the Constitution to establish policies for development of Federal coal. That coal is owned by all the people, not by the Secretary of the Interior or the President. The Congress will, I am certain, assert its rightful role in Federal coal development by overriding the veto.

Exhibit 1

Analysis of President Ford's Veto Message of S. 391

(Prepared by Staff of Senate Committee on Interior and Insular Affairs)

On July 3, President Ford vetoed the Federal Coal Leasing Amendments Act (S. 391). This statement will set forth the background of this legislation and point out the errors and misunderstandings in the President's veto message.

BACKGROUND

There is general agreement that Federal coal leasing policy needs to be modernized. The Senate first passed a Federal coal leasing bill in 1974 by unanimous vote. In 1975, S. 391 was approved by a vote of 84–12. Earlier this year, the House of Representatives approved it by a vote of 344–51. The Senate accepted the House amendment by unanimous vote on June 21.

Enactment of S. 391 will (1) eliminate speculation with Federal coal leases; (2) enhance competition among leaseholders; (3) assure a fair return to the public; (4) provide for coordination with State and local officials, public participation, and environment protection; (5) require thorough evaluation of Federal coal deposits to be offered for lease; and (6) encourage maximum economic recovery of the coal.

RATIONALE FOR VETO

The veto message makes it clear that the disagreement between the President and the Congress is solely over a few specific provisions of S. 391. The provisions which are mentioned in the veto message are discussed below. This discussion demonstrates that the stated reasons for the veto are based on errors, misunderstandings, and a desire to retain authority in the Executive Branch which is properly exercised by the Congress.

MINIMUM ROYALTY

The President says that minimum royalty of 12½% is "more than is necessary in all cases." The 12½% rate is commensurate with royalties and taxes on coal already on the books. The State of Montana, for example, recently enacted coal taxes above 20 to 30 percent, without significant reduction in coal production resulting.

The President neglected to note that the Secretary of the Interior would be given discretionary authority to set a lower rate for Federal coal produced by underground mining. Nor did he mention that Section 39 of the Mineral Leasing Act would continue to allow the Secretary to set a lower rate for the purpose of encouraging the greatest possible recovery of Federal coal. Thus, administrative flexibility would be assured.

DEFERRED BONUS PAYMENTS

The President says that requiring deferred bonus payments of 50% of all acreage leased is "unnecessarily stringent". He fails to point out that this is specifically designed to help smaller coal companies compete for leases by reducing the need for front end capital.

This amendment is favored by the National Coal Association. Without it, the field would become dominated by the major coal companies and by the multinational energy corporations with plenty of available money. A strong and competitive coal industry is unquestionably in the public interest.

The President objects to the requirement that coal be produced within 10 years after issuance of a lease. In fact, the current regulations of the Department of Interior contain such a provision. The Department's regulations are arguably more stringent in that they require production of 2½% of the 40-year coal reserves in a logical mining unit or lease within 10 years, with a possible 5-year extension. S. 391 requires only production "in commercial quantities"—which could be considerably less—by the end of the tenth year.

The purpose is the same in both cases. It is to bring about diligent development of Federal coal leases. By the Department's own admission, a large proportion of idle leases have been held for speculation. Over time, the bill would force either the relinquishment of the lease or the yielding of coal and public revenues which is so long overdue.

OPERATING AND RECLAMATION PLANS REQUIRED

The President states that the bill would "require *approval* (emphasis added) of operating and reclamation plans within three years of the issuance of the lease." This is wrong. Section 6 of S. 391 requires that the lessees *submit* an operating and reclamation plan within three years. However, the Secretary's approval of the plan may take much longer, depending upon the adequacy of the original submission. It is therefore a reasonable assumption that ample time would be available for review and modification of the plan by the Department.

With respect to all the above provisions, the President says that "such terms may be appropriate in many lease transactions—or perhaps most of them . . ." Thus, it is difficult to understand how he concluded that they should not become law.

ANTITRUST REVIEW

The President objects to the provisions of S. 391 which require what he calls "detailed antitrust review of all leases, no matter how small." Once again, this is wrong. Section 15 of S. 391 directs the Secretary to provide notification and certain information to the Attorney General at least 30 days prior to issuing a lease. The Attorney General is not required to make a review. There is an identical requirement in the Naval Petroleum Reserves Production Act (H.R. 49) signed by the President in February.

One indication of the need for the antitrust review provision is the study—*Joint Bidding for Federal Onshore Oil and Gas Lands and Coal and Oil Shale Lands*—submitted to Congress by Secretary of the Interior Kleppe on June 29. The study, required by Section 105(e) of the Energy Policy and Conservation Act of 1975, recommended a ban on joint bidding among large coal producers based on a judgment "that the *competition that can be expected* in the bidding for western Federal coal lands is *too fragile to allow* the *further dilution* that unrestricted joint bidding could bring." (Emphasis added.)

PUBLIC HEARINGS

The President states that S. 391 "requires four sets of public hearings where one or two would suffice. . . ." Once again, this is wrong. S. 391 requires a public hearing prior to a lease sale. It also requires a public hearing on a land use plan, if requested by a person who may be adversely affected. In many instances, one hearing would meet both requirements. The other two hearing provisions in the bill are for cases where (1) an adversely affected person objects to the consolidation of leases into logical mining units, or (2) the Attorney General objects to issuance of a lease on grounds of possible antitrust violation. These would be relatively rare.

The President overlooked the fact that the Department's own regulations provide four opportunities for public hearing. Reportedly, this number was reached in response to western governors' concern that local apprehensions about the adverse impacts of Federal coal strip mining would receive inadequate attention from the Secretary. S. 391 would meet that need.

COAL LEASING IN NATIONAL FORESTS

S. 391 requires that, if the Secretary proposes to allow surface mining of Federal coal within a National Forest, that the governor of the state be notified. If the governor objects, the lease could not be issued for six months. The President expressed concern about this delay. This provision applies to only 6% of Federal recoverable coal, and even then only to surface mining of such coal. Furthermore, the Secretary could readily avoid any undue delay by timing his notification to a governor so that Departmental review of the proposed lease would run concurrently with the six months' hold period.

COAL EVALUATION PROGRAM

Finally, the President states that the coal evaluation program called for by the bill is "simply unnecessary" because the Secretary of Interior already has the authority to obtain data about Federal coal.

In the past, the Department has not had adequate data to determine the actual value of coal tracts which it puts up for lease sale and to estimate advance royalty payments. Recently, the Geological Survey has begun to correct this deficiency. The Department has stated that "expansion of this (coal drilling) program is necessary to supply the Government with additional data to facilitate the coal leasing program". In consequence, the Department's amended budget request for Fiscal 1977 calls for $7.6 million for stratigraphic drilling and other evaluations of Federal coal lands.

S. 391, essentially codifies this program by directing the Secretary "to evaluate . . . the known recoverable coal." The size and timing of this evaluation are left to the Secretary's discretion. The program would not preclude the Secretary from issuing coal leases where he believes he already has adequate information about the nature and extent of the coal, nor would it require that all known Federal coal reserves be evaluated before any coal is leased.

CONCLUSION

The President agrees with the major policy thrusts of S. 391. His objections focus on relatively minor provisions of the bill. It is difficult to see how his concerns—frequently based on errors and misunderstandings—warranted a veto of a bill which had been carefully developed over a long period of time and overwhelmingly supported in the House of Representatives and the Senate.

HELPING TO FEED THE WORLD

Mr. HRUSKA. Mr. President, the availability of food in the world to feed the masses is a serious problem that this country and every other nation must face. It is not something that can be put off. It is here now. People are starving.

In their controversial book, "Time of Families," William and Paul Paddock conclude that little can be done or is being done to save the world from a dreadful food shortage. The authors of "Time of Families" are no more optimistic than they were in 1967 when they originally issued the book under the title, "Famine 1975!" They wrote the following in 1967:

> In reviewing all the proposed panaceas for increasing food production during the next decade, the conclusion is clear: there is no possibility of improving agriculture in the hungry nations soon enough to avert famine.
>
> Thus, the amount of food per person will continue to decline in the future as it has been doing the past few years. No panacea is at hand to increase the productivity of the land, just as no miracle will arrest the population explosion. Those who would turn their hopes to the chemist and his synthesis of food or to microorganisms growing on artificial media or to the other hopes are speaking of another century, not this one.
>
> Today there is no practical alternative to obtaining food except by farming the land already under cultivation. Nor do we have a practical way to increase production from that land in time to avert the famines and resultant civil unrest of the 1970's.

They now say they have no reason to change their dire predictions.

There is at least one new development, however, that may have a significant impact on food production throughout the world. It is a technological innovation that is beginning to come into its own. Perhaps, with the right application and introduction of this technique worldwide, the predicted famines of the coming years can be arrested.

Mr. President, I am speaking of the center pivot irrigation system. Although initially developed about 25 years ago, it now has gained widespread attention.

The June 1976 edition of Scientific American contains an article that explains in some detail center pivot irrigation, its uses and importance. The article describes the center pivot concept this way:

> Invented by Frank Zybach of Columbus, Nebraska, some 25 years ago, the machine typically consists of a series of water sprinklers of the impact type mounted on a six-inch pipe that is in turn supported by a row of seven or more mobile towers. Water is pumped into the pipe from a source at the center of the field, and the towers carry the system around the center pivot. The rate at which the towers and the pipe advance is set by the speed of the outermost tower; an alignment device detects any laggards and moves each tower to line up with the one beyond it. Thus an advance by the outermost tower sets off a chain reaction of advances beginning with the second tower from the end and progressing toward the center of the circle. Zybach developed his machine while farming in Colorado near the town of Strasburg, east of Denver. After many trials and adjustments the system was made to work, and a U.S. patent was granted in 1952.

Mr. President, I am proud to say that Valmont Industries, located near Valley, Nebr., of which Robert B. Dougherty, Ohama, is president and founder, was a pioneer developer of the center pivot irrigation system and is by far the largest manufacturer of this equipment.

The Scientific American article calls center pivot irrigation, "perhaps the most significant mechanical innovation in agriculture since the replacement of draft animals by the tractor."

The article also points out that this unique system will be a critical factor in helping to feed the world's population in the years to come and in solving the problems of world hunger:

> The world population is expected to double in the next 35 years. Food production must be increased to meet the demand of this expanding population. Since the prime agricultural areas are for the most part already developed, the technology for increasing food production must rely on the more intensive and more efficient utilization of present resources. The center-pivot irrigation system, offering a level of control that cannot be attained in most other irrigation systems, will prove to be a major technological tool in this fateful effort.

Mr. President, we in Nebraska are proud of Valmont Industries' crucial role in the development and production of pivot irrigation systems. America and the world will eat a little better because of this valuable contribution to increase food production.

I ask unanimous consent that the attached Scientific American article, "Center-Pivot Irrigation" be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Center-Pivot Irrigation

(From the air over the U.S. high plains one can now see thousands of large circular fields. They are irrigated by a system in which water is applied from a central well by a novel rotating machine)

(By William E. Splinter)

Traveling in orbit around the earth at an altitude of some 270 miles, the Skylab astronauts rotated their spacecraft to establish a bearing on one of their principal check points: a cluster of several hundred round green spots, each half a mile in diameter, arrayed in an orderly pattern on the earth's surface below them. What they were viewing was a dense concentration of circular irrigated fields in north-central Nebraska, a pattern easily identified from space. Passengers on commercial jet airliners increasingly notice the same sight over many other areas of the continental U.S., including eastern Colorado, central Minnesota, the Texas Panhandle, the Pacific Northwest and northern Florida. Now the proliferating green circles can be seen even in the middle of the Sahara. What is being observed is perhaps the most significant mechanical innovation in agriculture since the replacement of draft animals by the tractor.

These circular green fields, most often found in arid or semiarid country, are being watered by the world's first successful irrigation machine. Invented by Frank Zybach of Columbus, Neb., some 25 years ago, the machine typically consists of a series of water sprinklers of the impact type mounted on a six-inch pipe that is in turn supported by a row of seven or more mobile towers. Water is pumped into the pipe from a source at the center of the field, and the towers carry the system around the center pivot. The rate at which the towers and the pipe advance is set by the speed of the outermost tower; an alignment device detects any laggards and moves each tower to line up with the one beyond it. Thus an advance by the outermost tower sets off a chain reaction of advances beginning with the second tower from the end and progressing toward the center of the circle. Zybach developed his machine while farming in Colorado near the town of Strasburg, east of Denver. After many trials and adjustments the system was made to work, and a U.S. patent was granted in 1952.

The first commercial center-pivot irrigation systems, introduced a year later, relied on a mechanical device called a Trojan bar acting on the tower wheels to ratchet the tower ahead. The mechanism was actuated by a linkage to a cylinder and a piston driven by the pressure of the water in the supply line; the water was bled from the supply line for the motive power of each tower. Many units on the market today still operate on this system.

A number of variations on the original design have also been tried. One system, mounted on slides rather than wheels, is advanced by a movable foot actuated by cables running the length of the system and connected to a hydraulic cylinder. Most of the systems, however, are mounted on large steel or rubber wheels and are driven by electric or hydraulic motors at each tower. Many of the systems are reversible so that the farmer can back them out of mudholes or reposition them when necessary. The delivery pipe is usually supported about eight feet above the ground. The sprinklers are spaced so that the water is applied at an increasing rate with distance outward along the pipe. Since the greatest amount of water must be delivered at the circumference of the circle, the losses due to hydraulic friction and the increasing rate of application along the pipe make the design of the center-pivot irrigation system an interesting engineering challenge, best handled with the aid of the computer.

How has the development of this novel irrigation system affected agriculture? In the first place, the center-pivot system enables the farmer to irrigate large tracts of land automatically. Once the system is set for a given application, it advances continuously in a circle, applying irrigation water without need for further attention other than monitoring and repairing occasional breakdowns.

In the past irrigation has been synonymous with intensive human labor. Since prehistoric times men have had to divert streams to irrigate their crops. Such diversion involved the building of dams, canals and lateral ditches. Even in modern times conventional irrigation takes monumental amounts of time and energy. Once the system was installed the farmer was faced with the continual drudgery of channeling the water to the fields, shoveling rows open, closing off rows that no longer needed water and containually maintaining the system against erosion or rodent damage.

The development of siphon tubes in the 1940's reduced some of the shoveling, but setting the tubes was still a backbreaking job. More recently the development of "gated" pipe (that is, pipe with multiple, controllable outlets along its length) has further reduced the mount of labor involved in applying water to individual rows, but the bulky pipes must still be moved and the individual gates adjusted for each irrigation.

The technology of sprinkler irrigation has evolved primarily since World War II, with the advent of rotating sprinkler nozzles and the availability of comparatively cheap aluminum pipe. In the first systems lengths of aluminum pipe were coupled together and the sprinkler nozzles were held above the crop by risers. Water was supplied at a pressure ranging from 40 to 80 pounds per square inch. After a given application of water the entire system was dismantled and moved by hand to the next location, where it was reassembled.

Some savings in labor were achieved by mounting the pipe on large-diameter wheels, which were advanced every 12 to 24 hours across a field. Water was supplied by a main line, and the pipe had to be disconnected and reconnected whenever it was moved. The low clearance of the pipe limited the use of these "side roll" devices to alfalfa and other short crops. Stronger couplings were then developed for the standard irrigation-pipe system, so that quarter-mile lengths could be towed back and forth with a tractor. This system, called skid-tow, reduced labor, but there were still problems in pulling the pipe back and forth through a field of corn or sorghum.

Now everything is automatic. The center-pivot system is designed so that the farmer can apply small amounts of water every few days. A minimum time for a center-pivot system to make a circular traverse is about 12 hours. The farmer can apply a larger or smaller amount of water by operating the outer tower at a lower or higher rate of advance. Most center-pivot regimes call for one traverse every three or four days, with the application of about an inch of water for each revolution.

Most of the systems are designed to fit the conventional unit of agricultural land in the U.S.: the quarter section, or 160 acres. The circular pattern leaves out the corners of the field, so that only 133 of the 160 acres are irrigated. (Close-packing of the circles in a hexagonal array would of course increase the ratio of the irrigated land to the unirrigated.) The land in the corners is commonly utilized for pasture, farmsteads, feedlots, grain storage, trees or dry-land crops. Larger units have been designed to irrigate 220 acres, and several capable of irrigating 530 acres have been installed. These larger units carry half a mile of eight-inch pipe on 20 towers and irrigate a circular field with a diameter of a mile. One manufacturer has developed a special hinged outer tower that follows a buried wire electronically and swings out to irrigate the corners left dry by the circular design.

In the late 1960's fully automatic sprinkler systems with buried water-supply lines and programmed, electrically operated valves were installed in eastern Colorado. Although such systems are versatile, they are limited to high-value crops because of the high cost of their installation. Recent research has resulted in the development of valves that make feasible the automation of surface irrigation with gated pipe. This new system will be less energy-demanding than sprinkler systems, and some commercial development is starting. The center-pivot system, however, is by far the predominant method of automatically irrigating field crops available today.

The ability of center-pivot systems to apply water lightly and frequently opened up the second revolutionary feature of this new technology. Many agricultural areas are limited in productivity because the soils are coarse-textured or sandy. Such soils hold little water; less than an inch per foot of soil depth compared with two or more inches per foot of soil depth for fine-textured or loamy soils. As a result coarse or sandy soils are characteristically dry and can usually serve only for rangeland or at most for marginal farming.

The light, frequent application of water from a center-pivot sprinkler system replenishes the moisture in the root zone sufficiently to allow intensive cropping on these soils. In research studies at North Platte, Neb., my colleagues in the departments of agricultural engineering, agronomy and animal science at the University of Nebraska found that pasture irrigated with a center-pivot system produced between 700 and 900 pounds of live beef per acre per year on cool-season grasses. This compares to a normal productivity of 27 pounds per acre per year for open range in the Nebraska sandhills.

Farmers and agricultural researchers have found that corn, sorghum, sugar beets, wheat, potatoes and other crops can be raised on this sandy soil under center-pivot irrigation. The yields are comparable to those on silt or clay. The main crop raised under center-pivot irrigation in Nebraska is corn.

Coarse or sandy soils not only can hold little moisture but also have scant capacity for soil nutrients. The third revolutionary feature of the center-pivot system is that by injecting fertilizers into the water-supply line one can administer nutrients only as they are needed by the growing crop. Our studies have shown that fertilizers applied to sandy soils leach readily through the soil and pass below the root zone. Once they are below the root zone they are carried down to the water in the aquifer underlying the soil. Applying the fertilizer only as the crop utilizes it greatly reduces the hazard of contamination of underground waters by nitrates and other mobile nutrients. Obviously such an approach will enable the farmer to apply only what is needed, thereby saving him many thousands of dollars in production costs. . . .

As I have mentioned, irrigation systems are visible from spacecraft in orbit around the earth. Studies of films made on the manned Skylab flights of 1973 and 1974 showed that the center-pivot systems could be clearly identified and that the development of the crop could be monitored from space. The LANDSAT unmanned-satellite program has proved to be even more valuable, since the coverage extends over a considerable period of time.

The Skylab flights carried several sensor systems, including conventional cameras capable of making photographs in different regions of the spectrum, a special earth-terrain camera and a multispectral-scanning device. The LANDSAT satellites use the multispectral scanner exclusively. Since the LANDSAT satellites complete one revolution in a north-south orbit every 103 minutes, they are capable of observing any given location on the earth's surface once every 18 days as the earth rotates through the plane of the orbit.

Information from LANDSAT is beamed to tracking stations and stored on magnetic tape. The images are recovered by the same process in which television stills are obtained from tape recordings. LANDSAT relays information in four spectral bands: Band 4 (a visible green wavelength), serving primarily for the evaluation of atmospheric conditions; Band 5 (a longer-wavelength visible green) for vegetative growth; Band 6 (in the near infrared) for both vegetation and water, and Band 7 (a longer-wavelength near infrared) for water alone. Skylab was able to scan 13 bands in all.

The imagery for each band is in black and white, but false-color composites are most useful for interpreting the results. With this imagery our group has been able to identify center-pivot irrigation systems (as well as surface-irrigated systems) throughout Nebraska. As of last summer the center-pivot systems covered some 1.3 million acres. It is clear that the technology now exists for quickly conducting inventories of large areas in order to determine the patterns of development in irrigation systems. Such inventories will be vital interest to government bodies in assessing the utilization of water resources and in projecting their future management.

The inventories have been further refined with the aid of flights by conventional aircraft and high-altitude RB–57 aircraft. Plant leaves that are under moisture stress have a higher temperature than leaves supplied with ample water. Precise monitoring of crop temperatures will make it possible to detect areas of inadequate irrigation. That will make possible more accurate crop forecasts, an increasingly important need of private and government planners.

The world population is expected to double in the next 35 years. Food production must be increased to meet the demand of this expanding population. Since the prime agricultural areas are for the most part already developed, the technology for increasing food production must rely on the more intensive and more efficient utilization of present resources. The center-pivot irrigation system, offering a level of control that cannot be attained in most other irrigation systems, will prove to be a major technological tool in this fateful effort.

SOCIAL SECURITY RECIPIENTS FAIRNESS—A PROBLEM WITH THE BANK

Mr. PELL. Mr. President, as many of us know, within the last year the Social Security Administration has moved to a nationwide policy of "direct deposit" of social security benefit checks. This well-motivated idea was designed to provide relief and convenience to senior citizens, to guard against stolen benefit checks, and to be a step in the progression toward electronic fund transfer (EFT).

As the author of the Social Security Recipients Fairness Act, S. 985, I have been carefully reviewing the accomplishments of this direct deposit program. This program does provide real relief from stolen check problems, but it has many rough edges. In particular, the banks have become, according to the reports of some senior citizens, extremely cavalier in their treatment of these important deposits and these senior citizen depositors.

I do not want to say "I told you so" but on August 1, 1975, I wrote to James B. Cardwell, Commissioner of the SSA, asking exactly the questions which hundreds of senior citizens are asking "Will I know if my check is really deposited in my account?" "When will my check be deposited?" "What happens to me if my check is delayed or lost in the mail?"

Mr. President, it is obvious from an article which appeared in the Washington Star of July 29, 1976, entitled "Reaction to Direct Social Security Deposit Turns Sour," that the banks, which have taken out hundreds of thousands of dollars worth of ads in the papers, urging seniors to participate in direct deposit, are evidently not willing to provide services to their depositors, once they have their account on the books.

My earlier letter to the SSA asked about the protection which senior citizens would have in the case of late-delivered checks or in the case of administrative delays. Obviously, at that time, the SSA believed such protection for senior citizens was unnecessary.

Now, however, it is apparent that the Social Security Recipients Fairness Act will be as necessary and important to senior citizens who "direct deposit" their checks, as to those who receive their benefit checks at home. I intend, when time and the Senate schedule permits, to bring S. 985 before the Senate for debate, and I believe that further information on the perils of getting one's benefits on time, such as the article from the Star, make it even a more compelling matter.

In the meantime, I believe the banks which benefits from receiving these direct deposits, and which have advertised so expensively and expansively for these new accounts, should start to provide some decent customer services to their senior citizen customers.

Mr. President, I ask unanimous consent that the article from the Washington Star, entitled, "Reaction To Direct Social Security Deposit Turns Sour," and my letter of August 1, 1975, be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

Reaction to Direct Social Security Deposit Turns Sour

(By John Holusha)

Tactless and rigid policies at some banks and savings institutions are souring hundreds of people on the highly touted program for direct deposit of Social Security checks.

Over 800 persons have written to the House Banking Committee with complaints in response to articles placed in retirement-oriented publications.

Most center on the lack of notification of deposit—and the reaction of the institutions involved to inquiries.

A Hampton, Va., couple wrote that Virginia National Bank stopped sending them deposit slips after they signed up for the direct deposit program.

"We have complained about this to the bank and we were told that the Social Security Administration policy forbids sending deposit receipts. When that was refuted by S.S. then they said it was a bank policy and could not be changed," they wrote.

A Los Angeles woman had a different problem:

"This month I went to withdraw some money and I was told that they needed a few days to see if the check is good. My answer was, 'You mean you don't trust the U.S. government?' This is the way it is, I was told."

According to Banking Committee Chairman Henry S. Reuss, other banks have:

Imposed a service charge of $1 for customers calling to confirm the deposit of their checks if the balance was under $100.

Delayed crediting checks for five days.

Bounced checks even though the monthly statement showed the deposit had been received in time.

Reuss complained that the Treasury Department, which is orchestrating the program, had not insisted on sufficient consumer protection.

Direct deposit of the checks is the first step in a program that will ultimately have almost all government payments made electronically to financial institutions. Eliminating paper checks speeds up payment, cuts handling and paperwork costs and benefits recipients by eliminating the danger of theft and long waits in line at banks.

Many banks have said that it is too expensive to mail out a deposit slip each month when the Social Security payments arrive.

Some have "guaranteed" the deposit, telling customers to write checks on the assumption the payment arrived. Others have not, and some have simply told customers, without explanation, that no more deposit slips would be sent.

Some of the complaints in this area have a pathetic tone: "My bank sent out deposit slips the first time such a direct deposit was made but said 'no more would be sent,'" a California woman wrote. "I'm sorry I changed to this deposit but afraid to 'rock-the-boat' now and change. I am an invalid and shut-in and worry every month whether the check is in or not."

A widow in Cleveland complained about having to go down to the bank each month to confirm that her check had arrived. "I'm tired of wasting time and trips to check up on the bank . . ."

Yester Plumly, head of the Treasury direct deposit program, acknowledged that the agency has not encouraged banks to either send notices to depositors or guarantee payment.

All Treasury recommends, Plumly said, is that if a bank stops sending out deposit slips, it promise to notify the depositor if a payment is not received.

Another area of irritation is that banks often will not forward information on changes in benefits that formerly accompanied the checks. Plumly said that by the end of the year—when all Social Security direct payments will be electronic—each recipient will have two addresses, one for checks and the other for informational material.

Some of the complaints reflect the frustrations of man vs. computer. A Baltimore man named Widenkind wrote that in shifting to direct deposit, his name was rendered "Wittlebird." All the payments have gone to the wrong name, and he hasn't been able to get it changed.

August 1, 1975.

Mr. James B. Cardwell,
Commissioner,
Social Security Administration,
Baltimore, Md.

Dear Mr. Cardwell: As the Social Security Administration prepares to inaugurate a nationwide system of optional direct check deposits to beneficiaries bank accounts, I am sure that you have given consideration to some instances in which checks could be lost in the mail between your disbursing office and the bank, or arrive at the bank made out in an improper amount.

In addition, I understand that once the computer is given a bank address for check delivery, the SSA cannot send information relating to individual claims problems to a recipient's household.

I would appreciate any comment you could make on procedures you have instituted to guard against delayed check problems, or computer errors in this situation, in which a recipient might not know for weeks that a benefit check did not arrive on time, or for the proper amount.

It is also my understanding that some banks will guard against late check problems, by assuring a recipient a deposit in their account as of the due date of their check, regardless of when that check actually arrives. I would appreciate any specific information you could give me on what banks have proposed this system.

I appreciate your consideration of these questions.

Warm regards.
Sincerely,
Claiborne Pell.

AN ANSWER TO A B-1 CRITIC

Mr. GOLDWATER. Mr. President, an article entitled "Who Needs the B-1?" written by John W. Finney, requires, in my opinion, an immediate answer, so I am taking this opportunity to respond to it. This article appeared in the New York Times magazine on July 25, 1976.

In my opinion, the information presented in this article is another example of incomplete and inaccurate data being used to develop a case against the approval of the B-1 for production. Because I feel this misinformation cannot be allowed to go unchallenged, I am providing a point-by-point rebuttal to Mr. Finney's article. Naturally, I am hopeful that the New York Times, the Los Angeles Times, and any other newspaper which used this material of Mr. Finney's will also do me the courtesy of using mine because I happen to think I know a little bit more about the subject than Mr. Finney. For example, he leads off by stating that it is the most expensive weapons system we have ever bought. Now he knows better than that. An aircraft carrier costs over a thousand times more than the B-1. The Trident submarine is vastly more expensive, and as time goes on weapons systems will become more expensive just as subways, art museums, and welfare systems do. Inflation hits everything. I ask unanimous consent that the material I have prepared be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

Mr. Finney. The $21.4 billion estimate does not include the costs of weapons, or of a new fleet of tanker planes that eventually may be needed to refuel the B-1 in flight, or the expense of operating the bomber fleet. The $21.4 billion, therefore, is but the down payment on an investment that eventually may total anywhere from $50 billion to $100 billion.

Comment. The B-1 Acquisition Program Cost is defined, as are all weapons systems acquisitions, to include only the Research and Development costs, the cost to procure the weapons system and its associated ground support equipment, and the cost to buy the initial stock of spare parts to support the weapons system. A new fleet of tanker aircraft are not required to support the B-1, and therefore that cost would not be added to the B-1 cost under any circumstances. The B-1 has been demonstrating its compatibility with the KC-135 tanker throughout the test program and these aircraft are available in sufficient numbers to support the strategic mission.

Limiting the operations and support cost of the B-1 has been a design consideration throughout the program. The cost to support the B-1 aircraft is considerably lower than the cost to support the B-52. When this fact is added to the B-1's superior prelaunch and penetration survivability and its large weapons load, it is easy to see why it is much more cost effective than the B-52.

Mr. Finney. While a decision on whether to put the bomber into production is supposed to be made in late November on the basis of test results, the Ford Administration has already made a backhanded commitment to production by including $1 billion in the defense budget for procuring the first three operational models.

Comment. As Deputy Secretary of Defense Clements explained in a March 9, 1976 letter to the Chairmen of several Congressional Committees, the Defense Systems Acquisition Review Council which will meet in November will not address the appropriateness of producing the B-1 as a new issue. It is rather, the first step in a continuing process of examining the progress of the development program. On the basis of progress to that date, the Department of Defense included B-1 production funds in the FY 1977 budget which was submitted to the Congress in January 1976. Since that time nothing has occurred which would change that position. In fact, progress toward meeting program goals has been excellent. The second Research and Development aircraft to fly was delivered on time and the third was delivered two weeks early. Testing both on the ground and in the air is showing that the design requirements will be met. The Air Force is convinced that the B-1 is the answer to the strategic bomber force modernization problem and that a decision to award the production contract should be made in November.

Mr. Finney. Since flying fast and high would no longer do, the new bomber would fly fast and low—so low that it could not be detected by radar in time for the enemy to fire his ground-to-air missiles. The concept was studied for several years under a program known as AMSA, an acronym for Advanced Manned Strategic Aircraft. . .

Comment. The studies described defined those features that the manned bomber of the 1980's, 1990's and beyond must have in order to effectively perform its mission. The B-1 requirements were carefully studied and evaluated in terms of cost and contribution to effectiveness. Only upon completion of this study effort was the contract to develop the B-1 initiated. The aircraft which has now been developed and is almost ready to go into production meets these requirements.

GENERAL STATEMENT

Mr. Finney contends that the case for the B-1 rests in the need for a triad of strategic forces wherein each leg alone retains the capacity to retaliate after attack to inflict unacceptable damage. But if the bomber's role becomes complementary, he says, a less sophisticated stand-off bomber could retaliate by destroying enough of the Soviet population and industrial centers to deter any attack. And none other than James R. Schlesinger, who was no great enthusiast for the B-1, challenged the triad premise.

COMMENT

The B-1 alone was not intended to nor is it alone capable of doing the job of deterrence or retaliation—nor for that matter, is either of the other Triad legs. On the other hand, by the very nature of mutual reenforcement, no one leg can so depend on the others for its effectiveness that technological surprise, unanticipated failure or piecemeal attack renders it ineffective. Mr. Finney cited Mr. Schlesinger's description of the mutually supporting nature of the three Triad legs as a challenge to the Triad concept when, in fact, it is a direct refutation of Mr. Finney's premise. The reexamination of the defense doctrine and bomber modernization alternatives over the past few years have resulted in (1) discarding the city busting that Mr. Finney advocates as the bomber retaliatory role, (2) discarding the standoff carrier with penetrating cruise missiles as the sole bomber response, which Mr. Finney advocates, and (3) affirming the B-1 as the preferred candidate for bomber force modernization.

STATEMENT

Mr. Finney contends that the rational underlying the administration's justification of the B-1 lacks logic and reduces to a simplistic, flag waving appeal to patriotism. He further asserts that Congress, ever more carefully attuned to the politics of reelection than to the national well-being, may purchase the B-1 not so much as a military necessity but for the jobs it creates.

COMMENT

To state glibly that the rationale for the B-1 goes no deeper than a shallow emotional argument—"The United States has always had a bomber"—is to ignore the hours of sophisticated analyses, informed debate in private, in public, and before Congress as well as the operational testing that have been expended on the B-1 program. The essence of results of careful government and corporate inquiry into the B-1 program are available to the public at large. And to obliquely imply that Congress acts only in its own best interests is to do a terrible disservice to the intelligence of the American people, and to the dedicated individuals who sit in Congress. The "jobs" issue was first surfaced by B-1 critics who contended that the B-1 program was not as economically healthy an expenditure of public funds as would be other alternatives, notably welfare transfers and tax rebates. It is important to note that responsible economists have demonstrated that the multiplier effect arising from the B-1 program is at least as healthy for the economy as are those arising from these alternatives. But how does the fact that the B-1 creates jobs argue that it ought not be produced?

STATEMENT

Mr. Finney contends that the premise driving U.S. strategic force structuring is that each leg of the Triad should be able to sustain a Soviet attack and retain the capacity alone to retaliate in sufficient force to inflict "unacceptable damage" on the Soviet Union.

COMMENT

Mr. Finney could not be more incorrect, and he refutes this line of reasoning by quoting former Secretary of Defense Schlesinger's comment that "Each leg of the Triad" is not required to retain independently a capacity to inflict in a second strike unacceptable damage upon an attacker. Instead, the three legs of the Triad are designed to be mutually supporting. . . ." The services receive their marching orders from the Secretary of Defense; Secretary Schlesinger's quote is a concise statement of the philosophy which underlines the Triad concept and is the perfect rebuttal to Mr. Finney's assertion to the contrary.

STATEMENT

"Some day, of course, the Soviet Union is going to develop defensive aircraft with "look-down" radar that can spot low flying airplanes, as the United States already has done with its AWACS radar command plane, and at that point the B-1 is going to need a capacity to shoot its way to the target by knocking down the intervening radar fighter planes."

COMMENT

These defensive threats were considered in the design phase of the B-1 program development. The Airborne Warning and Control System (AWACS) does not destroy targets—it can only detect them. The high speed, low altitude and electronic countermeasures (ECM) capabilities of the B-1 will present very formidable problems to interceptors vectored by AWACS-like aircraft into the general vicinity of a penetrating bomber. The B-1 has been designed consciously to counter these threats; their prospect argues for the B-1, not against it.

STATEMENT

Mr. Finney. "Schlesinger, who is undoubtedly the best strategic thinker ever to occupy that post (Secretary of Defense), and whose credentials as a conservative on military matters are impeccable made this significant if little-noted observation in his 'defense-posture statement' to Congress in 1975: 'Each leg of the Triad is not required to retain independently a capacity to inflict in a second (i.e., retaliatory) strike unacceptable damage upon an attacker. Instead, the three legs of the Triad are designed to be mutually supporting. . . . Missiles, for example, could help clear the way for bomber penetration, and bombers, in turn, could help to fill the gap of those important targets missed by missiles.'

With that policy statement, Schlesinger was trying to promote a reassessment of the structure of the strategic forces, including a reexaminaion of the presumed need for the B–1 bombers. Privately, Schlesinger was no great enthusiast of the B–1; to Representative Les Aspin he once confided that it was one of 'the Cadillacs I inherited.' "

COMMENT

As noted previously, former Secretary Schlesinger's quote is an excellent statement describing the Triad concept. Contrary to Mr. Finney's understanding, it has been widely cited to describe the complementary nature of America's triad of land-launched missiles, sea-launched missiles, and manned bombers.

The strange part of this argument is that we are asked to believe that Dr. Schlesinger, whose ". . . credentials as a conservative on military matters are impeccable . . .," confided such inflammatory and potentially damaging (to his own professional reputation) personal convictions to the outspoken defense critic from Wisconsin. The fact is that Dr. Schlesinger's public statements in support of the B–1 were both frequent and straightforward.

STATEMENT

Mr. Finney: "So long as the United States has bombers, the Soviet Union confronts a virtually insuperable timing problem in planning an attack on American land-based strategic forces. The reason is the difference in flight times between an intercontinental ballistic missile (ICBM) and a submarine launched ballistic missile (SLBM) in a surprise attack, the Soviet Union would need to use its ICBMs, with their high degree of accuracy, to destroy the American missiles in their hardened underground silos, while the SLBMs, which are less accurate, would be used to destroy the more exposed and vulnerable bomber bases. However, it would take a Soviet ICBM about 30 minutes to reach the United States, whereas the shorter range SLBM would take only 7 to 15 minutes Thus, it would be impossible for the Soviet Union to conduct a simultaneous attack against the American land-based missiles with its ICBMs and against the bomber bases with its SLBMs. If it launches its ICBMs first, the American bombers will have sufficient warning to get airborne and attack their targets in the Soviet Union. In the more likely event the Russians launched their SLBMs first, there will be sufficient time to launch the American land-based missiles before the Soviet ICBMs arrive.

Then there is another consideration. The nation's fixed, land-based missiles are becoming potentially vulnerable to Soviet attack. But if the three legs of the Triad are made mutually supporting, it is no longer necessary to maintain a force of 1,000 Minuteman ICBMs, a number dictated by the requirement that the intercontinental missiles be able, on their own, to take out every target in the Soviet Union. Instead of being an independent retaliatory force, the Minuteman would become the 'war-fighting force,' built around a smaller number of highly accurate missiles. This would fit into another of Schlesinger's doctrinal innovations—that short of all out retaliation, the United States should have the ability to conduct selective, surgical strikes against Soviet military installations. It may seem far-fetched to presume that the United States and the Soviet Union would exchange a few nuclear salvos just to test each other's resolve, but that concept has crept into the prevailing strategic doctrine, and so long as the Defense Department insists on some 'nuclear war-fighting capability,' it will need some land-based missiles because of their precision and capacity for quick reaction. It will thus continue to need bombers to make it more difficult for the Soviet Union to launch a surprise preemptive attack on the missiles."

COMMENT

Mr. Finney makes a very good case for the manned bomber. It is at best contentious, however, that the Russians would more likely "launch their SLBMs first," since due to their relative invulnerability, they could serve effectively as a residual force. Mr. Finney's comments relating to the Minuteman, furthermore, continue to assume erroneously that each element of the Triad must be able, by itself, to destroy every target in the Soviet Union. As mentioned before, this runs contrary to the Triad concept.

STATEMENT

Mr. Finney. "For all out retaliation, the nation would depend upon its Poseidon (and now, Trident) submarines, which are invulnerable for the foreseeable future."

COMMENT

The United States strategic deterrent and warfighting capabilities depend upon all three elements of the Triad. In the event of all-out retaliation, in particular, will the diversity in composition of the Triad be a crucial, if not deciding, factor in the effective termination of hostilities.

And although "invulnerability for the foreseeable future" would be a desirable luxury for any of our systems, technological research moves in fast and uncharted channels. Former Secretary of Defense Laird cautioned against such unwarranted and potentially ruinous assumptions: ". . . as a defense planner, I would never guarantee the invulnerability of any strategic system beyond the reasonably foreseeable future, say 5–7 years."

STATEMENT

Mr. Finney. "But if the bomber role becomes complementary rather than independent—to shield the land-based missiles and to provide a retaliatory hedge—then the United States does not need a bomber as expensive and sophisticated as the B–1.

For retaliation, it could turn to a less sophisticated bomber, one that might not be able to attack as many targets as the B–1 but would still be able to destroy enough of the Soviet population and industrial centers to deter any Soviet attack. The alternative to the B–1 is a 'stand-off bomber.' Stopping short of the Soviet border, the bomber would fire salvos of cruise missiles—basically, jet-powered drones—against Soviet urban and industrial centers. Low-flying and numerous, the missiles would confound the Soviet defenses. With their computerized guidance systems—capable, for example, of hugging the terrain by following a terrain profile placed in the computer—they would achieve extremely high accuracies with enough warheads to devastate the Soviet society.

To achieve this technology would not require development of a new plane. It would be possible to modify one of the existing wide-bodied jet transports, such as the Boeing-747 or the McDonnell-Douglas DC–10, into a stand-off bomber, and at less cost than the B–1 program. Richard N. Garwin, a Pentagon adviser and leading advocate of the stand-off bomber, estimates that a force of 200 wide-bodied transports carrying 10,000 cruise missiles could be purchased for $17 billion. Apart from the savings on the initial investment, the stand-off bomber fleet could be operated and maintained at far less cost than a B–1 force.

There is thus a good case to be made for a continuing role for a manned bomber—but not the B–1.

Militarily, there is no pressing need for rushing into production of the B–1. For one thing, there is still the B–52. Down the years, as it passed for a new bomber, the Air Force gave the impression that the B–52 was about to collapse from fatigue. But now, with the B–1 within its grasp, the Air Force acknowledges that some 250 of the later models of the B–52 will be usable well into the 1990's. The B–52 may not be all that the Air Force thinks it needs in the way of a bomber but at least its new lease on life provides time to study alternatives to the B–1."

COMMENT

In the first place, as recounted numerous other times in these comments, the bomber's role is complementary. It is but one of three mutually supporting elements of the Triad. Furthermore, there are several alternatives which are technologically feasible—detailed cost-effective analyses have evaluated each alternative in depth.

The Joint Strategic Bomber Study (JSBS), for example, conducted within DOD, represents a detailed, comprehensive examination of alternative bomber forces for the 1980s and beyond. In the judgment of the GAO, the JSBS and supplemental analyses provided a basis for informed consideration of the strategic bomber question by the Congress. These analyses demonstrated that forces containing substantial numbers of B–1s are more cost-effective than other force mixes, and specifically force mixes which rely heavily on cruise missiles. Conversion of existing wide-bodied transport design could indeed be accomplished—at an estimated cost in today's dollars of about $65 million for each aircraft alone plus missiles. Accepting Dr. Garwin's estimate on total cost of a wide-bodied, cruise missile force, the following question might be posed: "Would he wish to invest in a system, at 80 percent of the cost of the B–1 program, which may not even accomplish a city busting strike plan that defense authorities have long discarded as an effective deterrent across the spectrum of potential conflict?"

Without counting the five-plus years of effort to define the desired characteristics for a manned bomber through the remainder of the century, the B–1 has been in development for over five years. At the planned deployment rate, full operational deployment of the B–1 will take another ten years . . . hardly rushing by any standard. While the later models of the B–52 may be operational (flyable) into the 1990s, their military effectiveness as our primary strategic bomber is expected to decline steadily during the next decade. Successful development of air-launched cruise missiles and their employment from B–52s can partially offset that decline. This will leave the B–1 with the missions that require effective penetration of dense defense. Eventually, however, the B–1 will assume the entire bomber mission as B–52s are retired.

THE GENOCIDE CONVENTION AND WORLD PEACE

Mr. PROXMIRE. Mr. President, I believe that we Americans overwhelmingly support international standards of human dignity. We want freedom to live, a most fundamental freedom, for all people of the world.

Nevertheless, cynical voices are raised in objection to the Genocide Convention. They ask: "What can it accomplish and why do we need it when our own laws already protect us from the threat of genocide?" They say: "There is no real need for this Treaty."

Mr. President, my answer to these

critics is this: The United States has as its stated foreign policy objective the promotion of peace and freedom. Human rights and peace are historically interdependent. When the human rights of any people are threatened, peace itself is in jeopardy.

In 1945 at the San Francisco convention, which led directly to a strong endorsement of the international promotion of human rights in the U.N. Charter, the U.S. delegation supported the human rights decision in that charter. The charter recognized that unchecked domestic oppression too frequently grows into foreign aggression, as demonstrated by the Axis powers during World War II.

It was more than 30 years ago that the United States led in the worldwide struggle for human rights. Although we can be proud of our leadership at the 1945 convention, we must not rest upon our laurels. For years now we have refused to take a stand on the United Nations Convention on the Prevention and Punishment of the Crime of Genocide.

I call upon the Senate to consider the connection between human rights and world peace. I urge the Senate to assume a position of leadership by ratifying the Genocide Convention.

ESSAY BY JAMES D. NOLAN, ONEONTA, N.Y.

Mr. BUCKLEY. Mr. President, 2 years ago it was my pleasure to interview on television a young constitutent of mine, Mr. James D. Nolan, on the occasion of his winning an essay contest sponsored by WBNG in Binghamton. It has been brought to my attention that this outstanding young American, an 11th grader from Oneonta High School, has now been named a finalist in a national essay contest sponsored by NBC Radio, the theme of which is "What Is An American?" Mr. Nolan's essay, which is remarkably refreshing and perceptive, stresses the right all Americans have "to be different" as well as our responsibility "to defend our home and family and without hesitation, our Nation in times of peril." With such fine young Americans as Mr. Nolan, in America, our country is in good hands.

I ask unanimous consent that Mr. Nolan's essay be printed in the RECORD.

There being no objection, the essay was ordered to be printed in the RECORD, as follows:

WHAT IS AN AMERICAN

An American is a cup that runneth over. A dash of ethnic heritage, a portion of color, race, and creed. Add a sprinkle of poverty, wealth and the in between. Combine with weakness and strength. Stir thoroughly and pour into one common cause—liberty, freedom, and the pursuit of happiness.

An American is a child, a woman and a man, a believer, a believer in the rights of all.

An American is a respecter of the law, yet has the right of redress to present cause to change such laws. And when any individual defies such laws, then a penalty must be imposed, measured on the scale of mercy and justice.

To be an American is to do the difficult immediately; the impossible takes a while longer.

An American can aspire freely in any field. We, as a nation and a people, enjoy the liberty of free enterprise. No individual or group of individuals can be denied the opportunity of owning and operating a business of his or her own choice, socialism in reverse, where all enterprise is controlled under the jurisdiction of a central government.

As an American, one can look forward to a tomorrow that could very easily be a beginning, a new start on a road leading to success and fulfillment of our hearts' desires. It's out there for each and everyone of us, if just we reach out and accept it.

To be an American means acknowledging the weakness and greatness in most of us. When things go wrong, as they sometimes will, we have inherited a will, an inertia to take one more step forward. And our history bears out for all to view, we Americans have never stopped walking, taking that additional step forward with the hope in our make up, just one more effort, one more step and victory can be ours.

Americans are endowed with a know how that has been handed down by our forefathers, who took a chaste land and from the incubation stage of wilderness, built a nation of wealth, dignity and power.

Americans, consolidated from every origin, have made our nation a nation of inseparable beings.

An American is judged not by race, creed or color, but by basic human rights, which our paper of dissolution states, "We are endowed with certain unalienable rights of liberty, life and the pursuit of happiness." These rights can be characterized as Americanism.

As an American each citizen is guaranteed the right of education. The doors of our institutions of learning are open to all who desire. To take advantage of this gift of improving ones way of life, it matters little what our ambitions may lead to. Americans have the opportunity of improving the mind with new skills, and techniques, that oneday could make life, not only in the United States, but throughout the world, a little easier when the burdens of the past have been improved.

To be an American is to defend our rights, our home and family, and without hesitation, our nation in times of peril. Yet, it is an attribute of Americans to be an advocate of all people, within and without, in times of disaster, famine and when the scourge of tyranny attempts to control mind, body and the manner of life they choose to follow.

As an American, each individual has the privilege and the right to select by popular vote, the leaders of our Nation, which includes Federal, State and county, and down to the small hamlet of our land, without fear of retaliation.

We, as citizens of this mighty and great land of the free and the brave, rest each night, in a warm and comforting security of peace and tranquillity, void of anxiety that the passing planes flying in the skies above are not preparing to unleash their lethal weapons upon our land and homes.

Men, women and children are not forced or denied the opportunity of worship, irregardless of what their choice or denomination may be, with complete assurance of freedom from persecution and prejudice.

From time to time when disputes within our family of states arise, we Americans have always been able to reconcile a broken communication of thought. However, when our family circle, being born free, as the result of, "The Declaration of Independence," is threatened by outside interference, we, as a Nation, band together in one union of, one for all and all for one.

Being an American, is the right to be different, wrong or right. But ultimately, these dreams, these goals, are all for a better and more solidified America.

The echo in the breeze, the whisper in the sky rings out for all to hear, "God Bless America."

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25 MILLION LUNCHES

Mr. TALMADGE. Mr. President, Ms. Josephine Martin, administrator of School Food Services for the Georgia Department of Education, will be installed as president of the American School Food Service Association at the association's 30th annual convention in Hawaii on August 3.

Through her outstanding work and leadership in school nutrition programs, Ms. Martin has brought great credit to her profession and to the State of Georgia. It was my privilege and pleasure to work very closely with Ms. Martin in preparing legislation in 1969–70 to strengthen the national school lunch and breakfast programs, particularly for needy children. In drafting this legislation, I and my colleagues in the Senate benefited immensely from her expertise, and we are greatly indebted to her for the advice and counsel she provided the Committee on Agriculture and Forestry.

There appeared in the July 28 edition of the Atlanta Journal an excellent article on Ms. Martin, which I bring to the attention of the Senate and ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

25 MILLION LUNCHES—AMERICAN SCHOOL FOOD SERVICE ASSOCIATION CELEBRATES 30TH ANNIVERSARY

(By Judy Rose Sherrod)

Josephine Martin will soon be the president of the American School Food Service Association, a professional organization for food service people with 65,000 members.

These members represent the 350,000 people involved in school food service across the country.

Every day these people serve 25 million school children lunch during the school year. They also prepare two million breakfasts.

This is the 30th year of the national school lunch program. Senator Richard Russell was the author of the original act and in 1970 Senator Herman Talmadge strengthened the act and expanded the program.

This year is also the 30th anniversary of the annual convention of the school food service association. The organization started not long after the national school lunch act was passed.

"The basic purpose of the American School Food Service Association (ASFSA) is to promote sound school nutrition and school nutrition education programs for all children," says Ms. Martin.

"The second purpose of the association is to provide and promote professional growth opportunities for its membership," she says.

Since 1970 the school food service has extended its outreach. The one meal a day for the school child has been extended to school lunch, school breakfast and special milk programs.

"Meals are served year round and go from tricycles to wheel chairs, from preschool to senior citizens. Throughout the nation there are nutritional programs for the elderly but not so much in the state of Georgia," Ms. Martin points out.

"American School Food Service does not limit itself to just child nutrition. We are nationally concerned with meeting the community nutritional needs," she says.

Another area of emphasis which ASFSA has undertaken is providing leadership for nutritional education.

"The first purpose of the school lunch program is to provide nutritionally adequate meals for school children. The second purpose is to help children or young people understand the reason they have the food they have to eat at school and its relation to their health and education," she says.

Therefore the ASFSA emphasis on nutrition education are designed to help carry out the objectives of the school lunch program.

School food service in Georgia has been very successful because of the team approach to school food service. "School administrators, parents, school food service personnel and children or young people all play an important role in making the school food service program a sound nutrition program," Ms. Martin says.

"Eighty-two per cent of all children in Georgia daily have lunch at school. The dedication of school food service personnel to meet the child's nutrition needs is the key to pupil acceptance of the served meals," she adds.

The American School Food Service Association and its counterpart for the state, the Georgia School Food Service Association, are concerned with the professional growth of the school food service personnel throughout the state and the nation.

Through training workshops and professional growth, school food service personnel have an opportunity to improve their competence in planning, preparing and serving nutritionally adequate meals.

"We also recognize that child acceptance of food is a reflection of much more than just the food offered the child," Ms. Martin says. "When a child accepts food he or she is also accepting the human gift of love, acceptance and of kindness. ASFSA members believe that they are serving children by providing nutritionally adequate meals and that is a totally different concept from serving meals," she explains.

"Bruno Bettelheim, University of Chicago psychiatrist, says the two most important human things in the development of a child's personality are one, the food he eats and two, the way he is served," she says.

"So the ASFSA is committed to helping children develop healthy personalities," she says.

The key to achieving this goal will rest on the individual school food service personnel who serve the child on a daily basis.

"The theme I have selected for ASFSA program of work for 1976–77 is Excellence: The greatness within you!" she says.

"Focusing is on the potential that lies within each of our 65,000 members for excellence. During the year it is my dream that the association will be able to help each of these people realize their importance in achieving the child nutrition goals of sound nutrition and nutrition education," she says.

Within the ASFSA there are college people, state department and education personnel, city and county school food service directors, food managers and food service assistants.

"It takes every one of these groups working together to provide a quality program to meet the child's needs," Ms. Martin says.

"John Gardner in his book on excellence gave an example of a missile may blow up on the launching pad because a designer failed to include a small detail or it may blow up because a mechanic failed to adjust a screw. Regardless of the cause, it blew up," she says.

"A child may reject a school meal because of inferior quality food purchased by the director or because the cook put too much salt in the pot. Excellence in performance is needed by everyone involved in the school service program because we are dealing with the most priceless commodity of our nation, the children," states Ms. Martin.

Ms. Martin will be installed as president of the association at the 30th annual convention of the association in Hawaii on August 3. She is the administrator of school food service for the state of Georgia.

Approximately 6,000 school food service members will be attending the national convention next week. This will be the largest convention the association has ever had. Three hundred Georgia delegates will be in attendance.

School food service members who have been a member of the organization 30 years will be recognized, more than 1000 in all. Of these, 70 are Georgians. The southeast has the largest school food service program.

Philip L. White, director, Department of Foods and Nutrition for the American Medical Association, says, "One important concept in nutrition is that malnutrition is related to poverty, ignorance and indifference. The malnutrition of poverty is a national disgrace and unless corrected can lead to a cycle of poverty that can be self-perpetuating. Even without the learning disability associated with severe infant malnutrition, the poorly nourished child is a poor candidate for a good education."

This week the ASFSA and the international conference also in Hawaii to help developing countries learn how to develop their own child nutrition programs.

In 1981, the ASFSA will hold its annual convention in Atlanta.

A WARNING AGAINST CREEPING SOCIALISM

Mr. GOLDWATER. Mr. President, many of us repeatedly have warned the Congress and the American people about the dangers in the insidious trend toward creeping socialism in this country. Those who propose nationalism of the means of production and provision of services speak of the evils of private enterprise. We have heard their pious arguments concerning the "social good" and the "public interest" that would be enhanced, nurtured, and protected under a utopian system of Government ownership and control—as contrasted to the supposed capitalistic greed, which exploits man and nature and leads to inequalities in distribution of wealth.

Rather than rely on the emotional philosophical theories expounded by those who extol the hypothetical virtues of public ownership and control, I would commend to you the enlightening words and opinions—backed by solid facts and figures—of one who has had practical, real-world, experience with a system of nationalized industry. The Honorable John Moore, a Member of Parliament, at the 44th annual convention of the Edison Electric Institute in San Francisco on June 8, spoke candidly on the accomplishments—or lack thereof—by nationalized industry in Great Britain.

Concerning the matter of provision of public services by private industry versus the Government, Mr. Moore succinctly states:

> Without trespassing upon American political debates, I would have thought that if I were in the United States Government and I looked at the private telephone industry on the one hand and I looked at the United States Postal Service on the other, I would know exactly which one I thought served the public best.

Mr. Moore, using comparative figures from various countries, vividly demonstrates that the arguments for private enterprise are "overwhelming." Saying "The statistics are almost unbelievable," he paints a dismal picture of the socialization experiment in Great Britain: Sad financial performance, hidden subsidies and compensations, miserable tax record, high prices, staggeringly bad productivity, and gross inefficiency. Throughout his speech, he repeatedly describes the "tragically" poor record that has been compiled.

Unequivocally, Mr. Moore says:

> I don't happen to believe that it's possible to have political freedom without economic freedom.

And he closes with this plea:

> I would pray and ask that all join in an almost evangelical fight for the cause of free enterprise.

I ask unanimous consent that Mr. Moore's sobering remarks be printed in the Record, so that all Members may benefit from his practical observations of the miserable failure of public ownership and control of production and services in Great Britain.

There being no objection, the remarks were ordered to be printed in the Record, as follows:

Speech by the Honorable John Moore

Mr. Chairman, Ladies and Gentlemen: Isolated by these lights, surrounded by these closed circuit screens carrying my face—I have great difficulty in seeing everybody, but I imagine you have less difficulty in seeing me, but whether image or reality is projected—I don't know.

Can I first thank you, the Edison Electric Institute, for your great kindness and your hospitality to me since I've been here, and your understanding of my peculiar predicament. I think it must be somewhat unusual for a Conference to have the ability to change totally its planning almost on a daily basis, and I must say, thank you for your superb flexibility and your kindness.

I'm in somewhat of a difficulty, but one that isn't unusual for a politician. I am an amateur before this Conference, but I don't think amateurism has restrained politicians from comment in the past.

I'm also in difficulty in regard to being an economist. I noticed the other day an article in the 'Times' showed in the 12 years between 1964 and 1976, years that even the most Pollyanna-ish politician couldn't exactly call years of great economic advancement in my country, the economists in the Central Civil Service in Britain increased from 21 in 1964 to 317 in 1976. So, to put it mildly, it was growth in one direction.

I want to try and do five things, if I can, today: I want to outline the position in the United Kingdom in regard to nationalized industries; I want to try and say why we have these nationalized industries; to say why I think they're unworkable; to show their unworkable record, obviously with special regard to the electricity industry; and then to try briefly, if I can, to re-argue the rationale for private enterprise, which I think needs arguing much more strongly today.

I must start by saying that one of the difficulties one has as a politician in Britain today is caused by the extraordinarily defensive nature of our society, in that any supposed critical comments I may make are regarded as essentially unpatriotic and therefore an attack on my country. They're not.

As Marget Thatcher said herself in New York, and all over the United States, I am critical of socialism. I am seeking to attack a disease that is destroying my country. You know that nationalization is a disaster, but I will seek to try and prove it with the facts today.

First of all, what is the present position? Let me just outline it. Forgetting organizations like the BBC, The Civil Aviation Authority, what do the nationalized industries in Britain consist of? Let me just give you a list: British gas, British railways, British steel, the Post Office—which, of course, includes telephone and telegraphic communications—British Airways, British Transport Board, British Waterways Board, London Transport Executive, the National Bus Company, the National Freight Company, the Atomic Energy Authority—it's a rather lengthy list! Most were the product of the first wave of nationalization, the wave between 1947 and 1951.

Some were a product of renationalization between 1964 and 1970. The second wave tragically has begun since 1974, and we've already seen the creation of a new future nationalized industry in the British Nationalized Oil Corporation.

At the moment, the reason I'm going back early is to try and fight to prevent the nationalization of the Aircraft and Shipbuilding industries. Labour's current plans include detailed proposals for the nationalization of the Banking, Insurance and Pharmaceutical Industries. So we've not exactly finished nationalizing in Britain.

How do these look in terms of size? First, in relation to the people involved, then as a percentage of the gross national product, and finally in terms of their use of capital. The U.K. has about 55.5 million people of whom 25 million are gainfully employed. Two million are employed in nationalized industries, which is about 7.4 percent of the total employment, but it's 25 percent or rather equivalent to 25 percent of those employed are in manufacturing industries. Those nationalized industries, despite that figure, produce only 10.6 percent of the gross domestic product. In terms of capital consumed, they used last year 18.7 percent of the nation's gross fixed investments, and the average in the last five years, in fact, in the last 20 years, has been between 15.6 and 19 percent of gross fixed investment.

Now, why? Why do we have nationalized industries in Britain? I think there are two kinds of answers; two very different answers: one related to Socialism; and the other related to what I would call the pragmatic arguments which are, to put it mildly, somewhat spurious on examination.

First, the Socialist case: It's extraordinary that the pressure to nationalize by Socialists, came more from dislike and distaste with the existing system than from a positive understanding of what a nationalized industry would be. Dislike of what they saw as exploitation;—dislike of what they saw as the inequalities of capitalism;—dislike of the competitive features which exist in a capitalist society; and dislike—in some cases an almost puritanical dislike—of the material products of capitalism. But to this was added a crucial factor, another emotion,—desire. Desire—not unknown to politicians—for power. Desire for power to change the nature of society through control of nationalized industries, and to dominate what is called the "controlling heights of a modern economy."

Now, for Socialists, Marxian economic analysis provided the scientific justification for their dislikes and desires, and this is the tragedy that produced the fundamental flaw within the nationalized industries, and made them, to my mind, an economic disaster, and I hope you will bear with me if I remind you of your studies of Marx, which I'm sure you all pursued with great diligence.

It's important, I think, for those believing in free enterprise to know exactly what their enemy is thinking. Unfortunately, too many of us don't. Marx, as you know, says that the only source of value of goods and services was labor. He said, therefore that private ownership was a system devised to steal part of that value—and capitalists, of course, called what they stole profits and interest—and, therefore the equation became very simple. Abolish private ownership, and all the rewards would go to workers, and there would be an end to exploitation. A devastatingly simple, and totally inaccurate manifesto; but however wrong, the key point is that Socialists, having adopted this as an analysis, it permanently removed profit as a possible criteria for running a nationalized industry.

Because profit is stolen value; stolen value created through private ownership. Therefore private ownership is evil. This belief is quite fundamental to Socialists in the United Kingdom. However accurate, it has been a key part of their constitution since 1919. We still in Britain hear the argument that Clause 4 is quite fundamental to Socialism.

Clause 4 says: "To secure for the producers by hand or by brain the full fruits of their industry, and the most equitable distribution thereof that may be possible, upon the basis of the common ownership of the means of production, distribution and exchange." That is fundamental to Socialism in Great Britain.

And this obsession with ownership as an evil has meant that the whole of the history of our nationalized industries has been dominated by a search for other criteria that profit for the commercial running of those industries.

Well now, these are the fundamental Socialist arguments behind the creation of a nationalized industry sector in Britain.

Secondly, I said there were pragmatic arguments. Arguments just after the war that seemed to give a spurious validity to many of these Socialist plans. There were the technical arguments related to scale and size and the need for one single control. In the modern world this is not necessarily an argument that anywhere has near the validity it did then. And, of course, it never worked in practice. Because always the politician begins to get his sticky fingers in the pie. You saw, for example, in the creation in 1962, under our Conservative government, of a strip mill system installed in the steel industry, where part had to go to Scotland and part had to go to Wales. There is little prospect in such cases of the supposed advantages of size and scale being obtained through a nationalized industry.

The second area of argument was related to the question of heavy fixed costs, and the possible wasteful effects of competition on the use of scarce resources.

This is a totally specious argument. It denies the whole validity of a capitalist society through competition for scarce resources to make more effective use of those scarce resources.

And then the argument that I'm sure you're all very familiar with, the Social Services argument—the provision of similar priced products not dependent upon the economic relationship of the customer, as for example in the utility field when one customer lives miles away from any normal commercial lines. But this doesn't need a takeover of ownership, as we all know. There are many forms of cross subsidization that are possible and many ways of running businesses to overcome this problem without nationalization.

And then there was the argument just after the War about capital procurement. How difficult it was to find capital for industry in a situation of scarcity. I will show you, I think, in the statistics about the electrical industry, how totally fallacious this argument was in practice.

And, finally there is the argument about the national interest. The need for a nation to control certain key industries, like the Post Office, like the railways—but without trespassing upon American political debates, I would have thought that if I were in the United States Government and I looked at the private telephone industry on the one hand and I looked at the United States Postal Service on the other, I would know exactly which one I thought served the public best.

But these were some of the pragmatic arguments. Combined with Socialist philosophy they are the basic reason, I think, why we at the moment have a nationalized industry sector as large as we have. But I must just say that the real tragedy in the argument is that the Socialists genuinely thought that nationalized industries would be more efficient. They genuinely thought they would be able to be run on the basis of filling the social criteria of public needs.

They weren't evil men in their attitudes. Their aim basically was that taking one year with another the industries would cover their costs, and include an adequate return on capital. Well, with this wish fulfillment set of assumptions as a backdrop, let me now look at the next area;—why I think the nationalized industries unworkable in practice. There are two prime reasons for this.

Firstly, and this is my basic belief; management without profit criteria is commercially impossible; and secondly, which I hope to touch on later, politicians are politicians.

Firstly, management. Mangament and its problems. To be commercial without profitability! Just imagine yourselves as managers of a British nationalized industry. You have total responsibility, but with limited power. In your own field, the politican appoints the boards. He controls all forms of pricing. He controls your investment policies and the funds that will be provided to carry them out. He controls your equipment choice, he controls your fuel choice. What kind of total responsibility is that, if you seek to be a manager?

Your aims. When you are told there is a specific commercial return on capital required, there is no bonus, no incentives, of course, related to attain that aim. In fact the reverse is true. If you are foolish enough to actually seek to be commercial, very quickly the politican will, in correcting you, remind you of his ultimate responsibility.

Let me give you a couple of illustrations where in the very recent past in Britain the very excellent people who seek to run our nationalized industries have actually tried to meet what the politicians say are the criteria to attain for a reasonable return on their capital.

The electricity industry itself is one such example; when they tried to get their pricing increases recently, immediately the politicians said, "Yes, but the night storage heating price increases are something that we really cannot let the poor people suffer. The increase in prices is enormous. It will hurt the old, the pensioners!" and, of course, the price increases were rolled back.

The steel industry is probably the most tragic example. Many of you know about the Llanwern plant development. After 18 months, and $234 million, this plant was still only opened with all the wrong kind of manning levels to make the investment well nigh meaningless. At the end of the day, the Nationalized Steel industry Chairman, Sir Monty Finniston tried to persuade the government to let him reduce our steel industry employment by 40,000. He wasn't, tragically, successful! In the end the steel industry's employment rolls have been reduced by one—Sir Monty Finniston has been fired for his efforts.

The railways. The railways—well, it's really astonishing in Britain to imagine—I was about to say in a very reasonable, quiet, respectable democratic society—but when politicians are fighting in the House of Commons, what can I say? It is odd, though, when you realize that in Britain today we've had respectable bowler-hatted gentlemen from the country attacking railway guards with their umbrellas in their frustration at the poor service. There is obviously therefore something savagely wrong with the railways. The record might be of interest to you—and just briefly—in the last six years, with staff down 8 percent, mileage down 2 percent, freight down 13 percent, and passengers down 14.8 percent, there was, of course government subsidies in that period of $2.4 billion; fares, needless to say, were up 134 percent and radical changes were proposed by Sir Richard Marsh, Chairman of the Railways. He was foolish enough to suggest that 7,350 people, who travel in cabs from the old days of steam turbine; weren't exactly necessary anymore, to suggest that pricing might be more sensibly undertaken—well, needless to say, Sir Richard Marsh is also departing from his job this year.

Well, finally, to whom is management accountable? And this is the key. It is accountable to the nation as consumer; to a nation who because of the promises of politicians have come to regard its demands in a very simple fashion—the cheapest possible product, if not a free product, with the highest quality, of course. Does management account to the nation's treasury, the nation's Exchequer? The Exchequer is the provider of the funds, but is not really interested in the detailed running problems of the industry, as I will illustrate later. They are interested in the broader national picture. Does he account to the nation as politician; and here's the key, because no matter how much the politician changes, the politician has an unchanging need to bear the most popular case argued by the nationalized industry leaders.

Let me just illustrate this with one small example: British Leyland, many of you may have heard, was in some difficulty. They wanted money from the State. The government asked the man who ultimately, therefore, ran the industry, Sir Don Ryder—to produce a report to recommend to Parliament whether money should be advanced. That report is a specious example of exactly how the case has to be made by the nationalized industries for the politician.

The report said, there was very little possibility of growth in the British domestic car industry, but on the Continent of Europe, here was potential for growth in sales. After all, British sales were only 3 percent at the moment, in terms of the total Continental market. An increase to 4 percent would, in fact, be enough to produce profits for all British Leyland; and that after all is not a very major jump, from 3 to 4 percent. On that very, very simplistic analysis, $2.5 billion in funds have been advanced by Parliament to British Leyland.

Little attention was paid to the fact that an increase from 3 to 4 percent of the Continental market actually means an increase in sales from 200,000 to 320,000, or an actual 60 percent increase in sales by British Leyland on the Continent. Completely impossible! But management did what the politician wanted him to do. Management accounted to the politician on the politician's terms, and to that extent management was successful.

And then let's look at the second area that makes it impossible to have successful nationalized industries: the politician is a politician. An aside, though I feel that I'm somewhat prejudiced or biased when I say it, politicians are genuine in their belief that they're seeking to do good for society. But can you imagine the awesome temptation—can you imagine the difficulty in persuading politicians, of whichever political inclination, to keep their sticky fingers out of the pie when you have a nationalized sector of the size we have today? Of course, the politician will never, when he tells you all the rational reasons or the national self-interest justifications why he must interfere—that he's doing it for domestic political reasons. It clearly has nothing to do with the pressure of other Members of Parliament! No, it has always to do with very, very serious national interest reasons. He will tell you for example that he's interfering to control prices. If you've knocked on doors as a politician and somebody says, "what are you doing about prices today?" That's a very nice, easy thing to talk about—what you have done to control prices. Controlling prices is public. The tax patterns you have to introduce to pay for those price controls and the distortions that are created are very complex, difficult to understand and in many cases therefore well nigh private. He might also say he is seeking to reduce unemployment. Again, the argument for a reduction of unemployment is not exactly an unpopular one to pursue; but the distortions that are created nationally, by forcing or inducing investment by the nationalized industries—or regionally by instructing an industry to develop in specific areas,—or in a specific nationalized industry, by maintaining uneconomic pits to prevent localized unemployment, has marred the whole of our economic system.

He can, following patterns of the last 30 years, argue that he's doing it for Keynesian fine-tuning to assist in the management of the domestic economy. He can argue that he's doing it for—and this is a much more specific Socialist argument—for the redistribution of wealth. By creating massive subsidies, he says, the nationalized industries are taking directly from the rich to produce what we call in Britain a "social wage", that is effectively wealth redistribution.

Of course, he ignores the fact that he's actually tending to prop-up dying industries and support untenable manning levels in the nationalized sector. He can argue finally, that domestic technological development is the key to national economic success. This actually is a concealed way of saying you want to protect the British product as opposed to the best product, when you go for a DC–10 rather than a Boeing, or when you go for a British nuclear reactor system, rather than an American.

There is no way, so far as I can see that the politician once given responsibility for these industries, can or will keep his sticky finger out, and to that extent it will remain a fundamental flaw preventing nationalized industries from being run as commercial enterprises.

So it's clear the analysis is very negative. Let's now examine the record. Firstly financial performance, seen as a return on assets. This is a very difficult one to judge, because of the mass of hidden subsidies. But taking all the best possible assumptions for the nationalized industries and the worst figures for private enterprise in the last 25 years, the private sector has produced a return on net assets, of 11 to 19 percent, while nationalized industries return has been between 2 and 6 percent. This despite the fact that they are monopolies.

Secondly, losses or gains since the War—well, they're broken down into two areas. The revenue and capital write-offs, and the hidden subsidies and compensations for things like price restraint or keeping uneconomic pits open. Since the War, the revenue and capital write-offs have been $6.8 billion. The subsidies and compentations, 8.7 billion. The total since the War, the total losses, 15.5 billion. These are new figures that I obtained finally from the Treasury last week.

Thirdly, the tax record. By some extraordinary freak, two nationalized industries actually paid some taxes producing a total paid of $145 million. In the last ten years alone, in Britain, the private enterprise sector has paid $30.6 billion in taxes.

Socialists here would say, the argument isn't just about profits and taxes—the price of the goods to the consumer reflects the social price, and it's worth having paper losses if we can get a lower price to the consumer. The price of the nationalized industry products could therefore be expected to be lower. But oh, no.

From 162 to 1975, the retail price index in Britain rose 105 percent. The nationalized industry prices of goods and services rose 112 percent, and the best figures I can produce, taking any from the last 30 years, give only an equal movement to the nationalized industries prices in comparison with the retail price index.

The record of productivity is staggeringly bad. There one uncovers the inevitable product of nationalization—a hidden pool of semi-utilized labor. Let me just put it in comparative terms with some of our Continental friends. Our airways, are one of our best nationalized industries, as they have to compete in the world. However, Lufthansa and Air France together, with 10 percent less people, have 30 percent more sales. In coal, the people working in the coal industry in Saar, the Ruhr, Luxembourg, and France, have 210,000 employees against a U.K. total of 337,000, but they produce 2½ times the coal with ⅔ of the people.

The railways. There are almost as many employees in the U.K. as in all the railways in Italy, Belgium, Switzerland, Sweden and the Netherlands put together, and they have double our sales.

In steel, it's the ultimate. One modest German company, Theissen, with less than half the men employed by the British Steel Corporation, produces more steel than British steel.

The general utility comparisons I'll leave, as I'd like, if I can, to touch on your own industry, the electricity industry. I know I made our friends at Edison Electric think I was a little bit peculiar when I asked for some rather strange data and statistics. I was trying to find some way of comparing like with like, and it was very difficult. So, I thought if I took California, New York and Pennsylvania, these three States together have a population of about 50 million, the same as the U.K. without Scotland. As all of the U.K. statistics exclude Scotland, which has separate nationalized boards, I thought the 50 million population covered by California, New York and Pennsylvania would make a meaningful comparison. So, the numbers of people served was roughly similar. The areas taken—heavy industrial, heavy urban, with the extra transmission distances in the U.S.A. offset by the hydro advantages, the comparisons were basically fair.

They showed three things: how efficient and well private enterprise serves the consumer; how it serves the community at large, and how much more effective it is at producing Capital for investment than the State.

Firstly, the people employed. This, of course, is one of the indications of efficiency and the test of the effective allocation of resources. In the U.K. the electricity industry has 172,500 employees. In those three States, serving the same number of people—73,000 employees. The electricity generated by these different numbers: In the U.K., in billions of kilowatt hours, approximately 211,000. In those three States in the U.S., 267,000. Nearly 2½ times as many people in the nationalized British electricity industry produces 21 percent less electricity.

But how about the capital? How much and where is it raised? Because "where" is absolutely key to the fundamental Socialist argument that by nationalizing you, in fact, enable society to put more capital into the industry as opposed to niggardly capitalism, that is very loath to put up its money to improve these key public services.

The U.K. electricity industry from 1971 to

1975. External sources of funds 37.7 percent, internal 62 percent. In the U.S. in those three States in the same five years, external source of funds 75 percent, internal 25 percent. And if this isn't enough, it conceals the even worse truth, that in the last two years 38 percent of total electricity capital investment has been financed in Britain by direct government grants, called, of course, compensation payments for price restraint. But quantity is the key, as well as where it's raised.

In the U.K. in those five years, the capital, average capital, committed per annum averaged $973 million. In those three States in these same five years the average capital invested per annum was $2,471 million. $2,471 million in comparison to the $973 million. This, I think, indicates the incredible ability of the private capital market system in your country.

Let's then look at taxes paid to the community or losses charged to the community. From 1970 to 1975, revenue losses, of $920 million in the U.K., and subsidies paid of $946 million. So, in those five years it cost the community $1.8 billion in losses. And in those same five years in the U.S., private enterprise electricity companies paid taxes of $5.3 billion; $5.3 billion paid to the community by private corporations, as opposed to $1.8 billion in losses by State corporations.

The record is staggering. As I said before, the final Socialist argument is, we provide a cheaper service for the consumer. I looked at the price the domestic consumer pays per kilowatt hour in the two areas. I took an average in those three States and the U.K. at the moment. In those three States the cost is 4.15 cents to the domestic consumer. In the U.K. 4.14! What a price to pay for that minuscule difference. And, of course, the average U.S. industrial weekly wage is twice that of the U.K.

Well, the arguments are so overwhelming. The statistics are almost unbelievable! But let me, if I might, before I conclude, take one area to illustrate the degree to which the politician, in the electricity industry, impinges totally on your ability to make your decisions. The area I would like to comment on is investment planning and demand forecasting.

It's difficult enough in an industry with the money involved, the enormous time scale related to the production of your plants, to produce the right kind of investment decision. But imagine you were in the United Kingdom and you had completed all your decisions in regard to your investment planning. But you now have to convince, for example, your sponsoring department, the Department of Energy. It must approve your decision and it, of course, has its own decision-making process as to demand planning. And that isn't the end, because you have to go through the Department of Prices and Consumer Affairs, who are concerned with protecting the consumer.

And then, ultimately, it can all be thrown aside, if necessary, by the Treasury, who has to approve everything. It too has its own process for deciding the level of demand etc., and in the last analysis it will be the Treasury who approves the investment and provides the money. Let me just give you one little illustration to show what occurs.

Concealed, as are most key things, in a very detailed document that seldom sees the light of day, is a gem from one of the subcommittees investigating our nationalized industries in the middle of last year. One of my colleagues was asking the representative of the Treasury questions concerning pricing policies:

"There appeared to be four bodies or organizations—involved in the decision affecting the prices and tariff structures of electricity and gas. Now, the industries themselves, the Department of Energy, the Department of Prices and Consumer Protection, and the Treasury, we were always a little perturbed about what the Treasury was thinking. Will you give us a description of your role in this sphere?"

"In this particular field we have a co-ordinating role, as we have a co-ordinating role on nationalized industries policies generally. And, of course, the Treasury has a co-ordinating role on public expenditure. So, in matters like this, we have a dual coordinating function. As part of this we have to pull together the price decisions across the whole field, looking at the effects, not of gas or electricity price changes in isolation."—not like you poor people in one little industry.—"We, the Treasury, have to think in terms of expenditure implications, the implication for the retail price index and the implications for social and economic policy generally."

And just in case the point wasn't made absolutely clear, Sir Donald came to ask at what time did the Treasury come into discussion with the industry or with the sponsoring department? The Treasury made that point very clear:

"We come in at the time when the government is coordinating its future policy on prices generally, and on nationalized industry prices within that context. It is not the case that we just sit passively and wait for the industries to frame proposals, and then wait until they're routed to us through the Department of Energy. They can only frame their proposals against the background of whatever overall policy is in existence—at the moment as reflected in particular by the price code.

When the code is changed from time to time, when the rules of governing nationalized industry prices generally are changed from time to time, that is when we are thinking ahead."

The staggering implications, and the elitist attitudes, that are mirrored in that exchange! In essence you are just industrialists, you just do the work. You are completely irrelevant to this society that not only allows politicians but civil servants to decide what, in fact, your investment planning program will be.

Well, I've gone over my time, so I'll skip some of the difficulties that you would have to solve to select which fuel you want to use or your pricing policy, and just say that—the case against is really overwhelming, so I don't think I can leave it there.

I said I would finally try to re-argue briefly the case for private enterprise. I don't happen to believe that it's possible to have political freedom without economic freedom, and I think so many of us today have got to reexamine the basis on which we argue the free enterprise case. For this I am much indebted to the words of, I think, one of the greatest political writers of this century, who will go down as the 20th Century answer to Karl Marx in the 19th Century—Professor F. A. Hayek.

I think Professor Hayek's article in 1960 on the "Corporation in a Democratic Society", has lessons for all of us involved in business who have an interest in the political process as well. It's absolutely vital today. The pressure is on all of you. The pressure today in this peculiar Proposition 15! The pressure to you as corporate heads, from what I would call loose, woolly, lazy thinking that argues and articulates the supposed case for you to think of the 'public interest' or the 'social good'. This, I would submit, has dangerous implications on the short-run to your corporations, and in the long-run, will lead to the ultimate destruction of the free enterprise system and the domination by the state of society.

Let me tell you why. Let me first make it quite clear what I think the role of the corporation should be. To beneficial to the community as well as to itself. I think it should be confined to securing the maximum return in long-run profits on the capital entrusted to its management. No more, no less, within the general legal and moral framework of society.

Now what happens? What happens to a corporation and a society if you don't do this in the short-terms? If you pursue and you are tempted to pursue what is called the "public interest", it does three things: In the short-run it gives management power. Power through the control over the resources entrusted to its management, but power politically, power socially, power morally, power artistically, power aesthetically, for which management is not trained, not hired, and has no special competence.

Secondly, almost more crucially, for management specific controllable tasks, it substitutes the vague and indefinable social responsibility criteria that have gone so far to destroy so much of my country.

And thirdly, it makes the corporation no longer serve the expressed needs of men, but instead it tries to determine the ends that men must serve.

This in the short-run is creating centers of power in those corporations for which they were not democratically elected. But in the long-run it's much more fundamental and it's what has happened in Britain. It's bound to produce state control.

It's quite reasonable for the government not to interfere in your corporate life while corporations are active within their domain within the law, but once corporations seek to act in the public interest beware. The politician, after all, is the theoretically elected representative of the public interest. Not only would he interfere, but it will be his duty to interfere, and his duty to take over and dominate. And this is, in fact, what we have tragically seen happen in Britain.

Now, I've spoken at some length and somewhat vehemently at the end. Because we confront it today in Britain and time is very short for my country. The issues are so very real. The world we live in today is a world of almost economic illiteracy. I don't think it has been understood in many of the debates within corporations how great has been the material success of the free enterprise system, and how intimately linked are the political freedoms that are associated with it. The comparison with the material deprivation and lack of personal and human freedom that is associated with socialism is obvious. We need no barriers, no mined frontiers to keep our people in—but that freedom is limited. To keep it for ourselves, to win it for others, I would pray and ask that all join in an almost evangelical fight for the cause of free enterprise.

THE RETIREMENT OF JOHN McGUINESS

Mr. SYMINGTON. Mr. President, it is sad indeed to hear of the retirement on July 30 of John McGuiness, a long-time member of the staff of the Attending Physician here in the Capitol, and a distinguished member of the U.S. Navy since 1942.

No one has been more attentive to the needs of the Members of Congress than this quiet gentleman who over the years has achieved the respect and affection of all.

John McGuiness will be sorely missed and I know all my colleagues join in sending him warm regards and every good wish in the years to come.

A PROPOSAL FOR U.S. POLICY ON CHINA

Mr. FONG. Mr. President, during this Presidential election year, when our political parties and candidates are forging their stands on various issues, U.S. policy toward various parts of the world is under intense review and debate.

As a contribution to the current discussion over United States-China policy, I call attention of my colleagues to the statement presented to the Republican Platform Committee regional meeting in Washington, D.C., last month by Mrs. Anna Chennault, an articulate and longtime student of China.

In her statement, Mrs. Chennault recommended following the example our Nation set in dealing with Germany; that is, "recognizing one Germany—two governments," with both East Germany and West Germany having diplomatic relations with the United States.

Similarly, Mrs. Chennault suggested that "we might recognize one China—two governments—one in Taiwan and one on mainland China."

In any event, Mrs. Chennault urged that the Republican Platform "specifically take an affirmative stand against the derecognition of the Republic of China on Taiwan or the abrogation of the longstanding defense treaty between the Republic of China on Taiwan and the United States."

Mrs. Chennault's statement speaks for itself without comment or analysis by me. Because this important and difficult issue is crucial to future peace in the Pacific area, all points of view should be publicly considered and debated.

Therefore, I ask unanimous consent that the text of her platform statement be printed in the Record.

There being no objection, the statement was ordered to be printed in the Record, as follows:

China Issue Presented to G.O.P. Platform Committee by Anna Chennault

The principal U.S. foreign policy in East Asia is the maintenance of peace and security. Toward this end the continuity of the existing balance of power is of the utmost importance not only to Asia but to the U.S. and to Japan.

Japan, as the leading economic power in East Asia, or for that matter, in all of Asia, occupies a key position in the Pacific security. For practical reasons, naturally the U.S. is interested in keeping Japan as a non-nuclear ally, friendly to the U.S., however, it is important for us to be reminded that Japan's security depends not only on U.S. support, but also on South Korea and on Taiwan remaining safe and sound and friendly to the United States.

The idea of detente with Mainland China is to use the Communist regime on the Chinese mainland as a counter-weight to the Soviet Union and its expansionist policy in East Asia, provided a stabilized government is in existence in the mainland. How stabilized the Mainland Chinese government is and will be, is debatable at this time.

The U.S. policy of "normalizing relations" with Peiping will end in the recognition of, and the establishment of diplomatic relations with, the People's Republic of China". Logically speaking, this will necessarily mean the U.S. de-recognition of, and the severance of diplomatic relations with, the Republic of China on Taiwan. However, between the U.S. the Republic of China, there is a mutual defense treaty which was concluded in 1954. Should the U.S. decide to de-recognize the Republic of China on Taiwan, this treaty cannot remain in effect. In other words, if the U.S. should de-recognize the Republic of China, she would also be unilaterally abolishing the treaty, which was duly ratified by the U.S. Senate.

There is a theory or hope that perhaps the Peoples' Republic of China could be somehow persuaded to renounce the use of force against Taiwan, thereby obviating the need of maintaining this treaty. In reality, even if the People's Republic of China should so agree for tactical reasons in order to establish normalization with the U.S., how much trust may the U.S. place in such a written or verbal assurance. This is certainly debatable.

It is true that Chinese on both sides of the Taiwan Straits maintain that there is only one China and that Taiwan is part of that China. But the Shanghia Communique did not say Taiwan is part of which China—the People's Republic of China on the Mainland or the Republic of China on Taiwan. Semantics aside, there are, in reality, two Chinas, or one China divided into two parts, each with its government and its area of control. This state of affairs is expected to last for some time to come. How and when the two parts will come together is a problem for the Chinese people themselves to solve. For the U.S. to recognize the People's Republic of China now or in the near future, will be tantamount to interfering in the domestic affairs of the Chinese people before they themselves are ready to settle this issue in their own manner.

U.S. de-recogition of the Republic of China on Taiwan, and the abrogation of the mutual defense treaty, would have the most serious effect on the existing balance of power in East Asia, at the same time bringing no benefit to the U.S. The reasons can be observed as follows:

1. It would drive the government and the people in the Republic of China into further diplomatic isolation and even despair and desperation. In their determination to survive, they may do things or adopt policies which they normally would not even think of doing or adopting, such as declaring Taiwan as a separate nation, going nuclear or re-opening to the Soviet Union.

2. The U.S. abandonment of the Republic of China, a long-time friend and ally of the U.S., would arouse apprehension and distrust in South Korea and Japan and other remaining free countries in East Asia. Whatever is left of U.S. credibility as a dependable ally will be challenged and questioned. It will further damage U.S. prestige in Asia.

3. U.S. abandonment of the Republic of China on Taiwan will automatically end in the abrogation of the mutual defense treaty. This would create a gaping hole in the U.S. chain of defense stretching from the Aleutian Island through South Korea, Japan, all the way down to the Philippines, Indonesia and Australia and New Zealand.

There is another compelling reason why the U.S. should not take any precipitate action to complete the "normalization of relations" with the People's Republic of China on the mainland. The mainland Chinese are preoccupied with their conflict and confrontation with the Soviet Union. They are obsessively afraid of a Soviet military attack, and as a result, have given a low priority to the question of Taiwan. In the last two or three years they have told any number of American visitors that on the question of Taiwan they can wait for 50 to 100 years. Should the U.S. recognize them as the sole legitimate government of China, and once the mutual defense treaty is terminated, they would feel compelled to invade Taiwan, because failure to do so would expose them to the Soviet taunt of their being a "paper tiger."

For the above reasons, the best position for the U.S. to take probably is to leave the existing balance in East Asia undisturbed.

The Chinese mainland, caught in a power struggle and beset with serious political and economic problems at home, has little to offer on the scale of geopolitics. It is not even stable! Besides, there is always a possibility that after leadership changes in both Peiping and Moscow, their ideological affinity will make them move to reduce their present level of antagonism and hostility, though never to form a monolithic bloc again as in the 50's and early 60's because of historical and territorial disputes.

Since our detente with the People's Republic of China, the U.S. has obtained as much as could be expected from "opening" of contacts with the Chinese mainland. Formal recognition will not bring any more benefits. At present, the U.S. already has a liaison mission in Peiping, which is an embassy in fact if not in name. On the other hand, the Republic of China has remained a loyal ally and friend and an important trading partner of this country. In 1976 U.S. trade with Taiwan will reach at least U.S. $4.5 billion, possibly U.S. $5 billion and is up 35% over last year. Compare that with U.S. $450 million in difficult trade with mainland China.

A private enterprise economy cannot do profitable private business with a totalitarian government which is both a monopoly buyer and seller. On the other hand the Republic of China on Taiwan already gives the U.S. economy a market ten times that of mainland China and is developed with U.S. private investment which may expect confiscation from a Communist take over.

Hopes for commercial opportunities have most disappointingly not developed. Nor will they develop for a long time for the same reason that after forty years of recognition they have not developed in Russia.

In sum, as an important trading partner of this country the Republic of China, a loyal ally and friend, is making a valuable contribution to the maintenance of peace and security in the west Pacific.

There is no compelling need to risk upsetting that delicate balance of power with its risk of world war. Senator Fong the only U.S. Senator of Chinese ancestry with the longest record of U.S. Government in the military and politics has been a visitor to both the Republic of China on Taiwan and the People's Republic of China on the mainland. His wise advice as an American is right now leave things alone as they are and let the dust settle.

In addition, the Republic of China has been making a valuable contribution to the maintenance of peace and security in the west Pacific. For practical reasons, we should not upset the delicate balance of power in East Asia at this time.

However, realizing our foreign policy should always remain flexible, I have recommended to use the example of our dealing with the situation of Germany, which I call the German formula, i.e., recognizing one Germany—two governments. East Germany and West Germany both have diplomatic relations with the U.S. We might recognize one China—two governments—one in Taiwan and one on mainland China. This might be a workable formula on the China issue, which has been much in discussion in the last few years.

Therefore, I propose that whatever our platform says about foreign relations with China or otherwise the platform specifically take an affirmative stand against the derecognition of the Republic of China on Taiwan or the abrogation of the long standing defense treaty between the Republic of China on Taiwan and the U.S.

THE GREAT STATE ROBBERY

Mr. ABOUREZK. Mr. President, the Congress is once again engaging in its annual tax rite. This year, people seem to be somewhat more aware of the hundreds of tax credits, deductions, and special provisions for private industry—yet we still know nothing about them—how many there are and how they work.

We all like to think that these are finely tuned mechanisms, each of which will prompt some specific change in the investment behavior of certain corporations. I doubt whether this is true, considering the structure of our economy.

The reason we do not consider all of these provisions to be scandalous is the famous "trickle down" theory. Of course, that has recently been supplemented by the "energy crisis" theory in which we give all sorts of tax breaks and incentives to corporations because they would not develop any of our less accessible resources on their own. The trickle-down theory is the old myth about how benefits to profitmaking businesses will somehow create more decent jobs and put some money into the hands of the working people. In actual fact, we do not know whether these incentives do what we say they will do. But it is absolutely certain that they have profound effects on Federal policy and expenditures.

Nonetheless, we go on blithely exempting corporations from their tax obligations, running up the Federal deficit and bowing to conservative demands that we cut back on education, health, housing, and Federal support for those benefits which people can less and less afford on their own.

An article in the spring issue of Working Papers, a quarterly journal published by the Center for the Study of Public Policy in Cambridge, Mass., addresses the question of tax incentives on a State level. While some observations in this piece are not applicable to the Federal case, the opening discussion raises questions about how well any incentives function to change investment patterns or increase employment. Since that is the justification for the tax subsidies we are voting on right now, I think this piece might make a significant contribution to our understanding of the whole issue.

I ask unanimous consent that the article "The Great State Robbery," be printed in full in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE GREAT STATE ROBBERY

(By Bennett Harrison and Sandra Kanter)

Contenders for the office of governor in Mississippi last November agreed on at least one thing, according to a *New York Times* account: "economic colonialism." They were both against it.

Responding to an interviewer's question as to how he felt about "manufacturers building plants in the state to take advantage of cheap labor," Democrat Charles C. Finch (who won the election) said "with a show of passion": "I don't want them to come here just because they may be able to get a nickel or dime savings on their labor. We've been holding our head in the sand by offering cheap wages. The blue chip industries are not looking for cheap wages." His Republican opponent proposed putting less emphasis on tax incentives for industry. "The state needs to think instead about incentives for agriculture to get idle land back into production," he said.

"The Mississippi race," the *Times* story went on, "is the latest indication that Southern leaders are changing their traditional stance toward industrialization. For generations Southern politicians and businessmen lured Northern industry with every device they could find, from cheap labor to tax write-offs."

Cheap labor and favorable political conditions almost surely had more to do with enticing low-wage industry from the North to the South than tax write-offs. Indeed, the latter may not have made any difference at all. Effective or not, however, "devices" like tax write-offs to businesses are still advocated in practically every state legislature as a way to stimulate production and thus to create jobs within a state's boundaries.

Such incentives are opposed by some observers on the grounds that competition among states for jobs does nothing to increase the country's overall employment; it just changes its location. Other opponents see the incentives as one more example of how public money is used to benefit private corporations. However valid these objections, we are going to make a different argument against the incentives: They don't work. What's more, they cost states a lot of money in uncollected taxes.

Special-interest lobbyists have succeeded in selling states the idea that incentives are effective and even necessary both to attract and to keep business. Surprisingly little work has been done to find out how firms actually do respond to the incentives. Perhaps that is because the policies sound perfectly plausible. If a state reduces the costs of doing business relative to other states, surely firms will be attracted to it.

That argument may sound right. But there are a host of reasons, some of them even from standard economic theory, why the incentives that msot states use will not significantly affect production or employment. And empirical studies, spotty though they may be, provide little or no evidence that business decisions are influenced by these incentives.

THE THEORY

State subsidies to business are almost as old as the Constitution. In the late 1700s, for example, the government of the Commonwealth of Massachusetts authorized bounties or outright gifts of money to producers of hemp, flax, and glass to encourage production of these goods. The Commonwealth also offered to reduce the taxes of brewers who produced over 100 barrels of beer annually.

Today the rationale for business incentive policies is less to encourage the production of particular goods than it is to encourage the creation of jobs within a state. These policies include tax credits and "forgiveness"; the provision of capital raised through tax-exempt bonds; low-interest loans; and state guarantees of loans or mortgages written by private sector lenders. Nearly every state in the union provides some mix of these business incentives.

Popular and legislative discussions about business incentives are invariably couched in very general terms: "Cut taxes and get businesses to create new jobs." Economic theory cannot tell us with any precision whether or not cutting taxes in a state creates jobs. It can, however, shed light on a number of issues about business incentives that are not covered in the existing empirical studies—and that should be of concern to policymakers. For example, if incentives do work, which sorts of businesses are likely to respond to them? What kinds of jobs are apt to be created? How important to firms are reductions in costs of the magnitude the states can offer, compared to other market conditions?

There is, in elementary economics, a model of "perfect competition" in which firms compete with one another on equal terms for markets, labor, and capital. No one firm is so powerful that it can directly influence the price of its product or the prices it must pay for labor or capital. And so on. According to this theory, under conditions of perfect competition, *any* reduction in a firm's cost will induce some change in its output and employment decisions. In its search to maximize profits, the firm will tend to increase production and, therefore, employment.

Though many of these assumptions never hold in the real world, firms do behave differently according to the degree of their competitiveness. Oligopolies, for example, are firms in industries that are characterized by a relatively small number of larger producers. To some extent, oligopolies like Ford or General Motors can set their own prices and output levels without fear of losing out to a competitor. Tee-shirt factories, by comparison, have to produce as many shirts as they can and sell them at a price low enough to be competitive or else they'll go out of business. Though even they do not exactly fit the model of perfect competition, they will respond more nearly to the textbook model than the oligopolies, which are less affected by external market conditions. It follows, then, that if they have any effect at all, incentives that lower the costs of taxes and interest on bonds and loans will have a relatively larger impact on competitive firms than on oligopolies. In theory, at least, the competitive firms are more apt to respond by increasing production and employment.

In recent years, a huge literature has developed on the "rules of thumb" by which oligopolists (and even small firms facing less than perfectly competitive conditions) make output and employment decisions in response to changes or uncertainties in market conditions. This literature stresses the importance of "threshold effects": unless price, cost, and other external conditions change by more than some minimum amount in a given time period, the firm will probably ignore the changes since the very act of adjusting to them would have real costs. For example, if business taxes fall by a small amount, the firm may not react at all. The revenue a firm gains from tax incentives that are granted whether it increases its hiring or not—such as reduced excise taxes on existing machinery—is simply a windfall profit.

Firms of all types are more likely to increase output and therefore employment if there is an increased demand for their goods and services. But at the state level, business tax incentives do virtually nothing to stimulate the demand for goods and services (although consumer income tax deductions and credits may do so).

In principle, of course, there must be some level of business incentive so great that the resulting cost reduction would, over time, induce at least some firms to increase their output and employment significantly. But the larger the incentives, the greater the tax revenue the state foregoes that might have been used to finance other things, such as state social services, repayment of interest on the state's bonded debt, and so on. There are, therefore, political limits to how much a state can offer in business incentives.

If and when some firms do respond to tax incentives by increasing output and employment, theoretically at least, they are most likely to be firms in the competitive sector, rather than oligopolies. Yet, according to the "dual labor market" literature, these are the industries that in general pay lower wages, offer worse working conditions, provide less stable (full year and/or full week) employment, and make it more difficult for labor to organize. Thus, incentives that lower costs of doing business appear to be policy instruments—if they work at all—that are most likely to "goose" the sector of the economy with the least desirable jobs, while providing windfall profits to the segment of the business community that least needs them.

Some business incentives, for example investment tax credits, are intended to lower the price of capital, and thus encourage firms to invest in new plants, expand existing plants, and relocate from other states. Though economic theory has not had great success in predicting investment decisions, one thing is clear: the decision to invest depends not only, or even primarily, on the cost of capital, but also on expectations about the likely "returns" to that investment through sales. Almost anything that a government can do to reduce the uncertainty about sales is more likely to induce businesspeople to go ahead and build or expand a plant than any other kind of public action—including the granting of incentives.

Orthodox theory ignores the question of who has access to capital for investment in the first place. Most treatments assume that capital is always available for a price. If it pays an investor to borrow the capital in order to build or expand his or her facilities (because the expected rate of return is higher than that available from other applications of the funds), the borrowing and investing will in fact take place.

But capital allocation depends only partly on "supply and demand." Blacks, women, entrepreneurs working in low-income communities, and nonprofit developers have trouble getting capital at *any* price. (Since the New York City debacle, state and local governments may be in the same category.) A particular problem for these investors is the "debt-to-equity capital mix." Equity capital is usually obtained by selling stock in an enterprise. The lender (stockholder) is paid a share of the profits—if and when there are any profits. When capital is obtained through loans, however, the borrower usually has to begin paying back interest on the loan immediately, whatever shape the business is in. Thus, businesspeople who must rely mainly on loans for capital investments face high probabilities of failure because of their indebtedness. And equity capital is particularly scarce for the traditionally excluded groups mentioned above.

The smallest firms, with the poorest "track records," and the least powerful investors or groups, perhaps with no "track record" at all, find it most difficult to borrow or to attract new equity investments. Large firms with good credit ratings have less trouble raising their own capital, whether externally or through their own retained earnings. But if the investing and lending of private banks, or of state economic development authorities, is based on the creditworthiness of the borrower, then the normal operation of the capital markets will work to channel ever more financial resources to the obligopolists at the expense of the more competitive segment of the market. On the one hand, then, competitive industries are more likely to need tax and interest rate incentives and so they are more likely to take advantage of them. On the other hand, competitive firms face greater uncertainty about business success so they may be less likely to invest at all and thus they may not take advantage of state investment incentives.

Aside from some speculation about the different behavior of firms in oligopolistic industries compared to competitive industries, economic theory is ambiguous in predicting the impact of state incentives on job creation. This even extends to the national level, at least in terms of tax credits or tax cuts. The Brookings Institution conducted a series of econometric evaluations of the impact of the 1962 federal investment tax credit, which was designed to stimulate the business sector's demand for capital goods and therefor, indirectly, the demand for labor. Half of the studies concluded that the credit worked. But half concluded that it did not affect output and employment at all.

THE EVIDENCE

Judging from the speeches of elected and appointed officials and the editorials of newspaper writers, most people seem to expect new jobs to be created in a state's economy over time through the relocation into the state of plants that are closed down elsewhere, or through the decision of multiplant firms to build their next new plant in the state. To this end, states use an additional policy instrument, industrial recruiting. They hire advertising agencies or management consultants to place ads and hustle up new business. Visiting company representatives are wined and dined, and shown around the state.

Most urban and regional economists believe that companies select regions by broad, qualitative criteria such as the availability of basic resources, adequate transportation access, and, though it is seldom put so bluntly, a politically passive labor force. The sort of cost differences that incentives try to create are considered less important.

For example, Peter Bearse, formerly the executive director of the council of economic advisers to the governor of New Jersey, discusses the role of these marginal cost differences in the corporate decision-making process:

> Decisions can be arrayed in a hierarchy from minor allocation decisions of the type described by textbook economic theory to major "all or nothing" decisions like the decision to move or build a plant. Major decisions are subject to thresholds and long gestation periods. Marginal adjustments in the cost of debt finance or in certain tax rates do not stand a chance of affecting a major decision unless a firm is at or near a threshold; and even then, several other factors are operative. . . . It is a question of probabilities—the odds that a given policy can have an intended effect. I claim that the concept of an adaptive, sequential decision-making process subject to thresholds makes the efficacy of current policies look very dubious.

Bearse's doubts appear to be validated by the empirical data, sketchy though they are, that have been collected about corporate responses to the business incentives offered by various states.

Since the 1950s, government agencies and independent researchers have tried to measure the relative impact of business incentives on industrial location or expansion. Unfortunately, the quality of the empirical material is uneven. Nonetheless, with a very few exceptions, the literature does not reveal significant plant relocation or expansion resulting from interstate differentials in state business incentives.

Surveys have asked employers to name the factors that mattered in their decision either to expand their facilities in a particular location or region, or to move into that area. The firms seldom mentioned such things as state and local taxes or the availability of subsidized credit. When taxes or credits were specified by the questionnaire, the proportion of respondents checking them off usually rose to between 5 percent and 15 percent. When these surveys then asked the respondents to indicate whether these factors were "critical" or not, few considered them as such. The findings were similar for the relative importance of other types of business incentives. A wide range of "mentions" were recorded, state bonding programs for example, but no such factor was considered to be "critical" by more than a small proportion of the sample. The results of these surveys are remarkably consistent even though they were made at different times, under different circumstances, and in different areas of the country.

One of the earliest surveys was conducted in 1950 by the Survey Research Center of the University of Michigan. The managers of only 9 percent of 188 plants moving into Michigan felt that the state's tax benefits were an "important consideration" in their moves. A Regional Plan Association study of firms moving plants out of New York City between 1947 and 1955 concluded that 14 percent of the moves were related to interregional tax differentials. (A more recent study of firms moving facilities out of New York State, however, shows a much greater sensitivity to taxes as a cost of doing business, with half of the respondents indicating taxes as one factor in their relocation decision.) A questionnaire was mailed to firms expanding or relocating into seven southern states in the late 1950s; 11 percent of the respondents checked local taxes as a factor, but only 2 percent called that factor "critical." In a 1963 study of the movement of industrial plants into Ohio since before World War II, only 2 percent of the companies interviewed voluntarily cited tax differentials as a factor.

One particularly careful study was conducted at the Stanford Research Institute in 1964 by economist Robert Spiegelman. He analyzed the locational behavior of one of the more footloose industries, precision instrument manufacturing. More than one-half of the 45 firms in the study considered interregional tax differences relevant, but only one called them "the most important factor." In a mid-1960s survey of industrial migration into Texas, only 13 percent of the firms considered taxes to be one determinant of their decision.

Even if the incentive approach were successful, however, we believe it would be misplaced. The conventional theory of local economic development centers on the concept of industry producing for export. The industry employs local workers and purchases locally produced goods and (especially) services. According to this conventional wisdom, who owns and controls that exporting activity, and whether that ownership/control is "absentee," is of little consequence. Because the payoff for capturing such export-base activity is believed to be so high, states and local governments engage in an expensive competition for the thousand or so new plants built in this country each year.

"Economic colonialism," as the gubernatorial contenders in Mississippi seem to have discovered, is not this redistribution and try to reverse it through lobbying efforts if they can. Peter Bearse notes that some are more successful than others:

> It should be no surprise to anyone that development programs are biased towards the established industry, larger firms, low-risk debt finance and manufacturing. Any stroll through state legislative chambers will show that these are the better organized, articulate political interests.

One representative of "Jobs for Massachusetts," a prominent business lobbying group, told Harvard researcher James Dumont that he would prefer an outright cut in the state's corporate income tax rate, but since the former was hard to obtain, "tax incentives will have to do." Another lobbyist, who led the successful struggle for passage of the Massachusetts $500 "job creation tax credit," admitted that his organization fully intended the credit to be a "gift" to companies, to "compensate" for the state's high tax rates.

Some officials think that their probusiness stance will create a "positive climate for investment" in their particular states. If history is any guide, however, that is a losing strategy, particularly when applied to the older industrial areas. Ever since the beginning of the industrial revolution, capitalist economic growth has been marked by "uneven development," a description first used by Friedrich Engels. When capital can be invested more profitably someplace else, those who control the processes of production abandon one area for another—even if it means leaving behind whole systems of physical capital, like neighborhoods and even entire regions. And those who remain become increasingly dependent on the public sector.

Bearse argues that uneven development explains much of the decline in the economic fortunes of the older industrial belt of the United States. As markets, capital, and even new research and development shift from the older region (with New York City at its political center) to the newer South and Southwest (with Texas the potential new "capital"), the older places undergo secular deterioration.

There is some evidence that the business incentives are in fact most readily available in these older areas. But, in the context of the larger historical movement of capital, the idea of restoring the older area's comparative advantage seems ludicrous. As the public costs in the South and the Southwest increase over time, taxes and other costs of doing business there will rise too. But there is no reason to think that firms will then turn around and repopulate, say, New England. Clothing firms, in fact, are now moving out of South Carolina to Colombia and other parts of South America.

This shifting of the center of economic activity away from the northeastern and north-central parts of the country (a shift that goes a long way toward explaining the current fiscal crisis of the older cities and states) has been supported and consciously promoted by the federal government since the end of World War II. Public investments in infrastructure, military production contracts, and new bank charters have all been awarded increasingly to southern and southwestern firms, often at the expense of those in the older regions (especially New York). In this context, state incentives to businesses in lagging areas are equivalent to welfare grants, serving at best to ease their pain.

A national mail survey conducted by the U.S. Department of Commerce in 1972, covering 2,900 companies in high-growth industries across the country, revealed that 78 percent considered tax incentives or "holidays" to be relevant to their locational decisions. But only 8 percent rated such incentives as "critical."

There is no way of knowing whether the person who answers these mail questionnaires is a public relations staffer, a lower-level executive, or the person directly in charge. In 1974, to get more precise responses, personal interviews were conducted in Massachusetts and Connecticut. Two legislative staffers interviewed executives of 15 Massachusetts companies from the pool of companies that had applied for state "job-creation tax credits." Credits were claimed by 14 of the companies for alleged expansion in excess of "normal" growth, and one was for relocation into Massachusetts. Every single interview yielded the same result: the company took actions according to its own plans, then learned about the existence of the tax credits and applied for them. An independent set of interviews with Connecticut business-people participating in that state's business incentive programs produced identical results. In these two states, at least, the availability of the incentives did not produce business behavior that would not have occurred otherwise. Instead, the incentives functioned as a windfall for the companies at the expense of the taxpayers.

One way to estimate the effects of the incentives while avoiding the inherently subjective nature of the survey approach is to compare the rate of job growth in states with high and low business taxes. C. C. Bloom correlated growth in manufacturing employment with per-capita state and local tax collections among all the states, for two periods, 1939 to 1953 and 1947 to 1953. In neither case was there a statistically significant relationship. An econometric model describing the growth of the Michigan economy between 1947 and 1955 showed no significant relationship between state and local taxes and employment growth over time. A nonprofit citizens organization, the Pennsylvania Economy League, rank-ordered 11 states in 1971 according to the burden of state and local taxation on ten specific industries. We find no systematic correlation between this rank ordering and the state unemployment rates; in fact, the lowest unemployment state, Indiana, was consistently found to be among the very highest taxburden states for most of the industries. Finally, for 15 of 16 major industries studied in an econometric model of the Massachusetts economy describing the period 1950 to 1972, there was no statistically significant relationship between quarter-to-quarter changes in Massachusetts' share of national employment and changes in the ratio of Massachusetts' business taxes to the average for all states. Ephron Catlin, dean of Boston's financial wizards, banker extraordinaire, was recently quoted in a local paper: ". . . Our taxes aren't bad. I don't think many firms have moved out because of business taxes."

If, as seems to be the case, tax incentives are not very effective in luring businesses from one state to another, why not? We suspect that the main reason is that state and local taxes are such a small proportion of a firm's total costs of doing business. Incentives, in effect, reduce the cost of something that's not that important a consideration to begin with.

Interestingly enough, none of the empirical studies measures taxes in relation to business costs per se. We can get a good idea of their relative insignificance, however, from studies that estimate state and local taxes as a percentage of sales or of value added. (Value added is the actual contribution of a specific firm to the final market value of a good. If we take an auto factory, for example, the value of "intermediate products" made elsewhere—like steel bars or business forms—would not be included in the value added by the auto factory itself to the market value of autos.)

State and local taxes are consistently estimated at from a half to 3 percent of value added and from 2 percent to at most 5 percent of sales. A 1954 study in New York showed state and local taxes to be 1 percent of value added. In a 1958 calculation for Michigan, the ratio of state taxes to value added was under 1 percent. A study of five western states in 1963 found that taxes a percent of value added ranged from a low of .93 percent in the food industry to a high of 2.73 percent in fabricated metals. Recently, the Federal Reserve Bank of Boston estimated that the average U.S. business paid 4.4 percent of its income to state and local governments. (This estimate, for 1973, breaks down into .9 percent going to pay corporate income taxes, 1.9 percent for property taxes, .8 percent for unemployment compensation contributions and .8 percent for "other business taxes.") Since corporate and unincorporated business income averages about one-eighth of the value added, this translates into an average ratio of state and local taxes to value added of about .6 percent.

Using another measure, J. A. Stockfish of the California Economic Development Agency found that state and local taxes as a percentage of stockholders' equity varied among selected industries over 17 states within a very narrow range: 3.9 percent (fabricated metals) to 6.4 percent (apparel).

Businesses, of course, must consider not only the cost of state taxes, but federal taxes as well. In Massachusetts, for example, a manufacturing or research-and-development firm is allowed to credit, against its annual state excise tax liability, 3 percent of the cost of new investment in buildings, machinery, or other equipment. The legislature intended this to be quite a large tax incentive to expand or relocate in Massachusetts. But the amount deducted from the state taxes, as a credit, is an addition to the firm's income, which is subject to the 48 percent federal corporate income tax. The saving is, therefore, cut almost in half. Suppose a middle-sized manufacturing firm, with total annual operating costs of $6.7 million, undertakes a new investment of $800,000 in Massachusetts. The state credit for the investment would be $24,000 ($800,000 x .03). But of the $24,000 "saved," the federal tax takes $11.520 ($24,000 x .48). The real saving to the firm is $24,000 less $11,520, or $12,480. And that amounts to a mere .19 percent of its total costs.

Since expansion or relocation decisions are assumed, even by the advocates of these policies, to depend on relative total costs in different places, it is no wonder that these, and similar, state business incentives don't have any great influence over corporate decision making. And since nearly all of the states follow one another in legislating these incentives, the savings differentials from one state to another are by and large meaningless.

Finally, the incidence of physical plant relocations—the objective of the incentives—is actually very small in the United States, *whatever* causes it. Between December 1969 and December 1972, according to an MIT-Harvard Joint Center for Urban Studies report using Dun and Bradstreet credit-rating data on all manufacturing and most nonmanufacturing firms in the country, plants moving into a state added an average of only .3 percent to that state's 1969 employment base; plants moving out took an average of only .2 percent of the jobs with them. In no single state was the gain or loss of jobs due to moving plants ever greater than .5 percent. This was, of course, a recessionary period, and data through 1973 may show increased movements of plants. Nevertheless, this first empirical estimate makes the competition among the states for new plants seem even more futile. There are few winners, yet all states incur costs.

In fact, the winners may not even benefit from relocated industry, however it is attracted. If the company brings part or all of its labor force with it, the new families will place an increasing burden on the social services, housing, and labor markets of the receiving state, and there will be at best only a small net effect on the local unemployment rate. If only the skilled labor force is relocated, the local job creation will occur in the unskilled, low-wage segment of the labor market. Only recently have state and local planners begun to look carefully at the expected impact of new plants on environmental quality and maintenance costs; under many circumstances, these, too, could more than offset the job-creation and tax benefits accruing to the state from successful industrial recruiting.

THE COSTS

Tax incentives force a state to forego tax revenue—the revenue that would have been collected in the absence of the incentives. The goods and services these foregone revenues could have purchased are called the "opportunity costs" of tax incentives. According to estimates made by the Massachusetts commissioner of taxation, his state lost about $65 to $70 million from six of the ten tax incentives the state offered to businesses in 1974. Calculations were not done for the other four incentives, but they probably would have brought the cost to over $100 million a year.

Mortgage guarantees, loans, and industrial development bonds do not reduce the amount of taxes that accrue to state governments, but there are also opportunity costs associated with these types of incentives.* These costs have to do with the availability and price of capital. Who will be affected by this "capital crowding" depends on the reaction of financial institutions to the overall economic conditions at the time. Though we know of no empirical estimates of these costs at the state and local level, a look at the financing process itself illustrates the problems.

Banks have a finite amount of savings at any one time, and they have to allocate their investments among different kinds of bonds and loans. Assuming everything else is equal, financial institutions prefer mortgages that have their payments guaranteed by government over unsecured loans, and tax-exempt bonds over taxable investments. To compete for these limited bank funds, others who seek capital for investment must pay higher rates of interest to the banks. Private investment is therefore more expensive for the borrower than it might have been in the absence of government-backed and tax-exempt financial instruments.

In recent years, banks have come to hold almost two-thirds of all state and local industrial development bonds. Banks are very "unstable" customers; they tend to purchase tax-exempt bonds when money is easy, when they have met their obligation of a legally required reserve, and when they have satisfied the loan needs of their customers. When money becomes tight, banks raise cash by selling their state and local securities. States and localities wishing to finance capital projects in periods when banks are reducing their portfolios of state and local bonds have two choices: they can either pay high interest rates on the bonds to attract other investors; or, where possible, finance their projects with short-term notes. Short-term notes, however, have their own disadvantages. First, they usually carry a higher effective rate of interest (including underwriting charges) than long-term obligations and thus cost the public more. Second, they are only a temporary solution to a serious economic situation and are not themselves marketable when money is scarce.

If incentives are as ineffective and costly as they appear to be, why are they so widely used? Perhaps the explanation is that state governments have so little power to affect their local economies, officials feel compelled to do something; and local taxes and bonding are something they can manipulate. Perhaps these officials are simply serving the class interests of the business sector for whom such incentives are a source of profit.

However uncertain the motivation of state officials, we believe the motivation of private corporations is clear-cut: to increase their own income at the expense of workers, consumers, and the public sector. Governments, of course, must tax the business sector to help finance the production and delivery of public goods and services. Not surprisingly, businesses resist the answer to economic development needs within states. That kind of development produces the same sort of dependency and unbalanced economic growth in the rich United States as it has always done in the poor Third World. New plants that are controlled by corporations headquartered elsewhere impose enormous infrastructure costs on a community. They import much of their labor (especially the "good" jobs), and they often house their highest-paid workers outside the taxing jurisdiction where the plant is situated. Then—after all the effort expended to get them in the first place—they often move to some other place when the local inducements run out.

It is the planning and financing of community-based enterprises that should be getting the lion's share of the resources generated by state and local taxes (and federal, for that matter). The present economic development applications of such resources are, we are convinced, going largely to windfall profits for the business sector. Surely that is at best a waste of scarce resources, and at worst a politically inequitable approach to the pursuit of economic development.

NOTES AND SOURCES

There are a number of empirical and theoretical studies in the field of industrial location, some of which are cited in this article. A good, but dated, summary of the literature can be found in John Rue, "Studies of State-Local Tax Influences in Location of Industry," *National Tax Journal,* Vol. XIV, June 1961.

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The Use of Public Funds or Credit in Industrial Location, New York State Department of Commerce, Research Bulletin No. 6, January 1974.

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BUSINESS INCENTIVES, BY STATES, 1974

1. *State, county, or local property tax exemptions:* Hawaii, Kentucky, Louisiana, Maryland, Michigan, Montana, New York, Oklahoma, Puerto Rico, Rhode Island, South Carolina, South Dakota, Vermont.

2. *Ad valorem or sales tax exemption for plant, machinery, or equipment:* Alabama, Georgia, Mississippi, North Dakota.

3. *Tax credits to expand employment:* Massachusetts, New York, North Dakota.

4. *Investment tax credits:* Massachusetts, New York, Rhode Island, West Virginia.

5. *Mortgage or loan guarantees:* California, Connecticut, Delaware, Hawaii, Indiana, Maine, Maryland, Mississippi, New Hampshire, North Dakota, Ohio, Rhode Island, Vermont.

6. *Local industrial development bonds (general obligation):* Alabama, Arkansas. Hawaii, Kentucky, Louisiana, Maryland, Massachusetts, Mississippi, Missouri, North Dakota, Oklahoma, Tennessee, Washington.

7. *Local industrial development bonds (revenue):* Alabama, Arizona, Arkansas, Colorado, Florida, Georgia, Hawaii, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Mexico, New York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, Virginia, Washington, West Virginia, Wisconsin, Wyoming.

8. *State-chartered credit corporations:* Alaska, Arkansas, Connecticut, Florida, Iowa, Kansas, Kentucky, Maine, Maryland, Massachusetts, Mississippi, Missouri, Montana, Nebraska, New Hampshire, New Jersey, New York, North Carolina, North Dakota, Pennsylvania, Rhode Island, South Carolina, South Dakota, Texas, Utah, Vermont, Virginia, Washington, West Virginia, Wyoming.

INCENTIVES GALORE

Tax credits and forgivenesses. Property tax concessions are the oldest and most important of the business incentives offered by states. Twelve states and Puerto Rico permit cities and towns, counties, or the state itself to exempt part or all of business property from property taxation for a specified time period. Puerto Rico's tax incentive law is probably the most liberal: manufacturers of goods first produced in Puerto Rico after 1946 pay neither property nor income taxes for a period of up to 25 years. Three states provide similar, though smaller, tax concessions to new industry. Nine states give local counties or municipalities permission to give abatements to businesses on some or all of their local property taxes.

Alabama, Mississippi, Georgia, and North Dakota exempt new and/or expanding industries from local ad valorem taxes on all tangible property for a stipulated time period. (Ad valorem taxes are taxes levied on the value of property. Sales taxes, on the other hand, are based on the sale of goods and services.) New York, Massachusetts, and North Dakota give tax credits to businesses that expand employment. In North Dakota, new firms may receive a tax credit of up to 1 percent of their annual gross wage and salary expenditures for three years. In New York, firms that expand in low-income areas qualify for an income tax credit. Massachusetts gives income tax credits to businesses that employ people who were on welfare or drawing unemployment compensation.

Four states permit some form of investment tax credit. Firms may take a certain percentage of the cost of acquiring buildings, structures, machinery, and equipment as a tax credit and reduce their total state tax bill by the amount of the credit, which varies from state to state. New York and Rhode Island allow manufacturing firms a tax credit equal to 2 percent of the cost of new buildings, equipment, and facilities; Massachusetts allows 3 percent. Manufacturers in West Virginia may receive a credit equal to 10 percent of the cost of new production facilities for a period of ten years.

Loan guarantees. Thirteen states guarantee commercial loans. Ten of these states have organized industrial finance authorities specifically authorized to guarantee, on behalf of the state, the repayment of some or all of a mortgage or loan made by a conventional market source on an industrial facility. New Hampshire, the originator of the program, has a relatively modest policy: the state insures the portion of a loan that is in excess of 50 percent of a property's appraised value or in excess of 65 percent of the value of machinery and equipment. At the other end of the spectrum, Rhode Island guarantees up to 90 percent of the cost of plant construction. Most states charge firms a fee for administrative costs that ranges from 1 percent to 3 percent of the outstanding loan.

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*They do, however, affect federal tax revenues. Harvard's Stanley Surrey estimates that in fiscal year 1968, the federal income tax deduction of the interest on state and municipal bonds cost the U.S. Treasury about $1.8 billion. According to the U.S. Office of Management and Budget, in fiscal year 1976 the foregone federal revenues will amount to nearly $4.8 billion, with three-fourths of that accruing to corporations and only one-fourth to private individuals. A recent study has concluded that the loss to the U.S. Treasury from the flotation of industrial development bonds alone was about $90 million in 1973.

Industrial development bonds. There are two kinds of industrial development bonds: general (or "moral") obligation bonds, and revenue bonds. Thirteen states permit localities to float general obligation bonds, whose payments are guaranteed by the full faith and credit of the state or municipality. Forty-three states allow local governments to issue revenue bonds that are paid solely from the proceeds of the project and do not become the obligation of any government. Both types can be used to finance the construction of industrial development projects or sports facilities, convention or trade show buildings, docks, wharves, airports, parking lots and garages, sewage or solid waste disposal plants, and air or water pollution equipment. Income from general obligation and revenue bonds is usually exempt from federal taxation.

Low interest loans. Thirty states have state-chartered credit corporations that make loans to businesses unable to obtain long and short-term financing in the conventional capital markets. The corporations issue stock to banks, insurance companies, and other private parties which are often exempt from paying state taxes on their income.

WELFARE REFORM AND TAX REDUCTION ACT OF 1976—S. 3665

Mr. BEALL. Mr. President, on July 19, 1976, I introduced S. 3665, the Welfare Reform and Tax Reduction Act of 1976. Because of clerical errors, several paragraphs were omitted from the printing of the bill and a star print was authorized to show those changes on July 26, 1976.

I ask unanimous consent that the corrected bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 3665

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

Section 1. This Act may be cited as the "Welfare Reform and Tax Reduction Act of 1976".

TITLE I—FAMILY ALLOWANCE DEDUCTION, STANDARD ALLOWANCE, FAMILY ALLOWANCE CREDIT, AND OTHER TAX PROVISIONS

Sec. 101. Technical and Conforming Changes.

The Secretary of the Treasury or his delegate shall, as soon as practicable but not later than 90 days after the date of enactment of this Act, submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a draft of any technical and conforming changes in the Internal Revenue Code of 1954 which are necessary to reflect throughout such Code the changes in the substantive provisions of law made by this title.

Sec. 102. Family Allowance Deduction in Lieu of Personal Exemption.

(a) In General.—Section 151 of the Internal Revenue Code of 1954 (relating to allowance of deduction for personal exemptions) is amended to read as follows:

"Sec. 151. Family Allowance Deduction

"(a) Allowance of Deduction.—

"(1) General rule.—In the case of an individual, there shall be allowed as a deduction in computing taxable income an amount equal to two times the amount of exemptions provided by this section.

"(2) Special rule for taxable year 1977 through 1981.—Notwithstanding the provision of paragraph (1)—

"(A) the term '181 percent of' shall be substituted for the term 'two times' in such paragraphs for taxable years beginning in calendar year 1977,

"(B) the term '185 percent of' shall be substituted for the term 'two times' in such paragraphs for taxable years beginning in calendar year 1978,

"(C) the term '189 percent of' shall be substituted for the term 'two times' in such paragraphs for taxable years beginning in calendar year 1979,

"(D) the term '192 percent of' shall be substituted for the term 'two times' in such paragraphs for taxable years beginning in calendar year 1980, and

"(E) the term '196 percent of' shall be substituted for the term 'two times' in such paragraphs for taxable years beginning in calendar year 1981.

"(b) Taxpayer and Additional Exemption.—An exemption of $1,000 for the taxpayer and an additional exemption of $1,000 for the spouse of the taxpyaer if a joint return is made by the taxpayer and if the spouse is not a dependent of another taxpayer, or if there is no spouse or a joint return is not made, an additional exemption of $1,000 for any one dependent (as defined in section 152) of the taxpayer.

"(c) Additional Exemption for Dependent.—An additional exemption of $400 for each dependent (as defined in section 152) other than a dependent for whom an exemption is claimed under subsection (b)—

"(1) whose gross income for the calendar year in which the taxable year of the taxpayer begins is less than $1,000,

"(2) who has not made a joint return with his spouse under section 6013 for the taxable year beginning in the calendar year in which the taxable year of the taxpayer begins,

"(3) who is not a dependent of another individual, and

"(4) who has not claimed a deduction for himself under subsection (b) for the taxable year beginning in the calendar year in which the taxable year of the taxpayer begins.

"(d) Additional Exemption for Individuals Aged 65 or More.—An additional exemption of $600 for—

"(1) the taxpayer if he has attained the age of 65 before the close of the taxable year,

"(2) the spouse of the taxpayer if the spouse has attained the age of 65 before the close of the taxable year and qualifies as an exemption under subsection (b) for the taxable year, and

"(3) for each dependent who has attained the age of 65 before the close of the taxable year and who qualifies as an exemption under subsection (b) or (c) for the taxable year.

"(e) Additional Exemption for Blindness of Individual.—An additional exemption of $600 for—

"(1) the taxpayer if he is blind as of the close of the taxable year,

"(2) the spouse of the taxpayer if the spouse is blind as of the close of the taxable year and qualifies for an exemption under subsection (b) for the taxable year, and

"(3) for each dependent who is blind as of the close of the taxable year and who qualifies as an exemption under subsection (b) or (c) for the taxable year.

For purposes of this section, an individual is blind only if his central visual acuity does not exceed 20/200 in the better eye with correcting lenses, or his visual acuity is greater than 20/200 but is accompanied by a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees.

"(f) Additional Exemption for Disabled Individual.—An additional exemption of $600 for—

"(1) the taxpayer if he is permanently and totally disabled as of the close of the taxable year,

"(2) the spouse of the taxpayer if the spouse is permanently and totally disabled and qualifies for an exemption under subsection (b) for the taxable year, and

"(3) for each dependent who is permanently and totally disabled as of the close of the taxable year and who qualifies as an exemption under subsection (b) or (c) for the taxable year.

For purposes of this subsection, an individual is permanently and totally disabled if he is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months. An individual shall not be considered to be permanently and totally disabled unless he furnishes proof of the existence thereof in such form and manner, and at such times, as the Secretary may require.

"(g) Special Rule for Married Couples Filing Separate Return.—

"(1) Only one spouse to claim exemption.—Except as provided in paragraph (2), in the case of every married individual who does not make a joint return with his spouse under section 6013, only that individual shall be allowed to claim any exemption under this section.

"(2) Spouse may claim.—The spouse of an individual described in paragraph (1) may claim one exemption for himself under subsection (b) and exemptions for himself under subsections (d), (e), or (f) if he is an individual described therein".

(b) Conforming Amendment.—The table of sections for part V of subchapter B of chapter 1 of such Code is amended by striking out the item relating to section 151 and inserting in lieu thereof the following:

"Sec. 151. Family allowance deduction.".

Sec. 103. Standard Allowance.

(a) In General.—Section 141 of the Internal Revenue Code of 1954 (relating to standard deduction) is amended by striking out subsection (c), and by inserting after subsection (b) the following:

"(c) Standard Allowance.—

"(1) General rule.—The standard allowance is two times $200 for each exemption allowed an individual under section 151 (b) or (c).

"(2) Special rule for taxable year 1977 through 1981.—Notwithstanding the provision of paragraph (1)—

"(A) the term '181 percent of' shall be substituted for the term 'two times' in such paragraphs for taxable years beginning in calendar year 1977,

"(B) the term '185 percent of' shall be substituted for the term 'two times' in such paragraphs for taxable years beginning in calendar year 1978,

"(C) the term '189 percent of' shall be substituted for the term 'two times' in such paragraphs for taxable years beginning in calendar year 1979,

"(D) the term '192 percent of' shall be substituted for the term 'two times' in such paragraphs for taxable years beginning in calendar year 1980, and

"(E) the term '196 percent of' shall be substituted for the term 'two times' in such paragraphs for taxable years beginning in calendar year 1981".

(b) Election.—Section 144 of such Code

(relating to election of standard deduction) is amended by adding at the end thereof the following new subsection:

"(e) Individuals Electing Family Allowance Credit.—If for any taxable year a taxpayer elects to treat the standard allowance as a family allowance credit under section 44A(b)(5), the standard deduction shall not be allowed to such taxpayer for such taxable year.".

(c) Conforming Amendment.—Section 141(a) of such Code is amended by striking out "the low income allowance" and inserting in lieu thereof "the standard allowance".

Sec. 104. Family Allowance Credit.

(a) Family Allowance Credit.—Subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1954 (relating to credits against tax) is amended by inserting after section 44 the following new section:

"Sec. 44A. Family Allowance Credits.

"(a) Allowance of Credits.—

"(1) In general.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the sum of the family allowance credits provided by subsection (b) reduced (but not below zero) by 50 percent of the amount of the total income (as determined under subsection (c)).

"(2) Special rule for taxable year 1977 through 1981.— Notwithstanding the provisions of paragraph (1)—

"(A) the term '55 percent' shall be substituted for the term '50 percent' in such paragraph for taxable years beginning in calendar year 1977,

"(B) the term '54 percent' shall be substituted for the term '50 percent' in such paragraph for taxable years beginning in calendar year 1978,

"(C) the term '53 percent' shall be substituted for the term '50 percent' in such paragraph for taxable years beginning in calendar year 1979,

"(D) the term '52 percent' shall be substituted for the term '50 percent' in such paragraph for taxable years beginning in calendar year 1980, and

"(E) the term '51 percent' shall be substituted for the term '50 percent' in such paragraph for taxable years beginning in calendar year 1981.

"(b) Family Allowance Credit.—Family allowance credits allowed are—

"(1) $1,000 for the taxpayer,

"(2) $1,000 for the spouse or dependent of the taxpayer if the spouse or dependent qualifies as an exemption under section 151 (b) for the taxable year,

"(3) $600 for each dependent of the taxpayer who qualifies as an exemption under section 151(c) of the taxable year,

"(4) $600 for each individual who qualifies as an exemption under section 151 (d), (e), or (f) for the taxable year.

"(5) $200 for each individual for whom an exemption is allowed under section 151 (b) or (c) if the taxpayer elects not to take the standard deduction or to itemize any other deductions under this chapter in computing taxable income for the taxable year.

"(c) Total Income.—

"(1) In General.—For purposes of this section, the term 'total income' means the sum of the adjusted gross income (within the meaning of section 62) of each individual for whom a credit is claimed under this section reduced by any amount deducted and withheld from wages of such individuals under subtitle C (relating to employment taxes), and increased by so much of the following items attributable to such individuals as is not otherwise included in adjusted gross income:

"(A) all amounts received as an annuity, pension, or any retirement benefit;

"(B) so much of the sum of all prizes and awards received as each year exceeds $250;

"(C) so much of the proceeds from life insurance contracts as exceeds $1,500 with respect to any one insured individual;

"(D) so much of the sum of all gifts as each year exceeds $250, except there shall not be included any gift from any of such individuals;

"(E) so much of the sum of the fair market value of all property inherited from any individual as exceeds $1,000, except there shall not be included the value of real property if used as the primary residence of such individuals, nor shall there be included the value of any property inherited from a spouse;

"(F) all support and alimony payments;

"(G) interest on any tax-exempt government obligation;

"(H) damages, insurance payments, workmen's compensation payments, or other payments made—

"(i) for medical expenses

"(ii) for loss of wages or income, or

"(iii) for physical, mental, or other personal injuries or sickness,

which do not constitute reimbursement for medical expenses paid;

"(I) the rental value of parsonages;

"(J) combat pay and mustering-out payments to any member of the Armed Forces of the United States;

"(K) dividends, other than insurance policy dividends applied by the insurer to reduce insurance premiums;

"(L) meals and lodging supplied by an employer if and to the extent supplied at less than fair market values, without regard to whether supplied for the convenience of the employer;

"(M) any allowance for quarters or subsistence, or gratuity pay, paid to any member of the Armed Forces of the United States;

"(N) so much of the current or accumulated income of a trust or estate which could, within the discretion of any person with a nonadverse interest, be paid to an individual as beneficiary of such trust or estate as exceeds $3,000, except there shall not be included any amount in fact paid to any person other than such individual nor any amount previously included in adjusted gross income by reason of this subparagraph;

"(O) the entire gain from the sale or exchange of any capital asset;

"(P) unemployment compensation, without regard to the source thereof;

"(Q) strike benefits from any union or other agency or organization;

"(R) cash benefits pursuant to title II of the Social Security Act;

"(S) cash benefits under the Railroad Retirement Act of 1935, 1937, or 1974;

"(T) cash benefits (including readjustment benefits) under laws administered by the Veterans' Administration;

"(U) income from foreign sources;

"(V) loans from the Commodity Credit Corporation;

"(W) imputed income from capital as determined in accordance with paragraph (2);

"(X) overpayments of the tax imposed on such individuals;

"(Y) the amount of the reduction of such individuals' rental or mortgage costs under any public housing subsidy program; and

"(Z) cash benefits under the Coal Mine Health and Safety Act.

No amount of income or property given by any public agency or private charitable organization, of given on the basis of need, shall be considered a gift referred to in subparagraph (D) or a support payment referred to in subparagraph (F)

"(2) Income imputed from assets.—

"(A) In general.—The amount included in offset income under paragraph (1)(W) shall be an amount equal to the annual imputed income with respect to the total value of capital (appraised in accordance with subparagraph (C)) owned or controlled by such individuals computed in accordance with the following table, reduced by the amount (if any) of actual offset income with respect to such capital which is received by such individuals:

"If the total appraised value of capital owned or controlled by such individuals is:	The annual income to be imputed with respect to such capital shall be:
Less than $10,000	0.
At least $10,000 but less than $20,000	$100.
At least $20,000 but less than $30,000	$200.
At least $30,000 but less than $40,000	$300.
At least $40,000 but less than $50,000	$800.
At least $50,000 but less than $60,000	$1,300.
At least $60,000 but less than $70,000	$1,800.
At least $70,000	$2,800, plus 10% of value of capital in excess of $70,000.

"(B) Capital owned or controlled by such individuals.—For purposes of this subsection, the capital owned or controlled by any such individual shall be all of the real or personal property owned or controlled by such individual (whether tangible or intangible) wherever situated, to the extent of such individual's interest therein.

"(C) Appraisal of capital.—The appraisal of capital shall be made at such time as the Secretary or his delegate prescribes by regulations, on the basis of all capital owned or controlled at such time.

"(D) Valuation.—

"(i) Measure of value.—Under regulations prescribed by the Secretary or his delegate, the value of capital for purposes of this subsection shall be its fair market value. In the case where fair market value is not readily ascertainable, methods shall be prescribed for approximating the value. The value of capital shall be determined without regard to any mortgage, security interest, or any indebtedness with respect to such capital.

"(ii) Capital held jointly.—In the case of capital held jointly, whether or not partitionable, such capital shall be treated for purposes of this paragraph as if owned or controlled in separate proportional shares.

"(d) Limitations.—

"(1) Credit denied in case of certain taxpayer.—No credit shall be allowed under subsection (b) with respect to any taxpayer who—

"(A) is not at least 18 years of age, unless he is married, or has actual primary custody of a dependent child, or

"(B) is admitted to any mental retardation, mental health, or medical facility or any nursing home or custodial care facility either for an indefinite period, or for a specified period in excess of 3 months.

"(2) Credit denied in case of certain individuals and dependents.—No credit shall be allowed under subsection (b) with respect to any taxpayer, spouse, or dependent—

"(A) who does not have a permanent residence for the taxable year within the United States, and resides continuously during such taxable year within the United States,

"(B) who is confined to any penal or correctional institution during such taxable year, or

"(C) for whom an allowance under this section has been taken by another taxpayer for the taxable year.

"(3) Credit denied in case of certain dependents.—No credit shall be allowed under subsection (b) with respect to any dependent—

"(A) who has claimed a credit under subsection (b) for himself for the taxable year beginning in the calendar year in which the taxable year of taxpayer begins, or

"(B) is admitted to any mental retardation, mental health, or medical facility or any nursing home or custodial care facility, either for an indefinite period, or for a specified period in excess of 3 months.

"(4) Credit denied for failure of unemployed individual to register with public employment offices.—No credit shall be allowed under subsection (b) with respect to any taxpayer for any period for which the taxpayer (or the individual, other than the taxpayer, who, under regulations of the Secretary, is the 'head of family' of the family of which the taxpayer is a member) is unemployed and is not currently registered with the public employment offices in the State in which he resides, unless, during such period the taxpayer (or such individual) is—

"(A) a person whose presence in the home is required because of illness or incapacity of another member of the household,

"(B) the only adult member of the household who is available to meet (and capable of meeting) the child care needs of a child who is a member of the household, or

"(C) ill, incapacitated, or of advanced age.

"(e) Regulations.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this subsection.

"(f) Cross References.—

"(1) For disallowance of credit to estates and trusts, see section 642(a).

"(2) For prepayment of estimated credits as allowances for basic living expenses, see section 6429.".

(b) Refund of Excess Credit Available Other Than in Certain Cases.—Section 6401 (b) of such Code (relating to excessive credits treated as overpayments) is amended—

(1) by inserting "44A (relating to family allowance credits)," before "and 667 (b)"; and

(2) by striking out "and 43" and inserting in lieu thereof "43, and 44A".

(c) Assessment Authority.—Section 6201 (a)(4) of such Code (relating to assessment authority) is amended—

(A) by striking out "39 or 43." in the caption of such section and inserting in lieu thereof "39, 43, or 44A.", and

(B) by striking out "or section 43 (relating to earned income)," and inserting in lieu thereof a comma and "section 43 (relating to earned income), or section 44A (relating to family allowance credits),".

(d) Prepayment of Estimated Personal Credits to Recipients as Allowances for Basic Living Expenses.—

(1) In general.—Subchapter B of chapter 65 of subtitle F of such Code (relating to rules of special application for credits and refunds) is amended by adding at the end thereof the following new section:

"Sec. 6429. Family Allowance Credits Treated as Allowances for Basic Living Expenses.

"(a) General Rule.—An individual entitled to receive a credit under section 44A may elect to receive payment in accordance with subsection (b) with respect to estimated personal credits allowable under such section.

"(b) Payments of Amounts.—

"(1) Time and method of payment.—Payment under this section to any individual shall be made as provided in subtitle I.

"(2) Amount of payment.—Payment under this section shall, with respect to each allowance period, be equal to one-twelfth (or one-twenty-fourth ih the case of a semimonthly allowance payment under section 9901(a)(2)) of the amount of the personal credits the individual reasonably anticipates, based upon the facts and circumstances at the time of election, to be entitled to under section 44A with respect to the taxable year during which such allowance period occurs. Under regulations prescribed by the Secretary or his delegate, such individual shall report, and the Secretary or his delegate shall make appropriate adjustments in future payments under this section for, changes in facts and circumstances which bear on entitlement to, or the amount of, personal credits under section 44A.

"(c) Effect of Payment.—In the case of an individual who has elected to receive payment under this section, the sum of the personal credits which such individual (but for this subsection) would be entitled to under section 44A shall be reduced by the amount paid to such individual under this section."

(e) Credit Not Allowed for Estates and Trusts.—Section 642(a) (relating to special rules for credits and deductions) is amended by adding at the end thereof the following new subsection:

"(H) Family allowance.—An estate or trust shall not be allowed the credit against tax for family allowance under section 44A.".

(f) Conforming Amendments.—

(1) The table of sections for part IV of subchapter A of chapter 1 of such Code is amended by adding after the item relating to section 44 the following new item:

"Sec. 44A. Family allowance credits.".

(2) The table of sections for subchapter B of chapter 65 of subtitle F of such Code is amended by adding at the end thereof the following new item:

"Sec. 6429. Family allowance credits treated as allowances for basic living expenses.".

Sec. 105. Administration and Payment of Credit.

(a) In General.—The Internal Revenue Code of 1954 is amended by adding at the end thereof the following new subtitle:

"Subtitle I—Administration and Payments of Family Allowance Credits

"Chapter 98. Allowance; Definitions; Filing

"Sec. 9801. Payment of credit as allowance for basic living expenses.
"Sec. 9802. Definitions and special rules.
"Sec. 9803. Filing for allowances; returns, records, and information.

"Sec. 9801. Payment of Credit as Allowance for Basic Living Expenses.

"Subject to the provisions of this subtitle, an individual may elect, in lieu of a refund of credit under section 6401(b), to receive the credit allowance under section 44A as an allowance for basic living expenses in an amount determined under section 6429(b) (2) for each allowance period. Such election shall, except with the consent of the Secretary, be irrevocable for the taxable year in which made.

"Sec. 9802. Definitions and Special Rules.

"(a) Definition.—For purposes of this subtitle—

"(1) Allowance period.—The term 'allowance period' means any calendar month for which application is made for an allowance under this subtitle.

"(2) Base period.—The term 'base period' means the calendar month immediately preceding an allowance period.

"(3) State.—The term 'State' includes the District of Columbia.

"(4) Dependent.—The term 'dependent' has the meaning given such term by section 151(c).

"(b) Special Rules.—For purposes of this subtitle—

"(1) Qualification as dependent.—Any determination of whether an individual is a dependent shall be on the basis of the allowance period (or each allowance period) for which an allowance is sought, rather than on the basis of any other period. For purposes of any such determination, all amounts received by an individual under this subtitle shall be considered to be income of such individual although computed, in part, on the basis of any other individual for whom a credit is claimed.

"(2) Marital status.—

"(A) Period for determination.—Any determination of whether an individual is married shall be as of the beginning of any allowance period in question.

"(B) Certain individuals not considered married.—Any individual—

"(i) who is legally separated from his spouse under a decree of divorce or a decree or agreement of separate maintenance; or

"(ii) who files a statement that such individual's spouse has been continuously absent from such individual's household for the 4-week period preceding the week during which such statement is filed, and that there is no reasonable expectation such spouse will return;

shall not be considered as married.

"(C) Certain individuals considered married.—Any individual—

"(1) who shares a household with an individual who, but for this subparagraph, would not be considered his spouse, and

"(2) who, with such individual, has custody of a child born of such couple;

shall be considered married.

"Sec. 9803. Filing for Allowances; Returns, Records, and Information.

"(a) Application for Allowance.—Application for any allowance by any individual who elects to have the provisions of this subtitle apply for any taxable year shall for each allowance period be made in such manner as the Secretary or his delegate shall by regulation prescribe. Such application shall be filed not later than 14 days after the first day of the allowance period with respect to which application is made.

"(b) Content of Application.—Each application made under this section shall contain—

"(1) such information for determining eligibility for the allowance as the Secretary or delegate shall by regulation prescribe;

"(2) an information return reporting total income received during the base period, and such related information as shall be prescribed by such regulations;

"(3) the social security account number issued to the individual for purposes of section 205(c)(2)(A) of the Social Security Act;

"(4) a list of the names of each individual over 18 but less than 65 years of age for whom a credit was claimed under section 44A who is not permanently and totally disabled or who is not required to care for any child under 6 years of age (only 1 individual may be exempted from such list for having to provide such care), and the work qualifications of each such individual listed; and

"(5) such other information with respect to such period, or any preceding period, as may be required under such regulations.

"(c) Returns, Records, and Information.—Each individual who has received an allowance during his taxable year shall file in accordance with section 6012 or 6013 (without regard to the amount of income during such year) a return with respect to the income taxes imposed under subtitle A, together with a supplemental return regarding income received by individuals for whom a credit was claimed under section 44A and to whom such allowance was paid. Such returns shall contain such additional information as may be required for the recomputation of allowances under section 9902, and shall be filed within the time indicated in section 6072 for filing income tax returns. Each individual who is receiving or has received any such allowance shall keep such records, make such other returns, and furnish such information with respect to such allowance as the Secretary or his delegate shall prescribe by regulation.

"Chapter 99. Payment

"Sec. 9901. Payment of allowances.
"Sec. 9902. Regulations; overpayment or underpayment.
"Sec. 9903. Administration agreements with States; failure to enter into an agreement.
"Sec. 9904. Annual reports: authorization for appropriations.

"Sec. 9901. Payment of Allowances.

"(a) Time of Payment.—

"(1) In general.—Allowances provided under this subtitle shall be paid before the end of each allowance period for which application has been properly made.

"(2) Semimonthly payment.—If the individual making application elects (at such time and in such manner as the Secretary or his delegate shall by regulation prescribe) to a semimonthly payment of allowance, one-half of such allowance shall be paid in accordance with paragraph (1) and one-half shall be paid before the 15th day thereafter.

"(b) Form of Payment.—

"(1) In general.—Allowances under this subtitle shall be paid to the individual who made application under section 9802, except that if the Secretary or his delegate deems it appropriate, such payment may be made to any other person (including an appropriate public or private agency) who is interested or concerned with the welfare of such individual.

"(2) Payment in case of married individual.—

"(A) In general.—In the case of any married individual, payment of any allowance provided under this subtitle shall, subject to the exception set forth in paragraph (1), be made jointly to such individual and the spouse of such individual, if a credit under section 44A is claimed for such spouse by such individual.

"(B) Voluntary allocation of allowance.—An individual and his spouse for whom credit is claimed under section 44A, if entitled to an allowance under this subtitle may, subject to the exception set forth in paragraph (1), jointly elect (under regulations prescribed by the Secretary or his delegate) to each receive separate partial payment of such allowance in such proportion as they shall designate under such election. A separate election may be made by any married individual whose spouse has been continuously absent from the household for the four-week period preceding the week during which such election is made.

"Sec. 9902. Administration; Overpayment or Underpayment.

"(a) In General.—For purposes of administering this subtitle, the Secretary or his delegate shall prescribe such regulations as he finds necessary to carry out the purposes of this subtitle, and shall establish administrative procedures under such regulations based upon, and to the extent he deems appropriate, integrated with, the procedures existing for the administration of this title.

"(b) Overpayment or Underpayment of Allowance.—Whenever the Secretary or his delegate finds that more or less than the correct amount of allowance has been paid with respect to any individual, proper adjustment or recovery shall, subject to the succeeding provisions of this subsection, be made by appropriate adjustments in future payments to such individual, by recovery from or payment to such individual (or recovery from the estate of any such member), or by adjustment of the amount of the credit allowed under section 44A as provided by section 6429(c). The Secretary or his delegate shall make such provision as he finds appropriate in the case of payment of more than the correct amount of allowance with a view to avoiding penalizing any individual who was without fault in connection with the overpayment, if adjustment or recovery on account of such overpayment in such case would defeat the purposes of this subtitle, or would impede efficient or effective administration of this subtitle. No reduction in any allowance payment of an individual made for the purpose of collecting any overpayment of any preceding allowance may exceed one-fourth of the sum of—

"(1) the amount of such payment, and

"(2) the total income of such individual with respect to which such credit was determined.

"(c) Hearings and Review.—

"(1) In general.—The Secretary or his delegate shall provide reasonable notice and opportunity for a hearing to any individual who is or claims to be an individual eligible for receipt of an allowance under this subtitle and is in disagreement with any determination under this title with respect to eligibility of or receipt by such individual of such an allowance, or the amount of such allowance, if the individual requests a hearing on the matter in disagreement within thirty days after notice of such determination is received.

"(2) Time of determination.—A determination on the basis of such hearing shall be made within 90 days after the individual requests the hearing provided in paragraph (1).

"(3) Review.—The final determination of the Secretary or his delegate after a hearing under paragraph (1) shall be subject to judicial review to the same extent as a decision of the Secretary of Health, Education, and Welfare may be reviewed under section 205 (g) of the Social Security Act; except that the determination of the Secretary or his delegate after such hearing as to any fact shall be final and conclusive and not subject to review by any court.

"Sec. 9903. Administration Agreements With States; Failure to Enter Into an Agreement.

"(a) Agreements.—The Secretary or his delegate shall, whenever possible, enter into an agreement with the chief executive of a State or an agency of the State designated by the chief executive. Such agreement shall provide—

"(1) that the State will administer the allowance program under this subtitle including the preparation and distribution of applications, compilation and unification of all data, and the computation and recomputation of an allowance;

"(2) that the Federal Government will reimburse the State for the costs of such administration, if the Secretary or his delegate finds that the State has complied with such agreement, as follows—

"(A) 50 percent of such costs in 1977,

"(B) 45 percent of such costs in 1978,

"(C) 40 percent of such costs in 1979,

"(D) 35 percent of such costs in 1980,

"(E) 30 percent of such costs in 1981, and

"(F) 25 percent of such costs thereafter; and

"(3) such other provisions as the Secretary or his delegate finds advisable.

"(b) Failure to Enter Into an Agreement.—In order for any State to be eligible for payments pursuant to title XX of the Social Security Act with respect to expenditures after December 31, 1976, such State must have in effect an agreement with the Secretary or his delegate under subsection (a).

"Sec. 9904. Annual Reports; Authorization for Appropriations.

"(a) Annual Report.—The Secretary shall prepare and transmit to the Congress an annual report on the operation and administration of this subtitle which shall include his evaluations thereof and such recommendations for additional legislation as he may deem appropriate.

"(b) Authorization of Appropriations.—

"(1) In general.—There are authorized to be appropriated, out of any moneys in the Treasury not otherwise appropriated, such sums as may be necessary to carry out the provisions of this subtitle.

"(2) Research into improved administration.—There is authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, with respect to any fiscal year for research into improved administration of this subtitle, and for program evaluation and collection of data and statistics related to such administration, an amount not to exceed one-tenth of 1 percent of the amount determined by the Secretary to have been paid as allowances during the preceding fiscal year."

(b) Conforming Amendment.—

(1) The table of subtitles for the Internal Revenue Code of 1954 is amended by adding at the end thereof the following:

"Subtitle I.—Administration and Payment of Family Allowance Credits

"Chapter 98. Allowance; definitions; filing.
"Chapter 99. Payment.".

(2) The table of chapters and parts of the Internal Revenue Code of 1954 is amended by adding at the end thereof the following:

"Subtitle I—Administration and Payment of Family Allowance Credits

"Chapter 98—Allowance; Definitions; Filing ---------------------------- 9801.
"Chapter 99—Payments------------- 9801.

Sec. 106. Child Care Expenses.

Section 62 of the Internal Revenue Code of 1954 (relating to definition of adjusted gross income) is amended by adding at the end thereof the following new paragraph:

"(13) Child care expenses.—The deduction allowed by section 214.".

Sec. 107. Study.

The Joint Economic Committee shall conduct each year a study and investigation with respect to the amount of any reduction of administrative costs resulting from the provisions of this title. The Joint Economic Committee shall make a report of its study and investigation to the Congress prior to September 1 of each year in order that the Congress may implement reduction in taxes equal to the amount of such reduction.

Sec. 108. Repeal of WIN Credit.

(a) Repeal.—Section 40 of the Internal Revenue Code of 1954 (relating to credit for expenses of work incentive program) is repealed.

(b) Conforming Amendment.—The table of sections for part IV of subchapter A of chapter 1 is amended by striking out the item relating to section 40.

Sec. 109. Credit Not To Be Considered Income.

For purposes of determining eligibility for benefits under the National School Lunch Act, the Child Nutrition Act of 1966, or title XIX of the Social Security Act, any refund of any credit by reason of this title shall not be considered income.

Sec. 110. Effective Date.

The amendments made by this title apply to taxable years beginning after December 31, 1976.

TITLE II—MISCELLANEOUS, GENERAL, AND CONFORMING PROVISIONS

SEC. 201. ADDITIONAL TECHNICAL AND CONFORMING AMENDMENTS AND TRANSITIONAL PROVISIONS.

The Secretary of Health, Education, and Welfare, the Secretary of Agriculture, and the Secretary of Labor, shall, as soon as practicable after the date of the enactment of this Act but in any event not later than 90 days after the date of enactment of this Act, submit to the appropriate standing committees of the Senate and of the House of Representatives a draft of any technical and conforming changes in any Act or other laws, over which such Secretary has administrative responsibility, which may be necessary to reflect the changes in substantive provisions of law made by this title, including any special provisions which may be necessary to assure an orderly transition from existing programs to the new or modified programs established by this title.

SEC. 202. FOOD STAMP ACT AND LAWS RELATING TO COMMODITY DISTRIBUTION.

(a) FOOD STAMP ACT REPEAL.—The Food Stamp Act of 1964 is repealed effective with the close of December 31, 1976.

(b) LIMITATION ON COMMODITY DISTRIBUTION PROGRAMS.—Notwithstanding any other provision of law, on and after January 1, 1977, Federal funds shall not be available to defray so much of the costs incurred in the carrying out of any commodities or food distribution program, enacted prior to such date, as is attributable to the provision of commodities to any individual or family, residing within the United States, if eligibility of such individual or family for such commodities is based (wholly or in part) on the income or resources of such individual or family.

SEC. 203. AID TO FAMILIES WITH DEPENDENT CHILDREN PROGRAM.

(a) IN GENERAL.—

(1) REPEAL OF PROVISIONS.—Effective with the close of December 31, 1976, so much of title IV of the Social Security Act as precedes part D thereof is hereby repealed.

(2) SAVINGS PROVISIONS.—The repeal made by paragraph (1), insofar as it relates to part A of title IV of the Social Security Act, shall not be applicable in the case of the Commonwealth of Puerto Rico, Guam, and the Virgin Islands.

(b) CONFORMING AMENDMENTS.—Part D of title IV of the Social Security Act is amended as follows:

(1) Section 453(c)(3) is amended by striking out "(other than a child receiving aid under part A of this title)".

(2) Section 454 is amended—

(A) by striking out "with respect to whom an assignment under section 402(a)(26) of this title is effective" in paragraph (4)(A) and inserting in lieu thereof "with respect to whose family there is payable a family assistance allowance under subtitle I of the Internal Revenue Code of 1954";

(B) by striking out "with respect to whom such assignment is effective" in paragraph (4)(B) and inserting in lieu thereof "with respect to whose family there is payable such an allowance";

(C) by striking out "with respect to whom an assignment under section 402(a)(26) is effective" in paragraph (5) and inserting in lieu thereof "with respect to whose family there is payable a family assistance allowance under subtitle I of the Internal Revenue Code of 1954"; and

(D) by striking out "ineligible for assistance under the State plan approved under part A" in paragraph (5) and inserting in lieu thereof "ineligible for such an allowance".

(3) Section 456 is amended—

(A) by striking out "The support rights assigned to the State under section 402(a)(26)" in subsection (a) and inserting in lieu thereof "Any right which a member of a family with respect to which a family assistance allowance is payable under subtitle I of the Internal Revenue Code of 1954 may have to support from any other person"; and

(B) by striking out "assigned to a State under section 402(a)(26)" in subsection (b) and inserting in lieu thereof "constituting an obligation owed to a State under subsection (a)".

(4) Section 458(a) is amended by striking out "the support rights assigned under section 402(a)(26)" and inserting in lieu thereof "a support obligation owed under section 456(a)".

SEC. 204. TERMINATION OF PROGRAM OF SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED.

Effective with the close of December 31, 1976, title XVI of the Social Security Act (relating to program of supplemental security income for the aged, blind, and disabled) is repealed.

SEC. 205. EMERGENCY ASSISTANCE FOR NEEDY FAMILIES WITH CHILDREN.

(a) IN GENERAL.—The Social Security Act is amended by adding at the end thereof the following new title:

"TITLE XXI—EMERGENCY ASSISTANCE FOR NEEDY FAMILIES WITH CHILDREN

"AUTHORIZATIONS OF APPROPRIATIONS

"SEC. 2101. For the purpose of enabling each State to provide emergency assistance to needy families with children, there is hereby authorized to be appropriated for each fiscal year a sum sufficient to carry out the purposes of this part. The sums available under this section shall be used for making payments to States which have submitted, and have had approved by the Secretary, State plans for emergency assistance to needy families with children.

"STATE PLANS FOR EMERGENCY ASSISTANCE FOR NEEDY FAMILIES WITH CHILDREN

"SEC. 2102. (a) A State plan for emergency assistance for needy families with children must—

"(1) provide that it shall be in effect in all political subdivisions of the State, and, if administered by them, be mandatory upon them;

"(2) provide for financial participation by the State;

"(3) either provide for the establishment or designation of a single State agency to administer the plan, or provide for the establishment or designation of a single State agency to supervise the administration of the plan;

"(4) provide for granting an opportunity for a fair hearing before the State agency to any individual whose claim for emergency assistance is denied or is not acted upon with reasonable promptness;

"(5) provide such methods of administration (including methods relating to the establishment and maintenance of personnel standards on a merit basis, except that the Secretary shall exercise no authority with respect to the selection, tenure of office, and compensation of any individual employed in accordance with such methods) as are found by the Secretary to be necessary for the proper and efficient operation of the plan;

"(6) provide that the State agency will make such reports, in such form and containing such information, as the Secretary may from time to time require, and comply with such provisions as the Secretary may from time to time find necessary to assure the correctness and verification of such reports;

"(7) provide that the State agency shall, in determining need, take into consideration all income and resources of the members of any family claiming emergency assistance for needy families with children;

"(8) provide safeguards which restrict the use of disclosure of information concerning applicants or recipients to purposes directly connected with (A) the administration of the plan of the State approved under this title, the plan or program of the State under part D of title IV, or under title XIX, or XX, (B) any investigation, prosecution, or criminal or civil proceeding, conducted in connection with the administration of any such plan or program, and (C) the administration of any other Federal or federally assigned program which provides assistance, in cash or in kind, or services, directly to individuals on the basis of need; and the safeguards so provided shall prohibit disclosure, to any committee or a legislative body, of any information which identifies by name or address any such applicant or recipient;

"(9) provide that all individuals wishing to make application for emergency assistance for needy families with children shall have opportunity to do so, and that such assistance shall be furnished with reasonable promptness to all eligible families;

"(10) provide for prompt notice (including the transmittal of all relevant information) to the State child support collection agency (established pursuant to part D of this title) of emergency assistance with respect to a child who has been deserted or abandoned by a parent (including a child born out of wedlock without regard to whether the paternity of such child has been established);

"(11) provide that where the State agency has reason to believe that the home in which a child receiving emergency assistance resides is unsuitable for the child because of the neglect, abuse, or exploitation of such child it shall bring such condition to the attention of the appropriate court or law enforcement agencies in the State, providing such data with respect to the situation it may have; and

"(12) provide (A) that, as a condition of eligibility under the plan, each applicant for or recipient of emergency assistance shall furnish to the State agency his social security account number (or numbers, if he has more than one such number), and (B) that such State agency shall utilize such account numbers, in addition to any other means of identification it may determine to employ in the administration of such plan.

"(b) The Secretary shall approve any plan which fulfills the conditions specified in subsection (a), except that he shall not approve any plan which imposes as a condition of eligibility for emergency assistance for needy families with children a residence requirement which denies emergency assistance to any otherwise eligible family which is physically present in the State.

"PAYMENTS TO STATES

"SEC. 2103. (a) From the sums appropriated therefor, the Secretary shall pay to each State which has a plan approved under this title, for each quarter, beginning with the quarter commencing January 1, 1977—

"(1) an amount equal to 50 per centum of the total amount expended under the State plan during such quarter as emergency assistance to needy families with children, plus

"(2) an amount equal to 50 per centum of the sums expended during such quarter as found necessary by the Secretary for the proper and efficient administration of the State plan.

"(b)(1) Prior to the beginning of each quarter, the Secretary shall estimate the amount to which a State will be entitled under subsection (a) for such quarter, such estimates to be based on (A) a report filed by the State containing its estimate of the total sum to be expended in such quarter in accordance with the provisions of such subsection, and stating the amount appropriated or made available by the State and its political subdivisions for such expenditures in such quarter, and if such amount is less than the State's proportionate share of the total sum of such estimated expenditures, the source or sources from which the difference is expected to be derived, and (B) such other investigation as the Secretary may find necessary.

"(2) The Secretary shall then pay to the State, in such installments as he may determine, the amounts so estimated, reduced or increased to the extent of any overpayment or underpayment which the Secretary determines was made under this section to such State for any prior quarter and with respect to which adjustment has not already been made under this subsection.

"(3) The pro rata share to which the United States is equitably entitled, as determined by the Secretary, of the net amount recovered during any quarter by the State or any political subdivision thereof with respect to emergency assistance furnished under the State plan shall be considered to be an overpayment to be adjusted under this subsection.

"(4) Upon the making of an estimate by the Secretary under this subsection, any appropriations available for payments under this section shall be deemed to be obligated.

"OPERATION OF STATE PLANS

"SEC. 2104. In the case of any State plan for emergency assistance for needy families with children which has been approved by the Secretary, if the Secretary, after reasonable notice and opportunity for hearing to the State agency administering or supervising the administration of such plan, finds—

"(1) that the plan has been so changed as to impose any residence requirement prohibited by section 2102(b), or that in the administration of the plan any such prohibited requirement is imposed, with the knowledge of such State agency, in a substantial number of cases; or

"(2) that in the administration of the plan there is a failure to comply substantially with any provision required by section 2102 (a) to be included in the plan;

the Secretary shall notify such State agency that further payments will not be made to the State (or, in his discretion, that payments will be limited to categories under or parts of the State plan not affected by such failure) until the Secretary is satisfied that such prohibited requirement is no longer so imposed, and that there is no longer any such failure to comply. Until he is so satisfied he shall make no further payments to such State (or shall limit payments to categories under or parts of the State plan not affected by such failure).

"DEFINITIONS

"SEC. 2105. When used in this title—

"(a) The term 'State' includes only one of the fifty States or the District of Columbia.

"(b) (1) The term 'emergency assistance to needy families with children' means any of the following, furnished for a period not in excess of 30 days in any 12-month period, in the case of a needy child under the age of 21, who is—or, within such period as may be specified by the Secretary, has been—living with any of the relatives specified in subsection (c) in a place of residence maintained by one or more of such relatives as his or their own home, but only where such child is without available resources, the payments, care, or services involved are necessary to avoid destitution of such child or to provide living arrangements in a home for such child, and such destitution or need for living arrangements did not arise because such child or relative refused without good cause to accept employment or training for employment—

"(A) money payments, payments in kind, or such other payments as the State agency may specify with respect to, or medical care or any other type of remedial care recognized under State law on behalf of such child or any other member of the household in which he is living, and

"(B) such services as may be specified by the Secretary.

"(2) Emergency assistance as authorized under paragraph (1) may be provided under the conditions specified in such paragraph to migrant workers with families in the State or in such part or parts thereof as the State shall designate.

"(c) The term 'relative', when employed in subsection (b) (1) with reference to any child, means one of the following relatives of such child: father, mother, grandfather, grandmother, brother, sister, stepfather, stepmother, stepbrother, stepsister, uncle, aunt, first cousin, nephew, or niece, who maintains a place of residence (alone or with others) as his or their own home.".

SEC. 206. FOOD STAMP PROGRAM FOR PUERTO RICO, GUAM, AND THE VIRGIN ISLANDS.

(a) The Secretary of Health, Education, and Welfare shall establish, and with the assent and cooperation of the governments affected, place in operation on January 1, 1977 (or as soon thereafter as possible), in Puerto Rico, Guam, and the Virgin Islands, a food stamp program designed to assure a diet meeting minimum standards for needy households located therein. Such program shall be patterned after, and to the maximum extent feasible utilize the same criteria for determining eligibility for and extent of assistance available to needy households as that employed in, the Food Stamp Act of 1964, as in effect on the date of enactment of this Act.

(b) There are hereby authorized to be appropriated for each fiscal year such sums as may be necessary to carry out the provisions of this section. Of the funds available for carrying out the food stamp program, established by the Food Stamp Act of 1964, in Puerto Rico, Guam, and the Virgin Islands for the fiscal year ending September 30, 1977, any amounts remaining unobligated as of the close of December 31, 1976, shall be made available for the carrying out of the program, authorized under subsection (a), for the period beginning January 1, 1977, and ending September 30, 1977.

SEC. 207. MANDATORY STATE SUPPLEMENTATION FOR FORMER AFDC RECIPIENTS AND FORMER SSI RECIPIENTS.

(a) IN GENERAL.—The Social Security Act is amended by adding after title XXI thereof (as added by section 205 of this Act) the following new title:

"TITLE XXII—MANDATORY STATE SUPPLEMENTATION FOR CERTAIN FAMILIES WITH DEPENDENT CHILDREN AND CERTAIN AGED, BLIND, OR DISABLED INDIVIDUALS

"MANDATORY STATE SUPPLEMENTATION AGREEMENTS

"SEC. 2201. In order for any State to be eligible for payments pursuant to title X, with respect to expenditures for any quarter beginning after December 1976 and prior to January 1, 1980, such State must have in effect an agreement with the Secretary whereby the State will provide to—

"(1) families with dependent children under part A of this Act (as in effect immediately prior to January 1, 1977) who would otherwise suffer a reduction in family income by reason of the enactment of this Act, and

"(2) aged, blind, or disabled individuals receiving (and were lawfully entitled to) benefits under the supplemental security income program established by title XVI of this Act for the month of December 1976, who would otherwise suffer a reduction in family income by reason of the enactment of this Act,

supplementary payments in the amounts needed (as prescribed under regulations of the Secretary) to maintain their total family income (for any month)—

"(3) in the case of a month which commences after December 31, 1976 and prior to January 1, 1978, at a level equal to 95 per centum of the level at which it would be (for such month) if the programs repealed by this Act had continued in effect as they were in effect for the month of December 1976,

"(4) in the case of a month which commences after December 31, 1977, and prior to January 1, 1979, at a level equal to 90 per centum of the level at which it would be (for such month) if the programs repealed by this Act had continued in effect as they were in effect for the month of December 1976, and

"(5) in the case of a month which commences after December 31, 1978, and prior to January 1, 1980, at a level equal to 85 per centum of the level at which it would be (for such month) if the programs repealed by this Act had continued in effect as they were in effect for the month of December 1976.

"COMPLIANCE WITH AGREEMENT

"SEC. 2202. In the case of any State having in effect an agreement under section 2201, if the Secretary, after reasonable notice and opportunity to the State, finds that the State is not substantially carrying out its obligations under the agreement, the Secretary shall notify the State that further payments will not be made to the State under title XX until the Secretary is satisfied that there is no longer a failure of the State substantially to carry out its obligations under such agreement.".

SEC. 208. TERMINATION OF CERTAIN HOUSING SUBSIDY PROGRAMS

After December 31, 1976, the Secretary of Housing and Urban Development shall not enter into any contract to make annual contributions under section 8 of the United States Housing Act of 1937 or to make assistance payments under section 235 of the National Housing Act pursuant to a commitment issued on or before such date.

SEC. 209. EXTENSION OF UNEMPLOYMENT COMPENSATION COVERAGE TO CERTAIN AGRICULTURAL WORKERS AND CERTAIN DOMESTIC WORKERS.

(a) COVERAGE OF CERTAIN AGRICULTURAL EMPLOYMENT.—

(1) NONCASH REMUNERATION.—Section 3306 (b) of the Internal Revenue Code of 1954 (defining wages) is amended by striking out "or" at the end of paragraph (9), by striking out the period at the end of paragraph (10) and inserting in lieu thereof "; or", and by adding at the end thereof the following new paragraph:

"(11) remuneration for agricultural labor paid in any medium other than cash.".

(2) COVERAGE OF AGRICULTURAL LABOR.—Paragraph (1) of section 3306(c) of such Code (defining employment) is amended to read as follows:

"(1) agricultural labor (as defined in subsection (k)) unless—

"(A) such labor is performed for a person who—

"(i) during any calendar quarter in the calendar year or the preceding calendar year paid remuneration in cash of $10,000 or more to individuals employed in agricultural labor (not taking into account labor performed before January 1, 1979, by an alien referred to in subparagraph (B)), or

"(ii) on each of some 20 days during the calendar year or the preceding calendar year, each day being in a different calendar week, employed in agricultural labor (not taking into account labor performed before January 1, 1979, by an alien referred to in subparagraph (B)) for some portion of the day (whether or not at the same moment of time) 4 or more individuals; and

"(B) such labor is not agricultural labor performed before January 1, 1979, by an individual who is an alien admitted to the United States to perform agricultural labor pursuant to sections 214(c) and 101(a)(15)(H) of the Immigration and Nationality Act;".

(3) Effective Date.—The amendments made by this section shall apply with respect to remuneration paid after December 31, 1976, for services performed after such date.

(b) Treatment of Certain Farmworkers.—

(1) General Rule.—Section 3306 of the Internal Revenue Code of 1954 (relating to definitions) is amended by adding at the end thereof the following new subsection:

"(o) Special Rule in Case of Certain Agricultural Workers.—

"(1) Crew leaders who are registered or provide specialized agricultural labor.—For purposes of this chapter, any individual who is a member of a crew furnished by a crew leader to perform agricultural labor for any other person shall be treated as an employee of such crew leader—

"(A) if—

"(i) such crew leader holds a valid certificate of registration under the Farm Labor Contractor Registration Act of 1963; or

"(ii) substantially all the members of such crew operate or maintain tractors, mechanized harvesting or crop-dusting equipment, or any other mechanized equipment, which is provided by such crew leader; and

"(B) if such individual is not an employee of such other person within the meaning of subsection (i).

"(2) Other crew leaders.—For purposes of this chapter, in the case of any individual who is furnished by a crew leader to perform agricultural labor for any other person and who is not treated as an employee of such crew leader under paragraph (1)—

"(A) such other person and not the crew leader shall be treated as the employer of such individual; and

"(B) such other person shall be treated as having paid cash remuneration to such individual in an amount equal to the amount of cash remuneration paid to such individual by the crew leader (either on his behalf or on behalf of such other person) for the agricultural labor performed for such other person.

"(3) Crew leader.—For purposes of this subsection, the term 'crew leader' means an individual who—

"(A) furnishes individuals to perform agricultural labor for any other person,

"(B) pays (either on his behalf or on behalf of such other person) the individuals so furnished by him for the agricultural labor performed by them, and

"(C) has not entered into a written agreement with such other person under which such individual is designated as an employee of such other person.".

(2) Effective Date.—The amendment made by subsection (a) shall apply with respect to remuneration paid after December 31, 1976, for services performed after such date.

(c) Coverage of Domestic Service.—

(1) General rule.—Paragraph (2) of section 3306(c) of the Internal Revenue Code of 1954 (defining employment) is amended to read as follows:

"(2) domestic service in a private home, local college club, or local chapter of a college fraternity or sorority unless performed for a person who paid cash remuneration of $600 or more to individuals employed in such domestic service in any calendar quarter in the calendar year or the preceding calendar year;".

(2) Effective Date.—The amendment made by subsection (a) shall apply with respect to remuneration paid after December 31, 1976, for services performed after such date.

(d) Definition of employer.

(1) General Rule.—Subsection (a) of section 3306 of the Internal Revenue Code of 1954 (defining employer) is amended to read as follows:

"(a) Employer.—For purposes of this chapter—

"(1) In general.—The term 'employer' means, with respect to any calendar year, any person who—

"(A) during any calendar quarter in the calendar year or the preceding calendar year paid wages of $1,500 or more, or

"(B) on each of some 20 days during the calendar year or during the preceding calendar year, each day being in a different calendar week, employed at least one individual in employment for some portion of the day. For purposes of this paragraph, there shall not be taken into account any wages paid to, or employment of, an employee performing domestic services referred to in paragraph (3).

"(2) Agricultural labor.—In the case of agricultural labor, the term 'employer' means, with respect to any calendar year, any person who—

"(A) during any calendar quarter in the calendar year or the preceding calendar year paid wages of $5,000 or more for agricultural labor, or

"(B) on each of some 20 days during the calendar year or during the preceding calendar year, each day being in a different calendar week, employed at least 4 individuals in employment in agricultural labor for some portion of the day.

"(3) Domestic service.—In the case of domestic service in a private home, local college club, or local chapter of a college fraternity or sorority, the term 'employer' means, with respect to any calendar year, any person who during any calendar quarter in the calendar year or the preceding calendar year paid wages in cash of $600 or more for such service.

"(4) Special rule.—A person treated as an employer under paragraph (3) shall not be treated as an employer with respect to wages paid for any service other than domestic service referred to in paragraph (3) unless such person is treated as an employer under paragraph (1) or (2) with respect to such other service."

(2) Technical Amendment.—Subsection (a) of section 6157 of such Code (relating to payment of Federal unemployment tax on quarterly or other time period basis) is amended to read as follows:

"(a) General Rule.—Every person who for the calendar year is an employer (as defined in section 3306(a)) shall—

"(1) if the person is such an employer for the preceding calendar year (determined by only taking into account wages paid and employment during such preceding calendar year), compute the tax imposed by section 3301 for each of the first 3 calendar quarters in the calendar year on wages paid for services with respect to which the person is such an employer for such preceding calendar year (as so determined), and

"(2) if the person is not such an employer for the preceding calendar year with respect to any services (as so determined), compute the tax imposed by section 3301 on wages paid for services with respect to which the person is not such an employer for the preceding calendar year (as so determined)—

"(A) for the period beginning with the first day of the calendar year and ending with the last day of the calendar quarter (excluding the last calendar quarter) in which such person becomes such an employer with respect to such services, and

"(B) for the third calendar quarter of such year, if the period specified in subparagraph (A) includes only the first two calendar quarters of the calendar year.

The tax for any calendar quarter or other period shall be computed as provided in subsection (b) and the tax as so computed shall, except as otherwise provided in subsections (c) and (d), be paid in such manner and at such time as may be provided in regulations prescribed by the Secretary or his delegate."

(3) Effective Date.—The amendments made by this section shall apply with respect to remuneration paid after December 31, 1976, for services performed after such date.

IN TRIBUTE: DAVID WALLIS

Mr. HATFIELD. Mr. President, the visit to this country of Queen Elizabeth II during our Bicentennial Year focuses attention on United States ties with Great Britain. Her visit reminds us of the many Englishmen who have contributed to cordial relations between our two countries over the years.

With this in mind, I want to pay tribute to someone who has played a part in maintaining these ties, Individual contacts can be shown time and time again to have contributed to a greater understanding of another people and their culture.

A constituent has alerted me that next week marks the birthday of someone who has helped in such efforts throughout his life. David Wallis, born an Englishman and now an American citizen, is a good example of this spirit. His dedication to greater understanding between the peoples of Great Britain and the United States is a reminder of what one person can do. On August 5, I will join others in saluting him and wishing him many more years of success.

JABBOUR NAMED DIRECTOR OF FOLKLIFE CENTER

Mr. ABOUREZK. Mr. President, the American Folklife Center, established within the Library of Congress with responsibility for identifying and preserving all forms of American folklife, last week appointed Dr. Alan Jabbour, the former director of Folk Arts at the National Endowment for the Arts, as its first staff director. Dr. Jabbour's selection by the Librarian of Congress, in consultation with the Board of Trustees of the Center is, in my opinion, and excellent one and demonstrative of the value being placed on the preservation of American folklife by the Librarian of Congress. I share that feeling wholeheartedly.

I have known Dr. Jabbour both personally and professionally, and was very pleased to learn of this appointment. The legislation creating the Center took several years to finally enact. I am confident that with Dr. Jabbour as operating head of the Center, the traditions of American folklore will be preserved and expanded.

Mr. President, I ask unanimous consent that the text of the announcement of Dr. Jabbour's appointment to be Director of the Center be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE LIBRARY OF CONGRESS,
Washington, D.C., July 23, 1976.

NATIONALLY KNOWN FOLKLORIST TO HEAD CENTER IN LIBRARY OF CONGRESS

The American Folklife Center, recently established in the Library of Congress, will be headed by Alan Jabbour, administrator, educator, musician, and musicologist, Librarian of Congress Daniel J. Boorstin has announced. Director of Folk Arts at the National Endowment for the Arts since April 1974, Dr. Jabbour will take his new post on August 2. "Dr. Jabour is a singularly happy choice for this position," said Dr. Boorstin in making the announcement, "for he brings not only administrative skills and scholarship to the new Center, but also a knowledge unmatched by anyone else of the folk cultural activities and movements in the United States. The Board is very pleased that he was able to accept the directorship."

A native of Florida, Dr. Jabbour is a graduate, magna cum laude, of the University of Miami (1963) with M.A. (1966) and Ph.D. (1968) degrees from Duke University. His graduate study was supported by a Woodrow Wilson Fellowship, a Duke Scholarship, and a Danforth Fellowship; it resulted in a thesis on the collecting, editing, and analysis of Anglo-American folk music and a dissertation on the oral transmission of Old English poetry. At the University of California at Los Angeles, where he became Assistant Professor of English and Folklore, he taught graduate and undergraduate courses in the ballad, Anglo-American folksong, folklore and literature, and medieval English literature. He was active at UCLA in programs like those of the Folklore and Mythology Group.

While he was a student, Alan Jabbour made extensive field trips in North Carolina, Virginia, and West Virginia. The folksong and instrumental folk music items he recorded on tape on those trips are now in the Library of Congress. The collection is particularly rich in traditional fiddle tunes from the Upper South. A violinist himself from the age of seven, and a member at various times of the Jacksonville Symphony, the Brevard Music Festival Orchestra, the Miami Symphony, and the University of Miami String Quartet, Dr. Jabbour has been particularly interested in American fiddling and edited a long-playing recording derived from recorded material in the Library of Congress Archive of Folk Song, published by the Library as "American Fiddle Tunes."

Appointed Head of the Library of Congress Archive of Folk Song in September 1969, Dr. Jabbour took his place in a line of distinguished folklorists—Robert Gordon, John Lomax, Benjamin A. Botkin, Duncan Emrich, and Rae Korson. He supervised the maintenance and use of collections of over 20,000 recordings—cylinders, discs, wire spools, and tapes—containing over 100,000 items of folksong, folk music, folk tale, oral history, and other types of folklore, and over 200,000 sheets of manuscript material in the field of folklore, ethnic studies, and slave narratives. With photographer and filmmaker Carl Fleischhauer, he undertook a three-year project to research, record, and photography the history of a single Appalachian family; the resulting album of two recordings entitled "The Hammons Family: A Study of a West Virginia Family's Traditions," was published by the Library of Congress in 1973.

Alan Jabbour was also responsible for the initiation of one of the Library's American Revolution Bicentennial projects, an anthology of 15 long-playing records containing examples of major folk music traditions of the United States—Anglo-American, Afro-American, American Indian, and other rural and urban ethnic groups. The first five recordings in this series, "Folk Music in America," have already appeared.

In 1974 he moved to the National Endowment for the Arts, where he began the agency's grant program in folk arts. Under his direction the Arts Endowment's Folk Arts Program has grown rapidly as a source of funding for the varieties of folk cultural expression in the United States. During the past two years, over $1.6 million has been granted to assist over 100 projects in 44 states. It has lent assistance to rural and urban projects, involving a wide range of ethnic and cultural groups and a broad geographical distribution throughout the nation. Projects have included festivals, residencies, tours, exhibits, documentation projects, radio, television, film, videotape, recording, photography, and assistance to local, state, and other organizations in developing their capacity to work with folk culture. Dr. Jabbour also served as consultant to other Arts Endowment programs with a folk cultural component, such as the Artists-in-Schools Program and the Jazz/Folk/Ethnic Music Program.

Established by the American Folklife Preservation Act of January 1976, the American Folklife Center Dr. Jabbour will direct is governed by a Board of Trustees of 12 members, four each appointed by the President of the United States, the Speaker of the U.S. House of Representatives, and the President pro tempore of the U.S. Senate. As Director Dr. Jabbour will also serve on the board, together with the Librarian of Congress, the Secretary of the Smithsonian Institution, the Chairman of the National Endowment for the Arts, and the Chairman of the National Endowment for the Humanities. The Center's mandate is to nurture, preserve, and disseminate American folklife through a broad range of activities, including research, performance, exhibition, workshops, publications, archives, and recording.

REFORMS NEEDED AT HEW'S OFFICE OF EDUCATION TO IMPROVE STUDENT LOAN PROGRAM

Mr. PERCY. Mr. President, for some time I have been deeply concerned about the administration of the federally insured student loan program administered by the Office of Education. Hearings held by the Permanent Subcommittee on Investigations last fall, chaired so ably by SAM NUNN, demonstrated that this program was in serious difficulty due to an apparent lack of will at the Office of Education to correct numerous flaws in the system. Many of these flaws, including the failure of OE to require stringent accreditation procedures before admitting a school into the program, could be corrected administratively.

In February, I wrote Education Commissioner Terrel H. Bell, outlining a series of administrative changes that could correct many of the imperfections in the program. After 3 months the Commissioner responded, to the effect that most of the changes would inconvenience the bureaucracy at OE. I regretfully regarded his letter as a cavalier dismissal of proposals that were offered in good faith. Accordingly I recently followed-up on these recommendations by bringing to the personal attention of David Mathews, the Secretary of Health, Education, and Welfare, my exchange of correspondence with Commissioner Bell. I have written and been in personal contact with Secretary Mathews concerning this most important issue and he has assured me that he will give priority attention to it by moving affirmatively to correct administrative problems in the student loan program.

Mr. President, since this matter is of such importance to millions of students and taxpayers, I ask unanimous consent to have printed in the RECORD my correspondence with Commissioner Bell and Secretary Mathews. I fully hope and expect that corrective measures will be undertaken forthwith.

There being no objection, the correspondence was ordered to be printed in the RECORD, as follows:

WASHINGTON, D.C.
July 2, 1976.

Hon. DAVID MATHEWS,
Secretary, Department of Health, Education, and Welfare, Washington, D.C.

DEAR MR. SECRETARY: The Senate Permanent Subcommittee on Investigations, in December 1975, held comprehensive hearings into the administration of the Guaranteed Student Loan Program by the Office of Education. A number of issues arose during those hearings which gave me cause for concern about the implementation of the program.

With approximately 19,000 institutions eligible for participation in the program, and with more than 3.5 million loans worth $3.8 billion made since the program started, these concerns take on added dimension. The Office of Education cannot be proud of its own prediction that in fiscal 1976, the loan default rate in the state-administered Student Loan Guarantee Programs will be 10.5 percent, while the federally-administered portion of the program is estimated to be nearly double that, or 19 percent. Moreover, the previous history of OE's management of the program, which before fiscal 1976 had a default rate of almost 25 percent on these loans, compels me to pursue this matter with you.

On February 16, 1976, I wrote Education Commissioner Terrel Bell expressing my reservations and offering suggestions for reform. A response was finally received May 7, 1976—three months later—after numerous inquiries by my office.

I have given the Commissioner's response a great deal of study and concluded that, while responsive in some respects, it is disappointingly unresponsive on the whole. For this reason, I am taking the unusual step of bringing to your direct attention some of the problems that I believe the Office of Education has not addressed in a good faith manner.

Most disturbing is an entirely negative attitude toward the need for administrative measures requiring accrediting organizations to tighten up the approval process for schools participating in the Student Loan Program. Specifically, accrediting bodies should:

perform in-depth background checks on the principals operating each school.

closely examine the sources of capital support for such schools.

verify, at least on a sampling basis, the academic credentials and experience of teachers at each school.

conduct periodic, unannounced visits at each school.

require that all accreditation reports sent to OE be notarized.

notify OE when information is developed indicating that persons backing any school participating in the Federal Student Loan Program may have engaged in illegal conduct or acts of moral turpitude.

In response to these suggestions, Commissioner Bell noted that "while they are commendable in spirit, most of them could not be practically and effectively implemented by the accrediting agencies as they are now constituted."

I find this summary dismissal unacceptable and, in at least one respect, contradictory. My suggestion of unannounced inspections was previously supported by Commissioner Bell during his testimony on December 16, 1975, before the Subcommittee. On that date, I asked the Commissioner about the desirability of unannounced visits. He replied in part:

"I have lived all my life in the academic community. I have gotten ready for accreditation visits. I know what you do to pass . . .

"So I think we do have to rethink that whole process quite carefully. But you do make a good point. You can gear up and pass muster during accreditation and then lapse back to what is a less desirable mode of operation."

In addition to this contradiction, the lack of willingness to attack other serious problems discussed in my letter is troublesome. I proposed that proprietary schools be eliminated as lenders. The Commissioner agrees that this would be desirable but indicates that legislation is required to effect that result. While I have doubts that OE's hands are so legislatively tied, I see nothing to interfere with immediate refusal on the part of OE to allow any *additional* proprietary schools to be designated as lenders. Surely, this interim step could be taken to put a halt to some of the most blatant abuses. The urgency is apparent: While the overall default rate in the program is 24.3 per cent, the General Accounting Office advises me that the default rate in proprietary schools is an astonishing 47.6 per cent. This is three times the 15.4 per cent default rate at public schools participating in the program and four times the 11.9 per cent rate at private non-profit schools.

I am further disappointed by the Commissioner's response to my suggestion that all eligible schools in the program submit to an annual outside audit of their operation, properly notarized. This would enable OE to have a reliable and timely assessment of the financial stability of each institution within the program. Such a requirement, the Commissioner contended, "would place a substantial additional cost and reporting burden on almost all post-secondary institutions in the nation." While Commissioner Bell concedes that OE now has the authority to require such an audit, it has seldom done so. This reluctance to use such an important management tool is yet another demonstration of an attitude of timidity at OE which has led to the waste of millions of taxpayer dollars.

The additional cost of an outside audit would represent a minimal cost to each school for assuring the taxpayer's agent, HEW, that no ripoffs or con games were taking place. Such an audit should be a *sine qua non* for determining eligibility for government-backed loans. In OE's rejection of this proposal, I sense an absence of will on the part of that agency to properly monitor this program. While perfectly willing to compile a great deal of needless information, OE summarily rejects the prospect of acquiring *better, more reliable* information.

Similarly, the Commissioner turns thumbs down on imposing a bonding requirement on proprietary schools. He argues that such a requirement would have to be applied to all schools. Again, I question the legal basis for the Commissioner's position—especially in light of the additional default risk where proprietary schools act as lenders. But even if, legally, the added safeguard cannot be applied to proprietary schools alone, I see no reason why it should not apply across the board—to all schools. The loan guarantee program is in serious trouble and this is one relatively simple measure which could help to stem further abuse.

Taken as a package, my proposals for immediate administrative remedies, while awaiting new legislation, were meant to overcome the chaos that pervades the administration of the Student Loan Program. You are, I am sure, well aware of the testimony under oath before the Subcommittee, regarding OE's woeful performance. That testimony shows lost or missing records, a default rate that is excessive, and points up a number of unscrupulous hucksters who regard the program as a license to steal or defraud.

I reject the Commissioner's position that reforms of the kind I proposed "could not be practically and effectively implemented." The real question here is whether HEW intends to improve the administration of the program to the point where it will stop the fly-by-night operator in his tracks. If it takes major reform, even if that inconveniences some, so be it. That is a small price to pay for continuing this program, which is so noble in purpose.

As unsettling as it may be for the bureaucracy at OE, as well as the accrediting organizations and the schools involved, vigorous corrective action must be undertaken. Out-of-hand rejection of needed reform simply on grounds of "inconvenience" is a disservice to the taxpayers and students who stand to gain so much from a well-run program.

While I have the highest personal regard for Commissioner Bell, who I understand is leaving office soon, I believe it is important that you directly review the entire correspondence on these points, which I attach herewith. Please inform me of the results of your personal review and of such corrective action you undertake in this regard.

Sincerely,

CHARLES H. PERCY,
U.S. Senate.

WASHINGTON, D.C.,
May 7, 1976.

Hon. CHARLES H. PERCY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR PERCY: This is in further response to your letter of February 16 and my interim reply of March 19. We appreciate the support you are giving to legislative actions needed to provide us with the tools to prevent abuses in the student assitance programs. Following are the answers to specific question which you raised.

1. The Office of Education has always expected lenders regulated by State or Federal agencies to exercise the same degree of due diligence with Guaranteed Student Loans which they exercise when they are making comparable private loans. Unregulated lenders have been expected to meet more specific standards of due diligence. All these requirements will be strengthened and made more specific in regulations soon to be published. In particular, we have strengthened our due diligence requirement in regard to student borrowers who cannot be located ("skips"). If contact with a student has been lost because of the negligence of the lender, the lender cannot accomplish the required "due diligence" unless he actually locates the borrower. We will place even greater stress on the requirements of due diligence in the making of loans to assure that the lender's functions are not delegated to others who fail to establish a clear understanding concerning the repayment obligation.

2. The Office of Guaranteed Student Loans has proposed to terminate from program eligibility, all schools which fail to submit the biannual student confirmation reports. In addition, any school which refuses to provide lenders with student status information will be informed that it can be terminated for such refusal. More frequent attendance reporting requirements would be frustrated by most institutions lack of regular attendance reporting. The Office of Guaranteed Student Loans has been informed by Counsel that it cannot terminate an institution solely for failure to maintain satisfactory attendance records.

With present limitations, the most effective control over the verification of student status is to make multiple disbursements of loan proceeds with the school as co-payee on the check being required to certify that the student is in school at the time of each disbursement. This process is part of the procedures to be followed by the escrow system contained in the Office of Guaranteed Student Loans Successor System of Data Management. Under this concept lenders will disburse the full amount to a financial institution acting as an escrow agent. The escrow agent would then send to the school or student, a check made payable to both parties in intervals acceptable to OE and related to course completion.

3. We agree that proprietary schools should be eliminated as lenders and that proposal has been made in legislation proposed by the Administration. However, that aspect of our proposals was not received favorably by the authorizing committees. We are currently exercising stronger control over the credit limits and performance of lenders which are not regulated financial institutions. In addition, new final regulations published on January 29 make lenders who delegate substantially all their loan making functions to schools responsible for refunds due students.

4. A new requirement for all eligible schools to have an audit conducted and submitted to OGSL annually would place a substantial additional cost and reporting burden on almost all postsecondary institutions in the Nation. Such reports would be useless if we did not have the staff to to review them. We are now requiring an annual audit statement from each school lender before the Evaluation Committee will recommend a credit line for that lender. In addition, under the limitation, suspension, and termination procedures in our regulations, an audit can be required as one of the limitations imposed on an institution as a condition for continuing in the program or for the reinstatment of a school which has been suspended or terminated.

5. Under current statutes and rulings, we would not be permitted to impose a bonding requirement on proprietary institutions without applying the same requirement to other types of institutions. A number of States now require performance bonds from proprietary schools and we can require that a school comply with applicable State law. Our regulations provide that such a bond is one of the limitations which may be imposed on an institution and we intend to impose that requirement where appropriate.

6. I have reviewed very carefully the six suggestions you advanced for the closer monitoring of accrediting agencies and associations recognized by the Commissioner of Education. While they are commendable in spirit, most of them could not be practically and effectively implemented by the accrediting agencies as they are now con-

stituted. This is not intended in any way to exonerate or excuse these agencies from their responsibilities. Indeed, most of them are performing some of the checks that you have mentioned. I must also emphasize that for initial and continued recognition by the Commissioner, all agencies are carefully evaluated in terms of their compliance with the Criteria for Recognition, a copy of which is enclosed. This criteria provide, as you can see, many safeguards in behalf of the educational consumer.

However, in terms of the general regulatory thrust of the suggestions you have proposed, I must point out that the accrediting agencies are private, independent agencies having discrete, albeit, laudable, purposes which do not always coincide neatly with the objectives inherent in Federal aid to education. Accrediting agencies are committed philosophically to stimulation of institutional or programmatic uplift through a traditional pattern of expert peer review. They do not view themselves, nor do they function, as regulatory bodies. They have no legal authority to require compliance with their accrediting standards; they work instead by persuasion in order to maintain understanding and acceptance of their role and function by their constituents and the general public. All accrediting agencies are limited in funds and staffing, and rely heavily on volunteer labor from member institutions. All are now deeply aware of, and some have already experienced, marked vulnerability to litigation, which they are ill-prepared to engage in successfully.

We continue to monitor the accrediting agencies in behalf of the educational consumer to the best of our ability. However, it is now clear that accreditation is merely one arm in which has come to be called the triad or tripartite approach to educational consumer protection. The other two arms are the Federal Government and the State agencies whose activities impinge upon postsecondary educational institutions in one way or another. It is obvious that any lessening of vigilance in one of the three arms of the triad imperils consumer protection to some extent. All three parts of the triad must function harmoniously if we are to achieve the most effective results for the consumer.

I should like to recite briefly some of the actions which have been, or will be, taken in the area of educational consumer protection. I firmly believe that the cumulative effect of actions such as these will correct many of the deficiencies which you and others have observed in the present state of affairs. Significantly, the tenor of these actions is such that school and student rights will be preserved to the greatest extent possible.

A 1974 revision of the Commissioner of Education's Criteria for Recognition of accrediting agencies embodied several new elements dealing with educational consumer protection. I refer particularly to the language now found in Section (b)(1)(i), (b)(2)(iv), and (b)(4) on pages 11, 12, and 13 of the enclosed brochure. The importance of these sections is constantly being stressed to the accrediting bodies as the Division of Eligibility and Agency Evaluation (DEAE) interacts with them in various ways.

Effective as they are, the current criteria have been found to have certain weaknesses which might be remedied through appropriate revision. The Office has, therefore, prepared a slate of proposed revisions to the Citeria, many of which will yield better protection for the educational consumer. I am enclosing a draft copy of the proposed revisions, with commentary, so you may see specifically what we have in mind.

Senate Bill 3190, introduced by Senator Beall on March 22, contains several important provisions which will improve educational consumer protection. I refer specifically to Section 13 of that bill, which would expand and strengthen the Commission's authority to develop regulations for protection of the educational consumer and to audit the compliance of educational institutions with those regulations. I particularly call your attention to paragraphs (3) and (4) in this Section, which amend Sections 1201(a) and 435(a) of the Higher Education Act of 1965 so that accrediting agencies would be required to attest to the probity of educational institutions as well as their quality. We regard these new provisions to be of paramount importance in helping us to address the kinds of problems presently being encountered.

A July 1975 publication by the Federal Interagency Committee on Education (FICE), entitled "Toward a Federal Strategy for Protection of the Consumer of Education," is a valuable exposition of the problems that exist in this field and what might be done about them through various Federal mechanisms. I am enclosing a copy of this report in case you have not seen it. A USOE Task Force is presently drawing up proposals for implementing the recommendations contained in this report.

An update of compliance actions has been provided separately in accordance with your final paragraph. We intend to continue our pursuit of investigations and actions where necessary and as staff permits. I deeply appreciate your positive comments about our commitment to bring about solutions to serious problems of abuse. As you know, the Administration has requested an additional 200 personnel to assist in getting more effective control of the problems in student financial assistance programs.

Sincerely,

T. H. Bell,
U.S. Commissioner of Education.

Washington, D.C., *February 16, 1976.*

Hon. Terrel H. Bell,
Commissioner, Office of Education, Department of Health, Education, and Welfare, Washington, D.C.

Dear Commissioner Bell: As you know, I am extremely concerned about the problems associated with student loans which surfaced during investigation and hearings over the past several months by the Senate Permanent Subcommittee on Investigations.

As the hearings made clear, the program has been abused by certain unscrupulous operators at the expense of taxpayers and students.

Students have been cheated out of their educations, only to be later billed by the Office of Education for payment of loans that should have been cancelled. Banks have waited in vain for guidance from OE as to what constitutes due diligence in seeking payment from a student borrower. And accrediting organizations are not prepared to accept responsibility if a school they accredit suddenly goes under and its operators run off with the profits.

While it is clear that some legislative remedies are in order to help you strengthen this important program, it is also apparent that the Office of Education presently has sufficient legal authority to initiate certain administrative changes that could be of immediate benefit.

The presence of the government in the Student Loan Program should be principally to facilitate, and act as a surety in, what is essentially a private transaction between the borrower and the lender. If we require the private participants in the transaction to assume greater responsibility for their actions, it should be possible to make this program self-policing, which it now is not. Instead, a whole governmental bureaucracy has sprung up to perform, in poor fashion and at high cost, the chores that the private sector is best equipped to handle and should be handling.

A review of the data available to the Subcommittee suggests that the Office of Education could take a number of administrative steps that would foster self-policing mechanisms and substantially reduce the amount of responsibility and paperwork that the agency currently imposes on itself. These measures include:

Establishment of a strict procedure that lending institutions must follow to demonstrate that they have used due diligence in pursuing a borrower who has defaulted, as a precondition to the federal government's assumption of payment on the amount of a loan outstanding.

Requiring schools participating in the program to send monthly attendance reports on student borrowers to the lending institutions directly, instead of to OE. This would eliminate the now cumbersome process of having the schools notify OE, which then notifies the lending institutions. The federal government need not act as a midwife in a relationship involving private parties that are perfectly capable of exercising a modicum of due care.

Elimination of all proprietary schools as lenders so as to avoid a repetition of what happened with West Coast Schools in Los Angeles and the plethora of similar abuses elsewhere arising from this same defect in the system.

Requiring all schools in the program to furnish OE with annual outside audits of their operation, which the schools would pay for, and which would be properly notarized by the independent accounting firm performing the audit.

Requiring all proprietary schools to be bonded.

Requiring those accrediting organizations authorized by OE to approve schools participating in the Student Loan Program to:

Perform in depth background checks on the principals operating each school, including a search of criminal records;

Closely examine the sources of principal capital support for such schools;

Verify, at least on a sampling basis, the academic degrees and experience cited by teachers at each school;

Conduct periodic, unannounced visits at each school;

Notarize all accreditation reports sent to the office of Education;

Notify OE when information is developed showing that the principals or individuals backing any school participating in the Federal Student Loan Program may have engaged in illegal conduct or acts of moral turpitude.

Kindly let me hear from you, after you have reviewed these suggestions, as to what course of action you intend to pursue to deal with the abuses found. I look forward to having your specific response to the recommendations I have outlined.

I would also like an updated accounting from you concerning the present state of investigations now under way within or in conjunuction with the Office of Education involving the Student Loan Program, including a discussion and status report of all ongoing investigations initiated within the past few months.

As you know, I greatly appreciate your deep personal commitment and willingness to address these serious problems and work courageously and swiftly to make the necessary changes. I am acutely aware of the fact that these problems are not of your doing. Your brilliant career in education speaks well of your own dedication to improving the lot of the underprivileged. I therefore want to reiterate my personal gratitude for your public service.

Sincerely,

Charles H. Percy,
U.S. Senate.

COMPENSATION FOR STRUCTURAL DEFECTS

Mr. HUGH SCOTT. Mr. President, in March of this year, I joined with Senator STEVENSON as a cosponsor of S. 3170 which would provide compensation for structural defects present in homes purchased with federally insured mortgages. This bill has gone to conference and is now incorporated in S. 3295, the Housing Authorization Act, which is presently before President Ford.

This proposal is designed to afford eligible applicants, with bona fide claims, compensation if existing structural flaws in housing went undetected at the time of the FHA inspection. HUD statistics indicate that Pennsylvania is estimated to have 1,200 bona fide claimants who would be eligible for corrective compensation should this legislation be implemented. I think that this is a meritorious consumer housing bill. It is not a new national housing initiative. Rather, it is a minor corrective program to ameliorate financial hardship incurred by a small number of aggrieved FHA homeowners.

Mr. President, I would hope that this legislation is quickly approved.

MAJOR FOREST LOSSES REPORTED

Mr. McCLURE. Mr. President, while the news is quick to pick up the stories of damage caused by raging forest fires, the less dramatic losses caused by other forces often go unnoticed in the development of headlines. Yet the following accounts of huge losses due to insect and disease activity on our national forests need to be understood by the American public. Timber values are destroyed just as surely through insect and disease activity as values are destroyed by forest fire. The situation is not as dramatic, yet the losses are just as real. Moreover, the dead timber from this type of activity, when it dries up creates a forest hazard which can lead to the greater probability of a forest conflagration.

I urge my colleagues to recognize this alarming situation as one deserving of the same type of attention as is provided through the cooperative efforts to control the seasonal forest fires that are objectionable to all of us.

I ask unanimous consent that the following articles be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

PINE BEETLES INFEST NORTHEAST OREGON FORESTS

Millions upon millions of mountain pine beetles are causing more headaches for foresters in Northeast Oregon.

The tree managers had hoped that the little black beetles, only one-eighth of an inch long, would remain as only an endemic population in ponderosa, the most important commercial species east of the Cascades. But the several-year epidemic in neighboring lodgepole pines became so intense that thousands of ponderosas, not as preferred for egg-laying by the bettles, are being infested and killed.

More than one billion board feet of the less valuable lodgepole has been infested or already killed. The Forest Service in preliminary estimates says about 300 million board feet of ponderosa may be killed this year and a like amount next year in Wallowa, Whitman, Umatilla and Malheur national forests.

Senator Bob Packwood and Rep. Al Ullman will meet with several industry and Forest Service officials July 31 at a dedication of the Hells Canyon National Recreation Area to discuss expediting the salvage logging of ponderosa from the national forests. A bluestain fungus carried into the pines by beetles destroys most commercial value within two years. Discoloration reduces the lumber value in even less time.

How much of the total value of about $50 million the Forest Service will recover is anyone's guess. With more varied public uses involved, the Forest Service cannot rush into salvage logging as quickly as Boise-Cascade Corp., for example, has on its own land.

The service plans to offer some salvage sales yet this year, generally near existing roads, and more next year. Logging can continue this year until heavy snow in about mid-December, foresters say.

Gordon George, Pendleton, Umatilla National Forest timber staff officer, says the volume of timber affected is equivalent to that in a fire covering 25,000 acres.

Few forest fires in the Northwest are that large today. The Wenatchee forest in Washington had blazes on about 25,000 acres in 1970, George noted, and the Umatilla had the 22,000-acre Ditch Creek fire in 1961, but most of that was on private land.

"A lot of people are crying about this," said C. W. Rarey, a retired Forest Service employe, Rarey and his wife are among the 18 people living in Granite, an old gold mining community and in one of the areas hit worst by the beetle epidemic.

"We tried to stop it by cutting down the ones infested last year, but it's worse this year," explained Rarey as he looked at the nearby hills becoming sparsely populated with healthy green pines.

"I cut 40 dead trees out of the (town) cemetery last year and this year there are twice as many," said town marshal Bud Morrow.

FOREST INSECT, DISEASE CONDITIONS IN MONTANA, NORTH IDAHO, DAKOTAS

MISSOULA, MONT.—The volume of timber destroyed by forest insects and diseases exceeded the volume of timber harvested (939 million board feet) last year in the 13 National Forests of the Northern Region (Montana, north Idaho, North Dakota, western South Dakota). That is enough timber to build more than 81,000 average-size homes.

A 15-page report, "Forest Insect & Disease Conditions," by the Northern Region Forest Environmental Protection staff, details the major forest insects and diseases in Montana, north Idaho, western South Dakota, and North Dakota including:

Western spruce budworm, Douglas-fir tussock moth, larch casebearer, pine needle sheath miner, mountain pine beetle, fir engraver beetle, western balsam bark beetle, western pine beetle, forest tent caterpillar, root diseases, dwarf mistletoe, stem decay, and white pine blister rust.

Visible defoliation by the western spruce budworm now extends over 3.8 million acres, excluding the Nezperce National Forest of north Idaho.

There were more than a million acres of budworm defoliation in the Nezperce National Forest in 1974. Defoliation increased in eight Northern Region National Forests last year (1975), and there were decreases in the Idaho Panhandle. Nezperce, Lewis & Clark, and Lolo National Forests. Defoliation also increased on the Flathead Indian Reservation and Yellowstone National Park. East of the Continental Divide, the defoliation is expected to continue at about the same intensity in 1976, but the number of acres infested is expected to increase. In western Montana and north Idaho, infestations are expected to remain static or decrease in 1976.

The 1974 Douglas-fir tussock moth epidemic in northern Idaho was reduced to endemic levels due to spraying with DDT, parasitism, predation, and disease. No defoliation was visible from the air in north Idaho in 1975. But tussock moths were trapped in more than 300 plots between the Canadian border and Riggins, Idaho. In Montana, defoliation was detected on 10 acres near Missoula and 16 acres in the Flathead Indian Reservation, Tussock moth defoliation causes a thirty percent reduction in radial growth for two years following defoliation.

Heavy larch casebearer defoliation occurred on 20,000 acres in the Panhandle National Forests of north Idaho; 3,000 acres in the Clearwater National Forest in Idaho; and 1,000 acres in the Kootenai National Forest in Montana.

Pine needle sheath miner defoliation decreased. Approximately 2,956 acres of lodgepole pine were lightly defoliated in the Flathead National Forest and near Lake McDonald inside Glacier National Park. Defoliation was detected on 300 acres in the Powell Ranger District in the Clearwater National Forest in Idaho.

From 1972 to 1974, the mountain pine beetle killed 118,486 lodgepole pine, including 5.6 million board feet on Forest Service, Burlington Northern, and U.S. Plywood lands in the Lazier and Meadow Creek drainages of the Lolo National Forest in western Montana. Infestations increased in the Upper Yaak River drainage of the Kootenai National Forest in Montana. In excess of 75,000 trees were infested in 1975 and there were hot spots of infestation in the Solo Joe, Caribou, Basin, and Vinal Creeks and West Fork River Drainages.

There were mountain pine beetle infestations in the Beaverhead National Forest (5,400 acres), Gallatin National Forest (involving about 23 million board feet since 1969), and in Yellowstone National Park the epidemic increased from 275,200 acres in 1974 to 692,228 acres in 1975.

Infestations in western white and ponderosa pine continue to increase in western Montana and north Idaho.

Douglas-fir beetle, pine engraver beetle, fir engraver, and western pine beetle infestation continue to have significant impacts on the Region's Forests.

A study of root diseases on 2,000 acres of the Panhandle National Forests revealed that 8 to 10 percent of the area is covered by root disease centers.

SOVIET NAVAL STRATEGY

Mr. THURMOND. Mr. President, it was with deep concern that I read an Evans and Novak article in the July 29, 1976 edition of the Washington Post entitled "A Rare Glimpse of Soviet Naval Strategy." The architect of the Soviet navy and its strategy, Fleet Adm. Sergei Groshkov, has published a book, "The Seapower of the State" which sets out in grim outline the strategy of using the Soviet navy as the major instrument for communizing the world. Groshkov describes in detail the measures by which the navy would accomplish this as well as the political significance of naval forces.

This article is especially important in light of numerous recent reports of the rapid development of the Soviet navy.

Mr. President, I ask unanimous consent that this article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

A Rare Glimpse of Soviet Naval Strategy

The father of the modern Soviet navy has drafted a frightening blueprint that for the first time publicly projects Soviet naval power "to effectively utilize the world ocean in the interest of building communism" in direct contradiction of detente.

This projection is the heart of a new book by the brilliant Soviet naval strategist, admiral of the fleet Sergei Gorshkov. While contradicting official Kremlin policy, his grand strategy is viewed by officials here as an accurate mirror of Kremlin designs.

There are indications that Gorshkov's book, "The Sea Power of the State," was designed strictly for internal consumption by Communist Party leaders and cadres within the Soviet military. Accordingly, excerpts which have reached the West are being closely studied in military and intelligence circles for a rare glimpse of inner Soviet strategy on maximum use of sea power in the struggle for world supremacy.

For the first time, that strategy emerges vividly with propaganda wraps stripped away, raising obvious implications for the current debate over U.S. naval construction.

Desire to keep Gorshkov's study out of Western hands is understandable. Gorshkov's repeated references to the "enemy"—that is, the U.S.—are incompatible with the official Soviet line.

His message is powerful and unmistakable: Soviet sea power, merely a minor defensive arm when Stalin died in 1953, has become the optimum means to defeat the "imperialist" enemy and the most important element in the Soviet arsenal to prepare the way for a Communized world.

Gorshkov, Soviet navy chief for 21 years, was architect of its shift from a coastal to a blue-water navy with an extraordinary variety of ships and weapons. His vision is without limits, as in this candid assertion: "Establishing the conditions for gaining sea control has always required prolonged periods of time and the execution of a series of measures while still at peace."

What are these measures? According to Gorshkov, they include: adequate ships and weapons in constant readiness for combat; disposing of naval forces in prospective war theaters so that "they will have superiority of position over the enemy"; building up "a base system" to handle these forces together with a system for controlling the bases.

Gorshkov thereby spells out as the modern role of Soviet naval power a system which almost exactly fits the routine Soviet description of capitalist imperialism, the declining system of Western pre-eminence that Gorshkov evidently intends the Soviet Union to make its own.

The astonishingly rapid development of the Soviet Navy is no secret. It has reached virtual equality with the U.S. in the Mediterranean (where the Russians recently introduced their first aircraft carrier), the Pacific and the Indian Oceans. With the ships and weapons come Soviet bases strategically placed, such as in Cuba off the U.S. Coast and in Somalia on the Red Sea Coast. But never before Gorshkov has the meaning of this rapid advance toward sea power equality and future superiority been so starkly or publicly spelled out by a Russian. The "military aspects" of Soviet naval power, Gorshkov writes, are by no means the only ones "that exert an effect on the role of navies . . . while indispensable (for) armed combat, also are constantly being utilized as an instrument of state policy in peacetime. The sea is a noman's land, and therefore navies do not encounter in their activities many of the limitations which prevent utilization of other branches of the armed forces in peacetime for political purposes."

Thus, today's navies have assumed new political significance. This, says Gorshkov, includes influence on coastal countries" when military conflicts threaten and the ability "to extend a military threat to any level, beginning with a show of military strength and ending with the disembarkation of a landing party."

Most experts here perceive Gorshkov's treatise as a clear reflection of new Soviet policy arising out of last February's 25th Communist Party Congress. A minority, however, thinks it signifies a debate with Gorshkov making the case for naval pre-eminence within the Soviet military apparatus.

Considering the momentum and rising trend of Soviet naval power since Gorshkov took over in 1955, the safe assumption is the majority position: Gorshkov is spouting clandestine but official Soviet policy.

The menace to the U.S. has now been made explicit. Mix Gorshkov's fearsome naval potion with the quixotic brew of detente and the result could be deadly for the West.

OUR MOST VALUED FREEDOMS

Mr. HUGH SCOTT. Mr. President, in this Bicentennial Year, it is essential not only that we celebrate our Nation's birth, but also that we strive to reaffirm the foundations of our great American system. One of the most important foundations established by our Founding Fathers is the Bill of Rights, which guarantees us many of our most valued freedoms. Today, in 1976, we have a duty to take a strong stand in defense of those freedoms.

It is in this spirit of maintaining our commitment to the Bill of Rights that I join Senator Mathias and Senator Tunney in cosponsoring S. 3349, the Bill of Rights Procedures Act. This important piece of legislation seeks to safeguard the freedoms of the Bill of Rights, and especially the fourth amendment, by, first, setting limitations on Government inspection of individual citizens' bank, credit, and telephone records; second, limiting the authority of Government officials in examining mail covers; and third, setting forth regulations and restrictions on the interception of wire and oral communications. What better way than this to reaffirm the fourth amendment's guarantee that—

> The right of the people to be secure in their . . . papers and effects against unreasonable searches and seizures, shall not be violated?

Thomas Paine, the great statesman and patriot, once said:

> Eternal vigilance is the price of liberty.

Two centuries after Paine made that statement, I am pleased to take part in the continuing vigilant defense of our fourth amendment liberties, as represented by S. 3349.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Is there further morning business? If not, morning business is closed.

TAX REFORM ACT OF 1976

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of the unfinished business, H.R. 10612, which the clerk will state by title.

The assistant legislative clerk read as follows:

> A bill (H.R. 10612) to reform the tax laws of the United States.

AMENDMENT NO. 2120

The ACTING PRESIDENT pro tempore. The pending question is the amendment by the Senator from Massachusetts (Mr. Kennedy) on which there shall be 1 hour of debate.

Who yields time?

Mr. KENNEDY. Mr. President, I yield myself 7 minutes.

Under complex tax provisions, life insurance companies have a number of tax benefits, but they are prohibited from filing consolidated tax returns with subsidiaries that are not life companies. The filing of consolidated returns would allow companies to offset losses from one operation against profits from another. The present prohibition has been in the law since 1928 and has never been seriously re-examined.

In recent years, life insurance operations have been generally profitable, whereas many property and casualty insurance operations have suffered large losses. Life companies want to consolidate their tax returns with their casualty subsidiaries, in order to offset property and casualty losses against life insurance profits.

The Committee on Finance amendment allows consolidated returns to be filed by life and casualty companies, subject to certain limits. The effective date is the taxable years after December 31, 1977. Thus, the provision will not take effect until 1978. The effective date was postponed to avoid a large revenue loss in fiscal year 1977.

The revenue cost will be $25 million in fiscal year 1978, and about $50 million a year thereafter. This figure is based only on life companies which currently have property and casualty subsidiaries. It will undoubtedly be greater if other life companies enter the property and casualty business.

This is a $50 million a year windfall for a handful of the Nation's largest eastern life insurance companies, at the expense of hundreds of smaller property and casualty companies. An ad hoc group of 12 life insurance companies has been lobbying for it, but several hundred smaller companies are lobbying against it.

Life insurance companies are already subject to favorable tax rules. This change would provide additional benefits to an already favored group of corporate taxpayers. In essence, the bill is a bail out for their property and casualty losses.

There are potentially serious anticompetitive consequences of a tax law change that primarily benefits the large life insurance companies:

Small nondiversified life companies are put at a serious disadvantage, since the benefits go to the big diversified companies, who will increase their already heavy industry dominance even further.

Property and casualty companies are put at a disadvantage, since they do not have life insurance operations to take advantage of the tax breaks. The big life companies can run both big and small casualty companies out of business. They will use the tax break to subsidize their entry into the property and casualty business, and to undercut competition by unfair under-pricing.

One major effect of the amendment may be to turn loss ridden property and casualty companies into prime candidates for corporate acquisitions by life insurance companies.

The bill could lead to corporate raids on nonlife companies. It would also be a death sentence for such companies, who could no longer compete economically with life companies.

There are basic problems in the property and casualty insurance industry, represented by large losses in auto, homeowners, malpractice, and other types of policies. The issues are extremely complex and deserve much more careful study.

The large life companies have lobbied heavily for the amendment in order to provide a tax shelter for the losses sustained in their property/casualty operations. But why should the Treasury be providing this sort of subsidy to such companies for their casualty policies? Granted, there is a need for additional capacity to write such insurance, but this Treasury subsidy simply papers over the need for more basic reform by asking the average taxpayer to bail out the industry from its problems.

The life insurance industry is already highly concentrated: the five largest companies—Prudential, Metropolitan, Equitable, New York, John Hancock—account for 50 percent of total life insurance in force—$1.5 trillion. The 1,800 other companies share the remaining 50 percent. The industry already has an exemption from the antitrust laws and other Federal regulation under the McCarran Act. The amendment would further weaken the already weak competitive structure of the U.S. insurance industry.

By contrast, the property-casualty insurance industry is one of the least concentrated industries in the economy, because of the number and variety of insurers in the market. Because of recent losses, however, the industry is vulnerable to takeovers. Treasury and the average taxpayer should not be asked to subsidize this development.

Aetna paid $52 million in taxes in 1975 on its life operations, and had $72 million in losses on property and casualty. It is hardly a coincidence that the principal and only witness supporting consolidation at the Senate Finance Committee hearings was the chairman of the board of Aetna.

Connecticut General paid $41 million in taxes in 1975 on its life operations, and had $37 million in losses on property and casualty.

Travelers paid $44 million in taxes in 1974 on its life operations, and had $129 million in losses on property and casualty.

One of the problems of property and casualty companies is inflation which has caused large losses for the companies and general deterioration of the economy.

Mr. President, the amendment of the committee does not take effect until 1978, so there is no need to rush into action with such potential consequences.

This was one of the 50 special interest provisions added to the bill on Thursday, May 27, the last day of the major committee mark up. I do not believe there had been adequate prior consideration of the issues. The public record consists of:

A statement submitted by Aetna to the House Ways and Means Committee in 1973. The topic was not a "noted subject" in the committee hearings. The issue never got off the ground in the House committee, and it is not part of the House bill. In the Senate, a bill on this subject was introduced in January of 1975 by the Senator from Connecticut (Mr. RIBICOFF).

There was testimony by Aetna in April 1976 at the general Finance Committee hearings on the tax bill.

There also was testimony by Aetna last week at the reopened Finance Committee hearings on the special interest tax provisions.

An I understand there have been a number of ex parte submissions to Senate and House tax staffs.

The original bill had a larger revenue loss of $100 million. It was apparently compromised down after the markup ended, at the staff level, which illustrates the way the provision slipped into the bill without adequate discussion and debate.

The Treasury originally opposed the provision because of the large revenue loss, but now says merely that it does not oppose consolidation as a principle.

Everyone agrees with the Treasury in principle on a matter of new tax policy. But Congress is not legislating in a vacuum. We have to be concerned about the consequences of the action.

Historically, life insurance companies have been taxed under different and more favorable rules than many other companies. The present rules were adopted in 1959 after lengthy deliberation, and those rules have been in effect for 17 years. Congress should not move to quick enactment of changes in these complex provisions without thorough debate and analysis.

The essential advantage of life companies is that only 50 percent of underwriting gains are taxed, although 100 percent of underwritten losses may be used to offset investment income. Because of those benefits, it was decided in 1959 that life companies could not consolidate returns with other operations.

Proponents argue that ITT and some 40 other conglomerates can already consolidate with casualty subsidiaries and obtain the tax break for the losses, but that life companies cannot. But this argument misses the point. ITT cannot consolidate with life insurance subsidiaries only with property and casualty subsidiaries. The prohibition is designed to prevent consolidation with life insurance operations. Conglomerates are subject to the prohibition like anyone else.

Eliminating the discrimination against the life companies in this way would create a new discrimination against casualty companies, who may be run out of business.

It is no answer to say that property and casualty companies can acquire life operations. They do not have the capital to do so, and start-up losses would be prohibitive.

No major trade association or group favors this amendment. It is being pushed only by a few of the largest life companies.

Mr. President, four major groups are against section 1508:

The National Association of Mutual Insurance Companies, with 1,100 small members.

The National Association of Independent Insurers, with 600 members.

The American Mutual Insurance Alliance, with 100 members.

And the National Association of Mutual Insurance Agents, with 24,000 independent insurance agents.

Two life insurance or mixed groups are neutral, because of the conflicting interests of their members:

The American Life Insurance Association, which is the largest group. Although the big life companies favor it, the small life companies oppose it. It is surprising that a provision designed to favor life insurance companies can't even get the support of the industry's major trade association.

American Insurance Association, is primarily a casualty group, is also neutral. Aetna and Travelers are members, so the group is split.

Finally, Mr. President, the proponents argue that the amendment will help to offset the costs of inflation in previous years which is a major source of losses on policy claims. But, the $50 million in benefits will go to the largest and most profitable companies, who are best able to cope with the inflation and who need help the least. Numerous small unaffiliated companies will get no benefit, although they have been badly hurt too. They have no real possibility of affiliating with a profitable operation, except by a takeover.

Mr. President. I hope the amendment will be defeated.

During the consideration of this matter, the Treasury made a general statement that they had no objection to it. They do not support it, however. They have three positions: either they support a proposal, or they do not object to it, or they oppose it. In this case, they have no objection to it. But in their statement they do not even discuss the competitive impact of this provision. I have no problem with the concept of consolidation. That is understood and appreciated. It is a concept which I support. But there was not a single comment about the competitive impact on the large number of small companies all over this country. There was no testimony from the Antitrust Division of the Department of Justice or from IRS during the consideration of this particular proposal.

I think its implications in terms of the industry itself are extremely serious, and that is why the hundreds of smaller casualty and property companies, the real mom-and-pop stores, so to speak, of the insurance industry are strongly opposed to this particular proposal.

Their views and their positions ought at least to have been given the kind of examination and consideration they deserve, because of the importance and the implications of this proposal on the industry and on thousands of small insurance and casualty companies.

My amendment will strike this provision, and I am hopeful that it will be accepted by the Senate.

I withhold the remainder of my time.

Mr. RIBICOFF. Mr. President, I yield myself 5 minutes.

I am pleased that the opponents have finally come out from the dark and placed on our desk a list of those they are really talking for. Up to now it has been indicated there has been something nefarious about this amendment.

I am not ashamed of whom I represent in talking for this amendment. I am talking for the people of Connecticut, as well as for all Americans who have trouble securing insurance.

Two of the major companies in Connecticut, probably the best corporate citizens in this land, the Travelers Insurance Co. and Aetna Life & Casualty Co., visited me, the Senator from the State of Connecticut, with a problem.

Travelers and Aetna have always been in the forefront in assuming their community responsibilities. Constitution Plaza, financed by the Travelers, had large losses, and the Civic Center financed by Aetna had large losses. These investments have really saved the heart of Hartford from complete decay.

These companies came to me and said large casualty losses were decreasing their capacity to write insurance.

We were frank and we were open. I introduced a bill, S. 2985 on February 17, 1976, which would enable life insurance companies to file consolidated tax returns with their property/casualty affiliates.

The opposition said that somehow we sneaked something into the Finance Committee and into the Senate to try to get an advantage which no one knew about.

They were talking about reform, but at no time did they indicate who they were talking about, and I would assume that the Senator from Massachusetts is talking for Liberty Mutual Insurance Co. from Boston. But if I were representing Liberty Mutual Insurance Co., I would not be ashamed of it if they came from Massachusetts. But these companies suddenly appearing in this list on our desks did not have the courage at any time to come before the Finance Committee and make their case.

Mr. John Filer, the chairman of the Aetna Life & Casualty Co., speaking for this group of life and casualty companies, came twice in open session, not in the dead of night but at 10 o'clock in the morning, to make this case and to subject himself to questioning by the members of the Finance Committee.

So we have a situation where for 3 years this has been under discussion. We have a situation where the proponents have come in to testify and subject themselves to questioning. But although the opponents had an opportunity and were invited to come before the Finance Committee, at no time did they do so.

The opponents talk about "Let us have open discussions and open presentations." Why could they not induce people for whom they are talking to come before the Finance Committee and make their case? At no time did they do so.

The distinguished Senator from Massachusetts, in appearing before the Finance Committee on July 20, 1976, said, and I quote:

> If it is possible that with the Treasury Department and the Internal Revenue Service and the result of these hearings that there is not really the kind of controversy about it, then I would hope that those provisions would be recognized as to be valuable and useful provisions and those provisions would be continued to remain in the legislation.

Well, the Treasury Department twice has supported this proposal. The staff of the Joint Committee on Internal Revenue Taxation has approved this proposal.

Two hearings were held before the Finance Committee. A vote was taken in the Finance Committee on May 27, 1976, and section 1508 was approved by a vote of 10 to 2. It was reconsidered in the Finance Committee last week and again approved.

So here we have an amendment upon which testimony has been heard twice and which has received favorable comment from Treasury and staff. And now we have hidden opposition, without the courage to make its case in public and without the courage to be examined like the proponents have been examined.

The Senator from Massachusetts makes a big case about the companies that are against section 1508, but this is the first time anyone has known they were against it.

Let me point out this is one of the few instances in the business world where two companies with common ownership cannot file a consolidated return.

But to make the situation worse, any industrial corporation owning a casualty company can file a consolidated return. So we have the anomaly in my own city of Hartford, Conn., with ITT, one of the largest conglomerates in the world, owning the three Hartford companies, the Hartford Fire, the Hartford Accident & Indemnity Co., and the Hartford Casualty Co., able to file a consolidated return. But the Aetna Life & Casualty Co. cannot file a consolidated return with its casualty subsidiary, and the Travelers Insurance Co. cannot file a consolidated return with its casualty affiliate.

I would like to read for the record a partial list of industrial companies with casualty affiliates that can file consolidated returns:

Partial List

Agway, Inc.: Agway Insurance Co.
Ahmanson, H. F., & Co.:
Mohawk Insurance Co.
Stuyvesant Insurance Co.
National American Insurance Co.
Trans-oceanic Insurance Co.
National American Insurance Co. of California.
American Express Co.:
American Automobile Insurance Co.
American Insurance Co.
Associated Indemnity Corp.
Firemen's Fund Insurance Co.
National Surety Corp.
Firemen's Fund Insurance Co. of Texas.
National Surety Corp. of California.
American Financial Corp.:
American Empire Insurance Co.
American National Fire Insurance Co.
Agricultural Insurance Co.
Constellation Reinsurance Co.
Great American Insurance Co.
American Continental Insurance Co.
Republic Indemnity Co. of America.
Anderson Clayton and Co.:
Ranger Insurance Co.
Pan American Fire & Casualty Co.
Pan American Insurance Co.
Pan American Thrift Insurance.
Ranger-Allied Underwriters.
Ranger County Mutual Insurance Co.
Ranger Insurance Co.
Ranger Lloyds.
Armco Steel Corp.:
Belefonte Insurance Co.
Compass Insurance.
General Fire & Casualty Co.
Avco Corp.:
Balboa Insurance Co.
Meritplan Insurance Co.
Newport Insurance.
Baldwin & Lyons, Inc.: Protective Insurance Co.
Baush and Lomb, Inc.: Sofiens Insurance Co.
Beneficial Corp.: American Centennial Insurance Co.
Berkshire-Hathaway, Inc.:
Cornhusker Casualty Co.
Home & Automobile Insurance Co.
Insurance Co. of Iowa.
Lakeland Fire & Casualty.
National Fire & Marine Insurance Co.
National Indemnity Co.
Texas United Insurance Co.
Budget Industries:
Transnational Casualty Insurance.
Transnational Insurance.
CIT Financial Corp.:
North American Accident Insurance Co.
North American Co. for Property and Casualty Insurance.
City Investing Co.:
City Insurance Co.
Home Insurance Co.
Seaboard Surety Co.
Home Indemnity Co.
Continental Corp.:
Boston Old Colony Insurance Co.
Buckeye Union Insurance Co. of Newark.
Continental Insurance Co.
Fidelity and Casualty Co. of New York.
Firemen's Insurance Co. of Newark.
Glens Falls Insurance Co.
Kansas City Fire and Marine Insurance Co.
London Guarantee and Accident Co. of New York.
National-Ben Franklin Insurance Co. of Illinois.
National Reinsurance Corp.
Niagara Fire Insurance Co.
Pacific Insurance Co.
Phoenix Assurance Co. of New York.
Seaboard Fire and Marine Insurance Co.

First Insurance Co. of Hawaii, Limited.
Equitable Fire Insurance Co.
Tokio Marine and Fire Insurance Co., Ltd.
Control Data Corp.:
American Credit Indemnity Co.
Calvert Fire Insurance Co.
Cavalier Insurance Corp.
Deere and Co.: John Deere Insurance Co.
Exxon Corp.: Petroleum Casualty Co.
Ford Motor Co.: American Road Insurance Co.
General Electric Co.: Manhattan Fire and Marine Insurance Co.
General Motors Corp.:
CIM Insurance Corp.
Motors Insurance Corp.
Gulf and Western Industries, Inc.:
Emmco Insurance Co.
Excell Insurance Co.
Providence Washington Insurance Co.
Motor Vehicle Casualty Co.
Providence Lloyds.
Providence Washington Insurance Co.
Providence Washington Insurance Co. of Alaska.
Western Alliance Insurance Co.
York Insurance Co.
Halliburton Co.:
Highlands Insurance Co.
Highlands Underwriters Insurance Co.
International Bank:
Northeastern Insurance Co. of Hartford.
United Security Insurance Corp.
International Harvester Co.: Harco National Insurance Corp.
International Telephone and Telegraph Corp.:
Hartford Casualty Insurance Co.
Hartford Accident and Indemnity Co.
Hartford Fire Insurance Co.
New England Reinsurance Corp.
New York Underwriters Insurance Co.
Twin City Fire Insurance Co.
First State Insurance Co.
Pacific Insurance Co.
Sentinel Insurance Co.
Katy Industries, Inc.: Midland Insurance Co.
CNA Financial:
American Casualty Co. of Reading.
Continental Casualty Co.
National Fire Insurance Co. of Hartford.
Valley Forge Insurance Co.
Transportation Insurance Co.
Transcontinental Insurance Co.
CNA Casualty of California.
CNA Casualty of Puerto Rico.
Columbia Casualty Co.
Mid-States Insurance Co.
Mobil Oil Corp.: Forum Insurance Co.
National Distillers & Chemical Corp.: Elkhorn Insurance Co.
Penney, J. C. Co., Inc.: Educator & Executive Insurers, Inc.
Reliance Group, Inc.:
Reliance Insurance Co.
Commonwealth Land Title Insurance Co. of New York.
Sears, Roebuck and Co.:
Allstate Fire Insurance Co.
Allstate Insurance Co.
Standard Oil Co. (Indiana): Imperial Casualty & Indemnity Co
Teledyne, Inc.:
Argonaut Insurance Co
Argonaut Midwest Insurance Co.
Argonaut Northwest Insurance Co.
Security National Insurance Co.
Trinity Universal Insurance Co.
Argonaut Southwest Insurance Co.
Financial Indemnity Co.
Georgia Insurance Co.
Great Central Insurance Co.
Trinity Universal Insurance Co. of Kansas.
Textron, Inc.:
Metropolitan Fire Assurance Corp.
Connecticut Idemnity Co.
Security Insurance Co. of Hartford.
Admiral Insurance.
Fire & Casualty Co. of Connecticut.
Ticor:
Pioneer National Title Insurance Co.
Title Guarantee Co.
Ticor Mortgage Insurance Co.
Transamerica Corp.:
Transamerica Insurance Co.
Premier Insurance Co. of New York.
Automotive Insurance Co.
Countrywide Insurance Co.
Marathon Insurance Co.
Mount Beacon Insurance Co.
Olympia Insurance Co.
Premier Insurance Co.
Riverside Insurance Co.
Transamerica Insurance Co.
Wolverine Insurance Co.
Wachovia Corp.:
South State Insurance Co.
Southeastern Fire Insurance Co.
Wyly Corp.: Gulf Insurance Co.

These are only a few of the major corporations that have casualty companies that can file a consolidated return, and it places the following companies at a disadvantage:

Aetna Life and Casualty, Hartford, Conn.

CNA Financial Corp., Chicago, Ill.

Connecticut General Life Insurance Co., Hartford, Conn.

Equitable Life Assurance Society, New York, N.Y.

Fidelity Mutual Life Insurance Co., Philadelphia, Pa.

IDS Life Insurance Co., Minneapolis, Minn.

Metropolitan Life Insurance Co., New York, N.Y.

Penn Mutual Life Insurance Co., Philadelphia, Pa.

Prudential Insurance Co., Newark, N.J.

Reserve Life Insurance Co., Dallas, Tex.

State Mutual Life Assurance Co., Worcester, Mass.

Travelers Insurance Co., Hartford, Conn.

And that is only a partial list of companies—both stock and mutual—which are currently barred from filing consolidated tax returns.

Mr. President, I sponsored the provision that will allow life insurance companies to file consolidated tax returns with their property-casualty affiliates. The compelling need for this provision has been clearly and convincingly established at two separate hearings before the Finance Committee.

As every Senator knows, the property-casualty insurance industry has suffered massive losses in the last 2 years, estimated by some at over $7 billion. The principal reason for these huge losses has been inflation—inflation which has resulted in enormous increases in automobile repair costs, as an example, while insurance rates lag behind.

As the Nation's casualty companies have suffered these huge losses, they have seen a severe erosion in their surplus position. Since surplus is the measure of a company's capacity to write insurance, the result has been a dramatic shrinkage in capacity throughout the industry. As we all know, the specter of large bankruptcies is a painful reality, as the GEICO situation reminds us on virtually a daily basis.

Mr. President, the people of this country cannot afford a capacity crisis in our casualty insurance industry. The public needs and demands adequate property-liability coverage at all times. We must do everything we can to protect against a further erosion of capacity which would cause existing policies not to be renewed and new policies not to be written.

My distinguished colleague, the junior Senator from Massachusetts (Mr. BROOKE), has recently commented on the very serious predicament in which the casualty industry finds itself, and has made the indisputable point that we all have a stake in the continued viability of a strong property-liability insurance industry. The Massachusetts Insurance Commissioner has become so concerned about the financial solvency of insurance companies that he now requires an independent annual audit of all companies doing business in his State and has called the financial situation of many companies grave.

The provision I have sponsored will help to alleviate the capacity crisis to which I have referred. It will enable the tax benefits from losses incurred by a casualty company affiliated with a life insurance company to be realized currently through consolidation, rather than on a delayed basis through carryforwards. These current tax savings will directly increase the casualty company's capacity to write insurance.

I should add that this provision will also eliminate a major discrimination that presently exists in the tax law. In my own State of Connecticut, for example, ITT can file a consolidated tax return with its casualty subsidiary, the Hartford, because the Internal Revenue Code has long permitted consolidation between industrial companies and their casualty affiliates. Yet life insurance companies like Travelers and Aetna cannot file consolidated returns with their casualty affiliates.

At the Senate hearings I submitted a list of over 40 industrial companies with casualty affiliates, including not only ITT but such companies as American Express and General Motors that can presently avail themselves of the privilege that my provision would now extend to the more natural affiliation of casualty and life insurance companies. I am pleased to note that my distinguished colleague, the senior Senator from Wisconsin (Mr. PROXMIRE), has described this provision as a "logical extension" of present law.

Mr. President, the tax-writing committee of the Congress have been considering this provision for 3 years. Testimony in support of the provision was heard by the Finance Committee in April and again last week. Both the Joint Committee staff and the Treasury Department have commented favorably on the provision in its present form.

At no time—not during the April hearings or the special hearings last week—did anyone appear before the Finance Committee to testify against this proposal.

The opponents to this provision have not given the Finance Committee the courtesy of appearing in person to testify and to answer Senators questions.

Much was said last week of the so-called secretive process by which the Finance Committee adopted some provisions.

I find ironic that the Senator from Massachusetts comes to the Senate floor to defend the special interest of phantom opponents.

I do not believe that a provision which has had as much analysis and public scrutiny as this one—which has the approval of the joint committee staff and of Treasury—should be held hostage to so-called opponents who refuse to come forward and testify.

For reasons I do not fully understand, however, some concern has been expressed regarding the competitive impact of the provision on smaller casualty companies. The provision was even labelled a special interest provision, and it was suggested that since its effective date has been postponed until 1978 for revenue reasons, there is no need to adopt the provision now.

Mr. President, the competition argument completely overlooks the face that the provision will cure the current competitive discrimination by making consolidation available to all companies that own property-liability affiliates. It also overlooks the point that the provisions has its real effect only when the casualty affiliate is suffering losses. At such a time, the casualty company will not be looking for new business, but instead will be taking whatever steps it can to preserve its existing business so that the public at large does not suffer. It should be clear, therefore, that the real beneficiaries of this provision will be the American public. Rather than "special" interest, the provision should be labelled a "public" interest provision.

The provision has been studied carefully by the Committee on Finance and has the committee's overwhelming support. If it had been in effect for the last 2 years, we would not have had as severe a capacity crisis as we have just been through in the casualty industry. Let us not allow that to happen again. The provision should be adopted now—to permit proper underwriting and investment planning during the coming year, and to insure that the law is in place before the next inflationary cycle threatens the industry's ability to provide adequate insurance. If we dawdle with it any longer, I fear that we may be a witness to a severely damaged, unresponsive industry with serious repercussions for the public and the entire economy.

Mr. President, the provision corrects a tax inequity and helps alleviate a serious social and economic problem facing the country. I urge its enactment.

Now, I notice Mr. PROXMIRE appears with Mr. KENNEDY in opposition to this. He, himself, has described this provision as a "logical extension" of the present law. The same statement was made by the Nader group.

So we have a situation of special interests who will not expose themselves to the Finance Committee, such as Liberty Mutual, from the State of Massachusetts represented by the Senator. They do not have the courage to come before the Finance Committee.

Mr. LONG. Will the Senator yield?

Mr. RIBICOFF. Yes, I am pleased to yield.

The ACTING PRESIDENT pro tempore. The Senator's 5 minutes have expired.

Mr. RIBICOFF. I give myself another 3 minutes.

Mr. LONG. May I say to the distinguished Senator that the point he is making made an impact on this Senator as chairman of the committee. The fact is that the people who agree with the Senator from Connecticut asked to be heard in public hearing and came before the committee and explained their position.

Incidentally, that group did not ask to be seen privately in someone's office.

The people on the other side came to my office and wanted to explain this matter to me head to head. But they were not present at the public hearings where they could have been interrogated and cross-examined by one who was very familiar with the other side of the argument, as is the Senator from Connecticut.

While they made a great impression on me in my office, I would have thought more of their arguments had they been willing to subject them to critical cross-examination.

Mr. RIBICOFF. I appreciate those comments.

What bothers me most is the Senator from Massachusetts coming before the Finance Committee—and I regret I was not there that day because I was managing the Watergate reform bill on the floor—talking about the nefarious attitudies and mechanisms of the Finance Committee when we had held 2 hearings on this matter.

This had been subject to discussion, to Treasury review and review by the Joint Committee on Taxation. This has been an open amendment, openly adopted after open hearings. Now, today, for the first time they put on the desk who they actually are talking for, a group of companies that do not want these other companies to have the same benefits of consolidation enjoyed by industrial corporations.

Mr. LONG. Will the Senator yield further?

Mr. RIBICOFF. Yes.

Mr. LONG. Is it not true that the companies that are objecting are, in the main, mutual companies and, in some respects, they have tax advantages that these other companies do not have?

I am not saying it is wrong. I am just saying that there are provisions tailored to a company doing business as a mutual that other companies do not have and one can argue their relative merits.

But from the point of view of a stock company, mutuals have advantages the other companies do not have.

Mr. RIBICOFF. Yes; because they can deduct policyholders' dividends.

The ACTING PRESIDENT pro tempore. The Senator's time has expired.

Mr. LONG. I am not saying it is wrong, but I am saying that they have certain advantages.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. KENNEDY. Mr. President, I yield myself 5 minutes.

I have listened to my colleague from Connecticut talk about how the various companies do not have the courage to come before the Finance Committee.

The fact of the matter is that they did not even know this matter was going to be considered before the Finance Committee.

Several weeks of hearings, one witness for 15 minutes, Aetna Insurance Co., which is going to benefit substantially from this proposal, testified. But that was all during the Finance Committee hearings on the bill.

How are we going to expect the small, little Barnstable County Mutual Fire Insurance Co. in Yarmouth Port, or Hingham Mutual Fire Insurance Co., in Hingham, or Fitchburg Mutual Fire Insurance Co. to have notice in such situations. They are aware now, and they are deeply concerned.

The fact of the matter is that they did not have adequate notice.

Mr. RIBICOFF. They had notice.

Mr. KENNEDY. How could they come up there if they did not have notice?

Now, it was not part of the House of Representatives bill. It was never seriously considered there. And then it was put on into the Senate Finance Committe bill, after hearing one witness, the Aetna Insurance Co., for 15 minutes.

Then, when these special interest amendments became an issue and the Finance Committee held another 3 days of hearings, they heard from the Mutual Insurance Alliance, in opposition. They heard from the National Association of Independent Insurers, in opposition. And later, they heard from the Mutual Insurance Agents in opposition.

Mr. President, I ask unanimous consent that a list of companies favoring and opposing the amendment may be printed in the RECORD.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

KENNEDY-PHILIP A. HART-PROXMIRE AMENDMENT—DELETE SECTION 1508 OF THE COMMITTEE BILL (CONSOLIDATED TAX RETURNS FOR LIFE INSURANCE COMPANIES)

A. COMPANIES SUPPORTING SECTION 1508

Aetna Life and Casualty, Hartford, Connecticut.

CNA Financial Corporation, Chicago, Illinois.

Connecticut General Life Insurance Company, Hartford, Connecticut.

Equitable Life Assurance Society, New York, New York.

Fidelity Mutual Life Insurance Company, Philadelphia, Pennsylvania.

IDS Life Insurance Company, Minneapolis, Minnesota.

Metropolitan Life Insurance Company, New York, New York.

Penn Mutual Life Insurance Company, Philadelphia, Pennsylvania.

Prudential Insurance Company, Newark, New Jersey.

Reserve Life Insurance Company, Dallas, Texas.

State Mutual Life Assurance Company, Worcester, Mass.

Travelers Insurance Company, Hartford, Connecticut.

B. COMPANIES OPPOSING SECTION 1508 (PARTIAL LIST)

California Mutual Insurance Company, Monterey, California.

Farmers Mutual Insurance Company, Santa Rosa, California.

Middlesex Mutual Assurance Company, Middletown, Connecticut.

New Castle Mutual Insurance Company, Wilmington, Delaware.

Amalgamated Casualty Insurance Company, Washington, D.C.

Atlantic Mutual Fire Insurance Company of Savannah, Savannah, Georgia.

Millers' Mutual Insurance Association of Illinois, Alton, Illinois.

American Mutual Reinsurance Company, Chicago, Illinois.

Chicago Mutual Liability Company, Chicago, Illinois.

Security, Mutual Casualty Company, Chicago, Illinois.

Florists' Mutual Insurance Company, Edwardsville, Illinois.

American Manufacturers Mutual Insurance Company, Long Grove, Illinois.

Lumbermens Mutual Casualty Company, Long Grove, Illinois.

Lutheran Mutual Fire Insurance Company, Oak Park, Illinois.

Indiana Union Mutual Insurance Company, Carmel, Indiana.

Grain Dealers Mutual Insurance Company, Indianapolis, Indiana.

Indiana Farmers Mutual Insurance Company, Indianapolis, Indiana.

Indiana Lumbermens Mutual Insurance Company, Indianapolis, Indiana.

Town and Country Mutual Insurance Company, Indianapolis, Indiana.

Druggists Mutual Insurance Company, Algona, Iowa.

Iowa National Mutual Insurance Company, Cedar Rapids, Iowa.

Employers Mutual Casualty Company, Des Moines, Iowa.

IMT Insurance Company, Des Moines, Iowa.

Iowa Kemper Insurance Company, Mason City, Iowa.

Farmers Alliance Mutual Insurance Company, McPherson, Kansas.

Bretheren Mutual Insurance Company, Hagerstown, Maryland.

The Montgomery Mutual Insurance Company, Sandy Spring, Maryland.

Abington Mutual Fire Insurance Company, Abington, Massachusetts.

Merrimack Mutual Fire Insurance Company, Andover, Massachusetts.

Attleboro Mutual Fire Insurance Company, Attleboro, Massachusetts.

Dorchester Mutual Fire Insurance Company, Boston, Massachusetts.

Liberty Mutual Fire Insurance Company, Boston, Massachusetts.

Liberty Mutual Insurance Company, Boston, Massachusetts.

The Lumber Mutual Fire Insurance Company of Boston, Massachusetts, Cambridge, Massachusetts.

Middlesex Insurance Company, Concord, Massachusetts.

Norfolk and Dedham Mutual Fire Insurance Company, Dedham, Massachusetts.

Fitchburg Mutual Fire Insurance Company, Fitchburg, Massachusetts.

Hingham Mutual Fire Insurance Company, Hingham, Massachusetts.

Holyoke Mutual Insurance Company, Salem, Massachusetts.

American Mutual Insurance Company of Boston, Wakefield, Massachusetts.

American Mutual Liability Insurance Company, Wakefield, Massachusetts.

Barnstable County Mutual Fire Insurance Company, Yarmouth Port, Massachusetts.

Michigan Mutual Liability Company, Detroit, Michigan.

Michigan Millers Mutual Insurance Company, Detroit, Michigan.

Tri-State Insurance Company, Luverne, Minnesota.

American Hardware Mutual Insurance Company, Minneapolis, Minnesota.

Austin Mutual Insurance Company, Minneapolis, Minnesota.

Minnesota Mutual Fire and Casualty Company, Minneapolis, Minnesota.

Western National Mutual Insurance Company, Minneapolis, Minnesota.

Federated Mutual Insurance Company, Owatonna, Minnesota.

Citizens Security Mutual Insurance Company, Red Wing, Minnesota.

Waseca Mutual Insurance Company, Waseca, Minnesota.

Safety Mutual Casualty Corporation, St. Louis, Missouri.

Industries Mutual Insurance Company, Omaha, Nebraska.

National Grange Mutual Insurance Company, Keene, New Hampshire.

New Jersey Manufacturers Insurance Company, Trenton, New Jersey.

Mountain States Mutual Casualty Company, Albuquerque, New Mexico.

Consolidated Mutual Insurance Company, Brooklyn, New York.

Bakers Mutual Insurance Company of New York, Lynbrook, New York.

Interboro Mutual Indemnity Insurance Company, Mineola, New York.

Preferred Mutual Insurance Company, New Berlin, New York.

Ideal Mutual Insurance Company, New York, New York.

Utilities Mutual Insurance Company, New York, New York.

Utica Fire Insurance Company of Oneida County, New York, Utica, New York.

Utica Mutual Insurance Company, Utica, New York.

Cincinnati Equitable Insurance Company, Cincinnati, Ohio.

The Hamilton Mutual Insurance Company of Cincinnati, Ohio.

The Lumbermens Mutual Insurance Company, Mansfield, Ohio.

The Ohio Hardware Mutual Insurance Company, Mansfield, Ohio.

The Shelby Mutual Insurance Company of Shelby, Ohio.

Central Mutual Insurance Company, Van Wert, Ohio.

Wayne Mutual Insurance Company, Wooster, Ohio.

Merchants and Business Men's Mutual Insurance Company, Harrisburg, Pennsylvania.

Pennsylvania National Mutual Casualty Insurance Company, Harrisburg, Pennsylvania.

Mutual Assurance Company for Insuring Houses from Loss by Fire, Philadelphia, Pennsylvania.

Pennsylvania Lumbermens Mutual Insurance Company, Philadelphia, Pennsylvania.

The Philadelphia Contributionship for the Insurance of Houses from Loss by Fire, Philadelphia, Pennsylvania.

Pennsylvania Millers Mutual Insurance Company, Wilkes-Barre, Pennsylvania.

AMICA Mutual Insurance Company, Providence, Rhode Island.

Union Mutual Insurance Company of Providence, Providence, Rhode Island.

Texas Employers' Insurance Association, Dallas, Texas.

The Millers Mutual Fire Insurance Company of Texas, Dallas, Texas.

Granite Mutual Insurance Company, Barre, Vermont.

Farmers Mutual Fire Association of West Virginia, Fairmont, West Virginia.

Municipal Mutual Insurance Company of West Virginia, Wellsburg, West Virginia.

Wisconsin Mutual Insurance Company, Madison, Wisconsin.

Church Mutual Insurance Company, Merrill, Wisconsin.

Retail Lumbermens Mutual Insurance Company of Wisconsin, Milwaukee, Wisconsin.

Jewelers Mutual Insurance Company, Neenah, Wisconsin.

Sentry Insurance, Stevens Point, Wisconsin.

Employers Mutual Liability Insurance Company, Wausau, Wisconsin.

Mr. KENNEDY. Mr. President, what we still have not had is a statement by the Senator from Connecticut that gives one major insurance company association that is in support of this particular proposal.

Let us analyze who benefits. It is only the largest life insurance companies in the country. The ones who are opposed are the small life insurance companies and virtually every property and casualty company.

They are the ones who are going to be threatened because of the competitive implications of this proposal, which have never been considered by the Finance Committee. They have not been considered by the Finance Committee. The chairman of the Antitrust Committee, who has given time, hour after hour, year after year, of study to this industry and to the problems of competition is a cosponsor of this particular amendment. He is concerned, and he opposes this provision.

Mr. RIBICOFF. Will the Senator yield?

Mr. KENNEDY. Mr. President, I will be finished in a couple of minutes.

Mr. President, we hear about the need for consolidation. There is no problem with consolidation as far as the Senator from Massachusetts is concerned. I believe in consolidation. The Treasury Department statement supports consolidation. The provision is fine. But we also have to consider the very special implications for the insurance industry and for competition.

The antitrust laws are not applicable to insurance. They are to ITT. The Senator from Connecticut mentioned ITT. But ITT was subject to the antitrust laws. We know about ITT and Hartford Insurance Co. antitrust issues.

If a major conglomerate purchases a life insurance company, it cannot consolidate its tax returns with the life operation.

We are talking about the special question of the life insurance industry. We are talking about consolidation for the largest life insurance companies, and the significant tax benefits available. Those who have substantial profits can go out and purchase other companies with tax losses in order to be able to write these losses off. We know what that can mean in terms of these smaller companies.

What can that mean in terms of companies that do not have these kinds of profits, that have also been facing serious recent economic problems? I think we are doing a very, very serious disservice to the industry we are supposed to be helping.

My objection, I want to make clear, is not primarily on the committee's procedure, though I do object there, too.

But my principal objection is on the substance. I want to make that extremely clear at this time. It is on the substance of this issue.

We can argue about the adequacy of the hearings. I think that case has not been made. By including this proposal, we are going to be benefiting a small group of the wealthiest and most powerful corporate interests in the Nation, at a cost to the Treasury of $50 million a year, and at what I consider to be a substantial, direct threat to the competitive situation of the hundreds of thousands of mom and pop stores in the insurance industry. I reserve the remainder of my time and then I will yield to the Senator from Wisconsin.

Mr. RIBICOFF. The Senator from Massachusetts is an honorable man. I am sure he does not want to misrepresent on the floor of the Senate when he said that these people he listed did not know about S. 2985 or the Finance Committee hearing. The American Mutual Insurance Alliance and other lobbyists for the opposition group visited with the Joint Committee and Finance Committee staffs beginning in February, and discussed this measure. They knew about it.

The opposition lobbyists visited the chairman of the Finance Committee and talked about this as he has just told us.

So when the Senator from Massachusetts said they did not know about it, they did not have an opportunity to be heard, he is wrong. They had the opportunity to be heard but they did not have the guts to come in and testify. The proponents did testify. They testified twice. Mr. Filer was talking for this group of companies, and so stated. He came to answer questions, and he did answer questions.

So we have a situation where one group of companies come before the Finance Committee, and the Finance Committee, after careful, thoughtful hearings and discussion, voted in favor of it, first on May 27, 1976 and again last week. So we have something openly arrived at.

The opponents are the ones who are talking for people who do not have the courage to come out in the open and talk for themselves.

I am sure the Senator from Massachusetts does not want to leave the impression that this was sneaked through the Finance Committee and his companies did not know what was happening.

Mr. LONG. Will the Senator yield at that point?

Mr. RIBICOFF. I will be pleased to yield to the chairman of the Finance Committee.

Mr. LONG. The Senator from Massachusetts came before the committee on more occasions than one. The last time he was there he had a whole long list of things on which he did not agree with what the committee had done. I tried to get the Senator to spell out in detail, rather than just to broad-brush something without ever explaining why, what he objected to about these various amendments. I was unsuccessful in getting that from the Senator. It was just sort of a broad-brush swath that all of these things were necessarily bad. Maybe it was because he did not like the procedure or something.

We had to wait until now to hear in detail, in fact, to hear anything more than just a list of the amendments he objects to.

I assume those people, when they came by my office, went to see the other Senators on the committee. I would assume they talked to everyone else.

I find it difficult to believe that those people who know who the chairman is do not know where to go to find the members of the committee.

Incidentally, some of them may not be the biggest insurance companies but they are big enough to have a lawyer.

Mr. RIBICOFF. Will the Senator yield?

Mr. LONG. I would hate to have insurance with them if they do not have a lawyer.

Mr. RIBICOFF. They have Kemper, Sentry, Continental, Liberty Mutual, and they have an association, the American Mutual Insurance Alliance, that represents all of these companies. Talk about mom and pop. How ridiculous can one get? Hiding behind mom and pop. Since when is any insurance company a mom and pop? If they are, who would want to insure his automobile with a mom and pop company?

Mr. LONG. They are big enough to advertise on nationwide television, are they not?

Mr. RIBICOFF. Always.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. KENNEDY. I would just say that outside of Connecticut there are mom and pop stores from which millions of people have purchased insurance policies and which provide higher valued personal services.

How much time have I remaining, Mr. President?

The ACTING PRESIDENT pro tempore. The Senator has 16 minutes and Senator RIBICOFF has 15 minutes.

Mr. KENNEDY. I yield 6 minutes to the Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, I thank the Senator from Massachusetts. I support this amendment for a number of reasons. In the first place, the provisions of this bill will clearly increase concentration in the insurance industry. The amendment would prevent that kind of concentration. There is a provision in the bill which the amendment would correct, which would provide an opportunity for 12 of the Nation's largest life insurance companies to handle their casualty losses in such a way that they would increase their size, their strength, and their competitive advantage. The life insurance industry is already very heavily concentrated. The five largest companies write 50 percent of the life insurance business. It amounts to $1.5 trillion.

The companies which would benefit are few. Those who would be put at a competitive disadvantage are many and are small.

Mr. President, I agree with the Senator from Connecticut and the Senator from Louisiana that they have made a real effort to try to be fair and to try to give many of those who oppose the narrow interest provisions in the bill an opportunity to testify. I think that is to their great credit. The fact is, however, Mr. President, this is a very complicated provision. It is one which should receive considerable consideration.

As the Senator from Massachusetts and the Senator from Connecticut have pointed out, there have been hearings. Those hearings have been limited, very limited. Aetna testified in April 1976 at the general Finance Committee hearings on this provision. They testified again last week at the reopened Finance Committee hearings on the special interest tax provisions. There have been submissions to the Senate and House tax staffs.

Mr. President, in a matter as complicated as this, which would cost $25 million the first year and $50 million a year after that, in a matter that would not take effect until 1978 and, therefore, can easily be postponed for another year without any adverse effect on any interest concerned, this is certainly something that should be delayed until the full record can be written.

I can understand if there were an emergency in which a firm needed relief this year or next year. I think they could make a strong case. But it is not until fiscal 1978, which begins more than a year from now, that there would be any consequence. For that reason, Mr. President, it would seem to me that it would be unwise to rush this through.

Mr. RIBICOFF. Will the Senator yield on my time on that point?

Mr. PROXMIRE. Yes.

Mr. RIBICOFF. The reason it was put off was that the Finance Committee wanted to make sure there would not be a revenue loss in fiscal year 1977. The Treasury felt it was a good and proper proposal, and it was reviewed by the joint committee staff. But to make sure there would be no revenue loss in fiscal year 1977 is the reason it is to start in 1978.

Mr. PROXMIRE. I think that is a very good justification and I think it is wise.

Mr. RIBICOFF. It also takes time to get the rules and regulations prepared by Treasury.

Mr. PROXMIRE. I realize that. At the same time that does not lessen the fact that that still gives us time to develop a record which we do not presently have.

This is a matter which was, as I understand it, accepted by the Finance Committee on Thursday, May 27, along with some 40 or 50 other provisions. While there has been testimony, I think the testimony, I am sure the Senator from Connecticut would agree, is quite limited, considering that this is quite complicated legislation.

Mr. RIBICOFF. Again, if the Senator will yield, it was only limited by the willingness of the Finance Committee to ask questions. They asked questions. They were there, and could have gone on for a long time.

May I say I commend the Senator from Wisconsin, who himself has stated that what we are seeking to do is a logical extension of existing law. The Senator from Wisconsin did make that statement. On June 28, 1976, at page 20905 of the CONGRESSIONAL RECORD.

Mr. PROXMIRE. What I am saying here, however, to my good friend from Connecticut, is that this is something which has an adverse effect on competition in an industry which is already concentrated. It is opposed by the chairman of the Antitrust Subcommittee, a man in whom we have great faith in his judgment. It would mean further concentration in this industry. It would have an adverse effect on scores of insurance companies which would not be benefited. Only a few would be benefited——

Mr. RIBICOFF. Again may I make a comment on my own time?

Mr. PROXMIRE. Yes.

Mr. RIBICOFF. In a report I have in my hand, made for the New York State Insurance Department, on this issue, it says:

> A change in the tax law permitting life and property and liability companies to file consolidated income tax returns will eliminate a current discriminatory practice favoring industrial companies; will provide needed capital to the property and liability industry at critical times of need thus improving insurance availability; and will increase competition and innovation.

This was a report by Donald Kramer, a well-known economist on insurance matters, and a consultant to the New York Insurance Department.

Mr. PASTORE. Mr. President, will the Senator from Connecticut yield to me on his time?

Mr. RIBICOFF. I yield.

Mr. PASTORE. We in Rhode Island have about the highest rate on automobile casualty insurance of any State in the Union. This disturbs me most. And then we have this new phenomenon, or crisis, if you want to call it that, about malpractice insurance.

Would this consolidated return, as promulgated by the Finance Committee, help at all in that direction?

Mr. RIBICOFF. Yes, it would, because what it does is build up the reserves of the casualty insurance companies, and by building up the reserves it gives them the capacity to write more insurance.

As all of us know, in our own States, from letters we have been getting, the insurance companies have become very selective, and they have been canceling automobile insurance policies time after time for large groups of people.

They have been experiencing large losses. But if they can file a consolidated return, to combine the profits they make from life with the losses they have from casualty, that will give them bigger reserves to keep stable and level their insurance capacity and at the same time give them an opportunity to write more insurance, because their ability to write insurance, and permission from the Insurance Commissioner to do so, depends upon the size of their reserves.

Mr. PASTORE. Is the Senator saying the automobile owner and the physician will be better off because of this situation?

Mr. RIBICOFF. Without a question. And that was the effect of the quotation that I read from the study made for the New York Insurance Department.

Mr. PROXMIRE. Mr. President, let me say in conclusion, the Senator from Connecticut makes the point that the insurance industry would be better able to compete with industries outside the insurance business, and I think he may be correct. But the important point is not that the insurance industry should be stronger; it is a strong industry now. What it needs is the capacity to compete within the insurance industry.

As I pointed out, it is a heavily concentrated industry, with only five firms writing 50 percent of the business. What this legislation would do is further concentrate the industry, which is why the Senator who is our principal expert on competition and monopoly is a cosponsor of this amendment.

Mr. RIBICOFF. The casualty insurance industry, especially in the last 2 years, is not a profitable industry. In the last 2 years it has suffered losses of $7 billion.

We have heard—it is all over the Washington and New York papers—about GEICO going broke. These casualty insurance companies that have lost $7 billion in the last 2 years and if this continues they will all go broke, and no one will be able to have an insurance policy.

Mr. PROXMIRE. I think the Senator from Connecticut knows that the last 2 years have been extraordinary for the casualty insurance industry. It had been enormously profitable before, and no doubt will be again. We ought not to base legislation on that very rare 2-year experienced experience; it seems to me to be extremely unwise.

Mr. RIBICOFF. If they do turn out to be profitable, and they file a consolidated return, their taxes will be based on the combined incomes. What we must keep in mind is that it is in the public interest to maintain capacity during loss years.

Mr. PROXMIRE. In any event, Mr. President, the effect of this legislation is to give a tremendous advantage to a few insurance companies and a disadvantage to their competitors, and thus to concentrate this industry even more heavily than at the present time.

In view of the fact that it will not take effect for more than a year, what is wrong with postponing it, which is exactly what this amendment would do?

Mr. President, I yield the floor.

Mr. CURTIS. Mr. President, will the Senator from Connecticut yield me some time?

Mr. RIBICOFF. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from Connecticut has 11 minutes remaining. The Senator from Massachusetts has 8 minutes.

Mr. RIBICOFF. Five minutes?

Mr. CURTIS. That will be fine.

Mr. President, I support the committee's position because it is good tax law. I also support the committee's position because no challenge can be made as to the procedure by which the committee amendment was considered and adopted. This matter was presented to the committee early in our hearings. Witnesses appeared and advocated it. The committee staff analyzed the proposal, which was then considered by the committee in open, public session.

In my view, this is good tax law. Let me explain. Virtually every other domestic corporation can, by meeting the stock affiliation requirements, file a consolidated tax return. There are some corporations that are denied the right to file a consolidated tax return, but most engaged in some sort of foreign trade, are exempt from tax, or are mutual funds or similar entities.

Present law allows a stock casualty insurance company and an affiliated noninsurance company to file consolidated returns so that casualty company losses can reduce income tax for the affiliated group on a current basis, without waiting for loss carryovers to be applied. Casualty companies which are affiliated with life insurance companies are not so fortunate. Because present law does not allow a life insurance company to file consolidated returns with a nonlife company, the casualty company losses can be carried back or carried over against income of the casualty company for other years but the losses cannot be applied against life company income. This discrimination against casualty companies affiliated with life companies has proven very costly because the recent recession and inflation in prices has resulted in large losses for casualty insurers. These losses can have the effect of reducing the capacity of casualty companies to write insurance policies.

Under the committee amendment, the tax savings on account of casualty company losses can be used to increase the casualty company's statutory surplus on a current basis. This larger surplus should increase the capacity of these companies to write insurance.

Mr. President, the proposal of the Committee on Finance is both fair and in the interest of the insured.

I have looked with interest at the list of companies alleged to be for this amendment and those against it. I find one Nebraska company that is listed as against the committee amendment. I do not believe that I have heard from this company, but, Mr. President, insurance is big business in the State of Nebraska. We have many home offices of insurance companies, and they are good-sized—they are not small ones. I think insurance ranks as perhaps the second largest industry in the State of Nebraska. They are not protesting about this. They are not "pop and mom" stores. Those people are not in the insurance business, not at the present time. With the high cost to get a car repaired, the large verdicts granted against insurers, the necessity for providing stability in the insurance industry is very great.

The PRESIDING OFFICER (Mr. CLARK). The Senator's 5 minutes have expired.

Mr. CURTIS. I urge that the amendment proposed by the Senator from Massachusetts be rejected and that the committee's position be sustained.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 8 minutes.

Mr. KENNEDY. I yield myself 6 minutes.

Mr. President, we have heard a great

deal about the insurance industry and whom this is going to benefit and whom it is going to adversely impact.

The Senator from Rhode Island asked an important question earlier during the discussion.

The life insurance trade association itself does not support this particular amendment. They are split between the big companies and all the others. The primary reason they do not support this particular proposal is because the smaller companies in the life insurance industry itself feel that they are going to be at a disadvantage compared to the major companies, the major concentrations of power in the life insurance industry. Five companies have dominated the industry, and this dominance will increase.

Mr. RIBICOFF. Mr. President, will the Senator yield on my time to answer?

Mr. KENNEDY. If I may finish the point, I shall yield without finishing the total comment.

So they do not support this particular proposal.

Second, the trade associations for casualty and property insurance companies are strongly opposed to it. One can talk about them, whether he is my own State of Massachusetts or other parts of the country. There are many different property and casualty insurance companies that exist in the local communities and provide extremely important services. They are having a very difficult time because of the recent economic crisis. They are, I believe, an energizing factor in the whole competitive situation. They are the ones that are going to be squeezed out by this proposal if it is successful.

Let me refer to a report from Smith Barney & Co. In their research. In June of this year they state: "The most important of these amendments"—talking about the amendments of the Committee on Finance—"is one which should improve the desirability of loss-ridden casualty companies as acquisition candidates by permitting consolidation of their income tax returns with those of life insurance company, both stock and mutual."

That is the word that is going out to the major life insurance companies of this country. They are going to be able to consolidate their tax returns and buy up the smaller companies. They are trying to compete in already difficult situation. Yet we are being asked to give benefits to those that are the most successful, most powerful, and the wealthiest industry.

The implications for the whole industry are significant and profound. As the Senator from Michigan who is the chairman of the Antitrust Subcommittee, points out, he is strongly opposed to the committee provision because of the anticompetitive impact it will have. The chairman of the Banking and Currency Committee is also a cosponsor of the amendment, for the same reasons.

The point that I make, in conclusion, is that life insurance companies are unlike companies in any other industry. They are exempt from the antitrust laws, absolutely. Trying to compare this industry to ITT or other industries is like comparing oil and water, oranges and grapefruit. It is an entirely different situation. They have an antitrust exemption and they have had it for many years.

This tax proposal could cause a major restructuring of the whole industry from a competitive point of view.

Before we take that step, which will not be applicable for another year-and-a-half in any event, if it is passed, why can we not hear from the Department of Justice about the competitive impact? Why can we not follow the normal procedures which we would follow in any major undertaking of this broad implication?

Mr. PASTORE. Mr. President, will the Senator yield?

Mr. KENNEDY. I yield.

Mr. PASTORE. My question to the Senator from Connecticut was directed in the interest of the person who has to buy insurance. I know that in my State automobile insurance is almost twice as much as it might be, let us say, in Maryland, and even more than it might be even in Massachusetts. I know, also, that today we have this other new crisis, and I have talked about doctors who are giving up their profession because of some of the verdicts that have been meted out on the question of malpractice. I had a wife call me up whose husband is a neurosurgeon who just came out. He was a resident at one of the best hospitals in New England, and his premium for the first year even to go into practice was $20,000, and these poor people did not know where to go to get the money.

The question I am asking is this: I directed the question to the Senator from Connecticut and he said that the committee bill would help the person who buys the insurance. What has the Senator from Massachusetts to say?

Mr. KENNEDY. He says that. But I answer it this way: We are talking about an enormous industry. This is a $50 million benefit to 12 companies.

The PRESIDING OFFICER. The Senator's 6 minutes have expired.

Mr. KENNEDY. This is a $50 million windfall to the major life companies, with profound competitive effects. We know what happens when competition goes down. Prices go up. The trade associations that represent the major small insurance companies strongly oppose this proposal. Granting $50 million to 12 companies is not going to lower the casualty insurance rate for automobiles in Rhode Island.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. RIBICOFF. How much time remains?

The PRESIDING OFFICER. The Senator from Connecticut has 6 minutes; the Senator from Massachusetts has 1 minute.

Mr. RIBICOFF. I yield myself 3 minutes.

I appreciate the colloquy and the questions asked by my distinguished colleague from Rhode Island because he always asks the gut question. As long as we are talking about that, the argument that amendment will hurt competition is pure hogwash. Right now we have excess demand and insufficient supply.

As to the problem that the distinguished Senator from Rhode Island mentions of a doctor having to pay a $20,000 premium, his problem is he even has difficulty finding any insurance company that will write that. We are all in a situation of realizing that today there is so much demand and not enough supply because the casualty companies have been experiencing fantastic losses.

As I stated before, those losses amounted to $7 billion in the last 2 years. They do not want to write this business.

I say to the distinguished Senator from Rhode Island that if he glances down the list of companies offered by the Senator from Massachusetts, he will find very few of those that will write a policy on the Senator's doctor friend. Nor, if a member of his family has his automobile casualty policy canceled can he place it here.

The unfair competition argument does not have merit so long as there is demand greater than supply. No one wants to write this business. The big companies are not anxious to write it, too, but they do have a sense of responsibility, of covering their policyholders. But, as between these companies and industrial companies with casualty affiliates, there is real unfair competition.

Let us look at the competitive advantage Gulf and Western Industries enjoys over companies like Travelers and Aetna. Gulf and Western Industries owns Emmco Insurance Co., Excell Insurance Co., Providence Washington Co., Motor Vehicle Casualty Co., Providence Lloyds, Providence Washington Insurance Co., Providence Washington Insurance Co. of Alaska, Western Alliance Insurance Co., and York Insurance Co.

They can file a consolidation return. I do not want to take it away from them. They are entitled to it.

ITT owns the following companies: Hartford Casualty, Hartford Accident and Indemnity, Hartford Fire, New England Reinsurance Corp., New York Underwriters, Twin City Fire, First State Pacific, and Sentinel. It can file consolidated returns. That is all right with me. But Travelers and Aetna and other life companies cannot.

Mr. PASTORE. Mr. President, will the Senator yield?

Mr. RIBICOFF. I yield.

Mr. PASTORE. I have just picked up the sheet of the pro and con companies, and I find that most of those that are pro are in Connecticut and those that are opposed are in Massachusetts and other places. I note that there are two here from Rhode Island which are opposed—AMICA Mutual Insurance Co., and Union Mutual Insurance Co. Will the Senator explain to me why they would be opposed to this?

Mr. RIBICOFF. My guess is—and I do not know—that they are members of a trade association, the American Mutual Insurance Alliance.

I ask the Senator whether the Rhode Island insurance companies have written or contacted him to be against this proposal.

Mr. PASTORE. No, they have not. I just checked that 15 minutes ago.

Mr. RIBICOFF. I have pointed out

that the Senator from Massachusetts accused the Finance Committee of running a rump operation—we sneaked something through. There were open hearings. But it was the opponents that were sneaking in the back door, talking to Senators and staff and never appeared in open hearings.

The PRESIDING OFFICER. The 3 minutes of the Senator have expired.

Mr. RIBICOFF. I yield myself 1 additional minute.

There were hearings. These people knew hearings were held. Not one company came in and testified in opposition.

I have not found any Senator who says that these small companies have written to them. It makes no difference whatsoever to these companies. The companies in Rhode Island, and there are some small companies in Connecticut, can write all the insurance they can get even if this amendment passes.

What we are saying is that the casualty companies are experiencing a severe capacity problem which means that people cannot get insurance when they need it.

If we want to beggar the American people by not giving them the opportunity to get insurance with stability and assurance, it is going to be a bad situation for this Nation.

Mr. KENNEDY. Mr. President, I will read a statement by the Senator from Michigan (Mr. PHILIP A. HART):

> A few days ago, the Judiciary Committee reported to the Senate a bill (S. 2028) which would require federal departments and agencies to consider the competitive impact of their various decisions and rulings. Further, if the competitive harm outweighed the public interest, the actions could not be taken.
>
> Today, I would like to see the Senate apply that standard to itself.
>
> In Title 15 of this bill, specifically in Section 1508, we are being asked to give a tax break to a number of life insurance companies so that they may write off on the life side losses incurred on the property and casualty side.
>
> It is a nice piece of business if you are the proprietor of a combination life-property-casualty company.
>
> But it is, frankly, a knock in the head if you are one of the life companies which is trying to compete with the combination company, after the tax break.
>
> The money in the tax break is sizeable—$169 million over four fiscal years.
>
> If there were some assurance that this savings might be passed on to the customers of the life-property-casualty companies, we might have to spend more time agonizing over our decision.
>
> But price competition is not very popular in this industry, according to studies done by the Senate Antitrust and Monopoly Subcommittee.
>
> First, consumers have trouble price-shopping because they don't have the information necessary to figure what the various policies truly cost. As a result, the top five companies which have more than 50 percent of the assets—leaving 50 percent for the other 1,800 companies—are not low cost companies. Instead the subcommittee study showed the industry leaders are medium to high cost companies.
>
> And, since there is no price regulation for life insurance as there is for other type of insurance, we have no hope that state regulators would see that the savings were passed through.
>
> Unfortunately, I see Section 1508 as "special interest" legislation with no redeeming grace. I urge my colleagues to vote to eliminate it.

The States on this list which oppose this section are California, Delaware, Georgia, Illinois, Indiana, Iowa, Kansas, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, New Hampshire, New Jersey, New Mexico, Ohio, Pennsylvania, Rhode Island, Texas, West Virginia, and Wisconsin.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. RIBICOFF. Mr. President, I ask the Members of this body, as the Senator from Massachusetts reads off the names of those companies, how many Senators have heard from those companies. Having been a Senator for a number of years—and a public official before that—all I know is that when a company has an interest in a proposal, they let you know loud and clear. Have they written Senators?

A vote for the Kennedy-Proxmire amendment is a vote against the public interest. The consolidation proposal will materially add to the insurance capacity of the industry.

Will Senators KENNEDY and PROXMIRE tell the automobile owner, the homeowner, the doctor who is actually being shut off from any coverage at any price, "Have faith, my friend. Don't worry about it. Wait a few years and we will work this out"?

Not only will the public lose, but also, the beneficiaries will be the large conglomerates that own property casualty subsidiaries which presently have the consolidation privilege.

Also standing to gain by the Kennedy-Proxmire amendment are the large property-casualty companies which are unaffiliated, such as Liberty Mutual, the biggest one, from the State of Massachusetts.

I point out that these companies cannot underwrite all the risks. Yet, they would rather see the industry and the public damaged, rather than the logical extension to a long overdue change in the law.

Senator PROXMIRE and Mr. Nader's group said this is a logical extension. If it is a logical extension, why not make sure we have it protect the average consumer in America? This is a consumer bill, not an insurance bill.

Mr. BENTSEN. May I ask the distinguished Senator to amplify on his remarks regarding the alleged competitive impact of the provision. I, too, have heard the arguments that have been made, and I do not understand them either. Do we know, for example, whether the industrial companies with casualty affiliates have used their existing consolidation privilege to engage in anticompetitive practices by reducing their rates?

Mr. RIBICOFF. I thank the distinguished Senator from Texas for his question. A study prepared by the New York State Insurance Department in 1975 indicates that large casualty companies like the Hartford, a subsidiary of ITT, and Fireman's Fund, a subsidiary of American Express, have not been charging rates that reflect any anticompetitive designs. In fact, for certain lines their rates are well above the average level charged in the State, even though they now enjoy the consolidation privilege.

Casualty companies do not have unlimited capacity to assume risks. Their ability to insure is geared to their surplus. As I have stated, in loss years, the only time the provision would have a meaningful impact by providing a partial restoration of surplus, it would be totally reckless for a loss company to lower premiums for competitive reasons.

In addition, the State insurance commissioners would not permit casualty affiliates to offer inadequate rates to attain a competitive advantage. Such a practice would be viewed as jeopardizing policyholder security and would violate State unfair trade practice and rating laws. We know from reading of the GEICO situation that what precipitated that company's problem was an inadequate rate structure, and the State commissioners are not likely to let that happen again.

Mr. BENTSEN. I thank the Senator for his response to my question. Another point to be made is that because the public's demand for coverage is greater than the industry's capacity, ample opportunity exists for all companies to compete in the marketplace under any circumstances. I support the provision because without it, the public could suffer severe hardship through a continued reduction in industry capacity.

The PRESIDING OFFICER. All time on the amendment has expired. The question is on agreeing to the amendment of the Senator from Massachusetts. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. FONG (when his name was called). Present.

Mr. ROBERT C. BYRD. I announce that the Senator from Mississippi (Mr. EASTLAND), the Senator from Indiana (Mr. HARTKE), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Wyoming (Mr. MCGEE), the Senator from New Mexico (Mr. MONTOYA), the Senator from Utah (Mr. MOSS), the Senator from California (Mr. TUNNEY), the Senator from Delaware (Mr. BIDEN), the Senator from Colorado (Mr. HASKELL), the Senator from Montana (Mr. METCALF), the Senator from Minnesota (Mr. MONDALE), and the Senator from Idaho (Mr. CHURCH) are necessarily absent.

Mr. HUGH SCOTT. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Maryland (Mr. BEALL), the Senator from Tennessee (Mr. BROCK), the Senator from New Jersey (Mr. CASE), the Senator from Michigan (Mr. GRIFFIN), the Senator from Nevada (Mr. LAXALT), the Senator from Virginia (Mr. WILLIAM L. SCOTT), and the Senator from Ohio (Mr. TAFT) are necessarily absent.

I further announce that the Senator from New Mexico (Mr. DOMENICI), is absent due to illness.

The result was announced—yeas 34, nays 43, as follows:

[Rollcall Vote No. 438 Leg.]

YEAS—34

Abourezk
Bayh
Buckley
Burdick
Byrd, Robert C.
Cannon
Clark
Cranston
Culver
Durkin
Ford
Hart, Gary
Hart, Philip A.
Hathaway
Hollings
Humphrey
Jackson
Kennedy
Leahy
Magnuson
Mansfield
Mathias
McClure
McGovern
McIntyre
Morgan
Muskie
Nelson
Pell
Percy
Proxmire
Schweiker
Stevenson
Stone

NAYS—43

Allen
Bartlett
Bellmon
Bentsen
Brooke
Bumpers
Byrd,
 Harry F., Jr.
Chiles
Curtis
Dole
Eagleton
Fannin
Garn
Glenn
Goldwater
Gravel
Hansen
Hatfield
Helms
Hruska
Inouye
Javits
Long
McClellan
Nunn
Packwood
Pastore
Pearson
Randolph
Ribicoff
Roth
Scott, Hugh
Sparkman
Stafford
Stennis
Stevens
Symington
Talmadge
Thurmond
Tower
Weicker
Williams
Young

ANSWERED "PRESENT"—1

Fong

NOT VOTING—22

Baker
Beall
Biden
Brock
Case
Church
Domenici
Eastland
Griffin
Hartke
Haskell
Huddleston
Johnston
Laxalt
McGee
Metcalf
Mondale
Montoya
Moss
Scott,
 William L.
Taft
Tunney

So Mr. KENNEDY's amendment was rejected.

Mr. RIBICOFF. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. CURTIS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LONG. Mr. President, I would like to know if there are any further amendments to be offered to title XV.

Mr. CURTIS. Reserving the right to object, Senator JAVITS indicated he might have an amendment.

Mr. JAVITS. I am here.

Mr. CURTIS. Does the Senator have an amendment to title XV?

Mr. JAVITS. I do. Is it in order to offer an amendment at this time?

Mr. President, just to give myself 1 minute, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. JAVITS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1907

Mr. JAVITS. Mr. President, I first wish to state that I am grateful to Senator CURTIS for remembering that I had an amendment to this particular title of the bill, and to the Senate for indulging while I got it unraveled.

Mr. President, I call up my amendment No. 1907 and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from New York (Mr. JAVITS) proposes an amendment No. 1907.

The amendment is as follows:

On page 926 after line 11 add the following new section:

SEC. 1511. TREATMENT OF CERTAIN EMPLOYEE ASSOCIATION INDIVIDUAL RETIREMENT ACCOUNTS, ETC.

(a) Section 219(b)(2)(A)(i) of the Internal Revenue Code of 1954 is amended to read as follows: "a plan described in section 401(a) which includes a trust exempt from tax under section 501(a), unless it is a group retirement trust maintained by an employee association which is financed exclusively by contributions of employees who are members of such employee association and which was established prior to January 1, 1974."

(b) Section 408(e) of the Internal Revenue Code of 1954 is amended by adding a new section as follows:

"(7) FUNDING OF OTHER RETIREMENT BENEFITS BY ACCOUNTS ESTABLISHED BY ASSOCIATIONS OF EMPLOYEES.—If the assets of an individual retirement account established under a trust maintained by an association of employees are used to fund certain past service and disability retirement benefits and incidental death benefits provided by a group retirement trust maintained by the same association of employees as described in section 219(b)(2)(A)(i), then the assets so used, or any portion thereof, shall be treated as distributed to the individual for whose benefit the individual retirement account was established, except that paragraphs (1) and (2) of this subsection, and subsection (f) shall not apply."

(c) Section 408(e)(6) of the Internal Revenue Code of 1954 is amended as follows:

"(6) COMMINGLING INDIVIDUAL RETIREMENT ACCOUNT AMOUNTS IN CERTAIN COMMON TRUST FUNDS AND COMMON INVESTMENT FUNDS.—Any common trust fund or common investment fund of individual retirement account assets which is exempt from taxation under this subtitle does not cease to be exempt on account of the participation or inclusion of assets of a trust exempt from taxation under section 501(a) which is described in section 401(a) or of a group retirement trust exempt under section 501(a) which is created or organized by an association of employees as described in section 219(b)(2)(A)(i)."

(d) Section 408(a) of the Internal Revenue Code of 1954 is amended by adding a new paragraph as follows:

"(8) Nothing contained in this subtitle or any regulations which have been or will be prescribed by the Secretary or his delegate, shall preclude the distribution of an individual's interest in an individual retirement account in the form of pension, disability or death benefits provided by a group retirement trust exempt under section 501(a) which was created or organized by an association of employees and described in section 219(b)(2)(A)(i), provided that the requirements of paragraphs (4), (5), (6), and (7) are met."

(e) Section 408(d) of the Internal Revenue Code of 1954 is amended by adding a new paragraph as follows:

"(7) DISTRIBUTION FROM INDIVIDUAL RETIREMENT ACCOUNTS IN THE FORM OF CERTAIN BENEFITS PROVIDED BY GROUP RETIREMENT TRUSTS OF EMPLOYEE ASSOCIATIONS.—To the extent that assets of an individual retirement account established under a trust maintained by an association of employees are distributed in the form referred to in section 408(a)(8), the benefits so distributed shall be treated in accordance with paragraph (1) until the amount of benefits paid equals the amount of assets attributable to the distribution of such individual retirement account."

(f) The first sentence of section 4947(a) of the Internal Revenue Code of 1954 is amended by striking the words "or (7)," after "section 408(a)(6)" and insert the following: "(7) or (8)." Section 4947(b) of the Internal Revenue Code of 1954 is amended in the same manner.

(g) Section 4975(c)(3) of the Internal Revenue Code of 1954 is amended by striking the words "section 408(e)(4)" and inserting: "section 408(e)(4) or section 408(e)(7)."

(h) The amendments made by this section shall apply to taxable years beginning January 1, 1976 and individual retirement accounts established under a trust by an association of employees at any time during calendar year 1976 shall be deemed to have been in effect since January 1, 1976.

Mr. JAVITS. Mr. President, my amendment seeks to correct a serious flaw in the individual retirement account—IRA—provisions of the Internal Revenue Code—one which is jeopardizing the continued existence of certain union pensions plans.

First, let me describe the problem: In certain types of union pension funds, the members are withdrawing their contributions and are setting up IRA's with banks and insurance companies. They are doing this because they cannot obtain tax deductions for their contributions to the union plan but can do so when the same contributions are directed to IRA's. The continuation of these withdrawals threatens the pensions of many older and disabled plan members when the funds to support these pensions dry up. These plans will terminate without the aid of the pension benefit termination insurance provisions of ERISA. The insurance provisions do dot cover union pension benefits financed exclusively by union members. Thus, the IRA provisions, as presently written, are undercutting these union pension plans to the point of ruin.

Significantly, when the individual retirement account provisions were enacted as part of ERISA in 1974, a specific section was adopted permitting labor unions to establish pooled IRA plans for their members. I refer to section 408(c) of the Internal Revenue Code. Unfortunately, section 408(c) does not provide for cases where the union already covers its members with a pension plan financed exclusively from their contributions.

These union-funded retirement programs are very similar to the old fraternal benefit programs that existed in this country before the turn of the century. They resemble very closely the union IRA plans permitted under section 408(c). Only union members contribute—that is, there are no employer contributions as in the Taft-Hartley Funds and the members have a nonforfeitable right to their contributions.

However, there is on significant difference. In order to provide recognition of the needs of older members or those who become disabled or die, the union retirement plans to which I refer, provide pension, disability or death benefits based on length of service or similar criteria. In effect, these programs are a form of social insurance with an actuarial element which each member finances through his contribution. Because of the social insurance aspect, these programs cannot now qualify under section 40(c) of the Internal Revenue Code as a union-established IRA plan.

I do not believe it was the intent of Congress to disrupt established and otherwise viable union retirement programs through enactment of the IRA tax provisions. In fact, I was given assurances at the Senate-House conference on ERISA in 1974 that the IRS would find a way to permit these established union retirement programs to qualify in part as IRA plans. I would like to quote from my remarks when the Senate enacted ERISA:

> "It is my understanding that where a union currently sponsors a plan for its members financed exclusively from assessments levied on the membership, that all or part of the contributions made by the members through such assessments may qualify as an individual retirement account deduction if, subject to regulations of the Secretary of Treasury or his delegate, the plan is modified so as to permit a determination as to what amounts paid by the member could be treated as properly allocable to an individual retirement savings component of the plan." Sec. 130 Cong. Rec. 29941, August 22, 1974, 93rd Cong. 2nd Sess., Vol. 120.

Regrettably, this understanding has not matured into an IRS approved procedure for qualifying union-financed retirement programs as IRA plans. Experts in IRS believe that the technical wording in the Internal Revenue Code precludes establishing the type of procedure needed. I do not necessarily agree but the question is certainly not free from doubt and it would be resolved by legislative revisions of certain language in the Code.

The amendment I propose would allow union members to continue participating in their union's retirement program as well as in a tax deductible IRA plan established by the union. The amendment would further permit part of IRA funds accumulated for union members to be channeled into funding the preexisting retirement, disability and death benefits provided by the old plan. Members would pay tax on that portion of their IRA's used to fund the preexisting benefits. Also, both funds could be combined for investment purposes, and IRA's could be paid out in the form of union pension benefits as long as the member or his beneficiary received the full value of the IRA.

Let me conclude by observing that while this amendment is much needed, its budgetary impact is minimal. This amendment merely guarantees that unions which establish IRA plans under section 408(c) of the Code can also continue to provide non-IRA retirement benefits from previously established plans to their members. Let me emphasize that the amendment specifically requires the union members to include in their taxable income the moneys from the IRA used to fund the non-IRA benefits. Since the latter cannot be deducted as an IRA contribution, the revenue loss is minimal. Also, out of some 450,000 pension plans in the country, only about 1,800 are union plans affected by my amendment. That is a very small number, yet I am sure that each of these plans are vital to the retirement needs of the union members involved. Therefore, I urge adoption of this amendment as means of saving these plans and to carry out what I perceive as the true intent of the IRA provisions—which was to allow unions to establish IRA plans for their members but not at the expense of depriving their members of previously earned retirement benefits.

Mr. President, I ask unanimous consent that an explanation be printed in the RECORD. It was prepared by the minority staff of the Committee on Labor and Public Welfare.

There being no objection, the memorandum was ordered to be printed in the RECORD, as follows:

MEMORANDUM

Re Amendment 1907: Treatment of Employee Association Individual Retirement Accounts.

Rank and file members of the National Association of Women's and Children's Apparel Salesmen Guild (NAWCAS), a labor organization, are beginning to withdraw their contributions from the union's pension fund, which is affiliated with and administered by the Distributive Workers of America (District 65) of New York City. The pension fund is financed entirely out of contributions made by the union's members; no employer contributes a dime. The reason they are withdrawing their contributions is in order to transfer them to I.R.A.s where they can get the annual $1,500 tax deduction. Because there is no I.R.A. tax deduction for union pension funds of this type, these withdrawals are bound to continue until the NAWCAS plan is no longer viable. When this happens, many of the older members and retirees, who were granted past service credit by the plan, will lose their pensions because there will no longer be the flow of contributions necessary to maintain the promised benefits. To compound this misfortune, in the event the plan is compelled to terminate, it will not be covered by the insurance provided under ERISA by the Pension Benefit Guaranty Corporation because union plans of the NAWCAS type are excluded from coverage.

There are over 2,000 enrolled members of the District 65–NAWCAS plan scattered throughout various parts of the United States, including New York, New Jersey, Louisiana, Florida, Texas, California, Arizona and Illinois. The modest pensions of older members (many of whom prior to the inception of the plan were compelled to work in their 70s because they could not afford to retire) could be in jeopardy if the financial underpinning of the plan was impaired owing to membership withdrawals.

Significantly, when the individual retirement account provisions were enacted as part of ERISA in 1974, a specific section was adopted permitting labor unions to establish pooled I.R.A. plans for their members. I refer to section 408(c) of the Internal Revenue Code. Unfortunately, section 408(c) does not provide for cases where the union already covers its members with a pension plan financed exclusively from their contributions.

These union-funded retirement programs are very similar to the old fraternal benefit programs that existed in this country before the turn of the century. They resemble very closely the union I.R.A. plans permitted under section 408(c). Only union members contribute (i.e., there are no employer contributions as in the Taft-Hartley Funds) and the members have a non-forfeitable right to their contributions.

However, there is one significant difference. In order to provide recognition of the needs of older members or those who become disabled or die, the union retirement plans to which I refer, provide pension, disability or death benefits based on length of service or similar criteria. In effect, these programs are a form of social insurance with an actuarial element which each member finances through his contribution. Because of the social insurance aspect, these programs cannot now qualify under section 408(c) of the Internal Revenue Code as a union-established I.R.A. plan.

I do not believe it was the intent of Congress to disrupt established and otherwise viable union retirement programs through enactment of the I.R.A. tax provisions. In fact, I was given assurances at the Senate-House conference on ERISA in 1974 that the I.R.S. would find a way to permit these established union retirement programs to qualify in part as I.R.A. plans. I would like to quote from my remarks when the Senate enacted ERISA:

> "It is my understanding that where a union currently sponsors a plan for its members financed exclusively from assessments levied on the membership, that all or part of the contributions made by the members through such assessments may qualify as an individual retirement account deduction if, subject to regulations of the Secretary of Treasury or his delegate, the plan is modified so as to permit a determination as to what amounts paid by the member could be treated as properly allocable to an individual retirement savings component of the plan." Sec. 130 Cong. Rec. 29941, August 22, 1974, 93rd Cong. 2nd Session, Vol. 120.

Regrettably, this understanding has not matured into an I.R.S. approved procedure for qualifying union-financed retirement programs as I.R.A. plans. Experts in I.R.S. believe that the technical wording in the Internal Revenue Code precludes establishing the type of procedure needed. I do not necessarily agree but the question is certainly not free from doubt and it would be resolved by legislative revisions of certain language in the Code.

THEORY OF AMENDMENT 1907

In order to qualify union pension plans like the District 65–NAWCAS trust for I.R.A. tax treatment, it is proposed that relevant provisions of IRC be amended technically to permit a portion of the assets of the I.R.A. funds established by unions to be used to fund non-I.R.A. benefits of a union's retirement program. The amendment would make clear that the allocation of I.R.A. assets to fund non-I.R.A. benefits would not cause the I.R.A. fund to lose favored tax treatment and that subject to certain restrictions, the union could combine I.R.A. funds with non-I.R.A. funds for purposes of investment and paying pensions to their members.

These technical amendments would enable the District 65–NAWCAS trust to continue the present plan as an I.R.A. plan, using a limited portion of plan assets to fund separately, subject to tax, the past service, disability and death benefits provided by the Union's retirement program. Members of the plan would get an I.R.A. tax deduction for their contributions, and the plan would be salvaged.

The following provisions of the Internal Revenue Code are the significant obstacles to permitting union retirement funds to qualify as I.R.A. funds:

1. Section 219(b)(2)(A)(i) of the Code which can be interpreted to prohibit an employee who is a member of a union retirement trust from participating in an I.R.A. plan.

2. Section 408(e) of the Code which can be interpreted to mean that using a portion of an I.R.A. to fund union retirement benefits is a prohibited transaction resulting in a taxable distribution of the I.R.A.

3. Section 408(f) of the Code which can be construed as requiring the imposition of the penalty tax for premature distributions of I.R.A.s if I.R.A.s are used in part to fund other union retirement benefits.

4. Section 408(e)(6) of the Code which permits I.R.A. funds to be comingled with employer pension funds but not with union pension funds.

5. Sections 408(a)(6) and 408(d)(1) which could be interpreted as precluding the distribution of I.R.A.s in the form of union pension benefits even if all other relevant I.R.A. requirements pertaining to distribution are met.

Amendment 1907 attached hereto would solve these problems.

IMPACT

It is estimated that less than one-half of one percent (i.e., less than .5%) of all the pension plans in the nation are plans which are financed exclusively by contributions from union members.* These plans come into existence only when a union does not have the economic strength to bargain for an employer-financed pension program.

To assure that it is not necessary to encourage the further expansion of union-financed plans in order to save plans like the District 65–NAWCAS trust, the Amendment is limited to union plans established prior to January 1, 1974. In any event, the budgetary impact of the amendment is negligible because if these plans were to be terminated the members would establish tax deductible I.R.A. plans anyway in lieu of being permitted to maintain their present plans.

Mr. JAVITS. Mr. President, I have discussed this proposition with the manager of the bill (Mr. RIBICOFF) and with Mr. Woodworth, whom we all admire so much for his deep understanding of our problems and of the law. It comes out to this: They do not mind this amendment but they are concerned that the amendment, as drafted, may have some effect on other provisions of IRA. I respect that.

Second, they feel that it may be possible, under section 1503 of the bill which is before us, to deal with this subject in conference and to specifically arrange whatever needs to be arranged in order to give equal treatment to this particular pension fund.

If that should prove to be impossible, though hopefully it can be done, then a consideration—I do not even want to say a hearing because a hearing may not be necessary—will be given by the Finance Committee to this proposition with a view toward putting it on another tax bill this year. I emphasize those last words because otherwise the patient is likely to be dead, so rapid is the withdrawal from this particular pension fund by individual members.

So if given those assurances by the manager of the bill, with the consent of the former counsel for the minority on the Labor and Public Welfare Committee, Michael Gordon, who is the lawyer for this particular pension fund—and who, by the way, has rendered enormous service to the people of the United States in the development and consummation of the ERISA legislation when he was here—I would turn to the manager of the bill and ask if he could give us those assurances, in which case I will withdraw the amendment.

Mr. RIBICOFF. May I say that I have discussed this problem with the chairman of the committee, and we will try to see whether it can be handled in conference with the so-called LERA legislation. If it cannot be handled there, the Senator can be assured that the Finance Committee will hold at least a 1-day hearing. It will be considered by the committee, and of course I cannot promise what action the Finance Committee will take, but the Senator does have the assurance of the chairman of the committee.

Mr. JAVITS. May I make this point: Knowing how things work around here, if a hearing is unnecessary because the committee is persuaded on the record, then could we dispense with the hearing?

Mr. RIBICOFF. Without question. I think that would be preferable, to work it out that way.

Mr. JAVITS. And there will be action this year of some kind?

Mr. RIBICOFF. The Senator is correct.

Mr. JAVITS. With that assurance, Mr. President, I withdraw the amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

Mr. RIBICOFF. Mr. President, I move for a vote on title XV.

The PRESIDING OFFICER. The question is on agreeing to title XV—committee amendment No. 25, as amended.

Mr. LONG. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

RETIREMENT SECURITY FOR HOMEMAKERS

Mr. ROTH. Mr. President, title 15 of the tax reform bill approved by the Senate Finance Committee includes a number of provisions relating to pensions, including a modified version of my legislation (S. 2732) to permit a spouse to establish and contribute to an individual retirement account for his or her spouse.

In its description of the pension changes provided by this bill, the Finance Committee report contains the following description of this provision:

> "Probably the most important of these is one which expands the existing provision for individual retirement accounts (IRAs) to permit a working spouse to set up an IRA for a nonworking spouse. This change recognizes the contributions to the family made by nonworking spouses and their need for income during old age."

The adoption of this provision would establish for the first time an opportunity to provide retirement security for housewives, the one large group of American workers still not eligible for pension plan protection.

Under present law, employed individuals not covered by a qualified pension plan may contribute, tax-free, 15 percent of earned income up to $1,500 a year. However, housewives, who do household work valued at between $5,000 and $10,000 a year, have no opportunity to set up retirement accounts to provide for their old age.

Under the legislation approved by the committee, the coverage of the IRA program would be extended to nonworking spouses whose sponsors are eligible for the IRA. Individuals eligible for the IRA program could set aside up to $2,000 a year for retirement. The plan could either provide separate $1,000 account in each spouse's name, or a $2,000 joint account.

Under current estimates, there are more than 9 million families who would be eligible to participate in this expanded pension program, and I believe it is a major breakthrough. For the first time, Congress would be giving recognition to the economic contribution the housewife makes to her family and to the fact she is entitled to more protection as she grows older.

Although more and more women are working, nearly 60 percent of married women are not in the work force and thus are not eligible for retirement protection. As a result, the likelihood of being poor is considerably greater for elderly women than for men. According to the Senate Aging Committee's task force on women and social security, more than two out of three poor persons are over the age of 65. In addition, Census Bureau figures show that women live almost 8 years longer than men—75.3 years for women compared to 67.6 years for men. For too many women, these extra years alone without a husband are spent in poverty. Social security is the main source of retirement security for the vast majority of elderly women, and social security is not entirely adequate to provide a decent standard of living for millions of our senior citizens.

This legislation will enable housewives to supplement social security to insure a decent standard of living in their old age. It will encourage more individual retirement savings, and it will encourage husbands and wives to better provide for their own old age and lessen their dependence on Government programs.

I am also hopeful that this plan will be extended to cover even more families before the bill is enacted into law. The House version of the tax reform bill included a provision which gave workers participating in regular pension plans the opportunity to establish limit employee retirement accounts — LERA's. Under the LERA provision, employees in regular pension plans could contribute to an IRA the difference between what his employer contributes and the $1,500 allowed by the IRA program.

I support the LERA provision, and I am hopeful the Senate-House conference committee will retain this provision and combine it with my amendment. This provision, if combined with my amendment, could give an estimated 8 million spouses with inadequate pension plans the chance to make additional, tax-free pension savings for themselves and their nonworking spouses. Altogether, the two pension provisions would allow more than 17 million families to establish expanded retirement security for both the husband and the wife. I urge the Senate to adopt this important legislation.

The PRESIDING OFFICER. The question is on agreeing to title XV (committee amendment No. 25, as amended). The yeas and nays have been ordered, and the clerk will call the roll.

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*As of April, 1975, out of 453,000 pension plans registering with the U.S. Department of Labor, 1,801 were union pension plans to which only members of the union contribute.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Mississippi (Mr. Eastland), the Senator from Indiana (Mr. Hartke), the Senator from Kentucky (Mr. Huddleston), the Senator from Louisiana (Mr. Johnston), the Senator from Wyoming (Mr. McGee), the Senator from New Mexico (Mr. Montoya), the Senator from Utah (Mr. Moss), the Senator from California (Mr. Tunney), the Senator from Delaware (Mr. Biden), the Senator from Wisconsin (Mr. Nelson), the Senator from Colorado (Mr. Haskell), and the Senator from Montana (Mr. Metcalf), are necessarily absent.

Mr. HUGH SCOTT. I announce that the Senator from Tennessee (Mr. Baker), the Senator from Maryland (Mr. Beall), the Senator from Arizona (Mr. Goldwater), the Senator from Michigan (Mr. Griffin), the Senator from Nebraska (Mr. Hruska), the Senator from Maryland (Mr. Mathias), the Senator from Virginia (Mr. William L. Scott), and the Senator from Ohio (Mr. Taft), are necessarily absent.

The result was announced—yeas 79, nays 1, as follows:

[Rollcall Vote No. 439 Leg.]

YEAS—79

Abourezk
Allen
Bartlett
Bayh
Bellmon
Bentsen
Brock
Brooke
Bumpers
Burdick
Byrd,
Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Chiles
Church
Clark
Cranston
Culver
Curtis
Dole
Domenici
Durkin
Eagleton
Fannin
Fong
Ford
Garn
Glenn
Gravel
Hansen
Hart, Gary
Hart, Philip A.
Hatfield
Hathaway
Helms
Hollings
Humphrey
Inouye
Jackson
Javits
Kennedy
Laxalt
Leahy
Long
Magnuson
Mansfield
McClellan
McClure
McGovern
McIntyre
Mondale
Morgan
Muskie
Nunn
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Sparkman
Stafford
Stennis
Stevens
Stevenson
Stone
Symington
Talmadge
Thurmond
Tower
Weicker
Williams
Young

NAYS—1

Buckley

NOT VOTING—20

Baker
Beall
Biden
Eastland
Goldwater
Griffin
Hartke
Haskell
Hruska
Huddleston
Johnston
Mathias
Metcalf
McGee
Montoya
Moss
Nelson
Scott,
William L.
Taft
Tunney

So title XV (committee amendment 25, as amended) was agreed to.

FARMER-TO-CONSUMER DIRECT MARKETING ACT OF 1976

Mr. MANSFIELD. Mr. President, this has been cleared all the way around. I ask unanimous consent—and this meets with the approval of the manager of the bill—that the Senate proceed to the consideration of Calendar No. 965, H.R. 10339.

The PRESIDING OFFICER (Mr. Bentsen). The bill will be stated by title.

The second assistant legislative clerk read as follows:

A bill (H.R. 10339) to encourage the direct marketing of agricultural commodities from farmers to consumers.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Agriculture and Forestry with amendments as follows:

On page 1, line 4, strike "1975" and insert "1976";

On page 5, line 16, strike "for the fiscal year beginning October 1, 1976" and insert "for each of the fiscal years ending September 30, 1977, September 30, 1978, and September 30, 1979".

Mr. CURTIS. Mr. President, has this been cleared with the distinguished Senator from Kansas.

Mr. MANSFIELD. Yes.

The PRESIDING OFFICER. The clerk will state the first committee amendment.

The second assistant legislative clerk read as follows:

On page 1, on line 4, strike "1975" and insert "1976";

The PRESIDING OFFICER. The question is on agreeing to the first committee amendment.

The amendment was agreed to.

Mr. CURTIS. Mr. President, may we have a brief explanation of what the bill does?

Mr. ABOUREZK. Mr. President, I have an amendment.

The PRESIDING OFFICER. It is not in order until the committee amendment has been disposed of, unless it is an amendment to the committee amendment.

The clerk will report the second committee amendment.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the committee amendments be considered en bloc.

The PRESIDING OFFICER. Without objection, the committee amendments are considered and agreed to en bloc.

Mr. McGOVERN. Mr. President, the bill now before the Senate is very simple and very basic. Its only purpose is to encourage where practical the direct marketing of agricultural commodities from farmers to consumers.

It would accomplish this by requiring the Secretary of Agriculture to institute a program designed to facilitate the direct marketing of food commodities. The program would include a nationwide survey of direct marketing operations.

This study would serve to provide the Secretary and others with the capacity to determine the factors contributing to the success of existing operations.

In addition, the bill authorizes an appropriation of $1.5 million for each of the next 3 fiscal years to be allocated to State Departments of Agriculture and the Extension Service of the U.S. Department of Agriculture for technical assistance for direct marketing within the respective States.

This is a modest effort, but one that could yield maximum benefits.

There has developed both among farmers and consumers an intense interest in direct farmer-to-consumer food marketing. In the case of consumers, the interest has been heightened by the increased costs of food purchased through conventional retail outlets and a preference for fresh and unprocessed foods. To many smaller farmers, especially producers of fruits and vegetables, direct marketing can mean increased financial returns and, in some cases, the continued existence of the farm as a viable economic enterprise.

A program of direct marketing contains the promise of substantial economic benefits to the Nation. The program will aid smaller farmers, whose farms are interspersed with urban concentrations throughout the more populated areas of the country, to stay in business. The program will make it possible for more consumers to purchase fresh, field-ripened produce, often at lower prices than are otherwise available. Although the bill places primary reliance upon private individuals and groups to take initiatives toward new methods of direct marketing, on an economically self-sustaining basis, it encourages flexibility and innovation in those instances where direct marketing appears to be feasible and beneficial. Furthermore, the successful operation of a direct food marketing facility within a town or city can have beneficial side effects among which is attracting people into the downtown shopping district and thus stimulating retail trade.

Various impediments to direct marketing arrangements presently exist which prevent successful operations without the program of technical assistance authorized by H.R. 10339.

And while a direct marketing program could be carried out by the Department of Agriculture under existing legal authorities, this might not actually occur without an explicit statutory mandate and the limited measure of funding which the bill provides. Further, the committee believes that the basic concept of direct marketing will prove workable and that the prudent steps authorized by the bill to facilitate direct marketing are warranted.

The committee held hearings on the matter. It has been checked with Senators on both sides of the aisle. It is a measure that is very modest but one which I believe is in the interest both of farmers and consumers, and I hope the bill will be passed.

Mr. SCHWEIKER. Mr. President, I would like to discuss a serious problem facing Pennsylvania dairymen who market their milk production directly to the consumer, normally from outlets located on their farms. These entrepreneurs avoid the normal milk marketing process—selling to a marketing pool or milk cooperative—and take their chances selling on the open market without any guaranteed price for their product.

In eastern Pennsylvania, many of these independent dairymen, commonly referred to as milk juggers, were included last year in the expansion of Federal milk marketing order No. 4. Once these dairymen realized they would come under the jurisdiction of the strict, Federal marketing restrictions, they appealed directly to the Department of Agriculture to no avail. Further appeals by my office, and that of the distinguished minority leader, Senator HUGH SCOTT, requesting a new hearing on the ramifications of this expansion, continued to fall on deaf ears at USDA.

To detail further the hardships facing the milk juggers in this situation, I ask unanimous consent that an article from the December 1, 1975, U.S. News & World Report describing the plight of one of my neighbors in Montgomery County, Pa., be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. SCHWEIKER. Mr. President, in light of the seeming impossibility of obtaining an administrative review of the Pennsylvania milk jugger problems, I have concluded that correcting this situation legislatively would be appropriate. It is not my intention to destroy or unfairly weaken the Federal milk marketing process. Today, I had anticipated introducing an amendment, with Senator HUGH SCOTT, which would have permitted the legitimate family farmer to continue to retail milk from his farm without being subjected to extensive Federal regulations or prohibitions.

I have, however, discussed this matter in detail with my colleague from South Dakota, Mr. MCGOVERN, of the Senate Agriculture Committee, who requested that I not press my amendment at this time in order that a separate bill can be considered to aid the milk juggers. Mr. MCGOVERN has assured me, and I offer my sincere appreciation, that the Agricultural Committee will hold hearings early next year on such a bill in order to study proposals to allow the milk jugger to coexist with the other dairymen who participate in Federal milk marketing orders.

In conclusion, Mr. President, I would like to thank Senator HUGH SCOTT for his efforts to straighten out this controversial situation. In addition, I thank the members of the Senate Agriculture Committee for their interest in the plight of the independent Pennsylvania dairyman.

Mr. HUGH SCOTT. Mr. President, I agree with my distinguished colleague from Pennsylvania (Mr. SCHWEIKER) that the entire milk marketing order system needs to be more fully studied and that the views of our constituents ought to be heard.

For many months now, Pennsylvania dairymen have been protesting the provisions of Federal milk order No. 4 which was issued by the Secretary of Agriculture last October. At that time this Federal marketing order was expanded into more than 10 counties in Pennsylvania and now includes producers, distributors, and juggers in the milk pool. I have in my possession a copy of a U.S. News & World Report news article, and because it so well explains the situation being faced by Pennsylvania milk juggers, I ask unanimous consent that it be placed in the RECORD at this time.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. HUGH SCOTT. It is my understanding, Mr. President, that the farm bill will have to be rewritten next year, and it is my further understanding that my distinguished colleague from South Dakota, Senator MCGOVERN, has promised that when the Senate Committee on Agriculture and Forestry holds hearings on the farm bill, the subject of the milk marketing orders will be included. At that time, milk juggers in Pennsylvania who are affected by the expansion of the order will be able to testify before the committee.

EXHIBIT 1

BUREAUCRACY ON THE FARM: BIG GOVERNMENT VS. DAIRYMEN—RED TAPE SKIMS OFF PROFITS

LANSDALE, PA.—The plight of a group of Pennsylvania dairy farmers is being cited as an example of what can happen when small businessmen run afoul of the federal bureaucracy through no fault of their own.

In these rolling hills near Philadelphia, some 90 dairy-farm families known as "milk juggers" sell their product directly to customers from small stores on their farms.

Since last June 1, they have been caught up in a federal milk-marketing order that was expanded by the U.S. Department of Agriculture to take in their region. They were not represented at hearings on the action because, they say, they were told the order would not affect their operations.

The result has been thousands of dollars in extra expense to meet new rules, a mountain of red tape and charges of harassment against Department of Agriculture auditors. The "juggers" claim it is possible that some of them will be run out of business.

Appeals to Washington, so far, have fallen on deaf ears. Richard L. Feltner, Assistant Secretary of Agriculture for Marketing and Consumer Services, agreed it is quite possible that some of the small operators will be forced out.

"That is always regrettable," Mr. Feltner said. "But the real gut issue it whether you are going to have marketing orders."

The orders—there are about 50 of them across the U.S.—set up price-equalization systems within certain geographic areas. That is necessary, officials say, because bottled milk gets a higher price than that which goes for cheese, powdered milk, ice cream and other manufactured products.

Farmers who receive higher-than-average prices pay the difference into a pool. Those who receive less are entitled to supplemental payments.

The great majority of dairy farmers market their milk through huge cooperatives and favor the orders because they provide a floor price.

But for the juggers, who sell direct from farm to consumer, being brought in under the marketing provisions has been a disaster. They can claim exemption from the order, but to do so they must cope with federal inspectors and red tape that is skimming the profits off their small businesses.

Typical of the juggers is Maynard Rothenberger, who runs Merrymead Farm near Lansdale.

Faced with rising land prices and higher taxes as the Philadelphia suburbs began to reach the farm where he has lived all his life, Mr. Rothenberger says he turned to a retail operation as the only way to build a future on the farm for his family.

He borrowed $300,000 four years ago to build his store and processing plant and expand his herd of black-and-white Holsteins from 35 to 150. Business has been good.

He sells about 600 to 700 gallons of milk a day at prices about 10 cents a gallon below the supermarkets'. The Rothenbergers also handle fruit juices, ice cream, bread, pies and some convenience-food items. In season they add sweet corn, tomatoes and other produce from their farm and from neighbors' gardens. More than a thousand ice-cream cones may be dipped on a summer Sunday.

FAMILY AFFAIR

Mr. Rothenberger's daughter runs the store and helps with the bookkeeping. Two sons, now 15 and 16, are being counted on for a bigger role in the future. During the summer, the payroll climbs to about 25, mostly young people from the neighborhood.

Mr. Rothenberger says he is willing to work 16 hours a day and seven days a week—which he must, since cows have to be milked on Sunday, too. But he resents what he sees as unwarranted Government interference in his affairs.

Most of his problems have centered on skim milk. Although most of his customers are looking for fresh, whole milk, the demand for skim has been growing among diet-conscious Americans. To meet it, Mr. Rothenberger and other juggers had been buying milk powder and reconstituting it into skim milk. State law permitted that, but federal rules did not.

To comply, he ordered a separator on May 29 so he could make skim milk from his own supply. But there were delivery problems on the machinery and Mr. Rothenberger sought a delay from federal officials.

Instead, Mr. Rothenberger says, he was ordered to pay $2,400 into the pool for July and faces similar assessments for August and September. The payments are more than his profits, he says.

As for the red tape involved under the new federal rules, Mr. Rothenberger offers some examples.

"We feed some milk to the calves. They say I have to weigh that every day and keep a record on how much. We buy small amounts of coffee cream and buttermilk as a convenience to the customers. They want me to be able to account for every single half pint of that. There is no way I can do that without adding a full-time bookkeeper."

Other farmers report similar experiences with the new rules.

Freddy Seipt, whose Freddy Hill Farm store is just down the road, was able to get a separator. But he had trouble building up his cow herd quickly and ran out of milk by midafternoon Saturday on three straight weekends.

Joe Suloman of Gilbertsville, Pa., says he had to borrow $300,000 to buy a separator and add 30 cows to his herd.

The McDonnell brothers of Green Lane, Pa., simply quit selling skim milk. Frank McDonnell says they lost $750 a week in cash sales.

DIFFERENT RULES

The farmers complain that the order is discriminatory. They note that while they are limited to 10,000 pounds of outside purchases a month—not enough to be helpful—juggers under a federal order in the Pittsburgh area have no restriction. They also stress that locally the order covers some, excludes others.

Errol Kring's K-Milk is off Route 100, about 1,100 feet from the Montgomery-Berks county line. He is regulated.

Barely on the other side of the line, in Berks County, is Hoffman Farms. Charles Hoffman and his three sons are operating as they always have. They still can make skim milk from powder, keep no extra records for federal auditors.

For these fiercely independent operators, the presence of federal agents and auditors is nothing less than harassment. They are angry and they don't care who knows it.

Mr. Suloman says inspectors are taking milk samples at his store every week "hoping to catch me doing something illegal."

Says Ira Hicks of near West Chester: "I came into the store and this federal guy had forms spread out all over the counter and he had my wife and daughter in tears, telling them 'You must do this' and 'You can't do that.' I threw him out."

Mr. Hicks, now 71, has been milking cows since age 7. He says he's not about to change his ways. But he is angry because the added regulations "can force a man to be crooked."

Federal rules prevent him from buying milk from his brother's adjacent farm as he has for years. "I quit buying his milk," Mr. Hicks says, "and started paying him a big wage. Now I guess you can say I'm stealing his milk."

Mr. Hicks is one of the handful of juggers who have refused to file reports, and others say they are going to stop as a protest action.

Another who is refusing to comply is Jerry Hershey of near Cochranville, who started in the business last May and sells about 75 to 80 gallons of milk a day. He and his wife, now expecting their second child, do almost all of the work themselves.

"I'm working on a shoestring that's suddenly got a knot in it," he says.

GOING TO BAT

The juggers have been calling on their Congressmen in Washington, asking for help in getting the hearings reopened so that they can tell their story. They also would like to see the restrictions eased on skim milk and outside purchases. They have retained a lawyer, but several say that a suit might take so long that, in the end, it would be useless.

Department of Agriculture officials say they see no need for any changes.

Joseph Shine, administrator of the Middle Atlantic marketing area, feels the paper work involved is not excessive. As for charges of harassment:

"We've worked very hard with these people. They are not being harassed. If they were I'd do something about it."

Assistant Secretary Feltner says he is aware of congressional support for direct farm-to-consumer marketing. This may be fine for fruits and vegetables, he says, but not milk. Predicts Mr. Feltner:

"It won't be long before we don't have any direct marketing of milk. It's a dying business. That's not a value judgment, just the facts."

His view probably would surprise the customers who flock to the Pennsylvania "jug" stores, some from as far away as Philadelphia. Said one woman:

"This is good milk. It's fresh. It's wholesome. My kids won't drink anything else."

Mr. HUMPHREY. Mr. President, I am happy to urge passage of H.R. 10339. It is a bill which has widespread support among farmers and consumers. I introduced this bill in the Senate, S. 2610.

We received testimony from a wide variety of groups on the usefulness of these programs. In Georgia, the State Farm Bureau has established a direct marketing program which has stimulated sales and competition in the sale of meat.

H.R. 10339 was passed earlier by the House of Representatives, but for only 1 year. The Senate bill runs for 3 years.

H.R. 10339 provides for a direct marketing program from farmers to consumers to be initiated and coordinated by the Secretary of Agriculture.

In recent years, an increased interest has developed among farmers and consumers for direct farmer-to-consumer food marketing. In the case of consumers, the interest results from consumer preferences for fresh and unprocessed foods, and increased prices of food marketed through conventional retailing channels. To many smaller farmers, especially producers of fruits and vegetables, direct marketing can mean increased financial returns and, in some cases, the continued existence of the farm as a viable economic enterprise.

A program of direct marketing contains the promise of substantial economic benefits to the Nation. The program will aid smaller farmers, whose farms are interspersed with urban concentrations throughout the more populated areas of the country, to stay in business. The program will make it possible for more consumers to purchase fresh, field-ripened produce, often at lower prices than are otherwise available.

Although the bill places primary reliance upon private individuals and groups to take initiatives toward new methods of direct marketing, on an economically self-sustaining basis, it encourages flexibility and innovation in those instances where direct marketing appears to be feasible and beneficial. Furthermore, the successful operation of a direct food marketing facility within a town or city can have beneficial side effects, among which is attracting people into the downtown shopping district and thus stimulating retail trade.

There are various impediments to direct marketing arrangements that are built into our economy which may prevent successful operations without the program of technical assistance authorized by H.R. 10339.

Although theoretically a direct marketing program could be carried out by the Department of Agriculture under existing legal authorities, this might not actually occur without an explicit statutory mandate and the limited measure of funding which the bill provides. Further, the committee believes that the basic concept of direct marketing has proven workable and that the prudent steps authorized by the bill to facilitate direct marketing are warranted.

H.R. 10339 is directed toward the encouragement of the direct marketing of agricultural commodities from farmers to consumers. The bill:

First, requires the Secretary of Agriculture to carry out a program to facilitate the direct marketing of food commodities from farmers to consumers, for their mutual benefit, under which there would be a nationwide survey of existing direct marketing operations; an allocation of funds to the State departments of agriculture and the Extension Service of the USDA, to provide assistance for direct marketing within the respective States; and an annual report by the Secretary on activities carried out under the act to further direct marketing;

Second, defines "direct marketing from farmers to consumers" to mean the marketing of agricultural commodities at any marketplace established for the purpose of enabling farmers to sell their agricultural commodities directly to individual consumers in a manner calculated to lower the cost and increase the quality while providing increased financial returns to farmers; and

Third, authorize the appropriation of (a) funds in the amount of $1.5 million for each of the fiscal years 1977, 1978, and 1979, for the technical assistance provided and (b) such sums as are necessary to conduct the annual report and nationwide survey.

Mr. President, approval of this modest bill would be a signal that our Government is interested in encouraging the small producer and helping the consumer by providing more nutritious foods and hopefully, at a better price.

I urge the adoption of H.R. 10339.

HAY SUBSIDY AMENDMENT TO EMERGENCY LIVESTOCK PROGRAM

Mr. President, much has been said and written about the drought in Europe and other areas of the world. But we also have been facing drought this spring and summer which has been very serious in parts of Minnesota, South Dakota, and Wisconsin. At last count, 134 counties in the three States had been declared eligible for emergency assistance under the Presidential declaration of June 16.

As a result of the July 1 hearing by two subcommittees of the Committee on Agriculture and Forestry and repeated petitions by the Congress and affected producers, the administration has amended its original regulations.

The regulations first announced by the Federal Disaster Assistance Administration would not allow the livestock producer to receive the announced hay transportation subsidy unless he had less than a 30-day supply of hay and feed on hand. This means that almost nobody could benefit since most livestock producers had that volume on hand.

And the regulations discouraged orderly planning since producers could not be certain whether the 30-day period would be extended.

That 30-day base has been extended to 90 days which will give our producers a better opportunity to plan ahead in terms of all of their feed availabilities.

I have joined Senator ABOUREZK and others in an amendment to H.R. 10339 authorizing the Secretary of Agriculture to purchase hay and sell it to livestock producers at $40 per ton.

This amendment will be helpful in enabling livestock producers—many beset by drought over a number of years—to deal with inflated hay costs. Hay is costing farmers as much as $100 per ton and in some areas an even larger amount. The amendment also provides authority for the Secretary of Agriculture to pay the transportation costs of moving cattle to other areas where hay and feed supplies are more plentiful.

Mr. President, this amendment should be accepted to help our livestock producers deal with serious drought conditions over which they have no control.

EMERGENCY DROUGHT ASSISTANCE

Mr. President, on July 1, two subcommittees of the Committee on Agriculture and Forestry held hearings regarding the severe drought which has had a heavy impact on Minnesota, South Dakota, and Wisconsin.

At the hearing, we heard testimony from Members of the Congress, the administration, and representatives of farm groups.

One of the main issues was the very rigid regulations announced by the FDAA that farmers could not receive their hay transportation subsidy unless they had less than 30 days' supply of hay or feed on hand.

Repeatedly, this requirement was attacked as being unrealistic and so narrowly drawn as to be of benefit to almost no one.

The following day, I and other Senators wrote to the President urging that the regulations be broadened to use a 90-day supply base rather than the 30-day period. Fortunately, this recommendation was accepted by the administration, and more farmers have now been able to apply for the benefits under the program.

Mr. President, I ask unanimous consent that my statement at the hearing along with the letter to the President be included at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

EMERGENCY DROUGHT ASSISTANCE

(By Senator HUBERT H. HUMPHREY)

Mr. Chairman, I wish to commend you for arranging to hold this hearing on such short notice. A number of us are very seriously concerned with the situation facing our livestock producers, and a number of us had a hand in helping arrange this session.

We are again confronted with major uncertainties regarding the weather prospects for this year as well as the long-range climatic trends. I understand that, although India's crop picture looks very good, the situation in the Sahel may be serious because the monsoon rains have not moved forward; the Soviet Union faces the likelihood of further reductions in its current crop estimate; and Western Europe has faced its most severe drought in recent years.

While this picture is serious and we need to learn more about changing weather and climatic patterns, I am concerned about how we deal with the emergency situation which we face in our North Central region. To date, I understand that 134 counties in Minnesota, South Dakota, and Wisconsin have been designated emergency areas under the Presidential authority.

We also need, as we deal with this emergency situation, to find ways to simplify and improve the operation of the existing programs. I and Senator McGovern have asked staff to develop a summary of the existing programs and how they are utilized and implemented. This summary should give us a better handle on the situation and a better notion as to what legislative changes should be made in our existing programs.

The impact of the drought on our grain production is extremely serious with losses for oats, barley, wheat and rye estimated by our Commissioner of Agriculture, Jon Wefald, at 50 percent. Corn losses are estimated at 20 percent.

Our state has had repeated Presidential and agricultural declarations in recent years with 61 counties coming under either a Presidential or Secretary of Agriculture emergency declaration in 1974. Some of our counties have been repeatedly subject to such declarations with 33 counties so designated 3 times since 1970, and only 4 counties have not been subject to declarations at any time since 1970. And such declarations have not included many local blizzards, tornadoes and other more localized disasters.

Our state loss in hay production has also been extremely serious with the output estimated to be down by one half. This has resulted in sharp increases in hay prices and efforts by the Farmers Union and individual farmers to find hay in other neighboring states. Hay which had been selling at $40 per ton in May has been selling recently as high as $80 to $100 per ton and even higher.

This situation has led to sharp reductions in numbers of feeder cattle and the culling of dairy herds. The state has begun to make available restricted conservation areas and borders along roads for grazing and haying purposes.

Beyond noting the situation and what the impact of the drought has been, we need to look carefully at what has happened since the June 16th Presidential declaration which covered 40 Minnesota counties. Since that time an additional 20 counties have been added to the declaration list. 56 South Dakota and 18 Wisconsin counties were included in the Presidential declaration.

Since that time a great deal of time and effort has ben expended in attempting to locate hay to bring into Minnesota and determine what part of the transportation cost should be borne by the government.

A drought request order was issued by the Interstate Commerce Commission to enable our livestock producers to receive reduced transportation rates where such could be negotiated with regulated carriers. I had earlier pointed out to the Department of Agriculture the need for such an order and urged that they make this request of the ICC.

This order will mean that where railroads and publicly regulated carriers are willing, reduced transportation rates can be established from which any livestock producer can benefit.

The Agricultural Stabilization and Conservation Service (A.S.C.S.) has announced a subsidy on the transportation of hay of two thirds (up to $27 per ton) of the actual cost to transport a maximum of 30 days supply of hay to the affected areas. Since most livestock producers maintain more than a 30 day supply of hay on hand, I understand that only 4 livestock producers have qualified to date for this subsidy on transporting hay.

I have introduced lesgislation which would establish a 90 day supply base in terms of determining a producer's eligibility for the transportation subsidy. While even 90 days supply is far less than most producers would maintain on hand, it would at least provide a more reasonable time frame in terms of dealing with the emergency and avoiding a month to month question as to whether the 30 day period would be extended.

The emergency livestock feed program had already been in existence when the drought problem arose, and it since has been extended to July 15. Under this program, farmers can receive oats at reduced rates in order to maintain foundation livestock herds. Since our stocks of oats have been drawn down sharply and other states are drawing on the remaining supply, my proposed bill would authorize the Secretary of Agriculture to purchase hay or other forages to avoid the forced liquidation of livestock herds.

While we struggle with the problems of what to do to respond to this emergency situation, and how can we better improve our response capability for the future, I am most concerned over establishing such inflexible regulations that no one can benefit from the programs designed for this purpose.

I am concerned that an internal U.S.D.A. communication indicated that, since cattle were not starving and wholesale herd liquidations were not occurring, federal funds should not be used to subsidize hay delivery costs. This assertion was made, in contrast to the recommendation of Governor Anderson, and at a time when livestock sales had increased by 75 percent over their usual levels within a matter of weeks.

While these sales of cull cattle and feeder stock are serious, we are likely to have another rash of sales, if the drought continues. And this time we will be cutting deeply into our breeding stock which will have a much longer range impact. Already, we have seen that the percentage of cows making up the livestock sales at the South Saint Paul stockyards have nearly doubled over their usual 30 percent ratio.

As we deal with this situation, we must again keep in mind the long range problems to which I alluded earlier. We will particularly need to keep some of these concerns in mind as we develop new farm legislation for next year.

One area of special concern is the need to update our acreage allotments so that farmers can obtain a reasonable return on their investment in case of serious crop losses.

Another area which requires priority attention is the development of more effective conservation programs to provide alternatives for areas which are repeatedly hit by drought or other disasters.

My main concern is that the government provide a more effective and speedy response to both the long and short term needs then has been the case to date.

COMMITTEE ON AGRICULTURE
AND FORESTRY,
Washington, D.C., July 2, 1976.

The PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: On June 19 you made a declaration of emergency for Minnesota, South Dakota, and Wisconsin in order to provide assistance to thousands of livestock producers facing the imminent prospect of stock losses as a result of disastrous drought conditions in the upper Midwest.

Pursuant to your declaration, the Federal Disaster Assistance Administration then designated 114 counties in these States as affected by the drought and initiated an emergency hay transportation program to provide assistance to these farmers.

Under this program, the government provides two-thirds (up to $27 per ton) of the actual cost to transport a maximum of 30 days' supply of hay to producers who, because of the drought, have an insufficient supply of forage on hand to maintain their herds.

While your recognition of the plight of these farmers is indeed welcome, it has quickly become apparent that this porgram may likely fail to materially reduce the almost certain probability of massive forced liquidations of livestock herds. We learned Thursday in hearings before our Subcommittees, and from farmers, farm organizations, and State and local officials in the stricken areas that few producers are taking advantage of the program in its present form.

For this program to be effective, certain steps must be taken to make it usable to the producers hurt by the drought.

Therefore, this is to respectfully request that the following steps be taken—

(1) The 30-day present supply criterion for participation should be waived. It is not a valid criterion of need.

(2) The program should be extended for an additional ninety days.

(3) The 30-day supply limit on purchases should also be waived, and, in lieu thereof, participants be prohibited from using hay purchased under the program for resale.

These steps are clearly justified by the facts; and if they are not taken, it appears that the program, laudable though its intentions might have been when created, will expire without having come close to resolving the emergency conditions faced by the farmers in these States.

Lack of participation stems from inability of the program to recognize the real needs of the drought victims. An important effect of this drought has been to drastically reduce the yield of, or in some cases destroy, the crops these farmers had planted in anticipation of producing a normally sufficient amount of feed to see their herds through the winter months. As a result of the loss of this year's feed crop, even the most prudent producers afflicted by this drought are now expending their stored reserve and must anticipate having to go off their farms or out of their county later on this year to buy hay to maintain their herds. Because of cost factors in having to purchase and ship forage from distant areas, many will be forced, instead, to liquidate the foundation herds they may have taken years to build up unless longer term assistance is available.

In light of these long-term needs, the ability to purchase merely a 30-day supply at reduced prices through government defrayal of transportation costs this summer will not substantially alleviate the problem. It will remain with these farmers for several months, if not longer, unti the weather permits a good hay crop. They will simply be able to postpone their shortage for a very short while.

Further, we have found that because of the short time period of the program (30 days) and delays involved in starting it up, many farmers have not had an adequate opportunity to participate. The program should be extended to assure that all those victimized by the drought in these areas are given a reasonable chance to apply for benefits.

Finally, the prohibition against participation in the program by farmers who now have more than a 30-day supply on hand merely serves to unfairly penalize the better farmers who had established larger reserve supplies in anticipation of non-disastrous dry weather. Since hay through local sources will not be available later this year because of the drought, those with little more than a 30-day supply on hand now are no better off than those who are now close to exhausting their supply.

We commend these recommendations for salvaging the program to you for your serious consideration and hope that you will see that they are implemented immediately.

Sincerely,

WALTER D. HUDDLESTON,
Chairman, Subcommittee on Agricultural Production, Marketing and Stabilization of Prices.
GEORGE MCGOVERN,
Chairman, Subcommittee on Agricultural Credit and Rural Electrification.
ROBERT DOLE,
U.S. Senate.
HUBERT H. HUMPHREY,
U.S. Senate.
DICK CLARK,
U.S. Senate.

Mr. ABOUREZK. Mr. President, will the Senator yield?

Mr. McGOVERN. I yield.

UP AMENDMENT NO. 269

Mr. ABOUREZK. Mr. President, I have an amendment at the desk.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from South Dakota (Mr. ABOUREZK), for himself, Mr. MCGOVERN, Mr. NELSON, and Mr. PROXMIRE, proposes an amendment numbered 269.

Mr. ABOUREZK. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill add a new section as follows:

EMERGENCY HAY PROGRAM

SEC. 9. (a) In carrying out any emergency hay program for farmers or ranchers in any area of the United States under section 305 of the Disaster Relief Act of 1974 because of an emergency or major disaster in such area, the President shall direct the Secretary of Agriculture, at the option of the farmers and ranchers, to:

(1) Purchase hay in areas of the United States in which hay is in plentiful supply, transport such hay to the area in which such farmers or ranchers are located, and sell such hay to such farmers or ranchers as prescribed in this section, or

(2) Pay the costs to transport the cattle of farmers and ranchers from such areas to a location where adequate grazing land is available and the costs of transporting such cattle back to such area.

(b) Hay shall be made available under section 305 to farmers and ranchers to help such farmers and ranchers maintain their cattle herds during any period such assistance is needed as the result of an emergency or major disaster.

(c) Hay sold to farmers and ranchers under such section 305 shall be sold at a price not greater than $40 a ton.

(d) The quantity of hay sold under such section shall not exceed (1) 40 pounds a cow per day in the case of dairy farmers, (2) 20 pounds a cow per day in the case of any replacement heifer, and (3) 20 pounds a head per day in the case of beef cattle.

(e) A farmer or rancher shall be permitted to purchase hay in sufficient quantities to permit the maintenance of up to 180 days' supply.

(f) (1) Whenever any farmer or rancher has elected under subsection (a) to have his cattle transported to a location where adequate grazing land is available, such cattle shall be transported back to the area from which they were shipped within a reasonable time, as determined by the Secretary, after grazing conditions in the emergency area from which such cattle were shipped have improved sufficiently (as determined by the Secretary) to support such cattle.

(2) Nothing in this section shall be construed to prohibit any farmer or rancher from selling or otherwise disposing of his cattle after he has had such cattle transported to a grazing location outside an emergency area, but no return transportation payment shall be made in any such case.

(g) The Secretary of Agriculture is authorized to utilize the facilities of the Commodity Credit Corporation in carrying out any emergency livestock feed program under section 305 of the Disaster Relief Act of 1974.

(h) As used in this section, the terms "emergency" and "major disaster" shall have the same meaning as in section 102 of the Disaster Relief Act of 1974.

Mr. ABOUREZK. Mr. President, I ask unanimous consent that the name of the Senator from Minnesota (Mr. HUMPHREY) be added as a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ABOUREZK. Mr. Presdent, this amendment has two alternative provisions. One provision would require the Department of Agriculture, through the Commodity Credit Corporation, to locate and purchase hay for the emergency drop program that is now in existence in the Midwest, or, in the alternative, to ship the herds belonging to farmers to places where there is grazing land, because of the very devastating drought in the Midwest area.

This amendment has been cleared on both sides, and it is very desperately needed at this time.

Mr. McGOVERN. Mr. President, as a coauthor of the proposed amendment, with my junior colleague from South Dakota (Mr. ABOUREZK), I am, of course, pleased to accept this amendment to the pending bill. The amendment is simple, yet it will help reduce the severe impact of the worst drought we have experienced in the upper Midwest in the last 40 years. Farmers and ranchers in drought stricken areas—virtually every county in my State—must have a vehicle to preserve their foundation dairy and beef herds. This amendment would authorize the Secretary of Agriculture to obtain hay in surplus areas, ship it to drought areas and make it available to farmers at not more than $40 per ton. Farmers would have the option under a modification which Senator ABOUREZK and I are proposing to move their cattle to areas where feed is available with the Secretary authorized to cover the transportation.

Farm bankers and experts in South Dakota and elsewhere have told me that unless a farmer or rancher can secure hay for feed at prices from $40 to $45 per ton, it is not economically feasible to maintain their herds. Record numbers of milk cows and beef heifers are already going to market and are going to have to be replaced in coming years at drastically higher prices. This short amendment is actually only an ounce of prevention to cure an ill that could run into millions of dollars in the next 3 years.

Let us not continue to heap praise on our farm community in the good days and abandon them in their time of greatest need. Let us remember that these farmers who need us today are the same farmers who responded with generosity when the Secretary of Agriculture called for all-out production of food and fiber.

Mr. President, permit me to impress on Members of this body that farmers and ranchers in the Upper Great Plains are not crying "wolf." This emergency situation is a real one and this method is the fastest and swiftest answer. I hope that it will be met with a kind eye by the Secretary and as manager of the bill, I am pleased to accept it.

Mr. NELSON. Mr. President, the amendment offered to a farm marketing bill by Senators ABOUREZK, MCGOVERN, and myself is aimed at alleviating a disastrous situation caused by severe drought in South Dakota, Minnesota, Wisconsin and other parts of the upper middlewest. Early on in the problem, 18 Wisconsin counties were declared disaster areas. Today I have been notified by the Department of Agriculture that they have added 14 more counties to the list.

Thus, some 32 Wisconsin counties by the Department of Agriculture's accounting, face a dire situation in the maintenance of their dairy herds. Since Wisconsin alone produces over 15 percent of the Nation's milk and 40 percent of its cheese, it is immediately obvious that the endangerment of these herds is a matter of critical importance to the Nation's consumers.

Precipitation in this Midwest area during April, May and June equalled 38 percent of normal. This has been the driest growing season for the area since 1890, including the dust storm era of 1936.

The impact of the drought is emphasized by the statement of Mr. Milton Stellrecht, chairman of the State of Wisconsin Board of Soil and Water Conservation Districts that forage crops, small grains and corn in Wisconsin are all being reduced over 50 percent in production.

In 1974, according to the 1975 Wisconsin Agricultural Statistics the hay crop was valued at over $360 million and the season average price was $34 a ton. More than half of Wisconsin's 1976 hay crop has been lost. It is estimated that the drought loss already exceeds $400 million in Wisconsin.

Today, in this emergency situation hay is available in other surplus areas of the Nation, but by the time transportation costs have been paid, the total cost per ton for disaster area family farmers would be in excess of $100 per ton.

At that cost the family dairy and beef farmers of the areas have no alternative but to sell off their existing herds.

This amendment provides authorization for the ASCS to buy hay in surplus areas, transport it to designated disaster areas, and sell it to the eligible farmers there at a price not to exceed $40 per ton. We believe this is a program that has adequate safeguards and at the same time is broad enough to meet the extremely dangerous long-range economic problems caused by the drought.

Other legislation, S. 3691, has been offered to provide emergency loans and loan guarantees for farmers affected by this natural disaster. It, too, is essential if we are to maintain the basic herds necessary to produce the food our consumers need. I would urge passage of this legislation, also.

I ask unanimous consent that Mr. Stellrecht's letter to me on this problem be printed in the Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

State of Wisconsin,
Madison, Wis., July 21, 1976.

Hon. Gaylord Nelson,
Senate Office Building,
Washington, D.C.

Dear Sir: The Wisconsin Board of Soil and Water Conservation Districts wishes to impress on you, the severity of the drought in Wisconsin and the impact it has on conservation, particularly on farms. The enclosed information points out the general nature of the moisture shortage across Wisconsin. Rainfall data and streamflow information indicate the severity of the shortage. Be mindful of the early season water shortage with the dry month of August remaining. The groundwater is lowering also, but much of this change can be attributed to the seasonal fluctuation. The long term effects will not be noticed until later.

Forage crops, small grains and corn are all being reduced over 50 percent in production. Pastures are depleted, therefore the limited winter feeds are being fed to livestock this summer. Unless meaningful assistance can be provided to these farmers, especially dairy farmers, they will be forced to liquidate their breeding stock which are the results of years of improvement. Besides the tragedy of farm foreclosure and abandonment, it will convert many dairy farms to annual cropping operations which tax the lands capability and increase erosion, sedimentation and degraded water quality.

It is in the public interest to maintain a livestock economy in Wisconsin which can utilize large amounts of forages. These forages stabilize the soil and natural resources base by themselves or in rotations.

The Board of Soil and Water Conservation District requests your assistance to get some immediate assistance to agriculture to save the livestock economy, save the farms in private ownership, allow the farmer to remain on the land and stabilize the economy. The present USDA disaster program is not sufficient to serve this need. Where the need can be established based on weather conditions beyond the farmers control, a long-term financing program at reasonable interest rates and/or extension of last years emergency crop loans would be in order. The agricultural industry needs to know of programs soon to lend confidence to the farmers in light of present distressed conditions.

Sincerely,

Milton Stellrecht,
Chairman, Board of Soil & Water Conservation District.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

The PRESIDING OFFICER. If there be no further amendment to be proposed, the question is on the engrossment of the amendments and the third reading of the bill.

Mr. DOLE. Mr. President, I should like to speak on the amendment just discussed by Senator Abourezk.

The PRESIDING OFFICER. The amendment has been agreed to.

Mr. DOLE. I ask unanimous consent that the action taken be reconsidered. I have discussed this with Senator Abourezk. I am not going to oppose the amendment. I should like to comment on it.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The action taken on the amendment will be reconsidered, and the Senator from Kansas is recognized.

Mr. DOLE. Mr. President, I have discussed the amendment with both Senators from South Dakota and earlier with the distinguished Senator from Minnesota. I do believe that there are some real problems with the amendment. I have suggested to them that I can understand the plight of the farmers and the need for some relief, but I think the record should indicate that we have a number of disaster relief programs at the present time.

Mr. DOLE. Mr. President, for both humanitarian and economic reasons, all of us have to be concerned about disasters whenever they occur. But I have to be concerned about this amendment for two reasons:

First, there are already at least six different types of agricultural disaster relief programs:

Emergency services of the Federal Disaster Assistance Administration. Nine different agencies in the Department of Agriculture have specific responsibilities for a wide range of potential disasters. But seldom is the extent of the damage and its ultimate cost as unknown as in the present situation;

Disaster payment provisions of the Agriculture and Consumer Protection Act of 1973;

Emergency loans from the Farmers Home Administration in the case of natural disasters;

Emergency livestock feed through the Agricultural Stabilization and Conservation Service;

Crop insurance through the Federal Crop Insurance Corporation; and

Emergency conservation measures of the Agricultural Stabilization and Conservation Service.

Second, disaster legislation for some immediate need has often been fragmentary, incomplete, and the benefits inequitably applied.

1972 DISASTERS

For example, legislation was passed in 1972 in response to Tropical Storm Agnes and the Rapid City, S. Dak., flood. This legislation was requested and strongly supported by the President. It provided disaster victims with 1-percent interest loans from the Farmers Home Administration and even allowed up to $5,000 of the loan to be forgiven.

In retrospect, that legislation proved to be highly inadequate. Some producers who were not adversely affected by the disaster, but were in the "disaster area" were able to take advantage of the benefits of the legislation. Broadly applied the $5,000 forgiveness provision could have bankrupted the Nation. Others who were just outside the specific area and had considerable damage wound up emptyhanded.

I fear the approach reflected in this amendment will be subject to the same inadequacies and abuses as in 1972. For example, I can forsee situations where producers will be paid for moving hay that could be moved without creating a financial hardship. This will be unfair to others who do not qualify for this disaster "subsidy." In short, we must be careful not to help one group of producers at the expense of another group.

It is for this reason that I have to be concerned about this amendment, even though I do not explicitly oppose it.

One problem that concerned me was the cost of this program. Apparently, according to the distinguished junior Senator from South Dakota, no cost estimates are available. Is that correct?

Mr. ABOUREZK. That is correct. I have been unable to get any cost estimates because the extent of the damage is not known. That is the principal reason for my not knowing the cost.

Mr. DOLE. Also, there is a provision which would direct the Secretary to pay for transportation of cattle to areas where forage was available. That, so far as this Senator knows, would be a new approach, and I do not think it is a wise approach. I trust that that will not be the direction the Secretary will take.

Mr. ABOURZEK. It is only an alternative.

Incidentally, just a rough calculation will show that in fact it is cheaper for the Government to do it that way than trying to haul hay all summer and fall and winter, which is what we are faced with if we try to haul hay. This provides a better and less expensive alternative.

Mr. DOLE. Finally, the Senator from Kansas, who is the ranking Republican on the Committee on Agriculture and Forestry, has no indication as to what the administration's view would be on this amendment. While I do not object to it, I say to the Senator from South Dakota that some objection could be raised by the administration, and the Senator from Kansas hopes it is not just some way to embarrass the President.

With the distinguished Senator from Minnesota (Mr. MONDALE) scheduled to speak in South Dakota on Saturday with reference to farm policy, I hope this is not a setup to enable Senator MONDALE to attack President Ford. I do not think that is the design, and I hope it is not the purpose.

Mr. McGOVERN. I can assure the Senator that such a design is not the purpose of this amendment.

Mr. ABOUREZK. I also can provide that assurance.

Mr. President, I ask for a vote on the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendments and the third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill (H.R. 10339) was read the third time, and passed.

Mr. McGOVERN. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. ABOUREZK. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

FEDERAL LAND POLICY AND MANAGEMENT ACT OF 1976

Mr. JACKSON. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 507.

The PRESIDING OFFICER laid before the Senate the amendments of the House of Representatives to the bill (S. 507) to provide for the management, protection, and development of the national resource lands, and for other purposes.

(The amendment of the House is printed in the RECORD of July 22, 1976, beginnin gat page 23493.)

Mr. JACKSON. Mr. President, on February 25, 1976, this body passed S. 507, the National Resource Lands Management Act, by a vote of 78 to 11. This bill, similar to bills passed by the Senate in the 92d and 93d Congresses, would provide the first comprehensive statutory statement of purposes, goals, and authority for the use and management of about 448 million acres of federally owned lands administered by the Secretary of the Interior through the Bureau of Land Management. These lands—designated as "national resource lands" in S. 507—constitute the largest system of Federal lands—comprising 20 percent of America's land base and 60 percent of all federally owned property. Over the years, Congress has established statutory bases for the management of other, smaller Federal land systems: the National Forest, National Park, and National Wildlife Refuge Systems. No similar legislative foundation exists for the national resource lands. S. 507 would provide that critically needed foundation.

I am pleased to announce to my colleagues that on July 22, 1976, after a wait of three Congresses, the House of Representatives, passed a counterpart measure H.R. 13777, by a vote of 169 to 155. The House has substituted the text of that measure for the text of S. 507 and returned S. 507 to the Senate.

Mr. President, I ask unanimous consent that a list of 45 significant differences between the two proposals be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection it is so ordered.

(See exhibit 1.)

Mr. JACKSON. A number of the policies in the House bill, such as those concerning congressional review of withdrawals, establishment of grazing advisory boards, requiring reliance on local law enforcement officials, and continued application of the Homestead laws in Alaska, were considered in one form or another and rejected during committee markups over the last three Congresses. Other provisions in the House bill—such as establishment of a statutory grazing fee and provision of 10-year terms for grazing permits—were rejected during Senate debate on S. 507. The Senate bill has certain provisions—such as those establishing a front-end loan program for local communities scheduled to receive mineral revenues under the 1920 Mineral Leasing Act, establishing an omitted lands survey and disposition program, and requiring the filing of patent applications within a time certain after location of claims—which are absent from the House bill. And the House bill has certain provisions which are unique to it—such as amendments to the Wild Free-Roaming Horses and Burros Act, the 1958 townsite law, and the Recreation and Public Purposes Act. I believe that my colleagues will concur in my judgment that a conference is required to resolve these differences.

EXHIBIT 1

DIFFERENCES BETWEEN THE SENATE AND HOUSE VERSIONS OF S. 507

PLANNING AUTHORITY

(a) The House bill requires land use plans for BLM lands to "conform to State and local plans to the maximum extent consistent with Federal law and the purposes of" the legislation (House, sec. 202(a) (8)). The Senate bill asks that the Secretary "insofar as he finds feasible and proper" and as may be required by law "coordinate" BLM plans with State and local land use plans, and "consider current use and zoning patterns of land affected by the use of" BLM lands (Senate, sec. 102 (b)).

(b) The House bill provides for Congressional review and the opportunity for a one-house veto (through a resolution of disapproval) of any management decision or action which precludes one or more major uses (grazing, wildlife, mining, rights-of-way, recreation, and timber) on any tract of BLM land of 100,000 or more acres for two or more years (House, sec. 202(e) (2)). The Senate bill has no comparable provision.

WITHDRAWALS

(a) The House bill provides for Congressional review and the opportunity for a one-house veto (through a resolution of disapproval) every 10 years of all withdrawals over 5,000 acres of, principally, BLM and National Forest lands (House, sec. 204(c) (1)). As part of this review of each withdrawal, the Secretary would prepare and submit to the Congress a detailed report (which addresses 12 items) on the withdrawal (House, sec. 204(c) (2)). The Senate bill has no comparable provision.

(b) The bill provides for the following limitations on the duration of withdrawals of tracts of, principally, BLM and National Forest lands under 5,000 acres in size:

(1) withdrawals for any resource use can be for such periods as the Secretary deems desirable;

(2) withdrawals for administrative sites, location of facilities, and other proprietary uses can be for periods of no more than 10 years duration;

(3) withdrawals in order to preserve tracts for specific uses then under consideration by the Congress (e.g. wilderness designation) can be for periods of no more than 5 years duration (House. sec. 204(d)).

The Senate bill has no comparable provision.

(c) The House bill provides that all applications for withdrawals of, principally, BLM and National Forest lands pending on the date of enactment must be processed and adjudicated to conclusion within 10 years of enactment (House, sec. 204(h)). The bill provides an authorization of $10,000,000 for this purpose (House, sec. 204(k)). The Senate bill has no comparable provisions.

(d) The House bill provides that no withdrawals of, principally, BLM and National Forest land may be extended or further extended except under the procedures for the various size tracts provided in the bill and for periods no longer than the length of the original withdrawals (House, sec. 204(f)). The Senate bill has no comparable provision.

(e) The House bill permits emergency withdrawals of one year's length for proposed withdrawals or withdrawal extensions without undergoing the procedures otherwise required for such withdrawals (House, sec. 204(e)). The Senate bill has no comparable provision.

(f) The House bill requires that all new withdrawals of, principally, BLM and National Forest lands occur only on the record after affording the opportunity for an agency hearing (House, sec. 204(h)). The Senate bill has no comparable provision.

(g) The House bill requires the review of all withdrawals existing on the date of enactment in the 11 Western states of all BLM and National Forest lands (other than wilderness or primitive areas) closed to mining or mineral leasing and such other withdrawals as military and naval reservations, ERDA reserves, and reclamation withdrawals. The review is to be completed in 10 years. It is to be conducted by the Secretary who sends his recommendations to the President, who in turn advises the Congress. The Congress has the opportunity for a one-house veto (through a resolution of disapproval) of each recommendation of the President to terminate a withdrawal (House, sec. 404(a) and (b)). The bill provides an authorization of $10,000,000 for this purpose (House, sec. 404 (c)). The Senate bill has no comparable provisions.

LAND CONVEYANCES AND EXCHANGES

(a) The House bill provides for Congressional review and the opportunity of a one-house veto (through a resolution of disapproval) of all sales of BLM lands over 2,500 acres (House, sec. 203(b)). The Senate bill has no comparable provision.

(b) The House bill would prevent disposal of any land by sale, exchange, or otherwise pursuant to the bill to any non-citizen or any corporation not subject to the laws of any State or the United States (House, sec. 203(i)). The Senate bill has no comparable provision.

(c) The Senate bill establishes a program for surveying and conveying (particularly to States and local governments for public purposes) of "omitted lands" (Senate, sec. 214). The House bill has no comparable provision.

(d) The House bill permits exchanges of both BLM and National Forest lands when in the "public interest" (House, sec. 206(a)). The Senate bill provides a more rigorous test for exchanges and limits coverage to BLM lands only (Senate, sec. 213(c)). The House bill permits equalization of land value by payment of money so long as the payment is only 20 percent of total land value (House, sec. 206(b)); the Senate figure is 30 percent (Senate, sec. 213(c)).

(e) The House bill amends the 1958 townsite law to expand the Secretary of Agriculture's authority to dispose of national forest lands en bloc to a local government for subdivision and disposal (House, sec. 203(j)). The Senate bill has no comparable provision.

(f) The House bill directs the Secretary of the Interior to complete action within a specified period of time on the remaining pending applications under the Unintentional Trespass Act of 1968, now expired except as to those applications. For sales under the Act, the lands would be appraised as of Sept. 26, 1972, and offered at that price to preference right holders (House, sec. 203(k)). The Senate bill has no comparable provision.

(g) The House bill amends the Recreation and Public Purposes Act to permit conveying for recreation and other public purposes to State and local governments and non-profit organizations more land than can presently be conveyed to any one such party in any one year (House, sec. 402). The Senate bill has no comparable provision.

(h) The House bill does not repeal the homestead laws as they relate to Alaska (House, sec. 602); whereas the Senate bill does (Senate, sec. 503).

MINING AND MINERAL RIGHTS

(a) The House bill requires recordation of mining claims annually beginning within 3 years of enactment for existing claims and within 90 days of the location of new claims (House, sec. 207). The Senate bill requires recordation of existing claims within 2 years of enactment and new claims within 30 days of location. In addition, the Senate requires filing of the application for patent within 10 years of enactment or 10 years of location (Senate, sec. 311). The House bill does not have a provision concerning the filing of patent applications.

(b) The Senate bill provides the alternative to the U.S. of not conveying the reserved mineral interest to a surface owner but rather entering into a covenant not to mine for a time certain (Senate, sec. 207). The House bill only authorizes conveyance of reserved mineral interest (House, sec. 209).

(c) The Senate bill provides the alternative to the applicant for a conveyance of reserved mineral interest to conduct his own mineral exploration survey (Senate, sec. 208(c)). The House bill provides only for deposit of bond sufficient to permit the Secretary to conduct the survey (House, sec. 209(c)).

(d) The House bill contains a savings clause that prevents any construction of the bill as amending, or impairing rights under, the 1872 mining law (House, sec. 202(f)(2)). The Senate bill has no comparable provision.

(e) The House bill contains a savings clause to prevent construing any provision as permitting disposal of spent oil shale on Federal land other than Federal land leased for the recovery of shale oil under the Mineral Leasing Act of 1921 (House, sec. 601(d)). The Senate bill has no comparable provision.

MINERAL REVENUES

(a) The Senate bill provides, first, for distribution of 60 percent of the 1921 Mineral Leasing Act revenues to local governments most affected by the mineral development to be used for any governmental purpose and, second, for front-end loans to local governments to be repaid from such distributions (Senate, sec. 310). The House bill does not provide for loans and permits only a 50 percent distribution, with the existing 37½ percent share to continue to be limited to school and road construction purposes and only the additional 12½ percent to be used for any governmental purpose. The House bill does provide that all distributed funds from oil shale test leases C–A, C–B, U–A, and U–B may be used for any governmental purpose (House, sec. 214).

GRAZING

(a) The House bill has a statutory grazing fee formula for BLM and National Forest lands similar to that defeated by a rollcall vote on the Senate floor during the debate on S. 507 (House, sec. 210 (a) and (b)).

(b) The House bill provides for 10 year terms, not conditioned on the adequacy of relevant allotment management plans, for BLM and Forest Service grazing permits and allows cancellation of such permits only on two years notice. (House, sec. 211). The Senate bill has no comparable provision, although S. 2555, as passed the Senate, contains a provision authorizing 5 year permits.

(c) The House bill provides for expenditure, for range rehabilitation and improvement, of grazing fee revenues from BLM and National Forest lands (above expenditures provided for in the Taylor Grazing Act and any other funds appropriated to either Secretary for the administration of range betterment programs and for range management). Fifty pecent of the fees will be so expended—one half in areas where the monies are collected on the advice of the range users, and one half in any area at the appropriate Secretary's discretion (House, sec. 210(c)). The Senate bill has no comparable provision; however S. 2555, as passed the Senate, would establish an $895.5 million, 30 year program to rehabilitate the range on BLM lands.

(d) The House bill provides for the establishment of grazing advisory boards (similar to those existing prior to passage of the Federal Advisory Committee Act) composed of seven or more members representing livestock, wildlife, and local government interests only, with twice as many livestock representatives as wildlife representatives and one representative of local government (House, sec. 212). The House bill also provides for the creation of additional, multipurpose advisory boards which meet the requirements of the Federal Advisory Committee Act (House, sec. 308). The Senate bill authorizes only the latter (Senate, sec. 6).

(e) The House bill contains an exemption from the environmental impact statement requirement of the National Environmental Policy Act of 1969. It states that the annual distribution and use of range betterment funds authorized under the bill are not to be considered major Federal actions under NEPA. (House, sec. 210(c)(1.) The Senate bill has no comparable provision.

ENFORCEMENT

(a) The Senate bill provides for penalties of imprisonment of 12 months and a fine of $1,000, or both, for violation of regulations for BLM lands which the Secretary identifies as subject to such penalties (Senate, sec. 307 (a)). The House bill provides for such penalties only where the violations are made "knowingly and willfully" (House, sec. 302 (a)).

(b) The House bill requires "maximum feasible reliance" upon local law enforcement officials in enforcing Federal laws and regulations relating to BLM lands. Such reliance would be achieved through contracts with the local officials. The bill provides for training of such officials and grants them the immunities of Federal law enforcement officials (House, sec. 302(c)(1)). The Senate bill permits contracting but does not require such reliance, authorize such training, or provide such immunities (Senate, sec.'s 307 and 308).

(c) The House bill includes additional authority for State and Federal law enforcement officials (search and seizure without warrant or process as provided by Federal law) (House, sec. 302(c)(1)) not provided in the Senate bill (Senate, sec. 307).

AUTHORIZATION

(a) The House bill requires biennial authorization legislation for all programs, functions, and activities of BLM and repeals, effective October 1, 1978, all express or implied appropriation authorizations for public lands which contain no dollar limitations (House, sec. 606). The Senate bill has no comparable provision.

MISCELLANEOUS

(a) The House bill amends the Wild, Free-Roaming Horses and Burros Act to permit round-up by aircraft and motorized vehicle and donation or sale of the animals for "humane disposal" (House, sec. 213). The Senate bill has no comparable provision.

(b) The House bill creates statutorily the BLM (House, sec. 301). The Senate bill has no comparable provision.

(c) The House bill provides the Secretary of the Interior with specific authority to incur expenses in emergencies for search and rescue operations (House, sec. 312). The Senate bill has no comparable provision.

(d) The House bill provides for annual public disclosure of financial interest of any employee of the Interior Secretary and the BLM who performs any duty under the legislation and who has any such interest in any person who, under the bill, (1) applies for or receives any permit, lease, or right-of-way, (2) applies for or acquires lands or interests, or (3) is subject to the provisions of the legislation (House, sec. 313). The Senate bill has no comparable provision.

(e) The House bill would enlarge the boundaries of the King Range Conservation Area, in California, established by the Act of October 21, 1970, by adding approximately 5,500 acres to the area (House, sec. 403). The Senate bill has no comparable provision.

(f) The House bill permits the Secretary of the Interior to make variations from the rights-of-way provisions in the bill where an existing railroad right-of-way is modified for the purpose of realignment (House, sec. 509 (b)). The Senate bill has no comparable provision.

(g) The House bill requires insertion in rights-of-way permits of such provisions which will "assure compliance with State standards for public health and safety, environmental protection, and construction, siting, operation, and maintenance of or for rights-of-way for similar purposes if those standards are more stringent than applicable Federal standards" (House, sec. 505(a)). The Senate bill has no comparable provision.

(h) The House bill removes "as the Secretary deems necessary" from the requirement to include certain environmental provisions in the rights-of-way permits, thus removing the Secretary's discretion as to whether to include such provisions (House, sec. 505(a)). However, although the Senate bill contains the "as the Secretary deems necessary" language (Sen., sec. 404) it also contains a separate section requiring the issuance of regulations to govern the same environmental protections, and such regulations are to be "applicable to every right-of-way" granted, issued, and renewed pursuant to the bill (Sen., sec. 403(d)). The House bill does not require the issuance of regulations.

(i) The Senate bill requires the Secretary to manage BLM lands by requiring land reclamation as a condition of use and the posting of performance bonds or other guarantees by persons permitted to engage in extractive or other activities likely to entail significant surface disturbance or alteration (Senate bill, sec. 101(2)). The House bill has no comparable provision.

(j) The Senate bill authorizes the Secretary of the Interior to require that applicants for permits, leases, etc. deposit funds sufficient to cover certain costs, including environmental impact statements (Senate, sec. 302(b)). The House bill does not include EIS preparation among those costs for which deposits may be required (House, sec. 303(b)).

(k) The House bill's wilderness study provision permits all recommendations of the President against wilderness to take effect within 120 days of their submission to the Congress unless one house passes a resolution of disapproval. (House, sec. 311 (d)). The Senate bill has no comparable provision.

(l) The House bill has a savings clause insuring that the bill cannot be construed as modifying, revoking, or changing the Alaska Native Claims Settlement Act (House, sec. 601(e)). The Senate bill has no comparable provision.

(m) The House bill would apply the following provisions to the public domain national forests: grazing fees, grazing tenure and advisory boards, wild horses and burros, rights-of-way, disposal of land around compacted communities, land exchanges, mining claims, withdrawal review, and a few land use planning provisions. The Senate bill applies only the mining claims and patents provision to national forest domain lands.

Mr. JACKSON. Mr. President, I move that the Senate disagree to the amendments of the House to S. 507 and request a conference with the House on the disagreeing votes of the two Houses thereon, and that the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. JACKSON, Mr. CHURCH, Mr. METCALF, Mr. JOHNSTON, Mr. HASKELL, Mr. BUMPERS, Mr. FANNIN, Mr. HANSEN, and Mr. HATFIELD conferees on the part of the Senate.

(Later in the day, the following proceedings occurred:)

Mr. FANNIN. Mr. President, this morning, conferees were appointed on S. 507, the national resource land management bill. Appointed for the minority were Mr. FANNIN, Mr. HANSEN, and Mr. HATFIELD. I ask unanimous consent that that be changed to Mr. HANSEN, Mr. HATFIELD and Mr. MCCLURE.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. FANNIN. I thank the Chair.

TAX REFORM ACT OF 1976

The Senate continued with the consideration of the bill (H.R. 10612) to reform the tax laws of the United States.

The PRESIDING OFFICER. The clerk will now state the next committee amendment on the unfinished business.

TITLE VIII

Mr. LONG. Mr. President, I ask unanimous consent that we now turn to consideration of title VIII of the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Louisiana (Mr. LONG), on behalf of the Committee on Finance, proposes Committee Amendment No. 18: On page 272, line 1, beginning with the word "investments" strike all down through line 20 on page 286 and insert:

Mr. LONG. Mr. President, on behalf of the committee, I send to the desk a modification of the committee amendment.

The PRESIDING OFFICER. The clerk will state the modification.

Mr. LONG. I ask unanimous consent that reading be dispensed with.

The PRESIDING OFFICER. Without objection, the reading will be dispensed with and the amendment is so modified.

The amendment, as modified, is as follows:

On page 288, beginning with line 3, strike out through line 9 on page 289 and insert in lieu thereof the following:

SEC. 802. FIRST-IN-FIRST-OUT TREATMENT OF INVESTMENT CREDIT AMOUNTS.

(a) IN GENERAL.—Subsection (a) of section 46 (relating to determination of amount of investment credit) is amended—

(1) by redesignating paragraphs (2) through (6) as (3) through (7), respectively, and

(2) by striking out so much of such subsection as precedes paragraph (3) (as redesignated by paragraph (1) of this subsection) and inserting in lieu thereof the following:

"(a) GENERAL RULE.—

"(1) CREDIT ALLOWED.—The amount of the credit allowed by section 38 for the taxable year is an amount equal to the sum of—

"(A) the investment credit carryovers carried to that year,

"(B) a percentage, determined under paragraph (2), of the qualified investment (as determined under subsections (c) and (d)) for the taxable year, and

"(C) in the case of a recomputation of the credit allowed under this part, the investment credit carrybacks carried back to that year.

"(2) DETERMINATION OF PERCENTAGE.—

"(A) Except as provided in subparagraph (B), the percentage is 10 percent.

"(B) In the case of a corporation which—

"(i) elects to have the provisions of this subparagraph apply, and

"(ii) meets the requirements of section 301 (d) of the Tax Reduction Act of 1975 (relating to employee stock ownership plans), the percentage is 12 percent.".

(b) CONFORMING AMENDMENTS.—

(1) Paragraphs (4), (5), (6), and (7) of section 46(a) (as redesignated by subsection (a) of this section) are each amended by striking out "paragraph (2)" and inserting in lieu thereof "paragraph (3)".

(2) Subsection (b) of section 46 (relating to carryback and carryover of unused credits) is amended to read as follows:

"(b) CARRYBACK AND CARRYOVER OF UNUSED CREDITS.—If the amount determined under subsection (a)(1)(B) for a taxable year (hereinafter in this section referred to as the 'unused credit year'), when added to the amount of the investment credit carryovers to the taxable year under subsection (a)(1)(A), exceeds the amount of the limitation imposed by subsection (a)(3) for the taxable year, the excess shall be—

"(1) an investment credit carryback to each of the 3 taxable years preceding the unused credit year, and

"(2) an investment credit carryover to each of the 7 taxable years following the unused credit year, and shall be taken into account under the provisions of subsection (a)(1) in the manner provided there. The entire amount of the unused credit for an unused credit year shall be carried to the earliest of the 10 taxable years to which (by reason of subparagraphs (A) and (B)) it may be carried, and then to each of the other 9 taxable years to the extent that, because of the limitation contained in subsection (a)(3), such unused credit may not be added for a prior taxable year to which such unused credit may be carried, in the case of an unused credit for an unused credit year ending before January 1, 1971, which is an investment credit carryover to a taxable year beginning after December 31, 1970 (determined without regard to this sentence), this subsection shall be applied by substituting '10 taxable years' for '7 taxable years' in paragraph (2), and by substituting '13 taxable' years' for '10 taxable years', and '12 taxable years' for '9 taxable years' in the preceding sentence.".

(3) Subparagraph (A) of section 46 (c)(3) (relating to public utility property) is amended by inserting ", as such subsection existed on the day before the date of the enactment of the Tax Reform Act of 1975" after "subsection (a)(1)(C)".

(4) The first sentence of section 46 (f)(8) (relating to prohibition of immediate flow-through of investment credit) is amended by inserting after "the Tax Reduction Act of 1975" the following: "and the Tax Reform Act of 1976".

(c) EFFECTIVE DATE.—The amendments made by this section apply to—

(1) property to which section 46 (d) of the Internal Revenue Code of 1954 (relating to qualified progress expenditures) does not apply, the construction, reconstruction, or erection of which is completed by the taxpayer after January 21, 1975, but only to the extent of the basis thereof attributable to the construction, reconstruction, or erection after January 21, 1975,

(2) property to which section 46 (d) of such Code does not apply, acquired by the taxpayer after January 21, 1975, and

(3) property to which section 46 (d) of such Code applies, but only to the extent of the qualified investment (as determined under subsections (c) and (d) of section 46 of such Code) with respect to qualified progress expenditures made after January 21, 1975.".

On page 287, beginning with line 3, strike out through line 2 on page 288 and insert in lieu thereof the following:

"SEC. 801. EXTENSION OF $100,000 LIMITATION ON USED PROPERTY.

Paragraph (2) of section 301 (c) of the Tax Reduction Act of 1975 is amended by striking out ", and before January 1, 1977".

On page 290, strike out lines 20 through 23, and insert in lieu thereof the following:

(1) ADDITIONAL INVESTMENT TAX CREDIT.—For increase in additional investment tax credit amount in connection with the establishment of an employee stock ownership plan, see the amendments made by section 802 of this Act.

On page 298, strike out lines 9 through 23.

On page 298, strike out "(14)" and insert "(13)".

Beginning on page 303, strike out line 14 through line 22 on page 307.

In page 308, on line 5, strike out "(14)" and insert "(13)".

On page 308, beginning on line 6, strike out "and the amendments made by subsection (b) (5)".

On page 308, on line 9, strike out "b5" and insert "(b) (5)".

On page 308, on line 12, strike out "subsection (g),".

On page 308, at the end of line 15, insert "and".

On page 308, strike out lines 16 through 22.

UNANIMOUS-CONSENT AGREEMENT

Mr. LONG. Mr. President, I ask unanimous consent that at this time we consider only section 806 of this measure and that on next Wednesday, when this bill is laid down, we proceed to consider section 804, which is the section dealing with the employees' stock ownership plans.

The PRESIDING OFFICER. Is there objection?

Mr. JAVITS. Mr. President, reserving the right to object, and I shall not object because that is our understanding, we shall deal not only, as I understand it, with the particular section to which the Senator refers, but under that title, we shall also deal with any amendments to the stock ownership plan provisions of this particular bill.

Mr. LONG. That is right.

Mr. JAVITS. Second, Mr. President, I had an amendment in—I have not mentioned this to the Senator, but I am sure he will agree. I had an amendment in at the same time respecting artists' deductions. We took it down in order to try to work it out and redraft it. I ask unanimous consent to include the fact that I may re-offer that amendment to this particular title.

Mr. LONG. Mr. President, I had hoped that we could settle this matter on Tuesday, the day before.

Mr. JAVITS. Fine, I hope so.

Mr. LONG. Once we get together on the details, I think we can.

I ask unanimous consent that after we dispose of the employees' stock ownership provision, it be in order for the Senator from Nebraska (Mr. CURTIS) to offer an amendment dealing with stock ownership, the broader stock ownership proposal.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Louisiana?

Mr. JAVITS. As modified?

The PRESIDING OFFICER. As modified.

Mr. LONG, That that would then be the next measure to be considered.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LONG. I ask unanimous consent that after we have disposed of section 806, we then proceed to consider title XVII, dealing with railroad porvisions.

The PRESIDING OFFICER. Is there objection?

The Chair hears none, and it is so ordered.

TIME LIMITATION AGREEMENT

Mr. LONG. Mr. President, I ask unanimous consent that the time on the amendment by the Senator from Arkansas (Mr. BUMPERS) be limited to 1 hour, to be equally divided between the sponsor, the Senator from Arkansas, and the manager of the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2085

Mr. BUMPERS. Mr. President, I call up amendment No. 2085 and ask that it be considered immediately.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Arkansas (Mr. BUMPERS) proposes amendment No. 2085.

Strike section 806 of the said committee amendment numbered 18.

Mr. BUMPERS. Mr. President, for those in attendance; I shall be as brief as I can. I think the best way to explain the amendment is to explain the present law and how it came to be.

In 1970, the Merchant Marine Act had a provision placed in it to allow the shipbuilders in this country to establish what are called CCF's, or capital construction funds. The purpose of the provision, of course, was to provide an incentive for the building of additional maritime vessels. Here is the way it worked: Any shipbuilding company in the country could enter into an agreement with the Secretary of Commerce, under which agreement, they could take certain income from earnings, capital gains, depreciation, et cetera, and transfer that income, tax-free—those earnings—over to this capital construction fund as long as they agreed to build new ships with it. That was and is the present law. The shipbuilding industry in this country is allowed to charge off, tax-free, 100 percent of all the money they choose to put in such a capital construction fund.

The committee amendment, which I am proposing to strike, goes further than that and says to the shipbuilding industry:

> In addition to allowing you to authorize or depreciate total investment the first year, tax-free, we will also give you the 10 percent investment tax credit.

Mr. President, we are talking about $20 million to the Treasury which, by the usual figures thrown around here, is not a significant amount of money. But of all those special-interest provisions of this bill, this one seems to be the most visible and most blatant example of what we are doing in this body to make sure there is no tax reform in the country. If anybody else in this country buys a piece of capital equipment, he gets an investment tax credit of 10 percent if it has a life expectancy of 7 years or more. If it has a 5- to 7-year life expectancy, he only gets two-thirds of the full tax investment credit. If it has a life expectancy of 3 to 5 years, he gets one-third of the 10 percent investment tax credit. But if it has a life expectancy of less than 3 years, he gets nothing. Here, we are saying to the shipbuilders of the country, "We are not only going to allow you to buy your ships with tax-free money; we are going to give you a 10 percent check for the cost of it."

It works simply like this: If I were a shipbuilder and my earnings this year from my fleet, which have been designated in my contract by the Secretary of Commerce, were $2 million, I could take $1 million and transfer it out of my earnings, not pay taxes on it, put it into a capital construction fund account, and buy a new ship with it, and I have a brand new ship free of any taxation. A million dollars. What the committee amendment proposes to do is say to the shipbuilder, "We are not only going to allow that, we are going to give you a check, in effect, for $100,000, the 10 percent investment tax credit."

There is not a nation on Earth that provides those kinds of benefits, and there are nations, such as Japan and Sweden and Germany, who do, indeed, provide substantial incentives to their shipbuilding industry.

But now there is not an industry in this country that is subsidized in any such way. The only thing I know that even comes close to it is a railroad car, in which we do allow it to be charged off over a period of 5 years. But those are not tax-free dollars. Those are after-tax dollars they use to buy the railroad car with.

It is true if you depreciate a ship over its entire life you ultimately recover the total cost of it. But we are talking fair treatment. If we are going to say to the shipbuilding industry, "We want you to have a bigger share of the international shipbuilding market," if we are going to say we want to ship more goods in American ships, why settle for a 10-percent investment tax credit? Why not give them 20, 30, 40 percent, whatever it takes?

Right now, there is a hassle between the Secretary of Commerce and the Secretary of the Treasury. The Secretary of Commerce has been insisting all along that when this provision was put in the Merchant Marine Act of 1970 it was the intention of Congress to give them the investment tax credit on top of the 100-percent writeoff.

The Secretary of the Treasury says no, that was not the intention of Congress because there was no investment tax credit in 1970. It could not have been the intention of Congress to give them something which did not exist.

But the matter is in litigation. Now, if this body takes the position it ought to be litigated, and we ought to leave it alone, that is fine. You still ought to vote for the amendment to allow the judicial proceedings to take their usual, normal course.

But if you believe that Congress ought to resolve the matter right now, as I do, and say we are doing as much for the shipbuilding industry as we ought to be doing, then you ought to vote for the amendment.

I probably would not have voted for that provision in the Merchant Marine Act if I had been here when it passed. But it is there, and I am not quarreling with it. I might add that the shipbuilding industry is very, very happy with it. Capital construction funds that are now available and contracted for to build ships have gone from $3 billion in 1974 to $5 billion, $4.9 billion to be precise, in 1975. That is a very healthy increase as a result of this incentive.

Last year, when the Maritime Appropriation Authorization Act, which was S. 1542, was being considered by this body, this same investment tax credit that is on the committee bill was placed on that act and passed on a voice vote with four or five Senators present.

In the committee report on that bill, here is what the committee report said had been happening as a result of this incentive. They were talking about how successful it has been and how American shipbuilding is on the upsurge and how much larger their share of the international market is that they are getting with the incentive that was in the 1970 act, without this one we are trying to give them on top of that. Here is what the committee report said:

> The 1970 Act extended operating-differential subsidy (ODS) to tankers and bulk carriers. This has stimulated U.S.-flag tanker and bulk carrier construction, enabling U.S.-flag penetration into markets previously dominated solely by foreign ship operators. Additionally, the ODS program in combination with other maritime aids, has encouraged a larger, more modern U.S.-flag fleet. Since the 1970 Act, the deadweight tonnage of the subsidized U.S.-flag fleet has increased by approximately 11 percent, and the average age of the fleet has decreased by 18 percent. The average size of ships currently in the fleet is approximately 35 percent larger than those in service before 1970. Further, by working with management and labor, the Maritime Administration has achieved substantial crew reductions on these larger ships. The net effect is that an ODS dollar supports the maintenance of more U.S.-flag cargo-carrying capacity than ever before.

Now there is a confession by the maritime industry, by the Commerce Committee, by everybody who knows anything about it, that the 1970 incentive we gave them is working very well.

Why do we choose to give them another 10 percent, in effect, a 10-percent check in the form of a subsidy when the thing is working very well? I do not have anything against the shipbuilding industry. We do not have it in my State. If we did I probably would not be standing here. I do not have anything against them, and I want us to be able to compete. But enough ought to be enough.

I would like to ask the Members here present who has lobbied them on behalf of this amendment? I can tell you the answer is "nobody." It is the same way with almost every amendment that has been considered since this tax reform bill was taken up. People standing out in the halls, people sitting in the gallery protecting those little loopholes, and those little provisions that, through the years, we have given them, there are plenty of people lobbying against this amendment. They want it, and they want it badly, even though it is only $20 million. But who is here lobbying for the U.S. Treasury and the people of the United States? Who is here in the interests of equity and justice?

Mr. CURTIS. Mr. President, will the Senator yield right there?

Mr. BUMPERS. Yes.

Mr. CURTIS. I think the Senate Committee on Finance is very diligently protecting the United States and the Treasury and is acting in good faith to produce equitable tax laws.

Mr. KENNEDY. Mr. President, will the Senator yield?

Mr. BUMPERS. I would be happy to.

Mr. KENNEDY. I represent a State in which the fishing industry is a very substantial industry. We also have shipbuilding. The General Dynamics yards are there, and they have produced many of the great ships of this country.

I know that part of the communications that have gone out in opposition have mentioned the point that little fishermen are going to lose out on this. As the Senator from Arkansas has seen during the course of our debate and discussion, it is always the little peanut farmer, who seems to lose out when we have any tax reform amendment. So we are listening now to how the little person really depends on it, his ox is being gored. I would like to ask the Senator from his own research, which corporations are going to benefit, and which are going to be disadvantaged.

Now, I understand that some of the interests that will benefit will be the oil companies. Some 17 oil companies have CCF's, and they receive a tax break already from building ships to transport Alaskan oil. However, this shipping is subject to special laws, so there is no foreign competition. The United States gets no benefit from this tax gift.

I understand the banks will benefit, because by building ships and leasing them to commercial shippers, banks are able to use these CCE's to shelter income completely unrelated to shipping.

I understand that 10 major steel companies have CCF's. They save tax dollars from the movement of ore in the Great Lakes and, with the building of ships to transport the Alaskan oil, this is also free from competition. So the tax subsidy is not going to result in additional shipbuilding.

I wonder if I am correct that these are the interests that are really going to benefit from this proposal. I want to be able to explain to fishermen in Massachusetts whether they would have benefited from this provision. Or are the vast majority of the benefits going to the oil and steel companies and the banks?

Mr. BUMPERS. The only statistic I have as to the number of CCF agreements and who are parties to them is contained in the information that the distingushed floor manager put out in his commentary on this amendment, in which he said 80 percent of the CCF agreements were for fishing vessels.

But I would suppose—and if he can refute this I would be happy to admit my error—I would guess this would be very much like the DISC amendment. The Senator from Massachusetts recalls there were 2,500 DISC's, but over half of the tax benefits were to 50, and it may be true that 80 percent of the CCF's are for fishing vessels, but my guess would be that about 85 percent of the savings probably goes to General Dynamics and larger companies.

I apologize for not having that precise information, but I do know that in addition to all of the rest of this, the Treasury feels very strongly that this is just too much, and I think this body ought to recognize that there are limits to how much we ought to subsidize any industry.

The shipbuilding industry, as I say, is a very healthy one right now, orders being backed up, increases everywhere, as a result of the incentive that was already there and, incidentally, it is a bigger incentive than any other industry I know gets, but if we are going to try to compete as a matter of national pride then I think, perhaps, we ought to just form an Amtrak——

Mr. KENNEDY. Mr. President, will the Senator yield, because I know time is running, but could the Senator just review for the benefit of the Senate what the Treasury position has been on this particular issue?

Mr. BUMPERS. The Treasury position has been very simple in the litigation now pending, and that is that it could not have been possible for Congress to have intended for the shipping industry to have the 10-percent investment tax credit because there was no tax credit in effect at that time, in 1970. There has been one case settled for about 50 percent. The other case is still pending, and probably will ultimately go to the Supreme Court.

Mr. PASTORE. Mr. President, will the Senator yield for a question?

Mr. BUMPERS. Certainly.

Mr. PASTORE. Is it not a fact that all of this preference was written into law in order to bring shipbuilding back home?

Mr. BUMPERS. I think the Senator is correct.

Mr. PASTORE. Well now, we keep talking about who is getting what benefit. I think ultimately the people who get the benefit are the workers in the shipyards. The fact is that all of these companies that have been mentioned, while it is true they are giants, were buying their ships and having them made in Japan, and now because we are competitive these ships are being made in the United States of America. That is the only reason why the shipbuilding industry has become stabilized, because we have made them competitive with low wages and subsidies that are being paid in foreign countries. Now, that is what this is all about.

Mr. BUMPERS. I would like to say that I could not agree more. I think that is precisely right.

That is the reason I am saying, "Let's leave the law as it is."

The committee report on S. 1542 said it is working very well and why pile insult on top of injury?

I am not quarreling with incentives that exist and work pretty well, but if we take the position this additional tax concession should be granted, then why not do the same thing for the shoe industry, the steel industry, for everybody who finds himself at a competitive disadvantage in foreign trade.

Mr. DOLE. Mr. President, on the amendment of the Senator from Arkansas, to strike section 806, the Senator pointed out the administration and Treasury does oppose the provision.

Under current law, shipbuilders, no income tax liability on income in shipping set aside in the special capital construction fund.

This is a substantial economic incentive.

The construction of our domestic merchant fleet, there is not much reason for a further 10 percent investment credit. It amounts to a windfall. It is not supported by the Treasury.

Mr. President, I ask unanimous consent to have printed in the Record at this point an analysis of section 806 describing the amendment, the revenue estimates, the losses, the analysis, and the administration's position.

There being no objection, the material was ordered to be printed in the Record, as follows:

ADMINISTRATION POSITION: SECTION 806. INVESTMENT CREDIT IN THE CASE OF CERTAIN SHIPS

DESCRIPTION

This section extends the investment tax credit to ships constructed with amounts withdrawn from capital construction funds established under the 1970 Merchant Marine Act. Deposits from shipping income into these accounts are deducted in calculating the taxable income of shipowners. Withdrawals from the fund are not subject to tax if they are used for ship construction. Under present law, since the deposit has already been deducted from income, the portion of any vessel acquired with the deposit is regarded as having a zero basis for tax purposes. Accordingly, the taxpayer is not entitled to depreciation deductions or to an investment tax credit, since each of these provisions is predicated on the existence of a tax basis for the asset.

REVENUE ESTIMATE

Revenues will be reduced $21 million in fiscal 1977, $23 million in fiscal 1978 and $45 million in fiscal 1981. The other tax benefits provided under the Merchant Marine Act will rise to $190 million in the next few years.

ANALYSIS

Section 806 benefits a single industry which already is the recipient of substantial tax incentives. Furthermore, the provision selectively overturns the fundamental concepts of "basis" and "depreciable property," which have served our tax system well over the years. Even without the additional tax advantage provided by this section, shipowners presently receive the equivalent of a 17 percent investment tax credit through the device of capital construction funds. This is already 7 percent higher than the tax credit available to qualified investment generally. At this time, there is no clear and convincing evidence of a serious economic problem in the shipbuilding industry which might justify adding to the already substantial tax advantages accorded the industry.

ADMINISTRATION POSITION

The Administration opposes this provision.

Mr. BUMPERS. Mr. President, I reserve the remainder of my time.

Mr. MAGNUSON. Will the Senator yield.

Mr. BUMPERS. Yes, on the Senator's time.

I assume the floor manager has no objection to the Senator using his time.

The PRESIDING OFFICER. Does the Senator from Louisiana yield time to the Senator from Washington?

Mr. LONG. I yield.

Mr. MAGNUSON. May we have order, Mr. President?

The PRESIDING OFFICER. I am trying to get a definition of whose time is being yielded.

Does the manager of the bill yield time?

Mr. LONG. Yes.

The PRESIDING OFFICER. The Senator from Washington.

Mr. MAGNUSON. The Senator mentions a comparison between this matter and the shoe industry. It has nothing to do with this and I do not think there is a real comparison between the shoe industry and the maritime industry.

We have all kinds of protection for other industries. Surely, we must continue to protect the maritime industry by continuing what we have been doing for the last 40 years.

We have to subsidize the industry. The Senator says we have been doing enough. We have not done anywhere near enough. We only carry now 4½ percent of all our exports and imports under the American flag.

That is a crime in a country this large. The American flag has gone off the seas.

Of course, we give them some advantage. We have been doing that for years.

As the Senator suggests, this is a tax advantage. That may be correct. But if we do not provide a tax advantage—in accordance with the merchant marine law—we will have to put more money into the shipbuilding subsidy and the operational subsidy.

The merchant marine is not in good shape.

We passed a law that said we have got to build at least 300 modern ships a year. We are not coming anywhere near that level.

The PRESIDING OFFICER. The time yielded has expired.

Mr. MAGNUSON. What position does the Senator think we are in?

The PRESIDING OFFICER. Who yields time?

Mr. LONG. I yield to the Senator.

Mr. MAGNUSON. We are No. 15 for the entire world in laying new keels and new tonnage.

Is that enough? Of course not.

All this amendment does is throw water on efforts to expand our merchant marine. It dampens it.

I do not know if the Senator's figure is correct—I suppose it is—on the $20 million, the amount involved in providing tax incentives for fishing and merchant marine in this country, but it is still a very insignificant amount.

The other industries have all kinds of protection. We try to protect them with tariffs. However, we cannot have a tariff on the American merchant marine. If we did, it would be a very large one.

So I am hopeful that this amendment will not carry. I am hopeful we will stick with the Commerce Committee which passed this unanimously last year. The Senate passed it unanimously.

The PRESIDING OFFICER. The Senator's additional time has expired.

Mr. MAGNUSON. I just want 1 more minute to finish my speech.

We have known that this capital reserve fund was intended to encourage the use of money to build new ships. If the funds set aside are used to build a new ship to enhance the merchant marine and make it more modern, it was not subject to tax.

If they took it out for any other reason, which some of the oil companies have done, they paid a tax on it.

I just do not know why the merchant marine, in the shape it is in, always has to be jumped on here when the whole intent of the Congress—the whole intent of every administration for 40 years since we passed the 1936 act—is to do whatever we can to build up the merchant marine, and it is an outright subsidy.

The Senator mentioned other countries. I have looked at that, as the chairman of the Commerce Committee, the Merchant Marine Committee, for almost 30 years. Every country subsidizes their merchant marine one way or another—taxwise and otherwise—and that is why we are down to under 5 percent of our exports and imports being carried by American vessels.

The American flag is going off the seas.

I think that is a scandal in a country that has the largest coastline in the world.

The PRESIDING OFFICER. Time of the Senator from Washington has expired.

Mr. MAGNUSON. More goods than——

The PRESIDING OFFICER. Does the manager of the bill desire to give the Senator additional time?

Mr. MAGNUSON. I do not need any more time.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. LONG. Mr. President, in this debate we heard some of those, who feel that some of these provisions were not well justified, argue against the deferral provision on the grounds that it might encourage someone to invest some money overseas.

Now we are going to have a chance to see how many of those people will now be on the other side of the issue, fighting against something that puts jobs here.

I was manager of the Merchant Marine Act of 1970 and with it proclaimed that we were going to put the American Merchant Marine back on the high seas. We were implementing a procedure that had been on the books since 1936 which would give something of a tax advantage to the U.S.-flag merchant marine.

We improved this section. We streamlined it, made it a more efficient section and a more useful section for our merchant marine. It said that people could take money they were making in shipping, put that money in a construction fund and the tax on that money would be deferred, but that they would lose the depreciation to that extent.

For example, if they put $100,000 in income into the capital construction fund to build a new ship, they would defer the tax on that $100,000, but they would lose the depreciation of that $100,000. So if it was a $1 million ship and they put $100,000 into the construction funds, they would only get $900,000 depreciation. In the long run the Government gets the money back. But, obviously, meanwhile they make the interest on the money. That is the advantage of the deferral.

That was the item that was going to put the U.S. merchant marine back on the seas. Senator John Williams, true to his usual style against anything that is going to benefit any particular industry, got up and fought it furiously. We called the roll and the vote was 70 to 1; one man holding the position that Senator BUMPERS is propounding today. By a 70-to-1 majority the Senate said to put the American merchant marine back on the seas and if this little tax advantage would do so, by all means do so. That was our decision.

Unfortunately, by a complete oversight that no one knew at the time, we negated that proposal.

How did that happen? It was an error. I played a major part in making the mistake.

At the time we did this we had repealed the investment tax credit. When the investment tax credit went back on the books, I was the manager of that bill. The last thing on Earth this Senator thought he was doing was to discriminate against the merchant marine in passing that bill. But our able technicians, doing the best job they know how to do, in working their cross reference across all the things in the Internal Revenue Code, did not come across this provision, which is over in the commerce part of the U.S. statutes, providing this advantage to help get the merchant marine back on the seas.

So the way the law read by the time the technicians at Treasury looked at one provision and compared to the other, it is such that if one gets the benefits we provide the merchant marine they lose their investment tax credit. In the last 2 years only one construction subsidy contract has been signed. Only one contract, on a bill where we were supposed to construct 30 ships a year for 10 years. Eighty percent of the current capital fund agreements are for fishing vessels.

We voted a proposal through the Commerce Committee last year by a unanimous vote to say that we did not mean to deny the merchant marine the benefit of the investment tax credit.

The Senator said when it passed the Senate only four or five Senators were in the Chamber. I hope the Senator does not want to give the impression that when something goes through and he is not on the floor he does not know what is happening. Senators have a responsibility to look at the calendar and see what bills are on the calendar. If they do not do it themselves they should have somebody on their staff look over these bills to alert them to something they might not agree with. We had the right to assume, when the policy committee studied this bill and the Republican Policy Committee studied this, that they all knew about it. If they did not know about it, they should change their way of doing business. They are supposed to know what is going on here, even if they are not on the floor when it happens.

There was not a single dissenting vote. We went to the House of Representatives and they said they would like to agree with it. The House Ways and Means Committee agreed that it had merit and it probably should be agreed to.

But the Ways and Means Committee insisted it was its jurisdiction. In view of the fact that we were talking with the people on the Merchant Marine and Fisheries Committee and the Ways and Means Committee asserted jurisdiction, the provision was deleted in conference. We passed the bill 70 to 1 in 1970; we passed it unanimously to take care of this oversight last year, but we went over to talk to the wrong committee.

Now, we can go back to talk to the Ways and Means Committee, which I assume will be the right one this time.

This is something we did unanimously to correct an unintended error, but the unintended error has kept the merchant marine off the seas for 2 long years. We have not been building the ships we should be building. There are 10 times as many jobs involved in the shipyards as there are on the high seas. We want to build those ships. We want Americans to man those ships. Those are good jobs. We want those jobs for American seamen.

Mr. President, we have a shipyard in Avondale, one of the most efficient in the country, one of the most efficient in the world. An American worker can stand up there, and does every day of the week, and weld more steel together than the average Japanese or any Japanese in any Japanese shipyard. But Japanese wages are much lower than ours so they get the business instead of us, unless we do something to help our people.

Our seamen are just as good as these foreign seamen but foreign ships pay only a fraction, maybe 10 percent, of the wage we pay to our seamen. So they have a big advantage. We have to find some way to make up some of that.

All these nations in one respect or another subsidize their merchant marine, unless they have their wages so low that one would be ashamed to even talk about offering that kind of a wage to an American seaman. So to make up the competitive difference, which is almost entirely a difference of wages, and for America to be out there on the high seas, to have these ships which serve our Nation's interests and in time of war could mean our survival, and have these skills—not just to have the skills but to have somebody who knows how to operate a ship and somebody who has taken an oath of allegiance to this country who knows how to operate a ship—we need this merchant marine and we need these fishing boats. We need the big ones and the little ones. Eighty percent of them will be fishing vessels.

A capital construction fund—CCF—operates in the following manner:

A U.S.-flag vessel operator, under the terms of his agreement with the Secretary, deposits earnings from his vessels into a capital construction account. The funds in such accounts must be used to finance the purchase or reconstruction of vessels approved by the Secretary. Capital construction fund accounts are not permitted to accumulate in size beyond the requirements of the vessel operator's approved shipbuilding program. In addition, such shipbuilding or acquisition programs must commence within 2 years of depositing earnings. Thus capital construction fund accounts are not permitted to accumulate in either amount or duration.

In a typical case, a fishing vessel owner—and I say fishing vessel owner because over 80 percent of the over 600 existing capital construction fund agreements cover fishing vessels—enters into an agreement with the Secretary of Commerce to deposit earnings from his vessels in a capital construction fund in order to purchase or reconstruct a specified vessel.

During the first and second year of his agreement, this man deposits a total of $100,000 of earnings, or ordinary income into his fund. The amount of his deposits are deducted from his income for tax purposes so he has an initial tax saving of $48,000—assuming a corporate rate of 48 percent. By the end of the second year, the vessel owner withdraws the $100,000 from his capital construction fund for use as the down-payment to purchase a $1 million fishing vessel. Now, the "basis" of the new vessel, for purposes of depreciation, is reduced by the amount of the capital construction funds used; in this case, $100,000. Thus, only $900,000 of depreciation will be deductible from this man's income rather than $1 million if no capital construction funds had been used. The $100,000 reduction in the depreciation deduction will result in his paying $48,000 of additional tax—the same amount as was saved by using the capital construction fund. This exact same pattern is followed as capital construction funds are used to liquidate any indebtedness on a vessel. The depreciation is reduced by the amount of capital construction funds used to pay for the vessel. Payments on a vessel from a capital construction fund will never exceed the cost of the vessel and likewise never exceed the depreciation deductions which would have been available if a capital construction fund had not been utilized.

Therefore when a vessel owner uses a capital construction fund, he does so in lieu of taking depreciation deductions. To deprive him of the investment tax credit benefits then creates a positive disincentive to invest his money in a fishing vessel. Virtually all other assets get both investment credit and depreciation.

The only difference between capital construction fund benefits and depreciation deductions is in timing and in most cases is not substantial.

To the extent that the capital construction fund method results in a faster cost recovery than other methods of accelerated depreciation, such benefit is offset by

First, the requirement that the capital construction funds must be used only to build vessels agreed upon between the vessel owner and the Secretary of Commerce;

Second, capital construction fund deposits may come only from vessel income, and, unlike depreciation, cannot be used to shelter unrelated income; and

Third, if the capital construction funds are used for any other purpose, the vessel owner must pay tax plus interest from the date of the deposits.

Mr. President, I would very much hope that the Senate would support what the Commerce Committee recommended unanimously, what the Finance Committee has recommended, and what the Senate has voted on before, by a unanimous vote. I yield 5 minutes to the Senator from South Carolina.

Mr. MAGNUSON. Will the Senator yield 10 seconds to me?

Mr. HOLLINGS. Yes.

Mr. MAGNUSON. The Senator from Louisiana put the case very well but I want to add one line. The merchant marine is the fourth arm of American defense. Is that correct?

Mr. LONG. That is correct.

Mr. HOLLINGS. Mr. President, the distinguished Senator from Arkansas said he does not know about the 80 percent, intimating that there is some authority for some other figure. I ask unanimous consent to have printed at this point in the RECORD the capital construction fund of the National Marine Fisheries Service. It will show that 581 contracts are listed in the fishery section and 96 for the capital construction funds, the exact figures, for these banks and oil companies, the integrated steel companies and everything else.

There being no objection, the information was ordered to be printed in the RECORD, as follows:

CAPITAL CONSTRUCTION FUND—NATIONAL MARINE FISHERIES SERVICE: PROGRAM PARTICIPATION AS OF MAY 10, 1976

Region	Original agreements	Active agreements	Depositors	Amount deposited	Average deposit	Amount withdrawn	Percent withdrawn	Amount of objectives
Alaska	95	76	81	$4,052,967	$50,037	$2,084,497	51.4	$22,107,128
Northeast	72	66	53	11,692,790	220,619	7,830,340	67.0	34,444,130
Northwest	257	183	199	18,272,113	91,820	13,084,282	71.6	77,298,146
Southeast	171	125	117	11,228,769	95,972	5,967,858	53.2	42,623,653
Southwest	163	131	121	27,369,231	226,192	19,260,255	70.4	191,385,047
Grand total	758	581	571	72,615,870	127,173	48,227,232	66.4	367,858,104

Mr. HOLLINGS. Mr. President, there is no reason to wander around on an important matter of this kind about somebody said 80 percent. The figures gave us 80 percent. We know this helps the fisheries. We are not vague about it. The record will reflect that.

In addition to that, our friend from Arkansas starts quoting the Treasury Department. As the Senator from Louisiana has pointed out, this has been studied by the conferees, by Finance, and every Senator interested in improving our merchant marine in seagoing carriage capability. We have been in every kind of a hearing in the world about it.

Here is what they said about this particular point:

> In the view of the conferees the amendment to section 607 contained in section 4 of the Senate bill was solely a clarifying amendment—

That is what the Senator from Arkansas is trying to strike—

> intended to bring administrative practice into conformity with Congressional intent. Although properly understood by the Department of Commerce, section 607 has heretofore been erroneously interpreted by the Treasury Department. In the view of the conferees, section 4 of the Senate bill accurately represents the state of existing law and appropriate maritime policy. It is hoped that the manifest Congressional purpose of stimulating the growth of the U.S. flag merchant marine will now be recognized by the Treasury Department.

So that is not a Senator voting with the Treasury Department that never understood the Congressional intent in the first place. I know he seeks reform and I have joined with the Senator from Arkansas on many of the amendments. But I do not like our merchant marine friends to be put into the corner of lethargic handouts, invalid food stamps, and subsidized when we give them a halfway program.

It is just like the school program around here. No one minds now the integrated schools. One hundred Senators stand for the integrated schools. But, instead of giving them schools and teachers to mix the schools, they had to give them buses.

Here, when we are trying to increase the number of the vessels themselves, and the fishing fleet and everything else like that, they want to cut off the investment tax credit due every industry, from the very industry we are trying to help.

If we follow through with this particular intent, in essence what does it mean? Instead of a 14-year writeoff, you can get accelerated depreciation, not for 5 years, as in some sections of the bill, but for 9½ years.

This is the section the Senator from Arkansas wants to cut out. We had extensive hearings. We do this year in and year out. We require of the merchant marine double bottoms, ocean safety, minimum wages, and all the other things not required by those we are competing with. Thank heaven, we got together the other day with the Soviets. They are about to put us out of the shipping business with their subsidized rates. They get a 100-percent subsidized operation. That is the Communist system, of course, and we do not favor that, but with that kind of operation they are about to put all our shipping out of business.

In the oil industry itself, for example, we passed a measure where only 6 percent of the oil imported into this country—Congress favorably acted overwhelmingly in both Houses, and now somehow they are not subsidized enough, because they are not opening up the yards in South Carolina, they closed them down. They are not opening them up in Arkansas. If the Senator from Arkansas was correct in his premise, there would be quite a shipping industry in this Nation. But we have been gradually going out of business in the shipping industry. This 10 percent has been seriously considered by everyone concerned with the maritime industry, and, as Senators can see, now we want to clarify that intent, which gets seriously misinterpreted by one Department of the Government, namely, the Treasury. I know now why we took the Coast Guard away from the Treasury and put it under Transportation. If that is the best understanding Treasury has of the oceangoing capacity of this Nation, no wonder we are in bad shape.

I yield back momentarily the rest of my time. I did not mean to get into this debate, but we have been trying to carry forward the idea that 85 percent of this goes to the fishing industry, which we are trying to establish and protect, and yet when you go to that same Treasury Department, and more particularly the State Department, they say, "No, no, we can continue to palaver," and when they get through we will not even have the 200-mile limit.

Mr. LONG. I yield the Senator from Hawaii such time as he may require.

Mr. INOUYE. Mr. President, I would like to share with my colleagues some statistics.

At the end of World War II, the merchant marine of the United States of America ranked No. 1. We ruled the high seas. Today we are No. 8. No. 1. happens to be the Soviet Union.

Second, I think it is well to recall what Chairman MAGNUSON said a few minutes ago: Today less than 5 percent of the goods of the United States, in and out of the United States, are shipped on American bottoms. More than 95 percent of the goods shipped into the United States and out of the United States have to be shipped on foreign bottoms.

In October of 1973, the Middle East erupted in what we call the Yom Kippur war, the war of October 1973. Soon thereafter, the people of the United States found themselves in a horrible turmoil, the oil embargo. Men and women were lining up at gas stations at 3 o'clock in the morning. There were some with shotguns to protect their position at the gas pump. It was a horrible situation.

But there was another embargo that very few of us took note of. When it became apparent to the United States that the State of Israel was in dire need of supplies, we called upon American citizens who owned ships under foreign registry—over 500 of them, American citizens owning ships under foreign registry—to help us ship goods to Israel.

The Arab interests got hold of Liberia and Panama, and passed word to them, "If you do that, we will get unhappy with you."

Therefore, they issued orders, the President of Liberia issued a direct order to all ships under Liberian registry: "If you ship one pound of goods to Israel, your ship will be taken off the registry."

As a result, the United States was able to call upon exactly zero number of ships to assist us in that endeavor.

Imagine, today we are No. 8. We were No. 1 at one time. Less than 5 percent of our cargo is being shipped in and out of the United States by American ships. Today the Russians are building like mad. If we do not watch ourselves, the time may come when we will be faced with a shipping embargo, and if one country can call upon the United States and say, "We don't appreciate your policy, therefore we are ordering our ships not to go to your ports," and that country carries about 25 percent of our goods, imagine what would happen to our economy.

So I call upon my colleagues here to give that little extra measure to our merchant marine industry, to give them that little boost that may turn this tide, so that instead of being No. 8 we may find ourselves being No. 7 next year, maybe No. 6 2 years from now, and hopefully in the top five about a decade from now. Without this type of assistance, we will not be No. 8, we will be No. 10 next year, and No. 14 the following year. Believe me, these are the trends at the present time.

So this is a very important amendment, an amendment that will affect the welfare of the United States.

Mr. STEVENS. Mr. President, will the Senator from Louisiana yield me 3 minutes?

Mr. LONG. I yield 3 minutes to the Senator from Alaska.

Mr. STEVENS. Mr. President, I rise to make a brief statement in support of section 806 of the pending legislation, H.R. 10612—the Tax Reform Act of 1976.

The purpose of section 806 is to clarify the availability of the investment tax credit for American vessels constructed using capital construction funds—CCF—authorized pursuant to section 21 of the Merchant Marine Act of 1970. It was this provision of the 1970 act which extended the privilege of depositing earnings to a tax-deferred reserve fund from only vessels engaged in the subsidized foreign trade to those in unsubsidized foreign trade, as well as the Great Lakes trade and the noncontiguous domestic trade, such as that with my State of Alaska.

Mr. President, the people of the State of Alaska are increasingly dependent upon shipping for their existence and for their economic well-being. Significantly, the CCF and the tax credit proposed in section 806 of the pending legislation also would include vessels built in the United States and documented under the laws of the United States for operation in our fisheries in which my State of Alaska has a substantial interest.

As my distinguished colleague from Hawaii (Mr. INOUYE), whose constituents, like my own in Alaska, are dependent upon ocean transportation, pointed out in his statement of June 30, this provision of the Tax Reform Act would eliminate a longstanding ambiguity in existing law which represents an unintended obstacle to investment in vessel construction. But, most important, this provision would provide a measure of tax equity to the citizens of Alaska, Hawaii, and other similarly situated noncontiguous areas, which are highly dependent on ocean transportation. It would do so by addressing the increasing concern of the citizens in those areas over the rapidly escalating capital cost of ships which has served to escalate freight rates. This translates into increased consumer costs for the people of areas, such as my own State of Alaska.

Accordingly, Mr. President, I feel that section 806 will have a significant beneficial impact on the future and the economy of Alaska. I therefore wish to commend the distinguished chairman of our Finance Committee (Mr. LONG) for his foresight in providing for this amendment to the House-passed bill. Section 806 not only is in the interest of the consumers of our noncontiguous areas, but it also represents equitable treatment for American shipping with respect to other transportation modes which now enjoy the benefit of the investment tax credit as a capital formation device. Consequently, I sincerely hope that my colleagues in the Senate will join me in supporting section 806 of the pending proposed Tax Reform Act of 1976.

In conclusion, let me point out that Congress has recently passed, the President has signed, and we are in the process of implementing the new 200-mile conservation zone concept. That bill contemplates that for the first time we will stimulate the construction of vessels to harvest the fisheries that previously have been harvested by these foreign fishing vessels that have swarmed over to our shores since World War II.

In regard to Alaska, I pointed out on the Senate floor that even though we have only a sustained yield of about 1 million metric tons of Alaska pollock a year, Japan and Russia were taking 1.4 million metric tons of pollock a year and we were taking none. The reason why we were taking none is that we did not have any vessels to harvest them.

We are now in a position where our vessels will have first priority on that vast resource of ocean bottom fish of the North Pacific, particularly the Alaska pollock.

Think: when you buy fish next time in the grocery store, you are buying Alaska pollock taken to Japan and processed into fish sticks and brought back here and put on the shelves of our grocery stores. There is no reason in the world why our fish should be taken all that distance, processed, and sent back here so we can consume it.

What we need is more incentive. We need the kind of incentives that built the agriculture industry and the great Midwest and Western part of the United States. I think those people who are attacking this incentive ought to think about that. Here is one of the basic food industries of our country, our fishing industry, and yet we import more of our own fish caught off our own shores than any other nation in the world.

The PRESIDING OFFICER (Mr. GARY HART). The Senator's 3 minutes have expired.

Mr. STEVENS. One more minute. I ask unanimous consent, to make sure that Senators know what we are talking about, that section 806 be printed in the RECORD at this point.

There being no objection, the excerpt from the committee bill was ordered to be printed in the RECORD, as follows:

SEC. 806. INVESTMENT CREDIT IN THE CASE OF CERTAIN SHIPS.

(a) IN GENERAL.—Section 46 (relating to amount of credit) is amended by adding at the end thereof the following new subsection:

"(g) CERTAIN VESSELS.—Notwithstanding any other provision of law, a vessel (and a barge or container which is part of the complement of such vessel) shall not fail or cease to be section 38 property, nor shall the amount of qualified investment (determined under subsections (c) and (d)) or the amount of credit allowed by section 38 be reduced because of any deposit in or qualified withdrawal from a capital construction fund established under section 21 of the Merchant Marine Act of 1970 (46 U.S.C. 1177) or because of any reduction in basis required thereunder. This subpart shall be applied by treating any such reduction and basis as resulting from the allowance for depreciation under section 167. For purposes of this subpart, the actual useful life of such property shall be treated as the useful life for computing depreciation.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) applies to taxable years beginning after December 31, 1975, and to the amount of credit allowed by section 38 of the Internal Revenue Code of 1954 for such taxable years.

Mr. STEVENS. All we ask is that you do not discriminate against the operators of American vessels, particularly fishing vessels, just because we give them another incentive. We want the same investment tax credit for fishing vessels that we have given generally to all industry throughout our country.

And I think this will be a needed thing. It will assure that we will get these vessels that are needed to harvest our own resources within our 200-mile limit.

Mr. BUMPERS. Mr. President, I still have 12 minutes remaining; is that correct?

The PRESIDING OFFICER. That is correct.

Mr. BUMPERS. I yield 4 minutes to our colleague from Tennessee (Mr. BROCK).

Mr. BROCK. I thank the Senator for yielding.

I wonder if I may ask unanimous consent to be added as a cosponsor of this amendment.

Mr. BUMPERS. The Senator is already noted in the RECORD as a cosponsor.

Mr. BROCK. I thank the Senator very much.

Mr. President, we are hearing some remarkable arguments today from those States which are affected. The basic argument of the Senator from Alaska is that the Japanese are picking up our fishing industry. I accept that. But the people who buy that fish also pay taxes, and if we take from the consumers of America taxes to subsidize someone who is fishing, they are still paying for that fish in one form or another, but the point is that in this particular amendment they are paying twice because we have already given the shipbuilding industry of this country what is effectively a 17-percent tax credit in the 1970 law. That is in excess of any other industry I know anything about. They already have that. Every single penny of interest, dividends, and profits on any shipping activity investment is tax free today.

Mr. STEVENS. Mr. President, will the Senator yield?

Mr. BROCK. It is tax free. It goes into a special fund, the construction fund, where it cannot be taxed, and they use those funds, then, to turn around and build ships for their own use, and those funds are not taxed until the money is taken out for something other than shipping purposes.

Mr. LONG. Mr. President, will the Senator yield at that point?

Mr. BROCK. I yield.

Mr. LONG. Does the Senator not know that to the extent that they use this construction fund they lose their depreciation? The Senator is arguing that in addition to that they ought to also lose their investment tax credit. Because they have lost all that, only one construction contract under the 1970 act has been signed in the last 24 months.

Mr. BROCK. There the Senator is making my point. That is the whole argument. It is that we are giving these people tax-free opportunities, and then we are giving them an investment tax credit on top of tax-free money, and it is a double dip. The next thing we know they are going to come in and want depreciation on that. I cannot see how in the world we can say that they ought to have depreciation on tax-free money already.

Mr. STEVENS. Mr. President, will the Senator yield to me?

Mr. LONG. The idea is they will lose the depreciation when they get the capital construction fund allowance anyway, so that they lose the depreciation in return for tax, and the Senator would make them lose their investment tax credit as well.

Mr. BROCK. No. The Senator will leave the tax credit. What we are saying is the Senator is giving them a double dip by giving them a tax credit on money where they did not pay any taxes to begin with and there was no basis for giving them a tax credit. There is no basis for giving them depreciation. Let me tell the Senators who benefits from this and where it works.

Mr. STEVENS. First, will the Senator answer one question for me?

Mr. BROCK. Yes.

Mr. STEVENS. As the Senator knows, my fishermen have to buy vessels in this country. If they bought them overseas, they could get them for 50 percent less. The Senator is looking at the people who are going to be benefited in terms of shipbuilding. I represent the fishermen.

If we would allow them to buy their ships overseas, they would not need any investment tax credit. But my fishermen have to buy their ships in this country. Therefore, they are only getting about 17 percent of the 50 percent that they have to pay in order to buy vessels to operate in this country.

Mr. BROCK. Let us not put another subsidy on the three groups that do benefit in order to solve that one problem. The Senator ought to deal with the root of the problem. I accept that, and I support the Senator.

The PRESIDING OFFICER. Time has expired.

Mr. BROCK. Mr. President, may I have two additional minutes yielded to me?

Mr. BUMPERS. Yes.

Mr. HOLLINGS. Mr. President, will the Senator yield for one question?

The PRESIDING OFFICER. Does the Senator yield?

Mr. BROCK. No, I cannot yield. I would be happy to yield if I had the time.

Let me tell what happens under this bill as it is unless the Bumpers amendment passes.

The oil companies, 17 of them have CCF's. They receive a tax break for building ships to transport Alaskan oil. However, their shipping is subject to cartage laws. So there is no foreign competition allowed, and the United States gets no benefit from this tax gift. Banks by building ships and leasing them to commercial shippers are able to use CCF's to shelter income completely unrelated to shipping.

Of the steel companies, 10 steel companies have CCF's. They save tax dollars while building ships for movement of ore on the Great Lakes. Again, as with Alaskan oil, this ship construction is free from foreign competition. By law one cannot compete with these companies from overseas.

So the tax subsidy does not result in additional U.S. shipbuilding shipping; rather it gives these individuals a double dip in the Treasury. It costs the American taxpayers money, and they receive no benefit.

I am not arguing with the Senator from Alaska, but I say in order to deal with the fishing problem let us deal with it fundamentally by changing the law that prohibits them from dealing competitively.

The fact is that this amendment will protect the American taxpayer from the double dip that they do not deserve to be hit with when they are getting hit hard enough as it is.

Mr. HOLLINGS. Mr. President, will the Senator yield?

Mr. BROCK. I yield.

Mr. HOLLINGS. I shall ask my distinguished friend this question. We have a depletion allowance for coal, and then we come on top of that and double dip and give an investment credit when machinery is bought for the coal company. Does the distinguished Senator go along with me——

The PRESIDING OFFICER. The Senator's 2 minutes have expired.

Who yields time?

Mr. LONG. How much time do I have remaining, Mr. President?

The PRESIDING OFFICER. The Senator from Louisiana has 3 minutes remaining and the Senator from Arkansas has 6 minutes remaining.

Mr. LONG. The Senator can use some of his time then.

Mr. HOLLINGS. May I complete my question?

Mr. LONG. I yield the Senator 30 seconds.

The PRESIDING OFFICER. On whose time?

Mr. HOLLINGS. Just a second.

Mr. LONG. Yes.

Mr. HOLLINGS. I will use a second. The distinguished Senator could cosponsor an amendment with me——

The PRESIDING OFFICER. Who is yielding time?

Mr. HOLLINGS. This is on the Senator's time.

Mr. LONG. I yield the Senator 1 minute.

Mr. HOLLINGS. Yes, 1 minute.

Will the distinguished Senator from Tennessee cosponsor an amendment with me to do away with double dipping and do away with the investment tax credit for coal? Or will the distinguished Senator from Arkansas do away with the investment tax credit for the timber industry? I joined with him on timber, because we both have timber interests. They get value depreciation and capital gains treatment. They get a triple dip. How about doing away with, rather than the double dip, the triple dip and doing away with the investment tax credit for the timber industry? I wonder if he will join in amendments of that kind.

Mr. BROCK. The Senator does not understand what is in the bill. It is a double dip on the tax credit.

The PRESIDING OFFICER. The time of the Senator has expired. Who yields time?

Mr. BUMPERS. Mr. President, I yield myself such time as I may use.

Earlier, the distinguished Senator from Washington asked a rhetorical question at the conclusion of his statement: why do we jump on the merchant marine? Why am I jumping on the merchant marine industry?

I wish to answer that by simply saying I do not know of an industry in the United States that would not wish to be jumped on the way the merchant marine industry has been jumped on.

There is not another single industry in the United States that has the privilege of taking its earnings and saying, "Instead of paying taxes on them, we are going to dump it over into a fund to buy more equipment."

I wish to reiterate the example I used earlier, and that is of a shipping company that has a $1 million profit. Everyone else would have to belly up and pay Uncle Sam $480,000. Here is a company that says, "I am going to take this $1 million and put it over into a CCF." And they do it, and they buy a $1 million ship. They have a $1 million ship bought with tax-free dollars at the expense of the Treasury of the United States.

What the amendment of the Committee on Finance does is to say, "In addition to giving you that $1 million tax free, we are going to send you a $100,000 check back for the privilege."

Name me someone else who even comes close to that sort of tax loophole or that sort of incentive.

Then, finally, the shoe industry was brought into it. It is true that we protect the shoe industry with tariffs, but the shoe industry is still depressed, and the shipping industry in 1975 alone, as a result of the 100 percent-depreciation allowance of the first year, had a 66⅔ percent increase in CCF funds for construction of ships. I have not heard one single word about how many jobs this new concession is going to produce.

The shoe industry is the most depressed industry in the United States. Forty percent of all the shoes sold in this country are coming from overseas, and I have not heard anyone say, "Let us send them a big fat check every year so they can compete."

The Senator from South Carolina said, "why the Soviet Union, Russia, subsidizes their merchant marine 100 percent." Of course they do. They own it. I am saying if we are going to keep piling subsidy on top of subsidy for the merchant marine let us buy and own it.

If it is important enough for this body, if it is important enough for the pride of the American people, for the U.S. Government to be able to compete with Japan, Germany, Sweden, and the Soviet Union, then let us subsidize the shipbuilding industry for whatever amount we have to in order to get it done. But do not pretend that they are being discriminated against. They already have, as a result of the 1970 Merchant Marine Act, the greatest subsidy of any industry in the United States.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. LONG. I yield to the Senator from Maine.

Mr. HATHAWAY. Mr. President, I oppose the amendment of the Senator from Arkansas. I think he made many good points with respect to the subsidy that is going to the shipbuilding industry, but I think it is an attack that should be directed against the capital construction fund. I know that there are some inequities in that. It limits it to 5 tons and above, which does not help the lobster fishing industry, because those boats are less.

However, I do not think that depriving the shipping industry of the investment tax credit is the way to go about it. There can be abuses in the capital construction fund, because that says, in effect, that a person would write his own depreciation schedule. He puts the whole cost of the ship in the first year, and then he has deducted the whole cost of the ship; whereas, normally, he would have to depreciate it over a period of years. That is where the real tax break and perhaps the inequity come in, but not the investment tax credit.

Mr. BUMPERS. Mr. President, on my own time, I wish to make a short statement.

I appreciate the Senator from Maine's very objective viewpoint about this matter.

In response to the arguments raised by the Senator from South Carolina in connection with fishing vessels, I say that I have no quarrel with the statistic that 80 percent of the CCF agreements in this country are with fishing vessel operators and owners. What I said was that I would like to see the dollars involved. My guess would be that, while 80 percent of the contracts with the Department of Commerce are with small operators, probably 80 percent of the tax savings are going to about 50 or 60 companies.

We went through the same argument with respect to the deferral, Senators will recall. The Senator from Louisiana made the point that everybody was for doing away with the deferral in order to bring jobs back here. Nobody has suggested that by giving these people this 10 percent tax credit, they are going to create any more jobs, because the shipbuilding industry is on a boom in this country with the incentive they have. I do not think we should pass something on top of it. If they were depressed at this point, it might make sense; but we would be giving them a subsidy for which we would get nothing in return. We simply would be giving away $20 million.

Mr. MAGNUSON. Mr. President, will the Senator yield?

Mr. LONG. I yield.

Mr. MAGNUSON. Mr. President, the Senator from Arkansas keeps talking about the shipbuilding industry being in a boom. When we are 15th in the world—a country of such great resources and size—15th in shipbuilding, does the Senator think we are in some kind of a boom?

Mr. STEVENS. Mr. President, will the Senator yield me 1 minute?

Mr. LONG. I yield.

Mr. STEVENS. The Alaskan oil tankers have been mentioned. I point out that they have redundant environmental controls required by Federal national policy; and even the incentive involved in the deferral and the investment tax credit would not come close to paying the bill required to meet national policy.

The PRESIDING OFFICER. The time of the Senator from Louisiana has expired.

The Senator from Arkansas has 1 minute.

Mr. BUMPERS. Mr. President, the issue here is very simple.

I said earlier that this matter is in litigation right now. If we want to see the litigation through and let the court make the decision, we should vote for the amendment. The courts will make the decision. If Senators feel, as I do, that Congress should resolve this issue now and say there is going to be some reform in the bill and that one industry which is doing very well should not be singled out for such subsidies, then they should vote for the amendment.

This is an opportunity for this body, at this stage of the debate, after about 4 weeks, to say, "Here is one loophole, here is one big subsidy, we are going to do away with."

I earnestly solicit my colleagues to support it.

ADDITIONAL STATEMENTS SUBMITTED

Mr. HOLLINGS. Mr. President, I wish to join with those of my colleagues who have expressed support for section 806 of the pending bill, H.R. 10612—the Tax Reform Act of 1976.

Passage, and hopefully enactment of section 806, Mr. President, would serve to remove a cloud concerning congressional intent which for the past 6 years has frustrated our earlier attempts to revitalize the American merchant marine and the American fishing fleet through the enactment of the Merchant Marine Act of 1970. This is a matter of vital interest to me, serving as I do as chairman of the Subcommittee on Oceans and Atmosphere of our Committee on Commerce and as chairman of the National Ocean Policy Study, established pursuant to Senate Resolution 222 which was adopted unanimously by the Senate on February 19, 1974.

Senate Resolution 222 has as one of its purposes an examination of our current and prospective national capabilities in the oceans, including "commerce," which encompasses the sealift capability of the American merchant marine. Also, the National Ocean Policy Study played a key role in the successful congressional initiative to fix a 200-mile fishery conservation zone.

This activity culminated on April 13 of this year with approval by the President of the Fishery Conservation and Management Act of 1976—Public Law 94-265. It therefore was with considerable interest that I took note of the Senator from Maine (Mr. HATHAWAY) who only last month filed the report of our Select Committee on Small Business entitled, "Economic Problems Confronting the Fisheries Industry" and introduced his bill, S. 3624, to assist this industry. Section 806 could provide a form of immediate assistance to the fisheries industry with respect to new vessel construction.

Mr. President, both our merchant shipping capabilities and those of our fishing fleet, especially with the enactment of the prospective 200-mile fishery zone, are wanting. The high hopes for new merchant and fishing vessel construction of those of us who were in this Chamber when we passed the bill which became the Merchant Marine Act of 1970 have been frustrated.

I suggest that some of those earlier high hopes concerning the revitalization of the American merchant marine and our fishing fleet which attended passage of the Merchant Marine Act of 1970 have been frustrated as a result of an inadvertent ambiguity concerning the availability of the investment tax credit for vessel construction.

Those of us who serve on our Commerce Committee, which considered the Merchant Marine Act of 1970, did our best to correct this situation. Last year, during the first session of this Congress, the Commerce Committee reported and the Senate passed without a single dissenting vote the Maritime Appropriation Authorization Act of 1975, S. 1542, which contained a provision similar to that now found in section 806 of the pending measure. Section 4 of S. 1542 sought to make clear to those who administer the law, especially the Treasury Department, that the investment tax credit, which was reinstituted following passage of the 1970 act and available to other transportation modes, should likewise be made available to American shipping.

Unfortunately, when this legislation

was referred to the other body, a jurisdictional question, arose between two of its committees. The result was that, when we went to conference with the other body on S. 1542, it was necessary to drop this clarifying provision. However, in so doing, the conferees were unanimous in expressing in the joint explanatory statement, accompanying the conference report, that it was their belief that the Congress intended the investment tax credit be made available for vessel construction qualifying under section 21 of the Merchant Marine Act of 1970.

Mr. President, this is precisely what section 806 of the pending bill, H.R. 10612, would accomplish. It would remove any vestige of doubt concerning the availability of the investment tax credit for vessel construction under section 21 of the Merchant Marine Act of 1970. Most important, enactment of section 806 would enable us to move forward on the revitalization program envisaged with the enactment of the Merchant Marine Act of 1970.

There is one other final thought concerning my support for section 806. Both as chairman of the Subcommittee on Oceans and Atmosphere and the National Ocean Policy Study, I have fought to preserve the environmental integrity of our coastal zone in its development. There is more chance that our coastal zone will not be despoiled if the ships plying these waters are American-built and American-manned. Section 806 should serve as an incentive for the construction of such U.S.-flag vessels, subjecting them to our jurisdiction, preserving our maritime and our coastal zone interests. The alternative would be to turn our backs on our national interests and permit foreign-flag operations to fill this void. I hope such a tragedy will not happen.

Mr. President, for all of these reasons, I commend the distinguished chairman of our Finance Committee (Mr. Long) and urge my colleagues to support him in passing section 806 of the pending Tax Reform Act of 1976.

Mr. BEALL. Mr. President, I wish to express my support for section 806 of H.R. 10612, the Tax Reform Act of 1976.

Section 806 would serve to clarify an ambiquity in existing law with respect to the availabilty of the investment tax credit for certain merchant vessels and fishing vessels built in and documented under the laws of the United States. These would be vessels which qualify to receive capital construction fund—CCF—moneys pursuant to section 21 of the Merchant Marine Act of 1970.

Mr. President, the ambiguity to which I refer arises from the fact that at the time the Merchant Marine Act of 1970 was enacted, there was no investment tax credit. Subsequently, the Revenue Act of 1971 did reinstitute the investment tax credit but it did so without addressing the relationship between the tax credit and the capital construction fund.

The Subcommittee on Merchant Marine of our Committee on Commerce, on which I serve as ranking member, did endeavor to remove this cloud over the vessel construction program. We did so by providing a clarification which was contained in the Maritime Appropriation Authorization Act of 1975, S. 1542, similar to section 806 of the pending bill. S. 1542 was passed by the Senate in April of last year without a single dissenting vote. Unfortunately, when S. 1542 was referred to the other body, a jurisdictional question arose and it was necessary to delete this clarifying provision. But the conferees, in their joint explanatory statement, were unanimous in expressing their belief that the congressional intent was that the investment tax credit, which is available to all other transportation modes, should also be available as a capital formation incentive for American shipping.

Notwithstanding the earlier expression of congressional intent with respect to the availability of the investment tax credit for the construction of American merchant vessels and fishing vessels, the ambiguity has remained. The result has been to frustrate the revitalization efforts contemplated at the time of enactment of the Merchant Marine Act of 1970.

Mr. President, I firmly believe that the Senate should adopt section 806 and thereby eliminate the inequity under which our maritime industry must now labor. If enacted, section 806 could enable us to move toward the praiseworthy goals of the Merchant Marine Act of 1970.

Accordingly, Mr. President, I strongly urge that my colleagues in the Senate join with me in supporting section 806 of the bill and resist the attempt to undermine this provision. Otherwise, I fear that the revitalization program for our maritime and fishing industry, upon which the Senate embarked almost 6 years ago, will continue to wallow like a rudderless ship. This, I submit, must not be allowed to happen.

The PRESIDING OFFICER. All time has expired.

Mr. BUMPERS. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Arkansas.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Mississippi (Mr. Eastland), the Senator from Indiana (Mr. Hartke), the Senator from Kentucky (Mr. Huddleston), the Senator from Louisiana (Mr. Johnston), the Senator from Wyoming (Mr. McGee), the Senator from Montana (Mr. Metcalf), the Senator from New Mexico (Mr. Montoya), the Senator from Utah (Mr. Moss), the Senator from California (Mr. Tunney), the Senator from Nevada (Mr. Cannon), the Senator from Alaska (Mr. Gravel), the Senator from Colorado (Mr. Haskell), the Senator from Missouri (Mr. Symington), and the Senator from Minnesota (Mr. Mondale) are necessarily absent.

Mr. HUGH SCOTT. I announce that the Senator from Tennessee (Mr. Baker), the Senator from Arizona (Mr. Goldwater), the Senator from Michigan (Mr. Griffin), the Senator from Nebraska (Mr. Hruska), the Senator from Nevada (Mr. Laxalt), the Senator from Maryland (Mr. Mathias), the Senator from Virginia (Mr. William L. Scott), and the Senator from Ohio (Mr. Taft) are necessarily absent.

The result was announced—yeas 23, nays 55, as follows:

[Rollcall Vote No. 440 Leg.]

YEAS—23

Bellmon
Brock
Bumpers
Burdick
Clark
Culver
Dole
Hart, Gary
Hart, Philip A.
Javits
Kennedy
Leahy
Mansfield
McGovern
McIntyre
Percy
Proxmire
Ribicoff
Roth
Stafford
Stevenson
Weicker
Young

NAYS—55

Abourezk
Allen
Bartlett
Bayh
Beall
Bentsen
Biden
Brooke
Buckley
Byrd, Harry F., Jr.
Byrd, Robert C.
Case
Chiles
Church
Cranston
Curtis
Domenici
Durkin
Eagleton
Fannin
Fong
Ford
Garn
Glenn
Hansen
Hatfield
Hathaway
Helms
Hollings
Humphrey
Inouye
Jackson
Long
Magnuson
McClellan
McClure
Morgan
Muskie
Nelson
Nunn
Packwood
Pastore
Pearson
Pell
Randolph
Schweiker
Scott, Hugh
Sparkman
Stennis
Stevens
Stone
Talmadge
Thurmond
Tower
Williams

NOT VOTING—22

Baker
Cannon
Eastland
Goldwater
Gravel
Griffin
Hartke
Haskell
Hruska
Huddleston
Johnston
Laxalt
Mathias
McGee
Metcalf
Mondale
Montoya
Moss
Scott, William L.
Symington
Taft
Tunney

So Mr. Bumpers' amendment was rejected.

Mr. MAGNUSON. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. LONG. I move to lay that motion on the table.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

TITLE XVII (COMMITTEE AMENDMENT NO. 27)

The PRESIDING OFFICER. According to the previous order, the clerk will now report committee amendment No. 27.

The legislative clerk read as follows:

On page 997, line 1, strike all through page 1002, line 4, and insert in lieu thereof:

TITLE XVII—RAILROAD PROVISIONS

Sec. 1701. Certain Provisions Relating to Railroads.

(a) First-In-First-Out Treatment of Investment Credit.—Subsection (b) of section 46, relating to amount of credit, is amended by adding at the end thereof the following new paragraph:

"(8) Railroads.—In the case of a domestic common carrier by rail (including a railroad switching or terminal company, the extent to which an investment credit carryover from an unused credit year may be added under paragraph (1) for a taxable year beginning after December 31, 1975, shall be determined without regard to paragraph (2)(A). In determining the excess under paragraph (1) for any taxable year beginning after December 31, 1975, the limitation provided by subsection (a)(2) for such taxable year shall be reduced by such carryover."

(b) Treatment of Certain Railroad Ties.—Section 263 (relating to capital expenditures) is amended by adding at the end thereof the following new subsection:

"(g) Certain Railroad Ties.—In the case of a domestic common carrier by rail (including a railroad switching or terminal company) which uses the retirement-replacement method of accounting for depreciation of its railroad track, expenditures for acquiring and installing replacement ties which are not made of wood (and fastenings related to such ties) shall be treated as chargeable to capital account to the extent that such expenditures exceed the fair market value (including the cost of installation) of replacement ties of wood (and fastenings related to such ties).".

(b) Amortization of Items in Track Account.—

(1) In general.—Part VI of subchapter B of chapter 1 (relating to itemized deductions for individuals and corporations) is amended by adding at the end thereof the following new section:

"Sec. 189. Amortization of Railroad Track Assets.

"(a) General Rule.—In the case of a domestic common carrier by railroad, the taxpayer shall, at his election, be entitled to a deduction with respect to the amortization of the adjusted basis (for determining gain) of his qualified railroad track assets. The amortization deduction provided by this section with respect to such property shall be in lieu of any depreciation deduction, or other amortization deduction, with respect to such track assets for any taxable year to which the election applies.

"(b) Amount of Deduction.—

"(1) In general.—The deduction allowable under subsection (a) for any taxable year shall be an amount determined by amortizing ratably over a period of 10 years the adjusted basis (for determining gain) of the qualified railroad track assets of taxpayer. Such 10-year period shall commence with the first taxable year for which an election under this section is effective.

"(2) Special rule.—In the case of qualified railroad track assets placed in service after the beginning of the first taxable year for which an election under this section is effective, the 10-year period with respect to such property shall begin with the year following the year the property is placed in service.

"(c) Election of Amortization.—The election of the taxpayer to take the amortization deduction provided in subsection (a) may be made for any taxable year beginning after December 31, 1976. Such election shall be made by filing with the Secretary or his delegate, in such manner, in such form, and within such time as the Secretary or his delegate may by regulations prescribe, a statement of such election. The election shall remain in effect for all taxable years subsequent to the first year for which it is effective and shall apply to all qualified railroad track assets of the taxpayer, unless, on application by the taxpayer, the Secretary or his delegate permits him, subject to such conditions as the Secretary or his delegate deems necessary, to revoke such election.

"(d) Definitions.—For purposes of this section—

"(1) Railroad track assets.—The term "railroad track" means railroad track costs for ties, rail, other track material, ballast, and related installation costs which have been charged to track accounts numbered 8, 9, 10, 11, and 12 under the Interstate Commerce Commission Uniform System of Accounts for Railroad Companies (49 U.F.R. 1201).

"(2) Qualified railroad.—The term "qualified railroad track assets" means railroad track assets the original use of which commences after December 31, 1976.

"(e) Treatment Upon Retirement.—If any qualified railroad track asset is retired or abandoned during a taxable year for which an election under this section is in effect, no deduction shall be allowed on account of such retirement or abandonment and the amortization deduction under this section shall continue with respect to such property. This subsection shall not apply if the retirement or abandonment is attributable primarily to fire, storm, or other casualty.

"(f) Investment Credit Not To Be Allowed.—Notwithstanding the provisions of section 48(a)(9), property eligible to be amortized under this section shall not be treated as section 38 property within the meaning of section 48(a).

"(g) Regulations.—The Secretary or his delegate shall prescribe such regulations as may be necessary to carry out the purposes of this section.

"(h) Cross Reference.—

"For special rule with respect to certain gain derived from the disposition of property the adjusted basis of which is determined with regard to this section, see section 1245."

(2) Technical amendments.—Section 1245 (relating to gain from dispositions of certain depreciable property) is amended by striking out "or 188" each place it appears therein and inserting in lieu thereof "188, or 189".

(c) Phase-down of Investment Credit.—Subsection (a) of section 46 (relating to determination of amount of investment credit) is amended by adding at the end thereof the following new paragraph:

"(7) Alternative limitation in the case of certain railroads.—

"(A) In general.—If, for taxable year ending after calendar year 1975, and before calendar year 1984, the amount of the qualified investment of the taxpayer which is attributable to railroad property is 25 percent or more of his aggregate qualified investment, then subparagraph (c) of paragraph (2) of this subsection shall be applied by substituting for 50 percent as applicable percentage for such year.

"(B) Applicable percentage.—The applicable percentage of any taxpayer for any taxable year under this paragraph is—

"(i) fifty percent,

"(ii) that portion of the tentative percentage for the taxable year which the taxpayers are not of qualified investment which is railroad property bears to his aggregate qualified investment.

If the proportion referred to in clause (ii) is 75 percent or more, the applicable percentage of the taxpayer for the year shall be 50 percent plus the tentative percentage for such year.

"(C) Tentative percentage.—For purposes of subparagraph (B), the tentative percentage shall be determined under the following table:

"If the taxable year ends in:	*The taxable percentage is:*
1976 or 1977	50
1978	40
1979	30
1980	20
1981	10
1982 or later	0

"(D) Railroad property defined.—For purposes of this paragraph, the term 'railroad property' means section 38 property used directly in connection with the trade or business of running a railroad (including a railroad switching or terminal company).

"Sec. 1702. Amortization Over 50-Year Period of Railroad Grading and Tunnel Bores Placed in Service Before 1969.

(a) In General.—Section 185 (relating to amortization of railroad grading and tunnel bores) is amended by redesignating subsections (d), (e), (f), (g), and (h) as subsections (f), (g), (h), (i), and (j), respectively, and by inserting after subsection (c) the following new subsections:

"(d) Election With Respect to Pre-1969 Property.—A taxpayer may, for any taxable year beginning after December 31, 1974, elect for purposes of this section to treat the term 'qualified railroad grading and tunnel bores' as including pre-1969 railroad grading and tunnel bores. An election under this subsection shall be made by filing with the Secretary, in such manner, in such form, and within such time, as the Secretary may by regulations prescribe, a statement of such election. The election under this subsection shall remain in effect for all taxable years, after the first year for which it is effective, for which an election under subsection (c) is effective. The election under this subsection shall apply to all pre-1969 railroad grading and tunnel bores of the taxpayer, unless, on application by the taxpayer, the Secretary permits him, subject to such conditions as the Secretary deems necessary, to revoke such election.

"(e) Adjusted Basis for Pre-1969 Railroad Grading and Tunnel Bores.—

"(1) In general.—The adjusted basis of any pre-1969 railroad grading and tunnel bore shall be determined under this subsection.

"(2) Property acquired or constructed after February 28, 1913.—

"(A) In the case of pre-1969 railroad grading and tunnel bores—

"(i) acquired by the taxpayer after February 28, 1913, or

"(ii) the construction of which was completed by the taxpayer after February 28, 1913,

the adjusted basis of such property shall be equal to the adjusted basis (for determining gain) of such property in the hands of the taxpayer.

"(B) In the case of property described in subparagraph (A)(i)—

"(i) which was in existence on February 28, 1913,

"(ii) for which the taxpayer has a substituted basis, and

"(iii) such susbtituted basis for which would, but for the provisions of this section, be determined under section 1053,

then the adjusted basis of such property shall be determined as if such property were property described in paragraph (3)(A).

"(3) Property acquired or constructed before March 1, 1913.—

"(A) In the case of pre-1969 railroad grading and tunnel bores—

"(i) acquired by the taxpayer before March 1, 1913, or

"(ii) the construction of which was completed by the taxpayer before March 1, 1913, the adjusted basis of such property shall be determined under the provisions of subparagraph (B), (C), or (D) of this paragraph.

"(B) In the case of any property valued under an original valuation made by the Interstate Commerce Commission pursuant to section 19a of part I of the Interstate Commerce Act (49 U.S.C. 19a), the adjusted basis of such property shall be equal to the amount ascertained by the Interstate Commerce Commission as of the date of such valuation to be such property's cost of reproduction new (as the term 'cost of reproduction new' is used in such section 19a).

"(C) In the case of property which was not valued by the Interstate Commerce Commission in the manner described in subparagraph (B), but which was valued under an original valuation made by a comparable State regulatory body, the adjusted basis of such property shall be equal to the amount ascertained by such State regulatory body as of the date of its original valuation to be such property's value.

"(D) If, in the case of any property to which this paragraph applies—

"(i) neither subparagraph (B) nor (C) applies, or "(ii) notwithstanding subparagraphs (B) and (C), either the taxpayer or the Secretary can establish the adjusted basis (for purposes of determining gain) of such property in the hands of the taxpayer,

then the adjusted basis of such property shall be equal to its adjusted basis (for purposes of determining gain) in the hands of the taxpayer."

(b) DEFINITION OF PRE-1969 RAILROAD GRADING AND TUNNEL BORES.—Subsection (f) of section 185 (as redesignated by subsection (a) of this section) is amended by adding at the end thereof the following new paragraph:

"(3) PRE-1969 RAILROAD GRADING AND TUNNEL BORES.—The term 'pre-1969 railroad grading and tunnel bores' means railroad grading and tunnel bores the original use of which commences before January 1, 1969."

Mr. LONG. Mr. President, this title contains a number of provisions affecting railroads which I would like to describe.

First-in-first-out treatment of investment credit—section 1701(a) of the bill:

The committee amendment would permit railroads to apply carryforward of the investment credit earned in prior years to the current year's tax liability before applying investment credits earned in the current year.

Under present law, investment tax credits earned currently are applied to the current year's tax liability before any carryforwards may be used.

There is no similar House provision in the tax reform bill or the energy tax bill (H.R. 6860).

Treatment of certain railroad ties—section 1701(b) of the bill:

Under the committee amendment, expenditures for acquiring and installing nonwood railroad ties may be deducted as a current expense equal to the fair market value of replacement wood ties and the remaining cost is to be charged to the capital account.

Under present law, when new track and ties are laid, the costs for materials and labor are capitalized, and no depreciation is claimed on the original installation. On replacement of the original equipment with track or ties of a like kind or quality, for example, new wood ties for old wood ties, the replacement costs are deducted as current expense. When the replacement is a like kind but improved quality, it is treated as a betterment, under which the betterment cost is capitalized and the remainder is expensed. This would be the case of wood ties capable of carrying heavier loads. Retirement and substitution involves replacement with a different kind of tie, concrete, for example, and the costs of the new ties are capitalized and the old ones are deducted as current expense.

Under the House tax reform bill, current deductions from income would be allowed for the material and labor costs of replacing existing ties with ties of identical or different material and identical or improved quality.

Amortization of railroad track assets—second 1701(b) of the bill:

The committee amendment provides for straightline, 10-year amortization of assets in the track accounts—numbers 8, 9, 10, 11, and 12 in the ICC uniform system of accounts for railroads.

Under present law, when new track and ties are laid, the costs for materials and labor are capitalized, and no depreciation is claimed on the original installation. On replacement of the original replacement with track or ties of a like kind of quality; for example, new wood ties for old wood ties, the replacement costs are deducted as current expense. When the replacement is a like kind but improved quality, it is treated as a betterment, under which the betterment cost is capitalized and the reminder is expense. This would be the case of rails or wood ties capable of carrying heavier loads. The replacement-retirement method of depreciation and other forms of depreciation are mutually exclusive. As a result, if a railroad uses retirement-replacement method for track account replacements, it cannot depreciate the original capital costs without consent of the Commissioner of the Internal Revenue Service.

There is no House provision relating to track account assets in the tax reform bill or the energy tax bill (H.R. 6860).

Alternative limitation of investment credit for railroads—section 1701(c) of the bill:

Under the committee amendment, railroads would be able to apply investment credits against 100 percent of tax liability in 1977 and 1978, 90 percent in 1979, 80 percent in 1980, 70 percent in 1981, 60 percent in 1982, and 50 percent in 1983 and later years.

Under present law, the amount of investment tax credit which can be taken in any one year may not exceed the first $25,000 of tax liability plus 50 percent of the liability greater than $25,000.

There is no provision of this kind in the House-passed tax reform bill or the energy tax bill (H.R. 6860).

Amortization of railroad grading and tunnel bores—section 1702 of the bill:

Under the committee amendment, a railroad would be allowed to elect to amortize railroad grading and tunnel bores that were placed in service before 1969 on a straight line basis over a 50-year period.

Under present law, a railroad may make this election for railroad grading and tunnel bores that were placed in service after 1968.

The House bill provides an election for straight line amortization over a 50-year period for railroad grading and tunnel bores placed in service before 1969.

UP AMENDMENT NO. 271

Mr. President, I ask unanimous consent that we might consider an amendment of the Senator from Washington (Mr. MAGNUSON).

The PRESIDING OFFICER. The Chair was not able to hear the Senator from Louisiana.

Mr. LONG. Mr. President, I ask unanimous consent that we might consider an amendment of the Senator from Washington (Mr. MAGNUSON).

The PRESIDING OFFICER. Is there objection. The Chair hears none, and it is so ordered.

Mr. MAGNUSON. Mr. President, in view of the vote on section 806 taken by the Senate, there appears to be need——

The PRESIDING OFFICER. Will the Senator suspend until we have order. The Chair is unable to hear the Senator from Washington.

Mr. MAGNUSON. There appears to be needed for a clarifying amendment to section 806. Section 806 establishes an erroneously effective date. The amendment modifies page 323, lines 22 and 23, strike "December 31, 1975" and insert in lieu thereof "December 31, 1969."

This would give the vessel operators the investment tax credit that they earned between those dates.

Mr. LONG. Mr. President, the vessel owners have consistently claimed the investment tax credit, on advice of counsel, contending that it was the intent of Congress that they receive the investment tax credit when they use the construction funds. The IRS has not yet assessed a deficiency against them. The Commerce Committee, the Commerce Department, as well as our committee, contend that it was the intent of Congress from the very beginning that they receive the credit. As the manager of the bill I am here to state, it was our intent from the very beginning, that they were to have the investment tax credit, and that is what the Senator's amendment seeks to make clear.

The PRESIDING OFFICER. Before there is further deliberation on this amendment, will the Senator from Washington send the amendment to the desk so the clerk can report it. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Washington (Mr. MAGNUSON) proposes unprinted amendment No. 271:

At page 323 lines 22 and 23, strike "December 31, 1975" and insert in lieu thereof "December 31, 1969".

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. Could the Senator explain his amendment? As I understand it, this makes it retroactive for how long a period of time?

Mr. LONG. Back to 1970 when we put it into effect.

Mr. KENNEDY. So it extends back to 1970.

Mr. MAGNUSON. Yes.

Mr. KENNEDY. What is the cost of this?

Mr. MAGNUSON. No, there is no cost at all in the sense there has been nothing levied.

Mr. LONG. As of now there is no cost.

Mr. MAGNUSON. As of now there is no cost.

Mr. LONG. For this reason——

Mr. KENNEDY. Both Senators are talking, so there must be——

Mr. LONG. If the Senator will hold on, on advice of counsel all people building these ships claiming this construction fund as a deferral have claimed their investment tax credit and taken it.

Now, Treasury has not asserted, the IRS has not assessed, any deficiency against these owners. If they assess a deficiency, they go into court on the basis that the congressional intent clearly was that they should have the investment tax credit.

Now, as the manager of the bill, of both bills, I am positive in my mind that we did not pass the investment tax credit law intending to deny these people the benefit of their construction funds. So if you do not pass the Magnuson amendment we will be attempting to assess a tax which one would contend they technically owe, when the legislative history indicates that it was never clearly the intention to assess that tax.

Mr. KENNEDY. What would have been the assessment for that period?

Mr. LONG. It would amount to about $35 to $40 million during that period.

Mr. KENNEDY. During the whole period?

Mr. LONG. During the whole period.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Washington (putting the question).

Mr. KENNEDY. The yeas and nays, Mr. President.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. CHILES. Did the Chair rule? What is the ruling of the Chair?

The PRESIDING OFFICER. The yeas appear to have it.

Mr. KENNEDY. Well, the yeas and nays.

Mr. CHILES. Regular order. Regular order.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

ORDER OF BUSINESS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senator from Missouri be recognized for not to exceed 1 minute to present a resolution which has been approved all the way around.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

VOTER REGISTRATION AND PARTICIPATION

Mr. EAGLETON. Mr. President, my resolution is at the desk and I ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated by title.

The legislative clerk proceeded to read the resolution.

Mr. EAGLETON. Mr. President, I ask unanimous consent that further reading of the resolution be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. EAGLETON. Mr. President, this is a resolution submitted by myself and Senators Pearson, Mansfield, and Hugh Scott.

In essence, it encourages the private sector of our society to assist in commemorating our Bicentennial celebration with a great increase of the Nation's voter participation rate. Specifically, it mentions the Advertising Council Inc. as a valuable resource within the private sector which can contribute to voter registration and turnout.

In 1960, the Advertising Council Inc. undertook an extensive register and vote media campaign. In 1960, we experienced the highest voter participation rate in 50 years. It is estimated that if one were to purchase the advertising provided by the public service announcements at the ad council, it would cost $15 million.

In 1972, a little more than one-half of the eligible American voters turned out to cast their ballot. Only three of the world's democracies vote at a lower rate than the United States—Botswana, Chad, and Yemen.

Government at the Federal, State, and local levels have recently moved vigorously to improve our record. With the full cooperation of the private sector, it is my hope that 1976 will show great improvement.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 498) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 498

Whereas the United States' voter participation rate is substantially lower than that of each of the democratic nations of the world other than three nations;

Whereas it is appropriate to commemorate our Nation's bicentennial with a greatly increased voter turnout; and

Whereas government at the Federal, State and local levels has moved vigorously to improve voter registration and voter participation:

Now, therefore, be it

Resolved, That it is the sense of the Senate to invite and encourage this Nation's private sector to initiate an extensive effort to increase voter registration and voter turnout in the 1976 general election.

Sec. 2. It is the further sense of the Senate that the private sector, acting as individual entities, through committees, associations and organizations, and utilizing valuable resources such as the Advertising Council Incorporated, can greatly contribute to the increase of the Nation's voter participation rate.

TAX REFORM ACT OF 1976

The Senate continued with the consideration of the bill (H.R. 10612) to reform the tax laws of the United States.

The PRESIDING OFFICER. (Mr. Stone). The question is on agreeing to the amendment of the Senator from Washington. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Mississippi (Mr. Eastland), the Senator from Indiana Mr. Hartke), the Senator from Colorado (Mr. Haskell), the Senator from Kentucky (Mr. Huddleston), the Senator from Louisiana (Mr. Johnston), the Senator from Wyoming (Mr. McGee), the Senator from Montana (Mr. Metcalf), the Senator from New Mexico (Mr. Montoya), the Senator from Utah (Mr. Moss), the Senator from California (Mr. Tunney), the Senator from Nevada (Mr. Cannon), the Senator from Alaska (Mr. Gravel), and the Senator from Minnesota (Mr. Mondale) are necessarily absent.

Mr. HUGH SCOTT. I announce that the Senator from Tennessee (Mr. Baker), the Senator from Arizona (Mr. Goldwater), the Senator from Michigan (Mr. Griffin), the Senator from Nebraska (Mr. Hruska), the Senator from Nevada (Mr. Laxalt), the Senator from Maryland (Mr. Mathias), and the Senator from Ohio (Mr. Taft) are necessarily absent.

The result was announced—yeas 43, nays 37, as follows:

[Rollcall Vote No. 441 Leg.]

YEAS—43

Allen
Bartlett
Bayh
Beall
Bellmon
Bentsen
Brooke
Buckley
Byrd, Robert C.
Case
Cranston
Curtis
Domenici
Durkin
Eagleton
Fannin
Fong
Ford
Hansen
Hathaway
Helms
Hollings
Inouye
Jackson
Long
Magnuson
McClure
Morgan
Muskie
Pastore
Pell
Randolph
Schweiker
Scott, William L.
Sparkman
Stennis
Stevens
Symington
Talmadge
Thurmond
Tower
Williams
Young

NAYS—37

Abourezk
Biden
Brock
Bumpers
Burdick
Byrd, Harry F., Jr.
Chiles
Church
Clark
Culver
Dole
Garn
Glenn
Hart, Gary
Hart, Philip A.
Hatfield
Humphrey
Javits
Kennedy
Leahy
Mansfield
McClellan
McGovern
McIntyre
Nelson
Nunn
Packwood
Pearson
Percy
Proxmire
Ribicoff
Roth
Scott, Hugh
Stafford
Stevenson
Stone
Weicker

NOT VOTING—20

Baker
Cannon
Eastland
Goldwater
Gravel
Griffin
Hartke
Haskell
Hruska
Huddleston
Johnston
Laxalt
Mathias
McGee
Metcalf
Mondale
Montoya
Moss
Taft
Tunney

So Mr. Magnuson's amendment was agreed to.

Mr. MAGNUSON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. LONG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LONG. Mr. President, there is a technical amendment——

Mr. HATHAWAY. Mr. President, will the Senator from Louisiana yield?

UP AMENDMENTS 270, AS MODIFIED, AND 272

Mr. LONG. Mr. President, I have a technical amendment to title VIII there at the desk.

I send to the desk on behalf of the committee a modification of title XVII.

The PRESIDING OFFICER. The clerk will report.

Mr. HATHAWAY. Mr. President, will the Senator yield?

Mr. LONG. I yield.

Mr. HATHAWAY. My staff is working on an amendment dealing with construction funds. That would fit in with title VIII. I think it will be a matter of minutes until that is completed, and I do not think it will be controversial. It is simply to cut out the 5-ton requirement.

Mr. LONG. We are going to be back on title VIII later on this afternoon, and I suggest that the Senator have his amendment drafted and offer it then.

Mr. HATHAWAY. All right.

Mr. LEAHY. Mr. President, will the Senator yield for a unanimous consent request?

The PRESIDING OFFICER. If Senators will withhold, the clerk will state the modification.

The assistant legislative clerk read as follows:

The Senator from Louisiana (Mr. LONG) proposes technical amendments, numbered 270, as modified, and 272.

Mr. LONG's amendments are as follows:

UNPRINTED AMENDMENT 270, AS MODIFIED

SEC. 802. FIRST-IN-FIRST-OUT TREATMENT OF INVESTMENT CREDIT AMOUNTS.

(a) IN GENERAL.—Subsection (a) of section 46 (relating to determination of amount of investment credit) is amended—

(1) by redesignating paragraphs (2) through (6) as (3) through (7), respectively, and

(2) by striking out so much of such subsection as precedes paragraph (3) (as redesignated by paragraph (1) of this subsection) and inserting in lieu thereof the following:

"(a) GENERAL RULE.—

"(1) CREDIT ALLOWED.—The amount of the credit allowed by section 38 for the taxable year is an amount equal to the sum of—

"(A) the investment credit carryovers carried to that year,

"(B) a percentage, determined under paragraph (2), of the qualified investment (as determined under subsections (c) and (d)) for the taxable year, and

"(C) in the case of a recomputation of the credit allowed under this part, the investment credit carrybacks carried back to that year.

"(2) DETERMINATION OF PERCENTAGE.—

"(A) Except as provided in subparagraph (B), the percentage is 10 percent.

"(B) In the case of a corporation which—

"(i) elects to have the provisions of this subparagraph apply, and

"(ii) meets the requirements of section 301(d) of the Tax Reduction Act of 1975 (relating to employee stock ownership plans), the percentage is 12 percent.".

(b) CONFORMING AMENDMENTS.—

(1) Paragraphs (4), (5), (6), and (7) of section 46(a) (as redesignated by subsection (a) of this section) are each amended by striking out "paragraph (2)" and inserting in lieu thereof "paragraph (3)".

(2) Subsection (b) of section 46 (relating to carryback and carryover of unused credits) is amended to read as follows:

"(b) CARRYBACK AND CARRYOVER OF UNUSED CREDITS.—If the amount determined under subsection (a)(1)(B) for a taxable year (hereinafter in this section referred to as the 'unused credit year'), when added to the amount of the investment credit carryovers to the taxable year under subsection (a)(1)(A), exceeds the amount of the limitation imposed by subsection (a)(3) for the taxable year, the excess attributable to the amount determined under subsection (a)(1)(B) shall be—

"(1) an investment credit carryback to each of the 3 taxable years preceding the unused credit year, and

"(2) an investment credit carryover to each of the 7 taxable years following the unused credit year, and shall be taken into account under the provisions of subsection (a)(1) in the manner provided there. The entire amount of the unused credit for an unused credit year shall be carried to the earliest of the 10 taxable years to which (by reason of subparagraphs (A) and (B) it may be carried, and then to each of the other 9 taxable years to the extent that, because of the limitation contained in subsection (a)(3), such unused credit may not be added for a prior taxable year to which such unused credit may be carried. In the case of an unused credit for an unused credit year ending before January 1, 1971, which is an investment credit carryover to a taxable year beginning after December 31, 1970 (determined without regard to this sentence), this subsection shall be applied by substituting '10 taxable years' for '7 taxable years' in paragraph (2), and by substituting '13 taxable years' for '10 taxable years', and '12 taxable years' for '9 taxable years' in the preceding sentence.".

(3) Subparagraph (A) of section 46(c)(3) (relating to public utility property) is amended by inserting ", as such subsection existed on the day before the date of the enactment of the Tax Reform Act of 1975" after "subsection (a)(1)(C)".

(4) The first sentence of section 46(f)(8) (relating to prohibition of immediate flowthrough of investment credit) is amended by inserting after "the Tax Reduction Act of 1975" the following: "and the Tax Reform Act of 1976".

(c) EFFECTIVE DATE.—The amendments made by this section apply to—

(1) property to which section 46(d) of the Internal Revenue Code of 1954 (relating to qualified progress expenditures) does not apply, the construction, reconstruction, or erection of which is completed by the taxpayer after December 31, 1975, but only to the extent of the basis thereof attributable to the construction, reconstruction, or erection after December 31, 1975,

(2) property to which section 46(d) of such Code does not apply, acquired by the taxpayer after December 31, 1975, and

(3) property to which section 46(d) of such Code applies, but only to the extent of the qualified investment (as determined under subsections (c) and (d) of section 46 of such Code) with respect to qualified progress expenditures made after December 31, 1975.".

UP AMENDMENT No. 272

On page 1003, strike out lines 5 through 19.

On page 1003, line 20, strike out "(b)" and insert in lieu thereof "(a)".

Mr. CURTIS. Mr. President, I have an amendment to title XVII. Is that in order at this point?

The PRESIDING OFFICER. As soon as we obtain agreement on the technical amendments just reported, the amendment of the Senator from Nebraska would be in order.

The question is on agreeing to the technical amendments and modifications just reported.

The amendments were agreed to.

AMENDMENT NO. 1906, AS MODIFIED

Mr. CURTIS. Mr. President, I call up my amendment No. 1906, as modified.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Nebraska (Mr. CURTIS) proposes an amendment numbered 1906, as modified.

Mr. CURTIS' amendment No. 1906 (as modified), is as follows:

At the end of title XVII, on page 1013, after line 17, insert the following:

SEC. 1703. CERTAIN PROVISIONS RELATING TO AIRLINES.

Subsection (a) of section 46 (relating to determination of amount of investment credit) is amended by adding at the end thereof (after the paragraph added by section 1701(b)) the following new paragraph:

"(8) ALTERNATIVE LIMITATION IN THE CASE OF CERTAIN AIRLINES.—

"(A) IN GENERAL.—If, for a taxable year ending after calendar year 1975 and before calendar year 1984, the amount of the qualified investment of the taxpayer which is attributable to airline property is 25 percent or more of his aggregate qualified investment, then subparagraph (C) of paragraph (2) of this subsection shall be applied by substituting for 50 percent his applicable percentage for such year.

"(B) APPLICABLE PERCENTAGE.—The applicable percentage of any taxpayer for any taxable year under this paragraph is—

"(i) 50 percent, plus

"(ii) that portion of the tentative percentage for the taxable year which the taxpayers amount of qualified investment which is airline property bears to his aggregate qualified investment.

If the proportion referred to in clause (ii) is 75 percent or more, the applicable percentage of the taxpayer for the year shall be 50 percent plus the tentative percentage for such year.

"(C) TENTATIVE PERCENTAGE.—For purposes of subparagraph (B), the tentative percentage shall be determined under the following table:

"If the taxable year ends in:	*The tentative percentage is:*
1976 or 1977	50
1978	40
1979	30
1980	20
1981	10
1982 or later	0.

"(D) AIRLINE PROPERTY DEFINED.—For purposes of this paragraph, the term 'airline property' means section 38 property used directly in connection with the trade or business of furnishing or sale of transportation as a common carrier by air subject to the jurisdiction of the Civil Aeronautics Board.".

Mr. CURTIS. Mr. President, this amendment would extend to the Nation's airlines the benefits under the investment credit which the committee bill extends to railroads. Under present law, the investment credit which may be taken in a particular year is limited to a percentage of taxable income. Specifically, the amount of the credit that a taxpayer may take in any 1 year generally cannot exceed the first $25,000 of tax liability plus 50 percent of the tax liability in excess of $25,000.

In the Tax Reduction Act of 1975, the Congress modified this rule for utilities to permit them greater utilization of the investment credit on a current basis. In the pending bill, the Finance Committee provided a temporary increase in the limitation on the amount of the investment tax credit which a railroad may use in a given taxable year. Specifically, railroads may apply the investment credit against 100 percent of their tax liability in 1977 and 1978. This limitation then decreases by 10 percentage points per year until it returns to 50 percent in 1983.

My amendment would apply this rule to airlines as well as to railroads. The capital needs of the airlines are equally as great as the railroads. Moreover, with the removal of the refundable investment credit, the need for this provision—for airlines—is even greater.

I hope this amendment will be adopted. It does not increase the amount of the credit which can be earned, but simply provides for greater utilization of earned credits.

Mr. LONG. Mr. President, it is my theory, and at one time we had agreed to it, but to reduce the controversy in the bill we dropped it from the bill, that we should simply provide that when a company makes an investment, they earn the investment tax credit when they spend their money and buy the equipment, because it provides jobs and economic opportunity in this country.

The way it tends to work out is that many times those who need it to put taxpayers to work do not get it, and those who need it the least get the full benefit of it.

I had hoped we could help the airline problem in a different way, but we dropped out the refundable tax credit, and there is more need for this amendment now than previously, and that is one reason why the Senator is offering the amendment.

I personally think the Senator is entirely correct, if you look at the plight of the railroads, as we did, and say they are not required, at least they are not limited to a tax credit based on 50 percent of their earnings, that the same logic would apply equally as well to an airline that is having a difficult time making it or, at least, having a hard time at the moment. The amendment has equity to support it and I think it has logic to support it during a time that some of these airlines are having a difficult time and they need their investment tax credit and cannot fully claim the benefit of it. So I think if one takes the view, as I do, that if they owe any taxes they ought to be able to claim the investment tax credit against that particularly for those companies who are having a difficult time making it, then I think the amendment has all the logic and justice to recommend it, and I shall vote for it.

Mr. CURTIS. Mr. President, I ask for a vote on the amendment.

Mr. HATHAWAY. I ask the sponsor of the amendment a question. He said it makes it refundable. It is not refundable.

Mr. CURTIS. It does not make it refundable. It does for the airline what we did for the railroad. It removes the limitation on how much of the income can be used.

Mr. HATHAWAY. For the first 2 years.

Mr. CURTIS. Then it phases down.

Mr. HATHAWAY. Then it phases down the scale. So it is exactly the same as we did for the railroads.

Mr. CURTIS. That is right, and utilities.

Mr. HATHAWAY. I thank the Senator.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. CURTIS. I move to reconsider the vote by which the amendment was agreed to.

Mr. LONG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 273

Mr. LONG. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Louisiana (Mr. LONG), for Mr. HARTKE, proposes unprinted amendment No. 273.

The amendment is as follows:

On page 1005, insert after line 14 the following:

"(3) LIMITATION.—The amortization deduction otherwise allowable under this section for any taxable year shall not exceed the taxpayer's taxable income from providing transportation services by rail, computed without regard to this section. To the extent such reductions are disallowed under the preceding sentence, they shall be allowed for the earliest subsequent taxable year for which the deduction is not prevented by operation of this limitation.

On page 1009, insert after line 7 the following:

"(d) Add at the end of section 381(c) the following new paragraph:

"(25) AMORTIZATION OF RAILROAD TRACK ASSETS UNDER SECTION 189.—In a case where railroad track assets are involved in a distribution or transfer described in subsection (a)—

"(A) the acquiring corporation shall be bound by an election made by the distributor or transferor corporation to amortize railroad track assets under section 189, but only for those assets which were acquired in such distribution or transfer,

"(B) where the acquiring corporation has elected to amortize railroad track assets under section 189, it shall be required to amortize eligible railroad track assets which are acquired in such distribution or transfer, and

"(C) the acquiring corporation shall be entitled to carry over and deduct amortization deductions which have been deferred under paragraph 3 of section 189(b), subject, however, to the limitation contained in that paragraph."

Mr. LONG. Mr. President, I wish the record to show that I am proposing this amendment on behalf of the Senator from Indiana (Mr. HARTKE). I believe the amendment to be meritorious. Mr. HARTKE is unable to be here today. He is a candidate for reelection in his State. He asked me to offer it, and I am happy to do so.

This amendment pertains to the provision in the bill which will allow railroads to amortize over a 10-year period capitalized costs incurred to build or modernize their track. What this amendment merely does is to limit the amortization deduction a railroad may claim under this provision for any tax year to the amount of taxable income the railroad generates from its rail operations.

Many railroad companies are also engaged in other types of businesses. The amendment will prevent these companies from using the amortization provision to generate losses from their railroad operations to use to offset taxable income realized from profitable nonrailroad businesses.

In order to avert the permanent loss of amortization deductions which are disallowed under this limitation, it is also provided that the disallowed deductions may be carried over and deducted in a later taxable year where the limitation does not prevent the deductions in this later year.

This is a tightening up amendment, Mr. President, and in that respect I suppose one could regard it as a tax reform to pick up revenue.

The PRESIDING OFFICER. Is there further debate?

The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. LONG. I suggest the absence of a quorum.

The PRESIDING OFFICER. The Clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LONG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LONG. I ask for the yeas and nays on the title XVII, committee No. 27.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. LONG. I yield.

Mr. JAVITS. We arrived at certain unanimous consent requests about this title. Do I understand the Senator wishes to vote on the title?

Mr. LONG. Yes, I wish to have a vote on the title.

Mr. CURTIS. What title?

Mr. JAVITS. The vote shall be on everything but the amendments which have been agreed to be heard by unanimous consent.

Mr. LONG. This is another title. It is title XVII.

Mr. JAVITS. All right.

The PRESIDING OFFICER. The question is on agreeing to title XVII. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Nevada (Mr. CANNON), the Senator from California (Mr. CRANSTON), the Senator from Indiana (Mr. HARTKE), the Senator from Colorado (Mr. HASKELL), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Wyoming (Mr. MCGEE), the Senator from Montana (Mr. METCALF), the Senator from Minnesota (Mr. MONDALE), the Senator from New Mexico (Mr. MONTOYA), the Senator from Utah (Mr. MOSS), the Senator from California (Mr. TUNNEY), the Senator from Mississippi (Mr. EASTLAND), and the Senator from Alaska (Mr. GRAVEL), are necessarily absent.

Mr. HUGH SCOTT. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from New Mexico (Mr. DOMENICI), the Senator from Arizona (Mr. GOLDWATER), the Senator from Michigan (Mr. GRIFFIN), the Senator from Nebraska (Mr. HRUSKA), the

Senator from Nevada (Mr. LAXALT), the Senator from Alaska (Mr. STEVENS), and the Senator from Ohio (Mr. TAFT) are necessarily absent.

The result was announced—yeas 78, nays 0, as follows:

[Rollcall Vote No. 442 Leg.]

YEAS—78

Abourezk
Allen
Bartlett
Bayh
Beall
Bellmon
Bentsen
Biden
Brock
Brooke
Buckley
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Case
Chiles
Church
Clark
Culver
Curtis
Dole
Durkin
Eagleton
Fannin
Fong
Ford
Garn
Glenn
Hansen
Hart, Gary
Hart, Philip A.
Hatfield
Hathaway
Helms
Hollings
Humphrey
Inouye
Jackson
Javits
Kennedy
Leahy
Long
Magnuson
Mansfield
Mathias
McClellan
McClure
McGovern
McIntyre
Morgan
Muskie
Nelson
Nunn
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Scott, William L.
Sparkman
Stafford
Stennis
Stevenson
Stone
Symington
Talmadge
Thurmond
Tower
Weicker
Williams
Young

NAYS—0

NOT VOTING—22

Baker
Cannon
Cranston
Domenici
Eastland
Goldwater
Gravel
Griffin
Hartke
Haskell
Hruska
Huddleston
Johnston
Laxalt
McGee
Metcalf
Mondale
Montoya
Moss
Stevens
Taft
Tunney

So title XVII (committee amendment No. 27) was agreed to.

TITLE XXI

Mr. LONG. Mr. President, while all the Senators are here, I believe it would be well for us to dispose of title XXI. I know of no amendments.

This title contains a number of amendments relating to foundations and other tax-exempt organizations to deal with various problems which were brought to the committee's attention, most of which relate to provisions of the Tax Reform Act of 1969.

SECTION 2101. TRANSITIONAL EXCEPTION TO SELF-DEALING RULES FOR PRIVATE FOUNDATION SALES OF CERTAIN LEASED PROPERTY TO DISQUALIFIED PERSONS

The Tax Reform Act of 1969 amended the Internal Revenue Code of 1954 to impose taxes upon certain transactions, including the sale, exchange, or leasing of property, between a private foundation and "disqualified persons," generally persons with an economic or managerial interest in the operation of that foundation. The committee amendment would revise certain transitional rules applicable to these provisions of the Tax Reform Act of 1969. Under this amendment, prior to January 1, 1978, a private foundation may sell, exchange, or otherwise dispose of property, other than by lease, to a disqualified person if, at the time of the disposition, the foundation is leasing substantially all of that property, under a lease subject to a transitional rule which allows the lease to continue through 1979, and the foundation receives in return an amount which equals or exceeds the fair market value of the property.

This amendment is designed to permit a private foundation which is leasing to a disqualified person property of a nature which is peculiarly suited to the use of that person to dispose of this property to the disqualified person for fair market value rather than being forced to dispose of its property to unrelated persons for less than the value of that property to disqualified persons.

SECTION 2102. PRIVATE FOUNDATION SET-ASIDES

Under the Tax Reform Act of 1969, every private foundation must distribute a certain mandatory amount each year. However, in certain cases amounts set aside for future use for a specific project may qualify as distributions, but only if the set-aside is approved in advance by the IRS. The IRS will approve the set-aside if it is satisfied that the amount will be paid for a specific project within 5 years and that payment of the project through set-asides is more appropriate than immediate payment.

The committee amendment establishes an alternative set of requirements under which set-asides can qualify for the mandatory payout requirement without advance IRS approval. Under these requirements, set-asides will qualify generally if they are for a project which will not be completed before the end of that year and if the foundation meets certain standards as to the amount of distributions it makes both in the current and in the 4 preceding years.

The amendment applies to taxable years beginning after December 31, 1974.

SECTION 2103. REDUCTION IN MANDATORY PAYOUT RATE FOR PRIVATE FOUNDATIONS

Under the Tax Reform Act of 1969 each private foundation must distribute for charitable purposes the greater of all of its income earned in that year or an annually determined percentage of its investment assets. The percentage was established by that act at 6 percent for 1969. For subsequent years the Treasury Department is to determine the percentage on the basis of interest rates and investment yields. For taxable years beginning in 1976 the applicable percentage is 6.75 percent.

The committee amendment establishes a mandatory annual payout percentage of 5 percent for all years. It thus eliminates the authority of the Treasury Department to change that rate from year to year.

The amendment applies to taxable years beginning after December 31, 1975.

SECTION 2104. EXTENSION OF TIME TO AMEND CHARITABLE REMAINDER TRUST GOVERNING INSTRUMENTS

The Tax Reform Act of 1969 imposed new requirements which must be satisfied by a charitable remainder trust if an estate tax deduction is to be allowed for the transfer to charity of a remainder interest in trust property. These rules were generally applied to decedents dying after December 31, 1969.

However, certain exceptions were provided in the statute—and in subsequent IRS regulations—for wills executed or property irrevocably transferred in trust before October 9, 1969, and for newly created trusts which were amended to conform to the act before January 1, 1971. Subsequent IRS rulings and legislation enacted in 1974 extended the period during which newly created trusts could be amended to conform to the act to December 31, 1975.

The committee amendments extends this December 31, 1975, date to December 31, 1977. Thus, charitable remainder trusts created after July 31, 1969, must be amended by December 31, 1977, in order to qualify for an estate tax charitable contribution deduction. The committee amendment also extends the date in the case of a trust created after July 31, 1969, pursuant to a will executed before December 31, 1977.

This amendment applies with respect to decedents dying after December 31, 1969. It is estimated that the provision will decrease budget receipts by $5 million during fiscal year 1977.

SECTION 2105. REDUCTION OF PRIVATE FOUNDATION INVESTMENT INCOME EXCISE TAX

Present law imposes an excise tax at the rate of 4 percent on the net investment income of all private foundations.

The committee amendment reduces the rate of tax on this income from 4 percent to 2 percent. Under this amendment the amount of tax paid would be more nearly equal to the level of costs incurred by the IRS in administering the tax laws pertaining to private foundations.

The amendment applies to taxable years beginning after December 31, 1976.

SECTION 2106. UNRELATED TRADE OR BUSINESS INCOME OF TRADE SHOWS, STATE FAIRS, ETC.

Present law requires that tax-exempt organizations pay income tax on any income from an unrelated trade or business—that is, a trade or business the conduct of which is not substantially related to the exercise of that organization's exempt purpose. The IRS has ruled that under this requirement tax-exempt county fair associations must pay tax on any income from parimutuel betting sponsored by the association during horse racing events. The Service has also ruled that business associations must pay tax on any income obtained from renting display space at conventions to commercial product exhibitors.

The committee amendment provides that entertainment activities, including horse race betting, conducted in connection with certain public fairs or expositions which under State law can only be conducted by exempt organizations—and which under State law cannot be conducted for more than 20 days in any year—will not be treated as an unrelated trade or business for charitable, social welfare, or agricultural organizations.

In addition, the committee amendment establishes that unions or trade associations conducting convention or trade show activities will not have unrelated trade or business income from those activities, including the rental of space to exhibitors, if the exhibitors promote products and services which relate to the association conducting the activity.

The provision relating to fairs and similar public entertainment activities applies to taxable years beginning after

December 31, 1962. The provision relating to convention and trade show activities applies to taxable years beginning after December 31, 1969.

SECTION 2107. DECLARATORY JUDGMENT WITH RESPECT TO SECTION 501(C)(3). STATUS AND CLASSIFICATION

Under present law, if an organization meets the requirements of section 501 (c)(3) of the code, it is exempt from tax, and contributions to the organization are eligible for the charitable contribution deduction. Generally, any organization wishing to qualify for this status finds it imperative to obtain a favorable ruling from the Internal Revenue Service in order that potential donors may be assured that their contributions will qualify for the charitable deduction. However, nothing in the law prevents the Internal Revenue Service from later withdrawing a favorable ruling. The courts have held that court review of a ruling can be obtained only after the Internal Revenue Service contests the exempt status of an organization and upon audit is attempting to deny the charitable contribution deduction of a donor—or the exempt status of the organization.

The committee amendment establishes a new declaratory judgment procedure for tax-exempt organizations to obtain judicial review of their exempt status prior to any challenge by the Internal Revenue Service to the organization's status. Under the committee amendment the Federal District Court for the District of Columbia, the U.S. Court of Claims, and the U.S. Tax Court are to have jurisdiction over these declaratory judgment proceedings.

In addition, the tax court judges may authorize commissioners to determine declaratory judgment cases where the issues are similar to those already heard and decided by judges of the court in previous cases.

The House bill is identical to the committee amendment, except that it provides that all Federal district courts and the U.S. Tax Court are to have jurisdiction to hear these cases, and the effective date is changed.

Mr. PACKWOOD. If the Senator will yield, I have one perfecting amendment.

Mr. LONG. I ask for the yeas and nays on title XXI.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. PERCY. Mr. President, I am very pleased to see that the Finance Committee has included in sections 2104 and 2105 of its amendments to this bill two provisions which I cosponsored concerning tax-exempt private foundations. These amendments reduce the mandatory payout rate for private foundations to 5 percent, and reduce the current 4-percent investment income excise tax to 2 percent.

Seven years ago I sponsored an amendment to the Tax Reform Act of 1969 which raised the committee's proposed 5-percent mandatory payout rate to 6 percent. The concept of the mandatory payout rate was created at that time for the purpose of blocking abuses of the private foundation tax exemption and stimulating the donation of funds to philantropic organizations. My amendment was prompted primarily by the findings of the Peterson Commission, which had studied the situation intensively and recommended a payout between 6 and 8 percent. The amendment also served to effectively kill the disastrous attempt made by several Senators to impose a "death sentence" on private foundations by fully answering their only valid argument.

I believe that the rate structure as enacted in the 1969 legislation proved to be reasonable and accurate in the early years of the new procedure and the system has been effective in achieving its intended results. However, the original payout rate level was based on an economic environment quite different from our current situation, and under the present conditions I agree with the proposed reduction of the rate to 5 percent.

The excise tax on investment income was also imposed by the Tax Reform Act of 1969. This provision was instituted not as an income tax as such, which would be an extremely illogical hindrance to the productive use of charitable funds, but rather a small charge to cover the cost of Treasury Department audit and supervisory services. I might add that even the foundations themselves favored this provision.

At the time of adoption I urged that the Congress adjust this figure to one that would represent cost based upon actual experience.

As the revenue and cost estimates for the years 1971–75 in the Finance Committee report clearly show, the current 4-percent level of this tax has been providing more than twice the amount actually needed to cover the audit costs, and in 1975 alone diverted almost $40 million of additional, unnecessary funds from their original philanthropic purposes. The 2-percent rate now proposed by the committee would provide a much more reasonable and accurate level of revenues, and restore a large portion of these funds to the charitable stream.

In many cases the private organization can be in a much better position than the Government for the identification and implementation of socially desirable programs and research projects, and has proven to be an effective mechanism for the collection and distribution of funds for many valuable charitable purposes. I trust that the Congress shall continue to provide every opportunity and incentive for private philanthropic activity in our country and throughout the world, and I commend the Finance Committee and the distinguished chairman for adopting these very positive measures.

Mr. CURTIS. Mr. President, I support section 2106 of the committee bill and urge its adoption by the Senate. Approval of this amendment will clarify the application of the tax on unrelated business income to public entertainment activities conducted by certain tax-exempt organizations.

Those exempt organizations covered by the amendment will not be subject to the tax on unrelated business income with respect to their public entertainment activities if one of three conditions is met. One of these exempting conditions is that the activity be conducted in accordance with the provisions of State law which permit the activity to be conducted only by an exempt organization or by an agency or instrumentality or subdivision of the State. The provisions of Nebraska law contain restrictions of this type and this amendment will thus be of benefit to Nebraska.

I believe the amendment is a good tax law. Where an activity is conducted under such a State law, it clearly should not be subject to the tax on unrelated business income. This tax was first enacted in 1950 and its principal purpose is to eliminate a source of unfair competition by placing the unrelated business activities on the same tax basis as the nonexempt businesses with which they compete.

Where State law provides that a particular activity may be conducted only by an exempt organization or a governmental unit, the critical element of unfair competition is absent and there is thus no reason to impose the tax. Quite frankly, I believe that this result should be reached under existing law, but I am pleased that the committee has decided to clarify the situation once and for all.

Mr. President, much thought has gone into the development of this amendment. It provides much needed relief, but it is carefully tailored to prevent abuses or overly broad coverage. I support the amendment and urge its adoption.

Mr. PHILIP A. HART. Mr. President, I ask unanimous consent that Burton Wides, of my staff, be permitted access to the floor throughout this discussion and votes.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 274

Mr. PACKWOOD. Mr. President, I send to the desk a perfecting amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. PACKWOOD. I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

P. 1004, delete lines 1 through 10 and insert the following:

"(g) CERTAIN RAILROAD TIES.—In the case of a domestic common carrier by rail (including a railroad switching or terminal company) which uses the retirement-replacement method of accounting for depreciation of its railroad track, expenditures for acquiring and installing replacement ties (and fastenings related to such ties) of a different or improved kind or quality than the ties which are replaced shall be treated as chargeable to capital account to the extent that such expenditures exceed the fair market value (including the cost of installation) of replacement ties (and fastenings related to such ties) of the same kind or quality as the ties which are replaced.".

(2) EFFECTIVE DATE.—The amendment made by subsection (b) shall apply to

amounts paid or accrued after December 31, 1975, in taxable years beginning after this date.

On p. 1003, strike out all after the heading on line 3 and insert the following: "(1) In general.—Sec."

Mr. PACKWOOD. Mr. President, this has been cleared on both sides. The language of the last amendment would permit certain treatment for betterment of railroad ties. In other words, if you had a concrete tie or a steel tie instead of a wooden tie, you were entitled to certain tax treatment. The last amendment read "'other than wood." There are a number of factories in Oregon that manufacture wooden railroad ties that are substantially better, in terms of length of wear, in terms of endurance, and so on, than the old wooden railroad ties. I am asking in this amendment that the better wooden ties be treated in the same fashion as the better metal ties or better concrete ties.

Mr. LONG. Mr. President, I see no objection.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Oregon.

The amendment was agreed to.

AMENDMENT NO. 1994, AS MODIFIED

Mr. FONG. Mr. President, I call up my amendment No. 1994 and send to the desk an amendment thereto. I ask unanimous consent that I be permitted to amend my amendment so as to add "(b)" just before the words "effective date," and insert the text which I have sent to the desk, and to change "(b)" to "(c)". I ask unanimous consent that the amendment, as amended, be called up at this time.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request? Hearing none, it is so ordered.

The amendment will be stated.

The legislative clerk read as follows:

The Senator from Hawaii (Mr. FONG) proposes an amendment No. 1994, as modified.

Mr. FONG. I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. The amendment, as modified, is as follows:

On page 1536, insert after line 19, the following new section:

SEC. 2108. MINIMUM DISTRIBUTION REQUIREMENTS TO INCLUDE CONSIDERATION OF MISCELLANEOUS DISTRIBUTIONS.

(a) IN GENERAL.—Section 4942(g) (relating to definition of qualifying distribution) is amended by adding at the end thereof the following new paragraph:

"(4) MISCELLANEOUS CONTRIBUTIONS.—

"(A) For purposes of this section, the term 'qualifying distribution' includes amounts contributed during the taxable year to an unincorporated association or other organization for the purpose of defraying the expense of any religious, charitable, scientific, literary, educational, civic or community activity undertaken by that association or organization.

"(B) This paragraph does not apply to—

"(i) any amount in excess of $200 contributed during the taxable year to any single association or organization, or

"(ii) any amount contributed to defray the expense of any activity which involves a violation of the law or public policy of the United States, or of the State (or political subdivision thereof) in which the activity is carried out."

(b) EXPENDITURE RESPONSIBILITY.—Section 4945(h) (relating to expenditure responsibility) is amended by adding after paragraph (3) the following new sentence: "In determining whether a private foundation has exercised expenditure responsibility (as required by subsection (d)(4) and this subsection) with respect to a particular grant, the amount of the grant shall be taken into account."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) applies to taxable years beginning after the date of enactment of this Act, with respect to contributions made after such date.

Mr. FONG. Mr. President, this amendment is to clarify the types of qualifying distributions available to private foundations to make it clear that included are distributions to an unincorporated association or other organization for the purpose of defraying the expense of any religious, charitable, scientific, literary, educational, civic, or community activity undertaken by that association or organization, with a maximum contribution limited to $200 to any one organization.

Because of the tax consequences of section 4942 of the Internal Revenue Code of 1954, qualifying distributions of income are essential for private foundations if they are to avoid confiscatory taxation.

There are many, many worthwhile activities, such as local unorganized group athletic meets, certain social gettogethers for unorganized groups of youngsters, teenagers, and aged, and many other similar activities to which foundations should make some contributions might not be held to be "qualifying distributions" and might subject the foundations should make some contributable expenditures".

It is my understanding that contributions have been disallowed—of so small a sum as $200 or less made by a foundation for such purposes as a State Bar Association Law Week, to pay for a trophy for a senior citizens golf tournament or a pony and colt league, or to a high school football boosters club or a little league toward the purchase of uniforms, or to help the Jaycees 50th State Fair, or to a group of citizens toward their giving a Christmas party for an orphanage or a group of needy children or senior citizens, or to a group to buy a trophy to be awarded the winning unorganized regatta, volleyball, baseball, swimming, canoeing, or archery team, or equipment for an unincorporated barefoot team or similar spot activity or for an award by an unorganized group for educational achievement or for community or civic service.

My amendment is to assure private foundations that they may make contributions for such activities and have them deemed qualifying distributions.

Mr. CURTIS. Mr. President, will the Senator yield?

Mr. FONG. Yes.

Mr. CURTIS. Do I understand the Senator is dealing with this problem: A private foundation must make its gifts to a qualifying organization under the appropriate section of the code.

Mr. FONG. That is what has been held.

Mr. CURTIS. If this private foundation wants to give $10 to the Boys Club, and then they come around again and they say, "We are giving a party for the senior citizens and would you buy a trophy," the Senator wants to permit that for how much money?

Mr. FONG. Up to $200.

Mr. CURTIS. In the aggregate of $200.

Mr. FONG. Per organization.

Mr. CURTIS. Per organization.

Mr. FONG. Yes.

Mr. CURTIS. In any 1 year?

Mr. FONG. Yes. Furthermore, there will be no loss of revenue to the Treasury because these foundations are exempt from taxes anyway.

Mr. CURTIS. Yes. In other words, to maintain your status as a private foundation, it is written into the law that you have to give to organizations which are qualified.

Mr. FONG. Yes.

Mr. CURTIS. These organizations, these local charities, these educational, and so on, probably have never obtained a certificate.

Mr. FONG. They never have. They are not incorporated; they are unorganized; they are small groups of people in the community.

Mr. CURTIS. It seems to me it is a good amendment; that it will help a lot of local charities. It also seems to me that a gift of $200, there could be no abuse about it.

Mr. FONG. No.

Mr. CURTIS. The requirement that a private foundation must give to a qualified one that has a tax-exempt certificate——

Mr. FONG. Tax-exempt status.

Mr. CURTIS. Is to prevent large sums of money from going to where the donor wanted it for some ulterior purpose.

It seems to me it is a good amendment.

Mr. FONG. Mr. President, I hope the manager of the bill will accept it.

Mr. LONG. Mr. President, if there are problems with this amendment I think we could iron them out in conference, and I am willing to accept the amendment.

Mr. CURTIS. Mr. President, this title contains a series of provisions relating to tax-exempt organizations, all of which I support. There are two provisions of this title on which I wish to comment specifically at this time.

The first of these—section 2103—would amend section 4942 of the Internal Revenue Code, which establishes mandatory distribution requirements for private foundations. This section is virtually identical to S. 2475, which I introduced and which some 40 of my colleagues cosponsored. Let me explain what this amendment does.

In the Tax Reform Act of 1969, Congress added a series of provisions to the Internal Revenue Code designed to regulate the activities and financial practices of private foundations. One of these Code provisions—section 4942—generally prohibits private grant-making foundations from accumulating rather than distributing their income for active charitable purposes. To preclude private foundations from circumventing this antiaccumulation rule by investments in assets producing little or no current income, section 4942 requires private foundations to distribute annually an amount equal to the greater of their actual annual income or their so-called "minimum investment return," which is defined as a specified percentage of the net fair market value of their investment assets. This "specified percentage" was originally set at 6 percent for 1970, and, for later years, the Treasury Department was directed by statute to set the specified percentage by reference to post-1969 changes in money rates and investment yields.

With more than 5 years of experience behind us, it is apparent that there are two significant shortcomings in the "minimum investment return" provision. First, the initial specified percentage of 6 percent has, as I predicted in 1969, proved to be too high. I think that experience has demonstrated that a figure of not more than 5 percent, which the Committee on Finance in fact recommended in 1969, would have been more appropriate. A second basic deficiency of existing law concerns the delegation of authority to the Treasury Department to prescribe an appropriate percentage rate for individual years after 1970. Testimony before the Finance Committee's Subcommittee on Foundations indicates to me that the existing statutory standards are inadequate and that, despite efforts to do so, development of a workable set of standards may not be feasible.

The committee bill remedies these two problems for 1976 and future years by simply setting the specified percentage at 5 percent and repealing the authority of the Treasury Department to vary that rate from year to year.

This new provision would apply only to taxable years beginning after December 31, 1975. The provisions of existing law would remain fully applicable to 1975 and earlier years. The Treasury has no objection to this change and I am pleased that it was agreed to by the committee.

I also want to comment on section 2105, which reduces the tax on private foundation investment income from 4 percent to 2 percent. I am a cosponsor of this legislation and am pleased that it was adopted by the committee.

The tax which this bill would reduce was enacted as part of the Tax Reform Act of 1969. The House bill in 1969 would have imposed a 7½-percent tax on foundation investment income. At that time, I opposed the tax as an unwarranted departure from the well established and longstanding Federal policy of exempting from tax the investment income of charitable, educational, and similar organizations. At the same time, however, I was willing to support the concept of an audit fee to raise the funds necessary to support a vigorous compliance program by the Internal Revenue Service in the private foundation field. This concept was agreed to by a majority of the Committee on Finance and the full Senate, and we adopted an audit fee measured as a percentage of the fair market value of a private foundation's investment assets.

In the Senate-House conference, however, the tax was recast as a tax on income and the rate set at 4 percent, which would raise approximately twice the revenue that would have been raised had the Senate's view prevailed. Thus, in 1969, the Congress enacted legislation imposing for the first time a general revenue tax on one class of charitable organizations. Subsequent experience has proven that the tax is in fact a general revenue tax and not merely an audit fee. I am informed that the revenues resulting from this tax are more than three times the costs incurred by the Internal Revenue Service with respect to all exempt organizations.

With this background, Mr. President, let me summarize the reasons which prompt me to pledge my active support of this bill. I continue to be opposed to the imposition of general revenue taxes on charitable, educational, and similar organizations. We in the Congress need to encourage private philanthropy more than ever before and this bill is a step in the right direction.

A second reason which leads me to support this bill is that its enactment will in fact produce an increase in the funds distributed or expended by private foundations for active charitable purposes. This increase in foundation distributions is not hopeful speculation. It is required by law. Under other provisions of the Tax Reform Act of 1969, the amount that a private foundation is otherwise required annually to distribute or expend for active charitable purposes is reduced dollar for dollar by the amount of the excise tax on investment income. Thus, the excise tax on investment income is in reality a tax on those who depend on foundation support, and a reduction in the tax will not benefit foundations but instead will benefit schools, hospitals, and others dependent on foundation support.

Mr. President, I am pleased that the committee adopted these two provisions and I hope they will be adopted by the Senate.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Hawaii.

The amendment was agreed to.

TITLE XXI

Mr. LONG. Mr. President, I ask for the yeas and nays on title XXI.

The PRESIDING OFFICER. The yeas and nays have already been ordered.

Mr. LONG. I suggest we vote on it. And I ask unanimous consent that this be a 10-minute rollcall.

The PRESIDING OFFICER. Is there objection? If not, it is so ordered.

The question is on agreeing to inserting title XXI. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Nevada (Mr. Cannon), the Senator from California (Mr. Cranston), the Senator from Mississippi (Mr. Eastland), the Senator from Alaska (Mr. Gravel), the Senator from Michigan (Mr. Philip A. Hart), the Senator from Indiana (Mr. Hartke), the Senator from Colorado (Mr. Haskell), the Senator from Kentucky (Mr. Huddleston), the Senator from Louisiana (Mr. Johnston), the Senator from Wyoming (Mr. McGee), the Senator from Montana (Mr. Metcalf), the Senator from Minnesota (Mr. Mondale), the Senator from New Mexico (Mr. Montoya), the Senator from Utah (Mr. Moss), and the Senator from California (Mr. Tunney), are necessarily absent.

Mr. HUGH SCOTT. I announce that the Senator from Tennessee (Mr. Baker), the Senator from Tennessee (Mr. Brock), the Senator from Arizona (Mr. Goldwater), the Senator from Michigan (Mr. Griffin), the Senator from Oregon (Mr. Hatfield), the Senator from Nebraska (Mr. Hruska), the Senator from Nevada (Mr. Laxalt), and the Senator from Ohio (Mr. Taft), are necessarily absent.

I further announce that, if present and voting, the Senator from Ohio (Mr. Taft), would vote "yea."

The result was announced—yeas 77, nays 0, as follows:

[Rollcall Vote No. 443 Leg.]

YEAS—77

Abourezk
Allen
Bartlett
Bayh
Beall
Bellmon
Bentsen
Biden
Brooke
Buckley
Bumpers
Bumpers
Byrd, Harry F., Jr.
Byrd, Robert C.
Case
Chiles
Church
Clark
Culver
Curtis
Dole
Domenici
Durkin
Eagleton
Fannin
Fong
Ford
Garn
Glenn
Hansen
Hart, Gary
Hathaway
Helms
Hollings
Humphrey
Inouye
Jackson
Javits
Kennedy
Leahy
Long
Magnuson
Mansfield
Mathias
McClellan
McClure
McGovern
McIntyre
Morgan
Muskie
Nelson
Nunn
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Scott, William L.
Sparkman
Stafford
Stennis
Stevens
Stevenson
Stone
Symington
Talmadge
Thurmond
Tower
Weicker
Williams
Young

NAYS—0

NOT VOTING—23

Baker
Brock
Cannon
Cranston
Eastland
Goldwater
Gravel
Griffin
Hart, Philip A.
Hartke
Haskell
Hatfield
Hruska
Huddleston
Johnston
Laxalt
McGee
Metcalf
Mondale
Montoya
Moss
Taft
Tunney

So title XXI was agreed to.

Mr. CURTIS. Mr. President, I move to reconsider the vote by which title XXI was agreed to.

Mr. PACKWOOD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

TITLE VIII—SECTIONS 806 AND 807

Mr. LONG. Mr. President, I would like to conclude consideration of as many things as we can.

Looking at title VIII, we will have more votes, and there will be some debate and differences on sections 801 through 805.

We have acted on title VIII, on section 806. I ask unanimous consent that we divide that title after section 805 so that the two remaining sections, 806 and 807, can be voted on separately.

The PRESIDING OFFICER. Is there objection? Hearing none, it is so ordered.

Mr. LONG. I ask that they be considered at this time, and for this purpose, I think a voice vote would be adequate.

The PRESIDING OFFICER. The question is on agreeing to section 806.

Section 806 was agreed to.

Mr. LONG. On sections 806 and 807, the two sections.

The PRESIDING OFFICER. The question now is on agreeing to section 807.

Section 807 was agreed to.

UP AMENDMENT NO. 275

Mr. LONG. Now, Mr. President, I understand there will be objection to disposing of some of these controversial matters this afternoon, but there is an amendment which should be offered to the deadwood section which would remain open to amendment. I believe this is the only additional amendent to be offered to that section. I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Louisiana (Mr. Long) proposes an unprinted amendment No. 275.

The second assistant legislative clerk proceeded to read the amendment.

Mr. LONG. Mr. President, I ask that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 1433, strike out lines 6 through 20 and insert in lieu thereof the following:

"(B) Section 7701(a)(12) (relating to the definition of Secretary or his delegate) is amended by redesignating subparagraph (B) as subparagraph (C) and by striking out subparagraph (A) and inserting in lieu thereof the following:

"(A) Delegate of the Secretary of the Treasury.—The term 'or his delegate', when used with reference to the Secretary of the Treasury, means:

"(i) insofar as functions relating to the administration and enforcement of this Title (except chapters 36, 51, 52 and 53) are concerned, the Commissioner of Internal Revenue, or any officer or employee of the Internal Revenue Service who has been duly authorized by the Commissioner of Internal Revenue directly, or indirectly by one or more redelegations of authority; and

"(ii) insofar as functions other than those described in subparagraph (i), any officer, employee or agency of the Treasury Department duly authorized by the Secretary of the Treasury directly, or indirectly by one or more redelegations of authority, to perform the function mentioned or described in the context.

"(B) Delegate of Other U.S. Official.—The term 'or his delegate', when used with reference to any official of the United States other than the Secretary of the Treasury, shall be construed in a manner similar to that provided in subparagraph (A)(ii).".

On page 1440 insert immediately after line 2 the following:

"(M) Section 7213(d) is amended by striking out "7701(a)(12)(B)" and inserting in lieu thereof "7701(a)(12)(C)".

On page 1440, line 3, redesignate subparagraph (M) as subparagraph (N).

On page 1440, line 5, redesignate subparagraph (N) as subparagraph (O).

Mr. LONG. Mr. President, this amendment is a mere refinement of what is already in the deadwood section. I ask for a voice vote on it.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. LONG. Mr. President, I would now ask that we vote on this title. We have agreed to it tentatively, leaving it subject to amendment. This is title XVIII. It is the one that we call the deadwood title. I will not ask for the yeas and nays on that title. It repeals a lot of obsolete sections in law.

The PRESIDING OFFICER. The Chair advises the distinguished Senator that the amendment has already been agreed to.

Mr. LONG. But it was agreed to in original text which leaves it subject to amendment. I know of no amendment that anyone wants to offer to that section beyond what I have already offered. Therefore, I ask for a vote on it. That means it would have been agreed to and would not be subject to amendment, except by a motion to reconsider.

The PRESIDING OFFICER. Without objection, the title will no longer be subject to amendment.

Mr. LONG. Mr. President, because of the absence of a number of Senators, we are not going to be able to act on some of the controversial items that I had hoped we might be able to dispose of during the remainder of this day, but there are some that have a minor amount of controversy, if any. I would hope that we might be able to dispose of some of those with regard to which there is little, if any, opposition, and so far as I know no known opposition at all.

I send to the desk title XXIII, which has to do with outdoor advertising displays, the tax treatment of large cigars, records of manufacturers of imported cigars, paper tubes and warehousing, application to certain educational programs for members of the uniformed services, tax counseling for the elderly, credit for certain expenses incurred in providing education and expenses of higher education. Mr. President, I will submit those.

I ask that we proceed to vote on all those other than credit for certain expenses incurred in providing education and group legal service plans. Those are two on which I would expect there will be at least some objection.

Mr. HATHAWAY. I understand also there is some concern on item 8, interest on certain governmental obligations for hospitals.

Mr. LONG. Then I suggest we hold out that one.

The PRESIDING OFFICER. The Senate will be in order. The Chair finds it difficult to find out what is transpiring.

Mr. LONG. I would suggest that we not act on that one mentioned by the Senator from Maine, Mr. President, this afternoon.

UP AMENDMENT NO. 276, AS MODIFIED

Mr. LONG. So far as I know, we could act on the amendment dealing with outdoor advertising displays, with the tax treatment of large cigars, with the treatment of gains in sales in exchange between related parties, in the application of section 117 to certain educational programs for members of the uniform services, tax counseling for the elderly, the commission on value added taxation, exchange funds, and distributions by chapter S. corporations.

The PRESIDING OFFICER. The clerk will state the amendment and, without objection, the Senate will proceed to the consideration of these matters.

The legislative clerk read as follows:

The Senator from Louisiana (Mr. Long) proposes an unprinted amendment No. 276.

The amendment is as follows:

At the end of the bill, insert the following:

TITLE XXIII—OTHER AMENDMENTS

Sec. 2301. Outdoor Advertising Displays.

(a) In General.—Section 1033(g) (relating to condemnation of real property held for productive use in trade or business or for investment) is amended by adding at the end thereof the following new paragraph:

"(3) Election to treat outdoor advertising displays as real property.—

"(A) A taxpayer may elect, at such time and in such manner as the Secretary may prescribe, to treat property which constitutes an outdoor advertising display as real property for purposes of this chapter. The election provided by this subparagraph may not be made with respect to any property with respect to which the credit allowed by section 38 (relating to investment in certain depreciable property) is or has been claimed or with respect to which an election under section 179(a) (relating to additional first-year depreciation allowance for small business) is in effect.

"(B) An election made under subparagraph (A) may not be revoked without the consent of the Secretary.

"(C) For purposes of this paragraph, the term "outdoor advertising display" means a rigidly assembled sign, display, or device permanently affixed to the ground or permanently attached to a building or other inherently permanent structure constituting, or used for the display of, a commercial or other advertisement to the public.

"(D) For purposes of this section, an interest in real property purchased as replacement property for a compulsorily or involuntarily converted outdoor advertising display described in this subparagraph shall be considered property similar or related in service or use to the property converted without regard to whether the taxpayer's interest in the replacement property is the same kind of interest the taxpayer held in the converted property.".

(b) Effective Date.—The amendment made by this section applies to taxable years beginning after December 31, 1970.

Sec. 2302. Tax Treatment of Large Cigars.

(a) In General.—So much of section 5701 (a) (relating to the manner of taxation and the rates of tax on cigars) as follows paragraph (1) is amended to read as follows:

"(2) Large cigars.—On cigars weighing more than 3 pounds per thousand, a tax equal to 8½ percent of the wholesale price, but not more than $20 per thousand.

Cigars not exempt from tax under this chapter which are removed but not intended for sale shall be taxed at the same rate as similar cigars removed for sale.".

(b) Conforming Changes.—Section 5702 is amended by adding at the end thereof the following new subsection:

"(m) Wholesale Price.—'Wholesale price'

means the manufacturer's, or importer's, suggested delivered price at which the cigars are to be sold to retailers, inclusive of the tax imposed by this chapter or section 7652, but exclusive of any State or local taxes imposed on cigars as a commodity, and before any trade, cash, or other discounts, or any promotion, advertising, display, or similar allowances. Where the manufacturer's or importer's suggested delivered price to retailers is not adequately supported by bona fide arm's length sales, or where the manufacturer or importer has no suggested delivered price to retailers, the wholesale price shall be the price for which cigars of comparable retail price are sold to retailers in the ordinary course of trade as determined by the Secretary.".

(c) Recordkeeping Requirement.—Section 5741 is amended to read as follows:

"Sec. 5741. Records To Be Maintained.

"Every manufacturer of tobacco products or cigarette papers and tubes, every importer, and every export warehouse proprietor shall keep such records in such manner as the Secretary shall by regulation prescribe. The records required under this section shall be available for inspection by any internal revenue officer during business hours.".

(d) Clerical Amendments.—

(1) The heading of subchapter D of chapter 52 is amended to read as follows:

"Subchapter D. Records to manufacturers and importers of tobacco products and cigarette papers and tubes, and export warehouse proprietors".

(2) The table of subchapters for chapter 52 is amended by striking out the item relating to subchapter D and inserting in lieu thereof the following:

"Subchapter D. Records of manufacturers and importers of tobacco products and cigarette papers and tubes, and export warehouse proprietors."

(e) Effective Date.—The amendments made by this section shall take effect on the first of the month which begins more than 90 days after the date of enactment of this Act.

Sec. 2303. Treatment of Gain From Sales or Exchanges Between Related Parties.

(a) In General.—Section 1239 (relating to gain from sale of certain property between spouses or between an individual and a controlled corporation) is amended to read as follows:

"Sec. 1239. Gain From Sale of Depreciable Property Between Certain Related Taxpayers.

"(a) Treatment of Gain as Ordinary Income.—In the case of a sale or exchange of property, directly or indirectly, between related persons (described in subsection (b)) any gain recognized to the transferor shall be ordinary income if such property is, in the hands of the transferee, subject to the allowance for depreciation provided in section 167.

"(b) Related Persons.—For purposes of subsection (a), the term related persons' means —

"(1) a husband and wife,

"(2) an individual and a corporation 80 percent or more in value of the outstanding stock of which is owned, directly or indirectly, by or for such individual, or

"(3) two or more corporations 80 percent or more in value of the oustanding stock of each of which is owned, directly or indirectly, by or for the same individual.

"(c) Constructive Ownership of Stock.—Section 318 shall apply in determining the ownership of stock for purposes of this section, except that sections 318(a)(2)(C) and 318(a)(3)(C) shall be applied without regard to the 50-percent limitation contained therein.".

(b) Effective Date.—The amendment made by this section applies to sales or exchanges after the date of enactment of this Act. For purposes of the preceding sentence, a sale or exchange is considered to have occurred on or before the date of enactment if such sale or exchange is made pursuant to a binding contract entered into before the date of enactment.

Sec. 2304. Application of Section 117 to Certain Education Programs for Members of the Uniformed Services.

"Subsection (c) of section 4 of the Act entitled an Act to suspend until the close of June 30, 1975, the duty on certain carboxymethyl cellulose salt, and for other purposes, approved October 26, 1974 (88 Stat. 1457; Public Law 93-483), is amended by striking out "and 1975" and inserting in lieu thereof "1975, and 1976".

(a) Training and Technical Assistance.—

(1) The Secretary, through the Internal Revenue Service, is authorized to enter into agreements with private or public nonprofit agencies or organizations for the purpose of providing training and technical assistance to prepare volunteers to provide tax counseling assistance for elderly individuals in the preparation of their Federal income tax returns.

(2) In addition to any other forms of technical assistance provided under this section, the Secretary may provide—

(A) preferential access to Internal Revenue Service taxpayer service representatives for the purpose of making available technical information needed during the course of the volunteers' work;

(B) material to be used in making elderly persons aware of the availability of assistance under volunteer taxpayer assistance programs under this section; and

(C) technical materials and publications to be used by such volunteers.

(b) Powers of the Secretary.—In carrying out his responsibilities under this section, the Secretary is authorized—

(1) to provide assistance to organizations which demonstrate, to the satisfaction of the Secretary, that their volunteers are adequately trained and competent to render effective tax counseling to the elderly;

(2) to provide for the training of such volunteers, and to assist in such training, to insure that such volunteers are qualified to provide tax counseling assistance to elderly individuals;

(3) to provide reimbursement to volunteers through such organizations for transportation, meals, and other expenses incurred by them in training or providing tax counseling assistance under this section, and such other support and assistance as he determines to be appropriate in carrying out the provisions of this section;

(4) to provide for the use of services, personnel, and facilities of Federal executive agencies and of State and local public agencies with their consent, with or without reimbursement therefor; and

(5) to prescribe such rules and regulations as he deems necessary to carry out the provisions of this section.

(c) Employment of Volunteers.—

(1) Service as a volunteer in any program carried out under this section shall not be considered service as an employee of the United States. Volunteers under such a program shall not be considered employees of the United States and shall not be subject to the provisions of law relating to Federal employment, except that the provisions of section 1905 of title 18, United States Code, shall apply to volunteers as if they were employees of the United States.

(2) Section 7803(a) (relating to appointment and supervision of Internal Revenue Service personnel) is amended by adding at the end thereof the following: "In order to provide tax assistance services, and to provide for the administration and enforcement of this title, the Secretary may appoint and fix the compensation of former Internal Revenue Service employees who are receiving annuities from the civil service retirement fund under subchapter III of chapter 83 of title 5, without regard to the provisions of section 8344(a) of such title. An individual appointed under the preceding sentence may not be appointed to serve for more than 720 hours during any calendar year.".

(3) Amounts received by volunteers serving in any program carried out under this section as reimbursement for expenses (for which expenses a deduction is not claimed) are exempt from taxation under chapters 1 and 21 of the Internal Revenue Code of 1954.

(d) Publicity Relating to Income Tax Provisions Particularly Important to the Elderly.—The Secretary shall, from time to time, undertake to direct the attention of elderly individuals to those provisions of the Internal Revenue Code of 1954 which are particularly important to taxpayers who are elderly individuals, such as the provisions of section 37 (relating to credit against tax for retirement income) and section 121 (relating to gain from the sale or exchange of residence of individual who has attained age sixty-five).

(e) Definitions.—For purposes of this section, the term—

(1) "Secretary" means the Secretary of the Treasury;

(2) "elderly individual" means an individual who has attained the age of sixty years as of the close of his taxable year; and

(3) "Federal income tax return" means any return required under chapter 61 of the Internal Revenue Code of 1954 with respect to the tax imposed on an individual under chapter 1 of such Code.

(f) Authorization of Appropriations.—There are authorized to be appropriated to the Secretary for the purpose of carrying out the provisions of this section $2,000,000 for the fiscal year ending September 30, 1978, and $3,000,000 for the fiscal year ending September 30, 1979.

"Sec. 2307. Commission on Value Added Taxation

(a) Establishment.—There is established a Commission to be known as the National Commission on Value Added Taxation (hereafter referred to in this section as the "Commission").

(b) Membership.—The Commission shall be composed of—

(1) two Members of the Senate, who are not affiliated with the same political party, appointed by the President pro tempore of the Senate;

(2) two Members of the House of Representatives, who are not affiliated with the same political party, appointed by the Speaker of the House of Representatives;

(3) the Secretary of the Treasury;

(4) the Secretary of Commerce;

(5) the Secretary of Labor;

(6) the Chairman of the Council of Economic Advisers; and

(7) twelve members appointed by the President, by and with the advice and consent of the Senate, from among individuals of the general public who are representative of industry, labor, and consumer organizations, and other individuals who are especially qualified to serve on the Commission.

Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment. The members of the Commission shall be appointed within 120 days of the date of enactment of this Act. The Commission shall, by majority vote, select its Chairman and Vice Chairman.

(c) Functions.—

(1) Study.—The Commission shall make a full and complete study and investigation with respect to the system of value added taxation including, but not limited to, a study and investigation of—

(A) the effect of such system on—

(i) savings,

(ii) consumption,

(iii) capital formation, and

(iv) the flow of international trade;

(B) the feasibility of implementing such system to replace the present methods of financing the social security trust funds; and

(C) the desirability of such system as a means of Government finance in general.

(2) Report.—The Commission shall submit to the President and to the Congress such interim reports as it deems advisable, and not later than December 31, 1977, a final report of its study and investigation together with its recommendations, including recommendations for legislation, as it deems advisable.

(d) Powers and Administrative Provisions.—

(1) Meetings—For purposes of carrying out its functions under this section, the Commission may sit and act at such times and places and receive such evidence and testimony as it considers advisable.

(2) Government information.—The Commission may secure directly from any department or agency of the United States information and assistance necessary to carry out its duties under this section. Each department or agency is authorized and directed, to the extent permitted by law and within the limits of available funds, to furnish information and assistance to the Commission.

(3) Power of members.—When so authorized by the Commission, any member or agent of the Commission may take any action which the Commission is authorized to take by this section.

(4) Meetings open.—All meetings, hearings, conferences, or other proceedings of the Commission shall be open to the public unless the Commission members in open session vote otherwise.

(e) Compensation and Staff.—

(1) Compensation.—Except as provided in paragraph (2) members of the Commission each shall receive as compensation the daily equivalent of the annual rate of basic pay in effect for grade GS–18 under the General Schedule set forth in section 5332 of title 5, United States Code, for each day (including travel time) during which they are engaged in the actual performance of duties vested in the Commission.

(2) Employees of the united states.—Members of the Commission who are full-time officers or employees of the United States shall receive no additional pay on account of their service on the Commission.

(3) Subsistence.—While away from their homes or regular places of business in the performance of service for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5, United States Code.

(4) Staff.—The Commission may appoint and fix the compensation of such personnel, including an executive director, as it considers advisable without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and such personnel may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, but at a rate not to exceed the maximum rate authorized by the General Schedule. The Commission may procure the services of experts and consultants in accordance with section 3109 of such title, but at rates for individuals not to exceed the daily equivalent of the annual rate of basic pay in effect for the maximum rate authorized by the General Schedule.

(f) Termination.—The Commission shall cease to exist 180 days after the transmission of its final report under subsection (c)(2) and all offices and employment under it shall expire.

(g) Authorization of Appropriations.—There are authorized to be appropriated to the Commission, without fiscal year limitation, such sums as may be necessary, but not exceeding $1,000,000, to carry out the provisions of this section.

Sec. 2310. Exchange Funds.

(a) Corporate Reorganizations.—Paragraph (2) of section 368(a) (special rules relating to definition of reorganization) is amended by adding at the end thereof the following new subparagraph:

"(F) Certain transactions involving 2 or more investment companies.—

"(i) If, immediately before a transaction described in paragraph (1) (other than subparagraph (E) thereof), 2 or more parties to the transaction were investment companies, then the transaction shall not be considered to be a reorganization with respect to any such investment company (and its shareholders and security holders) unless it was a regulated investment company, a real estate investment trust, or a corporation which meets the requirements of clause (ii).

"(ii) A corporation meets the requirements of this clause if not more than 25 percent of the value of its total assets is invested in the stock and securities of any one issuer, and not more than 50 percent of the value of its total assets is invested in the stock and securities of 5 or fewer issuers. For purposes of this clause, all members of a controlled group of corporations (within the meaning of section 1563(a)) shall be treated as one issuer.

"(iii) For purposes of this subparagraph, the term 'investment company' means a regulated investment company, a real estate investment trust, or a corporation more than 50 percent of the value of whose total assets are stock and securities and more than 80 percent of the values of whose total assets are assets held for investment. In making the 50-percent and 80-percent determinations under the preceding sentence, stock and securities in any subsidiary corporation shall be disregarded and the parent corporation shall be deemed to own its ratable share of the subsidiary's assets, and a corporation shall be considered a subsidiary if the parent owns 50 percent or more of the combined voting power of all classes of stock entitled to vote, or 50 percent or more of the total value of shares of all classes of stock outstanding.

"(iv) For purposes of this subparagraph, in determining total assets there shall be excluded cash and cash items (including receivables), Government securities, and, under regulations prescribed by the Secretary, assets acquired (through incurring indebtedness or otherwise) for purposes of meeting the requirements of clause (ii) or ceasing to be an investment company.

"(v) This subparagraph shall not apply if each investment company is owned substantially by the same persons in the same proportion.

"(vi) If an investment company which is not diversified within the meaning of clause (ii) acquires assets of another corporation, clause (i) shall be applied to such investment company and its shareholders and security holders as though its assets had been acquired by such other corporation. If such investment company acquires stock of another corporation in a reorganization described in section 368(a)(1)(B) (hereafter referred to as the "actual acquisition"), clause (i) shall be applied to the shareholder and security holders of such investment company as though they had exchanged with such other corporation all of their stock in such investment company for a percentage of the value of the total outstanding stock of the other corporation equal to the percentage of the value of the total outstanding stock of such investment company which such shareholders own immediately after the actual acquisition. For purposes of section 1001, the deemed acquisition or exchange referred to in the two preceding sentences shall be treated as a sale or exchange of property by the corporation and by the shareholders' and security holders to which clause (i) is applied.".

(b) Partnerships.—Section 721 (relating to nonrecognition of gain or loss on transfers to partnerships) is amended to read as follows:

"Sec 721. Nonrecognition of Gain or Loss on Contribution.

"(a) General Rule.—No gain or loss shall be recognized to a partnership or to any of its partners in the case of a contribution of property to the partnership in exchange for an interest in the partnership.

"(b) Special Rule.—Subsection (a) shall not apply to gain realized on a transfer of property to a partnership which would be treated as an investment company (within the meaning of section 351) if the partnership were incorporated.

"(c) Exception for Certain Family Partnerships.—Subsection (b) shall not apply to a transfer of property to a general partnership if more than 95 percent of the total interest in partnership capital and profits is owned at all times by members of the same family and the partnership agreement expressly allocates the portion of the gain on the sale of any property equal to the appreciation in value of such property on the date contributed to the partnership to the partner (or his ancestors) who contributed such property to the partnership. For purposes of the preceding sentence, the members of the same family are an individual, his parents and grandparents, his brothers and sisters, lineal descendants of any of the foregoing, a spouse of any of the foregoing, and the estate of any of the foregoing.".

(c) Conforming Amendment.—Section 722 and 723 (relating to tax basis) are each amended by striking out "contribution." and inserting in lieu thereof "contribution increased by the amount (if any) of gain recognized to the contributing partner at such time.".

(d) Common Trust Funds.—Subsection (e) of section 584 (relating to admission to and withdrawal from a common trust fund) is amended by inserting after the first sentence the following new sentence: "The admission of a participant shall be treated with respect to the participant as the purchase of, or an exchange for, the participating interest.".

(e) Trusts.—

(1) In general.—Section 683 (relating to applicability of provisions) is amended to read as follows:

"Sec. 683. Use of Trust as an Exchange Fund.

"(a) General Rule.—Except as provided in subsection (b), if property is transferred to a trust in exchange for an interest in other trust property and if the trust would be an investment company (within the meaning of section 351) if it were a corporation, then gain shall be recognized to the transferor.

"(b) Exception for Pooled Income Funds.—Subsection (a) shall not apply to any transfer to a pooled income fund (within the meaning of section 642(c)(5)).".

(2) Conforming amendment.—The table of sections for subpart F of part I of subchapter J of chapter 1 is amended by striking out the item relating to section 683 and inserting in lieu thereof the following:

"Sec. 683. Use of trust device for exchange funds.".

(1) Except as provided in paragraph (2), the amendment made by subsection (a) shall apply to transfers made after February 17, 1976, in taxable years ending after such date.

(2) The amendment made by subsection (a) shall not apply to transfers made in accordance with a ruling issued by the Internal Revenue Service before February 18, 1976, holding that a proposed transaction would be a reorganization described in paragraph (1) of section 368(a) of the Internal Revenue Code of 1954.

(3) Except as provided in paragraph (4), the amendments made by subsections (b) and (c) shall apply to transfers made after February 17, 1976, in taxable years ending after such date.

(4) The amendments made by subsections (b) and (c) shall not apply to transfer to a partnership made on or before the 90th day after the date of the enactment of this Act if—

(A) either—

(i) a ruling request with respect to such transfers was filed with the Internal Revenue Service before March 27, 1976, or

(ii) a registration statement with respect to such transfers was filed with the Securities and Exchange Commission before March 27, 1976,

(B) the securities transferred were deposited on or before the 60th day after the date of the enactment of this Act, and

(C) either—

(i) the aggregate value (determined as of the close of the 60th day referred to in subparagraph (B), or, if earlier, the close of the deposit period) of the securities so transferred does not exceed $100,000,000, or

(ii) the securities transferred were all on deposit on February 29, 1976, pursuant to a registration statement referred to in subparagraph (A) (ii).

(5) If no registration statement was required to be filed with the Securities and Exchange Commission with respect to the transfers of securities to any partnership, then paragraph (4) shall be applied to such transfers—

(A) as if paragraph (4) did not contain subparagraph (A) (ii) thereof, and

(B) by substituting "$25,000,000" for "$100,000,000" in subparagraph (C) (i) thereof.

(6) The amendments made by subsections (d) and (e) shall take effect on April 8, 1976, in taxable years ending on or after such date.

"SEC. 2311. DISTRIBUTIONS BY SUBCHAPTER S CORPORATIONS.

(a) IN GENERAL.—Section 1377 (relating to special rules applicable to earnings and profits of electing small business corporations) is amended by adding at the end thereof the following new subsection:

"(d) DISTRIBUTIONS OF UNDISTRIBUTED TAXABLE INCOME PREVIOUSLY TAXED TO SHAREHOLDERS.—For purposes of determining whether a distribution by an electing small business corporation constitutes a distribution of such corporation's undistributed taxable income previously taxed to shareholders (as provided for in section 1375(d)), the earnings and profits of such corporation for the taxable year in which the distribution is made shall be computed without regard to section 312(m). Such computation shall be made without regard to section 312(m) only for such purposes.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) applies to taxable years beginning after December 31, 1975.

Mr. LONG. Mr. President, first, I want to explain what I have in mind doing. I am going to suggest that we at this moment separate from that title those sections with regard to which there will be controversy and we agree to those with regard to which there is no known controversy.

I would suggest at this point that we eliminate from this title the item relating to credit for certain expenses incurred in providing education, 2306; the interest on certain governmental obligations, 2308, and group legal service plans, 2309. I suggest we simply consider those not to be part of this amendment. They can be offered separately.

The PRESIDING OFFICER. Does the Senator from Louisiana make this as a request?

Mr. LONG. Yes.

The PRESIDING OFFICER. Is there objection? Hearing none, it is so ordered.

Mr. LONG. Now, Mr. President, as far as I am concerned we can vote on the amendment, as modified.

The PRESIDING OFFICER. The question is on the amendment, as modified.

Mr. LONG. I would like to ask for the yeas and nays, Mr. President.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays have been ordered and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Nevada (Mr. CANNON), the Senator from California (Mr. CRANSTON), the Senator from Mississippi (Mr. EASTLAND), the Senator from Alaska (Mr. GRAVEL), the Senator from Michigan (Mr. PHILIP A. HART), the Senator from Indiana (Mr. HARTKE), the Senator from Colorado (Mr. HASKELL), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Wyoming (Mr. MCGEE), the Senator from Montana (Mr. METCALF), the Senator from Minnesota (Mr. MONDALE), the Senator from New Mexico (Mr. MONTOYA), the Senator from Utah (Mr. MOSS), the Senator from California (Mr. TUNNEY), are necessarily absent.

Mr. HUGH SCOTT. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Tennessee (Mr. BROCK), the Senator from Arizona (Mr. GOLDWATER), the Senator from Michigan (Mr. GRIFFIN), the Senator from Oregon (Mr. HATFIELD), the Senator from Nebraska (Mr. HRUSKA), and the Senator from Ohio (Mr. TAFT) are necessarily absent.

I further announce that, if present and voting, the Senator from Ohio (Mr. TAFT) would vote "yea."

The result was announced—yeas 77, nays 0, as follows:

[Rollcall Vote No. 444 Leg.]

YEAS—77

Abourezk
Allen
Bartlett
Bayh
Beall
Bellmon
Bentsen
Biden
Brooke
Buckley
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Case
Chiles
Church
Clark
Culver
Curtis
Dole
Domenici
Durkin
Eagleton
Fannin
Fong
Ford
Garn
Glenn
Hansen
Hart, Gary
Hathaway
Helms
Hollings
Humphrey
Inouye
Jackson
Javits
Laxalt
Leahy
Long
Magnuson
Mansfield
Mathias
McClellan
McClure
McGovern
McIntyre
Morgan
Muskie
Nelson
Nunn
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Scott, William L.
Sparkman
Stafford
Stennis
Stevens
Stevenson
Stone
Symington
Talmadge
Thurmond
Tower
Weicker
Williams
Young

NAYS—0

NOT VOTING—23

Baker
Brock
Cannon
Cranston
Eastland
Goldwater
Gravel
Griffin
Hart, Philip A.
Hartke
Haskell
Hatfield
Hruska
Huddleston
Johnston
Kennedy
McGee
Metcalf
Mondale
Montoya
Moss
Taft
Tunney

So Mr. LONG's amendment was agreed to.

UNANIMOUS-CONSENT AGREEMENT— AMENDMENT NO. 1639

Mr. FORD. Mr. President, I ask unanimous consent that my amendment No. 1639 be considered in miscellaneous amendments at the end of this legislation.

The PRESIDING OFFICER (Mr. TOWER). Is there objection?

Mr. TALMADGE. What is the request? I did not hear it.

Mr. FORD. A unanimous-consent request to have my amendment 1639 considered in the miscellaneous amendments at the end of this legislation. It pertains to tax exclusion for the Armed Forces health profession scholarship program.

The PRESIDING OFFICER. Is there objection?

Mr. TALMADGE. Mr. President, reserving the right to object, I shall be happy to discuss the amendment with the Senator, and it is possible the unanimous-consent request can be granted But I prefer that we go ahead with titles XXIV and XXV.

Mr. FORD. This should have been on title XXIII, but we were moving pretty fast, and I had ordered my lunch and was not in the Chamber to present my amendment. I wish to have the opportunity to have my amendment considered at the end of the legislation.

Mr. TALMADGE. We are happy to take it up after we finish titles XXIV and XXV.

Mr. FORD. That is fine. I am asking unanimous consent that we allow it to be considered at the end of the legislation on the various matters.

Mr. TALMADGE. Has the Senate already granted such unanimous-consent request?

Mr. FORD. No.

Mr. TALMADGE. I shall be happy to discuss it with the Senator, but I had hoped we could go forward, in accordance with the schedule, that we do have unanimous-consent agreements on, and that is to consider titles XXIV and XXV. Both of them are noncontroversial, and I think we can complete them in a matter of minutes.

Mr. FORD. It shall be in order, then, that I ask the Senator from Georgia to allow me to have my amendment considered at the end of title XXV?

Mr. TALMADGE. Certainly.

Mr. FORD. Mr. President, I ask unanimous consent, then, that my amendment 1639 be considered after title XXV.

The PRESIDING OFFICER. Is there objection?

Mr. HATHAWAY. Mr. President, reserving the right to object, I believe I had asked the chairman of the committee previously to consider an amendment we had to title VIII.

Mr. TALMADGE. The Senator is correct. Unfortunately I did not recall that. Senator HATHAWAY has an amendment.

Mr. HATHAWAY. But it shall not take more than a minute or two. I believe it is noncontroversial.

Mr. TALMADGE. There is no objection to the Hathaway amendment. Incidentally, I think it can be disposed of in a matter of 1 or 2 minutes.

Mr. FORD. Whenever we get to title XXV, which is miscellaneous amendments, I wish my amendment considered at that time. I do not care how long it takes. I have a lot of patience.

Mr. TALMADGE. I think we can accommodate the Senator.

The PRESIDING OFFICER. Without objection, it is so ordered.

TITLE XXIV

Mr. TALMADGE. Mr. President, I understand that the pending title is title XXIV. Is that correct?

The PRESIDING OFFICER. That is correct.

UP AMENDMENT NO. 277

Mr. TALMADGE. Mr. President, I send to the desk an amendment proposed by the Committee on Finance.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Georgia (Mr. TALMADGE) proposes an unprinted amendment numbered 277.

The amendment is as follows:

TITLE XXIV—UNITED STATES INTERNATIONAL TRADE COMMISSION

SEC. 2401. SHORT TITLE.

This title may be cited as the "United States International Trade Commission Act of 1976".

SEC. 2402. VOTING BY COMMISSION ON IMPORT RELIEF

(a) Section 330(d) of the Tariff Act of 1930 (19 U.S.C. 1330(d)) is amended by—

(1) redesignating paragraph (2) as paragraph (4); and

(2) striking out paragraph (1) and inserting in lieu thereof the following new paragraphs:

"(1) In a proceeding in which the Commission is required to determine—

"(A) under section 201 of the Trade Act of 1974, whether increased imports of an article are a substantial cause of serious injury, or the threat thereof, as described in subsection (b)(1) of that section (hereafter in this subsection referred to as 'serious injury'), or

"(B) under section 406 of such Act, whether market disruption exists,

and the commissioners voting are equally divided with respect to such determination, then the determination agreed upon by either group of commissioners may be considered by the President as the determination of the Commission.

"(2) In any proceeding described in paragraph (1), if under sections 201 or 406 of the Trade Act of 1974 there is an affirmative determination of the Commission, or a determination of the Commission which the President may consider an affirmative determination under paragraph (1), that serious injury or market disruption exists, respectively, then only those commissioners who voted for such determination may vote with respect to the finding and recommendation described in section 201(d)(1) (A) and (B) of such Act or the finding described in section 406(a)(3) of such Act, as the case may be (hereafter in this subsection referred to as a "remedy finding"). If a majority of the commissioners voting are unable to agree on a remedy finding and—

"(A) a plurality of the commissioners so voting agree on a remedy finding, then the remedy finding agreed on by such commissioners shall, for purposes of sections 202 and 203 of such Act, be treated as the remedy finding of the Commission; or

"(B) a plurality of the commissioners so voting do not so agree and there are two or more groups of commissioners who agree upon a remedy finding, then the remedy finding agreed on by any such group shall be considered by the President as the remedy finding of the Commission and the remedy finding so considered by the President shall, for purposes of sections 202 and 203 of such Act, be treated as the remedy finding of the Commission.

The President shall include in the document described in section 203(b)(1) of the Trade Act of 1974 the remedy finding he considers to be the remedy finding of the Commission under subparagraph (B).

"(3) In any proceeding to which paragraph (1) applies in which the commissioners voting are equally divided on a determination that serious injury exists, or that market disruption exists, the Commission shall report to the President the determination of each group of commissioners. In any proceeding to which paragraph (2) applies, the Commission shall report to the President the remedy finding of each group of commissioners voting.".

(b) The amendments made by subsection (a) shall apply to determinations, findings, and recommendations made under sections 201 and 406 of the Trade Act of 1974 after the date of the enactment of this Act.

SEC. 2403. INCREASE IN NUMBER OF COMMISSIONERS.

Section 330 of the Tariff Act of 1930 (19 U.S.C. 1330) is amended by—

(1) striking out "six" in the first sentence of subsection (a) and inserting in lieu thereof "seven";

(2) striking out "three" in the last sentence of subsection (a) and inserting in lieu thereof "four";

(3) striking out subsection (b) and inserting in lieu thereof the following:

"(b) TERMS OF OFFICE.—

"(1) Terms of office of the commissioners holding office on the date of the enactment of the Trade Act of 1974 which (but for this sentence) would expire on June 16, 1975, June 16, 1976, June 16, 1977, June 16, 1978, June 16, 1979, and June 16, 1980 shall expire on December 16, 1976, June 16, 1978, December 16, 1979, June 16, 1981, December 16, 1982, and June 16, 1984, respectively.

"(2) The term of the first commissioner appointed by reason of the increase in the number of commissioners to seven shall expire September 16, 1985. The terms of office of the commissioners appointed to the term of office beginning on December 17, 1976, June 17, 1978, December 17, 1979, June 17, 1981, December 17, 1982, and June 17, 1984, shall expire on December 16, 1986, March 16, 1988, June 16, 1989, September 16, 1990, December 16, 1991, and March 16, 1993, respectively.

"(3) The terms of office of the commissioners appointed to a term of office beginning after September 16, 1985, shall expire eight years and nine months from the date of the expiration of the term for which their predecessors were appointed.

"(4) Notwithstanding paragraphs (1), (2), and (3)—

"(A) any commissioner appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term, and

"(B) any commissioner may continue to serve as a commissioner after the expiration of his term of office until his successor is appointed and qualified.";

(4) striking out in subsection (c)(1) "Except as provided in paragraph (2)," and inserting in lieu thereof "Except as provided in paragraphs (2) and (3),";

(5) striking out in subsection (c)(2) "on and after June 17, 1975," and inserting in lieu thereof "after June 16, 1975, and before June 17, 1984,"; and

(6) adding at the end of subsection (c) the following new paragraph:

"(3) Effective after June 16, 1984, the commissioner whose term is first to expire and who has at least fifteen months remaining in his term shall serve as chairman during the last fifteen months of his term (or, in the case of a commisioner appointed to fill a vacancy occurring during such fifteen-month period, during the remainder of his term), and the commissioner whose term is second to expire and who has at least thirty months remaining in his term shall serve as vice chairman during the same fifteen-month period (or, in the case of a commissioner appointed to fill a vacancy occurring during such fifteen-month period, during the remaineder of such fifteen-month period).".

SEC. 2404. AUTHORIZATION OF APPROPRIATIONS.

(a) FISCAL YEAR 1977.—There are authorized to be appropriated to the International Trade Commission $11,789,000 to carry out its duties and functions during fiscal year 1977.

(b) FISCAL YEAR 1978.—There are authorized to be appropriated to the International Trade Commission $12,036,000 to carry out its duties and functions during fiscal year 1978.

(c) COST-OF-LIVING INCREASES.—In addition to the amounts authorized under subsections (a) and (b), there are authorized to be appropriated to such Commission such amounts as may be necessary for fiscal years 1977 and 1978 for increases required by law during such fiscal years in salary, pay, retirement, and other employee benefits.

(d) Nothing in subsection (a) authorizes appropriations for more than—

(1) four employees for each commissioner (other than the commissioner who is the chairman of the Commission) who serve as the personal staff of the commissioner; and

(2) six employees who serve as the personal staff of the chairman of the Commission.

SEC. 2405. ADMINISTRATION OF THE COMMISSION.

(a) IN GENERAL.—Subsection (c) of section 330 of the Tariff Act of 1930 (19 U.S.C. 1330(c)) is amended to read as follows:

"(c) ELECTION OF CHAIRMAN; ADMINISTRATION OF THE COMMISSION.—

"(1) The Commission shall elect one of the commissioners as chairman, who shall serve as chairman at the pleasure of the Commission. The term of office of the chairman shall be three years. No commissioner may be elected as chairman after serving as chairman for two terms. During any period in which there is no chairman, the commissioner having the longest period of continuous service as a commissioner shall act as chairman.

"(2) A majority of the commissioners in

office shall constitute a quorum, but the Commission may function notwithstanding vacancies. No commissioner shall actively engage in any business, vocation, or employment other than that of serving as a commissioner.

"(3) The chairman of the Commission shall be responsible for initiating, and the Commission shall be responsible for approving, administrative action in the following areas:

"(A) the employment and discharge of key personnel (other than personnel referred to in section 2404(d)(2) of the United States International Trade Commission Act of 1976, the employment and discharge of which shall be the responsibility of the individual commissioner concerned),

"(B) external relations, and

"(C) the budget of the Commission.

The chairman of the Commission shall be responsible for all other administrative matters of the Commission.".

(b) EFFECTIVE DATE.—Paragraphs (1) and (2) of section 330(c) of the Tariff Act of 1930 (as amended by subsection (a)) shall take effect on December 17, 1976. Paragraphs (3) and (4) of such section 330(c) shall take effect on the date of the enactment of this Act.

SEC. 2406. CONTINUATION OF REPORTS WITH RESPECT TO SYNTHETIC ORGANIC CHEMICALS.

The International Trade Commission is hereby directed to make, during each calendar year ending before January 1, 1981, reports with respect to synthetic organic chemicals similar in scope to the reports made with respect to such chemicals for the calendar year 1974.

Mr. TALMADGE. Mr. President, this is a committee amendment that was unanimously approved by the Committee on Finance.

This committee amendment adds a new title to H.R. 10612 relating to the operation of the U.S. International Trade Commission—formerly the "Tariff Commission" and hereinafter referred to as the "Commission." Section 2401 denominates the amendment as the International Trade Commission Act of 1976. Section 2402 amends the Tariff Act of 1930, with respect to the voting procedures of the Commission in import relief cases. Section 2403 amends the Tariff Act of 1930 with respect to the size of the Commission, increasing its membership from six to seven Commissioners. Section 2404 authorizes appropriations to the Commission for fiscal years 1977 and 1978. Section 2404 also restricts the number of personal staff which may be employed by the chairman of the Commission and each of the Commissioners. Section 2405 amends the Tariff Act of 1930 with respect to the selection of the chairman of the Commission and the administrative authority of the Chairman. Section 2406 directs the Commission to continue through 1980 certain reports on the production and trade of synthetic organic chemicals.

Mr. President, I am ready to vote.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment.

The committee amendment was agreed to.

Mr. HATHAWAY. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. TALMADGE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. TALMADGE. Mr. President, I ask for the yeas and nays on title XXIV.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. RIBICOFF. Mr. President: I introduced the International Trade Commission Act of 1976 to help correct the serious problems that have developed in connection with "escape clause" actions under the Trade Act of 1974.

This bill would change the number of Commissioners in the International Trade Commission from six to seven. It would permit only those Commissioners who find injury in an escape clause action to vote for a remedy, and it would help to insure that Congress has the option of overriding the President's decision on remedy, as was originally intended under the Trade Act.

When we enacted the trade bill, all of us in the Congress knew we were taking a big step. Enactment of the bill symbolized a long-term commitment on the part of the Congress and the Executive to the goal of reducing or eliminating trade barriers and distortions. It was clear then that some industries would need more time than others to adjust, so as an important part of the Trade Act, we took steps to improve the "escape clause." Under that provision, workers, firms or whole industries can receive temporary important relief if increased foreign imports are shown to be a "substantial cause" of injury.

Under the escape clause, an industry has to convince the International Trade Commission that it is being seriously hurt by imports. If the ITC is satisfied that there is serious import injury, it recommends specific remedies to the President. Then, the President is required to provide some form of import relief to the injured industry, unless he determines that relief is not in the national economic interest. When we strengthened the escape clause in 1974, it was our intention to give Congress the option of overriding the President by concurrent resolution if the President chooses a remedy other than the one recommended by the ITC, or if he decides not to grant any relief at all.

In several recent cases including nonrubber footwear, stainless steel flatware and mushrooms, the ITC Commissioners have found injury but have been unable to agree on an individual remedy. So you have situations in which all or almost all of the ITC Commissioners agree there is an import problem, but they disagree on the best way to deal with it. And under the Trade Act, Congress can only override if a majority of the Commissioners agree on a particular remedy. What has happened in short, is that the Congress has been denied the option of overriding the President in cases in which there is a clear and serious injury to a domestic industry.

When Congress created the complicated procedures for the escape clause, cisions to grant import relief would be we wanted to be absolutely sure that de- based on economic and not political reasons. We did not want either the President or the Congress to have to choose between different remedies in import injury cases. That is why we involved the ITC, and that is why we gave Congress the override option. It was our intention to make the determinations in escape clause cases as objective as possible, and we thought the ITC was best able to make those decisions. But the ITC has had its authority, credibility and vital role in the escape clause process seriously undercut by the lack of a congressional override option in recent import relief cases.

With six Commissioners it has proved very difficult for the ITC to make a majority recommendation on remedy to the President. Because of that, the President has been free to deny import relief without fear of a congressional override.

This bill will make it easier for the ITC to agree on remedy by creating an odd number of Commissioners and by limiting the right to vote on remedy to those Commissioners who vote for injury.

It will preserve the opportunity for Congress to override the President when only a plurality and not a majority of the Commissioners agree on a particular remedy. In situations in which the Commissioners are divided on relief recommendations into two or more equal groups, it will require the President to designate one of the groups as the remedy which Congress can reinstate by a vote to override.

By permitting a Commissioner to remain in office at the end of his term until his successor is chosen, this bill will help insure that the International Trade Commission will not be without the services of a Commissioner while awaiting confirmation of a reappointment or of a new appointee.

The International Trade Commission Act of 1976 will help make sure that the escape clause works in the future the way Congress originally intended it to, and that import relief decisions are made on the basis of economic, and not political considerations.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that there be a 10-minute limitation on this vote.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The question is on agreeing to title XXIV. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Nevada (Mr. CANNON), the Senator from California (Mr. CRANSTON), the Senator from Mississippi (Mr. EASTLAND), the Senator from Michigan (Mr. PHILIP A. HART), the Senator from Indiana (Mr. HARTKE), the Senator from Colorado (Mr. HASKELL), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Wyoming (Mr. MCGEE), the Senator from Montana (Mr. METCALF), the Senator from Minnesota (Mr. MONDALE), the Senator from New Mexico (Mr. MON-

TOYA), the Senator from Utah (Mr. Moss), and the Senator from California (Mr. TUNNEY), are necessarily absent.

Mr. HUGH SCOTT. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Tennessee (Mr. BROCK), the Senator from Arizona (Mr. GOLDWATER), the Senator from Michigan (Mr. GRIFFIN), the Senator from Nebraska (Mr. HRUSKA), the Senator from Nevada (Mr. LAXALT), the Senator from Vermont (Mr. STAFFORD), and the Senator from Ohio (Mr. TAFT), are necessarily absent.

The result was announced—yeas 77, nays 0, as follows:

[Rollcall Vote No. 445 Leg.]

YEAS—77

Abourezk
Allen
Bartlett
Bayh
Beall
Bellmon
Bentsen
Biden
Brooke
Buckley
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Case
Chiles
Church
Clark
Culver
Curtis
Dole
Domenici
Durkin
Eagleton
Fannin
Fong
Ford
Garn
Glenn
Gravel
Hansen
Hart, Gary
Hatfield
Hathaway
Helms
Hollings
Humphrey
Inouye
Jackson
Javits
Leahy
Long
Magnuson
Mansfield
Mathias
McClellan
McClure
McGovern
McIntyre
Morgan
Muskie
Nelson
Nunn
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Scott, William L.
Sparkman
Stennis
Stevens
Stevenson
Stone
Symington
Talmadge
Thurmond
Tower
Weicker
Williams
Young

NAYS—0

NOT VOTING—23

Baker
Brock
Cannon
Cranston
Eastland
Goldwater
Griffin
Hart, Philip A.
Hartke
Haskell
Hruska
Huddleston
Johnston
Kennedy
Laxalt
McGee
Metcalf
Mondale
Montoya
Moss
Stafford
Taft
Tunney

So title XXIV was agreed to.

Mr. HATHAWAY. I move to reconsider the vote by which title XXIV was agreed to.

Mr. TALMADGE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Georgia is recognized.

Mr. TALMADGE. Mr. President, I yield to the distinguished Senator from Minnesota and then to the distinguished Senator from Arizona.

EXPRESSION OF CONCERN ABOUT EARTHQUAKES IN THE PEOPLE'S REPUBLIC OF CHINA

Mr. HUMPHREY. Mr. President, I ask unanimous consent to consider a resolution which ought not to take over a minute. This resolution has been cleared by the majority and minority. I send it to the desk and ask for its immediate consideration.

This is in behalf of the Senator from New Jersey (Mr. CASE), the Senator from Montana (Mr. MANSFIELD), and the Senator from Pennsylvania (Mr. HUGH SCOTT).

The PRESIDING OFFICER. The resolution will be stated by title.

The legislative clerk read as follows:

A resolution (S. Res. 499) relating to the earthquake in the People's Republic of China.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. HUMPHREY. Mr. President, the resolution merely expresses our concern for the tragic consequences of that earthquake.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. RES. 499

Whereas, one of the most destructive earthquakes in modern history has devastated parts of the People's Republic of China, causing widespread damage and untold human suffering;

Whereas, the American people throughout our history have responded promptly and generously to peoples affected by disasters in nations around the world;

Whereas, the United States has resources available to provide prompt and effective assistance; be it

Resolved, That the Senate of the United States endorses and supports the President's offer to provide, through the appropriate organizations and institutions, assistance to the victims of the earthquakes in the People's Republic of China; be it further

Resolved, That the Senate of the United States extends its deepest condolences to the victims of this great human tragedy and to the Government of the People's Republic of China.

The Secretary of the Senate is directed to supply to the Secretary of State, for transmittal to the Chinese Liaison Office of the People's Republic of China, a copy of this resolution.

TAX REFORM ACT OF 1976

The Senate continued with the consideration of the bill (H.R. 10612) to reform the tax laws of the United States.

TITLE XXV: UP AMENDMENT NO. 278

Mr. TALMADGE. Mr. President, I send to the desk an amendment prepared by the Senate Committee on Finance to title XXV.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. TALMADGE. I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill add the following:

TITLE XXV—ADDITIONAL MISCELLANEOUS PROVISIONS

SEC. 2501. CERTAIN DISABILITY INCOME.

(a) IN GENERAL.—Section 104(a) (relating to compensation for injuries or sickness) is amended—

(1) by striking out "and" at the end of paragraph (3);

(2) by striking out the period at the end of paragraph (4) and inserting in lieu thereof a semicolon and the word "and"; and

(3) by adding at the end thereof the following new paragraph:

"(5) amounts received by an individual as disability income attributable to injuries incurred as a direct result of a violent attack which the Secretary of State determines to be a terrorist attack and which occurred while such individual was an employee of the United States engaged in the performance of his official duties outside the United States.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1976.

SEC. 2502. CONTRIBUTIONS OF CERTAIN GOVERNMENT PUBLICATIONS.

(a) IN GENERAL.—Section 1221 (relating to definition of capital asset) is amended by—

(1) striking out "or" at the end of paragraph (4);

(2) striking out the period at the end of paragraph (5) and inserting in lieu thereof "; or", and

(3) adding after paragraph (5) the following new paragraph:

"(6) a publication of the United States Government (including the Congressional Record) which is received from the United States Government or any agency thereof, other than by purchase at the price at which it is offered for sale to the public, and which is held by—

"(A) a taxpayer who so received such publication, or

"(B) a taxpayer in whose hands the basis of such publication is determined, for purposes of determining gain from a sale or exchange, in whole or in part by reference to the basis of such publication in the hands of a taxpayer described in subparagraph (A).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to sales, exchanges, and contributions made after the date of enactment of this Act.

SEC. 2503. LOBBYING BY PUBLIC CHARITIES.

(a) LOSS OF EXEMPT STATUS.—

(1) LOSS OF EXEMPT STATUS BECAUSE OF SUBSTANTIAL LOBBYING.—Section 501 (relating to exemption from income tax) is amended by redesignating subsection (h) as subsection (i) and inserting after subsection (g) the following new subsection;

"(h) EXPENDITURES BY PUBLIC CHARITIES TO INFLUENCE LEGISLATION.—

(1) GENERAL RULE.—In the case of an organization to which this subsection applies, exemption from taxation under subsection (a) shall be denied because a substantial part of the activities of such organization consists of carrying on propaganda, or otherwise attempting, to influence legislation, but only if such organization normally—

"(A) makes lobbying expenditures in excess of the lobbying ceiling amount for such organization for each taxable year, or

"(B) makes grass roots expenditures in excess of the grass roots ceiling amount for such organization for each taxable year.

"(2) DEFINITIONS.—For purposes of this subsection—

"(A) LOBBYING EXPENDITURES.—The term 'lobbying expenditures' means expenditures for the purpose of influencing legislation (as defined in section 4911(d)).

"(B) LOBBYING CEILING AMOUNT.—The lobbying ceiling amount for any organization for any taxable year is 150 percent of the lobbying nontaxable amount for such organization for such taxable year, determined under section 4911.

"(C) GRASS ROOTS EXPENDITURES.—The term 'grass roots expenditures' means expenditures for the purpose of influencing legislation (as defined in section 4911(d) without regard to paragraph (1)(B) thereof).

"(D) GRASS ROOTS CEILING AMOUNT.—The grass roots ceiling amount for any organization for any taxable year is 150 percent of the grass roots nontaxable amount for such organization for such taxable year, determined under section 4911.

"(3) ORGANIZATIONS TO WHICH THIS SUBSECTION APPLIES.—This subsection shall apply to any organization which has elected (in such manner and at such time as the Secretary may prescribe) to have the provisions of this subsection apply to such organization and which, for the taxable year which includes the date the election is made, is described in subsection (c)(3) and—

"(A) is described in paragraph (4), and

"(B) is not a disqualified organization under paragraph (5).

"(4) ORGANIZATIONS PERMITTED TO ELECT TO HAVE THIS SUBSECTION APPLY.—An organization is described in this paragraph if it is described in—

"(A) section 170(b)(1)(A)(ii) (relating to educational institutions),

"(B) section 170(b)(1)(A)(iii) (relating to hospitals and medical research organizations),

"(C) section 170(b)(1)(A)(iv) (relating to organizations supporting government schools),

"(D) section 170(b)(1)(A)(vi) (relating to organizations publicly supported by charitable contributions),

"(E) section 509(a)(2) (relating to organizations publicly supported by admissions, sales, etc.), or

"(F) section 509(a)(3) (relating to organizations supporting certain types of public charities), except that for purposes of this subparagraph, section 509(a)(3) shall be applied without regard to the last sentence of section 509(a).

"(5) DISQUALIFIED ORGANIZATIONS.—For purposes of paragraph (3), an organization is a disqualified organization if it is—

"(A) described in section 170(b)(1)(A)(i) (relating to churches and conventions or associations of churches),

"(B) an integrated auxiliary of a church or of a convention or association of churches, or

"(C) a member of an affiliated group of organizations (within the meaning of section 4911(f)(2)) if one or more members of such group is described in subparagraph (A) or (B).

"(6) YEARS FOR WHICH ELECTION IS EFFECTIVE.—An election by an organization under this subsection shall be effective for all taxable years of such organization which—

"(A) end after the date the election is made, and

"(B) begin before the date the election is revoked by such organization (under regulations prescribed by the Secretary).

"(7) NO EFFECT ON CERTAIN ORGANIZATIONS.—With respect to any organization for a taxable year for which—

"(A) such organization is a disqualified organization (within the meaning of paragraph (5)), or

"(B) an election under this subsection is not in effect for such organization,

nothing in this subsection or in section 4911 shall be construed to affect the interpretation of the phrase, 'no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation,' under subsection (c)(3).

"(8) AFFILIATED ORGANIZATIONS.—

"For rules regarding affiliated organizations, see section 4911(f).".

(2) STATUS OF ORGANIZATION WHICH CEASES TO QUALIFY FOR EXEMPTION UNDER SECTION 501(C)(3) BECAUSE OF SUBSTANTIAL LOBBYING.—Part I of subchapter F of chapter 1 (relating to general rules as to exempt organizations) is amended by adding at the end thereof the following new section:

"SEC. 504. STATUS AFTER ORGANIZATION CEASES TO QUALIFY FOR EXEMPTION UNDER SECTION 501(C)(3) BECAUSE OF SUBSTANTIAL LOBBYING.

"(a) GENERAL RULE.—An organization which—

"(1) was exempt (or was determined by the Secretary to be exempt) from taxation under section 501(a) by reason of being an organization described in section 501(c)(3), and

"(2) is not an organization described in section 501(c)(3) by reason of carrying on propaganda, or otherwise attempting, to influence legislation.

shall not at any time thereafter be treated as an organization described in section 501(c)(4).

"(b) REGULATIONS TO PREVENT AVIODANCE.—The Secretary shall prescribe such regulations as may be necessary or appropriate to prevent the avoidance of subsection (a), including regulations relating to a direct or indirect transfer of all or part of the assets of an organization to an organization controlled (directly or indirectly) by the same person or persons who control the transferor organization.

"(c) CHURCHES, ETC.—Subsection (a) shall not apply to any organization which is a disqualified organization within the meaning of section 501(h)(5) (relating to churches, etc.) for the taxable year immediately preceding the first taxable year for which such organization is described in paragraph (2) of subsection (a).".

(3) RULES OF INTERPRETATION.—It is the intent of Congress that enactment of this section is not to be regarded in any way as an approval or disapproval of the decision of the Court of Appeals for the Tenth Circuit in Christian Echoes National Ministry, Inc. versus United States, 470 F. 2d 849 (1972), or of the reasoning in any of the opinions leading to that decision.

(4) DISCLOSURE.—Section 6033(b) (relating to information required to be furnished annually by certain exempt organizations) is amended by striking out "and" at the end of paragraph (6), by striking out the period at the end of paragraph (7) and inserting in lieu thereof ", and", and by adding at the end thereof the following:

"(8) in the case of an organization with respect to which an election under section 501(h) is effective for the taxable year, the following amounts for such organization for such taxable year:

"(A) the lobbying expenditures (as defined in section 4911(c)(1)),

"(B) the lobbying nontaxable amount (as defined in section 4911(c)(2)),

"(C) the grass roots expenditures (as defined in section 4911 (c)(3)), and

"(D) the grass roots nontaxable amount (as defined in section 4911(c)(4)).

For purposes of paragraph (8), if section 4911(f) applies to the organization for the taxable year, such organization shall furnish the amounts with respect to the affiliated group as well as with respect to such organization.".

(b) TAXES ON EXCESS EXPENDITURES TO INFLUENCE LEGISLATION.—Subtitle D (relating to miscellaneous excise taxes) is amended by inserting before chapter 42 the following new chapter:

"CHAPTER 41—PUBLIC CHARITIES

"SEC. 4911. TAX ON EXCESS EXPENDITURES TO INFLUENCE LEGISLATION.

"(a) TAX IMPOSED.—

"(1) IN GENERAL.—There is hereby imposed on the excess lobbying expenditures of any organization to which this section applies a tax equal to 25 percent of the amount of the excess lobbying expenidtures for the taxable year.

"(2) ORGANIZATIONS TO WHICH THIS SECTION APPLIES.—This section applies to any organization with respect to which an election under section 501(h) (relating to lobbying expenditures by public charities) is in effect for the taxable year.

"(b) EXCESS LOBBYING EXPENDITURES.—For purposes of this section, the term 'excess lobbying expenditures' means, for a taxable year, the greater of—

"(1) the amount by which the lobbying expenditures made by the organization during the taxable year exceed the lobbying nontaxable amount for such organization for such taxable year, or

"(2) the amount by which the grassroots expenditures made by the organization during the taxable year exceed the grassroots nontaxable amount for such organization for such taxable year.

"(c) DEFINITIONS.—For purposes of this section—

"(1) LOBBYING EXPENDITURES.—The term 'lobbying expenditures' means expenditures for the purpose of influencing legislation (as defined in subsection (d)).

"(2) LOBBYING NONTAXABLE AMOUNT.—The lobbying nontaxable amount for any organization for any taxable year is the lesser of (A) $1,000,000 or (B) the amount determined under the following table:

"If the exempt purpose expenditures are—	The lobbying nontaxable amount is—
Not over $500,000	20 percent of the exempt purpose expenditures.
Over $500,000 but not over $1,000,000	$100,000, plus 15 percent of the excess of the exempt purpose expenditures over $500,000.
Over $1,000,000 but not over $1,500,000	$175,000, plus 10 percent of the excess of the exempt purpose expenditures over $1,000,000.
Over $1,500,000	$225,000, plus 5 percent of the excess of the exempt purpose expenditures over $1,500,000.

"(3) GRASS ROOTS EXPENDITURES.—The term 'grassroots expenditures' means expenditures for the purpose of influencing legislation (as defined in subsection (d) without regard to paragraph (1)(B) thereof).

"(4) GRASS ROOTS NONTAXABLE AMOUNT.—The grass roots nontaxable amount for any organization for any taxable year is 25 percent of the lobbying nontaxable amount (determined under paragraph (2)) for such organization for such taxable year.

"(d) INFLUENCING LEGISLATION.—

"(1) GENERAL RULE.—Except as otherwise provided in paragraph (2), for purposes of this section, the term 'influencing legislation' means—

"(A) any attempt to influence any legislation through an attempt to affect the opinions of the general public or any segment thereof, and

"(B) any attempt to influence any legislation through communication with any member or employee of a legislative body, or with any other government official or employee who may participate in the formulation of the legislation.

"(2) Exceptions.—For purposes of this section, the term 'influencing legislation', with respect to an organization, does not include—

"(A) making available the results of nonpartisan analysis, study, or research;

"(B) providing of technical advice or assistance (where such advice would otherwise constitute the influencing of legislation) to a governmental body or to a committee or other subdivision thereof in response to a written request by such body or subdivision, as the case may be;

"(C) appearances before, or communications to, any legislative body with respect to a possible decision of such body which might affect the existence of the organization, its powers and duties, its tax-exempt status, or the deduction of contributions to the organization;

"(D) communications between the organization and its bona fide members with respect to legislation or proposed legislation of direct interest to the organization and such members, other than communications described in paragraph (3); and

"(E) any communication with a government official or employee, other than—

"(i) a communication with a member or employee of a legislative body (where such communication would otherwise constitute the influencing of legislation), or

"(ii) a communication the principal purpose of which is to influence legislation.

"(3) Communications with members.—

"(A) A communication between an organization and any bona fide member of such organization to directly encourage such member to communicate as provided in paragraph (1)(B) shall be treated as a communication described in paragraph (1)(B).

"(B) A communication between an organization and any bona fide member of such organization to directly encourage such member to urge persons other than members to communicate as provided in either subparagraph (A) or subparagraph (B) of paragraph (1) shall be treated as a communication described in paragraph (1)(A).

"(e) Other Definitions and Special Rules.—For purposes of this section—

"(1) Exempt purpose expenditures.—

"(A) In general.—The term 'exempt purpose expenditures' means, with respect to any organization for any taxable year, the total of the amounts paid or incurred by such organization to accomplish purposes described in section 170(c)(2)(B) (relating to religious, charitable, educational, etc., purposes).

"(B) Certain amounts included.—The term 'exempt purpose expenditures' includes—

"(i) administrative expenses paid or incurred for purposes described in section 170(c)(2)(B), and

"(ii) amounts paid or incurred for the purpose of influencing legislation (whether or not for purposes described in section 170(c)(2)(B)).

"(C) Certain amounts excluded.—The term 'exempt purpose expenditures' does not include amounts paid or incurred to or for—

"(i) a separate fundraising unit of such organization, or

"(ii) one or more other organizations, if such amounts are paid or incurred primarily for fundraising.

"(2) Legislation.—The term 'legislation' includes action with respect to Acts, bills, resolutions, or similar items by the Congress, any State legislature, any local council, or similar governing body, or by the public in a referendum, initiative, constitutional amendment, or similar procedure.

"(3) Action.—The term 'action' is limited to the introduction, amendment, enactment, defeat, or repeal of Acts, bills, resolutions, or similar items.

"(4) Depreciation, etc., treated as expenditures.—In computing expenditures paid or incurred for the purpose of influencing legislation (within the meaning of subsection (b)(1) or (b)(2)) or exempt purpose expenditures (as defined in paragraph (1)), amounts properly chargeable to capital account shall not be taken into account. There shall be taken into account a reasonable allowance for exhaustion, wear and tear, obsolescence, or amortization. Such allowance shall be computed only on the basis of the straight-line method of depreciation. For purposes of this section, a determination of whether an amount is properly chargeable to capital account shall be made on the basis of the principles that apply under subtitle A to amounts which are paid or incurred in a trade or business.

"(f) Affiliated Organizations.—

"(1) In general.—Except as otherwise provided in paragraph (4), if for a taxable year two or more organizations described in section 501(c)(3) are members of an affiliated group of organizations as defined in paragraph (2), and an election under section 501(h) is effective for at least one such organization for such year, then—

"(A) the determination as to whether excess lobbying expenditures have been made and the determination as to whether the expenditure limits of section 501(h)(1) have been exceeded shall be made as though such affiliated group is one organization,

"(B) if such group has excess lobbying expenditures, each such organization as to which an election under section 501(h) is effective for such year shall be treated as an organization which has excess lobbying expenditures in an amount which equals such organization's proportionate share of such group's excess lobbying expenditures,

"(C) if the expenditure limits of section 501(h)(1) are exceeded, each such organization as to which an election under section 501(h) is effective for such year shall be treated as an organization which is not described in section 501 (c)(3) by reason of the application of 501(h), and

"(D) subparagraphs (C) and (D) of subsection (d)(2), paragraph (3) or subsection (d), and clause (i) of subsection (e)(1)(C) shall be applied as if such affiliated group were one organization.

"(2) Definition of affiliation.—For purposes of paragraph (1), two organizations are members of an affiliated group of organizations but only if—

"(A) the governing instrument of one such organization requires it to be bound by decisions of the other organization on legislative issues, or

"(B) the governing board of one such organization includes persons who—

'(i) are specifically designated representatives of another such organization or are members of the governing board, officers, or paid executive staff members of such other organization, and

(ii) by aggregating the vote, have sufficient voting power to cause or prevent action on legislative issues by the first organization.

(3) Different taxable years.—If members of an affiliated group of organizations have different taxable years, their expenditures shall be computed for purposes of this section in a manner to be prescribed by regulations promulgated by the Secretary.

"(4) Limited control.—If two or more organizations are members of an affiliated group of organizations (as defined in paragraph (2) without regard to subparagraph (B) thereof), no two members of such affiliated group are affiliated (as defined in paragraph (2) without regard to subparagraph (A) thereof), and the governing instrument of no such organization requires it to be bound by decisions of any of the other such organizations on legislative issues other than as to action with respect to Acts, bills, resolution, or similar items by the Congress, then—

"(A) in the case of any organization whose decisions bind one or more members of such affiliated group, directly or indirectly, the determination as to whether such organization has paid or incurred excess lobbying expenditures and the determination as to whether such organization has exceeded the expenditure limits of section 501(h)(1) shall be made as though such organization has paid or incurred those amounts paid or incurred by such members of such affiliated group to influence legislation with respect to Acts, bills, resolutions, or similar items by the Congress, and

"(B) in the case of any organization to which subparagraph (A) does not apply, but which is a member of such affiliated group, the determination as to whether such organization has paid or incurred excess lobbying expenditures and the determination as to whether such organization has exceeded the expenditure limits of section 501(h)(1) shall be made as though such organization is not a member of such affiliated group.".

(c) Disallowance of Deduction for Contribution to Influence Legislation.—Section 170(f) (relating to disallowance of charitable contribution deductions in certain cases) is amended by striking out paragraph (6) and inserting in lieu thereof the following:

"(6) Deductions for out-of-pocket expenditures.—No deduction shall be allowed under this section for an out-of-pocket expenditure made by any person on behalf of an organization described in subsection (c) (other than an organization described in section 501(h)(5) (relating to churches, etc.)) if the expenditure is made for the purpose of influencing legislation (within the meaning of section 501(c)(3)).".

(d) Technical Amendments.—

(1) Amendments conforming to new section 501(h).—

(A) Section 501(c)(3) is amended by striking out "no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation," and inserting in lieu thereof "no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation (except as otherwise provided in subsection (h)),".

(B) The following sections are amended by striking out "no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation," each place it appears and inserting in lieu thereof in each such place "which is not disqualified for tax exemption under section 501(c)(3) by reason of attempting to influence legislation,":

(i) section 170(c)(2)(D) (relating to the definition of charitable contributions);

(ii) section 2055(a)(2) (relating to transfers for public, charitable, and religious uses);

(iii) section 2106(a)(2)(A)(ii) (relating to transfers for public, charitable, and religious uses);

(iv) section 2522(a)(2) (relating to charitable and similar gifts of citizens or residents); and

(v) section 2522(b)(2) (relating to charitable and similar gifts of nonresidents).

(C) Sections 2055(a)(3) and 2106(a)(2)(A)(iii) (relating to transfers for public, charitable, and religious uses) are amended by striking out "no substantial part of the activities of such trustee or trustees, or of such fraternal society, order, or association, is carrying on propaganda, or otherwise attempting, to influence legislation," each place it appears and inserting in lieu thereof in each such place "such trust, fraternal society, order, or association would not be disqualified for tax exemption under section

501(c)(3) by reason of attempting to influence legislation,".

(2) AMENDMENTS CONFORMING TO NEW CHAPTER 41.—

(A) Paragraph (6) of section 275(a) (denying deductions for certain taxes) is amended to read as follows:

"(6) Taxes imposed by chapters 41, 42, and 43.".

(B) Section 6104(c)(1)(B) (relating to notification of state officers regarding taxes imposed on certain exempt organizations), is amended by striking out "chapter 42" and inserting in lieu thereof "chapter 41 or 42".

(C) Section 6161(b) (relating to extensions of time for paying tax) is amended—

(i) in paragraph (1) by striking out "42 or" and inserting in lieu therof "41, 42, or"; and

(ii) in the second sentence by striking out "42, or chapter 43," and inserting in lieu thereof "41, 42, or 43,".

(D) Section 6201(d) (relating to assessment authority) is amended by striking out "chapter 42, and chapter 43 taxes" and inserting in lieu thereof "and certain excise taxes".

(E) Section 6211(a) (defining deficiency) is amended by striking out "chapters 42" and inserting in lieu thereof "chapters 41, 42,".

(F) The following sections are amended by striking out "chapter 42" each place it appears and inserting in lieu thereof in each such place "chapter 41, 42,";

(i) subsections (a) and (b)(2) of section 6211 (defining deficiency);

(ii) section 6212(a) (relating to notice of deficiency);

(iii) section 6213(a) (relating to restrictions applicable to deficiencies and petitions to Tax Court);

(iv) subsections (c) and (d) of section 6214 (relating to determinations by Tax Court);

(v) section 6344(a)(1) (relating to cross references);

(vi) section 6501(e)(3) (relating to limitations on assessment and collection);

(viii) subsections (a) and (b)(1) of section 6512 (relating to limitations in case of petition to Tax Court); and

(viii) section 7422(e) (relating to civil actions for refund).

(G) Section 6212 (relating to notice of deficiency) is amended—

(i) in subsection (b)(1) by striking out "chapter 42" each place it appears and inserting in lieu thereof in each such place "chapter 41, chapter 42"; and

(ii) in subsection (c)(1) by striking out "of chapter 43 tax for the same taxable years," and inserting in lieu thereof "of chapter 41 tax for the same taxable year, of chapter 43 tax for the same taxable year,".

(H) The headings of section 6214(c) (relating to determinations by Tax Court) and 6601(c) (relating to interest on underpayments, etc.) are amended by striking out "CHAPTER 42" and inserting in lieu thereof in each such place "CHAPTER 41, 42,".

(3) AMENDMENTS TO TABLES OF CHAPTERS AND SECTIONS.—

(A) The table of chapters for subtitle D is amended by inserting before the item relating to chapter 42 the following:

"CHAPTER 4. Public charities.".

(B) The table of sections for part I of subchapter F of chapter 1 is amended by adding at the end thereof the following:

"SEC. 504. Status after organization ceases
to qualify for exemption under
section 501(c)(3) because of
substantial lobbying.".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply—

(1) except as otherwise sepcified in paragraph (2), in the case of amendments to subtitle A, to taxable years beginning after December 31, 1976;

(2) in the case of the amendment made by subsection (a)(2), to activities occurring after the date of the enactment of this Act;

(3) in the case of amendments to chapter 11, to the estates of decedents dying after December 31, 1976;

(4) in the case of amendments to chapter 12, to gifts in calendar years beginning after December 31, 1976;

(5) in the case of amendments to subtitle D, to taxable years beginning after December 31, 1976; and

(6) in the case of amendments to subtitle F, on and after the date of the enactment of this Act.

SEC. 2504. TAX LIENS, ETC., NOT TO CONSTITUTE ACQUISITION INDEBTEDNESSES.

(a) Section 514(c)(2) (relating to property acquired subject to mortgages, etc.) is amended by adding at the end thereof the following new subparagraph:

"(C) LIENS FOR TAXES OR ASSESSMENTS.—Where State law provides that—

"(i) a lien for taxes, or

"(ii) a lien for assessments,

made by a State or a political subdivision thereof attaches to property prior to the time when such taxes or assessments become due and payable, then such lien shall be treated as similar to a mortgage (within the meaning of subparagraph (A)) but only after such taxes or assessments become due and payable and the organization has had an opportunity to pay such taxes or assessments in accordance with State law.".

(b) The amendment made by this section shall apply to taxable years ending after December 31, 1969.

SEC. 2505. EXTENSION OF SELF-DEALING TRANSSITION RULES FOR PRIVATE FOUNDATIONS.

(a) EXTENSION OF RULE.—Section 101(l)(2)(B) of the Tax Reform Act of 1969 is amended by striking out "January 1, 1975" and inserting in lieu thereof "January 1, 1977".

(b) EFFECTIVE DATE.—The amendment made by this section applies to dispositions made after the date of enactment of this Act.

SEC. 2506. PRIVATE OPERATING FOUNDATIONS; IMPUTED INTEREST.

(a) PRIVATE OPERATING FOUNDATIONS. Section 4942(j)(3)(B)(ii) (relating to the definition of certain types of private operating foundations) is amended by striking out "an amendment not less than two-thirds of its minimum investment return (as defined in subsection (e))," and inserting in lieu thereof "an amount not less than 3 percent of the amount by which the amount determined under subsection (e)(1)(A) exceeds the amount determined under subsection (e)(1)(B).".

(b) ELECTION.—

(1) IN GENERAL.—Section 4942(j)(3) is further amended by adding at the end thereof the following new subparagraph:

"(C) In the case of an organization substantially all the activities of which are library activities or museum activities which elects, in such manner and at such time as the Secretary by regulation prescribes, to have this subparagraph apply, subparagraph (B)(ii) shall be applied by substituting '5 percent' for '3 percent'. The election shall apply to all taxable years that—

"(i) begin after the taxable year in which the election is made, and

"(ii) end before the election is revoked in accordance with regulations prescribed by the Secretary.".

(2) CONFORMING AMENDMENT.—Section 4940(a) (relating to tax on investment income of private foundations) is amended by adding at the end thereof the following new sentence: "The tax imposed by this subsection shall not be imposed on an operating foundation (as defined in section 4942(j)(3)) for a taxable year to which the election described in subparagraph (C) of 4942(j)(3) applies.".

(c) IMPUTED INTEREST.—Section 4942(f)(2) (relating to income modifications) is amended—

(1) by striking out "and" at the end of subparagraph (B),

(2) by striking out the period at the end of subparagraph (C) and inserting in lieu thereof "; and", and

(3) by adding at the end thereof the following new subparagraph:

"(D) section 483 (relating to imputed interest) shall not apply in the case of a binding contract made in a taxable year beginning before January 1, 1970.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

SEC. 2507. ARCHITECTURAL AND TRANSPORTATIONAL BARRIERS.

(a) IN GENERAL.—Subsection (b), (c), and (d) of section 190 (relating to expenditures to remove architectural and transportational barriers to the handicapped and elderly), as added by section 1324(a) of this Act, are amended to read as follows:

"(b) DEFINITIONS.—For purposes of this section—

"(1) ARCHITECTURAL AND TRANSPORTATIONAL BARRIER REMOVAL EXPENSES.—The term 'architectural and transportational barrier removal expense' means an expenditure for the purpose of making any facility or public transportation vehicle owned or leased by the taxpayer for use in connection with his trade or business more accessible to, and usable by, handicapped and elderly individuals.

"(2) QUALIFIED ARCHITECTURAL AND TRANSPORTATIONAL BARRIER REMOVABLE EXPENSE.—The term 'qualified architectural and transportational barrier removable expense' with respect to any such facility or public transportation vehicle means an architectural or transportational barrier removal expense with respect to which the taxpayer establishes, to the satisfaction of the Secretary, that the resulting removal of any such barrier meets the standards promulgated by the Secretary with the concurrence of the Architectural and Transportation Barriers Compliance Board and set forth in regulations prescribed by the Secretary.

"(3) HANDICAPPED INDIVIDUAL.—The term 'handicapped individual' means any individual who has a physical or mental disability (including, but not limited to, blindness or deafness) which for such individual constitutes or results in a functional limitation to employment, or who has any physical or mental impairment (including, but not limited to, a sight or hearing impairment) which substantially limits one or more major life activities of such individual.

"(c) LIMITATION.—The deduction allowed by subsection (a) for any taxable year shall not exceed $25,000.

"(d) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the provisions of this section within 180 days after the date of enactment of the Tax Reform Act of 1976.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the day after the date of enactment of this Act.

Mr. TALMADGE. Mr. President, on each Senator's desk there is a green book, "Supplemental Report to H.R. 10612," dated July 20, 1976. If Senators will turn to page III, on line 3, the pending amendment consists of D, No. 1 under title XXV, and on page 4 thereof, No 7 c, e, f, g, and h, and No. 10.

I know of no opposition thereto.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. TALMADGE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. MANSFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. TALMADGE. Mr. President, I ask for the yeas and nays on title XXV as amended.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the time on the vote be limited to 10 minutes.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. FORD. Mr. President, I understand that the Senator from Maine has an amendment on title XXV and I have an amendment on title XXV. I am willing for the Senator from Maine to proceed.

Mr. TALMADGE. I did not understand what the Senator from Kentucky said.

Mr. FORD. Mr. President, I have an amendment that covers title XXV.

Mr. TALMADGE. Mr. President, I ask unanimous consent that the amendment be in order after the vote on the amendment covering title XXV.

Mr. FORD. After the vote?

Mr. TALMADGE. Yes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BUMPERS. Mr. President, I apologize for not following this more closely but, first of all, does title XXV have the sliding scale capital gains in it?

Mr. TALMADGE. No, we are not putting it in.

Mr. BUMPERS. No.

How about hospital cooperatives to do their own laundry?

Mr. TALMADGE. That is not in.

Mr. BUMPERS. I thank the Senator.

Mr. RIBICOFF. I am grateful that the Finance Committee approved section 2512 of the Tax Reform Act, my proposal to impose specific limits on the amount of money that public charities could spend on legislative activities. For purposes of clarification, it should be noted that the language of the new section 501 (9) (5) (B) wherein reference is made to "an integrated auxiliary of a church or of a convention or association of churches" was in no way intended as either approval or disapproval of the proposed definition of "integrated auxiliaries" under section 6033(a) (2) (A) of the Internal Revenue Code now being considered by the Internal Revenue Service. It is my understanding that more than 80 religious groups filed objections to the regulation as proposed by the Service.

Moreover, the Service recently conducted a public hearing on the proposed regulation and is now in the process of considering the testimony received at that hearing and determining what its next steps will be with reference to the proposed regulation. Under these circumstances, therefore, it was not our intention in using the phrase "integrated auxiliary" to indicate either approval or disapproval of the proposed regulation.

Mr. DOLE. Mr. President, earlier this spring, I introduced a bill (S. 3316) which provided an immediate income tax deduction to taxpayers who remove architectural and transportational barriers from property which is used in connection with their trade or business. The bill gained considerable support within the Senate, and Senators Percy, Beall, Javits, Stafford, Humphrey, Leahy, Bayh, Griffin, Clark, Hugh Scott, Bartlett, Gravel, and Huddleston joined as cosponsors of the bill.

The architectural barriers amendment in H.R. 10612 offers a unique opportunity to businessmen who want to make their businesses accessible to the handicapped and elderly, but who lack the necessary incentive to do so. Previous laws which have attempted to force barrier removal have not been altogether successful. By offering a deduction as a financial incentive, I am hopeful that taxpayers will take advantage of this provision, and will modify their property so that the disabled, including deaf and blind Americans, might be able to circulate within society, and become economically, socially, and culturally involved in the community.

The Finance Committee agreed without opposition to include in the committee bill the Dole-Mondale compromise, which made slight modifications to my original legislation, S. 3316. The compromise contained three new provisions—the most significant was to set a $25,000 limit on the amount of deduction that could be claimed by the taxpayer. In addition, it stipulated that regulations must be promulgated within 180 days of enactment of the bill, and provided that before the provision is renewed after its initial 3-year period expires, oversight hearings must be held to determine what effect the deduction has had.

The cost factor of this amendment is slight, and almost negligible in comparison to its potential cost benefit. The joint Committee on Internal Revenue Taxation estimated that the lost revenue would be $11 million the first year, and $10 million the second. However, if handicapped and elderly persons are granted access into the mainstream of day-to-day living, then this initial cost will be offset many times over as their purchasing power and employment opportunities are realized.

I urge the Senate to retain this provision in the Tax Reform Act of 1976. Although it was not included in the House tax bill, a similar piece of legislation was introduced in the House earlier this year, and gained almost 100 cosponsors, which indicates sizable support. In addition, the provision has received widespread endorsement from many handicapped and elderly interest groups, and all feel that it represents a long-awaited breakthrough for the disabled. I am hopeful that others in the Senate will agree.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment, title XXV. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. NELSON. Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. The Senate will come to order. The clerk will suspend until the Senate is in order.

The clerk will resume.

Mr. NELSON. Mr. President, there are still Senators conversing in the aisles. May we have order before we proceed with the rollcall?

The PRESIDING OFFICER. The Senate will be in order.

The clerk will resume calling the roll.

The assistant legislative clerk resumed and concluded the call of the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Nevada (Mr. Cannon), the Senator from California (Mr. Cranston), the Senator from Mississippi (Mr. Eastland), the Senator from Michigan (Mr. Philip A. Hart), the Senator from Indiana (Mr. Hartke), the Senator from Colorado (Mr. Haskell), the Senator from Kentucky (Mr. Huddleston), the Senator from Louisiana (Mr. Johnston), the Senator from Massachusetts (Mr. Kennedy), the Senator from Vermont (Mr. Leahy), the Senator from Wyoming (Mr. McGee), the Senator from Montana (Mr. Metcalf), the Senator from Minnesota (Mr. Mondale), the Senator from New Mexico (Mr. Montoya), the Senator from Utah (Mr. Moss), the Senator from Missouri (Mr. Symington), and the Senator from California (Mr. Tunney) are necessarily absent.

Mr. HUGH SCOTT. I announce that the Senator from Tennessee (Mr. Baker), the Senator from Tennessee (Mr. Brock), the Senator from Arizona (Mr. Goldwater), the Senator from Michigan (Mr. Griffin), the Senator from Nebraska (Mr. Hruska), the Senator from Vermont (Mr. Stafford), and the Senator from Ohio (Mr. Taft), are necessarily absent.

The result was announced—yeas 76, nays 0, as follows:

[Rollcall Vote No. 446 Leg.]

YEAS—76

Abourezk
Allen
Bartlett
Bayh
Beall
Bellmon
Bentsen
Biden
Brooke
Buckley
Bumpers
Burdick
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Case
Chiles
Church
Clark
Culver
Curtis
Dole
Domenici
Durkin
Eagleton
Fannin
Fong
Ford
Garn
Glenn
Gravel
Hansen
Hart, Gary
Hatfield
Hathaway
Helms
Hollings
Humphrey
Inouye
Jackson
Javits
Laxalt
Long
Magnuson
Mansfield
Mathias
McClellan
McClure
McGovern
McIntyre
Morgan
Muskie
Nelson
Nunn
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Scott,
  William L.
Sparkman
Stennis
Stevens
Stevenson
Stone
Talmadge
Thurmond
Tower
Weicker
Williams
Young

NAYS—0

NOT VOTING—24

Baker
Brock
Cannon
Cranston
Eastland
Goldwater
Griffin
Hart, Philip A.
Hartke
Haskell
Hruska
Huddleston

Johnston
Kennedy
Leahy
McGee
Metcalf
Mondale
Montoya
Moss
Stafford
Symington
Taft
Tunney

So title XXV was agreed to.

Mr. TALMADGE. Mr. President, I move to reconsider the vote by which title XXV was agreed to.

Mr. LONG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MANSFIELD. Mr. President, will the Senator yield to me?

Mr. TALMADGE. I yield to the distinguished Senator.

Mr. MANSFIELD. Mr. President, for the information of the Senate, to the best of my knowledge and the knowledge of the managers of the bill on both sides, there will be no further rollcall votes this afternoon.

There are, however, two amendments to be offered by the distinguished Senator from Maine (Mr. Hathaway) and one to be offered by the distinguished Senator from Kentucky (Mr. Ford).

I understand they are noncontroversial.

Mr. TALMADGE. They are noncontroversial and we are prepared to accept them on voice vote.

Mr. MANSFIELD. So I say to the Senate, take it from there.

Mr. JAVITS. Mr. President, there seems to be some confusion with the journal clerk as to whether unanimous consent was included in the unanimous consent of Senator Long respecting title VIII, and was actually approved by the Senate.

So I make it again at this time, and I am reading from the Record, Mr. President:

> Second, Mr. President, I had an amendment in—I have not mentioned this to the Senator, but I am sure he will agree. I had an amendment in at the same time respecting artists deductions. We took it down in order to try to work it out and redraft it. I ask unanimous consent to include the fact that I may re-offer that amendment to this particular title.

Which was title VIII.

Mr. President, I ask that unanimous consent.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. I thank my colleague.

Mr. TALMADGE. Mr. President, as the majority leader stated, I know of only three other amendments. I think all three are noncontroversial. The Senator from Maine has two and I believe the Senator from Kentucky has one.

TITLE VIII—UP AMENDMENT NO. 279

Mr. HATHAWAY. Mr. President, I call up an amendment I have at the desk to title VIII. I ask unanimous consent to go back to title VIII.

The PRESIDING OFFICER. Without objection, it is so ordered, and the amendment will be stated.

The assistant legislative clerk read as follows:

> The Senator from Maine (Mr. Hathaway) for himself and Senators Kennedy, Muskie, McIntyre, and Durkin, proposes an unprinted amendment numbered 279.

Mr. HATHAWAY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> At the end of title 8 add the following new section:
>
> Sec. 808 (a) That section 1177(a) of U.S.C. 46 shall be amended to read as follows:
>
> (a) Any citizen of the United States owning or leasing one or more eligible vessels (as defined in subsection (k) (1) of this section) may enter into an agreement with the Secretary of Commerce under, and as provided in, this section to establish a capital construction fund (hereinafter in this section referred to as the "fund") with respect to any or all of such vessels. Any agreement entered into under this section shall be for the purpose of providing replacement vessels, additional vessels, or reconstructured vessels, built in the United States and documented under the laws of the United States for operation in the United States foreign, Great Lakes, or noncontiguous domestic trade or in the fisheries of the United States and all other U.S. commercial fishing vessels about two net tons, and shall provide for the deposit in the fund of the amounts agreed upon as necessary or appropriate to provide for qualified withdrawals under subsection (f) of this section. The deposits in the fund, and all withdrawals from the fund, whether qualified or nonqualified, shall be subject to such conditions and requirements as the Secretary of Commerce may by regulations prescribe or are set forth in such agreements; except that the Secretary of Commerce may not require any person to deposit in the fund for any taxable year more than 50 percent of that portion of such person's income for such year (computed in the manner provided in subsection (b) (1) (A) of this section) which is attributable to the operation of the agreement vessels.
>
> (b) that section 1177(k) (1) (B) of USC 46 shall be amended to include after, "United States," the following "commercial fishing vessels about two net tons, and.".
>
> (c) that section 1177(k) (2) (B) of USC 46 shall be amended to include after "United States," the following: "commercial fishing vessels above two net tons, and.".

Mr. HATHAWAY. Mr. President, the purpose of this amendment is simply to reduce the requirement of the capital construction account that applies to vessels of 5 tons or more, down to 2 tons or more.

This would allow smaller fishing boats to get the advantage of the capital construction fund that other larger boats have.

Mr. TALMADGE. Mr. President, I have discussed the amendment with the distinguished Senator from Maine, and the staff, and the ranking member of the committee on the minority side.

We think it is a good amendment. We are prepared to accept it.

Mr. DURKIN. Will the Senator yield?

Mr. TALMADGE. I yield.

Mr. DURKIN. I would like to add my remarks to those of the Senator from Maine.

I think it is an incentive to help the fishing industry in the Northeast.

I appreciate the fact that the leadership and the chairman are willing to accept it.

Mr. TALMADGE. Mr. President, we are prepared to vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Maine.

The amendment was agreed to.

UP AMENDMENT NO. 280

Mr. HATHAWAY. Mr. President, I call up an unprinted amendment which I send to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

> The Senator from Maine (Mr. Hathaway) proposes an unprinted amendment No. 280.

Mr. HATHAWAY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> At the appropriate place in the bill add the following new section:
>
> Sec. . Tax Incentives Study.
>
> (a) Study.—The Joint Committee on Internal Revenue Taxation, in consultation with the Treasury, shall make a full and complete study and comparative analysis of the cost effectiveness of different kinds of tax incentives, including an analysis and study of the most effective way to use tax cuts in a period of business recession to provide a stimulus to the economy.
>
> (b) Report.—The Joint Committee on Internal Revenue Taxation, in consultation with the Treasury, shall submit to the Committee on Finance of the Senate and to the Committee on Ways and Means of the House of Representatives such interim reports as it deems advisable and a final report of its study and investigation together with its recommendations, including recommendations for legislation, as it deems advisable.
>
> (c) Reporting Date.—The Final Report called for in subsection (6) of this section shall be submitted no later than Sept. 30, 1977.

Mr. HATHAWAY. Mr. President, the purpose of this amendment would be to call upon the joint committee to do a study of the cost effectiveness of different kinds of tax incentives, as well as a study of the most effective way to use tax cuts in a period of business recession to provide a stimulus to the economy.

We spend billions here in the Congress for "tax incentives" and billions more for "tax cuts to stimulate the economy" with very little background as to what the best tax incentives really are or what the effect of tax cuts on the economy really is. Yet, this is exactly the kind of information we need to make these kinds of decisions.

There are studies which have been made in all these areas by various research groups and institutioins, but these are usually identified with particular interest groups or organizations. We should be able to draw on our own staff expertise for the information to make these kinds of decisions.

I cannot imagine any reason to oppose this amendment. All of us favor the most efficient use of our Federal tax dollars. The information provided by a study of this kind would just enable us to make sure that tax incentives, like other forms of Federal expenditures, would be as cost effective as we know how to make them.

Mr. TALMADGE. Mr. President, I have discussed the amendment with the chairman of the committee and the ranking minority member. We are prepared to accept the amendment.

Mr. HATHAWAY. I thank the floor manager for accepting the amendment.

The PRESIDING OFFICER. The question is on agreeing to the second amendment of the Senator from Maine.

The amendment was agreed to.

AMENDMENT NO. 1639

Mr. FORD. Mr. President, I call up my amendment No. 1639.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Kentucky (Mr. Ford) proposes amendment numbered 1639.

The amendment is as follows:

On page 361, line 17, insert the following:

Sec. 1307. Certain Education Programs for Members of the Uniformed Services.

(a) In General.—Section 117 (relating to scholarships and fellowship grants) is amended by adding at the end thereof the following new subsection:

"(c) Uniformed Services Education Programs.—Any amount received from appropriated funds as a scholarship, including the value of contributed services and accommodations, by a member of a uniformed service who is receiving training under the Armed Forces health professions scholarship program (or any other program determined by the Secretary or his delegate to have substantially similar objectives) from an educational institution (as defined in section 151(e) (4)) shall be treated as a scholarship under subsection (a), whether that member is receiving training while on active duty or in an off-duty or inactive status, and without regard to whether a period of active duty is required of the member as a condition of receiving those payments. For purposes of this subsection, the term 'uniformed service' has the meaning given it by section 101(3) of title 37, United States Code.".

(b) Effective Date.—The amendment made by this section applies to taxable years beginning after December 31, 1975.

Mr. TALMADGE. Mr President, will the Senator ask unanimous consent that this amendment appear in title XXIII?

Mr. FORD. I do. It amends section 2304 under title XXIII.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 281

Mr. FORD. Mr. President, I send a substitute for my amendment to the desk and ask unanimous consent that the reading be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place strike out section 2304 and insert the following new section:

Sec. 2304. Application of Section 117 to Certain Education Programs for Members of the Uniform Services.

Subsection (c) of section 4 of the Act entitled an Act to suspend until the close of June 30, 1975, the duty on certain carboxymethyl cellulose salts, and for other purposes, approved October 26, 1974 (88 Stat. 1457; Public Law 93–483), is amended by striking out "and 1975" and inserting in lieu thereof the following: "and 1975, and, in the case of a member of a uniformed service receiving training in programs described in subsection (a) during calendar year 1976, to amounts received during calendar years 1976, 1977, 1978, and 1979.".

Mr. FORD. Mr. President, earlier I, together with several of my colleagues, have submitted amendment No. 1639 to grant a permanent tax exemption for the Armed Forces health professions scholarship program. I am convinced that the scholarship program is our most feasible way of meeting our health manpower needs for the Armed Forces, and it should be as attractive as possible.

The Senate previously passed health manpower legislation which provided for civilian scholarships. The scholarships are almost identical to the Armed Forces health professions scholarships. The question of taxation on the value of these scholarships was not resolved—and, thus, an inequitable situation was created for persons accepting these scholarships.

I urge the Finance Committee to consider legislation to resolve this question uniformly for both programs. In order that this question can be considered, I have submitted an unprinted amendment that grants an exemption to those individuals now in the Armed Forces health professions scholarship program. Although this does not grant a permanent exemption, it does assure the exemption for those individuals who accepted the scholarship with the expectation that it was exempt and further it gives adequate time for legislation on both civilian and Armed Forces health profession scholarships.

The excellent staff of the Finance Committee assisted me in drafting this amendment. This allows tax exemption for the Armed Forces health professions scholarship program, for which tax exemption has not been resolved. The civilian scholarship programs have received tax exemption. I think we ought to treat them the same. I believe the floor manager of the bill is willing to accept this amendment.

Mr. TALMADGE. Will the Senator yield at this point?

Mr. FORD. I yield.

Mr. TALMADGE. As I understand the nature of the amendment it is to treat the Armed Forces scholarship programs in the same manner as civilian scholarship programs, taxwise. They would be treated identically.

Mr. FORD. The Senator is correct. It is only for those scholarships to be given this year, for the next 3 years, and that would give the Senate and the Finance Committee the opportunity to look at the total programs. With this amendment we can look at it next year and make a judgment on what we should do in the future.

Mr. TALMADGE. Is the amendment a substitute for the printed amendment?

Mr. FORD. That is correct.

Mr. TALMADGE. I have discussed this amendment with the distinguished Senator from Kentucky, with the staff, and with the distinguished Senator from Nebraska. We are prepared to accept it.

Mr. FORD. I call for the question, Mr. President.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. FORD. I thank the distinguished floor manager.

Mr. TALMADGE. Insofar as I know, Mr. President, this concludes action on the tax bill for today. I suggest the absence of a quorum.

Mr. HATHAWAY. Will the Senator withhold that?

Mr. TALMADGE. I withhold that.

Mr. HATHAWAY. Mr. President, I ask unanimous consent that a motion to table the motion to reconsider the vote on the last three amendments be granted.

Mr. TALMADGE. I ask that the vote be en bloc.

The PRESIDING OFFICER. The Chair, in his capacity as Senator from Alaska, suggests the absence of a quorum.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. TALMADGE. Mr. President I think the Senator from Maine has a motion to make.

The PRESIDING OFFICER (Mr. Allen). A quorum call is in progress.

Mr. TALMADGE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATHAWAY. Mr. President, I have been advised to ask unanimous consent that it be considered that motion to reconsider the votes by which the last two amendments were agreed to had been made, and that both were tabled.

Mr. TALMADGE. That does not include the fishing amendment.

Mr. HATHAWAY. That does not include the fishing amendment.

Mr. TALMADGE. I ask unanimous consent that they be considered en bloc.

The PRESIDING OFFICER. Is there objection? Without objection, the motions to lay on the table will be considered as having been agreed to.

Mr. HATHAWAY. I thank the Chair.

Mr. TALMADGE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGE OF THE FLOOR—H.R. 14262

Mr. LEAHY. Mr. President, I ask unanimous consent that on Monday, when the defense appropriation bill is brought up, Douglas Racine and Chris Raleigh of my office have the privilege of the floor throughout the discussion and votes on that measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR ADJOURNMENT UNTIL 9 A.M. ON MONDAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in adjournment until the hour of 9 o'clock on Monday morning next.

The PRESIDING OFFICER (Mr. STEVENS). Without objection, it is so ordered.

ORDER DESIGNATING PERIOD FOR THE TRANSACTION OF ROUTINE MORNING BUSINESS ON MONDAY, AND ORDER TO LAY ASIDE TEMPORARILY THE UNFINISHED BUSINESS DURING CONSIDERATION OF H.R. 14262

Mr. ROBERT C. BYRD. I ask unanimous consent that on Monday, after the two leaders or their designees have been recognized under the standing order, there be a period for the transaction of routine morning business of not to exceed 20 minutes, with statements therein limited to 5 minutes each, at the conclusion of which the Senate proceed to the consideration of Calendar No. 983, H.R. 14262, defense appropriations, and that the unfinished business be laid aside temporarily and remain in a temporarily laid aside status until the completion of action on H.R. 14262 on Monday, or until the close of business on Monday, whichever is the earlier.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will convene at 9 o'clock on Monday morning.

After the two leaders or their designees have been recognized under the standing order, there will be a period for the transaction of routine morning business of not to exceed 20 minutes, with statements therein limited to 5 minutes each, at the conclusion of which the Senate will take up H.R. 14262, the defense appropriations bill.

Votes will occur on amendments and motions in relation thereto, and votes may occur throughout the day. I doubt that any rollcall will occur before 10:30 or 11 o'clock a.m.

The Senate will not resume the consideration of the tax bill until the defense appropriations bill is disposed of.

ADJOURNMENT UNTIL 9 A.M. ON MONDAY

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until the hour of 9 o'clock on Monday morning next.

The motion was agreed to; and at 3:47 p.m. the Senate adjourned until Monday, August 2, 1976, at 9 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate July 30, 1976:

IN THE AIR FORCE

The following officer to be placed on the retired list in the grade indicated under the provisions of section 8962, title 10 of the United States Code:

To be lieutenant general

Lt. Gen. Richard M. Hoban, [redacted]FR (major general, Regular Air Force), U.S. Air Force.

IN THE ARMY

The U.S. Army Reserve officers named herein for appointment as Reserve commissioned officers of the Army, under the provisions of title 10, United States Code, sections 593(a), 3371 and 3374:

To be major general

Brig. Gen. Charles Beach, Jr., [redacted].

Brig. Gen. James Benjamin Middleton, [redacted].

Brig. Gen. Jean Henry Trahin, [redacted].

To be brigadier general

Col. Charles Dounley Barrett, [redacted].

Col. Robert Dewey Bay, [redacted].

Col. Thomas George Crowe, [redacted].

Col. Sidney Lawrence Foulston, Jr., [redacted].

Col. Wayne Paul Jackson, [redacted].

Col. Wilbur Fields Joffrion, [redacted].

Col. Sabe McClain Kennedy, Jr., [redacted].

Col. Roger Hays Lehman, [redacted].

Col. Thomas Pomphert Nally, [redacted].

Col. Allen Driscoll Rooke, Jr., [redacted].

Col. Stanford Joyner Skinner, [redacted].

Col. Alden Earl Stilson, Jr., [redacted].

Col. Thomas Walton, Jr., [redacted].

The Army National Guard of the United States officers named herein for appointment as Reserve commissioned officers of the Army under the provisions of title 10, United States Code, sections 593(a) and 3385:

To be major general

Brig. Gen. James Andrew Mickle, [redacted].

Brig. Gen. Otto Ervin Scherz, [redacted].

To be brigadier general

Col. James Monroe Bullock, Jr., [redacted].

Col. James Reed Crites, [redacted].

Col. Joseph Dominic Flato, Jr., [redacted].

Col. John B. Garrett, [redacted].

Col. Joseph Andrew Healey, [redacted].

Col. Gerald Theodore Sajer, [redacted].

Col. Buster Edward Smith, [redacted].

The Army National Guard of the United States officers named herein for appointment as Reserve commissioned officers of the Army under the provisions of title 10, United States Code, sections 593(a) and 3392:

To be brigadier general

Col. Charles Edward Dixon, [redacted].

Col. James Deane Mashburn, [redacted].

Col. Paul Warren Reed, Jr., [redacted].

IN THE NAVY

Vice Adm. Robert C. Gooding, U.S. Navy, for appointment to the grade of vice admiral on the retired list pursuant to the provisions of title 10, United States Code, section 5233.

Adm. Noel A. M. Gayler, U.S. Navy, for appointment to the grade of admiral on the retired list pursuant to the provisions of title 10, United States Code, section 5233.

The following named officers of the Navy for permanent promotion to the grade of rear admiral:

LINE

Samuel H. Packer II
William L. Hinkle
Cabell S. Davis, Jr.
Bruce Keener III
Thomas W. McNamara
Robert M. Collins
James B. Morin
Henry D. Arnold
John V. Josephson
William M. Callaghan, Jr.
James H. Scott
Lee Baggett, Jr.
Paul C. Gibbons, Jr.
Mark P. Frudden
Stanley J. Anderson
Gordon J. Schuller
James A. Sagerholm
William H. Rowden
Ross N. Williams
Wayne E. Meyer
William Nivison
Francis F. Manganaro
Edward F. Welch, Jr.
Charles J. Youngblade
John C. Barrow
Thomas J. Kilcline
Paul H. Engel
Edward S. Briggs
Robert L. Walters
Allen E. Hill
William A. Gureck
William B. Warwick
Thomas H. Replogle
William R. Smedberg IV
Robert E. Morris
Ernest R. Seymour
Thomas L. Malone, Jr.

SUPPLY CORPS

Paul L. Foster
Harold C. Donley, Jr.

CIVIL ENGINEER CORPS

Charles C. Heid, Jr.

DENTAL CORPS

William L. Darnall, Jr.
Paul E. Farrel

IN THE MARINE CORPS

The following-named officers of the Marine Corps for permanent appointment to the grade of major general:

Edward A. Wilcox
William J. White
Noah C. New
Philip D. Shutler
Richard E. Carey
George W. Smith
John H. Miller
Harold A. Hatch
Edward J. Bronars
Paul X. Kelley

The following-named officers of the Marine Corps for permanent appointment to the grade of brigadier general:

David M. Twomey
Kenneth L. Robinson, Jr.
Joseph V. McLernan
Hal W. Vincent
Robert J. Chadwick
Stephen G. Olmstead
Bernard E. Trainor
Marc A. Moore
Robert E. Haebel
Lawrence F. Sullivan
Francis X. Quinn
William H. Fitch
Alfred M. Gray, Jr.
Leo J. Leblanc, Jr.
James J. Day

The following-named officer of the Marine Corps Reserve for permanent appointment to the grade of major general:

Allan T. Wood

The following-named officers of the Marine Corps Reserve for permanent appointment to the grade of brigadier general:

Robert S. Raisch
Keith A. Smith

IN THE AIR FORCE

Air Force nominations beginning Dennis W. Confer, to be captain, and ending Patricia E. Bradley, to be lieutenant colonel, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on June 24, 1976.

Air Force nominations beginning George B. Aaron, to be lieutenant colonel, and ending Derrel C. Parsley, to be lieutenant colonel, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on July 2, 1976.

Air Force nominations beginning Lee D. Badgett, to be permanent professor, U.S. Air Force Academy, and ending Santiago Laurel, to be lieutenant colonel, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on July 19, 1976.

Air Force nominations beginning Robert S. Adams, to be colonel, and ending Earl R. Kiernan, to be colonel, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on July 19, 1976.

Army nominations beginning Paul D. Bennett, to be second lieutenant, and ending

Garland R. Zeiher, to be second lieutenant, which nominations were received by the Senate and appeared in the Congressional Record on June 24, 1976.

Army nominations beginning Donald C. Bludworth, to be colonel, and ending Robert A. Perrich, to be first lieutenant, which nominations were received by the Senate and appeared in the Congressional Record on July 2, 1976.

Army nominations beginning Claude W. Abate, to be major, and ending Mary J. Wise, to be major, which nominations were received by the Senate and appeared in the Congressional Record on July 2, 1976.

Navy nominations beginning Paul F. Abrahams, to be commander, and ending Robert M. Zorn, Jr., to be commander, which nominations were received by the Senate and appeared in the Congressional Record on June 24, 1976.

Navy nominations beginning Charles Ervin Aaker, to be lieutenant commander, and ending Frances Elizabeth Zuber, to be lieutenant commander, which nominations were received by the Senate and appeared in the Congressional Record on June 24, 1976.

Navy nominations beginning Robert W. Bush, to be ensign, and ending Charles H. Dennis II, to be commander, which nominations were received by the Senate and appeared in the Congressional Record on July 2, 1976.

HOUSE OF REPRESENTATIVES—*Friday, July 30, 1976*

The House met at 10 o'clock a.m.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

Beloved, follow not that which is evil, but that which is good. He that doeth good is of God.—III John I: 11.

Eternal Father, from whom comes all wisdom, power, and love, grant unto the Members of this House these gifts that their plans and their procedures may be in accordance with Thy will and for the highest good of our beloved country.

Be graciously near them as they live through this day. They are weak, Thou art strong. Grant them Thy strength. They are little, Thou art great. Grant them Thy greatness of spirit. They know very little, Thou knowest all things. Grant them wisdom to walk in Thy worthy ways.

Inspire them with good thoughts, grand hopes, and great visions. Brighten their joys, purify their purposes, move through their motives that Thy spirit may lead them in right, sound, and good paths: for Thy glory and the good of our human family. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment a bill of the House of the following title:

H.R. 14514. An act to permit a State which no longer qualifies for hold-harmless treatment under the supplemental security income program to elect to remain a food stamp cashout State upon condition that it pass through a part of the 1976 cost-of-living increase in SSI benefits and all of any subsequent increases in such benefits.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 13035) entitled "An act to amend the National Sea Grant College and Program Act of 1966," disagreed to by the House; agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. Magnuson, Mr. Hollings, Mr. Stevens, Mr. Pell, Mr. Cranston, and Mr. Javits to be the conferees on the part of the Senate.

The message also announced that the Senate disagrees to the amendments of the House to the bill (S. 5) entitled "An act to provide that meetings of Government agencies shall be open to the public, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. Ribicoff, Mr. Muskie, Mr. Metcalf, Mr. Chiles, Mr. Percy, Mr. Javits, and Mr. Roth to be the conferees on the part of the Senate.

The message also announced that the Senate had passed a joint resolution of the following title, in which the concurrence of the House is requested:

S.J. Res. 208. Joint resolution recognizing the contributions of school volunteers.

OUTER CONTINENTAL SHELF AMENDMENTS

(House amendments to the Senate bill S. 521, which were omitted from the Record of July 21, 1976, read as follows:)

Strike out all after the enacting clause, and insert:

That this Act may be cited as the "Outer Continental Shelf Lands Act Amendments of 1976".

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TITLE I—FINDINGS AND PURPOSES WITH RESPECT TO MANAGING THE RESOURCES OF THE OUTER CONTINENTAL SHELF

FINDINGS

Sec. 101. The Congress finds and declares that—

(1) the demand for energy in the United States is increasing and will continue to increase for the foreseeable future;

(2) domestic production of oil and gas has declined in recent years;

(3) the United States has become increasingly dependent upon imports of oil from foreign nations to meet domestic energy demand;

(4) increasing reliance on imported oil is not inevitable, but is rather subject to significant reduction by increasing the development of domestic resources of energy supply;

(5) consumption of natural gas in the United States has greatly exceeded additions to domestic reserves in recent years;

(6) technology is or can be made available which will allow significantly increased domestic production of oil and gas without harm or damage to the environment;

(7) the Outer Continental Shelf contains significant quantities of petroleum and natural gas and is a vital national resource reserve which must be carefully managed so as to realize fair value, to preserve and maintain competition, and to reflect the public interest;

(8) there presently exists a variety of technological, economic, environmental, administrative, and legal problems which tend to retard the development of the oil and natural gas resources of the Outer Continental Shelf;

(9) environmental and safety regulations relating to activities on the Outer Continental Shelf should be reviewed in light of current technology and information;

(10) the development, processing, and distribution of the oil and gas resources of the Outer Continental Shelf, and the siting of related energy facilities, may cause adverse impacts on the various coastal States and other States;

(11) policies, plans, and programs developed by coastal and other States in response to activities on the Outer Continental Shelf cannot anticipate and ameliorate such adverse impacts unless such States are provided with timely access to information regarding activities on the Outer Continental Shelf and an opportunity to review and comment on decisions relating to such activities;

(12) because of the national interest served by the development and production of the resources of the Outer Continental Shelf, the Federal Government should provide financial assistance to coastal and other States to assist them in planning for and ameliorating the impacts associated with such development and production;

(13) funds must be made available to pay for the prompt removal of any oil spilled or discharged as a result of activities on the Outer Continental Shelf and for any damages to public or private interests caused by such spills or discharges; and

(14) because of the possible conflicts between exploitation of the oil and gas resources in the Outer Continental Shelf and other uses of the marine environment, including fish and shellfish growth and recovery, and recreational activity, the Federal Government must assume responsibility for the minimization or elimination of any conflict associated with such exploitation.

PURPOSES

SEC. 102. The purposes of this Act are to—

(1) establish policies and procedures for managing the oil and natural gas resources of the Outer Continental Shelf in order to achieve national economic and energy policy goals, assure national security, reduce dependence on foreign energy sources, and maintain a favorable balance of payments in world trade;

(2) preserve, protect, and develop oil and natural gas resources in the Outer Continental Shelf in a manner which is consistent with the need (A) to make such resources available to meet the Nation's energy needs as rapidly as possible, (B) to balance orderly energy resource development with protection of the human, marine, and coastal environments, (C) to insure the public a fair and equitable return on the resources of the Outer Continental Shelf, and (D) to preserve and maintain free enterprise competition;

(3) encourage development of new and improved technology for energy resource production which will eliminate or minimize risk of damage to the human, marine, and coastal environments;

(4) provide States which are impacted by Outer Continental Shelf oil and gas exploration, development, and production with comprehensive assistance in order to anticipate and plan for such impact, and thereby to assure adequate protection of the human environment;

(5) assure that States have timely access to information regarding activities on the Outer Continental Shelf, and opportunity to review and comment on decisions relating to such activities, in order to anticipate, ameliorate, and plan for the impacts of such activities;

(6) assure that States which are directly affected by exploration, development, and production of oil and natural gas are provided an opportunity to participate in policy and planning decisions relating to management of the resources of the Outer Continental Shelf;

(7) minimize or eliminate conflicts between the exploration, development, and production of oil and natural gas, and the recovery of other resources such as fish and shellfish;

(8) provide financial assistance to States to assist them in planning for and ameliorating the impacts of activities on the Outer Continental Shelf;

(9) establish an oil spill liability fund to pay for the prompt removal of any oil spilled or discharged as a result of activities on the Outer Continental Shelf and for any damages to public or private interests caused by such spills or discharges; and

(10) insure that the extent of oil and natural gas resources of the Outer Continental Shelf is assessed at the earliest practicable time.

SUNSHINE IN GOVERNMENT

SEC. 103. (a) Each officer or employee of the Secretary of the Interior who—

(1) performs any function or duty under this Act or the Outer Continental Shelf Lands Act, as amended by this Act; and

(2) has any known financial interest in any person who (A) applies for or receives any permit or lease under, or (B) is otherwise subject to the provisions of, this Act or the Outer Continental Shelf Lands Act,

shall, beginning on February 1, 1977, annually file with the Secretary of the Interior a written statement concerning all such interests held by such officer or employee during the preceding calendar year. Such statement shall be available to the public.

(b) The Secretary of the Interior shall—

(1) act within ninety days after the date of enactment of this Act—

(A) to define the term "known financial interest" for purposes of subsection (a) of this section; and

(B) to establish the methods by which the requirement to file written statements specified in subsection (a) of this section will be monitored and enforced, including appropriate provisions for the filing by such officers and employees of such statements and the review by the Secretary of such statements; and

(2) report to the Congress on June 1 of each calendar year with respect to such disclosures and the actions taken in regard thereto during the preceding calendar year.

(c) In the rules prescribed in subsection (b) of this section, the Secretary may identify specific positions within the Department of the Interior which are of a nonregulatory or nonpolicymaking nature and provide that officers or employees occupying such positions shall be exempt from the requirements of this section.

(d) Any officer or employee who is subject to, and knowingly violates, this section, shall be fined not more than $2,500 or imprisoned not more than one year, or both.

TITLE II—AMENDMENTS TO THE OUTER CONTINENTAL SHELF LANDS ACT

DEFINITIONS

SEC. 201. (a) Paragraph (c) of section 2 of the Outer Continental Shelf Lands Act (43 U.S.C. 1331) is amended to read as follows:

"(c) The term 'lease' means any form of authorization which is issued under section 8 or maintained under section 6 of this Act and which authorizes exploration for, and development and production of, deposits of oil, gas, or other minerals;".

(b) Such section is further amended—

(1) in subsection (d), by striking out the period and inserting in lieu thereof a semicolon; and

(2) by adding at the end thereof the following new paragraphs:

"(e) The term 'coastal zone' means the coastal waters (including the lands therein and thereunder) and the adjacent shorelands (including the waters therein and thereunder), strongly influenced by each other and in proximity to the shorelines of the several coastal States, and includes islands, transitional and intertidal areas, salt marshes, wetlands, and beaches, which zone extends seaward to the outer limit of the United States territorial sea and extends inland from the shorelines to the extent necessary to control shorelands, the uses of which have a direct and significant impact on the coastal waters, and the inward boundaries of which may be identified by the several coastal States, pursuant to the authority of section 305(b)(1) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1454 (b)(1));

"(f) The term 'affected State' means, with respect to any program, plan, lease sale, or other activity, proposed, conducted, or approved pursuant to the provisions of this Act, any State—

"(1) the laws of which are declared, pursuant to section 4(a)(2) of this Act, to be the law of the United States for the portion of the outer Continental Shelf on which such activity is, or is proposed to be, conducted;

"(2) which is or is proposed to be directly connected by transportation facilities to any artificial island or structure referred to in section 4(a)(1) of this Act;

"(3) which is receiving, or in accordance with the proposed activity, will receive, oil for processing, refining, or transshipment which was extracted from the outer Continental Shelf and transported by means of vessels or by a combination of means including vessels;

"(4) which is designated by the Secretary as a State in which there is a substantial probability of significant impact on or damage to the coastal, marine, or human environment, or a State in which there will be significant changes in the social, governmental, or economic infrastructure, resulting from the exploration, development, and production of oil and gas anywhere on the outer Continental Shelf; or

"(5) in which the Secretary finds that because of such activity there is, or will be, a significant risk of serious damage, due to factors such as prevailing winds and currents, to the marine or coastal environment in the event of any oilspill, blowout, or release of oil or gas from vessels, pipelines, or other transshipment facilities;

"(g) The term 'marine environment' means the physical, atmospheric, and biological components, conditions, and factors which interactively determine the productivity, state, condition, and quality of the marine ecosystem, including the waters of the high seas, the contiguous zone, transitional and intertidal areas, salt marshes, and wetlands within the coastal zone and on the outer Continental Shelf of the United States;

"(h) The term 'coastal environment' means the physical, atmospheric, and biological components, conditions, and factors which interactively determine the productivity, state, condition, and quality of the terrestrial ecosystem from the shoreline inward to the boundaries of the coastal zone;

"(i) The term 'human environment' means the physical, esthetic, social, and economic components, conditions, and factors which interactively determine the state, condition, and quality of living conditions, recreation, air and water, employment, and health of those affected, directly or indirectly, by activities occurring in the outer Continental Shelf of the United States;

"(j) The term 'Governor' means the Governor of a State, or the person or entity designated by, or pursuant to, State law to exercise the powers granted to such Governor pursuant to this Act;

"(k) The term 'exploration' means the process of searching for oil, natural gas, or other minerals, including (1) geophysical surveys where magnetic, gravity, seismic, or other systems are used to detect or imply the presence of such resources, and (2) any drilling, whether on or off known geological structures, including the drilling of a well in which a discovery of oil or natural gas in commercial quantities is made, and the drilling of any additional delineation well after such discovery which is needed to delineate any reservoir and to enable the lessee to determine whether to proceed with development and production;

"(l) The term 'development' means those activities which take place following discovery of oil, natural gas, or other minerals in commercial quantities, including geophysical activity, drilling, platform construction, and operation of all on-shore support facilities, and which are for the purpose of ultimately producing the resources discovered;

"(m) The term 'production' means those activities which take place after the successful completion of any means for the removal of resources, including such removal, field operations, transfer of oil, natural gas, or other minerals to shore, operation monitoring, maintenance, and work-over drilling;

"(n) The term 'antitrust law' means—

"(1) the Act entitled 'An Act to protect trade and commerce against unlawful restraints and monopolies', approved July 2, 1890 (15 U.S.C. 1 et seq.);

"(2) the Act entitled 'An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes', approved October 15, 1914 (15 U.S.C. 12 et seq.);

"(3) the Federal Trade Commission Act (15 U.S.C. 41 et seq.);

"(4) sections 73 and 74 of the Act entitled 'An Act to reduce taxation, to provide revenue for the Government, and for other purposes', approved August 27, 1894 (15 U.S.C. 8 and 9); or

"(5) the Act of June 19, 1936, chapter 592 (15 U.S.C. 13, 13a, 13b, and 21a);

"(o) The term 'fair market value' means the value of any oil, gas, or other mineral (1) computed at a unit price equivalent to the average unit price at which such mineral was sold pursuant to a lease during the period for which any royalty or net profit share is accrued or reserved to the United States pursuant to such lease, or (2) if there were no such sales, or if the Secretary finds that there were an insufficient number of such sales to equitably determine such value, computed at the average unit price at which such mineral was sold pursuant to other leases in the same region of the Outer Continental Shelf during such period, or (3) if there were no sales of such mineral from such region during such period, or if the Secretary finds that there are an insufficient number of such sales to equitably determine such value, at an appropriate price determined by the Secretary; and

"(p) The term 'major Federal action' means any action or proposal by the Secretary which is subject to the provisions of section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332 (2)(C)).".

NATIONAL POLICY FOR THE OUTER CONTINENTAL SHELF

SEC. 202. Section 3 of the Outer Continental Shelf Lands Act (43 U.S.C. 1332) is amended to read as follows:

"SEC. 3. NATIONAL POLICY FOR THE OUTER CONTINENTAL SHELF.—It is hereby declared to be the policy of the United States that—

"(1) the subsoil and seabed of the outer Continental Shelf appertain to the United States and are subject to its jurisdiction, control, and power of disposition as provided in this Act;

"(2) this Act shall be construed in such a manner that the character of the waters above the outer Continental Shelf as high seas and the right to navigation and fishing therein shall not be affected;

"(3) the outer Continental Shelf is a vital national resource reserve held by the Federal Government for the public, which should be made available for orderly development, subject to environmental safeguards, in a manner which is consistent with the maintenance of competition and other national needs;

"(4) since exploration, development, and production of the mineral resources of the outer Continental Shelf will have significant impacts on coastal and non-coastal areas of the coastal States, and on other affected States, and, in recognition of the national interest in the effective management of the marine, coastal, and human environments—

"(A) such States may require assistance in protecting their coastal zones and other affected areas from any temporary or permanent adverse effects of such impacts; and

"(B) such States are entitled to an opportunity to participate, to the extent consistent with the national interest, in the policy and planning decisions made by the Federal Government relating to exploration for, and development and production of, mineral resources of the outer Continental Shelf;

"(5) the rights and responsibilities of all States to preserve and protect their marine, human, and coastal environments through such means as regulation of land, air, and water uses, of safety, and of related development and activity should be considered and recognized; and

"(6) operations in the outer Continental Shelf should be conducted in a safe manner by well-trained personnel using technology, precautions, and techniques sufficient to prevent or minimize the likelihood of blowouts, loss of well control, fires, spillages, physical obstruction to other users of the waters or subsoil and seabed, or other occurrences which may cause damage to the environment or to property, or endanger life or health.".

LAWS APPLICABLE TO THE OUTER CONTINENTAL SHELF

SEC. 203. (a) Section 4(a)(1) of the Outer Continental Shelf Lands Act (43 U.S.C. 1333 (a)(1)) is amended—

(1) by striking out "and fixed installations or other devices" and inserting in lieu thereof ", and all structures permanently or temporarily attached to the seabed,"; and

(2) by striking out "removing, and transporting resources therefrom" and inserting in lieu thereof "or producing resources therefrom, or any such installation or other device (other than a ship or vessel) for the purpose of transporting such resources".

(b) Section 4(a)(2) of such Act is amended to read as follows:

"(2)(A) To the extent that they are applicable and not inconsistent with this Act or with other Federal laws and regulations of the Secretary now in effect or hereafter adopted, the civil and criminal laws of each coastal State adjacent to the outer Continental Shelf, as in effect on the date of enactment of this paragraph, are hereby declared to be the law of the United States for that portion of the subsoil and seabed of the outer Continental Shelf, and those artificial islands, installations, and other devices referred to in paragraph (1) of this subsection, which would be within the area of such State if its boundaries were extended seaward to the outer margin of the outer Continental Shelf. After such date of enactment—

"(i) any change in any criminal law of such State shall be adopted as the law of the United States, for purposes of this paragraph, at the same time such change takes effect in such State; and

"(ii) any change in any civil law of such State during the five-year period beginning on such date of enactment shall be adopted as the law of the United States, for purposes of this paragraph, at the end of such five-year period, and any change during any subsequent five-year period shall be adopted in the same manner at the end of the five-year period in which such change occurs.

Within one year after the date of enactment of this paragraph, the President shall determine and publish in the Federal Register projected lines extending seaward and defining each such area. The President may, prior to such determination, establish procedures for settling any outstanding boundary disputes relating to the projection of such lines. All of such applicable and consistent State laws shall be administered and enforced by the appropriate officers and courts of the United States. State taxation laws shall not apply to the outer Continental Shelf.

"(B) Within one year after the date of enactment of this paragraph, the President shall establish procedures for settling any outstanding international boundary dispute respecting the outer Continental Shelf, including any dispute involving international boundaries between the jurisdictions of the United States and Canada and between the jurisdictions of the United States and Mexico.".

(c) Section 4(d) of such Act is amended to read as follows:

"(d) For the purposes of the National Labor Relations Act, any unfair labor practice, as defined in such Act, occurring upon any artificial island, installation, or other device referred to in subsection (a) of this section shall be deemed to have occurred within the judicial district of the coastal State, the laws of which apply to such artificial island, installation, or other device pursuant to such subsection, except that until the President determines the areas within which such State laws are applicable, the judicial district shall be that of the coastal State nearest the place of location of such artificial island, installation, or other device.".

(d) Section 4 of such Act is amended—

(1) in paragraph (1) of subsection (e), by striking out "the islands and structures referred to in subsection (a)", and inserting in lieu thereof "the artificial islands, installations, and other devices referred to in subsection (a)";

(2) in subsection (f), by striking out "artificial islands and fixed structures located on the outer Continental Shelf" and inserting in lieu thereof "the artificial islands, installations, and other devices referred to in subsection (a)"; and

(3) in subsection (g), by striking out "the artificial islands and fixed structures referred to in subsection (a)" and inserting in lieu thereof "the artificial islands, installations, and other devices referred to in subsection (a)".

(e) Section 4(e)(1) of such Act is amended by striking out "head" and inserting in lieu thereof "Secretary".

(f) Section 4(e)(2) of such Act is amended to read as follows:

"(2) The Secretary of the Department in which the Coast Guard is operating shall mark for the protection of navigation any artificial island, installation, or other device referred to in subsection (a) whenever the owner has failed suitably to mark such island, installation, or other device in accordance with regulations issued under this Act, and the owner shall pay the cost of such marking.".

(g) Section 4 of such Act is further amended by striking out subsection (b) and relettering subsections (c), (d), (e), (f), and (g) as subsections (b), (c), (d), (e), and (f), respectively.

OUTER CONTINENTAL SHELF EXPLORATION AND DEVELOPMENT ADMINISTRATION

SEC. 204. Section 5 of the Outer Continental Shelf Lands Act (43 U.S.C. 1334 et seq.) is amended to read as follows:

"SEC. 5. ADMINISTRATION OF LEASING OF THE OUTER CONTINENTAL SHELF.—(a) The Secretary shall administer the provisions of this Act relating to the leasing of the outer Continental Shelf and shall prescribe such regulations as necessary to carry out such provisions, and the Secretary may at any time prescribe and amend such rules and regulations as he determines to be necessary and proper in order to provide for the prevention of waste and conservation of the natural resources in the Outer Continental Shelf, and the protection of correlative rights therein. Such regulations shall, as of the date of their promulgation, apply to all operations conducted under any lease issued or maintained under the provisions of this Act and shall be in furtherance of the findings, purposes, and policies of this Act. In the enforcement of safety, environmental, and conservation laws and regulations, the Secretary shall cooperate with the relevant agencies of the Federal Government and of the affected States. At each stage in the formulation and promulgation of regulations, the Secretary shall request and give due consideration to the views of the Attorney General with respect to matters which may affect competition. The regulations prescribed by the Secretary under this subsection shall include, but not be limited to, provisions—

"(1) for the suspension or temporary prohibition of any operation or activity, including production, pursuant to any lease or permit (A) at the request of a lessee, in the interest of conservation, to facilitate proper development of a lease, or to allow for the unavailability of transportation facilities, or (B) if there is a threat of serious, irreparable or immediate harm or damage to life (including aquatic life), to property, to any mineral deposits (in areas leased or not yet leased), or to the marine, coastal, or human environment, and for the extension of any permit or lease affected by such suspension or prohibition by a period equivalent to the period of such suspension or prohibition, except that no permit or lease shall be so extended when such suspension or prohibition is the result of gross negligence or willful violation of such lease or permit, or of regulations issued concerning such lease or permit;

"(2) for the cancellation of any lease or permit, at any time, when it is determined, after hearing, that continued activity pursuant to such lease or permit would cause serious harm or damage, which would not decrease over a reasonable period of time, to life (including aquatic life), to property, to any mineral deposits (in areas leased or not yet leased), to the national security or defense, or the the marine, coastal, or human environment, except that the cancellation of any lease pursuant to such regulations (A) shall not occur unless and until operations under such lease or permit shall have been under suspension, or temporary prohibition, by the Secretary, with due extension of any lease or permit continuously for a period of five years, or for a lesser period upon request of the lessee, and (B) shall entitle the lessee to receive such compensation as he shows to the Secretary as being equal to the lesser of (i) the fair value of the canceled rights as of the date of cancellation, taking account of both anticipated revenues from the lease and anticipated costs, including costs of compliance with all applicable regulations and operating orders, liability for clean-up costs or damages, or both, in the case of oil spill, and all other costs reasonably anticipated on the lease, or (ii) the excess, if any, over the lessee's revenues, from the lease (plus interest thereon from the date of receipt to date of reimbursement) of all consideration paid for the lease and all direct expenditures made by the lessee after the date of issuance of such lease and in connection with exploration or development, or both, pursuant to the lease (plus interest on such consideration and such expenditures from the date of payment to date of reimbursement);

"(3) for the assignment or relinquishment of leases;

"(4) for the sale of royalty, net profit share, or purchased oil and gas accruing or reserved to the United States in accordance with section 27 of this Act;

"(5) for the utilization of different bidding systems in accordance with section 8(a) of this Act;

"(6) for the procedures for citizen suits in accordance with section 23 of this Act;

"(7) for the establishment of and procedures for Regional Outer Continental Shelf Advisory Boards in accordance with section 19 of this Act;

"(8) for unitization, pooling, and drilling agreements;

"(9) for subsurface storage of oil and gas other than by the United States Government;

"(10) for drilling or easements necessary for exploration, development, and production; and

"(11) for the prompt and efficient exploration and development of a lease area.

"(b) The issuance and continuance in effect of any lease, or of any extension, renewal, or replacement of any lease, under the provisions of this Act shall be conditioned upon compliance with the regulations issued under this Act if the lease is issued under the provisions of section 8 hereof, or with the regulations issued under the provisions of section 6(b), clause (2), hereof, if the lease is maintained under the provisions of section 6 hereof.

"(c) Whenever the owner of a nonproducing lease fails to comply with any of the provisions of this Act, or of the lease, or of the regulations issued under this Act if the lease is issued under the provisions of section 8 hereof, or of the regulations issued under the provisions of section 6(b), clause (2), hereof, if the lease is maintained under the provisions of section 6 hereof, such lease may be canceled by the Secretary, subject to the right of judicial review as provided in this Act, if such default continues for the period of thirty days after mailing of notice by registered letter to the lease owner at his record post office address.

"(d) Whenever the owner of any producing lease fails to comply with any of the provisions of this Act, or of the lease, or of the regulations issued under this Act if the lease is issued under the provisions of section 8 hereof, or of the regulations issued under the provisions of section 6(b), clause (2), hereof, if the lease is maintained under the provisions of section 6 hereof, such lease may be forfeited and canceled by an appropriate proceeding in any United States district court having jurisdiction under the provisions of this Act.

"(e) Rights-of-way through the submerged lands of the outer Continental Shelf, whether or not such lands are included in a lease maintained or issued pursuant to this Act, may be granted by the Secretary for pipeline purposes for the transportation of oil, natural gas, sulfur, or other mineral under such regulations and upon such conditions as to the application therefor and the survey, location, and width thereof as may be prescribed by the Secretary, and upon the express condition that such oil or gas pipelines shall transport or purchase without discrimination, oil or natural gas produced from said lands in the vicinity of the pipeline in such proportionate amounts as the Federal Power Commission, in the case of gas, and the Interstate Commerce Commission, in consultation with the Administrator of the Federal Energy Administration, in the case of oil, may, after a full hearing with due notice thereof to the interested parties, determine to be reasonable, taking into account, among other things, conservation and the prevention of waste. Failure to comply with the provisions of this section or the regulations and conditions prescribed under this section shall be ground for forfeiture of the grant in an appropriate judicial proceeding instituted by the United States in any United States district court having jurisdiction under the provisions of this Act.

"(f)(1) The lessee shall produce any oil or gas, or both, obtained pursuant to an approved development and production plan, at rates consistent with any rule or order issued by the President in accordance with any provision of law.

"(2) If no rule or order referred to in paragraph (1) has been issued, the lessee shall produce such oil or gas, or both, at rates consistent with any regulation promulgated by the Secretary which is to assure the maximum rate of production which is efficient and safe for the duration of the activity covered by the approved plan. The Secretary may permit the lessee to vary such rates if he finds that such variance is necessary.

"(g) After the date of enactment of this section, no holder of any oil and gas lease issued or maintained pursuant to this Act shall be permitted to flare natural gas from any well unless the Secretary finds that there is no practicable way to complete production of such gas, or that such flaring is necessary to alleviate a temporary emergency situation or to conduct testing or work-over operations.".

REVISION OF BIDDING AND LEASE ADMINISTRATION

SEC. 205. (a) Subsections (a) and (b) of section 8 of the Outer Continental Shelf Lands Act (43 U.S.C. 1337) are amended to read as follows:

"(a)(1) The Secretary is authorized to grant to the highest responsible qualified bidder or bidders by competitive bidding, under regulations promulgated in advance, any oil and gas lease on submerged lands of the outer Continental Shelf which are not covered by leases meeting the requirements of subsection (a) of section 6 of this Act. The bidding shall be by sealed bid and, at the discretion of the Secretary, on the basis of—

"(A) cash bonus bid with a royalty at not less than 12½ per centum fixed by the Secretary in amount or value of the production saved, removed, or sold;

"(B) variable royalty bid based on a per centum of the production saved, removed, or sold, with a cash bonus as determined by the Secretary;

"(C) cash bonus bid with diminishing or sliding royalty based on such formulae as the Secretary shall determine as equitable to encourage continued production from the lease area as resources diminish, but not less than 12½ per centum at the beginning of the lease period in amount or value of the production saved, removed, or sold;

"(D) cash bonus bid with a fixed share of the net profits of no less than 30 per centum to be derived from the production of oil and gas from the lease area;

"(E) fixed cash bonus with the net profit share reserved as the bid variable;

"(F) cash bonus bid with a royalty at no less than 12½ per centum fixed by the Secretary in amount or value of the production saved, removed, or sold and a per centum share of net profits of no less than 30 per centum to be derived from the production of oil and gas from the lease area;

"(G) cash bonus bids for 1 per centum shares of an undivided working interest in the lease area, such shares to be awarded at a price which is equal to the average price per share of the highest responsible qualified bids tendered for not more than 100 per centum of the lease area, with a fiscal share of the net profits derived from the production of oil and gas pursuant to a lease to be determined by the Secretary; or

"(H) cash bonus bids for 1 per centum shares of an undivided working interest in the lease area, such shares to be awarded at a price which is equal to the average price per share of the highest responsible qualified bids tendered for not more than 100 per centum of the lease area, and with a fixed or diminishing royalty based upon the production derived from operation pursuant to the lease.

"(2) The Secretary may, in his discretion, defer any part of the payment of the cash bonus, as authorized in paragraph (1) of this subsection, according to a schedule announced at the time of the announcement of the lease sale, but such payment shall be made in total no later than five years from the date of the lease sale or no later than the date of the authorization of development and production, whichever date first occurs.

"(3) The Secretary may, in order to promote increased production on the lease area, through direct, secondary, or tertiary recovery means, reduce or eliminate any royalty or net profit share set forth in the lease for such area.

"(4) At least ninety days prior to notice of any lease sale under subparagraphs (D), (E), (F), and (G) of paragraph (1), the Secretary shall by regulation establish rules to govern the calculation of net profits. In the event of any dispute between the United States and a lease concerning the calculation of the net profits under the regulation issued pursuant to this paragraph, the burden of proof shall be on the lessee. In determining the attribution of profits as between oil and gas, costs shall be allocated proportionately to the value of the respective amount of oil and gas produced.

"(5)(A) In the case of any lease area offered for sale pursuant to subparagraph (G) or (H) of paragraph (1), if the accepted bid per share of any person for a per centum working interest in such lease area is less than the average price per share of all accepted bids, and such person does not, within such time as the Secretary shall by regulation prescribe, agree to pay such price, then—

"(i) the Secretary shall return to such person any deposit made with respect to such bid; and

"(ii) any right acquired and any obligation incurred by such person with respect to such bid shall be deemed to be canceled.

"(B)(i) In the event the Secretary sells less than 100 per centum of the interest in the lease area offered under subparagraph (G) or (H) of paragraph (1), he shall offer the additional shares to the bidders who purchased shares pursuant to the initial bidding process. The Secretary shall sell such additional shares to the bidders who have elected to purchase under this clause, except that the maximum number of additional shares which any such bidder may purchase shall be in proportion to his bidded interest.

"(ii) To the extent that any per centum of the interest in the lease area offered under such subparagraph (G) or (H) remains unsold after the Secretary uses the procedure required by clause (i) of this subparagraph, he shall repeat such procedure for such period of time as he determines to be reasonable.

"(iii) To the extent that any per centum of the interest in the lease area offered under such subparagraph (G) or (H) remains unsold after the Secretary uses the procedure required under clauses (i) and (ii) of this subparagraph, the Secretary shall offer any remaining shares for sale to the highest interested bidder whose bid was not accepted in the initial bidding process, except that any such bidder may not purchase a number of shares which exceeds the number for which he originally bid: The Secretary shall repeat such procedure for such period of time as he determines to be reasonable.

"(iv) Any additional shares of the interest in a lease area which are sold by the Secretary pursuant to this subparagraph shall be sold at a price equal to the price at which shares of the interest in such lease area were sold pursuant to the initial bidding process.

"(C) The Secretary shall, by regulation, provide for the cancellation of any lease sale held pursuant to subparagraph (G) or (H) of paragraph (1), if the total amount to be paid for all shares sold does not represent a fair return to the Federal Government.

"(D) The Secretary shall establish standards and procedures for the formation of a joint working group in an area leased pursuant to subparagraph (G) or (H) of paragraph (1), and shall approve one or more operators for, and the terms of management of, activities on such lease area. The United States, represented by the Secretary, shall be considered a nonvoting party to any joint working group formed pursuant to such standards and procedures.

"(6)(A) The Secretary shall utilize the bidding alternatives from among those authorized by this subsection, in accordance with subparagraphs (B) and (C) of this paragraph, so as to accomplish the purposes and policies of this Act, including (i) providing a fair return to the Federal Government, (ii) increasing competition, (iii) assuring competent and safe operations, (iv) avoiding undue speculation, (v) avoiding unnecessary delays in exploration, development, and production, (vi) discovering and recovering oil and gas, (vii) developing new oil and gas resources in an efficient and timely manner, and (viii) limiting administrative burdens on government and industry. In order to select a bid to accomplish these purposes and policies, the Secretary may, in his discretion, require each bidder to submit bids for any area of the outer Continental Shelf in accordance with more than one of the bidding alternatives set forth in paragraph (1) of this subsection.

"(B) During the five-year period commencing on the date of enactment of this subsection, the Secretary may, in order to obtain statistical information to determine which bidding alternatives will best accomplish the purposes and national policies of this Act, require each bidder to submit bids for any area of the outer Continental Shelf in accordance with more than one of the bidding systems set forth in paragraph (1) of this subsection. For such statistical purposes, leases may be awarded using a bidding alternative selected at random or determined by the Secretary to be desirable for the acquisition of valid statistical data and otherwise consistent with the provisions of this Act.

"(C)(i) Except as provided in clause (ii), the bidding system authorized by subparagraph (A) of paragraph (1) of this subsection shall not be applied to more than 66⅔ per centum of the total area offered for lease each year, during the five-year period beginning on the date of enactment of this subsection, in each region where there has been no development of oil and gas prior to October 1, 1975, including the outer Continental Shelf region off southern California outside the Santa Barbara Channel.

"(ii) If, in any year following the date of enactment of this subsection, the Secretary finds that compliance with the limitation set forth in clause (i) would unduly delay efficient development of the oil and gas resources of the outer Continental Shelf, result in less than a fair return to the Federal Government, or result in a reduction of competition, he shall submit to the Senate and House of Representatives a report stating his specific findings and detailed reasons therefor. The Secretary may thereafter, for that year, exceed such limitation if either the Senate or the House of Representatives passes a resolution of approval of the Secretary's finding within thirty days after receipt of such report (not including days when Congress is not in session).

"(iii) Subsection (iv) to (xi) of this section are enacted by Congress as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such they are deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in the House in the case of resolutions described by this subparagraph; and they supersede other rules only to the extent that they are inconsistent therewith; and with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

"(iv) A resolution approving the request of the Secretary to exceed the limitation shall immediately be referred to a committee (and all resolutions with respect to the same request shall be referred to the same committee) by the President of the Senate or the Speaker of the House of Representatives, as the case may be.

"(v) If the Committee, to which has been referred any resolution approving the request of the Secretary to exceed the limitation has not reported the resolution at the end of 10 calendar days after its referral, it shall be in order to move either to discharge the committee from further consideration of the resolution or to discharge the committee from further consideration of any other resolution with respect to the same request which has been referred to the committee.

"(vi) A motion to discharge may be made only by an individual favoring the resolution, shall be highly privileged (except that it may not be made after the committee has reported a resolution with respect to the same recommendation), and debate thereon shall be limited to not more than 1 hour, to be divided equally between those favoring and those opposing the resolution. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

"(vii) If the motion to discharge is agreed to, or disagreed to, the motion may not be renewed, nor may another motion to discharge the committee be made with respect to any other resolution with respect to the same request.

"(viii) When the committee has reported, or has been discharged from further consideration of resolution as provided, it shall be at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion shall be highly privileged and shall not be debatable. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

"(ix) Debate on the resolution is limited to not more than 2 hours, to be divided equally between those favoring and those opposing the resolution. A motion further to limit debate is not debatable. An amendment to, or motion to recommit, the resolution is not in order, and it is not in order to move to reconsider the vote by which the resolution is agreed to or disagreed to.

"(x) Motions to postpone, made with respect to the discharge from committee, or the consideration of a resolution with respect to a request, and motions to proceed to the consideration of other business, shall be decided without debate.

"(xi) Appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution with respect to a request shall be decided without debate.

"(D) Within six months after the end of each fiscal year, the Secretary shall report to the Congress, as provided in section 15 of this Act, with respect to the use of the various bidding options provided for in this subsection. Such report shall include—

"(i) the schedule of all lease sales held during such year and the bidding system or systems utilized;

"(ii) the schedule of all lease sales to be held the following year and the bidding system or systems to be utilized;

"(iii) the benefits and costs associated with conducting lease sales using the various bidding systems;

"(iv) if applicable, the reasons why a particular bidding system has not been or will not be utilized;

"(v) if applicable, the reasons why more than 66⅔ per centum of the area leased in the past year, or to be offered for lease in the upcoming year, was or is to be leased under the bidding system authorized by subparagraph (A) of paragraph (1) of this subsection; and

"(vi) an analysis of the capability of each bidding system to accomplish the purposes and policies stated in subparagraph (A) of this pargraph.

"(7) The Secretary may, by regulation, permit submission of bids made jointly by or on behalf of two or more persons for an oil and gas lease under this Act unless more than one of the jont bidders, directly or indirectly, controls or is chargeable worldwide with an average daily production of one million six hundred thousand barrels a day or more, or the equivalent, in crude oil, natural gas, and liquefied petroleum products.

"(b) An oil and gas lease issued pursuant to this section shall—

"(1) be for a tract consisting of a compact area not exceeding five thousand seven hundred and sixty acres, as the Secretary may determine, unless the Secretary finds that a larger area is necessary to comprise a reasonable economic production unit;

"(2) be for a period of five years, and may if the Secretary so provides in the terms of the lease, be subject to an extension for a period of five additional years if the Secretary finds such extension is necessary to encourage exploration and development in areas of unusually deep water or adverse weather conditions, and as long thereafter as oil or gas may be produced from the area in paying quantities, or drilling or well reworking operations as approved by the Secretary, are conducted thereon, except that no such extension shall be granted if the Secretary finds that the lessee has not exercised due diligence in the maximum, efficient, and safe development of all wells and resources pursuant to the lease;

"(3) require the payment of amount or value as determined by one of the bidding procedures set forth in subsection (a) of this section;

"(4) entitle the lessee to explore, develop, and produce the oil and gas resources contained within the lease area, conditioned upon due diligence requirements and the approval of the development and production plan required by this Act;

"(5) provide for suspension or cancellation of the lease pursuant to section 5 of this Act; and

"(6) contain such rental and other provisions as the Secretary may prescribe at the time of offering the area for lease.".

(b) Section 8 of the Outer Continental Shelf Lands Act (43 U.S.C. 1337) is further amended by striking out subsection (j), by relettering subsections (c) through (i), and all references thereto, as subsections (g) through (m), respectively, and by inserting immediately after subsection (b) the following new subsections:

"(c) No lease may be issued for an initial five-year period or extended for five additional years, until at least thirty days after the Secretary notifies the Attorney General of the United States and the Federal Trade Commission of the proposed issuance or extension. Such notification shall contain such information as the Attorney General and the Federal Trade Commission may require in order to advise the Secretary as to whether such lease or extension would create or maintain a situation inconsistent with the antitrust laws. If the Attorney General or the Federal Trade Commission advises the Secretary, within such thirty-day period, that a proposed lease or extension may create or maintain a situation inconsistent with the antitrust laws, the Secretary may issue such lease or allow such extension only if—

"(1) he commences a public hearing on the record within sixty days after the date of the receipt of such advice, in accordance with chapter 5 of title 5, United States Code; and

"(2) he makes a finding, pursuant to such hearing, that the overall benefit to the public from the issuance or extension of such lease clearly outweighs any possible adverse effect upon competition and that there is no reasonable alternative which would have a lesser adverse effect upon competition.

"(d) No lease may be issued or extended if the Secretary finds that an application for a lease, or a lessee, is not meeting due diligence requirements on other leases. Innocent or nonnegligent parties to any joint lease which is cancelled due to the failure of one or more partners to exercise due diligence on other leases may seek damages for such loss from the responsible partner or partners.

"(e) Nothing in this Act shall be deemed to convey to any person, association, corporation, or other business organization immunity from civil or criminal liability, or to create defenses to actions, under any antitrust law.

"(f)(1) At the time of soliciting nominations for the leasing of lands within three miles of the seaward boundary of any coastal State, the Secretary shall provide the Governor of any such State—

"(A) an identification and schedule of the areas and regions offered for leasing;

"(B) all information concerning the geographical, geological, and ecological characteristics of such regions;

"(C) an estimate of the oil and gas reserves in the areas proposed for leasing; and

"(D) an identification of any field, geological structure, or trap located within three miles of the seaward boundary of a coastal State.

"(2) Upon receipt of nominations for any lands within three miles of the seaward boundary of any coastal State, the Secretary shall offer the Governor of such coastal State the opportunity to jointly lease any area which the Secretary approves for lease which he concludes, in consultation with the Governor of the coastal State may contain a field, geological structure, or trap which may be located within both Federal and State owned lands.

"(3) Within ninety days after the offer by the Secretary pursuant to paragraph (2) of this subsection, the Governor shall elect whether to jointly lease any such area. If the Governor accepts the offer, the Secretary and Governor shall jointly offer such area for lease under mutually acceptable terms which shall be consistent with the provisions of this Act, applicable regulations and, to the maximum extent practicable, with the applicable laws of the coastal State. If the Governor declines the offer, or if the parties cannot agree to such terms within a reasonable period of time, the Secretary may lease the federally owned portion of such area in accordance with this Act.

"(4) All bonuses, royalties, rents, and net profit shares obtained pursuant to a lease for lands within three miles of the seaward boundary of any coastal State, whether or not such lease is issued jointly by the Secretary and the Governor of such coastal State, shall be placed in an escrow account until such time as the Secretary and the Governor of such coastal State determine, on the basis of geological or other information, the proper rate of payments to be deposited in the treasuries of the Federal Government and such coastal State.".

OUTER CONTINENTAL SHELF OIL AND GAS EXPLORATION

SEC. 206. Section 11 of the Outer Continental Shelf Lands Act (43 U.S.C. 1340) is amended to read as follows:

"SEC. 11 OUTER CONTINENTAL SHELF OIL AND GAS EXPLORATION.—(a)(1) Any agency of the United States, and any person whom the Secretary by permit or regulation may authorize, may conduct geological and geophysical explorations in the outer Continental Shelf, which do not interfere with or endanger actual operations pursuant to any lease issued or maintained pursuant to this Act, and which are not unduly harmful to the marine environment.

"(2) The provisions of paragraph (1) of this subsection shall not apply to any person conducting explorations pursuant to an approved exploration plan on any area under lease to such person pursuant to the provisions of this Act.

"(b) Beginning ninety days after the date of enactment of this subsection, no exploration pursuant to any oil and gas lease issued or maintained under this Act may be undertaken by the holder of such lease, except in accordance with the provisions of this section.

"(c)(1) Prior to commencing exploration pursuant to any oil and gas lease issued or maintained under this Act, the holder thereof shall submit an exploration plan to the Secretary for approval. Such plan may apply to more than one lease held by a lessee in any one region of the outer Continental Shelf, or by a group of lessees acting under a unitization, pooling, or drilling agreement, and shall be approved by the Secretary if he finds that such plan is consistent with the provisions of this Act, regulations prescribed under this Act, and the provisions of such lease. The Secretary shall require such modifications of such plan as are necessary to achieve such consistency. The Secretary shall approve such plan, as submitted or modified, within thirty days of its submission, except that if the Secretary determines that (A) any proposed activity under such plan would result in any condition which would permit him to suspend such activity pursuant to regulations prescribed under section 5(a)(1) of this Act, and (B) such proposed activity cannot be modified to avoid such condition, he may delay the approval of such plan.

"(2) An exploration plan submitted under this subsection shall include, in the degree of detail which the Secretary may by regulation require—

"(A) a schedule of anticipated exploration activities to be undertaken;

"(B) a description of equipment to be used for such activities;

"(C) the general location of each well to be drilled; and

"(D) such other information deemed pertinent by the Secretary.

"(3) The Secretary may, by regulation, require that such plan be accompanied by a general statement of development and production intentions which shall be for planning purposes only and which shall not be binding on any party.

"(d) The Secretary may, by regulation, require any lessee operating under an approved exploration plan to obtain a permit prior to drilling any well in accordance with such plan.

"(e)(1) If a revision of an exploration plan approved under this subsection is submitted to the Secretary, the process to be used for the approval of such revision shall be the same as set forth in subsection (c) of this section.

"(2) All exploration activities pursuant to any lease shall be conducted in accordance with an approved exploration plan or an approved revision of such plan.

"(f) The Secretary may, within ninety days after the date of enactment of this section, provide for the approval under subsection (c) of any plan submitted prior to such date of enactment which he finds is in substantial compliance with the provisions of such subsection, and may require the submission of any additional information necessary to bring such plan into such compliance.

"(g) At least once in each frontier area, the Secretary shall seek qualified applicants to conduct geological explorations, including core and test drilling, for oil and gas resources in those areas and subsurface geological structures of the outer Continental Shelf which the Secretary, upon the basis of information available to him and advice of the Geological Survey of the Department of the Interior, regards as having the greatest likelihood of containing significant oil and gas accumulations.".

ANNUAL REPORT

SEC. 207. (a) Section 15 of the Outer Continental Shelf Lands Act (43 U.S.C. 1344) is amended to read as follows:

"SEC. 15. ANNUAL REPORT BY SECRETARY TO CONGRESS.—Within six months after the end of each fiscal year, the Secretary shall submit to the President of the Senate and the Speaker of the House of Representatives the following reports:

"(1) A report on the leasing and production program in the Outer Continental Shelf during such fiscal year, which shall include—

"(A) a detailed accounting of all moneys received and expended;

"(B) a detailed accounting of all exploration, exploratory drilling, leasing, development, and production activities;

"(C) a summary of management, supervision, and enforcement activities;

"(D) a list of all shut-in and flaring wells; and

"(E) recommendations to the Congress (i) for improvements in management, safety, and amount of production from leasing and operations in the outer Continental Shelf, and (ii) for resolution of jurisdictional conflicts or ambiguities.

"(2) A report, prepared after consultation with the Attorney General, with recommendations for promoting competition in the leasing of outer Continental Shelf lands, which shall include any recommendations or findings by the Attorney General and any plans for implementing recommended administrative changes and drafts of any proposed legislation, and which shall contain—

"(A) an evaluation of the competitive bidding systems permitted under the provisions of section 8 of this Act, and, if applicable, the reasons why a particular bidding system has not been utilized;

"(B) an evaluation of alternative bidding systems not permitted under section 8 of this Act, and why such system or systems should or should not be utilized;

"(C) an evaluation of the effectiveness of restrictions on joint bidding in promoting competition and, if applicable, any suggested administrative or legislative action on joint bidding;

"(D) an evaluation of present measures and a description of any additional measures to encourage entry of new competitors; and

"(E) an evaluation of present measures and a description of additional measures to increase the supply of oil and gas to independent refiners and distributors.

NEW SECTIONS OF THE OUTER CONTINENTAL SHELF LANDS ACT

SEC. 208. The Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) is amended by adding at the end thereof the following new sections:

"SEC. 18. OUTER CONTINENTAL SHELF LEASING PROGRAM.—(a) The Secretary, pursuant to procedures set forth in subsection (c), shall prepare and periodically revise, and maintain an oil and gas leasing program to implement the findings, purposes, and policies of this Act. The leasing program shall indicate as precisely as possible the size, timing, and location of leasing activity which he determines will best meet national energy needs for the five-year period following its approval or reapproval. Such leasing program shall be prepared and maintained in a manner consistent with the following principles:

"(1) Management of the outer Continental Shelf shall be conducted in a manner which considers economic, social, and environmental values of the renewable and nonrenewable resources contained in the outer Continental Shelf, and the potential impact of oil and gas exploration on other resource values of the outer Continental Shelf and the marine, coastal, and human environments.

"(2) Timing and location of exploration, development, and production of oil and gas among the oil- and gas-bearing physiographic regions of the outer Continental Shelf shall be based on a consideration of—

"(A) existing information concerning the geographical, geological, and ecological characteristics of such regions;

"(B) an equitable sharing of developmental benefits and environmental risks among the various regions;

"(C) the location of such regions with respect to, and the relative needs of, regional and national energy markets;

"(D) the location of such regions with respect to other uses of the sea and seabed, including fisheries, intracoastal navigation, existing or proposed sealanes, potential sites of deepwater ports, and other anticipated uses of the resources and space of the outer Continental Shelf;

"(E) the interest of potential oil and gas producers in the development of oil and gas resources as indicated by exploration or nomination;

"(F) laws, goals, and policies of affected States which have been specifically identified by the Governors of such States as relevant matters for the Secretary's consideration;

"(G) policies and plans promulgated by coastal States pursuant to the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.) which have been specifically identified by the Governors of such States as relevant matters for the Secretary's consideration;

"(H) recommendations and advice given by any Regional Outer Continental Shelf Advisory Board established pursuant to this Act; and

"(I) whether the oil and gas producing industry will have sufficient resources, including equipment and capital, to bring about the exploration, development, and production of oil and gas in such regions in an expeditious manner.

"(3) The Secretary shall select the timing and location of leasing, to the maximum extent practicable, so as to obtain a proper balance between the potential for environmental damage, the potential for the discovery of oil and gas, and the potential for adverse impact on the coastal zone.

"(4) Leasing activities shall be conducted to assure receipt of fair market value for the oil and gas owned by the Federal Government.

"(b) The leasing program shall include estimates of the appropriations and staff required to—

"(1) obtain resource information and any other information needed to prepare the leasing program required by this section;

"(2) analyze and interpret the exploratory data and any other information which may be compiled under the authority of this Act;

"(3) conduct environmental baseline studies and prepare any environmental impact statement required in accordance with this Act and with section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)); and

"(4) supervise operations conducted pursuant to each lease in the manner necessary to assure due diligence in the exploration and development of the lease area and compliance with the requirements of applicable law and regulations, and with the terms of the lease.

"(c)(1) Within nine months after the date of enactment of this section, the Secretary shall submit to the Congress, to the Attorney General, and to the Governors of affected States and to Regional Outer Continental Shelf Advisory Boards, and publish in the Federal Register, a proposed leasing program.

"(2) Within ninety days after the date of publication of a proposed leasing program, the Attorney General shall submit comments on the anticipated effects of such program upon competition, and any State, local government. Regional Outer Continental Shelf Advisory Board, or other person may submit comments and recommendations as to any aspect of the program.

"(3) At least sixty days prior to approving a proposed leasing program, the Secretary shall submit it to the President and the Congress, together with any comments received. Such submission shall indicate why any specific recommendation of the Attorney General or a State or local government or Regional Advisory Board was not accepted.

"(4) After the leasing program has been approved by the Secretary, or after eighteen months following the date of enactment of this section, whichever first occurs, no lease shall be issued unless it is for an area included in the approved leasing program and unless it contains provisions consistent with the approved leasing program, except that leasing shall be permitted to continue until such program is approved and for so long thereafter as such program is under judicial or administrative review pursuant to the provisions of this Act.

"(d)(1) During the preparation of any program under this section, the Secretary shall invite and consider suggestions for such program from the Governor of any State which may become an affected State under such program. The Secretary may also invite or consider suggestions from any other person.

"(2) After such preparation and at least sixty days prior to publication of such program in the Federal Register, the Secretary shall transmit a copy of such proposed program to the Governor of each affected State for review and comment. If any such comment is received by the Secretary at least fifteen days prior to such submission and includes a request for any modification of the proposed program, the Secretary shall reply in writing, granting or denying such request in whole or in part, or granting such request in such modified form as the Secretary considers appropriate, and stating his reasons therefor. All such correspondence between the Secretary and the Governor of any affected State, together with any additional information and data relating thereto, shall accompany the program when such program is submitted to the Congress.

"(e) The Secretary shall review the leasing program approved under this section at least once each year, and he may revise and reapprove such program, at any time, in the same manner as originally developed.

"(f) The Secretary shall, by regulation, establish procedures for—

"(1) receipt and consideration of nominations for any area to be offered for lease or to be excluded from leasing;

"(2) public notice of and participation in development of the leasing program;

"(3) review by State and local governments which may be impacted by the proposed leasing;

"(4) periodic consultation with State and local governments, oil and gas lessees and permittees, and representatives of other individuals or organizations engaged in activity in or on the Outer Continental Shelf, including those involved in fish and shellfish recovery, and recreational activities; and

"(5) coordination of the program with the management program being developed by any State for approval pursuant to section 305 of the Coastal Zone Management Act of 1972 and to assure consistency, to the maximum extent practicable, with the management program of any State which has been approved pursuant to section 306 of such Act.

Such procedures shall be applicable to any revision or reapproval of the leasing program.

"(g) The Secretary may obtain from public sources, or purchase from private sources, any survey, data, report, or other information (including interpretations of such data, survey, report, or other information) which may be necessary to assist him in preparing any environmental impact statement and in making other evaluations required by this Act. The Secretary shall maintain the confidentiality of all proprietary data of information for such period of time as is provided for in this Act, established by regulation, or agreed to by the parties.

"(h) The heads of all Federal departments and agencies shall provide the Secretary with any nonproprietary information he requests to assist him in preparing the leasing program. In addition, the Secretary shall utilize the existing capabilities and resources of such Federal departments and agencies by appropriate agreement.

"SEC. 19. REGIONAL OUTER CONTINENTAL SHELF ADVISORY BOARDS.—(a) The Governors of coastal and affected States may establish Regional Outer Continental Shelf Advisory Boards for their regions with such membership as they may determine, after consultation with the Secretary and the Secretary of Commerce.

"(b) Representatives of the Secretary, the Secretary of Commerce, the Administrator of the Federal Energy Administration, the Chairman of the Council on Environmental Quality, the Commandant of the Coast Guard, the Administrator of the Environmental Protection Agency, and the Administrator of the Occupational Safety and Health Administration shall be entitled to participate as observers in the deliberations of any Board established to subsection (a) of this section.

"(c) Each Board established pursuant to subsection (a) shall advise the Secretary on all matters relating to outer Continental Shelf oil and gas development, including development of the leasing program required by section 18 of this Act, approval of development and production plans required pursuant to section 25 of this Act, implementation of baseline and monitoring studies, and the preparation of environmental impact statements prepared in the course of the implementation of the provisions of this Act.

"(d) If any Regional Advisory Board or the Governor of any affected State—

"(1) makes specific recommendations to the Secretary regarding the size, timing, or location of a proposed lease sale or with respect to a proposed development and production plan; and

"(2) submits such recommendations to the Secretary within sixty days after receipt of notice of such proposed lease sale or of such development and production plan,

the Secretary shall accept such recommendations, unless he determines they are not consistent with national security or the overriding national interest. For purposes of this subsection, a determination of overriding national interest shall be based on the desirability of obtaining oil and gas supplies in a balanced manner, consistent with the findings, purposes, and policies of this Act. To the extent that recommendations from State Governors or Regional Advisory Boards conflict with each other, the Secretary shall accept such recommendations which he finds to be the most consistent with the national interest. If the Secretary finds that he cannot accept recommendations made pursuant to this subsection, he shall communicate, in writing, to such Governor or such Board the reasons for rejection of such recommendations.

"SEC. 20. BASELINE AND MONITORING STUDIES.—(a) (1) The Secretary of Commerce, in cooperation with the Secretary, shall conduct a study of any area or region included in any lease sale in order to establish baseline information concerning the status of the human, marine, and coastal environments of the outer Continental Shelf and the coastal areas which may be affected by oil and gas development in such area or region.

"(2) Each study required by paragraph (1) shall be commenced not later than six months from the date of enactment of this section with respect to any area or region where a lease sale has been held before such date of enactment, and not later than six months prior to the holding of a lease sale with respect to any area or region where no lease sale has been held before such date of enactment. The Secretary of Commerce may utilize information collected in any study prior to the date of enactment of this section in conducting any such study.

"(3) The Secretary of Commerce shall, after being notified of the submission of any development and production plan in an area or region under study, complete such study and submit it to the Secretary prior to the date for final approval of any development and production plan required by section 25 of this Act for any lease area. Failure of the Secretary of Commerce to complete any such study in a lease area shall not be a basis for precluding the approval of a development and production plan by the Secretary, unless the Secretary, in his discretion, finds such failure to be an appropriate basis for such preclusion.

"(4) In addition to developing baseline information, any study of an area or region, to the extent practicable, shall be designed to predict impacts on the marine biota resulting from chronic low level pollution or large spills associated with outer Continental Shelf production, from the introduction of drill cuttings and drilling muds in the area, and from the laying of pipe to serve the offshore production area, and the impacts of development offshore on the affected and coastal areas.

"(b) Subsequent to the leasing and developing of any area or region, the Secretary of Commerce shall conduct such additional studies to establish baseline information as he deems necessary and shall monitor the human, marine, and coastal environments of such area or region in a manner designed to provide time-series and data trend information which can be used for comparison with any previously collected data for the purpose of identifying any significant changes in the quality and productivity of such environments, for establishing trends in the areas studied and monitored, and for designing experiments to identify the causes of such changes.

"(c) The Secretary of Commerce shall, by regulation, establish procedures for carrying out his duties under this section, and shall plan and carry out such duties in full cooperation with affected States. To the extent that other Federal agencies have prepared environmental impact statements, are conducting studies or are monitoring the affected human, marine, or coastal environment, the Secretary of Commerce may utilize the information derived therefrom in lieu of directly conducting such activities. The Secretary fo Commerce may also utilize information obtained from any State or local government entity, or from any person, for the purposes of this section. For the purpose of carrying out his responsibilities under this section, the Secretary of Commerce may by agreement utilize, with or without reimbursement, the services, personnel, or facilities of any Federal, State, or local government agency.

"(d) As soon as practicable after the end of each fiscal year, the Secretary of Commerce shall submit to the Secretary and to the Congress and make available to the general public an assessment of the cumulative effect of activities conducted under this Act on the human, marine, and coastal environments.

"SEC. 21. SAFETY REGULATIONS.—(a) (1) Safety regulations which apply to the construction and operation of any fixed structure and artificial island on the outer Continental Shelf shall be promulgated and periodically revised. Such regulations shall be developed by the Secretary and—

"(A) the Administrator of the Environmental Protection Agency or the Secretary of Commerce, or both, for the protection of the marine and coastal environments;

"(B) the Secretary of the Army or the Secretary of the Department in which the Coast Guard is operating, or both, for the avoidance of navigational hazards in the waters above the outer Continental Shelf; and

"(C) the Secretary of Labor or the Secretary of the Department in which the Coast Guard is operating, or both, for occupational safety and health.

"(2) In promulgating regulations under this section, the Secretary shall require, on all new drilling and production operations and, wherever practicable, on existing operations, the use of the best available and safest technology, economically achievable, wherever failure of equipment would have a significant effect on occupational or public health, safety, or the environment.

"(b) Upon the date of enactemnt of this section, the National Academy of Engineering shall commence a study of the adequacy of existing safety regulations and of technology, equipment, and techniques for operations with respect to the outer Continental Shelf, including the subjects listed in subsection (a) of this section. Not later than nine months after the date of enactment of this section, the results of such study and recommendations for improved safety regulations shall be submitted to the Congress, the Secretary, and the Secretary of the Department in which the Coast Guard is operating.

"(c) (1) Within one year after the date of enactment of this section, the applicable Federal officials, in consultation with other affected Federal agencies and departments, shall complete a review of existing safety regulations, consider the results and recommendations of the study required by subsection (b), and promulgate a complete set of safety regulations (which may incorporate outer Continental Shelf orders) which shall apply to operations on the outer Continental Shelf or any region thereof. Any safety regulation in effect on the date of enactment of this section which such officials find should be retained shall be promulgated pursuant to the provisions of this section, but shall remain in effect until so promulgated. No safety regulation (other than a field order) promulgated pursuant to this subsection shall reduce the degree of safety or protection to the environment afforded by safety regulations previously in effect.

"(2) Within sixty days after the date of enactment of this section, the Secretary of Labor shall promulgate interim regulations or standards pursuant to the Occupational Safety and Health Act of 1970 applying to diving activities in the waters above the outer Continental Shelf, and to other unregulated hazardous working conditions for which he, in consultation with the Secretary and the Secretary of the Department in which the Coast Guard is operating, determines such regulations or standards are necessary. Such regulations or standards may be modified from time to time as necessary, and shall remain in effect until final regulations or standards are promulgated.

"(d) Nothing in this section shall affect or duplicate any authority provided by law to the Secretary of Transportation to establish and enforce pipeline safety standards and regulations.

"(e) The Secretary shall make available to any interested person a compilation of all safety and other regulations which are prepared and promulgated by any agency or department of the Federal Government and applicable to activities on the outer Continental Shelf. Such compilation shall be revised and updated annually.

"SEC. 22. ENFORCEMENT.—(a) The Secretary and the Secretary of the Department in which the Coast Guard is operating shall strictly enforce safety and environmental regulations promulgated pursuant to this Act. The Secretary and the Secretary of Labor shall strictly enforce occupational and public health regulations promulgated pursuant to this Act. All operations authorized pursuant to this Act shall be regularly inspected for purposes of enforcing applicable regulations.

"(b) All holders of leases and permits under this Act shall—

"(1) be responsible jointly with any employer or subcontractor for the maintenance of occupational safety and health, environmental protection, and other safeguards, in accordance with regulations intended to protect persons, property, and the environment on the Outer Continental Shelf pursuant to this Act, and any other Act applicable to activities in or on the Outer Continental Shelf; and

"(2) allow prompt access, at the site of any operation subject to safety regulations, to any inspector, and provide such documents and records which are pertinent to occupational or public health, safety, or environmental protection, as may be requested.

"(c) The Secretary, with the concurrence of the Secretary of Labor and the Secretary of the Department in which the Coast Guard is operating, shall, within one hundred and twenty days after the date of enactment of this section, promulgate regulations applicable to the Outer Continental Shelf to provide for representatives of the Federal Government to undertake—

"(1) physical observation, at least twice each year, of all installations, fixed or mobile, including rigs, platforms, diving boats, and apparatus;

"(2) the testing of all safety equipment designed to prevent or ameliorate occupational hazards, blowouts, fires, spillages, or other major accidents; and

"(3) periodic onsite inspection without advance notice to the lessee or permittee, to assure compliance with occupational and public health, safety, or environmental protection regulations.

"(d)(1) The Secretary of the Department in which the Coast Guard is operating shall make an investigation and public report on each major fire and each major oil spillage occurring as a result of operations conducted pursuant to this Act, and he may, in his discretion, make an investigation and report of lesser oil spillages. For purposes of this subsection, a major oil spillage is any spillage in one instance of more than two hundred barrels of oil over a period of thirty days. All holders of leases or permits issued or maintained under this Act shall cooperate with such Secretary in the course of any such investigation.

"(2) The Secretary of Labor shall make an investigation and public report on any death or serious injury occurring as a result of operations conducted pursuant to this Act, and may, in his discretion, make an investigation and report of any injury. For purposes of this subsection. a serious injury is one resulting in substantial impairment of any bodily unit or function. All holders of leases or permits issued or maintained under this Act shall cooperate with such Secretary in the course of any such investigation.

"(3) For purposes of carrying out their responsibilities under this section, the Secretary, the Secretary of Labor, and the Secretary of the Department in which the Coast Guard is operating may by agreement utilize, with or without reimbursement, the services, personnel, or facilities of any Federal agency.

"(e) The Secretary, the Secretary of Labor, or the Secretary of the Department in which the Coast Guard is operating shall consider any allegation from any person of the existence of a violation of any safety regulation issued under this Act.

"(f) In any investigation conducted pursuant to this section, the Secretary, the Secretary of Labor, or the Secretary of the Department in which the Coast Guard is operating shall have power to summon witnesses and to require the production of books, papers, documents, and any other evidence. Attendance of witnesses or the production of books, papers, documents, or any other evidence shall be compelled by a similar process as in the United States district court. Such Secretary, or his designee, shall administer all necessary oaths to any witnesses summoned before such investigation.

"(g) The Secretary shall, after consultation with the Secretary of Labor and the Secretary of the Department in which the Coast Guard is operating, include in his annual report to Congress required by section 15 of this Act the number of violations of safety regulations reported or alleged, the investigations undertaken, the results of such investigations, and any administrative or judicial action taken as a result of such investigations.

"(h) Subject to judicial review, whenever the Secretary finds, after notice and a hearing, that the owner or operator of any lease—

"(1) has, by a repeated course of conduct, failed to comply with safety regulations promulgated under section 21 of this Act, and such failures have resulted in a clear and present danger to occupational or public health, safety, or the environment; or

"(2) has established an overall pattern of failing to comply, without lawful justification, with regulations which are to assure the maximum, efficient, and safe development of such lease or leases;

the Secretary shall cancel any such lease or leases which are the subject matter of such violations. Cancellation of a lease pursuant to this subsection shall not entitle a lessee to any compensation.

"SEC. 23. CITIZEN SUITS, COURT JURISDICTION, AND JUDICIAL REVIEW.—(a)(1) Except as provided in this section, any person having an interest which is or can be adversely affected may commence a civil action on his own behalf—

"(A) against any person, including the United States, and any other government instrumentality or agency for any alleged violation of any provision of this Act or any regulation promulgated under this Act, or of the terms of any permit or lease issued by the Secretary under this Act; and

"(B) against any Federal official referred to in section 21(a)(1) of this Act where there is alleged a failure of such official to perform any act or duty under this Act which is not discretionary.

"(2) No action may be commenced—

"(A) under subsection (a)(1)(A) of this section—

"(i) prior to sixty days after the plaintiff has given notice of the alleged violation, in writing under oath, to the appropriate Federal official and to any alleged violator; and

"(ii) if such official or the Attorney General has commenced and is diligently prosecuting a civil action in a court of the United States with respect to such matter, but in any such action any person adversely affected or aggrieved may intervene as a matter of right; or

"(B) under subsection (a)(1)(B) of this section prior to sixty days after the plaintiff has given notice of such action, in writing under oath, to the Federal Government official, in such manner as such official shall by regulation prescribe, except that such action may be brought immediately after such notification in any case in which the violation alleged constitutes an imminent threat to the public health or safety or would immediately affect a legal interest of the plaintiff.

"(3) In any action commenced pursuant to this section, the appropriate Federal official or the Attorney General, if not a party, may intervene as a matter of right.

"(4) A court, in issuing any final order in any action brought pursuant to subsection (a)(1) or subsection (c) of this section, may award costs of litigation, including reasonable attorneys' fees, to any party, whenever such court determines such award is appropriate. The court may, if a temporary restraining order or preliminary injunction is sought, require filing of a bond or equivalent security in accordance with the Federal Rules of Civil Procedure.

"(5) Except as provided in subsection (c) of this section, nothing in this section shall restrict any right which any person or class of persons may have under this or any other Act to seek enforcement of any provision of this Act and any regulation promulgated under this Act, or to seek any other relief, including relief against the appropriate Federal official.

"(b) Except as provided in subsection (c) of this section, the United States district courts shall have jurisdiction of cases and controversies arising out of, or in connection with (1) any operation conducted on the outer Continental Shelf which involves exploration, development, or production of the natural resources of the subsoil and seabed of the outer Continental Shelf, or which involves rights to such natural resources, or (2) the cancellation, suspension, or termination of a lease or permit under this Act. Proceedings with respect to any such case or controversy may be instituted in the judicial district in which any defendant resides or may be found, or in the judicial district of the State nearest the place the cause of action arose.

"(c)(1) Any action of the Secretary to approve a leasing program pursuant to section 18 of this Act shall be subject to judicial review only in the United States Court of Appeals for the District of Columbia.

"(2) Any action of the Secretary to approve, require modification of, or disapprove any exploration plan or any development and production plan under this Act shall be subject to judicial review only in a United States court of appeals for a circuit in which an affected State is located.

"(3) The judicial review specified in paragraphs (1) and (2) of this subsection shall be available only to a person who (A) participated in the administrative proceedings related to the actions specified in such paragraphs, (B) is adversely affected or aggrieved by such action, (C) files a petition for review of the Secretary's action within sixty days after the date of such action, and (D) promptly transmits copies of the petition to the Secretary and to the Attorney General of the United States.

"(4) Any action of the Secretary specified in paragraph (1) or (2) shall only be subject to review pursuant to the provisions of this subsection, and shall be specifically excluded from citizen suits which are permitted pursuant to subsection (a).

"(5) The Secretary shall file in the appropriate court the record of any public hearings required by this Act and any additional information upon which the Secretary based his decision, as required by section 2112 of title 28, United States Code. Specific objections to the action of the Secretary shall be considered by the court only if such objections have been submitted to the Secretary during the administrative proceedings related to the actions involved.

"(6) The court of appeals conducting a proceeding pursuant to this subsection shall consider the matter under review solely on the record made before the Secretary. The findings of the Secretary, if supported by substantial evidence on the record considered as a whole, shall be conclusive. The court may affirm, vacate, or modify any order or decision or may remand the proceedings to the Secretary for such further action as it may direct.

"(7) Upon the filing of the record with the court, pursuant to paragraph (5), the jurisdiction of the court shall be exclusive and its judgment shall be final, except that such judgment shall be subject to review by the Supreme Court of the United States upon writ of certiorari.

"(d) Except as to causes of action which the court considers of greater importance, any action under this section shall take precedence on the docket over all other causes of action and shall be set for hearing at the earliest practical date and expedited in every way.

"(e) Notwithstanding any other provisions of this section, this section shall not apply to any action which is commenced to require compliance with any provision of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

"Sec. 24. Remedies and Penalties.—(a) At the request of the Secretary, the Secretary of Labor, the Secretary of the Army, or the Secretary of the Department in which the Coast Guard is operating, the Attorney General or a United States attorney shall institute a civil action in the district court of the United States for the district in which the affected operation is located for a temporary restraining order, injunction, or other appropriate remedy to enforce any provision of this Act or any regulation or order issued under this Act.

"(b) If any person fails to comply with any provision of this Act, or any regulation or order issued under this Act, after notice of such failure and expiration of any reasonable period allowed for corrective action, such failure and expiration of any reasonable period allowed for corrective action, such person shall be liable for a civil penalty of not more than $10,000 for each day of the continuance of such failure. The Secretary, the Secretary of Labor, the Secretary of the Army, or the Secretary of the Department in which the Coast Guard is operating, as applicable may assess, collect, and compromise any such penalty. No penalty shall be assessed until the person charged with a violation has been given an opportunity for a hearing.

"(c) Any person who knowingly and willfully (1) violates any provision of this Act, or any regulation or order issued under the authority of this Act designed to protect occupational or public health, safety, or the environment or conserve natural resources, (2) makes any false statement, representation, or certification in any application, record, report, or other document filed or required to be maintained under this Act, (3) falsifies, tampers with, or renders inaccurate any monitoring device or method of record required to be maintained under this Act, or (4) reveals any data or information required to be kept confidential by this Act shall, upon conviction, be punished by a fine of not more than $100,000, or by imprisonment for not more than ten years, or both. Each day that a violation under clause (1) of this subsection continues, or each day that any monitoring device or data recorder remains inoperative or inaccurate because of any activity described in clause (3) of this subsection, shall constitute a separate violation.

"(d) Whenever a corporation or other entity is subject to prosecution under subsection (c) of this section, any officer or agent of such corporation or entity who knowingly and willfully authorized, ordered, or carried out the proscribed activity shall be subject to the same fines or imprisonment, or both, as provided for under subsection (c) of this section.

"(e) The remedies and penalties prescribed in this section shall be concurrent and cumulative and the exercise of one shall not preclude the exercise of the others. Further, the remedies and penalties prescribed in this section shall be in addition to any other remedies and penalties afforded by any other law or regulation.

"Sec. 25. Oil and Gas Development and Production.—(a) (1) Prior to development and production pursuant to an oil and gas lease issued or maintained under this Act in any region of the outer Continental Shelf where there has been no development of oil and gas prior to January 1, 1975, including the outer Continental Shelf region off Southern California outside the Santa Barbara Channel, the lessee shall submit a development and production plan (hereinafter in this section referred to as a 'plan') to the Secretary, for approval pursuant to this section.

"(2) A plan shall be accompanied by a statement describing all facilities and operations, other than those on the outer Continental Shelf, proposed by the lessee and known by him (whether or not owned or operated by such lessee) which will be constructed or utilized in the development or production of oil or gas from the lease area, including the location and site of such facilities and operations, the land, labor, material, and energy requirements associated with such facilities and operations, and all environmental and safety safeguards to be implemented.

"(3) Except for interpretive data, which, pursuant to regulations prescribed by the Secretary, constitute confidential or privileged information, the Secretary, within ten days after receipt of a plan and statement, shall (A) submit such plan and statement to the Governor of any affected State and to an appropriate Regional Outer Continental Shelf Advisory Board established pursuant to section 19 of this Act, and (B) make such plan and statement available to any other appropriate interstate regional entity, the executive of any affected local government area, and the public.

"(b) After the date of enactment of this section, no oil and gas lease may be issued pursuant to this Act unless such lease requires that development and production of reserves be carried out in accordance with a plan which complies with the requirements of this section.

"(c) A plan may apply to more than one oil and gas lease, and shall set forth, in the degree of detail established by regulations issued by the Secretary—

"(1) the specific work to be performed;

"(2) a description of all offshore facilities and operations proposed by the lessee or known by him (whether or not owned or operated by such lessee) to be directly related to the proposed development, including the location and size of such facilities and operations, and the land, labor, material, and energy requirements associated with such facilities and operations;

"(3) the environmental safeguards to be implemented on the outer Continental Shelf and how such safeguards are to be implemented;

"(4) all safety standards to be met and how such standards are to be met;

"(5) an expected rate of development and production and a time schedule for performance; and

"(6) such other relevant information as the Secretary may by regulation require.

"(d) (1) After review of a plan submitted pursuant to this section in accordance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), the Secretary shall declare his findings as to whether development and production pursuant to the lease or set of leases (which set includes such lease and other leases which cover adjacent or nearby areas to the area covered by such lease) is a major Federal action.

"(2) The Secretary shall at least once, prior to major development in any area or region of the outer Continental Shelf where there has been no development of oil and gas prior to October 1, 1975, including the outer Continental Shelf region off Southern California outside the Santa Barbara Channel, declare development and production pursuant to a lease or set of leases to be a major Federal action.

"(3) The Secretary may require lessees on adjacent or nearby leases to submit preliminary or final plans for their leases, prior to or immediately after a determination by the Secretary that the procedures under the National Environmental Policy Act of 1969 shall commence.

"(e) If development and production pursuant to a plan is found to be a major Federal action, the Secretary shall transmit the draft environmental impact statement to the Governor of any affected State, any appropriate Regional Outer Continental Shelf Advisory Board, any appropriate interstate entity, and the executive of any affected local government area, for review and comment, and shall make such draft available to the general public.

"(f) If development and production pursuant to a plan is not found to be a major Federal action, the Governor of any affected State, any appropriate Regional Outer Continental Shelf Advisory Board, and the executive of any affected local government area shall have ninety days from receipt of the plan from the Secretary to submit comments and recommendations. Such comments and recommendations shall be made available to the public upon request. In addition, any interested person may submit comments and recommendations.

"(g) (1) After reviewing the record of any public hearing held with respect to a plan pursuant to the National Environmental Policy Act of 1969 or the comments and recommendations submitted under subsection (f) of this section, the Secretary shall, within sixty days after the release of the final environmental impact statement prepared pursuant to the National Environmental Policy Act of 1969 in accordance with subsection (d) of this section, or one hundred and twenty days after the period provided for comment under subsection (f) of this section, approve, disapprove, or require modifications of the plan. The Secretary shall require modification of a plan if he determines that the lessee has failed to make adequate provision in such plan for safe operations on the lease area or for protection of the human, marine, or coastal environment, except that any modification requested by the Secretary shall be, to the maximum extent practicable, consistent with the coastal zone management programs of affected States approved pursuant to section 306 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1455). The Secretary shall disapprove a plan only (A) if the lessee fails to demonstrate that he can comply with the requirements of this Act and other applicable Federal law, (B) if the plan is not and cannot be made, to the maximum extent practicable, consistent with the coastal zone management programs of affected States approved pursuant to section 306 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1455), or (C) if because of exceptional geological conditions in the lease area, exceptional resource values in the marine or coastal environment, or other exceptional circumstances, the proposed plan cannot be modified to insure a safe operation. If a plan is disapproved under clauses (A) or (B) of this paragraph, the lessee shall not be entitled to compensation because of such disapproval. If the plan is disapproved under clause (C) of this paragraph, the term of the lease shall be duly extended, and at any time within five years after said disapproval, the lessee may reapply for approval of the same or a modified plan, and the Secretary shall approve, disapprove, or require modifications of a plan in accordance with this subsection. Upon expiration of such five-year period, or at an earlier time upon request of a lessee, if the Secretary has not approved a plan, the Secretary shall cancel the lease, and the lessee shall be entitled to receive such compensation as he shows to the Secretary is equal to the lesser of (i) the fair value of the cancelled rights as of the date of cancellation, taking account of both anticipated revenues from the lease and anticipated costs, including cost of compliance with all applicable regulations in operating waters, liability for cleanup costs or damages, or both, in the case of an oil spill, and all other costs reasonably anticipated with respect to the lease, or (ii) the excess, if any, over the lessee's revenues from the lease (plus interest thereon from date of receipt to date of reimbursement) of all consideration paid for the lease and all direct expenditures made by the lessee after the date of issuance of such lease, and in connection with exploration or development, or both, pursuant to the lease (plus interest on such consideration and such expenditures from the date of payment to the date of reimbursement). The Secretary may, at any time within the five-year period, described in subparagraph (C), require the lessee to submit a plan of development and production for approval, disapproval, or modification. If the lessee fails to submit a required plan expeditiously and in good faith, the Secretary shall find that the lessee has not been duly diligent in pursuing his obligations under the lease, and shall immediately cancel such lease, without compensation, under the provisions of section 5(c) of this Act.

"(2) The Secretary shall, from time to time, review each plan approved under this section. Such review shall be based upon changes in available information and other onshore or offshore conditions affecting or impacted by development and production pursuant to such plan. If the review indicates that the plan should be revised to meet the requirements of this subsection, the Secretary shall require such revision.

"(h) The Secretary may approve any revision of an approved plan proposed by the operator if he determines that such revision will lead to greater recovery of oil and natural gas, improve the efficiency, safety, and environmental protection of the recovery operation, is the only means available to avoid substantial economic hardship to the lessee, or is otherwise not inconsistent with the provisions of this Act to the extent such revision is consistent with protection of the marine and coastal environments. Any revision of an approved plan which the Secretary determines is significant shall be reviewed in accordance with subsections (d) through (g) of this section.

"(i) Whenever the owner of any lease fails to submit a plan in accordance with regulations issued under this section, or fails to comply with an approved plan, the lease may, after notice to such owner of such failure and expiration of any reasonable period allowed for corrective action, and after an opportunity for a hearing, be forfeited, canceled, or terminated, subject to the right of judicial review, in accordance with the provisions of section 23(b) of this Act. Termination of a lease because of failure to comply with an approved plan, including required modifications or revisions, shall not entitle a lessee to any compensation.

"(j) If any development and production plan submitted to the Secretary pursuant to this section provides for the production and transportation of natural gas, the lessee shall contemporaneously submit to the Federal Power Commission that portion of such plan which relates to production of natural gas and the facilities for transportation of natural gas. The Secretary and the Federal Power Commission shall agree as to which of them shall prepare an environmental impact statement pursuant to the National Environmental Policy Act of 1969 applicable to such portion of such plan, or conduct studies as to the effect on the environment of implementing it. Thereafter, the findings and recommendations by the agency preparing such environmental impact statement or conducting such studies pursuant to that agreement shall be adopted by the other agency, and such other agency shall not independently prepare another environmental impact statement or duplicate such studies with respect to such portion of such plan, but the Federal Power Commission, in connection with its review of an application for a certificate of public convenience and necessity applicable to such transportation facilities pursuant to section 7 of the Natural Gas Act (15 U.S.C. 717), may prepare such environmental studies or statement relevant to certification of such transportation facilities as have not been covered by an environmental impact statement or studies prepared by the Secretary. The Secretary, in consultation with the Federal Power Commission, shall promulgate rules to implement this subsection, but the Federal Power Commission shall retain sole authority with respect to rules and procedure applicable to the filing of any application with the Commission and to all aspects of the Commission's review of, and action on, any such application.

"SEC. 26. OUTER CONTINENTAL SHELF OIL AND GAS INFORMATION PROGRAM.—(a) (1) (A) Any lessee or permittee conducting any exploration for, or development or production of, oil or gas pursuant to this Act shall provide the Secretary access to all data obtained from such activity and shall provide copies of such specific data, and any interpretation of any such data, as the Secretary may request. Such data and interpretation shall be provided in accordance with regulations which the Secretary shall prescribe.

"(B) If an interpretation provided pursuant to subparagraph (A) of this paragraph is made in good faith by the lessee or permittee, such lessee or permittee shall not be held responsible for any consequence of the use of or reliance upon such interpretation.

"(C) Whenever any data is provided to the Secretary, pursuant to subparagraph (A) of this paragraph—

"(i) by a lessee, in the form and manner of processing which is utilized by such lessee in the normal conduct of his business, the Secretary shall pay the reasonable cost of reproducing such data; and

"(ii) by a lessee, in such other form and manner of processing as the Secretary may request, or by a permittee, the Secretary shall pay the reasonable cost of processing and reproducing such data,

pursuant to such regulations as he may prescribe.

"(2) Each Federal agency shall provide the Secretary with any data obtained by such Federal agency conducting exploration pursuant to section 11 of this Act, and any other information which may be necessary or useful to assist him in carrying out the provisions of this Act.

"(b) (1) Information provided to the Secretary pursuant to subsection (a) of this section shall be processed, analyzed, and interpreted by the Secretary for purposes of carrying out his duties under this Act.

"(2) As soon as practicable after information provided to the Secretary pursuant to subsection (a) of this section is processed, analyzed, and interpreted, the Secretary shall make available to the affected States a summary of data designed to assist them in planning for the onshore impacts of possible oil and gas development and production. Such summary shall include estimates of (A) the oil and gas reserves in areas leased or to be leased, (B) the size and timing of development if and when oil or gas, or both, is found, (C) the location of pipelines, and (D) the general location and nature of onshore facilities.

"(c) The Secretary shall prescribe regulations to (1) assure that the confidentiality of privileged information received by the Secretary under this section will be maintained, and (2) set forth the time periods and conditions which shall be applicable to the release of such information. Such regulations shall include a provision that no such information will be transmitted to any affected State or any Regional Advisory Board unless the lessee, or the permittee and all persons to whom such permittee has sold such information under promise of confidentiality, agree to such transmittal.

"(d) (1) The Secretary shall transmit to any affected State and any appropriate Regional Advisory Board—

"(A) a copy of all relevant actual or proposed programs, plans, reports, environmental impact statements, tract nominations (including negative nominations) and other lease sale information, any similar type of relevant information, and all modifications and revisions thereof and comments thereon, prepared or obtained by the Secretary pursuant to this Act;

"(B) (i) the summary of data prepared by the Secretary pursuant to subsection (b) (2) of this section, and (ii) any other processed, analyzed, or interpreted data prepared by the Secretary pursuant to subsection (b) (1) of this subsection, unless the Secretary determines that transmittal of such data prepared pursuant to subsection (b) (1) would unduly damage the competitive position of the lessee or permittee who provided to the Secretary with the information which the Secretary had processed, analyzed, or interpreted; and

"(C) any relevant information received by the Secretary pursuant to subsection (a) of this section, subject to any applicable requirements as to confidentiality which are set forth in regulations prescribed under subsection (c) of this section.

"(2) Notwithstanding the provisions of any regulation required pursuant to the second sentence of subsection (c) of this section, the Governor of any affected State may designate an appropriate State official to inspect, at a regional location which the Secretary shall designate, any privileged information received by the Secretary regarding any activity adjacent to such State, except that no such inspection shall take place prior to the sale of a lease covering the area in which such activity was conducted. Knowledge obtained by such State during such inspection shall be subject to applicable requirements as to confidentiality which are set forth in regulations prescribed under subsection (c) of this section.

"(e) Any provision of State or local law which provides for public access to any privileged information received or obtained by any person pursuant to this Act is expressly preempted by the provisions of this section, to the extent that it applies to such information.

"(f) If the Secretary finds that any State cannot or does not comply with the regulations issued under subsection (c) of this section, he shall thereafter withhold transmittal and deny inspection of privileged information to such State until he finds that such State can and will comply with such regulations.

"(g) The regulations prescribed pursuant to subsection (c) of this section, and the provisions of subsection 552(b)(9) of title 5, United States Code, shall not apply to any information obtained in the conduct of geological or geophysical explorations by any Federal agency (or any person acting under a service contract with such agency), pursuant to section 11 of this Act.

"SEC. 27. FEDERAL PURCHASE AND DISPOSITION OF OIL AND GAS.—(a) (1) Except as may be necessary to comply with the provisions of sections 6 and 7 of this Act, all royalties or net profit shares, or both, accruing to the United States under any oil and gas lease or permit issued or maintained in accordance with this Act, shall, on demand of the Secretary, be paid in oil or gas.

"(2) The United States shall have the right to purchase not to exceed 16⅔ per centum by volume of the oil and gas produced pursuant to a lease or permit issued in accordance with this Act, at the regulated price, or, if no regulated price applies, at the fair market value at the wellhead of the oil and gas saved, removed or sold, except that any oil or gas obtained by the United States as royalty or net profit share shall be credited against the amount that may be purchased under this subsection.

"(3) Title to any royalty, net profit share, or purchased oil or gas may be transferred, upon request, by the Secretary to the Secretary of Defense, to the Administrator of the General Services Administration, or to the Administrator of the Federal Energy Administration, for disposal within the Federal Government.

"(b) (1) The Secretary, pursuant to such terms as he determines and in the absence of any provision of law which provides for the mandatory allocation of such oil in amounts and at prices determined by such provision, or regulations issued in accordance with such provision, may offer to the public and sell by competitive bidding for not more than its regulated price, or, if no regulated price applies, not less than its fair market value any part of the oil (A) obtained by the United States pursuant to any lease as royalty or net profit share, or (B) purchased by the United States pursuant to subsection (a) (2) of this section.

"(2) Whenever, after consultation with the Administrator of the Federal Energy Administration, the Secretary determines that small refiners do not have access to adequate supplies of oil at equitable prices, the Secretary may dispose of any oil which is taken as a royalty or net profit share accruing or reserved to the United States pursuant to any lease issued or maintained under this Act, or purchased by the United States pursuant to subsection (a) (2) of this section, by conducting a lottery for the sale of such oil, or may equitably allocate such oil among the competitors for the purchase of such oil, at the regulated price, or if no regulated price applies, at its fair market value. The Secretary shall limit participation in any lottery or allocated sale to assure such access and shall publish notice of such sale, and the terms thereof, at least thirty days in advance of such sale. Such notice shall include qualifications for participation, the amount of oil to be sold, and any limitation in the amount of oil which any participant may be entitled to purchase.

"(3) Whenever a provision of law is in effect which provides for the mandatory allocation of such oil in amounts or at prices determined by such provision, or regulations issued in accordance with such provision, the Secretary may only sell such oil in accordance with such provision of law or regulations.

(c) (1) Except as provided in paragraph (2) of this subsection, the Secretary, pursuant to such terms as he determines, may offer to the public and sell by competitive bidding for not more than its regulated price, or, if no regulated price applies, not less than its fair market value any part of the gas (A) purchased by the United States pursuant to lease as royalty or net profit share, or (B) purchased by the United States pursuant to subsection (a) (2) of this section.

"(2) Whenever, after consultation with and advice from the Administrator of the Federal Energy Administration and the Chairman of the Federal Power Commission, the Secretary determines that an emergency shortage of natural gas is threatening to cause severe economic or social dislocation in any region of the United States and that such region can be serviced in a practical, feasible, and efficient manner by royalty, net profit share, or purchased gas obtained pursuant to the provisions of this subsection, the Secretary may allocate or conduct a lottery for the sale of such gas, and shall limit participation in any allocated or lottery sale of such gas to any person servicing such region, but he shall not sell any such gas for more than its regulated price, or, if no regulated price applies, less than its fair market value. Prior to allocating any gas pursuant to this paragraph, the Secretary shall consult with the Federal Power Commission.

"(d) The lessee shall take any Federal oil or gas for which no acceptable bids are received, as determined by the Secretary, and which is not transferred pursuant to subsection (a) (3) of this section, and shall pay to the United States a cash amount equal to the regulated price, or, if no regulated price applies, the fair market value of the oil or gas so obtained. In the event that net profit share oil or gas produced pursuant to the bidding system authorized in subparagraphs (G) and (H) of section 8(a) (1) of this Act is sold back to the lessee or lessees, each party shall be eligible to purchase a pro rata share according to its per centum interest.

"(e) As used in this section—

"(1) the term 'regulated price' means the highest price—

"(A) at which Federal oil may be sold pursuant to the Emergency Petroleum Allocation Act of 1973 and any rule or order issued under such Act;

"(B) at which natural gas may be sold to natural-gas companies pursuant to the Natural Gas Act and any rule or order issued under such Act; or

"(C) at which either Federal oil or gas may be sold under any other provision of law or rule or order thereunder which sets a price (or manner for determining a price) for oil or gas produced pursuant to a lease or permit issued in accordance with this Act; and

"(2) the term 'small refiner' means an owner of an existing refinery or refineries, including refineries not in operation, who qualifies as a small business concern under the rules of the Small Business Administration and who is unable to purchase in the open market an adequate supply of crude oil to meet the needs of his existing refinery capacities.

"(f) Nothing in this section shall prohibit the right of the United States to purchase any oil or gas produced on the outer Continental Shelf, as provided in section 12(b) of this Act.

"SEC. 28. LIMITATIONS ON EXPORT.—(a) Except as provided in subsection (d), any oil or gas produced from the outer Continental Shelf shall be subject to the requirements and provisions of the Export Administration Act of 1969 (50 App. U.S.C. 2401 et seq.).

"(b) Before any oil or gas subject to this section may be exported under the requirements and provisions of the Export Administration Act of 1969, the President shall make and publish an express finding that such exports will not increase reliance on imported oil or gas, are in the national interest, and are in accord with the provisions of the Export Administration Act of 1969.

"(c) The President shall submit reports to the Congress containing findings made under this section, and after the date of receipt of such report Congress shall have a period of sixty calendar days, thirty days of which Congress must have been in session, to consider whether exports under the terms of this section are in the national interest. If the Congress within such time period passes a concurrent resolution of disapproval stating disagreement with the President's finding concerning the national interest, further exports made pursuant to such Presidential findings shall cease.

"(d) The provisions of this section shall not apply to any oil or gas which is either exchanged in similar quantity for convenience or increased efficiency of transportation with persons or the government of a foreign state, or which is temporarily exported for convenience or increased efficiency of transportation across parts of an adjacent foreign state and reenters the United States.

"SEC. 29. RESTRICTIONS ON EMPLOYMENT.—No full-time officer or employee of the Department of Interior who directly or indirectly discharged duties or responsibilities under this Act, and who was at any time during the twelve months preceding the termination of his employment with the Department compensated under the Executive Schedule or compensated at or above the annual rate of basic pay for grade GS-16 of the General Schedule, shall accept, for a period of two years after the date of termination of employment with the Department, employment or compensation, directly or indirectly, from any person, persons, association, corporation, or other entity, subject to regulation under this Act.".

TITLE III—OFFSHORE OIL SPILL POLLUTION FUND

DEFINITIONS

SEC. 301. As used in this title, unless the context indicates otherwise, the term—

(1) "cleanup costs" means all reasonable and actual costs, including administrative and other costs, to the Federal Government, to any State or local government, or to any

foreign government, or to their contractors or subcontractors, of (A) removing or attempting to remove oil discharged from any offshore facility or vessel, or (B) taking other measures to prevent such discharge, or to reduce or mitigate damages to the public health or welfare, or to public property, including shorelines, beaches, and the natural resources of the marine environment;

(2) "damages" means compensation sought pursuant to this title by any person suffering any direct and actual injury proximately caused by the discharge of oil from an offshore facility or vessel, except that such term does not include clean-up costs;

(3) "discharge" includes any spilling, leaking, pumping, pouring, emptying, or dumping, regardless of whether it occurred intentionally or unintentionally;

(4) "offshore facility" includes any oil refinery, drilling structure, oil storage or transfer terminal, or pipeline, or any appurtenance related to any of the foregoing, which is used to drill for, produce, store, handle, transfer, process, or transport oil produced from the Outer Continental Shelf (as the term Outer Continental Shelf is defined in section 2(a) of the Outer Continental Shelf Lands Act (42 U.S.C. 1331(a)), and is located on the Outer Continental Shelf, except that such term does not include (A) a vessel, or (B) a deepwater port (as the term deepwater port is defined in section 3(10) of the Deepwater Port Act of 1974 (33 U.S.C. 1502));

(5) "Fund" means the Offshore Oil Pollution Compensation Fund established under section 302(a) of this title;

(6) "owner" means (A) with respect to an offshore facility, any person owning such facility, whether by lease, permit, contract, license, or other form of agreement, (B) with respect to any facility abandoned without prior approval of the Secretary of the Interior, the person who owned such facility immediately prior to such abandonment, and (C) with respect to a vessel, any person owning such vessel;

(7) "operator" means (A) with respect to an offshore facility, any person operating such facility, whether by lease, permit, contract, license, or other form of agreement, and (B) with respect to a vessel, any person operating or chartering by demise such vessel;

(8) "person" means an individual, a public or private corporation, partnership, or other association, or a government entity;

(9) "person in charge" means the individual immediately responsible for the operations of an offshore facility or vessel;

(10) "Secretary" means the Secretary of Transportation;

(11) "revolving account" means the account in the Treasury of the United States which is established under section 302(b) of this title;

(12) "incident" means any occurrence or series of related occurrences, involving one or more offshore facilities or vessels, which cause or pose an imminent threat of oil pollution; and

(13) "vessel" means every description of watercraft or other contrivance, whether or not self-propelled, which is operating in the waters above the outer Continental Shelf (as the term "Outer Continental Shelf" is defined in section 2(a) of the Outer Continental Shelf Lands Act (42 U.S.C. 1331(a)), and which is transporting oil directly from an offshore facility, and such term specifically excludes any watercraft or other contrivance which is operating in the navigable waters of the United States (as the term "navigable waters" is defined in section 502 of the Federal Water Pollution Control Act (33 U.S.C. 1362)).

ESTABLISHMENT OF THE FUND AND THE REVOLVING ACCOUNT

SEC. 302. (a) There is established within the Department of Transportation an Offshore Oil Pollution Compensation Fund. The Fund may sue or be sued in its own name.

(b) There is established in the Treasury of the United States a revolving account, without fiscal year limitation, which shall be available to the Fund to carry out the provisions of this title.

PROHIBITION

SEC. 303. The discharge of oil from any offshore facility or vessel, in quantities which the President under section 311(b) of the Federal Water Pollution Control Act (33 U.S.C. 1321(b)) determines to be harmful, is prohibited.

NOTIFICATION

SEC. 304. (a) Any person in charge of an offshore facility or vessel shall, as soon as he has knowledge of any discharge of oil from such offshore facility or vessel which may be in violation of section 303 of this title, immediately notify the Secretary of such discharge.

(b) Any person in charge of an offshore facility or vessel who fails to immediately notify the Secretary, as required by subsection (a) of this section, shall, upon conviction, be fined not more than $10,000, or imprisoned for not more than one year, or both, except that no person convicted under this section shall also be convicted for the same failure to notify under section 311(b)(5) of the Federal Water Pollution Control Act.

(c) Notification received pursuant to this section or information obtained by the exploitation of such notification shall not be used against any person providing such notification in any criminal case, except a prosecution for perjury or for giving a false statement.

REMOVAL OF DISCHARGED OIL

SEC. 305. (a) Whenever any oil is discharged from any offshore facility or vessel in violation of section 303 of this title, the President shall act to remove or arrange for the removal of such oil, unless he determines such removal will be done properly and expeditiously by the owner or operator of such offshore facility or vessel.

(b) Removal of oil and actions to minimize damages from oil discharged shall, to the greatest extent possible, be in accordance with the National Contingency Plan for removal of oil and hazardous substances established pursuant to section 311(c)(2) of the Federal Water Pollution Control Act.

(c) Whenever the President acts to remove a discharge of oil pursuant to this section, he is authorized to draw upon the money available in the revolving account. Such money shall be used to pay promptly for all cleanup costs incurred by the President in removing such oil or in minimizing damage caused by such oil discharge.

DUTIES AND POWERS

SEC. 306. (a) In order to carry out the purposes of this title, the Secretary shall—

(1) administer and maintain the Fund, in accordance with the provisions of this title;

(2) establish regulations and provide for the fair and expeditous settlement of claims, in accordance with section 313 of this title;

(3) provide public access to information, in accordance with section 319(a) of this title;

(4) submit an annual report, in accordance with section 320 of this title; and

(5) perform such other functions as are prescribed by law.

(b) In the performance of his duties under this title, the Secretary is authorized to—

(1) utilize, with the consent of the agency concerned, the services or personnel, on a reimbursable or replacement basis or otherwise, of any Federal Government agency, of any State or local government agency, or of any organization, to perform such functions on behalf of the Fund as are necessary or appropriate;

(2) make, promulgate, issue, rescind, and amend such rules and regulations as may be necessary to carry out the purposes of this title;

(3) conduct such studies and investigations, obtain such data and information, and hold such meetings or public hearings as may be necessary or appropriate to facilitate the exercise of any authority granted to, or the performance of any duty imposed on, the Fund under this title;

(4) enter into such contracts, agreements, and other arrangements as are deemed necessary or appropriate for the acquisition of material, information, or other assistance related to, or required by, the implementation of this title; and

(5) issue and enforce orders during proceedings conducted pursuant to this title, including issuing subpenas, administering oaths, compelling the attendance and testimony of witnesses and the production of books, papers, documents, and other evidence and the taking of depositions.

RECOVERABLE DAMAGES

SEC. 307. Damages may be recovered under this title for—

(1) the value of any loss or injury, at the time such loss or injury is incurred, with respect to any real or personal property which is damaged or destroyed as a result of a discharge of oil;

(2)(A) the cost to the owner of restoring, repairing, or replacing any real or personal property which is damaged or destroyed by a discharge of oil, (B) any income necessarily lost by such owner during the time such property is being restored, repaired, or replaced, and (C) any reduction in the value of such property caused by such discharge;

(3) any loss of income or impairment of earning capacity for a period of not to exceed five years due to damages to real or personal property, or to natural resources, without regard to ownership of such property or resources, which are damaged or destroyed by a discharge of oil, if the claimant derives at least 25 per centum of his earnings from activities which utilize such property or natural resources;

(4) any costs and expenses incurred by the Federal Government or any State government in the restoration, repair, or replacement of natural resources which are damaged or destroyed by a discharge of oil; and

(5) any loss of tax revenue by the Federal Government or any State or local government for a period of not to exceed one year due to injury to real or personal property resulting from a discharge of oil.

CLEANUP COSTS AND DAMAGES

SEC. 308. (a) All cleanup costs incurred by the President, the Secretary, or any other Federal, State, or local official or agency, in connection with a discharge of oil shall be borne by the owner and operator of the offshore facility or vessel from which the discharge occurred.

(b) Notwithstanding any other provision of law and except as provided in subsection (d) of this section, the owner and operator of an offshore facility shall be held jointly and severally liable, without regard to fault, for damages which result from a discharge of oil from such offshore facility. Such liability shall not exceed $35,000,000, except that if it can be shown that (1) such damages were the result of gross negligence or willful misconduct within the privity and knowledge of such owner or operator, or of the person in charge of such offshore facility, or (2) such discharge was the result of a violation of applicable safety, construction, or operating standards or regulations, such owner and operator shall be jointly and severally liable for the full amount of such damages.

(c) Notwithstanding any other provision of law and except as provided in subsection

(d) of this section, the owner and operator of a vessel shall be jointly and severally liable, without regard to fault, for damages which result from a discharge of oil from such vessel. Such liability shall not exceed $150 per gross registered ton, except that if it can be shown that (1) such damages were the result of gross negligence or willful misconduct within the privity and knowledge of such owner or operator, or of the person in charge of such vessel, or (2) such discharge was the result of a violation of applicable safety, construction, or operating standards or regulations, such owner and operator shall be jointly and severally liable for the full amount of such damages.

(d) No liability shall be imposed under subsection (b) or (c) of this section to the extent the owner or operator establishes that the discharge of oil or that any damages resulting from such discharge were caused by (1) an act of war, (2) the negligent or intentional act of the damaged party or of any third party (including any government entity), or (3) a natural phenomenon of an exceptional, inevitable, and irresistible character.

(e)(1) To the extent that liability is not imposed, pursuant to subsection (d)(2) of this section, on the owner or operator of an offshore facility or vessel for cleanup costs or damages resulting from a discharge of oil from such facility or vessel, the damaged party or third party whose negligent or intentional act caused such discharge or any damages resulting from such discharge shall, if such damaged party or third party is also an offshore facility or vessel, be liable for such cleanup costs or damages to the same extent as if such discharge had occurred from the offshore facility or vessel of such damaged party or third party.

(2) Payment of cleanup costs or damages by the owner or operator of any offshore facility or vessel to any person pursuant to this title shall be subject to such owner or operator acquiring by subrogation all rights of such person to recover such cleanup costs or damages from any other person.

(3) The provisions of this section shall not in any way affect or limit any rights which an owner or operator of an offshore facility or vessel, or the Fund, may have against any third party whose acts may have caused or contributed to a discharge of oil.

(f) Notwithstanding any other provision of this title, no person shall be liable under this title for payment of cleanup costs or damages to any government of a foreign country, or any citizen of a foreign country not a resident of the United States, unless (1) such payment is authorized by a treaty or executive agreement between such country and the United States, or (2) the Secretary of State, in consultation with the Attorney General, certifies that such country provides an adequate and substantially similar remedy for United States claimants for cleanup costs and damages related to discharges of oil produced from the Continental Shelf of such country.

(g) Any owner or operator of any offshore facility or vessel liable for damages to any person pursuant to subsection (b), (c), or (e)(1) of this section shall also be liable to such person for interest on the amount of such damages for which such owner or operator is liable, at the existing commercial interest rate, from the date the claim or amended claim including such damages was presented to the date on which the damages are paid. Such interest shall not be subject to any limitation of liability specified in subsection (b) or (c) of this section.

DISBURSEMENTS FROM THE REVOLVING ACCOUNT

SEC. 309. (a) Amounts in the revolving account shall be available for disbursement and shall be disbursed by the Fund for only the following purposes:

(1) Administrative and personnel expenses of the Fund.

(2) Cleanup costs resulting from the discharge of oil which are incurred pursuant to this title or pursuant to any State or local law, and costs of the removal of oil incurred by the owner or operator of an offshore facility or vessel to the extent that the discharge of such oil was caused solely by an act of war or negligence on the part of the Federal Government in establishing and maintaining aids to navigation.

(3) Subject to the provisions of section 313 of this title, all damages not actually compensated pursuant to section 308(b) or (c) of this title.

(b) Payment of compensation by the Fund shall be subject to the Fund acquiring by subrogation all rights of the claimant to recover cleanup costs or damages from the person responsible for such discharge. The Fund shall diligently pursue recovery for any such subrogated rights.

(c) Notwithstanding any other provision of this section, the Fund shall not be liable to pay (1) cleanup costs and damages of any claimant to the extent that the discharge of oil or any damages resulting from such discharge were caused by the negligent or intentional act of the damaged party, or (2) damages of any claimant to the extent that the discharge of oil or any damages resulting from such discharge were caused by an act of war.

(d) In all claims or actions by the Fund against the owner, operator, or person providing financial responsibility, the Fund shall recover (1) except as otherwise provided in this title, the amount the Fund has paid to the claimant or to any government entity undertaking cleanup operations, without reduction, (2) interest on that amount, at the existing commercial interest rate, from the date upon which the request for reimbursement was issued from the Fund to the owner, operator, or such person, to the date on which the Fund is paid by such owner, operator, or person, and (3) all reasonable and actual administrative costs incurred by the Secretary and disbursed by the Fund in connection with such claim or action, including costs of investigation, processing, hearings, appeals, and collection. Costs recovered pursuant to clause (3) of this subsection shall not be subject to any limitation of liability applicable to such owner, operator, or person providing financial responsibility, under the provisions of subsection (b) or (c) of section 308 of this title.

(e) Whenever the amount in the revolving account is not sufficient to pay cleanup costs and damages for which the Fund is liable pursuant to this section, the Fund may issue, in an amount not to exceed $500,000,000, notes or other obligations to the Secretary of the Treasury, in such forms and denominations, bearing such maturities, and subject to such terms and conditions as the Secretary of the Treasury may prescribe. Such notes or other obligations shall bear interest at a rate to be determined by the Secretary of the Treasury on the basis of the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of such notes or other obligations. Moneys obtained by the Fund under this subsection shall be deposited in the revolving account, and redemptions of any such notes or other obligations shall be made by the Fund from the revolving account. The Secretary of the Treasury shall purchase any such notes or other obligations, and for such purpose he may use as a public debt transaction the proceeds from the sale of any securities under the Second Liberty Bond Act. The purposes for which securities may be issued under such Act are extended to include any purchase of notes or other obligations issued under this subsection. The Secretary of the Treasury may sell any such notes or other obligations at such times and prices and upon such terms and conditions as he shall determine in his discretion. All purchases, redemptions, and sales of such notes or other obligations by such Secretary of the Treasury shall be treated as public debt transactions of the United States.

FEE COLLECTION; DEPOSITS IN REVOLVING ACCOUNT

SEC. 310. (a)(1) The Secretary shall levy and the Secretary of the Treasury shall collect a fee of not to exceed 3 cents per barrel on oil obtained from the Outer Continental Shelf, wihch shall be imposed on the owner of the oil when such oil is produced.

(2) The collection of the fee imposed pursuant to paragraph (1) of this subsection shall continue until the amount in the revolving account totals at least $100,000,000, whereupon collection of such fee may be suspended. Thereafter, the Secretary shall, from time to time and in accordance with the limitation set forth in the first sentence of paragraph (1) of this subsection, modify by regulation the amount of the fee, if any, to be collected under this subsection in order to maintain the revolving account at a level of not less than $100,000,000 and not more than $200,000,000. For purposes of this paragraph, all sums deposited pursuant to subsection (b) of this section shall be included in the calculation of the balance in the revolving account.

(b) All sums received through fee collection, reimbursements, fines, penalties, investments, and judgments pursuant to this title shall be deposited in the revolving account.

(c) All sums not needed for the purposes specified in this title shall be prudently invested in income-producing securities issued by the United States and approved by the Secretary of the Treasury.

FINANCIAL RESPONSIBILITY

SEC. 311. (a) Each owner or operator of an offshore facility shall establish and maintain, under rules and regulations prescribed by the President, evidence of financial responsibility based on the capacity of the offshore facility and other relevant factors. Financial responsibility may be established by any one, or a combination of, the following methods acceptable to the President: (1) evidence of insurance, (2) surety bonds, (3) qualification as a self-insurer, or (4) other evidence of financial responsibility satisfactory to the President.

(b) Each owner or operator of a vessel over three hundred gross registered tons (other than a vessel which is not self-propelled and which does not carry oil as cargo or fuel) shall establish and maintain, under rules and regulations prescribed by the Federal Maritime Commission, evidence of financial responsibility based on the liability requirements of this title and the tonnage of the vessel. In cases where an owner or operator owns, operates, or charters more than one such vessel, financial responsibility need only be established to meet the maximum liability to which the largest of such vessels could be subjected. Financial responsibility may be established by any one, or combination, of the following methods acceptable to the President: (1) evidence of insurance, (2) surety bonds, (3) qualification as a self-insurer, or (4) other evidence of financial responsibility satisfactory to the President.

(c) Any claim for cleanup costs and damages by any claimant or by the Fund may be brought directly against the surety, the insurer, or any other person providing financial responsibility.

(d) Any person who fails to comply with the provisions of this section or any regulation issued under this section shall be subject to a fine of not more than $25,000.

(e) The President shall adjust the requirements established under this section and the limit of liability under section 308 of this title annually, by an amount equal to the annual percentage change in the wholesale price index.

(f) No owner or operator of an offshore facility or vessel who establishes and maintains evidence of financial responsibility in accordance with this section shall be required under any State law, rule, or regulation to establish any other evidence of financial responsibility in connection with liability for the discharge of oil from such offshore facility or vessel. Evidence of compliance with the financial responsibility requirement of this section shall be accepted by a State in lieu of any other requirement of financial responsibility imposed by such State in connection with liability for the discharge of oil from such offshore facility or vessel.

TRUSTEE OF NATURAL RESOURCES

SEC. 312. The President, or the authorized representative of any State, shall act on behalf of the public as trustee of the natural resources to recover for damages to such resources. Sums recovered shall be used to restore, rehabilitate, or acquire the equivalent of such natural resources by the appropriate agencies of the Federal Government, or the State government.

CLAIMS PROCEDURE

SEC. 313. (a) The Secretary shall prescribe, and may from time to time amend, regulations for the filing, processing, settlement, and adjudication of claims for cleanup costs and damages resulting from the discharge of oil from an offshore facility or vessel.

(b) (1) Whenever the Secretary receives information from any person alleging the discharge of oil from any offshore facility or vessel in violation of section 303 of this title, he shall notify the owner and operator of such offshore facility or vessel of such allegation. Such owner or operator may, within five days after receiving such notification, deny such allegation, or deny liability for damages for any of the reasons set forth in section 308(d) of this title.

(2) Any denial made pursuant to paragraph (1) of this subsection shall be adjudicated in accordance with the provisions of subsection (i) of this section.

(c) (1) If a denial is not made pursuant to subsection (b) (1) of this section, the owner and operator, or the person providing financial responsibility, shall advertise, in accordance with regulations promulgated by the Secretary, in any area where damages may occur, the procedures under which claims may be presented to such owner and operator or such person providing financial responsibility. The Secretary shall publish the text of such advertisement, in modified form if necessary, in the Federal Register. If any person fails to make any advertisement required by this paragraph, the Secretary shall do so and such person shall pay the costs of such advertisement.

(2) If a denial is made pursuant to subsection (b) of this section, the Secretary shall advertise and publish procedures under which claims may be presented to the Secretary for payment by the Fund from the revolving account.

(3) Any advertisement made under this subsection shall commence no later than fifteen days after the date of the notification and shall continue for a period of no less than thirty days. Such advertisement shall be repeated thereafter in such modified form as may be necessary, but not less frequently than once each calendar quarter for a total period of five years.

(d) (1) Any claim presented to any person under subsection (e) (1) of this section, or to the Secretary for payment from the Fund, shall be presented within one year after the date of discovery of any damages for which such claim is made, except that no such claim may be presented after the end of the five-year period begining on the date on which advertising was commenced pursuant to subsection (c) of this section.

(2) Each person's damage claims arising from one incident which are presented to the Secretary shall be stated in one form, which may be amended to include new claims as they are discovered. Damages which are known or reasonably should be known,' and which are not included in the claim at the time compensation is made, shall be deemed waived.

(e) (1) Except as provided in subsection (f) of this section, all claims shall be presented (A) to the owner and operator, or (B) to the person providing financial responsibility.

(2) Any person to whom a claim has been presented pursuant to paragraph (1) of this subsection shall promptly notify the claimant of the rights which such claimant may have under this title and notify the Secretary of receipt of such claim.

(f) The following claims may be presented to the Secretary for payment by the Fund from the revolving account:

(1) Any claim for damages resulting from any discharge with respect to which a denial has been made pursuant to subsection (b) (1) of this section.

(2) Any claim which has been presented to any person pursuant to subsection (e) (1) of this section, if such person—

(A) has not accepted liability for such claim for any such reason,

(B) submits to the claimant a written offer for settlement of the claim, which the claimant rejects for any reason, or

(C) has not settled such claim by agreement with the claimant within sixty days after the date on which (i) such claim was presented, or (ii) advertising was commenced pursuant to subsection (c) of this section, whichever date is later.

(g) In the case of a claim which has been presented to any person under subsection (e) (1) of this section, and which may be presented to the Secretary under subsection (f) (2) of this section, such person shall, within two days after a request by the claimant, transmit directly to the Secretary such claim and such other supporting documents as the Secretary may by regulation prescribe, and such claim shall be deemed presented to the Secretary for payment by the Fund.

(h) (1) Except as provided in paragraph (2) of this subsection, the Secretary shall use the facilities and services of private insurance and claims adjusting organizations in administering this section and may contract to pay compensation for such facilities and services. Any contract made under the provisions of this paragraph may be made without regard to the provisions of section 3709 of the Revised Statutes, upon a showing by the Secretary that advertising is not reasonably practicable, and advance payments may be made. A payment to a claimant, for a single claim in excess of $100,000, or two or more claims aggregating in excess of $200,000, shall be first approved by the Secretary.

(2) In extraordinary circumstances in which the services of such private organizations are inadequate, the Secretary may use Federal personnel to administer the provisions of this section, to the extent necessitated by such extraordinary circumstances.

(i) The following matters in dispute shall be submitted to the Secretary and adjudicated pursuant to the provisions of this section:

(1) Upon the petition of a claimant, in the case of a claim which has been presented to the Secretary for payment by the Fund, and in which the Secretary—

(A) has, for any reason, denied liability for such claim; or

(B) has not settled such claim by agreement with such claimant within ninety days after the date on which (i) such claim was presented to the Secretary, or (ii) advertising was commenced pursuant to subsection (c) (2) of this section, whichever date is later.

(2) Upon the petition of the owner and operator or the person providing financial responsibility, who is or may be liable for cleanup costs and damages pursuant to section 308 of this title—

(A) any denial made pursuant to subsection (b) (1) of this section;

(B) any objection to an exception to the limit of liability set forth in section 308 (b) or (c) of this title; and

(C) the amount of any payment or proposed payment by the Fund which may be recovered from such owner and operator, or such person providing financial responsibility, pursuant to section 309(d) of this title.

(j) (1) Upon receipt of any matter in dispute submitted for adjudication pursuant to subsection (i) of this section, the Secretary shall refer such matter to a hearing examiner appointed under section 3105 of title 5, United States Code. Such hearing examiner shall promptly adjudicate the case and render a decision in accordance with section 554 of title 5, United States Code.

(2) For purposes of any hearing conducted pursuant to this subsection, the hearing examiner shall have the power to administer oaths and subpena the attendance and testimony of witnesses and the production of books, records, and other evidence relative or pertinent to the issues presented for determination.

(3) A hearing conducted under this subsection shall be conducted within the United States judicial district within which the matter in dispute occurred, or, if such matter occurred within two or more districts, in any of the affected districts or, if such matter in dispute occurred outside of any district, in the nearest district.

(k) Upon a decision by the hearing examiner and in the absence of a request for judicial review, any amount to be paid from the revolving account shall be certified to the Fund which shall promptly disburse the award. Such decision shall not be reviewable by the Secretary.

JUDICIAL REVIEW

SEC. 314. (a) Any person who suffers legal wrong or who is adversely affected or aggrieved by the decision of a hearing examiner may, no later than sixty days after such decision is made, seek judicial review of such decision (A) in the United States court of appeals for the circuit in which the damage occurred, or, if such damage occurred outside of any circuit, in the United States court of appeals for the nearest circuit, or (B) in the United States Court of Appeals for the District of Columbia.

(b) In any case in which the person responsible for the discharge, or the Fund, seeks judicial review, attorneys' fees and court costs shall be awarded to the claimant if the decision of the hearing examiner is affirmed.

CLASS ACTIONS

SEC. 315. (a) The Attorney General may act on behalf of any group of damaged citizens which the Secretary determines would be more adequately represented as a class in the recovery of claims under this title. Sums recovered shall be distributed to the members of such group, except that the reasonable and actual costs incurred by the Attorney General in representing such class shall be paid out of such sums recovered, and shall be deposited in the Treasury of the United States, and credited to miscellaneous receipts. The Attorney General shall not commence any action under this subsection against the Fund or any other agency of the United States.

(b) If, within ninety days after a discharge of oil in violation of section 303 of this title has occurred, the Attorney General fails to act on behalf of a group who may be entitled to compensation, any member of such group may maintain a class action to recover such damages on behalf of such group. Failure of the Attorney General to act in accordance with this subsection shall have no bearing on any class action maintained in accordance with this subsection.

(c) In any case in which the number of members of the class seeking the recovery of claims under this title exceeds one thousand, publishing notice of the action in the Federal Register and in local newspapers serving the areas in which the damaged parties reside shall be deemed to fulfill the requirement for public notice established by rule 23(c)(2) of the Federal Rules of Civil Procedure.

REPRESENTATION

SEC. 316. The Secretary shall initially request the Attorney General to promptly institute court actions and to appear and represent the Fund for all claims under this title. Unless the Attorney General notifies the Secretary that he will institute such action or will otherwise appear within a reasonable time, attorneys appointed by the Secretary shall appear and represent the Fund.

JURISDICTION AND VENUE

SEC. 317. (a) The United States district courts shall have orignal jurisdiction over all controversies arising under this title, without regard to the citizenship of the parties or the amount in controversy.

(b) Venue shall lie in any district (1) wherein the damage complained of occurred, or, if such damage occurred outside of any district, in the nearest district, or (2) wherein the defendant resides, may be found, or has its principal office. For the purposes of this section, the Fund shall reside in the District of Columbia.

ACCESS TO RECORDS

SEC. 318. (a) Each person responsible for contributinng to the Fund in accordance with this title shall keep such records and furnish such information as the Secretary shall prescribe in regulations. Collection shall be at such times and in such manner as shall be prescribed in such regulations.

(b) The Secretary shall have access to any books, documents, papers, and records of such person relevant to the administration of this title, and shall undertake regular examinations of and audits on the collection of fees.

(c) The Comptroller General shall have access to any books, documents, papers, records, and other information of any person liable to contribute to the Fund, relevant to the administration of this title, and to all books, documents, papers, records, and other information of the Fund.

PUBLIC ACCESS TO INFORMATION

SEC. 319. (a) Copies of any communication, document, report, or information transmitted between any official of the Federal Government and any person concerning liability and compensation for damages resulting from the discharge of oil from an offshore facility or vessel shall be made available to the public for inspection, and shall be available for the purpose of reproduction at a reasonable cost, to the public upon identifiable request.

(b) Nothing contained in this section shall be construed to require the release of any information of the kind described in subsection (b) of section 552 of title 5, United States Code, or which is otherwise protected by law from disclosure to the public.

ANNUAL REPORT

SEC. 320. Within six months after the end of each fiscal year, the Secretary shall submit to the President of the Senate and the Speaker of the House of Representatives (1) a report on the administration of the Fund during such fiscal year, (2) a summary of the management and enforcement activities of the Fund, and (3) recommendations to the Congress for such additional legislative authority as may be necessary to improve the management of the Fund and the administration of the liability provisions of this title.

AUTHORIZATION OF APPROPRIATIONS

SEC. 321. (a) There is authorized to be appropriated for the administration of this title $10,000,000 for the fiscal year ending September 30, 1977, $5,000,000 for the fiscal year ending September 30, 1978, and $5,000,000 for the fiscal year ending September 30, 1979.

(b) There are also authorized to be appropriated to the Fund from time to time such amounts as may be necessary to carry out the purposes of the applicable provisions of this title, including the entering into contracts pursuant to section 306(b)(4) of this title, any disbursements of funds pursuant to section 309(a) of this title, and the issuance of notes or other obligations pursuant to section 309(e) of this title.

(c) Notwithstanding any other provision of this title, the authority to make contracts pursuant to section 306(b)(4) of this title, to make disbursements pursuant to section 309(a) of this title, to issue notes or other obligations pursuant to section 309(e) of this title, and to charge and collect fees pursuant to section 310(a) of this title shall be effective only to the extent provided, without fiscal year limitation, in appropriation Acts enacted after the date of enactment of this title.

(d) There are hereby authorized to be appropriated to the Fund such sums as may be necessary to reimburse the Fund for amounts paid for cleanup costs and damages in connection with discharges of oil caused by the negligent or intentional act of any agency of the United States.

RELATIONSHIP TO OTHER LAW

SEC. 322. (a) Except as otherwise provided in this ititle, this title shall not be interpreted to preempt the field of liability or to preclude any State from imposing additional requirements or liability for any discharge of oil resulting in damages or cleanup costs within the jurisdiction of any State.

(b) Any person who receives compensation for damages or cleanup costs pursuant to this title shall be precluded from recovering compensation for the same damages or cleanup costs pursuant to any other State or Federal law. Any person who receives compensation for damages or cleanup costs pursuant to any other State or Federal law shall be precluded from receiving compensation for the same damages or cleanup costs under this title.

TITLE IV—MISCELLANEOUS PROVISIONS

REVIEW OF SHUT-IN OR FLARING WELLS

SEC. 401. (a) In a report submitted within six months after the date of enactment of this Act, and in his annual report thereafter, The Secretary shall list all shut-in oil and gas wells and wells flaring natural gas on leases issued under the Outer Continental Shelf Lands Act. Each such report shall be submitted to the Comptroller General and shall indicate why each well is shut-in or flaring natural gas, and whether the Secretary intends to require production on such a shut-in well or order cessation flaring.

(b) Within six months after receipt of the Secretary's report, the Comptroller General shall review and evaluate the methodology used by the Secretary in allowing the wells to be shut-in or to flare natural gas and submit his findings and recommendations to the Congress.

REVIEW AND REVISION OF ROYALTY PAYMENTS

SEC. 402. As soon as feasible and no later than ninety days after the date of enactment of this Act, and annually thereafter, the Secretary of the Interior shall submit a report or reports to the Congress describing the extent, during the two-year period preceding such report, of delinquent royalty accounts under leases issued under any Act which regulates the development of oil and gas on Federal lands, and what new auditing, post-auditing, and accounting procedures have been adopted to assure accurate and timely payment of royalties and net profit shares. Such report or reports shall include any recommendations for corrective action which the Secretary of the Interior determines to be appropriate.

NATURAL GAS DISTRIBUTION

SEC. 403. The Federal Power Commisison shall, pursuant to its authority under section 7 of the Natural Gas Act, permit any natural gas distributing company which engages, directly, in development and production of natural gas from the Outer Continental Shelf to transport to its service area for distribution any natural gas obtained by such natural gas distributing company from such development and production. For purposes of this section, the term "natural gas distributing company" means any person (1) engaged in the distribution of natural gas at retail, and (2) regulated or operated as a public utility by a State or local government.

ANTIDISCRIMINATION PROVISIONS

SEC. 404. Each agency or department given responsibility for the promulgation or enforcement of regulations under this Act or the Outer Continental Shelf Lands Act, shall take such affirmative action as deemed necessary to assure that no person shall, on the grounds of race, creed, color, national origin, or sex, be excluded from receiving or participating in any activity, sale or employment, conducted pursuant to the provisions of this Act or the Outer Continental Shelf Lands Act. The agency or department shall promulgate such rules as it deems necesary to carry out the purposes of this section, and any rules promulgated under this section, through agency and department provisions and rules which shall be similar to those established and in effect under Title VI of the Civil Rights Amendments of 1964.

RELATIONSHIP TO EXISTING LAW

SEC. 405. Except as otherwise expressly provided in this Act, nothing in this Act shall be construed to amend, modify, or repeal any provision of the Coastal Zone Management Act of 1972, the National Environmental Policy Act of 1969, the Mining and Mineral Policy Act of 1970, or any other Act.

RULE AND REGULATION REVIEW

SEC. 406. (a) Any rule or regulation issued under authority of this Act after the date of enactment of this section may by resolution of either House of Congress be disapproved, in whole or in part, if such resolution of disapproval is adopted not later than the end of the first period of 60 calendar days when Congress is in session (whether or not continuous) which period begins on the date such rule or regulation is finally adopted by the Department or agency adopting same. The Department or agency adopting any such rule or regulation shall transmit such rule or regulation to each House of Congress immediately upon its final adoption. Upon adoption of such a resolution of disapproval by either House of Congress, such rule or regulation, or part thereof, as the case may be, shall cease to be in effect.

(b) Congressional inaction on or rejection of a resolution shall not be deemed an expression of approval or approval of such rule.

Amend the title so as to read: "An Act to establish a policy for the management of oil and natural gas in the Outer Continental Shelf, to protect the marine and coastal environment, to amend the Outer Continental Shelf Lands Act, and for other purposes.".

AUTOMATIC COST-OF-LIVING PAY INCREASE 1 YEAR OLD TODAY

(Mr. GRASSLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GRASSLEY. Mr. Speaker, today we are celebrating an anniversary of sorts and I feel a few brief remarks would be in order at this time. For it was 1 year ago on this date, July 30, 1975, that we in the House of Representatives voted ourselves an automatic cost-of-living pay increase.

One year ago I stated that I did not intend to let the American taxpayer forget what was accomplished in this Chamber. To make good on that promise I introduced a bill which would repeal the congressional pay raise. Several of my colleagues have also worked hard to undo what was done on that date which could well be referred to as a day of infamy. I congratulate them.

However, the bill remains bottled up in the Post Office and Civil Service Committee in spite of the fact that more than 80 Members of the House have cosponsored, or indicated a desire to cosponsor, this particular bill. This past March, in an effort to allow the full House to reconsider its position on this matter, I filed a discharge petition with the Clerk. That discharge petition, which is numbered seven, is here in the Chamber and I would invite each and every Member to sign it. Today would be most appropriate.

The effort to repeal the automatic pay increase has received much attention in the press. I think that as the November election approaches, more and more of my colleagues will be questioned by their constituents as to what they have done, as opposed to public pronouncements, to rescind this pay raise. It is my most fervent hope that each and every Member will be able to look the voter square in the eye and truthfully state that he or she has cosponsored the pay raise repeal bill, signed the discharge petition, voted in favor of the legislation on the House floor, and as a result of our efforts the congressional pay increase of last year was rescinded. Otherwise, I fear that many of my colleagues will not be here to celebrate the second anniversary.

CALL OF THE HOUSE

Mr. WYDLER. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. O'NEILL. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 574]

Abzug
Adams
Addabbo
Alexander
Andrews, N.C.
Archer
Ashley
AuCoin
Bergland
Blanchard
Boggs
Bonker
Breaux
Burton, John
Byron
Carney
Chappell
Chisholm
Clancy
Clay
Conlan
Conyers
Cotter
Crane
D'Amours
Davis
Dellums
Dent
Drinan
Esch
Eshleman
Evans, Ind.
Evins, Tenn.
Findley
Fish
Flood
Flynt
Ford, Mich.
Forsythe
Fountain
Frey
Giaimo
Green
Gude
Hansen
Hawkins
Hayes, Ind.
Hays, Ohio
Hébert
Heckler, Mass.
Heinz
Helstoski
Hightower
Hillis
Hinshaw
Holland
Howard
Howe
Jarman
Jones, Tenn.
Karth
Kemp
Koch
LaFalce
Landrum
Leggett
Lehman
Litton
Long, La.
Lujan
McCollister
McDade
McDonald
McKinney
Maguire
Matsunaga
Mazzoli
Melcher
Mikva
Morgan
Mosher
Murphy, N.Y.
Nolan
O'Hara
Passman
Peyser
Pickle
Quie
Richmond
Riegle
Risenhoover
Roncalio
Ruppe
St Germain
Sarbanes
Scheuer
Schneebeli
Sebelius
Shipley
Shuster
Sikes
Sisk
Stanton, James V.
Steed
Steelman
Steiger, Ariz.
Stokes
Stuckey
Sullivan
Symington
Teague
Udall
Ullman
Vanik
Vigorito
Wampler
Waxman
Whitehurst
Wirth
Young, Alaska
Young, Ga.
Zeferetti

The SPEAKER. On this rollcall 310 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

APPOINTMENT OF CONFEREES ON S. 2184, AUTHORIZING APPROPRIATIONS FOR WINTER OLYMPIC GAMES

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 2184) an act to authorize appropriations for the winter Olympic games, and for other purposes, with the House amendments thereto, insist on the House amendments, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia? The Chair hears none, and appoints the following conferees: Messrs. Staggers, Rooney, Adams, Metcalfe, Santini, Skubitz, and Madigan.

APPOINTMENT OF CONFEREES ON H.R. 5546, HEALTH MANPOWER ACT OF 1976

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 5546) an act to amend the Public Health Service Act to revise and extend the programs of assistance under title VII for training in the health and allied health professions, to revise the National Health Service Corps program and the National Health Service Corps scholarship training program, and for other purposes, with a Senate amendment thereto, disagree to the Senate amendment, and request a conference with the Senate thereon.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia? The Chair hears none, and appoints the following conferees: Messrs. Staggers, Rogers, Satterfield, Preyer, Symington, Scheuer, Waxman, Florio, Carney, Maguire, Devine, Carter, Broyhill, Heinz, and Madigan.

NUCLEAR FUEL ASSURANCE ACT OF 1976

Mr. PRICE. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill H.R. 8401, to authorize cooperative arrangements with private enterprise for the provision of facilities for the production and enrichment of uranium enriched in the isotope-235, to provide for authorization of contract authority therefor, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from Illinois (Mr. Price).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill H.R. 8401, with Mr. Pike in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on yesterday, Thursday, July 29, 1976, the gentleman from Illinois (Mr. Price) had consumed 33 minutes and the gentleman from Illinois (Mr. Anderson) had consumed 23 minutes.

Mr. PRICE. Mr. Chairman, I have no further requests for time and I reserve the balance of my time.

Mr. ANDERSON of Illinois. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, I take this time because shortly, when this bill is read for amendment under the 5-minute rule, I know that an amendment is going to be offered by the gentleman from New York (Mr. Bingham) which would have the effect of eliminating everything from the bill except section 4 which provides for the Portsmouth or the so-called add-on enrichment facility. This amendment, if adopted, guts the bill. It so totally emasculates this legislation that, in my judgment, it is worthless.

One of the arguments that is going to be made is that we ought to adopt the amendment to reduce the problem of proliferation, that because of the dangers of nuclear proliferation the United States should not add to its enrichment capacity.

The supreme irony of that argument is simply this, that the current uncertainties that are surrounding the construction of new capacity for providing enrichment services have encouraged foreign customers of the United States for those services to accelerate their own efforts to expand their own ability to enrich uranium, or to procure it from non-U.S. sources. If that trend continues, if they develop as they are trying to do now in France, in West Germany, in Japan, in countries around the world, we are left without any handle at all to control this problem of proliferation as far as enriched uranium is concerned.

If Members would take the time to read the committee report, they would find clearly enunciated on page 8 the fact that the Joint Committee has required the assurance without reservation that any cooperative arrangement that is entered into between ERDA and any consortium or any private company to engage in providing enrichment services will be subject to the requirement that exports take place, and I quote, "pursuant to appropriate international agreements for cooperation and be subjected to safeguards to prevent diversion."

If we maintain our primacy in this area, we have the best possible chance to control the danger of nuclear proliferation. But I would point out that the Soviet Union has already made substantial sales of enriched uranium to free world nations, because since mid-1974 our capacity to furnish that material has been exhausted. We have been unable to enter into any contracts, long-term contracts, with other countries. France has committed itself to the Eurodif project with financial participation by several other European nations, a project that is even now under construction. If we render it impossible for the United States to act for another year, as we would do if we turn down this bill, it simply means that there is not only going to be the project that I spoke of, but it will almost certainly mean French commitment to a second new diffusion plant called Eurodif, and Iran has been invited to participate in that particular project. South Africa has announced its intention to construct a large enrichment plant. The best possible chance we have to control this problem of proliferation lies in the United States remaining active in this area.

I think my bona fide interests, as one who is generally concerned about this, were demonstrated in the amendment that I offered to the ERDA authorization bill when I offered an amendment that was accepted overwhelmingly in this House that would subject to congressional review the sale of a ninth reactor to Spain. I am as concerned about this as any Member of this Chamber, but I do not want to see the United States foreclose its opportunity to maintain international safeguards over the sale of enriched fuel by simply bowing out of the picture.

Mr. YATES. Mr. Chairman, will the gentleman yield?

Mr. ANDERSON of Illinois. I yield to the gentleman from Illinois.

Mr. YATES. I thank the gentleman for yielding.

Mr. Chairman, so far in the debate none of the members of the committee have talked about the very detailed report by the Comptroller General's Office in opposition to the proposed arrangement.

Mr. ANDERSON of Illinois. I can answer the gentleman very, very briefly on that because my time will soon expire.

That GAO report does not relate in any way to the measure that is before us today. That report addressed itself to a proposed contractual relationship.

I would say to my friend, the gentleman from Illinois, that report is very much out of date. It related to a proposal by UEA to enter into a cooperative arrangement with ERDA. That proposal has undergone very drastic revisions since that report was issued.

And in addition to that, and I wish my friend would hear me out, we are not approving any cooperative arrangement or any contract whatever in adopting the Nuclear Fuel Assurance Act. All we are doing is setting up the legislative framework that will make it possible to go and negotiate that contract, lay it before the committee for 60 days, require the committee to report back to this Chamber with a recommendation, and give the Members an opportunity to vote on a concurrent resolution of approval or disapproval. The Members are not in any way compromising their opposition to any proposed contract between UEA and ERDA.

Mr. YATES. Will the gentleman yield further?

Mr. ANDERSON of Illinois. I yield.

Mr. YATES. The gentleman spoke about the Comptroller General. Has the Comptroller General made a subsequent report?

Mr. ANDERSON of Illinois. No.

Mr. PRICE. Will the gentleman yield?

Mr. ANDERSON of Illinois. I yield to the distinguished vice chairman of the Joint Committee, the gentleman from Illinois (Mr. PRICE).

Mr. PRICE. Yes, the Comptroller General made a report on this on May 10, 1976. In that report he states in regard to this particular matter:

> In our view, if private ownership is desirable, the present course of action being taken by the Joint Committee of providing broad legislative authority with the right to approve or disapprove any resulting cooperative agreement is more desirable than basing legislation on the UEA or some similar proposal and perhaps requiring changes to that legislation whenever other agreements containing new and different conditions are proposed for the gas centrifuge process.

The CHAIRMAN. The time of the gentleman from Illinois has expired.

Mr. ANDERSON of Illinois. Mr. Chairman, I yield myself 3 additional minutes.

I must at this time inform the gentleman from Illinois (Mr. YATES) that I have other requests for time and I cannot take all the time myself.

I merely want to repeat while we have some Members here on the floor who were not here late yesterday afternoon, that I have in my files and I am sure the Members have as well, the telegrams of support for this legislation in behalf of 1 million members of the International Brotherhood of Electrical Workers and support by the international president of the International Boilermakers, Iron Shipbuilders, Blacksmiths, Forgers, and Helpers of the AFL-CIO. I have a letter from Mr. Robert A. Georgine, president, Building and Construction Trades Union, urging in behalf of the construction industry and the labor force of this country the passage of this bill, without the crippling amendments that are going to be offered by the gentleman from New York and others.

So I urge when we read this bill for amendment under the 5-minute rule in behalf of labor, in behalf of management, in behalf of maintaining the role of the United States in an effort to control this danger of proliferation, that we support this bill without amendment.

Mr. PRICE. Mr. Chairman, I yield 5 minutes to the gentleman from New York (Mr. BINGHAM).

Mr. BINGHAM. Mr. Chairman, in the interest of time I had hoped we would be able to debate my amendment when I proposed it, but the gentleman from Illinois, who is an experienced parliamentarian, managed to take 10 minutes during the debate on the rule last night and 5 minutes-plus just now to seek to counter my amendment while there were quite a few Members on the floor, and I do not want to see those Members drifting away, so let me start by quoting from the letter received by our colleague, the gentleman from California (Mr. Moss), from the former chairman of the Joint Committee on Atomic Energy, one of the foremost advocates of nuclear energy in this country, our former colleague, Chet Holifield.

He says, and I am quoting Chet Holifield:

> When I reviewed H.R. 8401, one of the first thoughts that entered my mind was that the bill might possibly be the worst piece of legislation that I could recall ever emerging from the Joint Committee on Atomic Energy.
>
> * * * * *
>
> While continuing to stall all initiatives to face up to our need for adequate add-on capacity to the Governor's gaseous diffusion complex, the Ford people have come up with a new attempt to give a selected business combine a firm and monopolistic grip on the future supply and pricing of fuel for nuclear powerplants.
>
> H.R. 8401 is bad legislation from every rational standpoint, save one. The sole exception is the acknowledgement in section 4 that ERDA must initiate the design and construction of the much needed expansion of its gaseous diffusion complex. This mandatory go-ahead, however, should be separated from the rest of H.R. 8401 which is wholly undeserving of Congressional support.

Now, make no mistake about it, Mr. Chairman, this bill was tailored for one contract. It was tailored from the beginning to suit the needs of the combine known as UEA. This combine is headed by the Bechtel Corp. It will have a 60-percent holding by three foreign countries: France, Iran, and West Germany.

Now, one of the many confusing things about this whole deal is that those foreign investors are willing to come into this deal without a guarantee. They will not get a guarantee, but the American corporations are insisting that they get a guarantee.

From the terms of the contract as it was outlined in the hearings and as I will describe later when I present my amendment, it includes much, much more than a guarantee of technology. It includes access to the materials. It includes, in essence, access to markets, because if UEA cannot sell the enriched uranium, the Government will have to take them off the hook, and so on.

Now, the gentleman from Illinois has referred constantly to our need for enough capacity to produce enriched uranium. I am in agreement with that, but the figures show that through 1985, with the Portsmouth add-on, we will have more than enough to supply the foreseeable needs.

Mr. ANDERSON of Illinois. Mr. Chairman, will the gentleman yield?

Mr. BINGHAM. No, I will not yield. The gentleman has had lots of time.

Mr. Chairman, the estimates are that we will need—and ERDA has been constantly reducing its estimates—enough for 253 plants by 1985. Under section 4 of the bill; that is, if we go ahead with the Portsmouth add-on, we will have capacity for 429 plants, or an excess capacity of 176.

Now, the gentleman from Illinois mentioned huge figures looking into the distant future. We do not even know whether in that future we will be using this kind of fuel for power production. There may be other types of fuel coming along. We have ample time to plan for the late 1980's and the 1990's.

Mr. Chairman, the last point I want to make is as to cost. The gentleman from Illinois has referred again and again to the cost to the taxpayers if we stick to the method used up to now, which is Government production. Our own Congressional Budget Office has concluded that the cost to the taxpayer will be higher if we go the private route than if we go the Government route. Why? Because the Government can get the capital more cheaply and, of course, the Government will be selling the product, not giving it away. It will be selling its product and covering its cost, so there will be no cost to the taxpayer. The cost will be less if we continue with the well-known route we have followed to date than it will be if we take this untried route with a contract to private industry that leaves all kinds of questions open.

Mr. PRICE. Mr. Chairman, I yield myself 3 minutes.

Mr. Chairman, I will not attempt to reply in detail to the statement of the gentleman from New York, but since it did bring in the name of our former colleague and my very close personal friend, of whom I am a great admirer, I would like to bring this matter up to date.

There are always changes in opinions from the time we look at a piece of legislation until we report it out; it is altered by committee consideration. I would like to read from a report that came from Mr. Staats, the Comptroller General, who is referred to by Mr. Holifield and by the previous speaker.

Mr. Holifield is not alone in his concern that the uranium enrichment technology which has been developed at the expense of the American taxpayer is not used in the future by private enterprise to the detriment of the American consumer. It is for that very reason that the Joint Committee on Atomic Energy did not, in its report on the Nuclear Fuel Assurance Act, recommend that the Congress adopt now any commitment on the part of the Government to give any specific assurances.

The course—and this is the point I want the Members of the Committee to hear—the course which the Joint Committee has followed in H.R. 8401 as reported on May 14, 1976, in its recommendations on the Nuclear Fuel Assurance Act, is precisely the course recommended by the GAO.

I agree with Mr. Holifield that Mr. Staats is an exceptionally able and dedicated Comptroller General, and that the GAO staff is exceptionally able and dedicated.

Mr. Staats said:

> In our view, if private ownership is desirable, the present course of action being taken by the Joint Committee of providing broad legislative authority with the right to approve or disapprove any resulting cooperative agreement is more desirable than basing legislation on the UEA or some similar proposal, and perhaps requiring changes to that legislation whenever other agreements containing new and different conditions are proposed for the gas centrifuge process.

I urge the Committee not to be misled by contrary statements.

Mr. Chairman, I yield 5 minutes to the gentleman from Ohio (Mr. SEIBERLING).

Mr. SEIBERLING. Mr. Chairman, it is not easy for me to oppose this bill and to support the Bingham amendment, but I will oppose it unless the Bingham amendment is adopted. The largest corporation in my district, the Goodyear Tire & Rubber Co.; the largest union in my district, the United Rubber Workers, have both asked me to oppose the Bingham amendment and support the bill.

Now, their interest is pretty obvious, at least that of the Goodyear Tire & Rubber Co. It is a member of the Uranium Enrichment Associates. I have in my hand the report that Goodyear and UEA and Bechtel prepared outlining the proposal that they submitted to the Government, and I would like to just read part of it.

It says:

> Both UEA and these other firms have concluded, however, that some form of government cooperation and temporary assurances are essential to begin the transition to a private competitive industry. Among the factors that have contributed to this conclusion are:
>
> The recent adverse financial situation of U.S. electrical utilities which are the customers for a plant.

We know, for example, that Offshore Power Systems, a company which was formed by Westinghouse and others, had eight contracts in 1974 to build floating off-shore nuclear plants, and all of them have been canceled or postponed. They have sunk $120 million with nothing to show for it. There have been many other similar incidents. So I can see why the UEA is concerned.

Now, going on—

> This proposal was reviewed by concerned government agencies . . . Following this review, the executive branch took action as described below.

One of the executive branch actions described thereafter is that President Ford submitted to Congress a proposed bill which in essence is the bill before us. The report goes on to say:

> These arrangements would provide for certain forms of government cooperation and temporary assurances found to be necessary.

Which would include not only supplying and warranting Government-owned inventions, but would also include:

> [The government] Assuming the assets and liabilities (including debt) of a private uranium enrichment project if the venture threatened to fail at the call of the private venture or the government, and with compensation to domestic investors in the private venture or the government, and with compensation to domestic investors in the private ventures ranging from full reimbursement to total loss of equity interest, depending on the circumstances leading to the threat of failure and the performance of the equity investors.

Still quoting:

> It is intended that any undertaking by the government to acquire assets or interest and to asume liabilities of a private venture would end after approximately one full year of commercial operations of a plant.

This is not just limited, as the gentleman from Illinois has suggested, to failure of technology. It is failure of demand for enriched uranium so that the supply contracts that the UEA had would not be met.

Why bypass the normal procedures? Why not submit the entire proposal to the Congress and let the Congress vote on it and let the President, the next President have the right to veto it? Why? Because this administration wants to bypass the normal procedure. The bill, as it was written, was set up so that the House and the Senate, by concurrent resolution, could enact the real bill. It has just now been changed by committee amendment to provide for a joint resolution. But even though the bill now meets the constitutional requirement that the President have a right to veto the real arrangement, it would still commit the next President and the next Congress to the principle of guarantees by the Government before we know what the particular proposals are that the taxpayers are asked to guarantee.

Therefore, I oppose it, and there are a number of substantive reasons which I will get into under the 5-minute rule.

Mr. ANDERSON of Illinois. Mr. Chairman, will the gentleman yield?

Mr. SEIBERLING. I yield to the gentleman from Illinois (Mr. ANDERSON).

Mr. ANDERSON of Illinois. I thank the gentleman for yielding.

Mr. Chairman, I just cannot understand the statement that the gentleman made that with this legislation we are trying to bypass the Congress and to sneak through some kind of a contract that is going to result in some sort of enrichment to the private companies involved.

Mr. SEIBERLING. We are not sneaking it through, we are doing it openly but while we are still in the dark as to the specific implications.

Mr. ANDERSON of Illinois. We have written in the tightest language we possibly could that the Congress has to review any contract, and we will have a chance to vote against these contracts when they are submitted for congressional review. These contracts will even go to GAO for its opinion before they come back to Congress for a vote.

Mr. SEIBERLING. Under this bill, will the President have an opportunity to veto it if the Congress approves it?

Mr. ANDERSON of Illinois. Under a committee amendment he would have that opportunity, yes.

Mr. Chairman, I yield 5 minutes to the gentleman from Alabama (Mr. DICKINSON).

Mr. DICKINSON. Mr. Chairman, I have listened with a great deal of interest to the debate here, and I must say that it is not at all clear as to what we are doing here if we only listen to the debate that has come from the well.

Actually, what we are doing, Mr. Chairman, we are not approving any contract. It has been pointed out repeatedly—but some people evidently do not want to hear—we are simply setting up a framework, creating a vehicle to make it possible so that later this Congress can consider a contract to provide for uranium enrichment of fuel to go into nuclear reactors.

There is a philosophical question, and that is really what we are talking about here, and that is really all this administration and the previous administration have approved. The question is: Are we going to have a Government monopoly forever on nuclear fuel, or are we going to open up the area so that private enterprise can also participate in the manufacture of nuclear fuel? Do we want a monopoly by the Government, or are we going to open it up—which I think most of us philosophically approve—so that private enterprise can get into the field of nuclear energy?

I favor that very strongly. I think it is only commonsense. Mr. Chairman, the NFAA is intended solely to determine whether or not private industry and the Government can enter into a contractual relationship which provides for private industry taking on this financial and technical responsibility, absorbing a suitable amount of risk and, of course, realizing a profit from the investment.

If we look into the fuutre, we see we have a projected need for 11 such plants to enrich uranium so that it can be used for fuel. We need 11 plants, and we are talking about 2 here. The Joint Committee in its wisdom, in debating the question of private versus public interests, very wisely, I think, decided that we will go down both roads simultaneously.

We have an add-on facility at Portsmouth, and we will also open up the area for private enterprise to come in.

But the point is this—and I would like to have the assurance of the committee chairman or the ranking minority member on this—as I understand it, if private enterprise gets into the act, they do require a Government guarantee because of the tremendous amounts of money or capital they are going to have to borrow to put into it. Industry says, "We are going to put up our risk capital, and if we fall on our faces, then we are willing to lose what we put up, and the Government will then assure those who have invested that they will not lose but the Government will then complete the contract." The Government will then get back into the business and furnish the uranium fuel that the individuals had attempted to furnish.

If I might have the attention of the ranking minority member, is that substantially correct? If those who invest their money fail for any reason to complete the contract, the Government says it will then come in and take it over; that would be the proposal, and they would lose their investment; is that correct?

Mr. ANDERSON of Illinois. Mr. Chairman, if the gentleman will yield, the gentleman from Alabama (Mr. DICKINSON) is correct in the statement that he has made.

If the gentleman will indulge me for one further minute, I would also make the observation that when we talk in terms of an $8 billion overall limit on these guarantees, we ought to realize that if the Government has to step in, in the event of the failure of the technology, and take over the plant and construct it, we are not going to have to pay off all of that long-term debt that may be outstanding immediately. The Government would proceed, of course, to maintain the interest payments and the amortization payments on the debt, but certainly we are not immediately going to see all of those people coming in for an immediate payoff from the Federal Government.

So I think that the minimal risk that is involved, as we said during the extensive general debate that we had on this bill yesterday, makes this the best possible deal for the American taxpayer.

The CHAIRMAN. The time of the gentleman from Alabama (Mr. DICKINSON) has expired.

Mr. ANDERSON of Illinois. Mr. Chairman, I yield 2 additional minutes to the gentleman from Alabama (Mr. DICKINSON).

Mr. YATES. Mr. Chairman, will the gentleman yield for a question?

Mr. DICKINSON. As soon as I have concluded my statement, I will be glad to yield.

Mr. Chairman, the facts are very simple to me. We have a choice. The Government can either put up all of the money and construct all of the enrichment facilities and remain the sole salesman in the business, or the Government can say, "We will continue to do a part of it, but we are going to open up the area so that private enterprise can get in and participate."

If private enterprise gets in and participates and if for any reason it fails to successfully conclude the operation, the Government then will come in and take over, and they, the private industry people will lose the money they have invested. It does not cost the Government any more to guarantee and then take over than it would if the Government went ahead and did it on its own.

There is a projected need for 11 of these plants in the foreseeable future. If I understand the situation—and I am subject to correction—the present capacity is entirely committed to plants in being or projected plants that are under construction. We do not have any additional capacity from any other proposed plants in the future.

Mr. Chairman, this is just common sense. If we do not do this, then we are going to be dependent on foreign sources, and we will be buying enriched uranium after 1985 from France, from Russia, or from any other country that might be in the market, because we will not have increased our capacity, and our capacity is totally committed.

Therefore, I really would hate to see us become more dependent on our energy supply from any foreign source than we are today. The whole object and the whole idea is to develop a capability that will make us independent of foreign sources for additional energy.

Mr. YATES. Mr. Chairman, will the gentleman yield?

Mr. DICKINSON. I yield to the gentleman from Illinois.

Mr. YATES. Is this not a strange situation where we have the gentleman from Illinois (Mr. ANDERSON) and the proponents of this legislation saying that there is no contract?

The CHAIRMAN. The time of the gentleman from Alabama (Mr. DICKINSON) has expired.

Mr. PRICE. Mr. Chairman, I yield 1 minute to the gentleman from Illinois (Mr. YATES).

Mr. YATES, Mr. Chairman, is this legislation really a strange hocus-pocus—now you see it, now you do not?

Now we have the gentleman from Illinois (Mr. ANDERSON) and the proponents of the bill saying that we have no kind of contractual arrangement here at all, that all we are doing is laying out a format for possible negotiation of a contract later.

When the gentleman from Alabama (Mr. DICKINSON) asked him, "Is this not what the contract is going to do? Is it not going to protect the prospective contractors so that they will not lose any money?", the gentleman from Illinois said, "Yes, this is going to be in the contract."

What is the truth? Is there a contract or only a framework for legislation?

Mr. DICKINSON. If the gentleman will yield, that is what we have made quite clear.

Mr. BINGHAM. Mr. Chairman, will the gentleman yield?

Mr. YATES. I yield to the gentleman from New York.

Mr. BINGHAM. Mr. Chairman, I would just like to commend the gentleman from Alabama (Mr. DICKINSON) for supporting the interests of his constituents to the degree he has.

The plant that is proposed, of course, is to be built in his district, and I am sure everyone in his position would be donig the same thing, fighting for all that he is worth to justify the Government's going into this and guaranteeing it.

Mr. ANDERSON of Illinois. Mr. Chairman, I yield 3 minutes to the gentleman from Kansas (Mr. SKUBITZ).

Mr. SKUBITZ. Mr. Chairman, I do not hold myself out as an authority in the field of nuclear energy. I am not a physicist. I am not now nor do I intend to become the president of any electric utility. I am simply the Congressman from the Fifth District of Kansas.

However, in my role as a Congressman, I have experienced the skulduggery, the half truths, and the demagoguery of the AEC when it attempted to make my State the atomic slop jar for the Nation. In part, because of that experience, I find it difficult to accept at face value the word of ERDA, the son of the old AEC. The same gang who set up business at AEC and discredited that agency is now operating within ERDA. Nuclear power at any price continues to be sold with the vigor of an Avon lady just off the breadline.

Because I have been burned once by the oversimplification and expediency of the AEC and ERDA, I view any proposal from ERDA with a great deal of skepticism. I hope that my colleagues will view the so-called Nuclear Fuel Assurance Act of 1976, which is now before us, with the same degree of skepticism.

This bill gives the Administration of ERDA authority to enter into cooperative agreements—with any person or persons—to encourage the development of competitive private uranium enrichment plants. I will get to the technical aspects of how this is to be accomplished in a minute.

Mr. Chairman, there are four major reasons why the so-called Nuclear Fuel Assurance Act of 1976 should not be passed by this body. First, even the $8 billion backdoor spending contained in the bill will have an adverse effect on the Nation's economy. Second, the $8 billion loan guarantee provision is likely to be $40 to $60 billion before the Nuclear Assurance Act of 1976 has run its course. Third, the general purpose of the bill which is to provide more enriched uranium may delay the fast breeder reactor and the development of fusion rather than fission for nuclear energy. Fourth, the bill contains a mechanism which purports to require prior congressional approval for individual projects but in reality Congress would be a rubber stamp.

Mr. Chairman, the bill contains an $8 billion loan guarantee provision. The loan guarantee has become the new toy of recent Congresses bent on avoiding budget responsibility. I know for a fact that both the Office of Management and Budget and the two congressional Budget Committees are deeply concerned about the reckless use of Federal loan guarantees. Today, this country is nearly $600 billion in debt. The congressional budget for 1977 carries an additional $57 billion deficit. In this Presidential election year we will hear a great deal in the months to come about the need for fiscal responsibility. We will hear a great deal about the need to curb inflation. Unfortunately—probably no one will propose a "truth in spending bill" for this Congress and future Congresses to follow.

Federal loan guarantees put the full faith and credit of the United States behind specific types of loans. At this very minute—the full faith and credit of the United States is behind some $278 billion of loan guarantees. Many of those loans guaranteed by Uncle Sam are now in default and in all likelihood many more will become in default. The Federal loan guarantee is not a free lunch for the taxpayer, but at present it seems to be an escape from accountability for those of us in Congress and the executive branch as well.

The Federal loan guarantee mechanism not only hides real Government cost, but it misallocates credit in our free enterprise society. The amount of capital to keep this country going is limited. Each time that we in Congress earmark a specific program or set of programs for Federal loan guarantees we channel the available capital for investment in this country into areas into which it would not otherwise go. Mr. Chairman, I believe the time has come for us to realize that our political manipulations can have serious economic consequences.

On page 10 of the committee report it is pointed out that the sale of enriched uranium and enrichment services to foreign countries has reached $1.1 billion. In addition, it is pointed out that the demand for enriched uranium is extremely high within the United States. If there is such a good market for enriched uranium, there is no reason not to believe that private enterprise on its own will enter the field. The reasons they have not entered the field to date are clear. Under the law it was ERDA who was licensed to produce enriched uranium. Since the government itself had a corner on the market—no private company was interested in entering the market. Now, there are a number of private companies interested in entering the market, including Uranium Enrichment Associates, who have proposed a plant in Louisiana. If the move by private enterprise to fill this need has not been rapid, I suggest it has been delayed simply because someone in Congress held out the prospect of goldplating the venture through the use of loan guarantees.

Mr. Chairman, at some point we have to draw the line and admit that quasi-backdoor spending through the use of loan guarantees must stop. I, for one, believe that the Nuclear Fuel Assurance Act of 1976 presents that opportunity.

The second reason I stated that this bill is defective is that the $8 billion loan guarantee figure is too low. On page 5 of the joint committee report, you will notice that the second paragraph states that there will be a need of 9 to 12 plants in order to provide the added enrichment capacity necessary by the year 2000. The estimated cost in 1975 dollars of those 9 to 12 plants ranges from $31 billion to $42 billion. With inflation—that figure could easily go to $60 billion by the year 2000 for this one program alone.

Mr. Chairman, this represents another one of those situations whereby a piece of legislation is presented to this body with a portion of the real cost shown so as to get a toe in the door. This Member, for one, does not want to see a toe in the door when we know full well that the real cost of this proposal could exceed $60 billion.

Mr. Chairman, the third problem with this bill is that it makes a determination to maximize the existing state of the art at a possible expense of delaying advances in the technology. Let me briefly explain the current situation as I understand it within the nuclear energy field. There are two basic methods for producing nuclear energy, the fission method which requires enriched uranium and is the only method used today. A second method is called fusion. The fusion method is thought by many scientists to be the better way to produce nuclear energy. Fusion is simply the combining of atomic nuclei of very light elements by collision at high speed to form new and heavier elements resulting in the release of energy. There are those scientists who believe that by the year 2000—nuclear energy by fusion rather than fission will be possible. To the extent that we create an enriched uranium industry we will be making it more difficult to adopt energy from nuclear fusion when that form of energy becomes technologically possible.

Within the creation of nuclear energy by fission—there is also the phenomena known as the fast breeder reactor. A fast breeder reactor simply produces more enriched uranium than it uses. To date we do not have one fast breeder facility in the United States. There are plans for such a facility at Oak Ridge, Tenn., but the other son of the old AEC, the Nuclear Regulatory Commission, has yet to approve its construction and operation. In my judgment the Nuclear Fuel Assurance Act of 1976 proposes that we build a huge supportive plant for a technology that may already be obsolete. In my judgment this is not a wise use of the taxpayers' money.

Mr. Chairman, supporters of this legislation will point to the congressional safeguards contained in the bill which would require prior congressional approval for individual projects. This procedure is known as making the bait in the trap more attractive for those of us in Congress. By building in subsequent congressional approval for specific projects or actions within the executive branch we become able to convince ourselves that even if we are wrong we get another bite out of the apple.

Mr. Chairman, it simply does not work that way. Let me give an example. As the ranking member of the Transportation and Commerce Subcommittee, I was closely involved in the development of the ConRail legislation. In the 1973 act we required that USRA submit to Congress its final plan for reorganization of the bankrupt railroads in the Northeast. Congress, at that time, would be given a certain period of time to disapprove of the plan if it was not acceptable. As a practical matter, Mr. Chairman, neither the House nor the Senate was able to disapprove, even if we had wanted to, because the agency submitting the plan had the full support of the executive department and all of the vested interests were as disciplined as the members of an orchestra responding to the baton of a conductor.

In theory, Mr. Chairman, the idea of Congress viewing each and every project application under the Nuclear Fuel Assurance Act sounds good. It sounds particularly good when the executive branch is controlled by one political party and the Congress by another. All of us on both sides of the aisle, no doubt, can see our own political party controlling both the executive branch and the Congress. Such a situation simply would compound the unworkability of the congressional review provision contained in this legislation.

In summary, Mr. Chairman, the Nuclear Fuel Assurance Act of 1976 would assure that the taxpayers of this Nation were saddled with a greater debt. It might also assure that technological advancements in nuclear energy would be delayed. I urge the rejection of this measure because it is not needed and we must stop using loan guarantees as a method for avoiding budgetary responsibility.

Mr. ANDERSON of Illinois. Mr. Chairman, will the gentleman yield?

Mr. SKUBITZ. I yield to the gentleman from Illinois.

Mr. ANDERSON of Illinois. Mr. Chairman, I wonder if the gentleman would respond to a question?

If the gentleman had a choice between a loan guarantee that would permit private enterprise to construct a plant that is undoubtedly going to operate successfully and therefore expose the Government to minimal expense, if the gentleman had a choice between that and putting up from $3.5 to $5 billion of Government money right out of the budget, which choice would the gentleman take?

Mr. SKUBITZ. Mr. Chairman, may I say to my colleague, the gentleman from Illinois that if this business is such a good business I do not see any reason for Uncle Sam even considering Government guarantees. Business ought to be able to go out and get money from lending institutions.

Mr. ANDERSON of Illinois. Will the gentelman yield.

Mr. SKUBITZ. Let me finish my statement first.

Mr. Chairman, today on the books there are $278 billion in loan guarantees. Why? All of them were supposed to be good business loans, all of them were going to be paid back.

The CHAIRMAN. The time of the gentleman has again expired.

Mr. ANDERSON of Illinois. Mr. Chairman, I yield 1 additional minute to the gentleman from Kansas.

Mr. Chairman, I would ask the gentleman from Kansas to yield to me for a reply.

Mr. SKUBITZ. I yield to the gentleman from Illinois.

Mr. ANDERSON of Illinois. Mr. Chairman, I have in my hand the testimony of Jerome S. Katzin of Kuhn, Lobe, and Co., before the Joint Committee on Atomic Energy on March 23, 1976. Obviously I have not the time in the single minute that we have allotted to read all of his testimony, but it is absolutely clear and let me quote one portion of it:

> Athough secrecy is important, but without information, no one can delve into the technology and no investor responsible for the funds of others can make the investment decision on an investigation of the facts because they are classified.

That is the simple reason why we have got to have the guarantee. We are talking about technology that up to now has been classified. That is the reason.

Mr. SKUBITZ. Will the gentleman from Illinois now yield me a minute?

The CHAIRMAN. The time of the gentleman has again expired.

Mr. ANDERSON of Illinois. Of course I yield to the gentleman from Kansas an additional minute.

Mr. SKUBITZ. Mr. Chairman, I thank the gentleman for yielding me the additional minute.

That is just the trouble with the executive department, may I say to my friend, the gentleman from Illinois. The other day we passed the sunshine law. Why? Because there is so much classified material that we cannot review all the facts in order to really make some sound judgment in this bill.

I want to close by saying one thing about this matter, about this plan working, that it is not going to work in the manner in which it is proposed in order to carry out the program, it just does not operate that way. Some of the Members will recall that the Congress just a few months ago enacted a reorganization of the railroads bill. Congress was given 60 days in which to act, you all know what happened. Experience is a pretty good teacher. The Joint Committee on Atomic Energy will have 60 days, within 25 days we want it before us then we have got to act within 5 days. Fifteen years from now most of us will not be here. I feel sorry for the suckers who are going to have to look at the mistakes we have made.

The CHAIRMAN. The time of the gentleman has again expired.

Mr. PRICE. Mr. Chairman, in view of the GAO report on safeguards having been brought up, I would like to make some brief observations on it—particularly with respect to this subject.

The report of the General Accounting Office is one of many reports prepared by GAO, ERDA and its predecessor AEC, and other organizations on safeguarding nuclear materials. It covers matters that are familiar to those who have been working in this area. For example, we have known for some time that our measurement capabilities are not as precise as we would wish. We have for many years funded research programs that are producing instruments and techniques that are constantly improving our ability to measure nuclear material in all its various forms.

The Joint Committee on Atomic Energy has continually stressed the need for a strong inspection force to assure that the protection called for in the regulations is in fact being applied at all facilities holding nuclear material. As could be expected there always will be some situations that need improvement. That is why we have called for strong inspection programs and that is why we asked GAO to check the protective arrangements. But the overall record is a good one. We know of no instance in which it has been proven that nuclear material was stolen from a protected facility.

As to the budget for safeguarding special nuclear material, let me say that the Joint Committee has authorized even higher budgets for this activity than the executive branch has requested. We have intended that the strong protection heretofore provided this material be continued and even enhanced.

Providing for private production of nuclear material under H.R. 8401 has little or no relationship to the GAO study. The material to be produced under H.R. 8401 is of such low enrichment that under existing regulations it would not require the kind of physical protection discussed in the GAO report. The material would, of course, be subject to all of the accountability procedures used for more highly enriched material.

It must be remembered that the enriched uranium supply requirements to be met by the construction and operation of enrichment plants by private industry under the provisions of the Nuclear Fuel Assurance Act are for the manufacture of low enriched fuel for light water reactors. The enrichment for these plants will be in the range of 2 to 4 percent U-235 content. The material produced would be of no value from the standpoint of direct utilization in an explosive device.

The General Accounting Office report addresses the physical security of plutonium and highly enriched uranium—mostly in the range of 90 percent and above.

ERDA in carrying out its role as prescribed in the act would be required to review and approve design plans and inspect actual construction of the low enrichment plants built under the act. In addition, the Nuclear Regulatory Commission would have to independently license any private plants.

The important aspect of security with respect to the production of low enriched fuel has to do with the technology of the process utilized rather than physical security of the product as a consequence of any attractiveness of the product for use by terrorist groups. There is no way in which light water reactor fuel with its small uranium-235 content can be made to explode. This is because of its dilution in uranium-238 which is the principal constituent of the fuel.

Let us not then confuse the issue before us by suggesting that because the General Accounting Office in its study concerning ERDA's handling of weapons grade nuclear fuels made certain recommendations for improvement that this matter has any bearing on the desirability of passing the present legislation. The legislation before us simply provides a means whereby ERDA can enter into negotiation with private companies with the objective of achieving cooperative arrangements for construction and operation of enrichment plants with the requirement that such arrangements be submitted to the Congress for scrutiny and approval or disapproval as the Congress may decide.

Mr. Chairman, I insert in the RECORD at this point a letter from the national association of consumer-owned rural electric cooperatives. The letter supports the passage of H.R. 8401:

NRECA,
Washington, D.C., July 28, 1976.

Mr. GEORGE F. MURPHY,
Executive Director, Joint Committee on Atomic Energy, Washington, D.C.

DEAR MR. MURPHY: The national association of consumer-owned rural electric cooperatives supports the Nuclear Fuel Assurance Act (H.R. 8401, S. 2035), which provides for the expansion of the government-owned gaseous diffusion plant at Portsmouth, Ohio and allows ERDA to negotiate contracts for private development of gaseous diffusion, centrifuge and other advanced enrichment concepts.

In view of our nation's great need for additional nuclear enrichment capacity, we respectfully urge you to support this legislation and oppose any amendments that would prevent our country having an adequate source of enriched uranium.

Sincerely yours,
ROBERT D. PARTRIDGE,
Executive Vice-President and General Manager.

FACT SHEET: REQUIREMENTS FOR ADDITIONAL ENRICHMENT PLANTS

I. Existing Plants:

The three existing Government diffusion plants—as modified and upgraded—will produce about 27 million swu's/year when modifications are completed in FY 1981

This capacity will provide enriched uranium for 329,000 megawatts (MWe)—the equivalent of 329 one thousand megawatt plants. The U.S. presently has 40,000 MWe of nuclear capacity in operation, and by 1980 this will grow to over 80,000 MWe in operation

The expanded capacity has been committed contractually since mid-1974 for delivery to customers, both domestic (208,000 MWe) and foreign (121,000 MWe)

II. Separative Work Requirements for Nuclear Plants:

A 1000 MWe nuclear power plant requires approximately 90,000 swu per year

A 9 million swu enrichment plant will provide the fuel needs of approximately 100,000 MWe or 100 nuclear power plants of 1000 MWe size

III. Status of U.S. Nuclear Power Plants—May 31, 1976:

		Number of units	Rated capacity (MWe)
Licensed to operate		[1] 58	40,000
Construction permit granted		[2] 74	77,000
24 under operating license review	23,000		
50 operating license not yet applied for	54,000		
Under construction permit review		66	73,000
21 site work authorized, safety review in process [2]	22,000		
45 other units under CP review	51,000		
Ordered		17	20,000
Publicly announced		21	26,000
Total		236	236,000

[1] In addition, there are two operable ERDA-owned reactors with a combined capacity of 940 MWe.

[2] Total of units under construction (Construction Permit Granted plus Site Work Authorized): 95 units, 99,000 MWe.

IV. ERDA Projections of Additional Enrichment Plants:

ERDA presently estimates about 10 additional 9 million swu plants will be required by the year 2000.

These plants would provide about 90 million swu's annually—about half for domestic needs and the other half for foreign needs.

These plants would service by the year 2000, about an additional 592,000 MWe of domestic nuclear capacity beyond the 208,000 MWe presently under contract.

The total U.S. nuclear capacity at that time—serviced by the existing and new enrichment facilities—would be about 800,000 megawatts—which corresponds to ERDA's moderate/low nuclear energy growth projection for the year 2000.

The additional required swu capacity to meet foreign needs is based on the assumptions that U.S. enrichment plants will capture ½ of the swu market outside of Communist regions—this would be the equivalent of 45 million swu's/year or 500,000 MWe of foreign nuclear capacity by the year 2000.

The total foreign capacity serviced by U.S. plants by year 2000 would be about 620,000 MWe (120,000+500,000).

V. Congressional Budget Office Analysis (Background Paper 7):

CBO analysis indicates that by 2000—assuming ERDA's projection of 800,000 MWe U.S. nuclear capacity—10 additional plants would be needed if 45% of foreign market was served by U.S. plants and 9 plants if 35% of foreign market was served.

Using low projection for domestic nuclear growth (625,000 MWe total nuclear capacity in U.S. by year 2000) and assuming capture of only 25% of the foreign market, CBO projects a need for only 5 to 6 additional plants.

Using the low projection for domestic nuclear growth and assuming capture of none of the foreign market, CBO projects a need for 3 to 4 additional plants.

Assuming an even lower nuclear growth, Scenario V in ERDA energy R&D plan (448,000 MWe total nuclear capacity in 2000), and the capture of none of the foreign market, CBO propects a need for only two additional plants.

CBO concluded that 5 to 6 plants was reasonable to base their financial analysis on

VI. Analysis:

As usual in such situations, the number of additional plants required is a strong function of the assumptions made.

It is apparent, however, that if nuclear power is to achieve anywhere near the growth expected of it, many more enrichment plants will be needed and actions need to be taken now to assure they are built.

Certainly, at least five more plants will be needed by the year 2000 for our domestic needs, and if the U.S. is to capture a reasonable share of the foreign market, another five will be needed for this purpose.

Mr. VANIK. Mr. Chairman, the Nuclear Fuel Assurance Act, which we are considering today, poses a problem which we have seen before. We know that achieving our energy policy goals of reducing our reliance on imported energy and mitigating the effects of high world energy prices will require enormous amounts of investment. Many experts have projected that there will be an inadequate supply of investment capital to achieve these goals in the critical decades ahead. This concern has given rise to various schemes to stimulate private investment into a number of energy projects. Tax incentives, loan guarantees, cost-sharing, and price guarantees are all proposals which we will consider in the months and years ahead to insure adequate private investment in energy production.

Yet, in considering proposals for tax incentives to electric utilities, loan guarantees for synthetic fuel plants, as well as the pending plan to transfer uranium enrichment responsibility to the private sector, Congress has not established any guidelines to evaluate the proper role of Government in financing energy investment. To establish these guidelines, Congress must first answer the question why the private sector has been unwilling or unable to provide financing itself.

The private sector's willingness to finance any capital expenditure is based on its own evaluation of the relationship of the risk of the project compared to the prospective return from the project. When this equation is out of balance—when the risk is too great for the likely return—the private sector will not finance the investment.

In the case of projects where the private sector is unwilling to invest, the Government can follow either of two strategies: It can reduce the risk of the project by, for example, offering loan guarantees; or, it can improve the return from the project by providing some form of guaranteed return. The goal in devising incentives should be to balance the risk/return equation. Government should intervene only to the extent that it can make an unattractive energy project competitive with other energy projects which are privately financed.

Unfortunately, in our rush toward "Energy Independence," we seem to have forgotten these prudent guidelines. In the legislation before us today, we have overreacted. We shifted virtually all the risk of expanding the Nation's enrichment capacity to the public sector. But at the same time, we reserve all the return to the private sector. In short, we have another imbalance in the risk/return equation.

There are public costs when the private sector is asked to bear too much risk as well as in the case when the private sector is asked to bear too little risk. In the first case, the energy project which is important to our Nation's future well-being will not be constructed. In the second case, the American people are forced to shoulder risks—in this case in the form of contingent liabilities—while all the financial benefits from the investment flow to a small group of private investors.

Mr. Chairman, I oppose H.R. 8401, because it represents an unhealthy precedent of excessive Federal subsidy. It is clear that the private sector is unwilling to invest in uranium enrichment—the risk of the project, including the uncertainty of utility expansion plans, are just too great. But shifting the burden of this risk to the American taxpayer, while preserving the profits from the project to the private sector is not a just answer.

Mr. DRINAN. Mr. Chairman, I rise in strong oppositioin to the Nuclear Fuel Assurance Act, H.R. 8401. While the general intent of this legislation seems to be praiseworthy, turning uranium enrichment over from public to private developers, the bill amounts to a subsidy of the nuclear industry which the Congress should not tolerate.

H.R. 8401 would permit the Energy Research and Development Administration to enter into agreements with private industry to encourage the development of competitive private uranium enrichment plants. The purpose of uranium enrichment is to increase the concentration of uranium from its natural state so that the enriched uranium can be used as a fuel in atomic powerplants. Unfortunately, however, I question whether this legislation is needed; and second, I question whether the Government should be in the position of offering further subsidies to the nuclear industry.

Mr. Chairman, the administration says that the Nuclear Fuel Assurance Act is needed to provide sufficient amounts of fuel for the future use of nuclear power facilities. Yet this bill will more than likely bring an outpouring of enriched uranium far in excess of the need. H.R. 8401 will make available enough fuel for the operation of nearly 529 nuclear reactors, while reasonable projections indicate that domestic and foreign enrichment demand should reach no more than capacity for 253 nuclear plants in 1985. It is not surprising, therefore, that a Science magazine article concluded:

> A glut of enrichment capacity, if it comes, can perhaps be blamed on the Congress.

A second major objection which I have to H.R. 8401 is centered on the highly lucrative subsidy which the Federal Government is about to award to a number of large energy corporations. After assuming almost all of the risks and costs inherent in uranium enrichment over the past 30 years, the administration now wants to hand this operation over to private developers. This exchange to private industry is not objectional in itself, but it is made so by including in the deal $8 billion in loan guarantees, guaranteed rates of return, and guaranteed markets. The legislation which we consider today does more than promote free enterprise, it promotes Government largess.

It is for the above reasons, Mr. Chairman, that I support the amendment offered by the gentleman from New York (Mr. BINGHAM). This amendment offers a reasonable compromise by striking all of the bill except for section 4, which would authorize $225 million for construction and expansion of the Portsmouth, Ohio, facility. The Portsmouth plant should be able to provide adequate nuclear enrichment capacity for at least a dozen years, certainly enough to meet demands through the 1980's.

Mr. Chairman, as the House winds its way through this legislation, I am struck by the fact that if present trends continue, nuclear power should be crowned as the most highly subsidized energy source in this country. This is especially troubling to me, as supporters of energy conservation, solar power, solid waste energy conversion and other alternative energy sources have to come to the House floor and fight "tooth and nail" for every dollar.

I ask, Mr. Chairman, how did the Congress come to misplace so significantly its energy priorities. In H.R. 8401 we are being asked to underwrite $8 billion in loan guarantees for uranium enrichment in addition to guarantee markets and profits. But where do we see similar programs attempting to accelerate alternative energy development? Budget totals are illustrative in this regard—in 1976, nuclear programs captured 58.2 percent of the Federal research and development budget, while energy conservation was granted 4.8 percent and alternative sources 9.3 percent.

If the United States is to foster a balanced energy plan the Congress will have to allocate its appropriations and resources in a more balanced fashion. And this includes targeting more funds to energy sources in genuine need and less to the already heavily subsidized nuclear industry.

Mr. Chairman, I oppose the Nuclear Fuel Assurance Act though I urge my colleagues to support the amendment of the gentleman from New York (Mr. BINGHAM).

Mr. LEGGETT. Mr. Chairman, the bill before the House, H.R. 8401, requires us to answer two questions about the nuclear fuel industry. One is whether additional production capacity is needed to enable the Nation to meet domestic and foreign demand for enriched uranium in the coming decade. The other is whether it is in the Nation's interest to have that extra capacity owned and operated under the auspices of private industry.

The first question seems easier to answer than the second. There appears to be broad agreement, both in the Congress and nationally, that more enrichment facilities will be required to meet our needs of the mid-1980's. It is clear to me that America must rely progressively more on nuclear power if we are going to be able to meet growing requirements for electricity. Moreover, foreign demand for both reactors and nuclear fuel is also expected to continue increasing.

The second question is perhaps more fundamental. Must we depart from our reliance of the last two decades on Government-owned uranium enrichment facilities in order to provide the additional increment of production capacity that the Nation needs by 1985, as well as lay the base for the further increments which are projected to be required beyond that time?

It is the contention of the Administration that the best way to get the additional production capacity needed is via the "privatization" of this field—getting private industry into the act. That is the direction they think we should be going in this area. I find it interesting, however, that as a "hedge" against failure of, or delays in, their plan to get industry going in this field with Government technology, subsidies, and guarantees, the Administration also proposed expansion of the Government enrichment facility at Portsmouth, Ohio. That is the direction I think we should be going—along the path of continuance of the unique role which the Federal Government has played in the nuclear fuel business since its inception. And the proposed Portsmouth expansion would provide all of the additional enrichment capacity that Dr. Seamans of ERDA says we need by 1985.

In my view, the privatization proposal has all the defects and none of the virtues of the free enterprise approach, as well as posing difficulties unique to the nuclear business. As GAO has emphasized, a basic defect is that most of the risk during plant construction and testing would be shifted to the Government. Moreover, the Portsmouth addition would provide as much new enrichment capacity as the new Bechtel gaseous diffusion plant which is part of the privitization proposal, but at considerably less cost.

If privatization must involve a long-term Government guarantee, then the taxpayer will be liable for the cost of these ventures in one form or another. There are, moreover, substantial hidden costs. The maintenance costs of the Government's stockpiling sufficient enriched uranium to "backstop" the private ventures would be a billion dollars annually by 1985. And we can expect the price charged for enriched uranium both by the Government and by private industry to be higher than is now the case, so we can be sure that industry makes enough of a profit. Costs will go up for utilities, and they will be passed on to the consumer. In short, private industry will gain all the profits, but bear little or none of the risks. I agree with my colleague from Sacramento (Mr. Moss) that this is "a cruel caricature of private enterprise."

The difficulties of this proposal are by no means limited to the question of which would represent the more efficient method of production. Privatization would encourage exports of nuclear reactors and fuel and would, in all probability, affect adversely our already tenuous efforts to control the proliferation of nuclear weapons. We should probably be moving in the direction of less, rather than more, exports of plutonium-producing reactors, which provide the material from which nuclear warheads can be constructed. Let us bear in mind that two of the three countries which would provide 60 percent of the capital for Bechtel's gaseous diffusion venture—France and West Germany— are not conspicuous for the reluctance to export such equipment with little or no safeguards on the use of the plutonium.

Moreover, it was Bechtel itself which undermined our efforts to dissuade the Germans from selling a complete nuclear fuel cycle to Brazil, by its offer to sell nuclear equipment to Brazil itself. And the third country, Iran, is hardly noted itself for a disinterest in exotic, modern weaponry. In sum, privatization would likely be a major setback to our hopes of bringing both the nuclear fuel cycle and its weapons potential under meaningful international control.

Mr. Chairman, we can avoid these defects of H.R. 8401 by deleting the authority it provides for the ill-founded privatization scheme, and retaining the mandate for additional facilities at Portsmouth. That is precisely what the Bingham amendment would do, and I urge my colleagues to support it.

I believe that if Government must continue to bear all the responsibilities and risks of the nuclear business, it should also keep control of it. Let us vote to keep the nuclear fuel business under control.

Mr. BROWN of California. Mr. Chairman, I wish to express some serious misgivings concerning the Nuclear Fuel Assurance Act, H.R. 8401, which we are considering today. Though I joined in the unanimous vote to report the bill from the Joint Committee on Atomic Energy, I did so primarily because I felt, as a new Joint Committee member, that I did not want to obstruct consideration of the bill by the full House. I want to express now the results of my further analysis of the proposed legislation.

First let me state that I do see the need to assure the continuity of our Nation's energy supply, in which nuclear energy will surely play a role. I also support, under proper conditions, the Government's promotion of private investment in our energy industry. I support, in fact, legislation providing loan guarantees for the demonstration of technology for producing synthetic fuels from coal.

I see, however, complications in H.R. 8401 which far exceed those of the synthetic fuel legislation. I do not feel that we have fully considered the implications of H.R. 8401 and I believe it should have more refinement before passage. Let me list two basic observations concerning the special complexity of involving private capital in the fuel production aspects of the nuclear industry:

First. The investments are tremendous—often in the billions, instead of tens or even hundreds of millions. Moreover, the time to achieve positive cash flow on these investments is usually extraordinarily long. This inevitably leads to pressure for complicated investment guarantees and subsidies.

Second. Risks are very great. Total Government control of the basic nuclear technologies, and the long period needed for construction and amortization of nuclear facilities, raises the very real possibility of obsolescence before investment recovery is complete. Regulatory and market uncertainties also exacerbate the risk. Often the nuclear investments must be considered as strategies to provide options for society in the face of changing energy technology—and I must come to the conclusion that providing these kinds of options is a more traditional government, rather than private sector role.

Two other observations point to the special complexity of regulating the use of private capital in the nuclear fuel industry.

First. There are extremely strong foreign policy implications of the nuclear fuel industry, in which the national interest may conflict with commercial interests. When the implications of nuclear proliferation and nuclear safeguards are considered, it is clear that the stakes are higher here than in similar considerations of the foreign policy consequences of private involvement in nonnuclear energy technology.

Second. There will probably be continued acute public concern over all aspects of the nuclear fuel cycle. This will result in a continuing unpredictability of regulatory law, and inevitable conflict with the push to quickly amortize the massive nuclear fuel investments.

These observations lead me to the feeling that we are not likely to see, very soon, a situation where there is a true "free market" investment pattern in the fuel production part of the nuclear industry. Investments which do occur are likely to be due to special guarantees or subsidies, or due to special interests of a very few corporations which may have reasons to participate beyond that revolving around a particular project. The special capital and technology demands of building nuclear facilities may indeed be good reasons for the Government to deal with a very few companies in their construction.

However, I think it is probably wiser here to have a situation where the relations of government as capital supplier, and private company as contractor, are very explicit. Clothing the relationship with the pretense of true "private investment" in the face of the regulatory and other obstacles discussed above, seems to me to bring dangerous confusion into the goals and design of the nuclear program. I stress again that I do not oppose expansion of enrichment capacity; I can see a program going ahead with the very same capacity and very same participants we have been discussing in this bill. I do have concern about clouding the true capital investment pattern, and about making regulatory and safeguard matters all the more difficult than they normally are, by setting up the artificial-appearing arrangement proposed in this act.

A last point concerns the role of foreign capital in the proposed project. I can see good arguments supporting the concept of more closely interweaving the world's energy supply industries and the world's energy capital. Such an approach could remove the threat of economic nationalism and cartel-induced instability which has plagued us in recent years. But, once again, I would argue that if this is our objective we should make it very explicit, fully debate the wide ramifications, and not inject the concept in the roundabout fashion of this bill.

I will support, at this time, only the expansion of Government-owned enrichment capacity. I hope that we in the joint committee can come up at a later time with a more deeply analyzed proposal dealing with the role of private investment capital.

Mr. YOUNG of Texas. Mr. Chairman, I rise in support of H.R. 8401, the Nuclear Fuel Assurance Act of 1976. This bill, as amended by the Joint Committee on Atomic Energy, is an important step toward assuring that in the years to come we will have the fuel needed to power the domestic nuclear plants which are so vital to our energy future. It will also permit us to maintain our positive influence within the international community which we have acquired by virtue of our position as the world's leading supplier of enrichment services for nuclear reactor fuel.

The bill would advance these important objectives in two important ways. First, it authorizes the construction of a fourth Government-owned uranium enrichment plant to assure that the demand which already exists both in this country and abroad for additional enrichment services is met. Second, it provides a framework for the Congress to carefully consider the merits of specific contractual arrangements which, if approved by the Congress through the detailed procedures specified in this bill, would lead to the creation of a private uranium enrichment industry to build, own, and operate subsequent plants.

The need to plan for our future enrichment supply is a matter which the Congress must face now. The capacity of our three existing Government-owned enrichment plants, even with the modifications and improvements which are now underway, has been fully committed for nearly 2 years. In fact, as of May 31, 1976, the equivalent of twenty-eight 1,000-megawatt nuclear powerplants had been ordered or publicly announced by the utilities in this country alone for which there is no existing source of enrichment services. Without some assurance that the enrichment services to supply fuel for future reactors will in fact be available, we cannot realistically expect the utilities in this country to continue to order nuclear plants, even in situations where a nuclear plant is clearly preferable to other alternative sources of electricity. Nor can we expect to continue to exercise a positive influence over our foreign customers if we are no longer a reliable source of supply of these essential services. I urge the passage of this legislation as an important step toward planning for our future enrichment supply and, indeed, for our energy future.

Mr. PRICE. Mr. Chairman, I have no further requests for time.

Mr. ANDERSON of Illinois. Mr. Chairman, I have no further requests for time.

The CHAIRMAN. There being no further requests for time, the Clerk will read.

The Clerk read as follows:

H.R. 8401

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Nuclear Fuel Assurance Act of 1975".

COMMITTEE AMENDMENT

The CHAIRMAN. The Clerk will report the committee amendment.

The Clerk read as follows:

Committee amendment: Page 1, line 4, strike out "1975"." and insert "1976"."

The committee amendment was agreed to.

Mr. PRICE. Mr. Chairman, there is an additional committee amendment at the desk.

The CHAIRMAN. The Clerk will read section 2.

The Clerk read as follows:

SEC. 2. Chapter 5 (production of special nuclear material) of the Atomic Energy Act of 1954, as amended, is amended by adding at the end thereof the following section.

"SEC. 45. COOPERATIVE ARRANGEMENTS FOR PRIVATE PROJECTS TO PROVIDE URANIUM ENRICHMENT SERVICES.—

"a. The Energy Research and Development Administration is authorized, without regard to the provisions of section 169 of this Act, to enter into cooperative arrangements with any person or persons for such periods of time as the Administrator of the Energy Research and Development Administration may deem necessary or desirable for the purpose of providing such Government cooperation and assurances as the Administrator may deem appropriate and necessary to encourage the development of a competitive private uranium enrichment industry and to facilitate the design, construction, ownership, and operation by private enterprise of facilities for the production and enrichment of uranium enriched in the isotope-235 in such amounts as will contribute to the common defense and security and encourage development and utilization of atomic energy to the maximum extent consistent with the common defense and security and with the health and safety of the public; including, inter alia, in the discretion of the Administrator,

"(1) furnishing technical assistance, information, inventions and discoveries, enriching services, materials, and equipment on the basis of recovery of costs and appropriate royalties for the use thereof;

"(2) providing warranties for materials and equipment furnished;

"(3) providing facility performance assurances;

"(4) purchasing enriching services;

"(5) undertaking to acquire the assets or interest of such person, or any of such persons, in an enrichment facility, and to assume obligations and liabilities (including debt) of such person, or any of such persons, arising out of the design, construction, ownership, or operation for a defined period of such enrichment facility in the event such person or persons cannot complete that enrichment facility or bring it into commercial operation: *Provided*, That any undertaking, pursuant to this subsection (5), to acquire equity or pay off debt, shall apply only to individuals who are citizens of the United States, or to any corporation or other entity organized for a common business purpose, which is owned or effectively controlled by citizens of the United States; and

"(6) determining to modify, complete, and operate that enrichment facility as a Government facility or to dispose of the facility at any time, as the interest of the Government may appear, subject to the other provisions of this Act.

"b. Before the Administrator enters into any arrangement or amendment thereto under the authority of this section, or before the Administrator determines to modify, or complete and operate any facility or to dispose thereof, the basis for the proposed arrangement or amendment thereto which the Administrator proposes to execute (including the name of the proposed participating person or persons with whom the arrangement is to be made, a general description of the proposed facility, the estimated amount of cost to be incurred by the participating person or persons, the incentives imposed by the agreement on the person or persons to complete the facility as planned and operate it successfully for a defined period, and the general features of the proposed arrangement or amendment), or the plan for such modification, completion, operation, or disposal by the Administrator, as appropriate, shall be submitted to the Joint Committee on Atomic Energy, and a period of forty five days shall elapse while Congress is in session (in computing such forty five days, there shall be excluded the days on which either House is not in session because of adjournment for more than three days) unless the Joint Committee by resolution in writing waives the conditions of, or all or any portion of, such forty five day period; *Provided, however*, That any such arrangement or amendment thereto, or such plan, shall be entered into in accordance with the basis for the arrangement or plan, as appropriate, submitted as provided herein.".

SEC. 3. The Administrator of the Energy Research and Development Administration is hereby authorized to enter into contracts for cooperative arrangements, without fiscal year limitation, pursuant to section 45 of the Atomic Energy Act of 1954, as amended, in an amount not to exceed in the aggregate $8,000,000,000 as may be approved in an appropriation Act. In the event that liquidation of part or all of any financial obligations incurred under such cooperative arrangements should become necessary, the Administrator of the Energy Research and Development Administration is authorized to issue to the Secretary of the Treasury notes or other obligations up to the levels of contract authority approved in an appropriation Act pursuant to the first sentence of this section in such form and denomination, bearing such maturity and subject to such terms and conditions as may be prescribed by the Administrator with the approval of the Secretary of the Treasury. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturity at the time of issuance of the notes or other obligations. The Secretary of the Treasury shall purchase any notes or other obligations issued hereunder and, for that purpose, he is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as amended, and the purposes for which securities may be issued under that Act, as amended, are extended to include any purchase of such notes and obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this section. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States. There are authorized to be appropriated to the Administrator such sums as may be necessary to pay the principal and interest on the notes or obligations issued by him to the Secretary of the Treasury.

SEC. 4. The Administrator of the Energy Research and Development Administration is hereby authorized to initiate construction planning and design, activities for expansion of an existing uranium enrichment facility. There is hereby authorized to be appropriated such sums as may be necessary for this purpose.

Mr. PRICE (during the reading). Mr. Chairman, I ask unanimous consent that the bill be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

COMMITTEE AMENDMENTS

The CHAIRMAN. The Clerk will report the first committee amendment.

The Clerk read as follows:

Committee amendment: Page 2, line 4, after the word "The" insert "Administrator of".

The committee amendment was agreed to.

The CHAIRMAN. The Clerk will report the next committee amendment.

The Clerk read as follows:

Committee amendment: Page 2, line 5, strike the word "Administration".

The committee amendment was agreed to.

The CHAIRMAN. The Clerk will report the next committee amendment.

The Clerk read as follows:

Committee amendment: Page 2, line 5, after the word "authorized," insert "subject to the prior congressional review procedure set forth in subsection b. of this section".

The committee amendment was agreed to.

The CHAIRMAN. The Clerk will report the next committee amendment.

The Clerk read as follows:

Committee amendment: Page 2, line 10, after "Administrator" strike "of the Energy Research and Development Administration".

The committee amendment was agreed to.

The CHAIRMAN. The Clerk will report the next committee amendment.

The Clerk read as follows:

Committee amendment: Page 3, line 17, strike "individuals" and insert "investors or lenders."

The committee amendment was agreed to.

The CHAIRMAN. The Clerk will report the next committee amendment.

The Clerk read as follows:

Committee amendment: Page 3, line 18, strike "to any" and insert "are a".

The committee amendment was agreed to.

The CHAIRMAN. The Clerk will report the next committee amendment.

The Clerk read as follows:

Committee amendment: Page 4, strike line 3 down through and including line 3 on page 5, and insert:

"b. The Administrator shall not enter into any arrangement or amendment thereto under the authority of this section, modify, or complete and operate any facility or dispose thereof, until the proposed arrangement or amendment thereto which the Administrator proposes to execute, or the plan for such modification, completion, operation, or disposal by the Administrator, as appropriate, has been submitted to the Joint Committee on Atomic Energy, and a period of sixty days has elapsed while Congress is in session with passage by the Congress of a concurrent resolution stating in substance that it does favor such proposed arrangement or amendment or plan for such modification, completion, operation, or disposal (in computing such sixty days, there shall be excluded the days on which either House is not in session because of adjournment for more than three days): *Provided*, That prior to the elapse of the first thirty days of any such sixty-day period the Joint Committee shall submit a report to the Congress of its views and recommendations respecting the proposed arrangement, amendment or plan and on accompanying proposed concurrent resolution stating in substance that the Congress favors, or does not favor, as the case may be, the proposed arrangement, amendment or plan. Any such concurrent resolution so reported shall become the pending business of the House in question (in the case of the Senate the time for debate shall be equally divided between the proponents and the opponents) within twenty-five days and shall be voted on within five calendar days thereafter, unless such House shall otherwise determine."

AMENDMENT OFFERED BY MR. PRICE TO THE COMMITTEE AMENDMENT

Mr. PRICE. Mr. Chairman, I offer an amendment to the committee amendment.

The Clerk read as follows:

Amendment offered by Mr. PRICE to the committee amendment: On page 5, lines 13 and 23; and on page 6, line 1, change the word "concurrent" to "joint".

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. PRICE) to the committee amendment.

The amendment to the committee amendment was agreed to.

The committee amendment, as amended, was agreed to.

COMMITTEE AMENDMENTS

The CHAIRMAN. The Clerk will report the next committee amendment.

The Clerk read as follows:

Committee amendment: Page 6, line 8, strike the second "the".

The committee amendment was agreed to.

The CHAIRMAN. The Clerk will report the next committee amendment.

The Clerk read as follows:

Committee amendment: Page 6, line 7, strike the word "Administration".

The committee amendment was agreed to.

The CHAIRMAN. The Clerk will report the next committee amendment.

The Clerk read as follows:

Committee amendment: Page 6, beginning on line 12, strike the phrase "as may be approved in an appropriation Act." and insert: "but in no event to exceed the amount provided therefor in a prior appropriation Act: *Provided*, That the timing, interest rate, and other terms and conditions of any notes, bonds, or other similar obligations secured by any such arrangements shall be subject to the approval of the Administrator with the concurrence of the Secretary of the Treasury.".

The committee amendment was agreed to.

The CHAIRMAN. The Clerk will report the next committee amendment.

The Clerk read as follows:

Committee amendment: Page 6, beginning on line 21, strike the phrase "of the Energy Research and Development Administration".

The committee amendment was agreed to.

The CHAIRMAN. The Clerk will report the next committee amendment.

The Clerk read as follows:

Committee amendment: Page 8, line 1, strike the second "the".

The committee amendment was agreed to.

The CHAIRMAN. The Clerk will report the next committee amendment.

The Clerk read as follows:

Committee amendment: Page 8, line 2, strike the word "Administration".

The committee amendment was agreed to.

The CHAIRMAN. The Clerk will report the next committee amendment.

The Clerk read as follows:

Committee amendment: Page 8, line 2, after the word "authorized" insert "and directed".

The committee amendment was agreed to.

The CHAIRMAN. The Clerk will report the next committee amendment.

The Clerk read as follows:

Committee amendment: Page 8, line 3, after the word "design," insert "construction and operation".

The committee amendment was agreed to.

The CHAIRMAN. The Clerk will report the last committee amendment.

The Clerk read as follows:

Committee amendment: Page 8, line 6, strike the phrase "such sums as may be necessary" and insert "$255,000,000".

The committee amendment was agreed to.

AMENDMENT OFFERED BY MR. BINGHAM

Mr. BINGHAM. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BINGHAM: Starting on page 1, line 5, delete sections 2 and 3 of the bill, and renumber section 4 as section 2.

Mr. BINGHAM. Mr. Chairman, I have already indicated in the general debate what the nature of this amendment is. It does, as the gentleman from Illinois has indicated, remove from the bill those sections of the bill which provide for so-called privatization of the nuclear enrichment business under the conditions outlined in those two sections with a potential guarantee of $8 billion contained in section 3, and it leaves in the bill section 4 which not only authorizes but also directs the construction of the add-on, or additional enrichment capacity at the Government's Portsmouth, Ohio, facility.

I want to emphasize at the outset that I am not one of those who is trying to cripple the nuclear industry. I am in favor of an addition to our nuclear enrichment capacity and I believe the add-on is necessary, but I do not like and I think the House should reject the form in which the proposals for privatization are submitted in this bill.

It may be that at some future time we could have a bill that would authorize privatization on a really private basis, but this is, as someone has remarked, cradle-to-the-grave socialism for big business.

The gentleman from Kansas was absolutely correct to raise questions about the guarantee that is provided for in this bill. There are so many questions about this bill that I do not know how possibly in the course of the morning we can cover them all, but let me point out to the gentleman from Kansas in the light of his questions last night, that the $8 billion figure is used in section 3 of the bill, and section 3 of the bill does not say anything about the approval of the $8 billion guarantee by the Congress.

And incidentally, I noticed that just now at the last moment section 2 of the bill was amended by the committee so that any proposed contract would have to be approved by "joint resolution" which requires the President's signature, instead of "concurrent resolution" which does not. That last minute change, however, does not meet the point that was raised by the gentleman from Ohio, that in all fairness a matter of the significance of such contracts should not be rushed through at the end of a Congress, but should be deferred until a new administration can decide its position on the matter.

I have already quoted from what Chet Holifield, former chairman of the Joint Committee, had to say about this legislation, and I will not repeat his highly critical comments. But there is something very peculiar about the way this bill comes before the House. If Members will read the hearings, as I have, they will find members of the Joint Committee throughout expressing grave doubts about the way this proposition came before them. Chairman PASTORE criticized the proposed contract repeatedly, and no wonder, because what the Joint Committee was confronted with at the time was a contract that was proposed by the UEA, apparently unsolicited, and for which the UEA was trying to get enabling legislation.

Let me read to the Members from what Comptroller General Elmer Staats had to say as to what this proposed contract included (page 210 of the hearings). This was based on UEA's latest proposal at the time, May 30, 1975:

A. UEA has requested ERDA to supply, at cost, essential plant components that are now produced only by ERDA.

B. UEA is seeking a performance assurance that the enrichment plant will operate successfully at full capacity.

The gentleman from Illinois assured us that is the only guarantee in the bill, but it is clearly not. And in any event, if the three plants that are operating today, Government plants, are going successfully, why does UEA need any guarantee that the performance will be as promised? The real reason is that what they are interested in is guaranteed access to raw materials and a guaranteed access to market.

I proceed with the quotation from Staats:

C. UEA has requested that ERDA provide, at cost, technical assistance and know-how on the installation and operation of the gaseous diffusion process.

D. UEA has proposed that ERDA permit UEA to have access to the Government stockpile of enriched uranium. UEA wants 9 million s.w.u. to be available to it at startup decreasing annually over the next 5 years of operation. For any ERDA-furnished s.w.u., ERDA has told us that it will have the option to require UEA to replace s.w.u. or to reimburse ERDA for them.

E. UEA has proposed that ERDA help smooth UEA supply/demand irregularity by agreeing to purchase up to 6 million s.w.u. during the first 5 years of UEA's plant operation. ERDA has proposed to sell these s.w.u.'s thus recovering the Government's cost.

> F. At UEA's request, the Government has the obligation to purchase the domestic owner's controlling interest in the UEA plant. This right would terminate 1 year after the plant has achieved full scale, steady commercial operation. The Government also has the option to take over the plant if such action is in the national interest.
>
> If ownership transfers, the Government would have to assume all domestic liabilities. Beyond this, the Government's payment to UEA for ownership would depend on the reason for the transfer. The Government would return all of the domestic equity and a return on the equity as determined by the Government, in case of events caused by the Government, or otherwise beyond UEA's control, such as:
>
> Failure of warranted ERDA technology to operate to permit the plant to achieve commercial operation within the agreed on time and costs.
>
> Failure of governmental licenses to be obtained in a timely manner.
>
> Inability of U.E.A. because of lack of customer credit worthiness to raise capital for construction or long-term financing.
>
> In cases of events involving gross mismanagement, gross negligence, or willful misconduct by UEA, the domestic investors would forfeit their rights for equity reimbursements. Prerequisite to finding gross mismanagement, gross negligence, or willful misconduct include (1) a formally written notice of deficiencies transmitted to UEA by the Government and (2) failure by UEA to respond reasonably to the notice. As noted in my testimony it is difficult for us to visualize whether the Government could prove such events.
>
> A partial return of equity could occur depending on UEA's compliance with its commitments, the efforts of UEA, and the degree of fault.
>
> G. UEA contracts with its customers will state that the price for enrichment services must include a 15-percent return on equity after all Federal, State, and local taxes have been paid with such adjustments as may be necessary to attract quality equity participants. UEA's proposal, if accepted by its customers and ERDA, would essentially constitute a Government assurance that UEA will have this rate of return once the plant is proven operable.

Now, there you have it, Mr. Chairman and Members of the committee.

The CHAIRMAN. The time of the gentleman from New York has expired.

(By unanimous consent, Mr. Bingham was allowed to proceed for an additional 5 minutes.)

Mr. BINGHAM. Now, Mr. Chairman, it is true that we are not being asked today to approve this contract; but the evidence is that the contract that UEA is pushing is the same contract that was outlined by Mr. Staats back last December. The company publication that the gentleman from Ohio (Mr. Seiberling) has in his hands, indicates this. There is no change in the basic terms of the contract. UEA is simply trying another route, which is to get the Congress to pass an innocuous-seeming bill and then come back later on and say, "Well, you have agreed in principle. Now you are letting us down if you do not approve the contract."

Mr. Chairman, if that is not the case, what in the world is the purpose of coming in with this preliminary bill, which establishes the framework, as the gentleman from Illinois puts it, for the legislation? What in the world do we need the framework for? Let them come in honestly with their contract in one piece of legislation and see whether the Congress wants to approve it.

When we approved the Lockheed guarantee, we knew what we were doing. We did not have a two-phase operation.

If sections 2 and 3 of this bill are enacted and UEA's contract is submitted for approval, we will be jammed for time, the Congress will be about to adjourn—before the end of the 60 days—and we will be told that we have already approved the principle of privatization with Government guarantees to back it up and that we had better hurry up and approve the contract.

Now, let us look at the question of enrichment capacity. Do we have enough capacity if we have the Portsmouth add-on to go with present capacity through 1985? I would submit to the Members of the committee that this will give us more than enough capacity.

Let me go over the figures again. It is planned with present enrichment facilities that we will have enough to supply 208 domestic powerplants and 121 foreign plants, or 329 total. The Portsmouth add-on would give us the capacity to supply 100 additional powerplants. That is a total of 429 powerplants that we will have the capacity to supply as of 1985, if section 4 is approved and we go ahead with the add-on.

Now, what will be the demand? Originally, ERDA's figures showed a need to supply 208 U.S. and 121 foreign plants, or a total of 329. That is 100 less than the predicted capacity; but those figures have been revised downward. There have been cancellations. There have been deferments. The demand for enriched uranium has slowed way down. So what are the figures now? ERDA is using as a working estimate the figure 160 plants operating in the United States by 1985 and 93 foreign plants, for a total of 253. In other words, as of 1985 we will have excess capacity, enough to supply 175 plants that will not then have been built. If we go ahead with the VEA facility, the excess capacity will be enough for 275 plants.

So it is utterly ridiculous to argue that, if we do not go ahead with the VEA deal, we will lose our position as the world's leading supplier of enriched uranium.

For the future beyond 1985, we have ample time in the coming years to decide what we ought to do. In a year or two from now, we will know more about what the energy picture will be in the late 1980's and 1990's, and about what the demand for enriched uranium will be.

Mr. SEIBERLING. Mr. Chairman, will the gentleman yield?

Mr. BINGHAM. I yield to the gentleman from Ohio.

Mr. SEIBERLING. Mr. Chairman, in today's Washington Post there is a little article that says that the International Atomic Energy Agency has drastically revised its forecast of the amount of electricity that is going to be supplied by nuclear plants in the rest of this century. They had previously forecast that one-half of all electricity worldwide would be supplied by nuclear plants by the year 2000 and they have now cut it to one-third.

That is obviously the prospect UEA is concerned about and why they want the guarantee. I do not blame them. It makes sense from the standpoint of their private interest. However, until we know what the precise proposal is, as well as the answers to some even broader questions of public policy, we should not make the commitment to privatization and Government guarantees that this bill would entail.

Mr. BINGHAM. I thank the gentleman for his contribution.

If we proceed hastily now to provide for excess capacity in the 1980's, that will put pressure on all concerned to find markets for the enriched uranium, to encourage the production of nuclear powerplants where they may not be desirable, and that in turn will give rise to what many of the Members, the gentleman from Maryland (Mr. Long) and others, are most concerned about, the fact that this course of action is going to make proliferation of nuclear weapons material more likely.

Let me cover one more point. That is the matter of cost. I have already referred to the fact that our own Congressional Budget Office says that it will cost the Government less if we go the way we have been going because the cost of capital will be less. Let me just read additionally from Chairman Pastore, on page 105 of the hearings:

> . . . I know for certain that once this goes private and they begin to sell the product it will cost a lot more than they are charging now, or even the Government would be charging at any given point.

So, in conclusion, Mr. Chairman, I hope that my amendment will be adopted. It is not an antinuclear amendment. We will have plenty of capacity, and we simply have had no explanation whatever for the reason why this legislation has to come before us now. Why not wait on the idea of privatization until we know what we are doing, until we have a contract before us we can pass on?

Mr. RYAN. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

The call will be taken by electronic device.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 575]

Abzug
Adams
Addabbo
Alexander
Andrews, N.C.
AuCoin
Bergland
Boggs
Breaux
Burton, John
Carney
Clancy
Clay
Cochran
Conlan
Conyers
Cotter
Crane
Daniel, Dan
Danielson
Dent
Derwinski
Diggs
Dingell
Drinan
Edwards, Calif.
Erlenborn
Esch
Eshleman
Evans, Ind.
Findley
Flood
Flowers
Flynt
Ford, Mich.
Fountain
Fraser
Frey
Giaimo
Green
Hansen
Hawkins
Hayes, Ind.
Hays, Ohio
Hébert
Heinz
Helstoski
Hightower
Hillis
Hinshaw
Holland
Howard
Jarman
Jones, Tenn.
Kemp
Koch
LaFalce
Landrum
Leggett
Lehman
Litton
Long, La.
Lott
Lujan
McCollister
Madden
Maguire
Matsunaga
Mazzoli

Melcher
Mills
Moorhead, Pa.
Morgan
Murphy, N.Y.
Neal
Nolan
Obey
O'Hara
Passman
Peyser
Pickle
Pressler
Rees
Richmond
Riegle
Rodino
Roncalio
Rosenthal
Ruppe
St Germain
Santini
Satterfield
Scheuer
Schneebeli
Sebelius
Shipley
Sikes
Sisk
Stanton, James V.
Steed
Steelman
Steiger, Ariz.
Stuckey
Sullivan
Symington
Teague
Udall
Ullman
Vanik
Vigorito
Wampler
Whitehurst
Wirth
Young, Ga.
Zeferetti

Accordingly the Committee rose; and the Speaker pro tempore (Mr. McFALL) having assumed the chair, Mr. PIKE, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill H.R. 8401, and finding itself without a quorum, he had directed the Members to record their presence by electronic device, whereupon 317 Members recorded their presence, a quorum, and he submitted herewith the names of the absentees to be spread upon the Journal.

The Committee resumed its sitting.

Mr. EVINS of Tennessee. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, over the years, my normal and customary allies in the matter of the development of nuclear power have been the members of the Joint Committee on Atomic Energy—including the chairman of the committee, the gentleman from Illinois (Mr. PRICE) and my able and eloquent friend, the gentleman from Illinois (Mr. ANDERSON).

However, I must part company with these gentlemen today at this time, as we consider action on this legislation which I consider ill-advised, improper, and contrary to the public interest.

I want to associate myself with the remarks of the distinguished gentleman from New York (Mr. BINGHAM) and strongly urge support for his pending amendment to strike sections 2 and 3 of the Nuclear Fuel Assurance Act. These sections should be deleted from the bill.

Sections 2 and 3 of this bill would "give away" control of this Nation's uranium enrichment technology and would open the door to outrageous raids on the Federal Treasury by corporate interests.

The Congress in the past has opposed giving away our Nation's control over nuclear power technology and now this bill would be the opening wedge of a giveaway of the benefit of our research and development.

This proposal has been advanced before in committees of the Congress and always defeated in the past.

I have great respect for the Joint Committee on Atomic Energy. However, the committee has reversed its position. Some members have said that they were mouse-trapped. The former Chairman, Chet Holifield of California, has stated that sections 2 and 3 of this bill—the giveaway provision—is possibly the worst piece of legislation that has emerged from the Joint Committee on Atomic Energy during its existence. This is the view of the former chairman of the committee and I am certainly inclined to agree with him that we should not pass this measure unless sections 2 and 3 of the bill are eliminated.

As has been pointed out, sections 2 and 3 of this bill would provide an assortment of grants, loans, guarantees, and other "goodies" to assure a giant corporation access to this uranium enrichment technology at the taxpayers' expense—and, you may rest assured, at the expense of higher and higher electric bills to the public and consumers. The cost to the taxpayers will be enormous.

This is an assistance bill. It is interesting to note that the title of this bill has been changed from the Nuclear Fuel Assistance Act of the Nuclear Fuel Assurance Act for purposes of camouflage and disguise.

Ironically, there is some justification for this change—for this bill is nothing more than an absolute assurance to a giant corporation of taxpayer-guaranteed profits in the billions.

This scheme—this proposal—this outrage—is tailor made for one corporation, the Bechtel Corp., already a conglomerate.

Do you know who is associated now with Bechtel Corp.?

George Shultz, Secretary of Labor under Nixon, first Director of the Office of Management and Budget, in President Nixon's Cabinet.

And Caspar Weinberger, President Nixon's Director of the Budget and later Secretary of Health, Education, and Welfare.

And other lesser lights of President Nixon's administrations.

Both are now corporate officers affiliated with Bechtel.

Mr. Shultz is now president of Bechtel.

They are the sponsors and advocates of this bill.

Their nests and the nests of other Bechtel officials will be feathered with an $8 billion bonanza.

This is an $8 billion boondoggle.

This is the worst type of Government-corporate contract President Eisenhower must have had in mind when he warned the Nation against the dangers of the military-industrial complex.

He inveighed against this type of cozy relationship that costs the taxpayers billions of dollars and swells the profits of big corporate interests.

To me this is a matter of principle.

This is a bad bill, shameful bill, a giveaway of the public interest—and should be defeated.

Today we have three existing uranium enrichment facilities—one at Oak Ridge, Tenn.; another at Paducah, Ky.; and a third at Portsmouth, Ohio. These are excellent facilities—efficient, productive and a strong plus for the American taxpayers.

Recently we provided an extensive appropriation to extend and expand one of these facilities—the plant in Portsmouth, Ohio—and this bill provides under section 4 for the Federal Government to build a fourth plant—an additional needed facility. This is proper, but we should not permit corporate interests to invade this field in which the Federal Government has this singular technology.

We should not permit the feathering the nests of Big Business and corporate interests with "sweetheart deals" which sections 2 and 3 would permit—thus assuring vast profits at the taxpayers' expense. This scheme recalls the scandalous Dixon-Yates deal.

We hear a lot of talk about free enterprise and risk capitalism by the supporters of this scheme.

This proposal is not free enterprise or risk capitalism—this proposal undermines the basic principles of our great free enterprise system.

There is no risk at all.

Virtually everything is guaranteed. The Government puts up the money to the tune of $28 billion and accepts all the risks.

Furthermore, the General Accounting Office has reported that the costs of this scheme, to turn over the uranium enrichment technology production to Big Business, will be "far more" than if the Government retains control of this technology.

I want to make these other points: This bill unless amended will open the door to foreign access to nuclear power and increases the danger of proliferation of nuclear development abroad.

This bill unless amended will mean higher electric rates for consumers. It has been estimated that this plan would mean an increase in nuclear fuel costs of more than $700 million a year—a 35-percent increase.

Retention of Government control over this technology will assure continued revenues from the sale of enriched uranium to the U.S. Government. To date, some $2 billion has been paid the Federal Government by utilities for enriched uranium—and certainly the private utilities would like to get control of this Nation's $5 billion in contracts in foreign sales of enriched uranium.

For these and other reasons, sections 2 and 3 should be deleted.

I urge adoption of the Bingham amendment to strike sections 2 and 3 from the bill—lets preserve the best interests of the United States.

Mr. SKUBITZ. Mr. Chairman, will the gentleman yield?

Mr. EVINS of Tennessee. I yield to the gentleman from Kansas.

Mr. SKUBITZ. I thank the gentleman for yielding.

I was intrigued by the name Bechtel Corp. being brought into this matter. Is this the same Bechtel Corp. that has been pressuring Members of Congress to get an authorization to construct a coal slurry pipeline from Wyoming to Arkansas, a 25 million-ton pipeline?

Mr. EVINS of Tennessee. This corporation was formed, and the Wall Street Journal in an issue recently said that an official of the corporation has said if we want to build enriched uranium capacity, we must buy pipe, we must buy supplies, and we must buy people. They mention in the article that the three or four high government officials who have joined this new corporation, are now advocating this "sweetheart" contract.

Mr. SKUBITZ. This is the same corporation, I can assure my colleague.

Mrs. COLLINS of Illinois. Mr. Chairman, will the gentleman yield?

Mr. EVINS of Tennessee. I yield to the gentlewoman from Illinois.

Mrs. COLLINS of Illinois. Mr. Chairman, I urge my colleagues to support the Bingham amendment to H.R. 8401, the Nuclear Fuel Assurance Act. The committee bill would transfer to four multinational corporations top secret uranium technology and allot up to $8 billion in direct contract purchase guarantees if any or all of these plants fail to generate sufficient demand, investment return, and/or operation capacity within 1 year. Of far greater concern is the fact that this bill further perpetuates the perils of uncontrolled nuclear proliferation. By removing the constraint on access to uranium enrichment technology, the U.S. Government would be dismantling its control over the spread of fissionable material for weapons production. Private industry would have that power and that sector has shown no restraint in selling nuclear technology to nations openly seeking a nuclear "weapons option." South Africa is a primary case in point.

The Bingham amendment avoids this problem by removing all sections in the act that would transfer uranium technology to private enterprise and by permitting the expansion of the Government-owned facility at Portsmouth, Ohio. Otherwise of the four multinational corporations involved, Uranium Enrichment Associates—UEA—would be one of the first beneficiaries. It is composed of the Bechtel Corp., Goodyear, Williams Corp., and up to 60 percent foreign participation including France, West Germany, Iran, and Japan. All of the foreign partners with the exception of Japan have firm nuclear trade agreements with South Africa, a nonsignatory to the Nuclear Non-Proliferation Treaty. Not surprisingly, the difficulty of safeguarding against clandestine sales increases when the majority investment consists of foreign entities who are not signatory to the NPT or who deal with nonsignatories.

There is another point to make with respect to the committee bill which is supported by the administration. The Federal Treasury is permitted to underwrite finance capital, plant operation and investment return enabling the administration to hide public funds for enrichment services and price supports. Consequently, ERDA is encouraged to maintain a stockpile as a "backstop" for private development at the expense of the public. The cost is estimated to be $1 billion by 1985 in carrying charges alone.

For these reasons, I would urge support of the Bingham amendment which insures ample supplies of nuclear fuel for U.S. needs and curtails an irreversible spread of nuclear weapons technology.

Mr. RYAN. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, this bill, as has been pointed out, is now the Nuclear Assurance Act, and I guess that is a very accurate title. But I would like for a moment to raise the question of how it came out and what the rationale is behind it.

It has been mentioned already that the bill came out unanimously, and that is a positive and useful characteristic for the bill. However, I would like to make a point that the stewardship of a committee develops a kind of momentum which makes them in their enthusiasm do what the industry too often has been unable to judge properly from a distance—the function which this particular legislation has. I have heard it called just a small bill, just a pattern bill, limited in scope as it is now, requiring later approval by the Congress. However, we the Members know that once the momentum begins here, it is hard to stop.

I can think personally of another example from another area. Three years ago we were told the Federal Energy Agency is just a kind of temporary thing, just to take care of fuel prices while we have this shortage going on. To try to kill that agency today would be very difficult and, in fact, it has been an impossible job so far. This is so much larger than that as to warrant the attention of every Member of Congress who does not know what is in this bill.

I would like to bring out a couple of other characteristics because I believe they have some value. The Government Operations, Subcommittee on Conservation, Energy, and Natural Resources of which I am chairman recently submitted to the full committee a report. I will read just one sentence within that report. This report, incidentally, was adopted unanimously by the Committee on Government Operations itself. It says:

> . . . it just may not be possible to guarantee the containment of radioactive wastes over the ages until they are harmless to mankind and the environment . . .

I do not believe we need to go beyond our present needs before we make some kind of final determination about what radioactivity consists of.

The reason why I am opposed to this bill and in support of the Bingham amendment primarily is because at least this keeps the thing under control for the next few years until we find some final determination as to what nuclear wastes are like, what they will do, and then whether we can contain them or not.

The Bingham amendment says essentially: Keep the thing under control, do not expand it so wide, and let us remember that it is important to keep it under control without great cost to this country. We should build where we need to build, where we need to maintain our energy requirements in this country; but maintain them under control which does not allow us to go at a gallop rather than at a walk until we have solved the problems still unresolved that have to do with disposal of nuclear wastes.

Next week I am supposed to go to look at some containers which contain low level wastes that are to be fished out of the ocean. These low-level wastes have a half life of only 28,000 years. If they were high-level wastes, they would have a half life of 500,000 years. That means roughly that if Java man had invented nuclear fuel and buried the wastes, we would now be able to walk around in that area, 500,000 years later.

We still have not solved some of the basic technology with nuclear development, but at least with this bill we will walk and not run until we have the answers that may either help us or doom us and future generations before we get through.

This bill is not necessary this year and this bill may not be necessary the next year or for many years, but certainly with the Bingham amendment we should permit ourselves to walk and not run and do the job we can do now.

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield?

Mr. RYAN. I yield to the gentleman from Texas.

Mr. ECKHARDT. Mr. Chairman, I agree with the gentleman's comments. The gentleman it seems to me suggests this is the creeping boondoggle.

Mr. PRICE. Mr. Chairman, I move to strike the requisite number of words and I rise in opposition to the amendment.

Mr. Chairman, the gentleman from New York has made reference to this legislation, and one of the references was that the bill was rushed to the floor. I would like to call to the attention of the Members the date when this bill was dropped into the hopper in the House: July 8, 1975. Since that time this bill has been before the Joint Committee on Atomic Energy, it has been worked and reworked, and I think some credit should be given to the committee for reworking it.

There is a 60-day provision in this that Congress in effect will be the ones to determine whether or not any of these contracts would be approved.

The main thrust of the amendment is to make certain that Congress will work its will in these matters.

Mr. BINGHAM. Mr. Chairman, will the gentleman yield briefly since he mentioned by name?

Mr. PRICE. I did not mention the gentleman's name in any derogatory sense.

Mr. BINGHAM. The gentleman said I said that the bill was rushed to the floor. I did not say that.

Mr. PRICE. One of the speakers did mention that.

But anyhow, the inference was that the matter had been rushed to the floor. I do not know any piece of legislation so different in language and tenor than this present bill from the one that was introduced. It is the work of the committee. And it is a committee that has experience in this field.

One of our main interests was the matter of safeguards in the interests of our own program. As we do in all these cases, we sought the advice of the General Accounting Office and we have had them look this over.

We have had them look over different phases of what we were doing. The sum total of what the GAO found is in a report that was submitted to us in the last 2 weeks, and if anyone cares to look at this report they may do so. It has been on my desk since the beginning of this hearing; but let me sum up the GAO finding. They say:

> In our view, if private ownership is desirable, the present course of action being taken by the Joint Committee of providing broad legislative authority with the right to approve or disapprove any resulting cooperative agreement is more desirable than basing legislation on the UEA or some similar proposal and perhaps requiring changes to that legislation whenever other agreements containing new and different conditions are proposed for the gas centrifuge process.

All sections directed at permitting private enterprise to propose joint Government-industry enrichment plants would be deleted by the amendment. In a real sense, this amendment destroys the legislation reported out by the Joint Committee, and would almost certainly be vetoed if it ever reached the President's desk for signature.

I would like to briefly respond to the major arguments that have been put forth to support the Bingham amendment.

First. The amendment sponsors argue that the bill is loosely written and sets no guidelines for ERDA, and further that the agency would be free to enter into agreements with as many private firms as it deems necessary.

As stressed in the report, H.R. 8401 only provides a framework under which proposed contractual arrangements between the Government and prospective firms can be submitted to the Congress for prior congressional review and approval. Enactment of the bill will not obligate the Government in any way or provide the authorization for consummation of any proposed contract. Overall guidelines are provided in the report which present the views of the committee as to what conditions will need to be met for a proposed arrangement to be acceptable. Once these arrangements are submitted, the committee will carefully scrutinize them to assure these basic conditions are met. The full Congress will also have an opportunity to review and approve or disapprove of specific arrangements.

Second. The amendment sponsors argue that the $8 billion authorization would shift all of the risk from private investors to the taxpayers, and that the bill contains many hidden costs to consumers.

Massive guarantees and hidden costs do not abound in H.R. 8401, as contended by Congressman BINGHAM and the cosponsors of his amendment. The primary guarantee of the Government will be to provide assurance that the technology which is supplied by the Government works. In view of the long and successful experience of the Government with the technology, there is no reason to believe it would not work. Reasonable royalties for the private use of Government technology will be required.

The bill authorizes $8 billion as the upper limit of contingent liability that the Government could conceivably assume with regard to the domestic assets of up to four proposed private enrichment projects, in the extremely remote possibility that the Government would take over all of the projects at the point of maximum possible liability.

Third. The amendment sponsors argue that the bill will give away control of production of nuclear materials to firms which are not directly responsible to national jurisdictions, and which are also partially foreign-owned.

Adequate safeguards are included in the bill to assure that the public interest is fully protected with respect to these concerns. The Joint Committee has clearly indicated that any arrangements will provide for:

Protection against dissemination to foreign investors of classified information;

Continued classification and protection of sensitive enrichment technology;

Requirements that exports take place pursuant to appropriate international agreements for cooperation and be subjected to safeguards to prevent diversions;

Preclusion of control or domination of a private enrichment venture by an alien, a foreign corporation, or a foreign government; and

Effective domestic safeguards and physical security measures for the plants and their products.

It should be noted that the guarantees will not be used to protect any of the foreign investment in any of the plants.

Fourth. The amendment sponsors argue that the bill will create a large, unnecessary surplus of uranium enrichment capacity that will far exceed estimates of enrichment needs.

If nuclear power is to achieve the growth projected for it, it is obvious that additional enriched fuel will be required. The present U.S. capacity has been committed since mid-1974 and no additional orders—domestic or foreign—can be taken by the U.S. Government. ERDA projects a need for 10 additional enrichment plants between now and the end of the century. These plants take time to build and get into operation. We should get on with the task of expanding the Portsmouth facility, and give private enterprise an opportunity—which is all this bill does—to prove it can present a plan acceptable to the Congress for building additional enrichment plants. Furthermore, the Government does not guarantee a market for fuel that might be produced by private firms. How many plants are built and on what time schedule will be a matter determined in the final analysis by negotiations between the private enriching firms and the electric utilities.

In closing, I want to urge that my colleagues support H.R. 8401 as reported out by the joint committee, and reject the amendment offered by the gentleman from New York. Failure to expand domestic enrichment capacity could have serious adverse effects on the Nation's ability to meet its future energy needs. It could seriously injure our ability to effectively guard against proliferation, as well as have adverse impacts on U.S. trade.

As indicated repeatedly, all this bill does is provide an opportunity for private enterprise to demonstrate it can help meet the enrichment needs in a manner consistent with the overall public interest. The committee and Congress, through the procedures provided by this bill, will be given complete authority to review and approve specific contracts that may be proposed for any cooperative enrichment venture.

I would like to make some comments on the need for additional uranium enrichment plants since the opponents of the Nuclear Fuel Assurances Act have raised this issue.

Let me first say that the overriding consideration is not whether we need additional enrichment plants—but rather whether or not we need nuclear power to help meet our future energy needs. I, for one, strongly believe that the answer to the question is a definite yes.

Most energy experts agree that, for all purposes, nuclear fuel and coal are the only energy sources which this Nation can depend on to meet the anticipated growth in the 1970's and 1980's and beyond. Natural gas is already in short supply and should be used for home heating and other premium purposes. Domestic oil is also short, and actions must be taken to limit the amount of oil we need to import. Coal is the best prospect among the fossil fuels but cannot meet the total need due to environmental and safety concerns and other considerations.

Nuclear power is already saving the American consumer large sums of money. As we are all painfully aware, the cost of fossil fuel—coal, oil, gas—has literally skyrocketed over the past several years. The cost of nuclear fuel, on the other hand, has remained remarkably low. Thus, the competitive advantage of nuclear power has increased, which has been translated directly into savings for the electric consumer. It has been recently estimated that nuclear generation saved consumers over $2 billion in 1975 alone as compared to paying for power from fossil—oil and coal—plants. It has been calculated that in 1975 nuclear power plants produced electric power at an average cost of 63 percent less than oil-fueled power plants and 39 percent less than coal-fired power plants.

It is also important to note that the use of nuclear power is already helping to reduce the amount of oil imports. Power from the atom in 1975 saved about 200 million barrels of oil which might otherwise have had to be imported. By 1985, nuclear powerplants should be saving the equivalent of 5 to 6 million barrels of oil per day—just about the amount the United States is importing today at a cost of about $60 million per day or over $20 billion per year.

There are now some 58 nuclear plants licensed to operate and this number is projected to grow significantly in the years ahead. By 1985, nuclear plants could be producing about 25 percent of our electrical energy and by the turn of the century well over half of our needs could be provided by nuclear. Obviously if these projections are to be realized, we must build additional enrichment facilities to produce the fuel needed to power the plants.

No one, of course, knows the exact timing and number of additional plants needed through the end of this century. ERDA projects a need for 10 additional plants, each of 9 million SWU size, while others project somewhat less. The number of plants depends on many factors—including the rate of electrical energy growth here and abroad, the availability of uranium resources, the extent of U.S. capture of foreign markets and a host of other considerations. We do know, however, that the present U.S. capacity has been committed since mid-1974 and no additional orders—domestic or foreign—can be taken by ERDA as a result. Therefore, it is my view that we must get on with the job as quickly as possible. If we are a little early or have some excess capacity, so be it. That is a much better position to be in than to be short of the fuel necessary to keep our electric powerplants running.

Some of the opponents of the bill argue that we should not build plants to provide foreign requirements. I disagree for several reasons. ERDA has estimated that the sale of enrichment services abroad could provide billions of dollars in revenues to the United States. By the year 2000, the revenues would be coming in at a level of about $3.2 billion annually. Further, the United States will be in a much improved position to influence other countries with respect to our nonproliferation objective if we are the suppliers of their nuclear fuel.

In summary, I would urge that we not become overconcerned about how many additional enrichment plants are needed and on what exact time schedule. After all, we are trying to look some 25 years out into the future, and our visibility is naturally obscured. The important point is that we need additional enrichment capacity to assure the nuclear fuel is available when needed in the mid-1980's and beyond. The full potential of nuclear power will not be realized if we fail to take action now. Accordingly, I urge my colleagues to support enactment of the Nuclear Fuel Assurance Act of 1976.

Mr. Chairman, the history of the Government's invitation to private industry to enter the uranium enrichment field goes back to the early 1970's. The fundamental question now is does the Government look at all to private industry to build future increments of enrichment capacity?

If it does look to the private sector to build future increments of enrichment capacity, will the Government provide the bare minimum of assurances needed so that the private sector can acquire the debt and equity financing needed for these initial projects?

I repeat: Approval by the Congress of the Nuclear Fuel Assurance Act does not constitute approval of any private enrichment project. It simply is an indication that the Congress is receptive to the subsequent consideration of specific proposals on their merit.

Rejection of the Nuclear Fuel Assurance Act would mean that the Government alone intends to hear the enormous future budgetary impact of providing the additional enrichment capacity.

The decision should be made now on the means by which the Nation's uranium enrichment capacity can be expanded.

This Nation's enrichment capacity is now fully committed and has been since June 1974.

The matter of future capacity is urgent because a prompt decision is important to our Nation's energy and economic objectives as well as to our international leadership in promoting peaceful uses of atomic energy and nonproliferation objectives.

Mr. Chairman, in view of the confusion as evidenced by yesterday's debate over the scope and nature of the Government guarantees, I would like to clarify this issue and also explain why the guarantees are needed. First, it should be understood that the Government guarantee would be strictly confined and limited solely to the assurance that the technology which the Government supplies will work. The enrichment process has been developed in Government laboratories and at Government expense, and it is only fair for the Government to guarantee that it will work. Second, even that guarantee will expire after 1 year of plant operation. Third, this guarantee will apply only to the domestic investment in the facility, and not to any foreign investment. On the basis of the joint committee's careful study of this issue, we firmly believe that the likelihood of these guarantees ever having to be invoked is extremely small.

Why are these guarantees necessary? Basically, to overcome the reluctance of financial institutions to invest in what to them would otherwise be an uncertain venture. Uncertain because the technology involved is classified, and has not previously been utilized by private industry. The private investors have what to them is an inadequate basis on which to determine if the enrichment process is economically viable. There is no private operating experience. Lenders would be reluctant to commit the large sums needed without some assurance that their investment will not be in jeopardy due to the basic nature of the process itself. The long time before payback further adds to the uncertainty. It is for these reasons that Government guarantees are necessary and appropriate, and should be implemented to assist the entry of this new industry into the private sector.

Mr. LONG of Maryland. Mr. Chairman, will the gentleman yield?

Mr. PRICE. The opposition has had plenty of time to explain this case; but I yield briefly to the gentleman from Maryland.

Mr. LONG of Maryland. Mr. Chairman, I thank the gentleman.

Mr. Chairman, the gentleman says that he got his statement for GAO 2 weeks ago. Let me read a statement that I have gotten within the last 10 or 15 minutes from the GAO. The Assistant Comptroller General on the telephone said the following:

> The GAO has not changed its position. The next increment in enrichment capacity should be a Government add-on and, further, if industry wants to bid on future plants, a much better contract is needed than the UEA proposed contract.

Mr. PRICE. Mr. Chairman, I will not yield any more, because I understand what the gentleman is saying. That is not inconsistent with what I have just been reading; but the GAO does not make the decision whether the next increment will be a Government add-on. We prefer that. The committee prefers that; but there is a desire to give private industry an opportunity to see if they can participate in the enrichment program. If those here are listening carefully, they would have noted that the word that I read from the congressional GAO report said that:

> In our view, if private ownership is desirable, the present course of action being taken by the Joint Committee of providing broad legislative authority with the right to approve or disapprove any resulting cooperative agreement is more desirable than basing legislation on the UEA or some similar proposal and perhaps requiring changes to that legislation whenever other agreements containing new and different conditions are proposed for the gas centrifuge process.

The CHAIRMAN. The time of the gentleman from Illinois has expired.

(By unanimous consent, Mr. PRICE was allowed to proceed for an additional 2 minutes.)

Mr. PRICE. Mr. Chairman, that is certainly a determination to be made by the Congress. I think many of us think it is desirable, with the control that the committee suggests for such a turn of events, if we do desire that private ownership is the desirable thing.

Mr. WAGGONNER. Mr. Chairman, will the gentleman yield?

Mr. PRICE. I yield to the gentleman from Louisiana.

Mr. WAGGONNER. Mr. Chairman, I thank the gentleman from Illinois for yielding.

Now, the gentleman from Maryland (Mr. LONG) raises a question about what the position of the GAO should be with regard to the next step.

I think the report speaks to exactly that question when on page 4 it says:

> The bill also authorizes and directs the Administrator of Energy Research and Development to proceed with the expansion of an existing Government-owned uranium enrichment facility. It is the judgment of the Joint Committee that regardless of the construction of private enrichment facilities, the expansion of the public facility at the Portsmouth, Ohio, site is necessary.

If that is not the next step, I would like someone to tell me what it is.

Mr. LONG of Maryland. Mr. Chairman, if the gentleman will yield, what the gentleman is saying makes it even far worse.

Mr. PRICE. Mr. Chairman, I urge defeat of the Bingham amendment.

Mr. YATES. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the Bingham amendment. I urge Members to read the testimony of GAO which appears in the hearings on the bill, starting on page 201. My good friend from Illinois, and there is not a person in the House that I hold in higher esteem and greater affection and respect than my good friend from Illinois (Mr. PRICE), my good friend from Illinois says that this is an invitation to private industry to enter this business. But, what an invitation to come into this business. Let us examine again what the gentleman from New York (Mr. BINGHAM) pointed out a prospective provision of the proposed contract. Oh, they will say "there is no contract." It will come. This provision will come if the legislation is passed. On page 211 of the hearings GAO says:

> UEA contracts with its customers will state that the price for enrichment services must include a 15-percent return on equity after all Federal, State, and local taxes have been paid with such adjustments as may be necessary to attract quality equity participants.

Now, what other company in the United States has such a highly profitable arrangement? The oil companies, who are supposed to be the darlings of the tax laws, do not have such an arrangement; the real estate companies, who are supposed to make available tax shelters do not have this kind of arrangement; the Bermuda banks, the Swiss banks, every kind of tax loophole, do not have this kind of sweet arrangement. This is a guaranteed minimum return—not maximum, a minimum—15 percent return on equity after all Federal, State, and local taxes have been paid—after taxes, a minimum return. It could be much more, perhaps as high as 50 or 100 percent in return.

Now, my good friend from Louisiana—and I will yield to him in a minute because I mentioned his name—talks about the fact that the bill does contain provision for expansion of the Government plant. That is right. That is what we favor. We favor the expansion of the Government plant. That is what the Bingham amendment does, but what it does do is strike out the action of the committee in providing for contracts that will permit this kind of return. Truly, this approach is the classical Trojan horse—a calm, unruffled exterior but wait until the contract is made. That is what lies beneath this exterior.

Personally, I do not understand why this kind of a bill was brought to the floor. This should be a bill that provides for the expansion of the Government plant at Portsmouth, Ohio, not sections 2 or 3.

Mr. ANDERSON of Illinois. Mr. Chairman, will the gentleman yield?

Mr. YATES. I yield to the gentleman from Illinois.

Mr. ANDERSON of Illinois. Mr. Chairman, I would simply like to direct the attention of the gentleman from Illinois to the committee's report, page 4, where it states that the Joint Committee questioned witnesses at great length with respect to the scope of the Government guarantees that would be furnished those private participants. It is the clear understanding of the Joint Committee that the Government guarantee would be strictly confined and limited solely to the assurance that the technology which the Government supplies will work, and even that expires after 1 year of operation of the facility.

The guarantee is solely for the protection of the domestic investment and not to any extent for the foreign investment. We do not guarantee any 15-percent return on equity in this bill, and we surely are not going to approve any contract that contains such a guarantee. I can assure the gentleman and the Members of the House that that statement is totally wrong. There is no guarantee of profit of 15 percent or any other figure.

Mr. YATES. May I ask the gentleman a question? Is there any agreement as to whether or not there will be a limitation on the price to be charged by a prospective private industry? There is not, is there? It is intended, is it not, in order to avoid possible payment by the Government on an $8 billion guarantee, that high enough price should be charged by the contractor so that the Government will not have to pay on the guarantee; is that not correct?

Mr. ANDERSON of Illinois. I think I can best answer the gentleman's question by suggesting that what we are trying to do, and will do with the passage of this legislation, is to create a competitive situation within the private enrichment industry. This proposal is not limited to UEA. There are three other prospects outstanding which, if we pass this bill, will be consulted, obviously.

The CHAIRMAN. The time of the gentleman from Illinios has expired.

(By unanimous consent Mr. YATES was allowed to proceed for 1 additional minute.)

Mr. YATES. Let me just comment on what the gentleman says. That is the Trojan horse approach. If there is such a great demand for competition in the industry, and industry is rushing to resolve itself, why are Government guarantees needed at all?

Mr. ANDERSON of Illinois. We have patiently explained time and time again that up until now this technology, this production, has been secret, has been classified. It has been in the hands of the Government. There is no experience base on which to convince the banking community that they can go out and invest the funds of their stockholders in a venture that is totally untried and unproven. We know it is going to work. We know there is a minimum of risk. But we cannot convince the bankers, and that is the whole reason to include the guarantee.

Mr. YATES. May I continue and read what the GAO says:

> We believe that ERDA should seek and encourage private industry to continue efforts in advanced technologies through explicit programs. We recognize that Government assistance and assurances will be required. In working to this end, however, the Government should seek a more equitable sharing or risk by the private enrichers and the Government.

The CHAIRMAN. The time of the gentleman from Illinois has expired.

(On request of Mr. WAGGONNER, and by unanimous consent, Mr. YATES was allowed to proceed for 2 additional minutes.)

Mr. WAGGONNER. Mr. Chairman, will the gentleman yield?

Mr. YATES. I yield to the gentleman from Louisiana.

Mr. WAGGONNER. I thank the gentleman for yielding.

Mr. Chairman, the gentleman raised the point, and he said that he could not understand why the committee did not bring a bill to the floor which simply provided for an enlargement of the Government capacity in Ohio to produce enriched fuel.

Mr. YATES. For many reasons.

Mr. WAGGONNER. There are two basic reasons, however, that this is not the case.

First, to expand only our enrichment production capacity to that extent would not meet the needs of this Nation in the foreseeable future, or even now, for nuclear energy; and, second, there are some who believe that there is a role for the private sector.

For these two basic reasons we have the proposal that we do have today.

Mr. YATES. Let me say to the gentleman that many of us agree that there is a role for the private sector, but certainly not under the circumstances or conditions of favoritism to a few huge industrial entities under the provisions that are contemplated by the contract.

Mr. WAGGONNER. If the gentleman will yield further, the gentleman raises the question of the gentleman from Illinois (Mr. ANDERSON) about the provisions of a contract. The gentleman overlooks the fact that whatever contract, if indeed any contract is ever agreed to, must bear the approval, the stamp of approval, of this body, this Congress; and we will determine at that point in time, if we ever reach that point in time, what profit anybody will be allowed to make, because that will be a contract provision.

Mr. YATES. Let me point out to my friend, the gentleman from Louisiana, that title III provides only for the approval of the Committee on Appropriations with respect to guarantees. It does not provide for approval by any authorizing committee. The review by the Appropriations Committee ordinarily is not as thorough as an authorizing committee.

The CHAIRMAN. The time of the gentleman from Illinois has again expired.

(On request of Mr. PRICE, and by unanimous consent, Mr. YATES was allowed to proceed for 1 additional minute.)

Mr. PRICE. Mr. Chairman, will the gentleman yield?

Mr. YATES. I yield to the gentleman from Illinois.

Mr. PRICE. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, the gentleman continues to refer to the contract. There is no contract at the present time. When there is a contract, it has to come back to the Congress. There is no contract now. That is what this is all about. When there is a contract, Congress will look it over.

Mr. YATES. Is my friend, the gentleman from Illinois, saying there is no prospective or tentative agreement as to certain provisions?

Mr. PRICE. If the gentleman will yield, there is no agreement. There are people who have expressed this. There is no contract. There is no agreement.

I would like to read from the legislation in reference to another statement that has been made:

> The Administrator of Energy Research and Development Administration is authorized, subject to the prior Congressional review procedure set forth in subsection b. of this section . . .

All of this has to come back to the Congress. This is what this is all about.

Mr. YATES. With due respect, I say to my friend, this is a first step. The companies know what is involved.

Mr. RHODES. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I hope this amendment will not be agreed to. It would have the effect of taking out what many of us feel are the most valuable features of the bill.

In beginning my discourse here, let me just review with the Members some of the reasons why we are interested in this type of an approach. One of the reasons is that this country is still very short of energy. Most of the people with whom I have talked say that for the foreseeable future this country will be dependent upon only two sources for the expansion of its energy requirements. One source is coal, and the second is nuclear energy.

I happen to be among those who are not too enthusiastic about the use of uranium and uranium components for the production of energy. I wish there were some way out of it, but I am convinced there is not any way out. I am convinced that for the next several years, in order to provide the jobs we need for our people, we are going to have to use uranium for the purpose of producing power.

I do not like, any better than does anybody else, the idea of having radioactive material left over which will be the responsibility of future generations for hundreds of years. But let me point out to the Members that if we are worried about safety, I think we can forget it. The plants which have been built and which have been operating with uranium cores now are safe. There has not been any loss of life and there have not been illnesses resulting from the operation of any such plant. So I do not think there is any problem concerning that. The fact that we do need the power has to be in my opinion the overriding factor.

One of the reasons why I favor this bill as it now is written is that I want to see the day come when we do not need uranium for fuel. One of the ways to accomplish this is by research and by development. While I am not opposed to expanding our facility at Portsmouth, we must free Federal resources in order to expand our R. & D. efforts. The use of private enterprise funds to do this necessary job, uranium enrichment, will allow us to reallocate Federal funds for the purpose of research and development on solar energy, on geothermal steam, and on the fusion process, which, in my opinion, is the ultimate as far as the production of power is concerned.

Fusion is great, but fusion is not yet here. We still have many problems to solve as far as fusion is concerned. We should not put ourselves in an energy bind by rejecting this necessary interim approach.

Insofar as the nuts and bolts of the bill are concerned, let me again say, as has been said many times here, that we are not making any contract. We are not even authorizing any contract, as the gentleman from Illinois (Mr. PRICE), the chairman of the committee, said just a few minutes ago. All we are doing is giving a hunting license to ERDA to go out and make the best possible deal that it can for the participation of private enterprise in the production of uranium for fuel for the production of power. Then they have to come back here, and the Congress has to pass on it; under the bill Congress will be required to vote on it within 60 days. We will look at the contract, and if we do not like the contract, we will not vote for it.

So it seems to me that if we do not pass this bill as it is written today, we will be precluding ERDA from taking a position which is flexible and which can be used in many, many ways to provide what I think is a very necessary component of our energy sources for the future.

I hope, Mr. Chairman, that we will not try to look ahead and second-guess what might happen. We do not have to do that, because we will be in control of what happens.

Mr. Chairman, this to me is a very sensible bill. I congratulate the chairman of the committee, and I congratulate the committee for bringing it to the floor. I hope it will be adopted without amendment.

Mr. LONG of Maryland. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in support of the Bingham amendment which strikes those sections of the bill that would create a private uranium enrichment industry subsidized by the U.S. Government.

I have dedicated my entire career to the support of private industry, and I share the alarm of many concerning the increasing takeover by the Government of everything. However, this should not be regarded as private industry. This is "kept" industry.

Expanding the existing Government enrichment facilities would be more economical than setting up a heavily subsidized and guaranteed private venture that violates every principle of the free market, the supposed object of the transfer.

Mr. Chairman, the nuclear power industry is already replete with subsidies, including a low limit of accident liability, Export-Import Bank credits, and billions in Government funds already spent in past decades for nuclear development.

This bill would provide up to $8 billion in ultimate Federal loan guarantees for private companies to build increases in enrichment capacity.

Uranium Enrichment Associates has insisted on these loan guarantees, plus a commitment that the Government buy a vast amount of enriched uranium over 5 years. This promise to buy enriched uranium is a Government guarantee of a no-risk return. It also raises the prospect of a glut of enriched uranium in view of the wide excess of past estimates of future nuclear power demand over actual demands as they subsequently emerged.

Mr. Chairman, since June 30, 1974, a little over 2 years ago, the Nuclear Regulatory Commission reports that 201 reactors have been granted construction permits, have been under permit review, ordered by utilities, or publicly announced. Of these 201 reactors, 23 have been canceled and 95 have been deferred or delayed for economic reasons. Only about 40 percent of the permits granted are resulting in construction go-aheads.

The bill would thus commit $8 billion on the basis of growth projections, which have proved in the past to be thoroughly unreliable.

Predictions of a large export market can scarcely claim greater reliability. The Barber Associates report prepared for ERDA points out that most developing countries will not buy large numbers of nuclear reactors, because nuclear power is prohibitively expensive for their capital-scarce, labor-oriented economies. Countries which do buy reactors will probably do so for the purpose of ultimately getting nuclear weapons, with our subsidy.

Mr. Chairman, if all of the enrichment plants contemplated by this bill were built, the United States would be committed to an energy policy that is uneconomical and environmentally destructive. Our massive investment in nuclear power will continue to soak up the skilled manpower and capital that might otherwise go to solar and other types of energy development, thus being counterproductive of the goal of increasing cheap energy.

The contention that transferring responsibility for uranium enrichment to the private sector will yield benefits in cost and efficiency from a competitive standpoint is spurious. No creative competitive market is contemplated, but rather, a Government-subsidized and price guaranteed enterprise without the risks that force private enterprise to be more efficient. According to the General Accounting Office, it would cost $600 million less simply to add to existing Government enrichment facilities.

Mr. Chairman, the administration's bill incorporates the worst features of both Government socialism and private enterprise.

The virtue of private enterprise is that risk and prospective profits make it more efficient. When the Government asborbs all the risks and all the costs, where is the incentive for private enterprise to cut down on costs?

Additional enrichment capacity can best be provided by expanding our present facilities as the Bingham amendment assures.

Mr. PRICE. Mr. Chairman, I ask unanimous consent that all debate on this amendment and all amendments thereto close at 1 o'clock.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

Mr. GIBBONS. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. PRICE. Mr. Chairman, I move that all debate on this amendment and all amendments thereto close at 1 o'clock.

The CHAIRMAN. The question is on the motion offered by the gentleman from Illinois (Mr. PRICE).

The question was taken; and the

Chairman being in doubt, the Committee divided, and there were ayes 28, nays 27.

Mr. WAGGONNER. Mr. Chairman, I demand a recorded vote.

A recorded vote was refused.

So the motion was agreed to.

The CHAIRMAN. The Chair recognizes the gentleman from Texas (Mr. Milford).

Mr. MILFORD. Mr. Chairman, I ask unanimous consent that I may be permitted to yield my time to the gentleman from Louisiana (Mr. Waggonner).

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

Mr. OTTINGER. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard. The gentleman from Texas (Mr. Milford) is recognized for approximately 1 minute and 20 seconds.

Mr. MILFORD. Mr. Chairman, I yield to the gentleman from Louisiana (Mr. Waggonner).

Mr. PRICE. Mr. Chairman, if the gentleman will yield, I ask unanimous consent to yield my time to the gentleman from Louisiana (Mr. Waggonner).

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

Mr. OTTINGER. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. KAZEN. Mr. Chairman, I ask unanimous consent that I may be permitted to yield my time to the gentleman from Louisiana (Mr. Waggonner).

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

Mr. OTTINGER. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. PRICE. Mr. Chairman, I make the point of order that the objection is not in order since the gentleman from New York was not standing at the time he made the objection.

The CHAIRMAN. Is there objection to the unanimous consent request of the gentleman from Texas (Mr. Kazen) to yield his time to the gentleman from Louisiana (Mr. Waggonner)?

There was no objection.

Mr. YOUNG of Texas. Mr. Chairman, I ask unanimous consent to yield my time to the gentleman from Louisiana (Mr. Waggonner).

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

The CHAIRMAN. The gentleman from Texas (Mr. Milford) is still recognized for the balance of his time.

Mr. MILFORD. I yield to the gentleman from Louisiana (Mr. Waggonner).

The CHAIRMAN. The Chair recognizes the gentleman from Louisiana (Mr. Waggonner).

Mr. WAGGONNER. Mr. Chairman, it is estimated that nuclear energy will supply about 30 percent of our needs by the year 2000. Therefore, nobody who understands what our nuclear and energy needs are can argue the need for additional enrichment capacity in this country. Not to provide this additional enrichment capacity simply means that we are further burdening our present sources of energy. We are burdening coal. We cannot expect to get more from oil and gas, so we are further increasing our dependence upon imported oil.

Mr. Chairman, no matter what some say, the issue here today is not George Shultz or "Cap" Weinberger or the Bechtel Co. Those gentlemen are distinguished gentlemen with records of proven public service. The issue is not, as the gentleman from Kansas, my good friend, Mr. Skubitz, tried to say—a coal slurry pipeline. The issue is whether or not we need additional enrichment capacity to provide nuclear energy in this country and how we get it.

The issue is, further, what the role of the Federal Government is going to be in providing that energy. The issue is, further, what the role of the private sector is going to be in providing for our energy needs. The private sector is already involved in providing for nuclear energy. This bill does nothing whatever except to provide a framework whereby the Congress can in its wisdom, or lack thereof, approve some contract that ERDA might recommend. It does nothing in the world except provide a framework for us to approve or disapprove something they might recommend to us.

This bill is not a loan guarantee bill. This bill is, as far as I am concerned, improperly referred to as a guarantee bill. Nobody is guaranteed anything. This bill in sum and substance is nothing more than a warranty bill. This bill simply provides that if the Government provides this information and material and this technical information and material is faulty, then a warranty will be provided for.

I submit to you that the larger the private involvement is, and whatever role they take, the cheaper, the less the cost will be to the taxpayers of this country, and that additionally is what we ought to be thinking about.

I submit to you that should we fail to provide for this proposal, should we fail to utilize the private sector, the end result, the fallout, will be that the antinuclear forces—people who are antinuclear people—will in the final analysis have achieved a victory at the cost of the free enterprise system, at the cost of energy sufficiency. It is a giant stop toward nationalization of energy. If you believe in the private sector you must vote this amendment down. If you want nuclear energy then vote no.

The CHAIRMAN. The time of the gentleman has expired.

The Chair recognizes the gentlewoman from Tennessee (Mrs. Lloyd).

Mrs. LLOYD of Tennessee. Mr. Chairman, I ask unanimous consent to yield the remainder of my time to the gentleman from Washington (Mr. McCormack).

The CHAIRMAN. Is there objection to the request of the gentlewoman from Tennessee?

There was no objection.

Ms. LLOYD of Tennessee. Mr. Chairman, I rise in opposition to the Bingham amendment to delete from the Nuclear Fuel Assurance Act all but the so-called Portsmouth add-on. I assume that the gentleman from New York (Mr. Bingham) bases his amendment on the assumption that sufficient supplies of enriched uranium will be available from Government sources to meet domestic requirements through the mid-1980's. Such an assumption is at best tenuous since the Energy Research Development Administration already has stated that the additional add-on will only permit existing plants to operate at "economic-optimum." Failure to provide for this immediate capacity increase would mean that existing plants would have to use more natural uranium thus depleting a very scarce resource.

In addition, all existing plants operate with the gaseous diffusion technology. This technology is extremely energy intensive, and therefore expensive. Under the provisions of H.R. 8401 a new type of enrichment plant utilizing the centrifuge technoloy would become a reality. The centrifuge plant, which uses only about 10 percent as much energy to enrich the nuclear fuel, would provide a far more cost-effective method of providing power. One such facility to be constructed by the Centar Corp. will probably be located within my congressional district.

The Joint Committee on Atomic Energy which reported this bill without a dissenting vote noted that:

> The United States will require for domestic needs added enrichment capacity by the year 2000 equal to six to nine plants of a size comparable to any of the three existing plants, and that added capacity for total market, foreign as well as domestic, served by the United States will equal nine to 12 similar size plants.

Mr. Chairman, one of the reasons that we are today confronted with massive energy problems is because Congresses failed to look ahead to the problems that would confront our country 25 and 50 years in the future. Let us not be guilty of the same sort of myopic vision of America's future. We should defeat the Bingham amendment and pass H.R. 8401, and get our country on the road to energy independence.

The CHAIRMAN. The Chair recognizes the gentleman from New Jersey (Mr. Hughes).

Mr. HUGHES. Mr. Chairman, I rise in support of the amendment offered by the gentleman from New York (Mr. Bingham) to H.R. 8401, the Nuclear Fuel Assurance Act.

This bill purports to increase the supply of fuel for nuclear generating plants by opening up this industry to private enterprise. I believe, however, that there are two major problems with this legislation: Control of nuclear materials and justice to the taxpayer.

At present, H.R. 8401 removes day-to-day responsibility for the manufacture of nuclear fuels from the Federal Government. Such an arrangement could more easily encourage the diversion of nuclear materials into weapon production. Removal of these sensitive materials from direct Government supervision makes control all that much harder. And such control is necessary to further the principal aim of the U.S. Government—the maintenance of peace and security for its citizens.

Written in the name of free enterprise, the Fuel Assurances Act encourages just the opposite. There are no risks to the private investors, only the taxpayer. Technologies and equipment developed with public moneys would be transferred to private corporations at cost. Markets for excess fuel and supplies for those companies with too little to fulfill contracts would be guaranteed by the Federal Government. For 1 year, even a company's investment would be guaranteed by acquiring the assets and liabilities of any plant that fails.

I fail to see how private enterprise will be more efficient as the proponents of this measure claim, when supply and demand are guaranteed, and losses are not permitted. Surely, no business will have an overriding incentive to keep costs down given such safe operating conditions.

I urge the House to consider these issues and vote for the Bingham amendment. This would allow the Government to expand its facilities to meet increased demands for nuclear fuel, while retaining control over nuclear materials and taxpayers funds.

The CHAIRMAN. The Chair recognizes the gentleman from Ohio (Mr. HARSHA).

Mr. HARSHA. Mr. Chairman, it would be the easiest thing in the world for me to stand up here and join in the Bingham amendment because if that occurs then I am its sole beneficiary, representing the particular district in which the add-on plant is going to be constructed, but my interests are much broader than the parochial interests of my district and I am convinced, after listening to all the testimony in the joint committee hearings, after reviewing the record, and after reading as much information on this subject as I could, that there is an urgent and a demanding need to expand the enrichment capacity in this country right now.

If we do not get on with that expansion we are not going to be able to meet the power requirements in this country in the years ahead. It takes 8 to 10 years to build a nuclear facility and to get it into the production stage to provide power for an electrical powerplant. If we do not get on with the job, this country is going to face one of the worst energy shortages it has ever faced. The only alternative will be to rely on imported oil, which will continue to go higher and which will be reflected in higher fuel costs.

The CHAIRMAN. The time of the gentleman from Ohio has expired.

The Chair recognizes the gentleman from Minnesota (Mr. HAGEDORN).

Mr. HAGEDORN. Mr. Chairman, I wish to oppose the Bingham amendment to H.R. 8401, the Nuclear Fuel Assurance Act. This amendment would permit the Federal Government to retain its monopoly on uranium enrichment, a process essential to the development of nuclear power. I do not believe that such a monopoly can be defended on either economic or security grounds. There is no reason to suppose that Government monopoly of this service will prove any less inefficient and resistant to innovation than have its monopolies of other products and services. Yet, at an estimated cost to the taxpayer of $30 billion over the next 15 years, we are going to preserve this monopoly while denying the opportunity for tax relief resulting from the taxes and royalties to be paid by the private enrichment plants.

Privatization of the enrichment process is essential if the United States is going to have adequate uranium supplies available for domestic use, not to mention for exportation. While I am not enthusiastic about the Federal guarantees designed to stimulate private investment in the four enrichment plants currently proposed. I am convinced that the state of the technology which is going to be given to the private sector is sufficiently proven that there is little likelihood of anything ever actually being charged against the Treasury. Nevertheless, I do not totally share the concerns of those who see a harmful precedent being established here. The only precedent being set is the issuance of Federal guarantees to industries of proven technology, which technology has always in the past been monopolized by the Federal Government. By no means, do I envision the development of synthetic fuels, or any other traditional industry having a claim on Federal guarantees as a result of this bill.

I am also persuaded that contractual agreements reached between ERDA and private users of uranium enrichment technology will preclude abuse of this technology by either domestic or foreign parties, and prevent the exportation of highly sensitive information. While foreign capital will be participating in the construction of the enrichment plants, it will not have access to classified information. Stringent physical security safeguards are also being contemplated.

There is no one in this body who does not respect the harm that can result from improper development of nuclear technology. But, a consensus has been achieved—depicted nicely by the recent referendum on nuclear energy in California—that our Nation commit itself to the development of peaceful and productive uses of nuclear energy. Privatization of the enrichment process does exactly that. Those who want to halt progress in this area have often brought their case before this body in the past. They have always lost, and should not now be permitted to prevail through the backdoor. Uranium enrichment is a necessary component of the nuclear power process; to impede its development is also to impede the development of cheap energy in this country.

(By unanimous consent, Mr. HAGEDORN yielded his time to Mr. HARSHA.)

The CHAIRMAN. The Chair recognizes the gentleman from Minnesota (Mr. FRENZEL).

Mr. FRENZEL. Mr. Chairman, the debate on this amendment has been confusing. To me the real questions, or rather the real choices, have not been well presented today. No matter what has been said of security, disposal, foreign sales, and so forth, the principal questions are energy needs and financing of energy needs.

The energy needs cannot be denied. No matter how intense our efforts, or our desire, to bring other energy forms, and systems, into production, the probability is that, if we do not expand uranium enrichment facilities, we will surely enormously increase our dependence on unreliable foreign energy suppliers.

I am no great fan of nuclear energy, but for the intermediate term, we do not have a whole lot of choices. If we do not expand nuclear electricity production, we can either turn off some lights, some furnaces, some factories, some autos and some farms, or we can throw ourselves on the tender mercies of the friendly folks who laid the oil embargo on us.

In my judgment, the need is incontrovertible. How then do we justify it? Either we continue to make direct Government investment in these facilities or we let some private, competitive firms make the investment and run the plants. Since there seems to be no need to maintain a Federal Government monopoly for security reasons, my inclination is to support the bills' intention to put some private enterprise into this operation.

I do not like Government loan guarantees of any kind. I voted against the Lockheed Loan Act and will vote against the loan guarantees of the Synthetic Fuels Act. Here, however, as noted above, the choice is between total Federal investment or a limited guarantee. The choice is not between a loan guarantee or no guarantee.

Further, our risks are limited, because we can evaluate each contract and each plant separately. If the loan guarantees look more risky, or, on the other hand, less necessary, we can always cancel a contract or simply not approve one. Our exposure on this particular bill is limited.

One can seldom be totally comfortable on any vote. I am not on this one. However, I shall vote against the Bingham amendment and for the bill, because that is the country's best option.

(By unanimous consent, Mr. FRENZEL yielded his time to Mr. HARSHA.)

The CHAIRMAN. The Chair recognizes the gentleman from Ohio (Mr. HARSHA).

Mr. HARSHA. Mr. Chairman, I thank my colleagues for yielding their time.

Let me point out one very important thing is that if the United States cannot be counted on as a supplier of enriched uranium to meet the international demands as well as the domestic demands, others will perform that service. Others will perform it; in effect we will force them into performing that service, and they will reap the profit and establish their own parameters for the safeguarding of the technology and material. I do not have to remind my colleagues that the parameters established by foreign countries have been significantly less stringent and effective than the United States has devised.

As a matter of fact, in the committee report we set forth five areas of protection for the general public and for our national interest in this cause, as set forth in the committee report on page 8:

1. Protection against dissemination to foreign investors of classified information.
2. Continued classification and protection of sensitive enrichment technology.
3. Requirements that exports take place pursuant to appropriate international agreements for cooperation and be subjected to safeguards to prevent diversions.
4. Preclusion of control or domination of a private enrichment venture by an alien, a foreign corporation, or a foreign government.
5. Effective domestic safeguards and physical security measures for the plants and their products.

Mr. Chairman, unless the United States takes the lead in this, none of these protections are going to be written into the construction of any of these plants for the provision of enriched uranium or for the sale of it around the world and there will be a tremendous proliferation of the technology for enriching uranium, all leading to the dangers that we are concerned about regarding proliferation with the possibilities of producing nuclear weapons.

But let me point out to the Members this: The amendment offered by my good friend, the gentleman from New York—I find myself, because of the compelling national interest, unable to support. I am unable to support his amendment because it would negate the main thrust of this act, which is to meet the nuclear fuel requirements of this Nation by establishing a private competitive enrichment industry.

The CHAIRMAN. The Chair recognizes the gentleman from Ohio (Mr. Harsha).

Mr. HARSHA. Mr. Chairman, establishment of a private, competitive enrichment industry will serve the national interest in the following ways:

First. It would avoid unnecessary further expansion of the public sector at the expense of the private sector in a situation where the activity involved is essentially commercial/industrial, not governmental in nature.

Second. It would broaden and diversify the Nation's supply base for uranium enrichment.

Third. It would secure the advantages of a competitive private industry which could be expected over the long term to produce technology improvements and cost savings to the consumer.

Fourth. It would avoid additional burdens on the Federal budget, particularly in a time of great budgetary stringency. Specifically, it would cost the taxpayers between $10–$12 billion—in 1976 dollars—for just the four plants which could be built by the private sector under the NFAA. In total, it would avoid $25 to $50 billion—in 1976 dollars—in additional Federal outlays over the next 15–20 years, and such outlays would be recovered only after a lengthy period.

Fifth. It would avoid the danger that continued Federal monopoly in enrichment would lead to an unprecedented degree of Federal control over the supply of electric energy as reliance on nuclear power increases.

If privatization of this vital industry is approved, the entire Congress will have an opportunity to examine in detail every contract proposed by ERDA under the authority of this act. However, we must not "gut" the basic authorization to conclude such contracts with no sound substitute proposal.

I am convinced that the Nuclear Fuel Assurance Act will meet our Nation's requirement for significantly greater uranium enrichment capacity to satisfy the growing demands of domestic utilities and foreign customers.

In summary, I strongly urge defeat of the Bingham amendment and enactment of the Nuclear Fuel Assurance Act as unanimously reported to Congress by the Joint Committee on Atomic Energy.

The CHAIRMAN. The Chair recognizes the gentleman from Florida (Mr. Gibbons).

Mr. GIBBONS. Mr. Chairman, I resent the debate being cut off in the preemptory manner it was. This is either the most important bill we have debated all year, or it is the least important bill that has ever been brought to the floor of the House of Representatives. If we listen to one set of proponents, they will say, like the last speaker did that this bill is most important; but if we ask how much this bill will cost, they will tell us it cost nothing.

Mr. Chairman, that is a complete inconsistency. I will say that no one yet knows how much this is going to cost. This is a hunting license, a fishing license, or a stealing license for someone. I am not sure what it is. Does anyone know how much this will appear in the budget as?

Mr. PRICE. Mr. Chairman, will the gentleman yield?

Mr. GIBBONS. I yield to the gentleman from Illinois.

Mr. PRICE. Mr. Chairman, it is $255 mililion, it is explained in the bill.

Mr. GIBBONS. And that is all that will appear?

Mr. PRICE. That is right.

Mr. GIBBONS. What is the $8-billion figure?

Mr. PRICE. $8 billion——

Mr. GIBBONS. It does not mean anything.

Mr. PRICE. Does not mean anything in the bill this year until a claim is made against it.

Mr. GIBBONS. That is the problem we have. That is the new way of spending money in the Federal Government.

Mr. Chairman, the off-budget expenditures jumped from $2.7 billion in 1974 to $11 billion this year.

The CHAIRMAN. The time of the gentleman from Florida (Mr. Gibbons) has expired.

Mr. SKUBITZ. Mr. Chairman, I ask unanimous consent that I may be permitted to yield my time to the gentleman from Florida (Mr. Gibbons).

The CHAIRMAN. Is there objection to the request of the gentleman from Kansas?

Mr. MILFORD. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

The Chair recognizes the gentleman from Kansas.

Mr. SKUBITZ. Mr. Chairman, I yield to the gentleman from Florida (Mr. Gibbons).

Mr. GIBBONS. Mr. Chairman, the actual off-budget expenditures of the Federal Government sponsored enterprise jumped in 1975 from $7 billion to $14.5 billion estimated for the next year. That is where our money is going. These are outlays I am talking about, not budget authority.

The guaranteed or insured loans, and I guess that is what this thing is we are talking about, this $8 billion, jumped from $153 billion in 1974 to $174 billion, almost $175 billion, over $20 billion in a short period of 2 years. That is what we are doing. We are spending money, but we are saying that we are not spending money.

Now, I wanted to take part in the debate to ask some intelligent questions about what was being done here and to find out how it is going to impact the budget, but we are preemptorily cut off here on a Friday afternoon at 12:40 o'clock, with nobody in the Chamber, and we have nothing else to do between now and the time we adjourn.

Mr. BINGHAM. Mr. Chairman, will the gentleman yield?

Mr. GIBBONS. I yield to the gentleman from New York.

Mr. BINGHAM. Mr. Chairman, is the gentleman from Florida in favor of my amendment?

Mr. GIBBONS. Yes, I am.

Mr. BINGHAM. Mr. Chairman, if the gentleman will yield further, would the gentleman clearly tell the committee that the gentleman is in favor of my amendment?

Mr. GIBBONS. Mr. Chairman, yes, I am in favor of the Bingham amendment.

(By unanimous consent, Mr. Long of Maryland yielded his time to Mr. Conte).

The CHAIRMAN. The Chair recognizes the gentleman from Massachusetts (Mr. Conte).

Mr. CONTE. Mr. Chairman, I rise in support of the Bingham amendment.

Mr. Chairman, I rise to express a reservation about this legislation. It stems from the publication last Friday of a report by the General Accounting Office entitled "Shortcomings in the Systems Used To Control and Protect Highly Dangerous Nuclear Materials—Energy Research and Development Administration."

Yesterday, the Small Business Energy Subcommittee, chaired by the distinguished gentleman from Michigan (Mr. Dingell), heard extensive testimony from GAO and ERDA concerning this report. It concerned GAO's conclusions that security and accounting systems at plants that process special nuclear fuels are inadequate and are not protecting the public interest. Unfortunately, much of the report is classified, so I cannot give my colleagues a full report.

But I found three points about this report disturbing, and my doubts were not completely quelled by ERDA's testimony.

First, the ability of ERDA contractors to accurately account for highly dangerous nuclear fuels being processed is inadequate. The present state of technology is not sufficiently advanced to allow accurate readings at any point of time of where every gram of enriched uranium and plutonium in a plant is located. This may be corrected in the near future, but, as of this time, it remains a problem.

Second, the present accounting system used by ERDA and its contractors does not allow timely detection when significant quantities of special nuclear materials are missing or unaccounted for. This is a key point. It does not take a substantial amount of uranium or plutonium to foster, in the wrong hands, a threat to society. It is important that the disappearance or theft of a nuclear material be detected within hours or minutes, so that appropriate actions can be taken. But this may not always be possible under the present system.

And, third, the report noted that physical security at plants handling special nuclear materials must be improved considerably. Greater funding must be provided by the Congress to secure devices to improve the physical protection of key areas. Also, the GAO report noted, employee training and education concerning the need for improved security needs to be stressed.

Taken as a sum, these points make me hesitant to support legislation that will enlarge and expand processing facilities for special nuclear facilities while cutting back on the degree of Federal regulation.

I am not an alarmist about nuclear energy. But I am concerned that any projects concerning nuclear energy be undertaken with the maximum degree of care, expertise, and safety.

The GAO report has raised doubts that management and accountability over special nuclear materials by the Energy Research and Development Administration may not be up to acceptable standards. For this reason, I have a grave reservation about this bill before the House and therefore support the Bingham amendment.

(By unanimous consent, Mr. STARK yielded his time to Mr. SEIBERLING.)

The CHAIRMAN. The Chair recognizes the gentleman from Ohio (Mr. SEIBERLING).

Mr. SEIBERLING. Mr. Chairman, I want to make it clear that I have no quarrel with the proposal that Uranium Enrichment Associates submitted. If we are going to have privatization of the nuclear fuel industry, it may well be a good approach. However, we do not know what the specific arrangements are going to be, yet we are being asked to approve the principle without knowing the specifics.

But, there are some even broader public policy problems here. We do not know yet how to dispose of nuclear wastes. We do not know what to do to prevent proliferation of nuclear weapons. Today's Washington Post says that President Ford has just issued a statement expressing great concern about nuclear weapons proliferation. We do not know what to do about the problem of plant security, which is a very serious problem in this day of hijackings, bombings, and other fanatical acts. Until these questions are resolved and we know how to handle them, the Government of the United States should not give up its direct control over fissionable materials.

Our control over nuclear fuel is the only lever we have, in many cases, to control what other countries do, and to control what the users of nuclear fuel do.

Furthermore, if we start creating a private industry for uranium enrichment, we are just going to create one more lobby, one more pressure group pushing to sell more and more regardless of controls. Because of the commitment of 60 percent of the product of the UEA plant to foreigners, they will be lobbying to, as will their governments. And we will have them and the unions and industry lobbies coming in here and saying, "You cannot impose these restrictions on us; you are going to cost jobs, and so forth, and so forth."

The Government of the United States will rue the day that we gave up the direct control that we now have over nuclear materials until we find the answers to these very grave questions that may involve the fate of our people and of all mankind.

(By unanimous consent Mr. ROUSSELOT yielded his time to Mr. ANDERSON of Illinois.)

The CHAIRMAN. The Chair recognizes the gentleman from Illinois (Mr. ANDERSON).

Mr. ANDERSON of Illinois. Mr. Chairman, we have come to the closing minutes of this debate, and despite the fact that some Members are unhappy that not more time was available to discuss the amendment offered by the gentleman from New York, I think everyone understands what his amendment amounts to. His amendment simply destroys the bill. It is an emasculation; it is a complete gutting of this effort by the joint committee to create a competitive enrichment industry in this country. So, make no mistake about it, when Members vote on the Bingham amendment, they are, in effect, voting down the bill if they vote for that amendment.

The matter is that simple.

The gentleman from New York said that he is not antinuclear. I am very happy to hear him say that. But the fact remains that ERDA has projected the need for no less than 10 enrichment plants between now and the end of the century.

One might say that that is a long time away. It is not a long time away when one stops to consider that lead time for one of these plants is about 8 years, 8 to 10 years, and unless we make a decision now to get going, to encourage private industry to come in, we are going to be exposing the taxpayers of this country to about $32 billion to $42 billion—and some estimates have gone as high as $50 billion, depending upon the rate of inflation—in public expenditures, in public moneys that are going to have to be expended to put up these plants.

I do not know how much more I can say in joining with the distinguished vice chairman of the committee, my friend and colleague, the gentleman from Illinois (Mr. PRICE), in urging the members of the committee to defeat this amendment and to support this legislation.

I referred earlier to the very impressive backing that this bill has from organized labor, from the building and construction trades department of the AFL–CIO. To my knowledge, it is supported by the leadership on both sides of the aisle. We are talking about a bill that was reported unanimously, Democrats and Republicans, 15 to nothing in the Joint Committee on Atomic Energy. We have been studying this matter of enrichment since 1969.

Mr. Chairman, I urge the defeat of the amendment.

The CHAIRMAN. The Chair recognizes the gentleman from Ohio (Mr. KINDNESS).

Mr. KINDNESS. Mr. Chairman, this great Nation was built upon the ability of American people to do a better job, to build a better mousetrap, and to market that better product.

And to market a better product it is necessary to stand behind your product. That is what is proposed in this bill—that the United States of America stand behind its product.

The Bingham amendment would strike sections 2 and 3 of the bill, based partly upon the reasoning that the United States should not guarantee anything about its product—the technology involved in uranium enrichment.

This technology is closely held information developed by the United States of America and owned by the United States of America. This is our "better mousetrap," and we can stand behind it, and give assurance that it will work.

If we believe that there should be participation by private enterprise in the nuclear fuel enrichment business, then there will be a need to give assurance to private investors that the "better mousetrap" will work.

That is what the "guarantees" contained in this bill are all about. It is simply a warranty of the goods we are putting into a proposed transaction.

And even at that, this is only a 1-year warranty. You get a better deal than that when you buy an automobile. We are contemplating attracting private capital into this business in billions of dollars; and investors need to know that the product will work.

Please defeat this unwise amendment and allow the progress of uranium enrichment services to proceed toward the 21st century and to meet the clearly projected need.

(By unanimous consent, Mr. KINDNESS yielded his time to Mr. ANDERSON of Illinois.)

Mr. ANDERSON of Illinois. Mr. Chairman, I spoke earlier about the problem of proliferation, and one of the previous speakers indicated that by giving up to private industry our secret technology in enriching fuel that we are contributing to the problem of nuclear proliferation.

In the first place, as the Members should know, we are talking about material enriched to 3 percent. The material that goes into bombs has to be enriched to about 90 percent or more. We are not talking about materials of which bombs are made.

But the more important and more basic point is the one I tried to make yesterday, and that is that if the United States gives up its primacy in this field of enrichment, we simply turn it over to the Russians, we simply turn it over to the West Germans, we turn it over to the Dutch, who already have organized a consortium, and we give up the opportunity we would otherwise have to control proliferation.

The Chair recognizes the gentleman from New York (Mr. OTTINGER).

Mr. OTTINGER. Mr. Chairman, I rise in support of the Bingham amendment, and I would like to point out it does not gut the bill. It provides for the Government to go ahead and develop enrichment facilities rather than giving them to subsidized private industry.

The thing that has not been emphasized in the debate and which very much concerns me is this new relationship between the Government and industry via loan guarantees which some of our conservative friends are pushing on us. I think the gentleman from Maryland (Mr. LONG) has termed it very well as "Government-kept industry." The $8 billion guarantee presented today to subsidize selected private firms in the nuclear enrichment business is another piecemeal effort by the administration to establish the Rockefeller-Ford proposed Energy Independence Authority, which would have us guarantee $100 billion to various segments of private industry to promote particular energy projects.

The administration having failed to win approval of its $100 billion Energy Independence Authority directly is trying to have us adopt it in bits and pieces. This program is one $8 billion chunk; the synfuels program would constitute a $6 billion bite; and together, if passed, they would constitute 14 percent of the contemplated $100 billion plan to subsidize the energy industry.

I think this is frightening. Chet Holifield thinks it is frightening. In his memo to the gentleman from California (Mr. Moss), on July 27, 1976, he says:

> In the 30 years of its existence, the Atomic Energy Act was never amended to authorize federal assistance to a commercial project that was beyond the demonstration stage. The Administration's proposed arrangement for the privately-owned gaseous diffusion enrichment plant would, for the first time, involve assistance under the Atomic Energy Act (as amended by H.R. 8401) for a straight commercial, non-R. & D. project. As the Comptroller General accurately points out in his October 31, 1975, Report (Examination of the Administration's Proposal for Government Assistance to Private U.E. Groups) the gaseous diffusion facility that the private entrepreneurs would build would be a "last-of-a-kind" plant, copying the process and hardware the Government has been operating for several decades.
>
> Federal support of a privately-owned commercial plant for non-R. & D. reasons has been wisely avoided by the Atomic Energy Act up to this time. That legislative policy remains a sound one and should be continued

We should not embark on this kind of an "industry on welfare" scheme, where through guarantees, we assure industry that if a project fails, the Government will pay all the losses, but if it succeeds, industry will make all the profits.

Second, contrary to the claims of the program's advocates, this program does pose tremendous hazards both with regard to safety of the operations and proliferation of equipment that can be used to create weapons grade materials. Quoting our former colleague, Chet Holifield, again:

> Requirements of the Atomic Energy Act, that H.R. 8401 would not amend, wisely make it practically impossible to assure foreign buyers that quantities of enriched uranium products would be routinely exported. The Act provides for certain procedures and Governmental approvals that cannot be dealt with at one swoop in context of the arrangement the Bechtel combine has indicated it plans to make with its foreign associates. ERDA (as well as other Executive agencies) has certain statutory responsibilities in regard to proposed exports of special nuclear material and other related matters that may well conflict with any express or inferential guarantee on its part that the private assurance of exports of percentages of product will necessarily be effectuated.
>
> Also there are certain Federal licensing conditions that must be satisfied under the Atomic Energy Act. The involvement of ERDA as a contracting party to the private arrangement could inject a note of conflicting interests.
>
> For example, the private plant would be subject to licensing by NRC. However, under presently-applicable law, if ERDA were to take over ownership of the plant, such licensing would not be required.
>
> As part of the licensing requirements of the privately-owned facility, no construction permit or operating license may be given by NRC to a corporation or other entity if the NRC "believes or has reason to believe it is controlled, or dominated by an alien foreign corporation or a foreign government." This is a finding that NRC would have to make after it carefully reviewed all of the rights and privileges of the foreign investors, and ERDA's involvement in the arrangement on behalf of the Administration could well serve to inject some undue pressure on NRC. And should ERDA take over the plant as a nonlicensed operation, this statutory requirement could be bypassed.

Mr. Holifield concludes:

> In addition to the foregoing considerations, various provisions of the Atomic Energy Act call for Congressional review of certain proposed nuclear exports. It could be a source of embarrassment for the Congress were it, on the one hand, to give its blanket approval to an arrangement that would promise foreign entities 60 percent of the uranium enrichment product and then later, from time to time, express its disapproval of or prevent specifically-proposed exports of the special nuclear material.
>
> Private commercial deals and governmental functions (of both the Executive Branch and the legislative), like oil and water, don't mix properly.

I strongly agree and think this is the most persuasive reason, indeed compelling, to adopt the Bingham amendment. But there is more.

Bechtel Corp. is the company with which ERDA has been dealing to work out the sweetheart arrangement we are supposed to ratify today. This is the same company assigned the quality control responsibilities for construction of the trans-Alaska pipeline—quality control so slipshod that virtually all the welds will have to be redone at enormous cost to the project—and thus, one way or another to the citizen either as taxpayer or ratepayer.

The contemplation of this kind of slipshod work on a nuclear enrichment plant is just mind blowing.

Furthermore, according to Mr. Holifield, the terms and conditions of the Bechtel contract have already been negotiated, but are so questionable that they have been withheld pending consideration of this legislation. In words of one syllable, this smells. As Mr. Holifield put it:

> To begin with, the timing of the legislation is such that it is being considered by both Houses after the negotiations with the Bechtel combine have apparently been concluded. There is clearly no logical reason why the essential details of the proposed arrangement should not be made available to the Congress before a legislative judgment is made concerning the need for and the precise contents of the bill. Passage of the bill in the dark when illumination is available only serves to put such Congressional action in an unfavorable light, and later to add embarrassment should Congress decide not to approve the submitted arrangement.

That the legislation provides for later contract approvals by those who have already promoted this cozy arrangement is little solace.

The Nuclear Fuel Assurance Act under consideration today is the culmination of a policy set forth first by President Nixon and carried through by President Ford—namely, to hand over the production and distribution of uranium enrichment to a select group of private corporations.

I find it most ironic to note that just yesterday President Ford announced plans for a major analysis of the Nation's policies on nuclear fuels, export, reprocessing, and waste disposal and at the same time again advocated this bill. It would make vastly more sense for the Congress to await the results of that study, so as to have more information on the whole matter, rather than lunging headlong into handing over the fuel enrichment business to selected enterprises—with wide-ranging Federal supports.

Government ownership of uranium enrichment represents the last major constraint this Nation has over an irreversible spread of nuclear technology and material to nations seeking a nuclear weapons option.

At the present time, the United States outproduces the competition in Western Europe by a factor of 17 to 1. Claims that Western Europe will catch up with our production rates by the mid 1980's are tenuous, at best, and for several reasons:

First, as in the United States there has been a steady decline in electrical power growth in Western Europe, which is reducing the demand for new nuclear reactors;

Second, cost inflation and capital shortages are posing difficult obstacles and causing delays of proposed new projects;

Third, the Europeans are with one exception using first-generation enrichment technology with no proven history of commercial success.

These factors point to an advantage for the United States, contrary to claims that our lead is diminishing. They also point to the existence of a bottleneck that will prevent the kind of global marketing multinational corporations are seeking to commence.

As long as the United States controls

uranium enrichment directly, corporations like Bechtel will be unable to go directly and sell technology and material to such countries as Brazil—as Bechtel attempted to do in 1975.

The extensive commitments of the Federal Treasury under this bill are irresponsible and represent the kind of policy reflected by the Energy Independence Authority legislation advanced by the administration in behalf of Vice President Rockefeller. Sections 2 and 3 of this bill would allow the Federal Government to guarantee debt financing, production, investor return—and a market if there is not one naturally.

Then, if the private investors are not satisfied within 1 year of operation, they can bail out and the Federal Treasury will have to assume all debts, obligations, and liabilities accrued by the domestic investors. Also, the United States will have to buy the entire operations—lock, stock, and barrel. This kind of cradle-to-grave socialism for four corporations is unconscionable.

Also, if we were to pass this bill in its present form, 8 percent of ROCKEFELLER'S $100 billion Energy Independence Authority would be provided.

Loan guarantee programs for synthetic fuels have not yet been acted on by the House—despite the extensive promotion by the Science and Technology, Banking, Commerce, and Ways and Means Committees. With this bill, there has been no meaningful analysis or discussion—for $8 billion in guarantees. It is highly presumptuous of the administration and the joint committee to suggest that the full House decide on this complex and far-reaching program for Treasury outlays prior to extensive committee analysis and review.

Finally, control and ownership of uranium enrichment by the Federal Government—as proposed by the Bingham amendment—is the only responsible way to assure our having an adequate nuclear fuel supply without bankrolling private ventures at enormous expense to the Treasury and the public.

The Congressional Budget Office, in its May 14 publication on the Nuclear Fuel Assurance Act, pointed out that Federal ownership will accrue far more revenues to the Treasury than either private or mixed ownership—by almost $20 billion.

The Nuclear Fuel Assurance Act is special interest legislation at its worst. Not only is the public expected to guarantee every aspect of private enrichment development, but it is also expected to provide that support to companies that have shown no restraint in their effort to provide other nations with materials and technology to develop nuclear weaponry.

I again respectfully urge my colleagues to support Mr. BINGHAM in preventing what in the final analysis could be the complete dismemberment of any U.S. control over nuclear proliferation.

The CHAIRMAN. The Chair recognizes the gentleman from California (Mr. MOSS).

Mr. MOSS. Mr. Chairman, the guts of this bill, contrary to the statements of the gentleman from Illinois, are in section 4. Sections 2 and 3 do not in any sense constitute the guts. But it does constitute a significant departure from some governmental financing. The contention that the Comptroller General has changed his position is not valid.

All the Comptroller General said in his most recent statement that the distinguished gentleman from Illinois (Mr. PRICE) read to this committee was that between the original language and the language reported here, the language here is to be preferred. That is praise with faint damnation, or perhaps it is damnation with faint praise, whichever way we want to put it. I say that because that is all it says.

This is a multibillion-dollar subsidy, let us make no mistake about that. It is a multibillion-dollar subsidy, and we are considering it under the tightest of time restrictions on a Friday afternoon.

The CHAIRMAN. The Chair recognizes the gentleman from Oregon (Mr. WEAVER).

Mr. WEAVER. Mr. Chairman, I would like to point out another reason why bankers fear nuclear power besides technology, and that is because of the staggering cost of the plants.

As one who once sought a cheap source of energy, I have been astounded at the cost rises, and the American people will be shocked, too, when they get their bills. We do not really realize how expensive this power has become.

Let me give the Members the hard facts. At the Washington Nuclear Power Plant No. 5 it costs $1,300 a kilowatt capacity. This will require a 5-cent-per-kilowatt charge, on up to 80 mills per kilowatt. This is like $50-a-barrel oil. These are hard facts.

Mr. Chairman, if we had guaranteed the Ford Motor Co. on every Edsel it built, we would still be building Edsels.

The CHAIRMAN. The Chair recognizes the gentleman from New York (Mr. DOWNEY).

Mr. DOWNEY of New York. Mr. Chairman, I rise to use my 1 nuclear minute in order to ask a question, and it concerns our uranium enrichment capacity. I have heard the proponents and the opponents of the Bingham amendment, and I would like to hear the answer to this very briefly, if I could.

Will we have enough uranium with the Portsmouth add-on to supply these energy needs?

Mr. BINGHAM. Mr. Chairman, if the gentleman will yield, yes, we will, through 1985. If we have the capacity from the add-on, we will have more than a hundred plants that we will be able to supply, and that, added to present capacity, is in excess of the estimated numbers we will need in 1985.

Mr. ANDERSON of Illinois. Mr. Chairman, will the gentleman yield?

Mr. DOWNEY of New York. I yield to the gentleman from New York.

Mr. ANDERSON of Illinois. Mr. Chairman, what the gentleman from New York (Mr. BINGHAM) does not tell us is that under his proposal we completely surrender our role in the international market; we give it up to the Russians and the West Europeans and then at the same time suggest that we are interested in preventing proliferation around the world.

Mr. DOWNEY of New York. Mr. Chairman, the gentleman's sepulchrian tones are indeed impressive.

Mr. BINGHAM. Mr. Chairman, will the gentleman yield further?

Mr. DOWNEY of New York. I yield to the gentleman from New York.

Mr. BINGHAM. Mr. Chairman, my figures include the supply of the foreign plants that are anticipated and estimated to be built by 1985 by ERDA.

The CHAIRMAN. The Chair recognizes the gentleman from Virginia (Mr. FISHER).

Mr. FISHER. Mr. Chairman, I have been listening to this debate and testing it against some years of experience in the energy field. As a result, I come to the conclusion that we should vote for the Bingham amendment.

I really do not think the time is ripe for turning this uranium enrichment industry over, or beginning to turn it over, to private enterprise.

The demand for the product is quite uncertain. The technology is still changing rapidly. The health, safety, and environmental aspects are not clearly known, and the effects are potentially grave. Because of these uncertainties and risks, private industry cannot come in without the massive Government loan guarantees and other assurances called for in this bill. It makes much more sense to approve the Bingham amendment and defer bringing private companies into the nuclear fuel industry until conditions are such that they can operate successfully as part of the competitive market economy.

It seems to me quite clear that the risks of proliferation are much greater with a number of companies involved than they would be if uranium enrichment remains under Government auspices for a while. The United States is not the only country that produces nuclear fuel but that does not lessen the responsibility of Congress to do what it can to hold proliferation in check.

Mr. Chairman, to those companies and unions that are worried about jobs I would simply say that add-ons at the Government facility would still be built and operated by private enterprise.

The cost of producing additional enriched uranium in privately owned plants compared to Government-owned plants is not known. Probably the costs would not be too much different assuming contracts in each case are efficiently negotiated in the public interest. However, the opportunities for large profits would appear to be greater under the provisions of the Committee's bill than with the Bingham amendment.

For all the reasons and despite my basic preference for private enterprise in industrial production, I shall vote for the Bingham amendment. I urge my colleagues to do the same.

The CHAIRMAN. The Chair recognizes the gentleman from Texas (Mr. ECKHARDT).

Mr. ECKHARDT. Mr. Charman, this is competitive enterprise, the gentleman from Illinois states. Competitive enterprise indeed. Only four plants are envisioned, and possibly only one contractor for the four plants will be used. The persons who can get in the game must do it through Government agreement by special statute approving a particular contract.

Is that what we call competitive enterprise? When we choose between the Government husbanding its own resources and competitive enterprise, let there be true competitive enterprise involved, not fake competitive enterprise.

Mr. Chairman, I submit to the Members that the system contemplated by this plan is a creeping boondoggle.

What this does is, first, set the stage for this kind of contract. Sixty days after that, the skids are greased and the lobby is geared up to push the contract through. That is not competitive enterprise.

Mr. Chairman, let us vote for the amendment of the gentleman from New York (Mr. BINGHAM) and be done with sections 2 and 3 and maintain the present system as it is.

The CHAIRMAN. The Chair recognizes the gentleman from Wisconsin (Mr. ZABLOCKI).

Mr. ZABLOCKI. Mr. Chairman, I sincerely regret to find myself in opposition to my good friends and esteemed colleagues the gentlemen from Illinois (Mr. PRICE and Mr. ANDERSON).

In considering the Bingham amendment what we really face is a fundamental choice. It is, in short, a choice between basic values and priorities. And while it may not be an easy choice to make, it is a necessary one.

I wish to assure my colleagues I have thought long and hard on this matter. Upon reflection obviously, H.R. 8401 appears to encourage competition in private industry—a basic principle of the American free enterprise system I have always supported. On the other hand, sections 2 and 3 of the bill raise several urgent questions in the area of nuclear proliferation—a problem with which I have become increasingly concerned over the years.

In reaching my position on this question I therefore had to choose between those two priorities—support for private industry and concern over proliferation. Ideally these two values should not conflict. Regrettably, however, they do in H.R. 8401. The choice, therefore, centers on which is most important in terms of the national security of the United States and world peace.

I submit that in opting for nonproliferation and in support of the Bingham amendment one will ultimately be voting for the best long-range interests of the American nuclear industry. They are after all in the business of selling electrical power generating units for peaceful purposes. To the extent that the world remains at peace so will their markets remain viable and their profits strong.

It should also be noted at this point that my views on the proliferation issue have been formed largely by extensive hearings on the question conducted last fall and again only last month by the Subcommittee on International Security and Scientific Affairs which it is my privilege to chair. What those hearings explored in depth were the implications of nuclear proliferation to future U.S. foreign policy. Briefly, what we found was that the ever-increasing spread of nuclear power and technology—and the resulting ability of more and more nations to acquire nuclear weapons—was one of the most crucial problems facing our Nation and all of mankind.

Permeating those hearings was this one basic question: Do we let the spread of nuclear power go on pellmell, or with statesmanlike responsibility, do we attempt to seek reasonable controls?

It is that same question which I asked myself in trying to resolve the dilemma of choices I described earlier. After careful and serious consideration my answer to that question is that we must begin to seek those reasonable controls—while there is still time. Because the Bingham amendment represents an attempt at such reasonable and responsible controls, I support it and urge my colleagues to do likewise.

From the prospective of proliferation there are several specific considerations which have led me to support this amendment. My appraisal of those factors is based on the principle that proliferation can best be limited if the United States remains a reliable, attractive, and low-cost supplier of enrichment services to foreign users. Against that background the factors I considered include the following:

Whether there is a need to retain direct U.S. Government control: Under the present enrichment arrangement, the United States remains firmly in direct control of the production of enriched uranium through Government ownership and operation of the production facilities. "Privatization" would diminish that direct Government control and substitute less effective, less responsive, and timely mechanisms of Government regulation.

Whether higher prices would encourage national interest in enrichment: The higher the price foreign clients will have to pay for U.S. enrichment service, the more attractive will become the alternative of building their own enrichment facilities, or obtaining enrichment from sources not open to U.S. influence.

Whether privatization would mean substantial foreign investment in U.S. uranium enrichment: The proposals for private investment in U.S. uranium enrichment make it clear that large foreign investment is expected. Whether or not foreign investors are limited in their voting rights and representation in top management, the fact of substantial foreign investment inevitably would be expected to give the views of those investors substantial influence in the planning, decisions, and operations of the enterprise. Such influence may well be benign, but it could also be disruptive, particularly if conflicts of scheduling or priorities arise. For example, what happens if the government of a major foreign investor wishes to delay or interfere with supplies of enriched uranium from the United States to an importing country?

Whether a private supplier may not respond to U.S. foreign policy interests: At present ERDA contracts for uranium enrichment can be influenced by foreign policy considerations for proliferation control. However, a privately owned enrichment facility—particularly one in which much of the investment is held by foreign owners—would be far less responsive to U.S. foreign policy interests.

Whether foreign investment in U.S. enrichment facilities could leak experience and technology: Proponents of "privatization" argue that it is possible to keep foreign investors and their representatives from acquiring secret information and experience relating to the design and operation of gaseous diffusion enrichment plants. This argument may be technically correct in that regulations would prohibit such access. Nonetheless, it would appear inevitable that large foreign investors would nominate trusted representatives who would become immersed in the daily business of the enrichment facility. Such representatives could thereby acquire insights and information that, although perhaps not strictly secret, would nonetheless be of great assistance to a country that wanted to design, build, and operate its own enrichment plant.

Whether private supply would increase the burden of U.S. agreements for cooperation: Because enrichment supplied by a private corporation would be insulated and isolated from foreign policy considerations for proliferation, the existing network of U.S. agreements for nuclear cooperation would have to take on more of the burden of obtaining the necessary agreements and commitments of foreign users necessary to control proliferation. At present, it is possible for ERDA to add such terms and conditions to its enrichment contracts, but this option would not exist for a privately owned operation.

On balance it is my conclusion that the risks outweigh any and all benefits and therefore urge the committee to adopt the Bingham amendment.

The CHAIRMAN. The Chair recognizes the gentleman from New York (Mr. BINGHAM).

Mr. BINGHAM. Mr. Chairman, I just want, in my time, to read the names of some of the organizations and individuals that have indicated support for my amendment.

The Oil, Chemical, and Atomic Workers Union, the union most involved in the nuclear business, which is pronuclear all the way, says that they are opposed to this. They are in favor of my amendment. They say the building of a plant by UEA would provide excess capacity.

Also opposed, Mr. Chairman, are the United Mine Workers, who are for my amendment; the United Steel Workers; United Auto Workers; the American Public Power Association; and the Congressional Black Caucus has circulated a letter to all the Members.

Also opposed are the National Taxpayers' Union, the Environmental Policy Center; and the New York Times has editorially supported my amendment.

Mr. Chairman, it is a question of whether we are going to start down a road now which we will regret infinitely if we approve this creeping boondoggle, as it has been well described.

The CHAIRMAN. The Chair recognizes the gentleman from Washington (Mr. McCORMACK) to close debate.

Mr. McCORMACK. Mr. Chairman, I would like to close debate on this amendment by summarizing what this bill and this amendment are, and are not. This bill has nothing to do with the proliferation of nuclear weapons, or of nuclear material.

It has nothing to do with the management and storage of nuclear wastes. It has nothing to do with how much enrichment capacity we will have, or should have.

The ERDA estimates that we will need from 9 to 12 enrichment plants by the end of the century. They must be built, whether they are publicly or privately owned and operated.

Mr. Chairman, this bill has nothing to do with nuclear safeguards. It has nothing to do with the cost of nuclear energy. Nuclear electricity is the safest, cheapest, cleanest, most dependable, most understood and most environmentally acceptable energy option that this country has.

Mr. Chairman, enactment of the Bingham amendment will, in effect, kill the bill.

The real issue, and the only issue before us is: "Who is going to pay for, own, and profit for the enrichment facilities?"

In other words, should private industry be allowed to invest its own capital and make a profit from uranium enrichment, or should the Federal Government maintain its monopoly in this technology? That is the only issue, Mr. Chairman.

When we vote on the Bingham amendment, let us understand that. Let us understand, further, that the plants are going to be almost exactly the same, either way. They are going to be operated by employees of private corporations, whether they are federally owned or privately owned. The federally owned plants in operation today are operated by private contractors.

Therefore, Mr. Chairman, the only issue before us is: Shall we have private ownership of uranium enrichment facilities, or shall we not?

Mr. Chairman, that is the issue of the Bingham amendment. We can all vote our honest convictions on the Bingham amendment, but let us keep in mind what the real issue is on which we are voting.

Mr. UDALL. Mr. Chairman, I rise in support of the Bingham amendment to the Nuclear Fuel Assurance Act. I wish to make clear at the outset that my support of this amendment does not stem from any blind or total opposition to nuclear power generation. I do have serious misgivings about the apparent desire of the President and ERDA to make an all-out push for nuclear power. More than a year of hearings in the Subcommittee on Energy and the Environment have convinced me that there are grave questions of safety, security, waste disposal, and economics that have yet to be answered satisfactorily. But there is a need for additional enrichment capacity to meet our present and short-term future needs involving the generating plants now in operation and those in actual construction. Therefore, I support the portions of this bill to construct additional enrichment facilities at Portsmouth, Ohio, and I am prepared to support such additional facilities as may be genuinely required.

But my support is predicated on the Government retaining control over the proliferation of nuclear weapons technology. Passage of this bill without the Bingham amendment would place in private hands the techniques for making the kind of highly enriched uranium used in nuclear weapons. I know that some Members will protest that a private enrichment industry will operate under strict Government controls. But there will be an inherent conflict of interest here, a conflict between the Government's policy of limiting the spread of nuclear weapons potential and industry's natural desire to maximize profits.

I contend, in addition, that the bill will confer an unwarranted boon on a particular private industry. The taxpayers have assumed all the risk—they have paid the untold millions of dollars it cost to develop this technology. Now the proponents of the bill would turn that technology over to a handful of private entrepreneurs to exploit for their own profit. And they would ask the taxpayers to continue to bear the risks—financial as well as physical—of this private industry.

Before we embark on the construction of additional enrichment facilities, it is imperative that the Congress, ERDA, and the public have a much better grip on a variety of issues: The level of likely future demand for enriched uranium; the most economical potential technology for enriching uranium; the possibility of establishing a Comsat-type venture to undertake enrichment projects; and the regulation of genuine private-enterprise enrichment facilities built with private funds and licensed under existing provisions of the Atomic Energy Act of 1954.

In urging my colleagues to support the Bingham amendment, I commend to their attention the views of a former Member of this House and chairman of the Joint Committee on Atomic Energy. I was particularly impressed by Mr. Holifield's recollection that, upon reading H.R. 8401, one of his first thoughts was that "the bill might possibly be the worst piece of legislation that I could recall ever emerging from the Joint Committee on Atomic Energy."

I share this concern, and I strongly support this amendment.

Mr. STARK. Mr. Chairman, I rise in support of the Bingham amendment to H.R. 8401, the Nuclear Fuel Assurance Act. The bill as presently worded provides one of the largest single commitments of the Federal Treasury now before Congress and creates a precedent of further raiding of the Federal Treasury for private energy finance capital. Since only four companies will likely be the sole recipients of these Treasury guarantees, this bill establishes a Government-supported private monopoly of enrichment production. What kind of "private enterprise" is this? Assurance for whom?

While much has been said this morning about the global nuclear proliferation aspects of the bill, the financial commitment to an outmoded technology, and the privatization provisions that make the taxpayers subsidize corporate risk, I am most disturbed about the highly questionable involvement of the Bechtel Corp.

Bechtel was a principal mover behind the Nuclear Fuel Assurance Act, as well as a major beneficiary of it. President Ford's introduction of the Nuclear Fuel Assurance Act came only a month after Bechtel had submitted an unsolicited proposal for the construction of an enrichment facility to the administration. The proposals were virtually identical. As the chief participant in the Uranium Enrichment Associates (UEA), the only private group to submit a plan to build a gaseous diffusion plant, Bechtel will be backed up by Government assurances that, should the plant fail to profit commercially, the Government would be there to bail out Bechtel—a construction company with highly questionable management, motivation, and morals.

As an example, in January of this year, the Justice Department charged Bechtel with conspiring to boycott individuals and companies blacklisted by Arab nations.

The suit alleges the Bechtel conspiracy suppressed U.S. competition in export trade and as a consequence denied American companies freedom of choice in selecting subcontractors. It is the first such suit to be brought involving the Arab countries' 30-year-old practice of blacklisting Israeli businesses. These exclusionary policies combined with the discriminatory overtones are symptomatic of Bechtel's oppressive corporate posture. Bechtel's record in blindly pursuing its self-indulgent aims is as faulty as the welds in the Alaska pipeline. Why should, would we guarantee financial assurances and access to sensitive technology to a corporate entity so lacking its own sensitivity and ethics?

As further proof of Bechtel's quest of odious ends, I question the unconscionable attempts at using political connections to get what it wants in the incestuous Washington complex. Whether it be hiring Caspar Weinberger a former FTC Chairman, OMB Director, and HEW Secretary under Nixon or former Secretary of the Treasury George Shultz, Bechtel uses its personnel connections to virtually buy Government favors through political inheritance. Politics does indeed make strange and very profitable bedfellows. The Federal Government need not crawl under the sheets. It can stand alone and sustain GAO's conclusion that expansion of the Portsmouth facility offers the most cost-efficient opportunity to increase existing capacity while retaining flexibility to deal with future demands and conditions. The Bingham amendment offers this chance. Let us not miss it.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. BINGHAM).

The question was taken; and on a division (demanded by Mr. BINGHAM) there were—ayes 37, noes 40.

RECORDED VOTE

Mr. BINGHAM. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 170, noes 168, not voting 95, as follows:

[Roll No. 576]

AYES—170

Allen
Ambro
Andrews, N.C.
Armstrong
Ashley
Aspin
Badillo
Baldus
Beard, R.I.
Bedell
Biester
Bingham
Blanchard
Blouin
Boland
Bolling
Bonker
Brademas
Breckinridge
Brodhead
Brooks
Brown, Calif.
Broyhill
Burke, Calif.
Burton, Phillip
Byron
Carr
Chisholm
Cohen
Collins, Ill.
Conte
Corman
Cornell
Coughlin
D'Amours
Daniels, N.J.
Davis
de la Garza
Delaney
Dellums
Derrick
Diggs
Dingell
Dodd
Downey, N.Y.
Drinan
Duncan, Oreg.
du Pont
Early
Eckhardt
Edgar
Edwards, Calif.
Eilberg
Evans, Colo.
Evins, Tenn.
Fascell
Fenwick
Fish
Fisher
Fithian
Florio
Ford, Tenn.
Fraser
Gibbons
Gilman
Gradison
Gude
Hamilton
Hanley
Hannaford
Harkin
Harrington
Harris
Hechler, W. Va.
Hefner
Hicks
Holtzman
Howe
Hubbard
Hughes
Hungate
Jacobs
Jeffords
Jenrette
Jones, Okla.
Jordan
Kasten
Kastenmeier
Krebs
Krueger
Levitas
Long, Md.
Lundine
McFall
McHugh
McKay
Mann
Meeds
Metcalfe
Meyner
Mezvinsky
Mikva
Miller, Calif.
Mineta
Minish
Mink
Mitchell, Md.
Moakley
Mollohan
Moorhead, Pa.
Mosher
Moss
Mottl
Natcher
Neal
Nedzi
Nix
Oberstar
Ottinger
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Paul
Pepper
Pike
Preyer
Quie
Railsback
Rangel
Rees
Reuss
Rinaldo
Rodino
Roe
Rogers
Rosenthal
Rostenkowski
Roush
Roybal
Russo
Ryan
Sarbanes
Scheuer
Schroeder
Schulze
Seiberling
Sharp
Simon
Skubitz
Smith, Iowa
Solarz
Spellman
Staggers
Stark
Stokes
Studds
Taylor, N.C.
Thompson
Tsongas
Udall
Van Deerlin
Vander Veen
Waxman
Weaver
Whalen
Whitten
Wilson, Tex.
Wolff
Yates
Zablocki

NOES—168

Abdnor
Albert
Anderson, Calif.
Anderson, Ill.
Andrews, N. Dak.
Annunzio
Archer
Ashbrook
Bafalis
Bauman
Beard, Tenn.
Bell
Bennett
Bevill
Biaggi
Bowen
Brinkley
Broomfield
Brown, Mich.
Brown, Ohio
Buchanan
Burgener
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Butler
Carter
Cederberg
Chappell
Clausen, Don H.
Clawson, Del
Cleveland
Collins, Tex.
Conable
Daniel, Dan
Daniel, R. W.
Derwinski
Devine
Dickinson
Downing, Va.
Duncan, Tenn.
Edwards, Ala.
Emery
English
Erlenborn
Fary
Flowers
Foley
Forsythe
Frenzel
Fuqua
Gaydos
Giaimo
Ginn
Goldwater
Gonzalez
Goodling
Grassley
Guyer
Hagedorn
Haley
Hall, Ill.
Hall, Tex.
Hammerschmidt
Harsha
Heckler, Mass.
Henderson
Holt
Horton
Hutchinson
Hyde
Ichord
Jarman
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Kazen
Kelly
Ketchum
Kindness
Lagomarsino
Latta
Lent
Lloyd, Calif.
Lloyd, Tenn.
McClory
McCloskey
McCormack
McDade
McDonald
McEwen
McKinney
Madden
Madigan
Mahon
Martin
Mathis
Michel
Milford
Miller, Ohio
Mills
Mitchell, N.Y.
Montgomery
Moore
Moorhead, Calif.
Murphy, Ill.
Murtha
Myers, Ind.
Myers, Pa.
Nichols
Nowak
O'Brien
O'Neill
Perkins
Pettis
Poage
Pressler
Price
Pritchard
Quillen
Randall
Regula
Rhodes
Risenhoover
Roberts
Robinson
Rooney
Rose
Rousselot
Runnels
Santini
Sarasin
Satterfield
Shriver
Shuster
Slack
Smith, Nebr.
Snyder
Spence
Stanton, J. William
Steiger, Wis.
Stratton
Stuckey
Symms
Talcott
Taylor, Mo.
Teague
Thone
Thornton
Treen
Vander Jagt
Waggonner
Walsh
White
Wiggins
Wilson, Bob
Wilson, C. H.
Winn
Wright
Wydler
Wylie
Yatron
Young, Alaska
Young, Fla.
Young, Tex.

NOT VOTING—95

Abzug
Adams
Addabbo
Alexander
AuCoin
Baucus
Bergland
Boggs
Breaux
Burton, John
Carney
Clancy
Clay
Cochran
Conlan
Conyers
Cotter
Crane
Danielson
Dent
Esch
Eshleman
Evans, Ind.
Findley
Flood
Flynt
Ford, Mich.
Fountain
Frey
Green
Hansen
Hawkins
Hayes, Ind.
Hays, Ohio
Hébert
Heinz
Helstoski
Hightower
Hillis
Hinshaw
Holland
Howard
Jones, Tenn.
Karth
Kemp
Keys
Koch
LaFalce
Landrum
Leggett
Lehman
Litton
Long, La.
Lott
Lujan
McCollister
Maguire
Matsunaga
Mazzoli
Melcher
Moffett
Morgan
Murphy, N.Y.
Nolan
Obey
O'Hara
Passman
Peyser
Pickle
Richmond
Riegle
Roncalio
Ruppe
St Germain
Schneebeli
Sebelius
Shipley
Sikes
Sisk
Stanton, James V.
Steed
Steelman
Steiger, Ariz.
Stephens
Sullivan
Symington
Traxler
Ullman
Vanik
Vigorito
Wampler
Whitehurst
Wirth
Young, Ga.
Zeferetti

The Clerk announced the following pairs:

On this vote:

Mr. Addabbo for, with Mrs. Boggs against.

Mr. Jones of Tennessee for, with Mr. Breaux against.

Mr. Zeferetti for, with Mr. Sikes against.

Ms. Abzug for, with Mr. Passman against.

Mr. Koch for, with Mr. Adams against.

Mr. Cotter for, with Mr. Landrum against.

Mr. Young of Georgia for, with Mr. Hébert against.

Mr. Vigorito for, with Mr. Clancy against.

Mrs. Keys for, with Mr. Cochran against.

Mr. Roncalio for, with Mr. Conlan against.

Mr. Richmond for, with Mr. Crane against.

Mr. Wirth for, with Mr. Eshleman against.

Mr. AuCoin for, with Mr. Frey against.

Mr. Conyers for, with Mr. Hansen against.

Mr Melcher for, with Mr. Kemp against.

Mr. Lehman for, with Mr. Lott against.

Mr. Baucus for, with Mr. Lujan against.

Mr. Maguire for, with Mr. McCollister against.

Mr. Moffett for, with Mr. Schneebeli against.

Mr. John Burton for, with Mr. Sebelius against.

Mr. Hawkins for, with Mr. Steiger of Arizona against.

Mr. Murphy of New York for, with Mr. Wampler against.

Mr. Carney for, with Mr. Whitehurst against.

Mr. SCHEUER and Mr. ASHLEY changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. MYERS OF PENNSYLVANIA

Mr. MYERS of Pennsylvania. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MYERS of Pennsylvania: On page 8, after line 7, add a new section to read as follows:

"SUNSHINE IN GOVERNMENT

"SEC. 5. (a) Each officer or employee of the Administrator who—

"(1) performs any function or duty under this Act; and

"(2) has any known financial interest in any person who applies for or receives financial assistance under this Act;

shall, beginning on February 1, 1977, annually file with the Administrator a written statement concerning all such interests held by such officer or employee during the preceding calendar year. Such statement shall be available to the public.

"(b) The Administrator shall—

"(1) act within ninety days after the date of enactment of this Act—

"(A) to define the term 'known financial interest' for purposes of subsection (a) of this section; and

"(B) to establish the methods by which the requirement to file written statements specified in subsection (a) of this section will be monitored and enforced, including appropriate provision for the filing by such officers and employees of such statements and the review by the Administrator of such statements; and

"(2) report to the Congress on June 1 of each calendar year with respect to such disclosures and the actions taken in regard thereto during the preceding calendar year.

"(c) In the rules prescribed in subsection (b) of this section, the Administrator may identify specific positions within the Administration which are of a nonpolicymaking nature and provide that officers or employees occupying such positions shall be exempt from the requirements of this section.

"(d) Any officer or employee who is subject to, and knowingly violates, this section, shall be fined not more than $2,500 or imprisoned not more than one year, or both."

Mr. MYERS of Pennsylvania (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. MYERS of Pennsylvania. Mr. Chairman, this amendment which I offer is an identical amendment to that which the gentleman from West Virginia (Mr. HECHLER) and I have offered to a number of authorization bills in recent weeks during the deliberation of the House. The "sunshine in government" amendment simply has one purpose, to reveal publicly any financial conflicts of interest which an agency, individual, who would be passing on a project or proposal from a private firm or corporation, would have.

I am aware of the fact that ERDA has come out in opposition to the amendment. Their expressed concern in their opposition is that they already have a financial reporting system. However, I submit that system does not require a public disclosure, which I believe is the most necessary element.

They also present within their argument the idea that this bill would be singularly pulled out and addressed in a fashion which others are not, and that ERDA would be subjected to standards which other agencies and departments do not have.

However, because of our previous activity, the House has acted on a number of bills, some of which are the Water Pollution Control Act, the Interior Department bill, Labor-HEW, Public Lands Act, the ERDA authorization, and others. Also, there is a bill coming through on solid waste which is in committee, which has this amendment included in it. I believe that the arguments ERDA has put forth in opposition to the amendment are no longer true.

So, I ask the committee to support this amendment to this particular bill the same as it has done in many previous bills.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. Myers).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. HUGHES

Mr. HUGHES. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Hughes: On page 8, after line 7, insert the following new section:

"Sec. 5. No fulltime officer or employee of the Energy Research and Development Administration who directly or indirectly discharged duties or responsibilities under this Act, and who was at any time during the twelve months preceding the termination of his employment with the Administration compensation under the Executive Schedule or compensated at or above the annual rate of basic pay for grade GS-16 of the General Schedule, shall accept, for a period of two years after the date of termination of employment with the Administration, employment or compensation, directly or indirectly, from any person, persons, association, corporation or other entity, that had entered into a cooperative arrangement with the Administration under this Act during such time as such officer or employee discharged duties or responsibilities under this Act."

Mr. HUGHES (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. HUGHES. Mr. Chairman, the amendment I am offering today is the same in principle as the amendment I offered to the Outer Continental Shelf legislation last week, and which was agreed to by the House.

In essence, this amendment simply states that a top-level official of ERDA who participates in the award of a cooperative agreement to a company could not subsequently go to work for that same company for a period of 2 years following the termination of his Government employment.

It is designed to deal with the cozy relationship we have seen far too often in the executive agencies, when a top-level official of a Federal regulatory agency leaves his Government post to accept a high-paying job with the same industry he has been regulating over the years.

The amendment would affect only the highest level officials of ERDA—those who are compensated under the Executive Schedule or who are in the GS supergrades of GS-16 or above.

They would not be forbidden from returning to private industry—only to those industries which have received awards in which the Government employee participated while carrying out responsibilities under this act. And then, only for a period of 2 years.

Over the years, many of us have become concerned about the revolving door at the top between the highest levels of Government and industry. Certainly, the prospect of a high-paying job can corrupt a public official just as surely as any other type of conflict of interest.

This amendment would remove any temptation that a Government official might have to foresake his public trust in hopes of receiving a high-paying job in private industry at some future date.

It is essentially the same amendment we agreed to last week, which would bar top-level officials of the Interior Department who are involved in offshore policy-making from accepting a job with an oil company for 2 years after termination of their Goverment employment.

The amendment before us now is carefully and narrowly drawn to deal only with the precise problem at hand. An ERDA employee who participated in the award of a contract to a company could not subsequently accept employment with that same company for a period of 2 years.

I urge the adoption of this amendment. It will go a long way toward restoring public confidence in the integrity of our Federal agencies.

Mr. PRICE. Mr. Chairman, will the gentleman yield?

Mr. HUGHES. I yield to the gentleman from Illinois.

Mr. PRICE. I thank the gentleman for yielding.

Mr. Chairman, this side is willing to accept the gentleman's amendment.

Mr. HUGHES. I thank the gentleman.

Mr. ANDERSON of Illinois. Mr. Chairman, will the gentleman yield?

Mr. HUGHES. I yield to the gentleman from Illinois (Mr. Anderson).

Mr. ANDERSON of Illinois. I thank the gentleman for yielding.

Mr. Chairman, on this side we certainly would accept the gentleman's amendment.

Mr. HUGHES. Mr. Chairman, I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New Jersey (Mr. Hughes).

The amendment was agreed to.

Mr. PRICE. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker having resumed the Chair, Mr. Pike, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee having had under consideration the bill (H.R. 8401) to authorize cooperative arrangements with private enterprise for the provision of facilities for the production and enrichment of uranium enriched in the isotope-235, to provide for authorization of contract authority therefor, and for other purposes, had come to no resolution thereon.

PROVIDING FOR CONSIDERATION OF H.R. 2525, INDIAN HEALTH CARE IMPROVEMENT ACT

Mr. PEPPER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1267 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 1267

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2525) to implement the Federal responsibility for the care and education of the Indian people by improving the services and facilities of Federal Indian health programs and encouraging maximum participation of Indians in such programs, and for other purposes. After general debate, which shall be confined to the bill and shall continue not to exceed two hours, one hour to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interior and Insular Affairs, forty minutes to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interstate and Foreign Commerce, and twenty minutes to be equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Interior and Insular Affairs now printed (in italic) in the bill as an original bill for the purpose of amendment under the five-minute rule, and said substitute shall be read for amendment by titles instead of by sections. It shall also be in order to consider the amendments recommended by the Committee on Interstate and Foreign Commerce now printed on page 32, line 22 through page 38, line 13, and on page 65, line 17 through page 68, line 24 (in boldface italic) notwithstanding the provisions of clause 7, Rule XVI. No amendment to the amendment recommended by the Committee on Ways and Means now printed on page 52, line 2 through page 55, line 8 (in boldface roman) shall be in order except amendments recommended by the Committee on Ways and Means and except pro forma amendments. At the conclusion of the consideration of H.R. 2525 for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instruction. After the passage of H.R. 2525, the Committee on Interior and Insular Affairs shall be discharged from further consideration of the bill S. 522, and it shall then be in order in the House to move to strike out all after the enacting clause of the said Senate bill and inserting in lieu thereof the provisions contained in H.R. 2525 as passed by the House.

The SPEAKER. The gentleman from Florida (Mr. PEPPER) is recognized for 1 hour.

Mr. PEPPER. Mr. Speaker, I yield 30 minutes to the able gentleman from Tennessee (Mr. QUILLEN), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 1267 provides for the consideration of H.R. 2525, Indian Health Care Improvement Act. It is a modified rule providing 2 hours of general debate, 1 hour to the Committee on Interior and Insular Affairs, 40 minutes to the Committee on Interstate and Foreign Commerce, and 20 minutes to the Committee on Ways and Means, to be equally divided in the customary manner.

The resolution further provides that it shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Interior and Insular Affairs now printed in the bill as an original bill for the purpose of amendment under the 5-minute rule and said substitute shall be read for amendment by titles instead of by sections.

Points of order are waived against certain Committee on Interstate and Foreign Commerce amendments, specified in the rule, for failure to comply with the provisions of clause 7, rule XVI, the germaneness rule. Further, amendments to the Ways and Means Committee amendment, specified in the rule, are prohibited, except committee and pro forma amendments.

The Indian Health Care Improvement Act would establish a $1.2 billion, 7-year program for improvement of Indian health care, including manpower, facilities, and medicare/medicaid eligibility.

The authorization in the bill would include $193.4 million for fiscal 1977 and would range from $157 million to $182 million in each of the next 6 fiscal years.

Mr. Speaker, we recognize our long overdue debt to the American Indian and H.R. 2525 is a strong effort to carry out our commitments to our country's oldest Americans.

I urge adoption of House Resolution 1267 so that we may proceed to the consideration of H.R. 2525.

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the able gentleman from Florida (Mr. PEPPER) has explained the complicated provisions of the rule, and let me say to the Members of the House that when the bill came before the Committee on Rules, the various committees involved agreed to the rule.

Although there is a great deal of opposition to the bill, Mr. Speaker, I know of no opposition to the rule.

Mr. Speaker, I have no requests for time, and I reserve the balance of my time.

Mr. PEPPER. Mr. Speaker, I have no requests for time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER. The question is on the resolution.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. ROUSSELOT. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 327, nays 1, not voting 104, as follows:

[Roll No. 577]

YEAS—327

Abdnor
Allen
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Archer
Armstrong
Ashbrook
Ashley
Aspin
Badillo
Bafalis
Baldus
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Bell
Bennett
Bevill
Biaggi
Biester
Bingham
Blanchard
Blouin
Boland
Bolling
Bonker
Bowen
Brademas
Breckinridge
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton, Phillip
Butler
Byron
Carr
Cederberg
Chappell
Chisholm
Clausen, Don H.
Clawson, Del
Cleveland
Cohen
Collins, Ill.
Collins, Tex.
Conable
Conte
Corman
Cornell
Coughlin
D'Amours
Daniel, Dan
Daniel, R. W.
Daniels, N.J.
Davis
de la Garza
Delaney
Dellums
Derrick
Derwinski
Devine
Dickinson
Dingell
Dodd
Downey, N.Y.
Downing, Va.
Drinan
Duncan, Oreg.
Duncan, Tenn.
du Pont
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Eilberg
Emery
English
Erlenborn
Evans, Colo.
Evins, Tenn.
Fary
Fascell
Fenwick
Fish
Fisher
Fithian
Florio
Flowers
Foley
Ford, Tenn.
Forsythe
Fraser
Frenzel
Gaydos
Giaimo
Gibbons
Gilman
Ginn
Goldwater
Gonzalez
Goodling
Gradison
Grassley
Gude
Guyer
Hagedorn
Haley
Hall, Ill.
Hamilton
Hammerschmidt
Hanley
Hannaford
Harkin
Harrington
Harris
Harsha
Hechler, W. Va.
Heckler, Mass.
Hefner
Henderson
Hicks
Holt
Holtzman
Horton
Howe
Hubbard
Hungate
Hutchinson
Hyde
Ichord
Jacobs
Jarman
Jeffords
Jenrette
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Jordan
Kasten
Kastenmeier
Kazen
Kelly
Kemp
Ketchum
Kindness
Krebs
Krueger
Lagomarsino
Latta
Lent
Levitas
Lloyd, Calif.
Lloyd, Tenn.
Long, Md.
Lundine
McClory
McCloskey
McCormack
McDade
McDonald
McEwen
McFall
McHugh
McKay
McKinney
Madden
Mahon
Mann
Martin
Mathis
Meeds
Metcalfe
Meyner
Mezvinsky
Michel
Mikva
Milford
Miller, Calif.
Miller, Ohio
Mills
Mineta
Minish
Mink
Mitchell, Md.
Mitchell, N.Y.
Moakley
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Mosher
Moss
Mottl
Murphy, Ill.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nichols
Nix
Nowak
Oberstar
O'Brien
O'Neill
Ottinger
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Paul
Pepper
Perkins
Pettis
Poage
Pressler
Preyer
Price
Pritchard
Quie
Quillen
Railsback
Randall
Rangel
Regula
Reuss
Rhodes
Rinaldo
Risenhoover
Robinson
Rodino
Roe
Rogers
Rooney
Rose
Rosenthal
Rostenkowski
Roush
Rousselot
Roybal
Runnels
Russo
Santini
Sarasin
Sarbanes
Satterfield
Scheuer
Schroeder
Schulze
Seiberling
Sharp
Shriver
Shuster
Simon
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Spellman
Spence
Staggers
Stanton, J. William
Stark
Steiger, Wis.
Stephens
Stokes
Stratton
Stuckey
Studds
Symms
Talcott
Taylor, Mo.
Taylor, N.C.
Teague
Thompson
Thone
Thornton
Treen
Tsongas
Udall
Van Deerlin
Vander Veen
Waggonner
Walsh
Waxman
Weaver
Whalen
White
Whitten
Wiggins
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Winn
Wolff
Wright
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Tex.
Zablocki

NAYS—1

Pike

NOT VOTING—104

Abzug
Adams
Addabbo
Alexander
Anderson, Ill.
AuCoin
Baucus
Bergland
Boggs
Breaux
Burton, John
Carney
Carter
Clancy
Clay
Cochran
Conlan
Conyers
Cotter
Crane
Danielson
Dent
Diggs
Esch
Eshleman
Evans, Ind.
Findley
Flood
Flynt
Ford, Mich.
Fountain
Frey
Fuqua
Green
Hall, Tex.
Hansen
Hawkins
Hayes, Ind.
Hays, Ohio
Hébert
Heinz
Helstoski
Hightower
Hillis
Hinshaw
Holland
Howard
Hughes
Jones, Tenn.
Karth
Keys
Koch
LaFalce
Landrum
Leggett
Lehman
Litton
Long, La.
Lott
Lujan
McCollister
Madigan
Maguire
Matsunaga
Mazzoli
Melcher
Moffett
Morgan
Murphy, N.Y.
Nolan
Obey
O'Hara
Passman
Peyser
Pickle
Rees
Richmond
Riegle
Roberts
Roncalio
Ruppe
Ryan
St Germain
Schneebeli
Sebelius
Shipley
Sikes
Sisk
Stanton, James V.
Steed
Steelman
Steiger, Ariz.
Sullivan
Symington
Traxler
Ullman
Vander Jagt
Vanik
Vigorito
Wampler
Whitehurst
Wirth
Young, Ga.
Zeferetti

The Clerk announced the following pairs:

Mrs. Boggs with Mr. Clancy.
Mr. Addabbo with Mr. Conlan.
Mr. Jones of Tennessee with Mr. Crane.
Mr. Zeferetti with Mr. Cochran.
Ms. Abzug with Mr. Whitehurst.
Mr. Koch with Mr. Eshleman.
Mr. Cotter with Mr. Wampler.
Mr. Young of Georgia with Mr. Frey.
Mr. Vigorito with Mr. Schneebeli.
Mrs. Keys with Mr. Hansen.
Mr. Roncalio with Mr. Steiger of Arizona.
Mr. Richmond with Mr. Alexander.
Mr. Wirth with Mr. Lott.

Mr. AuCoin with Mr. Lujan.
Mr. Carney with Mr. Sebelius.
Mr. John L. Burton with Mr. Anderson of Illinois.
Mr. Conyers with Mr. Carter.
Mr. Melcher with Mr. Esch.
Mr. Lehman with Mr. Findley.
Mr. Baucus with Mr. Heinz.
Mr. Maguire with Mr. Vander Jagt.
Mr. Moffett with Mr. Steelman.
Mr. Hawkins with Mr. Hillis.
Mr. Murphy of New York with Mr. Karth.
Mr. Hébert with Mr. Madigan.
Mr. Passman with Mr McCollister.
Mr. Breaux with Mr. O'Hara.
Mr. Adams with Mr. Peyser.
Mr. Landrum with Mr. Evans of Indiana.
Mr. Shipley with Mr. Diggs.
Mr. Sikes with Mr. Flynt.
Mr. Dent with Mr. Hayes of Indiana.
Mr. Danielson with Mr. Green.
Mr. Clay with Mr. Pickle.
Mr. Bergland with Mr. Rees.
Mr. Flood with Mr. Riegle.
Mr. Ford of Michigan with Mr. Fuqua.
Mr. Fountain with Mr. Hays of Ohio.
Mr. Leggett with Mr. Morgan.
Mr. LaFalce with Mr. Nolan.
Mr. Holland with Mr. Vanik.
Mr. Helstoski with Mr. Ullman.
Mr. Hightower with Mr. Symington.
Mr. Hall of Texas with Mrs. Sullivan.
Mr. Litton with Mr. Mazzoli.
Mr. Long of Louisiana with Mr. Steed.
Mr. Matsunaga with Mr. Roberts.
Mr. Obey with Mr. Ryan.
Mr. St Germain with Mr. Sisk.
Mr. Traxler with Mr. James V. Stanton.
Mr. Howard with Mr. Hughes.

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

LEGISLATIVE PROGRAM

Mr. O'NEILL. Mr. Speaker, I rise to announce the program for the remainder of the day. We will continue now with H.R. 2525, the Indian health care improvement bill under an open rule with 2 hours of debate. If we have completed this by 4 o'clock, we will not start any other legislation. If we have not completed this bill by 4 o'clock, we will rise at 4 o'clock. If we were to complete this bill by 3:30, the House would rise at that time and have no further legislation.

The other remaining bills that were on the calendar for this week will be put on the calendar for next week.

Mr. RHODES. Mr. Speaker, will the gentleman yield?

Mr. O'NEILL. I yield to the gentleman from Arizona.

Mr. RHODES. Mr. Speaker, would the gentleman care now to divulge the program for the next week, or would he not care to do that at this time?

Mr. O'NEILL. I would not do that without the Speaker's permission.

The SPEAKER. The gentleman from Massachusetts (Mr. O'NEILL) has my permission.

Mr. RHODES. The gentleman from Massachusetts has my permission also.

Mr. O'NEILL. I have the request of the gentleman from Arizona (Mr. RHODES) and I have the Speaker's permission, and the Speaker's permission I will go along with.

The program for the week of August 2, 1976, is as follows:

Monday is Consent Calendar day.

There are 13 suspensions. The votes on suspension bills will be postponed until after all the bills have been considered.

The suspensions are as follows:

H.R. 12882, civil service annuities for judges;

H.R. 10546, Boundry Waters Canoe Area, Minn.;

H.R. 14566, freestone peach research and education;

H.R. 14360, John F. Kennedy Center Act amendments;

H.R. 13489, Antitrust Civil Process Act amendments;

H.R. 14580, premerger notification;

H.R. 6150, three-judge courts;

H.R. 3605, Federal excise tax on beer;

H.R. 5161, magazine sales for display purposes;

H.R. 10101, Aircraft Museum tax exemptions;

H.R. 14469, Veterans' Administration physicians and dentists pay extension;

H.R. 14949, Federal Energy Administration 11-day extension; and

H.R. 13676, national energy extension service.

Then we will have H.R. 11909, the Indian Claims Commission bill, under an open rule, with 1 hour of debate.

May I repeat, that last bill is not on the Suspension Calendar. That is a bill that was on this week's calendar, following the legislation which we will consider now, so we will take that Indian Claims bill up after the suspensions on Monday.

May I repeat: There are 13 suspensions and all votes on the suspensions will be postponed until the end of the suspensions.

On Tuesday, we will have the Private Calendar. Under suspensions there are no bills at this time.

Then we will have:

H.R. 14234, transportation appropriations, fiscal year 1977, a conference report;

H.R. 11552, postcard registration under an open rule, with 1 hour of debate, and a rule has been granted;

H.R. 12944, Federal Insecticide, Fungicide and Rodenticide Act, under an open rule, with 1 hour of debate; and

H.R. 4634 workweek of Federal firefighters under an open rule, with 1 hour of debate.

On Wednesday we will have:

H.R. 8401, Nuclear Fuel Assurance Act, and we will complete consideration of that with votes on the amendments and bill; and

H.R. 10498, Clean Air Act amendments, under an open rule, with 3 hours of debate. Also on Wednesday we will consider the veto of S. 391, Coal Leasing Act amendments, if the Senate overrides the veto first.

On Thursday we will have H.R. 9719, payments in lieu of taxes, under an open rule, with 1 hour of debate and continue H.R. 10498, Clean Air Act amendments.

On Friday, we will have H.R. 13372, the Wild and Scenic Rivers Act amendment, and that is the New River bill, which is subject to a rule being granted.

Conference reports may be brought up at any time.

Any further program will be announced later.

Mr. RHODES. Mr. Speaker, will the distinguished majority leader yield?

Mr. O'NEILL. I am happy to yield.

Mr. RHODES. Mr. Speaker, I just wanted to ask if the order of business given on Wednesday might have been reversed, because it is the custom to take up veto overrides as the first order of business.

Mr. O'NEILL. The reason we put it on Thursday is that we have to find out if the veto will be ready. If it is ready, the item would be brought up early in the day. The gentleman is correct.

Mr. RHODES. Mr. Speaker, will the gentleman yield further?

Mr. O'NEILL. I yield.

Mr. RHODES. Mr. Speaker, is it planned that the majority will ask for permission to meet at 10 o'clock next week?

Mr. O'NEILL. Mr. Speaker, we would ask that, with the gentleman's agreement.

HOUR OF MEETING WEDNESDAY, AUGUST 4, 1976

Mr. O'NEILL. Mr. Speaker, I ask unanimous consent that when the House adjourns on Tuesday, August 3, it adjourn to meet at 10 o'clock a.m. on Wednesday, August 4, 1976.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

HOUR OF MEETING THURSDAY AND FRIDAY, AUGUST 5 AND AUGUST 6, 1976

Mr. O'NEILL. Mr. Speaker, I ask unanimous consent that when the House adjourns on Wednesday, August 4, 1976, it adjourn to meet at 10 o'clock a.m. on Thursday, August 5, 1976.

Mr. Speaker, I ask unanimous consent that when the House adjourns on Thursday, August 5, 1976, it adjourn to meet at 10 o'clock a.m. on Friday, August 6, 1976.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

Mr. KAZEN. Mr. Speaker, reserving the right to object, there is only one bill scheduled for next Friday—the wild and and scenic rivers bill—if I understood the majority leader?

Mr. O'NEILL. Mr. Speaker, if the gentleman will yield, of course, we do have the Clean Air Act amendments, which involves a long process and possibly long debate.

Mr. KAZEN. Is there only one bill or is there more than one bill set on Friday?

Mr. O'NEILL. If the gentleman will yield further, there is the Wild and Scenic Rivers Act, the New River bill, on which we do not have a rule, but we would continue clean air on Friday if it were not completed on Thursday.

We do have plenty of work to carry on a full session for the week.

Mr. KAZEN. Mr. Speaker, I say to the majority leader that I go along with the idea of beginning at 10 o'clock in the morning and try to get out the "must" legislation that has to go; but those of us from west of the Mississippi that would like to get home for Friday evenings have had to cancel appointments in the district for the last 2 weeks and probably will have to cancel weekends from now on.

Adjourning at 4 o'clock on Friday afternoon does not help as it is too late to get there. However, our colleagues from east of the Mississippi can still get home for their Friday evening assignments and commitments. If this is what we are going to do on Fridays from now on, I will tell the majority leader that from now on, although I do not want to be an obstructionist, I will object to the consent request.

Mr. Speaker, witness today, finishing at 4 o'clock, when all of us could work until 6 or 6:30.

Mr. O'NEILL. Mr. Speaker, if the gentleman will yield further, may I reply that the program had called that we would adjourn a week from Wednesday for 10 days for the Republican Convention. It is the intent of the leadership that we would complete our business a week from Tuesday and at the completion of that business we would, for all intents and purposes, have the Members go home and we would have a pro forma session on Wednesday; so we do believe we are giving the Members an extra day in that line. We appreciate the fact that the campaign is here. I want to tell the gentleman from Texas that the gentleman has no opposition either way along the line. I am sure the gentleman has respect for the problems of his colleagues. We have the same respect for our colleagues. We are trying our best to get a program.

Mr. KAZEN. As the majority leader has stated, but I am not thinking of myself. I am worried about some of our colleagues who have made commitments and had to withdraw and cancel, while some of our other colleagues get to go into their districts because they live closer to Washington. Mr. Speaker, we should schedule our business so that we are all affected equally.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

Mr. BAUMAN. Mr. Speaker, reserving the right to object, I yield to the gentleman from Illinois (Mr. ROSTENKOWSKI).

Mr. ROSTENKOWSKI. Mr. Speaker, there are some Members from east of the Mississippi, too, who would like to get home. Some of the Members have some tough fights ahead of them for reelection. I wish the majority leader would take that into consideration.

Mr. BAUMAN .Mr. Speaker, further reserving the right to object, I just wanted to ask the gentleman from Massachusetts, each week we wait with great interest the announcements of the legislative program.

The legislative appropriations bill is on this week again, as it has been for some months. We are disappointed again.

When is that bill coming up?

Mr. O'NEILL. Mr. Speaker, if the gentleman will yield, it is planned and scheduled for the 31st of August.

Mr. BAUMAN. The 31st of August, the end of the month?

Mr. O'NEILL. Yes.

Mr. BAUMAN. That is just before Labor Day. Do I have the gentleman's assurance of that?

Mr. O'NEILL. That is the plan of the chairman of the Committee on Appropriations, in whom I have great confidence.

Mr. BAUMAN. I believe the chairman told me that it was something different. Nevertheless, I thank the gentleman.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

Mr. RHODES. Mr. Speaker, reserving the right to object, I would like to ask the majority leader if he does not feel that it would be a reasonable situation, if we are able to meet at 10 o'clock all next week—which I hope we will—that the following week, in which many Members will be absent because they will be participating in the Platform Committee deliberations at Kansas City, if we could have a fairly light sort of week so that they could be accommodated in so far as possible.

Mr. O'NEILL. We will take the minority leader's request into consideration. I do wish his Platform Committee met in the Capitol like ours did, and open to all people who wanted to see it.

Mr. RHODES. Further reserving the right to object, if we do not adopt a better platform than the gentleman's party, I would as soon we did not meet at all.

Mr. O'NEILL. The gentleman is going to have problems right now without worrying about platforms.

Mr. RHODES. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

ADJOURNMENT TO MONDAY, AUGUST 2, 1976

Mr. O'NEILL. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet on Monday next.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. O'NEILL. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday of next week.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

INDIAN HEALTH CARE IMPROVEMENT ACT

Mr. MEEDS. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2525) to implement the Federal responsibility for the care and education of the Indian people by improving the services and facilities of Federal Indian health programs and encouraging maximum participation of Indians in programs, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from Washington (Mr. MEEDS).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 2525, with Mr. NEDZI in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from Washington (Mr. MEEDS) will be recognized for 30 minutes, and the gentleman from Alaska (Mr. YOUNG) will be recognized for 30 minutes; the gentleman from Florida (Mr. ROGERS) will be recognized for 20 minutes, and the gentleman from Kentucky (Mr. CARTER) will be recognized for 20 minutes; and the gentleman from Illinois (Mr. ROSTENKOWSKI) will be recognized for 10 minutes, and the gentleman from Tennessee (Mr. DUNCAN) will be recognized for 10 minutes.

The Chair recognizes the gentleman from Washington (Mr. MEEDS).

Mr. MEEDS. Mr. Chairman, I yield myself 12 minutes.

Mr. Chairman, the bill which we have before us today is without a doubt the most important bill in the area of Indian affairs to come before us during this Congress. The basic purpose of H.R. 2525 is to provide the funds and programs so that the health status of the American Indians can be brought up to par with that of the non-Indian population. For those of you who are not aware of this critical problem facing the Indian people I would like to relate some stark facts.

The life expectancy for the average Indian is 65 years; for the non-Indian, it is 71 years.

The tuberculosis death rate is 4.6 times higher for Indians than for non-Indians.

The death rate for alcoholism among Indians is 6.1 times higher.

The infant and maternal mortality rates are about 20 percent higher than the national average.

The leading disease among Indians is a middle ear infection called otitis media. If untreated, otitis media, which affects mainly children, can lead to total or partial deafness. Right now, 13,107 cases of otitis media require surgery, which is not being provided.

Only 46 percent of the dental needs among Indians are being provided.

Currently, there are 188,600 Indians who need some sort of eye care.

All of these statistics relating to morbidity and mortality rates among Indians are very clear indications that something is wrong—the system is failing. Even a brief look at the facilities the Government is using to administer health programs for the Indian people and the staffing problems encountered will help us understand why the system is not working.

The Indian Health Service operates 51 hospitals; 26 are not accredited. The average age of the hospitals is 21 years. Twenty-one need replacement; fourteen need major modernization; three new hospitals are needed.

Some 386 health centers and satellite stations are operated to provide primary care in locations far from the hospitals. Twenty-one need replacement; twenty-one new centers are needed; thirteen require alteration. Countless others could benefit from new equipment and minor repairs.

Needed are 1,000 more staff housing units.

There are currently 20,800 existing Indian homes without running water and/or waste disposal, and there are 16,600 existing homes which require improvement of the water or waste disposal system. These facts become most important when we recognize that most of the 10 leading diseases among Indians are infectious diseases spread by environmental conditions.

The IHS, admittedly, has a special problem relating to recruiting and maintaining staff at all levels, but most particularly, professional staff. The staff per inpatient ratio for the IHS is 25 percent less than the national average. The staff per outpatient ratio is 30 percent less.

Currently, there are 500 physicians in the IHS. This translates roughly into 1 physician per 988 Indians, compared with a national average of 1 physician per 600 people, or 60 percent less. About one-third of the physicians leave the Indian Health Service every year.

The ratio of dentist per service population in the IHS is 71 percent of the national average.

The national average for Public Health nurses is 1 per 2,500 population. For the IHS, it is 1 Public Health nurse per 3,172 people.

Through the various titles, the bill before us attempts to address these problems over a 7-year period and to achieve the following objectives.

First, to assure an adequate health manpower base to provide proper services to Indians and a sufficient cadre of trained Indian professionals and other health workers to permit Indian communities to have a maximum voice in shaping those services—title I;

Second. To assure the elimination of the enormous backlog among Indians of unmet health needs and essential needs and essential patient care—title II;

Third. To construct modern, efficient hospitals and other health care facilities serving Indians where none exist or to renovate the existing facilities, most of which are in a state of general deterioration—title III;

Fourth. To overcome the adverse effects of unsafe water supplies and insanitary waste disposal systems in Indian communities and homes—title III;

Fifth. To enable Indian people to exercise their rights to the medicare and medicaid programs—title IV;

Sixth. To assist urban Indians both to gain access to community health resources available to them as citizens and to provide primary health care services where those resources are inadequate or inaccessible—title V; and

Seventh. To provide for the feasibility study of the establishment of an American Indian School of Medicine.

I want to emphasize at this point, Mr. Chairman, that this bill will attempt to achieve these objectives over 7 years. The Senate had passed a similar bill, S. 522, calling for funding over 7 fiscal years. After introduction of 10 Indian health bills which were cosponsored by 81 House Members, the Indian affairs subcommittee held extensive hearings and during markup, accepted the Senate's time frame for funding, but drastically reduced the funds the Senate had provided. The Interior Committee adopted our subcommittee bill, with a few amendments, and the bill was then reported to the House. Two other committees—the Ways and Means Committee and the Interstate and Foreign Commerce Committee—expressed interest in having all or part of the bill referred to them for study. The Ways and Means Committee received sequential referral of the medicare portion of H.R. 2525, which was contained in title IV, and the entire bill was sequentially referred to the Interstate and Foreign Commerce Committee. Both committees studied it for one month and reported back to the House with amendments recommended. One of the amendments by the Interstate Committee was to reduce the specific yearly funding to 3 fiscal years, but to maintain a 7-year commitment. I believe that the amendments recommended by both committees are well taken, and I support their adoption.

In title II, the bill specifically provides that authorizations for the various programs are to be in addition to the appropriations for those services in the preceding year. However, it is also the expectation of the committee that the authorizations for the programs in the other titles are meant to supplement, rather than replace, appropriations for similar programs.

Now, Mr. Chairman, I would like to explain in detail what this bill will do in meeting the objectives I enumerated earlier.

Title I—the Indian health manpower title—attempts to meet our first objective, which is to provide an adequate health manpower base for the Indian Health Service, with special emphasis on training of Indian people in professional and paraprofessional health jobs. If the Indian people are to achieve parity in the health professions with the non-Indian professions, there is a need to train 818 Indian medical doctors. Right now, there are 50 doctors of Indian descent, and only 82 Indians currently enrolled in schools of medicine.

There is a need for 303 Indian dentists; 28 indians are currently enrolled in dentistry.

In all of the medical professions field—which includes medicine, osteopathy, dentistry, optometry, podiatry, pharmacy, and veterinarian medicine, 1,605 Indian doctors are needed for parity. In all these categories, 152 Indians are now enrolled.

In the field of registered nursing, 1,786 Indian nurses are needed; 59 Indians are currently enrolled.

In the other health professions, 2,859 Indians are needed, yet only 267 Indians are enrolled in various allied health programs.

In order to attract more Indians into the numerous health fields, the bill establishes a series of programs:

Section 102 establishes a health professions recruitment program for Indians and provides funding of the program at a level of $4.2 million. This program would publicize and emphasize to elementary and secondary school students the various health fields in which they could train. The program would help the potential student find financial assistance and provide general informational assistance to him.

The second link in the health manpower chain is section 103, the health professions preparatory scholarship program for Indians. In this section, the bill provides compensatory education to qualify a student to enter a course of training in the health fields. The sum of $3.1 million is authorized in this section.

The Interstate Committee recommended that the health professions scholarship programs contained in section 104 be folded into the existing National Health Service Corps program in order to avoid duplication in administration. This program will provide scholarship assistance to students, with Indian students receiving preference, to study in all the health fields. Under the current NHSC scholarship program, 80 Indians, out of 2,700 total student beneficiary population, are receiving assistance. Because the existing scholarship programs, such as NHSC, are not allowed to target in on Indian students, we feel the establishment of a separate scholarship program is necessary; $18.95 million is authorized for this purpose.

The moneys provided in the extern program, section 105—$2.4 million—will allow the IHS to hire medical students to work for 120 days in an IHS facility. The Indian Health Service, I understand, currently operates a comparable programs, but was able to fund only 75 students last year. According to our information, twice that amount were turned away because of lack of funds. In the extern program, we plan to supplement the funds the IHS currently uses for this purpose.

One of the major reasons physicians do not like to serve with the Indian Health Service, or in any rural area, is because continuing education courses are not readily available. During the hearings which the Indian Affairs Subcommittee conducted on this legislation, this problem was cited to us both by doctors and IHS officials who have problems recruiting the doctors. Section 106 of our bill provides $0.5 million over 3 years for continuing allowances—a modest amount.

Overall, title I, as reported by the Interstate Committee, authorizes $29.2 million over 3 fiscal years.

Our second objective is to remove the existing severe backlog in Indian health. I mentioned earlier that there were around 13,000 cases of otitis media which require surgery. There are 2,329 cataract operations which need to be performed; and 1,774 abdominal herina operations which should be done. The total unmet surgical cases number approximately 20,300.

In the category of patient care, which includes the direct care received in the IHS hospitals, the contract care provided by private physicians and hospitals, and the special emphasis programs, the bill provides $24.7 million and 525 positions. This, again, is a modest amount. The IHS has estimated that in this category, it could use $53.2 million and 1,939 personnel.

In the area of field health, which includes field medical services, public health nursing, environmental health, the bill provides $8.9 million and 198 positions, compared with an IHS estimated need of $57.6 million and 1,089 positions.

The third area the bill addresses in title II is the area of dental care. I commented earlier about the severe backlogs in dental work. There is an identified backlog of 2,100,000 dental services. The IHS is presently performing 955,000 services annually. This means that 54 percent of the dental work currently identified is not being performed. To meet the needs in dental health, the bill provides $3 million and 130 positions against an IHS estimate of $5.7 million and 299 positions needed.

Area four, mental health, is an area I have not yet touched upon. Since I have been involved in Indian affairs, I have remained convinced that one of the major problems facing the Indian people is one of self-image. Poverty, forced abandonment of traditional ways of life, inadequate schools, degradation of Indian family life, and a harsh physical environment are elements of a situation which frustrates many American Indians in their attempts to live self-respecting, productive lives. In some cases, this results in despair, anger, and a lashing out in self-destructive ways. We see the results of these conditions in the form of excessive use of alcoholism, a suicide rate which is 3 times higher than the national average, violence, family disorganization, and neglect of children.

The IHS is now able to provide only a few essential mental health services. The bill provides, with the interstate amendments, $8.4 million and 205 positions versus a need of $8.1 million and 520 positions. This money is provided through the following categories:

Community mental health programs; inpatient mental health services; model dormitory mental health services; therapeutic and residential treatment centers; and traditional Indian practitioner program.

The fact that alcoholism is one of the most serious health problems facing the Indian people today is clearly recognized by Indian leaders and by the Indian Health Service. The alcoholism death rate is 6.1 times higher than the national average; the incidence of cirrhosis of the liver is 3 times the national average; and the accidental death rate related to alcohol abuse is 3.7 times higher than the average.

Currently, alcoholism programs are funded by the National Institute on Alcohol Abuse and Alcoholism, and the IHS' role is limited to providing liaison with Indian communities, identifying critical needs, assisting with technical expertise, and helping review all program proposals received by NIAAA. Although NIAAA does provide these funds, it does so solely on a discretionary basis—there is no statutory obligation to provide Indian alcoholism services. The IHS has estimated that it could use $20 million for funding of alcoholism programs—the bill provides $13 million.

The last program to be funded in title II is a maintenance and repair program funded over 3 years at $7 million, with allowance for 50 positions. The Indian Health Service estimates that $21 million and 154 positions are needed for maintenance and repair of its 5,372,492 square feet of space. Proper maintenance and repair of existing facilities lessens the need for new ones.

The total costs of title II is $65 million.

Our third objective, contained in title III, health facilities, is to construct and renovate IHS hospitals and other health facilities. The four categories funded are hospitals, health centers and stations, staff housing, and water and sanitation facilities for Indian homes.

I indicated earlier in my statement the deficiencies in this area. It seems to me that it is unthinkable, inexcusable, and practically criminal that the Federal Government operates a health delivery system in which half of the hospitals cannot meet accreditation standards. We in the Capital are familiar with and appalled by the poor facility, inadequate staffing, and general deterioration of the D.C. general hospital. Yet, in Indian country, there are 26 D.C. generals operating. The amount we have provided for hospital construction—$190 million over 3 fiscal years—will certainly not do the job to bring all the facilities up to standard, but it will provide a modest start.

The bill, with interstate's amendment, provides $16 million for some 386 health centers and health stations. Again, this will just make a dent in the overall needs, but it will be a beginning.

A total of $27 million is provided to construct staff housing. Housing costs on Indian reservations are particularly high because of geography. The IHS has estimated that the average staff unit costs $38,000 to construct; 1,000 additional units are needed for a total of $38 million in this area alone.

I mentioned earlier the importance of safe water and waste disposal facilities in Indian homes. By the administration's own estimate, $323,531,000 is needed to provide new and existing homes and communities with these services. Yet, in its fiscal year 1977 appropriations request, the administration asked for only $35 million. The bill provides $105 million over 3 fiscal years. We intended this to be above the administration's regular requests for those years. This represents only a fraction of what is needed. In a survey of 9,450 Indian households, 54 percent of the families said they had no water supply source in the home, 65 percent had no flush toilets, 48 percent had no satisfactory liquid waste disposal facility, 63 percent were using water which was not protected from contamination, and 20 percent of the families had a known contaminated water supply.

Title III also authorizes the secretary using the "Buy-Indian" authority, to give preference to Indian firms in letting construction contracts, and requires that the secretary apply the provisions of the Davis-Bacon Act to any contracts let under this title.

The total moneys authorized in title III is $337,167 over 3 fiscal years.

Title IV, in brief, increases Indian participation in the medicare and medicaid programs by allowing the Indian health service facilities to become eligible providers of medicare and medicaid services and benefits.

Although Indians are eligible for medicare and medicaid benefits the same as any other citizens, they generally cannot take advantage of those benefits because of inaccessibility. Since many Indians reside on remote reservations, access to services supported by the two programs is severely limited. In most cases, the only health system available is that of the Indian Health Service and, as a Federal facility, the IHS cannot receive reimbursements from the two programs. Section 401 amends the Social Security Act to make IHS facilities eligible for reimbursement as long as they meet medicare standards. It further provides that any IHS facility will be deemed to meet standards for an 18-month period. If that facility fails to come into compliance within that time, it would lose its eligibility, and the Secretary of HEW will have to report on an annual basis to show which facilities are ineligible, and what steps he is taking to bring them into compliance. One of the most important provisions of this section is the requirement that medicare reimbursements shall be used exclusively for bringing deficient IHS facilities into compliance.

The other section of title IV makes the same provisions applicable to the medicaid program. The cost to the medicaid program has been estimated to be $22.67 million. The Federal outlay for the medicaid program in fiscal year 1976 was $8.2 billion, with 28.6 million people participating. The number of Indians estimated to participate in the program is 50,000 or 0.002 percent of the total participating population.

The next objective relates to urban Indians. Today at least half of the Indian population lives in urban or semiurban centers. All too often, unfortunately, the Indian migrants are unprepared for what they find in their new location and wind up trading reservation poverty for urban poverty. Urban Indians are much more likely than non-Indians to live in crowded and deteriorated housing, be unemployed, drop out of school, become victims of ill health, and fall into alcoholism.

Health care proves to be a particular problem for the urban Indians. They suffer the same diseases as reservation Indians—yet they are unaccustomed to the health systems around them. Consequently, illnesses go untreated.

In a study done by the Seattle Indian Health Board, 57 percent of the families served had no health insurance at all, while 80 percent of the families had incomes less than $5,000—a level which allows virtually no direct expenditure for health care.

We are attempting in this title to provide a liaison, through the urban health centers, between the urban Indian and the existing health delivery system. Several urban health centers are currently in operation, and the results have been encouraging. For instance, the Minneapolis program caused a 20 percent increase in the use of existing facilities by Indians.

In situations where access to other health systems is nonexistent or inadequate, limited direct care can be provided by the urban center.

The bill, with the interstate amendment, authorizes $30 million over 3 fiscal years for funding of urban Indian centers.

The last objective — to determine whether an American Indian School of Medicine is feasible—is contained in title VI. The Interior Committee had recommended establishment of such a school, but the Interstate Committee recommended a 1-year feasibility study. Information carried in news reports during our committee's consideration indicated that many American medical students must go to foreign countries in order to receive medical education because of the limited capacity of American schools. Because of that limited capacity, medical schools in this country accept only the most qualified candidates, which in many cases, means that acceptable Indian candidates would not fall within that higher range. How to remedy this situation should be the object of the study provided.

Title VII of our bill is the miscellaneous provisions title. In this title, the bill establishes a schedule for promulgation of the rules by the Secretary—with participation by the Indian community mandated—and asks for a plan of implementation by the Secretary within 240 days of enactment of the bill. The bill also allows for 20-year leasing authority between the Secretary and an Indian tribe.

There are some amendments which I propose to offer, in addition to the interstate amendments. Most are technical or clarifying amendments. One series, however, would push back the funding in the bill from fiscal 1977 until fiscal 1978. The interior appropriations bill, which contains funding for the Indian Health Service, has already been passed by the Congress and is awaiting signature. In addition, the bill allows the Secretary 10 months in which to promulgate rules to implement the programs. If the bill funded programs for fiscal year 1977, the mechanism to operate the programs would not be available until close to fiscal 1978.

Overall, Mr. Chairman, this bill represents a concentrated, coordinated effort to address the problems in the area of Indian health. Three committees of the House have favorably reported this bill, the Senate has passed it twice in the last two Congresses, agencies from eight States have signaled their support, every Indian tribe and organization which has communicated with us has supported the bill, all the major medical organizations—American Medical Association, American Dental Association, American Psychological Association to name a few—are actively supporting the bill.

In short, the only opposition we have heard on this bill has come from the administration, and at the time they formally commented on it, they were referring to a 7-year bill which provided close to $1.1 billion in funding. This bill before us represents a 7-year commitment, with 3 fiscal years of funding amounting to $461.442 million, less than one-third of the original funding.

A lifetime of poor health is the legacy of many Indians in this Nation today. This bill commits us to changing that situation. More productive and fruitful lives of the first Americans will result from our commitment.

Mr. JOHNSON of Colorado. Mr. Chairman, will the gentleman yield?

Mr. MEEDS. I yield to the gentleman from Colorado.

Mr. JOHNSON of Colorado. Mr. Chairman, I would just like to pay tribute to the gentleman in the well for the outstanding service he has rendered on behalf of the American Indians.

This subcommittee is not one of the more glamorous assignments in the Congress, and there is very little interest, as a matter of fact, in the work that the gentleman has been doing.

I went on a field trip with him at one time, and I was amazed and impressed by the sincerity and dedication with which he approached his duties, and I think the whole Congress should recognize the outstanding work that the gentleman in the well has been doing.

Mr. MEEDS. Mr. Chairman, I appreciate the comments of the gentleman from Colorado (Mr. JOHNSON), who has himself been a very fine member of the subcommittee.

Mr. YOUNG of Alaska. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise to express my wholehearted support for H.R. 2525, the Indian Health Care Improvement Act.

I believe this bill is one of the most significant pieces of legislation considered by this Congress, and surely one of the most important to the future well being of Indians and Alaska Natives.

The purpose of the bill is to provide the direction and resources necessary to overcome the appalling deficiencies in the Federal Indian health care program. It is designed to provide a comprehensive effort to raise the health care status of Indians and Alaska Natives to a level at least comparable to that of the general population. And, it is aimed at enlisting the greatest possible involvement of Indians and Alaska Natives in the direction and management of their health care programs.

The need for this legislation has been clarified in extensive hearings by the Subcommittee on Indian Affairs, in the field and in Washington. This need is heavily documented in House and Senate committee reports and by countless studies and statistics compiled by public and private organizations.

By all indicators, the health care status of American Indians and Alaska Natives is deplorable. The vast majority of Indians still live in an environment characterized by inadequate and understaffed health facilities, improper or nonexistent waste disposal and water supply systems, and continuing dangers of deadly or disabling diseases.

Together these circumstances cause Indians and Alaska Natives to suffer a health status far below that of the general population. They plague Indian communities and Native villages with health concerns other American communities have forgotten as long as 25 years ago.

This low health status threatens to seriously undermine all other Federal program efforts to promote the self-determination of Indian people.

The Federal Government, by historical precedent and by law, has the responsibility for providing quality health care to some 500,000 Indians living primarily on isolated rural reservations in 23 States, and to more than 50,000 Natives in some 200 scattered villages in Alaska. Responsibility for carrying out this obligation rests with the Indian Health Service in the Department of Health, Education, and Welfare.

Over the past 20 years, the IHS has done a commendable job in improving the health status of Indian citizens. However, its efforts have been hamstrung by manpower shortages, insufficient resources and support services, and substandard facilities. Despite these handicaps, Indian people have increased their utilization of IHS facilities and services. The increased demand in turn has aggravated and underscored the severe shortcomings in the health delivery system.

The provisions of H.R. 2525 are designed to overcome these shortcomings through the carefully interrelated program provisions which my colleague, Mr. MEEDS, has already described. I will not repeat those descriptions, but I will state that the authorizations contained in each title of the bill are justified by hard facts and careful analysis. As ranking member of the Subcommittee on Indian Affairs and a sponsor of this bill, I can tell you we had to make some very tough decisions in cutting authorizations for some much-needed programs contained in the original legislation. What remains in the bill are authorizations judged to be of the utmost priority.

As reported by the Interior Committee, H.R. 2525 authorized $1.183 billion over a 7-year period. This represented cuts of more than $400 million from the original Senate-passed bill. The Interstate and Foreign Commerce Committee has amended the bill to provide authorizations of $466 million for 3 fiscal years, but retains the commitment to fulfill the 7-year program needs.

Mr. Chairman, I wish to express at this time my strong support for the amendments adopted by the Interstate and Foreign Commerce Committee. I also want to go on record as supporting the amendments which will be offered by the Committee on Ways and Means. Together, these amendments make H.R. 2525 a tighter, stronger bill.

Nothing better illustrates that this is meritorious legislation than the fact that 81 Members of the House have sponsored it in one form or another. Twice in the last 2 years the Senate has passed it by unanimous vote. The bill has been warmly endorsed by numerous Indian tribes and organizations. It enjoys the support of organizations representing virtually all segments in the medical field.

To my knowledge, the only opposition to this bill has come from the Department of Health, Education, and Welfare and the Office of Management and Budget.

Mr. Chairman, I regret that HEW opposes this bill. I am not surprised, however, because not once since this legislation has been under consideration has anyone in HEW's Secretary's Office been candid enough to admit that there are critical problems facing the Indian Health Service. This is not only regrettable, it is ridiculous in view of the fact that most of the documentation of the unmet needs and inadequacies in manpower, services, and facilities has come from the Department's own sources. With its head in the sand, HEW has had to misrepresent history and the facts in order to make its case against this legislation.

HEW claims it does not need this bill, because it is already making great progress in meeting the unmet needs of the Indian health care system. However, the facts show otherwise.

In its 1977 budget request for health services HEW said the funds would be, and I quote:

> For net mandatory increases.

These net mandatory increases would result in net losses of 30 positions in the Indian Health Service from 1976, and 277 positions below 1975 levels.

Regarding hospital services, HEW said its 1977 budget request will, and I quote:

> Result in reducing the quality of care presently being provided by the Indian Health Service.

This too is no real surprise.

In the past 10 years HEW has requested funds for construction of a total of three new hospitals. This represents its response to its own studies which show that the IHS hospital system is deteriorating steadily, that 21 of the 51 IHS hospitals need replacement and another 14 need major renovation. At HEW's pace it would take 150 years to meet the need.

HEW points to increases in the budget for the IHS of 208 percent over the past 8 years to indicate the extent of their commitment to quality health care. What they do not say is that nearly three-fourths of this increase has been caused by inflation. The past 8 years have seen some of the highest inflation rates in our history, with medical costs showing some of the highest increases. In real dollars, HEW expenditures for IHS during this time have averaged less than 4 percent per year.

HEW also likes to compare figures on per capita spending by the Indian Health Service with national per capita figures.

However, in answer to written questions submitted by the chairman of the Subcommittee on Indian Affairs, HEW admitted and I quote:

> There is no completely valid comparison of Federal and non-Federal spending for Indians and Alaska Natives and with Federal and non-Federal spending for the general population.

I would like to emphasize that the Indian Health Service facilities in reservation areas are usually the only available sources of health care and they must provide the full range of health care services. Therefore, per capita expenditures ought to be higher than national averages.

Mr. Chairman, I cite these examples of the inconsistencies and deceptive arguments being used by HEW to illustrate how the Department has been less than candid and cooperative in considering the need for this legislation.

In the absence of candor and cooperation from HEW, committees of this Congress have put together a comprehensive bill carefully tailored to the known priority needs of the Indian Health Service.

Mr. Chairman, as amended and reported by three committees of this House, H.R. 2525 is a sound, well-balanced bill. It contains no excess fat, no Christmas tree goodies.

It represents a commitment by this Congress to begin a reasonable, integrated approach to overhauling the Indian Health Service, the stepchild of HEW.

It represents a recognition of the Federal Government's responsibility to Indian people to provide a hospital and health care system that meets its own standards.

H.R. 2525 is a long overdue investment in the health and well being of American Indian and Alaska Native citizens.

I strongly urge the House to approve that investment and pass this bill.

Mr. DON H. CLAUSEN. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Alaska. I yield to the gentleman from California.

Mr. DON H. CLAUSEN. Mr. Chairman, as a cosponsor of the Indian health bill, I rise in strong support of it.

Indian health conditions throughout our Nation are deplorable. During the many days of hearings on this legislation this was the resounding theme. Witnesses who appeared before the Indian Affairs Subcommittee testified over and over again as to the seriousness of this problem particularly in comparison to the health conditions of the rest of the country.

Statistics show that our native Americans have a shorter life span, higher maternal mortality rate and a higher incidence of infectious diseases.

The purpose of this vital, bipartisan legislation is to recognize this situation and move in the direction of correcting it. Our obligations to the Indian community date back to the early days of our Nation and I, for one, am firmly committed to seeing that this commitment is met.

Among the critical problems addressed by this bill is the question of waste disposal and water supply. The inadequacy of these services is the direct cause of a higher rate of certain diseases.

In my congressional district the sanitation and water supply problem is particularly acute on the rancherias. During the full committee markup on the bill I raised this issue and I would like to thank the chairman and Members of the House Interior and Insular Affairs Committee for being so willing to listen to my concerns and for their readiness to respond.

At my request, language has been included in the committee report which outlines my concerns and the views of the committee.

The language can be found on page 127 of the report and reads as follows:

> During Committee mark-up a question was raised as to the eligibility of California Indians for water and sanitation facilities under P.L. 86–121 and section 302(b) of H.R. 2525. The Committee hereby recognizes and affirms that federally-recognized Indians on or near reservations, rancherias, and certain public domain allotments in California are eligible for such services from the Indian Health Service. Furthermore, the Committee believes that funds appropriated pursuant to section 302(b) should be used to implement current plans of the Indian Health Service to provide water and sanitation services to existing homes of such Indians in California.

This language clearly states that it is the intention of the committee that funds authorized in this legislation be used to combat the problems on the rancheries.

I have personally visited a number of these homes and can testify to the seriousness of the sanitation and water supply problems and the degree to which the Federal Government has failed to meet its obligations under existing laws.

Our bill authorizes in section 302(b) $153 million over a 7-fiscal-year period for the purpose of meeting these obligations.

The distinguished chairman of the Subcommittee on Indian Affairs, Mr. MEEDS, and the ranking minority member, Mr. YOUNG, have both outlined in detail the provisions of our bill and I will not attempt to repeat what they have said but merely emphasize the point that existing programs are not, and repeat, are not adequately funded nor adequately geared toward meeting the needs of the Indian communities. Our bill will fill these gaps by expanding existing programs and raising the funding to a more realistic level.

I urge my colleagues to demonstrate to our Native Americans in our Bicentennial Year that their interests and needs have not been forgotten and will be answered. Surely, we all would agree that the right to enjoy decent health is a basic human right.

Mr. YOUNG of Alaska. Mr. Chairman, I yield such time as he may consume to the gentleman from Kansas (Mr. SKUBITZ).

Mr. SKUBITZ. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I will support H.R. 2525 if the amendments to be offered later by the Interstate and Foreign Commerce Committee are adopted.

Without a doubt, special health care opportunities must be made available to the American Indians.

The evidence presented to both committees upon which I serve, Interior and Interstate, was convincing and overwhelming: the state of Indian health is deplorable.

The Indian population has higher death rates, greater disease, and more frequent infant deaths than non-Indians.

It is the Congress which must undertake the necessary initiative here.

It is the Congress which must commit itself to a serious program for Indian health improvement.

But H.R. 2525, unless amended, is not the answer.

The legislation is irresponsible, for it makes firm commitments of staggering amounts of taxpayers' money for up to 7 years, when not even the best of experts is able to estimate with accuracy Indian health needs or medical costs that far in the future.

The legislation is pure puffery, for the committee makes bold promises which it knows no Appropriations Committee could fully endorse and which no administration in its right fiscal mind could tolerate.

For many years the Interior Committee has had nearly exclusive jurisdiction over Indian matters.

Thus, the committee has responsibility to the Indian people to present their case in a wise and defensible manner.

To be taken seriously, the committee should recommend seriously.

Even given the state of Indian health, I still cannot defend a 434-percent increase over the President's budget request for first year funds for construction of Indian health facilities.

I cannot defend $16.8 million for an Indian school of medicine that is not even endorsed by the Indians.

I cannot defend a 7-year package which totals $1.2 billion when this committee has no idea what Indian health needs will be in 1983, when this committee has no idea what medical costs or technology will be in 1983, when this committee has not the slightest notion as to whether this program will solve Indian health problems—in 7 years—or "70 times 7" years.

I cannot defend this committee "washing its hands" of the bill and putting all the heat on the President.

If he vetoes this irresponsible bill he gets the criticism when, in reality, this committee deserves it.

You may call this bill a "commitment to Indian health."

I call it an evasion of legislative responsibility.

Mr. Chairman, I followed this bill through both the Interior and Interstate Committees.

Needless to say, I was very disappointed with the bill as reported by the Interior Committee.

However, the amendments to H.R. 2525 to be presented by the Interstate Committe go a long way toward correcting many of the bill's inadequacies.

Most importantly, the authorization has been reduced from 7 years to 3.

May I emphasize to my colleagues that such a 3-year authorization does not mean that the Indian health program will be abruptly terminated after only 3 years.

Instead, the Congress commits itself to a realistic and rational 3-year program, and then promises to reevaluate the Indian health situation in the light of the program's successes and failures.

The Interstate amendments will reduce the first year construction allocations for medical facilities.

Although I believe that the $67 million provided is still far too much, it is a significant improvement over the Interior Committee's recommendation of $124 million.

Finally, the amendments to be offered will strike the provision which creates an American Indian medical school.

With the adoption of these amendments I feel that H.R. 2525, although not perfect, nevertheless is an acceptable bill and provides a program which will take giant strides toward improving the Indian health situation.

If the amendments are adopted, it is a bill which I personally believe the President can sign in good conscience.

If the amendments are not adopted, Congress will send to the President an irresponsible bill bloated with inefficiency, waste, and duplication.

Approving H.R. 2525 without amending it plays "chicken" with the White House and invites a veto.

We gain nothing by losing an Indian health program to a successful veto.

Even more importantly, the Indian population gains nothing, despite our rhetoric, promises, and intentions.

Let us be realistic, let us agree to commit ourselves to a comprehensive program which will bring the level of Indian health up to the standards of the non-Indian population.

Let us agree on a proposal which both the administration, the Congress, and the American people—Indian or otherwise—will recognize as serious and reasoned legislation.

Mr. Chairman, I will support H.R. 2525 if the House accepts the Interstate amendments.

I hope the administration has adopted a similar position.

I just want to say a few more words on this matter.

It is almost an understatement to say I have been distressed and frustrated in working with the administration on this legislation.

I can accept the fact that often the position adopted by the administration is different from my own.

I recognize that as inevitable, for in the final analysis, we are accountable to two different constituencies.

But I cannot accept the uncooperative spirit I have encountered in dealing with the Department of Health, Education, and Welfare about this bill.

I would like to state, for the record, the Department's position on this bill, but I honestly do not know what it is.

A number of times I called the Secretary's office to ascertain the administration's opinion but, unfortunately, Mr. Mathews has been either "too busy" or "out of the office" so much that, at present, I have no idea what HEW wants.

Perhaps Mr. Mathews has seen fit to communicate to other Members of this House the administration's position, but he has ignored completely the ranking Republican on the committee with primary jurisdiction over the bill and who also serves on the committee which handles health matters.

I can truthfully state that the Interstate committee has done its best to report a responsible bill, which, in our judgment, should be both fiscally and philosophically acceptable to the administration.

If the President later concludes that this Indian health package is unacceptable or too costly, I respectfully suggest that such a position should have been expressed weeks ago by the Office of the Secretary of Health, Education, and Welfare.

Mr. YOUNG of Alaska. Mr. Chairman, I yield such time as he may consume to the distinguished minority leader, the gentleman from Arizona (Mr. RHODES).

Mr. RHODES. Mr. Chairman, the bill we are considering today, H.R. 2525, deserves the support of this Congress. It provides for long unmet health care needs of our American Indian population.

Since the mid-1800's, Indian health care has lagged behind that available to our general population and serious disease has afflicted our Indian people and shortened their lifespan. This bill is similar to H.R. 7852 which I introduced. It simply is an effort to remedy the inadequacies of Indian health care.

Basically the bill outlines a 7-year program to upgrade Indian health care delivery. It provides for new hospitals where none exist, and modernization of obsolete facilities. It would provide safe water supplies and adequate sanitary waste disposal systems.

The bill would encourage Indians to participate more actively in management of health care programs, and to seek help from community health assistance facilities.

It provides for participation in medicare and medicaid programs through the Indian Health Service. In addition, it would establish an Indian School of Medicine to insure that properly trained Indian physicians and other health personnel will be available in the future.

Mr. Chairman, this is a sound approach

to the unmet health care needs of our Indian people. It encourages them to be part of the system, to participate in cooperative Federal and local programs, and to provide health care manpower, now in seriously short supply.

The Indian Health Care Improvement Act has attracted strong bipartisan support in both houses of the Congress. I believe this is a good bill, a practical and constructive move to help deserving people meet a major challenge. I urge that my colleagues support H.R. 2525 so this worthwhile program may begin.

The CHAIRMAN. Does the gentleman from Alaska (Mr. Young) desire to yield further time?

Mr. YOUNG of Alaska. Not at this time, Mr. Chairman.

The CHAIRMAN. Does the gentleman from Florida (Mr. Rogers) desire to yield time?

Mr. ROGERS. I do, Mr. Chairman. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I think this bill is an excellent bill and one that should be passed. It has provided an excellent example of cooperation and close work of three committees. The parliamentary situation that we sometimes are afraid of, where one committee will be trying to work with another committee and there may be problems, did not exist here.

These three committees—the Committee on Interior and Insular Affairs, the Committee on Ways and Means, and the Committee on Interstate and Foreign Commerce, their staffs, as well as the members, have worked most cooperatively together and I salute them. In my own subcommittee, I enjoyed the full cooperation of the members, including particularly Dr. Carter, our ranking minority member, in acting rapidly to consider the bill in an objective and constructive manner.

Mr. MEEDS. Mr. Chairman, will the gentleman yield?

Mr. ROGERS. I am happy to yield to the gentleman from Washington.

Mr. MEEDS. Mr. Chairman, I thank the gentleman from Florida for yielding to me.

Mr. Chairman, I just wanted to inform the House that I think there could not possibly have been more cooperation between these three committees and their subcommittees which dealt with this legislation. The gentleman from Florida, and the gentleman from Illinois and indeed our staffs were very helpful on all of the subcommittees. I think the process worked very well because of that cooperation.

Mr. ROGERS. Mr. Chairman, I thank the gentleman from Washington (Mr. Meeds) for his remarks. I, too, salute the Subcommittee on Indian Affairs of the Committee on Interior and Insular Affairs for the fine work it did, as well as the work done by the Committee on Ways and Means, and, indeed, all of the work done by the three committees which now has culminated in this bill which we recommend for passage.

Mr. Chairman, the Indian Health Care Improvement Act, was reported from the Committee on Interior and Insular Affairs and sequentially referred to the Interstate and Foreign Commerce Committee and the Ways and Means Committee. The Commerce Committee requested referral of the bill, because of its general health provisions, and because it contains amendments to the medicaid program.

During our consideration of the bill, members of the Interstate and Foreign Commerce Committee were impressed with the considerable health needs of the Indian population, with the strikingly inadequate facilities available to the Indian Health Service, and with the unanimity of the support of the Indian community for the assistance contained in H.R. 2525. We supported the legislation. We did report the bill with amendments, however, which we believe will result in a better piece of legislation. I understand they are agreeable to the other committees.

H.R. 2525 contains a series of provisions designed to bring the health level of the Indian population up to that of the general population. The bill lays out a plan for accomplishing this over a 7-year period. The Interstate and Foreign Commerce Committee was concerned, however, that a 7-year authorization period was unwise. We strongly believe in the value of periodic oversight by the authorizing committee, and have designed our own health legislation for renewal every 3 years. Further, we were concerned that with the rate of inflation in the medical care area, and the continuing changes in health techniques and practices, that some of the authorization might prove to be insufficient, and that the relative allocations among kinds of services might change. We were sympathetic, however, to the intent of the Interior Committee to provide in the bill the 7-year commitment to the improved health of the American Indian that the Indian community has a right to expect. We proposed a series of amendments which address the concerns of both parties: For the manpower programs, the service programs and the construction programs. We have recommended specific dollar level authorizations for 3 fiscal years, for fiscal year 1977, fiscal year 1978, and fiscal year 1979. In all cases but one, those are the same figures contained in the Interior bill. For the final 4 years of the 7-year plan, for fiscal years 1980–83, we have provided for an authorization of sums to be provided in a later act. We believe these amendments maintain the 7-year commitment, but provide for more flexibility, responsiveness, and congressional oversight than H.R. 2525, as reported by Interior Committee, did.

Title I of the Interior bill contains a series of programs designed to increase the availability of health professionals to serve Indians, particularly in IHS facilities, and to increase the number of Indians who enter the health professions. The Interstate and Foreign Commerce Committee recommends an amendment that would place the health professionals scholarship program contained in the Interior bill within the manpower programs of the Public Health Service Act. It would retain the Interior provisions for giving first preference to Indians for scholarships; requiring service to Indians—in the IHS, in urban Indian health programs, and in rare cases in private practice in shortage areas where substantial numbers of Indians are served—as a condition of receipt of scholarship; and making assistance available in the whole array of the health professions, with the scholarship allocations determined by the needs of Indians for the services of the various kinds of health professionals. This change would have the advantage over the Interior bill, however, of assuring coordination between the National Health Service Corps scholarship program and the Indian health scholarships. It would require only a single application to apply for aid under either program, decisions would be coordinated; scholarship amounts, payback requirements, and similar factors would be the same in both programs. I might note at this point my intention to offer an amendment to the Interstate and Foreign Commerce Committee amendments which requires the Secretary of Health, Education, and Welfare to act through the Indian Health Service in determining the recipients of the Indian health scholarships and in determining the distribution of the scholarships among the various health professions. The Interstate amendments provide only that the Secretary act in consultation with the Indian Health Services. This rather modest change will not affect the original amendment's provision for a single, uniform administration of the scholarship.

Title II of the Interior bill provides for increased authorizations and staff positions for direct and purchased patient care, field or preventive health programs, dental health, mental health, and alcoholism treatment and control programs. The amendments recommended by the Interstate and Foreign Commerce Committee relate only to the change in the authorization period.

Title III of the Interior bill authorizes a systematic plan for orderly renovation and construction of Indian Health Service hospitals, health centers, health stations, and staff housing, and for construction of safe water and sanitary waste disposal facilities. The Commerce Committee supported the need for facilities' construction and renovation, but was concerned that the amounts of funds allocated for hospital construction in fiscal year 1977 were unrealistically high and were more, in fact, than could be used. We proposed an amendment which would reduce the first year authorization for hospital construction by $56.7 million—reducing it from $123,880,000 to $67,180,000—and allocate this amount over the next several fiscal year authorizations. The new authorization amounts are: fiscal year 1977, $67,180,000; fiscal year 1978, $73,256,000; and fiscal year 1979, $49,742,000. Additionally, we recommend an amendment requiring that the Secretary pledge that, where construction and renovation funds are used, facilities will be brought up to the standards of the Joint Committee on Accreditation of Hospitals within 1 year, where practicable, as opposed to the 5 years allowed in the Interior bill; and an amendment to clarify the authority for appropriation of such sums as are necessary to build sanitation facilities for new housing constructed on Indian reservations.

Title IV of the Interior bill provides for Indian Health Service facilities to receive medicaid and medicare moneys for services provided to Indians eligible for those programs, and for 100 percent Federal funding for medicaid services in IHS facilities. The Commerce Committee recommends an amendment to clarify the conditions for IHS facilities to receive medicaid funds, and directs the Secretary to use those funds to upgrade the facilities so that Indians are able to receive care in quality institutions. The language of the recommended amendment was developed in concert with the Subcommittee on Health of the Ways and Means Committee.

Title V of the Interior bill provides specific statutory authorization for IHS activities in urban areas. The functions of the urban Indian health programs include outreach, indentification of Indians and their health needs, assisting Indians to use the health care system, and direct delivery of services. The Commerce Committee did not recommend any changes in the provision.

Title VI of the Interior bill authorizes the establishment of an American Indian Medical School. The Commerce Committee had grave doubts concerning the feasibility of this provision. Our amendment would strike the authorization for the medical school, but authorize a study by the Secretary of HEW to determine if such an amendment is feasible and desirable. I might note that we were influenced by the recommendation of the gentleman from Kansas (Mr. SKUBITZ), who had looked into this very carefully.

The Commerce Committee also proposed an amendment to remove the provision for congressional action on the Secretary's plan of implementation.

The amendments recommended by Interstate and Foreign Commerce would:

First. Reduce the first year authorizations in the bill by $57,200,000 for a fiscal year 1977 total of $136,232,000;

Second. Increase the second year authorizations by $16,985,000, for a fiscal year 1978 total cost of $174,757,000;

Third. Increase the third year authorizations by $22,514,000, for a fiscal year 1979 total cost of $155,453,000; and

Fourth. Remove all specific authorization amounts for fiscal year 1980-83; the total authorizations of the 3-year bill are $466,442,000, as opposed to the $1,183,436,000 authorized in the Interior bill over a period of 7 years.

The Interstate and Foreign Commerce Committee strongly supports this bill. The health needs of the Indian population, and the inadequacy of the medical personnel and facilities currently available to them, provide the necessary justification for speedy enactment of H.R. 2525, as amended.

Mr. SKUBITZ. Mr. Chairman, I have no requests for time.

Mr. Chairman, I concur with the remarks of the gentleman from Florida (Mr. ROGERS) and support the position of the Committee on Interstate and Foreign Commerce.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield myself 10 minutes.

Mr. Chairman, I certainly want to associate myself with the comments of both of my colleagues, the gentleman from Florida (Mr. ROGERS) and the gentleman from Washington (Mr. MEEDS). The cooperation that existed in developing the legislation presently before this body is a reflection on what can happen when three subcommittee chairmen commit themselves to legislation such as this.

The bill H.R. 2525 was referred in sequence to the Committee on Ways and Means for consideration of matters falling within its jurisdiction after it had been ordered reported by the Committee on Interior and Insular Affairs. Title IV of H.R. 2525 contains provisions that would permit medicare reimbursement for services furnished in Indian Health Service facilities to eligible medicare beneficiaries, notwithstanding the existing prohibition in title XVIII of the Social Security Act against medicare payment for services in facilities of the Federal Government.

On May 4, 1976, the Committee on Ways and Means, without passing judgment on the merits of the bill as a whole, ordered favorably reported an amendment to those provisions of H.R. 2525 relating to medicare payment for services in Indian Health Service facilities. This amendment which will be offered today at the appropriate time is intended to assure that those Indian Health Service facilities which H.R. 2525 would make eligible to participate in medicare comply with medicare health and safety standards. Further, the amendment provides that funds derived from medicare reimbursement are to be used to enable these facilities to achieve compliance with medicare standards. When the amendment is offered I will explain its provisions in greater detail for my colleagues.

Mr. Chairman, I want to express my gratitude to both of my colleagues, the gentleman from Florida (Mr. ROGERS) and the gentleman from Washington (Mr. MEEDS) and to the respective minority members of their committees for the cooperation and the harmony that existed in the development of this bill.

Mr. Chairman, I reserve the remainder of my time.

Mr. DUNCAN of Tennessee. Mr. Chairman, I have no requests for time.

Mr. Chairman, I would like to concur in the remarks of my committee chairman.

Mr. Chairman, I rise to express my support for the amendment to H.R. 2525 made by the Ways and Means Committee.

I do so because I concur with the decision that the health care received by our Nation's Indian medicare beneficiaries should in no way be inferior to that received by other beneficiaries under the medicare program. Moreover, it is clear that the Indian health service facilities are frequently the only facilities at which Indian beneficiaries can receive their medical care and that the need exists to bring these facilities into compliance with health and safety standards applicable to all other facilities that participate in the medicare program.

As the report of the committee indicates, this amendment would provide for ongoing application of such health and safety standards to Indian Health Service facilities. It would also allow facilities to participate in the program on an interim basis, by permitting facilities presently unable to comply with the standards to submit an acceptable written plan for doing so. Under the amendment, Congress would be kept informed of the progress made by the IHS facilities in that regard, and medicare funds will be earmarked specifically to insure that such changes are being made and that the facilities in fact come into compliance with those standards.

I believe it is important to observe that this amendment would create an exception to the general medicare prohibition against medicare payment to Federal providers of services. It should be emphasized that, as the committee report points out, this exception is justified by the "unique circumstances of Indians living on reservations" and "should not be construed as a precedent for removal of the exclusion with respect to other providers of service."

I also wish to note my general agreement with the caveat contained in the minority views to the Ways and Means Committee report, that "this is a dangerous precedent which allows one congressional committee to shift the financial burden of its own program to another program and fund the original program outside the direct appropriations process."

We certainly must be vigilant to prevent the medicare trust fund from being used to circumvent the normal appropriations process. However, in my opinion, the importance of insuring equitable access to health care for our elderly Indian citizens who are entitled to medicare benefits justifies passage of this amendment. It enables these elderly Indian beneficiaries actually to receive what they are already entitled to; it does not extend any benefits to anyone not otherwise entitled to them under present law. This is a very important point. It is a significant factor in my decision to support the amendment of the Ways and Means Committee to H.R. 2525 and to urge my colleagues also to do so.

Mr. MEEDS. Mr. Chairman, I yield such time as he may consume to the gentleman from Oklahoma (Mr. RISENHOOVER).

Mr. RISENHOOVER. Mr. Chairman, as a member of the Indian Affairs Subcommittee, I rise in strong support of the bill, H.R. 2525, the Indian Health Care Improvement Act.

Mr. MEEDS, the chairman of the subcommittee, has explained in detail the need for this legislation and the provision of the bill. Therefore, I will not dwell further on that aspect of this legislation.

However, I feel that I should take some time to comment further on the shameful position that the administration has taken on this bill.

This bill has broad, deep, nationwide support. It enjoys the unanimous support of Indians, Indian tribes, and Indian organizations across the country.

Almost every national medical or health organization in the Nation has evidenced their support, including the AMA, the American Academy of Pediatrics, the American Hospital Association, and the list goes on.

It enjoys bipartisan support in the Congress.

The 81 Members of the House from both sides of the aisle and representing the spectrum of political philosophy have sponsored Indian health legislation.

Similar legislation has passed the Senate in the 93d and 94th Congresses unanimously, again with broad, bipartisan support.

Even the non-Indian general public has expressed through correspondence support for the bill.

Standing alone, in opposition, is the administration.

They say that they already have authority to do and are doing what the bill authorizes. We admit, with some exceptions, that they have the authority; but we deny that they are doing the job, even a minimally adequate job. They admit this, too. They cannot deny it, because the facts speak for themselves.

The health of our Indian citizens—a responsibility freely assumed by the Federal Government—is the poorest in the Nation. It is proved with statistics developed by the administration, itself. Mr. MEEDS has already put forth those statistics and I will not recite them. They are shameful for this Nation. By this legislation, this Congress is telling the administration and the Nation that we will no longer tolerate the intolerable.

They say that the authorizations contained in this bill are inflationary and, therefore, unacceptable.

The first year authorizaiton, $136 million, is less than five-tenths of 1 percent of the estimated Federal budget for fiscal year 1977 and about one-tenth of 1 percent of the estimated gross national product for fiscal year 1977. The inflationary impact of this legislation will be minimal.

Even so, how do you weigh the lives and healthy future of thousands of Indian adults and children in the balance of inflationary impact. I cannot. The administration can, with dollar signs in their eyes.

They do not do it openly. They do not say that dollars are more important than Indian lives. They do it by a strategy of confusion, deception, and misrepresentation.

Let me give you an example of this.

In a letter to the distinguished minority leader of June 30, 1976, HEW Under Secretary Lynch states that, under title IV of our bill—

> IHS hospitals that do not meet current fire and safety or other standards would be granted a one-year period to come into compliance with program requirements, during which time they would be required to use all of such reimbursement for that purpose. We believe that this provision might be interpreted as tolerating inadequate standards for the Indian population served by these institutions.

There is no evidence of concern that the hospitals are substandard or inadequate. There is no compassion for the inadequate services being provided to Indians in these institutions.

There is only concern that it may appear to the public that the administration is tolerating such inadequacies.

This statement is all the more callous and brutal when the administration calmly admits that 26 of the 51 Indian Health Service hospitals fail to meet the minimum qualifications of the Joint Committee on Accreditation of Hospitals and that at least 15 fail to meet minimum fire safety standards.

Will this callousness and brutality, will this total concern for the dollar by the administration end when a major fire rages through one of these Federal hospitals with great loss of life to our Indian citizens? We would hope so.

But I hope that the Congress will not wait for a major, tragic catastrophe to act.

I hope that we here, today, send a clear message and mandate to the administration that we will no longer tolerate inadequate health services for the Indian people and that we will no longer permit the administration to cover up this inadequacy with rhetoric.

I urge an overwhelming passage of this legislation.

Mr. CARTER. Mr. Chairman, I strongly support the goal of improving the health care of American Indians and Alaskan Natives but I question the need for this legislation as the best way to achieve that goal.

I believe that the Department of Health, Education, and Welfare acting through the Indian Health Service can accomplish the objectives stated in H.R. 2525 without the additional program it proposes.

Mr. Chairman, HEW believes that this bill is excessive and unrealistic. It authorizes a total of over $193 million for fiscal year 1977. This amount is in addition to the amount already authorized by the President for Indian Health which is $354.9 million.

The administration is already firmly committed to a program of improving the status of Indian health under existing authority through the Indian Health Service.

The level of HEW's commitment is demonstrated by the extent of funding increases for the Indian health program since 1969. The IHS budget has grown from $113 million in fiscal year 1969 to $338 million for fiscal year 1976—which is an increase of 175 percent in 6 years.

The President's budget for the Indian Health Service for 1977 is about $355 million. I believe this level of funding will enable the program to make substantial improvements in the health care available to the Indian people—and I am confident that such progress can be achieved under existing authority.

Based upon an estimated 500,000 beneficiaries, in 1976 the Indian Health Service is spending over $640 per Indian and Alaska Native, or over $2,500 yearly per family of four for health care and health related activities. Next year's budget increases that amount to over $2,740 per Indian family of four or over $685 per beneficiary. Moreover a staff of over 8,000 full-time dedicated Federal employees is working to assure that the health needs of Indians are met. These figures represent firm evidence that the administration has placed high priority on investing in health services for Indian people.

Mr. Chairman, while I have real concerns about the need for legislation in this area—I feel that the changes which the Interstate and Foreign Commerce Committee adopted represent substantial improvements in the original bill—H.R. 2525.

With the amendments introduced by our committee, the legislation does become less unwieldy. First, the 7-year authorizations have been amended to 3-year authorizations with a commitment to review the progress of the program before further authorizations.

Second, our committee amended the legislation to substitute a requirement for a study of the feasibility of an American Indian School of Medicine—in place of the establishment of such a school. This change would eliminate the authorization of over $16 million for an Indian School of Medicine.

Third, our committee accepted changes in the bill to assure that the National Health Service Corps scholarships be more responsive to Indians and to the manpower needs of the Indian Health Service. The amendment establishes an identifiable program of Indian health scholarships which will be subject to all the provisions governing the National Health Service Corps scholarships except that Indians will be given priority for receipt of the scholarships, and these scholarships will be in health provider fields determined by the relative needs of Indians for such services.

Mr. Chairman, in conclusion I remain concerned about the need for legislation at this time to increase authorizations for Indian health programs but I do prefer the Commerce Committee's bill to that of the more excessive proposal reported by the Interior and Insular Affairs Committee.

Mr. FRASER. Mr. Chairman, I would like to voice my support for the Indian Health Care Improvement Act, of which I am a cosponsor.

I want to comment briefly on title V of the act, which authorizes $30 million for the provision of health service to urban Indians. Under title V, the Indian Health Service is authorized to enter into contracts with urban Indian organizations to operate referral programs to make urban Indians knowledgeable of available health services and to provide direct health care programs for urban Indians.

Urban Indians organizations may undertake such projects as determining the population of urban Indians that would be served by health referral or care services, identifying all public and private health care resources that are available to urban Indians, assisting in providing basic health care education to urban Indians, establishing and implementing manpower training programs to accomplish the referral and education tasks, identifying gaps between unmet health needs of urban Indians and the resources available to meet the needs, and making recommendations to the Secretary of Health, Education, and Welfare and

Federal, State, and local agencies on how to improve health services programs to meet the needs of urban Indians. Furthermore, the Indian organizations can provide or contract for direct health care services to urban Indians. I am especially pleased that the Indian Health Service will be able to make contracts to allow Indian organizations to provide health care directly to the Indian community.

A program funded by IHS has done much to upgrade the health services available to Indians in my district. I would like to give a history of that program, the Indian Health Board clinic.

In 1971, the Congress designated $150,000 in IHS funds for a survey of Indian health conditions in Minneapolis. The survey showed that the severe health problems afflicting many Minneapolis Indians were due, in part, to a lack of understanding and communication between the Indian community and local health care providers. Indians had difficulty understanding the elaborate eligibility requirements imposed by the health care system, and the health care agencies had difficulty understanding the Indian community. Often, the variety of agencies involved in health care delivery had an unclear view of their responsibilities for and to the Indians, and the native-Americans found themselves shuffled back and forth between State and Federal offices. Indian people often turned away local public agencies because they encountered hostility and indifference. At the same time, they lacked the jobs and income that would enable them to purchase private health care.

The survey showed that while Indian people were using emergency facilities with high frequency, they were not making adequate use of existing out-patient facilities. Health problems were often ignored until they reached the critical stage. Dental care, which was not covered by Medicaid, was a particularly severe problem.

The survey clearly pointed to the need for an outpatient clinic designed to serve urban Indians. In January of 1974, the Indian health board opened its clinic on Minneapolis' near southside, an area with a large Indian population. The clinic provides medical and dental care directly to one-third of the 12,000 Indian people who live in my district.

The clinic fills a gap in the health care services available to Indians in Minneapolis. Although the clinic is open to all peoples, over 95 percent of its patients are Indian.

The Indian health board's clinic serves the most needy patients. Conventional facilities are not prepared to meet the special need of our urban Indian citizens who cannot pay for health services or who have difficulty seeking out these facilities.

The Indians of our cities need health care facilities which combine direct services with outreach and counseling programs. Indians often do not use the facilities that are available in the community. Only 8 percent of the Indians in Minneapolis use private health care facilities. Thirty percent of the Indian population cannot afford to pay for any health care. The unemployment rate among Indians is high so fewer are protected by health care plans at a place of work. Hence, conventional health care facilities do not suffice to meet the needs of the urban Indian citizens.

Though Minneapolis' clinic does provide health care directly to its patients, much of its work is counseling and outreach. The staff of the clinic helps guide the patients to facilities and services that are available in the community, such as hospitals, specialized clinics, and dental health programs. Furthermore, the clinic staff shows the patients how to better use services such as private insurance, public assistance, medicare and medicaid, social security, veterans' benefits, workman's compensation, and other county and local health services. A major part of the effort to assure proper health care for urban Indians has been such counseling programs which help to combat underutilization of community health care facilities and services by Indian citizens.

The clinic also provides transportation for those patients who need it. Seventy-two percent of the clinic's patients do not have access to private transportation. Public transit facilities are often inadequate, particularly to meet the needs of the sick and the elderly.

The Indian Health Care Improvement Act would allow programs such as the Minneapolis clinic to continue to operate and would allow others to open. The urban Indian community is not being served by conventional health care facilities. The combination of direct services and outreach that is provided by the Minneapolis clinic is what is required to meet the special needs of the Indian people of our cities.

Mr. MEEDS. Mr. Chairman, I have no further requests for time.

The CHAIRMAN. There being no further requests for time, pursuant to the rule, the Clerk will now read by titles the amendment in the nature of a substitute recommended by the Committee on Interior and Insular Affairs now printed in the bill as an original bill for the purpose of amendment. No amendment to the amendment recommended by the Committee on Ways and Means now printed in the bill on page 52, line 2 through page 55, line 8, shall be in order except amendments recommended by the Committee on Ways and Means and except pro forma amendments.

The Clerk will read.

The Clerk read as follows:

H.R. 2525

That this Act may be cited as the "Indian Health Care Improvement Act".

FINDINGS

SEC. 2. The Congress finds that—

(a) Federal health services to maintain and improve the health of the Indians are consonant with and required by the Federal Government's historical and unique legal relationship with, and resulting responsibility to, the American Indian people.

(b) A major national goal of the United States is to provide the quantity and quality of health services which will permit the health status of Indians to be raised to the highest possible level and to encourage the maximum participation of Indians in the planning and management of those services.

(c) Federal health services to Indians have resulted in a reduction in the prevalence and incidence of preventable illnesses among, and unnecessary and premature deaths of, Indians.

(d) Despite such services, the unmet health needs of the American Indian people are severe and the health status of the Indians is far below that of the general population of the United States. For example, for Indians compared to all Americans in 1971, the tuberculosis death rate was over four and one-half times greater, the influenza and pneumonia death rate over one and one-half times greater, and the infant death rate approximately 20 per centum greater.

(e) All other Federal services and programs in fulfillment of the Federal responsibility to Indians are jeopardized by the low health status of the American Indian people.

(f) Further improvement in Indian health is imperiled by—

(1) inadequate, outdated, inefficient, and undermanned facilities. For example, only twenty-four of fifty-one Indian Health Service hospitals are accredited by the Joint Commission on Accreditation of Hospitals; only thirty-one meet national fire and safety codes; and fifty-two locations with Indian populations have been identified as requiring either new or replacement health centers and stations, or clinics remodeled for improved or additional service;

(2) shortage of personnel. For example, about one-half of the Service hospitals, four-fifths of the Service hospital outpatient clinics, and one-half of the Service health clinics meet only 80 per centum of staffing standards for their respective services;

(3) insufficient services in such areas as laboratory, hospital inpatient and outpatient, eye care and mental health services, and services available through contracts with private physicians, clinics, and agencies. For example, about 90 per centum of the surgical operations needed for otitis media have not been performed, over 7 per centum of required dental services remain to be provided, and about 98 per centum of hearing aid requirements are unmet;

(4) related support factors. For example, over seven hundred housing units are needed for staff at remote Service facilities;

(5) lack of access of Indians to health services due to remote residences, undeveloped or underdeveloped communication and transportation systems, and difficult, sometimes severe, climate conditions; and

(6) lack of safe water and sanitary waste disposal services. For example, over thirty-seven thousand four hundred existing and forty-eight thousand nine hundred and sixty planned replacement and renovated Indian housing units need new or upgraded water and sanitation facilities.

(g) The Indian people's growth of confidence in Federal Indian health services is revealed by their increasingly heavy use of such services. Progress toward the goal of better Indian health is dependent on this continued growth of confidence. Both such progress and such confidence are dependent on improved Federal Indian health services.

DECLARATION OF POLICY

SEC. 3. The Congress hereby declares that it is the policy of this Nation, in fulfillment of its special responsibilities and legal obligation to the American Indian people, to meet the national goal of providing the highest possible health status to Indians and to provide existing Indian health services with all resources necessary to effect that policy.

DEFINITIONS

SEC. 4. For purposes of this Act—

(a) "Secretary", unless otherwise designated, means the Secretary of Health, Education, and Welfare.

(b) "Service" means the Indian Health Service.

(c) "Indians" or "Indian", unless otherwise designated, means any person who is a member of an Indian tribe, as defined in subsection (d) hereof, except that, for the purpose of section 102, 103, 104(b)(1)(i), and 201(c)(5), such terms shall mean any individual who (1), irrespective of whether he or she lives on or near a reservation, is a member of a tribe, band, or other organized group of Indians, including those tribes, bands, or groups terminated since 1940 and those recognized now or in the future by the State in which they reside, or who is a descendant, in the first or second degree, of any such member, or (2) is an Eskimo or Aleut or other Alaska Native, or (3) is considered by the Secretary of the Interior to be an Indian for any purpose, or (4) is determined to be an Indian under regulations promulgated by the Secretary.

(d) "Indian tribe" means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or group as defined in the Alaska Native Claims Settlement Act (85 Stat. 688), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

(e) "Tribal organization" means the elected governing body of any Indian tribe or any legally established organization of Indians which is controlled by one or more such bodies or by a board of directors elected or selected by one or more such bodies (or elected by the Indian population to be served by such organization) and which includes the maximum participation of Indians in all phases of its activities.

(f) "Urban Indian" means any individual who resides in an urban center, as defined in subsection (g) hereof, and who meets one or more of the four criteria in subsection (c)(1) through (4) of this section.

(g) "Urban center" means any community which has a sufficient urban Indian population with unmet health needs to warrant assistance under title V, as determined by the Secretary.

(h) "Urban Indian organization" means a nonprofit corporate body situated in an urban center, composed of urban Indians, and providing for the maximum participation of all interested Indian groups and individuals, which body is capable of legally cooperating with other public and private entities for the purpose of performing the activities described in section 503(a).

TITLE I—INDIAN HEALTH MANPOWER

PURPOSE

SEC. 101. The purpose of this title is to augment the inadequate number of health professionals serving Indians and remove the multiple barriers to the entrance of health professionals into the Service and private practice among Indians.

HEALTH PROFESSIONS RECRUITMENT PROGRAM FOR INDIANS

SEC. 102. (a) The Secretary acting through the Service, shall make grants to public or nonprofit private health or educational entities or Indian tribes or tribal organizations to assist such entities in meeting the costs of—

(1) identifying Indians with a potential for education or training in the health professions and encouraging and assisting them (A) to enroll in schools of medicine, osteopathy, dentistry, veterinary medicine, optometry, podiatry, pharmacy, public health, nursing, or allied health professions; or (B), if they are not qualified to enroll in any such school, to undertake such postsecondary education or training as may be required to qualify them for enrollment;

(2) publicizing existing sources of financial aid available to Indians enrolled in any school referred to in clause (1)(A) of this subsection or who are undertaking training necessary to qualify them to enroll in any such school; or

(3) establishing other programs which the Secretary determines will enhance and facilitate the enrollment of Indians, and the subsequent pursuit and completion by them of courses of study, in any school referred to in clause (1)(A) of this subsection.

(b)(1) No grant may be made under this section unless an application therefor has been submitted to, and approved by, the Secretary. Such application shall be in such form, submitted in such manner, and contain such information, as the Secretary shall by regulation prescribe.

(2) The amount of any grant under this section shall be determined by the Secretary. Payments pursuant to grants under this section may be made in advance or by way of reimbursement, and at such intervals and on such conditions as the Secretary finds necessary.

(c) For the purpose of making payments pursuant to grants under this section, there are authorized to be appropriated $900,000 for fiscal year 1977, $1,500,000 for fiscal year 1978, $1,800,000 for fiscal year 1979, $2,400,000 for fiscal year 1980, $2,700,000 for fiscal year 1981, $3,000,000 for fiscal year 1982, and $2,700,000 for fiscal year 1983.

HEALTH PROFESSIONS PREPARATORY SCHOLARSHIP PROGRAM FOR INDIANS

SEC. 103. (a) The Secretary, acting through the Service, shall make scholarship grants to Indians who—

(1) have successfully completed their high school education or high school equivalency; and

(2) have demonstrated the capability to successfully complete courses of study in schools of medicine, osteopathy, dentistry, veterinary medicine, optometry, podiatry, pharmacy, public health, nursing, or allied health professions.

(b) Each scholarship grant made under this section shall be for a period not to exceed two academic years, which years shall be for compensatory preprofessional education of any grantee.

(c) Scholarship grants made under this section may cover costs of tuition, books, transportation, board, and other necessary related expenses.

(d) There are authorized to be appropriated for the purpose of this section: $800,000 for fiscal year 1977, $1,000,000 for fiscal year 1978, $1,300,000 for fiscal year 1979, $1,400,000 for fiscal year 1980, $1,600,000 for fiscal year 1981, $1,900,000 for fiscal year 1982, and $2,000,000 for fiscal year 1983.

HEALTH PROFESSIONS SCHOLARSHIP PROGRAM

SEC. 104. (a) The Secretary, acting through the Service, shall make scholarship grants to individuals (i) who are enrolled in schools of medicine, osteopathy, dentistry, veterinary medicine, optometry, podiatry, pharmacy, public health, nursing, or allied health professions and (ii) who agree to provide their professional services to Indians after the completion of their professional training.

(b)(1) The Secretary, acting through the Service, (i) shall accord priority for scholarship grants under this section to applicants who are Indians, and (ii) may determine distribution of scholarship grants on the basis of the relative needs of Indians for additional service in specific health professions.

(2) Each scholarship grant under this section shall (i) fully cover the cost of tuition, and (ii), which taken together with the financial resources of the grantee, fully cover the costs of books, transportation, board, and other necessary related expenses: *Provided*, That the amount of grant funds available annually to each grantee under clause (ii) shall not exceed $8,000, except where the scholarship grant is extended to cover the period between academic years pursuant to paragraph (3) of this subsection.

(3) Scholarship grants under this section shall be made with respect to academic years, except that any such grant may be extended and increased for the period between academic years if the grantee is engaged in clinical or other practical experience related to his or her course of study and if further grant assistance during such period is required by the grantee because of his or her financial need.

(c)(1) As a condition for any scholarship grants under this section, each grantee shall be obligated to provide professional service to Indians for a period of years equal to the number of years during which he or she receives such grants.

(2) For the purpose of clause (1) of this subsection, "professional service to Indians" shall mean employment in the Service or in private practice where, in the judgment of the Secretary in accordance with guidelines promulgated by him, such practice is situated in a physician or other health professional shortage area and addresses the health care needs of a substantial number of Indians. Periods of internship or residency, except residency served in a facility of the Service, shall not constitute fulfillment of this service obligation.

(3) If any individual to whom the condition referred to in paragraph (1) of this subsection is applicable fails to comply with such condition for the full period, the United States shall be entitled to recover from such individual an amount equal to the amount produced by multiplying—

(A) the aggregate of (i) the amounts of the scholarship grant or grants (as the case may be) made to such individual under this section, and (ii) the sums of the interest which would be payable on each such scholarship grant if, at the time such grant was made, such grant were a loan bearing interest at a rate fixed by the Secretary of the Treasury, after taking into consideration private consumer rates of interest prevailing at the time such grant was made, and if the interest on each such grant had been compounded annually, by

(B) a fraction the numerator of which is the number obtained by subtracting from the number of months to which such condition is applicable a number equal to one-half of the number of months with respect to which compliance by such individual with such condition was made, and the denominator of which is a number equal to the number of months with respect to which such condition is applicable.

Any amount which the United States is entitled to recover under this paragraph shall, within the three-year period beginning on the date the United States becomes entitled to recover such amount, be paid to the United States. Until any amount due the United States under this paragraph on account of any grant under this section is paid, there shall accrue to the United States interest on such amount at the same rate as that fixed by the Secretary of the Treasury pursuant to clause (A) of this paragraph with respect to the grant on account of which such amount is due the United States.

(4)(A) A service obligation of any individual pursuant to this section shall be canceled upon the death of such individual.

(B) The Secretary shall by regulation provide for the waiver or suspension of a service obligation of any individual whenever compliance by such individual is impossible or would involve extreme hardship to such individual and if enforcement of such obligation with respect to any individual would be against equity and good conscience.

(D) Individuals receiving scholarship grants under this section shall not be counted against any employment ceiling affecting the Service or the Department of Health, Education, and Welfare.

(c) There are authorized to be appropriated for the purpose of this section $5,450,000 for fiscal year 1977, $6,300,000 for fiscal year 1978, $7,200,000 for fiscal year 1979, $9,900,000 for fiscal year 1980, $15,300,000 for fiscal year 1981, $21,600,000 for fiscal year 1982, $24,300,000 for fiscal year 1983, and, for each succeeding fiscal year, such sums as may be necessary to continue to make scholarship grants under this section to individuals who have received such grants prior to the end of fiscal year 1983 and who are eligible for such grants during each succeeding fiscal year.

INDIAN HEALTH SERVICE EXTERN PROGRAMS

Sec. 105. (a) Any individual who receives a scholarship grant pursuant to section 104 shall be entitled to employment in the Service during any nonacademic period of the year. Periods of employment pursuant to this subsection shall not be counted in determining the fulfillment of the service obligation incurred as a condition of the scholarship grant.

(b) Any individual enrolled in a school of medicine, osteopathy, dentistry, veterinary medicine, optometry, podiatry, pharmacy, public health, nursing, or allied health professions may be employed by the Service during any nonacademic period of the year. Any such employment shall not exceed one hundred and twenty days during any calendar year.

(c) Any employment pursuant to this section shall be made without regard to any competitive personnel system or agency personnel limitation and to a position which will enable the individual so employed to receive practical experience in the health profession in which he or she is engaged in study. Any individual so employed shall receive payment for his or her services comparable to the salary he or she would receive if he or she were employed in the competitive system. Any individual so employed shall not be counted against any employment ceiling affecting the Service or the Department of Health, Education, and Welfare.

(d) There are authorized to be appropriated for the purpose of this section: $600,000 for fiscal year 1977, $800,000 for fiscal year 1978, and $1,000,000 for fiscal year 1979, $1,400,000 for fiscal year 1980, $1,800,000 for fiscal year 1981, $2,100,000 for fiscal year 1982, and $2,300,000 for fiscal year 1983.

CONTINUING EDUCATION ALLOWANCES

Sec. 106. (a) In order to encourage physicians, dentists, and other health professionals to join or continue in the Service and to provide their services in the rural and remote areas where a significant portion of the Indian people resides, the Secretary, acting through the Service, may provide allowances to health professionals employed in the Service to enable them for a period of time each year prescribed by regulation of the Secretary to take leave of their duty stations for professional consultation and refresher training courses.

(b) There are authorized to be appropriated for the purpose of this section: $100,000 for fiscal year 1977, $200,000 for fiscal year 1978, and $250,000 for fiscal year 1979, $300,000 for fiscal year 1980, $350,000 for fiscal year 1981, $350,000 for fiscal year 1982, and $325,000 for fiscal year 1983.

Mr. MEEDS (during the reading). Mr. Chairman, I ask unanimous consent that sections 1 through 4 and title I be considered as read, printed in the Record, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Washington?

There was no objection.

INTERSTATE AND FOREIGN COMMERCE COMMITTEE AMENDMENTS

The CHAIRMAN. The Clerk will report the Interstate and Foreign Commerce Committee amendments.

The Clerk read as follows:

Amendments offered by Committee on Interstate and Foreign Commerce: Page 31, insert "and" after "1978," in line 11, and strike out ", $2,400,000 for" in that line and all that follows through line 14 and insert in lieu thereof a period and the following:

"For fiscal years 1980, 1981, 1982, and 1983 there are authorized to be appropriated for such payments such sums as may be specifically authorized by an Act enacted after this Act."

Page 32, insert "and" after "1978," in line 12, and strike out ", $1,400,000 for fiscal year" in line 13 and all that follows through line 15 and insert in lieu thereof a period and the following:

"For fiscal years 1980, 1981, 1982, and 1983 there are authorized to be appropriated for the purpose of this section such sums as may be specifically authorized by an Act enacted after this Act."

Page 32, strike out line 17 and all that follows through line 16 on page 36 and insert in lieu thereof the following:

Sec. 104. Section 225(i) of the Public Health Service Act (42 U.S.C. 234(i)) is amended (1) by inserting "(1)" after "(i)", and (2) by adding at the end the following:

"(2) (A) In addition to the sums authorized to be appropriated under paragraph (1) to carry out the Program, there are authorized to be appropriated for the fiscal year ending September 30, 1977, $5,450,000; for the fiscal year ending September 30, 1978, $6,300,000; for the fiscal year ending September 30, 1979, $7,200,000; and for fiscal years 1980, 1981, 1982, and 1983 such sums as may be specifically authorized by an Act enacted after the Indian Health Care Improvement Act, to provide scholarships under the Program to provide physicians, dentists, nurses, optometrists, podiatrists, pharmacists, public health personnel, and allied health professionals to provide services to Indians. Such scholarships shall be designated Indian Health Scholarships and shall be made in accordance with this section except as provided in subparagraph (B).

"(B) (i) In making Indian Health Scholarships the Secretary shall accord priority to applicants who are Indians and shall, in consultation with the Indian Health Service, determine the distribution of the scholarships on the basis of the relative needs of Indians for additional service in specific health professions.

"(ii) The active duty service obligation prescribed by subsection (e) shall be met by the recipient of an Indian Health Scholarship by service in the Indian Health Service, in a program assisted under title V of the Indian Health Care Improvement Act, or in the private practice of his profession if, as determined by the Secretary in accordance with guidelines promulgated by him, such practice is situated in a physician or other health professional shortage area and addresses the health care needs of a substantial number of Indians.

"(C) For purposes of this paragraph, the term 'Indian' has the same meaning given that term by section 4(c) of the Indian Health Care Improvement Act and includes individuals described in clauses (1) through (4) of this section.".

Page 37, insert "and" after "1978," in line 20, and beginning in line 21 strike out ", $1,400,000 for fiscal year 1980" and all that follows through line 23 and insert in lieu thereof a period and the following: "For fiscal years 1980, 1981, 1982, and 1983 there are authorized to be appropriated for the purpose of this section such sums as may be specifically authorized by an Act enacted after this Act."

Page 38, insert "and" after "1978," in line 14, and beginning in line 15 strike out ", $300,000 for fiscal year 1980" and all that follows through line 17 and insert in lieu thereof a period and the following:

"For fiscal years 1980, 1981, 1982, and 1983 there are authorized to be appropriated for the purpose of this section such sums as may be specifically authorized by an Act enacted after this Act."

Page 38, beginning in line 23, strike out "$390,925,000 through the Service, over a seven-fiscal-year period in accordance with the schedule provided in subsection (c)" and insert in lieu thereof ", through the Service, over the seven-fiscal-year period beginning after the date of the enactment of this Act the amounts authorized to be appropriated by subsection (c)."

Page 39, line 1, insert "for" after "section".

Page 39, line 3, insert "under other Federal laws" after "Service".

Page 39, beginning in line 6 strike out "in fiscal year 1976 required to continue the programs of the Service thereafter" and insert in lieu thereof "under this Act and such other Federal laws in the preceding fiscal year plus an amount equal to the amount required to cover pay increases and employee benefits for personnel employed under this Act and such laws and increases in the costs of serving the health needs of Indians under this Act and such laws, which increases are caused by inflation."

Page 39, beginning in line 17, strike out "and to the annual personnel levels required to continue the programs of the Service".

Page 39, line 25, insert "and" after "1978,".

Page 40, strike out ", $24,500,000" in line 1 and all that follows down through line 6 and insert in lieu thereof a period.

Page 40, line 10, insert "and" after "1978,".

Page 40, strike out ", $7,950,000" in line 11 and all that follows down through line 15 and insert in lieu thereof a period.

Page 40, line 18, insert "and" after "1978,".

Mr. ROGERS (during the reading). Mr. Chairman, I ask unanimous consent that the Interstate and Foreign Commerce Committee amendments to title I be considered as read, printed in the Record, and considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. ROGERS. Mr. Chairman, I will explain the amendments briefly.

The five committee amendments limit the specific authorizations for recruitment programs, preparatory scholarships, health professions scholarships, an extern program, and continuing education allowances for IHS health professionals to 3 fiscal years, fiscal year 1977–79, and provide that authorization levels for the next 4 fiscal years, fiscal year 1980–83, will be the amounts authorized by a subsequent act.

Additionally, a committee amendment deletes the provision in the Interior bill establishing a separate program of health professions scholarships in the Indian Health Service and instead adds a new section to the Public Health Service Act to establish Indian health scholarships, which will be made according to the provisions governing the National Health

Service Corps scholarship program, except that:

First, Indians will be given priority for receipt of the scholarships;

Second, the scholarships will be to provide physicians, dentists, nurses, optometrists, podiatrists, pharmacists, public health personnel and allied health personnel, with the allocation of scholarships among these fields determined by the relative needs of Indians for services from the specific health professions; and

Third, receipt of the scholarship will carry an obligation to serve in the Indian Health Service, in an urban Indian health project, or in private practice in a shortage area where the Secretary determines such practice serves a substantial number of Indians.

AMENDMENTS OFFERED BY MR. MEEDS TO THE INTERSTATE AND FOREIGN COMMERCE COMMITTEE AMENDMENTS

Mr. MEEDS. Mr. Chairman, I offer several amendments to the Interstate and Foreign Commerce Committee amendments, and I ask unanimous consent that they be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from Washington?

There was no objection.

The Clerk read as follows:

Amendments offered by Mr. MEEDS to the Interstate and Foreign Commerce Committee amendments:

On page 31, in section 102(c), strike the phrase "fiscal year 1977"; insert, in lieu thereof, the phrase "fiscal year 1978"; and renumber references to succeeding fiscal years accordingly.

On page 32, in section 103(d), strike the phrase "fiscal year 1977"; insert, in lieu thereof, the phrase "fiscal year 1978"; and renumber references to succeeding fiscal years accordingly.

On page 37, in paragraph (2)(A) of section 225(1) of the Public Health Service Act, as added by the proposed amendment of the Interstate and Foreign Commerce Committee to section 104 of H.R. 2525, strike the phrase "September 30, 1977"; insert, in lieu thereof, the phrase "September 30, 1978"; and renumber references to succeeding fiscal years accordingly.

On page 39, in section 105(d), strike the phrase "fiscal year 1977"; insert, in lieu thereof, the phrase "fiscal year 1978"; and renumber references to succeeding fiscal years accordingly.

On page 40, in section 106(b), strike the phrase "fiscal year 1977"; insert, in lieu thereof, the phrase "fiscal year 1978"; and renumber references to succeeding fiscal years accordingly.

Mr. MEEDS (during the reading). Mr. Chairman, I ask unanimous consent that the amendments to the Interstate and Foreign Commerce Committee amendments be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Washington?

There was no objection.

Mr. MEEDS. Mr. Chairman, the purpose of these amendments, all of them, is to conform technically to the situation which I described earlier of not having prepared this bill before the appropriations for fiscal year 1977 and therefore it is a push-back amendment for all of the sections in title V, pushing back to fiscal year 1978, which is all it does.

Mr. YOUNG of Alaska. Mr. Chairman, I rise in strong support of the amendments to the amendments and support the amendments of both committees.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Washington (Mr. MEEDS) to the Interstate and Foreign Commerce Committee amendments.

The amendments to the committee amendments were agreed to.

Mr. ROGERS. Mr. Chairman, I thought the chairman wanted to put the question on the other amendments first, but I can offer this additional amendment.

The CHAIRMAN. The Chair will state that the amendment to be offered by the gentleman from Florida to the committee amendment has to be offered now.

Mr. ROGERS. All right, I will offer it at this time.

AMENDMENT OFFERED BY MR. ROGERS TO THE COMMITTEE AMENDMENT

Mr. ROGERS. Mr. Chairman, I offer an amendment to the Interstate and Foreign Commerce Committee amendment.

The Clerk read as follows:

Amendment offered by Mr. ROGERS to the committee amendment:

Page 37, strike out lines 18 through 23 and insert in lieu thereof the following:

"(B)(1) The Secretary, acting through the Indian Health Service, shall determine the individuals who receive the Indian Health Scholarships, shall accord priority to applicants who are Indians, and shall determine the distribution of the scholarships on the basis of the relative needs of Indians for additional service in specific health professions."

Mr. ROGERS (during the reading). Mr. Chaiman, I ask unanimous consent that the amendment to the committee amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. ROGERS. Mr. Chairman, the amendment I am offering is the one to which I alluded in my earlier remarks.

The amendment would make explicit that the Secretary shall act through the Indian health service in making the determination of who will receive the Indian health scholarships, and in determining the distribution of the scholarships among the various health professions. It retains the original requirements that preference be accorded to Indians in the award of the scholarships, and that the relative needs of Indians for additional service in the specific health professions will be used to determine the distribution of the scholarships.

The Commerce Committee amendments had required consultation with the Indian Health Service on these issues. Since the Committee acted, I have become aware, however, that members of the Senate Committee on Interior and Insular Affairs are concerned that this provision is not strong enough to assure that the views of the Indian Health Service will be the primary determinant of the recipients and distribution of the Scholarships. They have requested the relatively modest change in language that I am proposing in my amendment in order to make the House version of the Indian Health Care Improvement Act acceptable to them.

I would assure Members that this change will not undercut the original purpose of the Commerce Committee amendment. The Indian health scholarships will still be established as part of the program of Public Health and National Service Corps scholarships. The provisions of the Indian Health Scholarships—in terms of amounts paid, expenses covered, and so on, would be the same as the Health Service Corps scholarships. And the day-to-day administration of the Indian health scholarships and all other scholarships under section 225 of the Public Health Service Act will be consolidated. We retain, I believe, the advantages of the Commerce Committee change, but simply assure directly that the Indian Health Service will make the determinations on the basic questions of who gets the scholarships and for training in what health care field.

I am hopeful that adoption of this amendment will make rapid Senate approval of the House bill possible so that we can send this important piece of legislation on to the President before the August recess.

Mr. MEEDS. Mr. Chairman, will the gentleman yield?

Mr. ROGERS. I yield to the gentleman from Washington.

Mr. MEEDS. Mr. Chairman, I rise in support of the amendment and ask that it be adopted.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Florida (Mr. ROGERS) to the committee amendment.

Mr. MEEDS. Mr. Chairman, is the Chair putting the question on the entire title, as amended?

The CHAIRMAN. The question will only be on the committee amendment of the Interstate and Foreign Commerce Committee, as amended.

The amendment to the committee amendment was agreed to.

Mr. MEEDS. Mr. Chairman, I offer a further amendment.

The CHAIRMAN. The Chair advises that the gentleman's amendment is to the title and not to the amendment.

The question is on the Interstate and Foreign Commerce Committee amendments, as amended.

The committee amendments, as amended, were agreed to.

AMENDMENT TO THE COMMITTEE AMENDMENT OFFERED BY MR. MEEDS

Mr. MEEDS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MEEDS: On page 31, in line 2, strike the period at the end of the sentence, insert a semi-colon and the following:

"*Provided*, That the Secretary shall give a preference to applications submitted by Indian tribes or tribal organizations."

Mr. MEEDS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to

the request of the gentleman from Washington?

There was no objection.

Mr. MEEDS. Mr. Chairman, this amendment simply carries forward the policy of Indian self-determination and involvement in their own programs.

In addition, Indian tribes and organizations would have a better understanding and more rapport with Indian students and others in the recruitment program in which they would be serving.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Washington (Mr. Meeds).

The amendment was agreed to.

The CHAIRMAN. Are there further amendments to title I? If not, the Clerk will read title II.

The Clerk read as follows:

TITLE II—HEALTH SERVICES

HEALTH SERVICES

Sec. 201. (a) For the purpose of eliminating backlogs in Indian health care services and to supply known, unmet medical, surgical, dental, optometrical, and other Indian health needs, the Secretary is authorized to expend $390,925,000 through the Service, over a seven fiscal year period in accordance with the schedule provided in subsection (c). Funds appropriated pursuant to this section for each fiscal year shall not be used to offset or limit the appropriations required by the Service to continue to serve the health needs of Indians during and subsequent to such seven-fiscal-year period, but shall be in addition to the level of appropriations provided to the Service in fiscal year 1976 required to continue the programs of the Service thereafter.

(b) The Secretary, acting through the Service, is authorized to employ persons to implement the provisions of this section during the seven-fiscal-year period in accordance with the schedule provided in subsection (c). Such positions authorized each fiscal year pursuant to this section shall not be considered as offsetting or limiting the personnel required by the Service to serve the health needs of Indians during and subsequent to such seven-fiscal-year period but shall be in addition to the positions authorized in the previous fiscal year and to the annual personnel levels required to continue the programs of the Service.

(c) The following amounts and positions are authorized, in accordance with the provisions of subsections (a) and (b), for the specific purposes noted:

(1) Patient care (direct and indirect): sums as provided in subsection (e) for fiscal year 1977, $8,500,000 and two hundred and twenty-five positions for fiscal year 1978, $16,200,000 and three hundred positions for fiscal year 1979, $24,500,000 and three hundred and twenty positions for fiscal year 1980, $33,900,000 and three hundred and sixty positions for fiscal year 1981, $43,800,000 and three hundred and seventy-five positions for fiscal year 1982, and $55,500,000 and four hundred and fifty positions for fiscal year 1983.

(2) Field health, excluding dental care (direct and indirect): sums as provided in subsection (e) for fiscal year 1977, $3,350,000 and eighty-five positions for fiscal year 1978, $5,550,000 and one hundred and thirteen positions for fiscal year 1979, $7,950,000 and sixty-five positions for fiscal year 1980, $11,550,000 and eighty-five positions for fiscal year 1981, $15,050,000 and eighty positions for fiscal year 1982, and $18,550,000 and ninety positions for fiscal year 1983.

(3) Dental care (direct and indirect): sums as provided in subsection (e) for fiscal year 1977, $1,500,000 and eighty positions for fiscal year 1978, $1,500,000 and fifty positions for fiscal year 1979, $2,500,000 and fifty positions for fiscal year 1980, $2,900,000 and forty positions for fiscal year 1981, $3,200,000 and thirty positions for fiscal year 1982, and $3,500,000 and twenty-five positions for fiscal year 1983.

(4) Mental health: (A) Community mental health, sums as provided in subsection (e) for fiscal year 1977, $1,300,000 and thirty positions for fiscal year 1978, $2,000,000 and thirty positions for fiscal year 1979, $2,600,000 and twenty-five positions for fiscal year 1980, $3,100,000 and twenty positions for fiscal year 1981, $3,400,000 and ten positions for fiscal year 1982, and $3,700,000 and fifteen positions for fiscal year 1983.

(B) Inpatient mental health services: sums as provided in subsection (e) for fiscal year 1977, $400,000 and fifteen positions for fiscal year 1978, $600,000 and fifteen positions for fiscal 1979, $800,000 and fifteen positions for fiscal year 1980, $1,000,000 and fifteen positions for fiscal year 1981, $1,300,000 and twenty positions for fiscal year 1982, and $1,600,000 and twenty-five positions for fiscal year 1983.

(C) Model dormitory mental health services: sums as provided in subsection (e) for fiscal year 1977, $1,250,000 and fifty positions for fiscal year 1978, $1,875,000 and fifty positions for fiscal year 1979, and $2,500,000 and fifty positions for fiscal year 1980.

(D) Therapeutic and residential treatment centers: sums as provided in subsection (e) for fiscal year 1977, $300,000 and ten positions for fiscal year 1978, $400,000 and five positions for fiscal year 1979, $500,000 and five positions for fiscal year 1980, $600,000 and ten positions for fiscal year 1981, $700,000 and five positions for fiscal year 1982, and $800,000 and five positions for fiscal year 1983.

(E) Training of traditional Indian practitioners in mental health: sums as provided in subsection (e) for fiscal year 1977, $150,000 for fiscal year 1978, $200,000 for fiscal year 1979, $250,000 for fiscal year 1980, $300,000 for fiscal year 1981, $800,000 for fiscal year 1982, and $300,000 for fiscal year 1983.

(5) Treatment and control of alcoholism among Indians: $4,000,000 for fiscal year 1978, $9,000,000 for fiscal year 1979, $9,200,000 for fiscal year 1980, $16,000,000 for fiscal year 1981, $18,000,000 for fiscal year 1982, and $20,000,000 for fiscal year 1983.

(6) Maintenance and repair (direct and indirect): sums as provided in subsection (e) for fiscal year 1977, $3,000,000 and twenty positions for fiscal year 1978, and $4,000,000 and thirty positions for fiscal year 1979, $4,000,000 and thirty positions for fiscal year 1980, $4,000,000 and thirty positions for fiscal year 1981, $2,000,000 and fifteen positions for fiscal year 1982, and $1,000,000 and five positions for fiscal year 1983.

(d) The Secretary, acting through the Service, shall expend directly or by contract not less than 1 per centum of the funds appropriated under the authorizations in each of the clauses (1) through (5) of subsection (c) for research in each of the areas of Indian health care for which such funds are authorized to be appropriated.

(e) For fiscal year 1977, the Secretary is authorized to apportion not to exceed $5,000,000 total and such positions as he deems necessary and appropriate for the programs enumerated in title II of this Act.

Mr. MEEDS (during the reading). Mr. Chairman, I ask unanimous consent that title II be considered as read, printed in the Record and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Washington?

There was no objection.

INTERSTATE AND FOREIGN COMMERCE COMMITTEE AMENDMENT

The CHAIRMAN. The Clerk will report the Interstate and Foreign Commerce Committee amendments.

The Clerk read as follows:

Interstate and Foreign Commerce Committee amendments: Page 40, strike out ", $2,500,000" in line 19 and all that follows down through line 23 and insert in lieu thereof a period.

Page 41, line 1, insert "and" after "1978,".

Page 41, strike out the comma at the end of line 2 and insert in lieu thereof a period, and strike out lines 3 through 7.

Page 41, line 10, insert "and" after "1978,".

Page 41, strike out ", $800,000" in line 11 and all that follows down through line 15 and insert in lieu thereof a period.

Page 41, line 18, insert "and" after "1978,".

Page 41, strike out ", and" in line 19 and all that follows down through line 20 and insert in lieu thereof a period.

Page 41, line 23, insert "and" after "1978,".

Page 41, strike out ", $500,000" in line 24 and all that follows down through line 3 on page 42 and insert in lieu thereof a period.

Page 42, line 6, insert "and" after "1978,".

Page 42, strike out ", $250,000" in line 7 and all that follows down through line 9 and insert in lieu thereof a period.

Page 42, line 11, insert "and" after "1978,".

Page 42, strike out ", $9,200,000" in line 12 and all that follows down through line 14 and insert in lieu thereof a period.

Page 42, line 17, insert "and" after "1978,".

Page 42, strike out the comma at the end of line 18 and insert in lieu thereof a period, and strike out lines 19 through 22.

Page 42, insert after line 22 the following:

"(7) For fiscal years 1980, 1981 1982, and 1983 there are authorized to be appropriated for the items referred to in the preceding paragraphs such sums as may be specifically authorized by an Act enacted after this Act. For such fiscal years, positions are authorized for such items (other than the items referred to in paragraphs (4)(E) and (5)) as may be specified in an Act enacted after the date of the enactment of this Act."

Page 43, strike out lines 10 through 15 and insert in lieu thereof the following:

"Sec. 301. (a) The Secretary, acting through the Service, is authorized to expend over the seven-fiscal-year period beginning after the date of the enactment of this Act the sums authorized by subsection (b) for the construction and renovation of hospitals, health centers, health stations, and other facilities of the Service.

"(b) The following amounts are authorized to be appropriated for purposes of subsection (a):"

Page 43, line 16, strike out "$123,880,000" and insert in lieu thereof "$67,180,000".

Page 43, line 17, strike out "$55,171,000" and insert in lieu thereof "$73,256,000".

Page 43, line 17, insert "and" after "1978,".

Page 43, line 17, strike out "$24,703,000" and insert in lieu thereof "$49,742,000".

Page 43, strike out ", $70,810,000" in line 18 and all that follows down through line 20 and insert in lieu thereof a period and the following:

"For fiscal years 1980, 1981, 1982, and 1983, there are authorized to be appropriated for hospitals such sums as may be specifically authorized by an Act enacted after this Act."

Page 43, line 22, insert "and" after "1978,".

Page 43, strike out ", $4,440,000" in line 23 and all that follows down through line 2 on page 44 and insert in lieu thereof a period and the following:

"For fiscal years 1980, 1981, 1982, and 1983, there are authorized to be appropriated for health centers and health stations such sums as may be specifically authorized by an Act enacted after this Act."

Page 44, line 4, insert "and" after "1978,".

Page 44, strike out ", $4,695,000" in line 5 and all that follows down through line 7 and insert in lieu thereof a period and the following:

"For fiscal years 1980, 1981, 1982, and 1983, there are authorized to be appropriated for staff housing such sums as may be specifically authorized by an Act enacted after this Act."

Page 44, strike out lines 8 through 11.

Page 44, line 22, strike out "five years" and insert in lieu thereof "one year".

Page 45, strike out lines 3 through 9 and insert in lieu thereof the following:

"Sec. 302. (a) During the seven-fiscal-year period beginning after the date of the enactment of this Act, the Secretary is authorized to expend under section 7 of the Act of August 5, 1954 (42 U.S.C. 2004a), the sums autnorized under subsection (b) to supply unmet needs for safe water and sanitary waste disposal facilities in existing and new Indian homes and communities."

Page 45, strike out lines 10 through 14 and insert in lieu thereof the following:

"(b) For expenditures of the Secretary authorized subsection (a) for facilities in existing Indian homes and communities there are authorized to be appropriated $43,000,000 for fiscal year 1977, $30,000,000 for fiscal year 1978, and $30,000,000 for fiscal year 1979. For expenditures of the Secretary authorized by subsection (a) for facilities in new Indian homes and communities there are authorized to be appropriated such sums as may be necessary for fiscal years 1977, 1978, and 1979. For fiscal years 1980, 1981, 1982, and 1983 for expenditures authorized by subsection (a) there are authorized to be appropriated such sums as may be specifically authorized in an Act enacted after this Act."

Page 45, strike out lines 15 through 21 and insert in lieu thereof the following:

"(c) Former and currently"

Mr. ROGERS (during the reading). Mr. Chairman, I ask unanimous consent that the Interstate and Foreign Commerce Committee amendments be considered as read, printed in the Record, and considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. ROGERS. Mr. Chairman, these are the amendments I discussed previously, simply going to the allocation of funds for 3 years.

AMENDMENTS OFFERED BY MR. MEEDS TO THE INTERSTATE AND FOREIGN COMMERCE COMMITTEE AMENDMENTS

Mr. MEEDS. Mr. Chairman, I offer several amendments to the Interstate and Foreign Commerce Committee amendments in title II.

The Clerk read as follows:

Amendments to the Interstate and Foreign Commerce Committee amendments offered by Mr. Meeds: On pages 42 through 45, in section 201(c), strike the phrase "fiscal year 1977" where it appears in paragraphs (1), (2), (3), (4)(A), (4)(B), (4)(C), (4)(D), (4)(E), and 6; insert, in lieu thereof, the phrase "fiscal year 1978"; and renumber references to succeeding fiscal years accordingly.

On page 44, in section 201(c), strike all of paragraph (5) and insert, in lieu thereof, the following:

"(5) Treatment and control of alcoholism among Indians: $4,000,000 for fiscal year 1978, $9,000,000 for fiscal year 1979, and $9,200,000 for fiscal year 1980."

On page 45, in section 201(c), strike the phrase "fiscal years 1980, 1981, 1982, and 1983" where it appears in paragraph (7) and insert, in lieu thereof, the phrase "fiscal years 1981, 1982, 1983, and 1984".

On page 45, in section 201(e), strike the phrase "fiscal year 1977" and insert, in lieu thereof, the phrase "fiscal year 1978".

Mr. MEEDS (during the reading). Mr. Chairman, I ask unanimous consent that amendments 7 through 10 to the Interstate and Foreign Commerce Committee amendments be considered as read, printed in the Record, and considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from Washington?

There was no objection.

Mr. MEEDS. Mr. Chairman, the purpose of these amendments is identical to the purpose in title I, which I stated earlier, and pushes back the funding 1 year.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Washington (Mr. Meeds) to the Interstate and Foreign Commerce Committee amendments.

The amendments to the Interstate and Foreign Commerce Committee amendments were agreed to.

The CHAIRMAN. The question is on the Interstate and Foreign Commerce Committee amendments, as amended.

The Interstate and Foreign Commerce Committee amendments, as amended, were agreed to.

The CHAIRMAN. Are there further amendments to title II?

If not, the Clerk will read title III.

The Clerk read as follows:

TITLE III—HEALTH FACILITIES

CONSTRUCTION AND RENOVATION OF SERVICE FACILITIES

Sec. 301. (a) For the purpose of eliminating inadequate, outdated, and otherwise unsatisfactory Service hospitals, health centers, health stations, and other Service facilities, the Secretary, acting through the Service is authorized to expend $466,306,000 over a seven fiscal year period in accordance with the following schedules:

(1) Hospitals: $123,880,000 for fiscal year 1977, $55,171,000 for fiscal year 1978, and $24,703,000 for fiscal year 1979, $70,810,000 for fiscal year 1980, $45,652,000 for fiscal year 1981, $29,675,000 for fiscal year 1982, and $33,779,000 for fiscal year 1983.

(2) Health centers and health stations: $6,960,000 for fiscal year 1977, $6,226,000 for fiscal year 1978, $3,720,000 for fiscal year 1979, $4,440,000 for fiscal year 1980, $2,335,000 for fiscal year 1981, $1,760,000 for fiscal year 1982, and $2,360,000 for fiscal year 1983.

(3) Staff housing: $1,242,000 for fiscal year 1977, $21,725,000 for fiscal year 1978, $4,116,000 fiscal year 1979, $4,695,000 for fiscal year 1980, $10,070,000 for fiscal year 1981, $6,135,000 for fiscal year 1982, and $6,852,000 for fiscal year 1983.

(b) The Secretary, acting through the Service, is authorized to equip and staff such Service facilities at levels commensurate with the operation at optimum levels of effectiveness.

(c) Prior to the expenditure of, or the making of any firm commitment to expend, any funds authorized in subsection (a), the Secretary, acting through the Service, shall—

(1) consult with any Indian tribe to be significantly affected by any such expenditure for the purpose of determining and, wherever practicable, honoring tribal preferences concerning the size, location, type, and other characteristics of any facility on which such expenditure is to be made; and

(2) be assured that, wherever practicable, such facility, not later than five years after its construction or renovation, shall meet the standards of the Joint Committee on Accreditation of Hospitals.

CONSTRUCTION OF SAFE WATER AND SANITARY WASTE DISPOSAL FACILITIES

Sec. 302. (a) The Secretary is authorized to expend, pursuant to the Act of July 31, 1959 (73 Stat. 267), $153,000,000 within a seven fiscal year period following the enactment of this Act, in accordance with the schedule provided in subsection (b), to supply unmet needs for safe water and sanitary waste disposal facilities in existing and new Indian homes and communities.

(b) To effect the purpose of subsection (a), there are authorized to be appropriated: $43,000,000 for fiscal year 1977, $30,000,000 for fiscal year 1978, $30,000,000 for fiscal year 1979, $30,000,000 for fiscal year 1980, and $20,000,000 for fiscal year 1981.

(c) The Secretary is authorized and directed to develop a plan, together with the Secretaries of the Interior and of Housing and Urban Development and upon consultation with Indian tribes, to assure that the schedule provided for in subsection (b) will be met. Such plan shall be submitted to the Congress no later than ninety days from the date of enactment of this Act: *Provided*, That former and currently federally recognized Indian tribes in the State of New York shall be eligible for assistance under this section.

PREFERENCE TO INDIANS AND INDIAN FIRMS

Sec. 303. (a) The Secretary, acting through the Service, may utilize the negotiating authority of the Act of June 25, 1910 (36 Stat. 861), to give preference to any Indian or any enterprise, partnership, corporation, or other type of business organization owned and controlled by an Indian or Indians including former or currently federally recognized Indian tribes in the State of New York (hereinafter referred to as an "Indian firm") in the construction and renovation of Service facilities pursuant to section 301 and in the construction of safe water and sanitary waste disposal facilities pursuant to section 302. Such preference may be accorded by the Secretary unless he finds, pursuant to rules and regulations promulgated by him, that the project or function to be contracted for will not be satisfactory or such project or function cannot be properly completed or maintained under the proposed contract. The Secretary, in arriving at his finding, shall consider whether the Indian or Indian firm will be deficient with respect to (1) ownership and control by Indians, (2) equipment, (3) bookkeeping and accounting procedures, (4) substantive knowledge of the project or function to be contracted for, (5) adequately trained personnel, or (6) other necessary components of contract performance.

(b) For the purpose of implementing the provisions of this title, the Secrtary shall assure that the rates of pay for personnel engaged in the construction or renovation of facilities constructed or renovated in whole or in part by funds made available pursuant to this title are not less than the prevailing local wage rates for similar work as determined in accordance with the Act of March 3, 1921 (46 Stat. 1491), as amended.

SOBOBA SANITATION FACILITIES

Sec. 304. The Act of December 17, 1970 (84 Stat. 1465), is hereby amended by adding the following new section 9 at the end thereof:

"Sec. 9. Nothing in this Act shall preclude the Soboba Band of Mission Indians and the Soboba Indian Reservation from being provided with sanitation facilities and services under the authority of section 7 of the Act of August 5, 1954, as amended by the Act of July 31, 1959 (73 Stat. 267).".

Mr. MEEDS (during the reading). Mr. Chairman, I ask unanimous consent that title III be considered as read, printed in the Record, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Washington?

There was no objection.

INTERSTATE AND FOREIGN COMMERCE COMMITTEE AMENDMENTS

The CHAIRMAN. The Clerk will report the Interstate and Foreign Commerce Committee amendments to title III.

The Clerk read as follows:

Interstate and Foreign Commerce Committee amendments: Page 46, line 4, strike out "(36 Stat. 861)" and insert in lieu thereof "(25 U.S.C. 47)".

Page 47, beginning in line 5, strike out "the Act of March 3, 1921 (46 Stat. 1491), as amended" and insert in lieu thereof the following: "the Act of March 3, 1931 (40 U.S.C. 276a–276a-5, known as the Davis-Bacon Act)".

Page 49, strike out lines 2 through 9 and insert in lieu thereof the following:

SEC. 402. (a) Title XIX of the Social Security Act is amended by adding at the end thereof the following new section:

"INDIAN HEALTH SERVICE FACILITIES

"SEC. 1911. (a) A facility of the Indian Health Service (including a hospital, intermediate care facility, or skilled nursing facility), whether operated by such Service or by an Indian tribe or tribal organization (as those terms are defined in section 4 of the Indian Health Care Improvement Act), shall be eligible for reimbursement for medical assistance provided under a State plan if and for so long as it meets all of the conditions and requirements which are applicable generally to such facilities under this title.

"(b) Notwithstanding subsection (a), a facility of the Indian Health Service (including a hospital, intermediate care facility, or skilled nursing facility) which does not meet all of the conditions and requirements of this title which are applicable generally to such facility, but which submits to the Secretary within 6 months after the date of the enactment of this section an acceptable plan for achieving compliance with such conditions and requirements, shall be deemed to meet such conditions and requirements (and to be eligible for reimbursement under this title), without regard to the extent of its actual compliance with such conditions and requirements, during the first 12 months after the month in which such plan is submitted."

Page 49, line 13, strike out "beneficiaries" and insert in lieu thereof "eligible for medical assistance".

Page 49, strike out line 15 and all that follows through line 5 on page 50 and insert in lieu thereof the following:

"(c) Notwithstanding any other provision of law, payments to which any facility of the Indian Health Service (including a hospital, intermediate care facility, or skilled nursing facility) is entitled under a State plan approved under title XIX of the Social Security Act by reason of section 1911 of such Act shall be placed in a special fund to be held by the Secretary and used by him (to such extent or in such amounts as are provided in appropriation Acts) exclusively for the purpose of making any improvements in the facilities of such Service which may be necessary to achieve compliance with the applicable conditions and requirements of such title. The preceding sentence shall cease to apply when the Secretary determines and certifies that substantially all of the health facilities of such Service in the United States are in compliance with such conditions and requirements."

Page 50, strike out lines 10 through 24 and insert in lieu thereof the following:

"(e) Section 1905(b) of the Social Security Act is amended by inserting at the end thereof the following: "Notwithstanding the first sentence of this subsection, the Federal medical assistance percentage shall be 100 per centum with respect to amounts expended as medical assistance for services which are received through an Indian Service facility whether operated by an Indian Health Service or by an Indian tribe or tribal organization (as defined in section 4 of the Indian Health Care Improvement Act).".'

Mr. ROGERS (during the reading). Mr. Chairman, I ask unanimous consent that the Interstate and Foreign Commerce Committee amendments to title III be considered as read, printed in the RECORD, and considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. ROGERS. Mr. Chairman, the first committee amendment changes the authorization for funds for the construction and renovation of hospital to: $67,180,000 for fiscal year 1977, $73,256,000 for fiscal year 1978, and $49,742,000 for fiscal year 1979—amounts which more closely reflect what can realistically be used. It limits the specific authorization for construction and renovation of health centers and health stations, and staff housing, to 3 fiscal years, fiscal years 1977–79. It provides that authorization levels for the next 4 fiscal years, fiscal years 1980–83, for construction and renovation of hospitals, health centers, health stations and staff housing, will be the amounts authorized by a subsequent act. The amendment also provides that funds only be expended for facilities which, wherever practicable, will meet the Joint Commission on Accreditation standards within 1 year.

The second committee amendment clarifies that the authorizations for fiscal years 1977–79 for construction of safe water and sanitary waste disposal facilities are for existing housing and provides general authorization for fiscal years 1977–79 for construction of similar facilities for new housing. It provides that authorization levels for the next 4 fiscal years, fiscal years 1980–83, will be the amounts authorized by a subsequent act.

The third committee amendment is technical.

AMENDMENTS OFFERED BY MR. MEEDS TO THE INTERSTATE AND FOREIGN COMMERCE COMMITTEE AMENDMENTS

Mr. MEEDS. Mr. Chairman, I offer several amendments to the Interstate and Foreign Commerce Committee amendments in title III.

The Clerk read as follows:

Amendments offered by Mr. MEEDS to the Interstate and Foreign Commerce Committee amendments: On page 46 and 47, in section 301(b), strike the phrase "fiscal year 1977" where it appears in paragraphs (1), (2), and (3); insert, in lieu thereof, the phrase "fiscal year 1978"; and renumber references to succeeding fiscal years accordingly.

On page 49, in section 302(b), strike the phrase "fiscal year 1977" both times that it appears; insert, in lieu thereof, the phrase "fiscal year 1978"; and renumber references to succeeding fiscal years accordingly.

On page 47 of H.R. 2525, in line 19, change the subsection designation from "(b)" to "(c)" and, in line 23, change the subsection designation from "(c)" to "(d)".

Mr. MEEDS (during the reading). Mr. Chairman, I ask unanimous consent that the amendments to the committee amendments be considered as read, printed in the RECORD, and considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from Washington?

There was no objection.

Mr. MEEDS. Mr. Chairman, again these are the push-back amendments, with one further amendment which is a purely technical amendment. It changes or corrects a subsection designation from (b) to (c), and changes another subsection designation from (c) to (d).

The CHAIRMAN. The question is on the amendments offered by the gentleman from Washington (Mr. MEEDS) to the Interstate and Foreign Commerce Committee amendments.

The amendments to the Interstate and Foreign Commerce Committee amendments were agreed to.

The CHAIRMAN. The question is on the Interstate and Foreign Commerce Committee amendments, as amended.

The Interstate and Foreign Commerce Committee amendments as amended, were agreed to.

The CHAIRMAN. Are there further amendments to title III? If not, the Clerk will report title IV.

The Clerk read as follows:

TITLE IV—ACCESS TO HEALTH SERVICES

SERVICES PROVIDED TO MEDICARE ELIGIBLE INDIANS

SEC. 401. (a) Notwithstanding any other provision of law, for purpose of title XVIII of the Social Security Act, as amended, a Service facility (including a hospital or skilled nursing facility), whether operated by the Service or by any Indian tribe or tribal organization, shall hereby be deemed to be a facility eligible for reimbursement under said title XVIII: *Provided*, That the requirements of subsection (b) are met.

(b) Prior to the provision of any care or service for which reimbursement may be made, the Secretary shall certify that the facility meets the standards applicable to other hospitals and skilled nursing facilities eligible for reimbursement under title XVIII of the Social Security Act, as amended, or, in the case of any facility existing at the time of enactment of this Act, that the Service has provided an acceptable written plan for bringing the facility into full compliance with such standards within two years from the date of acceptance of the plan by the Secretary. The Service facilities shall not be required to be licensed by any State or locality in which they are located: *Provided, however*, That the Secretary shall include in his certifications appropriate assurances that such facilities will meet standards equivalent to licensure requirements.

(c) Any payments received for services provided to beneficiaries hereunder shall not be considered in determining appropriations for health care and services to Indians.

(d) Nothing herein authorizes the Secretary to provide services to an Indian beneficiary with coverage under title XVIII of the Social Security Act, as amended, in preference to an Indian beneficiary without coverage.

SERVICES PROVIDED TO MEDICAID ELIGIBLE INDIANS

SEC. 402. (a) Notwithstanding any other provision of law, for the purpose of title XIX of the Social Security Act, as amended, a Service facility (including a hospital, skilled nursing facility, or intermediate care facility), whether operated by the Service or by an Indian tribe or tribal organization, shall hereby be deemed to be a facility eligible for reimbursement under said title XIX: *Provided*, That the requirements of subsection (e) are met.

(b) The Secretary is authorized to enter into agreements with the appropriate State agency for the purpose of reimbursing such agency for health care and services provided in Service facilities to Indians who are beneficiaries under title XIX of the Social Security Act, as amended.

(c) Prior to the provision of any care or service for which reimbursement may be made, the Secretary shall certify that the facility meets the standards applicable to other hospitals, skilled nursing facilities, and intermediate care facilities eligible for reimbursement under title XIX of the Social Security Act, as amended, or, in the case of any facility existing at the time of enactment of this Act, that the Service has provided an acceptable written plan for bringing the facility into full compliance with such standards within two years from the date of acceptance of the plan by the Secretary. The Service facilities shall not be required to be licensed by any State or locality in which they are located: *Provided, however,* That the Secretary shall include in his certifications appropriate assurances that such facilities will meet standards equivalent to licensure requirements.

(d) Any payments received for services provided recipients hereunder shall not be considered in determining appropriations for the provision of health care and services to Indians.

(e) Notwithstanding any other provision of law, with respect to amounts expended during any quarter as medical assistance under title XIX of the Social Security Act, as amended, for services which are included in the State plan and are received through a Service facility, whether operated by the Service or by an Indian tribe or tribal organization, to individuals who are (i) eligible under the plan of the State under said title XIX and (ii) eligible for comprehensive health services under the Service program, the Federal medical assistance percentage under said title XIX shall be increased to 100 per centum.

(f) Nothing in this section shall authorize the Secretary to provide services to an Indian beneficiary with coverage under title XIX of the Social Security Act, as amended, in preference to an Indian beneficiary without such coverage.

REPORT

SEC. 403. The Secretary shall include in his annual report required by subsection (a) of section 701 an accounting on the amount and use of funds made available to the Service pursuant to this title as a result of reimbursements through title XVIII and XIX of the Social Security Act,

Mr. MEEDS (during the reading). Mr. Chairman, I ask unanimous consent that title IV be considered as read, printed in the RECORD, and open to amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Washington?

There was no objection.

WAYS AND MEANS COMMITTEE AMENDMENT

The CHAIRMAN. The Clerk will report the Ways and Means Committee amendment.

The Clerk read as follows:

Ways and Means Committee amendment: Strike out line 18 on page 47 and all that follows down through line 17 on page 48, and insert in lieu thereof the following:

ELIGIBILITY OF INDIAN HEALTH SERVICE FACILITIES UNDER MEDCARE PROGRAM

SEC. 401. (a) Sections 1814(c) and 1835(d) of the Social Security Act are each amended by striking out "No payment" and inserting in lieu thereof "Subject to section 1880, no payment".

(b) Part C of title XVIII of such Act is amended by adding at the end thereof the following new section:

"INDIAN HEALTH SERVICE FACILITIES

"SEC. 1880. (a) A hospital or skilled nursing facility of the Indian Health Service, whether operated by such Service or by an Indian tribe or tribal organization (as those terms are defined in section 4 of the Indian Health Care Improvement Act, shall be eligible for payments under this title, notwithstanding sections 1814(c) and 1835(d), if and for so long as it meets all of the conditions and requirements for such payments which are applicable generally to hospitals or skilled nursing facilities (as the case may be) under this title.

"(b) Notwithstanding subsection (a), a hospital or skilled nursing facility of the Indian Health Service which does not meet all of the conditions and requirements of this title which are applicable generally to hospitals or skilled nursing facilities (as the case may be), but which submits to the Secretary within 6 months after the date of the enactment of this section an acceptable plan for achieving compliance with such conditions and requirements, shall be deemed to meet such conditions and requirements (and to be eligible for payments under this title), without regard to the extent of its actual compliance with such conditions and requirements, during the first 12 months after the month in which such plan is submitted.

"(c) Notwithstanding any other provision of this title, payments to which any hospital or skilled nursing facility of the Indian Health Service is entitled by reason of this section shall be placed in a special fund to be held by the Secretary and used by him (to such extent or in such amounts as are provided in appropriation Acts) exclusively for the purpose of making any improvements in the hospitals and skilled nursing facilities of such Service which may be necessary to achieve compliance with the applicable conditions and requirements of this title. The preceding sentence shall cease to apply when the Secretary determines and certifies that substantially all of the hospitals and skilled nursing facilities of such Service in the United States are in compliance with such conditions and requirements.

"(d) The annual report of the Secretary which is required by section 701(a) of the Indian Health Care Improvement Act shall include (along with the matters specified in section 403 of such Act) a detailed statement of the status of the hospitals and skilled nursing facilities of the Service in terms of their compliance with the applicable conditions and requirements of this title and of the progress being made by such hospitals and facilities (under plans submitted under subsection (b) and otherwise) toward the achievements of such compliance."

Mr. ROSTENKOWSKI (during the reading). Mr. Chairman, I ask unanimous consent that the Ways and Means Committee amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. ROSTENKOWSKI. Mr. Chairman, the amendment recommended by the Committee on Ways and Means relates only to subsections (a) and (b) of section 401 of H.R. 2525. Its only purpose is to assure the high quality of the services which, under the bill, would be covered by the medicare program in facilities of the Indian Health Service, and to assure that the funds provided through medicare reimbursement are used to assist these facilities in fully meeting medicare's quality standards. I understand that the amendment is fully acceptable to the gentleman from Washington (Mr. MEEDS), the chairman of the Subcommittee on Indian Affairs of the Committee on Interior and Insular Affairs. I urge adoption of the Ways and Means Committee amendment.

Mr. Chairman, the bill H.R. 2525 was referred in sequence to the Committee on Ways and Means for consideration of matters falling within its jurisdiction after it had been ordered reported by the Committee on Interior and Insular Affairs. Title IV of H.R. 2525 contains provisions that would permit medicare reimbursement for services furnished in Indian Health Service facilities to eligible medicare beneficiaries, notwithstanding the existing prohibition in title XVIII of the Social Security Act against medicare payment for services in facilities of the Federal Government.

On May 4, 1976, the Committee on Ways and Means, without passing judgment on the merits of the bill as a whole, ordered favorably reported an amendment to those provisions of H.R. 2525 relating to medicare payment for services in Indian Health Service facilities. This amendment is intended to assure that those Indian Health Service facilities which H.R. 2525 would make eligible to participate in medicare comply with medicare health and safety standards. Further, the amendment provides that funds derived from medicare reimbursement are to be used to enable these facilities to achieve compliance with medicare standards.

The Committee on Ways and Means concurs with the Committee on Interior and Insular Affairs that an exception to the general prohibition against medicare payment to Federal providers is merited with respect to services in Indian Health Service facilities. The justification for making the exception in this particular case is that Indians living on reservations do not, as a practical matter, have access to hospitals other than Indian Health Service facilities. The committee believes that because of the unique circumstances of Indians living on reservations, this exemption cannot be construed as a precedent for removal of the exclusion for other Federal providers.

However, the Committee on Ways and Means believes that if medicare coverage is to be extended to Indian Health Service facilities, these facilities should be required to comply with medicare health and safety standards. This is a vital requirement both for the protection of Indian beneficiaries and for the continued maintenance of the medicare principle of provider compliance with health and safety standards. Thus, the amendment approved by the Committee on Ways and Means would strengthen the provision of H.R. 2525 in this respect by: First, requiring ongoing application to Indian Health Service facilities of medicare standards; second, requiring an annual report by the Secretary of Health, Education, and Welfare to the Congress on progress in assuring compliance with these standards; and third, earmarking medicare payments for use in meeting medicare standards until such time as the Secretary certifies that substantially all of the facilities are in compliance. The amendment also provides for an initial 1-year period during which an acceptable written plan for achieving compliance could serve as the basis for participation.

Mr. Chairman, as I indicated, it is my understanding that the gentleman from Washington (Mr. Meeds), who is floor manager for the bill on behalf of the Committee on Interior and Insular Affairs, endorses both the objective and substance of this amendment. It is a narrow amendment, but an important one, designed to strengthen the bill's provisions relating to quality standards for Indian Health Service facilities that will receive medicare reimbursement. I urge that the amendment be adopted.

The CHAIRMAN. The question is on the Ways and Means Committee amendment.

The Ways and Means Committee amendment was agreed to.

INTERSTATE AND FOREIGN COMMERCE COMMITTEE AMENDMENT

The CHAIRMAN. The Clerk will report the next committee amendments.

The Clerk read as follows:

Page 49, strike out lines 2 through 9 and insert in lieu thereof the following:

Sec. 402. (a) Title XIX of the Social Security Act is amended by adding at the end thereof the following new section:

"INDIAN HEALTH SERVICE FACILITIES"

"Sec. 1911. (a) A facility of the Indian Health Service (including a hospital, intermediate care facility, or skilled nursing facility), whether operated by such Service or by an Indian tribe or tribal organization (as those terms are defined in section 4 of the Indian Health Care Improvement Act), shall be eligible for reimbursement for medical assistance provided under a State plan if and for so long as it meets all of the conditions and requirements which are applicable generally to such facilities under this title.

"(b) Notwithstanding subsection (a), a facility of the Indian Health Service (including a hospital, intermediate care facility, or skilled nursing facility) which does not meet all of the conditions and requirements of this title which are applicable generally to such facility, but which submits to the Secretary within 6 months after the date of the enactment of this section an acceptable plan for achieving compliance with such condtions and requirements, shall be deemed to meet such conditions and requirements (and to be eligible for reimbursement under this title), without regard to the extent of its actual compliance with such conditions and requirements, during the first 12 months after the month in which such plan is submitted."

Page 49, line 13, strike out "beneficiaries" and insert in lieu thereof "eligible for medical assistance".

Page 49, strike out line 15 and all that follows through line 5 on page 50 and insert in lieu thereof the following:

(c) Notwithstanding any other provision of law, payments to which any facility of the Indian Health Service (including a hospital, intermediate care facility, or skilled nursing facility) is entitled under a State plan approved under title XIX of the Social Security Act by reason of section 1911 of such Act shall be placed in a special fund to be held by the Secretary and used by him (to such extent or in such amounts as are provided in appropriation Acts) exclusively for the purpose of making any improvements in the facilities of such Service which may be necessary to achieve compliance with the applicable conditions and requirements of such title. The preceding sentence shall cease to apply when the Secretary determines and certifies that substantially all of the health facilities of such Service in the United States are in compliance with such conditions and requirements.

Page 50, strike out lines 10 through 24 and insert in lieu thereof the following:

(e) Section 1905(b) of the Social Security Act is amended by inserting at the end thereof the following: "Notwithstanding the first sentence of this subsection, the Federal medical assistance percentage shall be 100 per centum with respect to amounts expended as medical assistance for services which are received through an Indian Health Service facilities whether operated by the Indian Health Service or by an Indian tribe or tribal organization (as defined in section 4 of the Indian Health Care Improvement Act).".

Mr. ROGERS (during the reading). Mr. Chairman, I ask unanimous consent that the Interstate and Foreign Commerce Committee amendment be considered as read and printed in the Record and considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. ROGERS. Mr. Chairman, the committee amendments here clarify the conditions under which Indian Health Service facilities are eligible for medical assistance payments under title XIX, which is medicaid, rather than medicare. This requires the Secretary to use the funds collected under title XIX to make improvements to Indian Health Service facilities to bring them into compliance with general medicaid requirements for similar facilities.

The CHAIRMAN. The question is on the Interstate and Foreign Commerce Committee amendments.

The Interstate and Foreign Commerce Committee amendments was agreed to.

The CHAIRMAN. Are there further amendments to title IV? If not, the Clerk will report title V.

The Clerk read as follows:

TITLE V—HEALTH SERVICES FOR URBAN INDIANS

PURPOSE

Sec. 501. The purpose of this title is to encourage the establishment of programs in urban areas to make health services more accessible to the urban Indian population.

CONTRACTS WITH URBAN INDIAN ORGANIZATIONS

Sec. 502. The Secretary, acting through the Service, shall enter into contracts with urban Indian organizations to assist such organizations to establish and administer, in the urban centers in which such organizations are situated, programs which meet the requirements set forth in sections 503 and 504.

CONTRACT ELIGIBILITY

Sec. 503. (a) The Secretary, acting through the Service, shall place such conditions as he deems necessary to effect the purpose of this title in any contract which he makes with any urban Indian organization pursuant to this title. Such conditions shall include, but are not limited to, requirements that the organization successfully undertake the following activities:

(1) determine the population of urban Indians which are or could be recipients of health referral or care services;

(2) identify all public and private health service resources within the urban center in which the organization is situated which are or may be available to urban Indians;

(3) assist such resources in providing service to such urban Indians;

(4) assist such urban Indians in becoming familiar with and utilizing such resources;

(5) provide basic health education to such urban Indians;

(6) establish and implement manpower training programs to accomplish the referral and education tasks set forth in clauses (3) through (5) of this subsection;

(7) identify gaps between unmet health needs of urban Indians and the resources available to meet such needs;

(8) make recommendations to the Secretary and Federal, State, local, and other resource agencies on methods of improving health service programs to meet the needs of urban Indians; and

(9) where necessary, provide or contract for health care services to urban Indians.

(b) The Secretary, acting through the Service, shall by regulation prescribe the criteria for selecting urban Indian organizations with which to contract pursuant to this title. Such criteria shall, among other factors, take into consideration:

(1) the extent of the unmet health care needs of urban Indians in the urban center involved;

(2) the size of the urban Indian population which is to receive assistance;

(3) the relative accessibility which such population has to health care services in such urban center;

(4) the extent, if any, to which the project would duplicate any previous or current public or private health services project funded by another source in such urban center;

(5) the appropriateness and likely effectiveness of a project assisted pursuant to this title in such urban center;

(6) the existence of an urban Indian organization capable of performing the activities set forth in subsection (a) and of entering into a contract with the Secretary pursuant to this title; and

(7) the extent of existing or likely future participation in such activities by appropriate health and health-related Federal, State, local, and other resource agencies.

OTHER CONTRACT REQUIREMENTS

Sec. 504. (a) Contracts with urban Indian organizations pursuant to this title shall be in accordance with all Federal contracting laws and regulations except that, in the discretion of the Secretary, such contracts may by negotiated without advertising and need not conform to the provisions of the Act of August 24, 1935 (48 Stat. 793), as amended.

(b) Payments under any contracts pursuant to this title may be made in advance or by way of reimbursement and in such installments and on such conditions as the Secretary deems necessary to carry out the purposes of this title.

(c) Notwithstanding any provision of law to the contrary, the Secretary may, at the request or consent of an urban Indian organization, revise or amend any contract made by him with such organization pursuant to this title as necessary to carry out the purposes of this title: *Provided, however*, That, whenever an urban Indian organization requests retrocession of the Secretary for any contract entered into pursuant to this title, such retrocession shall become effective upon a date specified by the Secretary not more than one hundred and twenty days from the date of the request by the organization or at such later date of the request by the organization or at such later date as may be mutually agreed to by the Secretary and the organization.

(d) In connection with any contract made pursuant to this title, the Secretary may permit an urban Indian organization to utilize, in carrying out such contract, existing facilities owned by the Federal Government within his jurisdiction under such terms and conditions as may be agreed upon for their use and maintenance.

(e) Contracts with urban Indian organizations and regulations adopted pursuant to this title include provisions to assure the fair and uniform provision to urban Indians of service and assistance under such contracts by such organizations.

REPORTS AND RECORDS

SEC. 505. For each fiscal year during which an urban Indian organization receives or expends funds pursuant to a contract under this title, such organization shall submit to the Secretary a report including information gathered pursuant to section 503(a)(7) and (8), information on activities conducted by the organization pursuant to the contract, an accounting of the amounts and purposes for which Federal funds were expended, and such other information as the Secretary may request. The reports and records of the urban Indian organization with respect to such contract shall be subject to audit by the Secretary and the Comptroller General of the United States.

AUTHORIZATIONS

SEC. 506. There are authorized to be appropriated for the purpose of this title: $5,000,000 for fiscal year 1977, $10,000,000 for fiscal year 1978, and $15,000,000 for fiscal year 1979.

REVIEW OF PROGRAM

SEC. 507. Within six months after the end of fiscal year 1978, the Secretary, acting through the Service and with the assistance of the urban Indian organizations which have entered into contracts pursuant to this title, shall review the program established under this title and submit to the Congress his or her assessment thereof and recommendations for any further legislative efforts he or she deems necessary to meet the purpose of this title.

RURAL HEALTH PROJECTS

SEC. 508. Not to exceed 1 per centum of the amounts authorized by section 506 shall be available for not to exceed two pilot projects providing outreach services to eligible Indians residing in rural communities near Indian reservations.

Mr. MEEDS (during the reading). Mr. Chairman, I ask unanimous consent that title V be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Washington?

There was no objection.

AMENDMENT OFFERED BY MR. MEEDS

Mr. MEEDS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MEEDS to the Interstate and Foreign Commerce Committee amendment: On page 64, in section 506, strike the phrase "fiscal year 1977"; insert, in lieu thereof, the phrase "fiscal year 1978"; and renumber references to succeeding fiscal years accordingly.

Mr. MEEDS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Washington?

There was no objection.

Mr. MEEDS. Mr. Chairman, again this is a simple push-back amendment which pushes the beginning of the funding period back from fiscal year 1977 to fiscal year 1978.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Washington (Mr. MEEDS).

The amendment was agreed to.

The CHAIRMAN. Are there further amendments to title V? If not, the Clerk will read title VI.

The Clerk read as follows:

TITLE VI

AMERICAN INDIAN SCHOOL OF MEDICINE

SEC. 601. The Secretary is hereby authorized and directed to provide for the establishment, operation, and funding of an American Indian School of Medicine (hereinafter referred to as the "school") as provided in this title.

SEC. 602. (a) As an independent part of the plan required to be submitted to the Congress by section 703 of this Act, the Secretary shall conduct a study and submit a plan for the establishment, structure, and funding of the school.

(b) The plan shall include, but shall not necessarily be limited to—

(1) the selection of a physical site for the location of the school. In selecting such site, the Secretary shall take into consideration—

(A) the centrality of the site to the general Indian population to be served;

(B) the location on or in near proximity to an Indian reservation or reservations of sufficient size and population as to be representative of the general health needs and problems of Indian people;

(C) the immediate availability of a service hospital which either currently meets or, with reasonable expenditures, can meet the minimum criteria for accreditation as a "teaching hospital";

(D) the reasonable availability of and potential cooperation with other medical facilities or institutions of higher education for purposes of affiliation with the school; and

(E) evidence of existing or potential support for the school from the local Indian and non-Indian community.

(2) the formation, structure, and selection of a board of regents as the governing body of the school. The board shall be composed of not less than nine or more than thirteen members, a majority of whom shall be Indian. The nomination and selection procedure for membership on the Board shall be democratic in nature and shall provide for active Indian involvement.

(3) a projection on achievement of accreditation of the school;

(4) a statement on existing or potential non-Federal funding sources for the establishment and operation of the school;

(5) a statement on the student potential for the school. The plan shall include a recruitment program with emphasis on recruitment and training of Indian students; and

(6) a statement on how the school, as proposed in the plan, will meet the unique health needs and problems of Indian people.

(c) If the plan for the school is deemed approved pursuant to section 703 of this Act, the Secretary shall take immediate steps to implement such plan. In the event of disapproval of such plan pursuant to section 703, the resolution disapproving such plan shall identify specific areas of objection. The Secretary shall modify the plan within thirty days after passage of such resolution in conformance with such resolution and shall take immediate steps to implement such modified plan.

SEC. 603. (a) There is hereby authorized to be appropriated, for the purpose of planning, development, construction, operation and maintenance of the school, the following: not to exceed $500,000 for purposes of developing the plan required by section 602 of this title; $1,100,000 for fiscal year 1978; $2,525,000 for fiscal year 1979; $2,755,000 for fiscal year 1980; $3,100,000 for fiscal year 1981; $3,100,000 for fiscal year 1982; $3,200,000 for fiscal year 1983; and for each succeeding fiscal year such sums as are necessary to insure the continued successful operation of the school.

(b) Funds appropriated under this title shall remain available until expended.

(c) Appropriations made under authority of this title, except those funds for fiscal year 1977, shall be expended according to budgets devised and approved by the board of regents of the school.

SEC. 601. The Secretary shall conduct a study to determine the need for, and the feasibility of, establishing a school of medicine to train Indians to provide health services for Indians. Within one year of the date of the enactment of this Act the Secretary shall complete such study and shall report to the Congress findings and recommendations based on such study.

Mr. MEEDS (during the reading). Mr. Chairman, I ask unanimous consent that title VI be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Washington?

There was no objection.

INTERSTATE AND FOREIGN COMMERCE COMMITTEE AMENDMENT

The CHAIRMAN. The Clerk will report the Interstate and Foreign Commerce Committee amendment.

The Clerk read as follows:

Interstate and Foreign Commerce Committee amendment: Page 56, strike out line 22 and all that follows down through and including line 24 on page 59 and insert in lieu thereof the following:

SEC. 601. The Secretary shall conduct a study to determine the need for, and the feasibility of, establishing a school of medicine to train Indians to provide health services for Indians. Within one year of the date of the enactment of this Act the Secretary shall complete such study and shall report to the Congress findings and recommendations based on such study.

Mr. ROGERS (during the reading). Mr. Chairman, I ask unanimous consent that the Interstate and Foreign Commerce committee amendment be considered as read and printed in the RECORD, so that I may explain it.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. ROGERS. Mr. Chairman, as I stated earlier in my general remarks, the committee amendment removes the authorization for establishment of an Indian school of medicine and in its place it authorizes a study by the Secretary of HEW of the feasibility of an Indian medical school.

AMENDMENT TO THE INTERSTATE AND FOREIGN COMMERCE COMMITTEE AMENDMENT OFFERED BY MR. MEEDS

Mr. MEEDS. Mr. Chairman, I offer an amendment to the Interstate and Foreign Commerce Committee amendment.

The Clerk read as follows:

Amendment to the Interstate and Foreign Commerce Committee amendment offered by Mr. MEEDS: On page 68, in line 18, after the word "Secretary", insert a comma and the following phrase: "in consultation with Indian tribes and appropriate Indian organizations,".

Mr. MEEDS. Mr. Chairman, the amendment is self-explanatory, simply for the purpose of insuring that the Secretary shall take into consideration the needs, the desires and the recommendations of the Indians.

Mr. ROGERS. Mr. Chairman, will the gentleman yield?

Mr. MEEDS. I yield to the gentleman from Florida.

Mr. ROGERS. I thank the gentleman for yielding.

Mr. Chairman, we certainly have no objection to that amendment and urge its passage.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Washington (Mr. MEEDS) to the Interstate and Foreign Commerce committee amendment.

The amendment to the Interstate and Foreign Commerce Committee amendment was agreed to.

The CHAIRMAN. The question is on the Interstate and Foreign Commerce Committee amendment, as amended.

The Interstate and Foreign Commerce Committee amendment, as amended, was agreed to.

The CHAIRMAN. Are there further amendments to title VI? If not, the Clerk will read title VII.

The Clerk read as follows:

TITLE VII

REPORTS

SEC. 701. (a) The Secretary shall report annually to the President and the Congress on progress made in effecting the purposes of this Act. Within three months after the end of fiscal year 1979, the Secretary shall review expenditures and levels of authorizations under this Act and make recommendations to Congress concerning any increases or decreases in the authorizations for fiscal years 1981 through 1983 under this Act which he deems appropriate. Within three months after the end of fiscal year 1982, the Secretary shall review the programs established or assisted pursuant to this Act and shall submit to the Congress his assessment thereof and recommendations of additional programs or additional assistance necessary to, at a minimum, provide health services to Indians, and insure a health status for Indians, which are at a parity with the health services available to, and the health status of, the general population.

REGULATIONS

SEC. 702. (a) (1) Within six months from the date of enactment of this Act, the Secretary shall, to the extent practicable, consult with national and regional Indian organizations to consider and formulate appropriate rules and regulations to implement the provisions of this Act.

(2) Within eight months from the date of enactment of this Act, the Secretary shall publish proposed rules and regulations in the Federal Register for the purpose of receiving comments from interested parties.

(3) Within ten months from the date of enactment of this Act, the Secretary shall promulgate rules and regulations to implement the provisions of this Act.

(b) The Secretary is authorized to revise and amend any rules or regulations promulgated pursuant to this Act: *Provided*, That, prior to any revision of or amendment to such rules or regulations, the Secretary shall, to the extent practicable, consult with appropriate national or regional Indian organizations and shall publish any proposed revision or amendment in the Federal Register not less than sixty days prior to the effective date of such revision or amendment in order to provide adequate notice to, and receive comments from, other interested parties.

PLAN OF IMPLEMENTATION

SEC. 703. (a) Within two hundred and forty days after enactment of this Act, a plan will be prepared by the Secretary and will be submitted to the Congress.

(b) The plan will explain by title and section the manner and schedule by which the Secretary will implement the provisions of this Act. This will include a schedule for appropriation requests by title and section.

(c) The plan submitted by the Secretary shall become effective and he shall take immediate action to implement the plan at the end of a sixty-day period (excluding days on which either the House of Representatives or the Senate is not in session because of an adjournment of more than three calendar days to a day certain), unless during such sixty-day period either House adopts a resolution disapproving such plan.

LEASES WITH INDIAN TRIBES

SEC. 704. Notwithstanding any other provision of law, the Secretary is authorized, in carrying out the purposes of this Act, to enter into leases with Indian tribes for periods not in excess of twenty years.

AVAILABILITY OF FUNDS

SEC. 705. The funds appropriated pursuant to this Act shall remain available until expended.

Mr. MEEDS (during the reading). Mr. Chairman, I ask unanimous consent that title VII be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Washington?

There was no objection.

INTERSTATE AND FOREIGN COMMERCE COMMITTEE AMENDMENT

The CHAIRMAN. The Clerk will report the Interstate and Foreign Commerce amendment.

The Clerk read as follows:

Interstate and Foreign Commerce Comittee amendment: on page 71 strike out lines 1 through 8.

Mr. ROGERS (during the reading). Mr. Chairman, I ask unanimous consent that the Interstate and Foreign Commerce Committee amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. ROGERS. Mr. Chairman, the committee amendment simply removes that provision for necessary congressional action on the Secretary's plan of implementation of the bill.

The CHAIRMAN. The question is on the Interstate and Foreign Commerce Committee amendment.

The Interstate and Foreign Commerce Committee amendment was agreed to.

AMENDMENT OFFERED BY MR. MEEDS TO THE INTERSTATE AND FOREIGN COMMERCE COMMITTEE AMENDMENT

Mr. MEEDS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MEEDS to the Interstate and Foreign Commerce Committee amendment: Strike all of section 701 and insert, in lieu thereof, the following:

"SEC. 701. The Secretary shall report annually to the President and the Congress on progress made in effecting the purposes of this Act. Within three months after the end of fiscal year 1979, the Secretary shall review expenditures and progress made under this Act and make recommendations to Congress concerning any additional authorizations for fiscal years 1981 through 1984 for programs authorized under this Act which he deems appropriate. In the event Congress enacts legislation authorizing appropriations for programs under this Act for fiscal years 1981 through 1984, within three months after the end of fiscal year 1983, the Secretary shall review programs established or assisted pursuant to this Act and shall submit to the Congress his assessment and recommendations of additional programs or additional assistance necessary to, at a minimum, provide health services to Indians, and insure a health status for Indians, which are at a parity with the health services available to, and the health status, of the general population.

Mr. MEEDS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Washington?

There was no objection.

Mr. MEEDS. Mr. Chairman, again this is a technical amendment to conform to the reporting and review requirements of section 701 to the amendment proposed by the Committee on Interstate and Foreign Commerce to cut the specific authorization of funds from 7 fiscal years to 3, and to the amendment which changes the initiation of the fund for fiscal year 1977 and fiscal year 1978.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Washington (Mr. MEEDS).

The amendment was agreed to.

The CHAIRMAN. Are there further amendments to title VII?

If there are no further amendments, the question is on the Interior and Insular Affairs Committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. PRICE) having assumed the chair, Mr. NEDZI, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2525) to implement the Federal responsibility for the care and education of the Indian people by improving the services and facilities of Federal Indian health programs and encouraging maximum participation of Indians in such programs, and for other purposes, pursuant to House Resolution 1267, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed.

and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. WYDLER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 310, nays 9, not voting 113, as follows:

[Roll No. 578]

YEAS—310

Abdnor
Allen
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Archer
Armstrong
Ashbrook
Ashley
Aspin
Badillo
Bafalis
Baldus
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Bell
Bennett
Bevill
Biaggi
Biester
Bingham
Blanchard
Blouin
Bolling
Bonker
Bowen
Brademas
Breckinridge
Brinkley
Brodhead
Brooks
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burlison, Mo.
Burton, Phillip
Butler
Byron
Carr
Cederberg
Chappell
Chisholm
Clausen, Don H.
Clawson, Del
Cleveland
Cohen
Collins, Ill.
Conte
Corman
Cornell
Coughlin
D'Amours
Daniel, Dan
Daniel, R. W.
Daniels, N.J.
Davis
de la Garza
Delaney
Dellums
Derrick
Derwinski
Devine
Dickinson
Dingell
Downey, N.Y.
Drinan
Duncan, Oreg.
Duncan, Tenn.
du Pont
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Eilberg
Emery
English
Erlenborn
Evans, Colo.
Fary
Fascell
Fenwick
Fish
Fisher
Fithian
Florio
Foley
Ford, Tenn.
Forsythe
Fraser
Gaydos
Giaimo
Gibbons
Gilman
Ginn
Goldwater
Gonzalez
Goodling
Gradison
Grassley
Gude
Guyer
Haley
Hall, Ill.
Hamilton
Hammerschmidt
Hanley
Hannaford
Harkin
Harrington
Harris
Harsha
Hechler, W. Va.
Heckler, Mass.
Hefner
Henderson
Hicks
Holt
Holtzman
Horton
Howe
Hubbard
Hughes
Hungate
Hutchinson
Hyde
Jacobs
Jarman
Jeffords
Jenrette
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Jordan
Kasten
Kastenmeier
Kazen
Kemp
Ketchum
Kindness
Krebs
Krueger
Lagomarsino
Latta
Lent
Levitas
Lloyd, Calif.
Lloyd, Tenn.
Long, Md.
Lundine
McCloskey
McCormack
McDade
McEwen
McFall
McHugh
McKay
McKinney
Mahon
Martin
Mathis
Meeds
Metcalfe
Meyner
Mezvinsky
Michel
Mikva
Milford
Miller, Calif.
Miller, Ohio
Mills
Mineta
Minish
Mink
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Mosher
Moss
Mottl
Murphy, Ill.
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nichols
Nowak
Oberstar
O'Brien
O'Neill
Ottinger
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Pepper
Perkins
Pettis
Pike
Pressler
Preyer
Price
Pritchard
Quie
Quillen
Railsback
Randall
Rangel
Rees
Regula
Reuss
Rhodes
Rinaldo
Risenhoover
Robinson
Rodino
Roe
Rogers
Rooney
Rosenthal
Rostenkowski
Roush
Rousselot
Roybal
Runnels
Russo
Ryan
Santini
Sarasin
Sarbanes
Satterfield
Scheuer
Schroeder
Schulze
Seiberling
Sharp
Shriver
Shuster
Simon
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Spellman
Spence
Staggers
Stanton, J. William
Stark
Steiger, Wis.
Stephens
Stratton
Stuckey
Studds
Symms
Talcott
Taylor, Mo.
Taylor, N.C.
Teague
Thompson
Thone
Thornton
Treen
Tsongas
Udall
Van Deerlin
Vander Veen
Waggonner
Walsh
Waxman
Weaver
Whalen
White
Whitten
Wiggins
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Winn
Wolff
Wright
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Tex.
Zablocki

NAYS—9

Burleson, Tex.
Collins, Tex.
Ichord
Kelly
McClory
McDonald
Mann
Paul
Poage

NOT VOTING—113

Abzug
Adams
Addabbo
Alexander
AuCoin
Baucus
Bergland
Boggs
Boland
Breaux
Broomfield
Burton, John
Carney
Carter
Clancy
Clay
Cochran
Conable
Conlan
Conyers
Cotter
Crane
Danielson
Dent
Diggs
Dodd
Downing, Va.
Esch
Eshleman
Evans, Ind.
Evins, Tenn.
Findley
Flood
Flowers
Flynt
Ford, Mich.
Fountain
Frenzel
Frey
Fuqua
Green
Hagedorn
Hall, Tex.
Hansen
Hawkins
Hayes, Ind.
Hays, Ohio
Hébert
Heinz
Helstoski
Hightower
Hillis
Hinshaw
Holland
Howard
Jones, Tenn.
Karth
Keys
Koch
LaFalce
Landrum
Leggett
Lehman
Litton
Long, La.
Lott
Lujan
McCollister
Madden
Madigan
Maguire
Matsunaga
Mazzoli
Melcher
Morgan
Murphy, N.Y.
Murtha
Nix
Nolan
Obey
O'Hara
Passman
Peyser
Pickle
Richmond
Riegle
Roberts
Roncalio
Rose
Ruppe
St Germain
Schneebeli
Sebelius
Shipley
Sikes
Sisk
Stanton, James V.
Steed
Steelman
Steiger, Ariz.
Stokes
Sullivan
Symington
Traxler
Ullman
Vander Jagt
Vanik
Vigorito
Wampler
Whitehurst
Wirth
Young, Ga.
Zeferetti

The Clerk announced the following pairs:

Mrs. Boggs with Mr. Clancy.
Mr. Addabbo with Mr. Conlan.
Mr. Hébert with Mr. Crane.
Mr. Jones of Tennessee with Mr. Cochran.
Ms. Abzug with Mr. Whitehurst.
Mr. Breaux with Mr. Eshleman.
Mr. Nix with Mr. Wampler.
Mr. Passman with Mr. Frey.
Mr. Shipley with Mr. Schneebeli.
Mr. Zeferetti with Mr. Hansen.
Mr. Koch with Mr. Steiger of Arizona.
Mr. Cotter with Mr. Lott.
Mr. Murphy of New York with Mr. Lujan.
Mr. Vigorito with Mr. Sebelius.
Mr. Young of Georgia with Mr. Carter.
Mrs. Keys with Mr. Esch.
Mr. Roncalio with Mr. Findley.
Mr. Richmond with Mr. Heinz.
Mr. Wirth with Mr. Steelman.
Mr. Dent with Mr. Vander Jagt.
Mr. Sikes with Mr. Hillis.
Mr. Howard with Mr. Karth.
Mr. St Germain with Mr. Madigan.
Mr. Murtha with Mr. McCollister.
Mr. Matsunaga with Mr. O'Hara.
Mr. Long of Louisiana with Mr. Peyser.
Mr. LaFalce with Mr. Ruppe.
Mr. AuCoin with Mr. Diggs.
Mr. Carney with Mr. Flynt.
Mr. John Burton with Mr. Hayes of Indiana.
Mr. Conyers with Mr. Hays of Ohio.
Mr. Melcher with Mr. Green.
Mr. Baucus with Mr. Pickle.
Mr. Lehman with Mr. Madden.
Mr. Maguire with Mr. Riegle.
Mr. Adams with Mr. Morgan.
Mr. Ford of Michigan with Mr. Vanik.
Mr. Fountain with Mr. Symington.
Mr. Leggett with Mrs. Sullivan.
Mr. Holland with Mr. Steed.
Mr. Helstoski with Mr. Mazzoli.
Mr. Hightower with Mr. Roberts.
Mr. Obey with Mr. Broomfield.
Mr. Boland with Mr. Sisk.
Mr. Traxler with Mr. James V. Stanton.
Mr. Bergland with Mr. Conable.
Mr. Fuqua with Mr. Dodd.
Mr. Clay with Mr. Downing of Virginia.
Mr. Danielson with Mr. Evans of Indiana.
Mr. Flood with Mr. Frenzel.
Mr. Flowers with Mr. Hagedorn.
Mr. Evins of Tennessee with Mr. Landrum.
Mr. Hall of Texas with Mr. Nolan.
Mr. Hawkins with Mr. Rose.
Mr. Litton with Mr. Stokes.
Mr. Ullman with Mr. Alexander.

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. MEEDS. Mr. Speaker, pursuant to the provisions of House Resolution 1267, I call up for immediate consideration the Senate bill (S. 522) to implement the Federal responsibility for the care and education of the Indian people by improving the services and facilities of Federal Indian health programs and encouraging maximum participation of Indians in such programs, and for other purposes.

The Clerk read the title of the Senate bill.

MOTION OFFERED BY MR. MEEDS

Mr. MEEDS. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MEEDS moves to strike out all after the enacting clause of the Senate bill S. 522 and to insert in lieu thereof the provisions of H.R. 2525, as passed, as follows:

That this Act may be cited as the "Indian Health Care Improvement Act".

FINDINGS

SEC. 2. The Congress finds that—

(a) Federal health services to maintain and improve the health of the Indians are consonant with and required by the Federal Government's historical and unique legal relationship with, and resulting responsibility to, the American Indian people.

(b) A major national goal of the United States is to provide the quantity and quality of health services which will permit the health status of Indians to be raised to the highest possible level and to encourage the maximum participation of Indians in the planning and management of those services.

(c) Federal health services to Indians have resulted in a reduction in the prevalence and incidence of preventable illnesses among, and unnecessary and premature deaths of, Indians.

(d) Despite such services, the unmet health needs of the American Indian people are severe and the health status of the Indians is far below that of the general population of the United States. For example, for Indians compared to all Americans in 1971, the tuberculosis death rate was over four and one-half times greater, the influenza and pneumonia death rate over one and one-half times greater, and the infant death rate approximately 20 per centum greater.

(e) All other Federal services and programs in fulfillment of the Federal responsibility to Indians are jeopardized by the low health status of the American Indian people.

(f) Further improvement in Indian health is imperiled by—

(1) inadequate, outdated, inefficient, and undermanned facilities. For example, only twenty-four of fifty-one Indian Health Service hospitals are accredited by the Joint Commission on Accrediation of Hospitals; only thirty-one meet national fire and safety codes; and fifty-two locations with Indian populations have been identified as requiring either new or replacement health centers and stations, or clinics remodeled for improved or additional service;

(2) shortage of personnel. For example, about one-half of the Service hospitals, four-fifths of the Service hospital outpatient clinics, and one-half of the Service health clinics meet only 80 per centum of staffing standards for their respective services;

(3) insufficient services in such areas as laboratory, hospital inpatient and outpatient, eye care and mental health services, and services available through contracts with private physicians, clinics, and agencies. For example, about 90 per centum of the surgical operations needed for otitis media have not been performed, over 7 per centum of required dental services remain to be provided, and about 98 per centum of hearing aid requirements are unmet;

(4) related support factors. For example, over seven hundred housing units are needed for staff at remote Service facilities;

(5) lack of access of Indians to health services due to remote residences, undeveloped or underdeveloped communication and transportation systems, and difficult, sometimes severe, climate conditions; and

(6) lack of safe water and sanitary waste disposal services. For example, over thirty-seven thousand four hundred existing and forty-eight thousand nine hundred and sixty planned replacement and renovated Indian housing units need new or upgraded water and sanitation facilities.

(g) The Indian people's growth of confidence in Federal Indian health services is revealed by their increasingly heavy use of such services. Progress toward the goal of better Indian health is dependent on this continued growth of confidence. Both such progress and such confidence are dependent on improved Federal Indian health services.

DECLARATION OF POLICY

SEC. 3. The Congress hereby declares that it is the policy of this Nation, in fulfillment of its special responsibilities and legal obligation to the American Indian people, to meet the national goal of providing the highest possible health status to Indians and to provide existing Indian health services with all resources necessary to effect that policy.

DEFINITIONS

SEC. 4. For purposes of this Act—

(a) "Secretary", unless otherwise designated, means the Secretary of Health, Education, and Welfare.

(b) "Service" means the Indian Health Service.

(c) "Indians" or "Indian", unless otherwise designated, means any person who is a member of an Indian tribe, as defined in subsection (d) hereof, except that, for the purpose of section 102, 103, 104(b)(1)(i), and 201(c)(5), such terms shall mean any individual who (1), irrespective of whether he or she lives on or near a reservation, is a member of a tribe, band, or other organized group of Indians, including those tribes, bands, or groups terminated since 1940 and those recognized now or in the future by the State in which they reside, or who is a descendant, in the first or second degree, of any such member, or (2) is an Eskimo or Aleut or other Alaska Native, or (3) is considered by the Secretary of the Interior to be an Indian for any purpose, or (4) is determined to be an Indian under regulations promulgated by the Secretary.

(d) "Indian tribe" means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or group as defined in the Alaska Native Claims Settlement Act (85 Stat. 688), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

(e) "Tribal organization" means the elected governing body of any Indian tribe or any legally established organization of Indians which is controlled by one or more such bodies or by a board of director elected or selected by one or more such bodies (or elected by the Indian population to be served by such organization) and which includes the maximum participation of Indians in all phases of its activities.

(f) "Urban Indian" means any individual who resides in an urban center, as defined in subsection (g) hereof, and who meets one or more of the four criteria in subsection (c)(1) through (4) of this section.

(g) "Urban center" means any community which has a sufficient urban Indian population with unmet health needs to warrant assistance under title V, as determined by the Secretary.

(h) "Urban Indian organization" means a nonprofit corporate body situated in an urban center, composed of urban Indians, and providing for the maximum participation of all interested Indian groups and individuals, which body is capable of legally cooperating with other public and private entities for the purpose of performing the activities described in section 503(a).

TITLE I—INDIAN HEALTH MANPOWER

PURPOSE

SEC. 101. The purpose of this title is to augment the inadequate number of health professionals serving Indians and remove the multiple barriers to the entrance of health professionals into the Service and private practice among Indians.

HEALTH PROFESSIONS RECRUITMENT PROGRAM FOR INDIANS

SEC. 102. (a) The Secretary, acting through the Service, shall make grants to public or nonprofit private health or educational entities or Indian tribes or tribal organizations to assist such entities in meeting the costs of—

(1) identifying Indians with a potential for education or training in the health professions and encouraging and assisting them (A) to enroll in schools of medicine, osteopathy, dentistry, veterinary medicine, optometry, podiatry, pharmacy, public health, nursing, or allied health professions; or (B), if they are not qualified to enroll in any such school, to undertake such postsecondary education or training as may be required to qualify them for enrollment;

(2) publicizing existing sources of financial aid available to Indians enrolled in any school referred to in clause (1)(A) of this subsection or who are undertaking training necessary to qualify them to enroll in any such school; or

(3) establishing other programs which the Secretary determines will enhance and facilitate the enrollment of Indians, and the subsequent pursuit and completion by them of courses of study, in any school referred to in clause (1)(A) of this subsection.

(b)(1) No grant may be made under this section unless an application therefor has been submitted to, and approved by, the Secretary. Such application shall be in such form, submitted in such manner, and contain such information, as the Secretary shall by regulation prescribe: *Provided*, That the Secretary shall give a preference to applications submitted by Indian tribes or tribal organization.

(2) The amount of any grant under this section shall be determined by the Secretary. Payments pursuant to grants under this section may be made in advance or by way of reimbursement, and at such intervals and on such conditions as the Secretary finds necessary.

(c) For the purpose of making payments pursuant to grants under this section, there are authorized to be appropriated $900,000 for fiscal year 1978, $1,500,000 for fiscal year 1979, and $1,800,000 for fiscal year 1980. For fiscal years 1981, 1982, 1983, and 1984 there are authorized to be appropriated for such payments such sums as may be specifically authorized by an Act enacted after this Act.

HEALTH PROFESSIONS PREPARATORY SCHOLARSHIP PROGRAM FOR INDIANS

SEC. 103. (a) The Secretary, acting through the Service, shall make scholarship grants to Indians who—

(1) have successfully completed their high school education or high school equivalency; and

(2) have demonstrated the capability to successfully complete courses of study in schools of medicine, osteopathy, dentistry, veterinary medicine, optometry, podiatry, pharmacy, public health, nursing, or allied health professions.

(b) Each scholarship grant made under this section shall be for a period not to exceed two academic years, which years shall be for compensatory preprofessional education of any grantee.

(c) Scholarship grants made under this section may cover costs of tuition, books, transportation, board, and other necessary related expenses.

(d) There are authorized to be appropriated for the purpose of this section: $800,000 for fiscal year 1978, $1,000,000 for fiscal year 1979, and $1,300,000 for fiscal year 1980. For fiscal years 1981, 1982, 1983, and 1984 there are authorized to be appropriated for the purpose of this section such sums as may be specifically authorized by an Act enacted after this Act.

HEALTH PROFESSIONS SCHOLARSHIP PROGRAM

SEC. 104. Section 225(i) of the Public Health Service Act (42 U.S.C. 234(i)) is amended (1) by inserting "(1)" after "(i)", and (2) by adding at the end the following:

"(2)(A) In addition to the sums authorized to be appropriated under paragraph (1) to carry out the Program, there are authorized to be appropriated for the fiscal year ending September 30, 1978, $5,450,000; for the fiscal year ending September 30, 1979, $6,300,000; for the fiscal year ending September 30, 1980, $7,200,000; and for fiscal years 1981, 1982, 1983, and 1984 such sums as may be specifically authorized by an Act enacted after the Indian Health Care Improvement Act, to provide scholarships under the Program to provide physicians, dentists, nurses, optometrists, podiatrists, pharmacists, public health personnel, and allied health professionals to provide services to Indians. Such scholarships shall be designated Indian Health Scholarships and shall be made in accordance with this section except as provided in subparagraph (B).

"(B)(i) The Secretary, acting through the Indian Health Service, shall determine the individuals who receive the Indian Health Scholarships, shall accord priority to applicants who are Indians, and shall determine the distribution of the scholarships on the basis of the relative needs of Indians for additional service in specific health professions.

"(ii) The active duty service obligation prescribed by subsection (e) shall be met by the recipient of an Indian health scholarship by service in the Indian Health Service, in a program assisted under title V of the Indian Health Care Improvement Act, or in the private practice of his profession if, as determined by the Secretary in accordance with guidelines promulgated by him, such practice is situated in a physician or other health professional shortage area and addresses the health care needs of a substantial number of Indians.

"(C) For purposes of this paragraph, the term 'Indian' has the same meaning given that term by section 4(c) of the Indian Health Care Improvement Act and includes individuals described in clause (1) through (4) of that section.".

INDIAN HEALTH SERVICE EXTERN PROGRAMS

SEC. 105. (a) Any individual who receives a scholarship grant pursuant to section 104 shall be entitled to employment in the Service during any nonacademic period of the year. Periods of employment pursuant to this subsection shall not be counted in determining the fulfillment of the service obligation incurred as a condition of the scholarship grant.

(b) Any individual enrolled in a school of medicine, osteopathy, dentistry, veterinary medicine, optometry, podiatry, pharmacy, public health, nursing, or allied health professions may be employed by the Service during any nonacademic period of the year. Any such employment shall not exceed one hundred and twenty days during any calendar year.

(c) Any employment pursuant to this section shall be made without regard to any competitive personnel system or agency personnel limitation and to a position which will enable the individual so employed to receive practical experience in the health profession in which he or she is engaged in study. Any individual so employed shall receive payment for his or her services comparable to the salary he or she would receive if he or she were employed in the competitive system. Any individual so employed shall not be counted against any employment ceiling affecting the Service or the Department of Health, Education, and Welfare.

(d) There are authorized to be appropriated for the purpose of this section: $600,000 for fiscal year 1978, $800,000 for fiscal year 1979, and $1,000,000 for fiscal year 1980. For fiscal years 1981, 1982, 1983, and 1984 there are authorized to be appropriated for the purpose of this section such sums as may be specifically authorized by an Act enacted after this Act.

CONTINUING EDUCATION ALLOWANCES

SEC. 106. (a) In order to encourage physicians, dentists, and other health professionals to join or continue in the Service and to provide their services in the rural and remote areas where a significant portion of the Indian people reside, the Secretary, acting through the Service, may provide allowances to health professionals employed in the Service to enable them for a period of time each year prescribed by regulation of the Secretary to take leave of their duty stations for professional consultation and refresher training courses.

(b) There are authorized to be appropriated for the purpose of this section: $100,000 for fiscal year 1978, $200,000 for fiscal year 1979, and $250,000 for fiscal year 1980. For fiscal years 1981, 1982, 1983, and 1984 there are authorized to be appropriated for the purpose of this section such sums as may be specifically authorized by an Act enacted after this Act.

TITLE II—HEALTH SERVICES

HEALTH SERVICES

SEC. 201. (a) For the purpose of eliminating backlogs in Indian health care services and to supply known, unmet medical, surgical, dental, optometrical, and other Indian health needs, the Secretary is authorized to expend through the Service, over the seven-fiscal-year period beginning after the date of the enactment of this Act the amounts authorized to be appropriated by subsection (c). Funds appropriated pursuant to this section for each fiscal year shall not be used to offset or limit the appropriations required by the Service under other Federal laws to continue to serve the health needs of Indians during and subsequent to such seven-fiscal-year period, but shall be in addition to the level of appropriations provided to the Service under this Act and such other Federal laws in the preceding fiscal year plus an amount equal to the amount required to cover pay increases and employee benefits for personnel employed under this Act and such laws and increases in the costs of serving the health needs of Indians under this Act and such laws, which increases are caused by inflation.

(b) The Secretary, acting through the Service, is authorized to employ persons to implement the provisions of this section during the seven-fiscal-year period in accordance with the schedule provided in subsection (c). Such positions authorized each fiscal year pursuant to this section shall not be considered as offsetting or limiting the personnel required by the Service to serve the health needs of Indians during and subsequent to such seven-fiscal-year period but shall be in addition to the positions authorized in the previous fiscal year.

(c) The following amounts and positions are authorized, in accordance with the provisions of subsections (a) and (b), for the specific purposes noted:

(1) Patient care (direct and indirect): sums as provided in subsection (e) for fiscal year 1978, $8,500,000 and two hundred and twenty-five positions for fiscal year 1979, and $16,200,000 and three hundred positions for fiscal year 1980.

(2) Field health, excluding dental care (direct and indirect): sums as provided in subsection (e) for fiscal year 1978, $3,350,000 and eighty-five positions for fiscal year 1979, and $5,550,000 and one hundred and thirteen positions for fiscal year 1980.

(3) Dental care (direct and indirect): sums as provided in subsection (e) for fiscal year 1978, $1,500,000 and eighty positions for fiscal year 1979, and $1,500,000 and fifty positions for fiscal year 1980.

(4) Mental health: (A) Community mental health, sums as provided in subsection (e) for fiscal year 1978, $1,300,000 and thirty positions for fiscal year 1979, and $2,000,000 and thirty positions for fiscal year 1980.

(B) Inpatient mental health services: sums as provided in subsection (e) for fiscal year 1978, $400,000 and fifteen positions for fiscal year 1979, and $600,000 and fifteen positions for fiscal year 1980.

(C) Model dormitory mental health services: sums as provided in subsection (e) for fiscal year 1978, $1,250,000 and fifty positions for fiscal year 1979, and $1,875,000 and fifty positions for fiscal year 1980.

(D) Therapuetic and residential treatment centers: sums as provided in subsection (e) for fiscal year 1978, $300,000 and ten positions for fiscal year 1979, and $400,000 and five positions for fiscal year 1980.

(E) Training of traditional Indian practitioners in mental health: sums as provided in subsection (e) for fiscal year 1978, $150,000 for fiscal year 1979, and $200,000 for fiscal year 1980.

"(5) Treatment and control of alcoholism among Indians: $4,000,000 for fiscal year 1978, $9,000,000 for fiscal year 1979, and $9,200,000 for fiscal year 1980."

(6) Maintenance and repair (direct and indirect); sums as provided in subsection (e) for fiscal year 1978, $3,000,000 and twenty positions for fiscal year 1979, and $4,000,000 and thirty positions for fiscal year 1980.

(7) For fiscal years 1981, 1982, 1983, and 1984 there are authorized to be appropriated for the items referred to in the preceding paragraphs such sums as may be specifically authorized by an Act enacted after this Act. For such fiscal years, positions are authorized for such items (other than the item referred to in paragraphs (4)(E) and (5)) as may be specified in an Act enacted after the date of the enactment of this Act.

(d) The Secretary, acting through the Service, shall expend directly or by contract not less than 1 per centum of the funds appropriated under the authorizations in each of the clauses (1) through (5) of subsection (c) for research in each of the areas of Indian health care for which such funds are authorized to be appropriated.

(e) For fiscal year 1978, the Secretary is authorized to apportion not to exceed $5,000,000 total and such positions as he deems necessary and appropriate for the programs enumerated in title II of this Act.

TITLE III—HEALTH FACILITIES

CONSTRUCTION AND RENOVATION OF SERVICE FACILITIES

SEC. 301. (a) The Secretary, acting through the Service, is authorized to expend over the seven-fiscal-year period beginning after the date of the enactment of this Act the sums authorized by subsection (b) for the construction and renovation of hospitals, health centers, health stations, and other facilities of the Service.

(b) The following amounts are authorized to be appropriated for purposes of subsection (a):

(1) Hospitals: $67,180,000 for fiscal year 1978, $73,256,000 for fiscal year 1979, and $49,742,000 for fiscal year 1980. For fiscal years 1981, 1982, 1983, and 1984, there are authorized to be appropriated for hospitals such sums as may be specifically authorized by an Act enacted after this Act."

(2) Health centers and health stations; $6,960,000 for fiscal year 1978, $6,226,000 for fiscal year 1979, and $3,720,000 for fiscal year 1980. For fiscal years 1981, 1982, 1983, and 1984, there are authorized to be appropriated for health centers and health stations such sums as may be specifically authorized by an Act enacted after this Act.

(3) Staff housing; $1,242,000 for fiscal year 1978, $21,725,000 for fiscal year 1979, and $4,116,000 for fiscal year 1980. For fiscal years 1981, 1982, 1983, and 1984, there are authorized to be appropriated for staff housing such sums as may be specifically authorized by an Act enacted after this Act.

(c) Prior to the expenditure of, or the making of any firm commitment to expand, any funds authorized in subsection (a), the Secretary, acting through the Service, shall—

(1) consult with any Indian tribe to be significant affected by any such expenditure for the purpose of determining and, wherever practicable, honoring tribal preferences concerning the size, location, type, and other characteristics of any facility on which such expenditure is to be made; and

(2) be assured that, wherever practicable, such facility, not later than one year after its construction or renovation, shall meet the standards of the Joint Committee on Accreditation of Hospitals.

CONSTRUCTION OF SAFE WATER AND SANITARY WASTE DISPOSAL FACILITIES

SEC. 302. (a) During the seven-fiscal-year period beginning after the date of the enactment of this Act, the Secretary is authorized to expend under section 7 of the Act of August 5, 1954 (42 U.S.C. 2004a), the sums authorized under subsection (b) to supply unmet needs for safe water and sanitary waste disposal facilities in existing and new Indian homes and communities.

(b) For expenditures of the Secretary authorized by subsection (a) for facilities in existing Indian homes and communities there are authorized to be appropriated $43,-

000,000 for fiscal year 1978, $30,000,000 for fiscal year 1979, and $30,000,000 for fiscal year 1980. For expenditures of the Secretary authorized by subsection (a) for facilities in new Indian homes and communities there are authorized to be appropriated such sums as may be necessary for fiscal years 1978, 1979, and 1980. For fiscal years 1981, 1982, 1983, and 1984 for expenditures authorized by subsection (a) there are authorized to be appropriated such sums as may be specifically authorized in an Act enacted after this Act.

(c) Former and currently federally recognized Indian tribes in the State of New York shall be eligible for assistance under this section.

PREFERENCE TO INDIANS AND INDIAN FIRMS

SEC. 303. (a) The Secretary, acting through the Service, may utilize the negotiating authority of the Act of June 25, 1910 (25 U.S.C. 47), to give preference to any Indian or any enterprise, partnership, corporation, or other type of business organization owned and controlled by an Indian or Indians including former or currently federally recognized Indian tribes in the State of New York (hereinafter referred to as an "Indian firm") in the construction and renovation of Service facilities pursuant to section 301 and in the construction of safe water and sanitary waste disposal facilities pursuant to section 302. Such preference may be accorded by the Secretary unless he finds, pursuant to rules and regulations promulgated by him, that the project or function to be contracted for will not be satisfactory or such project or function cannot be properly completed or maintained under the proposed contract. The Secretary, in arriving at his finding, shall consider whether the Indian or Indian firm will be deficient with respect to (1) ownership and control by Indians, (2) equipment, (3) bookkeeping and accounting procedures, (4) substantive knowledge of the project or function to be contracted for, (5) adequately trained personnel, or (6) other necessary components of contract performance.

(b) For the purpose of implementing the provisions of this title, the Secretary shall assure that the rates of pay for personnel engaged in the construction or renovation of facilities constructed or renovated in whole or in part by funds made available pursuant to this title are not less than the prevailing local wage rates for similar work as determined in accordance with the Act of March 3, 1931 (40 U.S.C. 276a–276a–5, known as the Davis-Bacon Act).

SOBOBA SANITATION FACILITIES

SEC. 304. The Act of December 17, 1970 (84 Stat. 1465), is hereby amended by adding the following new section 9 at the end thereof:

"SEC. 9. Nothing in this Act shall preclude the Soboba Band of Mission Indians and the Soboba Indian Reservation from being provided with sanitation facilities and services under the authority of section 7 of the Act of August 5, 1954, as amended by the Act of July 31, 1959 (73 Stat. 267).".

TITLE IV—ACCESS TO HEALTH SERVICES

ELIGIBILITY OF INDIAN HEALTH SERVICE FACILITIES UNDER MEDICARE PROGRAM

SEC. 401. (a) Sections 1814(c) and 1835(d) of the Social Security Act are each amended by striking out "No payment" and inserting in lieu thereof "Subject to section 1880, no payment".

(b) Part C of title XVIIII of such Act is amended by adding at the end thereof the following new section:

"INDIAN HEALTH SERVICE FACILITIES

"SEC. 1880. (a) A hospital or skilled nursing facility of the Indian Health Service, whether operated by such Service or by an Indian tribe or tribal organization (as those terms are defined in section 4 of the Indian Health Care Improvement Act, shall be eligible for payments under this title, notwithstanding sections 1814(c) and 1835(d), if and for so long as it meets all of the conditions and requirements for such payments which are applicable generally to hospitals or skilled nursing facilities (as the case may be) under this title.

"(b) Notwithstanding subsection (a), a hospital or skilled nursing facility of the Indian Health Service which does not meet all of the conditions and requirements of this title which are applicable generally to hospitals or skilled nursing facilities (as the case may be), but which submits to the Secretary within six months after the date of the enactment of this section an acceptable plan for achieving compliance with such conditions and requirements, shall be deemed to meet such conditions and requirements (and to be eligible for payments under this title), without regard to the extent of its actual compliance with such conditions and requirements, during the first 12 months after the month in which such plan is submitted.

"(c) Notwithstanding any other provision of this title, payments to which any hospital or skilled nursing facility of the Indian Health Service is entitled by reason of this section shall be placed in a special fund to be held by the Secretary and used by him (to such extent or in such amounts as are provided in appropriation Acts) exclusively for the purpose of making any improvements in the hospitals and skilled nursing facilities of such Service which may be necessary to achieve compliance with the applicable conditions and requirements of this title. The preceding sentence shall cease to apply when the Secretary determines and certifies that substantially all of the hospitals and skilled nursing facilities of such Service in the United States are in compliance with such conditions and requirements.

"(d) The annual report of the Secretary which is required by section 701(a) of the Indian Health Care Improvement Act shall include (along with the matters specified in section 403 of such Act) a detailed statement of the status of the hospitals and skilled nursing facilities of the Service in terms of their compliance with the applicable conditions and requirements of this title and of the progress being made by such hospitals and facilities (under plans submitted under subsection (b) and otherwise) toward the achievement of such compliance.".

(c) Any payments received for services provided to beneficiaries hereunder shall not be considered in determining appropriations for health care and services to Indians.

(d) Nothing herein authorizes the Secretary to provide services to an Indian beneficiary with coverage under title XVIII of the Social Security Act, as amended, in preference to an Indian beneficiary without such coverage.

SERVICES PROVIDED TO MEDICAID ELIGIBLE INDIANS

SEC. 402. (a) Title XIX of the Social Security Act is amended by adding at the end thereof the following new section:

"INDIAN HEALTH SERVICE FACILITIES

"SEC. 1911. (a) A facility of the Indian Health Service (including a hospital, intermediate care facility, or skilled nursing facility), whether operated by such Service or by an Indian tribe or tribal organization (as those terms are defined in section 4 of the Indian Health Care Improvement Act), shall be eligible for reimbursement for medical assistance provided under a State plan if and for so long as it meets all of the conditions and requirements which are applicable generally to such facilities under this title.

"(b) Notwithstanding subsection (a), a facility of the Indian Health Service (including a hospital, intermediate care facility, or skilled nursing facility) which does not meet all of the conditions and requirements of this title which are applicable generally to such facility, but which submits to the Secretary within six months after the date of the enactment of this section an acceptable plan for achieving compliance with such conditions and requirements, shall be deemed to meet such conditions and requirements (and to be eligible for reimbursement under this title), without regard to the extent of its actual compliance with such conditions and requirements, during the first twelve months after the month in which such plan is submitted.".

(b) The Secretary is authorized to enter into agreements with the appropriate State agency for the purpose of reimbursing such agency for health care and services provided in Service facilities to Indians who are eligible for medical assistance under title XIX of the Social Security Act, as amended.

(c) Notwithstanding any other provision of law, payments to which any facility of the Indian Health Service (including a hospital, intermediate care facility, or skilled nursing facility) is entitled under a State plan approved under title XIX of the Social Security Act by reason of section 1911 of such Act shall be placed in a special fund to be held by the Secretary and used by him (to such extent or in such amounts as are provided in appropriation Acts) exclusively for the purpose of making any improvements in the facilities of such Service which may be necessary to achieve compliance with the applicable conditions and requirements of such title. The preceding sentence shall cease to apply when the Secretary determines and certifies that substantially all of the health facilities of such Service in the United States are in compliance with such conditions and requirements.

(d) Any payments received for services provided recipients hereunder shall not be considered in determining appropriations for the provision of health care and services to Indians.

(e) Section 1905(b) of the Social Security Act is amended by inserting at the end thereof the following: "Notwithstanding the first sentence of this section, the Federal medical assistance percentage shall be 100 per centum with respect to amounts expended as medical assistance for services which are received through an Indian Health Service facility whether operated by the Indian Health Service or by an Indian tribe or tribal organization (as defined in section 4 of the Indian Health Care Improvement Act).".

REPORT

SEC. 403. The Secretary shall include in his annual report required by subsection (a) of section 701 an accounting on the amount and use of funds made available to the Service pursuant to this title as a result of reimbursements through title XVIII and XIX of the Social Security Act, as amended.

TITLE V—HEALTH SERVICES FOR URBAN INDIANS

PURPOSE

SEC. 501. The purpose of this title is to encourage the establishment of programs in urban areas to make health services more accessible to the urban Indian population.

CONTRACTS WITH URBAN INDIAN ORGANIZATIONS

SEC. 502. The Secretary, acting through the Service, shall enter into contracts with urban Indian organizations to assist such organizations to establish and administer, in the urban centers in which such organizations are situated, programs which meet the requirements set forth in sections 503 and 504.

CONTRACT ELIGIBILITY

SEC. 503. (a) The Secretary, acting through the Service, shall place such conditions as he deems necessary to effect the purpose of this title in any contract which he makes with any urban Indian organization pursuant to this title. Such conditions shall include, but are not limited to, requirements that the organization successfully undertake the following activities:

(1) determine the population of urban Indians which are or could be recipients of health referral or care services;

(2) identify all public and private health service resources within the urban center in which the organization is situated which are or may be available to urban Indians;

(3) assist such resources in providing service to such urban Indians;

(4) assist such urban Indians in becoming familiar with and utilizing such resources;

(5) provide basic health education to such urban Indians;

(6) establish and implement manpower training programs to accomplish the referral and education tasks set forth in clauses (3) through (5) of this subsection;

(7) identify gaps between unmet health needs of urban Indians and the resources available to meet such needs;

(8) make recommendations to the Secretary and Federal, State, local, and other resource agencies on methods of improving health service programs to meet the needs of urban Indians; and

(9) where necessary, provide or contract for health care services to urban Indians.

(b) The Secretary, acting through the Service, shall by regulation prescribe the criteria for selecting urban Indian organizations with which to contract pursuant to this title. Such criteria shall, among other factors, take into consideration;

(1) the extent of the unmet health care needs of urban Indians in the urban center involved;

(2) the size of the urban Indian population which is to receive assistance;

(3) the relative accessibility which such population has to health care services in such urban center;

(4) the extent, if any, to which the project would duplicate any previous or current public or private health services project funded by another source in such urban center;

(5) the appropriateness and likely effectiveness of a project assisted pursuant to this title in such urban center;

(6) the existence of an urban Indian organization capable of performing the activities set forth in subsection (a) and of entering into a contract with the Secretary pursuant to this title; and

(7) the extent of existing or likely future participation in such activities by appropriate health and health-related Federal, State, local, and other resource agencies.

OTHER CONTRACT REQUIREMENTS

Sec. 504. (a) Contracts with urban Indian organizations pursuant to this title shall be in accordance with all Federal contracting laws and regulations except that, in the discretion of the Secretary, such contracts may be negotiated without advertising and need not conform to the provisions of the Act of August 24, 1935 (48 Stat. 793), as amended.

(b) Payments under any contracts pursuant to this title may be made in advance or by way of reimbursement and in such installments and on such conditions as the Secretary deems necessary to carry out the purposes of this title.

(c) Notwithstanding any provision of law to the contrary, the Secretary may, at the request or consent of an urban Indian organization, revise or amend any contract made by him with such organization pursuant to this title as necessary to carry out the purposes of this title: *Provided, however,* That whenever an urban Indian organization requests retrocession of the Secretary for any contract entered into pursuant to this title, such retrocession shall become effective upon a date specified by the Secretary not more than one hundred and twenty days from the date of the request by the organization or at such later date as may be mutually agreed to by the Secretary and the organization.

(d) In connection with any contract made pursuant to this title, the Secretary may permit an urban Indian organization to utilize, in carrying out such contract, existing facilities owned by the Federal Government within his jurisdiction under such terms and conditions as may be agreed upon for their use and maintenance.

(e) Contracts with urban Indian organizations and regulations adopted pursuant to this title include provisions to assure the fair and uniform provision to urban Indians of services and assistance under such contracts by such organizations.

REPORTS AND RECORDS

Sec. 505. For each fiscal year during which an urban Indian organization receives or expends funds pursuant to a contract under this title, such organization shall submit to the Secretary a report including information gathered pursuant to section 508(a) (7) and (8), information on activities conducted by the organization pursuant to the contract, an accounting of the amounts and purposes for which Federal funds were expended, and such other information as the Secretary may request. The reports and records of the urban Indian organization with respect to such contract shall be subject to audit by the Secretary and the Comptroller General of the United States.

AUTHORIZATIONS

Sec. 506. There are authorized to be appropriated for the purpose of this title: $5,000,000 for fiscal year 1978, $10,000,000 for fiscal year 1979, and $15,000,000 for fiscal year 1980.

REVIEW OF PROGRAM

Sec. 507. Within six months after the end of fiscal year 1978, the Secretary, acting through the Service and with the assistance of the urban Indian organizations which have entered into contracts pursuant to this title, shall review the program established under this title and submit to the Congress his or her assessment thereof and recommendations for any further legislative efforts he or she deems necessary to meet the purpose of this title.

RURAL HEALTH PROJECTS

Sec. 508. Not to exceed 1 per centum of the amounts authorized by section 506 shall be available for not to exceed two pilot projects providing outreach services to eligible Indians residing in rural communities near Indian reservations.

TITLE VI

AMERICAN INDIAN SCHOOL OF MEDICINE

Sec. 601. The Secretary, in consultation with Indian tribes and appropriate Indian organizations, shall conduct a study to determine the need for, and the feasibility of, establishing a school of medicine to train Indians to provide health services for Indians. Within one year of the date of the enactment of this Act the Secretary shall complete such study and shall report to the Congress findings and recommendations based on such study.

TITLE VII

REPORTS

Sec. 701. The Secretary shall report annually to the President and the Congress on progress made in effecting the purposes of this Act. Within three months after the end of fiscal year 1979, the Secretary shall review expenditures and progress made under this Act and make recommendations to Congress concerning any additional authorizations for fiscal years 1981 through 1984 for programs authorized under this Act which he deems appropriate. In the event Congress enacts legislation authorizing appropriations for programs under this Act for fiscal year 1981 through 1984, within three months after the end of fiscal year 1983, the Secretary shall review programs established or assisted pursuant to this Act and shall submit to the Congress his assessment and recommendations of additional programs or additional assistance necessary to, at a minimum, provide health services to Indians, and insure a health status for Indians, which are at a parity with the health services available to, and the health status, of the general population.

REGULATIONS

Sec. 702. (a) (1) Within six months from the date of enactment of this Act, the Secretary shall, to the extent practicable, consult with national and regional Indian organizations to consider and formulate appropriate rules and regulations to implement the provisions of this Act.

(2) Within eight months from the date of enactment of this Act, the Secretary shall publish proposed rules and regulations in the Federal Register for the purpose of receiving comments from interested parties.

(3) Within ten months from the date of enactment of this Act, the Secretary shall promulgate rules and regulations to implement the provisions of this Act.

(b) The Secretary is authorized to revise and amend any rules or regulations promulgated pursuant to this Act: *Provided,* That, prior to any revision of or amendment to such rules or regulations, the Secretary shall, to the extent practicable, consult with appropriate national or regional Indian organizations and shall publish any proposed revision or amendment in the Federal Register not less than sixty days prior to the effective date of such revision or amendment in order to provide adequate notice to, and receive comments from, other interested parties.

PLAN OF IMPLEMENTATION

Sec. 703. (a) Within two hundred and forty days after enactment of this Act, a plan will be prepared by the Secretary and will be submitted to the Congress.

(b) The plan will explain by title and section the manner and schedule by which the Secretary will implement the provisions of this Act. This will include a schedule for appropriation requests by title and section.

LEASES WITH INDIAN TRIBES

Sec. 704. Notwithstanding any other provision of law, the Secretary is authorized, in carrying out the purposes of this Act, to enter into leases with Indian tribes for periods not in excess of twenty years.

AVAILABILITY OF FUNDS

Sec. 705. The funds appropriated pursuant to this Act shall remain available until expended.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House bill (H.R. 2525) was laid on the table.

GENERAL LEAVE

Mr. MEEDS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks in the Record on the bill H.R. 2525, just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

GENERAL LEAVE

Mr. McHUGH. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to extend their remarks, and include therein extraneous material, on the bill, H.R.

8401, the Nuclear Fuel Assurance Act of 1975, which was considered today.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

BUREAUCRATIC HARASSMENT AND BUNGLING CONDEMNED

The SPEAKER pro tempore. Under a previous order of the House the gentleman from Texas (Mr. MAHON) is recognized for 15 minutes.

Mr. MAHON. Mr. Speaker, the Federal Government increasingly has become the object of contempt in the eyes of the American people. I speak of the executive branch, the judicial branch, and the legislative.

Mistakes have been made in all three branches and there are numerous examples of wrongdoing. This is not unique. We have had such examples since the founding of our Government, but it seems to me we have reached an acute stage of discontent over the performance of our Government.

In these remarks I am not speaking of illegal acts, as serious as they are, but of harassment by Government personnel of the citizen and foolish and indefensible actions of Government employees charged with the administration of the laws. I am thinking at the moment of the interpretation and administration of the law by personnel in the executive branch.

Congress must legislate in a general way in many fields, and it is not possible for Congress to enact legislation setting forth every rule and regulation. This must be done by the executive branch—the branch charged with the administration of our laws. And it is here that so much criticism arises.

Too often one sees examples of foolish and ridiculous rules and regulations which are invented by impractical Government personnel. When a foolish outrage is publicized, the culprit is often an obscure bureaucrat in the executive branch. His name is not on the ballot at election time, and he can sit back and laugh, if he will, at the discomfort which is caused for the administration or the Congress. Some way must be found to call a halt to the present intolerable situation.

In a recent visit to the district which I have the honor to represent, I was confronted with two such examples of outrageous and intolerable activities on the part of OSHA, the Occupational Safety and Health Administration.

SAFETY WITH BEEF CATTLE

The first concerned a booklet entitled "Safety With Beef Cattle" which OSHA issued. The second concerned proposed OSHA regulations about field sanitary facilities on farms and ranches. Both, in my opinion, are examples of Government personnel taking a law, and by the manner in which they implement it, making fools of it and themselves, and in the process discrediting the entire Government.

The "Safety With Beef Cattle" booklet contains such startling statements as "When floors are wet and slippery with manure, you could have a bad fall," "Bare feet or sneakers aren't safe around cattle," "Be careful when you are handling animals," "You can get too tired when working with cattle," and "Be careful that you do not fall into manure pits."

Most of the people in my area who work with beef cattle that have seen or heard of this booklet think it is utterly absurd and that someone who did not know such things as I listed above should not be around a cow in the first place. They do not like to see their tax money used in the publication of such trash.

In fact, in my opinion, the most untutored child or farmworker who could not read or write knows far more about cows than was exhibited by the writer of this booklet.

The time has come to cease tolerating such ineptness. We must declare war on this kind of practice if respect for government is to be restored and maintained.

I am presenting the names of the people who appear to have been responsible for this booklet and the way it was distributed and calling on their employers—ultimately the Secretary of Labor—to review their performance and determine what may best be done by way of corrective action. Concerning personnel at Purdue University, who actually prepared the booklet, I am calling on OSHA to review its contract and determine if Purdue and particularly those involved with this booklet should continue to receive funds from the Federal Government.

I am formally making this request and have so notified the Secretary of Labor. According to information presented to me, those OSHA officials directly involved in the preparation of the beef cattle booklet are as follows:

Earl D. Heath, Director of the Office of Training and Education.

David Martin, Officer of Training and Education.

Daniel Murphy, Contracting Officer for the Department of Labor.

Purdue officials are as follows:

John B. Liljedahl, Purdue Research Foundation.

Wayne L. Singleton, Purdue Extension Animal Scientist.

Kenneth M. Weinland, Purdue Extension Veterinarian.

Gay F. White, Purdue Information Specialist.

Clearly the beef cattle booklet is ridiculous and a waste of the taxpayers' money. And without doubt it has increased citizens' contempt of their Government. But fortunately, it has caused no physical harm and has not interfered with the actual production of beef cattle.

SANITATION STANDARDS ON FARMS AND RANCHES

The field sanitation standards, however, are a different matter. They have caused great consternation and agitation among farmers and ranchers throughout the Nation.

The standards as published would require toilet and handwashing facilities to be available within a 5-minute walk of the workers. Some might contend that such standards on a 10-acre farm or ranch would be appropriate, but on a large operation, such requirements would be absolutely ludicrous. And if they were implemented as proposed, they would probably become one of the greatest monuments to bureaucratic foolishness and ineptness known to man.

Mr. Speaker, after looking at the proposed standards, it becomes obvious that they are totally unworkable and in fact ridiculous.

During our discussion on this matter, Dr. Corn, director of OSHA, stated that these proposed standards were never meant to be a final product, but only a vehicle to which people could react and make proposals.

That is slight consolation. The real issue is why a Federal agency would issue standards in the first place that were not intended to be implemented and would obviously have to be changed.

Such actions cause untold concern and consternation among people affected by them, in this case the Nation's farmers and ranchers.

In my opinion, this is an outrageous situation and one that the Department of Labor should not tolerate.

Increasingly, we are confronted with situations of this nature. Congress passes a law that outlines in relatively broad detail what is to be done. It is then up to the executive branch to implement the law. And it is here that the problems arise. While many congressional laws are far from perfect, they generally are not patently ridiculous and absurd as are many of the rules and regulations that are promulgated by various personnel in the executive branch.

And of course these people do not have to answer to the public for outrages they perpetrate in the name of administering the law.

By their actions they bring contempt on the Government. If there is to be a free democratic society the people must support and believe in their Government. Without this trust, government breaks down.

I repeat again, a major effort must be made to halt foolishness and waste in the Federal Government. We must find a way to instill in the Federal worker that he is a servant of the people and that he holds a public trust.

Mr. Speaker, many great American thinkers have noted that our system of government is probably not the most efficient way to run a nation, but that it is probably the fairest and most just.

I fear for our future—if Government employees continue without reprimand or admonition to harass needlessly our citizens and to make a mockery of programs that are intended to help people, rather than hinder them.

We must stop such actions and we should do it now.

GUN CONTROL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. PAUL) is recognized for 30 minutes.

Mr. PAUL. Mr. Speaker, for years many of us have warned that the ultimate goal of the gun control movement is the registration and confiscation of all firearms, from the simplest of handguns to the most elaborate hunting rifles and shotguns. Such warnings invariably fell on deaf ears. Our predictions were scoffed at by the "experts." The media would characterize our remarks as alarmist and extremist and imply that we were simply trying to get gun owners riled up over nothing. In short, few people listened and even fewer took us seriously.

Well Mr. Speaker, as the cliche goes, the proof is in the pudding. This Congress has before it now a gun control measure so far reaching in its oppressive authority that it can leave no doubt as to the intentions of the gun control zealots. Even the greatest skeptics need only glance at the 43-page District of Columbia gun control bill to grasp at once its radical ramifications. This is not a handgun bill, it is a firearms bill directed intentionally at law-abiding homeowners and sportsmen possessing any type of firearm at all. For those of us yet unfamiliar with this document, permit me to cite some specific provisions.

At the outset, let me say that undoubtedly much of this will be new information to my colleagues. Although the Mayor's office delivered the bill to the District of Columbia Committee on Tuesday, virtually none of us has had the opportunity to view it. My efforts at obtaining a copy from the committee have thus far been fruitless. I am told that the District of Columbia Committee cannot provide copies to Members, that it must be obtained from the District of Columbia City Council. This is so absurd that it insults our intelligence. The precise reason that the bill was sent to the District of Columbia Committee by the city government was to afford Members of Congress the opportunity to review the measure and take possible action to disapprove it within the 30-day time period prescribed under the Home Rule Charter.

But instead the committee hems and haws, telling us the bill is "very, very thick"—43 pages—and would tie up staff time photocopying it. "Wait 10 days until it appears in committee print," they advised. I am sure in their viewpoint a 30-day wait would be better yet. Frankly, I am very disappointed that the chairman has not seen fit to enter the text of the bill in the RECORD or otherwise made it freely available to all Members. The District of Columbia Committee is charged with the responsibility of transmitting this information to every interested Member and to date that responsibility has been largely ignored. This to me is a travesty and a miscarriage of the legislative process.

As miraculous as it may seem, I do however have a copy of the bill, received from a private source. At the conclusion of my statement I will enter the entire text of the bill in the RECORD. I am afraid that this is the only way my colleagues will ever get to see it.

What exactly does the District of Columbia gun control bill do? Let us take a brief look. Most people, it seems, are of the false impression that the legislation would primarily control handguns and that it addresses itself to the specific problem of handgun crime. In fact, the bill sets a major precedent in that it purposefully treats all firearms equally, making no distinction at all between a double-barrel shotgun and a .22 pocket automatic in terms of a citizen's eligibility to possess such firearms and the various restrictions and obligations the owner faces under the law. The only exception to this is the continued ban on machineguns and sawed-off rifles and shotguns. Also, while longarms could continue to be purchased and registered after the act goes into effect, handguns would have to have been previously registered and then reregistered. No new handgun purchases can be made in the District of Columbia after the bill becomes effective. But beyond this, longarms and handgun owners would be treated in exactly the same way under this law. Apparently the District of Columbia City Council considers them to all be equal threats to society.

Consider, however, the absurdity of the one distinction that is made between long guns and handguns. The District of Columbia expressly states in section 202 that—

> No registeration certificate shall be issued for any . . . (d) pistol not validly registered to the current registerant in the District prior to the effective date of this act;

In other words, if a resident of District of Columbia owns a handgun and wishes to dutifully register it under this new law, but who, either through neglect, ignorance of the law, temporary disability or whatever, did not register the weapon under previous District of Columbia statute, he is legally prohibited from ever registering the gun in District of Columbia. Since he cannot legally sell it or give it away, his only alternatives are either destroy the gun, turn it in or keep it illegally. The chances are that human nature will have him choose the latter course and instantly he and thousands of other well-meaning, law-abiding citizens will be transformed into lawbreakers and criminals.

The bill would require the registration of all firearms in the District—that is, as I mentioned, all guns except handguns which were previously unregistered—with the chief of police. Those who already registered their guns must apply for reregistration within 60 days. The chief then has a full year in which to subjectively decide if these citizens are "worthy" of continuing to own their own property. Applicants must appear in person and will probably be required to bring their firearm with them in most cases. They must pay the registration fee in advance, the amount of that fee being totally at the mayor's discretion. Moreover, this fee is completely nonrefundable regardless of whether the application is accepted or denied. The bill does not state whether the applicant must leave his firearm with the police while his application is pending or not, so one may presume that such a requirement would be within the discretion of the chief of police. Again, the chief has a full year in which to decide the applicant's eligibility, and every gun must be reregistered once a year.

Based on the broad, vaguely defined powers inherent in this bill, one can easily envison where citizens would pay their registration fees only to have their guns held by the police for a full year. The application is then accepted but the owner does not even regain possession of his firearm because it is then time to apply again for reregistration.

In light of all this, it is worth noting that according to District of Columbia Police Chief Cullinane, less than one-half of 1 percent of all the guns seized by police last year in connection with crimes were registered. There are presently over 60,000 registered firearms in the District. One is forced to ask the most obvious of questions. If the city council is concerned about controlling crime, then why does it pass legislation which overlooks 99.5 percent of all gun-related crimes and concentrates instead on legitimate sportsmen and collectors who account for almost none of the firearms crimes in the District?

The council, with their blind, antigun bias, are attempting to convince us that the reason previous gun legislation has not deterred crime is because only handguns were controlled. To control crime, they say, it is absolutely essential that longarms be restricted in the same way that handguns are. This implies that longarms are a major factor in the incidence of violent crime. The facts indicate that precisely the opposite is true. Looking at the 1969 District of Columbia crime statistics, for example, we discover that out of 192 murders last year, only 3 were committed with shotguns and 2 with rifles. Rifles were employed in only 24 of 2,627 aggravated assaults and in a mere 20 of the 8,372 robberies.

So the question is, what are they trying to accomplish with this bill if not to reduce crime? Who exactly are they going after if not the criminal? Clearly, this measure is designed to regulate, harass, and eventually disarm every honest citizen while allowing the criminal element to run rampant over a totally defenseless population.

Let us examine how this bill would go about doing just that. In order to be eligible to own a registered firearm, applicants must satisfy all of the following criteria:

1. Be 21 years of age, or 18 with guardian assuming all civil liability;

2. Not have been convicted of a crime of violence, a weapons offense or a violation of this Act;

3. Not be under indictment for a crime of violence or a weapons offense;

4. Be free of convictions for 5 years past of any drug law, or of any threat to do bodily harm, assault "or any similar provision of the law of any other jurisdiction so as to indicate a likelihood to make unlawful use of a firearm." (Section 203(a) (4) (B);

5. Not have been acquitted of any criminal charge by reason of insanity for the previous 5 years;

6. Not have been adjudicated a chronic alcoholic by any Court for the previous 5 years;

7. Not have been voluntarliy or involuntarily committed to any mental institution for the previous 5 years;

8. Not appear to suffer from a handicap

that would "tend to indicate that the applicant would not be able to possess and use a firearm safely and responsibly" (Section 203(a)(7);

9. Not have been judged negligent in a firearm accident causing death or serious injury;

10. Be eligible under present law to possess a pistol;

11. Pass a test on D.C. firearms laws as devised by the Chief of Police;

12. Have vision equal to that required to obtain a valid driver's license in D.C.;

13. Provide his full name to the Chief of Police;

14. Provide his present address and each address for the previous 5 years;

15. Provide his present business and each business for the previous 5 years; the name and location of;

16. Provide date and place of birth;

17. Provide sex;

18. Provide information concerning any denial or revocation of registration, permit or license of a firearm;

19. Provide a description of any firearm accident involving the applicant;

20. Provide information of the intended use of the firearm;

21. Provide the caliber, make, model, manufacturer's number, serial number and identifying marks on the firearm;

22. Provide the name and address and other identification of the person from whom the gun was obtained;

23. Tell where the firearm will be kept;

24. Tell whether the applicant has applied for any other registration certificates;

25. Provide "such other information as the Chief determines is necessary";

26. Provide 2 "full-face" photographs 1¾'' x 1⅜'' taken within a 30 day period preceding date of application;

27. Appear in person when applying and may be required to bring the firearm being registered;

28. Sign an oath attesting to the truth of all information provided; and

29. Pay fee set by the Mayor.

The Chief of Police may require fingerprinting of an applicant and if there is any error in an application, the applicant is required to file an amended application and pay another fee equal to that of the first.

Most of these requirements are written intentionally in vague language and are therefore subject to the interpretive whims of the enforcers. Moreover, an enormous amount of discretionary power is bestowed upon the Chief of Police and Mayor. If liberally interpreted and aggressively enforced, this bill could bring about the disarming of virtually every honest citizen. The power is there.

For example, in section 203, what exactly is meant by violation of "any similar provision of law of any other jurisdiction so as to indicate a likelihood to make unlawful use of a firearm"? How far can that be stretched by the gun control radicals? What are the precise limits of the requirement, "Does not appear to suffer from a physical defect which would tend to indicate that the applicant would not be able to possess and use a firearm safely and responsibly"? This again is totally subject to the discretion of the Chief of Police. "Physical defect" could mean anything from a quadriplegic to someone with hay fever or a hangnail. What are the guidelines concerning the requirement, "Has not failed to demonstrate satisfactorily a knowledge of the laws of the District of Columbia pertaining to firearms and the safe and responsible use of the same in accordance with tests and standards prescribed by the Chief"? What kind of tests will be administered? Does satisfactory knowledge mean a basic understanding or a section-by-section memorization of every gun law ever passed in the District? It is strictly up to the Chief of Police to decide.

A yearly fee is required for each firearm that is registered. What are the limits to the amount that can be charged? There are none. Section 205 clearly states that—

> A non-refundable fee be established by the Mayor; Provided that such fee shall, in the judgment of the Mayor, reimburse the District for the cost of services provided under this Title.

The "services under this title" could easily end up requiring 50 to 100 employees and costing well over a million dollars. Conceivably, annual registration fees for each firearm could run $25 to $30. These fees would of course start low, but ultimately could be used to force sportsmen and other legitimate gun owners to pay for the entire cost of gun crimes in the District.

Other requirements appear to be blatantly unfair and injudicious. Is it right to prohibit a person from owning a firearm who has been "acquitted of any criminal charge by reason of insanity for the previous 5 years? Innocence through temporary insanity does not imply any kind of permanent mental aberration. Apparently even though a person may be found innocent by a judge or jury he is still considered guilty by the city council. Similarly, people who have been voluntarily or involuntarily committed to a mental institution within the past 5 years cannot register firearms—even people who are totally cured or who never belonged there in the first place. Is this fair or just?

Moreover, the great volume of personal information which applicants must provide is both a violation of privacy and an unreasonable burden. Even the slightest of errors, a misspelling or whatever, constitutes justification for rejecting the application. The applicant must then file a whole new application and pay another, identical nonrefundable fee.

If a person is fortunate enough to be granted a registration certificate, the harassment does not end there, indeed it will have just begun. The gun owner is then obligated to notify the chief of police of:

One. The loss, theft, or destruction of a registration certificate or a registered firearm;

Two. Any change in the information appearing on the registration certificate; and

Three. The sale, transfer or other disposition of the firearm within 48 hours prior to delivery.

Registrants are further required by the bill to:

One. Return to the chief the registration certificate for any firearm disposed of in any way;

Two. Carry and exhibit upon demand the registration certificate, when carrying the firearm; and

Three. Keep their firearms "unloaded and disassembled or bound by a trigger lock or similar device unless such firearm is kept at his place of business" or is being used for lawful recreation.

This third requirements is particularly ludicrous. What exactly is "disassmbled" supposed to mean? Does it require taking out the firing mechanism or does it mean removing every pin and screw from the entire firearm? Likewise, what is a "similar device" to a trigger lock? Furthermore, what this provision says is that businessmen have the right to defend their businesses with a firearm but the average citizen does not have a right to defend his home, his property, and his family from attack. One can keep his guns operational and loaded, the other cannot.

Registrants are also prohibited from loaning, borrowing, giving, or renting firearms or ammunition at any time for any reason.

Revocation of a registration certificate is again under the discretionary powers of the chief of police. If he decides that a registrant is for one reason or another no longer eligible or has diverted in some way form his legal obligations under the act, he can immediately revoke the certificate, which requires that the owner must at once surrender his firearm to the police.

For whatever gun dealerships might remain in operation after the bill goes into effect, extremely strict regulations are imposed. License requirements are stiffened, extensive recordkeeping is demanded and firearms may no longer be displayed in windows at any time. Discretionary powers for revoking dealers' licenses are, of course, expanded.

Throughout the council's bill there is evidence of extremely shoddy drafting. Indeed, it is so poorly written that it is almost laughable. For example, section 709 refers to "the penalties prescribed in section 605 of this act," but there is no section 605. Section 502(d) refers to "subsections (b) and (f)," but there is no subsection (f) in the whole of title IV.

There is one other objection to the District of Columbia Firearms Act which deserves mention. It is illegal. According to the District of Columbia Self-Government and Governmental Reorganization Act, section 602(a)(9):

> The Council shall have no authority to . . . enact any act, resolution or rule . . . with respect to any provision of any law codified in Title 22 or 24 of the District of Columbia Code . . . during the twenty-four full calendar months immediately following the day on which the members of the Council first elected pursuant to this Act to take office.

The District of Columbia members took office on January 2, 1975, and this act was passed by the council on June 29, and signed by the Mayor on July 23, 1976. The act refers directly to title XXII of the District of Columbia Code seven times and indirectly two times, and supplements section 3201 of title XXII.

Mr. Speaker, this bill will not go away by ignoring its existence or by looking in the other direction for 30 legislative days. We cannot tell the American people that Congress was too busy to take notice or take action. That will not wash with our citizens.

Inaction is the worst of all possible courses. Not only would that tell our constituents that Congress tacitly approves of the District of Columbia Firearms Act, but also that the Members of this distinguished body were too busy to bring the matter to the floor for open debate and an up or down vote. Only Wednesday, we passed the so-called Government in the sunshine bill and many of us took the opportunity to offer support to the idea of openness in Government. But now comes the true test—the test of whether we as individuals will allow sensitive and crucial issues such as this to ever see the light of day. Will we sweep the gun control issue under the rug or will we expose it to the "sunshine"?

I have introduced a resolution of disapproval which would prohibit the District of Columbia Council's oppressive legislation from going into effect. This measure requires our attention and prompt action. The American people are watching. They are watching to see if Congress will allow the District of Columbia City Council run roughshod over the constitutional rights of the District's citizens. They are watching to see whether or not we recognize that all Americans, regardless of where they live, have the same constitutional guarantees to property, privacy, and the right to keep and bear arms. We must act decisively and we must act now. I urge that my colleagues support this resolution of disapproval and thereby reaffirm in this our Bicentennial Year the rights and freedoms of all Americans everywhere.

WILLIAM SCOTT FRIEDMAN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. McDADE) is recognized for 5 minutes.

Mr. McDADE. Mr. Speaker, I want to take this opportunity to call the attention of the House to the outstanding achievement of William Scott Friedman who was awarded the Young American Medal for dedicated service by the President on July 19.

Bill is one of only 20 young Americans who have received this award for service since Congress established the program in 1950 to recognize outstanding acts of courage and service by American youths. The program is administered by the Department of Justice.

He was nominated for the award by the Governor of Pennsylvania. Nominees from across the Nation are judged by the Young Americans Medals Committee made up of Justice Department officials including FBI Director Clarence Kelley.

Bill is the son of Mr. and Mrs. Sheldon Friedman of Clarks Summit, Pa. He is presently a sophomore at Harvard University. The service award is based on his exemplary civic achievements. Bill was president of the Abington Heights High School Student Council and editor of the school newspaper. He was also active in dramatic productions and served as manager and statistician of the football team. Even with this impressive list of extracurricular activities, he was able to maintain an outstanding academic record. In addition, he was a member of the Student Advisory Council where he worked to incorporate opinions and concerns of students into policy within the educational system. He has been active in scouting and twice received the highest award of school district for citizenship.

I commend the record of this outstanding young man as an example to all our youth.

SAUDI ARABIA AND JORDAN BID FOR MORE U.S. MISSILES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. DRINAN) is recognized for 10 minutes.

Mr. DRINAN. Mr. Speaker, the Department of Defense has recently indicated its intention to sell 2,000 highly sophisticated Sidewinder air-to-air missiles to Saudi Arabia. At the same time, Jordan has apparently renewed its bid to purchase an air defense system composed of 8 to 14 HAWK missile batteries. The favorable attitude of the Pentagon toward these arms sales demonstrates once again the inability of the present administration to appreciate the implications of massive sales of our most sophisticated weapons to the most volatile area in the world. It is essential, therefore, that the Congress use its oversight authority to prevent these destabilizing and counter-productive weapons transaction.

SALE OF SIDEWINDER MISSILES TO SAUDI ARABIA

In the present fiscal year, private and government-to-government sales of arms from the United States to Saudi Arabia have so far amounted to a staggering $6 billion. During this period, we have sold the Saudis far more military hardware than they can hope to absorb or use, including F-5 jet fighters—$1.8 billion; expansion of naval facilities—$1.2 billion; television guided air-to-ground missiles—$47 million; M-60 tanks—$118 million; antitank missiles—$47 million; armored personnel carriers—$124 million; and antiaircraft cannon—$41 million.

The heat-seeking Sidewinder air-to-air missile is one of the most effective and sophisticated weapons in the American military arsenal. This missile is attracted by the heat of an aircraft's jet tailpipe and automatically guides itself to the enemy plane and then detonates.

At the present time, the Saudi Arabian Air Force possesses 300 Sidewinders; according to authoritative estimates, now and in the next several years they will be capable of utilizing less than 250. Saudi Arabia claims to need the missiles to arm its U.S.-supplied F-5 fighter planes. But by the end of 1978, when delivery of the Sidewinders would begin, the Saudis would possess only 110 F-5's. Each F-5 can carry only 2 Sidewinders; even if one includes reloads, it is inconceivable that the Saudi Air Force could make use of even a fraction of the missiles.

It is evident, therefore, that the sale of an additional 2,000 missiles, far more than Saudi Arabia needs or could possibly use for its own defense, is an open invitation to the Saudis to transfer these surplus weapons to their Arab allies for use against Israel should another Middle East war occur. Indeed, the Saudi Arabian Government has never made a secret of its intention to open its bulging military arsenal to the so-called Arab "confrontation states" for use against Israel in another war. The administration's reported willingness to sell the obviously inflated total of 2,000 Sidewinder missiles to Saudi Arabia confirms its continuing desire to curry favor with the oil-producing states at the expense of a sound Middle East policy.

The recent revelations that America's massive arms sales to Iran have caused enormous logistical problems further indicates that we do not serve the best interests of the oil-rich states by fulfilling their unrealistic demands for massive quantities of sophisticated arms. We now know that tons of U.S.-supplied military hardware lies in unopened crates in Iranian ports; there are simply not enough men capable of operating this sophisticated equipment and not enough places to put it. The appetite of the oil-rich states for shiny new military hardware far exceeds their present capacity to absorb it. In the case of Iran, this constitutes a grave threat for the future, as that nation gains the ability to use all of its weaponry; in the case of Saudi Arabia, the danger is more immediate, as the Saudis can funnel their arms to other Arab states fully capable of using them immediately to tip the military balance against Israel.

The U.S. Arms Control and Disarmament Agency has concluded that the contemplated sale of 2,000 Sidewinders is excessive insofar as Saudi Arabia's legitimate defense needs are concerned. Hopefully, public and Congressional opposition will reinforce the recommendations of the ACDA and lead the Ford administration to reject the Saudi Arabian Government's excessive, unjustified, and dangerous request for these missiles.

SALE OF HAWK MISSILES TO JORDAN

After a lengthy public debate a year ago, the administration's proposal to sell a HAWK missile defense system to Jordan collapsed under the weight of public and congressional opposition and Jordanian dissatisfaction with some of the features of the proposed deal. This sale is no more acceptable now than it was last year.

While Jordan claims to feel insecure surrounded by heavily armed Arab neighbors, it is apparent that this air defense system is intended for use against Israel. Certainly Saudi Arabia, which is bankrolling the $350 million dollar transaction, expects the weapons to be used against Israel; certainly Syria, which announced a joint military command with Jordan as soon as word of the sale first surfaced, expects the same thing. In fact, relations between Jordan and Syria have improved considerably since the HAWK missile deal was first announced last year, making joint action against Israel by those two nations more feasible. King Hussein himself has announced that he would use the missiles to prevent Israel from assaulting Syria on the Jordanian flank should war erupt.

Jordanian participation in the 1973

Arab attack on Israel was deterred by its lack of an air defense system. Provision of such weapons would remove the one obstacle blocking Jordan's entry into a future assault against Israel. Moreover, this extremely sophisticated weapons system, currently possessed only by the United States and the NATO alliance, is not strictly defensive in character. The HAWK missile batteries can easily be moved to forward position and used in an aggressive capacity. Israel's narrow borders make her aircraft particularly vulnerable to this kind of offensive use of the HAWK missiles.

It is a matter of record that King Hussein has been shopping for arms in the Soviet Union. Should the United States sell HAWK missiles to Jordan and the Soviets provide Jordan with other military hardware and technicians, the Soviets would have access to the HAWK system. They could inspect the missile system in detail, and gain priceless information as to its workings and vulnerabilities, thereby endangering the effectiveness of our principal tactical air defense system.

For all of these reasons, it is imperative that the administration reconsider its willingness to sell HAWK missiles to Jordan. Such a transaction would seriously destabilize the military balance in the Middle East and increase the feasibility of a combined Arab attack against Israel.

ARMS TO THE ARAB STATES AND INTERNATIONAL TERRORISM

The sale of highly sophisticated weapons to the Arab States involves still another danger—one less certain but no less serious. This is the posibility that a sudden change in the government of one of the recipient nations, a phenomenon not uncommon in the Middle East, could bring to power a leader such as Muammar Qaddafi of Libya, who would actively assist international terrorists in the perpetration of their unspeakable crimes.

The New York Times reported on July 16 what many had long suspected, that "a broad terrorist network, stretching from the Middle East to Africa and Europe, is being armed, trained, and financed by Libya's leader, Col. Muammar el-Qaddafi." Qaddafi arms and trains the terrorists with Soviet-made weapons. It would be unconscionable if terrorists in the future were to be armed with American-made weapons. We court that disaster, however, by selling weapons ideally suited for use by terrorists to unstable Arab governments which could come under the rule of virulent and violent anti-Israel leaders such as Qaddafi.

It is essential to remember that Qaddafi came to power in Libya by overthrowing a monarch who was the representative of a royal family whose rule had lasted for many decades. A similar royal family now rules Saudi Arabia; in an age when monarchy, especially in developing nations, is something of an anachronism, it is hardly inconceivable that a similar military coup could take place in that nation. Should that occur, it is difficult to imagine a weapon more attractive to terrorists than a Sidewinder missile, which homes in on jet aircraft with deadly accuracy.

The U.S. would be well advised to exercise caution in selling weapons to Jordan for the same reason. King Hussein has already been the victim of numerous assassination attempts in the past several years. Militant Palestinians have never forgiven Hussein for his September 1970 assault on the refugees which gave the Black September Organization its name. A radical shift in the government of Jordan is also not outside the realm of possibility. Accordingly, we must consider with special care the provision to Jordan of any weapons which could prove deadly in the hands of terrorists.

ON THE RETIREMENT OF JOHN McGUINESS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from West Virginia (Mr. STAGGERS) is recognized for 5 minutes.

Mr. STAGGERS. Mr. Speaker, it was indeed with mixed feelings that I learned of the retirement of our fine mutual friend, John McGuiness. After today the office of Dr. Freeman Cary here in the Capitol will not be the same inasmuch as John is retiring.

I well remember when Mr. McGuiness reported for duty in the Attending Physician's Office in 1954. This followed his outstanding service with the U.S. Navy since his enlistment in August 1942. John attained a fine record with the Hospital Corps with the Navy having served here in the United States and overseas.

First of all, I would like to say I have always found John to be a real gentleman. He is compassionate, understanding, and certainly always carried out his duties in a conscientious and extremely professional manner. Having served in the Navy myself I feel somewhat qualified to say that he has certainly gone "beyond the call of duty" in his work here at the Capitol.

Needless to say, I sincerely believe John has earned and is most deserving of his retirement. No doubt, he is looking forward to having more time to be with his wife, children, and other members of his family as well as the many friends which he certainly must have accumulated through the years.

I can only extend my very best wishes to the John McGuinesses for many more days and years of good health, good luck, and much happiness together with his family and those he holds near and dear.

THE 18TH OBSERVANCE OF CAPTIVE NATIONS WEEK—A BICENTENNIAL SALUTE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. FLOOD) is recognized for 5 minutes.

Mr. FLOOD. Mr. Speaker, the 18th observance of Captive Nations Week was conducted in the finest tradition of our American Revolution emphasizing the basic principles of national independence, the surcease of empires and imperialism, and the primacy of human rights. Across the Nation and even abroad, a genuine Bicentennial spirit was expressed by leaders and groups who articulately related the precious tradition of our national independence and democracy to the yearnings and aspirations of all the captive nations under Communist domination. This observance was truly a Bicentennial salute to the captive nations and peoples, and the event at the Statute of Liberty, cosponsored by the AFL–CIO and the National Captive Nations Committee, left its mark for the certain future when the natural alliance of the still free world and the captive peoples in Central Europe, within the Soviet Union, in Asia, and the Caribbean will be fully recognized and understood.

As further selected evidences of the spirit of this Bicentennial salute to the Captive Nations, I commend to the attention of my colleagues the proclamations of Gov. Brendan Byrne of New Jersey, Gov. Mike O'Callaghan of Nevada, Mayor Richard J. Daley of Chicago, Mayor Charles B. Wheeler, Jr. of Kansas City, and Mayor Moon Landrum of New Orleans, as well as the editorial comment in the New York Daily News, a report of the Statue of Liberty event in the Ukrainian Weekly, the address of Dr. Ku Cheng-kang of the Republic of China, and an interview with Dr. Lev E. Dobriansky of Georgetown University over the Mutual Broadcasting Network on "Captive Nations Week 1976":

PROCLAMATION

Whereas, the greatness of the United States is in large part attributable to its ability through the democratic process to achieve a harmonious national unity of its people, even though they stem from the most diverse of racial, religious, and ethnic backgrounds; and

Whereas, this harmonious unification of the diverse elements of our free society has led the people of the United States to possess a warm understanding and sympathy for the aspirations of peoples everywhere and to recognize the natural interdependency of the peoples and nations of the world; and

Whereas, the enslavement of a substantial part of the world's population by Communist imperialism makes a mockery of the idea of peaceful coexistence between nations and constitutes a detriment to the natural bonds of understanding between the people of the United States and other peoples; and

Whereas, the imperialistic policies of the Soviet Union have led, through direct and indirect aggression, to the subjugation of the national independence of Albanian, Armenian, Azerbaizani, Bulgarian, Byelorus, North Caucasian, Croatian, Cuban, Czech, Estonian, Georgian, Hungarian, Jewish, Kalmuch, Kozak, Latvian, Lithuanian, Polish, Romanian, Russian, Serbian, Slovak, Slovene, Tatar, and Ukrainian peoples and many others; and

Whereas, these submerged nations look to the United States, as the citadel of human freedom, for leadership in bringing about their liberation and independence and in restoring to them the enjoyment of their Christian, Jewish, Moslem, Buddhist, or other religious freedoms, and of their individual liberties; and

Whereas, it is fitting that we clearly manifest to such peoples through an appropriate and official means the historic fact that the people of the United States share with them their aspirations for the recovery of their freedom and independence;

Now, therefore, I, Brendan Byrne, Governor of the State of New Jersey, do hereby proclaim July 18–24, 1976 as Captive Nations Week in New Jersey.

A Proclamation by the Governor

Whereas, the policies of communism have led, through direct and indirect aggression, to the subjugation of the people of Poland, Hungary, Lithuania, Ukraine, Czechoslovakia, Latvia, Estonia, Byelorussia, Rumania, East Germany, Bulgaria, Mainland China, Armenia, Azerbaijan, Georgia, North Korea, Albania, Idel-Ural, Serbia, Croatia, Slovenia, Tibet, Cossackia, Turkestan, North Vietnam, Cuba, Cambodia, South Vietnam, Laos and others; and

Whereas, the desire for liberty and independence by the people in these nations constitutes a powerful deterrent to any ambitions of communist leaders to initiate a major war; and

Whereas, the freedom-loving peoples in the captive nations look to the United States as the citadel of human freedom and to the people of the United States as the leaders in bringing about their freedom and independence; and

Whereas, the Congress of the United States by unanimous vote passed Public Law 86–90 establishing the third week in July each year as Captive Nations Week, inviting the people of the United States to observe such week with appropriate prayer, ceremonies and activities; expressing sympathy with and support for the just aspirations of captive people;

Now, therefore, I, Mike O'Callaghan, Governor of the State of Nevada, do hereby proclaim the week of July 18–24, 1976, in Nevada as Captive Nations Week.

Proclamation

Whereas, the policies of the Communists have led, through direct and indirect aggression, to the subjugation and enslavement of the peoples of Poland, Hungary, Lithuania, Ukraine, Czechoslovakia, Latvia, Estonia, Byelorussia, Rumania, East Germany, Bulgaria, Mainland China, Armenia, Azerbaijan, Georgia, North Korea, Albania, Idel-Ural, Serbia, Croatia, Slovenia, Tibet, Cossackia, Turkestan, North Vietnam, Cuba, Cambodia, South Vietnam, Laos and others; and

Whereas, the desire for liberty and independence by the overwhelming majority of peoples in these conquered nations constitutes a powerful deterrent to any ambitions of Communist leaders to initiate a major war; and

Whereas, the freedom loving peoples in the captive nations look to the United States as the citadel of human freedom and to the people of the United States as the leaders in bringing about their freedom and independence; and

Whereas, the Congress of the United States by unanimous vote passed Public Law 86–90 establishing the third week in July each year as Captive Nations Week and inviting the people of the United States to observe such a week with appropriate prayer, ceremonies and activities; expressing their sympathy with and support for the just aspirations of captive peoples:

Now, threfore, I, Richard J. Daley, Mayor of the City of Chicago, do hereby proclaim the week of July 18–24, 1976 as Captive Nations Week in Chicago and call upon all citizens to join in observing this week by offering prayers and dedicating their efforts for the peaceful liberation of the captive nations.

Proclamation

Whereas, the imperialistic policies of Russian Communists have led, through direct and indirect aggression, to the subjugation and enslavement of the peoples of Poland, Hungary, Lithuania, Ukraine, Czechoslovakia, Latvia, Estonia, Byelorussia, Rumania, East Germany, Bulgaria, Mainland China, Armenia, Azerbaijan, Georgia, North Korea, Albania, Idel-Ural, Serbia, Groatia, Slovenia, Tibet, Cossackia, Turkestan, North Vietnam, Cuba, Cambodia, South Vietnam, Laos and others; and

Whereas, the desire for liberty and independence by the over-whelming majority of peoples in these conquered nations constitutes a powerful deterrent to any ambitions of Communist leaders to initiate a major war; and

Whereas, the freedom loving people in the captive nations look to the United States as the citadel of human freedom and the people of the United States as the leaders in bringing about their freedom and independence; and

Whereas the Congress of the United States by unanimous vote passed Public Law 86–90 establishing the third week in July each year as Captive Nations Week and inviting the people of the United States to observe such week with appropriate prayer, ceremonies and activities; expressing their sympathy with and support for the just aspirations of captive peoples:

Now, therefore, I, Charles B. Wheeler, Jr., Mayor of Kansas City, Missouri, do hereby proclaim the week of July 18–24, 1976 as Captive Nations Week in Kansas City, Missouri, and call upon the citizens to join with others in observing this week by offering prayers and dedicating their efforts for the peaceful liberation of the captive nations.

Proclamation

By virtue of the authority vested in me as Mayor of the City of New Orleans, I hereby proclaim Captive Nations Week to be July 18–24, 1976, in New Orleans.

[From the New York Daily News, July 10, 1976]

Suffering Millions

In the euphoria generated by the bicentennial, it is easy to forget the sobering fact that one-third of the world—and well over half of the world's population—suffers under the crushing tyranny of communism.

For the people of the Captive Nations, words like freedom and democracy are meaningless. Theirs is a world devoid of human dignity.

As we mark the beginning of Captive Nations Week tomorrow, let us pause to consider the precious freedoms we so often take for granted—and for which countless others have died cruel deaths.

[From the Ukranian Weekly, July 18, 1976]

Thousands Attend CN Week Observance at Statue of Liberty

New York, N.Y.—Thousands of members from various ethnic organizations of the metropolitan area of New York and other tourists from around the globe attended the "Bicentennial Salute to the Captive Nations," held on Sunday, July 11, from 1:00 to 5:00 p.m. at the Statue of Liberty in New York Harbor.

The special "salute" observance was sponsored by the American Bicentennial Committee for the Indepedence of the Captive Nations, an ad hoc organization made up of about 50 labor, veterans, ethnic and patriotic groups in the New York area.

The AFL–CIO had endorsed the Bicentennial Salute and provided much of the logistic support for the organization of the rally.

The four-hour program featured music and folk dancing by various ethnic ensembles, and speeches by prominent American and international leaders.

Coordinators and masters of ceremonies at the program were Lee Edwards, executive secretary of the National Captive Nations Committee (NCNC), and Dr. Walter Dushnyck, member of the UCCA Executive Board and editor of "The Ukrainian Quarterly."

LITURGY AT ST. PATRICK'S

The "Salute" rally was preceded by the Holy Liturgy at St. Patrick's Cathedral in New York City, attended by hundreds of people, at which an appropriate sermon was delivered by Very Rev. Msgr. Robert Moskal, of the Ukrainian Catholic Archeparchy of Philadelphia. Many attendants were dressed in their native costumes and carried their national flags.

After the services, ethnic representatives boarded six buses provided by the AFL–CIO which took them to the ferry from where they were transported to Liberty Island. Once on the island, they formed marching ranks, following the flag-bearers and proceeded to the assembly area near the Statue of Liberty, where a special stage was erected by AFL–CIO for performers and speakers.

As they marched, the Staten Island Music Society Military and Concert Band under the direction of Mr. David Simon, played martial tunes. Among the marchers were local SUMA members.

The presentation of the colors was performed by members of the Queens County Chapter of the Catholic War Veterans, led by Commander Jerry Bianchi who also recited the "Pledge of Allegiance" with Edward Fermoselle of the Cuban Exile Organization "Abdala." Following the singing of the American national anthem by Elizabeth Markowski, accompanied by the Band, Rev. Florian Goldau of the Romanian Orthodox Church of New York delivered an invocation prayer for the captive nations.

In turn, Dr. Ivan Docheff, vice-chairman of the New York Chapter of the NCNC, read the "Roll Call of the Captive Nations," with flag bearers lowering the particular national flag of each captive nation.

ASSAIL DETENTE

The program was opened by Lee Edwards, who delivered a brief introduction, stating the significance of the Bicentennial Salute to the Captive Nations rally.

He also introduced the Hon. Mary Ann Krupsak, Lt. Governor of the State of New York, former member of the State Assembly and Senate, and the first woman elected Lt. Governor of New York. Born in Amsterdam, N.Y. of Polish immigrant parents, she has been close to the ethnic community and knows its needs and aspirations intimately. She delivered brief remarks in support of the plight of the captive nations and read the "Captive Nations Week" proclamation issued by Governor Hugh Carey of New York.

Subsequently, Prof. Lev E. Dobriansky, chairman of the NCNC and President of the USSA, and the architect of the idea of the "Captive Nations Week," delivered an introductory speech. He also read President Ford's proclamation of "Captive Nations Week" for 1976.

Mayor Abraham Beame of New York and U.S. Senator James L. Buckley, introduced by Mr. Edwards and Prof. Dobriansky, respectively, assailed the Ford Administration's policy of detente with the USSR.

"We will never forget the captive nations," the Mayor said, "and if sometimes the Administration in Washington acts if they did not exist, the U.S. labor movement, a large part of Congress and the City of New York with its Statue of Liberty, are here to remind the world that Americans will not rest easy until all people have governments of their own choosing."

"Maybe the Soviets have lifted an Iron Curtain around the captive nations, but they have lowered a detente curtain in its place," the Mayor said. He then read his "Captive Nations Week" Proclamation, which was received by Police Lt. Harry Polche on behalf of the NCNC.

Sen. Buckley (C.-R.-N.Y.), told the crowd that "we here today declare that we will not allow ourselves to be befuddled by illusions of detente. We reject as immoral and ultimately suicidal any policy that seeks to buy peace by compromising the liberties of other peoples."

"FREEDOM AWARDS"

In turn, Prof. Dobriansky presented "Freedom Award" plaques of the NCNC to George Meany and Mayor Richard Daley of Chicago, in recognition of their long and outstanding services to the captive nations.

In accepting the award, Mayor Daley strongly emphasized his support of the captive nations and castigated the Administration in Washington for neglect of the enslaved peoples.

Receiving the "Freedom Award" on behalf of AFL–CIO President George Meany was Sol Chaikin, president of the International Ladies' Garment Workers Union, who delivered a penetrating address on the American labor movement's support of all captive nations seeking freedom and independence and criticized the government's policy of detente.

In like vein, Congressman Edward I. Koch and Mario Biaggi criticized the Administration. They were introduced by Dr. Dushnyck and Prof. Dobriansky, respectively.

Among the foreign dignitaries speaking at the rally were the Hon. Dr. Ku Cheng-kang of the Republic of China, honorary president of the WACL (who spoke through interpreter Dr. I. Loh, director of the Chinese Information Service in New York); Gen. Tran Van Don, former chairman of the Defense Committee in the Vietnamese Senate and Chamber and former Minister and Vice Premier; Avram Shifrin, former inmate in the Gulag Archipelago, who spoke on behalf of former prisoners of that infamous place who were present at the rally: Simas Kudirka, Anatole Radygin and others. John Noble, an American who spent ten years in Czech and Soviet dungeons, spoke of his experiences. All were introduced by Mr. Edwards. Speaking briefly at the rally was also Dr. Rexhep Krasniqui, on behalf of the Assembly of Captive European Nations.

ETHNIC

Taking part in the program were nine ethnic ensembles, which included the Croatian Dance Group (Steve Basic, director), the German Bavarian Dance Group (Jerry Hugel, director), the Ukrainian Dance Ensemble (Millie Osenenko, director) and the Ukrainian Bandura Ensemble of Roman Lewycky, Byelorussian Women's Ensemble (X. Borisovets, composer and director) and Byelorussian Dance Group, Lithuanian Dance Ensemble (J. Matulaitis, director), and the Cherkessian Dance Group, with Albert Kareli, director (all introduced by Dr. Dushnyck); the Chinese Dragon Dance (introduced by Mr. Edwards) and the Turkestan American Dance Ensemble, introduced by their leader, Seyit Sultan Mansur.

At the conclusion Msgr. Moskal delivered the benediction.

The success of the "Captive Nations Week" rally was made possible through the overwhelming support of the AFL–CIO and its president, George Meany, and the work of AFL–CIO Region VII director Michael Mann, Lewis W. Johnson, special representative and Jose Lopez and Charles Longo, field representatives, members of some ten AFL–CIO locals and above all, Harry Varn Arsdale, Jr., president of the New York City AFL–CIO Labor Council; the staff of the NCNC in Washington: Prof. Dobriansky, Mr. Edwards, Misses Joan Sweetland, Deborah Lawrence, and Vear A. Dowhan, and Joseph Silva; and the New York-based staff: Dr. Dushnyck, liaison officer between New York and Washington; Dr. Docheff; Dr. Volodymyr Sawchak, chairman, United Ukrainian American Organizations-UCCA; Dr. Valentina Kalynyk, president, Americans to Free the Captive Nations; Mrs. Mary Dushnyck, Women for Freedom; and Police Capt. Michael Luchuf, Lt. Polche, Mr. Onufrey Germaniuk, Mrs. Rosalie Polche and Misses Oksana Baiko, Marion Kadilak and Eugenia Scherba, from the UCCA.

ADDRESS BY DR. KU CHENG-KANG, HONORARY CHAIRMAN, WORLD ANTI-COMMUNIST LEAGUE, AT THE BICENTENNIAL SALUTE TO THE CAPTIVE NATIONS, LIRERTY ISLAND, NEW YORK HARBOR

Mr. Chairman, honorable guests, ladies and gentlemen:

We stand today beneath the greatest symbol of man's struggle for freedom. The struggle for freedom for all men is the guiding spirit of the United States of America. It is what makes America great.

Here are gathered Americans who, having just celebrated their bicentennial, choose to reaffirm their support to the struggle of the captive nations of the world for their freedom. I salute them for this demonstration of moral strength and courage.

As chairman of the Republic of China chapter of the Asian People's Anti-Communist League, and honorary chairman of the World Anti-Communist League, I deem it a high honor and a great privilege to participate in this noble action. Asians will join the peoples of America and the world in this common struggle for human freedom.

Freedom is the inalienable birthright of the whole of mankind. We cannot tolerate a world half free and half enslaved, just as we cannot tolerate continued aggression and expansion of the Communists against the free world.

The United States endeavors to seek freedom and peace for all. We agree. We want to remind our American friends that peace must be based on freedom and justice, and all men must be free before there can be true peace in the world.

My country—the Republic of China—and the United States fought alongside each other to defend freedom and peace; and we remain allies now, bound by a mutual defense treaty and cemented by close and inseparable ties. Because of this common interest, I ask my American friends—and through them the free nations of the world—to pledge anew that:

The free nations should never recognize the fruits of Communist aggression. No people shall remain captive forever.

The free nations should stand together, and allow no new nation to fall under Communist domination.

The free nations should support those peoples behind the iron curtain in Europe, in Asia, and in Latin America, who want to regain freedom.

The free nations should recognize the seething unrest on the Chinese mainland for what it is. It is the manifestation of anti-Mao Tse-tung and anti-Communist revolution on the part of one-fourth of mankind. The least the United States should do is to suspend the process of normalization with their oppressors.

Mr. Chairman, we in free China are frankly surprised that, just when Chou is dead and Mao is dying, when the Communist regime in Peking is at its weakest in 27 years, there should be a small group of Americans who urge this great nation to pay the exorbitant price of selling a friend and an ally down the river, for the dubious gains of playing one Communist against another.

In spite of what these cynics think, morality is still what motivates peoples and nations. I, for one, am confident that the United States will not, whether in this bicentennial year or in the future, renounce a solemn treaty ratified by Congress, and will reaffirm its commitment to the spirit of the Statue of Liberty and the cause of freedom for all mankind.

I thank you.

[Broadcast by Philip C. Clarke, with
Dr. Lev. E. Dobriansky]

CAPTIVE NATIONS WEEK: 1976

Mr. CLARKE. Two hundred years ago, our Declaration of Independence declared that "all men are created equal." It did not say "all Americans" but embraced all men everywhere.

With this in mind, President Ford proclaimed the third week of July "Captive Nations Week" as required annually by an Act of Congress in 1959. This year's proclamation conveyed a special significance. In this Bicentennial year, said the President, "It is important that we let the world know that America stands for freedom and independence in 1976, just as we stood for freedom and independence in 1776 . . .

"We do not accept foreign domination over any nation. We reaffirm now this principle and policy."

Professor Lev Dobriansky of Georgetown University, chairman of the National Captive Nations Committee, says the President's strongly-worded proclamation is aimed squarely at continued Soviet domination over Eastern Europe and at the lengthening list of captive countries elsewhere.

Dr. LEV E. DOBRIANSKY. I'm reminded really of the words of Vice President Rockefeller in West Germany in which he stated and I quote, "the era of old world imperialism has gone. And yet we find ourselves faced with a new and far more complex form of imperialism—a mixture of Czarism and Marxism with colonial appendages."

"A captive nations resolution brings out this very fact. Had the proclamation by the President emphasized this, it would place itself firmly on the resolution passed by Congress in 1959."

Mr. CLARKE. There was a new symbol in this year's Captive Nations Week, says Dr. Dobriansky.

Dr. DOBRIANSKY. The significance of this eighteenth observance of Captive Nations Week, I think, was reflected at that tremendous affair held over a week ago at the Statue of Liberty. It is tied in with the Bicentennial. The President's proclamation has brought out the Bicentennial theme of independence. The main focus of our foreign policy should be on this matter of colonialism within the Soviet Union itself, where you have the rashest type of colonialism. It has no parallel anywhere in the world at large.

Mr. CLARKE. Dr. Dobriansky says this year's commemoration comes at a time of rising unrest within those captive nations.

Dr. DOBRIANSKY. There's considerable unrest among the captive peoples in Eastern Europe that has been shown by the food riots in Poland, growing dissidence within the Soviet Union, all these and more have to be taken into consideration that the captive nations are a reality and we cannot have a foreign policy that does not account for the captive nations.

THE CLEAN AIR ACT AMENDMENTS, H.R. 10498, FAIL TO CONTROL CHRONIC POLLUTION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. BROWN) is recognized for 15 minutes.

Mr. BROWN of California. Mr. Speaker, the date for considering the Clean Air Act Amendments in H.R. 10498 approaches. Unlike many of my colleagues, I do not believe our current air pollution regulations are too stringent. Rather, I believe, and hope to document, that the current air pollution regulations are too weak. The bill which will be before us contains, in many instances, amendments to existing law which would, in effect, weaken the existing law. The political pressures to weaken air pollution laws may be overwhelming, but that does not make this retreat right.

Certainly the medical and scientific evidence is not on the side of further delays. Extensive hearings before numerous committees of the Congress, including the Subcommittee on Environment and the Atmosphere of the Committee on Science and Technology, which I chair, have documented that not only are existing emission and ambient air quality standards justified, but that they are inadequate to fully protect the public health and environment from air pollution.

REPORTS

The Subcommittee on Environment and the Atmosphere has published numerous hearings and reports on the subjects which it has investigated. Two of these reports deserve special note. One, entitled "Review of Research Related to Sulfates in the Atmosphere", serial AA deals with the effects of sulfuric acid mists from automobiles and sulfates from stationary sources and the other entitled, "Report on the Costs and Effects of Chronic Exposure to Low-Level Pollutants in the Environment," serial GG, deals with the broad range of pollutants which are being broadcast into our environment. The common theme from these hearings was that existing levels of pollution are definitely harmful to the public health and the environment, and levels of pollution below the current air quality standards are almost as certain to be harmful. The most general complaint was that the effects of pollution are only thoroughly documented long after the pollution is generated.

THE DILEMMA

The main dilemma facing regulators, and the Congress, is: What standard of proof should be required of polluters and regulators before pollution is allowed to be released or standards are allowed to take effect? If the regulator is required to prove that a pollutant is harmful, the damage will have to be done before any corrective action is taken. If the polluter is required to prove that a pollutant is not harmful, the task and the costs may prove to be insurmountable.

In one case, at the extreme, we have a taking of life, in the other case, at the extreme, we have a taking of property. In an effort to balance these viewpoints, the current ambient air quality standards, and many of the related emission standards, were set in the late 1960's and early 1970's. The current ambient air quality standards have not changed in the last 4 years, even though the evidence that they may be inadequate has grown. The emission standards set for mobile and stationary sources are needed to achieve the ambient standards.

Yet the bill to be before us postpones the dates for reaching these emission standards. And these postponements come on top of evidence of new pollutants and new damage from known pollutants. This may be a wise balance of political pressures, but it is not a wise balance of the dilemma facing the Congress. Since the weight of evidence has shifted in favor of stricter standards, the balance of legislation should move toward greater regulation. H.R. 10498 does not do this.

SULFATES

The hearings on sulfates held by the Subcommittee on Environment and the Atmosphere established several points. One was that the sulfates, or sulfuric acid mists, which are emitted by catalytic converter equipped automobiles, are not a proven hazard, and, compared to the proven hazards from carbon monoxide, nitrogen dioxide and hydrocarbon emissions from automobiles, this new pollutant is not an adequate reason to delay pollution controls. Therefore, the recommendation by President Ford to freeze auto emission standards because of the sulfuric acid mist is not justified.

The President also recommended freezing stationary source controls, which allow a massive increase in sulfate emissions from stationary sources, without any apparent concern about health effects. Our hearings clearly established that the health effects from these stationary sources, which account for 99 percent of the man-made sulfates, are very serious. In addition, it was established that many other effects, such as damage to property and agriculture, occur at pollution levels below the known health effects level.

An excerpt from the report "Review of Research Related to Sulfates in the Atmosphere" follows:

I. INTRODUCTION

Growing evidence shows that the increasing atmospheric burden of anthropogenic sulfur dioxide and its transformation products (these products are generically here referred to as sulfates (1)) gives rise to a health and welfare insult to man and his environment which should not be tolerated. Thus, preliminary data indicate that concentrations of the order of 10 micrograms of sulfates per cubic meter of air may present a health hazard to certain population groups, and some 24 states in the northeastern USA already exhibit annual average concentrations surpassing this.

The problem of sulfates in the atmosphere comes largely from activity and projected growth associated with energy production. There appears to be a conflict between the maintenance of air quality and the fulfillment of national energy requirements. Combustion of fossil fuels generates sulfur dioxide and other pollutants. The sulfur dioxide eventually converts in large part to sulfates in the atmosphere. Under the Clean Air Act primary and secondary standards have been established for ambient sulfur dioxide concentrations, and new source performance standards have been set for sulfur dioxide emissions from combustion facilities. However, ambient and new source standards have not been set for sulfates, even though the evidence available indicates that sulfates are more damaging to health at a given concentration than is sulfur dioxide. Most experts agree that the reason for this seeming inconsistency is that there is inadequate knowledge of sulfate formation and transport and of the health and welfare effects of specific sulfates to promulgate standards under the Clean Air Act.

Having enough knowledge to recognize the health problem that the sulfates present, but inadequate knowledge to promulgate standards places decision makers in a difficult position. For example, energy demands continue to increase, and it is clear that a larger fraction of energy is going to come from coal. Coal generally has higher sulfur content than the low sulfur oil on which we have relied for a number of years now, but which becomes increasingly scarce. Estimates are that the sulfur oxides load to the atmosphere would double by 1990 in the absence of controls. Industry wants to invest its scare capital in a manner which will allow them to meet clean air regulations in the least expensive way.

Thus, they have been asking for relaxation of new source standards to allow the sulfur oxides from remote power plants to be emitted from very tall stacks (up to 1200–1300 feet). They point out that ambient sulfur dioxide standards can be met with this approach. However, the emission of sulfur dioxide at such heights allows more of it to be converted to sulfates, and since sulfates have a longer residence time in the atmosphere, the total sulfur oxide burden of the atmosphere is increased and it is in a form indicated to be more damaging to health. But there are no standards for sulfates. The lack of knowledge thus leaves industry unable to decide how best to invest its pollution control dollars, and this can in turn lead to delays in construction of needed energy facilities. It leaves the Administration and Congress with incomplete parts of the picture they must view in making long range energy and environmental policies. It leaves the Environmental Protection Agency in a quandry as to how best to protect public health and welfare.

Most important of all, it leaves the public exposed to levels of sulfate concentrations damaging to their health, not to mention other adverse effects of this pollution on public welfare. On the latter, sulfates have been linked to acid rain and its incompletely investigated consequences which probably include damage to crops, to fisheries, to plant and animal life, to buildings, and to statuary. Also, sulfates are frequently a major case of visibility degradation.

Another recently emerging issue which is complicated by the lack of knowledge of sulfates, is that involving the sulfuric acid emitted by autos with catalytic converters for pollution control. Some catalytic converter configurations lead to emission of a fine sulfuric acid aerosol. Many experts feel that all three of the regulated pollutants (HC, CO, NO_x) cannot be controlled to the mandated levels without having dangerous amounts of this accompanying acid aerosol or without implementing entirely new or incompletely developed technology. (This will be discussed further below.) When this problem was belatedly recognized, the research community found itself without adequate techniques to measure roadside concentrations of sulfuric acid—so that one could only estimate with rather uncertain computational procedures what the acid concentrations would be.

Furthermore, knowledge of the health effects of sulfuric acid aerosol is inadequate to unequivocally decide whether there is more potential damage from the acid or from the hydrocarbon and carbon monoxide if these latter aren't controlled to the full level mandated. Again, large investments, long range decisions, and public health have been put into a netherland defined by inadequate sulfates knowledge. The Environmental Protection Agency estimates that a minimum of 5 years will be needed to obtain the knowledge level needed to promulgate standards for sulfates.

The Committee on Science and Technology, Subcommittee on the Environment and the Atmosphere has responsibility for legislation relating to environmental research and development programs including, but not limited to, EPA's research and development programs in Air and Water Quality and Solid Waste Disposal. The investment of billions of dollars, the health, and welfare of the American public, and decisions affecting the route and rate for achieving energy independence of the Nation hinge on our knowledge of the sulfates issue. Decision analysis (2) on the subject has indicated that accurate knowledge of the issues involved with the sulfates problem is worth approximately $250,000,000 per year. The 94th Congress has been considering amendments to the Clean Air Act which would allow relaxation of new source performance standards for stationary sources and which would allow relaxation and postponement of automobile emissions standards. Both of these issues are being considered with inadequate information. It is the responsibility of the Subcommittee to insure to the best of its ability that adequate research is being conducted to provide the needed information in as timely a way as possible. To meet this responsibility the Subcommittee conducted hearings (3, 4) July 8, 9, 11, and 14, 1975, to clarify what is known about the sulfates, what is not known but needs to be, what reasons there are for our lack of knowledge, what is being done to remedy the situation, and what, if any, changes in the research program could be implemented to optimize chances of success.

CHRONIC, LOW-LEVEL POLLUTION

The hearings on the costs and effects of chronic, low-level pollution in the environment were among the most ambitious projects undertaken by any committee. Before the hearings began, the Congressional Research Service prepared a major study on what is known and not known about this subject.

One of the key findings of the CRS study was:

> Because of the effects of chronic pollutant induced health damage are so different from the acute problems of infectious disease and injury with which we are more familiar, traditional legal concepts of showing cause and effect are proving inapplicable to the justification of standard setting in the chronic exposure domain.

The hearings themselves, and the numerous papers received from professional organizations as part of the hearing record, established that while much is known, it is truly terrifying to consider the implications of what we suspect, but do not know for certain about the pollutants that we are releasing to the environment. As the "Report on the Costs and Effects of Chronic Exposure to Low-Level Pollutants in the Environment" states:

> In an industrial society there are very few who are not aware of acute pollution problems. Air pollution episodes, fish kills, and blighted forests and fields surrounding cities or smelters are all too readily apparent. A great many of our pollution standard setting efforts, and environmental research investigations, are aimed at preventing these obvious incidents.
>
> However, there are widespread areas of serious but less obvious cause for concern in the effects of long term, chronic exposure to low-levels of pollution. These effects are often not at all measurable by observation of individuals. Instead, they are usually manifest only in statistical studies covering long time periods. Such effects might involve changes in the incidence of cancer or birth defects, lowering of crop yields or quality, changes in the types or numbers of species in inland water or ocean ecosystems, or changes in long term climate patterns.
>
> These long term, chronic effects tend to be neglected in standard setting debates. As the Subcommittee's hearings made obvious, they are exceedingly difficult to quantify, especially with our current laboratory techniques and primitive health and ecosystem monitoring methods. Yet the threat of chronic pollution exposure may well be profound. Just as the chronic effects be very difficult to reverse quickly. Moreover, are slow in becoming manifest, they may though effects or risks may be small in terms of the health of an individual person or plant, they are often spread very widely throughout the population. Thus, small individual effects and risks, after being multiplied by very large numbers of individuals exposed, can represent a very great cost or danger.
>
> In much the same way that low-level chronic pollution and its effects are often neglected in standard setting considerations, they are also often neglected in research planning. Environmental research funding has tended to follow dramatic crises, and funding limitations have had the effect of squeezing out all but the most simplistically obvious concerns. The neglect of chronic effects in research amplifies, of course, the parallel neglect in standard setting. With little research background the hard information about chronic effects is lacking, and standard setting has to proceed, if at all, on a soft foundation of poorly understood probabilities and extrapolations.
>
> We are not totally without information, however. Enough fragmentary evidence has emerged to convince many health scientists, agronomists, ecologists, and meteorologists that the potential of the hazard is enormous. Risk of cancer is now known to correlate very strongly with where a person lives and works. Ozone, a major threat to plant health, is now so widespread from long term atmospheric transport of chronic air pollutants that its level is often as high in rural agricultural areas as in urban settings. Tree ring patterns suggest a general slowing down of forest growth in recent years, and "rain shadows" and other climate changes in and around urban areas are statistically measurable. These observations are all clear warnings of influences on our health and biosphere which are building inexorably, but of which we have only begun to be aware.
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> * * * * *
>
> CONCLUSIONS
>
> 1. Effects of chronic, long-term pollution exposure are indeed serious, though poorly understood.
>
> Dr. David Rall, Director, National Institute of Environmental Health Sciences, pointed out in the hearings that "we are constantly learning that many environmental exposures we previously thought were limited to the occupational realm, are in fact affecting the general population. In 1970 the dollar cost associated with environmental disability was estimated at approximately $38 billion. When the question is broadened to what is the cost of environmental pollution in general, it is clear that the cost is enormous." Similarly, agricultural experts submitted evidence that damage to crops and forests was extensive even at pollutant levels well below those allowed by Federal secondary air quality pollution standards.
>
> 2. In attempting to assess accurately the effects of chronic pollution we are hampered by a lack of baseline information against which to measure man-made perturbations.
>
> Many experts, in health, ecology and meteorology, decried our lack of monitoring systems or other means to detect changes in human and ecological health. We are unable to assess potentially dangerous trends because of near total ignorance of the extent of natural fluctuations in many health and ecological variables.
>
> 3. In attempting to assess accurately the effects of chronic pollution we are hampered by an inadequate basic research base.
>
> Synergistic effects of several pollutants or other stresses, the transformation and long-range transport of pollutants, and long term studies of large populations, are typical of the subjects which have been inadequately addressed in contemporary crisis-oriented environmental research.
>
> 4. The cost of research to resolve many of these ambiguities is much less than the potential costs of proceeding in ignorance.
>
> Dr. Edward Burger, Jr., of the staff of the Science Advisor to the President, stated in this context that "the absence of knowledge appears, in the long run, to be much more expensive and clearly encourages bad public policy. The value of foods and drugs over which the FDA exercises regulatory control will be approximately $143 billion this year. Costs of meeting legislated automobile emission standards are by any estimate a very large figure. Errors in regulatory judgment are necessarily expensive errors."
>
> 5. Progress in dealing with chronic pollution is hindered by a lack of coordination among Federal environmental programs, and between those programs and State and local efforts.
>
> Chronic, low-level effects usually, require multi-disciplinary scientific approaches for understanding, and multi-agency approaches for assessment and control. Many experts expressed frustration at the lack of coherence in Federal programs, and the lack of effective mechanisms for inter-agency coordination.
>
> 6. There may be needed changes in the legal basis of standard setting to better match the problems of chronic pollution.
>
> Instead of direct "cause and effect" evidence, consideration should be given to explicitly basing standards on statistical changes, epidemiology, and probabilities of harm even over the long term. The American Medical Association stated that "ideally, the basis of standards should move from proven effects to probabilities of risk."

CONCLUSION

In conclusion, H.R. 10498, the Clean Air Act Amendments of 1976, represent a large, and complex effort to balance health, economic and political pressures. In a few instances, such as ozone protection, the bill attempts to improve the level of public protection. In other instances, such as the nondegradation, or significant deterioration provision, the bill attempts to balance each of these factors without sacrificing any. In the case of auto emissions, the bill is plainly and simply a cave-in to political and economic pressures. The Waxman-Maguire amendment on auto emissions is a necessary addition if balance is to return to this bill. H.R. 10498 does not fully protect the public health and environment and it should be strengthened. Certainly any further weakening of air pollution controls beyond the committee bill would be totally unjustified.

LEGISLATION TO AMEND SERVICE CONTRACT ACT OF 1965

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. THOMPSON) is recognized for 5 minutes.

Mr. THOMPSON. Mr. Speaker, I am pleased today to introduce legislation to amend the Service Contract Act of 1965 to provide that all employees other than bona fide executive, administrative or professional employees, be considered service employees for the purposes of the act. The need for this amendment arises from two U.S. District Court decisions, Descomp against Sampson, handed down in 1974 and Federal Electric Corp. against Dunlop, decided in March of this year. The thrust of these decisions is to eliminate from the protections of the act certain white collar employees.

The purpose of the act is to provide wage level protections for employees who work under contracts of which "the principal purpose * * * is to furnish services." The distinction drawn between so-called blue and white collar employees is inconsistent with the act's remedial intent.

The legislation I am introducing today is technical in nature in that it clarifies the meaning of the term "service employee." It is, however, vital because it will insure that those furnishing services to the Government under contract will never again be subjected to the vicious wage-busting that has so victimized them and their families in the past.

EARTHQUAKE IN CHINA

(Mr. FASCELL asked and was given permission to extend his remarks at this point in the Record.)

Mr. FASCELL. Mr. Speaker, I call to the attention of the House the damages and loss suffered in China by the Chinese people because of the recent earthquakes in that country. I hope that this Government will do everything possible to continue to make available humanitarian assistance of whatever form required by the Chinese in their relief and reconstruction efforts. In particular, I hope our representatives at the United Nations in New York will be encouraged to explore every possible way that organization might support these efforts.

I also encourage this Government to use whatever channels are available to convey the sympathy and concern of the American people for the Chinese in this time of national distress.

LENA AND ARKADY RABINOV

(Mr. GUDE asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. GUDE. Mr. Speaker, a month ago I described to this House the plight of Lena and Arkady Rabinov of Leningrad, a young couple who have been trying for 3½ years to emigrate to Israel. On Monday, I spoke with Lena Rabinov via long distance telephone, and she told me of their struggle to obtain official permission to leave the Soviet Union. I would like to share her story with the Members of this House.

The Rabinovs first applied for permission to emigrate 3½ years ago. For the first 3 years, their visa applications were denied on the grounds that Arkady, a radio engineer, was a "carrier of state secrets" and thus could not be permitted to leave the country. Lena Rabinov, a student and a mathematican, would be allowed to leave, however, if she would only divorce her husband. Lena immediately rejected any such conditions.

For 3 years the Rabinovs waited for a change in the official position. Arkady was fired from his position as soon as he applied for his visa; Lena lost her job a short time later. Neither can get work now. Apparently they survive on the generosity of friends and family.

Then in December 1975, the KGB suddenly informed Arkady that they no longer considered him a security risk. Immediately, the Rabinovs reapplied for exit visas, but again, they were forced to wait. In April their request was officially denied. Arkady protested that the KGB had cleared him. After some hesitation, the officials agreed, but they informed him that since his wife had once held a sensitive position, she was now deemed a security risk and could not be permitted to leave the Soviet Union. Lena Rabinov had left this so-called sensitive position 4 years earlier. Once again, the authorities offered a deal, this time to Arkady. Since he was no longer a risk, he might receive permission to emigrate, providing, of course, that he divorce his wife. Arkady, too, rejected the state's inducement. Thus, 3½ years after their first application, the Rabinovs are still waiting.

Nor are they alone. During our telephone conversation, Lena Rabinov told me that there were more than 100 families of Soviet Jews in Leningrad alone who had been denied permission to emigrate. She added that, since September, she knew of only 14 individuals who had been permitted to leave the Soviet Union.

Mr. Speaker, there are hundreds of Soviet Jews who, like the Rabinovs, have risked harassment, the loss of jobs, and even imprisonment simply by trying to claim a basic human right recognized by international treaty. One might think that the hardship these families endure would discourage others from applying; no doubt the authorities hope this will happen.

Yet families and individuals like the Rabinovs continue to display extraordinary courage and endure great hardship in order to this right. The trials Soviet Jews are willing to undergo to exercise it clearly demonstrates the value they place upon it. The continued harassment and the continued denial of visas on the flimsiest of pretexts demonstrates the cynicism with which the Soviet Government views the promises it made under Basket III of the Helsinki Agreement to observe it. I call upon the government of the Soviet Union to recognize in practice what they have recognized on paper, and to permit Lena and Arkady Rabinov and all the other Soviet Jews who wish to follow them to leave the Soviet Union and go to Israel. The Soviet Government should be aware that the low value they place on the promises made in Basket III of the Helsinki Agreement can only devalue all their promises in the eyes of this Congress and of the American people.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. Addabbo (at the request of Mr. O'Neill), for today, on account of official business.

Mr. Cotter (at the request of Mr. O'Neill), for today, on account of official business.

Mr. Flynt (at the request of Mr. O'Neill), for today, on account of official business.

Mr. Matsunaga (at the request of Mr. O'Neill), for today, and Monday, August 2, 1976, on account of official business.

Mr. St Germain (at the request of Mr. O'Neill), for today, on account of medical reasons.

Mr. Randall, for Monday, August 2, and Tuesday, August 3, 1976, on account of primary election in Missouri, official business.

Mr. Whitehurst (at the request of Mr. Rhodes), for today, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

Mr. Mahon, a special order for today for 15 minutes.

(The following Members (at the request of Mr. Hyde) to revise and extend their remarks and include extraneous material:)

Mr. Paul, for 30 minutes, today.

Mr. Kemp, for 10 minutes, today.

Mr. McDade, for 5 minutes, today.

(The following Members (at the request of Mr. McHugh) to revise and extend their remarks and include extraneous material:)

Mr. Gonzalez, for 5 minutes, today.

Mr. Annunzio, for 5 minutes, today.

Mr. Drinan, for 10 minutes, today.

Mr. Staggers, for 5 minutes, today.

Mr. Flood, for 5 minutes, today.

Mr. Koch, for 10 minutes, today.

Mr. Fraser, for 5 minutes, today.

Mr. Brown of California, for 15 minutes, today.

Mr. Thompson, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. Hyde) and to include extraneous matter:)

Mr. McCloskey.

Mr. Gilman in two instances.

Mr. Vander Jagt.

Mr. Walsh.

Mr. Wiggins.

Mr. Ashbrook in two instances.

Mr. Bafalis.

Mr. Taylor of Missouri.

Mr. Frenzel in three instances.

Mr. Grassley.

Mr. Michel.

Mr. McDade.

(The following Members (at the request of Mr. McHugh) and to include extraneous material:)

Mr. Vanik in two instances.

Mr. Gonzalez in three instances.

Mr. Anderson of California in three instances.

Mr. Hungate in two instances.

Mr. Long of Louisiana.

Mr. Russo.

Mr. Mikva.

Mr. Wolff in two instances.
Mr. de la Garza.
Mr. Risenhoover.
Mr. Bolling.
Mr. Obey.
Mr. Lloyd of California.
Mrs. Schroeder.
Mr. Edwards of California.

SENATE JOINT RESOLUTION REFERRED

A joint resolution of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S.J. Res. 208. Joint resolution recognizing the contributions of school volunteers; to the Committee on Education and Labor.

ENROLLED BILL SIGNED

Mr. THOMPSON, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 14514. An act to permit a State which no longer qualifies for hold harmless treatment under the supplemental security income program to elect to remain a food stamp cashout State upon condition that it pass through a part of the 1976 cost-of-living increase in SSI benefits and all of any subsequent increases in such benefits.

BILLS PRESENTED TO THE PRESIDENT

Mr. THOMPSON, from the Committee on House Administration, reported that that committee did on July 29, 1976 present to the President, for his approval, bills of the House of the following titles:

H.R. 1558. An act for the relief of Dr. Gernot M. R. Winkler;

H.R. 1762. An act for the relief of Mrs. Lessie Edwards;

H.R. 14233. An act making appropriations for the Department of Housing and Urban Development, and for sundry independent executive agencies, boards, bureaus, commissions, corporations, and offices for the fiscal year ending September 30, 1977, and for other purposes.

ADJOURNMENT

Mr. McHUGH. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to: accordingly (at 3 o'clock and 15 minutes p.m.) under its previous order, the House adjourned until Monday, August 2, 1976, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3723. A letter from the President of the United States, transmitting proposed supplemental appropriations for the transition quarter for the Department of Defense-Military (H. Doc. No. 94–570); to the Committee on Appropriations and ordered to be printed.

3724. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of Council act No. 1–143, "To amend certain provisions of the District of Columbia Code in order to eliminate their sex discriminatory aspects," pursuant to section 602(c) of Public Law 93–198; to the Committee on the District of Columbia.

3725. A letter from the Acting Assistant Secretary of the Interior, transmitting a copy of proposed concession contract for the provision of accommodations, facilities, and services for the public within Amistad Recreation Area for a term ending December 31, 1979, pursuant to 67 Stat. 271 and 70 Stat. 543; to the Committee on Interior and Insular Affairs.

3726. A letter from the Assistant Administrator for Legislative Affairs, Agency for International Development, Department of State, transmitting a report of the international disaster assistance program for the quarter ended June 30, 1976, pursuant to section 492 of the Foreign Assistance Act of 1961, as amended; to the Committee on International Relations.

3727. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a determination by the Secretary of State that it is in the national interest not to transfer to the account established in the Treasury pursuant to sections 7(c) and 9 of the Fishermen's Protective Act of 1967, as amended, funds from the Foreign Assistance Act of 1961 programed for Ecuador equal to the amounts paid to the owners of fishing vessels seized by that Government between January 25 and February 1, 1975, pursuant to section 5(b) of the Fisherman's Protective Act [22 U.S.C. 199 1975(b)]; to the Committee on Merchant Marine and Fisheries.

3728. A letter from the Administrator of General Services, transmitting a prospectus proposing alterations at the Pentagon, Arlington, Virginia, pursuant to section 7(a) of the Public Buildings Act of 1959, as amended; to the Committee on Public Works and Transportation.

3729. A letter from the Administrator of General Services, transmitting a prospectus proposing a succeeding lease for space presently occupied at 1621 North Kent Street, Arlington, Virginia, pursuant to section 7 of the Public Buildings Act of 1959, as amended; to the Committee on Public Works and Transportation.

Received From the Comptroller General

3730. A letter from the Comptroller General of the United States, transmitting a report on compliance auditing required under the revenue sharing program; to the Committee on Government Operations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. KASTENMEIER: Committee on the Judiciary. H.R. 6150. A bill to amend title 28 of the United States Code to improve judicial machinery by changing the requirement for a three-judge court in certain cases, to broaden and clarify the jurisdiction of United States magistrates, increase the compensation of Federal judges and magistrates, protect the employment rights of Federal jurors, and for other purposes; with amendments (Rept. No. 94–1379). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ALEXANDER (for himself, Mr. Jenrette, Mr. Charles H. Wilson of California, Mrs. Schroeder, and Mr. White):

H.R. 14963. A bill to make a supplemental appropriation to the Postal Service Fund to insure a sound financial transition for the Postal Service, and for other purposes; jointly to the Committees on Post Office and Civil Service, and Appropriations.

By Mr. ARCHER:

H.R. 14964. A bill to improve congressional oversight of the reporting and paperwork requirements of Federal departments and agencies; to the Committee on Rules.

By Mr. BROWN of California (for himself, Mr. McCormack, Mr. Winn, Mr. Milford, Mr. Ottinger, Mr. Myers of Pennsylvania, Mr. Hayes of Indiana, Mr. Emery, Mr. Ambro, Mr. Blanchard, Mr. Scheuer, and Mr. Drinan):

H.R. 14965. A bill to amend the Solid Waste Disposal Act to provide certain authorities respecting research, development, and demonstration; to the Committee on Science and Technology.

By Mr. CHAPPELL:

H.R. 14966. A bill to amend the Federal Civil Defense Act of 1950 to insure continued authorization of nonnuclear disaster preparedness assistance; to the Committee on Armed Services.

By Mr. DON H. CLAUSEN:

H.R. 14967. A bill to provide that income from certain public entertainment activities conducted by organizations described in section 501(c) (3), (4), or (5) shall not be unrelated trade or business income and shall not affect the tax exemption of the organization; to the Committee on Ways and Means.

By Mr. COHEN (for himself, Mr. Cornell, Mr. Fraser, Mr. Forsythe, Mr. Fish, Mr. Mikva, Mr. Pepper, Mr. Treen, Mr. Charles Wilson of Texas, Mr. Won Pat, and Mr. Young of Georgia):

H.R. 14968. A bill to amend title 38 of the United States Code in order to provide that the fees payable to agents or attorneys who represent veterans in allowed claims under the veterans laws shall be paid by the Administrator rather than deducted from amounts awarded under the claims; to the Committee on Veterans' Affairs.

By Mr. COHEN (for himself, Mr. Cornell, Mr. Fraser, Mr. Forsythe, Mr. Fish, Mr. Mikva, Mr. Pepper, Mr. Treen, Mr. Charles Wilson of Texas, Mr. Won Pat, and Mr. Young of Georgia):

H.R. 14969. A bill to amend title II of the Social Security Act to provide that attorneys' fees allowed in administrative or judicial proceedings under that title (or under title XVIII of such act), in cases where the claimants are successful, shall be paid by the Secretary of Health, Education, and Welfare rather than deducted from the amounts awarded claimants; to the Committee on Ways and Means.

By Mr. CORMAN (for himself, Mr. Steiger of Wisconsin, and Mr. Burke of Massachusetts):

H.R. 14970. A bill to extend the special unemployment assistance program for 1 year, and for other purposes; to the Committee on Ways and Means.

By Mr. DIGGS (by request):

H.R. 14971. A bill to amend the District of Columbia Self-Government and Governmental Reorganization Act with respect to the borrowing authority of the District of Columbia, and for other purposes; to the Committee on the District of Columbia.

By Mr. DRINAN (for himself, Mr. Downey of New York, Mr. Ottinger, Ms. Abzug, Mr. Anderson of California, Mr. Badillo, Mr. Dominick V. Daniels, Mr. Gilman, Ms. Holtzman, Mr. Howard, Mr. Koch, Mr. Moakley, Mr. Murphy of New York, Mr. Pike, Mr. Roybal, Mr. Ryan, Mr. Scheuer, and Mr. Stark):

H.R. 14972. A bill to provide for certain research and demonstration respecting the disposal of sludge, the reclamation of waters damaged by sludge and sewage, the regulation of hazardous sludge, assistance to State and local governments for the removal of sludge and other solid waste from waters and shoreline areas, and to provide that grants for waste treatment works shall be made only if such works provide for environmentally sound sludge management; to the Committee on Public Works and Transportation.

By Mr. FASCELL (for himself and Mr. Winn) (by request):

H.R. 14973. A bill to provide for acquisition of lands in connection with the international Tijuana River flood control project, and for other purposes; jointly to the Committees on International Relations, and Public Works and Transportation.

By Mrs. FENWICK:

H.R. 14974. A bill to reaffirm the intent of Congress with respect to the structure of the common carrier telecommunications industry rendering services in interstate and foreign commerce; to reaffirm the authority of the States to regulate terminal and station equipment used for telephone exchange service; to require the Federal Communications Commission to make certain findings in connection with Commission actions authorizing specialized carriers; and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. FLORIO:

H.R. 14975. A bill to amend title XIX of the Social Security Act to include podiatrist's services as physician services for the purposes of the medical assistance program authorized by that title; to the Committee on Interstate and Foreign Commerce.

By Mr. FRENZEL:

H.R. 14976. A bill to modernize and simplify customs recordkeeping and procedures, and for other purposes; to the Committee on Ways and Means.

By Mr. GINN:

H.R. 14977. A bill to name the Federal office building in Athens, Ga., the "Robert G. Stephens Federal Building;" to the Committee on Public Works and Transportation.

By Mr. MIKVA (for himself and Mr. Tsongas):

H.R. 14978. A bill to abolish certain Federal regulatory agencies and to cause the self-destruct of certain Federal regulatory agencies or their successor agencies after a specified period of time, and for other purposes; jointly to the Committees on Government Operations, and Rules.

By Mr. MINETA (for himself and Mr. Bell):

H.R. 14979. A bill to direct the Administrator of the Federal Aviation Administration to promulgate noise standards for certain aircraft in order to reduce noise emissions and to improve the human environment, and to provide certain payments to operators of the aircraft required to meet the noise standards in order to permit the operators to retrofit or replace such aircraft; to the Committee on Public Works and Transportation.

By Mr. MOAKLEY (for himself and Mr. Ottinger):

H.R. 14980. A bill to restore and promote competition in the petroleum industry, and for other purposes; to the Committee on the Judiciary.

By Mr. MOORE (for himself and Mr. Lent):

H.R. 14981. A bill to provide for the efficient and regular distribution of current information on Federal domestic assistance programs; to the Committee on Government Operations.

By Mr. RISENHOOVER:

H.R. 14982. A bill to direct the Secretary of the Army to convey to the State of Oklahoma all right, title, and interest of the United States in and to the Fort Gibson Reservoir project, and for other purposes; to the Committee on Public Works and Transportation.

By Mr. RISENHOOVER:

H.R. 14983. A bill to direct the Secretary of the Army to convey to the State of Oklahoma all right, title, and interest of the United States in and to the Tenkiller Reservoir project, and for other purposes; to the Committee on Public Works, and Transportation.

By Mrs. SMITH of Nebraska:

H.R. 14984. A bill amending title 5 of the United States Code to improve agency rulemaking by expanding the opportunities for public participation, by creating procedures for congressional review of agency rules, and by expanding judicial review, and for other purposes; jointly, to the Committees on the Judiciary, and Rules.

By Mr. TALCOTT:

H.R. 14985. A bill to amend the Communications Act of 1934 to authorize the Federal Communications Commission to prescribe regulations with respect to certain electronic equipment that is susceptible to radio frequency energy interference; to expedite the issuance of licenses to operate citizen's band radio equipment; and to require the Federal Communications Commission to increase the channels available for use in the citizens radio service to 46 channels; to the Committee on Interstate and Foreign Commerce.

By Mr. TEAGUE (for himself, Mr. Roberts, Mr. Hammerschmidt, Mrs. Heckler of Massachusetts, and Mr. Mottl):

H.R. 14986. A bill to amend chapters 31, 34, 35, and 36 of title 38, United States Code, to increase the rates of vocational rehabilitation, educational assistance, and special training allowance paid to eligible veterans and persons, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. THOMPSON:

H.R. 14987. A bill to amend the Service Contract Act of 1965 to provide that all employees, other than bona fide executive, administrative, or professional employees, shall be considered to be service employees for purposes of such act, and for other purposes; to the Committee on Education and Labor.

By Mr. BRODHEAD (for himself, Ms. Abzug, Mr. Burgener, Mr. Conte, Mr. Eilberg, Mr. Frenzel, Mr. Hyde, Mr. Kemp, Mr. Ottinger, Mr. Roe, Mr. Santini, Mr. Waxman, and Mr. Whitehurst):

H.J. Res. 1039. A resolution providing for the designation of the week beginning October 3, 1976, and ending October 9, 1976, as "National Gifted Children Week"; to the Committee on Post Office and Civil Service.

By Mr. PAUL:

H. Con. Res. 694. A resolution to disapprove the Firearms Control Regulations Act of 1975 passed by the Council of the District of Columbia; to the Committee on the District of Columbia.

By Mr. PRESSLER:

H. Con. Res. 695. A resolution expressing the sense of the Congress in favor of eliminating the reduction in veterans' pensions which results when cost-of-living increases in social security or railroad retirement benefits occur; to the Committee on Veterans' Affairs.

By Mr. JENRETTE (for himself, Mr. Mathis, Mr. Holland, Mr. Derrick, Mr. Grassley, Mr. Hefner, Mr. McCollister, Mr. Moore, Mr. Andrews of North Dakota, Mr. Oberstar, Mr. Ginn, Mr. Quie, Mr. Fuqua, Mr. Nichols, Mr. Flowers, Mr. Davis, Mr. Kindness, Mr. Breaux, Mr. Poage, Mr. Burleson of Texas, Mrs. Smith of Nebraska, Mr. Bowen, Mr. Rose, Mr. Fithian, and Mr. Richmond):

H. Res. 1451. A resolution expressing the sense of the House relative to foreign palm oil development loans; jointly to the Committees on Agriculture, and Banking, Currency and Housing.

By Mr. JENRETTE (for himself, Mr. Mathis, Mr. Holland, Mr. Derrick, Mr. Grassley, Mr. Hefner, Mr. McCollister, Mr. Moore, Mr. Andrews of North Dakota, Mr. Oberstar, Mr. Ginn, Mr. Quie, Mr. Fuqua, Mr. Nichols, Mr. Flowers, Mr. Davis, Mr. Kindness, Mr. Breaux, Mr. Poage, Mr. Burleson of Texas, Mrs. Smith of Nebraska, Mr. Bowen, Mr. Rose, Mr. Fithian, and Mr. Richmond):

H. Res. 1452. A resolution expressing the sense of the House relative to a study by the Secretary of Agriculture on palm oil imports; jointly to the Committees on Agriculture, and International Relations.

By Mr. KETCHUM (for himself, Mr. Robert W. Daniel, Jr., Mr. Lujan, Mr. Mikva, Mr. Miller of Ohio, Mr. Moorhead of California, Mr. Pattison of New York, Mr. Pepper, Mr. Santini, Mr. Symms, Mr. Treen, Mr. Thone, Mr. Charles Wilson of Texas, and Mr. Zeferetti):

H. Res. 1453. A resolution to amend rule XXII of the Rules of the House of Representatives to remove the limitation on the number of Members who may introduce jointly any bill, memorial, or resolution; to the Committee on Rules.

MEMORIALS

Under clause 4 of rule XXII,

442. The SPEAKER presented a memorial of the Legislature of the State of Louisiana, relative to the food stamp program, which was referred to the Committee on Agriculture.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. McFALL:

H.R. 14988. A bill for the relief of Stockton Townhouse, Inc.; to the Committee on the Judiciary.

By Mr. SHARP:

H.R. 14989. A bill for the relief of Habiba Saidzada; to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause 1 of rule XXII,

533. Mr. OTTINGER presented a petition of members of the Auto Workers of North Tarrytown Federal Credit Union, North Tarrytown, N.Y., relative to the proposed "Financial Institution Act of 1975," which was referred to the Committee on Banking, Currency and Housing.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 8911

By Mr. MIKVA:

Strike out line 15 on page 5 and all that follows down through line 10 on page 6, and insert in lieu thereof the following:

Sec. 4. (a) Section 1615 of the Social Security Act is amended to read as follows:

"REHABILITATION SERVICES FOR BLIND AND DISABLED INDIVIDUALS

"Sec. 1615. (a) In the case of any blind or disabled individual who—

"(1) has not attained age 65, and

"(2) is receiving benefits (or with respect to whom benefits are paid) under this title, the Secretary shall make provision for referral of such individual to the appropriate State agency administering the State plan for vocational rehabilitation services approved under the Vocational Rehabilitation Act, or, in the case of any such individual who has not attained age 16, to the appropriate State agency administering the State plan under subsection (b) of this section for rehabilitation services under such plan, and (except in such cases as he may determine) for a review not less often than quarterly of such individual's blindness or disability and his need for and utilization of the rehabilitation services made available to him under such plan.

"(b) The Secretary shall by regulation prescribe criteria for approval of State plans for the offering of appropriate, comprehensive rehabilitative services (including social and development services) to disabled persons who have not attained the age of 16 (hereinafter referred to as 'disabled children'). Such criteria shall include—

"(1) administration by the agency administering the State plan for crippled children's services under title V of this Act;

"(2) coordination with other agencies serving disabled children; and

"(3) establishment of an identifiable unit within such agency which shall be responsible for (A) assuring appropriate counseling for disabled children and their families, (B) establishment of an individual service plan for each child, and prompt referral to appropriate medical, educational, and social services, (C) monitoring to assure adherence to each individual service plan, and (D) provision for disabled children who are 6 years of age and under, or who require preparation to take advantage of public educational services, or of medical, social, developmental, and rehabilitative services, in all cases where such services reasonably promise to enhance the child's ability to benefit from subsequent education or training, or otherwise to enhance his opportunities for self-sufficiency or self-support as an adult.

"(c) Every individual with respect to whom the Secretary is required to make provision for referral under subsection (a) shall accept such rehabilitation services as are made available to him under the State plan for vocational and rehabilitation services approved under the Vocational Rehabilitation Act or under subsection (b) of this section; and no individual shall be an eligible individual or eligible spouse for purposes of this title is he refuses without good cause to accept rehabilitation services for which he is referred under subsection (a).

"(d) The Secretary is authorized to pay to the State agency administering or supervising the administration of the applicable State plan the costs incurred in the provision of rehabilitation services to individuals so referred (not including the costs of any services to which individuals have been referred under a State plan approved pursuant to subsection (b) of this section except to the extent that provision for such services is made under and in accordance with subsection (b)(3)(D)).

"(e) The Secretary shall, within 120 days after the enactment of this subsection, promulgate by regulation criteria (including medical, social, personal, educational, and other criteria) for the determination of disability in the case of persons who have not attained the age of 16."

(b) The amendment made by subsection (a) shall take effect on the first day of the second calendar month beginning after the date of the enactment of this Act.

H.R. 10498

By Mr. HECHLER of West Virginia:

On page 154, between lines 4 and 5, insert the following new subsection:

"(c) The Clean Air Act (42 U.S.C. 1857, et seq.) is amended by adding a new section to read as follows:

"SUNSHINE IN GOVERNMENT

"SEC. 325. (a) Each officer or employee of the Administrator who—

"(1) performs any functions or duty under this Act; and

"(2) has any known financial interest (A) in any person subject to such Act, or (B) in any person who applies for or receives any grant, contract, or other form of financial assistance pursuant to this Act;

shall, beginning on February 1, 1977, annually file with the Administrator a written statement concerning all such interests held by such officer or employee during the preceding calendar year. Such statement shall be available to the public.

"(b) The Administrator shall—

"(1) act within ninety days after the date of enactment of the Clean Air Act Amendment of 1976—

"(A) to define the term 'known financial interest' for purposes of subsection (a) of this section; and

"(B) to establish the methods by which the requirement to file written statements specified in subsection (a) of this section will be monitored and enforced, including appropriate provisions for the filing by such officers and employees of such statements and the review by the Administator of such statements; and

"(2) report to the Congress on June 1 of each calendar year with respect to such disclosures and the actions taken in regard thereto during the preceding calendar year.

"(c) In the rules prescribed in subsection (b) of this section, the Administrator may identify specific positions within such agency which are of a nonregulatory or nonpolicymaking nature and provide that officers or employees occuping such positions shall be exempt from the requirements of this section.

"(d) Any officer or employee who is subject to, and knowingly violates, this section or any regulation issued thereunder, shall be fined not more than $2,500, or imprisoned not more than one year, or both."

By Mr. KOCH:

Page 302, after line 7, insert:

CARBON MONOXIDE STANDARDS FOR VEHICLE PASSENGER AREAS

"SEC. 220. (a) Title II of the Clean Air Act (relating to emission standards for moving sources) is amended by adding the following new part at the end thereof:

"PART D—CARBON MONOXIDE STANDARDS FOR VEHICLE PASSENGER AREAS

"ESTABLISHMENT OF STANDARDS

"SEC. 241. (a) The Administrator, in conjunction with the Secretary of Transportation, shall study the problem of carbon monoxide intrusion into buses and sustained-use motor vehicles. Such study shall characterize and quantify interior levels of carbon monoxide in such buses and motor vehicles and determine its effect upon the passengers (including driver) of such vehicles. The study shall review monitoring procedures available and study the cost effectiveness of strategies for attaining and monitoring the standards promulgated under this section. Within one year the Administrator shall report to the Congress respecting the results of such study.

"(b) Not later than one year after the enactment of this part, the Administrator shall issue proposed regulations applicable to the presence of carbon monoxide in the passenger area of buses which in his judgment causes, or contributes to, or which may reasonably be anticipated to create, a danger to the health of passengers (including the driver) of such buses.

"(c) Not later than one year after the enactment of this part, the Administrator shall by regulation issue proposed regulations applicable to the presence of carbon monoxide in the passenger area of sustained-use motor vehicles which in his judgment causes, or contributes to, or which may reasonably be anticipated to create, a danger to the health of passengers (including the driver) in such vehicles.

"(d) After reasonable time for interested persons to submit written comments thereon (but not later than 90 days after the initial publication of proposed regulations under this section) the Administrator shall, by regulation, promulgate, with such modifications as he deems appropriate, final standards applicable to the presence of carbon monoxide in the passenger areas of buses and sustained-use vehicles which in his judgment causes, or contributes to, or which may reasonably be anticipated to create a danger to the health of passengers (including the driver) of such buses and vehicles. Such standards shall be revised from time to time.

"STATE PLANS

"SEC. 242. (a) Each State shall submit to the Secretary of Transportation an applicable implementation plan which shall include such measures applicable to buses, and sustained-use vehicles as may be required to implement the standards prescribed under section 241. Such measures shall be adequate to attain such standards as expeditiously as practicable (but in no case later than three years after approval of the plan) and to maintain them thereafter. Such measures shall include adequate monitoring and, not less frequently than twice during any 12 month period, inspection of such buses and vehicles. Such measures shall apply to buses and sustained-use motor vehicles manufactured before the effective date of this part (vehicles in use) as well as to buses and sustained-use motor vehicles manufactured on or after such date.

"(b) The Secretary shall approve the plan submitted by the State if such plan provides for such measures as may be required, under regulations promulgated by the Secretary, to attain (by the date required under subsection (a)) and maintain the standards promulgated under section 241. Such plan shall be approved or disapproved in the same manner as plans approved or disapproved by the Administrator under section 110 and the Secretary shall have the same authority with respect to State plans which are not submitted under this part or which are disapproved under this part as the Administrator has with respect to State plans under section 110(c). The Secretary shall also have the same authority with respect to enforcement of plans under this section as the Administrator has under section 113 with respect to applicable implementation plans under title I. Review of any standard promulgated by the Administrator under this section or of any action taken by the Secretary under this section shall be in the same manner as review of standards and other actions of the Administrator under section 307.

"DEFINITIONS

"SEC. 243. For purposes of this part, the term—

"(1) 'bus' means any diesel or gasoline fueled motor vehicle having a passenger capacity of ten or more persons in addition to the driver, including but not limited to a school bus, which is used to transport any person; and

"(2) 'sustained-use motor vehicle' means any diesel or gasoline fueled motor vehicle (whether light or heavy duty) which, as determined by the Administrator, is normally used and occupied for a sustained, continuous, or extensive period of time, including, but not limited to, taxicabs and police vehicles.".

(b) (1) Section 206(a)(1) of such Act (relating to motor vehicle and motor vehicle engine compliance testing and certification) is amended by inserting "and 241" after "202".

(2) Section 206(a)(2) of such Act is

amended by inserting "and 241" after "202 (b)".

(3) Sections 207(a) and 207(c) of such Act are amended by inserting "and 241" after "202".

(4) Section 207(b) of such Act is amended by inserting "or 241" after "202" in each place it appears.

(c) Each State shall adopt and submit a plan for the purpose of meeting the requirements of section 242 not later than 24 months after enactment of this part. Not later than 4 months after submission of such plan, the Secretary of transportation shall approve such plan or disapprove such plan and promulgate a Federal plan under section 242 for purposes of meeting such requirements.

Amend the table of contents on page 153 to insert the following item after the item relating to section 219:

"Sec. 220. Carbon monoxide standards for vehicle passenger areas."

By Mr. ROONEY:

Page 232, strike out line 8 and all that follows down through line 12 on page 236 and insert in lieu thereof the following:

"EXPANSION OF NEW CONSTRUCTION IN AIR QUALITY CONTROL REGIONS EXCEEDING NATIONAL AMBIENT AIR QUALITY STANDARD

"SEC. 127. (a) Nothing in section 110(a) shall be construed to provide that an applicable implementation plan must prohibit the construction or modification (within the meaning of section 111(a)(4)) of any new stationary source of any air pollutant in any air quality control region in which a national ambient air quality standard is being exceeded for such pollutant if a variance is issued under subsection (b).

"(b)(1) A variance from the requirements of subsection 110(a) prohibiting construction or modification of a stationary source of any air pollutant in any air quality control region in which a national ambient air quality standard is being exceeded for such pollutant may be granted under the conditions specified in paragraph (2).

"(2) A variance for purposes of subsection (a) may be granted under this subsection for a proposed new stationary source or for a proposed modification of a stationary source by the State (or by the Administrator with the consent of the Governor of the State in which such source is to be located) if, after notice and opportunity for public hearing—

"(A) the owner or operator of the proposed new or modified stationary source demonstrates that—

"(i) all existing major stationary sources owned or operated in the same air quality control region by the person proposing such construction or modification are—

"(I) in compliance with all requirements under this Act, including provisions of applicable implementation plans; or

"(II) in compliance with approved schedules and timetables for compliance under applicable implementation plans, under compliance orders issued under section 113 before enactment of this section, or under compliance date extensions issued under this Act; and

"(ii) the proposed new or modified stationary source will comply with emission limitations requiring use of the best available control technology, as defined by the State in which the proposed source is to be located, which emission limitations shall be at least as stringent as the new source standards of performance which would be applicable to such category of sources under section 111 of this Act; and

"(B) the State (or the Administrator as the case may be) determines, after such notice and such opportunity for public hearing, that

"(i) the applicable implementation plan for such air quality control region provides (or has been revised to provide) that the emissions from such proposed new source or modification will not cause or contribute to unreasonable delay in the attainment of, or prevent the maintenance of, any national ambient air quality standard for such pollutant beyond the date such attainment would have occurred under the applicable implementation plan (as modified by any compliance order issued pursuant to section 113 prior to date of enactment of this section and by any compliance date extension, variance, or exemption under this Act);

"(ii) the social, economic or environmental benefits of such new or modified stationary source outweigh any air quality benefits to be derived from preventing such construction or modification; and

"(iii) the construction and operation of the new or modified stationary source will not constitute an unreasonable risk to public health.

"(c) Neither the State, in the case of a plan approved under section 110(a), nor the Administrator, in the case of a plan promulgated under section 110(c), shall be required to revise an applicable implementation plan because one or more variances have been granted under this section if such plan would have met the requirements of section 110 if no such variances had been granted.

"(d)(1) Not later than one year after date of receipt of a complete application (as determined in accordance with regulations of the Administrator) for a variance under subsection (b), the State (or the Administrator as the case may be) shall act to grant or deny any such application.

"(2) For the purpose of this section, the term 'major stationary source' has the same meaning as provided by section 121(a)(3)."

(b) Section 113(b)(4), as amended by section 103, is further amended by inserting "or 127(b)(2)(A)(ii)" before the period at the end thereof.

H.R. 11552

By Mr. FRENZEL:

Amendment No. 1: Page 2, beginning on line 4, strike out "an elector for President and Vice President,".

Amendment No. 2: Page 2, beginning on line 13, strike out "and any election held" and all that follows through line 16, and insert in lieu thereof a semicolon.

Amendment No. 3: Page 6, beginning on line 1, strike out "and as the Administration determines appropriate".

Amendment No. 4: Page 6, beginning on line 17, strike out "The possession of a registration notification form" and all that follows through line 22.

Amendment No. 5: Page 6, line 18, strike out "an" and insert in lieu thereof "a Federal".

Amendment No. 6: Page 6, immediately after line 22, insert the following new subsections.

(d) Registration forms shall be prepared in a language or languages other than English for each State with respect to which the Administration determines, from the most current and accurate data available, that at least 5 percent of the residents of such State, or 50,000 residents of such State, whichever is less, do not speak or understand English with reasonable facility. The Administration shall certify any such State as a State which has a bilingual or multilingual resident population, as the case may be.

(e) In any State certified under subsection (d) as a State which has a bilingual or multilingual resident population, registration forms shall be provided in the predominant foreign language or languages (as determined by the Administration) and in English. Any instructions, notices, or accompanying materials shall be prepared in such foreign language or languages and in English.

(f) In any State which is not certified under subsection (d) as a State which has a bilingual or multilingual resident population, registration forms may be provided in a foreign language or languages.

Amendment No. 7: Page 6, immediately after line 22, insert the following new subsection:

(d) Registration forms may be prepared in a language other than English.

Amendment No. 8: Page 6, line 23, strike out "Distribution" and insert in lieu thereof "Availability".

Page 7, strike out line 2 and all that follows through page 8, line 2, and insert in lieu thereof the following: "officials with respect to the availability of registration forms in post offices and appropriate Federal, State, and local government offices. Such registration forms shall be generally available, and this section shall not be construed to place any time limitation upon the duration of such availability."

Page 8, line 3, strike out "(d)" and insert in lieu thereof "(b)".

Page 8, beginning on line 5, strike out "for the distribution" and insert in lieu thereof with respect to the availability".

Page 8, strike out line 7 and all that follows through line 11.

Amendment No. 9: Page 7, beginning on line 3, strike out "The Notwithstanding" and all that follows through line 7.

Amendment No. 10: Page 7, beginning on line 11, strike out "a sufficient quantity" and all that follows through line 15, and insert in lieu thereof "one postcard for each person 18 years of age or older.".

Page 7, line 16, strike out "route.".

Page 8, strike out line 7 through line 11.

Amendment No. 11: Page 7, strike out line 22 and all that follows through page 8, line 2, and insert in lieu thereof the following new subsection:

"(c) The Postal Service shall distribute the registration forms no earlier than 120 days, and no later than 60 days, before the close of registration for each biennial general election."

Amendment No. 12: Page 9, line 1, strike out "may" and insert in lieu thereof "shall".

Page 9, beginning on line 2, strike out "is authorized to" and insert in lieu thereof "shall".

Amendment No. 13: Page 10, line 13, immediately before "in" insert the following: "which result in registration of currently unregistered persons or in changes of addresses of currently registered persons".

Amendment No. 14: Page 10, line 13, immediately after "that State." insert the following: "The Administration is authorized to compensate any State which adopts a centralized accounting system for voter registration form processing costs."

Amendment No. 15: Page 10, strike out line 14 through line 21. And redesignate the following subsection accordingly.

Amendment No. 16: Page 11, line 4, immediately after "State" insert the following: ", or a portion of a State,".

Page 11, line 5, immediately after "State" insert the following: "or portion of a State".

Amendment No. 17: Page 12, strike out line 5 through line 15.

Page 12, line 16, strike out "(b)" and insert in lieu thereof "SEC. 12. (a)".

Page 12, line 20, strike out "(c)" and insert in lieu thereof "(b)".

Amendment No. 18: Page 13, line 4, strike out "(a)" the first place it appears therein.

Page 13, line 12, strike out "sections 6 and 7" and insert in lieu thereof "section 6".

Page 13, strike out line 13 and all that follows through line 23.

FACTUAL DESCRIPTIONS OF BILLS AND RESOLUTIONS INTRODUCED

Prepared by the Congressional Research Service pursuant to clause 5(d) of House rule X. Previous listing appeared in the CONGRESSIONAL RECORD of July 29, 1976, p. 24472:

H.R. 14701. July 2, 1976. Judiciary. Directs the Secretary of the Treasury to pay a specified sum to a certain individual in full settlement of such individual's claims against the United States arising from salary and leave payments by the Federal Housing Administration. Directs the Civil Service Commission to recompute such individual's civil service retirement annuity.

H.R. 14702. July 2, 1976. International Relations. Grants the consent of Congress to a certain retired member of the United States Army to accept employment with the United Kingdom Equal Opportunities Commission.

H.R. 14703. July 19, 1976. Ways and Means. Amends the Tariff Schedules of the United States to increase for a five-year period the customs duty on certain hand tools.

H.R. 14704. July 19, 1976. Appropriations. Amends the Third Supplemental Apropriations Act of 1957 to provide that unexpended funds subject to disbursement by the Clerk of the House of Representatives shall be returned to the Treasury of the United States four months after the close of the fiscal year for which such funds are appropriated.

H.R. 14705. July 19, 1976. Post Office and Civil Service. Limits the persons who may be admitted to the Federal competitive service to those individuals who either are United States citizens or owe permanent allegiance to the United States. Authorizes the President to prescribe exceptions from such requirement.

H.R. 14706. July 19, 1976. Interstate and Foreign Commerce. Amends the Communications Act of 1934 to authorize the Federal Communications Commission to regulate the use of protective components in audio and visual electronic equipment which are capable of reducing interference from radio frequency energy.

H.R. 14707. July 19, 1976. Interstate and Foreign Commerce. Amends the Federal Power Act to direct the Federal Power Commission to require utilities to file curtailment plans to meet anticipated power shortages.

Requires public hearings on proposals for utility rate increases. Authorizes the Commission to take additional measures to eliminate discriminatory and anticompetitive practices by utilities.

H.R. 14708. July 19, 1976. Ways and Means. Authorizes the President, under the Old-Age, Survivors, and Disability Insurance program of the Social Security Act, to enter into agreements establishing totalization arrangements between the social security system of the United States and the social security system of any foreign country, for the purpose of establishing entitlement to and the amount of old-age, survivors, disability, or derivative benefits based on a combination of an individual's periods of coverage under the social security system established by this title and the social security system of such foreign country.

H.R. 14709. July 19, 1976. Education and Labor. Amends the Age Discrimination Act of 1967 to make it an unlawful employment practice to discriminate on the basis of an individual's age. Prohibits denying an individual an office in a labor organization because of such individual's age.

H.R. 14710. July 19, 1976. Ways and Means. Amends the program of Grants to States for Services of the Social Security Act to require an increase in the amount of the fund from which payments are made to the States pursuant to such program each time benefit amounts are increased under the Old-Age, Survivors, and Disability Insurance Program because of increases in the cost of living.

H.R. 14711. July 19, 1976. Ways and Means. Amends the program of Grants to States for Services of the Social Security Act to allot funds not used by some of the States to States which have a need for additional funds for social services.

H.R. 14712. July 19, 1976. Interior and Insular Affairs. Authorizes the Secretary of the Interior to provide technical and financial assistance to the State of Alabama for the purpose of correcting slope failures and erosion problems along the Coosa River at the Fort Toulouse National Historical Landmark and Taskigi Indian Mound.

H.R. 14713. July 19, 1976. Interior and Insular Affairs. Directs the Secretary, of the Interior acting through the Director of the Bureau of Land Management, to amend the description of certain land in Colorado granted by the United States in a patent issued to a certain individual.

H.R. 14714. July 19, 1976. Public Works and Transportation. Authorizes the Secretary of the Army, acting through the Chief of Engineers, to construct a replacement lock and dam on the Mississippi River near Alton, Illinois. Withdraws all authority with respect to channel construction and modification on the Upper Mississippi River.

H.R. 14715. July 19, 1976. Education and Labor. Exempts from the sex discrimination provisions of the Education Amendments of 1972, education programs or activities in which participation is limited to parents of either sex and those parents' children of either sex.

H.R. 14716. July 19, 1976. House Administration. Establishes six regional Presidential primary election districts and sets dates for primary elections to be held in such districts for the purpose of electing delegates to the national political conventions. Prohibits any State from conducting a Presidential primary election except in accordance with this Act.

H.R. 14717. July 19, 1976. Education and Labor; Ways and Means. Amends the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code to allow a participant in a qualified employee sevings plan to use the nonforfeitable benefit accrued in such plan as security for a loan from a bank or insured credit union.

H.R. 14718. July 19, 1976. Interstate and Foreign Commerce. Reaffirms the intent of Congress with respect to the structure of the common carrier telecommunications industry rendering services in interstate and foreign commerce. Grants additional authority to the Federal Communications Commission to authorize mergers of carriers when deemed to be in the public interest. Reaffirms the authority of the States to regulate terminal and station equipment, used for telephone exchange service. Requires the Federal Communications Commission to make specified findings in connection with Commission actions authorizing specialized carriers.

H.R. 14719. July 19, 1976. Ways and Means. Amends the Internal Revenue Code to require the Secretary of the Treasury to report to the Joint Committee on Internal Revenue Taxation the specific criteria and procedures used to audit returns and to report certain information regarding audits completed in the previous twelve months.

H.R. 14720. July 19, 1976. Public Works and Transportation. Modifies the project for flood protection on the North Branch of the Susquehanna River, New York and Pennsylvania, to direct the Secretary of the Army to relocate the village of Nelson, Pennsylvania.

EXTENSIONS OF REMARKS

U.S. COMMISSIONER OF EDUCATION T. H. BELL LEAVES SIGNIFICANT IMPRINT ON THE FUTURE OF PUBLIC EDUCATION IN AMERICA—FEDERAL AND STATE RELATIONSHIPS ARE IMPROVED

HON. JENNINGS RANDOLPH

OF WEST VIRGINIA

IN THE SENATE OF THE UNITED STATES

Friday, July 30, 1976

Mr. RANDOLPH. Mr. President, this week we will lose the services of the U.S. Commissioner of Education T. H. Bell. He has been a dedicated and effective official. Commissioner Bell will, on August 1, become Commissioner of Higher Education for the State of Utah. Dr. Bell had served previously as Utah State Superintendent of Public Instruction.

Members of Congress and individuals in the education community who have worked with him know of his creative leadership. As the 21st Commissioner of Education in the 107-year history of USOE, Dr. Bell exhibited a depth of experience at all levels of education which is, perhaps, unique in the history of the agency.

I am especially gratified with his efforts on behalf of the education of handicapped children, and his support for the concept of educating young men and women for usable skills at all levels of education. One of the significant and successful steps Dr. Bell has taken during the past 2 years has been to reestablish a working dialog between Washington and educators in the field. His efforts to build a closer working relationship with the States was characterized with a series of "Week in Washington" meetings for key State educational personnel and education program administrators.

West Virginia was the third State in the Union to participate in this series of Federal-State meetings. The opportunity for State educators to consult with their Washington counterparts, giving advice and receiving suggestions on how to better the education community will, in my opinion, have a productive effect on the future of education. It is my hope that this program can be continued. Dr. Bell's innovative approaches to policymaking and administration have created a new and refreshing climate in education.

Dr. Bell's experience at many levels of education has produced a balanced viewpoint in the belief that our country is best served by strong support for all areas of education, by diversity of institutional character, and by providing equality of access to the knowledge that can best benefit the individual.

With major education bills before the Congress this year and in 1977, the departure of this creative explorer and tireless administrator creates a critical problem of transition. The nomination and confirmation of a new Commissioner of Education demands a careful examination of the direction in which public education will go in the years ahead.

Fortunately, Commissioner Bell has thoughtfully provided guidelines for our consideration in selecting his successor. In a speech before the Council of Chief State School Officers he offered a series of predictions of what is ahead for education in the United States. These insights of the future were summarized briefly in the American School Board Journal, with appropriate editorial comment.

Mr. President, I ask unanimous consent that the Journal article on Dr. Bell's predictions be printed in the RECORD. I further request that portions of a speech he delivered to the spring honors awards dinner at West Virginia University last April, in which he presented an excellent philosophical challenge on the true meaning of education, be printed in the RECORD.

There being no obection, the material was ordered to be printed in the RECORD, as follows:

[From the American School Board Journal]

SIXTEEN JOLTS IN STORE FOR PUBLIC EDUCATION

Unlike some of his predecessors, U.S. Education Commissioner Terrel Bell (who leaves office at the end of this month) has served at many levels of education—from teacher to school superintendent to chief state school officer to cabinet officer. So, a few weeks ago, when Bell spoke before the Council of Chief State School Officers for the last time as a federal official, it was pretty much expected by the chiefs that his words would be weighted with considerable wisdom.

Bell did not disappoint them. He offered 16 predictions of what is ahead for education in the U.S.—not all of them sweet, and some of them downright alarming.

1. Tension will mount between the states and the U.S. Office of Education as U.S.O.E. proceeds to administer the Education for All Handicapped Children Act (see page 46). Absolute demands mandated by that portentous law must be met starting in September 1978. Harried school people doubtless will be pleased to hear that Bell added this: U.S.O.E. has the responsibility for enforcement, "but not the obligation for providing the money."

2. Attacks upon local control of education will continue (the attackers being those who write policies, particularly state legislatures). This most serious of threats will comprise a principal topic of a special bicentennial essay by Harold V. Webb, to be published in the August Journal.

3. Demands—not all of them reasonable—on state education agencies to attain student-oriented, performance results (accountability) are expected to continue.

4. Sustained emphasis upon targeting federal money for special groups will persist (and Congress will spell out the policy for it).

5. Influence of the courts upon shaping educational policy will hold steady, but will shift more toward reforms in school finance as a means to attain equal rights for students.

6. Congress will continue to write educational policy for states and local school districts to implement; also look to Congress to advance solidly into policymaking.

7. Collective bargaining will spread and become universal at all levels of education—kindergarten through graduate school.

8. Technology (computers and so forth) will make dramatic strides and constitute essential equipment used in all sectors of education.

9. Public schools should anticipate steadily increasing competition from private schools. The independent institutions possess a strong lobby, Bell contends, "and will take you on in a loud, persuasive voice." He reminds us, correctly, that the annual $2.3 billion student aid program in higher education is essentially a voucher system, and he expects that something similar will evolve in elementary and secondary education. Private schools, Bell predicts, "are going to make an enormously strong comeback."

10. Full-scale government support of day care and early childhood services is a sure thing. And when the big push does come, it will cause "an enormous struggle between public schools and other agencies"—as well as portend increased government control.

11. A major campaign will be waged for retirement incentives that will induce older teachers to leave service so that younger ones can move up. The logic of this, according to Bell, rests with the premise of putting the more experienced (and expensive) teachers out to pasture to make room for the younger (lower salaried) ones.

12. Teacher certification likely will be managed by teacher unions.

13. A merger of all teachers into one gigantic union will see the light of day sooner rather than later.

14. A department of education, as a separate cabinet office, will be established. This can mean good news and bad, Bell thinks, by ushering in a growth of federal spending coupled with "a greater federal presence than ever before."

15. A major decrease in the size of high schools can be expected, not only as a result of declining enrollments, but also owing to the frustrations of managing large educational units.

16. Paper and print will give way to electronic libraries and newspapers because of the rapidly mounting expense of storing everything on paper.

THE CHARACTERISTICS OF AN EDUCATED PERSON, T. H. BELL, U.S. COMMISSIONER OF EDUCATION

It is a distinct privilege to speak at your Spring Honors Award Dinner. I feel all the more honored because the invitation was extended to me by one of the Nation's great lawmakers, a true leader in the United States Senate, your own Senator Jennings Randolph.

When Senator Randolph asked me to come here he assured me that I could put in a full day at the Office of Education before leaving and then return to Washington before 10:00 p.m. tonight—allowing plenty of time to get caught up on any reading I have to do before tomorrow morning. I appreciate that kind of careful planning, and I'm sure the taxpayers appreciate it even more. It's hard to get your money's worth out of a bureaucrat these days.

My guess is that you who are being honored learned early in your university experience the importance of the careful use of time and the need for planning. This can make the difference between succeeding and not succeeding—the difference between a meaningful life and a meaningless one.

The real point of your having been chosen by your deans for this honor is not that it bestows prestige upon you, important as that certainly is to you and your parents. The real point is that you have been chosen because you have developed the discipline of learning. This discipline can serve you throughout life. Being chosen for this award can signify to you that your dean considers you on target, on course, for the next step.

You will be moving from the environment in which you have lived as an undergraduate student for the past four years into the environment of graduate study or into the world of employment. This new environment may or may not heed the honor you have received tonight, but one thing is sure, and that is that society will never cease asking the question "Are you educated?" Sometimes you may even ask yourself—"What does it mean to become educated?" or "How do I know that I have become educated?"

Let's examine that last one.

A wise man said to me: "Education is a process, not a destination . . . Education is the process of moving from cocksure ignorance to thoughtful uncertainty." I hope I don't display too much cocksure ignorance as I proceed to help you answer the question: "How do you know that you have become educated?"

I am going to put 10 questions. Your own individual tally of "Yes" answers should help each of you to determine how far you have already moved away from ignorance.

My first question is: Do you have a salable, specialized skill you can use to earn a good living?

A feeling of worth and dignity is most often attained through one's work. The self-respect and self-confidence so important to all of us are usually byproducts of career choice, disciplined preparation, and the acceptance of responsibility in a society that needs and wants our skills. Although a salable skill will not guarantee a meaningful life, it is extremely important in the attainment of self-respect, self-confidence, and independence.

It is not entirely unknown to me that many educators would quarrel with including a salable skill in any list of requirements for becoming truly educated. Some might grudgingly permit a salable skill to be listed but would quarrel with putting it first. However, if we defined a salable skill broadly, from that of the skilled craftsman to that of a very high order of service in one of our professions, perhaps more educators would accept the idea.

Many young people take an unnecessarily hazardous route to adulthood—wandering aimlessly from one thing to another—because they have not taken seriously the fact that economic independence comes from being able to offer professional competence or specialized skills at the place and time they are needed.

The first test of an educated man or woman is to be prepared to do useful and rewarding work. We all need meaningful work to do each day. Whether we are poor, or wealthy beyond the need for any further income, we need a strong involvement in productive experiences to find fulfillment in life. I argue that education for employment is vital to life itself . . . not just to making money . . . for to be without meaningful work is just not living.

My second question: Have you learned how to learn?

An educated person must keep on learning—must renew his or her basic storehouse of knowledge and keep up with the times. An educated person must be able to gain new knowledge from reading and from life experiences, think critically about what he has read, experienced, and learned, and apply that knowledge to problem-solving. An educated man or woman must be self-teachable—must have learned how to apply learning in a wide variety of situations, sometimes under unusual circumstances and conditions.

Third: Do you have a thirst for knowledge and a hunger for learning?

It is one thing to know how to learn, another to have developed intellectual curiosity—a restlessness to know and to keep knowing. Do you read for the sake of knowing? Is the unfolding drama of each week's events in our Nation and the world attracting your constant attention? Do newspapers, news magazines, new ideas and reports stimulate your thinking? Do you think about the impact today's events will have on the future?

No one can truly be educated in the full sense without a quest to know, a driving and continuing curiosity. This comes from the discipline of learning itself, from long pursuit of some significant part of the wisdom recorded in great books through the ages, a knowledge of the world in which we live, and a comprehension of the effect present-day priorities and decisions can have upon the future. We gain this, through study of the liberal arts and the humanities.

Fourth: Can you communicate?

Are you able to say what you think—say it easily and understandably? Can you express your thoughts and ideas in writing so others can understand clearly? Can you listen to others and understand their thoughts? In today's world we must be literate and verbally articulate. There is no greater asset than to be able to listen to others and to be sensitive to the ideas they express and in turn be able to express our own ideas in an understandable way. To express one's thinking and be understood is vital to almost everything. Many of our problems today—individually and worldwide—come from inabiilty to communicate, to be understood in what we write and in what we say. This vital capacity must be included in any list of characteristics of educated people.

My fifth question. Have you developed a clear set of standards and ideals to guide your life and your daily living?

A truly educated person must live by some abiding and personally satisfying principles. A person must be inner-directed, not always looking to the other person to set the tone or call the shot. It is good to be open and teachable and to let one's standards grow with true conviction and conversion to new thoughts and ideas. It is quite another matter, however, to agree with everyone and to lack strength of conviction. A wise man said that "He who trims himself to everybody will soon whittle himself away." We all need a firm rooting in those basic ideals, political views, and principles that we hold. Without it we can never behave like a truly educated person.

Sixth: Have you learned how to disagree without being disagreeable?

Do you respect the views of others? Are you mature enough to hear your cherished views challenged without losing your cool? Have you rid yourself of prejudice? I have known a few Ph.D.s who lacked this emotional maturity. With all of the diversity and pluralism of our free society, we must be understanding and tolerant. To disagree without being disagreeable is perhaps the first test of intellectual maturity.

Seventh: Have you educated your feelings, your spirit, and your inner self?

Have you learned to enjoy fine music, great art, good literature, and the sounds and sights of nature? A quality life calls for quality thoughts and feelings and an appreciation for the fine things around us. A quality life calls for a buoyant spirit, a happy and somewhat optimistic nature. An educated person must have learned how to live the kind of life that brings both serenity and joy to personality. An educated person must be able to find inner peace—to come to terms with life's situation. An educated person, as I see it, must have learned how to live a deep and meaningful life.

Eighth: "Have you educated your ego?"

Are you a restless reacher and climber? I am reminded of the man who said: "Ours is a world where people don't know what they want and are willing to go through hell to get it." Will Rogers once said: "It is great to be great, but it's greater to be human!"

And Edmund Burke tells us:

"To reach the height of our ambition is like trying to reach the rainbow, as we advance it recedes."

You need to have ambition and drive. Your ego needs to seek things. You need a quest. But in all your questing, don't let ambition destroy your ability to live. Get joy and fulfillment. Remember, "It is better to be a nobody who accomplishes something than a somebody who accomplishes nothing." Keep your ego small and your joys, rewards, and fulfillment in life will be larger. Keep a steady perspective in climbing upward in status and position.

Ninth: Are you economically literate?

Many so-called educated persons have never learned that they can't spend more money than they take in. They haven't learned how to avoid personal economic disaster. Our wants are insatiable, and our resources are limited. An educated person knows how to manage money as well as earn it.

It's not so much the amount one earns as it is the difference between what one earns and what one spends that determines economic independence. An educated person has learned the simple lessons of personal money management, how to live within one's means. This may seem a bit mundane, but the practical wisdom of being economically astute is vital to a self-fulfilling life.

The tenth question of an educated person is this: Do you know yourself and can you apply what you know to maintain your physical and mental health . . . can you control your appetites and your passions?

Without good health, all else will seem of little use to you. Protect it. Apply what you know to preserve your health. It is of no avail to be an intellectual giant and a physical slob! Most knowledgeable people know that exercise, proper nutrition, and adequate rest are essential to good health. Most of us know that some drugs and other addictive habits will destroy our health. In the fullest sense, an educated man or woman applies this knowledge to daily living.

What about your mental health? Do you live with reality? Are you positive in your thinking? Is your outlook uplifting and wholesome?

Do you know how to be free and how to enjoy freedom? Some people live as prisoners in a free land because they are slaves to their habits, to their fears, and to a tendency toward paranoia. An educated man or woman copes with life in a positive, productive way.

Education does little for you if it cannot lead you to inner peace and happiness. Many men and women with less than a high school education have taught me that they are better educated than I when it comes to having educated feelings, a great spirit, and what I call a deep inner soul. Knowledge may or may not give you this. It takes true wisdom to know how to live and to get joy and fulfillment out of living. If education is preparation for life, you can't consider yourself educated without this quality of your personality.

Thomas Henry Huxley said: "Perhaps the most valuable result of all education is the ability to make yourself do the thing you have to do, when it ought to be done, whether you like it or not. This is perhaps the first lesson to be learned."

Each of us must be able to answer yes to these 10 questions if he is to continue the process of becoming educated. If we cannot, we are doing a disservice to ourselves and to those who have faith and trust in us, and to this great Nation that has offered much freedom and opportunity for us to develop our skills and capabilities.

If we regard education as a road to be traveled and a pleasant, never ending journey, we will not worry today if we are lacking in some facets of these 10 keys to becoming fully educated. But we should worry if we are not moving in that direction. A wise philosopher wrote: "A bad man is a man who, regardless of how good he is, is declining and becoming less effective; and a good man is a man who, no matter how bad he is, is improving and becoming more effective."

ANOTHER AMERICAN IN YUGOSLAV JAIL?

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 29, 1976

Mr. McDONALD. Mr. Speaker, incident to the release of Mr. Laszlo Toth from jail in Yugoslavia, it was revealed that yet another American is being held by Tito. The Washington Star article on this matter noted the displeasure of our American Ambassador with the backing he received from our State Department in his efforts to free Mr. Toth. One might say that our State Department is consistent in its foot dragging when it comes to freeing American citizens as anyone knows who has followed the history of our relations with the U.S.S.R. and her East European satellites. Good relations are always held to be more important than representing American interests or citizens. Therefore, I commend to the attention of my colleagues this article from the Washington Star on Sunday; July 25, 1976.

Toth, Freed, Joins Family—Another American in Yugoslav Jail?

THORNTON, COLO.—Laszlo Toth, freed from a Yugoslavian prison due to pressure from the U.S. government, said yesterday a 60-year-old Wisconsin man he met in jail also needs help.

Toth, who arrived in Colorado Friday after serving 11 months of a seven year prison sentence for industrial espionage, said Mike Sedmark of Wisconsin was imprisoned with him in the federal prison, Sremeska Mitrovica.

"If something is not done about him, he will not come out alive," said Toth. "Every day he gets worse and worse."

Although Toth did not know what Sedmark was charged with, but believed he was innocent. He said the elderly man had been imprisoned for 20 months and was becoming desperate.

According to Toth, Sedmark was a former U.S. Army captain with two Purple Heart Awards. Toth credited pressure from U.S. officials for his release and said the same "pushing should be" applied in Sedmark's case.

Earlier, Toth, flanked by the wife and daughter he had not seen in nearly a year, denied the industrial spying charges which led to his imprisonment in his native Yugoslavia.

Toth, 46, said he would expand on his denial and relate his experiences in prison later.

About 25 well-wishers, including several persons from the Great Western Sugar Co. of Colorado, his employer, greeted him late Friday at Stapleton International Airport with cheers and signs as he stepped from his plane with a representative of the U.S. State Department. He had flown from Belgrade to New York and then to Denver.

Toth didn't appear to be upset by his revoked Yugoslav citizenship and expulsion from his native country.

In Belgrade, U.S. Ambassador Laurence H. Silberman accused the East European section of the State Department of being unresponsive to his request for help in getting Toth's release.

"They said I was being undiplomatic for pressing the case as hard as I did," Silberman said after he put Toth on his plane for the United States. "To these people, diplomacy is apparently the passive pursuit of American interests, and I don't accept that."

COMPUTERS

HON. WILLIAM L. HUNGATE

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Friday, July 30, 1976

Mr. HUNGATE. Mr. Speaker, as the Members know, my experience with computers here and elsewhere has been less than rewarding. The following article from the New York Times of July 18, and the Christian Science Monitor of July 15, may offer a spot preview of coming attractions:

[From the New York Times, July 18, 1976]

Bankrupt by Computer, Frenchman Wins $300,000

Grenoble, France, July 17.—A fruit and vegetable wholesaler has been awarded $300,000 in damages after being driven to bankruptcy by a bank's computer error.

The computer of the state-owned Crédit Lyonnais persistently rejected Eugene Rochette's checks to his suppliers on the ground of insufficient funds.

The suppliers protested to Mr. Rochette, who found his business, mainly with supermarkets, crumbling. Within weeks he was declared bankrupt.

Last year a lower court granted him $150,000 damages. The bank appealed, and an appeal court doubled the amount.

[From the Christian Science Monitor, July 15, 1976]

World Fight on Computer Crime

(By Richard M. Harley)

Some Japanese technicians have taken to kissing their computers—not out of affection, but to find an effective way of identifying computer users.

This "lip print" experiment, not by any means perfected for general use, is one example of an international effort to curb a growing number of crimes in which the tool is a computer.

Recently U.S. cases of "computer abuse" (improperly tampering with computers for financial or other gain) have risen from 2 in 1966, to 33 in 1970 and 66 in 1973, according to the Stanford Research Institute.

Statistics show that from 1963 to 1975 losses due to reported computer abuse (and there is no way of telling how many abuses go undetected) come to $65 million. This does not take into account the Los Angeles Equity Funding Insurance fraud of 1973 in which some 64,000 fake insurance policies were produced through company computers, with a reported company loss of $200 million, and $2 billion for stockholders of Equity Funding.

PRACTICAL THINGS TO DO

In his new book, "Crime By Computer," Donn B. Parker points out some practical things the financial community and the public can do to keep computer use honest:

Insure the integrity of employees. "If the EDP [electronic-data processing] personnel cannot be trusted, then forget all the technical methods of computer security. . . ."

Keep computers in safe areas, with limited, selective entry of personnel (although as Price Waterhouse & Co. management consultant G. Hunter Jones says, physical-risk security should not outpace internal controls against errors and manipulation).

Although it may be 5 to 8 years before fully adequate safeguard methods ars developed, companies should demand electronic safeguards and checking devices—even if it means paying more for the computer.

Separation of responsibilities among people in positions of trust, and isolation of library records from the general programming staff, can reduce the opportunities for personal manipulation of data.

Better methods of user identification need to be developed to replace ID cards and account numbers. Some newer concepts ranging from fingerprinting and measuring, to voice identification, to one unusual Japanese-developed concept of "lip printing" in which users must kiss their computer to be identified—have not yet proved to be satisfactory ways of preventing unauthorized use of computers.

Legislation, says Mr. Parker, "would probably be the largest incentive to force the need for secure computer systems." And says Susan Nycum, San Francisco attorney who specializes in the field, laws need to be adapted to apply to cases of computer crime. For example, provisions in many state and federal theft statutes do not recognize "theft" of unwritten information from a computer system as "tangible" enough to prosecute.

Individuals should check the accuracy of figures on computer printouts (bank statements, etc.) to detect both machine errors and intentional crimes. Some of the most subtle and lucrative "computer crimes" have involved deduction of minute sums from large numbers of company or personal bank accounts.

SECURITY NEGLECTED

According to Mr. Parker, the computer systems commercially available today were not designed or built with concern for security as "a significant enough criterion."

Without denying the need to address "computer crime," Robert Courtney of IBM says it is easy to overplay the significance of such crimes at present. "It's my contention that incompetence-caused errors and omissions (which comprise easily more than 50 percent of computer errors), and the damage done by such wrong information, tower over acts committed through malicious intention."

Anticipating some knotty legal problems raised by the issue, Washington attorney Ronald L. Winkler points to the occasional practice of government agencies accumulating computer-stored information about the financial states of private companies.

He wonders if such information could be adequately safeguarded, for instance, from competing companies.

IN SUPPORT OF THE CAPTIVE NATIONS OF EASTERN EUROPE

HON. GUY VANDER JAGT

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, July 30, 1976

Mr. VANDER JAGT. Mr. Speaker, I am very proud to join with my many colleagues in the House of Representatives who support independence and freedom for the captive nations of Eastern Europe. It is one of the great tragedies of our day that at the same time the enlightened former colonial powers of Europe have given up their possessions, a new colonial power, the Soviet Union, has taken their place.

All nations of this world deserve the right of self-determination. It is particularly fitting in this year of celebration of the 200th anniversary of our own independence that we should again recommit ourselves to this philosophy. Human freedom demands constant vigilance if it is to survive. The diminishment of the freedom of one individual diminishes the freedom of all human beings. As we love and defend our own freedom, so must we continue to recognize as we do today, the rights of the captive nations of Eastern Europe to enjoy the same conditions of liberty and justice which we ourselves hold so dearly.

LOCAL OFFICIALS OPPOSE POST CARD REGISTRATION

HON. BILL FRENZEL

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 30, 1976

Mr. FRENZEL. Mr. Speaker, next week, the House will probably be considering H.R. 11552, the so-called postcard voter registration bill. I would like to bring to my colleagues' attention a memo received from the National Association of County Recorders and Clerks and the National Association of Counties.

NACRC and NAC strongly oppose the postcard bill for the following reasons:

The bills would create dual registration systems, one for Federal elections and one for State and local elections. This situation would create voter confusion and disenfranchise many citizens who will be unaware of the dual registration system.

The dual system would cause administrative problems in the revision of computerized and noncomputerized programs and by extensive testing to insure that files are free from error and fraud.

The bills would interfere with the operation of State and local election machinery and create massive administrative complications.

Although the bills offer financial assistance to help administer the national registration program, there are no assurances that the Congress would appropriate all the money needed in the future. The Federal program could impose substantial costs on local governments.

If a postcard system is enacted, proven methods of successful voter registration at the local level—mobile registration, extended hours, et cetera—would be cut back or terminated since local officials would be hard pressed to justify continued spending on these programs.

The federally mandated system is an unconstitutional infringement on the rights of the various States to conduct elections.

Experience in the few States with postcard registration systems shows no significant increase in voter participation.

There are no assurances that the postcard system would register those who are presently disenfranchised—that is, the illiterate, handicapped, native Americans, et cetera.

Again, there are no assurances that the mass mailing approach would reach all persons living in rural delivery areas.

The bills would create another layer of Federal bureaucracy responsible to an administration seeking to hold-the-line or cut back Federal program.

WHAT IS EXPO '81

HON. JIM LLOYD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 30, 1976

Mr. LLOYD of California. Mr. Speaker, I would like to share with my colleagues the plans and concept behind an event of international significance, and which I am proud to say will take place in Ontario, Calif., within the 35th Congressional District, which I serve.

Expo '81, an international exposition, is being planned to coincide with the 200th birthday of Los Angeles and the last year of America's official Bicentennial celebration. This world's fair would be an exciting cultural, technological, and educational event, and at the same time would provide economic benefits to the western San Bernardino County region which will host Expo '81.

I would like to include in the RECORD a description of Expo '81 which I feel provides an accurate picture of this unique international event:

WHAT IS EXPO '81?

Expo '81 is a non-profit corporation dedicated to bringing a World's Fair—An International Exposition—to the Los Angeles area in 1981. The theme of the exposition will be "PEOPLE TO PEOPLE . . . pathways to understanding."

The idea for an exposition to celebrate Los Angeles' 200th anniversary originated with Kenneth Kahn, Chairman of the Los Angeles County Board of Supervisors. Mr. Richard M. Pittenger was appointed President of Expo '81 with the support of the Board of Supervisors, the City and County of Los Angeles, and the California legislature.

Mr. Pittenger has been working for the past two years with State and local officials and with community minded citizens to mount such an exposition which will commemorate Los Angeles' 200 years of progress and, at the same time, promote the economic welfare, full employment, and long range potential of the greater Los Angeles area.

WHAT IS AN INTERNATIONAL EXPOSITION?

An International Exposition is a gathering of the nations of the world at an agreed site to display their cultural, educational, scientific, political and technological achievements; to become better acquainted with their global neighbors; and to learn and carry back to their native land the latest ideas and achievements of the rest of the world.

Traditionally, International Expositions have advanced the frontiers of knowledge. The Great Exhibition of London in 1851, for example, was held in the Crystal Palace, the first iron-framed building, the first in which the outer walls were reduced to glass curtains and the first in which structural units were prefabricated and shipped to the site for assembly.

The Crystal Palace pioneered the modern skyscraper and set architectural standards for the world for the next 100 years.

The United States Centennial Exposition in Philadelphia in 1876 included the prototype of the modern elevator, and the airbrake. The Giant Corliss steam engine which drove 8,000 machines in Machinery Hall captured the world's market for decades.

Alexander Bell's demonstration of the telephone at the Exposition thrilled the world and created a revolution in human communication.

Expo '81 will continue the tradition of International Expositions to advance the frontiers of human knowledge and understanding.

International Expositions have also served another important objective of the host—economic betterment. Jobs are created, tourism promoted, income generated, and the tax base expanded. Long-term economic benefits include capital improvements on the Exposition site and in new and improved roads, airports, terminals, hotels, etc., with an expanded work force which add to the overall economy of the area. Expo '81 will have such a beneficial impact in the Southern California area.

WHAT IS THE EXPO '81 THEME

The theme of Expo '81 is PEOPLE TO PEOPLE . . . pathways to understanding.

We are living in a world on the threshold of instantaneous global electronic communication. The barriers of time and distance are being swept away and a world of immediacy is being created. No problem, no crises, no happening in any corner of the world escapes notice. A solution to a problem reached in one corner of the world can be immediately known and applied elsewhere.

The potential for universal understanding is at hand People are the resource—communications is the key—together there is the hope and the promise.

Expo '81 can be an international forum for furthering the exchange of ideas and knowledge—PEOPLE TO PEOPLE. . . .

WHY EXPO '81 IN LOS ANGELES

There has not been a universal exposition (Category 1) in the United States since 1939. As 1981 is the concluding year of America's Bicentennial, Expo '81 would provide a most appropriate closing of this national celebration with a universal exposition.

Never before has an international exposition been held in the Los Angeles area. In fact, since the 1932 Olympic Games, no major international event of any kind has taken place here. Los Angeles will be 200 years old in 1981, and what more fitting birthday celebration for the nation's third largest city than a World Exposition! Fresh and exciting, Los Angeles is the entertainment capital of the world, an internationally renowned center of the arts, communication, science, education, and sports. One of the major objectives of the exposition would be to utilize these superb facilities of the greater Los Angeles area to complement the exposition itself, thus providing the visitor with the opportunity to enjoy the greatest possible variety of constructive leisure time activities. Southern California is blessed with perhaps the most hospitable climate of any area in the world. The weather from April to October—the planned duration of the exposition—is ideal. We have superb hotels and restaurants to accommodate the millions of visitors. Los Angeles International Airport is the world's second largest airport in traffic movement, served by more airlines than any city in the world.

WHERE IN SOUTHERN CALIFORNIA

The planned site for the exposition is the Ontario Motor Speedway—a vast amount of acreage on the outskirts of Los Angeles. The location is ideal. In the heart of the Southern California metropolitan area, it is easily accessible by a superb freeway system, three rail lines, and the rapidly expanding Ontario International Airport less than a mile away, which will soon be one of the largest and finest air centers in the United States. The Speedway facility will be transformed into an architectural wonderland of beautiful and imaginative design concepts.

WHO WILL PARTICIPATE

Every nation of the world will be invited by the President of the United States to participate, with an opportunity to showcase the culture, skills, and talents that have helped it achieve its present state of development.

The Expo '81 organizers have applied for registration of the exposition as a general exhibition of the first Category with the Bureau of International Exposition (BIE). BIE is the international organization established by treaty to regulate the staging and administration of expositions to which signatory nations are invited to participate.

Under United States law, official recognition of Expo '81 by the President of the United States is a precondition for final BIE registration. A formal request to the President for Federal Government recognition of Expo '81 will soon be made.

Each of our fifty states will be invited to present its individual accomplishments as well as its role in the history of the Union. Industry will be provided an opportunity to exhibit its latest technological achievements.

WHO WILL BENEFIT?

The staging of an international exposition produces a multiple number of economic, social, and cultural benefits to the host community. Each aspect of the exposition—development, construction, and staging—will directly stimulate the economy. Experience of cities which have hosted prior expositions has shown that the impact to the host city and surrounding communities is substantial. Because of Ontario's ideal location among seven counties of Southern California—Los Angeles, Kern, San Bernardino, Riverside, Orange, San Diego, and Ventura—these counties will be the primary recipients of the benefits derived from employment, receipts, and taxes. The vast area from San Francisco to Las Vegas, Honolulu to Mexico City will realize an enormous amount of increased tourism and economic benefits. Indeed, the entire country will enjoy a tremendously stimulated tourism and trade by the estimated 50 million people who would visit the exposition.

WHAT WILL THE BENEFITS BE?

At the present time, the economic impact of the Fair on the various segments of the Southern California economy is being evaluated by a group of professional economists. Conservative preliminary estimates based on applying the experiences of other recent expositions indicates that an attendance of 50 million would generate between $1.5 billion and $3 billion of retail sales in 1981, in addition to the increase provided by normal growth in the area. Preliminary estimates also indicate that 100,000 jobs would be created of which 40 percent would be in construction and related activities. At this early stage, Expo '81 has the enthusiastic endorsement of: Supervisor Kenneth Kahn (who initiated the idea of an international exposition for Southern California); the Los Angeles County Board of Supervisors; Los Angeles Mayor Tom Bradley; the Los Angeles City Council; California's United States Senators; United States Senators of several western states; many California Congressional Representatives; the California State Senate and Assembly; the San Bernardino County Board of Supervisors; the Mayor, City Council, and Chamber of Commerce of Ontario; the Governors of 12 western states; and the Presidents of more than 125 national corporations.

TENTH CONGRESSIONAL DISTRICT NEWSLETTER FUND

HON. ABNER J. MIKVA

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, July 30, 1976

Mr. MIKVA. Mr. Speaker, the following is a report of the receipts and expenditures of the 10th Congressional District Newsletter Fund:

Tenth Congressional District Newsletter fund report, January 1, 1976–June 30, 1976

Balance: January 1, 1976	$103.87
Receipts: Contribution from Citizens for Mikva	2,200.00
Total Receipts	2,200.00
Expenditures:	
Printing and production	2,037.20
Total expenditures	2,037.20
Balance June 30, 1976	266.67

ENERGY SCAPEGOATS

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, July 30, 1976

Mr. MICHEL. Mr. Speaker, an editorial in the July 25 edition of the Peoria Journal-Star points out with devastating clarity the foolishness of the twin congressional proposals to make energy scapegoats out of the oil companies.

Noting that independent studies show that breaking up the oil companies would raise oil prices, result in the loss of hundreds of thousands of jobs and severely damage the U.S. gross national product, the editorial concluded that the proposal would help nobody.

Moving to the other proposal, to ban oil companies from involving themselves in other energy forms, editor C. L. Dancey notes, correctly, that this is precisely the opposite from what should be done. Instead, we should be demanding that they turn their immense resources to the task of solving our energy needs in the post-petroleum era which will soon be upon us.

Dancey's reasoning is sound on both counts and I would like to bring it to my colleagues attention by having the editorial printed here in the RECORD:

[From the Peoria (Ill.) Journal-Star, July 25, 1976]

THE KAMIKAZE CONGRESS

(By C. L. Dancey)

The "scapegoat" has its origins in Biblical times and has since come to apply to a process of ceremonially attaching ills or bad luck or sins to a goat and then driving it out into the wilderness.

That ancient instinct to resolve a problem by arbitrarily putting the blame on some "goat" and punishing the goat is about the only explanation one can make for the approach of the present liberal Congress to the energy problem.

Their answer: soak the oil companies.

Finding no guilt under all the existing laws, Congress has just decided to pass a new law, arbitrarily, to "break up" the "Big Oil Companies." And is pushing another to forbid them from dabbling in any other energy field besides oil.

It makes no sense except as a superstitious purge.

Congress didn't believe studies by oil experts on the actual results of dismemberment of the companies, so they had their own research service do a study.

It used different methods entirely.

But it ended up with the same shocking figure results, in fact.

It would damage the real "gross national product" of the United States severely—not less than $64 billion in seven years, and possibly as much as $134 billion!

It would, in chain reaction, produce not less than 300,000 unemployed and perhaps as many as 700,000 more unemployed.

It would help nobody.

The blind prejudices or notions aside, all studies including Congress' own detailed, factual studies produce this disastrous result.

All they have to do is look around at other countries, such as Japan, where they are trying to get their oil companies to combine in order to increase employment, hold down price and increase their gross national product. They say they can't compete with our efficiency.

Yet, here is the Congress of the United States, propelled only by blind reaction to the unpleasant aspects of an energy crisis, proposing to destroy the most efficient and cheapest system in the world.

These are the same people who say they are for "full employment" and policies which create jobs! Yet, by their own detail studies, they find their project would destroy from 300,000 to three-quarters of a million U.S. jobs.

We can understand that here in Peoria. It is perfectly obvious that similar legislation, executed under bureaucratic controls and regulations and administrative orders would be a disaster if applied to our largest employer . . . and if world-wide activities were thus cut off, wipe out at least half the jobs.

The other "punish oil companies" proposition is even more obviously "cutting off our nose to spite our face." That is Ted participation of oil companies in any other form of energy activity, development, or research.

The mere threat of that law has been a serious blow to the crying need of this country for research and experimentation in developing new sources of energy.

Who can invest huge sums in oil shale experiments and others, for example, when threatened with legal sanctions if they succeed?

The oil companies have the greatest incentive to stay alive when oil runs out. They have the greatest know-how. They have the in place organizations with the capacity to finance development.

What we have a right to ask of them is: "What are you doing to develop alternate sources of energy for our country?"

Instead, Kennedy's bill would tell them: "Don't you dare work on our energy problem!"

If they don't solve it and are forbidden to, who will?

A Senate committee? Or the bureaucracy? And who will finance it?

These "scapegoat" approaches of pure prejudice and populist superstition simply ignore the researched facts of the matter, and resulting laws would by all the evidence accomplish nothing except to cripple our employment needs, depress the national economy, and *raise the prices in the bargain.*

Even the study launched with the clear intention of proving the opposite, when they worked with the facts, came to that inescapable conclusion.

In the face of that study, those who vote for such kamikaze actions will have no excuse, and will have to be remembered and called to account for the end results if such an abomination is visited upon us.

In a time of crisis to destroy your best defense out of blind petulance is pretty stupid.

But we have a mighty bloc in Congress proposing just that!

If our senators Stevenson and Percy join them, we have the same obligation to observe the results and remember who was responsible for those consequences.

SOCIAL SECURITY ERRORS AFFECT PAYMENT RIGHTS OF MILLIONS OF BENEFICIARIES

HON. CHARLES A. VANIK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, July 30, 1976

Mr. VANIK. Mr. Speaker, during the past year, the Ways and Means Oversight Subcommittee has held eight hearings on the administration by Social Security of the supplemental security income program for the aged, blind, and disabled. These hearings have been held because of our deep concern about the level of errors in that program—errors affecting about one in every four cases and causing every $1 in $10 to be erroneously spent.

In the hearings, testimony was received that the quality of all social security programs had deteriorated since 1974 because of the disruptions and exceptional work burdens placed on Social Security by the SSI program. In an effort to determine whether other, more established social security programs had been adversely affected by the imposition of the SSI programs, I wrote to Social Security Commissioner Cardwell on May 26 requesting data on error rates in title II—retirement and survivors insurance—similar to the error rate information on SSI which he has provided to the Oversight Subcommittee.

I have just received the following letter from Commissioner Cardwell which indicates that between 1970 and 1974, the first year of the SSI program, retirement and survivors insurance case error rates increased from 4.5 percent to 7.9 percent, meaning that nearly 1 in every 12 social security beneficiaries was receiving an incorrect social security retirement or survivors benefit. At one time during 1974, the error rate rose to 9.8 percent or almost 1 in every 10 cases. Since 1974, there has been a slight increase in the title II accuracy rate. The level of errors is still too high, however, and involves approximately millions of Americans and hundreds of millions of dollars in either improperly high or improperly low payments on one or more occasions.

Social Security reports that many of these payment errors are "one-time" in nature and are soon corrected. For example, in 1975, Social Security believes that 1.7 percent of its cases had a continuing overpayment, while 2.2 percent had a continuing underpayment for a total of 3.9 percent of the cases receiving erroneous payments in 1 or more months. In 1975, noncontinuing erroneous cases —such as cases in which a lump-sum payment is made erroneously—approximated 3.6 percent.

To provide some idea of the magnitude of the dollars involved in these errors, if one projects the average monthly continuing overpayment of $19 per month times 1.7 percent of all retirement and survivors cases, the yearly overpayment amounts to $108.5 million. Of even more interest to Social Security beneficiaries, assuming a $19 average figure for underpayments, some 616,000 individuals and families lost $140 million on an annual basis because of continuing underpayments in 1975.

These errors demonstrate the need for individuals to keep careful earnings records and to double check the computations involved in determining their benefit levels.

The Commissioner does not explain why there was a significant increase in error rates in 1974:

> These Title II data do show that operational effectiveness in making accurate payments has decreased somewhat since the advent of the SSI program. We cannot, however, determine how much of this change may have been due to the operational impact of SSI on the Title II program and how much may have been due to unrelated factors. We think it is safe to assume, however, that SSI definitely influenced the rates. An intensive quality improvement effort is underway in both the SSI and the Title II programs, and we are confident that an improvement in the correct payment rates for all programs will be achieved.

Programs involving people in a multitude of social situations can never be perfectly error free; they are not like scientific programs which can compute perfectly a mathematical problem or send a machine to Mars. There will always be errors; the question is, is the level of error "acceptable." I believe it is important to restore the basic social security retirement program to at least its pre-SSI accuracy levels.

In addition, I believe that our experience with the confused administration of SSI should warn us against adding any major new missions to the workload at Social Security unless there is the most careful preparation. And long lead-time. Social Security does a big job, and it does it well. Major disruptions—such as a possible federalization of all welfare programs or a national health insurance program—can only detract enormous managerial attention and district office manpower away from Social Security's principal goal—providing for the retirement security of American workers.

The Commissioner's letter follows:

DEPARTMENT OF HEALTH,
EDUCATION, AND WELFARE,
Baltimore, Md., July 20, 1976.

Hon. CHARLES A. VANIK,
Chairman, Subcommittee on Oversight, U.S. House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: In your letter of May 26 you requested that we provide you with rates for incorrect payments under the title II program similar to those previously provided for the title XVI Supplemental Security Income (SSI) program.

As you know, the title XVI quality assurance data on incorrect payments is derived from an indepth examination of a statistically valid sample of SSI cases, in which quality assurance interviews are conducted with SSI recipients and a variety of independent checks are made on income, living arrangements, and resources of those recipients. This type of arrangement is necessary in a program such as SSI, where minor changes in income, resources, or domiciliary status can affect the correct amount of the SSI payment on a month-to-month basis.

We operate a variety of quality assurance and payment measurement systems in our title II programs, but none of these is directly comparable to the title XVI system.

The primary system used in title II is one which measures the accuracy of adjudicative actions taken on new claims, and on subsequent claims which require some type of adjudicative decision as to eligibility and/or payment amount. This system, while not directly analogous to the SSI system, does provide data that can be used for very rough comparative purposes.

Before going into specifics about the data provided by this title II system, it would be useful to indicate the reasons why the title II and title XVI quality assurance systems are fundamentally different. Basically, the difference in systems is directly tied to the very different nature of the programs. In title II, aside from the question of whether or not a person is disabled, eligibility and the amount of benefit payment are generally based on the age of an individual, his or her marital status, and the individual's earnings record maintained over the years by the Social Security Administration (SSA). Unlike title XVI, there is much more limited opportunity for error in determining eligibility or initial monthly benefit amounts. In addition, with the exception of the application of the retirement test and certain work tests associated with the disability program, ongoing title II benefit payments are generally not affected by changes in an individual's earnings, resources, or living arrangements as they are in title XVI. Thus, many of the factors which are capable of producing frequent changes in the correct amount of a title XVI payment are not generally present in title II. The quality control systems in each of the programs are therefore designed around the potential error causes and characteristics of the program.

While the earnings of a beneficiary can affect title II payments (though to a much lesser degree than title XVI), the incorrect payments which may result are generally of a temporary or adjustable nature. Benefits paid during a year based on estimated yearly earnings or months in which no work is performed are adjusted, if necessary, when actual earnings are reported after the end of the year. There is a built-in "retirement test" enforcement program in title II which compares earnings reported by the beneficiaries with earnings that employers and the self-employed report to the Internal Revenue Service. This is done on a continuing and routine basis. Any discrepancies are checked out and appropriate adjustments made to ongoing benefits in order to recoup overpayments or compensate for underpayments.

As mentioned above, the title II quality assurance system which provides incorrect payment information most comparable to title XVI data is the system operated in the Retirement and Survivors Insurance (RSI) program to measure payment-related inaccuracies in new claims and subsequent claims. The system divides incorrect payments into two basic categories:

Continuing Overpayments or Underpayments—These are inaccurate payments which are introduced into the beneficiary rolls and which could continue unless detected by one of our enforcement programs (e.g., the retirement test monitoring program noted above) or by review of the benefit amount when some subsequent action affecting the benefit is processed. Data on these continuing incorrect payments can be very roughly equated with the title XVI data.

Noncontinuing Overpayments and Underpayments—These are incorrect payments which are "one-time" in nature. They do not result in a continuing series of incorrect payments. An example of a noncontinuing payment error would be the incorrect calculation of a retroactive payment made when an individual retires. While the lump-sum retroactive payment might be incorrect, this error would not affect the amount or correctness of the ongoing monthly benefit payment. Incorrect payments of this type are not comparable to title XVI data, which almost entirely reflect incorrect amounts that are continuous until detected and corrected.

Calendar year 1975 data from this system are as follows:

Percent of RSI cases containing payment-related inaccuracies

[In percent]

Type	Over payments	Underpayments	Total
Continuing	1.7	2.2	3.9
Noncontinuing	2.0	1.6	3.6

While the total calendar 1975 inaccuracy rate is 7.5 percent, the continuing incorrect payment rate—the measure most comparable to the SSI inaccuracy rates—is 3.9 percent, of which 1.7 percent represents continuing overpayments. Breaking down the 1.7 percent continuing overpayment figure, we know that about one-third of these overpayments were related to work under the retirement test. This type of overpayment is classified as continuing for the year in which the claim is filed, although adjustment will occur in the subsequent year as a result of the retirement test enforcement program.

The remaining 1.2 percent of continuing overpayments are due to computational and entitlement factors, which in many regards parallel similar factors in title XVI. The average dollar amount by which the monthly benefit was affected in these cases was $19. While overpayments of his type will continue unless detected, many are in fact detected and corrected routinely when an individual's benefit is recomputed because of additional work or other causes. In 1975 an average of 260,000 benefit accounts per month were subject to recalculation based on work history.

The same factors which operate to correct overpayments, of course, also operate to detect and correct underpayments.

Title II retirement and survivors insurance data similar to the 1975 data shown above are available for the period 1970–1976. A graph displaying these data is enclosed. (Due to changes in quality assurance methodology made in 1974, it is not possible to differentiate in the pre-1975 data between continuing and noncontinuing inaccuracies, etc., as was done for 1975.) These title II data do show that operational effectiveness in making accurate payments has decreased somewhat since the advent of the SSI program. We cannot, however, determine how much of this change may have been due to the operational impact of SSI on the title II program and how much may have been due to unrelated factors. We think it is safe to assume, however, that SSI definitely influenced the rates.

An intensive quality improvement effort is underway in both the SSI and the title II programs, and we are confident that an improvement in the correct payment rates for all programs will be achieved.

If we can be of further assistance, please let me know.

Sincerely your,

JAMES B. CARDWELL,
Commissioner of Social Security.

FINANCIAL DISCLOSURE STATEMENT OF BENJAMIN A. GILMAN

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, July 30, 1976

Mr. GILMAN. Mr. Speaker, while full public disclosure by Members of Congress of their finances is not required by law, in recognition of the public confidence entrusted to me in public office and in the interest of making full financial disclosure, I am submitting for publication the following data concerning my personal assets and liabilities for 1974 and 1975:

FINANCIAL STATEMENT

1. My sources of income, apart from my Congressional salary: $616.04[1] from the "26th Club," an account for unrestricted non-political contributions for the reimbursement of travel expenses beyond those officially allowed by the Congress. (Received in 1974)

2. The identity of my creditors for all unsecured indebtedness: Empire National Bank, Middletown, New York.

3. The sources of all reimbursements for expenditures other than from the United States Government: $616.04 (in 1974) from the 26th Club for transportation (Previously noted in item No. 1).

4. Identity of all stocks, bonds and other securities owned outright or beneficially:

(a) Mortgagee on Hare Premises and Diakopolos Premises in the City of Middletown, New York, and a land installment contract by J. & R. Hern for premises in Middletown, New York.

(b) Held in trust for my children are the following:

(1) 25 shares of Equitable Gas Company.

(2) 1 share Long Island Lighting Company.

In this account there were also transactions involving short-term commercial papers:

(1) General Acceptance Corporation Commercial Paper.

(2) Chase Manhattan Commercial Paper.

(3) Sears Roebuck Acceptance Paper.

(4) Textron Commercial Paper.

(5) Ford Motor Company Commercial Paper.

(6) General Electric Commercial Paper.

(7) Westinghouse Credit Corporation Commercial Paper.

(8) American Express Commercial Paper.

(9) National Gas Pipeline Commercial Paper.

(10) Mississippi Power and Light Commercial Paper.

(11) Union Oil of California Commercial Paper.

5. Identity of all business entities and foundations in which a position is maintained as a director, officer, partner, or in which service is performed in an advisory or managerial capacity:

I am on leave from the law firm of Gilman & Goldstein, of Middleton, New York. I have not practiced law since becoming a Member of Congress in 1972, and I do not receive any income from that firm. My wife, Jane Prizant Gilman, continues to be an active practicing partner in that firm.

6. In 1974, my total income tax liability was $9,656 of which $1,092 was paid to the State of New York. Federal taxes in the amount of $11,870 were withheld, including an overpayment of $3,306, leaving a net Federal tax payment of $8,564. Of my total adjusted income of $39,030 in 1974, 24.7 per cent was paid in State and Federal taxes. Additionally, during 1974, I incurred expenses incidental to my office in the total amount of $23,376 or which only $13,088 was reimbursed.

7. In 1975, my total income tax liability was $10,471 of which $1,272 was paid to the State of New York. Federal taxes in the amount of $11,728 were withheld, including an overpayment of $2,529, leaving a net Federal tax payment of $9,199. Of my adjusted gross income of $44,423 in 1975, 23.57 per cent was paid in State and Federal taxes. Additionally, during 1975 I incurred expenses incidental to my office in the total amount of $23,411 of which only $12,105 was reimbursed.

Mr. Speaker, in addition to this data, I would add that although I made more than 40 trips to the 26th Congressional District in New York during 1974 and 41 trips to my district in 1975 and appeared before more than 300 groups, I received no honorariums.

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[1] Income of the 26th Club was included in my report of gross income for tax purposes with offsetting business expense deductions.

DOUBTS ABOUT FLU CAMPAIGN

HON. WILLIAM L. HUNGATE

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Friday, July 30, 1976

Mr. HUNGATE. Mr. Speaker, the following article from the July 27, 1976, Christian Science Monitor provides a complete analysis of the major obstacles facing the swine flu vaccination program. Since this issue has yet to be resolved, my colleagues may find the following useful:

DOUBTS ABOUT FLU CAMPAIGN

The nationwide flu vaccination campaign endorsed by President Ford is encountering such difficulty and criticism that one wonders about the wisdom of pursuing it further.

For example, insurance companies have balked at covering vaccine producers because of the unknown risks of damage suits that could arise from a national immunization program. Two of the four vaccines being produced have been labeled unacceptable for military use, which casts doubt on their civilian acceptability as well.

Then, too, preliminary tests have indicated some vaccines are satisfactory for use by a majority of adults but are not acceptable for children. And for persons 18 through 24, the government already has recommended that only two types be used. All of which give such uncertainty to the program as a whole that it does little to inspire confidence among potential recipients.

Some now say the threat of swine flu was exaggerated. And there are respected experts who claim nationwide inoculations are not advisable. Among these is vaccine pioneer Albert Sabin, who recommended that the program should be abandoned, except in special cases.

A number of European authorities also question the idea of mass shots for Americans without further evidence of need. And in the months since the localized outbreak at Fort Dix, New Jersey, that sparked the original concern, not a single case of swine flu has been observed. The epidemic in Australia turned out to be something else, and medical opinion there was divided about the efficacy of vaccination.

It is right that the government should be concerned about protecting its citizens in the face of clear health hazards. But, in view of the many questions raised about the current flu campaign, President Ford would be wise to reassess whether or not inoculation on a nationwide scale is actually merited.

TRANSFER OF OWNERSHIP OF FORT GIBSON AND TENKILLER RESERVOIRS

Hon. Theodore M. (Ted) Risenhoover

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 30, 1976

Mr. RISENHOOVER. Mr. Speaker, I am today introducing legislation to transfer ownership of Fort Gibson and Tenkiller Reservoirs from the U.S. Army Corps of Engineers to the State of Oklahoma.

It is my belief that the State and local governments are best able to manage their own resources—and these bills are in keeping with that philosophy.

In my view, a majority of people in the area favor State ownership of these two beautiful lakes which also are invaluable water, power, and recreational resources.

The corps recently implemented Lake Shore management plans on their lakes in Oklahoma which proved generally unpopular to the people. Opponents would attend public hearings to protest—but they felt their pleas fell on deaf and indifferent ears. The people feel that State and local government are within their reach and control.

These bills preserve the use of the lakes' waters to the 17 counties of the second congressional district—largely rural areas. I purposely omitted urban Tulsa county because, I feel, it should look to Lake Keystone for its municipal and industrial water supply.

Lake Keystone and the waters of the Arkansas River, unfortunately, are now unusual because of natural salt pollution. I have introduced legislation fully authorizing a chloride control program on the Red and Arkansas Rivers.

Tulsa and our Nation must press for a clean-up of the Arkansas River, which is a source of pollution affecting waters downstream into the Mississippi and even the Gulf.

With the Arkansas River relieved of pollution, then Keystone would be a vast water resource for Tulsa, Creek, and Osage counties. There would be no need to build expensive pipelines to tap the lake waters of eastern Oklahoma.

With desalted water continuing down the Arkansas River, Muskogee, Sallisaw, and Arkansas towns to Memphis would be directly benefitted. The Mississippi River would be improved and, I am told, even the shrimp in the Gulf would benefit.

Western Oklahoma certainly needs more water. The average daily flow down the Arkansas is 31,300 cubic feet per second as the river crosses the Oklahoma border. Arkansas is legally entitled to only 12,520 cubic feet per second. That means that 60 percent of the present flow across the stateline is identifiable surplus water.

There is no reason that this water—cleansed of the salt—could not be piped westward to the rich wheat and cattle lands of the western parts of Oklahoma and the sister States west.

The potential increase in economic benefits from one wheat crop could well justify the cost of the chloride control project. We need to clean up the Arkansas River.

But, now, I add the advisability of transferring ownership of Fort Gibson and Tenkiller reservoirs.

I provide that the power would be restricted to sale in Oklahoma. The effective, far-sighted management of the Grand River Dam Authority should manage the power.

I have pointed out the people of Oklahoma that the cost of managing Fort Gibson and Tenkiller is:

Fort Gibson: $1,280,000 annually.

Tenkiller: $940,000 annually.

However, sales of water and power would certainly cut into these expenses.

Additionally, I have informed the public, there is $350,000 in the Fort Gibson budget for advanced engineering and design of two new generators. The State of Oklahoma, through the Grand River Dam Authority, should be prepared to move swiftly completing that expansion.

Another important factor are the employees of the corps who now work at the Lakes. My bills provide the State of Oklahoma will preserve their jobs and not reduce their benefits.

Finally, the bills provide that public use areas will be preserved for the people. The State of Oklahoma must be prepared to fully utilize these recreational areas through its parks department. I believe that Lt. Gov. George Nigh, his commission, and Parks Director Chris Delaporte are highly competent and able to provide the leadership and management which will greatly enhance recreational resources of these two lakes.

Mr. Speaker, there is great need for stronger local control of our resources and for the improvement of our water and power opportunities. I believe these bills offer that power.

The problems of water supply to maintain the 9-foot channel on the McClelland-Kerr Waterway can be resolved because the State of Oklahoma has a strong vested interest in maintaining and improving navigation opportunities.

The leadership within the State will go the last mile to see that the corps has full imput into the management of these lakes under State ownership.

Certainly, there are conflicts in any project which has multiple purposes, such as exist regarding these lakes. When recreation, flood control, power, municipal water supplies, industrial water supplies and reserves for navigation are involved—we know the problem is complex.

But the conflicts can be resolved within the context of these bills and I urge my colleagues to move with me to see that they become the law of the land. Thank you.

RECORD AUTO INDUSTRY PROFITS UNDERMINE THE DINGELL-BROYHILL AMENDMENT

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 30, 1976

Mr. BROWN of California. Mr. Speaker, next week when the House considers the Clean Air Act amendments, H.R. 10498, a major policy decision will be made in respect to automobile emissions. The existing law, which has been changed in the past by the Congress, calls for a fairly stringent timetable for meeting automobile emission standards. The proposed committee bill pushes those timetables back, not because the scientific evidence supports such delays, but simply because the political pressures on the committee demanded a compromise between what the auto industry wanted, the Dingell-Broyhill amendment, and what most public health officials wanted, the Waxman-Maguire amendment.

The compelling argument from the automobile industry was not fuel economy, although this red herring issue was raised, nor was it air quality, although the automobile industry still tries to convince us that automobile pollution is not harmful. The compelling argument was economics, with jobs being the main concern of the Members who voted for delays.

It is for this reason that the current economic status of the automobile industry is relevant to the debate over the automobile emission standards proposed in H.R. 10498. The headlines from the papers tell the story: "GM's $909 Million Sets Profit Record." "Ford Sets Record, Earns $442 Million." The economic argument is no longer valid, if it ever was. With this point in mind, I urge all Members to consider the auto emission issue on its scientific merits, and urge the adoption of the Waxman-Maguire amendment, which, while postponing the existing standards, does not cave in to the industry pressures. I wish to insert several articles on auto industry profits at this time:

[From the Washington Post, July 29, 1976]

GM's $909 MILLION SETS PROFIT RECORD: BUT TOTAL FAILS TO MATCH EXPECTATIONS OF ANALYSTS

From News Dispatches

Riding the crest of a sensational auto industry resurgence, General Motors Corp. yesterday said it earned a record $909 million in the second quarter, the most ever by an industrial manufacturer.

GM's net profits for the April–June period were up 173 percent from a sluggish $333 million the year before, and topped its previous quarterly record of $817 million, set in the first quarter of 1973.

The auto giant's performance also topped the $862 million earned in the last three months of 1974 by Exxon Corp., which previously held the quarterly profit record for a manufacturer.

According to financial analysts, the most money ever earned by a corporation in a single quarter was $940 million by American Telephone & Telegraph Co. in the second quarter of this year.

The auto company's profits fell short of the $935 million to $950 million predicted by Wall Street analysts.

GM also reported record dollar sales of $12.5 billion for the quarter, up 35 percent from $9.3 billion in the same year-ago period.

Worldwide factory sales of 2,366,000 rose 32 percent from the year before but were just short of the record 2,392,000 set in 1973.

GM which saw its sales and profits tumble during the first half of last year due to a severe industry recession was the second auto maker to report a return to record income and sales.

Chrysler Corp., which lost a record $260 million last year, reported that its second-quarter profits soared to $155.1 million, highest in the firm's history.

Ford Motor Co., which releases its quarterly results on Thursday, also is expected to report record profits of about $400 million.

The combined effects of the Mideast oil embargo in 1974 and last year's recession sent the industry into its deepest and longest slump in four decades. Since last fall, however, the auto makers have staged a dramatic turnaround that has outstripped the most optimistic forecasts.

"The pace of economic recovery in the United States—spearheaded by the automotive industry—continued at a sustainable rate," GM chairman Thomas Murphy and president Elliott Estes said yesterday.

"Gains were seen in real personal income and employment, the inflation rate was generally stable and consumer confidence remained firm," they said.

Despite the firm's strong showing, the two executives cautioned that, "When adjusted for inflation, current earnings are below those of past years."

They defended the high level of earnings are necessary to finance a five-year, $5 billion spending program launched last year to redesign the company's fleet of cars to make them smaller, lighter and more fuel efficient.

"Earnings must be improved further to provide the capital needed in the business and the dividends which must be paid . . . if our corporation is to remain strong," Murphy and Estes said.

For the first half of 1976, GM had net income of $1.71 billion on sales of $23.9 billion, both records. In the first six months of last year, the firm had profits of $392 million on sales of $16.9 billion.

[From the Washington Post, July 30, 1976]

FORD SETS RECORD, EARNS $442 MILLION

Ford Motor Co.'s net profit in the second quarter jumped to an all-time high of $442 million ($4.70 a share), more than four times its depressed results the year before, Ford said yesterday.

Ford became the third auto maker this week to report a record-shattering earnings performance for the April-June period.

Together, Ford, General Motors Corp., and Chrysler Corp. earned more than $1.5 billion for the first time in history.

The industry's current resurgence compares. with plummeting profits a year ago, when the recession-ridden auto makers saw their earnings fall to a 20-year low.

Ford's latest earnings were well above the $385 million to $432 million anticipated by Wall Street analysts and compared with an anemic $107 million ($1.13) earned in the same 1975 span.

Ford said worldwide dollar sales of $8 billion in the quarter also shattered its record, rising 27 per cent over $6.3 billion in the second quarter of 1975.

The previous quarterly profit record for the world's No. 2 auto producer was $394 million in the spring period of 1973, when the industry was in the middle of its last boom.

Earlier this week, GM reported its second-quarter earnings soared to $909 million ($3.16 a share), the most money ever made in one three-month period by an industrial corporation, while Chrysler posted record profits of $155 million ($2.58). A year ago, GM earned $333 million ($1.14); Chrysler lost $58.7 million.

Small-car specialist American Motors Corps., the only auto maker failing to share in the industry's dramatic sales rebound and return to prosperity, reported a $3.9 million loss for the quarter due to a worsening sales slump.

Even so, combined industry earnings in the quarter rose to a record $1.5 billion, topping the previous record of $1.3 billion set in both the first and second quarters of 1973.

By contrast, the industry reported aggregate earnings of $392 million for the second quarter of 1975, its poorest performance in more than 20 years.

Aggregate sales in the quarter also set a new mark at $25 billion, compared with $19 billion a year ago.

For the first six months of the year, Ford reported net profits of $770 million ($8.19) on sales of $15.4 billion. A year ago, the firm had first-half earnings of $96.5 million on sales of $11.1 billion.

Aggregate industry earnings for the six months hit an all-time high of $2.7 billion, topping the previous record of $2.6 billion in 1973. Combined industry profits in the first half of last year were $298 million.

Despite Ford's record profits, which were reduced by $17 million due to an accounting change, chairman Henry Ford II said net earnings on each dollar of sales remained relatively low at 5.7 cents.

"Although net income and dollar sales were records for any quarter, the company's after-tax return on sales was exceeded in about a third of the quarters since 1956," when Ford first went public, he said. The company earned 1.7 cents on each dollar of sales a year ago.

The Ford chief executive also attributed the firm's sharp profit rise to higher unit volumes and effective cost-reduction programs.

Analysts said strong recoveries in overseas markets—where Ford is traditionally strong—and a dramatic sales resurgence of higher-profit big cars also contributed to the company's income gains.

Unit sales of Ford vehicles in the United States and Canada during the quarter totaled 1.08 million compared with 831,000 the year before. Overseas sales of 460,000 units were up from 405,000.

For the first six months of this year. Ford had world-wide vehicle sales of 3 millions compared with 2.2 million last year. North American sales were 2.05 million, up from 1.44 million a year ago. Overseas sales totaled 950,000, compared with 786,000 last year.

[From the Los Angeles Times, July 29, 1976]

GM Earns Most Ever for an Industrial Firm: Record Earnings Bring Call for Big Wage Gain

DETROIT.—General Motors Corp., riding the crest of an auto industry resurgence, said Wednesday it earned a record $909 million in the second quarter, the most ever by an industrial manufacturer.

GM's net profits for the April-June period were up 173% from a sluggish $333 million the year before, and topped its previous quarterly record of $817 million, set in the first quarter of 1973.

The auto giant's performance also topped the $862 million earned in the last three months of 1974 by Exxon Corp., which previously held the quarterly profit record for a manufacturer.

The auto company's profits, however, fell short of the $935 million to $950 million predicted by Wall Street analysts.

According to financial analysts, the most money ever earned by a corporation in a single quarter was $940 million by American Telephone & Telegraph Co. in the second quarter of this year.

GM also reported record dollar sales of $12.5 billion for the quarter, up 35% from $9.3 billion in the same year-ago period.

Worldwide factory sales of 2,366,000 motor vehicles rose 32% from the year before, but were just short of the record 2,392,000 set in 1973.

(Leaders of the United Auto Workers, who currently are negotiating with all the auto companies for a new contract, immediately staked claim Wednesday to a share of the record GM profits.)

(UAW President Leonard Woodcock said the "incredibly hefty profit gains" indicate the union should make significant gains in wages, benefits and job security for the 680,000 members.)

Analysts attributed GM's high profits to higher unit sales industrywide, an increase in the company's market share, a strong comeback in sales of high-profit large cars, moderating cost increases combined with effective cost-cutting controls and a recovery in overseas markets that is paralleling the turnaround in the United States.

GM's per share earnings in the quarter were $3.16, compared with $1.14 a year ago and the previous record of $2.84 set in the first quarter of 1973. Profits as a percentage of sales were 7.3%—double that of a year ago, but down from 8.3% in 1973.

Unit car and truck sales in the United States during the quarter were 1.71 million, compared with 1.24 million a year ago and 1.79 million in 1973.

For the first half, GM reported worldwide vehicle sales of 4.49 million units, compared with 3.16 million last year. U.S. sales of 3.25 million were up from 2.18 million, while sales outside the United States rose to 1.23 million, compared with 981,000.

Chrysler Corp., which lost a record $260 million last year, reported its profits in the second quarter soared to $155.1 million, highest in the firm's history.

Ford Motor Co., which releases its quarterly results today, also is expected to report record profits of about $400 million.

[From the Wall Street Journal, July 30, 1976]

Ford Motor Says Net Quadrupled in Second Period; Record $441.9 Million Profit Came on 27 Percent Sales Boost, Was Above Estimates

(By William M. Bulkeley)

DEARBORN, MICH.—Ford Motor Co.'s second quarter net income soared to a record $441.9 million, or $4.70 a share, more than four times the earnings of the depressed year-earlier period.

Although record results were expected at the No. 2 auto maker, actual earnings exceeded analysts' estimates. Earlier this week, both General Motors Corp. and Chrysler Corp. reported record second quarter results.

In 1975's second quarter, when the industry was just beginning to recover from the impact of the recession, Ford earned $107.1 million, or $1.15 a share. Sales in this year's second quarter rose 27% to $7.99 billion, also a record, from $6.28 billion.

For the half, Ford's net income rose to a record $770 million, or $8.19 a share, from operating income of $1.3 million, or two cents a share, a year before, when earnings were held down by a big loss in 1975's first period. The 1975 first half figure excludes a special credit of $95.2 million, from an accounting change, which brought the period's net to $96.5 million, or $1.04 a share. Sales in the six months rose 36% to $15.42 billion from $11.37 billion.

STRENGTH OF RECOVERY

Ford's earnings performance reemphasized the strength of the current recovery in auto industry sales and production both in the U.S. and overseas. The first half was the best for auto sales and production since 1973 in the U.S., and the domestic auto makers' earnings reflected that strength.

Ford said that its bread-and-butter U.S. car operations, which recently have been a problem, contributed a substantially larger portion of profits in the second quarter than they had earlier. In 1975's first half, Ford said its U.S. auto operations had losses equal to $250 a car, or had an indicated loss of $313 million. And earlier this year at Ford's annual meeting, Chairman Henry Ford II complained that the operations, though again profitable, still weren't "as strong as they should be."

Ford declined to disclose the contribution its U.S. operations made to profit in the 1976 second quarter. It said its overseas operations accounted for 28% of the company's sales and the same percentage of profit. That contrasts with this year's first quarter, when foreign operations represented 31% of sales and 42% of profit. Ford also has several domestic nonautomotive operations, such as a finance company and an aeronautical parts concern.

WORLD-WIDE VOLUME

Although dollar sales broke records in the second quarter, Ford's unit volume of 1,539,405 vehicles world-wide trailed the 1,659,000 vehicles sold in the 1973 record year. Worldwide sales rose 23% from the 1975 second quarter. In the U.S. factory sales of 681,824 cars were the third best ever and climbed 26% from 1975. The improvement in dollar sales, in the face of the drop in volume, reflects hefty price increases that Ford has put through on its vehicles over the past three years.

Uncharacteristically, Ford executives issued their earnings report with little commentary. They noted that Ford's profit margin was 5.7% in the second quarter, up sharply from 1.8% the year before. But, they said the margin "was exceeded in about a third of the quarters since 1956."

Auto makers have been playing down the strength of their earnings for the second quarter, apparently with an eye on current labor negotiations. Many observers expect that the United Auto Workers union will try to set the pattern at Ford for a new national auto workers contract when the current one expires in September.

Not surprisingly, UAW Vice President Ken Bannon, who is in charge of the union's negotiations with Ford, tied the Ford earnings to its ability to pay workers the "substantial wage increases" and other benefits the UAW is seeking. "Our demands can be granted in a noninflationary settlement, based on Ford's immense profitability, while at the same time allowing the company to keep the price of its products down and still make sizable sums for its investors," he said.

Barring a lengthy strike, analysts expect Ford's earnings for all 1976 to set a record of more than $12 a share, easily surpassing 1973's record $906.5 million, or $9.13 a share.

Earnings estimates for the current quarter are hard to pin down, analysts say, because it is difficult to account for the effects of numerous tooling changes and the vagaries of starting production of new models. One analyst says Ford's earnings could be between $1 and $2 a share in the quarter, up sharply from $56.3 million, or 60 cents a share, last year.

Chrysler and GM also are expected to show earnings improvements for all 1976. In the third quarter, GM, with extensive model changeover, is expected by some analysts to earn between 90 cents and $1.10 a share, up from 84 cents last year, and close to or above the 1973 record of 92 cents a share. Chrysler is expected to earn 75 cents to 80 cents a share, a sharp turnaround from the $79 million loss it reported in the 1975 period. American Motors Corp., plagued by soft sales and stiff competition in the small-car end of the market where it specializes, already has said it expects to report a loss for the period.

Ford said its second quarter earnings were reduced $16.6 million, or 17 cents a share, by a change to the last-in, first-out, or LIFO, method of inventory accounting. For the half, the change reduced net $31.3 million, or 33 cents a share. Ford said it didn't restate year-earlier figures.

Under LIFO, the cost of goods sold is based on the most recent prices for raw materials and other inventory items, thus reducing the ballooning effect that inflation has on profit.

FUNERAL REGULATIONS

HON. MARTIN A. RUSSO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, July 30, 1976

Mr. RUSSO. Mr. Speaker, the House Small Business Subcommittee on Regulatory Activities has held a series of hearings this year on proposed trade regulations developed by the Federal Trade Commission affecting the funeral industry in the United States. Under the astute leadership of my esteemed colleague, the Honorable WILLIAM HUNGATE, the subcommittee has discovered a number of serious methodological shortcomings with the preparation of the FTC proposed regulations. In addition, the basic premise of the regulations has tended to cast a suspicious eye on over 22,000 of our Nation's smallest businessmen.

Although our subcommittee has taken no formal position on the proposed FTC rulemaking, it is my firm hope and belief that the Federal Trade Commission will utilize our hearing record and pay heed to our findings. It is my personal view that the evidence uncovered by the subcommittee has failed to indicate the type of widespread fraud and abuse that would necessitate such heavy-handed Federal regulation.

At this point, Mr. Speaker, I would like to insert the recent testimony submitted to the Federal Trade Commission by Chairman HUNGATE and ranking minority member Representative JOHN Y. MCCOLLISTER. I fully support the findings and statements of my two colleagues.

The testimony follows:

TESTIMONY OF CONGRESSMAN WILLIAM L. HUNGATE

I. SUBCOMMITTEE INTEREST

The Subcommittee on Activities of Regulatory Agencies of the House Small Business Committee has investigative jurisdiction over the administrative procedures and regulations of all federal regulatory agencies as they affect small business. In the fall of 1975, the Subcommittee began receiving a large volume of mail complaining about the Federal Trade Commission's proposed trade rule for the nation's funeral industry. Many of the letters complained generally about the rule, many more cited specific sections of the rule. Many more questioned the possibility of a significant paperwork burden if the rule were to be passed as it. Others questioned the basis for the Commission even proposing the rule. Others questioned whether the FTC Improvements Act authorized such expansion of FTC rulemaking jurisdiction. How many complaints had they received? How widespread was criticism of the industry?

Other members of Congress then began complaining to the Subcommittee due to the mail they had begun to receive. Did we intend to do anything? Staff was directed to do some preliminary study. They discovered that the industry in question is a "small business intensive" industry. Estimates indicated well over 90% of the industry could be properly qualified as "small business" with annual receipts well under the SBA two million dollar level and a national average of only 2.3 full-time employees.

For example, in Michigan there are 851 licensed establishments which are operated by only 2,277 individual licensees.

At a December meeting, the Subcommittee decided that we would hold hearings on the proposed rule and would allow witnesses in support and in opposition of the rule to testify before the Subcommittee. Our area of concentration was the effect implementation of the rule would have on the small businessmen in the funeral industry.

II. SUBCOMMITTEE HEARINGS

Hearings on the proposed rule were held by the Subcommittee on January 21 and 22 and March 25. FTC jurisdictional hearings to date have been held on April 6 and June 16.

Industry witnesses voiced several important concerns related to the small business impact of the rule. It is unfortunate that when such a detailed industry study is complied, there is no economic impact study done.

Economic Impact of the Rule

What effect will this rule have on the small funeral director? Printing X number of forms per funeral, three-year maintenance of files, constant updating of forms, personnel to take care of this burden—won't this drive the cost of a funeral up and not down? Higher prices, new employees—would this not threaten the small operator and perhaps even lead to more "funeral supermarkets?" The Missouri Funeral Directors Association have made a study on this and I direct your staff's attention to it (p. 369, Vol. III, Hearings).

Section 453.3

This section makes it illegal "to make any statement or claims, written or oral, which expressly or implicitly contradict, mitigate or detract from the printed disclosures which are required by paragraph (A)(2) of this section or which are false, misleading, or unsubstantiated . . ." witnesses questioned just what this section means. A close reading of it would seem to imply that a funeral director could hardly make any kind of oral statement. How do you determine what is misleading? Most important of all, how do you enforce a section like this?

Funerals in the Black Community

Representatives of the industry from the black community appeared before the Subcommittee. They told us that FTC staff knew nothing of their part of the industry. Neither were they consulted nor were their views studied during the rule-making process. In their testimony, we heard that in big cities like New York, Chicago, St. Louis and Philadelphia, 90 percent of the black funerals are held at night.

In fact, we were told when representatives of the black segment of the industry complained to the FTC staff, the staff did not even know anything about night funerals. Such an oversight does not say much for FTC staff research.

Consumer spokesmen

Time and again we heard about consumer outrages in the industry. Consumers were all for the rule. Yet getting a spokesman to come forth and testify and then submit to questioning was another story. Mrs. Knauer, the Consumer Federation of America, and the Consumer Affairs Committee of the Americans for Democratic Action all were invited to testify. All were given more than one opportunity. None appeared in person. Only Mrs. Knauer submitted a statement. It was the same one given to the Commission.

In their report, our Subcommittee staff said that the New York City and State Consumer witnesses offered little significant documentation on the industry. Neither witness could give the exact number of funeral complaints, although both indicated very few had been received.

Total small business neglect

The Commission staff has been busily promoting their rule in the press. Press release after press release has been issued. Stories have appeared across the country portraying the industry as one riddled with con and rip-off artists. Where is the proof? How many complaints have you received? How come several states we were told about hardly ever see a funeral complaint?

During our hearings, one witness suggested that 22,500 funeral homes were far too many. The country could make do with only 2,500. This is like saying the country could get along with one automobile maker—it's more commonly called a monopoly. Beyond that, I'm not sure I would want to die in Slipper Rock and have to be taken all the way to Philadelphia for the funeral.

The Commission study, as does Commission staff, refers over and over again to the "billion dollar funeral industry." Yet we are not talking about one big business. We are talking about over 20,000 businesses, most of them small. This has apparently been overlooked.

III. SUBCOMMITTEE STAFF ATTENDANCE AT COMMISSION'S NEW YORK FIELD HEARINGS

To better understand the process by which a rule is finalized, the Subcommittee sent Majority Counsel Stephen P. Lynch and Minority Counsel Jerrold S. Jensen to New York City. After observing your first few hearing days in New York, staff returned and filed a report. In that report they made several interesting observations. I earlier mentioned their comments on consumer testimony. They were also interested to find out that witnesses at the hearing were not sworn. The proposition that cross-examination of witnesses is allowed is a step forward. However, the right to cross-examine a witness who is not under oath has an illusory and subminimal value. As a result of that observation, I have sent a letter on behalf of the Subcommittee to Chairman Collier asking why the Commission does not choose to swear their witnesses. If it is a legal shortcoming, then the Congress should be made aware of it. Why spend countless dollars holding hearings around the nation if you cannot take sworn testimony?

Another interesting observation by the staff was the lack of oral documentation presented by the witnesses. While documentation was apparently being submitted for the record, only one witness, a former New York State Commission investigator, offered a detailed factual presentation in support of the need for a federal rule.

I would like to mention that in their report, Subcommittee staff did state that they received fine cooperation from both the Washington and New York FTC staffs and particularly cited you, Mr. Kahn, for being most cordial and informative.

IV. FTC WASHINGTON HEARING

The Subcommittee appreciates this opportunity for three of its members to be allowed to be here today and share with the Commission some of the information and observations that resulted from our hearings. I wish to make it clear that the Subcommittee to date has taken no formal position in either support of or opposition to the proposed rule. Our main concern is, "How will this rule affect small businesses which dominate this particular industry?"

Earlier in my statement I mentioned some of the concerns that were expressed to the Subcommittee by industry witnesses. The Honorable John Y. McCollister, ranking minority member of the Subcommittee from Nebraska, will now address more of the concerns expressed at the hearings. Then the Honorable Millicent Fenwick, Congresswoman from New Jersey, will address the Commission. Mrs. Fenwick, former Director of the New Jersey Division of Consumer Affairs, had previous experience in that position with the funeral industry and probably will share some of her experiences with you.

TESTIMONY OF CONGRESSMAN JOHN Y. MCCOLLISTER

The Federal Trade Commission is certainly buffeted these days in trying to adhere to the current hue and cry for deregulation and still follow the mandate of the Magnuson-Moss Warranty—FTC Improvement Act to "prescribe rules which define with specificity acts or practices which are unfair or deceptive acts or practices in or affecting commerce."

My purpose in being here today is to highlight for you some of the information and observations that resulted from the hearings our Subcommittee on the Activities of Regulatory Agencies held on the proposed FTC funeral regulations.

I was particularly interested in these hearings because I am also a member of the House Interstate and Foreign Commerce Committee, which, as you know, was largely responsible for the Magnuson-Moss Act. I am concerned with whether the FTC is following the intent of Congress in prescribing rules for the funeral industry.

The testimony we received indicates that deceptive trade practices in the funeral industry are not a prime consumer concern. One might question why the FTC chose such a low priority target on which to focus its regulatory guns.

The funeral industry is not among even the top 15 industries complained about most to the Better Business Bureau. How many of the top 15 have been subjected to FTC regulation?

The American Association of Retired Persons claimed, before our Subcommittee, that they had received approximately 15,000 letters complaining of unfair funeral practices.[1] When our staff counsel, on both the majority and minority side, visited the AARP to review those 15,000 letters they found the number was not 15,000, but more accurately 462. And the complaints to the AARP, for the most part, centered not upon unfair practices, but upon high prices.[2] Now, I sympathize with retired persons who are living on fixed incomes. They have had to endure a tremendous rate of inflation during the past few years. A funeral may, in fact, be an expensive proposition. But we are concerned here with unfair or deceptive trade practices, not high prices.

The Congressman from Maine on our Subcommittee checked with the Consumer Fraud Division in his home state. He found that from June of 1970 to December 31, 1974, there had been 4,639 complaints filed. Only four of them related to the funeral industry.[3]

The ranking minority member of the House Small Business Committee reported that in his home state of Massachusetts, the State Board of Funeral Directors, between 1970 and 1975, averaged only about seven complaints a year.[4]

Mrs. Fenwick, who is here with me today, and who is also a member of our Subcommittee, reported that complaints in her home state of New Jersey are also relatively few.

Mrs. Fenwick's experiences in New Jersey should be instructive to this Commission. As Director of the Division of Consumer Affairs in New Jersey, she used to receive as many as 5 complaints a week on the funeral industry. She didn't scream for Federal regulation. She got together with the Board of Mortuary Sciences in her state and devised a set of funeral regulations.[5]

In the succeeding eight months that she was the Director of the Division of Consumer Affairs, she reports she had only one complaint. The FTC would do well to explore the possibilities of more industry self-regulation and regulation at the state level.

In Mr. Hungate's home state of Missouri, our witness told us that in the nine years he had been secretary of the State Board of Embalmers and Regulatory and Licensing Agency, only 15 written complaints were filed with the hearing commissioner and only two of them were consumer-oriented—two consumer camplaints in nine full years![6]

The testimony we received without question revealed that state agencies are very successfully dealing with abuses in the funeral industry.

So I would like to know where the funeral complaints are coming from and where are the unfair and deceptive acts or practices. Let me repeat for the record—although we all deplore high prices and inflation, the proper scope of FTC interest should be confined to prevention of unfair or deceptive trade practices. High prices may be a common—even justified—complaint in the funeral industry. But, from the evidence received by our Committee, the incidence of deceptive trade practices is not.

From the presentations at our hearings, I have concluded that the complaints of funeral directors about the FTC regulations have merit.

First, take the matter of itemization of funeral costs. Objections to itemization centered mainly around two factors: (1) it would increase the cost of the funeral to the consumer, and (2) it ignores the element of overhead or fixed costs.

However, itemization was something the funeral directors, for the most part, felt they could live with. We heard that some states that require itemization, like Mrs. Fenwick's state of New Jersey, have actually had favorable results from itemization, though it indeed has increased costs to the consumer. Indeed, if itemization is intended as a remedy for high funeral costs, the medicine seems likely to make the patient sicker still. Itemization will increase—not cut—consumer costs.

Second, the FTC regulations do damage to the professional reputation of funeral directors. The image the FTC is trying to force upon honorable, reputable funeral directors providing a vital service to the public is most unfair. The FTC would require funeral directors to provide consumers with a statement telling them what is not required by law for funerals. It would demand they tell their customers where they can buy like goods for less. In essence, the FTC's requiring the funeral director to hand the consumer a statement saying: "You cannot trust me—I do not run an honest business." This may seem fair to the customer, but how fair is it to the businessman? It is anathema to the American enterprise system. The consequence of this aspect of the regulation will be to destroy the personal integrity, self-esteem, and community respect of honest funeral directors, who, in my opinion, constitute the vast majority of the funeral directors in this country.

Third, the FTC regulations ignore the nature of the funeral business. Permeating the entire FTC funeral regulation is the idea that the FTC is advocating immediate disposition of human remains with a complete lack of sympathy, understanding, or appreciation for the customs, folkways, and religious preferences of the bereaved families.

Price is not the only concern of bereaved families in making funeral arrangements. Funeral directors are not chosen simply—even primarily—on the basis of cost, but on the basis of religion and personal relationships—non-quantitative elements. Your proposed regulations completely miss this point. They suggest to the customer that his non-price considerations are somehow invalid.

Fourthly and finally, these regulations mean more controls and more paperwork for small businesses. Most funeral businesses are small—two or so employees. The owner doesn't have a legal department or an accounting department. Filling out more and more forms is a non-productive use of his time. The President has directed that all agencies cut down on paperwork. In this regulation, the FTC goes in the opposite direction.

We've had enough of Big Government telling our people what is best for them. You have heard this before. I am not going to lecture you on it. But it is an honest, legitimate public concern. The more we impose bureaucratic regulations upon citizens and businesses in this country, the more we remove them from the decision-making rights they ought to enjoy in a democratic, free enterprise system, and the more difficult we make it for the small entrepreneur to exist.

Our government is so big today—the problems it addresses are so complex. The Constitution, however, clearly gives to the Congress the power and responsibility to determine policy for the Federal government. The executive branch—including the FTC—is charged with carrying that policy into effect. Of course, the Congress knows that the detailed policy decisions will be made by executive branch agencies. But that fact does not destroy the essential distinction in roles. As the FTC enacts regulations, it would be well to remember that any regulation it draws up should reflect the policy Congress would make on that question—any regulation should enjoy majority support on Capitol Hill. I doubt this funeral regulation fits in that category.

This does not mean nothing should be done. The crux of the problem is that consumers do not have enough information regarding funerals. Our policy, therefore, ought to be to provide consumers with information so as to allow them to make their own intelligent decisions; not to make such tight regulations that the decision-making process is turned over to the federal government. There should be a balance between informed free choice and government protecting citizens from hazards. The FTC funeral regulations, in my opinion, go far astray from that mark.

From the testimony our Committee received, it is very questionable that the Federal government should have been involved in regulation of this industry at all. The states seem to be doing a better job than the FTC can do. I think FTC pre-emption of the states in this matter is unjustified.

This, of course, is not the only regulation that denies citizens and businesses their decision-making rights in the marketplace. I doubt that it will be the last. But as a result of these hearings, I do intend to see that Congress considers legislation which will prohibit the FTC from preempting state law and foisting this kind of regimentation upon our society.

FOOTNOTES

[1] Regulations of Various Federal Regulatory Agencies and Their Effect on Small Business (Part 3), Hearings Before the Subcommittee on Activities of Regulatory Agencies of the Committee on Small Business, House of Representatives, 94th Congress, 2nd Session, 1/22/76, p. 402.

[2] Memorandum, 4/07/76.

[3] Hearings, 1/21/76, p. 83.

[4] Hearings, p. 328.

[5] Hearings, Vol. 1, p. 42.

[6] Hearings, p. 361.

TWO HUNDRED YEARS AGO TODAY

HON. CHARLES E. WIGGINS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 30, 1976

Mr. WIGGINS. Mr. Speaker, 200 years ago, on July 30, 1776, the Continental

Congress considered the report of the committee appointed to inquire into the disastrous Canadian campaign. The report attributed the campaign's failure to three causes: Short enlistments, shortage of hard money, and smallpox.

Short enlistments contributed to the failure by rendering unstable the number of men engaged in military enterprises, by making them disorderly and disobedient to their officers, and by precipitating the commanding officers into measures which their prudence might have postponed could they have relied on a longer continuance of their troops in service.

The lack of hard money affected the campaign by rendering the supplies of necessities difficult and precarious, the establishment of proper magazines absolutely impracticable, and the pay of the troops of little use to them.

Finally, smallpox made a large proportion of the men "unfit for duty."

CONSUMER FACTS ON AIR FARES

HON. E de la GARZA

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, July 30, 1976

Mr. DE LA GARZA. Mr. Speaker, all of us are aware that the mechanics of living have become increasingly complex—and needlessly so in many instances. Man-made and computer-enforced difficulties hamper the performance of what should be simple tasks. Travel offers a case in point. A trip from point A to point B can give rise to vexing problems of inconvenience and cost overrun.

If the travel is by air, as it so often is nowadays, the traveler is faced with apparently unlimited kinds and numbers of fares and a multiplicity of rules applying to their use. Even seasoned travelers have a hard time figuring out the best fare for the most convenient flight. The task is much more perplexing for the more typical consumer, the occasional or first-time air traveler seeking to use both his dollars and his time with maximum effectiveness.

All of which is a prelude to calling the attention of my colleagues to a small publication, "Consumer Facts on Air Fares," issued recently by the Office of the Consumer Advocate of the Civil Aeronautics Board. This folded single sheet of paper performs a service of great value to the air traveling consumer.

The publication, written in an easily understood style, provides succinct answers to the typical traveler's questions in a simple, readable format. It tells the air traveler what he should know by defining and giving general conditions of the most commonly available types of air fares. It suggests nine specific questions for the traveler to ask the air line or travel agent before deciding what is the best fare for him.

This is not the first consumer publication to be published by the CAB's Consumer Advocate Office but it is one of the handiest and most instructive I have seen for any group of consumers. The Consumer Advocate Office deserves commendation for issuing it.

WPIX-TV IN NEW YORK CONTINUES TO WIN AWARDS FOR EXCELLENCE IN EDITORIALS AND DOCUMENTARIES

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, July 30, 1976

Mr. BIAGGI. Mr. Speaker, I am proud to announce to my colleagues that WPIX-TV in New York was recently awarded two awards for excellence in broadcasting presented by the New York State Broadcasters.

WPIX-TV thus continues its tradition of excellence in the fields of editorials and documentaries as evidenced by the fact that their editorial award was their sixth in 7 years and fourth in a row. Certainly their quest to inform the public while avoiding undue inflexibility of position aided them in winning these coveted awards.

I wish to pay a special tribute to Richard N. Hughes, senior vice president of WPIX-TV who is responsible for the writing and presentation of their editorials, and who also wrote, directed, and narrated the award winning documentary on the Concorde. Mr. Hughes has certainly distinguished himself in the media community of New York and is worthy of high praise. I wish he and the station continued success in the future.

Mr. Speaker, at this point in the RECORD I wish to insert a WPIX-TV press release which discusses the recent awards.

WPIX TV WINS TWO STATE BROADCASTERS ASSOCIATION AWARDS FOR EDITORIALS AND DOCUMENTARY

An award for its editorials and one for its documentary, "The Concorde: Bird Of Prey Or Bird Of Paradise?," were won by WPIX TV in the eleventh annual Awards For Excellence in Broadcasting presented today by the New York State Broadcasters Association.

The awards were accepted by Richard N. Hughes, Senior Vice President, WPIX Inc., who writes and delivers Channel 11's editorials and who was producer, writer and narrator of "The Concorde: Bird Of Prey Or Bird Of Paradise?"

The editorial award was won by WPIX TV for the sixth time in seven years and for the fourth year in a row—a record for the organization giving the awards. Along with the award for the best public affairs program produced and broadcast by a New York City television station, WPIX TV topped all television stations in both the city and statewide by winning in two top categories.

In accepting the award from Perry B. Bascom, Chairman of the NYSBA Awards Committee, Mr. Hughes said, "This is a singular honor to win these two significant and distinguished awards. We accept this award for editorials while recognizing not only its inherent value, but also recognizing it as a challenge to continue the high standards that we must meet to justify this honor."

"The award for best public affairs program produced and broadcast by a New York City television station is especially meaningful to WPIX," Mr. Hughes said. "We have embarked on a project to produce additional documentaries of a similar nature under the title 'WPIX Editorial Report' and the next, to be presented this Fall, will deal with nuclear energy and its ramifications to our society. Later in the year, we plan another on the postal system. Certainly this award encourages and inspires our efforts in this commitment."

WPIX submitted twelve editorials, one from each month covered by competition, to the NYSBA Awards Committee representing a range of topics rather than a single editorial or a brief campaign.

WPIX won the award in 1970 for its Editorial Feedback concept; in 1971 for a series of editorials urging the appointment of a Puerto Rican to the New York State Parole Board; 1973 for its editorial position on former Governor Rockefeller's controversial proposals for dealing with the drug problem; in 1974 for editorials on gun control; and in 1975, as in this year, for a series of editorials.

Head of the panel of judges for the NYSBA competition is Dr. James R. Treble, Associate Professor and Chairman of the Radio and Television Department, Ithaca College at Ithaca, New York.

CHALLENGE TO PAY ACTION

HON. CHARLES E. GRASSLEY

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 30, 1976

Mr. GRASSLEY. Mr. Speaker, in the anniversary of the passage on July 30, 1975, of the automatic annual pay increase, I would like to take this opportunity to commend my colleague, LARRY PRESSLER, on the action he has taken to challenge the constitutionality of this "automatic annual" pay raise for Members of Congress. As you may already know, Mr. PRESSLER has filed suit with the U.S. District Court for the District of Columbia, and a three judge panel has been appointed. Mr. PRESSLER has filed his motion for summary judgment and the oral argument is set for September 21, 1976, before U.S. District Judge Gerhard Gesell and Circuit Judges Edward A. Tamm and Thomas A. Flannery.

Mr. PRESSLER's suit seeks to have certain provisions of the Federal Salary Act of 1967 and the Executive Cost-of-Living Adjustment Act of 1975 declared unconstitutional as they apply to Members of Congress only. The suit is not intended to reduce congressional salaries—but rather to insure that a vote be taken on each future payraise, as was originally intended by the draftsmen of our Constitution.

I am pleased with the action taken by Mr. PRESSLER, because I also feel the need to establish a precedent with regards to the authorization of a pay raise without a vote on each individual raise enacted. We, as Members of Congress, have an obligation to the citizens of this Nation to demonstrate a sincere diligence in slowing inflation. This cannot be accomplished when we ourselves have no control over our salary increases. I am in full support of Mr. PRESSLER in trying to return the responsibility to Congress for setting its own salaries.

HANDGUNS

HON. RICHARD BOLLING

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Friday, July 30, 1976

Mr. BOLLING. Mr. Speaker, I commend the attached article in the July 26, 1976 New Yorker magazine to our colleagues:

HANDGUNS

(By Richard Harris)

At a little before nine o'clock on the evening of April 16, 1974, a station wagon pulled up in front of a small apartment house on a quiet residential street in San Francisco. The occupants of the station wagon were two white men in their early twenties. One was Nelson T. Shields IV, a native of Delaware, who was in the area to spend a few days visiting friends before going back East to reenter college after having dropped out a year before. The other man was Jonathan May, whom Shields had met a couple of days earlier through the friends he was visiting and had also become friendly with—chiefly because he and May were both avid and expert lacrosse players. The two men had just finished coaching a group of boys in the game and had been heading for May's apartment when he remembered that he had promised to stop off to pick up a rug he had bought from an acquaintance. May, who was driving, parked and went into the building to get the rug, and Shields walked around to the back of the station wagon, opened the rear door, and began rearranging the litter of lacrosse equipment there to make room for the rug. Suddenly three shots were fired at close range into Shield's back, and he collapsed on the street. May heard the shots and hurried out of the building to see what had happened. Shields was dead.

There were no witnesses to the crime, but the police ballistics division reported that the bullets that killed Shields had been fired from a .32-calibre pistol that had been used in several other apparently random murders and attempted murders of white people by a small group of black men—known by the police code name Zebra—who had been carrying on a campaign of racial terrorism in San Francisco for five months. Shields' death brought the toll attributed to the Zebra gang to seven people wounded and fourteen people killed. As it turned out, Shields was the last Zebra victim.

Shields' father, Nelson T. Shields III, who was a marketing manager in the consumer-products division at E. I. du Pont de Nemours and Company, in Wilmington, Delaware, flew out the next day to pick up his son's body. "Somehow the press got the idea that I was a vice-president of du Pont, and gave me a big play," he said recently. "I agreed to speak at a press conference, and the reporters there all seemed surprised that I was the only relative of a Zebra victim who didn't want vengence, who didn't say, 'I'm going to get a gun and go find and kill the men who murdered my loved one.' I didn't feel that way at all. I was just full of sorrow and full of wonderment over how such a thing could have happened. When I got back to Wilmington, I had to face what I was going to do—go back to work and go to the same old cocktail parties and try to forget? But my boy's death made me wonder if I could do something to stop this from happening to somebody else's kid. 'Could I do something to help my society be better?' I asked myself. I'd never even thought of such a thing before.

My friends felt that I was acting too emotionally, even though understandably, and they kept telling me to cool it. So I went back to work, but I spent all my spare time for a year reading up on guns and gun laws and gun-control proposals of all kinds. I kept asking myself during that year, 'What can be done? What can *I* do?' Much later on, I heard about a young man who had lived in Chicago and had been held up there one night in 1973 by a man with a gun. Well, *this* victim wasn't going to take it. Soon afterward, he moved to Washington, D.C., and one of the first things he did was try to join a national handgun-control organization.

To his amazement, he found that despite all the havoc and grief created by handguns in this country, there wasn't a single national handgun-control lobby trying to do anything about it. Anyway, he and a few friends organized and incorporated the National Council to Control Handguns, in January, 1974. They spent months after that knocking on doors, trying to get operating funds and members to support a national gun-control lobby. By November, they had drummed up enough support and collected enough money to open a small office in Washington. Late that year, I heard about N.C.C.H. and went down to Washington to look into it. I discovered that the director was an old friend of mine—Edward Welles, a retired C.I.A. official, who was doing the job for nothing. He and one low-paid secretary were running the whole operation. I talked to them, and then I took a temporary leave of absence from my job so that I could attend a series of gun-control hearings held by Congressman John Conyers during February, March, and April of 1975. Early in May, I asked du Pont for an indefinite leave, and it became effective early in July. I went to work for N.C.C.H. full time then, and when Wells retired last September, I took over as director. My job is voluntary. I don't get paid by either du Pont or N.C.C.H. I figured that after working hard for twenty-six years and saving carefully, if I couldn't take at least a year off to do this for my son, for myself, for my country, I wasn't much of a man."

Not long ago, I went down to Washington to talk with Shields about the operation of the National Council to Control Handguns. The outfit's office turned out to be a small, modestly furnished suite of rooms, and Shields turned out to be a grey-haired man of medium height in his early fifties who was wearing horn-rimmed glasses. He greeted me affably, and waved me to a chair in his office while he went off to get us some coffee. A poster on the wall near my chair had a black background and the white outline of an hourglass, in which various kinds of revolvers and automatics were flowing down from a half-filled top into a half-filled bottom. Beside the hourglass were the words "In the eight seconds it takes to read this sentence, another handgun will have been produced in the United States. By the time you finish reading this poster, it will have been sold. Aren't things moving a little too fast?"

When Shields returned with the coffee and sat down behind his desk, I asked him why his organization was concentrating solely on handgun control, rather than on control of all kinds of firearms.

"There are forty to fifty million privately owned handguns in our country today, and of the million violent crimes committed here every year an estimated three hundred thousand are committed with handguns," he answered without hesitation. "The latest figures, for 1974, show that handguns were used in about a hundred thousand aggravated assaults, a hundred and forty-five thousand robberies, a couple of thousand accidental deaths, ten thousand suicides, and eleven thousand murders. To give you a better idea of what the murder figures alone mean, between 1966 and 1972, the peak years of the war in Vietnam, forty-four thousand Americans were killed in battle there.

During the same period, fifty-two thousand people were murdered with handguns here at home. Or take the statistics on murders in this country by type of weapon. Five per cent of them were committed with rifles, nine per cent with shotguns, eighteen per cent with knives, seven per cent with things like clubs or pokers or poison, eight per cent with hands or feet, and *fifty-four* per cent with handguns. Are we going to wait until there are eighty million or a hundred million handguns in the United States and a million handgun crimes a year before we do something? We've got to start—now!"

Shields' telephone rang, and after a brief conversation he turned back to me and said, "The total number of deaths by gunfire in this country is greater each year than it is in all the other free nations of the world combined. That's beacuse *they* control guns—above all, handguns—and we don't. For instance, Japan prohibits the private ownership of handguns entirely. In 1971, when the crime rate here was far lower than it is today, there were one hundred and ninety-one times as many gun murders in the United States as there were in Japan."

Breaking off while he searched through a stack of papers on his desk, he finally pulled out a sheaf of them and waved it at me. "This is a statement made by Louis Harris, the pollster, in testimony before the Senate Committee on Government Operations last fall," Shields said. "Harris had a poll conducted on guns at his firm's own expense, as a public service, and was testifying about the results. He found that by a majority of seventy-seven per cent to nineteen per cent the American people favor mandatory federal registration of all handguns.

What's more"—here Shields paused and raised a forefinger for attention—"gun owners themselves favor mandatory registration of handguns by a margin of sixty-nine percent to twenty-seven per cent. And *even* handgun owners, when considered separately, favor such controls by a margin of sixty-one to thirty-three per cent. Now, here's Harris's own conclusion based on his poll: "These results are decisive and beyond any question of whether the American people favor gun control.' and he goes on to say that the American people 'view gun-control legislation as a necessary, critical, and primary first step.' Well, we at N.C.C.H. entirely agree with that conclusion. We don't believe that even the most stringent handgun controls will end violent crime.

The causes of crime in this country are too deeply rooted in such complicated problems as our criminal-justice and penal systems, juvenile delinquency, the lack of jobs, and all the social and economic inequities that our society hasn't been able to adjust fairly. But we strongly believe that America simply cannot wait for broad social progress to reduce crime. Action—direct action—has to be taken *now*. And it's possible *now*. Once we sharply reduce the private possession of handguns, violent crimes in this country will start to be cut down dramatically."

Shields expended a long, breathy sigh as if in relief, leaned back in his chair with his hands cupped behind his head, and smiled broadly. "So much for the statistics," he said. "Now for the political realities." I had been about to bring up that subject, because the absence of any meaningful gun laws in this country—despite a dozen years of assassinations and attempted assassinations, riots, and the rapid rise in the nation's crime rate—had let me to wonder if we could ever have effective controls over firearms.

The Washington-based National Rifle Association, I knew, was regarded in the capital as having the most powerful lobby in town. Members of Congress, it has often been said, tremble before the N.R.A.'s wrath whenever even the most modest gun-control measure is proposed in either house. I mentioned these factors, and Shields nodded. "We don't have any effective gun laws because of politics, and the only way we can get such laws is through politics," he said. "Since the country's staggering rate of violent crime deeply concerns the public, and since the handgun contributes a very large share to that crime rate, handgun control is a practical, realistic political issue." For instance, Louis Harris has also indicated that any candidate for public office who makes tough gun controls a major campaign issue will win. We believe he's right.

So our primary task is to convince lawmakers that they stand to lose more votes by being for guns than they do by being against guns. In order to accomplish *that*, we have to create a coalition out of the great mass of the American people who are for strict gun controls—again, remember, that means between seventy and eighty per cent of *all* adults in this country—and get them to act, to speak out, to write and wire and phone their members of Congress and demand handgun controls. That's the only way We can persuade politicians to support gun controls."

Leaning forward, Shields went on, "Our movement has to be basic. It has to come from the grass roots of America. Part of our strategy is to serve as an umbrella organization for the dozen or so handgun lobby groups already in existence around the country. In June, there was a meeting of all state and local handgun-control lobbies, and they voted to set up a national coalition with N.C.C.H. as leader of the movement. We will give them advice and information, and urge their members, in turn, to support us so that we can organize more such groups elsewhere and really get this movement moving. There are also purely educational outfits, not lobbies, that inform the public about the dangers of guns and what can be done about them. We use some of their information, and they are in the process of setting up their own umbrella organization."

Not long before, I had read in the *Times* that the N.R.A. has over a million members and an annual budget of thirteen million dollars, nearly half of which was said to be spent on direct and indirect lobbying against gun controls throughout the United States. When I asked Shields about N.C.C.H.'s membership and budget, he smiled, leaned back in his chair again, and answered, "Of course, we've hardly begun. Since I took over last September, we've raised around forty thousand dollars—the first third of it from my friends." The total raised so far, he continued, had paid for office rent and salaries for an assistant director, a secretary, and a part-time bookkeeper. There were also an unpaid part-time specialist in membership enrollment, together with a fairly large number of other volunteers, including a couple of advertising and public-relations men and fifteen lawyers from various law firms in Washington, who draft gun-control legislative proposals and advise N.C.C.H. on the legislation that is constantly being proposed, opposed, and revised on Capitol Hill.

Whatever money is left over after basic expenses, Shields explained, is spent on direct-mail solicitation for support of the organization's goals and for donations to help it achieve them. "So far this year, we have sent out more than a hundred thousand pieces of mail—mainly soliciting new members," he said. "Next year, we hope to send out a million pieces of mail, and to continue on that basis, or better, annually. But we have to organize on a professional rather than a purely volunteer foundation if we're going to be really effective. And we can't do that—in fact, we can't do much of anything—without having money up front. That's what we need—money, money, money." As for N.C.C.H.'s membership, he told me, there were only four thousand members, while various state gun-control groups had perhaps fifteen thousand members altogether. "But I believe that if we get enough money to put out enough direct mailings, by the end of 1977 we'll have three hundred thousand to four hundred thousand members," he added. "Then we can really go to work. We plan to organize these members selectively, with emphasis on the congressional districts that are pivotal in House votes on the gun issue.

Our goal is to enroll at least two hundred active workers in each pivotal district, in order to create the nucleus of a campaign organization when it comes time to act directly. At the appropriate time, we'll select from four to six congressional elections where we can get candidates to commit themselves to vote for handgun-control laws, and then we can measure the depth of voter feeling on the issue. Essentially, it's the same technique used by the Dirty Dozen Campaign Committee. In the past three congressional elections, the committee has gone directly into the election districts of the twelve incumbents it chooses each year on the basis of their poor voting records on environmental issues. Nineteen of the committee's thirty-one targets have been defeated. We plan not only to duplicate this effort but to work with that committee and other public-interest committees, which are being set up more and more by groups of citizens across the country. By these means, we believe that we can prove to politicians that handgun control is crucial to any candidate's election or reelection."

A tall black-haired man in his mid-twenties came into the office, excused himself for interrupting us, and asked if he could show Shields something in the outer office. Shields introduced him to me as Charles Orasin, assistant director of N.C.C.H., told me that he'd be back in a few minutes, and the two men started out of the room. Then Shields stopped, went back to his desk, and handed me a stack of papers to look through while he was away. Among the papers was a leaflet put out by the Crime and Justice Foundation concerning a drive to put a referendum banning private ownership of handguns on the ballot in Massachusetts for this year's election. The leaflet mentioned a state pro-gun faction called the Gun Owners Action League, or GOAL, and reported that GOAL had recently called for a boycott of all products made by Gillette Corporation, because Gillette happened to be one of several corporations that had donated funds to the foundation. The leaflet also included a reprint of an editorial from the *Berkshire Eagle* for March 19, 1976, which stated in part:

"After the Boston-based company drew the wrath of the state's Gun Owners Action League for contributing to a research foundation that supports gun controls, a Gillette spokesman stated flatly that the bully-boy tactics of the gun organization would not cause the firm to waver one iota in its support of the Crime and Justice Foundation. . . . Too often, the targets of the gun lobby have simply knuckled under. Last fall CBS presented a documentary on hunting from which all but one of the expected sponsors were scared off by a threatened boycott of their products. At just about the same time, GOAL decided to try a squeeze play of its own and instructed its members to withhold contributions from Berkshire County churches that endorsed the initiative petition for a statewide ban on handguns. Fortunately, both CBS and the area church council refused to cave in under the pressure."

The material Shields had given me also included a sample map that N.C.C.H. sends out to its members in each state—in this case, a map of New York State, which was broken down into its thirty-nine congressional districts; below the map were lists of the state's thirty-nine representatives in the House, showing what district they were from and whether they were "for," "leaning for," "against," or had taken "no position" on the latest gun-control bill being considered in the House. The material also contained several anti-handgun appeals put out by another Washington outfit, called the National Coalition to Ban Handguns—one of the educational groups.

And finally, I came upon some lists of the various committees being set up by N.C.C.H., among them a Business for Handgun Control Committee (headed by A. R. Marusi, chairman of the board of the Borden company), a Congressional Advisory Committee (headed by Representative Abner Mikva, Democrat of Illinois), a Law Enforcement Advisory Committee (whose members include Robert diGrazia, Police Commissioner of Boston, and Patrick V. Murphy, former Police Commissioner of New York), and an Entertainers-Sportsmen for Handgun Control Committee (with such members as Ellen Burstyn, James Whitmore, Arthur Ashe, and Dave Garroway). Among N.C.C.H.'s numerous sponsors, consultants, and directors I found the anthropologist Margaret Mead, William D. Ruckelshaus (the former Deputy Attorney General who resigned during the Saturday Night Massacre), Cyrus Vance (the former president of the New York City Bar Association and a high official in the Kennedy and Johnson Administrations), Edmund G. Brown, Sr. (former governor of California and chairman of the National Commission on the Reform of Federal Criminal Laws), Dr. Russell Peterson (chairman of the National Advisory Commission on Criminal Justice Standards and Goals), and Dr. Milton Eisenhower (chairman of the National Commission on the Causes and Prevention of Violence).

I also found, to my surprise, that N.C.C.H. strongly supported the gun-control bill then being considered in the House—an exceedingly ineffectual measure by any standard and one that seemed certain to be rendered even more ineffectual once the N.R.A. went to work on it. When Shields returned to his office, I brought this up, and he conceded that the present bill was far from what he wanted to see enacted. Even so, he added, N.C.C.H. backed it all the way. "For the first time since 1968—when an even worse gun-control law was passed following the assassinations of Dr. King and Robert Kennedy—there is now a chance for *some* kind of a handgun-control law in this Congress," he explained. "I'm convinced that we have to have federal legislation to build on. We're going to have to take one step at a time, and the first step is necessarily—given the political realities—going to be very modest.

Of course, it's true that politicians will then go home, and say, "This is a great law. The problem is solved." And it's also true that such statements will tend to defuse the gun-control issue for a time. So then we'll have to start working again to strengthen that law, and then again to strengthen the next law, and maybe again and again. Right now, though, we'd be satisfied not with half a loaf but with a slice. Our ultimate goal—total control of handguns in the United States—is going to take time.

My estimate is from seven to ten years. The first problem is to slow down the increasing number of handguns being produced and sold in this country. The second problem is to get handguns registered. And the final problem is to make the possession of *all* handguns and *all* handgun ammunition—except for the military, policemen, licensed security guards, licensed sporting clubs, and licensed gun collectors—totally illegal.

Like just about every other person in the country who can read, I said, I was aware of the N.R.A.'s ominous and incessant warnings about how the ultimate aim of gun-control advocates was to disarm the citizenry and thereby leave law-abiding citizens prey to armed marauders, including a Communist army attempting to invade our shores—all in violation of the Second Amendment's guarantee of the "right of the people to keep and bear Arms," Shields laughed, and took up the last point first. "At various times in the past century, federal courts, including the Supreme Court, have said that the Second Amendment was designed to guarantee the states the right to maintain militias, and that any state or the federal government can restrict or prohibit the private ownership of guns.

"As for our defending ourselves against the Red hordes with pistols, that's just plain silly. Defense is up to the Army, the Navy, and the Air Force—not to ordinary citizens armed with handguns they aren't trained to use and which aren't much good anyhow against targets like trained soldiers armed with rifles and machine guns. The pop-gun crowd keeps arguing that people like me want to take *all* guns away from Americans. That's just not true. Sporting rifles and shotguns have their place. But the handgun has no purpose except to kill somebody. While it's true that criminals would still manage to get hold of handguns even if there were strict laws against their possession, the gradual reduction of handguns in general would make it much harder for them to get hold of guns. One of the greatest myths propagated by the N.R.A. is that armed homeowners often scare off or kill intruders, so many people go out and buy handguns to protect themselves. But the element of surprise in most criminal acts makes the victim's gun of little use, and more often than not it is a greater threat to its owner than no weapon at all would be.

"In a house where there is a gun, residents are four times more likely to be killed by that gun in an accident than by an armed burglar. Another danger is that a large proportion of guns in criminals' hands have come from burglaries of the homes of people who were away at the time, so these guns end up being used in other crimes. What's more, the N.R.A.'s constant talk about 'law-abiding citizens' ignores one overwhelming fact: nearly three-fourths of all murders are committed by people who know their victims, who are relatives or friends or acquaintances. These gun owners were law-abiding until they used their guns, mainly handguns. So if handguns were outlawed, gun accidents along with murders committed in a moment of passion—many of which wouldn't be committed if there weren't a gun handy and the passion had time to subside—would decrease sharply. And once handguns are outlawed, any criminal carrying one could be arrested and imprisoned simply for possession, before he got a chance to use it."

A little later, as I got up to go, I asked Shields if the murderer of his son had ever been found. "Four members of the Zebra gang were arrested, tried, convicted of murder, and sentenced to life in prison," he said. "None of them were charged with my boy's murder, because there hadn't been any witnesses to it, unlike the murders they were convicted for. The police found the gun that killed him—a Beretta automatic that had been used in all the Zebra attacks from January, 1974, on. It was traced back to a kid who had bought it as a lark in 1968. The gun had changed hands several times. It was lost in a poker game, it was sold for some heroin, and, finally, a burglar stole it and sold it to a man in a black self-help center in San Francisco where the four men convicted of the Zebra killings worked. The police tell me they're sure that one of those four killed my son."

Shields accompanied me to the door, and as we shook hands he said, "You know, the N.R.A. has announced that it's going to move its headquarters here out to Colorado. It seems there's too much crime in Washington."

PONY EXPRESS AND THE U.S. POSTAL SERVICE

HON. GUNN McKAY

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Friday, July 30, 1976

Mr. McKAY. Mr. Speaker, the U.S. Postal Service is currently under attack. A frequent charge is that the Postal Service is too slow. The Washington Star recently reported a curious case. It seems that last March Senator MARK HATFIELD, Republican of Oregon, had returned to his office a letter he had sent in 1973 to an irate mail user who had written to complain about the Postal Service. It seems the letter had been lost somewhere in the dead letter center!

The Postal Service also faces the problem of missent mail that is usually traced to sorting machine operators who have a 9-percent error rate. The Postal Service has all kinds of problems with machines. One of the more interesting is a device that shakes packages out of mail sacks. On top of all this, the Postal Service is responsible for raising the price of first class mail 64 percent since 1970. How else can they get rid of their $1.5 billion deficit?

Almost everyone is down on the Postal Service. In fact, the Star reports:

> Some congressmen have charged that it frequently takes longer to send a letter coast to coast now than it did in the "Pony Express" days of the 1870's.

A Bicentennial Pony Express race was held recently between Salt Lake City, Utah, and Sacramento, Calif. The Weber County Sheriff's Mounted Posse left from Sacramento the same time the California State Horseman's Association left Salt Lake City. Carrying 500 Pony Express and Bicentennial commemorative letters 756 miles, the Weber posse arrived in Salt Lake City after 39 hours and 11 minutes. They beat the Californians who covered the same distance in 47 hours and 59 minutes.

An interesting comparison can be made between today's service and the Pony Express race. The best time for a letter to travel the same distance via the U.S. Postal Service is about 39 hours and 36 minutes; this is 20 minutes slower than the Pony Express! But the percentage of letters that actually arrive that fast is not very high. One has to bear in mind, the Pony Express riders only had to worry about such things as Indian attacks, while a letter today faces such obstacles as a sorting machine that may send it to the other side of the country, or to a "dead letter" center. It is remarkable for a letter to make it through the other parts of the new automated system which is reportedly "laden with superfluous gimmickry."

ORDER OF ST. DENNIS OF ZANTE

HON. LESTER L. WOLFF

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, July 30, 1976

Mr. WOLFF. Mr. Speaker, many of my colleagues, I am sure, are familiar with one of the most ancient chivalric groups in world history, the Sovereign Greek Order of St. Dennis of Zante—an international organization devoted to the alleviation of misery and want worldwide. However, many may not be aware that descendants of this same ancient order actively participated in the American Revolution, fighting heroically alongside Americans in our war for independence.

I would like to share with my colleagues the story of the Order of St. Dennis of Zante, which includes a chapter of which we as Americans can be particularly thankful and proud.

This story follows:

ORDER OF ST. DENNIS OF ZANTE

In two years, the Order of St. Dennis of Zante will be celebrating its silver Jubilee, since it revival in America.

On April 29, 1953, a dedicated, devoted group of American philanthropists, obtained a Charter, and resurgenced the Order in the United States under the auspices of the International American Institute of the District of Columbia, a non-profit, educational, benevolent, non-denominational association, by and under an Act of Congress of the United States, approved March 3, 1901. Under Article Three, sub-chapter (e) its purposes read "To resurgence the Equestrian Order of St. Dennis of Zante in status quo in the United States, as its permanent headquarters and aid morally and materially the Monastery and Church of St. Dennis and the indigent population of the entire Island of Zante and as determined to contribute to the needy people of all nations."

We have adhered religiously to these stated principles. Our rule and guide have been the Brotherhood of Man under the Fatherhood of God.

After the defeat of the armies of Cornwallis on October 19, 1781 at Yorktown, Virginia, there had been an attempt at reviving the Ancient Order in America by two Zakynthian noblemen, Major Michael Vourtzis and Caesar Logothetis, both aides to General Lafayette, who fought in the Continental armies of George Washington. However due to the antipathy of the newly liberated citizens of the thirteen states, to all things pertaining to titles or nobility, it was doomed to utter failure.

On July 4, 1976, all Americans will be celebrating the bicentennial of our Country. We, of the Order of St. Dennis, possibly feel this even more than the average citizen. This is our land by choice and not by birth. The knights of St. Dennis have fought and bled for the freedom of this nation as many issues of the Congressional Record attest. Michael Vourtzis, Caesar Logothetis and their contingent of Zakynthian knights heeding the call of Liberty, struck a blow for the freedom of the thirteen Colonies from the cruel yoke of English oppression and the tyranny of George IV.

Dr. Voultsos takes great pride indeed in his membership both here and in France, in the Society of the Sons of the American Revolution by descent from Major Michael Vourtzis.

The renascence of the Order of St. Dennis of Zante on April the 29th of the year 1953, in America was pre-destined and dictated indeed by divine providence as events showed.

For not three months later a disastrous catastrophe struck Zante, on August 12, 1953. A catastrophic earthquake and all-consuming holocaust practically eradicated the fair Island known as the pearl of the Ionian, the Florence of Greece, from the face of the earth. Cruel Fate had destroyed in minutes a 600-year old civilization.

The intrepid knights sounded the clarion call to duty, and resolutely took up the gauntlet facing the challenge. Guided by the inspiration of our divine Protector St. Dennis, with his blessing as our shield and buckler, we appealed and enlisted the aid of all philanthropists.

In 1954, Dr. Pericles Voultsos-Vourtzis, scion of an ancient family of the Island, was invited to Zante by the authorities to help formulate plans for its reconstruction and rehabilitation.

On the 30th of December, he was annointed and installed as Prince Grand Master of the ancient equestrian Order. This office had been vacant for two hundred years, practically forgotten by all save a few scholarly historians.

An imposing ceremony was held at the Cathedral before the sacred bier containing the blessed body of St. Dennis intact saved by the dictates of Divine Providence, defying all mortal laws of nature through the ages.

Archbishop Chrysotomos, Supreme Spiritual Rector of the Order, assisted by Rt. Rev. Daniel Gigantes, Abbot of the Holy Monastery of St. Dennis, and the entire clergy of the Island officiated in the ancient ritual chrismation. Dignity and official recognition were granted by the presence of Colonel Constantine Kalogeropoulos, Governor of the Island and his Staff, representing the Government of Greece. Mayor Nicholas Filiotis and members of the Municipal Council of Zante, represented the populace of the Island. Count Phokion Logothetis, a descendant of the American Revolutionary hero, and others, represented the hereditary knights in body, thus gracing this glorious event.

Dr. Voultsos was declared worthy of his Zakynthian ancestors. The leading General Michael Vourtzis of the Emperor of Byzantium, Nicephoros Phocos, upon whom the hereditary title of Duke of Antioch had been bestowed by his grateful liege for his capture of that city in 969. Michael Vourtzis, who led the Greek Orthodox Crusaders, joining Fabius Segur, an ancestor of the blessed St. Dennis, and his Zakynthian cohorts in the pious venture of the liberation of Christ's birthplace in 1096. Michael Vourtzis, who led the Orthodox knights of Rhodes back to Zante, to the Commandery of St. John and St. Jerusalem in Kallipado, in 1524. Major Michael Vourtzis, an aide of Lafayette, who along with Count Caesar Logothetis and other Zakynthian Volunteers fought and bled for the liberties of America against the oppression of the British rule and the tyranny of George IV, in 1776.

In the twenty years that followed, a remarkable philo-Zakynthian wave of benevolence for the stricken islanders was initiated. Ancient Commanderies of the Order were re-activated, aid was solicited from all quarters. The American Public in the fore, as always for the unfortunate was moved by the indication of hardship and suffering undergone by the hapless islanders. The warm friendship and sympathetic understanding of our People bespeaking of the christian solidarity of this nation, was mobilized, helping us to ease in a measure, the misery of the innocent victims of the tragedy. We were victorious in this crusade of mercy. Our contribution to the rehabilitation of the gleaming new city of Zante, testifies to the concrete application by the Knights of the Order's motto "Faith-Courage".

We humbly stand on our record of concrete achievement, content with the Good Samaritan's reward. The many contributions of the Sovereign Greek Order of St. Dennis of Zante to the aid of the suffering victims of suffering humanity, innocent pawns of Nature's inequity, are a worthy example for men of good will to emulate. For dedicated philanthropists to follow. The Knights of St. Dennis emerged victorious from this crusade against human misery. Content with the eulogy of St. Matthew "well done thou good and faithful servant".

The Municipality of Zante at the grateful request of the populace proclaimed Dr. Voultsos, an Honorary Citizen of Zante. King Paul of Greece, bestowed upon him the Royal citation in gold. The National Red Cross organization of that County, awarded its golden cross. The Boy Scout organization under the leadership of the King, gave him its medal of "Friend of the Scout". The City of Athens through the Mayor, gave him the Golden Key.

Crowning reward and recognition of the Knights' philanthropic achievement came when Minister Emmanuel Kothris of Greece, decorated the flag of the Order in the Greek Consulate at New York with the Royal Efsimon. King Constantine recognizing merit, at the proposal of the National Foundation of Greece had cited it.

The Knights of the Sovereign Greek Order of St. Dennis are not content to rest on past laurels, but steadfastly applying their ancient motto "Faith-Courage", ever pursue their battle against want. Relieving the poor and commiserating with their misfortune, without distinction as to race or creed. Our credo is epitomized in "Serving God is serving Humanity, serving Humanity is serving God".

STATEMENT OF REPRESENTATIVE BELLA S. ABZUG ON RECONVENING OF THE FIFTH SESSION OF THE UNITED NATIONS CONFERENCE ON THE LAW OF THE SEA

HON. BELLA S. ABZUG

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, July 30, 1976

Ms. ABZUG. Mr. Speaker, I rise today to note that the 150-nation Law of the Sea Conference resumes its negotiations at the United Nations Headquarters in New York on Monday, August 2, 1976. This is a highly significant international lawmaking process which will attempt to design a treaty to govern over two-thirds of the surface of the Earth—the oceans.

In the area of the deep seabed which is beyond the limits of national jurisdiction there may be as much as $3 trillion worth of potato-shaped polymetallic nodules awaiting commercial exploration and exploitation. Among other matters, it is up to the delegates at the Law of the Sea Conference to determine an equitable and politically feasible manner of processing and allocating the wealth of the oceans: the "final frontier."

I believe that the American delegation is competent and dedicated and I have great faith in their ability to negotiate a just treaty which will both serve the interests of the United States and demonstrate a spirit of the new international economic order of sharing and cooperation.

Mr. Speaker, the negotiations encompassed in the Law of the Sea process represent a microcosm of international relations today. Never before have as many nations with as many differing viewpoints come together in order to achieve a multilateral treaty such as this. I urge the delegates at the conference to proceed with the same vigor and responsibility they have demonstrated in the past.

It is my belief that this August-September session of the United Nations sea law conference will be a "make or break" session in terms of the substance to be negotiated. I look forward to progress and achievement in this complex and important meeting.

BIRTHPLACE OF THE REPUBLICAN PARTY

HON. WILLIAM F. WALSH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, July 30, 1976

Mr. WALSH. Mr. Speaker, in light of the current difference over the actual birthplace of the Republican Party, I want to take this opportunity to make available for all of my colleagues to read, three items of interest which in my judgment qualify the town of Camillus in Onondaga County, N.Y., to stake a very valid claim as the actual birthplace of the Republican Party.

Attached hereto are a newsclipping from the Syracuse Daily Journal of October 27, 1860, another dated June 8, 1894, and a copy of the minutes of the town meeting of Camillus of February 17, 1852 which detail the actual vote for the town offices on the election held January 27, 1852 in the town of Camillus.

You will note that the clipping from the Daily Journal of October 27, 1860 contains the following statement:

> We publish below a document which is of peculiar interest at this time. It is, we are quite certain, the record of the very first organization, upon the principles of the present Republican Party, in this country. If there was any earlier organization on the same basis, we have not been able to learn of it.

The article continues:

> The town of Camillus, up to the time of the promulgation of the following "Declaration of Independence," had been a Democratic stronghold, and was always relied upon by that party for a majority of from one hundred and fifty to two hundred, over the Whigs. The leading men of both parties in the town became dissatisfied with the position of their respective parties, and on consultation, the following call was agreed upon, signed, printed, and generally circulated. Under it a ticket for town officers was nominated, and it was elected with very little opsition to two or three of the candidates only . . .

The article lists the call for the meeting as follows:

> Those of you who are opposed to the Fugitive Slave Law—to the Extension of Slavery over Free Soil—to the admission of any more Slave States, and are disposed to waive former political preferences and party predilections, and unite your strength, that your influence may be felt in the cause of Freedom and Humanity, are cordially invited to meet with us at Rowe's Hotel, on the 27th of January instant, at 7 o'clock P.M., to

nominate officers to be elected at the next town meeting.

This call was signed by three hundred and forty-two electors of the town. Of this large number for a town of the population of Camillus, all but thirty-eight, who have either died, removed or back-slidden, continue to act with the Republican party.

A copy of the "Declaration" was placed in the hands of that veteran in the cause of Liberty, Joshua R. Giddings, at the Republican Mass Meeting at Camillus on Thursday. He was extremely gratified to see this evidence of independence and correct political action, antedating the formal organization of the present Republican party by over two years, and in his speech he made a generous acknowledgement of his feelings of gratification at meeting the friends of the cause of Liberty at the place of the very early organization of the Republican party.

Additionally, the article which appeared in the Syracuse Daily Journal on Friday, June 8, 1894, stated "This was the first Republican political meeting in the United States, and preceded the national organization by 3 years."

There appears little doubt that the name "Republican" was adopted in Ripon, Wis., in 1854 as was determined by the Republican Convention in 1952 and subsequently published in their history records, but the principles of that party were clearly indicated in the declaration calling for the citizens to meet at the Rowe Hotel.

In my judgment the principles of the party are far more important than the actual name, and the birthplace of the Republican Party should therefore be established as Camillus, N.Y., January 27, 1852.

The articles and minutes follows:

[From the Syracuse (NY) Daily Journal, Oct. 30, 1860]

LOCAL AFFAIRS

Judge Culver, one of the best Speakers in the Union will speak in Syracuse, at the City Hall, Tuesday evening, Oct. 30, 1860. A portion of the Hall will be reserved until 7 o'clock for the ladies.

The First Republican Organization—An Interesting Item of Political History.

We publish below a document which is of peculiar interest at this time. It is, we are quite certain, the record of the very first organization, upon the principles of the present Republican party, in the country. If there was any earlier organization on the same basis, we have not been able to learn of it.

The town of Camillus, up to the time of the promulgation of the following "Declaration of Independence," had been a Democratic stronghold, and was always relied upon by that party for a mjority of from one hundred and fifty to two hundred, over the Whigs. The leading men of both parties in the town, became dissatisfied with the position of their respective parties and on consultation, the following call was agreed upon, signed, printed, and generally circulated. Under it a ticket for town officers was nominated, and it was elected with very little opposition to two or three of the candidates only. David Allen Munro (former Democrat) was elected Supervisor, and the other officers were divided between the two old parties. From that day to this, Camillus has been a sound Republican town, at every general election contributing handsomely to the sum total of Republican majorities in Onondaga county. The "Declaration" read as follows:—

PUBLIC SENTIMENT

To the Electors of the Town of Camillus:

Those of you who are opposed to the Fugitive Slave Law—to the Extension of Slavery over Free Soil—to the admission of any more Slave States, and are disposed to waive former political preferences and party predilections, and unite your strength, that your influence may be felt in the cause of Freedom and Humanity, are cordially invited to meet with us at Rowe's Hotel, on the 27th of January instant, at 7 o'clock P.M., to nominate officers to be elected at the next town meeting.

Camillus, January 2d, 1852.

This call was signed by three hundred and forty-two electors of the town. Of this large number for a town of the population of Camillus, all but thirty-eight, who have either died, removed or backslidden, continue

A copy of the "Declaration" was placed in

to act with the Republican party.

the hands of that veteran in the cause of Liberty, JOSHUA R. GIDDINGS, at the Republican Mass Meeting at Camillus on Thursday. He was extremely gratified to see this evidence of independence and correct political action, antedating the formal organization of the present Republican party by over two years, and in his speech he made a generous acknowledgement of his feeling of gratification at meeting the friends of the cause of Liberty at the place of the very early organization of the Republican party.

The original document was printed at the JOURNAL office in January, 1852, and a number of copies are carefully preserved and highly prized by the signers.

[From the Syracuse Daily Journal, June 8, 1894]

THE REPUBLICAN PARTY

First meeting of the New Party in 1852, in Camillus.

In the Loan Exhibition is a framed placard, containing the call for a new political movement in the town of Camillus, Onondaga county, which took definite form on Free Soil lines, and presaged the organization of the Republican party. This call, under the heading, "Public Sentiment,—To the Electors of Camillus," sets forth that "Those of you who are opposed to the Fugitive Slave law, to the extension of Slavery over Free Soil, to the admission of any more Slave States, and are disposed to waive former political preferences and party predilections, and unite your strength that your influence may be felt in the cause of Freedom and Humanity, are cordially invited to meet with us at Rowe's hotel, on the 27th day of January inst., at 2 p. m., to nominate officers to be elected at the next town meeting.—Camillus, Jan. 3, 1852." Signed by D. A. Munro, J. M. Munro, Wheeler Truesdell, M. W. Lyon, D. L. Pickard, E. Marks, D. C. LeRoy, C. B. Wheeler, John Truesdell, Daniel, J. B. and L. B. Bennett, and 342 well-known citizens of that town, few of whom are now living. This was the first Republican political meeting in the United States, and preceded the National organization by three years. The town ticket nominated by the caucus above held, was elected, David Allen Munro heading it for supervisor. The next year, James M. Munro was nominated from the growth of this movement, elected to the State Assembly and re-elected the next year. He was the sole Free Soil member in those years. Mr. Munro, now a resident of Frankfort, Kas., is here to attend the Centennial, and he tells The Journal that he had no difficulty in taking care of the voice and vote of his party.

The men and methods enlisted in the movement afterwards played a large part in the politics of Onondaga county. Wheeler Truesdell was elected County Treasurer, Enoch Marks was Salt Superintendent, and others held important positions of trust and responsibility.

MINUTES

At the annual town meeting held in and for the town of Camillus at Rowe Hotel February 17, 1852 the following officers were voted for with the following results:

Supervisor:	*Votes*
David A. Munro received	395
Jerry received	1
Crayton B. Wheeler received	4
Town Clerk:	
Wilson R. Cooper received	331
Crayton B. Wheeler received	81
Justice of the Peace:	
Homer A. Richmond received	323
Isaac G. Parker received	81
Henry McDowell received	1
Town Superintendent:	
Edwin R. Harmon received	402
Collector:	
John G. Kimberly received	337
John W. McCracken received	64
Harry Fauchon received	4
Assessor:	
Lewis B. Bennett received	400
Thomas Dorsey received	1
Commissioner of Highways:	
Daniel H. Horams received	329
John C. Munro received	76

TRIBUTE TO JESSE M. MARKEL

HON. LESTER L. WOLFF

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, July 30, 1976

Mr. WOLFF. Mr. Speaker, it was with deep sadness that I learned yesterday of the death of a dear friend and outstanding civic leader, Jesse M. Markel.

I knew Jesse for a number of years and considered it an honor to claim him as a friend. He lived not only a full and active life, but one wholly devoted to bettering our community and country.

A resident of Great Neck, N.Y., Jesse Markel was probably one of the best known and repected members of the community. Among his many achievements, he was a founder and past president of the Great Neck Chamber of Commerce, a former park commissioner of the village of Great Neck Estates, a charter member of the Great Neck Rotary Club, a past director of the Great Neck Civil Defense, an active member of the Great Neck Senior Citizens Center and past president of the Great Neck Republican Club. Jesse Markel truly deserved the honor of being named "Mr. Great Neck"—perhaps the highest recognition the community could bestow on any resident.

Jesse worked tirelessly to upgrade the quality of life for North Shore, Long Island residents. For example, he was one one of the original planners of the very excellent North Shore Hospital on Long Island. Jesse Markel's sense of community devotion extended as well to the country as a whole. He served in both World War I and World War II. He was a retired captain in the New York National Guard, a life member of the American Legion and a member of the New York Society of Military and Naval Officers of World Wars.

This remarkable man also left his mark in the business community. A sales executive with the Universal Match Co. until his retirement in 1960, Jesse served as past president of the Merchants and Salesmans Clubs of Brooklyn. He was also a member of the Stepping Stone Lodge of the Free and Accepted Masons and a member of the Great Neck Elks Club.

Although Jesse and I did not share the same political registration, our friendship was grounded on the far more enduring principles of trust, respect and devotion. I will deepy miss Jesse Markel, and my heartfelt sympathy goes out to his dear wife, Frances, his children, Carl, Judith, and Ellen and his grandchildren.

REVIVAL OF THE RURAL WEEKLY NEWSPAPER

HON. GILLIS W. LONG

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 30, 1976

Mr. LONG of Louisiana. Mr. Speaker, the growth of rural America's population relative to the Nation is of particular interest to me and to many of my colleagues. Overcoming the financial instability of the past, mainly caused by an inadequate circulation, rural weekly newspapers are growing in number with the increasing rural population. My friend, Joe Lucia, is one of the many dedicated men and women who are reestablishing the weekly newspaper in rural America. The unique style of the weekly is an important part of our American heritage, and I am glad to share with you this article about a community leader who has proven that the rural weekly is a highly respected journalistic endeavor. The article from the June 9, 1976, edition of the Enterprise of Vacherie, La., follows:

LUTCHER'S JOE LUCIA, AWARD-WINNING JOURNALIST

One of Lutcher's quietest citizens is also one of its most respected and influential. Joseph A. Lucia has been in journalism for 40 years, most of which have been lived in his town of Lutcher. Today Joe is the publisher of L'Observateur, the east bank's largest and most prestigious weekly and is chief of the Times-Picayune upriver Bureau.

Joe (as he encourages everyone to call him) graduated from Lutcher High in 1931 and from Tulane in 1936. He served as editor of The McComb Daily Journal in 1936 and 1937 before joining The New Orleans Times-Picayune. After a short term as a general assignment reporter, he spent the next twenty-seven years with The Picayune on the police beat covering what Joe calls "just about every kind of crime imaginable". He was involved in the reporting of many major stories. Probably his biggest scoop came in 1953 when he and his associates uncovered the police burglary ring that had been operating in New Orleans for some time. The story, one of the major crime stories in New Orleans history, resulted in the dismissal of over 100 policemen. The dismissed officers had developed a system in which safecrackers would be taken out of prison and planted in stores which the police would then "guard". If an alarm went off, the unit would radio headquarters that everything was being taken care of. And so it was, sort of.

In 1949 Joe bought L'Observateur, often called the L'Obster, for $6,250. It had a circulation of 250 and printed four pages. Today the L'Obster has a circulation of 5,600 and fifteen full time employees and averages 38 pages per week. It is unlikely that Joe would sell it even if offered 100 times what he paid for it.

Before acquiring L'Observateur, Joe had published The St. Jamesian for two years. Unfortunately, this slick-paper magazine, which concentrated on local stories, was ahead of its time. Advertising revenue did not equal the praise and public acclaim the magazine drew and it was forced to cease publication.

Mr. Lucia has received many awards and has had many honors bestowed upon him. He is one of only three people ever named an Honorary County Agent by the LSU Cooperative Extension Service, receiving the award in 1973. He is the reigning champion of the Louisiana Press Association since 1970 and regularly beats other publishers. The Clarion-Herald, journal of the Catholic archdiocese of New Orleans, has named him to its Lay Advisory Committee. The City of New Orleans has made him an honorary citizen and the city's police department has made him an honorary captain. Last year his newspaper was judged the second best weekly in the state for journalism excellence and won first place among weeklies in sports coverage and in weeklies edited by women (Jeanette Brock was editor at the time. Edith Vicknair is now).

Joe is married to the former Eula Vedros of Lutcher. Their two sons, "Tardy" and Ellis, are active in the management of L'Observateur. The Lucias also have a daughter, Patricia.

Joe is a director of First Pontchartrain Savings and Loan Association and a member of Gramercy Council 1817, Knights of Columbus. He was instrumental in the establishment of the LaPlace Andouille Festival some years ago. Every civic and service organization in St. John Parish has honored him for meritorious public service at one time or another.

"One of the things I enjoy most," says this veteran journalist, "is meeting Vacherie and St. James residents I've known since the days I took their wedding pictures while I was doing commercial photography as a sideline in the forties and fifties. Many of them are grandparents now but almost invariably the first thing they say is 'Our wedding pictures are still in excellent condition and we always enjoy looking at them.' "

"People also say they wish we'd still be doing The St. Jamesian. I still get requests for copies, though I've long since run out."

"Public support is absolutely essential to the survival of a local newspaper. If people want a hometown paper—and they do—they have to back it up. That means that they have to encourage local stores and banks to do their advertising in the community paper. Lots of these businesses talk about community spirit, but when it comes time to really participate and do, you don't see them around. Fortunately, the L'Obster has had fine community backing. I hope The Enterprise will too. In fact, if you keep up the good work, I know you will."

Joe Lucia has the kind of pleasant personality we all wish we had. And he has the kind of newspaper The Enterprise would like to be. So, to a man who's usually embarrassed by compliments, we'll offer only one more: if The Enterprise can ever be as good as L'Observateur is, we'll be very proud.

FEA'S TIME RUNS OUT

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Friday, July 30, 1976

Mrs. SCHROEDER. Mr. Speaker, today the Federal Energy Administration once again faces its last day on Earth. It appears, in fact, that it will die this time—if for a short period—despite the limitless efforts of Mr. Ford and Mr. Zarb to keep it alive.

In 2 months time the House and Senate have not been able to iron out their differences over the radically different FEA extension bills they have passed. I suggest the reason for this impasse is simply the faulty principle that the House and Senate bills represent—that the FEA should exist. A diseased Christmas tree would not look good no matter how much decoration is placed on it.

I expect, of course, that some day the conferees will bring back a conference report on H.R. 12169, the bill known as the FEA renewal bill, but which we may now rename the FEA resuscitation bill. But in the meantime, I suggest that my colleagues ponder a few of the realities which I predict for tomorrow:

Tomorrow, there will be no FEA, but the world will still go around.

Tomorrow, there will be no FEA, but our Nation will still function.

Tomorrow, there will be no FEA, and the energy ant will be back in its subterraneum home.

Tomorrow, there will be no FEA, and some energy poobahs would not be on the executive schedule.

Tomorrow, to boot, the citizens of this Nation will have one less bureaucracy intent on expanding its own dominion to grab at their tax dollars.

DECLARATION OF INTERDEPENDENCE FOR THE BICENTENNIAL YEAR

HON. JOSEPH M. McDADE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 30, 1976

Mr. McDADE. Mr. Speaker, I would like to share with my colleagues the moving message of Dr. Ann M. Ackoury, executive vice president of Cumberland College, Tennessee, in her commencement address to the graduating class of Marywood College in Scranton, Pa.

These inspiring remarks entitled the "Declaration of Interdependence for the Bicentennial Year" are timely reflections on the changing values of our society and the effect of these changes on our system. The remarks are extremely appropriate for our Bicentennial period as they leave us with the hope and understanding necessary for our progress through the next 100 years.

This outstanding presentation was so well received on its delivery at Marywood College I would like to insert the text of this speech into the RECORD for the benefit of my colleagues and hope that they are as impressed with its meaning as I am:

DECLARATION OF INTERDEPENDENCE FOR THE BICENTENNIAL YEAR

Women and men of the graduating class, let me extend to you, to yours, and those of the entire College, my congratulations. This ceremony for which we have assembled commemorates the termination and commencement of significant phases of your life.

It has been said that it is the nature of God, our Creator, to offer new beginnings to all of His creatures, for life is a series of beginnings. So it is on this occasion of beginnings that all who know you share in your sense of accomplishment, pride, and commitment.

Two centuries ago our forefathers experienced accomplishment, pride, and commitment when they brought forth a new nation. In this historic year of 1976, it is fitting that all of you graduates who will also forge new beginnings acknowledge the new challenges that confront you, and commit yourselves not to a declaration of independence but to a declaration of interdependence.

The evidence for interdependence is totally on the side of such a declaration. There appear to be few, if any, cardinal problems facing our country today and, indeed, the world that are not global in their extensions—for that matter, their solutions. Having studied the arts and sciences you can compile such a list that includes the: economy, population, pollution, freedom, food, space, trade, energy, peace, crime, human rights, drugs, security, communication, education, and health.

Justice Oliver Wendell Holmes summed up the human dimensions of sharing and working together when he said,

"I think that as life is action and passion, it is required of a man that he should share the passion and action of his time at peril of being judged not to have lived."

Today as you have completed your baccalaureate days here, you have learned that the energy problem, for example, that makes all of America move, or be lighted, heated and mechanized will depend on sources outside the United States. And you have also realized that fourteen basic metal resources that we need for national production will come mainly from other less developed nations.

And if we look back to the early days of this country's graduates we find that nearly half of the fifty-six who participated in the debates that shaped our Declaration of Independence and later our government, made reference to future interdependence. Coincidentally, six of the seven signers: Jefferson, Richard Henry Lee, Harrison, Wythe, Braxton, and Nelson were products of such learning that you at Marywood have come to call the liberal arts. Others such as Benjamin Franklin, by tutor or by their own efforts, developed an acquaintance with the classics of the Western World as you, too, have done at Marywood. These individuals, as I am sure many of you have, read in the Hellenic and Judaeo-Christian literature, philosophy, politics, and theology. With that background they conceived and embodied in our customs and our laws a respect for each other's dignity and worth and gave us our basic freedoms. In a Bicentennial year, especially, it is interesting to reflect what the men imbued with the type of education foundation you have received were able to accomplish.

In view of the historic relationship between the character and type of education obtained by the college graduate of 1776, and that of the 1976 Marywood College graduate one of the most fateful issues arises before each individual in this year's class: What will America be because of me? What will the Tricentennial be as a result of my having passed this way?

What are each of you thinking now that you have heard these critical questions? Are you reminded of Robert Frost's:

Two roads diverged in a wood, and I—
I took the one less traveled by,
And that has made all the difference.

Or are you asking yourself: Will I marry or will I choose some other form of "family" life? How do I want to live? In a hundred thousand dollar home in the suburbs with a Cadillac or Rolls Royce in the garage? Or in a condominium or townhouse in the city with a Volkswagen parked at the curb?

Or, are you querying in other areas—areas that affect all of us working and living on this Planet? John Stuart Mill wrote in his autobiography:

"Those only are happy . . . who have their minds fixed on some object other than their own happiness; on the happiness of others, on the improvement of mankind."

If you share this philosophy perhaps some of these questions come to your mind. What changes do we want to see in city, state, and federal governments? What are the best ways to solve our energy problems? Should our businesses be more or less regulated by government? How should our physical world be altered—should we live underground or in a plastic bubble? What major sports would we like to see—three-dimensional chess or electronic billiards?

It probably appears obvious to you at this point that the winds of unity are blowing and that all of us need no longer visualize society exactly as we do. Barbara Ward elucidated this vision best when she asked: "Can we not at such a time realize the moral unity of our human experience and make it the basis of a patriotism for the world itself?"

Back in 1776, as in 1976, we realize that independence, or for that matter, interdependence will not be an immediate answer to our questions or to the world's ills. Rather, a declaration of interdependence is an opportunity for each of you before you accept your diploma to reaffirm in your heart your interdependence not only with Marywood College, with one another, but with all of us.

In this Bicentennial year, this declaration signifies a common humanity, shared hopes, dynamic teamwork, and a common vision of the task facing us: to achieve human dignity and all that makes for the good life together.

As you have come to realize a graduate that has emerged as a member of an interdependent nation in the thermonuclear and space age cannot expect to have the same horizons of hope that beckoned the graduate during the founding stages of this country. However, there are to be found some commonalities. A striking one can be heard from James Madison and Alexander Hamilton when they stated in *The Federalist Papers* that historic principles transcend the size and complexity of the case at hand. What they meant was the larger the problem, the more pertinent the principle. So, too, with our interdependence declaration.

The pertinence to which Madison and Hamilton referred is not just in the comprehensiveness of our mission but in the setting of values for our times. Values are the visible, workable provinces for implementing a declaration. No human being can really comprehend or practice the significance of his own life or the complex world in which he lives or maintain any sense of order in his personal or social existence without a commitment to some set of values. Marywood College has assumed some of the responsibility for helping you to clarify your values by organizing the corpus of knowledge to illuminate them.

As a result you can be likened to a symphony—one destined to be life-long with different moods and a variety of tempos—with sharps and flats—harmonies and discords—but ultimately a unified symphony that has as its theme: Exodus. Exodus—a going out—not just going out from Scranton or from Marywood—but a continuous going out of self in order to reach another. You have come to learn that only by leaving self can one truly find oneself in another and find fulfillment in that other. Seneca elucidated this interdependent relationship among human beings and between their knowledge and values when he reflected, "What good is there for me in knowing how to parcel out a piece of land if I know not how to share it with my brother?"

In making this declaration you must be realistic and mindful that you might encounter pitfalls and unhappiness during its implementation. Do not become dismayed. Remember psychologists and historians still continue to find threads of failure running through peoples' lives. You yourself have already experienced these vicariously in novels such as *Moby Dick* and plays such as *Death of a Salesman*, in photographs of dismal tenements and sweatshops, in the laments of Negro spirituals, and in statistics on infant mortality, and adult violence. This continuous current of frustration is found to course below the incessant rush of people toward power and riches. Walt Whitman, the Poet Laureate of American energy and thrust, in *Facing Westward from California Shores*, captured this frenzy that has probably puzzled you when he wrote the Epilogue:

"Where is what I started for so long ago?
"And why is it yet unfound?"

We who have come to your graduation today believe you have found the answer to Whitman's Epilogue. You have educed from your scholarly findings your nature and your destiny. And so we place our trust in your commitment to a declaration of interdependence as you prepare to move into fields of new endeavor and contribute to the good life so those who live now and those who will be destined for the Tricentennial will know you were once here. Though you have the prerogative to be complacent at this moment in your life we know you will not be so nor will you have to be reminded in the manner Anton Chekhov suggested:

"There ought to be, behind the door of every happy, contented man, someone standing with a hammer, continuously reminding him with a tap that there are unhappy people."

In a matter of minutes, how, you will receive your diploma—a symbol not only of your diligent study but of the great faith placed in you by your family, your professors, your administrators and staff, and your friends. They have grasped the timeless and timely importance of your obtaining a college degree, and if you were to ask them why, they would probably say something to the effect:

"We know that if we work upon marble; it will perish; if we work on brass time will efface it; if we work with men (mankind) and imbue them with principles, we engrave on those tablets something that will brighten lives for all eternity." (Daniel Webster)

CONFERENCE REPORT ON TRANSPORTATION APPROPRIATIONS

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, July 30, 1976

Mr. BIAGGI. Mr. Speaker, I rise to bring to the attention of my colleagues the latest report of the National Oceanographic and Atmospheric Association indicating that 970 foreign vessels were sighted in June within 200 miles of our shores. This is a significant increase over the month of May when 928 ships fished our waters.

In the conference report on transportation appropriations soon to be voted on by this body $10 million has been allotted for the operation of the enforcement task force. An additional $70 million was set aside to purchase the necessary equipment to undertake this gargantuan task.

Foreign vessels net millions annually from the fish and crabs taken directly off our shores. This is money that could be flowing into the United States to create new jobs and tax revenues. These profit seeking companies will not easily be deterred. Clearly we need funds to adequately enforce the 200 mile limit just passed by Congress. Such an expanse of ocean is a staggering area to protect, and Coast Guard enforcement funds should match the magnitude of the task.

We must effectively enforce this law or we will face a dual problem. We will appear unable or unconcerned about the laws we pass and we will continue to have this scarce resource depleted to our serious economic and ecological disadvantage. I urge my colleagues' support for the conference report, when it comes to the floor, and for the Coast Guard's enforcement efforts beginning next year.

LAW OF THE SEA CONFERENCE

HON. PAUL N. McCLOSKEY, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 30, 1976

Mr. McCLOSKEY. Mr. Speaker, on Monday, August 2, the Third United Nations Conference on the Law of the Sea will reconvene in New York for a 6-week session running through September 17.

A great deal is at stake.

The basis for negotiation will be the revised single negotiating text issued on the last day of session which ended May 7. This 400-plus article text represents a remarkable achievement and a credit to the 156 nations now participating. The several issues remaining unresolved are complicated and difficult.

The leader of the U.S. delegation, Ambassador T. Vincent Learson, was very candid in his testimony before the Committees of Congress in his evaluation of those issues; they will require long and difficult negotiations before they can be resolved.

In my judgment, however, Mr. Speaker, with patience and skill, they can be resolved. After observing the abilities and dedication of the U.S. delegation at the last session, I am convinced that our negotiators have the ability and will to exhaust every reasonable approach in efforts to achieve a treaty. If they are unable to resolve all or nearly all of the remaining problems by September 17, it is possible that the entire 6 years of sustained effort will fall apart. Certainly, if the terms of all but one or two disagreements are not resolved by September 17, the Congress will be forced to move rapidly with unilateral deep seabed legislation shortly after the 95th Congress convenes next January. I am attaching a tentative rough draft of such legislation for consideration by our colleagues as they monitor the progress of the New York session during the coming weeks. I believe that this tentative draft which I am submitting represents a more logical alternative approach than the legislation which was reported out by the House Oceanography Subcommittee last March 17.

I would like to make one other comment at this point, in response to recent criticisms of the U.S. administration and our Law of the Sea delegation from at least one well-meaning and usually well-informed source, former Ambassador John Norton Moore.

In this particular case, I believe Mr. Moore is wrong in suggesting that the U.S. effort is poorly coordinated and lacking in strong leadership and support from the White House and Secretary of State. This may have been the case some months ago, but at least since March of this year, I have been personally cognizant of the strong personal involvement and commitment of both President Ford and Secretary of State Kissinger. The administration has given the U.S. negotiators firm backup, both logistically and in policy direction. While coordination of U.S. oceans policy remains a difficult problem of continuing examination and review, the various cabinet offices and agencies have been extremely successful, in my judgment, in facing their internal conflicts squarely and candidly, and with a loyal acceptance of the compromises ultimately reached. Ours is an open check and balance system of government under law, and within that context, our clarity of decision and force of implementation have proven at least, equally as effective in the long negotiations from Caracas to the present time as the counterpart decisions and actions of the various totalitarian bureaucracies with whom we are negotiating.

As I said before, a great deal is at stake. We will probably have no greater opportunity to achieve world peace through world law during the next several years than in the negotiating sessions of the next 6 weeks.

I personally believe that our delegation which includes Vincent Learson, Bernard Oxman, Leigh Ratiner, Otho Eskin, Tom Clingan, Terry Leitzell, Louis Sohn, Howard Pollock, Roz Ridgeway, Morris Busby, Charles Minter, Stu French, Max Morris, Glenn Young, Kay McKeough, and the others form as good a negotiating team as this country can produce.

Secretary Kissinger's speeches at Montreal last August and in New York this April, indicate a clear and sound U.S. policy. That Secretary Kissinger has been personally named by the President to head the effort at this most crucial session now commencing is indicative that any former lack of White House concern has long since been remedied.

In conclusion, Mr. Speaker, I think we can be confident that if a treaty is achievable at all, our U.S. delegation is capable of achieving it. If not, we will shortly be forced with the disappointing challenge of devising a congressional substitute for what could be one of the great steps forward in the history of mankind's long search for peace under law.

A tentative draft of possible deep seabed legislation is attached. I sincerely hope we will never have to consider it.

H.R.—

A bill to authorize the Secretary of Commerce to establish a program to encourage the continued development of the requisite technology to allow future mining of the deep seabed in accordance wtih the anticipated adoption of an acceptable international regime therefore

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Deep Seabed Mining Technology Development Act."

TITLE I—STATEMENT OF POLICY AND PURPOSES

STATEMENT OF POLICY

SECTION 101. (a) The Congress finds—

(1) That the economic well being of the United States and the world is directly related to an adequate supply of raw materials.

(2) That the abundant mineral resources of the deep seabed beyond the limits of national jurisdiction are the common heritage of all mankind and as such should be exploited to increase supplies of raw materials for the benefit of all mankind.

(3) That the increasing complexity of the world's problems requires the nations of the world to become more interdependent, consequently the exploitation of the mineral resources of the deep seabed should be conducted in cooperation with all the nations of the world, each recognizing the legitimate interests of the other.

(4) That the emerging Law of the Sea Treaty is an important advancement in international cooperation and its ultimate ratification is in the best interests of the United States as well as the rest of the world. Therefore, no country should take any action which may jeopardize that outcome.

(5) That a comprehensive Law of the Sea Treaty will provide the best climate for investment in the technology necessary to exploit the resources of the deep seabed.

(6) That it is in the best interests of the United States as well as all of mankind that continued development of deep seabed mining technology be encouraged during the negotiation of a comprehensive Law of the Sea Treaty to allow the exploitation of deep seabed minerals as soon as possible after the estabilshment of a satisfactory international regime regulating such exploitation.

(7) That the United States mining industry leads the world in the development of the technology necessary to mine the deep seabed.

(8) That it is in the best interests of the United States from both a tax revenue and a balance of payments perspective to encourage our domestic industries to continue development of deep seabed mining technology to allow the United States to be the world's leader in deep seabed exploitation when a satisfactory international regime is established regulating such exploitation.

(9) That the continued development of technology by private United States industry requires that the policies which will be followed in the near future be set out as clearly as possible to allow capital investment risks to be considered when investment decisions are made.

(10) That continued development of deep seabed mining technology should not be undertaken if significant adverse environmental impact will result from such development.

(11) That deep seabed mining should not commence until a rigorous examination of its environmental impact is completed and it has been determined that mining will not have a significant adverse environmental impact.

(12) That deep seabed mining should not continue if adverse environmental impacts result.

PURPOSES

SEC. 102. (a) The Congress declares that the purposes of this Act are—

(1) To encourage the continued development of deep seabed mining technology by United States industries without jeopardizing the international spirit of cooperation necessary to conclude an acceptable comprehensive Law of the Sea Treaty.

(2) To allow the exploitation of the resources of the deep seabed to commence as soon as possible after an acceptable international regime for such exploitation is in place.

(3) To establish the domestic programs which will be followed before and after an acceptable international regime managing the exploitation of the resources of the deep seabed is in place to allow technological development to continue in reliance on specific policies.

(4) To insure that all deep seabed mining technology development activities are conducted in accordance with strict environmental standards to prevent any significant adverse impacts on the marine environment.

TITLE II—DEEP SEABED MINING TECHNOLOGY DEVELOPMENT COMMISSION

ORGANIZATION OF THE COMMISSION

SEC. 201. (a) There is hereby established a Deep Seabed Mining Technology Development Commission. The members of the Commission shall be the Secretary of Commerce, the Secretary of the Interior and the Secretary of the Treasury. The Chairman of the Commission shall be the Secretary of Commerce. The Commission shall utilize the facilities and staff within the Department of Commerce to coordinate the activities of the existing Deep Seabed Mining programs in the Departments of Commerce, Treasury and Interior and to carry out its duties in accordance with the provisions of this Act.

DUTIES OF THE COMMISSION

SEC. 202. (a) The Commission shall examine the applications of persons for eligibility for financial incentives under Title III of this Act. Title III financial incentives are available to qualified applicants proposing qualified projects for the purpose of encouraging investments in the development of the technology necessary to mine the deep seabed.

(b) The Commission shall develop a high level of expertise in the areas of deep seabed mining technology and economics to allow it to comprehensively evaluate application for Title III program to ensure that the applicants and proposed projects are qualified.

(1) Before an applicant for the Title III program can be considered qualified he must demonstrate to the satisfaction of the Commission in his application:

(i) that he has tendered a fee to the Commission in an amount estimated to equal the Administrative and other costs of processing the application;

(ii) that he is financially responsible and can complete the proposed project;

(iii) that he is a United States citizen;

(iv) that he will locate all plants for processing ocean mineral resources in, or on, a place subject to the jurisdiction of the United States;

(v) that he will utilize United States-flag, United States built, and United States citizen manned vessels exclusively in his operations: and

(vi) that he is willing and able to comply with all applicable laws and regulations.

(2) Before a proposed project can be considered qualified for the Title III program the applicant must demonstrate to the satisfaction of the Commission in his application:

(i) that the proposed project will advance the development of the technology necessary to mine the deep seabed;

(ii) that the proposed project not unreasonably interfere with other reasonable uses of the high seas, as defined by any treaty or convention to which the United States is signatory, or by customary international law;

(iii) that the proposed project will not conflict with any obligations of the United States, established by treaty or other international agreement; and

(iv) that the proposed project will not pose an unreasonable threat to the integrity of the marine environment and that all precautions will be taken to minimize any adverse impact on that environment.

(c) (1) The Commission shall promulgate appropriate rules and procedures to be followed by applicants to the Title III program to ensure that applications are accompanied by sufficient technical, financial and other data necessary to allow a thorough evaluation of the application.

(2) The Commission shall not disclose information obtained by them under this subsection which concerns or relates to trade secrets or other confidential matter referred to in Section 1905 of Title 18, United States Code.

(3) Nothing contained in this subsection shall be construed to require the release to the public of any information described by subsection (b) of section 552 of Title 5, United States Code, or which is otherwise protected by law from such release.

(4) Any specific information required to be furnished to the Commission under this Act and which is not otherwise protected from disclosure under paragraph (2) and (3) of this subsection may not be released outside the Government and may be disclosed within the Government only on a need to know basis.

(d) (1) Within thirty days after receipt of an application, and prior to the granting of approval of an application, the Commission shall publish in the Federal Register a notice containing a summary of the application and information as to where the application and the available supporting data may be examined allowing interested persons at least sixty days for the submission of written data, views, or arguments to the granting of approval. The Commission shall utilize such additional methods as it deems reasonable to inform interested persons and groups about the application and to invite their comments thereon.

(2) The Commission's decision granting or denying approval of an application shall be in writing and shall be made within sixty days following receipt of all views. The Commission shall grant approval when it finds that the application, as submitted, or as modified, meets the requirements of this Act and the rules and regulations promulgated hereunder.

(3) Judicial review of the Commission's decision shall be in accordance with sections 701 through 706 of Title 5, United States Code.

(e) (1) The Commission shall ensure that all applications contain environmental impact statements conforming to the criteria established in Section 4332 of Title 42 United States Code.

(2) The Commission shall propose additional requirements as necessary to ensure that the quality of the marine environment is protected. In implementing this section, the Commission shall take into account the environmental standards and potential impact of the technology development activities as identified by the Secretary of Commerce in accordance with his responsibilities under Title IV of this Act.

(f) The Commission is authorized to issue such reasonable rules and regulations as may be necessary to implement the provisions of this Title.

TITLE III—FINANCIAL INCENTIVES

INVESTMENT TAX CREDIT

SEC. 301. (a) Upon approval of an application by the Commission a qualified applicant will be eligible for an investment tax credit for all investments made in accordance with the proposed qualified project described in the application, subject to the following conditions:

(1) The following percentages of all capital investments in depreciable property will be considered a credit against future U.S. income taxes assessed against the profits derived from the future exploitation of the minerals of the deep seabed.

(i) for 1977, (50%)
(ii) for 1978 (40%)
(iii) for 1979, (30%)
(iv) for 1980, (20%)
(v) for 1981, (10%)

(2) The person receiving the financial incentives under this Title maintains his qualified applicant status.

(3) The project described in the application approved by the Commission remains qualified for financial incentives.

(4) While the technology developed as a result of a program receiving financial incentives under this Title is the property of the person conducting the development program, the United States has a first option to obtain a proprietary right to the technology if it is offered for sale or trade to another person.

(5) The United States has a first option to purchase at fair market value any minerals derived from the deep seabed as a result of the research and development encouraged by this Act when commercial production commences.

(6) That these tax credits will be allowed to be used for 10 years after commercial production commences.

(7) That this increased tax credit program expires on January 1, 1982.

TITLE IV—DUTIES OF THE SECRETARY OF COMMERCE

ADMINISTRATIVE DUTIES

SEC. 401. (a) The Secretary shall establish a division within the Department of Commerce to coordinate all deep seabed mining activities in the other branches of Government. This division shall provide the administrative and staff support services for the Commision.

(b) The Secretary shall act as Chairman of the Commission and is responsible for the achievement of its objectives. A report on the activities of the Commission shall be prepared by the Secretary and delivered to Congress by January 1 each year. This report shall include any recommendations for additional legislation as deemed necessary.

(c) The Secretary is authorized to issue such reasonable rules and regulations not in conflict with those rules and regulations issued by the Commission as may be necessary to carry out the provisions of this Act.

(d) After the Commission determines that an applicant is qualified and eligible to receive financial incentives under Tile III of this Act the Secretary shall be responsible to ensure that all rules and regulations promulgated pursuant to this Act are complied with, the applicant and project continuously maintain their qualified status, and that all environmental standards are complied with.

ENVIRONMENTAL DUTIES

SEC. 402. (a) The Secretary, in coordination with the Administrator of the Environmental Protection Agency, the Commission, and other appropriate Federal agencies and departments, shall establish environmental standards, to which all technology development projects conducted pursuant to this Act must adhere. These standards shall be based to the maximum extent practicable on the best available technical and scientific data. If such data is unavailable, inconclusive, or incomplete the Secretary shall conduct any operations which may be necessary to collect data and establish environmental standards in order to carry out the provisions of this Act.

(b) Within 90 days of the enactment of this legislation and as necessary thereafter as better data becomes available, the Secretary shall publish in the Federal Register a notice containing a summary of the environmental standards to be enforced and information as to where the standards and supporting data may be examined allowing interested persons at least 60 days for the submission of written data, views, or arguments with respect to their establishment. The Secretary shall also utilize such additional methods as deemed reasonable to inform interested persons and groups of the proposed standards and to invite their comments thereon. All comments received shall be considered when promulgating new standards or carrying out the provisions of this Act.

TITLE V—MISCELLANEOUS PROVISIONS

DEFINITIONS

SEC. 501. For the purposes of this Act—

(a) "Secretary" means the Secretary of Commerce.

(b) "deep seabed" means the seabed and the ocean floor and subsoil thereof beyond a series of straight lines connecting fixed points 60 nautical miles from the foot of the continental slope.

(c) "mineral resources of the deep seabed" refers to nodules or accretions on or slightly beneath the surface of the deep seabed, containing, but not limited to, iron, manganese, nickel, cobalt, and copper.

(d) "Deep Seabed Mining Technology Development" means the development of the systems and processes necessary to mine and process the mineral resources of the deep seabed.

(e) "mining" or "exploitation" means the collection of the mineral resources of the deep seabed at a substantial rate of production, for the primary purpose of marketing or commercial use but does not include recovery for sampling, experimenting in recovery methods, or testing of equipment or plant for recovery or treatment of minerals.

(f) "Commission" means the Deep Seabed Mining Technology Development Commission.

(g) "United States citizen" includes; associations, corporations, or other entities duly organized under the laws of the United States, or its States, territories, or possessions; and any officer, employee, agent, department, agency, or instrumentality of the Federal Government, or of any State or local unit of government.

(h) "qualified applicant" means a United States citizen who meets all requirements as may be prescribed by the Commission or the Secretary.

(i) "qualified project" means a proposed system or plan which will advance the technology necessary to mine and process deep seabed minerals which meets all requirements as may be prescribed by the Commission or the Secretary.

(j) "person" includes private individuals, associations, corporations, or other entities, and any officer, employee, agent, department, agency, or instrumentality of the Federal Government, of any State or local unit of government, or of any foreign government;

NONDISCRIMINATORY TREATMENT

SEC. 502.—For purposes of export controls, customs laws, tax laws of the United States with the exception of the investment tax credit provisions, and section 27 of the Act of June 5, 1920, including all the applicable implementing regulations thereof, all hard minerals recovered from the deep seabed under a qualified project entered into pursuant to this Act by a qualified applicant shall be deemed to have been recovered within the United States, and such laws, regulations, and controls shall be administered so that there will be no discrimination between hard minerals recovered from the deep seabed and similar hard minerals recovered within the United States.

ASSESSMENT BY INTERNATIONAL REGIME

SEC. 503.—In the event the treaty shall have been ratified and becomes binding upon the United States and provides that the mineral resources of the international seabed area are subject to financial assessments by an international regime, the United States shall allow qualified persons engaging in ocean mining under a qualified project entered into pursuant to this Act to credit against taxes due to the United States all payments made to the international regime in cash or in kind to the extent such payments are calculated on the basis of a portion of the profits acquired by such person and attributabel to ocean mining technology development.

PENALTIES

SEC. 504. (a) Any person subject to the jurisdiction of the United States who violates any provision of this Act, or any rule or regulation promulgated by the Secretary or the Deep Seabed Mining Technology Development Commission pursuant to this Act, shall be liable to a civil penalty of $50,000 for each day during which the violation continues. In determining the penalty to be assessed, consideration shall be given to the gravity of the violation, any prior violation, and the demonstrated good faith of the person charged in attempting to achieve rapid compliance after notification of the violation. No penalty may be assessed until the person charged shall have been given proper notice of the violation involved, and an opportunity for a hearing. For good cause shown, the official imposing the penalty may remit or mitigate any penalty assessed. Upon failure of the person charged to pay an assessed penalty, the Attorney General may be requested to commence an action in the appropriate district court of the United States for collection of the penalty without regard to the amount involved, together with such relief as may be appropriate.

(b) In addition to any other penalty, any person subject to the jurisdiction of the United States who willfully and knowingly violates any provision of this Act, or any rule or regulation promulgated by the Commission or by the Secretary pursuant to this Act, shall upon receipt of proper notice of the violation and an opportunity for hearing, be punished by a fine of not more than $100,000 for each day during which such violation continues.

(c) In addition to any other penalty, any person subject to the jurisdiction of the United States who fails to comply with this Act or the rules and regulations promulgated thereunder, or who receives financial incentives under Title III of this Act through fraud of willful misrepresentation of material facts shall, upon receipt of proper notice of the violation and an opportunity for hearing, be required to pay all taxes which were waived as a result of Title III. In such cases, the appropriate official may allow a reasonable period to remedy the violation except in the case of fraud or willful misrepresentation in which case payments of waived taxes shall be made immediately.

(d) Any vessel, except a public vessel engaged in non-commercial activities, used in a violation of this Act, or of any rule or regulation issued pursuant to section 406 hereof, shall be liable in rem for any civil penalty assessed or criminal fine imposed and may be proceeded against in any district court of the United States having jurisdiction thereof; but, no vessel shall be liable unless it shall appear that one or more of the owners, or bareboat charterers was, at the time of the violation, a consenting party, or privy to such violation.

JURISDICTION OF UNITED STATES DISTRICT COURTS

SEC. 505. United States district courts shall have original jurisdiction of cases and controversies arising as a result of this Act or out of, or in connection with, technology development activities conducted in any area of the deep seabed under the provisions of Title III of this Act, and proceedings with respect to any such case or controversy may be instituted in the judicial district in which any defendant resides, or may be found, or in the judicial district nearest the place where the cause of action arose. This jurisdiction shall extend to vessels conducting technology development under the provisions of Title III of this Act on the high seas.

AUTHORIZATION FOR APPROPRIATIONS

SEC. 506. There are authorized to be appropriated to the Secretary to remain available until expended for the current fiscal year and for each of the two succeeding fiscal years, such sums as may be necessary for the administration of this Act.

CONSORTIA

SEC. 507. In any case of agreement between the United States and foreign entities, with the resulting combination of interests entering into a qualified project under the authority of this Act, the applicability of Title III of this Act shall be limited to the proportion of investment by the qualified person.

EFFECTIVE DATE; SEPARABILITY

SEC. 508. This Act shall take effect on the date of its enactment. If any provision of this Act or any application thereof is held invalid, the validity of the remainder of the Act, or of any other application, shall not be affected thereby.

TASK FORCE ON HOUSE ACCOUNTS REPORT

HON. DAVID R. OBEY

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Friday, July 30, 1976

Mr. OBEY. Mr. Speaker, a great many Members of Congress have requested additional copies of the task force on House accounts report which was issued on June 22, 1976. I, therefore, insert it in its entirety along with its letter of transmittal at this time:

CONGRESS OF THE UNITED STATES
HOUSE OF REPRESENTATIVES,
Washington, D.C., June 22, 1976.

Hon. CARL ALBERT,
Speaker of the House of Representatives,
Washington, D.C.

DEAR MR. SPEAKER: Attached is the Report from the Task Force on House Accounts which you appointed on June 4, 1976.

We hope the report is satisfactory.

Sincerely,

DAVID R. OBEY,
Member of Congress.
LLOYD MEEDS,
Member of Congress.
NORMAN E. D'AMOURS,
Member of Congress.

REPORT OF THE TASK FORCE ON ACCOUNTS

The Task Force on House Accounts was created by the Speaker on June 4, 1976, and was charged with the responsibility of reporting to the Democratic Steering and Policy Committee on how to "rationalize the accounts systems of the House of Representatives, to improve accountability, and to assure both propriety and the appearance of propriety in the administration of House accounts."

That task is as essential as it is difficult.

It is clear to this Task Force that both the accounts system and the process by which that system is established are often confusing, unaccountable and more expensive than necessary.

The existing procedure for establishment of the nature and magnitude of House accounts has encouraged the creation of an independent, unaccountable power center in the House Administration Committee.

The process by which the accounts system is determined has become a mystery to the public—and to many Members of Congress as well.

The product of that process, a system of 14 separate Member accounts, is not a system at all; it is a rigid, confusing, gerrybuilt hodgepodge which can easily result in unintentional misapplications. It is supposed to meet the legislative needs of 435 separate offices, each charged with representing and providing services to one-half million people.

But because each account was designed to meet all the needs of 435 very different Members and very different districts, it does not adequately meet anyone's needs. The system's inflexibility and multiplicity of forms, vouchers and accounts procedures buries Members' offices and the financial and administrative officers of the House in confusion and needless red tape. Many legitimate official expenses are not covered by the accounts system, and Members of Congress must bear significant out-of-pocket expenses. Yet the system at the same time offers excessive opportunity for abuse; and it costs the taxpayers money!

The recommendations of the Task Force will—we hope—provide the blueprint for immediate corrective surgery and the opportunity for a long-range restructuring of the management system of the House of Representatives. Even though the GAO conducts an annual audit of all of the accounts and disbursements of the Clerk of the House, our recommendations go even further. They will restore accountability, increase efficiency, enhance the public's right to know . . . and they will save money.

HOW WE WORKED

The Task Force arrived at its conclusions in a number of ways. We first solicited comments from all Members of Congress. Over fifty Members from both parties supplied written recommendations to the Task Force and almost two hundred others provided us with verbal suggestions. The Task Force spent an entire day with the officers and employees of the House and Senate charged with the responsibility to manage the financial affairs of the Congress. We studied their methods and procedures as well as the practical implications of the changes that had been suggested. Former employees also were consulted for further suggestions and recommendations. We thank all of these persons for their time and contributions, which were invaluable to the Task Force in completing its job.

We reviewed the hearing records for legislative appropriations for the last four years. We reviewed a whole range of press accounts over several years, which defined, criticized, or analyzed the system. We reviewed past legislative suggestions for reforms.

Out of it all, six common threads emerged:

1. Few people are happy with the present system, either substantively or procedurally;
2. There is a need to restore major decision-making accountability;
3. There is a need to create greater flexibility;
4. There is a need to increase meaningful disclosures;
5. There is a need to eliminate cash-outs.
6. There is a need to establish a mechanism for the long-range review of the operation, staffing and the appropriate prequisites provided to Members of Congress.

RECOMMENDATIONS FOR IMMEDIATE REFORM

The Task Force recommends immediate sweeping reform of the House Administration Committee.

I. Reform of House Administration

Recommendation No. 1: Rescind the authority of the House Administration Committee to expand, change the character, or create new categories of allowances without a direct vote on the House floor.

Rationale: This Task Force has concluded that the action taken in 1971 to give the House Administration Committee, as presently constituted, the authority on its own volition to adjust accounts was a mistake. That does not mean that the system prior to 1971 was good. It was not. The old system under which each adjustment in office accounts, no matter how trivial, had to be voted on by the entire House, did not protect the public interest. It merely guaranteed that only the most non-controversial items (not necessarily the most rational, efficient, or cost-effective ones) could be passed.

The Committee on House Administration presently has the authority to fix and adjust the amounts, terms and conditions of numerous allowances. The Task Force recommends that such authority be largely resinded. The recision includes: (1) removal of authority to create new allowances, and (2) removal of authority to make adjustments in the amounts of the allowances in excess of (a) increases made necessary by changes in the price of services or materials; and (b) increases made necessary by technological changes in communications equipment, office equipment and the like. Thus, under our recommendation a vote on the floor would be required to authorize any new allowances or to expand the amounts of allowances in excess of that necessary to maintain the present real level of constituent service.

Recommendation No. 2: Reconstitute the membership of the House Administration Committee so that all Democratic members are nominated by the Speaker with the approval of the Democratic Caucus.

Rationale: The Rules of the Democratic Caucus should be modified to provide for selection of Democratic members of the House Administration Committee in the same manner in which Democratic members of the Rules Committee are selected. The House Administration Committee is the administrative arm of the House of Representatives. As such, we believe it should be directly responsible and accountable to the House through its leaders. Giving the Speaker the responsibility to nominate members of House Administration will insure that the leadership pay strict attention to the activities of that committee.

II. Accounts reform and disclosure

The Task Force recommends adoption of the Senate system of consolidated accounts, eliminating cash-outs, requiring total, frequent, and easily understandable disclosure of expenditures from these accounts, monthly certification of employment and salary by Members, committee chairmen, subcommittee chairmen and all officers of the House.

PERFORMANCE OF THE ALLOWANCE SYSTEM

Recommendation No. 3: Eliminate cash-outs.

Recommendation No. 4: Abolish the Postage Allowance.

Recommendation No. 5: Reduce the current 20¢ per mile reimbursement rate for automobile mileage to the prevailing GSA rate (currently 15¢ per mile).

Recommendation No. 6: Consolidate the following remaining accounts:

a. District office space.

b. Telecommunications service.

c. Expenses outside the District of Columbia.

d. Stationery.

e. Constituent communications (newsletter, questionnaire).

f. Equipment rental (including amounts currently available from unused clerk-hire).

g. Travel (Congressional home city to Washington, D.C.).

The value of each present account would be folded into one streamlined account. Members may draw upon that account for any expense incurred in their official capacity with the accompanying requirement that expenditures from the accounts will be published quarterly on a Member-by-Member basis, thus increasing flexibility, accountability and disclosure.

Recommendation No. 7: Require disbursements to be only upon properly documented, signed, certified vouchers.

Recommendation No. 8: Eliminate the provision which currently allows equipment and computer rental from unused clerk-hire.

Recommendation No. 9: Institute the Senate system of installing WATS service which reduces by one-half the telecommunications allowance.

Rationale: It is no accident that, in comparison to the House, the Senate system of accounts is relatively free from criticism. Three years ago the Senate abandoned the anachronistic, inflexible and expensive House system of multiple accounts. The House should follow suit.

The needs of each Congressional district vary greatly. It is simply not possible to service a six square-mile district in Manhattan in the same manner as the 586,000 square-mile State of Alaska. It is, therefore, imperative that we recognize the diversity that exists and allow Members to expend the available funds from the consolidated allowance in the way Members determine best fit the needs of their constituents—with the requirement that every expenditure be disclosed.

The consolidation of allowances will not increase costs to the taxpayer, and in fact, is likely to effect substantial savings. Those responsible for administering the Senate accounts system indicate that the consolidation of allowancs led to reduction in the cost of administering the separate allowances, and provided a more efficient means of overseeing expenditures. They also indicated it reduced pressure to increase Senate allowances and resulted in return of substantial amounts by Senators.

It has been estimated that it costs about $500,000 per year to operate a House office under the present system. Elimination of the postage allowance and elimination of the "cash-out" provisions, coupled with the consolidation and streamlining of the accounts system, should reduce that estimate.

A further benefit to the taxpayer is the incentive inherent in a consolidated allowance to stretch available resources as far as possible, thereby encouraging the economical use of the allowance dollar. All funds disbursed from the consolidated allowance will be vouchered and certified, compiled on a Member-by-Member basis, and published quarterly. Disclosure, certified vouchers and the elimination of "cash-outs" will serve as the best guarantee of effectively preventing the types of abuses which are alleged to have occurred in the recent past.

Certain accounts such as the "stationery account" and the "outside of the District of Columbia expense account" allow Members to receive cash instead of providing direct payment for services. Eliminating the option to "cash-out" such allowances will remove a major criticism of the present system.

The rationale for reducing the 20c per mile auto reimbursement rate to the current prevailing G.S.A. rate which applies to all other employees, is that there is no justification for Members of Congress to be reimbursed at a higher rate than anyone else.

The provision for equipment and computer leasing from unused clerk-hire should be eliminated. Under our recommendations the amounts previously available from clerk-hire would be included in the consolidated allowance, thus limiting the use of clerk-hire to the purpose for which it was intended, i.e., the provision of clerical, professional and other personnel and legislative support services.

The postage allowance of $1,140 in air mail and special delivery stamps should be eliminated because the franking privilege covers domestic first class mail costs for official business. Postage for overseas, insured, certified, return-receipt, and special delivery mailings can be vouchered for from the consolidated allowance.

PUBLIC DISCLOSURE

The Task Force is recommending a number of items to increase the public's right to know how its tax money is being spent.

Recommendation No. 10: Members, committee chairmen, subcommittee chairmen and all officers of the House should be required to certify monthly to the salary and performance of official duties of every employee on their payroll or assigned to their committee or subcommittee.

Recommendation No. 11: The Task Force recommends the information in Recommendation No. 10 be published quarterly. The report shall include alphabetical indices by employee and employing office, indicating title and salary during each quarterly period.

Recommendation No. 12: The Task Force recommends the publishing of all expenditures from the Member's consolidated account quarterly, on a Member-by-Member basis.

Rationale: The Task Force believes that a key to public trust is public knowledge. Disclosure of expenditures by a Member of Congress of public money in the performance of his/her official duties protects the public from misuse of government funds and the Member from unjust innuendo.

The above recommendations can be immediately implemented. Their rapid adoption should make it evident that the House intends to meet its responsibilities to function in a proper, efficient and open manner which will do a great deal to insure propriety and the appearance of propriety in the administration of accounts and staff of the House.

ESTABLISHMENT OF A COMMISSION ON FUTURE REFORMS

The preceding recommendations, sweeping as they are, represent only a first step in terms of what is needed to make the House a truly modern, effective institution. We therefore make the following recommendation:

Recommendation No. 13: The Speaker shall appoint a commission composed of 8 Members of Congress (5 Democrats and 3 Republicans) and 7 persons from outside the Congress to conduct a thorough complete study with respect to the administrative services of the House including staff personnel, administration, accounting and purchasing procedures, office equipment and communication facilities, record-keeping, emoluments and allowances. The commission will seek the advice of both the G.A.O. and the business community. The Commission shall report its findings and recommendations no later than December 31, 1977, after which time it shall cease to exist.

We are mindful that representative government was never intended to be the most efficient form of government—just the best.

But this does not mean that efficiencies cannot be achieved which will increase the ability of Members to respond to their constituents and better inform themselves.

The duties and responsibilities of the House of Representatives have mushroomed over the past twenty years. The day-to-day operations of the Congress have been drastically outpaced by the demands upon Members to provide their constituencies with adequate representation and fair judgments. For example, in the 94th Congress the House has been in session longer, taken more votes, and had more committee meetings than any Congress in history. The number of votes Members must cast has increased dramatically over the past decade—from some 100 per year during the historic 89th Congress to more than 600 per year during the 94th Congress.

In the area of committee meetings, Members have spent upwards of 12,000 hours in committee sessions during the First Session of the 94th Congress. There were 3,878 committee meetings and hearings conducted in 1975, constituting an increase of 30% over the First Session of the 93rd Congress and 60% over the First Session of the 92nd Congress.

Demands from home have expanded just as dramatically. The House Postmaster has calculated that the number of letters flowing into the offices of the House members has increased 200% in the past six years alone—from 14 million in 1969 to 42 million in 1975.

These and other demands have necessitated increasing legislative staff services. The half-million Americans each of us represents have the right to expect that we are going to discharge our legislative duties in a well-informed, responsible fashion. They have the right to expect intelligent answers to their letters, phone calls, and inquiries and they have a right to expect reasonable and efficient access to our offices and services.

We have witnessed an explosion in the number of people coming to Washington—either individually or collectively—in an effort to petition the Congress in the finest democratic tradition.

Members must be equipped to cope with this burgeoning workload—and that cannot be done with mirrors. Nor can it be accomplished by simply streamlining the present antiquated system of accounts and eliminating the current atmosphere of public suspicion and accusation.

What is needed are fundamental changes, both in Congress itself and in public attitudes toward Congress, and such changes cannot be accomplished without a thorough, long-range study by a commission composed of both Members of Congress and the public.

OZARK BIBLE COLLEGE SINGERS

HON. GENE TAYLOR

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Friday, July 30, 1976

Mr. TAYLOR of Missouri. Mr. Speaker, through the courtesy extended by your office, it was my great pleasure to present the Impact Brass and Singers of Ozark Bible College in concert on the steps of the House of Representatives on Wednesday, July 28, 1976.

Ozark Bible College is located in Joplin, Mo., with an enrollment of nearly 800 students.

These young people, under the direction of T. Meredith Williams and Willis Harrison, thrilled both Members of Congress and visitors alike with their excellent performance of religious and patriotic music orchestrated into a modern sound.

The highlight of the concert was the playing of the inspirational "American Experience." This salute to our Bicentennial that musically traces America's heritage over the past 200 years has been incorporated in their new record album "Stand Up Together."

The Impact Brass and Singers have been touring the Nation this summer visiting 20 States as well as the District of Columbia. A highlight of the tour was the Fourth of July concert presented in the Chapel of the U.S. Air Force Academy.

Mr. Speaker, I am proud to represent the congressional district in which Ozark Bible College is located and I would like to commend Mr. Don E. Boatman, president of Ozark Bible College, for the fine caliber of young Christian men and women who have gone forth to represent the college.

CLEAN AIR ACT AMENDMENTS: SIGNIFICANT DETERIORATION AND THE CHAPPELL AMENDMENT

HON. PAUL G. ROGERS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 30, 1976

Mr. ROGERS. Mr. Speaker, the House will soon consider the Clean Air Act Amendments of 1976 (H.R. 10498). While a consensus appears to have been reached on most of the rest of the bill, two provisions remain controversial—the new car emission standards—section 203—and the prevention of significant deterioration—section 108.

On this latter issue, Representative William Chappell indicated in the June 24, 1976, Congressional Record, his intent to offer an amendment deleting the committee proposal on significant deterioration and substituting a 2-year study provision.

I will oppose the Chappell amendment. And I urge my colleagues to do so for the following reasons:

First. The Chappell amendment would constitute congressional ratification of the present EPA regulations. The EPA regulations provide too much Federal involvement and interference in State and local decisionmaking. The committee bill corrects these problems with the EPA regulations and, thus, has won the support of the National Governors' Conference, the National Conference of State Legislatures, the National League of Cities, and the National Association of Counties.

The Chappell amendment will not merely call for a study, as is implied in the June 24 Congressional Record statement. Instead, it will amount to an implicit congressional ratification of the EPA regulations which are now in effect—see appendixes I and II for an explanation of why this is the necessary legal effect, if the Chappell amendment were adopted.

The EPA regulations are defective in at least two respects. First, they provide too much Federal involvement and too little State authority. Contrary to Representative Chappell's assertion that the EPA regulations "are much less restrictive" than section 108 of the House bill, there are many respects in which the House bill is more flexible. Among them are the following:

First. The House bill contains no EPA veto authority over State classification decisions; the administration regulations permit such a veto.

Second. The House bill contains no Federal land manager veto over State classification decisions affecting Federal lands; the administration regulations place Federal land's classifications totally under the control of the Federal Government.

Third. The House bill permits increased pollution from existing sources due to coal conversions and natural gas curtailments not to count as using up any of the available increment; the administration regulations do not permit any such exclusion.

Fourth. Except for the 3-hour SO_2 standard, the House class II increments are more lenient than the current regulations.

Fifth. The House bill actually permits more growth than the present regulations, because requiring use of best technology on major new pollution sources means each new source eats up less of the available air quality increment.

EPA Administrator Train has admitted that current regulations "provide much more of a role for EPA in the process than I would prefer"—letter to Senator Moss, June 11, 1976.

There is a second defect in the EPA regulations. They do not provide for adequate involvement of local governments in the decisionmaking process.

The committee bill corrects these failings in the EPA regulations. As pointed out above, the Federal role in administering and overseeing the significant deterioration policy has been substantially curtailed by the committee bill. The authorities of State and local governments have been enhanced. It is for this reason that the House committee bill has won the endorsement of the National Governor's Conference, the National Conference of State Legislatures, the State and Territorial Air Pollution Program Administrators, the National League of Cities, the U.S. Conference of Mayors, the National Association of Counties, and the National Association of Regional Councils.

Second. The committee's proposal has been subject to comprehensive, even exhaustive studies on economic and energy impacts. These studies have shown the House bill to be reasonable and balanced.

Already, the Environmental Protection Agency has spent $1 million to assess the economic, energy, and environmental consequences of the significant deterioration policy. The Federal Energy Administration has spent nearly $500,000. Other agencies—Commerce, Interior, and so forth—have also conducted studies.

Studies have been performed by various industry groups—the electric utilities, the paper industry, the mining and smelting industries, and so forth. Studies have also been performed by State and local groups.

The studies that have been conducted show the House committee bill to be reasonable and well balanced. This is shown by the EPA-FEA studies. And these studies are consistent with those of the electric utilities.

Third party studies agree. As pointed out above, State and local agency studies have found the committee bill to be reasonable and to offer sufficient flexibility to permit States and local governments to balance energy, economic growth, and environmental needs. A recent study of an energy analyst with the Appalachian Regional Commission concludes that the House bill "offers a logical approach to the combined objectives of environmental preservation, energy independence, and economic development." See Campbell, "The 1975 Amendments to the Clean Air Act—An Assessment," Appalachian Regional Commission, March 26, 1976.

The House bill has the support of many groups, groups which would not concur if energy or economic development were seriously threatened. In addition to the supporters previously mentioned, the groups supporting the committee bill include: The National Retail Merchants Association, the National Realtors Association, the National Realty Committee, the National Association of Home Builders, the International Council of Shopping Centers, the American Retail Federation—whose members employ 12 million employees—the United Mine Workers, the United Steel Workers, and the United Auto Workers.

The committee proposal calls for continuing studies and report to Congress as this provision is being implemented. But the committee bill would not delay the congressional action to clarify and give the legislative guidance that is so necessary on this issue.

Third. There is a pressing need for clarification and congressional guidance to remove uncertainty on this issue. The Chappell amendment would prolong this period of uncertainty for at least 3 more years. The committee bill will resolve the question once and for all and will put an end to the litigation.

In February 1975, President Ford sent a message to Congress urging Congress to clarify its intention on the policy of "significant deterioration." Administrators Train, EPA and Zarb, FEA testified in favor of congressional action to resolve this uncertainty. States and local governments testified that they could not get on with their air pollution control programs until the doubts about basic national policy are resolved. Industrial and business groups pleaded for congressional action and sufficient certainty to permit business planning decisions to go forward. Before the courts, business, and industrial groups have argued that congressional guidance on this issue has been inadequate. Recently, the U.S. Court of Appeals has even indicated its intention to await further congressional action before resolving pending legislation on this issue.

The committee bill will provide the necessary legislative direction and certainty to break the log jam which has lasted 4 years. For it was 1972 when the court first decided that EPA must prevent significant deterioration.

The Chappell amendment, on the other hand, will prolong the period of uncertainty for at least 3 more years. Two years will be allotted for further study. At least 1 year more after that will be needed to legislate a particular proposal in response to that study.

In the meantime, as is pointed out subsequently, EPA's regulations remain in effect. But this means States, local governments, and business must gear up twice. First, they must meet EPA's current regulations and procedures. Then, in 2 years, after the study called for by the Chappell amendment, the rules may all be changed. All governmental and business planning decisions will remain in an uncertain limbo. This constant shifting of the rules is not fair to business and the States.

Prolonging delay, uncertainty, and indecision would be irresponsible at a time when reasonable certainty is needed to promote economic recovery. Congress' failure to act now would be irresponsible when we are arguing that Congress should not be delegating so much authority to administrative agencies and courts.

The time for decision is now. The National Governor's Conference is on record as supporting the House committee provision and opposing any further delay in congressional action on this issue. So are the State and Territorial Air Pollution Program Administrators, the National League of Cities, the National Association of Counties, and the National Council of State Legislatures.

For these reasons, the Chappell amendment should be rejected. I urge the House instead to support the committee bill.

I include the following:

APPENDIX I—WHY THE CHAPPELL AMENDMENT WILL CONSTITUTE A RATIFICATION OF PRESENT EPA REGULATIONS

There are several reasons why the Chappell Amendment will necessarily constitute an implicit congressional ratification of EPA's current regulations on prevention of significant deterioration.

First, these regulations are in effect now. Congress knows about them and has known about them for almost two years. Rep. Chappell knows about them; he refers to them in his statement of June 24, 1976. Furthermore, Administrator Train of EPA has announced that, if the Chappell Amendment passes, he will have no choice under the court's order but to implement and enforce EPA's present regulations. Clearly under the Chappell Amendment these EPA regulations would remain in effect.

Second, the basic statutory authority under which the EPA significant deterioration regulations were promulgated would remain unchanged by the Chappell Amendment. The Administration, wishing to clarify the policy or to strike the "significant deterioration" policy from the existing Act, submitted proposed language to strike the policy. The Subcommittee and Committee considered this amendment, understood its import, and rejected it. Rep. Chappell's amendment would not in any way affect the existing Act, from which the basic duty to prevent significant deterioration arises. In light of this history, the Chappell Amendment cannot be construed as a challenge to the basic duty to prevent significant deterioration, which is found in the present Clean Air Act. Rep. Chappell's Amendment only affects the Committee bill, not any provision of the existing Act.

Third, the language of the Chappell Amendment is identical in almost all respects to the language of Senator Moss' Amendment. Senator Moss has indicated his intention that EPA regulations would remain in effect, if the Moss Amendment were adopted. (Congressional Record, June 8, 1976, S. 8700.) Since the Chappell Amendment is almost a verbatim duplication of the Moss Amendment, the same intention must be imputed to the Chappell Amendment.

Finally, the recent Clean Air Act cases in the U.S. Supreme Court have stressed the weight which the courts will afford to the interpretation of the Act given by EPA. In this case, for many of the reasons stated above, the Office of General Counsel of EPA has concluded that enactment of the Chappell Amendment would be interpreted as ratification of the Agency's regulations. (See Appendix II) Administrator Train in his letter of June 11, 1976, to Senator Moss interprets the effect of the amendment the same way:

"Your amendment would eliminate any statutory approach, [in the 1976 amendments] leaving in effect the EPA regulations promulgated about one year ago pursuant to order of the Federal courts, which absent statutory action by the Congress I must vigorously implement."

U.S. Environmental
Protection Agency,
Washington, D.C., July 20, 1976.

Appendix II

Re Congressman Chappell's Proposed Amendment of June 24, 1976 to H.R. 10498.

Hon. Paul G. Rogers,
House of Representatives,
Washington, D.C.

Dear Mr. Rogers: Your staff recently requested our legal analysis on the above-referenced amendment's effect, if enacted into law, on EPA's existing regulations for the prevention of significant air quality deterioration. Our response to your inquiry is enclosed herewith in the form of a legal memorandum.

As you will see, we have concluded that enactment of the Chappell amendment would constitute affirmative Congressional ratification of EPA's regulations.

Please do not hesitate to contact me if I can be of further assistance.

Sincerely yours,
G. William Frick,
General Counsel (A–130).

U.S. Environmental
Protection Agency,
Washington, D.C., July 20, 1976.

MEMORANDUM

Subject: Effect of Chappell Amendment on EPA's Existing Regulations for Preventing Significant Deterioration.

From: Richard G. Stoll, Jr., Attorney Air Quality and Noise Control Division (A–133). Paul Stern, Legal Intern, Air Quality and Noise Control Division (A–133).

To: G. William Frick, General Counsel (A–130).

The staff of the House Interstate and Foreign Commerce Committee (hereinafter referred to as the "House Committee") has asked for our legal analysis on the above-referenced subject.

BACKGROUND

EPA's regulations for the prevention of significant air quality deterioration (PSD) were promulgated in final form in 1974. 40 CFR 52.21(b), 39 *Fed. Reg.* D2510. EPA has been actively administering the regulations for over a year.

The regulations were required by a Court order. *Sierra Club* v. *Ruckelshaus*, 344 F. Supp. 253 (D.D.C. 1972), affirmed 4 ERC 1815 (D.C. Cir. 1973), affirmed by an equally divided Court *sub nom. Sierra Club* v. *Fri*, 412 U.S. 541 (1973). Other Courts have recognized the necessity for the PSD regulations. *NRDC* v. *EPA*, 489 F.2d 390, 408 (5th Cir. 1974); *City of Highland Park* v. *Train*, 519 F.2d 681, 685–86 (7th Cir. 1975).

The PSD issue has received close attention in Congress for some time. The House Committee and the Senate Public Works Committee held extensive oversight hearings on the subject in 1973 and 1974. Both in 1974 and 1975, the Administration proposed amendments to the Clean Air Act which would have required revocation of the PSD regulations by deleting the PSD concept from the Act entirely. These amendments have been rejected by the appropriate committees and subcommittees in both houses.

Both the House Committee and the Senate Public Works Committee focused on the PSD issue, the Administration's proposed amendments, and EPA's regulations during hearings in 1974 and 1975, and both Committees have dealt extensively with the issue in recently reported bills.

The House Committee reported H.R. 10498 on May 15, 1976.[1] Section 108 would amend the Clean Air Act to require deletion of EPA's current PSD regulations (House Report, page 5) and the substitution of related but substantially different requirements. The Senate Public Works Committee reported S. 3219 on March 29, 1976.[2] Section 6, like Section 108 of H.R. 10498, would retain the PSD concept but impose substantially different requirements than are contained in EPA's regulations.

In the face of these Committee Bills which reflect disapproval of EPA's current PSD regulations, floor amendments have been introduced in both houses which would delete the Committees' PSD sections and create a commission to study PSD issues. Senator Moss introduced his amendment on April 13, 1976 (Cong. Rec. daily ed. S5612–14); Congressman Chappell introduced his on June 24, 1976 (Cong. Rec. daily ed. H6695). The amendments are identical. Neither purports to require revocation of EPA's current PSD regulations; [3] both require a study of "any proposed or existing [PSD] requirement . . . under this Act" in order to determine the economic, energy, and environmental impact of such requirements.

ISSUE AND ANALYSIS

The particular issue raised by the House Committee staff is the effect the Chappell/Moss amendments would have, if enacted into law, on EPA's current PSD regulations. Our conclusion is that the amendments would ratify EPA's regulations.

First, it is obvious that the Chappell/Moss amendments in no way revoke or disapprove of EPA's regulations. As noted above, Senator Moss made this point in his remarks. Moreover, the key statutory language of the amendments (quoted above) would be meaningless if the intent were to revoke or disapprove the regulations, since there would then be no "existing [PSD] requirement under this Act" to study.

Second, our analysis of the case law shows that enactment of the Chappell/Moss amendments would constitute affirmative Congressional ratification of EPA's regulations. Our conclusion is based on the following relevant factors which have been described in more detail above:

(a) As amply reflected in both Committee Reports, Congress has full knowledge of the scope and effect of EPA's regulations and is fully aware of Court decisions which required such regulations;

(b) Congress, through its relevant substantive committees, has rejected proposals to delete the PSD concept from the Act entirely; and

(c) By passing the Chappell/Moss amendments, Congress would defeat proposals (section 108 of H.R. 10498 and Section 6 of S. 3219) designed to reject EPA's regulations in favor of substantially different requirements.

At issue in a very recent Supreme Court case was the power of the President to lay duties on imported oil under the Trade Expansion Act (19 U.S.C. § 1862(b) Supp. IV)). *FEA.* v. *Algonquin SNG, Inc.*, 44 USLW 4883 (June 15, 1976). In that case, as is the case with PSD, the Act in question did not specifically and unambiguously confer authority on the President to impose such duties. The Court nevertheless upheld such authority, relying heavily on the fact that the appropriate Congressional committees were well aware of the Executive branch's legal interpretation and had taken no action to overrule it legislatively. 44 USLW at 4489–90. The Court also specifically rejected the notion that Congress' defeat of an amendment conferring related but clearly different powers implied Congressional rejection of the powers claimed by the President. 44 USLW at 4889. Thus, following the *Algonquin* reasoning, Congress' defeat of the substantially different PSD provisions contained in the Committee Bills would in no way constitute a rejection of EPA's regulations. Instead, as made clear from the cases discusssed below, since Congress was aware of EPA's regulations and took no action to overrule them when it had the clear opportunity to do so, Congressional approval of the regulations should be inferred.

In another recent case, the Supreme Court relied on the existence of a well-known judicial interpretation, coupled with the failure of Congress to adopt amendments overturning that interpretation, as arguing "significantly" in favor of Congressional acceptance of the interpretation. *Blue Chip Stamps* v. *Manor Drug Stores*, 95 S. Ct. 1917, 1924 (1975). In *Blue Chip*, the Court affirmed the judicially-created doctrine that the implied cause of action under SEC Rule 10b–5 was limited to purchasers and sellers of securities. In the PSD context, then, where the Supreme Court's affirmance of the *Sierra Club* case and other related cases are obviously well-known, Congress' failure to overturn those cases argues "significantly" in favor of legislative ratification.

Similarly, in *Canada Packers Ltd.* v. *Atchison T. & S.F. Ry. Co.*, 385 U.S. 182 (1966), the Supreme Court upheld an interpretation of the Interstate Commerce Act which had been adopted by the ICC. Even though the Court noted that there may be "considerable merit" in a contrary position, 389 U.S. at 183, the Court relied largely on the point that Congress had not seen fit to change the interpretation although it could easily have done so, 385 U.S. at 184.

Another relevant case is *Zemel* v. *Rusk*, 381 U.S. 1 (1965), where the Supreme Court found Congressional intent to impose area restrictions on passports. The Court based its decision largely on Congress's failure to revise the Passport Act (22 U.S.C. § 216 (1958)) in the face of Congressional awareness of an executive order calling for such area restrictions and of the executive practice of imposing such restrictions. 381 U.S. at 9–12. As noted above, Congress is well aware of EPA's PSD regulations and the fact that EPA has been implementing them for over a year.

A particularly pertinent case is *Allstate Construction Co.* v. *Durkin*, 345 U.S. 13 (1953), where the Supreme Court was asked to decide the scope of coverage of overtime provisions in the Fair Labor Standards Act (29 U.S.C. § 207(a)). The Court provided background remarkably similar to the PSD history:

"It is contended that we should not construe the Act as covering the 'off-the-road' employees because it was given a contrary interpretation by its administrators from 1938 until 1945. During these first years after the Act's passage the administrator did take such a position. But more experience with the Act together with judicial construction of its scope convinced its administrators that the first interpretation was unjustifiably narrow. He therefore publicly announced that off-the-road employees like these were protected by the Act. The new interpretation was reported to congressional committees on a number of occasions. Interested employers severely criticized the administrator's changes. Specific amendments were urged to neutralize his interpretation." 345 U.S. at 16.

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[1] Clean Air Act Amendments of 1976, 94th Cong., 2d Sess., H. Rept. No. 94–1175.

[2] Clean Air Amendments of 1976, 94th Cong., 2d Sess., S. Rept. No. 94–717.

[3] In remarks made on the Senate floor April 27, 1976, Senator Moss made clear that "the EPA regulations are not affected" by his amendment. Cong. Rec. daily ed. S6017.

Noting that Congress failed to adopt amendments overruling the controversial administrative and judicial interpretation (as Congress has also failed in the PSD context), the Supreme Court held that it would not repudiate an administrative interpretation which Congress had "refused to repudiate." 345 U.S. at 17.

Finally, a line of D.C. Circuit cases shows that Court has consistently followed the same principles reflected above. See *Wildernes Society* v. *Morton*, 479 F.2d 842, 866–67 (D.C. Cir. 1973) (en banc); *Thompson* v. *Clifford*, 408 F.2d 154 (D.C. Cir. 1968); and *Mitchell* v. *Covington Mills*, 229 F.2d 506 (D.C. Cir. 1955).

It should be noted that the first two cases failed to find that legislative inaction amounted to ratification of an administrative interpretation. The reasoning of these decisions, however, is consistent with the Supreme Court cases and squarely supports our conclusions with regard to PSD. As stated by Judge Wright for the *en bloc* Court in the *Wilderness* case, the rule is as follows:

"[I]n actual cases courts have to analyze whether there is any reason to believe that the particular administrative interpretation in question *came to the attention of Congress* so that it might be reasonably said that *Congress, by failing to take any action with respect thereto, approved the interpretation.*" 479 F.2d at 866 (emphasis added).

The Court failed to find ratification in *Wilderness* because there was no evidence that the administrative action in question had "ever been brought to the attention of Congress." 479 F.2d at 867. Similarly, in the *Thompson* case, the Court refused to find ratification because there was no evidence that the administrative practice in question had been "brought home" to the Congress. 408 F.2d at 164.

As made abundantly clear from the discussion above and the Committee Reports themselves, EPA's PSD regulations have been "brought home" to Congress. It is entirely consistent with the decisions of the Supreme Court and the D.C. Circuit cases, then, to concluded that enactment of the Moss/Chappell amendments will result in affirmative legislative ratification of EPA's regulations.

UNESCO'S ASSAULT ON NEWS

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, July 30, 1976

Mr. ASHBROOK. Mr. Speaker, the old saying goes "Better late than never." This would seem to apply of late to the liberal newspaper. The opposite of its position is more likely than not to be correct and what the American people support. However, after union pressmen wrecked that paper's presses before going out on strike, the Post began to realize some of the errors of its ways in liberal domestic legislation.

With the radicalism of the Arab terrorists and the African tyrants, the Post has begun to see some of the organized stupidity of the United Nations. Some of us have never been fooled by that cluster of begger nations and Communist parading as a deliberative body but the Post has been. Arafat brandishing a firearm when speaking, throwing out the free Chinese in a callous nature, resolutions on Zionism and some of the logical consequences of the claptrap assembly have started the Post to reconsider its position.

Today's Post contained an editorial which recognizes some of the arrogance of UNESCO which some of us have been talking about for years. Better late than never. The editorial follows:

UNESCO'S ASSAULT ON NEWS

UNESCO is at it again, trampling on the high principles it was created to serve. Its constitution commits all members to "recommend such international agreements as may be necessary to promote the free flow of ideas by word and image." But UNESCO is currently working up international agreements to block that vital flow. Its regional conferences have begun to act formally to convert news—which the Universal Declaration of Human Rights defines as something which "everyone" has a right to seek, receive and impart "through any media and regardless of frontier"—into a national commodity which it is any government's right to exclusively control.

Just last week, for instance, UNESCO's Latin-Caribbean sub-group proposed that regional governments "define a concerted policy" on what information should be distributed by satellite, and that the governments create a Latin news pool to "counterbalance" foreign-agency news. Another resolution called on governments to define the "social responsibilities" of the public and private mass communications sectors. Reinforcement is being given to these and other UNESCO moves by the conference of "nonaligned" states due to meet next month in Sri Lanka. Its members are expected to call for a pool of national news agencies so as to be in a position to counter, if not to exclude, the Western agencies now providing much of their news.

The Russians and the other Communist states, of course, have long treated news as a state commodity—that is to say, as propaganda. What is new and unfortunate is the degree to which large parts of the Third World are moving toward the Russian position. They are asserting a claim to control not only news about themselves in their own media but—by restricting the correspondents and copy of Western media—news about themselves in the media of other nations. And UNESCO, instead of defending the principles to which its charter commits it, is instead allowing itself to be used to lend the coloration, status and mutual encouragement of international legitimacy to news restrictions heretofore asserted chiefly on a national basis.

Now, this newspaper, which offers its news product for foreign sale, has an undeniable self-interest in nourishing an international climate in which the commercial opportunities for Western media are maintained. But this, of course, is no different from the vested interest that the American media—being free, competitive institutions—have in maintaining the same commercial opportunities at home. It is a simple matter of principle coinciding with commercial self-interest, and the principle involved here, of course, was set forth at a rather early stage in our history, in the First Amendment to the Constitution. And if it is a sound principle for us in this country, it follows, or so it seems to us, that it is also a good rule to apply to the communication of ideas abroad; government sponsorship of the gathering or distributing of news, no matter whether the news originates inside a country or from outside, promotes propaganda and deforms the whole idea of a free press. And so, like just about everybody else in our business, we reject the notion that a state should exercise exclusive control—or any control, for that matter—over what news should be published. It is saddening, though perhaps, given its record, not entirely surprising, that this principle should be lost on UNESCO and that such an organization, with so much potential for the promotion of free communication, should allow itself to be converted from an instrument for the transmission of ideas into an instrument for the national regulation of ideas.

We are not insensitive to the feeling in some Third World places that they are swamped by the Western media—news agencies, satellites or what have you. In our judgment, however, their proper response is to strengthen their own media, as many (with Western aid) have done. To convert all news to propaganda in the name of combatting "cultural imperialism" is simply to follow the Russian example of tailoring mass communications to the convenience of the ruling elite. Obviously the model appeals to a growing number of Third World states. And this, we submit, is a dangerous and dispiriting trend.

THE ARAMCO AMENDMENT REVEALS WEAKNESSES IN OUR TAX LEGISLATIVE PROCESS

HON. CHARLES A. VANIK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, July 30, 1976

Mr. VANIK. Mr. Speaker, in recent weeks another chapter has been written on the special tax treatment for ARAMCO, the multinational consortium which produces oil in Saudi Arabia. On December 2 of last year, I submitted to the RECORD a statement which outlined the strange circumstances surrounding a small, complex tax provision which was designed solely to benefit the corporate owners of ARAMCO—Texaco Mobil, Socal, and Exxon. This provision was enacted into law in the Tax Reduction Act of 1975, Public Law 94–12. Before proceeding to the next stage in the story of this amendment, I will briefly review the facts I have been able to uncover about the origin and substance of this special piece of tax favoritism.

THE ORGANIZATION OF ARAMCO

ARAMCO is a Delaware corporation which is owned by four multinational corporations. The principal task of ARAMCO is to produce oil and to turn that oil over to its four corporate stockholders at the Saudi Arabian port of Ras Tunura. Under terms of the Tax Reduction Act, ARAMCO must transfer its oil to the four owner companies at an arm's length market price. Although virtually all the oil ARAMCO produces goes to its owners, the Saudi Arabians have arranged for a gradual takeover of production. This arrangement does not mean that the Saudis will become a shareholder of ARAMCO; rather, the Saudi Government currently has a 60-percent participation in the "producing assets" of ARAMCO. Negotiation is proceeding for a 100-percent takeover of these facilities.

According to the staff of the Joint

Committee on Internal Revenue Taxation, ARAMCO's income from oil extraction can be calculated as follows:

Posted price per barrel	$12.38
Operating cost	(.12)
Royalty (20 percent of posted price)	(2.47)
Net amount	9.79
Foreign tax (85 percent of net amount)	(8.32)
Additional payments*	(.36)
Total costs	(11.27)
Market price (93 percent of posted price)	11.51
Net income per barrel	.24

* Additional payment compensates the Saudi Arabian government for its ownership of 60 percent of production.

With annual average production of 6.8 million barrels per day, the staff of the JCIRT calculates ARAMCO's profits as follows:

[In billions]

Income before taxes	$23.1
Foreign taxes	22.5
Net income after tax	.6

In a financial sense, ARAMCO is little more than a clearinghouse. ARAMCO is a privately held corporation and the shareholders have developed an efficient, high-speed system for distributing virtually all of ARAMCO's profits to its shareholders in the form of dividends.

TAX TREATMENT OF ARAMCO AND ITS SHAREHOLDERS—THE 85 PERCENT DIVIDENDS RECEIVED DEDUCTION

In order to prevent the multiple taxation of corporate earnings as they passed from one corporation to another in the form of dividends, it has been a long-standing principle of our tax law to grant a special deduction for dividend income received by a corporate taxpayer. Up until 1935, no tax was imposed on income received by one corporation from another corporation. In 1935, under a New Deal effort to crack down on corporate tax avoidance and simplify the corporate tax law, the law was revised to allow only 85 percent of the dividends received to be exempt from tax. It is this 85 percent dividends received deduction which is most valuable to ARAMCO.

Under ARAMCO's financial structure, which actually involves a two-tier corporate organization, the income that Texaco, SoCal, Mobil, and Exxon receive from ARAMCO is subject to very little, if any corporate tax. By permitting these companies to deduct 85 percent of dividends received from ARAMCO, the maximum effective tax rate on this income can only be 7.2 percent. That is, the maximum U.S. tax that can be imposed is equal to the corporate rate of 48 percent on the 15 percent of dividends received from ARAMCO, or 7.2 percent of the total dividend income.

THE TAX REDUCTION ACT AND THE ARAMCO AMENDMENT

Despite this benefit, ARAMCO has not stopped here. Last year, with the passage of the Tax Reduction Act, Congress enacted curbs on the abuse of the foreign tax credit by the oil companies. Briefly, these abuses arose due to the oil companies' practice of claiming a large percentage of their payments for foreign oil as foreign tax credits which are deductible dollar for dollar against U.S. taxes. Because of these abuses, the oil companies were able to avoid virtually any U.S. tax on their foreign earnings—even income from nonoil-related activities.

The reforms of the Tax Reduction Act were designed to achieve two objectives: First, to limit the amount of foreign tax credits resulting from the rise in OPEC prices; and, second, to impose some U.S. tax on foreign income generated from oil production. To achieve these objectives, the law provided that the oil companies segregate their foreign income by activity. Only income generated from oil related activities could be offset with tax credits arising from oil production. In other words, the tax credits which develop from the peculiarities of the posted price system could only shelter foreign income related to oil production. These credits had been, for example, used to shelter income from an oil company's shipping operations.

In a little noticed provision of the Tax Reduction Act, language was inserted to include in the definition of "oil-related income" dividend income received by one domestic corporation from another domestic corporation. This provision benefits only the four companies that own ARAMCO, and its effect is to shelter from U.S. tax the remaining 15 percent of dividend income that Exxon, Mobil, Texaco, and SoCal receive from ARAMCO. The staff of the JCIRT estimates that the benefit to these taxpayers from this small provision is $35 million per year.

The ARAMCO amendment arose during the consideration by the conference committee of the Tax Reduction Act. As a conferee, I have no recollection of ever discussing this amendment. My formal inquiries to other members of the conference committee, the staff of the JCIRT, and the staff of the House legislative counsel produced no light on the origin of this provision. Indeed, it appears that the ARAMCO amendment was a deft piece of footwork by the major oil companies.

THE TASK FORCE ON TAXATION OF FOREIGN SOURCE INCOME

As part of a further study of general tax reform issues, the Ways and Means Committee last spring delegated the study of various issues to a number of task forces composed of Ways and Means Committee members. The task force on the taxation of foreign source income, of which I am a member, recently took up the ARAMCO amendment to the Tax Reduction Act. The results of the task force consideration of this issue are, frankly, disappointing.

After a discussion of the origin and impact of the ARAMCO amendment, the task force rejected a motion that it recommend to the full Ways and Means Committee that the ARAMCO amendment be dropped. This motion failed by a recorded vote of 4–6.

With the rejection of this motion the task force took a further step to expand the loophole. Following a recommendation by the staff of the JCIRT, the task force accepted a motion to include interest income in the definition of "oil-related income" eligible for foreign tax credits. Interest income arises when one domestic oil corporation borrows from another domestic oil corporation to conduct oil production operations abroad. While the preferential treatment of dividend income affects only ARAMCO and loses $35 million in revenue, the preferential treatment of interest income will reduce the tax burden of other multinational oil companies by $90 million each year. The Senate Finance Committee, in its consideration of the Tax Reform Act, has already voted to expand the ARAMCO amendment to include interest income.

Mr. Speaker, we are witnessing the classic origin of a tax loophole. In the first step, a special tax provision—clothed in generalized terms, but benefiting only a handful of taxpayers—is enacted into the law. At the next stage, the loophole is expanded—in the interest of some false sense of "equity"—to benefit a slightly larger, but still specialized constituency. All the while, the Federal tax base is whittled away and the burden of those citizens still paying taxes is increased proportionately.

TAX AVOIDANCE AND THE SALE OF ARAMCO

It has been reported in the trade press that Saudi Arabia will likely pay the Arabian American Oil Co.—ARAMCO—$250 million in cash as compensation for the outstanding 40 percent of ARAMCO assets. This payment is in addition to the payment of $510 million at the time Saudi Arabia acquired 60 percent of ARAMCO.

I am concerned about the tax implications of this transaction. Since ARAMCO has substantially depreciated its investment in Saudi Arabia and takes advantage of the intangible drilling expense provisions of the tax code, it is likely that the remaining cost basis of ARAMCO's assets is small. As a result, it seems probable that virtually all of the payments ARAMCO receives from the Saudis will be treated as capital gain income for tax purposes.

However, it is unlikely that ARAMCO will pay any U.S. tax on this capital gain. ARAMCO can shelter this income from U.S. tax with the use of the foreign tax credits it generates from all production in Saudi Arabia.

It is probable that ARAMCO will then distribute 100 percent of this capital gain income to its owner companies—Exxon, SoCal, Mobil, and Texaco. This distribution will occur in the form of a dividend payment. Under previous tax laws—section 243 of the code—85 percent of these dividends would be tax free. Under the Tax Reduction Act of 1975, ARAMCO can shelter the remaining 15 percent from U.S. tax. That is, under this act, the owners of ARAMCO can treat these dividends received as 100 percent tax free foreign oil-related income—section 907 (c)(B). This income to the members of the consortium can be sheltered from U.S. tax by using foreign tax credits that the owner companies have generated from their other foreign oil production activities.

In short, it appears that under present law, during this taxable year 1976, there will be no tax collected by the U.S. Treasury on the sale of the remaining 40 percent of ARAMCO assets to Saudi Arabia. There are likely to be two massive transfers of income—one from Saudi Arabia to ARAMCO and a second from ARAMCO to its owner companies—which will be made without any U.S. taxation, despite the fact that both ARAMCO and its four stockholders are U.S. corporations. I have estimated that each of these two income transfers will be in the neighborhood of $250 million.

Mr. Speaker, the time has come to reveal and end the special tax treatment that the oil companies have enjoyed ever since the percentage depletion allowance was enacted in 1926. The American public has grown tired of special deals. What is worse, they have grown cynical of political leaders who continually engineer these deals. I am hopeful that in the 95th Congress with a new Democratic administration which is committed to change we will see a genuine effort to reform our Nation's tax laws.

SENATE—*Monday, August 2, 1976*

The Senate met at 9 a.m. and was called to order by Hon. JAMES B. ALLEN, a Senator from the State of Alabama.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Almighty God, in whom we live and move and have our being, at another week's beginning with all the draining duties of these demanding days, we lift our prayer to Thee. Into Thy hands we commit our lives in all their weakness and all their strength. Overrule our mistakes and so reinforce our minds and hearts by Thy grace that we may give a good account of our stewardship. When the pace quickens and the pressures intensify may we find a quiet moment now and then when we may be alone with Thee, our spirit communing with Thy spirit. Strengthen our faith, mellow our judgments, deepen our spiritual insights, and grant us a part in the fulfillment of Thy mighty purpose in the world. And to Thee shall be all the praise and thanksgiving. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The assistant legislative clerk read the following letter:

> U.S. SENATE,
> PRESIDENT PRO TEMPORE,
> *Washington, D.C., August 2, 1976.*
>
> *To the Senate:*
>
> Being temporarily absent from the Senate on official duties, I appoint Hon. JAMES B. ALLEN, a Senator from the State of Alabama, to perform the duties of the Chair during my absence.
>
> JAMES O. EASTLAND,
> *President pro tempore.*

Mr. ALLEN thereupon took the chair as Acting President pro tempore.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Friday, July 30, 1976, be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

WAIVER OF CALL OF THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the call of the legislative calendar, under rule VIII, be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

EXECUTIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider nominations on the executive calendar under the heading U.S. Railway Association.

There being no objection, the Senate proceeded to the consideration of executive business.

The ACTING PRESIDENT pro tempore. The nominations will be stated.

U.S. RAILWAY ASSOCIATION

The second assistant legislative clerk read the nomination of Richard B. Ogilvie, of Illinois, to be a member of the board of directors of the U.S. Railway Association for the remainder of the term expiring July 8, 1976, and a member of the board of directors of the U.S. Railway Association for the term of 6 years expiring July 8, 1982.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the President be notified of the confirmation of the nomination.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate return to the consideration of legislative business.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of routine morning business not to exceed 20 minutes, with statements therein limited to 5 minutes.

Is there morning business to be transacted?

CALIFORNIA MAY FORCE ALASKAN OIL SHIPMENTS TO JAPAN

Mr. STEVENS. Mr. President, I shall use the morning hour time available to me this morning, as I intend to do so several days hereafter, to warn the Nation that it may well be necessary to ship Alaskan oil to Japan because of the position of the State of California with regard to the offloading facilities for Alaskan oil.

Some people seem to think that the predicted surplus of oil on the west coast indicates that Congress made a mistake when it authorized the trans-Alaska oil pipeline.

We do not believe that is the case. The history of the demand for petroleum and the supply of petroleum on the west coast, particularly in California, since the time we enacted the Trans-Alaska Pipeline Act, is something that no one could have predicted. There has been an unusual and unprecedented reduction in demand in California. This was brought about by conservation efforts, increased prices, and the economic downturn. In addition, Congress has authorized production from the Elk Hills Naval Petroleum Reserve; there have been ever-increasing imports from Indonesia and Alaskan production from existing supply areas has been increased.

In any event, the problem now occurs because of actions of the State of California—actions which indicate that they are playing a waiting game with regard to the offloading facilities for oil in order to have some leverage over the gas supply picture for the whole Nation.

I have heard criticism in this body to the effect that we do not have a national energy policy. If we do not have a national energy policy, and I think we really do if we could put it together, the reason is that the State of California is playing a game with us, with very high stakes, in order to try to increase the supply of gas that it would have over the long run.

If Alaska oil goes to Japan it will not be the fault of those of us who fought so hard for the Alaska oil pipeline, but it will be the fault of those in California who refuse to bear a fair share of the energy transportation burden for this country.

It should not be necessary for us to sell our oil to Japan. We contemplate it would be possible to work out an exchange whereby Alaskan oil would be shipped to Japan and the oil that would be bought by Japan from either the Middle Eastern area or Indonesia would be shipped to our east coast. Actually, under existing law this would enable our east coast market to get Alaskan oil at a price that is much cheaper than foreign oil. It could save the world transportation distances as far as tanker routes are concerned because both the east coast and Japan are farther from the points or origin of the oil they are actually purchasing than would be the case if the oil were exchanged. It is possible to effect this exchange, and I am informed that discussions have recently been held with some of the affected parties to try and work out such an exchange should it be necessary.

Alaska does not think that it is necessary. We do not think that the excess crude in California that will come about after the production of Alaskan crude and its shipment through the Alaska oil pipeline is a disaster. We think that excess crude is a national asset, and there are several proposals to deal with that national asset.

One is the so-called northern tier line which would go from Puget Sound to Clearbrook, Minn. This would require 1,500 miles of new construction to put in pipe. It would have a capacity of about 800,000 barrels a day.

The second is the so-called Kitimat line from Kitimat, British Columbia, near Prince Rupert, to Edmonton, Alberta, and have a capacity of 300,000 barrels a day.

The third is the Sohio project which would convert an existing capacity pipeline and build a short section of new pipe of 250 miles long. It would go from Long Beach, Calif., to Midland, Tex., with an initial capacity of 500,000 barrels a day and a second phase of 1 million barrels a day.

There are other options to deal with that oil which I will discuss later. But as a practical matter we believe that the Kitimat and the Sohio line are good options. The northern tier line is an option that could be cleared if some of the environmental problems were met. But my point in mentioning these projects today is to indicate that the surplus that would exist in California if our oil could be offloaded is the surplus that can be dealt with, a surplus that could not be predicted at the time we authorized the trans-Alaska oil pipeline.

It will be extremely unfortunate if California continues to play this waiting game.

Mr. President, I shall place in the RECORD an article from the April 4, 1976, Los Angeles Times, in which Tom Quinn, the chairman of the California Air Resources, is quoted. He stated this:

> We suggested to them that if they know where else to get gas and they can help us, we might go along with them on the pipeline.

I am informed that the city of Long Beach is prepared to handle the offloading facilities. I am informed that there is no problem that cannot be met, including the problem of the pollution aspect of the California offloading facilities for Alaskan oil.

However, the real question is not whether the questions and the problems that have been raised and outlined can be answered and solved. The question really is whether the State of California is going to get a comprehensive energy policy that will deal not only with the question of our oil but with our Alaskan gas as well.

As is indicated in the article from the Los Angeles Times, the California State administration is playing a "waiting game in a high stakes test of wills over the future supply and price of natural gas in southern California." It will be extremely unfortunate for the Nation if Alaska oil must go to Japan because the State of California wants to have a game of showdown so far as the gas is concerned.

I urge my colleagues to take a look at this article. I intend to bring forward several of the articles to indicate that it is not a question of the feasibility of offloading facilities for oil; it is not really a question of the pollution issue that is being raised. The real question is, Will the State of California play this game with us in order to get more gas from the Nation's future supplies?

Mr. President, I ask unanimous consent to have this article printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Los Angeles Times, Apr. 4, 1976]

State Playing It Cool Over Gas—Battle Rages Around New Supply Source

(By Dan Fisher)

The Brown Administration's top energy and environmental advisers are playing a waiting game in a high stakes test of wills over the future supply and price of natural gas in Southern California.

The other protagonists are leading oil firms, Southern California Gas Co., and the federal government. All agree there's a growing natural gas shortage here and that unless a solution is found thousands of Southlanders could lose their jobs by the late 1970s or early 1980s.

What they don't agree on is the best solution to the problem.

The state's strategy is outlined at least in part in an as yet unrelated, half-inch thick report to Gov. Brown by three of those advisers: Richard Maullin, chairman of the state Energy Commission; Tom Quinn, chairman of the California Air Resources Board, and Public Utility Commissioner Leonard Ross.

Based on interviews with the authors of that report and other state officials, the picture emerges of a strategy composed of about equal parts of persuasion and coercion. They are withholding their full endorsement of key projects pending significant new concessions to the state.

If it works, it means Southern California will get a large share of the natural gas that's already being produced and that the federal government will underwrite a part of the high cost of new supplies to the Southland.

If the strategy fails, however, the state could lose much of the gas it might otherwise have secured.

Southern California Gas Co. contends that without state support of those projects, efforts to head off economic chaos in the Southland "almost surely will fail." Moreover, they add, the projects are so enormous and require so long to finalize that there's no time left for procrastination.

The federal government is also pushing for decisions. It is worried about a broader national energy shortage whose solution apparently demands a central role for California.

Critics in both industry and the federal government accuse state officials of politically motivated meddling. The officials have been so busy hedging their bets on the key issues that it has only made it more difficult to understand what it is they really want, the critics say.

The state officials argue that industry and a sympathetic federal bureaucracy are trying to stampede them into decisions that might be good for the oil companies and utilities but which wouldn't be so good for consumers. There's still time left to weigh alternatives, and conservation will forestall the day of reckoning even more, they say.

Meanwhile, the state people contended, to give the oil companies and utilities all they want amounts to signing a blank check which ratepayers would ultimately have to honor. Capitulation to the Ford Administration, they add, means paying too high a price in destruction of California's environment in order to satisfy the energy appetite of the rest of the country.

There are numerous pieces to the Southland gas supply puzzle ranging from agreement on an Alaskan gas delivery system to a technique to turn oil into a gas substitute.

But the controversy over the state's strategy and over its chances for success may be best seen in the context of four specific situations: a gas allocation case now before the Federal Power Commission, a dispute over facilities to handle Alaskan oil through the Port of Long Beach, a proposed coal gasification plant in New Mexico, and plans to bring huge quantities of liquefied natural gas into the state.

The allocation case involves gas supplied by El Paso Natural Gas Pipeline Co. to Southern California Gas Co. and other utilities in the Southwest. The amount of gas the Texas firm has available for those out-of-state customers has dwindled below the amount it long ago committed to them. As a result, El Paso has asked the FPC to determine how the remaining gas is to be divided.

ARB intervened in that case late last year to argue that the Southland's uniquely severe air pollution problems should qualify it for an otherwise disproportionate share of the clean-burning gas. The less natural gas available here, they argue, the more fuel oil industry will have to burn. That means additional air pollution problems, particularly during the summer months when smog is at its worst.

Skeptics point out that for Southern California to get more of the existing supply of gas, somebody else will have to get less. And that "somebody" won't give up without a fight. California is particularly vulnerable in such an allocation fight, these critics say, in part because of the actions of another state agency.

After first ordering that no new gas swimming pool heater connections be permitted after April 1, the PUC agreed under consumer and industry pressure to reconsider its decision. It indicates an unwillingness to take politically unpopular actions to conserve the gas the state is already getting, these critics charge. And under those circumstances, it's going to be tough to convince the FPC that it should give California more of the fuel.

PUC's Ross supports ARB's efforts to get more gas, but he concedes that "it's a little hard for California to justify to the FPC why our swimming pools should have higher priority than other people's furnaces."

Says Southern California Gas Co. Chairman Harvey A. Proctor of ARB's approach: "It seems to me not to be very realistic."

ARB Chairman Quinn accuses gas company officials of being "dinosaur-like in their thinking. It's not in their ability to dream a bit. I'm looking (to the FPC) for some major philosophical changes."

Quinn adds that it was FPC Chairman Richard L. Dunham who urged him to intervene in the El Paso case. And he claims that "all the readings (from FPC) are increasingly positive" toward the idea.

The FPC's staff has asked the ARB to draft a suggested new allocation system and the question now is whether "California can come in with a better plan that appears to be reasonable," says Eli Chernow, a special assistant to Gov. Brown on environmental affairs.

"Even if this means only a small quantity of (additional) gas to begin with," adds PUC's Ross, "it's an extremely important principle to establish."

One reason: the state also plans to petition the FPC to broaden its general provisions permitting extraordinary interstate purchases of gas at intrastate prices. Those provisions now permit such purchases only if a gas shortage threatens to shut down plants. The ARB wants Southland utilities to be permitted to buy intrastate gas in the case of an air pollution emergency.

THE PIPELINE DISPUTE

The Long Beach dispute involves a pipeline to carry Alaskan oil from a Standard Oil Co. of Ohio tanker terminal in the Port of Long Beach to markets in the East and Midwest. Sohio wants to take over one of the eight pipelines now used to bring natural gas from Texas into Southern California and convert it to an eastward-flowing petroleum pipeline.

Sohio argues that there's so much excess gas pipeline capacity that one line can be converted with no threat to the state's ability to get the gas it needs. Moreover, the plan will cut the cost of moving that Alaskan oil east by about $500 million, the company says.

Quinn argues that Sohio's calculations don't allow for the possibility that California will be able to buy some instrastate gas from Texas. It might be unable to deliver that extra gas here if one or more of those pipelines has been converted to carry oil eastward, he says. Moreover, comments Quinn, facilities to offload and store Alaskan oil in the Los Angeles basin will "almost definitely" cause more smog here.

Some of Quinn's public opposition to the Sohio plan is apparently an attempt to use the state's power to block or delay construction of Alaskan oil facilities here as a lever to win gas concessions from both the oil companies and the federal government, however.

"We've told them (Sohio) that our concern is losing gas," concedes Quinn. "We suggested to them that if they know where else to get gas and they can help us, we might go along with them on the pipeline."

"I think that state agencies as a practical matter could block the Sohio project," adds PUC's Ross. "I think that the project may be in both the national and state interest if these problems can be worked out. If they can't, I'd expect strong opposition to the project from a number of state agencies."

Sohio controls a large chunk of Prudhoe Bay Alaskan gas. That gas is now committed to utilities in the east, but an FPC decision last December has thrown that commitment into question. California, meanwhile, has no claim on North Slope gas since the controversial "advance payments" deal between Southern California Gas and Atlantic Richfield Co. was cancelled under state and federal pressure earlier this year.

There's one major danger in any state attempt to use the pipeline issue to gain new commitments of Alaskan gas from Sohio or the other oil companies involved. (Both Exxon and Arco are prospective partners in Sohio's Long Beach project, so they may be subject to the same kind of pressure.)

If the oil companies could convince Congress and the Administration that California was being obstructionist, admits a state official close to the situation, they could win approval to sell Alaskan oil overseas. That threat took on more importance last month when the Federal Energy Administration raised it in an FPC filing related to the Sohio pipeline case.

COAL GASIFICATION

The dispute over the New Mexico coal gasification facility is one of degree rather than substance. Southern California Gas Co., the state, and the Ford Administration all agree that federal loan guarantees are needed before the $1 billion facility can be financed. And all support a U.S. Energy Research & Development Administration bill now before Congress to establish such guarantees for synthetic fuel projects.

California officials want added protection, however. They say that while the proposed bill would shield investors, it would leave ratepayers vulnerable to cost overruns that could drive up the cost of the gas far beyond anything now envisioned.

The PUC's Ross and former FPC chairman Joseph Swinder (now a Washington-based consultant to the PUC) are leading to get the federal government to pick up the tab if costs exceed some unspecified maximum price to Southland consumers. Such federal action is justified, they argue, because Californians will, in effect, act as the economic guinea pigs for a technology that could benefit consumers nationally.

"It is our opinion that the Congress will not pass a bill containing cost overrun protection," counters Southern California Gas Co.'s Proctor. "Such a provision would be equivalent to Congress protecting California customers from the ravages of inflation—a very unlikely possibility."

William McCormack, director of ERDA's office of commercialization, adds that he feels the more limited guarantees are sufficient and adds: "If California winds up taking a harder line it may wind up not playing in the game." ERDA's proposal calls for a limited amount of funds to be available for such projects, he explains, and "from what I hear, there are plenty of (other states) interested in these guarantees."

THE LIQUEFIED GAS PLAN

At least two, and possibly three or more LNG projects figure heavily into future supplies of gas in California. ARB Chairman Quinn says there should be a "major effort to encourage LNG development," and he calls President Ford's recent proposal to limit LNG imports "preposterous."

The President said he is concerned about developing a dangerous dependence of foreign sources for another key energy source. But Quinn argues that "if we're cut off from a foreign source of gas we'll be no worse off than if we didn't have the gas to begin with."

While the state wants LNG, however, it doesn't want it on the same terms as the gas company. And those differences threaten any chance the state has for speedy federal approval of key portions of those projects, says Proctor.

The utility, for example, plans at least two and possibly three facilities to regasify LNG—one in the Los Angeles harbor area. But the state Coastal Zone Commission and the California Energy Commission are pushing for a single facility in a remote area.

A tougher problem is financing. The utility says it must pass along to its customers construction costs associated with the projects as they accue. The PUC is on record opposing such an arrangement.

Also, one of the LNG projects depends on the PUC extending its three-year-old Gas Exploration Development Activity beyond its scheduled expiration this fall, Proctor says. The program permits the utility to pass along some exploration costs directly to its ratepayers—a principle that recent actions indicate is now opposed by a majority of the commission.

Is the state's gas strategy naive in its effort to gain the best of all worlds—abundant supply at the lowest price—for California consumers?

PUC commissioner Vernon L. Sturgeon think so. "I long ago quit beliveing in the Easter Bunny, Santa Claus, the tooth fairy, or a free lunch," he scoffs.

Counters PUC Commissioner Robert Batinovich: "If there's no resistance at the regulatory level, where is the resistance?"

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Marks, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Acting President pro tempore laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 2:30 p.m., a message from the House of Representatives by Mr. Berry, one of its reading clerks, announced that the House disagrees to the amendments of the Senate to the bill (H.R. 5465) to allow Federal employment preference to certain employees of the Bureau of Indian Affairs, and to certain employees of the Indian Health Service, who are not entitled to the benefits of, or who have been adversely affected by the application of, certain Federal laws allowing employment preference to Indians, and for other purposes; requests a conference with the Senate on the disagreeing votes of the two Houses thereon; and that Mr. HENDERSON, Mr. UDALL, Mr. DOMINICK V. DANIELS, Mr. WHITE, Mr. FORD of Michigan, Mr. DERWINSKI, and Mr. TAYLOR of Missouri were appointed managers of the conference on the part of the House.

The message also announced that the House has passed without amendment the bill (S. 3589) to designate the Federal office building located in Manchester, New Hampshire, as "Norris Cotton Building."

The message further announced that the House has passed the bill (S. 522) to implement the Federal responsibility for the care and education of the Indian people by improving the services and facilities of Federal Indian health programs and encouraging maximum participation of Indians in such programs, and for other purposes, with an amendment in which it requests the concurrence of the Senate.

ENROLLED BILL SIGNED

At 5:25 p.m., a message from the House of Representatives by Mr. Berry announced that the Speaker has signed the enrolled bill (H.R. 5360) to increase benefits provided to American civilian internees in Southeast Asia.

The enrolled bill was subsequently signed by the President pro tempore.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The ACTING PRESIDENT pro tempore laid before the Senate the following letters, which were referred as indicated:

REPORT OF THE SECRETARY OF DEFENSE

A letter from the Secretary of Defense transmitting, pursuant to law, a report entitled "Annual Report on Reserve Forces for Fiscal Year 1975" (with an accompanying report); to the Committee on Armed Services.

ACT ADOPTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA

A letter from the Chairman of the Council of the District of Columbia transmitting, pursuant to law, a copy of an act to eliminate sex discriminatory aspects of the D.C. Code, adopted by the Council (with accompanying papers); to the Committee on the District of Columbia.

PUBLICATION OF THE AGENCY FOR INTERNATIONAL DEVELOPMENT

A letter from the Administrator of International Development transmitting a copy of a booklet entitled "For A Better World" (with accompanying publication); to the Committee on Foreign Relations.

REPORT OF THE INTERNATIONAL TRADE COMMISSION

A letter from the Chairman of the International Trade Commission transmitting, pursuant to law, a special report on the prospects for Soviet imports of selected manufactured goods from western industrial countries (with an accompanying report); to the Committee on Finance.

REPORT OF THE COMPTROLLER GENERAL

A letter from the Comptroller General transmitting, pursuant to law, a report entitled "Revenue Sharing Act Audit Requirements Should Be Changed" (with an accompanying report); to the Committee on Government Operations.

NEW SYSTEM OF RECORDS IN THE DEPARTMENT OF DEFENSE

A letter from the Deputy Assistant Secretary of Defense transmitting, pursuant to law, a report on a proposed new system of records entitled "Child Protection Case Management Files" (with an accompanying report); to the Committee on Government Operations.

REPORT OF A DEFERRAL BY THE COMPTROLLER GENERAL (S. DOC. NO. 94–)

A letter from the Comptroller General of the United States reporting, pursuant to law, a deferral of Department of Transportation budget authority which should have been but was not reported to the Congress by the President (with accompanying papers); jointly, pursuant to the order of January 30, 1975, to the Committees on Appropriations, the Budget, and Commerce, and ordered to be printed.

REPORT OF THE SECURITIES AND EXCHANGE COMMISSION

A letter from the Chairman of the Securities and Exchange Commission transmitting, pursuant to law, a report of the Commission covering the fiscal year ending June 30, 1975 (with an accompanying report); to the Committee on Banking, Housing and Urban Affairs.

INTERNATIONAL AGREEMENTS OTHER THAN TREATIES

A letter dated July 30, 1976, from the Assistant Legal Adviser for Treaty Affairs of the Department of State transmitting, pursuant to law, copies of international agreements other than treaties entered into with the past sixty days (with accompanying papers); to the Committee on Foreign Relations.

PROPOSED CONCESSION CONTRACT BY THE DEPARTMENT OF THE INTERIOR

A letter from the Acting Assistant Secretary of the Interior transmitting, pursuant to law, a copy of a proposed contract for certain facilities and services within the Amistad Recreation Area (with accompanying papers); to the Committee on Interior and Insular Affairs.

PROPOSALS FOR SPACE OF THE GENERAL SERVICES ADMINISTRATION

Two letters from the Administrator of General Services transmitting, pursuant to law, a prospectus for alterations at the Pentagon and a prospectus for a succeeding lease for certain space presently occupied in Arlington, Virginia (with accompanying papers); to the Committee on Public Works.

REPORT OF THE AMERICAN REVOLUTION BICENTENNIAL ADMINISTRATION

A letter from the Administrator of the American Revolution Bicentennial Administration transmitting, pursuant to law, the third report of the American Revolution Bicentennial Board (with an accompanying report); to the Committee on the Judiciary.

REPORT OF THE AGENCY FOR INTERNATIONAL DEVELOPMENT

A letter from the Assistant Administrator of the Agency for International Development transmitting, pursuant to law, a report for the fiscal year 1976 (with an accompanying report); to the Committee on Foreign Relations.

PETITIONS

The Acting President pro tempore laid before the Senate the following petitions, which were referred as indicated:

House Concurrent Resolution No. 56 adopted by the Legislature of the State of Louisiana:

"HOUSE CONCURRENT RESOLUTION NO. 56

"A Concurrent resolution to urge and request the Congress of the United States to refrain from enacting further legislation which imposes tighter restrictions and controls on the possession, registration or use, of guns and other firearms; and directing distribution thereof

"Whereas, the second amendment of the Constitution of the United States declares that the right of the people to keep and bear arms shall not be infringed; and

"Whereas, Section 11 of the Bill of Rights of the Constitution of the State of Louisiana of 1974 guarantees that the right of each citizen to keep and bear arms shall not be abridged; and

"Whereas, the Constitutions of the United States and the State of Louisiana were drafted to protect the individual freedoms of every United States citizen and citizen of Louisiana; and

"Whereas, the crime rate in this country has been steadily increasing; and

"Whereas, every citizen of this country should have the right to protect his house, property, family and loved ones from harm; and

"Whereas, further federal legislation imposing tighter gun controls would seriously impair an individual's constitutional right to keep and bear arms, and would encourage the total rampancy of thieves, muggers, rapists and other criminals.

"Therefore, be it resolved by the House of Representatives of the Legislature of Louisiana, the Senate thereof concurring, that the Congress of the United States be and it is hereby urged and requested to refrain from enacting any legislation which would impose tighter restrictions and controls on the possession, registration and use of guns and other firearms; and

"That an authenticated copy of this Resolution be distributed to the Honorable Carl Albert, Speaker of the House of Representatives of the United States, the Honorable Nelson Rockefeller, Vice President of the United States, the Honorable Gerald R. Ford, President of the United States, and to each member of the Louisiana Congressional delegation."

PATENTS, TRADEMARKS, AND COPYRIGHTS—REPORT OF THE COMMITTEE ON THE JUDICIARY—REPT. NO. 94–1058

Mr. McCLELLAN, from the Committee on the Judiciary, submitted a report entitled "Patents, Trademarks, and Copyrights" prepared by the Subcommittee on Patents, Trademarks, and Copyrights pursuant to Senate Resolution 72, 94th Congress, first session, which was ordered to be printed.

EXECUTIVE REPORTS OF COMMITTEES

As in executive session, the following executive reports of committees were submitted:

By Mr. RANDOLPH, from the Committee on Public Works:

John W. Eden, of Pennsylvania, to be an Assistant Secretary of Commerce.

(The above nomination was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

ORDER FOR STAR PRINT OF S. 3562

Mr. HUGH SCOTT. Mr. President, on June 14, 1976, I introduced S. 3562 to amend the Tariff Schedules of the United States to provide that certain netting belts used in connection with the growing and harvesting of mushrooms be admitted free of duty.

The bill as printed contains a typographical error.

I ask unanimous consent that a star print of S. 3562 be ordered reflecting the corrected version of the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. NELSON (for himself and Mr. MCGOVERN):

S. 3714. A bill to authorize a study by the Department of Agriculture of anaerobic digestion technology, to direct the issuance of certain reports thereon, and for other purposes. Referred to the Committee on Agriculture and Forestry.

By Mr. CHURCH:

S. 3715. A bill to require that imported honey and honey products made in whole or in part of imported honey be labeled "imported", to provide for the inspection of imported honey products, to require that imported honey and honey products comply with certain minimum standards of sanitation, and for other purposes. Referred to the Committee on Agriculture and Forestry.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. NELSON (for himself and Mr. McGOVERN):

S. 3714. A bill to authorize a study by the Department of Agriculture on anaerobic digestion technology, to direct the issuance of certain reports thereon, and for other purposes. Referred to the Committee on Agriculture and Forestry.

FAMILY FARM ENERGY CONVERSION ACT

Mr. NELSON. Mr. President, Senator McGOVERN is joining me today in introducing a bill to develop and use detailed data on anaerobic conversion technology to help alleviate some of our energy shortfall.

The simple technology works when manure, crop residues, or garbage is placed in a digester tank, where, in the relative absence of oxygen, the bacteria that are present in the organic material "digest" the waste. The result is methane gas, which can be used as a fuel, either by itself, or mixed with natural gas. The remains are used as a relatively odorless fertilizer.

The United States has a vast potential to produce energy from farm wastes. If just 20 percent of the livestock manure and 20 percent of the crop residues in this country were converted to energy, it would provide the equivalent of all the energy presently being used for agricultural production plus that used to produce feed fertilizer and pesticides for agricultural use.

Waste conversion is by no means a recently discovered technique. It was demonstrated at a London exhibition in 1871. Much of India's gaseous fuel comes from the over 2,500 converters in that country. The Germans generated fuel from waste using this technique during World War II. It is being tested in several locations in Wisconsin and in dozens throughout the country.

THE LEGISLATION

The bill would authorize the Department of Agriculture to conduct a study, in consultation with the National Science Foundation and the National Bureau of Standards, to evaluate previously constructed converters in this country and abroad. Their relative usefulness in various climates and situations would be evaluated. A survey would be made to identify the materials that are used as components of the system. The study would include a projection of the cost/benefits of each system and an estimate of what kind of waste would be best digested by each model.

The Administrator would institute a pilot project to demonstrate the field performance of the systems found to be optimum in various situations. The Department would pay for the cost of components and construction, up to $5,000. Farmers with holdings of less than 640 acres would be eligible for the program. The Administrator would specify the type of converter to be used. The farmer would keep an audit of what quantity of what substances were fed into the digester and the amount of gas and fertilizer obtained by the process; how much time and money were required to maintain the system and the amount of labor involved.

After all the performance data were collected, the Administrator would issue a report summarizing the results. The models which best met performance and safety standards would be "certified." No model would be certified that did not produce gas and fertilizer equal to the cost of the machine over an 8-year period.

Small farmers wanting to build certified models would be eligible for grants for construction.

THE ASSETS OF THE TECHNOLOGY

There are four basic aspects of methane conversion technology that provide good reasons to educate the public about the usefulness of the technique.

The first is the methane gas produced by the process. Methane can be used in place of rapidly diminishing natural gas. It can be mixed with other gaseous fuels. It can be used at the farm for generation of electricity, for heating and for powering machinery. There are an estimated 2 billion tons of livestock manure produced in the United States annually. The methane gas that could be produced from this manure is about 4.76 quads—just about one and one-half the energy to be carried by the Alaska Pipeline in one year. Realistically, if the 20 percent of U.S. total livestock manure which is most easily collected were converted, it would produce about .952 quads of energy, equal to 952 billion cubic feet of natural gas, about equal to our 1975 gas imports. According to the General Motors Corp., if two-thirds of the national crop residues were converted to gas, it would account for another 3.15 quads. If we used just 20 percent of the crop residues and 20 percent of the manure, we could produce about 1.9 quads of energy per year, the energy cost of all U.S. farm production, including the energy needed to produce fertilizer, pesticides and feed. This technology has the potential of wiping out our current import needs by using a domestic source, with relatively small capital investment.

The second asset is the fertilizer produced. After the gas is tapped, the remains are used as fertilizer. According to John Fry, who started work in this field in 1957, the sludge from pig manure is 1.4 times higher in nitrogen after digestion than before. "The application of digested sludge to crops serves a double purpose since it is both a soil conditioner and a fertilizer. The sludge humus, in the form of particles, besides furnishing plant food, benefits the soil by increasing its waterholding capacity and improving its structure," he adds in his book "Practical Building of Methane Powerplants." About 30 percent of the volume that is loaded in the digester remains as sludge.

Third, of course, is the obvious advantage of dealing with a potential runoff problem by turning point-source pollution into an asset for a farmer.

Fourth, is the positive impact the impact the technology could have on the economy of the small farm. The technique, if successful, could provide a farmer with partial or complete independence from spiraling energy prices. The farmer, by producing energy, could create a cushion that would soften or eliminate inflation in the energy budget of the farm.

PRESENT USE OF RESEARCH

India has the widest use of this technique today. That nation has over 2,500 operating plants. One of the moving forces behind the development of methane generation is Ram Bux Singh. While in this country, he was interviewed by Mother Earth News, a North Carolina monthly magazine. It gives an idea as to the possible efficiency of this technology in the United States. This interview appears as exhibit 1.

Mr. Farno L. Green, executive engineer with General Motors Corp., manufacturing development staff, has conducted a study on the feasibility of converting organic matter into fuel. The General Motors press release on this study appears as exhibit 2.

THE FUTURE

There are no simple solutions to our energy problems. We have, however, some options which can positively affect the rest of society while making a strong step in the direction of replacing our shaky supplies of foreign oil with cleaner, American-made sources. I believe this technology could prove to be one of those strong steps. This small program could make this technology feasible for widespread use.

A valuable book on this subject is:

"Energy & Agriculture in the Third World," by Arjun Makhijani, which was put out by energy policy project of the Ford Foundation in 1975.

We also attach a bibliography for further research as exhibit 3.

Mr. President, I ask unanimous consent that the text of the bill and additional material be printed in the RECORD.

There being no objection, the bill and material were ordered to be printed in the RECORD, as follows:

S. 3714

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE AND DEFINITION

SECTION 1. (a) This Act may be cited as the "Family Farm Energy Conversion Act".

(b) As used in this Act the term "anaerobic digester" means any machine, device or structure whose primary function is the conversion or change of waste products, animal or vegetable, into useable flammable gas, methane, or others, or useable fertilizer, or both.

STUDY OF ANAEROBIC DIGESTERS

SEC. 2. (a) The Administrator of the Rural Electrification Administration, Department of Agriculture (hereinafter referred to as the "Administrator"), in consultation with the Director of the Soil Conservation Service, Department of Agriculture, the Director of the National Bureau of Standards, Department of Commerce, and the Director of the National Science Foundation, shall initiate, within 60 days after the date of enactment of this Act, a study of anaerobic digesters. The study shall, insofar as is practicable, use the facilities and guidance of the National Bureau of Standards, Department of Commerce. Such study shall include, but not be limited to:

(1) an evaluation of anaerobic digesters previously constructed in the United States

and in Germany, India, South Africa, and other countries;

(2) consideration of the equipment that may be used in the construction of such digesters and a determination of the availability of such equipment, both new and used; and

(3) a projection of the cost and benefits of each type of anaerobic digester and an evaluation of the materials best suited for conversion by each such type of digester.

(b) The Administrator shall submit a report on the results of the study required by subsection (a) to the President and the Congress within 80 days after the date of enactment of this part. Such report shall also be made available to the public.

(c) The Administrator shall, within 30 days after the date on which such report is submitted to the President and the Congress, have printed and make available to the public a brief pamphlet describing no fewer than two models of anaerobic digesters which he considers efficient and safe for operation. In discussing each such model, the pamphlet shall explain its operation in connection with farms of various sizes, different types of crops, different geographic areas, and various concentrations of livestock. The Administrator shall also include in such pamphlet plans for the construction of each such model and the approximate cost of new and reusable equipment necessary for the construction of each such model.

(d)(1) Within 30 days after the publication of the pamphlet referred to in subsection (c), the Administrator shall institute a pilot project to demonstrate the field performance of the optimum anaerobic digesters.

(2) In carrying out such pilot project, the Administrator shall select a number of farms, not less than 100, throughout the United States for operation of the various models of anaerobic digesters. No farm larger than 640 acres shall be eligible for participation in the pilot project.

(3) Not more than $5,000 may be expended for the construction of an anaerobic digester on any single farm.

(4) Each farmer who participates in the pilot project shall be required, as a condition to participation, to keep an account of the amount of input and output of the digester, the approximate amount of labor involved in the maintenance of the digester, and such other information as may be specified by the Administrator.

(5) At the end of one year after the construction and operation of a digester on any farm, the owner or operator of such farm shall report the information required under paragraph (4) to the Administrator on a form, not in excess of three pages, prescribed by the Administrator.

(6) Within 60 days after all performance data have been collected from all farmers participating in the pilot project, the Administrator shall issue a report summarizing the results of the trials. This report shall be presented to the appropriate Congressional Committees and shall be available to the public. He shall indicate which digester models he determines, on the basis of the data collected, to be effective and safe. Such models shall be certified by the Administrator as safe and effective. If the Administrator determines that none of the models tested in the pilot program is economically feasible or safe for use he shall publicly announce such fact and the reasons therefore. In no event shall any model be certified by the Administrator unless he determines that such model will produce, within a period of eight years, an amount of gas and fertilizer, the total value of which is equal at least to the cost and operation of such model.

(e) If one or more models of an anaerobic digester have been certified under subsection (d)(6), the Administrator shall promptly initiate and carry out a program to inform the agricultural community of the relative benefits of such digesters. If no model of such a digester is certified, the program shall be promptly terminated.

SEC. 3 (a) If the Administrator determines that the pilot project has proved the anaerobic digester to be cost effective and safe for operation, he is authorized to make grants for the construction of such digesters to any farmer who owns or operates a farm containing 640 acres or less.

(b) the Administrator shall determine on the basis of the best information available to him the availability of reusable equipment that can be reasonably utilized in the construction of anaerobic digesters and shall require as a condition of any grant made under this part that a percentage, specified by him, of the equipment used in the construction of the digester must be constructed from such reusable equipment.

(c) No grant may be made to any farmer for the construction of any model of an anaerobic digester unless such model has been certified by the Administrator under Sec. 2(d)(6) of the Act.

CONSULTATION WITH ADMINISTRATOR OF THE SMALL BUSINESS ADMINISTRATION

SEC. 4 The Administrator shall consult with the Administrator of the Small Business Administration at least once every six months to determine whether the grant program established under this Act is working to the benefit of the small business community. The Administrator shall promptly report the results of those consultations to the Committee on Agriculture and the Committees on Small Business of the Senate and the House of Representatives.

AUTHORIZATION FOR APPROPRIATIONS

SEC. 5 There is authorized to be appropriated such sums as may be necessary to accomplish the purposes of this Act.

EXHIBIT 1

AN INTERVIEW WITH INDIA'S GOBAR GAS EXPERT, RAM BUX SINGH

For almost 18 years, Ram Bux Singh has directed experiments at the Gobar ("gobar" is Hindi for "cow dung") Gas Research Station at Ajitmal in northern India. His primary responsibility there has been the development of low-cost and simplified digesters designed to convert plant and animal waste into composted fertilizer and methane for fuel.

In the course of his work, Singh has personally overseen the construction of at least 200 "bio-gas" digesters and has become possibly the planet's foremost authority on the construction of village- and farm-sized waste processing units.

Thanks, in part, to his correspondence with individuals, government officials and universities in this country, Ram Bux Singh has developed a keen interest in helping to design, construct and promote the use of bio-gas plants here in the United States. "Two billion tons of manure is wasted annually in the U.S.," he says, "and that is actual food and actual power that you could save with the inexpensive composters we have developed in India."

PLOWBOY. Ram Bux Singh, thanks largely to *The Whole Earth Catalog* and THE MOTHER EARTH NEWS, your efforts to convert manure and other natural wastes into methane have become fairly well known here in the United States. Did you originate the idea of producing non-polluting fuel from such sources?

RAM BUX SINGH. Oh no. The idea of taking out the gas from farm waste, vegetable waste—even human excreta—is very old and was demonstrated at an exhibition in London in 1871. In 1905 a very large plant designed to produce both gas and good fertilizer from waste was installed in Bombay, India. Then, during World War II, due to the shortage of conventional fuels, the Germans built many bio-gas plants for both the fertilizer and the methane that the digesters would make. They compressed the gas and used it for driving tractors and farm machinery. The idea is not a new one.

Today—in Algeria, in South Africa, in Korea, in France, in Hungary and in many other countries—thousands of bio-gas plants are in use. The idea does not belong to me or to the government of India.

PLOWBOY. But you have been experimenting with methane conversion for some time and your work in the field is considered quite important by scientists and technicians all over the world. Obviously you've contributed something of value to the search for ways to recycle waste into non-polluting fuel.

RAM BUX SINGH. Yes, I have worked on this problem for some time. In 1955, the government of India appointed me to simplify the construction of bio-gas plants. There was no question that such units would produce methane but, up to that time, most gas generators were very large and costly. Even the small plants built in Germany during the war were quite expensive. So what we have done at the Gobar Gas Research Station in India is to simplify the construction of bio-gas generators. We have designed efficient plants that are small enough for a single village or one farmer to build and we have found ways to construct these gas generators for very little money. We have made the bio-gas plant economical for small farms.

Let me give you an example of what we have done. When I recently visited a sewage plant at Charleston, West Virginia, the engineer there told me that seventy million dollars had been spent on the facility. If we were to try to scale down to village or farm size the technology used in that plant, the smaller waste disposal unit might still cost half a million dollars. Now, no village in India and no farmer—even in the United States—is going to spend a half million dollars to process waste. But we have designed bio-gas plants which both purify waste and produce non-polluting fuel . . . and some of these units can be built for as little as $100! With our designs and a relatively minor investment, then, a farmer or small group of people can now construct a self-contained system that will recycle plant and animal waste into high-quality fertilizer and non-polluting fuel. The fuel can then be used to cook with, to heat the farmhouse and to power machinery. A bio-gas plant can make a farm more self-contained and independent.

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PLOWBOY. It's this idea of homemade power, you know, that has excited so many people in this country. The idea of running a car or heating a house with non-polluting fuel that is generated from waste right in one's own backyard is tremendously attractive to individuals fed up with oil spills, strip mining and smog. Yet I notice that you emphasize the fertilizer produced by a bio-gas plant just as much as you emphasize the methane which comes from such a unit.

RAM BUX SINGH. Oh yes. The fertilizer is very important, especially in a country like India where the farmers do not have so much money with which to buy chemical plant foods. You are rich enough here to purchase the commercial fertilizers and you do not think so much of conserving the natural nutrients for your crops. But I believe you will. As your population increases and you farm more intensively and the movement to cooperate with nature gains strength in the United States, I believe you will think more and more about conserving your natural plant foods. You will begin to think more and more of the bio-gas plant as a source of both power and high-quality fertilizer.

Plowboy. What do you mean by "high-quality"?

Ram Bux Singh. We have calculated through many university lab tests in India that the fertilizer which comes from a bio-gas plant contains three times more nitrogen than the best compost made through open-air digestion. If you compost chicken manure, for example, the finished compost will have in it only 1.58 to 2% nitrogen. The same manure digested in a bio-gas plant will analyze 6% nitrogen.

Plowboy. Where does this extra nitrogen come from?

Ram Bux Singh. It is already in the manure. The nitrogen is preserved when waste is digested in an enclosed bio-gas plant, whereas the same nitrogen evaporates away as ammonia during open-air composting. The bio-gas plant does not make extra nitrogen, it does not create nitrogen . . . it merely preserves the nitrogen that is already there.

Plowboy. OK. I can see how the nitrogen is caught and contained when plant and animal waste is digested inside a closed bio-gas plant, but what about other elements? Is anything lost or eaten up by the bacteria in the tank? Do they take anything out of the organic material so that, over a period of years, you'll be putting back less and less on the fields you fertilize with waste processed in a bio-gas plant?

Ram Bux Singh. No, nothing is used up. This is the perfect fertilizer-making machine and it has been tested all over the world. There is no better way to digest or compost manure and other organic material than in a bio-gas plant. I think you can compare the bacteria in a digester tank to fishworms. Fishworms help the soil by eating organic matter, passing it through their bodies and expelling it as very rich fertilizer. They live by breaking waste material down into food for plants. It is the same with the bacteria in a methane digester.

Plowboy. Yes, that's a good example.

Ram Bux Singh. You may also think of it another way. Seven cubic feet of methane gas can be generated from one pound of dry leaves but only one cubic foot of gas will come from one pound of cow dung. The cow dung, on the other hand, is just that much richer a fertilizer than the leaves. You can say, then, that the cow has digested the leaves and partly turned them into plant food. When the cow manure is then composted in a bio-gas plant, the bacteria there merely further process—or refine—the former dry leaves into a still richer plant food. It is very natural.

Plowboy. We've heard much about your experiments with cow manure at the Gobar Gas Research Station in India. Have you successfully processed other kinds of waste?

Ram Bux Singh. Yes, we have experimented with many types of digesters in India and our most successful work has been with chicken manure. Chicken droppings are easily digested, produce large quantities of methane and—when processed—make a fertilizer with a very high nitrogen content.

Plowboy. What about human waste?

Ram Bux Singh. Human excreta is very rich and should produce much gas and very good fertilizer. The two or three plants we have set up for processing this waste have not been successful, however, because of the modern flush toilet. There is just too much water with the excreta . . . too much liquid for the digesters to handle. If we could separate the water from the human waste, though, I think we would find our own excreta to be the very best of all for recycling into fuel and fertilizer.

Plowboy. Over and above our excreta—our personal waste—have you experimented with human waste in general? Have you built a plant to handle all the garbage and wastepaper and other sewage that people generate every day?

Ram Bux Singh. Yes, we have built plants of that type . . . sewage plants with the primary purpose of—*not* to make the gas and *not* to make the fertilizer—but to keep the city environmentally fit. We have done this in many cities in India. The biggest of these installations is in Delhi. There, four 400-horsepower engines are running on the methane from the plant and those engines drive generators which produce electricity. The fertilizer from the sewage plant is given to the farmers in the area.

There is one difficulty also with these installations however, and that is the high percentage of paper and related materials that people discard. This waste is not rich enough in nitrogen and it does not produce a great deal of methane nor does it make the best fertilizer. Too, just like the excreta, this material is usually accompanied by far too much water and it is difficult to digest.

Plowboy. You say that the ordinary sewage from a city is not rich enough in nitrogen for best digestion in a bio-gas plant. Isn't there anything you can do about that?

Ram Bux Singh. Yes, of course. You can seed the mixture—before it goes into the plant—with nitrogen. Let me explain:

The anaerobic bacteria that do all the work in a bio-gas plant consume carbon about 30 times faster than they use nitrogen. They work most efficiently, then, when the waste fed to them has that balance. When the carbon is 30 parts and the nitrogen is one part, the material put into a bio-gas plant will digest very rapidly and will produce much gas and good fertilizer. Results will not be as good when the carbon-nitrogen proportions are anything else.

For instance, sawdust has no nitrogen at all. Simply carbon is there. If you put nothing but sawdust into a bio-gas plant, it will not digest even in 200 days. But if you add enough nitrogen—either naturally, in the form of manure, or chemically—to make a 30-to-1 working ratio, the bacteria will rapidly process the mixture into methane and fertilizer.

Plowboy. So, for best results, you must analyze the material you put into a bio-gas plant?

Ram Bux Singh. Exactly. You cannot guess. Many people have written to me that they have installed a plant of a certain size and filled it with so many leaves and so much of this and that . . . and the unit does not produce gas. It does not digest the material. I write back and tell them that they have not calculated the ratio of carbon to nitrogen in the material. When you load a digester with grass, leaves and other high-carbon waste, you must also mix in enough nitrogen to make the material ferment.

In the beginning, if you do not know how much carbon or nitrogen is in the different materials you have to process, you can send samples to the nearest university lab or country agent and have the grass and straw and other matter analyzed. After that, you'll soon learn to judge the percentages.

Plowboy. And from then on, it's just a simple chemical reaction.

Ram Bux Singh. A very, very simple reaction. When a biogas digester is properly built, loaded with the correct mixture of carbon and nitrogen and held at the appropriate temperature, there is no difficulty at all. There is no way you can make it *not* work.

Plowboy. What is that "appropriate temperature" you've just mentioned?

Ram Bux Singh. When a digester loaded with the proper carbon-nitrogen mixture is maintained at 90 to 95° Fahrenheit, in 40 days the material will produce 95% of the gas it is capable of producing.

Plowboy. And if you maintain the digester and its contents at, say, 110° F.

Ram Bux Singh. Yes, you can use 110° . . . even up to 118° F. Above 110, however, much gas will come but the production is not easy to maintain . . . and above 118°, the bacteria will die.

Plowboy. Let's say you do use 110° F. What will the digestion time be then?

Ram Bux Singh. First class digestion takes about 28 days at that temperature.

Plowboy. And how far can we go in the direction of minimum operating temperature?

Ram Bux Singh. First-class digestion takes place between 90 and 100° F. Between 75 and 90°, a bio-gas plant works . . . but not nearly so well. At 60 to 75°, there is digestion but only very slow production of methane . . . and below 50 or 60°, the whole process is arrested.

Plowboy. OK, now. You've just said that a bio-gas plant loaded with a 30-to-1 mixture of carbon and nitrogen will, when held at a temperature of 90 to 95° F. produce 95% of the gas that the waste is capable of generating . . . and will do it in 40 days.

Ram Bux Singh. Yes.

Plowboy. Which brings up the point that—once a definite length of time is established for the digestion of material in a bio-gas plant—the unit can then be operated in either of two ways.

Ram Bux Singh. Yes. We have designed some bio-gas plants for what we call "batch feeding" and some for "continuous feeding". We can even switch some of our units back and forth from one method of operation to the other.

For the batch cycle, a bio-gas tank is opened and filled with the waste material to be processed. The digester is then sealed and the methane gas collected as the matter inside decomposes. After 40 days, the tank is again opened and the composted fertilizer is taken out. The digester is then filled again and resealed for another cycle. Actually, the tank does not have to be opened if it is designed properly. Instead, with proper inlet and outlet pipes and a pump, the waste—in slurry form—can be pumped in and out.

With the continuous feeding method, a bio-gas plant is filled once, then, as the bacteria inside begin to change the waste into methane and fertilizer, new and undigested matter in the amount of one-fortieth of the volume of the tank is added each day. If the digester is properly designed, the digested one-fortieth of the material in the tank will be forced out as the fresh waste is piped in. In this way, new material is constantly added to the mass in the bio-gas plant and spent matter is constantly expelled. The unit, then, steadily consumes waste and just as steadily produces methane and fertilizer.

Plowboy. But how do you make such a digester operate so efficiently? How do you make sure that only digested material is forced out as you pump in the fresh matter to be processed?

Ram Bux Singh. It is very simple. Unprocessed waste is heavy. As the bacteria digest it, the matter becomes lighter and lighter. Merely by positioning the inlet pipe in the bottom of the tank and by placing the outlet at the top of the mass, we use this natural principle to our advantage. The tank can hold only so much and—as we force a small amount of new material into the bottom of the digester every day—a corresponding amount of processed matter is forced to overflow through the outlet.

Plowboy. Very clever and very interesting.

Ram Bux Singh. Yes, and we have taken that idea one step further in our more complex bio-gas digesters. Because we have found, you see, that a really big plant works more efficiently on a 60-day cycle and we have also learned that the material in such a tank gets lighter during its first 30 days of digestion and again heavier during the last 30 days. So we build those big bio-gas plants with both inlet and outlet near the bottom and separated by a wall that goes all the way across the tank.

We operate such a plant by filling the first half once and then, when digestion begins, we pump in fresh material . . . one-sixtieth of the digesting mass' volume. As we force this matter in at the bottom of the first half of the tank, the partly digested material on top flows over the wall into the second section of the plant. There, the waste slowly sinks as its processing is completed until, finally, the completely digested material is forced out the outlet pipe in the bottom of that second half of the tank.

With such a system, approximately 80% of the methane produced comes from the first half of the digester and 20% comes from the second section.

Plowboy. Yes, and I see here in some of your drawings of those bigger bio-gas plants that you call for rather complicated and expensive-looking heating coils and agitators out in the middle of the tanks.

Ram Bux Singh. Such mechanisms are necessary in the larger plants. The manure and waste being processed must be warmed and stirred uniformly so that it will all digest at the proper rate.

Plowboy. But the small bio-gas plant you've designed for the Mother Earth News doesn't have any heating coils or agitators in it.

Ram Bux Singh. No. They are not necessary in such a little digester. When the jacket around the holding tank is filled with hot water, the material in the main tank will be warmed quite well all the way through. In the same way, this digester is small enough that merely pumping the waste matter in and out of the main chamber will sufficiently agitate the fermenting mass.

Plowboy. At that, I understand that Mother's bio-gas plant is somewhat more complicated than most of the homestead-sized digesters you install in India.

Ram Bux Singh. Yes. In India, where it is warmer, there is no need to put a water jacket around the main tank and there is no need to wrap a bio-gas plant in insulation. This digester, however, has the additional features because it is expressly designed for the cooler climate you have here in the northern United States. The additions make it both more complicated and expensive to build than most small bio-gas plants constructed in India.

Plowboy. I think you've told some of the people who helped build this plant for Mother Earth News that it can be operated several ways.

Ram Bux Singh. It is a batch-feed digester but it can also be operated on a daily-feed, a weekly-feed and on a 15-day-feed cycle. We have designed this bio-gas plant to work in many ways so that you may learn about our ideas and report on them in The Mother Earth News. There is much interest in methane gas production in the United States but, so far, there have been hardly any bio-gas systems built here. We wanted this one to provide you with as much information as possible.

Plowboy. As I understand it, you're setting up The Mother Earth News digester with a water jacket in which heated water will be circulated to keep the main tank at its optimum temperature of 90–95° F. The design also calls for a heavy-duty mud pump—run by a two-horsepower electric motor—to force the waste material into the bio-gas plant, to circulate the matter as it ferments there and to push the digested material out of the tank.

Ram Bux Singh. Yes, that is correct.

Plowboy. Well, it's going to take some energy to heat that water and run the pump. Will the methane generated in the plant be worth it?

Ram Bux Singh. Oh, yes. Each month, this plant should make about 6,000 cubic feet of methane. The digesting material needs to be stirred only 20 minutes a day or a total each month of about 10 hours. Since a gasoline engine consumes 18 cubic feet of methane per horsepower per hour, the two-horsepower engine necessary to drive this bio-gas installation's pump will use about 360 cubic feet of the gas each month. If we were to fuel the hot water heater with methane, we would find that the gas it consumes would be much less than this . . . we could even cut that further by warming the water jacket with waste heat from the engine. In all, we should net more than 5,000 cubic feet of methane and much valuable fertilizer from this plant every month. A generator like this one should pay for its initial investment in three years.

Plowboy. And just how good will this methane be?

Ram Bux Singh. In India, when we process cow dung in a bio-gas plant, the methane that results tests about 650 Btu per cubic foot. I think it will be higher in this country because you feed your cattle so much grain. I think it will be also higher here in the United States because your cow manure from the barn is already in a slurry and contains the urine, whereas—in India—the cow dung we use is dry.

Plowboy. Well, let's just say that we do as well as you do in India. Let's say we generate methane with a value of only 650 Btu per cubic foot. How does that compare to the natural gas that is piped out of the ground for heating, cooking and industrial use?

Ram Bux Singh. Natural gas, in this country, is about 1,100 to 1,200 Btu per cubic foot.

Plowboy. So the methane from a bio-gas plant is only about half as efficient as the natural gas we buy.

Ram Bux Singh. Yes, but that is not bad. In England, for example, they take a low-grade coal and process it into coal gas which is then piped into factories and homes as fuel. This coal gas is a very important source of power in England at this time, yet it only has a Btu rating of 450. The methane from a bio-gas plant, then, is one-and-one-half times more efficient than that.

But even this is not the important point. The important thing to remember is that, in England, they are going to the trouble to process the coal into gas with a Btu value of 450 . . . while in this country, you are making really no effort to save and use the 650-Btu gas that is evaporating and going to waste on every farm.

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Plowboy. Actually, it goes past even the methane and fertilizer we're wasting on the farms. I believe you're working on plans for a prefabbed bio-gas plant that can be installed in city houses.

Ram Bux Singh. Yes. Much real and potential energy goes to waste even in the cities of the United States. There is all the garbage—the vegetable trimmings, the spoiled food, the leftovers—that most families have. There is the dung from pets and the human excreta. The grass clippings, the weeds and the leaves. All this can be composted into much usable methane and fertilizer.

There is also other waste that could be used to operate a bio-gas plant. For example, the average temperature of bath water is 150 to 180° F. Even after use, the water has a temperature of 110° and, in the United States, you use about four to six cubic feet of this water per person per day. If you were to run this spent water into the jacket of a digester, it would warm the bio-gas to its optimum operating temperature and keep it there at absolutely no cost.

Plowboy. But what if everyone takes their bath in the morning or only once every two or three days?

Ram Bux Singh. It makes no difference. If the bio-gas plant is properly insulated, it will need this hot water only once every 72 hours. The spent bath water alone is enough to heat the plant.

Plowboy. That makes a lot of sense. By recycling city wastes the way you suggest, we could go a long way toward making our lives more enjoyable while we preserve the planet's resources and drastically curb the way we pollute.

Ram Bux Singh. Yes. That's why I would like to work with a factory in this country to develop and mass-produce a series of prefabbed digesters that people could buy and install and put into use quite easily. One of these bio-gas plants should be heavily insulated for your northern states and the other could be designed less expensively for your hotter climates. Both digesters should be available in two or three sizes. With only a little work, a manufacturer could develop a line of bio-gas plants that would sell quite well in this country. If any factory owner wants to manufacture these plants, I will work with him and help him to do it.

(Reprinted by permission of Mother Earth News, from the book, Handbook of Manmade Power, Bantam Books, 1974.)

Exhibit No. 2

Warren, Mich.—Such field residues as cornstalks and husks are a national resource and a significant potential fuel source for the future, according to a General Motors researcher.

Farno L. Green, executive engineer with GM's Manufacturing Development Staff, has probed methods for turning what is now considered food production wastes into a significant national energy resource. If farmers harvested residues like they harvest food crops, Mr. Green foresees how they can be turned into boiler fuel, natural gas substitutes, liquid fuels such as ethanol or other gasoline supplements or substitutes, and plastic feed stocks.

Mr. Green presented his findings at the recent annual meeting of the American Nuclear Society.

Investigations to find fossil fuel substitutes began at GM's Manufacturing Development Staff activity in 1973. Since fuels such as coal and oil derive from cellulose materials which died millions of years ago, Mr. Green explains that he chose plants as his starting point.

Exploring contacts with universities and research groups whose work relates to such studies, Mr. Green gathered attitudes and knowledge of the state of development of crops, farming practices, harvesting methods, machinery and possible conversion processes. Putting the puzzle pieces together he found great potential for the successful development of an alternate, multipurpose fuel source.

Agricultural residues left in fields by U.S. farmers each year in the form of stalks, leaves and husks amount to almost one-half the heating value of the coal produced here annually. According to Mr. Green, this unused resource can be harvested by farmers using commercially available harvesters to collect residues and leave them in stacks. The stacks can then be transported to depots or power plants for processing any time prior to the next planting season.

General Motors has conducted a test in its Fisher Body-Pontiac, Mich., plant mixing

10 percent cornstalks with 90 percent coal for boiler fuel. The results indicate that a mixture of up to 60 percent cornstalk-40 percent coal is feasible. Such combination boiler fuels hold promise for areas where high sulfur coal use is environmentally unacceptable because of sulfur dioxide emissions.

Residues can also be processed into a low heat substitute for natural gas. If two-thirds of the field residues produced in 1972 had been removed and converted to such gas, it would have been equal to about 14 percent of the natural gas produced that year. Although still at an economic disadvantage in competing with natural gas, the field residue product may hold potential for areas where natural gas is in short supply or if future price changes erase this disadvantage.

Mr. Green also explained that research is being done at the University of California—Berkeley and at Texas A & M University on processes to turn field residues into enough liquid gasoline supplements or substitutes (such as ethanol) to fuel 100 million cars per year.

Mr. Green believes that if gasoline prices continue to rise, process developments will be stimulated which will produce fuels that are competitive.

There is also significant potential for use of field residues as an annually renewable source of polymers for plastics production, Mr. Green pointed out, thus freeing currently used petroleum and natural gas.

EXHIBIT No. 3

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(Reprinted by permission of Mother Earth News from Handbook of Homemade Power, Bantam Books, 1974.)

By Mr. CHURCH:

S. 3715. A bill to require that imported honey and honey products made in whole or in part of imported honey be labaled "imported," to provide for the inspection of imported honey products, to require that imported honey and honey products comply with certain minimum standards of sanitation, and for other purposes. Referred to the Committee on Agriculture and Forestry.

HONEY AND HONEY PRODUCTS INSPECTION AND IDENTIFICATION ACT

Mr. CHURCH. Mr. President, last year U.S. imports of foreign produced honey reached a recordbreaking 49 million pounds. Honey imports now equal 26 percent of domestic production. This is an increase from 14 percent in 1974 and 4 percent in 1973. Approximately one-half of this imported honey comes from several countries of South America, with Mexico being the leading exporter.

Our domestic beekeeping industry provides the pollination services that are essential to the production of fruit, vegetables, and many other important crops. In addition to crop pollination, this industry produces 200 million pounds of honey for our Nation's tables.

American beekeepers recognize the necessity for world trade among nations in agricultural and industrial materials and products. In a spirit of fairness, however, they want to insure that imported honey is produced under the same high standards of sanitation which prevail in the United States. In addition to concern about the purity and wholesomeness of imported honey, I have recently heard from beekeepers in my State of Idaho, who are worried about adulterated honey imports. The Food and Drug Administration recently intercepted imports labeled as honey which were fraudulent mixtures of honey and corn syrup. If inferior or adulterated honey is placed on the market, consumers are deceived and the reputation of our domestic beekeepers is adversely affected.

The legislation I am introducing today would first of all require that imported honey measure up to the same high standards required of domestic honey. Pesticide use is carefully controlled in this country to insure that honey and other foodstuffs remain free from harmful pesticide residues. Honey must be protected from contamination by chemicals, filth, insects, and from fraudulent adulteration by water and by various other forms of sweeteners or extenders. Unwholesome, mislabeled, or deceptively packaged honey can be sold at lower prices and compete unfairly with wholesome, properly labeled honey to the detriment of U.S. honey producers and the general public.

This bill would require the Secretary of Agriculture to prescribe standards for foreign producers and handlers of honey comparable to standards for the domestic honey industry. Honey could not be imported from foreign apiaries and processing plants which had not been inspected and certified as being in compliance with these standards. The label or package of imported honey, and any food products, would be required to state the country of origin.

Mr. President, last year I joined with Senator Packwood in sponsoring similar legislation requiring the inspection and labeling of foreign meat and dairy products. That legislation is still pending before the Agriculture Committee. To paraphrase what I said then, to permit the importation of impure honey and honey products is unfair to both American consumers and American beekeepers. Consumers have the right to expect the same attention to the quality of agricultural imports as they routinely expect from domestic products. And American producers have the right to compete with foreigners on an equal footing.

In a related matter, Mr. President, I recently sent a letter to President Ford urging him to approve the recommendations of the International Trade Commission for establishing an ad valorem duty on honey imports when such imports exceed 30 million pounds. Such a system would allow American producers who are becoming increasingly threatened by these stepped-up imports to remain in business and continue to provide their vital pollinization services.

Mr. President, I ask unanimous consent that this letter to President Ford, as well as the text of this bill and a section-by-section analysis of its provisions be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

U.S. Senate,
Washington, D.C., August 2, 1976.

Hon. Gerald R. Ford,
The White House,
Washington, D.C.

Dear Mr. President: It is my understanding that the International Trade Commission has recently recommended to you that a new quota system on imported honey be established.

Under this tariff rate quota system, a 30 percent ad valorem duty would be imposed on all honey imports once a 30 million pound "trigger figure" of such imports has been exceeded.

Given the rising volume of honey imports, we need to institute this new quota system to insure that our own honey producers are not driven out of business. As you know, in addition to providing honey for our dinner tables, honeybees are very important in the pollination of many agricultural crops. If we allow our domestic honey producers to be unduly jeopardized by rising volumes of imports, all segments of American agriculture could be adversely impacted.

Therefore, Mr. President, I respectfully urge you to approve the ITC's recommendation and establish this new quota system.

With best wishes,

Sincerely,

Frank Church.

S. 3715

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Honey and Honey Products Inspection and Identification Act of 1976".

Sec. 101. For the purpose of this title—

(1) The term "Secretary" means the Secretary of Agriculture.

(2) The term "person" means any individual, partnership, corporation, association, or any other business unit.

(3) The terms "honey" and "honey products", hereinafter referred to as honey, mean those food products derived from honey, or any combination or portion thereof, such as all forms of extracted honey, comb honey, syrup honey blends, candies, cookies, preserves, jams, jellies, and any other food product which is prepared in whole or in part from any of the aforesaid products as the Secretary may hereafter designate.

(4) The term "wholesome" means sound, healthful, clean, and otherwise fit for human food.

(5) The term "labeling" means labels and other written, printed, or graphic matter on or attached to the container of any honey package.

(6) The term "purity" means free from poisonous or deleterious substances which may render the product injurious to health.

(7) The term "administration and supervision" means the administrative review of foreign country laws, regulations, and enforcement procedures offered as being comparable to United States laws, regulations, and enforcement procedures, under the provisions of this title, and the supervision of inspection personnel both inside and outside the United States.

(8) The term "inspection" means the official service rendered by the Department of Agriculture, under the administration and supervision of the Secretary, for the purposes of carrying out the provisions of this title.

Sec. 102 (a) No honey shall be imported into the United States unless the Secretary shall first certify that such imports originate from supplies of honey which are pure and wholesome and unless the foreign apiaries and plants in which such honey was produced, manufactured, or processed comply with all minimum standards of sanitation prescribed by the Secretary pursuant to the provisions of this title. The standards prescribed by the Secretary shall include standards for sanitation procedures in the production, storage, transportation, and handling of honey, and in the manufacture, processing, handling, and transit of honey, as well as standards concerning the wholesomeness and purity of the final product.

(b) The standards established by the Secretary for any imported honey, for the apiaries where the honey was produced, and for the establishments in which such imported honey is produced, manufactured, or processed shall be comparable to those standards of purity, wholesomeness, and sanitation recommended by the Secretary for domestic honey produced, manufactured, or processed in the United States and for establishments in the United States in which domestic honey is produced, manufactured, or processed.

(c) The packaging and labeling of imported honey shall comply with the requirements in effect in the United States for packaging and labeling and shall specify the country of origin.

Sec. 103. (a) For the purpose of establishing comparable inspection requirements and preventing the importation of honey produced, manufactured, or processed in foreign countries where plants do not meet the minimum standards prescribed by the Secretary pursuant to the provisions of this title, the Secretary shall, where and to the extent necessary, cause to be inspected imported honey and require such honey to be accompanied by a certificate of compliance issued by the Secretary in accordance with rules and regulations prescribed by the Secretary establishing minimum standards as to the sanitation of the honey, plant facilities, equipment, and procedures used in the production and transportation of honey, and the manufacture, processing, handling, and transit of such honey.

(b) All imported honey shall, after entry into the United States, be subject to the Federal Food, Drug, and Cosmetic Act.

SEC. 104. (a) (1) The package or container of any food product made in whole or in part of any imported honey shall be labeled as "imported" or "imported in part", as the case may be.

(2) If any person other than the ultimate consumer breaks a package or container containing any imported honey and such package or container is marked or labeled as required in paragraph (1), such person shall affix a label to each package or container in which any such imported honey is placed to provide the information required by paragraph (1).

(b) (1) No person shall import or offer for import into the United States for purposes of distribution in commerce any imported honey unless such product is labeled in accordance with regulations prescribed by the Secretary.

(2) No person shall distribute or cause to be distributed in commerce any imported honey which he knows or has reason to know is imported (in whole or in part) honey, unless such product is labeled in accordance with regulations prescribed by the Secretary.

(3) Any person who violates any provision of this section or any rules or regulation issued thereunder shall be subject to imprisonment for not more than one year or a fine of not more than $1,000, or both such imprisonment and fine; but if such violation involves intent to defraud, such person shall be subject to imprisonment for not more than three years of a fine of not more than $10,000, or both.

SEC. 105. (a) The Secretary is authorized to prescribe such regulations as are necessary to carry out the purposes of this title, except that no regulation shall become effective if, within ninety calendar days of continuous session of Congress after the date of promulgation, both Houses of Congress adopt a concurrent resolution, the matter after the resolving clause of which is as follows: "That Congress disapproves the regulation promulgated by the Secretary dealing with the matter of

.", the blank being filled with the title of the regulation and such further description as may be necessary to identify it.

(b) In carrying out provisions of this title, the Secretary may cooperate with foreign governments, other departments and agencies of the Federal Government, and with appropriate State agencies, and may conduct such examinations, investigations, and inspection as he determines necessary of appropriate through any officer or employee of the United States, of any State, or of any foreign government, who is licensed by the Secretary for such purpose.

SEC. 106. The provisions of this title shall be in addition to the requirements of all other laws relating to imports of honey.

SEC. 107. (a) The Secretary shall prescribe such assessments and fees on imported honey as he determines necessary to cover the cost of the inspections, labeling, and certifications required under the provisions of this title. Such assessments and fees shall be collected in accordance with regulations prescribed by the Secretary.

(b) Except as provided in subsection (a) of this section, the cost of administering and supervising the provisions of this title shall be borne by the United States.

SEC. 108. There is hereby authorized to be appropriated such sums as are necessary to carry out the administration and supervision of the provisions of this title.

SEC. 109. If any provisions of this title or the application thereof to any person or circumstances is held invalid, the validity of the remainder of the title and of the application of such provision to other persons and circumstances shall not be affected thereby.

SECTION-BY-SECTION ANALYSIS OF THE HONEY AND HONEY PRODUCTS INSPECTION AND IDENTIFICATION ACT OF 1976

Section 102a. Before honey can be imported into the U.S., the Secretary of Agriculture must certify that the sanitation procedures used in production, storage, transportation and handling at the foreign apiaries and plants, and that the wholesomeness and purity of the final product comply with prescribed standards.

Section 102b. The standards established by the Secretary for imported honey, foreign apiaries and processing plants shall be comparable to standards for domestic honey producers and processors.

Section 102c. Packaging and labeling of imported honey shall comply with U.S. requirements for packaging and labeling and shall specify country of origin.

Section 103a. The Secretary shall cause imported honey to be inspected and accompanied by a certificate of compliance.

Section 103b. All imported honey shall be subject to the Federal Food, Drug and Cosmetic Act.

Section 104a. The package or container of any food product made in whole or in part of imported honey shall be so labeled.

Section 104b. No honey shall be imported or distributed unless labeled in accordance with the regulations of this title.

Section 105a. The Secretary is authorized to prescribe regulations necessary to carry out the Act, but a proposed regulation may be disapproved within 90 days of promulgation by a concurrent resolution of both Houses of Congress.

Section 105b. The Secretary may cooperate with foreign governments, other departments and agencies of the Federal Government and with State agencies in carrying out under the provisions of the title.

Section 107a. The Secretary may prescribe assessments and fees to cover the costs of inspection, labeling and certification required under the provisions of the title.

ADDITIONAL COSPONSORS

S. 2316

At the request of Mr. HARTKE, the Senator from New Jersey (Mr. WILLIAMS) was added as a cosponsor of S. 2316, to amend title 38, United States Code.

S. 2823

At the request of Mr. HUDDLESTON, the Senator from Iowa (Mr. CLARK), the Senator from Mississippi (Mr. EASTLAND), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Vermont (Mr. LEAHY), and the Senator from South Dakota (Mr. MCGOVERN) were added as cosponsors of S. 2823, to amend the Rural Development Act.

S. 3192

At the request of Mr. HARTKE, the Senator from Kentucky (Mr. HUDDLESTON) was added as a cosponsor of S. 3192, the Consumer Communications Reform Act of 1976.

AMENDMENT NO. 2005

At the request of Mr. HARTKE, the Senator from New Mexico (Mr. MONTOYA) was added as a cosponsor of amendment No. 2005, intended to be proposed to S. 969, the Veterans Education and Employment Assistance Act of 1976.

AMENDMENT NO. 2114

At the request of Mr. TOWER, the Senator from Texas (Mr. BENTSEN) was added as a cosponsor of amendment No. 2114, intended to be proposed to S. 2304, a bill to strengthen the supervisory authority of the Federal banking agencies over financial institutions and their affiliates.

SENATE CONCURRENT RESOLUTION 132—SUBMISSION OF A CONCURRENT RESOLUTION RELATING TO THE BIRTHDAY OF PRESIDENT BOURGUIBA OF TUNISIA

(Referred to the Committee on Foreign Relations.

Mr. PERCY (for himself and Mr. HUMPHREY) submitted the following concurrent resolution:

S. CON. RES. 132

Expressing the sense of Congress regarding United States relations with Tunisia on the occasion of the birthday of President Bourguiba

Whereas August 3 marks the birthday of Habib Bourguiba, who has served as President of his country since independence in 1956 and is now in his fourth constitutionally elected term of office;

Whereas the years of President Bourguiba's tenure have been characterized by peaceful relations with neighboring states and by a close and friendly relationship with the United States;

Whereas, the President and people of Tunisia share with the United States the ideals and goals of peace and undisturbed economic progress in an atmosphere of freedom;

Whereas Tunisia under President Bourguiba has achieved a commendable measure of peaceful economic development through the effective combined use of domestic and international resources: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that for these reasons President Bourguiba should be honored for his wise and courageous leadership of Tunisia through nearly two decades.

SEC. 2. It is the sense of the Congress that the continuation of Tunisia's economic and social development in circumstances of peace, liberty and independent sovereignty is important for the stability of the Mediterranean area and for the interest of the United States.

SEC. 3. It is the sense of the Congress that the United States should continue to contribute to the maintenance of peace and the economic and social development of Tunisia through the provision of appropriate levels of economic and military assistance.

TUNISIAN-UNITED STATES RELATIONS

Mr. PERCY. Mr. President, on the occasion of the birthday of President Habib Bourguiba of Tunisia, and in recognition of the constructive and friendly relationship between the United States and Tunisia, I am at this time submitting a concurrent resolution expressing the sense of Congress regarding United States relations with Tunisia. I am pleased to share the sponsorship of this resolution with the distinguished Senator from Minnesota (Mr. HUMPHREY).

President Bourguiba is well known to the U.S. Government and to the American people as a responsible leader of his country which has played a constructive international role while pursuing a domestic policy of progress in the economic and social spheres. Recently, on a private visit to Tunisia, I met with President

Bourguiba and was favorably impressed with his determination to build, improve, and defend his country.

I find of special interest two farsighted policies of the Tunisian Government. Since achieving independence in 1956, the country has devoted 35 percent of its national budget to education. And the first law passed by the new Tunisian Government provided equal rights for women.

Tunisia also pursues its economic development with a view to the future well-being of its citizens. During the fourth economic plan period, 1973–76, an average annual growth rate of 6.2 percent has been attained, with per capita income actually doubling an astounding feat demonstrating that economic growth for the country is being shared at every level. Now, looking toward the fifth economic plan period, 1977–81, a growth rate of 7.5 percent has been targeted.

Among projects foreseen for the fifth plan period are the development of manufacturing facilities for phosphates and nitrogen fertilizers, natural gas production, increases in iron smelting and metallurgy, the building of cement plants, and improvement in the agricultural infrastructure, the transportation system, and educational and health facilities.

The Tunisian Government projects that the fifth plan will require 28.5 percent foreign funding, and I am sure that the United States will wish to contribute appropriate amounts of assistance, as we always have, recognizing that Tunisian stability has been beneficial to peace in North Africa and that economic and social progress in Tunisia are important ingredients of Tunisian stability.

On President Bourguiba's birthday, we congratulate him on the progress already achieved in his country and assure him of our continuing interest in Tunisia's development. We are very pleased with the healthy state of Tunisian-American relations.

AMENDMENTS SUBMITTED FOR PRINTING

PUBLIC PARTICIPATION IN FEDERAL PROCEEDINGS—S. 2715

AMENDMENTS NOS. 2127 AND 2128

(Ordered to be printed and to lie on the table.)

Mr. FANNIN submitted two amendments intended to be proposed by him to the bill (S. 2715) to amend the Administrative Procedure Act to permit awards of reasonable attorney fees and other expenses for participation in proceedings before Federal regulatory agencies, and for other purposes.

CLEAN AIR ACT AMENDMENTS OF 1976—S. 3219

AMENDMENT NO. 2129

(Ordered to be printed and to lie on the table.)

Mr. McIntyre submitted an amendment intended to be proposed by him to the bill (S. 3219) to amend the Clean Air Act, as amended.

TAX REFORM ACT OF 1976—H.R. 10612

AMENDMENT NO. 2130

(Ordered to be printed and to lie on the table.)

By GARY HART (for himself and Mr. Durkin) submitted an amendment intended to be proposed by them jointly to the bill (H.R. 10612) to reform the tax laws of the United States.

AMENDMENTS NOS. 2131 AND 2132

(Ordered to be printed and to lie on the table.)

WHAT IS THE TAX CREDIT FOR RECYCLING?

Mr. DURKIN. Mr. President, the SFC's tax reform bill has a provision in it, section 2006, which awards tax credit to users of recycled materials. Users or recyclers are those who alter the composition of physical properties of a material and transform the material into a product or material which does not constitute recyclable solid waste. The credit is calculated on the quantity of materials recycled which is above 75 percent of the average quantity for the 3 previous years. The tax credit will be phased in over 3 years, with the recycler getting 25 percent of the tax credit it earns in the first year, 50 percent of the tax credit earned in the second year, and 100 percent of the tax credit earned in the third and subsequent years.

The recycled materials are ferrous and nonferrous metals which would be given a credit of one-half the depletion allowance; textiles and paper waste would get a 10-percent credit and glass and plastics get 5 percent.

WHAT ARE RECYCLABLE MATERIALS?

Recyclable materials fall into three categories—house waste or scrap, which consists of defective batches of pig iron, steel billets, glass, or other basic products produced from raw materials. This scrap is nearly perfectly substitutable for virgin materials and is almost always automatically recycled; prompt scrap, which consists of cuttings, defective stampings, and so forth, generated in the further processing or fabrication of the product of basic materials procedures. It has a fabrication of the product of basic materials producers. It has a minimum of contaminants and is easily sorted and graded. It is also highly substitutable for virgin materials. But unlike home scrap, prompt scrap is bought and sold in the marketplace.

Usually, between the fabricator and the producers of the basic materials, over 90 percent of "home" and "prompt scrap" is recycled. Postconsumer scrap is the debris and garbage remaining when consumer products have been used. It is only partially substitutable for virgin materials because of the chemical and physical effects of contaminants. It is also exchanged in the marketplace.

Normally little postconsumer scrap is recycled because the cost of collection, sorting, decontamination, and shipment exceeds the price basic products manufacturers would be willing to pay for it. Its price is determined by the prices of home and prompt scrap and virgin materials. Usually the price of postconsumer scrap at the place it will be recycled is too low to cover the cost of collecting, preparing, and shipping it. It becomes cheaper to burn or bury it.

Over half of all scrap generated is of the home or prompt variety and is recycled automatically, and with little reference to prevailing prices for scrap.

WHAT IS THE PROBLEM?

The problem lies in the area of solid waste disposal. The post consumer scrap. The problem in waste, garbage, scrap. What to do with it. How can we use more of it to save our natural resources and keep our countryside from getting cluttered up with beer cans and abandoned cars. Solid waste disposal is becoming a major problem. Cities spend large amounts of their revenue on collecting it, sweeping it up, burning or dumping or burying it.

In 1973, post consumer and commercial nonfood solid waste weighed in at 69.8 million tons. Waste paper comprised about 53 million tons; glass 13.5 million tons; ferrous and non-ferrous metals 1.4 million tons; and textiles 1.9 million tons. Proponents of the tax credit for recycling argue that the credit will stimulate more recycling and thus:

First, save our natural resources by substituting recycled materials for virgin materials;

Second, conserve energy because to recycle wastes uses less energy than to process virgin materials;

Third, reduce environmental degradation, spoilation, and pollution; and

Fourth, also redress the inequity between virgin materials and recycled materials due to the depletion allowance, capital gains treatment accorded timber and other governmental policies which supposedly favor the use of virgin materials.

Let's look at each of these arguments and judge for ourselves whether the tax credit will accomplish the goals:

No one will argue that these four goals are not worthy objectives. Conservation of resources and energy are matters of growing national attention. Reduction of environmental pollution is the concern of everyone from the youngest schoolchild to old men who like to go fishing. And tax inequities that defeat these goals are certainly subjects that legislators, tax lawyers, and affected individuals and companies are very much interested in.

At the outset let me make it clear that I am for recycling and any measure that will cut down on waste and will help keep America the magnificently beautiful country that it is.

The people in New Hampshire view one of the most naturally attractive parts of our country and want to keep it that way.

I have introduced the "little candy bar in the big candy bar wrapper" bill to eliminate deceitful and wasteful packaging. This is one measure that is designed to reduce the amount of solid waste that gets into the solid waste stream. This is a measure that will not cost anyone anything. It will not only reduce the amount of waste but will also give consumers a better appreciation of what they are buying.

This is one option we have to reduce waste—to reduce resource use per product at the beginning. Other technical options we have are to design products for longer life and to promote greater reuse. The latter is what the tax credit for recycling is aimed at and the measure of whether the tax credit should be passed is the extent to which it will accomplish more recycling.

Experts have studied this issue and have predicted that the tax credit for recycling will not significantly increase the quantity of post-consumer waste that will be recycled.

Who are the experts? The Treasury Department. They say that—

> In only one instance will the tax subsidy to recycling increase the expected volume of recycling by as much as one percent, and in all cases, the cost per ton of incremental recycling is a multiple of 2.6 to 20 times the unsubsidized cost of a ton of recyclable materials.

The Environmental Law Institute found that—

> Subsidies to either buyers or sellers have only a nominal impact upon quantities recycled. For example, a 10 percent ad valorem depletion allowance or recycling tax credit would, according to our estimated supply and demand elasticities, increase the quantity of wastepaper recycled by only 0.8 percent. This opinion is shared by the Garden State Paper Co., which calls itself the "world's largest recycler of old newspapers in the manufacture of quality newsprint."

Garden State says:

> The tax credit provision would not result in a significant increase in the recycling of waste paper.

These opponents of the tax credit as the way to increase recycling are joined by environmental groups which have long been on record as favoring conservation of resources, preservation of resources, preservation of the environment and increased recycling. The Sierra Club, Environmental Action, the Environmental Policy Center and Friends of the Earth are all opposed to this provision.

Tax groups are also opposed—the Public Interest Economic Center, Public Citizen-Tax Research Group, and Taxation with Representation. Companies in the recycling industry, in addition to Garden State, do not want this tax credit to be given to them. The Aluminum Recycling Association which represents 83 percent of aluminum recycling in this country says:

> The recycling tax credit is an unwarranted drain upon the U.S. Treasury without commensurate benefits and an unwanted windfall to our industry.

Aluminum is not alone. The Brass and Bronze Ingot Institute and the Association of Brass and Bronze Ingot Manufacturers are also against this tax credit. Not only do they oppose the overall credit, but they plead that copper-based scrap be taken out of the bill. These two groups, the aluminum and the brass and bronze recycling industries, would receive 28 percent of the total tax credit according to Environmental Action. Twenty-eight percent of an expected total tax credit of $345 million by 1981.

However, their opposition is not altogether altruistic. There are good reasons for their opposition even though in doing so they are turning down upwards of $90 million.

Let us examine more closely whether the tax credit will accomplish the objectives that we all agree are desirable: First, conserve natural resources; second, preserve the environment; third, conserve energy, and fourth, redress an inequity between virgin and recycled materials.

The argument goes that if the cost of recyclable materials is lower than users will buy more of them as substitutes for virgin materials. However, this is not the case because there are a number of assumptions which are not valid.

First, recyclable material is a highly imperfect substitute for virgin materials and may be used to produce only limited ranges of products. The demand for post-consumer scrap for recycling is relatively unresponsive to the delivered price of this material due to technological limitations on its substitutability for other recyclable materials and for virgin materials.

For example, the Aluminum Recycling Association points out that recycled—secondary—aluminum alloy is not interchangeable with primary aluminum alloy. The industry produces as much recycled aluminum as is required by the demand of its customers.

Second, the supply of recyclable post-consumer scrap is also relatively unresponsive to its delivered price because of the high costs of collection, separation, decontaminization, and transportation to locations where it may be used.

For example, the lowest cost steel is produced by the modern basic oxygen furnace which at maximum efficiency uses about 30 percent scrap. The estimated incremental cost of increasing the scrap input about 30 percent is about $54 per ton over the cost of molten iron from virgin ore. The high cost of scrap is caused by the costs of collecting it, separating and baling it, and then transporting it. The tax credit simply will not lower the cost sufficiently to make it an economic substitute for virgin ore.

The Treasury Department estimates that the tax subsidy to recycling will increase the expected volume of recycling by less than 1 percent, and in all cases the cost per ton of incremental recycling will be a multiple of 2.6 to 20 times the unsubsidized cost of a ton of recyclable materials. It concludes that the magnitude of resource waste resulting from this subsidy is intolerable.

Thus the tax credit cannot be expected to promote more recycling. The objectives of conserving resources and energy and preserving the environment will not be accomplished by means of this measure.

In addition to failing to accomplish its objectives, the tax credit will require licensing and inspection to prevent cheating.

Again Treasury states that it is doubtful that any tax incentive could be administered without an elaborate bureaucracy. The object of the tax credit is to increase the recycling of postconsumer scrap. Ninety percent of home and prompt scrap is already being recycled. Most firms use all three types of scrap and there is no way to tell which type of scrap is being used. There would be no obstacle to the convenient intermingling of both qualified and unqualified materials for purposes of claiming the subsidy.

To limit abuses would require licensing of those users entitled to the credit. It would also require that onsite inspection be made to assure that the material being used is postconsumer scrap and that it is actually used and not passed on to another user who will claim another tax credit.

In the day of criticism for the growth and overreaching of the Federal Government, to create another agency or group of Federal employees to administer a program which is predicted to fail would be the height of foolishness.

HOW MUCH WOULD THIS TAX CREDIT COST?

The SFC estimates that the loss of revenues would be $9 million in 1977, $39 million in 1978, and $345 million in 1981.

SUMMARY

The goals are noble but—

The tax credit will not increase recycling.

It will be a one-third of a billion windfall to the scrap dealers by 1981.

It will require a Federal bureaucracy to administer to prevent cheating.

It will preempt the issue and prevent Congress from providing a more efficacious solution to the solid waste disposal and recycling problem.

It has the support of only the National Association of Recycling Industries whose members will absorb a large portion of the tax credit by raising their prices and the National League of Cities and Conference of Mayors who face growing and staggering problems of solid waste disposal and need help. This must appear to them to be like a bird in the hand being better than something in the bush. They need to help but let us give them something that will really do the job instead of another faulty Federal solution.

AMENDMENT NO. 2133

(Ordered to be printed and to lie on the table.)

DEFINITION OF DEPENDENT FOR TAX PURPOSES

Mr. BUMPERS. Mr. President, the definition of "dependent" for tax purposes is an important part of the Internal Revenue Code. A taxpayer is entitled to an additional personal exemption of $750 for each dependent. In general, a dependent is defined as a person over half of whose support is provided by the taxpayer.

There are situations, however, where that simple definition has not sufficed, and section 152 of the code sets out special rules for these situations. Under section 152(e), children of divorced or legally separated parents are treated as dependents of the parent with custody, with two exceptions. First, the noncustodial parent is entitled to the exemption if a decree or agreement allocates it to him and if he actually provides at least $600 for the child's support in the relevant year. Second, the noncustodial parent gets the exemption if he provides $1,200 for the child or children and the custodial parent does not establish that he provided more for the child or children than the noncustodial parent.

This latter provision, contained in section 152(e)(2)(B), is manifestly unfair. It may be proper to set up a rebuttable presumption that a noncustodial parent paying $1,200 a year for the support of one child should receive the exemption. But the statute as presently written enacts the same rule no matter how many children are involved. If a noncustodial parent furnishes $1,200 in the aggregate for the support of four children, for example, he will get four personal exemptions, a deduction from gross income of $3,000, unless the custodial parent bears the burden of overcoming the statutory presumption.

If the noncustodial parent is in the 50 percent bracket, he saves $1,500 in taxes, with an out-of-pocket cost of $1,200. I dare say no other deduction so nearly approximates alchemy in its result. The unfairness is aggravated by the fact that the code measures support in money only. No account is taken of the care, affection, nurture, and guidance supplied by either parent, most of which may necessarily come from the parent with custody.

The offending provision should be changed. The $1,200 level of support should be per child, not per family. In this way, the noncustodial parent with more than one child will presumtively receive the exemption only if he contributes $1,200 for each of his children, instead of $1,200 in the aggregate for all of them. As amended, section 152(e) would read, in pertinent part:

> (2) SPECIAL RULE.—The child of (divorced or separated) parents . . . shall be treated as having received over half of his support . . . from the parent not having custody if— . . .
>
> (B) (i) the parent not having custody provides $1,200 or more for the support of such child (or if there is more than one such child, $1,200 or more for each of such children) . . ., and (ii) the parent having custody of such child does not clearly establish that he provided more for the support of such child . . . than the parent not having custody.

Mr. President, I send to the desk an amendment to accomplish this change and ask that it be printed and lie on the table. I also ask unanimous consent that the text of the amendment be printed at this point in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT No. 2133

At the end of the bill, insert the following:

SEC. . Section 152 of the Internal Revenue Code (relating to definition of dependents) is amended by striking the word "all" in Subsection (e)(2)(B)(i) of said Section 152 and inserting in lieu thereof the word "each".

AMENDMENTS NOS. 2134 AND 2135

(Ordered to be printed and to lie on the table.)

Mr. ABOUREZK. Mr. President, I submit an amendment to section 2003 of H.R. 10612. This amendment would delete the investment tax credit increase from 10 percent to 12 percent for coal slurry pipelines. This increase was not sought by the pipelines themselves; the main pipeline company testified last year that they did not need and were not asking for Federal financial assistance or taxpayer subsidy; and the pipeline companies have testified that their projects are very competitive economically. Moreover, the Congress has, at this point, decided it does not want to encourage coal slurry pipeline development. For these reasons, this increase, worth $28 million by 1981, is totally gratuitous.

I also submit a similar amendment which would delete the increase in the investment credit from 10 percent to 12 percent for oil shale and coal gasification. These developments, as the administration has pointed out, are not yet at a stage of technological development where an investment tax credit would do anything but increase corporate profits. Moreover, Congress is currently considering other programs to encourage development in these areas, and we should act on these first. Again, therefore, we are simply providing the companies with more profit, without accomplishing any energy-related goals.

I ask unanimous consent that these two amendments be printed in the RECORD.

There being no objection, the amendments were ordered to be printed in the RECORD, as follows:

AMENDMENT No. 2134

On page 1,487, line 1, insert after the comma the word "or".

On page 1,487, strike out line 2.

On page 1,487, line 3, strike out "(9)" and insert in lieu thereof "(8)".

On page 1,487, line 20, strike out "(8), and (9)" and insert in lieu thereof "and (8)".

On page 1,494, strike out lines 13 through 17.

On page 1,494, line 18, strike out "(10)" and insert in lieu thereof "(9)".

On page 1,495, line 1, strike out "(11)" and insert in lieu thereof "(10)".

On page 1,495, lines 1 and 2, strike out "(7), (8), and (9)" and insert in lieu thereof "(7) and (8)".

On page 1,495, line 3, strike out "(12)" and insert in lieu thereof "(11)".

On page 1,495, line 21, strike out "(13)" and insert in lieu thereof "(12)".

On page 1,496, line 11, strike out "(14)" and insert in lieu thereof "(13)".

On page 1,496, line 21, strike out "(15)" and insert in lieu thereof "(14)".

AMENDMENT No. 2135

On page 1,486, line 25, insert after the comma the word "or".

On page 1,487, strike out line 1.

On page 1,487, line 2, strike out "(8)" and insert in lieu thereof "(7)".

On page 1,487, line 2, strike out the comma and the word "or" and insert a period in lieu thereof.

On page 1,487, strike out line 3.

On page 1,487, line 20, strike out "(7), (8), and (9)" and insert in lieu thereof "and (7)".

On page 1,494, strike out line 8 through 12.

On page 1,494, line 13, strike out "(9)" and insert in lieu thereof "(8)".

On page 1,494, strike out lines 18 through 26.

On page 1,495, line 1, strike out "(11)" and insert in lieu thereof "(9)".

On page 1,495, lines 1 and 2, strike out "(7), (8), and (9)" and insert in lieu thereof "(7) and (8)".

On page 1,495, line 3, strike out "(12)" and insert in lieu thereof "(10)".

On page 1,495, line 21, strike out "(13)" and insert in lieu thereof "(11)".

On page 1,496, line 11, strike out "(14)" and insert in lieu thereof "(12)".

On page 1,496, line 21, strike out "(15)" and insert in lieu thereof "(13)".

AMENDMENTS NOS. 2136 AND 2137

(Ordered to be printed and to lie on the table.)

Mr. BROOKE (for himself, Mr. MCINTYRE, Mr. JAVITS, Mr. HUGH SCOTT, and Mr. PELL) submitted two amendments intended to be proposed by them jointly to the bill (H.R. 10612), supra.

AMENDMENTS NOS. 2138 THROUGH 2141

(Ordered to be printed and to lie on the table.)

Mr. KENNEDY submitted four amendments intended to be proposed by him to the bill (H.R. 10612), supra.

AMENDMENT NO. 2142

(Ordered to be printed and to lie on the table.)

Mr. SPARKMAN (for himself, Mr. BROCK, Mr. BROOKE, Mr. BENTSEN, Mr. HUMPHREY, Mr. JAVITS, Mr. MCINTYRE, Mr. TOWER, Mr. TUNNEY, Mr. CURTIS, Mr. MATHIAS, Mr. STONE, Mr. WILLIAMS, Mr. ALLEN, Mr. WEICKER, and Mr. MORGAN) submitted an amendment intended to be proposed by them jointly to the bill (H.R. 10612), supra.

Mr. SPARKMAN. Mr. President, I am submitting a modified version of my amendment No. 1891 to H.R. 10612, which would restore to the Finance Committee's bill some of the existing tax incentives which are vital to the construction of low- and moderate-income rental housing.

As I said earlier when I submitted my amendment, I would not change several of the provisions of the committee bill with respect to housing because I believe as do all Members, that there is need for improvement in the equity of the tax laws, but I do not believe this so-called equity should be at the expense of meeting our Nation's housing needs.

The amendment I have submitted seeks to assure that we retain adequate incentives for the construction of needed rental housing, while at the same time going along with other proposed changes by the committee which attempt to assure that we retain adequate incentives for the construction of needed rental housing, while at the same time going along with other proposed changes by the committee which attempt to assure that no one with a substantial real income escapes some reasonable degree of taxation on that income.

I have conformed my amendment as closely as possible to meet the objectives of the committee bill and still provide sufficient tax incentives to encourage the construction of badly needed housing.

The important changes are as follows:

First. I would add to the category of low-income housing in the committee bill a new category of moderate-income housing. This housing would be projects with rents that moderate-income families can afford—that is, rents not exceeding 120 percent of fair market rents published by HUD for its section 8 rental assistance program. Such projects would be unsubsidized and, to the extent that such projects can meet the needs of our moderate-income families, it is far cheaper to provide a few dollars of tax subsidy than the expensive section 8 rental assistance subsidy to housing families in the moderate-income bracket. No special benefits are provided for high-income rental housing or for nonresidential real estate.

Second. My proposed minimum tax exemptions relating to construction-period interest and excess-investment interest would be limited to a 5-year period which is consistent with the agreement between HUD and the committee that such a limitation would provide time to study tax benefits in connection with other Federal subsidies to work out a more rational and comprehensive approach to Federal aids to housing.

Third. I have also provided a 5-year extension of the 60-month depreciation rule for rehabilitation of lower income housing (167k). Both the Congress and HUD are making special efforts to develop support for renewal of our cities, and rehabilitation incentives are vital to this effort. The 5-year limitation would provide time for a thorough study and analysis of the effectiveness of this provision and, at the same time, give adequate time to gear up and complement an effective rehabilitation program for our cities.

Fourth. I would place both low- and moderate-income housing on a par with respect to the recapture rule for excess depreciation. In each case full recapture would be required up to 100 months after the date the property was held, to be phased down to no recapture after 200 months. This change would make the provision consistent with the committee bill which places a much more severe restriction on the treatment of excess depreciation applicable to low-income housing than in existing law. My original amendment would have kept unchanged existing law with respect to such housing. However, I recognized the merits of some who believe that without a strict recapture provision, some investors may neglect good management practices with respect to the housing project after being held for a few years. My amendment would avoid that problem by extending the recapture requirement to 16⅔ years.

Mr. President, I believe it imperative that we provide these incentives to rental housing. The latest census report shows multifamily housing starts at an annual rate less than 300,000. Building permits for June for multifamily housing are down, and the expectation is that without some further incentives, new construction of rental housing will drop to a much lower level in the coming months. At the current rate of family formations, our Nation should be adding multifamily rental inventory at an annual rate of closer to 1 million units than the current 300,000 units.

The result of this poor performance is higher rents complicated by local rent controls, or possibly higher Federal subsidies. Private capital is needed to promote rental housing production, and we must do everything reasonable under our tax laws to attract private capital into housing.

On a purely economic basis, this amendment would have substantial economic impact. I spelled this out more thoroughly in my previous statement made on June 18, 1976. In summary, it is estimated over 100,000 jobs are created for every 100,000 new rental units constructed. I am estimating that my amendment could be effective in increasing housing starts by 200,000 or 300,000 which means 200,000 to 300,000 more jobs. This means not only jobs, but income to the Treasury. The National Association of Home Builders estimates that Federal tax revenues would increase at a level of $33 million for each 100,000 newly built units. Thus the additional revenue could be from $660 million to $1 billion. The tax loss under my amendment for 1977 is estimated at less than $30 million. Thus the net gain to the Treasury could be as much as $970 million.

Mr. President, I am having my amendment printed so that all Members will have a chance to study it. However, because it may be brought up tomorrow, I ask unanimous consent that both an explanation of the amendment and the amendment itself be printed in the RECORD.

There being no objection, the amendment and explanation were ordered to be printed in the RECORD, as follows:

AMENDMENT NO. 2142

At the end of the bill, add the following:

SEC. . EXEMPTION FROM ITEMS OF MINIMUM TAX PREFERENCE.

(a) CONSTITUTIONAL PERIOD INTEREST.—Section 57(a) (relating to items of tax preference), as amended by section 301(c)(1)(A) of this Act, is amended by striking out the last sentence and inserting in lieu thereof the following: "Paragraph (12) shall not apply to any amount of interest paid or accrued before January 1, 1982, on indebtedness incurred or continued to acquire, construct, rehabilitate, or carry real property which is (i) property described in clauses (i) through (iv) of section 1250(a)(1)(C), (ii) residential rental property (as defined in section 167(j)(2)(B)) other than property described in the preceding clause, but only if the maximum monthly rent for 85 percent or more of the dwelling units (as defined in section 167(k)(3)(C)) in such property, which are available for rental during such taxable year, or which will be available for rental upon completion of construction, does not exceed 120 percent of the greater of the fair market rental for the taxable year in which construction of such property began or the fair market rental for any taxable year thereafter which the taxpayer elects to use in the computation of the 120 percent amount, as determined by the Secretary of Housing and Urban Development in accordance with procedures established pursuant to section 8 of the United States Housing Act of 1937, as amended, for newly constructed dwelling units of similar size and type in the market area in which such property is located, or (iii) real property described in section 1221(1) held primarily for sale as dwelling units (as defined in section 167(k)(3)(C)).

(b) EXCESS INVESTMENT INTEREST.—Section 57(b)(5) (relating to transitional rule for excess investment interest), as added by section 301(c)(5) of this Act, is amended to read as follows:

"(5) SPECIAL RULE FOR LOW INCOME HOUSING AND RESIDENTIAL RENTAL PROPERTY.—For purposes of paragraph (2)(D), in the case of any taxpayer (including any taxpayer who is a partner in a limited partnership), the term 'investment interest expense' does not include any amount of interest paid or accrued on indebtedness incurred or continued with respect to property described in clauses (i) through (iv) of section 1250(a)(1)(C) or residential rental property, which was acquired or constructed pursuant to a written contract for the acquisition, construction, or financing of such property, which was on or before December 31, 1981, and at all times thereafter binding on the taxpayer. For purposes of this paragraph, the term 'residential rental property' means property described in clause (ii) of the last sentence of section 57(a).".

(c) CONFORMING AMENDMENT.—Section 57(b)(4) (relating to special rule for limited partner), as added by section 301(c)(5) of this Act, is amended by striking out the last sentence.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the day after the date of enactment of this Act and shall apply with respect to items of tax preference (as defined in section 57(a) of the Internal Revenue Code of 1954) for taxable years beginning after December 31, 1975.

SEC. . CERTAIN SALES OF LOW-INCOME HOUSING PROJECTS; RECAPTURE OF DEPRECIATION ON REAL PROPERTY; SECTION 167(K).

(a) DEFINITION OF LOW AND MODERATE INCOME HOUSING.—Section 1039(b)(1) (relating to definition of qualified housing project) is amended to read as follows:

"(1) QUALIFIED HOUSING PROJECT.—The term 'qualified housing project' means a project to provide rental or cooperative housing for lower income families which constitutes property described in section 1250(a)(1)(C).

(b) RECAPTURE OF DEPRECIATION.—Section 1250(a)(1)(C) (relating to special rule for certain low income housing), as amended by section 201(a) of this Act, is amended to read as follows:

"(C) SPECIAL RULE FOR HOUSING.—For purposes of subparagraph (A), the term 'applicable percentage' means—

"(ii) in the case of section 1250 property with respect to which a mortgage is insured under section 221(d)(3) or 236 of the National Housing Act, or housing financed or assisted by direct loan or tax abatement under similar provisions of State or local laws intended primarily to finance or assist housing for families or individuals of low or moderate income, and with respect to which the owner is, under such laws or regulations issued pursuant thereto, limited as to the rate of return or investment in the project, and limited as to rental or occupancy charges for units in the project—

"(I) 100 percent minus 1 percentage point for each full month the property was held after the date the property was held 20 full months if the construction or reconstruction or such property began before January 1, 1976, or

"(II) 100 percent minus 1 percentage point for each full month the property was held after the date the property was held 100 full months if the construction or reconstruction of such property began after December 31, 1975;

"(ii) in the case of dwelling units which, on the average, were held for occupancy by families or individuals eligible to receive subsidies under section 8 of the United States Housing Act of 1937, as amended, or under provisions of State or local laws providing subsidies of a similar nature for families or individuals of low or moderate income, 100 percent minus 1 percentage point for each full month the property was held after the date the property was held 100 full months;

"(iii) in the case of section 1250 property with respect to which a loan is made or insured under title V of the Housing Act of 1949, 100 percent minus 1 percentage point for each full month the property was held after the date the property was held 100 full months';

"(iv) in the case of section 1250 property with respect to which a depreciation deduction for rehabilitation expenditures was allowed under section 167(k), 100 percent minus 1 percentage point for each full month in excess of 100 full months after the date on which such property is placed in service; and

"(v) in the case of residential rental property (as defined in section 167(j)(2)(B)) other than that described in clauses (i) through (iv), with respect to which for all taxable years to which this clause applies) the maximum monthly rent for 85 percent or more of the dwelling units (as defined in section 167(k)(3)(C)) in such property are available for rental during the taxable year does not exceed 120 percent of the fair market rental for the taxable year in which construction of such property began or any taxable year thereafter as determined by the Secretary of Housing and Urban Development in accordance with procedures established pursuant to section 8 of the United States Housing Act of 1937, as amended, for newly constructed dwelling units of similar size and type in the market area in which such property is located, 100 percent minus 1 percentage point for each full month the property was held after the date the property was held 100 full months.

In the case of a building (or a portion of a building devoted to dwelling units), if on the average, 85 percent or more of the dwelling units contained in such building (or portion thereof) are units described in clause (ii), such building (or portion thereof) shall be treated as property described in clause (ii). Clauses (i), (ii), (iii), and (v) shall not apply with respect to the additional depreciation described in subsection (b)(4)."

(c) SECTION 167(k).—Section 167(k) (relating to depreciation of expenditures to rehabilitate low-income rental housing), as amended by section 201(d) of this Act, is amended by—

(1) inserting immediately before "the Leased Housing Program" the following: "the policies of the Housing and Urban Development Act of 1968 and" in paragraph (3)(B) thereof, and

(2) by striking out "January 1, 1978" each time it appears in paragraphs (1) and (3) (D) thereof and inserting in lieu thereof the following: "January 1, 1982".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply on the day after the date of enactment of this Act.

EXPLANATION OF SPARKMAN AMENDMENT WITH RESPECT TO LOW- AND MODERATE-INCOME HOUSING (MODIFICATION OF PRINTED AMENDMENT NO. 1891 TO H.R. 10612)

The amendment would exempt for a 5-year period low- and moderate-income residential rental projects from application under the minimum tax provision for (1) construction period interest, and (2) the excess investment interest attributable to the project as a result of mortgage interest payments.

A low- and moderate-income project would include all subsidy projects under Federal and State programs (as defined in Sec. 1250 (a)(1)(C)) and unsubsidized projects with rents not exceeding 120 percent of the Fair Market Rent for newly constructed rental dwellings in the market area as determined by the Secretary of HUD.

The amendment would also exclude as tax preference items subject to the minimum tax construction period interest and excess investment interest with respect to residential property held primarily for sale to customers in the ordinary course of trade or business as defined in Section 1221(1) of the Internal Revenue Code.

The amendment would also place low- and moderate-income rental projects on a 100-month recapture rule on excess depreciation—that is, full recapture up to 100 months after acquisition of the property, to be phased down to no recapture after 200 months. This would retain existing recapture rules with respect to moderate-income projects but accept the more rigid recapture rule in the Committee bill with respect to low-income (subsidized) projects. The exceptions with respect to low- and moderate-income projects and the special depreciation allowance provision applicable to the rehabilitation of housing for lower income families would expire December 31, 1981. This will provide time to study and recommend a more rational approach to Federal aids to housing.

The amendment would also make corrections to the bill with respect to the definition of housing under sections 167(k) (Rehabilitation of Housing for Lower Income Families), 1039 (Certain Sales of Low-Income Housing Projects), and 1250(a)(1)(C) (Recapture of Excess Depreciation on Housing).

POSTAL REORGANIZATION AND REFORM ACT—H.R. 8603

AMENDMENTS NOS. 2143 AND 2144

(Ordered to be printed and to lie on the table.)

Mr. HOLLINGS (for himself, Mr. ABOUREZK, Mr. CANNON, Mr. HATFIELD, Mr. HATHAWAY, Mr. MCGOVERN, and Mr. WEICKER) submitted two amendments intended to be proposed by them jointly to the bill (H.R. 8603) to amend title 39, United States Code, with respect to the organizational and financial matters of the U.S. Postal Service and the Postal Rate Commission, and for other purposes.

NOTICE OF HEARINGS

Mr. JACKSON. Mr. President, in accordance with the rules of the Senate Interior and Insular Affairs Committee, I wish to advise my colleagues and the public that the following hearings and business meetings have been scheduled before the committee for the next 2 weeks:

August 2. Parks and Recreation Subcommittee, 11:30 a.m., room 3110, hearing, S. 2112, S. 2486, S. 2783, S. 3273, S. 3287, S. 3528, and H. Con. Res. 225.

August 3 and 4. Full Committee, 10:00 a.m., room 3110, business meeting, markup of pending calendar business.

August 3. House-Senate Conference, 3:00 p.m., room S-207, Capitol, S. 217, Pueblo Indians of New Mexico.

August 5, 9, and 10. Full Committee, 10:00 am., room 3110, hearing, S. 3298, Five Central Tribes' Water bill.

NOTICE OF HEARING

Mr. JACKSON. Mr. President, I wish to announce for the information of the Senate and the public, the scheduling of a public hearing before the Subcommittee on Parks and Recreation of the Senate Interior and Insular Affairs Committee.

The hearing is scheduled for August 6, beginning at 10 a.m. in room 3110 of the Dirksen Senate Office Building. Testimony is invited on S. 3497 and S. 3498, to authorize the establishment of the Congaree Swamp National Preserve in the State of South Carolina, and for other purposes.

For further information regarding the hearings you may wish to contact Mr. James P. Beirne, Counsel, Subcommittee on Parks and Recreation, extension 47145. Those wishing to testify or who wish to submit a written statement for the hearing record should phone the subcommittee at 224-7145.

NOTICE OF HEARING

Mr. McINTYRE. Mr. President, I am pleased to announce that the Subcommittee on Financial Institutions of the Committee on Banking, Housing and Urban Affairs will hold a hearing on H.R. 13876, the International Banking Act of 1976.

The hearing will be held on August 31, 1976. It will begin at 9:30 a.m., room 5302, Dirksen Senate Office Building.

Anyone who wishes further information regarding this hearing should contact Mr. William R. Weber, room 5300, Dirksen Senate Office Building, 202-224-7391.

ADDITIONAL STATEMENTS

THE DEBATE OVER AIRLINE REGULATION: AIR SERVICE TO SMALL COMMUNITIES AND INDUSTRY PROFITS

Mr. KENNEDY. Mr. President, on May 4 of this year, I had the pleasure to appear on the Robert MacNeil Report, a nationally televised program carried by Public Broadcasting service. The May 4 program dealt with regulatory reform of Federal airline regulation. I participated in the program with John Snow, Deputy Under Secretary of the Department of Transportation, Col. Frank Borman, president of Eastern Airlines, Charles E. Griffiths of Nashville Metropolitan Airport Authority. We discussed the probable effects of less Federal control over airline ticket prices and market entry into the airline industry, and of more reliance on competition and consumer demand. The overwhelming evidence indicates that less Government regulation would bring more efficient service at significantly lower prices. The airlines of Texas and California, for example, who are not subject to Federal regulation fly modern jet equipment at air fares that are anywhere from 30 to 60 percent less than those charged by CAB-regulated carriers over the same and similar routes.

The Senate Subcommittee on Administrative Practice and Procedure, which I chair, studied these issues for 18 months and issued a comprehensive report which unanimously recommended a gradual transition to less regulation and more competition. Legislation to accomplish this goal has been proposed by myself, President Ford, a unanimous Civil Aeronautics Board, and others. Just recently the distinguished Senator from Nevada and chairman of the Senate Aviation Subcommittee (Mr. CANNON) proposed legislation to reform airline regulation. In spite of the clear evidence that more competition will better serve the interests of the flying public, the airlines themselves have fought vigorously against meaningful change.

This is quite understandable when we realize that current regulation protects existing airlines from price competition and from market entry by new, innovative firms. Airline executives are quite reluctant to loosen their grip on a closed, self-protective oligopoly.

During the course of the May 4 television discussion, Colonel Borman vigorously defended the industry's position against less regulation and argued that the regulated airline industry "is probably one of the most competitive industries in the United States." Yet, a Government agency in Washington literally fixes uniform coach and first-class air fares for all the large airlines in the United States. A Government administered price-fixing system is not usually thought to be consistent with competitive market structures.

Mr. Borman also claimed that less regulation would result in a drastic reduction of air service. He repeated the familiar argument that airlines subsidize a large degree of unprofitable air service to small communities with the revenues gained from serving routes that regulation protects from competition. I say this argument is familiar because it was presented time and time again during hearings before the Senate Administrative Practice and Procedure Subcommittee in 1974 and 1975. In each case, the particular argument was either shown to be either exaggerated or false. But, Colonel Borman submitted an impressive study purporting to support his argument.

For the benefit of the nationwide TV audience, Eastern Airline's president presented Mr. Snow of the Department of Transportation with a 3-page list of nearly 200 of Eastern's routes that Mr. Borman represented were the beneficiaries of cross-subsidy. He claimed that many of them would be abandoned under total deregulation.

Mr. President, careful analysis of that list by the Department of Transportation reveals how incorrect those claims were. It turns out, for example, that Eastern already discontinued service on 24 of the 160 domestic route segments on that list. And it did so under regulation, not deregulation. Moreover, for 133 of the domestic segments, Eastern provides air service far in excess of what current regulation requires. It is hard to believe that Eastern's voluntary choice to offer these discretionary levels of service is not related to the profit motive. In fact, careful analysis indicates that only three domestic route segments on the list may be the beneficiaries of cross subsidies. This is a far cry from concluding that some 200 of Eastern's air routes would lose service under less regulation—which is the mistaken impression that may have been left with the nationwide television audience.

Mr. President, I am afraid that mistaken arguments about loss of air service will continue to be made by those who want to defeat responsible proposals for reform. But, perhaps some airline shareholders will take a more enlightened view. The fact is that the traveling public will not be the only group to benefit from reform. It appears that airline shareholders will also benefit because the prospects for profits are greater under less regulation. This is the unmistakable and documented conclusion of financial analyst Thomas A. Trantum of H. C. Wainwright & Co. in New York City. In his detailed July 8, 1976, "Industry Review," Mr. Trantum concludes that the "direction toward less regulation appears to increase the chances of a more profitable industry." The financial interests of airline shareholders and the broad public interest of the Nation's travelers are not in conflict with each other. It is about time to get that message across to travelers, airline shareholders, airline executives, and those of us in Congress.

I ask unanimous consent that the Department of Transportation study of the Eastern route list and the H. C. Wainwright & Co. analysis of industry profits under less regulation be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

AN ANALYSIS OF EASTERN'S UNPROFITABLE DOMESTIC SEGMENTS

SUMMARY

Careful analysis of Eastern's 160 unprofitable domestic segments for 1975 indicates that cross-subsidies *may* be required to continue certificated service over only three of those segments. Of the other 157, 24 have already been discontinued. For the other 133, Eastern provides a level of service in excess of any apparent regulatory requirements. Since Eastern is voluntarily providing service in excess of the minimum that is required, it would not seem that these segments are likely candidates for abandonment, but are profitable in a more relevant sense.

Further the essential nature of the Eastern service on the three segments which may require cross-subsidization appears questionable. Other carriers, both certificated and commuter, provide significant alternate service to the constraining points on the unprofitable Eastern segments. Any loss of Eastern service would not imply that the communities in question will have lost access to the nation's air service network.

Frequently in the debate over regulatory reform of the aviation industry, industry representatives have presented lists of segments served which are "net loss" segments and receive cross-subsidization. The clear implication is that service to these segments will be abandoned in the absence of protective regulation, which provides profits in certain markets to support service over losing markets.

Careful analysis of these lists usually indicates, however, that few if any of the segments are likely to be abandoned. Last year, as part of its study of Civil Aeronautics Board practices and procedures, the Senate Subcommittee on Administrative Practice and Procedure broke down a list from United of 327 "losing" city-pairs to 29 route segments which were in fact susceptible to loss of service. These constituted one-half of one percent of United's revenue passenger miles.

This short paper is intended to analyze a similar list of 160 "losing" domestic segments provided by Eastern. The analysis is restricted to a consideration of the possibility of abandonment. The simple criteria utilized is to examine the question as to whether the service provided in each segment is required by CAB regulation. If not, Eastern is free to abandon the segment irrespective of regulatory reform. The obvious question is then, why haven't these "unprofitable" segments already been dropped. The answer, provided by Frank Borman in his recent House testimony, is that the segments are not truly unprofitable, despite the fact that fully allocated costs are not covered by ticket revenues over the segment.

As a first step, the logical question to ask is what portion of that losing service is in fact required via Eastern's certificate obligations.

Using the abandonment criterion, if Eastern may voluntarily eliminate and reduce service on the losing segments and does not, one must suppose they are proceeding rationally, and that the 1975 losses are expected to be temporary or misrepresent the true situation.

The air carrier's certificate is constituted by a listing of authorized points which constitute a route. The carrier has freedom to operate as much capacity as it may wish in the exercise of sound business judgment—subject only to the minimum level of service required by the certificate obligation and the adequacy provision of the Act.[1] Minimum adequate service appears to imply at least one or two daily flights from and to a named point. There are several points on Eastern's authority which receive only two flights daily (Allentown, Pa., Macon, Ga., for example). Clearly, losing service to any segment whose end points both receive two or more other profitable flights to and from other points is being provided voluntarily by Eastern. For example, the Atlanta-Chicago segment is indicated as unprofitable. However, both Atlanta and Chicago have numerous other profitable Eastern flights to other points. Thus, Eastern could discontinue the Atlanta-Chicago service if they choose, without any CAB interference. Similarly, if there are a number of losing segments being served from a single point, only two of those segments must be served; the others clearly may be abandoned (even if only one flight is provided for each segment). For example, Eastern shows three losing segments served from Akron/Canton in 1975 (Table I). There is one Akron/Canton segment not on the list of losing segments (to Charlotte, Table II) which is presumably profitable. Therefore, the one profitable segment (with one flight daily) plus one losing segment (with one flight daily) constitute minimum adequate service and two of the three losing segments may be dropped at Eastern's discretion.

In fact, this is exactly what has happened. Eastern has voluntarily terminated from Akron/Canton to Pittsburgh and to Detroit. The existence of this management discretion is verified by the fact that Eastern has already dropped 24 of the 160 unprofitable segments without any proceedings before the Board whatsoever (see Table I). As a general rule, Eastern needs to go before the Board only if it desires to completely drop all service to a point on its certificate. All of these 24 segments were dropped without abandoning Eastern service to any point.

Analyzing Eastern's discretionary control over the domestic losing segments, we find that only 20 segments include a point in danger of falling below minimum adequate service if the segment in question is dropped (Tables III and IV). This analysis proceeded as follows: All the points included in losing segments were tabulated (Table III). Eastern's segments not on the list of losers (presumably profitable segments) were also tabulated (Table II). Then the number of profitable segments served by Eastern from each point included in a losing segment and the total number of daily flights flown by Eastern on those segments were calculated (Table III, Columns (2) and (3)). Using the criterion stated above. that two daily flights constitute minimum adequate service, any losing segment whose end points receive at least two other profitable daily flights (from Eastern) may be abandoned at Eastern's discretion. All such segments which Eastern still flies are therefore eliminated as candidates for cross-subsidy. Further, even if all the segments flown from a given point are losers, only two daily flights are required. For example, five segments are flown from Nashville by Eastern; all are on the list of losing segments. However, minimum required service to Nashville is provided by Eastern's five daily flights to Atlanta. Service requirements for Nashville, therefore, do not constrain Eastern to serve the other four segments. (In all such cases, the segment with the largest number of flights was included in the list of 20 and the others excluded.) The exclusion of segments under this reasoning, plus exclusions indicated above, leave 20 segments. Of these 20, 12 segments received service in excess of the minimum. Eastern presumably provides service in excess of the minimum only if the segment is, in the relevant sense, profitable. This leaves eight segments whose service provided exactly meets the minimum service required under Eastern's certification. Of these eight, one, Corpus Christi to New Orleans, was added in 1975, over and above the one daily flight offered from Corpus Christi all through 1974, and so could presumably be dropped at Eastern's discretion.

One, Huntsville to St. Louis, has a load factor of 70.1 in 1974, and two more, Allentown to Washington and Greensboro to Roanoke, ran load factors of 59.7 and 57.8 respectively in 1974. No additional competition has surfaced on these routes, so one would expect that at least the Huntsville-St. Louis segment would be profitable in normal times, and perhaps the other two as well. This leaves four to six markets which may be subject to cross-subsidy.

Of these four to six markets, three, Houston-Corpus Christi, Greensboro-Roanoke, and Macon-Atlanta, are served by competitors (Braniff and Texas International; Delta; and Piedmont, respectively). These competitors provide sufficient service to Eastern's constraining point in each case (Corpus Christi, Macon, and Roanoke), so that the competitors' service to the segment in question is clearly voluntary and these segments are therefore not cross-subsidized by those carriers. Thus, even if the cross-subsidy exists in the case of Eastern's service, it is not necessary to maintain certified service to the segments in question. Even if one accepts the validity of providing cross-subsidies in order to maintain service at small points, it is clearly foolish to require one carrier to cross-subsidize while exactly similar service can be provided on a profitable basis by other carriers. If Eastern is indeed providing cross-subsidies to these points, rational public policy requires that Eastern be permitted to drop these points from its certificate.

This leaves a net of two or three segments which may be receiving Eastern cross-subsidies and may require them to continue receiving service (depending on whether one accepts the Allentown-Washington (DCA) load factor as high enough to suggest the existence of profitable service). These three segments are: Akron/Canton to Cleveland; Allentown to Washington (DCA); Washington (DCA) to Wilkes Barre.

In the Allentown-Washington segment, a commuter competes with Eastern providing five[2] daily flights to Eastern's two, at a fare of $31.00 as opposed to Eastern's $29.00.

The three constraining points, for Eastern, on each segment receive substantial service to other points from other carriers:

Daily flights

	Certificated	*Commuter*[2]
Akron/Canton	14	
Allentown	8	22
Wilkes Barre	8	6

Even for these points, one may question whether Eastern's cross-subsidy, if it exists, should in fact be provided. Certainly substantial other service exists.

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[1] *The Domestic Route System: Analysis and Policy Recommendations.* A staff study by the Bureau of Operating Rights, Civil Aeronautics Board, (Washington, D.C., CAB, October 1974), page 39.

[2] Commuter airlines typically provide daily flights five or six days a week as opposed to certificated carriers' seven.

TABLE I.—DOMESTIC SEGMENTS ON EASTERN AIRLINES WHICH WERE NOT PROFITABLE ON A FULLY ALLOCATED BASIS FOR 1975

Segment	Does nonstop Eastern service still exist? (1)	Other nonstop service (2)	Does Eastern still serve this market? (yes if (1) is yes) (3)	Additional carriers serving this market (other than nonstop service) (4)	Type of segment[1] (5)
Akron/Canton-Cleveland	Yes	None	Yes	None	SH-LH
Akron/Canton-Detroit	No	None	No	None	SH-LH
Akron/Canton-Pittsburgh	No	AL, UA	No	None	SH-LH
Allentown/Bethlehem/Easton-Washington (DCA).	Yes	AK[1]	Yes	None	SH-LH
Atlanta-Baltimore	Yes	DL	Yes	None	LH-MH
Atlanta-Birmingham	Yes	DL, SO	Yes	None	LH-MH
Atlanta-Charlotte	Yes	DL	Yes	SO	LH-MH
Atlanta-Chattanooga	Yes	DL, SO	Yes	None	LH-SH
Atlanta-Chicago (O'Hare)	Yes	NW, DL	Yes	None	LH-LH
Atlanta-Columbus, Ga	Yes	DL, SO	Yes	None	LH-SH
Atlanta-Dallas/Fort Worth	Yes	DL	Yes	None	LH-LH
Atlanta-Fort Lauderdale	Yes	DL, NW, UA	Yes	None	LH-LH
Atlanta-Greenville/Spartanburg	Yes	DL, SO	Yes	None	LH-SH
Atlanta-Indianapolis	Yes	DL	Yes	None	LH-MH
Atlanta-Jacksonville	Yes	DL, UA	Yes	None	LH-MH
Atlanta-Los Angeles	Yes	DL	Yes	None	LH-LH
Atlanta-Louisville	Yes	DL	Yes	None	LH-MH
Atlanta-Macon	Yes	DL	Yes	None	LH-SH
Atlanta-Memphis	Yes	DL	Yes	SO	LH-MH
Atlanta-Miami	Yes	DL, NW, UA	Yes	SO	LH-LH
Atlanta-Montgomery	Yes	DL	Yes	None	LH-SH
Atlanta-Nashville	Yes	SO	Yes	None	LH-MH
Atlanta-Newark	Yes	DL	Yes	UA	LH-LH
Atlanta-New Orleans	Yes	DL	Yes	SO	LH-LH
Atlanta-New York (Kennedy)	Yes	DL	Yes	UA	LH-LH
Atlanta-New York (LaGuardia)	Yes	DL, UA	Yes	PI	LH-LH
Atlanta-Orlando	Yes	DL	Yes	SO	LH-MH
Atlanta-Philadelphia	Yes	DL	Yes	None	LH-LH
Atlanta-Tampa	Yes	DL, NW, UA	Yes	None	LH-LH
Augusta-Charlotte	Yes	None	Yes	None	SH-MH
Baltimore-Boston	No	AA, AL, DL	No	None	MH-LH
Baltimore-Hartford	Yes	AL	Yes	None	MH-MH
Baltimore-Newark	Yes	None	Yes	None	MH-LH
Baltimore-Philadelphia	Yes	AA, AK,[1] AL, DL, YN.[1]	Yes	None	MH-LH
Baltimore-Raleigh/Durham	Yes	None	Yes	None	MH-MH
Baltimore-Washington (DCA)	Yes	AL, NA, PI, NO.[1]	Yes	None	MH-LH
Baltimore-Washington (Dulles)	No	None	No	None	MH-LH
Birmingham-Mobile	Yes	SO	Yes	None	MH-SH
Birmingham-Nashville	Yes	SO	Yes	None	MH-MH
Birmingham-New Orleans	No	DL	Yes	SO	MH-LH
Birmingham-New York (LaGuardia).	Yes	DL	Yes	None	MH-LH
Birmingham-Pensacola	Yes	None	Yes	None	MH-SH
Boston-Charlotte	Yes	None	Yes	None	LH-SH
Boston-Hartford	Yes	AL, DL	Yes	None	LH-MH

Footnotes at end of table.

TABLE I.—DOMESTIC SEGMENTS ON EASTERN AIRLINES WHICH WERE NOT PROFITABLE ON A FULLY ALLOCATED BASIS FOR 1975—Continued

Segment	Does nonstop Eastern service still exist? (1)	Other nonstop service (2)	Does Eastern still serve this market? (yes if (1) is yes) (3)	Additional carriers serving this market (other than nonstop service) (4)	Type of segment[1] (5)
Boston-Miami	Yes	DL	Yes	NA	LH-LH
Boston-Newark	Yes	AA, DL	Yes	None	LH-LH
Boston-New York (Kennedy)	Yes	AA, NA, TW	Yes	None	LH-LH
Boston-Philadelphia	Yes	AL, DL	Yes	None	LH-LH
Boston-Providence	No	AL, NF[1]	No	None	LH-SH
Boston-Tampa	Yes	DL, NW	Yes	None	LH-LH
Buffalo-Philadelphia	Yes	UA	Yes	AL	MH-LH
Buffalo-Pittsburgh	No	AL, UA	No	None	MH-LH
Charleston, S.C.-Charlotte	Yes	None	Yes	None	SH-MH
Charleston, S.C.-Chicago (O'Hare)	No	None	Yes	DL	SH-LH
Charlotte-Chattanooga	Yes	None	Yes	None	MH-SH
Charlotte-Columbia, S.C	Yes	None	Yes	None	MH-SH
Charlotte-Columbus, Ohio	Yes	None	Yes	PI	MH-MH
Charlotte-Daytona Beach	Yes	None	Yes	None	MH-SH
Charlotte-Detroit	Yes	None	Yes	None	MH-LH
Charlotte-Greensboro	No	DL, PI	Yes	None	MH-MH
Charlotte-Greenville/Spartanburg	Yes	PI, SO, WR[1]	Yes	None	MH-SH
Charlotte-Newark	Yes	DL	Yes	PI, UA	MH-LH
Charlotte-Raleigh/Durham	Yes	PI, UA	Yes	None	MH-MH
Chicago (O'Hare)-Cincinnati	No	AA, DL	No	None	LH-MH
Chicago (O'Hare)-Detroit	No	AA, DL, NW, UA	No	NC	LH-LH
Chicago (O'Hare)-Fort Lauderdale.	Yes	DL, NW	Yes	SO	LH-LH
Chicago (O'Hare)-Greensboro	Yes	DL	Yes	None	LH-MH
Chicago (O'Hare)-Miami	Yes	DL, NW	Yes	SO	LH-LH
Chicago (O'Hare)-Nashville	Yes	DL	Yes	None	LH-MH
Chicago (O'Hare)-Orlando	Yes	DL	Yes	SO	LH-MH
Chicago (O'Hare)-Raleigh/Durham.	Yes	DL	Yes	None	LH-MH
Cincinnati-Fort Lauderdale	Yes	None	Yes	DL	MH-LH
Cincinnati-Milwaukee	Yes	NC	Yes	None	MH-MH
Cincinnati-Minneapolis/St. Paul	Yes	None	Yes	NC	MH-LH
Cleveland-Detroit	No	DL, FW, NC, NW, UA.	No	None	LH-LH
Cleveland-Fort Lauderdale	No	UA	No	None	LH-LH
Cleveland-Pittsburgh	Yes	AL, NW, UA	Yes	None	LH-LH
Columbia, S.C.-Newark	No	None	Yes	None	SH-LH
Columbia, S.C.-Washington (DCA)	Yes	None	Yes	PI	SH-LH
Columbus, Ohio-Toledo	Yes	DL	Yes	None	MH-SH
Corpus Christi- Houston	Yes	BN, TI	Yes	None	SH-LH
Corpus Christi-New Orleans	Yes	None	Yes	None	SH-LH
Dallas/Fort Worth-Miami	Yes	BN	Yes	None	LH-LH
Daytona Beach-Fort Lauderdale	No	None	No	None	SH-LH
Daytona Beach-Jacksonville	Yes	NA	Yes	None	SH-MH
Daytona Beach-Melbourne	No	None	No	None	SH-SH
Daytona Beach-Miami	Yes	NA	Yes	None	SH-LH
Detroit-Greensboro	Yes	None	Yes	None	LH-MH
Detroit-Miami	Yes	DL	Yes	None	LH-LH
Detroit-Orlando	Yes	DL	Yes	None	LH-MH
Detroit-Pittsburgh	Yes	NW, UA	Yes	AL	LH-LH
Detroit-Tampa	Yes	DL	Yes	None	LH-LH
Evansville-Louisville	Yes	None	Yes	None	SH-MH
Evansville-St. Louis	Yes	None	Yes	None	SH-LH
Fort Lauderdale-Miami	Yes	NA	Yes	None	LH-LH
Fort Lauderdale-Orlando	Yes	DL, SO	Yes	None	LH-MH
Fort Lauderdale-Philadelphia	Yes	DL	Yes	None	LH-LH
Fort Lauderdale-Sarasota	No	FE[1]	No	None	LH-SH
Fort Lauderdale-Tampa	Yes	BN, DL	Yes	None	LH-LH
Fort Lauderdale-West Palm Beach.	Yes	NA	Yes	None	LH-MH
Gainesville-Jacksonville	No	FE[1]	No	None	NH-MH
Gainesville-Miami	Yes	None	Yes	FE[1]	NH-LH
Greensboro-Greenville/Spartanburg[2].	Yes	None	Yes	PI	MH-SH
Greensboro-Pittsburgh	Yes	None	Yes	None	MH-LH
Greensboro-Raleigh/Durham	No	DL, PI	No	None	MH-MH
Greensboro-Roanoke	Yes	PI	Yes	None	MH-SH
Hartford-Newark	Yes	AL, DL	Yes	None	MH-LH
Hartford-New York (Kennedy)	Yes	AA, AL, TW	Yes	None	MH-LH
Hartford-New York (LaGuardia)	No	None	No	None	MH-LH
Hartford-Philadelphia	Yes	AA, AL, DL	Yes	None	MH-LH
Hartford-Providence	Yes	AL	Yes	None	MH-SH
Houston-New Orleans	Yes	CO, DL, NA, TI	Yes	None	LH-LH
Houston-New York (Kennedy)	Yes	None	Yes	BN, DL	LH-LH
Houston-San Antonio	Yes	AA, BN, CO, WN[3].	Yes	None	LH-MH
Huntsville-Nashville	Yes	SO	Yes	None	SH-MH
Huntsville-St. Louis	Yes	None	Yes	SO	SH-LH
Indianapolis-Louisville	Yes	AL, DL, OZ	Yes	None	MH-MH
Jacksonville-Melbourne	Yes	None	Yes	None	MH-SH
Jacksonville-Miami	Yes	DL, NA	Yes	None	MH-LH
Jacksonville-Orlando	No	DL, NA	No	None	MH-MH
Jacksonville-Sarasota	Yes	None	Yes	NA, FE[1]	MH-SH
Melbourne-Miami	Yes	NA	Yes	None	SH-LH
Melbourne-Orlando	Yes[2]	None	Yes	None	SH-MH
Melbourne-Tampa	Yes	NA	Yes	None	SH-LH
Miami-Minneapolis/St. Paul	Yes	NW	Yes	None	LH-LH
Miami-Orlando	Yes	DL, NA, SO	Yes	None	LH-MH
Miami-Sarasota	Yes	None	Yes	FE[1], NA	LH-SH
Miami-Tampa	Yes	BN, DL, NA, QH,[1] TW.	Yes	None	LH-LH
Miami-West Palm Beach	Yes	DL, NA	Yes	None	LH-MH
Minneapolis/St. Paul-Tampa	Yes	NA	Yes	None	LH-LH
Mobile-Montgomery	Yes[2]	None	Yes	None	SH-SH
Montgomery-Pensacola	Yes[2]	None	Yes	None	SH-SH
Nashville-St. Louis	No	OZ	No	None	MH-LH
Newark-Philadelphia	Yes	AA, AL, DL	Yes	None	LH-LH
Newark-Providence	No	AL	No	None	LH-SH
Newark-Raleigh/Durham	Yes	UA	Yes	None	LH-MH
Newark-Richmond	Yes	None	Yes	None	LH-SH
Newark-Washington (DCA)	Yes	BN	Yes	AL	LH-LH
Newark-Washington (Dulles)	Yes	AA, BN, NW	Yes	None	LH-LH
New Orleans-New York (LaGuardia).	Yes	DL	Yes	SO	LH-LH
New Orleans-Pensacola	Yes	NA	Yes	None	LH-SH
New Orelans-San Antonio	Yes	None	Yes	None	LH-MH
New York (Kennedy-Philadelphia.	Yes	NA, TW, YN[1]	Yes	None	LH-LH
New York (Kennedy)-Providence	Yes	AA, NA	Yes	None	LH-SH
New York (Kennedy)-Richmond	Yes	None	Yes	None	LH-SH
New York (Kennedy)-Washington (Dulles).	Yes[2]	AA, BN, TW	Yes	None	LH-LH
New York (LaGuardia)-Philadelphia.	No	AA, DL[2]	No	None	LH-LH
New York (LaGuardia)-Richmond	Yes	None	Yes	None	LH-SH
Omaha-St. Louis	Yes	None	Yes	FL	MH-LH
Orlando-Sarasota	Yes	None	Yes	NA	MH-SH
Orlando-Tampa	Yes	DL, NA	Yes	None	MH-LH
Orlando-West Palm Beach	No	DL, NA	Yes	None	MH-MH
Philadelphia-Syracuse	Yes	None	Yes	None	LH-MH
Philadelphia-Washington (Dulles)	Yes	UA, TW	Yes	None	LH-LH
Philadelphia-West Palm Beach	Yes	None	Yes	DL, NA	LH-MH
Portalnd-Seattle	Yes	BN, CO, NW, RW, UA, WA.	Yes	None	MH-LH
Raleigh/Durham-Richmond	Yes	None	Yes	None	MH-SH
Sarasota-Tampa	Yes	FE[1], NA, YX[1]	Yes	None	SH-LH
Tampa-West Palm Beach	Yes	DL, FE[1]	Yes	None	LH-MH
Washington (DCA)-Wilkes-Barre/Scranton.	Yes	None	Yes	AK[1]	LH-NH

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[1] Indicates commuter carrier.

[2] 1-way only.

[3] Intrastate.

Note: Data for cols. (1) to (4) was obtained from the Official Airline Guide, Apr. 15, 1976, Reuben H. Donnelley Publication. Data for col. (5) was obtained from Airport Activity Statistics of Certificated Route Air Carriers, for the 12 mo ended June 30, 1974, prepared jointly by the Civil Aeronautics Board and the Federal Aviation Administration.

*LH—Large hub, MH—Medium hub, SH—Small hub, NH—Nonhub.

TABLE II.—SEGMENTS ON EASTERN AIRLINES WHICH WERE PROFITABLE ON A FULLY ALLOCATED BASIS FOR 1975

Segment	Does nonstop Eastern service still exist? (1)	Other nonstop service (2)	Does Eastern still serve this market? (yes if (1) is yes) (3)	Additional carriers serving this market (other than nonstop service) (4)	Type of segment[1] (5)	Eastern weekly flights on nonstop segments (6)
Akron/Canton-Charlotte	Yes	None	Yes	None	SH-MH	7
Atlanta-Boston	Yes	None	Yes	DL	LH-LH	35
Atlanta-Buffalo	Yes	UA	Yes	None	LH-MH	21
Atlanta-Daytona Beach	Yes	None	Yes	None	LH-SH	35
Atlanta-Evansville	Yes	None	Yes	None	LH-SH	7
Atlanta-Ft. Myers	Yes	None	Yes	None	LH-SH	28
Atlanta-Gainesville	Yes	None	Yes	None	LH-NH	21
Atlanta-Greensboro	Yes	None	Yes	None	LH-MH	28
Atlanta-Hartford	Yes	None	Yes	DL	LH-MH	28
Atlanta-Houston	Yes	DL	Yes	None	LH-LH	49
Atlanta-Melbourne	Yes	None	Yes	None	LH-SH	28
Atlanta-Milwaukee	Yes	None	Yes	NW	LH-MH	21

Footnotes at end of table.

TABLE II.—SEGMENTS ON EASTERN AIRLINES WHICH WERE PROFITABLE ON A FULLY ALLOCATED BASIS FOR 1975—Continued

Segment	Does nonstop Eastern service still exist? (1)	Other nonstop service (2)	Does Eastern still serve this market? (yes if (1) is yes) (3)	Additional carriers serving this market (other than nonstop service) (4)	Type of segment[1] (5)	Eastern weekly flights on nonstop segments (6)
Atlanta-Minneapolis/St. Paul	Yes	NW	Yes	None	LH-LH	21
Atlanta-Mobile	Yes	SO	Yes	None	LH-SH	28
Atlanta-Pensacola	Yes	None	Yes	None	LH-SH	35
Atlanta-Pittsburgh	Yes	UA	Yes	UA	LH-LH	21
Atlanta-Providence	Yes	None	Yes	None	LH-SH	7
Atlanta-Raleigh/Durham	Yes	None	Yes	UA	LH-MH	49
Atlanta-Richmond	Yes	None	Yes	PI	LH-LH	28
Atlanta-St. Louis	Yes	TW	Yes	DL, SO	LH-LH	42
Atlanta-San Antonio	Yes	None	Yes	None	LH-MH	35
Atlanta-Sarasota	Yes	None	Yes	None	LH-SH	35
Atlanta-Syracuse	Yes	None	Yes	None	LH-MH	14
Atlanta-Tallahassee	Yes	None	Yes	SO	LH-SH	35
Atlanta-Washington (DCA)	Yes	DL	Yes	PI, UA	LH-LH	35
Atlanta-Washington (Dulles)	No	DL	No	PI	LH-LH	----------
Atlanta-West Palm Beach	Yes	DL, UA	Yes	DL	LH-MH	28
Baltimore-Fort Lauderdale	Yes	DL	Yes	None	MH-LH	7
Baltimore-Miami	Yes	None	Yes	DL, NA	MH-LH	14
Baltimore-New York (Kennedy).	No	DL, AL	No	None	MH-LH	----------
Baltimore-Orlando	Yes	None	Yes	NA	MH-MH	7
Birmingham-Chicago	Yes	DL	Yes	SO	MH-LH	7
Birmingham-Miami	Yes	None	Yes	SO	MH-LH	7
Boston-Fort Lauderdale	Yes	DL	Yes	DL	LH-LH	7
Boston-New Orleans	Yes	None	Yes	DL	LH-LH	7
Boston-New York (LaGuardia and Newark).	Yes	AA, DL	Yes	NE	LH-LH	70
Boston-Orlando	Yes	None	Yes	DL	LH-MH	14
Boston-Washington (DCA)	Yes	AA, AL, DL.	Yes	AL, AA	LH-LH	35
Boston-West Palm Beach	Yes	None	Yes	NA, DL	LH-MH	7
Buffalo-Fort Lauderdale	Yes	UA	Yes	UA	MH-LH	7
Buffalo-Miami	Yes	UA	Yes	UA	MH-LH	7
Charlotte-Chicago (O'Hare)	Yes	None	Yes	DL	MH-LH	28
Charlotte-Cleveland	Yes	None	Yes	None	MH-LH	7
Charlotte-Hartford	Yes	None	Yes	None	MH-LH	7
Charlotte-Jacksonville	Yes	None	Yes	None	MH-MH	7
Charlotte-Miami	Yes	None	Yes	None	MH-LH	7
Charlotte-New York (Kennedy).	Yes	None	Yes	None	MH-LH	7
Charlotte-New York (LaGuardia).	Yes	DL	Yes	None	MH-LH	28
Charlotte-Orlando	Yes	None	Yes	None	MH-MH	7
Charlotte-Philadelphia	Yes	None	Yes	None	MH-LH	28
Charlotte-Pittsburgh	Yes	None	Yes	None	MH-LH	35
Charlotte-St. Louis	Yes	None	Yes	None	MH-LH	7
Charlotte-Washington (DCA and Dulles).	Yes	None	Yes	None	MH-LH	28
Chicago-Jacksonville	Yes	None	Yes	DL	LH-MH	14
Chicago-Tampa	Yes	NW, DL	Yes	None	LH-LH	21
Cincinnati-Miami	Yes	DL	Yes	DL	MH-LH	7
Cincinnati-Orlando	Yes	None	Yes	DL	MH-MH	7
Cleveland-Orlando	Yes	None	Yes	None	LH-MH	7
Cleveland-Miami	Yes	UA	Yes	None	LH-LH	7
Cleveland-Tampa	Yes	UA	Yes	UA	LH-LH	7
Columbus, OH-Miami	Yes	DL	Yes	DL	MH-LH	7
Columbus, OH-Tampa	Yes	None	Yes	DL	MH-LH	14
Dallas/Fort Worth-Tampa	Yes	BN	Yes	None	LH-LH	14
Daytona Beach-New York (LaGuardia).	Yes	None	Yes	NA	SH-LH	7
Detroit-Fort Lauderdale	Yes	None	Yes	DL	LH-LH	7
Detroit-West Palm Beach	Yes	None	Yes	DL	LH-MH	7
Fort Lauderdale-Hartford	Yes	DL	Yes	None	LH-MH	7
Fort Lauderdale-New York	Yes	NA, DL	Yes	None	LH-LH	84
Fort Lauderdale-Pittsburgh	Yes	UA	Yes	None	LH-LH	7
Fort Lauderdale-Washington (DCA and Dulles).	Yes	DL	Yes	NA	LH-LH	7
Gainesville-Melbourne	Yes	None	Yes	None	NH-SH	7
Greensboro-Miami	Yes	None	Yes	None	MH-LH	7
Greensboro-New York (LaGuardia).	Yes	UA	Yes	None	MH-LH	21
Greensboro-Washington (DCA).	Yes	None	Yes	PI	MH-LH	14
Greenville/Spartanburg-New York (LaGuardia).	Yes	None	Yes	PI	SH-LH	7
Greenville/Spartanburg-Washington (DCA).	Yes	None	Yes	PI	SH-LH	7
Hartford-Miami	Yes	None	Yes	DL	MH-LH	14
Hartford-Tampa	Yes	None	Yes	DL	MH-LH	7
Hartford-Washington (DCA)	Yes	AL, AA	Yes	AL	MH-LH	14
Houston-New York	Yes	DL	Yes	BN	LH-LH	35
Houston-Philadelphia	Yes	None	Yes	DL, NA	LH-LH	7
Houston-Washington (Dulles).	Yes	None	Yes	BN	LH-LH	14
Huntsville-Orlando	Yes	SO	Yes	SO	SH-MH	7
Indianapolis-Miami	Yes	None	Yes	DL	MH-LH	7
Indianapolis-Minneapolis/St. Paul.	Yes	None	Yes	OZ	MH-LH	7
Indianapolis-Tampa	Yes	DL	Yes	None	MH-LH	7
Jacksonville-New York (Kennedy and LaGuardia).	Yes	NA	Yes	NA	MH-LH	14
Jacksonville-Washington (DCA).	Yes	NA	Yes	NA	MH-LH	14
Lexington/Frankfort-Louisville.	Yes	PI	Yes	None	SH-MH	7
Lexington/Frankfort-Washington (DCA).	Yes	None	Yes	None	SH-LH	14
Louisville-New York (Newark).	Yes	None	Yes	AL	MH-LH	7
Louisville-Washington (DCA)	Yes	None	Yes	PI	MH-LH	14
Miami-New Orleans	Yes	NA	Yes	NA	LH-LH	14
Miami-Newark	Yes	DL, NA	Yes	NA	LH-LH	56
Miami-New York (Kennedy and LaGuadia).	Yes	NA, DL, BN.	Yes	BN, NA	LH-LH	133
Miami-Philadelphia	Yes	DL	Yes	DL	LH-LH	42
Miami-Pittsburgh	Yes	UA	Yes	None	LH-LH	28
Miami-Providence	Yes	None	Yes	NA	LH-SH	7
Miami-Raleigh/Durham	Yes	None	Yes	None	LH-MH	7
Miami-St. Louis	Yes	TW	Yes	TW	LH-LH	14
Miami-Syracuse	Yes	None	Yes	None	LH-MH	7
Miami-Washington (DCA and Baltimore).	Yes	NA, BN	Yes	DL, NA	LH-LH	49
New Orleans-New York (Kennedy).	Yes	DL	Yes	None	LH-LH	7
New Orleans-Philadelphia	Yes	DL	Yes	NA, DL	LH-LH	7
New Orleans-Washington (Dulles).	Yes	None	Yes	SO	LH-LH	7
New York-Orlando	Yes	NA	Yes	NA, SO	LH-MH	35
New York-Raleigh/Durham	Yes	UA	Yes	None	LH-MH	28
New York-Sarasota	Yes	NA	Yes	NA	LH-SH	7
New York-Tampa	Yes	NA, DL	Yes	NA	LH-LH	42
New York (Newark)-Washington (DCA).	Yes	BN	Yes	AL[2]	LH-LH	49
New York-West Palm Beach	Yes	NA	Yes	NA	LH-MH	35
Omaha-Seattle/Tacoma	Yes	None	Yes	None	MH-LH	14
Orlando-Philadelphia	Yes	None	Yes	DL, NA	MH-LH	7
Orlando-Pittsburgh	Yes	None	Yes	None	MH-LH	7
Orlando-Providence	Yes	None	Yes	None	MH-SH	7
Orlando-Washington (DCA and Baltimore.	Yes	NA	Yes	SO	MH-LH	28
Philadelphia-St. Louis	Yes	TW	Yes	AL TW	LH-LH	7
Philadelphia-Tampa	Yes	DL	Yes	None	LH-LH	14
Philadelphia-Washington (Baltimore).	Yes	DL, AL[2]	Yes	None	LH-LH	28
Pittsburgh-Roanoke	Yes	None	Yes	None	LH-SH	7
Pittsburgh-Tampa	Yes	UA	Yes	None	LH-LH	7
Portland-St. Louis	Yes	None	Yes	None	MH-LH	7
Raleigh/Durham-Washington	Yes	None	Yes	PI	MH-LH	28
St. Louis-Seattle/Tacoma	Yes	None	Yes	None	LH-LH	7
St. Louis-Tampa	Yes	TW	Yes	None	LH-LH	7
St. Louis-Washington (DCA)	Yes	TW	Yes	AA, TW	LH-LN	7
Syracuse-Washington	Yes	AL	Yes	AL	MH-LH	7
Tallahassee-Tampa	Yes	None	Yes	None	SH-LH	21
Tampa-Washington (DCA)	Yes	None	Yes	NA	LH-LH	14
Washington-West Palm Beach	Yes	NA	Yes	NA	LH-MH	7

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[1] LH—large hub; MH—medium hub; SH—small hub; NH—nonhub.

[2] Commuter air carrier.

Source: Data for col. 1, 3, and 6 was obtained from the Eastern Timetable, effective May 1, 1976. Data for cols. 2 and 4 was obtained from the Official Airline Guide, Apr. 15, 1976. Data for col. 5 was obtained from Airport Activity Statistics for Certificated Routes Air Carriers, for the 12 mo. ended June 30, 1974, prepared jointly by the Civil Aeronautics Board and the Federal Aviation Administration.

TABLE III

Unprofitable points	Number of unprofitable segments	Profitable segments	Total number of daily flights on profitable segments
Akron/Canton	3	1	1
Allentown/Bethlehem/Easton	1	None	
Atlanta	25	26	107
Augusta	1	None	
Baltimore	8	3	4
Birmingham	6	2	2
Boston	2	7	25
Buffalo	2	3	5
Charleston	2	None	
Charlotte, N.C	12	12	29
Chattanooga	2	None	
Chicago	9	4	10
Cincinnati	4	2	2
Cleveland	4	4	4
Columbia	2	None	
Columbus, Ga	1	None	
Columbus, Ohio	2	2	3
Corpus Christi	2	None	
Dallas-Fort Worth	2	1	2
Daytona Beach	5	2	6
Detroit	8	2	2
Evansville	2	1	1
Fort Lauderdale	11	6	19
Gainesville	2	2	4
Greensboro	7	4	10
Greenville-Spartanburg	3	2	2
Hartford	7	5	10
Houston	4	3	15
Huntsville	2	1	1
Indianapolis	2	3	3
Jacksonville	7	4	7
Los Angeles	1	None	
Louisville	3	3	4
Macon	1	None	
Melbourne	5	2	5
Memphis	1	None	
Miami	15	20	62
Milwaukee	1	1	3
Minneapolis/St. Paul	3	1	3
Mobile	2	1	4
Montgomery	2	None	
Nashville	5	None	
Newark	12	14	66
New York	14		
Omaha	1	1	2
Orlando	10	10	14
Pensacola	3	1	5
Philadelphia	11	8	20
Pittsburgh	5	7	18
Portland	1	1	1
Providence	4	3	3
Raleigh/Durham	4	3	15
Richmond	3	1	4
Roanoke	1	1	1
St. Louis	3	8	15
San Antonio	2	1	5
Sarasota	4	2	6
Seattle/Tacoma	1	2	3
Syracuse	1	3	5
Tampa	7	11	22
Toledo	1	None	
Washington	9	20	62
West Palm Beach	5	4	11
Wilkes-Barre	1	None	

TABLE IV.—SEGMENTS EASTERN IS CONSTRAINED TO SERVE BY CERTIFICATE REQUIREMENTS

Segment	Daily flights	Potential constraining point	Minimum required flights	1974 load factor	Remarks
Akron/Canton-Cleveland	1	Akron/Canton	1	40.5	1 nonlosing daily flight from Akron-Charlotte.
Allentown-Washington (DCA)	2	Allentown	2	59.7	2-flight minimum requirement.
Atlanta-Columbus, Ga	3	Columbus, Ga	2	34.6	Do.
Atlanta-Los Angeles	4	Los Angeles	2	50.9	Do.
Atlanta-Macon	2	Macon	2	28.1	Do.
Atlanta-Memphis	3	Memphis	2	52.2	Do.
Atlanta-Montgomery	5	Montgomery	2		Do.
Atlanta-Nashville	5	Nashville	2	71.1	Do.
Augusta-Charlotte	3	Augusta	2	28.4	Do.
Charleston, S.C.-Charlotte	4	Charleston, S.C	2	67.2	Do.
Charlotte-Chattanooga	4	Chattanooga	2	29.5	Do.
Charlotte-Columbia, S.C	2	Columbia, S.C	2	53.8	Do.
Columbus, Ohio-Toledo	4	Toledo	2	24.9	Do.
Corpus Christi-Houston	1	Corpus Christi	1	28.9	These 2 flights constitute the only Eastern service to Corpus Christi.
Corpus Christi-New Orleans	1	do	1		
Evansville-St. Louis	2	Evansville	1	42.0	1 nonlosing daily flight from Evansville to Atlanta.
Greensboro-Roanoke	1	Roanoke	1	57.8	1 nonlosing daily flight from Roanoke to Pittsburgh.
Huntsville-St. Louis	1	Huntsville	1	70.1	1 nonlosing daily flight from Huntsville to Orlando.
Portland-Seattle	3	Portland	1	31.0	1 nonlosing daily flight from Portland to St. Louis.
Washington (DCA)-Wilkes-Barre/Scranton	2	Wilkes-Barre	2	46.4	2 flight minimum requirement.

TABLE V.—*Overseas and international segments on Eastern Airlines which were not profitable on a fully allocated basis for 1975*

Acapulco-Atlanta
Acapulco-Mexico
Antigua-Fort-De-France
Antigua-New York (Kennedy)
Antigua-St. Lucia
Antigua-St. Maarten
Antigua-San Juan
Aruba-Curacao
Atlanta-San Juan
Baltimore-Kingston
Baltimore-Montreal
Baltimore-San Juan
Barbados-Port of Spain
Bermuda-Chicago
Boston-San Juan
Buffalo-Toronto
Fort-De-France-Pointe-A-Pitre
Fort-De-France-Port of Spain
Fort-De-France-St. Lucia
Fort Lauderdale-Nassau
Freeport-Miami
Freeport-Nassau
Kingston-Montego Bay
Kingston-Port-Au-Prince
Miami-Toronto
Montego Bay-Miami
Newark-San Juan
New York (Kennedy)-Mexico
New York (Kennedy)-Montego Bay
New York (Kennedy)-Montreal
New York (Kennedy)-San Juan
New York (LaGuardia)-Montreal
Ottawa-Montreal
Philadelphia-Montreal
Philadelphia-San Juan
Philadelphia-Toronto
Pittsburgh-Toronto
Port-Au-Prince-San Juan
Port of Spain-Pointe-Au-Pitre
Port of Spain-St. Lucia
Ponce-San Juan
St. Thomas-St. Croix
San Juan-St. Croix
San Juan-St. Maarten
San-Juan-St. Thomas

INDUSTRY REVIEW

AIRLINE INDUSTRY

This report focuses on (1) the near-term financial outlook for the airline industry, and (2) long-term industry prospects under two differing assumptions: a changed and an unchanged regulatory structure. The Appendix presents 1976 and 1977 earnings estimates for selected carriers, as well as detailed quarterly projections for the remainder of 1976.

Commentary

It is becoming increasingly evident that the airline industry is in the midst of a substantial recovery that could lift earnings to a record level this year. Rapid traffic growth, higher fares, modest capacity additions, and favorable expense comparisons are all contributing to this improving pattern. Next year could see even further profit progress if capacity planning remains conservative and fare increases continue to at least offset inflationary cost pressures. Although the industry remains in a poor financial condition, a prospective decrease in capital expenditures this year and next, together with the anticipated profit improvement and an expected increase in depreciation, should provide sufficient flexibility for a reduction in long-term debt and a consequent strengthening of the balance sheet.

Some observers contend that a change in the current regulatory structure will jeopardize the ability of the airlines to realize a reasonable return on investment. In the opinion of this analyst, however, a loosening of the regulatory grip would be a positive development; the real risk is the possibility of a subsequent reimposition of regulatory control—and perhaps to a greater degree than has existed in the past—if things do not work out as planned. The proponents of regulatory reform argue that less CAB influence will improve operating efficiency and lead to lower prices, increased demand, and perhaps higher service levels. However, this particular combination is only one of many possibilities that could attend regulatory reform, and one must accordingly consider the likelihood of a Government policy response if events run contrary to what is perceived as being in the public interest.

1976 Industry outlook

In the first quarter of 1976, the industry's seasonal operating loss of $125 million was essentially unchanged from the level of the comparable 1975 period. Scheduled traffic expanded 9.9%, but yields declined 0.5%, holding the scheduled passenger revenue gain to just 9.3%. With cargo and charter revenues up 6.7% and 13.2%, respectively, total revenues rose only 9.5%. Since total operating expenses advanced 9.2% (labor 9.6%, fuel 12.8%, depreciation 3.7%), there was no material improvement in operating results.

For the remainder of the year, however, growth is expected to improve sharply relative to expenses. This prospect rests on the anticipated continuing strength in traffic, coupled with higher yields, the latter stemming from fare hikes, a narrowing of discount fares, and a relatively moderate rate of cost increases.

TRAFFIC

In developing a traffic forecast, this analyst continues to believe that the two most critical influences are the rate of change in real GNP and in real fares (constant dollar fares as measured by yields, or revenue per revenue passenger mile). As first indicated in the July 16, 1975 *UAL Basic Report*, and again in the September 12, 1975 *Airline Industry Review*, it appears that positive trends in both of these indicators will continue to support a favorable traffic pattern in 1976. Table 1, which is an expansion of earlier presentations, indicates yearly traffic changes since 1956. The table is arranged in descending order of growth rates rather than chronologically. As is readily apparent, the relative traffic growth for each year has generally been a function of changes in real GNP and/or real fares. The most striking exception to this rule was 1973, which was characterized by a sharp decline in consumer confidence.

Real GNP is expected to climb 6%–7% this year; it also appears that real fares will decline, in spite of the recently favorable fare adjustments. With yields perhaps rising 4%–5% for the year and a projected inflation rate 7%, real fares could drop 2%–3%. While this would be only half the decline achieved in many past years, it nevertheless continues the downtrend established by the 6.8% reduction in 1975. A fare decline of this magnitude, combined with estimated real GNP growth of 6%–7%, could stimulate 12%-plus traffic growth for the full year.

TABLE 1.—HISTORICAL TRAFFIC ANALYSIS[1]

[Listed in descending order of growth rates]

	Domestic airline industry traffic growth	Real GNP	Real fares
1967	25.0	2.6	−6.4
1965	17.6	6.3	−2.9
1966	16.0	6.5	−6.7
1959	15.1	6.4	2.3
1968	15.0	4.7	−4.7
1964	14.5	5.5	−2.5
1963	14.3	4.0	−5.7
1957	13.2	1.4	−4.3
1956	12.7	1.8	−3.9
1972	10.8	6.2	−1.6
1969	9.3	2.7	−2.2
1962	7.8	6.6	1.4
1973	6.6	5.9	−2.1
1960	3.9	2.5	1.9
1974	2.2	−2.2	2.7
1971	1.8	3.3	.2
1975	1.6	−2.0	−6.8
1961	1.0	1.9	1.7
1970	.3	−.4	−2.7
1958	−.3	−1.1	3.7
1976[2]	13.0	6.5	−2.5
1977[2]	7.0	3.0	−1.8

[1] Year-to-year percentage change.

[2] Estimated.

Yields. Four fare increases have been approved since November 1975:

	Percent
November 15, 1975	3.0
February 1, 1976	1.0
March 1, 1976	2.0
May 15, 1976	2.0

Table 2 shows the actual year-to-year carryover effect of these increases for 1976 and 1977. Many carriers have also recently filed for another 2.0% hike effective July 7, 1976, which is not included in Table 2.

TABLE 2.—DOMESTIC AIRLINE FARES & YIELDS

[Percent increase year-to-year]

	Fares (quarters)					Yields, annual
	1	2	3	4	Year	
1977	3.7	1.0	0	0	1.2	[1] 7.0
1976	4.4	7.2	8.2	6.6	6.6	[1] 4.0
1975	12.5	6.8	4.0	3.5	6.6	1.5
1974	7.1	12.5	14.7	14.6	12.3	13.0
1973	2.7	3.0	3.1	3.1	3.0	3.6

[1] Estimated.

For 1973 and 1974, annual price and yield adjustments did not differ materially. Last year, however, fares climbed 6.6% while yields rose only 1.5%, the difference due to expanded use of discount fares, which were recommended by the airlines and approved by the CAB. The yield/fare gap is expected to narrow in 1976 as the number and size of available discount plans diminish. Accordingly, with traffic perhaps up 12%–14% and yields gaining 4%–5%, passenger revenues may expand 16%–17% for the full year. Other revenue components (principally charter and cargo) are not expected to materially raise total revenue growth above this range.

CAPACITY

Industry capacity, as measured by available ton miles or available seat miles, will probably rise a moderate 5%–7% in 1976, reflecting the industry's poor financial condition and management's recognition that conservative capacity planning is necessary—at least until the traffic and earnings outlook is more assured. The capacity gains that are achieved will be attributable to increasing seating configuration density and airplane utilization levels rather than the purchase of new aircraft.

In order to develop a more meaningful capacity projection, this analyst has concentrated on managements' intentions with regard to the purchase and sale of aircraft. The number of seats owned or leased is used as the starting measure of capacity in order to account for changes in aircraft sizes and to better gauge the available physical plant. The quantification of fleet size also allows a distinction to be drawn between changes in physical capacity, which largely influence fixed costs, and utilization rates, which affect the smaller variable cost component. Generally speaking, shifts in the number and size of aircraft are longer term decisions that require considerable lead times, whereas utilization rates may vary considerably over the short term.

According to the data in Table 3, the number of seats increased sharply in 1968 and 1969. The rate of gain slowed in 1970 and 1971, but still exceeded traffic growth. In the subsequent two-year period, seating capacity grew less rapidly than traffic, but did not decline proportionately when traffic weakened in 1974 and 1975. As shown in Table 3, the seat and traffic indices stood at 171 and 157, respectively, at year-end 1975. Modest physical capacity additions and stronger traffic gains are in prospect for 1976 and 1977. Accordingly, by the end of 1976, traffic growth may have finally caught up with the rapid pace at which the number and size of aircraft were increased during the late 1960's and early 1970's. On the assumption that the 1976 utilization rate approximates that of 1968—which would represent a 5.6% increase over the 1975 level—the passenger load factor could approach 59%. In reality, however, this utilization rate may not be reached since many carriers are increasing their seating configurations to obtain the same number of projected available seat miles.

TABLE 3.—TRAFFIC/CAPACITY ANALYSIS[1]

[Miles in millions]

Year	Seats[2]	Available seat miles per seat[3]	Available seat miles[4]	Revenue passenger miles[5]	Passenger load factor[6] (percent)
1977[7]	207,852	1.209	251,246	147,703	58.8
1976[7]	204,475	1.148	234,809	138,040	58.8
1975	203,828	1.087	221,518	120,730	54.5
1974	208,166	1.066	221,827	124,081	55.9
1973	209,034	1.126	235,415	126,563	53.8
1972	202,140	1.078	217,901	118,054	54.2
1971	186,795	1.122	209,497	104,146	49.7
1970	178,802	1.087	194,383	100,530	51.7
1969	167,092	1.120	187,096	98,621	52.7
1968	142,459	1.152	164,132	90,027	54.9
1967	119,119	1.094	130,356	76,896	59.0

	Percent change from prior year	Index, 1967=100	Percent change from prior year	Index 1967=100
1977[7]	1.7	174	7.0	192
1976[7]	.3	172	14.3	180
1975	(2.1)	171	(2.7)	157
1974	(.4)	175	(2.0)	161
1973	3.4	175	7.2	165
1972	8.2	170	13.4	154
1971	4.5	157	3.6	135
1970	7.0	150	1.9	131
1969	17.3	140	9.5	128
1968	19.6	120	17.1	117

[1] Includes scheduled and nonscheduled data for American, Delta, National, Northwest, Pan Am, TWA, and United.

[2] A measure of physical capacity; a total of all aircraft seats in the fleet by year-end, using a fixed number of seats per aircraft type.

[3] Available seat miles per seat is a measure of equipment utilization, derived by dividing available seat miles by the number of physical seats.

[4] Customary measure of total capacity.

[5] Customary measure of traffic.

[6] Revenue passenger miles divided by available seat miles.

[7] Estimated.

OPERATING EXPENSES

While fuel costs accounted for the largest portion (36%) of the total 1975 increase in operating expenses, labor costs are expected to represent the largest increment in 1976. Although only modest additions are likely to be made to average employment levels, total wage per employee may climb 10%–11%, thereby adding $600 million to the labor bill (see Table 4). It now appears that fuel costs may average just 32¢ per gallon for the year, compared with 29¢ for 1975. This figure is somewhat less than the 35¢ projection made last September, and reflects the December 1975 Energy Policy and Conservation Act, which has stretched out anticipated higher prices from decontrol over a 40-month period. With consumption expected to be up 4%–5%, total fuel costs may rise no more than 15%, as compared with 18% last year.

Continuing the trend established in 1974, no material change is expected in the depreciation and rentals area. Because of borrowing restrictions, ample capacity, and the competitive uncertainty created by the possibility of regulatory change, capital spending is being held to modest levels. With system available ton miles perhaps expending 5% this year, having shown no change last year, "other expenses" may climb 12%-14%, versus 8.7% for 1975. While the slowing in the inflation rate has restricted increases in this area over the past six months, an anticipated acceleration in inflation over the remainder of the year will probably add to the 10% rate of gain in "other expenses" reported for the first quarter.

Based on the above assumptions, operating expenses may climb 11% for the full year, up from the 8.4% increase of 1975, as indicated in Table 4.

TABLE 4.—OPERATING EXPENSES

[In millions]

	Actual		Estimated 1976	Cost increment		Percent change	
	1974	1975		1975/1974	1976/1975	1975/1974	1976/1975
Labor	$4,820	$5,138	$5,733	$318	$595	6.6	11.6
Fuel	2,079	2,454	2,804	375	350	18.0	14.3
Depreciation and rentals	1,671	1,686	1,701	15	15	.9	.9
Other expense	3,687	4,009	4,506	322	497	8.7	12.4
Total operating expense	12,257	13,287	14,744	1,030	1,457	8.4	11.0

With revenues expected to rise 17% and operating expenses 11%, operating income should reach $850 million, a quantum jump above the $88 million reported for 1975, and approximately 40% above the 1974 level. On the assumption that other nonoperating income reaches at least $75 million while interest declines slightly to $245 million, reflecting a net reduction in long-term debt, then pretax earnings would reach million. On a 43% effective tax rate, net income could climb to the $350-$400 million range.

TABLE 5.—1976 PROSPECTS (SYSTEM TRUNKS)

	Actual		Estimated	Percent change from prior year		
	1974 [1]	1975 [1]	1976 [1]	3974	1975	1976
Revenue:						
Scheduled RPM [1]	(150,803)	(150,002)	(168,863)	0	(1)	13
Yield	(7.05¢)	(7.37¢)	(7.64¢)	15	4	4
Scheduled passenger revenue [2]	$10,632	$11,054	$12,907	15	4	17
Charter RPM [2]	(10,153)	(9,148)	(10,871)	(10)	(10)	19
Yield	(3.34¢)	(3.94¢)	(3.93¢)	19	18	0
Charter revenue [2]	339	360	428	7	6	19
Cargo revenue [2]	250	1,298	1,518	11	4	17
Other revenue [2]	643	663	734	618	3	12
Total revenue [2]	12,864	13,375	15,596	18	4	17
Expenses:						
Headcount	(264,264)	(258,578)	(259,800)	(2)	(2)	1
Wages per employee	(18,214)	(19,882)	(22,063)	8	9	11
Wages and fringes [3]	4,820	5,138	5,733	6	7	12
Fuel consumption [2]	(8,495)	(8,407)	(8,769)	(11)	(1)	4
Cost per gallon	(24.5¢)	(29.2¢)	(32.0¢)	92	19	10
Fuel cost [2]	2,079	2,454	2,804	70	18	14
Depreciation and rentals [2]	1,671	1,686	1,701	4	1	1
Available ton miles [2]	(43,568)	(43,627)	(45,687)	(6)	0	5
Unit cost	(8.46¢)	(9.19¢)	(9.86¢)	27	9	7
Other expenses [2]	3,687	4,009	4,506	21	9	12
Total expenses [2]	12,257	13,287	14,744	18	8	11
Operating profit (loss) [2]	607	88	852	26	(86)	868
Other nonoperating income [2]	95	66	76	63	(31)	15
Net interest expense [3]	251	267	245	0	0	(8)
Pretax income (loss) [2]	447	(−121)	682	55	(3)	(3)
Tax	199	−36	293	75	(3)	(3)
Effective tax rate (percent)	(44.5)	(29.3)	(43.0)	12	(34)	47
Net income (loss) [2]	248	−86	389	42	(3)	(3)

[1] All figures not in parenthesis add to achieve dollar total amounts.

[2] In millions.

[3] Not meaningful.

1977 Industry Outlook

The industry outlook for next year rests on several economic assumptions. Real GNP growth is likely to slow from the 6%-7% average of 1976, to perhaps 3%-4% next year, while real disposable personal income may rise only 2%-3%, versus a possible 4%-5% rate of gain for 1976. In addition, the inflation rate may indeed accelerate to 8%-10% from 6%-8% anticipated for the current year. While this outlook is somewhat discouraging, there is a growing possibility of a favorable policy response from Washington, perhaps in the form of tax rate reductions for both individuals and corporations (refer to *Economic-Investment Department Comments* of June 1, 1976). While such a development may not occur until mid-1977, the anticipation of it could stimulate output and reduce inflationary pressures even before the fact, thereby improving the 1977 economic climate. However, since such an action is still far from the formulation stage, this analyst has relied on the above, possibly conservative, economic assumptions.

The airline industry may experience a continued uptrend in profits next year, even with modest economic growth and renewed inflationary pressures. This prospect assumes that capacity planning will remain conservative and that fare hikes will at least offset inflationary cost increases.

REVENUES

Based on the data in Table 1, it would seem realistic to expect traffic to rise 5%-10% for 1977, if real GNP growth is 3%-4%, and real fares to decline perhaps 2%. This latter assumption is based on average fare increases of 7%, no new discount fares, and a 9% year-to-year advance in the consumer price index. Accordingly, with a 7% gain in both traffic and fares, passenger revenues could climb 14%-15% above the indicated 1976 figure. With increased charter and cargo revenue growth—stemming from relaxed charter rules and increasingly active freight solicitation efforts—the total revenue comparison could actually exceed the 15% level. However, the 14%-15% projection is being retained to stay within the boundaries of conservatism.

OPERATING EXPENSES

While the airline industry may face intensified cost pressures because of a reacceleration of inflation, the anticipated revenue gain could more than offset the increase in operating expenses, to the benefit of operating profits. This improvement is contingent upon a number of assumptions, however.

(1) Capacity, as measured by available seat miles, should expand at the same 7% rate as traffic, thus maintaining the passenger load factor at the anticipated 1976 level. With a modest increase in the number of net new aircraft in the industry's fleet (refer to Table 3), and the ongoing substitution of narrowbody for widebody planes, most of the gain in available seat miles will stem from greater utilization of existing equipment, as well as conversion to denser seating configurations. The incremental cost of this capacity expansion should accordingly be less than the purchase of new aircraft would entail.

(2) On balance, airline managements will continue their efforts to raise productivity and to keep average headcount from rising more than 5% above the 1976 level, or slightly below the 7% gain anticipated for both traffic and capacity. Since only limited additions will be made to fixed plant, the expected rise in volume should not necessitate a matching percentage increase in employment. On the assumption that contractual wage rates climb perhaps 9%, total labor costs would advance 14%-15%.

(3) Per gallon fuel costs will average 10% higher than the 1976 figure, limiting total fuel cost increases to 15%-16%. This is consistent with the provisions of the December 1975 Energy Act.

(4) Depreciation and rental payments will not change significantly.

(5) All other operating expenses are expected to rise 16%-17%, or 9% on a unit basis, in line with the projected inflation rate.

Based on the above cost assumptions, total operating expenses would expand 13%-14%, lifting operating profits above the $1.0 billion mark. After nonoperating items, and with a 40%-45% effective tax rate, net income could reach $550-$600 million, almost 50% above the projected 1976 level. Note that this improvement represents an expansion in net profit margins to just 3.2% from a projected 2.5% for 1976.

TABLE 6.—1977 PROSPECTS (SYSTEM TRUNKS)

[In millions]

	Estimated		Percent change
	1976	1977	
Revenue	$15,596	$17,923	14–15
Expenses:			
Wages and fringes	5,733	6,570	14–15
Fuel	2,804	3,256	15–16
Depreciation and rentals	1,701	1,699	0
Other	4,506	5,257	16–17
Total	14,744	16,782	13–14
Operating profit	852	1,141	30–35
Other nonoperating income	76	60	(20–25)
Net interest expense	245	240	(0– 5)
Pretax income	682	961	40–45)
Tax	293	384	30–35
Effective tax rate (percent)	(43.0)	(40.0)	(5–10)
Net income	389	577	45–50

Note: Assumptions (percent):

RPM	+7
Yield	+7
ASM & ATM	+7
Headcount	+5
Wage rates	+9
Fuel consumption	+5
Fuel cost per gallon	+10
Depreciation and rentals	(a)
Other unit costs	+9

a No change.

Longer term outlook—The consequences and risks of deregulation

To place the longer term outlook into perspective, it is useful to review the 1970–1975 period when the character of the airline industry underwent a complete change. At the start of 1970, most industry observers were anticipating 10%–12% average annual traffic growth for 10 to 15 years ahead, and a stretching out of future fare increases, which had jumped 18% in the past two years alone. In addition, the new widebody aircraft were expected to attract new passengers as well as relieve inflationary cost pressures once the initial break-in period was over. The focus was then on how soon the industry would reach the CAB's prescribed rate of return (then 10.5%), and whether the CAB would retard growth prospects by acting to prevent industry returns from exceeding the standard—an inevitable problem, it was thought, that would have to be dealt with in the future.

As it happened, traffic growth fell short of expectations as a result of two economic declines and a rising trend in real fares, placing the industry in an extended overcapacity position. Since the primary competitive tool available to managements was (and still is) scheduling, advertising, and flight comfort, the capacity problem was not easily solved, and the airlines found it increasingly difficult to bring expenses into realistic alignment with revenues. The situation was exacerbated by inconsistent CAB decisions with respect to route awards and fare adjustments, a sharply accelerated inflation rate, a tripling of fuel costs, and a slowing in the rate of productivity improvement—all of which drove profitability far below the expectations of the late 1960's. In view of these extended difficulties, it is indeed surprising that all carriers survived the 1975 recession.

Since the advent of the jet age, the airline industry has never achieved more than a 12% rate of return on total invested capital. This situation seems somewhat anomalous in view of the several years of sharp traffic increases and substantial productivity gains stemming from technological advancements especially since the arrival of a highly cyclical industry would seem to hinge on the attainment of at least a 10% average return over an extended period in order to keep and attract new capital. In actuality, returns have averaged less than half this percentage. The fault lies, in large part, with the regulatory structure, which has tended to encourage the development and expansion of an air transport system that provides an extensive public service (service as measured in terms of convenient departure times to a large number of points, with readily available space) and that, at least partially, offsets inadequate rates of return by insulating carriers from risks associated with entry and price competition. The experience of the past five years has thus clarified the primary issue: unless greater flexibility is introduced by allowing fares and service levels to be raised or lowered as demanded and profitability dictate, an environment will be perpetuated which tends to inflate service levels and to keep profitability at inadequate levels. This fundamental choice is at the heart of the deregulation issue, and its ultimate resolution will determine the financial health of the industry for years to come.

As has been suggested in the past, there is some hope for the airlines beyond 1977; if the number of aircraft purchases is limited, the industry should be able to recoup cost increases for higher passenger load factors and fare hikes. However, unless the competitive nature of the industry is significantly altered, this analyst believes that average profitability levels will remain inadequate over an extended period to sustain a financially independent industry. The real issue is this: if the regulators, either knowingly or unknowingly, create a system that mandates—or, by its nature, encourages—uneconomic service levels, the price will ultimately be paid by the public, either through subsidies or nationalization. The industry can never attain maximum operating efficiency and the optimum price/service relationship under a system that both protects carriers from and interferes with managements' responses to the realities of the marketplace.

While fully recognizing the industry's limited long-term earnings visibility—because of its sensitivity to economic cycles, its high operating and financial leverage, and its elusive demand trends—this analyst has nevertheless made a series of assumptions on key earnings determinants to lend some perspective to the deregulation issue. At the outset, it has been assumed that annual real GNP growth will average 3.0%–3.5% for the 1978–1982 interval, and that the inflation rate will average 6%. Against this broad economic backdrop, two earnings estimates for the system trunks have been derived for the year 1982, one based on continued tight regulatory control and the other on greater management control over prices, and route entry and exit.

Under a basically CAB-controlled industry (refer to column 1 in Table 7), nominal average traffic would grow at perhaps 5% annually, assuming modest overall economic growth, with fares increasing in line with the general inflation rate, thereby precluding the otherwise stimulating effects of a reduction in real fares. While charter business might rise as a percentage of total traffic, growth would be somewhat limited. On this basis, total revenues would advance 11%–12%, reaching $30.0 billion by 1982. If rates of return continue at modest levels and managements are somewhat more conservative in capacity planning as a result of the 1970–1975 experience, the passenger load factor could plateau at the 60% level, significantly above the 50%–55% range of recent years. However, there is no particular reason to believe that aircraft utilization (as measured by available seat miles per number of aircraft seats) would change materially from the projected 1977 peak.

Under continued regulation, the greatest cost pressure would probably be in the area of fuel. While consumption might climb just 4.6%, in line with the increase in available seat miles, prices could rise to 57¢ per gallon, or by 10% per year. On the assumption that wage rates rise 7% per year and headcount increases with capacity, total labor expenses would expand almost 12% per year. Even with depreciation and rentals advancing only 5.3% and other expenses climbing at a rate of 10.9% (reflecting average growth of 4.6% in capacity and 6.0% in unit costs), total operating expenses would rise 11.7%, holding operating profits to around $1.5 billion. After non-operating items, net profits would remain at approximately the 1977 level. Thus, barring major technological developments, profit prospects appear rather bleak under the current regulatory system. The carriers' operating and marketing strategies would be expected to remain essentially unchanged—although there is the possibility that managements will in either case participate to a greater extent in the charter market.

Table 7 summarizes the foregoing assumptions under a "regulated" environment; the discussion of possible consequences under deregulation follows Table 7.

In a deregulated environment, on the other hand, the perspective changes considerably (see Column 2 of Table 7). A more competitive operating climate would allow managements greater scope in setting fare and service levels and in determining the specific markets to be serviced. With more aggressive solicitation efforts and the establishment of an optimal traffic/price relationship in each market, overall revenue growth might accordingly be somewhat greater than in a regulated framework. As indicated in Table 7, one possibility is that fares would rise only 3%, and with real fares thus dropping approximately 3%, traffic growth could reach 10%. On this basis, and on the further assumption that cargo business follows a similar growth pattern, passenger and total revenue growth could exceed 13%.

It is not unrealistic to assume that the passenger load factor could reach the 70% level under deregulation, on the strength of more aggressive efforts to reduce peaking restraints and expanded use of charter and possibly part-charter flights. In addition, with more efficient use of aircraft, available seat miles per seat could show a 2% average annual increase, thereby reducing the requirement for additional seats to a 4.1% rate of gain, versus the estimated 4.6% under a regulated environment.

Application of the same growth assumptions for wage rates, fuel prices, depreciation and rentals, and inflation would result in a more rapid rise in total operating expenses under deregulation, 12.3% versus 11.7%. This higher rate would reflect increased fuel consumption and other expenses associated with flying a greater number of seat miles. However, some offset would be provided by somewhat greater productivity gains (headcount and available seat miles rising 4% and 6.2%, respectively, versus 4.6% and 4.6% under regulation), stimulated principally by the more competitive operating environment. Hence, both operating and net profits could conceivably be materially greater than the Column (1) estimate. It should be emphasized that the transition to a deregulated structure may have a dramatic effect on the number of carriers in the industry and on the price and service levels in each market. It has, of course, been assumed that the CAB, as well as local political groups and the Justice Department, will not impose policies that would interfere with the competitive market adjustment process.

To arrive at a projection of the respective rates of return that could be achieved in both a regulated and nonregulated industry, this analyst has constructed an estimate of future capital requirements for both situations. Based on the figures in Table 7, the net new seats added to the total fleet would equal 67,385 in the regulated industry and 60,431 in the deregulated environment. With a replacement requirement of 6.25% of the 1977

TABLE 7.—PROJECTED 1982 INDUSTRY NET INCOME

	1974 [1]	Base year 1977 [1]	(1) Regulation 1982 [1]	(1) Regulation 5-yr growth rate (percent)	(2) Deregulation 1982 [1]	(2) Deregulation 5-yr growth rate (percent)
Revenue:						
RPM [2]	(179, 734)	(192, 315)	(245, 448)	5.0	(309, 725)	10.0
Yield	(7.42¢)	(7.94¢)	(10.63¢)	6.0	(9.20¢)	3.0
Passenger revenue [2]	$13, 335	$15, 269	$26, 091		$28, 495	
Other revenue [2]	2, 261	2, 654	4, 535		4, 953	
Total revenue [2]	15, 596	17, 923	30, 626	11.3	33, 448	13.3
Passenger load factor:						
Seats	(263, 539)	(269, 029)	(336, 414)	4.6	(329, 460)	4.1
ASM/seats	(1.160)	(1.216)	(1.216)	0	(1.343)	2.0
ASM [2]	(305, 670)	(327, 066)	(409, 080)	4.6	(442, 464)	6.2
Load factor (percent)	(58.8)	(58.8)	(60.0)		(70.0)	
Operating expenses:						
Headcount	(259, 800)	(272, 790)	(341, 574)	4.6	(331, 890)	4.0
Wages per employee	(22, 063)	(24, 084)	(33, 779)	7.0	(33, 779)	7.0
Wages and fringes [2]	5, 733	6, 570	11, 538	11.9	11, 211	11.3
Fuel consumption [2]	(8, 769)	(9, 207)	(11, 529)	4.6	(12, 438)	6.2
Cost per gallon	(32.0¢)	(35.4¢)	(57.0¢)	10.0	(57.0¢)	10.0
Fuel cost [2]	2, 804	3, 256	6, 571	15.1	7, 090	16.8
Depreciation and rentals [2]	1, 701	1, 699	2, 194	5.3	2, 194	5.3
Other expenses [2]	4, 506	5, 257	8, 819	10.9	9, 515	12.6
Total operating expenses [1]	14, 744	16, 782	29, 122	11.7	30, 010	12.3
Operating profit [2]	852	1, 141	1, 504	5.7	3, 438	18.0
Other income [2]	76	60	100	10.8	100	10.8
Net interest expense [2]	245	240	500	15.8	250	.8
Pretax income [2]	682	961	1, 104	2.8	3, 288	27.8
Tax [2]	293	384	442	2.9	1, 315	27.8
Effective tax rate (percent)	(43.0)	(40.0)	(40.0)		(40.0)	
Net income [2]	389	577	662	2.8	1, 973	27.8

[1] All figures not in parentheses add to achieve dollar total amounts.

[2] In millions.

fleet each year, the total number of seat purchases could reach 151,455 and 144,501, respectively, as indicated in Table 8. On the assumption that the average cost per seat at the beginning of 1978 will be $95,000, and that inflation raises this amount by 6% per year, then total capital requirements under either industry structure could reach $16–$17 billion for the 1978–1982 period.

TABLE 8.—PROJECTED CAPITAL EXPENDITURES, 1978-82 [1]

	1978	1979	1980	1981	1982	Total 1978-82
Regulation:						
Replacement seats	16, 814	16, 814	16, 814	16, 814	16, 814	84, 070
New seats	13, 477	13, 477	13, 477	13, 477	13, 477	67, 385
Total purchased seats	30, 291	30, 291	30, 291	30, 291	30, 291	151, 455
Total cost per seat	$100, 700	$106, 742	$113, 147	$119, 935	$127, 131	$113, 529
Total capital outlay (millions)	$3, 050	$3, 233	$3, 427	$3, 633	$3, 851	$17, 194
Deregulation:						
Replacement seats	16, 814	16, 814	16, 814	16, 814	16, 814	84, 070
New seats	12, 086	12, 086	12, 086	12, 086	12, 086	60, 431
Total purchased seats	28, 900	28, 900	28, 900	28, 900	28, 900	144, 501
Total cost per seat	$100, 700	$106, 742	$113, 147	$119, 935	$127, 131	$113, 529
Total capital outlay (millions)	$2, 910	$3, 085	$3, 270	$3, 466	$3, 674	$16, 405

[1] Assumtions for base and terminal years:

	1977	1982
Regulation:		
Revenue passenger miles (millions)	192, 315	245, 448
Available seat miles (millions)	327, 066	409, 080
Passenger load factor (percent)	58.8	60.0
ASM/seats	1.216	1.216
Number of aircraft seats	269, 029	336, 414
Total cost per seat	$95, 000	$127, 131

	1977	1982
Deregulation:		
Revenue passenger miles (millions)	192, 315	309, 725
Available seat miles (millions)	327, 065	442, 464
Passenger load factor (percent)	58.8	70.0
ASM/seats	1.216	1, 343
Number of aircraft seats	269, 029	329, 460
Total cost per seat	$95, 000	$127, 131

Table 9 summarizes this analyst's estimates of sources and uses of funds, capitalization, and rates of return, using the projections of Tables 7 and 8. The five-year total net income calculation assumes an earnings stream in each year matching the 1978–1982 growth rate. While such a consistent pattern is not realistic in a cyclical industry, the five-year total is not considered unreasonable. As the table indicates, earnings in a deregulated industry could more than double the profits available under a regulated structure, which accounts for the major difference in total available funds. Furthermore, to meet the projected capital expenditures that continued regulation would entail, the airlines would need at least $3.0 billion of additional debt. Although the projected 1982 debt to equity ratio would then be 53%, or considerably below the 1975 level, the capital structure evolved in a freer market would probably reflect considerably less long-term debt. In addition, rates of return on total capital and equity would most likely remain inadequate under the present industry structure, while more realistic levels would be attainable within a deregulated environment.

TABLE 9.—PROJECTED SOURCE AND USE OF FUNDS, CAPITALIZATION, AND RATE OF RETURN 1978-82

[In millions of dollars]

	1974	1975	1976	1977	Regulation 1978-82	Deregulation 1978-82
Sources:						
Net income	259	(97)	389	577	3, 140	6, 416
Less dividends	51	52	55	55	500	1, 000
Retained earnings	208	(149)	334	522	2, 640	5, 416
Depreciation	1, 032	1, 050	1, 050	1, 100	7, 000	7, 000
Deferred taxes	139	30	175	200	1, 246	2, 246
Disposal of property	317	420	300	300	2, 500	2, 500
Other	25	105	50	50	500	500
Total	1, 721	1, 465	1, 909	2, 172	13, 886	17, 662
Uses:						
Capital expenditures	1, 576	1, 369	1, 000	1, 000	17, 194	16, 405
Net debt payments	108	(10)	809	1, 072	(3, 308)	757
Increase (decrease working capital	37	97	100	100		500
Total	1, 721	1, 456	1, 909	2, 172	13, 868	17, 662
	1974	1975	1976	1977	1982	1982
Capitalization:						
Long-term debt	5, 357	5, 406	4, 597	3, 525	6, 833	2, 768
Capitalized leases	4, 410	4, 345	4, 280	4, 216	3, 910	3, 910
Reserves	1, 350	1, 364	1, 500	1, 500	2, 000	2, 000
Equity	4, 081	3, 963	4, 287	4, 809	7, 449	10, 225
Total capital	15, 199	15, 069	14, 664	14, 050	20, 192	18, 903
Return on invested capital (percent) [1]	2.6	0.6	3.6	5.1	4.8	11.2
Long-term debt and leases to total capital (percent)	64.3	64.7	60.5	55.1	53.2	35.3
Return on equity (percent)	6.3	(2.5)	9.1	12.0	8.9	19.3

[1] Net income based on preinterest, after tax.

The foregoing analysis is an attempt to apply reasonable assumptions to key determinants of earnings and to the industry's financial position in order to build a framework for assessment of future prospects under both a regulated and a deregulated structure. Perhaps the most striking feature in this industry picture are the huge amounts of capital and the large earnings levels that will be necessary—in either case—to maintain a viable, financially independent industry. The direction toward less regulation appears to increase the chances of a more profitable industry; however, the nature of the regulatory reforms that will ultimately emerge is still quite uncertain.

INDUSTRY POSITION

Having initially defended the status quo, the airlines for the most part now favor fare flexibility, while advocating continued controls over entry and exit. It is generally felt that the CAB has not permitted adequate fare increases in the past, and that this situation could be corrected if left to the individual airlines. By arguing for continued controls over route entry and exit, the airlines are seeking to insulate themselves from potential competitive inroads, even though such inroads would probably be advantageous from the standpoint of improving overall operating efficiency. It should be stressed that the industry has evolved under the cloak of the CAB, which has protected it from new competitors and provided fare stability; in exchange, the carriers were expected to compete on the basis of service. The incentive for a particular carrier is presumably to become more efficient than the average and thereby take advantage of prices set on the basis of average efficiency. On the other hand, regulation was also a form of insurance against errors of judgment. For example, there is a tendency by some carriers to add excess capacity in order to gain market share, at the expense of operating efficiency and/or profitability.

Within the regulated environment, it is not surprising that many carriers lack the innovation, initiative and profit incentive that characterize most non-regulated industries. Accordingly, the industry may consider its advocacy of a flexible fare system as quite a concession to the regulatory reform issue. Importantly, however, in taking this position, the carriers are for the most part assuming that the industry's profit incentives and cost structure will not and/or cannot shift dramatically.

CAB POSITION

The CAB's major concern is to develop a system that will encourage greater operating efficiency, which has perhaps to a material extent been retarded by CAB regulation itself. As such, the Board has endorsed the basic principles of the Aviation Act of 1975 by advocating vastly broadened management control over fares, as well as eventual free entry and exit into all markets. This position appears to represent a dramatic shift toward reliance on the marketplace to decide such questions as what the public really wants in terms of price and quantity (service levels). Moreover, this approach could bolster average profitability by exposing carriers to the type of competitive pressure that would make it difficult for poorly managed companies to survive, and by allowing the public to decide the appropriate price/service tradeoff for all markets. In the judgment of this analyst, the CAB's position is very appealing, and its recommendations, if followed, would probably push the industry closer to the deregulated profitability levels projected earlier. However, the CAB has implied that service levels would not deteriorate (even to lightly traveled airports) and that prices would decline on average. In reality, though, it is by no means assured that this would indeed be the case under a freely competitive industry structure.

The following graph depicts the approximate shape of the industry demand and supply curves. As shown, the demand line slopes downward and to the right, indicating that the quantity of demand is influenced by the price level. The supply curve follows a step pattern, moving up and to the right. The step progression reflects the large unit of capacity added and the significant increase in physical plant when the industry orders additional aircraft.

[Graph not printed in RECORD]

The proponents of deregulation argue that regulation has created a disequilibrium that has inflated prices and supply relative to demand. This phenomenon is indicated by P_1, where the price level has opened a gap between demand and supply. Essentially, deregulators contend that a free market system would reduce prices, thereby causing the quantity of demand to shift from Q_1 to Q, or down the demand curve from C to A. A supply/demand equilibrium would then be reached at point A. Greater price competition could also lift the quantity of demand further out along the curve, to perhaps point B. In this case, so the argument goes, the entire supply curve could shift to the right, because of new entrants into the industry, and then create an equilibrium at point B.

However, another real possibility is that an equilibrium could be reached through a contraction in the supply curve relative to demand. In this case, an equilibrium would eventually be reached between A and C, or perhaps even above C, in which case the price level would not change significantly from current levels.

While it may be argued that new competitors would enter the industry and attempt to gain market share on profitable routes by lowering price, it is also possible that currently unprofitable markets would suffer from a combination of higher prices and reduced service. Certainly, the question of which influence would dominate is highly speculative. What is known, however, is that the rate of return is presently inadequate for the industry as a whole, especially in relation to the risk involved. Accordingly, it would seem more likely that the adjustment would tend toward less aggregate capacity (supply) and perhaps only a nominal reduction in price, until profitability reached attractive levels. While Washington has concluded that the adjustment process will occur along the present demand curve (or that perhaps both the supply and demand curve will shift to the right), it could be convincingly argued that regulation has inflated capacity more than it has depressed traffic. The CAB probably has had greater influence in stimulating the capacity competition that subseqently led to excesses than in depressing the incentive to maximize revenue through searching for optimum combinations of price and demand.

Accordingly, the real risk posed by deregulation appears to be whether the ultimate supply/demand equilibrium, which generates an adequate rate of return, will be politically acceptable. Since there seems to be at least an equal chance that service levels could contract relative to demand, this eventually could prompt a reimposition of Government controls, which could again lead to uneconomic service levels. This possibility, rather than the financial consequences per se, arouses the greatest concern in this analyst's mind.

More, rather than less, Government involvement in the business world has become commonplace. As such, the CAB's current support for less regulation represents a sharp break from tradition and is viewed by this analyst as a clearly positive development. On the other hand, while the CAB's stated intent and motivations appear well founded, one must question how far this commitment will extend once the program moves from the formulation and implementation stage and begins to directly shape the competitive forces of the marketplace. While this element does introduce a measure of uncertainty into the issue of regulatory change, it is focused more on the threat of ultimate Government reinvolvement, rather than on the concept of deregulation itself.

The form that deregulation will ultimately take is not yet apparent. However, the CAB's (and the Administration's) current position should be viewed as well-intended and constructive. The CAB may be forced to defend some unlikely positions—(1) that service levels will not decline or (2) that there will be no bankruptcies or mergers among present carriers—from the practical standpoint of gathering support for deregulation rather than from a full commitment to these possibilities.

In summary, a restriction of Government control with respect to fares and entry and exit should enhance industry profitability through some combination of shifts in fares, capacity, efficiency, innovation, and invested capital. While no one can foresee the magnitude or direction of the shift in any category, it does seem likely that the industry would achieve higher average rates of return than in the past.

APPENDIX

Table 10 presents estimated 1976–1977 earnings per share for seven major domestic airlines.

TABLE 10.—POSSIBLE 1976/1977 EARNINGS FOR SELECTED CARRIERS

	Earnings per share			Recent price	1976 range to date	P–E on 1977 estimate	Current dividend	Yield (percent)
	Actual 1975	Estimated 1976	Estimated 1977					
American	($0.72)	$1.50	$2.00	14	15– 9	7		
Delta [1]	1.88	4.00	5.00	43	46–37	9	$0.60	1.4
National [1]	1.24	1.40	2.25	17	18–11	8	.50	2.9
Northwest	2.01	2.75	4.00	32	34–23	8	.45	1.4
Pan Am	(1.12)	1.00	1.25	6	8– 5	5		
TWA	(6.68)	.50	2.00	13	14– 8	7		
UAL	(.21)	2.25	3.50	28	30–21	8	.60	2.1

[1] Calendar year basis.

() Designates loss.

As indicated in Table 10, each carrier is expected to report substantially improved earnings this year, in contrast with the weak 1975 results. The lowest rate of gain will probably be reported by National, reflecting the customary difficulty in realizing earnings potential following an extended strike. Next year, all carriers may enjoy further profit improvement if, as stated earlier, capacity planning remains conservative and fare increases fully offset inflationary cost pressures. The detailed 1976 quarterly earnings projections for each carrier are presented in the next seven pages. Note that the first-quarter figures in each case are actual.

TABLE 11.—AMERICAN AIRLINES

	1976 income statement					Percent change, 1976 versus 1975				
	March	June (estimate)	September (estimate)	December (estimate)	Year (estimate)	March	June (estimate)	September (estimate)	December (estimate)	Year (estimate)
Revenue:										
Scheduled RPM	(5, 154. 5)	(5, 786. 9)	(6, 835. 8)	(5, 700. 9)	(23, 478. 2)	14. 1	15. 0	15. 0	6. 0	12. 5
Yield	(7. 37¢)	(7. 38¢)	(7. 19¢)	(7. 54¢)	(7. 36¢)	—. 4	3. 0	4. 0	4. 0	2. 7
Scheduled passenger revenue	$379. 9	$427. 0	$491. 8	$430. 1	$1, 728. 8	13. 7	18. 5	19. 6	10. 2	15. 6
Charter RPM	(403. 9)	(328. 4)	(341. 3)	(347. 1)	(1, 420. 7)	58. 9	20. 0	20. 0	—15. 0	16. 4
Yield	(3. 51¢)	(4. 57¢)	(3. 85¢)	(3. 90¢)	(3. 93¢)	—1. 1	10. 0	10. 0	10. 0	7. 1
Charter revenue	14. 2	15. 0	13. 1	13. 5	55. 9	57. 2	32. 0	32. 0	—6. 5	24. 6
Cargo revenue	43. 3	45. 2	47. 7	55. 3	191. 5	15. 4	20. 0	20. 0	10. 0	15. 9
Other revenue	21. 7	27. 0	27. 0	27. 0	102. 7	16. 7	20. 4	9. 7	14. 8	15. 2
Total revenue	459. 0	514. 2	579. 6	526. 0	2, 078. 9	15. 0	19. 0	19. 4	9. 9	15. 8
Expenses:										
Headcount	(34, 921. 0)	(34, 998. 0)	(35, 298. 5)	(35, 231. 5)	(35, 112. 3)	—1. 5	0	0	0	—. 4
Wages per employee	(5, 632. 5)	(5, 643. 5)	(5, 865. 0)	(6, 016. 9)	(23, 158. 0)	14. 7	10. 0	10. 0	10. 0	11. 1
Wages and fringes	196. 7	197. 5	207. 0	212. 0	813. 2	13. 0	10. 0	10. 0	10. 0	10. 7
Fuel consumption	(291. 7)	(291. 5)	(321. 8)	(308. 1)	(1, 213. 0)	5. 7	3. 0	4. 0	5. 0	4. 4
Cost per gallon	(26. 81¢)	(27. 28¢)	(28. 21¢)	(29. 29¢)	(27. 92¢)	5. 9	6. 0	6. 0	6. 0	6. 0
Fuel cost	78. 2	79. 5	90. 8	90. 2	338. 7	11. 9	9. 2	10. 2	11. 3	10. 7
Depreciation	26. 8	28. 0	29. 0	27. 3	111. 1	—10. 2	—5. 0	—5. 0	71. 7	5. 1
Rentals	28. 4	28. 3	30. 0	30. 0	116. 7	1. 9	2. 0	3. 0	3. 0	2. 5
Available ton-miles	(1, 447. 2)	(1, 511. 4)	(1, 694. 4)	(1, 606. 5)	(6, 259. 5)	. 6	3. 0	4. 0	5. 0	3. 2
Unit cost	(9. 99¢)	(9. 76¢)	(9. 78¢)	(11. 35¢)	(10. 23¢)	13. 9	10. 0	10. 0	7. 0	10. 1
Other expense	144. 6	147. 6	165. 8	182. 3	640. 2	14. 6	13. 3	14. 4	12. 4	13. 6
Total expense	474. 7	480. 9	522. 5	541. 8	2, 019. 9	11. 0	9. 3	10. 0	12. 6	10. 8
Operating profit (loss)	—15. 6	33. 4	57. 1	—15. 9	59. 0	—45. 1	—525. 7	446. 6	502. 6	—306. 9
Nonoperating income:										
Capital gains (losses)	1. 8	2. 0	2. 0	2. 0	7. 8	38. 4	—64. 7	1. 9	9. 9	—27. 5
Interest income (expense)	—. 2	—1. 0	—1. 0	—1. 0	—3. 2	—93. 0	—69. 2	—46. 4	3. 5	—65. 4
Other income (expense)	2. 1	0	0	0	2. 1	68. 5	—100. 0	—100. 0	—100. 0	40. 9
Total nonoperating income	3. 7	1. 0	1. 0	1. 0	6. 7	—607. 2	—59. 7	—571. 7	—19. 2	139. 2
Pretax income	—12. 0	34. 4	58. 1	—14. 9	65. 6	—59. 0	—741. 5	467. 7	957. 3	—355. 1
Tax	—3. 1	9. 3	15. 7	—3. 7	18. 1	—56. 9	—825. 0	462. 5	—858. 5	—444. 9
Effective tax rate (percent)	(26. 1)	(27. 0)	(27. 0)	(25. 0)	(27. 6)	5. 1	13. 0	—. 9	—171. 7	35. 2
Net income	—8. 8	25. 1	42. 4	—11. 1	47. 5	—59. 7	—715. 3	469. 7	488. 1	—332. 1
Shares	(28. 5)	(28. 5)	(28. 5)	(28. 5)	(28. 5)					
Earnings per share	—. 31	. 88	1. 49	—. 39	1. 67					

[1] All figures not in parentheses add to achieve total dollar amount.

TABLE 12.—DELTA AIRLINES

	1976 income statement[1]					Percent change, 1976 versus 1975				
	March	June (estimate)	September (estimate)	December (estimate)	Year (estimate)	March	June (estimate)	September (estimate)	December (estimate)	Year (estimate)
Revenue:										
Scheduled RPM	(4, 451. 1)	(4, 476. 9)	(4, 620. 1)	(4, 723. 8)	(18, 271. 9)	16. 1	14. 0	10. 0	5. 0	11. 0
Yield	(8. 02¢)	(8. 24¢)	(8. 29¢)	(8. 43¢)	(8. 25¢)	—2. 9	3. 5	7. 7	7. 0	3. 9
Scheduled passenger, revenue	357. 0	368. 8	382. 8	398. 1	1, 506. 8	12. 8	18. 0	18. 5	12. 4	15. 3
Charter RPM	(19. 2)	(34. 0)	(35. 8)	(46. 0)	(135. 1)	200. 2	1, 223. 1	475. 8	325. 9	419. 4
Yield	(5. 37¢)	(7. 27¢)	(7. 00¢)	(5. 44¢)	(6. 30¢)	—23. 4	—25. 0	—25. 0	—25. 0	—20. 5
Charter revenue	1. 0	2. 5	2. 5	2. 5	8. 5	129. 9	892. 3	331. 9	219. 4	312. 8
Cargo revenue	24. 5	24. 7	25. 7	31. 5	106. 4	16. 7	20. 0	15. 0	15. 0	16. 5
Other revenue	6. 2	10. 0	10. 0	10. 0	36. 2	5. 5	23. 0	31. 2	38. 2	25. 4
Total revenue	388. 8	406. 0	421. 0	442. 2	1, 658. 0	13. 0	18. 9	19. 0	13. 4	16. 0
Expenses:										
Headcount	(28, 264. 5)	(28, 505. 1)	(28, 607. 9)	(28, 609. 0)	(28, 496. 6)	—1. 3	. 7	2. 1	2. 0	. 9
Wages per employee	(5, 503. 4)	(5, 353. 9)	(5, 676. 1)	(5, 871. 7)	(22, 405. 7)	11. 2	9. 0	11. 0	11. 0	10. 6
Wages and fringes	155. 6	152. 6	162. 4	168. 0	638. 5	9. 8	9. 8	13. 3	13. 2	11. 6
Fuel consumption	(229. 3)	(231. 0)	(239. 0)	(239. 0)	(938. 3)	1. 3	5. 2	6. 3	7. 3	5. 0
Cost per gallon	(30. 57¢)	(30. 20¢)	(30. 49¢)	(30. 50¢)	(30. 44¢)	7. 1	12. 7	3. 7	. 5	5. 8
Fuel cost	70. 1	69. 8	72. 9	72. 9	285. 7	8. 5	18. 6	10. 2	7. 8	11. 1
Depreciation	38. 0	38. 5	41. 5	41. 5	159. 5	16. 4	13. 9	17. 2	12. 0	14. 8
Rentals	9. 8	10. 0	9. 9	10. 0	39. 7	—29. 8	—15. 3	2. 0	3. 1	—12. 1
Available ton miles	(1, 052. 1)	(1, 062. 6)	(1, 105. 1)	(1, 102. 0)	(4, 321. 7)	3. 8	8. 0	9. 0	10. 0	7. 7
Unit cost	(8. 93¢)	(8. 80¢)	(9. 15¢)	(9. 80¢)	(9. 18¢)	6. 4	6. 0	7. 0	8. 0	6. 9
Other expense	93. 9	93. 5	101. 1	108. 0	396. 6	10. 4	14. 5	16. 6	18. 8	15. 2
Total expense	367. 4	364. 5	387. 9	400. 4	1, 520. 1	8. 7	12. 1	13. 6	13. 2	11. 9
Operation profit (loss)	21. 4	41. 5	33. 2	41. 8	137. 9	258. 6	155. 1	167. 4	15. 5	94. 6
Nonoperating income:										
Capital gains (losses)	—. 1	3. 0	. 5	0	3. 4	—102. 6	49. 9	256. 9	—100. 0	—50. 1
Interest income (expenses)	—7. 0	—7. 0	—6. 0	—6. 0	—26. 0	. 3	—24. 1	—21. 4	—23. 5	—17. 9
Other income (expense)	. 9	11. 5	0	0	12. 4	—1, 182. 6	1, 195. 0	—100. 0	—100. 0	509. 9
Total nonoperating income	—6. 2	7. 5	—5. 5	—6. 0	—10. 2	83. 6	—218. 1	—18. 0	—4. 0	—55. 1
Pretax income	15. 2	49. 0	27. 7	35. 8	127. 7	522. 9	394. 2	385. 4	19. 6	165. 9
Tax	3. 7	20. 4	10. 5	14. 4	49. 0	—315. 6	1, 030. 7	—2, 252. 3	30. 2	360. 1
Effective tax rate (percent)	(24. 6)	(41. 6)	(37. 8)	(40. 2)	(38. 4)	—134. 6	128. 8	—543. 4	8. 9	73. 0
Net income	11. 5	28. 6	17. 2	21. 4	78. 7	174. 6	252. 7	178. 2	13. 3	110. 6
Shares	(19. 9)	(19. 9)	(19. 9)	(19. 9)	(19. 9)					
Earnings per share	. 58	1. 44	. 86	1. 08	3. 95					

[1] All figures not in parentheses add to achieve total dollar amounts.

TABLE 13.—NATIONAL AIRLINE

	1976 income statement					Percent change, 1976 versus 1975				
	March	June (estimate)	September (estimate)	December (estimate)	Year (estimate)	March	June (estimate)	September (estimate)	December (estimate)	Year (estimate)
Revenue:										
Scheduled RPM	(1, 124. 3)	(1, 385. 4)	(1, 605. 1)	(1, 796. 6)	5, 911. 4	−18. 5	−4. 4	220. 0	20, 600. 0	77. 0
Yield	(7. 48¢)	(7. 56¢)	(7. 84¢)	(7. 93¢)	(7. 73¢)	−4. 9	7. 0	−45. 0	575. 0	−8. 6
Scheduled passenger revenue	$84. 1	$104. 7	$125. 8	$142. 5	$457. 1	−22. 5	2. 3	76. 0	139, 625. 0	61. 8
Charter RPM	(1. 1)	(2. 3)	(2. 6)	(4. 3)	(10. 5)	−27. 9	0	200. 0	200. 0	67. 2
Yield	(6. 02¢)	(3. 92¢)	(13. 15¢)	(3. 88¢)	(6. 47¢)	−31. 2	0	0	0	0. 5
Charter revenue	. 1	. 1	. 3	. 2	. 7	−50. 4	0	200. 0	200. 0	68. 0
Cargo revenue	5. 4	6. 1	5. 9	6. 0	23. 3	1. 7	0	40. 0	−5, 900. 0	50. 6
Other revenue	3. 7	4. 0	4. 0	4. 0	15. 7	84. 0	58. 9	−77. 4	−89. 4	−73. 7
Total revenue	93. 2	115. 0	136. 0	152. 7	496. 8	−19. 6	3. 4	45. 5	305. 3	38. 7
Expenses:										
Headcount	(4, 093. 5)	(7, 197. 6)	(7, 468. 1)	(7, 467. 8)	(6, 556. 7)	−48. 3	−7. 8	70. 0	657. 0	24. 3
Wages per employee	(8, 938. 6)	(5, 163. 2)	(5, 249. 1)	(5, 224. 1)	(24, 575. 0)	91. 2	8. 2	−20. 0	−20. 0	9. 0
Wages and fringes	36. 6	37. 2	39. 2	39. 0	152. 0	−1. 2	−. 2	36. 0	505. 6	38. 7
Fuel consumption	(62. 2)	(74. 5)	(80. 3)	(109. 2)	(326. 2)	−19. 6	0	60. 0	23, 600. 0	61. 0
Cost per gallon	(31. 47¢)	(31. 41¢)	(31. 50¢)	(32. 20¢)	(31. 71¢)	70. 6	66. 4	3. 0	3. 0	46. 5
Fuel cost	19. 6	23. 4	25. 3	35. 2	103. 4	37. 1	66. 4	64. 8	24, 311. 0	135. 9
Depreciation	11. 4	11. 7	11. 7	11. 8	46. 5	5. 6	5. 4	−1. 7	0	2. 2
Rentals	4. 6	4. 5	4. 5	4. 6	18. 1	1. 5	0	−4. 0	5. 0	. 6
Available ton-miles	(338. 6)	(389. 3)	(449. 9)	(454. 5)	(1, 632. 3)	−14. 1	0	230. 0	23, 600. 0	77. 1
Unit cost	(8. 45¢)	(9. 49¢)	(9. 26¢)	(10. 48¢)	(9. 49¢)	−9. 8	0	−60. 0	−98. 5	−26. 4
Other expense	28. 6	37. 0	41. 6	47. 6	154. 9	−22. 5	0	32. 0	255. 5	30. 3
Total expense	100. 8	113. 7	122. 3	138. 1	474. 9	−2. 7	9. 5	32. 5	282. 8	41. 4
Operating profit (loss)	−7. 6	1. 3	13. 7	14. 6	22. 0	−161. 1	−82. 4	1, 080. 2	816. 3	−2. 0
Nonoperating income:										
Capital gains (losses)	. 3	0	0	0	. 3	14, 650. 0	−100. 0	−100. 0	−100. 0	−88. 6
Interest income (expense)	−2. 8	−2. 4	+ −2. 4	−2. 4	−10. 0	−24. 6	−38. 2	−24. 9	−29. 5	−29. 5
Other income (expense)	. 2	4. 0	0	0	4. 2	114. 7	−3, 153. 4	−100. 0	−100. 0	−1, 133. 8
Total nonoperating income	−2. 3	1. 6	−2. 4	−2. 4	−5. 5	629. 4	−215. 2	−25. 0	−37. 7	−37. 6
Pretax income	−9. 8	2. 9	11. 3	12. 2	16. 5	−199. 3	−51. 2	−652. 9	−637. 2	43. 5
Tax	−5. 7	1. 1	4. 5	4. 9	4. 8	−262. 3	−15. 6	−337. 4	−342. 0	422. 5
Effective tax rate (percent)	(58. 2)	(38. 0)	(40. 0)	(40. 0)	(28. 8)	63. 4	72. 9	−57. 1	−54. 9	264. 2
Net income	−4. 1	1. 8	6. 8	7. 3	11. 7	−164. 5	−61. 2	−4, 933. 6	−2, 970. 3	10. 9
Shares	(8. 6)	(8. 6)	(8. 6)	(8. 6)	(8. 6)					
Earnings per share	. 48	. 21	. 79	. 85	1. 36					

[1] All figures not in parentheses add to achieve total dollar amounts.

TABLE 14.—NORTHWEST AIRLINES

	1976 income statement [1]					Percent change, 1976 versus 1975				
	March	June (estimate)	September (estimate)	December (estimate)	Year (estimate)	March	June (estimate)	September (estimate)	December (estimate)	Year (estimate)
Revenue:										
Scheduled RPM	(2, 467. 3)	(2, 645. 3)	(2, 867. 8)	(2, 428. 2)	(10, 408. 6)	9. 7	15. 0	15. 0	0	9. 9
Yield	(7. 06¢)	(7. 23¢)	(6. 87¢)	(7. 69¢)	(7. 20¢)	3. 9	2. 0	2. 0	6. 0	3. 3
Scheduled passenger revenue	$174. 2	$191. 1	$196. 9	$186. 8	$749. 1	14. 0	17. 3	17. 3	6. 0	13. 5
Charter RPM	(133. 7)	(175. 3)	(163. 6)	(151. 9)	(624. 4)	43. 1	−10. 0	5. 0	100. 0	20. 1
Yield	(3. 84¢)	(4. 51¢)	(4. 01¢)	(4. 28¢)	(4. 18¢)	−8. 6	0	0	5. 0	−1. 4
Charter revenue	5. 1	7. 9	6. 6	6. 5	26. 1	30. 9	−10. 0	5. 0	110. 0	18. 4
Cargo revenue	33. 2	41. 0	43. 3	53. 5	171. 1	41. 9	50. 0	50. 0	50. 0	48. 3
Other revenue	4. 1	6. 0	6. 0	6. 0	22. 1	11. 4	66. 9	−9. 7	59. 7	25. 0
Total revenue	216. 7	246. 1	252. 8	252. 8	968. 3	17. 9	21. 4	20. 6	15. 6	18. 8
Expenses:										
Headcount	(11, 163. 5)	(11, 132. 5)	(11, 036. 5)	(11, 116. 5)	(11, 112. 3)	−1. 5	0	0	0	−0. 4
Wages per employee	(5, 530. 1)	(5, 631. 4)	(5, 764. 0)	(5, 857. 1)	(22, 782. 5)	21. 6	21. 0	24. 0	−2. 0	14. 9
Wages and fringes	61. 7	62. 7	63. 6	65. 1	253. 2	19. 8	21. 0	24. 0	−2. 0	14. 5
Fuel consumption	(154. 6)	(161. 1)	(160. 4)	(158. 8)	(634. 9)	6. 7	8. 0	8. 0	5. 0	6. 9
Cost per gallon	(32. 81¢)	(31. 89¢)	(32. 20¢)	(32. 67$)	(32. 39¢)	7. 6	2. 0	0	0	2. 3
Fuel cost	50. 7	51. 4	51. 7	51. 9	205. 6	14. 8	10. 2	8. 0	5. 0	9. 4
Depreciation	25. 9	26. 1	26. 0	26. 8	104. 8	1. 9	8. 0	5. 0	5. 0	6. 0
Rentals	3. 6	3. 5	3. 6	3. 8	14. 4	10. 8	5. 0	5. 0	5. 0	6. 4
Available ton-miles	(982. 2)	(991. 3)	(966. 2)	(1, 005. 6)	(3, 945. 3)	13. 7	10. 0	5. 0	5. 0	8. 3
Unit cost	(7. 13¢)	(6. 76¢)	(6. 97¢)	(6. 96¢)	(6. 96¢)	5. 4	2. 0	2. 0	7. 0	4. 1
Other expense	70. 0	67. 0	67. 3	70. 0	274. 4	19. 9	12. 2	7. 1	12. 4	12. 8
Total expense	212. 0	210. 6	212. 2	217. 6	852. 4	16. 6	13. 5	11. 6	5. 0	11. 4
Operating profit (loss)	4. 7	35. 4	40. 5	35. 2	115. 9	133. 5	107. 9	108. 8	207. 5	132. 1
Nonoperating inceme:										
Capital gains (losses)	9. 3	3. 0	3. 0	3. 0	18. 3	156. 3	−65. 1	556. 4	320. 8	36. 4
Interest income (expenses)	−4. 4	−4. 5	−4. 0	−4. 0	−16. 9	9. 3	29. 0	0. 5	−21. 0	2. 1
Other income (expense)	. 1	0	0	0	. 1	−7. 7	−100. 0	−100. 0	−100. 0	64. 5
Total nonoperations income	5. 0	−1. 5	−1. 0	−1. 0	1. 5	−1, 754. 1	−128. 8	−70. 8	−76. 8	−151. 9
Pretax income	9. 7	33. 9	39. 5	34. 2	177. 3	465. 6	52. 5	147. 2	379. 0	149. 2
Tax	4. 4	16. 3	19. 0	16. 4	56. 0	−222. 2	146. 3	440. 6	−673. 6	1, 417. 5
Effective tax rate (percent of)	(45. 1)	(48. 0)	(48. 0)	(48. 0)	(47. 8)	−121. 6	61. 5	118. 7	−219. 7	509. 0
Net income	5. 3	17. 6	20. 6	17. 8	61. 3	. 5	12. 9	64. 7	77. 8	41. 2
Shares	(21. 6)	(21. 6)	(21. 6)	(21. 6)	(21. 6)					
Earnings per share	0. 25	0. 81	0. 95	0. 82	2. 84					

[1] All figures not in parentheses add to achieve total dollar amount.

TABLE 15.—PAN AMERICAN

	1976 income statement					Percent change, 1976 versus 1975				
	March	June (estimate)	September (estimate)	December (estimate)	Year (estimate)	March	June (estimate)	September (estimate)	December (estimate)	Year (estimate)
Revenue:										
Scheduled RPM	(3, 418. 7)	(3, 946. 5)	(5, 085. 8)	(3, 914. 8)	(16, 365. 8)	2. 5	18. 0	10. 0	10. 0	10. 1
Yield	(6. 95¢)	(7. 11¢)	(7. 41¢)	(7. 64¢)	(7. 30¢)	–. 1	–15. 0	4. 0	4. 0	–1. 7
Scheduled passenger revenue	$237. 5	$280. 7	$376. 9	$299. 2	$1, 194. 3	2. 4	. 3	14. 4	14. 4	8. 3
Charter RPM	(636. 0)	(923. 6)	(1, 318. 3)	(810. 2)	(3, 688. 1)	16. 4	12. 0	12. 0	12. 0	12. 7
Yield	(3. 62¢)	(3. 83¢)	(4. 10¢)	(3. 89¢)	(3. 90¢)	–1. 5	–6. 0	4. 0	4. 0	. 4
Charter revenue	23. 0	35. 4	54. 0	31. 5	144. 0	14. 7	5. 3	16. 5	16. 5	13. 2
Cargo revenue	79. 1	88. 8	101. 7	102. 3	371. 8	1. 8	8. 0	10. 0	10. 0	7. 7
Other revenue	21. 6	30. 0	30. 0	30. 0	111. 6	. 3	40. 7	21. 4	–2. 5	13. 5
Total revenue	361. 2	434. 9	562. 6	463. 0	1, 821. 7	2. 8	4. 3	14. 1	12. 3	8. 8
Expenses:										
Headcount	(27, 854. 0)	(26, 388. 8)	(26, 358. 3)	(26, 708. 2)	(26, 827. 3)	–11. 8	–13. 0	–10. 0	–7. 0	–10. 5
Wages per employee	(5, 450. 9)	(5, 605. 2)	(5, 724. 0)	(5, 796. 1)	(22, 576. 1)	14. 2	18. 0	12. 0	5. 0	12. 0
Wages and fringes	151. 8	147. 9	150. 9	154. 8	605. 4	. 7	2. 7	0. 8	–2. 3	. 4
Fuel consumption	(213. 8)	(237. 1)	(265. 2)	(227. 3)	(943. 5)	–5. 1	2. 0	2. 0	2. 0	. 3
Cost per gallon	(38. 30¢)	(38. 08¢)	(38. 11¢)	(38. 05¢)	(38. 13¢)	5. 2	9. 0	4. 0	0	4. 5
Fuel cost	81. 9	90. 3	101. 1	86. 5	359. 8	–. 2	11. 2	6. 1	2. 0	4·8
Depreciation	28. 2	29. 2	29. 4	27. 9	114. 7	–10. 2	–10. 0	–5. 0	–5. 0	–7. 6
Rentals	20. 5	19. 8	20. 4	20. 4	81. 1	1. 0	0	0	0	. 3
Available ton-miles	(1, 381. 0)	(1, 490. 1)	(1, 685. 3)	(1, 456. 1)	(6, 012. 5)	–. 9	2. 0	2. 0	2. 0	1. 3
Unit cost	(8. 83¢)	(9. 59¢)	(9. 59¢)	(11. 46¢)	(9. 87¢)	1. 3	6. 0	6. 0	6. 0	5. 1
Other expense	122. 0	142. 8	161. 6	166. 9	593. 3	. 4	8. 1	8. 1	8. 1	6. 4
Total expense	404. 4	430. 1	463. 3	456. 5	1, 754. 3	–. 4	5. 0	3. 9	2. 0	2. 7
Operating profit (loss)	–43. 2	4. 8	99. 3	6. 5	67. 4	–20. 8	–34. 2	110. 2	–118. 4	–291. 9
Nonoperating income:										
Capital gains (losses)	1. 8	8. 0	2. 0	2. 0	13. 8	–53. 0	–18. 8	–33. 9	–3. 4	–26.
Interest income (expenses)	–11. 7	–10. 0	–10. 0	–10. 0	–41. 7	–10. 3	–21. 3	–7. 1	–4. 8	–11. 3
Other income (expense)	1. 8	3. 0	3. 0	3. 0	10. 8	–809. 3	496. 9	–15. 1	–51. 3	8. 4
Total nonoperating income	–8. 3	1. 0	–5. 0	–5. 0	–17. 3	–14. 7	–139. 5	13. 2	105. 7	–9. 5
Pretax income	–51. 5	5. 8	94. 3	1. 5	50. 1	–19. 9	21. 1	120. 2	–103. 9	–192. 4
Tax	–. 4	–35. 2	45. 3	. 7	10. 3	–92. 8	–4, 781. 8	5, 910. 6	–115. 8	–227. 0
Effective tax rate (percent)	(0. 7)	(–603. 4)	(48. 0)	(48. 0)	(20. 7)	–91. 1	–3, 966. 6	2, 630. 0	306. 4	37. 5
Net income	–51. 1	41. 1	49. 0	. 8	39. 7	–13. 5	909. 2	16. 5	–102. 3	–186. 3
Shares	42. 2	42. 2	42. 2	42. 2	42. 2					
Earnings per share	–1. 21	0. 97	1. 16	0. 02	0. 94					
Earnings per share (extraordinary credits)		1. 50	. 25		1. 75					
Total earnings per share	–1. 21	2. 47	1. 41	. 02	2. 69					

[1] All figures not in parentheses add to achieve total dollar amount.

TABLE 16.—TWA AIRLINES

	1976 income statement					Percent change, 1976 versus 1975				
	March	June (estimate)	September (estimate)	December (estimate)	Year (estimate)	March	June (estimate)	September (estimate)	December (estimate)	Year (estimate)
Revenue:										
Scheduled RPM	(4, 441. 3)	(5, 818. 6)	(7, 044. 9)	(5, 683. 4)	(22, 988. 4)	10. 0	12. 0	9. 0	8. 0	9. 7
Yield	(7. 35¢)	(7. 53¢)	(7. 16¢)	(7. 52¢)	(7. 38¢)	0	5. 0	5. 0	5. 0	4. 0
Scheduled passenger revenue	$326. 5	$438. 4	$504. 3	$427. 4	$1, 696. 6	10. 0	17. 6	14. 5	13. 4	14. 1
Charter RPM	(381. 1)	(537. 7)	(521. 6)	(430. 8)	(1, 871. 1)	30. 7	20. 0	20. 0	20. 0	22. 0
Yield	(3. 67¢)	(4. 00¢)	(3. 88¢)	(3. 75¢)	(3. 84¢)	–7. 6	5. 0	5. 0	5. 0	2. 4
Charter revenue	14. 0	21. 5	20. 2	16. 1	71. 9	20. 8	26. 0	26. 0	26. 0	24. 9
Cargo revenue	46. 2	43. 3	44. 4	52. 3	186. 2	8. 0	5. 0	5. 0	5. 0	5. 7
Other revenue	16. 4	25. 0	30. 0	20. 0	91. 4	9. 9	9. 6	10. 7	3. 1	8. 5
Total revenue	403. 1	528. 2	598. 9	515. 9	2, 046. 1	10. 1	16. 4	13. 9	12. 4	13. 3
Expenses:										
Headcount	(34, 621. 0)	(35, 762. 0)	(36, 628. 3)	(36, 895. 4)	(35, 976. 7)	–4. 7	0	3. 0	5. 0	. 8
Wages per employee	(5, 233. 3)	(5, 341. 7)	(5, 561. 9)	(5, 729. 6)	(21, 866. 4)	8. 1	10. 0	10. 0	10. 0	9. 6
Wages and fringes	181. 2	191. 0	203. 7	211. 4	787. 3	3. 1	10. 0	13. 3	15. 5	10. 5
Fuel consumption	(276. 1)	(300. 1)	(324. 2)	(285. 7)	(1, 186. 0)	–2. 4	0	0	0	–. 6
Cost per gallon	(32. 60¢)	(32. 54¢)	(32. 17¢)	(32. 45¢)	(32. 43¢)	4. 8	3. 0	0	0	1. 9
Fuel cost	90. 0	97. 6	104. 3	92. 7	384. 6	2. 2	3. 0	0	0	1. 3
Depreciation	27. 6	27. 7	28. 5	28. 4	112. 2	2. 7	2. 0	0	0	1. 1
Rentals	28. 4	29. 3	29. 4	28. 0	115. 1	–1. 5	0	0	0	–. 4
Available ton miles	(1, 466. 9)	(1, 595. 5)	(1, 786. 3)	(1, 510. 9)	(6, 359. 6)	–. 1	0	0	0	0
Unit cost	(8. 75¢)	(9. 53¢)	(9. 95¢)	(11. 59¢)	(9. 96¢)	9. 4	12. 0	12. 0	12. 0	11. 5
Other expense	128. 4	152. 1	177. 7	175. 2	633. 4	9. 3	12. 0	12. 0	12. 0	11. 5
Total expense	455. 6	497. 7	543. 6	535. 7	2, 032. 7	4. 3	8. 0	8. 6	9. 6	7. 7
Operating profit (loss)	–52. 5	30. 5	55. 3	–19. 8	13. 4	–25. 7	–550. 2	117. 8	–33. 1	–116. 4
Nonoperating income:										
Capital gains (losses)	1. 2	0	0	0	1. 2	–111. 4	–100. 0	–100. 0	–100. 0	–107. 0
Interest income (expense)	–12. 7	–10. 0	–10. 0	–5. 0	–37. 7	8. 6	–18. 3	–17. 8	–41. 7	–15. 7
Other income (expense)	8. 7	7. 0	10. 0	10. 0	35. 7	173. 4	72. 0	54. 7	–27. 4	29. 9
Total nonoperating income	–3. 0	–3. 0	0	5. 0	–1. 0	–84. 0	–79. 5	100. 0	428. 7	–97. 3
Pretax income	–55. 6	27. 5	55. 3	–14. 8	12. 4	–38. 0	–228. 5	189. 8	–48. 3	–110. 3
Tax	–9. 8	5. 5	11. 1	–3. 0	3. 8	–40. 7	–169. 6	–758. 7	–64. 7	–111. 1
Effective tax rate (percent)	(17. 5)	(20. 0)	(20. 0)	(20. 0)	(31. 0)	–4. 3	–45. 9	–327. 3	–31. 7	8. 7
Net income	–45. 8	22. 0	44. 2	–11. 9	8. 5	–37. 5	–263. 0	113. 1	–41. 5	–109. 9
Shares	(13. 5)	(13. 5)	(15. 5)	(15. 5)	(14. 5)					
Earnings per share	3. 39	1. 63	2. 85	. 77	. 59					

[1] All figures not in parentheses add to achieve total dollar amounts.

TABLE 17.—UNITED AIRLINES

	1976 income statement					Percent change, 1976 versus 1975				
	March	June (estimate)	September (estimate)	December (estimate)	Year (estimate)	March	June (estimate)	September (estimate)	December (estimate)	Year (estimate)
Revenue:										
Scheduled RPM	(6,267.0)	(7,692.3)	(9,472.0)	(7,771.3)	(31,202.6)	5.5	15.0	15.0	45.0	19.0
Yield	(7.23¢)	(7.38¢)	(7.04¢)	(7.39¢)	(7.25¢)	−.4	5.0	5.0	5.0	3.8
Scheduled passenger revenue	$453.1	$568.0	$667.1	$574.6	$2,262.7	5.1	20.8	20.8	52.3	23.6
Charter RPM	(443.6)	(516.3)	(556.9)	(730.6)	(2,247.5)	−18.8	0	15.0	75.0	14.4
Yield	(4.05¢)	(4.03$)	(4.38¢)	(4.29¢)	(4.21¢)	7.6	5.0	5.0	5.0	6.4
Charter revenue	18.0	20.8	24.4	31.3	94.5	−12.6	5.0	20.8	83.8	21.7
Cargo revenue	44.9	58.2	62.6	77.0	242.7	.5	25.0	25.0	100.0	35.0
Other revenue	24.7	30.0	30.0	30.0	114.7	20.8	27.5	13.9	−57.5	−18.5
Total revenue	540.7	677.0	784.1	712.9	2,714.7	4.6	+ 20.8	20.8	41.6	21.8
Expenses:										
Headcount	(49,574.5)	(49,394.0)	(49,656.0)	(49,638.0)	(49,565.6)	0	0	0	0	0
Wages per employee	(5,329.8)	(5,306.7)	(5,573.5)	(5,669.4)	(21,879.4)	13.7	11.0	11.0	20.0	13.9
Wages and fringes	$264.2	$262.1	$276.8	$281.4	$1,084.5	13.7	11.0	11.0	20.0	13.9
Fuel consumption	(352.1)	(356.4)	(390.3)	(416.1)	(1,514.9)	−.3	0	1.0	37.8	8.4
Cost per gallon	(31.84¢)	(32.79¢)	(32.20¢)	(32.56¢)	(32.35¢)	22.9	25.0	20.0	15.0	20.9
Fuel cost	112.1	116.9	125.7	135.5	490.1	22.6	25.0	21.2	58.5	31.0
Depreciation	47.0	45.9	45.2	47.1	185.3	10.5	5.0	0	0	3.7
Rentals	29.6	31.6	31.1	31.0	123.3	−.7	5.0	5.0	5.0	3.6
Available ton-miles	(1,767.6)	(1,819.0)	(2,000.4)	(2,110.3)	(7,697.3)	−.5	0	1.0	38.0	8.3
Unit cost	(8.35¢)	(8.90¢)	(9.38¢)	(9.18¢)	(9.11¢)	12.7	8.0	8.0	−5.0	6.0
Other expense	158.3	161.9	187.6	193.7	701.5	12.1	8.0	9.1	31.1	14.8
Total expense	611.2	618.4	666.4	688.7	2,584.8	13.7	11.8	11.1	26.5	15.6
Operating profit (loss)	−70.5	58.6	117.7	24.1	129.9	243.0	744.5	139.2	−158.9	−2,515.1
Nonoperating income:										
Capital gains (losses)	−.3	0	0	0	−.3	−133.0	−100.0	−100.0	−100.0	−61.8
Interest income (expense)	−4.0	−1.5	−1.5	−1.5	−8.5	852.1	22.2	−63.7	−16.8	12.3
Other income (expense)	2.0	0	0	0	2.0	−46.6	−100.0	−100.0	−100.0	−77.0
Total nonoperating income	−2.5	−1.5	−1.5	−1.5	−7.0	−159.1	−147.1	−44.4	−69.6	2,275.3
Pretax income	−73.0	57.1	116.2	22.6	122.9	346.0	466.1	149.9	−149.3	−2,267.0
Tax	−31.0	28.6	58.1	11.3	67.0	283.1	463.1	147.9	−152.3	−5,607.8
Effective tax rate (percent)	(42.5)	(50.0)	(50.0)	(50.0)	(54.5)	−14.1	−.5	−.8	6.1	154.2
Net income	−42.0	28.6	58.1	11.3	56.0	407.5	469.2	151.9	−146.6	−1,355.7
Net income (subs.)	−1.5	2.0	2.0	2.0	4.5					
Other expense	1.0	1.0	1.0	1.0	4.0					
Total net income	−44.5	29.6	59.1	12.3	56.5					
Shares	24.5	24.5	24.5	24.5	24.5					
Earnings per share	−1.82	1.21	2.41	.50	2.31					

[1] All figures not in parentheses add to achieve total dollars amounts.

THE POSTAL SERVICE ACT

Mr. JOHNSTON. Mr. President, very soon the Senate will begin its consideration of H.R. 8603, the Postal Reorganization Act Amendments. As we prepare to consider this legislation, it is clear that much needs to be done. In the last few years, all Americans have watched while the cost of postal service has increased substantially without commensurate improvements in service quality.

It was 5 years ago that the Congress adopted the proposals of the Kappel Commission to experiment with an independent U.S. Postal Service. The theory behind this change was that we would get politics out of the post office, that we would try to impose on this Government activity the same cost and performance discipline that we identify with many American private sector activities.

Personally, I would have expected Congress to have an evaluation of this experiment by now. I would have expected a report critically assessing this major new direction for postal service activities. But it seems that there is no report.

Instead, the measure before the Senate will be a bill that is at best a stopgap effort to keep the present level of service and to keep open a large number of rural post offices that are threatened with closing. While I believe that the Senate should and must look at the total picture of postal operations in our country, I am concerned that we have not been given the information to do that intelligently at this time.

Therefore, I am prepared to support the bill proposed by the Committee on Post Office and Civil Service. I am prepared to vote for a subsidy from the Treasury, because I think that further reduction in postal service is unacceptable. But I say at the same time that at the top of our agenda in the next Congress must be the postal issue. We must resolve once and for all the proper direction and strategy for postal operations in the United States.

Several of my colleagues believe that now is the time to say the experiment has failed; now is the time to bring the post office back into the executive branch. While I would not be at all surprised if their conclusion was correct, I am convinced that we are not now prepared to make the decision. When we work with a new public policy approach for 5 years, we owe it to the public to assess in a rigorous and disciplined manner the results of that policy. No such assessment has been made, and I think we should withhold judgment on the major issues until that is done.

At the same time, I will continue to be supportive of several small amendments to this legislation with regard to particular classes of mail. In the last year, I have cosponsored legislation to give concessionary mailing rates to universities for their bulletins and to the State Conservation Department for mailing its magazine. I will continue to support these two proposals.

I conclude, Mr. President, by saying that a major responsibility of the Commission established under this legislation must be to evaluate the experiment of the U.S. Postal Service. The Commission must study and bring its conclusions to the Congress on the specific issue of whether an independent postal service is preferable—not only in theory but also in practice—to an executive function with stronger congressional oversight. I will expect a detailed analysis of this question, and I think that my colleagues demand that as well.

If this analytic task is undertaken conscientiously, then the 95th Congress should be able to make a sound informed decision about the most appropriate postal service direction for our country in the future.

THE TOWER OF BABEL

Mr. STEVENS. Mr. President, the June 22, 1976, edition of the Fairbanks Daily

News Miner contained an editorial arguing that Alaska should be exempt from Public Law 94–73 which requires the State to print all ballots and election materials in 20 different Alaska Native languages besides English.

Alaska Native languages are historically unwritten. No one who traditionally spoke the language ever read it. In recent years, in order to preserve the languages, anthropologists have begun to transcribe the spoken word. Very few Alaskan Natives can read the written version.

Alaska provides oral voting assistance for those who cannot read English since it is the most effective means of insuring maximum voter participation. Requiring ballots and other election materials to be printed in unreadable languages would be extremely costly and would not get a larger voter participation.

In all actuality, strict adherence to the law by Alaska would probably result in less voter assistance. Alaska is one of the few States that publishes a voter education pamphlet. Each candidate is given equal space in the pamphlet and it is distributed to every voter in the State. According to Public Law 94–73, the pamphlet would have to be published in a variety of historically unwritten languages as well as English. According to our Lieutenant Governor, who supervises the elections, the additional costs would prohibit the pamphlet from being published at all.

The editorial in the Fairbanks Daily News Miner reflects my opinion: that S. 3502 should pass, therefore creating a more effective and less costly solution to the problem of equal voter participation.

I ask unanimous consent that the editorial be printed in the Record for the information of my colleagues.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

[Editorial From the Daily News-Miner, Tues., June 29, 1976]

The Tower of Babel

U.S. Sen. Ted Stevens is seeking to relieve Alaskans of a new law that requires the state to print ballots for this year's elections in 20 different languages besides English.

As usual, the federal government chose the most costly and least effective way to solve a problem largely of its own making. It's a shame our small congressional delegation's precious time must be taken up this way when we're faced with so many larger issues.

As approved last year, the voting rights act requires the state to print bilingual ballots in areas where more than five per cent of the voting age citizen are members of a single-language minority. Sen. Stevens is trying to substitute oral assistance for the bilingual ballot requirements, which would apply to all but one of Alaska's 21 written Native languages.

Notice that Congress did not require that this five per cent be able to read their language, only that they belong to the language group. This is especially interesting, since the federal government schools have firmly discouraged any literacy in Native languages here and among Indian schools in other states.

These prievious efforts have resulted in a literacy rate so low as to make the new law unworkable, even if the state could print all the different ballots required. The State of Alaska has apparently chosen to ignore the new law this year in the expectation that Sen. Stevens' amendment will pass, and we feel this is a wise move.

Providing oral assistance in virtually all Alaskan Native languages is a tall enough order when one considers the problems of getting multilingual election workers and poll watchers for all concerned parties.

Sen. John Sackett's Senate District N, for example, has at least nine different written Native languages. We doubt if Sen. Sackett and his challengers will print campaign material in all the languages of his constituents, and we see no reason why the ballots should be any different.

Also, there is an additional problem of wording such phrases as "shall the bonded indebtedness be increased . . ." so they can be understood in languages lacking words or even basic concepts to express them. Experience has been gained in this recently with manuals explaining the Alaska Native Settlement Act, but the state would be hard-pressed to get such a job done before the primary election in August.

Such questions would have to be worded carefully and much more elaborately than they are in English, although most of us are confounded by English explanations on ballots from time to time.

All Alaskan Native languages are written and have quite good orthographies, but the low literacy rates among Native people make written ballots far less efficient than oral assistance in crossing the language barrier.

Even some Native leaders and politicians most sympathetic to them agree that oral assistance will be the more efficient way to explain ballots to their people. We hope Congress agrees, and soon.

COAL LEASING—CHAMBER OF COMMERCE MISLEADS AGAIN

Mr. METCALF. Mr. President, this morning I received a letter from the Chamber of Commerce of the United States urging me to sustain the President's veto of S. 391, the Federal Coal Leasing Amendments Act.

I certainly appreciate the chamber's interest in maintaining the energy industry's control over the people's coal, but their allegations about the bill are false. They state that if S. 391 was enacted, that before a lease could be issued, there would have to be: First, between four and nine public hearings; second, an expensive and time-consuming program of Federal exploration; and third, a complicated antitrust review process. This is nonsense and, indeed, goes beyond the erroneous objections made by the President in his veto message.

The chamber of commerce is factually incorrect about all three provisions of S. 391 which they find objectionable.

Specifically, with respect to public hearings, S. 391 requires a public hearing prior to a lease sale. It also requires a public hearing on a land-use plan, if requested by a person who may be adversely affected. In many instances, one hearing would meet both requirements.

Second, the Federal coal evaluation program they complain about does not have to be completed before leases can be issued. This provision of S. 391 essentially codifies the ongoing program being carried out by the Department of the Interior. This size and timing of this evaluation are left to the Secretary's discretion. The program would not preclude the Secretary from issuing coal leases where he believes he already has adequate information about the nature and extent of the coal, nor would it require that all known Federal coal reserves be evaluated before any coal is leased.

Finally, with respect to antitrust review, section 15 of S. 391 directs the Secretary to provide notification and certain information to the Attorney General at least 30 days prior to issuing a lease. The Attorney General is not required to make a review. There is an identical requirement in the Naval Petroleum Reserves Production Act (H.R. 49) signed by the President in February.

One indication of the need for the antitrust review provision is the study "Joint Bidding for Federal Onshore Oil and Gas Lands and Coal and Oil Shale Lands," submitted to Congress by Secretary of the Interior Kleppe on June 29. The study, required by section 105(e) of the Energy Policy and Conservation Act of 1975, recommended a ban on joint bidding among large coal producers based on a judgment—

> that the *competition that can be expected* in the bidding for western Federal coal lands is *too fragile to allow* the *further dilution* that unrestricted joint bidding could bring. (Italic added.)

I agree with the chamber of commerce that we do not need to retard the development of Federal coal. One sure way to do that would be to fail to enact now the amendments to the Federal coal leasing laws provided by S. 391. The Department of the Interior does not plan to resume large-scale leasing until late 1977. They can easily accommodate the new provisions of S. 391 into the leasing program over the next 12 months. However, if S. 391 does not become law, the coal industry and the chamber of commerce can rest assured that Congress will enact changes in the law in 1977. Unfortunately, implementation of those changes could well delay the planned leasing schedule.

Mr. President, a vote to override the President's veto is a vote to encourage Federal coal development while protecting the public's interest in its resources.

BREAK UP BIG OIL? A YES AND NO

Mr. FANNIN. Mr. President, one of the most astute and knowledgeable students of the petroleum industry of this Nation, as well as worldwide, is Frank Zarb, Administrator of the Federal Energy Administration and Executive Director of the Energy Resource Council.

In his Federal position, he has not only been required to examine every phase of our domestic petroleum industry from the standpoint of supply, demand, and prices, but has been charged with the responsibility of being knowledgeable worldwide in every aspect of the oil industry.

Because of his expertise, it is particularly appropriate that we give careful examination to his viewpoint on the highly controversial debate now before the Congress on divestiture.

Mr. President, I ask your consent that a statement by Mr. Zarb from July

18, 1976, issue of Newsday magazine be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From Newsday magazine, July 18,1976]

BREAK UP BIG OIL? A YES AND NO

(By Frank G. Zarb)

Breaking up the big oil companies is worth supporting *only if* the new organizational structure would help the nation and the American consumer.

Reorganization would be acceptable *only if* it would improve our ability to insulate the American economy from the effects of an actual or threatened oil embargo, diminish the control of the Organization of Petroleum Exporting Countries over the world price of oil; and result in more abundant and secure oil supplies at lower prices for the American consumer. These should be the criteria for any evaluation of divestiture or reorganization proposals.

However, there is strong reason to believe that the bill now before the Senate actually would undermine efforts to produce more domestic oil, strengthen OPEC's power to determine oil prices and increase consumer costs. The legislation proposes a radical departure from the government's traditional antitrust function and seems to ignore the question of its impact on our need for energy self-sufficiency.

On June 15, the Senate Judiciary Committee approved a divestiture bill, thus setting the stage for a legislative battle which could determine the form of government-business relations for years to come.

The bill would essentially prohibit a large oil company from engaging domestically in any two of the following major industry functions: production, pipeline transportation, or refining-marketing. This could result in less abundant, less secure and more costly supplies of petroleum for American consumers.

Those who equate integrated oil company operations with anticompetitive behavior have made the false assumption that independent refiners and marketers do not have sufficient access to crude oil and finished products, such as gasoline, since the major integrated companies, through ownership of their own crude oil production and the pipeline transportation system, can exclude the independents, thereby limiting their ability to compete.

In actual practice, there is every indication that the major oil companies themselves do not have anything approaching iron-clad control over crude supplies. For example, the 18 major oil firms that would be affected by the pending legislation produce only 60 percent of the crude oil necessary to run their refineries, the remainder being imported or purchased in the domestic market. Of the 18, only one is totally self-sufficient in domestic crude oil.

The facts also suggest that the independent marketers have a high degree of access to refined products. In 1975, for instance, almost 18 percent of refiner gasoline production was bought by "unbranded," independent marketers. When you include the "branded independents"—privately owned enterprises that happen to trade under major company brands—domestic refiners in that same year sold more than 80 percent of their volume of gasoline and more than half their volume of distillates (diesel fuel, No. 2 heating oil, etc.) to independent marketers.

Nor does the purported control of the majors over large volumes of crude supplies seem to have impeded the entry and expansion of independent refiners in the market. Between 1951 and 1975, eight companies began refining operations and a total of 22 independent refiners increased their individual refining capacities to more than 50,000 barrels a day. They built or acquired the new capacity to refine almost 3 million barrels a day over the same period, and as of Jan. 1, 1975, they accounted for 20 percent of all the crude oil refining capacity in the United States.

In fact, as The Washington Post pointed out in a recent editorial opposing the Senate divestiture bill, ". . . since World War II a number of new independent refineries have been successfully established. One of them . . . has grown fast enough to now be on the list of companies that would be broken up by this bill."

Another area in integrated oil company operations where anticompetitive behavior could occur is in the pipeline transportation system, which is heavily dominated by the major oil companies largely because of the substantial amounts of capital needed to build and maintain it. However, the system is closely regulated by the Interstate Commerce Commission, which prohibits rate discrimination and requires that the system be operated as a common carrier serving all shippers.

The domestic oil industry as it is currently organized is clearly capable of meeting the extremely high capital and technical demands of increased exploration, development and production, given certain governmental actions to establish a stable, predictable climate favorable to those activities. The process of divestiture, on the other hand, would force the oil industry into a period of instability and uncertainty.

This period of flux could involve a decade or more of litigation to adjudicate the numerous conflicting claims of all those with a direct interest in the outcome of divestiture. During this period capital spending by the affected companies would be sharply reduced, and industry management efforts would be diverted from the development of environmentally sound energy supplies to the administrative problems associated with divestiture. The net result of both would be to reduce domestic energy supplies and increase dependence of imported oil.

It is simply naive to expect any corporation to restructure itself radically without experiencing a period of decreasing productive activity. In addition, companies affected by divestiture would have reduced incentives and capabilities to make large capital investments while they are faced with such uncertainty. In short, expecting the U.S. oil industry and the financial community to cooperate productively and efficiently and make an uninterrupted contribution to national energy goals during a prolonged process of divestiture is not realistic.

The process of divestiture might result in an industry in which capital could be raised only at comparatively higher interest rates, leading to increased operating costs, and, ultimately, to higher consumer prices—precisely the opposite of the effect sought by the proponents of divestiture.

And should the proponents of divestiture then seek to restrain the resulting higher prices through controls, the ability of the fragmented domestic oil industry to engage in greater productivity would be further curtailed, leading to even greater vulnerability to interruptions of supply and increases in the price of imported oil.

Apart from the effects of divestiture on the production of domestic oil, an equally important consideration is its impact on the relationship of the United States to OPEC. There is no evidence that nonintegrated U.S. oil companies could bargain with the cartel more effectively than larger, vertically integrated firms to assure more secure supplies at lower prices.

The assertion that the companies are the willing instrument of the cartel in setting and maintaining prices will not bear scrutiny. The price of oil is a function of supply and demand. If the cartel can control production so that available oil supplies will support the price they decree, they effectively control the market. And with the continuing nationalization of oil company assets overseas, it is the cartel and its member countries that are now in a position to decide the volume of oil that will be produced, not the companies.

It has also been said that when decreased cartel production is necessary to support increased prices, the companies act as a mechanism through which proportional shares of the reduced production are allocated to the member states of OPEC. But the fact remains that this pro-rationing of decreased production is simply not essential.

One member of the cartel, Saudi Arabia, has such a large production capacity and such a relatively small need for oil revenues that it can absorb the entire production decrease necessary to support any given price. As long as the Saudis are willing to support the stability of the cartel by shutting in their production—a decision over which the companies have no control—OPEC will continue to dominate the supply, and, therefore, the price of oil.

If we are to produce more energy at reasonable prices, we must complete the implementation of a five-point national energy program:

1. Decrease the growth rate of U.S. energy consumption from an historic 3.6 percent to something less than 2.8 percent;
2. Increase domestic oil production from the current 8 million barrels per day to 12 million barrels per day, and increase domestic natural gas production from 20 trillion cubic feet per year to 23 trillion cubic feet per year;
3. Increase domestic coal production from the present annual rate of 603 million tons to one billion tons;
4. Increase electricity generated by nuclear power from today's level of 9 percent to 26 percent; and
5. Complete a national oil stockpile program giving this nation sufficient protection against the threat of future embargoes.

The implementation of these five points, or equally effective substitutes, will require deliberate and painful policy-making on a number of complex issues. There is no easy way out, but one thing is clear: We have the natural, financial and technological resources to get the job done.

As popular as the notion may seem, the divestiture legislation presently being considered simply does not help to provide or conserve more energy. Indeed, the debate only diverts attention from the tough energy decisions that this nation must face.

ALAN JABBOUR NAMED DIRECTOR OF AMERICAN FOLKLIFE CENTER

Mr. HATFIELD. Mr. President, as one of the sponsors of the legislation creating the American Folklife Center in the Library of Congress, I am most pleased with the appointment of Dr. Alan Jabbour to be the first Director of the Center. Dr. Jabbour has done an outstanding job as the director of the folk arts program at the National Endowment for the Arts since assuming that post in April 1974, stimulating the awareness of disparate American folkways around the country through study, presentation, and publication. Incidentally, I urge once more that the National Endowment for the Humanities follow the lead of the Arts Endowment and create special folklife studies program to emphasize its commitment to folklife and facilitate the operation of a program to make that commitment a reality.

Prior to his work with the Art Endowment, Dr. Jabbour served as head of the Library's Archive of Folk Song, so he is already familiar with the present folklife programs of the Library of Congress. This experience, combined with his academic background and his own skill as a fiddler, make him well qualified, indeed, for his new post. I am sure he is also very much aware, however, of the benign neglect the Federal Government has bestowed upon American folklife, and how much needs to be done to bring to folk culture the attention the so-called higher arts have at long last achieved.

I commend Librarian of Congress Daniel Boorstin for the appointment of this man and wish Alan Jabbour every success. I pledge my support for what I am sure will be vigorous and fruitful activity in the American Folklife Center.

CONSUMERS SUPPORT OVERRIDE OF COAL LEASING VETO

Mr. METCALF. Mr. President, I have just received a letter from the energy policy task force of the Consumer Federation of America urging that Congress override the President's veto of S. 391, the Federal Coal Leasing Amendments Act. I ask unanimous consent that the letter be printed in the RECORD at the close of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered. (See exhibit 1.)

Mr. METCALF. Mr. President, Senators may recall that in his veto message, the President stated that one of the reasons for his veto was that S. 391 would "probably raise prices for consumers." The Consumer Federation expressly rejects the President's argument. The task force chairman, Lee White, in fact says:

> "We believe that through the increased competition in the leasing and development of Federal resources which will result from adoption of this bill, competition in the coal industry will be stimulated and *prices lowered.*" (Emphasis added.)

Mr. President, this is another example of why the Congress must override the President's veto.

EXHIBIT 1

ENERGY POLICY TASK FORCE,
Washington, D.C., August 2, 1976.

Hon. LEE METCALF,
U.S. Senate, Washington, D.C.

DEAR SENATOR METCALF: I am writing to you on behalf of the Energy Policy Task Force of the Consumer Federation of America. The Energy Policy Task Force is a coalition of 30 national organizations representing consumer, labor and farm associations whose purpose is to protect and promote the consumers' viewpoint and to ensure consumer participation in the decisionmaking process as it affects national energy policy.

The Task Force protests the recent Presidential veto of S. 391, the Federal Coal Leasing Amendments Act, and supports efforts of the Congress to override the veto. One of the major purposes of the bill is to change the existing ownership patterns of Federal coal resources, to take them out of the hands of the large energy companies by affording opportunities for other smaller entities to lease and develop coal. We believe that the President is mistaken in his contention that these and other provisions of the bill would possibly raise energy prices to consumers. We believe that through the increased competition in the leasing and development of Federal resources which will result from adoption of this bill, competition in the coal industry will be stimulated and prices lowered.

Furthermore, S. 391 has a feature that will prevent continued speculation with Federally owned coal resources. For existing leases, there must be development of coal within 10 years of the date of enactment. For new leases, a similar period of time is given. Elimination of speculation will prevent the large energy companies from manipulating coal and other energy prices.

Also, S. 391 provides for a pre-leasing antitrust review which will hopefully prevent the development of energy monopolies before they can grow and become difficult to break up. S. 391 places a limit on the amount of acres any one entity can lease, a feature bound to prevent the development of large energy monopolies.

Finally, we applaud the Congress for including a provision which returns to the states a fair share of the Federal royalties. Consumers in those states are severely impacted because of the rapid development of energy resources and will need the assistance provided by this portion of the bill.

We urge you to override the Presidential veto of S. 391.

Sincerely,

LEE C. WHITE,
Chairman.

ARE SUNSET LAWS THE ANSWER?

Mr. FANNIN. Mr. President, everybody these days is talking about regulatory reform. In response to the spreading public outcry against Federal overregulation and against Big Brother's bureaucratic harassment of small businessmen, liberals and conservatives in and out of Government agree that there is a need for regulatory reform. It is generally conceded that Government regulation has not produced the benefits that its advocates predicted, that it has resulted in higher prices in goods and services the people need and often in shortages of products the people use.

What, then, should be done? Obviously, reform means different things to different people. Some liberals in the Congress would actually prefer to expand Government controls over industry if they could get away with it. There are even those who would destroy business enterprises altogether by sustituting divestiture or nationalization for unworkable Federal regulation. Conservatives, by contrast, in an effort to promote competition in the marketplace and reduce the size and costs of big government, have recommended deregulation as the most sensible way out of our regulatory morass. Hopefully, most of those advocating reform desire to place some limitations on current Government power. If so, then responsible reformers must consider carefully measures which would strengthen congressional oversight over the entire regulatory process and all Government programs.

A number of legislative proposals have been introduced in the 94th Congress to eliminate regulatory overkill and to make the regulatory system more responsive to popular demand and marketplace consideration. I have introduced a bill, S. 2792, the Regulatory Reform Act, which is aimed at preventing ill-conceived, unnecessary, and costly regulations promulgated by Government agencies from going into effect without adequate congressional oversight and prior consideration for the economic consequences, including the costs and benefits to consumers.

I am also pleased to cosponsor several other regulatory reform bills, including legislation providing for zero-based budgeting and the institution of so-called sunset laws. These bills differ in their scope and purpose, but their intent is similar. Together they represent an effort to give the public the impression that Congress is doing something positive to bring Government down to manageable size and to reassure the people that their elected representatives have everything, particularly the bloated bureaucracy, under their firm control.

Unfortunately, the truth is that very little has been done so far to achieve meaningful, comprehensive reform. Despite all the political rhetoric about reform, this Congress has managed only to repeal State "fair trade" laws. Except for passage of the Railroad Reorganization Act, the Congress has failed to approve the administration's proposals in the areas of energy and transportation deregulation. It is understandable, though deplorable, that in an election year the Congress, under Democratic control, would not do much to effectuate the deregulatory programs of a Republican administration.

Nevertheless, when Republicans and Democrats, liberals and conservatives, are in agreement that Government regulation is not working and Federal spending is out of control, when politicians of every stripe are calling for remedial action, you would think that the Congress could set aside partisan political differences in an effort to accomplish positive reform. Unfortunately, I expect that, come election day, we will see very few regulatory reforms enacted into law. Of course, it is still not too late for Congress to act on some of the important reform bills. In fact, the time is ripe for action, particularly in the field of transportation. In the view of almost everyone outside the special interest groups affected, airlines and trucking are obviously in need of deregulation and should be the easiest to tackle.

Currently, the most talked-about approach to the complex subject of regulatory reform seems to be "sunset" legislation. There is no doubt that there is an appeal to establishing a mechanism whereby Government programs, agencies, and regulations will automatically destruct. But as in so many other areas demanding reform, it would be a mistake for Congress to approve sunset laws merely because they smack of reform or are in current fashion. Too often, the Congress has precipitously passed bills such as the 1974 election laws and the so-called Watergate Reform Act, which had the appearance but lacked the substance of genuine reform. I hope, therefore, that my colleagues will give careful consideration to the various sunset proposals before the Congress, with a healthy skepticism and a view toward positive accomplishment.

Mr. President, I call to the attention of the Senate a recent article on this subject which appeared in the Wall Street Journal. As Mr. Arlen Large points out, Congress has ample opportunity and all the power it needs to eliminate wasteful and costly Government programs. If we are seriously concerned about a sunset approach to Government, then why have we failed to cut off annual funding to programs and agencies that have long outlived their usefulness? Are we not perhaps "passing the buck" in the name of a new faddist approach to regulatory reform?

Mr. President, I ask unanimous consent that the article "Are Sunset Laws the Answer?" which appeared in the Wall Street Journal of July 9, 1976, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

ARE SUNSET LAWS THE ANSWER?

(By Arlen J. Large)

WASHINGTON.—It's not written down anyplace, but the working motto of Congress might as well be painted on the Capitol dome: "We dont want to hurt anybody."

So everyone's precious tax gimmicks stay stubbornly on the books, despite all the speechmaking about tax "reform." Programs for loans, subsidies, grants and other ingenious forms of "aid" roll on and on, unexamined by all but friendly committee chairmen. Federal agencies become immortal, lest one's death bruise the ego of its constituency.

But its easy-going motto is getting Congress in increasing trouble, and as good politicians the members know it. The clearest note sounding in their ears this year is a strong general dissatisfaction with growing government, a collective unhappiness with the sum total of federal busy-work which somewhere pleases the fractional constituencies. To be perceived as responding to the strong anti-government mood, the members must see to it that axes start falling. Congress must hurt someone.

Better, though, that the axing appear impersonal, the inevitable and automatic result of how the rules work. Sorry, old man, the system did it. Don't blame me.

And that explains the growing popularity among legislators, here and elsewhere, of the "sunset" approach to government. An existing federal program must be put to a special test of its worth, say, every five years. The bureaucrats who manage it must justify the first dollar they want to spend, not just the latest increase over last year's budget. In the jargon that's called zero-base budgeting, and if the test isn't met the program must automatically die. The sun sets on it, while billions of dollars are saved and millions of voters cheer.

A sunset mechanism is already in effect in Colorado, and other legislatures around the country are considering it. To apply the idea to the massive federal machine would take quite a leap, but a serious start is under way. The Senate Government Operations Committee intends to write a federal sunset bill after the Democratic Convention recess. There may not be time to pass a bill through both houses this year, but sponsors console themselves with the thought of having help next year from a newly elected President Carter, who extolls zero-base budgeting. Support for sunset laws and zero-base budgeting has even found its way into the 1976 Democratic platform.

In the Senate the bill has 56 co-sponsors, from Kennedy to Goldwater. The attraction is that Senators like Edmund Muskie of Maine, the chief sponsor, can promise: "If this bill becomes law, there will be a dramatic change in the operations of the federal government."

THEORY VERSUS REALITY

On paper, there would seem to be no need for dramatic change in the method by which Congress spends the people's money, guards against waste and stamps out boondoggles. First a federal program must be "authorized" by a law written by House and Senate committees that specialize in the subject. An authorization law sets broad policies and imposes ceilings on money appropriated from the Treasury. Many programs must be reauthorized every year or so, giving the specialist committees a chance to review results and let the bummers expire.

And there's another check. Every year almost every agency must go before the House and Senate appropriations committees to justify its budget request Lawmakers preparing the annual appropriations bills are free to root out errors and abuses by asking the bureaucrats nasty questions. During floor debate any member of the House or Senaate can propose cutting an agency's appropriation all the way to zero. All it takes is a majority vote.

In short, Congress has all the power and opportunity it needs to pull the string on big government. But the power is mostly unused, the opportunities are passed up.

The merchant marine subsidy program must be re-authorized each year, and friendly members of the House and Senate authorizing committees can be depended on to swear that the payments are essential to the nation's survival. Teachers' groups rally every three years to make sure there's no hitch in the routine re-authorization of aid to schools. The armed services committees occasionally will kill an authorization for a tank or a helicopter, but they mainly sing the Pentagon's song. At appropriations time, the members habitually focus on the increases in an agency's budget from the preceding year, and not on whether the outfit should get any money at all.

If spending programs have proven hard to stamp out by legislative will, so have special preferences in the tax laws. Four years ago no less a power than Wilbur Mills, who was chairman of the House Ways and Means Committee hit upon a crutch he thought would make it easier for Congress to confront the "loophole" problem. All tax preferences would come up for review over a fixed three-year schedule, forcing Congress to decide which ones had enough merit to be continued. His bill even won favorable mention in the 1972 Democratic platform. Though nothing came of it, this "action-forcing" notion became a precursor to the current crop of sunset proposals.

Another inspiration for the sunset concept is the new congressional budget control system. It sets deadlines that Congress must meet at fixed times during a session for decisions to be made on spending totals and individual appropriations bills. Sponsors boast that the new budget machinery is working beautifully and can serve as a model for requiring deadlines for scrutinizing federal agencies.

"In the absence of these kinds of action-forcing procedures," says Sen. Robert Byrd of West Virginia, "reform proposals are likely to fall victim to the potent opposition of special interest groups."

Sen. Byrd is a co-sponsor, along with Sen. Charles Percy of Illinois, of a bill that would post a sunset threat to federal agencies that regulate business. The President would have to follow a timetable for recommending changes, say, in the powers of the Civil Aeronautics Board, and Congress would face deadlines in approving his plan or devising its own. If all plans are blocked by airline industry efforts to retain the regulatory status quo, the sun would set on the CAB's power to award exclusive routes or confer other economic benefits.

When the Senate Government Operations Committee starts considering sunset proposals this month, it's more likely to start with Sen. Muskie's bill applying to all government programs, not just regulatory activities. As did the old Wilbur Mills proposal, the bill would require tax preferences to be put to a fixed schedule of review by the House and Senate tax-writing committees.

The bill would require budget officials in the Executive Branch to follow the same five-year cycle as Congress in putting federal programs to a zero-based spending test. Ford administration men aren't very keen about that. The requirement is "far too mechanical and inflexible," White House budget boss James Lynn has testified. Other veteran bureaucrats warn that requiring every agency to justify all spending would just produce mounds of paper and require a bigger federal work force.

During the Kennedy administration the Agriculture Department experimented with zero-base budgeting, but abandoned it after a year. "It was just too much," recalls William Carlson, now retired, who helped plan the effort. Mr. Carlson says the exercise "is probably a good idea" for a new Cabinet officer wanting to learn just what his department does, but that "it's impossible to do every year." Zero-base budgeting can indeed spot programs having little value, he says, "but what you discover is that the lowest priority things are there for political reasons."

That brings the question right back to the political will of Congress to end somebody's federal benefits, despite the crutch of "action-forcing" timetables. One skeptic is Earnest Gellhorn, dean of Arizona University's College of Law. "If the will is there," he has testified, "putting it into statutory form does not change anything. If the will is not there, the next Congress is going to change it." He pointed specifically to clean-air deadlines set in 1970 that Congress this year is pushing back.

REFORM RHETORIC

The Federal Energy Administration faced a sunset situation under existing law last June 30 when its old authorization expired, but Congress voted to extend its life. To some, this showed a lack of backbone. The extension demonstrated, complained Rep. Abner Mikva of Illinois, "that while regulatory reform is a fine topic for a rousing campaign speech, it is considerably less popular when the opportunity to translate talk into action arises."

If it appears that a sunset bill is making progress, special interest groups are sure to start begging for exemptions. A spokesman for the Veterans of Foreign Wars already has declared it would be "both unnecessary and discriminatory" to expose veterans benefits to the sunset threat. Sen John Glenn of Ohio, a co-sponsor of the Muskie bill, has suggested Congress itself might want to spell out sunset exemptions for some civil rights and energy-research programs. Also, Sen. Glenn isn't sure how the sunset principle would apply to such long-standing government institutions as the Navy. "That's a grey area," he says.

With the armed services committees in charge of its zero-base budget review, the Navy doubtless will be pretty safe. Indeed, the problem of the friendly committee could make the proposed zero-base budgeting requirement a fairly perfunctory exercise, with almost all programs routinely passing the test.

"There's no perfect check on a friendly committee," concedes freshman Rep. James Blanchard of Michigan, sponsor of a sunset bill in the House. Nevertheless, he thinks the independent streak being shown by more House members lately "is already breaking up the grip of friendly committee heads over programs."

And changes in public attitudes toward government may make the old we-don't-want-to-hurt-anybody motto more outdated than Capitol Hill cynics think. Sen. Abraham Ribicoff of Connecticut, chairman of the Government Operations Committee, has for 13 years watched Congress take care of each program's narrow constituencies and he thinks things are changing. "Sure, there are small constituencies behind each program," he says, "but there's a bigger constituency out there that's tired of too-big government, and those small constituencies can't stand up against that."

The first instinct of Congress when confronted with something new is to seek an institutional fix: set up a new committee, set deadlines, tinker with the rules. Bureaucratic Mickey Mouse often disguises a failure to act on substance, and the current sunset fad could quickly descend to play-acting. But if it's only a mental crutch to get the members to thinking about the status quo in a fresh way, the exercise may be worthwhile. Politicians need all the help they can get in screwing up their courage to yell "NO" when it's time to vote.

TORRIJOS' REFORMS BROADEN HIS BACKING IN PANAMA

Mr. McGEE. Mr. President, considerable attention has been focused on the present Panama Canal Treaty negotiations. Much of this attention has stemmed from misleading and oftentimes misstatements of fact which have generated some controversy within the United States in opposition to a modernization of our treaty relationship with the Republic of Panama.

On the other hand, very little attention has been focused on the internal policies of the present government of Gen. Omar Torrijos with whom we are conducting the treaty negotiations. Therefore, it was with considerable interest that I read a recent article written by Edward Schumacher for the Washington Post. The article focuses on the significant progress made by the Torrijos government in the past 8 years in meeting the needs of Panama's rural poor.

As Schumacher noted in his article:

> Those rural changes are often overlooked by foreigners concerned more with the canal. The force driving this change is the strongman himself, a populist often depicted as a leftist.
>
> In the eight years since Torrijos took over in a military coup, rural poverty has been reduced appreciably. Village schools have been built and electricity, running water and paved roads pushed into many backward areas. Free dispensaries and hospitals dot the countryside in a vigorous extension of what is probably the Western hemisphere's oldest and most efficient system of socialized medicine.

Schumacher also pointed out that:

> About a third of the rural population was below the government poverty line in the 1970 census. For them, the heart of the Torrijos campaign has been the formation of almost 270 farming collectives. These now hold about 35,000 people, or 15 percent of the rural poor in 1970.
>
> A cross between an Israeli kibbutz and a cooperative, the collectives have democratic self-rule, work by committee and share profits. Membership is voluntary. The government provides land, lends equipment and money and furnishes technical and social assistance.

In writing about one of the most successful of the 70 collectives formed by small landowners who agreed to pool their land, Schumacher pointed out that in 4 years the income of the 18 farmers on the collective grew from about $400 each to almost $1,400 last year—an impressive achievement by any standard.

Mr. President, I believe it is important to take note of what is happening in Panama today. In many instances we have seen leaders of governments generate controversy on the foreign affairs front in an effort to divert the attention of their citizens from the inability or unwillingness of these leaders to meet basic internal needs. It is apparent the Torrijos government does not require the Panama Canal Treaty issue as a means of diverting the attention of Panamanians. As the Schumacher article demonstrates, General Torrijos has moved quickly and with significant resources to incorporate the lower strata of Panamanian society into the mainstream of Panama's economic life. He has done it without much fanfare, but with impressive results thus far.

What all this says it that the Panama Canal Treaty issue is not an issue generated by one leader or one government. It is an issue which is at the heart of Panamanian nationalism itself—a nationalism which has expressed itself for decades over the inequities of the present, outmoded treaty relationship it has with the United States for operation and control of the Panama Canal and the zone itself.

In conclusion, Mr. President, I would only note that Edward Schumacher's article says more about the President of Panama and the type of person he is, than the impressions we oftentimes get from the opponents of the treaty negotiations in the United States.

I ask unanimous consent the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, July 18, 1976]

TORRIJOS' REFORMS BROADEN HIS BACKING IN PANAMA—CLINICS, LOANS, SCHOOLS IMPROVE RURAL LIVING

(By Edward Schumacher)

MONTE OSCURO ARRIBA, PANAMA.—Manuel Jose Morales, a poor, young farmer, figures he owes his improving standard of living to Panamanian strongman Gen. Omar Torrijos.

"Almost all of us campesinos would fight against those who might want to smash him—with arms if we have them, with rocks and sticks if we don't," Morales said recently.

"There isn't any comparison between this and past governments," he explained, sitting proudly with his baby son and relatives on the front porch of his small, newly plastered house in this farming collective 40 miles west of the Panama Canal.

"Before, we worked mainly with machetes. Now we have machines, and everything has completely changed."

Those rural changes are often overlooked by foreigners concerned more with the canal. The force driving the change is the strongman himself, a populist often depicted as a leftist.

In the eight years since Torrijos took over in a military coup, rural poverty has been reduced appreciably. Village schools have been built and electricity, running water and paved roads pushed into many backward areas. Free dispensaries and hospitals dot the countryside in a vigorous extension of what is probably the Western hemisphere's oldest and most efficient system of socialized medicine.

Torrijos frequently helicopters unannounced into rural villages to talk with farmers and inspect the programs run by technocrats with less visible corruption than in many other Latin American nations.

Torrijos relies on the 7,500-man military as the principal source of his power, but the rural development has helped to solidify his popular support in the countryside where half of Panama's 1.6 million people live.

He has done this while broadening his support in the cities by ruling with more diplomacy and less force in recent years.

The general allows groups ranging from radical students to conservative former ruling families to share in the nation's limited political freedom. Among the limits are restricted elections, selfcensorship of the press, and a large intelligence network.

The general balances the competing demands of labor and business in the nation's large urban economy by such measures prohibiting unions among workers in the large international banking community.

American officials here estimate that this small country receives more U.S. economic aid per capita than any other nation in the world. The aid has totaled more than $232 million since 1946, including $22 million in grants and loans this year.

U.S. officials frankly admit that a major reason for the aid is to placate Torrijos and the almost unanimous public opinion demanding the turnover of the canal to Panama, which has been under negotiation over a decade. Almost all of the current aid goes to finance the general's rural development policy.

Panama is a nation of mainly small and medium farms, unlike much of Latin America, where sharecropping and feudal plantations dominate. For the farmers, the government provides loans and technical assistance and collects few or no taxes.

About a third of the rural population was below the government poverty line in the 1970 census. For them, the heart of the Torrijos campaign has been the formation of almost 270 farming collectives. These now hold about 35,000 people, or 15 per cent of the rural poor in 1970.

A cross between an Israeli kibbutz and a cooperative, the collectives have democratic self-rule, work by committee and share profits. Membership is voluntary. The government provides land, lends equipment and money and furnishes technical and social assistance.

Morales lives on one of the most successful of the 70 collectives that were formed by small landowners who agreed to pool their land. Since the government provided them with more land and began heavy financial support four years ago, Morales has seen the annual income of the 18 farmers on his collective grow from about $400 each to almost $1,400 last year.

The other 200 collectives hold mainly former squatters who subsisted in primitive squalor before. Today, they farm, ranch and timber 1.1 million acres of government-provided land. The government purchased more than half the land cheaply at tax auctions, and about 20 per cent was expropriated from large landowners, according to government reports.

El Brigadier is one such settlement about five miles down the road from Morales in this lush but hilly coastal plain. Camilo Rodriguez, 46, dark, strong, barefooted and wearing a baseball cap, sat talking one recent hot afternoon in the community center, a tin-roofed patio with a few old school desks strewn about.

"We were born on this land," he said, "but we didn't produce anything. Maybe we would sell two or three small sacks of rice or corn. We would go by donkey to the market, but if the sack broke, we lost what we had.

"Then eight years ago, a well dressed man came in his fine car, a brown Bronco, and said all this land was his. We began to fight, and then the government stepped in and paid the man."

Last year, Rodriguez earned about $800 from the profits divided among the 34 farmers after they repaid their $60,000 in government loans for seed and machinery. They produced mainly rice and cattle.

The families live in identical concrete block houses built and furnished by the collective and serviced by electricity and running water. Private gardens surround the houses.

The collective's elementary school has three teachers and 50 students.

Torrijos says the government will sell or give the farm land to the collectives in seven or eight years, once they are proven to be self-sustaining.

"We don't think we're socialists here," Julio Bermudez, head of the agency that oversees the collectives, said in an interview. "We think this is a form of progressive capitalism."

The rural development plan has its drawbacks. Foreign critics say the heavy reliance on farm machinery drains needed investment funds from industry, raises the country's growing debt and fails to use underemployed agricultural labor.

The agricultural policy has been successful in reducing the nation's reliance on food imports, but they note that agriculture accounts for only 16 per cent of the gross national product.

Panamanian officials admit that some of the expensive machinery, such as tractors and rice harvesters, has already fallen apart. The equipment reached the inexperienced farmers before the advisers and maintenance training, they said.

The government is nontheless moving ambitiously into agro-industry. It is clearing huge sugar plantations, building food-processing plants, and negotiating to buy out the vast banana holdings of the American-owned United Fruit Co.

A large hydroelectric dam nearing completion on the Bayano River, about 60 miles east of the canal, is the first of three planned dams that will open up huge backward areas. The Bayano dam will also cut the nation's reliance on imported oil for its electricity from 93 per cent to 65 per cent, Panamanian officials said.

TENTH ANNIVERSARY OF SEA-GRANT PROGRAM

Mr. STEVENS. Mr. President, on the 10th anniversary of the sea-grant program, this is an appropriate time to commend all the men and women of the program for the many great contributions they have made in the fields of oceanography, Outer Continental Shelf oil and gas reserves research, fisheries studies, and other related marine sciences.

The national sea-grant program came into being a decade ago with the enactment of the National Sea-Grant College and Program Act to promote research, education, training, and advisory services in ocean and coastal resources. Sea grant now supports some 700 projects in 160 educational institutions across the Nation.

In Alaska, the University of Alaska, through sea grant, is doing a number of studies on shellfish and salmon fisheries, paralytic shellfish poison, commercial fishing safety, and commercial fisheries development. This work will be a great aid in our continuing efforts to replenish our depleted fish stocks and revitalize our fishing industry.

In the last 10 years, sea grant has grown and developed into an outstanding program for ocean research. In the future, sea grant will be able to provide us with new information on regeneration, production, and harvest of our marine resources. Particularly in light of our new management authority in the 200-mile zone, sea grant will take on an added significance in the next few years.

We have recently passed a bill extending the program and expanding it to include a new sea-grant fellowship program and to establish an Office of Marine Resources, Science and Technology in the National Oceanic and Atmospheric Administration. This strengthening of the program indicates the important role sea grant has played and will play in probing the mysteries of our oceans and in guiding us toward our resources wisely.

To celebrate the 10th anniversary of sea grant, the American Oceanic Organization is having a reception to which all Senators and their staffs are invited. It is being held from 6 to 8 p.m., Thursday, August 5, in the Senate caucus room. I hope to see my colleagues in attendance to join in honoring sea grant and those most responsible for creating and developing this program.

Mr. President, I ask unanimous consent that the invitation from the AOO to the sea-grant reception be printed in the RECORD.

There being no objection, the invitation was ordered to be printed in the RECORD, as follows:

SEA GRANT'S TENTH ANNIVERSARY RECEPTION, THURSDAY, AUGUST 5, 1976

The National Sea Grant Program came into being a decade ago with the enactment of the National Sea Grant College and Program Act, signed into law in 1966. Sea Grant supports over 700 individual projects in approximately 160 educational institutions. Many of these projects are in partnership with private industry and state agencies.

It is appropriate that on Sea Grant's 10th Anniversary the American Oceanic Organization honor the people who conceived and sponsored this most ambitious program: Dr. Sanford Atwood, Dr. John A. Knauss, Senator Claiborne Pell, Congressman Paul G. Rogers, Dr. Athelstan Spilhaus.

Special Honored Guests on this evening include Dr. Robert B. Abel, Director of the National Sea Grant Program; Dr. Robert M. White, Administrator of NOAA; and Congressman Charles A. Mosher who will M.C. the program.

Special: A manganese nodule, dredged from the Pacific Ocean floor at 12,000 feet water depth, will be given as a special gift to the first 200 attending the Reception!

FRESH SEAFOOD

Shark, squid, crawfish, scallops, mackerel, eel, mussels, plus much more! (With the cooperation of the many Universities under the Commerce Department's Sea Grant Program). Open bar. Dress: Informal. Time: 6–8 p.m. Place: Senate Caucus Room, 318 Russell Office Bldg., 2nd and Constitution Ave., NE.

For reservations call Jenny at 527–0888 before noon on August 4. Reserve tickets will be held at the door and no cancellations will be accepted after noon on August 4. DOD and NASA personnel will be invited by the AOO in compliance with the DOD 5500.7 Standards of Conduct Regulations.

DR. JOHN McGUINESS

Mr. RIBICOFF. Mr. President, I would like to take this opportunity to call to the attention of the Senate the retirement, on July 30, 1976, of Dr. John McGuiness from his position in the Office of the Attending Physician at the U.S. Capitol.

Dr. McGuiness, whose home State is Connecticut, has spent the last 22 years providing competent and compassionate medical care to Members of Congress and the many patients to his office. His eagerness to serve has endeared him to everyone who has had the privilege of working with him.

Not only a sensitive physician, Dr. McGuiness has also served his country as Chief Hospital Corpsman in the U.S. Navy, stationed at New London, Conn., in the 69th Naval Construction Battalion. He came to the Capitol in 1954 and quickly established himself as a physician of great ability and a person of high integrity and warmth.

I would like to join with my colleagues and with all those who have come to know him as a friend in wishing Dr. McGuiness and his wife health and happiness in the future.

ON THE DECLINE OF THE POSTAL SERVICE

Mr. CHURCH. Mr. President, it is sad but true, I am afraid, that the quasi public entity created to deliver the mail, the U.S. Postal Service, has been a dismal failure. Under its auspices the proud slogan of earlier years "The mail must go through" has changed to the refrain, "The mail might go through, eventually, if we can just get a few more cents per letter."

Under the Postal Corporation concept, we have seen service decline and rates rise. In the interest of "running the post office like a business," we have watched the Postal Service deficit grow.

The Postal Service lost more money—as a percentage of income—after it was supposedly placed on a self-supporting basis than it lost before. Prior to implementation of the new system, the taxpayer subsidized 10 to 15 percent of the post office's budget. Today—under the new Postal Service—the taxpayer subsidizes the operation to the tune of 22 percent.

This and many other facts about the gigantic failure that is the U.S. Postal Service are contained in an article in the July-August issue of the Washington Monthly magazine.

The facts presented are shocking. The article should be reviewed with care. The facts presented make a strong case for a change in the current system before it is too late.

Mr. President I ask unanimous consent that the article by Mr. Paul Dickson entitled "Delivering the Mail: We Did It Once and We Can Do It Again" be printed in the RECORD.

There being no objection, the article

was ordered to be printed in the RECORD, as follows:

DELIVERING THE MAIL: WE DID IT ONCE AND WE CAN DO IT AGAIN

(By Paul Dickson)

The major precedent for our sad and ever so unpopular Postal Service is one that dates back before 1776. At that time one of the complaints the colonists had against the King was a postal system that emphasized profits over service. Dissatisfaction with that business-like operation was, as many historians have stated, just the kind of thing that led to independence. "Instinctively, [the colonists] believed in postal service," one of these historians has remarked, "not postal profits."

This is not the beginning of a "Bicentennial Minute," but a recollection of the policy of a service-first post office which lasted five years short of a full 200. The policy ended in 1971 when a "business-like" postal corporation was created to make the system pay for itself.

At this moment, nostalgia for the old pre-1971 system is widespread; even the leaders of the tarnished Postal Service admit that things were better a generation ago. The nostalgia has many strains, ranging from those who fondly recall the single-digit first-class stamp, the less-than-a-nickel penny postcard, and the postmark that told you where your letter actually came from (not PA 217, which is postal newspeak for Upper Black Eddy, Pennsylvania) to the business patron who only has to think back a few months to the good old days before once-a-day delivery. But perhaps the most poignant bit of nostalgia is shared by liberals over 35 who recall cherished moments like this:

Conservative: How can you possibly call for the government to get involved in (*fill in the blank*)? You know what'll happen, don't you? They'll screw it up and the only people who'll be served by it are those who run it.

LIBERAL. But what about the. . . .

CONSERVATIVE. Besides they'll run out of things to do and start issuing oppressive guidelines and make our lives miserable.

LIBERAL. OK, but. . . .

CONSERVATIVE. I know. I know. You're going to tell me about the TVA.

LIBERAL. Actually all I wanted to do was to mention the Post Office.

CONSERVATIVE. (Loud gulp.)

At this point our liberal went into a devastating discourse about innovation (the first group to put the airplane to practical use, to string telegraph lines between cities, etc.), service, and the growth of commerce, culture, and education fostered by the beloved system which ties the nation together. Above all he praised the efficiency of the postal system as the ultimate proof that government could work.

As Wayne Fuller points out in his recent book, *The American Mail: Enlarger of the Common Life*, "Those who saw the abuses of unbridled capitalism . . . pointed with pride to the Post Office as an example of the benefits a government-owned business might bring to the people."

In 1976 both the Liberal and the Conservative huddle together in awe of a quasi-governmental disaster that disproves both the former's notion of effective government ownership and the latter's urge toward business-like self-sufficiency. Both of them seem quite capable of telling and retelling horror stories to underscore how bad it is, but neither is certain about its meaning or solution.

There is more to their mutual unease than simply keeping the first-class letter rate below a quarter or testing different philosophies of government. Postal service is the one thing government provides that comes closest to being universally received and universally useful, the only outward and visible sign of the federal government that the average American comes in contact with every day. It is also one of the most easily comprehendable elements of government, in that it is all but impossible to gloss over or cover up deteriorating service.

For all these reasons, there is clearly more to the past triumphs and present failures of the U.S. Mail than the U.S. Mail. One needs no commission report or poll to conclude that most people's perception of the quality and efficiency of government is directly tied to postal services. This was cause for rejoicing in Washington not that many years ago. Typical were these lines from a 1931 book on postal policy by Rep. Clyde Kelly: "Those who see this institution as a great service enterprise may be sure that it has been one of the mightiest factors in American progress, paying dividends in enlightenment and mutual understanding beyond the power of money to express. It has been the nation's most profitable institution, inspiring fraternity of feeling and community of interest, and furnishing the surest guarantee of the stability and security of the Republic. . . ."

Despite factions in Congress which occasionally toyed with the notion of putting all or part of the system in private hands, the formula of "service first, worry about deficits later" was never significantly challenged, for the simple reason that it was working. By the 1920s there was ample evidence that the policy had worked to the extent that the nation was in proud possession of a system complete with all the postal services that a modern industrialized nation could ask for. Postage was cheap; rural free delivery was bringing service to every corner of the nation; and all the extras—postal savings, money order service, parcel post, airmail, special delivery, and more—were in place.

PATRONAGE AND POSTMASTERS

Here are some of the reasons why it worked: For one thing, the politics that were taken out of the Post Office in the name of reform in 1971 had their dark side, but they were also a major strength of the old system. For instance, even though local postmasterships were assigned by political patronage, they were generally demanding, highly visible jobs which not only spotlighted the person in the job, but also the elected and party officials who got that person the job. Occasionally, the doltish brother-in-law of a congressman or party leader was given the local mail and postal service dukedom, but not often.

Another advantage of the political system was that it virtually guaranteed that management was local and therefore responsive to local needs and especially attuned to take pride in their work. As the old Post Office was being dismembered in favor of the new, old-timers fretted that reform would mean assigning big-city hotshots to run things for a large rural county (or vice versa); these doubters were looked on as unprogressive types harboring outdated notions about "outside" managers.

Ironically, it was the politicians who turned against the political Post Office while others had a higher respect for it. In *The American Mail*, Wayne Fuller wrote, "Politics in the Post Office, like leaven, was the ferment that forced changes in the postal system, made the service responsive to the will of the people, and made the Post Office a mechanism for developing the nation's political system." (By the way, this is not nostalgia speaking. Professor Fuller wrote this in 1972, when hopes for the new corporation were still high.) One clue to why politicians were so willing to jettison politics in this realm may be in the way votes are obtained. Oldstyle postal patronage gathered few votes and a lot of complaints—compared to well-executed, 30-second spots. For the modern politician, the burden of responsibility for local appointments outweighed the potential benefit.

A more obvious ingredient in the successful recipe was the aforementioned policy of service first, accompanied by a wary eye, but not a phobia, for the postal deficit which has been with us for all but a few of the last 100 years. Save for the few who argued for breaking even, most modern legislators, Postmasters General, and Presidents were quite content with an agency of government which pleased the people and paid back the lion's share—85 per cent to 90 per cent—of its costs in revenues (this year under the new setup it will recover only 78 per cent). Think about that for a while. You as a taxpayer subsidized ten to fifteen per cent when it was a service. Now that it's supposed to be a profit-maker, you pay 22 per cent.

What a lesson for us! As we go forward to take on the task of bureaucratic reform—which is now inescapably necessary, not just for the Postal Service but for the government as a whole—here are the simple truths we must remember:

(1) Government should *serve* the people. This, not profit or anything else, is its primary purpose.

(2) That the government will serve the people well is best assured by making it *politically* accountable to the people.

The era of civil service has produced a bureaucracy that is practically immune to the concerns of the public. The postmaster in Cedar Rapids need not fear wrath of the local citizens if he is a career civil servant. But a congressman who was responsible for the appointment of the inept Cedar Rapids postmaster could have lost the next election.

A RACE WITH CATASTROPHE

How did we become so confused that we forgot that what we wanted from the postal system was not profit but service? We wanted the mail delivered. What we're getting is reduced mail delivery, which is producing not profit but more deficit, because poorer service means lower volume.

This is not to say that putting politics and service back into the postal system will necessarily solve all its problems. Obviously the postal system was having difficulties before it became a corporation. But it is important to emphasize that many of those difficulties were unique to the period 1945–70. During those boom years the volume of mail leaped from 37,917,000 pieces to 84,881,000, while a major element of the postal system, the railway mail service, was collapsing along with its sister, passenger service.

By 1966, problems began surfacing. Reports were reaching Washington of snafus all along the line, the most dramatic of which took place in October, when the main post office in Chicago gagged on 10 million pieces of mail and stopped functioning for almost three weeks. Meanwhile, on the fiscal front this was the first year in which the postal deficit reached the billion-dollar mark. This took place during the watch of Lyndon Johnson's Postmaster General Lawrence O'Brien, who took a look at things, made his famous remark about the Post Office being in "a race with catastrophe," and told Johnson that a major reorganization was in order. Johnson, in turn, created the blue-ribbon Commission on Postal Organization under the direction of Frederick Kappel.

The Kappel report was delivered in June 1968 and was clearly negative. The American Post Office was mismanaged, too political, technologically backward, inefficient, and in dire need of new equipment, buildings, and ideas. The report also projected a postal deficit of $15 billion by 1978 unless something was done. Its prime remedial suggestion was that the Post Office was a business and as such should be reorganized as a government corporation which in time would have no deficit.

WINDOW DRESSING

The new corporation took flight on July 1, 1971 when the anachronistic Pony Express symbol gave way to the stylized eagle. For the first 18 months, there was great optimism about the new Postal Service, a mood abetted by the encouraging statistics and announcements of innovations coming from the office of Postmaster General and Board Chairman Winton M. Blount. The press, which had almost universally supported the idea of a new organization during the debate, was primed to listen uncritically as the litany of new departures was presented: a new, fast, and damage-free parcel post service would be in place by 1975 . . . routine 24-hour air mail service to Great Britain was just around the corner . . . an ombudsman was now in his office ready to accept and rectify patrons' complaints . . . top-flight Madison Avenue ad agencies were being signed up to promote the use of air mail and other special services . . . all sorts of snazzy consulting firms and think tanks were being brought aboard to help tackle the most vexing problems inherited from the old Post Office.

All this hoopla was followed by a broad series of rate increases, with more to come; and then there was the death of *Look* magazine replete with a post-mortem that in part blamed new rates for the demise. Rep. H. R. Gross and several allies uncovered some cases of flagrant overspending and waste.

The Christmas 1972 mailing was a disaster. Congressmen, who had relinquished most of their power over the Service, were stunned. About all the individual legislator could do was stuff the Congressional *Record* with horror stories. When, for instance, the eight train carloads of mail which contained an emergency mass appeal from CARE for the relief of victims of Nicaragua's Christmas earthquake were lost for nine days, CARE officials maintained that great damage had been done to their urgent campaign. Within a few months no less than a half-dozen separate bills were calling for the abolition of the new organization and a return to the old.

The horror stories have continued to pile up, and what was called the "postal mess" in the late 1960s is now the "postal nightmare" of the 1970s. The only vindicated factions are those who feared the loss of rural post offices and the few who were convinced that creating a break-even postal corporation did not add up to true reform.

The situation is now bleak: a steadily rising deficit, now about $3 billion, talk of bankruptcy, almost certain cutback to five-days-a-week delivery, the prospect of a 17-cent first-class letter rate by year's end. If anything, most of the touted solutions of the early days of the postal corporation have added to the problem. A few examples tell the tale:

Early retirement schemes cut the payroll to some extent but also weeded out some of the system's most best and experienced hands when they were needed most.

Not long after launching a major ad campaign to sell domestic air mail service, the Service itself discovered that first class was just as quick.

An expensive electronic system designed to monitor the comings and goings of mail delivery trucks has replaced a simple, index-card system that worked.

Postal workers have reported that mail is allowed to stack up for as long as 24 hours in order to get "uniform flow" for new canceling machines.

A new generation of machines have learned to eat packages and letters.

As *The Washington Post*'s Ronald Kessler concluded after a stinging series of reports on the excesses and failures of the new Service, ". . . postal management has shown remarkable consistency. When faced with major decisions, it invariably chooses the wrong course."

BACK TO POLITICS

The big question is where do we take it from here?

The beginnings of the answer are simple enough. Back to politics and service. Not to a system that is solely political. There should be a balance between the continuity of expertise provided by a tenured civil service and the accountability of the political appointee. But the balance has shifted way too far in favor of the former.

Recently *The Washington Star* uncovered evidence that employees at the Washington Bulk Mail Center in Largo, Maryland, had been throwing away sizable amounts of mail almost daily. This was a new high in the "screw-you-buddy-I've-got-my-tenure" movement, but nonetheless indicative of where things are going. Perhaps you read in this magazine's Tidbits and Outrages column last month about how the Postal Service was auctioning off the contents of the parcels that are mangled by its machines? Your lost merchandise could be bought by your competitor at a discount. Such things simply couldn't happen if the postal system was accountable to the public.

Even the resigning head of a postal employee's union, James Rademacher, admits, "The trouble with many members is that they do not understand the give and take of collective bargaining. They want to take, but they don't want to give."

Its no wonder that most of the postal union members think that way. Since 1970, they've "bargained" successfully for a 60 percent increase in wages.

Ronald Kessler, in his *Washington Post* series, pointed out a simple but dramatic saving the post office could make:

"Many of the Postal Service's problems would be solved if it offered standard-size envelopes with preprinted boxes where mail users would write zip codes, according to Dr. James C. Armstrong, a former postal official who left to become corporate planning manager of American Telephone and Telegraph Co. Armstrong said the Postal Service could encourage the public to use these envelopes by charging lower postage if they are used. The standard-size envelopes and uniform zip codes could easily be read by relatively inexpensive machines, Armstrong said.

There is no reason to believe the public would not accept the use of such envelopes, particularly as an alternative to further deterioration of postal service, as readily as it accepted direct long distance dialing using area codes.

So politics will help, standardization will help, but nothing will help more than a return to service as the primary aim of the post office. When government forgets that its object is to "deliver the mail"—whether it is in the form of an efficient military, an excellent national park system, or a letter on your desk the next day—it's time to remind our elected representatives that *they* at least *are* accountable.

THE FCC MAKES SOME SENSE—ON THIS ONE

Mr. PROXMIRE. Mr. President, the Federal Communications Commission deserves applause for its decision this week not to interfere in radio programing formats.

A reading of a news report seems to indicate that the FCC did not act for the right reasons, but its action is right.

If a governmental agency can tell a radio broadcaster to play classical music, or the top 40, or old transcriptions of Lum and Abner, it can tell him how to play the news. Any such dictation is an abridgment of free speech and of a free press.

From what I can see, the FCC does not get involved in the first amendment—the obvious involvement. Still, one should be thankful that the end result is the same.

Of course, when the matter gets to court, as is likely, the question before the jurists will not be the correct one. Instead of a first amendment issue, the resulting court case will, once again, deal with peripheral matters rather than getting at the basic question of abridgment of constitutionality granted rights.

Those who disagree with the FCC's decision this week are likely to point to the dissent in this case which speaks of the need to meet minority tastes, such as classical music.

It is easy to get trapped in discussing that point. Speaking out against classical music is like speaking out against baseball, hot dogs, apple pie, and Chevrolets—although, come to think of it all of those, with the possible exception of apple pie, can be controversial. Motherhood certainly is now. It is entirely possible that some classical music formats may die because of this ruling. And as lamentable as that may be, it is better that broadcasters make that decision freely without being pressured by a governmental entity, building up precedent that might eventually go further toward limiting liberty than has already taken place.

The real facts are these, however: If enough people want to hear classical music on their radios, they will get it; those people spend money and advertisers want to reach them.

There is a marketplace. Renowned justices have spoken from the bench of the "marketplace of ideas." That is more than a figure of speech. There is a marketplace in our society. The marketplace is not a place of a one-way transaction. There must be a willing buyer in addition to a willing seller. Whether the product be ideas or goods, no one will buy unless he or she is convinced that the purchase is a good one.

That is our system. It is based on the intelligence of the normal, individual person. It recognizes that each human being has the ability to think for himself. He wants and needs his government to protect him from the ruthless and unprincipled people in society; he does not want nor need protection from himself. If there are enough people with the same tastes as his own, there will be someone who will supply those things.

When those desired things are good like classical music, they will be supplied just as readily as those things which are undesirable, such as pornography. The Government should protect us from pornography, but not against jazz or blue grass or the three B's.

If the Government can dictate culture, it can turn that into political self-sustaining "culture." The U.S.S.R. has tried to do that. And we know the results.

If the Government can order classical musical programs, it can order programs. It has happened and is happening in authoritarian countries.

I applaud the action of the FCC. I hope the courts see it the same way when they get their chance. If they do, then perhaps other governmental controls against broadcasting—the equal time rule and the fairness doctrine—will fall of their own weight.

Mr. President, I ask unanimous consent that a news story from the Washington Star on the FCC ruling be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

FCC GIVES RADIO A FREE HAND

(By Stephen M. Aug)

The Federal Communications Commission, in a move likely to provoke a court challenge, has decided it no longer wants to have any say in the type of programming format radio broadcasters wish to use.

The FCC, in a 5–1 decision late yesterday, said its policy from now on will allow a broadcaster to change formats without commission approval even in cases in which local listeners complain to the commission that they are going to lose what they consider to be a valuable service.

The commission, however, stopped short of eliminating a question on broadcast license applications that asks the applicant what type of programming the station intends to broadcast.

The ruling—which the FCC said would not go into effect for 60 days to allow time for appeals—is contrary to several court rulings in the past six years, including one by the entire U.S. Court of Appeals here in 1974 that ordered the commission to hold hearings on a proposal that would eliminate a classical music outlet in Chicago.

One Washington area station, WGMS, backed away from a plan to convert its classical music format to so-called "Top 40" four years ago after a barrage of listener complaints. The FCC at the time eased the station's problem by waiving its rules to permit WGMS to broadcast programs on both AM and FM, a measure the station said would improve its financial situation to permit continuation of classical music.

FCC proceedings dealing with format changes almost invariably are the result of citizen complaints—similar to those in the WGMS matter—in which the listeners contend the station is the last of its type in their area.

The Commission said yesterday that regulatory control over station format could forever freeze a station into one format—and it would put the FCC into the position of deciding whether a station may change from progressive rock to some other rock genre, or from 19th century to 20th century classical music.

"In our society, public tastes are subject to rapid change. The people are entitled to expect that the broadcast industry will respond to these changing tastes—and the changing needs and aspirations which they mirror—without having to endure the delay and inconvenience that would be inevitable if permission to change had to be sought from a government agency, particularly after a full-scale evidentiary hearing," the FCC said.

The commission pointed out that the Chicago case, involving WEFM, its own staff had to devote more than 200 man-hours to prepare for the case, hearings were held in Chicago on nine different dates and a transcript of 3,120 pages was compiled.

Such a hearing, the FCC said, could cost a broadcaster tens or hundreds of thousands of dollars, and the financial cost and uncertainty of the outcome might well deter a broadcaster from undertaking innovative or novel programing.

The dissenting vote was cast by Commissioner Benjamin Hooks. Although Hooks sees problems in trying to work under the rules laid down in recent court rulings, he sees no alternative to FCC action that would insure that minority tastes—such as those of individuals who prefer classical music—and interests would be served when a minority-oriented station changes its format.

The commission majority contends the courts are improperly interpreting the basic law that set up the FCC and that they are unconstitutional because they are "impermissibly chilling innovation and experimentation in radio programing."

RSVP VOLUNTEERS ARE AMBASSADORS FOR IDAHO

Mr. CHURCH. Mr. President, the retired senior volunteer program is now providing approximately 150,000 retired persons aged 60 and over with opportunities for volunteer service in a wide variety of interesting and challenging community projects and programs.

The valuable contribution which these elderly volunteers can make to their own communities is being recognized more and more as they apply their talents and experience in unique and important ways.

A recent article in the Idaho Statesman directs attention to the contributions which RSVP volunteers are making to one of Idaho's largest industries: tourism. Recognizing that Idaho's elderly know more about the State than anyone else, the Boise Chamber of Commerce is manning their tourist information booth with 29 RSVP volunteers who act as ambassadors for the city and the State.

I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From The (Boise) Idaho Statesman, June 24, 1976]

VOLUNTEER SENIORS MAN TOURIST BOOTH

(By Tena Andersen)

Boise's ambassadors to tourists are the senior citizens who man the Chamber of Commerce tourist information booth at the Broadway exit on Interstate 80.

The senior citizens are from Boise's Retired Senior Volunteer Program. The tourist booth represents only one of more than 60 volunteer posts in the RSVP program, which is open to persons over 60.

Bobbi Doss, Chamber of Commerce coordinator of the project, is pleased with the job the volunteers are doing.

"Our real point in doing this is that whatever impression those people have of Boise, if not of Idaho," Doss said. "The senior citizens enjoy visiting with people, and they really are good ambassadors for our state."

Twenty-nine volunteers from 65 to 75 years old work five-hour shifts in the booth which is open from 9 a.m. to 7 p.m.

"The booth has been amazingly busy," Doss said. "In our first three weeks this year we've seen as many people as we saw in the first six weeks of last season. One Saturday 60 people visited the booth in one hour."

Doss attributes the increase in business to greater visibility for the booth. This year the booth is in a log cabin built by Lodge Logs Homes, Gowen Field. Its position high on a hill makes it easily visible from the road.

Martha Skov Kirk, 2411 South Shoshone, worked at the booth Tuesday.

"People mainly ask for maps and information on the various cities they want to visit," she said. Scenic areas in Boise and across the state are other attractions, she added.

A Colorado couple asked the addresses of three Boise businesses and left with a city map and directions to their destination.

Another man told Kirk, "I have an afternoon to spend in Boise. What can you tell me?"

She supplied him with brochures of parks and tours and a list of outfitters and guides.

A woman asked Kirk for help choosing a route to an eastern Idaho city. Kirk recommended checking with local authorities along the route for current road conditions.

Tuesday's register of visitors included tourists from Illinois, Florida, Oregon, California, Washington, Alaska, British Columbia, Wisconsin, Texas, Missouri and Louisiana. Many of them planned to spend several days in Boise.

The importance of these visitors to Idaho's economy has been underestimated, according to Doss.

"People in Idaho have kind of overlooked the fact that income from tourism is the third largest industry in the state," she said.

Tourism was a $240 million business last year, according to the state Division of Tourism and Industrial Development.

"When some people think of tourists they think of the out-of-state camper parked in their favorite spot at the lake, but that's not all there is to tourism," Doss said.

The booth is open from May to September. Later in the summer the hours may be extended until 9 p.m., according to Paul Chasco, RSVP director.

"The seniors know everything there is to know about Idaho," Chasco said. "This is one of the most enjoyable stations we've ever had. We have people calling in and asking to work in the booth."

STATES RIGHTS AND THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, I rise to challenge those who charge that the Genocide Convention represents an unconstitutional attempt by Congress to abridge the rights of States. The Constitution itself refutes this argument.

Without sovereignty in foreign relations, the national Government would be unable to govern. Consequently, the executive branch of the Federal Government is granted the power to make treaties with the advice and consent of the Senate. Article I of the Constitution specifically prohibits States from entering into "any treaty, alliance, or federation."

This treatymaking authority alone makes the Genocide Convention legitimately the domain of the Congress. In addition, article I also grants Congress the power to "define * * * offenses against the Law of Nations."

Those who say that the Genocide Convention represents an attempt by Congress to exceed its legislative mandate with regard to the States, fail to grasp these most basic constitutional principles. Without question, Congress has the authority to ratify a treaty outlawing a crime against humanity, such as genocide.

The Individual Rights and Responsibilities section of the American Bar Association concluded:

> No one could have any doubt about the right of Congress to prohibit Genocide.

Mr. President, I urge my colleagues to renounce dilatory arguments and ratify the Genocide Convention without delay.

RESURGENT AMERICA

Mr. GOLDWATER. Mr. President, Mr. Henry Fairlie, a British author, has written an essay entitled "Resurgent America" for the Washington Post. His message is that a resurgent spirit in America must go "hand in hand with a resurgent belief in its technology * * *". Moreover, he makes the important point that, where technology has contributed to our ecological problems, it is technology that we will have to call on to clean up the environment. In other words, technology is not the cause of pollution. It is the servant of man for good or bad.

Because of his background, Mr. Fairlie looks at America from a different vantage point. He may be able to see us better than we can see ourselves.

Elsewhere in today's RECORD are comments concerning the nomination of Dr. H. Guyford Stever to be Director of the newly-created Office of Science and Technology Policy. In that capacity, Dr. Stever will be President Ford's chief science adviser. It seems to me that "Resurgent America" goes right to the core of what the Office of Science and Technology Policy is all about.

In any event, I commend this article to my colleagues and ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Aug. 1, 1976]

RESURGENT AMERICA

(By Henry Fairlie)

It was interesting to read that two British journalists who had been visiting the United States—one of them a man who might most fittingly be described as a curmudgeon, sparing in his praise of anything—had both returned home to praise the "spirit of resurgence" in America, "this amazing country."

Their comments reminded me of one of the earliest of these essays in which I sought to pour scorn on the idea of the alienated American—and of the reactions of some American friends, who seemed to want me to be bilious about the country. But all these months later, where is the alienated American? Was he not finally dropped overboard from the tall ships, blown sky-high with the fireworks?

When America is resurgent, the world hopes again.

It is simply a fact that anti-Americanism abroad raises its ugly head in direct proportion to the existence of anti-Americanism at home. The world cannot hope in its "last best hope" if America does not hope in itself. The rebuilding of Europe after World War II was lead and inspired by a United States which, from its leaders to its people, was sure of itself, of its power and its purposes.

If America is as resurgent as my British colleagues say, then a force for good will once again be powerfully—perhaps even majestically—at work in the world, and I have no doubt that the election will be won this autumn by the candidate who most convincingly touches the mind and heart of a resurgent nation which again feels itself young.

In the next few essays, I intend to explore what the meaning of a resurgent America can be. For it can change the course of the world, in the next decade or two, for the better, just as it was the election of Franklin Roosevelt in 1932 to the leadership of a progressive and generous-minded people which helped to preserve the democratic spirit in the Western world in the years that followed. It certainly meant everything to Britain in 1940–41—when she "stood alone."

But I wish to start with something which might easily be overlooked, indeed which may almost be unpopular to say. It is when the spirit of a resurgent America is joined to the genius of American technology that the world most vividly feels its beneficient influence. The meaning of American technology is that it says, of the world and of our societies, "Things Ain't Necessarily So."

Take the last few weeks. I can be moved by the tall ships and all that they represented. I can be moved even by individual performances at the Olympic Games and by the fact that the American black athletes will not this year, when they receive their medals, raise their fists in an angry salute against their country. I can certainly be moved by the spectacle of a great party softly singing "We Shall Overcome" after all the wounds it has borne but survived in the cause of civil rights.

But I can also be moved—to hope for the future—by the sight of a three-legged machine landing on the planet Mars. I have never understood those who are bored by the exploration of space. It is not merely a great achievement; it is perhaps mankind's most hopeful achievement. We now have somewhere else to go, and I have hopes of seeing us go there.

It is about time that NASA sent a writer up in space; Norman Mailer does not seem to be doing much these days. I would willingly go. There is nothing I would rather do than bounce around on the moon, or float free in what until then had been to me the heavens.

The exploration of space must change our whole concept of man, as profoundly as Copernicus did. He took man out of the center of the universe, we became just another planet revolving round the sun. The exploration of space is already putting man back at the center of the universe; gradually, we are comprehending that the sun shines for us. The notion is all but religious.

Ray Bradbury is not being visionary when he says there will be human colonies on Mars in 50 years. A writer in Britain, peering into the future with hope and not with predictions of doom, has said that, in the centuries ahead, mankind will visit the Earth from the other planets, like tourists, to see the tiny world where it all began. Earth will be a playground.

Even for the immediate future, there are all kinds of ways in which the exploration of space can be used to help us while we stay on Earth; ways in which satellites can be used to perform what otherwise would be miracles for us. Although it is not directly related to the exploration of space, the notion of using solar energy—whatever the arguments for or against it—is one that could only have been born in an age in which we have learned to look out to our universe for the sources of life.

But the point which I wish to make here is that the exploration of space is preeminently the achievement of American technology. Of course, the Russians have been out there as well; and so, to a lesser extent, has Britain. (The contribution of Jodrell Bank in England under Sir Bernard Lovell has not been mean.) But even the Russian contribution has been the achievement of a Western technology, acquired and developed by Russia since the Revolution, and in our times that means an American technology.

American technology is three things. It is the vision to realize that things aren't "necessarily so." It is the sheer inventive competence—in fact, competence is too modest a word—the sheer inventive genius which lies in every new American gadget. Lastly, it is the conviction that this inventiveness should be used, to make anything from a blender to a spacecraft.

The English lament which has been in my ears since I was born—that English science invented things, which the Americans then developed—is a profound lament. It goes far to explain why America is today so resurgent, while Britain seems unable to resurge under any incitement.

If we are to understand the genius of American technology, we can at least start by fixing our minds on its most commonplace achievement: the gadget. I have not met the Englishman or the European who does not delight in the American gadget. One can go round this country from day to day, pressing buttons and pulling levers, and things begin to move, to whirr, to whizz, to crank, to suck in, to push out, to combine, to mix, to blend, to beat, all at one's command.

After all, Europeans at first regarded the telephone as a gadget. When the English political theorist and sociologist, Herbert Spencer, first came to America in 1882, he told an audience in New York: "Occasionally, when I have been in places of some ten thousand inhabitants (in America) where the telephone is in general use, I have felt somewhat ashamed of our own unenterprising towns, many of which, of fifty thousand inhabitants and more, make no use of it." And 30 years later, Arnold Bennett said, "The European telephone is a toy, and a somewhat clumsy one, compared with the inexorable seriousness of the American telephone." It is not all that different now.

Even today, as everyone knows who uses the two systems, there is still a sense in which the English regard the telephone as a rather new-fangled gadget which, if not actually to be distrusted, is not to be taken into one's confidence; and which certainly is not imagined to be a convenience necessary to the lower orders.

T. H. White could hardly contain himself at the invented wonders that he saw in America from day to day. On Oct. 1, 1953: "The automat restaurant on the train to Albany—its most amaking device was a machine which gave change for paper money. In went a dollar bill which was inspected and out came four silver quarters. Why couldn't we put in bits of newspaper cut to the right size?" On Oct. 4: "In Long Island fishermen can buy worms from slot machines." On Nov. 5: "I also learned of tab-opening cans. You can now open a beer can and, it is to be hoped, you will soon be able to open any can, without a tin opener."

During a visit in 1968 the astute observer D. W. Brogan wrote of an elevator he had encountered on the West Coast which was so designed that one did not have to press a button, but needed only to point at it. He remarked that, in order to refrain from touching the button, one needed a split second more than if one could just press it, but he went on: "The gadget-lovers of Europe would be delighted to come to a country where simple things are done in novel ways with hardly any loss of time."

The delight is always there. The English journalist, T. R. Fyvel, tells of an English friend who spent a weekend with a Texas millionaire, hopping about the country in little planes for dinner or lunch or cocktails. He thought he had seen everything until he noticed that the Texan's young son was riding about in a kiddie car which was air-conditioned.

"But one night his host turned to him and said something like: 'You know, Bob, I ask myself if our machine civilization isn't shot all to hell!' My friend was horrified. 'Don't have any thoughts! Leave them to us, while you stay just as you are!" In what may seem to some to be a trivial way, that is the voice of the Old World crying to the New World to believe in itself.

Always the gasp at the inventiveness, and the readiness to put the inventiveness to use. The English art critic Bryan Robertson has described the art scene in California as "a mad paradise of new materials," and he is almost lyrical as he exclaims at the "luxurious sea of pearlescent paint, irridescent surfaces for plastic, like luminous mother-of-pearl; candy-apple colors . . . and much else. With the Sylvania Paint Company and General Electric at the helm, anything is possible." Again the same exclamation: even the artists use the inventiveness of the technology.

This is an important point because, if the artists of a society despised the new materials it invents—Leonardo certainly did not despise the technological inventiveness of his own age—one could count that society decadent.

It is the playfulness with which the inventiveness is used which is American: not only creating objects of considerable beauty out of the new materials and processes that are invented by commerce for its own purposes, but again and again—this has been one of the objectives of contemporary American art—reducing to a size and form that we can enjoy the immense and perhaps menacing creations of our technology.

The resurgent spirit of America must go hand in hand with a resurgent belief in its technology, and again this can be felt. When the new Aeronautics and Space Museum of the Smithsonian opened, the writers in The Post (and elsewhere) did not try to contain their enthusiasm. Five years ago—as short a time as that—one or another of them would have bitched about it.

I walked through it the other day, wondering at the prodigy of man. One almost feels like the early Romantics when they exalted the power of man in their vision of Prometheus Unbound. There is nothing more exciting to do in Washington today than to go from the "Eye of Jefferson" exhibition at the National Gallery to the Aeronautics and Space Museum, because that extraordinary eye, looking with such intelligence and yet with such vision, with such ambiguity—yes—but with such optimism, at the dawning of our modern age, would have roamed through the museum and been pleased at its works. It is not an accident that Jefferson was the greatest, most playful, inventor of gadgets of them all.

Things are not necessarily immutable, he said in those tremendous opening words of the Declaration of Independence but he also said it in all those wonderful devices which make Monticello a schoolboy's treat. His eye had hands.

So I will hear from the curmudgeons, telling me that technology has despoiled our world. As if we do not all know that it has been used recklessly; as if we would not all like to be able to splash in Rock Creek again. If they were just not so boring about it, we even need their voice. But if we want to clean Rock Creek and the Potomac, we will do it only by putting our technology to the work.

It is a servant, and an obedient one. Technology did not despoil the countryside; we asked technology to despoil it. Ask technology to clean and save our world, and it will. It is as willing and able and generous as that.

ESTABLISHING A NATIONAL FOOD POLICY

Mr. HUMPHREY. Mr. President, I wish to share with this body a recent article in the School Food Service Journal, July/August 1976, by Dr. John N. Perryman, executive director of the American School Food Service Association.

In his log the executive director points out the world's rapidly growing population and the heavy burden which this places on the world in terms of constantly growing food requirements.

Dr. Perryman also points out that, in spite of the growing critical importance of food, the United States "has no food policy" either domestically or internationally, and wanders on a hit-or-miss basis from shipping scandal to grain deal, from crop failures 1 year to market overproduction the next.

The article also points out the critical importance of the nutrition component to such a national food policy. I have introduced S. 3570 to establish a national food policy, and included in it is the recognition of such a need.

The article also discusses the importance of continuing humanitarian food assistance in helping to feed needy people and also create stability in the face of scarcity throughout the world.

Clearly our Nation has been a model in providing hope to many needy people both here and abroad. We need to develop a food policy which will enable us to continue to be of assistance as well as meet our own critical needs here at home.

Mr. President, I ask unanimous consent that the article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From School Foodservice Journal, July/August 1976]

Log of the Executive Director

(By John Perryman)

Fifty-four years is all the time we have to prepare for the world's population to triple. There are four billion people on the face of the earth today and at present rates of population growth, there will be 12 billion by the year 2030. With a scarcely adequate grain reserve for 30-day world consumption, this earth receives 200,000 new mouths per day to feed. Malnutrition is on the rise with 15 million children under the age of five dying annually right now of the combined effects of malnutrition and infection.

However, my message today is not one of death and defeatism, It is one of alarm, concern, and, hopefully, survival for our people and our way of life.

ESTABLISHING A NATIONAL FOOD POLICY

Food, second only to the air we breathe and the water we drink, is the mean common denominator of life itself. Food, in my judgment, has become so critical a natural resource as to hold within its sway during the period of the next lifetime the hope of our present civilization or its destruction. In the face of so startling a conclusion, it is appalling to note that the United States of America has no food policy either domestically or internationally, and blunders on a hit-or-miss basis from shipping scandal to grain deal, from crop failures one year to market over-production the next, from whimsical OMB (office of management and budget) frugalities to congressional generosities.

Nowhere do I see a better example of this confusion and retrogressive thinking than in the attitude of the present Administration toward our child nutrition programs. It is virtually beyond belief, incredible, that after 30 years of successful operation and of serving billions of meals to our nation's youth, these programs should be in danger of demise. Yet such is the case. There probably has never been a federally funded program with greater breadth of outreach nor a more commendable outreach than our child nutrition programs. They have combined the agricultural abundance of our nation with nutritional expertise, with love of children, and with honest administration. They have provided the most meaningful experiment in planned human nutrition ever experienced by mankind.

Empirically, we know the results have been strikingly effective. (Experimentation on a laboratory basis has not been practical, inasmuch as we were unwilling to retain a control group of poorly fed children.) Years of testimony by teachers and administrators record improved health, improved learning ability, decreased discipline problems, and increased average daily attendance where child nutrition programs have been in operation.

NUTRITION A MUST FOR SCHOOLCHILDREN

Whether we think in terms of health or of education or of money, our school nutrition programs make sense and should be a mainstay of a national food policy. In 1975 our nation, according to the Department of Health, Education and Welfare and verified by the Harvard University School of Public Health, sepnt $110 billion on health care. Of this amount, $30 billion was attributable to diseases in which nutritional factors either played the prime role or were highly contributory.

We are spending $61.4 billion (1974–75) on education below the college level, $5.3 billion of which is federally funded. If our children are not property nourished to receive this education and are furthermore deprived of the opportunity of nutrition education through our school nutrition programs, the loss can be shocking, whether calculated in human or monetary trems.

I hope the foodservice industry and school foodservice professionals can work together to preserve our child nutrition programs. I hope we may continue to acquaint America's youth with the nutritional value of a variety of good food. I hope we may work together to achieve a national food policy.

The fast food industry is doing us no favor by losing sight of the variety of foods concept altogether. If they have their way, we will have a whole new generation thinking there is no food other than ground beef and French fried potatoes.

WORKING TOGETHER

All of us who are concerned with food need to work together to convince the people of our nation that food is something more than hamburger—it is our precious means to survival both individually and nationally. Perhaps you feel my repeated reference to food as the salvation of our very national structure is overdrawn. I do not feel it is.

In the first place, the bright hope of the "Green Revolution" has faded. In 1971 when I went as a member of the U.S. delegation to the Second World Food Congress at The Hague, world hopes for food sufficiency were bright. I remember well the enthusiasm of the large delegation from India and their predictions that India would soon rise to the ranks of food exporting nations. Such predictions have been doomed by disappointing crop yields, by unbridled population growth and by staggering increases in food production costs, primarily as a result of increases in petroleum costs. Figures from our own country are easiest to come by.

A Cornell University study estimates that the 245 percent increase in U.S. corn yields between 1946 and 1970 was accompanied by a 310 percent increase in energy used. A University of Wisconsin study indicates that the U.S. food system now uses about 10 calories of fuel for every calorie of food consumed.

We shall need to lean heavily upon agricultural exports if our nation is to remain solvent. I grieve that none of our presidential candidates appears to be coming to grips with the horrendous problem that surrounds us.

Recently, I had an occasion to visit the vast potato growing areas of southeastern Washington state, which consist of thousands of acres reclaimed from the desert by water pumped from the Columbia River. A $80,000 overhead irrigation system irrigates 100 acres in one sweep while high-priced pesticides are sprayed from air-conditioned tractors and airplanes. Farmers have an investment of $1000 to $1100 per acre in their crop, not counting cost of land. The yield is high but, no doubt about it, food costs in the world are high too.

Food economists predict the family spending $50 a week for food now may be spending $150 in today's dollars in the year 2000. The prospect of spending that amount of money a week on food is frightening to most American families. It totally departs from reality when we compare it to the fact that 90 percent of the children in the public school system of the Philippine Islands come from families with $100 a year or less in income. How can we ever hope to justify such figures particularly when we realize that 90 percent of the world's population growth in the next 50 years will occur in the less developed countries of the world?

A MATTER OF SURVIVAL

Does this affect our own survival? A 1975 study by James P. Houck, University of Minnesota, and Wallace Barr of Ohio State University entitled, "Will There Be Enough?" reached the following conclusion:

"Careful thinking about mankind's future requires a synthesis of food problems, natural resource problems, energy problems, general economic conditions and world political issues. From the vantage point of the middle 1970s, this kind of speculation is generally pessimistic. The central argument in several of these long-run views involves the interaction of divergent population growth rates among nations, food and resource scarcities unevenly distributed, and an ever-widening economic gulf between rich and poor nations. Unless offset, the interplay of these forces suggests the inevitability of growing social and economic disarray leading to military clashes and guerrilla warfare among nations and people. Ultimately, the world's social and political order will be restructured."

Let us review these awesome and fearful words "Ultimately, the world's social and political order will be restructured."

Have we not done enough? Have we not been generous to the less fortunate people of the world to a fault? Over the past two decades the U.S. has provided four-fifths of all the world's food aid at the cost of nearly $26 billion.

But let me call again on my experiences as a member of the U.S. delegation to the Second World Food Congress. Whether in floor debates or in cloak room discussions, Third World delegates chanted like a litany nothing would be accomplished toward solving the world's food problems without basic changes in the economic, social, and political structure of the capitalist nations. Finally, in total irritation and frustration, I asked some of these agitators, in effect, why they did not mind their own business. I reminded them we did not try to change frameworks within their countries and asked them why they did not provide us with the same courtesy. Their answer was thought-provoking. "Your country is so rich and powerful," they replied, "that whatever you do affects the rest of the world. You just don't elect a president of the United States, you elect a world leader. Every policy and action of the United States is felt around the world."

FOOD VS. POPULATION GROWTH

By the year 2000, 93 out of every 100 babies will begin life in less developed lands. The world population/food balance promises to become critical in years ahead and some 40 developing nations face the prospect of an annual deficit of about 75 or 80 million tons of grain by 1985. Currently, world food production is just a thread ahead of population growth but, even so, food is so unevenly produced and distributed that some people overeat, some are undernourished, and quite a few just plain starve. It is inescapable that the world will rely heavily upon the United States in this food crisis because of our productive capacity. Per capita production of grain in this country is about 2204 pounds per person, five times the average amount produced annually per capita in such countries as India, Indonesia, and Bangladesh. We shall be coveted for our food at best, overwhelmed by the starving at worst. We need a national food policy.

UNIVERSAL JUSTICE

Is there a universal sense of justice that leads mankind to share food across international boundaries? Hopefully there is, but that international sense of justice may not even get an opportunity to work. The U.S. and other industrial nations have grown increasingly dependent upon the minerals of some 100 developing countries to provide the raw materials for their industrial and agricultural needs. This dependency by the U.S. is growing markedly as our own reserves become depleted.

Third World nations are no longer going to be satisfied with the crumbs of our generosity. They have been shown by the oil-producing nations they do not need to be.

Whether on a basis of social consciousness or on a basis of self-survival, it is imperative for the United States to work far more effectively with Third World countries in the future than we have in the past. In the worldwide sharing of the world's ever greater scarcity of natural resources, food is clearly the brightest hope in our future.

General James H. Gaven, now chairman of the board of Arthur D. Little, has said, "Living together in a world of limited resources will require understanding and a willingness to cooperate as we work toward goals that will be satisfying and acceptable to all. Clearly, all peoples of the earth must maximize planet Earth's ability to support its ever-growing population; technology and the humanities must work together so that our highest aspirations will be realized with a minimum of international conflict."

Henry Steele Commager, one of our greatest historians, has called in this Bicentennial year for a declaration of interdependence: "All peoples and nations of the globe should acknowledge their interdependence and join together to dedicate their minds and their hearts to the solutions of those problems which threaten their survival. All people are part of one global community, dependent on one body of resources, bound together by the ties of a common humanity and associated in a common adventure of the planet Earth. We affirm that the sources of the globe are finite, not infinite, and that they are the heritage of no one nation or generation, but all peoples, nations and of posterity."

And finally, in an address at Carnegie Hall, New York on the 30th day of March 1912, Theodore Roosevelt gave this charge to our nation: "We here in America, hold in our hands the hopes of the world. The fate of the coming years, shame and disgrace will be ours if in our eyes in the light of high resolve is dimmed, if we trail in the dust of the golden hopes of men."

AMERICA: PRESERVING THE FUTURE

Judging from my own experiences, America still does hold the golden hopes of humanity. I am confident that we shall not betray those hopes, shall not trail them in the dust. I am confident America will continue to give leadership in people's struggle to be free and to be the master of their destinies.

The inscription on the Statue of Liberty reads, "Give me your tired, your poor, your huddled masses, yearning to breathe free, the wretched refuge of your teeming shore send these, the homeless tempest tossed, to me; I lift my lamp beside the golden door."

I am confident that the promise of the Statue of Liberty, so meaningful to the teeming millions of immigrants to this country, will indeed be carried by the miracles of today's transportation and communication to ever-widening circles of people on the face of the earth.

Isn't it time we had a national food policy?

1976 BUDGET DEFICIT CUT $10.4 BILLION FROM JANUARY ESTIMATE

Mr. HUMPHREY. Mr. President, last week the Treasury and the Office of Management and Budget released the final estimate of the Federal budget for fiscal year 1976. This announcement, which estimates that the deficit was $10.4 billion less than was anticipated in January, has been virtually ignored in the press and elsewhere. This is in sharp contrast to the press reports which accompanied the "horrifying" estimates presented last January.

I call this to your attention, because I think it is an excellent, though unnoticed, illustration of how well the new congressional budget procedures are working. In the second concurrent resolution on the budget for fiscal year 1976, Congress set a spending target of $375.6 billion and a tax revenue target of $300.8 billion. Actual receipts were almost exactly on target at $300 billion while actual outlays were $10 billion below the target.

The reason both Congress and the executive branch overestimated spending is not completely clear. However, there is strong suspicion that much of the overestimate results from delays in spending rather than permanent savings. In the final few months of each fiscal year we hear stories about Federal agencies rushing to spend money before the fiscal year ends. Agencies, of course, deny these stories.

This year there has been no pressure on agencies to expend their funds by the end of June because of the transition quarter. For all practical purposes, fiscal year 1976 is 15 months long so the pressure will occur in September rather than June. As a result of this one-time change in the fiscal year, much of the spending which would normally have occurred in fiscal 1976 will probably take place during the transition quarter.

The Office of Management and Budget had to revise their outlay estimates by $3.5 billion in the 10 days that elapsed between the issuance of the mid-session review and the final statement of receipts and outlays. This causes me great concern about the amount of control the President's office is able to exert over agency spending patterns. This concern is increased, when I observe that of the $8 billion revision since the January estimate, over $2½ billion is for national defense and military assistance. Only a small part of this revision can be explained by late enactment of the Foreign Assistance Appropriations Act.

In summary, I wish to commend the Budget Committees and the Congress for excellent progress in making the new budget procedures successful. I hope that the spending revisions recently published represent budget savings rather than postponements. I ask unanimous consent that the following table showing major changes in outlay estimates since the mid-session review be printed in the Record.

There being no objection, the table was ordered to be printed in the Record, as follows:

Changes Between Mid-Session Review and Final Estimates

[*Billions of Dollars*]

Department of Defense	−1.0
Department of Agriculture	−.6
Department of the Treasury	−.3
Department of Labor	−.3
Department of the Interior	−.3
Department of Health, Education, and Welfare	−.4
Department of Transportation	−.1
Environmental Protection Agency	−.1
Energy Research and Development Administration	−.1
Other	−.3
Total	−3.5

MINNESOTA LOSES AN ADDITIONAL 1,700 DAIRY FARMS

Mr. HUMPHREY. Mr. President, I wish to share with you an article in the July 29 issue of Minnesota Agriculture. In it, the Minnesota Agriculture Commissioner, Jon Wefald, indicated that Minnesota lost an additional 1,712 dairy farms during the preceding 11-month period ending May 31.

The article indicates that the trend has been steadily downward, with the total number of dairy farms reaching 31,558 as of the end of May 1976. Since mid-1970, the commissioner indicated Minnesota has lost 11,858 dairy farms or 27 percent of the 43,415 dairy farms that were operating less than 6 years ago.

The report details some of the major reasons for this trend. Unfortunately, with many sections of the State now affected by a serious drought, many farmers will be culling their herds or going out of business entirely. Today's prices for a ton of hay have almost doubled over a half year ago.

Mr. President, I ask unanimous consent that this brief but informative article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Minnesota Loses 1,700 Dairy Farms

Reporting that Minnesota has lost another 1,712 dairy farms during the 11-month period ended May 31, Agriculture Commissioner Jon Wefald said the present decade may go down in history among the toughest ever experienced by farmers in the nation's fourth-ranked milk producing state.

An audit of milk handlers' May reports by the Field Accounting and Statistics Division of the Minnesota Department of Agriculture places the state's total number of dairy farms at 31,557, compared to 33,269 at the end of the prior fiscal year June 30, 1975.

"Since mid-1970 Minnesota has lost 11,858 dairy farms or 27 percent of the 43,415 dairy farms that were operating less than six years ago, Wefald said. "Dairy farmers have been hit by just about every adversity possible during the 1970's:

"First, it was inflation and ever-record production costs, while farm milk prices remained unprofitably low. Second, in 1972 and 1973, the major problem was record imports of unfairly competitive foreign dairy and meat products. These economic pressures forced most of our national livestock farming industry into an actual state of depression and resulted in severe production cutbacks.

"Third, the federal milk price rollback in the spring of 1974 spiked a shortlived recovery, cutting dairy farm unit income by 20 percent.

"Because of the drought cycle and the continuing cost-price squeeze that has been intensified in our region by devastation of pasture and forage crops, it is apparent that many more dairy farmers will probably go out of business in this next year.

"We are far from seeing the end of this intensifying crisis and credit crunch on our dairy and general livestock farming industry," Commissioner Wefald declared.

He pointed out that while the mid-June Minnesota farm milk price averaged 73 cents a gallon, that was just two cents above the state average of 27 months ago. On the same comparison with March, 1974, hay, an essential feed for livestock, cost Minnesota farmers an average of $35.50 per ton. This mid-June, 1976, Minnesota's official farm hay price average was $68.50 or nearly double 27 months ago. . . . During July, farmers have reported paying as high as $87 per ton for hay trucked in from Nebraska.

Commissioner Wefald added that even with the current federal emergency hay transportation subsidy, the freight rate reduction by the Burlington Northern railroad and the volunteered coordination of the non-profit "Operation Haylift" by the Minnesota Farmers Union, that Minnesota dairy farmers are confronted with record and near-record hay costs until at least next June, 1977 . . . and relief then only if the current 3-year drought cycle is ended by normal rainfall.

HELSINKI ACCORD

Mr. CASE. Mr. President, 1 year has passed since the United States, the Soviet Union, and other members of the NATO and Warsaw pacts signed the Helsinki accord, known formally as the Final Act of the Conference on Security and Cooperation in Europe.

Since then, there has been a considerable amount of concern in the West as to whether the signatory nations are living up to the promises they made, especially in the human rights area.

As a result of this concern, Congress earlier this year passed legislation introduced by Congresswoman Fenwick and me to establish a 15-member commission to monitor compliance with the Helsinki accord. The Commission held its first preliminary meeting last week and it is hoped that the administration will decide soon to name its members to the group.

Newspaper articles printed on the anniversary of the August 1, 1975, signing of the Helsinki accord indicate that there are valid reasons to doubt whether the humans rights sections of the agreement are being implemented. I ask unanimous consent that several articles on the issue be printed in the Record.

There being no objection, the articles were ordered to be printed in the Record, as follows:

[From the Washington Post, Aug. 2, 1976]

The Helsinki Accord: Its First Anniversary

(By Murrey Marder)

After a year in operation, the controversial 35-nation Helsinki accord on security and cooperation in Europe can record one undisputed claim: it has survived.

That is no mean accomplishment in the case of two principal signatories, the United States and the Soviet Union. In the 12 months, especially as a result of the Angolan conflict, in which Soviet-supported Cuban troops overwhelmed American-backed factions, the euphoria of American-Soviet relations has dissolved in a pervasive chill.

Success in East-West relations, particularly in the United States, is now measured by lowered expectations, and by marginal increments. On that reduced scale, pursuit of the goals set at Helsinki is counted as useful—"in a moderate way," as one senior U.S. official put it last week.

By contrast, Soviet leader Leonid I. Brezhnev said last week that the first anniversary of the Aug. 1, 1975, accord at Helsinki proves that "the conference was an event of ennormous importance."

Soviet publications during the past week have been brimming with self-congratulatory accounts of the Soviet accomplishment at Helsinki—where East and West met with contradictory objectives.

To the Soviet Union, Helsinki confirmed the "inviolability of frontiers" in Europe as they were extended under Communist rule at the end of World War II. To the Western powers, the significance of the Helsinki accord is its sections stressing the freerer passage of people and ideas across frontiers.

As a result, the two sides consistently collide over what each interprets as carrying out the letter or the spirit of the Helsinki accord, turning the turgid agreement into an all-purpose weapon for cross-accusation.

Nevertheless, both sides find advantages in exploiting the accord.

"Now," said one Ford administration official, "we have a forum for complaints—an area for legitimate discourse to discuss humanitarian concerns, and they respond—albeit in a limited way."

Even the Soviet news agency, Tass, which last week hailed the achievements of Helsinki as "already considerable," acknowledged that "it is only the beginning. Quite naturally, the process will take many years and maybe even decades."

By American standards, the gains are modest.

There have been invitations to Western officers from North Atlantic Treaty Organization nations to two areas of Soviet military maneuvers. Greek and Turkish observers attended maneuvers in the southern region of the Soviet Union, and military representatives from Norway (and from Sweden and Finland, which are not NATO members) observed maneuvers near Leningrad.

A State Department official said there have been some notifications to the Soviets of Western maneuvers, but no Soviet observers so far.

The Soviet Union also has proposed general conferences on the environment, on transport, and on energy. These have been declined, at least by the United States, on grounds there are other adequate forums for such discussions. The United States, however, because of the Angola conflict, postponed cabinet-level meetings with the Soviet Union on similar topics.

A prime Soviet complaint is that the United States is responsible for delaying completion of the nuclear Strategic Arms Limitation Talks (SALT). American officials deny that, and claim the obstacle is Soviet opposition to U.S. negotiating offers. In fact, this issue is also caught up in the American presidential election campaign, with the Ford administration reluctant to bargain at this time.

The central area of dispute under the Helsinki accord for the West is "human contacts," including the exchange of information, freer emigration from Communist countries, reunification of families, and freedom of travel.

Here there have been advances in some sectors.

Exit visas for Soviet emigrants to enter the United States in the first six months of 1976 are equal to the total number of Soviet emigrants to the United States in all of 1975—1,162 persons.

According to a Los Angeles Times report from Moscow, much of this increase was due to Armenians who intended to go to Lebanon, but were blocked because of the civil war there.

Overall Jewish emigration from the Soviet Union, however, for the first six months of 1976, was reported at about the same level as 1975, 1,000 a month, a pace that would roughly match the total of 11,700 Jewish emigrants last year, but far below 1973.

According to a committee of Jewish and non-Jewish dissidents in Moscow, conditions for some political prisoners became worse after Helsinki in terms of visits and correspondence permitted, even though prominent Soviet dissidents have been allowed to leave.

To counter criticism from the West, Soviet commentators have charged that Western nations, including the United States, place more barriers on free travel than does the Soviet Union. Soviet critics frequently cite American refusal to grant travel visas to members of Soviet trade unions, due to opposition from the AFL–CIO, which claims American law.

American officials acknowledge that barrier, but scoff at the overall Soviet claim of "freer travel." Said one official last week, "All you have to do is look at what we do on our side, and what they have done—there is no comparison."

Since the Helsinki agreement, American journalists in the Soviet Union have gained multiple-entry travel visas, and freer access to Soviet officials. In addition, there has been token liberalization on the sale of Western newspapers in the Soviet Union—in very limited quantities, at selected hotels.

Travel for Western businessmen in the Soviet Union and Eastern Europe has been notably freer, reflecting national self-interests more than responsibility toward the Helsinki agreement.

The Soviet Union continues, however, to jam broadcasts of American government-sponsored Radio Liberty and Radio Free Europe, which Brezhnev says "poison the international atmosphere." Broadcasts of the Voice of America and Britain's BBC, among others, remain unjammed.

A rationale given by a Soviet specialist on the United States, Georgi A. Arbatov, director of the Soviet Institute of United States and Canadian Studies, is that the Soviet Union will never "fling open the door to subversive, anti-Soviet, pro-violence propaganda . . .". Radio Liberty and Radio Free Europe, he claimed, represent "subversive activities."

Despite the claims on either side about complying with or violating the Helsinki declaration (which a Soviet commentator last month extended to Democratic presidential candidate "J. Carter", who was charged with breaching "the spirit of Helsinki") it is hardly the Helsinki accord which really governs the climate of East-West relations, American specialists point out.

When these relations are strained, as they are now between the United States and the Soviet Union, that is what registers most in the level and tone of contact between nations. The language of the Helsinki accord is rubbery enough that it can be interpreted to mean everything—or nothing.

The accord, the United States insists, is "not a legal obligation" but rather "a moral obligation." By international standards, morality is primarily self-interpreted. That will be measured next at a preliminary meeting in Belgrade, on June 15, 1977, to prepare for an official reassessment of the Helsinki accord.

[From the Baltimore Sun, Aug. 1, 1976]

HELSINKI TALKS PUT SOVIET ON DEFENSIVE

(By Hal Piper)

MOSCOW.—One year later, the meaning of the Helsinki summit conference has turned inside out.

When 35 European and North American statesmen signed the 30,000-word document in the Finnish capital a year ago today, the Western participants carefully derided it as having no interrnational legal force.

It has metamorphosed now, in the Western view, into a charter of liberties against which Communist societies may be measured.

After seeking the Conference on Security and Co-operation in Europe for more than 20 years, then firing off a fusillade of superheated adjectives to celebrate its achievement last summer, the Soviet Union has been pushed on the propaganda defensive.

An objective balance sheet on Helsinki—if anyone is objective—might show a few small and technical steps toward co-operation and security in Europe, the nominal focus of the summit conference and its summary declaration.

But the conference also produced a sharpening of ideological competition as the societies of the West insist on opening up those of the East, and the latter refuse to accept what they see as interference in their internal affairs.

The challenge to Soviet society has come not only from committed institutions like the North Atlantic Treaty Organization (NATO) and its member governments. Western Communist parties and neutral countries have begun to treat Helsinki and its follow-up conference next year in Belgrade as obligations requiring respect and observance from Moscow.

Even the satellite nations of Eastern Europe, in the view of diplomats here, have found in Helsinki a forum in which to practice diplomacy as sovereign equals of the United States, the Soviet Union and the major Western nations.

Multilateral jockeying already has begun over how to stage next year's Belgrade (Yugoslavia) meeting, which the 35 countries—all of Europe except Albania, plus the United States and Canada—agreed to convene to check up on their progress two years after Helsinki.

As the Soviet Union has always seen it, the Helsinki declaration is pre-eminently a document about peace. On the eve of signing it last August the Soviet Communist party leader, Leonid I. Brezhnev, called it "a necessary summing up of the political outcome of the Second World War."

To him that meant Western acknowledgement of the 30-year-old postwar status quo—a divided Germany and a Soviet Union enriched by 114,000 square miles of territory that formerly belonged to Finland, Estonia, Latvia, Lithuania, Poland, Czechoslovakia and Romania.

Along with that went a series of principles governing interstate relations—renouncing the use of force, non-interference in internal affairs and so on.

Last month Mr. Brezhnev called the agreement "a rich and comprehensive code of peaceful intercourse and co-operation among countries. We are striving to give effect to all its provisions. But what we prize most is that this document is oriented on ensuring lasting peace in Europe."

Judged against these expectations, Soviet foreign affairs specialists praise the Helsinki document. Potential trouble spots in Europe like Portugal and Cyprus did not erupt into wars.

"Of course," admits a journalist, "you can't say they would have in the absence of Helsinki. But let's be positive—Europe is at peace and there are no outstanding territorial disputes."

Helsinki also gets credit for allowing Yugoslavia and Italy finally to settle the Trieste dispute, and for fostering a Polish-West German agreement on repatriating Germans caught by the westward shift of the border.

Moscow has been treating all its diplomatic activity as implementation of the Helsinki agreement. A treaty with France on prevention of nuclear accidents, a trade agreement with Hungary—all are presented as fulfilling Helsinki's mandate for deepening co-operation.

"Military detente" was the next order of international business, Moscow announced, calling for progress in the stalled force-reduction talks in Vienna and loosing a blizzard of proposals for a world disarmament conference, for banning uninvented future superweapons, for cutting arms budgets and the like.

Last year's summit had a second mandate, however. This was the "third basket," as it came to be known—a series of statements once criticized as platitudinous that have come to dominate East-West debate in the past year.

Helsinki's "first basket" of accords was the peace and security provisions favored by Moscow, and the "confidence-building measures" such as notification and observation of military maneuvers.

Second was a series of provisions designed to expand trade and technological exchange that was relatively non-controversial.

Moscow calls the Jackson-Vanik amendment tying American trade benefits to liberalized emigration from the Soviet Union an infringement of the spirit of the second basket; but trade is growing, borders are secure, maneuvers are advertised, and on the whole neither side has serious complaints about observance of the first and second "baskets."

The section on human rights and increased circulation of people and ideas has become the battleground of Helsinki compliance. The reason was stated, perhaps inadvertently, by Brezhnev in a conversation with visiting American congressmen just two weeks after the signing of the document.

Some parts of the document "are of a binding nature," he said, and others "will be fulfilled according to agreements on the part of states."

Although the statement was taken at the time as an indication that Moscow intended to be selective and literal in its follow-up on Helsinki, Mr. Brezhnev was only stating the obvious.

Acknowledgement of boundaries, once made, is complete—no longer a subject of negotiation. A promise to improve cultural contacts takes some further working out.

Thus what was thought last year to be the weakness of the human-rights and wider-contacts sections—their imprecision—has kept them from being tucked away and forgotten, as has largely happened outside the Kremlin publicity apparatus to the secure-borders provisions that were attacked last year as a Western giveaway.

The West went on the attack from the opening speech at Helsinki, when Harold Wilson, then Britain's prime minister, warned that human rights were now "part of the permanent agenda of detente."

President Ford on the day of the signing ceremony challenged the Soviet Union and its allies to keep their promises.

"The people of Europe and North America," he said, "are thoroughly tired of having their hopes raised and then shattered by empty words and unfulfilled pledges."

France's President Valery Giscard d'Estaing came to Moscow in October and called for "ideological detente." West Germany's President Walter Scheel came the next month and dared Moscow to a competition on the basis of equal access of ideas.

Moscow's response has been both negative and positive. It defended its record in a series of speeches and press commentaries with titles like "Who is in debt to whom?" and "A well with foul water."

The Soviet Union translates nine times as much foreign literature as Britain, the articles said, and four times as much as the United States.

[From the Washington Post, Aug. 1, 1976]

The Unfulfilled Promise of Helsinki

(By Leonard H. Marks)

It is revealing to see what has happened to the "Basket III" provisions for human contact and informational and cultural exchanges in the "Final Act" of the Conference on Security and Cooperation in Europe, signed in Helsinki a year ago today.

The results are, in a word, disappointing. Soviet policy has been marked by tactics designed to minimize Russian compliance with these proposals. Even more discouraging, the West has been reluctant to develop strong initiatives to capitalize on Basket III.

As chairman of the U.S. Advisory Commission on International Educational and Cultural Affairs, I travelled to the Soviet Union and East Europe after Helsinki and returned with no illusions that there would be a dramatic increase in contacts. The Soviet Union had resisted the inclusion of specific, binding language. I doubted that the agreement's expression of good intentions would cause the U.S.S.R. to alter basic policies. Nevertheless, I felt that the agreement offered opportunities for positive action in this field. I made this point, together with specific recommendations, upon my return.

Since then, many of the fears about Soviet intentions have been realized. Soviet officials moved to muffle the reverberation of Basket III at home. The trotted out the old arguments against "ideological relaxation." A get-tough policy has just been instituted against dissidents or other Soviet citizens who had hoped that contacts with the West might be eased. For example, requirements for exit visas were changed; a Soviet citizen must now give up his apartment before applying to emigrate. So 15 Soviet Jews wrote U.N. Secretary General Kurt Waldheim: "If a visa is denied, which is the usual procedure of the Soviet government, the applying family is left . . . without shelter from the elements."

The Soviet government instituted a very selective policy of "compliance" with Basket III proposals. For example: Travel restrictions on foreign journalists were somewhat relaxed; they now have about as much freedom as diplomats—which is not excessive. (This, incidentally, is one Basket III issue on which the U.S. government has made strong, effective representations.) Copies of more Western newspapers have been put on sale at Moscow newsstands; this is a practice that predates Helsinki, but is now trumpeted abroad by Tass as a gesture "in the spirit of Helsinki."

At the same time, the Soviet Union has mounted a heavy propaganda campaign accusing the United States and other Western nations of violating the Basket III agreements. The campaign has included charges that we restrict circulation of Soviet firms and books. And Soviet commentators have said with straight faces that U.S. shortwave news broadcasts beamed toward the U.S.S.R. are in violation.

Congress reacted to this situation several months ago. It established a 15-member commission to monitor the Helsinki accord: six congressmen, six senators, and three officials of the executive branch. Although the President signed the bill on July 3, the executive branch was clearly unenthusiastic.

While the congressional move is important, the basic initiative in this field must come from the executive branch. What can be done?

First, we should make clear that the United States gives the subject the very highest priority.

Second, we should put forward specific proposals for implementing Basket III. These proposals should be publicized widely in this country, in Europe, and to audiences in Communist countries. Our proposals should be more pragmatic, realizable, designed to attract the support of influential young professionals in Communist lands who want more "windows on the West.'

What proposals?

Expanded cultural and educational exchange. Perhaps the clearest impression that I received in talks with Communist officials was their willingness to step up academic and other professional contacts. During the past year, however, there have been no proposals to expand significantly the State Department's exchanges with Eastern Europe and the Soviet Union. The administration pleads a tight budget and other priorities—and indeed knocked $5 million from the appropriation for the department's Bureau of Educational and Cultural Affairs.

Encouraging the flow of information. There is a tremendous demand for Western publications, films and other media in Communist countries. During the 1960s the U.S. Information Agency operated an innovative program known as the Informational Media Guarantee Program, which allowed some European countries to purchase American media materials with their own currencies, and at little or no cost to the United States. I recommended that this program be reinstituted. Subsequently, the proposal was endorsed by the Government Advisory Committee on International Book and Library Programs. But no implementation has been started.

Increased circulation of "America" magazine. This publication, put out by USIA, has been an effective interpreter of American ideas and events to the Soviet Union for over 30 years. Demand for copies far exceeds the supply we are allowed to sell (60,000 per month). It would seem logical to press the Soviets to allow, "in the spirit of Helsinki," an increase in circulation.

A "Western" book store in Moscow. When I raised this possibility with the U.S.S.R.'s Minister of Culture, he disarmingly replied that the U.S. could request permission to open a book store at any time, "but, of course, the Soviet government would control the selection of books." Perhaps the time is ripe to remind him that no censorship is imposed on Soviet books imported to the U.S. and that the Helsinki signatories specifically agreed "to promote wider dissemination of books."

Pressing on the human rights issue. The Helsinki accord stressed the need for free movement of people, as well as of informational materials, across national boundaries. Despite clear and copious documentation of Soviet violations of this part of the agreement, we have never insisted in the United Nations or other international forums that the Soviet Union be asked to explain its divergence from the principles of the Helsinki agreement.

Coordination with our allies. In the negotiations leading up to the Helsinki agreement, our European allies took strong positions in support of more human and informational contacts. Taken together, their contributions to the implementation of Basket III can be greater than ours. There has been little effort during the year to coordinate national initiatives designed to take advantage of the agreement's provisions.

Mobilizing private resources. The State Department has, I believe, done almost nothing during the past year to bring together representatives of American industry, public-service groups, labor unions, universities and other institutions to examine ways in which they can contribute to programs, or collaborate on activities, that might lead toward Basket III goals.

There are, of course, many other ways we can implement Basket III. There is now some urgency to our actions. Next year there will be a follow-up conference in Belgrade to review steps taken by all signatory countries to carry forward the recommendations made at Helsinki. A preparatory meeting to organize the follow-up conference is scheduled for June 15, 1977. The Soviet Union can be expected to present a well-documented case to demonstrate its "achievements" in complying with Basket III, and an equally shrill one on our alleged violations of it. We must be prepared to respond.

What we need is a positive policy, backed up by concrete action, to challenge the U.S.S.R. on the real issue, the opening of all borders to more human and informational contacts, which are central to the development of peaceful relations. Our purpose should not be simply to rack up a good score in the Basket III League. It should be to prove that we have put the Helsinki principles high on the agenda of East-West relations, not simply as a diplomatic exercise but as a part of our historic commitment to the free movement of men and ideas.

[From the Baltimore Sun, Aug. 1, 1976]

British Tory Leader Criticizes Soviet

(By Peter J. Kumpa)

London.—The leader of Britain's Conservative party, Margaret Thatcher, yesterday called the first year since the Helsinki agreement one of "profound disappointment," charging that the Soviet Union still pursued expansion abroad and practiced repression at home.

Dubbed the "Iron Lady" by critics of Moscow, Mrs. Thatcher attacked the Russians again in a major foreign policy address to a Conservative rally at nearby Dorking.

She declared that, unlike other North Atlantic Treaty Organization members, Britain's contributions to the defense of the West had been "cut, cut and cut again." Mrs. Thatcher was cheered when she promised that Conservatives will fight the latest round of slashes in military spending.

Mrs. Thatcher's militantly anti-Soviet attitude has some critics within her own party. She has ignored them, although national polls have suggested that she lags well behind the popularity of the Conservative party, now level with that of the ruling Labor party.

Dressed in her favorite conservative blue, the party leader questioned whether Britain should continue to provide the Soviet Union large-scale credits at terms more favorable than domestic rates.

After 60 years of Marxist planning, she said, the Russians still had to rely on the West for advanced technology and even for food.

Conceding that trade brings advantages to Britain, which lives by trade, Mrs. Thatcher continued:

"But if the Kremlin continues to pour such resources into armaments directed against the West; if she refuses to act in accordance with the Helsinki agreement, then shouldn't we in the West consider carefully how we can ensure that our commercial relations with the Soviet Union don't damage our long-term security arrangements?"

She said she might be called the "Iron Lady" again for expressing such views. She added, however, that the important thing was that "we have learnt the lesson of weakness and resolved that it must not happen again."

Shortly after the Helsinki agreement was signed, Mrs. Thatcher charged that the Soviet Union was "flagrantly interfering" in Portugal's internal affairs, contrary to the pledge the Soviet had signed.

Then she held that Cuban troops "invaded" Angola, a deed they would not have tried "except at the instigation" and with the "support" of the Soviet Union.

The Conservative leader said she saw no progress in circulation of Western periodicals in the Soviet Union and no gains in human rights and personal freedom despite Moscow's signed pledges.

She said the persecution of intellectuals, dissidents and such religious minorities as Jews and Baptists continues. It is just as difficult now as it was a year ago to leave the Soviet Union, she went on.

More significant, Mrs. Thatcher said, was the Soviet move, not toward disarmament, but toward progressive growth of Soviet armed strength confronting both Western Europe and China.

[From the New York Times, Aug. 1, 1976]

HELSINKI ACCORD AND THE SOVIET UNION: EFFECTS ON HUMAN RIGHTS SEEM MIXED

(By David K. Shipler)

Moscow, July 31.—The Helsinki declaration, signed a year ago by 35 heads of state appears to have had a mixed effect on human rights in the Soviet Union.

Despite the document's support for the freer movement of people and ideas, many prominent Soviet Jews are still barred from emigrating, families remain separated across international frontiers, uncounted political dissidents remain imprisoned and the Soviet people have no more discernible access to foreign ideas than before.

Yet a slight counter-current, fed in part by the Helsinki declaration, has become visible in the last year: a variety of dissidents and Western diplomats believe the Soviet Government has somewhat tempered its oppressive tactics against the human rights movement. And, simultaneously, the accord seems to have begun to act as a catalyst in bringing together some diverse elements of dissent.

These small trends may have no significance for the overall quality of political life; open dissenters still constitute nothing more than a fragment of the most highly-educated urban intellectuals.

But Helsinki has provided a codified set of moral principles against which the West has been able to measure Soviet behavior, much to Moscow's chagrin.

Known formally as "The final act of the conference on security and cooperation in Europe," the document signed Aug. 1, 1975, had long been sought by Moscow as final recognition of Europe's postwar boundaries, particularly the partition of Germany and the incorporation of Estonia, Latvia and Lithuania into the Soviet Union.

It also committed the signatories—33 European countries including the Soviet Union, plus the United States and Canada—to detente, further cultural and economic ties and renunciation of the use of force.

During negotiations, the Western countries pressed for and obtained the inclusion of an additional section that came to be known colloquially as "basket three." This contained broad humanitarian provisions such as the reunification of families, the right of citizens to enter and leave countries regularly on family visits, marriage across national lines and improvements in working conditions for journalists abroad.

EXTREMELY SENSITIVE

Moscow has grown extremely sensitive to Western contentions that it has violated the humanitarian provisions, and it has made some efforts to minimize the criticism by avoiding dramatic acts likely to bring bad publicity.

Thus, for example, Yuri Orlov, physicist who heads a nine-member group monitoring compliance with the Helsinki accord, and Valentin Turchin, mathematician who is president of the Soviet chapter of Amnesty International, observed in recent interviews that during the year since Helsinki, no prominent dissidents had been arrested, though some had been picked up for questioning and released.

The last major arrests took place in April 1975, when two members of the Amnesty group, Andrei Tverdokhlebov, and Sergei Kovalev, were taken into custody. Their trials were held after Helsinki, however. Mr. Kovalev, a biologist, was sentenced in December to seven years in a labor camp to be followed by three in internal exile. In April, Mr. Tverdokhlebov, a physicist, received a lighter sentence of five years in internal exile.

In addition, Mr. Orlov said there were no new cases of dissidents placed in mental institutions, though conditions for those already there had apparently not improved. The one exception was Leonid I. Plyushch, a dissident mathematician who was released from a mental asylum last winter and allowed to leave the country.

EMIGRATION

Mr. Turchin said the Government had also "become more cautious" in removing children from religious families, a practice aimed mostly at fundamentalist Protestant sects whose members try to give their children religious instruction at Home. No cases had come to the attention of dissidents' groups since Helsinki, he said.

Furthermore, American officials report that in the first six months of this year, some 1,200 Soviet citizens were given exit visas for emigration to the United States, twice the number in the first six months of 1975, before Helsinki.

"At first, the Soviet Government tried to ignore Helsinki," Mr. Orlov said. "That's when Kovalev got a strict sentence. Then little by little, it began to change."

Mr. Turchin's explanation is that the Helsinki document sharpened Western indignation over Soviet human rights violations, "and when the Soviet leaders became aware of the indignation they had to temper their line," he said. "As a whole, I am sure without any doubts this is a positive development, this Helsinki document. While the indignation lasts, the situation will be better. When it goes down, the situation will get worse."

In other fields, Moscow has also taken some highly visible steps toward compliance. At least twice, for example, foreign countries have been notified of upcoming Soviet military maneuvers, a requirement of the declaration. Moscow has also granted multiple entry and exit visas to foreign journalists, eased the shipment of photographs and television film and relaxed internal travel restrictions slightly.

Nevertheless, these often amount to little more than cosmetic improvements. Western journalists generally find that information is no more readily available now, and Russians find political dissent no more welcome.

For example, despite official efforts to portray Soviet society as more open to Western books and films than the West is to Soviet works, it is still impossible for an ordinary Soviet citizen to buy a newspaper or magazine that offers foreign, non-Communist views. Helsinki explicitely called for the distribution of such diverse literature.

"An analysis of the relevant aspects of internal policy," Mr. Orlov's group declared in a recent statement, "convince one that the Soviet Government does not intend to carry out its international obligations on human rights." The group said that there had been "no changes for the better" on emigration.

Dissidents still lose their jobs and their telephones for speaking out or trying to emigrate, and their children are sometimes harassed at school.

The increase in visas to the United States notwithstanding, American officials still have a list of over 100 Soviet families who have been refused permission to join relatives in the United States. There are also about half a dozen American citizens who want to leave and may not. Most of them were born in the United States and returned here many years ago; Moscow considers them Russian.

An American official said that four or five cases of separated married couples had been resolved since Helsinki, but one remains; that of Irina Astakhova McClellan, whose husband, Woodford McClellan, is a professor of Russian history at the University of Virginia. They were married in Moscow in May 1974, but since then she has been repeatedly denied an exit visa, most recently on July 9. Soviet authorities have also refused Mr. McClellan permission to come here, even for a visit.

AMERICA'S THIRD CENTURY

Mr. CULVER. Mr. President, in a very real sense, our Founding Fathers were America's first "futurists." They openly and candidly acknowledged their obligations to posterity and recognized that their own actions had significance for future generations not only in the United States but throughout the world.

It is altogether appropriate therefore that our Bicentennial Year be the occasion for a clear-sighted looking forward to our third century as well as for a thoughtful consideration of our 200-year heritage. The decisions which we make and the actions we carry out today will in large measure shape the kind of nation and world in which our children and grandchildren will live in the years ahead. Rather than lurch from crisis to crisis, we must learn to delineate future alternatives and design present programs to achieve the goals we set.

In this spirit, I would like to direct the attention of my colleagues to an article by Senator EDWARD M. KENNEDY of Massachusetts which appeared in the Ware, Mass., County Courier on July 4. Entitled "America's Third Century," it outlines some of the questions which modern technology and rapidly spiraling change will impose on Americans as we chart a course toward our Tricentennial, and presents a philosophy of human responsibility and foresight which we must adopt to answer them. I wish to commend Senator KENNEDY's thoughts which are in full keeping with the spirit of our Founding Fathers, and I ask unanimous consent that the article "America's Third Century" be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

AMERICA'S THIRD CENTURY

(By Senator EDWARD KENNEDY)

The Declaration of Independence was addressed to future generations as much as King George. "All men are created equal" is an aspiration to be achieved, not a condition of fact.

The Founding Fathers saw the Constitution as a charter for the future. The New World was not just a continent to be tamed, but a society to be shaped "with liberty and justice for all."

So on this Bicentennial Day, it is fitting that we look forward as well as back—that we match our just pride in the past with our firm resolve for the future.

But, what will that future hold? The answer does not lie in our stars, but in our own hearts and hands; for the future is what we make it.

The question is what kind of a world shall we shape? What do we want America to look like when we reach the Tricentennial?

The technology-forecasters—our modern day soothsayers—tell us of incredible innovations that science makes possible:

Solar energy that is abundant, cheap, and clean;

Fusion power that unleashes the atom's energy without imperiling the environment or proliferating weapons;

Medical technology that can restore limbs, transplant organs, and eradicate ancient diseases;

Genetic technology that can control hereditary defects and even create new forms of life;

Self-contained human colonies exploring the outer reaches of space;

Automatic waste disposal systems that recycle wastes to produce energy and reusable materials;

Personal rapid transit systems that can propel individuals wherever they want to go without delay, discomfort, or pollution;

Computerized telecommunications systems whereby individuals can readly obtain necessary information and directly input their ideas and concerns to decision makers in government, industry, and throughout the community.

These are spectacular prospects, but let us not forget that technology is only a tool which can be used either to enhance or impair human values. The real issues in America's third century lie in the sphere of human values and social goals, and putting them into practice. How we deal with those issues will govern the ways in which we use technology, and determine the quality of our lives.

Thus the character of our Tricentennial will depend on answers to questions like these:

Will nuclear weapons preside over a balance of terror, or will there be genuine disarmament?

Will world population be stable, or continuing to expand beyond bounds?

Will the gap have narrowed between the developing and industrialized nations?

Will there be a world rule of law to which all nations adhere?

Will race, religion, and sex be irrelevant to an individual's opportunities?

Will we find a stable family structure in which children can grow up and the elderly can enjoy their final years?

Will adequate health care be a right of all citizens?

Will education be interwoven with work and recreation throughout the course of life?

Will we be able to breathe clean air and drink clean water?

Will there be adequate food and other resources for humanity's needs?

Will individual privacy and civil rights be served or smothered in a computerized society?

Will technology-aided public participation produce true democracy, or will the nightmare world of 1984 triumph over human freedom?

These are the kinds of issues we must resolve over the course of our third century. But we will not begin to come to grips with them if we continue to lurch from crisis to crisis without any forethought or plans for the future.

We have to openly assess future trends and options—not to lay out some master plan to be imposed on the public—but to honestly present the full range of future alternatives, with their relative advantages and disadvantages. A sort of "truth-in-packaging" for the future. Only in this way can our citizens make informed choices on these vital issues.

I know there are some who scorn serious thinking about the future on the grounds that it's hopeless. But to accept this would be a surrender of all we have achieved over the past two hundred years. I reject this doctrine of defeatism and remind you of President Kennedy's commencement address at American University in 1963, in which he said: "Our problems are man made—therefore they can be solved by man. No problem of human destiny is beyond human beings. Man's reason and spirit have often solved the seemingly unsolvable—and we believe they can do it again."

But to do so, requires faith in the future and the commitment to do something about it. And it requires that we are willing to make mistakes and learn from them. For if one lesson has become abundantly clear over the past decade, it is that none of us has all the answers, or even most of them. We must be willing to experiment with major institutional change—and to refashion archaic institutions like the Congress.

We must revise the spirit of the American pioneer. But now we must be pioneers in time, rather than space. Rather than crossing the continent, we must navigate the uncharted seas of uncertainty which lead to the future.

If we take this approach, we can help forge the kind of world we want. For the fact of the matter is that the future—is now. The decisions we make today are what determines its course.

As the philosopher Santayana cautioned us: Those who do not remember the past are condemned to relive it."

On this Bicentennial Day, the time has come to turn that statement around and say: "Those who actively anticipate the future are empowered to reshape it."

As we enter America's third century, this is our challenge—and chance.

HEALTH TRAINING OF BLACKS DROPS

Mr. BROOKE. Mr. President, I would like to call the attention of my colleagues to an article which appears in the New York Times today, It states on authoritative sources that training opportunities for blacks in the medical and dental professions are begining to disappear as medical and dental schools lose interest and incentive in increasing the number and proportion of black doctors and dentists. This news is particularly disheartening as blacks at present comprise only 2 percent of the Nation's physicians and 3 percent of the Nation's dentists. I am sure that my colleagues will agree with me that we must reverse this trend.

Mr. President, I ask unanimous consent that this article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

HEALTH TRAINING OF BLACKS DROPS

(By Reginald Stuart)

NASHVILLE, Aug. 1.—The delivery of badly needed health care services in large urban centers may be further jeopardized in the future because training opportunities in the medical and dental professions for blacks—those who traditionally practice in inner cities—are beginning to diminish.

This is the consensus of top officials of the National Dental Association, the principal professional organization of black dentists, and the National Medical Association, the counterpart group of medical practitioners. Both organizations were formed decades ago when blacks were barred from the larger, predominantly white health associations, and have maintained a large following of blacks in the health field.

The National Dental Association is holding its 63d annual meeting here, and the National Medical Association will open its annual session here later this week.

"The older quota systems and affirmative actions of the 1960's are being de-emphasized and grants and scholarships are drying up," said Dr. Jasper Williams of Chicago, president of the medical organization.

FINDS SCHOOLS WARY

"A great deal of losses in admissions have been forced by those who we thought were our friends," said Dr. Williams, referring to political pressure and court actions brought against schools regarding their affirmative action programs. "These things have frightened many schools into de-emphasizing admissions quotas."

At present, blacks comprise 2 percent of the nation's estimated 350,000 physicians. Admissions of blacks to medical and dental schools showed no growth in the fall of 1974 and declined slightly last fall, according to previously published reports.

Dr. William's view was shared by Dr. Harvey Webb Jr., the new president of the National Dental Association, and Dr. Elisha R. Richardson, the association's director of scientific research.

"There is a reduction in emphasis on admitting blacks," Dr. Richardson said, "and since the Government is classifying women as minorities, schools are admitting white females and eliminating blacks."

Dr. Webb characterized the current atmosphere as one similar to the post-Civil War Reconstruction Era. He said that immediately after the war, blacks were given many special opportunities but suddenly things began to tighten up.

MUST RETRENCH

"That's what it is all about today," he said, "Blacks have got to retrench and hold what they've got, rather than trying to reach out for more.

Only 3 percent of the nation's dentists are black, Dr. Webb said, and they are not being replaced fast enough to maintain that level.

The meetings of both organizations are being held at the Meharry Medical College, an institution that pioneered in training black dentists and physicians decades ago and has supplied a large percentage of those now practicing. Celebrating its 100th anniversary this year, Meharry is engaged in a multi million dollar capital improvements program.

Dr. Lloyd C. Elam, president of Meharry, said that although the number of blacks entering Meharry School of Medicine had risen, the number entering schools across the country had declined. And he cautiously agreed with the heads of the two professional groups that the development could mean problems in health care for blacks.

"The kind of progress that was heralded by the improvement of health services in recent years is going to be less if this type of situation prevails," Dr. Elam said.

MOROCCAN-AMERICAN BICENTENNIAL RELATIONSHIPS

Mr. PERCY. Mr. President, the celebration of the Bicentennial of the United

State of America at home and abroad has been accomplished in a thrilling and spectacular way. As just one example of what was done abroad, I should like to point out the celebration of the American Bicentennial in the Kingdom of Morocco which was quite moving and quite unique for in no other country could the celebration of America's 200th birthday have been combined with the celebration of two centuries of unbroken amicable relations.

Morocco claims, and with documentary evidence, to have been the first nation to grant de facto recognition to our infant Republic. Indeed, there is now on display in Rabat a historic document dated December 20, 1777, distributed to all foreign consuls in Morocco stating that American ships were to be given right-of-entry into Moroccan ports with the same privileges as other nations with which the Emperor of Morocco was then at peace. That document is part of a fascinating joint United States-Moroccan exhibit commemorating two centuries of Moroccan-American relations. Housed in the Bab Rouah Nationali Gallery situated in the 12th century walls of the city of Rabat this exhibit includes rare documents from the U.S. National Archieves and the Royal Archives of Morocco, including the treaty of 1787, which is still in force today, the oldest treaty in the history of American diplomacy. It is impressive to see documents and letters which bear the signatures of George Washington, Thomas Jefferson, John Adams, Andrew Jackson, and eight other American Presidents including President Gerald Ford, as well as the seals of a long succession of Moroccan monarchs.

The exhibit also includes a pictorial display prepared by the U.S. Information Agency entitled "Life, Liberty and the Pursuit of Happiness" which was designed to explain to Moroccans the early colonization of America, our struggle for independence, and the early days of our national development.

In the historic port city of Tangier a similar exhibit also marks the long and friendly relationship between our two peoples. In Tangier, however, there is more than documentary evidence of Moroccan-American friendship. The exhibit is housed in the former American Legation building in the ancient Medina of Tangier, a building which was presented as a gift to the American people by the Sultan Moulay Slimane in 1821. That historic structure served as the focal point for United States–Moroccan relations under a long series of consuls, consuls general, and Ministers over a period of 140 years. It is gratifying to learn that the old Legation building is to become a museum of Moroccan–American relations and a center for the study of Moroccan-American relations.

Here in the United States an organization called the Tangier American Legation Museum Society has already been formed to assist in acquisition of additional historical documentation and artifacts as well as the solicitation of needed funds.

This laudable effort deserves support. The establishment of the museum and study center in the former Tangier Legation, the oldest U.S. Government property abroad, transforms a unique Bicentennial celebration into a lasting monument to Moroccan–American friendship, a haven for scholars who will illuminate the present by their studies of the past, and a meeting place for activists of today who seek, through seminars, conferences and published works, to increase mutual understanding.

I carried with me to Morocco the flag which flew over the Capitol on July 1, 1976, at the time when President Ford opened the safe in which Americans of a century ago had placed their messages to Americans of today. I am pleased to report that this historic flag will be displayed in the museum in Tangier as a tangible symbol of our continuing friendship with the people of Morocco.

It was Morocco that took the initiative to establish contact with our fledgling nation two centuries ago. And it was a remarkably enlightened monarch, Mohammed III, who sought relations with a virtually unknown nation across the Atlantic because of his desire to eliminate the plague of piracy and establish normal trading relations.

President Washington, in responding to a letter from the Sultan on December 1, 1789, said:

> The encouragement which your Majesty has been pleased, generously, to give to our commerce with your Dominions, the punctuality with which you caused the Treaty with us to be observed . . . make a profound impression on the United States, and confirm their respect for an attachment to your Imperial Majesty.

Our commercial ties with Morocco are today strong and improving. It is a coincidence that having thrown off the French protectorate with U.S. moral and legal assistance in 1956, Morocco is celebrating its twentieth anniversary of freedom regained concurrently with our own Bicentennial. During the past 20 years, Morocco has deliberately set out to diversify its trade and investment. France accounted for 80 percent of Moroccan trade in 1956. Last year it accounted for only 27 percent, while the Federal Republic of Germany and the United States vie for number two position. U.S. exports to Morocco attained $200 million in 1975. About 50 American firms have profitably invested in Morocco—including many of our largest and best known companies. As the world economy recovers and with the incentives of Morocco's new investment code and active efforts to attract foreign private investment, the flow of American private investment, the book value of which exceeds $50 million, is again flowing into that mineral-rich agriculturally attractive country.

Thus, the desires of the Sultan Mohammed III for friendship and trade are being fulfilled.

On the occasion of the inauguration of the special Bicentennial exhibit in Tangier, our Ambassador, Robert Anderson, referred to the reopening of the old American Legation as another bridge between our two nations. In response, Morocco's Minister of State for Cultural Affairs, Hadj Ahmed Bahnini, said that the stately structure will be the home of friendship, the concrete symbol of the bonds that have been woven for centuries between our two peoples.

Friendships, as Samuel Johnson said, must be kept in constant repair. It is heartening to know that Moroccans and Americans continue building bridges of friendship between our two nations and keeping them in constant repair.

Mr. President, I ask unanimous consent that the remarks by our very able and distinguished Ambassador Robert Anderson inaugurating the Bicentennial exhibit at the former American Legation, Tangier, Morocco, July 6, 1976, and the remarks by His Excellency Hadj Ahmed Bahnini, Minister of State for Cultural Affairs of the Kingdom of Morocco on this same occasion be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

REMARKS BY HIS EXCELLENCY HADJ AHMED BAHNINI, MINISTER OF STATE FOR CULTURAL AFFAIRS OF THE KINGDOM OF MOROCCO ON THE OCCASION OF THE INAUGURATION OF THE BICENTENNIAL EXHIBIT AT THE FORMER AMERICAN LEGATION, TANGIER, MOROCCO, JULY 6, 1976.

(Unofficial Translation)

Mr. Ambassador, Ladies and Gentlemen: I am particularly happy to be present at this ceremony which commemorates an event of a major historical significance.

Two centuries ago your great nation was born—a nation whose dynamism, vitality and courage were to be for the other nations of the world a reason for wonder, and later a source of inspiration and an example.

The world needed a young and enthusiastic people capable of abandoning the beaten path, of discovering new horizons, of refurbishing its old economic, social and cultural structures. You, American friends, are pioneers, descendants of pioneers, that is to say, resolute and clear-headed men and women. You know that happiness must be won, that well-being has to be paid for in sweat and sacrifice; and you know that peace can only be the reward of struggles for causes that are just.

Mr. Ambassador, I am grateful for your recalling the bonds of friendship and the privileged relations that were established between the Kingdom of Morocco and the United States of America. During the past two centuries, these bonds have grown stronger, these relations have grown firm, in the best interest of our two countries that are attached to justice, dignity and human brotherhood.

With a generosity and spontaneity that compel admiration, the United States of America has never failed to put all of its strength, both moral and material, at the service of those who support fundamental values, of those who work for a serene future, based on mutual respect, honoring of commitments, open and sincere cooperation, and unselfish aid.

In order to achieve these noble objectives, daring scientific programs have been carried out, and considerable means have been put at the disposition of American scientists to enable them to fulfill their mission, the ultimate aim of which is to be of service to mankind, and protect the generations to come from hunger, illness and fear. The achievements that you have scored, particularly in space exploration, have fascinated all mankind and provided food for thought to thinkers. Our admiration is endless for that new breed of men who were the first to open the way for men who were enamored of the marvelous, the concrete path leading to the most daring of dreams.

Independence is one of these essential values and no sacrifice is too great when it comes to preserving it from all harm. It is the moving element that enables every people to be completely fulfilled. But independence is not disunion; it is not egoism and intrigue bound to failure. It would be evil to alter its meaning, to make of it a negative notion, or to consider it as a factor of bondage and sometimes of aggression.

Political independence is worthless without intellectual independence, which is a feeling of freedom mixed with a profound respect for others.

The same principle applies to science. It has been said since time immemorial that "Science without conscience is just a destruction of the soul." Your people, Mr. Ambassador, are the friends of liberty and human progress, which is sufficient for Morocco, which has always attached utmost importance to these two concepts, a Morocco, I say, which pledges unfailing friendship to your people.

This house, a gift of Sultan Moulay Slimane will not only be a diplomatic museum of great interest, the first of its kind in Morocco; it will be the home of friendship, the concrete symbol of the bonds that have been woven for centuries between our two peoples.

And this is why His Majesty King Hassan II has been kind enough to give it evidence of his full solicitude. I am so pleased today to see that our common will results in such a conclusive achievement.

The United States of America celebrated, two days ago, with an unusual glamour, joy and enthusiasm, the bicentennial of its birth. All the friends of your great country shared your rejoicing.

Emphasizing the ties of cooperation that prevail between the United States of America and the Kingdom of Morocco. His Majesty King Hassan II, in his message to His Excellency President Ford on occasion of the commemoration of this prestigious anniversary, made sure to express explicitly the nature as well as the quality of the relations that our two countries have maintained for two centuries.

The inauguration of this museum devoted to friendship gives me a happy opportunity to present to you, Mr. Ambassador, and to all your fellow citizens, my best and warmest wishes for prosperity and peace.

REMARKS BY AMBASSADOR ROBERT ANDERSON INAUGURATING OF THE BICENTENNIAL EXHIBIT AT THE FORMER AMERICAN LEGATION, TANGIER ON JULY 6, 1976

Morocco and the United States have been friends from the very beginning of United States history.

For two centuries we have had unbroken, amicable relations.

Our treaty of friendship, first signed in 1787 and still in force today, is the oldest such treaty in the history of American diplomacy and may be the longest-standing such treaty in the world today.

This is a truly extraordinary achievement in the annals of human affairs; one in which we can both take enormous pride.

This historic building is a tangible symbol of the remarkable duration of U.S.-Moroccan relations. The original structure was presented as a gift of the United States by the Sultan Moulay Suleiman in 1821. It remains the oldest United States government property outside the territorial limits of the United States.

My government has re-opened this old Legation to be another bridge between our two nations.

Today, with the generous assistance and strong support of His Majesty, King Hussan II, I am extremely happy to be able to announce that in the near future it will house a newly established Center for the Study of Moroccan-American Relations. His Majesty has kindly made available invaluable documents from official archives. We thank His Majesty through His Minister, His Excellency Hadj Ahmed Bahnini, who has worked closely with us to make this project possible and whose presence here symbolizes our joint effort. We hope these rooms will provide a congenial and inspiring atmosphere where scholars from both our nations can probe into the mountainous treasure of material available in Moroccan and American archives. At the same time, a number of rooms will be converted into a permanent museum of Moroccan-American relations which will be open to the public as well as to visiting scholars.

Two hundred years ago when the United States of America was still in its infancy, Morocco had already been a nation with a highly developed civilization for a thousand years. It must have given George Washington and the other founding fathers of the United States a great psychological boost to be recognized by the leader of that old civilization, the Alaouite Sultan, Mohammed III. King Hassan II, like his illustrious predecessors, has continued and strengthend the ties of friendship linking our two nations over these many years.

In thanking the Sultan for his "friendship and magnanimity" towards the new United States, President Washington noted that "within our territories there are no mines either of gold or silver, and this nation, just recovering from the waste and desolation of a long war, has not, as yet, had time to acquire riches by agriculture and business. But our soil is bountiful and our people industrious, and we have reason to flatter ourselves that we shall gradually become useful to our friends."

History bears witness that Washington spoke not only to his own time but, prophetically, to ours as well, and I believe, to still future Americans—and their friends.

Today, the United States wants to share with Morocco, its oldest friend, the feeling of the American people as they stand at a great crossroads in their history and peer into the perilous and challenging future that is common to us all. There are the voices, as there always have been and always will be, of cynicism and despair. But there are as many and more who will be inspired by the courage—and wisdom—of their forebears—to act with courage and wisdom themselves. The men who founded the United States, like the men who founded modern Morocco, put aside their fears and proclaimed their independence. We, in 1976, can, I believe, proclaim *our* independence of the fear of tomorrow, and accept its challenge and opportunities with total confidence.

In all fifty of the United States extraordinary efforts have been made in a great variety of ways to look to the origins of the United States as a nation, to honor and preserve the best of its heritage and history and to think about how we Americans might profit from our mistakes, as well as our successes, to improve the lives of our people and our relationships with other nations in this increasingly interdependent world.

In a modest way here in Tangier we have assembled an exhibit which has two purposes. First, to illustrate, through paintings, photographs and commentary, the origins of that young nation recognized by Morocco two centuries ago—a nation which is now the world's oldest surviving republic. Secondly, to depict, through rare documents provided by our two governments, the long continuity of Moroccan-United States relations.

In the presence of His Excellency Hadj Ahmed Bahnini, I would now like to inaugurate this exhibit—an exhibit which bears eminent witness to the enduring friendship of our two peoples.

OUR UNUSED RAILROAD DEPOTS

Mr. HUGH SCOTT. Mr. President, throughout the United States there exist a multitude of unused railroad depots, rich in historic significance, structurally sound, yet standing empty and abandoned. These reminders of a bygone era represent unique expressions of American culture. Through years of misuse and neglect, however, they no longer stand to serve the public. Rather, they are in danger of being demolished. Centrally located, the railroad stations still have the potential for becoming useful, architecturally appealing community centers.

For that purpose, I introduced S. 251 at the start of the 94th Congress. The legislation amends the National Foundation on the Arts and Humanities Act of 1965 to further cultural activities by making unused railroad passenger depots available to communities for such activities. The bill, however, rests in the Senate Special Subcommittee on Arts and Humanities.

I have asked Senator PELL, chairman of the subcommittee to schedule hearings on my bill, S. 251 and expressed hope that it will be accorded swift and favorable consideration.

In this, our Bicentennial Year, it is fitting that this legislation be enacted, and a slice of Americana conserved.

OPPOSITION TO A TAX CREDIT FOR THE PURCHASE OF RECYCLABLE MATERIALS

Mr. GARY HART. Mr. President, the Senate will soon consider section 2006 of the Finance Committee Amendments to H.R. 10612, the Tax Reform Act. This section would provide a tax credit for the purchase of recyclable materials.

A number of my colleagues and I recently wrote to all Senators urging their opposition to this provision for the following reasons:

First. There is no evidence to suggest that the tax credit as proposed will result in a significant increase in recycling.

Second. The annual revenue loss resulting from this credit proposal will be well over $200 million after full phase-in.

Third. Much of the revenue loss will accrue in the form of a windfall to those who continue to use the same amount of secondary materials as they currently use.

Fourth. The credit will apply to the use of industrial scrap, which is currently recycled at a rate of about 90 percent and for which no incentive is necessary.

Fifth. Adoption of this provision with no knowledge of its effect may halt ongoing work toward a realistic solution of our recycling problems.

Tax credits or favorable tax treatments of some sort for recycling have been proposed in the past, the most recent example being the credit proposed by the House Ways and Means Committee in H.R. 6860, the Energy Conservation and Conversion Act. This tax credit provision was deleted from the bill, however, on the House floor by a vote of 249 to 170 when opponents argued successfully that the credit would do little to increase recycling while costing the Treasury $1 billion over a 5-year period.

Mr. President, the proponents of the tax credit proposed now in section 2006 of the Finance Committee amendments have still not demonstrated that this is an effective tool to increase the supply and utilization of recyclable materials.

To the contrary, the Department of the Treasury presented testimony before the House Ways and Means Committee stating that tax incentives are not a practical device to encourage increased recycling for a variety of reasons, primarily the inelasticity of supply of, and demand for secondary materials. This inelasticity results to a great degree from the fact that the fixed costs of collecting, sorting, decontaminating and shipping the postconsumer wastes often far exceed the market price for these commodities. I ask unanimous consent that a statement on this credit provision from the Department of the Treasury be printed in the RECORD at this point in my statement.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

SECTION 2006—CREDIT FOR PURCHASES OF MATTER WHICH CAN BE RECYCLED

DESCRIPTION

This section of the Bill would provide an investment tax credit for the purchase of recyclable ferrous or nonferrous metals, textile and paper waste, glass, and plastic. The amount of credit available is both limited to purchases in excess of a base amount (which in general is 75 percent of the taxpayer's purchases for the years 1973, 1974, and 1975, or his first three years of business), and is phased in over a 2-year period beginning in 1977.

REVENUE ESTIMATE

It is estimated that this provision will result in revenue loss of $9 million in fiscal 1977, $39 million in 1978, and $345 million in 1981.

ANALYSIS

A tax credit for purchases of recycled material would be extremely costly in terms of lost revenue—over $340 million per year when it is fully effective. The question is not whether it is desirable to make careful and efficient use of our natural resources and to reduce waste and pollution; rather, it is whether this tax credit will significantly increase the amount of materials recycled. The Administration has studied this question and has found that most scrap or waste that can be economically used is already collected. The cost of substantially expanding collection is prohibitive. Therefore, an increase in recycling is not prevented by any tax incentive-induced reduction in the sales price of competitive virgin materials, but by the costs of collection. No credit would be large enough to overcome that barrier to a substantial increase in recycling. The credit would only have the effect of driving up the price of the amount of scrap being used now, and would therefore result in a windfall for present collectors.

ADMINISTRATION POSITION

The Administration is therefore opposed to this section of the Bill.

Mr. GARY HART. Mr. President, the Department of the Treasury is not alone in suggesting that the proposed tax credit will only subsidize the use of those materials which are already being recycled, and that mixed municipal wastes will continue to be so prohibitively expensive that little increased recycling will result. This assertion is supported by many companies now actively involved in recycling, along with a wide range of environmental groups who have worked a long time on this problem. I ask unanimous consent that statements from the Association of Brass and Bronze Ingot Manufacturers, the Aluminum Recycling Association, and the Garden State Paper Co., all of whom oppose this tax credit proposal, be printed in the RECORD at this point in my statement.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATEMENT ON TAX REVISION AND ENERGY TAX MATTERS TO THE SENATE COMMITTEE ON FINANCE BY THE JOINT GOVERNMENT LIAISON COMMITTEE OF THE ASSOCIATION OF BRASS AND BRONZE INGOT MANUFACTURERS BRASS AND BRONZE INGOT INSTITUTE, APRIL 22, 1976

This statement in opposition to a proposed "recycling tax credit" is made by the Joint Government Liaison Committee on behalf of the members of the Association of Brass and Bronze Ingot Manufacturers and the Brass and Bronze Ingot Institute. The members of these two associations recycle thousands of tons of copper base scrap each week to produce over 90 percent of the brass and bronze ingot manufactured and consumed in the United States. Brass and bronze ingot is manufactured by smelting and refining copper, base scrap, primarily old scrap, and therefore firms in this industry would be eligible to receive the proposed recycling tax credit that was considered by the Committee on Finance for inclusion in the energy tax bill, H.R. 6860, last summer.

Even though the brass and bronze ingot producers would be beneficiaries of a "recycling tax credit" they recommend and urge that a tax credit for the use of copper base scrap not be included in the tax revision legislation for the following reasons:

1. Tax credit would cause a large loss in tax revenues without any corresponding benefit;
2. Tax credit would cause severe dislocations in scrap market;
3. Copper base scrap prices are extremely sensitive to changes in demand and tax credit would increase price of scrap and articles produced for scrap;
4. Ultimate consumers of products produced from copper base scrap would not benefit from lower prices due to tax credit;
5. Large fluctuation in copper base scrap prices have not significantly affected the supply of scrap;
6. Tax credit does not assure most economic use of scrap versus alternate sources of copper;
7. Lack of demand for copper base scrap in the United States is not a problem. One of the first items reclaimed from a junked car is the radiator. It has been necessary in the past for the United States to control exports of copper base scrap.

On July 18, 1975 representatives of the National Association of Recycling Industries (NARI) testified before the Senate Committee on Finance in support of a recycling tax credit. Unfortunately, the testimony[1] was vague and cast in generalities about savings in energy and did not explain the specifics of the proposed recycling tax credit. The testimony did condemn the House of "unwisely" deleting the recycling tax credit when H.R. 6860 was before the other body "apparently" as a result of "misunderstanding" and "misinformation."

The action taken by the House of Representatives on the recycling tax credit was decisive. First, the Ways and Means Committee before reporting the bill deleted copper base scrap from the recycling credit and severely limited the use of the credit for all other scrap and waste materials. Then the House of Representatives by a vote of 249 to 170 deleted the complete watered-down recycling tax credit provisions from H.R. 6860. This was not the result of the alleged "misunderstanding" on the part of 249 members of Congress; it was a result of them seeing the tax credit for what it is—an unjustified windfall, a rip-off.

Members of the Ways and Means Committee said it very well in the Committee's report as follows:

"The recycling tax credit (Sec. 533) is a particularly bad provision. It will cost us about $1 billion in tax revenues lost over the next five years, yet it will probably increase recycling by only 2 percent! It would provide tremendous windfalls to those connected with this industry. Even the environmentalists, who strongly support recycling, oppose this give-away."[2]

It was pointed out during the debate on the House floor that the recycling tax provision is opposed by environmental groups such as the Sierra Club, the Environmental Action Organization, the Friends of the Earth, the Conservation Congress and the Environmental Policy Center as well as the AFL–CIO and the Department of the Treasury. It was also pointed out during the House debate that it is opposed by major recycling groups such as the Aluminum Recycling Association, and the American Iron and Steel Institute.

The recycling tax credit is too important and costly to be rammed through Congress on an unsubstantiated claim of equity because of certain tax advantages enjoyed by virgin materials. Congress legislated depletion allowances and if they are wrong they should be changed rather than adding to the tax laws new special interest tax loopholes. The attempt to use the energy crisis or tax reform to justify this unwise tax credit is a farce.

Attached to the NARI statement presented to the Committee on Finance on July 18, 1975 were five exhibits showing energy savings by recycling metals rather than using competing ores. There is no question of the energy savings by recyling and the brass and bronze ingot industry is today saving large quantities of energy by recycling copper base scrap. However, it is interesting to see the comments in these exhibits on the use of taxes to encourage increased recycling. For example, on page 198 of the Ford Foundation's *Energy Conservation Papers*[3] on changes in taxes it is stated "Whether or not 'reform' would lead to significant increases in the recovery of metals in mixed wastes is still undemonstrated."

What will be the actual effect of the recycling tax credit? Senator Fannin asked a question at the July 18, 1975 hearing about the effect of the credit on foreign purchases of U.S. scrap. The sponsors of this tax credit replied that it would keep material in the United States by *increasing prices!*[4] This is just what we need—higher prices and more inflation.

Senator Nelson also put his finger on a major inequity in the proposed recycling tax credit between established recyclers and new recyclers.[5] The full credit would apply only to recycling purchases that exceed the amount amount of purchases during the base year (1975). This would be a definite advantage for a taxpayer going into recycling because his base year volume would be his first year purchases and no doubt very small. Purchases in subsequent years would no doubt be much larger and the increase would qualify for the full tax-credit. A decided advantage for the new recycler as opposed to one that has been recycling for years.

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[1] Hearings before the Committee on Finance, Energy Conservation and Conversion Act of 1975, H.R. 6860, part 2, pages 849–873.

[2] House Report No. 94–221 on H.R. 6860, May 15, 1975, page 225.

[3] Exhibit D to the NARI statement—not printed in the hearings but placed in the Committee files.

[4] Hearings before the Committee on Finance, Energy Conservation and Conversion Act of 1975, H.R. 6860, part 2, pages 857–858.

[5] Ibid, pages 860–861.

The members of the Joint Government Liaison Committee agree that the United States must conserve energy and natural resources and, as recyclers, have been doing this for years. The brass and bronze ingot industry justifies its existence by the fact that its members can produce ingot from copper base scrap at a cost lower than the same ingot could be produced from virgin metals. This is done through our free market system without windfalls and rip-offs.

The brass and bronze ingot industry urges that if the recycling tax credit is considered by the Senate Committee on Finance that it specifically provide that it *not* include copper base scrap.

Respectfully submitted on behalf of the Joint Government Liaison Committee.

ROBERT V. MAUDLIN,
Executive Director.

STATEMENT OF RICHARD M. COOPERMAN, EXECUTIVE DIRECTOR, ALUMINUM RECYCLING ASSOCIATION, BEFORE THE SENATE FINANCE COMMITTEE ON PROPOSED RECYCLING TAX CREDIT PROVISION

The Aluminum Recycling Association is opposed to any recycling tax credit as it may apply to secondary, or as they are known today, recycled aluminum producers whose product, specification aluminum alloy, is sold almost exclusively to the die casting, sand and permanent mold casting markets and is not a substitute for virgin metal or alloy of virgin metal.

The Association is comprised of 31 companies with 44 plants throughout the United States. These companies represent over 83 percent of the nation's capacity to produce secondary aluminum. For over 70 years, they have applied technology, capital, and equipment to process aluminum scrap into recycled aluminum for American industry. Since records were first kept, starting in 1913, secondary aluminum producers have recovered and produced aluminum in their furnaces from over 45 billion pounds of scrap. This scrap was purchased from industrial sources, from scrap collectors, dealers and brokers. For almost eight decades we have been environmentalists and conservators of energy and resources.

We provide secondary aluminum specification alloy ingot for use by over 800 die casters who produce components for automobiles, large and small household appliances, business machines, stationary motors and hundreds of other industrial, commercial and consumer uses.

The ingot we produce from reclaimed scrap represents over 20 percent of this nation's annual aluminum supply. Our furnaces recycle over 70 percent of all aluminum scrap generated, of which incidentally, can scrap is only about 13 percent.

There are two types of scrap indigenous to our industry: New scrap produced by primary aluminum companies and by fabricators of primary aluminum products and components, and post-consumer, or old scrap. Virtually all new scrap is recovered and recycled. As recently as three and four years ago, certain kinds of old scrap were too contaminated to be used effectively in the recycling process. However, we developed the technology necessary to recycle it and to produce aluminum alloy from it. Now our industry is reaching beyond its historical sources of raw material and we are exploring the nation's municipal wastes because much post-consumer scrap is too widely dispersed for collectors to bring it in and market it economically.

Aluminum recycles in the U.S. have the productive capacity to process annually 2.236 billion pounds of scrap into recycled ingot. Last year, we produced approximately 1.4 billion pounds of recycled ingot. That was the full extent of the demand for our product in 1975. We recycle in response to die casters' and end-users' demands.

During the year of greatest demand for recycled aluminum alloy, 1973, we had to scratch to get enough scrap to produce approximately 1.9 billion pounds of alloy. Scrap became so scarce at the peak of the production curve that we sought an embargo against aluminum scrap exports from this country to preserve our supply. The nation's production capacity for recycled aluminum at that time was two billion pounds. There was not enough scrap to produce to that level.

Today, we have the capacity to produce two and a quarter billion pounds of secondary aluminum. We need no incentive to do our job; we have been doing it since 1904. As total demand for aluminum increases and expansion of primary aluminum capacity becomes increasingly expensive requiring primary companies to recover and use more and more new scrap in their plants, we would like to see scrap from municipal waste and widely dispersed post-consumer scrap become a dependable source of raw material.

Perhaps herein is the area for tax incentive to go either to the municipality or the ultimate consumer. As recyclers we are concerned with buying scrap as a raw material and not with the gathering, storing, or distribution of scrap.

In closing I cite reports of a Federal Agency whose concern with and impact upon the concept and practice of recycling is considerable. The U.S. Environmental Protection Agency, Page 56, of its Second Report to Congress in 1974, said the major constraint to aluminum recycling is supply of scrap. In its third and most recent report to Congress, September, 1975, Page 59, EPA stated that the future of aluminum recovery depends on the rate of expansion of collection centers and in the development of technology to extract aluminum mechanically from solid waste.

We have made tremendous strides in recycling scrap; we know there are further technical and scientific developmens ahead of our industry. We yield to no one in our understanding either of the various processes or of the economics of our industry or of our market place. No industrial association other than the Aluminum Recycling Association speaks for the secondary aluminum producers. ARA, as the representative of the secondary aluminum industry, declares that we neither need nor wish a recycling tax incentive. A proposed tax credit will not expand our use of aluminum base scrap since we produce only in response to demand for our product.

GARDEN STATE PAPER CO.,
June 18, 1976.

Hon. GARY HART,
U.S. Senate,
Washington, D.C.

CORRECTED COPY

Sec. 2006 of H.R. 10612 Tax Reform Act of 1976 purports to provide incentives to increase recycling of valuable waste material resources. Sec. 2006 does not achieve this objective. Moreover the cost to the Treasury in lost revenue is estimated to be $300 million by fiscal year 1980.

We urge that you vote to strike Sec. 2006 from the bill for the following reasons:

1. The tax credit would cause a large loss in tax revenues without any corresponding benefit.
2. Waste paper prices are extremely sensitive to changes in demand and the tax credit would increase the price of waste paper and raise production costs with benefits to no one.
3. The tax credit provision would not result in a significant increase in the recycling of waste paper.

RICHARD B. SCUDDER,
Chairman of Board.

Mr. GARY HART. Mr. President, another claim that proponents of a recycling tax credit often make is that such a credit is necessary to offset the preferences enjoyed by producers of virgin materials—a sort of tax "neutrality."

It is true that we encourage the use of virgin materials in manufacture through a variety of favorable tax treatments such as the depletion allowance and the capital gains treatment. While this subsidy is estimated to cost the Treasury well over $1 billion a year in lost revenues, it represents only a miniscule percentage of the market price of the commodities, as is shown by the following table prepared by the Research Triangle Institute. I ask unanimous consent that this table be printed in the RECORD at this point in my statement.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

MAXIMUM ESTIMATED IMPACT OF DISCRIMINATORY TAXES AND TAX BENEFITS ON THE COST OF SELECTED COMMODITIES—1971

Tax element	Aluminum (dollars per ingot ton)	Pulp and paper		Glass (dollars per ton)	Steel (dollars per ton of raw steel)	Petroleum (dollars per barrel) for 1971	Natural gas (dollars per thousand cubic feet) for 1971
		Newsprint (dollars per ton)	Paperboard (dollars per ton)				
Percentage depletion	$1.35			$0.20	$0.90	$0.25	$0.015
Foreign tax treatment	1.51				.27	.13	
Expensing of mine exploration and development expenditures	1.02				.27		
Expensing of intangible drilling and development costs						.01	.002
Capital gains treatment of income from timber sales		$1.14	$2.48				

Footnotes at end of table.

MAXIMUM ESTIMATED IMPACT OF DISCRIMINATORY TAXES AND TAX BENEFITS ON THE COST OF SELECTED COMMODITIES—1971—Continued

Tax element	Aluminum (dollars per ingot ton)	Pulp and paper		Glass (dollars per ton)	Steel (dollars per ton of raw steel)	Petroleum (dollars per barrel) for 1971	Natural gas (dollars per thousand cubic feet) for 1971
		Newsprint (dollars per ton)	Paperboard (dollars per ton)				
Minimum tax on preferences						(.04)	(.002)
State and local resources taxes	(0.08)				(.19)	(.06)	(.007)
Total (after tax)	3.80	1.14	2.48	0.20	1.25	0.29	.008
Percentage of price	(0.7)	(0.7)	(1.4-2.2)	(1.4)	(1.7)	(9.8)	(4.4)
Total (before tax)	7.92	2.28	4.96	.40	2.60	.60	0.017
Percentage of price	(1.5)	(1.4)	(2.8-4.3)	(2.7)	[1] (3.5)	(20.2)	(9.3)

[1] Percent of estimated average cost of producing raw steel at $75 (ton).

Note: Impacts are shown as tax savings associated with tax benefits (after tax basis). Before tax impacts represent the amount that prices would have to be increased to fully affect the effects of the removal of tax benefits.

Mr. GARY HART. Mr. President, our biggest subsidy for users of virgin resources occurs at the local level. We pay billions of dollars a year out of local taxes for solid waste collection and disposal costs associated with the use of these virgin materials. If tax "neutrality" is our objective, let us repeal the favorable Federal tax treatments for virgin materials, and place the burden of collection and disposal costs directly on the manufacturer whose product ends up in the waste stream. These actions would truly result in fair competition between virgin and secondary materials.

But, instead, the Finance Committee proposes yet another subsidy; this time to the users of recycled materials in an attempt to achieve some sort of economic parity, and the cost of this proposal in terms of lost revenues is estimated to be well over $200 million a year after full phase-in. Amendment No. 2016 which Senator GRAVEL will offer will raise this revenue loss to a figure of $585 million a year.

Mr. President, two subsidies do not add up to no subsidy. It is possible for us to literally bankrupt ourselves in our simple efforts to push this material around, giving tax breaks to the user of the material at every stage of use from extraction to reuse.

If this tax credit will not significantly increase recycling, what will it do? First, it will probably exacerbate the already erratic price fluctuations in the scrap market. When demand for scrap is high, and the scrap is bringing high prices, the credit will increase, further driving up the price and artificially stimulating the supply. When demand and prices plummet, the credit will shrink correspondingly and will not be adequate to have any effect.

But, aside from the supply and demand disruptions, the proposed tax credit will have an even more undesirable effect in providing windfall profits to consumers of recyclables who simply maintain their current level or percentage of recycling. For example, a hypothetical manufacturer who uses 100 tons of recyclable materials in each year of the base period, and continues to use that same amount year after year when the credit is fully phased in, will receive a tax credit annually on the purchase of 25 percent of this amount.

But, has any new recycling been stimulated? No. The only result is a windfall profit for that manufacturer.

The Association of Brass and Bronze Ingot Manufacturers estimates that the tax credit accruing to its members for recycling copper base scrap alone will be $27 million a year after the credit is fully phased in. And, this estimate assumes no increase in copper base scrap prices and no increase in recycling above current levels. Under the terms of amendment No. 2016 which Senator GRAVEL has proposed to the Finance Committee provision this revenue loss would be over $80 million a year for this one commodity after full phase-in of the credit. And what will we have gained from this huge tax expenditure? Nothing.

Another example of the windfall potential is the case of Garden State Paper Co. which estimates that it would qualify for a tax credit of $227,000 in the first year of full credit phase-in without increasing its purchases of wastepaper over current levels.

The committee's definition of postconsumer waste rightly excludes so-called "home" scrap—defective batches of pig-iron and other wastes associated with products produced from raw materials. This "home" scrap is automatically recycled at present and is highly substitutable for virgin materials.

However, the committee definition of postconsumer waste does include what is is known as "prompt" scrap, which consists of cuttings, defective stampings and clippings left over at the fabricating stage. Nearly 90 percent of all "prompt" scrap is already being economically recycled because it needs little sorting or decontamination and is highly substitutable for virgin materials. But, while most of this "prompt" scrap is already being recycled, the Finance Committee proposal would extend the tax credit to those who use this scrap anyway, although clearly, no incentive is necessary.

Meanwhile, those wastes which are the real problem, primarily mixed municipal wastes, will continue to be uneconomical to recycle because of the large costs associated with the necessary collection, sorting, decontamination and shipping. The proposed tax credit provision will do little to improve this situation.

To put all of these figures in perspective, I offer a table, prepared at the Department of the Treasury, which demonstrates the likely results of this tax credit on five commodities which would qualify for the credit. I ask unanimous consent that this table be printed in the RECORD at this point in my statement.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

ESTIMATED IMPACT OF FULLY EFFECTIVE RECYCLING CREDIT; 5 MAJOR RECYCLABLE MATERIALS [1]

Recyclable material	Typical market price per ton	Unsubsidized recycling volume	Incremental recycling due to credit [2]		Cost per ton of incremental recycling [3]	
			Amount (tons)	Percent	Amount	Ratio to market price
Paper (overall)	$45	16,000,000	120,000	0.75	$230	5.15
Scrap iron (overall)	75	40,000,000	190,000	.47	310	4.10
Copper	1,100	400,000	750	.19	11,100	10.10
Aluminum	300	350,000	3,900	1.10	785	2.60
Lead	220	560,000	500	.09	4,400	20.10

[1] These calculations are based on assumptions intended to overstate response to the subsidy, hence understate the cost per incremental ton of recycling:

(1) Induced cyclable instability of the credit due to use of prior-year bases is ignored.
(2) No allowance provided for administratively uncontrollable fraud.
(3) Estimates of market response rounded upward.

[2] This assumes that the base for the credit is purchases in excess of 75 percent of the taxpayer's base period quantity. If the base is redefined to be purchases in excess of 50 percent of the base period quantity, the numbers in this column would be doubled.

[3] Entries in this column are independent of the definition of the credit base, they depend only on price response of market demand and supply.

Source: Office of the Secretary of the Treasury, Office of Tax Analysis, June 21, 1976.

Mr. GARY HART. Mr. President, as the table shows, in only one instance, aluminum, will the proposed recycling be as much as 1 percent, while the cost per ton of increased recycling will be a multiple of 2.6 to 20 times the current market price per ton of the recycled material.

Mr. President, I submit that it would be far cheaper for the Federal Government to purchase these recycled materials at the current market prices and give them to manufacturers than to offer the tax credit proposed the Finance Committee.

Finally, as I mentioned earlier, I would prefer to reduce or eliminate the subsidy for virgin material usage rather than subsidize, in turn, the competing secondary material. I prefer this approach first, because it involves no drain on the Treasury and second, because I believe it to be a more effective tool to promote recycling. The Public Works Committee has taken testimony on this subject before the panel on materials policy. Subsequently, the committee reported, and the Senate passed by a vote of 89 to 3, S. 3622, the Solid Waste Utilization Act. Section 224 of this bill requires the EPA to coordinate a comprehensive study of the effects of existing tax policies on recycling and the possible effects of both tax incentives and disincentives on recycling of postconsumer wastes.

In addition, the National Commission on Supplies and Shortages is presently investigating different approaches to our recycling situation, including tax incentives.

It makes no sense to me to take a major Federal tax action to solve a problem without knowing the facts. I urge the Senate not to approve this tax credit but to wait for the completion of the studies I have mentioned, so that when we do take action, it will have some effect besides simply providing another way to drain the U.S. Treasury.

JULY 4 ADDRESS OF JOHN K. JESSUP—SOME REFLECTIONS ON THE BICENTENNIAL

Mr. KENNEDY. Mr. President, some of the most rewarding aspects of this year's Bicentennial celebrations have been the thoughtful discussions by some of the Nation's most distinguished citizens on the meaning of America and the lessons of the past for the country's future role at home and overseas.

Recently, I have had the opportunity to read the July 4 address of John K. Jessup. Mr. Jessup is a former editorial writer for Life magazine, and is currently a contributor to the CBS radio program "Spectrum." The address, entitled "Some Reflections on the Bicentennial," was reprinted in the July 15 issue of the Boothbay Register in Maine. It is one of the most eloquent and literate essays I have seen on the significance of the Bicentennial. I believe it will be of interest to all of us in the Congress, and I ask unanimous consent that it be printed in the RECORD.

There being no objection, the essay was ordered to be printed in the RECORD, as follows:

[From the Boothbay Register, July 15, 1976]

SOME REFLECTIONS ON THE BICENTENNIAL

(By John Knox Jessup)

There is more than one reason for us to celebrate July 4, 1976. Another, which you may have overlooked, is that it is the 104th birthday of President Calvin Coolidge, who said in his laconic way that "the business of America is business." Coolidge would surely have approved the way this bicentennial is being exploited for gain by the makers of what the editor of Punch described as all this "commemorative kitsch"—the red, white and blue yo yos, neckties, towels, T-shirts, mugs, plates, medals, dolls, posters, litterbags, napkins, suspenders, alarm clocks, and those fountain pens which sell for $100 because each transparent plastic head contains a microscopic sliver of wood from an old board found in the cellar of Independence Hall in Philadelphia. All of which prompted a Soviet Russian observer to write recently, "When one tries to single out something archetypically American, what springs to mind is the phrase, 'making money' ". And you don't have to be a Communist to think that. A much keener observer, Alexis de Tocqueville, remarked 143 years ago—"Making money—there in two words you have the American character."

Well, and so what? If that were indeed the whole story, Tocqueville would not have needed to spend four years studying American democracy and writing his masterpiece of political philosophy about it. We have been a money-grubbing people but something else too, notably the inventors of political institutions embodying truths about human nature and society which were in 1776, and still are, of great interest to other nations. As Lord Bryce wrote in 1888, "The institutions of the United States are deemed by inhabitants and admitted by strangers to be of more general interest than those of the not less famous nations of the Old World. . . . And they are something more than an experiment, for they are believed to disclose and display the type of institutions towards which, as by a law of fate, the rest of civilized mankind are forced to move." It has been argued that this is no longer the case; Daniel Patrick Moynihan, for instance, calls American democracy a "holdover form of government" like monarchy in the nineteenth century—"where the world was, not where it is going." A birthday as momentous as this one is surely big enough for us to harbor and examine such doubts.

1776 was a vintage year for great words. Besides the Declaration of Independence, it saw the publication of Adam Smith's Wealth of Nations and the first volume of Edward Gibbon's Decline and Fall of the Roman Empire. Smith's rules for business, which he called "the natural system of liberty", were embraced whole-heartedly by the borning nation and proved the right key for turning our unprecedented resources into unprecedented wealth. Gibbon gave the Enlightenment its sense of history and confronted Europe with the possibility of its own decline and fall. While his book did not check the natural optimism of Americans, it was always there as a memento mori and in recent years Gibbon has come into his own. With assists from Spengler and Toynbee, his Roman model has abetted a wave of cultural pessimism which finds us up to our ears in signs and portents of American decline. This cultural pessimism was gathering will before Watergate and has outlasted what should have been the chief lesson of Watergate, namely that the U.S. Constitution is very hard to subvert. A fresh look at that document is not guaranteed to dispel our pessimism, but it can remind us that the founding fathers had a healthy dose of it themselves.

This nation did not emerge slowly like others from the mists of time. It was created at a certain time by certain men for purposes about which they were very clear. They fought the revolution not because colonial conditions were intolerable—they were anything but—but because they saw threats to the personal rights they thought they had inherited, or escaped with, from their British homeland. To justify their unseemly rebelliousness to "a candid world", they declared these rights to be God-given and universal. They committed themselves to a proposition which made the preservation of liberty the primary purpose of government—"to secure these rights, governments are instituted among men"—and which also underwrote a measure of equality, since "all men are created equal". When the founders came to frame a government around their proposition in 1787, they had already experienced the extremes of government described by Aesop-King Log, the Articles of Confederation, too weak to secure their rights; and King Stork, alias George the Third, too strong for them. They therefore aimed at a government of adequate but circumscribed powers and enumerated its purposes in the preamble to the Constitution, six in number: to create a more perfect union, to establish justice, to insure domestic tranquillity, to provide for the common defense, to promote the general welfare, and "to secure the blessings of liberty to ourselves and our posterity". For these and no other purposes was the Constitution written. It was the method by which the word, liberty, and the tendency, equality, were to be continuously reconciled on the stage of history. The word, the tendency and the method have been the steel frame of the American political system. They still are.

A word more about the method called Constitutionalism. It is a peculiarly American invention, or trait, which means something more than our traditional reverence for the words of the Constitution itself. It is the respect for due process in all our public affairs, the sense of limits on the means to the noblest ends, a tradition of civility, of mutual trust and forbearance. It is the reluctance to push any private point to a publicly dangerous conclusion. Walter Lippmann called it "the public philosophy." It is the belief that we live in a moral universe with whose higher laws, formerly called the Natural Law, our institutions are roughly in harmony and to which a good citizen will also conform of his own free will. It is the truth behind the aphorism that whereas monarchies live by honor, republics live by virtue.

Is Constitutionalism, thus defined, too vague or fragile to keep a firm rein on the horses of liberty and equality? Such has been the recurrent fear of American conservatives. To change the metaphor, they have feared that our system's egalitarian bias would overflow the banks of the public philosophy and leave liberty in an unpropertied swamp. Young Salmon P. Chase complained in 1831, "We have carried Democracy to its last limits. The right of voting is universal," he said, not dreaming it would later be extended to blacks, to women, to 18-year-olds and even to illiterates. Tocqueville himself put the question like this: "Is it conceivable that a democracy which has annihilated the feudal system and vanquished kinds will respect the citizen and the capitalist?" That's still a good question, but at least we have faced it many times before. In a way it has been the story of our national life.

The revolution itself was social as well as political, but after the federal government was formed the social revolution reverted to its constitutional channels. These were strengthened by John Marshall's masterful extension throughout the system of the rule of law. This even survived, though it could not prevent, that even greater social revolution called the Civil War. But in the last fifteen or twenty years the banks of the public philosophy have been threatened by floods of a new kind—half a dozen simultaneous revolutions in the way the American people live and think.

In 1954 began the racial revolution: the drawn-out death throes of a caste system we had lived with for four hundred years. Then came the revolution in our even older sexual mores and family customs, and the deepening of the gulf between the generations. Our ethical inheritance became so attenuated that Dr. Menninger could write a book called "What Ever Happened to Sin?" Our most prestigious and autonomous institutions, notably our universities, were violently attacked by their supposed wards. The churches, the courts, the military, the great corporations, the press all lost much of the popular respect that had legitimized their authority. According to a "cynicism scale" devised at Ohio State, the number of Americans who had lost faith in the political process itself nearly doubled to 39 percent between 1964 and 1970. One phase for these multiple revolutions was "Everything's Coming Unstuck". A British observer wrote an article called "Is America Falling Apart?" Senator Edward Kennedy said we were in "a crisis of violence, of morality, of idealism and a cumulative crisis of the spirit." And all this was before Watergate revealed the rot in the White House itself.

So the omens and portents at Bicentennial time have not been auspicious. George Gallup says he finds more widespread pessimism about America's future than any time in his forty years of poll-taking. The spectre of Gibbon challenges the spirit of Jefferson at the head of the table. Has history disclosed some fatal flaw or inadequacy in our system? Is liberty the wrong goal, equality the wrong tendency, or constitutionalism the wrong method? Our system was never guaranteed eternal life. Yet the Bicentennial has served the purpose of investing the experiment with renewed interest. Under all the semi-compulsory patriotism, Americans are thinking once more about the old questions of political philosophy at which our founding fathers excelled, the questions of how and for what ends men govern each other. I doubt we can find answers that will be an improvement on theirs. But the quest can disclose a need for repairs, if not in the system itself, then in some of the particular institutions it has framed and whose legitimacy has now been challenged. I suggest a passing look at three of these: our economic system, our higher education, and our foreign policy.

THE ECONOMY

The "natural" economic system which was America's birthday present from Adam Smith gave us two great advantages. It gave free rein to our zeal for personal liberty and our avidity for making money. But in addition, according to the classical theory of economics which enwrapped it, this system distributed its rewards to the factors of production with a certain rough justice, i.e. in proportion to the value of their contributions to the free market. Hence the rich man need not have a bad conscience and the poor man was spared the destructive passion of class envy. Even the immigrant working class stayed away from our socialist parties in droves. And Congress, when called upon to correct distortions of the free market, usually legislated not against the grain of classical theory, but with it, as in the antitrust laws.

But the Great Depression found the classical theory itself in need of correction. It lacked an adequate concept of overall macroeconomic demand, to support a national policy against unemployment. This lack was supplied by John Maynard Keynes, and the corrected theory was embraced by Congress in 1946. It worked well enough to sustain a quarter century of postwar prosperity which we shared with the whole Western world and parts of the East as well.

But by 1968, shortly before Richard Nixon announced himself a Keynesian, it became evident that the neoclassical theory gave the whole economy an inflationary bias which was undermining the value of the dollar. This discovery too we shared with other industrial nations. The question arose whether democracy itself was proving incompatible with stable money and full employment. The Keynesian era has entered its twilight years, leaving our policy makers in something of a quandary. Economic theory still awaits someone of Keynes' stature—or Adam Smith's—to prescribe for the next generation.

The chronic deficits in the Federal budget that have discredited Keynesianism got a double push from the legalitarian bias in our system. One was what Daniel Bell has called "the revolution of rising entitlements". It has brought us many new claims on the national income which were awarded not by the free market but class legislation. The other, nurtured by the racial revolution, is a fashion for redefining equality itself—not in terms of opportunities, but in terms of results. Teddy Roosevelt could preach that equality at the starting line was the American way. That is not good enough for newly vocal minorities who assert a right to reparations for their long years of past oppression; or for the closet socialists in our universities who think differential rewards are inherently unjust and that equality of condition is a proper goal of our society.

But academia can also help us out of this false dilemma. Professor John Rawls, the Harvard philosopher, recently published his *Theory of Justice*, a systematic attempt to definite the requirements of a good society, including its distribution of income. His bias is egalitarian, but his theory does justify unequal rewards when they add to the welfare of the least advantaged members of society. Given that opening, an economic logician could justify almost anything up to and including the profits of General Motors. The so-called "trickle down" theory, from his attacks on which Hubert Humphrey got so much political mileage, is evidently sufficiently egalitarian for Professor Rawls and should therefore be so for the rest of us. And since fifty years of Communism have produced no better model for the wealth of nations, it seems clear that the free market described by Adam Smith has a pretty good future as well as a glorious past.

To be sure, it will meet a severe test if and when ecological considerations force us to reduce or halt our rate of economic growth. In that case economics will become a branch of the physical sciences, not the moral.

THE UNIVERSITIES

"The people being really King, everyone feels the need of enlightening it." So Tocqueville was told, and he quickly became aware of the American passion for universal education. Though hardly more virtuous, he concluded, Americans "are infinitely better educated (I speak of the mass) than any other people of my acquaintance." After mass literacy and numeracy were achieved came the goal of putting everybody through high school; and by the 1960's nearly half our adolescent population was actually in college. This was an extraordinary achievement. But meanwhile the character of our educational system, along with its size, had also been through a revolution whose results were rather alarming. The mess at the bottom of our educational ladder—the so-called Blackboard Jungle, or Why Johnny Can't Read—reflects an equal muddle at the top. Our university administrations and faculties no longer agree on the purpose of higher education or on the definition of an educated man. The assault on their authority by the campus rebels of the '60's was so successful because the custodians, with a few honorable exceptions, weren't sure what they were defending. And while the assault has subsided, they still aren't.

The quarterly *Daedalus* recently published two volumes of essays called *American Higher Education: Toward an Uncertain Future*. Some 84 authorities, including the presidents of 20 leading universities, examined all aspects of their problem. The results range from ingenuous to desperate; what comes clearest is their inability to agree on what business they are in. This has not always been the case. The two main sources of our university tradition, the British and the German, agreed that their main purpose was to enlrage (by research) and to disseminate (by teaching) the truth, or what Arnold called "the best that has been known and thought in the world." From this high calling sprang the university's unique privileges—tax exemption, academic freedom, and the right to an offshore critical position toward the sosociety that supported them. They were centers of both of Lord Snow's "Two Cultures," the humane and the scientific, and in neither did their work have to pass any test of social practicality; it was judged only by their peers. The land grant colleges, though in origin their interests were more narrowly vocational, came to share the academic privileges of the older tradition.

This relationship between the universities and society has changed radically. During and after World War II, society's need for the universities' resources, for everything from nuclear physicists to linguists and price controllers, made the universities increasingly dependent on federal contracts and grants. Research became more mission-oriented, teaching more diluted, and scholarship became grantsmanship. Instead of its offshore critic, the university became a useful organ of the larger society. Summons to Washington invaded the ivory tower. And in the process the university's sense of identity, so deeply rooted in its dedication to more timeless truths and values, has gradually disappeared.

The democratic bias of our system has also infected the content of our higher education. Elective courses proliferated madly while core requirements all but vanished. The zeal for specialization invented new "disciplines" every year. The art of healing gave way to plastic surgery in the medical schools; in the law schools, theories of jurisprudence yielded to a dozen kinds of tax law. The dominant criteria for what is taught have become the often frivolous demands of educational consumers, formerly known as students, or fashions in social utility, some of these dubious indeed. All of which makes the redefinition of a university and its purposes all the harder. Can educators ever again agree on what it means to be an educated man?

Perhaps not until they agree on the nature of man—that is, whether he is gradually perfectible or forever chained, half-ape half-angel, by original sin. There has not been and need not be an American consensus on this question. Our founding fathers were divided on it and their Constitution left room for both assumptions. John Adams the pessimist and Thomas Jefferson the optimist, in the great exchange of letters that illuminated the evening of their lives, found this temperamental difference no obstacle to their agreement on lesser matters. But at least they tangled with the question, and so too must our universities if the American experiment, in the sense that Athens was "the education of Hellas", is in its third century to give any guidance at all to this troubled Westernizing globe in its quest for a future for mankind.

Incidentally, that long correspondence between John Adams and Thomas Jefferson lasted almost until the day on which they both died, which was the Fourth of July, 150 years ago today.

U.S. FOREIGN POLICY

So we enter our third century with at least two of our major institutions, the economy and the universities, in serious need of repairs. In our democracy something is always in need of repairs, even while the steel frame of the system, liberty, equality, and constitutionalism, is not.

"If we're not strong at home, how can we be strong abroad?" said Mayor Daley of Chicago the other day. The health or illness of our institutions inevitably affects the influence which America can exert on the rest of the world. And beyond its primal function of protecting our boundaries, U.S. foreign policy has always projected in greater or less degree our domestic policies and beliefs. It has sought an international environment that would enable them to survive and prosper—what Wilson called "making the world safe for democracy"—but also one in which they would spread naturally from our example or be spread by our actions. Our Puritan ancestors saw their errand in the wilderness as the job of building "The City on a hill." John Adams thought America was founded with the duty to "spread Liberty and Enlightenment everywhere in the world." However intermittently, this missionary strain in our foreign policy has run throughout our history.

From the time of the Monroe Doctrine to our war with Spain, it was largely confined to our continental playpen under the name of Manifest Destiny. It found a new global rhetoric under Woodrow Wilson, but it also furnished much of the ground for our national unity in World War II and in the Cold War, including its Korean and early Vietnam phases. It helped prepare us to accept the challenges and risks of "the American Century," including the unwelcome charges of American imperialism. The missionary strain did not, however, prepare us for the acceptance of defeat in Vietnam. It did not prepare us for the suspicion that the American Century may turn out to be only thirty years long. It has not prepared us for the diplomatic world in which we are now operating, the five-cornered power game in which Nixon and Kissinger took a hand, a strictly defensive game of realpolitik which seems empty of missionary or even moral content beyond survival.

That wave of cultural pessimism that has engulfed our happy land—much of it stems from the international situation. One of its spokesmen, Robert Bendiner, tells us we must stop trying to act like the Promethus of human liberty and accept instead the static role of Atlas. We are to bear the burden of freedom and democracy, even though their scope seems to be shrinking, without harboring any more Promethan dreams, such as a freer and more unified world community.

This static role is, I fear, uncongenial to the American character as the world has known it. But even worse, it fails to do justice to the wider applicability, both in space and time, of the fundamentals of the American political system. Liberty and equality are still universal human values and the hunger for them keeps simmering all over the world; yesterday in Poland, Portugal or Africa, tomorrow in China. America must keep these flags flying or be untrue not just to itself, but to the human race. And as for constitutionalism, it is still the best way to keep liberty and equality in harmony with each other; for it sets limits on what governments can do to their people, and on man's inhumanity to man. In international affairs, it means the spread of world law, which our foreign policy has often espoused in the past and which is the missing ingredient in that policy today.

This country can't settle for mere survival. Our system still has too much work to do in the world. After a mere two hundred years, it's too soon to quit.

FEDERAL BANK EXAMINATION COUNCIL

Mr. HUGH SCOTT. Mr. President, our Government must be efficient in its allocation of tax dollars. There is no room for waste or duplication in a system which bears so many vitally important responsibilities. These responsibilities must be accurately delegated to those who are best qualified to handle them. The more we can avoid duplication of effort within our Government, the more efficiently our Government will operate.

There is currently a measure pending before the Senate to establish a Federal Bank Examination Council. I am cosponsoring this bill, S. 3494, introduced by the distinguished Senator from Illinois (Mr. STEVENSON). This legislation is needed because presently the Comptroller of the Currency, the Federal Deposit Insurance Corporation, and the Federal Reserve Board each design their own bank examination procedures, train their own bank examiners, and set their own supervisory standards. There is little coordination of effort amongst these agencies and thus there is considerable duplication of effort. The Federal Bank Examination Council would remedy this inefficiency.

The Council would be composed of the Comptroller of the Currency, a member of the Board of Directors of the Federal Deposit Insurance Corporation, and a member of the Federal Reserve Board. The Council would be authorized to set uniform bank examination standards and procedures for the three Federal agencies, and to coordinate Federal bank supervisory actions dealing with problem banks and bank failures. The three agencies would be responsible for reconciling their differences and achieving an efficient, coordinated bank supervisory system. This bill would not alter the existing Federal bank regulatory structure; each of the three agencies would retain its present jurisdiction.

Reform such as this, for the purpose of mutual coordination toward a more efficient end, is important to keep up with the ever increasing complexities of our Government.

Mr. President, I hope the Senate will act quickly on this vital legislation.

FURTHER STUDY NEEDED OF EMPLOYEE STOCKOWNERSHIP PLANS

Mr. HUMPHREY. Mr. President, later this week, the Senate will be considering an amendment to the Tax Reform Act of 1976 which I, Senator JAVITS, and four other colleagues introduced regarding further legislative incentives for employee stock ownership plans at this time. We offer this amendment not to set back the course of meeting the goal of broadening capital ownership as we fully endorse this goal. In fact, five of the amendment's six cosponsors are members of the Joint Economic Committee which in its annual report this year recommended this as a major new national goal.

Unfortunately, proponents of the bill's provisions to double the amount of the tax credit and make it permanent have decided to try to characterize the amendment's cosponsors as not supportive of the goal since they do not wish to make this particular incentive permanent at this time. The fact of the matter is a quite simple one: Since this goal is such a new one and so important, with wide-ranging implications, the Congress should examine comprehensively the many methods to achieve the goal.

I agree that study is not the same as action. But, I do not agree that any further incentives are necessarily better than no further incentives. Tying this employee benefit to the amount of a company's investment in plant and equipment is a very peculiar twist of logic.

This need for a more rational and carefully conceived approach to promote broadened capital ownership was highlighted in a very informative column on this topic in the New York Times, July 30, 1976. Abe Raskin, their insightful reporter on labor issues, cited the fact that the Joint Economic Committee has laid "the foundation for national debate on the issue." He goes on to say, in regard to Kelso's broader vision which goes well beyond the utilization of ESOPs, that—

> The practicalities and limitations of that vision are what the Joint Economic Committee wants Washington to study more carefully.

This indeed is what the amendment is all about.

Mr. President, I ask unanimous consent that this column, "Turning Workers Into Capitalists," be printed in the RECORD.

There being no objection, the column was ordered to be printed in the RECORD, as follows:

THE LABOR SCENE—TURNING WORKERS INTO CAPITALISTS

(By A. H. Raskin)

No matter which candidates win in November, it is a safe bet that a significant focus of White House and Congressional interest in the next four years will be on measures to turn workers into capitalists through governmental encouragement of employee stock ownership.

All three of the prime contenders for the Presidency have endorsed various approaches to giving workers a larger direct stake in the financial success of the enterprises from which they get their paycheck.

The Joint Economic Committee, one of the most prestigious bodies on Capitol Hill, has gone further. It has urged that broadening capital ownership, not merely for employees but for all citizens in the low- and middle-income brackets, be made a specific goal of national policy.

As a foundation for national debate on the issue, the committee has just issued a staff study analyzing plans currently in limited use in the United States and Western Europe to help swell the ranks of corporate shareholders. Senator Hubert H. Humphrey, the Minnesota Democrat who is the committee's chairman, launched the debate by ranking wider capital ownership alongside full employment as twin pillars for a healthy economy.

The initiative has strong support from both liberals and conservatives in Congress. For liberals of the Humphrey persuasion, it represents a device for achieving more equitable distribution of wealth without soaking the rich to benefit the poor. For conservatives, the goal is to reverse the recent sharp ebb in the once vigorous tide toward "people's capitalism" and to combat inflation by giving workers extra incentive for heightened productivity.

Figures compiled by the New York Stock Exchange show a drop of nearly one-fifth in the first half of this decade—from 30.8 million in 1970 to 25.2 million in mid-1975—in the number of individuals owning corporate stock. The median age went up from 48 to 53 leading the joint committee staff to conclude that young adults in their 20's and 30's were shunning stock ownership almost totally.

The study found present stock ownership increasingly concentrated in fewer and fewer hands, with workers little involved except for managers and professionals. Only 19 percent of the market value of individual holdings was owned by white-collar and blue-collar employees, farmers and others making up 76 percent of the employed labor force.

By contrast, according to the report, almost half of the $871 billion in stock held by individuals in 1972 was owned by one-half of 1 percent of the overall population. All this, of course, left out of computation the equity held by workers as part of the reserves of collectively bargained pension funds.

Their assets leaped from virtually zero before World War II to a present level of $215 billion, two-thirds of which is in stocks publicly owned companies. In a single decade their chunk of the market value of all outstanding stock rose fourfold to 20 percent, part of a development that Peter Drucker, the economist, describes as "pension fund socialism."

Though Mr. Drucker concludes that this mushrooming of equity ownership as a mainstay of workers' old-age security has had "no impact whatever" on either labor-management relations or human relations, an opposite premise underlies most of the governmental interest in widening first-hand stock ownership by workers.

Thus, Senator Jacob K. Javits of New York, the joint committee's ranking Republican, sponsors collective bargaining to create employee ownership trust funds on the contention that giving workers a "piece of the system" would enhance productivity and labor peace. He and Senator Humphrey jointly introduced in April a bill to remove the Taft-Hartley Act's present prohibition on unionists sitting with employer representatives as trustees managing the investment portfolios of such funds.

A not too carefully disguised purpose of both the Humphrey-Javits bill and the staff study on broadening the ownership of new capital was to take some of the steam out of the most firmly rooted of the employee stock ownership plans now operating in this country. That plan, in use in roughly 300 companies, is largely a brainchild of Louis O. Kelso, a San Francisco lawyer and investment banker. It relies principally on preferential tax arrangements and its chief legislative champion is Senator Russell B. Long of Louisiana, chairman of the Senate Finance Committee.

At Senator Long's insistence, provisions for employee stock ownership plans, or ESOP's, were written into the final drafts of such key bills as the Pension Reform Act and the Trade Act of 1974 and, most important, into the Tax Reduction Act of 1975, which offered companies an additional tax credit of 1 percent for investments transferred to an ESOP.

All this week the Senate Finance Committee has been wrangling over a Long proposal to double the credit and to make it part of the permanent Internal Revenue Code. The objection, as noted in the staff report on ESOP's, is that the general taxpayer is in effect subsidizing the stock gift to the employees directly affected.

One place where ESOP's are already proving their worth is as a job saver in distressed industries. The biggest of these has been the Okonite Corporation, a major manufacturer of wire and cable with 1,700 workers in five states. A Federal loan of $13 million, plus $31 million in auxiliary financing, enabled the workers to buy full ownership June 30 from trustees of James J. Ling's bankrupt conglomerate empire.

The result, in the estimation of Okonite's president, Victor Viggiano, has been to create an "absolutely euphoric" attitude among the new employee-owners, with great potential benefits in productivity and work quality.

But for Mr. Kelso, ESOP's chief salesman, its real utility is not in breathing new life into dying corporations but in providing a "second income" to the great bulk of the nation's workers and providing all the new capital needed for expanding American industry without any direct outlay by workers themselves.

The practicalities and limitations of that vision are what the Joint Economic Committee wants Washington to study more carefully in the next four years. If Mr. Kelso is right, it could create a new capitalism of such vitality that "every other industrial nation would have to copy it or sink under our competition."

GROWTH OR NO GROWTH

Mr. MOSS. Mr. President, the issue on clean air is whether we will have growth or no growth.

Highly pertinent is the article appearing in the New York Times for July 31 entitled, "Town Finds No-Growth Plan Leads to Not-Enough Funds."

This is precisely the issue we are talking about, and I ask unanimous consent that it be printed in the RECORD for the benefit of the Senate.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

TOWN FINDS NO-GROWTH PLAN LEADS TO NOT-ENOUGH FUNDS

(By Les Ledbetter)

COTATI, CALIF.—After four years of counterculture government, this former chicken farming community 50 miles north of San Francisco has begun suffering from pains of nongrowth.

Now the young people who led the fight for nongrowth four years ago are becoming convinced that some kind of carefully controlled growth is necessary if the city's income is to keep up with inflationary demands.

Essentially a crumbling country town of 2,830 population that has been bypassed by time and a freeway a mile away, Cotati became a haven for students, radicals, dropouts, self-styled "freaks" and others in the 1960's after the state established Sonoma State College in neighboring Rohnert Park.

The young people of all ages and sexes flocked here because of cheap rents and tolerance from older residents and because neighborhoods such as Haight-Ashbury in San Francisco and the East Village in New York had become, in the words of one former radical, "too much like jungles without the benefit of trees."

LAND SPECULATORS FEARED

The immigrants soon found their funky Eden was in danger of being redeveloped by land speculators who were active in suburban Sonoma County and who were supported by conservative, low-property-tax advocates in the Cotati city government and in the surrounding bedroom and retirement communities.

"So we went from door to door and registered 400 new voters and took over the city government," explained Stephen Laughlin, referring to the 1972 election of himself, Anette Lombardi and Geoffrey Dunham to the five-member city council as members of an antigrowth, anti-establishment slate.

The loose coalition did slow growth, but it also slowed the growth of income. It had other problems, too, that have led to an entirely new three-member anti-establishment council majority and a factional disagreement.

To rule, the coalition of young leaders has survived a recall vote, indiscretions that led to the resignation of Mr. Laughlin and Miss Lombardi, the defeat of Mr. Dunham, resistance from holdovers of the previous administration and hostility from radicals within their own activist group who thought from the start that the pace of the no-growth movement was too slow.

"But that first year was fun and the city council really worked," said Mr. Laughlin, who only served a year. The council, he said, "got rid of conflicts of interest," abolished "glaring signs" on service stations and stores and obtained "a more receptive city attorney and city manager."

MARX-LENNON STUDENT

Mr. Dunham, who describes himself as "high class WASP" and "a student of Marx and Lennon, Groucho and John," said that he felt that the major accomplishments before his defeat this year was the hiring of the new police department.

"It became what I think a small town police force must be, friendly with no nonsense busts and yet unwilling to tolerate serious crime," said the prematurely balding law school student.

The new majority also quadrupled the number of stop signs on the portion of Redwood Highway that runs through the center of town, in an attempt to discourage the trucks and cars that only saw the city as a convenient side road.

And the new establishment came as close as practical to achieving its campaign promises of no growth for the town.

But as the town slowed down, so did the property tax revenues and the city's share of the state-county sales tax.

The proposed operating budget for 1976–77 is $668,957, which is $54,173 below the current 1975-76 budget.

Many older citizens have begun to buy goods and spend their money at the new shopping centers on the outskirts of town.

And many of the younger residents have nothing to spend beyond necessities since they are either students, work at marginal jobs or are on some form of Government aid such as veterans' benefits or welfare.

FIX-UP WORK PUT OFF

Thus, decisions to fix up parks, rent a private swimming pool and fix up the one block downtown shopping area designated as historic by the state are being delayed or canceled. And the council finds that discretionary funds for other projects they and their supporters want to undertake are being eaten up by the inflationary costs of mandatory city services such as the six-member police department, which currently demands one-third of the budget despite its low keyed nature.

"And my property taxes are still going up—$400 this year," complained Frank Dolinsek, a begonia nursery owner who resigned from the city council after seven years of service when the recall of the radicals failed.

"You've got to go forward or things will fall apart," said Mr. Dolinsek, adding: "If it wasn't for the subdivision the old council got in here there wouldn't be any money coming into the city treasury at all."

Mr. Laughlin, expressing what now seems to be a majority view among the young people's coalition, agreed that the new council elected last March will have to "change the original approach from negative planning to a positive approach that will bring in the revenue to pay for the other things we want to do."

Mr. Laughlin, a North Bay United Way publicist with a master's degree in planning, added:

"Cotati is a broken down old town endeared to many, but it hangs on a thin financial thread and the good life here is threatened if the town can't survive economically."

MAYOR GOING AHEAD

"These things are slowing us down and hanging us up, but they are not going to stop us," said Mayor William Payne, associate professor of anthropology at Sonoma State, as he sipped a Dr. Brown's Cel-Ray soda in the Last Great Hiding Restaurant across from the Harmony Garage.

Mayor Payne is the leader of the new coalition majority on the council and a member of a faction sometimes accused by the more radical coalition elements of being slowed by an excess stress on the use of proper channels.

At a recent council meeting, for example, the Mayor was criticized after the city was unable to get $141,000 in Federal funds to help renovate downtown plaza and reroute Redwood Highway around the town.

"Don't tell us about costs, we'll build saw horses to put across the highway, grab picks and dig up the streets if you tell us to go ahead," yelled Vito Paulekas, a lear of Freestore, a guerrilla theater group that is one of its power bases here.

Mayor Payne smiled and said, "Vito, if the citizens wish to act, then they should act and the council will deal with the consequences."

NOT AS BAD AS FEARED

Although many older residents are angry at losing control of the city, some, including Mr. Dolinsek, say that the new administration has not turned out as bad as they once feared.

"Most of the kids are decent and care about the town, but some of them have no sense, no morals and they're easily led into believing they can do anything they want here," one woman who regularly attends council meetings said.

Mayor Payne agreed that the counter-culture council must show it can help Cotati survive financially without destroying the ambience that first attracted him and his contemporaries.

"We've gained a measure of protection for ourselves and the way we want to live by winning control of the council," he said. "Now, we have to make Cotati survive amongst the dinosaurs that surround us."

NATIONAL NEIGHBORHOOD POLICY ACT (S. 3554)

Mr. HUGH SCOTT. Mr. President, today I am joining my colleagues, Senator Proxmire and Senator Garn, in cosponsoring their National Neighborhood Policy Act, S. 3554. This bill reflects the concern of many Americans for the restoration and rehabilitation of existing city neighborhoods. This concern was first formulated in the Home Mortgage Disclosure Act of 1975, which became public law.

In the investigation of the redlining practices of mortgage lenders, the Senate discovered that other forces are also responsible for neighborhood decline. Among these forces, the Federal Government's various programs—Federal transportation subsidies, Federal tax policies, Federal Housing Administration, and urban renewal programs—contribute to the neglect.

There is not a conspiracy, only a simple failure to recognize the value of existing neighborhoods. Public policy, laws, and programs should all consider their impact—positive and negative—on the ability of existing neighborhoods to survive and prosper.

The recognition of this problem and the search for solutions to it become paramount as the cost of new housing increases and as resources become scarce and expensive.

The time has arrived for a neighborhood conservation policy to operate a program of complementary public laws and programs that encourage preservation. The National Neighborhood Policy Act of 1976 outlines a program of congressional oversight of public policy to conserve and revitalize neighborhoods.

This objective would be accomplished by a National Commission on Neighborhoods which would study the impact of public policies and laws on neighborhoods. They would then make recommendations for modifications necessary to promote neighborhood reinvestment by the private sector; to better adapt public policy to neighborhood preservation; to encourage better maintenance of existing housing; and to support and assist local efforts toward neighborhood revitalization.

At this time, with the financial solvency of our major cities of a special concern, it appears that a program such as this would be timely and meritorious. The revitalization of existing neighborhoods would, in the long run, keep more of the tax base within the city limits and help to stabilize city budgets.

We must make our cities again an enjoyable place in which to live, work, relax, and raise a family. With a coordinated and all-encompassing study of urban housing, such as this bill mandates, we will come closer to reaching this goal.

As a cosponsor I urge the bill be quickly and favorably considered

AN INSPIRATION FOR ALL AMERICANS

Mr. HARRY F. BYRD, JR. Mr. President, in the July 1 edition of the Richmond News Leader, a splendid letter on the theme of the American Bicentennial was published. The writer was Mrs. Paul E. Galanti, wife of a naval officer held captive by the North Vietnamese during the war and a leader in the national campaign to win the return of American POW's.

In her letter Mrs. Galanti set forth her hopes for the United States in terms of what she wants to see in the life of her 7-month-old son, Jamie: A rebirth of patriotism, a strong national defense, a firm foundation of religious faith, and an appreciation of the responsibilities of citizenship.

I believe that Mrs. Galanti's words are a source of inspiration for all Americans, and I ask unanimous consent that the text of her letter be printed in the Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

Reflections at 200: For My Son, I Wish An America . . .

(By Mrs. Paul E. Galanti)

As we approach Independence Day 1976, the 200th birthday of our nation, many of us are contemplating more than usual the origins and the future of the United States of America. It is a time when I wish I could say that all were perfect here, and that I saw nothing but happy days and smooth sailing ahead. However, we are a troubled nation in many ways. I do believe that we can survive and flourish, but we desperately need a rededication to the ideals which have made us great.

My country has always been very important to me. I grew up in a loving, God-fearing, patriotic home. I was taught to love my country, to honor its flag, and to respect its leaders. For this foundation I will be eternally grateful. How wonderful it is to believe in something with all of your heart! I have lived abroad twice, and I will never forget the thrill of entering New York harbor and seeing that magnificent lady with her torch held high. "Give me your tired, your poor, your huddled masses yearning to breathe free. . . ." Nothing can make one appreciate the United States more than a stay away from its shores.

When Paul was held in a Communist prison system for almost seven years, the meaning of freedom became even more profound for me. Knowing of the complete lack of freedom which existed there, and realizing that Paul and the other POWs were enduring that horrible captivity so that our allies could remain a free people, made me appreciate our heritage and our freedom even more. Regimentation of a Communist society and the liberty of a democratic society are literally poles apart (also "polls apart," when you contrast the worth of the vote in these diametrically-opposed systems).

Even with my already deep-seated love of country, I recently have come to love the United States even more and to care more deeply where she is going, because Paul and I are now the very proud parents of a seven-month-old boy. In seven short months Jamie has transformed our lives, bringing us more joy than we could have imagined. It seems that every facet of our lives has taken on a new dimension since his arrival. Bringing a child into the world is a tremendous and awesome responsibility, however. The training we give him and the examples we set for him will play a major role in his development his philosophy, and his values. Even if we give him the best training and set perfect examples for him, into what kind of world are we bringing him? What will his world and his America be after we are gone? It can be a frightening and hair-raising thing to contemplate. And I do not contemplate it lightly.

In this historic year of 1976—the year of our nation's 200th birthday and my son's first birthday—I pledge to be a better American. It is so important that I not take for granted the freedoms I have, because I want my son to enjoy the same freedoms. A free country cannot be maintained by complacency. Freedom needs dedication, hard work, and devoted advocates. When I look at Jamie's loving but helpless and trusting face, I know that this is the most important work of my life. His future depends on me. He will forget the material things I give him (and he may scorn me if I give him too many), but he will always thank me if I leave to him an America which continues to be strong and free.

There are many specific threads of this fabric called freedom that I wish for my son. I want him to love and respect the United States, a country which has been made great by the sacrifices of many patriots in our 200-year history. I wish for him that he will experience the same thrill I do each time I see the stars and stripes and each time I hear or sing "The Star Spangled Banner." I hope that he will be able to say the Pledge of Allegiance and mean every word of it. I hope that it still will be fashionable to profess one's love for one's country.

Jamie, I hope, will continue to live in a country which is second to none in military strength, in its willingness to help others, and in its opportunity for personal initiative—the leader of the Free World. I hope that he will have a burning desire to serve his country in the armed services or in some other capacity. If he is called to serve, I hope and pray that I will be proud of my son's service. I have actually heard mothers say that they were glad their sons had flat feet, back trouble, or some other disabling physical problem so that they would be exempt from serving in uniform. Such an attitude has no place in a freedom-loving democracy where everyone must share the load.

I wish for Jamie an America which places its trust in God. If "In God We Trust" is ever erased from our coins—and, more importantly, from our hearts—there will be no hope for us as a people. Our nation has truly been blessed, but we cannot expect to be blessed forever if we stray from His will. I pray that freedom of religion will remain one of our sacred freedoms. Religion is such a proven source of strength. Otherwise, why would Communist governments do so much to undermine it all over the world? The Communist leadership wants all strength to derive from the government.

I hope that Jamie will realize that the whole nation is more important than any individual. I hope that we can instill in him the fact that a democracy functions by majority rule. We have the right to dissent—a very valuable right, indeed—but we have no right to subvert the will of the majority.

My son, I hope, will realize the value of his vote and will never shirk his responsibility. Yes, it is a responsibility, as well as a privilege. A concerned, intelligent, voting public is essential to a free land. I hope that he will go a step further and actively support the candidates of his choice with his time and his contributions.

So, 1976 is the year for two important birthday parties—America's 200th and Jamie's first. They are both very important to me. I know that I am a typical mother who will be excited about her child's first birthday. I hope, likewise, that I am a typical American and that millions of other Americans feel the commitment I do to keep our land great and free.

Birthday parties often feature a spirited game of "Pin the Tail on the Donkey" by excited blindfolded children. As we Americans celebrate our country's 200th birthday, let us not go blindfolded. We must be alert and we must have our eyes wide open. Let us not look to the donkey but to the eagle. Let us untether the eagle, the symbol of our greatness, and allow it to soar in all its magnificence—free and strong!

ADDITIONAL SUPPORT FOR CIGARETTE TAX REFORM

Mr. GARY HART. Mr. President, following the introduction of amendment No. 1945, the health protection tax, we have received many letters from national health organizations as well as from private health societies endorsing our efforts. These letters have appeared on pages 21331–21332, and 22221–22222, 22763–22765 in the RECORD.

Today, I am pleased to add both the distinguished National Cancer Advisory Board and the United Cancer Institute to our list of supporters. For the benefit of my colleagues I ask unanimous consent that the endorsements of these supporters be printed in the RECORD.

There being no objection, the endorsements were ordered to be printed in the RECORD, as follows:

RESOLUTION—NATIONAL CANCER ADVISORY BOARD, JUNE 22, 1976

The National Cancer Advisory Board wishes to express its support for the Hart-Kennedy Tobacco Reform Amendment to the Tax Reform Bill.

This legislation would impose an additional tax on cigarettes with particularly high tar and nicotine contents. While recognizing that the only sure protection against the toxic effects of cigarettes is to stop smoking, the National Cancer Advisory Board, nevertheless, believes that any approach to the development and use of less hazardous cigarettes should be encouraged as a practical approach. There appears to be every reason for believing that lower content of tar and nicotine is consistent with reduced health hazards.

Bayside, N.Y., July 19, 1976.

Hon. GARY W. HART,
U.S. Senator,
Dirksen Senate Building,
Washington, D.C.

DEAR SENATOR HART: The United Cancer Institute is pleased to endorse your proposed tax legislation to encourage the production of lower tar-content cigarettes.

The United Cancer Institute holds the position that all cigarette smoking is harmful to the smoker and the general public, and emphasizes the grim statistics that lung cancer deaths and heart attacks are 70 to 80 percent higher among smokers than nonsmokers.

While we applaud your leadership in proposing legislation that will provide economic incentive for the reduction of tar and nicotine, we urge the government to intensify its campaign to educate the public that all smoking is harmful.

With all good wishes,

Sincerely yours,
ROBERT COTTI VIXON, M.D.,
United Cancer Institute.

THE RIGHT TO BEAR ARMS

Mr. McCLURE. Mr. President, there has been a great amount of discussion recently about the need to open up our governmental processes and encourage our citizens once again to become directly involved in governmental decisionmaking.

Today, I was honored to receive petitions containing the signatures of over 1½ million Americans from all over the country who oppose restrictive gun control laws. This was truly an unprecedented effort by a genuine citizens' lobby.

I am aware of no issue which has motivated so large a number of people to try to influence the course of legislation by following the constitutional prescription of petitioning Congress for redress of grievances—and these efforts are effective.

It was through the dedication and plain hard work of thousands of volunteers that these signatures were secured. They deserve our gratitude. The message they so forcefully bring to this Congress should be noticed. It represents the true convictions of so many of those whom we represent here.

It is only through the vigilance of the millions of Americans who are determined to preserve the right to keep and bear arms that those of us in Congress who share these traditional American values have been able to prevail.

I am deeply grateful to the Citizens Committee for the Right To Keep and Bear Arms and to the 1½ million people who signed these petitions.

PROBLEMS OF THE PHYSICALLY HANDICAPPED

Mr. HUGH SCOTT. Mr. President during my tenure as a U.S. Senator, I have both introduced and cosponsored many bills which would help to remedy the difficult problems confronting the physically handicapped in their efforts to achieve normal productivity and self-sufficiency. In February of 1975, I joined Senator RANDOLPH as a cosponsor of his legislation to express as a national policy that all citizens have the right to live and work in a barrier-free environment.

Over the years, I have endeavored to give a voice to the hopes and aspirations of our disabled fellow Americans—to the difficulties, discriminations, and disadvantages experienced by them as they strive to lead normal lives and to compete on terms of equality alongside other Americans. One out of every 10 persons in the United States today has limited mobility due to a temporary or a permanent physical handicap. The number of persons with limited mobility is increasing every day. The physical environment of our communities across the Nation continues to be designed to accommodate only the able-bodied, thus increasing the isolation and dependence for disabled persons.

Those having a physical handicap deserve better treatment than current facilities are able to provide. The bill which I cosponsored, Senate Concurrent Resolution 11, is designed to remove obstacles faced by these citizens. Recognition of the inherent right of all citizens, regardless of their physical disability, to the full development of their economic, social, and personal potential is needed. Adoption and implementation of this policy requires the mobilization of the resources of the private and public sectors so that we fully integrate handicapped persons into their communities.

Mr. President, the Senate passed this legislation on May 20, 1975. Unfortunately, the House has yet to act. I urge that action be taken by the House Committee on Education and Labor. I should like to see this bill signed into law.

BICENTENNIAL WREATH LAID ON TOMB OF GEORGE WASHINGTON

Mr. HARRY F. BYRD, JR. Mr. President, the George Washington Chapter of the Sons of the American Revolution honored our first President on the Fourth of July by laying a wreath on his tomb. Members of the George Washington Chapter, their guests and friends gathered at the Mount Vernon gate at 9 a.m. and walked to the tomb of General Washington accompanied by the Mount Vernon Guard and their music.

The current president of the George Washington Chapter, Mr. George S. Knight, gave a brief address at the tomb prior to the placing of the wreath.

His subject was "Our Precious Heritage." Mr. Knight stressed that it was the responsibility of all present-day citizens and patriots to keep the torch of freedom and liberty burning ever bright.

The wreath-laying is an annual event and custom of the George Washington Chapter, which was initiated by Mr. Don Baldwin of Alexandria when he formerly was the chapter's president.

I ask unanimous consent that the address by George S. Knight, of Alexandria, Va., president of the George Washington

Chapter of the Sons of the American Revolution, be printed in the Record.

There being no objection, the address was ordered to be printed in the Record, as follows:

Our Precious Heritage

(By George S. Knight)

On this auspicious occasion, I would like for us to consider for a moment our Precious Heritage.

Recently, Dr. Donald Jackson, upon researching the papers of our First President, said that General Washington was a warm person who resembled a typical Virginia farmer with a dry sense of humor and a quick temper. He was a most meticulous man in all of his endeavors. He even had a detailed inventory of the contents of his home here at Mt. Vernon, including the books in his library. More than 50 of his personal diaries have been located. He kept notes on 340 kinds of trees, flowers and shrubs, planted at Mt. Vernon and recorded the temperature three times a day in an effort to determine the weather. In addition to being an outstanding military leader, his farming activities at Mt. Vernon were supplemented by fox hunting, attending the theater, family gatherings, and acting as vestryman, magistrate and burgess.

We, who are the decendants of our revolutionary patriots, are proud of the courage and honor displayed by George Washington, both in war and in peace. A wise, good and great man, he was truly a giant among men even in the company of stalwarts such as Patrick Henry, George Mason, Thomas Jefferson and Richard Henry Lee. Our ancestors gave us a heritage of freedom—a burning torch whose light of freedom must be kept ever bright. Our forefathers also believed that America was the "last, best hope of earth".

A recent study made by Freedom House concludes that only about 20% of the world's population lives in freedom. The threat to this precious heritage exists today as in 1776. All patriotic citizens have the responsibility of preserving and protecting this precious gift of freedom and liberty. Let us look at a new birth for America so it will be capable of fulfilling its destiny. Let us keep the torch of freedom ever bright.

In closing, may I read part of a Bicentennial Poem by Robert Gordon:

Through stormy night, by freedom's light,
This nation found its place:
New land of opportunity, new hope for every race.
To dream of old, to vision bold, let loyal hearts be true,
That future years be free of fears, this pledge we now renew:
To never yield on freedoms field, till patriot's work be done:
Let unity our motto be, let millions march as one.
America, America, most blessed land on earth
America, America, God grant thy soul rebirth
One brotherhood, one common good, one goal, one destiny:
Forever in America, man's spirit shall be free.

HENRY J. RICHARDSON—A 50-YEAR PURSUIT FOR RACIAL EQUALITY

Mr. BAYH. Mr. President, for 50 years, the name of Henry J. Richardson, Jr., has been synonomous with the battle for racial equality in Indiana.

As an attorney, legislator and now judge, he has had an exceptional career repeatedly marked by outstanding achievements. He was the first black Democrat in a generation to be elected to the Indiana Legislature where he was the coauthor of numerous welfare bills and authored the first fair employment practice law in America to prohibit racist and religious employment on public works projects in the State. He is the founder of the Indianapolis Urban League and has been a counselor for the NAACP.

This past week, more than 750 persons representing nearly every segment of the Hoosier community paid tribute to this dedicated man at a testimonial dinner.

Mr. President, in further tribute to this deserving citizen who has served his State and country so well for so long, I ask unanimous consent that newspaper accounts of this dinner honoring Judge Richardson be printed in the Record.

There being no objection, the articles were ordered to be printed in the Record, as follows:

[From the Chicago Defender, July 1, 1976]

Richardson of Indiana

(By Benjamin E. Mays)

If anyone deserves the honor given him by his state, Judge Henry J. Richardson has earned the right to be honored. I have never been with so many judges in all my life. It seems that every judge in the State of Indiana was present at Stouffer's Inn on June 21 to pay tribute to Judge Richardson.

The Chief Justice of Indiana was there, the Governor of Indiana, Urban League Executives, President of the University of Indiana, and the Chief Judge of the Supreme Court were all there. Yes, he deserves it. For 50 years Henry J. Richardson has been on the firing line battling for Civil Rights, way back before most of the young fledglings were born.

It took courage for a young black man to do battle in Indiana 50 years ago when Indiana has been noted for Ku Klux Klan activities for many decades.

In 1926, fifty years ago, he took on the Ku Klux Klan. He literally fought discrimination alone until 1949. He "promoted, wrote and financed the passing of the 1949 School and Teacher Desegregation Public School Integration Law, prohibiting segregation because of race as a matter of public policy in Indiana and won. He met discrimination at 21 enroute to Huntsville, Ala., to see his ill mother. He met segregation in depth on the railroad, when whites filled up the train, Negroes were put in the baggage car with a dead soldier enroute from Europe. The corpse's box was Richardson's seat. These experiences convinced young Richardson that he had to fight these deadly evils.

Graduating from the University of Indiana Law School in 1928, he has fought injustice in the courts for 48 years. He was the first Negro Democrat elected to the Indianapolis Legislature in 1932 after 30 years.

While in the legislature, he co-authored all the welfare legislations and he authored and passed the first Fair Employment Practice Law in America to prohibit racist and religious employment on public works projects in the state as to highways and building of buildings. He integrated the National Guard in Indiana.

He is the founder of the Indianapolis Urban League and has been counselor for the NAACP. He co-authored the bill to prohibit the Klans from marching with hoods.

Richardson is one of the greatest men that this country has produced. Richardson is great for the following reasons:

1. Only a great man could draw people from all over the state and from several sections of the nation as did Richardson. The judges of the city and state came to honor a great man.

2. Great because he is fearless, never asking what will happen to me if I do this, but only is it right.

3. He is great because he was born free. Only a free man can fight for right.

4. Richardson is great because he has cast his lot with the man farthest down as did the truly great men of history.

5. He is great because he is worried about a lack of morality and ethic in high places; in his seventies is trying to do something about it.

6. Great because he believes, despite the conditions, that this world is in God's hands.

I salute Henry J. Richardson!

[From the Indianapolis Recorder, June 26, 1976]

Praise Flows at Testimonial Honoring Attorney Richardson

For 50 years, the name Henry J. Richardson Jr. has been synonymous with the thrust for racial equality in Indiana.

As attorney, legislator and judge, he has had a glorious career repeatedly marked by crowning achievements.

On Monday night (his birthday), some 750 persons representing virtually every segment of the Hoosier community paused to salute the colorful attorney at a testimonial dinner in Stouffer's Inn.

Attorney Richardson, known for his flowing speech and poignant letters, sat still for a change to hear himself praised over and over in glowing terms by public officials, fellow lawyers and judges, civic leaders, other professionals and acquaintances.

The first of 26 individuals to toast Richardson was Indiana Governor Otis Bowen, saying the attorney's services during the past 50 years underscores "the significance of tonight's testimonial."

Quoting a statement in last week Recorder's editorial—"Henry J. Richardson Jr. occupies a special place in the hearts of Indiana blacks"—Bowen added "he should occupy a special place in the hearts of all Indiana citizens."

One of the warmest tributes came from Dr. Benjamin E. Mays, president emeritus of Morehouse College and Atlanta School Board president.

The nationally-known educator spoke of the honoree as "a man who has brought honor to his county, state and country, not as a black man, but as an American."

Mays said, "A man becomes great when he identifies with a man in need and works to help that man. Henry J. Richardson has been on the firing line 50 years to bring justice to the black man . . .

"Many don't like the man, but all respect him. If I had to choose between like and respect, I would choose respect."

Perhaps what endears Richardson most to the community is the fact he was battling for equality in Indiana when black rights was practically a hushed subject and the Ku Klux Klan was a force to be reckoned with.

In 1949, he authored and helped pass a school and teacher integration law and successfully fought for repeal of anti-black KKK law.

These courageous actions during an era of less favorable racial climate drew special comment from several speakers.

Federal Judge S. Hugh Dillin, responsible for decisions in current school desegregation litigation: "If judges had enforced Richardson's legislation passed in 1947, a lot of my problems would have been alleviated and might not even exist."

William Steckler, chief federal judge, Southern Indiana: "Judge Richardson intervened in an Evansville housing suit when very few lawyers had the courage to assert the rights of the individual."

Dr. A. D. Pinkney, Indianapolis NAACP Branch president: "We of the NAACP owe Henry Richardson a debt. He helped found the local branch and has worked ever since, not only locally, but nationally as well . . .

In 1933 and 1934, the NAACP was not very popular and smart black lawyers were even less popular."

Cordial comments came also from Thomas Binford, Indiana National Bank president, who like Richardson, is a former Indianapolis Urban League president.

"The real tribute to Henry is you, the audience," he said. "I have known Henry for 20 years and my life has changed because of him . . . I admire your dedication to accomplish reform in a system that is imperfect. I rate you with no peers."

Neatly attired in white suit and shirt with blue tie, the "man of the hour" received a standing ovation when he rose to speak.

"I am only a symbol of incidence sweeping across a period of 50 years," the diminutive attorney said.

He issued a call for the reshaping of America's moral attitude and went on to give his definition of "quality education." In his opinion, it's not something achieved in school or by busing, but is a combination of home, relationships and work.

"There is very little neighborhood relationship in Indianapolis because too damn many neighbors don't love themselves," he asserted.

Noting that respect, courtesy and moral value are of the utmost importance, he concluded that an "attitude of goodwill is worth more than gold, speeches and education."

His brief but sharp response was well received.

A FIFTY YEAR PURSUIT FROM RAGS TO RESPECT AND SERVICE

Starting with a philosophy which he got from his Cherokee Indian grandmother to wit:

1. "Nothing is free in the world and valuable assets are acquired through valuable service and hard work."
2. "All that is white is not clean and all that is black is not dirty."
3. "It is difficult for a man to be a brother to his fellow man as he must compete with him to survive—because of the human denominator of our social order of materialism—power and pride which unfortunately often leads to exploitation."
4. "God did not make man with the intent of man becoming or acting like a god on earth; nor did God make man to enslave, malign, exploit, or oppress his fellow man."
5. "Nothing goes over the devil's back that doesn't buckle under his belly eventually."
6. "For man to survive, his human hopes must be sustained by divine faith, which must transcend the inevitable negative social neurosis of his social environment."
7. "When trouble becomes acute and atrocious, man must look beyond his own wisdom and sufficiency to a greater power than his would-be wisdom and experience, and remember through faith that the seasons always change and nothing remains the same always—not even age or time."

With these bits of philosophy the young man remembered the advice of his Cherokee Indian grandmother and the philosophy of his father who was a retired Army Sergeant of the Spanish American War and a college graduate before the turn of the century—started to chart a course of the inevitable dream of success—though sensitive of his limitations because of his race and the limited powers of influence of his parents.

He attended Shortridge High School and was recently awarded a certificate of an honorary graduate of Shortridge. By the way of Chicago he attended the University of Illinois and we shocked when he arrived on the campus to find:

1. That the dormitories prohibited his admission and,
2. That there was only one restaurant available to minorities—this was a bashing challenge to the idealistic, ambitious young man. It was worse than what he had left in Indianapolis in 1921.

While at Illinois, his mother in Huntsville, Alabama, became ill and he took the L and N train out of Champaign, Illinois to Effingham, Illinois and the passengers changed to the Southern railroad going south. At Effingham he was positively advised that he had to change to the segregated coaches and after having ridden the segregated coaches for two hours on the southern railroad, the conductor came in and advised him that he and all his kind had to move to the baggage car as the white additional passengers needed the space occupied by the colored passengers. He rode in the baggage car for about two or three hours seated on a box containing a corpse being returned to America from Europe and the corpse was that of a dead American soldier killed in battle during the first world war. As a youngster these grave experiences did much to mold the rest of his life—in the direction of fighting the atrocious injustices and wrongs of our social order and fighting for justice for all and to do all in his power to bring about a social and democratic reformation and an absolute meaningful application of the United States Constitution of the Bill of Rights.

In 1925, he returned to Indianapolis and entered Indiana Law School at the Indianapolis division where he was graduated in 1928 in the upper one-third of his class. At an early age he learned the value of the democratic process of America was wielded by power—power of the vote and power of money; having no money, in 1930 he chartered his political course and ran for the Indiana Legislature on the Democratic ticket, where he was defeated. He had become sensitive to the atrociousness of the public school board of Indianapolis which changed in 1925 because of the control of the Ku Klux Klan of the city and state. The die was cast and he felt that the gauntlet had been thrown directly at him—so in 1926 when the Indianapolis Klan school board passed a resolution to segregate his alma mater, which was Shortridge High School which was then at Michigan and Pennsylvania Streets, and to build Attucks High School (which was built in 1927) with absolute prohibition of integration of Negroes and to any other schools except Catholic schools, which did not kneel to the insidious racial state of hatred; but, maintained an open policy of integration involving schools throughout the state—he started his fight in 1926 against the insidious, unchristian, and undemocratic Klan school board of segregation in the public schools of Indianapolis and the state of Indiana. He consistently fought this battle often alone, until in 1949 he promoted, wrote, and financed the passing of the 1949 School and Teacher Desegregation Public School Integration Law and prohibiting segregation because of race as a matter of public policy in Indiana. The law was fought viciously in the legislature; but, a majority of the Godfearing men who believed in brotherhood and the Good Neighbor Policy under the leadership of Governor Henry F. Schricker prevailed as a majority in both houses and the 1949 law became a reality. Unfortunately, the roots of deep-seeded duplicitous brotherhood and racial hatred fought viciously to prevent the implementation of the 1949 school desegregation law even after it became the state law and public policy of the state definitely declaring that all public school as to students and teachers should be integrated.

In the meantime the fearless, dedicated young judge and legislator was making speeches throughout the country and at universities attempting to bring about a social reformation and challenge the consciousness of America.

The young battler as a lawyer having received his degree of law in 1928 has continued his fight even since Congress passed in 1954 a school desegregation law and after 50 years of fighting, he is now wondering whether or not America is a civilized Christian nation.

In 1930, he was appointed Judge pro tem for the vacation term of Marion County Superior Court 3 by Judge John Higgins—a first in the history of Marion County and the state of Indiana; in 1932, he was elected to the Indiana Legislature on a county wide vote running 6 on the ticket—the first Negro to be elected in 30 years and the first Democrat to be elected and re-elected in the history of the state. His record in the '33, '35, and '36 legislature is history of a most challenging and determined color and almost single-handedly he fought to amend the 1885 Civil Rights Law which was defeated by 8 votes on February 6, 1936; while in the legislature he co-authored all the welfare legislations and he authored and passed the first Fair Employment Practice Law in America to prohibit racial and religious discrimination as to employment on public works projects in the state as to highways, and the building of public buildings. While in the legislature he also amended the 1859 Constitution which provided that only white males 21 years of age and older could serve in the Indiana State Militia. This amendment to the Constitution was passed on by two sessions of the legislature and presented to the voters and became an amendment to the Constitution in 1936 and today in our integrated state National Guard, we have outstanding officers of all races and religions patriotically rendering service to our country.

Indiana University was the first state university set up in the country, though unfortunately it followed the pattern of Indiana which was a pseudo nonslave state, though it had adhered to a policy of absolute racial discrimination and segregation plus a quota of other religious and racial minorities. In 1933 the acute issue at Indiana University in Bloomington was that it prohibited Negro students from admission to the school dormitory. The young judge and legislator from Marion County took up the challenge and in the 1935 legislative session, threatened to lead a wholesale fight against any money being appropriated by the legislature for the operation of Indiana University unless its racial segregation policy was changed and that no money should be allocated to operate the university as long as it had racial and segregation quota policy of operation. With the help of a few Godfearing legislators of goodwill, and especially Senator Ward Biddle and Senator Henry F. Schricker, the policy at Indiana University was changed and soon thereafter, Dr. Herman Wells became president of the university and led a complete policy of racial reformation of the university policy as to equal options and rights for all racial and religious minorities. The policy has progressively expanded under former President Elvis Stahr and President John W. Ryan, except the university still has no minorities on the trustee board.

In 1936 he was on his way to Tuskegee Institute in Tuskegee, Alabama to speak, and while driving through Birmingham, Alabama in a chauffeured limousine, he was arrested under the color that he was part of a gang from Chicago who had been passing counterfeit money. After spending some hours on the eighth floor in the detective department of the Birmingham jail, he proceeded to exercise his legislative rights as a state official under the principle of comity between sovereign states, and was waiting the return to Indiana for a special session of the legislature in 1936. He proceeded to contact the Lieutenant-Governor of Alabama (Lieutenant-

Governor Knight), as Governor Graves was sick in Mobile, Alabama. The Lieutenant Governor was former Attorney-General of Alabama and the same person who prosecuted the infamous Scottsboro boys pseudo rape case. The legislator was released and an apology was given to him in writing, which also carried identification while in the state of Alabama, which was issued on the official stationery of the Governor by Lieutenant-Governor Knight.

The courageous and dedicated attorney for justice and democratic process of government made for himself many respectable and creditable friends; but, also created many cells of opposition and personal enemies who disagreed with him, but none of this deterred or stopped him from fighting for human rights and justice through the legal process of court. He served on a legal staff of the N.A.A.C.P. and participated in United States Supreme Court cases with the renowned Thurgood Marshall who was chief counsel for the legal division of N.A.A.C.P. and who is now an outstanding member of the United States Supreme Court; and as Civil Liberties Director of the Elks of America of which he is a life member and Civil Rights Director of the National Bar Association.

In 1948 the Dixiecrat party backing Senator Thurman for president entered the political arena of Indiana and was approved by the state election commission to appear on the state ballot. The attorney filed in the Marion County Circuit Court an injunction against the state election commission to prohibit the Dixiecrats from appearing as an approved legal and political party on the state ballot. The injunction was based upon the fact that the voters who signed the petition were fraudulent and the Dixiecrat party's avowed policy was contrary to the public policies and Constitution of Indiana. The honorable Cleon Foust was Attorney-General and joined in petitioning the state for a permanent injunction against the Dixiecrats appearing on the ballot in Indiana. This was an action financed by the attorney and handled solely by his office. While in the legislature, the attorney-legislator co-authored an act to prohibit the Ku Klux Klan from marching with hoods on in the streets of Indiana and repealed the Horse Thief Detective Act, which association had the official sanction of the state as to its actions and policies, who operated at will as a law unto themselves with immunity and impunity. After the passage of this act in Indiana, the Ku Klux Klan went underground and they reappeared under another name known as the Silver Shirt Knights with headquarters in Noblesville, Indiana, and the Silver Shirt Knights attempted to take over where the Klan left off. The courageous human rights and civil rights attorney worked with the committee which passed the Indiana 1948 anti-hate law prohibiting exploitation of racial hatred or the promotion of any organization adhering to racial hatred.

The Klan and the Silver Shirt Knights and the Colombians (Klan orientated groups) attempted to, on numerous occasions, to resurrect in Indiana a campaign of racial hatred and did not succeed until about the middle of the 60's when they founded an ultra-conservative group known as the Anti-Busing Group to prohibit school integration—the issue has been before the Federal Court of Indiana under the Honorable S. Hugh Dillin for the past four years—which case the civil rights pioneer has participated as counsellor and advisor to the attorneys handling the school action on behalf of Negro citizens who are dedicated to equal quality education for all.

During this period beginning with the height of the Klan era of '25, Indiana and Indianapolis was a midwest northern state and city with a southern exposure of racial discrimination as to hotels, restaurants, and theaters. In 1949, the National Bar Association made up of outstanding lawyers, judges, and prosecutors of the Negro race met in Indianapolis for their annual meeting. The committee attempted to book reservations and were denied reservations. The civil rights attorney led a committee to work with the Hotel Association Committee for the allocation of reserving rooms for the Bar Association. It ended up that the Hotel Association including the Severen Hotel (which is now the Atkinson Hotel), the Lincoln Hotel and the old famous Claypool Hotel entered into an agreement with the local committee which was headed by the Attorney and Civil Rights Leader Richardson and the agreement was that "Richardson got an allocation of so many rooms from each hotel for the convention, on the condition that he put $10,000 in escrow to pay for the hotel reservations if they were not used and paid for by members of the National Bar Association." This was the beginning of the integration of the hotels and restaurants of Indianapolis. Fortunately, the attorney did not have to pay for any unused reservations as the National Bar Association of lawyers realizing the acute situation and revolutionary move to integrate the hotels, officially paid for all hotel reservations that had been committed used or not used by the convention. In 1953, as attorney for N.A.A.C.P., the courageous and fearless civil rights leader filed a suit against the Evansville Public Housing Authority charging racial discrimination. The case was heard before the Honorable Chief Judge William H. Steckler of Indianapolis and on July 6, 1953, the judge issued a permanent injunction against the Evansville Housing Authority prohibiting racial discrimination as to the public housing project. This was the first case won by the N.A.A.C.P. in America as to prohibiting discrimination in public housing projects and facilities.

In 1942, with the Federation of Association Clubs of Indianapolis, he led the fight to desegregate the theaters in Indianapolis which was successful of which he was one of the founders 48 years ago. In 1949, he served as Special Judge for ten months in Marion County Criminal Court Room 1 and in 1959 he served as Judge pro tem in Criminal Court Room 1.

He was Vice-President of the Church Federation of Greater Indianapolis and was moderator of the Church Laymen's Round Table which was on the air for two years on WIBC radio during the early 50's and during the McCarthy era. He has also served as a member of the executive committee of the Institute of International Relations at Antioch College in Yellow Springs, Ohio. His battles have been many far and wide for human justice without compromise. He is a life member of the N.A.A.C.P. and a former member of the National Board of the United Negro College Fund and of the National Urban League and is former president of the Indianapolis Urban League, which he helped found.

He is a life member of the Federation of Association Clubs and a life member of Alpha Phi Alpha Fraternity, and a member of Phi Alpha Delta Law Fraternity, and has served on the State Board of Public Welfare and the State Real Estate Commission and has been honored for his public service with many awards including a gold key from the city of Indianapolis and a resolution of recognition from the Indiana University Law School Indianapolis Division, where he is serving his third term as a member of the Indianapolis Law School Visiting Board and has been awarded the honor of membership of the Council of the Wabash by three governors of Indiana and has served as legal attorney for the Federal H.O.L.C. Corporation passing on real estate titles for the federal government thanks to his friends, Judge Joseph Wood, Sr., and E. Kirk McKinney; he served ten years on the Mayor's Progress Board of the city of Indianapolis under two mayors and served as vice-president of the National Laymen's Y.M.C.A. Organization.

He sums his life up in one straight statement, "Of my seemingly one hundred years of effort, I have tried but wrought little as a matter of profound social, moral, and legal justice and changes for equal justice and equal opportunities for all in Indiana."

"Many ask how I have survived and I must honestly say that through the grace of God, His mercy, and through the cooperation of a few friends who helped me on my way thus far."

As a member of the Federal Civil Rights Commission in the 40's, much positive emphasis was directed at employment of minorities in industry. Indiana Bell, Citizens Gas, RCA, Link-Belt, and International Harvester were the pioneers in the early days of opening the doors for employment of minorities. Today the door is opening wider; but, unfortunately, the foibles of admission without acceptance is still a part of our overall pattern of social neurosis.

Shall We Wreck Our Democracy?

(What price should America pay for justice and equal education)? The future is like a dark tunnel with a flash of light from a lightning bug at the end with a large majority of adult Americans being led by the President and the Attorney-General, who is of a minority group, and who recently screamed to high heaven when his group was stamped as a racist group, who are leading America down the primrose trail of divisiveness, which is weakening America's overall social structure, which is challenging the basic law and our Constitution of protection of all citizens. Our greatest hope is in the young people between 10 and 25, if their minds have not been tarnished and abused and innoculated with too much division and disrespect for their fellow man, regardless of his race or religion—with a deep principle of moral and deep ethics of humanity. If the leading government officials are going to encourage the citizens to violate the law, how can we expect America to respect and uphold the law and the Constitution?

S. 2028—THE COMPETITION IMPROVEMENTS ACT OF 1976

Mr. HUGH SCOTT. Mr. President, in recent years, there has been much dissatisfaction with the regulatory performance of Federal agencies. Several studies have shown that the major causes of this disillusionment are that Federal agencies simply have not regulated in accordance with their statutory purposes and that too often regulation has been unthinkingly applied when competition would better serve the public interest.

As President Ford stated in his economic report of 1976:

> Success in promoting healthy economic growth and a vigorous private economy depends to a large extent on our eliminating Government policies and institutions which interfere with competition. Traditionally the American system has relied on competition to organize production and to encourage economic progress. The Government, however, has attempted to correct imperfections in competition by regulating prices and the quality of services in many different industries. This attempt has been less than a complete success. Regulation has been useful in curbing the pricing power of certain monopolies and in fostering the growth of new industries, such as air transportation in the 1940s and 1950s. It has also helped to ensure compliance with such publicly determined social goals as clean air and safe working

conditions. But in several industries, regulation has been used to protect and support the growth of established firms rather than to promote competition.

I believe S. 2028, the Competition Improvements Act of 1976, would correct these malfunctions. The essence of the bill is the creation of a uniform antitrust standard to be applied by Federal agencies. A uniform standard does not mean uniform results. An agency can take action to lessen competition: First, if such action would be necessary to accomplish an overriding statutory purpose of the agency, and second, if the benefits outweigh the anticompetitive effects, and third, if it is the least anticompetitive alternative available.

An important point to emphasize is that this antitrust standard does not require additional hearings or generate additional paperwork. This bill fits well into existing agency procedures so as to minimize delay and unnecessary procedural problems. It will also serve to increase significantly the efficiency and effectiveness of Federal regulatory agencies.

Under prevailing procedures, the regulatory agencies tend to standardize practices among firms in a given industry. Many times these standardized regulations are so highly technical and complex, and compliance costs so high that a small businessman cannot comply with them. The entrepreneur has neither the staff nor the machinery to meet Federal regulations and he is forced out of the market. This not only decreases competition in the overall market to the detriment of the consumer, but denies some people the chance to fulfill the American dream of success.

As a cosponsor of this legislation, I urge it be given every proper consideration.

COURT DECISIONS UNDER THE FREEDOM OF INFORMATION ACT

Mr. KENNEDY. Mr. President, over the past few years I have been placing in the Record lists of cases pending or decided under the Freedom of Information Act. One of the important features of that law is its granting of the right to go to court to obtain review of agency denials of information. This right is a valuable one in insuring agency accountability and responsibility. And the court cases provide both the Government and the public with guidance on interpreting the FOIA.

The Department of Justice has just provided me with an updated list of court decisions under the FOIA. I want to commend Mr. Robert Saloschin of the Office of Legal Counsel who, as chairman of the FOI Committee, has had a list compiled that is more than just a string of citations but provides references and cross-references which make the list a practical research tool.

I ask unanimous consent that the June 1976 edition of the FOIA case list be printed in the Record.

There being no objection, the case list was ordered to be printed in the Record, as follows:

[U.S. Department of Justice, Office of Legal Counsel]

FOI Case List—June 1976 Edition

(1) Temporary restraint of agency proceeding pending disposition of FOI claim, *Abrahamson Chrysler-Plymouth* v. *NLRB*, 91 L.R.R.M. 2343 (N.D. Ill. Jan. 29, 1976).

(2) X5, 6, *Ackerly* v. *Ley*, 420 F.2d 1336 (D.C. Cir. 1969).

(3) Preliminary injunction of agency proceeding pending disposition of FOI claim, *Amerace Corp.* v. *NLRB*, 91 L.R.R.M. 2344 (W.D. Tenn. Dec. 15, 1975).

(4) X3, *American Jewish Congress* v. *Morton*, Civ. Act. No. 75–1541 (D.D.C. April 30, 1976).

(5) X5, *American Mail Line, Ltd.* v. *Gulick*, 411 F.2d 696 (D.C. Cir. 1969).

(6) X4, 5, 7(A), (D), *in camera* inspection, *Amway* v. *FTC*, 1976–1 Trade Cas. ¶ 60,798 (D.D.C. Mar. 10, 1976).

(7) X7, *Anchorage Building Trades Council* v. *HUD*, 384 F.Supp. 1236 (D. Alaska 1974).

(8) X5, 7, *Ash Grove Cement Co.* v. *FTC*, 371 F. Supp. 370 (D.D.C. 1973), *remanded* 511 F.2d 815 (D.C. Cir. 1975), *rehearing denied* 519 F.2d 934 (D.C. Cir. 1975).

(9) X5, 7, *Aspin* v. *Department of Defense*, 348 F.Supp. 1081 (D.D.C. 1972), *aff'd* 491 F.2d 24 (D.C. Cir. 1973).

(10) X3, *Association of American Railroads* v. *United States*, 371 F.Supp. 114 (D.D.C. 1974).

(11) (a)(2), X5, *Astro Communications Laboratory* v. *Renegotiation Board*, Civ. No. 2403–70 (D.D.C. May 16, 1974).

(12) Injunction of agency proceeding pending resolution of FOI claim, X5, X7(A), *Atlas Industries* v. *NLRB*, 91 L.R.R.M. 2676 (N.D. Ohio Feb. 23, 1976).

(13) X2, 3, 4, 5, 6, 7, "agency," *Aug* v. *Natl. Railroad Passenger Corp.*, Civ. Act. No. 74–1054 (D.D.C. Mar. 30, 1976).

(14) Prohibiting termination of agency proceeding pending resolution of FOI request, *Automobile Club of Missouri* v. *NLRB*, 71 CCH Lab. Cas. ¶ 13,672 (D.D.C. May 15, 1973).

(15) Exhaustion of adm. remedies, *Aviation Consumer Action Project* v. *CAB*, 379 F.Supp. 945 (D.D.C. 1972) *aff'd* 480 F.2d 1195 (D.C. Cir. 1972).

(16) X3, 5, *Aviation Consumer Action Project* v. *CAB*, Civ. Act. No. 413–73 (D.D.C. May 10, 1976).

(17) X5, Fed. Advisory Comm. Act. *Aviation Consumer Action Project* v. *Washburn*, D.C. Civ. Act. 1838–73 (D.C. Cir. April 6, 1976).

(18) (a)(3), X3, 5, 7, *B & C Tire Co., Inc.* v *ISR*, 376 F. Supp. 708 (N.D. Ala. 1974).

(19) X3, *Bachrack* v. *CIA*, No. CV 75–3727–WPG (C.D. Cal. May 13, 1976).

(20) Injunction of agency proceeding pending resolution of FOI suit, (a)(3), *Bannercraft Clothing Co.* v. *Renegotiation Board*, 466 F.2d 345 (D.C. Cir. 1972), *rev'd and remanded* 415 U.S. 1 (1974).

(21) X4, 7, *Barceloneta Shoe Corp.* v. *Compton*, 271 F.Supp. 591 (D. Puerto Rico 1967).

(22) X7, *Barnes & Noble Bookstores* v. *NLRB*, 92 L.R.R.M. 2169 (S.D. N.Y. Mar. 12, 1976).

(23) Injunction of agency proceeding pending examination of plaintiff of (a)(2) indices, *Bayview Associates* v. *NLRB*, 75 CCH Lab. Cas. ¶ 10,524 (D.D.C. Dec. 20, 1974).

(24) X5, 7(A), (C), (D), *Bellingham Frozen Foods* v. *Henderson*, 91 L.R.R.M. 2761 (W.D. Wash. Mar. 5, 1976).

(25) X7, *Black* v. *Sheraton Corp. of America*, 371 F.Supp. 97 (D.D.C. 1974).

(26) X2, 4, 5, *Benson* v. *General Services Administration*, 289 F.Supp. 590 (W.D. Wash. 1968), *aff'd* 415 F.2d 878 (9th Cir. 1969).

(27) X7, *Benson* v. *United States*, 309 F. Supp. 1144 (D. Neb. 1970).

(28) Discovery, *Bodner* v. *FTC*, 74–2 CCH Trade Cas. ¶74,289 (D.D.C. Oct. 31, 1974).

(29) *Vaughn* v. *Rosen* index requirement, *Bodner* v. *FTC*, 1975 CCH Trade Cas. ¶60,118 (D.D.C. Jan. 9, 1975).

(30) X5, *Bodner* v. *FTC*, Civ. No. 74–1189 (D.D.C. Feb. 24, 1975).

(31) X3, *Brandon* v. *Sampson*, Civ. No. 73–2232 (D.D.C. April 24, 1974).

(32) X4, 5, 7, *Bristol-Myers Co.* v. *FTC*, 284 F.Supp. 745 (D.D.C. 1968), *rev'd* 424 F.2d 935 (D.C. Cir. 1970), *cert. denied*, 400 U.S. 824 (1970).

(33) X4, 5, *Brockway* v. *Department of the Air Force*, 370 F.Supp. 738 (N.D. Iowa 1974), *rev'd* 518 F.2d 1184 (8th Cir. 1975).

(34) X4, reverse FOI case, 18 U.S.C. 1905, *Burroughs Corp.* v. *Schlesinger*, 403 F.Supp 633 (E.D. Va. 1975).

(35) X2, 5, 6, *Campbell* v. *United States Civil Service Comm'n*, Civ. Art. No. 75–M–494 (D. Colo. Sept. 4, 1975).

(36) Injunction of agency proceeding pending resolution of FOI claim, X7(A), *Capital Cities Communication, Inc.* v. *NLRB*, 91 L.R.R.M. (N.D. Cal. Feb. 20, 1976).

(37) (a)(3), X7, *Center for Nat. Policy Review on Race & Urban Issues* v. *Richardson*, Civ. No. 2177–71 (D.D.C. Dec. 8, 1972), *rev'd* 502 F.2d 370 (D.C. Cir. 1974) (v. *Weinberger*).

(38) (a)(3), (4)(B), X5, 7(A), (C), (D), *Cessna Aircraft Co.* v. *NLRB*, 405 F.Supp. 1042 (D. Kan. 1975).

(39) X3, discovery, *Chamber of Commerce of the United States* v. *Legal Aid Society*, 96 Sup. Ct. 5 (Douglas, Circuit Justice, 1975).

(40) X3, 5, 6, 7(A), (C), (D), (a)(2)(C), *Chamberlain* v. *Alexander*, Civ. Act. No. 7742–73 (S.D. Ala. April 5, 1976).

(41) X6, *Chappell* v. *Hodgson*, Civ. No. 15,-480 (D. Conn. July 23, 1973).

(42) Temporary restraint of agency proceeding pending disposition of FOI claim, X7(A), *Chassen Bakers, Inc.* v. *NLRB*, 91 L.R.R.M. 2345 (M.D. Pa. Dec. 12, 1975).

(43) X4, reverse FOI case, 18 U.S.C. 1905, *Charles River Park "A", Inc.* v. *HUD*, 360 F. Supp. 212 (D.D.C. 1973), *remanded* 519 F.2d 935 (D.C. Cir. 1975).

(44) X7, *Chavkin* v. *Alexander*, 401 F.Supp. 817 (S.D.N.Y. 1975).

(45) X4, 18 U.S.C. 1905, 5th Amendment notice requirement, reverse FOI case, *Chrysler Corp.* v. *Schlesinger*, Civ. Act. No. 75–159 (D. Del. April 20, 1976).

(46) X7(D), 1, 2, 5, 7(A), (F), *Church of Scientology of California* v. *U.S. Dept. of Justice*, No. CV 74–3550–F (C.D. Cal. April 2, 1976).

(47) X3, 4, *Citizens for a Better Environment* v. *U.S. Dept. of Commerce*, No. 75 C 3577 (N.D. Ill. Mar. 29, 1976).

(48) (a)(1), (2), (3), X2, 5, *City of Concord* v. *Ambrose*, 333 F. Supp 958 (N.D. Cal. 1971).

(49) X7, *Clement Brothers Co.* v. *NLRB*, 282 F.Supp. 540 (N.D. Ga. 1968), *aff'd* 407 F.2d 1027 (5th Cir. 1968).

(50) X5, 7(A), (C), (D), discovery, *Climax Molybdenum Co.* v. *NLRB*, 407 F. Supp. 208 (D. Colo. 1975).

(51) X3, 4, 5, 7, *Cogswell* v. *FDA*, Civ. No. 51990–ACW (N.D. Cal. June 5, 1970).

(52) X7, *Collins* v. *Federal Highway Admin.*, Civ. Act. No. 6486 (E.D. Va. July 29, 1968).

(53) X6, *Columbia Packing Company, Inc.* v. *U.S. Dept. of Agriculture*, Civ. Act. No. 75–5230 (D. Mass. June 16, 1976).

(54) X5, *Comey* v. *AEC*, Civ. Nos. 73–1258, 73–1358 (7th Cir. July 27, 1973).

(55) FOI suits brought in D. Cts., not Cir. Ct., *Commercial Envelope Mfg. Co.* v. *S.E.C.*, 450 F.2d 342 (2d Cir. 1971).

(56) X7, *Committee to Investigate Assassinations, Inc.* v. *Department of Justice*, Civ. No. 71–1829 (D.C. Cir. Oct. 24, 1973).

(57) (a) (4) (E), mootness, backlog, *Communist Party of the U.S.* v. *U.S. Dept. of Justice*, Civ. Act. No. 75–1770 (D.D.C. March 23, 1976).

(58) Case or controversy, reverse FOI case, *Consumers Union of the U.S., Inc.* v. *Consumer Product Safety Comm'n.*, 400 F. Supp. 848 (D.D.C. 1975).

(59) X4, *Consumers Union* v. *Federal Reserve System*, Civ. No. 1766–73 (D.D.C. May 31, 1974).

(60) Declaratory relief, *Consumers Union* v. *Interstate Commerce Comm'n.*, 1975 CCH F. Carr. Cas. ¶ 82,528 (D.D.C. Aug. 13, 1974).

(61) Declaratory relief, X4, 7, *Consumers Union* v. *Saxbe*, 1974 CCH Trade Cas. ¶ 75,057 (D.D.C. May 9, 1974).

(62) X2, 4, 5, *Consumers Union* v. *Veterans' Administration*, 301 F.Supp. 796 (S.D. N.Y. 1969), *dis'd as moot* 436 F.2d 1363 (2d Cir. 1971).

(63) X4, reverse FOI case, *Continental Oil Co. v. FPC*, 519 F.2d 31 (5th Cir. 1975).

(64) X2, 5, 7, *Control Data Corp.* v. *FTC*, No. 4–74–Civ.–25 (D. Minn. May 3, 1974).

(65) X5, 7(A), (D), *in camera* inspection, fees, *Control Data Corp.* v. *FTC*, No. 4–74 Civ. 412 (D. Minn. Sept. 3, 1975) *motion for reconsideration denied* (Oct. 16, 1975).

(66) Ct. records are not agency records, *Cook* v. *Willingham*, 400 F.2d 885 (10th Cir. 1968).

(67) X, *Cooney* v. *Sun Shipbuilding & Drydock Co.*, 288 F.Supp. 708 (E.D. Pa. 1968).

(68) X5, *Cooper* v. *Department of the Navy*, 396 F.Supp. 1040 (M.D. La. 1975).

(69) X7, *Cowles Communications, Inc.* v. *Department of Justice*, 325 F.Supp. 726 (N.D. Cal. 1971).

(70) X2, 5, *Cuneo* v. *Schlesinger*, 338 F. Supp. 504 (D.D.C. 1972), *rev'd and remanded in part* 484 F.2d 1086 (D.C. Cir. 1973), *cert. denied*. 415 U.S. 977 (1974).

(71) Exhaustion of administrative remedies, *Cupp* v. *Levi*, Civ. Act. No. 75–399 (W.D. Pa. August 5, 1975).

(72) X3, 4, *Cutler* v. *CAB*, 375 F.Supp. 722 (D.D.C. 1974).

(73) (a) (2), X5, *David B. Lilly Co.* v. *The Renegotiation Board*, 521 F.2d 315 (D.C. Cir. 1975).

(74) X5, 7(A), (C), (D), *Deering Milliken, Inc.* v. *Nash*, Civ. Act. No. 75–864 (D.S.C. Nov. 12, 1975).

(75) Fees, *Diapulse Corp.* v. *FDA*, 500 F.2d 75 (2d Cir. 1974).

(76) X5, 7, Discovery, *Distillery, Rectifying, Wine and Allied Workers* v. *Miller*, 68 CCH Lab. Cas. ¶ 12,750 (W.D. Ky. May 17, 1972).

(77) X4, 6, *Ditlow* v. *Shultz*, 379 F.Supp. 326 (D.D.C. 1974), *decision deferred* 517 F.2d 166 (D.C. Cir. 1975).

(78) X3, 4, 5, 7, *Ditlow* v. *Volpe*, 362 F. Supp. 1321 (D.D.C. 1973), *rev'd* 494 F.2d 1073 (D.C. Cir. 1974). (*Ditlow* v. *Brinegar*).

(79) Jurisdiction, *Echols* v. *NLRB*, 525 F.2d 288 (6th Cir. 1975).

(80) (a) (4) (B), injunction of agency proceeding pending resolution of FOI suit, X5, 7(A), *Electri-Flex Co.* v. *NLRB*, 92 L.R.R.M. 2142 (N.D. Ill. April 8, 1976).

(81) X1 *Epstein* v. *Resor*, 296 F.Supp. 214 (N.D. Cal. 1969), *aff'd* 421 F.2d 930 (9th Cir. 1970), *cert. denied* 398 U.S. 965 (1970).

(82) X5, *Equal Employment Opportunity Comm'n.* v. *Los Alamos Construction Inc.*, 382 F. Supp. 1373 (D. New Mexico 1974).

(83) (a) (3), X7, exhaustion of administrative remedies, *Etheridge* v. *IRS*, 74–1 U.S.T.C. ¶9354 (N.D. Ga. March 12, 1974).

(84) X5, executive privilege, *Ethyl Corp.* v. *EPA*, 478 F.2d 47 (4th Cir. 1973).

(85) X3, *Evans v. Department of Transportation*, 446 F.2d 821 (5th Cir. 1971).

(86) "Identifiable records", X5, 7, *Exxon Corp.* v. *FTC*, 384 F. Supp. 755 (D.D.C. 1974).

(87) Ct. not entertain FOI suit until complaint filed, *Farrell* v. *Ignatius*, 283 F. Supp. 58 (S.D. N.Y. 1968).

(88) X4, 5, *Fenster* v. *Fletcher*, Civ. No. 822–71 (D.D.C. Aug. 16, 1971).

(89) X6, attorneys fees, *Fensterwald* v. *CIA*, Civ. Act. No. 75–282–A (E.D. Va. Oct. 22, 1975).

(90) X4, 5, *Fisher* v. *Renegotiation Board*, 473 F.2d 109 (D.C. Cir. 1973), *on remand* 355 F.Supp. 1171 (D.D.C. 1973).

(91) "Agency records" (constructive possession), *Forsham* v. *Mathews*, Civ. Act. No. 75–1608 (D.D.C. Feb. 5, 1976).

(92) X4, 5, 7, *Frankel* v. *SEC*, 336 F.Supp. 675 (S.D. N.Y. 1971), *rev'd* 460 F.2d 813 (2d Cir. 1972), *cert. denied* 409 U.S. 889 (1972).

(93) (a) (2) (C), X3, 26 U.S.C. §§ 6103, 7213, equity powers, *Fruehauf Corp.* v. *IRS*, 369 F. Supp. 108 (E.D. Mich. 1974), *aff'd and remanded* 522 F.2d 284 (6th Cir. 1975), *cert. granted* 44 U.S.L.W. 3389 (Jan. 12, 1976).

(94) X5, "agency," *Gates* v. *Schlesinger*, 366 F.Supp. 797 (D.D.C. 1973).

(95) Preliminary injunction of agency proceeding pending disposition of FOI claim, *General Cigar Company, Inc.* v. *NLRB*, 89 L.R.R.M. 2863 (D.D.C. July 1, 1975).

(96) X4, 7, *Getman* v. *NLRB*, 77 L.R.R.M. 3063 (D.D.C. Jan. 21, 1971), *aff'd* 450 F.2d 670 (D.C. Cir. 1971), *app'l for stay of order den.* 404 U.S. 1204 (1971).

(97) Duplicate and derivative records, *Gideo* v. *Benson*, Civ. Act. No. TH 75–78–C (S.D. Ind. July 24, 1975).

(98) X4, 5, 7(A), (D), discovery, *Gifford-Hill, Inc.* v. *FTC*, 1975–2 CCH Trade Cas. ¶60,674 (D.D.C. Jan. 13, 1976).

(99) X5, *Ginsburg* v. *Richardson*, 436 F.2d 1146, 1152–53 (3rd Cir. 1971).

(100) X3, 26 U.S.C., §§ 6103(a), 7213(a), *Glickman, Lurie, Eiger & Co.* v. *IRS*, Civ. Act. No. 4–75–Civ. 303 (D. Minn. Oct. 14, 1975).

(101) X1, "agency records," *Goland* v. *CIA*, Civ. Act. No. 76–0166 (D.D.C. May 26, 1976).

(102) X5, 7(A), (D), *Goodfriend Western Corp.* v. *Fuchs*, 91 L.R.R.M. 2454 (D. Mass. Feb. 23, 1976), *rev'd* 92 L.R.R.M. 2466 (1st Cir. May 6, 1976).

(103) X5, 6, *Grassetti* v. *Weinberger*, 408 F.Supp. 142 (N.D. Cal. 1976).

(104) X4, 7 *Green* v. *Kleindienst*, 378 F. Supp. 1397 (D.C. Cir. 1974).

(105) Ct. not entertain FOI suit until complaint filed, *Grissom* v. *NLRB*, 364 F.Supp. 1151 (M.D. La. 1973).

(106) X3, 4, 5, *Grumman Aircraft Engineering Corp.* v. *Renegotiation Board*, 425 F. 2d 578 (D.C. Cir. 1970), *on remand* 325 F. Supp. 1146 (D.D.C. 1971), *aff'd* 482 F.2d 710 (D.C. Cir. 1973), *rev'd* 421 U.S. 168 (1975).

(107) X5, *Guckian* v. *GSA*, Civ. Act. No. 75–2156 (D.D.C. April 20, 1976).

(108) XI *Halperin* v. *Colby*, Civ. Act. No. 75–676 (D.D.C. June 4, 1976).

(109) X7, *Harbolt* v. *Alldredge*, 464 F.2d 1243 (10th Cir. 1972).

(110) X7(A), (C), (D), *Harowe Servo Controls, Inc.* v. *NLRB*, 92 L.R.R.M. 2573 (E.D. Pa. Mar. 11, 1976).

(111) Exhaustion of administrative remedies, *Hartford Fires Ins. Co.* v. *NLRB*, 73 CCH Lab. Cas. ¶ 14,409 (D.D.C. March 1, 1974).

(112) X7(A), *in camera* inspection, *Harvey's Wagon Wheel, Inc.* v. *NLRB*, 91 L.R.R.M. 2410 (N.D. Cal Feb. 5, 1976).

(113) X2, *Hawkes* v. *IRS*, 71–2 U.S.T.C. ¶ 9640 (W.D. Tenn. July 21, 1971) *rev'd and remanded* 467 F.2d 787 (6th Cir. 1972), *on remand* Civ. No. C–70–409 (W.D. Tenn. Nov. 5, 1973), *aff'd* 507 F.2d 481 (6th Cir. 1974).

(114) X5, *Herman* v. *Middledorf*, Civ. Act, No. 75–1246 (D.D.C. Dec. 16, 1975).

(115) X2 *Hicks* v. *Freeman*, 397 F. 2d 193 (4th Cir. 1968).

(116) (a) (2), X2, 5 *Hogan* v. *United States*, Civ. No. 73–1385 (S.D. Fla. Jan. 25, 1974).

(117) X7 *Holiday Magic, Inc.* v. *FTC*, Civ. No. 1878–72 (D.D.C. March 16, 1973).

(118) X6, 7(C), (a) (4) (F) (CSC disciplinary proceeding), *Holly* v. *Acree*, Civ. Act. No. 75–2116 (D.D.C. Mar. 29, 1976).

(119) X5, 7(A), *Hook Drugs* v. *NLRB*, 91 L.R.R.M. 2797 (S.D. Ind. Mar. 5, 1976).

(120) Unintelligible records, *Hrynko* v. *Crawford*, 402 F. Supp. 1083 (E.D. Pa. 1975).

(121) X3 (42 U.S.C. § 2000e), 4, delegation of responsibility for promulgation of regulations, reverse FOI case, *Hughes Aircraft Co.* v. *Schlesinger*, 384 F. Supp. 292 (C.D. Cal. 1974).

(122) Rule 34, *Hurt* v. *United States*, Civ. No. 72–3183 (9th Cir. Sept. 11, 1974).

(123) X7, *Hyde Park Products Corp.* v. *Acree*, Civ. Act. No. 75 Civ. 2713 (S.D. N.Y. Nov. 18, 1975).

(124) Preliminary injunction of agency proceeding, X5, 7(A), (D), *ITT American Electric* v *NLRB*, Civ. Act. No. DC 7638–S (N.D. Miss. May 3, 1976).

(125) X4, 5, *ITT Gilfillan, Inc.* v. *Froehlke*, Civ. No. 416–73 (D.D.C. June 28, 1973).

(126) X4, 7, *In re Grand Jury Witness Subpoenas*, 370 F. Supp. 1282 (S.D. Fla. 1974).

(127) "Agency," *Independent Investor Protective League* v. *New York Stock Exchange*, 367 F.Supp. 1376 (S.D. N.Y. 1973).

(128) X7, *Institute for Weight Control, Inc.* v. *Klassen*, 348 F.Supp. 1304 (D. N.J. 1972).

(129) (a) (3), X5, *International Paper Co.* v. *FPC*, 438 F.2d 1349, 1358–59 (2d Cir. 1971), *cert. den.* 404 U.S. 827 (1971).

(130) X4, "identifiable records," *Irons* v. *Schuyler*, 321 F.Supp. 628 (D.D.C. 1970), *aff'd in part and remanded in part*, 465 F.2d 608 (D.C. Cir. 1972), *cert. denied* 409 U.S. 1076 (1972), *on remand* 369 F.Supp. 403 (D.D.C. 1974).

(131) (a) (6) (C), *Jaffess* v. *Secretary, HEW*, 393 F.Supp. 626 (S.D. N.Y. 1975).

(132) X5, 7(A), *Jamco International, Inc.* v. *NLRB*, 91 L.R.R.M. 2446 (N.D. Okla. Feb. 11, 1976).

(133) "Agency records," X7(A), (C), (D), *in camera* inspection, *Kaminer* v. *NLRB*, 90 L.R.R.M. 2269 (S.D. Miss. July 8, 1975).

(134) (a) (4) (E), mootness, X8, *Kaye* v. *Burns*, 75 Civ. 1873 (S.D. N.Y. April 5, 1976).

(135) (a) (2) (A), (C), X5, *Kent Corp.* v. *NLRB*, Civ. No. 73–M–1090 (N.D. Ala. Feb. 27, 1974), *rev'd* 530 F.2d 612 (5th Cir. 1976).

(136) "Agency", discovery, *Kerr* v. *United States Dist. Ct.*, 511 F.2d 192 (9th Cir.) *cert. granted* 421 U.S. 987 (1975).

(137) X5, 7, *Koch* v. *Dept. of Justice*, 376 F.Supp. 313 (D.D.C. 1974).

(138) X4, 5, 6, *Kreindler* v. *Department of the Navy*, 363 F.Supp. 611 (S.D. N.Y. 1973), interim opinion; 372 F.Supp. 333 (S.D. N.Y. 1974).

(139) X1, *Kruh* v. *GSA*, Civ. No. 73C1517 (E.D. N.Y. Sept. 19, 1974).

(140) X7, *LaMorte* v. *Mansfield*, 438 F.2d 448 (2d Cir. 1971).

(141) X3, 4, 7, *Legal Aid Society of Alameda County* v. *Shultz*, 349 F.Supp. 771 (N.D. Cal. 1972).

(142) Injunction of agency proceeding pending resolution of FOI suit, *Lennon* v. *Richardson*, 378 F.Supp. 39 (S.D. N.Y. 1974).

(143) X4, 6 *Levine* v. *Department of Treasury*, Civ. No. 73–1215 (S.D. Fla. March 22, 1974).

(144) X5, 7 (A), (C), (D) *Local 30, United Slate, Tile, etc. AFL–CIO* v. *NLRB*, 408 F. Supp. 520 (E.D. Pa. 1976).

(145) X5, 7 (A), (C), (D) *Local 32, Plumbers* v. *Irving*, 91 L.R.R.M. 2513 (W. D. Wash. Feb. 24, 1976).

(146) "Agency" *Lombardo* v. *Handler*, 397 F.Supp. 792 (D.D.C. 1975).

(147) X2, 5, 7 *Long* v. *IRS*, 339 F.Supp. 1266 (W.D. Wash. 1971).

(148) X2, 5 *Long* v. *IRS*, 349 F.Supp. 871 (W.D. Wash. 1972).

(149) "Records," X3 (18 U.S.C. 1905),

"reasonably segregable" *Long* v. *IRS*, Civ. No. C75–2285 (W.D. Wash. June 1, 1976).

(150) X5, 7 (A), (C), (D), (a) (4) (E) *Maremont Corp.* v. *NLRB*, 91 L.R.R.M. 2645, (W.D. Okla. Mar. 3, 1976), 91 L.R.R.M. 2804 (Mar. 17, 1976).

(151) X3, 4, 5, 7 *M.A. Shapiro & Co.* v. *SEC*, 339 F.Supp. 467 (D.D.C. 1972).

(152) X4 *McCoy* v. *Weinberger*, 386 F.Supp. 504 (W.D. Ky. 1974).

(153) X5, 7(A), (C), (D), *McDonnell Douglas Corp.* v. *NLRB*, 92 L.R.R.M. 2072 C.D. Cal. Mar. 17, 1976).

(154) X2, 5, 7, *McIntyre* v. *Warner*, Civ. No. 1350–73 (D.D.C. Oct. 3, 1974).

(155) X5, describing withheld records, *Mead Data Central, Inc.* v. *United States Dept. of the Air Force*, 402 F. Supp. 460 (D.D.C. 1975).

(156) *In camera* proceedings, *Military Audit Project* v. *Bush*, Civ. Act. No. 75–2103 (D.D.C. Mar. 5, 1976).

(157) X4, 5, *Military Audit Project* v. *Kettles*, C. A. No. 75–666 (D.D.C. May 17, 1976).

(158) X5, *Miller* v. *Smith*, 299 F.Supp. 55 (S.D. N.Y. 1968).

(159) X5, *Mims* v. *United States*, No. 8935 Civil (D. N.M. July 8, 1971).

(160) X1, 5, *Mink* v. *EPA*, 464 F.2d 742 (D.C. Cir. 1972), *rev'd* 410 U.S. 73 (1973).

(161) X3, 4, 5, *Misegades & Douglas* v. *Schuyler*, 328 *F.Supp.* 619 (E.D. Va. 1971), *dis'd as moot* 456 F.2d 255 (4th Cir. 1972).

(162) X5, *Missouri Portland Cement Co.* v. *FTC*, CCH Trade Cas. ¶ 74,124 or 74,279 (D.D.C. Dec. 15, 1972), *on reconsideration* CCH Trade Cas. ¶ 74,280.

(163) X3, 4, 5, 7, "informer's privilege", *Mobil Oil Corp.* v. *FTC*, 406 F.Supp. 305 (S.D. N.Y. 1976).

(164) X5, *Montrose Chemical Corp.* v. *Train*, 491 F.2d 63 (D.C. Cir. 1974).

(165) X7, *Moore-McCormack Lines, Inc.* v. *I.T.O. Corporation of Baltimore*, 508 F.2d 945 (4th Cir. 1974).

(166) X2, 5, *in camera* inspection, *Morton-Norwich Products, Inc.* v. *Mathews*, Civ. Act. No. 76–0128 (D.D.C. Mar. 29, 1976).

(167) X1, *Moss* v. *Laird*, Civ. No. 1254–71 (D.D.C. Dec. 7, 1971).

(168) X7(A), (C), (D), discovery, *Mylan Pharmaceuticals, Inc.* v. *NLRB Region 6*, 407 F.Supp. 1124 (W.D. Pa. 1976).

(169) X5, Fed. Advisory Comm. Act, *Nader* v. *Dunlop*, 370 F.Supp. 177 (D.D.C. 1973).

(170) X3, *in camera* inspection, *National Airlines* v. *CAB*, Civ. Act. No. 75–613 (D.D.C. Oct. 10, 1975).

(171) "Identifiable records", X4, 5, *National Cable Television Ass'n.* v. *FCC*, 479 F.2d 183 (D.C. Cir. 1973).

(172) X5, *National Courier Ass'n.* v. *Board of Governors of the Fed. Reserve*, 516 F.2d 1229 (D.C. Cir. 1975).

(173) X7(A), (C), *NLRB* v. *Biophysics Systems, Inc.* 91 L.R.R.M. 3079 (S.D. N.Y. April 12, 1976).

(174) X7(A), (C), (D), preliminary injunction of agency proceeding pending resolution of FOI claim, *NLRB* v. *Hardeman Garment Corp.*, 406 F.Supp. 510 (W.D. Tenn. 1976), *on motion to stay agency proceeding* 91 L.R.R.M. 2425 (Feb. 3, 1976).

(175) X4, *National Parks and Conservation Ass'n* v. *Morton*, 351 F.Supp. 404 (D.D.C. 1972), *rev'd and remanded* 498 F.2d 765 (D.C. Cir. 1974), *on remand* Civ. Act. No. 436–72 (D.D.C. Oct. 23, 1975).

(176) (a) (2) (A), X6, *National Prison Project of the ACLU Foundation, Inc.* v. *Sigler*, 390 F.Supp. 789 (D.D.C. 1975).

(177) "Person", X3 (18 U.S.C. § 1905), 4, reverse FOI case, *Neal-Cooper Grain Co.* v. *Kissinger*, 385 F.Supp. 769 (D.D.C. 1974).

(178) "Record", X3, *Nichols* v. *United States*, 325 F.Supp. 130 (D. Kan. 1971), *aff'd* 460 F.2d (10th Cir. 1972).

(179) X1, 3 (44 U.S.C. §§ 2101, 2107, 2108), "agency", *Nixon* v. *Sampson*, 389 F.Supp. 107 (D.D.C. 1975).

(180) (a) (1) (B), (C) *Northern California Power Agency* v. *Morton*, 396 F.Supp. 1187 (D.D.C. 1975).

(181) X5, 6, *Ollestad* v, *Kelley*, Civ. Act. No. CV 74–2486–LTL (C.D. Calif. Dec. 18, 1975).

(182) X5, *Orange County Vegetable Improvement Co-op Ass'n* v. *Department of Agriculture*, Civ. Act. No. 75–842 (D.D.C. Nov. 17, 1975).

(183) X2, 7(C), (D), (E), *Ott* v. *Levi*, No. 75–440 C (1) (E.D. Mo. May 10, 1976).

(184) (a) (3), *Owens* v. *U.S. Bureau of Prisons*, 379 F.Supp. 547 (D.D.C. 1974).

(185) X4, 5, *Pacific Architects and Engineers, Inc.* v. *Renegotiation Bd.*, 505 F.2d 383 (D.C. Cir. 1974).

(186) X7(A), *Pacific Photo Type, Inc.* v. *NLRB*, Civ. No. 75–0400 (D. Haw. May 6, 1976).

(187) "Prompt disclosure", *Packer* v. *Kleindienst*, Civ. No. 1988–72 (D.D.C. July 8, 1974).

(188) X3 (sec. 706 of the Civil Rights Act of 1964), *Parker* v. *EEOC*, Civ. Act. No. 74–1262 (D.D.C. May 29, 1975), *aff'd* No. 75–1828 (D.C. Cir. April 15, 1976).

(189) (a) (1), X2, *Pasco, Inc.* v. *FEA*, 525 F.2d 1391 (T.E.C.A. 1975).

(190) X3, *People of the State of California* v. *Richardson*, 351 F.Supp. 733 (N.D. Cal. 1972), *remanded for dismissal* 505 F.2d 767 (*People of the State of California* v. *Weinberger*).

(191) X4, promise of confidentiality, *Petkas* v. *Staats*, 364 F.Supp. 680 (D.D.C. 1973), *rev'd and remanded* 501 F.2d 887 (D.C. Cir. 1974).

(192) Reverse FOI case, X4, 21 U.S.C. 331j, 18 U.S.C. 1905 *Pharmaceutical Mfs. Assn* v. *Weinberger*, 401 F.Supp 444 (D.D.C. 1975).

(193) X5, 7, *Philadelphia Newspaper, Inc.* v. *HUD*, 343 F.Supp. 1176 (E.D. Pa. 1972).

(194) X6, 7(C), (D), *Philadelphia Newspapers, Inc.* v. *U.S. Dept. of Justice*, 405 F.Supp. 8 (E.D. Pa. 1975).

(195) X5, 7, *Pilar* v. *S.S. Hess Patrol*, 55 F.R.D. 159 (D. Md. 1972).

(196) X2, 5, *Polymers, Inc.* v. *NLRB*, 414 F.2d 999 (2d Cir. 1969), *cert. denied*, 396 U.S. 1010 (1970).

(197) X4, *Ponce* v. *Housing Authority*, 389 F.Supp. 635 (E.D. Calif. 1975).

(198) (a) (3), X4, 5, personal notes not agency records, *Porter County Chapter of Isaak Walton League* v. *AEC*, 380 F.Supp. 630 (N.D. Ind. 1974).

(199) X7(A), (D), *Poss* v. *NLRB*, 91 L.R.R.M. 2232 (D.D.C. Dec. 17, 1975).

(200) X7, *Preferred Land Corp.* v. *SEC*, CCH Fed. Sec. ¶94,000 (D.D.C. May 1, 1975).

(201) Injunction of agency proceeding pending resolution of FOI claim, *Production Molded Plastics* v. *NLRB*, 91 L.R.R.M. 2753 (N.D. Ohio Feb. 13, 1976).

(202) X4, 5, 6, executive privilege, *Rabbitt* v. *Department of the Air Force*, 383 F.Supp. 1065 (S.D. N.Y. 1974), *on motion for reconsideration* 401 F.Supp. 1206 (S.D. N.Y. 1974).

(203) (a) (1) (D), (a) (2) (B), publication, *Ramer* v. *Saxbe*, 522 F.2d 695 (D.C. Cir. 1975).

(204) X5, 7, *Rayner & Stonington, Inc.* v. *FDA*, Civ. No. 68–1995 (E.D. Pa. Aug. 14, 1969).

(205) Injunction of agency proceeding pending resolution of FOI claim, X7(A), *Read's Inc.* v. *NLRB*, 91 L.R.R.M. 2722 (D. Md. Feb. 17, 1976).

(206) Fees *Reinoehl* v. *Hershey*, 426 F. 2d 815 (9th Cir. 1970).

(207) X5, 7(C), *in camera* inspection, *Retail Credit Company* v. *FTC*, Civ. Act. No. 75–0895 (D.D.C. May 10, 1976).

(208) X1, 3, 50 U.S.C. 403, Exec. Order 11652, *Richardson* v. *Spahr*, Civ. Act. No. 75–297 (W.D. Pa. Jan. 30, 1976).

(209) X3, 6, 18 U.S.C. 1905, *Robertson* v. *Department of Defense*, 402 F. Supp. 1342 (D.D.C. 1975).

(210) X3, *Robertson* v. *FAA*, Civ. No. 1970–71 (D.D.C. Oct. 31, 1972), *aff'd* 495 F. 2d 1031 (D.C. Cir. 1974), *rev'd* 422 U.S. 255 (1975).

(211) Discovery, *Robins & Weill, Inc.* v. *United States*, 74–1 U.S.T.C. ¶ 9299 (M.D. N.C. February 25, 1974).

(212) X6, *Robles v. EPA*, 484 F. 2d 843 (4th Cir. 1973).

(213) (a) (1) (D) *Rodriguez* v. *Swank*, 318 F. Supp. 289 (N.D. Ill. 1970).

(214) Discovery, X7(A), (C), (D), *Roger J. Au & Son, Inc.* v. *NLRB*, 405 F. Supp. 1200 (W.D. Pa. 1975).

(215) X2, 6, *Rose* v. *Department of Air Force, Civ.* No. 72– 1605 (S.D. N.Y. 1972), *rev'd and remanded* 495 F. 2d 261 (2d Cir. 1974), *aff'd* 96 S. Ct. 1592 (1976).

(216) (a) (2), X4, 6, 7, *Rural Housing Alliance* v. *U.S. Dept. of Agriculture*, Civ. No. 2460–72 (D.D.C. May 9, 1973), *rev'd and remanded* 498 F. 2d 73 (D.C. Cir. 1974), *on bill of costs* 511 F. 2d 1347 (D.C. Cir. 1974).

(217) Injunction of agency proceeding pending disposition of FOI claim, *St. Elizabeth's Hospital* v. *NLRB*, 407 F.Supp. 1357 (N.D. Ill. 1976).

(218) Exhaustion of administrative remedies, *Satra Belarus, Inc.* v. *NLRB*, 91 L.R.R.M. 2555 (E.D. Wisc. Feb. 18, 1976).

(219) X4, "record" *Save the Dolphins* v. *U.S. Dept. of Commerce*, 404 F.Supp. 407 (N.D. Cal. 1975).

(220) X1, *Schaffer* v. *Kissinger*, 505 F.2d 389 (D.C. Cir. 1974).

(221) X3, *Schecter* [*sic*] v. *Richardson*, Civ. No. 710–72 (D.D.C. July 17, 1972).

(222) X3 (42 U.S.C. § 1306), *Schechter* v. *Weinberger*, Civ. No. 2319–72 (D.D.C. June 7, 1973), *rev'd and remanded* 506 F.2d 1975 (D.C. Cir. 1974).

(223) X5, reverse FOI case, *Schwartz* v. *IRS*, 75–1 U.S.T.C. ¶9389 (Sept. 23, 1974), *clarification ordered* 511 F.2d 1303 (D.C. Cir. 1975).

(224) X3, records, library materials, *SDC Development Corp.* v. *Weinberger*, Civ. Act. No. CV–75–1799–IH (C.D. Calif. Nov. 11, 1975).

(225) (a) (3), *Seafarers International Union, AFL–CIO* v. *Baldovin*, 508 F.2d (5th Cir. 1975).

(226) X3 (18 U.S.C. § 1905), 4, 6, 7, reverse FOI case, *Sears, Roebuck & Co.* v. *GSA*, 384 F. Supp. 996 (D.D.C. 1974), *stay of order dissolved* 509 F.2d 527 (D.C. Cir. 1974), *on action for declaratory judgment* 402 F.Supp. 378 (D.D.C. 1975).

(227) (a) (3), *Sears, Roebuck & Co.* v. *NLRB*, 433 F.2d 210 (6th Cir. 1970).

(228) (a) (2) (A), X5, 7. *Sears, Roebuck & Co.*, v. *NLRB*, 346 F.Supp. 751 (D.D.C. 1972), *aff'd* 480 F.2d 1195 (D.C. Cir. 1973), *aff'd in part, rev'd in part, and remanded* 421 U.S. 132 (1975).

(229) Injunction of agency proceeding pending resolution of FOI case, *Sears, Roebuck & Co.* v. *NLRB*, 473 F.2d 91 (D.C. Cir. 1972).

(230) "Identifiable records", X3, 4, *Sears* v. *Gottschalk*, 357 F.Supp. 1327 (E.D. Va. 1973), *aff'd* 502 F.2d 122 (4th Cir. 1974).

(231) X5, *Seattle Biulding & Construction Trades Council, AFL–CIO* v. *Henderson*, 82 L.R.R.M. 2262 (W.D. Wash. Jan. 22, 1973).

(232) (a) (3), *Secretary of Labor* v. *Farino*, 490 F.2d 885 (7th Cir. 1973).

(233) X5, 6, *Seiler* v. *Department of Transportation*, Civ. No. 73–CV–143 C (W.D. Mo. March 25, 1975).

(234) X5, *Sellers* v. *Kelly*, Civ. No. C 75–1458 A (N.D. Ga. May 14, 1976).

(235) X3, *Serchuk* v. *Richardson*, Civ. No. 72–1212 (S.D. Fla. Nov. 28, 1972).

(236) Use of FOIA as a discovery tool, *Shakespeare* v. *United States*, 389 F.2d 772

(Ct. Cl. 1968), *pet'n dis'd* 419 F.2d 839 (Ct. Cl. 1969), *cert. denied* 400 U.S. 820 (1970).

(237) "Agency", *Sharp* v. *Federal Deposit Ins. Corp.*, Civ. Act. No. 75–1428 (D.D.C. Oct. 15, 1975)

(238) Preliminary injunction of agency proceeding pending resolution of FOI claim, *Sheraton Inn* v. *NLRB*, 84 L.R.R.M. 2385 (D.D.C. Aug. 13, 1973).

(239) Proper party defendant, *Shouse* v. *Burris*, Civ. Act. No. CV 475–198 (S.D. Ga. Dec. 23, 1975).

(240) X5, *Sierra Club* v. *Morton*, 395 F. Supp. 1187 (D.D.C. 1975).

(241) X5, *Simons-Eastern Co.* v. *United States*, 55 F.R.D. 88 (N.D. Ga. 1972).

(242) (a)(3), *Skolnick* v. *Campbell*, 454 F.2d 531, (7th Cir. 1971).

(243) "Agency" *Skolnick* v. *Kerner*, 435 F.2d 694 (7th Cir. 1970).

(244) Jurisdiction, *Skolnick* v. *Parsons*, 397 F.2d 523 (7th Cir. 1968).

(245) (a)(3), exhaustion of administrative remedies, *Smith* v. *Switzer*, 73–2 U.S.T.C. 9490 (W.D. Pa. May 30, 1973).

(246) X4, 5, *Soucie* v. *David*, 448 F.2d 1067 (D.C. Cir. 1971).

(247) Injunction of agency proceeding pending resolution of FOI claim, *Southwest Motor Freight, Inc.* v. *NLRB*, 92 L.R.R.M. 2171 (E.D. Tenn. April 13, 1976).

(248) X5, 7, discovery *Steadman Security Corp.* v. *SEC*, CCH Fed. Sec. §93–735 (D.D.C. decided Jan. 25, 1973).

(249) (a)(4)(B), X5, 6 *Stemmer* v. *Dept. of the Army, Civ. Act.* No. 75–2617 (E.D. Pa. April 28, 1976).

(250) X4, 5, *Sterling Drug, Inc.* v. *FTC*, 450 F.2d 698 (D.C. Cir. 1971).

(251) X2, 5, 7 *Stern* v. *Richardson*, 367 F. Supp. 1316 (D.D.C. 1973).

(252) X2, 5 *Stokes* v. *Hodgson*, 347 F.Supp. 1371 (N.D. Ga. 1972), *aff'd* 476 F.2d 699 (5th Cir. 1973). (*Stokes* v. *Brennan*).

(253) X4, *Stone* v. *Export-Import Bank of the United States*, Civ. No. 74–129 (N.D. Fla. April 17, 1975).

(254) X3, *Stretch* v. *Weinberger*, 359 F. Supp. 702 (D. N.J. 1973), *aff'd* 495 F.2d 639 (3d Cir. 1974).

(255) X5, *Swift* v. *IRS*, Civ. Act. No. C75–77R (N.D. Ga. Dec. 8, 1975).

(256) X5, *Talbott Construction Co.* v. *United States*, 49 F.R.D. 68 (E.D. Ky. 1969).

(257) (a)(2), X3 (26 U.S.C. §§ 6103(a)(1), 7213(a)(1)), 4, 5, *Tax Analysts and Advocates* v. *IRS*, 362 F.Supp. 1298 (D.D.C. 1973), *modified in part and remanded* 505 F.2d 350 (D.C. Cir. 1974).

(258) X3, *Tax Analysts and Advocates* v. *IRS*, 405 F.Supp. 1065 (D.D.C. 1975).

(259) X4, equitable jurisdiction *Tax Reform Research Group* v. *IRS*, 74–1 U.S.T.C. ¶9374 (D.D.C. April 17, 1974).

(260) Preliminary injunction of agency proceeding pending resolution of FOI claim, *Teamsters, Local 705* v. *NLRB*, 82 L.R.R.M. 3014 (D.D.C. Mar 27, 1973).

(261) Failed to state a claim because did not allege FOI request which complied with (a)(3), *Television Wisconsin, Inc.* v. *NLRB*, 91 L.R.R.M. 2369 (W.D. Wisc. Feb. 3. 1976).

(262) X5, *Tennessean Newspaper, Inc.* v. *FHA*, 341 F.Supp. 1013 (M.D. Tenn. 1971), *rev'd* 464 F.2d 657 (6th Cir. 1972).

(263) X7(C), *Tennessean Newspaper, Inc.* v. *Levi*, 403 F.Supp. 1318 (M.D. Tenn. 1975).

(264) Equity jurisdiction, *de novo* hearing, executive privilege, X4, 5, *Theriault* v. *United States*, 503 F.2d 390 (9th Cir. 1974), *on remand* 395 F.Supp. 637 (C.D. Cal. 1975).

(265) X2, *Tietze* v. *Richardson*, 342 F.Supp. 610 (S.D. Texas 1972).

(266) (a)(4)(B), X7(A), 5, 7(C), (D), injunction of agency proceeding until records disclosed, *Title Guarantee Co.* v. *NLRB*, 407 F.Supp. 498 (S.D. N.Y. 1975), *rev'd and remanded* 91 L.R.R.M. 2993 (2d Cir. April 2, 1976).

(267) X6 *Tuchinsky* v. *Selective Service System*, 294 F.Supp. 803 (N.D. Ill. 1969), *aff'd* 418 F.2d 155 (7th Cir., 1969).

(268) (a)(2)(C), (a)(3), *United States* v. *Imbrunone*, 379 F.Supp. 256 (E.D. Mich. 1974).

(269) (a)(2)(A), (C), X5, 7, *United States* v. *J. B. Williams Co.*, 402 F.Supp. 796 (S.D. N.Y 1975).

(270) (a)(2), *United States* v. *Leitchfuss*, 331 F.Supp. 723 (N.D. Ill. 1971).

(271) Discovery *United States* v. *Wahlin*, 384 F.Supp. 43 (W.D. Wis 1974).

(272) "Records" *United States* v. *Walker*, 491 F.2d 236 (9th Cir. 1974).

(273) X4, reverse FOI case, *United States Steel Corp.* v. *Schlesinger*, 8 CCH E.P.D. ¶9717 (E.D. Va. Sept. 20, 1974).

(274) (a)(3), injunction of agency proceedings, *United Telephone Co. of Pennsylvania* v. *FCC*, 375 F.Supp. 992 (M.D. Pa. 1974).

(275) Agency's burden of proof, X2, 5, 6, *Vaughn* v. *Rosen*, 484 F.2d 820 (D.C. Cir. 1973), *cert. denied* 415 U.S. 977 (1974), *on remand* 383 F.Supp. 1049 (D.D.C. 1974).

(276) X2, 5, *Vaughn* v. *Rosen*, 523 F.2d 1136 (D.C. Cir. 1975).

(277) X5, 7(A), (C), (D), *Vegas Village Shopping Corp.* v. *NLRB*, No. CV 76–916–RJK (C.D. Cal. April 26, 1976).

(278) X5, *Verrazzano Trading Corp.* v. *United States*, 349 F.Supp. 1401 (U.S. Customs Ct. 1972).

(279) X3, 6, *Vietnam Veterans Against the War* v. *Laird*, Civ. No. 2277–70 (D.D.C. Oct. 15, 1971).

(280) X5, discovery, *Virginia Independent Schools Ass'n.* v. *Commissioner of Internal Revenue*, Civ. Act No. 75–925 (D.D.C. Mar. 25, 1976).

(281) (a)(2), X4, 5, 6, *Washington Research Project, Inc.* v. *HEW*, 366 F.Supp. 929 (D.D.C. 1973), *aff'd in part, rev'd in part, and remanded* 504 F.2d 238 (D.C. Cir. 1974).

(282) X4, 5, 7, *Wecksler* v. *Shultz*, 324 F. Supp. 1084 (D.D.C. 1971).

(283) X7, *Weisberg* v. *Department of Justice*, 489 F.2d 1195 (D.C. Cir. 1973).

(284) X1, 3, 6. 7, *in camera* inspection, *Weissman* v. *CIA, C. A.* No. 75–1583 (D.D.C. April 14, 1976).

(285) X4, 5, 7, *Wellford* v. *Hardin*, 315 F. Supp. 175 (D. Md. 1970), *aff'd* 444 F.2d 21 (4th Cir. 1971), *on motion for reconsideration* 330 F.Supp. 915 (D. Md. 1971).

(286) X7, *Wellford* v. *Hardin*, 315 F. Supp. 768 (D.D.C. 1970).

(287) X4, 7, *Wellman Industries* v. *NLRB*, Civ. No. 73–74 (D. S. Car. April 13, 1973), *aff'd* 490 F.2d 427 (4th Cir. 1974).

(288) X3 (42 U.S.C. 2000e–8(e)), 4, 7, 18 U.S.C. 1905, reverse FOI case, *Westinghouse Electric Co.* v. *Schlesinger*, 392 F.Supp. 1246 (E.D. Va. 1974).

(289) X5, 7, *Williams* v. *IRS*, 345 F. Supp. 591 (D. Del. 1972), *affd* 479 F. 2d 317 (3d Cir. 1973).

(290) X6, "similar files," *Wine Hobby, U.S.A., Inc.* v. *United States Bureau of Alcohol, Tobacco, and Firearms*, 363 F.Supp. 231 (E. D. Pa. 1973), *rev'd* 502 F.2d 133 (3d Cir. 1974).

(291) X1, *Wolfe* v. *Froehlke*, 358 F. Supp. 1218 (D.D.C. 1973), *aff'd* 510 F. 2d 654 (D.C. Cir. 1974).

(292) X5, "agency," Fed., *Wolfe* v. *Weinberger*, 403 F.Supp. 238 Advisory Comm. Act (D.D.C. 1975).

(293) X5, *Wu* v. *Keeney*, 384 F. Supp. 1161 (D.D.C. 1974).

(294) X5, *Wu* v. *Natl. Endowment for Humanities*, 460 F.2d 1030 (5th Cir. 1972).

(295) X5, *Yamaha Int'l Corp.* v. *FTC*, Civ. Act. No. 74–475 (D.D.C. Dec. 9, 1975).

APPENDIX A—NEW FOI OPINIONS

(Issued or reported since compilation of February supplement to case list.)

Temporary restraint of agency proceeding pending disposition of FOI claim, *Abrahamson Chrysler-Plymouth* v. *NLRB*, 91 L.R.R.M. 2343 (N.D. Ill. Jan. 29, 1976).

X3, *American Jewish Congress* v. *Morton*, Civ. Act. No. 75–1541 (D.D.C. April 30, 1976).

X4, 5, 7(A), (D), *in camera* inspection, *Amway* v. *FTC*, 1976–1 Trade Cas. ¶60,798 (D.D.C. Mar. 10, 1976).

Injunction of agency proceeding pending resolution of FOI claim, X5, X7(A), *Atlas Industries* v. *NLRB*, 91 L.R.R.M. 2676 (N.D. Ohio Feb. 23, 1976).

X2, 3, 4, 5, 6, 7, "agency," *Aug.* v. *Natl. Railroad Passenger Corp.*, Civ. Act. No. 74–1054 (D.D.C. Mar. 30, 1976).

X3, 5, *Aviation Consumer Action Project* v. *CAB*, Civ. Act. No. 413–73 (D.D.C. May 10, 1976).

X5, Fed. Advisory Comm. Act, *Aviation Consumer Action Project* v. *Washburn*, D.C. Civ. Act. 1838–73 (D.C. Cir. April 6, 1976).

X3, *Bachrack* v. *CIA*, No. CV 75–3727–WPG (C.D. Cal. May 13, 1976).

X7, *Barnes & Noble Bookstores* v. *NLRB*, 92 L.R.R.M. 2169 (S.D. N.Y. Mar. 12, 1976).

X5, 7(A), (C), (D), *Bellingham Frozen Foods* v. *Henderson*, 91 L.R.R.M. 2761 (W.D. Wash. Mar. 5, 1976).

Injunction of agency proceeding pending resolution of FOI claim, X7(A), *Capital Cities Communication, Inc.* v. *NLRB*, 91 L.R.R.M. (N.D. Cal. Feb. 20, 1976).

(a)(3), (4)(B), X5, 7(A), (C), (D), *Cessna Aircraft Co.* v. *NLRB*, 405 F. Supp. 1042 (D. Kan. 1975).

X3, 5, 6, 7(A), (C), (D), (a)(2)(C), *Chamberlain* v. *Alexander*, Civ. Act. No. 7742–73 (S.D. Ala. April 5, 1976).

X4, 18 U.S.C. 1905, 5th Amendment notice requirement, reverse FOI case, *Chrysler Corp.* v. *Schlesinger*, Civ. Act. No. 75–159 (D. Del. April 20, 1976).

X7(D), 1, 2, 5, 7(A), (F), *Church of Scientology of California* v. *U.S. Dept. of Justice*, No. CV 74–3550–F (C.D. Cal. April 2, 1976).

X3, 4, *Citizens for a Better Environment* v. *U.S. Dept. of Commerce*, No. 75 C 3577 (N.D. Ill. Mar. 29, 1976).

X5, 7(A), (C), (D), discovery, *Climax Molybdenum Co.* v. *NLRB*, 407 F. Supp. 208 (D. Colo. 1975).

X6, *Columbia Packing Company, Inc.* v. *U.S. Dept. of Agriculture*, Civ. Act. No. 75–5230 (D. Mass. June 16, 1976).

(a)(4)(E), mootness, backlog, *Communist Party of the U.S.* v. *U.S. Dept. of Justice*, Civ. Act. No. 75–1770 (D.D.C. March 23, 1976)

(a)(4)(B), injunction of agency proceeding pending resolution of FOI suit, X5, 7(A), *Electri-Flex Co.* v. *NLRB*, 92 L.R.R.M. 2142 (N.D. Ill. April 8, 1976).

"Agency records" (constructive possession) *Forsham* v. *Mathews*, Civ. Act. No. 75–1608 (D.D.C. Feb. 5, 1976).

X4, 5, 7(D), *Gifford-Hill & Co., Inc.* v. *FTC*, Civ. Act. No. 75–1033 (D.D.C. Feb. 26, 1976).

X1, "agency records" *Goland* v. *CIA, Civ.* Act No. 76–0166 (D.D.C. May 26, 1976).

X5, X7(A), (D), *Goodfriend Western Corp.* v. *Fuchs*, 92 L.R.R.M. 2466 (1st Cir. May 6, 1976), *rev'g* 91 L.R.R.M. 2454 (D. Mass. Feb. 23, 1976).

X5, 6, *Grassetti* v. *Weinberger*, 408 F. Supp. 142 (N.D. Cal. 1976).

X5, *Guckian* v. *GSA*, Civ. Act. No. 75–2156 (D.D.C. April 20, 1976).

X1, *Halperin* v. *Colby*, Civ. Act. No. 75–676 (D.D.C. June 4, 1976).

X7(A), (C), (D), *Harowe Servo Controls, Inc.* v. *NLRB*, 92 L.R.R.M. 2573 (E.D. Pa. Mar. 11, 1976).

X7(A), *in camera* inspection, *Harvey's Wagon Wheel, Inc.* v. *NLRB*, 91 L.R.R.M. 2410 (N.D. Cal. Feb. 5, 1976).

X6, 7(C), (a)(4)(F) (CSC disciplinary proceeding (*Holly* v. *Acree*, Civ. Act. No. 75–2116 (D.D.C. Mar. 29, 1976).

X5, 7(A), *Hook Drugs* v. *NLRB*, 91 L.R.R.M. 2797 (S.D. Ind. Mar. 5, 1976).

Preliminary injunction of agency proceeding, X5, 7(A), (D), *ITT American Electric* v. *NLRB*, Civ. Act. No. DC 7638–S (N.D. Miss. May 3, 1976).

X5, 7(A), *Jamco International, Inc.* v. *NLRB*, 91 L.R.R.M. 2446 (N.D. Okla. Feb. 11, 1976).

(a) (4) (E), mootness, X8, *Kaye* v. *Burns*, 75 Civ. 1973 (S.D. N.Y. April 5, 1976).

(a) (2) (A), (C), X5, *Kent Corp.* v. *NLRB*, 530 F.2d 612 (5th Cir. 1976), *rev'g* Civ. No. 73–M–1090 (N.D. Ala. Feb. 27, 1974).

X5, 7(A), (C), (D), *Local 30, United Slate, Tile, etc., AFL–CIO* v. *NLRB*, 408 F. Supp. 520 (E.D. Pa. 1976).

X5, 7(A), (C), (D), *Local 32, Plumbers* v. *Irving*, 91 L.R.R.M. 2513 (W.D. Wash. Feb. 24, 1976).

"Records," X3 (18 U.S.C. 1905), "reasonably segregable," *Long* v. *IRS*, Civ. No. C75–2285 (W.D. Wash. June 1, 1976).

X5, 7(A), (C), (D), (a) (4) (E), *Maremont Corp.* v. *NLRB*, 91 L.R.R.M. 2645, (W.D. Okla. Mar. 3, 1976), 91 L.R.R.M. 2804 (Mar. 17, 1976).

X5, 7(A), (C), (D), *McDonnell Douglas Corp.* v. *NLRB*, 92 L.R.R.M. 2072 (C.D. Cal. Mar. 17, 1976).

In camera proceedings, *Military Audit Project* v. *Bush*, Civ. Act. No. 75–2103 (D.D.C. Mar. 5, 1976).

X3, 4, 5, 7, "informer's privilege" *Mobil Oil Corp.* v. *FTC*, 406 F.Supp. 305 (S.D. N.Y. 1976).

X2, 5, *in camera* inspection, *Morton-Norwich Products, Inc.* v. *Mathews*, Civ. Act. No. 76–0128 (D.D.C. Mar. 29, 1976).

X7(A), (C), (D), discovery, *Mylan Pharmaceuticals, Inc.* v. *NLRB Region 6*, 407 F.Supp. 1124 (W.D. Pa. 1976).

X7(A), (C), *NLRB* v. *Biophysics Systems, Inc.*, 91 L.R.R.M. 3079 (S.D. N.Y. April 12, 1976).

X7(A), (C), (D), preliminary injunction of agency proceeding pending resolution of FOI claim, *NLRB* v. *Hardeman Garment Corp.*, 406 F.Supp. 510 (W.D. Tenn. 1976), *on motion to stay agency proceeding* 91 L.R.R.M. 2425 (Feb. 3, 1976).

X2, 7(C), (D), (E), *Ott* v. *Levi*, No. 75–440 C (1) (E.D. Mo. May 10, 1976).

X7(A), *Pacific Photo Type, Inc.* v. *NLRB*, Civ. No. 75–0400 (D. Haw. May 6, 1976).

X3 (sec. 706 of the Civil Rights Act of 1964), *Parker* v. *EEOC*, No. 75–1828 (D.C. Cir. April 15, 1976 *aff'g* Civ. Act. No. 74–1262 (D.D.C. May 29, 1975).

X6, 7(C), (D), *Philadelphia Newspapers, Inc.* v. *U.S. Dept. of Justice*, 405 F.Supp. 8 (E.D. Pa. 1975).

Injunction of agency proceeding pending resolution of FOI claim, *Production Molded Plastics* v. *NLRB*, 91 L.R.R.M. 2753 (N.D. Ohio Feb. 13, 1976).

Injunction of agency proceeding pending resolution of FOI claim, X7(A), *Read's Inc.* v. *NLRB*, 91 L.R.R.M. 2722 (D. Md. Feb. 17, 1976).

X5, 7(C), *in camera* inspection, *Retail Credit Company* v. *FTC*, Civ. Act. No. 75–0895 (D.D.C. May 10, 1976).

Discovery, X7 (A), (C), (D), *Roger J. Au & Son, Inc.* v. *NLRB*, 405 F. Supp. 1200 (W.D. Pa. 1975).

X2, 6, *Rose* v. *Department of Air Force*, 96 S. Ct. 1592 (1976), *aff'g* 495 F. 2d 261 (2d Cir. 1974), *rev'g and remanding* Civ. No. 72–1605 (S.D. N.Y. 1973).

Injunction of agency proceeding pending disposition of FOI claim, *St. Elizabeth's Hospital* v. *NLRB*, 407 F. Supp. 1357 (N.D. Ill. 1976).

Exhaustion of administrative remedies, *Satra Belarus, Inc.* v. *NLRB*, 91 L.R.R.M. 2555 (E.D. Wisc. Feb. 18, 1976).

X4, "record", *Save the Dolphins* v. *U.S. Dept. of Commerce*, 404 F. Supp. 407 (N.D. Cal. 1975).

X5, *Sellers* v. *Kelly*, Civ. No. C 75–1458 A (N.D. Ga. May 14, 1976).

Injunction of agency proceeding pending resolution of FOI claim, *Southwest Motor Freight, Inc.* v. *NLRB*, 92 L.R.R.M. 2171 (E.D. Tenn. April 13, 1976).

(a) (4) (B), X5, 6, *Stemmer* v. *Dept. of the Army*, Civ. Act. No. 75–2617 (E.D. Pa. April 28, 1976).

X3, *Tax Analysts and Advocates* v. *IRS*, 405 F. Supp. 1065 (D.D.C. 1975).

Failed to state a claim because did not allege FOI request which complied with (a) (3), *Television Wisconsin, Inc.* v. *NLRB*, 91 L.R.R.M. 2369 (W.D. Wisc. Feb. 3, 1976).

(a) (4) (B), X7(A), 5, 7(C), (D), injunction of agency proceeding until records disclosed, *Title Guarantee Co.* v. *NLRB*, 91 L.R.R.M. 2993 (2d Cir. April 2, 1976), *rev'g and remanding* 407 F. Supp. 498 (S.D. N.Y. 1975).

X5, 7(A), (C), (D), *Vegas Village Shopping Corp.* v. *NLRB*, No. VC 76–916–RJK (C.D. Cal. April 26, 1976).

X5, discovery, *Virginia Independent Schools Ass'n* v. *Commissioner of Internal Revenue*, Civ. Act. No. 75–925 (D.D.C. Mar. 25, 1976).

X1, 3, 6, 7, *in camera* inspection, *Weissman* v. *CIA*, C.A. No. 75–1583 (D.D.C. April 14, 1976).

APPENDIX B—TOPICAL INDEX

This index is divided into three parts:

(1) Freedom of Information Act exemptions, from 1 through 9.

(2) Other FOIA provisions, listed in the order of their appearance in the Act.

(3) Miscellaneous topics, listed alphabetically.

Listed after each topic in the index are numbers identifying the cases in which that topic was involved. These numbers correspond to the numbers sequentially assigned the cases in the main FOI Case List.

Two asterisks after a case number signify that the Supreme Court issued an opinion in that case. One asterisk indicates that the highest court to issue an opinion to date has been a court of appeals. If no court higher than a district court has issued an opinion in a case thus far, no asterisk will appear after the case number.

Where a case has been the subject of several judicial opinions, the case has been indexed under each topic dealt with in at least one of the opinions. Thus, the indexing of a case under a particular topic does not necessarily mean that the topic was discussed by the highest court to issue an opinion in the case.

(1) FOIA EXEMPTIONS

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X4, 18 U.S.C. 1905, *Charles River Park "A", Inc.* v. *HUD*, 360 F.Supp. 212 (D.D.C. 1973), *remanded* 519 F.2d 935 (D.C. Cir. 1975).

X4, 18 U.S.C. 1905, 5th Amendment notice requirement, *Chrysler Corp.* v. *Schlesinger*, Civ. Act. No. 75–159 (D. Del. April 20, 1976).

Case or controversy, *Consumers Union of the U.S., Inc.* v. *Consumer Product Safety Comm'n*, 400 F.Supp. 848 (D.C.C. 1975).

X4, *Continental Oil Co.* v. *FPC*, 519 F.2d 31 (5th Cir. 1975).

X3 (42 U.S.C. § 2000e), 4, delegation of responsibility for promulgation of regulations, *Hughes Aircraft Co.* v. *Schlesinger*, 384 F.Supp. 292 (C.D. Cal. 1974).

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X5, *Schwartz* v. *IRS*, 75–1 U.S.T.C. ¶9389, Sept. 23, 1974, *clarification ordered* 511 F.2d 1303 (1975).

X3 (18 U.S.C. 1905), 4, 6, 7, *Sears, Roebuck & Co.* v. *GSA*, 384 F.Supp. 996 (D.D.C. 1974), *stay of order dissolved* 509 F.2d 527 (D.C. Cir. 1974), *on action for declaratory judgment* 402 F.Supp. 378 (D.D.C. 1975).

X4, *United States Steel Corp. v. Schlesinger*, 8 CCH E.P.D. ¶9717 (E.D. Va. Sept. 20, 1974).

X3 (42 U.S.C. 2000e-8(e)), 4, 7, 18 U.S.C. 1905, *Westinghouse Electric Co.* v. *Schlesinger*, 392 F.Supp. 1246 (E.D. Va. 1974).

APPENDIX D—OVERVIEW LIST

The opinions listed below are suggested as basic reading for lawyers who are new to FOI work or who are in need of a refresher in the field. It is not intended to be a list of leading cases. Rather, the purpose of the list is to provide a balanced introduction, and only an introduction, to the principal recurring issues in FOI caselaw.

It should be emphasized that there are numerous areas of uncertainty in this field and that the interpretations set forth in the various opinions listed below may not be universally accepted or irrevocably settled.

In junction of agency proceeding pending resolution of FOI suit, (a) (3), *Bannercraft Clothing Co.* v. *Renegotiation Board*, 415 U.S. 1 (1974).

X4, 5, *Brockway* v. *Department of the Air Force*, 518 F.2d 1184 (8th Cir. 1975).

X4, reverse FOI case, 18 U.S C. 1905, *Charles River Park "A", Inc.* v. *HUD*, 519 F.2d 935 (D.C. Cir. 1975).

X3, 4, 5, *Grumman Aircraft Engineering Corp.* v. *Renegotiation Board*, 421 U.S. 168 (1975).

X5, *Montrose Chemical Corp.* v. *Train*, 491 F.2d 63 (D.C. Cir. 1974).

X4, *National Parks and Conservation Ass'n* v. *Morton*, 498 F.2d 765 (D.C. Cir. 1974).

X2, 6, *Rose* v. *Department of Air Force*, 96 S. Ct. 1592 (1976).

(a) (2), X4, 6, 7, *Rural Housing Alliance* v. *U.S. Dept. of Agriculture*, 498 F.2d 73 (D.C. Cir. 1974).

(a) (2) (A), X5, *Sears, Roebuck & Co.* v. *NLRB*, 421 U.S. 132 (1975).

X4, 5, *Soucie* v. *David*, 448 F.2d 1067 (D.C. Cir. 1971).

(a) (2), X3 (26 U.S.C. §§ 6103(a) (1), 7213 (a) (1)), 4, 5, *Tax Analysts and Advocates* v. *IRS*, 362 F. Supp. 1298 (D.D.C. 1973).

X2, 5, *Vaughn* v. *Rosen*, 523 F.2d 1136 (D.C. Cir. 1975).

(a) (2), X4, 5, 6, *Washington Research Project, Inc.* v. *HEW*, 504 F.2d 238 (D.C. Cir. 1974).

X6, "similar files" *Wine Hobby, U.S.A., Inc.* v. *United States Bureau of Alcohol, Tobacco, and Firearms*, 502 F.2d 133 (3d Cir. 1974).

X5, *Wu* v. *Nalt. Endowment for Humanities*, 460 F.2d 1030 (5th Cir. 1972).

VOLUNTARY STANDARDS AND CERTIFICATION ACT OF 1976—S. 3555

Mr. HUGH SCOTT. Mr. President, today I am joining my colleagues, Senator ABOUREZK, Senator EASTLAND, and Senator PHILIP A. HART, in cosponsoring the Voluntary Standards and Certification Act of 1976, S. 3555.

An underlying principle of the American democracy is the free enterprise system. Today this system is threatened by the self-regulation of certain industries. These industries systematically deny many economic choices to many small, potential competitors. The abuse is so pervasive that only a concerted Federal effort can bring relief.

On occasion, the self-regulators use two devices to thwart competition in the marketplace—voluntary standards and certification programs. Voluntary standards are product specifications for both consumer and producer goods which are formulated by private organizations. Certification is the process of testing a product's compliance with these specifications.

Alone, these specifications have no force of law. However, all levels of government customarily adopt these industry-administered standards as their own. Rarely is consideration given to the effect of these specifications on competition or on the price the consumer pays for the goods. As a result, established industry, in many instances, dictates what products will be made available to the public and who will or will not enter the marketplace.

The certification laboratories in some cases have also created difficulties. Some certification laboratories have gained quasi-monopoly status. Three or four laboratories perform the majority of the testing. This dominance has arisen from local ordinances requiring the laboratory seal of a "nationally recognized testing laboratory" and from the fact that these firms either develop standards themselves or are tied to a standards developer.

It should also be noted that we are the only industrialized Nation which lacks a national standardization policy. The absence of such a policy has not only left us ill equipped to participate in international standardization activities, but it also conflicts with our principle of free enterprise. We must show more concern for the fact that lack of official standardization acts as a barrier to international trade.

The bill mandates the Federal Trade Commission to change whenever necessary, by adoption of rules, those practices and procedures of standards development organizations and certification laboratories that are deemed anticompetitive in nature.

The bill also addresses the problem of participation in international standardization activities. It would encourage all Federal agencies to promote participation in international standards development activities. All such activity is to be in accord with our free enterprise system.

Finally, the bill requires the Secretary of Commerce to develop a voluntary program for the accreditation of certification laboratories, so as to eliminate the existing monopolies wherever possible.

For all the reasons outlined above, I urge my colleagues support the Voluntary Standards and Certification Act of 1976. I believe this legislation provides an effective means for the development of a uniform national standardization process that will make entrance to the marketplace more readily available to all firms and thereby benefit the American consumer. I, therefore, urge that this vital legislation be swiftly and favorably considered.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Is there further morning business? If not, morning business is closed.

DEPARTMENT OF DEFENSE APPROPRIATIONS FOR 1977

The ACTING PRESIDENT pro tempore. At this time, under the previous order, the Senate will proceed to the consideration of H.R. 14262, the Defense appropriation bill, which will be stated by title.

The assistant legislative clerk read as follows:

> A bill (H.R. 14262) making appropriations for the Department of Defense for the fiscal year ending September 30, 1977, and for other purposes.

The Senate proceeded to consider the bill, which had been reported from the Committee on Appropriations with amendments.

The ACTING PRESIDENT pro tempore. In accordance with the previous order, the unfinished business, H.R. 10612, will be laid aside temporarily, until action has been completed on H.R. 14262 or until the close of business today, whichever shall come first.

RECESS UNTIL 9:30 A.M.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate stand in recess until 9:30 a.m. today.

There being no objection, the Senate, at 9:14 a.m., recessed until 9:30 a.m.; whereupon the Senate reassembled when called to order by the Presiding Officer (Mr. Stevens).

COMMITTEE MEETINGS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Committee on Public Works be permitted to meet today for the purpose of considering a nomination; that the Committee on Foreign Relations be permitted to meet today for an oversight hearing; and that the Committee on Banking, Housing and Urban Affairs be permitted to meet today for the purpose of an oversight hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

QUORUM CALL

Mr. MANSFIELD. Mr. President. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk called the roll, and the following Senators entered the Chamber and answered to their names:

[Quorum No. 29 Leg.]

Allen
Griffin
Mansfield
Stevens
Young

The PRESIDING OFFICER. A quorum is not present.

Mr. MANSFIELD. Mr. President, I move that the Sergeant at Arms be directed to request the attendance of absent Senators.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Montana.

The motion was agreed to.

The PRESIDING OFFICER. The Sergeant at Arms will execute the order of the Senate.

Pending the execution of the order, the following Senators entered the Chamber and answered to their names:

Bellmon
Cannon
Case
Chiles
Church
Dole
Durkin
Fannin
Garn
Glenn
Goldwater
Gravel
Haskell
Helms
Huddleston
Jackson
Johnston
Leahy
McClellan
McGee
Morgan
Moss
Nelson
Pearson
Percy
Proxmire
Randolph
Ribicoff
Roth
Scott, Hugh
Sparkman
Stafford
Stennis
Stevenson
Stone
Talmadge
Thurmond
Tower

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. Bayh), the Senator from Texas (Mr. Bentsen), the Senator from Arkansas (Mr. Bumpers), the Senator from North Dakota (Mr. Burdick), the Senator from Virginia (Mr. Harry F. Byrd, Jr.), the Senator from Mississippi (Mr. Eastland), the Senator from Kentucky (Mr. Ford), the Senator from Colorado (Mr. Gary Hart), the Senator from Michigan (Mr. Philip A. Hart), the Senator from Indiana (Mr. Hartke), the Senator from Maine (Mr. Hathaway), the Senator from Minnesota (Mr. Humphrey), the Senator from Hawaii (Mr. Inouye), the Senator from Massachusetts (Mr. Kennedy), the Senator from Louisiana (Mr. Long), the Senator from New Jersey (Mr. Williams), the Senator from South Dakota (Mr. McGovern), the Senator from New Hampshire (Mr. McIntyre), the Senator from Montana (Mr. Metcalf), the Senator from Minnesota (Mr. Mondale), the Senator from New Mexico (Mr. Montoya), the Senator from Rhode Island (Mr. Pastore), the Senator from Rhode Island (Mr. Pell), and the Senator from California Mr. Tunney), are necessarily absent.

I also announce that the Senator from Iowa (Mr. Culver), and the Senator from Iowa (Mr. Clark), are absent attending the funeral of the daughter of former Senator Hughes of Iowa.

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. Baker), the Senator from Oklahoma (Mr. Bartlett), the Senator from Maryland (Mr. Beall), the Senator from Tennessee (Mr. Brock), the Senator from Massachusetts (Mr. Brooke), the Senator from New York (Mr. Buckley), the Senator from Nebraska (Mr. Curtis), the Senator from New Mexico (Mr. Domenici), the Senator from Wyoming (Mr. Hansen), the Senator from Oregon (Mr. Hatfield), the Senator from Nebraska (Mr. Hruska), the Senator from New York (Mr. Javits), and the Senator from Maryland (Mr. Mathias), are necessarily absent.

Mr. MANSFIELD. Mr. President, I move that the Sergeant at Arms be directed to compel the attendance of absent Senators, and on that I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Montana (Mr. Mansfield) to direct the Sergeant at Arms to compel the attendance of absent Senators. On this question the yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. Bayh), the Senator from Texas (Mr. Bentsen), the Senator from Arkansas (Mr. Bumpers), the Senator from North Dakota (Mr. Burdick), the Senator from Virginia (Mr. Harry F. Byrd, Jr.), the Senator from Mississippi (Mr. Eastland), the Senator from Kentucky (Mr. Ford), the Senator from Michigan (Mr. Philip A. Hart), the Senator from Colorado (Mr. Gary Hart), the Senator from Indiana (Mr. Hartke), the Senator from Maine (Mr. Hathaway), the Senator from Minnesota (Mr. Humphrey), the Senator from Hawaii (Mr. Inouye), the Senator from Massachusetts (Mr. Kennedy), the Senator from Louisiana (Mr. Long), the Senator from South Dakota (Mr. McGovern), the Senator from New Hampshire (Mr. McIntyre), the Senator from Montana (Mr. Metcalf), the Senator from Minnesota (Mr. Mondale), the Senator from New Mexico (Mr. Montoya), the Senator from Utah (Mr. Moss), the Senator from Rhode Island (Mr. Pastore), the Senator from Rhode Island (Mr. Pell), the Senator from California (Mr. Tunney), and the Senator from New Jersey (Mr. Williams) are necessarily absent.

I also announce that the Senator from Iowa (Mr. Culver), and the Senator from Iowa (Mr. Clark) are absent attending the funeral of the daughter of the former Senator Hughes of Iowa.

Mr. HUGH SCOTT. I announce that the Senator from Tennessee (Mr. Baker), the Senator from Oklahoma (Mr. Bartlett), the Senator from Maryland (Mr. Beall), the Senator from Tennessee (Mr. Brock), the Senator from Massachusetts (Mr. Brooke), the Senator from New York (Mr. Buckley), the Senator from Nebraska (Mr. Curtis), the Senator from New Mexico (Mr. Domenici), the Senator from Arizona (Mr. Goldwater), the Senator from Michigan (Mr. Griffin), the Senator from Wyoming (Mr. Hansen), the Senator from Oregon (Mr. Hatfield), the Senator from Nebraska (Mr. Hruska), the Senator from New York (Mr. Javits), and the Senator from Maryland (Mr. Mathias) are necessarily absent.

The result was announced—yeas 57, nays 1, as follows:

[Rollcall Vote No. 447 Leg.]

YEAS—57

Abourezk
Allen
Bellmon
Biden
Byrd, Robert C.
Cannon
Case
Chiles
Church
Cranston
Dole
Durkin
Eagleton
Fannin
Fong
Garn
Glenn
Gravel
Haskell
Helms
Hollings
Huddleston
Jackson
Johnston
Laxalt
Leahy
Magnuson
Mansfield
McClellan
McClure
McGee
Morgan
Muskie
Nelson
Nunn
Packwood
Pearson
Percy
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Scott,
  William L.
Sparkman
Stafford
Stennis
Stevens
Stevenson
Stone
Symington
Taft
Talmadge
Thurmond
Tower
Young

NAYS—1

Weicker

NOT VOTING—42

Baker
Bartlett
Bayh
Beall
Bentsen
Brock
Brooke
Buckley
Bumpers
Burdick
Byrd,
  Harry F., Jr.
Clark
Culver
Curtis
Domenici
Eastland
Ford
Goldwater
Griffin
Hansen
Hart, Gary
Hart, Philip A.
Hartke
Hatfield
Hathaway
Hruska
Humphrey
Inouye
Javits
Kennedy
Long
Mathias
McGovern
McIntyre
Metcalf
Mondale
Montoya
Moss
Pastore
Pell
Tunney
Williams

So the motion was agreed to.

The PRESIDING OFFICER (Mr. Johnston). With the addition of Senators voting who did not answer the quorum call, a quorum is now present.

Mr. MANSFIELD. Mr. President, for an hour and 15 minutes the Senate attempted to get a quorum here, and when that failed, at the hour of 10:45, the present order was put in, and it has taken this long to get a quorum of the U.S. Senate to consider one of the most important bills to come before us this year. I refer specifically to H.R. 14262, the Department of Defense appropriation bill for 1977.

Mr. President, we have 4 days left in this week after today, 3 days next week, and then we are off for 10 or 12 days for a convention. We come back for about 2 weeks, we are off 3 or 4 days, and then we come back for 3 weeks before, hopefully, sine die adjournment.

I would hope the Senate would cooperate in the days and weeks ahead so that the important legislation which must be considered could be disposed of. In order to do so it will require the presence of a majority plus one of the Senators to conduct business. Enough said.

DEPARTMENT OF DEFENSE APPROPRIATIONS, 1977

The Senate continued with the consideration of the bill (H.R. 14262) making appropriations for the Department of Defense for the fiscal year ending September 30, 197", and for other purposes.

Mr. **MANSFIELD.** Mr. President, I ask unanimous consent, on behalf of the Senator from Washington (Mr. JACKSON), that Dorothy Fosdick, Joel Merkel, and Richard Bealer be given the privilege of the floor during the consideration of the pending business.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

Mr. **PACKWOOD.** I ask unanimous consent that Bob Jerome of my staff have the privilege of the floor during the consideration and votes on this measure.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

Mr. **CRANSTON.** Mr. President, I make the same request for floor privileges for Bill Jackson of my staff.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

Mr. **BELLMON.** I make the same request in behalf of Dick Hargis of my staff.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

Mr. **LEAHY.** The same request for Mark Walsh and James Bruce of Senator Moss' staff.

The **PRESIDING OFFICER.** Without objection, is is so ordered.

Mr. **THURMOND.** I ask unanimous consent that Ed Kenny of the Senate Armed Services Committee staff and John Leisher of the Staff of the Judiciary Committee also have floor privileges.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

Mr. **YOUNG.** Mr. President, I make the same request for Richard Vodra of Senator SCHWEIKER's staff.

The **PRESIDING OFFICER.** Without objection, is is so ordered.

Mr. **GRIFFIN.** I make the same request in behalf of Bob Turner and Amy Timmer of my staff.

Mr. **THURMOND.** I ask unanimous consent that Kenneth Fish of the staff of the Armed Services Committee be accorded privilege of the floor.

The **PRESIDING OFFICER.** Without objection, is is so ordered.

Mr. **RANDOLPH.** Mr. President, the Senator from West Virginia can understand the problem of the leadership in having Senators present. The Senator from West Virginia is not critical of the delay; he rises only for this purpose: In the Public Works Committee this morning, beginning at 9:30, we had a very important nomination, of John Eden to be the Assistant Secretary of Commerce for Economic Development. I am holding a hearing on that nomination, and it is difficult to interrupt a hearing to come to the floor for a live quorum.

I only indicate that there are problems of Senators who are at work on the Hill. Those problems are not always able to accommodate themselves quickly, although at a later time this morning I did come to the Senate floor in an effort to achieve a live quorum.

Mr. **McCLELLAN.** Mr. President, is the pending business H.R. 14262?

The **PRESIDING OFFICER.** The Senator is correct.

Mr. **McCLELLAN.** Mr. President, the Committee on Appropriations has carefully considered H.R. 14262, the defense appropriations bill, and recommends an appropriation of $104,007,046,000 in new budget authority for the Department of Defense for fiscal year 1977.

Many difficult funding choices were required to arrive at this recommendation, but we believe that it establishes a level of spending that will be adequate for our national security and which is commensurate with our available resources.

The committee was faced with a staggering Defense request—$107,936,172,000 in new budget authority—or 17.5 percent over the $90,466,961,000 provided in this bill last year.

We spent many hours examining the various programs submitted by the administration. We have attempted to be prudent. We have pruned this budget of several low priority projects. We believe it is a lean budget considering all pertinent factors involved.

While not all Members of the Senate will be satisfied with every recommendation contained in the bill, the committee is certain that the appropriations provided will enable our country to maintain a strong defense posture—one that will be a positive contribution to our security and to world peace.

Accordingly, Mr. President, I believe it deserves the support of the Senate.

OVERALL RECOMMENDATIONS

In addition to the $104,007,046,000 in new budget authority contained in this bill, the committee proposes transfers totaling $82,600,000, so that the amount actually recommended totals $104,089,646,000. But, Mr. President, of this amount only $96,001,946,000 is available for real defense purposes since over $8 billion must go to pay for pensions for retired military personnel.

Mr. President, that is something that is never properly taken into account publicly when figures are quoted respecting the cost of the Defense Department. Nearly 8 percent, Mr. President, of the total defense appropriation cannot be used for military preparedness—appropriations in the amount of $8,035,500,000 for retired military and $52,200,000 for the Central Intelligence Agency retirement fund are contained in this bill. This money—this $8 billion plus amount—contributes absolutely nothing to our military preparedness effort. It is not available to the Department for any purpose—not for procurement—not for research and development—nor for routine operation and maintenance. It is for retirement compensation only.

By organization, the recommended bill would provide $25,375,402,000 for the Department of the Army, $36,000,115,000 for the Navy Department, $30,776,645,000 for the Department of the Air Force, $3,788,684,000 for the Defense Agencies and related items, and $8,035,500,000 for retired military pensions.

By title, the committee's recommendations include: $25,436,043,000 for military personnel appropriations, $8,035,500,000 for retired military personnel, $31,431,164,000 for operation and maintenance accounts, $28,630,000,000 for procurement, $10,422,139,000 for research and development, including the small special foreign currency program, and $52,200,000 for the Central Intelligence Agency retirement fund. This bill does not include funds for military construction, family housing, foreign military assistance, and civil defense—all of which are included in appropriation bills already passed by the Senate or reported by the committee.

RECOMMENDED REDUCTIONS

The $104,007,046,000 in new budget authority recommended in the bill for fiscal year 1977 is a reduction of $3,929,126,000, or 3.6 percent, below the administration's budget request. It is also $1,390,297,000 less than the House bill, but is $11,607,508,000, or 12.6 percent, above the amounts appropriated for the Defense Department in fiscal year 1976—including all supplementals. The bill recommended by the committee will result in outlays of $70,959,000,000 in fiscal year 1977. These outlays, plus outlays of $22,718,000,000 from prior year Defense appropriations, will result in total outlays in fiscal year 1977 of $93,677,000,000. These outlays are $1,597,000,000 less than the President's budget and $596,000,000 below the House bill.

MAJOR CHANGES FROM HOUSE BILL

There is a very large number of changes in the bill before the Senate when compared to the House bill. For convenience, the committee summarized and highlighted the major changes on pages 5 through 8 of its report. I shall insert those pages in the record at the end of my statement, since they provide a convenient summary.

I ask unanimous consent that those pages be printed in the RECORD as exhibit 1 at the conclusion of my remarks.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

(See exhibit 1.)

Mr. **McCLELLAN.** In order to convey to this body the magnitude of the task accomplished by the Committee on Appropriations, I also include a table showing the number of line items acted on by the committee.

Mr. President, I ask unanimous consent that that table be printed in the RECORD as exhibit 2 at the conclusion of my remarks.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

(See exhibit 2.)

Mr. **McCLELLAN.** The budget request

contains 800 line items in military personnel and retired pay, 250 in operation and maintenance, 1,571 in procurement, and 737 in research and development. In all, 3,358 line items were reviewed.

Even these numbers do not reveal the total picture, for the operation and maintenance and military personnel accounts are further subdivided into numerous pieces, but I believe these numbers clearly demonstrate the high level of effort required to process this bill. The House made adjustments in 268 programs, with reductions totaling $1,370,429,000 from the budget request they considered. The House did not consider a budget amendment totaling $1,168,400,000, which was considered by this committee. This amendment was submitted after the House bill had been marked up by the House Appropriations Committee. The House bill is actually $2,538,829,000 below the budget request considered by the Senate committee. The committee reviewed every adjustment made by the House, and of these reductions, restored $1,042,500,000 involving 112 programs.

In addition, the committee recommended other reductions totaling $2,432,797,000 below the House bill and this involved 247 programs. Therefore, the net recommendations in the bill are $4,066,326,000 below the House bill, involving 391 line items, and there is a very significant difference in the mix of programs funded and in dollar amounts.

SUMMARY OF ITEMS IN THE BILL

The funds recommended in the committee bill buy two basic things—the day-to-day pay and operating costs of our military forces, and second, investment in new items of military equipment, including both research and development of new weapons and equipment as well as actual procurement.

The bill includes recommendations of $56,867,207,000 for the pay and operating costs of active duty military, Reserve forces, and Department of Defense civilians. This amount includes $25,436,043,000 for military personnel and $31,431,164,000 for operation and maintenance—which includes the pay for most of the civilian personnel.

In the first category, the recommended funds will pay for an active Army of 16 divisions and 6 separate brigades, a Navy with 489 commissioned ships in the active fleet and 5,887 active aircraft, 3 active Marine Corps divisions, each with an associated aircraft wing, and an Air Force with 9,239 aircraft and 1,054 ballistic missile launchers.

Manpower funded in this bill is: 2,085,192 in the Active forces, and 877,699 in the Reserve components, for a total of 2,962,891. In addition to the military manpower, funds are included for a total of 1,031,832 civilian employees of the Department of Defense. This is a reduction of 4,800 from the budget request, the same reduction made in the Authorization Act—Public Law 94-361.

Now I shall turn to the second aspect of the purpose of funds in this bill: the development and procurement of new weapons and equipment for our Armed Forces. The committee recommends $39,052,139,000 for these programs, which are a key part of the modernization needed by our military establishment. This amount consists of $10,422,139,000 for research and development and $28,630 million for procurement.

I will now highlight the funds in the bill for major programs in procurement and research and development.

The committee recommends a total of $2,250,961,000 for Army research and development. This includes: $130.8 million for the advanced attack helicopter, $22 million of which will be for equipment useful for a future scout helicopter; $103 million for advanced ballistic missile defense; $75 million for ballistic missile defense systems technology; $179 million for the surface-to-air missile, SAM-D; $105 million for the XM-1 tank; and $700,000 for a non-nuclear warhead on the Lance missile.

A total of $3,696,503,000 is recommended for Navy research and development. This includes: $25.8 million for improvements to the Sparrow and Phoenix missiles; $27.1 million for development of extra low frequency communications, Seafarer; $346.9 million for the F-18 aircraft; $568.5 million for the Trident missile; and $48 million for the surface effects ship.

For Air Force research and development, the committee recommends $3,740,530,000. This includes: $29.3 million for the advanced medium STOL aircraft; $482.7 million for the B-1 bomber; $259.1 million for the F-16 aircraft; $69 million for the Airborne Command Post; $16.3 million for the precision location strike system; $30.6 million for the defense satellite communications system, DSCS III; and $104.6 million for AWACS.

In the area of procurement, some of the major programs include the following:

For the Army, $105.7 million for 82 AH-1S Cobra TOW attack helicopters; $114.5 million for 15 UTTAS—utility tactical transport helicopters; $61.8 million for 2,000 Chaparral surface-to-air missiles; $89.5 million for 526 improved Hawk misslies and three battery sets of ground modifications; $48.4 million for 445 Stinger air defense missiles; $81.9 million for the Dragon antitank missile system; $75.9 million for the TOW antitank missile system; $75 million for 360 nonnuclear warheads for the Lance surface-to-surface missile system; $89.4 million for 1,200 M113A1 personnel carriers; $46.8 million for 103 M109A1 155 millimeter howitzers; $450.9 million for 886 M-60 series tanks; $655.1 million for ammunition; $333.4 million for tactical and support vehicles; and $639.7 million for communications and electronics equipment.

For the Navy, the committee recommends: $93.9 million for 21 A-4M attack aircraft; $65.8 million for six A-6E attack aircraft; $217.7 million for 30 A-7E attack aircraft; $585.7 million for 36 F-14A fighter aircraft; $207.2 million for 12 P-3C ASW patrol aircraft; $149.8 million for six E-2C early warning aircraft; $104.1 million for six US-3A carrier onboard delivery—COD—aircraft; $10 million for three F-5F trainer aircraft; $738.3 million for 48 Trident missiles, production support costs and reentry system components; $68.9 million for 600 AIM-7F III Sparrow air-to-air missiles; $186 million for 350 Harpoon antiship missiles; and $233.1 million for torpedoes and related equipment. The House directed termination of the Condor missile program. The committee recommends continuation of the program in fiscal year 1977 as approved by the authorizing legislation and directs the Department of Defense to take certain actions to insure proper congressional evaluation and oversight of the program.

In addition, the committee recommends for the Navy: $729.7 million for one Trident submarine; $350 million for advance procurement for a *Nimitz* class nuclear powered aircraft carrier; $745.6 million for three SSN-688 nuclear attack submarines; $213 million for conversion of the U.S.S. *Belknap*; $371 million for advance procurement for conversion of the U.S.S. *Long Beach*; $1,147.1 million for eight FFG guided missile frigates; $260.4 million for one AD destroyer tender; $102.3 million for one AO fleet oiler; $260.9 million for one AS submarine tender; and $620.1 million for communications and electronics equipment.

For the Air Force, the committee recommends: $1,049.5 million for 3 B-1 strategic bombers and advance procurement funds, but prohibits the use of any funds for procurement of the first 3 production aircraft prior to February 1, 1977; $566.7 million for 100 A-10 close air support aircraft; $1,406.9 million for 108 F-15A air superiority fighter aircraft; $174.9 million for advance procurement of F-16 air combat fighter aircraft; $432.7 million for 6 AWACS aircraft; $37.2 million for advance procurement for the advanced tanker cargo aircraft; $274.5 million for 60 Minuteman intercontinental ballistic missiles; and $550.8 million for electronics and telecommunications equipment.

The bill also includes $8,035,500,000 for retired military personnel. There will be over 1,170,000 retired persons on the rolls in fiscal year 1977. The final item funded in the bill is $52,200,000 to meet the current unfunded liability of the CIA retirement pension fund.

DEFENSE BILL IN RELATIONSHIP TO THE FIRST CONCURRENT RESOLUTION ON THE BUDGET

Mr. President, on page 10 of the committee report there is a table which was prepared by the Congressional Budget Office, comparing the amounts in the bill with the committee allocation of amounts in the first concurrent resolution for 1977. This bill is $2,993,000,000 below the budget authority allocation and $2,523,000,000 below the outlay allocation made by the Appropriations Committee to the Defense Subcommittee.

Mr. President, I ask unanimous consent that that table that reflects this be printed as exhibit 3 at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 3.)

Mr. McCLELLAN. Mr. President, I must advise the Members that this is not as great a savings as it may first appear, since the committee currently expects to receive supplementals of $2.2 billion.

This amount includes current estimates of the impact of pay raises for military and civilian personnel, cost of living increases for retired personnel and miscellaneous other small items. If the total of this supplemental is added to the amounts recommended in the bill, total funds would be about $0.7 billion below the resolution in budget authority and $0.3 billion below in outlays. On the basis of past history, however, reductions will be made to the supplemental request, and the committee believes that amounts ultimately appropriated for the Department of Defense in fiscal year 1977, based on budget requests already received and those anticipated, will be within the level contained in the first concurrent resolution.

DEFENSE IN COMPARISON WITH OTHER FEDERAL AGENCIES

Outlays for national defense have shrunk during the 10-year period 1967–1977 from 43.7 percent of the total Federal budget outlays in fiscal year 1967 to 25.1 percent in the bill pending before you for fiscal year 1977.

Mr. President, these are from facts and statistics that are often not recognized or taken into account when we discuss the defense budget and its impact upon total expenditures.

I wish to point out that since fiscal year 1967, the cost of the Federal Government has gone up a total of $236.4 billion—in 10 years time the cost of this Government has increased by $236.4 billion—from $158.3 billion to a total of $394.7 billion currently estimated by the Congressional Budget Office for fiscal year 1977. Of that total increase, only $29.8 billion, or 12.6 percent, is attributable to national defense spending. The remaining 87.4 percent, or $206.6 billion, is attributable to nonmilitary functions and services such as human resources and general government.

Since fiscal year 1967, nondefense programs, including Federal outlays for human resource items—education, manpower, health—including medicare and medicaid—income security—including individual benefits—have increased from 56.3 percent of the total budget to 74.9 percent. In dollar terms, the increase in the last 10 years for these functions was $206.6 billion, from $89.2 billion to $295.7 billion.

Thus, while national defense costs were rising by 43 percent over the past 10 years—from $69.1 billion to $98.9 billion—the total of other Government expenditures was climbing from $89.2 billion to $295.7 billion—an increase of 232 percent. I point out again that a substantial part of the military increase is for retired pay, which contributes nothing to defense preparedness.

The defense share of both the total Federal budget and the gross national product continues to decline. In fiscal year 1977, for example, proposed national defense outlays will constitute only 25.1 percent of the total budget—down almost 19 percent from the fiscal year 1967 level of 43.7 percent of the budget. Between 1967 and 1977, national defense outlays will decline from 8.9 percent of the gross national product to 5.4 percent. During the same period, outlays for the nondefense portion of the budget rose from 11.5 percent to 16.1 percent of the gross national product.

Moreover, defense spending has been rising far less rapidly than any other major item in the budget.

For example, during the past 10 years:

Federal aid to education, manpower, and social services jumped 200 percent, from $6 billion to $18.1 billion.

Income security programs increased 344 percent, from $30.8 billion to $136.8 billion.

Health services, including medicare and medicaid, increased by 462 percent, from $6.8 billion to $38 billion.

Interest on the national debt increased by 219 percent, from $12.5 billion to $40 billion.

Mr. President, I ask unanimous consent to have printed in the Record, at the conclusion of my remarks, a table prepared by the Congressional Budget Office that shows the detail of all these figures.

The PRESIDING OFFICER (Mr. Hollings). Without objection, it is so ordered.

(See exhibit 4.)

CUTS IN DEFENSE COMPARED WITH CUTS IN OTHER AREAS

Mr. McCLELLAN. I point out, Mr. President, that in fiscal year 1973, when I first became chairman of theAppropriations Committee, Congress was able to reduce the regular Defense Department appropriation requests by $5.2 billion in budget authority. In fiscal year 1974, we made a reduction of $3.5 billion in the military. In fiscal year 1975, we reduced the Defense Department request by $5 billion. In fiscal year 1976, the Department of Defense appropriation was cut $7.2 billion. The committee is recommending a cut of $3.9 billion in this bill.

Over the past 4 years, Congress has cut the administration's total budget by $23.6 billion in regular appropriation bills. Of this total reduction, $20.9 billion, or 88.7 percent, was slashed from the defense budget, while only $2.7 billion, or 11.3 percent, of the total was cut from regular appropriations bill for all Government agencies and departments, other than the Defense Department.

Mr. President, I point out that the greatest percentage of the $2.7 billion reductions made in nondefense areas was made in foreign aid spending. A very small percent, indeed, Mr. President, of the total reductions in this 4-year period have been made from areas other than national defense and foreign aid. Many other agencies of the Government have had their appropriations increased over the President's budget request.

This year, we are recommending a cut of $3.9 billion from funds requested for defense. Thus, in 5 years, we will have reduced the military by almost $25 billion. I ask unanimous consent to have printed in the Record a table prepared by the Congressional Budget Office showing these items, at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 5.)

Mr. McCLELLAN. Mr. President, I continue to believe that this trend toward disproportionate cuts in defense spending cannot be continued without seriously impairing our military readiness. We have heard a great deal of argument about cutting funding out of the military and putting it into human resource programs. Mr. President, we take the risk of impairing defense while we continue to fund increase after increase in these other services that the Government maintains and provides. I submit that we should not continue forcing only one segment of the national budget—the Defense Department—to bear the whole burden of reordered priorities and reduced spending. I hope the Senate will pass this measure without major crippling amendments.

EXHIBIT 1

SIGNIFICANT ITEMS AND MAJOR CHANGES TO HOUSE BILL

The Committee recommends the following major actions, particularly with respect to the House Bill.

MILITARY PERSONNEL

Recruiting, advertising and support.—Recommends increased combat arms enlistment bonuses and recruiter aides to increase accession quality as opposed to advertising emphasis.

Army Permanent Change of Station (PCS) travel.—In part, restores $68.7 million of House reduction to permit return to normal overseas tour lengths.

Naval Districts.—Proposes consolidation in lieu of elimination as proposed by the House.

Enlisted Aides.—Eliminates this program; precludes the use of enlisted personnel as personal servants to general/flag officers.

Service Academy Preparatory Schools.—Recommends termination of this costly and inefficient marginal source of officer accessions.

Terminal leave payments.—Prohibits the inclusion of quarters and subsistence allowances within lump-sum terminal leave payments.

RETIRED PAY

Contingency adjustment.—Proposes reduction of $457.9 million, without prejudice, as the amount forecast for future cost of living increases. Since ultimate funding needs in this area are largely affected by legislation this year, net requirements will be considered as part of the normal pay supplemental request for fiscal year 1977.

OPERATION AND MAINTENANCE

Stock Fund Surcharge/Price Stabilization.—Approves the full $573.6 million requested and approves price stabilization for a two-year trial period. (House Committee cut $229.8 million from budget.)

Additional Base Operating Shelf Stockage of Supplies.—Funds $98 million of a requested increase of $185.1 million to increase base operating supplies. (House Committee funded full request.)

Subsidy of Cost Transporting Military Exchange Goods Overseas.—Prohibits subsidy of transportation costs where such subsidy is in violation of the law. Does not cut any associated funding but permits funds to be used by the services solely to improve readiness. (House Committee allowed the full subsidy.)

Flying Hour Programs—Reduces flying

hour funds by approximately 3 percent; cuts mostly involve programs where flying hour increases were budgeted. (House Committee funded the full flying hour program requested.)

Stock Fund Materiel Procurement.—Funds only $53 million of the $357.9 million requested for procurement of war reserve materiel. This funds only highest priority items. (House Committee funded the full request.)

Subsidy for Military Commissaries.—Sustains the House position in providing the full $281.0 million subsidy for military commissaries and does not provide for a phaseout.

Civilian Personnel.—Funds the authorized level of 1,031,000 civilian personnel. House bill included funds for an end-strength of 1,035,800, the same as the budget request.

Civilian Health and Medical Program of the Uniformed Services (CHAMPUS).—Includes a general provision permitting reimbursement of claims to hospitals only when charges have been determined to be established using a Usual, Customary and Reasonable system similar to that used for Medicare and Medicaid. This aligns the CHAMPUS system more closely with other government programs, and makes it consistent with the system now utilized in reimbursing physicians.

PROCUREMENT

Aircraft

Army: UTTAS utility tactical transport aircraft system—Sustains House in providing funds for initial buy of 15 helicopters.

Navy: A–4M attack aircraft—Sustains House in providing funds for procurement of 21 aircraft.

A–6E attack aircraft—House provided funds to buy 12 aircraft. Committee recommendation provides funds for buying of 6 aircraft.

A–7E attack aircraft—Sustains House in providing funds for buy of 30 aircraft.

F–14A fighter aircraft—Sustains House in providing funds for procurement of 36 aircraft.

P–3C antisubmarine warfare patrol aircraft—Sustains House buy of 12 aircraft.

US–3A carrier onboard delivery (COD) aircraft—House denied funds for procurement of COD aircraft. Committee recommends $104.1 million to buy 6 aircraft.

F–5F trainer aircraft—Recommends $10.0 million for procurement of 3 trainer aircraft. House provided no funds.

Air Force: B–1 strategic bomber—Provides $1,049.5 million for three B–1 strategic bombers and advance procurement funds, but prohibits the use of any funds for procurement of the first three production aircraft prior to February 1, 1977.

A–10 close air support aircraft—Sustains House buy of 100 aircraft.

F/TF–15A air superiority fighter aircraft—Sustains House buy of 108 aircraft.

F–16 air combat fighter aircraft—House provided $287.8 million to buy 16 aircraft and $23.4 million for advance procurement. Committee recommends program be restructured with $174.9 million in advance procurement funds and $49.4 million for initial spares.

E–3A AWACS aircraft—Sustains House buy of 6 aircraft.

ATCA advanced tanker/cargo aircraft—House provided $11.7 million in advance procurement funds for the advanced tanker/cargo aircraft. Committee recommends restoration of $25.5 million, for total of $37.2 million for advance procurement.

Missiles

Army: Stinger air defense missile system—Restores $48.4 million for buy of 445 missiles. Also restores $2.6 million for the initial procurement of Stinger missiles for the Marine Corps.

Lance surface-to-surface missile—Restores $75.0 million to buy 360 nonnuclear Lance warheads and missiles.

Air defense command and control system—Deletes $41.9 million for the procurement of 12 AN/TSQ–73 air defense command and control systems and initial spares.

Navy: Trident missile progam—Sustains House in providing funds for the production of 48 Trident I missiles.

Condor missile program—The House directed termination of the Condor missile program. The Committee recommends continuation of the program in fiscal year 1977 as approved in the authorizing legislation and directs the Department of Defense to take certain actions to ensure proper congressional evaluation and oversight of the program.

Air Force: Minuteman intercontinental ballistic missile program—Sustains House in providing funds for the procurement of 60 Minuteman II/III missiles.

Ships

Trident nuclear ballistic missile submarine—Sustains House buy of one submarine.

Aircraft carrier—Sustains House provision of $350.0 million to buy long lead items for one Nimitz class nuclear powered aircraft carrier.

SSN–688 class nuclear attack submarine—Sustains House buy of 3 ships.

CSGN nuclear powered strike cruiser—Deletes $170.0 million in advance procurement funds for a nuclear powered strike cruiser.

Long Beach conversion—Add $371.0 million for long lead items for the conversion of the nuclear cruiser, *U.S.S. Long Beach* to a strike cruiser.

DDG–47 Aegis destroyer—Deletes $858.5 million for the procurement of one destroyer.

Belknap conversion—Sustains House in providing $213.0 million for the modernization and conversion of the guided missile cruiser, *U.S.S. Belknap.*

FFG guided missile frigate—Sustains House buy of 8 ships.

PHM patrol hydrofoil missile ship—House denial of funds stops program at 2 ships. Committee recommends restoration of $234.2 million to complete 6 ship program.

Tracked vehicles

M60 series combat tank—Sustains House buy of 886 M60 series tanks for the Army.

XM1 tank system.—Sustains House provision of $35.6 million for advance procurement of the XM1 tank system.

Research, development, test and evaluation

Army: Aerial Scout.—Restores $2,000,000 for airframe studies for a future scout helicopter.

Ballistic Missile Defense systems technology.—Deletes $25,000,000 to reduce level of effort of all BMD programs to fiscal year 1976 level.

Lance missile.—Restores $650,000 to Lance for work on nonnuclear warhead.

Evaluation of foreign components.—Increases each of the Services' program for foreign weapons evaluation by $1,500,000 to insure aggressive standardization and NATO cooperative programs.

Navy: VCX carrier-on-board delivery aircraft (COD).—Deletes $40,000,000 for R&D on a Navy COD and recommends that a derivative of a current carrier aircraft be procured.

F–14B engine.—Provides $15,000,000 for development of a new engine for the F–14. Sustains language in authorization conference report for competitive hardware demonstration to permit selection and initiation of full-scale development of an engine by September 30, 1977.

Air-to-air missile engineering.—Restores $9,551,000 to insure that improvements of current air-to-air missiles continue. Committee specifically considers PHOENIX improvements to be of a high priority.

Extra low frequency communications.—Restores $12,300,000 to continue development of SEAFARER. Denies funding for full scale engineering development.

Air Force: Satellite communications.—Restores $20,000,000 to allow continued development of Defense Satellite III.

Drones/remotely piloted vehicles.—Restores $6,000,000 to insure continued development of COMPASS COPE, the high altitude remotely piloted vehicle.

Surface defense suppression.—Deletes $8,000,000 added for procurement of GBU–15 Modular Glide Bombs for testing. Provides $22,500,000.

Precision location strike system.—Restores $16,300,000 to allow continued development of this system.

Advanced system engineering planning.—Restores $10,000,000 to continue funding of certain AEROSPACE and RAND Corporation projects. Deletes $4,500,000 from Air Force Federal Contract Research Centers in general.

Trident missile.—Increases funding for Trident missile development. This is an emergency reprogramming of funds from Trident procurement to RDT&E.

EXHIBIT 2

LINE ITEM REDUCTIONS AND RESTORATIONS

[Dollar amounts in thousands]

	Total number of line items, program elements, or projects in account, all services	Total number of line items or programs where House bill made adjustments	Value of House adjustments	Number of programs House cut where Senate restored funds or made adjustments	Value of Senate restorations or adjustments	Number of programs where Senate made adjustments not in House bill	Value of Senate adjustments	Total number of programs adjusted by Senate	Total value of Senate adjustments
Military personnel and retired military pay	800	46	−$170,008	6	+$75,400	30	−$425,156	48	−$519,764
Operation and maintenance	250	52	−266,324	22	+306,000	109	−893,912	136	−854,236
Procurement	1,571	77	−586,000	32	+558,800	21	−970,200	68	−1,971,400
Research and development	737	93	−348,097	52	+107,900	87	−195,729	139	−635,926
Related agencies					−5,600		+52,200		+52,200
Total	3,358	268	−1,370,429	112	+1,042,500	247	−2,432,797	391	−3,929,126

EXHIBIT 3

BUDGETARY IMPACT OF H.R. 14262[1]

[In millions of dollars]

	Budget authority		Outlays	
	Committee allocation	Amount in bill	Committee allocation	Amount in bill
I. Comparison of amounts in the bill with the committee allocation to its subcommittees of amounts in the first concurrent resolution for 1977: Subcommittee on Defense	107, 000	104, 007	[2] 96, 200	[2] 93, 677
II. Summary by functional category of 1977 budget amounts recommended in the bill: 050—National Defense		104, 007		[2] 93, 677
III. Financial assistance to State and local governments for 1977 in the bill				
IV. Projections of outlays associated with budget authority recommended in the bill:				
1977				[3] 70, 959
1978				17, 840
1979				7, 829
1980				3, 648
1981				1, 554
Future year				2, 177

[1] Prepared by the Congressional Budget Office pursuant to sec. 308a, Public Law 93-344.

[2] Includes outlays from prior year budget authority.

[3] Excludes outlays from prior year budget authority.

Note: The bill contains transfer authority in the amount of $83,000,000 which is estimated to have the following net on total outlays: 1977: −$22,000,000; 1978: +$26,000,000; 1979: +$10,000 000; 1980: +$4,000,000; 1981: +$1,000,000; beyond 1981: −$20,000,000.

While the above indicates that appropriations recommended by the Committee result in levels $3.0 billion below the Resolution in budget authority and $2.5 billion below in outlays, it should be pointed out that an additional $2.2 billion has yet to be considered. This amount, to be transmitted next year as a supplemental budget request, includes current estimates for the impact of pay raises for military and civilian personnel, cost of living increases for retired personnel and miscellaneous smaller items. Added to the amounts herein recommended for appropriation, total funds would be $0.8 billion below the Resolution in budget authority and $0.3 billion below in outlays. On the basis of past history, however, reductions will be made to the supplemental request, and the Committee is certain that amounts ultimately appropriated fo the Department of Defense in fiscal year 1977 will be well within the level contained in the First Concurrent Resolution.

EXHIBIT 4

BUDGET OUTLAYS BY FUNCTION—10-YR COMPARISON (FISCAL YEARS 1967-77)

[In millions of dollars]

	Fiscal year 1967			Fiscal year 1977 (President's budget) [1]				Fiscal year 1977 1st Con. Res.	Fiscal year 1977 (actual to date) [5]			
	Amount	Percent of total budget	Percent of GNP [2]	Amount	Percent of total budget	Percent of GNP [2]	Amount and percentage increase from fiscal years 1967 to 1977		Amount	Percent of total budget	Percent of GNP [2]	Amount and percentage increase from fiscal years 1967 to 1977
National Defense (050)	69, 101	43.7	8.9	101, 582	25.4	5.5	Up 32,481 or 47%	100, 800	98, 947	25.1	5.4	Up 29,846 or 43%.
(Department of Defense (051)).	(67, 457)	(42.6)	(8.7)	(99, 985)	(25.0)	(5.4)	(Up 32,528 or 48%)		(96, 792)	(24.5)	(5.3)	(Up 29,335 or 43%.)
Educa(tion, Training, Employmet and(Social Services (500).	6, 023	3.8	.8	18, 394	4.6	1.0	Up 12,371 or 205%	23, 000	18, 098	4.6	1.0	Up 12,075 or 200%.
Health 550)	6, 759	4.3	.9	36, 493	9.1	2.0	Up 29,734 or 440%	37, 900	37, 994	9.6	2.1	Up 31,235 or 462%.
Income Security (600)	30, 821	19.5	4.0	136, 215	34.1	7.4	Up 105,394 or 342%	139, 300	136, 809	34.7	7.5	Up 105,888 or 344%.
(Social Security)	(21, 913)	(13.8)	(2.8)	(84, 051)	(21.0)	(4.6)	(Up 62,138 or 284%)		([6])	([6])	([6])	([6]).
(Public Assistance) [3]	(3, 465)	(2.2)	(.4)	(23, 500)	(5.9)	(1.3)	(Up 20,035 or 578%)		([6])	([6])	([6])	([6]).
Interest 900)	12, 533	7.9	1.6	40, 187	10.0	2.2	Up 27,654 or 221%	40, 400	39, 975	10.1	2.2	Up 27,442 or 219%.
General Government and all other functions.	33, 016	20.9	4.3	67, 102	16.8	3.7	Up 34,086 or 103%	71, 900	62, 843	15.9	3.4	Up 29,827 or 90%.
Total	158, 254	100.0	20.5	399, 973	100.0	21.8	Up 241,719 or 153% [4]	413, 300	394, 666	100.0	21.5	Up 236,412 or 149%.[7]
BUDGET OUTLAYS BY SELECTED FUNCTIONS—SUMMARY												
National Defense (050)	69, 101	4317	8.9	101, 582	25.4	5.5	Up to 32,481 or 47%	100, 800	98, 947	25.1	5.4	Up 29,846 or 43%.
(Department of Defense (051)).	(67, 457)	(42.6)	(8.7)	(99, 985)	(25.0)	(5.4)	(Up 32,528 or 48%)		(96, 792)	(24.5)	(5.3)	(Up 29,335 or 43%.)
Education, Health and Income Security (500, 550, 600).	43, 603	27.6	5.6	191, 102	47.8	10.4	Up 147,499 or 338%	200, 200	192, 901	48.9	10.5	Up 149,298 or 342%.
Interest (900)	12, 533	7.9	1.6	40, 187	10.0	2.2	Up 27,654 or 221%	40, 400	39, 975	10.1	2.2	Up 27,442 or 219%.
All other functions	33, 016	20.9	4.3	67, 102	16.8	3.7	Up 34,086 or 103%	71, 900	62, 843	15.9	3.4	Up 29,827 or 90%.
Total	158, 254	100.0	20.5	399, 973	100.0	21.8	Up 241,719 or 153% [4]	413, 300	394, 666	100.0	21.5	Up 236,412 or 149%.[7]
10-YR COMPARISON OF DEFENSE OUTLAYS TO TOTAL OUTLAYS												
National Defense (050)	69, 101	43.7	8.9	101, 582	25.4	5.5	Up 32,481 or 47%	100, 000	98, 947	25.1	5.4	Up 29,846 or 43%.
(Department of Defense (051)).	(67, 457)	(42.6)	(8.7)	(99, 985)	(25.0)	(5.4)	(Up 32,528 or 48%)		(96, 792)	(24.5)	(5.3)	(Up 29,335 or 43%.)
Federal Government other than Defense.	89, 152	56.3	11.5	298, 391	74.6	16.3	Up 209,289 or 235%	312, 500	295, 719	74.9	16.1	Up 206,567 or 232%.
Total	158, 254	100.0	20.5	399, 973	100.0	21.8	Up 241,719 or 153% [4]	413, 300	394, 666	100.0	21.5	Up 336,412 or 149%.[7]

[1] As of July 20, 1976. These estimates have not been reviewed by CBO, and are not reflected in the actual figures to date.

[2] Using GNP estimates of $773.5 billion for 1967 and $1,836.2 billion for 1977.

[3] Includes: Food stamps, housing payments, supplemental security income.

[4] Of the total increase of $241.7 billion, only 13.4 percent is attributable to national defense while 86.7 percent is attributable to nonmilitary functions.

[5] CBO estimate of July 22, 1976. Reflects appropriation bills reported or passed by the Senate as of July 22, 1976.

[6] Figures not available.

[7] Of the total increase of $236.4 billion, only 12.6 percent is atrributable to national defense while 87.4 percent is attributable to nonmilitary functions.

Note: Columns may not add due to rounding.

Prepared by the Congressional Budget Office at the request of the Senate Appropriations Committee.

EXHIBIT 5

RELATIONSHIP OF BUDGET AUTHORITY CHANGES IN DEFENSE, MILITARY CONSTRUCTION AND FOREIGN ASSISTANCE BILLS TO THOSE CHANGES IN OTHER REGULAR APPROPRIATION ACTS FOR FISCAL YEARS 1973, 1974, 1975, 1976, AND 1977

[In millions of dollars]

Changes enacted by Congress	1973	1974	1975	1976	4-yr total	1977	5-yr total
Defense	−5, 221.2	−3, 535.8	−4, 961.2	−7, 227.7	−20, 945.9	[1] −3, 929.1	−24, 875.0
Military construction	−338.0	−286.0	−310.2	−524.0	−1, 458.2	[2] −128.2	−1, 586.4
Subtotal (defense, military construction)	−5, 559.2	−3, 821.8	−5, 271.4	−7, 751.7	−22, 404.1	−4, 057.3	−26, 461.4
Foreign assistance	−1, 510.3	−1, 212.5	−2, 272.1	−609.8	−5, 604.7	[1] −464.5	−6, 069.2
Subtotal (defense, military construction, and foreign assistance)	−7, 069.5	−5, 034.3	−7, 543.5	−8, 361.5	−28, 008.8	−4, 521.8	−32, 530.6

Footnotes at end of table.

RELATIONSHIP OF BUDGET AUTHORITY CHANGES IN DEFENSE, MILITARY CONSTRUCTION AND FOREIGN ASSISTANCE BILLS TO THOSE CHANGES IN OTHER REGULAR APPROPRIATION ACTS FOR FISCAL YEARS 1973, 1974, 1975, 1976, AND 1977—Continued

[In millions of dollars]

Changes enacted by Congress	1973	1974	1975	1976	4-yr total	1977	5-yr total
Agriculture	481.8	408.1	−58.7	−23.2	808.0	78.1	886.1
District of Columbia	−26.9	−15.3	−26.6	−43.2	−112.0	(3)	−112.0
Housing and Urban Development	−372.2	439.0	−221.0	565.3	411.1	[4] −1,970.0	−1,558.9
Interior and other agencies	21.8	72.8	15.2	−72.5	37.3	[5] −106.7	−69.4
Labor/HEW	1,032.4	1,376.8	−485.2	915.8	3,950.1	[4] 4,490.9	8,441.0
Legislative	−5.6	−71.9	−14.2	[6] 1,110.3 −10.7	−102.4	(3)	−102.4
Public works	15.9	−8.1	−21.4	140.8	127.2	304.8	432.0
State, Justice, and Commerce	−23.3	−56.9	−162.6	236.9	−5.9	367.1	361.2
Transportation	−41.2	−112.3	−256.5	−91.1	−501.1	[4] 175.2	−325.9
Treasury, Post Office	−8.8	−140.4	−57.0	−16.4	−222.6	308.2	85.6
Subtotal (other)	1,073.9	1,891.8	−1,288.0	2,712.0	4,389.7	3,647.7	8,037.4
Total	−5,995.6	−3,142.5	−8,831.5	−5,649.5	−23,619.1	−874.1	−24,493.2

[1] As reported by the Senate Committee on Appropriations.

[2] Conference report passed by House and Senate, awaiting President's signature.

[3] Not yet reported by the Senate Committee on Appropriations.

[4] As passed by the Senate.

[5] Conference report filed.

[6] Education considered in separate bill in fiscal year 1976.

Note: Columns may not add due to rounding.

Source: Prepared by the Congressional Budget Office at the request of the Senate Appropriations Committee.

Mr. McCLELLAN. Mr. President, I yield to the distinguished Senator from North Dakota.

Mr. YOUNG. Mr. President, our able chairman of the Committee on Appropriations, Mr. McCLELLAN, has provided the details of this Department of Defense appropriations bill which we are considering today.

There are a few points relative to this bill that I want to make special reference to. This $104 billion bill is $3.9 billion under the administration's budget request and $1.4 billion under the bill as passed by the House The new budget authority recommended in this bill is $3 billion below the congressional budget ceiling contained in the first concurrent resolution, and $2.5 billion under the resolution target for outlays. I want to emphasize, though, that the congressional budget ceiling anticipates a supplemental appropriation for pay raises. It is expected that the cost-of-living index will trigger a requirement for a supplemental appropriation bill of approximately $2.2 billion. Therefore, most of the reductions represented in this bill will be offset by the anticipated supplemental bill to take care of the higher pay costs. Appropriations for Defense will still remain below the congressional budget ceiling even with the pay raise supplemental bill.

Mr. President, in the Presidential campaign this year, and especially in the primaries, we have heard the candidates of both parties express concern about the declining strength of our military forces compared to the Soviets. The candidates of both parties have strongly indicated that they would not let the United States become a second-rate military power to Russia.

All the veterans' organizations have expressed concern that the United States may be on its way toward becoming an inferior military power to Russia. The national commander of the American Legion, when speaking to the North Dakota Departmental Convention of the American Legion on June 22, was quoted by the Associated Press as saying that—

> The United States is falling behind the Soviet Union in all military matters.

Comdr. Harry G. Wiles of the American Legion facetiously overstated the case when he said:

> We have more helicopters than they do.

The feelings expressed by Commander Wiles, I am sure, are shared by a great many Americans. My own feeling, having as I do access to all intelligence estimates and estimates of the Joint Chiefs of Staff, is that we are still the greatest military power in the world. In order to maintain that position, we need appropriations at a sufficient level to acquire all the necessary new and modern weapons of war and everything else necessary to maintain our military superiority.

We are still superior to Russia in overall military capability, but Russia, with its increased military expenditures and all-out efforts to develop new weapons, could surpass us if we continue our present trend of cutting sharply into the defense budget. If approved by Congress, this bill should assure us of maintaining our present military superiority over the Soviets.

Mr. President, this bill includes a provision to delay the production decision on the B–1 bomber. I regret that the committee, by a very close vote, took this action. It means that the efficient and economical development of the B–1 program to go from testing into production will be disrupted. Many of the people who have been involved in the development of this aircraft and who would be involved in the transition to production would have to be laid off. Their expertise, gained largely by experience, will be lost and their continuity, even if they are rehired, will be broken. The Air Force estimates that this delay until February 1977 could cost the B–1 program as much as $485 million.

The production of the B–1 bomber has been involved in considerable controversy in both Houses of Congress this year, both in the authorizing and appropriating processes. Congress, in the authorizing bill, voted to go into production on the B–1 bomber without further delay. I cannot help but feel we should provide in this bill funds to start construction of the B–1 bomber as provided in the authorizing legislation. This delay, which will increase by about half a billion dollars the ultimate cost of the total B–1 program, just does not make sense.

Mr. President, for about 15 years Congress has recognized the need for a more modern bomber to replace the aging and obsolescent B–52. We spent about $1.5 billion on the B–70 bomber before it was canceled. We have now spent nearly $3 billion on the B–1. We either ought to proceed with the construction of the B–1 bomber now or stop it entirely. It does not make sense to spend billions of dollars for military projects such as this and then discontinue them when the need is so great.

The Air Force and the Joint Chiefs of Staff have clearly stated their requirements for the B–1 bomber and have strongly supported the production of this aircraft in the hearings this year. It is inconceivable that they will be changing their position between now and February, regardless of who is elected President.

Mr. President, although this bill does not fully fund the administration's request in all respects, I am convinced it does provide adequate funds to operate and maintain our equipment and bases, to procure new equipment such as aircraft, tanks, ships, and missiles, and to carry on the necessary research and development to insure that we will not become a second-rate power to the Soviets.

Mr. President, I hope that the bill will be approved substantially as it was reported from the committee.

Mr. MUSKIE addressed the Chair.

Mr. McCLELLAN. Mr. President, will the Senator yield to me for a moment?

Mr. MUSKIE. Of course I shall.

Mr. McCLELLAN. I ask unanimous consent that the committee amendments be agreed to en bloc and that the bill, as amended, be considered as original text for the purpose of further amendments, with the understanding that no points of order will be considered as having been waived by reason thereof.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments agreed to en bloc are as follows:

On page 2, in line 10, strike out "$8,539,249,000" and insert "$8,603,161,000".

On page 2, in line 18, strike out "$6,008,497,000" and insert "$5,999,453,000".

On page 3, in line 2, strike out "$1,879,173,000" and insert "$1,844,624,000".

On page 3, in line 11, strike out "$7,157,164,000" and insert "$7,127,716,000".

On page 3, in line 19, strike out "$469,141,000" and insert "$469,919,000".

On page 4, in line 2, strike out "$221,315,000" and insert "$215,010,000".

On page 4, in line 18, strike out "$162,807,000" and insert "$163,807,000".

On page 4, in line 25, strike out "$707,565,000" and insert "$714,665,000".

On page 5, in line 7, strike out "$216,515,000 and insert "$219,515,000".

On page 6, in line 1, strike out "$8,050,635,000" and insert "$7,829,035,000".

On page 6, in line 11, strike out "$9,553,164,000" and insert "$9,605,364,000".

On page 6, in line 18, strike out "of which not less than $22,000,000 shall be available for such work only at the Ship Repair Facilities, Guam" and insert "and that within this appropriation sufficient funds to support an employment level of 500 permanent employees shall be available only for the Ship Repair Facility, Guam".

On page 7, in line ;, strike out "$577,038,000" and insert "$569,288,000".

On page 7, in line 11, strike out "$8,124,109,000" and insert "$8,106,977,000".

On page 7, in line 20, strike out "$907,930,000" and nsert "$878,330,000".

On page 7, in line 20, strike out "$581,830,000" and insert "$569,030,000".

On page 7, in line 23, strike out "$248,000,000" and insert "$237,600,000".

On page 7, in line 25, strike out "$13,300,000" and insert "$13,250,000".

On page 8, in line 2, strike out "$73,100,000" and insert "$72,550,000".

On page 8, in line 3, strike out "$28,400,000" and insert "$28,100,000".

On page 8, in line 4, strike out "$200,700,000" and insert "$195,550,000".

On page 8, in line 5, strike out "$26,900,000" and insert "$24,500,000".

On page 8, in line 8, strike out "$847,200,000" and insert "$836,200,000".

On page 8, in line 9, strike out "$630,670,000" and insert "$619,920,000".

On page 8, in line 10, strike out "$2,751,400,000" and insert "$2,691,600,000".

On page 9, in line 8, strike out "$374,100,000" and insert "$351,800,000".

On page 9, in line 18, strike out "$288,000,000" and insert "$286,600,000".

On page 10, in line 13, strike out "$351,100,000" and insert "$350,700,000".

On page 11, in line 6, strike out "$713,200,000" and insert "$706,200,000".

On page 12, in line 3, strike out "$774,600,000" and insert "$779,300,000".

On page 12, in line 7, strike out "$100,000,000" and insert "$26,500,000".

On page 12, in line 19, strike out "$32,000,000" and insert "$7,400,000".

On page 12, strike out lines 10 and 11.

On page 12, in line 13, strike out "$76,700,000" and insert "$19,100,000".

On page 12, strike out lines 15 and 16.

On page 12, in line 24, strike out "$291,000" and insert "261,000".

On page 13, in line 21, strike out "5,000,000" and insert "$2,500,000".

On page 14, in line 17, strike out "$538,300,000" and insert "$546,900,000".

On page 15, in line 9, strike out "$422,300,000" and insert "$504,500,000".

On page 15, strike out line 14.

On page 16. in line 3, strike out "$1,117,300,000" and insert "$1,090,200,000, and in addition $27,800,000 which shall be derived by transfer from 'Procurement of Weapons and Tracked Combat Vehicles, Army, July 1, 1976/1978' ".

On page 16, in line 22, strike out "$901,900,000" and insert "$904,000,000".

On page 17, in line 18, strike out "$1,352,900,000" and insert "$1,377,300,000".

On page 18, in line 8, strike out "$2,946,600,000" and insert "$2,957,800,000".

On page 18, in line 22, strike out "$2,027,300,000" and insert "$2,022,200,000".

On page 19, strike out line 2.

On page 19, in line 19, strike out "for the CSGN nuclear strike cruiser program, $170,000,000; for the DDG 47 AEGIS destroyer program, $858,500,000" and insert "for the U.S.S. Long Beach conversion program, $371,000,000".

On page 20, in line 4, strike out "$1,473,500,000" and insert "$1,707,700,000".

On page 20, in line 4, strike out "and in addition $192,800,000, of which $92,300,000 shall be derived by transfer from 'Shipbuilding and Conversion, Navy 1975/1979', and $100,500,000 shall be derived by transfer from 'Shipbuilding and Conversion, Navy, 1976/1980',".

On page 20, in line 8, strike out "$6,618,300,000" and insert "$6,195,000,000".

On page 20, in line 9, strike out "and in addition $192,800,000 in transfers hereinbefore provided,".

On page 20, strike out line 20.

On page 21, in line 11, strike out "$2,157,400,000" and insert "$2,176,900,000".

On page 21, in line 11, strike out "and in addition, $4,000,000, which shall be derived by transfer from 'Other Procurement, Navy, 1976/1978',".

On page 22, in line 1, strike out "$328,400,000" and insert "$331,000,000".

On page 22, strike out line 4.

On page 22, in line 19, strike out "$6,231,300,000" and insert $6,076,100,000, and in addition, $21,500,000, of which $8,600,000 shall be derived by transfer from "Aircraft Procurement, Air Force, 1976/1978", and $12,900,000 which shall be derived by transfer from "Aircraft Procurement, Air Force, July 1, 1976/1978"

On page 22, beginning with line 25, insert: None of the funds appropriated herein may be used prior to February 1, 1977, for procurement of the first three production aircraft of the B–1 bomber.

On page 23, strike out line 4.

On page 23, in line 18, strike out "$1,853,700,000" and insert $1,843,200,000, and in addition, $33,300,000, which shall be derived by transfer from "Missile Procurement, Air Force, 1976/1978"

On page 24, in line 4, strike out "$2,301,600,000" and insert "$2,349,700,000".

On page 25, in line 6, strike out "$244,100,000" and insert "$255,200,000".

On page 25, in line 17, strike out "$2,284,948,000" and insert "$2,250,961,000".

On page 25, in line 25, strike out "$3,765,125,000" and insert "$3,696,503,300".

On page 26, in line 8, strike out "$3,773,430,000" and insert "$3,740,530,000".

On page 26, in line 20, strike out "$652,800,000" and insert "$700,480,000".

On page 30, in line 4, strike out "$248,000,000" and insert "$249,480,000".

On page 33, in line 6, after "case" insert a semicolon and "and (k) expenses of arrangements with foreign countries for cryptologic support".

On page 40, beginning with line 17, insert:

SEC. 723. Except for small purchases in amounts not exceeding $10,000, no part of any appropriation contained in this Act shall be available for the procurement of any article of food, clothing, cotton, woven silk or woven silk blends, spun silk yarn for cartridge cloth, synthetic fabric or coated synthetic fabric, or wool (whether in the form of fiber or yarn or contained in fabrics, materials, or manufactured particles), or specially metals including stainless steel flatware, not grown, reprocessed, reused, or produced in the United States or its possessions, except to the extent that the Secretary of the Department concerned shall determine that a satisfactory quality and sufficient quantity of any articles of food or clothing or any form of cotton, woven silk and woven silk blends, spun silk yarn for cartridge cloth, synthetic fabric or coated synthetic fabric, wool, or specialty metals including stainless steel flatware, grown, reprocessed, reused, or produced in the United States or its possessions cannot be procured as and when needed at United States market prices and except procurements outside the United States in support of combat operations, procurements by vessels in foreign waters, and emergency procurements or procurements of perishable foods by establishments located outside the United States for the personnel attached thereto: *Provided,* That nothing herein shall preclude the procurement of specialty metals produced outside the United States or its possessions when such procurement is necessary to comply with agreements with foreign governments requiring the United States to purchase supplies from foreign sources for the purpose of offsetting sales made by the United States Government or United States firms under approved programs serving defense requirements or where such procurement is necessary in furtherance of the standardization and interoperability of equipment requirements within NATO: *Provided further,* That nothing herein shall preclude the procurement of foods manufactured or processed in the United States or its possessions: '*Provided further,* That no funds herein appropriated shall be used for the payment of a price differential on contracts hereafter made for the purpose of relieving economic dislocations, except where the Secertary of Defense has specifically determined that sufficient price competition exists to insure a reasonable price to the Government: *Provided further,* That none of the funds appropriated in this Act shall be used except that, so far as practicable, all contracts shall be awarded on a formally advertised competitive bid basis to the lowest responsible bidder.

On page 42, in line 12, strike out "723" and insert "725".

On page 42, in line 20, strike out "724" and insert "725".

On page 42, in line 25, strike out "725" and insert "726".

On page 43, in line 11, strike out "726" and insert "727".

On page 43, in line 16, strike out "727" and insert "728".

On page 43, in line 16, strike out "congressional" and insert "legislative".

On page 43, in line 20, strike out "$1,500,000" and insert "$7,900,000".

On page 44, in line 1, strike out "728" and insert "729".

On page 44, in line 11, strike out "729" and insert "730".

On page 44, in line 21, strike out "730" and insert "731".

On page 45, in line 11, strike out "731" and insert "732".

On page 45, in line 20, strike out "'732" and insert "733".

On page 46, in line 12, strike out "'733" and insert "734".

On page 46, in line 20, strike out "734" and insert "735".

On page 47, beginning in line 3, after the comma, insert except that transfers between a stock fund account and an industrial fund account may not be made unless the Secretary of Defense has notified the Appropriations Committees of the Senate and House of Representatives of the proposed transfer. No obligations may be made against a working capital fund to procure war reserve material inventory unless the Secretary of Defense has notified the Appropriations Committees of the Senate and the House of Representatives prior to any such obligation.

On page 47, in line 13, strike out "735" and insert "736".

On page 47, in line 21, strike out "736" and insert "737".

On page 48, in line 5, strike out "737" and insert "738".

On page 48, in line 8, strike out "738" and insert "739".

On page 48, in line 11, strike out "739" and insert "740".

On page 48, in line 24, strike out "740" and insert "741".

On page 49, in line 12, strike out "742" and insert "743".

On page 49, in line 17, after "counselors" insert "unless the patient has been referred to such counselor by a medical doctor for treatment of a specific problem with results of that treatment to be communicated back to the physician who made such referral".

On page 50, in line 3, after "changes;" strike out "(f) perceptual or visual training; or (g)" and insert "or (f)".

On page 50, in line 8, strike out "743" and insert "744".

On page 50, in line 14, strike out "744" and and insert "745".

On page 50, in line 19. after "Code," insert "but not to exceed 50 percent of total authorized scholarships."

On page 50, strike out lines 21 through 24.

On page 51, beginning in line 3, after "Code," strike out "for more than sixty days of such leave, less the number of days for which payment was previously made under section 501 after February 9, 1976" and insert:

(1) for more than sixty days of such leave, less the number of days for which payment was previously made under section 501 after February 9, 1976, or (2) in any amount determined on the basis of any component of pay or allowances other than basic pay.

SEC. 747. None of the funds appropriated in this Act may be used to pay any claim against the United States, unless such claim has been thoroughly examined and evaluated by officials of the Department of Defense responsible for determining such claims and a report is made to the Armed Services Committees and Appropriations Committees as to the validity of these claims.

SEC. 748. None of the funds appropriated by this Act may be used to support enlisted aides for officers in the United States Armed Forces.

SEC. 749. None of the funds appropriated by this Act shall be available to pay costs of transportation (inside the United States and to, from, or between points overseas) of any merchandise or goods of the Army and Air Force Exchange Service, the Navy Resale System or the Marine Corps Exchange except where such goods or merchandise are transported in a carrier leased, chartered or owned by the Government in space not appropriate for transportation of any nonexchange cargo awaiting transportation from the point of embarkation; nor are appropriations available to pay costs of scheduled movement of carriers leased, chartered or owned by the Government in excess of reasonably anticipated requirements for transportation of nonexchange cargo.

SEC. 750. None of the funds available under this Act for the Civilian Health and Medical Program of the Uniformed Services shall be used to pay for any type of health service (other than emergency physician or emergency hospital service) unless—

(1) it is authorized to be made on the basis of reasonable charge, the amount of the payment therefor is established on the basis of reasonable charge, as determined in accordance with the criteria employed under title XVIII of the Social Security Act, or

(2) it is authorized to be made on the basis of reasonable costs, the amount of the payment therefor is established on the basis of reasonable cost, as determined in accordance with the criteria employed under title XVIII of the Social Security Act.

SEC. 751. No appropriation contained in this Act may be used to pay for the cost of public affairs activities of the Department of Defense in excess of $24,000,000.

SEC. 752. Unless otherwise specified and during the current fiscal year, no part of any appropriation contained in this or any other Act shall be used to pay the compensation of any officer or employee of the Government of the United States (including any agency the majority of the stock of which is owned by the Government of the United States) whose post of duty is in continental United States unless such person (1) is a citizen of the United States, (2) is a person in the service of the United States on the date of enactment of this Act, who, being eligible for citizenship, has filed a declaration of intention to become a citzen of the United States prior to such date and is actually residing in the United States, (3) is a person who owes allegiance to the United States, (4) is an alien from Cuba, Poland, or the Baltic countries lawfully admitted to the United States for permanent residence, or (5) South Vietnamese refugees paroled into the United States between January 1, 1975, and the date of enactment of this Act: *Provided*, That, for the purpose of this section, an affidavit signed by any such person shall be considered prima facie evidence that the requirements of this section with respect to his status have been complied with: *Provided further*, That any person making a false affidavit shall be guilty of a felony, and, upon conviction, shall be fined not more than $4,000 or imprisoned for not more than one year, or both: *Provided further*, That the above penal-clause shall be in addition to, and not in substitution for, any other provisions of existing law: *Provided further*, That any payment made to any officer or employee contrary to the provisions of this section shall be recoverable in action by the Federal Government. This section shall not apply to citizens of the Republic of the Philippines or to nationals of those countries allied with the United States in the current defense effort, or to temporary employment of translators, or to temporary employment in the field service (not to exceed sixty days) as a result of emergencies.

On page 54, strike out lines 15 through 17.

On page 54, beginning with line 18, insert

CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY FUND

For payment to the Central Intelligence Agency Retirement and Disability Fund, to maintain proper funding level for continuing the operation of the Central Intelligence Agency Retirement and Disability System, $52,200,000, subject to the enactment of legislation authorizing such payment.

Mr. CHILES. Mr. President, I ask unanimous consent that Lester Fettig and George Patten of my staff be given the privilege of the floor during discussion and debate on this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MUSKIE. Mr. President, I rise at this point—which seems a logical one—to present the position of the Committee on the Budget on the bill. I am not rising to offer an amendment, I assure my colleagues.

Mr. President, I want to express my views on the significance of the Appropriations Committee's action on the defense appropriation bill and how it relates to the national defense targets Congress established in the first budget resolution for fiscal year 1977. Further, I want the Senate to know what must be done if Congress is to stay within the defense targets established in May when the budget resolution was adopted.

First, I extend my congratulations to the distinguished Senator from Arkansas (Mr. MCCLELLAN) for the work he has devoted to this important legislative measure. Senator MCCLELLAN and the entire committee membership have worked extremely hard to bring before the Senate a Defense appropriation bill that is within the congressionally mandated budget targets.

The bill before us appropriates funds totaling $104 billion in budget authority. This total is $3 billion less than the committee allocation to its Defense Subcommittee as shown on page 27 of the August 2 edition of the Senate Budget Scorekeeping Report. The outlays associated with the budget authority total reported in the bill are $93.7 billion, or an amount $2.5 billion less than the total allocated to the Defense Subcommittee. These outlay figures include outlays of $22.7 billion from prior year authority.

Possible later requirements for Defense Department pay raises, military retired pay, and related items are now estimated to be $1.9 billion in both budget authority and outlays. This would still leave $1.1 billion in budget authority and $0.7 billion in outlays remaining within the Defense Subcommittee allocation.

On page 14 of the same Senate Budget Scorekeeping Report, the potential status of the National Defense function is listed at $111.8 billion in budget authority and $100.8 billion in outlays. The first budget resolution targets are $112.5 billion in budget authority and $100.8 billion in outlays. Thus, our current best estimate—and I emphasize that, our current best estimate—for the national defense function leaves us $0.7 billion in budget authority under the first budget resolution target and puts outlays at the target.

I have a detailed chart depicting the derivation of these figures and I ask unanimous consent that the table be printed at this point in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

STATUS OF THE NATIONAL DEFENSE FUNCTION

[Fiscal Year 1977 ($ in billions)]

	Budget Authority	Outlays
First budget resolution targets for national defense (function 050)	112.5	100.8
Action to date:		
Defense appropriation bill (reported in Senate)	104.0	93.7
Military construction appropriation bill (enacted)	3.3	3.2
Public works appropriation bills—ERDA defense-related items (enacted)	2.0	1.8
Foreign assistance appropriation bill—military assistance items (reported in Senate)	1.0	1.0

National defense items in other appropriation bills (enacted)	0.1	0.1
Amounts enacted in prior years, net (primarily foreign military sales Trust Fund)	—0.5	—0.9
Subtotal, action to date	109.9	*99.0
Possible Later Requirements (primarily Defense pay raises and military retired pay requirements)	1.9	1.9
Total action to date, and possible later requirements as contained in Scorekeeping Report	11.8	*100.8
Amount Remaining Within First Budget Resolution Target	0.7	—0—

* Detail does not add to total due to rounding.

Mr. MUSKIE. Although our estimates place the functional total for budget authority under the budget resolution target and the total for outlays at the target, I do not want my colleagues to be misled by the potential status of the national defense function. There are some very tough decisions ahead in the defense area for the Congress as we determine the ceiling for defense spending for fiscal year 1977 in the second budget resolution in September.

A major uncertainty exists because of the administration's stated intention to resubmit certain budget proposals in the R. & D. and procurement areas—particularly for shipbuilding—which were denied in the military procurement authorization bill. We do not yet know the exact size of these resubmissions or how Congress will react to them; but if enacted, they would be likely to cause both the Defense Subcommittee's allocation and the national defense budget targets to be exceeded—particularly the national defense outlay target.

At this time, I am not speaking for or against a supplemental for more weapon systems, but I want the Senate to be aware that such a supplemental could easily cause our congressional targets to be exceeded, unless we take firm action to prevent that from occurring. In considering any supplemental request, I believe the Senate should state its will regarding the firmness of our budget targets. It does not make sense to this Senator that a congressional budget target should be changed because Congress agrees to additional funding for another weapon system, particularly when the agency involved has a budget of over $112 billion, and their budget has increased by $11.5 billion from their fiscal year 1976 funding level. If the Department of Defense cannot determine program priorities and make necessary cuts within a budget of over $112 billion to stay within the target, then perhaps the Congress will have to do it for them.

Another major uncertainty exists concerning the ultimate disposition of the proposed defense economies assumed in the first budget resolution. I have spoken repeatedly of the need to achieve the economies. The potential status of the national defense function leaves little flexibility in budget authority to make upward adjustments to accommodate those economies we cannot place into effect. We have no flexibility in outlays as they are at target.

The Secretary of Defense has recently asserted that a budget supplemental covering the economies not approved by the Congress will probably be submitted by the administration. The effect of this action would adversely impact the congressional targets for national defense over and above the adverse impact of the potential supplemental for Defense R. & D. and procurement.

If the Congress reacted favorably to this supplemental, our national defense functional targets would very likely be breached, particularly the target for outlays. As stated in the conference report, the first budget resolution assumed enactment of the savings proposed by the President or other savings of like magnitude. I want to make this clear—failure by the Congress to enact the proposed economies will require offsets elsewhere within the national defense function if we are to stay within the congressional targets.

Let me identify the major items included in the economies package which impact the national defense function: They are the pay cap on civilian and military pay, stockpile sales, elimination of the 1-percent kicker for military retired pay, elimination of dual compensation for Federal workers on reserve duty, phaseout of commissary subsidies, reallocation of compensation increases—which was achieved with passage of the Military Procurement Authorization bill—and a revised wage board pay policy.

I urge the committees of jurisdiction to press on with the remaining major legislative proposals necessary for the Congress to achieve enactment of each of these savings. I believe it is most important that the Congress focus in particular on the 1-percent kicker, the pay cap, and stockpile sales items if we are to have a chance to stay even with the national defense functional targets. Elimination of the 1-percent kicker for military retired pay is worth $112 million in both budget authority and outlays. It has been approved contingent upon elimination of the kicker for civilian retirees. A House vote on elimination for civilian retirees is scheduled for the week of August 2. It is essential that the Senate Post Office and Civil Service Committee take up this item as soon as it clears the House.

The cap on civilian and military pay raises is estimated to save $500 million for both budget authority and outlays. We should receive the President's pay proposal in September and will need to give it careful consideration.

My good friend from Nevada (Senator CANNON) has indicated that he intends to conduct hearings on the proposed stockpile sales during August and hopefully will bring stockpile legislation to the floor during September. He is well aware of my concern for the stockpile sales issue, and I would like to reiterate to him the fact that achieving the sales is essential if we are to improve our current budget picture.

Mr. President, in concluding my remarks, I want to again extend congratulations to the distinguished chairman of the Committee on Appropriations, Mr. McCLELLAN, and to the entire committee membership for their efforts in producing a bill with funding levels with the congressional budget targets for defense. I support the Defense Appropriation bill as reported, but I want my colleagues to fully understand the crucial budget decisions that lie ahead for this body. It is in that spirit and for that purpose that I have made this statement here this morning.

Mr. McCLELLAN. Mr. President, will the Senator yield?

Mr. MUSKIE. Yes.

Mr. McCLELLAN. I wish to thank the distinguished Senator for his complimentary references to the work of the Appropriations Committee and its efforts to process this bill within the limitations that have been established by Congress in the first concurrent resolution. It was not easy to do. You have had to make adjustments and to exercise restraint in order to do it. But I do believe we are within our budget limitation as of now. There is no way, the Senator will agree, we can foresee future developments. We will just have to deal with those problems when they arise.

We have done our best to stay within the first concurrent resolution and we are within it as of now. There is some legislation that can be enacted that will relieve the pressure to a great extent if it is enacted, as I understand the Senator's report and statement.

Mr. MUSKIE. That is exactly right.

Mr. McCLELLAN. I thank the Senator.

Mr. MUSKIE. May I add another word of appreciation to the Senator, the chairman of the Appropriations Committee, and that is a word of commendation for the speed and efficiency with which appropriation bills have been brought to the floor.

As the Senator knows, the Budget Reform Act imposes timetables which all of us find restrictive. But I suspect no one finds it more restrictive than the Appropriations Committee and the chairman of the Appropriations Committee.

The Senate is well ahead of anything in my experience, with the possible exception of 1960, which was a special case. But other than that it is well ahead of other sessions, anything in my experience, and the challenge is much more difficult this year than it was 15 years ago.

I would like to compliment the Senator for the RECORD and publicly for having adhered to this schedule and made it possible for the Senate to be so close to the end of its work in the appropriations field, at least, if not other matters, which are frustrations to the distinguished majority leader.

Mr. McCLELLAN. Mr. President, I

am glad to accept that commendation on behalf of all the chairmen of the subcommittees and the other members of the committee because they are the ones who have produced this result, and they are entitled to prime credit for these achievements. They have worked hard, diligently and expeditiously and, by doing so, have achieved a result which is very gratifying to all of us, I am sure.

Mr. MUSKIE. And which many skeptics thought could not be achieved.

Mr. McCLELLAN. Will the Senator please repeat his last statement.

Mr. MUSKIE. Which many skeptics thought could not be achieved.

Mr. NELSON. Mr. President, as reported by the Senate Appropriations Committee, H.R. 14262, the fiscal year 1977 Department of Defense Appropriations bill, contains $27.1 million for research and development of the Navy's Project Seafarer. By use of extremely low frequency—ELF—radio signals, Seafarer is designed to provide assured communications with our strategic and attack submarines at operational depths and speeds. Current communications systems limit the submarines' invulnerability, forcing them to rise close or to the water's surface to receive messages, and thus increasing their detectability by antisubmarine warfare techniques.

This project has a long and controversial history, and continues to be challenged over questions of feasibility, environmental/biomedical impact, and necessity for the national security.

The Navy's 1977 budget request for Seafarer differs importantly from those past, because it includes funding for full scale development—that is, actual production or deployment—of the system. By way of clarifying the funding situation in this appropriations bill, I would like to ask some questions of the distinguished chairman of the Appropriations Commitee, the Senator from Arkansas (Mr. McCLELLAN).

First, it is my understanding that the $27.1 million approved by the Appropriations Committee for fiscal year 1977 is slated for the design validation phase, and includes funding for further environmental and biomedical studies, and feasibility testing. No appropriation is to be used for full-scale development of the Seafarer system. Is this a correct statement of the facts?

Mr. McCLELLAN. It is.

Mr. NELSON. In fact, is it not the case that the committee explicitly directed, with regard to its appropriations for the Navy's ELF Communications program, that "engineering development of Seafarer not be commenced with these funds?"

Mr. McCLELLAN. Yes. The language is found in the committee's report to the Senate on page 241.

Mr. NELSON. Is my understanding correct that the prohibited "engineering development" is wholly synonymous with the Navy's term "full scale development?"

Mr. McCLELLAN. The Senator is correct.

Mr. NELSON. Second, is my understanding correct that the possibility of any firm congressional commitment in the future to the construction and deployment of Project Seafarer is contingent upon the finding that the system creates no significantly adverse environmental or biomedical impact?

Mr. McCLELLAN. The Senator is correct. In fact, the committee of conference on H.R. 12438, the authorizing legislation, prohibited funding full scale development until three conditions have been met: First, completion of studies of the environmental and biological impact of the Seafarer system and the conclusion that the system poses no unacceptable environmental or biological hazards; second, selection by the Navy of a candidate site; and third, a firm plan including a schedule to begin installation of the system at the selected site.

Mr. NELSON. I thank the Senator from Arkansas.

The National Academy of Sciences currently is conducting an independent review and assessment of the biomedical and ecological effects of the Navy's entire ELF communications program. The Academy's report is due sometime early in 1977. The Navy is compiling a draft Environmental Impact Statement, which it expects to file with the President's Council on Environmental Quality around the first of the year. It will file its final EIS, including public and Federal agency comments, in May 1977.

In addition, it is expected that the Navy will make an explicit site selection for Project Seafarer at its second Defense Systems Acquisition Review Council—DSARC II—meeting, in the spring of 1977.

When the biomedical and ecological issues are settled, the Senate will come to the question of whether or not—if the biomedical/ecological studies show there would be no significantly adverse impact, and if the system is indeed feasible—Seafarer is vital to the defense of the United States. Would the distinguished Senator agree that no decision to deploy Seafarer could be made before the Congress has the opportunity to debate the national security need for the system?

Mr. McCLELLAN. I would.

Mr. NELSON. I thank the Senator.

Clearly, the Congress requires an adequate information base with which to make an informed and considered judgment as to the construction and deployment of Project Seafarer.

Any attempt to commence the Full Scale Development phase of this communications system without all of this information is, in my judgment, premature and ill advised. Because of the distinguished chairman's assurances that no such step will be taken without comprehensive and satisfactory answers to the environmental/biomedical, feasibility and national security concerns, I have no objections to continued research, development, testing and evaluation of Project Seafarer.

Mr. BELLMON. Mr. President, I wish to join the chairman of the Budget Committee in rising to support the fiscal 1977 appropriations bill. Since this bill is the major component of the national Defense function, I believe it is appropriate to highlight how this bill fits into the First Concurrent Resolution which the Congress passed in May.

As reported, the bill before us makes available $104 billion in BA and $93.7 billion in outlays—including $22.7 billion from prior year authorizations. These figures are well within the amounts which the Senate Appropriations Committee allocated to the Defense Subcommittee under section 308(a) of the Budget Control Act. In addition, when we take into account the other components of the National Defense function, including the expected pay supplemental, this bill is consistent with the targets the Congress included in the budget resolution. These are significant accomplishments and our distinguished Appropriations Committee Chairman, Senator McCLELLAN, plus the members of his Defense Subcommittee, deserve high praise for their diligent efforts in reporting a bill that does not breach the defense function targets.

Unfortunately, Mr. President, passage of this bill alone is not enough to assure that we stay within our targets for the National Defense function. Three critical issues jeopardize the Defense targets—first, the House-passed Defense Appropriations bill is significantly higher than the bill we are considering today; second, several economies in pay and compensation were assumed by both the President and the Congress when the Defense budget totals were established; and third, we have heard rumblings that the administration may submit budget supplementals, particularly for shipbuilding, which would adversely affect the Defense budget.

The House-passed defense appropriations bill is higher than our bill by over $1 billion in BA and by almost $0.3 billion in outlays—even after adjusting our bill upward by $350 million to account for future cost-of-living increases for retired pay which are included in the House version. This means we need to demonstrate strong support on the floor for Senator McCLELLAN's bill in order to aid his efforts at the inevitable conference committee meetings. Even with such support we must realistically anticipate a conference report which reduces some of the cushion this bill provides.

Even more critical to staying within the defense function target is achievement of most of the remaining economies which the President requested.

We will have a chance on the floor in a few minutes to realize one of those in connection with the commissary subsidies.

The defense appropriations bill is helpful in this area, too. Its accompanying report strongly supports the proposed adjustment in Wage Board pay. Nevertheless, the final disposition of economies totaling about $1.4 billion has not yet been determined. These include both items with large impacts in fiscal 1977, such as the stockpile sales and the pay cap, and items with large outyear implications, such as elimination of the 1-percent kicker. Unless we achieve over one-half of these remaining economies, we will be forced into the position of having to reduce lower priority defense items to stay within the target for outlays.

Mr. President, because the economies are vital to the target the Congress set for the defense function, I was particularly pleased to receive word from my colleague, Senator CANNON, that the Subcommittee on National Stockpile and Naval Petroleum Reserves is tentatively considering hearings during the month of August. These hearings are important to determine the level of congressional commitment for the proposed stockpile sales. Over 6 months ago the administration proposed a $700 million savings through stockpile sales—time is getting short if we are to achieve significant savings in this area.

Finally, Mr. President, we face the issue of possible supplementals. We had previously hoped that the defense budget targets had been set high enough to accommodate priorities established by the administration. Further, I had hoped, and still hope, that the creation of the budget process would eliminate the practice of supplementals except in the case of extreme emergencies. I intend to vigorously scrutinize any such supplementals for I fear they endanger not only the defense budget targets, but also the budget process.

In summary, Mr. President, the Appropriations Committee has done its part to support the congressional budget process in the defense area. Now it is up to all of us to do our part by working to achieve the remaining economies which were assumed in the national defense target.

I again congratulate Senator MCCLELLAN, also Senator STENNIS, who is chairman of the Armed Services Committee, as well as members of both the Armed Services and Appropriations Committees.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. STENNIS. Mr. President, if I may be recognized, quite briefly.

Mr. President, we certainly owe a debt of gratitude to the subcommittee members who have sat with this bill for almost a year, beginning a part of these hearings last fall and, more particularly, continuing them since January on down to the present time on this very voluminous bill, and having to wait until the authorization bill for this year could be agreed upon and publicly known.

The minuteness of their consideration of these major matters, as well as the minor matters, is just almost unbelievable. I commend them highly for this very fine work.

I have been familiar with the hearings on this DOD bill for a good number of years. I do not think that at any time has it ever been more thoroughly considered, weighed, and measured with an eye toward savings and soundness, at the same time. I am certainly going to support this bill.

I am a great believer in the free processes of debate, but major amendments that might be offered, in all good faith, are mostly matters that have already been gone over very carefully by committees of both Houses and on the floor, for at least full consideration of the House and the Senate, and have been balanced off, weighed, and finalized, I think, to a precision and balance that could hardly be improved upon.

I say that because at this stage it is not likely that anyone can bring in any new set of facts.

So it is my privilege to back the committee here in its consideration and its very constructive and reasonable approach. Many times, the pressures and urgencies were the other way.

I mention one other matter that has not been brought up here. I think is a serious one, and I will mention this quite briefly. I will not have a chance to mention it again.

Let us not act to quickly on the idea of taking away from the Navy the method of training their pilots for the helicopter assignments, both the Navy and the Marines.

If we give them the mission and tell the Marine Corps that their mission shall be so and so at sea and at night, with reference to the helicopters, it is just commonsense, to me, that we will have to give those same authorities that we charge with the mission the say-so about the training.

It is just that simple. And this idea, with all respect to the other services, of consolidating these men and their training, considering their mission, with the Army and the Air Force, when the mission is so different, just does not tie in.

I call that now to our special attention, the special attention of the body here that will have to vote today on a matter that could just close the door for any further consideration of this subject.

Mr. President, I yield the floor.

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, I rise to compliment the able Senator from Arkansas (Mr. MCCLELLAN) and the able Senator from North Dakota (Mr. YOUNG) for the magnificent work they have done on this defense bill.

The defense appropriation, next to HEW, is the largest appropriation in the entire budget.

These gentlemen have held hearings of the subcommittee for many days, and off and on throughout the entire year. They have been very courteous. They have given witnesses an opportunity to be heard. They have gone into these matters very carefully. They have analyzed them. They have come up with a report that they feel is reasonable and just and fair.

I want to say that the defense bill is not everything that I would have liked to have seen. I think there are some areas that need to be strengthened.

At the same time, on balance, I think this is an excellent bill. These gentlemen, as chairman and ranking member of the Defense Subcommittee of the Appropriations Committee, and as chairman and ranking member of the full committee, in my judgment, have done an excellent job.

As the ranking member of the Senate Armed Services Committee and as an ex-officio member of the Defense Subcommittee, it has been my pleasure to work with them. I appreciate and hope the whole Senate will manifest its approval of this excellent piece of legislation which they have brought to the floor.

Mr. McCLELLAN. Mr. President, I thank the distinguished Senator from South Carolina. I am most grateful for his commendation of the subcommittee, of which he is a valuable ex-officio member. In that capacity, he has contributed greatly to the judgment that it has expressed in its report. With his cooperation we have been able to achieve results, as the record will reflect. I am very grateful to the distinguished Senator from South Carolina for his cooperation.

Mr. YOUNG. Will the Senator yield?

Mr. McCLELLAN. I yield.

Mr. YOUNG. I, also, wish to express my gratitude for the comments of the distinguished Senator from South Carolina. He was very helpful to us on this defense bill in the full committee because of his knowledge of military matters, having served on the Armed Service Committee and the Army Reserve for many years.

I also want to mention the able assistance we received from the professional staff members. They study this bill the year round and they are real experts on matters such as these.

Mr. McCLELLAN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. McCLELLAN. Is the bill now open to amendment?

The PRESIDING OFFICER. The bill is open to amendment.

AMENDMENT NO. 2111

Mr. BELLMON. Mr. President, I call up my amendment No. 2111.

The amendment will be stated.

The legislative clerk read as follows:

The Senator from Oklahoma (Mr. BELLMON), for himself and Mr. CULVER, proposes an amendment No. 2111.

Mr. BELLMON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 36, line 24, insert the following: "and in addition to the limitation contained above, for all other direct costs (excluding all transportation outside the United States): (a) in excess of 83⅓ per centum of such costs during fiscal year 1977, (b) in excess of 66⅔ per centum of such costs during fiscal year 1978, (c) in excess of 50 per centum of such costs during fiscal year 1979, (d) in excess of 33⅓ per centum of such costs during fiscal year 1980, (e) in excess of 16⅔ per centum of such costs during fiscal year 1981, and (f) in any amount after September 30, 1981;".

Mr. STONE. Will the Senator yield for a unanimous-consent request without losing his right to the floor?

Mr. McCLELLAN. I yield.

Mr. STONE. Mr. President, I ask unanimous consent that Barry Scochet of my staff be granted privileges of the floor during the consideration of the pending bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCLELLAN. Will the Senator yield to me?

Mr. BELLMON. I yield.

Mr. McCLELLAN. Mr. President, I ask unanimous consent that on this amendment there be a time limitation of 1½ hours to be equally divided between the distinguished Senator from Oklahoma, the Senator from Iowa, and the chairman.

The PRESIDING OFFICER. Is there objection?

Mr. CULVER. Reserving the right to object——

Mr. FONG. Reserving the right to object, as I understand the time will be divided between the distinguished Senator from Oklahoma and Mr. CULVER, on one side, and myself.

Mr. CULVER. Reserving the right to object, and I do not intend to object, Mr. President, it is my understanding that both Senator BELLMON and I are cosponsors of this particular amendment. Appropriately the time should be equally divided, whatever is determined, between Senator BELLMON and Senator FONG of Hawaii, who is in opposition.

Mr. FONG. With 45 minutes on each side.

The PRESIDING OFFICER. Is there objection? The Chair hears none and it is so ordered.

Mr. FONG. Mr. President, I ask unanimous consent that Kenneth Wu of my staff be granted the privilege of the floor during the consideration of the pending bill.

Mr. TAFT. Mr. President, I ask unanimous consent that Mr. William Lind of my staff be granted the privilege of the floor during the consideration of the pending bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BELLMON. Mr. President, the amendment the Senator from Iowa (Mr. CULVER) and I have proposed for consideration at this time is an effort in economy and efficiency. My reference to economy and efficiency is not intended as simple rhetoric. It is intended as a means of putting into perspective the basic issues which surround the entire concept of military commissary stores.

Mr. President, the appropriations bill before us contains $281 million for the purpose of subsidizing the personnel costs involved in operating our military commissary stores. In short, this bill contains approximately $300 million of the American taxpayer's money for clerk hire in commissaries so that military personnel, both active and retired, can receive substantial savings on the cost of groceries over that paid by the taxpaying public. Please do not misunderstand, Mr. President, I am not suggesting that commissaries be closed. Under this amendment, commissaries will, repeat will, remain open.

There is little question that the commissary is an important and necessary element to military life. The commitment made to the military for the use of commissaries is unquestioned and the elimination of commissaries is not an issue today. Therefore, let me assure every Member of this Chamber that this amendment does not phase out commissaries.

This amendment is only intended to phaseout the subsidy for the personnel costs associated in the operation of military commissaries. Our amendment would provide for the gradual phaseout of this subsidy over a 6-week period. There is an important distinction here, and I hope everyone will keep this distinction clearly in mind.

Mr. President, this proposal is not new. The Senate adopted a similar amendment last year calling for a 5-year phaseout of this subsidy. Unfortunately, the conference committee did not agree with the Senate position, and the full subsidy was provided for fiscal year 1976. When the President sent Congress his fiscal year 1977 budget, a recommendation was made for a 3-year phaseout of this personnel subsidy. This recommendation by the President and the Department of Defense was in direct response to cries from the Congress that the defense budget must be reduced. Where can the defense budget be reduced without endangering our national security, or revoking a commitment that has long since been made? The answer to that question was given to the Congress by the Defense Department. Part of the answer was to phase out the operating subsidy for commissary stores over a period of time. By doing so, nothing in the area of national security has been jeopardized, nor has any commitment been breached. Commissaries will still be in operation and, in fact, they will be operated in the most economical and efficient manner possible.

When the Defense Appropriations Subcommittee considered this recommendation, it was decided that a 3-year phaseout would be too harsh, too great of an increase in prices would have to result in too short a period in order to achieve the elimination of this subsidy. Consequently, the subcommittee recommended instead a 6-year phaseout of the subsidy. This amounts to an 80 cent per week per family each year increase for 6 years in the price of groceries at commissary stores.

Mr. President, the subcommittee gave careful consideration to this matter throughout the entire appropriations process. The subcommittee recommendation for a 6-year phaseout of this personnel subsidy was well justified in the committee report considered by the full Appropriations Committee. I ask unanimous consent that the section of the subcommittee report addressing itself to the commissary subsidies be printed in full in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. BELLMON. In short, Mr. President, this report, agreed to by the Defense Appropriations Subcommittee, revealed—

> That the appropriated funds subsidy to commissary stores is no longer justified in light of current military salaries and benefits, the high cost of continuing the subsidy, and the fact that it provides no combat readiness and makes no military contribution to the national defense.

The subcommittee recommended instead that "in lieu of providing the subsidy, the subcommittee would strongly prefer to invest an equivalent amount in reducing the very large maintenance backlogs in the military services." As the tables in this report which I have just inserted for the RECORD will indicate, there is a tremendous backlog of maintenance items in all three services which should require special attention. Consequently, Mr. President, if this amendment is adopted, it is our intention that the savings received from the commissary subsidy be applied to high priority maintenance items.

Mr. President, I would imagine many Members are asking themselves, "Why are we dealing with this matter on the floor after the subcommittee has recommended a 6-year phaseout of this subsidy?" The reason for this is that an amendment was adopted in full committee to strike the subcommittee recommendation and provide the full subsidy. As a member of the Appropriations Committee, I can assure everyone that it was not a unanimous decision by the full committee to thwart the subcommittee recommendation. Therefore, if there is to be any resemblance of economy or efficiency with regard to commissaries, this amendment must be adopted. This should explain the need for bringing this matter to the floor for consideration.

Mr. President, military personnel realize an average savings of 23 percent by shopping at the commissary rather than at the local supermarket. If this amendment is adopted, military personnel will still be afforded a 13-percent savings by shopping at the commissary. Such a savings is hardly a breach of commitment by the American people to provide our military personnel with low-cost food products through a system of commissary stores.

A 6-year phaseout of this subsidy will not be a major hardship upon our retired military. During the next year, retirees will receive an average annual annuity of $7,250 plus an average of $2,405 for those qualifying for social security benefits. This proposal would result in an annual price increase in the commissary of only about 2 percent a year which is less than the cost-of-living increases to retirees which have averaged over 10 percent a year in the past 3 years. If this amendment is adopted and the personnel subsidy for commissaries is phased out over a 6-year period, the average family buying all its groceries at the commissary would pay only about 80 cents per week.

Mr. President, to sum up, this proposal amounts to a phaseout of the clerk-hire subsidies for commissaries. It does not mean now or in the future that commissaries will be closed. What it does mean is a savings of $4.4 billion over the next 10 years. This is a savings of $4.4 billion which can either be used to strengthen the muscle of the Nation's national defense or it can be used to

achieve a balanced budget. I strongly urge the adoption of this amendment.

EXHIBIT 1

COMMISSARY SUBSIDIES

The fiscal year 1977 budget request of $107.9 billion for the Defense Appropriations Bill represents an increase of $17.5 billion, or 19 percent over the comparable amount of $90.5 billion appropriated in this bill in fiscal year 1976 (excluding the pay raise supplemental). This is the case even though the military force levels supported are the lowest in 25 years. In fiscal year 1973—the final year of intense U.S. combat activity in Vietnam, the comparable amount provided in the Defense Appropriations Bill was $74.4 billion. Therefore, in the four year period 1973–77 since the U.S. ended its last major war, there has been a growth of $33.5 billion, or 45 percent, in the Defense budget. To a very great extent, the inflation that affects the cost of all goods and services in the U.S. has been responsible for this fantastic increase in the cost of defense.

Inflation notwithstanding, the Congress has strongly urged and supported the need for the Department of Defense to moderate its large annual budgetary increases by "pruning" out programs that are of only marginal utility to the true combat capabilities of our forces and to the essential defense of our nation. A major initiative was undertaken by the Administration in fiscal year 1976 and fiscal year 1977 in proposing a two year and three year phaseout respectively of the appropriated fund subsidy to military commissaries (grocery supermarkets) for the costs of military and civilian personnel. Although last year's two year phaseout proposal was rejected, the Senate version of the Defense Appropriations Bill provided for a five year phaseout. This year's Senate version of the Defense Authorization Bill provided for a three year phaseout. However, the final Conference Agreement on that bill concluded:

"Legislative action is not required for improvement in the efficiency of commissary store operations or the gradual reduction of appropriated commissary subsidies. These issues are routinely reviewed in the annual appropriations process. The conferees agree that as less funds are needed for commissary subsidies they should be used for urgent military requirements such as improved readiness."

NATURE OF THE SUBSIDY

Unlike all other manpower-intensive nonappropriated fund activities that serve as fringe benefits for military personnel, commissaries presently receive a 100 percent subsidy for the cost of the military and civilian personnel required to manage and operate the stores. The total number of personnel involved has been stable at approximately 27,000 (25,000 civilians and 2,000 military) for the past three years (fiscal years 1974–76), even though this number is about 6,700 higher than the personnel operating these stores in 1970. The Administration is proposing reductions of about 2,000 civilians employed in commissaries as a management improvement in fiscal year 1977, although the Committee has not been advised of exactly where or how these reductions will be accomplished.

The reason for the subsidy is rooted in the original justification for commissaries, which were first established during the 19th century. A key part of this country's expansion to the West and settling of the frontier territories was the provision of military protection for our citizens. To the extent that military personnel were deployed at remote frontier posts that lacked the commercial enterprises normally available in the developed portions of the countries, it was deemed necessary to provide such services. At that time, it became the clear policy to provide the civilized needs and amenities of life to soldiers at remote duty locations through commissaries and post exchanges. The Army established the first commissaries at frontier posts based on legislation enacted in 1866, and sold food and other items at cost to servicemen. The Marine Corps began operating its first commissary in 1909, and the Navy in 1910. Air Force began operating its own commissaries when it was established as a separate service in 1947.

In the post-World War II era, with the U.S. having extensive military deployments throughout the world, commissaries and exchanges have served a similar purpose—providing the normal everyday products that can be readily obtained by American citizens living in the U.S., but which are either simply unavailable in commercial stores overseas, or are unreasonably expensive when available.

QUESTIONS ABOUT NEED FOR COMMISSARIES

In 1948, the services operated 210 commissaries at installations in the U.S. The House Committee on Armed Services became concerned about the growing number, and looked into the need for their continuing operation. The Committee Chairman concluded that the Congress originally intended the services to operate commissaries only in remote areas (as just explained) where servicemen didn't have the benefit of metropolitan food stores. As a result of that inquiry, the Services received approval for a regulation stating that commissaries would not be authorized where "adequate commercial facilities are conveniently available and sell commissary merchandise at reasonable prices." The Department of Defense Appropriation Act of 1954 included language which required the Secretary of Defense to certify the continued need for each commissary on the basis that commercial stores were inadequate, inconvenient or not selling food at reasonable prices. Similar language has been included in every subsequent DOD appropriation act.

Somewhere during the past century, however, the original purposes described above gradually faded from view. The General Accounting Office (GAO) reported recently (FPCD-75-88, May 21, 1975, "The Military Commissary Store: Its Justification and Role in Today's Military Environment") that despite the Congressional concern and reemphasis on the reason for commissaries, no commissary *has ever failed to meet the DOD criteria,* and the number of stores in the U.S. was increasing. GAO has repeatedly reported that the DOD criteria for implementing the Congressional criteria of adequacy, convenience and price are unrealistic, and that there is no valid justification for commissaries in large metroplitan areas. (e.g., there are four commissaries in the Norfolk area, three in Honolulu/Pearl City, five in San Antonio, four in San Diego, five in San Francisco, and six in Washington, D.C.)

As of June 1974, there were 418 commissary stores in operation—279 in the U.S. and 139 overseas, all of which were built or rehabilitated using publicly appropriated funds. In December 1974, however, the Congress passed legislation prohibiting the use of appropriated funds for the construction or improvement of commissaries in the United States. Henceforth, their construction is to be financed in the same manner as post exchanges—i.e., through profits generated. (A small surcharge was added to the prices.)

In 1964, the annual subsidy amounted to only about $100 million for the cost of military and civilian personnel working in commissaries. These costs had grown to $265 million in fiscal year 1975, with an estimated cost of $297 million ($281 million in this bill, plus a pay supplemental of $16 million) in fiscal year 1977, if fully subsidized. Over the next 10 years, the full subsidy will cost the taxpayer $4.1 billion—a fantastic drain on our treasury.

THE PRESIDENT'S PROPOSAL

The President's fiscal year 1977 budget proposes to phase out, over a three year period beginning in fiscal year 1977 the commissary subsidy for personnel and utility costs. The phaseout would start on October 1, 1976, the date on which the next pay raise is scheduled. No commissary will be closed. Ultimately, commissaries would be placed on a nonsubsidized basis, in a manner similar to the way military post exchanges are now operated.

Through product-by-product comparison survey, it has been established that commissary prices are about 23 percent below the price of similar goods in a commercial supermarket. In addition, no state or local taxes (which total between 2 percent and 8 percent) are levied on commissary sales, thereby providing patrons a further savings. The Administration proposed to eliminate the subsidy by raising prices sufficiently so that the amounts generated would gradually replace the appropriated fund subsidy. Based on an annual sales volume of $3.0 billion in fiscal year 1977, it is estimated that an increase in price of about 10 percent would generate enough funds to eliminate completely the need for the subsidy. Therefore, even after the full subsidy had been eliminated, commissary patrons would still enjoy a price savings of about 13 percent below commercial supermarkets, as well as sales tax savings of between 2 percent and 8 percent. Further management improvements scheduled would increase these savings.

The Committee carefully reviewed the Administration's proposals both last year at a special hearing held on June 3, 1975, and at an open session where public witnesses were heard on May 14, 1975, and again this year at hearings held on March 4, 1976 and March 25, 1976. A good deal of material on the subject has been submitted for the record or placed in Committee files.

REASON FOR CHANGE IN SUBSIDY

For two years the Administration has proposed to eliminate the subsidy because of the very high cost of Defense manpower, which now consumes well over half of the Defense budget. The idea was to reduce manpower support costs in the interest of using funds to sustain and equip the strongest possible military force. The Department's proposal would have absolutely no impact on the military strength of our combat forces or on their military readiness.

It can readily be seen why the commissary subsidy became a candidate for elimination. In 1964, the subsidy amounted to only about $100 million. At the same time, personnel costs in the entire Defense budget totaled $22 billion—or about 43 percent of a total budget of $50.8 billion. Since 1962, the Congress has made three key decisions:

1. Federal civilian salaries will be pegged at a rate that is comparable to employees in private industry; (1962)

2. Any increase in civilian salaries will be matched by an equivalent increase in military salaries; (1967), and

3. Military salaries shall be high enough to attract and retain a quality all-volunteer force. (1971)

Together, these account for an increase of 127 percent in military compensation from 1964 to 1975, and 117 percent in civilian pay during the same period. (During this period, the consumer price index increased only 74 percent.) As a result of these decisions, the commissary subsidy has increased by 180 percent, along with the other manpower costs of the Defense Department.

COMPARABILITY OF MILITARY SALARIES

In reporting last year's Defense Appropriations Bill, the Committee included an extensive analysis of the relative comparability of military and civilian compensation, including benefits. Although the report noted the difficulty in placing actual values on certain items, it did include an attempt to make realistic comparisons. Careful examination of these comparisons show that military salaries average $1,932 per year more than comparable civilian salaries. When fringe benefits of both military and civilians are added to salaries (e.g. retirement, health care, etc.) the average military employee receives $4,650 per year more than the civilian employee. The table below is reprinted from page 22 of the Committee Report (S. Report 94–446) and shows a comparison of military and civilian compensation and benefits under the October 1975 pay scales, which are still in effect.

TABLE 4.—COMPARISON OF MILITARY AND CIVILIAN COMPENSATION AND BENEFITS (OCT. 1, 1975, PAY SCALES)[1]

Military grade	Comparable civilian grade	Military compensation and benefits	Civiliam compensation and benefits	Military advantage (+) or disadvantage (−)
0-9/0-10		$54,713		
0-8	GS-18	54,815	$41,350	+$13,465
0-7	GS-17/GS-16	48,886	41,350	+7,536
0-6	GS-15	43,305	38,849	+4,456
0-5	GS-14/GS-13	35,101	31,131	+3,970
0-4	GS-12	28,188	24,485	+3,703
0-3	GS-11/GS-10	24,004	19,749	+4,255
0-2/W-4/W-3	GS-9/GS-8	21,729	16,403	+5,326
0-1/W-2/W-1	GS-7	16,914	14,170	+2,744
E-9/E-8/E-7	GS-6	20,964	12,813	+8,151
E-6/E-5	GS-5	14,711	11,551	+3,160
E-4	GS-4	9,915	10,375	−460
E-3/E-2/E-1	GS-3/GS-2/GS-1	7,821	8,326	−505

[1] Where more than 1 civilian or military grade is shown, the amount for compensation and benefits is the average of the values for those grades.

The conclusion reached by the Committee last year, in commenting on the comparison was that "The committee is not yet in a position to state unequivocally that the military community is or is not better paid than civilian counterparts. It does believe that actual total compensation and benefits must be fully understood by the military member. . . . A first step is to educate the member in computing and understanding the actual extent of his entitlements, and to secure acceptance of the fact that he is not significantly worse off than others." The Committee continues to believe that the same analysis is still applicable, and that the comparisons made last year are still accurate. There is no question that both military and civilian personnel are both well compensated.

The Committee does not subscribe to the notion that military personnel are underpaid. Analysis of the material in the Committee report indicates they may be compensated more generously than civilians.

IMPROVEMENTS IN MANAGEMENT NEEDED

It has been the repeatedly stated view of the Congress that the management and operation of commissaries can and must be improved. This was reiterated in the Conference Report on the fiscal year 1977 Defense Authorization Bill (H. Report 94–1305). The problems relate, among other things, to location, duplication of coverage, and inefficient and non-uniform practices. Many of these problems were pointed out in studies made by the General Accounting Office (Report of March 19, 1975, FPCD–75–132 and May 21, 1975, FPCD–75–88). In addition, the Department of Defense completed a thorough study in May 1975 that pointed out many potential areas for improvement, including development and implementation of automatic data processing systems, consolidation of functions, greater utilization of employees to more effectively match workload, functional training, and the need for standards for measuring production efficiency.

There is no question that better management of the commissaries is an absolute necessity. The Department of Defense should reexamine the number of stores in relationship to the adequacy, convenience and price criteria. Recommendations within DOD have been made to close some 133 of the stores in the U.S. which are located within 10 minutes driving time of the nearest commercial supermarket. These should be examined carefully. In addition, the Department should examine commissary staffing and consider removing some of the 33 percent increase in personnel that has occurred since 1970. The general proposal made by the Administration in its budget request to reduce personnel by about 2,200 is a welcome step in the proper direction.

RECOMMENDATION—PHASEOUT COMMISSARY SUBSIDIES, OVER A 6-YEAR PERIOD

It is clear that the appropriated funds subsidy to commissary stores is no longer justified in light of current military salaries and benefits, the high cost of continuing the subsidy, and the fact that it provides no combat readiness and makes no military contribution to the national defense. In lieu of providing the subsidy, the Committee would strongly prefer to invest an equivalent amount in reducing the very large maintenance backlogs in the military services. The table below shows the reasons why these problems are so serious:

MAINTENANCE BACKLOGS (AS OF END FISCAL YEAR 1976)

Service	Value of backlog (millions)	Number of items				
		Ships	Aircraft	Tanks	Armored personnel carriers	Other automotive
Army	$282		320	220	140	2,200
Navy	1,543	63	621			
Air Force	[1] 101					
Total	1,926	63	941	220	140	2,200

[1] Consists entirely of "exchangeables" (black boxes, engine components, brakes, etc). This represents varying quantities of a large number of items, the acquisition value of which is over $600,000,000. Air Force also has a backlog of $11,700,000 of major items (nonexchangeables, and fire trucks, simulators, etc.) and $13,200,000 of damaged aircraft deferred (20 aircraft).

Although the military services are attempting to reduce this backlog, and have budgeted increases in the depot maintenance programs totaling $1029.9 million (from $4308.2 million in fiscal year 1976 to $5338.1 million in fiscal year 1977) which the Committee has supported, the Committee believes that more can be done if the appropriated fund subsidy to commissaries is made available to fund these items involving true military requirements.

In response to the Committee's request, the Department provided the following list of items where additional funds could be effectively used to improve military readiness without increasing Federal civilian personnel. The list is shown below, and totals $102.8 million.

OPERATION AND MAINTENANCE READINESS ITEMS

[Dollars in millions]

Item	President's budget, fiscal year 1977 estimate	Proposed increase	Revised total
Army: Supply support Funding for receipt storage and issue of equipments has not kept pace with the increasing depot maintenance program. Sufficient manpower is available but more funding is needed to bring the 2 programs into better balance.	$255.2	$10.0	$265.2
Navy: Ship maintenance, including alterations The amount of deferred ship maintenance is still unacceptably high. This proposed increase would reduce the backlog by 6 ships. 5 of the ships would be done in private shipyards and the 6th would be a late fiscal year 1977 start at Long Beach Naval Shipyard. No additional manpower is needed.	2,492.8	+72.8	2,565.6
The ships are—private:			
FF-1090		16.5	
AE-33		8.2	
LSD-36		12.5	
AO-146		9.5	
DD-942		11.2	
Subtotal—Private		57.9	
Long Beach Naval Shipyard: FF-1058		14.9	
Total		72.8	

OPERATION AND MAINTENANCE ITEMS—Continued
[Dollars in millions]

Item	President's budget, fiscal year 1977 estimate	Proposed increase	Revised total
Aircraft component repair The backlog of deferred component repairs will exceed $100,000,000 in fiscal year 1977. These additional funds will be used to increase the contractual effort which will reduce the backlog without the need for more civilian employment in DOD.	$335.3	$10.0	$345.3
Air Force: Aircraft exchangeables repair The backlog of aviation repairables in the Air Force will also exceed $100,000,000 in fiscal year 1977. These additional funds will be used to pay for more contractual repairs. No increase in DOD civilian employment is necessary.	$736.4	$10,0	$746.4
Total		102.8	--------

The Committee is therefore recommending that these subsidies be phased out a six year period, and has modified Section 714 of the bill to provide for such a subsidy phaseout, allowing price increases at the stores to reimburse the O&M accounts in order to make up for the reduction in subsidies. Under this plan, no commissaries need be closed.

Therefore, the Committee is recommending adjustments in subsidies provided through the Operation and Maintenance title of the bill, that will result in savings of approximately $100 million in fiscal year 1977. This includes savings in commissary subsidies of about $47 million, and savings in exchange transportation costs (discussed elsewhere in the report) of $50 to $60 million (estimated). The Committee directs that the Department use these savings to fund the readiness items discussed above.

SUMMARY OF COMMISSARY STORE SUPPORT

The table below shows the appropriated fund support being provided for commissary store operations in the budget request, in the House bill, and proposed by the Committee:

COMMISSARY STORE OPERATIONS, APPROPRIATED FUND SUPPORT

Personnel end strengths; fiscal years

	1975		1976		197T		1977 President's budget		1977 House bill		1977 committee recommendation	
	Military	Civilian	Military	Civilian	Military	Civilian	Military	Civilian	Military	Civilian	Military	Civilian
Army	283	10,392	283	10,392	283	10,392	145	9,570	145	9,570	145	9,570
Navy	1,191	4,119	1,297	3,986	1,297	3,460	1,277	3,493	1,277	3,493	1,277	3,493
Marine Corps	9	808	9	808	9	808	9	742	9	742	9	742
Air Force	559	9,934	556	9,833	554	9,831	540	8,940	540	8,940	540	8,940
Total	2,042	25,253	2,145	25,019	2,143	24,491	1,971	22,745	1,971	22,745	1,971	22,745

[In millions of dollars,[1] fiscal years]

	1975	1976	1971	197T	1977—House bill	1977—Committee recommendation[2]
Military personnel funds:						
Army	2.8	3.2	0.8	1.7	1.7	1.4
Navy	11.9	13.5	3.5	13.7	13.7	11.4
Marine Corps	.2	.2	--------	.2	.2	.2
Air Force	5.4	5.5	1.4	5.4	5.4	4.5
Total	20.3	22.4	5.7	21.0	21.0	17.5
Operation and maintenance funds:						
Army	87.3	101.4	19.3	67.8	102.5	85.1
Navy	45.9	49.9	12.7	23.5	42.1	34.9
Marine Corps	8.4	9.1	2.3	6.0	9.0	7.5
Air Force	99.7	106.3	26.8	66.7	102.7	85.2
Total	241.3	266.7	61.1	164.0	256.3	212.8
Research, development, test, and evaluation funds:						
Army	2.2	1.5	.3	--------	--------	--------
Navy	--------	--------	--------	--------	--------	--------
Marine Corps	--------	--------	--------	--------	--------	--------
Air Force	5.4	5.8	1.5	3.6	3.6	3.0
Total	7.6	7.3	1.8	3.6	--------	--------
Reserve funds:						
Army	.2	.1	--------	--------	--------	--------
Navy	--------	--------	--------	--------	--------	--------
Marine Corps	--------	--------	--------	--------	--------	--------
Air Force	1.1	.8	--------	--------	--------	--------
Total	1.3	.9	--------	--------	--------	--------
Total, Army	92.5	106.2	20.4	69.5	104.2	86.5
Total, Navy	57.8	63.4	16.2	37.2	55.8	46.3
Total, Marine Corps	8.6	9.3	2.3	6.2	9.2	7.6
Total, Air Force	111.6	118.4	29.7	75.7	111.7	92.7
Total, all appropriations	270.5	297.3	68.6	188.6	280.9	233.1

Many arguments have been raised that reduction in the commissary subsidy will seriously impact on retirees who use the commissaries. It should be recognized that the average military retiree will receive a stipend in excess of $7,250 during fiscal year 1977. Nearly 150,000 retirees receive social security benefits averaging——— per year. In addition, 141,817 retirees hold "second career" jobs in federal employment. In some cases, the total compensation received by the individual *exceeds $70,000 per year*. (Civil Service pay and retirement.) The Committee's proposal would hold the annual price increase in commissaries to only about 2 percent a year—far less than the cost of living increases to retirees which have averaged over 10 percent a year in the past three years. By law, these cost of living pay raises for retirees are likely to continue to amount to about 5 percent to 10 percent per year, or between $400 and $700 per year in the future.

If commissaries are phased out over a six year period, the average family buying all its groceries at the commissary would pay only about 80 cents extra per week. At the end of a 6 year phase out period, the commissary patron would pay approximately $280 more per year if all purchases were from a commissary store and $140 per year if half of the purchases were from commissaries.

COMMISSARIES WILL NOT BE ELIMINATED

The Committee rejects the notion that this proposal will result in the eventual elimination of commissaries. The continuing savings at commissaries will make them even more attractive as the cost of goods in the civilian sector continue to increase. Price advantages under local supermarkets will actually improve as better management practices that were recently recommended by the Department's own study are implemented.

The most recent comprehensive study of commissaries prepared by the Department concluded that "Economies obtainable appear to be sufficient to permit reimbursement for direct costs as proposed, retain significant savings for customers, and maintain a workable commissary system".

The fundamental problem found in the same study just quoted was the military patron's misperception of savings in commissary food prices. Although real savings averaged between 23 percent and 32 percent, over 60 percent of the patrons surveyed thought they were saving only 20 percent or less. The Committee recommends that an education campaign be conducted by the Department as the subsidy is phased out, so that military members will recognize the true, continuing value of the commissary savings. Savings will still provide a viable recruiting incentive under the Committee's recommendation.

It would be particularly helpful if the various defense publications supported from nonappropriated funds were to provide true cost comparisons of commissary prices versus supermarket prices. In addition, the news media should be periodically informed of such pricing comparisons.

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[1] Excludes the cost of transporting commissary store goods to overseas stores.

[2] Funding requirements are same as House bill, but difference will be provided by increasing sales prices and reimbursing the appropriation involved.

Finally, the Committee would point out that military exchanges, which do not receive a subsidy for personnel costs, still manage to provide average savings of between 18 percent and 22 percent below commercial prices. With a real incentive for improvement, commissaries should be able to achieve fairly similar savings.

THE QUESTION OF FOOD STAMP USAGE IN COMMISSARIES

The final question that has been raised regards the usage of food stamps in military commissaries. The Department of Agriculture advised the Committee that there are 303 military commissaries authorized to participate in the food stamp program. In April, 1976, they redeemed approximately $1.3 million worth of food stamps. The Department of Agriculture also advised the Committee that based on an average family size of four, this represents usage by only 7,590 families, although the number may be somewhat higher since the participants probably used a part of their food stamp allowance at other retail establishments.

The Committee believes that the relatively small usage of food stamps is not an appropriate argument for the retention of a nearly $300 million subsidiary to commissaries. More efficient ways can be found to subsidize the small number of families using food stamps in the commissaries.

NAVAL GUNFIRE SUPPORT DEFICIENCY

Last year the Congress expressed concern about the existing naval gunfire support deficiency. The Committee is pleased to note that the Navy has requested funds in fiscal year to initiate procurement of MK–71 gun mounts. It is desired that procurement begin at the earliest practicable date and that the requested funds be utilized for no other purpose. The Committee reaffirms a position that the Navy install the MK–71 gun on each DD963 class destroyer. Recent 8-inch guided projectile tests for accuracy and extended range indicate the potential utility of the weapon with guided ordnance.

The Army and Navy, using airborne designators, have conducted successful guided projectile tests. The Committee recommends that the Services actively pursue airborne designation systems (including remotely piloted vehicles) in conjunction with their guided projectile programs to achieve full potential for these weapons at extended ranges.

It is becoming increasingly apparent that a high degree of commonality among the Services in guided projectiles is possible. Commonality will permit a large production base which can reduce unit cost and inventory levels through common procurement. The Committee requests the Department of Defense to review the separate programs of the Army and Navy to determine the feasibility of introducing commonality into the various guided missile programs.

STRATEGIC MISSILE MATERIALS

The Committee believes that greater emphasis on strategic missile materials and structures research and development is necessary. The Committee supports the Department of Defense concept of a tri-Service, ABRES coordinated, exploratory development program directed at developing ballistic missile defense interceptors and reentry and launch vehicle materials and structures technologies. This appears to be the most effective mechanism for the utilization of the best technical talents in the U.S., while allowing satisfaction of individual Service mission requirements.

TEST CAPACITY

In response to a request from the Committee, on March 1, 1976, the Comptroller General reported to the Committee on a study of Department of Defense test capacity. The report cited several instances of apparent excess test capacity. The Department agrees and has been very cooperative with the Committee and the GAO and will take the following actions:

Based upon the recommendations contained in the GAO report, DOD will (1) review workload and capacity data at the eleven designated facilities that support ordnance testing and prepare consolidation plans, if appropriate; (2) develop plans for possible consolidation of engine propulsion testing currently conducted at the Naval Air Propulsion Test Center and the Arnold Engineering Development Center; and (3) conduct appropriate economic and environmental analyses as an integral part of this planning. The resulting plans will be reviewed for potential to enhance DOD testing capability and effect cost savings. Implementation will follow a favorable review, provided no excessive negative impact on the environment or on Defense testing, training and operational responsibilities is projected.

FEDERAL CONTRACT RESEARCH CENTERS

In the past, the Committee has been critical of the Department of Defense's policy regarding Federal Contract Research Centers (FCRCs). The Director of Defense Research and Engineering (DDR&E) reported to the Committee on June 15, 1976 action taken by the Defense Department as a result of Committee and Department concern for the way these Centers have been structured and funded.

The Committee concurs with certain recommendations made in the report. Congressional approval is dependent on similar concurrence from the other interested committees.

The plan to drop three of the nine centers, Applied Physics Laboratory (Johns Hopkins University), Applied Research Laboratory (Pennsylvania State University), and ANSER, from FCRC status is in keeping with the common practice of Federal contracting with universities, without necessarily having a special guaranteed relationship.

Several years ago, the FCRC's were allowed to diversify into non-Defense business. Such diversification voids the rationale for an FCRC, which is to provide a memory and guaranteed source of research without the uncertainties and fluctuations of competitive contracting. The Department will reverse the policy of diversification.

The method of controlling the workload at the FCRCs will change. Since the workload required of the Systems engineering centers, AEROSPACE and MITRE, depend on the contract activity in Air Force space and communications, these organizations will be controlled by a formula tying their ceiling to the total funding of their sponsoring organizations. The other FCRCs will remain relatively stable, being controlled with manpower limitations.

The PRESIDING OFFICER. Who yields time?

Mr. BELLMON. Mr. President, I am willing to yield the floor.

The PRESIDING OFFICER. The Senator from Hawaii is recognized.

Mr. THURMOND. Mr. President, will the Senator yield me 7 minutes?

The PRESIDING OFFICER. Does the Senator from Hawaii yield?

Mr. FONG. Mr. President, I yield 5 minutes to the Senator from South Carolina.

Mr. THURMOND. Mr. President, the authorization conferees considered this matter very carefully, and this is their report:

The Department of Defense proposed in its FY 1977 budget request to phase out over a three-year period the appropriated fund support to commissary stores for labor-related costs and overseas utility costs. The House rejected this proposal and included language expressing congressional opposition to any change in the present method of providing financial support for military commissaries.

The Senate amendment, on the contrary, included a provision which would have required the phaseout of the appropriated subsidy for commissary operations over a three-year period.

Mr. President, I will not go into the entire report, but the point is this:

First, I wish to say that recent years have seen a diminution of fringe benefits. The services have had difficulty in recruiting the right kind of people, and it is important, I think, to maintain these fringe benefits.

In recent years we have had a reduction in the dental services to retired people and their dependents. We have had cuts in the CHAMPUS program. We have had failure to recompute the pay of older retirees. The recent retirees make several times as much as the old people are making. They are the ones who need it worst.

The next point I have to make is that recent commissary surveys indicate this:

The commissaries are used by over 90 percent of active retired families. The reports show that they are utilizing this service as a fringe benefit. About 50 percent of the military personnel do 75 percent of their shopping in commissaries.

This is going to have a vital effect on the morale of the military services, if we abolish these commissaries or take steps as indicated by the distinguised Senator from Oklahoma.

Mr. BELLMON. Mr. President, will the Senator yield?

Mr. THURMOND. It will not abolish the commissaries or close them entirely, I agree to that, but it will increase the prices that military personnel have to pay, and in my judgment this is the wrong time to be bringing up a matter of this kind.

Over 70 percent of the military personnel cite the commissaries as a key service benefit. Almost three-fourths of the military personnel say that these commissaries constitute a key service benefit, and they are virtually interested in them. The services are enabled to get people to join the services, and they help the military services hold those people once they get them.

The largest portion of the commissary users are enlisted. There has been a lot of talk about generals, admirals, and high ranking officers, and of all the benefits they get, but who uses these commissaries? I want to say the largest percentage of the commissary users are enlisted personnel—the poorest paid people in the military service. Are we going to take this away from them? Talk about the poor and their needs, and all the steps being taken; I think we need to do something for these military people, to hold them in the service and help to get others in the service.

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mr. THURMOND. Mr. President, will the Senator yield me 3 more minutes?

Mr. FONG. I yield the Senator 2 minutes.

Mr. THURMOND. Mr. President, I wish to say, too, that the commissaries are critical to the retirees receiving low pay. This is very vital to the older people, and I hope the Senate will not see fit to adopt this amendment.

The Senate Armed Services Committee recommended steps to effect savings through improved efficiency of operations. These steps will lead to lower levels of direct support. The authorization conferees also directed the Secretary of Defense to institute management improvements and operational efficiency, and report on the results by February 1 of next year.

Why take any steps now? Why not wait until this report is made by February 1 of next year?

The goal is to reduce the appropriated fund support while not eliminating the commissaries or reducing the benefits to the military personnel. The conferees agreed that this important fringe benefit to the military should continue.

Mr. President, in closing I simply want to say that I hope the Senate will not see fit to adopt this amendment. Let us wait on this report of February 1 of next year, and see what they come up with, because our military personnel at this time, when the military is being attacked from all sides, need to be encouraged. They need moral support from the people of America. This is a small fringe benefit. I think we ought to keep the situation as it is, for the present at least.

The PRESIDING OFFICER. Who yields time?

Mr. THURMOND. Mr. President, will the Senator from Hawaii yield me 2 seconds?

Mr. FONG. I yield.

Mr. THURMOND. Mr. President, I ask unanimous consent that Robert Olds of the Armed Services Committee staff and Peter Hughes of the staff of Senator HARRY F. BYRD, JR. be accorded the privilege of the floor during the consideration of this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FONG. Mr. President, I rise to oppose the Bellmon-Culver amendment which would reduce commissary funding in fiscal year 1977 by $47 million, which is one-sixth of the total funding of $281 million, and an additional one-sixth each year for the next 5 years so as to phase out the subsidy over a 6-year period.

MORALE AND HARDWARE ARE BOTH ESSENTIAL FOR PREPAREDNESS

The junior Senator from Oklahoma and the junior Senator from Iowa say many of our forces are in a deplorable state of readiness. They propose, therefore, to save money by eliminating commissary funding and use the money saved in this manner for readiness improvement. On the surface, this sounds reasonable. I agree that elements of our defense posture need strengthening. There are ships backlogged for overdue maintenance. There are planes that are cannibalized for spare parts. We need better airplanes. We need better tanks. We need better missiles. There are many other requirements for hardware. I will not dwell upon them at this time. However, hardware alone—important as it is—does not constitute total military preparedness.

The soldier, the airman, the sailor, and the marine—all men and women, trained, qualified, motivated, satisfied and contented—are still most basic to a viable defense posture. In this connection, troop morale is indeed important. Nothing can be more damaging to our military preparedness than to have disaffected and discontented service personnel who feel alienated, cheated, and betrayed by their own Congress. It does not matter whether their perception of abandonment is valid or invalid. But, so long as they harbor the slightest doubt on the reliability of their Government in making good past promises and commitments, then the billions of dollars that we invest in defense will not be used as efficiently as they can be. Poor morale can spread quickly among the ranks. It can dissipate combat efficiency. It can disintegrate military discipline. And it can give rise to a new militancy and a possible tendency to be influenced by those who favor unionism in the armed services.

Mr. President, it is axiomatic that the individual in the armed services must be adequately trained and the units must be seasoned for combat through training exercises and maneuvers. Nobody argues against that. I have always stood for a strong military posture. The fact of the matter is, however, that troop morale is of utmost importance in any armed force. History is replete with cases where poor morale meant defeat.

Furthermore, military esprit de corps is deeply rooted in custom and tradition. The American military commissary system started 110 years ago by legislation enacted in 1865, when the first commissaries were established by the Army at frontier posts. The Marine Corps started its first commissary in 1909 and the Navy a year later. The Air Force began operating its own commissaries in 1947 when it became a separate component of the military establishment.

From their inception, military commissaries have been fully funded as essential for the military until 2 years ago when in December 1974, Congress enacted legislation to cut off funds for construction or improvement of commissaries in the United States. Commissary patrons now pay a small surcharge that defrays construction and improvement costs. This was not a serious erosion of benefits and the troops and their families have come to live with the surcharge.

CONGRESS REJECTED FUNDING PHASEOUT LAST YEAR

Mr. President, last year Congress rejected a legislative proposal to phaseout commissary subsidies over 2 years. In reporting out the fiscal year 1976 Defense appropriations bill in 1975, the Senate Appropriations Committee recommended full funding for military commissaries. However, Senator CULVER and Senator BELLMON introduced a floor amendment at that time to phaseout commissary subsidies over a 5-year period. I was not alerted to the introduction of the amendment and therefore did not speak against it. It passed the Senate on a voice vote. Subsequently, however, the Culver-Bellmon amendment was deleted in conference.

A few days ago, during markup of H.R. 14262, the fiscal year 1977 Defense appropriations bill, in the Senate Appropriations Committee, I moved for full funding of commissary subsidies, that is, to sustain the House amount of $281 million for this purpose. The committee adopted it by 13 to 8 vote.

The committee's action is in conformity with the recent action of the House and Senate when they passed the Defense authorization bill of 1977 (H.R. 12438) last month, which was signed into law by the President on July 14, 2 weeks ago.

HOUSE-SENATE CONFERENCE ON DEFENSE AUTHORIZATIONS, FISCAL YEAR 1977

By way of background on this authorization bill (H.R. 12438), my colleagues will recall the House rejected a legislative proposal to phase out over a 3-year period the appropriated fund support to labor-related costs and overseas utility costs of commissaries. In rejecting phaseout for commissary funding, the House bill specifically expressed congressional opposition to any change in the present method of providing financial support for military commissaries.

The Senate bill, on the other hand, provided for phaseout of commissary funding over a 3-year period.

House and Senate conferees discussed the commissary issue at great length and agreed to strike from the authorization bill both the House and Senate languages that were in disagreement. They further agreed that economies can be realized by improving efficiency of commissary operations, thereby achieving savings leading toward gradual reduction of commissary subsidy while retaining substantially the level of savings experienced by commissary patrons.

The conferees directed the Secretary of Defense to institute management improvements and operational efficiencies for the purpose of reducing commissary subsidies and to report to the Senate and House Armed Services Committees by February 1, 1977. The report is to cover management improvement progress, savings achieved, and time plans for further improvements and projected savings in subsequent years.

Mr. President, the authorization compromise makes sense. Since the subsidy phaseout issue is not definitively resolved, the logical thing to do at this time is to permit the Secretary of Defense to follow through with the mandated study and to develop his plan to improve management of commissary operations so as to reduce the need for subsidy in future years.

CASH IMPACT OF PHASEOUT

Now Senator BELLMON and Senator CULVER are trying to undo what the Congress did last month. Congress spoke out very plainly that the appropriation for commissaries should be continued and the President signed the bill.

The sponsors of this amendment claim that their amendment will cost the average military and retiree family 80 cents per week as a result of higher commissary prices resulting from their proposed subsidy phaseout. Supposing this is true, then the average military family will pay $41.60 extra the first year. This will double in the second year and triple in the third year until in the sixth year, it will total $250. The committee estimates that the cost will be $280.

This is disposable income that each military family can use to buy whatever is needed to feed and sustain the family.

At an average of 25 percent Federal income tax rate, plus an average of 5 percent State income tax rate, the $280 is the equivalent of about $373 annual gross income.

So, Mr. President, this amendment does not take only 80 cents per week, but actually will take $373 per year from an average family, or more than $31 per month, or to be more precise $7.17 per week—not 80 cents as stated by the sponsors.

These figures are "average" figures. Actually, the increased commissary prices as a result of the Bellmon-Culver amendment would hurt most the lower-rank military personnel and retired personnel, who comprise the majority of commissary patrons.

No wonder, the letters I and you have been receiving protest vigorously the erosion of commissary privileges.

The Senator from Oklahoma and the Senator from Iowa also said that by phasing out commissary subsidies, the estimated savings that they expect to achieve through their amendment over a 10-year period would amount to $4 billion some dollars. My own calculation shows that if the annual savings were $280 million, the total in 10 years should add up to $2.8 billion.

They might argue that with escalation of pay increases for commissary personnel, the higher figure that they present is closer. But, the truth is that the total personnel strength for commissaries have been stabilized the last 3 years—27,292 for fiscal year 1974; 27,349 for fiscal year 1975; and 27,368 for fiscal year 1976.

Since 1972, approximately 20 commissary stores have been closed because of base closures. If Congress approves additional base closures in fiscal year 1977, 10 to 12 commissary stores will be eliminated. The administration has proposed that about 2,000 civilian personnel reductions are planned for fiscal year 1977.

The amounts needed for full funding for fiscal year 1977 is estimated at $280.9 million compared with $291.3 million in the preceding fiscal year. In other words in fiscal year 1977, $10.4 million less will be needed. The cost is coming down, not going up.

Furthermore, let us assume that cost projections may escalate upwards. In that case, the extra cost that the commissary patron must bear will not be $250 to $280 net per family, but much, much higher.

CONSTITUENTS ARE ANGRY AND BITTER

I am sure that every Senator has received mountains of mail on the commissary issue. Many of my constituents have appealed to me for help. Some cry out in helpless frustration. Some are angry and bitter. Let me read some excerpts from the letters I have received from my State of Hawaii:

Here is a letter from the wife of a military retiree in Honolulu. She writes:

> I am the dependent wife of a military man who spent 35 years of his life in the service of his country both as an enlisted man and as an officer. My husband was involved in World War Two, the Korean Conflict and the Vietnam War. He has a box-full of medals citations, including the purple heart for war connected injuries. Presently he is retired, disabled. Forgotten, cheated and mistreated.
>
> Today, the retired military man is given a 4th class status. All of the benefits and privileges that were such strong inducements in reenlistments are now slowly (in fact I should more correctly say rapidly) but surely being whittled away. . . .

She goes on to say:

> I am bitter at the lack of appreciation given my husband. I feel that the United States Government has reneged on the promises given to the servicemen who believed in the promises made to them 35 years ago. Then the salary was low, the hours were long, the service very demanding—little consideration given to the family of servicemen—but, the big reward was in the promises of what would be given to the people who were loyal and gave a life to his country's service. Now that we are retired none of those promises are forthcoming . . . they have been cancelled. The retired serviceman has been used and abused—he's a chump, no longer a hero. Is it any wonder we have young people today who refuse to serve? I do not blame them. In fact I commend them. I cannot in good conscience recommend the service as a life career. Even today, when salaries are so much better and tours so much shorter and conditions so much more humane. The young peoples today do not trust a government that did not keep its promise to its retirees. Today the service is used by the intelligent youth as a stepping stone . . . today the youth is smart enough to get his reward of an education before he give(s) his service. Then the smart ones get out of the military and seek a life's career in a more trustworthy atmosphere.
>
> A final blow is the threat of our losing medical care and commissary privileges. Which bring me to an appeal to you to oppose any reductions in commissary funding. Admiral Finneran, an OSD spokesman, acknowledged that a reduction in funding would have a "negative impact" on retention, morale and readiness of the force.

Here is a letter from a second constituent in Kailua, Hawaii:

> Do you care as much about our military men who are laying their lives on the line for our country? Their's is not an easy life, and the years of Viet Nam and afterwards have led many to leave the service of a country that seems to consider them less than second class citizens.
>
> Now there is loud talk of closing the commissionaries—cutting down or out the few privileges and amenities that make these men and their families feel that they are need(ed) and encouraged to remain in the service of their country.
>
> Please use your good influence to convince those who are considering this cut in funds that the evidence of a non-caring government will most surely lead to thinning the ranks and the morale of all who serve in the armed forces.

Mr. BELLMON. Mr. President, will the Senator yield?

Mr. FONG. I yield.

Mr. BELLMON. The Senator referred twice to closing the commissaries. These amendments would not close them.

Mr. FONG. I understand, but these people are writing me.

Mr. BELLMON. I hope the Senator will write back and tell them we are not closing the commissaries.

Mr. FONG. The proposal is to cut the total subsidy in 6 years, which will mean about $280 to $300 to each of them.

A third constituent sent me a mailgram saying substantially as follows:

First. Army personnel consider commissaries the second most important benefit. Medical/dental care is first.

Second. Total elimination of commissary funding will reduce savings to the individuals by 10 to 12 percent with the following impact:

It equates to a reduction of pay for active personnel with severest impact on enlisted personnel and junior officers with dependents.

Will cause a significant impact on retired personnel, the 122,000 totally disabled veterans authorized to use commissaries and widows of retired personnel living on fixed income.

Perceived by the individual as a breach of faith by the Government, in a period where unionization is being discussed, another lever is not needed.

Mr. President, a fourth constituent, a retired Navy warrant officer, writes as follows:

> People are still the most important element in our defense equation. If we continue to reduce or eliminate those features which distinguish the military profession from other occupations, we may well end up paying a good deal more for people who will be less motivated, who are willing to serve only as caretakers on a forty hour per week basis, and who lack the dedication so essential to military service under all conditions.
>
> Senator Fong, we of the Military, both Active and Retired, feel that there is no place in the Military Organization for Unionism.

A fifth constituent, a retired Army nurse, writes me as follows:

> I retired from the Army Nurse Corps in 1962 after more than 20 years service and an 80 percent disability. The only increase in pay since retiring has been the small CPI (Consumer Price Index) which never makes up the actual cost of living increases.
>
> Discontinuance of Commissaries would add to the hardship of retirees, especially the older retirees.

I have many more letters from constituents. Let me just read from one more. It is from Maj. Gen. Charles R. Hutchison, U.S. Army, retired, who is chairman of the U.S. Army Retiree Council—Hawaii. Dated July 19, 1976, the letter says:

> The Army Retiree Council of Hawaii, representing some 3500 Army retirees and their families is greatly disturbed over curtailment of entitlements, the latest being phasing out of appropriated fund support for military commissaries.
>
> We have many low paid retirees, who place heavy dependence on commissaries to sustain their already poor standard of living. Increased surcharges mean "cut in pay," no matter what fancy words are used to justify appropriated fund support curtailment or phaseout.
>
> I think it evident that any substantial increase in surcharges will lead, ultimately, to closure of commissaries due to lack of customers.
>
> It is such proposals that are furnishing bait for union organizers to establish military unions, who point out that benefits will

increase rather than decrease with union membership.

We request your support of continued appropriated fund support for commissaries.

Mr. President, aside from active and retired military personnel and their families, I have also received letters and mailgrams from various veterans organizations, such as the Veterans of Foreign Wars and Auxiliary, the American Legion, the National Military Wives Association, the Naval Reserve Association, the Non-Commissioned Officers Association, the Retired Officers Association, and others. I also heard from any members of these organizations.

Letters and mailgrams have come particularly from the VFW and the auxiliary in the States of Alabama, California, Connecticut, Florida, Idaho, Illinois, Indiana, Louisiana, Maine, Michigan, Minnesota, Maryland, Missouri, New Jersey, New Mexico, Ohio, Oklahoma, Oregon, Pennsylvania, South Dakota, Tennessee, Texas, Virginia, Washington, West Virginia, Wyoming, and Washington, D.C. A letter came from as far away as West Germany.

I am sure that every Senator has received similar letters and mailgrams—all appealing for the full funding of commissaries.

I have also carefully reviewed the testimony of the Retired Officers Association presented by Col. George F. Hennrikus, Jr., U.S. Air Force, retired, before the Investigating Subcommittee of the House Armed Services Committee on May 9 last year. His testimony is most pursuasive and convincing. Let me highlight the key points he made:

First. The immediate concern with respect to the phaseout of commissary funding is for older retirees, the individual whose retirement is based on pay scales in existence before recent pay increases that were designed to achieve pay comparability.

Second. Many in this group are at or approaching an unemployable age and do not have the full advantage of social security insurance.

Third. Depressed pay scales during their active service allowed little or no opportunity to accumulate savings or equity in a home.

Fourth. About two-thirds are enlisted. As a matter of fact, among the 1 million retirees there are more E–7's than officers in all grades. Senior officers make up only a small percentage, with a fraction of 1 percent in the grade of general. Consequently, Department of Defense figures indicate that almost half of this group receive retirement income below $4,000 annually.

Fifth. Many retirees are sometimes forced to seek public assistance. As much as $1.5 million in food stamps are being redeemed every month by commissaries.

Sixth. Until recomputation legislation is enacted, many of the older retirees will continue on the welfare rolls, without much hope of alleviation from a "very real financial crisis."

Seventh. Until recomputation is achieved, the older retirees on welfare must depend on the commissaries to extend "their limited purchasing power."

Eighth. At the other end of the military spectrum is another group for whom the commissary is the difference between survival and a marginal existence. This group is made up of the junior members of the active force, officers and enlisted men in the lower grades—in the first 10 years of their military careers—with young, growing families. It is this group that accounts for the balance of the food stamps redeemed in the commissary.

Ninth. As in the case of the retirees, more than two-thirds of the active force is enlisted. However, there is a greater proportion at lower pay grades. The greatest share of enlisted people are in the grade of E–5 or below and receive less than $8,000 a year in pay and allowances. Most marry in their first 5 years of service and children arrive soon thereafter.

Tenth. Particularly in peacetime, promotions rarely keep pace with increased financial responsibilities. Consequently, the 20 to 30 percent savings realized at the commissary become a very real and necessary economic fact of life.

Eleventh. Under normal circumstances, with the civilian employment possibilities offered by a health economy, any reduction in these savings would have a direct bearing on the career decisions made by young officers and enlisted personnel.

Twelfth. A Navy study of last year showed that if only 3 percent of its personnel quit because of elimination of the commissary or a drastic reduction in commissary purchase savings, the impact will mean that for every one dollar saved in commissary funding, an additional $1.32 would be needed for recruitment and training.

Thirteenth. Career military personnel look upon fringe benefits such as commissary privileges very much as they do their uniform.

It's a normal part of the military way of life. Its great value is only recognized when there is a threat to its continued existence.

Fourteenth. Other than the active and retired military personnel, we should not forget the 125,000 totally disabled veterans, the holders of the Medal of Honor, and their dependents and survivors. They are much worse off than the active force and the retirees as everyone knows.

Fifteenth. Supporters of commissary funding phaseout have argued that such funding is no longer needed because of increases in active and retired military pay. True, recent pay increases have been generous. But, the fact of the matter is, one cannot say comparability in pay has been achieved with a military pay scale that begins far below the national average and falls far short of executive level salaries. And, as stated earlier, older retirees were excluded. Yet, the essential point is that military compensation can never be translated adequately into dollars and cents.

Sixteenth. Even with major force reductions and in spite of continued promises of the benefits that are being proposed for elimination, millions of dollars must still be spent every year to recruit and retain volunteers.

Seventeenth. Most experts agree that no matter what pay incentives are offered, the services will never compete on even terms with industry for people. The reasons are obvious. The military man or woman must be willing to fight the enemy in combat, must work long and erratic hours, must cope with frequent and expensive moves, must forego opportunities to build an investment in a home or to enjoy the long-term security of a familiar community.

Mr. President, I ask unanimous consent that the full text of Colonel Hennrikus' statement be inserted in the Record at this point.

There being no objection, the statement was ordered to be printed in the Record, as follows:

Statement of Col. George F. Hennrikus, Jr., USAF, Retired, Before The Investigating Subcommittee, Committee on Armed Services, House of Representatives

Mr. Chairman and members of the subcommittee: I am Colonel George F. Hennrikus, Jr., United States Air Force Retired, Chief Legislative Counsel of The Retired officers Association (TROA), which has its National Headquarters here in Washington at 1625 Eye Street N.W. Our Association has a membership of over 210,000 retired, former and active duty officers of the seven uniformed services. I also represent the Retired Enlisted Association (REA) whose headquarters is in Colorado Springs, Colorado.

I appreciate the opportunity of appearing before this Subcommittee to express our support for H.R. 3363 which will provide full funding for the continued operation of the military commissary store.

Our immediate concern in the face of possible reductions or elimination of the commissary, is for the older retiree, the individual whose retirement is based on pay scales in existence before the recent series of active duty pay increases which were designed to achieve comparability with civil service and civilian pay. Many in this group are at or approaching an unemployable age and do not have the full advantage of Social Security Insurance. Depressed pay scales during their active service allowed little or no opportunity to accumulate savings or equity in a home. About two-thirds are enlisted. As a matter of fact, among the one million retirees there are more E–7's than officers in all grades. Senior officers make up only a small percentage, with a fraction of one percent in the grade of general. Consequently, Department of Defense figures indicate that almost half of this group receive retirement income below $4,000 annually.

Unfortunately, they are sometimes forced to seek public assistance. Commissary managers report that this group accounts for a sizable share of the $1.5 million in food stamps being redeemed monthly at their checkout counters. Though the majority of retirees try to settle near military installations, due to base closures and other factors, many must shop in commercial groceries, making it impossible to obtain complete food stamp figures.

In this connection, passage of recomputation legislation probably would take these retirees off the welfare rolls and alleviate the very real financial crisis these older people face. Our Associations, together with the Council of Military Organizations (COMO), have supported the one-shot compromise solution offered by Congressman Wilson and Senator Hartke and have reason to hope the 94th Congress will give it favorable consideration. Until this happens, however, the commissary remains the most significant means available to our older retirees for extending their limited purchasing power.

At the other end of the military spectrum is another group for whom the commissary is the difference between survival and a marginal existence. This group is made up of the junior members of the active force, officers and enlisted men in the lower grades—in the first ten years of their military careers—with young, growing families. It is this group that accounts for the balance of the food stamps being redeemed in the commissary. As in the case of the retirees, more than two-thirds of the active force is enlisted. However, there is a greater proportion at lower pay grades. The greatest share of enlisted people are in the grade of E–5 or below and receive less than $8,000 a year in pay and allowances. Most marry in their first five years of service and children arrive soon thereafter. Particularly in peacetime, promotions rarely keep pace with increased financial responsibilities. Thus the savings realized by commissary shopping, estimated between 20 and 30 percent, become a very real and necessary economic fact of life. Under normal circumstances, with the civilian employment possibilities offered by a healthy economy, any reduction in these savings would have a direct bearing on the career decisions made by young officers and enlisted personnel.

A study completed for the Navy last year concluded that if only 3% of the force elected to leave the service due to the elimination of the commissary or a sharp reduction in the savings currently realized in its use, an additonal $1.32 would have to be spent for recruitment and training for every dollar saved in commissary costs.

Those who support elimination of the commissary have alluded to informal surveys wherein the military respondent failed to acknowledge, voluntarily, the commissary as a factor in his career decision. My response to this, as a recent retiree with 32 years service, is that career personnel are as conditioned to the commissary as they are to their uniform. It's a normal part of the military way of life. Its great value is only recognized when there is a threat to its continued existence.

I discussed this point with a Naval Aviator who recently completed two years' recruiting duty. He said it is standard practice to emphasize fringe benefits, including the commissary, in interviews with potential recruits and re-enlistees. In the case of married people, spouses were also routinely interviewed. He said, more often than not, the commissary was the prime selling point for the wives.

In particularly citing the people at the extremes of the military spectrum, I do not intend to denigrate the significance of the commissary for the rest of those who are authorized to use it, including the balance of the active force and the retirees, the 125,000 totally disabled, holders of the Medal of Honor and their dependents and survivors. As you're well aware, though most of us are better off than the two groups cited, no one ever elected a military career to acquire wealth.

This brings me to a final observation—a concern—which we feel transcends the dollars and cents considerations of this issue of commissaries.

Secretary Schlesinger, in recommending the reduction in funding for commissaries, has reasoned that the need has been obviated by increases in military pay which make it commensurate with civilian pay. His assistants first used variations of the term "comparability" and then, as unemployment increased with the recession, he opportunistically directed that the term be changed to "competitive."

Mr. Chairman, whatever he chooses to label it, we do not agree with him. I hasten to acknowledge, parenthetically, that the increases in regular military compensation and other benefits of recent years, principally championed by this committee, have been generous. As a result, most of those in uniform today are no longer in the precarious financial state of their predecessors. Still, one cannot say comparability in pay has been achieved with a military pay scale that begins far below the national average and falls far short of executive level salaries. And, of course, it does not encompass the older retiree, whose plight I have just discussed.

But the point I want to make here is that, because of the nature of the profession, military compensation can never be represented adequately in dollars and cents terms, except, possibly, with respect to mercenaries.

Consider the present circumstances. Despite the most severe recession in thirty years and a catastrophic unemployment rate, despite major force reductions within the Service; despite continued promises of the very benefits which are now being considered for elimination, millions of dollars must still be spent each year to recruit and retain volunteers. Granted, recruting goals are being met at lower cost per recruit and retention rates are improving.

Most expert observers agree that no matter what pay incentives are offered, the Services will never compete on even terms with industry for people. The reasons seem fairly obvious. Several are sometimes categorized under the general title, "exigencies of the service", willingness to engage an armed enemy in combat, long and erratic duty hours, frequent and expensive moves with little opportunity to build an investment in a home or to enjoy the long-term security of a familiar community, mental, and sometimes, physical stress on dependents; a work contract that can be changed at the whim of the Government; and probably most important, the surrender of certain basic freedoms.

In an article in the January, 1974, issue of The Retired Officer magazine entitled "Military Careerists: A New Scapegoat Minority", Dr. Theodore C. Kahn, a clinical psychologist, stated:

"The greatly misunderstood fringe benefits, commissaries, post exchanges, medical care and space available travel, all have a symbolic significance that overrides their dollar value many times. Their continuation represents a symbolic expression of national appreciation for the sacrifices that almost every military person has been called upon to make sometime in his career. There is no substitute for them. The military culture prescribes symbols and the nation must reciprocate—at least partially—with symbols in order to maintain military morale."

Troops undergoing the rigors and discomforts of field exercises, sailors on long cruises away from their families, airmen in lonely missile silos or on alert beside their aircraft, staffers putting in 60-hour weeks in some recess of the Pentagon are not there because their pay is comparable to their peers in private enterprise.

If this were the case, they would form a union and strike for overtime pay. Furthermore, if they were called upon to engage the enemy, they would probably do so reluctantly, and only after their shop steward had obtained a majority vote.

In predicting the consequences of what we perceive to be Secretary Schlesinger's plan of action, I would cite the sad state of our Merchant Marine. The pay scales necessary to man our merchant ships has practically put it out of business.

If this perception of Secretary Schlesinger's intention is correct, and if he achieves acceptance in the Congress, I can only foresee the most dire consequences.

We can only conclude that Secretary Schlesinger either does not understand the unique nature of the military profession, or he has decided that his recommendations for reductions in this area would have a cosmetic impact that might strengthen the case for badly needed and long overdue force modernization.

We fully recognize that there are no easy answers to the problems of maintaining an adequate defense and we certainly don't envy Secretary Schlesinger the task. But the sad fact is that the people in our Armed Forces have been badly misused in the past. We can't afford too many more mistakes.

Mr. Chairman, you and the majority of this subcommittee understand better than anyone else, that until some radical changes occur in this World, the best thing this Nation has going for it is a responsive and responsible military. A great deal of time and words are devoted to the debate over the cost. But money is not the total answer. The kind of people willing to serve in the Armed Forces of the United States have never asked for more than what is needed to raise their families decently and with dignity. Pride in service and the knowledge that this service is, in turn, a source of pride for a grateful Nation is by far the most significant incentive for the military professional. If we continue on the course charted by Secretary Schlesinger, if we become blinded by the price and forget the value, I predict we will soon be spending more and more money for an unresponsive, irresponsible, ineffective Military.

In conclusion, Mr. Chairman, it is strongly recommended that your Subcommittee report favorably H.R. 3363.

Mr. FONG. Mr. President, I have also heard from the National Military Wives Association. In discussing morale in the Armed Forces, I cannot overemphasize the influence of the housewife and children in the military community. We all know that if the housewife is unhappy because she feels the Government has reneged on her husband and the family, she can indeed have an adverse impact on the husband, causing his morale to deteriorate.

The Military Wives Association writes me as follows:

> It is our hope, that before deciding you will keep in mind the needs and concerns of the military personnel in the lower grades with families, the older retiree and his spouse, and the often forgotten widow of a deceased military member.
>
> The military commissary is of prime importance to the service man or woman. It is an aid to recruitment, retention, morale and readiness of the members to service our country. The commissary enables the homemaker to stretch the budget, to provide a nutritional diet for her family and to maintain a wholesome, emotionally balanced home environment.

Then there is a letter from the Non-Commissioned Officers Association. As my colleagues know very well, the NCO's are the backbone of the Armed Forces. The sergeants and the corporals are the key links in the chain of command. They too urge their Senators to support the continuation of commissary funding. The reasons they set forth are similar to those brought out by the others. However, they make two significant points.

First. Further erosion of military pay, allowances, and benefits may and can lead to unionization of the U.S. Armed Forces.

Second. The cost of commissary funding is a small fraction to pay for the many hours of overtime, loyalty, and duty offered in return by the active forces.

Mr. President, I certainly agree with the NCO's. The saving that can be achieved by the Bellmon-Culver amendment in the first year—just $47 million—is miniscule when troop morale is at stake.

The letter from the Non-Commissioned Officers Association enumerates the benefits that have been gradually eroded by Congress since 1973. The list includes 22 various benefits such as education, reductions in force without severance pay, medical benefits, regular reenlistment bonuses, dental care, basic pay increases, hazardous duty pay, and proficiency pay—to name just a few.

Mr. President, I ask unanimous consent that the letters from the National Military Wives Association, the Non-Commissioned Officers Association, the Naval Reserve Association, the Retired Officers Association, and others from various veterans' organizations be printed in the Record at this point.

There being no objection, the letters were ordered to be printed in the Record, as follows:

National Military
Wives Association, Inc.,
Washington, D.C., July 13, 1976.

Hon. Hiram L. Fong,
U.S. Senate,
Washington, D.C.

Dear Senator: The National Military Wives Association is writing to you because you are a member of the Senate Appropriations Committee and will help decide what action on the military commissary subsidy funding for fiscal 1977 the committee should recommend to the Senate. It is our hope, that before deciding you will keep in mind the needs and concerns of the military personnel in the lower grades with families, the older retiree and his spouse, and the often forgotten widow of a deceased military member.

The military commissary is of prime importance to the service man or woman. It is an aid to recruitment, retention, morale and readiness of the member to service our country. The commissary enables the homemaker to stretch the budget, to provide a nutritional diet for her family and to maintain a wholesome, emotionally balanced home environment. For these reasons, the National Military Wives Association, hopes that you will support full commissary funding and allow time for the implementation of the management improvements program which should increase efficiency of the com.—stores and reduce operational costs.

Sincerely,

Genevieve R. Soller,
Legislative Counsel.

Non Commissioned Officers Association of the United
States of America,
Washington, D.C., July 9, 1976.

An Open Letter to All Members of the Senate Committee on Appropriations

Dear Senator: We are disturbed and concerned.

It is our understanding that your committee may recommend a phaseout of federal subsidies for military commissaries.

This is a most important benefit. It should be continued for the following reasons:

1. The federal government will honor its commitment to active and retired military personnel who were promised reduced food costs through purchases in commissary stores on military installations. (Recent testimony given by BG Emmett W. Bowers, Commander, U.S. Army Troop Support Agency, before a House Armed Services Committee panel noted—"that to offset a loss of appropriated fund support and resultant sales losses, an increase in the commissary surcharge rate from the present 4% to 14–16% is necessary.")

2. More than 200,000 budget-conscious service-connected totally-disabled veterans and their families and our Nation's Medal of Honor recipients, who are entitled to use commissary facilities, will continue to have a place available to purchase food items at reduced prices.

3. Over 2,000 civilian employees will be guaranteed continued employment in military commissaries. (These workers receive comparable wages with those of federal employees. Thus, they earn more pay and receive greater benefits—all as a result of a congressionally-sponsored law—than employees of military non-appropriated fund activities such as base exchange stores.)

4. Further erosion of military pay, allowances and benefits that may and can lead to unionization of the U.S. Armed Forces will be deterred. (Since FY 1973 more than 40 separate items have been terminated, reduced or curtailed by Congress. A list of major items is attached for your information.)

The Non Commissioned Officers Association of the USA (NCOA), representing more than 150,000 members of which 85 percent are on active duty with the military services, strongly believes that if the U.S. Senate can justify $364 million for the Corporation for Public Broadcasting over the next three fiscal years, it is not being obtrusive in seeking your support.

Upon your return to Congress, the Association urges you to vote favorably to continue subsidies for military commissaries. For the costs involved, it is a small fraction to pay for the many hours of overtime, loyalty and duty offered in return by our active forces.

Looking forward to having your personal support, we remain,

Respectfully,

C. A. "Mack" McKinney,
Director of Legislative Affairs.

Military Emoluments Eroded by Congress Since 1973

Item, year, impact, and annual est. savings:

1. Shipment of foreign privately-owned vehicles, 1973, Military members must pay $400–$600 to ship auto o'seas on return, unknown.

2. United States Armed Forces Institute (USAF), 1973, Loss of education benefits est. at $50 per participant, $6.2 million.

3. CHAMPUS, 1973, Eliminated certain programs forcing participants to pay total costs-also increased expenses for other services, $20 million-plus.

4. Space available transportation, 1973, Eliminated most sp. avail. to military retirees/dependents, $25.5 million.

5. Reductions-in-Force (incl: enlisted qualitative management prog.), 1973, Reduced military strengths forcing tens of thousands out of service prior to retirement. Enlisted receive no servance pay as provided officers, unknown (probably more than $270 mil.)

6. Medical benefits, 1974, reduced care and treatment avail. in medical facilities on mil. instal., thereby increasing future costs of med. care for retirees and families, unknown

7. Regular reeenlistment bonuses and variable bonuses, 1974, terminated. Loss of regular bonus cost ea. enlisted $2,000 over 20-year period. Selective bonuses provided for fewer people, $25 million beginning FY 1977.

8. Dental care, 1974. Drastically reduced for dependents and retirees, unknown.

9. Aviation career incentive act, 1974, Eligible personnel lose $100–$245 per mo. when declared not eligible under new statute, $13 million beginning FY 1977.

10. Enlisted degree training, 1974, Enlisted no longer eligible to receive on-duty education benefits of $10,000 per member, $10.3 million.

11. Uniformed services savings deposit program, 1974, Eliminated personnel no longer eligible for 10% interest on savings, $2.1 million.

12. Parachute jump pay, 1974, Reduced No. qualified. Loss of $55–$110 for previously eligible personnel, $1.9 million.

13. Project transition, 1974, Terminated. Pers. no longer eligible to receive assist. in returning to civilian life, $100 million.

14. Basic pay increases, 1974, Reduced amt. of increase and reallocated distrib. bet. basic pay & quarters & subs. allowances. Also reduced amt. of retired pay rcvd by future military retirees, $160 million.

1974, Cap placed on pay increase, $250–$400 million.

1975, Cap placed on pay increase, $250–$400 million.

1976, Again reallocated distrib. so that 25% of future inc. were applied to quarters allowances. Again reduced amt. of ret. pay received by future mil. ret., $52 million.

14. Basic pay increases (cont'd), 1976, Cap on increase recommended, $250–$400 million.

15. Superior performance pay, 1975, Terminated. $ loss for all eligibles, $37.8 million.

16. Proficiency pay, 1975, Terminated. $ loss for all eligibles, $70 million.

17. Per diem rates, 1975, Loss of $8–$25 per day while Congress delayed passage of new law in 1976, unknown.

18. Enlisted reenlistment travel pay, 1975, Loss of $90–$110 per individual per reenlistment, $22 million.

19. Hazardous duty pay, 1975, Reduced period of time eligible. Loss of $55 per.

20. Accrued leave payments, 1976, Enlisted reduced to max. of 60 days. Thousands of $ lost per eligible indiv., $40.7 million.

21. BAS and BAQ with accrued leave payments, 1976, Terminated. Losses varied, $90 million.

22. 1% kicker for military retired pay COL increases, 1976, May be terminated if applicable to federal civilian employees, $75 million.

Minimum savings, $1,521.5 million.

Naval Reserve Association,
Washington, D.C., July 13, 1976.

Hon. Hiram L. Fong,
Finance Factors Bldg, Honolulu, HW

Dear Senator L. Fong: On behalf of the Naval Reserve Association, I want to express my concern and objections to the proposal by the Department of Defense to phase out over a three-year period the appropriated fund support of military commissaries for labor-related costs and overseas utility costs.

To many Congressmen as well as the Department of Defense, the commissary subsidy may appear to be a relatively unimportant matter—and it is in terms of Defense dollars and military preparedness. However, its importance in terms of economic benefits for and the morale of military personnel is immeasurable. At a time when military personnel are beginning to seriously consider affiliation with labor unions as the only effective alternative to a general lack of advocacy on their part in the government, the loss of, or a major reduction in, their commissary benefits may well prove to be the last straw. To eliminate this privilege would epitomize the old saw of being "penny-wise and pound-foolish".

In recognition of the importance of retaining commissary privileges for military personnel, the Naval Reserve Association approved the following resolution at its annual conference in October 1975.

Whereas: The existence of the commissary and exchange stores has been a traditional convenience and benefit to both active duty and retired military personnel, and

Whereas: There are further attempts to diminish or eliminate the effectiveness and scope of the commissary and exchange system, and

Whereas: Reduction or elimination of the commissary or exchange system would create an unwarranted economic hardship on both active duty and retired personnel,

Now therefore be it resolved: That the Naval Reserve Association opposes actions or legislation that would allow the imposition of state and local taxes, creation of operating surcharges, or any actions that would alter the historical method of operation of the commissary/exchange systems which would work to the economic disadvantage of the patrons of these activities.

I therefore, earnestly appeal for your support in disapproving any proposal which would eliminate or render meaningless the commissary benefits for military personnel.

Sincerely,

J. E. Forrest,
Rear Admiral, SC USN-Retired,
Executive Director.

Retired Officers Association,
Washington, D.C., July 9, 1976.

Hon. Hiram L. Fong,
U.S. Senate,
Washington, D.C.

Dear Senator Fong: One feature of the President's Defense Budget request this year is a three year phaseout of a $270 million subsidy used to pay civilian employees of military commissary stores. It can be assumed you have heard most of the arguments related to this issue, since it has received more than its fair share of attention in this election year. On the one hand, there are those who see in it an opportunity to demonstrate fiscal responsibility. On the other, there are those who view with alarm the consequent reduction in purchasing power for active and retired military people and totally disabled veterans.

You will soon be called upon to accept or reject the proposal. Before you do, I ask that you consider one point that, I feel, transcends the entire spectrum of debate, and is responsive to both sides of the issue.

If you can agree that the military careerist and the military profession are unique, then I think you will at least be sensitive to the following rationale.

Many millions of tax dollars are expended each year to recruit, train and keep people in uniform. The vast majority of these individuals leave after the first enlistment and, hopefully, are better citizens as the result of their service. The remainder continue in uniform—some because they cannot find their place in the private sector, others because they enjoy the security of a well-ordered life. The majority of those who go on to complete successful careers, however, do so because they feel that they epitomize the true meaning of "Service" and, in return for that service, they receive the well-deserved gratitude of their fellow citizens. For them this gratitude is realized, basically, in a regular military compensation package that affords them a decent living. But of almost equal significance, and even more clearly perceived as symbols of the Nation's gratitude, are medical care, commissaries, post exchanges, service clubs, recreational facilities and other benefits.

If the Congress decides to accept the phase-out plan, I am convinced that the commissaries will close for lack of customers. I am further convinced that their closure will exacerbate an already identifiable trend which will, in the final analysis, make "Service" an anachronism. The military departments will then be forced to truly compete with the private sector for people—an economic impossibility—and the people they will be able to attract will merely be accepting a job like any other job, will maintain the weapons, work a 40 hour week, and accept particularly difficult or hazardous assignments only under terms similar to those under which off-shore oil riggers or overseas construction workers are employed.

I submit that such a condition would not even approximate the credible deterrent we will require into the foreseeable future. Until war-making becomes totally automated or the threat to freedom dissipates, the most important element in our defense equation is dedicated people—responsive and responsible and willing to accept the sacrifices inherent in military service.

The 231,000 members of this Association would like to know to what extent you can agree with the foregoing and how you intend to vote concerning the commissary subsidy.

Sincerely,

John W. Carpenter III,
Lieutenant General, USAF, Retired, President.

The American Legion,
Indianapolis, Ind., June 29, 1976.

Hon. Hiram Leong Fong,
U.S. Senate
Dirksen Senate Office Building,
Washington, D.C.

Dear Senator Fong: Your recent vote in support of the new Treaty of Friendship and Cooperation between the United States and Spain is of utmost importance to the future security of the United States, and it is most appreciated by the 2.7 million members of The American Legion. The fact that the Senate gave such an overwhelmingly supportive vote indicates unity and strength on a basic foreign policy which should prove encouraging to all our citizens, as well as to those nations who count on our continued leadership.

While Spain is not a member of NATO, the Iberian Peninsula could become a key to the defense of Western Europe and already represents a strong extension of the NATO network.

At our last National Executive Committee meeting held in Indianapolis, Indiana, May 5–6, 1976, a resolution supporting this new Treaty was adopted. A copy is attached for your information.

Again, thanks for your support.

Sincerely,

Harry G. Wiles,
National Commander.

Veterans of Foreign Wars
of the United States,
Indianapolis, Ind., July 14, 1976.

Hon. Hiram Fong,
U.S. Senate,
Senate Office Building,
Washington, D.C.

Dear Senator Fong: The Indiana Veterans of Foreign Wars urge that your committee assure full dollar funding for world wide system for military commissary stores. We feel that any phasing out of the military commissary store system would constitute a retreat by your committee and the U.S. Senate from their constituted responsibilities.

We urge your committee to give every consideration to our request.

Sincerely,

Omar Kendall,
Adjutant Quartermaster.

Veterans of Foreign Wars
of the United States,
Montgomery, Ala., July 6, 1976.

Hon. Hiram Fong,
Senate Appropriation Committee, Senate Office Building, Washington, D.C.

Dear Senator Fong: Veterans of Alabama insist on full dollar funding of our system of Military Commissary stores. We can think of no argument that justifies phasing out this Military program.

You are urged to support the position of the Veterans of Foreign Wars on this very important issue.

We request that the United States Senate support the stand taken by the House of Representatives on this matter—a resounding "YEA" for full dollar funding of this Military Commissary system.

Respectfully,

Joe Panell,
Commander, State of Ala., VFW.

Ladies Auxiliary to Albert J.
Breault Veterans of Foreign
Wars Post 1523,
Putnam, Conn., July 21, 1976.

Hon. Hiram Fong,
Dirksen Senate Office Building,
Washington, D.C.

Dear Senator Fong: The One Hundred Ninety (190) Members of the Albert J. Breault Ladies Auxiliary to V.F.W. Post 1523 of Putnam, Connecticut join with over 2 million four hundred thousand V.F.W. and Auxiliary members throughout the United States in urging you to demonstrate your support of our Military personnel, active and retired, and dependents by assuring full dollar funding for worldwide system of military commissary stores. Closing of Commissaries, a benefit due our military, would cause economic hardship for thousands of military personnel and families.

We regard anything less than full dollar funding of commissaries a retreat by Senate from constitutional responsibility.

Very truly yours,

Jeannette D. Lusby,
Legislative Officer.

Ocala, Fla., *July 2, 1976.*

Hon. Hiram Fong,
U.S. Senate,
Washington, D.C.

The State of Florida VFW over 51,000 members calls upon you and the United States Senate to carry out your constitutional responsibility by assuring the proper full funding for the world wide system of military commissary stores, any phaseout would constitute a retreat by the Senate.

Cecil F. Branford,
State Commander.

Tampa, Fla., *July 17, 1976.*

Senator Hiram L. Fong,
Senate Office Building,
Washington, D.C.

My Dear Senator Fong: As a retired reservist of the U.S. Coast Guard, with 28 years service, I wish to protest the planned phase-out of military commissaries. When I was solicited to remain in the reserve, after World War II, the commissary was one of the inducements offered, although it was not a deciding factor of my election to serve. This privilege is still being advertised in recruitment campaigns of the Armed Forces.

In my opinion a government subsidy for commissaries is unnecessary. These facilities can be self supporting and still be of benefit to active and retired members of the Armed Forces.

Respectfully yours,

W. G. Dermody.

Ladies' Auxiliary to the Veterans of Foreign Wars of the
United States,
Indianapolis, Ind., July 12, 1976.

Hon. Hiram Fong,
Senate Appropriation Committee, Dirksen Senate Office Bldg., Washington, D.C.

Dear Senator Fong: The 23,984 Ladies of the Ladies Auxiliary to the Veterans of Foreign Wars of the State of Indiana join with over 2 million four hundred thousand VFW and Auxiliary members throughout the United States in urging you to demonstrate your support of our Military personnel, active and retired, and dependents by assuring full dollar funding for world-wide system of military commissary stores.

Closing of Commissaries, a benefit due our military, would cause economic hardship for thousands of military personnel and families. We regard anything less than full dollar fundings of commissaries a retreat by Senate from constitutional responsibility.

Sincerely,

LOLA TUCKER,
Secretary.
EMMA R. HOBSON,
President.

GEORGE A. BRENDLA
AUXILIARY TO POST NO. 471,
Miami, Fla., July 13, 1976.

Hon. HIRAM FONG,
Senate Appropriation Committee, U.S. Senate, Washington, D.C.

HONORABLE SIR: I speak for the one hundred forty-three members of the George A. Brendla Auxiliary to Post No. 471, Veterans of Foreign Wars of the U.S., in Miami, Florida.

We feel strongly about the possible closing of the World Wide System of Military Commissary Stores. We feel that our representatives in the Senate would be retreating from their constitutional responsibility if they even considered any phase out of this branch of service for our military personnel—past and present.

We urge members of the Senate Appropriations Committee to do their utmost to see that the Commissary Stores continue in operation.

We will expect your favorable action on this matter.

Sincerely,

BEULAH B. MEIER,
Legislative Chairman.

Mr. FONG. It is readily seen, therefore, that over 2 million officers and men and women in uniform, their families, plus 1 million-some—1,043,923—retirees and their families, plus 29-some million veterans—that is 32 or more million people and their families in the United States—have protested about the phaseout of commissary funding. I fervently urge my colleagues not to be insensitive to their pleas.

PAY COMPARABILITY HAS NO MEANING TO WIVES AND MOTHERS OF MIA

I have already cited the testimony of Colonel Hennrikus and the views by others about pay comparability. In point of fact, there is no common denominator for valid and meaningful comparison between military and civilian compensation within the Federal Government, on the one hand, and between the military and the private sector, on the other. The reasons are simple.

The servicemen and servicewomen must be totally responsive to the "exigencies of the service" to accomplish military missions in peace and war.

The service person must make great personal sacrifices. Sometimes, the sacrifice is supreme.

How can anyone convince the wife or the parent or the next-of-kin of a KIA or a MIA about pay comparability?

In the case of the League of Families whose members were in Washington, D.C., recently, the simple congressional or administrative change of MIA status to status of "presumptively dead" would mean an immediate reduction in income and benefits to the dependents. Try convincing these folks that they must henceforth pay more for their groceries.

Furthermore, Mr. President, the amendment will have a tremendous negative impact on the recruitment program in the armed services. In order to sustain an all-volunteer force program, it is of utmost importance that the people recruited be of the highest caliber. It is equally important that they have the proper attitude toward a life career in uniform. In the fiscal year 1977 budget, $501 million are to be spent on recruitment, advertising, and support. It will be folly to be spending this much on recruitment, when the first-year funding reduction for commissaries—as a first step for a 6-year phaseout—in the amount of $47 million—is going to undercut recruitment goals because of adverse reaction. The reduction of commissary privileges will certainly lessen the inducement to join the Reserve Forces.

On Friday, July 30, I came across an article by George C. Wilson in the Washington Post, entitled "Reserves Face Crisis in Manpower." The article said that military Reserve units are facing their biggest manpower crisis since the Vietnam war because thousands of men are quitting with no new ones signing up to take their places. It also said that the Pentagon is preparing a "mini GI bill" to attract reservists.

Under our manpower policy, the Reserve and National Guard units are to be called up first in case of war. Now, because of this, the draft may have to be reinstated.

I ask unanimous consent that the article be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, July 30, 1976]

RESERVES FACE CRISIS IN MANPOWER

(By George C. Wilson)

Military reserve units are facing their biggest manpower crisis since the Vietnam war because thousands of men are quitting without new ones signing up to take their places.

To cope with the problem, the Pentagon is preparing a "mini" GI bill to provide some financial aid to new reservists going to school.

Pentagon officials said in interviews yesterday that the gap is widening at the very time the national strategy calls for activating reservists in the first days of war to back up front-line units.

If the gap keeps widening, they said, the whole "total force concept" of locking active and reserve forces together will be imperiled. The alternatives would be a larger standing Army or reinstituting the draft—neither attractive to the Pentagon or Congress.

The shortage of reservists reached 84,222 in May, the biggest gap by far since the draft ended in 1973.

Army and National Guard training units—part of the selected reserve, which would be called up first in a war—are having the most trouble filling their ranks, Pentagon manpower officials said.

Army leaders said the first thing they will do to try to stem the flow is step up the recruiting of high school graduates for reserve units. More recruiters will be assigned to working exclusively for reserve units.

Another plan—well on its way through the bureaucracy with approval by the Army, Navy and Air Force—calls for a modified GI bill to give education benefits to young men and women who join reserve units.

The "tuition assistance" package—which the Pentagon estimates could cost up to $25 million a year—would pay part of the tuition for college or vocational schools during a reservist's initial six-year tour.

Backers argue that not only would this educational assistance attract more young men and women into reserve units but higher quality ones as well. The assistance would amount to half the tuition for six semester hours of college or half the cost of learning a trade in an approved school for each of the six years the reservist served with a drilling unit.

At present, the reservist receives four day's pay—about $50 for a private—for the one weekend a month of drill with a unit. There is no plan to change this pay.

The tuition assistance idea has been discussed in the Pentagon and in Congress before, with Rep. G. V. (Sonny) Montgomery (D.-Miss.) one of its champions, but has never advanced all the way through the military service chiefs until recently.

The plan now goes to senior Pentagon civilians, and, if they approve it, on to the White House Office of Management and Budget, which will decide whether it is worth including in the fiscal 1978 budget.

Will Hill Tankersley, deputy assistant secretary of defense for reserve affairs, said in an interview Tuesday that the shortages in selected reserve units are "a serious problem." He and other Pentagon officials have stressed to Congress in the past that the reserves would have to be activated in event of war because they have been built into the active duty force structure in the post-Vietnam period.

Tankersley said the efforts will be intensified to recruit men and women for the reserve units, warning that the tuition assistance plan is not something recruiters can count on at the moment.

"We may never get any more incentives than we've got now," Tankersley said.

After the draft call ended on June 30, 1973, Congress directed that the Pentagon should call up reservists in an emergency before reinstituting the draft. During the Vietnam war, those who joined reserve units could not be drafted and were not called up to fight in Vietnam. They were required only to go on active duty for six months and then drill with a reserve unit for one weekend a month for the remaining 5½ years of the six-year military obligation. This filled up reserve units.

But thousands of men who joined the reserves to avoid the draft have now completed their six-year obligation and are leaving their units. Their places are not being taken by others in the numbers the Pentagon needs. Manpower specialist listed as the reasons the end of the draft, availability of more jobs so that the appeal of making extra money on training weekends have been reduced and the historic resistance to join military outfits during peacetime.

The number of men drilling with reserve units has declined from 985,305 in 1971 to 831,627 as of May 1976. The Pentagon had hoped to bring reserve units up to the strength Congress authorized for fiscal 1976—915,849 officers and enlisted persons. But as of May, the total of 831,627—or a shortage of 84,222.

On top of the problem of filling up the reserve training units—the first ones activated in a war—the number of men in the stand-by reserves is also on the decline. This is because the big force of men who served during the Vietnam war have now fulfilled both their active duty and reserve obligations.

Mr. FONG. In summary, Mr. President, I oppose the Bellmon-Culver amendment for the following reasons:

First. The amendment contradicts what the Congress approved only a few weeks ago in enacting the fiscal year 1977 defense authorization bill with respect to commissary funding. In connection with that measure, Congress said plainly that appropriations for commissaries should continue, with the Defense Department meantime mandated to search out ways to save in operating costs and to institute efficiencies in commissaries.

Second. Reduction in appropriated funding for military commissaries will increase costs to active, reserve, and retired military personnel who patronize the commissaries. It will be equivalent to a pay cut.

Third. The amendment will cause a tremendous morale problem in the active forces, thereby undermining our total military preparedness.

Fourth. The amendment will require low-ranking officers and enlisted men—active and retired—to bear an undue financial burden.

Fifth. The amendment would mean Uncle Sam is reneging on past promises and commitments made as recruitment incentives.

Sixth. The amendment will add fuel to the discontent among the ranks, thus maintaining the pressure for unionism.

Seventh. The amendment will seriously undercut recruitment and could be an important factor in leading to possible reinstatement of the draft.

The PRESIDING OFFICER (Mr. HARRY F. BYRD, JR.). All the time of the Senator from Hawaii has expired.

Mr. FONG. I ask unanimous consent, that I may just finish this, for another 4 minutes.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. FONG. Before concluding, Mr. President, I want the record to show that the senior Senator from Hawaii made a soul-searching analysis as to whether to take an active part in the effort to retain appropriated funding for military commissaries.

As a retired officer of the U.S. Air Force Reserve, having served on active duty during World War II as Judge Advocate of the 7th Fighter Command of the 7th U.S. Air Force, and subsequently in the Air Force Reserve, I am entitled to the rights and privileges of a retired Reserve officer, which include commissary rights. This is a right I have earned, just as millions of other military retirees have earned.

Nevertheless, I gave careful consideration to possible conflict of interest in the event I should take an active part in the commissary funding issue.

In the past, as my colleagues will recall, whenever military retired pay recomputation came up in the Senate, I repeatedly abstained from a "yea" or "nay" vote. I merely voted "present." My prudence was, and always will be, predicated upon the criterion that military retired pay recomputation would mean a direct and personal gain to me, in terms of more retired pay.

I might add that my vote of "present" on recomputation in the past caused much consternation to many of the military retirees in my constituency as well as elsewhere in the United States.

When the commissary funding issue came up in the full Senate Appropriations Committee, I pondered the propriety of my active and positive involvement in it. I reasoned that while I am entitled to commissary privileges, the benefits in terms of monetary savings that accrue to me and my family are minuscule.

And, although I at first was inhibited by possible conflict of interest when the commissary issue came up earlier in the Senate Appropriations Subcommittee on Defense, I held a different view by the time this issue came before the full committee. After I reviewed the individual pleas of my constituents and the appeals of many associations representing millions of active and retired servicemen, veterans—including the totally disabled—and wives and survivors of these people and, after I reviewed my consistent positions as an advocate of a strong defense posture, I concluded that, as senior Senator from Hawaii and as a member of the Senate Appropriations Committee, I am indeed obligated and certainly have a duty to assert myself positively by speaking out in support of that strong defense posture and to represent so many of my constituents and fellow Americans who have expressed to me their anguish and concern in the many letters and mailgrams I received on the commissary issue.

My opposition to the Bellmon-Culver amendment is based upon the meritorious arguments in favor of commissary funding and on my desire to assure fair and equitable treatment for the millions of Americans who have earned commissary rights.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. CULVER addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa has 37 minutes remaining.

Mr. CULVER. Mr. President, I ask unanimous consent that Mr. Stevenson of my staff be granted privilege of the floor during debate on this amendment and for the duration of the consideration of the defense bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CULVER. Mr. President, I am pleased to join with my distinguished colleague, the Senator from Oklahoma (Mr. BELLMON), in offering an amendment to phase out the clerk-hire subsidy for military commissaries over a 6-year period.

Mr. President, twice before, the Senate has approved a phaseout of this subsidy. President Ford requested it in his budget, and our own Budget Committee assumed that favorable action would be taken.

Now is the time to insist upon an end to this subsidy.

Commissaries have been justified historically—and are justified today—because they sell food cheaply to military personnel in remote locations where local supplies are felt to be inadequate or unreasonable in price. Such stores should remain open, and the Government, in my judgment, should continue to subsidize the transportation of food overseas as well as provide limited administrative support.

But, Mr. President, commissary users should foot the bill for the clerk-hire, the cost of the people who work in the stores.

Users already pay the clerk-hire costs of post and base exchanges, which remain highly popular and which apparently offer advantages over civilian department stores. And when military personnel assume the full commissary subsidy 6 years from now, they will still enjoy cost savings of 13 to 21 percent, over and above any savings realized by American taxpayers who, having supported comparability, find themselves purchasing similar items in civilian stores at a significantly increased cost.

Mr. President, these substantial remaining savings, coupled with existing military pay comparability with civilians, justify a phaseout of this subsidy.

And careful analysis of the priorities of the defense budget demand an end to this subsidy.

Mr. President, the Senate is aware of the staggering portion of the defense budget which goes for manpower costs—about 60 cents of every defense dollar. A recent CIA analysis of Soviet military spending in rubles—a more meaningful measure than previous dollar estimates—says that personnel costs in the U.S.S.R. are now in the neighborhood of about 20 percent of total defense expenditures.

In other words, we spend 3 times as much relatively on manpower, thus squeezing our resources for research, new equipment, and operations and maintenance. If we are to be able to afford these other items, crucial to meaningful and significant defense posture, preparedness, readiness, and credible deterrent, then we have to restrain and reduce our manpower costs prudently and responsibly and fairly.

The magnitude of the commissary subsidy is enormous: Nearly $300 million in fiscal year 1977.

These funds go just for the clerk hire subsidy to commissaries, which today give benefits of 25 to 30 percent over and above any savings realized by the average American consumer shopping next door.

Compared to other operations and maintenance costs, right now this subsidy each year is enough to pay the operating costs of our ground forces in Europe—four divisions, three brigades, two armored cavalry regiments, and nondivisional forces—for about 9 months.

Mr. President, the first-year savings alone provided by this amendment would more than cover the full annual operational costs of our strategic ICBM force plus our short-range attack missiles.

When the able Senator from Hawaii talks about wanting a strong defense, so do I, and I think every responsible Member of this Congress feels the same way.

Then the real issue should be, how can we most effectively bring about this strong defense? Is it by pouring more money senselessly into a subsidy that is now obsolete, that has no rational relevance or justification, at a time of pay comparability, or to apply those precious manpower funds to items in this Defense budget, such as operation and maintenance, that would genuinely contribute to tanks that run, airplanes that fly, and ships that sail?

I remember sitting as a member of the Armed Services Committee of the Senate, when we had an admiral before our subcommittee. He was complaining about the shortfall between our capability in antisubmarine warfare and the Soviet threat.

I said, "Admiral, how would it be if you had $100 million more to address some of those problems? Could we get up to speed vis-a-vis the Soviet threat with that money?"

He said, "Absolutely."

I said, "Well, how about taking it out of this subsidy to commissaries, this clerk-hire, where we could still effect those savings at a rate of $300 million a year, $3.4 billion over the next decade, and still have those servicemen go into those commissaries and realize a savings in the neighborhood of 11 to 13 percent on whatever they buy? How would that money be?"

"That would be great," but he said, "Don't take it out of the commissary."

I said, "Admiral, what good is it going to be to be in Davy Jones' locker with a fat belly because you have a good commissary, but you couldn't stop the torpedoes?"

That is the kind of choice they are going to have to make.

Anybody that stands here and says they are for a strong defense, but still continue mindlessly, senselessly here because they are getting letters from home from commissary users and supporters who now say this will harm benefits and morale and erode benefits—I cannot honestly in good conscience say they are addressing the real military defense problems of this Nation.

They are real and they are serious. And at a time of budget constraint, those people who want to responsibly address those problems will then turn to problems of operation and maintenance.

Since so much could be done with these sums, we cannot ignore their present diversion to grocery store clerks.

Mr. President, our greatest military deficiency is in readiness.

If we can save $50 million a year out of this $300 million, and devote it to true military preparedness, we can address some of these problems and we can have a more credible deterrent.

The GAO recently reported serious problems in our Army in Europe.

The Senator from Oklahoma and the Senator from Iowa are talking about taking that $50 million and putting it into O. & M., taking that $50 million and putting it where it is needed so we can have a strong defense.

The Department of Defense has recommended this course. We are talking about applying those funds where it will mean something.

The GAO said recently that fewer than one-half of our American planes are operationally ready at any given time.

We have a maintenance backlog today, created by shortages of O. & M. funds, of 63 ships, 941 aircraft, 220 tanks, 140 armored personnel carriers and 2,200 other automotive units.

One can get a good price at the PX or at the commissary on what one pays for toothpaste, but if I were thinking about the military for a career, with all due respect, I would be more interested in whether the tank ran, the airplane flew, or the gun worked.

We have pay comparability now. We have pay comparability in the area of retirees that far outstrips the cost-of-living increase. If there are areas of special hardship, a particular category, does that justify continuing, ad infinitum, at $300 million a year, a subsidy to the whole military, or should we address with some specificity that particular need, that particular requirement?

We cannot build up our military muscle, Mr. President, if we continue to pump hundreds of millions of dollars into outmoded, once valid fringe benefits, which are no longer justified.

The Senator from Hawaii talks about getting letters from home. We all get letters from home. What is our responsibility when we talk about the real defense needs of this country? What is our responsibility? To educate? To provide for the real defense of America, and not just to be surrendering to the misconception and the lack of accurate perception as to what the true benefit picture is.

The fanciest commissary in the world is good for nothing if the planes cannot fly, the tanks will not run, and the ships need repair.

Our amendment would gradually eliminate the subsidy for commissaries, but it would leave all funds in this bill. It would not close any commissary. These funds could then be applied to more urgent operations and maintenance tasks.

Mr. President, the logic of this proposal, as urged by the President and as previously approved by the Senate, is compelling. Yet still we hear protests and objections from those who will have to pay the bill—the commissary users. I suspect that if more people knew the high cost of this subsidy, we would be hearing from the millions of taxpayers who now have to pay this bill.

In fact, the bill for commissary users will be quite small. A typical family, buying all of its groceries at the commissary, would have to pay about 80 cents more each week in order to cover the cost of clerk-hire in the first year. Prices would probably have to rise about 80 cents a week during each additional year of the 6-year phaseout. Of course, if the economies and efficiencies promised by defenders of this subsidy are in fact realized, then prices will not have to rise by as much as 80 cents.

So if all these things happen, if all this new management is tough-minded, effective, and cost saving, then, of course, that 80-cent figure will not apply, and the impact would be even less on the users.

Active duty personnel can surely afford such a small increase in prices. And most, if not all, military retirees should be able to cover slightly higher prices without serious hardship.

After all, the average annuity for retirees next year will be $7,250, plus an average of $2,405 for those qualifying for social security benefits. In recent years, military retired pay has surged much faster than the cost of living.

Mr. President, there may well be elderly persons or others for whom these small added costs are a heavy burden. Several thousand military families, for example, are potentially eligible for food stamps under the criteria laid down by local officials. But these matters should be considered on their merits and on a special-case basis, to see whether any extraordinary treatment is deserved.

The hundreds of thousands of military personnel who can afford to pay this subsidy should not be allowed to deprive our nation of $300 million in combat power by pleading the special hardships of a few.

I suspect, Mr. President, that many sincere opponents of this amendment are worried that commissaries may be closed.

In fact, many existing commissaries are not justified under the rationale and regulations given for such stores. Only one out of five commissaries within the United States is in a "remote area," according to the Defense Department. Nearly half are within 10 minutes' drive of the nearest commercial supermarket. Many metropolitan areas are glutted with commissaries; four in Norfolk; five in San Antonio; four in San Diego; six in Washington, D.C.

Our amendment does not require or encourage the closings of any commissary.

But if the Congress is unwilling to change the law so that this subsidy is phased out, then prudent managers in the Pentagon may be forced to apply the rules rigidly and begin closing commissaries.

Now, many of them are operating in a way inconsistent with the law.

So if Senators want to save commissaries, they would do well to support this amendment and allow the users to pay for the clerk-hire.

Mr. President, I would have preferred a 3-year phaseout for this subsidy because I think we need that money now in O. & M. in the military, to address our serious conventional force deficiencies. I would have preferred that 3-year phaseout as proposed by the President and as previously approved by the Senate. As a gesture of compromise, however, and in order to reduce the financial burden to a minimum we are offering the 6-year phaseout.

Approval of this small step would nevertheless have enormous consequences in the future, saving us approximately $3.4 billion over the next decade. Those sums can and should be used to improve the combat power and the genuine readiness of our forces so that they will remain capable of deterring any enemy.

I reserve the remainder of my time.

ADDITIONAL STATEMENTS SUBMITTED

Mr. STEVENS. Mr. President, I rise to make a brief statement in support of full funding for military commissaries.

There are many arguments concerning this proposal, however, my reasons for supporting continued funding revolve around the human element. I am particularly concerned with the effect of this proposed phaseout on the Alaska military community.

According to figures compiled by the U.S. Department of Labor, Alaska remains the most expensive State in the Nation for families of all income brackets. The expense is greatest for families of low income.

In Anchorage, a typical low-budget income family requires an income of $13,-

500—a figure 49 percent above the national average—a year in order to have the same purchasing power as a like family in the lower 48.

The food prices in Alaska are very high. Again I will use Anchorage as the example since it is the most expensive big city in the country. Please note, however that Anchorage is far less expensive than most other Alaskan cities.

On an Anchorage/national ratio, a loaf of bread is $0.56 compared to the national average of $.35. Likewise, on this same ratio, a pound of hamburger costs $1.12 compared to $0.82. And the list goes on.

Food is not the only expensive item in Alaska. Also on the list is housing, utilities such as heating, gasoline prices, and almost anything else you care to imagine. It is obvious that Alaska's high cost of living would be a financial burden on any resident, but these costs are especially taxing on the enlisted and retired personnel living there.

These two groups generally fall within the low-income levels. Also according to a statistic furnished by the Department of Labor, there are 2,824 military retirees presently in Alaska. Prior to 1972, 800,000 persons retired and of this group, 200,000 receive an average annual pay of $4,000. It is not known how many of these retirees are living in Alaska, but on that meager sum they wouldn't be able to live there long.

According to Defense Department statistics there are approximately 25,000 military personnel actively stationed in Alaska and over 85 percent of these people are enlisted men and women. A report from the Department of Health, Education, and Welfare states that the first four enlisted ranks fall below their established poverty level.

As you are well aware, the commissary privilege was initiated as a convenience and economic benefit to all military personnel. But in Alaska this benefit is more than just a convenience, it is a necessity. I ask you to consider the effects this proposal would have on the enlisted and retired military community in our State.

In recent times the members of our Armed Forces have slowly but surley lost most of the benefits they were originally promised. Now the Department of Defense threatens to reduce their most important benefit of all—the commissary privilege.

I do not feel that they should be the only group sacrificing their benefits for the sake of a reduced budget. On the contrary, I believe they are most deserving, especially when you consider the many hardships inherent in the service of our country.

Let me cite and comment upon some of the main arguments presented against commissaries.

First. Congress originally intended for commissaries to operate only in "remote" areas.

Comment: This is a specious argument. The original legislation was passed in 1866. In 1866 Congress probably did not intend for us to have submarine bases or have fighting forces stationed overseas, and so forth.

Second. DOD criteria state that no commissary store will be authorized where "adequate commercial facilities are conveniently available and sell commissary merchandise at reasonable prices." GAO has reported that the DOD criteria for implementing the congressional criteria of adequacy, convenience, and price are unrealistic, and that there is no valid justification for commissaries in large metropolitan areas.

Comment: Large, metropolitan areas have the highest costs of living in the country. Part of the Rockefeller Commission study on civil service pay scales suggested increasing civil service salaries in locations such as these to make the standard of living of Government employees more on a par with civilians.

Third. The commissary subsidy in fiscal year 1975 was $265 million; for fiscal year 1977 it is estimated to be $297 million—$16 million of which is a pay supplemental. The sponsors state that over the next 10 years, the full subsidy will cost the taxpayers $4.1 billion—"a fantastic drain on our Treasury."

Comment: The 2-year increase amounts to only 12 percent over 2 years which is far less than the inflation rate experienced in the rest of the economy. Additionally, with the ceilings which have been placed on military pay raises, the average serviceman has actually lost buying power compared to civilians.

Fourth. The elimination of commissary subsidies would have absolutely no impact on the military strength of our combat forces or on their military readiness.

Comment: Over the past several years, there has been a continual erosion of fringe benefits which once made a military career attractive to some. This is just one more example which would lessen the desire of servicemen to reenlist. Sufficient manpower levels might be maintained, but there would be a question of the caliber of the forces as those with desirable skills might well find more lucrative employment outside the services.

Fifth. The sponsors do not subscribe to the notion that military personnel are unpaid. Analysis of the material they rely upon indicates they may be compensated more generously than civilians. I have seen a table which shows that at all grades above E–4 and GS–4 the military compensation and benefits is greater than for civilians.

Comment: What the table fails to consider is the length of time in each grade before promotion. When we are not at war, military promotions are few and far between. It is not unusual for a highly qualified technician in the Armed Forces with 10 to 15 years' service to be only an E–5. This same person would qualify for a GS–9 or GS–11 in regular civil service employment.

Sixth. The sponsors would strongly prefer to invest an equivalent amount—of commissary subsidy—in reducing the very large maintenance backlogs in the military services.

Comment: This bill contains over a $1 billion increase for maintenance programs. It is highly doubtful that $100 million is going to make a significant dent in a total maintenance program of $5,338,100,000. If they think it would, offer an amendment to add $100 million to the maintenance program.

Mr. JOHNSTON. Mr. President, I am going to oppose the amendment of Senators CULVER and BELLMON to the Defense appropriations bill with the purpose of phasing out the Federal subsidy to military commissaries. This is an excellent example of false economy, and I would hope that my colleagues will vote to maintain the Federal subsidy as it has been.

We should keep the commissiary subsidy for several reasons. First, many military retirees have come to rely on it. The retiree feels that the commissary is part of his expected retirement benefit, and to change the terms of those benefits at this time would be perceived as an act of bad faith.

Second, this is a legitimate benefit of enlistment in the armed services. Though we have raised military compensation, it is still necessary for us to make military services as attractive as we can in order to recruit qualified and motivated men and women.

Third, it is my perception, and my mail strongly suggests this, that members of the armed services enlisted with the expectation of the present commissary benefits. If we modify what is perceived as a commitment it is inevitable that the morale of the services will be adversely affected.

Fourth, this commissary benefit is important, particularly for the enlisted man or woman with a family. Of course, for many officers or senior enlisted personnel, whose compensation has been raised significantly, the commissary may be less essential. But there is still a very large core of junior enlisted personnel with families, and for this group of people, the savings at the commissary become an important element in one's income. I suspect that it is also a relevant factor in encouraging personnel to stay in the military.

Mr. President, I think that the case for keeping the subsidy for commissaries is a strong one, and I would urge my colleagues not to include any provision in this bill which would modify the present commitment we have undertaken.

The PRESIDING OFFICER. Who yields time?

Mr. BELLMON. Mr. President, I am willing to yield back the remainder of my time and ask for a vote.

Mr. CULVER. Is the other side prepared to yield back the remainder of its time?

Mr. FONG. I have no time remaining.

Mr. CULVER. I have no requests for time.

Mr. McCLELLAN. Vote, Mr. President.

Mr. FONG. Has the Senator from Oklahoma yielded back his time?

The PRESIDING OFFICER. All time has been yielded back.

Mr. FONG. At this time, Mr. President, I raise a point of order in that this is legislation on an appropriations bill.

Mr. McCLELLAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CULVER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CULVER. Mr. President, I raise the point of order of germaneness.

The PRESIDING OFFICER. Under rule XVI, the Chair submits the question to the Senate. The question is, Is the amendment germane?

Mr. FONG. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is, Is the amendment germane? On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Texas (Mr. BENTSEN), the Senator from Arkansas (Mr. BUMPERS), the Senator from Maine (Mr. HATHAWAY), the Senator from Hawaii (Mr. INOUYE), the Senator from Louisiana (Mr. LONG), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Montana (Mr. METCALF), the Senator from Minnesota (Mr. MONDALE), the Senator from New Mexico (Mr. MONTOYA), and the Senator from California (Mr. TUNNEY) are necessarily absent.

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BROCK), the Senator from Nebraska (Mr. CURTIS), the Senator from New York (Mr. JAVITS), the Senator from Nevada (Mr. LAXALT), and the Senator from Maryland (Mr. MATHIAS) are necessarily absent.

The yeas and nays resulted—yeas 48, nays 37, as follows:

[Rollcall Vote No. 448 Leg.]

YEAS—48

Baker
Bartlett
Bellmon
Biden
Buckley
Byrd, Robert C.
Church
Clark
Cranston
Culver
Dole
Domenici
Eagleton
Eastland
Fannin
Glenn
Goldwater
Gravel
Griffin
Hansen
Hart, Gary
Hart, Philip A.
Haskell
Hatfield
Hollings
Humphrey
Kennedy
Leahy
Mansfield
McClure
McIntyre
Morgan
Muskie
Nelson
Nunn
Packwood
Pearson
Percy
Randolph
Ribicoff
Roth
Scott, William L.
Stennis
Stevenson
Symington
Taft
Talmadge
Young

NAYS—37

Abourezk
Allen
Bayh
Beall
Brooke
Burdick
Byrd, Harry F., Jr.
Cannon
Case
Chiles
Durkin
Fong
Ford
Garn
Hartke
Helms
Hruska
Huddleston
Jackson
Johnston
Magnuson
McClellan
McGee
Moss
Pastore
Pell
Proxmire
Schweiker
Scott, Hugh
Sparkman
Stafford
Stevens
Stone
Thurmond
Tower
Weicker
Williams

NOT VOTING—15

Bentsen
Brock
Bumpers
Curtis
Hathaway
Inouye
Javits
Laxalt
Long
Mathias
McGovern
Metcalf
Mondale
Montoya
Tunney

The PRESIDING OFFICER (Mr. MORGAN). On this question, the yeas are 48 and the nays are 37. The point of order falls, and the amendment is germane.

The PRESIDING OFFICER. Under the precedents, the point of order falls, and the question is on agreeing to the amendment.

Mr. BELLMON. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Texas (Mr. BENTSEN), the Senator from Hawaii (Mr. INOUYE), the Senator from Louisiana (Mr. LONG), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Minnesota (Mr. MONDALE), the Senator from New Mexico (Mr. MONTOYA), the Senator from California (Mr. TUNNEY), are necessarily absent.

I further announce that, if present and voting, the Senator from New Mexico (Mr. MONTOYA) would vote "Nay."

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BROCK), the Senator from Nebraska (Mr. CURTIS), the Senator from New York (Mr. JAVITS), and the Senator from Maryland (Mr. MATHIAS), are necessarily absent.

The result was announced—yeas 45, nays 44, as follows:

[Rollcall Vote No. 449 Leg.]

YEAS—45

Baker
Bartlett
Bellmon
Biden
Buckley
Bumpers
Church
Clark
Cranston
Culver
Dole
Eagleton
Eastland
Fannin
Goldwater
Gravel
Griffin
Hansen
Hart, Gary
Hart, Philip A.
Hatfield
Hathaway
Hollings
Humphrey
Kennedy
Leahy
Mansfield
McClure
Metcalf
Morgan
Muskie
Nelson
Nunn
Packwood
Pearson
Percy
Randolph
Ribicoff
Roth
Scott, William L.
Stennis
Stevenson
Symington
Taft
Talmadge

NAYS—44

Abourezk
Allen
Bayh
Beall
Brooke
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Chiles
Domenici
Durkin
Fong
Ford
Garn
Glenn
Hartke
Haskell
Helms
Hruska
Huddleston
Jackson
Johnston
Laxalt
Magnuson
McClellan
McGee
McIntyre
Moss
Pastore
Pell
Proxmire
Schweiker
Scott, Hugh
Sparkman
Stafford
Stevens
Stone
Thurmond
Tower
Weicker
Williams
Young

NOT VOTING—11

Bentsen
Brock
Curtis
Inouye
Javits
Long
Mathias
McGovern
Mondale
Montoya
Tunney

So the amendment was agreed to.

Mr. BELLMON. Mr. President, regular order.

The PRESIDING OFFICER (Mr. FANNIN). Regular order is called for.

AMENDMENT NO. 2103

Mr. PROXMIRE. Mr. President, I call up amendment No. 2103 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

> The Senator from Wisconsin (Mr. PROXMIRE), for himself, Mr GOLDWATER, Mr. SPARKMAN, and Mr. ALLEN, proposes an amendment.
>
> On page 2, line 10, strike out "$8,603,161,000" and insert in lieu thereof "$8,604,061,000".
>
> On page 2, line 19, strike out "$5,999,453,000" and insert in lieu thereof "$5,995,453,000".
>
> On page 6, lines 1 and 2, strike out "$7,829,035,000" and insert in lieu thereof "$7,838,335,000".
>
> On page 6, line 12, strike out "$9,605,364,000" and insert in lieu thereof "$9,594,864,000".
>
> On page 18, lines 8 and 9, strike out "$2,957,800,000" and insert in lieu thereof "$2,954,800,000".

Mr. PROXMIRE. I yield to the distinguished majority leader.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that Mr. Paul Holtz be granted the privilege of the floor during debate and vote on this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CULVER. Will the Senator yield?

Mr. PROXMIRE. I yield.

Mr. CULVER. I ask unanimous consent to be able to move to reconsider the last vote.

The PRESIDING OFFICER. Another amendment is pending so unanimous consent is necessary to make the motion at this time. Is there objection? Without objection the motion is in order.

Mr. CULVER. I move to reconsider the last vote.

Mr. BELLMON. I move to lay that motion on the table.

Mr. FONG. I ask for a yea and nay vote, Mr. President.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

Mr. CULVER. Mr. President, I ask unanimous consent to withdraw the motion to reconsider.

The PRESIDING OFFICER. There is a unanimous-consent request to withdraw the motion. Is there objection?

Mr. FONG. I object to that.

The PRESIDING OFFICER. Objection is heard. The question is on the motion to table the motion to reconsider.

The yeas and nays have been ordered. The clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Texas (Mr. BENTSEN), the Senator from Hawaii (Mr. INOUYE), the Senator from Louisiana (Mr. LONG), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Minnesota (Mr. MONDALE), the Senator from New Mexico (Mr. MONTOYA), and the Senator from California (Mr. TUNNEY) are necessarily absent.

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BROCK), the Senator from Nebraska (Mr. CURTIS), and the Senator from New York (Mr. JAVITS) are necessarily absent.

The result was announced—yeas 48, nays 42, as follows:

[Rollcall Vote No. 450 Leg.]

YEAS—48

Baker
Bartlett
Bellmon
Biden
Buckley
Bumpers
Byrd, Robert C.
Church
Clark
Cranston
Culver
Dole
Eagleton
Eastland
Fannin
Goldwater
Gravel
Griffin
Hansen
Hart, Gary
Hart, Philip A.
Hatfield
Hathaway
Hollings
Humphrey
Kennedy
Leahy
Mansfield
McClellan
McClure
Metcalf
Morgan
Muskie
Nelson
Nunn
Packwood
Pearson
Percy
Randolph
Ribicoff
Roth
Scott, William L.
Stennis
Stevenson
Symington
Taft
Talmadge
Young

NAYS—42

Abourezk
Allen
Bayh
Beall
Brooke
Burdick
Byrd, Harry F., Jr.
Cannon
Case
Chiles
Domenici
Durkin
Fong
Ford
Garn
Glenn
Hartke
Haskell
Helms
Hruska
Huddleston
Jackson
Johnston
Laxalt
Magnuson
Mathias
McGee
McIntyre
Moss
Pastore
Pell
Proxmire
Schweiker
Scott, Hugh
Sparkman
Stafford
Stevens
Stone
Thurmond
Tower
Weicker
Williams

NOT VOTING—10

Bentsen
Brock
Curtis
Inouye
Javits
Long
McGovern
Mondale
Montoya
Tunney

So the motion to lay on the table the motion to reconsider the vote was agreed to.

Several Senators addressed the Chair.

AMENDMENT NO. 2103

The PRESIDING OFFICER. The question recurs on the amendment of the Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, I yield to the Senator from Arkansas without losing my right to the floor.

Mr. STENNIS. Mr. President, may we have order?

The PRESIDING OFFICER. The Senator is correct. The Senate will be in order.

Mr. McCLELLAN. Mr. President, I ask unanimous consent that debate on this amendment be limited to 2 hours equally divided between the senior Senator from Wisconsin and myself as chairman of the committee.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCLELLAN. Mr. President, on behalf of Senator McGEE, I ask unanimous consent that John Baines, of his staff, be granted privilege of the floor during consideration of the pending bill.

The PRESIDING OFFICER. Without objection——

Mr. KENNEDY. Mr. President, reserving the right to object, and I will not object, could we also include Mr. Schneider, of my staff?

Mr. DOMENICI. And Bonnie Williams of my staff?

Mr. McCLELLAN. I ask that amendment be accepted.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that Keith Kennedy of Senator HATFIELD's staff be granted privilege of the floor during debate and vote on this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PROXMIRE. And Will Ball of Senator TOWER's staff and John Doyle of Senator HATHAWAY's staff.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GARY HART. Will the Senator yield?

Mr. PROXMIRE. I yield to the Senator from Colorado.

Mr. GARY HART. Mr. President, I ask unanimous consent that Peter Gold and Rick Inderfurth of my staff be granted the privilege of the floor during the debate on this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GLENN. Mr. President, I ask unanimous consent that Roy Werner of my staff be granted privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BARTLETT. Will the Senator yield?

Mr. PROXMIRE. Yes, I yield to the Senator.

Mr. BARTLETT. Mr. President, I ask unanimous consent that Fred Ruth, of my staff, be granted the privilege of the floor during consideration and votes on this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Will the Senator yield for a unanimous-consent request?

Mr. PROXMIRE. Yes.

Mr. BAKER. Mr. President, I ask unanimous consent that John Montgomery, of my staff, be granted the privilege of the floor during the continuation and consideration of this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SYMINGTON. Will the Senator yield?

Mr. PROXMIRE. Yes.

Mr. SYMINGTON. Mr. President, I ask unanimous consent that David Raymond of my staff, be granted the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, if ever there was an amendment which makes it easy for the Senate to support, it is this one.

Here is an amendment to save $30 million a year this year, $37 million a year every subsequent year, and a total of over $200 million by 1982—6 years from now.

It is an amendment which is supported by the Defense Department, asked for, by the Defense Department; an amendment which passed the House by 288 to 110. This position was sustained in the House by almost a 3-to-1 vote. It is an amendment on which GAO corroborates the figures which the Department of Defense is using in alleging the savings that they make; an amendment that is cosponsored by the Senator from Arizona (Mr. GOLDWATER), the Senator from Alabama (Mr. ALLEN), and the Senator from Alabama (Mr. SPARKMAN), an amendment in short, Mr. President, which has very great merit.

There is a letter on every desk from the Secretary of Defense that emphatically states that he and the entire Defense Department are behind this amendment. Let me read the letter from Secretary Rumsfeld. Secretary Rumsfeld wrote on the 29th of July:

THE SECRETARY OF DEFENSE,
Washington, D.C., July 29, 1976.

Hon. JOHN L. MCCLELLAN,
Chairman, Committee on Appropriations,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: I am disturbed by a provision in the Senate Defense Appropriations Bill which would prohibit the proposed consolidation of undergraduate helicopter pilot training (UHPT) for the four military Services into a single program conducted by the Army. As you know, the Army already trains Air Force pilots while the Department of the Navy has a separate program for Navy and Marine Corps pilots. (At one time the Army also trained Marine Corps pilots.) The consolidated Army/Air Force program uses only 700 of the total available capacity of more than 2400 graduates per year at the Army's training site. The Navy/Marine Corps requirement of 500 can easily be accommodated and obviously would make much more efficient use of the Army's facility.

The pros and cons of consolidation, which is limited to undergraduate training, have been studied within the Department for several years. The General Accounting Office has also studied the issue and agrees with the proposal for consolidation. The Department estimates that consolidation would save over $7 million in FY 1977 in personnel and operating costs and over $37 million each year thereafter. Consolidation would also permit us to forego the purchase of 76 T–34C aircraft and related equipment required for support of a separate Navy UHPT program, at a savings of over $23 million in FY 1977.

The Congress has repeatedly requested that the Department of Defense achieve economies in its training program. Much has been accomplished. Over the two year period FY 1976–77 we will have reduced training overhead manpower by 14% while sustaining virtually the same level of training output. Rejection of the UHPT consolidation, an important example of what can be accomplished on an interservice basis, would seem to reverse the position of the Congress on this issue.

In summary, consolidation of UHPT would save approximately $200 million by FY 1982, and would be a very important step toward the goal, shared by both the Department of Defense and the Congress, of making military training more effective and efficient through interservice cooperation. As noted, the consolidation is limited to undergraduate training, and thus Service-unique training of a more advanced nature would not be affected.

The House of Representatives, in considering a floor amendment to the Defense Appropriations Bill which supported UHPT consolidation, voted 288 to 110 in favor of consolidation. I strongly urge your support of our consolidation proposal.

Sincerely,

DONALD RUMSFELD.

Mr. PROXMIRE. The President put this consolidation proposal into the fiscal year 1977 budget and sent it up to Congress. The House of Representatives voted to stand by the President's request and support consolidation by a vote of 288 to 110—an overwhelming margin.

Mr. President, why are the President and Secretary of Defense so enthusiastic about this proposal? What are the compelling issues that demand this action be taken?

Well, first it will be a great increase in efficiency. At the present time the Air Force and Army conduct basic helicopter training at Fort Rucker, Ala. This training takes some 36 weeks and includes 180 flying hours—all helicopter—and 20 hours of instruction in simulators.

The Navy and Marine Corps currently use Pensacola, Fla., for 46 weeks of basic helicopter training including 210 flying hours—one-half helicopters and one-half fixed wing—and 30 hours in simulators. In contrast to the Army and Air Force, the Navy includes an initial phase of instruction in fixed wing aircraft in their program.

The new plan proposed by the President and Secretary of Defense is to consolidate all basic training at Fort Rucker.

Why Fort Rucker? Because this installation has the best facilities in the world for helicopter training. It can train 2,500–4,000 pilots a year and yet is now only being used for 750. The consolidation would bring the total to 1,200 and greatly increase the efficiency of training due to economies of scale and better utilization of existing facilities. The Defense Department has assured me that there will be no increased costs associated with this transfer. No new military construction. No net increased personnel costs. No new helicopters would be required since the Army has more than enough on hand and the Navy can transfer many of those currently being used in Florida.

SAVINGS

It might be argued that increased efficiency is not enough. What about savings to the taxpayers? Here the evidence is overwhelming. According to the Secretary of Defense, the planned consolidation will save the American taxpayer $30 million in this fiscal year alone and $37 million in subsequent years. By 1982, there will be a savings of $200 million.

That is not an inconsiderable sum. Mr. President I ask unanimous consent that a chart be printed in the RECORD showing the yearly cost savings, according to the Secretary of Defense, that this amendment will bring.

There being no objection, the chart was ordered to be printed in the RECORD, as follows:

TABLE 1.—FUNDING ADJUSTMENTS ATTRIBUTABLE TO THE CONSOLIDATION OF UNDERGRADUATE HELICOPTER PILOT TRAINING, FISCAL YEARS 1977 AND 1978

[In millions of dollars]

Appropriation/item	Fiscal year 1977		Fiscal year 1978	
	Army	Navy	Army	Navy
Aircraft procurement:				
T–34C		−23.0		
Simulator		−3.0		
Subtotal		−26.0		
Training operations:				
Operations and maintenance:				
POL	+1.3	−2.6	+2.0	−2.8
Aircraft spare parts	+1.6	−.4	+2.3	−.5
Aircraft reworks	(1)	−3.3	(1)	−4.4
Aircraft changes	(1)	(2)	(1)	(2)
Aircraft maintenance contracts	+4.9	[3] −.3	+6.2	[3] −1.1
Instructors salaries	[4] +1.2		[4] +1.2	
Other direct civilian salaries	+.1	(2)	+.1	(2)
Fueling and other contracted services	(1)		(1)	
Base support, other overhead	+.2	(2)	+.2	(2)
Subtotal	+9.3	−6.6	+12.0	−8.8
Military personnel: [5]				
Instructors	+.8	(2)	+.9	(2)
Others	+.1	−2.4	+.1	−12.5
Subtotal	+.9	−2.4	+1.0	−12.5
Total	+10.1	−9.0	+13.0	−21.3
Base release: [6]				
Operations and maintenance:				
Civilian salaries		−3.4		−13.5
Base support and other overhead		−.5		−7.8
Subtotal		−3.9		−21.3
Military personnel [5]		−1.6		−7.8
Subtotal		−5.5		−29.1
Total [7]	+10.1	−40.5	+13.0	−50.4
Total DOD	−30.4		−37.4	

[1] Included in aircraft maintenance contract.

[2] Omitted from estimated cost savings thus producing a conservative estimate of savings.

[3] Navy planned contracts for aircraft maintenance; work now accomplished by military/direct hire civilians.

[4] Civilian contract instructors.

[5] Includes appropriate allocation of training tail. Net of added TAD and moving costs.

[6] Net of base operating support required for tenant or residual operations.

[7] Columns may not add due to rounding.

Mr. PROXMIRE. These savings come from a number of different sources. First there will be a $23 million savings from not having to purchase 76 new T–34 C fixed wing training aircraft for the Navy at Pensacola. If this consolidation is blocked, that expenditure must be made this year or next. Then there is a $3 million savings from not having to buy another simulator. Various other training operations and base operation and maintenance savings add up to the total of $30.4 million in savings this year. The counterpart figure from fiscal year 1978 is a savings of $37.4 million.

This amendment will also have the added benefit of reducing military and civilian manpower requirements—while increasing efficiency. There will be a net reduction of 2,347 personnel.

Mr. President I ask unanimous consent that a table from the Assistant Secretary of Defense showing the manpower savings recommended in the President's budget be printed in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

TABLE 2.—*Manpower adjustments attributable to the consolidation of undergraduate helicopter pilot training, fiscal year 1977 and 1978*

(Endstrength)

	Fiscal year 1977	Fiscal year 1978
Army		
Military	+60	+60
Civilian	+23	+23
Total Army [1]	+83	+83
Navy		
Military [2]	−1,530	−1,530
Civilian [3]	−900	−900
Total Navy	−2,430	−2,430
DoD		
Military	−1,470	−1,470
Civilian	−877	−877
Total DoD	−2,347	−2,347

[1] Does not include increased civilian contract instructor personnel required (+$1.2 million).

[2] Net of 135 officers and 17 enlisted required for support of Fort Rucker training.

[3] Reduction from base release only.

MISSION REQUIREMENTS

Mr. PROXMIRE. Mr. President, the real test of any realinement is whether or not it can meet the needs of all concerned parties. In this case, it can be shown without any question that the proposed consolidation is best for all four services.

Here is how it will work. All of the services will send their undergraduate helicopter pilots to Fort Rucker. There they will undergo a thorough basic helicopter course using the most modern simulators and equipment available. Navy and Marine Corps instructors will teach the course along with Army instructors.

After this basic course, the Navy and Marine Corps pilots will go on for advanced training in California as they do now. The advanced training will not be changed. The specialized training will not be reduced. In fact, the specialized training will be increased since the basic course will also now include mission related training unique to each service.

Let me repeat that since this is a point that many fail to understand. First, this consolidation only covers the basic training period. The 30 to 50 hours of advanced training so essential to each unique service requirement will continue as before.

Second, even during the basic training, each service will be allotted time at Fort Rucker for mission training that is related to their own service requirements.

This will be an improvement over Navy training in some ways. For example, the number of helicopter flying hours will be nearly double what the Navy currently provides. There will be improved flight simulator training due to the advanced simulators used at Fort Rucker compared to those at use by the Navy.

Now, Mr. President, there is one other benefit that flows from this reorganization. Since fixed-wing training for the Navy and Marine Corps will be postponed, there will be considerable savings to the taxpayer, without any loss of capability.

How? Because the fixed-wing training will now be done after the time when the Navy and Marine pilots have chosen to stay in the service. No longer will we be spending tens of thousands of dollars for fixed-wing training only to find these pilots leaving the service before they have to make a career choice. At the present time there is a 40-percent attrition rate for the Marines and a 60-percent attrition rate for Navy pilots at the 5-year career choice point. By withholding fixed-wing training until after this period, we will not be training those men and then losing them.

Can the Army and Navy instructors do a good job at Fort Rucker? The answer is an unqualified yes. In fact the Army trained 492 Marine helicopter pilots during the Vietnam war at Fort Rucker. The Commandant of the Marine Corps recognized this accomplishment in a letter to the Chief of Staff of the Army, General Westmoreland, wherein he praised the Army training program.

One more word about this issue of mission requirements. It has been stated that the Navy and Marine Corps need specialized training in a maritime environment. This is true. They do need this kind of training. And they will get it in two ways. First, they will get it during the service oriented training at Fort Rucker—during basic training. And then they will polish their skills, as they do now, during advanced training in California.

In short Mr. President, I have rarely seen such an open-and-shut case. The President has asked for this consolidation. The Secretary of Defense has asked for this consolidation and his letter is before us. The Chiefs of the Army, Navy, and Air Force have all said they support this consolidation. The General Accounting Office has studied this problem for years and has recommended a consolidation as in the best interest of efficient government. The Office of the Secretary of Defense has conducted several studies which have concluded that consolidation is cost effective. It will save $30 million a year and $200 million by 1982. It will result in a more effective and efficient training operation. It will not interfere in any way with mission requirements. It will save the taxpayers millions.

It is unfortunate that this action may result in the curtailment of certain training activities in Florida. But all economies have a price and I urge my colleagues to examine the facts and cast this economy vote.

Mr. President, before I close I would like to make note of certain materials and arguments that apparently have been floating around which attempt to discredit the cost savings presented by the Secretary of Defense. I have asked the Office of the Secretary to examine these issues and respond in detail. I have a complete response from the Office of the Secretary on these matters and any Senator who wishes to be reassured that the President's cost savings figures are accurate is welcome to examine these documents.

They will disclose that the purported additional costs in helicopter rework, per diem, follow-on training, instrument training, and other matters are completely erroneous and factually in error.

Mr. PELL. Mr. President, will the Senator yield?

Mr. PROXMIRE. I am happy to yield to my friend from Rhode Island.

Mr. PELL. The Senator has not mentioned the Coast Guard. The Coast Guard has a very particular mission, more marine oriented than that of the other services, because their mission is to rescue people on the sea and in the ocean. What is the position of the Defense Department as to the Coast Guard?

Mr. PROXMIRE. As I understand, the Coast Guard trains with the Navy, and those people would get their basic training at Fort Rucker, and then their maritime training, probably, in California.

Mr. PELL. But what is the position of the Secretary of Defense as to supervision over the Coast Guard?

Mr. PROXMIRE. I do not have a letter from the Secretary of Transportation. I do have a letter from the Secretary of Defense. The Secretary of Defense supports this proposal. All the service chiefs support it.

Mr. PELL. But there is no reaction from the Coast Guard one way or the other?

Mr. PROXMIRE. There is no indication that the Secretary of Transportation opposes it, and because it is in the President's budget, the assumption is that the Secretary of Transportation supports it unless he takes special exception. As far as I know, he has not done so. If he has, I would like to see his letter.

Mr. President, I reserve the remainder of my time.

Mr. GOLDWATER. Mr. President, will the Senator yield?

Mr. PROXMIRE. Yes, indeed. How much time does the Senator wish?

Mr. GOLDWATER. Five or 6 minutes.

Mr. PROXMIRE. I yield 6 minutes to the Senator from Arizona.

Mr. GOLDWATER. Mr. President, I have been very much interested in this proposal for a number of years. In the committee, I have tried to bring this about, and have lost with the arguments that I have used. I think the arguments are valid, however, and I am glad to serve as a cosponsor of the proposed amendment.

This amendment would allow the Department of Defense to consolidate undergraduate helicopter pilot training for all services at the Army Aviation Center at Fort Rucker, Ala. The bill before us, as it stands, would require the continuation of the current separate Navy program for training Navy, Marine Corps, and Coast Guard helicopter pilots.

This proposal for consolidation makes sense from every aspect—it makes better use of existing Defense facilities, it saves money and manpower, it will produce pilots at least as capable as those now being produced by the separate programs, and it makes the best use of Defense resources.

The total savings for the next 5 years would be about $200 million; we would also save some 2,300 manpower spaces. I, for one, feel this is money worth saving. For years now, the Senate has urged the Department of Defense to take vigorous steps to achieve economies in defense operations in general and training activities in particular. Here we have from the Defense Department a proposal which will make better use of existing Defense resources, reduce Defense manpower, and save the taxpayers' money. On what grounds would we fail to support such a proposal?

Much of the information put forward in opposition to consolidation is based on misconceptions. I would like to set the record straight.

First of all, this is not a new proposal, nor does it lack precedent. Air Force student helicopter pilots have been trained by the Army since 1970, and the Air Force is completely satisfied with the product. The Army also trained several hundred Marine Corps helicopter pilots during Vietnam. Consolidated training has been tried before, and it works. Furthermore, the pros and cons of consolidation have been thoroughly studied over a period of years by the Department of Defense. The subject has been analyzed by the General Accounting Office. All of these studies support the contention that consolidation makes economic sense and would produce well-qualified helicopter pilots for all services.

No Member of this body is more concerned than I am about maintaining quality in the training of our military pilots. If consolidating pilot training would produce pilots who were not fully prepared, I would oppose consolidation. However, I firmly believe that a consolidated program will produce pilots who are as capable, if not more so, than those we are producing in the current separate programs.

A major factor in producing qualified pilots in the proposed consolidated program is the number of flying hours in helicopters. The current Navy program is conducted partly in fixed-wing aircraft. There are substantial differences in the techniques needed to fly fixed-wing and rotary-wing aircraft, so the learning transfer is limited. The consolidated program will be conducted entirely in helicopters and will provide about twice as much helicopter flying time as students now get in the Navy program. The consolidated program will also use flight simulators which are considerably more effective than those the Navy uses. These are very convincing reasons for confidence that the graduates of the consolidated program will equal or surpass graduates of the Navy program as basically trained helicopter pilots.

There are, of course, substantial differences in the ways the services use helicopters, and these differences call for some variations in pilot skills. The consolidation program will accommodate these differences by introducing training modules into the course which will allow instruction in the subjects applicable to a particular service. Furthermore, the Navy, Marine Corps, and Air Force all send their helicopter pilots to advanced training in mission aircraft after they complete the undergraduate pilot training program. This practice will continue, and will serve to reinforce the service-oriented training received in the consolidated undergraduate program.

In summary, I see no grounds for the contention that pilot quality would be eroded under a consolidated undergraduate pilot training program—on the contrary, I see solid benefits to be gained. Beyond this, substantial savings in money and manpower can be achieved through consolidation.

The Department of Defense estimates that consolidation would save $7 million in fiscal year 1977, and $37 million a year thereafter, in personnel and operating costs. In addition, if consolidation does not take place, it will be necessary to spend over $23 million in the near future to procure 76 T-34C training aircraft and related equipment to support the separate Navy program. With consolidation, the funds are not required.

In all, these savings are very large—about $200 million through fiscal year 1982. Considered in conjunction with the fact that the training in a consolidated program would be at least as effective as in the current separate programs, we would be failing in our duty if we did not support consolidation.

This decision has far-reaching ramifications, not only for this issue but for future decisions affecting efficiency and effectiveness in the Department of Defense. The Congress has for years urged the increased use of interservice cooperation in training. In the fiscal year 1976 Defense Appropriations Act the Congress specifically deducted $12 million from the Defense request to encourage savings through such actions. We have before us a proposal to carry through with this congressional mandate. If we reject consolidation of undergraduate helicopter pilot training, if we turn down this proposal to carry out the congressional mandate to make training more efficient and effective, how can we expect the Department of Defense to continue its efforts in this regard? We must support consolidation, not just on its own merits, but to verify the support of the Congress for economies in training.

Some Members have suggested that consolidation should be delayed until it is tested and restudied. I can see no purpose in this course of action. This proposal has been studied and restudied. The Army has already proved its ability to train helicopter pilots from the other services. Further testing would tell us no more than we know now. The result would simply be to delay the savings.

In candor, Mr. President, there are no valid grounds for opposition to this amendment. It is precisely in line with what this body has been urging upon the executive branch. Indeed, we ought to be champions of this proposal, and I urge the amendment be adopted.

I would like to observe that the argument used against the Army training Navy pilots—and I presume it would apply to Marines to some extent, and to the Coast Guard probably to a greater extent—is that their work is done over water.

Let us agree, for the sake of argument—and our agreeing does not necessarily make it true—that all Navy helicopter work is over water and all Marine helicopter work and all Coast Guard helicopter work is over water. We are not talking, in this amendment, about the finished product. We are talking about using Fort Rucker for what we might have called at one time primary training; I think now we would call it basic training. In other words, we teach the man how to do the several things in the helicopter peculiar to a helicopter.

No. 1 is to lift it off. No. 2 is to hover at any altitude. No. 3 is to get it back down. No. 4 is to use the very different aeronautical concepts of going forward and backward or sideways in a helicopter.

Once we have taught the young man or young woman to do these things, and to have a sufficient time—it usually would take close to 200 hours, in my judgment—then they would go to the advance schools that we maintain in California with the Marines and probably Florida with the Navy.

This is to me what this is all about. We have talked about consolidating fixed wing training, and to me this is going to continue to make sense until some day we have one flying training program for the services that use aircraft.

Here we would teach a man how to take the aircraft off, how to maneuver it, how to fly it at night and in the day time, how to fly it on instruments, and then, when the needed training such as the Navy would give him on carrier landings, or the Marines on carrier landings, close ground support, or close fleet support over water, that training would be by the specified supporting school that we have already provided. So we are not suggesting anything that is radical here, Mr. President. We are suggesting something that to me makes quite a bit of sense; that we use the wonderful facilities at Fort Rucker.

I remember when Fort Rucker was suggested and built for the Army. I was not too enthusiastic about it when the suggestion was first made that they train Air Force pilots. Being of Air Force background, I naturally thought the Air Force should continue to do it. But once they took it over, the Air Force has become so enthusiastic about it that they will not resume their own training.

The facilities at Fort Rucker are unequalled, from the synthetic stage up to the landing stage which is made 100 percent with aircraft, where most civilian schools are merely simulated.

One thing about the Navy program that to me does not make sense: they have money in this bill to buy 76 T-34C aircraft. This is a fixed-wing aircraft made by Beechcraft in Kansas, and I must say it is a wonderful small airplane. It is a child, you might say, of the famous Beechcraft Bonanza, with a different empennage. But these are used to teach the proposed helicopter pilot fixed-wing flying. I think he gets some 20 hours or more.

I may be mistaken. But he will never fly fixed-wing again in his career, in all probability. So the Navy can teach helicopter pilot training, in my opinion, and I am licensed in both fixed-wing and rotary wing aircraft, as a start of helicopter training, because, while the two are, you might say, somewhat related, the mechanics of flying the one are quite different from the mechanics of flying the other, and I think we would be better off having the young man or the young woman—and I mention "young woman" because at a graduation I attended at Fort Rucker one of the top students was a young second lieutenant woman pilot, start in the helicopter, graduate in the helicopter, continue training in the helicopter because, Mr. President, it is a very precise type of flying. I compare it with flying jet fighter plane, something that if one does not get 68 hours a month in he or she is better off staying home. In the helicopter if one does not get that time each month he or she is better off not taking one up. So the more training we can give the student in the specialty, which in this case would be the helicopter, the better pilot he is going to be and the more advantageous to all the services.

I might say to those who talk about the Navy having to be trained to do overwater work, the unfortunate incident in the waters of Cambodia a while back when we had to rescue Americans from a boat that had been captured by the Communists. They were Air Force pilots in Air Force helicopters. They were not Navy helicopters or Navy pilots.

This is not saying the Navy could not have done it. The Navy just was not handy. But the Air Force, supposedly trained to do everything but work over water, did this work over water and also made successful landings on the islands that the Marines were fighting from.

So, Mr. President, I said at the outset I am happy to cosponsor this amendment.

I urge the support of this amendment.

Mr. PROXMIRE. Mr. President, I yield 10 minutes on the amendment.

Mr. SPARKMAN. Mr. President, the amendment which Senators PROXMIRE, GOLDWATER, ALLEN and I are offering is an attempt to save the taxpayers over $200 million without sacrificing effectiveness or safety in our military helicopter training programs. The consolidation of training would allow us to make better use of the existing training capacity of Fort Rucker and would avoid the necessity of duplicating equipment and personnel. I strongly urge my colleagues to join us in supporting what we feel is a reasonable and sound amendment.

The amendment offered today has the support of the Department of Defense as is indicated in the letter from the Secretary, a copy of which should be on each Member's desk. The Secretary agrees with our figures on the savings involved in consolidation. There have been far different figures proposed, but, to my knowledge, these estimates do not have the official endorsement of the Department of Defense, nor does the fact sheet I have seen even indicate the source of these estimates.

Consolidation of rotary-wing training is not an effort to harm the Navy's program or to give some advantage to the Army. This proposal has been studied by a task group of the Interservice Training Review Organization composed largely of military aviators. This task group recommended the consolidation. The General Accounting Office has recommended the consolidation. The Department of Defense is in full support of consolidation and the proposal was included in the fiscal 1977 budget. We are not talking about some new idea, but one that has been thoroughly examined over a period of several years.

Rejection of consolidation can be expected to add an additional $30.4 million to training costs the first year and over 5 years the unnecessary duplication would result in the waste of over $200 million. The savings resulting from consolidation would come in three areas: Procurement of training aircraft and equipment, personnel cost and the operation of two facilities. If the consolidation does not occur, the Navy will need a projected 76 additional T-34C aircraft next year at a cost of at least $23 million. Through the addition of 60 military and 23 civilian personnel to the Army program, 2,400 training positions in the Navy can be saved. During the period of the Vietnam war training facilities at Fort Rucker were expanded to a level of 2,400 students per year. Currently only 750 students are trained at Rucker each year. Consolidation would mean the addition of approximately 450 students per year. The Departments of the Army and Defense anticipated that no additional facilities, equipment or aircraft will be needed to train these 450 additional students. Accordingly, more efficient use will be made of present capacity and savings will result from the elimination of the necessity of duplicating equipment and maintenance.

The training proposed for consolidation by the Department of Defense is basic rotary-wing training. Although the services all have different missions requiring specialized advanced training, the basics to be taught at Fort Rucker are the same. Navy and Marine instructors will be used in the consolidated program and current Army training can be adjusted with no difficulty to accommodate the needs of the Navy and Marine Corps. It is most important to remember that we are talking about only basic helicopter training. The Air Force and Coast Guard presently provide advanced specialized training for their pilots, and there is nothing in this amendment to prevent the Navy and Marine Corps from providing similar advanced training designed for their special missions.

Finally, let me state that this amendment is not designed to give Fort Rucker, Ala., some great advantage at the expense of the Pensacola, Fla., area. I do not support this amendment simply to take jobs away from Pensacola and give them to Fort Rucker. Less than 100 new personnel would be involved at Fort Rucker as a result of consolidation. I support this amendment because it would result in a meaningful savings in our defense budget and would help eliminate duplication and waste.

Mr. President, reference has already been made to the fact that the Secretary of Defense has written a letter and a copy I believe is on the desk of each Senator explaining how strongly and why the Department of Defense wants this amendment. I simply refer that letter to the reading of each Senator.

The PRESIDING OFFICER. Who yields time?

Mr. McCLELLAN. I yield 4 minutes to the Senator from North Dakota.

Mr. YOUNG. Mr. President, the Navy has always stated that there is a clear difference in training requirements for helicopter pilots. These differences are:

First. Fixed wing training for general flying experience and initial instrument training;

Second. Instrument training in helicopters for night and all weather flying required for operations at sea;

Third. Landing on moving ships under different sea conditions. Although this is not done in initial helicopter training, procedures are initiated early in the training to enhance pilot techniques.

The Navy continues training of the individual to be a naval officer, stressing mission requirements, and how the individual fits into the overall operation of the Navy.

There has been disagreement concerning the cost savings of such a consolidation from the start. Some say there will be a saving of $50-60 million while others state that $30-40 million additional will be required in fiscal year 1977 and more in the later years.

Mr. President, it seems to me if there were to be a consolidation of helicopter training, it would be better if the Navy conducted all of the training. The Navy requirements are rigid, they require more training, and it would be easier to train Army and Air Force pilots in a Navy-operated program than the opposite.

Mr. President, these are the major reasons why I support the committee position.

The PRESIDING OFFICER. Who yields time?

Mr. CHILES. Mr. President, will the distinguished chairman yield 5 minutes to me?

Mr. McCLELLAN. I yield the Senator from Florida 5 minutes.

The PRESIDING OFFICER. The Senator from Florida is yielded 5 minutes.

Mr. CHILES. Mr. President, I must oppose this amendment because the facts are incomplete and the arguments are being too casually treated.

I have the greatest respect for the distinguished Senator from Wisconsin. He and I have worked together for many reforms—in committee and on the floor—to bring about economies in Federal spending practices.

But, we have all learned that true economies require a close look at the figures and a careful pause to see the impact on program quality.

Where we seek economies in food stamp or welfare programs, we do not simply gloat over how much money we can save. We also ask how the delivery of services will be affected and refuse to capitalize on economies when the program value suffers as a result.

It is too easy, in many cases, to find an easy motto for economy—and "consolidation" is one of those mottos.

I do not fault the Senator from Wisconsin for promoting what, at first glance, seems appealing to all of us: Consolidate.

But we have all learned to take a closer look at the hard facts—what will it really save and what price do we pay in reduced training effectiveness?

In this case, as I will show, Mr. President, we save nothing at all and still pay a heavy price in reduced training effectiveness.

Let me start with the very appealing notion that we will save millions of dollars by forcing Navy, Marine, and Coast Guard pilots to go through Army helicopter training.

We hear talk that in 1 year alone we will save $30 million, and $200 million in 5 years.

That is not true. It is nonsense because the savings are overstated and some real extra costs are ignored.

In the first place, I think the Senator from Wisconsin will agree that certain liberties have been taken in rounding off these cost savings numbers.

It is not $200 million for 5 years. According to the Defense Department's own figures, it is $180 million, which, I guess, would round off nicely to $200 million. But it is not $200 million—it is $180 million.

But let me go on from there to tear down these reputed "savings."

Have those figures been disputed? Yes, they have, by the Secretary of the Navy who, in testimony before the House Appropriations Committee said flatly:

> It doesn't appear there would be any savings in the 1977 fiscal year. In fact, our preliminary studies show maybe an add-on cost, and any out-year savings, from now through 1981, would occur only by a base closure, which we might be doing anyway.

Now let us ask what the General Accounting Office said about these saving prophesies.

I know the Senator from Wisconsin and I both share a deep respect for the General Accounting Office and their work.

Perhaps we would be well advised, then, to ask what net dollar savings the GAO estimated, since the GAO report, also, has been used to support this consolidation.

Did the GAO fix firm figures for savings? They did not.

What, then, did the General Accounting Office say about these cost savings figures? Let me quote what they said in May of 1974:

> Changes have occurred since fiscal year 1972 which will affect future program cost. Also, the disposition of fixed and variable costs of ongoing programs must be known before the cost of a consolidated program can be determined.

That is what the General Accounting Office had to say about this total cost savings.

And what the GAO meant when it talked about "fixed and variable costs of ongoing programs" was the same thing the Secretary of the Navy meant when he said there were no savings at all except through a base closure—and the Navy plans that anyway.

And what does that mean? It means these saving figures have nothing at all to do with the Army/Navy training issue—because the bulk of those savings comes from base consolidation, not from training consolidation—even according to the Defense Department's own breakdown.

How much of that $30 million advertised saving is really base consolidation? Six million dollars—and that is irrelevant to training consolidation.

How much of that $200 million advertised saving is really base consolidation? One hundred and twenty million dollars—and that is irrelevant to training consolidation.

So let us not so quickly assume $30 million or $200 million is there for the taking. And let us not mistakenly assume these calculations have been endorsed by the General Accounting Office.

Perhaps we should exercise the same restraint as the GAO before we start throwing around these cost savings predictions.

So after removing the irrelevant base

closure savings, we are left with $25 million in fiscal year 1977 and $58 million over 5 years. And let me show how those savings then also evaporate.

For example, if we ask the proponents of consolidation whether they admit some extra follow-on training will be necessary, they say:

> Oh, yes, of course. We expect the Navy will have to have extra specialized training. We will only consolidate basic training.

But the Navy will give its helicopters to the Army under this proposal. How and where will they do their follow-on advanced training?

How? Well, if they use their own equipment at Fort Rucker it will not be available for the Army to use.

So if the Navy needs an extra lead-in training squadron to do this extra special training, then they will need an extra $8.4 million in fiscal 1977 to buy the aircraft and an extra $16.7 million a year to maintain and operate them.

I ask: Were these extra costs considered in the $30 million savings calculation?

No. They were not.

Then I ask again: If we consolidate, none of the helicopter pilots will receive cross-training in fixed-wing aircraft as the Navy now provides. Yet even the proponents of consolidation admit some will be necessary, however, how many?

In the material circulated by the distinguished Senator from Alabama, the answer is:

> Annual costs for any needed cross-training would be relatively small.

But what is relatively small?

The answer is: 15 percent of all Navy pilots; 40 percent of all Marine pilots; and 50 percent of all Coast Guard pilots.

That is not "relatively small" and neither is the extra cost: $6.4 million.

Was that extra cost considered in these savings figures we hear thrown around?

No. It was not.

And what about the cost to make a qualified Navy or Marine pilot after they are trained as Army pilots?

Well, we are told, the Air Force uses Fort Rucker to train its helicopter pilots and we have left open 25 hours for Navy-oriented training.

The end result is, however, in the words of one Air Force officer, that, "We are given an Army pilot in a blue suit."

So what does the Air Force have to do to retrain those pilots? Just this: After leaving Fort Rucker, those Air Force pilots receive a bit more than 25 hours extra.

In order to qualify as operational night rescue pilots, they receive an extra: Seventeen weeks; 54 hours of flight time; 25.5 hours of simulation time; and 63 hours of classroom training.

All that is on top of the Army course to make an Air Force pilot.

Were the extra costs of Navy follow-on training included in the savings calculation?

No. They were not—because no one knows yet how much extra training will be required to convert an Army pilot turned over to the fleet in a Navy uniform.

So what will the Navy do? They will have to provide still more extra training because, as one Navy officer stated:

> We can't take the risk of getting a guy out in the fleet and then find out he can't fly.

The Army, of course, could care less. Their pilots go to operational duty when they leave Fort Rucker. The Navy will, as admitted by everyone, have to retrain. How much and at what cost?

No one says except to say, well, the Air Force does it. It must be OK.

Let us keep in mind also what is at stake here. The Air Force buys only 50 pilots per year of basic training at Fort Rucker. The Navy, Marines, and Coast Guard will need 10 times as many: 480 in 1977 and 522 in 1978.

Why, as a matter of fact, the Coast Guard sends more pilots to the Navy than the Air Force sends to Fort Rucker.

And what does the Coast Guard think about this consolidation?

I am told, they have no position because they have not been informed about what is being planned and they cannot take a position because the Pentagon has not asked them to.

Suffice to say that when the Coast Guard was last asked—2 years ago—they were opposed.

Finally, the Air Force itself just last month convened a special working group to make recommendations to change the Army training, despite the small numbers of pilots.

It seems, as I understand, that the Air Force does not want or need as much specialized Army mission training as their pilots have been getting.

Instead, they want more Air Force-oriented training. That means still more separate training and where is this consolidation notion?

The trend and the need, of course, has been to train people for their special jobs. If we try to lump them all together then we can pay to retrain them later when they could have been trained to do the special job from the very beginning.

In this case, from the student's very first practice landing, Navy pilots are taught to fly slow; to hit a precise point; and not to flare and as Army pilots can.

Navy pilots do not complete basic training, then learn instruments. The third flight by a Navy student begins his instrument training—and this will be impossible using the Army program.

Let me quote the head of the Air Force Tactical Air Command on this point. General Dixon said in Armed Services hearings:

> We are getting more training value out of less flying time with more intensive training in specialized areas.
>
> If anything, the trend that I see is away from exactly what is being proposed, and I thing for good reason.

Finally, just to be complete, let me dispose of this point that the Army successfully trained 492 Marine pilots at Fort Rucker during the Vietnam war.

Those Marine pilots did serve exceptionally well. They have my respect.

But before they flew into combat, they received extensive additional instrument training that the operational Army pilots out of Fort Rucker did not receive.

If we are told this Marine case demonstrates how well consolidated training can work, then perhaps we ought to ask the marines how they feel about moving their training to Fort Rucker.

To quote the Commandant of the Marine Corps, General Wilson, he said:

> We would certainly like to continue like it is. I think there are three things that we find are shortcomings which we found because we have in fact had some Army training of helicopter pilots: Insufficient instrument training . . . no fixed wing training . . . and lack of maritime-oriented training.

In short, Mr. President, consolidation does not make sense, either economically or operationally.

So much for cost savings. They are not real. They have been rounded upward.

The bulk of the savings come from base closure which the Navy plans anyway and the rest disappears when you ask questions about overlooked extra costs.

So much for the GAO report. They never said we would save $30 million or $200 million.

So much for improved training effectiveness.

It is at best a myth, and at worst, in the view of the Chief of Naval Education and Training, consolidation would be "the most disruptive realignment of Naval air training since the end of World War II."

So much for the Air Force experience. It requires extensive retraining and they are looking to unconsolidate the Fort Rucker training right now.

So much for Air Force support. General Dixon says the trend is exactly the opposite—and for good reason.

So much for Marine support. General Wilson wants it kept as is.

So much for Navy support. They have never recommended this consolidation.

So much for Coast Guard support. They do not even know what is being specifically proposed.

And so much for the Marines' Vietnam experience. It is an indictment against consolidation.

So much for this amendment. It has a basic appeal in economizing, consolidating, saving money—but it does not have the facts to back it up.

It is just a false economy that, in the long run, might wind up costing us more and certainly undermine the quality of training.

Mr. President, I must oppose this amendment because I think the facts are incomplete.

I have the greatest respect for the distinguished Senator from Wisconsin, with whom I had the pleasure of working for many reforms, and for the distinguished Senator from Arizona.

Obviously, Florida has a provincial interest in this as does Alabama, and I think that is certainly something that everyone would have to consider, but it seems to me we really need to look at this and determine are we going to affect true economies.

Are we talking about some savings which at best are illusory and talking about changing completely the mission?

I think the distinguished Senator from Arizona sort of put his finger on what his interest is when he said he looked forward to the time when we consolidated all training of pilots. I think that is an interest that he has and maybe that is something that is viable.

I do not happen to think so. I know that one can make the same argument that the Senator from Wisconsin has made, but one could add an awful lot more dollars to the savings if one said we are not going to train Marine Corps pilots to fly at one place, we are not going to train the Navy at another place, we are not going to train the Air Force, and we are not going to train the fixed-wing pilots we have in the Army at another place; we are just going to have one place. We are going to train them all at one place and are just going to have one training.

That is good.

Why have a Marine Air Corps then? Why have an Army Air Force? Just have one Air Force, and we can say there are a lot of dollars to be saved.

But I am not sure that the Senator from Utah, and others, would agree with that, that there is now only one mission that we have to have, that there is not some need or some difference between the missions. And that is why I thought we had separate services. I thought that is why we needed to have some separate training. Yet I can see that one could make some savings out of that, but I am not sure that a majority of this body would be ready to go to that proposition because they would recognize, in spite of the affected savings there might be, that we are changing the mission so much and we would realize that the mission is so different. From the day that one starts a Navy man to fly there is one thing in the mind of everyone: How does he get on that aircraft carrier? How does he find that aircraft carrier? How does he find his way from that aircraft carrier to where he wants to fly and back again and be able to get that ship down on the deck, whether it is a helicopter, or airplane, and in any kind of weather?

That is the first day.

Now we start talking about basic training. The second day or the third day that we start teaching that Navy pilot, or the Coast Guard pilot, he starts learning about weather. He starts learning how to navigate because he has to find something.

Maybe that happens with the Air Force pilots in their separate training, but it does not happen with an Army pilot. He is going to be a warrant officer. He is going to fly when the weather is good. He is not trying to find a postage stamp in the middle of the ocean to get his way from there and back again, and the aircraft carrier may be canting at any kind of angle.

Because of that, the mission is completely different.

So when we really get down to the cost savings that we are talking about, most of the big savings are for a base closure. They are talking about closing a base. They are not talking about annual savings everywhere, and in the base closure the Navy says:

> We are getting ready, we are thinking about doing it anyway, the base closure.

But as to the year-to-year savings that we are trying to talk about, the one thing that we have to do to those figures—and they are not hard, and the GAO admits they are not hard—is that we have to take off of the other side this kind of advanced training or not really advanced training because it is not that—it is just basic training—the retraining to unteach a man what we have taught him and teach him how to find and get aboard that aircraft carrier.

Right now they are talking about adding 25 weeks. Why, that is ridiculous. We have gone through that. We have some experience in some Marine pilots who were trained that way, and I think we can show that those figures are wrong.

However, the Senator from Florida has a parochial interest in this; and I think that probably the Senator from Ohio would be more qualified to speak on this subject and the merits of it than I would be. He has been a Marine pilot and knows something about the missions in this area.

Mr. PEARSON. Mr. President, I am troubled by this amendment, which would require all Navy, Marine, and Coast Guard helicopter pilots to receive their undergraduate training under a consolidated Army program at Fort Rucker, Ala. Regardless of the possible parochial objections by any branch of the armed services, I fully agree that pilot training programs should be consolidated provided this would save money and be accomplished with no loss in readiness or effectiveness. Unfortunately, however, I do not believe that this amendment lives up to this goal for two very basic reasons: First, I am concerned that the quality of training under the program after consolidation will be inferior to current levels of training; and second, any savings promised by the consolidation are not readily apparent.

Mr. President, our primary consideration must be to safeguard the quality of the training which our helicopter pilots will receive in the future. Consolidating the programs for the training of helicopter pilots would, however, not only undermine the efficiency of their training, but also would ultimately result in inferiorly trained pilots. As many know, the missions performed by the different branches of the armed services are different. Thus, each branch has traditionally had a different training program. It is necessary to maintain these differences if we are to uphold the quality of the training our pilots receive.

A General Accounting Office study, prepared at the request of Senators GOLDWATER and PROXMIRE last April, reaffirms my conclusion. The GAO report concluded that:

> Because of structural differences in undergraduate programs, GAO believes the present programs of one service probably would not satisfy the requirements of the other and that substantial consolidation would likely require the design of new programs to satisfy common requirements. There are also differences in the types of aircraft and equipment used for training and the level of training provided in undergraduate programs.

The uniqueness of the operational assignments and missions carried out by each service explains why their training programs differ; 70 to 75 percent of the Navy helicopter pilots are concerned with antisubmarine warfare. They need special skills for flying at night and hovering over water. The Navy's flight syllabus emphasizes instrument training, is heavily oriented toward preparing their pilots for open-water navigation, ship-to-shore and ship-to-ship operations, and bad weather flights.

The Navy now trains all its pilots to fly T–34B and T–28 fixed wing aircraft. The T–28, currently used for instrument training, is scheduled to be replaced by a new version of the T–34, the T–34C. In their program, the Navy requires all of its pilots to have a minimum of 50 hours of instrument flight training. This provides them with a maximum flexibility in the utilization of its manpower. This amendment, however, would eliminate Navy procurement funds for these vitally needed training aircraft.

Quite properly, the Army trains its pilots emphasizing ground missions. These pilots are trained to skim over the land, navigate by landmark and use special battlefield radio aids for instrument navigation. These skills would be of little use to a Navy pilot on antisubmarine, sea rescue, or mine warfare duty.

Mr. President, to claim that consolidation should cover only the basic training of the pilots, allowing each service to provide advanced training independently, is unsatisfactory for two additional reasons.

First, it is extremely important to recognize that each service has its own training indoctrination. Such orientation begins the first day a man comes into training. Army indoctrination is not comparable with Navy or Marine indoctrination. For example, the Navy must have nautical indoctrination. We would either have to bring a section of the Navy over to the Army base, or wait until the Army finishes training the pilots and then give them further training at a naval installation. To do so, does not make much sense and would be very costly.

Second, to provide joint initial training and then to separate the forces for advanced training would undermine the entire purpose for consolidation. This procedure would mean that the Army and Navy would continue to maintain separate training facilities. For instance, during the Vietnam War, Marine pilots trained by the Army at Fort Rucker did exceptionally well, particularly at Khesanh. But, after they had completed the Army course these pilots were given extensive additional instrument training before they were allowed to go into combat.

Mr. President, as I have stated, my major objection to this amendment concerns the quality of training that our pilots will receive. But we must also consider the cost of a consolidated program.

If we are going to train the same number of pilots, fly the same number of hours, and do the same kind of job now being done, it is difficult to see how a consolidated program will save millions of dollars. To safeguard the quality of training would require the same number and type of aircraft currently needed. If we are going to do the job right, we must maintain a training program that does not jeopardize the lives of our pilots by leaving them inadequately trained. Any savings achieved by a reduction in the number or type of aircraft would only reduce the quality of our pilots' training.

In urging consolidation, the Department of Defense has based its proposal on an incomplete 1975 report by the Interservice Training Review Organization—ITRO—an ad hoc organization headed by the training chiefs of the Army, Marine Corps, Navy, and Air Force. Its function is to examine training efforts and to cut costs. To date, it has not made any recommendations or presented any plan for implementing the consolidation of the training programs.

The Department of Defense has concluded that it could save as much as $78,000 per pilot through consolidation. In the April 12, 1976, edition of Navy Times, the Navy Department maintained that it only spends $51,000 per pilot in the first place.

Other savings projected by DOD involve closing certain Navy facilities, including Whiting Field, which the Navy is already considering closing on its own. In addition, estimates of cost savings have omitted the extra costs for training pilots in fixed-wing aircraft currently provided by the Navy. These estimates have not included either the extra cost for any specialized training needed after the Army cost, or the cost of extra equipment needed by the Navy.

As the Secretary of the Navy stated before the House Appropriations Committee:

> It doesn't appear there would be any savings in the 1977 fiscal year. In fact, our preliminary studies show maybe an add-on cost, and any out-year savings, from now through 1981, would occur only by a base closure, which we might be doing anyway.

Mr. President, after reviewing these proposals, I have concluded that consolidating these training facilities would not be advantageous for the reasons that I have outlined. I do not believe that we can save money and still get the quality of training for the specialized services that we need. I, thus, urge that we defeat this amendment.

Mr. GLENN. Mr. President, I oppose this amendment. I favor cutting back on expenses as much as anyone in this Chamber, but not at the potential expense of our combat capability and mobilization base.

First, I will comment on the remarks of the distinguished Senator from Arizona regarding how happy the Air Force is with this combined training they now contract for from the Army. It is my understanding that in June of this year, there was enough unhappiness with this training that a study has been started to see whether they should cancel this arrangement with the Army. The other alternative is for the Army to tailor more toward Air Force needs. This amendment does neither.

The Senator from Arizona, however, did refer to something that we really must stress here. The significance of this amendment is that a wholly different approach to training officers and pilots is promulgated. Admittedly, the Army looks at their pilots who are often warrant officers as primarily technicians. They are there to fly the helicopter, and that is it. The Navy and Marine Corps, however, take a much broader view of both the potential utilization and training needs of the officers they process. These personnel are looked at as officers having a command possibility in the future. They are looked at as career officers, not just technicians. That is why Navy and Marine officers are given a broader background of flight training that includes fixed-wing training, and then they receive helicopter training. So they do have a broader background of flight capability. This difference in training starts out at the primary, basic training stage we are addressing today. This training does not wait until there is some polishing program at the end of the entire training program a year later, or whenever the time may be. Navy and Marine training starts out with instrument training on the third flight, and that is something the Army does not get to at all in primary training. Because of their missions, Navy and Marine officers require a much broader gage career type person.

The Army is different. The Army starts out mainly with civilian instructors, whereas the Navy and Marine Corps use experienced military instructors from day one. A great deal of retraining, therefore, is required after the Army training for non-Army personnel.

The distinguished Senator from Wisconsin mentioned that there had been, I believe, some 492 Marine pilots trained by the Army during Vietnam. That is true. While there may have been a letter—I do not deny there was—I say this was primarily a letter from the Commandant thanking the Army for their training assistance. Nevertheless, I know from conversations with friends in the Marine Corps that it was not all that growing—at least, at the working ranks in the Marine Corps.

I have also heard that some statistics show Army trained pilots later flying for Marine Corps in Vietnam actually had a lower accident rate than either Navy or Marine Corps trained pilots. However, I looked into this and it turns out that the Army pilots trained for the Marine Corps reported back and went through an additional training program before they were sent to Vietnam. So, in effect, they had two training courses before they arrived in Vietnam. Therefore, it would be expected that with this additional experience, this additional training that the pilots should have a lower accident rate.

Mr. President, aside from these specialized operational requirements, I should like to examine certain statements circulated here today. It has been said that Fort Rucker has the best helicopter training facilities in the world. I disagree. That is not necessarily true, if you are planning to use pilots on shipboard, if you are planning to use pilots in all-weather flying, if you are planning to use your helicopter pilots mainly over water. It is certainly not true in the most rigorous operations of all—at night, over water, in weather. Such operations require maximum training. It requires stressing maritime involvement from the word "go" in training. It is this emphasis on environmental training which the Navy and Marine Corps must put their helicopter pilots through.

I am interested in the end product. Much as I want to save money, we must insure that our services can successfully conduct their missions.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. GLENN. Mr. President, will the Senator yield me 1 additional minute?

Mr. McCLELLAN. I yield.

Mr. GLENN. If the Army sees their mission as being day oriented, with little instrument weather operation, then that is their judgment to make. But if other services see theirs as encompassing—which it does—the maritime operation, all-weather operation, then these services should be permitted to train in that area of specialty. We can only complete these different missions by starting out with the type of training from the primary stage onward.

I am particularly concerned with the combat capability and the mobilization base that we have available to us if we get into combat and must train thousands and thousands of additional pilots on short notice. If we want that kind of cadre available in this country to rapidly train new pilots, then present pilots—our future instructors—should have the best background we can provide. We can only do this by keeping the training as it is now, with the primary training given by the separate services because of their specialized missions.

Mr. CHILES. Mr. President, will the Senator ask for 2 additional minutes, so that he might yield to the Senator from Utah, who also is a Navy pilot and I think also is an Air Force pilot?

Mr. McCLELLAN. Mr. President, I yield 3 minutes to the Senator from Ohio.

Mr. GLENN. I yield to the distinguished Senator from Utah.

Mr. GARN. Mr. President, I oppose the amendment of the Senator from Wisconsin, and on this subject I do speak with a little expertise.

I share with Senator GLENN the privilege of having gone through Navy flight training at Pensacola and Corpus Christi. After getting out of active duty, I transferred to the Air Force Reserve in Salt Lake City. I am probably the only Member of this body who has both Air Force and Navy wings. I served 8 years in the Navy and 14 years in the Air Force.

What Senator GLENN says is true. My Navy training was a water environment. We were totally brought up to learn to utilize flight over the water. I flew seaplanes, among other things, and the level of training in the Air Force was entirely different.

The members of my squadron in which I currently serve as lieutenant colonel do not have the background and experience that I had in the Navy. To whom do they come in my squadron when they want to know about the water environment in training classes? They come to me. If they want to know about ditching and water survival, to whom do they come? They come to me, because they never did have that kind of training.

I suggest that this amendment is pennywise and pound foolish so far as the ultimate results are concerned that we want to achieve.

I have had 8 years as a Navy pilot and 14 years in the Air Force. I hope my colleagues will look at this matter from the pilot's standpoint. My 8 years in the Navy and the type of flying I did were completely and utterly different from the kind of flying I have done in the last 14 years in the Air Force.

Mr. GLENN. I thank the distinguished Senator from Utah. I add one further thought.

We have had some consolidation efforts before, and they have been successful in some cases but unsuccessful in others. I refer, for example, to the military air transport consolidation passed in the interest of economy some years ago. In some of our services, we now find great unhappiness with this consolidation because of the failure of Congress and the executive branch to provide the necessary airplanes. This failure has meant a decidedly reduced airlift capability. It is my understanding that DOD now is reconsidering this and may soon offer proposals to change this situation.

I thank the distinguished chairman for yielding.

Mr. TOWER. Mr. President, I rise in opposition to the amendment offered by the Senator from Wisconsin. I believe that the action taken by the Committee on Appropriations in disapproving the proposed consolidation of helicopter pilot training within the Department of Defense was fully justified. The Appropriations Committee recognized that the so-called savings advertised by the Office of the Secretary of Defense to stem from this proposed consolidation were largely fictional and undefined. Indeed, there is considerable cause to believe that, to the contrary, such a consolidation could end up giving our Armed Forces a second-rate aviator on the one hand, and virtually no savings—and in some cases, additional costs—on the other.

The proponents of this amendment claim that this consolidation will save $30 million in this bill and $37 million per year thereafter. Any careful examination of the facts, however, will show that these figures are grossly misleading and incorrect.

First of all, over $29 million of the savings cited by DOD—that is over 75 percent of the annual savings "on paper"—would stem from the so-called release of a Navy flight training base. For the benefit of my colleagues who may not be familiar with bureaucratic jargon, let me explain that the word "release" in this context in no way means that our Government will save $29 million by closing down a base used to train naval aviators. The bureaucracy defines 'release" as meaning the transfer of costs related to this base away from his own training category to someone else's category of the defense budget. The fact of the matter is that this $29 million savings is actually no savings at all, but rather a mere accounting change which would result in this $29 million simply being moved over into another account of DOD's budget. I know this to be the case in these circumstances, because the base to be released from naval air training is the naval air station in Corpus Christi. However, because of the fact that the Corpus Christi Army Depot continues to operate as a tenant command at the naval air station, the Department of Defense has no intention of closing this installation. The release of NAS Corpus from the Navy training budget to either some other portion of the Navy's budget or over to the Army would, in fact, save the Department of Defense nothing at all. I confess that it escapes me why the bureaucrats and cost analysts in the Office of the Secretary of Defense do not recognize the fact that someone, be he sailor or soldier, is still going to have to sweep the streets, mow the grass, and replace the light bulbs at the Corpus Christi Base. Nonetheless, these experts have seen fit to claim credit for a $29 million savings to the Department of Defense by simply sliding these dollars out of the training budget.

My second point, though somewhat more detailed, has an equally significant bearing on the OSD cost analysis. We have repeatedly heard the advocates of the helicopter training consolidation state that simple adjustments to the Army training syllabus at Fort Rucker would be made to accommodate special Navy requirements. But nowhere do they explain what these adjustments will cost. Indeed, I understand that because Navy pilots do require far more instrument training, the number of hours allotted to the instrument flown helicopters is to be considerably increased. This change, of course, will have a major effect on the cost of the training syllabus itself, because training time in the more sophisticated helicopters is three times more expensive than that in the more simple helicopter used predominantly by the Army at this time.

So to summarize the so-called savings which are alleged by the OSD bureaucrats in this case, I must say that the case they make is less than convincing. I for one cannot perceive the wisdom in implementing a consolidation of this magnitude when we are simply unable to know, with any realistic degree of confidence, what it is going to save us, or—quite possibly—what additional costs will be incurred.

Setting costs aside, Mr. President, I would like to also make a few comments on the broader impacts of the proposed consolidation. We have at this time, as most Members of this body know, four separate tactical air forces within our armed services. The aviation arms of the Army, Air Force, Navy, and Marine Corps are each distinctive and are set apart by the different types of operations and missions assigned to each. The Tactical Air Power Subcommittee of the Committee on Armed Services, on which I serve, held hearings this year on this very issue and examined closely the need for continuing with the separate aviation structures of each service. My conclusions were that the current arrangement gives us the greatest amount of combat effectiveness and flexibility. While I will not dwell here on the details of our review into this subject, I feel quite strongly that if we are to expect the services to perform the unique missions assigned to each of the aviation components, then we ought not deny them the flexibility of managing their own training programs to fit their own specific needs. Should there come a time when we can successfully consolidate our aviation forces with no loss in effectiveness, then I believe we could justifiably expect the Department of Defense to consolidate our aviation training programs.

In testimony before our subcommittee, General Dixon, Commander of the Air Force Tactical Air Command, emphasized that the expensive nature of flight training was such that it is far more efficient to train pilots for specific missions and aircraft operations. This means that broadening the aviation training curriculum so as to give larger numbers of pilots greater amounts of common training is precisely the opposite course from that which we ought to pursue. With respect to the helicopter consolidation, I strongly suspect that we will end up with an Army helicopter pilot who is in many respects overtrained for the mission he must perform. Army pilots, flying over charted terrain on point-to-point missions, do not require the same amount of instrument training as do Navy pilots, who must fly over water and be more proficient at nighttime, all-weather operations. Thus, in order to accommodate these Navy requirements into the helicopter training syllabus, we will be paying to train Army pilots to a skill level in instrument flying which they do not require.

Last, Mr. President, I mention a few ways in which this consolidation would adversely affect Navy aviation. At the present time, the Navy sends all pilot candidates through a brief syllabus in a simple, relatively unsophisticated fixed-wing aircraft. Upon completion of this curriculum, the Navy determines which pilots will be sent through fighter and attack jet training, multiengine training and helicopter training. The Navy feels that this is an extremely important means of quality control which serves to minimize attrition among students further along in the training pipeline. It is a method which saves a great deal of money. The loss of this screening process to the Navy will only result in a greater rate of attrition among students in the helicopter training syllabus, and will unavoidably waste money. Additionally, it should be noted that removing this element of naval aviation training from the Navy structure will considerably diminsh the economies of scale which the Navy is able to experience by virtue of managing its aviation training so as to best accomplish its own distinct air missions.

Mr. President, in summary, I would like to emphasize the importance of Congress taking a serious look at the DOD aviation training program and determining what fundamental policies and requirements we would levy on the services.

To date we have already witnessed the consolidation of some portions of the aviation training program. I am told that the next proposals to come out of the DOD bureaucrats and computers is one to consolidate multiengine training between the Air Force and Navy and, ultimately, to consolidate the tactical air training for fighter and attack jet pilots. I would think it foolish for Congress to permit these actions to proceed without gaining a broad understanding of the direction in which we are going, for I fear that the piecemeal actions of the current day will not serve the combat effectiveness and readiness of our forces, nor will they begin to provide savings to the taxpayer which in any sense outweigh the additional costs. Congress has a duty to insure that our men and women in uniform receive the best possible training to do the specific job they will be expected to perform. For us to shortchange them in an effort to cut corners that will, in the end, provide no real savings to us at all is to thoughtlessly disregard our solemn responsibilities to our servicemen around the world.

Mr. President I urge the defeat of this amendment.

Mr. President, much has been made of the fact that the Secretary of Defense supports this and that the Chief of Naval Operations supports it. Actually, this is something that was proposed by the Department of Defense, not by the Navy. If you talk privately to the Navy, you find that their own individual views are that you cannot consolidate Navy and Army helicopter training. Obviously, the Chief of Naval Operations has to take an official position that is sanctioned by and has the imprimatur of the Department of Defense. But talk to the professional naval officers and ask that they give you an individual view—not an official view, but an individual view—and they will tell you that this consolidation is going to be catastrophic in terms of the quality of helicopter aviators to be turned out for the Navy. So let us not be misled by the assertions that, oh, the Navy Department supports. The Navy Department officially does, but the professional military men in the Navy do not, when expressing an individual opinion. So I think we need to separate and distinguish between what an official position of the Department is and what the professional military men actually think of it.

The points made by the Senator from Ohio (Mr. GLENN) and the Senator from Utah (Mr. GARN) are very cogent points indeed. I hope they will not fall on deaf ears.

The PRESIDING OFFICER. Who yields time?

Mr. STENNIS. How much time will the Senator yield me? I want to use a little of it now and some later.

Mr. McCLELLAN. I yield to the Senator from Mississippi 5 minutes now.

Mr. STENNIS. Mr. President, the first point I want to make is that all this points out clearly the situation we are in: Facts in dispute, uncertainty about alleged savings, some uncertainty about the courses, fortify the chairman's position that this ought to be carried over, the amendment left out. It will be wide open, then, in conference for some kind of adjustment. I think whatever is done, it can be better adjusted than to be locked in here by the hard language of House and Senate amendments.

No. 2: We could not have a finer demonstration of the practical side—it is impossible to have had a better demonstration—than was given by the Senator from Ohio and the Senator from Utah, each in their own right—one a Marine pilot then an astronaut, and the other a Naval pilot, but now in the Air Force Reserve with distinction. Those gentlemen pointed out here—these empty chairs could not hear it nor understand it, but the RECORD will show it—they summed up here, speaking from experience, hard experience, out on those trackless seas, that they knew this kind of training that they are now getting is what is needed rather than the other under the exchange. They both went on and said it was a misstatement that there is actually a saving of money. I shall come back to that, but they seriously challenge the statement that it is going to save a lot of money.

I feel that they were thinking in terms of saving lives, not money. There is only a $7 million difference in this bill, anyway—$7 million. But the tone of this argument is, let us concentrate on saving lives. If the space program had not concentrated highly on saving lives, we would have saved a lot of money, but as one who followed that development, I do not believe that it is probable that we would have saved JOHN GLENN if we had let safety go by the board and said, "We are going to do the thing regardless of safety." A great deal of that cost went to saving lives, and that is the American system.

Fort Rucker, Ala., is not in issue here. I do not criticize that. I am in favor of that installation and many others in Alabama that I have personal knowledge of, because I have been there as a longtime member of the committee to see about their physical needs especially. That is not at issue. The lives and wellbeing and training and safety and efficiency of these men, these pilots—that is the issue here, and that is the only one.

To whom do we give the mission of flying off these carriers and back on, sometimes at night, the mission of flying off the cruisers and back the best they can, again often in the dark, the rain, flying off in helicopters from the frigates and even smaller ships at sea or on land, back and forth, back and forth, day in and day out, month in and month out, all over the world, day and night?

These Navy pilots are going to be somewhere, on some kind of duty as helicopter pilots with reference to our carriers and other ships.

Now, there is only $7 million. I am amazed at the claims that can be made about savings and how little actually occurs later, later when you try to check into it. It is not dishonest, but there are estimates, and they just do not pan out. The individuals will all be gone from the Pentagon before you check up on this anyway, all except the janitors. But I do not accuse them of dishonesty.

What about the real training? Going back to this mission, did we turn over the mission of going to the Moon to NASA and then turn over to the Marine Corps or the Navy or the Army or anybody else the training of the astronauts? Of course not. Those services helped greatly, but the person with the mission ought to have charge of the training. I will stand on that.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. STENNIS. I thank the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. PROXMIRE. Mr. President, I yield such time as the Senator may desire, 10 minutes.

Mr. ALLEN. Mr. President, we hear a whole lot about the need to reduce defense expenditures, and I suppose all would agree that if it is possible to reduce defense expenditures without damage to the defense effort, without any impact on our ability to have a strong national defense, we should put in those savings and those economies.

Often here on the floor we see amendments that seek to reduce defense expenditures, and we see the Department of Defense resisting those efforts. But here we find a situation where this amendment is actually sponsored by the Defense Department, and the facts they have given fully justify the amendment which would, according to the Defense Department, save the Government some $200 million in approximately 6 years.

Now, as the distinguished Senator from Mississippi, my dear friend, says, in effect, that we cannot accept the Defense Department's estimates of the savings. Well, Mr. President, I call attention to the fact that we accept the Defense Department's estimates, their judgments, with regard to the whole $104 billion appropriaton bill. So if we cannot accept the Department of Defense's recommendation with respect to a measure that it says over a 6-year period will save $200 million, what right have we got to rely on their recommendations on this tremendous $104 billion appropriation bill for defense?

Mr. President, time and again during debates here in the Senate on military matters and on foreign affairs, I have expressed my conviction that the No. 1 priority for the Congress is to insure the security of the United States by providing strong, well-equipped and well-trained armed services.

At the same time, I have stated my conviction that Congress has the responsibility to insure that the American taxpayer gets a dollar's value out of every dollar of defense spending, as well as out of all other programs. I believe—and I have spoken of this conviction both in the Senate and elsewhere—that while the Department of Defense must be given our support, it could and should make cuts in spending without adversely affecting military programs, and possibly could even improve such programs.

Many times during the past few years I have battled on the floor of this Chamber against meat-ax cuts in defense spending. Today, however, I am encouraging Senate support of a proposal to reduce defense spending by some $37 million a year through the consolidation of all military helicopter pilot basic training.

Mr. President, let me stress the fact that we are talking about basic training here. We are not talking about advanced training. That will go back to the various services involved. I call attention to the fact that the Defense Department assures that there is no thought of slighting training requirements that are unique to each individual service. Each service will still have the opportunity to accomplish its necessary service-unique training. So it is not just a proposition of getting the helicopter training given by the Army base, and that being all, because each service would have the opportunity to give the training that that service mission requires.

So, Mr. President, this proposal made by the Department of Defense, fits my criteria of getting the most defense out of every dollar spent.

Mr. President, the fiscal year 1977 budget, as presented to the Congress in January, proposes to carry out the consolidation of undergraduate helicopter pilot training at Fort Rucker, Ala., beginning on October 1, 1976. Funding adjustments incorporated in the budget, which would be generated by consolidation, amount to $30.4 million in savings for fiscal year 1977 and a projected savings of $37.4 million each year thereafter. Manpower savings of more than 2,300 military and civilian positions would also be realized.

This very provision that the distinguished Senator from Wisconsin (Mr. Proxmire), the distinguished Senator from Arizona (Mr. Goldwater), and Senator Sparkman and myself seek to have adopted was approved by the House of Representatives just a few weeks ago by a vote of 288 to 110. But the Senate Appropriations Committee has chosen to reject this proposal. Instead the committee has added $17.5 million in personnel, operating, and procurement funds to the Navy budget to permit continuation of a separate Navy/Marine Corps undergraduate helicopter pilot training program, and it deleted $10.1 million in Army operating funds, for a net increase of $7.4 million. That is only the tip of the iceberg, however. If we reject consolidation, it can be expected that some 76 additional T–34C aircraft would have to be funded next year to support the fixed-wing phase of the Navy/Marine Corps basic training program. These aircraft and related equipment would cost at least $23 million.

Mr. President, the Department of Defense has analyzed the pros and cons of consolidation for a number of years. A task group of the Interservice Training Review Organization, consisting mostly of military aviators, has studied the proposal, and the General Accounting Office has studied it. All conclude that this is the way to go.

The Department of Defense presently has two undergraduate helicopter training programs:

The Army and Air Force programs, which are conducted at Fort Rucker, are 36 weeks in length and include about 180 flying hours and 20 hours of instruction in simulators. Flight instruction is given in rotary-wing aircraft only. All Air Force helicopter pilots have been trained there by the Army since about 1971. This program provides about twice as many helicopter flying hours as is now provided by the Navy.

The Navy program, which is conducted at Pensacola, Fla. is 46 weeks in length and includes about 210 flying hours and 30 hours in simulators. The initial phase of instruction is given in fixed-wing aircraft and the second phase in helicopters. Marine Corps and Coast Guard pilots are also trained by the Navy.

What the Department of Defense is proposing is to consolidate Army, Navy, Marine Corps, Air Force, and Coast Guard helicopter pilot basic training into an all-rotary-wing program to be conducted by the Army at Fort Rucker. Special Navy and Marine Corps training requirements would be provided by including a service-unique phase in the program, and advanced, service-oriented training for Navy and Marine helicopter pilots would continue at Navy facilities.

Now, the argument has been made that the branch of the service that has charge of the mission should have charge of the training. But all that is to be done at Fort Rucker is the basic training, and the service-oriented training for Navy and Marine helicopter pilots would continue at Navy facilities.

Key considerations in the decision to consolidate are the significant dollar and related manpower savings projected by the various studies that have been made over the years.

How long can you study a program? This has been studied for years. The Defense Department says to Congress, "Help us save for the taxpayers of this Nation without any damage to the services, help us save $200 million." That is all that is at stake here.

It is quite apparent to me from the evidence that has been adduced in the studies that there would be no impairing of the efficiency and the effectiveness of the helicopter training for any of the services. But this consolidation would save the taxpayers $200 million in a 6-year period, and those savings would go on and on. They are not just covering a 6-year period. As long as helicopter training is taking place, it would go on and on. So here we have an opportunity to cut defense spending over a 6-year period for $200 million, and I assume we are always looking for opportunities to reduce defense spending if we can do so without impairing the effectiveness of our defense effort, and here is an opportunity to do just that. Total net savings in fiscal year 1977 alone are estimated to be $30.4 million. According to the best available information, consolidation would yield cumulative savings through fiscal year 1982 of more than $200 million.

In order to handle the heavier training loads at Fort Rucker, which would come about because of consolidation, the Army would increase its strength there by 60 military personnel and 23 civilians in fiscal year 1977, while the first year of consolidation would bring about a net reduction in the Navy of 2,430 training personnel, including 1,530 military and 900 civilians, for an overall net DOD-wide reduction of 2,347 training personnel. That is a substantial reduction and would be an important source of overall dollar savings.

An additional benefit of consolidation would be better use of existing equipment and facilities at Fort Rucker.

Because of the buildup to meet heavy requirements for training helicopter pilots during the Vietnam war, Fort Rucker now has excess capacity. While the total student load capacity is more than 2,400, only about 750 undergraduate helicopter pilots—700 Army and 50 Air Force—are undergoing training there at the present time. Consolidation would increase the training load by about 450 students—about 200 Marine Corps, 150 Navy, and the remainder Coast Guard and foreign—to a total of about 1,200 per year—well within Fort Rucker's capacity, which can easily accommodate twice that enrollment.

Do we think the Defense Department wants an always effective helicopter training program? Why, of course, they do not. They want the best possible training for helicopter pilots of all of the services.

Mr. President, both Department of Defense and Army officials have stated that no additional facilities or equipment—buildings, helicopters, simulators, and the like—would have to be built or bought to support consolidation. Helicopters now used by the Navy would be transferred for use in the consolidated program, thus eliminating the need for additional rotary-wing aircraft at Fort Rucker. If for some reason all of the Navy helicopters were not available, the Army could bring helicopters out of storage or from other bases to meet increased training loads. Most importantly, though, the purchase of T–34C aircraft, which would be needed to continue a separate Navy/Marine Corps program, would not be necessary, providing an additional $23 million savings.

Mr. President, I am concerned over attempts to oppose this logical plan to consolidate undergraduate helicopter training.

The Congress has told the Defense Department to economize in its programs, to become more efficient, to manage its resources better. Consolidation of undergraduate helicopter training is a shining example of the Defense Department's best efforts.

Recent Defense studies clearly demonstrate the benefits of consolidation. In addition to saving some $37 million a year and more than 2,300 military and civilian manpower spaces, it would make better use of facilities and equipment and provide basic helicopter pilot training equal to or better than that now conducted by the Navy. I believe that these are all cogent and compelling reasons for the Senate to approve the amendment to consolidate all undergraduate military helicopter pilot training at Fort Rucker. Through its request, the Defense Department has shown that it is determined to comply with the will of Congress, consistently expressed in recent years, to eliminate wasteful training duplication.

Mr. President, if the Senate turns down the opportunity to save $200 million over a 6-year period, and with savings of $37 million a year, what incentive is it for the Department of Defense to effect economies in the defense effort? What incentive is it to them to cut any fat from the defense appropriation? What incentive is it for them to eliminate waste of all sorts, if when a proposal is submitted to the Congress as clear as this one that would save $200 million over a 6-year period, if we are not going to encourage that effort to save money for the taxpayers? I do not believe they will come back very often with proposals to cut defense expenditures. I just do not believe that the U.S. Congress should now deny the Defense Department the opportunity to economize, to be more efficient, to manage better.

Mr. President, the question before the Senate is, Do we want the Department of Defense to do what we have repeatedly told them to do or do we not? The Senate's action on this issue of consolidating helicopter training will speak louder than our words—and the American taxpayers, whose money we will save or squander, will not be fooled.

Mr. President, if I have any time remaining, I reserve it.

The PRESIDING OFFICER (Mr. HANSEN). Who yields time?

Mr. McCLELLAN. Mr. President, I yield to the distinguished Senator from Florida 5 minutes.

The PRESIDING OFFICER. The Senator from Florida is recognized.

Mr. STONE. I thank the distinguished chairman.

Mr. President, in the letter put on our desks by the Secretary of Defense and referred to by the distinguished Senator from Wisconsin, the Secretary attempts to soothe the fears and preoccupations of those of us who worry about combat readiness by saying that the consolidation is limited to undergraduate training and thus service unique training of a more advanced nature would not be effected.

That has to be patently inaccurate and incorrect on its face because if all the undergraduate training is going to consist of its overland VFR, teaching him how to lift it up, move forward and backward and down, which is the description of the training by the distinguished Senator from Arizona, then the advanced nature of the training will not be those nuances of certain combat situations over water, the advanced training is going to have to be everything else besides how to lift up, how to move it forward and back over land, and how to set it down.

So the so-called advanced service unique training is going to end up to be a whole new training program, almost from the very beginning, about IFR conditions, about climate conditions, about how to take off and land over water, about amphibious operations for Marines.

So the service unique is not service unique at all.

It is the mission training that right now the naval services—and I include Coast Guard and Marines—are doing, and not only that the advanced service unique training would have to be expanded greatly over what it now might be, but they would have to unlearn a great deal of what has been taught in the approach that the Army had taught.

So not only will there not be any savings of money, but there is going to have to be a new bureaucracy built up to construct a new, so-called service unique course which, in effect, is nothing more than a whole new training program, almost from the first day, if not the first day. Not only will there not be savings, it will be very wasteful, to say nothing of the applications of the marine climate and the naval climate and the mission problems that they face that are given from the very first day of the training programs as they now are.

I close my brief remarks by reminding my colleagues of what took place when we had to evacuate South Vietnam. I have raised this example in the past. The reason I raise it is that I raised this example before the appropriate subcommittee of the Armed Forces Committee more than a year ago, before that evacuation, when the issue was being discussed in that subcommittee.

At that time I told the subcommittee, what if our helicopters have to airlift evacuees from South Vietnam to the ships, what would happen if all the training we have was the Army training, maybe with some service advanced training?

Within almost a matter of weeks that took place. And what did we see on television? We saw almost all of our pilots successfully land their evacuation missions on ships.

But we saw some other helicopter pilots not being able to make it to the ships, partially landing on them and dumping in the water.

So we want to turn out the winning combat-ready naval and marine and coast guard equipped pilot, or do we want to construct a hippogriff by having a basic training program over here and a brand new so-called advanced service unique program constructed somewhere over there?

That would be like designing a giraffe by a commmittee. I do not think we need try to demonstrate combat-ready success for that kind of mishmash.

I hope, therefore, that we will vote down this amendment and stay with the committee which has voted to continue a winning operation.

The PRESIDING OFFICER. Who yields time?

Mr. McCLELLAN. Mr. President, I do not believe I have a request for any more time.

Mr. PROXMIRE. I have a brief closing statement.

Mr. McCLELLAN. In the meantime, while we wait for Senator Stennis, Mr. President, I yield myself 2 minutes.

I find myself very much in sympathy with the pending amendment. I am also concerned, as a number of our distinguished colleagues are here who oppose the amendment.

My purpose, primarily, in taking the position I did in committee, was to make this an issue in conference. It will be an issue in conference if the committee's position is sustained. As for the purely basic training—that which all pilots must have before they can proceed to specialization for Army missions or Navy missions or Marine missions—I believe that that basic training can be done at one place, under one command, under supervision of one service.

If we can work out an amendment or a provision in conference that would do that, I would be willing to support it. That would be my view. Until we can, and until I know that can be done and will be done, I will continue to support the committee's position. We do not want to take the risk. We do not want to find the road to a false economy. We want to take that action that will enable us to get this training—the basic training, at least—at one place in order to economize in the cost. The specialized training, which the Navy needs for its pilots beyond that basic training will need to be continued. The same is true for the Army and the Marine Corps.

That is the way I stand on this particular issue. In conference, I would hope, if the Senate committee's position is sustained today, we will be able to make certain that only the basic training is consolidated, and the specialized training is not. That would be my position.

Mr. STENNIS. Will the Senator yield to me so I can ask a question to be certain I understand his position?

Mr. McCLELLAN. Yes, I yield. I feel I should state my position on why I voted as I did.

Mr. STENNIS. If I had given one request for the Senator to make, it would have been to give his position, which impressed all of us so much in the committee meeting.

May I ask this question: In getting to what is really the best thing to do in connection with this training, would the Senator like to have the advice of those in the Navy and in the Marine Corps on this problem as they see it, uninhibited by any ruling that the Office of Management and Budget might have made months and months ago, or the White House?

Mr. McCLELLAN. Of course that is true. That is the best advice, rather than coerced advice or directed advice. That is what I would hope to do in the interim or during conference consideration of the matter. I would favor that which we can do to bring about any economy, but I am opposed to doing anything that would in any way jeopardize the specialized training that they must have to do separate and different missions. If the Senate committee's position is sustained, those will be my efforts in conference.

Mr. STENNIS. Will the Senator yield me 2 minutes to comment?

Mr. McCLELLAN. I yield 2 minutes.

Mr. STENNIS. Mr. President, the proposition made by the chairman as usual is full of wisdom. This is a problem. There is a serious challenge here as to what the actual savings will be. I repeat, there is only $7 million in the bill now which would be changed. I am satisfied that these Marine Corps and Navy men must have fixed-wing training, after hearing from the two Members of our body who are experienced, and others. They must have fixed-wing training and they will not get it under the regular Army strict formula.

It has to come from somewhere and it will cost money. We know that. We would like to have a new estimate on that.

There is one other point I would like to cover.

The question here is actually how do the men feel, such as the Chief of Naval Operations, the Commandant of the Marine Corps, and others who are carrying this high responsibility in this field?

There is no doubt about the restriction on them, to a degree. I am not criticizing that particularly. Sometimes there have to be some restrictions.

I have in my hand a copy of a hearing before Mr. Mahon during the 1977 appropriations bill, which we are considering. This was just a few weeks ago. General Wilson, the Commandant of the Marine Corps, in public testimony was asked a question of how does he feel about this new proposed training.

> General Wilson. We would certainly like to continue it like it is now.

These helicopter pilots are being trained by the Navy, which includes the idea of fixed-wing training.

I am about the last one to know exactly what is meant by fixed-wing, but there may be others. It is just fixed-wing, rather than a helicopter wing, by contrast.

We heard the testimony of our members on the value of this kind of training. I do not believe there is any issue, none whatsoever, on those points.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. STENNIS. May I have one additional minute?

Mr. McCLELLAN. I yield one additional minute.

Mr. STENNIS. I do not want to be talking out of turn, but the Chief of Naval Education and Training spoke on this subject. I did not know him until I approached him a few weeks ago on another matter. I was very impressed with his fine knowledge and analysis of these problems which are coming up. He did not bring this up but I did. I will say the man is worth hearing before we write hard law on this subject. Otherwise, we will regret it.

I thank the Chair.

Mr. McCLELLAN. I yield 3 minutes to the distinguished Senator from Texas.

Mr. TOWER. Mr. President, one thing the proponents of this amendment have not proven is how the DOD is going to realize the savings that they are supposed to experience if they do not close a base. In fact, there are no base closures anticipated. So, I ask, where does the saving come from? Can anyone who supports this amendment answer that question?

Mr. PROXMIRE. Mr. President, I will just sum up by saying, in the first place, this is a recommendation of the Secretary of Defense. We always look to the Secretary of Defense for his judgments as to combat readiness.

It has been said that this amendment would affect adversely our combat readiness. The Secretary of Defense does not think so.

Some have said it would cost lives. The Secretary of Defense does not think so. If he did, he would certainly tell us that. His position is clear and emphatic. He favors this consolidation.

Mr. President, the argument has been made over and over again that the real difficulty with this consolidation is that we would lose the kind of specialized training which the Navy fliers now get by being able to operate through separate training.

Mr. President, this is just not the case. What are the facts? The facts are that if we pass this amendment and the training is at Fort Rucker, the Navy pilots will receive twice as much helicopter training as they receive at the present time. They will get 25 hours of specialized training by Navy pilots at the Fort Rucker base. They will get 50 hours of specialized training in California.

Mr. STONE. Will the Senator yield?

Mr. PROXMIRE. They will not get the fixed-wing training until after they have passed their helicopter training because, as the Secretary of Defense has pointed out, at the present time they find they lose by attrition 60 percent of their Navy pilots and 40 percent of their Marine Corps pilots. They give them this fixed-wing training and they lose them. Therefore, they say the wise thing to do is to wait until the career point decision is made and then give that additional training.

I will yield to the Senator from Florida when I finish, if the Senator will permit.

The figures have been challenged by the Senator from Texas and others. The fact is again, as the Senator from Alabama pointed out so well, who do we look to for the official figures that we all trust and have to trust in the Defense Department for every single phase of the defense budget? We look to the Secretary of Defense. The Senator from Mississippi has admitted that they are honest; that they do the best they can. He thinks they may be wrong. There has been no evidence that they are wrong on this. As a matter of fact, they give us the precise area where they would save the funds.

They would save $23 million this year by not buying 76 aircraft. They would save $7 million in addition on operation and maintenance, and then, as the years go on, beginning in fiscal 1978 through fiscal 1982, they would have $37 million in manpower and operation and maintenance.

I admit that any figures can be challenged, but I submit that when it comes to providing adequacy for the Defense Department, my experience has been that you never get the Secretary of Defense arguing against the interests of combat readiness or the best, strongest possible Defense Department we can get.

Mr. STONE. Will the Senator now yield for a question?

Mr. PROXMIRE. I yield to the Senator from Florida.

Mr. STONE. The Senator from Wisconsin has just said that under his proposal the naval helicopter pilots not only would not get less helicopter training, they would get twice as much.

If the naval helicopter pilots are to get twice as much helicopter training, then how could they not buy more helicopters to train with, and how could the so-called service unit advanced training not be a major expansion?

Mr. PROXMIRE. The answer is that there are adequate helicopters; the problem is the fixed-wing aircraft that they would have to buy.

I yield to the Senator from Alabama.

Mr. ALLEN. Is it not correct—these figures have to be approximate, but is it not correct that while the Army would increase its strength there at Fort Rucker by 60 military personnel and 23 civilians in fiscal year 1977, there would be a net reduction in the Navy of 2,430 training personnel, including 1,530 military and 900 civilians, for an overall net Department of Defense-wide reduction of 2,347 training personnel? Is that not approximately correct?

Mr. PROXMIRE. The Senator is correct; and we all know that the cost of each person in the Armed Forces is between $10,000 and $12,000 a year, so it is easy to determine where the savings would come from.

Mr. ALLEN. Will the Senator yield further?

Mr. PROXMIRE. I yield.

Mr. ALLEN. Another savings would come from the fact that the total student load capacity a Fort Rucker is 2,400, and now they have only 750 helicopter pilots in training, 700 Army and 50 Air Force. Would not Fort Rucker be able to accommodate several hundred pilots from the other services for additional training?

Mr. PROXMIRE. The Senator is correct, with savings per student because of the economy of scale involved.

Mr. GLENN. Mr. President, will the Senator yield for a question?

Mr. PROXMIRE. I yield to the Senator from Ohio.

Mr. GLENN. A substantial part of this $24 million is for procurement of aircraft that will not be procured if this proposal goes through. Does the Senator foresee fixed wing training going out? In other words, are we mandating a change in the training procedures that we have been told were going to be conducted at Fort Rucker?

Mr. PROXMIRE. No; what we are saying is that the fixed wing training will be at the other end, after they pass their 5 years of service. The fact is that they find at that point that they do not have such a high degree of attrition.

Mr. GLENN. But somewhere airplanes will be acquired to do the training, at one end of the pipeline or the other.

Mr. PROXMIRE. The Senator is correct.

Mr. GLENN. So I do not see where there will be any saving of $26 million, if they simply put it off to the end of the program as opposed to starting out on it.

Mr. PROXMIRE. Well, the saving, as I say, this year, fiscal year 1977, is a saving of $23 million by not buying this amount. But there is also a $37 million saving per year for the next 5 years.

When they do have to buy those fixed-wing aircraft, it is true that they may have to pay $23 million but there will have been a saving every year of $37 million, and even in the year they have to buy the fixed-wing aircraft, the cost will be more than offset by the saving in operations and maintenance. So, by the end of the next 5 or 6 years, there will be a saving of approximately $200 million, even though the year after that it will be offset to some extent.

Mr. GLENN. But even the saving during this 5- or 6-year period is merely for something that will have to be put off until later?

Mr. PROXMIRE. No; there is no doubling up on that $37 million. It is a very real saving. As the Senator from Alabama pointed out, there are 2,300 or 2,400 personnel who will no longer have to be paid by the taxpayers.

Mr. GLENN. No; I am addressing specifically the T-34C aircraft they would buy somewhere; that would get back into their budget, unless we do away with that fixed-wing training.

Mr. PROXMIRE. The Senator is correct, that will have to go back into the budget in the early 1980's and that will partly offset the $37 million saving that year and every year from operation and maintenance and manpower.

Mr. GLENN. And I might add, when it comes back in, it will no doubt be an increased expense on account of inflation.

Mr. PROXMIRE. Yes; and the operation and maintenance savings will be increased also.

Mr. TOWER. Mr. President, will the Senator yield?

Mr. PROXMIRE. I yield.

Mr. TOWER. According to the DOD, about three-fourths of the annual savings in training costs will be occasioned by the so-called release of a flight training base. Which flight training base will be "released?"

Mr. PROXMIRE. I am told a number of facilities at Pensacola and Whiting Naval Air Base.

Mr. TOWER. This OSD document says "by the release of a flight training base." What base will it be?

Mr. PROXMIRE. Whiting Naval Air Base——

Mr. TOWER. Whiting Naval Air Base will be closed down?

Mr. PROXMIRE. Not closed down. It will be reduced.

Mr. TOWER. All right; but we will not have that recurrent saving of money unless a base is closed down. The DOD says "release of a flight training base." That sounds like double talk to me.

Mr. PROXMIRE. I point out to the Senator that this comes from the Department of Defense, and the Department of Defense argues they will have a saving in training and personnel cost.

Mr. TOWER. But if there is to be a base "released," which one is it?

Mr. PROXMIRE. I think the Senator from Texas may have a point; there may not be a base closed down.

Mr. TOWER. All right; then we have every reason to question these figures.

Mr. PROXMIRE. That does not contradict the fact that there will be a saving in personnel, operation, and maintenance at that base.

I yield to the Senator from Alabama.

Mr. ALLEN. The Senator has mentioned there will be a saving in fixed-wing, straight-wing planes which may have to be replaced later; but is it not possible, though, that with the basic training taken off of the training given by the Navy and Coast Guard, it would not be necessary to buy these additional planes?

Mr. PROXMIRE. I understand that not all the Navy pilots will have to have fixed-wing training after 5 years. Many of them would, but, as I say, because you do not have the attrition, at that point the people you train usually do not leave the force, you do not have to train as many to get as effective an operation as you have now. So there will be some saving there, although I think the point of the Senator from Ohio was fundamentally correct; we may have to buy more of these fixed-wing planes, probably, sometime later, perhaps in the early 1980s.

Mr. ALLEN. But that is more than offset by the other economies?

Mr. PROXMIRE. The Senator is correct.

Mr. President, if the Senator from Arkansas is ready to yield back his time, I am ready to yield back mine.

Mr. STENNIS. Mr. President, will the Senator from Arkansas yield me 1 minute?

Mr. McCLELLAN. All right, I yield 1 minute to the Senator from Mississippi.

Mr. STENNIS. Mr. President, I want to say to the Senator from Texas, to say "release funds" does not mean saving funds, as he has pointed out.

Mr. President, I read here from the testimony before the Mahan Committee of General Wilson, and I meant to add this following sentence that he talked about at the same time. Talking about costs, he said:

> Admiral Holloway just mentioned that. I think there are three things that we find that are shortcomings with the training, and which we found because we have in fact had some Army training of helicopter pilots.

That was not criticism of the Army itself but the system. He continues:

> Insufficient instrument training is the problem, and the "no fixed-wing" training which we believe is necessary to provide the fundamental airmanship skills and awareness of fixed wing characteristics is considered essential in providing the Marine Corps flexibility to meet varying combat needs. . . .

And the Senator from Arkansas referred to this necessary basic training, and he covered it here.

> This includes the ability to move certain numbers of aviators between rotary and fixed-wing aircraft with the minimum of requalifications.

That is exactly what the Senator from Ohio said. And as Admiral Holloway said:

> The lack of maritime-oriented training for our overwater flights which are necessary for amphibious operations.

Mr. President, that is conclusive as to what those witnesses say.

I thank the Senator.

The PRESIDING OFFICER. Who yields time?

Mr. PROXMIRE. Mr. President, before I yield back the remainder of my time, I ask for the yeas and nays on this amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. PROXMIRE. Mr. President, I yield back the remainder of my time.

Mr. McCLELLAN. I yield back the remainder of my time.

ADDITIONAL STATEMENTS SUBMITTED

Mr. DOLE. Mr. President, the Senator from Kansas will oppose the amendment by the senior Senator from Wisconsin (Mr. PROXMIRE) to require the consolidation of Navy and Marine helicopter pilot training with that of the Army.

First let me say that the Senator from Kansas favors actions that reduce the expenditure of taxpayer dollars in the defense budget, as long as the effectiveness of our armed services is not reduced.

The Senator from Kansas has studied information presented by both the proponents and the opponents of this amendment. It is my judgment that the amendment offers little in the way of meaningful cost savings. It just takes money out of the Navy budget and puts it in the Army budget.

As I read the amendment, it takes $17.5 million out of the Navy budget and puts $10.2 million in the Army budget. The net savings is $7.3 million. This is the far cry from the $30 or $37 million claim made by the proponents of this amendment.

At the same time it will result in reduced effectiveness in the training of Navy and Marine pilots. It is my understanding that this kind of consolidation was attempted during the Vietnam era for Marine helicopter pilots and a great number of deficiencies turned up at that point in their training.

NO HEARINGS

Mr. President, to the best of my knowledge, the impact of this consolidation was not studied by the Armed Services Committee in either the Senate or the House. Neither was it approved by the Appropriations Committees in the Senate or the House.

It just seems to the Senator from Kansas that the basic question at issue here is the effect the consolidation will have on the training of Navy and Marine helicopter pilots. The Senator from Kansas can find no evidence that the impact on Navy and Marine helicopter pilot has ever been considered by the Congress except in passing in the Armed Services Committee.

My concern is that the Navy and the Marine Corps have never been asked about the effect of this consolidation on their helicopter pilots. As I stated earlier I do not favor the unnecessary expenditure of tax dollars. I favor actions that will reduce expenditures and improve the efficiency of our armed services, but not at the expense of essential training.

PREVIOUS EXPERIENCE

It is the understanding of this Senator that during the Vietnam war, 492

Marines received Army helicopter training over a 3-year period. Based on reports from that experience, the training of those pilots did not satisfy the needs of the Marine Corps.

Subsequently a great deal of extensive additional training was required. The additional training resulted in an even higher cost to taxpayers.

It appears to the Senator from Kansas that the same situation may exist if the Congress forces the consolidation of helicopter pilot training. The Navy and Marine Corps will be forced to do a great deal of additional training, which will result in an added expense. The additional training will be in larger operational helicopters rather than the light training aircraft. The result could be an even greater cost to taxpayers.

It seems to the Senator from Kansas that before we approve this consolidation it should be looked into the detail by the Senate Armed Services Committee. The effect of consolidation on the quality of Naval and Marine helicopter pilots should be studied in detail.

We should have the facts before us before we require such a consolidation.

INCREASED EFFICIENCY QUESTIONABLE

Mr. President, there has been a marked absence of any information from the Navy or Marine Corps on the impact of consolidation on the quality or efficiency of Navy or Marine helicopter pilot training.

In the absence of any factual information comparing the present Navy and Marine helicopter pilot training to that proposed under the consolidation, it is significant that private sector schools of aviation have found the most efficient and economic training to be done the same way the Navy-Marine training is presently accomplished. The Navy concept for helicopter flight training is to qualify each trainee on basic instrument and flights skills on a fixed-wing aircraft prior to going to helicopters. Training schools in the private sector have found this to be the most efficient and economic way and the Senator from Kansas would like to present two examples to demonstrate that efficiency.

At the Parks Air College in St. Louis, Mo., helicopter pilot trainees receive fixed-wing training in the amount of 200 hours for a commercial pilot and instrument rating. The cost of this training is $5,466. Then the trainees are given helicopter flight training for a total of 50 hours to receive a commercial helicopter rating. This second portion of the training costs $5,400. The total cost of training a helicopter pilot is $10,866.

At Montgomery County Air Park in Maryland, helicopter trainees going to the HASCO helicopter-only training school receive 160 hours of helicopter flight training. The cost of this training which is the amount required for a helicopter license is $18,000.

The comparison is self-evident. Helicopter pilot training with a mixed fixed-wing and helicopter course is only a little over one-half the cost of training a pilot on helicopters only. The Senator from Kansas has no way of knowing if this same relationship relates to the Marine-Navy helicopter training and the Army helicopter training. However, in the absence of any factual information and the absence of any careful consideration of this matter by the Armed Services Committee, the Senator from Kansas could not support any amendment to consolidate the training.

COST SAVINGS MINIMAL

The proponents of this amendment argue that a cost savings will result from the reduction of 2,347 personnel. But the Senator from Kansas has seen no evidence of how that would occur.

It appears to this Senator that it would simply take money out of the Navy and Marine budget and transfer it to the Army budget. At the same time there would be a loss of quality in Navy and Marine helicopter pilot training.

The best information this Senator has been able to obtain is that overall there will be little if any reduction in personnel. There will be no bases that are closed down or reduced as a result of this consolidation. There will be the same number of pilots trained under the consolidation as otherwise. It appears to me it will require the same number of people to train the same number of pilots under consolidation as it might otherwise.

In the absence of hearings or a concrete demonstration of facts to show a significant reduction in cost, the Senator from Kansas feels that the potential harm that would be done to the quality of Marine and Navy helicopter pilot training more than offsets whatever minimal cost saving can be achieved. On this basis, I oppose the amendment.

The PRESIDING OFFICER. All time has been yielded back.

The question is on agreeing to the amendment of the Senator from Wisconsin.

The yeas and nays have been ordered. The clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. MANSFIELD (after having voted in the affirmative). On this vote I have a pair with the distinguished Senator from Texas (Mr. BENTSEN). If he were present and voting, he would vote "nay." If I were permitted to vote, I would vote "yea." I therefore withdraw my vote.

Mr. ROBERT C. BYRD. I announce that the Senator from Texas (Mr. BENTSEN), the Senator from Hawaii (Mr. INOUYE), the Senator from Louisiana (Mr. LONG), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Minnesota (Mr. MONDALE), and the Senator from California (Mr. TUNNEY), are necessarily absent.

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BROCK), the Senator from Nebraska (Mr. CURTIS), the Senator from Nebraska (Mr. HRUSKA), and the Senator from New York (Mr. JAVITS), are necesarily absent.

The result was announced—yeas 28, nays 61, as follows:

[Rollcall Vote No. 451 Leg.]

YEAS—28

Abourezk
Allen
Bellmon
Burdick
Cannon
Clark
Culver
Eagleton
Fannin
Goldwater
Griffin
Hart, Gary
Hart, Philip A.
Helms
Kennedy
Leahy
Muskie
Nelson
Nunn
Percy
Proxmire
Roth
Schweiker
Sparkman
Stafford
Stevenson
Symington
Weicker

NAYS—61

Baker
Bartlett
Bayh
Beall
Biden
Brooke
Buckley
Bumpers
Byrd, Harry F., Jr.
Byrd, Robert C.
Case
Chiles
Church
Cranston
Dole
Domenici
Durkin
Eastland
Fong
Ford
Garn
Glenn
Gravel
Hansen
Hartke
Haskell
Hatfield
Hathaway
Hollings
Huddleston
Humphrey
Jackson
Johnston
Laxalt
Magnuson
Mathias
McClellan
McClure
McGee
McIntyre
Metcalf
Montoya
Morgan
Moss
Packwood
Pastore
Pearson
Pell
Randolph
Ribicoff
Scott, Hugh
Scott, William L.
Stennis
Stevens
Stone
Taft
Talmadge
Thurmond
Tower
Williams
Young

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Mansfield, for

NOT VOTING—10

Bentsen
Brock
Curtis
Hruska
Inouye
Javits
Long
McGovern
Mondale
Tunney

So Mr. PROXMIRE's amendment was rejected.

Mr. TOWER. I move to reconsider the vote by which the amendment was rejected.

Mr. STONE. I move to lay that motion on the table. The motion to lay on the table was agreed to.

UP AMENDMENT NO. 282

Mr. KENNEDY. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Massachusetts (Mr. KENNEDY) proposes unprinted amendment No. 282.

On page 23, after the period in line 22, insert a new sentence as follows: "None of the funds appropriated herein may be used prior to February 1, 1977, for procurement of Minuteman III strategic intercontinental ballistic missiles."

Mr. BUMPERS. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. KENNEDY. I yield for the purpose of a unanimous-consent request.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

Mr. McCLELLAN. Mr. President, I ask unanimous consent that the time for debate on this amendment be limited to 1 hour, the time to be equally divided between the distinguished Senator from Massachusetts and myself.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BUMPERS. Will the Senator yield?

Mr. KENNEDY. I yield.

Mr. BUMPERS. Mr. President, I ask unanimous consent that Walter May of my staff and Paula Stern of Senator NELSON's staff be permitted the privilege of the floor during debate and vote on this amendment.

Mr. PHILIP A. HART. Will the Senator yield for a similar request?

Mr. KENNEDY. Yes.

Mr. PHILIP A. HART. I ask unanimous consent that Burton Wides of my staff be accorded the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, as I understand, there is a 1-hour time limit, 30 minutes to each side.

The PRESIDING OFFICER. That is correct.

Mr. KENNEDY. I yield myself 10 minutes, Mr. President.

This amendment would defer until February 1, 1977, the availability of $274 million in appropriations to produce 60 new Minuteman III missiles.

This deferral will permit us to determine the pace of the SALT negotiations, before producing more Minuteman III missiles. This deferral is important, since under the formula of the Vladivostok accord, adding new land-based missiles such as the Minuteman III can be accomplished only by having fewer submarine-launched ballistic missiles.

Mr. NELSON. May we have order in the Senate?

The PRESIDING OFFICER. The Senator will suspend. The Senate will be in order.

Mr. KENNEDY. Mr. President, for the purpose of my colleagues, after reviewing the debate in May of last year, I want to emphasize that this is not the same amendment that I offered for myself and the Senator from California (Mr. CRANSTON), which sought to eliminate the request for 60 new Minuteman III missiles. All we are doing through this amendment is deferring the fiscal year 1977 appropriation to the early part of next year. The two principal arguments that were made during the debate in opposition to our amendment on the Minuteman III last year were the following: One, if the Senate was going to accept the amendment that I offered, it would, in some way, terminate the production line for the Minuteman missiles, and two, depending on what happened at the SALT agreements, it would have been necessary to open up that particular production line once again, and that we did not want to lose that production line capacity.

Mr. President, there are already requests for appropriations for a Minuteman III in the fiscal year 1976 appropriation. Those particular missiles are already under delivery. They will continue to be delivered until September 1977.

The purpose of this amendment will be only to defer a final decision on the purchase of the 60 new Minuteman III missiles until February of next year under the fiscal year 1977 appropriation, so the argument that this in any way will affect the production line is not relevant to my amendment.

Mr. President, I want to emphasize as well what this amendment does not do. This amendment does not halt the $68 million which exists in the present program for additional kinds of research in the Minuteman III program. It has no effect whatsoever on the research and development for this particular missile and it does not affect those funds which are included in the Minuteman program for hardening of various sites. We do not touch those particular aspects of the Minuteman program at all. All we are really reaching are those new requests that have been made by President Ford, 3 days before the Texas primary, for 60 more Minuteman III missiles which cost $274.5 million.

I will, in my explanation, review the past history and the attitude of the Department of Defense and those in responsible positions about the Minuteman missile and its importance in terms of our strategic weaponry, its importance in terms of our Triad, and its importance in terms of our defense. I think in any kind of review of those elements, we will see, by the statements of the Secretaries of Defense—the current Secretary of Defense and the past Secretary of Defense—and former chairman of the Joint Chiefs of Staff that, basically, this particular system has low priority in terms of our military security and is therefore not justified. This request is also not justified, in the initial request made by the DOD to the Congress in the early part of this year.

If there is not going to be any justification that warrants the additional purchase of missiles that cannot be utilized until 1988 because of the extraordinary amount of Minuteman missiles that we currently have and that are in storage, then I hope that the decision of the Senate will be to support this amendment.

Mr. President, by proceeding with Minuteman III production, we would be trading important elements of the least vulnerable part of the triad for more vulnerable land-based missiles, a trade that makes no sense in terms of our national security. For that reason, I believe we should not commit ourselves irrevocably to spending $275 million now to purchase 60 additional missiles when we do not even know if the administration's only argument, use as a bargaining chip, will apply. Even if such a bargaining chip were needed, and I have serious doubts there is a need, we can retain it by deferring the availability of these fiscal year 1977 funds until February of next year.

We saw in the paper today that a green light has been given by President Ford to move ahead in the SALT negotiations. One of the arguments the President used is that we do not want to give this particular bargaining chip away. All we know is that production is going to be continuing during this entire period of time, all the way up through September of 1977. It will therefore be extremely easy for a new President, who is familiar with the whole progress of the SALT negotiations, to be able, at that time, to activate the $275 million which would otherwise not be activated if he did not make a determination that it was vital in terms of our national security.

So the two arguments, the prime arguments, one in terms of production line, and the second one, in terms of SALT, which were the primary arguments in opposition to the amendment which I had offered, with the Senator from California, several months ago, do not stand as arguments to rebut the amendment which I am offering today.

In fact, Mr. President, we have a far more credible response available if we feel it necessary to increase our strategic punch, in our Trident missile.

During the debate on military procurement authorization, a major argument against the amendment to delete these funds—which we are not proposing in this amendment—was that there is no ongoing production line of strategic ballistic missiles available in the event we want to increase our strategic might. That is not true.

It is not true, since this very bill provides money for 48 Trident I missiles. And building Trident missiles is a far more convincing response to possible Soviet activities, if a response were needed.

Finally, it should be noted that this bill includes $102 million, plus $40 million for long-lead items, for the same contractors to help them sustain operations during the period of September through January 1977. These funds would not be touched by my amendment.

Mr. President, while I do not believe that there is justification to continue the Minuteman III program under any circumstances—even in the absence of a SALT Agreement— I believe that this amendment represents a middle ground between the supporters of the program and its opponents. It says to the Soviet Union that the funds will be available if a SALT Agreement is not reached and a new administration decides to extend this program.

And it says to the American taxpayer that we are not going to spend unnecessarily $274.5 million for a questionable program that may be overtaken by an on-going negotiating process.

Nor are we standing still with regard to the Minuteman program. In addition to these funds that could be spent after next February, this bill includes $368 million for hardening the Minuteman sites to provide the best protection against the rather unlikely prospect of a Soviet first strike. Nor is that all. This bill contains $69 million for advanced ICBM technology, and $102.4 million for ICBM related research and development.

Adding another 60 missiles to sit in warehouses until 1988 makes little sense whatsoever, yet that is precisely the most likely future for the 60 missiles proposed to be purchased by this bill before the Senate.

I would briefly recall for my colleagues some basic facts: We have 1,000 Minuteman II and III missiles deployed. We have 54 Titan ICBM's. We have 497 strategic bombers. We have 656 ballistic missiles on our submarines.

And we continue to build the follow-on Trident which will add to our delivery capabilities. And we continue major research and development activities in the ICBM area.

We have a total of 8,900 first-line warheads ready to be delivered; we have another 22,000 tactical warheads positioned around the world; and we have other weapons on a standby or reload basis.

We have the capability today to destroy every city in the Soviet Union over 100,000 population 49 times over; and we have the equivalent of over 700,000 Hiroshima bombs.

In fact, the additional 60 Minuteman III missiles, if deployed in place of Minuteman II's, would do the following:

The number of launchers would not change;

The throw weight would increase four-tenths of 1 percent.

The megatonnage would be reduced 3.7 percent.

The number of reentry vehicles would increase 1.3 percent.

The soft target kill capability would increase seven-tenths of 1 percent.

The hard target kill capability would increase 1.1 percent. Those statistics, which demonstrate the meaningless and insignificant value of these missiles is from the Armed Forces Journal of February 1975.

With regard to the Minuteman III missiles, we completed the deployment program more than a year ago. For the past 3 years we have been purchasing extra missiles which go into our warehouses. They are available for testing through 1988. These 60 new missiles proposed for funding in fiscal year 1977 would be available for testing in the 1988–92 period, when it is likely that we will be considering force deployments that do not include new Minuteman III's.

Surely we can defer for some 4 months a decision on whether these missiles are necessary. By then, we should have the outcome of SALT II and we will be far better able to determine whether we need to add these missiles to the warehouse.

I would recall for my colleagues that the initial budget request from the Department of Defense for fiscal year 1977 did not include the request for these 60 missiles. While the Secretary of Defense, in his posture statement, reserved the right to ask for a budget amendment, he based his decision to oppose more Minutemen III procurements on three considerations:

> Any additional deployments beyond the current level of 550 would not add significantly to the U.S. military capability, but would increase the strategic budget by more than $300 million for each further year of production;
>
> Under the provisions of the Vladivostok understanding, additional deployments of Minuteman III would require offsetting reductions in Poseidon launchers in the 1980's;
>
> Since Minuteman will become more vulnerable in the future, any additional resources would be invested in the deliberate development of a new, larger and more survivable ICBM.

Nor did the Secretary depart from this highly critical view during his appearance before the Appropriations Committee on February 2. In his testimony, at page 409, he stated the following response to the question of the Senator from North Dakota concerning the system's survivability:

> Secretary RUMSFELD. You will recall the chart on that indicated that, as the Soviet Union improves its accuracy capability, it is estimated that the Minuteman force begins to decline in terms of its survivability during the period of the 1980's.

This is not the Senator from Massachusetts speaking. It is the Secretary of Defense. And he is essentially saying it makes no sense to add more of these missiles.

On March 18, the Appropriations Committee heard testimony from Lt. Gen. Alton Slay, Deputy Chief of Staff for Research and Development. Chairman McCLELLAN asked (page 331):

> If additional funds were added above the total amount included in the Air Force aircraft and missile procurement budget requests, do you feel that continued production of the Minuteman III missile would be the number one priority for the use of these additional funds?

General Slay's answer is a complicated one:

> The Air Force FY 77 aircraft and missile procurement requests are well balanced with the total Air Force budget and are the minimum amounts required. If additional funds were provided, my first thought is that they should be reserved to replace any funds deleted from these accounts. However, if the entire Air Force aircraft and missile procurement requests were approved and additional funds provided in these accounts for strategic systems, I would apply those funds to accelerate the MK–12A and B–1 and would do so in that order of priority to the extent that efficiencies could be achieved in those programs by additional funding. In the event that the SAL negotiations are unsuccessful, resumption of Minuteman III production would be necessary and would be recommended to receive full funding.

In essence, what he said was that his first priority for extra funds would be to replace any funds deleted from the Air Force budget. But if all these moneys were included, then he would apply extra money to accelerate the MK–12A and B–1 and would do so in that order of priority to the extent that efficiencies could be achieved.

And he mentioned the Minuteman III only last, and premised further deployment on the event that the SALT negotiations are unsuccessful.

Clearly, Mr. President, this is not a ringing endorsement for the Minuteman III program; it is not a top-priority rating. Nor have the SALT talks failed. They continue, along with continued administration hopes for their success.

On April 27, the Defense Department did come up with a budget amendment, asking for these 60 Minuteman missiles. But it is important to recall the conditions Secretary Rumsfeld cited in his posture statement as possibly leading him to change his mind:

> Depending on the outcome of SALT II negotiations and our continuing assessment of Soviet ICBM programs, it may be necessary to make further short-term improvements in the U.S. ICBM posture by requesting supplemental funding to continue Minuteman III production.

Now, Mr. President, during the debate on the procurement authorization, I repeatedly asked whether there was new information—on SALT or Soviet ICBM programs—that would invoke the Secretary's conditions. I received no response; no one was prepared to cite evidence on this basis for the administration's budget amendment. In fact, in its letter supporting the budget amendment, the administration even had to misquote Secretary Rumsfeld to provide even partial justification, changing his outcome of the SALT II negotiations, to their pace.

Mr. President, if there were a real strategic threat to this Nation that required building these 60 Minuteman III missiles—or even having them in the warehouse—then I would be the first Senator to stand up here and support that program. But I have heard no evidence, here or elsewhere, to support going forward; and I can see a wide range of areas, like the submarine-based deterrent, where any extra needed funds could be better spent than on the Minuteman III.

Mr. President, since the Minuteman III program was begun we have bought 754 missiles. Of those, 550 are deployed, 17 are retained as spares, 61 have been tested and another 126 remain to be used for testing if we so desire. In fact, at the testing rate of seven a year, that inventory is sufficient to last through 1994.

Defense Department witnesses have testified conservatively that the existing inventory is sufficient to last through 1988.

Each year, we are told that no more will be purchased. And I want to emphasize that we were told this even before the first SALT agreement in 1972. There was no condition or hedge when, on February 18, 1972, the former chairman of the Appropriations Committee asked General Glasser:

> Chairman ELLENDER. The request includes $11.3 million for advance procurement to support the planned buy of this missile in fiscal year 1974.
>
> As I read the data sheet, the fiscal year 1974 buy will complete this missile productions program. An I correct about this?
>
> General GLASSER. Yes sir: That is correct.

Then came fiscal year 1974 and Secretary Richardson submitted the following statement:

> There has been much uncertainty generated over Soviet intentions by their several new missile programs. We hope this uncertainty will be reduced during the coming year. Even if it is not, we must decide this year whether or not to continue the MIRVing of Minuteman, since the cost of maintaining the option through fiscal year 1975 would be very high.

And it was exceedingly high. By last year, $593 million had been spent in sums beyond those needed to deploy 550 missiles. Then for fiscal year 1976, another $203 million was requested and obtained, even though it went against the previous year's testimony.

For during the previous year, Lt. Gen. William J. Evans, Deputy Chief of Staff—Research and Development—for the Air Force then, was asked:

> You stated that the current number that you have approved would provide tests assets through 1984?
>
> General EVANS. That is correct.
>
> Mr. LYNCH. Last year, in our Congressional Data Sheet, there was no intention to buy more Minuteman III missiles for any reason, test or otherwise . . .
>
> Is fiscal year 1976 the last year that you intended to buy Minuteman III missiles?
>
> General EVANS. As you know, we have no

> long lead money in the 1976 request, and, therefore, there are no plans at the present time to continue the production of the Minuteman beyond 1976. . .

So once again, we were told that no further unnecessary and costly expenditures would take place. And that was the Department of Defense's initial position this year; until April 27, that is, when the administration submitted its supplemental request for spending another $322 million, raising the amount of money we have wasted in purchasing missiles to sit in the warehouse from $800 million to over $1 billion.

It simply does not make any sense to take that action at this time.

And I would note that we are leaving substantial sums within the budget to assist in maintaining certain aspects of the production line open through February 1.

We are not touching the $40 million in prior year appropriations which has not yet been expended. Nor are we touching the $40 million available for purchasing spare parts or for closing out the line if that is necessary.

Between June and September 30, not one missile will come from the production line, yet it will remain open on the $40 million in funds reprogramed. Not 5 missiles a month, which the Department claims is the minimum production level, not one a month, but none a month. In fact, the first missile from last year's funding of 56 missiles will not be delivered until November 1976, 4 months from now, and the last will not be delivered until September 1977. So the line is not closed. Nor will it be generally closed until September 1977, even if we did nothing.

We are permitting not only the $80 million I have mentioned, but we are also not touching appropriations for the Minuteman guidance system and warheads improvements, some $102 million, contained within the research and development provisions of this bill, and which involve many of the same contractors as would be involved in actually producing more Minuteman III's.

All that we are deferring is the $274.5 million for the actual procurement of the additional 60 Minuteman missiles with their warheads. And we are only deferring that to February 1, 1977, so that the administration inaugurated on January 20 can make a new decision.

And I should add that even if we spent no new money, a substantial portion of the Minuteman III production line, involving various contractors, would still operate through September 1977, I repeat, September 1977, which according to General Slay is when the last of last year's funded Minuteman III missiles would be delivered.

So what we are doing now is asking that we not commit ourselves to spending $274.5 million more before we see the results of the Strategic Arms Limitations Talks, and before we give the administration that takes office next January a chance to examine a request that was of such questionable priority that it was not even in the initial budget submitted by the administration last January.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. McCLELLAN. Mr. President, I yield 5 minutes to the Senator from Utah (Mr. GARN).

Mr. GARN. Mr. President, I do not intend to take very long on this subject. It is one that we debated at great length several months ago on the authorization bill. Many of the arguments of the distinguished Senator from Massachusetts which he makes now were made at that time. I do not intend to go back item by item and try to refute them. What he does say is true, that many of the objections we had at that time have been removed. This amendment is not as objectionable to me as that in the authorization bill to eliminate it completely.

But I think a few facts remain the same. We only have one production line still in existence. The Soviets still continue to have four. For us to make unilateral decisions for even to eliminate or to delay until next February, I do not think make a great deal of sense when the Russians show their unwillingness to slow down any of their four production lines.

Just last Friday, July 30, there was a Reuters news story report that the U.S.S.R. is deploying MIRV missiles in Eastern Europe. The story put it:

> High U.S. officials said the action contradicted the spirit of the 1974 Helsinki agreement on European security.

In face of this kind of action by the Soviet Union, it seems to me foolish for us to consider delaying, let alone eliminating, the only missile system still in production in the United States. We should be rather upgrading it as fast as we can. Retention of all the Minuteman funds gives us the most flexibility to do that.

The Mark 12–A warhead which is included in this funding, will continue to maintain our MIRV superiority, and will act as an advance on the next generation of missiles, the MX. The Mark 12–A is designed to be used with the MX, and we should press ahead now with production money for this system.

A great deal is made of the Vladivostok agreements. I point out now, as I did last spring, that the Vladivostok agreements are not binding. They have not been approved by the Senate of the United States. They are merely numbers at this time. We continue to guess on what is going to happen in SALT. The Russians have made no sincere attempt at this time to come to any agreement. They drag on.

I think, contrary to the distinguished Senator from Massachusetts, that it does give us a bargaining chip to push ahead as rapidly as possible.

We are constantly talking about programs that the Senate will not kill, but let us delay until after the presidential election.

I think that is part of the argument. Let us see if Jimmy Carter gets elected and then maybe we will have more chance of killing these programs.

I think many of the proponents of this amendment feel that way.

We have done it with the B–1. Now we are talking about doing it here.

I point out, the House of Representatives defeated an item to eliminate funding for Minuteman earlier this year when it considered this same bill.

As a matter of fact, in the House there was so little support for this amendment to delay or eliminate funding that the House did not even have a rollcall vote on it. There was not enough in favor of it to bring it to a rollcall vote.

So hopefully we will defeat it here in the Senate. If we do not, I am sure it will be taken out by the House, if they could not muster a rollcall vote.

I think the aim of the proponents is to get at the warhead eventually, not the missile itself. I think they have chosen this because they are aware the warhead has more support than the missile.

On the vote for consideration of the authorization bill, they have no chance of defeating the warhead directly. Now, I think it is a backdoor attempt to delay until February and then hopefully kill, if there is a new administration.

So I suggest the Senate look at the need for continuing this one production line. Just because now we are softening the amendment, not to eliminate it, but delay until next year, I believe the ultimate aim is to kill it completely.

So I stand and oppose this amendment as vociferously as I did the appropriation in the authorization bill several months ago.

Mr. MOSS. Will the Senator yield to me?

Mr. McCLELLAN. I yield 8 minutes to the distinguished Senator from Utah.

Mr. MOSS. I thank the Senator.

Mr. President, I oppose the amendment introduced by Senator KENNEDY that would halt the production of the Minuteman missile.

My reasons are not new because this amendment is not new. The circumstances giving rise to my concern over elimination of the Minuteman program have not changed substantially since I first opposed any cutbacks in this defense system. My reasons can be stated simply.

First, if funding for the Minuteman line is halted until February 1, 1977, we will no longer have a source of land-based ICBM's for several years to come. The Minuteman is the only land-based ICBM currently in production in the United States that is immediately deployable and operational in case of emergency. The MX, our advanced ICBM, will not be available until 1985. And we are just now funding the beginning of our Trident missile program. In other words, we will not be able to respond to a Soviet buildup of missiles in the near future.

Second, without a Salt II agreement in sight, we face a period in which there will be no incentive for the Soviets to limit their ICBM production. We thought we were close to an agreement earlier in the year, but the situation has deteriorated.

The Soviets have four new ICBM programs and two new submarine-launched ballistic missile programs. When the period of the Salt I agreement terminates in fiscal year 1977, the international legal restraints on enlargement of their ICBM force will be removed.

And with our Minuteman line disassembled, they need not fear matching escalation from us.

Therefore, the only prudent course of action, it seems to me, is to continue our Minuteman production line. To do less, would subject our defense posture to unnecessary risks.

The Senator from Massachusetts proposes that none of the funds appropriated may be used prior to February 1, 1977, for procurement of Minuteman III ICBM's. Senator Kennedy offered an amendment during the debate on the military authorization to delete all funding for the Minuteman and it was soundly defeated. It seems clear to me that the amendment offered today is yet another attempt to stop the Minuteman III program.

The Senator knows that if funding for Minuteman is delayed until February 1, 1977, there will be extensive startup costs involved to get the production line going again. In fact, it is my understanding that delaying production until February 1, 1977, will result in additional costs of $72 million and all that we will gain from this expenditure is delay. If the objective of this amendment is to give the new President an opportunity to review this program, then it would seem the amendment is entirely unnecessary. After all, there are means for the President to stop the production of the Minuteman III if he should decide that that is in the best interests of the country.

Finally, I say let the Congress decide now if the United States should have a readily available source of ICBM's in the next several years. This amendment attempts to pass the Congress' responsibility to the administration.

The Minuteman line is our only land-based ICBM system available for deployment and operation until at least 1985.

The Soviets currently have four ICBM systems in production and two new submarine-launched ballistic missiles systems.

Any effort to only partially fund the Minuteman system is really a guise to kill the program.

Let the Congress decide if the United States should have a readily available source of ICBM's in the next several years instead of passing our responsibility on to the administration.

I thank the chairman for yielding to me.

I feel very strongly about this. We debated it very thoroughly in the authorization bill. I do not think the situation has changed at all since then.

Mr. McCLELLAN. I yield to the Senator from North Dakota for 3 minutes.

Mr. YOUNG. Mr. President, I would like to read a part of the reasons presented to the Senate Appropriations Committee by the Air Force opposing this amendment.

The Air Force has stated that:

> Depending upon SALT II negotiation and continuing national assessment of Soviet ICBM programs, it may be necessary to deploy additional Minuteman IIIs. The smallest deployment quantity is 50 for an additional squadron. Production at the minimum rate of 5 per month will yield 20 missiles through January and 30 missiles through March. Such an amendment would require that the 8 associate contractors and approximately 30,000 vendors agree to uneconomical and short production runs. It is not possible to assess the complete impact of this action until final contract negotiations are complete. Small purchases of this nature will result in increased costs.
>
> Continuing assessment of Soviet strategic capability and the pace of SALT negotiations dictate the need to maintain an option to continue MM III production. Accordingly, a fiscal year 1977 budget amendment, submitted to the Congress in April 1976, provides for a 60 missile buy at a rate of 5 per month and initial procurement of the MK 12A reentry vehicle. It is anticipated that a decision regarding production will be made by September 1976.
>
> Continued production, at a rate of 5 per month, maintains our country's only strategic missile system production line and leaves open the option to deploy additional MM IIIs. At the same time, the Soviets maintain 4 strategic missile systems in production. Should it be in the national interest, a decision could be made to deploy a squadron of 50 missiles in exchange for older MM II missiles. Since a squadron is the smallest integral unit within the MM force, a production quantity of 60, which includes operational test and spares, is essential to maintain this option. Deployment of this MM III squadron can be accomplished within the limits of the 1320 Vladivostok MIRV ceiling. Such a deployment would provide an increase in strategic capability aimed at persuading the Soviets to restrain strategic initiatives. The hardware and industrial base could be used effectively to upgrade our aging MM II force in the event that deployment is not required.
>
> Should the Congress elect to reduce the proposed 60 missile buy to a lesser quantity, several factors must be considered:
>
> a. A minimum of 60 missiles should be procured to protect a deployment option.
>
> b. A production quantity of less than 60 missiles at the minimum feasible production rate of 5 per month will result in increased unit price and early termination of MM III production capability.
>
> c. The MM III industrial base would therefore not be available to upgrade the MM II force.
>
> Based on these factors, it is both reasonable and prudent to make this additional investment in our future security.

Mr. THURMOND. Mr. President, will the Senator yield?

Mr. McCLELLAN. I yield 3 minutes to the Senator.

The PRESIDING OFFICER. (Mr. Stone). The Senator from South Carolina.

Mr. THURMOND. Mr. President, I rise in opposition to this amendment.

In 1975, the United States considered halting Minuteman production/deployment in the hopes that it would influence Soviets to reciprocate through SALT. But it was recognized that an option to continue might be required.

Since then, the Soviets have: Continued MIRV deployment in their strategic forces. Increased international adventurism such as Angola and bases in Africa.

So SALT remains unsolved. Continued Minuteman production and deployment now is necessary.

It should not be further deplayed.

Minuteman is the only strategic missile system currently in production.

There is room within the 1,320 MIRV system Vladivostok understanding to do this even as Trident joins the fleet, and particularly as Poseidon ages.

Minuteman III deployment is modest and measured response to Soviet initiatives and maintains the option for additional incremental improvements through accuracy and yield increases.

It provides a hedge against delays in the Trident program, and maintains a uniquely skilled industrial work force.

An existing Minuteman III production line provides a technology and manufacturing base possibly applicable to the advanced M-X ICBM development program.

The Minuteman III production line provides a capability to modernize the currently deployed Minuteman II force.

Mr. President, I see no need in delaying this matter further, delaying it with a hope that some new man will be elected President when he may never be elected President. It is our duty to act. We ought to act. We ought not to delay.

Mr. KENNEDY. Mr. President, I yield myself 3 minutes.

First of all, Mr. President, I would hope that those who support this program would indicate to us whether they have an intention of actually deploying these missiles or not deploying them. As I understand, in terms of the number of MIRV launches, the Minuteman III, and 515 Poseidon missile, which totals 1,046, and then adding the Trident missile production figure we come to 1,310 MIRV launches and the Vladivostok agreement limitation is 1,320.

If we are going to deploy all of these at the outset, we ought to know now whether or not this will violate the Vladivostok agreement. If it does we will have to start phasing out the missiles, the Poseidons and bombers and all the rest. I think we are entitled to know the attitude of those who support this amendment on that particular issue. It has broad implications.

Second, Mr. President, related to that issue in terms of the deployment, we now know that 550 Minuteman III missiles are deployed, 17 are retained as spares, 61 have been tested, and another 126 remain to be used for testing if we so desire. In fact, at the testing rate of seven a year, this inventory is sufficient to last through 1994.

That is why we cannot have it both ways. Either we are going to deploy them, and if we are going to deploy them tell the Senate this afternoon where we are going to cut back in terms of Trident, in terms of the bombers, in terms of other missiles. Or, if we are going to put them into the warehouse, how can we justify such an inventory of that particular nature.

The third part is, after listening to my colleagues talking about the production line, the fact of the matter is we have two production lines. We are going into the Trident production line with an appropriation of $489 million for the purchase of missiles this year. So we will have this production line in addition to the Minuteman III production line.

The Deputy Joint Chief said, in his appearance before the Appropriations Committee on this particular missile procurement, that the fiscal year 1977 budget request marks the first fiscal year since fiscal year 1955 that funds have not been requested for the procurement of the intercontinental ballistic missile. The fiscal year 1976 missile purchase will be delivered in September of 1977. After that date the Minuteman production line will be closed down.

Yet, the fiscal year 1976 appropriation for the missile will permit production until September 1977. So we have a continuation of the production line that many are so concerned about. And we have a new production line with regard to the Trident as well. These missiles that may be purchased in fiscal year 1976 will not even be completely delivered until September next year.

If we find that this production is going to be essential or necessary, based upon what progress has been made in SALT, the moneys are going to be there in terms of this particular amendment and the new President will be able to provide the justification to the Congress when he makes his recommendation on the next Defense budget.

Mr. HUMPHREY. Will the Senator yield?

Mr. KENNEDY. I yield.

Mr. HUMPHREY. When did we find out that we needed these additional missiles? Is it not a fact that we discovered our strategic security imbalance in the Texas primary? Is that when we discovered it?

Mr. KENNEDY. I suppose this important announcement was made 3 days prior to the Texas primary.

Mr. HUMPHREY. And these are "unguided" missiles, so far as I am concerned. [Laughter.]

The Senator has brought before us not once, but twice, because we fought this out on the authorization bill, that this runs over $300 million. Am I correct?

Mr. KENNEDY. It is $275 million.

Mr. HUMPHREY. The original request was over $300 million.

Mr. KENNEDY. The Senator is correct.

Mr. HUMPHREY. Now it is $275 million. We had a veto not long ago of a work bill that would put somebody to work and we had to override that. We have missiles and we do not know where to store them. Am I correct that there is a number in the warehouse already?

Mr. KENNEDY. At the present use for testing we have them in inventory until 1994.

Mr. HUMPHREY. And the Senator has brought out the fact——

The PRESIDING OFFICER (Mr. THURMOND). The Senator's 2 minutes have expired.

Mr. HUMPHREY. The Senator brought out the fact about the Vladivostok agreement, heralded as one of the most important arms control measures, would be violated if these missiles were deployed.

Mr. KENNEDY. The Senator is correct. It would seem to me if we are going to justify the new purchase, we should indicate whether they are justifiable in terms of deployment, and, if they are going to be deployed, what weapons systems will be taken out of deployment.

Second, if they are going to just mothball them in warehouses, what is the justification for that?

Mr. HUMPHREY. The Senator is asking that this be delayed; is that correct?

Mr. KENNEDY. The Senator is correct.

Mr. HUMPHREY. It is not to abandon it but to have a chance for another look. There is an election coming up and I hope and pray this election is something more than a beauty contest. I hope we will review national policy. There is nothing more fundamental to this country than security policy. I have just presented to the public a survey that was made of the sale and shipment of our arms to Iran that had no relationship to national security policy. I see that we are again going down the road of adding more and more on a heavy defense budget without the real requirement of our security being fulfilled. Security is not being jeopardized if we hold back on these missiles until February; is it?

Mr. KENNEDY. Absolutely not.

Mr. HUMPHREY. Is there any missile that will be produced between now and February that will make the balance come our way instead of go the Russian way?

Mr. KENNEDY. On this very point, Secretary of Defense Rumsfeld said that they would not make any additional request unless there was going to be an adverse result in SALT, and then they would come back and report to the Congress. Those who support this request can show no statement either by the Secretary of Defense or the President which would warrant any such justification.

Mr. HUMPHREY. What the Senator is saying is that it is time to review this very carefully; that there may very well be a new President and a new Secretary of Defense; that the overall national security policy will be up for major review and we ought not to be committing ourselves to better than a quarter billion dollars of additional expenditures for a nonproductive item called a missile when we have missiles that we do not know what to do with. We spent billions of dollars on an ABM system. They are trying to find out now whether or not they can use the radar screen to discover grasshoppers. That is about what it is good for in North Dakota right now.

Mr. GARN. Will the Senator yield for a question?

Mr. KENNEDY. How much time remains?

The PRESIDING OFFICER. The Senator's time has expired.

Mr. KENNEDY. How much time remains on the amendment?

The PRESIDING OFFICER. The Senator from Massachusetts has 7 minutes.

Mr. KENNEDY. And the other side?

The PRESIDING OFFICER. The Senator from Arkansas has 18 minutes.

Mr. McCLELLAN. I yield 2 minutes to the distinguished Senator from Utah.

Mr. MOSS. Mr. President, I enjoyed the exchange between the Senator from Minnesota and the Senator from Massachusetts making fun of the number of missiles we have.

We are not talking about the missiles we have. We are talking about the missile line. We have only one line left which is producing missiles now. It is true they are going to try to get one started up for the Trident, but that is not in being yet. It will take some time to establish it. This line, if it is completely dispersed, will cost $300 million to reestablish and take as much as 42 months. The Soviets have four lines in operation. While we are still in SALT and while we are trying to get agreement, we better keep a capability to produce these missiles.

Now, you say, "Where are they going to put them?" No, we are not going to deploy them in violation of any SALT agreement, and that would not come into play, anyway, until the mid-1980's.

What we will do with these missiles is put them in storage, keep them for testing, keep them for replacing Minuteman II's, because these missiles are Minuteman III's that we are talking about.

Mr. HUMPHREY. Mr. President, will the Senator yield?

Mr. MOSS. I yield to the Senator from Minnesota.

Mr. HUMPHREY. I know the Senator from Utah is extremely well qualified in this area, and I respect him greatly. But is it not a fact that we have missiles now in storage for testing, that will go on for years?

Mr. MOSS. Well, for testing at the rate of one a month, or whatever it is.

Mr. HUMPHREY. Well, whatever it is, we felt the rate was adequate.

Second, is is not true that the production line is in operation until 1977?

Mr. MOSS. But if we see something amiss, and we say, "Oh, we need to deal with that," when the line is gone, we cannot reestablish it on short notice.

Mr. McCLELLAN. Mr. President, I yield 2 minutes to the junior Senator from Utah.

Mr. GARN. Mr. President, the Senator from Minnesota made a comment that I would like to follow up, that this is a seasonal request made 3 days prior to the Texas primary, indicating that was when this request for funds started.

Mr. President, I think that is a political shot at the President. I think the Senator should be aware that, when I heard, on presentation of the budget, that this was not included, at that time I wrote a letter to the President requesting that these funds be included. The chairman of the Armed Services Committee will state that in February I talked to him personally about these funds being included.

The Armed Services Committees in both the House and the Senate started working on this, and there were requests that this be done in opposition to the President of the United States, who happens to be a member of my party.

There are a number of Senators in this body, including the senior Senator from Utah as well as myself, who have worked on this for a long, long time, both Democrats and Republicans, prior to the Texas primary. We are happy that the President finally came around, because I disagreed with his position in his initial budget not to include these funds. So let us not have that part of the argument.

We have argued this two or three times here on this floor. I think it is totally unimportant when the request from the President came, because attempts were being made in this body to have the funds reinstated before the President requested it.

Mr. McCLELLAN. Mr. President, I yield 3 minutes to the distinguished Senator from Mississippi.

Mr. STENNIS. Mr. President, this matter has nothing to do with the ABM, but I think what we did with the ABM was helpful in getting some agreement.

This request came in, and our Armed Services Committee considered it, and we decided. I cannot recall the rollcall vote, but I think it was almost unanimous. I know I made the motion that "this is something that we hope will never have to be used, but we cannot let this time just drag by without anything being done; let us put the money in here and tie it down." And that language is in effect today—tie it down so that it can be used for this purpose and this purpose only.

As I say, the sole question here now is, Will it be to our advantage, after having made a start, now to stop? Can we wait to see how the election comes out, and then wait a little more? We already have had that question up on another portion of the three-legged triad. If we pass this, we will have two of them restricted, everything except the Trident.

I do not let much the Soviets do frighten me, but we cannot close our eyes to the fact that they are not losing time stopping and starting. They are moving along with four missile lines going now. Four. So I just hope we do not take 1 year out of every 4 for stops and starts and waits and sees, so that our adversaries can say to themselves, "Let's wait 4 years here, and we will bust them up again, and keep them waiting on the sidelines."

I think the only direction now is to go full speed ahead with this item. If we vote it in here, the law is already fixed that they cannot use it, transfer it, or reprogram it for any other purpose.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. KENNEDY. Mr. President, I yield myself 2 minutes and direct a specific question to the chairman of the Appropriations Committee. I send to the desk a document made available to the committee by Major General Blanton, the director of the budget for the U.S. Air Force, that points out that for fiscal year 1976 procurement, the delivery dates start in December 1976 and go through September of the following year.

I will say to the chairman of the Appropriations Committee, when such an argument has been made by the Senators from Utah and others about the production schedule, we ought to have this point clear. I personally think it is extremely clear, but if the Senator will look at the next page on that particular document, would he also not agree with me that under this schedule production continues through 1976, until September of next year? I mean, we should resolve this particular issue, which was an issue during the course of our last debate. Production is going to continue in fiscal year 1976 which will give the President the opportunity to make recommendations in February of next year.

Am I not correct that according to General Blanton, production as shown by this document will continue in fiscal year 1976 through September of next year?

Mr. McCLELLAN. Mr. President, I am happy to yield myself 1 minute to answer. The answer is, quoting from the document:

> The $40.0 million approved by the Congress for Advance Procurement has been obligated and keeps vendors active through September 1976.

Then it further says:

> There is an early October requirement to obligate funds for the FY 1977 production to avoid a delivery break.

So if you take his word in one instance, I assume we would want to take it in another.

> The Air Force has reached the limits of its ability to further compress the lead time beyond the current 16 months.

Mr. President, I take his word on both counts.

Mr. KENNEDY. Well, is not the chart on that following page an addendum? I will make it a part of my statement in the Record. It clearly shows five missiles in December, five in January, February, March, April, and all the way through September of next year.

The PRESIDING OFFICER (Mr. Culver). The Senator's 2 minutes have expired.

Mr. KENNEDY. On that particular issue, I wish to make this document part of the Record.

Mr. McCLELLAN. Mr. President, I ask unanimous consent to place the whole document in the Record.

There being no objection, the document was ordered to be printed in the Record, as follows:

> Q. What did the Air Force do to make it possible to compress MM III lead time from 24 months to the 16 month lead time necessary to continue missile production without a delivery gap after delivery of the last FY 76 funded missile in Sept. 76?
>
> A. During consideration of the FY 1976 reprogramming contractors were asked to defer long lead orders with vendors as long as possible while avoiding requalification costs. Key vendors were retained through the placement of minimum orders for spares requirements. In every case lead times were compressed to the extent possible. In-plant production schedules were adjusted to avoid a break between FY 76 and FY 77 production.
>
> The $40.0 million approved by the Congress for Advance Procurement has been obligated and keeps vendors active through September 1976. There is an early October requirement to obligate funds for the FY 1977 production to avoid a delivery break. The Air Force has reached the limits of its ability to further compress the lead time beyond the current 16 months. Lead times considered for an FY 1978 procurement are estimated to be 24 months to preserve vendor production capability.

The PRESIDING OFFICER. Who yields time?

Mr. McCLELLAN. Does anyone else want more time?

Mr. KENNEDY. Could the Senator respond to the question whether DOD is going to deploy them or put them in inventory?

Mr. McCLELLAN. The Senator has the same ability as I to get that information. I did not know he was going to ask the question, and I cannot answer that. But I assume they will not deploy them as long as the SALT talks are underway. I would certainly assume that. But as long as the SALT talks are underway I would also assume it is not very much in our interest to start retreating before we get an agreement with Russia.

Mr. HUMPHREY. Mr. President, will the Senator yield at that point?

Mr. McCLELLAN. I do not think you get results retreating in an argument, a battle, a controversy, or a contention like we have with the Soviet Union.

The PRESIDING OFFICER. If the Senator from Arkansas will withhold, this is on his time.

Mr. McCLELLAN. I spoke on my time. Whatever I said I said on my time, in order to give more time to the distinguished Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I yield the Senator from Minnesota 2 minutes.

Mr. HUMPHREY. Mr. President, it is important that when you deal with the Soviet Union, as we have put it many times, you deal from strength. But I might suggest that the SALT II talks were started and underway at the time the President presented his budget for fiscal 1977 to the Congress of the United States. They knew exactly what they wanted at that time, because they were in the SALT talks at the same time as the budget was presented. So it is not as if, somehow, they discovered afterward that we had to have more strength or be able to show more trump cards with the Soviet Union.

Mr. McCLELLAN. Mr. President, will the Senator yield at that point?

Mr. HUMPHREY. I yield.

Mr. McCLELLAN. Has it not been demonstrated to all of us that although the talks were underway at that time, no substantial progress has been made?

Mr. HUMPHREY. That is very disappointing.

Mr. McCLELLAN. Why not begin to take some action?

Mr. HUMPHREY. Very disappointing.

I think one of the reasons progress has not been made is we have been very busily engaged here at home in a number of other activities, as well as the Soviet Union having its own difficulties in its political setup.

My point is that there is no weakness in the missile structure of the U.S. national security. My point is, regardless of what has been said from the other side of the aisle, the request for this additional funding came down at a very interesting time in the American political arena, as did the request for $1,174,000,000 of additional funds for the U.S. Navy on May 10, 1974, after an original budget had been presented.

My point is that someone should have known something about our defense needs without having to wait until May before they had to ask for a supplemental.

Mr. President, we have 450 Minuteman II, 500 Minuteman III, 656 submarine missiles of the Polaris and Poseidon type, 54 Tridents, and 497 strategic bombers. I say that this is a reasonably good negotiating position, and I do not believe one can make the argument for these additional missiles on the basis that SALT II talks will either succeed or fail on the basis of whether or not we have these additional missiles.

I think the question is whether we need them at all, and I think that question ought to be resolved. I believe the Senator from Massachusetts has made it very clear that there is no answer here as to whether or not these missiles will be deployed or when they will be deployed.

I think he has made it clear that there are still enough missiles in our inventory for testing. Am I correct? That is for testing until 1994?

Mr. KENNEDY. The Senator is correct.

Mr. HUMPHREY. At the present rate, I think the Senator from Massachusetts has made it clear that the production line does not fall down, that it will be producing on a regularized schedule up until September 1977.

My question then is: Do we want to spend $275 million more for missiles that there is no demonstrable proof that we need? That is the issue.

Mr. RIBICOFF assumed the chair.

Mr. CULVER. Mr. President, will the Senator yield?

Mr. KENNEDY. I yield.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. KENNEDY. How much time do I have remaining?

The PRESIDING OFFICER. The Senator has 3 minutes remaining.

Mr. KENNEDY. I yield 3 minutes to the Senator from Iowa.

Mr. CULVER. I appreciate the Senator yielding.

I wish to advise Senators on the occasion of the administration coming forward with this supplemental defense budget request, both in terms of the Minuteman request as well as the naval request. I made it a point to raise the question with the Secretary of Defense as to whether or not between the time of the original budget submission in January and the subsequent supplemental, in fact, there had been any change or alteration in the nature and character of the Soviet threat, either real or perceived. And this administration said there was none, there was no change. There was a great deal of talk and general reference to the fact that there are continuing ongoing assessments and reassessments, but they did not turn to any specific enhancement in the character of the international threat as posed by the Soviet Union in order to justify these new shipbuilding and missile requests.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. McCLELLAN. How much time do I have remaining, Mr. President?

The PRESIDING OFFICER. The Senator has 10 minutes remaining.

Mr. McCLELLAN. I yield the Senator 1 minute.

Mr. GARN. Mr. President, based on the argument that the Senator from Utah heard now, it sounds as if we should go back and cancel it as we tried to do in the authorization process.

I shall ask the Senator from Massachusetts: Is that his intent, to delay, to get back to his original position and hope that it is canceled?

Mr. KENNEDY. This amendment is only a deferral. That is the only purpose of this particular amendment.

This amendment is quite clear in terms of retaining the research and development aspect of the Minuteman program; it is clear in terms of the hardening site program; and it continues with the budget request that was made for fiscal year 1976. We are only talking about deferral.

Mr. GARN. I understand that is the intent of this amendment now, but the arguments I am hearing again sound more as those opposing this would wish it were a vote on cancelling it totally.

Also, as to the point about the President and his budget message, I already reiterated that some of us were upset originally. I believe one will find in the budget message at that time he said without sufficient progress in SALT II, Congress was to expect a supplemental.

So again as to the timing, whatever we wish to think of it, there was a warning that if SALT did not proceed, which it has not, there would be a request for a supplemental appropriation.

Mr. McCLELLAN. Mr. President, I yield myself 3 minutes.

Mr. President, this is in response to a budget amendment.

The budget amendment was considered, as was the authorization by the Committee on Armed Services, reported to the Chamber, debated, and we had a rollcall vote on it, and it was authorized there in the House of Representatives. And the House of Representatives supported the Senate's position.

Mr. President, the Senate has approved it, the House of Representatives has approved the authorization, the President has requested funding, and the House of Representatives has approved funding. Now it is up to the Senate. The Committee on Appropriations has recommended funding. A proposal now to postpone it, according to the Air Force authorities, if it is postponed, I shall read what they say in the statement today:

> The proposed use of these funds in this amendment would not preserve the Minuteman production capability and would gap the Minuteman production line. The estimated cost to reestablish this critical national asset, eight associate contractors and 40,000 vendors, could be as much as $300 million, and would require 42 months to reconstitute this capability. At this point in time long lead materials have been procured to support a missile buy in fiscal 1977.

If the Senate wishes to cut the line out, that is what this will do, at least for 3 or 4 months; if that line is stopped, it is going to take some 16 months to get it reinstated, and back in production at a cost of about $300 million.

We save nothing, if that is going to be the consequence of it. I do not know. I am no expert. But the President requested it, Congress authorized it, subsequent to sending it down in his original budget, he submitted the amendment. I do not know whether it was the day before election or the day after. I think that matters very little when the security and safety of our country and the wise policies toward national security are involved. It is either wise to do it or it is unwise to do it and political sentiment, partywise, or otherwise to the contrary. We ought to do it on the basis that it is right and best for our country. Forget about politics on both sides of the issue.

Mr. HUMPHREY. Mr. President, will the Senator yield to me?

Mr. McCLELLAN. I am glad to yield to the Senator.

The PRESIDING OFFICER (Mr. CULVER). The Senator's 2 minutes have expired.

Mr. HUMPHREY. Does the Senator have any additional time?

Mr. McCLELLAN. Mr. President, I yield the Senator the remaining time.

Mr. HUMPHREY. Mr. President, I say to the Senator that I am not looking at this as a partisan issue to Senators on both sides of the aisle. If there is any politics in it, may I say, my judgment is, and I speak only for myself, that the dateline of the supplemental budget request is much more relevant to politics than anything I have said here in the Chamber. I have always said if it looks like a duck, walks like a duck, and quacks like a duck, it is most likely a duck.

And I just simply say that there is a certain amount of relevant information here.

The point is, will this production line be stopped if the Kennedy amendment is adopted? That is the issue, and I think we ought to have an answer. Are we in danger of stopping that production line? If we are, then we ought not to vote for Mr. KENNEDY's amendment. I agree with that. But, as Senator KENNEDY says, the production line will be in operation until September 1977 under the current schedule.

My point is, is there any information that says that production line will be jeopardized by the Kennedy amendment which would delay this proposition of the additional missiles until February 1977? I think that is the question.

Mr. McCLELLAN. If I may answer that, I say that the answer is in the statement I have read from the Defense Department. Which is correct, I do not know.

Mr. HUMPHREY. I say most respectfully to the Senator that if the production line is going to continue to 1977—and I heard what the Senator read from the Air Force—then the Air Force had better get together with whoever else has put testimony in the record that we have here, which the Senator from Massachusetts has given to us.

I see the delivery schedule here, and I gather that this is from the Air Force. The delivery schedule shows each of the months, five missiles per month, taking us up through September of 1977.

This is very serious business. I say right now that if somebody can deliver to me the evidence that this production line is going to be cut off because of the Kennedy amendment, I will vote against Mr. KENNEDY. I think the Senator from Massachusetts has as good a case on this as we had on the B–1; namely, that we should review it in light of what may be an overall national security policy review; because this country is not in mortal jeopardy if we happen not to put these additional missiles in this production. Not a thing has happened internationally, as was testified here a moment ago, that has upset these plans.

Mr. McCLELLAN. I yield 1 minute to the distinguished Senator from Utah.

Mr. MOSS. I thank the Senator from Arkansas.

I say to the Senator from Minnesota that he presumes that this line will just go right up to the end of whatever the period is—1977—and then suddenly stop, and that day everybody will walk away. The testimony of the Air Force is that it is going to start drying up in October of this year and it then will go down. Besides, if only $40 million is there and nothing beyond, then it may never get a new start. Therefore, the amount that will be involved, this startup business of $300 million, will be confronting us.

I say that if it is important for us to have a line while we continue our talks in SALT, we had better keep that line available at the minimum amount of five missiles that they can turn out each month.

Mr. HUMPHREY. I say to the Senator from Utah, for whom I have the highest regard, that this is the procurement schedule starting in December 1976: Five per month, right up through September of 1977. That means that the production line is on a continuous basis of five missiles per month, which will require the same amount of equipment and the same amount of manpower for the delivery schedule. I assume that somewhere in between, we will have decided whether we need the additional missiles or not.

I think the Senator from Arkansas makes a very good case, in this sense: The House of Representatives has acted; the authorization committee did act. I understand that. There are strong feelings around here about these matters. Not that we want to limit our security, because there is no security limitation.

Mr. McCLELLAN. Mr. President, I yielded 1 minute.

The PRESIDING OFFICER. The Senator's 1 minute has expired.

Mr. McCLELLAN. Do I have any time remaining?

The PRESIDING OFFICER. The Senator has 2 minutes.

Mr. McCLELLAN. I yield the Senator 1 minute of that time.

Mr. HUMPHREY. I do not want any more time.

Mr. KENNEDY. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. McCLELLAN. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Massachusetts. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Texas (Mr. BENTSEN), the Senator from Hawaii (Mr. INOUYE), the Senator from South Dakota (Mr. McGOVERN), the Senator from Minnesota (Mr. MONDALE), the Senator from California (Mr. TUNNEY), and the Senator from Missouri (Mr. SYMINGTON) are necessarily absent.

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BROCK), and the Senator from Nebraska (Mr. CURTIS) are necessarily absent.

The result was announced—yeas 40, nays 52, as follows:

[Rollcall Vote No. 452 Leg.]

YEAS—40

Abourezk
Bayh
Biden
Brooke
Bumpers
Burdick
Case
Church
Clark
Cranston
Culver
Durkin
Eagleton
Gravel
Hart, Gary
Hart, Philip A.
Hartke
Haskell
Hatfield
Hathaway
Humphrey
Javits
Kennedy
Leahy
Mansfield
Mathias
Metcalf
Muskie
Nelson
Pell
Percy
Proxmire
Randolph
Ribicoff
Schweiker
Stafford
Stevenson
Stone
Weicker
Williams

NAYS—52

Allen
Baker
Bartlett
Beall
Bellmon
Buckley
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Chiles
Dole
Domenici
Eastland
Fannin
Fong
Ford
Garn
Glenn
Goldwater
Griffin
Hansen
Helms
Hollings
Hruska
Huddleston
Jackson
Johnston
Laxalt
Long
Magnuson
McClellan
McClure
McGee
McIntyre
Montoya
Morgan
Moss
Nunn
Packwood
Pastore
Pearson
Roth
Scott, Hugh
Scott, William L.
Sparkman
Stennis
Stevens
Taft
Talmadge
Thurmond
Tower
Young

NOT VOTING—8

Bentsen
Brock
Curtis
Inouye
McGovern
Mondale
Symington
Tunney

So Mr. KENNEDY's amendment was rejected.

Mr. MANSFIELD addressed the Chair.

Mr. EAGLETON. Mr. President, I am pleased to yield to the distinguished majority leader.

Mr. MANSFIELD. If I might have the attention of the Senate——

The PRESIDING OFFICER. The Senate will be in order. The Senator from Montana.

LEGISLATIVE PROGRAM

Mr. President, manpower is only one Senate knows, we are strapped pretty much for time, and if we do not finish the pending business tonight, it means it will have to go over until Monday next. Under the agreements already reached, the Senate is confined in its activities tomorrow, Wednesday, and Thursday covering the Clean Air Act and the tax bill, and on Friday we will take up the tax bill all day long.

On Monday, then, it is our hope that it would be possible to reach an agreement by means of which at a time certain on Monday next we could vote on the pending bill. It would be in our own best interests to complete work on the defense appropriation bill before we go out for the convention next week. We have to dispose of the tax bill, and if it goes over until after the convention, I do not know what the results will be, so what I am about to propose is a series of time limitations on individual amendments which, I think, have been cleared with the sponsors, the manager, and the ranking Republican member of the committee.

If the Senate will agree, we would like to stay with this bill until sometime between 7:30 and 8 o'clock this evening and complete whatever amendments we could at that time, and then on Monday next come in at 9 o'clock and complete the rest of the amendments and vote at a time certain, say, 12 o'clock noon.

TIME-LIMITATION AGREEMENT ON AMENDMENTS

With that preliminary statement, I ask unanimous consent that on the remaining two Kennedy amendments there be a time limitation of 20 minutes to be equally divided between the sponsor of the amendments and the manager of the bill.

Mr. McCLELLAN. May I ask, 20 minutes for both or 20 minutes on each?

Mr. MANSFIELD. Twenty minutes for both. It is my understanding that the committee is looking with a kindly eye on one of them.

Mr. KENNEDY. Mr. President, I would be glad to withhold one of the amendments. If the Senator will accept the one which I think he knows about, I would be willing to withhold the other.

Mr. McCLELLAN. I do not know which one the Senator is talking about.

Mr. ALLEN. Let us make that 20 minutes and I think that is the——

Mr. MANSFIELD. That is the one to reduce the operating costs of the Safeguard system.

Mr. ALLEN. Let us make that 20 minutes.

Mr. McCLELLAN. I understand we could accept that, am I correct?

Mr. KENNEDY. I thought we could accept that. It conforms to our previous agreement and if, Mr. Leader, we can accept that, I will not offer the other one.

Mr. McCLELLAN. I will accept it right now, and that will settle it as far as I am concerned. Is that satisfactory?

Mr. YOUNG. It only cuts Safeguard by a million and a half dollars.

Mr. KENNEDY. The Senator is correct.

Mr. ALLEN. I am not ready to accept it. I will state I will not call for a yea-and-nay vote.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that there be 20 minutes on each of the Kennedy amendments, the time to be equally divided in the usual manner.

Mr. McCLELLAN. I will not object. Reserving the right to object, agreed to accept one if the Senator agreed to withdraw the other.

Mr. MANSFIELD. The Senator from Alabama has raised a question which forces the leader's hand.

Mr. President, I ask unanimous consent that on the Taft amendments there be a time limitation of 40 minutes on both of them, the time to be divided between the sponsor and the manager of the bill in the usual manner. That has been cleared with the Senator from Ohio. It has been cleared on both, and the time limitation is 40 minutes on each.

Mr. PASTORE. Mr. President, will the

Senator yield? In the event there will be a yea-and-nay vote, I ask that they be confined to 10-minute votes.

Mr. MANSFIELD. That is all right with me.

Mr. President, I ask unanimous consent that the votes from now on be limited to 10 minutes.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that on the Hart amendment to reinstate service academy prep schools, that there be a time limitation of 30 minutes divided in the usual manner.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that there be 50 minutes on the Eagleton amendment on the same basis.

The PRESIDING OFFICER. Is there objection?

Mr. STENNIS. Mr. President, will the Senator yield?

Mr. MANSFIELD. I yield.

Mr. STENNIS. Reserving the right to object, and I am not expected to, will the Senator repeat the last part of his request?

Mr. MANSFIELD. Fifty minutes on the Eagleton amendment to be divided in the usual manner.

Mr. JAVITS. Mr. President, will the Senator yield before going on? I notice he has made no provision for any amendments to any of these amendments.

Mr. MANSFIELD. That is correct.

Mr. JAVITS. Is that his intention?

Mr. MANSFIELD. If I may finish these I will get to that.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that there be 60 minutes on the Hart amendment having to do with the Lance missile to be divided in the usual manner.

The PRESIDING OFFICER. Is there objection?

Mr. GRIFFIN. Mr. President, reserving the right to object, was that 60 minutes; is that right?

Mr. MANSFIELD. That is correct.

Mr. GRIFFIN. The Senator from New Hampshire (Mr. McIntyre), I know, was very interested in that amendment. Has he been consulted in connection with it, I wonder?

Mr. MANSFIELD. No, just the manager, the ranking Republican member of the committee and the sponsor of the amendment, and I am sure we can get him in in some way here.

Mr. GRIFFIN. The junior Senator from Michigan is very much interested in that amendment, as well.

Mr. MANSFIELD. I am sure he could be gotten in within the 60 minutes.

The PRESIDING OFFICER. Is there objection?

Mr. GARY HART. The Senator from Colorado may be suffering from time lapses, but I am having difficulty hearing the colloquy.

Mr. MANSFIELD. The Senator from Michigan, the acting Republican leader, indicated that the Senator from New Hampshire and he are both interested in the Lance missile, and I told them that I was sure they could find some time to make their views known.

Mr. NUNN. I too am interested in that and, reserving the right to object, I think we need a longer time limitation. This is one of the most important amendments we are going to be dealing with. It is extremely important, the basis of the NATO defense.

Mr. MANSFIELD. Ninety minutes equally divided.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. MANSFIELD. Mr. President, I understand the Hathaway amendments will be accepted by the managers of the bill. But, nevertheless, I ask that there be a time limitation of 10 minutes on both, equally divided in the usual manner.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. MANSFIELD. I understand also that the Brooke amendment will be accepted. I will ask no time for that.

I ask unanimous consent that there be a time limitation of 60 minutes on the Leahy amendment, which would delete $350 million for long time funding for a nuclear-powered aircraft carrier.

Mr. STENNIS. Mr. President, reserving the right to object, and I have been requested by the chairman of the committee to look into this matter some, I am not objecting now, but may I ask this question: Does the floor leader contemplate that that would come up tonight?

Mr. MANSFIELD. No, I rather doubt it. I think there will be others up tonight. This is something that I would——

Mr. STENNIS. I believe then, may I say to the floor leader, if he would give it just a little more time, I mean, hold it back up tonight, and then I believe I can answer. It is a far-reaching matter.

Mr. PASTORE. How much time?

Mr. MANSFIELD. Let the Senator talk it over with Mr. Leahy, and we will get together.

Mr. STENNIS. I want to cooperate. But in the interest of all, that is hardly enough time, I think, for a matter of that consequence.

Mr. MANSFIELD. Mr. President, we will hold that particular amendment in abeyance and I suggest that the Senators from Vermont and Mississippi get together immediately so that the leadership might be able to say something to the Senate this evening.

ORDER FOR CONVENING OF SENATE AT 8:30 A.M., AUGUST 9, 1976

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when the Senate meets Monday next, it convene at the hour of 8 o'clock.

The PRESIDING OFFICER. Is there objection?

Mr. McCLELLAN. I would rather meet at 8 than stay until 8.

Mr. PASTORE. Reserving the right to object——

The PRESIDING OFFICER. Is there objection?

Mr. PASTORE. Reserving the right to object——

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. PASTORE. We met early this morning and we had a live quorum.

The PRESIDING OFFICER. The Senate will be in order.

Mr. PASTORE. Until 10:45.

I think what the majority leader ought to do is make that 8:15.

Mr. MANSFIELD. May I say to the Senator from Rhode Island that there will be a number of votes next Monday, but in order to accommodate the Senator, I will change the time to 8:30 Monday next.

Mr. PASTORE. All right, that is fine. I hope we do not have a live quorum.

Mr. JAVITS. Reserving the right to object, the leader said he would take care of the amendments to amendments.

Mr. MANSFIELD. Yes.

Mr. JAVITS. In due course.

Mr. MANSFIELD. Yes.

Mr. JAVITS. All right.

Mr. MANSFIELD. Mr. President, I ask unanimous consent on amendments, motions, and appeals to any of these amendments, there be a time limitation of 20 minutes divided in the usual way and in the usual form.

The PRESIDING OFFICER. Is there objection?

Mr. McCLELLAN. Reserving the right to object, I cannot tell what amendment will be offered, and other than these, I would have to ask the leadership to let us see the amendment before we commit ourselves further.

We know what these are and I am perfectly willing.

Mr. JAVITS. As I understand it, it relates solely to those upon which we have consent.

Mr. MANSFIELD. That is correct.

Mr. JAVITS. That is all Senator McClellan is referring to.

Mr. McCLELLAN. I am not objecting to what we know about, but where some amendments are offered we do not know about and do not anticipate and do not have time to engage in debate.

The PRESIDING OFFICER. The Chair asks the Senator from New York, does it not also relate to amendments in the second degree?

Mr. JAVITS. I do not think that was the purpose of the leader. I think the leader intended to confine it to amendments to those amendments on which we have agreed to fix the time.

Mr. MANSFIELD. Yes. I will say it a little more succinctly.

Twenty minutes on my amendment to any of the amendments whose debate has been limited, provided that such amendments to amendments are germane, with the debate divided and controlled in the usual manner.

Mr. McCLELLAN. All right.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. McCLELLAN. That does include any new amendment that may come in and be offered unless it——

Mr. MANSFIELD. No, these are the amendments.

ORDER FOR VOTE ON PASSAGE OF H.R. 14262 ON MONDAY, AUGUST 9, 1976

Mr. MANSFIELD. Mr. President, I ask unanimous consent that a vote on final passage occur at the hour of 12:30 p.m. on Monday next.

The PRESIDING OFFICER. Does the Senator also ask rule XII be waived?

Mr. MANSFIELD. Yes, indeed.

The PRESIDING OFFICER. Is there objection?

Mr. GRIFFIN. Of course, that would have to assume, I take it, that the time would not be used that has been allocated because it would be very difficult to go through all those amendments and be in a position to vote by 12 o'clock.

Mr. MANSFIELD. We will be in for a couple of hours still tonight.

I would hope the Senate would understand the situation in which the leadership and the Senate finds itself and would act accordingly.

Of course, if we could not complete all amendments by 12:30, we would at that time ask for an extension.

There will be votes on amendments next Monday morning.

Mr. PASTORE. Will the Senator yield?

We have traveled this way many times before. Frankly, it is a rehash of something we have heard time and time again.

I think we are prepared for a vote and I hope the Senator from Michigan will not insist too much.

Mr. GRIFFIN. I think I will not object. I think it is conceivable we could arrive at 12 o'clock on Monday and find that there were three or four amendments with 50 or more——

Mr. MANSFIELD. Then the leadership would be bound to ask for an extension of time.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, I think it should be understood that the requests for the time periods were based on a not to exceed.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. I yield.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. EAGLETON. Mr. President, I have an amendment.

Mr. MANSFIELD. If the Senator will yield once more, Mr. President, I change that——

The PRESIDING OFFICER. The Senate will be in order.

The Senator from Missouri has the floor.

Mr. EAGLETON. I yield to the distinguished majority leader.

The PRESIDING OFFICER. The Senator from Montana.

Mr. MANSFIELD. Mr. President, I change the time from 12:30.

Mr. President, I ask unanimous consent to change the time from 12:30 for the final vote to not later than 2:30 p.m. on Monday next.

Mr. LEAHY. Reserving the right to object——

The PRESIDING OFFICER. The Senator will suspend and the Senate will be in order.

Mr. LEAHY. Just as a point of information and in between the various intricacies here, what happened to the Leahy amendment, was there a time limitation?

Mr. MANSFIELD. The Senator was requested to meet with the Senator from Mississippi to see if a reasonable time limitation could be worked out, to let the leadership know so that on that basis it could make that request and include that in it.

Mr. LEAHY. But it still will be within the order the Senator referred to?

Mr. MANSFIELD. It would be within the grouping, yes.

Mr. LEAHY. Because the Senator from Vermont is perfectly willing to limit his side to any amount of time the other side wishes.

Mr. MANSFIELD. The Senator has been most cooperative.

The PRESIDING OFFICER. Without objection, it is so ordered.

HOUR OF CONVENING ON TUESDAY, WEDNESDAY, AND THURSDAY

Mr. MANSFIELD. Mr. President, if the Senator will yield once again, I ask unanimous consent that when the Senate adjourns tonight, it meet at the hour of 9 o'clock tomorrow, that when it completes its business and adjourns tomorrow night it meet at 8 o'clock on Wednesday morning next, and that when it completes its business on Wednesday evening it stand in adjournment until the hour of 8 o'clock on Thursday morning next.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. MANSFIELD subsequently said. Mr. President, I ask unanimous consent that when the Senate completes its business this evening it stand in adjournment until the hour of 8:30 tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 283

Mr. EAGLETON. Mr. President, I have an amendment at the desk, and I yield 1 minute to the distinguished Senator from New Hampshire.

The PRESIDING OFFICER. The amendment will first be stated.

The assistant legislative clerk read as follows:

> The Senator from Missouri (Mr. EAGLETON) for himself and Mr. HATFIELD, proposes an unprinted amendment numbered 283:
>
> On page 54, between lines 13 and 14, insert a new section as follows:
>
> SEC. 753. Notwithstanding any other provision of this Act, the total funds appropriated by this Act shall not exceed $103,007,046,000.

The PRESIDING OFFICER. The Senator will suspend and the Senate will be in order. Senators will kindly retire to the cloakroom to carry on their conversations.

The Senate will be in order before we proceed.

Mr. EAGLETON addressed the Chair.

The PRESIDING OFFICER. The Senator will suspend until we have order in the Senate.

Mr. MANSFIELD addressed the Chair.

The PRESIDING OFFICER. The Senator will suspend until we have order in the Senate.

The Senator from Missouri.

Mr. EAGLETON. Mr. President, I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. EAGLETON. I yield 1 minute to the Senator from New Hampshire.

COAST GUARD AUTHORIZATIONS, 1977—CONFERENCE REPORT

Mr. DURKIN. Mr. President, I submit a report of the committee of conference on H.R. 11670, and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated by title.

The legislative clerk read as follows:

> The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 11670) to authorize appropriations for the use of the Coast Guard for the procurement of vessels and aircraft and construction of shore and offshore establishments, to authorize for the Coast Guard a year-end strength for active duty personnel, to authorize for the Coast Guard average military student loads, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the RECORD of July 28, 1976, beginning at page 24218.)

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

MAKING CORRECTIONS IN THE ENROLLMENT OF H.R. 11670

Mr. DURKIN. Mr. President, I send to the desk a concurrent resolution, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will state the concurrent resolution.

The legislative clerk read as follows:

> S. CON. RES. 133
>
> *Resolved by the Senate (the House of Representatives concurring)* That the Clerk of the House of Representatives is authorized and directed to make corrections in the enrollment of H.R. 11670 as follows:
>
> That in the second section numbered "6" change the section number to "7".
>
> That in the section numbered "7" change the section number to "8".

The PRESIDING OFFICER. The question is on agreeing to the concurrent resolution.

The concurrent resolution was agreed to.

Mr. DURKIN. I thank the Senator from Missouri.

DEPARTMENT OF DEFENSE APPROPRIATIONS, 1977

The Senate continued with the consideration of the bill (H.R. 14262) making appropriations for the Department of Defense for the fiscal year ending September 30, 1977, and for other purposes.

Mr. EAGLETON. Mr. President, the bill before the Senate contains the largest peacetime increase in defense spending in our history. It calls for a massive 15 percent increase over the amount appropriated last year. In effect, this means that at a time when other Federal programs are being dramatically cut back, we will provide 9 to 10 percent real growth for defense.

If we were to appropriate all that the President asked, the defense budget alone would account for one-quarter of all Federal spending and 70 percent of all controllable outlays. Almost 50 percent of all Federal revenues not earmarked for trust funds would go to defense.

Mr. President, what actual threat demands such an increase in the tax dollars dedicated to national security? An objective answer to this question is difficult to come by. This is especially true in a political year when the discussion of "gaps" becomes fashionable—missile gaps, ship gaps, tank gaps, and credibility gaps are the order of the day.

This Bicentennial Year was ushered in with a series of official pronouncements about increases in Soviet defense spending, about U.S. inferiority in key military areas, about the need to demonstrate American determination. The Pentagon was starting early this year—they had quickly learned the exigencies of the new budget process.

The budget request for defense went forward, therefore, in a contrived atmosphere of fear. And it called for a massive financial response to meet the described threat. We had to "send a message" to the Soviet Union and, more importantly, we were told that the American people need reassurance that the United States was not second best.

Soviet manpower strengths were grossly exaggerated by ignoring the asymmetries between the two systems. Leaked intelligence reports on Soviet airpower counted some aircraft twice, some which had been mothballed, some which had limited, defensive-only capabilities.

The Soviet Navy suddenly became a "blue-water" threat in areas far from the Soviet Union where logistical support was sorely lacking. Reports of unprecedented growth in Soviet naval power ignored the qualitative superiority and overall tonnage advantage of American ships. Trends in ship numbers put out by the Navy showed that the Soviet fleet was increasing while our was shrinking. Yet the opposite was true, as the Navy later admitted when looking at a different set of statistics.

To counter the false claims, those on the other side of the debate may have downplayed the threat. There was evidence that we had fallen behind in conventional capability in Europe, for example, yet this reality was ignored by the Pentagon's critics. There was a legitimate cause for some concern, yet it was obscured by the necessity of scoring points in the political debate.

It is clear today, in my view, that some real growth in the defense budget is warranted. It is equally clear that the Pentagon, perceiving a fertile political environment, is asking for the Moon and the stars. The cost we will all have to pay is a reduction in the overall security of this Nation—a reduction in our capacity to protect ourselves from the internal threats of stagnation, unemployment, and urban decay.

Mr. President, it has long been suspected that the defense budget request contained a "cushion" designed to protect the Defense Department from anticipated congressional reductions. In fact, the size of the needed "cushion" was easy to predict since historically Congress has cut 4 to 5 percent from peacetime budgets.

Last year, we cut $7 billion, about 6.5 percent. Yet, because inflation was not what was expected, the Defense Department got $2 billion increase in real spending power more than expected. As the Pentagon's Comptroller, Mr. Terence McClary, candidly stated before the House Appropriations Committee—

> We overestimated inflation. It was that . . . which caused our budget to be repriced in real terms by about $2 billion. Because inflation was less than anticipated, there is more real growth.

As it turned out, therefore, the overall reduction Congress made again came down to the 4 to 5 percent level, though we thought we had cut more. The original cushion the Pentagon had anticipated was restored.

This year, however, we saw the cushion concept raised to new levels of executive branch arrogance. An OMB memorandum surfaced in the New York Times on February 4, 1976, stating that $3 billion had been added to the defense budget as "padding" or "cut insurance" against anticipated congressional reductions. This was in addition to $4.4 billion to cover inflation and $2.9 billion in "real growth." The OMB memorandum read:

> Cut insurance of $3 billion is provided as a cushion for congressional action.

Mr. President, my distinguished colleague from South Carolina, Senator Hollings, who is the chairman of a special Budget Committee task force on defense spending, made the following observations about this unusual memorandum and the President's defense-budget request in a floor speech on February 4, 1976:

> Last year and again this year, the President requested an annual increase of 4 percent in real defense purchases—or 2 percent overall. This is, he wants an increase, over and above inflation, that would allow defense purchases to grow at 4 percent a year over the next 5 years. Last year the Congress exceeded this target by a large margin. We provided 10 percent real growth in investment operations and maintenance purchases, after cutting the budget request by more than $7 billion. This year the President is seeking real growth in purchases of about $8.5 billion, or about 16.3 percent—considerably above the 4 percent long-term growth rate which he has repeatedly requested.
>
> The only logical conclusion is that the President expects Congress to cut at least $6 billion, and has added about that much cushion to his budget. If we made cuts, in an effort to eliminate waste and keep overall Federal spending within prudent levels, then I suppose the administration will attack us for 'deep, savage, and arbitrary' cuts. The President, in short, seems to be playing a cynical and dangerous game with the defense budget.

Mr. President, as Senator Hollings observed, the President's own strategy assumes a $6 billion reduction in this bill. If such a reduction is made, we will still allow what the President considers to be an adequate amount of real growth in defense spending.

But what cuts have we made to date? The House bill reduces the President's request by only $814 million, providing for an increase of more than $13 billion. The Senate bill reduces the request by $3.9 billion, allowing an increase of more than $10 billion over last year's appropriation. Percentage wise, the Senate cut, the larger of the two, is only about 3 percent.

In short, we have not even reduced this budget by the $6 billion inserted in it for "padding." Never has waste been so blatantly identified and never has the failure of Congress to eliminate it been so well highlighted. The President, to use Senator Hollings' words, played a cynical and dangerous game with the defense budget and Congress let him get away with it.

Mr. President, the $1 billion reduction proposed in this amendment will still not bring the overall reduction on this bill close to the $6 billion cut anticipated. But it will signal the displeasure of the American taxpayer over the totally irresponsible game that has been played with this budget. It will eliminate the entire amount inserted in this budget for cut insurance. And, hopefully, it will eliminate the cynicism over congressional procedures which accompanied such a willful abuse of the budgetary process.

Sadly, that cynicism has now been carried one step further. Two weeks ago the administration announced that it was submitting a supplemental request to Congress asking for a net increase in the defense budget of still another $1 billion.

In the absence of any resistance to the massive requests which have preceded it, this new request comes forth in main part because Congress has acquiesced to the fear tactic. Is this fiscal responsibility? Is this "get-it-now" policy the true reflection of fiscal conservatism?

Mr. President, the amendment offered by Senator Hatfield and myself, if adopted by the House-Senate conference, will force the conferees to seek to accommodate differences by taking the lower amounts on many, though not necessarily all, line items in disagreement. We are not asking the Secretary of Defense to make the requisite reductions. The total amount recommended can be easily reached in conference and, consequently, by Congress itself.

Can $1 billion in cuts be made without endangering our national security? I believe that my previous discussion of the way this budget was devised adequately responds to that question. Nonetheless, several specific savings areas are readily identified.

The most glaring example of the failure of Congress to reduce waste is in the manpower area. The administration has recommended cuts totaling $1.4 billion. These recommendations for cuts are not only meritorious, they are absolutely essential. A quick look at the overwhelming burden manpower costs are creating is illustrative.

These personnel costs have, for example, risen by 128 percent since 1964. Yet, during that same period, manpower strengths have fallen by 19 percent. This startling reality is only a hint of what will occur over the next decade if we continue on the same course.

The President, to his considerable credit, has recommended a number of ways to restrain this cost growth. He has proposed a new method of computing pay comparability, small reductions in personnel, elimination of the 1 percent retirement pay kicker, and reform of the Federal wage system. Each and every one of these recommendations may not be worthy of adoption. Nonetheless, the President certainly deserves favorable consideration of many of his proposals.

One item in the manpower area about which I am particularly concerned is the military retirement system. I have examined a variety of retirement systems in connection with the committee on the District of Columbia's review on the District's retirement systems. The military system is one of the most liberal and, hence, one of the most costly that I have come across.

That system now pays 50 percent of basic military pay after only 20 years service and 75 percent after 30 years. Yet despite this generous payment, military personnel do not contribute one dime to their own retirement system. Such an unfunded system represents a constantly increasing drain on the defense dollar. And, Mr. President, by 1990 the figures are absolutely mind boggling, if one attempts to compute what the annual costs of the military retirement system will be just about a decade and a half from now.

Two proposals for reform have thus far been presented: the Retirement Modernization Act, presented by the administration, and a plan submitted by the Federal Interagency Committee. Neither of these plans would defer retirement benefits until the retiree reaches normal retirement ages—55 to 65—and, as such, the savings they would generate are minimal.

Congress must give priority consideration to this matter. If we do not, we will soon be paying more in benefits for retirees than we are for active duty personnel. And not only the defense, but the fiscal integrity of this country will suffer.

Mr. President, manpower is only one area where waste can be found. This particular budget is rife with items whose contribution to our defense is highly questionable.

Dubious systems of yesteryear continue to struggle along—to name a few, AWACS, SAM-D, CONDOR, the F-14, Minuteman, Lance, and many more. And the effort to "get-it-now" is also creating a highly unrealistic procurement ledger.

It is, of course, not unusual for Congress to appropriate more than the Defense Department needs. Nonetheless, the amount of unexpended or unobligated balances at the end of the fiscal year is a good indicator of how reasonable prior-year appropriations have been in relation to the ability of the defense establishment to absorb the funds. The amount left unexpended, most budgetary experts agree, should remain relatively stable or, if we have been especially accurate, even decrease.

At the end of fiscal year 1977, the Pentagon estimates it will have the highest unexpended balance in 20 years—$58.3 billion. This represents an increase of $11.7 billion over last year's amount. Never before has Congress so overestimated the ability of the Defense Department to spend what we give them.

Why is this money unexpended? Much of this budget is, of course, appropriated on a multiyear basis and need not be spent in the year it is appreciated. Nonetheless, it is clear that a great percentage of this $11.7 billion increase is the result of excess appropriations.

The shipbuilding area is a case in point. The President's budget this year requested $1.4 billion for four SSN-668 nuclear attack submarines. However, 28 of these submarines were already on order and none had been delivered at the time of the new request. The last of these 28 will be delivered in 1983. Why then ask for four more?

Mr. President, I will insert a number of recommendations for cuts which, if made, would total over $2 billion, or over twice what this amendment requires. This is simply an illustrative list. It is to demonstrate how this budget can be reduced without damaging the real defense of this country.

Mr. President, I ask unanimous consent that a list of possible reductions totalling $2.1 billion, comprised of items either not requested in the President's budget or recommended for reduction by a congressional committee, be printed in the RECORD at this point.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

Project, reduction, recommended by:

6 A-6, $65.8 million, not in DOD request.

F-5F, $10.0 million, Senate Armed Services Comm.

ATCA (R & D), $25.0 million, House Appropriations Comm.

Stinger, $48.4 million, Senate Armed Services Comm.

Non-Nuclear Lance, $75.0 million, Senate Armed Services Comm.

Minuteman 3, $317.0 million, not in DOD request.

CUN-71, $350.0 million, not in DOD request; Senate Armed Services Committee.

USS Long Beach Conv., $371.0 million, not in DOD request.

USS Belknap repair, $213.0 million, not to begin until FY-78.

1 Destroyer Tender, $260.4 million, not in DOD request.

1 Oiler, $102.3 million, not in DOD request.

1 Submarine Tanker, $260.9 million, not in DOD request.

MX, $17.0 million, Senate Armed Services Comm.

Total, $2,115.8 million.

Mr. EAGLETON. Mr. President, I am pleased to yield to our distinguished colleague from Oregon (Mr. HATFIELD).

Mr. HATFIELD. Mr. President, I thank my good friend from Missouri, and I am happy to join with him in sponsoring this amendment.

I shall be brief. In this election year we have all been barraged with slogans and shouts about who is No. 1 in military strength, and as a result we have a highly-charged atmosphere in which almost any request for more defense dollars is willingly granted.

Last Friday I had printed in the RECORD a report to my constituents on the defense debate that attempts to penetrate the smokescreen of rhetoric and get at the facts. I need not go into those details here. I will simply say that I do not believe that the American military has suddenly become inferior to that of its adversaries, nor do I believe it will become so in the foreseeable future if we are prudent.

But this bill, Mr. President, reflects not prudence but profligacy. It represents the largest defense spending increase since the Korean war, and is the largest peacetime increase in U.S. history. We know that it includes some of the $3 billion in "padding" to offset anticipated congressional cuts.

There is legitimate cause for concern regarding Soviet military developments of late, but there is no reason to be stampeded into approval of this bill, which allows an increase of more than $10 billion over last year's appropriation, a reduction of about 2 percent from the budget request. The House bill cuts the request by only $814 million, allowing an increase of $13 billion. With that sort of disparity between the two versions of this bill, I think we can expect conference action to produce a bill totaling even higher than what is now before us. The amendment that Senator EAGLETON and I are offering will at least help us to hold the conferees to a more moderate figure.

It was with some interest, Mr. President, that I noted the commitment in the platform of the Democratic Party to a $5 to $7 billion reduction in defense spending, particularly since this body, with a clear Democratic majority, has repeatedly rejected ceiling amendments to prune similar and lesser amounts from the defense budget. It will be interesting to see today, Mr. President, just how firm that commitment is. Our amendment cuts only $1 billion, less than 1 percent of the total budget for the Defense Department.

Mr. President, we are fast losing sight of what constitutes national security. It is not numbers of weapons, or men in arms, or dollars in defense budgets exclusively. Dwight Eisenhower used to say that military strength is only the sharp edge of the blade, while the strength of the blade, and therefore, the effectiveness of the sword, is dependent upon the well-being of the society the military is called to defend. We may be No. 1 in military strength, but we lag other nations in literacy, health care, nutrition, per capita income, and other indicators of our Nation's strength. When we waste our resources on unnecessary military programs, we lose the opportunity to improve the lot of our fellow Americans and our brothers throughout the world.

This amendment is very modest. It does not cripple our military strength. Unfortunately, its adoption would not change our priorities overnight. But with it we could give a signal that we will not tolerate waste, and that we want to be No. 1 in promoting the general welfare as well as in providing for the common defense.

Mr. EAGLETON. Mr. President, I reserve the remainder of my time and thank the distinguished Senator from Oregon.

Mr. McCLELLAN. I yield to the Senator from North Dakota 3 minutes, 5 minutes, or whatever he requires.

Mr. YOUNG. Mr. President, I know the sponsors of this amendment have good intentions. It would be nice if we could cut another billion dollars out of this budget without hurting our national defense. But unfortunately the cost of defense has jumped by leaps and bounds.

A good example is the fighter planes that were used during the closing days of World War II when I first came to the Senate. A fighter plane such as the P-51, P-47 and Navy F-6F cost less than $100,000.

Today the F-15 fighter costs approximately $15 million. We have experienced a tremendous cost increase from a fighter plane that cost $100,000 during the closing days of World War II to a fighter plane that costs $15 million.

It was mentioned a little while ago by the distinguished Senator from Missouri (Mr. EAGLETON) that retirement costs for military personnel are over $8 billion a year. Only about 5 years ago, as I recall, the retirement costs for military personnel were only about $2 billion or less.

This gives us some idea of the tremendous costs of maintaining an adequate national defense. I would be willing to cut $1 billion or $5 billion more if I knew exactly where we could do this without hurting our defense system.

I oppose the amendment.

Mr. McCLELLAN. Mr. President, I yield myself 10 minutes.

Mr. President, I oppose this amendment personally, and officially in my capacity as chairman of the Committee on Appropriations, based upon the actions that have heretofore been taken by Congress. Our distinguished colleagues who have just spoken, the sponsors of the amendment, Senator EAGLETON from Missouri and Senator HATFIELD from Oregon, did not present this amendment to the Appropriations Committee for its consideration, nor did they present it to the Senate at a time when it should have been presented, that being at the time that we considered the first concurrent resolution.

I am persuaded that if this amendment is adopted a precedent will be established that will completely undermine the efficacy of the Budget Committee, especially regarding the Defense Department. It is the only department that comes under such attack, although it is not the big spender, as I will show in a few minutes. Other departments are not so attacked, but we save it for the military each year to do an across-the-board cut.

Mr. President, this amendment does not say where the cuts shall be made and, if we pass it in that form, it does not say where it shall be made. It is not by priority. Someone else, by the power and authority of Congress so delegated to him, whoever he may be, can place this billion dollar cut wherever he wants it, and we have abdicated our responsibility to search these items and these budget requests and either approve them or deny them in whole or in part. Whose responsibility is it, Mr. President?

If there is any place where cuts should be made, as some have thought here today by offering amendments to do so, the Senate has an opportunity to pass on them. Some amendments have already been rejected. There may be some approved. But that is the Senate speaking, and that is the Senate measuring up to its duty.

I submit that the practice and procedure condoned by the amendment is an abdication of that responsibility. We will not say where the cuts ought to be made but we will leave it to some unidentified bureaucrat somewhere to do the slashing where it most pleases him.

Mr. President, our Committee on Appropriations has tried to be faithful in the performance of its duty. We have tried to be prudent, and I believe we have been. During the past 5 years, both the Committee on Appropriations and the Senate as a whole—about 90 percent of it being done by the Committee on Appropriations—have reduced Defense spending $25 billion under budget requests, and we did that, up until last year, without any congressional Budget Committee. I think we have been faithful to our trust. We have tried to be.

Mr. President, in this particular bill we cut $3.9 billion under the President's budget, and that after Congress had established a higher ceiling. We cut under the Congressional Budget resolution $3 billion. But I hasten to add, Mr. President, in doing that we have reserved the $3 billion for contingencies that we anticipate may have to be met unless there is certain legislation enacted to relieve Congress of the fiscal responsibility for certain programs. But even if Congress is not relieved from the obligation to meet them. Mr. President, we will still be $800 million under the ceiling set by Congress for this bill.

Mr. President, it seems to me that with a background of $25 billion saved in the last 5 years, when we come in here and cooperate with and conform to the recommendations of the Congressional Budget Committee and the resolution passed by the Senate of the United States, the Senate can and should endorse and support what we have done, unless and until there can be pointed out specifically an item or an appropriation in an excessive amount, and let the Senate make its judgment on that issue by moving to strike it. I think that is the right way to do it. That is the way to do it if we are going to have rules and regulations, if we are going to conform to them.

It is argued that this will not undermine the Budget Committee. Then, why pay any attention to it? Why labor and hold hearings day after day and hear witness after witness and evaluate and undertake to eliminate the waste, if there is any, and then come here and have the Senate tell us, "It is just piddling as far as we are concerned. Notwithstanding that you are under our resolution, you have just been piddling as far as we are concerned, and we're going to slash it meat-ax fashion, once and for all. We'll give somebody down in the Department of Defense the discretion and the power to do what we are either incapable of doing or unwilling to do."

Mr. President, it seems to me that the proper procedure for my friends who are sponsoring this amendment would have been to have offered it at the time the budget resolution was before the Senate. That would have been the time to have said that the amount allocated to the Appropriations Committee for the Defense Department was too high, and cut it then, not wait until we have done all this labor and then throw it in the trash pile and say it was for naught.

There is another opportunity, and that is in the final budget resolution, when presented. If it is too high, there is the opportunity for the Senate to make this adjustment. But this bill is within what the Senate has said; and until the Senate speaks differently, the Appropriations Committee of the Senate should not, in effect, be reprimanded—that may be too strong a word—or disapproved for its hard labors.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. McCLELLAN. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 12 minutes remaining.

Mr. McCLELLAN. I will use 3 or 4 minutes more.

Mr. President, on the desk of each Senator is a letter from the Honorable Kenneth A. Gibson, president of the U.S. Conference of Mayors. I am not going to take the time to read the entire letter, but I will read a couple of excerpts from it, and then I will make a brief comment. He says:

> Without any explanation of militay need—

That is the first charge: Without any explanation of military need.

> * * * the Senate Appropriations Committee reported a bill 15 percent larger than the comparable appropriation enacted last year—

What an awful sin. I will indicate in a moment what has been happening in the last 10 years.

> * * * meaning that military programs are to grow 9 to 10 percent in real terms.

Mr. President, we all know that after all these cuts have been made in the past years and with conditions what they are today, you cannot buy goods off the shelf. You have to lead time and money to make the contracts, to purchase equipment and armaments that will be delivered 5, 7, and 8 years from now. We cannot buy it off the shelf.

He continues:

> One month ago at our annual conference in Milwaukee, the Mayors adopted a resolution on national priorities which says, "Now, therefore, be it resolved that the United States Conference of Mayors calls upon the administration and Congress to redress the imbalance—"

Listen to this:

> "the imbalance between domestic expenditures and expenditures for the Pentagon and foreign aid—"

We have already reduced foreign aid. I have voted against it all the time.

I continue reading:

> "recognizing that the social defense of this Nation is at least as important to a national defense as is our military defense."

Mr. President, I have supported approporiations, money, to help municipalities in the past, and I will do so again. However, I point out that during the past 5 years, while we have been cutting the military by $25 billion, we have given to the mayors, to the municipalities of this Nation, $9.4 billion in revenue-sharing funds alone, that they never had before. There are many other programs, Federal programs, from which funds are made available to the municipalities to help with their financial problems. Then they criticize us for what they call an imbalance.

I will indicate what the imbalance is and where it is. I put it in the RECORD this morning, in my opening remarks, but I will show a little of what the imbalance is. I said:

> Mr. President, many have alleged that the Department of Defense is responsible for the high cost of government. I must tell you in all candor, that is not the case, as the exhibits I am including in the Record will show. Over the past 10 years, the cost of government rose $236.4 billion, or 149 percent.

Yes, Mr. President, $236.4 billion. How much of that raise went to defense?

During this same period, well over half of this increase—or $149.3 billion—was caused by increases in three governmental functions—education, health, and income security, including social security. Defense rose only $29.8 billion, or only 43 percent, in this same period.

Defense rose only $29.8 billion out of the total $236 billion that the cost of this Government increased in the last 10 years.

I think the facts will show that the highest cost of Government and the largest increase in the past decade have been occurring in the domestic areas which I just mentioned, and not in national defense. Yet they complain of a disparity.

Mr. President, interest on the national debt during the past 10 years, because we keep going into debt, has increased from $12.5 billion to $40 billion, up $27.4 billion, or 219 percent. General government—that is exclusive of these items that I have mentioned—went up from $33 billion to $62.8 billion during the same time, up 90 percent, nearly double the defense program.

Now, Mr. President, we can cut the military. We can slash it wherever we will. I do not know what is absolutely needed. I do not think anybody knows. We do not know what the future holds. But I do believe that the fact that we are maintaining the armed strength that we have today and propose to continue is a deterrent to something that could be awful.

When we reduce this deterrent to a point, somebody will feel safe to crowd in and shove us around, to move in other parts of the world, as they have demonstrated they will do if permitted—yes, Mr. President, I believe that the greatest first priority of any individual is the preserving of his own life. He may have to endure some hardships to do it, but he will, Mr. President, endure those hardships and inconveniences if it is necessary to preserve his life. I think it is also true with respect to a nation, Mr. President: The first priority is safety.

Well, you say, safety for good health and safety for this and that, or safety for social things. Certainly they are important. But, Mr. President, where is your safety for social security, where is your safety for any Government assistance, for any Government program, unless the Nation is safe from its enemies?

The first priority, Mr. President, is to make our Nation safe. I am no expert. Maybe we have too much money somewhere. But if we are going to cut it, let us cut it, like Congressmen should and like statesmen should, by exercising our right to say you can only spend this much for that and that much for the other.

Mr. President, I ask unanimous consent to insert figures here relating to what I have said about the amount of money municipalities are getting.

There being no objection, the figures were ordered to be printed in the RECORD, as follows:

FEDERAL AID TO MUNICIPALITIES

In FY 1975, outlays for federal aid to state and local governments totalled $49.7 billion. Of this amount, about $12.0 billion was sent by check directly to local governments (which also received additional federal funds passed through the states).

The $12.0 billion includes revenue sharing funds, HUD community development grants and mass transit funds, and other federal programs. About $8.0 billion of the $12.0 billion went to municipalities and townships while the remaining $4.0 billion went to counties and local school districts.

These numbers are rough estimates by the Congressional Budget Office.

FEDERAL GRANTS TO STATE AND LOCAL GOVERNMENTS

[*Dollars in billions*]

		President's Request (Jan.)	
	FY 1975	FY 1976	FY 1977
Total outlays	$49.7	$59.8	$60.5
Some of the large programs:			
EPA	2.0	2.5	4.0
Highways	4.6	6.2	6.6
HUD Community development	-----	0.8	1.6
HUD Urban renewal	1.4	1.4	1.0
Elementary and secondary education	2.3	2.3	1.9
EDA	0.2	0.2	0.2
Social services	2.0	2.4	2.5
Employment and training assistance	2.5	3.1	2.5
Medicaid	6.8	8.2	9.0
Child nutrition	1.6	2.2	2.3
Public assistance (maintenance)	5.1	5.9	6.0
Housing assistance	1.3	1.6	2.0
LEAA	0.7	0.8	0.7
Revenue sharing	6.1	6.3	6.5

Mr. PASTORE. Will the Senator yield?

Mr. McCLELLAN. Yes, I yield.

Mr. PASTORE. Mr. President, I could not agree with the Senator more. As a matter of fact, in the short time that I have lived and in my tenure in the Senate, now for 26 years, if I have learned one thing, that is that strength is the only deterrent that you have in this day and age. It was not too long ago, in 1960, when John Kennedy campaigned on the premise of the missile gap. If it were not that the Americans were strong and this Government was strong in 1962, at the time of the Cuban crisis, only the Lord knows what might have happened. The missiles were already fixed there, in Cuba. It was only a question of putting the atomic warheads on them.

President Kennedy said what? What did he say? He said:

> You send those atomic warheads on those ships and I will intercept those ships and I will take them off.

It was because of the strength that we had at that time that Khrushchev turned back, and that was the beginning of the end of Khrushchev in Russia.

Now we are saying here, let us have a ceiling. Well, if you have a sick person in your family, with a malignant disease, do you just say, "I'll spend so much and nothing more?" Or do you say, "I'll spend as much as is necessary" in order to make that individual comfortable and secure?

That is what we are up against here. I realize that there is fat in the budget. That is why we work on the Committee on Appropriations. And year after year, the majority leader of the Senate has stood up and told the people of this country how much money we have cut. We have cut enough. When there is water, we have eliminated it, when there is fat, we have cut it. But to stand up and say we can only spend so much for defense——

The PRESIDING OFFICER. The time

of the Senator from Arkansas has expired.

Mr. PASTORE. Well, I have said enough.

Mr. MANSFIELD. Vote, Mr. President, I think we ought to vote.

Mr. EAGLETON. Mr. President, I ask unanimous consent that we have 5 minutes a side on this matter.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request of the Senator from Missouri?

Without objection, it is so ordered.

Mr. EAGLETON. Mr. President, the sin of this amendment is not what it seeks to do, but what it does not do. The sin of this amendment is that it seeks to cut too little. I decided to use a modest figure which would be almost beyond dispute. The $1 billion dollar figure is less than 1 percent of this bill.

Next, this $1 billion figure is safely within the scope and range of figures which will be in disagreement between the House and Senate conferees. There are dozens and dozens, I guess a hundred or more, items in disagreement in this bill. The Senate and the House conferees can easily reconcile those differing amounts and do so well within the $1 billion specified in this amendment.

What is a billion dollars insofar as this bill is concerned?

President Ford—certainly no dove in this election year as he hurries to join "Super Hawk" Ronnie on the right—has recommended a cut of $1.4 billion in personnel costs. Believe me, I think we can and should accept the President's recommendation in this regard. Right there you have a $1.4-billion saving. The day is going to come, Mr. President, when the personnel costs of the Pentagon are going to eat this defense budget alive. Personnel salaries and retirement benefits are becoming so burdensome that the day may come when our national defense posture is truly threatened. We are already devoting more than 50 percent of this budget on manpower costs. And by the end of this century, there will be nothing left for real defense capability.

What about some of these personnel costs? Commissaries were debated earlier today on the Senate floor. Do you think that our national security, for 1 minute, would be threatened if a retired military officer could not go to the commissary and purchase some Arnold Palmer golf clubs at discount? Wherein is the threat to our Nation's survival that compels us to provide commissary discounts? Can anybody convince a rational audience that our national security is at stake if we were to cut out some of that?

I say no, Mr. President.

Mr. PASTORE. Will the Senator yield for a question?

Mr. EAGLETON. I am pleased to yield.

Mr. PASTORE. Would the Senator admit that he could do away with 10 percent of his staff and still be a successful Senator?

Mr. EAGLETON. I tell the Senator this: I can do away with 1 percent.

Mr. PASTORE. Why does the Senator not do it?

Mr. EAGLETON. If the Pentagon agrees to cut its budget by 1 percent, I will be happy to reciprocate in kind.

Mr. PASTORE. It is not a question that he can; the fact is that he has not done it.

Mr. EAGLETON. My offer heretofore stated still stands.

Mr. PASTORE. I know, but do I have to bring it to the Senator's attention before he will do it? The point here is it is not a matter of how much. Why not make it a $5 billion cut? Why not $10 billion cut?

Mr. EAGLETON. Frankly, I selected the $1 billion figure to make it more conducive to other Senators.

Mr. PASTORE. Does it have to be smaller to be palatable? Does that make it right?

Mr. EAGLETON. The smaller amount puts it easily within the scope of the conference committee. The distinguished chairman, Mr. McClellan, refers to my less-than-1-percent cut as a "meat-ax cut." A mighty thin meat ax, I would say.

Mr. PASTORE. Mr. President, will the Senator yield?

Mr. EAGLETON. Yes.

Mr. PASTORE. The point I make is, because the Senator brought up the question of golf balls——

Mr. EAGLETON. "Golf clubs," I said.

Mr. PASTORE. It has nothing to do with defense. We are being so picayune. I realize there should not be golf balls at those commissaries.

Mr. EAGLETON. "Golf clubs," I repeat.

Mr. PASTORE. You phase out your commissaries. But that is not the question here today. The question is this budget has been reviewed meticulously by the committee, and we have cut down where we had to cut down. We have gone below the budget estimate.

But the Senator comes along and says,

> No matter what you did, no matter how exhaustively you worked, no matter how meticulously you worked, now I think you ought to go a step further.

When I ask the Senator the question why? The Senator says:

> Well, it is only 1 percent and, therefore, it cannot hurt.

You know, my mother used to tell a lovely story. Does the Senator have the time? I would like to tell the Senator the story.

They used to tell the story in the Old Country where this man had this donkey, and he used to work on the farm. The donkey used to eat three times a day. Then, finally, the farmer said:

> Well, this is too expensive. Maybe if I feed him only twice a day he can still work.

So he fed him twice a day and the donkey lived. He lived for a week or 2, and he was doing his work. Then he said:

> Ah, now I have got the answer. I will feed him only once a day.

And he got away with that for a week or two.

Then, after a while, he——

The PRESIDING OFFICER. The time of the Senator from Rhode Island has expired.

Mr. PASTORE. Two more minutes. I ask unanimous consent to proceed for 2 more minutes.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. PASTORE. After a while, he figured, "Well, I will feed him every other day." The donkey still worked. He said, "If I can get away with this, I will feed him every week once a week." Finally the donkey died. He died, and we will die, too, if we begin to whittle away and whittle away and whittle away just because something does not happen immediately. Someday we will pay the price.

I yield back the remainder of the 2 minutes.

[Laughter.]

Several Senators. Vote! Vote!

Mr. EAGLETON. Would that we could cut back the Defense Department to only three square meals a day. They are now gluttonous in their appetite, and I am just trying to get rid of the midnight "free lunch."

[Laughter.]

ADDITIONAL STATEMENTS SUBMITTED

Mr. THURMOND. Mr. President, this ceiling proposal is unsound in every respect. A large part of the appropriation bill is subject to authorization. The Congress has previously covered in great detail the areas of procurement, R.D.T. & E., and military manpower which the authorizing legislation enacted. These areas comprise about four-fifths of the dollar content of the appropriation bill. It is highly improper and illogical to ignore all prior work by enacting cuts to Defense by simply setting some arbitrary DoD ceiling.

The Budget and Impoundment Control Act of 1974 underscores what has been true since 1789: It is the role of the Congress to make the hard and specific choices with respect to public spending. Across-the-board cuts by ceiling imposition preempts work previously accomplished by the Armed Services Committee and the Appropriation Committee. These committees have heard hundreds of hours of testimony on all facets of the Defense program and have produced thousands of pages of transcript. This type of reduction avoids the conscious decision-making process of examining individual programs, judging them on their merits and then funding or not funding them accordingly.

The arbitrary $1 billion reduction proposed in this amendment, when viewed in the context of the specific program adjustments already accomplished, should not be favorably considered by the Senate. This amendment should be defeated.

Mr. KENNEDY. Mr. President, I rise to support the amendment introduced by the distinguished Senator from Missouri (Mr. Eagleton), to reduce the total amount of spending in this bill by $1 billion below the committee figure.

At the outset let me say this: That I fully support the objective, shared I believe by every Member of the Senate, of a strong national defense that will enable us to meet any realistic threat to our security or to that of our allies and friends abroad.

This I believe can be done with a defense budget even lower than the one we are considering today—even after passage of the $1 billion cut we are seeking to achieve with this amendment.

Nor are we talking about reducing America's defense effort. We must recall that the bill reported by the committee is 15 percent higher than the regular appropriation enacted last year. Correcting for inflation, that is 8 to 9 percent real growth. Compared to total spending last year, including supplementals, that is real growth of about 6 percent.

And we have not even seen this year's pay supplemental, nor an estimated net increase of $1 billion that will soon be forthcoming in a supplemental request for procurement and R. & D. It should also be noted that the procurement appropriations in this budget represent a 35-percent hike over last year.

No, Mr. President, we are not skimping on the defense budget—a statement that cannot be made about any appropriation this year for any domestic department providing social services, where real growth in no instance will total more than 1 percent, if that.

We must also remember that the Defense Department included about $3 billion in "cut insurance" in its total requests this year, as revealed by an OMB memo. Some of that cut insurance may not apply to this bill, but a substantial part of it certainly does. So when we look at the modest cuts proposed by the two Appropriations Committees from the administration request, we have to take into account the fact that the Defense Department had already padded its request to offset at least a major part of these reductions.

Mr. President, as we have debated U.S. defense posture during the past 2 years, under our new effort to relate defense effort to real national, foreign, and defense policy needs, many of us have become increasingly disturbed that the Defense Department is living in the past. Because of a combination of outmoded doctrine and bureaucratic inertia, we are pouring billions of dollars into gold-plated, high-priced weapons systems, and then being asked to spend extra amounts for conventional military power that should really be funded out of amounts going to glamour weapons that we do not need.

The budget that comes before us is fantastically complicated, representing a gross national product equivalent to a major world economy. In fact, it is ninth in the world, just after Canada and ahead of Brazil. Despite the valiant efforts of six congressional committees, it is not possible for us to see beyond every tradeoff, every compromise within and between the competing services, every program that gets "grandfathered in." But it is clear that the Defense Department needs to exercise greater discipline on itself—that it be required to make more intelligent choices.

This does not mean denying ourselves anything we really need. But it does mean a higher degree of real commitment to holding down costs, and to avoiding new, unneeded projects that then develop a momentum of their own, and rob funding from other concepts and weapons systems that could be more important.

We need to inject new blood into the way we make our defense decisions. And we can only do that by requiring the Defense Department to think harder about each new project that it wants to undertake, and about the wisdom of continuing past projects which no longer are necessary.

There is no substitute, in stimulating hard thought and getting more cost consciousness, to imposing the need for choice. Every businessman in America knows that; and since we cannot require that the Defense Department show a profit, we have to impose other means of gaining real efficiency.

Think of the magnitudes involved. We can lop off $55 million for the International Development Association—thereby risking putting the United States in default of its international commitments. And the President can ask for a rescission of $45 million for the Legal Services Corporation, which would provide vital services for many of our people.

Yet in the defense budget, items of this size almost fall between the cracks.

I say that it is time to start imposing the same careful scrutiny, the same rigorous analysis on "between the cracks" items in the defense budget—as well as on the gold-plated projects like the B–1—so that we will get as good a product out of DOD that we consistently require from every domestic agency of Government.

And, Mr. President, I believe that the only way to do that is through a method pioneered by a man who knew the services as well as anyone. President Eisenhower, when he imposed budget ceilings and made them stick.

Again, I am willing to vote every penny we truly need for our defense; but I believe it is well past time when we should let the Defense Department be out of control in the name of "national security" that is not fully submitted to careful analysis and businesslike judgments.

Therefore, Mr. President, I support the Eagleton amendment, and I urge my colleagues to do so, as well.

The PRESIDING OFFICER. There is time remaining with the Senator from Arkansas.

Mr. McCLELLAN. I yield back the remainder of my time.

The PRESIDING OFFICER. All time is yielded back. The question is on agreeing to the amendment of the Senator from Missouri. The yeas and nays have been ordered, and the clerk will call the roll.

Mr. MANSFIELD. For the information of the Senators, this is a 10-minute rollcall.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Texas (Mr. Bentsen), the Senator from Hawaii (Mr. Inouye), the Senator from South Dakota (Mr. McGovern), the Senator from Minnesota (Mr. Mondale), the Senator from Missouri (Mr. Symington), the Senator from California (Mr. Tunney), the Senator from South Dakota (Mr. Abourezk), and the Senator from Colorado (Mr. Haskell) are necessarily absent.

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. Brock) and the Senator from Nebraska (Mr. Curtis) are necessarily absent.

The result was announced—yeas 27, nays 63, as follows:

[Rollcall Vote No. 453 Leg.]

YEAS—27

Bayh
Burdick
Case
Church
Clark
Cranston
Culver
Durkin
Eagleton
Gravel
Hart, Philip A.
Hartke
Hatfield
Javits
Kennedy
Mansfield
Mathias
Metcalf
Morgan
Nelson
Pearson
Pell
Proxmire
Randolph
Ribicoff
Stevenson
Williams

NAYS—63

Allen
Baker
Bartlett
Beall
Bellmon
Biden
Brooke
Buckley
Bumpers
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Chiles
Dole
Domenici
Eastland
Fannin
Fong
Ford
Garn
Glenn
Goldwater
Griffin
Hansen
Hart, Gary
Hathaway
Helms
Hollings
Hruska
Huddleston
Humphrey
Jackson
Johnston
Laxalt
Leahy
Long
Magnuson
McClellan
McClure
McGee
McIntyre
Montoya
Moss
Muskie
Nunn
Packwood
Pastore
Percy
Roth
Schweiker
Scott, Hugh
Scott, William L.
Sparkman
Stafford
Stennis
Stevens
Stone
Taft
Talmadge
Thurmond
Tower
Weicker
Young

NOT VOTING—10

Abourezk
Bentsen
Brock
Curtis
Haskell
Inouye
McGovern
Mondale
Symington
Tunney

So Mr. Eagleton's amendment was rejected.

Mr. PASTORE. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. McCLELLAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senate is not in order. Will Senators kindly take their seats or, if they wish to converse, withdraw to the cloakrooms.

UP AMENDMENT NO. 284

Mr. HATHAWAY. Mr. President, I send an unprinted amendment to the desk for myself and my colleague, Mr. Muskie.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk proceeded to read the amendment.

Mr. HATHAWAY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 41, line 24, after "NATO" insert the following: "so long as such agreements with foreign governments comply with the requirements of section 36 of the Arms Export Control Act and with section 814 of the Department of Defense Appropriation Authorization Act, 1976.".

The PRESIDING OFFICER. Is this one of the two amendments on which there is a 10-minute time limit?

Mr. MANSFIELD. Mr. President, 10 minutes on both, 5 minutes on each.

Mr. HATHAWAY. Five minutes on each.

The PRESIDING OFFICER. The Senator from Maine.

Mr. HATHAWAY. Mr. President, I have discussed this amendment with the manager of the bill. This offers some protection on the specialty metal waiver provision so that any action taken along that line would have to comply with section 36 of the Arms Export Control Act and with section 814 of the Defense Department Appropriation Authorization Act.

Mr. President, I believe this amendment is necessary for a number of reasons. It is prompted by my concern over an ongoing dispute now before both the General Accounting Office and the U.S. District Court for the District of Columbia involving the events which led up to the Army's decision in March of this year to proceed to procure an armor tank machinegun, the MAG 58, from Fabrique Nationale, a Belgian firm, instead of a weapon manufactured by Maremont Corp., a U.S. manufacturer whose plant is located in Saco, Maine, the M–60E2.

My concern is directly related to this one example, but it goes beyond this particular instance in that I believe the policy issues raised by the machinegun situation go to the heart of the conduct of our defense and foreign policy.

I think that this amendment is particularly appropriate to be offered today, when press accounts which appeared this morning indicate that former President Nixon apparently entered into a secret deal with Iran by which Iran was given unlimited right to purchase U.S. armaments. This deal created a bonanza for U.S. armaments manufacturers, but avoided scrutiny by the American people, by Congress, or even by the Defense Department or the State Department. Now it appears our foreign policy with relation to Iran is hopelessly entangled. All this is the result of a secret deal.

Section 723 as reported by the Committee on Appropriations contains a provision included as a result of a communication from the President dated June 22, 1976 (Senate Document 94–221). The intention behind and the goals of this amendment raised serious questions in my mind. As a result, I, along with Senator MUSKIE, sent a letter to the President on July 23, the day following the day the committee's report was filed, asking that these questions be resolved prior to the Senate's consideration of this measure. Mr. President, I ask unanimous consent, for the benefit of my colleagues, that this letter be printed in the RECORD at this point:

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, D.C., July 23, 1976.

HON. GERALD R. FORD,
The President,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: We have a number of questions regarding your June 22, 1976, Communication transmitting proposed amended appropriation language for fiscal year 1977 for . . . the Department of Defense (Senate Document 94–221), a copy of which we have enclosed.

We are particularly concerned with the need for and intention of the proposed amendment to the 1977 Defense Appropriation legislation contained therein:

". . . nothing herein shall preclude the procurement of specialty metals produced outside the United States or its possessions when such procurement is necessary to comply with agreements with foreign governments requiring the United States to purchase supplies from foreign sources for the purpose of offsetting sales made by the U.S. Government or U.S. firms under approved programs serving defense requirements or where such procurement is necessary in furtherance of the standardization and interoperability of equipment requirements within NATO . . ."

We are also puzzled by the reasons cited for such an amendment as contained in that same document:

"It is . . . necessary to enable the Department of Defense to purchase supplies from foreign sources for the purpose of offsetting sales made by the U.S. Government or U.S. firms under approved programs serving defense requirements or where such procurement is necessary in furtherance of the standardization and interoperability of equipment requirements within NATO."

We would like to know specifically what "approved programs" make this amendment necessary, and what "agreements" are to be covered by the proposed new statutory language.

Our request for this information is based further upon Section 814(a)(1) of the Department of Defense Appropriation Authorization Act, 1976, as amended by Section 802 of the Department of Defense Appropriation Act, 1977, Public Law 94–361, which you signed into law on July 14, 1976. That provision requires the Secretary of Defense to "report to Congress the full details of the nature and substance of any and all agreements entered into by the United States with any other member or members of the North Atlantic Treaty Organization providing for the acquisition of equipment manufactured outside the United States in exchange for, or as a part of, any other agreement by such member or members to acquire equipment manufactured in the United States. Such report shall be made by the Secretary within 30 days of the date of enactment of this Act."

The legislative intent behind this provision was that Congress be fully and currently informed of any agreements prior to its consideration of appropriations legislation in order that it might vote on such legislation with full knowledge.

As you know, we are particularly concerned with any such agreements which may have been entered into in connection with the F–16 fighter which a number of NATO nations agreed to purchase approximately one year ago. We have reason to believe that a number of "quid pro quo" agreements involving subsystems of that aircraft and other unrelated weapons were entered into at that time.

Furthermore, we call your attention to the requirements of Section 36 of the Foreign Military Sales Act as amended by Section 211 of the International Security Assistance and Arms Export Control Act of 1976, Public Law 94–329, which you signed into law on June 30, 1976. Section 36(b) of the Foreign Military Sales Act requires that the President, prior to issuing any letter of offer to sell any defense articles or services for $25,000,000 or more or major defense equipment for $7,000,000 or more, shall submit to the Speaker of the House and to the Chairman of the Committee on Foreign Relations of the Senate a numbered certification containing a variety of types of information about the proposed sale. Upon receipt of such a certification, the Senate and House Committees are authorized to request further more detailed information. We would call your attention particularly to Section 36(b)(1)(M) which authorizes the Committees to request:

". . . a detailed description of any agreement to be entered into by the United States for the purchase or acquisition by the United States of defense articles, services, or equipment, or other articles, services, or equipment of the foreign country or international organization in connection with, or as consideration for, such letter of offer, including an analysis of the impact of such proposed agreement upon United States business concerns which might otherwise have provided such articles, services, or equipment to the United States, an estimate of the costs to be incurred by the United States in connection with such agreement compared with costs which would otherwise have been incurred, an estimate of the economic impact and unemployment which would result from entering into such proposed agreement, and an analysis of whether such costs and such domestic economic impact justify entering into such proposed agreement."

Subsequent to the receipt of such certification and supplementing information, Congress may in effect veto the proposed sale by adopting a concurrent resolution to that effect.

Despite the clear applicability of these requirements to the F–16, it is our understanding that as of July 22, no numbered certification had been transmitted with respect to this weapon. Given this fact, we would question the reference in Senate Document 94–221 to "approved agreements", and would appreciate being informed of the current status of the F–16 sale, one year after it was reported in the press that an agreement with member nations of NATO had been reached. We would point out that while the current version of Section 36 was only recently enacted, there were similar requirements in prior existing law to inform Congress of large weapons sales and that any "approved agreement" with respect to the F–16 lacks the critical element of informing Congress and allowing it to reach a determination, after securing all relevant information, of whether or not to veto the proposal.

We would appreciate a detailed response to the questions we have raised on an expedited basis. The full Senate shall soon be considering H.R. 14262 which includes funds for the F–16, and in order that it might be able to vote with full knowledge on this matter, that it might better understand the need for and reasons behind the amendment you propose in your June 22 communication, and that the requirements of existing law might be met, we would appreciate the answers to our questions prior to the Senate's consideration.

Sincerely,

EDMUND S. MUSKIE,
U.S. Senator.
WILLIAM D. HATHAWAY,
U.S. Senator.

Mr. HATHAWAY. Mr. President, subsequent to sending these letters, I sent two additional letters to the President which clarified and elaborated on my concerns. I have received interim responses on the July 23 and 30 letters, and I again ask unanimous consent that all of this correspondence be printed in the RECORD at this point:

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, D.C., July 30, 1976.
Hon. GERALD R. FORD,
The President,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: I would like to clarify one matter contained in the letter sent to you on July 23 by Senator Muskie and myself with respect to the requirements of Section 36(b) of the Foreign Military Sales Act as applicable to the F-16.

We indicated therein on page 3: "It is our understanding that as of July 22, no numbered certification had been transmitted with respect to this weapon."

I have subsequently learned from reviewing a transcript of a March 12, 1976 hearing before the Subcommittee on Foreign Assistance of the Senate Committee on Foreign Relations that some sort of Congressional notification concerning the proposed F-16 sale occurred on April 22, 1975. (p. 30)

Nevertheless, it remains my understanding that no Letter of Offer has yet been issued on the F-16. Fulfilling all of the requirements of Section 36(b) of the Foreign Military Sales Act stands as a condition precedent to the issuing of any Letter of Offer. Because that section was substantially amended by Public Law 94-329 signed into law on June 30, 1976, and the reporting requirements were thereby increased, particularly with regard to the additional information which may be requested by the House and Senate Committees, it seems clear that prior to issuing of this Letter of Offer, Congressional notification would again be required to determine whether approval was forthcoming under the new criteria.

I would therefore reiterate all of the questions contained in our July 23 letter. Since the DoD Appropriation will be considered by the full Senate beginning Monday August 2, I look forward to your timely response.

Sincerely,
WILLIAM D. HATHAWAY,
U.S. Senator.

U.S. SENATE,
Washington, D.C., July 30, 1976.
Hon. GERALD R. FORD,
The President,
White House,
Washington, D.C.

DEAR MR. PRESIDENT: I would like to clarify further one of the concerns raised in the letter sent by Senator Muskie and myself on July 23 and supplemented by my letter sent earlier today.

My concern over your intent behind proposing an amendment to the provision of Section 723 of the DOD Appropriations bill is based, in addition to the policy questions raised in the earlier letter, on my interest in any possible connection between this amendment and the Army's decision to award the contract for an Armor Machine Gun to a Belgian firm. The Maremont Corporation and the Maine Congressional Delegation have challenged that decision on a number of grounds: the Buy American Act, the Armed Services Procurement Regulations, other procurement Statutes, and the prohibition on the purchase of foreign-made specialty metals as contained in Section 723 of the 1976 DOD Appropriations Act.

Consequently, any attempt by you and the Defense Department to obtain a blanket waiver of this latter provision seems to me to be directly related to justiciable issues now before the GAO and the United States District Court for the District of Columbia. Much of my concern over your intention in submitting your amendment proposal could be alleviated if you could assure me that this amendment would not apply to the Belgian machine gun and would not form a basis for disposing of the issue now before the Court and the GAO as to whether there are specialty metals in the MAG58 and whether such metals are to be foreign made, in contravention of existing law. If I am not able to receive such an assurance, I would feel bound to attempt to amend this legislation to eliminate this blanket waiver.

I would still have remaining concerns over the status of the F-16 sale and whether full disclosure of all offset agreements has been made to Congress as required under existing law, as outlined in my earlier two letters which I intend to bring to the attention of the Senate.

Sincerely,
WILLIAM D. HATHAWAY,
U.S. Senator.

THE WHITE HOUSE,
Washington, D.C., July 27, 1976.
Hon. WILLIAM D. HATHAWAY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR: This will acknowledge receipt of the July 23 letter to the President in which you joined with Senator Muskie in requesting further information regarding his June 22 proposed amended appropriation language for the Department of Defense.

Please be assured your letter was called promptly to the attention of the President. You will hear further as soon as possible.

With kind regards,
Sincerely,
WILLIAM T. KENDALL,
Deputy Assistant to the President.

THE WHITE HOUSE,
Washington, D.C., July 30, 1976.
Hon. WILLIAM D. HATHAWAY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR: This will acknowledge receipt of your letters to the President of today's date in further reference to the DoD Appropriations bill.

Please be assured your further comments will be given prompt attention.

With kind regards,
Sincerely,
WILLIAM T. KENDALL,
Deputy Assistant to the President.

Mr. HATHAWAY. Mr. President, as noted in my latter letter, it was my intent to offer an amendment to strike the President's budget amendment language because I felt that it was inadequately explained in his submission to the Congress and that it perhaps was connected with the dispute regarding the machinegun selection now pending now before the courts.

Instead, rather than offer an amendment to strike it, I have determined that my goals will be met, and the broader policy goals which I seek to be applicable in the future will be achieved, by the addition at the end of the President's budget amendment of the following language:

> So long as such agreements with foreign governments comply with the requirements of section 36 of the Arms Export Control Act and with Section 814 of the Department of Defense Appropriation Authorization Act, 1976.

In this way the President's goal of achieving a waiver of the specialty metals prohibiting language will be possible in legitimate situations which involve approved agreements with NATO nations when those agreements are in the interest of standardization and interoperability, but this waiver provision will not serve as an escape hatch from the requirements now contained in the Arms Export Control Act—Foreign Military Sales Act—and the appropriation authorization legislation. I would add that both of these laws were very recently amended as detailed in the letter from Senator MUSKIE and myself to the President dated July 23.

This amendment will make clear that congressional notification is an integral part in the achieving of an "approved agreement" under the provisions of the waiver on specialty metals, and that, as provided in section 36 of the Foreign Military Sales Act, the Senate Committee on Foreign Relations and the House Committee on International Relations will be able to request detailed information with respect to any proposed agreement in order to determine whether to report a concurrent resolution of disapproval for the consideration of the full House or Senate. In this way there will be safeguards and firm procedures for achieving approval of Congress for such sales.

In this regard, I request unanimous consent that an excerpt from the report of Senate Committee of Foreign Relations filed in connection with S. 3439, which was recently signed into law, detailing the types of information to be requested and the procedures relating thereto be printed in the RECORD at this point.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

SECTION 211. REPORTS ON COMMERCIAL AND GOVERNMENTAL MILITARY EXPORTS

Section 211 revises and expands section 36 of the Foreign Military Sales Act.

The new subsection (a) revises the requirement for quarterly reports on certain military sales data to make the report more complete and to require that all information included be unclassified except for limited data, the public disclosure of which would be clearly detrimental to the security of the United States.

Under the new provision the President must transmit to the speaker of the House of Representatives and to the chairman of the Committee on Foreign Relations of the Senate not more than thirty days after the end of each quarter an unclassified report (except that any material which was transmitted in classified form under subsection (b)(1) of the revised section 36 may be contained in a classified addendum) containing—

(1) A listing of all Government offers to sell any major defense equipment valued at $1 million or more if the offer has not been accepted or canceled;

(2) A listing of all Government offers to sell that have been accepted, together with the total value of all defense articles and defense services sold to each foreign country;

(3) The cumulative dollar amounts, by country, of credits and guaranties of credit extended during the fiscal year in which the report is submitted;

(4) Information concerning all licenses for export to each foreign country by commercially sold major defense equipment, by category, sold for $1 million or more, together with the total value of all defense articles and defense services licensed for each foreign country;

(5) Projections of the dollar amount, by country, of cash sales expected to be made on a government basis, and credits and guaranties to be provided, in the next quarter;

(6) A projection of Government cash sales expected to be made and credits expected to be extended to each country for the remainder of the fiscal year;

(7) An estimate of the number of officers and employees of the Government and U.S.

civilian contract personnel present in each such country at the end of that quarter for assignments in implementation of Government sales and commercial exports; and

(8) an analysis and description of the services being performed by officers and employees of the United States through Government sales, including the number of personnel so employed.

For each letter of offer to sell on a government-to-govenment basis under paragraphs (1) and (2), the report shall specify (i) the foreign country or international organization to which the defense article or service is offered; (ii) the dollar amount of the offer to sell and the completed sale under paragraph (2); (iii) a brief description of the defense article or service offered; and (iv) the United States Armed Force or other agency which is making the offer to sell.

The new subsection 36(b) revises and expands on the provision in existing law requiring advance reports to Congress on certain proposals to sell military articles or services on a government-to-government basis. Congress may now reject a proposal within twenty calendar days by passage of a concurrent resolution unless the President states that an emergency exists and that the sale is in the national security interests of the United States. Under existing law only proposals to sell articles or services totaling $25,000,000 or more must be submitted. The revised provision requires that, in addition to all proposals totaling $25,000,000 or more, all proposals to sell major defense equipment of $7,000,000 or more on a government-to-government basis must be reported in advance to the Congress. The report must contain the information specified in clauses (i) through (iv) of subsection (a). In addition, the President shall, upon request of the House International Relations Committee or the Senate Foreign Relations Committee, transmit a statement setting forth, to the extent specified in the request . . .

(*a*) A brief description of the capabilities of any defense article and a detailed description of the articles or services to be offered.

(*b*) An estimate of the number of officers and employees of the United States and civilian contract personnel expected to be needed in such country to carry out the contract;

(*c*) The name of each contractor expected to provide the defense article or defense service to be sold (if known);

(*d*) An arms control impact statement;

(*e*) A description of the need for such services by such country and how such country intends to use them;

(*f*) An analysis of the impact of the proposed sale on the miltary preparedness of the United States;

(*g*) Reasons why the proposed sale is in the United States national interest;

(*h*) The impact of the proposed sale on the military capabilities of the country to which such sale would be made;

(*i*) How the proposed sale would affect the relative military strengths of the countries in the region;

(*j*) An estimate of the number of trained personnel needed to use effectively the defense articles or services proposed to be sold;

(*k*) An analysis of the availability of such articles or services from other countries; and

(*l*) An analysis of the impact of the proposed sale on United States relations with other countries in the region.

This listing of specific data is not to be construed as restricting in any way the right of either Committee to request such other pertinent data on proposed sales or licenses as it deems necessary. The certifications shall be unclassified, except that the information specified in clauses (ii) or (iii) of subsection (a), relating to the dollar value and descriptions of the items sold, may be classified if the public disclosure thereof would be *clearly* detrimental to the security *of the United States*. The letter of offer shall not be issued if the Congress, not later than thirty calendar days after receiving a certification, adopts a concurrent resolution stating that it objects to the certification, unless the President in his certification states that an emergency exists which requires the sale in the national security interests of the United States.

Any resolution of disapproval in the Senate shall be considered in accordance with the expedited procedures set forth in section 601 of the bill. A motion to consider any such resolution after it has been reported by a committee shall be treated as highly privileged in the House of Representatives.

The new subsection 36(c) sets forth similar requirements for submission of data on certain proposed commercial export licenses, other than for licenses for shipments pursuant to government-to-government sales. In the case of an application by a person for a license for the export of any major defense equipment over $7,000,000, or of defense articles or defense services, including technical data relating thereto, valued in excess of $25,000,000, before issuing a license the Secretary of State shall submit to the Speaker of the House of Representatives and to the chairman of the Committee on Foreign Relations of the Senate an unclassified numbered certification with respect to the application specifying (A) the foreign country or international organization to which the export will be made, (B) the dollar amount of the items to be exported, (C) a description of the items to be exported.

Upon request of the Senate Foreign Relations Committee or the House International Relations Committee, the President shall transmit a statement setting forth in accordance with such request a description of the capabilities of the items to be exported, an estimate of the total number of United States personnel expected to be needed in the foreign country concerned in connection with the articles or services to be exported, and an analysis of the arms control impact pertinent to the application.

A certification pursuant to this subsection shall be unclassified, except that the dollar amount of the items to be exported and the description of the articles may be classified if public release would be clearly detrimental to the security of the United States. The license shall not be issued if the Congress, within thirty calendar days after receiving a certification, adopts a concurrent resolution stating that it objects to the certification, unless the President in his certification states that an emergency exists which requires the issuance of a license in the national security interests of the United States. Any resolution of disapproval shall be considered in accordance with the procedures set forth in section 601 of the bill.

The new subsection (d) requires that in the case of an approval under section 38 of the Act of a United States commercial technical assistance or manufacturing licensing agreement for or in a country not a member of the North Atlantic Treaty Organization which involves the manufacture abroad of any significant defense articles on the U.S. Munitions List, before such approval is given, the Secretary of State shall submit a certification with respect to the proposed commercial agreement in a manner similar to the certification under paragraph (1) of subsection (c) containing comparable information.

Mr. HATHAWAY. Mr. President, I would point out that subsequent to the committee's report, the full Senate accepted the amendment I offered which added a subpart (M) to the information potentially to be requested by the committee, and was included in the conference report signed into law, which is detailed in Senator MUSKIE's and my letter to the President of July 23.

With the acceptance of the amendment I offer today to the pending legislation, the budget amendment would no longer trouble me to the extent that it did. It is my understanding that this amendment is acceptable to the committee and I urge my colleagues to add their support to it.

I believe that making this amendment part of the legislation before us today would help to prevent present or future chief executives from stepping outside established procedures for oversight and accountability, as apparently was done in the situation disclosed in the press this morning involving former President Nixon and Iran. Of course, it is always possible that laws which we enact will be ignored by the executive branch, as they have in the past, but let us not pass up this opportunity to once again forcefully express our intentions.

At the same time, I would like to ask Chairman MCCLELLAN specifically about the possible applicability of the waiver provisions in the bill regarding specialty metals as they may relate to the possible procurement of the Belgian machinegun, should such procurement ultimately be permitted by the GAO and the court. Is it the understanding of the chairman that specialty metals will be used in the manufacture of the Belgian made Mag 58?

Mr. McCLELLAN. Yes, I understand that they will.

Mr. HATHAWAY. Then if the Belgian firm of Fabrique Nationale is ultimately awarded the contract for these guns, where will they obtain the specialty metals?

Mr. McCLELLAN. The committee has been advised in writing by the Department of Defense that—

> The current Army draft contract for delivery of the Army Armor Machine Gun includes the contract clause in ASPR 7–104–93, which requires that specialty metals incorporated in articles to be delivered under the contract will be melted in the U.S., its possessions or Puerto Rico.
>
> The Belgian firm being considered for the procurement has stated in writing that they will accept this clause if they are the successful bidder.
>
> The Army has stated that it is their intention to leave this clause in the contract to be awarded.

But of course, as the Senator knowns, the contract is not yet signed.

Mr. HATHAWAY. Since the committee was advised that the Army intends to leave the specialty metals clause in the contract, would the chairman consider it indicative of substantial "bad faith" on the part of the Department of Defense and the Army if they were to strike out this clause in the final contract, or if it were to turn out that foreign-made specialty metals were currently contemplated in the manufacture of the Mag 58?

Mr. McCLELLAN. Yes, I certainly would. However, we cannot control the final terms of the contact or what may be contemplated. Furthermore, even if the clause is in the first contract, there is no assurance that it will be retained in following contracts. In addition, the provisions in this bill, including section 723, pertain only to fiscal year 1977, which ends on September 30, 1977.

Mr. HATHAWAY. In addition to my discussion here today with the chairman, which I have greatly appreciated, I am still interested in obtaining a timely response to the letter I wrote to the President and others relating to his original intention for requesting the amendment to section 723.

Mr. McCLELLAN. I agree that the Senator has raised a number of valid concerns, and I hope that a response to his inquiries is forthcoming. I would advise the Senator that the committee included the exception provisions in section 723 because the President specifically requested them in a budget amendment submitted on June 22, 1976.

I ask unaimous consent that a copy of the budget amendment be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

AMENDMENTS AND LANGUAGE CHANGE TO THE 1977 FISCAL YEAR BUDGET FOR THE DEPARTMENT OF AGRICULTURE AND THE DEPARTMENT OF DEFENSE

THE WHITE HOUSE,
Washington, June 22, 1976.

The PRESIDENT OF THE SENATE.

SIR: I ask the Congress to consider proposed amended appropriation language for fiscal year 1977 for the Department of Agriculture and the Department of Defense.

The details of these proposals are set forth in the enclosed letter from the Director of the Office of Management and Budget. I concur with his comments and observations.

Respectfully,

GERALD R. FORD.

Enclosure.

[Estimate No. 96, 94th Cong., 2d sess.]

EXECUTIVE OFFICE OF THE PRESIDENT,
OFFICE OF MANAGEMENT AND BUDGET,
Washington, D.C., June 22, 1976.

THE PRESIDENT,
The White House.

SIR: I have the honor to submit for your consideration proposed amendments to 1977 appropriation language requested in the 1977 budget for the Department of Agriculture and the Department of Defense. The details of this amended language are contained in the enclosures to this letter.

I have carefully reviewed these proposals for amended appropriations language contained in these documents and am satisfied that these requests are necessary at this time. I recommend, therefore, that these proposals be transmitted to the Congress.

Respectfully,

PAUL H. O'NEILL,
Acting Director.

Enclosures.

DEPARTMENT OF DEFENSE

Budget appendix page	Heading	1977 request pending	1977 proposed amendment	1977 revised request
296	General Provisions (In the second full paragraph on page 296, delete "Sec. __. No" and insert the following in lieu thereof:) *Sec. —. Except for small purchases in amounts not exceeding $10,000, no* (In the second full paragraph on page 296, insert the following after "Provided, That":) *nothing herein shall preclude the procurement of specialty metals produced outisde the United States or its possessions when such procurement is necessary to comply with agreements with foreign governments requiring the United States to purchase supplies from foreign sources for the purpose of offsetting sales made by the U.S. Government or U.S. firms under approved programs serving defense requirements or where such procurement is necessary in furtherance of the standardization and interoperability of equipment requirements within NATO: Provided further, That:*			

This amended language is necessary to enable contracting officers of the Department of Defense to make purchase of certain types of commodities with a minimum of restrictions and administrative cost and difficulties; and to enable these contracting officers to take full advantage of Public Law 93-356 which raised the upper limits of the Federal Government's small purchase procedures to $10,000. It is also necessary to enable the Department of Defense to purchase supplies from foreign sources for the purpose of offsetting sales made by the U.S. Government or U.S. firms under approved programs serving defense requirements or where such procurement is necessary in furtherance of the standardization and interoperability of equipment requirements within NATO.

DEPARTMENT OF AGRICULTURE

Budget appendix page	Heading	1977 request pending	1977 proposed amendment	1977 revised request
190	Title VI—General provisions (In the paragraph under this heading delete sec. 604:).			

This deletion is necessary in order to enable contracting officers in the Department of Agriculture to procure twine with a minimum of restriction and administrative difficulty and at the lowest available cost, regardless of the origin of the commodities or materials used in its manufacture. This action would also be consistent with the deletion from the last Department of Interior and Related Agencies Appropriation Act of a similar restriction on the Forest Service.

Mr. HATHAWAY. Given the testimony of the DOD before the Appropriations Committee which I intend to include in the RECORD today, it appears that from their viewpoint, the Army's decision to proceed to purchase the Belgian machinegun is not part of an offset agreement with NATO nations, and therefore the clause we have discussed at length could not in DOD's publicly stated position, apply to this situation.

But, if it is part of some secret offset agreement, which I intend to discuss, that agreement would still be tested under the criteria of whether it helped to achieve true standardization of interoperability among NATO and whether the requirements of my amendment are met. It is clear to me from an examination of relevant GAO reports and from the court opinion of July 2 that the Mag 58 would fail under such a test of standardization.

In fact, the "offset agreements" which the President claims made this budget amendment necessary were what prompted my concern over these provisions to begin with.

I was particularly concerned with any offset agreements in connection with this amendment as they relate to the F-16 fighter aircraft.

I was pleased to see that the Committee on Appropriations saw fit to hold hearings in September of last year to explore the terms of the multinational agreements entered into in connection with the F-16 sale to the consortium of European participating governments, and at the same time to study the costs and benefits of that sale.

For the benefit of my colleagues, in order that the record might fully indicate what took place at this hearing, Mr. President, I request unanimous consent that the transcript of this hearing be printed in the RECORD at this point.

There being no objection, the transcript was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF DEFENSE APPROPRIATIONS FOR FISCAL YEAR 1976

The subcommittee met at 10 a.m. in room 1223, Everett McKinley Dirksen Office Building, Hon. John L. McClellan (chairman) presiding.

Present: Senators McClellan, Inouye and Young.

PROCUREMENT AND PRODUCTION

Chairman McCLELLAN. The subcommittee will come to order.

On June 23, 1975, the subcommittee requested the Comptroller General to investigate the negotiations which led to the multinational agreement for the procurement and production of the F-16 air combat fighter. On September 2, the General Accounting Office completed the study.

Each member of the subcommittee has received a memorandum outlining the major facts and opinions contained in the GAO report. The complete report has been available to those members desiring to examine it.

This morning the subcommittee will receive testimony from Hon. Frank A. Shrontz, Assistant Secretary of the Air Force for Installations and Logistics, and Lt. Gen. Howard Fish, Director of the Defense Security Assistance Agency.

In addition, Mr. Kenneth M. Brown, Mr. Conrad H. Neuf, Jr., Mr. William K. Newman, Mr. Robert A. Evers, and Mr. Allen C. Fleener are here from the General Accounting Office to respond to any questions members may have on the GAO report.

LETTER AND MEMORANDUM

At this point I shall provide for the record a copy of the subcommittee's request to the Comptroller General as well as my memorandum of September 5 to the members of the subcommittee, and the report of the GAO will be retained in the subcommittee file for future reference.

[The letter and memorandum follow:]

U.S. Senate,
Committee on Appropriations,
Washington, D.C., June 23, 1975.

Hon. Elmer Staats,
Comptroller General of the United States, Washington, D.C.

Dear Mr. Staats: The United States has just entered into a cooperative program with Belgium, Denmark, the Netherlands and Norway for procurement and production of the F–16 aircraft. A memorandum of understanding and a preliminary contract have been signed by the senior defense official of each country.

The European consortium had narrowed the choice for a standard fighter aircraft to the French Mirage F–1E and the U.S. F–16. The press has voiced apprehension that the United States may have made ill-considered concessions in order to prevail over foreign competition. The attached newspaper article contains such allegations.

The Department of the Air Force has provided a fact sheet on the major aspects of the memorandum of understanding relative to the multinational F–16 program. A copy is attached.

The Committee requests that the General Accounting Office investigate the negotiations which led to the agreement and examine the articles of agreement to assure compliance with existing statutes and Congressional directives. It will also be helpful to know your estimates of the economic impact of this proposal agreement on all parties thereto.

With kind regards, I am

Sincerely,

John L. McClellan, *Chairman.*

U.S. Senate,
Committee on Appropriations,
Washington, D.C. September 5, 1975.

Memorandum to: Members, Defense Appropriations Subcommittee.

From: John L. McClellan, Chairman.

Subject: GAO study of F–16 multinational program.

On Tuesday, September 2, 1975, the GAO completed and forwarded to the Committee a study requested by the Committee of the F–16 multinational program. The Committee requested the study because of allegations that the multinational agreement on the F–16 sale to Europe included "ill considered" concessions to the Consortium in order to obtain the sale. The multinational agreement involves the sale of 348 F–16 aircraft to Belgium, Denmark, The Netherlands, and Norway for a price of over $2 billion. General Dynamics is the prime contractor, and United Technologies (Pratt and Whitney) is the engine contractor.

Copies of the GAO study are available for your use and may be obtained in Room 1243, Dirksen Building (telephone number 224–7278).

The GAO is of the opinion that the Memorandum of Understanding and the preliminary contracts between the Department of Defense and the European Consortium countries generally comply with existing statutes and Congressional directives. The GAO then notes the below listed facts and opinions of interest to the Committee:

The sale of F–16s to the European Consortium countries will have very little impact on the U.S. balance of payments ($400 million) and is really not a sale but a co-production agreement. The primary value of the F–16 co-production program is that a major NATO fighter aircraft weapon system will be standardized.

The unit cost of F–16s to the U.S. Air Force will not be appreciably affected by the Consortium co-production agreement.

The total balance of payments gain to the U.S. for the entire F–16 program could be approximately $4 billion. Much of this would be in lieu of sales such as the F–14, F–15, F–4, or F–5 and is not dependent on the Consortium co-production agreement.

It is probable that the sale price of the F–16's to the Consortium will be less than the cost to the U.S. Government. GAO was not able to determine how high such a probability is nor if a loss on the transaction would be illegal.

The U.S. will recover $164 million of R&D costs from the Consortium. (The stated total R&D cost is $496 million.) No allowance is made for additional recoupment after the initial aircraft.

There is nothing in the Memorandum of Understanding to preclude Consortium transfer of F–16s to third parties.

There is nothing in the Memorandum of Understanding providing for standard cost accounting of material produced in Europe for the U.S., nor is there provision to audit cost figures.

The Department of Defense claims that no supplemental agreements were made with Consortium countries in order to secure the F–16 agreement. However, Secretary Schlesinger is sympathetic to purchase of Belgium MAG–58 machine guns. Final selection of a machine gun will be made after field tests of the U.S. M60E gun and Belgian MAG–58. He also is sympathetic to purchase of 20 mm ammunition from Belgium.

The Dutch Minister asked Secretary Schlesinger to expedite an arrangement whereby the Dutch would build General Dynamics Liquified Natural Gas Tankers (LNGs) and also asked him to push the sale of the Dutch F–28 twin turbofan transport aircraft in the U.S. No reply to the request has been made.

General Dynamics is now working out an agreement for The Netherlands and Belgium to build three LNGs for $300 million. One third of the work will be done in the U.S.

The Consortium insisted on receiving a first line, aerodynamically advanced fighter with advanced avionics and weapons capability. They also insisted on a free flow of technology relating to the F–16 so as to upgrade European aerospace capabilities. The U.S. has obliged them.

Since the benefits to the U.S. are so marginal, it is recommended that the Committee hold a hearing on the multinational F–16 agreements before reporting the FY 1976 appropriation bill. Such a hearing has been scheduled for Thursday, September 11, at 10:00 AM, in Room 1223, Dirksen Building.

The FY 1976 President's budget figures on the U.S. portion of the F–16 program are listed below: FY 1976 Request, $273.0 million; FY 197T Request, $82.5 million; total development, $.5 billion (FY 1975 $); total procurement, $3.6 billion (650 aircraft); total program cost, $4.1 billion; and program unit cost, $6.3 million/unit (650 aircraft).

CORRESPONDENCE

Chairman McClellan. I would also like to include an exchange of letters between the Honorable Elmer Staats, Comptroller General, and the Honorable William Clements, Deputy Secretary of Defense, on this matter. Without objection, those letters will appear at this point in the record.

[The letters follows:]

Comptroller General
of the United States,
Washington, D.C., August 11, 1975.

B–101404.

The Honorable, The Secretary of Defense.

Dear Mr. Secretary: We have been requested orally by representatives of the Air Force to concur in a limited waiver of the statutory requirement of 10 U.S.C. § 2313 for inclusion of the "Examination of Records by Comptroller General (1971 Mar)" ASPAR clause in the prime contracts for the F–16 multinational lightweight fighter aircraft. This request was first made only within the last two weeks. Specifically, we have been asked to agree to delegate the exercise of our rights under that clause to the auditing agency of each of the European Participating Governments (EPG) where subcontract work is to be performed in those countries pursuant to the Industrial Participation provisions of the multinational Memorandum of Understanding. Proposed implementing contractual language has been supplied to us by Air Force representatives.

In considering the Air Force request, we learned that the prime contracts with General Dynamics and United Aircraft (Pratt & Whitney), entered into effective January 1975, already contain a special provision stating that the "Examination of Records by Comptroller General" clause is "not applicable to that portion of the work performed outside the U.S., whether such work is for the U.S., the Consortium or third countries". Waiver of the Examination of Records clause requires our concurrence. Moreover, both ASPR and Executive Order No. 10789 require that all reasonable efforts be made to include the clause before waiver is sought. The Examination of Records clause was waived in this case without concurrence and without consultation with the General Accounting Office. We are at a complete loss to understand why this occurred. The action is in clear contravention of law as provided in 10 U.S.C. § 2313. For this reason the contracts in our opinion, are under a legal impediment and require your personal attention.

We understand that work to be performed under the multinational program in the participating European countries will be subcontracted into those countries by the two U.S. prime contractors. *After* award of the prime contracts, one of the prime contractors sent telegrams to several of the major prospective subcontractors in the participating European countries asking if they objected to giving the General Accounting Office access to their records. The subcontractors stated objection to such access by GAO. We understand that they also object to giving the Defense Contract Audit Agency access to their records but will accept access rights for the auditing agencies of their respective governments. It seems to us that the Air Force and the prime contractors acted in concert, and without appropriate authority, to preclude the GAO from reviews of costs necessary to protect the interests of the Government. We are now requested to concur in a contract provision implementing this questionable arrangement.

In view of the magnitude of the EPG industrial participiation in the F–16 program and the fact that it appears that subcontract prices will be based on actual costs incurred (fixed price incentive contracts are contemplated), it is imperative that some responsible U.S. audit agency have access to subcontractor records, including the price proposals and supporting data relating to the European subcontracts. This is necessary if there is to be accountability not only to the U.S., but also to the European governments involved.

We are very concerned that both GAO and the Defense Contract Audit Agency will be precluded from having direct access to the records of any subcontractor in the participating European countries. Also, the Air Force proposal would result in GAO having sole audit authority for the United States, to be exercised only through the EPG audit agencies. We believe that DCAA should also have authority to exercise or arrange for the performance of its normal contract audit functions.

We also note that the existing prime contract terms extend the purported waiver not only to work performed in the participating European countries but also to all work "performed outside the U.S." We have seen no indication that any but three EPG prospective subcontractors object to the clause. Accordingly, the purported waiver is not only in violation of 10 U.S.C. § 2313 and seriously premature; it is also unacceptably broad in its scope.

In view of the situation as I understand it, I urge that the Department of Defense 1) makes every effort to secure access rights for audit purposes by the DCAA with respect to all foreign subcontracts placed under the program, and 2) similarly make every reasonable effort to include the "Examination of Records by Comptroller General" clause in all subcontracts. Objection to the inclusion of that clause, and any necessary waivers, should be considered on a specific case basis, and then only after the determination and findings required by ASPR 6-1004 have been made.

I recognize that there is substantial foreign government involvement in this matter and that the program is already underway. Accordingly I suggest that Our respective representatives meet to discuss this matter as soon as possible in an effort to work out a satisfactory solution to this problem. Also, I request that you inquire why the prime contracts were awarded in contravention of the requirement of 10 U.S.C. § 2313 and advise me of the results.

Copies of this letter are being sent to the respective Chairmen of the House and Senate Appropriations Committees, the House and Senate Government Operations Committees, and the House and Senate Armed Services Committees.

Sincerely yours,

Elmer B. Staats,
Comptroller General of the United States.

Office of the Secretary of Defense,
Washington, D.C., August 26, 1975.

Hon. Elmer B. Staats,
Comptroller General of the United States,
Washington, D.C.

Dear Elmer: This is in response to your letter of August 11, 1975, expressing concern that the General Accounting Office (GAO) and the Defense Contract Audit Agency (DCAA) will be precluded from having direct access to the records of European subcontractors participating in the manufacture of F-16 aircraft purchased by NATO countries.

On August 15, 1975, representatives of the Air Force met with Mr. Paul Dembling, and other representatives of your office. During the meeting, the Air Force representatives discussed waiver of the "Examination of Records by the Comptroller General" clause; the scope of the provision waiving that and other clauses; the "Audit by the Department of Defense" clause; and the allegation that the Air Force and their prime contractors acted in concert to preclude GAO reviews of cost records.

The Air Force advised that in the prime contracts awarded in January 1975, the "Examination of Records" by the intended to be considered inapplicable to foreign subcontractors. A waiver was therefore inadvertently authorized for contemplated foreign subcontracts to be entered into at a later date if the Consortium selected the U.S. aircraft. As stated by the Air Force, it was aware of the requirement for and at all times intended to obtain concurrence from you before excluding the clause from these future subcontracts. This is demonstrated by the fact that your representatives became aware of the inadvertent waiver as a result of a meeting on July 30, 1975, initiated by the Air Force to obtain your approval for a possible modification of the clause. The Air Force acknowledged that the provision in the prime contracts which states that certain general provisions "are not applicable to that portion of the work performed outside the U.S." was broader in scope than intended.

With respect to DCAA auditors rights to examine subcontractors books and records, it was pointed out that the "Audit by the Department of Defense" clause has not been waived for subcontracts. Finally, the Air Force emphasized that it and the prime contractors had not acted in concert to preclude the GAO from reviews of costs necessary to protect the interests of Government. The Air Force explained that correspondence with the prime contractors and subcontractors to ascertain whether the European subcontractors objected to the examination of records clause was necessary in order to document and justify a request for exclusion as required by ASPR 6-1004.

Following receipt of your letter, discussions were held with the contractors, and they have agreed to reinstatement of the "Examination of Records by the Comptroller General" clause. Appropriate contractual modifications are being negotiated to reinstate that clause. The contract provision which lists the inapplicable general provisions will also be modified to limit the scope to subcontracts performed by Consortium subcontractors pursuant to the approved Coproduction Plan.

Your representatives were also advised that some principal Consortium subcontractors and their Governments continue to be reluctant to permit direct access to corporate books and records by U.S. nationals without involvement of European national auditors. Accordingly, a meeting has been scheduled for September 23, 1975, with the Consortium countries to resolve this matter. Representatives of both the GAO and the DCAA will be invited to participate in this meeting.

I have been informed that at the conclusion of the meeting on August 15, your representatives agreed that accomplishment of the actions outlined would constitute satisfactory and acceptable compliance with the actions urged in your August 11 letter. I appreciate your calling these matters to my attention and am confident that all interested U.S. and Consortium representatives will proceed to explore constructively means within the statutory and regulatory framework to insure, as you suggested, accountability to both the U.S. and the European Governments involved.

Copies of this letter are being sent respectively to Chairman of the House and Senate Appropriations Committees, Government Operation Committees, and Armed Services Committees.

Sincerely,

Bill Clements,
Deputy Secretary of Defense.

BACKGROUND OF MULTINATIONAL PROGRAM

Chairman McClellan. Very well, Mr. Secretary, you may proceed. You have a prepared statement, I believe.

Mr. Shrontz. Yes; I have a brief prepared statement.

I am pleased to appear before this committee to discuss the multinational aspects of the F-16 program. First, I will briefly review the evolution of an agreement for the involvement of four European countries in the F-16 program. Second, I will address some of the significant aspects of that multinational agreement.

By late 1973 the four NATO countries of Belgium, the Netherlands, Denmark, and Norway had become interested in acquiring a new fighter aircraft to replace their F-104's and other aging fighters.

To achieve the benefits of standardization and obtain certain other advantages, the four countries preferred to select the same replacement aircraft and established a consortium committee in May 1974, to recommend the most appropriate program.

The following month, in June, this committee visited the United States to consider the U.S. manufactured aircraft candidates. At that time, preliminary discussions were held with U.S. Defense officials and with the U.S. contractors.

In early 1974 the United States had initiated flight test evaluations of the YF-16 and YF-17 prototypes. Later that year the Air Force developed a plan for a new lightweight air combat fighter variant for the U.S. Air Force inventory.

By the time of the consortium committee visit to the United States in June of that year, flight tests had progressed successfully and we were confident that an air combat fighter source selection for the United States between the YF-16 and 17 could be made by January 1975. Based on this assurance, the four consortium countries elected to await the outcome of our selection so they could evaluate the U.S. Air Force choice along with the principal competitors at that time, which were the French Mirage and the Swedish Viggen.

Between June 1974 and June 1975, representatives of the U.S. Government and the four European consortium governments held a number of meetings. The purpose was to develop an arrangement under which all five nations could have meaningful participation should the U.S. aircraft be selected for acquisition by the European countries. Similar discussions were being held between the consortium countries and both France and Sweden on their respective aircraft programs.

FEATURES OF AGREEMENT

In June 1975, the consortium unanimously selected the U.S. F-16 and entered into a memorandum of understanding and preliminary contracts with the United States. These agreements include the following features:

The planned initial buy of F-16 aircraft by the four European countries is 348 airplanes.

The U.S. Government will fund and implement the engineering development program. The pro rata costs to the European participating governments will be included in the price of the 348 airplanes.

Subject to congressional approval, the U.S. Air Force plans to eventually procure a mimimum of 650 aircraft.

The program contemplates that an amount of subcontract effort equivalent to about 40 percent of the procurement value of the European consortium aircraft will be accomplished in Europe.

This European effort includes final assembly in Belgium and the Netherlands of airframes and engines for the four consortium countries' F-16 aircraft.

Fifteen percent of the procurement value of F-16's sold to third countries and about 10 percent of the procurement value of aircraft for the U.S. Air Force will be of European manufacture. However, final assembly of the airframe and engines will occur in the United States.

There will be U.S. sources for all F-16 components manufactured in Europe.

Certain critical technology involved in airplane subsystems, principally in four systems, will not be released initially by the United States for security reasons.

The United States retains all rights to handle third-country sales.

Delivery of the first production aircraft to the European participants in the program is expected in 1979. The average airplane price for the European participants is estimated at $5.69 million each in 1975 dollars.

A joint logistics program will be developed by the five countries for supply and maintenance of the F-16 aircraft stationed in Europe.

A new five-nation steering committee has been formed to deal with policy issues relating to the multinational aspects of the program. The United States will chair that committee for the first year. The U.S. Air Force System Program Office at Dayton, Ohio, is responsible for daily management of the program. All directions to the contractors will be focused through this Dayton office. However, there will also be a small extension of the system program office in Brussels, Belgium, as well as our Air Force Plant Representative Office—which is our contracting organization—will be available in Belgium to handle the European interface. Both Dayton and the Brussels office staffs will have representatives from the four European participating countries. This simplified organization has been structured to allow the European partners to protect their program interests without creating an unnecessary bureaucracy.

BENEFITS OF F-16 MULTINATIONAL PROGRAM

We believe strongly the F-16 multinational program has a solid foundation which provides substantial economic benefits for the United States. The costs of the aircraft development program will be shared by the European participating countries, and the majority of manufacturing effort will occur in the United States.

Of even greater significance are the operational and logistics efficiencies for NATO, including the United States, of standardized aircraft. It was these considerations which created and shaped the program plan.

Gentlemen, this concludes my prepared statement. I will be most pleased to respond to your questions.

INTRODUCTION OF ASSOCIATES

I would like to introduce briefly my associates here. Dr. Roger Shields, on my left, is the Deputy Assistant Secretary of Defense for International Security Affairs. Lieutenant General Fish, whom the chairman introduced earlier, is the Director of the Defense Security Assistance Agency. On his right is Colonel Thurman, who heads up our system program office in Dayton. On Colonel Thurman's right is Colonel William Quasney, chief of our joint engine project.

At this point, Mr. Chairman, I would be happy to answer any questions.

NUMBER OF PLANES SCHEDULED FOR MANUFACTURE

Chairman McClellan. Thank you very much. That was indeeed a brief statement; I assume it was intended to give just an outline of the project.

Mr. Shrontz. It was, and we are prepared to talk in detail on any aspect.

Chairman McClellan. Did you participate in the development of arrangements with the consortium countries?

Mr. Shrontz. Yes, I did.

Chairman McClellan. Then you are thoroughly familiar with not only the development of the agreement but also its final terms and conditions?

Mr. Shrontz. Yes.

Chairman McClellan. You have given us a good outline to start with. But I think a program of this magnitude demands amplification. It is anticipated that at least 2,000 of these planes will be manufactured; is that correct?

Mr. Shrontz. We would expect that.

Chairman McClellan. I understand that the manufacturer anticipates possibly far more planes over the next 15 or 20 years, so this is a venture of considerable size.

Therefore, I am going to simply place the burden upon you—upon the Defense Department and the Air Force—to lay this out on the table in detail, without any reservations. When we look at what you have said, we must have a true, accurate, and complete picture—all the information essential to making the best evaluation and judgment of our Government's participation in the program.

There are many things that DOD knows from a technical or legal standpoint that will not be immediately apparent to me and possibly to other Members of Congress.

So I wish this morning for you to give us every detail that you consider essential for this committee to be correctly and fully informed about the F-16 arrangements. Mr. Secretary, I am making this request broadly, so that it cannot be said in the future that the Defense Department or the Air Force withheld something we should have known.

Senator Young, is there anything you wish to say at this point?

Senator Young. Not at this point.

Chairman McClellan. Very well, Mr. Secretary, you may proceed.

MEMORANDUM OF UNDERSTANDING

Mr. Shrontz. First, I would like to say that there have been allegations perhaps of concern to the committee and to others that there are agreements outside the scope of the memorandum of understanding in the entry of contract. I assure you, to the best of my knowledge—and I participated throughout the negotiations—that is not the case. The entire arrangement that we have between ourselves and each of the four European participants is contained in these written documents.

BELGIAN MACHINEGUN

With regard to the question, for example, on side arrangements on a Belgian machinegun, our Secretary of Defense did receive a request to look at that. He did indicate that the testing was not complete and would not be complete prior to the end of this year and it was too early to make a decision with regard to the purchase of machineguns from Belgium.

Chairman McClellan. Are you referring to the news stories that we have agreed to purchase machineguns from Belgium?

Mr. Shrontz. Yes.

Chairman McClellan. That is one aspect you may explain, even though it is really outside the realm of the contract.

Mr. Shrontz. I was trying to respond to your concern that we lay everything out on the table. In that regard, our Secretary indicated that he would consider the Belgian machinegun and the valuation but he made no commitments at that point in time with regard to the decision that needs yet to be made by the end of the year.

Chairman McClellan. Has a decision been made since?

Mr. Shrontz. Not to my knowledge.

Chairman McClellan. So the United States is in no way committted to buying their machineguns?

Mr. Shrontz. That is my understanding.

General Fish. What you said, Mr. Chairman, is correct. We are not committed in any way to buy Belgian machineguns.

Chairman McClellan. Have you indicated to the Belgians that you are giving it favorable consideration?

General Fish. No, sir. We indicated we would give it consideration.

Chairman McClellan. Was that part of the discussion prior to their reaching an agreement to purchase the F-16?

Mr. Shrontz. Yes; it was. It was in the context that the Belgian Minister of Defense did ask if we would be willing to purchase the Belgian machinegun. The answer was given as I described it. He went back to Belgium. The press reports indicated he felt he had achieved his objective in getting favorable consideration.

What part it played in the Belgian decision I don't think we can say but it did arise prior to the decision being made by the Belgians on the program.

Chairman McClellan. Then is it reasonable to assume the Belgians were satisfied before they entered into this agreement that we would eventually buy their machineguns?

Mr. Shrontz. I can't believe they were satisfied with that, Senator, because we frankly told them very candidly we could not make such a decision at that point in time.

Chairman McClellan. And no decision has been made so they have received no commitment from us?

Mr. Shrontz. No; they have not.

Chairman McClellan. In other words, our Government can still decline to buy the machineguns and would not be guilty of any breach of faith with Belgium?

Mr. Shrontz. To my knowledge, that is absolutely correct.

Chairman McClellan. Is there anything about this that might be outside the realm of your knowledge?

General Fish. He is in the Air Force; I represent DOD. The Secretary is in the Air Force; it would be an Army buy. I am cognizant of the discussions. I was present during much of those discussions with the Secretary of Defense and no commitment was made whatsoever. A complete evaluation is necessary and we would not be breaking faith with anything that has been said if we were to make a decision to buy from a source other than Belgium.

Chairman McClellan. The Belgians could not claim this was one of the inducements that entered into their decision to purchase the F-16?

General Fish. I would say: No way.

BELGIAN AIRCRAFT PURCHASE

Senator Young. How many F-16's has Belgium agreed to buy?

Mr. Shrontz. The Belgians plan to buy 116 airplanes initially. They do have an option to reduce that to—I believe it is 102 airplanes in the event they make a decision by 1977. The plan is to buy 116. They told us their requirements are probably double that, so we would expect, over time, that they would buy something in the neighborhood of a couple of hundred airplanes.

Senator Young. Is that a firm agreement or can they still back out?

Mr. Shrontz. The agreement is firm to the extent we are authorized to expand on behalf of the consortium $114 million as pre-expenses prior to the time we can get into their hand a full letter of offer which would contain all the details of the program. If at that point in time the letter offer is unsatisfactory to them, they could back out of the program but the expenses that we had incurred up to that point on their behalf would not be refunded.

Chairman McClellan. In other words, they have a year in which to determine whether they will go through with this procurement.

Mr. SHRONTZ. That is one way to look at it.

Chairman MCCLELLAN. But is it the right way to look at it?

Mr. SHRONTZ. They feel they have made a firm program commitment but, in view of our inability, until the details of the logistics plan was put in front of them, they felt it proper they should have an out but they have been willing to pay the $114 million as an expense of that option.

General FISH. In all of our foreign military sales, the other party has the right to cancel but then they have to pay termination costs. This is typical of the way we handle it.

Chairman MCCLELLAN. You feel that our Government is protected with respect to any cost you would incur? That is, $114 million would cover Belgium's pro-rata cost of that development?

Chairman MCCLELLAN. Senator Inouye, Senator Young, is there any other question about this sale to Belgium?

TYPE OF AIRCRAFT

Senator INOUYE. I was interested, Mr. Chairman, in the contract that we have with the consortium. It is a fixed-price, isn't it?

Mr. SHRONTZ. The contract that we have with the consortium nations is not to exceed price on two elements—the airframe and the engine. Now, this not-to-exceed price was not extended by the U.S. Government but by the individual contracts—General Dynamics in the case of airframe; Pratt and Whitney in the case of the engine.

Senator INOUYE. How often do we get a deal like that—I mean the U.S. Government?

Mr. SHRONTZ. We don't, because we buy on an annual basis. In this case, we took 3 years of production options at the time that we entered into the full-scale development program. But in the case of the Europeans, they are willing to commit to their entire buy in the beginning, and that was really the basis for their insisting on having some kind of assurance on a not-to-exceed price. There are two elements.

Senator INOUYE. Haven't we committed ourselves to entire buys in the past on a lot of weapon systems, not just this?

Mr. SHRONTZ. I am unaware that we have committed to multiyear commitments on the basis that we require both authorization and appropriation annuity to continue the program.

I would like to make one other comment. This not-to-exceed price by the two contractors on those two elements is in 1975 dollars. It is not protected against inflation, for example, nor does it cover radar nor does it cover government-furnished equipment. So it is not on the entire package.

Senator INOUYE. But we have never had that type of deal for your aircraft?

Mr. SHRONTZ. Yes; we have had production options for a limited period of time but not for an entire buy, say, of 650 aircraft, to my knowledge.

COST OF F–16

Senator INOUYE. Then there is a possibility that the F–16 eventually would cost much more for the United States than it would cost for the Europeans?

Mr. SHRONTZ. I think the possibility is very remote in that if you take what we think is the most probable price for the Europeans at, say, $5,690,000, that equates back to something close to $4.7 million for us. So that the differential on the most probable cost is substantial, the not-to-exceed is 6.09 on top of that, so the margin is very great for the two contractors.

Senator INOUYE. I hope these are reliable figures, because I recall not too many months ago when the Congress was convinced to buy the concept of the 16 and the 18 because it was the less expensive weapon system—less capable but less expensive—and now we find there is a possibility that in the case of the 18 it might cost more than the 14.

Mr. SHRONTZ. I was unaware of that. I can't speak to that.

Senator INOUYE. So I hope your calculations are reliable, because the way I look at it, there is a possibility, a very great one, that in the final analysis we would be paying more for our 16 than the Europeans and we would have a difficult time explaining that to our constituents.

Mr. SHRONTZ. I really believe that is very unlikely. We have 301 airplanes protected for 3 years with production options which will cover certainly the initial buy on our part and we will negotiate for the Europeans' each year's buy on an annual basis.

We would hope for both of us that it will be substantially less than one half, but the biggest concern the Europeans will have is the fact that their protection even from the contractor who has not covered any inflationary impact, nor does it cover currency exchange problems.

TRANSFER TO THIRD COUNTRIES

Senator INOUYE. Will the Europeans be able to, under this agreement, transfer the 16's to third countries?

Mr. SHRONTZ. No. The letter of offer that we spoke of earlier will contain—and they know it will contain—the standard statutory prohibition against the transfers and sales. The reason it was not contained in the initial memorandum of understanding is: It was felt that those terms which are part of the so-called form 1513, I believe, which is a letter of offer, should be deferred to that point in time. But we did discuss it with them. They understand the problem and there is no question that they will accept that particular condition.

Senator INOUYE. Finally, Mr. Secretary, in your mind there is no question of national security involved?

Mr. SHRONTZ. No, sir. You mean in terms of technology transfer?

Senator INOUYE. Yes.

PROTECTION OF TECHNOLOGY

Mr. SHRONTZ. In my mind there is none. We are protecting four principal areas of the airplane from initial transfer. We are protecting the radar processor. We are protecting the electronic countermeasure equipment and the fire control system and we are protecting the high technology hot section of the engine, so we feel that we have protected adequately those areas which could raise a security question.

Senator INOUYE. How do you protect these four elements?

Mr. SHRONTZ. By not releasing the drawings to the Europeans and by having all of those particular items manufactured in the United States.

Senator INOUYE. But if they have the finished parts, won't they be able to duplicate it?

Mr. SHRONTZ. To reverse-engineer it? We talked about that and, since much of it is software and logarithms, we think not, but if this is a concern——

Senator INOUYE. We have been advised by just capturing a Mig we were able to get to all the secrets of the Soviets. Can't they do the same thing? Is our technology that advanced?

Mr. SHRONTZ. We think in most cases that the reverse technology is not a practical answer. I guess if we were simply to sell the airplanes to these particular countries, they would have that same opportunity; namely, if, in fact, it can be reverse-engineered, a simple sale would achieve that same objective.

Senator INOUYE. Thank you, sir. Thank you, Mr. Chairman.

BREAKOUT OF TERMINATION LIABILITY

Senator YOUNG. Mr. Chairman, could I ask one question.

You say Belgium is obligated to up to $114 million even though they may seek contract termination. What are the other countries committed to?

Mr. SHRONTZ. No, sir; I gave you a total number for all four countries of $114 million. We can give you that breakdown but we have to look it up.

Chairman MCCLELLAN. You can insert it in the record.

[The breakdown follows:]

[In millions]

Country:	
Belgium	$38.0
Netherlands	33.4
Norway	23.6
Denmark	19.0
Total	114.0

DEVELOPMENT AND PRODUCTION PROGRAM

Chairman MCCLELLAN. You may proceed, Mr. Secretary.

Mr. SHRONTZ. Let me talk briefly about the development program and why that was structured in the way it was. It was our desire in our country to have both the initiative and the direction of the final development of the airplane. But frankly the Europeans would have liked to participate to a greater degree in the final development, the detailed engineering on the aircraft itself. We felt that that was inappropriate and that we should keep that in the United States and that the proper involvement on the part of the Europeans was in the production program itself.

Accordingly we agreed to fund the development program and to charge the Europeans pro rata share rather than ask them to fund on a participating basis that part of the program. So what we did develop in accordance with the normal foreign military sales approach was a pro rata allocation for these four countries of a share of the development program cost, including a significant share of the initial costs of developing the F100 engine, which had been developed initially for the F–15.

So we feel we have covered adequately our costs in the development program with regard to this coproduction effort, and we structured it in that way.

The reason we have a significant offset with the Europeans was the feeling that if we were to be successful we did have to recognize that they had a legitimate interest in keeping their aerospace factories reasonably busy in terms of trying to keep up both with the reasonable level of the state of the art and employment.

PARTICIPATION RATIO

We structured it so that the great majority of the offset was on their aircraft and they elected to ask us to participate to what we think is a relatively nominal degree in ours so that the program could be truly structured as a joint effort. Since we were achieving what we felt were significant benefits and standardization for NATO but on a U.S. program, we used the 40, the 10 and the 15 ratio. We feel that gives us the majority of the work in this country but gives them a fair share for their contribution to the program.

Chairman MCCLELLAN. This really amounts to a joint cooperative production effort rather than a sale, does it not?

Mr. SHRONTZ. It does, Mr. Chairman; it does. We do, however, through our program office, manage the program, with the bulk of work being done in this country.

Senator YOUNG. Does this participation ratio pertain with respect to aircraft we buy for our own use or just for those being sold in Europe?

Mr. SHRONTZ. No; it pertains at a lower level but it does pertain to the extent of 10 percent for those aircraft that we buy for our own use, 10 percent of the production value of the airplane.

Senator YOUNG. Does this also pertain to the other countries?

Mr. SHRONTZ. Yes, sir.

Chairman MCCLELLAN. What was the reason for that?

Mr. SHRONTZ. In order to have, Senator, a balanced program, in order to have their involvement along with us in a total coproduction program.

Chairman MCCLELLAN. Now, beyond fulfilling the needs of the four consortium countries and ourselves—are they sales?

Mr. SHRONTZ. Yes.

Chairman MCCLELLAN. But all of the joint producers participate in the profits and advantages of those sales, do they not?

Mr. SHRONTZ. They do to some degree. In our case we would keep 85 percent at least of the production and all final assembly of third-country sales in the United States.

PRODUCTION FOR THIRD-COUNTRY SALES

Chairman MCCLELLAN. After the initial production agreement is satisfied between the four consortium countries and the United States, we will keep 85 percent of production for third-country sales in the United States?

Mr. SHRONTZ. That is right, except for any follow-on sales to the consortium countries itself?

Chairman MCCLELLAN. The 15 percent production is made available to them primarily to keep their factories open and to keep them in a fluid position so they can make a contribution to any needed production?

Mr. SHRONTZ. Yes. We had what we felt in this program an advantage compared to the French offer and to the Swedish offer in that we would hope that this airplane will be in production for a long period of time and will have a substantial international market.

It was important to the Europeans that even though the percentage participation was small in third country sales they would be able to participate at a relatively high stable level over a fairly long period, therefore, being able to stabilize their employment. So, yes, we did enter into that kind of an arrangement.

They must be reasonably competitive with our country's. They must also be willing to recognize that certain countries that we might prefer to sell to, might not want foreign contingents in the airplane in which case that would be an exception.

Chairman MCCLELLAN. If you sold to Japan and Japan did not want any of it constructed in Europe, it could be produced entirely in America?

Mr. SHRONTZ. They would agree to recognize that, and we would agree to try to see to accomplish that.

Chairman MCCLELLAN. Would we give them any subsidy or royalty from the proceeds of such sale?

Mr. SHRONTZ. No, sir.

Chairman MCCLELLAN. They get absolutely nothing from it?

Mr. SHRONTZ. Absolutely nothing on that sale. We would agree, however, to try to compensate for that with additional purchase at some point in the future, but there is no——

Chairman MCCLELLAN. Additional purchase where?

Mr. SHRONTZ. For example, the next country might be willing to have a 20-percent foreign content which would offset the fact that they did not have any.

Chairman MCCLELLAN. You will try to maintain that balance in the future?

Mr. SHRONTZ. Try to keep the balance.

COMPETITION FOR CONSORTIUM SALE

Chairman MCCLELLAN. Were we in competition with France and Sweden in trying to induce them to select the American plane? Did France and Sweden make similar efforts to sell their planes?

Mr. SHRONTZ. Yes, sir. Certainly the case of France, it is my judgment—from what I know about the offer—is that they went further than we did with regard to the economic inducements on the airplane.

Chairman MCCLELLAN. They offered even greater inducement from the economic standpoint?

Mr. SHRONTZ. Yes, sir.

Chairman MCCLELLAN. Then why do you think our plane was selected?

Mr. SHUONTZ. I think it was a combination of the fact we think we have a better airplane. We believe it will be a lower cost airplane. It is lighter and we believe it is a higher technology airplane which would be of interest to the Europeans.

Chairman MCCLELLAN. In other words, you believe the quality of the plane was the prime factor in selling the F–16?

Mr. SHRONTZ. At the price.

Chairman MCCLELLAN. But you did have certain competition to meet regarding details and arrangements of production and so forth?

Mr. SHRONTZ. Yes, sir. No question about that.

Chairman MCCLELLAN. You feel it was necessary to make the term you have outlined here in order to get the contract?

Mr. SHRONTZ. I guess as a negotiator—I hope this does not sound self-serving—but even in hindsight I am convinced we would have lost the sale to the French if we did not go to basically the program we offered, the reason being that the importance—particularly in Belgium and the Netherlands—of a significant coproduction program was a very driving overriding factor in their minds. I am convinced it was necessary to go this far in order to achieve the sale.

Chairman MCCLELLAN. Do you think it could be said that this really amounts to a subsidy to these countries for whatever number of planes they procure?

Mr. SHRONTZ. No, sir. The only way in which I could conceive that perhaps the program was inappropriate is if you conclude the sale would have gone through without any coproduction offer, and I am convinced that was not the case. I am convinced we had to make that coproduction offer in order to achieve the sale. We think we balanced it in such a way that we have still kept in the United States the economic benefit of the program and achieved the benefits, and we think they are not inconsiderable of the standardized aircraft for NATO.

IMPACT OF FUTURE SALES TO OTHER COUNTRIES

Chairman MCCLELLAN. What would be the single logical impact of this sale on the future market in other countries? Do you think it would be a recommendation or an inducement to other countries to buy the American plane?

Mr. SHRONTZ. I will defer to General Fish.

General FISH. My office does handle the foreign military sales worldwide. It is very clear that the European decision to go with the F–16 has created a considerable market in third countries. We have many inquiries now for the F–16 that did not exist before the consortium decision.

Chairman MCCLELLAN. It makes the sales prospect much brighter, and possibly the sale efforts easier?

General FISH. I would hasten to say in some of the inquiries we have received we would not necessarily agree to sell the airplane to just any country that wanted it, of course. The first requirement is that—at least under the Foreign Military Sales Act—is that it be consistent with certain provisions of the act. That it be consistent with our foreign policy objectives, and that the country need the capability in our view, but once that decision is made we would much prefer they use U.S. equipment rather than equipment from some other country because of the closer ties and things. This sale, this outstanding recommendation, as the chairman put it, certainly assists us in placing the equipment in these third countries where we decided it was worthwhile.

Chairman MCCLELLAN. If the consortium countries had selected the French or the Swedish plane, it would have been much more difficult for the F–16 to compete in that market.

General FISH. Yes, that is certainly true.

Chairman MCCLELLAN. And the converse is true, that by their having selected the American plane, it will be much easier for us to compete in those markets than it might have been. Is that correct?

General FISH. That is a very supportable conclusion.

PERFORMANCE COMPARISONS

Senator YOUNG. I realize that the speed and the altitude a plane can acquire are not the only qualifications, but how does this plane, the F–16, compare with the French and Swedish planes as to speed and altitude capability?

Mr. SHRONTZ. Could I defer that to Colonel Thurman?

Colonel THURMAN. The French airplane has a variable inlet which gives it the ability to fly at relatively high speed a little above mach 2. This airplane has a fixed inlet which was a concession made to lower cost, and its top speed is limited to about mach 2. As far as thrust to weight, we had considerably better thrust to weight, which is a measure of performance and in turn capability. Because of our fly by wire flight control system we are considerably better than the French airplane.

Senator YOUNG. And the Swedish?

Colonel THURMAN. The Swedish airplane is worse than the French airplane as far as performance is concerned.

Senator YOUNG. You did not mention the altitude ability.

Colonel THURMAN. They all have comparable altitudes, ceilings.

COST OF F–15 PROGRAM

Senator YOUNG. What is the plan for the F–15? Is the Air Force going to buy more of them?

Mr. SHRONTZ. Yes; our program calls for well over 700 F–15's, and initially for some 650 of the F–16's. On the basis that the F–15 does have capabilities on an air-to-air mode that the F–16 does not, whereas the F–16 is a lower priced airplane that also has some air-to-ground capability. So the two we feel complement each other and we would not plan to cut back on our initial buy of the F–15's.

Senator YOUNG. What is the initial buy?

Mr. SHRONTZ. About 729.

Senator YOUNG. What is the estimated cost?

Mr. SHRONTZ. Can I provide it? I don't have it.

[The information follows:]

COST OF F–15 PROGRAM

The total procurement cost as shown in the 30 Jan 75 SAR for the 729 F–15 aircraft program in then year dollars is $8,859.5 million. This comes to $12.15 million per aircraft.

NEGOTIATIONS

Senator INOUYE. Mr. Chairman, I ask the following questions with great reluctance, but I believe it is proper considering the recent disclosures relating to our involvement in international sales.

Mr. Secretary, are you completely satisfied that in every step of your negotiations, and in every element of your negotiation, everything was on the table?

Mr. SHRONTZ. Yes, sir, I am.

Senator INOUYE. You have no reason to suspect that some of the contractors may have been dealing under the table?

Mr. SHRONTZ. No. I have some basis to suspect that they were approached, but I think I have absolute assurance there were no under-the-table arrangements made whatsoever. And as far as the Government was concerned, I know from personal experience there were no entrees whatsoever, and nothing under the table at all.

Senator Inouye. You say our contractors were approached?

Mr. Shrontz. I understand from them they were.

Senator Inouye. Thank you, sir.

Chairman McClellan. You are certain there were no payoffs to either Government officials or to the contractor?

Mr. Shrontz. I am convinced there were none.

Chairman McClellan. But the contractor has acknowledged that approaches were made?

Mr. Shrontz. Yes; as I mentioned.

Chairman McClellan. And they were rejected?

Mr. Shrontz. I was told that unequivocally.

Chairman McClellan. That was my understanding, but I think Senator Inouye is absolutely right; this record must reflect that there is absolutely no contamination whatsoever of this transaction.

Senator Young. In the case of the French and Swedish planes, were those country-to-country deals, or did the manufacturers in those countries have a voice in the negotiations like our companies did?

Mr. Shrontz. They were far more country-to-country. In the case of the French the effort—if that is the right term—was entirely by the Government. There was very little work by Dessault. In the case of Sweden, it was more mixed, but they were largely country to country rather than contractor to country efforts.

Senator Young. That is an advantage, isn't it?

Mr. Shrontz. Yes. That is indeed.

BELGIAN GUN AND AMMUNITION

Chairman McClellan. All right, thank you.

Let us return a moment to the question of Belgian machinegun sales. You stated that we currently have no obligation or commitment to purchase those guns?

Mr. Shrontz. Yes.

Chairman McClellan. Now does that also apply with respect to Belgian ammunition?

General Fish. I am trying to recall the case. I am afraid I will have to get it for you for the record. I recollect that we have—either they asked us if they could produce some ammunition—I am not sure if we agreed or not.

Chairman McClellan. That was in connection with the machinegun itself?

Mr. Shrontz. I don't think so, sir. That was not my recollection.

Chairman McClellan. They are two separate items. I know that.

General Fish. Is it the ammunition for the machine gun?

Chairman McClellan. Belgian 20-millimeter ammunition.

Mr. Shrontz. At the meeting in which the Minister of Defense met with Secretary Schlesinger and discussed a number of items including the machineguns, she also asked if we would be willing to buy some 20-mm. Belgian ammunition on the basis that if we were willing to buy it it would bring down the overall cost for everybody because a lower production cost would be achieved. My recollection of Secretary Schlesinger's answer at that time was he would look into the matter, and I have heard nothing subsequent to that.

Chairman McClellan. Would you inquire into this and give us the complete facts for the record?

Mr. Shrontz. I will do that.

[The information follows:]

The Belgium made MAG–58 machine gun is currently undergoing tests by the U.S. Army as a possible gun for the M–60 tank. The Army will obtain at no cost 10 MAG–58 production models for testing. During the November time period, side by side testing of the MAG–58 and the other candidate machine gun which you expressed interest in, the U.S. manufactured Maremont M–60 E2, will take place. In addition, there will also be an examination of the licensing options, acceptability of offshore procurement, and relative costs. Standardization of US/NATO military equipment will also be a consideration which is in accordance with the expressed desires of the Congress.

The Army's decision as to which gun to buy will take place after the side by side firing tests are concluded and a complete evaluation is made. A decision in early 1976 is currently anticipated.

No commitments to purchase the MAG–58 have been made to the Belgium Government. The decision will be based on results of the actions outlined above.

COST UNDER COPRODUCTION AGREEMENT

Chairman McClellan. What is the agreement with respect to fair cost under the coproduction agreement?

Mr. Shrontz. I am not sure I understand the question.

Chairman McClellan. How will our Government be able to verify that the cost of items furnished by the Europeans as part of the coproduction agreement are fair and equitable?

Mr. Shrontz. I think perhaps Colonel Thurman would like to add to it, but basically, Mr. Chairman, we will set up separate contracting systems for the consortium aircraft and for our own aircraft, and those contracting systems will go down through the prime contractor and into the subcontractor and vendor levels to be able to identify cost differences between what our airplanes cost and what the consortium airplanes cost.

Chairman McClellan. Do we have the right to audit their cost records?

Mr. Shrontz. We are at the moment meeting with a team in Brussels including representatives, I believe, of the General Contracting Office, of the Cost Accounting Standards Board, with our people and with representatives of each of the consortium countries to see what can be worked out in terms of getting standardized cost information. I don't know yet how far we will be able to go to get into the individual costing on the part of the vendors, but we are working with that problem at this point in time.

Chairman McClellan. It has not yet been settled?

Mr. Shrontz. It is in terms of how it can be done. We are satisfied there are ways of doing it, but we don't have the details.

Chairman McClellan. It is important that it be settled. There must be some way of actually protecting our Government.

Mr. Shrontz. My impression in talking with some representatives of the Cost Accounting Standards Board is that they feel there are opportunities using, say, the Belgian Government auditors with an agreed upon parameters to help them determine the proper cost base line, so they feel reasonably optimistic that the foreign governments can help in this regard, and representatives from those governments are willing to try to help work it out.

Chairman McClellan. In other words, there would be the opportunity—if it is not properly supervised—for the European governments to absorb some overhead costs that should be charged to other programs. We do need to guard against that, of course. You have not yet determined how to do it, though?

Mr. Shrontz. You understand correctly. We do have in our Government an opportunity to review all of the subcontracts which are placed by our U.S. prime contractors in Europe, and it will give us an opportunity to satisfy ourselves that the contract provisions provide for adequate cost visability so there is a vehicle to examine that, but I can't tell you today how that is going to be worked out, but we have it underway.

Chairman McClellan. But you do understand it must be worked out?

Mr. Shrontz. Yes, we do.

Chairman McClellan. All right. Are there any other areas you want to discuss? I want you to have every opportunity to give us all the details.

EUROPEAN SUPPLIES COMPETITIVE

Mr. Shrontz. There is one thing I think perhaps we should talk briefly about. That is the question of how competitive the European suppliers need be, and we have a requirement in the agreement that may be reasonably competitive.

Chairman McClellan. You mean how competitive the consortium countries need to be in the European market?

Mr. Shrontz. How competitive we need to keep the European suppliers in terms of cost compared to our own suppliers to keep the total cost of their arms and our arms down; and at one time we thought we would try to achieve an arbitrary standard, say they must be within a band, plus or minus. The problem with that is if you establish a band all the quotes are going to come in at the high side of the band. We did not want that, so at the moment we have defined it simply as being a necessity to insure that they are reasonbly competitive.

Because the prime contractors have not completed the negotiation on all of their subcontracts in Europe we don't yet know whether it will be necessary to throw out European contractors as not being reasonably competitive. We have set up a steering committee including U.S. representation to try to work that problem, but it still is in front of us, and we still don't know yet whether there will be any measurable cost impact resulting from European suppliers in the program; but we are working it, and we think from what I have heard from the prime contractors that it is a manageable problem.

Chairman. McClellan. If the European suppliers cannot compete with our suppliers, who would get the supply contracts?

Mr. Shrontz. If they are outside of the realm of being reasonably competitive we would buy in the United States. If they fit the standard of being reasonably competitive, we would try to achieve those 40 percent offset commitments that we have currently made.

Chairman McClellan. Is there anything further?

Mr. Shrontz. Yes; I would like to talk about the logistics program for a moment. One of the advantages we think we have in the program is a joint logistics support for all five nations' aircraft stationed in Europe. That would be the 348 or whatever, European aircraft plus those aircraft we deploy to Europe on our own contract. We think there are great savings to be achieved. We would plan to have a maintenance center in Europe to maintain all the aircraft. We plan to have a common logistics system to support all the aircraft, and a common training system to get the people trained.

And this will be another element of the program. We think the spares purchased in this country, that the logistic support provided by this country, will also have significant economic benefits that were not calculated in just the production program itself.

Chairman McClellan. That is over the long run—over the life of the plane?

Mr. Shrontz. That is correct.

Chairman McClellan. And over the period that NATO continues?

Mr. Shrontz. Yes.

Chairman McClellan. Anything further at this point?

Mr. SHRONTZ. No, sir, nothing that I can think of at this point.

NATURAL GAS TANKERS

Chairman MCCLELLAN. There has been another rumor that I want to ask you about. That is, General Dynamics has offered to allow the Netherlands and the Belgians to build three liquefied natural gas tankers normally built by General Dynamics in the United States. Do you know anything about that?

Mr. SHRONTZ. I know it has been discussed. I do not know the status of it. Do you know?

Chairman MCCLELLAN. Would that be a matter in which our Government would have an interest, or is that a side transaction between General Dynamics and those countries?

Mr. SHRONTZ. Entirely.

Chairman MCCLELLAN. We would have no responsibility or interest in it?

Mr. SHRONTZ. Yes; as far as the Department of Defense, that is true. It would be a private arrangement between General Dynamics and whatever foreign company was—we in the Department of Defense——

Chairman MCCLELLAN. We would be purchasing the tankers, wouldn't we?

Mr. SHRONTZ. But not the Department of Defense. I was speaking of the Air Force and the Department of Defense.

Chairman MCCLELLAN. Would the Department of Defense be purchasing the tankers?

Mr. SHRONTZ. No.

Chairman MCCLELLAN. It is altogether in the private enterprise sector, then?

Mr. SHRONTZ. No.

Senator INOUYE. It is not involved in this transaction at all? It is not part of the deal?

Mr. SHRONTZ. Let me be sure we understand. Not as far as the U.S. Government in any way is concerned. We are not involved in the purchase of tankers. We have had no acknowledgement of the transaction, if in fact it is going ahead. Frankly, I don't think we are even aware of where they stand. I am aware that there were discussions between GD and some of the foreign suppliers both in Belgium at one time and the Netherlands on these tankers, but we are not involved in any way in that regard.

Senator INOUYE. This was not one of the sweeteners?

Mr. SHRONTZ. This was not one of the Government sweeteners. I cannot tell you what arrangements GD may have made, but they did not discuss the fact that that was a sweetener. In fact, I don't believe it was because I am not sure that they are very far along.

Chairman MCCLELLAN. The Government is in no way involved in it?

Mr. SHRONTZ. No way at all.

TECHNOLOGY TRANSFER

Chairman MCCLELLAN. Explain in detail the impact on the United States of the technology transfer to Europe resulting from the F–16 multinational agreement. Please discuss the national security aspect and the competitive impact on the U.S. aerospace industry. Are we not disclosing a lot of technology since the consortium countries will be participating in the building of these planes? I know you've already touched on this topic, but I'd like to have more reaction to it.

Mr. SHRONTZ. Yes. And I would only add that in my judgment, coming from the aerospace industry. I don't believe that the technology which will be transferred to the Europeans as a part of their participation in the program will significantly enhance their capability to compete with us in the future. It will, however, give them an opportunity to keep their industrial base moving and to employ people in their aerospace industry to keep that resource. But I don't think we are transferring to them something that will give them a quantum lead in the area of technology.

REVERSE ENGINEERING

Chairman MCCLELLAN. If they are building the plane, doesn't that expose it to reverse engineering? Couldn't they get all the technical data from the plane as it is constructed?

Mr. SHRONTZ. Yes; but in the interest of complete candor, we will in fact be helping them set up production know-how in terms of certain types of components because it is necessary that they adapt their manufacturing capabilities to the requirements that we have. But it is my judgment that that will not give us a competitive disadvantage in the future.

Chairman MCCLELLAN. You don't think we are taking a risk?

Mr. SHRONTZ. I do not. I might add one more thing. We have agreed over time to eventually release all the technology inherent in the airplane, and that will be a judgment decision as to what point in time the technology that we have withheld will no longer be jeopardizing our interest to release.

Chairman MCCLELLAN. Is it possible to withhold technology and at the same time deliver the finished product to them?

Mr. SHRONTZ. Yes; in the sense that we would deliver, for example, the processing unit on the radar having been built and designed over here to incorporate in the radar without necessarily, I believe, revealing the capabilities of how to build that process or unit.

Chairman MCCLELLAN. Why is it necessary then to give them that technology at any point?

Mr. SHRONTZ. I think the feeling is that at some point in time when the technology ceases to be sufficiently advanced, that they ought to have the full capability of a joint program. They like to think that they are meaningful participants in the program, and I must admit it rankles them a bit that we withhold certain things that we think are important for our own security. Once that security issue ceases, then it would seem to them and to us that the technology could be released without problem.

Chairman MCCLELLAN. There is no fixed time period for the release of that information?

Mr. SHRONTZ. No, sir. That will be a judgment on our part.

Chairman MCCLELLAN. So it is not in the general terms in the contract?

Mr. SHRONTZ. No. Only the intent eventually to release it.

Chairman MCCLELLAN. It is solely and exclusively reserved in the judgment and decision of our Government?

Mr. SHRONTZ. That is correct.

PURCHASE BY OTHER NATO COUNTRIES

Senator YOUNG. Can I ask one question. Has Germany, Turkey, and other NATO countries been involved in the purchase of this plane?

Mr. SHRONTZ. I would have to defer to General Fish.

General FISH. Germany has to replace some of their aircraft in the future. They would be a candidate. The Germans have not indicated there has been a decision in the matter, but they would be one of the candidates.

Senator YOUNG. Are the Germans buying F–15's?

General FISH. Not yet. They have what they call a MRCA, multirole combat aircraft, that they have developed with the British. It is a very expensive airplane, and that is the program they are backing at the moment. Downstream they have to change that decision and buy other aircraft including the F–15, which I would say, in my judgment, will be a candidate for German consideration.

Senator YOUNG. What plane does Turkey use?

General FISH. Turkey has F–4's and F–5's and F–100's now.

Senator YOUNG. Would they be a candidate?

General FISH. I am sure, but with all the other problems we have with Turkey at the moment we are not discussing that.

Senator YOUNG. How about Italy?

General FISH. They have F–104's. They make them themselves. They have severe economic problems. I think again they will have to eventually replace the F–104, and they would be a candidate, but it would be quite a ways downstream.

STANDARDIZATION OF WEAPON SYSTEMS

Senator INOUYE. Mr. Chairman, may I ask a few questions. I believe one of the goals we have with NATO is the standardization of weapon systems, and I presume that the sale of the F–16 falls in line with this goal of ours.

Mr. SHRONTZ. Yes.

Senator INOUYE. Would it mean an American pilot would be able to get into a F–16 in Belgium and fly it off?

Colonel THURMAN. Yes, sir. The airplanes will be virtually identical with the exception of certain options which the consortium countries would like us to explore, but those are essentially weapons options. The airplanes are virtually the same.

COST SHARING FOR LOGISTICS

Senator INOUYE. Mr. Secretary, on the matter of logistics, will there be a cost sharing of the expenditures for the logistics system then?

Mr. SHRONTZ. The answer is "yes", but in terms of how it will work we are still in the process of trying to work that out. We have three subcommittees as a part of the steering committee I referred to. The first subcommittee is responsible for contracts and finance to resolve that. The second will hopefully deal with some of the issues that will come up on the industrial participation, and the third and perhaps the most critical is the logistic subcommittee. We need to better understand how each of these four European countries have their current logistic system and how it can be integrated into ours. Once that is done, we need to decide how the appropriate costs are allocated. Are they fully recognized? We fully recognize it will be an allocation, and there will be a common system based principally on our system, but how we are going to work it at this point I don't know.

BALANCE OF PAYMENTS

Chairman MCCLELLAN. What would be the net balance of payments between Europe and the United States if a total of 1,500 F–16 aircraft are produced, 650 of them for the United States, 348 for Europe, and 500 outside of the consortium in our country?

Dr. SHIELDS. I believe the GAO report presents a balanced statement on that topic. Over the life of 1,500 to 2,000 aircraft balance of payments benefit would be somewhat in excess of $4 billion. The question is, is that a net addition to our balance of payments. There is no question but what the balance-of-payments benefits are substantial. Again, the question is whether these benefits would have accrued in some other form had we not sold the F–16, and that depends on how many F–16's we sell to third countries, or would have sold to third countries in the absence of the sale to the consortium, and also depends to what extent the F–16 is a substitute for the F–15 and the F–14.

F–16 SALES TO THIRD-COUNTRY CUSTOMERS

With regard to the first question, I believe we have already commented on that here this morning. General Fish did—pointing out that the sale to the consortium countries of the F–16 will certainly make it much easier to sell the F–16 in third countries around the world. So that third country sale will probably be enhanced considerably by this consortium buy.

With regard to the substitutibility of the F–15 and the F–14 for the F–16, saying in effect that had we not sold the F–16 we would have been selling F-14's or F-15's or even F-4's or F-5's—I don't believe that is correct. The F-16 is an entirely different aircraft. I think countries buying the F-16 and considering the F-16 are doing so because it does represent an alternative not presented by the F-14 and the F-15. To that extent, much of the balance-of-payments benefit from the F-16 would be a net addition to our balance of payments.

Chairman McClellan. Is it possible to make an accurate assessment? Or are there too many imponderables to reach an estimate at this time?

Dr. Shields. That is correct. What we are asking essentially is what might have been had this F-16 sale to the consortium countries not succeeded and that is always a very difficult question to answer. We do know what the aggregate benefits will be.

Chairman McClellan. Will we get a balance-of-payment advantage from the consortium countries?

Dr. Shields. There will be a balance-of-payments benefit.

Chairman McClellan. From them?

Dr. Shields. Yes, sir. They are only making 40 percent of their aircraft, and the 60 percent of the aircraft coming from the United States will represent American exports. And then, of course, you add to that the exports represented by the sales of spares and support and so forth, and it adds up to a considerable sum.

Chairman McClellan. So we do get some balance of payment advantages from the consortium countries?

Dr. Shields. Yes; we do, and it is considerable.

Chairman McClellan. In other words, they are not recouping their total cost of their planes out of this transaction?

Dr. Shields. Well, their recoupment comes through their own participation in manufacturing the aircraft which they will buy and then partly through the 10 percent of our aircraft, of course.

Chairman McClellan. It seem like that gives them an advantage in the balance of payments.

Dr. Shields. I think this is a situation in which everyone wins. If there are enough sales to third countries then of course they can recoup more than the 100 percent of their own cost. At the same time, however, these sales have been created, we think, it is a net addition to what would have occurred otherwise, and we are benefiting from that also. So with regard to the sales even if the European countries, the consortium countries recoup over 100 percent of their own expenditures, that does not represent a diversion from our balance of payments benefits to the extent that net sales elsewhere are created.

Chairman McClellan. I think its influence on further sales would be to our benefit, even if they recoup all of their exchange.

Dr. Shields. That is correct.

F-16 FOR ISRAEL

Chairman McClellan. This morning there was an article in the paper about aircraft for Israel. How did Israel enter into this transaction? Are the planes to go to Israel involved in this production arrangement?

General Fish. No, sir. The information we have—and I presume we are still in closed session, arent we, Mr. Chairman?

Chairman McClellan. Everyone is cleared, sir.

General Fish. The F-16 is on the list of the items that Israel is requesting. It will be quite a ways downstream. We are in the process now of making up a master F-16 plan for how we approach the third country sales have been in the abstract in discussions with the consortium, not identified as to specific countries. Of course, deliveries would have to be after—I misspoke—would not be after but would have to be folded in along with the U.S. Air Force and the consortium production. That still has to be worked out.

Chairman McClellan. Do you think the prospect that Israel would ultimately purchase the F-16 had any impact on our negotiations with the consortium countries?

Mr. Shrontz. Absolutely not, sir.

Senator Inouye. Will the Senator yield. Isn't it true that the Israelis have on their shopping list the F-15?

General Fish. That is true. Both the 15 and 16.

Mr. Shrontz. No, sir.

General Fish. If I could respond further to the Senator. They are approaching it similarly to the United States. A high and a low mix. They are interested in both the more sophisticated capabilities of the F-15 as well as the F-16.

CONSORTIUM SHARE IN PRODUCTION FOR ISRAEL

Chairman McClellan. The consortium countries will get 15 percent of the F-16 production that would go to Israel?

Mr. Shrontz. Our arrangement would provide for that unless Israel determined they did not want it, or if one or more of the——

Chairman McClellan. Suppose our Government gives Israel 50 F-16 planes by grant. Either we procure the plane and give them to Israel, or we pay for them to be built for Israel. Do the consortium countries get their 15 percent of the production of those planes?

Mr. Shrontz. The agreement does not cover that kind of an arrangement. It would not be considered a sale. If we were to buy them and offer them out of our own inventory they might argue they were entitled to the 10 percent participation, but it was not specifically included in the arrangement.

Chairman McClellan. Would they be entitled to 10 percent? Do we owe them 10 percent of what we give away?

Mr. Shrontz. I would think we should consider that seriously. Yes; I would think so.

Chairman McClellan. Why?

Mr. Shrontz. On the basis that the intention was that with respect to those arms acquired for our use—but I think also acquired for our inventory—whether to use ourselves or to give away—I think they would raise the issue as to whether or not they were entitled to some participation in the arrangement, but it is not covered and we would have an opportunity to advise them it was not covered and to take a different position.

Chairman McClellan. I think that aspect should be investigated thoroughly. I do not feel that we should have to pay them 10 or 15 percent of the cost of whatever we might procure and make available to another country by grant. If we sell to another country, it is understandable, but if we make it available by grant I question the wisdom of consortium participation.

Mr. Shrontz. I have to be honest and say it was not covered, nor was any discussion held on that particular subject.

Chairman McClellan. I certainly feel it is an area that demands consideration. I expect we will be confronted with the issue.

Senator Inouye. I think that is correct. Because in the case of aid to Israel and military assistance it would be primarily in grants or military credit sales. And I think it would be well to know at some early stage, whether the Europeans will get their percentage.

Chairman McClellan. I think you ought to settle this issue pretty quickly.

Senator Young. And their credit will be slow.

Senator Inouye. Very slow.

General Fish. I would like to address that. I think you have two separate cases. If there were grant aid, I think we have an arguable case. As the Secretary indicated, it is not settled, but credit sales where we would recover the moneys is one where really they have to pay back all costs. Third country sales other than Israel, would come under the sales portion to my reading of the agreement.

Senator Inouye. But credit sales are highly concessionary.

General Fish. No, sir, we have only one recent concessionary deal and that is Ethiopia. Everything done in the last 2 years has been done noncessionary except one sale to Ethiopia. Most of them are not concessionary. All the credit sales are cost of money to the U.S. Treasury plus a small administrative charge.

CEILING PRICE

Chairman McClellan. Mr. Secretary, in our agreement with the consortium countries we do put a ceiling on the price of their planes, do we not, of $6.1 million per unit?

Mr. Shrontz. The Government does not, but the contractor did. Our Government did not, but the two contractors with respect to the airframe and engine did offer such a "not to exceed." We did not underwrite it. We have no obligation.

Chairman McClellan. Who will absorb the loss if it exceeds that limitation?

Mr. Shrontz. The contractors will absorb it.

Chairman McClellan. Our Government does not?

Mr. Shrontz. We do not.

Chairman McClellan. We are in no way involved in that limit?

Mr. Shrontz. That is correct, and may I add one thing. The 6.1 includes two items which are only estimates, so not all of that 6.1 is guaranteed by the contractor either. Only a part of it. About 90 percent of it.

Chairman McClellan. So it still could exceed $6.1 million.

Mr. Shrontz. And still no liability.

Chairman McClellan. And the consortium countries would be obligated to pay?

Mr. Shrontz. That is right. And inflation is not covered. It is exclusive of inflation.

RECOUPMENT OF RESEARCH AND DEVELOPMENT

Chairman McClellan. Please explain the research and development recoupment. You mentioned $164 million. Is that the amount we expect to recoup from the consortium countries?

Mr. Shrontz. Yes. Since this is General Fish's area. I would like him to cover that.

General Fish. The R. & D. program we estimate to be $538 million for the F-16. That is the airframe and associated equipment. The engine now is an F-100 engine that is in the F-15, and that total R. & D. is $721 million. When we take the F-16—$538 million and estimate there will be about 2,000 aircraft total sold, we come up with a recoupment of $270,000 per aircraft as a pro rata charge. In addition we estimate that there should be additional charges of $200,000 per aircraft for engine development which was developed for the F-15. So we total out $470,000 per aircraft for recoupment. If we multiply that by the 2,000 aircraft that we estimate to be sold, total we produced, total R. & D., that applies as $940 million. So we think we will recoup our full R. & D. costs on the F-16 program.

General Fish. If we produce 2,000 aircraft, we more than recoup it.

TRANSFER OF AIRCRAFT TO OTHER COUNTRIES

Chairman McClellan. What is to prevent a European country from transferring the F-16 to other than a NATO country?

General Fish. All of our FMS agreements in the DOD form 1513 in the boilerplate of the standard contract—all provisions state they cannot transfer a defense article we sell them unless we give them written permission beforehand.

Chairman McClellan. That is an obligation with all our foreign sales—that they can't sell or make it available to any other country without our consent?

General Fish. Yes, sir, and it follows the equipment, if we approve a transfer as we just did recently. We allowed Iran to provide some old F–5's to Jordan. We gave them permission and then we had the Jordanians agree again with us that they would not transfer to still another party without our permission.

Chairman McClellan. You maintain control over it?

General Fish. Yes, sir

F–100 ENGINE

Chairman McClellan. I'd like to discuss the engine a moment. There is nearly $100 million of component improvement money planned over the next 3 years for the F–100 engine. Are you having some trouble with that engine?

Mr. Shrontz. We have had. I would like Colonel Quasney to talk more about that.

Colonel Quasney. I could talk about some of the problems we have had. Would you like me to discuss some of them? The latest problem we have had that has caused our most recent headaches is a problem with one of the main bearings in the engine. It turned out after we investigated the problem that the quality control of the bearing at the vendor was not what it should have been. We have changed the quality control procedures. The inspection procedures on this bearing. And we are now in the process of accepting bearings again from this vendor and installing them in the engine. So we think we have resolved this problem. We will, however, have to go back through the bearings on our engines and inspect all the bearings over a period of time.

Now, in the meantime we will monitor the engines by taking oil samples and trying to determine the metal content in the oil. This gives us an indication of the kinds of wear that the bearing has seen. So as long as we monitor the engine oil and the metal particles remain below a certain level we feel the engine is safe to operate, so we will continue to operate. When these metal particles get above a certain limit we have established we will remove the engine from the aircraft, tear it down, and replace the bearing.

Senator Young. Is that a ball bearing?

Colonel Quasney. It is a roller bearing. I happened to bring one along with me. This is the size of it right here, Senator.

Senator Young. The metal was not sufficiently hard.

Colonel Quasney. No, sir, it was not being inspected properly. There are some critical measurements we have to take on the bearing, very fine measurements that involve the flatness on the sides of the bearing and the right angle that the face of the bearing makes with the side of the bearing. A few other measurements were not being taken. We were inspecting the bearings on a sampling technique instead of doing 100 percent inspection on the bearings. We have since gone to a 100 percent inspection of the bearings. Each bearing is inspected for all of the critical measurements before the bearing is accepted, and then installed on the engine.

Chairman McClellan. Do you know enough about the engine to be sure the contemplated improvements will correct present deficiencies and bring it up to the quality you expect and desire?

Colonel Quasney. Yes, sir, we do have this confidence. I personally feel that this is probably the finest engine we have ever built for the Air Force.

Chairman McClellan. But right now it has some deficiencies?

Colonel Quasney. Right now it has some deficiencies.

Chairman McClellan. It is usable now for its purpose? It is adequate to meet the requirements at the present?

Colonel Quasney. Sir, I would hesitate to say that.

Chairman McClellan. Tell us what this real condition is.

Colonel Quasney. We are confident that we understand the problems that we are having on the engine and that we understand how to solve these problems. It is going to take us some time to make some of the design changes that we have to make and to incorporate these design changes into the engines that we currently have in the field. But, yes, we have confidence that we know what the problems are, and we know how to solve them.

Chairman McClellan. How long is it going to take to solve them?

Colonel Quasney. Well, this number four bearing problem that we have right now can take us approximately 6 months to a year before we purge all the bearings in the fleet. There is no reason to stand the engines down at this time, Senator, and not fly them because we can watch them.

Chairman McClellan. You are flying them?

Colonel Quasney. Yes, sir, we are. The aircraft are flying at the present time, yes.

OTHER ENGINE PROBLEMS

Senator Young. What other engine problems are there?

Colonel Quasney. Another major engine problem we had recently was with our second stage turbine blade. This turned out to be another quality problem in that we were getting the blades from two different vendors. Although both vendors were building from the same specification the blades came out slightly different, so the blades from one vendor tended to a higher moment weight and a lower critical frequency than blades from the other vendor. This caused a vibratory stress in the engine that the blade was being exposed to which caused the blade to crack and we experienced a number of cracked blades, second stage blades, out in the field. So the first thing we did was bore scope all the engines and take a look inside the engine to see if there were any cracked blades.

Chairman McClellan. How many other problems do you have with this? You have mentioned two.

Colonel Quasney. Those are what I would consider the two major problems with the engine. Neither one of them are preventing the engine from flying at the present time. We can inspect the engine and we can watch these problems.

Chairman McClellan. From a technological standpoint, you are confident that you can solve these problems?

Colonel Quasney. Yes, sir.

Chairman McClellan. It may take a year or two to do it?

Colonel Quasney. A year on the outside.

Chairman McClellan. Do you think the engine will then be acceptable and completely satisfactory without need for further improvements? It will meet the requirements?

Colonel Quasney. Yes, sir. As we know them now. I can identify each problem that we have on the engine and what the solution is. We should have the solution in hand within a year.

General Fish. I want to make the point additionally, this is the normal way our engines have grown over the years.

Chairman McClellan. I think that is true. But here is the point. We are in a venture with other countries and we are trying to build a new plane that we are going to market all over the world. We don't want to find out later that we have a lot of cost overruns. That has been one of our major problems with the defense bill.

Mr. Shrontz. I agree. We are fortunate, Mr. Chairman, in this program in that the engine that was selected—and we have had some problems on it as the colonel has discussed—but the first delivery to the consortium will be in 1979, so we will have a chance to work out these corrections, and as he said we know of no future problems that would impact us beyond the correction of those that we are aware of today.

Chairman McClellan. I want to be certain these improvements are not going to run up a tremendous overrun cost.

Colone Quasney. Sir, I don't anticipate that the cost of the engine will be run up as a result of these problems. A number of the problems are being worked under our CIP program which we budgeted. A number of these problems are being fixed at no cost to the Government as a result of the correction of deficiencies clause in our contract.

CHANGES IN F–16 PROGRAM

Chairman McClellan. Mr. Secretary, what significant changes in the F–16 program have been made since the hearings this committee held on the aircraft in May? Have there been any significant changes?

Mr. Shrontz. Mr. Chairman, if you would agree, I would like to defer to our program manager. I am unaware of any, but he is closer to the development part of the program than I.

Colonel Thurman. We have made some minor changes to the airplane which make it more producible and which are part of the development activity. Essentially the airplane is the same airplane that was proposed last fall. We have added no new capability nor taken out any capability to make it cheaper in price. We are more confident today, of course, in the overall performance and cost of the airplane than we were last fall. So far it is looking very good.

Chairman McClellan. In other words, technical changes and improvements have been minor?

Colonel Thurman. Absolutely.

Chairman McClellan. They would not add substantially to the cost?

Colonel Thurman. No, sir. These changes to date have not impacted on the cost at all except to reduce it slightly.

FIGHTER AIRCRAFT STANDARDIZATION

Chairman McClellan. Is it one of our goals with F–16 to try to achieve as much standardization of fighter planes in Europe as we can?

Mr. Shrontz. It is.

Chairman McClellan. According to the GAO, I believe, the French will build and support two models of the French Dessault, and the Swedes will build and export the Viggen. Is that correct?

Mr. Shrontz. Yes, sir. And the British—French and British the Jaguar, and the British and Germans and Italians possibly the multirole combat aircraft.

Chairman McClellan. Now, when will we have all these different planes in NATO?

Mr. Shrontz. I can't speak to how many of those will be bought by the NATO countries, but I assume that some of them will be. We think on the other hand, that if we can get the Europeans and ourselves to standardize on aircraft to do a specific mission, then that is really about all we can hope to accomplish. Some of these you mentioned do different missions than the basic F–16 was designed to perform. We would like to work in the direction, Mr. Chairman, of getting single mission requirements served by a common airplane, because there are great advantages, but I am not optimistic that we will be able to completely go to just one or two models, but hopefully we can cut down the great proliferation we have now.

Chairman McClellan. But this consortium agreement will move it in that direction.

Mr. Shrontz. Very definitely, sir.

Chairman McClellan. Would you say it is a major step in that line of progress?

Mr. Shrontz. We say it is a very major step in that direction.

Chairman McClellan. We will really be fielding two planes in NATO, the F–15 and the F–16. Do we produce any other plane that is used there? Any other plane?

Mr. Shrontz. I would expect the A–10, for example, which is a close air support aircraft, may be deployed to Europe, but I am not that close to the basing plans to be able to answer your questions.

Chairman McCLELLAN. Senator Young, do you have anything further?

QUESTIONS SUBMITTED BY SENATOR YOUNG

Senator YOUNG. I have some questions I would like answered for the record.

Chairman McCLELLAN. They may be submitted.

[The questions and answers follow:]

CONSORTIUM

Senator YOUNG. Can the United States or the Consortium Countries (Belgium, The Netherlands, Denmark, and Norway) decide to withdraw from the agreements without penalty?

Secretary SHRONTZ. The European participating governments may withdraw from the F–16 program but are subject to termination costs. Under the Preliminary Contracts, the EPG's liability is established at $114M until the Preliminary Contracts are replaced by a normal Letter of Offer.

F–16 COSTS TO DATE/ESTIMATED TOTAL PROGRAMS COSTS

Senator YOUNG. How much money has been spent on the F–16 so far, and what is the estimated total program cost for the U.S. Air Force aircraft?

Secretary SHRONTZ. As of 31 August 1975, $96.4 million has been obligated on the F–16 development program. Production funds will not be obligated until fiscal year 1977. The total program estimate as approved at DSARC II is as follows:

	TY and in millions
Development	$580.03
Procurement	5,208.5

COST OF CONSORTIUM AIRCRAFT/AMOUNT RETURNED TO UNITED STATES

Senator YOUNG. What is the total estimated program cost of the 348 aircraft to be bought by the four European countries? How much of this money will return to the United States?

Secretary SHRONTZ. The total estimated cost of the 348 European aircraft is $2.120 billion (fiscal year 1975 dollars). Sixty percent (or $1.272B) will be produced by the United States. The above estimate is based on a not-to-exceed (NTE) price of $6.09 million per aircraft. The costs relating to support items such as initial spares, AGE, training, etc., have not been established and, therefore, are not included in the NTE price.

WHY AMERICAN INDUSTRY PARTICIPATES

Senator YOUNG. Why would American industry desire to participate in this coproduction effort rather than build the aircraft in their U.S. plants and ship them to Europe? Could this result in a loss of business within the United States?

Secretary SHRONTZ. In some cases, American industry participants are finding that their involvement in F–16 coproduction is actually creating new U.S. business opportunities with a potential that otherwise would likely not exist. As an example, the Singer Company, which currently supplies the F–16 Inertial Navigation Unit, is developing a Norwegian Company to address commercial shipping navigational requirements using the same inertial platform. This market may exceed that of the F–16 and would not have been possible without F–16 involvement.

EUROPEAN GOVERNMENTS PAYING FULL COSTS

Senator YOUNG. Are the European Participating Governments paying full costs of this program including research and development, administrative, logistic and transportation costs?

Secretary SHRONTZ. Yes, we believe they are. The recoupment of research and development costs is covered in Sections A and R of the Memorandum of Understanding (MOU). Payment for European Participating Governments associated administrative support cost is included in Sections A and C of the MOU. Logistic and transportation costs are paid for in accordance with Section A of the MOU.

MANAGEMENT OF CO-PRODUCTION PROGRAM

Senator YOUNG. How will the European Participating Governments' aircraft co-production program be managed?

Secretary SHRONTZ. The European Participating Governments' aircraft co-production program will be managed by the F–16 System Program Office, as an extension of the authority vested in the System Program Director (SPD) to manage the USAF production program. In dealing with European co-production aspects, the SPD will utilize the offices of the recently established F–16 European System Program Office (ESPO) in Brussels, Belgium and the various co-production offices being established within the participating nations by General Dynamics and Pratt & Whitney to maintain program visibility, assure continuity between U.S. and European production efforts, and insure that the term of the multinational program agreements are met.

COST TRACKING

Senator YOUNG. How will our people be able to track costs to be certain that the terms of the agreements are honored?

Secretary SHRONTZ. A contractual subcommittee was formed to establish a set of cost accounting standards which will be the basis for tracking expenditures on this program. Upon this basis, cost expenditures will be verified by the assigned organizations within the five participating nations; and these costs will be utilized in verifying that offset arrangements have been made.

CHANGE CONTROL

Senator YOUNG. How will the changes generated on the F–16 program be controlled?

Secretary SHRONTZ. A Configuration Control Board under the authority of the USAF F–16 System Program Director, will control changes to the F–16 program within the baseline configuration. This Board also has representatives from each of the European Participating Governments. Proposed deviations to the baseline configuration which have substantial financial or operational impact will be evaluated by the Board and the System Program Director. If the System Program Director determines that a change is required, he will submit his findings to HQ USAF for a decision.

AF CHANGES INCORPORATED IN EUROPEAN AIRCRAFT

Senator YOUNG. Will U.S. Air Force F–16 changes be automatically incorporated in aircraft for the European countries?

Secretary SHRONTZ. The U.S. Air Force F–16 changes will not be automatically incorporated in aircraft for the European countries. Each European country will be required to review the proposed change and make independent decisions. Financial consequences will be assessed accordingly.

THIRD COUNTRY SALES

Senator YOUNG. How will third country sales, such as Iran, be handled?

General FISH. All third country sales of the F–16 will be accomplished using established Foreign Military Sales procedures. While these sales will follow standard formats, peculiar aspects such as country requests for co-production or configuration changes, will be addressed on a case-by-case basis as has been the case in other major system sales.

CLOSING SUMMARY

Chairman McCLELLAN. Now, Secretary Shrontz, do you have anything else to add to this record this morning?

Mr. SHRONTZ. No, sir. I think we tried—I would like to assure you—to answer your questions as candidly as we can. We thing the program is well structured. We know the history of multinational programs. They have not all been good. We have tried to learn by some of those mistakes. We have a streamlined program management. We are going to manage it. And we are going to do everything possible to bring it in under cost and effectively. If we can achieve that, Mr. Chairman, there is just no question that the advantages of standardization to ourselves as well as to them will be very, very great, and the unit cost of producing the airplane will be less. So we think we have a good strong beginning, and we have a lot of work to do, and we are well aware of that.

Chairman McCLELLAN. Would you say then, too, that we the committee members, and the Members of Congress, can feel reassured that there are not going to be any great cost overruns to slam us in the face here someday?

Mr. SHRONZ. Yes, sir, I can give you that assurance. And we are going to watch it to make sure that that does not happen.

May I just add one thing we believe has helped has been the prototype. We think that the production airplane being very close to the prototype avoids the design risk problem that we have gotten to in the past, and we think that is a significant assurance that the program can work.

Chairman McCLELLAN. In other words, you are not buying this plane until you know what it can do.

Mr. SHRONTZ. And it flies. We have flown it. We have demonstrated, and the production airplane is essentially that airplane.

Chairman McCLELLAN. You are not buying something on paper this time.

Mr. SHRONTZ. That is right.

Chairman McCLELLAN. Dr. Shields, do you want to add anything to what you have said?

Mr. SHIELDS. No, Mr. Chairman, I don't believe so. I think we have covered the subject very well today.

Chairman McCLELLAN. General Fish?

General FISH. I just wanted to echo Secretary Shrontz' words, and they were also contained in the GAO report where they said they thought the impact on combat effectiveness and cost savings will be great, and I think that is true.

Colonel THURMAN. Thank you, Mr. Chairman, no.

Colonel QUASNEY. No, sir.

PRATT & WHITNEY SHARE OF THE AIR FORCE ENGINES

Senator YOUNG. One question I am concerned about. We may get down to where we have one source of engines. Pratt & Whitney now makes what percent of the Air Force plane engines?

Mr. SHRONTZ. It is very high, but I would have to get that. I don't know. Significant.

General FISH. There are only two big manufacturers of engines. That is GE and Pratt & Whitney in the United States.

Senator YOUNG. GE is going down in production.

General FISH. It is a problem.

Mr. SHRONTZ. There is a GE engine plan for the F–18, but that is their near term project. Pratt & Whitney does have a significant share of the market. There is no question about that. As of July 1, 1975, approximately 46 percent of the turbine engines in the Air Force inventory were manufactured by Pratt & Whitney.

QUESTIONS SUBMITTED BY CHAIRMAN M'CLELLAN

Chairman McCLELLAN. I have a few more questions that I'd appreciate your answering for the record.

[The questions and answers follow:]

BALANCE OF PAYMENTS/THIRD PARTY SALES EXCEED 500

Chairman McCLELLAN. If third party sales exceed 500 aircraft, and if the U.S. Air Force procures more than 650 aircraft, will the change in the balance of payments favor the U.S. or Europe?

Secretary Shrontz. In all third party sales, under the existing Memorandum of Understanding (MOU), there is an 85 percent favorable impact on U.S. balance of payments. If the U.S. procures more than 650 aircraft, and, to the extent that the U.S. allows the EPGs to participate up to 10 percent in production of those aircraft, the favorable balance of payments accrued through third party sales would be reduced by that amount.

EUROPEAN PRODUCTION/IMPACT ON U.S. PRICE

Chairman McClellan. How will the production of the European aircraft affect the price of the USAF aircraft?

Secretary Shrontz. As acknowledged by the General Accounting Office report, the overall affect is anticipated to reduce the total cost of the USAF program. It is believed a firm estimate will be available by April 1976 after all the European contractors have been chosen.

OTHER CO-PRODUCTION AGREEMENTS

Chairman McClellan. Assume that you will sell the F–16 to Israel, Iran and Japan. What will be the balance of payments impact? Will other co-production agreements be required? What impact will they have?

Secretary Shrontz. Sales to third party countries such as Israel, Iran, and Japan would result in a favorable impact on the balance of payments position of the U.S. Government. Based on cost data presently available, dollar impact would be $6.1 million per aircraft sold with a favorable impact of 85 percent, or $5.2 million, per aircraft sold. The current Memorandum of Understanding does not require any other co-production agreements for third party country sales.

AIRCRAFT FOR ISRAEL

Chairman McClellan. Recent newspaper articles indicate that Israel expects F–16 aircraft as a result of the Sinai agreement. If that is a fact, how many will they receive and when?

General Fish. The United States Government has not yet made any specific offer to provide the F–16 Air Combat Fighter to Israel. Quantity, cost, and availability for the F–16 are now being examined.

AIRCRAFT FOR ISRAEL/SALE OR GRANT

Chairman McClellan. Will the aircraft for Israel be a sale or a grant?

General Fish. At this time the Defense Department has not taken any formal action with respect to providing F–16 aircraft to Israel. The F–16 is one of several items which is currently being reviewed for Israel.

DIFFERENCES BETWEEN PROTOTYPE AND PRODUCTION AIRCRAFT

Chairman McClellan. Describe the differences between the F–16 prototype and production airplane.

Secretary Shrontz. There are three categories of changes made in deriving the present F–16A (full scale development) aircraft design from the YF–16 (prototype) configuration: external geometry, structural design, and equipment.

First, external aircraft geometry changes are few in number and collectively do not appreciably change the excellent levels of aerodynamics which were demonstrated in the prototype flight test program. Wind tunnel data generated to date on the present F–16A configuration have confirmed the small aerodynamics/stability changes predicted prior to the changes being incorporated.

Second, the structural airframe design changes have been made to improve the fatigue life of the F–16A for its expected operational environment, to improve the producibility and manufacturing costs, to minimize the weight and to increase the flexibility for carriage/delivery of a wide range of external stores in air-to-ground operations. Several changes have been made to provide access panels throughout the aircraft to simplify maintenance access routes. These changes are based upon numerous suggestions received from Air Force maintenance personnel (representing the potential using commands) who participate in the YF–16 flight program.

Third, much of the equipment selected for incorporation in the YF–16 was selected for off-the-shelf availability and meeting only the requirements for a limited environment and limited duration flight test program. Several changes have been made in selecting F–16 equipment which are consistent with the more severe environment and longer duration usage expected with the operational employment. The YF–16 did not have an avionics suite required in an operational aircraft; but instead, used the avionics space for flight test instrumentation. The latter was not required in the operational F–16 configuration. Additionally, there are numerous internal arrangement changes made for the F–16 to improve its maintainability, reliability, safety and survivability.

To improve the air-to-ground capability, the capacity of the wing/fuselage stores stations has been changed for the F–16 with no significant impact on air-to-air maneuvering or range capability in an air-to-air configuration.

The following information lists the changes from the YF–16 prototype to the F–16 production configuration. The arrangement is by Work Breakdown Structure (WBS) system element with the change listed under the category where the predominant change occurs.

General

Delete Flight Test Instrumentation:

Reason—Prototype unique requirement.

Effects—Weight, cost, routing.

Increase design weight to 33,000 lb max gross; 7.33g at 21,500 lb design mission weight; 18,500 lb design landing weight:

Reason—Increased alternate mission capability.

Effects—Wing/fuselage structure, tires, wheels, brakes.

Increase service life to 8000 hours:

Reason—Operational fatigue requirements.

Effects—Wing, fuselage, gear.

Fuselage

Integrate fan containment: Reason—Weight.

Incorporate improved access: Reason—Operational maintainability improvement.

Delete blow-in doors: Reason—Not required as verified by prototype aircraft.

Improve speed brake mechanism: Reason—Weight.

Combine fuselage station 445 and 452 Bulkheads:

Reason—Engine change, weight.

Effects—Vertical tail box.

Add radome: Reason—Radar installation.

Incorporate production splices: Reason—producibility.

Redesign inlet lip: Reason—Weight, producibility.

Upgrade existing canopy configuration: Reason—Safety and performance.

Increase F–16A fuselage length 10.5" (change localized behind cockpit): Reason—To have common aerodynamic lines between F–16A and F–16B (two seat model).

Wing

Increase wing area from 280 to 300 sq ft: Reason—To maintain low wing loading with increased gross weights.

Empennage

Reduce strength/stiffness margin in Vertical Tail box:

Reason—Weight, cost.

Effects—Skin thickness, sub-structure geometry.

Change vertical fin attach fittings to aluminum alloy with tension bolts: Reason—Producibility, cost, weight.

Redesign/shorten spar in horizontal tail: Reason—Cost, weight.

Modify ventral planform (trim aft edge): Reason—To clear improved engine access door.

Increase area of horizontal tail—from 42 to 49 sq. ft: Reason—Improved roll performance, lower take-off and landing speeds, and improve handling qualities at high angles of attack.

Landing gear

Increase capacity of main landing gear tire, wheel, and brake: Reason—Increased weight capability.

Add arresting hook: Reason—Operational requirement.

Emergency power unit

Change type and capacity: Reason—Change from hydrazine only to dual mode (hydrazine, engine out, short duration operation, or engine bleed air to permit sustained, limited maneuvering operation needed on longer operational flights).

Electrical

Add external and internal lights: Reason—Operational requirements.

Delete fire extinguishers—nacelle: Reason—Prototype unique requirement.

Fuel

Add inerting system to fuel tanks: Reason—Safety.

Change engine connection to quick disconnect: Reason—Maintainability (engine change time).

Propulsion

Change to quick attach drain system: Reason—Engine change time, weight.

Change to Jet Fuel Starter (JFS) (start hydraulically). Reason—Operational capability.

Change to F100–PW–100 (3) engine from F100–PW–100(2).

Environmental control system

Increase cooling capacity and reroute distribution: Reason—Operational avionics.

Crew station

Change ejection seat: Reason—Cost and safety.

Rearrange controls, instruments, displays: Reason—Operational capability.

Change gaseous oxygen system to liquid oxygen system: Reason—Cost, weight and logistics.

Fight controls

Change to integrated actuators: Reason—Cost, weight.

Remove cross-over linkage: Reason—Cost weight.

Armament and stores

Add AIM–9J missile capability.

Add group A provisions for AIM–9L: Reason—Operational effectiveness.

Move Butt Line (BL) 80 pylon location to Butt Line 71.

Move Butt Line 135 pylon location to Butt Line 120.

Add AIM–9 carriage at Butt Line 157 under wing.

Increase hardpoint capability at Butt Line 0, Butt Line 71 and 120.

Add capability to carry tactical nuclear weapons on centerline fuselage station: Reason—Operational capability.

Avionics

Add operational avionics:

Reason—Mission performance.

Effects—Forward fuselage structure, cockpit displays and arrangement, Environment Control System (ECS) capacity and distribution, access.

Items added

Radar.

Radar/E–0 display.

Fire control computer.

Upgraded stores management system.

Fire control ancillary equipment.

TACAN.
Instrument Landing System (ILS).
Inertial Navigation System (INS).
Integrated FC/NAV panel unit.
Threat warning system.
ECM pod control.
Air/Ground (A/G) Identification Friend or Foe (IFF).
Interference blanker.
Antennas (radar, TACAN, ILS, etc).
VHF Radio.
ALE-40 (modified) chaff and flare dispenser.
Group A Provisions for:
Secure voice.
Air-to-ground IFF, secure.
Nuclear stores (centerline).
Space/growth provisions for:
Video recorder.
TAC data link.
Radar missile.

FAIR COSTS UNDER COPRODUCTION AGREEMENTS

Chairman McClellan. How will the U.S. verify that the costs of items furnished by the Europeans as part of the coproduction agreement are fair costs? Will the Europeans be able to absorb overhead of other projects into the F-16 program.

Secretary Shrontz. We will set up separate accounting systems for the consortium air planes cost. European coproducers will provide their items under contract to a U.S. company. Ultimately General Dynamics and Pratt & Whitney will review, evaluate, and send to the USAF all cost data associated with the European produced items. This cost data will also be evaluated by the USAF and compared with data from U.S. suppliers and other world market considerations prior to contract award. A five nation Cost Accounting Standards working group has been formed with a major task force to insure all nations understand and enforce each country's existing accepted procedures. One of the purposes of this working group is to ensure that overhead costs of other projects are not absorbed into the F-16 program.

IMPACT ON U.S. OF TECHNOLOGY TRANSFER TO EUROPE

Chairman McClellan. Explain in detail the impact on the United States of the technology transfer to Europe resulting from the F-16 multinational agreement. Consider the national security aspects and the competitive impact on the U.S. aerospace industry.

Secretary Shrontz. We are confident that the net results of the technology transfer envisioned will benefit the United States. While a significant amount of technology will be transferred to our European Allies, we have taken steps to insure that the most advanced technologies applied within the F-16, such as engine hot sections, radar processor and weapon system algorithms, are retained within the U.S. and are not to be released until such time as release would have minimum impact from both a security and industrial standpoint. The technologies which are released are to be initially applied to European F-16 production, but we must also assume that those technologies, or derivatives therefrom, will be applied to other weapon systems developed by the participating nations in the future. The availability of this technology for such application should result in long term improvement to the NATO defensive posture and is an added positive factor which should result from the infusion of U.S. technology into European industry.

We foresee no detrimental impact on the U.S. aerospace industry fom the technology transfer which will take place. In fact, it is our belief that, in addition to near term benefits from the expanded sales of the F-16 itself, the technology transfer will open up new markets which extend well beyond the F-16 program. In dealing with members of the U.S. aerospace community participating in the F-16 program, we have seen little reluctance to share technology with European industry and have found near unanimity in the feeling that U.S. industry will, in the long run, benefit from the intensified international industrial relationships being established.

F-100 ENGINE

Chairman McClellan. I note that there is nearly $100 million of component improvement money in the next three years' budget for the F-100 engine to be used in the F-16. I also understand that possibly $100 million to $200 million in addition to the currently budgeted money will be necessary to complete development of that engine. Why then isn't the F-16 charged for some of this development or improvement?

Secretary Shrontz. The nearly $100 million budgeted for the F-100 engine CIP over the next three years is funded by and in support of the F-15 weapon system. However, there are some unique engine related projects currently funded by the F-16 R. & D. account. Further, the F-16 program will participate in the F-100 CIP after receipt of the first production aircraft in late calendar year 1978. Following initial delivery of F-16 production aircraft, the F-100 CIP will address the combined operational requirements of both the F-15 and F-16.

There are no additional funds budgeted or requested to "complete development" of the F-100 engine to meet present requirements.

CHANGES IN F-16 PROGRAM SINCE MAY COMMITTEE HEARING

Chairman McClellan. What have been the significant changes in the F-16 program since the hearing held by this Committee on the aircraft in May of this year? Has the development contract been finalized? Is the development estimate still $5 billion? Do you have a better estimate of the radar development?

Secretary Shrontz. The significant changes to the F-16 program since May 1975 have been the identification of potential additional requirements in support equipment including development of ground support equipment (AFE), training requirements (simulator), and data (tech orders/manuals). These items and tasks are being reviewed for approval of the requirement and cost. Approval would increase the development estimate somewhat above the current estimate of $.5 billion (fiscal year 1975 dollars). The radar development estimate of $68 million (fiscal year 1975 dollars) has not changed pending the award of the contract in January 1976.

STANDARDIZATION OF FIGHTER IN EUROPE

Chairman McClellan. Since the U.S. will now field two fighters, the F-15 and the F-16, in Europe instead of one, are we really standardizing the European force to any great extent?

Secretary Shrontz. Yes Sir! The rationale behind introduction of both the F-15 and the F-16 into the mix of tactical air forces in Europe is to provide a "high/low mix" of high quality fighter aircraft at the lowest price possible while partially off-setting the quantitative advantage of the threat. The F-15/F-16 strategy is to employ the aircraft in complementary roles; the more sophisticated F-15 operating primarily in the air superiority role while the less expensive F-16 complements the F-15 in air superiority and is also capable of operating with high reliability and low turnaround time in the air-to-ground role. Many advantages accrue from operating standardized aircraft within NATO for specific mission requirements. One of these is a life cycle cost savings due to the economy of scale contributing to a lower USAF price for common support items (AGE and spares) and the potential of a common depot for European based F-16's; cutting overhaul and repair costs and reducing maintenance turnaround time. Other advantages will be found through employment of common weapon systems, interoperability and interserviceability, and improved management of tactical assets by area Commanders. Through such standardization, forces can be employed together under fewer restrictions caused by unique operational characteristics.

F-100 ENGINE PROBLEMS

Chairman McClellan. Provide a list of presently uncorrected F-100 engine discrepancies and an estimate of the time required to fix these discrepancies.

Secretary Shrontz. The first ten of the following engine discrepancies are those identified by the Air Force Systems Command Executive Review Group. An additional item on the No. 4 bearing has been added to the list. Discrepancies number 7 and 11 have been corrected on all production line engines. A retrofit is being accomplished on prior delivered engines. The list is provided for the record:

Discrepancy and Estimated production incorporation.

1. 2nd Stage Turbine Blade Fatigue cracks have occurred as a result of high vibratory stress—June 1976.
2. Low Power Compressor stalls have been encountered in operational engines—April 1976.
3. Operation of the augmentor in that portion of the flight envelope bounded on the bottom by 35,000 feet and on the right by Mach numbers less than 0.9 (upper left hand corner of flight envelope) has been erratic due to inconsistent lighting, transient blowouts and "rumble" induced blow-outs—April 1976.
4. Operational engines have been difficult to trim because of inadequately defined trim curves—October 1975.
5. Various elements of the control system have exhibited poor reliability—April 1976.
6. Augmentor durability problems have occurred because of the thermal distress, high cycle fatigue cracking and nozzle buckling and face sheet cracking—October 1976.
7. 8th stage compressor blade change to nickel alloy—February 1975.
8. Airstart capability margin—January 1976.
9. Inflight cockpit smoke has occurred during supersonic speed runs—December 1976.
10. Events history recorder low reliability—May 1976.
11. The number 4 main shaft roller bearing has exhibited eccentric roller end wear patterns due to improper quality control of the bearing—September 1975.

F-100 ENGINE CIP FUNDS

Chairman McClellan. Provide a breakout of CIP and R.D.T. & E. funds that are programmed for the F-100 engine in fiscal year 1976, fiscal year 197A and fiscal year 1977.

Secretary Shrontz. Yes, sir.

[The information follows:]

[In millions of dollars]

	Fiscal year—		
	1976	197T	1977
F-15 (F-100) R.D.T. & E	0	0	0
F-16 (F-100) R.D.T. & E.[1]	38.4	4.3	9.3
F-15 (F-100) CIP	52.3	15.0	27.9

[1] The current F-16 R.D.T. & E. propulsion funding is distributed among the following categories: resolution of unique F-16 engine related issues, procurement of engines for the R.D.T. & E. aircraft, propulsion system engineering and design effort.

There is no CIP planned in the Procurement Appropriation for F–16 until after delivery of the first production aircraft in fiscal year 1979.

STATUS OF F–16 RADAR DEVELOPMENT

Chairman McClellan. What is the current status of the F–16 radar development contract?

Secretary Shrontz. The F–16 radar development program began 1 November 1974 with award of contracts to Hughes Aircraft Company and Westinghouse Electric Corporation for development and flight test of demonstration model radars in F–4D aircraft. The two contractors have been conducting flight tests of their radars since the Spring of 1975. General Dynamics and the Air Force will conduct a flight test evaluation of the two demonstration models in October and November, 1975. Proposals for the full scale development and production options were received on 2 September 1975 from Hughes and Westinghouse. General Dynamics is currently conducting a source selection evaluation of these proposals. The data from the flight tests will be used to validate the paper evaluation. Contract award is anticipated prior to the end of calendar year 1975.

STATUS OF F–16 CONTRACT

Chairman McClellan. What is the current status of the F–16 General Dynamics contract? When will the contract be finalized?

Secretary Shrontz. The development program has been initiated and firm prices have been established for the USAF development aircraft. European Participating Governments (EPG) peculiar requirements, to be funded by them, have not been finalized. Definitive prices for this effort should be established in the first quarter of calendar year 1976.

Production options now incorporate firm prices and ceilings for an initial quantity of USAF aircraft, and not-to-exceed ceiling prices for EPG aircraft. Establishment of firm target prices for EPG aircraft is scheduled for the first quarter of calendar year 1976 contracts with EPG contractors to meet the off-set commitments of the Memorandum of Understanding.

QUESTIONS SUBMITTED BY SENATOR THURMOND

Chairman McClellan. Senator Thurmond has also submitted questions to be included in the record. Without objection, those questions and answers will appear at this point in the record.

[The questions and answers follow:]

F–16 PARTS PRODUCED IN EUROPE

Senator Thurmon. What sections or components of the U.S. planned buy of F–16 aircraft will be produced in foreign countries under the NATO countries sales agreement?

Secretary Shrontz. Those produced by the European Participating Governments and General Dynamics are:

AFT Fuselage Section—FAIREY.
Center Section—FOKKER.
Vertical Stabilizer—FAIREY.
Wings—SABCA.
Wings Leading Edge Flap—FOKKER.
Wings Trailing Edge Flaperon—FOKKER.
Main Landing Gear—FOKKER.
Main Landing Gear—FAIREY/SABCA.

DUPLICATE PRODUCTION CAPABILITIES

Senator Thurmond. Where aircraft sections or components are planned for production overseas, will the U.S. contractor be required also to have duplicate capabilities to produce these items?

Secretary Shrontz. Yes, sir. U.S. sources must be able to produce any items for which coproduction arrangements are made with overseas subcontractors.

ADDED COSTS FOR U.S. AIRCRAFT

Senator Thurmond. Will any added cost be incurred for the U.S. aircraft because some of the aircraft sections or components may be produced at higher cost overseas or because the U.S. contractor must have duplicate capabilities to produce these items?

Secretary Shrontz. There may be increased cost associated with producing some portion of the U.S. aircraft overseas. However, this cost increase should be offset by the savings generated by the economy of scale resulting from the European aircraft procurement. Precise values will be known when contractual agreements specify the items to be produced overseas. These agreements will be completed in early 1976.

MAINTENANCE OF U.S. AIRCRAFT IN EUROPE

Senator Thurmond. Has the United States committed to these NATO countries to have the U.S. aircraft maintained and overhauled by a foreign force in one of the NATO countries?

Secretary Shrontz. The Memorandum of Understanding provides that on a mutually agreed basis the United States may utilize depot level maintenance and overhaul facilities established and funded by the European participating countries to maintain and overhaul USAF F–16 aircraft operated in Europe. This concept is being addressed by the F–16 Logistics Support Subcommittee. The findings of the Subcommittee will be considered in the U.S. decision on the suitability of European facilities for depot maintenance and overhaul of USAF F–16 aircraft.

IMPACT OF MAINTENANCE AND OVERHAUL

Senator Thurmond. If such is the case, what is the effect of this plan on the cost to the U.S. as well as potential jobs for U.S. firms?

Secretary Shrontz. Any agreement by the U.S. to utilize the European F–16 depot maintenance and overhaul facilities is dependent upon a mutual agreement with the European countries. Such an agreement would include a judgment of the competitiveness of the European facilities with similar U.S. Air Force and U.S. industry facilities. At the present time, the European Participating Countries have not decided upon a concept for joint depot level maintenance. The F–16 Logistics Support Subcommittee is working to establish a mutually suitable concept. Generally speaking however, in the past we have found that it is more economical to perform airframe maintenance in Europe rather than flying the aircraft back to the U.S.

It would be premature at this time to attempt to evaluate the impact on the cost to the U.S. or on the potential jobs for U.S. industry since the suitability of the maintenance concept to be established in Europe is unknown.

CEILING PRICE FOR NATO AIRCRAFT

Senator Thurmond. Has the United States agreed through the contractor not to exceed a ceiling price in aircraft to be sold to these NATO countries?

Secretary Shrontz. While the United States did not guarantee prices in the Memorandum of Understanding, the USAF did secure the following agreements from General Dynamics and Pratt & Whitney on behalf of the European Participating Governments (EPG):

1. The General Dynamics contract incorporates a not-to-exceed ceiling price for 141 EPG aircraft. In addition, the contract provides for an average or level line not-to-exceed price for all EPG aircraft based on a quantity of not less than 650 USAF aircraft and 348 EPG aircraft based upon production rates and schedules set forth in the contract.

2. The Pratt & Whitney engine contract contains average or level line not-to-exceed prices for sufficient engines to support a 650 aircraft U.S. Government (USG) buy and for 438 engines to support the 348 aircraft EPG buy.

3. These contractor not-to-exceed prices do not cover research and development recoupment, the radar, and the GFAE for which USG estimates only were provided. Since the not-to-exceed prices were established on the basis of FY 75 dollars and current monetary exchange rates, they may be adjusted as a result of abnormal escalation or changed currency exchange rates.

COST OVERRUN ON NATO AIRCRAFT/WHO PAYS

Senator Thurmond. Who will bear the additional cost over the established ceiling price if a cost overrun is incurred by the contractor on the aircraft sold to these NATO countries?

Secretary Shrontz. Except for adjustments for abnormal escalation or changes in currency exchange rates, in which case NATO countries bear such expense, the contractor will bear any cost overruns over the ceiling price established in the contract for these NATO aircraft.

PRESENT CONTRACT/DEVELOPMENT AND PRODUCTION

Senator Thurmond. Does the present contract for the F–16 aircraft call for development as well as production options for these aircraft?

Secretary Shrontz. Yes, the development portion of the contract has been implemented and will be renewed each fiscal year. The contract includes production options for 301 USAF and 141 EPG aircraft.

PRESENT CONTRACT/TOTAL PACKAGE

Senator Thurmond. If this is the case, does not the contract amount to a total package-type procurement?

Secretary Shrontz. No. The contract is only for a portion of the total aircraft program and does not include support equipment and spare parts which are inclusive in the original total package concept. The contract also includes provision for accommodating abnormal escalation. Furthermore, the prices established for the development programs and each production option are not predicated on the exercise of any subsequent option.

U.S. COMMITMENT TO PROCUREMENT

Senator Thurmond. Is the United States already committed to procurement of a specific number of aircraft in order to allow the contractor to maintain the ceiling price offered to the NATO countries?

Secretary Shrontz. No sir. The Memorandum of Understanding states only that "... the U.S. Government, subject to U.S. Congressional authorizations and appropriations, plans to procure a minimum of 650 F–16 aircraft for their inventory ..." The not-to-exceed level line price for their 348 aircraft was predicated on a 1000 aircraft program, since that is the planned program. This level line price would have to be renegotiated with the prime contractors should either the U.S. or the European Participating Governments decide to buy fewer aircraft.

BALANCE OF PAYMENT/FOLLOW-ON SALES

Senator Thurmond. Provide the favorable balance of payments to the U.S. if additional aircrafts are obtained in quantities of 500, 1,000, or 2,000?

Secretary Shrontz. Assuming that this pertains to sales to third party countries, the approximate favorable balance-of-payments impact to the U.S. would be:

(In billions of dollars)

Number:	Sale price	85 percent favorable IBP
500	3.1	2.6
1,000	6.4	5.3
2,000	12.4	10.5

F–16 SALES/IN LIEU OF OTHER AIRCRAFT

Senator Thurmond. Would the F–16 sales be in lieu of the F–14, F–15, F–4 or F–5 sales?

Secretary Shrontz. The capabilities and costs of the F–4, F–5, F–14, F–15 and F–16 vary, therefore one aircraft is not a substitute for another. The USAF will use the F–16 to replace certain aging F-4s and to complement the more costly and more capable F-15 aircraft in what is commonly referred to as a high low force mix. Many factors, including cost and capability, were considered in deciding this part of our force structure. Foreign governments will have a similar problem. Each country must analyze their force structure before considering the purchase of new aircraft. A country may decide that F-5s better suit their needs. Therefore, the issue would not be F-16 sales in lieu of F-5s. It's a matter of selecting the aircraft that best meets a country's force structure requirements and ability to manage the system after all things are considered including cost and capability.

SUBCOMMITTEE RECESS

Chairman McCLELLAN. All right, gentlemen, thank you very much. The subcommittee will stand recessed, subject to call.

[Whereupon, at 11:55 a.m., Tuesday, September 16, the subcommittee was recessed, to reconvene at the call of the Chair.]

Mr. HATHAWAY. I noted on pages 808 and 809 of the transcript for that hearing that there was included a memorandum dated September 5, 1975 from the distinguished chairman of that committee to all the members setting forth his concerns and goals for the hearing. I was particularly interested in his statement contained therein:

> The Department of Defense claims that no supplemental agreements were made with Consortium countries in order to secure the F-16 agreement. However, Secretary Schlesinger is sympathetic to purchase of Belgium MAG-58 machine guns. Final selection of a machine gun will be made after field tests of the U.S. M60E gun and the Belgian MAG-58. He also is sympathetic to purchase of 20 mm ammunition from Belgium.

I would certainly share the concern expressed in that memorandum of the chairman regarding the relationship between the F-16 and the MAG 58, and would like to ask him now whether he might enlighten me further on the basis for his statement at that time that Secretary Schlesinger was sympathetic to the purchase of the MAG 58?

Mr. McCLELLAN. To respond to that question, I would like to refer to the GAO report—ID-76-12, September 2, 1975—Staff Study on Multinational F-16 Agreements, which states:

> The Secretary of Defense had promised to give favorable consideration if the weapon met the U.S. Army's requirements and if it was competitive in price.

I might add that those findings were one of the reasons why the subcommittee held hearings to look into the matter.

Mr. HATHAWAY. I noted that in the course of that hearing the chairman asked numerous questions to attempt to pin down any possible relationship between the F-16 and the Belgian MAG-58, and I appreciate very much his strong efforts in that direction.

At the same time, I would observe that the testimony contained in the course of those hearings on the part of the representatives of the Department of Defense is framed in very careful terms: "Not to my knowledge," "That is my understanding," "I was present during much of those discussions," (pp. 815-816 hearings), and so on.

I do not question the integrity or the honesty of the officials I have just quoted, but I do question the extent to which they were aware of all of the discussions which may have taken place in this regard, and my suspicions are increased, and not diminished by the testimony given in the course of these hearings.

I would also like to comment on an additional statement contained in the record of that hearing on page 825, apparently a policy statement added later on behalf of the DOD:

> The Belgium made MAG-58 machine gun is currently undergoing tests by the U.S. Army as a possible gun for the M-60 tank. The Army will obtain at no cost 10 MAG-58 production models for testing. During the November time period, side by side testing of the MAG-58 and the other candidate machine gun which you expressed interest in, the U.S. manufactured Maremont M-60 E2, will take place. In addition, there will also be an examination of the licensing options acceptability of offshore procurement, and relative costs. Standardization of US/NATO military equipment will also be a consideration which is in accordance with the expressed desires of the Congress.
>
> The Army's decision as to which gun to buy will take place after the side by side firing tests are concluded and a complete evaluation is made. A decision in early 1976 is currently anticipated.
>
> No commitments to purchase the MAG-58 have been made to the Belgium Government. The decision will be based on results of the actions outlined above.

In light of developments subsequent to September of 1975, I find this statement both interesting and ironic. The response indicated that no "commitments" were made, but that the decision would be based on "side-by-side firing tests" consideration of "standardization" and so on.

It is my own personal opinion that the tests which were conducted subsequently were structured and designed to insure that the gun ultimately picked would be the Belgian gun and that this sequence of events was most likely a consequence of discussions which occurred in June of 1975 and prior thereto by United States and Belgian officials.

I would add that I am not alone in this opinion, and refer my colleagues to the issue brief produced by the Congressional Research Service of the Library of Congress titled, "Fighter Aircraft Programs (Lightweight): F-16 and F-18, numbered 75063." This document, as updated on June 4, 1976, states in one segment, which begins on page 3:

> COMPETITION BETWEEN F-16 AND F-17 ACF DESIGNS AND SALE TO NATO COUNTRIES
>
> The competition between the General Dynamics YF-16 and Northrop's YF-17 that began in early 1972 was intensified in 1974 by congressional insistence on commonality between Navy and Air Force ACF designs and the decision to select the Air Force's ACF by early 1975, as well as by European NATO countries' interest in buying LWF aircraft to replace the F-104 Starfighter. In October 1974, Northrop and McDonnell Douglas announced a joint project to design a Navy ACF based on the YF-17, and General Dynamics and LTV joined forces to design a Navy version of the YF-16. The Navy had not intended to make its decision until mid-1975, but with the Air Force selecting its ACF in January and the Europeans expected to make their choice soon afterwards, the Navy decided to resolve the matter several months earlier than originally scheduled.
>
> In the meantime, the two designs contending for selection by the U.S. Air Force and Navy were also being actively promoted by their manufacturers in the European market. The major European rivals were the French Mirage F.1E made by Dassault and Sweden's Viggen JA-37B by Saab/Scania.
>
> In September 1974 DOD announced that the Air Force would buy 650 ACFs of whichever design was selected in January, 1975. The Navy would buy some 800 ACFs, but its final decision was not expected until some time after the Air Force selection. Although some NATO governments originally preferred the YF-17, the selection of the YF-16 by the U.S. Air Force on January 13 tipped the balance in favor of the General Dynamics aircraft, and on February 17, 1975, the NATO consortium eliminated the Northrop YF-17 from further consideration.
>
> After intensive negotiations with the Belgian government, which was under considerable pressure to purchase the French Mirage, Belgium agreed in June 1975 to buy the F-16, which the other three NATO countries had selected in the months following its selection by the U.S. Air Force. *A last-minute DOD commitment to use Belgian MAG 58 machine guns instead of American M-60s on U.S. tanks in Europe, ostensibly in the interest of standardizing NATO equipment, was viewed as a special inducement to Belgium.* (emphasis added)
>
> A major economic factor in European participation in the $2.1 billion F-16 sale was a coproduction agreement that 10% of the procurement value of F-16s for the U.S. Air Force would be produced in Europe, as well as 40% of the value of the aircraft bought by the NATO consortium and 15% of the value of any aircraft sold to third countries. Firm contracts for F-16 sales to the four European Participating Governments (EPGs) and the subcontracts for European-produced components under the "10-40-15 percent coproduction agreement" in the 1975 memorandum of understanding are to be negotiated in 1976. The NATO order involves a confirmed buy of 306 F-16s with options for 42 additional aircraft, consisting of 116 ordered by Belgium (106 confirmed plus option for 14), 102 by the Netherlands (84 plus 18), 72 by Norway (all confirmed), and 58 by Denmark (48 plus 10).

Mr. President, I think one sentence in that excerpt bears repeating:

> A last-minute DoD commitment to use the Belgian Mag 58 machine guns instead of American M60s on U.S. tanks in Europe, ostensibly in the interest of standardizing NATO equipment, was viewed as a special inducement to Belgium.

While I do not know whether the Library of Congress is in possession of specific factual knowledge which has thus far not been disclosed to the Committee on Appropriations, it does seem clear that the Congressional Research Service had made a determination on this matter weighing all of the relevant information from hearings, from domestic and foreign press sources and whatever other sources it might have at its disposal and has made the judgment alluded to.

Again, this is as included in the CRS report updated as of June 4, 1976.

Independent of these considerations of the connection between the F-16 and the MAG-58, it is clear to me that the domestic competitor for the machinegun contract was treated in an arbitrary and unfair fashion in the testing of the two weapons which took place subsequent to the committee's hearing on the matter. Consequently, I joined the corporation, along with the other members of the

Maine congressional delegation, Senator MUSKIE and Congressmen COHEN and EMERY in filing suit on this matter.

Since this suit is a pending matter before both the U.S. District Court for the District of Columbia and the General Accounting Office, I am hesitant in going into details or in commenting on the developments to date. However, because this dispute is so highly relevant to the matter being considered and because in my capacity as a legislator I feel this deserves the attention of my colleagues, I would ask unanimous consent that the court's memorandum order of July 2, 1976 be printed in the RECORD at this point.

There being no objection, the memorandum order was ordered to be printed in the RECORD, as follows:

[Civil Action No. 76–895]

MAREMONT CORPORATION, ET AL PLAINTIFFS *v.* DONALD H. RUMSFELD, ET AL DEFENDANTS

MEMORANDUM ORDER

This matter is before the Court of plaintiffs' motion for a preliminary injunction which seeks to enjoin the defendants from awarding a Department of Army contract for the purchase of machine guns to Fabrique Nationale ("Fabrique"), a foreign manufacturer located in Herstal, Belgium, pending the final determination of plaintiff Maremont's protest to the General Accounting Office (GAO).

Plaintiffs allege that the defendants' decision to award the contract at issue to Fabrique is violative of the "Buy American Act", 41 U.S.C. 10a *et seq.*, the 1976 Department of Defense Appropriation Act, P.L. 94–212 (Feb. 9, 1976), the military procurement statutes, 10 U.S.C. 2304, and the regulations thereunder and the Fifth Amendment to the United States Constitution. The ultimate relief sought by the complaint herein is a permanent injunction against the defendants restraining the awarding of the contract to Fabrique.

Briefly, stated, the defendants have opposed the preliminary injunction by arguing that the Belgium guns are 3.5 times as reliable as plaintiffs' model and that the Secretary of Defense seeks to purchase the best weapon quickly to assure the maintenance of a strong defense posture. Argument was heard before the Court on July 1, 1976.

Plaintiffs in this action are the Maremont Corporation, a Chicago based concern, Senators Edmund S. Muskie and William D. Hathaway, and Congressmen William S. Cohen and David F. Emery, all of Maine, who are bringing this action on their own behalf and on behalf of the citizens of Maine who are adversely affected.

Maremont Corporation operates a New England Division which manufactures machine guns, other weapons and automobile shock absorbers. According to the plaintiffs, Maremont employs approximately 1,200 workers in Saco, Maine, is responsible for nearly 11% of the taxes collected in Saco and is the largest private employer in York County. Maremont's Saco factory is the only nongovernmental production facility in the United States currently manufacturing machine guns.

From 1959 to present, the United States Army (Army) has used the M219 machine gun on its tanks. Because of the M219's unreliability, the Army, in late 1973, began giving serious thought to replacing it, and in 1974 made plans to conduct comparison tests of potential replacement guns by United States and foreign candidates. (Domestic makers were subjected to field tests, the foreign models to laboratory tests.)

The tests were conducted from November 1974 through February 1975. As a result of the tests done on the United States competitors, it was tentatively decided that the Army should purchase Maremont's modified version of the M60 (M60 MOD coaxial gun) as the replacement for the M219. Final tests were to be performed after certain corrections were made to alleviate problems which were discovered.

Maremont has alleged that durning the period of November 1974 to February 1975, it worked closely with the Army to develop the gun to fit specified needs. Maremont claims that it refrained from making changes in design which would improve performance and reliability because the Army stressed the importance of interchangeability of parts between the M60 and M219. The defendants have not rebutted this allegation.

During late 1974 and early 1975, laboratory tests were also conducted on foreign-made machine guns. The Belgian MAG58 proved to be the superior [1] of these weapons.

The M60 (MOD) was then modified and designated M60E2 and field tests were performed in April 1975. The report recommended purchasing the M60E2.[2]

Up until March 28, 1975, when the Army Headquarters Officials were briefed on the U.S. test results, the M60E2 was strongly favored. However, defendants claim that around this time the MAG58's performance became known and it was decided to introduce it as a contender. Thus, in April 1975, plans were made to conduct a side-by-side competitive test between the M60E2 and the MAG58. Plaintiffs contend that this decision and the decision to purchase the MAG58 were based upon an agreement by the Secretary of Defense with the Belgian government that the quid pro quo for Belgium's purchase of the F–16 aircraft made by a United States concern would be the Army's selection of the Belgian MAG58. The defendants state that plaintiffs' allegations are not supported by evidence, and that the Secretary of Defense is merely looking for the best weapon. A GAO report indicates that in January 1975 the F–16 was picked by the Air Force as the winner of the U.S. competition and subsequently, five concerned nations (Belgium, Denmark, Norway, the Netherlands and the United States) negotiated four preliminary contracts to produce the F–16. The MAG58 was not brought into the discussion until June 1975 when the Secretary of Defense indicated the Army was impressed by its performance and would give the MAG58 due consideration after tests. The GAO said it could not find the charge substantiated from "available documents".

Because of his suspicion about this *quid pro quo*, plaintiff Muskie wrote the Comptroller General and asked that the GAO oversee, review and report on the Army's comparative testing of the M60E2 and MAG58, which tests were conducted from October through December 1975. The Comptroller General's report (GAO report), mentioned previously, was issued March 23, 1976.

As to the cost of the two items, the MAG58 has a quoted figure of $1,517 per unit; the M60E2 of $707, or, if purchased with the bolt assembly replacement unit recommended by Maremont, of $922 per unit. The total cost of 18,191 guns would be $55,466,000 for the MAG58 and $41,817,500 for the M60E2 (with the bolt assembly).

The results of the side-by-side tests as primarily indicated by the aforementioned GAO report, are as follows:

(a) Reliability:

(i) During the first 15,000 rounds fired, the malfunctions in the MAG58 and the M60E2 were few and "nearly equivalent". (*Id.* at 18);

(ii) Between 15,000 rounds and 50,000 rounds, malfunctions increased slowly in the MAG58 although the MAG58 suffered extremely serious problems with rivets which required maintenance at a higher organizational level than any M60E2 malfunctions. *Id.* at 18–19);

(iii) Between 15,000 rounds fired and 50,000 rounds, malfunctions increased to a greater degree in the M60E2 than the MAG58, but the Army did not utilize Maremont's recommended bolt assembly replacement procedure. (*Id.* at 18, 21). The major problems suffered by the M60E2 were related to the bolt mechanism. (*Id.* at 19);

(iv) The Army concluded after the tests that the MAG58 was 3.5 times as reliable as the M60E2. (*Id.* at 18);

(v) If the Maremont bolt assembly replacement procedure had been utilized when bolt malfunctions began to appear (after approximately 15,000 rounds had been fired), a new bolt assembly would have been inserted and the Maremont gun would have continued to operate at the same level of efficiency as it did during the first 15,000 rounds;

(vi) If the Maremont bolt assembbly replacement procedure were followed, the M60E2 and the MAG58 would be comparably reliable;

(vii) The Army agrees that Maremont's bolt assembly replacement proposal would significantly improve the reliability of the M60E2. (*Id.* at 21). However, the Army indicated its procedure for making repairs is under a "piece-part basis". By this method the Army would seek to find the particular malfunctioning part and replace it.

(b) Durability: All the M60E2's tested were fired successfully to 100,000 rounds as required by the testing procedure. All the MAG58's suffered cracked receivers between 66,000 to 75,000 rounds and only two of the five tested were fired to 100,000 rounds. (Id. at 20) Accordingly, the M60E2 has an expected life cycle of 15 years while the Belgian MAG58, absent a rotation system, has an expected life cycle of only 11 years. (Id. at 28). Because of the shorter life cycle of the MAG58, up to $18 million could be added to the cost of the MAG58 (Id.).

(c) Rate of Fire: The Army specified that rate of fire be between 400 and 650 rounds per minute with the lower limit preferred. (Id. at 19). The M60E2 averaged 570 rounds per minute while the MAG58 averaged 820 rounds per minute. (Id. at 19).

(d) Standardization: The contribution that either the MAG 58 or the M60E2 would make to NATO standardization of equipment appears marginal. It would, therefore, appear that this would not be a major factor influencing the selection of either gun. (Id. at 11).

(e) Interchangeability: Selection of the M60E2 would contribute significant benefits to interchangeability of parts within the United States Armed Forces since 63 percent of the M60E2 parts are interchangeable with the M60 infantry machine gun. (Id. at 10). By choosing the M60E2, there would be less discord within the Army weapon inventory. (Id.). The MAG58 would contribute no benefits to interchangeability of parts within the United States Armed Forces.

On March 29, 1976, the Army indicated its intention to award the contract to Fabrique for the MAG58. On April 7, 1976, Maremont submitted its formal protest. Although the Army's response was due twenty-five working days later, it was not filed until

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[1] The performance was so superior that speculation arose as to whether the gun was assembled from specially selected parts rather than coming from the production line. Subsequent engineering tests did not show the previous high performance of firing 30,000 rounds without a stoppage.

[2] In July 1975, the Army awarded a contract to Maremont for the purchase of M60E2's for use on specified Marine Corps tanks.

June 30, 1976, the evening before the hearing on the instant motion.

The Army's present supply of M219's will be exhausted in December 1976; however, plaintiffs have indicated their ability to provide any necessary replacement weaponry during the pendency of this action.

A stipulation was entered into by the parties extending the time for the hearing on the instant motion from June 4 to July 1, 1976, with defendants further agreeing not to award the contract for the production or purchase of the MAG58 until July 7th, or until the Court ruled on the motion for preliminary injunction, whichever occurred first.

In *Wheelabrator Corporation* v. *Chaffee*, 455 F. 2d 1306, 1316 (D.C.Cir. 1971), the Court endorsed the philosophy that in cases where a GAO determination on a bid protest was pending, the district court, under the doctrine of primary jurisdiction, could issue a preliminary injunction limited in time to the period of the GAO determination to preserve the status quo and to secure the expertise of the GAO. Additionally, Wheelabrator indicated that the Court must make a considered judgment as to the probability of success on the merits. *Wheelabrator, supra*, at 1317.

The plaintiffs have raised serious questions as concerns defendants' compliance with the Armed Service Procurement Act and the regulations thereunder. The defendants have acknowledged that they are awarding the contract on the basis of negotiation for a sole source procurement of the MAG58's as opposed to the route of formal advertising. When proceeding by the sole source method, the procuring agency must make a written Determination and Findings which "clearly and convincingly establish . . . that formal advertising would not have been feasible and practicable". 10 U.S.C. 2310. This is to be "signed by the appropriate official prior to issuance of a request for proposals or quotations". Armed Service Procurement (ASPR) § 3–306. The required Determinations and Findings were not issued prior to the active negotiations with Fabrique or prior to March 1976 when the Army announced its intention to award the contract for the MAG58.

Secondly, the plaintiffs have made a showing that the Army violated ASPR § 3–501 by failing or misrepresenting the nature of the significant evaluation factors and the relative order of importance the government attached to price relative to other factors.

In view of the Court's conclusion with respect to the Army's conduct under ASPR, we need not reach plaintiffs' other arguments which might indicate a probability of success on the merits.

In closing, the Court notes that a representative of GAO's General Counsel's Office addressed the Court and indicated that GAO could reach a determination in twenty-five days. Consequently, any delay of the contract award is brought on only by the defendants, for had the Army responded to the protest in a timely manner the GAO review might well have been concluded. Additionally, the public interest is served by assuring proper compliance with the letter and spirit of the laws and irreparable injury will befall plaintiffs without the injunction since they would lose the contract award which might well result in loss of jobs in Saco, Maine.

In accordance with the foregoing, it is by the Court this 3rd day of July 1976,

Ordered that plaintiffs' motion for a preliminary injunction should be and the same hereby is granted; and it is further

Ordered that the defendants should be and the same hereby are enjoined from issuing the contract for production and/or purchase of the MAG58 machine guns from Fabrique Nationale until five (5) days after the GAO issues its ruling with respect to plaintiff Maremont's bid protest.

JUNE L. GREEN,
U.S. District Judge.

Mr. HATHAWAY. I have one final question I would like to address to the chairman of the Committee on Appropriations. It is my understanding that there is included in the pending appropriation legislation a sum of $15.1 million for the procurement of armor tank machine guns to replace the M219. Given the pending lawsuit and the protest to GAO mentioned in the above opinion, I would like to ask the Senator to elaborate on the committee's intention in approving such funds.

Mr. McCLELLAN. I would be happy to. I believe I can best explain the committee's intention by reference to our report on page 180:

> *Armor machine gun.*—The Committee recommends the budget request of $15.1 million for the procurement of armor machine guns to replace the M219. The Army has determined to purchase the MAG58 gun which is manufactured in Belgium. The United States competitive manufacturer filed suit on alleged violations of procurement laws and regulations. The District Court of D.C. issued an injunction on July 2, 1976 enjoining the Army from entering into final agreement with the foreign firm pending resolution of a protest which the U.S. source has filed with the Comptroller General. The Committee points out that the recommended funds are not contemplated for any particular gun and are to be obligated pursuant to resolution of the dispute.

Mr. HATHAWAY. I appreciate the Chairman's attention in this matter, and I hope this information is helpful to the Senate as a whole in terms of its scrutiny of this amendment and in terms of its consideration in the future of continuing efforts at standardization and cooperation with NATO nations.

In closing I would like to emphasize that in no way am I an opponent of standardization or its objectives of cost saving. I emphasize, however, that this policy ought not to be subverted into becoming a blank check to ignore the legitimate concerns of all American manufacturers who ask simply that they be given a chance to compete and that the competition be a fair one. I hope that my amendment, and the discussion we have had today, will insure this goal.

Mr. MUSKIE. Mr. President, I wish to thank Chairman McCLELLAN for his attention and cooperation in this matter which has been of concern to me and my colleagues from Maine for so many months. I am hopeful that the court action and General Accounting Office review now under way will result in a fair and equitable resolution of this matter shortly. The attention of the committee has been most helpful in assuring that precipitous action is not taken pending the outcome of those actions.

The amendment, which Senator HATHAWAY and I have introduced, deals with only one particular part of the procurement regulations relating to the controversial puchase of machine guns from the Belgian manufacturer and is directed toward assuring that any waiver of the specialty metals restrictions which the President proposes must be consistent with requirements for congressional notification and review provided in the Arms Export Control Act, Foreign Military Sales, and the appropriation authorization legislation. A provision in the Foreign Military Sales Act, which I cosponsored with Senator HATHAWAY, provides that the Senate Committee on Foreign Relations and the House Committee on International Relations will be able to obtain detailed information regarding any proposed arms sale agreement and, if appropriate, report a concurrent resolution of disapproval to the Senate and House, respectively.

This particular matter has been of great concern to me because a Maine firm, Maremont Corp. of Saco, is the domestic producer of armor machineguns and that firm and its employees will suffer if the Army makes good on former Secretary of Defense Schlesinger's promise to give "favorable consideration" to the foreign manufacturer. The entire Maine delegation has been working to assure that this does not occur and are parties to the civil action which Senator HATHAWAY described earlier.

There has been considerable discussion of standardization in the Congress in recent months directed in general toward the benefits and cost savings which such a policy can produce.

I welcome the effort to achieve cost savings in our defense efforts through standardization of interoperable weapons, but it is imperative as we consider that policy that the means does not overtake the goal. Standardization is not a goal in and of itself but is a policy directed toward achieving cost savings and combat efficiency in particular weapons systems among our NATO allies. It is perhaps best served in the development of high technology weapons system where duplicative costs associated with research and manufacturing startups can be avoided and in areas such as ammunition production where standardization can result in simplified battlefield logistics. We should understand, however, that the empty term "standardization" does not in and of itself serve in any way as justification for procurement of a foreign competitor over a domestic weapon. I believe that this was made clear in the conference report accompanying the authorizing legislation but it is appropriate that these concerns again be laid on the record.

I thank the chairman again for his assistance in this matter and look forward to his further cooperation.

Mr. McCLELLAN. Mr. President, it is my understanding that this amendment insures that the clause permitting the Defense Department to procure specialty metals from foreign sources does not override existing legislation requiring the Defense Department to report international agreements on reciprocal weapons purchases. Am I correct?

Mr. HATHAWAY. The Senator is correct.

Mr. McCLELLAN. Is that all the amendment does and is intended to do?

Mr. HATHAWAY. The Senator is correct.

Mr. McCLELLAN. Mr. President, I may state further that it was not the committee's intent that this clause would have the effect of overriding any provision in existing law involving reporting such agreements to Congress. Therefore, I believe the committee can accept this amendment. I am willing to accept it unless there is objection on the part of some Member of the committee.

I hear none, Mr. President. Therefore, I am willing to accept the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

UP AMENDMENT NO. 285

Mr. HATHAWAY. Mr. President, I send a second amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Maine (Mr. HATHAWAY) proposes an unprinted amendment No. 285.

Mr. HATHAWAY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 42, line 5, beginning with "except" strike out all down through "Government" in line 7 and insert in lieu thereof the following: "except that nothing herein shall be construed to preclude total labor surplus area set-asides pursuant to Defense Manpower Policy No. 4 (32A C.F.R. Part 8) if the Secretary specifically determines that there is a reasonable expectation that offers will be obtained from a sufficient number of eligible concerns so that awards will be made at reasonable prices".

Mr. HATHAWAY. Mr. President, the purpose of this amendment is to include language that would allow the Secretary of Defense to make contracts or set asides in labor surplus areas provided the Secretary specifically determines there is a reasonable expectation that offers would be obtained from a sufficient number of eligible concerns so that awards would be made at a reasonable price. An amendment similar to this amendment was tacked on to the same bill last year and I understand the floor manager has no objection.

Mr. President, in offering this amendment, I would first like to note that it is entirely consistent with the language already included in section 723 of this bill as reported. I am merely striking "except where the Secretary has specifically determined that sufficient price competition exists to insure a reasonable price to the Government:" and substituting the more precise language of my current amendment, which accomplishes the same goal as the language to be dropped. I have had a long time interest in this subject matter and was successful last year in adding the language for which I now intend to substitute. This occurred during the Senate's consideration of the 1976 Department of Defense Appropriation on November 18 of last year.

Mr. President, to elaborate on my intention in offering the previous amendment and in support of my modified amendment today, I ask unanimous consent that my remarks as contained in the RECORD for November 18, 1975, be printed in the RECORD at this point.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

Mr. HATHAWAY. Mr. President, the amendment I offer today is similar to one the Senate adopted a year ago. It went to conference but did not survive the conference.

The amendment has been modified to satisfy the objections that the Defense Department had to it at that time.

I have discussed the amendment at great length with the distinguished chairman of the committee. I believe it is acceptable to him.

Mr. President, the amendment I propose today would modify language contained in this Defense Appropriations bill, and in every DOD appropriation since 1953. The language I wish to modify is the so-called Maybank amendment, named after Senator Burnet R. Maybank who first introduced it. It states that:

"No funds shall be used for the payment of a price differential on contracts made for the purpose of relieving economic dislocations."

Senator Maybank's goal was to prohibit the DOD from paying more for textiles obtained from mills in New England than from mills in other parts of the country, particularly the South, where labor costs were lower. At that time the DOD was prone to pay these higher costs in an attempt to stop or slow the trend of many New England firms moving to areas with lower labor costs. The Maybank amendment was desirable legislation to counteract this regional favoritism which imposed higher costs for the defense of the country as a whole.

As we all know, most of the mills moved, and therefore the historic phenomenon to which the Maybank amendment was addressed no longer is significant.

The Maybank amendment, however, has lived on, and became a significant problem in its own right as it has affected the DOD's labor surplus area set-aside program. This program was initiated in 1952 under Defense Manpower Policy No. 4 which requires that certain procurement contracts be setaside for bidding in areas of substantial unemployment. The program was meant to preserve management and employee skills useful to the Nation's defense during times of economic downturns. This program is a valuable one, and ought to gain increasing attention today as unemployment hovers at an unacceptable level of 8.6 percent.

The General Accounting Office has, however, in its construction of the Maybank amendment and the labor surplus area set-aside program, limited implementation of the goals of the latter by its determination that a defense procurement contract cannot be totally set aside for award to firms located in labor surplus areas, but rather must be split up into two or more units with at least one of those contract units begin bid competitively among all firms, within and without labor surplus areas. Under the GAO interpretation, the open competition on a portion of the total contract award determines the highest price payable on the remaining portion of the contract to be set aside for labor surplus areas. This construction is based on the theory that the best price can only be obtained by an open competition among all sorts of firms and would not be obtainable under a total set-aside to labor surplus areas. Such a theory might have made some sense in times of low levels of unemployment where there were few qualifying labor surplus area, but makes little sense today. I might add that in 1953, when Senator Maybank first introduced his amendment, unemployment was only 3 percent. In a time of 8.6 percent unemployment, when approximately 800 areas across the country have been designated by the Secretary of Labor as having substantial unemployment, setting aside a Government contract for procurement among firms in these areas would surely yield a competitive price. Furthermore, the GAO interpretation which refuses to allow such a total set-aside severely limits the labor surplus area set-aside program's goal of helping alleviate localized severe unemployment. The time has come to change the statutory structure to allow total labor surplus set-asides and to eliminate the GAO's tortured construction to the Maybank amendment.

My amendment would allow the Secretary of Defense or his delegate, the contracting officer, to make a total set-aside to labor surplus areas of a Government contract when the Federal Government will not be forced to pay an unreasonable contract price. In order to make that determination the officer should look at the number of labor surplus areas, the overall unemployment level, the number of firms within the labor surplus areas willing and capable of performing such contracts and the probability of such firms completing such contract at a fair and reasonable cost.

This determination would be made on a contract-by-contract basis, substituting specific criteria for the present procedure which arbitrarily decides that a total labor surplus set-aside is not feasible.

The procedure I suggest for allowing total labor surplus area set-asides borrows heavily from current procedures followed by a contract officer in placing a procurement into a total small business set-aside, regarding which the Armed Forces Procurement Regulation states that:

"The entire amount of a procurement may be set aside for exclusive small business participation if the contracting officer determines that there is a reasonable expectation that offers will be obtained from a sufficient number of responsible small business concerns so that awards will be made at reasonable prices."

This procedure has worked well for such total small business set-asides. The procurement officers solicit bids from available firms on bidders lists compiled by the Small Business Administration and from lists compiled by the DOD of firms which have bid in the past on other contracts to insure adequate competition. The same sort of lists could be obtained of the labor surplus area firms.

The contracting officer has an additional safeguard against an unreasonably high bid price under total small business set-aside which would also be available under a total labor surplus area set-aside; he may cancel the set-aside and readvise among all firms.

My amendment would extend these well established and workable procedures to make them applicable to total labor surplus area set-asides, and would remove the current blanket prohibition against such set-asides.

My amendment would not mandate a total labor surplus area set-aside in situations where such a procedure would prove uneconomical. In previous Congresses I had attempted an outright repeal of the Maybank amendment. In fact, in the last session of the 93d Congress, an amendment offered by Senator PASTORE and myself which did repeal Maybank, was accepted by the Senate, but dropped in conference, apparently due to DOD opposition. The DOD objected to outright repeal because in certain circumstances a total labor surplus set-aside would not result in an economical contract price, such as where there were an insufficient number of firms within the labor surplus area to generate a fair price. I appreciate the nature of such objections and have this year drafted my amendment accordingly. My amendment would preserve the positive features of the Maybank amendment and at the same time unfetter the labor surplus area set-aside program, so badly needed in today's economy.

I urge my colleagues to support me in this effort.

Mr. HATHAWAY. Mr. President, as noted in my remarks given last year, that amendment was modified to meet objections voiced by the Defense Department and others to my amendment offered the year before which repealed the Maybank amendment. Subsequent to the Senate's accepting my amendment, further difficulties with the Defense Department developed, and again the amendment was dropped in conference. For the benefit of the conferees, I prepared two letters, dated November 26, 1975, and December 2, 1975.

I also wish to commend the distinguished chairman of the Appropriations Committee for his efforts in my behalf, which were supported ably by the senior Senator from Rhode Island. But ultimately, the House conferees were adamant and the amendment was dropped. For the benefit of my colleagues and to further describe my intention in offering this amendment today, Mr. President, I ask unanimous consent that these letters I sent to the chairman be printed in the RECORD at this point.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, D.C., November 26, 1975.
Hon. JOHN L. MCCLELLAN,
Chairman, Senate Appropriations Committee, Washington, D.C.

DEAR JOHN: I understand that you have been contacted by the Department of Defense regarding its objection to the Senate amendment to H.R. 9861, which modifies the Maybank Proviso to permit a procurement contract to be totally set aside for firms located in labor surplus areas where the Secretary of Defense determines that sufficient competition exists in these areas to insure a reasonable price to the government. Such a total set-aside is not possible under the current G.A.O. interpretation of the Maybank Proviso.

First, I would like to stress that the amendment as finally drafted was intended to meet the previously expressed objections from DOD to my earlier attempts to repeal the Maybank Proviso. On those occasions, the DOD had objected on the grounds that the Maybank Proviso was necessary lest the government be forced to pay unreasonable prices on contracts, whether or not procured through the labor surplus set-aside program. Consequently, my amendment this year was intended both to allow for total labor surplus area set-asides and insure that contracts would be bid at a fair price to the government. At the time the amendment was offered, I was advised that the DOD had no objections, that it met DOD's concerns. Now it is disturbing that a new source of objection has arisen, and ironic that DOD bases its objection over a concern for small business. While I understand that the DOD opinion could change upon further reflection, I wonder whether this further objection ought to be considered to be in good faith, and not simply motivated out of an aversion to any change in status quo.

The DOD's objection, as I understand it, is based upon a concern that such a modification would result in fewer contracts going to small businesses which are not located in labor surplus areas. As you may recall, the same concern was expressed last year by the Small Business Administration to a Senate amendment which would have repealed the Maybank Proviso. At that time I offered a rebuttal to their expressed concern, but unfortunately the amendment was dropped in Conference. I repeat that rebuttal now.

The Small Business Act provides that small businesses shall receive a fair proportion of total government purchases and contracts. To implement this mandate, the Armed Services Procurement Regulations establish preference categories when set-asides are to be made.

A procurement officer gives primary consideration, or first preference, to making a small business setaside, a portion of which is further set aside for small businesses located in a labor surplus area. Thus the first preference is given to small business both in and out of labor surplus areas.

Second preference is given to partial set-asides in labor surplus areas. With the modification of the Maybank Proviso, total set-asides could be given to those labor surplus areas.

Third preference is given to total set-asides to small business only with no part of the procurement being reserved to small businesses located in labor surplus areas.

Fourth preference is given to partial set-asides to small business.

The DOD seems to be concerned that, if the restriction against total set-asides is eliminated from the second preference category, more procurements will go into the labor surplus area program and fewer procurements will be assigned to the third category, giving total set-asides for small business only.

Last year, 73.4 percent of the contracts set aside for labor surplus areas went to small business. I am of the opinion that, with the authority to make total set-asides to labor surplus areas, larger numbers of contracts will go to this program, and small business will most likely retain its proportionate share. The enlargement of the labor surplus area program has a two-fold purpose—one, to aid small business and the other to alleviate unemployment in labor distressed areas.

If modifying the restrictive language of the Maybank Proviso does result in fewer contracts being set aside for small business under the third preference, then in accordance with the mandate of the Small Business Act, the preference categories should be rearranged to assure that a fair proportion of purchases and contracts go to small business.

In fact, a reordering of these relative priorities is now being considered by the Office of Federal Procurement Policy of the Office of Management and Budget. Mr. Hugh Witt, Administrator of the O.F.P.P., stated in testimony at hearings before my Subcommittee on November 11 that a determination would be made within 60 days of that date. The Senate amendment, by allowing total labor surplus set-asides, would give the O.F.P.P. increased flexibility in making such a determination.

The claim that allowing for increased use of the labor surplus area set-asides would injure small business located outside labor surplus areas rests on a false premise: that any increase in one program would result in a concurrent loss in the other. It is far more likely that small businesses located both inside and outside labor surplus areas would benefit from an increase in the variety of set-aside programs which the DOD must fulfill. In this way the total number of contracts going to small business in all areas would increase.

My intention in offering the amendment to modify the restrictive language of the Maybang Proviso from the Defense Appropriations bill was to aid small business in an area which I feel is being hampered by the restrictions of the Maybank Proviso. I believe that the modification will be an aid to small business, and I urge the members of the conference committee to support the modification of this restrictive language from the legislation before it.

With best regards,
Sincerely,
WILLIAM D. HATHAWAY,
U.S. Senator.

U.S. SENATE,
COMMITTEE ON LABOR AND
PUBLIC WELFARE,
Washington, D.C., December 2, 1975.
Hon. JOHN L. MCCLELLAN,
Chairman,
Senate Appropriations Committee,
Washington, D.C.

DEAR JOHN: I would like to supplement my letter to you dated November 26, to explain further my goal in offering my amendment to H.R. 9861 and my hope that this amendment will be retained in conference.

It is my understanding that the Department of Defense has now been joined in opposing the amendment by the Small Business Administration and the Office of Federal Procurement Policy. I would agree that the united opposition of these different entities of the Executive Branch ought to be carefully considered, but also ought to be examined for motive and purpose.

All of these entities seem to be concerned that any increased emphasis on the labor surplus area set-aside program would necessarily have an adverse impact upon the small business set-aside program. Such a result would be contrary to existing law and contrary to the intent of my amendment. I suspect that this charge on the part of these entities is motivated more by an affection for the status quo than any legitimate dispute regarding the impact of the amendment.

At heart, the objections are based on a unified sentiment that the amendment would be difficult to administer, that it would be hard to simultaneously fulfill the Nation's defense goals and to channel contracts to areas of high unemployment and to small business. Of course the task may be difficult but it can and ought to be done. Without the amendment it will never be done and the labor surplus area set-aside program will continue as a dead letter with little if any practical significance.

All of the expressed objections could be met with a simple reordering of the current Armed Services Procurement Regulations, to allow for total labor surplus area set-asides and uphold the precedence of small business in this and other set-aside programs. I would envision the following priority structure emerging from this administrative change in regulations:

1. Highest priority be given to total set-asides for small businesses located within labor surplus areas, followed by:

2. Total set-asides for small businesses located anywhere, then:

3. Partial set-asides for small business anywhere, and finally:

4. Total set-asides for firms located within labor surplus areas, whether or not small businesses.

Such a change in the priority structure or something very close to it would be required in order to assure the precedence of small business as mandated by the statutory authority of the Small Business Act. I believe the SBA makes a mistake in seeing the current regulations as static and not requiring such change.

Regulations are not static and must change as their statutory underpinnings change. Let us not lose this opportunity to remove an anachronistic constraint from the Defense Appropriations legislation simply because the

Executive branch prefers not to amend its regulations.

Sincerely,

WILLIAM D. HATHAWAY,
U.S. Senator.

Mr. HATHAWAY. Mr. President, subsequent to these difficulties, I determined to attempt to reach some accommodation with these objections which caused the elimination of my amendment. I focused my efforts on attempting to achieve some sort of understanding with the Office of Procurement Policy of the Office of Management and Budget, which it is my understanding retains overall responsibility for the procurement policies of the executive branch. As a result of these informal contacts, I learned that OFPP would be willing to undertake a test of expanded utilization of the labor surplus area set-aside program and would thereby monitor closely the interaction between this program and the small business set-aside program.

As time approached for the Senate's consideration of this year's DOD appropriation, I solicited OFPP's comments, along with those of DOD and the Small Business Administration and the GAO, which had commented earlier on a bill I submitted to repeal the Maybank proviso. Again, Mr. President, to describe further my goals today, I ask unanimous consent that this correspondence be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, D.C., July 13, 1976.

Mr. HUGH E. WITT,
Administrator for Federal Procurement Policy, Office of Management and Budget, Executive Office Building, Washington, D.C.

DEAR HUGH: During the Senate's consideration of the 1977 Defense Appropriation bill it is my intention to once again attempt to modify the Maybank Proviso. I appreciated your assistance last December, and it is my hope that more can be accomplished this time around.

I have enclosed for your information a copy of my recent letter to Comptroller General Staats which details alternative approaches and summarizes past efforts, along with a copy of a letter from the Comptroller to Chairman Ribicoff.

I would very much appreciate your comments regarding the suggestions contained in my letter to the Comptroller. I am aware of the progress being made by Mr. Trimble and Mr. Birnbaum of your office in structuring a test of expanded utilization of the labor surplus setaside program, involving total setasides and it is my goal to make the authority under which such a test would be conducted explicit, rather than relying solely on an administrative waiver from GAO.

I hope to hear from you at your earliest convenience, and thereby avoid some of the problems we ran into in December. As I mentioned in my letter to Mr. Staats, I would appreciate it if a copy of your views could also be sent to Chairman McClellan for the Committee's consideration.

Best regards.

Sincerely,

WILLIAM D. HATHAWAY,
U.S. Senator.

U.S. SENATE,
Washington, D.C., July 13, 1976.

Mr. ELMER B. STAATS,
Comptroller General, General Accounting Office, Washington, D.C.

DEAR MR. STAATS: I appreciated receiving the comments of your office contained in a letter of April 6, 1976 (B-129709) to Senator Ribicoff with regard to my bill S. 2659, a copy of which I have attached.

While to my knowledge there is no action scheduled on that particular bill, the Senate Appropriations Committee will be considering the 1977 Defense Appropriations bill, H.R. 14262, upon its return from the current recess, and floor action on this bill is scheduled later this month. I intend to ask that a modification of this bill be considered at those times.

It is my understanding that over the last few months your office has been in contact with the Office of Federal Procurement Policy with regard to the feasibility of conducting a study utilizing total labor surplus area setasides in certain areas involving both the DOD and the civilian sector. For purposes of such a study I understand you would be willing to waive your current interpretation of the Maybank Proviso. This study would form the basis for determining the appropriate role of the labor surplus setaside program with the various other setaside measures, such as small business.

I hope that continued progress can be made on this subject. At the same time, I would like to see the Defense Appropriation bill amended to state explicitly that total labor surplus area setasides are permissible, if certain determinations concerning price and competition can be made.

I have included the following two alternative approaches for your consideration and comments.

1. "*Provided further*, That no funds herein appropriated shall be used for the payment of a price differential on contracts hereafter made for the purpose of relieving economic dislocations, *except that this shall not be deemed to preclude use of total labor surplus area setasides pursuant to Defense Manpower Policy No. 4 (32A C.F.R. Part 8) by the Secretary of Defense on a test basis at selected locations in cases where it is specifically determined that sufficient price competition exists to insure a fair and reasonable price to the Government;*"

2. "*Provided further*, That no funds herein appropriated shall be used for the payment of a price differential on contracts hereafter made for the purpose of relieving economic dislocations, *except that this shall not be deemed to preclude total labor surplus area setasides pursuant to Defense Manpower Policy No. 4 (32A C.F.R. Part 8) if the Secretary specifically determines that there is a reasonable expectation that offers will be obtained from a sufficient number of eligible concerns so that awards will be made at reasonable prices;*"

The former approach was suggested to me last December by Hugh Witt, of O.F.P.P., and was concurred with at that time by DOD, and the S.B.A. The latter follows closely the suggested revision contained in your letter of April 6. Either would represent a marked improvement over the present state of the law where the labor surplus program is all but ignored, and the Maybank Proviso is cited as an immutable bar to any improvement.

Because of the tight legislative schedule I would appreciate your comments on an expedited basis. I would ask too that you send a copy of your response directly to Chairman McClellan of the Appropriations Committee.

Best regards.

Sincerely,

WILLIAM D. HATHAWAY,
U.S. Senator.

COMPTROLLER GENERAL OF THE
UNITED STATES,
Washington, D.C., April 6, 1976.

Hon. ABRAHAM RIBICOFF,
Chairman, Committee on Government Operations, U.S. Senate.

DEAR MR. CHAIRMAN: By letter of December 8, 1975, you requested our comments on **S. 2659, 94th Congress, a bill to repeal the prohibition against payment of a price differential on certain Department of Defense (DOD) contracts made for the purpose of relieving economic dislocations, and to state the manner and order in which contracts will be awarded to carry out labor surplus area and small business set-aside programs.** While the law which this bill in part seeks to amend has expired, the Committee staff has informally requested that we provide our comments on the bill due to the recurring nature of its provisions.

The bill would repeal section 823 of the 1975 DOD Appropriation Act, Pub. L. 93-437, which prohibited the use of appropriated funds for payment of a price differential on contracts made for the purpose of relieving economic dislocations. Similar provisions have been contained in prior appropriation acts, and this provision was also contained in section 723 of the 1976 DOD Appropriation Act, Pub. L. 94-212. An attempt to delete this provision from the 1976 DOD Appropriation bill was defeated in conference. H. Rept. 94-710, 94th Cong., 1st Sess. 60 (1975).

We have held that this type of provision precludes expenditure by DOD of appropriated funds under any contract awarded on the basis of a labor surplus area set-aside in excess of the lowest price obtainable on an unrestricted solicitation of bids or proposals. We have also held that set-asides for surplus labor areas of more than 50 percent of particular procurements can be justified only by definite determinations that prices on the non-set-aside portion of the procurement could not reasonably be expected to be greater than for the total quantity of the procurement. While no Federal law specifically authorizes a preference for labor surplus areas in the award of Government contracts, such a preference is contained in Defense Manpower Policy No. 4 (Revised), 32A C.F.R. Chapter 1, and Department of Labor Regulations, 29 C.F.R. Part 8, and is in turn contained in the Armed Services Procurement Regulation (ASPR) and the Federal Procurement Regulations (FPR). However, the prohibition against payment of a price differential for these contracts is also contained therein.

Whether the legislation should be enacted is a policy matter for the Congress to decide. If the bill is to be enacted, we recommend the inclusion of a provision in the bill as follows:

(c) No total set-aside shall be made under the authority of paragraph (b) above unless the contracting agency determines that there is a reasonable expectation that offers will be obtained from a sufficient number of eligible concerns so that any awards will be made at reasonable prices.

Sincerely yours,

R. F. KELLER,
Acting Comptroller General of the United States.

U.S. SENATE,
Washington, D.C., July 13, 1976.

Mr. DALE R. BABIONE,
Deputy Assistance Secretary of Defense (Procurement), Department of Defense, The Pentagon, Washington, D.C.

DEAR MR. BABIONE: I have enclosed for your information a copy of my recent letter to Comptroller General Staats concerning my interest in modifying the Maybank Proviso, which is contained perennially in the Defense Appropriation legislation. Also enclosed is a copy of a letter from GAO to Chairman Ribicoff concerning my bill, S. 2659 which proposed outright repeal of the Maybank language.

I am aware that the DOD has in the past expressed reservations regarding any changes in the Maybank Proviso because of the complexities in the interactions between the labor surplus area and small business setaside programs. Because of this OFPP is prepared to conduct a test study in both the defense and civilian procurement sectors to better evaluate these interrelationships. It is my conviction that the goals of both programs would be enhanced by the expansion of the labor surplus area program. My proposed amendment which remove the bar to any such experimentation which the Maybank Proviso has represented for the last 25 years.

I would like to receive comments from the Department of Defense on the alternative approaches contained in my letter to Mr. Staats. It is my understanding that the first version was cleared last December with DOD by OFPP. I have also written to Mr. Niederlyner the General Counsel because I was not certain whether this matter fell most immediately under his or your jurisdiction.

Because of the tight legislative schedule, I would appreciate your comments on an expedited basis. Likewise, I would appreciate it if you could forward a copy of your letter directly to Chairman McClellan of the Appropriations Committee.

Best regards.

Sincerely,

William D. Hathaway,
U.S. Senator.

U.S. Senate,
Washington, D.C., July 13, 1976.

Mr. Mitchell R. Kobelinski,
Administrator, Small Business Administration, Washington, D.C.

Dear Mitch: I have enclosed for your information a copy of my recent letter to Comptroller General Staats concerning my interest in modifying the Maybank Proviso which is perennially included in the Defense Appropriation legislation. It is my goal to allow for the utilization of total labor surplus area setasides, which are currently barred by a GAO interpretation of the Maybank Proviso, as explained in the enclosed letter from GAO to Chairman Ribicoff of the Government Appropriations Committee.

I am aware that the interaction of the labor surplus program and the small business setaside programs have been a source of controversy in recent years. I am confident that these difficulties could be worked out to the satisfaction of the SBA and the small business community.

Further, it is my understanding that Administrator Witt of the Office of Federal Procurement Policy in the Office of Management and Budget is willing to structure a test to study these interactions. I would like to amend the bill to allow explicitly such a test.

Because of the tight legislative schedule, I would appreciate your comments on the alternative approaches contained in my letter to Mr. Staats. The first approach was cleared with SBA by OFPP last December.

I would appreciate it if you could forward a copy of your letter directly to Chairman McClellan of the Appropriations Committee.

Best personal regards.

Sincerely,

William D. Hathaway,
U.S. Senator.

U.S. Senate,
Washington, D.C., July 13, 1976.

Mr. Leonard Niederlyner,
General Counsel,
Department of Defense,
Washington, D.C.

Dear Mr. Niederlyner: I have enclosed for your information a copy of my recent letter to Comptroller General Staats concerning my interest in modifying the Maybank Proviso, which is contained perennially in the Defense Appropriation legislation. Also enclosed is a copy of a letter from GAO to Chairman Ribicoff concerning my bill, S. 2659 which proposed outright repeal of the Maybank language.

I am aware that the DOD has in the past expressed reservations regarding any changes in the Maybank Proviso because of the complexities in the interactions between the labor surplus area and small business setaside programs. Because of this, OFPP is prepared to conduct a test study in both the defense and civilian procurement sectors to better evaluate these interrelationships. It is my conviction that the goals of both programs would be enhanced by the expansion of the labor surplus area program. My proposed amendment which remove the bar to any such experimentation which the Maybank Proviso has represented for the last 25 years.

I would like to receive comments from the Department of Defense on the alternative approaches contained in my letter to Mr. Staats. It is my understanding that the first version was cleared last December with DOD by OFPP. I have also written to Deputy Assistant Secretary Babione because I was not certain whether this matter fell most immediately under his or your jurisdiction.

Because of the tight legislative schedule, I would appreciate your comments on an expedited basis. Likewise, I would appreciate it if you could forward a copy of your letter directly to Chairman McClellan of the Appropriations Committee.

Best regards.

Sincerely,

William D. Hathaway,
U.S. Senator.

Mr. HATHAWAY. Mr. President, as detailed in the letter sent to Chairman Ribicoff by GAO in connection with my bill, and in my return letter to Comptroller Staats, the amendment I offer today is almost identical to the GAO recommendation and would accomplish the goal of amending existing law to avoid the current restrictive interpretation of the GAO.

To this point I have not received formal response to those letters, but informally I have learned that the OFPP is prepared to approve the GAO approach as being consistent with its long-term procurement goals and as being desirable to foster the conduct of a test which would allow for increased utilization of the Labor Surplus Area Setaside program.

At this point I would like to express my appreciation for the assistance and support the Chairman has given me in this effort over the last 3 years and I am confident that this year we have come up with an approach which will be satisfactory to all parties concerned.

Mr. PASTORE. Will the Senator yield?

Mr. HATHAWAY. I yield.

Mr. PASTORE. I hope this amendment will be accepted. We do have spotty situations of high unemployment. I do not think this takes anything away from the budget, but it does give priority in those sections where they really need the work. I would hope the amendment would be taken to conference.

Mr. HATHAWAY. Mr. President, I thank the Senator from Rhode Island, who has been of great help in respect to this amendment. I hope this year the House will go along with it in conference and it will be accepted and enacted into law.

Mr. McCLELLAN. Mr. President, the committee recommended inclusion in this bill language similar to Senator Hathaway's amendment on this subject last year. As I recall, we accepted a similar amendment last year and took it to conference, but we were unsuccessful in conference. After that recommendation had been made, the committee was advised that the General Accounting Office had examined this issue and redrafted language of the amendment. This is a redrafted amendment to that which we accepted last year.

GAO recommended that if Congress deemed it advisable to modify the prohibition in the Defense Appropriation Act against payment of a price differential on contracts made for the purpose of relieving economic dislocations, the language proposed in the amendment as now presented by the distinguished Senator from Maine should be used.

Therefore, Mr. President, as last year, I have no objection to the amendment. If there is no objection on the part of the committee or anyone, I am willing to accept the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

UP AMENDMENT NO. 286

Mr. GARY HART. Mr. President, I send to the desk an unprinted amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Colorado (Mr. Gary Hart) proposes an unprinted amendment numbered 286.

Mr. GARY HART. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 2, line 10, strike out "$8,603,161,000" and insert in lieu thereof "$8,603,511,000".

On page 2, line 19, strike out "$5,999,453,000" and insert in lieu thereof "$5,999,768,000".

On page 3, line 11, strike out "$7,127,716,000" and insert in lieu thereof "$7,127,991,000".

On page 6, lines 1 and 2, strike out "$7,829,035,000" and insert in lieu thereof "$7,829,135,000".

On page 6, line 12, strike out "$9,605,364,000" and insert in lieu thereof "$9,605,564,000".

On page 7, lines 11 and 12, strike out "$8,106,977,000" and insert in lieu thereof "$8,107,077,000".

The PRESIDING OFFICER. Is this the amendment on which the Senator from Colorado has one-half hour?

Mr. GARY HART. That is correct.

Mr. McCLELLAN. Mr. President, let us have order. I would like to hear the discussion of this amendment.

The PRESIDING OFFICER. The Senator's point is well taken. May we have order in the Senate.

Mr. GARY HART. Mr. President, H.R. 14262, as reported by the Appropriations Committee deletes approximately $1.3 million for the prep schools as part of a recommendation to close them after the 1976–77 academic year.

Having recently observed basic cadet training as a member of the U.S. Air Force Academy Board of Visitors, I have seen the invaluable contributions made to that program by preparatory school graduates. To lose the institutions that bridge the gap between insufficient high school preparation and the high academic demands of the academies will deprive the services of a highly significant and important group of potential leaders. The loss would also deny thousands of enlisted personnel the opportunity to compete for commission, since the preparatory system is the only upward mobility avenue available to many enlisted personnel who lack the educational background to compete for cadet vacancies on the same basis as their more advantaged contemporaries. For minority personnel, it is often the only source of compensatory opportunity.

During the past 20 years, approximately 2,500 preparatory school graduates have attended the military service academies and have been commissioned. Of particular significance is the fact that more than 500 minority personnel have entered the academies through this route in just the past 5 years.

Each Air Force Academy preparatory school class includes approximately 25 percent minority members and 25 percent regular enlisted airmen. General Allen of the Air Force has assured me that he intends to increase these percentages. Approximately 21 percent of each class that enters the cadet wing are minority cadets and another 21 percent are former enlisted personnel.

The development of commissioned officers through the preparatory school beginning has proved economical and efficient. Data prove that the prep school graduate remains on active duty longer than his contemporaries. In addition, the Academy preparatory candidates have traditionally held an above average percentage cadet leadership positions.

With the admission of women into the cadet corps, the opportunity for preparation at these schools becomes particularly significant to the young women who have previously not received the proper educational orientation toward the Academies curriculum.

While statistics are valuable they do not tell the full story. Let me tell you about some Air Force Academy prep school graduates.

Capt. Carl McPherson, a former enlisted man and prep school graduate, became the cadet wing commander for his Academy class of 1968.

Capt. Gil Mock, a prep school graduate and a member of the Academy graduating class of 1967, flew 320 combat missions in southeast Asia and is completing a tour with the Air Force Thunderbird demonstration team.

1st Lt. Frank Klotz, a prep school graduate and member of the academy class of 1973 just completed his education in England as a Rhodes Scholar.

1st Lt. Orderia Mitchell completed the prep school in 1969 and went on to become the deputy cadet wing commander and an academic all-American football player. Graduating in 1973, he became the first black to enter the Tulane University Medical School.

Other commissioning methods simply cannot substitute for the opportunity to compete for an academy commission. The service academy graduate is a unique professional officer. The core of future leadership must reflect and be representative of our society and the prep schools help provide that representation. I have personally observed our fine young citizens at the Air Force Academy. These young people represent America at its best and will go on to serve our Nation in many important capacities. The service academy preparatory schools are an integral part of each service academy. I urge restoration of the fiscal year 1977 funding for the prep schools and continuation of these programs.

I would appreciate Senators' support. I reserve the remainder of my time.

Mr. GLENN. Mr. President, I would like to ask the Senator from Colorado, does he have any figures to indicate the retention rate of these officers who go on and really make a career out of the service as opposed to those who come from other sources, go through the academy, and then leave the service? I do not have figures on this. I think it would be interesting.

It was my observation when I was in the service that some of the most motivated officers who stay in and make a career are those who have come from this source. Maybe they have not had a chance in the enlisted ratings and they take this opportunity to make something out of themselves through the OCS that they might not have had the opportunity to do and become some of the most motivated and dedicated officers. I do not have the figures. I thought it might be of interest to other Senators if the Senator had those figures.

Mr. GARY HART. I think the Senator is exactly correct. The information we have is that of all the academy graduates from the three service academies graduating, that about 80 percent of those who attended one of the preparatory schools stay in the service, and only about 70 percent of those who did not attend, who entered as routine academy appointees, stay in the service. So the percentage is about 10 percent higher for those who went through the preparatory schools.

I thank the Senator from Ohio for his question.

Mr. GOLDWATER. Mr. President, will the Senator yield? I want to support the amendment. I need only a minute.

Mr. GARY HART. I am happy to yield 1 minute of my time to the Senator from Arizona.

Mr. GOLDWATER. Having served on the Academy board, I want to emphasize the importance of the schools that we are talking about, and to point out that recent happenings in the military academies of this country are pointing up more and more to me the total inadequacy of our high school system to supply people adequately trained in basic education to go on to any college for higher education.

I think the academy we are talking about at Colorado Springs is one of the finest institutions we have ever put together, because we have gotten top people out of it. It gives a chance for the sons of people who have spent their lives in the service and never really had a chance to attend one school to go to this school and realy prepare themselves for attendance at the academy.

As one quite close to this whole matter, I would recommend the adoption of the Senator's amendment.

Mr. GARY HART. I thank the Senator.

Mr. McCLELLAN. Mr. President, there is only a small amount involved here, but we keep talking about trying to make savings. It does occur to me that with all the other educational institutions and activities which the Federal Government supports, this is one that could be done away with without doing any injustice.

Mr. President, I would like to place the committee's action regarding the Service Academy Preparatory Schools in a bit clearer perspective. The recommendation to terminate their operation does not involve or bear upon the military academies themselves, lest any member perceive the committee action as an attack upon those fine institutions. Further, the committee has not stated, nor does it believe, that avenues to advancement should be closed to the economically or culturally disadvantaged. The point is that West Point, Annapolis and the Air Force Academy should be reserved for only the most capable candidates because of their high cost and present attrition rates. Other, less costly, ways to become an officer are available for the remainder; these include ROTC, Officer Candidate School and enlisted commissioning programs. In short, the preparatory schools are an anachronism, offering no special contributions which are not otherwise available, and at less cost.

I would also point out that the committee recommendation, as it now stands, will place this matter in conference with the House, where specific problems can be ironed out. If the amendment is adopted, the matter will be closed, and I do not believe this will serve the best interests of the military or the taxpayer.

For these reasons, I urge the members to sustain the actions of the Appropriations Committee and reject the pending amendment.

I point out, Mr. President, that here are two of the arguments which are made in favor of the amendment. First, that the prep school is the last remaining vestige of "upward mobility" for enlisted men to become officers, and the only way for Reservists. Not in the true sense. With the exception of the Army, attendance is not open to general enlisted ranks. A candidate must enlist specifically for prep school. That is not true in the Army, but it is true in the other services. It is true in the Air Force, and, I believe, in the Navy. Existing enlisted commissioning programs, which are open to all qualified enlisteds, are more cost effective. As for the Reserves, there is no basis for involvement, since academy graduation obligates the member to active service.

Mr. President, the other contention is that these schools are a vehicle for culturally or economically disadvantaged to attend the academies and become officers. Since the academies are the most costly officer acquisition source, only the most qualified enlisted should be selected; there are certainly personnel of ethnic minorities who could closer meet entrance standards. Others should avail themselves of enlisted commissioning programs which offer a less costly avenue of advancement.

Mr. President, this is not a life and death thing. I think the attrition rate at the academies for preparatory school graduates is 48 percent. I believe that is correct. Forty-eight percent of those who graduate from the schools either drop out or fail at the academies, and never go any farther.

It is a question of whether you want to continue it or not. I have no personal interest in it. I just believe we can get more for our money if more people will make good by the other means we have provided.

I reserve the remainder of my time.

Mr. GARY HART. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from Colorado has 8 minutes remaining.

Mr. GARY HART. Mr. President, I will reply for about 1 minute, and then be prepared to yield back the remainder of my time.

The preparatory schools are the elite training ground for the officer corps of our military forces. It seems to me that the Academy preparatory schools are the avenue by which we can live up to our commitment to those who have not had the advantage of excellent preparatory education for themselves to be able to attend those academies and be able to serve, as they have served, in distinguished officer capacities in our uniformed forces.

I think it is a very small commitment on the part of our taxpayers to live up to two national commitments: First, to the minority members of our society and those who have not had the best educational advantages; and, second, to provide the best possible officer corps for all our security and defense forces.

Therefore, I believe the Senate would be well advised to do what the House has done, and leave these funds in.

Mr. CASE. Mr. President, will the Senator yield?

Mr. GARY HART. I yield to the Senator from New Jersey.

Mr. CASE. I just want to make my position clear, Mr. President. I believe the Senator from Colorado has made a very strong case, and I intend to support his amendment.

Mr. GARY HART. I thank the Senator.

Mr. President, I yield back the remainder of my time.

Mr. McCLELLAN. I yield back the remainder of my time.

The PRESIDING OFFICER. All remaining time having been yielded back, the question is on agreeing to the amendment of the Senator from Colorado.

The amendment was agreed to.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 287

Mr. KENNEDY. Mr. President, I send to the desk an amendment and ask for its immediate consideration en bloc.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Massachusetts (Mr. KENNEDY) proposes unprinted amendment numbered 287.

On page 2, line 10, strike out "$8,603,511,000" and insert in lieu thereof "$8,601,811,000".

On page 15, line 10, strike out "$504,500,000" and insert in lieu thereof "$504,300,000".

The PRESIDING OFFICER. Is this one of the two amendments on which there is a time limit of 20 minutes?

Mr. KENNEDY. The Chair is correct.

Mr. President, in analyzing the request for the Safeguard funds, I discovered approximately $1.9 million which was not necessary to carry out the final disposal nor to continue the perimeter acquisition radar.

In discussing this matter with the Department, a new paper was submitted to the committee which I have also received, and it confirms that this $1.9 million—$1.7 million in military personnel and $.2 million in procurement—is unnecessary for the Safeguard perimeter acquisition radar or for disposal of residential items.

For that reason, I would urge that these funds be deleted and the amendment be adopted.

Mr. President, I shall give a brief history about this matter. The Senate adopted an amendment I offered last year which deleted the funds for the Safeguard ABM site and required its phaseout. One exception was the PAR, the perimeter acquisition radar, which was retained initially to be used as a part of the early warning system.

The 1977 budget, therefore, contains funds to complete the disposition of nonradar aspects of the Safeguard program and to operate the PAR.

The Department of Defense requested $4.8 million to upgrade the PAR and also requested a total of $21 million to operate the PAR. DOD additionally requested a total of $5 million to complete the residual disposal; and the House rejected the $4.8 million for upgrading the PAR.

My amendment is in keeping with the agreement that was made with the Senator from North Dakota and does not attempt to delete PAR, although I think its value has not been proven to justify the continued expenditures. My amendment would delete the $1.9 million, that is $1.7 million for personnel and $.2 in the procurement, in order to carry forward the agreement that was made when the amendment, which I offered last year, was accepted by the Senator from North Dakota.

This is the money that would not be included for the objectives which had been included in the defense appropriations last year. I talked it over with the members of the Committee on Appropriations, including the Senator from North Dakota, as well as the Chairman of the Committee on Appropriations, and I do not believe there is any objection to it.

Mr. YOUNG. Mr. President, I have no objection to deletion of the $1.9 million.

Mr. McCLELLAN. Mr. President, the amendment would reduce Safeguard.

Mr. ALLEN. Mr. President, will the Senator yield?

Mr. McCLELLAN. I yield.

Mr. ALLEN. As I understand it, I took an active interest in the amendment the Senator offered on the previous occasion, and the Senate did refuse to discontinue altogether the Safeguard program, but it limited it to the continuation of the PAR, the radar computer installation.

The Senator's amendment, as I understand it, does continue to recognize that the PAR shall be continued, and this amendment is in line, as I understand it, with the agreement that was reached at the time the Senator offered his amendment.

Mr. KENNEDY. The Senator is correct in stating that this amendment is in conformity with the agreement that was made with the Senator from North Dakota and the chairman of the Committee on Appropriations and myself, when we modified my amendment and indicated that the only parts that would be preserved as the early warning system was the PAR.

Mr. ALLEN. Yes, and that system will be continued even under the Senator's amendment?

Mr. KENNEDY. That is correct, it will be, as far as this particular appropriation is concerned.

Mr. YOUNG. Mr. President, will the Senator yield?

Mr. ALLEN. I yield.

Mr. YOUNG. There is $4.8 million for software conversion of the PAR radar so it will provide more information. The total cost of the software conversion is about $13 million, and $4.8 million is needed to complete the conversion.

Mr. KENNEDY. That is my understanding.

Mr. ALLEN. Mr. President, will the Senator yield me a few minutes?

Mr. McCLELLAN. I yield to the Senator. I do not know how much time we have remaining, but I yield.

The PRESIDING OFFICER. There are 10 minutes remaining.

Mr. ALLEN. At the time the Senator from Massachusetts offered his amendment to terminate the Safeguard program, the Senator from Alabama did speak in opposition to that amendment, and an agreement was worked out in which the Senator from Alabama acquiesced, along with the other Senators mentioned. Inasmuch as this amendment still allows the carrying on of the PAR program and this amendment is said to do no violence to that continuation of that program, I shall not call for the yeas and nays.

Mr. MANSFIELD. Mr. President, will the Senator yield?

Mr. McCLELLAN. I yield.

Mr. MANSFIELD. I think somewhere between $8 billion and $10 billion have been spent on the Safeguard programs, some in Montana which were terminated shortly, and the other in North Dakota. It is my understanding that the Army looks upon the present program as excess baggage, it has proved its worth, but it has wasted $8 to $10 billion American dollars.

Vote!

Mr. McCLELLAN. Mr. President, I have examined the amendment and see no objection to it. Therefore, I am willing to accept it.

Mr. MANSFIELD. Vote!

Mr. KENNEDY. Mr. President, I yield back the remainder of my time.

Mr. McCLELLAN. All time is yielded back.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the vote be considered en bloc and made in order.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the amendment of the Senator from Massachusetts.

The amendment was agreed to.

Mr. MANSFIELD. Mr. President, does the Senator intend to offer a second amendment?

Mr. KENNEDY. I do not intend to offer the other amendment.

AMENDMENT NO. 2145

Mr. LEAHY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Vermont (Mr. LEAHY) proposes amendment No. 2145.

Mr. LEAHY. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

Mr. McCLELLAN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER The Senator will state it.

Mr. McCLELLAN. What is the time limitation on this amendment?

The PRESIDING OFFICER. There is no time limitation on this amendment.

Mr. McCLELLAN. I beg pardon?

The PRESIDING OFFICER. There is no time limitation on this amendment.

Mr. McCLELLAN. There is no time agreed to on this amendment?

The PRESIDING OFFICER. That is correct.

Mr. LEAHY. Mr. President, I advise the distinguished chairman that I am simply putting my amendment at the desk.

Mr. McCLELLAN. All right. I understand there is no time agreed to on it.

The PRESIDING OFFICER. That is correct.

Mr. McCLELLAN. All right.

The PRESIDING OFFICER. Does the Senator from Vermont ask unanimous consent to dispense with the reading of the amendment?

Mr. LEAHY. Yes, I do.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 19, lines 18 and 19, strike out "for the CVN nuclear attack aircraft carrier program, $350,000,000;".

On page 20, line 9, strike out "$6,195,000,000" and insert in lieu thereof "$5,845,000,000".

Mr. LEAHY. Mr. President, I simply advise the Senate that this amendment is going to come up for action a week from today, next Monday. It deals with the new atomic aircraft carrier.

I ask for the yeas and nays on the amendment for that time.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. LEAHY. Mr. President, I yield to the Senator from Montana.

TIME-LIMITATION AGREEMENT

Mr. MANSFIELD. Mr. President, at the suggestion of the distinguished Senator from Mississippi I am about to propound a unanimous-consent request.

I anticipate that when this particular amendment is voted on the attendance in the Senate will be quite good.

Mr. President, I ask unanimous consent that on the pending amendment there be a 2-hour limitation, the time to be equally divided between the manager of the bill and the sponsor of the amendment and that if need be an additional time of up to 1 hour be accorded on this amendment.

The PRESIDING OFFICER. Is there objection?

Mr. McCLELLAN. An additional time of 1 hour.

Mr. MANSFIELD. We have the time, yes, if needed.

The PRESIDING OFFICER. Is there objection?

Mr. STENNIS. Mr. President, did the Senator wish to say something?

Mr. McCLELLAN. No. I yield to the Senator.

Mr. STENNIS. Mr. President, if the Senator will yield, I wish to make this observation: As to his suggestion as to the time, and I am speaking at the request of the Senator from Arkansas, to check into this matter. I think 1 hour to the side for debate will be agreeable with the understanding that if that should not cover the matter and other Senators wish to speak an additional hour equally divided will be added to that. But on the matter of the Senator asking also for a vote to come thereafter, that brings on further——

Mr. MANSFIELD. Mr. President, will the Senator yield?

Mr. STENNIS. I yield.

Mr. MANSFIELD. Mr. President, I ask unanimous consent—if I may have the attention of the Senator from Vermont—that the Leahy amendment be laid aside temporarily and that the Senate proceed to the consideration of the Hart amendment instead, having to do with Lance missiles.

Mr. LEAHY. Mr. President, reserving the right to object—and I do not object—do I correctly understand that a time limitation was not agreed to on my amendment?

Mr. MANSFIELD. No. The Senator from Mississippi would be agreeable, but it appears to me that he would like to have it come at a little later time. In the interest of comity, I suggest that the distinguished Senator from Colorado (Mr. GARY HART), if the Senator from Vermont approves, call up his amendment and make it the pending business and ask for the yeas and nays, likewise.

Mr. LEAHY. The Senator from Vermont has no objection.

Mr. GRIFFIN. Mr. President, reserving the right to object, does that mean that we would proceed with the amendment tonight?

Mr. MANSFIELD. No.

Mr. GARY HART. No. Monday morning.

Mr. MANSFIELD. That takes 90 minutes.

Mr. President, I ask unanimous consent at this time that the 2 hours suggested by the Senator from Mississippi on the Leahy amendment be agreed to.

The PRESIDING OFFICER. Is there objection?

Mr. STENNIS. The 2 hours plus the additional hour, equally divided.

Mr. MANSFIELD. If need be. But no agreement is made at this time. It will be discussed later.

The PRESIDING OFFICER. Is there objection?

Mr. McCLELLAN. Mr. President, reserving the right to object, we are agreeing on 2 hours, definitely?

Mr. MANSFIELD. Yes.

Mr. McCLELLAN. At the end of the 2 hours, it will be in order to make a unanimous-consent request for an extension of another hour, equally divided?

Mr. MANSFIELD. If needed.

Mr. STENNIS. Mr. President, reserving the right to object, as I understand, we are agreeing now that an additional hour will be added on request of either side, equally divided.

Mr. MANSFIELD. If need be. The decision will be made at the end of the 2 hours or if the time is yielded back.

Mr. STENNIS. Just to be sure that we would not be cut off from additional time with one objector——

Mr. MANSFIELD. No. This is the Senator's suggestion: 2 hours on the Leahy amendment, with additional time if needed. The Senator has my assurance on that. Before I raised this question, I think I mentioned it, when I made the request.

Mr. STENNIS. If needed, it would be left for anyone to decide and ask for it. That would be a need.

Mr. MANSFIELD. I think it would have to be between the distinguished Senator from Arkansas, the manager of the bill, and the sponsor of the amendment, the distinguished Senator from Vermont. I am sure it could be worked out.

Mr. STENNIS. If they were to agree, that would suit me.

Mr. President, reserving the right to object, when would that bring about the vote on the carrier matter—what time of the morning?

Mr. MANSFIELD. I would say around 11 or 12 o'clock.

Mr. STENNIS. Mr. President, this morning, reserving the right to object, we had very few Members present——

Mr. MANSFIELD. Mr. President, we have a good turnout, an excellent turnout, and we are putting the Senator in the best possible position he can be put in. The reason I am asking for the change in amendments is to comply with what the Senator indicated he wanted. He was afraid that not enough Members would be here in the morning.

Mr. McCLELLAN. I am agreeable to whatever is worked out—2 hours, with an extra hour if the parties interested think it is needed.

Mr. STENNIS. Reserving the right to object, the leader has not stated what time we will convene on Monday and what other matters there may be.

Mr. MANSFIELD. I think I already received permission to meet at 8:30 on Monday.

Mr. STENNIS. I had not heard that.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

AMENDMENT NO. 2146

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the amendment of the Senator from Colorado (Mr. GARY HART) be called up and made the pending business and that when it is disposed of, it be followed by the Leahy amendment.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. GARY HART. Mr. President, would it be in order for me to send the amendment to the desk?

Mr. MANSFIELD. Yes.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. GARY HART. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 15, line 10, strike out "$504,500,000" and insert in lieu thereof "$429,500,000".

On page 25, lines 17 and 18, strike out "$2,250,961,000" and insert in lieu thereof "$2,250,311,000".

Mr. MANSFIELD. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. MANSFIELD. Mr. President, the yeas and nays have been ordered on the Hart amendment, and the yeas and nays have been ordered on the Leahy amendment. Is that correct?

The PRESIDING OFFICER. The Senator is correct.

ADDITIONAL STATEMENTS SUBMITTED

Mr. BEALL. Mr. President, as we debate the defense appropriations bill I think we should reflect upon the rapid growth of Soviet naval power and its impact on our defense posture. On Saturday, July 31, 1976, the Daily Record carried an article entitled "A Question for Peace Linked With Russia's Navy." In this article, Capt. John Moore, the editor of "Jane's Fighting Ships" and the author of "The Soviet Navy Today," discusses a number of key points in the United States-Soviet naval competition.

Mr. President, I ask unanimous consent that this article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

A QUESTION FOR PEACE LINKED WITH RUSSIA'S NAVY

(By Robert Musel)

LONDON.—When is an aircraft carrier not an aircraft carrier?

When it's a Soviet "antisubmarine interceptor cruiser."

The Russian use this description for the good reason that, under the 1936 Montreux Convention still governing the Bosphorus and Dardanelles, aircraft carriers are not permitted to sail through the straits to the Mediterranean.

Turkey, guardian of the straits, accepted this definition. But Capt. John Moore, Britain's former Deputy Director of Naval Intelligence, editor of "Jane's Fighting Ships" and author of the new "The Soviet Navy Today" does not.

Moore says the 35,000-ton Kiev, first of a flotilla of four to come out of Soviet shipyards, does indeed carry 25 antisubmarine helicopters. It also carries 30 Yak 36 vertical takeoff fighters and is undoubtedly an aircraft carrier by any standard.

MILITARY INTENTIONS

"Cynically," Moore said of the Kiev's recent transit of the straits, "the Russians are destroying the Montreux Treaty, and not one of the signatories, Britain and France among them, can do anything about it."

Moore is not an alarmist about Soviet naval or military intentions. But in company with most experts, he has been trying to reconcile some uncomfortable facts with the hope of a world freed from tension.

"The Soviet navy has reached a strength beyond that required for the protection of its merchant marine in the time of war," he said. "It has a total of submarines far in excess of those required for home defense and a fleet pattern which makes no sense except in the context of world deployment."

But in spite of the Soviet Union's almost unlimited funds for research and development, the United States holds a trump card Moore hopes it will not give away as part of the price for a second agreement on strategic arms control.

The U.S. edge is the so-called cruise missile.

'The Russians have weapons of enormous importance coming up and they are miles ahead of some naval innovations," Moore said in an interview. "They have a formidable ballistic weapon, the SSM13 with a range of 300–350 miles, which they intend for use at sea against carrier task forces.

"But the cruise missile, with a range of 2,000 miles, could change the whole aspect of deterrence. There the U.S. has a great lead and we've got to wait till Salt II to see if they throw away the advantage gained by this development.

"This is the one thing that really brought a major reaction from the Russians," Moore said. "There has been nothing like this reaction from Moscow since they learned American planes launched from carriers could carry nuclear weapons."

As for the case of the mislabeled aircraft carrier. "It's a worrying development because of the standard description of a threat: a capability plus an intention," he said.

"Russia has built up a capability at sea which in the early 1960s we would never have believed possible. The intention is being constantly stated in various utterances by Soviet leaders. I don't think the intention has changed very much since 1961 when Khruschev said: We will bury you.

"Consider some other Soviet items," Moore said. "When they deployed the Delta-Class submarines about three years ago they had vessels on station with about 4,200-mile missiles which could hit anywhere in the U.S., Europe and parts of China without moving more than 100 miles from their home base.

"They have a lead in numbers of polaris missile-type submarines. They haven't in ordinary nuclear attack subs but their lead overall in submarine forces is enormous."

Of the aircraft carrier, he said: "They are operating a completely new form of ship which they've never operated before. They don't use a catapult. What they've got is a vertical short takeoff plane. Their first plane of this type came out in 1967 so on that basis I think they've probably got a damned good airplane.

"But they've got a lot to learn about how to operate a carrier away from home base," Moore added. "There was a division of opinion in the Soviet navy about carriers, Senior officers were not for it.

"Sometime in the late 1960s Russia became sold on the idea of using the fleet as a political instrument. And there's nothing more important as a political instrument than being able to project fire power ashore, which they'll be able to do with their planes."

Is a major confrontation with the Soviet Union likely?

"All I can say is that it is more likely at sea than on the land if there is to be one," Moore said. "But I am absolutely convinced that the Soviets want to achieve their aim—domination—by peaceful means if they possibly can."

Moore said he would not describe Soviet ship construction as top rate but they are good rugged ships, soundly designed.

"The greatest weakness of the Soviet navy to me is in the manpower (500,000) situation," he said. "They sleep rough, they feed rough and they're treated rough. It's a conscript navy of three-year hitches and their officers must have a hard job maintaining the ships."

Mr. BAKER. Mr. President, I would like to rise briefly in support of the passage of the Department of Defense fiscal year 1977 appropriations bill. Mr. President, there has been a great deal of public discussion and debate over the past year regarding the national strategic posture of the United States. In the course of that debate, there have been very legitimiate questions raised concerning the adequacy of our national defense to deter any form of aggression against the United States and her allies.

I think there is little doubt that the ability of this Nation to deter war is the single-most important challenge facing the Nation today. The free world, our allies in the Pacific and in Western Europe face an ever-increasing capability of the Soviet Union to project its power throughout the world and throughout a range of military options, from strategic force to smaller-scale conventional adventures. They have not only the apparent capability, they have the apparent will; and, Mr. President, we must meet that will and capability in equal measure, and it must be equally apparent, or we will watch the gradual, but inevitable, degradation of our ability to defend this Nation and our allies.

The strength of our Nation to oppose aggression is a composition of many factors, Mr. President—our economy, the well-being of our citizens, the assured supply of raw materials for industry, the rapid development of technology, even the assistance we provide the developing nation of the world—all contribute to the strategic strength of the Nation.

In general, I think that, as a result of the combined efforts of the administration and the Congress, we can rest, momentarily of course, assured that in virtually all of these elements the strategic posture of the United States and her allies has improved markedly over the past several years. But there is one element that has not improved, Mr. President, and that is the one that we are considering here today—the capability and the strength of the Nation's armed services.

In this one area, I believe we would all agree that the position of unsurpassed strength which we occupied in the years immediately following World War II declined steadily and significantly in the 1960's and early 1970's. In part, that decline was the result of the conscious decisions of past administrations to economize with the military strength of the Nation; in part, of course, it was a result of the incredible drain of our resources created by the war in Vietnam.

Obviously, with the passage of one appropriations bill, we cannot regain a military posture lost over a number of years. But we can take one more step in the other direction, a step toward reversing the trend. I believe that this bill is such a step. It is a step toward rebuilding our seriously depleted naval forces, so that once again we can be assured that the Navy will be able to accomplish its mission and control the vital sea lanes. It is a step toward improving the strategic forces of the Nation, as we begin construction of the Trident submarine and the Trident missile program. I would hope that it is a step toward further improving the strategic balance of our forces with the initial construction of the B-1 bomber and the Minuteman III missile system.

These are important steps, Mr. President, and we should welcome them. We should welcome them not merely because they give increased capacity to the military and because they are the beginning of a reversal of a dangerous trend, but they are important also for the signal that is sent by passage of this act to friend and foe alike. It is a signal that says we have the intent and the will to remain unchallengeably strong, and it is a signal that I endorse without qualification. I strongly urge all of my colleagues to do likewise.

THE B-1 BOMBER

Mr. BUCKLEY. Mr. President, the B-1 bomber has been a subject of considerable controversy for several years, despite the fact that the aircraft represents one of the most successful large-scale R. & D. projects in history. The appropriations bill as reported from the committee contains an unnecessary and costly delay in the production decision on the B-1; by shutting down the production line for the 2-month period, the American taxpayer will have to pay a half billion dollars in start-up costs when production is resumed as opposed to the $150 million which would have been expended if the production line remains operational during the 60-day period proposed in the bill. I am hopeful that the conference committee will make an effort to reduce the cost of defense by eliminating the Appropriations Committee language which imposes this costly delay on the B-1 program.

The fact is that our defense posture requires the rapid introduction of the B-1 into the bomber force to modernize that essential element of our deterrent forces. The evidence which has been provided to the Congress by both the Armed Services Committee and the Appropriations Committee through the hearing process shows clearly that the magnitude of the Soviet threat has not diminished since the SALT Accords were ratified by the Congress in 1972; indeed the threat has increased.

The B-52 was designed in 1948 for service in an environment where antiaircraft defenses were unable to accurately target high altitude aircraft in flight. Since that time—as the U-2 incident in 1960 so clearly demonstrated—military aircraft cannot survive unless they are able to operate at low altitudes. The last two models of the B-52, the "G" and "H" models were modified to permit them to fly at low altitudes so that they would be observable by Soviet radar through a brief portion of their flight. Because the B-52 was not designed to fly at low altitudes, it possesses vulnerabilities which make it essential that we replace the B-52 with a more modern aircraft. The B-52 is far more visible to Soviet radar because of its huge dimensions relative to the B-1; an important element in the survival of the aircraft in a war. Moreover, because the B-1 can fly faster at low altitudes than the B-52, it has a greater capability to outrun manned interceptors so that it may perform its mission in time of war. The simple truth is that as the B-52 appears less likely to be capable of performing its mission, its use will not be credible. A weapon system whose use is not credible will not deter.

I would like to quote from a statement made to the National Security Research Group on July 27 concerning the B-1 bomber by the Honorable Paul Nitze. Mr. Nitze has had a distinguished career in the Department of Defense including holding the post of Deputy Secretary. Most recently, Mr. Nitze has served on the U.S. delegation to the Strategic Arms Limitation Talks. Mr. Nitze states:

> It is my opinion that even with the deployment of the B-1 bomber on the schedule now planned by the Executive Branch, the United States will have to consider further timely initiatives in order to maintain strategic stability and high quality deterrence. I do not believe that we have time to develop an alternate Bomber program to the B-1, neither have I seen persuasive evidence that an alternate program would, in fact, be less costly for equivalent results. In fact, the analyses in which I have confidence lead to the opposite conclusion.

Mr. Nitze's observations are, I believe significant. We cannot get equivalent results in terms of performing a mission from an improved B-1 or a cruise-missile launching aircraft for less money than the B-1 program would cost. The case for initiating procurement of the B-1 was carefully reviewed by the Congress during the debate over the Defense authorization bill this year. Doubts about the wisdom of such a step were resolved when the Congress voted to authorize funds for initiating production. We can no longer afford the luxury of delay; the taxpayer should no longer have to bear the high costs of congressional delays, and our security requires that the credibility of our deterrent be maintained.

I would also like to cite a letter from Dr. William G. McMillan and his associates on the B-1 controversy. Dr. McMillan is one of our leading students of military technology. I believe his views merit a serious hearing for they make a persuasive case for the importance of an early decision on the production and deployment of the B-1. I ask unanimous consent that Dr. McMillan's letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RERORD, as follows:

LETTER FROM WILLIAM G. MCMILLAN ET AL ON THE B-1

Recent years have witnessed a steady shift in military power, both strategic and tactical, toward the Soviet Union to such a degree that concern is mounting over the viability of the US strategic deterrent. All three major Presidential candidates have voiced the need to maintain American military strength in the face of increasing Soviet capabilities. The relative weakening of US military power is clearly reflected in the declining US voice in world affairs, in the strength and credibility of our alliances, in international economics, and, indeed, in our own national will, resolve and capability to support the human freedoms which are the cornerstone of this nation. If this decline in US strength, leadership, self-confidence and prestige is not to be accelerated, it is essential that full production and deployment of the B-1 bomber be authorized immediately.

1. The Strategic Deterrent—If the aging B-52 fleet with its waning capability and survivability is not soon replaced, our strategic nuclear TRIAD will be reduced to only two systems, thus allowing the aggressor to focus his counterforce genius and resources, and greatly simplifying the problem of neutralizing our deterrent. As a key element of the TRIAD, the B-1 will: i) provide an option flexibility, versatility and discrimination not otherwise available; ii) be recallable, reusable and retargetable; iii) constitute a highly visible and survivable force, whether on ground-alert or airborne; iv) permit a show of national determination and capability without taking provocative and irreversible action; v) allow highly accurate, selective targeting; vi) provide enhanced survivability through the much greater number of widely dispersed bases in CONUS owing to its shorter runway requirement; and vii) carry a large fraction of the total US strategic nuclear payload. It is emphasized that the B-1 does not increase the nuclear payload, but rather enhances its survivability, penetration capability and overall credibility, and thus greatly contributes to the stability of deterrence. Most important, rapid production and deployment of the B-1 will be comprehended by the USSR as a clear signal of US national resolve, help shore up the fading confidence of US allies and dampen Soviet military adventurism.

2. B-1 Technical Capabilities—The B-1 is well designed to achieve its mission and to complement the other two elements of the TRIAD in presenting a different set of operating parameters and countermeasure requirements. Demonstration of its technical capabilities is being carried out in one of the most extensive test programs of any pre-production aircraft, and will be little enhanced

by further deferment. It is far superior in capability and mission effectiveness to the B–52 system, which involves technology of two decades ago.

3. Lack of Technical-Military Alternatives—Modernization of the B–52 force would cost a substantial fraction of the projected B–1 force and still result in an outdated fleet inadequate to the mission requirements. The FB–111 QRA force is excellent, but faces a declining survivability in the forward basing required by its incurably short range. The strategic cruise missile, while necessary for keeping ahead in the grim deterrent counter-measure competition, still insufficiently tested and analyzed to assure requisite survivability and penetration capability against possible defenses such as mobile surface-to-air missiles of unpredictable location; moreover, there is the danger that this system will be bargained away as an expendable chip in disarmament. Finally, the B–1 is the only TRIAD improvement program that can be brought to fruition within the critical period of the next five years.

4. Economic & Social Impact—While the B–1 program costs money, this is an investment in the external vigilance that is the price of freedom. To defer the B–1 program would cause expensive stops and starts, and raise the cost through inflation. Moreover, the B–1 program provides not only an essential component of deterrence but has the fall-out benefit of hundreds of thousands of productive jobs spanning a decade, together with the tax returns and a roughly five-fold multiplication of the wages paid through circulation in the economy. In comparison with the application of this sum to welfare or jobs programs, recipients of these funds are thus transformed from an economic burden to a productive, tax-paying and other revenue-producing economic force—and in a politically potent labor surplus area. This includes not only aerospace workers in all skill ranges, but also in the whole panoply of community services: for example, the abandonment of the McDonald-Douglas aircraft plant in Santa Monica literally wiped out the peripheral small businesses. But most important, in supplying useful and productive jobs the B–1 program promotes the work ethic and individual self-reliance that brought the United States to its eminence.

5. Technology Transfer—Many now believe that the US will eventually have to overtake the British/French Concorde and Soviet TU 144 lead in the development of Supersonic Transports. In the jet age, when the 707 quickly displaced the Comet, the US aircraft industry continued to be a prime contributor in the balance of payments and foreign exchange. We can ill afford to allow this leadership and its great economic benefits to slip from our grasp. And, just as the development of the KC–135 tanker for military purposes gave a great technological boost to the development and production of the civilian jet transport, so the development and production of the B–1 can pave the way for the US entry into the international SST competition, with its great economic prizes for the winner. Already the B–1 program has produced a new engine that is virtually smokeless and pollution-free, thus pointing the way toward reducing the environmental impact of civil aviation.

6. Summary—We find on every score—US international stature, military urgency, technical capability, lack of effective alternatives, economic and social consequences (both tangible and intangible) and technology transfer—that the B–1 production program is urgently needed and should be made a matter of national priority.

Very respectfully,

William G. McMillan, Nils B. Jensen, Edison M. Cesar, Jr., Waldo G. McMillan, Nancy C. McMillan, Robert W. Oliver.

CONDOR MISSILE PROGRAM

Mr. EAGLETON. Mr. President, the committee report on this bill contains some very specific directives for the Navy with respect to its Condor missile program. These directives will insure that Congress maintain a close watch over this controversial and highly questionable program.

During consideration of this bill last year, the Senate adopted an amendment, proposed by Senator McCLELLAN and me, restricting expenditures on Condor to $15 million until the Secretary of Defense certified to Congress that Condor had passed its tests and that it was ready for production. That certification was forthcoming on June 10.

The Appropriations Committee held a special hearing on June 24 to determine the credibility of that certification and to conduct a general review of the program. The restrictions contained in the committee report grew out of the serious reservations Senator PROXMIRE and I developed as a result of this hearing.

Mr. President, I am firmly convinced that, on the basis of information that has come to light, the Condor program should be terminated. Nonetheless, short of termination, the committee report has placed stringent controls over the program such that, if, as I suspect, Condor has no merit, it will not meet the criteria set.

First, we have directed a full cost-effectiveness study to be conducted, not by a private firm or by the Navy, but by the staff of the Secretary of Defense. In an article printed in the New York Times of July 26, we were given a rare view of how studies of this type can be manipulated by outside concerns dependent upon the Pentagon for survival. In the case cited, a private consultant firm distorted a vulnerability study on Condor in order to demonstrate its alleged effectiveness.

Even though the Navy learned that this company had done work for Rockwell International, the manufacturer of Condor, it recently went ahead and awarded a new contract for a cost-effectiveness study. The possible conflict of interest was completely ignored.

Why is the question of Condor's cost effectiveness so vital to our consideration of this program? An examination of the advances made in the state of the art in missile technology provides a clue.

In the 13 years since the Condor idea was originally conceived, a variety of less costly alternatives has emerged. These include the extended-range Walleye, the Maverick, the electro-optical glide bomb, and others. A brief look at these missiles reveals the nature of the cost effectiveness issue.

The Walleye II, for example, has almost four times the destructive capacity of Condor, yet it would only cost the taxpayer $28,600 per missile. The EOGB, which has a production requirement for a greater range than Condor, would also have a warhead almost four times the size of Condor and would cost about $65,000 per missile. These costs are miniscule compared to Condor's cost—well over $400,000 per missile.

The question of Condor's relative cost effectiveness has, therefore, emerged as the key issue. Yet, no current cost effectiveness study exists.

Mr. President, we have asked DOD to prepare an in-house study. It is not necessary to go to private concerns for these studies. The staff of the Secretary of Defense was created for this very purpose. I am hopeful that, especially after all the questions that have been raised about Condor studies, OSD will provide us with one which is totally objective.

Mr. President, I ask unanimous consent that the New York Times article on the Condor vulnerability study by Mr. John Finney, which appeared on July 26, 1976, be printed in the RECORD upon the completion of my remarks.

Second, the committee has required "real-life vulnerability tests" to be conducted on the first 20 missiles produced. Serious questions have been raised by the Navy's own test group and by the GAO with respect to Condor's capability to penetrate heavily defended targets. The Commander of the Navy Test and Evaluation Group strongly recommended that real-life tests be conducted against the types of ground-to-air missiles and other defensive systems Condor is likely to face.

These recommendations were rejected. Though the reason given was cost, many close observers doubt that Condor could have survived such demanding tests.

Now the committee is asking that these questions be resolved once and for all. We are saying, in effect, go ahead and test 20 missiles thoroughly—fire them all if necessary—and let us see the results. These tests will obviously cost money, but the Congress should know now whether Condor will work, not after more than 800 missiles have been produced.

Finally, the committee has limited the Government's liability to a contractual arrangement for only 60 missiles. This will permit Congress to carefully review this program during consideration of the fiscal year 1978 defense bill.

Had we failed to take this action, the Navy would have signed a contract for up to 215 missiles and Congress would have found it more difficult to control the program. The Navy's foot would have been well in the door and, even if the facts warranted it, termination would have been a more costly option.

Mr. President, I had heard little about Condor last November when a Defense Department memorandum highly critical of the program came into my possession. The language of this paper was particularly harsh. Condor was called a "nice to have weapon at best," and a "poorly managed program," and a "prime candidate for total cancellation."

These words were not written by defense critics, they were written by Defense Department officials. Obviously, they were not based on whim or on the parochial interest of a particular bureaucrat. Such conclusions simply had to be based on hard, factual analysis. No bureaucracy, especially the Defense Department, would generate such a critique without backup data.

I went ahead and proposed an amendment to limit expenditures on Condor to allow for further testing and for congressional review. That was last year.

After the certification was received that Condor was ready for production, GAO examined the testing program. GAO reports on the conclusions of the Navy's own test group were not in the least bit reassuring. Condor had done better in reliability tests, but many other questions remained. These questions raised the year before, involving Condor's ability to penetrate enemy defenses, its operational utility and its cost effectiveness were still unanswered. The certification that Condor was ready for production was apparently based exclusively on the reliability tests done on 10 finely tuned prototype missiles.

No other testing had been conducted, a vulnerability study was clearly deficient and no updated cost-effectiveness study was available. Certainly, it seemed unwise to allow even limited production to commence.

Mr. President, I have asked myself whether I would have recommended termination of this program had Condor provided a unique and exclusive capability. Clearly I would not have. I am not immune to the argument that a standoff "smart" bomb capability is needed against high priority targets. The overall technology area here is important vis-a-vis Soviet developments.

But Condor is nearly 10 years behind schedule. Other alternatives have emerged and the state of the art has advanced. It is like the $1,000 color TV set of 10 years ago which now costs only $300. We can now build smart bombs with bigger warheads and virtually the same capabilities as Condor at a fraction of the cost. And no one has yet convinced me that these weapons will not save just as many airplanes and pilot lives as Condor.

Mr. President, Condor is simply a missile that nobody wants—as one magazine article put it—and, conversely, a missile that refuses to die. It should not have been left to Congress to inter this weapon. It should have been done last year by the Defense Department when it was called a "candidate for total cancellation."

Nonetheless, Congress now has the responsibility. I hope we will do what is necessary.

Mr. President, I ask unanimous consent that the following additional articles on Condor be printed in the RECORD:

First. "Eagleton Calls for Suspension of Pentagon Aide," New York Times, April 7, 1976.

Second. "Rebuked Official Gets Pentagon Post For Procurement," New York Times, June 5, 1976.

Third. "Condor: The Missile Nobody Wants," The Nation, July 17, 1976.

Fourth. "Currie Inquiry Puts Pentagon Research Job Under Cloud," Science Magazine, June 25, 1976.

Fifth. "Navy Missile Study Linked to Builder," Washington Star, July 26, 1976.

Sixth. "Navy Missile Project Illustrates Interaction of Contractors, Consultants and the Military," New York Times, July 26, 1976.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the New York Times, April 7, 1976]

EAGLETON CALLS FOR SUSPENSION OF PENTAGON AIDE

(By John W. Finney)

WASHINGTON, April 6.—Senator Thomas F. Eagleton, Democrat of Missouri, urged today that Malcolm R. Currie be suspended as director of defense research and engineering pending an investigation into whether the Pentagon official had been involved in a conflict of interest involving defense contractors.

In a letter to Defense Secretary Donald H. Rumsfeld and in a speech on the Senate floor, Senator Eagleton said that Dr. Currie was operating under a "dark cloud of suspicion" about his impartiality in dealing with defense contractors.

The Senator referred to an article in The New York Times yesterday reporting that, immediately after returning from a visit to a fishing lodge in the Bahamas operated by the Rockwell International Corporation, Dr. Currie recommended a production go-ahead for a controversial missile being developed by Rockwell.

The Times article also said that about a year ago, Dr. Currie had "made the rounds" of defense contractors seeking future employment. Through a spokesman, Dr. Currie has denied that he showed any favoritism to Rockwell International, that he had sought prospective employment from defense contractors and that he had an offer from Hughes Aircraft Corporation when he leaves his Pentagon post.

FINE AND REPRIMAND

Dr. Currie was reprimanded and fined one month's pay by Mr. Rumsfeld for going to the Rockwell fishing lodge in violation of a Pentagon regulation on standards of conduct that prohibit defense employees from accepting hospitality from defense contractors.

In urging the suspension of Dr. Currie from his Pentagon post, Senator Eagleton said that the fine and reprimand administered by Mr. Rumsfeld were "not sufficient to clear this contaminated air."

"Whether or not there is a connection between Dr. Currie's Rockwell-sponsored vacation to Bimini and his decision to support (the) Condor (missile) or whether or not Dr. Currie was arranging his own prospective employment with defense contractors, the appearance of impropriety must now be dealt with forthwith," the Senator said.

William I. Greener, Mr. Rumsfeld's spokesman, had no immediate comment on the Eagleton letter and speech. Previously, however, Mr. Greener emphasized that Mr. Rumsfeld retained his confidence in Dr. Currie and had no intention of removing him from responsibility over weapons programs involving Rockwell International, such as the B-1 aircraft.

As vice chairman of the Congressional Joint Committee on Defense Production, Senator William Proxmire, Democrat of Wisconsin, raised the possibility of a Congressional investigation of Dr. Currie.

[From the New York Times, April 5, 1976]

REBUKED OFFICIAL GETS PENTAGON POST FOR PROCUREMENT

(By John W. Finney)

WASHINGTON, June 4.—Dr. Malcolm B. Currie, a high-ranking Pentagon official who was severely reprimanded last March for accepting hospitality from a major defense contractor, has quietly been placed in charge of the development and acquisition of all weapons by the Defense Department.

At present, Dr. Currie is director of defense research and engineering, a post that gives him supervision over the development of all weapons. In an unannounced action, he was recently made "acquisition executive" of the department, thus placing him in charge of procurement as well as development of new weapons.

The department has not made public the elevation of Dr. Currie, which was ordered in a memorandum May 17 by Deputy Defense Secretary William P. Clements Jr. Dr. Currie, a former executive with the Hughes Aircraft Company, now ranks second only to Mr. Clements, a former Texas oil businessman, in the day-by-day management of the Pentagon.

The department's public affairs office which had promised to make public all policy actions taken by Mr. Clements, has not made available the Clements memorandum. Yesterday, William I. Greener, the Pentagon spokesman, said in response to inquiries that a reorganization involving Dr. Currie's office was still under study.

Mr. Greener declined to say what conclusion has been reached by Defense Secretary Donald H. Rumsfeld as a result of an investigation into Dr. Currie's role in the production of the Condor missile, which was developed by the Rockwell International Corporation.

In a letter of May 6 to Senator Thomas F. Eagleton, Democrat of Missouri, who had demanded the suspension of Dr. Currie, Richard A. Wiley, the Defense Department general counsel, said the Pentagon was "investigating all aspects" of Dr. Currie's relationship with Rockwell International. An investigation is also being conducted by a panel of the Joint Committee on Defense Production headed by Senator William Proxmire, Democrat of Wisconsin.

WARNING BY ADMIRAL

An aide to Mr. Eagleton reported that a rear admiral in the Navy's legislative liaison office recently called to warn that if the Senator continued to criticize the Condor program, he could jeopardize future Navy contracts in Missouri, including the Harpoon missile program handled by the McDonnell Douglas Corporation in St. Louis.

Dr. Currie was "severely reprimanded" and docked one month's pay by Mr. Rumsfeld after it was disclosed that in violation of Pentagon "standards of conduct" regulations, he added over the last Labor Day weekend, a fishing lodge in the Bahamas, owned by Rockwell International. Immediately after returning from the Bahamas, according to defense officials, he advocated a production go-ahead for the Condor, which had been encountering developmental and reliability problems.

In explaining the promotion of an official who had been reprimanded, Mr. Greener said that while Mr. Clements believes Dr. Currie exercised "poor judgment" in one particular case, he "continues to have full confidence" in him.

With his elevation, Dr. Currie becomes by far the most important and influential figure in the Pentagon for defense contractors, in a position to decide which companies get research or production contracts. For example, he will now become the key figure in determining whether production should be ordered this fall on the B-1 strategic bomber, which is under development by Rockwell International.

REPORTS OF JOB OFFERS

Within the defense industry, there were reports that Dr. Currie had been offered six jobs, including some by major defense contractors when he leaves the Pentagon, which he is expected to do in January. There were earlier reports by defense contractors, denied by Dr. Currie, that about a year ago he made the rounds of defense companies inquiring about employment opportunities.

Federal "conflict-of-interest" laws do not prohibit a Government official from inquiring about or entertaining job offers, but the practice is that he informs his superiors of such moves.

Through a spokesman, Dr. Currie denied that he had received any specific job offers.

The elevation of Dr. Currie is part of a centralization of procurement in Government agencies that was recently ordered by the Office of Management and Budget. Each agency was directed to name an "acquisition executive" who would be responsible for managing of all major procurement programs.

Mr. Clements went a step further by directing that Mr. Currie be the single, permanent chairman of the Defense Systems Acquisition Review Committee, which passes on the development and production of all weapons.

In pursuit of the concept of centralized management, in the opinion of some longtime Pentagon employees, a system of checks and balances over weapons programs is breaking down within the department.

In the past, development and procurement have been kept organizationally apart, in large measure because the developers, almost inevitably, acquire a vested interest in seeing their product go into production.

[From the Nation, July 17, 1976]

CONDOR: THE MISSILE NOBODY WANTS

(By Fred Kaplan)

Once the blueprints are drawn, it is very difficult—indeed, it usually proves impossible—to cancel a new weapons system that the Army, Navy or Air Force thinks would contribute to the image of American might or meet one of those novel combat situations which the military imagination is so fertile at inventing. It is understandable—the Pentagon is a badly spoiled bureaucracy; it wants its toys and it will throw a tantrum if it doesn't get them. But what may not be understandable to the civilian, taxpaying mind is that it is almost as difficult to cancel a new weapons system that *nobody* wants, once a defense contractor has drawn up its preliminary plans and set the gears of its public relations furiously spinning. The defense industry has only one customer; accordingly it is the most bitterly competitive business in the country. Take, for example, the Navy's Condor missile, product of Rockwell International Corp. After a thirteen-year history of malfunctions, delays and cost overruns, the $569.9-million Condor is another boondoggle moving into the final production stages. At a meeting of the Pentagon's Defense Systems Acquisition Review Committee (DSARC) last September, it was recommended to Deputy Secretary of Defense William Clements Jr. that the Navy subject Condor to further tests. On June 8, a Pentagon "principals only" program review committee (restricted to directors and their principal deputies) approved a memorandum urging Clements and Secretary of Defense Donald Rumsfeld to approve production of Condor, as the missile had proved successful on most of the tests made. On June 10, Clements officially approved.

This decision, however, should lead no one to assume that Condor is a weapon that the United States should procure—or even that it works. For background, it is useful to examine the cast of characters that pushed Condor through the Pentagon.

Condor's chief promoter is Dr. Malcolm R. Currie, director of Defense research and engineering, director of Defense development and acquisition, and chairman of a steering committee on relations between contractors and the DoD. Currie spent last Labor Day weekend at a Bahamas fishing lodge owned by Rockwell International, prime contractor on Condor (and on the B–1). Once back in Washington, Currie began praising the wonders of Condor. When Rockwell International released information regarding his vacation, it seemed clear that Currie had violated recent Department of Defense conflict-of-interest regulations. His behavior was also contrary to the Standards of Conduct Law for Pentagon personnel, which states, in part: "Even though a technical conflict, as set forth in the statutes cited in this part, may not exist, DOD personnel must avoid the appearance of such a conflict from a public confidence point of view." (32 USC Sec. 40.735–3.)

At the least, Currie's actions violated "public confidence." He "remorsefully" regretted his "bad judgment," and Rumsfeld docked him four weeks pay, an extraordinary disciplinary measure. (But Rumsfeld's indignation seems to have been short-lived. Just weeks after the reprimand, Currie who until then had been merely in charge of research and engineering, was promoted to head development and acquisition as well.) Furthermore, Currie, who is chairman of DSARC III, the review committee on weapons production, removed himself from the particular DSARC dealing with Condor. Although he denied wrongdoing in his Rockwell connection, he felt that his departure was the best way to take the heat off the missile. (See editorial, "The Brazen Warriors," The Nation, June 19.)

However, the careers of Currie's handpicked replacements for the DSARC—his principal deputy, Robert N. Parker, and his deputy on tactical warfare, William E. Stoney—might be even more damaging to public confidence on Rockwell-related matters, especially on Condor. Parker worked for the Hughes Aircraft Company from 1954 to 1967. (Hughes—for which Currie also worked for fifteen years, at one point as corporate vice president and manager of research and development—manufactures the data links on Condor; it has a lot of money riding on the project.) From 1967 to 1970, Parker was chief engineer of Rockwell International's Automatics Division, which designs missile systems and missile-related electronics.

Stoney has even closer attachments. From 1953 to 1972 he was executive vice president of Rockwell International's Autonetics. After taking a year's leave of absence, he was from 1973 to 1974 executive adviser to the president of Rockwell International's Microelectronics Division. Malcolm Currie hired Parker as his principal deputy for research and engineering in August 1973; Parker brought in his friend Stoney in October 1975. It is suspected among many in the executive branch of the government that both men were hired to get two major Rockwell items into production—the B–1 bomber and Condor. It was Parker and Stoney who wrote the decisive memo for the "principals only" meeting that recommended the Condor go-ahead. They wrote it prior to the meeting.

The memo itself was hardly comprehensive. It was based strictly on Condor's performance in special "reliability" testing, which checks electronics components, missile engines and other launch and pre-launch aspects of a weapon. Reliability flaws can be detected before takeoff and can usually be patched up with no great difficulty. But of Condor's vulnerability, utility, operational suitability and cost effectiveness there has never been any actual, realistic testing at all.

Condor's mission is to destroy high value tactical targets, such as ships and shore installations, from as far away as 60 miles. Yet Condor's warheads weigh less than 650 pounds—even lighter (and technologically no more impressive) than those of the junked Walleye I missile, which was to attack tactical targets in Vietnam until the Air Force discovered that its 800-pound warhead could not even completely destroy a bridge. (It has now been replaced by the Walleye II, which delivers a 2,000-pound warhead.) If the tactical targets to be hit by Condor were similar to those attacked in Vietnam or the Middle East, its warheads would certainly be inadequate for the task.

Moreover, Condor is a fair-weather missile. It is guided by a television system controlled by the pilots in the launching plane. Such a system's ability to discriminate objects against a background is very low, much lower than even the human eye. If Condor is to hit its target, is pilots must first see the target on their TV screens. Visibility must be very good with little or no haze, smoke, fog or thick clouds; the target must have high contrast to its background; and it must be attacked in daytime. Since most major tactical targets are camouflaged, since many enemy forces are adept at creating smoke screens, and since the weather varies, Condor's war capability is questionable.

Furthermore, most targets worth destroying are surrounded by various defense systems. Since Condor has no adequate radar detection system, its pilots would not even know when it was being attacked. The defense capability of the weapon, in other words, approaches zero. Condor advocates counter this criticism by noting its ability to fire with precision from a distance of 60 miles. Two problems arise here.

First, a 60-mile range does not protect Condor from surface-to-air missile (SAM) attack. Second, it is likely that Condor would have first to penetrate defense systems—perhaps air defense systems—around the target, a task for which it has no design capability. Nobody knows for sure what would happen if Condor attacked a defended target. The Navy's commander operational test and evaluation force demanded twice last year that Condor be tested against defense missiles and against attempts to jam Condor's communications system, another shortcoming. The demand in both cases was overruled by the chief of naval operations.

Instead, DSARC relied on a computer-based study made by Principia, Inc., a Virginia consulting firm that offered its services to Condor program manager Captain Kowalskey after hearing that the missile needed testing beyond mere "reliability" checks. The offer came from Principia's founder and board chairman, Allen Simon, a former assistant director of defense research and engineering under Malcolm Currie. Simon is also a member of another Virginia consulting firm—Davis, Fubini, Simon and Kent. Among his regular clients is Rockwell International, and among the projects on which he advised is Condor. One government official who knows of this arrangement describes it as "corruption at its worst." Simon denies having worked at all on the Condor study (a claim that some of his former Pentagon colleagues dispute); but, notes the government official, "If a man controls an organization, he in effect controls its products. . . . It is absolutely improper to work for the Navy and the contractor on the same project. It smells rotten."

The study's substance is even shakier than its genesis. According to a partly declassified letter written by Sen. Thomas Eagleton (D., Mo.), a General Accounting Office (GAO) audit reports that Principia employed dubious methodology and came to conclusions contrary to much of the study's own data. The tactical scenarios assessed the technical capability of the enemy in such a way as to be most favorable to Condor. The targets selected minimized the vulnerability of Condor, as compared to the Air Force's electro-optically guided bomb (EOGB) and its Walleye II, the two weapons against which Condor was being judged. Condor does have some self-protective stand-off superiority to EOGB and Walleye II, but GAO found this advantage highly exaggerated. Condor's defense capability was overrated, EOGB's and

Walleye II's underrated. Principia also vastly underrated the attrition rate of Condor's launching aircraft (relative to Walleye II). Even so, according to the GAO audit, at the assumed rate aircraft-replacement costs would be so high as to rule out the purchase of Condor.

The costs question is devastating. The unit price for a Condor has been estimated by the Navy at $417,561. By comparison, Air Force glide bombs, which can perform missions similar to Condor's in all kinds of weather, day and night, cost only $70,000 each. Walleye II, a weapon similar to Condor, with slightly shorter range but warheads nearly four times as powerful, costs $28,000, according to the Navy's budget request. The IIR Maverick, with capabilities similar to the glide bombs, can be had for $12,000. The EOGB runs $50,000 per unit. (Captain Kowalskey, trying to promote Condor on the grounds of cost effectiveness, absurdly asserted that Walleye II's unit cost was $153,000, and put EOGB's at $82,900. Neither Principia nor DSARC bothered to do any cost-effectiveness evaluation at all.)

And aside from all its inadequacies, Condor is destined to be a superfluous weapon. In the period when Condor was being tested and developed, the Navy started and completed the Harpoon, a program with an identical mission and greater capability. The Harpoon is surface- and air-launchable, has greater range than does Condor, and is actively guided by radar, which means that it can be used whatever the environment or hour. It costs slightly less than Condor, and—by all reports—it works. As a result, all but a few in the Navy no longer even want Condor. As is customary with useless weapons, Condor's program managers are now looking for a new mission to keep the missile alive. The Air Force has come under strong pressure from people in Rumsfeld's office (OSD) to take it, but the Air Force has comparable weapons that it considers more useful and efficient. So its sponsors are currently trying to sell Condor as a land-target destroyer.

Significantly, Condor advocates within the Navy recently warned Senator Eagleton that if he continued to criticize Condor, the Harpoon program—manufactured by McDonnell Douglas in Eagleton's home state of Missouri—would be jeopardized. Naval officials have conceded that Harpoon is the better weapon, but Navy liaison told an Eagleton aide that "certain forces" (presumably Rockwell-linked) along with an "Ohio coalition" of legislators, could nonetheless kill the Harpoon. (Condor's development, fabrication, testing and evaluation have all been done at Rockwell's Columbus, Ohio plant.)

Despite the lack of adequate testing, Condor has received more promotion in the past four months than ever before. Much time and money have been spent on the missile—thirteen years and at least $250 million so far. Hundreds of millions more rest on getting the production wheels finally turning. Whenever this kind of money is poured into a program, the momentum is nearly impossible to stop. A constituency with vested interest emerges: the contracting service, in this case the Navy, even though it may no longer have any use for the weapon; the program manager, who has little hope of promotion if his program fails; former corporation executives within DoD—Currie, Parker and Stoney in this case; dozens of others in other cases—who have ties of affection, if nothing stronger, with their old companies. As one government official sums it up, "Everybody wins something except for the anonymous taxpayer, and who cares about him?"

The House recently passed a bill terminating Condor, and there is an almost even chance that the Senate might do the same in August. But Congress should not be so naive as to think that this pattern of inadequate testing, bureaucratic shuffling and dubious corporate connections applies only to a single weapon. These factors influence the direction of weapons procurement more often than the public imagines, even in its present mood of suspicion toward government. GAO and Congress should investigate these issues vigorously. Such action would only amount to a first step, but without it, chances for rational decision making in the weapons procurement process will almost always be eclipsed by the almost unstoppable—and, at times, nearly undetectable—forces of vested interests and bureaucratic inertia.

[From Science Magazine, June 25, 1976]

CURRIE INQUIRY PUTS PENTAGON RESEARCH JOB UNDER CLOUD

(By Deborah Shapley)

Malcolm R. Currie, the Pentagon's chief of research and development, is being promoted to the additional job of overseeing all Department of Defense (DOD) weapons procurement—despite the fact that the Senate is investigating charges that Currie urged production of the Condor missile after spending a weekend at a Caribbean resort paid for by Condor's chief contractor, Rockwell International Corporation.

The promotion, which comes at a time when his actions are being questioned, is interpreted by some Pentagon watchers on Capitol Hill as an effort by his superiors to dramatize their confidence in him. As Director of Defense Research and Engineering (DDR & E), Currie manages $10.9 billion in research and development funds, the largest R & D budget of any federal agency. He is, therefore, probably the single most influential research administrator in the nation.

Last March, Secretary of Defense Donald Rumsfeld fined Currie $3200, which was 1 month's pay, and severely reprimanded him following disclosures that Currie and his daughter had spent the weekend of Labor Day, 1975, at a Bimini, Bahamas, resort owned by Rockwell. The trip was in violation of Pentagon rules prohibiting officials from accepting entertainment from contractors. Currie has since admitted that he made a mistake in judgment. The indiscretion, along with the subsequent public rebuke, is the first scandal to touch the office of the DDR & E since it was created 1958. Currie, who took the job in 1973, is the first DDR & E to have been recruited from private industry.

However, the question of Currie's conduct did not end there. On 5 April, the New York Times in an exclusive story quoted staffers in the Pentagon as saying that the day after his return from Bimini, Currie argued vigorously to his staff that Condor production go ahead, despite the fact that Navy reports of the missile's poor test performance urged against production.

According to the Times story, Currie's opinion was key in persuading the Defense Systems Acquisition Review Council (DSARC), a high-level, four-member committee, which votes on all weapons systems procurement, to approve Condor production. Currie had one of four votes on the DSARC, which was due to decide about Condor in a 30 September meeting. The Times said that only one DSARC member, Leonard Sullivan, Jr.—at the time Assistant Secretary of Defense for program analysis and evaluation—was openly for killing the program. Terence E. McClary, comptroller of the DOD, was described by the Times as the one DSARC member "wavering" about whether to approve production. The Times alleged that Currie, in an unusual move, wrote a strong memorandum only to McClary, urging a Condor go-ahead; McClary "accepted" the memo without consulting his own staff (who were urging against production); the memo was subsequently adopted as the DSARC position.

Subsequently, in mid-October, DSARC decided to recommend limited production of Condor pending the results of further tests, and on 4 November, Deputy Secretary of Defense William Clements concurred. The *Times* alleged, however, that the Clements decision against full production was linked to the leak of Condor test data to the General Accounting Office and GAO's having expressed "concern" about going ahead with Condor production at this stage.

The *Times* also quoted an unnamed industry executive as saying that Currie had also been "making the rounds" of Pentagon contractors, dropping hints that he would like a job with one of them whenever he leaves the Pentagon. Currie worked with Hughes Aircraft Co. and then Beckman Instruments, before he became the DDR & E.

In the wake of the *Times* story, Senator Thomas F. Eagleton (D-Mo.) who had been investigating the Condor program anyway, called for Currie's suspension from his job until the charges were resolved one way or another. Senator William Proxmire (D-Wisc.), who heads a subcommittee on defense production, at Eagleton's request promised an "impartial" investigation of the charges, which is still under way.

Currie, meanwhile, told the press that in fact he had "slowed the program considerably" at the 30 September DSARC meeting. And apparently his boss, Rumsfeld, believed him, for, on 7 June, Rumsfeld told Eagleton that an in-house "investigation" of the matter had concluded that "Currie was the architect of the plan accepted by Mr. Clements not to approve production of Condor." Eagleton immediately shot back that the investigation by DOD was "whitewash."

As to Currie's hints about prospective employment, Rumsfeld replied that although Currie had been approached by defense contractors, "in each case" he had indicated a desire to go back to commercial business, rather than the defense industry.

In the meantime, Clements, responding to a directive of the Office of Management and Budget, has decided that Currie be made "acquisition executive" for the department. He has also directed that Currie be the only chairman of the DSARC. Previously DSARC's production reviews were managed by another official. Clement's directive to Currie, however, has not yet been implemented.

At issue in the Currie stir is whether his attitude toward the Condor became more favorable after his Bimini vacation and whether Currie was the architect of a production slowdown or of a production speedup. Eagleton has also raised questions about the managerial wisdom placing one official in charge of both research and procurement—a course that runs counter to long-standing Pentagon administrative practice. Finally, Eagleton would like to see public officials in the new, post-Watergate era avoid even the slightest taint of suspicion by suspending their duties when their integrity in office is seriously questioned.

NAVY MISSILE STUDY LINKED TO BUILDER—CONDOR RESEARCH CONSULTANT ALSO WORKS FOR MANUFACTURER

(By James Barron)

The Navy has twice hired a small Arlington consulting firm to study the controversial Condor missile despite the fact that a founder of the firm works for the missile's manufacturer.

The firm is Principia, Inc., which has been in business for two years. It was hired for the studies without going through the usual process of competitive bidding.

The Navy captain in charge of the missile program, Z. J. Kowalskey Jr., says there is no conflict of interest involved. He says the firm was not among his first choices, but those were "denied through normal channels."

One of the company's founders, and its first chairman of the board, is Allan D. Simon, who picked up his Condor expertise while he worked in the Pentagon's own research and development shop, the Directorate of Defense Research and Engineering.

Simon is also a partner in Davis, Fubini, Simon and Kent, another consulting firm with offices in the same Rosslyn high-rise occupied by Principia. Simon acknowledges that it is through Davis, Fubini, Simon and Kent that he became a consultant to Rockwell International, the maker of Condor.

Like Kowalskey, Simon does not see a conflict of interest. Simon maintains that despite his founding role in Principia, he played no part in the actual preparation of the studies.

Papers filed along with the contract between Principia and the Navy show, however, that the firm was offering Simon's expertise as a selling point when it made its "unsolicited proposal" Jan. 6 to conduct the first study.

Simon and Principia President Clayton F. Black both agree that Principia first learned the Navy was in the market for Condor research from Simon.

Simon says he heard about the study while on other business at the Pentagon and later called Black with word that the project was in the works. "I told Principia to go make an unsolicited proposal to the Condor missile Navy office," Simon said in a telephone interview.

On Jan. 29, Principia was awarded the first contract, which covered a study of Condor's vulnerability to enemy attack and carried a price of $69,692.

The Navy's formal justification for this "sole source procurement"—or awarding the contracts without competitive bidding—was Principia's special expertise on Condor.

"Principia, Inc., is the only firm available which has the unique knowledge and high-caliber personnel experienced in the Condor weapons system to perform this study within the time frame required," according to contract documents.

"The loss of continuity, time and the already available expertise and talent provided by Principia would seriously jeopardize the success of the Condor program," the documents read.

The contract for the second study was awarded in May, and that study is still in progress. It is scheduled for completion in October and addresses the cost-effectiveness of the missile.

The General Accounting Office has examined the first study and has written a classified report containing fundamental criticism of Principia's methods and results, according to sources familiar with the material.

The GAO review was requested by Sen. Thomas F. Eagleton, D-Mo., a longtime Condor critic.

Based on the GAO's findings, Eagleton has said the Principia study appears to be "based on an erroneous model and that the conclusion that Condor is survivable and cost-effective is contradicted by information contained in the body of the report.

Principia's analysis of potential enemy defenses was based on a scenario "most favorable to Condor," Eagleton added in a letter to Sen. John L. McClellan, chairman of the defense appropriations subcommittee.

The Condor is a television-guided subsonic missile designed to destroy heavily defended targets such as ships behind enemy lines.

In the 13 years since it appeared on the drawing board, Condor has been plagued by cost overruns and reliability problems. Its critics contend it has become obsolete in the meantime.

The need for additional Condor studies to answer critics arose last fall when high-level Pentagon officials gave a limited go-ahead to the production of Condor, pending successful completion of additional studies which would satisfy doubts raised about Condor on Capitol Hill.

Among advocates for the Condor was Pentagon research chief Dr. Malcolm R. Currie.

Currie was reprimanded by Defense Secretary Donald H. Rumsfeld and docked $3,200 for spending Labor Day weekend as the guest of Rockwell International on the island of Bimini in the Bahamas soon after Defense Department policy against even the appearance of a conflict of interest had been reaffirmed.

Kowalskey also was admonished for spending a weekend at a Rockwell International-owned hunting lodge in Maryland.

NAVY MISSILE PROJECT ILLUSTRATES INTERACTION OF CONTRACTORS, CONSULTANTS AND THE MILITARY

(By John W. Finney)

WASHINGTON, July 25.—When its Condor missile was being criticized earlier this year, the Navy turned for supporting advice to a consulting company co-founded by an engineer who also works for Rockwell International, the defense contractor developing the missile.

Four months later, when further questions were raised about Condor's cost, the Navy gave an additional study contract to the company, even though Navy officials knew by then that the co-founder of the company was serving as a consultant to Rockwell.

To Navy officials in charge of the program and to officers of the consulting company, it was a normal, legal arrangement, designed to provide an independent, objective study for the Navy on the vulnerability and cost of the missile.

But the arrangement also provides an illustration of the close, sometimes interlocking relationship, carrying with it inherent possibilities for conflict of interest, that can develop between a military service, its contractors and the hundreds of consulting companies that have sprung up around Washington to serve both the military and industry.

$306 MILLION PROJECT

Condor, known in some Pentagon circles as "the silver bullet," is one of the more expensive, controversial missiles ever to be developed by the Navy. Over the last 13 years, the Navy has invested $306 million in trying to develop the television-guided missile, which is supposed to become the super-accurate "smart bomb" in the Navy's arsenal of air-launched weapons.

The weapons program also represents a major effort by Rockwell International, one of the major defense contractors, to get back into the missile business. A production go-ahead would mean hundreds of millions of dollars worth of business for Rockwell, with each missile costing $500,000.

Last fall the program was saved from cancellation, partly because of the intercession of Dr. Malcolm R. Currie, the Defense Department's Director of Defense Research and Engineering, who had just returned from a Labor Day weekend visit to Rockwell's fishing lodge in the Bahamas.

For that violation of Pentagon standards of conduct, Dr. Currie was reprimanded by Defense Secretary Donald H. Rumsfeld and was fined one month's salary.

GOT TO KEEP HIS JOB

Dr. Currie, however, was permitted to continue in his position, which covers development of the Condor missile, and his superiors accepted his advice that Condor should be permitted to proceed toward production on the condition that the Navy satisfactorily answered questions about its reliability, vulnerability and cost.

For answers to some of those questions, the Navy turned to Principa, Inc., a suburban Virginia consulting company that was established in 1974.

While smaller than many, Principia is typical of some 300 consulting companies that have formed in recent years as the newest appurtenance in what President Dwight D. Eisenhower once described as "the military-industrial complex."

Around the Pentagon the companies are popularly know as "the Beltway bandits" for their location along the highway that circles metropolitan Washington.

The impetus for the companies was the need of the services and their contractors for their own analysis of weapons programs to counter the critical analysis imposed by the Defense Department, starting with the "whiz kids" under former Defense Secretary Robert S. McNamara. Their personnel have been drawn largely from military officers and Pentagon officials as they retire from the Defense Department.

One of the co-founders of Principia was Allan D. Simon, who retired in 1973 as assistant director of air warfare in the Defense Department's Directorate of Defense Research and Engineers. In that position he had responsibility over the Condor program.

Mr. Simon said that he resigned as board chairman of Principia "a short time" after the company was founded and that at the time the Navy contract was awarded he was only "an investor" in the company.

He is now a private consultant to both the Government and defense contractors, with Rockwell International one of his major clients. He is also a member of the Army's Science Advisory Panel, which reviews the Army's plans for weapons development.

Mr. Simon acknowledged in a telephone interview that he helped get the Navy contract for Principia, but insisted that he had nothing to do with the study once it was awarded.

According to records in the Navy Air Systems Command, Principia on Jan. 6 submitted an "unsolicited proposal" to do a study on the vulnerability of the Condor missile to counter-measures and enemy air defenses.

TOLD OF PRESSURE

The proposal listed Mr. Simon as one of the company directors "available to guide the research, perform the consulting services and review the product to insure continuing high quality."

Clayton F. Black, president of Principia, said he had been alerted by Mr. Simon that the Navy was "under pressure to do a vulnerability study" on the Condor missile. Mr. Simon said that he had learned of the need for the study in an item in an aviation trade publication and not from any former colleagues in the Defense Research and Engineering Office.

Mr. Black said that on Jan. 8 Mr. Simon "took me over" to see Capt. Zygont J. Kowalskey Jr., the project manager of the Condor program.

Mr. Black said he knew of Mr. Simon's relationship with Rockwell International but had included Mr. Simon's name among possible participants in the study because "I knew Allan was held in high regard" in the Defense Department.

"Perhaps I was a little naive about conflict of interest," he said.

Captain Kowalskey said Mr. Simon did not inform him that he was a consultant to Rockwell nor did he explain what his role, if any, would be in the study. On Feb. 20, without any notice for competing bids, Principia was awarded a $69,692 contract for the vulnerability study.

Captain Kowalskey, who was recently admonished officially for visiting a Rockwell hunting lodge in Maryland, said in an interview that he did not learn of Mr. Simon's relationship with Rockwell until "perhaps in February."

The incident that led to the disclosure, he said, was his being told by the Rockwell manager of the Condor program that Rockwell representatives were going to the Principia offices to go over the study.

Captain Kowalskey, a former enlisted man who went on to the Naval Academy and became a combat pilot, said he exploded, asking "by what authority is any individual of Rockwell going over there to review the findings?"

Mr. Black, who said he originally thought the Navy wanted a "supporting" study, such as it might have obtained by going directly to Rockwell, said he was informed by Captain Kowalskey that the Navy wanted "an independent study" and that Principia was "to keep its distance" from Rockwell.

ANOTHER STUDY SOUGHT

On May 6, Principia submitted another "unsolicited proposal" to do a cost-effectiveness study of the Condor missile for $72,480. Once again the company proposal listed Mr. Simon as one of the persons available for the study, as well as Dr. Eugene G. Fubini, who was deputy director of defense research and engineering a decade ago.

Dr. Fubini, who now also is a private consultant to Government and industry, shares office space with Mr. Simon. But he said that he had never been informed his name would be listed and that he had never been consulted by Principia on the study.

Mr. Simon explained that "typically" in such proposals "they take all the good names they can find."

Even though he knew by then of Mr. Simon's relationship with Rockwell, Captain Kowalskey said he interposed no objection to the awarding of the supplemental contract to Principia on June 11.

The explanation he offered was that "I had no indication that Mr. Simon influenced this study at all" and "I thought the study [on vulnerability] was legitimate and honest."

In contrast, the General Accounting Office found that the Principia study suffered from "several serious shortcomings" and was based on scenarios most favorable for the Condor missile.

The Navy Air Systems Command bypassed the normal procurement requirement of advertising for competitive bids in awarding both contracts to Principia. The reason offered by a Navy contracting officer in the records of the contracts was that "Principia is the only firm available which has the unique knowledge and high caliber personnel experienced in the Condor weapons system to perform the study within the time frame required."

KNOWLEDGABILITY CITED

A document in the records on "sole source justification for Principia" notes that "Allan Simon is one of the leading authorities on air warfare and communications security" and "directed studies of Condor and related systems" while in the Defense Department.

Captain Kowalskey said he had originally proposed that instead of "going to a Beltway bandit," the study be done by the Institute for Defense Analyses, a semi-autonomous agency within the Defense Department, "so there would be no dispute over its independence."

He said he was overruled on this suggestion by superiors in the office of the Chief of Naval Operations and was instructed to go to a private consulting company for the study.

Just who in the Navy ordered the private study and whether that order reflected instructions received from the Defense Department could not be ascertained.

Two former Rockwell employees now in the Defense Department—Robert N. Parker, deputy director of defense research and engineering, and William E. Stoney, deputy director for tactical warefare programs—said they had never talked to Mr. Simon about the study and had been unaware of the existence of the Principia company until "very recently."

CONDOR MISSILE PROGRAM

Mr. EAGLETON. Mr. President, I would like to ask the distinguished chairman of the Appropriations Committee some brief questions with respect to the committee's action on the Condor missile program.

The committee has, of course, directed that real-life vulnerability tests and a full cost-effectiveness study be conducted, and that the Government's contractual liability be limited to no more than 1 year's production of 60 missiles. The House has recommended termination of the program.

In light of the positions taken by the two Houses, Mr. Chairman, is it the committee's view that the $10.2 million contained in this bill for Condor-related modifications to the A–6 aircraft should be conserved by the Navy at least until the missile is cleared for limited production?

Mr. McCLELLAN. As the Senator has indicated, the committee report specifically directs that the Government's liability is to be limited to 1 year's production of 60 missiles until the committee clears the program for additional expenditures. This directive would encompass the amount appropriated for A–6 modifications.

Mr. EAGLETON. I assume, Mr. Chairman, that this $10.2 million amount, though contained in both House and Senate bills, would be eliminated in conference if the House position, calling for termination of the program, were to prevail?

Mr. McCLELLAN. That would seem logical, of course. However, I am not in a position to represent the position of the House conferees on this point.

Mr. EAGLETON. I thank the Senator.

BALLISTIC MISSILE DEFENSE RESEARCH AND DEVELOPMENT

Mr. ALLEN. Mr. President, during debate of the defense authorizations bill in May of this year I expressed my concern for the Nation's ballistic missile defense effort. I was deeply concerned over three facets of the Senate's Military Authorization bill dealing with the systems technology portion of the ballistic missile defense program: First, a proposed reduction of $18 million from the requested $118 million; second, language which denied authorization to initiate a modest effort to define concepts and systems requirements for a limited area defense system; and, third, a restriction that required exo-atmospheric homing interceptor work to be conducted by one of the other associated ballistic missile defense programs.

During my discussion, I called to the attention of the Senate a number of facts which I believe are still pertinent.

First. The ABM Treaty must be reviewed next year. There is a growing possibility that the Soviets may wish to amend its terms or even withdraw from the treaty. It seems to me the Soviets are in no hurry to reach agreement on SALT II.

Second. As late as last year, the Senate directed that the Army's ballistic missile systems technology program be conformed to a sustaining level of effort. This year the authorizations bill declared Congress intent to be one of a declining level of funding and accused the Army's program of being inconsistent with that intent. I call that an inconsistency on our part, and inefficient and detrimental to the cost effectiveness of the program and of the products. I still believe that to be true.

Third. The decision which Congress makes now will have its serious effect in 5 or 6 years. That effect is the absence of a capability or option for the United States to defend itself with a ballistic missile defense.

Mr. President, in addition to the above facts, I asked a number of what I considered to be pertinent, penetrating questions: Who among us is so certain that the Soviet threat will have been constrained, that proliferation will have been contained, that nuclear weapons will have disappeared, or that a new technology will have obviated ballistic missile defenses as a viable and cost effective response? Who can stand and certify our future nonrequirement for ballistic missile defense systems? Is it prudent to begin the dissolution of the one program which could produce an active ballistic missile defense system with which the United States could counter a future nuclear threat?

The Senate has before it today the Military Appropriations bill. This bill recommends a $25 million cut over and beyond the $18 million cut from the program in the authorizations bill. This would leave the systems technology program at a level of funding 36 percent below the Army's request and 25 percent below the authorization.

Following in the wake of the inactivation of the Safeguard system I believe such a reduction in ballistic missile defense research and development would signal to the Soviets a lack of will or capability on the part of the United States. This would be particularly unfortunate in 1977 when the ABM Treaty and the Interim Offensive Nuclear Weapons Agreement are to be reviewed.

Mr. President, I see a budget reduction, as proposed in this bill, to be the beginning in the dissolution of a national strategic defense program. How do we, the Congress, expect the U.S. ballistic missile defense effort to match the Soviet ballistic missile defense technologies, much less retain our present technology lead, if we intentionally cut the program funding level? I commend the ballistic missile defense portion of the House bill to our conferees as the less damaging and more competent bill at this time.

UNITED STATES NEEDS A NEW TANK

Mr. TAFT. Mr. President, many questions surround the issue of the procurement of a new main battle tank for the U.S. Army. However, one thing about which there should be no question is our need for a new tank.

The Middle East War of 1973 demonstrated that new, light antitank weapons can, under certain circumstances, be effective against tanks. However, we have now developed a new type of armor which is almost 100 percent effective against these light antitank weapons. We can incorporate this new armor into our tanks, and this armor is invulnerable to the Soviet Sagger and Swatter antitank missiles, and to every anti-tank missile in the world today. But we need a new tank to do it.

This new armor makes both of the XM-1 contenders and the German Leopard 2AV whole new qualitative developments in the field of armored vehicles. It makes them a new generation in tanks, not just an improvement over the existing M-60 series. It is vital, on this basis alone, that we go ahead with plans to procure a new tank as rapidly as possible.

But the armor is not by any means the only reason we need a new tank. Important as the armor is, it is no more important than the fact that the design deficiencies of the current M-48 and M-60 series tanks are now forcing to adopt what appears to be a questionable new doctrine for our armored forces.

There are essentially two types of doctrine for armored and mechanized forces: firepower/attrition doctrine and maneuver doctrine. In the firepower/attrition doctrine, the tank is viewed primarily as a gun, and its role is primarily to destroy other tanks. In the maneuver doctrine, the tank is seen as an offensive weapon, destroying the enemy not by shooting at his tanks and troops but by paralyzing the mind and will of his high command through rapid broad-scale maneuver.

Maneuver doctrine is what the highly successful German blitzkrieg was all about. France did not fall in 1940 because of the attrition of her troops and tanks, but because the French military leadership was paralyzed by the rapid maneuver of the German armored forces. The French, on the other hand, held to a firepower/attrition doctrine, and it failed disastrously.

The deficiencies in the M-60 tanks are now a major factor compelling the U.S. Army to adopt a new firepower/attrition doctrine. Specifically, the very high silhouette of the M-60—almost 3 feet higher than the Soviet T-62—forces us to avoid moving our tanks, and instead to dig them into the ground in so-called "hull defilade" positions.

The high silhouette makes the M-60 so vulnerable if it moves across level ground that in many tactical situations it cannot be used as a tank at all, but rather is restricted to the role of a tank-destroyer.

Both of the XM-1 contenders and the Leopard are greatly superior to the M-60—and M-48—in this respect; all three have significantly lower silhouettes, which will enable them to be used effectively not just as stationary guns but as maneuver units. Nor will this be their only superiority over the M-60 in terms of mobility: the road speed of the XM-1 will be 40 to 50 miles per hour, compared to 30 for the M-60; the XM-1 will have 1,500 horsepower, compared to 750 for the M-60; and the key factor of horsepower per ton of weight will be 25.1 for the XM-1 compared to only 13.6 for the latest model of the M-60. The suspensions of the XM-1 and the Leopard are vastly superior to that of the M-60, permitting much higher cross-country speed and a better ability to shoot accurately on the move.

Both the armor and the maneuver capabilities of the new tank contenders are greatly superior to those of the existing M-60 tanks. The doctrinal significance of the maneuver characteristics is great because the deficiencies of the M-60 in this respect are a factor in forcing us to adopt a firepower/attrition doctrine. The armor characteristics have great significance because they enable us to defeat the light antitank weapons which had such an impact in the Mideast war.

In short, we need a new tank.

Mr. President, I ask unanimous consent that an editorial from the Cleveland Plain Dealer, "U.S. Needs Better Tank," be printed at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. NEEDS BETTER TANK

Later this year, the Pentagon will make a $4.5 billion decision on competing designs of a new main battle tank to equip the U.S. Army through the 1980s. Hopefully, the development process, which began in 1963, will produce a vehicle vastly superior to the Army's existing mainstay the mediocre M60.

Fortunately, the Army has not had to wage conventional armored warfare with the M60. But the Israeli army, which used M60s to combat the latest Soviet tanks in the Middle East, reported the vehicle underpowered, mechanically unreliable and burdened with a high silhouette that rendered it a vulnerable target.

The chief tactical lesson of the 1973 Yom Kippur war was the increased vulnerability of tanks to cheap, hand-operated or vehicle-mounted antitank missiles. But defenses against this new generation of antitank weaponry are under development and the modern tank remains the heart of conventional land-based offensive operations. Despite the cost of the Army's new tank development program, it is necessary to counter the Soviets' vast tank armies arrayed throughout Eastern Europe.

Both Chrysler and General Motors have produced prototypes and the Pentagon will select one model. The chosen tank will then be tested against West Germany's new Leopard II, manufactured by Krauss-Maffei. The winner of this competition will be awarded a contract to produce about 3,300 of the new tanks for the U.S. Army at a cost of about $4.5 billion including development.

One sensible note: Whatever design is selected, a maximum effort will be made by the United States and West Germany to standardize parts and ammunition. That would save money for both countries and simplify supply problems for NATO forces.

ORDER FOR RECOGNITION OF SENATOR JAVITS ON WEDNESDAY NEXT

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the distinguished Senator from New York (Mr. JAVITS) be recognized for not to exceed 15 minutes on Wednesday morning next.

The PRESIDING OFFICER. Without objection, it is so ordered.

RESOLUTION HONORING THE MEMBERS OF THE U.S. OLYMPIC TEAM

Mr. MANSFIELD. Mr. President, on behalf of the Senator from New Hampshire (Mr. DURKIN), the Senator from Florida (Mr. CHILES), the Senator from California (Mr. CRANSTON), and the Senator from Maine (Mr. HATHAWAY), I send to the desk a resolution and ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 500) honoring the members of the United States Olympic team.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 500) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

Whereas, The United States Olympic Team has successfully completed competition in the 21st Olympiad held in Montreal, Canada, and

Whereas, the United States Olympic Team has strictly adhered to the high standards of true amateur athletic competition, and

Whereas, the team consists of dedicated athletes from all over the country: With the strength of Katie Schmidt; With the quickness of "Sugar" Ray Leonard; With the versatility of Bruce Jenner; With the endurance of Shirley Babaschoff; With the spirit of Adrian Dantley; With the brotherhood of Edwin Moses; With the grace of Jenny Chandler.

Resolved, That the U.S. Senate commend the United States Olympic Team for their excellent performance in Montreal; and

Resolved further, That the Secretary of the Senate be authorized to transmit a copy of this Resolution to the United States Olympic Committee.

RESOLUTION HONORING THE 1976 U.S. OLYMPIC TEAM FOR ITS OUTSTANDING PERFORMANCE AT THE XXI OLYMPIAD

Mr. MATHIAS. Mr. President, I send to the desk a Senate resolution and ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 501) honoring the 1976 United States Olympic team for its outstanding performance at the XXI Olympiad held at Montreal, Canada.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. MATHIAS. Mr. President, for the past 2 weeks the world has marveled at the displays of physical and mental courage that characterized the 21st Olympic Games, concluded yesterday in Montreal.

The performance of the U.S. Olympic Team, winning 34 gold medals and a total of 94 medals, was outstanding. It is particularly so in view of the genuinely amateur status of our team members.

Both participants and viewers of these great athletic contests again and again experienced the thrill of victory and the agony of defeat as the Olympic spectacle unfolded. We all were able to share the thrill of victory with the U.S. Women's Swimming Relay Team and the U.S. Men's Basketball Team. We felt the agony of defeat with Dave Roberts, when he missed a gold medal in the pole vault by a hair's breadth, and with Shirley Babashoff, whose hopes for a gold medal in individual swimming events were disappointed time after time by the barest fractions of a second.

As a Marylander, I take special pride in the tremendous contributions Marylanders made to the success of the U.S. Olympic Team. Welterweight Ray Leonard of Palmer Park won a gold medal in boxing while also winning the hearts of all who saw him with his easy charm and ebullient personality. Thirty-six year old Michael Plumb of Chesapeake City did us proud by capturing the silver medal in the Equestrian Three Day Competition. Mike, who was competing in his fourth Olympics, was also a member of the gold medal U.S. Equestrian Three Day Team.

Charles Mooney of Palmer Park and Fayetteville, N.C. won the silver medal in Bantamweight boxing, and Lloyd Keaser of Pumphrey took the silver in freestyle wrestling. The bronze medal in the 800-meter freestyle women's swimming event was won by Wendy Weinberg of Baltimore. I am not sure Maryland can rightfully claim them, but Steve Sheppard from the University of Maryland and Adrian Dantley who played high school basketball at De Matha in Hyattsville helped spark the Men's Basketball Team to its gold medal.

Marylanders who competed well in a wide range of other events included Linda Murray Dragan of Oxon Hill, kayaking; Ed Donofrio of Annapolis, foil fencing; Kathy Kusner of Monkton, equestrian Grand Prix des Nations jumping; and Cathy Menges of Cumberland, women's rowing eights and fours with cox.

But, when we reflect on the significance of the XXI Olympiad, we must look beyond the medal counts and national pride, beyond controversies over professionalism, and beyond the specter of terrorism that has haunted these games since Munich. We must focus clearly on the individual athlete who has chosen the path of discipline and struggle to attain the pinnacle of excellence demanded of Olympic contenders.

In defeat as well as in victory, our athletes conducted themselves with spirit, grace, and skill. They have enobled sport and inspired us all.

Today it is an honor and a great pleasure for me to introduce a resolution congratulating the U.S. Olympic Team on its performance, on its victories, and on its good sportsmanship in victory and defeat alike.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 501) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

> Whereas the Olympic Games are held every four years to let the great athletes of the world vie with each other in a spirit of peace and friendship; and
>
> Whereas the 1976 United States Olympic Team consisted of many of the finest amateur athletes in America; and
>
> Whereas these American athletes expended every effort in competition by winning 94 medals, in an exceptionally wide range of events and displayed the highest degree of sportsmanship in the truest spirit of the Olympic Games; and
>
> Whereas the performance of the United States team demonstrates the training, discipline, sacrifice, skill, and courage of the men and women chosen to represent this Nation in the Summer Olympic Games; and
>
> Whereas the Nation is heartened by the example set by the United States team who have exerted themselves out of honor for their country, love for their sport and respect for themselves;
>
> *Resolved*, That the Senate of the United States expresses pride in and gratitude for the conduct and achievement of the athletes, coaches, trainers, and committee members of the 1976 United States Olympic Team for their excellent performance at the XXI Olympiad.
>
> *Resolved further*, that the Secretary of the Senate be authorized to transmit a copy of this Resolution to the United States Olympic Committee.

COMMITTEE MEETINGS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Committee on Post Office and Civil Service be authorized to meet on August 3 to consider nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. I ask unanimous consent that the Subcommittee on Aviation of the Committee on Commerce be permitted to meet on August 3 to consider a bill pertaining to exemption authority of the Civil Aeronautics Board.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. I ask unanimous consent that the Committee on the Judiciary be permitted to meet on August 3 to consider a nomination.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Committee on Interior and Insular Affairs be authorized to meet on August 3 and 4 to consider several items of legislation.

Mr. GRIFFIN. Mr. President, at the request of another Senator, I must respectfully object to that.

The PRESIDING OFFICER. Objection is heard.

Mr. MANSFIELD. I ask unanimous consent that the Committee on Banking, Housing and Urban Affairs be authorized to meet on August 3, 4, 5, and 6, to conduct oversight hearings.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet on August 3 to consider nominations, international commodity agreements, and an amendment to the Bretton Woods Agreement Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. I ask unanimous consent that the Subcommittee on African Affairs of the Committee on Foreign Relations be authorized to hold oversight hearings on August 4, 5, and 6 on developments in Ethiopia.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. I ask unanimous consent that the Subcommittee on Multinational Corporations of the Committee on Foreign Relations be permitted to meet on August 5 and 6 on the Grumman Corp.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRIFFIN. Mr. President, I only wish to observe that, with very minor exceptions, the committee meetings that have not been objected to do not relate to legislative matters.

I know that it has been the intention of the leadership on both sides that we discourage committee meetings while the Senate is in session, particularly to deal with legislative items. I want to indicate my continued support of the majority leader in that policy and hope that we will not have too many requests, particularly when the Senate is coming in at 8 o'clock in the morning.

DEPARTMENT OF DEFENSE APPROPRIATIONS, 1977

The Senate continued with the consideration of the bill (H.R. 14262) making appropriations for the Department of Defense for the fiscal year ending September 30, 1977, and for other purposes.

Mr. BAYH. Mr. President, I ask unanimous consent that Mary Jane Cicchi of my staff be permitted the privilege of the floor during debate and votes on H.R. 14262.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GARY HART. Mr. President, I ask unanimous consent that it be in order to offer the amendment which I have sent to the desk, since it is an amendment to an amendment already agreed to.

The PRESIDING OFFICER. In part.

Is there objection?

Mr. ALLEN. Reserving the right to object, what is the request?

Mr. GARY HART. The request is that it be considered in order for the amendment which I have sent to the desk to be considered, since it is an amendment to an amendment.

Mr. ALLEN. I am constrained to object to the request, Mr. President.

The PRESIDING OFFICER. The amendment amends a figure already amended by an earlier amendment. That is the extent of the amendment.

Mr. GARY HART. I hope the Senator will withhold his objection.

Mr. ALLEN. I object at this time. The amendment will not come up until Monday and possibly, the request could be made at that time. For the time being, I reserve the right to object.

Mr. ROBERT C. BYRD. Mr. President, I hope the Senator will not interpose an objection here. The whole schedule of the morning of Monday next hinges on this amendment. Those of us who may be opposed to it can vote it down. I hope the Senator will not interpose an objection tonight.

Mr. MANSFIELD. Especially in view of the fact that we, in effect, indicated to the Senator that there would be no further business. The Senator agreed to the Hart amendment and I think the Senator from Colorado was correct. As the Senator from West Virginia indicated, we have tried to work out a schedule because we are up against the gun as far as legislation is concerned.

Mr. ALLEN. Very well. I accede to the request of the majority leaders and the distinguished Senator from Colorado.

Mr. ROBERT C. BYRD. Mr. President, I thank the Senator very much.

Mr. MANSFIELD. I thank the Senator.

The PRESIDING OFFICER. Without objection, the amendment will be in order.

ORDER FOR RECOGNITION OF SENATOR PELL ON TUESDAY, AUGUST 10, 1976

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Tuesday, August 10, after the two leaders or their designees have been recognized under the standing order, Mr. PELL be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR CONSIDERATION OF CLEAN AIR ACT FOLLOWING THE PRAYER TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, immediately following the prayer, the Senate proceed to the consideration of the Clean Air Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will convene at 8:30 a.m. tomorrow. After the prayer, the Senate will resume consideration of the Clean Air Act, at which time the Moss amendment will be pending. There is a limitation of debate on S. 3219, and the Allen amendment, No. 2101, and the Randolph amendment, No. 1798, will be temporarily laid aside, with a vote to occur on the Moss amendment no later than 1:30 p.m.

At 1:45 p.m., the Senate will begin the debate on the override of the veto of the bill S. 391.

The debate will continue for 30 minutes, with the time to be divided between Mr. METCALF and the minority leader or his designee, and at 2:15 p.m., the vote will occur on the override of the President's veto of S. 391, the coal leasing bill.

After the vote on the override, the unfinished business will be resumed, H.R. 10612, the tax reform bill, at which time, I believe the pending question before the Senate will be on the adoption of the amendment by Mr. TAFT, amendment No. 1902.

Rollcall votes will occur throughout the day: First, on amendments to the clean air bill, then on the override of the President's veto, then, later in the afternoon and into the evening, on the amendments and motions in relation to the tax reform bill.

Mr. ALLEN. Will the Senator yield?

Mr. ROBERT C. BYRD. Yes.

Mr. ALLEN. The way I understood the Senator in announcing the program, he stated that the amendment No. 2101 would temporarily be laid aside in order that the Moss amendment could be the pending business. Is it not correct that the Randolph amendment also would be laid aside?

Mr. ROBERT C. BYRD. Yes.

Mr. ALLEN. I believe the Senator did not cover that contingency.

Mr. ROBERT C. BYRD. I am sorry if I did not. I intended to.

Mr. ALLEN. So the Randolph amendment and the Allen amendment thereto would be laid aside temporarily and the Moss amendment would be the amendment in the first degree.

Mr. ROBERT C. BYRD. The Senator is correct. I thought I had stated that both the Allen amendment, No. 2101 and the Randolph amendment, No. 1798, would be temporarily laid aside.

Mr. ALLEN. I do not believe that is correct, but I would like to have it definitely stated.

Mr. ROBERT C. BYRD. The Senator is correct.

ADJOURNMENT TO 8:30 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, may I ask the Chair, is the convening time 8:30 tomorrow morning or 8 o'clock? I see it both ways on the Journal.

The PRESIDING OFFICER. The convening time set is 8:30.

Mr. ROBERT C. BYRD. I thank the Chair.

Mr. President, there being no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until 8:30 tomorrow morning.

The motion was agreed to; and at 7:58 p.m., the Senate adjourned to tomorrow, Tuesday, August 3, 1976 at 8:30 a.m.

NOMINATIONS

Executive nominations received by the Senate August 2, 1976:

DEPARTMENT OF JUSTICE

William C. Smitherman, of Arizona, to be U.S. attorney for the district of Arizona for the term of 4 years (reappointment).

IN THE ARMY

The following-named officers for promotion in the Regular Army of the United States, under the provisions of title 10, United States Code, sections 3284 and 3298:

ARMY PROMOTION LIST

To be first lieutenant

Abbott, Richard L., xxx-xx-xxxx.
Abdo, Michael J., xxx-xx-xxxx.
Abel, Stephen G., xxx-xx-xxxx.
Accinelli, Steven R., xxx-xx-xxxx.
Ackerman, Michael J., xxx-xx-xxxx.
Acton, Dennis A., xxx-xx-xxxx.
Adair, Lawrence R., xxx-xx-xxxx.
Adams, Andrew E., xxx-xx-xxxx.
Adams, Billy J., xxx-xx-xxxx.
Adams, Gary E., xxx-xx-xxxx.
Adams, Jonathan P., xxx-xx-xxxx.
Adams, Stephen C. xxx-xx-xxxx.
Adan, Richard J., xxx-xx-xxxx.
Addison, Ronald E., xxx-xx-xxxx.
Adee, Daniel S., xxx-xx-xxxx.
Adnot, Michael J., xxx-xx-xxxx.
Agee, Wendell S., xxx-xx-xxxx.
Ailport, John H., xxx-xx-xxxx.
Albrecht, William E., xxx-xx-xxxx.
Aldridge, William R., xxx-xx-xxxx.
Alequin, Reinaldo, xxx-xx-xxxx.
Aleshin, John N., xxx-xx-xxxx.
Alexander, Keith B., xxx-xx-xxxx.
Alexander, Robert S., xxx-xx-xxxx.
Allard, James C., xxx-xx-xxxx.
Allen, James C., xxx-xx-xxxx.
Allen, Robert C., xxx-xx-xxxx.
Allinder, William L., xxx-xx-xxxx.
Altobello, Roy J., xxx-xx-xxxx.
Alverson, Gary D., xxx-xx-xxxx.
Andersen, William H., xxx-xx-xxxx.
Anderson, Brian W., xxx-xx-xxxx.
Anderson, Craig A., xxx-xx-xxxx.
Anderson, David A., xxx-xx-xxxx.
Anderson, Douglas C., xxx-xx-xxxx.
Anderson, Gary J., xxx-xx-xxxx.
Anderson, Jeffrey W., xxx-xx-xxxx.
Anderson, Knut E., xxx-xx-xxxx.
Anderson, Robert B., xxx-xx-xxxx.
Anderson, Robert C., xxx-xx-xxxx.
Andersson, Norman H., xxx-xx-xxxx.
Andren, Erik S., xxx-xx-xxxx.
Andreotta, Mark P., xxx-xx-xxxx.
Andrews, Aaron R., xxx-xx-xxxx.
Andriani, Michael R., xxx-xx-xxxx.
Annis, Paul T., Jr., xxx-xx-xxxx.
Athony, Thomas J., xxx-xx-xxxx.
Antonelli, Michael, xxx-xx-xxxx.
Apigian, Lester J., xxx-xx-xxxx.
Arlinghaus, Bruce C., xxx-xx-xxxx.
Armstrong Clare H., xxx-xx-xxxx.
Arnberg, Gregory C., xxx-xx-xxxx.
Arndt, Joseph M., xxx-xx-xxxx.
Arriola, Meliton C., xxx-xx-xxxx.
Arnuskie, Karl J., xxx-xx-xxxx.
Arvai, John J., xxx-xx-xxxx.
Astin, Roger W., xxx-xx-xxxx.
Aston, Michael E., xxx-xx-xxxx.
Aucott, Walter E., xxx-xx-xxxx.
Augustine, Frederic, xxx-xx-xxxx.
Austin, Steve P., xxx-xx-xxxx.
Austin, William C., xxx-xx-xxxx.
Azama, Wesley J., xxx-xx-xxxx.
Babylon, William T., xxx-xx-xxxx.
Bacastow, Todd S., xxx-xx-xxxx.
Bachmann, Robert D., xxx-xx-xxxx.
Bailey, Bruce B., xxx-xx-xxxx.
Bailey, Leslie C., xxx-xx-xxxx.
Bailey, Michael J., xxx-xx-xxxx.
Bailey, Stephen L., xxx-xx-xxxx.
Bailey, Thomas R., xxx-xx-xxxx.
Baird, Robert G., xxx-xx-xxxx.
Baker, Mark W., xxx-xx-xxxx.
Baker, Timothy J., xxx-xx-xxxx.
Baldwin, Ronald E., xxx-xx-xxxx.
Balentine, Terry K., xxx-xx-xxxx.
Ballard, Richard F., xxx-xx-xxxx.
Banks, Allan A., xxx-xx-xxxx.
Banks, Michael L., xxx-xx-xxxx.
Banks, Quentin W., xxx-xx-xxxx.
Bannister, Kimball, xxx-xx-xxxx.
Barbee, John C., xxx-xx-xxxx.
Barbero, Eugene G., xxx-xx-xxxx.
Barclay, James C., xxx-xx-xxxx.
Barfield, Thomas H., xxx-xx-xxxx.
Barker, Charles W., xxx-xx-xxxx.
Barker, James T., xxx-xx-xxxx.
Barker, William E., xxx-xx-xxxx.
Barnard, Steven P., xxx-xx-xxxx.
Barnes, Eric R., xxx-xx-xxxx.
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Batchelor, Cecil G., [redacted].
Bateman, Bruce K., [redacted].
Batiste, John R., [redacted].
Batzer, Craig C., [redacted].
Bauer, Richard F., [redacted].
Baughman, James P., [redacted].
Baughman, Mark W., [redacted].
Bauman, Geary O., [redacted].
Bay, Thomas A., [redacted].
Bazemore, Haywood M., [redacted].
Bean, Gregory G., [redacted].
Beane, Thomas F., [redacted].
Bearce, Michael B., [redacted].
Beard, Walter S., [redacted].
Beardsley, Benedict, [redacted].
Beaty, Douglas R., [redacted].
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Berner, Howard E., [redacted].
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Bethea, Levern, [redacted].
Bethel, Lawrence C., [redacted].
Bethers, Bruce R., [redacted].
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Bevilacqua, Frank P., [redacted].
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Beyer, Kirk D., [redacted].
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Blackman, Merrill S., [redacted].
Blackwell, Buddy J., [redacted].
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Blasko, Dennis J., [redacted].
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Day, Philip C., [redacted].
Deakins, Garald W., [redacted].
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Deitz, Stephen R., [redacted].
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Delarosa, Augustine, [redacted].
Deleon, Dionisio A., [redacted].
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Deponai, Joseph J., [redacted].
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Desiderio, George J., [redacted].
Detore, Michael J., [redacted].
Devoe, Gregory H., [redacted].
Dewit, John P., [redacted].
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Dezzutti, Jimmie J., [redacted].
DiEleanora, Victor, [redacted].
Dial, Cortez K., [redacted].
Dial, Steven M., [redacted].
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Dickerson, John K., [redacted].
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DiGiorgia, Emilio, [redacted].
Dillingham, Jon M., [redacted].
Dillon, Edward F., [redacted].
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Donoho, Robert R., [redacted].
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Downar, Thomas J., [redacted].
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Dubia, Donald H., [redacted].
Duda, Dale S., [redacted].
Duesler, Daniel D., [redacted].
Duhm, Kenneth D., [redacted].
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Notestine, Lamar, [redacted].
Novak, James R., [redacted].
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O'Connell, Vincent F., [redacted].
Odowd, Mich, [redacted].
Oertel, Richard C., [redacted].
Ogilvie, Vincete C., [redacted].
O'Hara, James P., [redacted].
O'Hare, Dennis M., [redacted].
Oldham, James L., [redacted].
O'Leary, Paul S., [redacted].
O'Leary, Thomas J., [redacted].
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Olson, Darryl J., [redacted].
Olyniec, Peter M., [redacted].
Orchowski, Charles, [redacted].
O'Reilly, Christopher, [redacted].
O'Rourke, James A., [redacted].
Ortiz, Ascar V., [redacted].
Osborn, David K., [redacted].
Osborne, Rex N., [redacted].
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Ostapiej, Henry S., [redacted].
O'Sullivan, Paul F., [redacted].
Otte, John L., [redacted].
Ottesen, Stephan V., [redacted].
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Owenby, William B., [redacted].
Pack, John E., [redacted].
Page, John W., Jr., [redacted].
Palguta, Thomas J., [redacted].
Palkowetz, William, [redacted].
Palmatier, Bruce T., [redacted].
Palmore, Winston D., [redacted].
Pancoast, Ervin J., [redacted].
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Paternoster, Eric S., [redacted].
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Patterson, Zachary, [redacted].
Pattison, Jack E., [redacted].
Patton, Leon J., [redacted].
Pawley, Jerel E., [redacted].
Payne, Frank V., [redacted].
Peck, Michael P., [redacted].
Peck, Terry M., [redacted].
Peebles, William R., [redacted].
Peirce, George A., [redacted].
Pennypacker, William, [redacted].
Peppel, Duane, [redacted].
Perrone, John K., [redacted].
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Picard, Edward D., [redacted].
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Pinson, Robert C., [redacted].
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Plumley, Richard D., [redacted].
Poitevent, Robert R., [redacted].
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Polmateer, Thomas L., [redacted].
Polom, Edward F., [redacted].
Poole, Michael K., [redacted].
Pope, Olie L. Jr., [redacted].
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Preskitt, Eugene W., [redacted].
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Quinn, Daniel M., [redacted].
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Real, Ralph J., [redacted].
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Seeber, Donald C., [redacted].
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Sheldon, Victor L., [redacted].
Shenefiel, Stephen, [redacted].
Shepherd, Kim E., [redacted].
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Shires, Scott L., [redacted].
Shivers, James F., [redacted].
Shonts, Steven W., [redacted].
Shortal, John F., [redacted].
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Siegert, Robert W., [redacted].
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Siegmund, Michael L., [redacted].
Sigl, Robert R., [redacted].
Sills, Paul N., [redacted].
Silvia, Robert S., [redacted].

Simmons, Harvey O., [redacted].
Simmons, James E., [redacted].
Simpson, Michael W., [redacted].
Sims, Gary L., [redacted].
Sims, Marzine, Jr., [redacted].
Sinclair, Christopher, [redacted].
Sisco, Jerry W., [redacted].
Sitero, Charles M., [redacted].
Sittler, Edward J., [redacted].
Skagg, Alvah L. II, [redacted].
Skinner, John E., [redacted].
Sladky, John F., [redacted].
Sleeper, Charles M., [redacted].
Slider, William Z., [redacted].
Slone, Darrell, [redacted].
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Smiley, George H., [redacted].
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Smoot, William S., [redacted].
Snitch, Wilbert L., [redacted].
Snyder, Michael S., [redacted].
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Soderberg, James A., [redacted].
Soesbe, Jack L., [redacted].
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Sommerville, Jeffrey, [redacted].
Soncrant, James T., [redacted].
Soper, Alan L., [redacted].
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Spaulding, Milton C., [redacted].
Speakes, Stephen M., [redacted].
Spear, Harry L., Jr., [redacted].
Spencer, William J., [redacted].
Spies, William J., [redacted].
Spiker, Douglas K., [redacted].
Spinelli, James L., [redacted].
Squire, Mark W., [redacted].
Squires, John A., [redacted].
Stafford, Keith R., [redacted].
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Standiford, Alan H., [redacted].
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Stoll, Ned C., [redacted].
Stone, Samuel A., [redacted].
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Studer, Randal W., [redacted].
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Sullivan, Thomas E., [redacted].
Sumers, George M., [redacted].
Sutton, Thomas H., [redacted].
Svancara, Ted W., [redacted].
Svitak, George M., [redacted].
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Tabor, Thomas N., [redacted].
Tafone, Paul J., [redacted].
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Talley, Wade K., [redacted].
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Tanel, Thomas L., [redacted].
Tanner, Timothy T., [redacted].
Tart, Randal G., [redacted].
Taylor, Allen R., [redacted].
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Taylor, Joe G., Jr., [redacted].
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Teeter, Terry W., [redacted].
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Tooley, Omer C., [redacted].
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Trauth, Stephen R., [redacted].
Treadway, Junior, [redacted].
Trice, Lafayette, Jr., [redacted].
Trimbur, Gregory R., [redacted].
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Trost, Robert W., III, [redacted].
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Twohig, John J., [redacted].
Tyler, Timothy J., [redacted].
Tyrrell, David R., [redacted].
Tyson, Timothy C., [redacted].
Uelk, John W., [redacted].
Ulrich, John W., [redacted].
Undercoffer, Graham, [redacted].
Underwood, Bennie L., [redacted].
Uttley, James L., [redacted].
Valenstein, John E., [redacted].
Vanarsdale, Lee A., [redacted].
Vance, Michael T., [redacted].
Vandergrinten, Pete, [redacted].
Van Hooser, Robert J., [redacted].
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Van Pattern, James G., [redacted].
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Veile, Jon H., [redacted].
Veit, Rudy T., [redacted].
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Wingo, Everett M., [redacted].
Winkles, Ronald C., [redacted].
Wiseman, Thomas H., [redacted].
Withers, Benjamin G., [redacted].
Wittman, Craig P., [redacted].
Wolf, William A., [redacted].
Wolfe, Paul L., [redacted].
Wolfe, Randall S., [redacted].
Wolfe, Russell S., [redacted].
Wolfe, Will, [redacted].
Wolff, Donald A., [redacted].
Wood, Samuel S., [redacted].
Wood, William J., [redacted].
Woodruff, Joseph A., [redacted].
Woods, Henley P., [redacted].
Wortzel, Larry M., [redacted].
Wright, Alan K., [redacted].
Wright, James A., [redacted].
Wright, Jesse N., [redacted].
Wright, William B., [redacted].
Wyand, Patrick J., [redacted].
Wyatt, Richard B., [redacted].
Yarbrough, Clifford, [redacted].
Yeterian, Edward M., [redacted].
Yezak, Robert Jr., [redacted].
Young, Dan C., [redacted].
Youngbluth, Terry R., [redacted].
Zacherl, Donald H., [redacted].
Zachgo, Charles L., [redacted].
Zaklan, Christopher, [redacted].
Zaleski, Edward J., [redacted].
Zapata, Fernando, Jr., [redacted].
Zeigler, Peter H., [redacted].
Zenn, Billy R., [redacted].
Zerressen, Dieter H., [redacted].
Ziegler, Andrew H., [redacted].
Ziegmann, William W., [redacted].
Zietlow, Charles W., [redacted].
Zwack, Daniel A., [redacted].
Zwahlen, Samuel S., [redacted].

MEDICAL SERVICE CORPS

To be first lieutenant

Anders, Michael T., [redacted].
Astriab, Steven M., [redacted].
Austin, Mark W., [redacted].
Bailey, Paul T., [redacted].
Bosse, David A., [redacted].
Bradshaw, Thomas A., [redacted].
Brown, Richard E., [redacted].
Buchmeier, Robert P., [redacted].
Campbell, Larry E., [redacted].
Carpenter, James L., [redacted].
Casso, Felipe, [redacted].
Dunnavant, John L., [redacted].
Fairbanks, James W., [redacted].
Ferguson, Francis G., [redacted].
Fitzgerald, Robert, [redacted].
Fletcher, Thomas E., [redacted].
Fuller, Thomas G., [redacted].
Glazier, Calvin J., [redacted].
Goad, Jaan R., [redacted].
Goering, Kenneth D., [redacted].
Gonzelez, Jose M., [redacted].
Gorman, Lewis E., [redacted].
Graham, Howard J., [redacted].
Grant, Raymond L., [redacted].
Haas, Scott T., [redacted].
Hanselman, Samuel J., [redacted].
Harris, John T., [redacted].
Helseth, David C., [redacted].
Hightower, John P., [redacted].
Hoch, Alfred L., [redacted].
Houk, Lonny D., [redacted].
Jordi, Howard C., [redacted].
Jungwirth, Barry F., [redacted].
Justice, Robert A., [redacted].
Kiehl, Paul V., [redacted].
Knowles, Thomas J., [redacted].
Knutson, Michael, [redacted].
Kupchinsky, Gary L., [redacted].
Laberge, David W., [redacted].
Ledford, Ronald E., [redacted].
Lees, Michael A., [redacted].
Lenneville, Mark W., [redacted].
Libby, Frank A., [redacted].
Lindsey, Carl R., [redacted].
Litrio, John P., [redacted].
Little, James S., [redacted].
Lovallo, Dominick A., [redacted].
Lundry, Edward E., [redacted].
Martig, Robert J., [redacted].
McFadden, Steven R., [redacted].
McFarling, Leslie H., [redacted].
McMurphy, William C., [redacted].
Meier, Robert W., [redacted].
Meis, Emil F., [redacted].
Miller, David A., [redacted].
Mizell, James T., [redacted].
Moller, John R., [redacted].
Montelongo, Dario, [redacted].
Moran, Errol L., [redacted].
Mourtos, Constantine, [redacted].
Muramoto, Gary N., [redacted].
Nelsen, Lenn F., [redacted].
Nelson, Richard F., [redacted].
Newsome, Earl S., [redacted].
Owens, Terry L., [redacted].
Principe, Richard D., [redacted].
Ramos, Edwin T., [redacted].
Rawls, Edward T., [redacted].
Richardson, Allie J., [redacted].
Roden, Dan G., [redacted].
Rogers, Alfred W., [redacted].
Rosander, David J., [redacted].
Ryczak, Robert S., [redacted].
Schowengerdt, Daniel, [redacted].
Schroeder, David L., [redacted].
Sihelnik, Stephen A., [redacted].
Silkey, Larry K., [redacted].
Smith, Bryan E., [redacted].
Smith, Larry A., [redacted].
Spivey, George T., [redacted].
Staus, Ronald G., [redacted].
Stewart, Robert S., [redacted].
Sullivan, Harold H., [redacted].
Sullivan, Ronald W., [redacted].
Sur, Stanford K., [redacted].
Thompson, Nathaniel, [redacted].
Toothman, Edward J., [redacted].
Treiber, Randal L., [redacted].
Van Dyke, Melvin R., [redacted].
Walker, Michael E., [redacted].
Webber, Paul M., [redacted].
Wesley, Olan L., [redacted].
White, Christopher, [redacted].
Williams, David E., [redacted].
Williams, Edward H., [redacted].
Wright, Charles T., [redacted].
Zieske, Larry A., [redacted].

ARMY NURSE CORPS

To be first lieutenant

Anderson, Timothy D., [redacted].
Andresen, James A., [redacted].
Baehr, Randall C., [redacted].
Boyle, Kim A., [redacted].
Burgess, Molly C., [redacted].
Clayton, Mary B., [redacted].
Corbin, Kathleen C., [redacted].
Droegemueller, Mary, [redacted].
Edgecomb, Barbara L., [redacted].
Eitel, Martin O., [redacted].
Elsesser, Susan, [redacted].
Farnell, Jill E., [redacted].
Gilbert, Derl H., [redacted].
Gray, Ollie B., [redacted].
Gurney, Cynthia A., [redacted].
Hoge, Linda J., [redacted].
Houser, Susan M., [redacted].
Kochansky, Samuel W., [redacted].
Lawver, John A., [redacted].
Meis, Harold J., [redacted].
Mitchell, Paula R., [redacted].
Porch, Alan G., [redacted].
Prucha, James F., [redacted].
Rixon, Susanne P., [redacted].
Rucki, Carol A., [redacted].
Sadler, Freida J., [redacted].
Schwiesow, Joel D., [redacted].
Scrogham, Jefferson, [redacted].
Sparks, Glenn E., [redacted].
Splichal, Clifford, [redacted].
Srsic, Kathleen M., [redacted].
Steenbock, Mark G., [redacted].
Suiter, Robert L., [redacted].
Sullivan, Candice E., [redacted].
Taddiken, Patricia, [redacted].
Taylor, Daniel B., [redacted].
Taylor, Dianne M., [redacted].
Varner, Willie H., [redacted].
Walsh, Darleen F., [redacted].
Whitehead, David E., [redacted].
Whitehurst, Cynthia, [redacted].
Wojtecki, Karen M., [redacted].
Wolstencroft, Marga, [redacted].
Zimmerman, Katherine, [redacted].

CONFIRMATIONS

Executive nominations confirmed by the Senate August 2, 1976:

U.S. RAILWAY ASSOCIATION

Richard B. Ogilvie, of Illinois, to be a member of the Board of Directors of the United States Railway Association for the remainder of the term expiring July 8, 1976.

Richard B. Ogilvie, of Illinois, to be a member of the Board of Directors of the United States Railway Association for the term of 6 years expiring July 8, 1982.

The above nominations were approved subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

HOUSE OF REPRESENTATIVES—*Monday, August 2, 1976*

The House met at 12 o'clock noon.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

Mend your ways, agree with one another, live in peace and the God of love and peace shall be with you.—II Corinthians 13: 11.

Almighty God, from whom all thoughts of truth and love proceed, kindle, we pray Thee, in the hearts of all people a true love for peace and guide with Thy wisdom the Members of this House of Representatives that what is done here may be such that Thy kingdom of justice, truth, and love may go forward in our Nation and in our world.

Where our actions can make this a better world, where our words can be a source of courage and hope to discouraged and hopeless people, where our prayers can lift people to higher planes of living, there and then may we act, speak, and pray that Thy spirit may lead us in our third century healing our divisions, strengthening our unity, and making our Nation a channel for faith and freedom to flow into our world.

In the spirit of Christ we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment a bill of the House of the following title:

H.R. 5360. An act to increase benefits provided to American civilian internees in Southeast Asia.

The message also announced that the Senate had passed with amendments, in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 10339. An act to encourage the direct marketing of agricultural commodities from farmers to consumers; and

H.R. 12168. An act to amend the Natural Gas Pipeline Safety Act of 1968 to authorize additional appropriations, and for other purposes.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 12168) entitled "An act to amend the Natural Gas Pipeline Safety Act of 1968 to authorize additional appropriations, and for other purposes," disagreed to by the House; agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. MAGNUSON, Mr. HARTKE, and Mr. BEALL to be the conferees on the part of the Senate.

The message also announced that the Senate disagrees to the amendments of the House to the bill (S. 507) entitled "An act to provide for the management, protection, and development of the national resource lands, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. JACKSON, Mr. CHURCH, Mr. METCALF, Mr. JOHNSTON, Mr. HASKELL, Mr. BUMPERS, Mr. HANSEN, Mr. HATFIELD, and Mr. MCCLURE to be the conferees on the part of the Senate.

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

S. 1508. An act to require that certain information about gasoline be disclosed to consumers;

S. 1681. An act to amend the Federal Food, Drug, and Cosmetic Act with respect to cosmetic safety; and

S. 2780. An act to amend the Indian Claims Commission Act of August 13, 1946, and for other purposes.

ANNOUNCEMENT PERTAINING TO EULOGIES TO THE LATE HONORABLE WILLIAM A. BARRETT, OF PENNSYLVANIA, AND THE HONORABLE TORBERT H. MACDONALD, OF MASSACHUSETTS

Mr. HAYS of Ohio. Mr. Speaker, this announcement is to advise the membership that the closing date for printing the eulogies and encomiums to the late Representative William A. Barrett, of Pennsylvania, and Representative Torbert H. Macdonald, of Massachusetts, has been set for Monday, August 9, 1976. All copy for insertion must be submitted before this cutoff date so as to be included in the compendium of eulogies.

CONSENT CALENDAR

The SPEAKER. This is Consent Calendar Day. The Clerk will call the first bill on the Consent Calendar.

CITY WITHHOLDING TAXES IN THE CASE OF CERTAIN FEDERAL EMPLOYEES

The Clerk called the bill (H.R. 13297) to amend title 5, United States Code, to provide for the application of city withholding taxes to Federal employees who are residents of such city.

There being no objection, the Clerk read the bill as follows:

H.R. 13297

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the second sentence of section 5520(a) of title 5, United States Code, is amended to read as follows: "The agreement shall provide that the head of each agency of the United States shall comply with the requirements of the city ordinance in the case of any employee of the agency who is subject to the tax and (i) whose regular place of Federal employment is within the jurisdiction of the city with which the agreement is made or (ii) is a resident of such city.".

(b) The last sentence of section 5520(a) of title 5, United States Code, is amended by striking out "not a resident of the State" and inserting in lieu thereof "not a resident of, or whose regular place of Federal employment is not within, the State".

SEC. 2. The amendments made by the first section of this Act shall take effect on the ninetieth day after the date of the enactment of this Act.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

NAMING THE NORRIS COTTON BUILDING

The Clerk called the bill (H.R. 14545) to designate the Federal office building located in Manchester, N.H., as the "Norris Cotton Building."

There being no objection, the Clerk read the bill as follows:

H.R. 14545

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Federal office building in Manchester, New Hampshire, is designated as the "Norris Cotton Building", in honor of Senator Norris Cotton.

SEC. 2. Any reference to such building in any law, rule, document, map, or other record of the United States is deemed to be a reference to such building by the name designated for such building by the first section of this Act.

Mr. GINN. Mr. Speaker, H.R. 14545 would designate the Federal office building to be completed in the near future in Manchester, N.H., as the "Norris Cotton Building."

Senator Norris Cotton was born in Warren, N.H., on May 11, 1900. At the beginning of his public service, Norris Cotton held several State positions, including clerk of the State senate, prosecuting attorney for Grafton County, and municipal court judge in Lebanon. In 1946, he was elected to the House of Representatives where he served four consecutive terms. After completing the unexpired term of the late Senator Tobey, he was elected to three consecutive full terms in the Senate.

There, as ranking minority member of the Committee on Commerce, he played an important role in legislation dealing with aviation, transportation, consumer protection, and space age communications. As a ranking member of the Committee on Appropriations his work in the areas of labor, health, education, and welfare proved to be the most gratifying of his long career.

Mr. Speaker, in view of his long, distinguished career, the committee feels it is most fitting to name the new Federal building in Manchester, N.H., as the "Norris Cotton Building."

Mr. JONES of Alabama. Mr. Speaker, will the gentleman yield?

Mr. GINN. I yield to the gentleman from Alabama.

Mr. JONES of Alabama. Mr. Speaker, I am pleased to recommend to my colleagues H.R. 14545, a bill to designate the new Federal office building located in Manchester, N.H., as the "Norris Cotton Building."

Norris Cotton served in the House of Representatives from January 1947 until November 1954. I had the privilege of serving with him in the House for 7 years. During his tenure in the House, he devoted his career to helping not only the citizens of his district and of his State but the entire Nation. He was a warmhearted individual with a deep understanding of the problems of all Americans.

In 1954, Norris Cotton completed the unexpired term of the late Senator Tobey, and was elected to three consecutive full terms in the Senate. In the Senate, he served as ranking minority member of the Committee on Commerce. He served his Nation well and played an important role in legislation dealing with aviation, transportation, consumer protection, and space age communications. Also, as a ranking member of the Senate Committee on Appropriations, his work in the areas of labor, health, education, and welfare benefited the Nation as a whole and his work in this area will long be remembered.

I urge enactment of the legislation.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

Mr. GINN. Mr. Speaker, I ask unanimous consent that the Committee on Public Works and Transportation be discharged from further consideration of the Senate bill (S. 3589) to designate the Federal office building located in Manchester, N.H., as the "Norris Cotton Building," and ask for its immediate consideration.

The SPEAKER. Is there objection to the request of the gentleman from Georgia?

There was no objection.

The Clerk read the Senate bill as follows:

S. 3589

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Federal office building in Manchester, New Hampshire, is designated as the "Norris Cotton Building", in honor of Senator Norris Cotton.

SEC. 2. Any reference to such building in any law, rule, document, map, or other record of the United States is deemed to be a reference to such building by the name designated for such building by the first section of this Act.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House bill (H.R. 14545) was laid on the table.

GENERAL LEAVE

Mr. GINN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from Georgia?

There was no objection.

The SPEAKER. This concludes the call of the eligible bills on the Consent Calendar.

EARTHQUAKE LEGISLATION NEEDED

(Mr. ANDERSON of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ANDERSON of California. Mr. Speaker, last week's disastrous earthquake in China serves to remind us of the vulnerability of our own Nation to such calamities. Already this year, nations around the world have been hit by major tremors, from Asia, Europe, to South America. Recently, geologic signs have been studies in California that seem to indicate that our State may be hit again.

We in California are hardly obsessed by the danger. Earthquakes are simply a fact of life—the vast majority of quakes are so small that when we do notice them, they are a matter of mild curiosity and wonder at a marvel of nature. Most of us are no more obsessed by them than are the residents of, for instance, Florida by hurricanes.

Like hurrricanes, earthquakes represent a natural force that cannot be controlled by man. But unlike earthquakes, the storms can be predicted before the strike, and warning can be given to residents of the affected area. There is a very good chance, however, that with existing technology, an early warning system for earthquakes can be developed.

To most parts of the Nation, such a system is a matter of scientific curiosity. To those of us on the west coast and other areas prone to quake damage, it is an important priority that has the potential to save lives.

The Senate has already passed a bill S. 1174, that contains money for a comprehensive program to reduce earthquake hazards. We in the House should take quick and affirmative action on this measure, so that a mass tragedy such as occurred in China last week can be avoided—when and if a major earthquake hits the United States.

SUCCESS ACHIEVED IN SECURING RELEASE OF AMERICANS FROM SAIGON

(Mr. MONTGOMERY asked and was given permission to address the House for 1 minute and to revise and extend his remarks).

Mr. MONTGOMERY. Mr. Speaker, on behalf of the House Select Committee on MIA's. I am pleased to announce that we achieved success this weekend in securing the release of the majority of American citizens and their dependents who have been detained in Saigon since April of 1975. While we are encouraged that the Vietnamese agreed to let these Americans go, we still have some loose ends to tie up since there are a few Americans who were not released, as well as Vietnamese wives and dependents of former American servicemen. We have talked to the Vietnamese Embassy in Paris this morning about the few Americans still remaining.

Of course, we also still have the major problem of securing a factual accounting of our missing servicemen. This is indeed a thorny problem and one that is going to require further talks between the select committee and Vietnamese officials, as well as extensive talks between our two governments.

I take this opportunity to thank the U.N. High Commissioners for Refugees for making and handling the arrangements of flying these Americans out of Ho Chi Minh.

APPOINTMENT OF CONFEREES ON H.R. 5465, ALLOWING FEDERAL EMPLOYMENT PREFERENCE TO CERTAIN EMPLOYEES OF BUREAU OF INDIAN AFFAIRS AND INDIAN HEALTH SERVICE

Mr. HENDERSON. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 5465) to allow Federal employment preference to certain employees of the Bureau of Indian Affairs, and to certain employees of the Indian Health Service, who are not entitled to the benefits of, or who have been adversely affected by the application of, certain Federal laws allowing employment preference to Indians, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and request a conference with the Senate thereon.

The SPEAKER. Is there objection to the request of the gentleman from North Carolina? The Chair hears none, and appoints the following conferees: Messrs. HENDERSON, UDALL, DOMINICK V. DANIELS, WHITE, FORD of Michigan, DERWINSKI, and TAYLOR of Missouri.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. Pursuant to the provisions of clause 3(b) of rule XXVII, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to, under clause 4 of rule XV.

After all motions to suspend the rules have been entertained and debated and after those motions to be determined by nonrecord votes have been disposed of, the Chair will then put the question on each motion on which the further proceedings were postponed.

CIVIL SERVICE ANNUITIES FOR JUDGES

Mr. HENDERSON. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 12882) to amend chapter 83 of title 5, United States Code, to discontinue civil service annuity payments for periods of employment as a justice or judge of the United States, and for other purposes, as amended.

The Clerk read as follows:

H.R. 12882

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 8344 of title 5, United States Code, relating to annuities and pay on reemployment, is amended by adding at the end thereof the following new subsections:

"(d) Notwithstanding the provisions of subsection (a) of this section, if an annuitant receiving annuity from the Fund, except a Member receiving annuity from the Fund, becomes employed as a justice or judge of the United States, as defined by section 451 of title 28, annuity payments are discontinued during such employment and are resumed in the same amount upon resignation or retirement from regular active service as such a justice or judge.

"(e) A former employee or a former Member who becomes employed as a justice or judge of the United States, as defined by section 451 of title 28, may, at any time prior to resignation or retirement from regular active service as such a justice or judge, apply for and be paid, in accordance with section 8342(a) of this title, the amount (if any) by which the lump-sum credit exceeds the total annuity paid, notwithstanding the time limitation contained in such section for filing an application for payment.".

SEC. 2. A present or former justice or judge of the United States, as defined by section 451 of title 28, who, prior to the effective date of this section, voided his right to receive an annuity under subchapter III of chapter 83 of title 5, United States Code, by applying for and receiving a refund of his lump-sum credit while serving as such a justice or judge may, upon application filed with the Civil Service Commission within one year following the effective date of this section, redeposit such refund with interest computed under section 8334(e) of such title 5 and thereby reestablish his right to receive an annuity under such subchapter effective on the date he otherwise was eligible to receive an annuity. The surviving spouse of any such justice or judge who dies before the effective date of this section may apply to make such redeposit within one year following the effective date of this section and receive both the annuity which the justice or judge would have been entitled to receive had application been made by him for the annuity and any survivor annuity the justice or judge could have provided under the provisions of law in effect at the time of separation from the service on which title to the annuity is based.

SEC. 3. Notwithstanding section 5(c) of the Act of January 8, 1971 (Public Law 91–658; 5 U.S.C. 8339(j) note), an annuitant—

(1) who was unmarried at the time of retiring under a provision of Federal law which permitted him to elect a reduced annuity with a survivor payable to a spouse,

(2) who married after retiring but before January 8, 1971, and

(3) who certifies to the Civil Service Commission that he was unable to file a timely election under section 5(c) of such Act by reason of his failure to receive notification of his right to file such an election,

may irrevocably elect, in a signed writing received in the Commission within one year after the effective date of this section, a reduction in his current annuity in accordance with the provisions of section 8339(j) of title 5, United States Code. The reduction in annuity is effective the first day of the month after the election is received in the Commission.

SEC. 4. (a) The foregoing provisions of this Act shall take effect on—

(1) the date of the enactment of this Act, or

(2) October 1, 1976,

whichever date is later.

(b) The provisions of subsection (d) of section 8344 of title 5, United States Code, as added by the first section of this Act, shall apply only to an individual who becomes employed as a justice or judge of the United States on or after the effective date prescribed under subsection (a) of this section. The provisions of subsection (e) of such section, as added by the first section of this Act, shall apply to an individual employed as a justice or judge of the United States on the effective date prescribed under subsection (a) of this section, and to an individual appointed as such a justice or judge on or after such effective date.

SEC. 5. (a) Section 8340(b) of title 5, United States Code, relating to cost-of-living adjustment of annuities, is amended to read as follows:

"(b) Each month the Commission shall determine the percent change in the price index. Effective the first day of the second month which begins after the price index change equals a rise of at least 3 percent for a month over the price index for the base month, each annuity payable from the Fund having a commencing date not later than that effective date shall be increased by such percentage rise in the price index, adjusted to the nearest one-tenth of 1 percent.".

(b)(1) Subject to the provisions of paragraph (2) of this subsection, the amendment made by subsection (a) of this section shall take effect—

(A) on the date of the enactment of this Act; or

(B) October 1, 1976;

whichever is later.

(2)(A) The amendment made by this section shall not be construed to apply with respect to any annuity increase taking effect under section 8340 of title 5, United States Code, before the effective date prescribed in paragraph (1) of this subsection, nor shall any increase under section 8340 of such title take effect on or after the effective date so prescribed unless it is in accordance with the provisions of section 8340 of such title, as amended by this Act (or by any other Act enacted after the date of the enactment of this Act).

(B) In the event the price index change, as determined by the Civil Service Commission for the month in which the effective date prescribed in paragraph (1) of this subsection occurs, equals a rise of at least 3 percent over the price index for the base month then currently in effect under section 8340 of such title, each annuity payable from the Civil Service Retirement and Disability Fund shall be increased, effective on the first day of the second month that begins after such effective date, by the percentage rise in the price index for the month in which such effective date occurs, adjusted to the nearest one-tenth of 1 percent.

The SPEAKER. Is a second demanded?

Mr. DERWINSKI. Mr. Speaker, I demand a second.

The SPEAKER. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER. The gentleman from North Carolina (Mr. HENDERSON) will be recognized for 20 minutes.

CALL OF THE HOUSE

Mr. JEFFORDS. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. McFALL. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 579]

Abzug
Alexander
Andrews, N.C.
Armstrong
Ashley
AuCoin
Badillo
Bell
Bevill
Biaggi
Bolling
Burke, Calif.
Butler
Chisholm
Clausen, Don H.
Clay
Conlan
Conte
Conyers
Cornell
D'Amours
Daniels, N.J.
de la Garza
Dellums
Dent
Diggs
Dodd
Du Pont
Early
Edwards, Calif.
English
Erlenborn
Esch
Eshleman
Evans, Ind.
Evins, Tenn.
Findley
Fish
Flynt
Ford, Mich.
Ford, Tenn.
Fountain
Fraser
Gilman
Gonzalez
Green
Hagedorn
Hansen
Harrington
Heinz
Hinshaw
Holland
Holtzman
Ichord
Jarman
Jones, Ala.
Jones, Okla.
Jones, Tenn.
Kemp
Latta
Lehman
Litton
Lott
McCloskey
McDonald
McKinney
Martin
Matsunaga
Melcher
Mikva
Milford
Mills
Minish
Murphy, Ill.
Murphy, N.Y.
Neal
Nowak
Obey
O'Hara
Passman
Pepper
Peyser
Pike
Pressler
Pritchard
Randall
Reuss
Riegle
Risenhoover
Robinson
Roe
Rosenthal
Ruppe
Sarbanes
Scheuer
Shuster
Simon
Skubitz
Smith, Nebr.
Staggers
Steelman
Steiger, Ariz.
Stokes
Stuckey
Sullivan
Symington
Thompson
Thone
Traxler
Udall
Vander Jagt
Vander Veen
Wampler
Wirth
Wolff
Wydler
Young, Ga.
Zablocki

The SPEAKER. On this rollcall 314 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

CIVIL SERVICE ANNUITIES FOR JUDGES

GENERAL LEAVE

Mr. HENDERSON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill under consideration, H.R. 12882.

The SPEAKER. Is there objection to the request of the gentleman from North Carolina?

Mr. DINGELL. Reserving the right to object, Mr. Speaker, and I will not object, I reserve the right to object solely for the purpose of advising that I have just been communicated with by my good friend and colleague, the gentleman from Michigan (Mr. FORD), who is unavoidably detained elsewhere on official business. He has requested me to advise that he is opposed to the bill and the proposed amendments, and he has asked me to so announce to the House.

With that, Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

Mr. HENDERSON. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, there are two major purposes of H.R. 12882 as amended.

The major purpose of the bill as reported is to plug a loophole in the civil service retirement law by discontinuing civil service annuity payments to former employees who are appointed as justices or judges, and who are receiving pay as justices or judges. The prohibition will apply only to those who become employed as justices or judges after the effective date of the provisions of the bill, and annuity payments will be resumed upon resignation or retirement from regular active service as a justice or judge.

The purpose of the amendment is to eliminate the 1 percent that is added to each cost-of-living adjustment in civil service retirement annuities, and also to eliminate 3 months of the timelag in implementing each cost-of-living annuity adjustment.

Mr. Speaker, first I would like to briefly explain the amendment.

The Members will recall that both the Foreign Relations Authorization Act, 1977 (S. 3168, approved July 12, 1976, Public Law 94-350) covering the Foreign Service retirees, and the Department of Defense Appropriation Authorization Act, 1977—H.R. 12438, approved July 14, 1976, Public Law 94-361—covering military, CIA, Public Health Service, and National Oceanographic and Atmospheric Administration retirees, provide that any change in the method of computing the cost of living for civil service retirees will apply also to retirees covered by those two laws.

My amendment provides such a change in the method of computing the cost-of-living annuity increases and consequently will have an impact on the formula for computing the cost-of-living annuity increases for the employees covered by those two acts.

Under existing law, the cost-of-living adjustment procedure begins to run with the month during which the Consumer Price Index records at least a 3-percent increase over the previous base month. The annuity check reflecting such an increase reaches the annuitant during the seventh month.

Under my proposal, the 1-percent add-on will be eliminated, but the check will reach the annuitant in the fourth month, resulting in a reduction of 3 months of the delay in implementing a cost-of-living adjustment.

The long-term overcompensating effect of the current cost-of-living formula, which has included the 1-percent bonus since 1969, has been clearly documented.

From October 1969 to July 1976, the cost-of-living annuity increase formula with the 1-percent bonus has resulted in 10 annuity increases totaling 72 percent. Without the 1-percent bonus there would have been 10 increases totaling 56 percent. The General Accounting Office report shows that if the provisions of my amendment had been in effect during this period there would have been 13 adjustments totaling 53 percent, a lower percentage but more frequent and more current increases.

The President proposed to eliminate the 1-percent without any accompanying reduction in the 7 months delay in implementing adjustment. In my opinion, this is a classic case of overkill. We would have a gross undercompensation because of the 7-month timelag.

The original purpose of the 1-percent bonus was to compensate retirees for the rise in the cost of living which occurs during the lag period. To eliminate the 1 percent without an adjustment in the lag period would result in a gross undercompensation for the annuitants because of the 7-month lag.

While I agree that the 1-percent bonus should be eliminated, I believe that such action can be accomplished without prejudice to the annuitant by reducing the timelag by 3 months, as my amendment proposes to do.

Under my proposal the adjustments will occur more frequently than under the existing formula. However, the amendment will result in substantial savings to the Government.

Based on estimates prepared by the Congressional Budget Office, which I will include at the end of my statement, the savings proposed by my amendment, as compared with the savings under the President's proposal to eliminate the 1-percent bonus without any change in the timelag, are as follows:

	Fiscal year 1977	*Fiscal years 1977–81*
Eliminate only 1%	($ Million)	($ Billion)
Civil service	86	2.0
Military	87	1.7
Total	173	3.7
Amendment		
Civil service	42	1.4
Military	39	1.5
Total	81	2.9

Mr. Speaker, I firmly believe that my amendment represents a reasonable and sensible compromise which will serve the best interests of both the Government and the civil service annuitants. It will eliminate the overcompensation which now occurs due to the 1-percent add-on. At the same time, it will not have the effect of too much undercompensation in terms of purchasing power.

For example, assuming an average annual inflation rate of 6 percent over the next 28 years, civil service annuitants would receive an increase of about 25.1 percent in excess of the actual rise in the cost of living under the present system, which includes the 1-percent bonus. Under my proposal, the overall increase would be two-tenths of a percent less than the cost-of-living increase with only a 4-month lag each time.

Under the administration's proposal which would simply eliminate the 1-percent bonus, the overall increase would be 1.2 percent less than the cost-of-living increase, but each increase would be received after a 7-month lag.

Mr. Speaker, in view of the recent action taken by the conferees on both the Defense Department and State Department authorization bills with respect to cost-of-living increases under the military and Foreign Service retirement systems, I believe it is imperative that we act today to resolve this issue in a way that is fair to both the civil service retiree and the American taxpayer.

We can do this by passing H.R. 12882 with the amendment.

Mr. Speaker, a word now about the prohibition against a justice or judge receiving a civil service annuity while serving as a justice or judge.

As a general policy, civil service annuitants who are reemployed in the Federal Government after retirement are not entitled to receive both their annuities and the full salary of their positions during the period of reemployment.

If the reemployed annuitant is a former civil service employee, he continues to receive his annuity but his pay is reduced by the amount of his annuity allocable to the period of reemployment.

If the annuitant is a former Member of Congress and is reemployed in any elective or appointive position, including appointment as a Federal judge, existing law requires that his annuity be suspended during the period of reemployment. The annuity is resumed in the same amount upon termination of the employment.

In 1966 the Comptroller General ruled that the salary of a justice or judge may not be reduced by the amount of his civil service annuity because of the prohibition against diminishing the salary of a Federal justice or judge under article III of the Constitution. The Civil Service Commission interpreted this decision to compel the suspension of annuity payments when a former employee became a justice or judge, in lieu of reducing his salary by the amount of his annuity.

In August of 1975, however, the Attorney General's Office of Legal Counsel advised the Commission that there exists no authority under present law to withhold annuity payments to a former employee while serving as a justice or judge. This decision did not affect the suspension of annuity payments to former Members who serve as Federal judges.

H.R. 12882 will correct the deficiency in the civil service retirement law by providing for the suspension of annuity payments to former employees who become employed as justices or judges of the United States. This amendment, however, will apply only to annuitants who are appointed as justices or judges of the United States on or after the effective date of the bill. Annuitants who presently are serving as Federal judges will continue to draw their full annuities.

Additionally, the bill will permit a justice or judge who previously withdrew his contributions from the retirement fund on the assumption that he would not be entitled to annuity payments while serving as a judge to redeposit such contributions, with interest, and reestablish his right to receive an annuity effective on the date he otherwise would have been entitled to receive the annuity. There are approximately 50 Federal judges who would be affected by this provision.

The provision of the bill which authorizes the discontinuance of civil service annuity payments to former employees appointed as justices or judges of the United States will eventually result in a reduction in payments from the civil service retirement fund. However, since such provision will apply only to appointments made on or after the effective date of the bill, the savings will not be realized for several years.

Mr. Speaker, I urge the adoption of H.R. 12882 as amended.

I include the following material:

CONGRESSIONAL BUDGET OFFICE,
Washington, D.C., July 13, 1976.

HON. DAVID N. HENDERSON,
Chairman, Committee on Post Office and Civil Service, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: In response to your letter of June 24, 1976, the Congressional Budget Office has prepared an informal estimate of the costs associated with H.R. 14520, a bill to revise the method of determining cost-of-living increases payable to civil service annuitants. The outlay estimates are the same as those informally communicated to your staff on June 28. For comparison, a summary is also enclosed which sets forth military and civil service retirement costs under current law, simple elimination of the 1 percent kicker, and H.R. 14520. These estimates are based on CBO's economic assumptions of March 9, 1976. The CBO is currently preparing a new forecast which may affect the absolute outlay levels but should not appreciably change the relative costs or savings under the various alternatives for determining cost-of-living increases.

We shall provide a section 403 cost estimate when a final version of the bill has been agreed to by the committee. If you desire, we would be pleased to provide further details on this bill or other alternatives under consideration.

Sincerely yours,
ALICE M. RIVLIN,
Director.

CONGRESSIONAL BUDGET OFFICE—PRELIMINARY FIVE-YEAR COST ESTIMATE FOR H.R. 14520, JUNE 29, 1976

Enactment of H.R. 14520 would revise the method of determining cost-of-living increases payable to civil service annuitants. Annuities would be adjusted the first day of the second month after the CPI has increased by 3 percent or more. The so-called 1 percent kicker would be eliminated.

CBO estimates that H.R. 14520 would generate outlay savings of $42 million in fiscal year 1977 and that annual savings would rise to $590 million in fiscal year 1981 (see table below).

The reduced payout from the fund and associated decrease in unfunded liability under H.R. 14520 will also have the net effect of reducing annual fund income and thus budget authority. The net reduction in budget authority is due to: (a) reduced appropriations for payments into the retirement fund to cover interest on unfunded liability and military service annuities, and (b) increased earning from interest on larger fund balances.

CIVIL SERVICE RETIREMENT

[Savings (—) in millions of dollars]

	Fiscal year—				
	1977	1978	1979	1980	1981
Outlays	—42	—186	—256	—436	—590
Budget authority (fund income)	(1)	—73	—168	—265	—361

[1] Less than $500,000.

The estimated outlay savings are based on current CBO economic assumptions which reflect pay raise assumptions in first concurrent resolution for fiscal year 1977. These assumptions result in a 4.9 percent annuity adjustment effective November 1976 under current law. However, this adjustment will most likely occur one or two months later under forthcoming update of CBO economic assumptions. The estimating model is the same as that used for projecting civil service retirement costs in CBO's annual report Budget Options for Fiscal Year 1977, March 15, 1976.

The estimated net reductions in budget authority include the changes in income to the Civil Service Retirement and Disability Trust Fund:

BUDGET AUTHORITY CHANGES

[In millions of dollars]

	Fiscal year—				
	1977	1978	1979	1980	1981
Payments to CSC Fund:					
Military service annuities	—1.9	—10.0	—15.9	—31.0	—43.1
Interest on unfunded liability		—77.6	—165.3	—275.8	—399.0
Earnings from interest on larger balances in fund	1.6	14.1	13.2	41.7	80.8
Total	—.3	—73.4	—168.0	—265.1	—361.3

The Civil Service Commission has supplied the House Post Office and Civil Service Committee with outlay savings under H.R. 14520. These compare with CBO estimates as follows:

OUTLAY COST/SAVINGS (—)

[In millions of dollars]

	Fiscal year—				
	1977	1978	1979	1980	1981
CSC	+30	—201	—329	—625	—779
CBO	—42	—186	—256	—436	—590

The difference in estimates is primarily attributable to differences in economic and program assumptions. The most notable differences, affecting estimates both under current law and H.R. 14520, concern: projected changes in consumer price index, including impact on first adjustment in fiscal year 1977; increases in federal employee pay (CSC does not assume *any* change); and effect of cost-of-living adjustments on when employees choose to retire. In order to test CBO estimating methodology, total outlays were calculated under H.R. 14520 using CBO model and CSC assumptions. Differences are less than .4 percent through FY 1980 and .85 percent in 1981. Comparisons follow:

ESTIMATED OUTLAYS UNDER H.R. 14250

[In millions of dollars]

	Fiscal year—				
	1977	1978	1979	1980	1981
CSC estimate	10,001	11,251	12,604	13,767	14,930
CBO estimate with CSC assumptions [1]	9,973	11,212	12,552	13,723	14,808
CBO estimate with CBO assumptions [2]	10,012	11,233	12,525	13,832	15,330

[1] Uses consumer price index projections supplied by CSC and does not assume any pay increases. Each cost-of-living increase is assumed to add 15,000 annuitants, compared to 20,000 under current law.

[2] Uses consumer price index and pay increase assumptions under CBO path C. Cost-of-living adjustments are assumed to add 15,000 annuitants for the first increase and 10,000 for any second increase occurring in the same fiscal year, compared to 15,000 per increase under current law.

The difference between cost estimates under H.R. 14520 and H.R. 3310 is essentially attributable to differences concerning the timing and size of the first adjustment. Under H.R. 14520 the first adjustment is effective in December and is based on the estimated increase between December 1975 and October 1976. Previous estimates for H.R. 3310 (memorandum to House Budget Committee of May 26, 1976) assumed a November 1976 adjustment would include the 1 percent kicker under current law with the first increase under the revised system occurring in May 1977.

COST COMPARISON FOR MILITARY AND CIVIL SERVICE RETIREMENT

[Outlays in billions]

	Fiscal year —				
	1977	1978	1979	1980	1981
Current law:					
Military	8,476	9,345	10,222	11,150	12,253
Civil service	10,054	11,419	12,781	14,268	15,920
Total	18,530	20,764	23,003	25,418	28,173
Eliminate 1 percent:					
Military	8,389	9,139	9,891	10,688	11,618
Civil service	9,968	11,180	12,390	13,713	15,170
Total	18,357	20,319	22,281	24,401	26,788
H.R. 14520:					
Military	8,437	9,183	9,987	10,745	11,671
Civil service	10,012	11,233	12,525	13,832	15,330
Total	18,449	20,416	22,512	24,577	27,001
COST/SAVINGS (—)					
Eliminate 1 percent:					
Military	—87	—206	—331	—462	—635
Civil service	—86	—239	—391	—555	—750
Total	—173	—445	—722	—1,017	—1,385
H.R. 14520:					
Military	—39	—162	—235	—405	—582
Civil service	—42	—186	—256	—436	—590
Total	—81	—348	—491	—841	—1,172

Mr. STRATTON. Mr. Speaker, will the gentleman yield?

Mr. HENDERSON. I yield to the gentleman from New York.

Mr. STRATTON. Mr. Speaker, I want to join with the gentleman from North Carolina (Mr. HENDERSON) in support of this legislation. I think he is taking a very brave step and a very necessary step.

I would like to remind the gentleman that the conferees on the Armed Services Committee on the defense authorization bill for fiscal year 1977 agreed earlier this year, and the Congress overwhelming concurred, to eliminate the 1-percent kicker in military retirement pay provided that Congress takes the same action with regard to civil service retirement. Certainly nobody wants to cut back the benefits of our retirees in uniform or our civilian employees. But the 1-percent add-on to retirement pay which was put in there to tide retirees over an initial timelag has now become a financial burden far beyond what anybody originally anticipated. The original purpose was simply to keep the retirement income of retirees up with the cost of living. But what has happened is that we have exceeded cost-of-living increases by 15 to 20 percent. Few pension plans of any kind keep up with cost-of-living increases. We certainly need not go beyond that figure.

Mr. DERWINSKI. Mr. Speaker, I yield such time as he may consume to the very distinguished gentleman from California (Mr. ROUSSELOT).

Mr. ROUSSELOT. Mr. Speaker, the Henderson amendment to H.R. 12882 is a reasonable solution to a difficult problem. It proposes to repeal the 1-percent kicker and reduce the benefit lagtime by 3 months.

Since 1969, each time a cost-of-living adjustment is effected, 1 percent is added to compensate for the 7-month timelag that occurs between the month the Consumer Price Index first increases by 3 percent and the month in which the adjustment is paid to the annuitant.

During the past 7 years, the Consumer Price Index has risen 56 percent, yet Federal annuitants have received increases totaling 71 percent, an overpayment of 15 percent. Translated into dollars, this is $816 million.

The Congressional Budget Office estimates the Henderson amendment will result in a 5-year savings to the civil service retirement fund of $1.5 billion.

It seems clear the die is cast on the issue of the 1 percent kicker. The Congress on several different occasions in the past month, has recorded its strong disapproval of continuing the generous 1 percent kicker.

The question remains, however, how do we amend the Civil Service Retirement Act? Do we repeal the 1-percent kicker and retain the present formula with its 7-month timelag or do we accept the so-called Findley amendment which would also repeal the 1-percent kicker and defer future payments to annuitants until the amount they have received since 1969 attributable to the 1-percent kicker has been absorbed?

Mr. Speaker, I reject the aforementioned alternatives as harsh medicine. I support the Henderson amendment because it corrects two serious flaws in the present cost-of-living formula. First, it repeals the overcompensating 1-percent kicker. Second, it reduces the timelag by 3 months. I urge my colleagues to support this worthy proposition.

Mr. DERWINSKI. Mr. Speaker, I yield such time as he may consume to the gentleman from Maryland (Mr. GUDE).

Mr. GUDE. Mr. Speaker, I strongly oppose the provision in this bill which would eliminate the 1 percent add-on to Federal retirees cost-of-living adjustments.

The ideal payout system for retirees would be one in which the Government actually adjusts annuities monthly to keep pace with monthly changes in the Consumer Price Index. This would maintain constant purchasing power. However, such a monthly adjustment is not technically or economically feasible.

This is why we must devise a system which yields approximately the same results as a monthly adjustment system, but which entails only periodic changes and permits time for check processing.

In 1969, Congress came up with the idea of adding an additional increase of 1 percentage point each time a cost-of-living adjustment was made in Federal employee retirement pay. The House clearly intended that the additional 1 percent was to compensate for the lag between the time the Consumer Price Index first increases over the previous base by 3 percent and the effective date of annuity increases. This amounts to a lagtime of about 5 months.

The Defense Manpower Commission conducted a thorough study on the controversial 1 percent add-on. In testimony before the House Post Office and Civil Service Subcommittee on Retirement, Commission representatives testified that none of the several alternatives which had been proposed—including the gentleman from North Carolina's proposal that is being offered here today—would maintain purchasing power for retirees. In fact, this proposal would result in a decrease in purchasing power.

Retirees are already struggling to keep up with hikes in utility rates and real estate taxes not to mention hefty increases in such standard living expenses as food and gasoline.

I am deeply concerned that the committee did not hold hearings on this provision which will adversely affect millions of retirees. In fact, the full committee never met to discuss the issue.

In view of the range of alternatives before the committee, I believe that—at the very least—full hearings should be held on this controversial issue.

I strongly urge my colleagues to vote against this measure which will lower the purchasing power of millions of Federal retirees to encourage a full airing on this matter in committee hearings.

Mr. DERWINSKI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of the motion of the gentleman from North Carolina (Mr. HENDERSON), the chairman of the Committee on Post Office and Civil Service.

Under the procedure the gentleman is following, we will today be able to correct two serious flaws in the civil service retirement law. It is not often we have such an opportunity with a single vote, and I urge my colleagues to support this positive measure.

The primary bill under consideration, H.R. 12882, provides legal authority to suspend civil service annuity payments for periods during which that person is entitled to receive salary as a justice or judge of the United States.

In the simplest terms, this bill, which I cosponsored, provides the authority for the Civil Service Commission to treat civil service annuitants who become judges or justices of the United States the same as it treats other reemployed annuitants in the Federal Government.

The legislation was introduced because of the serious problem brought to our attention by the Civil Service Commission concerning the payment of dual compensation to Federal justices and judges.

Prior to 1956, the Civil Service Retirement Act generally prohibited reemployment of annuitants other than in exceptional cases.

The 1956 amendments to the Retirement Act enacted the present rule for reemployment of annuitants. These amendments removed the bar to reemployment of annuitants, but with the requirement that such persons reentering Federal service, either in an elective or appointive position, would have the salary of that position reduced by the amount of the annuity they were receiving. In the case of Members of Congress who are drawing an annuity, the annuity is terminated during the period of reemployment.

The Civil Service Commission, during this time, took the position that appointment as a Federal judge was considered within the purview of the provision concerning reemployed annuitants, and such persons have been so treated. In the case of a judge who is appointed to hold office during good behavior—life—the Civil Service Commission has been suspending payment of civil service annuity because the Constitution prohibits the reduction of such a judge's salary.

However, after reviewing this policy of the Commission, the GAO concluded in August 1974 that the suspension of such annuities was without authority of law. The Civil Service Commission and the Justice Department concurred in this decision.

Therefore, this legislation is necessary to restore balance in the reemployed annuitant policy of the retirement law.

The legislation is prospective and will not affect those judges presently drawing civil service annuities. This, I believe, is fair.

However, the legislation will establish a clear policy for those civil service annuitants who assume Federal judgeships after the date of enactment.

The amendment to H.R. 12882, offered as part of the motion of the gentleman from North Carolina, is equally justified and important.

The amendment, relating to the 1-percent add-on to civil service cost-of-living annuities, is embodied in H.R. 14520, which I cosponsored with three of my committee colleagues.

Early in the year I introduced, at the

request of the administration, legislation to repeal the 1-percent add-on to civil service annuities. Frankly, I think most of us on the committee felt that this legislation would not be favorably received by the House.

However, recent developments have shown a strong interest in this issue. The changing mood of the House indicates that Chairman HENDERSON is taking the proper action.

This amendment is a practical and reasonable compromise to proposed suggestions for revising the cost-of-living formula of civil service annuities.

The amendment repeals the 1-percent bonus presently applied to civil service annuity adjustments, and the time-lag between the initial 3-percent rise in the Consumer Price Index and the adjusted payment to the annuitant is reduced by 3 months.

The cost savings are substantial. Estimated savings in outlays for fiscal year 1977 are $81 million—$42 million for civilian retirees and $39 million for military retirees. The 5-year savings are $2.9 billion.

Elimination of the 1-percent bonus is important to safeguard the resources of the civil service retirement fund. The 1-percent add-on has been in effect since 1969, and has resulted dramatically in overcompensation. Since November 1969, civil service annuity increases have totaled 72 percent. Yet, during this same period, the Consumer Price Index, to which annuity adjustments are geared, rose by only 56 percent.

I am convinced Congress never envisaged a program that would have such costs. The results of this action were clearly unanticipated.

The financial magnitude of this overcompensation is illustrated by the fact that of the $28 billion added to the unfunded liability of the civil service retirement system since 1969 by cost-of-living adjustments, about $5 billion is attributable to the 1-percent add-on.

Even without the 1-percent kicker, our civil service retirement program, with its built-in guarantee of automatic adjustments, must be rated on the generous side when compared with retirement programs in the private sector. Other retirement programs commonly apply limits on the amount and frequency of increases. This is not the case with our system. Retention of the 1-percent bonus would leave the Federal program virtually in a class by itself, and that is a distinction I do not think we can afford.

This amendment keeps faith with the civil service annuitants by permitting their annuities to stay abreast of cost-of-living rises, and at the same time squares with the mood of the House by eliminating the 1-percent bonus.

I urge favorable action on this legislation.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. DERWINSKI. I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Speaker, I thank my colleague for yielding to me.

First of all, I agree with the gentleman that if Members supported the budget resolution, this is a good rationale for supporting this bill because, as the gentleman from Washington (Mr. ADAMS), the chairman of the Budget Committee, and the ranking minority member, the gentleman from Ohio (Mr. LATTA) have said in a "Dear Colleague" letter, it is consistent with the budget resolution.

However, if a Member opposed the budget resolution because he felt that the expenditure level was too high, he should still support, even more emphatically, this resolution. Many of us did that because we felt the expenditure level in the budget resolution was too high.

Mr. DERWINSKI. The gentleman is correct. The gentleman, consistent with his record of legitimate economies in Government, would support this measure before us since it would achieve a type of economy we have to develop if we are to get the budget under control and reduce the deficit. But, I think the very minimum we should work for this afternoon is support for this measure by all Members.

Any Member who is on record as supporting the budget resolution or wanting to have the deficit at a lower figure, obviously is not going to turn thumbs down on a proposal that saves $3 billion over 5 years, a proposal anticipated by the Budget Committee when it presented the figures to us.

Mr. ROUSSELOT. And in no way does this bill penalize Federal employee annuitants from receiving in more timely fashion their cost-of-living increases.

Mr. DERWINSKI. No, it does not penalize them.

Mr. ROUSSELOT. And it encourages that to be done sooner than it is now done under present law; its that correct?

Mr. DERWINSKI. That is correct, I would like to quote from the recent report to Congress of the Comptroller General on the cost-of-living adjustment process. There are two figures I would like to have the Members keep in mind: Since November 1969, the Consumer Price Index increase has been 56.1 percent. The increases of annuities has been 71.7 percent. In that same period of time, the 71.7-percent annuity increases can be compared to pay increases of 57.6 percent.

So, this shows the tremendous advantages, and also the tremendous cost, involved in this overcompensation. So, what we are correcting is an overcompensation; we are being budget-minded; we are supporting the Budget Committee; we are taking actions consistent with two other measures recently adopted by the House.

Mr. Speaker, I would hope that we would have overwhelming approval of the Henderson bill today.

Mr. HENDERSON. Mr. Speaker, I yield 4 minutes to the gentleman from Washington (Mr. ADAMS), chairman of the Committee on the Budget.

Mr. ADAMS. Mr. Speaker, I rise in strong support of the Henderson amendment to eliminate the so-called 1-percent kicker in Federal retirement programs and compliment him for bringing it to the floor. This amendment is a compromise between flat elimination of that feature with no other change and continuation of the status quo. The amendment makes sense—both in terms of fiscal responsibility and in terms of providing more uniform treatment between social security retirees who do not receive a 1-percent kicker and Federal annuitants.

Savings in fiscal year 1977 would amount to $81 million, including $42 million in civil service and $39 million in military retirement. Cumulative savings through fiscal year 1981 would be $2.9 billion. These savings are not as large as assumed in the first budget resolution, because in that resolution we assumed straight elimination of the kicker with no speed-up in cost-of-living adjustments as in the Henderson amendment. But $2.9 billion over 5 years is a significant sum, especially when the large amount of general revenue subsidies of this retirement system is considered. If this amendment passes the House will have made the same provisions applicable to all Federal employees.

My colleagues will recall that this issue has been before the House several times this year, and each time we have acted to eliminate the kicker. Both the military and State Department authorizations provided for elimination of the kicker in whatever way it is done in the civil service system. On June 17, 1976, the House voted 331 to 64 to eliminate funding for the 1-percent kicker in the military appropriations bill.

We all have been receiving letters on this issue. The recipients, of course, want to keep this advantage. But the Henderson amendment would not be unfair; it would not punish Federal retirees. Indeed, it would still provide for cost-of-living increases whenever the CPI increases by 3 percent, rather than once a year as is the case with social security. Since the kicker was enacted in late 1969, these annuities have been increased by 72 percent while the cost of living for which these increases were to compensate rose by only 56 percent.

We need to protect our retirees against inflation. There is no argument with that. We do not need to overcompensate them for inflation. Especially when we do not do this for social security. Indeed, we simply cannot afford to do so and still hope to be able to fund other worthwhile activities.

There was some misunderstanding whether the Congressional Budget Office supported or opposed the 1-percent kicker. I am including a letter from the Director of the Congressional Budget Office indicating the position of that office, which clears up any misunderstanding that there might have been of the position of that office.

The letter is as follows:

CONGRESSIONAL BUDGET OFFICE,
Washington, D.C., June 30, 1976.

The EDITOR,
Federal Times,
Washington, D.C.

DEAR SIR: I take this opportunity to comment on the article "Annuity Kicker Has a Friend" in the July 26 issue of the Federal Times.

The article contained a number of remarks attributed to an "official" of the Congressional Budget Office, among them a qualified suggestion that ". . . there is a good argument for keeping the (one-percent) kicker intact." I have spoken to the CBO employee interviewed by your reporter. This person informs me that he was misquoted. He states unequivocally that he is the source referred to and that he simply did NOT make the remarks thus attributed.

I would appreciate your bringing this fact to the attention of your readers in the interests of fairness and balance. Further, the article implies that the CBO has taken a position that could be interpreted as favoring retention of the one-percent kicker. In fact CBO has taken no such position.

Nowhere in our report "The Effect of Inflation on Federal Expenditures" (in which the federal civilian retirement pay formula was discussed) is there a statement that remotely implies that the Congressional Budget Office is a proponent for or against this formula. The Congressional Budget Office does not make recommendations.

Sincerely,

Alice M. Rivlin,
Director.

Mr. ADAMS. Mr. Speaker, I urge my colleagues to vote "yes" to the Henderson amendment.

Mr. ADDABBO. Mr. Speaker, will the gentleman yield?

Mr. ADAMS. I yield to the gentleman from New York.

Mr. ADDABBO. I thank the gentleman for yielding.

Mr. Speaker, the gentleman pointed out that this would buy $3 billion worth of goods. But we are not changing priorities? This will take away $3 billion worth of buying capacity from our retirees who cannot afford to lose any of their buying capacity with today's cost of living.

Mr. ADAMS. Mr. Speaker, I might state to the gentleman that we are not taking away from the retirees, because they are going to receive their cost-of-living increase. In fact, they are going to receive it more often under the Henderson amendment than they do now. I indicated we must use care in all programs or we can't afford new programs and it is most likely any new program will help the poor among the retired more than this 1 percent does.

What is removed is a geometric progression which goes on and where we build 1 percent on top of 1 percent on top of 1 percent, so that it is possible with some retired people, with this kind of a percentage going on, that they will in time receive more in retirement than they did when they were actually working. That is not what the retirement system was meant to do.

Mr. Speaker, I might say this will apply to all employees. The House has previously voted on military, the House has previously voted on State Department employees, and this now brings everybody, including people in Congress, under the same type of system. I urge support for the Henderson amendment.

I might state that the Committee on the Budget has taken a formal position in this, not only on the budget resolution, but later we sent a letter to colleagues in strong support of the Henderson amendment and of the bill. I hope it passes, in fairness to the people of the United States, both those retired and those working.

Mr. LATTA. Mr. Speaker, as it is being considered for passage, H.R. 12882 contains the Henderson amendment to help place necessary restraints on Federal spending that is threatening to get out of hand. This is essential legislation and I urge the House to give its full support.

The amendment would have the effect of eliminating the 1-percent add-on paid civil service and military retirees when they receive periodic cost-of-living adjustments. The additional payment is known as the 1-percent kicker. In its place the law would be revised to speed up by 3 months payments of cost-of-living adjustments and thus insure that annuitants receive full compensation for inflation without that added delay. This will do away with the need for a kicker-type adjustment.

There are sound reasons for this change. The 1-percent kicker was added originally to make up for the timelag annuitants experienced in receiving cost-of-living adjustments. It was not intended to boost annuity levels way beyond inflationary rises, but that is what has happened. There have been 10 annuity increases which included the kicker between November 1969 when it was enacted and March of 1976 when the most recent increase was granted. During this time cost of living increased by 56 points, a 50.7-percent increase. But Federal employee annuities have shot up by 72 percent. Can there by any other conclusion but that this places an unconscionable burden on the taxpayers?

Members of the House should know that the 1-percent kicker is a generosity not available in other retirement systems, public or private. The General Accounting Office reports that according to a recent survey of the benefit programs of 1,800 major private employers, only 4 percent have pension plans which are automatically adjusted for cost-of-living increases. Not a single one of these plans allows payments in excess of the percentage rise in the Consumer Price Index.

The 1-percent kicker provision is also more generous than what is allowed injured or disabled Federal employees or their survivors under the Federal Employees Compensation Act. Workers' compensation recipients receive benefit increases whenever a 3-percent increase in the Consumer Price Index lasts for 3 months, but they are not entitled to the extra 1 percent that the Federal civil service retiree gets.

The 1-percent kicker is also more generous than what is allowed social security recipients who receive only annually a cost-of-living adjustment without any extra 1 percent being kicked in.

Perhaps the 1-percent add-on would be more defensible if civil service employees financed the 1-percent kicker with their retirement contributions. But that is not how the system works.

The military retirement system is entirely noncontributory. The civil service retirement system is contributory but the unfunded liability, which continues to mount because of the annual cost-of-living adjustments, is paid for by the taxpayers out of general revenues. And it goes without saying the 1-percent kicker that is added on certainly is not funded. The unfunded liability has to be made up by appropriations from general revenues which are paid for by the taxpayer generally.

Mr. Speaker, it is not right to expect the taxpayers of America to pay additional billions to continue the 1-percent kicker when a substantial part of that is actually a bonus over and above cost-of-living increases. As the law now is, over $2.9 billion would be channeled into such bonus payments over just the next 5 years. It is time to put a stop to this practice.

The estimates accompanying the spending targets in the first budget resolution for fiscal year 1977 assumed the elimination of the 1-percent kicker. Both the military and State Department authorization bills provide for elimination of the 1-percent kicker for military, CIA, and foreign service retirees, making it contingent on its elimination for Federal civil service retirees. In effect, the Henderson amendment will act as a trigger to accomplish the elimination of the 1-percent kicker for all Federal retirees. Already the House on June 17, 1976, voted 331 to 64 to eliminate funding for the 1-percent kicker in the military appropriation bill.

I urge your support for this legislation.

Mr. DERWINSKI. Mr. Speaker, I yield myself 1 minute, and I do so for the purpose of engaging in colloquy with the gentleman from Washington (Mr. Adams).

I believe the gentleman will agree with me, when we speak of what is best for the Federal retiree, that we should point out to the House that by accepting this amendment we are protecting the solvency of the retirement fund, and that of the liability that has been created since 1965 in the fund, $5 billion is traced directly to this 1 percent. Is that correct? So that we are actually protecting the retiree and the annuitant by taking this practical step.

Mr. ADAMS. Mr. Speaker, the gentleman is absolutely correct. We had this before with railroad retirement, which went broke, and we do not want this fund to go broke and it is in danger due to its unfunded liability. The amounts that are accruing under the 1-percent kicker will eat up the contributions to the fund plus general revenues.

The gentleman from Illinois (Mr. Derwinski), has made a good point, and it is absolutely correct.

Mr. HENDERSON. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. White), chairman of the Subcommittee on Retirement and Employee Benefits.

Mr. WHITE. Mr. Speaker, the principal bill attempts to correct a ruling of the court. It tries to treat all civil service employees the same as noncivil service employees and Members of Congress by providing that a man or woman from civil service who goes on the active bench of the Federal courts can no longer collect both the annuity and the salary while on active duty. Thereafter, if this bill is passed, it would suspend the annuity of judges appointed after October 1, 1976, while they are on active duty and pay this annuity to recipients after they retire from the bench.

As to the 1 percent kicker, I believe this judges' bill is so important and the pressures are such to eliminate the 1 percent in civil service retirees, and the military and foreign service is so awaiting some action that it is better to find some compromise in order to salvage something for the civil service retirees.

As the Members will recall, I sponsored an amendment that would have given civil service retirees a cash payment for the time lag so they would be made whole. I think it is inevitable that the 1 percent kicker will go, and, therefore, because of the necessity to clarify the judges' annuity situation, the inevitability of the lost 1 percent, and the attempt to salvage something to make the civil service retirees more whole than they are if the 1 percent is entirely eliminated, I intend to vote for the bill.

Mr. DERWINSKI. Mr. Speaker, I yield such time as he may consume to the gentleman from Missouri (Mr. TAYLOR), a very prominent member of the committee.

Mr. TAYLOR of Missouri. Mr. Speaker, I rise in support of the Henderson amendment offered to H.R. 12882, which repeals the 1-percent add-on in the cost of living formula and substitutes in lieu thereof language shortening the benefit lag time by 3 months.

This is a fair and reasonable alternative to the outright repeal of the 1-percent bonus, and retention of the present formula for adjusting annuities.

The mood of the House on this issue seems to be quite clear: The 1-percent add-on overcompensates, is too costly, and needs to be eliminated. However, to cushion the blow to annuitants a compromise, such as the Henderson amendment, is appropriate and addresses the time lag problem which initially prompted the enactment of the 1-percent add-on.

The civil service retirement law has included a provision for cost-of-living adjustments since 1962. Yet, it was not until 1969—Public Law 91-93—that a provision providing for a 1-percent add-on to each cost of living adjustment was enacted.

The intent of this law was to compensate Federal annuitants for the time lag between occurrence and application of each adjustment. Under the existing formula, it takes 7 months from the first month the Consumer Price Index rises by 3 percent or more over the base month until an increase is reflected in an annuity.

The Henderson amendment reduces the time lag to 4 months.

The Congressional Budget Office estimates enactment of this amendment will result in a 5-year savings of $1.5 billion.

I fully support a cost-of-living formula which fairly and timely compensates annuitants for increases in the Consumer Price Index.

The Henderson amendment satisfies both requirements.

Mr. Speaker, this is a proper and equitable compromise. I strongly support its enactment.

Mr. DERWINSKI. Mr. Speaker, I have no additional requests for time.

Mr. HENDERSON. Mr. Speaker, I yield 2 minutes to the gentleman from Virginia (Mr. FISHER).

Mr. FISHER. Mr. Speaker. I want to ask a question of the distinguished chairman of the subcommittee.

In eliminating the 1 percent add-on and going to an approach that would reduce the timelag, I wonder what thought was given by the committee to reducing the timelag by taking it back to the time the 3 percent cost-of-living increase was established and making retroactive payments back to that point?

Mr. HENDERSON. If the gentleman will yield, the most exact answer is that we have had difficulty in getting the committee to give consideration to the various proposals that were offered. However, on the specific point that the gentleman asked, we felt that by moving it back 3 months and cutting it down that much, we were reaching a compromise that was fair, especially since the amendment changes the rapidity with which the cost of living may trigger the increases; or, to put it in another way, at least, it is my opinion that the 60-day delay after the 1 month of the cost of living increases 3 percent is not an unreasonable time for civil service, military and Foreign Service employees to wait to receive their annuities.

Mr. Speaker, I hope that this is an adequate answer to the gentleman's question. It is the best one I could give him at this time.

Mr. FISHER. Mr. Speaker, I thank the chairman.

I would have preferred a retroactive feature back to the time the cost of living actually went up by 3 percent as a fairer application of the approach which the chairman is recommending.

Mr. Speaker, all Federal retirees, Civil Service, military, Foreign Service, and others, receive periodic cost-of-living increases based on the Consumer Price Index. There is a wait of several months between the time an increase is triggered by the CPI and the time the retirees receive the increase in their checks. For several years, retirees have been receiving increases equal to the increase in the cost of living plus an additional 1 percent to make up for this time lag.

The 1 percent has become a serious point of controversy. Arguments center around whether or not the 1 percent results in overpayment to Federal retirees and thus is unjustified. I think it is proper for the Congress to examine the effects of the 1 percent and to see if it is the best way of keeping the income and purchasing power of retirees current with the increases in the cost of living.

The amendment which is being offered today proposes one way of dealing with the problem. It would do away with the 1 percent, at the same time speeding up the payment of the cost-of-living increases for annuitants. This would reduce the waiting period for the increases by 3 months. While this is an appealing compromise, I find it not completely satisfactory. The only fair way to do away with the 1 percent is to replace it with immediate cost-of-living increases. Only if there were no waiting period would it be proper to take the 1 percent away from Federal retirees.

Alternatively, I find proposals to the reasonable that would provide retroactive payments to retirees giving them the increased annuity payments they would have received if the cost-of-living raise had gone into effect immediately. Under this proposal retirees would have to wait for their payments, but their net income would be the same as if there were no delay. In return for this retroactive feature, the 1 percent could be dropped.

I cannot support the proposal before the House today. I do not think we should vote to eliminate the 1-percent feature in Federal retirees cost-of-living increases unless we also eliminate all the time lag for which the 1 percent is compensation.

In addition, I think it would have been far better to address this whole issue in the subcommittee and then the full Committee on Post Office and Civil Service, in the normal way, instead of proceeding under the suspension rule without benefit of proper hearings.

I urge my colleagues to join me in rejecting the present amendment as being an inadequate solution to the controversy over the 1 percent.

Mr. HENDERSON. Mr. Speaker, I yield 2 minutes to the distinguished gentlewoman from Maryland (Mrs. SPELLMAN), a member of our committee.

Mrs. SPELLMAN. Mr. Speaker, I rise in opposition to suspending the rules and passing H.R. 12882 as it now stands with the Henderson amendment.

As a member of the Post Office and Civil Service Committee which has jurisdiction over the subject of Federal annuities, I must say that I am greatly disturbed by the course of events which has brought this legislation before us today. The process of orderly legislative proceedings has been disturbed to say the least.

I am concerned by the fact that an issue as important as this, which will affect thousands of Federal retirees, is being considered today not only as a section of another bill, but also on the Suspension Calendar. In fact, action on the Henderson amendment has not even been completed by the Post Office and Civil Service Committee and yet it is before this body. I believe that the committee's failure to act upon this matter on numerous occasions indicates its reluctance to eliminate the add-on without further review.

For these reasons I ask that you vote against this bill and ask that it be sent back to committee for further review. When the committee has acted then let us have the legislation come before the House on its own merits and be deliberated upon in a proper manner.

We have heard figures tossed about during this debate. We have been presented with figures in correspondence. Does it not bother us that these sums conflict with each other? Does it not make us wonder when the Civil Service Commission tallies and the Budget Committee tallies do not match? It is obvious we need to take a close look at the matter and that this can only be accomplished by giving this legislation the time and the treatment it deserves.

You will note that at this time I am not discussing the merits of the 1 percent add-on. I am speaking only on the merits of a full hearing and the need for full discussion. When I cast my vote, it will also be addressed to the process and not to the substance.

In keeping with my policy of full disclosure, I wish to state for the record that Mr. Spellman is a Federal retiree. Before the 1 percent add-on is discussed separately on its merits, as I hope it will be, I shall seek to determine the proper course of action which will enable me to provide full representation for the thousands of my constituents who are affected by the legislation while at the same time avoiding any possibility of conflict of interest.

Mr. HENDERSON. Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey (Mr. MAGUIRE).

Mr. MAGUIRE. Mr. Speaker, this bill is being introduced before the full House in such a way that there can be no amendment or modification of the proposal. With limited debate under suspension of the rules, there certainly is not adequate opportunity for this body to carefully consider the controversial issues involved.

Mr. Speaker, I do not quarrel with the efforts of this House to eliminate the 1 percent add-on; and I agree with the chairman of the Committee on the Budget that it must be eliminated. In fact, I voted with the majority to eliminate it when it came before us some weeks ago. Numerous studies have indicated that the add-on overcompensates, by far, for the actual inflation rate; that it multiplies upon itself; and that it is there fore, unacceptably costly to all taxpayers.

However, in my judgment, the proposal before us does not go far enough in eliminating the difficulties which retirees are having in coping with inflation.

With this in mind, I have introduced legislation along with the gentleman from California (Mr. MINETA), which would eliminate the 1-percent kicker, while providing retroactive compensation for the entire delay period in processing cost-of-living adjustments. In contrast, the Henderson amendment, would only partially reduce the 5-month lag period, thereby saving for retirees only a portion of what would be saved in the Maguire-Mineta amendment.

Under current law, Federal pension benefits are adjusted upward, whenever the cost of living rises 3 percent. There is a 5-month delay period, however, between the time the consumer price index goes over the triggering level and the time when retirees actually receive checks based on that higher level. The Maguire-Mineta bill would add a retroactive payment compensating for the higher cost of living during this 5-month period. The payment would be added to the first check a retiree receives in the new base period. This is a sensible solution to the problem which the add-on attempted to solve. Moreover, it saves the Government hundreds of millions of dollars when compared to the cost of continuing under the present system with the add-on.

The gentleman from California (Mr. MINETA) plans to introduce the substitute which I have just outlined at the next full meeting of the Committee on Post Office and Civil Service. It is my understanding that the proposal has generated considerable support. It would have been introduced last Thursday except for the fact that a scheduled committee meeting was cancelled.

The welfare of retirees deserves, at the very least, careful consideration of this issue at every level of the legislative process. It deserves a vote on the House floor which allows for consideration of all reasonable alternatives, including the Maguire-Mineta proposal.

Mr. HENDERSON. Mr. Speaker, may I inquire how much time I have remaining?

The SPEAKER pro tempore. The Chair will inform the gentleman from North Carolina that the gentleman has 2 minutes remaining.

Mr. HENDERSON. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, I firmly believe that the amendment that I have offered represents a reasonable and simple compromise which will serve the best interests of both the taxpayers and the Civil Service annuitants.

Mr. Speaker, with reference to the lack of committee action on this, I would point out that the measure has been scheduled for action three times at regular meetings of the House Committee on Post Office and Civil Service and we failed to get a quorum so that we could act on this legislation. The legislative history is clear, and the majority of the House have already acted on the military retirement and foreign service legislation and want a vote on this. I further point out to the Members that, under the procedure, it will take a two-thirds vote.

I urge adoption of the amendment that is attached to the bill.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. HENDERSON. I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Speaker, I appreciate the gentleman yielding to me.

The SPEAKER. The time of the gentleman from North Carolina (Mr. HENDERSON) has expired. The gentleman has 1 additional minute remaining.

Mr. DERWINSKI. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. ROUSSELOT).

Mr. ROUSSELOT. Mr. Speaker, I thank the gentleman from Illinois for yielding to me.

I think it should be made clear to everyone here that the reason the committee was not able to meet last week was because the House went into session at 10 o'clock. We had a substantial amount of legislation on the floor and many Members of the Committee on Post Office and Civil Service who were anxious to eliminate the 1 percent kicker, which my colleague, the gentleman from New Jersey (Mr. MAGUIRE) just mentioned we are not able to be in both places. Many members of the Post Office and Civil Service Committee also favored what my colleague, the gentleman from North Carolina (Mr. HENDERSON) has included, a reduced lag time to 3 months so that it means that Federal employees who are on pensions will no longer have to wait as long to receive their normal cost-of-living increases. These same items are included in the Mineta bill. I think that this bill comes very close, as the chairman of the committee, the gentleman from North Carolina (Mr. HENDERSON) has said, and as the ranking Republican member has stated, a fair position. This is a very reasonable compromise for the House to enact. It in no way hurts the Federal retirees who should be kept current with cost-of-living increases.

So the reason we did not meet last Thursday, which most of the Members were anxious to do, was because we were on the floor of the House with important legislation which the leadership of this House decided was necessary to bring to the full House.

Again I thank my colleague for yielding to me.

Mr. DERWINSKI. Mr. Speaker, I have no further requests for time.

Mr. HENDERSON. Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from North Carolina (Mr. HENDERSON) that the House suspend the rules and pass the bill H.R. 12882, as amended.

The question was taken.

Mr. MOTTL. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 3 of rule XXVII, and the Chair's prior announcement, further proceedings on this motion will be postponed.

BOUNDARY WATERS CANOE AREA, MINNESOTA

Mr. FOLEY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 10546) to amend the act of June 22, 1948, as amended, to provide for the acquisition of additional lands, and for other purposes, as amended.

The Clerk read as follows:

H.R. 10546

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 6 of the Act of June 22, 1948 (62 Stat. 568, as amended; 16 U.S.C. 577h), is amended to read as follows:

"Sec. 6. (a) There are authorized to be appropriated annually such sums as are necessary to implement this Act: *Provided,* That the total appropriations under the authority of this Act shall not exceed $9,000,000 for the purchase and condemnation of lands, water, or interests therein, and that funds made available through the provisions of the Land and Water Conservation Fund Act (78 Stat. 897), as amended, may also be used for such acquisitions: *Provided further,* That such appropriations may be used for the payment of court judgments in condemnation actions brought under authority of this Act without regard to the date such actions were initially instituted.

"(b) Not later than March 1 of each year 1977 through 1980, the Secretary of Agriculture shall submit to the Congress a report concerning the acquisition of lands or interests in lands under this Act. The final report of the Secretary shall specify additional authorizations or appropriations are necessary to carry out the purposes of this Act.".

The SPEAKER pro tempore. Is a second demanded?

Mr. SEBELIUS. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Washington (Mr. Foley) will be recognized for 20 minutes, and the gentleman from Kansas (Mr. Sebelius) will be recognized for 20 minutes.

The Chair now recognizes the gentleman from Washington (Mr. Foley).

Mr. FOLEY. Mr. Speaker, I yield 5 minutes to the gentleman from Minnesota (Mr. Oberstar), the author of the legislation.

Mr. OBERSTAR. Mr. Speaker, this bill is about the only noncontroversial proposal affecting the boundary waters canoe area in probably the last 30 years. The boundary waters canoe area has been the most fought over, argued over, controversial segment of the National Wilderness Preservation System. But we come to the House today with a proposition that everybody in my district, at least has agreed upon, and one on which every wilderness and other environmental organization in the United States that I know of is of one accord, and that is to acquire some additional land within the BWCA. This arises primarily out of a court case involving land acquisition under condemnation proceedings of Jacob and James Pete of Ely, Minn., whose property was located within the BWCA. Their property was acquired, but at that point when the judgment was being satisfied, the funds for this land acquisition were exhausted. New authorization was required. The Forest Service is in full accord that the authorization should be extended, and while they were going through this process of satisfying the judgment in the case of the Pete family, they felt that other lands that were subject to acquisition ought to be acquired at the same time, so they requested authorization to acquire these additional properties, some 30,000 acres belonging largely to Potlatch Forest Industries, and United States Steel, and some minor private interests. Those companies have agreed to sell their property. These are lands that are in danger of being developed if they are not acquired. They will add to and enhance the wilderness character of the boundary waters canoe area.

We have come to the House with what I think is a reasonably modest proposal, one that I hope can be agreed upon without further difficulty.

I want to thank the chairman of the committee, the gentleman from Washington (Mr. Foley) for his patience, support, and understanding, the gentleman from Minnesota, my colleague, Mr. Bergland, a member of the Committee on Agriculture, who has been very attentive and supportive, and the chairman of the Committee on Interior and Insular Affairs, the gentleman from Florida (Mr. Haley) to whom the bill was sequentially referred, and the gentleman from North Carolina (Mr. Taylor), chairman of the Subcommittee on Parks Conservation, which also heard the bill some weeks ago, who has been very supportive. I want to thank my colleagues on the other side of the aisle, particularly the gentleman from Kansas (Mr. Sebelius) who also have been very understanding and cooperative and who have asked some very reasonable and significant, understandable questions about the bill. I hope we have satisfied those questions.

Mr. Speaker, I yield back the remainder of my time.

Mr. SEBELIUS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 10546.

The gentleman from Minnesota (Mr. Oberstar) has adequately summarized the contents of this bill as reported favorably by the committee.

The Department of Agriculture favors enactment, and the Interior Committee has indicated in the report accompanying this bill that they acknowledge a need to act promptly on this legislation.

The cost estimate for this bill is $4.5 million to be expended over a period—as established by Chief McGuire in the Forest Service's letter of May 14, 1976—by CBO estimate of $400,000 annually.

I urge the support of the Members for this noncontroversial bill.

Mr. FOLEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 10546, as amended. This bill amends section 6 of the act of June 22, 1948, to authorize the appropriation of an additional $4.5 million for the acquisition of land within the Boundary Waters Canoe Area of the Superior National Forest.

Congress provided for the protection of the 1,030,000-acre Boundary Waters Canoe Area in northern Minnesota in the act of July 10, 1930, which provided that the shorelines of waterways used primarily by canoeists would be maintained to preserve their natural character, and that there should be no further change in the natural or existing water level of any lake or stream.

In the late 1940's it became apparent that in order to meet the requirements of the 1930 act private lands, resorts, and cabins within a portion of the area had to be acquired. Accordingly, the act of June 22, 1948, directed the Secretary of Agriculture to acquire lands and appurtenances thereto within approximately two-thirds of the canoe area. The $500,000 authorization ceiling for land acquisition in the 1948 act was raised to $4.5 million by 1950 and 1961 amendments.

The Forest Service has acquired approximately 60,000 acres of land in the Boundary Waters Canoe Area from funding authorized by the 1948 act, as amended. According to the Department of Agriculture, there is a need to acquire approximately 21,500 acres of additional land vulnerable for forms of use and development which could impair qualities and natural features of the canoe area. However, the $4.5 million authorized by the 1948 act, as amended, has been appropriated and expended. The Department of Agriculture estimates the additional cost for the needed acquisitions to be $4.5 million.

The new authorization would give the Forest Service the ability to move immediately to acquire lands threatened by development inappropriate to the BWCA. For example, a large-scale home-and-guest lodge complex was recently proposed within the boundaries of the BWCA. While the proposal was later withdrawn by its designers, the Forest Service would have been powerless to prevent it; and will continue to be helpless to prevent such types of development until it has the funds to acquire the remaining lands.

While the authorization is in the form of an amendment to the act of June 22, 1948, authority is provided that funds made available under provisions of the land and water conservation fund may also be used for these acquisitions.

The bill would also authorize the payment of court judgments in condemnation actions brought under authority of the 1948 act without regard to the date such condemnation actions were initially instituted. These authorities are needed to enable the Department to pay all the money awarded by a Federal court to the owner of certain property acquired under the act through condemnation proceedings. The award occurred at the time when expenditues under the 1948 act, as amended, were close to the limit of appropriations and exceeded the amount reserved for payment and funds remaining within the authorization limit. The former landowner has received partial payment but is still owed a substantial sum of money.

Finally, H.R. 10546 provides for four annual reports by the Secretary of Agriculture to the Congess concerning acquisition of lands or interests in land under the act. With the final report, the Secretary is required to specify whether additional appropriations are needed to carry out the act.

The bill has the support of the administration and was reported by unanimous voice vote of the Committee on Agriculture.

According to the Congressional Budget Office, H.R. 10546, as amended, if enacted will probably result in outlays of $400,000 each year in the period fiscal year 1977–80.

The Boundary Waters Canoe Area is part of our national heritage and is known and admired throughout our country. Let us preserve it so that it can continue in an unspoiled state for future generations to enjoy and treasure.

Mr. Speaker, I urge the Members of the House to join me in voting in support of this noncontroversial and meritorious bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Washington (Mr. FOLEY) that the House suspend the rules and pass the bill H.R. 10546, as amended.

The question was taken.

Mr. MOTTL. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 3 of rule XXVII, and the Chair's prior announcement, further proceedings on this motion will be postponed.

FREESTONE PEACH RESEARCH AND EDUCATION ACT OF 1976

Mr. VIGORITO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 14566) to enable freestone peach growers to finance a nationally coordinated research and education program to improve their competitive position and expand their markets for peaches.

The Clerk read as follows:

H.R. 14566

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Freestone Peach Research and Education Act".

FINDINGS AND DECLARATION OF POLICY

SEC. 2. (a) (1) Freestone peaches are an important fruit which is produced commercially as a short season, high-risk crop by a large number of growers in at least thirty-four of the forty-eight contiguous States.

(2) A large part of the freestone peaches grown in the United States moves in the channels of interstate commerce. Those freestone peaches which do not move directly in such channels have an impact upon or affect interstate commerce of freestone peaches and their products. Therefore, all such peaches produced and marketed in the United States are either directly in the current of interstate commerce or directly affect, burden, or obstruct interstate commerce of peaches or peach products.

(3) Freestone peach producers in the United States are affected by production and marketing factors above and beyond the control of the individual orchardist. Unique and specialized diseases, insects and other pests attack the fruit and the tree, and these afflictions require particular remedies. The weather and local growing conditions are variables of year-around concern to the producer. In particular, competition from at least fifteen other fruits and related food products affect and influence the markets and marketing decisions of the producers of freestone peaches and their products. The maintenance and expansion of existing markets for freestone peaches and the development of new or improved markets are vital to the welfare of the freestone peach industry and to those concerned with the marketing, distribution, and consumption of freestone peaches, and thus to the general welfare of the entire Nation.

(b) Freestone peach producers recognize their individual and collective responsibilities in the furtherance of the general welfare of their industry, agriculture in general, and the United States of America. It is, therefore, the declared policy of the Congress and the purpose of this Act that it is necessary and vital in the public interest, through the exercise of the powers provided herein, to authorize the establishment of an orderly procedure for the financing, through adequate assessments on freestone peaches produced in the United States for commercial use, and the carrying out of an effective, continuous, and coordinated program of research and education designed to strengthen the competitive position of freestone peaches, and to maintain and expand domestic and foreign markets for freestone peaches produced in the United States.

DEFINITION

SEC. 3. For purposes of this Act:

(a) The term "Secretary" means the Secretary of Agriculture.

(b) The term "person" means any individual, partnership, corporation, associacion, or other entity.

(c) The term "freestone peaches" means all types and varieties of peaches characterized by ease and separability of the flesh from the pit, including those commonly referred to as "semifree", and recognized in the peach-producing trade as being included in these categories.

(d) The term "handler' 'means any person (except a common or contract carrier of freestone peaches owned by another person) who handles freestone peaches in a manner specified in a plan issued pursuant to this Act or in the rules and regulations issued thereunder.

(e) The term "producer" means any person engaged in the commercial production and sale of freestone peaches.

(f) The term "education" means those activities designed to advise, inform, instruct, and otherwise enhance knowledge about freestone peaches and their products among handlers, consumers, and others with an interest in freestone peaches and their products.

AUTHORITY TO ISSUE A PLAN

SEC. 4. To effectuate the declared policy of this Act, the Secretary shall, subject to the provisions of this Act, issue and from time to time amend, orders applicable to handlers and shall have authority to issue orders authorizing the collection of assessments on freestone peaches handled under the provisions of this Act, and to authorize the use of such funds to provide research and education for freestone peaches in a manner prescribed in this Act. Any order issued by the Secretary under this Act shall hereinafter in this Act be referred to as a "plan". Any such plan shall be applicable to freestone peaches produced in the 48 contiguous States of the United States.

NOTICE AND HEARINGS

SEC. 5. When sufficient evidence is presented to the Secretary by freestone peach producers, or whenever the Secretary has reason to believe that a plan will tend to effectuate the declared policy of this Act, he shall give due notice and opportunity for a hearing upon a proposed plan. Such hearing may be requested by freestone peach producers or by any other interested person or persons, including the Secretary, when the request for such hearing is accompanied by a proposal for a plan.

FINDING AND ISSUANCE OF A PLAN

SEC. 6. After notice and opportunity for hearing, the Secretary shall issue a plan if he finds, and sets forth in such plan, upon the evidence introduced at such hearing, that the issuance of such plan and all the terms and conditions thereof will tend to effectuate the declared policy of this Act.

REGULATIONS

SEC. 7. The Secretary is authorized to make such regulations with the force and effect of law, as may be necessary to carry out the provisions of this Act and the powers vested in him by this Act.

REQUIRED TERMS IN PLANS

SEC. 8. Any plan issued pursuant to this Act shall contain terms and conditions:

(a) Providing for the establishment by the Secretary of a National Freestone Peach Research and Education Board (hereinafter referred to as "board") and for the definition of its powers and duties which shall include powers:

(1) to administer such plan in accordance with its terms and conditions;

(2) to make rules and regulations to effectuate the terms and conditions of such plan;

(3) to receive, investigate, and report to the Secretary complaints of violations of such plan;

(4) to recommend to the Secretary amendments to such plan;

(5) to develop, review, consider, and approve specific research and education projects and to return not more than 50 per centum of assessment funds back to the peach producing States as provided by subsection (f) (4) of this section for purposes of carrying out such projects; and

(6) to audit and account for the use of funds returned to States as provided by subsection (f) (4) of this section.

(b) Providing that the board shall be composed of producers selected by the Secretary from nominations made by such producers in such manner as may be prescribed by the Secretary, and of consumer representatives comprising as nearly as practicable 15 per centum of the membership of the board. The Secretary shall select the consumer representatives from nominations, submitted by bona fide consumer organizations, of persons who are qualified to represent the interests of consumers and have no interest in any person or other entity engaged in the commercial production and sale of freestone peaches. Such consumer representatives shall serve on the board in a nonvoting capacity and otherwise shall have the same status on the board as any other member thereof. In the event producers or consumer organizations fail to nominate persons for appointment to the board, the Secretary shall appoint producers and consumers on the basis of representation provided for in the plan issued under this Act.

(c) Providing that board members shall serve without compensation, but shall be reimbursed for reasonable expenses incurred in performing their duties as members of the board.

(d) Providing that the board shall prepare and submit to the Secretary for his approval a budget, on a fiscal period basis, of its anticipated expenses and disbursements in the administration of the plan, including probable costs of research and education programs and their probable impact on consumer prices.

(e) Providing that the board shall recommend to the Secretary and the Secretary shall fix the assessment rate required to meet all obligations incurred in connection with the budget referred to in subsection (d) of this section and to reimburse the Secretary (1) for administrative expenses not to exceed $40,000 incurred by him in connection with any referendum conducted under section 14, and (2) for administrative costs incurred by the Secretary after an order has been issued and made effective: *Provided*, That any assessment shall be levied upon and paid by the producers of freestone peaches in accordance with this Act and such regulations as may be made by the board and the Secretary.

(f) Providing that—

(1) funds collected by the board shall be used for research and education programs involving freestone peaches and such other expenses for the administration, maintenance, and functioning of the board as may be authorized by the Secretary;

(2) no education program shall make any reference to private brand names;

(3) no funds collected by the board shall in any manner be used for the purpose of influencing governmental policy or action, except as provided in subsection (a)(4) of this section; and

(4) the board may return up to 50 per centum of the net proceeds of assessments, after deduction of refunds under subsection (g) of this section, to the States on a prorata basis relative to their respective contributions, and according to individual research and education projects duly submitted and approved according to such rules and regulations as may be established by the board and approved by the Secretary; such funds shall be provided on a project basis to a recognized State freestone peach organization, a State department of agriculture, or a State land-grant college or university (including the 1890 land-grant colleges and universities and Tuskegee Institute) according to the rules and regulations adopted by the board.

(g) Providing that, notwithstanding any other provisions of this Act, any freestone peach producer against whom any assessment is made and collected under authority of this Act and who is not in favor of supporting the programs as provided for under this Act shall have the right to demand and receive from the board a refund of such assessment: *Provided*, That such demand shall be made personally by such producer in accordance with regulations and on a form and within a time period prescribed by the board and approved by the Secretary, but in no event less than 90 days, and upon submission of proof satisfactory to the board that the producer paid the asssesment for which refund is sought. Any such refund shall be made within 60 days after demand therefor.

(h) Providing that the board shall, subject to the provisions of subsections (e) and (f) of this section, develop and submit to the Secretary for his approval any research or education programs or projects, and that any such program or project must be approved by the Secretary before becoming effective.

(i) Providing the board with authority to enter into contracts or agreements, with the approval of the Secretary, for the development and carrying out of research or education programs or projects, and the payment of the cost thereof with funds collected pursuant to this Act.

(j) Providing that the board shall maintain books and records and prepare and submit to the Secretary such reports from time to time as may prescribed for appropriate accounting with respect to the receipt and disbursement of funds entrusted to it and cause a complete audit report to be submitted to the Secretary at the end of each fiscal period, including the audit required under subsection (a)(6) of this section.

PERMISSIVE TERMS IN PLANS

SEC. 9. Any plan issued pursuant to this Act may contain one or more terms and conditions:

(a) Providing authority to exempt from the provisions of the plan (1) any freestone peach producer whose aggregate production (specified on an acreage basis or otherwise) does not exceed such minimum production as may be specified in the plan and (2) freestone peaches used for nonfood uses, and providing authority for the board to require satisfactory safeguards against improper use of such exemptions.

(b) Providing for authority to designate different handler payment and reporting schedules to recognize differences in marketing practices and procedures utilized in different production areas.

(c) Providing for the establishment, issuance, effectuation, and administration of appropriate programs or projects for education activities involving freestone peaches and their products ahd for the disbursement of necessary funds for such purposes: *Provided*, That any such program or project shall be directed toward increasing the general level of knowledge about freestone peaches and their products: *Provided further*, That such education activities shall comply with the provisions of section (8)(f) of this Act.

(d) Providing for establishing and carrying on research and development projects and studies to the end that the production, marketing, and utilization of freestone peaches and their products may be encouraged, expanded, improved, or made more efficient, and for the disbursement of necessary funds for such purposes.

(e) Providing for authority to accumulate reserve funds from assessments collected pursuant to this Act, to permit an effective and continuous coordinated program of research and education with regard to freestone peaches and their products in years when the production and assessment income may be reduced: *Provided*, That the total reserve fund does not exceed the amount budgeted for two years' operation.

(f) Providing for authority to use funds collected pursuant to this Act, with the approval of the Secretary, for the development and expansion of sales in foreign markets for freestone peaches and their products.

(g) Providing for terms and conditions incidental to and not inconsistent with the terms and conditions specified in this Act and necessary to effectuate the other provisions of such plan.

ASSESSMENTS

SEC. 10. (a) Each handler designated by the board, pursuant to regulations issued under the plan, to collect assessments from producers shall be responsible for payment to the board, as it may direct, of any assessment levied on freestone peaches; and such handler may collect from any producer or deduct from the proceeds paid to any producer, on whose freestone peaches such assessment is made, any such assessment required to be collected and paid by such handler. Such handler shall maintain a separate record with respect to each producer for whom freestone peaches were handled, and such records shall indicate the total quantity of freestone peaches handled by him including those handled for producers and for himself, shall indicate the total quantity of freestone peaches handled by him which are included under the terms of a plan as well as those which are exempt under such plan, and shall indicate such other information as may be prescribed by the board. To facilitate the collection and payment of such assessments, the board may designate different handlers or classes of handlers in recognition of the differences in marketing practices or procedures utilized in any State or area. No more than one such assessment shall be made on any freestone peaches.

(b) Handlers responsible for collection and payment of assessments under this section shall maintain and make available for inspection by the Secretary such books and records as required by the plan and file reports at the times, in the manner, and having the content prescribed by the plan, to the end that information and data shall be made available to the board and to the Secretary which is appropriate or necessary to the effectuation, administration, or enforcement of this Act or of any plan or regulation issued pursuant to this Act.

(c) All information obtained pursuant to this section shall be kept confidential by all officers and employees of the Department of Agriculture and of the board, and only such information so furnished or acquired as the Secretary deems relevant shall be disclosed by them, and then only in a suit or administrative hearing brought at the direction, or upon request, of the Secretary, or to which he or any officer of the United States is a party, and involving the plan with reference to which the information to be disclosed was furnished or acquired. Nothing in this section shall be deemed to prohibit—

(1) the issuance of general statements based upon the reports of a number of handlers subject to a plan if such statements do not identify the information furnished by any person, or

(2) the publication, by direction of the Secretary, of the name of any person violating any plan together with a statement of the particular provisions of the plan violated by such person.

Any such officer or employee violating the provisions of this subsection shall upon conviction be subject to a fine of not more than $1,000, or imprisonment for not more than one year, or both, and shall be removed from office.

PETITION AND REVIEW

SEC. 11. (a) Any person subject to a plan may file a writen petition with the Secretary stating that such plan or any provision of such plan or any obligation imposed in connection therewith is not in accordance with law and praying for a modification thereof or to be exempted therefrom. He shall thereupon be given an opportunity for a hearing upon such petition, in accordance with regulations made by the Secretary. After such hearing, the Secretary shall make a ruling upon the prayer of such petition which shall be final, if in accordance with law.

(b) The district courts of the United States in any district in which such person is an inhabitant, or has his principal place of business, are hereby vested with jurisdiction to review such ruling: *Provided*, That a complaint for that purpose is filed within 20 days from the date of entry of such ruling. Service of process in such proceedings may be had upon the Secretary by delivering to him a copy of the complaint. If the court determines that such ruling is not in accordance with law, it shall remand such proceedings to the Secretary with directions either (1) to make such ruling as the court shall determine to be in accordance with law, or (2) to take such further proceedings as, in its opinion, the law requires. The pendency of proceedings instituted pursuant to subsection (a) of this section shall not impede, hinder, or delay the United States or the Secretary from obtaining relief pursuant to section 12(a) of this Act.

ENFORCEMENT

SEC. 12. (a) The several district courts of the United States are vested with jurisdiction specifically to enforce, and to prevent and restrain any person from violating, any plan or regulation made or issued pursuant to this Act.

(b) Any handler who violates any provision of the order issued by the Secretary under this Act, or who fails or refuses to collect or remit any assessment or fee duly required of him thereunder, shall be liable to a penalty of not less than $500 nor more than $5,000 for each offense which shall accrue to the United States and may be recovered in a civil suit brought by the United States.

(c) Any civil action authorized to be brought under this Act shall be referred to the Attorney General for appropriate action: *Provided,* That nothing in this Act shall be construed as requiring the Secretary to refer to the Attorney General minor violations of this Act whenever he believes that the Administration and enforcement of the program would be adequately served by suitable written notice or warning to any person committing such violation.

INVESTIGATION AND POWER TO SUBPENA

SEC. 13. The Secretary may make such investigations as he deems necessary for the effective carrying out of his responsibilities under this Act or to determine whether a handler or any other person has engaged or is engaging in any acts or practices which constitute a violation of any provision of this Act, or of any plan, or rule or regulation issued under this Act. For the purpose of any such investigation, the Secretary is empowered to administer oaths and affirmations, subpena witnesses, compel their attendance, take evidence, and require the production of any books, papers, and documents which are relevant to the inquiry. Such attendance of witnesses and the production of any such records may be required from any place in the United States. In case of contumacy by, or refusal to obey a subpena issued to, any person, including a handler, the Secretary may invoke the aid of any court of the United States within the jurisdiction of which such investigation or proceeding is carried on, or where such person resides or carries on business, in requiring the attendance and testimony of witnesses and the production of books, papers, and documents; and such court may issue an order requiring such person to appear before the Secretary, to produce records to the Secretary, if so ordered, or to give testimony touching the matter under investigation. Any failure to obey such order of the court may be punished by such court as contempt thereof. Any process in any such case may be served in the judicial district whereof such person is an inhabitant or wherever he may be found. The site of any hearings held under this section shall be within the judicial district where such handler or other person is an inhabitant or has his principal place of business.

REQUIREMENT OF REFERENDUM

SEC. 14. The Secretary shall conduct a referendum among producers who at any time, during a consecutive twelve-month representative period preceding the date of the referendum, as determined by the Secretary, have been engaged in the production of freestone peaches for the purpose of ascertaining whether the issuance of an order is approved or favored by such producers. The Secretary shall establish a procedure whereby all known freestone peach producers are notified of the referendum and the time and place of balloting and qualified producers may register with the Agricultural Stabilization and Conservation Service in person or by mail to vote in such a referendum during a period ending not less than ten days prior to the date of the referendum. No order issued pursuant to this Act shall be effective unless the Secretary determines (1) that votes were cast by at least 50 per centum of the registered producers, and (2) that the issuance of such order is approved or favored by not less than two-thirds of the producers voting in such referendum. The Secretary shall be reimbursed, subject to section 8(e), from assessments collected by the board for any expenses incurred by the Government in the preparation of an order and the conduct of any referendum. Eligible voter lists and ballots cast in the referendum shall be retained by the Secretary for a period of not less than twelve months after they are cast for audit and recount in the event the results of the referendum are challenged and either the Secretary or the courts determine a recount and retabulation of results is appropriate. Prior to the holding of the referendum, sureties shall have posted a bond or other security, acceptable to the Secretary, in an amount which the Secretary shall determine to be sufficient to pay, subject to section 8(e), any expenses incurred for the conduct of the referendum. For the purpose of this section, the term "expenses incurred for the conduct of the referendum" shall include all costs incurred by the Government in connection therewith, except for salaries of Government employees.

SUSPENSION OR TERMINATION OF PLANS

SEC. 15. (a) The Secretary shall, whenever he finds that a plan or any provision thereof obstructs or does not tend to effectuate the declared policy of this Act, terminate or suspend the operation of such plan or any provision thereof.

(b) The Secretary may conduct a referendum at any time and shall hold a referendum on request of the board, or of 10 per centum or more of the producers subject to the plan, to determine if such producers favor the termination or suspension of the plan, and he shall terminate or suspend such plan at the end of the marketing year whenever he determines that such suspension or more than 50 per centum of the volume of termination is favored by a majority of those voting in a referendum, and who produce the freestone peaches produced by the producers voting in the referendum.

AMENDMENT PROCEDURE

SEC. 16. The provisions of this Act applicable to plans shall be applicable to amendments to plans.

SEPARABILITY

SEC. 17. If any provision of this Act or the application thereof to any person or circumstances is held invalid, the validity of the remainder of this Act and of the application of such provision to other persons and circumstances shall not be affected thereby.

AUTHORIZATION

SEC. 18. There are authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, such funds as are necessary to carry out the provisions of this Act. The funds so appropriated shall not be available for payment of the expenses or expenditures of the board in administering any provision of any order issued pursuant to the terms of this Act.

The SPEAKER pro tempore. Is a second demanded?

Mr. JOHNSON of Colorado. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Pennsylvania (Mr. VIGORITO) and the gentleman from Colorado (Mr. JOHNSON) each will be recognized for 20 minutes.

The Chair recognizes the gentleman from Pennsylvania (Mr. VIGORITO).

Mr. VIGORITO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this bill would authorize producers of freestone peaches to carry out an entirely self-financed program of research and education on freestone peaches and their products.

The research program to be carried out under this bill, if peach producers approve it by referendum, can meet some important research needs. Peach tree decline is a serious problem to the industry, and its causes need to be thoroughly researched. Research also needs to be intensified on plant breeding, virus diseases, mechanical harvesting technologies, and packaging and handling techniques for peaches.

The procedure through which the peach research and education program could be implemented and carried out under this bill is similar to such programs that have been adopted for other commodities. The Secretary of Agriculture is authorized to develop a program plan based upon hearings and other public participation, and that plan would be submitted to peach producers for their consideration in a referendum. If approved by the producers, a freestone peach research and education board would be stablished to administer the program and assessments would be levied on each unit of peaches marketed in order to finance the program.

The bill provides for a two-step process for conducting the referendum which would determine whether peach producers wish to implement a research and education program. First, qualified producers would be registered at least 10 days prior to the referendum. Second, for approval of the plan, at least 50 percent of the registered producers must vote in the referendum and at least two-thirds of those who vote must favor the plan.

If two-thirds of producers approve the plan and a research program is implemented, any individual producer retains the option of securing a refund of his assessment if he does not wish to participate, provided that he requests the refund within a specified time.

The total cost of any research and education projects that are carried out under this bill would be met out of the assessment against producers. Furthermore, a bond must be posted prior to any referendum to defray all costs of the referendum except the salaries of Department of Agriculture employees in the event that the referendum failed to be approved.

Consequently, the enactment of H.R. 14566 should result in no increase in overall Federal expenditures.

Mr. Speaker, this is a self-help measure that can make the peach industry more productive and viable without additional cost to the taxpayer. I therefore urge its adoption.

Mr. JOHNSON of Colorado. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the subcommittee chairman has stated the contents of the bill and the reasons behind the drafting of the bill.

Mr. Speaker, I would like to point out that there is evidently some opposition to the bill, which has just arisen, which is a surprise to all of us. I would like to point out to the Members who are present that there is a proviso in the bill under subsection (g) of section 8 that

I would like to read to the Members, so that they know this is an entirely voluntary bill:

> (g) Providing that, notwithstanding any other provisions of this Act, any freestone peach producer against whom any assessment is made and collected under authority of this Act and who is not in favor of supporting the programs as provided for under this Act shall have the right to demand and receive from the board a refund of such assessment:

Mr. Speaker, there is totally voluntary participation within the act. Any person who opposes it does not have to continue in the act. The national grange association is in favor of it. The Department of Agriculture is in favor of it, the National Peach Council, the Farm Bureau, and others. There are 34 States involved. I understand opposition is coming from only one State. This is a surprise. We were not anticipating this kind of opposition; so I would urge Members to vote for this bill, because it has been carefully researched and has widespread support in the industry.

Mr. VIGORITO. Mr. Speaker, I yield 3 minutes to the gentleman from South Carolina (Mr. JENRETTE).

Mr. JENRETTE. Mr. Speaker, I certainly take cognizance of the remarks of the gentleman from California (Mr. JOHNSON), but I must rise today in strong opposition to H.R. 14566, the Freestone Peach Research and Education Act. Although this legislation may appear laudable on the surface, the fact is that peach growers themselves are not unanimously in favor of its passage.

In the first place, growers who are now happy without a Freestone Peach Research and Education Board, who are now able to market their peaches without some national overseer, and who now have trade associations to promote the best interests of their product, will be automatically assessed for the operation of this Peach Board. While it is true that the bill allows for reimbursement should the grower not wish to participate, I consider the initial assessment an unnecessary intrusion into the normal business practices of the grower who neither wants nor needs this federally-dictated program.

Second, and as I mentioned earlier, there is strong grower opposition to this legislation. In my state of South Carolina, which ships more peaches in interstate commerce than any other, the Peach Council and Promotion Board has gone on record against H.R. 14566 as being not in the best interests of the industry. The South Carolina Board, which represents the official policy of South Carolina peach growers, has had three statewide marketing orders defeated in recent years, a fact which signals the very strong opposition to this type of bill.

It is not my intent to see H.R. 14566 killed—for those growers who favor a national promotion board, part of the bill is still salvageable. What I urge my colleagues to do today is vote against the bill, and allow it to return under normal House rules when technical and clarifying amendments will be in order. I do not believe that it is in the spirit of the House to cast aside the very deep-seated feelings of those persons who oppose the bill and who are directly affected by it. While I was originally a co-sponsor of H.R. 14566, I now disassociate myself from it, and urge its defeat. I hope each of you will join me in this effort.

Mr. VIGORITO. Mr. Speaker, I yield 2 minutes to the gentleman from South Carolina (Dr. DERRICK).

Mr. DERRICK. Mr. Speaker, I wish to rise in opposition to H.R. 14566, the Freestone Peach Research and Education Act of 1976.

Several valid arguments may be made against our approving this legislation, which is theoretically designed to promote the well-being of the peach industry.

First, I would like to point out that the State of South Carolina is second only to California in the production of peaches; and South Carolina is No. 1 in the volume of peaches shipped in interstate commerce. My home county of Edgefield, S.C. produces more peaches than the entire State of Georgia.

Basically, there has been no demonstrated need or overriding national interest to be served by a federally dictated peach research and education program. The industry already has in place the necessary trade associations to promote the consumption of peaches and to lobby for those agricultural programs beneficial to the peach industry.

This bill would also permit the establishment of a National Freestone Peach Research and Education Board, a legally constituted board with the power to automatically assess every peach grower in the United States. I find the basic provision of automatic assessment abhorrent. This is a blatant example of interference in the private sector and the Congress has no business going around creating public relation organizations for any industry.

Our philosophy in South Carolina has been to get as much government as possible out of private industry. This bill paves the way for more government in the peach industry.

The South Carolina Peach Council and Promotion Board has gone on record as adamantly opposing H.R. 14566. The Peach Council represents the official policy of South Carolina's peach growers and in my opinion reflects the sentiments of its membership.

I wish to urge my colleagues to vote no on this bill in order that it may be brought to the floor at a later date, when we will have an opportunity to offer amendments deleting the mandatory assessment provisions and other perfecting language.

Mr. JOHNSON of Colorado. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, I would like to point out that this is not creating a bureaucratic institution. This is an organization in which the peach growers themselves do the organizing, and they cannot do it unless we pass this kind of law. We have these kinds of laws for potatoes, for cotton, for beef, for oranges, I believe; we have it for grapefruit. This is something that is not unique at all, and there is definitely a need for this.

If the Members will read the report, they will find that the research required is something that has been recognized for some time. They are not getting Federal funding for research; they are not getting State funding for research. They are trying to fund this themselves.

There is a definite need for this program, something that the peach growers themselves are desirous of, and those who desire not to participate in the program can be exempted and will not be assessed. So, it is not creating a new bureaucratic monstrosity. It is allowing people to take care of their own needs in their own way.

Mr. Speaker, I urge that this body adopt the bill.

Mr. VIGORITO. Mr. Speaker, I yield 4 minutes to the gentleman from South Carolina (Mr. MANN).

Mr. MANN. Mr. Speaker, I think the problem that exists here is that a peach is a peach is not a peach. The South Carolina produce market for peaches is entirely different from the California marketing of peaches. South Carolina produces the peaches for the fresh peach market of this country from mid-May to early September. It produces the peaches of the kind people like to eat fresh, such as the freestone peach.

We are talking about the Washington, Triogem, Redglobe, Southland, Sunhigh, Richhaven, Loring, Sullivan Elberta, Blake, Redskin, Belle of Georgia, Elberta, J. H. Hale, Shipper L. Red, Jefferson, Rio Osa Gem, Monroe, and other varieties of freestone peaches.

We are not talking about a Black Angus, which is the same in South Carolina as it is in Kansas and California. We are talking about a peach that in many cases, such as the Georgia Belle, is on the market for 2 or 3 weeks. We are talking about almost the entire production of South Carolina going to the fresh produce market.

So, the type of promotion that it would need is peculiar to South Carolina. It is peculiar to that calendar period.

I have an urban county—I have a metropolitan district—and in one of my counties, of which I only have two, they produce more peaches for the fresh produce market than any other county in the United States.

In California, there is at least one county that produces more peaches than Spartanburg County for the canning market, the clingstone peach.

The promotion of that year-round market is an entirely different promotion from that summer market. This bill would impose an expense that the South Carolina peach growers are going to bear 12 months out of the year, when they might get the benefit out of it partially, for part of the summer. They may not get any benefit out of it.

A canvass of the peach growers in my area indicated they are almost unanimously opposed to this provision. We think that the State level is the place to have it.

It is interesting to note that the entire development of this legislation came as quite a surprise to the South Carolina growers—who were never contacted by the National Council according to my information. The second largest peach producing State in the country was never contacted; their views were not solicited.

I think there are interests being promoted here, I say to the Members, that are not common to all peach growers. So let us allow them to operate in their State in their markets. If by States they want to establish marketing orders, or whatnot, let them do it. But let us not impose a national standard that will benefit some more than others. I urge you to reject this bill.

Mr. CONTE. Mr. Speaker, this bill may be a plum for peach peddlers, but it is a pit for friends of fuzzy fruits. I cannot swallow it.

Anyone who believes that money grows on trees is going to wind up in a jam. Once again, the Agriculture Committee has taken leaf of its senses. Over the past 3 years, they have gone out on many limbs.

Every year, they have unraveled the worn yarn about cotton, incorporated, which needles the taxpayer for millions of scratch. Every year, they sweeten the pot for beekeepers, and sting the taxpayer again. And on special occasions, they branch out with a new boondoggle.

In May 1974, we say the poultry indemnity payments bill, which was better known as "bucks for clucks." This bill would have put up a lot of scratch to feed a small flock of chicken farmers who had let the fox into the coop. Taxpayers cried "foul." This bill laid an egg. But opponents did not chicken out, and we saved this yolk from spreading to the house.

In June 1974, the House heard salty language and brittle arguments when the Peanut Price Support Act was extended. This was a masterful shell game that left the taxpayer shucked.

Later that year, this House was presented with a price support program for soybeans, even though no hearings had been held on it, nobody had asked for it, and it only promised to boost consumer prices.

In 1975, the House got another bum steer, the Beef Research and Information Act. That was followed by a hare-raising scheme, the Mandatory Rabbit Inspection Act. Members may remember this bill for its pluck: It defined rabbits as members of the poultry family and stated that rabbit pelts would be defined as feathers. Any bill with hare-splitting definitions like these was certainly for the birds.

With schemes like these, pecking away at pocketbooks, it is no wonder that consumers no longer have bushels of money. The status of food prices today is not peaches and cream. And this fuzzy bill promises to peal more skin off the pocketbooks of peach lovers. Any Member who votes for it deserves a raspberry from his voters.

I am pleased to join with the Representatives of the Third and Sixth Districts of South Carolina—which are among the greatest peach-growing regions in the Nation—in opposing this bill. It only promises to squeeze the juice out of peach producers, leaving consumers with an empty pit.

Thank you.

Mr. VANIK. Mr. Speaker, I oppose H.R. 14566, a bill that I consider entirely unnecessary. The legislation establishes, like the beef research and development bill previously, a program whereby participating producers can contribute to a program to promote sales of their product and spur research and development efforts.

Just as some Members found the beef research bill questionable, I find H.R. 14566 questionable. Why does the House of Representatives have to spend valuable time enacting legislation that accomplishes what the growers themselves can do if they want? If peach growers are concerned about sales and research, they have every right to set up trade organizations and programs that accomplish exactly these purposes. I do not understand why the time and effort of the U.S. Congress must be used to accomplish these private affairs.

We are assuaged in our doubts by the committee report. It explains that no public money will be spent; that is, public money that is spent to finance the grower referendum of this issue will be reimbursed by the grower's association. The committee also, in response to the public criticism of the beef research bill, I am sure, has assured us of the importance of the consumer in this program: "ultimately, it is the American consumer who will help to determine the success or failure of this program."

But the report goes on to say that the 15 percent consumer representatives will not have a vote. How such representatives can "assure meaningful and active input of consumer concerns," I am not sure.

Mr. Speaker, I urge my colleagues to oppose this bill. If peach growers want to improve their product, they must do it themselves. The U.S. Congress cannot afford to introduce, consider, and enact legislation in order to make every particular industry in our country "competitive." This Government incursion into private business affairs is exactly the kind of thing the Congress is being urged to avoid. Whatever happened to real free enterprise?

Mr. Speaker, the South Carolina Peach Growers Association opposes this measure. I hope my colleagues will also.

Mr. VIGORITO. Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Pennsylvania (Mr. VIGORITO) that the House suspend the rules and pass the bill (H.R. 14566).

The question was taken.

Mr. JENRETTE. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 3, rule XXVII, and the Chair's prior announcement, further proceedings on this motion will be postponed.

JOHN F. KENNEDY CENTER ACT AMENDMENTS

Mr. GINN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 14360) to amend the John F. Kennedy Center Act to authorize funds for repair, reconstruction, and for other purposes, as amended.

The Clerk read as follows:

H.R. 14360

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subsection (a) of section 6 of the John F. Kennedy Center Act (Public Law 85–874, as amended) is amended by adding at the end thereof the following new sentence: "No action of the Board which is within the powers conferred on it by this Act shall personally obligate any trustee or any agent of the Board.".

(b) Section 8 of the John F. Kennedy Center Act is amended by adding at the end thereof the following new subsection:

"(c) There is authorized to be appropriated to the Board not to exceed $3,300,000 for the repair and reconstruction of the John F. Kennedy Center for the Performing Arts.".

(c) Section 5 of the John F. Kennedy Center is amended by adding at the end thereof the following new subsection:

"(d) The Board shall appoint a comptroller as disbursing officer for all funds appropriated pursuant to subsection (c) of section 8. The comptroller shall serve for a term of three years, or until all appropriated funds are utilized, whichever shall first occur, and may be reappointed for succeeding terms. The comptroller may not be removed except for malfeasance in office or upon conviction of any felony or of conduct involving moral turpitude, and for no other cause. Notwithstanding any other provision of this Act, all claims and demands whatsoever by the Board or against it and all accounts whatever in which the Board is concerned either as a debtor or a creditor and which relate to such appropriated funds, shall be settled and adjusted by the comptroller. The comptroller shall audit from time to time, but at least once each year and after all such appropriated funds shall have been utilized, the books, documents, papers, and records of the Board as they pertain to such appropriated funds and shall report to Congress and the Board the results of such audit. The Comptroller shall prescribe such regulations as may be necessary to carry out his functions under this subsection. The Board may prescribe such other functions as it may deem appropriate for the comptroller.".

The SPEAKER pro tempore. Is a second demanded?

Mr. WALSH. Mr. Speaker, I demand a second.

Mr. YATES. Mr. Speaker, is the gentleman opposed to the bill?

Mr. WALSH. No, Mr. Speaker, I am not.

Mr. YATES. Mr. Speaker, I am opposed to the bill, and I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Georgia (Mr. GINN) will be recognized for 20 minutes, and the gentleman from Illinois (Mr. YATES) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Georgia (Mr. GINN).

Mr. GINN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 14360, as reported by the Committee on Public Works and Transportation, provides an urgently needed $3.3 million for remedying severe water leak conditions which exist throughout the Kennedy Center building. In connection with the expenditure of these funds, the bill requires the Board of Trustees to appoint a comptroller as disbursing officer. Further, the bill clarifies by amendment the John F. Kennedy Center Act by expressly providing that the members of the Board of Trustees and its agents are not personally liable for Board actions which are within its powers.

Since last 1971 when the Kennedy Center building was substantially completed and operations began, increasing difficulties have been encountered with water leaking through the roof, the terrace on the 109-foot level, the terrace on the 40-foot level and the East Plaza Drive in front of the structure, apparently due to deficiencies in the original design. I have personally inspected the building with members of the subcommittee and I feel that if these leaks, totaling in excess of 125, are permitted to continue, the result will be permanent damage to the building and necessitate closing down portions of the building to the public due to danger from falling plaster and the possible collapse of parts of the terrace. Further, the Japanese Government recently donated to the Kennedy Center $3 million as the gift of the Japanese people to the American people during the Bicentennial Year. These funds are to be used for completion of the Studio Theater, part of the original design of the building. However, even with the availability of the donated $3 million, the repairs and reconstruction of the roof must be completed prior to construction of the theater in order to prevent the further entry of water into the Studio Theater area.

Mr. Speaker, the Kennedy Center was established by an act of Congress providing for the sole national memorial to the late President Kennedy and a performing arts facility. Currently, the Center is the third highest visitation point in Washington, surpassed only by the U.S. Capitol and the Smithsonian's Museums of History and Technology and Natural History. An estimated 3½ million tourists visit the Center annually, and this figure is exclusive of the approximate 1½ million theater goers who attend performing art functions in the evening. In addition, I would like to point out that the Board provides many special public service activities at the Center. These include a special price ticket program whereby up to 15 percent of the tickets to all performances are set aside for sale at half price to students, senior citizens, the handicapped and the underprivileged. Further, approximately 7,000 persons attended free of charge approximately 215 numerous festivals sponsored by the Kennedy Center with the assistance of several corporations and foundations in the past year. In addition, the friends of the Kennedy Center provide 60,000 hours per year of volunteer services to assist the National Park Service and the Kennedy Center in introducing the memorial to the tourists. Therefore, in order to keep the memorial and cultural center available to the public, these funds must immediately be made available for reconstruction and repair of the Center. It is the intent of the committee that the repairs and reconstruction will be accomplished by the National Park Service.

In order to insure that the funds are properly expended, H.R. 14360 requires that the Board designate a Comptroller who shall report to Congress on the expenditure of the funds and who shall serve as disbursing officer. While it appears that the Kennedy Center's financial controls are satisfactory, the addition of a Comptroller will provide sufficient insurance that the congressional intent in the authorization and appropriation of funds will be met.

The bill as reported by the committee also would amend the Kennedy Center Act to clarify what we all consider to have been the original legislative intent that the members of the Board of Trustees and officers and agents of the Board shall have at least the same official immunity from suit that is accorded to Federal officials for the discretionary acts which are within their duties. The Board of Trustees of the Kennedy Center have a heavy responsibility in carrying out their mandate under the Kennedy Center Act, particularly in view of the substantial and continuing obligation to eventually pay or make alternative arrangements for meeting the obligation of the Kennedy Center under Treasury revenue bonds and also to meet substantial liabilities of the Kennedy Center which have arisen primarily as a result of construction of the building. Recently, the Trustees were sued individually for actions of the Board relating to construction. Although the suit was terminated without personal liability, clarification of legislative intent is appropriate because of the trustees' continuing responsibility to carry on the functions of the Kennedy Center in the face of substantial liabilities of the institution. With the amendment to subsection (a) of section 6 of the act, it will be clear that the Trustees have at least the same official immunity both before and after enactment of this clarifying amendment, as that which protects Federal officials from personal liability for their discretionary acts within their duties.

Mr. Speaker, the Center is indeed a major tourist attraction in Washington and has come to be considered as the most successful cultural facility in the world. We should make every attempt to keep this facility open to the public, and, at the same time, avoid further deterioration to the building. I urge enactment of H.R. 14360.

Mr. WALSH. Mr. Speaker, will the gentleman yield?

Mr. GINN. I yield to the gentleman from New York.

Mr. WALSH. Mr Speaker, I thank the gentleman for yielding.

Mr. Speaker, I join my distinguished colleague from Georgia in support of this legislation. This bill provides an authorization of $3.3 million for urgently needed repairs to the roof and certain floors of the John F. Kennedy Center for the Performing Arts. Since the Center's opening in 1971 the roof has been leaking and today there are some 125 identifiable leaks in the roof. The leaks are principally through the roof, the terrace on the 109 foot level, and the East Plaza Drive in the front of the Center at the terrace on the 40 foot level. The interior of the Center shows signs of these leaks with many water stains on the ceiling in the grand foyer, paint peeling on the walls in the opera house, and other noticeable water marks.

The National Park Service has erected several water pans, some of which measure over 4 feet by 6 feet, to collect this water which must be drained periodically or allowed to evaporate if conditions permit. The Park Service has so far spent $160,000 for this interim relief of the problem but the Park Service has not engaged in any repair of the roof.

Earlier this summer I joined my colleagues for an onsite inspection of the Center and was given a tour of the roof and attics of the Center. Park Service officials pointed out the water leaks and the possibility of further deterioration was evident. This is a beautiful structure and although it is unconscionable that there was no guarantee on this roof to begin with, the repairs nevertheless must be done. I understand that GSA, which managed the Center's construction, does not secure guarantees on roofs, but rather relies on inspection of the work to make sure the work is properly done. The funds for repair and reconstruction of the Center will be administered by a comptroller to be appointed for a term of 3 years or until the repairs are completed. I understand the Park Service will be the agency in charge of these repairs, with these funds to be transferred to the Park Service by the Kennedy Center.

The roofing subcontractor has put forth a proposal in the Court of Claims to put the roof in serviceable and watertight condition. This proposal is under study by the Justice Department. If it is agreeable, then the Center may not require all of the authorized funds. That, however, is somewhere down the road. This legislation is still needed since the roof proposal would cover only a small part of the needed repair work.

The legislation before you today also provides for clarifying language that the exofficio and public members of the Board are not liable personally for carrying out their responsibilities as trustees of the Kennedy Center. This clarification will insure that the trustees' status with regard to liability both before and after enactment of the amendment is the same that protects Federal officials from personal liability for discretionary actions within their duties.

I urge enactment of this legislation.

Mr. YATES. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I dislike intensely to find fault with this bill because the gentleman from Georgia (Mr. GINN) is my very good friend, and the gentleman from Alabama (Mr. JONES) is my very good friend. And in spite of my objections to this bill, I am very much interested in making sure that the Kennedy Center repairs are taken care of because the repairs should be made.

However, Mr. Speaker, this is one of the strangest bills I have ever seen in providing for the appointment of—I was going to say—a public servant, but I do not think it is a public servant. I do not think it is a private servant either. The comptroller provided for in the bill is a strange creature, indeed.

What I object to, Mr. Speaker, is the language the bill contains on pages 3 and 4 providing for the appointment of a comptroller.

It is understandable that the committee would want to protect the construction job on the roof from undergoing the same kind of protracted and expensive history that the construction of the building proper went through. The building originally was supposed to be constructed without cost to the taxpayers and without taxpayer involvement. Now, the taxpayers, of course, have complete involvement in the building itself. That is now the Government's responsibility.

Mr. Speaker, contractors' claims are still pending with respect to the building. Therefore, it is understandable why the committee should be gun shy and why it should want to have some kind of protection over the processes and payment for construction.

Nonetheless, Mr. Speaker, what I do object to is the language which establishes a comptroller. It sets up no qualifications for the comptroller. As far as the language of the bill is concerned, he can be a total incompetent. It provides for him to have a specific term of office or until all the appropriated funds are utilized, and then, it goes on to say that the "comptroller may not be removed except for malfeasance in office or upon conviction of any felony or of conduct involving moral turpitude, and for no other cause." I repeat—"and for no other cause."

In other words, Mr. Speaker, if this comptroller is an incompetent, he cannot be fired. He can only be fired if he does wrong, if he is guilty of malfeasance, if he has been guilty of a felony, or if he has done something that is morally bad, involving moral turpitude. No other cause.

Mr. Speaker, the Board appoints the comptroller. It can appoint a person who does not know anything about being a comptroller. Even if that is true, nothing can be done to fire him. He has to have done something that is actually bad, that constitutes malfeasance, or that is morally wrong.

Then the language goes on and says this:

> . . . Notwithstanding any other provision of this Act, all claims and demands whatsoever by the Board or against it and all accounts whatever in which the Board is concerned either as a debtor or a creditor and which relate to such appropriated funds, shall be settled and adjusted by the comptroller.

Not by the Board. The Board, by this language, relinquishes its power and has nothing to do with the settlement of any claim, or with any adjustment, that is to be done, by the comptroller. The Board may try to retain a continuing review function, but the final determination of what is allowed or paid becomes the decision of the comptroller.

As I say, I join my friend the gentleman from Georgia (Mr. GINN) in wanting the repairs to be made to the Kennedy Center. I know there is a need for them. As a matter of fact, as the chairman of the Subcommittee on Appropriations of the Department of the Interior, which has jurisdiction over the expenditure of these funds, and which will review the matter after passage of this bill, we will go into that question carefully. But this comptroller will have been authorized. We do not know what his salary is to be; there is no salary set forth in this bill. I am told that the comptroller will be approved by the Board. But the fact remains he has got to be paid something and we do not know how much he is going to be paid or how.

Mr. Speaker, for the reasons that I have outlined, I would suggest that this bill be sent back to the committee and this portion of the bill be changed.

In the question addressed to my friend, the gentleman from Georgia (Mr. GINN) I am told that the National Park Service is going to make the repairs. Therefore I am going to ask the gentleman the question: Why should not the money be appropriated directly to the Park Service to make these repairs if they are going to make the repairs? The Park Service now has jurisdiction over the maintenance of the Kennedy Center. It is in charge of making the expenditures. We appropriate money to the Park Service to clean up the halls and to make repairs, why then should the Park Service not receive the funds in order to make the repairs to the roof?

Mr. GINN. Mr. Speaker, will the gentleman yield?

Mr. YATES. Of course I yield to the gentleman from Georgia.

Mr. GINN. Mr. Speaker, in answer to the gentleman's question, it is my understanding that the Park Service itself asked that the funds be authorized and appropriated directly to the Kennedy Center, leaving them the responsibility of working in conjunction with the Kennedy Center officials to effectuate remodeling and reconstruction work.

Mr. YATES. But the Kennedy Center officials will have no responsibility in respect to the construction, though, would they? Would it not be the function of the Park Service?

Mr. GINN. The Kennedy Center officials will work in conjunction with the Park Service.

Mr. YATES. Why is the comptroller necessary in view of the fact that the Park Service will do the work?

Mr. GINN. On the question as to why we should have a comptroller, since the gentleman from Illinois (Mr. YATES) is the chairman of the subcommittee which appropriates funds for many activities of our Government, including the Kennedy Center, I know the gentleman wants those funds to be spent properly.

Mr. YATES. That is correct.

Mr. GINN. And in the best interests of the taxpayers.

Mr. YATES. That is right.

Mr. GINN. For that reason our committee felt it mandatory that we have a comptroller to supervise the funds involved in this account.

The gentleman also questioned the fact that the comptroller cannot be removed. We are attempting to make it difficult for the Kennedy Center officials to remove the comptroller because we are putting him in there to conduct his function as comptroller and give the Congress a better handle on how they handle the disbursement of the funds.

Mr. YATES. You are not only making it difficult for the officials of the Kennedy Center through this language, you are making it difficult for the Park Service, as well.

Mr. GINN. I would say in reply to that that I imagine that this distinguished Board of Trustees would employ a competent comptroller to begin with; second, they intend to use a member of the existing staff; and, third, there is always the thing called resignation if he is incompetent as the gentleman from Illinois foresees that he might be.

Mr. YATES. But there is no compulsion on the comptroller to resign if he wants to stay there, under this language, he can stay in office so long as he wants, unless he is guilty of malfeasance, or unless he is guilty of a felony or unless he is guilty of some kind of moral turpitude.

The thing that is bothering me is the fact that this comptroller is given the power to settle and adjust all claims or demands against the Board, and with that power, he can overrule the Park Service, as well.

Mr. JONES of Alabama. Mr. Speaker, will the gentleman yield?

Mr. YATES. I yield to the gentleman from Alabama.

Mr. JONES of Alabama. Mr. Speaker, the question the gentleman from Illinois (Mr. YATES) raises is the fact that the comptroller will be an independent officer. He will not be an independent officer; he will be selected by the Board.

Mr. YATES. Yes.

Mr. JONES. And that Board will discipline the Comptroller as to this office and his responsibilities. So the Board is still going to be the principal factor.

Mr. YATES. May I read to the gentleman from Alabama the language in his bill. The language in the bill says:

> The comptroller may not be removed except—

For what?

> for malfeasance in office or upon conviction of any felony or of conduct involving moral turpitude, and for no other cause.

He can stay there no matter what the Board says or does if he does not violate the provisions I have just read.

Mr. JONES of Alabama. Will the gentleman yield further?

Mr. YATES. Yes, I will yield.

Mr. JONES of Alabama. Of course, this is not new language.

Mr. YATES. If it is old language, I have never seen it before. It should not be in this bill.

Mr. LEVITAS. Mr. Speaker, will the gentleman yield?

Mr. YATES. I yield to the gentleman from Georgia.

Mr. LEVITAS. I thank the gentleman for yielding.

As the gentleman from Illinois previously pointed out, the Board would have the right to set the salary of this particular comptroller.

Mr. YATES. Yes.

Mr. LEVITAS. And if they should find that he is not doing a good job, or that he is inept, or that he is incompetent, presumably they could set his salary at such a rate that he would no longer want to retain that employment and in that way get rid of him, as my colleague, the gentleman from Georgia, has explained, through resignation. Since they have the power to set the salary, they certainly can take the appropriate action to make it undesirable for him to remain.

Mr. YATES. I am not sure the gentleman is correct. What the gentleman proposes, and what the language does is inviting a lawsuit. I, for one, do not want to invite a lawsuit. Additionally, I am not sure that the gentleman's theory of the law is correct, because the remedy he proposes may very well involve or amount to a discharge of the comptroller for reasons other than those specified in the bill. The court may find that.

Mr. JONES of Alabama. Mr. Speaker, will the gentleman yield?

Mr. YATES. I yield to the gentleman from Alabama.

Mr. JONES of Alabama. Of course, I agree that we would have an unbecoming incident by saying that if one is incompetent, we will just lower his salary to the lowest level and, therefore, he will be foreclosed from performing the duties that have been assigned to him.

Mr. YATES. Why have this language in the bill at all? That is the point.

Mr. JONES of Alabama. The question is to provide a responsibility. Let us go back. After all, this is a creature of the Congress. We created the Kennedy Center in 1964, and took other actions in finalizing the construction of the Kennedy Center.

Mr. YATES. With a great deal of travail, I might say.

Mr. JONES of Alabama. So I see no grave reason that the Comptroller cannot exercise the same type of office that we have in the General Accounting Office at the present moment.

Mr. YATES. But the language is totally different from that. The language should not be in here. I decline to yield further to the gentleman from Alabama for a few minutes so that I can make the point I want to make. What this language does is create an obstacle. This creates an obstacle which will prevent carrying out the purposes of the bill, to provide repairs for the Kennedy Center. We do not need this language. We are giving a person, the comptroller, the opportunity to place himself above the Board by this language, and above the Park Service in terms of making his duties and making his settlements with the contractors. The history of the Kennedy Center is one of cost overruns. The Board should have some supervision over the construction. The Park Service should certainly have some supervision with respect to the construction.

This language gives the comptroller the right to say what the settlements shall be, what the costs shall be, and what the adjustments shall be.

Mr. JONES of Alabama. Will the gentleman yield further?

Mr. YATES. I will be glad to yield to the gentleman.

Mr. JONES of Alabama. The language was not written in there to hinder the administration of the Kennedy Center.

Mr. YATES. That may have been the purpose, but it is there, and it is a fact.

Mr. JONES of Alabama. It was put in for the specific reason relating to the history of the development of the Center. I will tell the gentleman I will not be here, but, next year it will be necessary, to make changes because we are getting approximately 5 million people down there every year.

Mr. YATES. May I say to the gentleman. I do not want to have in my memory of the gentleman next year his approval of language which is going to be an obstacle to the continuation of the enjoyment of the Kennedy Center.

Mr. GINN. Mr. Speaker, will the gentleman yield?

Mr. YATES. I yield to the gentleman from Georgia.

Mr. GINN. I thank the gentleman for yielding.

The gentleman expressed great concern over the language contained in lines 7 and 12 which generally outline the duties.

Mr. YATES. Line 4. Really, all of the language pertaining to the comptroller, but particularly the language starting on line 4 all the way through to line 17.

Mr. GINN. I will say to the gentleman this, that we are mandating this comptroller to give the Congress and the Board of Trustees an audit of the cost overruns at the Center. We are saying we must have a comptroller who must perform and who must report back to the Congress.

With regard to the language on lines 7 and 12, that is purely accounting terminology. This comptroller would have no more power, influence, or authority than any general disbursing officer in the Federal Government.

Mr. YATES. Mr. Speaker, I think this language is a barrier to the administration of the repairs. That is the only reason I raise this question. If this language remains in the bill we are going to have trouble.

Mr. KAZEN. Mr. Speaker, will the gentleman yield?

Mr. YATES. I yield to the gentleman from Texas.

Mr. KAZEN. Mr. Speaker, I would like to ask the gentleman whether he is concerned, first of all, with the necessity of having the comptroller not only disburse this $3 million that we are authorizing in this bill but also be responsible for all claims, all demands made upon the Board. He is going to be the comptroller for the Board, and even though it is provided in one section that his term will terminate upon the end of construction or at the end of a 3-year period whichever is shorter, yet it provides that he be appointed for successive terms.

How long are we going to have him? How much is he going to cost? How much of this $3 million is going to go to administer the fund?

Mr. YATES. Mr. Speaker, the gentleman raises a very valid question.

Mr. GINN. Mr. Speaker, will the gentleman yield?

Mr. YATES. I yield to the gentleman from Georgia.

Mr. GINN. Mr. Speaker, it says the Comptroller shall serve for a period of 3 years.

Mr. KAZEN. Mr. Speaker, if the gentleman will yield further, "succeeding terms," what does that mean?

Mr. GINN. Mr. Speaker, if the gentleman will yield, we do not envision it would take more than 3 years to spend the $3 million.

Mr. KAZEN. Mr. Speaker, if the gentleman will yield further, I understand it is not envisioned, but then we come to the same argument that the gentleman in the well is making. That provision appears to be in the bill. What is envisioned and what is written are two different things.

Mr. RONCALIO. Mr. Speaker, will the gentleman yield?

Mr. YATES. I yield to the gentleman from Wyoming.

Mr. RONCALIO. Mr. Speaker, let me assure the gentleman in the well, the legislation as constituted is the best language we had available for the Kennedy Center for the Performing Arts by Mr. Ralph Becker. That is considered the best language to give the Congress responsibility to do this carefully under the law to handle that money. He will still be under the supervision of the chief executive officer of the Kennedy Center.

Mr. YATES. He will be above that supervision because he will control the Board on this job. The language in the bill gives the Comptroller the right to handle the matter, not the chief executive officer.

Mr. RONCALIO. Mr. Speaker, if the gentleman will yield further, I see no language that will overrule the Board of Trustees of the Kennedy Center.

Mr. YATES. This is what the language says:

> Notwithstanding any other provision of this Act, all claims and demands whatsoever by the Board or against it and all accounts whatever in which the Board is concerned either as a debtor or a creditor and which relate to such appropriated funds, shall be settled and adjusted by the comptroller.

Mr. RONCALIO. That is talking about accounts payable and accounts receivable.

Mr. YATES. That is right. In other words, he has the power to decide what shall be paid or what shall not be paid.

Mr. RONCALIO. Let me say to my friend in the well that that is $3 million that the committee is appropriating. Now, we want that for the Administrator at the Kennedy Center, in the hope that can be an effective savings.

Mr. YATES. Mr. Speaker, I join my friend, that is why I think this language should be out of there.

Mr. RONCALIO. There is a problem with the entertainment center and we are trying to give it an efficient operation to answer the critics that talk about this operation. If the language is a burden, I ask my friend to go along with my friends who feel it is the best language necessary for the efficient administration of this institution.

Mr. YATES. I respect my friend from Wyoming and I thank the gentleman for his contribution.

Mr. HARSHA. Mr. Speaker, will the gentleman yield?

Mr. YATES. I yield to the gentleman from Ohio.

Mr. HARSHA. Mr. Speaker, I would like to point out to my friend, the gentleman from Illinois, that while we do not yet state any qualifications or any description of what we intended the Comptroller to be, we certainly intend him to be an adequate man in this field, a CPA.

Mr. YATES. It does not say that in the bill.

Mr. HARSHA. It does not say that, but this man is going to be appointed for a term of 3 years by the Board of Directors. They obviously are not going to appoint an incompetent.

Mr. YATES. Why? What if he is related to the Chairman of the Board? People have been known to receive important positions for reasons other than competence.

Mr. HARSHA. It is intended that he be totally independent of the Board.

The SPEAKER pro tempore. The time of the gentleman from Illinois has expired.

Mr. HARSHA. Mr. Speaker, will the gentleman yield?

Mr. GINN. I yield to the gentleman from Ohio such time as he may consume.

Mr. HARSHA. Mr. Speaker, I thank the gentleman for yielding.

The purpose of this particular paragraph or portion of the legislation is to give Congress a handle on these expenditures. We do not want the Board being in a position where it can terminate this man because of a personal whim. We want a man there totally independent of the Board because of the very things the gentleman from Illinois recounted in his colloquy on the floor and because of the history of the overexpenditures in this building. The Congress wants to get a handle on this and we do not want somebody who will be appointed by the Board and be dismissed at the whim of some of the Members. We want a man there to represent the interests of the taxpayers. He can be appointed only for a term of 3 years at the most. If he does act in a way the Board and the gentleman might complain of, we can take care of that.

The man is to be there to oversee the expenditure of this money and he is to report to the Congress. Nobody is going to appoint an incompetent to that job. That to me would be incomprehensible.

I support H.R. 14360, a bill to amend the John F. Kennedy Center Act to authorize $3.3 million for repair and reconstruction of the John F. Kennedy Center for the Performing Arts. These funds are to be used for urgently needed repairs to the roof and floors of the Center which currently are leaking. The water leaks have damaged the Grand Foyer, the Plaza Drive, as well as the kitchen and other areas of the Center. This bill also clarifies the original intent of this act that no ex officio or public member of the Board of the Kennedy Center shall be personally liable for discretionary actions in connection with responsibilities as a trustee.

The matter of the leaking roof is a subject of a Court of Claims countersuit by the Kennedy Center which is currently under litigation. I understand that last week a proposal was made by the roof subcontractor to repair and secure the roof from further leaks. This proposal is under study by the Justice Department. However, this does not deter the need for this legislation since other repairs resulting from the leaking conditions at the Center are needed. Whatever settlement comes from this countersuit in general will be paid to the Treasury into general receipts, and the Kennedy Center would not benefit directly from any claims decision.

In addition to the roof repairs, the East Plaza Drive needs repair and reconstruction as well as the marble terraces on the 109- and 40-foot levels. Additionally, ponding and vents are needed on the roof to dry out the insulation.

The Subcommittee on Public Buildings held hearings on this bill on June 16 at which time the Chairman of the Board, Mr. Roger Stevens, appeared and testified as well as officials and experts from the National Park Service, which currently maintains this memorial to the late President Kennedy. All testified in support of this legislation. I have met with officials of both the Kennedy Center and the Park Service and I am convinced this legislation is needed. As had been discussed, the legislation does provide for a Comptroller to oversee the expenditure of these funds. This will safeguard proper use of the funds for the intended objective.

I urge the House to act promptly to clear this measure so that the work can be done to arrest any further deterioration of the building. The administration has no objection to this bill.

I urge enactment of the bill.

Mr. WALSH. Mr. Chairman, will the gentleman yield?

Mr. GINN. I yield to the gentleman from New York.

Mr. WALSH. Mr. Speaker, I share the concern of the gentleman from Illinois but I think we have to remember there is no legislation that sets the qualifications of everybody who may be appointed to a position. I do not think that is the purpose of legislation. The comptroller has certain general responsibilities when he is hired. Those are spelled out generally by the agency. Anybody who has had any experience at the administrative level is going to sit down with a person he hires and spell out the duties in great detail and the person hired will know what he is to be held accountable for as far as his duties and responsibilities are concerned.

I think we have to have some faith and confidence in the administration of the Kennedy Center. They have done a good job under very difficult circumstances.

Remember this building was built with both public and private funds and this is where the problems have come in. The responsibility for the roof is not that of the Board of Trustees. That was the GSA's mistake. They did not get a guarantee. Any homeowner gets a guarantee of 20 years for a roof. They were careless, no doubt about it.

But they have guaranteed and assured us that they are going to get a guarantee for the roof repairs we are going to have done, under the provisions of this bill. We have to go ahead because the roof is deteriorating. I flew over there today and there is water standing on the roof. This must be corrected now.

I thank the gentleman for yielding.

Mr. GINN. Mr. Speaker, I yield to the gentleman from Ohio (Mr. DEVINE) such time as he may consume.

Mr. DEVINE. Mr. Speaker, I thank the gentleman for yielding.

I merely wanted to ask a few questions and put something on the record.

The gentleman just commented that the GSA had neglected to get a guarantee. We should put on the record, No. 1, the name of the contractor who constructed the faulty roof. Who is the contractor that put the roof on this building? It leaks and this means almost immediately beginning in 1971 the roof has leaked and it has leaked ever since. Has anybody considered filing a suit or making some recovery against the corporation for the faulty roof in this instance?

All of us are being called upon to spend $3.5 million of the taxpayers' money because somebody blew it. Can the gentleman respond?

Mr. GINN. Mr. Speaker, I will be glad to try to respond to the questions. May I say none of us is particularly happy in having to come back and ask for this $3.5 million, but the fact is the roof is leaking and deteriorating and much more damage will be done and property destroyed if we do not act.

The name of the contractor the gentleman inquired about is John McShane, Inc.

The gentleman also asked if anything is being done with respect to legal action to attempt to recoup some of these funds. Yes, a suit is pending in the District court, Court of Claims, and the matter is being litigated at the present time.

Mr. DEVINE. I thank the gentleman for responding.

Mr. GINN. The Department of Justice is representing the Kennedy Center.

Mr. SYMMS. Mr. Speaker, will the gentleman yield?

Mr. GINN. I yield to the gentleman from Idaho.

Mr. SYMMS. Mr. Speaker, I thank the gentleman for yielding to me. I would just like to make a point that here we are again with the Kennedy Center boondoggle, which has been going on and on and on for years. This is $3 million more that the poor people and middle class Americans have to pay in their taxes so that the wealthy can go and enjoy their art and watch the festivities go on down there.

That is my whole objection to the project. I am in favor of culture, I am in favor of art, but I think those people who want to go see it ought to pay for it, and not make the poor working guy who is carrying a lunch bucket and working to pay one-half to one-third his income in taxes to support this kind of boondoggle in the Nation's Capital so that all the wealthy can go down here to enjoy the art shows.

Mr. GINN. I can appreciate the gentleman's view of the Kennedy Center, but I must say that he is entirely wrong with regard to its being a boondoggle. He was not on the floor earlier today when I pointed out that a certain percentage of tickets are issued at half price for the underprivileged, the handicapped, and so forth.

Mr. SYMMS. So the working man gets a ticket for $25 instead of $50.

Mr. KAZEN. Mr. Speaker, will the gentleman yield?

Mr. GINN. I yield to the gentleman from Texas.

Mr. KAZEN. Mr. Speaker, the thing that disturbs me is the fact that we are fast making the Kennedy Center a complete creature of the Congress, which it never was intended to be. The Congress was going to be a partner in putting up part of the funds that the general public would fall short of getting by public subscription. But, now it has come to the lap of the Congress, and from now on we are taking it upon ourselves to say that anything that the Kennedy Center ever needs in the future, all they have got to do is come to us and we will provide all the funds needed.

I do not think this is what the Congress intended to do.

Mr. GINN. I will say to the gentleman that I was not a Member of this distinguished body when it enacted the John F. Kennedy Center Act. I happen to be the poor soul who must come back now and ask for money in order to keep the roof from falling in.

Mr. JONES of Alabama. Mr. Speaker, will the gentleman yield?

Mr. GINN. I yield to the gentleman from Alabama.

Mr. JONES of Alabama. Mr. Speaker, I am not going to reply to the gentleman from Texas, but I will say that the gentleman from Alabama, speaking at the present moment, was one of the original sponsors of the bill which we now call the John F. Kennedy Center Act.

The Kennedy Center was a creation of the House of Representatives. We never expected, when we created it, that we would be the administrative agency or the functionary for its total responsibilities. We did not calculate at that time that it would be necessary that we go down there and sell tickets or take tickets, nor that we would run the parking lot. Certainly it was not expected that any of the requirements of the internal operation of the Kennedy Center would be resting upon us.

We did take it upon ourselves to say that we would provide a memorial to the late President Kennedy and an auditorium for the performing arts. We took it upon ourselves to say that we should give the Nation's Capital a refreshing forum for the people to enjoy the arts. The fact that people from all over the Nation could have, in the Capital of the United States, showplace of culture second to none in the world, was our objective.

For that reason, we agreed to the establishment of the Kennedy Center. I hope that we will not falter or be stinting in our total dedication to an institution which has been attended by some 5 million people a year who come not only to see the performing arts but also to view this national memorial, and return home proud of the fact that we in the Congress of the United States recognize the performing arts as well as our late President in one glorious facility.

Let us get along with our job.

Mr. GINN. Mr. Speaker, I reserve the balance of my time.

Mr. YATES. Mr. Speaker, I yield 1 minute to the gentleman from Ohio (Mr. ASHBROOK).

Mr. ASHBROOK. Mr. Speaker, I merely want to point out that the other day we were into this same dialog regarding getting into projects in the District of Columbia and not being able to extricate ourselves. At that time I referred to the old tarbaby story. It seems that once we get into spending projects in the District of Columbia, we get stucker and we get stucker and we get stucker. You just cannot get out—just like the tarbaby fable.

In this case, I think a little bit of a revision is necessary. Evidently the tar did not even get on the roof.

Mr. YATES. Mr. Speaker, I yield myself the remainder of my time.

Mr. Speaker, as I indicated, I favor the repairs that have to be made. I oppose very strongly the provisions in this bill, which I think are unnecessary, which create what is known as the Office of Comptroller without stating the duties of the Comptroller, or what his salary will be, and setting up conditions under which the Comptroller cannot possibly be removed if he is incompetent.

For that reason I think the bill ought to be sent back to the committee and a good bill brought back.

Mr. GINN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, in closing this debate, let me simply say that the committee feels it has the responsibility to come back to the House to ask for $3.3 million to repair the roof of this magnificent structure. Whether or not that is wrong or right, we will let the House decide. But we have an obligation to prevent the building from being destroyed while the matter is being litigated in court. It would be my hope that the Committee on Public Works has brought a little excitement to the House today on a relatively dull Monday afternoon, and that the House would pass this bill.

Mr. RONCALIO. Mr. Speaker, will the gentleman yield?

Mr. GINN. I yield to the gentleman from Wyoming.

Mr. RONCALIO. Mr. Speaker, I want to compliment the gentleman from Georgia (Mr. GINN) for his excellent, competent, and suave presentation and for the fine leadership he has given to the Subcommittee on Public Buildings and Grounds.

Mr. JONES of Alabama. Mr. Speaker, may I commend the chairman of the Subcommittee on Public Buildings and Grounds, the gentleman from Georgia (Mr. GINN), the ranking minority member from New York (Mr. WALSH), and all the members of the committe for their fine work on the bill before us today.

This legislation is urgently needed in order to provide $3.3 million for reconstruction and repair of the Kennedy Center building due to water leakage problems which are principally through the roof, two terraces, and the East Plaza Drive. As these leaks continue, deterioration to the interior of the structure increases, resulting in among other things, increased maintenance costs. Eventually, this condition, if permitted to continue, will result in a safety and health hazard.

The legislation also provides for appointment by the Board of Trustees of a comptroller to insure that the funds appropriated in this bill for repairs and reconstruction are properly expended.

Lastly, the bill would amend the Kennedy Center Act to clarify what we all consider to have been the original legislative intent, that the members of the Board of Trustees and officers and agents of the Board shall have at least the same official immunity from suit that is accorded to Federal officials for the discretionary acts which are within their duties. With this amendment to the act, it will be clear that the trustees have at least the same official immunity both before and after enactment of this clarifying amendment.

Mr. Speaker, the Kennedy Center, a creation of the Congress, is an ideal example for the involvement of the Federal Government in the enrichment of our quality of life. The accomplishments of the Kennedy Center are a testament to the original intent of the legislation. The Kennedy Center, a living memorial to the late President Kennedy, is visited annually by approximately 3.5 million tourists. Tours are provided daily by the National Park Service and the Kennedy Center in order to introduce this beautiful memorial to the tourists. In addition, the Kennedy Center has undertaken an extensive and ambitious program of providing public service in fulfilling its congressional mandate. Approximately 215 public service programs were presented at the Kennedy Center during the past year which were available to the public free of charge. In addition, a special ticket program allows the underprivileged, the handicapped, students, and senior citizens attend performances at a reduced rate. Further, the Friends of the Kennedy Center provide their services on a volunteer basis to assist the National Park Service and Kennedy Center in hosting all the tourists who visit the Center.

Mr. Speaker, this legislation has been throughly reviewed by the committee and in order to avoid further deterioration of the Center and allow it to remain open to the public, we must enact this legislation immediately. I urge enactment of H.R. 14360.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Georgia (Mr. GINN) that the House suspend the rules and pass the bill (H.R. 14360), as amended.

The question was taken.

Mr. BAUMAN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 3 of rule XXVII and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. GINN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill H.R. 14360.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

ANTITRUST CIVIL PROCESS ACT AMENDMENTS OF 1976

Mr. SEIBERLING. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 13489) to amend the Antitrust Civil Process Act to increase the effectiveness of discovery in civil antitrust investigations, and for other purposes, as amended.

The Clerk read as follows:

H.R. 13489

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Antitrust Civil Process Act Amendments of 1976".

DEFINITIONS

SEC. 2. Section 2 of the Antitrust Civil Process Act (15 U.S.C. 1311) is amended—

(1) by amending subsection (c) to read as follows:

"(c) The term 'antitrust investigation' means any inquiry conducted by any antitrust investigator for the purpose of ascertaining whether any person is or has been engaged in any antitrust violation or in any activities in preparation for a merger, acquisition, joint venture, or similar transaction, which, if completed, may violate the antitrust laws;".

(2) by amending subsection (f) to read as follows:

"(f) The term 'person' means any natural person, partnership, corporation, association, or other legal entity;".

(3) by amending subsection (h) to read as follows:

"(h) The term 'custodian' means the custodian or any deputy custodian designated under section 4(a) of this Act.".

CIVIL INVESTIGATIVE DEMANDS

SEC. 3. Section 3 of such Act (15 U.S.C. 1312) is amended to read as follows:

"CIVIL INVESTIGATIVE DEMANDS

"SEC. 3. (a) Whenever the Attorney General, or the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice, has reason to believe that any person may be in possession, custody or control of any documentary material, or may have any information, relevant to a civil antitrust investigation, he may, prior to the institution of a civil or criminal proceeding thereon, issue in writing, and cause to be served upon such person, a civil investigative demand requiring such person to produce such documentary material for inspection and copying or reproduction or to answer in writing written interrogatories or to give oral testimony concerning documents or information or to furnish any combination of such documents, written answers, or oral testimony.

"(b) Each such demand shall—

"(1) state in appropriate detail the nature of—

"(A) the conduct constituting the alleged antitrust violation, or

"(B) the activities in preparation for a merger, acquisition, joint venture, or similar transaction, which, if completed, may violate the antitrust laws,

which are under investigation and the provision of law applicable thereto;

"(2) if it is a demand for production of documentary material,

"(A) describe the class or classes of documentary material to be produced thereunder with such definiteness and certainty as to permit such material to be fairly identified; and

"(B) prescribe a return date or dates which will provide a reasonable period of time within which the material so demanded may be assembled and made available for inspection and copying or reproduction; and

"(C) identify the custodian to whom such material shall be made available; or

"(3) if it is a demand for answers to written interrogatories,

"(A) propound with definiteness and certainty the written interrogatories to be answered; and

"(B) prescribe a date or dates at which time answers to written interrogatories shall be made; and

"(C) identify the custodian to whom such answers shall be made available; or

"(4) if it is a demand for the giving of oral testimony,

"(A) prescribe a date, time, and place at which oral testimony shall be commenced; and

"(B) identify the antitrust investigator or investigators who shall conduct the oral examination and the custodian to whom the transcript of such examination shall be made available.

"(c) No such demand shall require the production of any document, the submission of any information, or any oral testimony if such document, information, or testimony would be protected from disclosure under—

"(1) the standards applicable to subpenas or subpenas duces tecum issued by a court of the United States in aid of a grand jury investigation, or

"(2) the standards applicable to discovery requests under the Federal Rules of Civil Procedure, to the extent that the application of such standards to any such demand is appropriate and consistent with the provisions and purposes of this Act.

"(d)(1) Any such demand may be served by any antitrust investigator, or by any United States marshal or deputy marshal, at any place within the territorial jurisdiction of any court of the United States.

"(2) Any such demand or any petition filed under section 5 of this Act may be served upon any person who is not within the territorial jurisdiction of any court of the United States, in such manner as the Federal Rules of Civil Procedure prescribe for service in a foreign country. To the extent that the courts of the United States can assert jurisdiction over such person consistent with due process, the United States District Court for the District of Columbia shall have the same jurisdiction to take any action respecting compliance with this Act by such person that such court would have if such person were personally within the jurisdiction of such court.

"(e)(1) Service of any such demand or of any petition filed under section 5 of this Act may be made upon a partnership, corporation, association, or other legal entity by—

"(A) delivering a duly executed copy thereof to any partner, executive officer, managing agent, or general agent thereof, or to any agent thereof authorized by appointment or by law to receive service of process on behalf of such partnership, corporation, association, or entity;

"(B) delivering a duly executed copy thereof to the principal office or place of business of the partnership, corporation, association, or entity to be served; or

"(C) depositing such copy in the United States mails, by registered or certified mail, return receipt requested, duly addressed to such partnership, corporation, association, or entity at its principal office or place of business.

"(2) Service of any such demand or of any petition filed under section 5 of this Act may be made upon any natural person by—

"(A) delivering a duly executed copy thereof to the person to be served; or

"(B) depositing such copy in the United States mails, by registered or certified mail, return receipt requested, duly addressed to the person to be served at his residence or principal office or place of business.

"(f) A verified return by the individual serving any such demand or petition setting forth the manner of such service shall be proof of such service. In the case of service by registered or certified mail, such return shall be accompanied by the return post office receipt of delivery of such demand.

"(g) The production of documentary material in response to a demand served pursuant to this section shall be made under a sworn certificate by the person, if a natural person, to whom the demand is directed or, if not a natural person, by a person or persons having knowledge of the facts and circumstances relating to such production, to the effect that all of the documentary material described by the demand which is in the possession, custody, or control of the person to whom the demand is directed has been produced and made available to the custodian.

"(h) Each interrogatory in a demand served pursuant to this section shall be answered separately and fully in writing under oath, unless it is objected to, in which event the reasons for objections shall be stated in lieu of an answer, and it shall be submitted under a sworn certificate by the person, if a natural person, to whom the demand is directed or, if not a natural person, by a person or persons responsible for answering each interrogatory, to the effect that all information required by the demand which is in the possession, custody, or control of the person to whom the demand is directed has been furnished.

"(i)(1) The examination of any person pursuant to a demand for oral testimony served under this section shall be taken before an officer authorized to administer oaths and affirmations by the laws of the United States or of the place where the examination is held. The officer before whom the testimony is to be taken shall put the witness on oath or affirmation and shall personally, or by someone acting under his direction and in his presence, record the testimony of the witness. The testimony shall be taken stenographically and transcribed. Upon certification the officer before whom the testimony is taken shall promptly transmit the transcript of the testimony to the possession of the antitrust investigator conducting the examination.

"(2) The antitrust investigator or investigators conducting the examination shall exclude from the place where the examination is held all other persons except the person being examined, his counsel, the officer before whom the testimony is to be taken, and any stenographer taking said such testimony. The provisions of the Act of March 3, 1913 (ch. 114, 37 Stat. 731; 15 U.S.C. 30), shall not apply to such examinations.

"(3) The oral testimony of any person taken pursuant to a demand served under this section shall be taken in the judicial district of the United States within which such person resides, is found, or transacts business, or in such other place as may be agreed upon between the antitrust investigator conducting the examination and such person.

"(4) When the testimony is fully transcribed, the transcript shall be submitted to the witness for examination and shall be read to or by him, unless such examination and reading are waived by the witness and by the parties. Any changes in form or substance which the witness desires to make shall be entered upon the transcript by the officer with a statement of the reasons given by the witness for making them. The transcript shall then be signed by the witness, unless the parties by stipulation waive the signing or the witness is ill or cannot be found or refuses to sign. If the transcript is not signed by the witness within thirty days of its submission to him, the officer shall sign it and state on the record the fact of the waiver or of the illness or absence of the witness or the fact of the refusal to sign together with the reason, if any, given therefor. The officer shall certify on the transcript that the witness was duly sworn by him and that the transcript is a true record of the testimony given by the witness and promptly send it by registered or certified mail to the investigator. Upon payment of reasonable charges therefor, the investigator shall furnish a copy of the transcript to the witness only, except that the Assistant Attorney General in charge of the Antitrust Division may for good cause limit such witness to inspection of the official transcript of his testimony.

"(5)(A) Any person compelled to appear under a demand for oral testimony pursuant to this section may be accompanied, represented, and advised by counsel. Counsel may advise such person, in confidence, either upon the request of such person or upon counsel's own initiative, with respect to any question asked of such person. Such person or counsel may object on the record to any question, in whole or in part, and shall state for the record the reason for the objection. An objection may properly be made, received, and entered upon the record when it is claimed that such person is entitled to refuse to answer the question on grounds of any constitutional or other legal right or privilege, including the privilege against self-incrimination. If such person refuses to answer any question, the antitrust investigator conducting the examination may petition the district court of the United States pursuant to section 5 of this Act for an order compelling such person to answer such question. Such person shall not otherwise object to or refuse to answer any question, and shall not by himself or through counsel otherwise interrupt the oral examination.

"(B) If such person refuses to answer any question on grounds of the privilege against self-incrimination, the testimony of such person may be compelled in accordance with the provisions of part V of title 18, United States Code.

"(6) Any person appearing for oral examination pursuant to a demand served under this section shall be paid the same fees and mileage which are paid to witnesses in the district courts of the United States.".

CUSTODIAN OF DOCUMENTS, ANSWERS, AND TRANSCRIPTS

SEC. 4. Section 4 of such Act is amended to read as follows:

"CUSTODIAN OF DOCUMENTS, ANSWERS, AND TRANSCRIPTS

"SEC. 4. (a) The Assistant Attorney General in charge of the Antitrust Division of the Department of Justice shall designate an antitrust investigator to serve as custodian of documentary material, answers to interrogatories, and transcripts of oral testimony made available to him under section 3 of this Act, and such additional antitrust investigators as he shall determine from time to time to be necessary to serve as deputies to such officer.

"(b) Any person, upon whom any demand under section 3 of this Act for the production of documentary material has been duly served, shall make such material available for inspection and copying or reproduction to the custodian designated therein at the principal place of business of such person (or at such other place as such custodian and such person thereafter may agree and prescribe in writing or as the court may direct, pursuant to seection 5(d) of this Act) on the return date specified in such demand (or on such later date as such custodian may prescribe in writing). Such person may upon written agreement between such person and the custodian substitute copies for originals of all or any part of such documentary material.

"(c)(1) The custodian to whom any documentary material, answers to interrogatories, or transcripts of oral testimony are delivered shall take physical possession thereof, and shall be responsible for the use made thereof and for the return of documentary material, pursuant to this Act.

"(2) The custodian may cause the preparation of such copies of such documentary material, answers to interrogatories, or transscripts of oral testimony as may be required for official use by any duly authorized official or employee of the Department of Justice under regulations which shall be promulgated by the Attorney General. Such material, answers, and transcripts may be used by any such officer or employee in connection with the taking of oral testimony pursuant to this Act.

"(3) The custodian shall not make available for examination any documentary material, answers to interrogatories, or transcripts of oral testimony, or copies thereof, except—

"(A) as permitted under paragraph (2) of this subsection;

"(B) as permitted under such reasonable terms and conditions as shall be promulgated by the Attorney General, to the person who produced such material, answers, or oral testimony, or his duly authorized representative, upon the request of such person;

"(C) with respect to such materials and answers, to any other person, with the consent of the person who produced such material or answers; or

"(D) with respect to transcripts of oral testimony, to any other person, with the consent of the person who produced such transcripts, unless the person who produced such transcripts is limited to inspection of the official transcript of his oral testimony pursuant to section 3(i)(4) of this Act.

"(d)(1) Whenever any attorney of the Department of Justice has been designated to appear (A) before any court or grand jury in any case or proceeding involving any alleged antitrust violation, or (B) before any Federal administrative or regulatory agency in any proceeding, the custodian of any documentary material, answers to interrogatories, or transcripts of oral testimony may deliver to such attorney such documentary material, answers to interrogatories, or transcripts of oral testimony for official use in connection with any such case or any such proceeding as such attorney determines to be required. Upon the completion of any such case or any such proceeding, such attorney shall return to the custodian any such materials, answers, or transcripts so delivered which have not passed into the control of such court, grand jury, or Federal administrative or regulatory agency through the introduction thereof into the record of such case or such proceeding.

"(2) The custodian of any documentary material, answers to interrogatories, or transcripts of oral testimony may deliver to the Federal Trade Commission, in response to a written request, copies of such documentary material, answers to interrogatories, or transcripts of oral testimony for use in connection with an investigation or proceeding under the Commission's jurisdiction. Such material, answers, or transcripts may only be used by the Commission in such manner and subject to such conditions as apply to the Department of Justice under this Act.

"(e) If any documentary material (other than copies thereof) has been produced in the course of any antitrust investigation by any person pursuant to a demand under section 3 of this Act and—

"(1) any case or proceeding before any court or grand jury arising out of such investigation, or any proceedings before any Federal administrative or regulatory agency involving such material, has been completed, or

"(2) no case or proceeding, in which such material may be used, has been commenced within a reasonable time after completion of the examination and analysis of all documentary material and other information assembled in the course of such investigation,

the custodian shall, upon written request of the persons who produced such material, return to such person any such material which has not passed into the control of any court, grand jury, or agency through the introduction of such material into the record of such court, grand jury, or agency.

"(f) In the event of the death, disability, or separation from service in the Department of Justice of the custodian of any documentary material, answers to interrogatories, or transcripts of oral testimony produced under any demand issued pursuant to section 3 of this Act, or the official relief of such custodian from responsibility for the custody and control of such material, answer, or transcript, the Assistant Attorney General in charge of the Antitrust Division shall promptly (1) designate another antitrust investigator to serve as custodian of such material, answers, or testimony and (2) transmit in writing to the person who produced material, answers, or testimony pursuant to a demand under section 3 of this Act, notice as to the identity and address of the successor so designated. Any successor designated under this subsection shall have with regard to such material, answers, or transcripts all duties and responsibilities imposed by this Act upon his predecessor in office with regard thereto, except that he shall not be held responsible for any default or dereliction which occurred before his designation.".

JUDICIAL PROCEEDING

SEC. 5. (a) The first sentence of subsection (b) of section 5 is amended to read as follows:

"Within twenty days after the service of any such demand upon any person, or at any time before the compliance date specified in the demand, whichever period is shorter, or within such period exceeding twenty days after service or in excess of such compliance date as may be prescribed in writing, subsequent to service, by the antitrust investigator named in the demand, such person may file, in the district court of the United States for the judicial district within which such person resides, is found, or transacts business, and serve upon such antitrust investigator a petition for an order of such court modifying or setting aside such demand.".

(b) Subsection (c) of section 5 is amended by inserting ", answers to interrogatories, or transcripts of oral testimony," after "material".

(c) Section 5 is further amended by adding at the end thereof the following:

"(f) Any material provided pursuant to any demand issued under this Act shall be exempt from disclosure under section 552 of title 5, United States Code.".

CRIMINAL PENALTY

SEC. 6. The third paragraph of section 1505 of title 18, United States Code, is amended—

(1) by inserting "oral testimony, written information, or" before "documentary material"; and

(2) by inserting ", or attempts to or solicits another to do so" after subject of such demand".

EFFECTIVE DATE

SEC. 7. The amendments to the Antitrust Civil Process Act made by this Act shall take effect on the date of enactment of this Act, except section 3(i)(6) of the Antitrust Civil Process Act (as amended by this Act) shall take effect on the later of (1) the date of enactment of this Act, or (2) October 1, 1976. Any such amendment which provides for the production of documentary material, answers to interrogatories, or oral testimony shall be effective with respect to any act or practice without regard to the data on which it occurred.

The SPEAKER pro tempore. Is a second demanded?

Mr. HUTCHINSON. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Ohio (Mr. SEIBERLING) will be recognized for 20 minutes, and the gentleman from Michigan (Mr. HUTCHINSON) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Ohio (Mr. SEIBERLING).

Mr. SEIBERLING. Mr. Speaker, I yield myself 6 minutes.

Mr. Speaker, Federal antitrust violations fall into two categories—criminal and civil. Criminal cases are normally investigated through the use of grand juries, which, of course, have broad subpena powers. The Justice Department also has the authority to conduct civil investigations prior to the filing of a civil complaint. The Justice Department's power to obtain material in connection with a precomplaint civil investigation is governed by the Antitrust Civil Process Act of 1962.

While the Antitrust Civil Process Act enables the Justice Department to require the submission of certain materials, the act now has several important limitations on the use of such demands, which are called civil investigative demands or CID's:

First. The 1962 act permits the Justice Department to issue such CID's only to corporations and business entities which are the target of an investigation. CID's may not—under the 1962 act—be issued to natural persons or third parties which may possess relevant information.

Second. The 1962 act permits the Justice Department to issue civil investigative demands only for documentary materials. CID's may not—under the 1962 act—be issued for information through such devices as oral depositions or written interrogatories.

Third. The 1962 act permits the Justice Department to issue CID's only with respect to completed or continuing violations of the antitrust laws. CID's may not—under the 1962 act—be issued with respect to information relating to proposed corporate acquisitions or mergers which may, when completed, violate the antitrust laws.

Two years ago, the distinguished chairman of the Judiciary Committee and of the Monopolies and Commercial Law Subcommittee (Mr. RODINO) introduced legislation to remove these limitations, which hinder effective investigations by the Justice Department.

The Judiciary Committee held hearings and received the views of the Justice Department, the Public Interest Bar, and the business community. In response to some of the comments received, the committee incorporated new safeguards against possible governmental abuse, and it tightened up the existing safeguards. The committee concluded that the scope of the 1962 act should be broadened, and therefore, the committee recommends that the 1962 act be amended in three major respects:

First, permit CID's to be served upon natural persons and third parties; second, permit the use of oral depositions and written interrogatories; and third, permit the use of CID's for premerger investigations.

Virtually every other Federal agency which conducts investigations has powers like the ones in this bill would authorize for the Justice Department, so the bill does not establish any untried or novel powers.

Of course, the Justice Department, by filing a civil complaint, can obtain full discovery under the Federal Rules of Civil Procedure. However, the vast majority of investigations do not result in any complaint being filed. In the interest of minimizing litigation, the Justice Department should be able to obtain the necessary information without having to file a complaint which, upon complete investigation, may turn out to be without foundation.

What the bill does accomplish is to assist the Justice Department in investigating civil violations of the antitrust laws. These violations have an enormous impact upon the American economy. In fact, American consumers end up paying an extra $30 billion every year because of antitrust violations.

While some of these violations could be investigated and prosecuted criminally, about 70 percent of the Justice Department's investigations and complaints are civil in nature. H.R. 13489 will increase the effectiveness of those civil investigations.

President Ford is a supporter of the bill, which is cosponsored by 11 of the 13 members of the Judiciary Subcommittee on Monopolies and Commercial Law.

During the committee's hearings a number of witnesses expressed their concern, a concern that I myself shared, about possible abuses by the Justice Department. The members of the Monopolies Subcommittee and the Judiciary Committee gave careful consideration to incorporating such protections for the recipients of CID's. The committee is satisfied—and I personally am satisfied—that the bill contains the necessary safeguards to prevent governmental abuses.

These protections include a full right to counsel during any CID oral examination; a right to refuse to answer any question if it violates "any constitutional or other legal right or privilege"; a right to object under either grand jury subpena standards or appropriate civil discovery standards; a right to judicial review by the courts in case of any dispute; strict confidentiality of all CID investigative files in order to protect witnesses' reputations, trade secrets and proprietary financial data; an absolute right on the part of CID witnesses to review, correct, and inspect the transcripts of their oral testimony; and other safeguards.

The SPEAKER pro tempore. The time of the gentleman from Ohio (Mr. SEIBERLING) has expired.

Mr. SEIBERLING. Mr. Speaker, I yield myself 1 additional minute.

Mr. RONCALIO. Mr. Speaker, will the gentleman yield?

Mr. SEIBERLING. I yield to the gentleman from Wyoming.

Mr. RONCALIO. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I look to and respect the gentleman in the well as probably the House's No. 1 authority on antitrust legislation.

However, I am disturbed by the separate view of some nine members of the committee, with some really eminent members on the minority side, to the effect that this legislation, in fact, allows the Justice Department to compile a dossier, and once the Department's purpose in previously securing the information has ceased and when litigation is at an end or the investigation has been dropped, there seems to be no requirement that this information no longer be retained, but it can be held to monitor the business affairs of an individual or corporation.

Would the gentleman from Ohio (Mr. SEIBERLING) respond to that observation?

Mr. SEIBERLING. I think the word "dossier" is misleading.

The Justice Department, under this bill, would have to return all original documents when the investigation was over. However, it would obviously be burdensome, and perhaps impossible, for the Justice Department to go through all files, correspondence, and everything that it has compiled, including legal memorandums, and cut out every single piece of information.

If the gentleman from Wyoming will look at page 15 of the report, it gives more detail on that question.

Mr. RONCALIO. Mr. Speaker, I thank the gentleman from Ohio.

Mr. HUTCHINSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 13489 would enlarge the authority of the Antitrust Division of the Department of Justice to issue civil investigative demands.

A civil investigative demand—or CID in antitrust jargon—is a subpena issued by the Antitrust Division demanding information relevant to a civil investigation of possible antitrust violations. A CID is a precomplaint discovery device.

Today, the Antitrust Division already has CID authority granted by the Antitrust Civil Process Act of 1962. But it is limited severely. It is limited as to who may be served: only corporations directly under investigation. It is limited as to why it may be used: only for past or present violations and not for "incipient" violations.

H.R. 13489 would permit any person, corporate or otherwise, to be served whether or not such person was under investigation. It would permit CID's to be issued not only with reference to past or present violations but also with reference to contemplated mergers which might, when consummated, violate the law. Today many Federal agencies have broad authority to subpena witnesses and information within the sweeping standard of "relevance to an inquiry." Such broad authority is given subject only to the safeguard that the recipient of the subpena may choose to disobey and thus force the agency to seek the aid of the district court to secure compliance.

Under both the 1962 Act and H.R. 13489, that safeguard is preserved. But whereas the sweep of authority granted to the Antitrust Division by H.R. 13489 is similar to that already granted to other agencies, the safeguards provided in the bill to recipients of CID's are much more extensive.

H.R. 13489 is a clean bill introduced after the Subcommittee on Monopolies and Commercial Law marked up H.R. 39. In the course of our deliberations in subcommittee and in committee, several significant improvements were made. Unfortunately, the portion of the Senate amendment to H.R. 8532 which contains the CID provisions does not fully reflect our more enlightened version.

The major improvements contained in the Committee bill are these:

First. The purpose for which materials and information may be demanded is limited to antitrust law enforcement by the Department itself. Section 201(f) of the Senate amendment would permit demands to be made with respect to Federal administrative or regulatory agency proceedings so that the Antitrust Division could informatively argue for the interests of competition before such agency. However, the committee rejected such suggestions for three reasons: No. 1, that the recipient of a CID served for agency purposes would have difficulty in assessing the relevance of a demand to a position which the Department believed it should take in an agency proceeding; No. 2, that no showing has been made that agency discovery techniques are inadequate; an No. 3, that there might be some administrative confusion in interfacing CID discovery and agency discovery.

Second. Express substantive safeguards have been included for all types of demands, whteher for testimony, interrogatories, or documents. The fullness of these safeguards is not reflected in the Senate amendment to H.R. 8532.

Section 5 of the 1962 act contains a provision that makes the Federal Rules of Civil Procedure applicable when a petition is filed to enforce a CID. Some courts have constructed that provision substantively so that the discovery "law" contained in the Federal rules is available to CID recipients for their protection. Thus a CID recipient could obtain a protective order regarding trade secrets, as a party in a lawsuit might under rule 26(c). There are many who believe that section 5 merely states that the Federal rules are the rules which govern the procedural disposition of the enforcement petition. In view of the salutary result of the questionable application of the Federal rules as the substantive basis for objections to CID's, the committee believed it important to preserve these safeguards more closely.

Since courts were willing to draw on either "subpena" safeguards or "discovery" safeguards to protect recipients, and not merely the former as the 1962 act and the Senate amendment provide, the committee felt that it was desirable to make these protections express.

Third. Section 3(i)(5)(A) expressly grants the right to counsel and expressly states the rights of counsel at depositions taken pursuant to a CID. Since analogy is made both to the grand jury process, no right to counsel; and to the civil process, full right to counsel, in employing CID's, some guidance is necessary. The original language granted the right to counsel but left the impression that counsel would be somewhat restricted in his role. The committee bill eliminates the "Star Chamber" aura and makes rights of counsel express, as follows:

> (5)(A) Any person compelled to appear under a demand for oral testimony pursuant to this section may be accompanied, represented, and advised by counsel. Counsel may advise such person, in confidence, either upon the request of such person or upon counsel's own initiative, with respect to any question asked of such person. Such person or counsel may object on the record to any question, in whole or in part, and shall state for the record the reason for the objection. An objection may properly be made, received, and entered upon the record when it is claimed that such person is entitled to refuse to answer the question on grounds of any constitutional or other legal right or privilege, including the privilege against self-incrimination. If such person refuses to answer any question, the antitrust investigator conducting the examination may petition the district court of the United States pursuant to section 5 of this Act for an order compelling such person to answer such question. Such person shall not otherwise object to or refuse to answer any question, and shall not by himself or through counsel otherwise interrupt the oral examination.

The above statement of rights pertains only to the recipients of demands. Since the deposition envisioned takes place at the investigatory stage, it may not be known who the actual targets are. To accord sixth amendment rights to all possible targets at the investigatory stage while the Government is deciding whether to bring a case would bring law enforcement to a halt and somewhat unnecessarily, since the Government must make its case in full and accord the respondent all his rights after the institution of civil or criminal proceedings, *Hanah* v. *Larche*, 363 U.S. 420 (1960). It should be noted that no Federal agency when exercising its subpena powers currently affords such rights to targets during the investigatory stage. Rather, H.R. 13489 stands out in expressly according rights to the subpenaed party.

Fourth. By virtue of a committee amendment the bill now requires that the recipient of a demand be told the nature of the offense under investigation "in appropriate detail." This is significant because, perhaps, the most serious objection to the bill is the inability of the CID recipient to protect himself against improperly sweeping demands. Precedents incorporated by the safeguards mentioned previously make clear the standard that the demand must be "relevant" to the investigation. Now that the committee amendment expressly provides that the recipient must be told the nature of the conduct under investigation "in appropriate detail," the recipient will have some idea of what is relevant and what is not. But whether he will have sufficient understanding to protect himself—particularly if he is a third party—is the question. This bill forbids "fishing expeditions," it forbids irrelevant demands. But how will a third party be able to protect himself without knowing what the Government or the principal actors know? Where the Government has tipped its hand by harrassing the recipient with demands or where the Government has demanded an inordinate amount of information, courts have protected the recipients. But these are instances where the demand on its face violated safeguards or where the recipient was sufficiently informed to raise his legal defenses. But such instances do not cover the entire field and leave one unassured.

The rub is that it is not possible to overcome this problem completely. It exists for every agency with investigatory powers. This body must determine whether the game is worth the candle or, whether at this stage of our legal developments, there should be a distinction made between the problem inherent in this bill and the problem inherent in current use of investigatory powers by other agencies.

In making this judgment, one important fact should be kept in mind: the recipient of the demand cannot be held in contempt of the Department of Justice. Nor is there any other sanction for failure to comply with a demand which may be administered by the Department of Justice. If the recipient of the demand refuses to comply, rightfully or wrongfully, in good faith or bad faith, nothing may happen until the Department files a petition for enforcement in the district court. There the Department must carry the burden of proving to the court that it is complying with the act. If the court is persuaded, it may then order the recipient to comply with the demand. Only when the recipient disobeys a court order may a penalty fall upon him.

In view of the fact that the burden of time and proof fall upon the Government, it is probable that the Government will attempt to answer all reasonable questions of the recipient regarding the Government's compliance with the law lest the recipient exercise his continuing option of making the Government carry its burden in court.

However, there may be one situation where the burden will not be on the Government but on the recipient. Under the premerger notification legislation, H.R. 14580, likewise on suspension today, the authority of this bill may be used under that bill. Thus if the Antitrust Division serves a CID upon a party undertaking a merger, the merger cannot be consummated until the information or testimony demanded is supplied. The point is obvious. It is not the Government that is "over the barrel" but the merging recipient. But that result is properly attributable to H.R. 14580 and not to H.R. 13489.

I have resolved this delicate question with much anxiety and reluctance in favor of the bill because the growth of investigatory power appears to have become an historically destined fact, which this bill—with its many safeguards—attempts to meet in a more sensitive manner than its forerunners. It is my hope that the requirement of a detailed notice will operate to apprise recipients so that the protections we have carefully written into the bill do protect.

Mr. McCLORY. Mr. Speaker, will the gentleman yield?

Mr. HUTCHINSON. I yield to the gentleman from Illinois.

Mr. McCLORY. Mr. Speaker, I believe that it is very important to enforce our antitrust laws as effectively as possible during this period of economic recovery. There is little argument that effective antitrust law enforcement keeps prices down and economic vitality up. To that end I support this bill which would expand the arsenal of investigative tools available to the Antitrust Division prior to its filing a complaint.

Antitrust violations are often extremely difficult to detect and cases against the violators are extremely difficult to construct. By increasing its ability to obtain information prior to the issuance of a complaint, we will equip the Antitrust Division with the ability to more effectively identify those violations that deserve further investigation and prosecution while allowing the Division to close those investigations that appear less important to the public interest. By the same taken disclosures available by CID's can relieve defendants from unwarranted prosecution. For these reasons, I support the bill.

I do have one objection to this bill which I feel should be expressed. In subcommittee I introduced an amendment that would have required the Justice Department to return the information to the companies as soon as the investigation is ended or the litigation is over. That amendment was not adopted but I still want to stress my concern, which is shared by many of my colleagues and expressed in our additional views in the committee report, that the Government not misuse this new investigative power for the purpose of compiling "dossiers" on businesses or businessmen. I believe that once the Department's original reasons for obtaining business information are past, it is unnecessary and potentially mischievous for the Government to retain the material in its files. We are all aware of the dangers of allowing any Government agency the unfettered discretion to construct and retain files on private persons and businesses. As the bill is now written, the Government may retain all the information it obtains, whether it was relevant to the particular investigation or not. I believe that this is undesirable. Under current practice the Department can obtain only documents from corporations, but if the bill is enacted it will be able to obtain information from individuals. In that case the need for protection of privacy will be greatly increased.

I have no objection to the grant of this additional antitrust investigative power, and I think that it will lead to more efficient and effective antitrust law enforcement, which should promote competition—and benefit consumers and the general economy. However, I would hope that the Department would as a matter of policy return all documents and other types of information obtained in the course of an investigation that is not introduced as evidence in litigation. In this way I think that two purposes will be served: Antitrust enforcement can be expedited and business privacy can be maximized.

Mr. SEIBERLING. Mr. Speaker, will the gentleman yield?

Mr. McCLORY. I yield to the gentleman from Ohio.

Mr. SEIBERLING. Mr. Speaker, I would concur with the gentleman from Illinois on the legislative intent, to the extent that the Department should not retain information any longer than is necessary in order for it to perform its antitrust law enforcement functions. However, I would not support a statutory requirement that all information be returned.

Mr. McCLORY. Mr. Speaker, let me just respond by saying that I think it would have been better for us to have embodied a dossier amendment in the legislation, to have spelled it out, so that there would be no misunderstanding, but, notwithstanding that we have not done that, at this point all I can say is that I urge the Attorney General's Office to establish regulations or adopt a policy which will require the return of this information so that it will not establish dossiers with respect to corporations that are subjected to this kind of investigation. The investigation may reveal nothing wrong whatsoever. It seems to me that to retain a file or a dossier with respect to a business that is suspected but never found guilty of any anticompetitive or antitrust violation is completely wrong and completely hostile to our system and contrary to the rights of privacy which we have endeavored to protect.

Mr. COHEN. Mr. Speaker, will the gentleman yield?

Mr. McCLORY. I yield to the gentleman from Maine.

Mr. COHEN. Mr. Speaker, I rise to join with the gentleman from Illinois (Mr. McClory) in supporting this bill and the other antitrust bill we are considering today, but expressing great concern that the antitrust law enforcement agencies, to which information is submitted under these bills, return the information when the litigation or investigations are over.

It was not the intention of the subcommittee to allow the enforcement agencies to use these new antitrust tools for building "dossiers" on businesses for general enforcement purposes or for monitoring business activity. To allow the agencies to "stockpile" information and keep files on businesses could lead to serious abuses of these new powers. I would prefer that the opportunity simply not arise, and would therefore suggest that the antitrust enforcement agencies adopt whatever rules and regulations are necessary to provide for the maintenance of confidentiality and for the return of the originals and copies of all such information to businesses and individuals.

With that suggestion, I would urge passage of this bill.

Mr. McCLORY. I thank the gentleman from Maine for his remarks.

Mr. HUTCHINSON. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio (Mr. Ashbrook).

Mr. ASHBROOK. Mr. Speaker, I am opposed to suspending the rules in order to consider H.R. 13489. We must provide full debate and opportunity for amendment and deliberation by the entire House, opportunities which we deny ourselves by suspending the rules.

I am particularly concerned in this debate to hear my colleagues say that we do not need amendments, that the Justice Department will set up rules and regulations incorporating their concerns. That is a bad concept. We should do our work here and not leave our work to bureaucratic whim.

Particular amendments have been responsibly urged by substantial numbers of the Judiciary Committee; and there are other amendments which deserve our careful consideration. This is far-reaching legislation, which will affect almost literally every business and individual in the country, directly or indirectly.

I realize that we are approaching the end of our legislative session, and all eyes are firmly fixed on November 2. Such urgency provides all the more reason that bills with such far-ranging significance be considered responsibly and thoroughly. It is quite likely that this bill will go to conference with the Senate along with the parens patriae legislation of H.R. 8532, and the premerger notification provisions of H.R. 14580, which will only serve to make the resulting package even more complex.

This bill would expand Justice Department's authority to use civil investigative demands in antitrust cases. The new authority the Department would have, to subpena individuals and compel their sworn testimony in secret, would raise grave potential for abuse. This power would extend to persons and corporations not actually the subject of the investigation, which could roam very broadly. Nine members of the Judiciary Committee have urged that the bill be amended, to effectively forbid the Department of Justice from maintaining dossiers on individuals and companies, based upon these third-party information demands. As those individual views said:

> We believe that individuals in all their affairs, including business affairs, have the right to be left alone with the exception that government for good reason may make a minimal, necessary intrusion for the purpose of executing its assigned functions. We believe that once the reason for the intrusion has ceased, the intrusion itself must likewise cease.
>
> Therefore, once the Department no longer needs the information for current investigation or litigation, its reason for obtaining the information has run its course and the information—either originals or copies—should be returned.

At this point, such a needed amendment can only be effected on the floor of the House, since the Senate bill contains no comparable provision. Yet if we suspend the rules, amendment will be impossible.

The National Small Business Association has made a telling argument against this bill without amendment. I have inserted this letter with these remarks and our minority views.

Mr. Speaker, if we suspend the rules, we must take this bill as we find it. It is too serious, and its effect is too wide-ranging, to justify depriving the full membership of the House of an opportunity to deliberate and amend as necessary. H.R. 13489 should be considered in the normal course of business, without a suspension of the rules.

National Small Business Association,
Washington, D.C., July 30, 1976.

Hon. John M. Ashbrook,
House Office Building,
Washington, D.C.

Dear Mr. Ashbrook: We strongly urge you to vote against suspension of the rules on Monday, August 2, in connection with consideration of the Civil Investigative Demand bill (H.R. 13489) and the Pre-Merger Notification bill (H.R. 14580). These bills should be taken up under the regular procedures so as to permit needed amendments to be made from the floor and voted on by the entire House.

Among the amendments we urge be made, are the following:

1. *An amendment to H.R. 14580 (the Pre-Merger Notification bill) to exempt corporations defined as small business under SBA regulations.*

The exact number of these corporations is not known. But we do know that there are about 18,000 privately-held family-owned businesses with assets over $10 million. For example, a wholesaler of tires and tubes doing less than $22 million in sales is eligible for SBA assistance. (See attachment.) Most of these companies are privately-held and family-owned businesses. The problems of these companies are unique. Congress recognizes this: Revision of the estate and gift tax laws is currently under consideration by both the House and Senate to provide relief to them.

Those companies defined as small by the SBA would still be subject to H.R. 14580 since exempted are only firms with less than $10 million in assets or sales. They would be affected by the notification requirements of H.R. 14580. Thus if it becomes necessary, in probate proceedings or for any other reason, to sell or merge such a small company with a larger company within the purview of the Act, the potential delay caused by the Act's requirements could irreparably harm the private owners of the smaller company. The statement in the Committee report that only 150 companies would be affected by the Bill is clearly misleading since such a figure refers only to the number of potential *acquiring* companies.

2. *An amendment requiring the Justice Department to return information obtained under its new Civil Investigative Demand authority to the provider thereof when no longer needed.*

H.R. 13489 would permit the Justice Department to retain indefinitely information obtained under its new CID authority. This would permit the Department to maintain such information in permanent files on individuals and companies which subsequently could be used for political or other improper purposes. Such information should not be kept after it is no longer needed, for the reasons set forth in the Additional Views filed by nine members of the Judiciary Committee with the Committee's report. Of even greater concern to us is the fact that information obtained through CIDs might contain information, such as profit data by products, which may be subject to disclosure under the Freedom of Information Act. Disclosure of such data would be particularly harmful to small companies since it would make them even more vulnerable to takeover attempts.

It is anticipated that each of the above two amendments would be offered from the floor if the bills were permitted to be considered under the regular House procedures. Accordingly, we urge you to vote against suspension of the rules on these two bills on Monday.

Sincerely,

John Lewis,
Executive Vice President.

Schedule C—Annual Receipts Size Standards for Concerns Primarily Engaged in Wholesaling

(The following size standards are to be used when determining the size status of wholesaling concerns for the purpose of SBA business loans, displaced business loans, economic opportunity loans, and as alternate standards for Sections 501 and 502 loans and SBIC assistance. Where a code is followed by a letter, the size standard applies only to the class of product designated.)

Industry or sub-industry code	Industry, subindustry, or class of products	Annual receipts size standards (maximum, in millions)
	MAJOR GROUP 50—WHOLESALE TRADE—DURABLE GOODS	
5012	Automobile and motor vehicles	$22.0
5014	Tires and tubes	22.0
5023(a)	Home furnishings, floor coverings	14.5
5039	Construction materials, N.E.C.	14.5
5041	Sporting and recreational goods and supplies	14.5
5042	Toys and hobby goods and supplies	14.5
5051(a)	Metals service centers	14.5
5051(b)	Metals sales offices	22.0
5052(a)	Coal	14.5
5063	Electrical apparatus and equipment, wiring supplies, and construction materials	22.0
5064	Electrical appliances, television, and radio sets	14.5
5081	Commercial machines and equipment	22.0
5082	Construction and mining machinery and equipment	14.5
5083	Farm and garden machinery and equipment	22.0
5084	Industrial machinery and equipment	14.5
5085	Industrial supplies	14.5
	MAJOR GROUP 51—WHOLESALE TRADE—NONDURABLE GOODS	
5111	Printing and writing paper	14.5
5113	Industrial and personal service paper	22.0
5122	Drugs, drug proprietaries and druggists sundries	14.5
5133	Piece goods (woven fabrics)	14.5
5134	Notions and other dry goods	14.5
5139	Footwear	14.5
5141	Groceries, general line	22.0
5142	Frozen foods	22.0
5143	Dairy products	14.5
5147	Meats and meat products	14.5
5149	Groceries and related products, N.E.C	14.5
5152	Cotton	22.0
5153	Grain	14.5
5154	Livestock	14.5
5161	Chemicals and allied products	22.0
5171	Petroleum bulk stations and terminals	22.0
5172	Petroleum and petroleum products wholesalers, except bulk stations and terminals	22.0
5182	Wines and distilled alcoholic beverages	22.0
5194	Tobacco and tobacco products	14.5
5598	Paints, varnishes and supplies	22.0

15. Revising Schedule D to read as follows:

Schedule D—Annual Receipts Size Standards for Concerns Primarily Engaged in Retailing

(The following size standards are to be used when determining the size status of retailing concerns for the purpose of SBA loans, displacing business loans, economic opportunity loans, and as alternate standards for section 501 and 502 loans and SBIC assistance. Where a code is followed by a letter, the size standard applies only to the class of product designated.)

Industry or sub-industry code	Industry, subindustry, or class of products	Annual receipts size standard (maximum, in millions)
	MAJOR GROUP 52—BUILDING MATERIALS, HARDWARE, GARDEN SUPPLY, AND MOBILE HOME DEALERS	
5271	Mobile home dealers	$3.5
	MAJOR GROUP 53—GENERAL MERCHANDISE STORES	
5311	Department stores	7.5
5331	Variety stores	3.0

Industry or subindustry code	Industry, subindustry, or class of products	Annual receipts size standards (maximum, in millions)
	MAJOR GROUP 54—FOOD STORES	
5411	Grocery stores	7.5
5243(a)	Meat markets (a part of meat and fish (seafood) markets)	7.5
	MAJOR GROUP 55—AUTOMOTIVE DEALERS AND GASOLINE SERVICE STATIONS	
5511	Motor vehicle dealers (new and used)	6.5
5521	Motor vehicle dealers (used only)	6.5
5599(a)	Aircraft (a part of automotive dealers, n.e.c.)	5.0
	MAJOR GROUP 56—APPAREL AND ACCESSORY STORES	
5611	Men's and boys clothing and furnishings stores	2.5
5621	Women's ready-to-wear stores	2.5
5651	Family clothing stores	2.5
5661	Shoe stores	2.5
	MAJOR GROUP 57—FURNITURE, HOME FURNISHINGS, AND EQUIPMENT STORES	
5722	Household appliance stores	2.5
5732	Radio and television stores	2.5
	MAJOR GROUP 59—MISCELLANEOUS RETAIL	
5961	Mail order houses	7.5

Effective Date: This amendment shall become effective on August 5, 1975, provided, however, that for the purpose of Government procurements or sales, it shall apply only to procurements or sales for which the invitations for bids or requests for proposals are issued 30 days or more after such date.

(All SBA programs listed in the Catalog of Federal Domestic Assistance Programs under Nos. 59.001–59.018)

Dated: July 31, 1975.

THOMAS S. KLEPPE,
Administrator.

[FR Doc.75-20299 Filed 8-4-75;8:45 am]

ADDITIONAL VIEWS OF MESSRS. MCCLORY, WIGGINS, HUTCHINSON, FISH, COHEN, MOORHEAD, ASHBROOK, HYDE, AND KINDNESS

We object to those provisions in the bill that would permit the Department of Justice to compile dossiers on individuals in their business affairs as well as on corporations themselves. We do not object to the authority granted by the bill to the Department to obtain information relevant to an antitrust investigation. But once the Department's purpose in originally securing the information has ceased, when litigation is at an end or the investigation has been dropped, we believe that the Department should no longer retain the information merely to monitor the business affairs of individuals and corporations alike.

The Committee rejected an amendment offered by Mr. McClory in Subcommittee and re-offered by Mr. Wiggins on his behalf in full Committee which would have required the Department to return all information it held when such information became no longer necessary for current law enforcement purposes. The Committee took this action by a 17–11 roll call vote on the basis of three arguments: (1) that retention of the information was useful for the Department in monitoring antitrust activities, (2) that there had been no history of complaints or abuse, and (3) that the subject matter of the information was not likely to be "personal."

The first point needs little comment. Dossiers always facilitate law enforcement, and antitrust law enforcement is no exception. A library of dossiers would obviate the need to demonstrate anew that the information is relevant to any subsequent investigations. We do not consider this a matter of administrative economy but a circumvention of the very safeguards the bill carefully provides. What the majority has said by its action is that once an item of information is furnished in an antitrust investigation, a right to retain copies of that information vests in the Department in perpetuity. We find that result both unnecessary and undesirable.

It should be noted that this right in perpetuity vests whether or not the information ultimately turns out to be, in fact, relevant. Thus information which was never relevant to the case ultimately fashioned by the Department may be retained indefinitely. This right revolves upon the Department even though it was originally mistaken in its belief that the information was relevant; ironically, such a right would not obtain where the Department knew the truth all along, that the information was relevant.

Second, the majority contended that there was no history of complaints or abuse under current practice. This argument likewise does not withstand scrutiny. Current practice is dictated by the Antitrust Civil Practice Act of 1962, which limits CID's exclusively to corporations under investigation. The bill would expand CID authority to include human beings who are not under investigation but who may possess relevant information.

The third argument of the majority was that the information indefinitely retained was not likely to be "personal". We believe that the argument is incorrect and, if correct, irrelevant. It appears to us that the argument is a disguised statement of the "anomalous" position questioned by the Supreme Court. It suggests that the law should not be so much concerned with protecting privacy as with preventing embarrassment. But individuals who have nothing to hide have an equal claim to the law's protection. We do not find it a relevant distinction that the information retained be either personal or not personal. Nor can we understand why an individual's business affairs are less personal than his illegal affairs.

Moreover, it should not be forgotten that Sherman Act violations may justify criminal penalties. The information demanded by a CID may be incriminating. Certainly, such information is "personal". Yet under the Committee bill the Departemnt may retain it forever.

We believe that individuals in all their affairs, including business affairs, have the right to be left alone with the exception that government for good reason may make a minimal, necessary intrusion for the purpose of executing its assigned functions. We believe that once the reason for the intrusion has ceased, the intrusion itself must likewise cease.

Therefore, once the Department no longer needs the information for current investigation or litigation, its reason for obtaining the information has run its course and the information—either originals or copies—should be returned.

ROBERT MCCLORY.
CHARLES E. WIGGINS.
EDWARD HUTCHINSON.
HAMILTON FISH, Jr.
WILLIAM S. COHEN.
CARLOS J. MOORHEAD.
JOHN M. ASHBROOK.
HENRY J. HYDE.
THOMAS N. KINDNESS.

Mr. HUTCHINSON. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio (Mr. KINDNESS).

Mr. KINDNESS. Mr. Speaker, I thank the gentleman from Michigan for yielding this time to add one note of emphasis to the argument that has already been made here about the return of documents after a civil investigative demand has been made and complied with. I would just like to bring to the attention of those Members present a letter reproduced in the committee report on page 41 addressed to the chairman of the Committee on the Judiciary by Mr. Joe Sims, Deputy Assistant Attorney General of the Antitrust Division. Under the first argument in support of the committee bill without a provision for returning documents once they are produced, it says:

> The Antitrust Division of the Department of Justice is organized into litigating sections that have responsibility for enumerated commodities or industries. In order to develop familiarity with these commodities or industries, it is important for Department attorneys to have ready access to historical data describing the organization and operation of various industries.

Then he goes on with his argument.

Obviously, what is right in that paragraph between the lines is that this process can and will be used under existing policy of the Department of Justice to build up economic and business study histories by a series of civil investigative demands issued regularly to those industries section by section within the Antitrust Division. At the very least that argument ought to be considered by this House fully and developed fully. Under the process of the suspension of the rules today we do not have an opportunity for an independent judgment to be made on that point, and I think it is far too important to be dealt with in this manner. It ought to be dealt with under the ordinary rules of the House, and I would certainly urge for that reason the rejection of the bill.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. HUTCHINSON. Mr. Speaker, I have no further requests for time.

Mr. SEIBERLING. Mr. Speaker, I yield such time as he may consume to the gentleman from New Jersey (Mr. RODINO).

Mr. RODINO. Mr. Speaker, H.R. 13489 makes long-needed improvements in the ability of the Antitrust Division of the Department of Justice to investigate possible antitrust violations, before a complaint is filed.

Under present law, the Antitrust Division can investigate only by demanding documents from corporations that are suspected violators of the antitrust laws, and are thus direct targets of the probe.

The Division cannot now get answers to written interrogatories, nor can it get oral testimony from natural persons. And it cannot get evidence from nontargets, including third parties like franchisees, distributors, and competitors—even though these third parties are directly injured by the anticompetitive practices, and often have the best evidence on the possible violation.

The bill gives the Antitrust Division these additional investigative powers. They are needed because documents alone are often inconclusive, ambiguous, or even nonexistent.

Without the power to subpena oral testimony, and gain evidence from third parties, the Division is often unable to determine whether or not there has been a violation. Again and again, the lack of these tools has meant that the Division cannot complete a thorough investigation, and make an informed prosecutorial decision.

But Congress has repeatedly recognized that without careful investigations, laws cannot be effectively enforced. That is why Congress has given exactly these investigative tools to more than 40 Federal law enforcement agencies. And the chief antitrust enforcement officers of 19 States, including my State of New Jersey, are also provided with these same investigative tools.

One of the committee's basic concerns in deliberating on this bill was the possibility that these tools could be abused, and permit unwarranted intrusion into the private lives of businessmen. In these times, we are all very sensitive to these concerns.

But I am satisfied that the safeguards in this bill could not be more exhaustive and complete. Witnesses have a full right to counsel. They can object to any question that violates "any constitutional or other legal right or privilege," and that is the language of the statute.

If the witness refuses to answer, the Division must win a Federal court ruling before it can enforce the subpena.

This is a fair, and reasonable, and much needed bill. Together with the premerger notification bill, which we also consider today, H.R. 13489 will modernize our antitrust laws. It will help insure that our economy remains competitive, vigorous, and healthy.

This is a bipartisan bill. It is strongly supported by the Department of Justice. President Ford has personally written me of his vigorous support for the measure. It passed our committee unanimously. For these reasons, I urge its passage.

Mr. McCLORY. Mr. Speaker, will the gentleman yield?

Mr. RODINO. I yield to the gentleman from Illinois.

Mr. McCLORY. Mr. Speaker, I thank the gentleman for yielding.

I think the Department pointed out in its letter that not only does it return the original documents but it routinely destroys copies that may have been made. Nevertheless, I think there is some difficulty when the office of the Attorney General uses a document and gets it into an internal file to return the file or give assurance that information transcribed into an interoffice communication has been destroyed.

There are some complicating aspects relating to this subject of a dossier. I think we have made eminently clear we do not intend by this legislation to give any unfair advantage to the Government which might come from the establishment of a dossier with respect to corporations, and that we do not want the Government to violate the privacy of individual and corporate rights with respect to documents which are provided as a result of this legislation.

I thank the gentleman for yielding.

Mr. SEIBERLING. Mr. Speaker, I yield 3 minutes to the gentleman from New Jersey (Mr. Hughes).

Mr. HUGHES. Mr. Speaker, I thank my colleague for yielding.

Mr. Speaker, I rise in support of this legislation.

I think the most controversial facet of the legislation is the so-called dossier aspect.

I respect the opinion of my colleagues concerning the potential collection of dossiers, but I do not think the concern is well founded. The CID information consists of impersonal, economic data on business contracts and practices, and it is not material of an intimate or personal nature.

The retention of the CID information serves an important and legitimate law enforcement purpose. It includes facts of long-term and continuing significance to the Division, like details of patent licensing agreements and long-term exclusive supply contracts. Retention of copies in these cases will avoid needless future "rounds" of CID's.

The CID information is also important for consistent and evenhanded enforcement. It details business practices that have survived past scrutiny and by referring to this data the Division may easily be able to vindicate similar practices coming under investigation in future times. Such equitable treatment will be impossible if the Division is immediately stripped of all CID information once it closes an investigation.

There has been no documented instance, nor any allegation, that the Division has abused its powers under the 1962 act to retain copies of CID documents.

Retention of copies does not interrupt the business operations of the CID recipient, for he continues to hold the originals.

Plainly, great administrative burdens would be imposed on the Division if it had to return all CID information, for much of it will have been incorporated in internal division memoranda. And these burdens are imposed upon no other Federal agency.

Mr. Speaker, I urge my colleagues to support the legislation, for our law enforcement agencies need these additional tools to effectively enforce the antitrust laws of this country.

Mr. SEIBERLING. Mr. Speaker, I yield 1 minute to the gentleman from Kentucky (Mr. Mazzoli).

Mr. MAZZOLI. Mr. Speaker, I thank the gentleman for yielding.

I would like to add my vocal support to the support which has been indicated already for the passage of this bill.

While I have concerns about the dossier amendment and the gentleman from Illinois, Mr. McClory's statements about the failure to add sufficiently strong language about dossier keeping in this bill, I do think the legislative language and history we have developed on the floor today will be more than sufficient to encourage the people in the Civil Antitrust Division to be very careful about the uses which they make of these documents and the purposes for which they ask these documents.

Mr. Speaker, I would like to finally state my strong support for the statements made by chairman of the committee, the gentleman from New Jersey (Mr. Rodino) who said that this is one way to give the Justice Department the tools it needs to enforce the existing antitrust laws more effectively and, thus, to satisfy those who say new and novel legislative measures to break up big business are not needed because all that is needed is strict enforcement of existing laws.

In a way, Mr. Speaker, adoption of this bill is a way for this House to put its money where its mouth it.

The SPEAKER pro tempore (Mr. McFall). The time of the gentleman from Kentucky has expired.

Mr. SEIBERLING. Mr. Speaker, I yield the gentleman from Kentucky (Mr. Mazzoli) an additional 30 seconds.

Mr. MAZZOLI. Mr. Speaker, it is important that we give tools to the antitrust division to enforce the laws now on the books.

I think this change and the premerger notification bill, coming up in short order in the House are, I think, steps in that direction.

Mr. Speaker, I commend the gentleman from Ohio (Mr. Seiberling) on the gentleman's leadership and I encourage the House to vote up this bill.

Mr. SEIBERLING. Mr. Speaker, I yield 1 minute to the gentleman from Connecticut (Mr. Dodd).

Mr. DODD. Mr. Speaker, first of all, I want to commend the gentleman from Ohio (Mr. Seiberling) and the members of the committee for bringing forth this legislation. It is vitally needed, as was brought out by my colleague, the gentleman from New Jersey (Mr. Rodino), if we are going to have meaningful antitrust legislation in this country.

Mr. Speaker, I think one of the significant points is that this legislation will plug up some of the weaknesses of the 1962 act by making available some of the information that in the past has not been readily available to the antitrust division of the Justice Department in trying to get involved and doing something in the area of antitrust activity.

Mr. Speaker, I strongly support the legislation. Particularly I would like to point out that this legislation will allow access to data and information, which because of the complicated nature of some of our businesses and industry today is not available, some of the scientific data and data that is really only in the domain or area of highly technical experts.

For that reason, Mr. Speaker, I strongly support this legislation. I compliment the gentleman from Ohio and the committee, as well. Mr. Speaker, Federal antitrust laws establish the broad economic and legal framework for America's free enterprise system. The policies and goals of the antitrust laws reflect high national priorities.

Depending on its particular nature, an antitrust violation may be either a criminal offense or a civil offense. For both categories, the Federal enforcement effort consists of two stages. First, there is the investigation stage, which occurs prior to the bringing of a criminal indictment or to the filing of a civil complaint. And second, there is the litigation stage, which formally begins upon the return of an indictment or the filing of a complaint, and which ends when the court's judgment becomes final.

The Justice Department normally investigates possible criminal antitrust violations through the use of grand juries, which have broad subpena powers to require the submission of documents and testimony.

The Justice Department also has the authority—and the responsibility—to conduct formal "civil investigations" in order to decide whether to file a civil complaint alleging a civil—as distinguished from a criminal—violation of the antitrust laws. The great majority of the Justice Department's antitrust investigations, in fact, are civil. However, it was not until enactment of the Antitrust Civil Process Act of 1962 that the Justice Department was authorized to use a compulsory tool—the civil investigative demand—or CID—in a precomplaint civil antitrust investigation to compel the submission of certain relevant documentary materials. Under the Federal Trade Commission Act, by contrast, the FTC, which also enforces certain civil antitrust laws, has broad investigative powers, including the right of access to documentary evidence and the right to orally examine witnesses.

The 1962 act has a very narrow scope, placing severe limitations on the use of CID's:

First. The 1962 act authorizes the Justice Department to make such demands only to corporations or other business entities which are the targets of the investigation; that is, the suspects under investigation. There is no authority for demands to be made upon natural persons or upon nontarget third parties which may have relevant information about a possible antitrust violation.

Second. The 1962 act authorizes the Justice Department to make such demands only for documentary materials. There is no authority for the collection of relevant information through such standard investigative devices as oral depositions—testimony—or written interrogatories.

Third. The 1962 act authorizes the Justice Department to make such demands only with respect to completed or continuing violations of the antitrust laws. A U.S. circuit court of appeals has held that such demands are not authorized for materials relating to proposed corporate acquisitions which may—upon completion—violate the antitrust laws.

The committee concluded, after hearings, that these limitations hinder effective civil antitrust investigations by the Justice Department. Accordingly, the committee recommended enactment of H.R. 13489, as amended, providing for amendments to the 1962 act which would—

First. Authorize civil investigative demands to be issued to natural persons and third parties;

Second. Authorize the use of oral depositions and written interrogatories in precomplaint investigations; and

Third. Authorize the use of civil investigative demands for investigations of proposed corporate acquisitions and mergers.

These amendments would give the Justice Department antitrust investigative tools which are similar to investigative tools currently available to many other Federal agencies and to antitrust enforcement officials in 18 States. In addition, although the purposes of investigations and pretrial discovery are different, the investigative tools provided by H.R. 13489 are similar to the tools which the Federal Rules of Civil Procedure make available to all parties during the discovery phase of civil litigation. With the American public losing some $30 billion a year as a result of illegal price fixing and other antitrust violations, we must have an expanded use of the CID's if we are to have any hope of affording antitrust protection to the consumers of this country. I urge adoption of this legislation.

Mr. SEIBERLING. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, I think it is unfortunate that the critique of this bill is focused on what I consider to be a very minor question in the bill; that is, this so-called dossier question. The letter which the gentleman from Ohio (Mr. ASHBROOK) put in the RECORD from the Small Business Association is just plain incorrect in the statements that it makes.

We have already discussed the dossier statement. I do not think I need to elaborate on that, except to point out that Small Business is already subject to subpenas by the FTC and other Government agencies including SBA itself, all of which have the right to retain information obtained from small businesses without restriction. However, the association's letter also states:

> Of even greater concern to us is the fact that the information contained through CID's might contain information, such as profit data by products, which may be subject to disclosure under the Freedom of Information Act.

Now, I would like to point out, the association apparently did not bother to read the bill, because the bill expressly exempts all information disclosed under this bill from the Freedom of Information Act. So the quoted statement is just plain incorrect.

Now, as a matter of fact, there are a lot of other safeguards in this bill. This bill sets up a document custodian, not only for documentary material, but all other information and requires that it can only be checked out to authorized members of the Justice Department.

It further provides that all information submitted shall be subject to the Federal Rules of Civil Procedure, except where they are clearly inappropriate. That includes the right of courts to impose a protective order against even making public such information in a trial or a judicial proceeding where it would be confidential business information. So the "small business" argument is just plain blown out of the water by the provisions of the bill.

Mr. ASHBROOK. Mr. Speaker, will the gentleman yield?

Mr. SEIBERLING. I yield to the gentleman from Ohio.

Mr. ASHBROOK. Mr. Speaker, my friend, the gentleman from Ohio (Mr. SEIBERLING) has had considerable experience as a lawyer in this field in the private sector.

I am just wondering, with the nature of the bureaucracy, and leaks of information that is supposed to be secret, does my friend, the gentleman from Ohio, really think that a client of his in the private sector, or anybody, would be safe? Why give more power to bureaucrats to harass business?

Mr. SEIBERLING. Mr. Speaker, let me just say that no governmental power is safe.

All power can be abused, but we have tried in this bill to provide a whole panoply of safeguards to prevent the abuse of power. No one who was a member of the Judiciary Committee and went through the Watergate episode would fail to be conscious of the ability of officials to abuse power. But we have tried, through having a custodian of all the information, through having him control it very closely, through bringing in the protective orders permitted under the rules of civil procedure, and through exempting this legislation expressly from the Freedom of Information Act, to protect businessmen in every reasonable way we could against improper disclosure of confidential information.

I am aware of the problems. I am acutely conscious of them to the point where I worked personally to see that this bill would contain these various safeguards.

Mr. McCLORY. Mr. Speaker, will the gentleman yield?

Mr. SEIBERLING. I yield to the gentleman from Illinois.

Mr. McCLORY. Mr. Speaker, I would just like to observe that I do not think the dossier amendment is an inconsequential amendment, or that this is an inconsequential subject. I think that it is extremely important and sensitive part of this legislation. However, I realize that it is controversial. What we are doing here today, I assume, is pointing out through this legislative history the materials are not to be retained after a matter is concluded.

Ms. HOLTZMAN. Mr. Speaker, I support H.R. 13489, a bill to provide the Justice Department more effective means to investigate antitrust violations.

Private enterprise in this country is increasingly dominated by bigger and fewer companies; it has become more monopolistic, oligopolistic, and concentrated. The consumer must bear the cost of the noncompetitive pricing which results. It is thus important that the Justice Department have effective tools to investigate antitrust violations and file suits to curb them. This bill revises and strengthens the investigative procedures available to the Justice Department.

Under present law, the Justice Department can conduct an investigation to determine whether anticompetitive practices exist and to determine if a civil action to halt those practices should be brought. H.R. 13489 expands this procedure to permit the Justice Department to serve investigative demands on individuals—instead of, as before, only on corporations, partnerships, and other nonnatural persons.

The expansion of the investigative demand practice to include individuals raises some problems. People, unlike corporations, have fifth amendment rights. In order for an individual to challenge the propriety or constitutionality of an investigative demand, he or she needs to know specifically what material the demand covers. For this reason I offered in the Judiciary Committee an amendment that added the words "in appropriate detail" to section 3(b)(1). This amendment requires the Justice Department in its investigative demand state specifically the conduct constituting the alleged antitrust violation. It would therefore enable an individual to determine whether the demand infringes on constitutional or other rights.

I am pleased that the Judiciary Committee adopted my amendment and that it is included in the present bill.

While strict enforcement of the antitrust laws is necessary to insure vigorous competition, low prices for the consumer and high quality products, there is no reason why we cannot achieve this objective and protect civil liberties at the same time.

I urge adoption of the bill.

Mr. HUTCHINSON. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Ohio (Mr. SEIBERLING) that the House suspend the rules and pass the bill H.R. 13489, as amended.

The question was taken.

Mr. ASHBROOK. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 3, rule XXVII, and the Chair's prior announcement, further proceedings on this vote will be postponed.

GENERAL LEAVE

Mr. SEIBERLING. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the legislation just under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

ANTITRUST PREMERGER NOTIFICATION ACT

Mr. HUGHES. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 14580) to amend the Clayton Act to provide for premerger notification and waiting requirements, and for other purposes, as amended.

The Clerk read as follows:

H.R. 14580

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Antitrust Premerger Notification Act".

NOTIFICATION AND WAITING PERIOD

SEC. 2. The Clayton Act (15 U.S.C. 12 et seq.) is amended by inserting immediately after section 7 of such Act the following new section:

"SEC. 7A. (a) Except as exempted pursuant to subsection (c), no corporation shall acquire, directly or indirectly, any voting securities or assets of any other corporation, unless each such corporation (or in the case of a tender offer, the acquiring corporation) files notification pursuant to rules under subsection (d)(1) and the waiting period described in subsection (b)(1) has expired, if—

"(1) the acquiring corporation or the corporation, any voting securities or assets of which are being acquired, is engaged in commerce or in any activity affecting commerce;

"(2)(A) any voting securities or assets of a manufacturing corporation which has annual net sales or total assets of $10,000,000 or more are being acquired by a corporation which has total assets or annual net sales of $100,000,000 or more;

"(B) any voting securities or assets of a nonmanufacturing corporation which has total assets of $10,000,000 or more are being acquired by a corporation which has total assets or annual net sales of $100,000,000 or more; or

"(C) any voting securities or assets of a corporation with annual net sales or total assets of $100,000,000 or more are being acquired by a corporation with total assets or annual net sales of $10,000,000 or more; and

"(3) as a result of such acquisition, the acquiring corporation would hold—

"(A) 25 per centum or more of the voting securities or assets of the acquired corporation, or

"(B) an aggregate total amount of the voting securities and assets of the acquired corporation in excess of $20,000,000.

"(b)(1) The waiting period under subsection (a) shall—

"(A) begin on the date of the receipt by the Federal Trade Commission and the Assistant Attorney General of the completed notification required under subsection (a) and, if such notification is not completed, the reasons therefor; and

"(B) end on the thirtieth day after the date of such receipt or on such later date as may be set under subsection (e) or (g)(2), except that in the case of cash tender offers, such period shall end on the twenty-first day after the date of such receipt, or on such later date as may be set under subsection (e)(2)(B).

"(2) The Federal Trade Commission and the Assistant Attorney General may, in individual cases, terminate the waiting period specified in paragraph (1) and allow any corporation to proceed with any acquisition subject to this section by publishing in the Federal Register a notice that neither intends to take any action within such period with respect to such acquisition.

"(3) As used in this section—

"(A) The term 'Assistant Attorney General' means the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice.

"(B) The term 'voting securities' means any stock or other share capital presently entitling the owner or holder thereof to vote for the election of directors of a corporation.

"(4) The amount or percentage of voting securities or assets of one corporation which are acquired or held by another corporation shall be determined by aggregating the amount or percentage of such voting securities or assets held or acquired by the acquiring corporation and each affiliate thereof. For purposes of this paragraph, the term 'affiliate' means any person who controls, is controlled by, or is under common control with, a corporation.

"(5) The conversion of stock or other share capital which are not voting securities into stock or other share capital which are voting securities shall be deemed an acquisition for purposes of this section.

"(c) The following classes of transactions are exempt from the requirements of this section—

"(1) acquisitions of goods or realty transferred in the ordinary course of business;

"(2) acquisitions of bonds, mortgages, deeds of trust, or other obligations which are not voting securities;

"(3) acquisitions of voting securities or assets of a corporation with respect to which the acquiring corporation owns more than 50 per centum of such voting securities or assets prior to such acquisition;

"(4) transfers to or from a Federal agency or a State or political subdivision thereof;

"(5) transactions specifically exempted from the antitrust laws by law or by actions of any Federal agency authorized by law, if copies of any information and documentary material filed with any such agency are contemporaneously filed with the Federal Trade Commission and the Assistant Attorney General;

"(6) transactions which require agency approval under section 18(c) of the Federal Deposit Insurance Act (12 U.S.C. 1828(c)), or section 3 of the Bank Holding Company Act of 1956 (12 U.S.C. 1842);

"(7) transactions which require agency approval under section 4 of the Bank Holding Company Act of 1956 (12 U.S.C. 1843), section 403 or 408(e) of the National Housing Act (12 U.S.C. 1726 and 1730a), or section 5 of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464), if copies of any information and documentary material filed with any such agency are contemporaneously filed with the Federal Trade Commission and the Assistant Attorney General;

"(8) acquisitions, solely for the purpose of investment, of voting securities if, as a result of such acquisition, the voting securities acquired or held do not exceed either 10 per centum of the outstanding voting securities of the issuing corporation or such greater per centum as may be provided by the Federal Trade Commission under subsection (d)(2)(C);

"(9) acquisitions of voting securities issued by any corporation if, as a result of such acquisition, the voting securities acquired would not increase, directly or indirectly, the acquiring corporation's share of outstanding voting securities of the issuing corporation;

"(10) acquisitions, solely for the purpose of investment, of voting securities pursuant to a plan of reorganization or dissolution, or of assets, by any bank, banking association, trust company, investment company, or insurance company, in the ordinary course of its business;

"(11) acquisitions of voting securities by any bank trust department, trust company, or other entity, if such department, trust company, or entity is acting in the capacity of a trustee, executor, guardian, conservator, or otherwise as a fiduciary, and is voting or investing such voting securities for the benefit of another person or entity, except that any such beneficiary shall not be exempt by virtue of this paragraph from the requirements of this section; and

"(12) such other acquisitions, transfers, or transactions, as may be exempted by the Federal Trade Commission under subsection (d)(2)(B).

"(d) The Federal Trade Commission, with the concurrence of the Assistant Attorney General and by rule in accordance with section 553 of title 5, United States Code—

"(1) shall require that the notification required under subsection (a) be in such form and contain such documentary material relevant to a proposed acquisition as is necessary and appropriate to enable the Federal Trade Commission and the Assistant Attorney General to determine whether such acquisition may violate the antitrust laws; and

"(2) may—

"(A) define the term used in this section;

"(B) exempt classes of corporations and acquisitions, transfers, or transactions which are not likely to violate section 7 of this Act from the requirements of this section;

"(C) increase the percentage amount specified in subsection (c)(8); and

"(D) prescribe such other rules as may be necessary and appropriate to carry out the purposes of this section.

"(e)(1) The Federal Trade Commission or the Assistant Attorney General may, prior to the expiration of the 30-day waiting period, or in the case of cash tender offers, the 21-day waiting period, specified in subsection (b)(1) of this section, require the submission of additional information or documentary material relevant to an acquisition by any corporation subject to this section, or by any officer, director, agent, or employee of such corporation.

"(2)(A) Except as provided in subparagraph (B) with respect to cash tender offers, the Federal Trade Commission or the Assistant Attorney General may, in its or his discretion, extend the 30-day waiting period specified in subsection (b)(1) of this section for an additional period of not more than 20 days after the date on which the Federal Trade Commission or the Assistant Attorney General, as the case may be, receives (i) all the information or documentary material submitted pursuant to a request under paragraph (1) of this subsection, and (ii) if such request is not fully complied with, a certification of the reasons for such noncompliance. Such additional period may be further extended only by the United States district court, upon an application by the Federal Trade Commission or the Assistant Attorney General pursuant to subsection (g)(2).

"(B) With respect to cash tender offers, the United States district court may, upon application of the Federal Trade Commission or the Assistant Attorney General—

"(i) extend the 21-day waiting period specified in subsection (b)(1) of this section until there is substantial compliance with a request under paragraph (1) of this subsection, and

"(ii) grant such other equitable relief as the court in its discretion determines necessary.

if the court determines that the Federal Trade Commission or the Assistant Attorney General requested the submission of additional information or documentary material pursuant to subsection (e)(1) within 15 days after the date of receipt of the original notification required under subsection (a) and such request was not substantially complied with within the 21-day waiting period specified in subsection (b)(1).

"(f) If a proceeding is instituted by the Federal Trade Commission alleging that a proposed acquisition violates section 7 of this Act, or an action is filed by the United States, alleging that a proposed acquisition violates such section 7, or section 1 or 2 of the Sherman Act, and the Commission or the Assistant Attorney General files a motion for a preliminary injunction against the consummation of such proposed acquisition, together with a certification that it or he believes that the public interest requires relief pendente lite, in the United States district court for the judicial district in which the respondent resides or does business in the case of the Federal Trade Commission, or in which such action is brought in the case of the Assistant Attorney General—

"(1) upon the filing of such motion, the chief judge of such district court shall immediately notify the chief judge of the United States court of appeals for the circuit in which such court is located, who shall designate a United States district judge to whom such action shall be assigned for all purposes; and

"(2) the motion for a preliminary injunction shall be set down for hearing by the district judge so designated at the earliest practicable time, shall take precedence over all matters except older matters of the same character and trials pursuant to section 3161 of title 18, United States Code, and shall be in every way expedited.

"(g)(1) Any corporation or any officer or director thereof who fails to comply with any provision of this section shall be liable to the United States for a civil penalty of not more than $10,000 for each day during which such corporation, directly or indirectly, holds any voting securities or assets, in violation of this section. Such penalty may be recovered in a civil action brought by the United States.

"(2) If any corporation or officer, director, agent, or employee thereof fails to substantially comply with the notification requirement of subsection (a) or any request for the submission of additional information or documentary material under subsection (e)(1) of this section within the waiting period specified in subsection (b)(1) and as may be extended under subsection (e), the United States district court shall have jurisdiction to—

"(A) order compliance;

"(B) extend the 30-day waiting period specified in subsection (b)(1) and as may have been extended under subsection (e) until there has been substantial compliance; and

"(C) grant such other equitable relief as the court in its discretion determines necessary,

upon application of the Federal Trade Commission or the Assistant Attorney General.

"(h) Any information or documentary material filed with the Assistant Attorney General or the Federal Trade Commission pursuant to this section shall be exempt from disclosure under section 552 of title 5, United States Code, and no such information or documentary material may be made public, except as may be required in any administrative or judicial action or proceeding.

"(i)(1) Failure of the Federal Trade Commission or the Assistant Attorney General to take any action under this section shall not bar the institution of any proceeding or action with respect to such acquisition at any time under any other section of this Act or any other provision of law.

"(2) Nothing contained in this section shall limit the authority of the Assistant Attorney General or the Federal Trade Commission to secure from any person documentary material, oral testimony, or other information under the Antitrust Civil Process Act, the Federal Trade Commission Act, or any other provision of law.

"(j) Beginning not later than January 1, 1978, the Federal Trade Commission, after consultation with the Assistant Attorney General, shall annually report to the Congress on the operation of this section. Such report shall include an assessment of the effects of this section, recommendations for any desirable revisions of this section, any rules promulgated under this section, any action taken under this section, and, in cases of acquisitions subject to this section against which the Assistant Attorney General or the Federal Trade Commission took no action under this section prior to the expiration of the waiting period specified in this section, a statement of the reasons for such failure to act.".

SHORT TITLES FOR SHERMAN ACT AND CLAYTON ACT

SEC. 3. (a) The Act entitled "An Act to protect trade and commerce against unlawful restraints and monopolies", approved July 2, 1890 (15 U.S.C. 1 et seq.), is amended by adding immediately after the enacting clause the following: "That this Act may be cited as the 'Sherman Act'.".

(b) The Act entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes", approved October 15, 1914 (15 U.S.C. 12 et seq.), is amended by—

(1) inserting "(a)" after "That" in the first section; and

(2) adding at the end of the first section the following new subsection:

"(b) This Act may be cited as the 'Clayton Act'.".

EFFECTIVE DATES

SEC. 4. (a) The amendment made by section 2 of this Act shall take effect 180 days after the date of enactment of this Act, except that subsections (d)(1) and (d)(2) of section 7A of the Clayton Act (as added by section 2 of this Act) shall take effect on the date of enactment of this Act.

(b) Section 3 of this Act shall take effect on the date of enactment of this Act.

The SPEAKER pro tempore. Is a second demanded?

Mr. HUTCHINSON. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from New Jersey (Mr. HUGHES) will be recognized for 20 minutes, and the gentleman from Michigan (Mr. HUTCHINSON) will be recognized for 20 minutes.

The Chair recognizes the gentleman from New Jersey (Mr. HUGHES).

Mr. HUGHES. Mr. Speaker, I yield 3 minutes to the distinguished chairman of the committee, the gentleman from New Jersey (Mr. RODINO).

Mr. RODINO. Mr. Speaker, H.R. 14580 is the culmination of almost 20 years of legislative effort to enact meaningful premerger notification and stay requirements. My learned predecessor, Chairman Celler, was one of the principal founders of our present merger law. He himself long sought to pass the bill we are now considering.

The problem this bill cures is startlingly simple, but it goes to the very foundations of our merger law. Under present law, companies need not give advance notification of a planned merger to the Federal Trade Commission and the Department of Justice. But if the merger is later judged to be anticompetitive, and divestiture is ordered, that remedy is usually a costly exercise in futility—untangling the merged assets and management of the two firms is like trying to unscramble an omelet.

The present law is an open invitation to let lawyers litigate this impossibility. As an example, the El Paso case took 17 years and six trips to the Supreme Court to resolve. In the first ruling, the Supreme Court held that merger was clearly illegal. In the next five opinions, the Court wrestled with complex procedural points raised by the massive, interminable divestiture proceedings. Over the years, El Paso reaped illegal profits of $24,000 a day, which were never disgorged. At every point, it opposed the single Government lawyer with a corps of 30 attorneys. And it was said that the divestiture would not be completed until all the children of all the attorneys are through college.

Other divestiture orders, after years of litigation, have resulted in sales of useless assets or corporate shells devoid of competitive ability.

Like the problem, the solution is clear. It is that our antitrust enforcement agencies be given adequate notice of impending large mergers so that they may judge its competitive aspects before the merger goes through, thereby saving the courts, the corporations, and the Government years of frustration and the ultimate futility that all too often follows.

Let me emphasize that this bill makes no changes in the substantive law of mergers. The bill provides that mergers between firms worth more than $100 million, and other firms worth more than $10 million, shall be subject to a 30-day premerger notification requirement. In that time the Government can request additional information, and have up to 20 more days to analyze it.

The bill is carefully crafted to provide exemptions for investment, and for those industries already subject to other merger statutes, or where the nature of the merger is such that there could not possibly be any anticompetitive aspects.

Actually, the terms of the bill are such that it will reach only about the largest 150 mergers a year—for those are the ones that are the most difficult to "unscramble."

This legislation has been a long time in coming. I myself reported a similar—and more stringent—measure in 1961. And in 1957 a similar measure endorsed by President Eisenhower passed the House unanimously.

Thus, it is fitting that this measure, like the antitrust civil process bill we considered earlier, is a bipartisan effort. The measure is cosponsored by all the minority members of the Monopolies Subcommittee. It was reported by the Judiciary Committee by a rollcall vote of 29 to 0. It is supported by the FTC, the Department of Justice, and this administration.

It is time for the House to pass this bill. A similar measure has already passed the Senate by a vote of 67 to 12. With this legislation, we will finally realize our objective of significantly improving our Nation's antitrust laws in the 94th Congress.

Mr. LANDRUM. Mr. Speaker, will the gentleman yield?

Mr. RODINO. I yield to the gentleman from Georgia.

Mr. LANDRUM. I thank the gentleman for yielding.

Is the requirement for prenotification of merger retroactive or prospective?

Mr. RODINO. It is prospective.

Mr. LANDRUM. If firms now negotiating a merger, each of which or one of which has notified the Federal Trade Commission and the Department of Justice, does this legislation have any bearing on that at all, on the present negotiations for a merger?

Mr. RODINO. I must advise the gentleman that, first of all, this legislation would not be effective until 180 days after enactment of the legislation. Therefore, it would not affect those corporations, unless their acquisition is consummated more than 180 days after enactment.

Mr. LANDRUM. If the gentleman will yield further, so far as negotiations ununderway, to which notification has been addressed to the Federal Trade Commission and to the Department of Justice, it would have no bearing on this for at least 180 days?

Mr. RODINO. That is correct.

Mr. LANDRUM. If the negotiation is completed within 180 days, then there is no relation whatever?

Mr. RODINO. That is correct, so long as consummation occurs within 180 days after enactment.

Mr. LANDRUM. If it is not completed within 180 days, would they have to give additional notice, a new notice to the Federal Trade Commission and a new notice to the Department of Justice?

Mr. RODINO. Yes; I believe that if the acquisition were to take place 180 days or more after enactment, then this bill's requirements will apply.

Mr. LANDRUM. Really then we do not change any of the substantive regulations of section 7?

Mr. RODINO. That is correct.

Mr. LANDRUM. I thank the gentleman.

Mr. HUGHES. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, H.R. 14580, the Antitrust Premerger Notification Act, received the unanimous approval of the Judiciary Committee. It simply requires that large corporations give the Government advance notice of their merger plans.

The advance notice requirements of the legislation would make it easier for Federal antitrust officials to prevent large corporate mergers which could result in a restraint of trade or other violation of the Nation's antitrust laws.

One of the problems we have had is that our antitrust enforcement officials have not had an opportunity to evaluate big corporate mergers until after they have taken place. If it turns out that the merger results in an unlawful restraint of trade, unmerging the corporations can create a legal nightmare of endless litigation.

This litigation is extremely costly to both Government and the private sector. Ultimately, it is the consumer and the taxpayer which loses. And throughout this costly process, competition in the marketplace suffers.

This is one area where it can be truly said that "An ounce of prevention is worth a pound of cure."

If divestiture after a merger was an adequate remedy, there would be no need for this bill. But it is not. Often, years go by between the time of the merger and the time that it is declared unlawful. The two firms have been blended into one. Untangling the merged assets and management is like trying to unscramble an egg.

And the bigger the merger, the more hopeless the task. So the El Paso case took 17 years, and went to the Supreme Court six times, before that merger was unscrambled.

H.R. 14580 would require merging corporations to give advance notice of a proposed merger or acquisition to the Department of Justice and the Federal Trade Commission if three conditions are present:

First, the merging corporations are "in or affecting" interstate commerce; and

Second, the acquiring corporation exceeds the $100 million size limits, and the acquired firm exceeds the $10 million size limits; and

Third, the acquisition is a large and substantial one, exceeding 25 percent of the stock or assets of the acquired corporation, or stock or assets in excess of $20 million.

As a result of the limitations set forth in the bill, only the very largest mergers would be required to give advance notice. Of the several thousand mergers which have taken place annually over the last several years, only 150 per year would have met all three of the threshold requirements.

The merging corporations would be required to wait 30 days from the date that the basic information is submitted to the Department of Justice and Federal Trade Commission. These agencies could extend the waiting period by no more than 20 days if additional information is needed from the merging corporations.

I wish to stress that the legislation makes procedural, rather than substantive changes in the Nation's antitrust laws. It is designed to bring about more effective enforcement of our antitrust laws, which have as their ultimate goal the fostering and encouragement of competition among companies providing essentially the same goods or services.

It is supported by President Ford, the Attorney General, Treasury Secretary Simon, the Antitrust Division, the Federal Trade Commission, the American Bar Association, and many others.

The basic proposal is not new. President Eisenhower urged Congress to pass this measure for 5 straight years. The House unanimously passed a very similar bill in the 84th Congress. Recently, the Senate passed a similar bill by a vote of 67 to 12.

I urge my colleagues to vote favorably on this legislation which will put our Federal law enforcement officials in a better position to prevent the types of mergers which could decrease competition in the marketplace.

Mr. HUTCHINSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 14580, a bill to establish premerger notification and waiting requirements. The need for this legislation is based on the fact of life that the best and sometimes only remedy for an illegal merger is an injunction. But in order to obtain effective injunctive relief with regard to a violation, one must have information about the violation and have it in advance.

H.R. 14580 addresses that need by requiring merging corporations to notify the antitrust enforcement agencies, provide information requested on the notification form, and wait 30 days before consummating the merger. If additional information is necessary it may be requested. If requested within the 30-day waiting period, the waiting period is extended during the time the corporation takes to forward the information and for up to 20 days after receipt of the information.

The bill is a substantial improvement upon H.R. 13131, which was virtually identical with title V of S. 1284. When the other body considered premerger requirements, the focus of attention was on a provision that mandated that the merger be enjoined unless the defendant proved that the Government did not have a case or that there would be irreparable damage to others if the merger were enjoined.

This shift in the burden of proof was a radical departure from fundamental principles of Anglo-Saxon and American jurisprudence. That unorthodox provision was finally deleted in the other body and was likewise deleted in our committee's deliberations.

Nonetheless, major differences exist between the committee's bill and the corresponding provisions adopted in the other body and which now lie pending as part of a Senate amendment to H.R. 8532. In my opinion, the bill before us is superior on all counts.

First. The Senate amendment would allow the Government to extend the waiting period indefinitely. In other words, the Senate amendment would permit the Government to thwart any acquisition. The way this would be done under the Senate amendment is as follows: Within the 30-day waiting period the Government could request additional information. When provided, the Government would be given up to 20 days to review it before the waiting period expired. But during those 20 days another request for information could be made, again extending the waiting period. Of course, during that extension additional requests and additional extensions could occur.

The committee bill does not permit such indefinite extensions. Rather only one 20-day extension is permitted. Thus H.R. 14580 provides a time certain for the termination of the waiting period so that the merger may take place.

Second. The Senate amendment would provide that any capital transaction between covered corporations would trigger the premerger notification and waiting requirements. Thus if Hecht's wishes to sell a delivery truck to Garfinckel's, Hecht's would be obligated to pursue the same steps as if it were merging, since the sale of a delivery truck by Hecht's is not a sale in the ordinary course of business.

To avoid this overbreadth, the committee bill provides a substantiality test: namely, that as a result of the transaction, the acquiring corporation must possess 25 percent or $20 million worth of the acquired corporation's voting stock or assets. Thus capital transactions having little or no effect on competition would not trigger the bill's requirements.

It appears from the committee report that one member of the committee believes that 25 percent and $20 million figures are too high a test. In criticizing the 25-percent test, the Additional Views refer to several statutes on different subjects where a lower percentage is employed. If the percentage test were the only test of substantiality, the cited statutes might provide appropriate guidance. But the $20 million figure, in effect, operates to reduce the percentage required as the transaction gets larger. Thus the two-pronged committee test is both more flexible and more exact than other statutory tests.

Third. The Senate amendment would confer authority upon the enforcement agencies to reach any and all transactions between corporations even smaller in size than those covered by the express guidelines. The grant of discretion to enforcement agencies to enlarge the coverage of a law is most unusual. It is quite different from the normal prosecutorial discretion which allows for nonprosecution in cases where the application of the law would not fulfill the legislative purpose. The Senate amendment would confer authority to extend coverage beyond the legislated guidelines. The committee bill, in contrast, confers no such authority.

Fourth. Although it is not the purpose of this legislation to have any substantive effect on the antitrust laws or in any other area, the Senate amendment would give no recognition to the fact that the general provision of the bill would stifle the making of cash tender offers and inhibit the flow of capital and thus prevent certain procompetitive acquisitions under the guise of procedural reform. In contrast, the committee bill takes into account the sensitive nature of cash tender offers and the special need for prompt review by limiting the waiting period to 21 days without opportunity for extension by the enforcement agencies

I cannot emphasize too strongly that it is the sole purpose of this legislation to provide an opportunity to enforcement agencies to preview mergers and not in any way alter the normal flow of capital.

Thus it can be seen that the committee made significant improvements in the legislation. In this form, the committee bill deserves the support of every Member of this body.

Mr. Speaker, I yield 3 minutes to the gentleman from Ohio (Mr. KINDNESS).

Mr. KINDNESS. Mr. Speaker, I thank my colleague for yielding this time to me.

Mr. Speaker, I rise to express support of the concept embodied in the bill, but to raise an issue that was presented, admittedly, at the last minute in the committee in its consideration of this bill.

The concern that I have makes it, I believe, inappropriate for the bill to be considered under suspension of the rules because I think there is something to be considered here that is of a serious nature.

On page 19 of the bill, starting at line 4, it reads that the Justice Department, the Federal Trade Commission and the Assistant Attorney General may do certain things. One of the things that they may do that is discretionary and nonmandatory is to define the terms used in this section of the bill. Ordinarily the delegation of that duty is made mandatory and not stated in terms of "may." It should be "shall."

Admittedly, I did not offer an amendment in the committee to change that word "may" to "shall." In the rush of affairs on that occasion, I felt that there might be an opportunity to do so on the floor. There is not that opportunity under suspension of the rules.

Mr. Speaker, it is something that I think certainly should be considered in the conference on the measure because we are talking about such basic things as defining the terms used right here in the bill. Ordinarily, that should be mandatory rather than discretionary.

Mr. HUGHES. Mr. Speaker, will the gentleman yield?

Mr. KINDNESS. I yield to the gentleman from New Jersey.

Mr. HUGHES. Mr. Speaker, may I ask what type of amendment my colleague, the gentleman from Ohio (Mr. KINDNESS), would offer that would, first of all, make any significant changes?

It is important that the Congress give some discretion to the agencies that have the duty to carry out the antitrust functions to defense terms and to make additional exceptions.

Mr. KINDNESS. On a mandatory basis; just changing the word "may" to "shall," as applied to the definition of the terms used.

Incidentally, the bill, as printed, says define the "term," rather than the "terms," (plural). It is "term," singular.

The second thing that is in this discretionary power is to exempt classes of corporations in the acquisition or transfer transactions which are not likely to violate section 7 of this act from the requirements of this section. That should be discretionary rather than mandatory, of course.

However, it does occur to me that there ought to be some guidelines established to follow in the making of such exemptions.

Third, they may increase the percentage specified in subsection (C) (8), which would be a liberalization of the actual statutory terms for which the bill is enacted. If they are to liberalize, we should provide some guidelines therefor.

The SPEAKER pro tempore. The time of the gentleman from Ohio (Mr. KINDNESS) has expired.

Mr. HUTCHINSON. Mr. Speaker, I yield 1 additional minute to the gentleman from Ohio.

Mr. KINDNESS. Mr. Speaker, I thank the gentleman from Michigan (Mr. HUTCHINSON), the ranking minority member of the Committee on the Judiciary, for yielding me this additional time.

The liberalization of any statutory provision, it seems to me, should have some guidelines established by the Congress when the legislation is enacted.

The liberalization that is referred to in terms of increasing that percentage is, of course, limited at 25 percent instead of at 10 percent in subsection (C) (8), I suppose, which is in the general context of the bill; but it does not even say that.

Therefore, Mr. Speaker, I would urge that this is something that ought to be considered more closely, with the opportunity to make some guidelines available to the Federal Trade Commission and the Assistant Attorney General for the carrying out of those statutory functions.

Thus, Mr. Speaker, I would urge a

negative vote on the motion to suspend the rules and pass the bill.

Mr. HUTCHINSON. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio (Mr. ASHBROOK).

Mr. ASHBROOK. Mr. Speaker, I thank the gentleman for yielding.

I would like to direct a question to my colleague, the gentleman from New Jersey (Mr. HUGHES), the able gentleman handling this bill.

I would like to know where in H.R. 14580 it specifically exempts small businesses.

Mr. HUGHES. If the gentleman will yield, the definitions are at the very beginning of the legislation, in the first section which defines corporations of $100 million or more in total assets or net sales which acquire corporations with total assets of $10 million or more.

Would not my colleague, the gentleman from Ohio, agree that that is a fairly large corporation?

Mr. ASHBROOK. I am looking at the Federal Register, and I do not think that this bill necessarily would contain definitions of small businesses which would be uniformly agreed to.

Mr. HUGHES. If the gentleman from Ohio will yield further, we would have a very difficult job in trying to define small business; but I think that the standard that is used is carefully tailored to apply only to the 150 largest corporate acquisitions each year, and would exclude what is usually understood as a small business.

Mr. ASHBROOK. I certainly would agree with my colleague. However, my concern is that that is not exactly what H.R. 14580 does.

I have heard it said reliably that it could affect as many as 18,000 privately held, family-owned businesses in the country.

I do not think that that is exactly what we are trying to do.

I have read this carefully. Obviously, I am not the expert in it that my friend and colleague is.

However, knowing how bureaucracy interprets their authority sometimes and their mandate, maybe I have problems because I am used to dealing with HEW and other departments where, as the gentleman knows, they are likely to come up with regulations as they did the other day on the mother-daughter and father-son matter. They use anything that they can get hold of to launch out in the widest coverage they can dream of.

I am inclined to have concern as to whether or not we are really limited to the top 100 or 200 corporations.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. HUTCHINSON. Mr. Speaker, I yield 1 additional minute to the gentleman from Ohio.

Mr. HUGHES. Mr. Speaker, will the gentleman yield?

Mr. ASHBROOK. I yield to the gentleman from New Jersey.

Mr. HUGHES. Mr. Speaker, on that point, taking 1972, is it not a fact that if the criteria utilized in this bill were then the law, it would have affected some 59 mergers in this country? I do not have the exact figures for 1975, but I know that under 100 mergers would have been affected by the $100 million and the $10 million criteria set forth in this legislation. So we were talking of the largest merging corporations. They are the ones that have given us the most difficulty in the past. It is only that group that will be covered by this legislation.

Mr. ASHBROOK. If we only did that, I certainly would agree. I would have to admit I have some doubts.

I am opposed to suspending the rules in order to consider H.R. 14580. This bill would have effects which, I am afraid, have not yet been adequately explored. Floor debate and amendment will be our last chance to examine these problems carefully.

This legislation will affect businesses and individuals all over the country, in one way or another.

H.R. 14580 would require premerger notification when companies over a certain size acquire or merge with other companies, also over a certain size. It has been brought to my attention that this bill would actually affect as many as 18,000 private-held, family-owned, businesses, many of which are considered small businesses under existing Federal legislation. This bill would make it more difficult for these businesses to be transferred when their proprietors die or retire.

It seems quite anomalous to apply to such businesses the formal requirements and procedures of this bill, which are really intended, apparently, to curb potential excesses of big business. It would be useful, and prudent, to amend this bill to clearly indicate that it would only apply to businesses not considered "small" businesses under existing Federal law.

We must not deprive the House of its right to amend this bill, and to more thoroughly consider its consequences. H.R. 14580 should not be considered under a suspension of the rules.

Mr. ASHBROOK. Mr. Speaker, like my colleague, the gentleman from Ohio, I think we ought to vote this down and bring the bill back with an amendment where we can specifically say we intend to exempt small businesses.

Mr. HUTCHINSON. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. WIGGINS).

Mr. WIGGINS. Mr. Speaker, I thank the gentleman for yielding. I have asked for this time for the purpose of asking a question or two of the gentleman from New Jersey or the gentleman from Michigan.

It is my understanding that the covered companies must supply information respecting a contemplated merger to the Department of Justice and the FTC and that these agencies have a finite period of time within which to react to the information that has been given to them. They may, under certain circumstances, request additional information and delay a decision; but the bottom line is that they are asked to make a judgment in advance of the merger as to whether or not the merger which is contemplated would violate the antitrust laws. If they take the position that it does, then they have certain legal remedies to enjoin the merger. Am I stating the situation correctly?

Mr. HUGHES. That is correct.

Mr. WIGGINS. If the Department of Justice, for reasons known best to itself, does not elect to avail itself of that remedy, after the affected corporations have submitted the information, the Department of Justice is nevertheless permitted to avail itself of any statute to "unscramble the eggs" as my friend, the gentleman from Michigan (Mr. HUTCHINSON) has said. In other words, they are not foreclosed from later challenging the merger; is that correct?

Mr. HUGHES. That is correct.

Mr. WIGGINS. I do not doubt that they have the power to make the challenge. My question relates to possible defenses to such a challenge, in particular, estoppel. Estoppel, as the gentleman knows, is founded on the principle of simple fairness. If a corporation were to comply with the act in all respects and thereafter, in reliance upon the failure of the Department of Justice to take action, it consummates the merger, and perhaps suffers considerable economic detriment as a result, might not the Department of Justice be estopped from challenging the merger?

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. HUTCHINSON. I yield 2 additional minutes to the gentleman from California.

Mr. HUGHES. Mr. Speaker, if my colleague, the gentleman from California would yield, I would say, as my colleague well knows, it may be very difficult, if not impossible, for the Department of Justice within a 30-day period to make the kind of valued judgment that would have to be made and to secure sufficient proof so as to win a conviction in the court, so, as a result, the Justice Department obviously has to have the right to consider the anticompetitive nature of the merger that was shaped and to then seek the injunctive relief that is necessary, to so unscramble them or, to effectuate divestiture. I do not know how estoppel, under those circumstances, would be available as an equitable relief. Unless, of course, there were other things in connection with the inactivity by the Justice Department that would lend the court to act to apply estoppel, or any other relief to the merging party. As the gentleman from California well knows, we may or may not know of the anticompetitive nature of a particular merger for years. It would be, I think, unwise for us to tie the hands of the Department of Justice.

Mr. WIGGINS. I might agree with the gentleman as a matter of national policy, but in simple fairness to the parties, if they submit their deal to government and government has an opportunity to object and does not, and they rely upon that failure to object to their economic detriment, at least, they have the makings of an equitable defense.

Mr. SEIBERLING. Mr. Speaker, will the gentleman yield?

Mr. WIGGINS. I yield to the gentleman from Ohio.

Mr. SEIBERLING. I thank the gentleman for yielding.

As a matter of fact, there is a procedure whereby a corporation can get an advance opinion from the Department of Justice as to whether they think a proposed merger is legal or not, but even then the Department of Justice or the FTC will normally state in their response that they do not consider themselves bound by their opinion.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. WIGGINS. Mr. Speaker, I yield 1 additional minute to the gentleman from Ohio.

Mr. SEIBERLING. And they reserve the right to challenge the proposed merger at some later date. So even though one gets such a "ruling", it does not preclude the Department of Justice from acting.

But I would agree that in a court of equity one would have a heavier burden of persuasion because of the fact that Justice did in such manner encourage the parties to go through with it.

Mr. WIGGINS. As I read this bill, it does not preclude the assertion of the defense of estoppel to a subsequent action. How the court may rule on the defense in any divestiture or other equitable proceeding is a matter to be determined in any given case.

Mr. SEIBERLING. I would not consider it a legal defense, but certainly something to be weighed along with everything else.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. HUGHES. Mr. Speaker, I yield 2 minutes to my distinguished colleague, the gentleman from Ohio (Mr. SEIBERLING).

Mr. SEIBERLING. Further responding to the point made by the gentleman from Ohio (Mr. ASHBROOK) the Small Business Association letter which he put in the RECORD apparently contains the statements that the gentleman was referring to about the application to small business. This bill essentially already exempts small business, and the letter is in error in implying that all businesses with sales or assets over $10 million would be brought into the scope of the bill. The example they give is of a wholesaler doing $22 million worth of sales, which would not come within the bill because he would be a nonmanufacturing corporation, and the bill expressly exempts nonmanufacturing corporations with assets of less than $10 million.

As a matter of fact, if we look at the regulations put out by the Small Business Administration—I am looking at one dated July 31, 1975—it states that for purposes of financial assistance by small business investment companies, a small business is one that does not have assets exceeding $9 million, which is $1 million less than the assets necessary to bring a nonmanufacturing corporation under this bill.

Again, they simply have not read the bill. However, if you have a business which might not be large by comparison to others but which is, nevertheless, in excess of $10 million in sales or earnings, or assets, it could be a very serious anticompetitive event to have it acquired by a huge company.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. HUGHES. I yield 1 additional minute to the gentleman from Ohio.

Mr. SEIBERLING. If one had an important patent or the major share of a particular regional market, or various other things where in the hands of a large company it could block competition in some serious way, the acquisition by a large company could well come under section 7 of the Clayton Act under certain circumstances, so this bill does draw a reasonable line.

Mr. ASHBROOK. Mr. Speaker, will the gentleman yield?

Mr. SEIBERLING. I yield to the gentleman from Ohio.

Mr. ASHBROOK. I thank the gentleman for yielding.

I guess it is for that reason my colleague, the gentleman from Ohio, accurately—and he always tries to be accurate—indicated that it only essentially exempted small businesses. I notice he did not specifically state it exempted small businesses. What the gentleman is saying is that under some circumstances it might be advisable to have small business come under the provisions set out in this act.

Mr. SEIBERLING. In order to have something that can be administered without litigation, since the bill proposes a premerger notification procedure, we do not want to ensnare it in endless litigation. So we had to draw some clear-cut lines.

Mr. HUGHES. Mr. Speaker, I yield 1 minute to my colleague, the gentleman from Kentucky (Mr. MAZZOLI).

Mr. MAZZOLI. Mr. Speaker, I thank the gentleman for yielding.

I commend the gentleman on his leadership in the subcommittee and here on the floor of the House of in producing this bill. I think all of the various problems brought up are being very sincerely brought up, but at the same time all the problems were discussed in our subcommittee and then again in the full committee during consideration of the legislation.

All of them, whether involving coverage of the bill or the availability of the equitable argument of estopple to covered companies, all of these were discussed and considered at length in the committee.

This bill is another one of the tools, we talked about earlier today, that the Anti-Trust Division needs in order to sharpen their ability to enforce the existing antitrust law, and prevent, thereby, the inclination of this House, indirectly at least, to go into far more profound and sometimes unthought-out changes in the way American business can conduct its business.

This legislation is a good move in the right direction. I urge Members to vote for this bill.

Mr. HUTCHINSON. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois (Mr. MCCLORY).

Mr. McCLORY. Mr. Speaker, I thank the gentleman for yielding.

I rise in support of this legislation.

Mr. Speaker, this is another of the measures recommended by President Ford for promoting competition and benefiting consumers and the general economy.

I rise to express my very strong support for this bill which enables our antitrust law enforcement agencies to do a more effective job of enforcing the merger laws. It is very important that we improve our ability to prevent unproductive, anticompetitive mergers while avoiding interference with beneficial, procompetitive mergers. I feel that we have made such an achievement in this bill.

The bill simply establishes a procedure through which the Government is notified in advance of mergers between companies of certain sizes. All too often, the law enforcement agencies find out about a potentially illegal merger only after it has taken place. In merger law, there are no criminal penalties, of course. The object is to restore the market and the companies to their status prior to the merger, as best as can be done. The most common remedy imposed is to require the companies to separate again, but often this is very difficult and very expensive. It is extremely hard to put the market back the way it was before a merger, to "unscramble the eggs," so to speak.

During the hearings we had a great deal of testimony from Government and private lawyers about the extreme difficulty of separating two illegally merged companies and restoring the market to a competitive state. With this bill, we may be able to reduce these difficulties and make the merger law more effective.

This bill does not change the substance of the merger law at all, but it does provide the enforcement agencies with some advance notice that a merger is being planned. It gives the Government a sure chance to consider a merger before it is consummated and, hopefully, to stop it before it is completed if it is determined to be illegal. If it is illegal, it is much easier to do it this way than to accomplish a divestiture or spinoff later.

This notification program has been carefully designed to provide the Government with a better opportunity for stopping illegal mergers without reducing the vigor of procompetitive merger activity.

While I support this bill very strongly, Mr. Speaker, I would like to warn the enforcement agencies against one potential abuse of this new tool. I want to make it very clear that it is not the committee's intention that these new antitrust tools be misused by allowing the accumulation of "dossiers" on businesses for general enforcement purposes.

The purpose of these new antitrust weapons is simply to give the Government enough advance warning of mergers and enough information about them to enable the government to attempt to stop them prior to consummation if they thought to be illegal by Clayton Act standards. We do not intend to allow the Government to collect information about companies for other purposes or just to keep "dossiers" on hand. I believe that such a practice could easily lead to government harassment of business that can best be avoided before it starts. Thus, I would think it appropriate that the Government agencies obtaining information return whatever they receive and copies that have been made to the party producing the information as soon as the purposes of this bill have been fulfilled.

Mr. HUGHES. Mr. Speaker, I yield such time as he may consume to my colleague, the gentleman from Ohio (Mr. SEIBERLING).

Mr. SEIBERLING. Mr. Speaker, the gentleman from Illinois (Mr. MCCLORY) pointed out that this is important consumer legislation, and in that connection I offer for inclusion in the record at this point, a letter dated August 2, 1976, from the Consumer Federation of America, strongly endorsing this bill and also H.R. 13489—Antitrust Civil Process Act Amendments—the bill we debated immediately preceding this one.

The letter points out that these are both "extremely important" from the standpoint of consumers.

Mr. Speaker, the letter I referred to from the Consumer Federation of America is as follows:

CONSUMER FEDERATION OF AMERICA,
Washington, D.C., Aug. 2, 1976.

Hon. WILLIAM J. HUGHES,
U.S. House of Representatives,
Cannon House Office Building,
Washington, D.C.
Hon. JOHN F. SEIBERLING,
U.S. House of Representatives,
Longworth House Office Building,
Washington, D.C.

DEAR REPRESENTATIVES HUGHES AND SEIBERLING: CFA, the nation's largest consumer organization, representing more than 30 million consumers, strongly supports two important antitrust bills which will be considered by the House today, H.R. 14580, the Antitrust Premerger Notification Act and H.R. 13489, the Antitrust Civil Process Act and Amendments of 1976.

"Big is better" is no longer accepted as gospel by the American public. A poll by Opinion Research Corporation in 1973 showed that 75% of the people believe that too much economic power is concentrated in a few large companies. In 1965, only 52% believed that. There is a growing realization that monopoly and oligopoly power has the serious potential of concentrating such enormous economic power in the hands of a few that those few are able to transcend effective government and public control.

For example, the soup and cereal industries are dominated by less than three large companies. A 1967 Census Bureau report showed that in over half of the metropolitan retailers held over 50% of the market. Monopoly/oligopoly power is not limited to the food industry. We see daily examples of it in the petroleum, automotive, bottling, banking and virtually every major segment of the market.

Consumers pay a high price for monopoly power. Assistant Attorney General for Antitrust Thomas E. Kauper has estimated that lack of competition in our economy costs $80 billion. In 1974 prices rose 23% in a group of concentrated industries while maintaining essentially status quo levels in competitive industries as reported by Gardiner Means. In fact, according to a 1972 FTC staff estimate, the monopoly overcharges by 100 industries topped $15 billion.

Regardless of whether a company acquires a competitor within its own industry (e.g. one steel company merging with another steel company) or acquires across industry lines (e.g. a transport company purchasing a tuna plant), the impact is the same. Huge conglomerate can, for example, put more money into advertising which does nothing to lower the product price or enhance its quality. As a result of such massive advertising, smaller companies find it exceedingly difficult to compete and either go out of business or are themselves absorbed in a merger.

You have before you today two extremely important antitrust measures which would create effective mechanisms for improving antitrust enforcement.

1. Premerger/H.R. 14580 The Antitrust Premerger Notification Act.

By requiring large firms to make their merger plans known in advance, this bill would provide the Justice Department with the ability to seek injunctive relief to prohibit the consummation of illegal mergers under the Clayton Act. There is no justification for consumers having to suffer the effects of illegal mergers when such mergers could have efficiently and expeditiously been avoided. Once a merger is consummated it is unrealistically difficult to untangle the assets, management and technology of the merged firms in order to provide consumers with adequate relief.

The average Clayton case lasts five to six years, taking a heavy toll on limited government antitrust enforcement resources. During this period, a company which is in violation of the law, is illegally accumulating profits, as well as other assets, all at the consumers expense! The case of El Paso Natural Gas dragged on for 17 years before it was decided in favor of the government. The situation is even more shocking when it is realized that in over 90% of the non bank Clayton cases the merger was ruled to be illegal!

If anything the terms of this legislation are too reasonable; the charge that this law will lead to frivolous cases and that the Justice Department will shoot from the hip are totally unfounded. Over 3000 mergers are consummated annually. Yet the Senate Judiciary Committee has estimated that in the last five years less than 100 mergers would have qualified under this law. Likewise, the charge that the delay created in mergers will lead to a deterioration of capital markets is fallacious. Even the American Life Insurance Association has indicated that this legislation would "not adversely affect the capital markets".

2. CID/H.R. 13489 The Antitrust Civil Process Act Amendments of 1976.

The Justice Department is further hamstrung in its efforts to enforce the antitrust laws by its inability to gather evidence. Currently the Department may not issue a Civil Investigative Demand (CID) to any but nonnatural persons (a corporation), and then only for documenting evidence. Further, the Department may not issue a CID in the investigation of a merger not yet consummated, although the Department may have reason to believe that such a merger would be in violation of the Clayton Act, and although the merger may have been publicly announced. These deficiencies are corrected by this bill.

It makes no sense for a government agency, charged with the detection and prosecution of crime to be unable to even investigate such crime until the crime has been committed. CFA notes with irony that if the issue were legislation to strengthen law enforcement in areas other than corporate crime, "law and order" advocates would be the first to criticize the bill as being too weak. How, then, can they possibly oppose this measure, unless motivated by pure self-interest?

It is ludicrous that all but official papers of a corporation should be exempt from investigation. This exemption includes informal handwritten notes of relevant meetings or conversations, as well as the conduct of company officials. Such evidence is clearly necessary for vigorous enforcement of the antitrust laws. Further, the Department cannot currently gather evidence from those who are not themselves under investigation. This includes the clearly relevant information that could be obtained from consumers, suppliers, competitors, former employees and trade associations as well as others. Broadening the scope of Justice Department investigations is legitimate as well as vital to rigorous antitrust enforcement.

Consumers deserve the strongest possible antitrust enforcement laws so that free enterprise in the marketplace can become a reality. These antitrust bills under consideration today are a vital step in the direction of equipping the government with common sense *preventive* measures in the area of mergers and in the area of strong investigative authority. We hope that you agree with CFA that consumers cannot afford to have these measures defeated.

Very truly yours,
CAROL TUCKER FOREMAN,
Executive Director.
KATHLEEN F. O'REILLY,
Legislative Director.

Mr. HUGHES. Mr. Speaker, in conclusion, I just urge my colleagues to vote to suspend the rules and pass H.R. 14580.

The New York Times characterized this piece of legislation and the CIA legislation as probably the most important antitrust legislation to come before the Congress in several decades.

Mr. Speaker, I have no additional requests for time.

Mr. HUTCHINSON. Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey (Mr. HUGHES) that the House suspend the rules and pass the bill (H.R. 14580), as amended.

The question was taken.

Mr. ASHBROOK. Mr. Speaker, I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 3(b), rule XXVII, and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. HUGHES. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of the bill (H.R. 14580).

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

THREE-JUDGE COURTS

Mr. KASTENMEIER. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 537) to improve judicial machinery by amending the requirement for a three-judge court in certain cases and for other purposes.

The Clerk read as follows:

S. 537

Be it enacted by the Senate and House of Representatives of the United States of American in Congress assembled, That section 2281 of title 28, United States Code, is repealed.

SEC. 2. That section 2282 of title 28, United States Code, is repealed.

SEC. 3. That section 2284 of title 28, United States Code, is amended to read as follows:

"§ 2284. Three-judge court; when required; composition; procedure

"(a) A district court of three judges shall be convened when otherwise required by Act of Congress, or when an action is filed challenging the constitutionality of the apportionment of congressional districts or the apportionment of any statewide legislative body.

"(b) In any action required to be heard and determined by a district court of three judges under subsection (a) of this section, the composition and procedure of the court shall be as follows:

"(1) Upon the filing of a request for three judges, the judge to whom the request is presented shall, unless he determines that three judges are not required, immediately notify the chief judge of the circuit who shall designate two other judges, at least one of whom shall be a circuit judge. The judges so designated, and the judge to whom the request was presented, shall serve as members of the court to hear and determine the action or proceeding.

"(2) If the action is against a State, or officer or agency thereof, at least five days' notice of hearing of the action shall be given by the registered or certified mail to the Governor and attorney general of the State. The hearing shall be given precedence and held at the earliest practicable day.

"(3) A single judge may conduct all proceedings except the trial, and enter all orders permitted by the rules of civil procedure except as provided in this subsection. He may grant a temporary restraining order on a specific finding, based on evidence submitted, that specified irreparable damage will result if the order is not granted, which order, unless previously revoked by the district judge, shall remain in force only until the hearing and determination by the district court of three judges of an application for a preliminary injunction. A single judge shall not appoint a master, or order a reference, or hear and determine any application for a preliminary or permanent injunction or motion to vacate such an injunction, or enter judgment on the merits. Any action of a single judge may be reviewed by the full court at any time before final judgment.".

SEC. 4. The analysis of chapter 155 of title 28, United States Code, is amended to read as follows:

"Sec.
"2281. Repealed.
"2282. Repealed.
"2283. Stay of State court proceedings.
"2284. Three judge district court; when required; composition; procedure.".

SEC. 5. (a) Section 2403 of title 28, United States Code, is amended—

(1) by inserting the subsection "(a)" immediately before "In" and

(2) by adding at the end thereof the following new subsection:

"(b) In any action, suit, or proceeding in a court of the United States to which a State or any agency, officer, or employee thereof is not a party wherein the constitutionality of any statute of that State affecting the public interest is drawn in question, the court shall certify such fact to the attorney general of the State, and shall permit the State to intervene for presentation of evidence, if evidence is otherwise admissible in the case, and for argument on the question of constitutionality. The State shall, subject to the applicable provisions of law, have all the rights of a party and be subject to all liabilities of a party as to court costs to the extent necessary for a proper presentation of the facts and law relating to the question of constitutionality.".

(b) The catchline to section 2403 of title 28, United States Code, is amended to read as follows:

"§ 2403. Intervention by United States or a State; constitutional question".

SEC. 6. Item 2403 of the analysis of chapter 161, of title 28, United States Code, is amended to read as follows:

"2403. Intervention by United States or a State; constitutional question.".

SEC. 7. This Act shall not apply to any action commenced on or before the date of enactment.

The SPEAKER pro tempore. Is a second demanded?

Mr. RAILSBACK. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Wisconsin (Mr. KASTENMEIER) and the gentleman from Illinois (Mr. RAILSBACK) will each be recognized for 20 minutes.

The Chair now recognizes the gentleman from Wisconsin (Mr. KASTENMEIER).

Mr. KASTENMEIER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the legislation in the form before the House this afternoon has passed the Senate twice, first during the 93d Congress and again in the first session of the 94th Congress. It was approved by a unanimous vote by the Committee on the Judiciary.

My subcommittee since 1973 has held a total of 4 days of hearings on this measure, which was originally introduced at the request of the Judicial Conference of the United States.

H.R. 6150, as introduced by our colleague, the gentleman from Illinois (Mr. RAILSBACK), last year dealt with a number of judicial reforms in addition to restricting the jurisdiction of three-judge courts. The original bill contained five major provisions: The restriction of jurisdiction of three-judge courts, changes in the jurisdiction of U.S. magistrates, increases in the salaries of judges and other judicial personnel, provisions for the protection of jurors against loss of employment because of time spent on jury duty, and provisions for the use of automatic data processing in the jury selection process.

However, the committee deleted the last four of these subjects from the bill after determining that a final decision on the issues involved would require additional study. The urgent need for review of judicial salaries was partly relieved by congressional approval last year of a 5-percent salary increase for all executive level Federal officials including judges.

In its present form H.R. 6150 is identical to S. 537 which passed the Senate in June of last year. It eliminates the statutory requirement, except in apportionment cases, that a district of three judges be convened whenever an injuction is sought restraining the enforcement, operation, or execution of a State or Federal statute on the grounds of unconstitutionality. Under the existing law, when such a three-judge court is convened there is an automatic right of appeal directly to the Supreme Court, bypassing the Court of Appeals.

H.R. 6150 affects only three-judge courts convened under sections 2281 and 2282 of title 28, United States Code, however. The bill in no way affects the right to a three-judge court where otherwise specifically mandated by statute such as in the Civil Rights Act of 1964 or the Voting Rights Act of 1976, extended earlier this Congress as a result of the work of this committee.

The present three-judge court statute dates from 1910. The purpose of Congress in enacting it was to limit the effect of the landmark decision of the Supreme Court in *Ex Parte Young*, 209 U.S. 123 (1908), which held that State officials could be enjoined by Federal courts from enforcing unconstitutional statutes.

The Young decision came at the turn of the century, at a time of vigorous expansion of big business and the railroads.

In response to this expansion the States enacted regulatory statutes. However, following the Young case, these statutes were repeatedly enjoined by single Federal judges, often granting interlocutory injunctions without hearing or notice to State officials. The response of Congress was to require a three-judge court with speedy review by the Supreme Court in such cases. Today, however, the circumstances giving rise to the three-judge court statute have disappeared, and States no longer require this kind of protection from the arbitrary actions of a single judge.

Increasingly, however, the requirement of a three-judge court places an administrative burden on our Federal court system. The scarce judicial manpower of the Nation is inefficiently used by requiring three judges to convene for work that could be performed by one; and very importantly, of course, the limited resources of the Supreme Court are strained by the direct appeal which circumvents the certiorari process. In response, the Judicial Conference requested this legislation to ease the administrative burden on our courts.

Mr. Speaker, this bill is supported by the Judicial Conference, the Department of Justice and the American Bar Association. On behalf of the committee, I urge its approval.

Mr. RAILSBACK. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of S. 537. This bill is identical to the bill which I introduced, H.R. 6150. H.R. 6150 was reported by the full Judiciary Committee on voice vote without any registered opposition. It has the support of the U.S. Judicial Conference and the Department of Justice, the American Bar Association, the Chief Justice of the United States and Prof. Charles Alan Wright, among others.

In the 93d Congress, the other body passed S. 271 on June 14, 1973, which is identical to S. 537. At that time there was no registered opposition to this legislation. During the subcommittee hearings in October 1973, it was learned for the first time that the NAACP and U.S. Civil Rights Commission had some reservations about the effect such legislation might have on civil rights cases. These reservations later developed into opposition to the enactment of the bill, at least on the part of the NAACP. The Civil Rights Commission, when first asked, expressed no opposition and has taken no official position on this legislation, but did express some reservation short of opposition. The ACLU has not taken a position on this legislation.

In my opinion, any opposition is unfounded and resulted, at least in part, from a misunderstanding of the bill. To begin with, the three-judge court provisions in the 1964 Civil Rights Act and the Voting Rights Act of 1965, are unaffected by S. 537. There is no intention of changing, in any way, those provisions in the 1964 Civil Rights Act and is to repeal sections 2281 and 2282 of title 28 United States Code. These two sections require the convening of three-judge courts when an injunction is sought restraining the enforcement, operation, or execution of a State or Federal statute on the ground that such is repugnant to the Constitution. Decisions of these three-judge courts may be appealed directly to the Supreme Court. This legislation does not take away the right to challenge such State or Federal statutes, but rather these challenges will have to take the ordinary judicial route, that is before a district judge first, not a three-judge court and then to the court of appeals, and on to the Supreme Court on writ of certiorari.

The actual number of cases heard under sections 2281 and 2282 are not that many in number, 140 in 1975. The number of cases however, does not indicate the actual extent of the burden caused by these cases resulting in a loss of valuable judge-hours. Before a three-judge district court case can begin, a single judge must recognize it is as a three-judge district court case. He must ask the chief judge of the circuit for the convening of a three-judge court. He must certify the necessity. The chief judge of the circuit then strikes the certification. If he feels it wisely made, he appoints two additional judges, one of whom must be a court of appeals judge. Then the three judges must come together in some way. And in many areas of the country, these three judges will live in different parts of the circuit so that the first burden encountered in the convening of three-judge courts is the actual travel of the judges to the place where the trial will be held.

In addition to the drain on judicial resources at the district and circuit levels caused by the three-judge district courts, the drain on the Supreme Court's limited resources is even greater because the appeals in these cases go directly to the Supreme Court rather than to the court of apeals. These cases are particularly difficult for the Supreme Court because they do not reach the court by application for writ of certiorari. They reach the Supreme Court by direct appeal.

Mr. Speaker, S. 537 may appear to some people to be rather minor and it is, but it is very important to the day to day workings of our Federal courts. I urge my colleagues to vote favorably for its enactment.

Mr. KASTENMEIER. Mr. Speaker, I yield 4 minutes to the gentleman from Massachusetts (Mr. DRINAN).

Mr. DRINAN. I speak, Mr. Speaker, only on the civil rights and civil liberties aspects of the phasing out of three-judge Federal courts.

In 1973, we first conducted hearings on this measure. We wrote to the NAACP, the Leadership Conference, the American Civil Liberties Union, the American Jewish Congress, and the U.S. Civil Rights Commission. Only the NAACP opposed the bill.

We learned, however, on subsequent investigation that in 1973 only 2 of the 320 three-judge Federal courts that convened in that year involved any issue of race. The NAACP, nonetheless, urged that these three-judge Federal courts are still needed to protect minorities from the local bias and parochialism of some Federal judges.

Mr. Speaker, with all due deference to their argument, I came to the conclusion that the continuation of three-judge Federal courts was not necessary and that we should move toward the enactment of this legislation.

The argument of the NAACP is not actually grounded on any factual data and, in addition, the argument proves too much. If local Federal judges are prejudiced toward racial minorities, then all cases, logically, involving race should be tried before courts of three judges.

Was there a compromise, we asked ourselves in the hearings. Was there some accommodation toward the position of the NAACP?

Some urged that we should permit three-judge Federal courts only in cases involving race. The argument on the other side was, of course, that if we elevate race, then we in effect downgrade complaints of discrimination based upon national origin, sex and religion.

It was the unanimous judgment of the subcommittee, ably chaired by the gentleman from Wisconsin (Mr. KASTENMEIER), and the full Committee on the Judiciary that it would be improper to raise one category of discrimination above another. Such a decision would involve all types of new issues that should not and need not be raised.

This bill, therefore, does not impair the enforcement of civil rights. That proposition is true, in my judgment, for two main reasons.

First, there is now an extensive body of law which has narrowed very considerably the possibility of incorrect decisions at the trial level.

Second, the Civil Rights Act put through in 1964 and the Voting Rights Act in 1965, updated in 1975, now give statutory power of a very extensive nature to plaintiffs, whether individual or collective, in the area of civil rights.

In these two areas—the Civil Rights Act and the Voting Rights Act—this bill before us does not touch the provisions for the three-judge Federal court.

Congress has eliminated three-judge Federal courts in other matters, in ICC, FCC, and in some antitrust cases.

Mr. Speaker, I feel we should complete that work; we should further streamline the Federal court system, and we can do that by voting "yes" on the bill before us today.

Mr. RAILSBACK. Mr. Speaker, I have no further requests for time.

Mr. KASTENMEIER. Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wisconsin (Mr. KASTENMEIER) that the House suspend the rules and pass the Senate bill (S. 537).

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table.

A similar House bill (H.R. 6150) was laid on the table.

REDUCTION IN BEER TAX FOR SMALL BREWERS

Mr. ULLMAN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3605) to amend section 5051 of the Internal Revenue Code of 1954 (relating to the Federal excise tax on beer), as amended.

The Clerk read as follows:

H.R. 3605

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subsection (a) of section 5051 of the Internal Revenue Code of 1954 (imposing a tax of $9 a barrel on beer produced or imported into the United States) is amended to read as follows:

"(a) RATE OF TAX.—

"(1) IN GENERAL.—A tax is hereby imposed on all beer brewed or produced, and removed for consumption or sale, within the United States, or imported into the United States. Except as provided in paragraph (2), the rate of such tax shall be $9 for every barrel containing not more than 31 gallons and at a like rate for any other quantity or for fractional parts of a barrel.

"(2) REDUCED RATE FOR CERTAIN DOMESTIC PRODUCTION.—

"(A) $7 A BARREL RATE.—In the case of a brewer who produces not more than 2,000,000 barrels of beer during the calendar year, the per barrel rate of the tax imposed by this section shall be $7 on the first 60,000 barrels of beer which are removed in such year for consumption or sale and which have been brewed or produced by such brewer at qualified breweries in the United States.

"(B) CONTROLLED GROUPS.—In the case of a controlled group, the 2,000,000 barrel quantity specified in subparagraph (A) shall be applied to the controlled group, and the 60,000 barrel quantity specified in subparagraph (A) shall be apportioned among the brewers who are component members of such group in such manner as the Secretary or his delegate shall by regulations prescribe. For purposes of the preceding sentence, the term 'controlled group' has the meaning assigned to it by subsection (a) of section 1563, except that for such purposes the phrase 'more than 50 percent' shall be substituted for the phrase 'at least 80 percent' in each place it appears in such subsection. Under regualtions prescribed by the Secretary or his delegate, principles similar to the principles of the preceding two sentences shall be applied to a group of brewers under common control where one or more of the brewers is not a corporation.

"(3) TOLERANCES.—Where the Secretary or his delegate finds that the revenue will not be endangered thereby, he may by regulations prescribe tolerances for barrels and fractional parts of barrels, and, if such tolerances are prescribed, no assessment shall be made and no tax shall be collected for any excess in any case where the contents of a barrel or a fractional part of a barrel are within the limit of the applicable tolerance prescribed.".

SEC. 2. The amendment made by the first section of this Act shall take effect on the first day of the calendar year which begins after the date of the enactment of this Act.

The SPEAKER pro tempore. Is a second demanded?

Mr. CLANCY. Mr. Speaker, I demand a second.

Mr. DRINAN. Mr. Speaker, is the gentleman opposed to the bill?

Mr. CLANCY. Mr. Speaker, I am not opposed to the bill.

Mr. ROUSSELOT. Mr. Speaker, I demand a second.

Mr. DRINAN. Mr. Speaker, is the gentleman opposed to the bill?

Mr. ROUSSELOT. I am, Mr. Speaker.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Oregon (Mr. ULLMAN) will be recognized for 20 minutes, and the gentleman from California (Mr. ROUSSELOT) will re recognized for 20 minutes.

The Chair recognizes the gentleman from Oregon (Mr. ULLMAN).

Mr. ULLMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 3605 deals with manufacturers' excise tax on beer and other permitted beverages. It provides for limited reduction in the beer tax to certain small breweries who produce in the United States.

Mr. Speaker, I yield 5 minutes to the gentleman from Texas (Mr. PICKLE) to further explain this bill.

Mr. PICKLE. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I rise in support of this much needed bill. Small breweries today are facing an uphill fight, and unless some relief is granted, and soon, they will have disappeared. The numbers tell the story—in 1935 there were 750 brewing companies. Today there are less than 100 brewing companies. Another interesting statistic, in 1935 the average brewer in this country sold 57,000 barrels of beer a year. In 1975 this figure was 2,800,000 or almost 50 times as much in an annual year. But closely related to this, is that the major brewers now have an increasing share of the market. While in 1950 the 15 largest brewers in the United States represented 45 percent of total beer sales, in 1974 this increased to 89 percent. It is apparent that unless some change is made the small brewers will be forced out of business and the industry will consist only of the giants. For the small brewer, the business will be flat.

This bill would simply reduce the tax on beer from $9 to $7 a barrel for the first 60,000 barrels removed each calendar year for consumption or sale. To make sure that only the small brewers benefit it is limited to a brewer who produces no more than 2 million barrels per year. The cost to the Treasury is minimal, estimated at less than $5 million, yet it means a great deal to these small brewers in their competitive world.

The small brewer today is beset from within and from without. Besides the competition with the major brewers, they face increasing competition from imports from foreign countries. In 1965, imported beer represented about 662,000 barrels and by 1974, this had jumped by 109 percent to over 1,385,000 barrels. In 1975, through 8 months, the figures had jumped again by 20 percent. The result has been that many of the small brewers have suffered material losses. There are now only 39 brewing companies remaining that would qualify for the help provided in this bill, that is, that produce no more than 2,000,000 barrels per year. Yet these 39 small brewers are located in 20 States and employ over 12,600 workers.

In fact, these 12,600 jobs have more impact than their numbers. Many of these 39 breweries are located in small rural areas. The brewery's work force oftentimes is the sustaining life blood of the community. For example, the beer making town in my district is Shiner. If the Spoetzl Brewing Co. went under, the flow of life would be dried up in Shiner.

Many Members have told me that a similar situation exists in their district—a struggling brewery in a small town fighting to survive.

Economically, these small brewers affect other industries. They purchased agricultural products, barley, malt, corn, hops, to the tune of $75,000,000 in 1974. They purchased packaging supplies in the amount of $220,000,000. They paid over $93,000,000 in wages and salaries not including fringe benefits to their employees. In addition, they paid approximately $59,000,000 in State excise taxes. Other industries are also affected upon the small brewers including the money spent on fuel, power, and water, transportation, advertising, and banking.

Congress has been aware of the problems of the small breweries for some time. It was included in the tax reform bill that the Ways and Means Committee reported last session, but when that did not become law, the reduction in the beer tax died along with it.

In concluding, I want to take note of the competitive problems in the beer industry. What little opposition has been expressed about this bill has focused on helping the small brewers in antitrust action, not in the Tax Code.

Certainly a great case can be made that the Federal Trade Commission is asleep at the wheel in policing the antitrust laws. In fact, I made such a case in hearings I conducted when I was on the Commerce Committee. So to my friends who say take care of this problem through antitrust laws, I say amen.

But the Agency charged with this job has been foot dragging for 6 years on this issue. The people are tired of being tied up in bureaucratic shuffles and legal niceties.

Right here, with this bill, we can help now. Let us at least take the route of possibility, instead of waiting for the FTC work to come to a head.

The bill is fair, and I urge your support.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. PICKLE. I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Speaker, let me ask the gentleman, what is the loss of revenue to the Treasury if this bill is passed?

Mr. PICKLE. It would be less than $5 million total. No one brewery can get more than $2 per barrel, and they will get that only on the first 60,000 barrels.

Mr. ROUSSELOT. So it is less than $5 million?

Mr. PICKLE. Less than $5 million. It is a minimal cost, but it means everything to the small brewing industry, and without it they may not be able to stay in business.

Mr. ROUSSELOT. Mr. Speaker, I thank the gentleman.

The SPEAKER pro tempore (Mr. ROUSH). The Chair recognizes the gentleman from California (Mr. ROUSSELOT).

Mr. ROUSSELOT. Mr. Speaker, I yield 5 minutes to my colleague, the gentleman from Ohio (Mr. CLANCY).

Mr. CLANCY. Mr. Speaker, I rise in support of H.R. 3605, which would amend section 5051 of the Internal Revenue Code of 1954, as amended, to reduce the beer tax in the case of small brewers. Under present law, there is a Federal excise tax of $9 per 31-gallon barrel, imposed on the brewer or importer, on beer either produced in the United States and removed for consumption or sale, or imported into the United States.

Shortly after prohibition ended, there were approximately 700 breweries operating in the United States, producing 38 million barrels of beer annually. Since that time this number has declined to about 100 breweries, although beer production has increased approximately fourfold, to 158 million barrels in 1975. Of the remaining 100 breweries, approximately 60 represent multiple locations which are operated principally by the large national brewing companies. The remaining breweries are operated mainly by small regional brewers. Over 80 percent of 1974 production came from the 10 largest domestic beer brewers.

Some have suggested that the decline in small brewers and breweries is a result of their inability to compete effectively with the national brewing companies. Accordingly, the Ways and Means Committee has reported this bill favorably in an attempt to help small brewers compete more effectively through a somewhat reduced beer manufacturers' excise tax on them.

Under H.R. 3605, the excise tax on beer would be reduced to $7 per barrel for small brewers on the first 60,000 barrels of annual production in the United States removed for consumption or sale during that calendar year. In order to qualify for the reduced tax rate, a brewer would have to produce fewer than 2 million barrels of beer in the calendar year in question. The tax reduction would apply only to domestically produced beer.

In the case of brewers which are members of a controlled group, both the 2 million barrel restriction and the 60,000 barrel limit on which the reduced tax would be available would be applied and allocated among the controlled group as a whole.

This bill would apply to all calendar years beginning after enactment of the bill. It has been estimated that enactment of this bill would decrease excise tax revenues by less than $5 million per year.

Mr. Speaker, in my own district we have had a number of small breweries that have gone out of business. We have lost a lot of jobs. We have several breweries left. We hope to save those jobs, and I urge the enactment of this legislation.

Mr. STEIGER of Wisconsin. Mr. Speaker, will the gentleman yield?

Mr. CLANCY. I yield to the gentleman from Wisconsin.

Mr. STEIGER of Wisconsin. I appreciate very much the gentleman's yielding to me.

Mr. Speaker, I rise in support of the bill.

While, regrettably, I must say that the bill comes too late to help those breweries in places like Oshkosh or Sheboygan, it nevertheless is timely enough to help preserve what limited competition there is in the brewing industry.

Mr. Speaker, we think it would be a serious error if the House voted down the bill. Therefore, I hope it is passed, and I strongly support it.

Mr. ROUSSELOT. Mr. Speaker, I yield 5 minutes to the gentleman from Massachusetts (Mr. DRINAN).

Mr. DRINAN. Mr. Speaker, there are 53 breweries in the United States, and 39 of them are going to get a rip-off from this bill.

The loss to each one or the giveaway to each one is $120,000 per brewery, and that comes out to $4,800,000.

Mr. Speaker, there are only 14 breweries that make more than 2 million barrels per year. They are the only ones that are not going to be the beneficiaries under this bill.

The first question is this: Why do we not help all small businesses? We all have many small businesses in our district. Why select this particular industry?

Second, are these really small industries or businesses, these 39 companies?

Here is what they did collectively last year: They spent $200 million for agricultural products; more than $200 million for packaging supplies; $93 million in wages; and they paid $114 million in Federal excise taxes and an additional $59 million in State excise taxes.

A handout of some $5 million will not help these 39 companies to compete, or to survive.

Mr. Speaker, this is just a "goody" brought about by those lobbyists who prowl through the halls of Congress. This is a subsidy of $120,000 a year to these 39 corporations. Is it not the same or really worse than the subsidy to Lockheed? After all, that was just a guaranteed loan.

These beneficiaries are people like the Rhinegold Breweries, Inc. They have a brewery in three States, and they are going to get this subsidy.

We have heard that the total number of brewing companies has gone down from 750 to 53.

If we want a remedy, Mr. Speaker, then let us enforce the Antitrust Act. Let us not reward those companies that are inefficient by alleging that thereby we help them to compete.

Do not subsidize a company in order to preserve their own inadequacies.

The Antitrust Division of the Department of Justice is opposed to this bill. Learned people have said that it will not help competition and, indeed, from the very fragmentary evidence the Committee on Ways and Means collected, which evidence I have here, there is no proof whatsoever that this is going to do anything to bring about more competition.

The lobbyists have here a classic example of the power of their persistence. They asked and received a $2 subsidy for the 39 companies on the first 60,000 barrels of beer produced. They acquiesced in a ceiling for each of the companies of $120,000, but they also have in this bill the inclusion of beer brewed abroad that can be intermingled with the domestic production of a company that will benefit by this bill.

The 2-million-barrel limit applies to the group as a whole with the 60,000 limit to be apportioned among the companies as determined by the Treasury Department.

It is sound policy to offer in limited cases subsidies to small businesses if by such means we create conditions that will make small businesses viable. We do not want these units to be gobbled up by the giants. But I can assure the Members of this House that the fostering of real competition cannot be done by creating this distortion in the tax system.

The vote today is very simple. A vote of aye is a giveaway of almost $5 million to a thriving industry. A no vote is a small step toward true tax reform, toward a system where every person and every corporation pays an equal share and a fair share.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield?

Mr. DRINAN. I yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Speaker, I would say to the gentleman from Massachusetts that I appreciate the gentleman's position, but he must know that the rich people in this country can afford champagne and imported Scotch, or whatever it is they wish. It is the workingman, classically, who likes to have a glass of beer. How does the gentleman from Massachusetts square his position with the fact that the little folks of this country like to have a glass of beer and would like to do so at a reduced cost? Are we not trying to help the little man in this bill by reducing the tax he has to pay for his beer?

Mr. DRINAN. The gentleman from Maryland makes a very good point because well over one billion dollars is collected in excise taxes from beer. I think there is a good case to prove that that is a regressive tax. But this bill will not do a thing for that little person; this is a handout that will go to the corporation. This expectation is borne out in admissions in the report itself. And relief given here will never get down to the little folks of this country who enjoy a glass of beer.

Mr. ULLMAN. Mr. Speaker, I yield 3 minutes to the gentleman from Pennsylvania (Mr. DENT).

Mr. DENT. Mr. Speaker, these 39 breweries are really at the brink of disaster.

The previous speaker spoke about the Rheingold Brewery. Rheingold has been on its uppers for a long, long time. I believe it has been taken over by a large brewery. The large breweries are taking over all of the small breweries. Coors Beer took over Olympia which in itself was a large brewery. The entire small brewery industry is dying and by the small breweries I mean those little small home area breweries serving customers within a very small radius. In part of my district we have a brewery, and I will even give it a plug, the Smithin Brewery is the only industry in the whole valley, in that entire area and it has the only production jobs in the community.

What they need this little bit of differential in the tax for is to try to hold on to their own little market and compete with the larger breweries. These large breweries come into an area with the greatest advertising campaigns and expert salesmanship that you have ever seen. I ought to know something about this because I was on the board of directors of one of the five breweries in my district that have gone down the drain because they were not smart enough to join into one big brewery, advertise their brand, and stay in business.

The $4 to $5 million reduction in tax to the 39 small breweries is only a small part of the $1½ billion plus paid in excise taxes.

It is only a very small part of the wages paid to the workers and only a small part of the economic lift to the communities from their operations.

There are only 52 brewers in this country, 39 small and 13 large, and the entire production of all the small breweries is less than most of the large breweries individually.

The jobs lost by closing the small would only be an insignificant figure added to the large.

I have heard from no one, not one large brewery has asked for the defeat of this bill, aimed at helping small breweries to continue in business.

It is the small brewery that has a distinctive method of making beer that has kept it in existence. A lot of people do not understand that beer sells because of its taste. They find these little breweries have been able to stay in business because they have a taste that is liked by those who live within carrying range of that particular brewery. We are not going to give them anything. That $5 million that we are supposed to be giving them will not make up one-tenth of their payrolls in the United States, and this small town, like many other of the 39, will absolutely be without any kind of payroll whatsoever.

Let me tell the Members of a disaster. Duquesne Brewery was not a small brewery, but the largest brewery in the city of Pittsburgh. Three years ago I held hearings in Pittsburgh when they were being taken over by a Philadelphia brewer. Do the Members know what hapened in that particular town? About 80 percent of all the workers in that particular brewery lost all their pensions because they could not meet the qualifications for a pension fund that was broken.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. ROUSSELOT. Mr. Speaker, I yield 3 minutes to the gentleman from New York (Mr. MITCHELL).

Mr. MITCHELL of New York. Mr. Speaker, the measure before us is critically important to the survival of true competition in the domestic beer industry. It calls for a $2 reduction of the Federal excise tax on the first 60,000 barrels of beer produced by small breweries. A small brewery is defined as one making less than 2 million barrels a year. Presently the Federal excise tax on each barrel of beer produced by all breweries is $9. The change, which will benefit only the small breweries as they continue their struggle for survival with the giants, will reduce that excise tax to $7 per barrel.

Even the casual observer can see that, with the exception of a handful of major producers, the domestic beer industry is in a declining position. Since the 1930's more than 500 have either been closed or absorbed by the giants. Today we have a situation where the 10 largest breweries in the United States account for four-fifths of the total domestic production. The rest of the production comes from the small producers.

These small producers have a decided impact on our economy. It is estimated that annually they spend approximately $75 million for agricultural products, $200 million for packaging supplies and nearly $100 million in wages and fringe benefits for their employees. Last year they paid approximately $175 million in Federal and State excise taxes.

This measure is designed not only to preserve true competition but to protect jobs. As the small beer makers continue to go out of business more people will be unemployed. It is estimated that the past decade, 25,000 to 30,000 brewery employees and distribution company employees have lost their jobs because the small breweries have had to close their doors.

When you give this situation the careful analysis it deserves the conclusion is obvious—it truly is in the national interest to provide some assistance for our Nation's small breweries.

I am not for a moment suggesting that every one of the breweries which would benefit from this bill are on the brink of disaster. That is not so. Many of them are highly efficient operations and are holding up well under the very stiff competition from the giants. However, no one knows with any degree of certainty how long even the most efficient breweries can hold up under this stiff competition. We do not want to see any more forced to close their doors and lay off their workers.

I wish to point out that the U.S. Treasury will not sustain any great loss of revenue if the measure passes. The experts tell me that the reduction in revenue will amount to less than one-third of 1 percent of the total revenue currently derived from beer. It will not mean a great deal to the U.S. Treasury but it certainly will mean a lot to the breweries affected and I am hopeful that my colleagues join those of us endeavoring to promote true competition in the domestic beer industry and assure the survival of the small producer in voting for H.R. 3605.

Mr. ROUSSELOT. Mr. Speaker, I yield 4 minutes to my colleague, the gentleman from Michigan (Mr. RUPPE).

Mr. RUPPE. Mr. Speaker, I would like to rise in support of H.R. 3605 and say that I do so with a certain amount of experience in this particular field since for 10 years I ran one of the small breweries that are being discussed here today. Let me say I have no connection with that small brewery today, nor with any other brewery that could be benefited under this legislation.

I think it is very important that the small breweries that are left in business today, get this tax relief.

Let us look at the statistics of the industry: In 1934 there were 750 brewers in operation, while today there are 52 producing companies in the United States. Today the 5 largest producers sell 64 percent of the production of beer and the 15 largest producers in the country today sell over 90 percent of the beer sold in the United States. On the other hand, the 37 smallest producers sell less than 10 percent of all the beer that is sold in the country.

Let me say as one with a certain amount of experience over the years, the Government did in a way contribute to the demise of the small breweries because during World War II the small brewers found it almost impossible to get the additional amounts of grain and hops, of bottles, or tanks, of cooperage, which were more readily available to the larger companies that had access and cash. The end result was that after World War II the small brewers went down and the production of the large brewers went up almost in geometric fashion.

Second, the Federal Trade Commission, which has been referred to before, never did its job. Nothing angers me more than to have someone say the Federal Trade Commission can do its job, when it has not done it for 30 years, and when we find ourselves at the point where most of the small brewers have been put out of business. The fact is the Federal Trade Commission failed to do its job and went after the large brewers rarely if at all.

This bill will cost somewhere between $4 million and $5 million, but what the detractors have not said about it is that in revenue each year in excise taxes the Federal Treasury pulls in $1.4 billion in taxes. So what it amounts to is that the Federal Government is getting $1.4 billion from American taxpayers each year. Is it not time to suggest some relief for the 39 brewers, by cutting the taxes paid by those 39 producers some $4 million or $5 million? This cut in taxes will amount to less than one-third of 1 percent that the Government will be getting in excise taxes from that brewing industry today.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. RUPPE. I yield with pleasure.

Mr. ROUSSELOT. Mr. Speaker, it is my understanding that the Treasury is already receiving $1.9 billion from the beer industry today plus all the other taxes. That is strictly the excise tax at $9 a barrel put down on each and every barrel produced, regardless of whether it is produced at a profit or not. Why does the gentleman feel this is not a ripoff?

Mr. RUPPE. Because most of the small brewers are not making much profit and many of them are operating in the red. It is difficult without statistics to say which ones are operating profitably and which are not. A great many of them are operating profitably, but the very fact that the number of operating companies, has gone since repeal from 750 down to 50 or 52 companies today would indicate many companies, and particularly the majority of the small brewers, have not had financial success over the years.

Mr. ROUSSELOT. I appreciate very much my colleague's explanation. It makes sense.

Mr. ULLMAN. Mr. Speaker, H.R. 3605 deals with the manufacturers excise tax on beer and other fermented beverages. It provides for a limited reduction in the beer tax for certain small brewers who produce in the United States.

Under present law, there is a $9 per barrel excise tax imposed on a manufacturer or importer of beer and other fermented beverages such as ale and sake.

The bill reduces the excise tax on beer from $9 to $7 per barrel. The benefit of this $2 per barrel reduction in the tax is liimted to domestic producers. In addition, it is available only to those brewers who produce no more than 2 million barrels of beer during the calendar year. For these eligible small brewers, the reduced tax will apply only to the first 60,000 barrels produced during the year. Thus, the maximum benefit any one brewer can receive is $120,000 each year it qualifies as a small brewer.

Forty years ago, the small local brewery was an institution in American life with over 700 breweries in operation throughout the United States. Today, in contrast, there are fewer than 50 brewers in operation, with the 10 largest providing over 80 percent of the U.S. beer production, despite the fact that production has increased fourfold during this period. The decline in the small local and regional brewers has been caused largely by competitive pressures placed upon them by the large national companies. This bill is designed to provide the small brewers with a measure of tax relief to enable them to compete more effectively.

I also want to point out that the bill has been written to prevent abuse of its provisions by large brewers with small U.S. production and large foreign production, and to preclude its availability where several brewers are under common control.

This bill is to apply to all calendar-years which begin after the date of enactment.

This provision to reduce the excise tax on beer for certain small brewers will reduce tax revenues by less than $5 million per year.

Mr. Speaker, I urge that the bill, H.R. 3605, be adopted.

Mr. ROSTENKOWSKI. Mr. Speaker, I rise today in strong support of the reduction in excise tax on beer produced by our smaller domestic breweries. I have introduced similar legislation in both this Congress and in the 93d Congress. Since 1933 the consumption of beer in this country has increased by over 300 percent while the number of breweries has decreased to less than 9 percent of the 700 breweries in operation at that time. In 1974 80 percent of the beer produced in the United States was supplied by the Nation's 10 largest breweries.

Such a pattern of consolidation is troubling to me. I do not like to think that we have come to the time when bigness is the only road to survival in our economic system. For if it is, much of the individuality and uniqueness that has made our country great will be forever lost.

As the ethnic center of our country, my own city of Chicago was long the home for many of our most famous smaller breweries; breweries which developed products that added to our city's uniquely diverse atmosphere. In the last 25 years, however, the city of Chicago has watched the number of its breweries decrease from 48 to but 1, the Peter Hand Brewing Co. In this regard, Chicago is but one example of an incredible national trend. In the State of Wisconsin, the number of breweries has decreased in the last 25 years from 72 to 8—a sad story for a region that has long prided itself on its beer craftsmen. Nationally, the figures are not much different—from 466 to 56 in the same period.

While these figures outlining the decline of the individual breweries are in themselves clear, the message of bigness becomes unmistakable when this sharp decline is contrasted with the continuing increase in beer sales in recent years. In each of the last 14 years, through 1972, sale and production of beer and ale have annually established new highs. Thus, at a time when an industry is prospering, the individual brewer is nonetheless becoming virtually extinct.

The demise of the small brewery can be attributed to many factors. The closings have been caused by many of the problems typical of our inflationary times. In addition, the small brewer has been beset by one problem that is unique to his industry. He is taxed heavier than any other domestic industry except one. He is the target of not only State taxation, but double Federal taxation as well. In addition to the usual Federal income tax, brewers must pay an excise tax of $9 on each barrel they brew. This $9 excise tax can be contrasted with average profit per barrel of only a little over a dollar. Such heavy taxation undoubtedly hits hardest on the smaller brewer, the man who has neither the capital not the credit to expand his facilities to take advantage of the growth in industrywide sales. As a result, he finds it easier to sell his business to those brewers who have the capacity to better bear the heavy financial burden. While this might very well streamline the industry, I seriously doubt that it is as good for American tradition or for the American consumer.

Through the years, Federal excise taxes on beer have risen from $1 to $9 a barrel. As is the case with most excise taxes, increases usually came on a "temporary basis" during a time of national emergency. Unfortunately, as is also usually the case, these "temporary" increases have remained firmly entrenched in the Internal Revenue Code. The effect of this legislation would be to repeal—for the small brewer's first 60,000 barrels—the $2 increase that was levied to help finance Federal expenditures during the Korean conflict.

This small reduction will not itself insure the financial stability of the remaining small breweries in our Nation. It will, however, give those brewers a badly needed boost in capital to help them in their struggle to both remain open and remain a refreshingly diverse part of the American scene.

Mr. OBEY. Mr. Speaker, I want to voice my support for H.R. 3605, which would reduce the per barrel excise tax from $9 to $7 on the first 60,000 barrels of beer produced each year by breweries with an annual output of 2 million barrels or less. In the last 2 years I have twice introduced identical legislation, and I am delighted that this bill has finally come before us for consideration.

This legislation would put a long overdue brake on an alarming trend: the demise of the small brewery. In 1935 there were more than 700 breweries in this country; 10 years ago that number had dwindled to just over 100, and today there are only 50. This decline has been especially dramatic in my State of Wisconsin, the beer producing capital of the Nation: 40 years ago Wisconsin boasted well over 100 breweries, and today it has just 8. Like so many other industries, the brewing business has come to be dominated by a few giants. The 5 largest brewing companies accounted for 65 percent of the Nation's beer production last year, and the 10 largest for 80 percent. It is not difficult to understand why: small companies simply cannot compete with the advertising budgets and economies of scale available to the majors.

Giantism is unhealthy for any industry and for our economy as a whole. Small businesses represent a growth band in our economy, generating more jobs and economic activity than giant counterparts, and the decline of small breweries has had a marked effect on employment alone: in the last 10 years 10,000 brewery workers and approximately 15,000 distribution workers have lost their jobs because of small brewery shutdowns.

The 39 small breweries affected by this bill make a substantial contribution to our economy. Last year they spent about $75 million on agricultural products, $200 million on packaging supplies and over $93 million on wages and salaries. They also paid a total of $173 million in State and Federal excise taxes. Furthermore, many other enterprises, including wholesale beer distributors, advertising concerns, transporters, and banks depend on these small, independent breweries for business.

Of the eight breweries in Wisconsin, four would be affected by this bill: Huber of Monroe, which last year produced 250,000 barrels of beer; Leinenkugel of Chippewa Falls, 88,000; Stevens Point Brewing Co. of Stevens Point, 53,900; and Walter of Eau Claire, 49,800.

In closing, I would like to remind my colleagues that this bill provides a means not only to aid small businessmen and preserve some competition in the brewing industry, but to save a quality product as well. As some of you may recall, a Chicago newspaper columnist sponsored a beer testing contest several years ago, and when the glasses were emptied and the votes tallied, the winner was Point Special—a product of Stevens Point Brewing Co. in Wisconsin's Seventh District.

GENERAL LEAVE

Mr. ULLMAN. Mr. Speaker, I ask unanimous consent that I be allowed to revise and extend my remarks, and that all Members may have 5 legislative days in which to revise and extend their remarks on the bill (H.R. 3605).

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oregon?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Oregon (Mr. ULLMAN) that the House suspend the rules and pass the bill (H.R. 3605), as amended.

The question was taken.

Mr. DRINAN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were refused.

Mr. ASHBROOK. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point or order that a quorum is not present.

Pursuant to clause 3(b) rule XXVII, and the Chair's prior announcement, further proceedings on the motion will be postponed.

Does the gentleman from Ohio (Mr. ASHBROOK) withdraw his point of order that there is no quorum?

Mr. ASHBROOK. No, I do not, Mr. Speaker.

CALL OF THE HOUSE

Mr. ASHBROOK. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

Without objection, a call of the House is ordered.

There was no objection.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 580]

Abzug
Alexander
Andrews, N.C.
Archer
AuCoin
Beard, R.I.
Bell
Bergland
Bingham
Bolling
Bonker
Buchanan
Burke, Calif.
Burton, John
Burton, Phillip
Butler
Chappell
Clay
Cochran
Conlan
Conyers
Daniels, N.J.
Davis
Diggs
Du Pont
Erlenborn
Esch
Eshleman
Evans, Ind.
Evins, Tenn.
Findley
Fish
Flynt
Ford, Mich.
Ford, Tenn.
Fountain
Fraser
Green
Gude
Hagedorn
Hansen
Harsha
Hébert
Hinshaw
Holland
Horton
Jacobs
Jarman
Jones, Tenn.
Karth
Kastenmeier
Lehman
Litton
Mathis
Matsunaga
Meeds
Melcher
Minish
Murphy, N.Y.
Neal
O'Hara
Passman
Pepper
Peyser
Randall
Rees
Riegle
Risenhoover
Santini
Scheuer
Schneebeli
Skubitz
Steelman
Steiger, Ariz.
Stephens
Sullivan
Symington
Teague
Thompson
Udall
Vander Veen
Waxman
Young, Ga.

The SPEAKER. On this rollcall 349 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

TAX TREATMENT OF INCOME FROM CERTAIN MAGAZINE SALES

Mr. ULLMAN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5161) to amend section 451 of the Internal Revenue Code of 1954 to provide for a special rule for the inclusion in income of magazine sales for display purposes, as amended.

The Clerk read as follows:

H.R. 5161

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 451 of the Internal Revenue Code of 1954 (relating to the general rule for taxable year of inclusion) is amended by adding at the end thereof the following new subsection:

"(e) SPECIAL RULE FOR MAGAZINES WHICH ARE RETURNED.—

"(1) IN GENERAL.—In the case of sales of magazines or other periodicals for display purposes, a taxpayer who is on an accrual method of accounting may elect not to include in gross income for the taxable year the income attributable to the sale of any magazine or other periodical which is returned not later than the 15th day of the third month after the close of the taxable year (or with respect to which the taxpayer otherwise establishes in the manner provided by regulations prescribed by the Secretary or his delegate that the periodical has not been sold and will not be sold).

"(2) SALES FOR DISPLAY PURPOSES DEFINED.—For purposes of this subsection, a sale is for display purposes if such sale is made in order to permit an adequate display of the magazine or other periodical and if at the time of sale the taxpayer has a legal obligation to accept returns of such magazine or other periodical.

"(3) DISPLAY SALES TO WHICH SUBSECTION APPLIES.—

"(A) ELECTION OF BENEFITS.—This subsection shall apply to sales for display purposes if and only if the taxpayer makes an election under this subsection with respect to the trade or business in connection with which such sales are made. An election under this subsection may be made only with respect to a taxable year beginning after December 31, 1975, and may be made only with the consent of the Secretary or his delegate. The election shall be made at such time and in such manner as the Secretary or his delegate may by regulations prescribe.

"(B) SCOPE OF ELECTION.—An election made under this subsection shall apply to all sales of magazines and other periodicals made for display purposes in connection with the trade or business with respect to which the taxpayer has made the election. An election made under this subsection shall not apply to any sales made for display purposes before the first taxable year for which the election is made.

"(C) PERIOD TO WHICH ELECTION APPLIES.—An election under this subsection shall be effective for the taxable year with respect to which it is made and for all subsequent taxable years, unless the taxpayer secures the consent of the Secretary or his delegate to the revocation of such election.

"(D) TREATMENT AS METHOD OF ACCOUNTING.—For purposes of this title, the computation of taxable income under an election made under this subsection shall be treated as a method of accounting."

(b) The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1975.

The SPEAKER. Is a second demanded?

Mr. CLANCY. Mr. Speaker, I demand a second.

The SPEAKER. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER. The gentleman from Oregon (Mr. ULLMAN) will be recognized for 20 minutes.

Mr. ULLMAN. Mr. Speaker, in order to explain the bill, I yield 5 minutes to the sponsor of the bill, the gentleman from California (Mr. CORMAN).

Mr. CORMAN. Mr. Speaker, I thank the gentleman from Oregon.

Mr. Speaker, there are certain kinds of magazines that are distributed by the publisher solely for display purposes, and it is known when they are distributed that they will not be sold but they will subsequently be returned. Under existing IRS regulations and accrual basis publisher is required to pay an income tax on the magazines when they are distributed, as if they were to be sold, and he may then claim a deduction against income when they are returned. When the distribution or the purported sale occurs in one taxable year and the return occurs in another taxable year, it means the taxpayer must pay a tax on something which is in truth not income or not a sale.

We worked with the Treasury Department to devise a method for correcting this inequity, and the bill provides that a taxpayer may have 75 days in the next taxable year—that is, by the due date for filing the corporate tax return—to account for his returns without paying tax on them. He must be able to establish a reasonable experience as to percentage of sales of that magazine, copies of which have been returned and were in truth distributed for display purposes only. The adjustment, as I say, must be made within 75 days after the end of the taxable year.

Mr. Speaker, I urge support for the bill, and I call the attention of the House to the fact that it merely stops the practice of taxing a taxpayer for something which is in truth not a sale and not income.

Mr. KAZEN. Mr. Speaker, will the gentleman yield?

Mr. CORMAN. I yield to the gentleman from Texas.

Mr. KAZEN. Mr. Speaker, let me ask the gentleman, what types of magazines is he talking about?

Mr. CORMAN. There are some kinds of magazines that would have very great sales, but there are others which distribute the magazines, such as motor magazines, sporting magazines, or magazines that are not of very heavy volume. They will perhaps display 50 magazines, hoping they may sell 10 and that the other 40 will be returned to the publisher and he may then take credit against that alleged 50 sales.

If the publisher can establish that he has an experience of a substantial number of magazines are furnished for display and are being returned, he would be covered under the bill. However, that would ordinarily not be the case with magazines which have a very high turnover in sales, such as Time, Playboy, and so forth.

The magazines we are speaking of here are magazines which have a very low sale. They print and distribute a substantial number which they know they will not sell, but it is just to get them on the magazine stand.

Mr. KAZEN. Mr. Speaker, will the gentleman yield further?

Mr. CORMAN. I yield to the gentleman from Texas.

Mr. KAZEN. Would this, then, encourage the publishers of these magazines to publish large quantities, so long as they know they are not going to be taxed on anything that is not sold? Are we not treating them differently from the way we are treating the publishers of other magazines?

Mr. CORMAN. No. Any publisher that can establish that his practice falls within this area would have the same right. It is merely an ability to demonstrate that their long-time experience is that a substantial number of their magazines are returned unsold. Any magazine which can establish that would be entitled to pay tax only on the magazines they sell.

Also, the problem which this bill eliminates only occurs in the final quarter of the taxable year, and the publisher must demonstrate that their returns are back within 75 days after the close of business for the year.

Mr. KAZEN. If the gentleman will yield for one more question, the only thing involved in this bill is the sales tax and not the expenses of publishing that magazine; is that correct?

Mr. CORMAN. It is the income tax.

This bill says that at the end of a taxable year, the publisher will have 75 days within which he can get the returns and deduct those returns from what would otherwise have been an alleged sale, but what was, in truth, not a sale.

Mr. CLANCY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R.

5161, which would amend the Internal Revenue Code of 1954 with regard to the tax treatment of income from certain magazine sales. Under the provisions of present law, a taxpayer on the accrual basis who sells either magazines or other periodicals has to include in his income amounts attributable to those magazines at the time of sale. Such inclusion is required even for those magazines or periodicals which are sold mainly for purposes of display. Upon return of any display issues, the taxpayer would then reduce his income. If sale occurs at the end of 1 year and return occurs at the beginning of the next tax year, the income is taxed in year one and the deduction is not available for another whole year.

H.R. 5161 would permit an accrual basis taxpayer in the magazine or periodical business to make an election which would permit him to exclude amounts attributable to sales for display purposes from his income in those cases where the display issues were returned within 2½ months following the close of the tax year in which the sale for display was made.

For a number of years, many publishers have accounted for their returns on a net basis, by calculating those estimated returns when they ship. The Internal Revenue Service has taken the position that this is not a permissible method of proceeding and that accrual basis publishers and distributors have to include all sales in income upon shipment to retailers.

The Ways and Means Committee is of the opinion that in cases where magazines are shipped for display without an expectation that such periodicals will be sold, it is inappropriate to force treatment of such shipped issues as income to the publisher or distributor. Therefore, the committee has reported H.R. 5161, which would deal with this problem of shipment at the end of a tax year and return in the following tax year by permitting the election described above for taxable years beginning after December 31, 1975.

I urge its enactment.

Mr. ULLMAN. Mr. Speaker. I yield myself such time as I may consume.

Mr. Speaker, this bill, H.R. 5161, would amend the Internal Revenue Code by adding a new section 451(e) to provide a special rule for the tax treatment of magazine sales which are made for display purposes.

Magazine publishers will often sell to retail distributors more copies of a magazine than it is anticipated the retailer can sell. The extra copies are sold to assure the retailer an adequate number of copies for display purposes. When the next issue of the magazine is published and shipped to the retailer, the retailer will return the unsold copies of the magazine to the publisher.

The Internal Revenue Service has taken the position that accrual basis publishers must include the sales of the magazines in income when the magazines or periodicals are shipped to the retailers and may only exclude from income returns of the magazines when the copies are returned by the retailer. When these two events occur in different taxable years there tends to be a distortion of income.

Your committee's bill would permit a taxpayer to elect to account for sales of magazines which are made for display when there is a final accounting for returns of the magazines if the taxpayer satisfies several conditions.

First, the taxpayer must establish that the magazine was sold for display purposes and that the taxpayer has a legal obligation to take the magazines back. Second, the returns of the magazines must not be later than the due date for the tax return for the taxable year in which the sales were made. Finally, the taxpayer must use the accrual method of accounting.

The amendment generally would be applicable to taxable years beginning after December 31, 1975.

Mr. Speaker, this bill, H.R. 5161, would correct a serious problem of publishers of magazines in an equitable manner. I therefore urge enactment of this legislation.

GENERAL LEAVE

Mr. ULLMAN. Mr. Speaker, I ask unanimous consent that all Members who desire to do so may have 5 legislative days in which to revise and extend their remarks on the bill presently being considered, H.R. 5161.

The SPEAKER. Is there objection to the request of the gentleman from Oregon?

There was no objection.

The SPEAKER. The question is on the motion offered by the gentleman from Oregon (Mr. ULLMAN) that the House suspend the rules and pass the bill H.R. 5161, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

AIRCRAFT MUSEUM TAX EXEMPTIONS

Mr. ULLMAN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 10101) to amend the Internal Revenue Code of 1954 to exempt certain aircraft museums from Federal fuel taxes and the Federal tax on the use of civil aircraft, and for other purposes, as amended.

The Clerk read as follows:

H.R. 10101

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 4041 of the Internal Revenue Code of 1954 (relating to tax on special fuels) is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

"(h) EXEMPTION FOR USE BY CERTAIN AIRCRAFT MUSEUMS.—

"(1) EXEMPTION.—Under regulations prescribed by the Secretary or his delegate, no tax shall be imposed under this section on any liquid sold for use or used by an aircraft museum in an aircraft or vehicle owned by such museum and used exclusively for purposes set forth in paragraph (2)(C).

"(2) DEFINITION OF AIRCRAFT MUSEUM.—For purposes of this subsection, the term 'aircraft' means an organization—

"(A) described in section 501(c)(3) which is exempt from income tax under section 501(a),

"(B) operated as a museum under charter by a State or the District of Columbia, and

"(C) operated exclusively for the procurement, care, and exhibition of aircraft of the type used for combat or transport in World War II.".

(b) Section 6427 of such Code (relating to fuels not used for taxable purposes) is amended by redesignating subsections (d) through (h) as subsections (e) through (i), respectively, and by inserting after subsection (c) the following new subsection:

"(d) USE BY CERTAIN AIRCRAFT MUSEUMS.—Except as provided in subsection (g), if—

"(1) any gasoline on which tax was imposed by section 4081, or

"(2) any fuel on the sale of which tax was imposed under section 4041,

is used by an aircraft museum (as defined in section 4041(h)(2)) in an aircraft or vehicle owned by such museum and used exclusively for purposes set forth in section 4041(h)(2)(C), the Secretary or his delegate shall pay (without interest) to the ultimate purchaser of such gasoline or fuel an amount equal to the aggregate amount of the tax imposed on such gasoline or fuel."

(c)(1) Subsections (a)(4) and (c) of section 39 of such Code are each amended by striking out "6427(f)" and inserting in lieu thereof "6427(g)".

(2) Subsection (a), (b)(1), and (c) of section 6427 of such Code are each amended by striking out "(f)" and inserting in lieu thereof "(g)".

(3) Subsection (e)(1) of such section 6427, as redesignated, is amended by striking out "(a), (b), or (c)" and inserting in lieu thereof "(a), (b), (c), or (d)".

(4) Subsection (e)(2) of such section 6427, as redesignated, is amended by striking out "(a) and (b)" and inserting in lieu thereof "(a), (b), and (d)".

(5) Subsection (g)(2) of such section 6427, as redesignated, is amended by striking out "(d)(2)" and inserting in lieu thereof "(e)(2)".

(6) Sections 7210, 7603, 7604(b), and 7605(a) of such Code are each amended by striking out "6427(e)(2)" each place it appears and inserting in lieu thereof "6427(f)(2)".

(d) The amendments made by this section shall take effect on October 1, 1976.

SEC. 2. (a) Subsection (a) of section 4492 of the Internal Revenue Code of 1954 (defining taxable civil aircraft for purposes of the tax on the use of civil aircraft) is amended by adding at the end thereof the following new sentence: "Such term does not include any aircraft owned by an aircraft museum (as defined in section 4041(h)(2)) and used exclusively for purposes set forth in section 4041(h)(2)(C)."

(b) The amendment made by subsection (a) shall take effect on July 1, 1976.

The SPEAKER. Is a second demanded?

Mr. STEIGER of Wisconsin. Mr. Speaker, I demand a second.

The SPEAKER. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER. The gentleman from Oregon (Mr. ULLMAN) will be recognized for 20 minutes, and the gentleman from Wisconsin (Mr. STEIGER) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Oregon (Mr. ULLMAN).

Mr. ULLMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 10101 is concerned with the excise tax on fuel and aircraft use for certain aircraft museums. There are presently several aircraft museums in operation to acquire and maintain World War II airplanes and to exhibit the airplanes at airshows in various parts of the country. The museums are supported by contributions and, although they are exempt from income taxes as educational organizations, they are not exempt from the Federal fuels taxes and they are also subject to the annual use tax on civil aircraft. The fuel tax is 7 cents a gallon for noncommercial aviation, and the annual aircraft use tax is $25 plus a weight tax of 2 cents per pound of takeoff weight over 2,500 pounds for a non-turbine-powered aircraft and 3½ cents a pound for a turbine-powered aircraft.

These two taxes can cause a substantial drain on the financial resources of these aircraft museums. For example, the annual aircraft use tax could amount to more than $13,000 for a B–29 "Flying Fortress" even though this World War II bomber may be flown only one time during the year in connection with an airshow—if the use is made during the first month of the taxable year. Lesser amounts would be payable if the use were made later in the taxable year—as the aircraft use tax is prorated according to the portion of the taxable year when first used.

In order to better enable these aircraft museums to educate the American public on this part of our aeronautical heritage, the bill provides an exemption—or refund—for the aircraft museums from the aviation fuel and aircraft use taxes where the fuel consumption or aircraft use arises in the procurement, care, or exhibition of World War II combat or transport aircraft. The exemption from these two excise taxes will apply only to aircraft museums which are exempt from income tax as educational, charitable, or similar organizations under section 501 (c) (3) of the Internal Revenue Code.

The exemption and refund provisions relative to the aviation fuel tax is to apply to fuel sold or used on or after October 1, 1976. The exemption from the aircraft use tax takes effect on July 1, 1976. If the aircraft use tax has already been paid in such cases, it is to be refunded—without interest—as an overpayment.

These two provisions will reduce tax revenues to the airport and airway trust fund by about $50,000 per year.

Mr. Speaker, I urge the adoption of the bill, H.R. 10101.

Mr. Speaker, in order to further explain the bill, I yield 5 minutes to the author of the bill, the gentleman from Texas (Mr. PICKLE).

Mr. PICKLE. Mr. Speaker, I rise in support of this bill that will exempt bona fide nonprofit flying museums from payment of the Federal airways user tax and the Federal fuel tax.

Several "flying aircraft museums" operate in the United States. They maintain and operate vintage airplanes either at fixed locations or at displays and airshows in various parts of the country. The aircraft are flown a limited number of times each year. A considerable part of the expense of maintaining and operating these aircraft museums consists of Federal fuels excise taxes and aircraft use taxes, despite the fact that these types of aircraft make only limited, or no use, of aircraft aids, such as radar and instrument landing systems, provided by the Federal Government and funded through the fuels and aircraft use taxes.

H.R. 10101 would exempt museums' aircraft from the manufacturers and retailers taxes on gasoline and special fuels, effective October 1, 1976. The bill would also exempt such aircraft from the aircraft use tax, effective July 1, 1976. It is estimated that the bill will result in a revenue loss of approximately $50,000 per year.

This bill is carefully worded to prevent misuse or abuse by unworthy groups or causes. In order to qualify for the exemption, the museum must be recognized both by the State and the Federal Government as being a nonprofit organization, and it must have been in existence for at least 5 years.

I believe that there are only two museums in the Nation that would qualify, the Air Force Squadron Flying Museum at Harlingen, Tex., and the Experimental Aircraft Association Museum in Wisconsin.

The problem is that today they are required to pay airways user taxes on the gross weight of their aircraft even though museum aircraft are not equipped with navigational aids nor do they use ATC facilities.

Also they are required to pay Federal gasoline tax, even though the total effort is for a nonprofit, patriotic display of World War II aircraft. This tax means that every time the B–29 flies it costs $1,335. The result is that it seldom gets off the ground. The estimated loss of revenue to the U.S. Treasury is estimated to be less than $50,000 per year.

The museum that I know most about, is the Confederate Ghost Squadron that is located at Harlingen, Tex., although its sponsors and members come from all sections of the Nation. The name started back in the fifties when it was nothing more than a flying club of people who were buying World War II fighter aircraft simply for the fun of flying them. The emblem is a patch which says the Ghost Squadron, and then the wings fly the flag of the United States, and there is no marking that would offend anyone.

All shows that the Ghost Squadron flies are paid for entirely by the members of the Confederate Air Force and the other private individuals who donate to the institution.

It is a romantic, nostalgic assembly of planes that in this Bicentennial Year deserves to be helped. It takes a great deal of dedication to keep it together, and this seems a way that we can help.

Mr. ULLMAN. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas (Mr. MILFORD).

Mr. MILFORD. Mr. Speaker, I would like to speak as author of H.R. 10101, which is cosponsored by 22 members of the Texas delegation. This bill would simply exempt bona fide nonprofit flying museums from payment of the Federal airways use tax and the Federal fuel tax.

As stated by the gentleman from Texas (Mr. PICKLE) the bill is carefully worded to prevent misuse or abuse by unworthy groups or causes. In order to qualify for this exemption, the museum must be recognized both the State and the Federal Government as being a nonprofit organization; it must have tax-exempt status under section 501(c) (7) of the IRS code, and it must have been in existence for at least 5 years.

I know of only two of these museums in the Nation which would qualify at this time—the Confederate Air Force Ghost Squadron Flying Museum at Harlingen, Tex., and the Experimental Aircraft Association museum at Oshkosh, Wis. Both of these museums have sent telegrams of support for this bill.

By a wide margin, the largest flying museum in the world is the one in Texas—although its sponsors and members come from all sections of the Nation. This museum tours the Nation for displays and airshows, rather than requiring the people to come to it at some fixed location.

A considerable amount of the expense involved, in moving and displaying the flying museum, consists of Federal taxes. The airways use tax and the fuel tax were levied upon aviation as a user tax. It is a just tax in most instances. However, in the case of a flying museum, the aircraft are flown only four or five times each year.

These airplanes do not use our expensive instrument landing system, radar facilities, and other items that are paid from the user tax. These airplanes are not used commercially or for pleasure. Therefore, a tax on these museums is inherently unfair and was never intended by Congress.

I have put together some figures on the costs of the operation of the Ghost Squadron to give some idea how important exemption from these small amounts of taxes would be to the operation of this flying museum.

Of the 69 aircraft at Harlingen, 40 types of World War II aircraft are represented. To fly all 40 would cost about $14,000 per year in aviation use taxes in addition to fuel tax. So only an average of 20 to 25 of the airplanes are put into the air in any given year with an average user tax bill of $8,000.

The B–29 at Harlingen seldom gets off the ground. The Federal tax bill paid in any year that airplane flies is $1,335.

I am sure you remember the Ghost Squadron from its show at Transpo at Dulles Airport in 1972.

Nineteen aircraft were brought to that show at a cost of $30,720, most of it for fuel. If this fuel tax exemption had been in effect at that time, the B–29 could have made the trip for the cost of the tax alone. As it was, it stayed at home.

There is no doubt that having an exemption from these taxes would allow more people to view more of these vintage aircraft.

The Ghost Squadron plans to make extensive appearances during 1976, the Bicentennial Year, highlighted by 3 days at the Air Force Academy this past July 3, 4, and 5.

That appearance, like the one at Transpo and all other shows the Ghost Squadron flies, was paid for entirely by the members of the Confederate Air Force and the other private individuals who donate to the institution.

Passage of this bill would mean an awful lot to these people during 1976 alone—and to the thousands of Americans who see these shows—the ones who see them with nostalgia and the ones who are learning for the first time about these great airplanes that fly with propellers.

Mr. STEIGER of Wisconsin. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the Experimental Aircraft Association is meeting at Winnebago County Airport in Oshkosh, Wis., at this very moment. Had the Members come to Oshkosh yesterday they would have seen, or should they come at any point this week they will see, a number of the airplanes that are being discussed in the bill. The EAA convention is a spectacular event.

The Flying Museum in Texas has flown to Wisconsin a number of the World War II aircraft for display purposes for the Experimental Aircraft Association. My judgment is that it is unfair to impose a tax as we now do under the law. H.R. 10101 is designed to correct that inequity by exempting aircraft museums from both the manufacturers and retailers taxes on gasoline and special fuels used for aircraft owned by such museums and from the aircraft use tax on such aircraft. With regard to the exemption from fuels taxes, under present law the gasoline and special fuels which are used in noncommercial aviation, which includes usage by aircraft museums, would be subject to manufacturers and retailers excise taxes which total 7 cents per gallon. There are exemptions provided from the gasoline and special fuels taxes for aircraft used by commercial airlines, for farming, in foreign trade, by State or local governments, and by nonprofit educational organizations.

There are several "flying aircraft museums" which are operated in the United States. These museums maintain and operate vintage airplanes which are flown a limited number of times each year. The museums themselves are generally exempt from income taxes and funded principally by dues and outside contributions. Much of the expense of maintaining and operating such museums is related to the fuel excise and aircraft use taxes, in spite of the fact that these vintage aircraft make little or no use of such aircraft aids as radar and instrument landing systems, which are provided by the Federal Government and funded through the taxes in question.

H.R. 10101 would provide an exemption from the fuel excise taxes in the case of these museums, with the requirement that in order to qualify as an aircraft museum, an organization would have to be exempt from income tax under section 501(c)(3) of the Internal Revenue Code, would have to be operated under charter from a State and operated entirely for procurement, care, and exhibition of World War II type aircraft.

With regard to the aircraft use tax, under present law there is an annual excise tax imposed upon the use of civil aircraft, based principally upon the aircraft's weight. The amount of tax is not dependent upon number or length of flights. If during the month of July, an aircraft is flown even once, the entire annual excise tax has to be paid. The tax, for example, on a B-29 would be more than $13,000, according to the committee's understanding. H.R. 10101 would provide that qualifying aircraft owned by aircraft museums would not be subject to this annual use tax.

The exemption with regard to the fuel taxes under H.R. 10101 would apply to fuel used or sold on or after October 1, 1976. The aircraft use tax exemption would be effective as of July 1, 1976. I urge enactment of this bill.

Mr. GOLDWATER. Mr. Speaker, will the gentleman yield?

Mr. STEIGER of Wisconsin. I yield to the gentleman from California.

Mr. GOLDWATER. I thank the gentleman for yielding.

I would like to have the gentleman be more specific on whom they are exempting in this legislation. The gentleman referred to aircraft displayed at air shows such as Oshkosh, Wis. Are these aircraft that are on display at air shows exempt under this legislation, H.R. 10101?

Mr. STEIGER of Wisconsin. No, they are not. What would be exempt would be those aircraft that come from the Confederate Air Force Museum in Texas and fly in Texas or to Wisconsin for display purposes of World War II aircraft. Not all private aviation, obviously, is exempt under this, and it is only those aircraft that meet the very, very limited requirements under the bill that would qualify.

Mr. PICKLE. Mr. Speaker, will the gentleman yield?

Mr. STEIGER of Wisconsin. I yield to the gentleman from Texas.

Mr. PICKLE. I thank the gentleman for yielding.

Let me make it plain that the only aircraft which would be exempt would be those that would be owned by the museum, not those individually owned, but owned by the museum.

Mr. GOLDWATER. Mr. Speaker, will the gentleman yield?

Mr. STEIGER of Wisconsin. I yield to the gentleman from California.

Mr. GOLDWATER. I thank the gentleman for yielding.

I would like to ask the chairman as well as the ranking minority member a question. The gentleman held hearings earlier, I believe, on the users tax to fund the airport and airway trust fund, and the committee received testimony by myself and others requesting that aircraft used for agricultural purposes be exempted from this tax. The rationale was that they were paying the tax currently but were not receiving any of the benefits because they operate primarily off of unpaved dirt strips out in the agricultural country and have little use for the air traffic control system, as well as for the upgraded airports. I wonder why, when the gentleman reported this particular piece of legislation out, he did not see fit to include agricultural aircraft as being exempt from this tax.

Mr. ULLMAN. Mr. Speaker, will the gentleman yield?

Mr. STEIGER of Wisconsin. I yield to the gentleman from Oregon.

Mr. ULLMAN. I thank the gentleman for yielding.

We did hear testimony on that. We do have a number of bills pending. It is an important matter, and the committee intends to proceed further with that matter when time permits.

Mr. GOLDWATER. If the gentleman would yield further, why would the gentleman from Oregon exempt this particular category, which obviously I applaud and I think is worthy of support, but exclude an equally worthy case such as agricultural aircraft? I do not see where the difference lies.

Mr. ULLMAN. If the gentleman would yield further, this involves virtually no revenue, just a very limited situation applying to certain nonprofit aircraft museums which are presently exempt from Federal income tax.

The question of an exemption for agricultural aircraft is a more widespread and complicated matter, and is more important from a revenue standpoint. Therefore, the two matters are not really associated.

Mr. PICKLE. Mr. Speaker, will the gentleman yield further?

Mr. STEIGER of Wisconsin. I yield to the gentleman from Texas.

Mr. PICKLE. I thank the gentleman for yielding.

May I point out to the gentleman that the total loss of revenue was estimated to be $50,000 or less for all of these aircraft. So it is a very miniscule matter, and that is why the committee did not go into it in depth, because it was not a tax matter. If it becomes so, the committee would consider it.

Mr. GOLDWATER. If the gentleman would yield further, do I understand, the basis for this legislation is not what is fair or what is right but rather, where do we lose the least amount of revenue? Was that the criterion on which the committee wrote this piece of legislation?

Mr. PICKLE. Not at all. But in every measure we have to make an estimate of what is a revenue loss. I mention it because that is a fact. I also say that they ought to be exempt.

Mr. STEIGER of Wisconsin. The point the gentleman is making is one that a number of us are concerned with in the committee, as the chairman knows so well. I do not think, however, that it is fair to characterize this as an issue in which the key element was revenue. On balance, the Committee on Ways and Means felt, I think, that in terms of the limited number of aircraft which would qualify under the bill that are used by nonprofit organizations for display purposes, for educational purposes, for getting more people to begin to have an understanding of World War II aircraft and its role in the Second World War, there was an equity here as much as there was a revenue issue. When we get to the agricultural aircraft bill that is pending, then I think we have to also judge both.

But I do not think that we should say that this one was judged solely on revenue, because it was not.

Mr. GOLDWATER. May I ask the chairman a further question? When may we expect some action on the question of the airport-airways trust fund?

Mr. ULLMAN. Mr. Speaker, if the gentleman will yield, the committee will proceed to that matter as time permits. We have, as the gentleman knows, some very significant matters that have occupied the committee's attention this year. This particular small bill, H.R. 10101, was possible to report because there was general committee support, was a relatively simple matter, and involved little revenue.

We do intend to review the agricultural aircraft matter. While the whole airport trust fund situation needs attention, I cannot give the gentleman an exact timetable. However, I would like to point out to the gentleman that it is on the committee agenda and we will move as rapidly as we can.

Mr. GOLDWATER. I thank the chairman.

Mr. Speaker, I rise in support of this legislation.

Mr. ULLMAN. Mr. Speaker, I yield 1 minute to the gentleman from Texas (Mr. DE LA GARZA).

Mr. DE LA GARZA. Mr. Speaker, I thank the gentleman.

One of these museums is in my congressional district in Texas. Countless thousands of men and women devote many hours toward this endeavor. People come from thoughout the United States and throughout the world to see the great airplanes of World War II. I think this would be a small contribution from us to concern ourselves and preserve the flying museums such as the one we have in South Texas so that the many millions of people can see what these great planes and the brave men who flew them did a few years ago; that we preserve our heritage and honor those who have defended our freedom is an American tradition. Here today we can continue to do so. I respectfully urge my colleagues to join us in supporting this legislation.

Mr. ULLMAN. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas (Mr. WHITE).

Mr. WHITE. Mr. Speaker, I thank the gentleman for yielding.

People who are engaged in preserving old aircraft are retaining the historical spirit of America. This is a very needed bill that will be of great assistance in preserving older aircraft and World War II airplanes. Some are owned by constituents in my district, who travel long distances to display them to people who otherwise would never have the chance to see the genuine aircraft.

GENERAL LEAVE

Mr. ULLMAN. Mr. Speaker, I ask unanimous consent that I may revise and extend my remarks, and that all Members may have 5 legislative days in which to revise and extend their remarks on the bill (H.R. 10101).

The SPEAKER. Is there objection to the request of the gentleman from Oregon?

There was no objection.

The SPEAKER. The question is on the motion offered by the gentleman from Oregon (Mr. ULLMAN) that the House suspend the rules and pass the bill H.R. 10101, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill as amended, was passed.

A motion to reconsider was laid on the table.

VETERANS' ADMINISTRATION PHYSICIANS AND DENTISTS PAY EXTENSION

Mr. ROBERTS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 14469) to permit agreements providing special pay to physicians and dentists in the Veterans' Administration to be entered into until October 1, 1977.

The Clerk read as follows:

H.R. 14469

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 6(a)(2) of the Veterans' Administration Physician and Dentist Pay Comparability Act of 1975 (Public Law 94–123) is amended by striking out "October 11, 1976" and inserting in lieu thereof "September 30, 1977".

The SPEAKER. Is a second demanded?

Mr. HAMMERSCHMIDT. Mr. Speaker, I demand a second.

The SPEAKER. Without objection, a second will be considered as ordered.

There was no objection.

Mr. ROBERTS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, last October the Congress enacted Public Law 94–123, wherein Congress found it necessary to provide primary and incentive special pay for certain physicians and dentists employed in the Department of Medicine and Surgery of the Veterans' Administration. Congress agreed with our committee that the ceiling on the salary of physicians employed in the Department of Medicine and Surgery due to the Federal salary limitation under the executive schedule, plus the sharp escalation in the cost of living since those rates of pay were last increased in 1969, seriously impaired the recruitment and retention of qualified physicians by the Department of Medicine and Surgery. We also concluded that the compensation provided to physicians and dentists in the Department had been rendered noncompetitive by virtue of the payment of special pay and other fringe benefits to certain medical officers of the uniformed services. The recruitment and retention difficulties created an inequitable and demoralizing situation in the Department of Medicine and Surgery. It threatened to seriously erode the ability of the Department to compete for the services of necessary health care professionals and thereby continue to provide quality health care to eligible veterans.

Although it is too early to measure the full impact of Public Law 94–123, the committee has been advised by the Veterans' Administration that the turnover rate among physicians and dentists during the last quarter of fiscal year 1976 was 2.02 percent, the lowest rate since 1968. In the opinion of the Chief Medical Director, the enactment of Public Law 94–123 has been very effective.

You will recall that Public Law 94–123, among other things, required the Comptroller General of the United States and the Director of the Office of Management and Budget to study, evaluate and investigate the problems facing the departments and agencies of the Federal Government in recruiting and retaining qualified physicians and dentists, and to identify appropriate alternative suggested courses of legislative or administrative action which, in the judgment of the Comptroller General or Director, would solve such recruitment and retention problems. According to the Administrator of Veterans' Affairs, the Veterans' Administration, the Department of Defense, and the Department of Health, Education, and Welfare are cooperating in the conduct of these studies.

The results of the studies being conducted will be submitted to the Congress on August 31, 1976.

The administration feels that in order to give the Congress adequate time in which to consider administration proposals based upon the August 31 reports, it is necessary to request an extension of the authority contained in Public Law 94–123. Failing to grant such extension could disrupt current successful VA efforts to recruit and retain qualified physicians and dentists.

H.R. 14469, introduced by the chairman of the Subcommittee on Hospitals, the distinguished gentleman from Virginia (Mr. SATTERFIELD), and the ranking member of the full committee (Mr. HAMMERSCHMIDT), would extend current authority through fiscal year 1977. On May 20, 1976, the Administrator submitted a draft proposal recommending that the authority be extended for only 9 months. The 9-month extension was recommended so that VA authority would end at the same time that similar authority extended to the uniformed services would expire. The Congress, however, has recently extended the contract authority for the uniformed services for 1 year or until September 30, 1977 (Public Law 94–361); therefore, according to the Veterans' Administration, since the extension provided by H.R. 14469 is consistent with that provided for physicians of the uniformed services under Public Law 94–361, signed into law on

July 14, 1976, the administration favors enactment of the bill.

The Veterans' Administration and the Congressional Budget Office have estimated the extension would result in additional total costs to the Veterans' Administration of $27.1 million for the next 5 fiscal years. The fiscal year 1977 cost would be $3.4 million. The cost does not exceed the subcommittee allocation.

Mr. Speaker, I now yield such time as he may consume to the distinguished and able gentleman from Virginia (Mr. SATTERFIELD), the chairman of the Subcommittee on Hospitals.

Mr. SATTERFIELD. Mr. Speaker, H.R. 14469 would extend for 1 year the provisions of Public Law 94-123, providing special and incentive pay for VA physicians and dentists comparable to pay of physicians and dentists in the uniformed services and the Public Health Service. Unless extended, Public Law 94-123 will expire on October 11, 1976.

This legislation has been highly successful in enabling the Veterans' Administration to recruit, retain physicians and dentists in its medical system, which includes 171 hospitals located in 48 States. Congress has already enacted Public Law 94-361, section 305, which extends until September 30, 1977, the pay bill authorizing variable salaries in the Armed Forces, after which Public Law 94-123 was patterned.

Public Law 94-123 required the Comptroller General of the United States together with the Director of the Office of Management and Budget to evaluate and investigate the short- and long-term problems of agencies of the Federal Government, including the uniformed services, in the recruitment and retention of qualified physicians and dentists; the extent to which the implementation of a uniform system pay, allowances, and benefits for all physicians and dentists employed in the Federal departments and agencies would alleviate or solve the recruitment and retention problems; such other solutions to recruitment and retention problems as each may deem appropriate; and an identification of appropriate alternative suggested courses of legislative or administrative action together with cost estimates which in the judgment of these two officials would solve the recruitment and retention problems, with recommendations and justification therefor. The Veterans' Administration, the Department of Defense, and the Department of Health, Education, and Welfare are cooperating with these studies.

These studies should form a basis for permanent legislation, are not complete. H.R. 14469 will extend the current law during fiscal year 1977 in order to enable Congress to study the reports and recommendations of the Comptroller General and Director of OMB prior to further legislative action.

Mr. Speaker, in general Public Law 94-123 provides that eligible full-time VA physicians could be paid an amount of primary special pay not to exceed $5,000, and in the case of a full-time dentist, $2,500. In addition, the act also provided authority to pay additional incentive pay to physicians and dentists, $8,500 for physicians and $4,250 for dentists, in scarce specialties. A scarce medical or dental specialty is defined as one in which the supply of qualified physicians or dentists has been, and is projected to be, inadequate to meet the needs of the Department of Medicine and Surgery. With respect to these, five medical specialties were identified by the Chief Medical Director as being scarce. They include anesthesiology, radiology, pathology, paraplegic medicine, and psychiatry. Likewise, the dental specialties determined to be scarce were: Prosthodontics, periodontics, and oral surgery. A proportional amount of special and incentive pay may be paid to physicians and dentists who are employed on a half-time basis or more.

To be eligible to receive the special pay, physicians and dentists must enter into an agreement for a total of 1, 2, 3, or 4 years of service. Contracts for fractional years are not permitted. In order for the special pay to be authorized, eligible physicians and dentists must execute an agreement to receive pay. The agreement spells out conditions under which entitlement to the special pay may cease and the obligation for repayment which may accrue upon leaving before the expiration date of the agreement.

Although the Administrator has informed the committee that too little time has passed to permit a definitive evaluation of the effects of the act, he states that trends seen to date are in the right direction. Personnel loss rates are down, and the number of full-time physicians is at a new high. The loss rate during the last quarter of fiscal year 1976 was only 2.02 percent—the lowest loss rate in any quarter since 1968. A complete evaluation must wait until after September of this year since a large part of the Veterans' Administration's recruitment effort occurs between July and September; however, individual hospitals have reported a sudden ability to recruit extremely well qualified staff for positions which have been vacant for some time.

The Chief Medical Director of the Department of Medicine and Surgery feels the pay bill has been highly successful, and on May 20, 1976, the administration submitted a proposed bill to Congress to extend the current authority an additional 9 months so that the VA pay bill and a similar measure for the uniformed services would expire at the same time. The Congress, however, has recently extended the contract authority for the uniformed services for 1 year or until September 30, 1977, Public Law 94-361, July 14, 1976. Therefore, since the provisions of H.R. 14469 and consistent with those for physicians of the uniformed services, the committee has been advised by the Veterans' Administration that the Agency favors the enactment of H.R. 14469.

Mr. Speaker, in order to give the Congress adequate time in which to study the results of the report to be sumitted by the Comptroller General and the Director of the Office of Management and Budget, and so as to not disrupt current agency efforts to recruit and retain physicians and dentists, it is necessary to request an extension of the authority which will expire October 11, 1976.

According to the Veterans' Administration and the Congressional Budget Office, the reported bill would cost $3.4 million in fiscal year 1977. The 5-year cost of the bill would be $27.1 million. The estimated cost is well below the committee estimate made earlier this year and is well within the allocation made to the Subcommittee on Hospitals pursuant to section 302(b) of the Budget Act.

I hope the bill will receive the unanimous support of the House.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield myself such time as I may consume.

I want to concur in the remarks made by our distinguished chairman, the gentleman from Texas (Mr. ROBERTS), as well as those made by the chairman of the subcommittee, the gentleman from Virginia (Mr. SATTERFIELD).

Mr. Speaker, I rise in support of H.R. 14469, a bill I was privileged to cosponsor which will extend for approximately 1 year the authority of the Administrator of Veterans' Affairs to enter into agreements with physicians and dentists providing special pay.

On October 22, 1975, the President approved Public Law 94-123, a measure authorizing the Administrator to enter into agreements with physicians and dentists to provide special and incentive pay for periods up to 4 years. The authority to enter into such agreements expires on October 11 of this year. The measure before us will extend the present authority until October 1, 1977.

Under the provisions of Public Law 94-123, Mr. Speaker, special pay as a supplement to basic pay of $5,000 per year to full-time physicians and $2,500 per year to full-time dentists is provided. Additionally, incentive pay not to exceed $8,500 for physicians and $4,250 for dentists is provided. Factors that merit incentive pay are full-time status with the Veterans' Administration; tenure of service within VA's Department of Medicine and Surgery; scarcity of medical or dental specialty; additional professional responsibility; and acquisition of continuing education certification.

The enactment of this legislation, Mr. Speaker, resulted from a finding contained in a report on the quality of care in Veterans' Administration hospitals made in 1974. The report stated that—

> Financial considerations are the major impediment to achieving sustained, satisfactory levels of recruitment and retention of physicians, dentists. . . .

The Chief Medical Director of the Veterans' Administration informed our committee in early 1975 that 66 percent of the bona fide offers of employment made to physicians during the prior year had been rejected on the basis of salary.

It had reached the point, Mr. Speaker, where the Veterans' Administration salary structure was not competitive with the salaries payable to comparably qualified physicians in other Federal health care systems, the U.S. Public Health Service and the Department of Defense. This fact was succinctly set forth in Public Law 94–123 which said:

> The Congress hereby finds and declares . . . that the compensation provided to physicians and dentists in the Department of Medicine and Surgery has been rendered noncompetitive by virtue of the payment of special pay of up to $13,500 per annum, in addition to basic compensation and other benefits, to certain medical officers, and monthly special and continuation pay cumulating approximately half such amount to certain dental officers, of the uniformed services, pursuant to title 37 of the United States Code and Public Law 93–274.

Public Law 94–123 represented the committee's effort to make Veteran's Administration physicians' pay more competitive with military pay. The success of our effort was underscored when just a week ago, Mr. Speaker, Dr. John D. Chase, Chief Medical Director of the Veterans' Administration, in testimony presented to our subcommittee said:

> Preliminary data indicates that this special pay program has had a positive impact on our ability to recruit and retain physicians in the Department of Medicine and Surgery.

With the objective of achieving a more permanent uniformity of pay in all Federal pay systems. Public Law 94–123 authorized a comprehensive study of the several physicians' pay systems by the General Accounting Office and the Office of Management and Budget to be completed by August 31 of this year. I understand the study is nearing completion. In order to give the Congress sufficient time in which to consider and act upon the recommendations contained in the GAO/OMB report and so as not to summarily terminate the Veterans' Administration's ability to recruit and retain physicians and dentists, an extension of the authority to enter into these pay agreements is necessary.

This legislation becomes even more essential, Mr. Speaker, in the light of Public Law 94–361, approved July 14, which extends similar contract authority with respect to the uniformed services physicians pay scale until September 30, 1977.

Mr. Speaker, I support H.R. 14469 and urge that it be passed.

Mr. Speaker, I yield such time as he may consume to the gentleman from Indiana (Mr. HILLIS).

Mr. HILLIS. Mr. Speaker, I rise in support of H.R. 14469, which extends Public Law 94–123, the Veterans' Administration Physician and Dentist Pay Comparability Act of 1975, through September 30,1977.

Public Law 94–123 was enacted last fall to help correct a demoralizing and inequitable situation in the Veterans' Administration's Department of Medicine and Surgery: an inability to compete successfully in acquiring and retaining the services of qualified physicians and dentists. Such competition is vital to the Veterans' Administration's provision of health care to our Nation's veterans in its 171 hospitals located in 48 of our 50 States.

Since Public Law 94–123 was enacted on October 22, 1975, the Veterans' Administration has reduced its loss rate of physicians and dentists. According to the Veterans' Administration, preliminary statistics on the special and incentive pay program show that Public Law 94–123 has had a positive impact on recruitment and retention. For example, during the first quarter of this year, the Veterans' Administration experienced the smallest loss rate of physicians since 1968. I would like to see this positivism continue, through extension of Public Law 94–123 through September 30, 1977.

The Congressional Budget Office has estimated that the cost of H.R. 14469 would be $3.4 million for fiscal year 1977, which is less than the original cost estimate prepared by the Committee on Veterans' Affairs and the Veterans' Administration earlier this year. The estimated cost is in line with the allocation to the Subcommittee on Hospitals, according to the first budget resolution approved by this Congress.

The $3.4 million seems a modest sum, in view of the number of physicians and dentists participating in the special and incentive pay program. As of March 31, 1976, more than 8,000 full- and part-time physicians and dentists received primary special pay and variable amounts of incentive special pay. Failure to enact H.R. 14469 would result in disruption of this participation at great cost to the Veterans' Administration medical and dental programs.

Mr. Speaker, during the next fiscal year, this Congress will study reports submitted by the Comptroller General on the Veterans Administration recruitment-retention program. H.R. 14469 offers the Members of this body time in which to assess the information and recommendations provided by the Comptroller General, in order to draft an informed, comprehensive, and permanent solution to the Veterans Administration's recruitment and retention difficulties. For this reason, and for the other reasons which I have outlined, I urge my colleagues to vote in favor of this bill.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Massachusetts (Mrs. HECKLER).

Mrs. HECKLER of Massachusetts. Mr. Speaker, as a member of the Committee on Veterans' Affairs, I am pleased to add my support to H.R. 14469.

This bill extends Public Law 94–123, the Veterans' Administration Physician and Dentist Pay Comparability Act of 1975. The act is due to expire after October 11 of this year; H.R. 14469 will extend it through September 30, 1977.

Passage of this bill is essential, if Veterans Administration physicians and dentists are to continue to have pay comparability with their counterparts in the uniformed services. Such pay comparability is crucial to the Veterans Administration's efforts to recruit and retain qualified health care personnel.

A little over a year ago, when this body considered the provisions of the Pay Comparability Act, it voted to remove Veterans Administration physicians and dentists from the bottom rung of salary levels and to elevate them to the levels occupied by medical personnel in the uniformed services. In authorizing special and incentive pay of $5,000 and $8,500, respectively, for full-time physicians and $2,500 and $4,250, respectively, for full-time dentists, it demonstrated that our Nation's veterans deserve health care rivaling that of our military personnel.

This body has already extended through September 30, 1977, the pay bill authorizing variable salaries for physicians and dentists in the uniformed services; it should fulfill its commitment to quality health care for veterans by extending Public Law 94–123 through the same date.

In testimony presented last month to the Committee on Veterans' Affairs, the Veterans' Administration stated:

> Preliminary data indicates that this special pay program has had a positive impact on our ability to recruit and retain physicians in the Department of Medicine and Surgery.

In a report submitted last spring, the Veterans' Administration said that the loss rate of physicians and dentists from January through March of this year was the lowest since 1968.

Since July, August, and September are the primary recruitment and attrition months for the Veterans' Administration, passage of this extension today would give a boost to the Veterans' Administration's ongoing efforts to hire new health care personnel and to retain existing professionals.

Mr. Speaker, I recognize that this special and incentive pay program is an interim solution to the recruitment and retention problems of the Veterans' Administration. During the interim period provided by the extension, Congress will have time in which to study reports submitted to it and to fashion a long-term solution. Under the provisions of Public Law 94–123, the Comptroller General will present reports on August 31, 1976, and March 1, 1977, evaluating the Veterans' Administration recruitment-retention programs and comparing the program with those of other Federal agencies. The August 31 report will focus on physicians and dentists; the March 1 report will include other health care personnel. These reports, considered together, will permit this Congress to devise a comprehensive and permanent legislative solution to the recruitment-retention problems of the Veterans' Administration.

Mr. Speaker, passage of H.R. 14469 is vital to give Veterans' Administration physicians and dentists parity with health care personnel in the uniformed services, to avoid disruption of Veterans' Administration efforts to recruit and retain health care personnel, and to give Congress adequate time to consider the Comptroller General's reports.

I urge my colleagues to join me in voting for its passage.

Mr. ABDNOR. Mr. Speaker, I rise in

support of H.R. 14469, which would authorize the continuation of special and incentive pay for Veterans' Administration physicians and dentists through September 30, 1977. These benefits were awarded by Public Law 94-123 for the purpose of improving the recruitment and retention of physicians and dentists. The act has been of the utmost assistance to the Veterans' Administration, but it is due to expire on October 11, 1976.

The extension of this law for an additional year should provide the Congress with ample time to consider and act on a study which will be completed on August 31, 1976. It will encompass the problems, experiences, and recommendations of all Federal agencies who employ doctors and dentists, including the Armed Forces, in their efforts to attract personnel in these highly specialized fields from a limited and highly competitive job market.

It should be of interest that the Armed Forces, through the passage of Public Law 94-361, have already been given authorization to extend until September 30, 1977, the law covering the uniformed services which served as a pattern for Public Law 94-123, the Veterans' Administration physicians and dentists pay bill.

In my opinion, therefore, it is particularly crucial, if the VA Department of Medicine and Surgery is to continue to deliver a high quality type of medical care, that H.R. 14469 be enacted into law. I urge my colleagues to join me in support of it.

Mr. ROBERTS. Mr. Speaker, I have no further requests for time.

The SPEAKER. The question is on the motion offered by the gentleman from Texas (Mr. ROBERTS) that the House suspend the rules and pass the bill H.R. 14469.

The question was taken.

Mr. HAMMERSCHMIDT. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER. Pursuant to clause 3, rule XXVII, and the Chair's prior announcement, further proceedings on this vote will be postponed.

GENERAL LEAVE

Mr. ROBERTS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and to include extraneous material, on the bill just considered.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

NATIONAL ENERGY EXTENSION SERVICE ACT OF 1976

Mr. McCORMACK. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 13676) to establish in the Energy Research and Development Administration an Energy Extension Service to oversee the development and administration of State plans for the development, demonstration, and analysis of energy conservation opportunities, and the development of programs to encourage the acceptance and adoption of energy conservation opportunities by energy consumers.

The Clerk read as follows:

H.R. 13676

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. This Act may be cited as the "'National Energy Extension Service Act of 1976".

SEC. 2. The Congress hereby declares—

(1) that the general welfare and the common defense and security require a greater public knowledge of energy conservation opportunities;

(2) that scientific identification and demonstration of specifically designed energy conservation opportunities, the dissemination of information relating thereto, and the prompt delivery and acceptance of specific energy conservation opportunities require a national effort;

(3) that the national effort required to develop, demonstrate, an dencourage acceptance and adoption of energy conservation opportunities should be coordinated at the Federal level by the Energy Research and Development Administration;

(4) that a special effort must be made to develop and demonstrate practical alternative energy technologies such as solar heating and cooling;

(5) that successful implementation of energy conservation and new energy technologies will require both public awareness and individual capability to use the conservation opportunities and new technology;

(6) that this required awareness and capability can only be achieved on a national basis by an active outreach effort;

(7) that existing Federal energy programs provide only scattered and insufficient direct outreach information and assistance;

(8) that only a few State, local, and university programs provide direct outreach information and assistance in energy;

(9) that existing energy outreach programs are underfunded and are not coordinated;

(10) that any Federal outreach program should be organized with the States as full participants, and each State should plan and coordinate the outreach activities within the State, optimizing the use of existing outreach capabilities;

(11) that Federal assistance should be provided for energy outreach activity; and

(12) that the Energy Research and Development Administration should provide overall national direction and review of federally assisted State energy outreach programs.

SEC. 3. (a) There is established in the Energy Research and Development Administration an office to be designated as the Energy Extension Service (hereinafter in this Act referred to as the "Service"). The Service shall be headed by a Director who shall be appointed by and responsible to the Administrator of the Energy Research and Development Administration (hereinafter referred to as the "Administrator"). The Director shall be a person why by reason of training, experience, and attainments is exceptionally qualified to implement the programs of the Service. There shall be in the Service a Deputy Director who shall be appointed by the Administrator, who shall have such functions, powers, and duties as may be prescribed from time to time by the Director, who shall act for, and exercise the powers of, the Director during the absence or disability of, or in the event of a vacancy in the office of, the Director.

(b) The Director shall receive basic pay at the rate provided for level IV of the Executive Schedule 5315 of title 5, United States Code, and the Deputy Director shall receive basic pay at the rate provided for level V of such Schedule in section 5316 of such title.

(c) The Director shall have overall responsibility for the national direction of the comprehensive program developed under section 4 and of all other activities conducted under this Act, and shall annually review the programs of the various States under section 5 to insure that they are effectively promoting the realization of the objectives of this Act.

SEC. 4. (a) The Service shall develop and implement a comprehensive program for the identification, development, and demonstration of energy conserving practices, techniques, materials, and equipment, and alternative energy technologies such as solar heating and cooling, for—

(1) agricultural, commercial, and small business operations, and

(2) new and existing residential, commercial, and agricultural buildings or structures. Such program shall provide for technical assistance, instruction, and practical demonstrations in energy conservation opportunities, and shall provide an active interface with end use energy consumers at the local level for the purpose of offering active outreach assistance and affording a communication channel for end user technology requirements. Such outreach assistance shall be provided by means of such appropriate local offices, including metropolitan city offices, county agents, and technical staff assistants, as may be required to provide energy extension services.

(b) The comprehensive program developed under subsection (a) shall be implemented and carried out within each State in the manner provided in section 5.

(c) The Director shall take such steps as may be necessary to insure that the comprehensive program is implemented in a manner which minimizes conflict with existing services in the private sector of the economy that are similar to those provided under such program.

SEC. 5. (a) The Director shall invite the Governor of each State to submit a plan for the conduct of energy extension service activities throughout such State, to disseminate information and provide advice and assistance to individuals, groups, and units of State and local government by means of—

(1) specific studies and recommendations applicable to individual residences buinesses, and agricultural or commercial establishment;

(2) demonstration projects;

(3) distribution of studies and instructional materials;

(4) seminars and other training sessions for State and local government officials and the public; and

(5) other public outreach programs.

(b) The Director, with the approval of the Administrator, shall issue guidelines within sixty days after the date of the enactment of this Act for the preparation and submission of State plans under subsection (a). Such guidelines shall be designed to assure that the plans so submitted will be consistent with this Act and will effectively contribute to the achievement of its objectives, and shall allow maximum flexibility and the exercise of maximum discretion by the States. In the preparation of such guidelines, the Administrator shall provide a reasonable opportunity for inputs by representatives of the several States and for a reasonable period for public review and comment. In any event, such guidelines—

(1) shall require the establishment and implementation of policies and procedures designed to assure that assistance provided under this Act does not replace or supplant the expenditure of other Federal or State or local funds for the same purposes, but rather supplements such funds and increases the expenditure of such State or local funds

to the maximum extent possible; *Provided,* That there shall be no requirement for matching State or local funds in the guidelines, unless such requirement is included in an annual authorization;

(2) shall require effective coordination of the programs under such State plans with other Federal programs which provide funds for university extension programs, in order to avoid duplication;

(3) shall require the establishment and implementation of effective procedures specifically designed for the dissemination of information to small business concerns;

(4) shall limit to a maximum of 20 per centum the portion of the funds made available under this Act which may be used for the purchase of equipment, facilities, and library and related materials; and

(5) shall prohibit the use of any such funds for the purchase of land or interests therein or the repair of buildings or structures.

(c) Each State plan submitted under subsection (a) shall be approved by the Director if the Director finds that such plan—

(1) meets the objectives of this Act;

(2) was prepared with input from State, county, and local officials, State universities and community colleges, cooperative extension services, community service action agencies, and other public or private organizations involved in active energy outreach programs;

(3) consistent with the objectives and requirements of this Act, makes optimum use of existing active outreach or delivery mechanisms or programs, and includes to the optimum extent any existing State, local, university, or other organizations' programs for energy information, education, or technology transfer which have objectives similar to those of this Act and activities similar or related to those specified in section 4 and subsection (a) of this section);

(4) provides that the State will maintain, or require other participating entities within the State to maintain, and make available upon request to the Director, such records with respect to the use and expenditure of any Federal funds paid to the State, or to entities within the State, under this Act as the Director may require;

(5) provides for the establishment of effective procedures for responding to external inputs and inquiries;

(6) requires that, to the extent possible, within personnel and funding limitations, energy audits will be made available to all consumers and small business concerns, and to other business concerns within such limitations (as to size or otherwise) as the Director may specify;

(7) provides that the State will furnish and widely disseminate information on the types of assistance available under this Act, and under other Federal and State laws, with respect to the planning, financing, installation, and effective monitoring of energy-related facilities and activities;

(8) provides that the allocation within the State of the funds made available to it under this Act will be based on, or give due consideration to, such factors (specifically including potential energy savings and number of persons affected) as the Director determines will best carry out the purpose of this Act; and

(9) satisfies such other criteria as the Director may establish to carry out the purpose of this Act.

(d) If the Director finds that a State plan submitted under subsection (a) does not satisfy the requirements of subsection (c), he shall provide a reasonable opportunity for the State to present arguments in support of such plan and to revise the plan within a reasonable period of time to satisfy such requirements.

(e) (1) If a State does not submit a plan under subsection (a) or its plan as so submitted (with any revisions made under subsection (d)) is not acceptable, the Director (after giving notice and an opportunity for comment to the Governor of such State) shall develop an energy extension service plan for the State involved, which conforms to the requirements of subsection (c). In conducting energy extension service activities under any plan developed under this subsection, the Director is authorized to enter into agreements for the utilization of existing Agriculture Extension Service offices and personnel, or such other offices and personnel as may be appropriate, and to provide funds for such operations; and in carrying out the functions of such offices the Director shall make maximum use of any existing delivery mechanisms for the State or local region concerned which are appropriate for purposes of this section, while coordinating his activities in connection with the performance of such functions with all such mechansms in the State or region which are related to, but not directly involved in, the program under this Act.

(2) Each State shall have a period of one hundred and eighty days after the issuance of the guidelines referred to in subsection (b) (or a longer period if the Director finds, at the request of the Governor of such State, that an extension is justified) within which to submit its plan under subsection (a) and if necessary to revise such plan under subsection (d) before the Director may undertake the development of a plan for such State under paragraph (1) of this subsection.

(f) The Director shall annually review the implementation of State plans approved under subsection (c) to insure continued conformance with the requirements of this Act. If the Director determines that the implementation of any approved State plan does not satisfy any of such requirements, he shall notify the Governor of the State and any other designated officials of the deficiency, with specific details, and shall provide a reasonable time and opportunity for remedial action. If, after such reasonable time and opportunity, satisfactory remedial action has not been taken to place the implementation in conformance with such requirements, the Director shall so inform the Administrator, who shall give to the Governor notice of intention to terminate Federal assistance, after the opportunity for the Governor's comment, if the implementation continues to not satisfy all such requirements. Federal assistance shall be terminated thereafter if satisfactory action is not taken. In the event Federal assistance is terminated under this subsection, the Director shall proceed in accordance with the procedures in subsection (e) to develop an energy extension service for the State. In so doing, the Director shall provide for continuation of all activities under the State plan which were in conformance with the requirements of this Act and shall effect only such changes in the activities under such plan as are necessary to satisfy such requirements. The Director shall give the Governor notice of any such changes and shall provide a reasonable opportunity for the Governor to comment prior to proceeding with the changes.

(g) In any case where a State has submitted a State energy conservation plan under part C of title III of the Energy Policy and Conservation Act, the State's plan submitted under subsection (a) of this section shall specifically indicate how its proposed extension service program will complement or supplement any programs of public education under section 362(d)(4) of such Act which are included under such energy conservation plan. In any event, each State plan submitted under subsection (a) of this section shall indicate how its proposed extension service program will complement or supplement any other energy conservation programs being carried out within the State with assistance from Federal funds or under other Federal laws.

(h) The Director shall provide financial assistance to each State having a plan approved under subsection (c), from funds allocated to such State under section 11(c), and shall provide information and technical assistance to such State, for the development, implementation, or modification of the State's plan submitted under subsection (a) of this section.

(i) Nothing in this Act, or in the comprehensive program developed under section 4 or any State plan approved under this section, shall have the effect of modifying or altering the relationships existing between educational institutions and the States in which they are located in connection with activities provided for under this Act.

SEC. 6. (a) The Director shall promulgate such regulations and directives as may be necessary to carry out the functions and projects of the Service.

(b) The Director shall consult and cooperate with the Secretary of Housing and Urban Development, the Administrator of the Federal Energy Administration, the Secretary of Agriculture, the Administrator of the Environmental Protection Agency, the Secretary of Health, Education, and Welfare, the Community Services Administration (and its Institute for Appropriate Technology), the Secretary of Commerce (and the Regional Centers of the Economic Development Administration in the Department of Commerce), the Administrator of the Small Business Administration, and the heads of other Federal agencies administering energy-related programs, with a view toward achieving maximum coordination with such other programs, and for the purpose of insuring to the maximum extent possible that all energy conservation and new energy technology information disseminated by or through Federal programs in a given area are consistent and are fully coordinated in order to minimize duplication of effort and to maximize public confidence in the credibility of Federal or federally assisted programs. It shall be the responsibility of the Director to promote the coordination of programs under this Act with other public or private programs or projects of a similar nature.

(c) Federal agencies described in subsection (b) shall cooperate with the Director in disseminating information with respect to the availability of assistance under this Act, and in promoting the identification and interests of individuals, groups, or business and commercial establishments eligible for assistance through programs funded under this Act.

(d) At such time as the Energy Resources Council is terminated, pursuant to section 108 of the Energy Reorganization Act of 1974 (42 U.S.C. 5818), there shall be established an Interagency Advisory Group, consisting of the Director (as Chairman) and the heads of the Federal agencies described in subsection (b) or their delegates, to assist the Director in carrying out his responsibilties under this section and to provide a mechanism for use by the Director and the heads of such agencies in the performance of their functions under subsections (b) and (c).

SEC. 7. (a) The Administrator is authorized and directed to prepare a comprehensive program and plan for Federal energy education, extension, and information activities authorized by this Act and any other law. In the preparation of the program and plan, the Administrator shall utilize and consult with the head of each agency referred to in this Act and any other Federal agency with an energy education, extension, or information program. Preparation of such program and plan shall not delay in any way the procedures specified in section 5 or the implementation otherwise of this Act. Rather, the program and plan should reflect the activities mandated by this Act and serve as a mechanism for Federal Government-wide coordination and management of those activities with the activities of other Federal agencies under other law.

(b) The comprehensive program and plan shall include, but not be limited to, the following elements:

(1) specific delineation of responsibility of each participating Federal agency in the conduct of this Act;

(2) mechanisms established to coordinate the activities under this Act, pursuant to section 6 (b), (c), and (d);

(3) a detailed summary of all related Federal programs under other law, including program descriptions, types of delivery mechanisms, budget, and objectives;

(4) procedures for defining and measuring the effectiveness, in terms of increased energy efficiency, fuel savings, adoption of new energy technologies, and other appropriate criteria, of the activities under this Act and related activities under other law;

(5) an assessment of the potental for increased energy efficiency, fuel savings, and adoption of new energy technology which could be achieved by Federal programs then existing, and any additional potential which could be achieved by increased funding, expanded programs, or new initiatives;

(6) an assessment of existing Federal assistance and incentives, other than public education, extension, and outreach programs, and their relation of such programs in achieving the objectives of this Act;

(7) cost-benefit analyses for the programs under this Act and related programs under other Acts and a comparison of such analyses with those of other Federal, State, and private conservation programs;

(8) procedures pursuant to section 4(c) to minimize conflict with existing services in the private sector of the economy which are similar to those under this Act and other law; and

(9) a comprehensive and integrated plan for the resulting Federal program, taking into account paragraphs (1) through (8).

(c) The Administrator shall transmit the comprehensive program and plan to the President and to each House of Congress within one hundred and eighty days after the date of enactment of this Act. Thereafter, the Administrator shall revise the program and plan on an anual basis and submit the revision as part of the annual fiscal year budget submission and the report required by section 15 of the Federal Nonnuclear Energy Research and Development Act of 1974.

SEC. 8. (a) There is hereby established a National Energy Extension Service Advisory Board (hereinafter in this section referred to as the "Board"), which shall consist of not less than fifteen nor more than twenty members appointed by the Administrator from among persons representative of State, county, and local governments, State universities, community colleges, community service action agencies, consumers, small business, and agriculture. The Administrator shall designate one of the members of the Board to serve as its chairman, and shall provide the Board with such services and facilities as may be necessary for the performance of its functions. The Administrator shall reimburse members of the Board for the full amount of any expenses (including travel expenses) necessarily incurred by them in the performance of their duties as such.

(b) The Board shall carry on a continuing review of the operation of the comprehensive program developed under section 4 and the various State plans approved under section 5, for the purpose of evaluating their effectiveness in achieving the objectives of this Act and determining how their operation might be improved in furtherance of such objectives.

(c) The Board shall report at least annually to the Administrator, the Director, and the Congress on the status of the program under this Act, including any recommendations it may have for administrative or legislative changes to improve its operation.

SEC. 9. (a) Section 103 of the Energy Reorganization Act of 1974 (42 U.S.C. 5801) is amended by redesignating paragraphs (7) through (11) as paragraphs (8) through (12), respectively, and inserting immediately after paragraph (6) the following new paragraph:

"(7) establishing, in accordance with the National Energy Extension Service Act of 1976, an Energy Extension Service to provide technical assistance, instruction, and practical demonstrations on energy conservation measures and alternative energy systems to individuals, businesses, and State and local government officials;".

(b) Section 108(b) of such Act (42 U.S.C. 5818(b)) is amended by striking out "and" at the end of paragraph (2), by striking out the period at the end of paragraph (3) and inserting in lieu thereof "; and", and by adding after paragraph (3) the following new paragraph:

"(4) insure that Federal agencies fully discharge their responsibilities under sections 6 and 7 of the National Energy Extension Service Act of 1976 for coordination and planning of their related activities under such Act and any other law, including but not limited to the Energy Policy and Conservation Act.".

(c) Section 108 of such Act is further amended by adding at the end thereof the following new subsection:

"(e) There is hereby established an Energy Conservation Subcommittee within the Council, which shall be chaired by the Administrator of the Energy Research and Development Administration, to discharge the responsibilities specified in subsection (b)(4) of this section and other related functions associated with the coordination and management of Federal efforts in the areas of energy conservation and energy conservation research, development and demonstration.".

SEC. 10. Each State or other entity within a State receiving Federal funds under this Act shall make and retain such records as the Administrator shall require, including records which fully disclose the amount and disposition of such funds; the total cost of the facilities and activities for which such funds were given or used; the source and amount of any funds not supplied by the Administrator; and any data and information which the Administrator determines are necessary to protect the interests of the United States and to facilitate an effective financial audit and performance evaluation. Such recordkeeping shall be in accordance with Federal Management Circular 74–7 (34 C.R.F. part 256) and any modification thereto. The Administrator, or any of his duly authorized representatives, shall have access until the expiration of 3 years after the completion of the facilities or activities involved, to any books, documents, papers, and records or receipts which the Administrator deems to be related or pertinent, directly, or indirectly, to any such Federal funds.

SEC. 11. (a) There are authorized to be appropriated to the Director to carry out this Act such sums as may be included in the annual authorization, for the fiscal year 1977 and each subsequent fiscal year, for the nonnuclear programs of the Energy Research and Development Administration.

(b) To the extent provided in the Act making the appropriation involved, any portion of the amount appropriated pursuant to subsection (a) for any fiscal year may be transferred by the Director, with the approval of the Administrator, to the head of any other Federal agency for payment to or expenditure within one or more States under section 5 upon a determination by the Director that the existence of regular payment channels or administrative relationships between that agency and the State involved (or entities within such State) makes such transfer and such payment or expenditure administratively more efficient or effective or otherwise promotes the achievement of the objectives of this Act; but no transfer of funds under this subsection shall result in any loss by the Director of any authority over program direction or control which is vested in him by this Act.

(c) The total amount appropriated pursuant to subsection (a) for any fiscal year (other than the portion thereof needed for administrative expenses, which shall not exceed 5 per centum of such total amount) shall be allocated among the States in accordance with the following formula:

(1) one-half shall be divided equally among all the States; and

(2) one-half shall be divided among the States in proportion to their respective populations, with each State being entitled to a sum that bears the same ratio to one-half of such total amount as such State's population (determined on the basis of the most recent decennial census) bears to the total population of all the States (as so determined).

Amounts allocated to any State for any fiscal year in accordance with paragraphs (1) and (2) shall be expended only within that State.

The SPEAKER. Is a second demanded?

Mr. GOLDWATER. Mr. Speaker, I demand a second.

The SPEAKER. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER. The gentleman from Washington (Mr. McCORMACK) will be recognized for 20 minutes.

Mr. McCORMACK. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to rise in support of H.R. 13676, the National Energy Extension Service Act of 1976. This legislation is a creative approach to the fundamental problem in implementing energy conservation measures—disseminating information to and educating energy users on new methods of reducing energy waste.

Mr. Speaker, it must be understood that energy conservation will require new and improved technologies, but it will also require the active participation of 220 million Americans in conscious and continuous programs to use energy more efficiently, and reduce our energy demand below what it otherwise would be, without sacrificing our standard of living. This conservation effort must be made a top priority for Americans. It has been so enunciated by the President. It has been enunciated by the Energy Research and Development Administration. It has been so enunciated by the Congress, and it has been enunciated by the Democratic Party in its 1976 platform.

For this reason, an energy conservation program must not only include a broad variety of research programs but also a mechanism for information dissemination and public demonstrations on how energy can best be conserved.

Mr. Speaker, the words energy conservation, like energy crisis, are all too familiar to Americans today. They are being spoken by educators, scientists, politicians and consumers. As citizens, we would all like to contribute to the conservation effort in order to lessen the crisis in energy shortages, but it sometimes is difficult to know exactly how to help.

Today's small businessmen, farmers and consumers are often frustrated by their inability to make constructive changes for themselves as they are told that some agency is being created far off in Washington to solve these problems. This not only leaves us helpless and frustrated as individuals but it is contrary to the inherent American characteristic of individual initiative and independence that has for two hundred years served America so well.

Particularly when it concerns energy conservation, it will be the cumulative efforts of countless individuals throughout this Nation that will determine how much energy we can conserve.

When we consider that about 40 percent of the energy used in his Nation is consumed outside of industry and transportation, and so forth, by agriculture, small business, commerce and consumers, we can quickly calculate the effect that they could have on the conservation initiative.

For these reasons we have proposed an Energy Extension Service outlined in H.R. 13676 that will provide individual assistance on local and State levels to convey energy conservation information to those 220 million energy users who can literally turn the tide in energy use for America.

In reviewing the testimony and information presented at our numerous hearings on energy conservation techniques and technologies, we became acutely aware of the complexity of the material presented.

Our goal in creating the National Energy Extension Service is to break down the myriad technical barriers that arise between the experts in a field and the final users. We believe that the Energy Extension Service will achieve this end. It will finally reach the individual who in the last analysis will have the impact to create a change.

Previous legislation, such as the Solar Heating and Cooling Demonstration Act, is laying the groundwork for conservation by creating new technologies to save energy. H.R. 13676 which we are considering today, will provide the mechanisms to convey the lessons learned to the people who can effectively use them.

The Energy Extension Service will not only disseminate information on insulation, heat-pumps, solar systems and how to install them but they will distribute this information through the existing network of local and State governments already familiar to and in close proximity to those requiring the information. The net result can only be energy-conserved and money-saved.

Mr. Speaker, this bill is a comprehensive and complete approach to an energy extension service. H.R. 13676 declares that there is a need for greater knowledge on the part of the public regarding energy conservation opportunities and new energy technologies. The bill finds that this greater knowledge will require a new active outreach program by the Federal Government through the Energy Research and Development Administration—ERDA—and using the individual States for planning and coordinating statewide outreach programs. The bill establishes the statutory framework for the new Federal-State program.

H.R. 13676 creates a new Energy Extension Service office in ERDA and provides for the positions of Director and Deputy Director to administer the new Federal-State program. The bill also amends the Energy Reorganization Act of 1974, ERDA's enabling statute, to specifically add this new program function to the ERDA charter. The new ERDA office will provide national coordination and direction for the Energy Extension Service program and will administer the Federal-State implementing procedures for the program.

The bill adopts a unique Federal-State scheme for the Energy Extension Service which places primary program planning and implementation responsibility on each individual State.

ERDA will invite each State to submit a plan for implementing the Energy Extension Service in the State, using to an optimum extent existing outreach capabilities.

The State plans must be responsive to ERDA guidelines, published within 2 months of enactment, which will reflect a series of specific requirements in the bill. If ERDA determines that the plan is acceptable under the guidelines, the State-proposed participating organizations will qualify for funding from ERDA. If a State has not submitted an acceptable plan within 6 months after the issuance of the guidelines, ERDA will proceed directly to develop and implement a plan for that State, consistent with the same guidelines. Similarly, if the subsequent implementation of an approved State plan ceases to be in conformance with the guidelines, ERDA may take direct control of the State program to return it to conformance.

This Federal-State scheme will provide maximum flexibility for individual States in developing their own Energy Extension Service program, while ensuring at the same time that the national objectives of the bill are satisfied through ERDA's national coordination and direction of the overall program.

The scheme will also provide the opportunity to avoid the creation of a new, large bureaucracy to carry out the program by taking advantage of the many existing outreach capabilities in the Nation's State and local agencies, the university, college and community college systems, and their associated extension programs, and the many professional, business, and consumer organizations at the local level. Similarly, the bill includes procedures and requirements to ensure that the State energy extension service programs are developed in a manner which avoids duplicating or supplanting any existing Federal, State or local programs with similar objectives, so as to build a coordinated overall national energy effort with mutually supplementary and supportive programs.

Funds will be allocated among the States for either approved State-submitted plans or for direct ERDA plans in States according to a formula with 50 percent pro rata per State and 50 percent on the basis of population. Overall funding for the energy extension service program will be subject to authorization for fiscal year 1977 and subsequent years as part of the nonnuclear portion of the annual ERDA authorization bill.

A National Energy Extension Advisory Board is established to provide for comprehensive review of the program. Also, mechanisms are established for coordination of the program with other Federal programs at the Federal interagency level and for coordination of all related activities within each State. These supporting activities will provide the national, and State reviews necessary to keep the program responsive to national, regional and local needs and to national energy policy.

Conservation has only recently become a national priority. High energy prices have precipitated our new concern for energy conservation. In January of 1975 the Energy Research and Development Administration—ERDA—became operational as the major Federal agency for the energy research and development effort.

Although ERDA has steadily increased its emphasis on developing energy conservation and other new energy technologies, its program has been lacking in some respects.

In a recent Office of Technology Assessment—OTA—analysis it was found that ERDA's efforts in information and technology transfer still need improvement. The Committee on Science and Technology and the Congress have both been concerned about this shortcoming for it creates a major loophole in the chain of energy research and development to the eventual acceptance and implementation and energy conserving techniques by the consumer.

Within the enabling legislation which created ERDA and throughout all the individual program legislation for the agency there has been a steady mandate for ERDA to create and encourage the development and dissemination of general information to the public on all energy conservation technologies and energy sources. This includes solar heating and cooling or any other technology as it becomes available for general use.

The Science Committee, the Congress, and ERDA in its own recent projections are convinced that energy conservation holds the key to our achievement of an acceptable national energy growth rate. For its December 1974 report on "Conservation and Efficient Use of Energy" to the 93d Congress, the Committee on Science and Astronautics stated:

> The potential for energy conservation cannot be achieved solely by a crisis-oriented program, by undue reliance on voluntary measures, or by high fuel prices . . . there must be established a comprehensive long range effort to utilize energy more efficiently and reduce waste thereof.

Through progressive legislation since the Energy Reorganization Act of 1974, the basic statute for creating a Federal energy agency, the Congress has repeatedly emphasized ERDA's energy conservation responsibilities. A national energy conservation initiative is dependent on ERDA's role.

ERDA, in addition to already having a strong congressional mandate both in energy conservation and in information dissemination and technology transfer, is the appropriate Federal agency in which to place the responsibility for such a long-range program. ERDA is a permanent agency, as opposed to a temporary agency. It already has the long-range responsibility for conduct of extensive energy conservation and new energy technology research development, and demonstration programs. However it has no regulatory responsibilities, so its advocacy role relative to these programs is not suspect. Technology transfer and information dissemination, as in the previously cited program statutes, flow directly from such R. & D. responsibility. Certainly, there is no basis, in fact or in existing law for arbitrarily limiting ERDA's role, for example, to no commercialization activity. There, however, is a natural institutional and organizational linkage between the R. & D. function, the technology transfer function and the information dissemination function. Direct feedback resulting from the latter functions to the R. & D. program is an effective and well developed technique for insuring that R. & D. is responsive and "real world" oriented in satisfying the needs of the nation's energy end-users at all levels. Obviously, then, ERDA is the appropriate agency for the National Extension Service.

This committee is not alone in concluding that ERDA should have such a role and responsibility. A report on Federal energy conservation programs to the Committee on Appropriations by its Surveys and Investigations staff, as quoted by Chairman Yates of the Interior Subcommittee of that committee, stated:

> The individuals contacted by the Investigative Staff *unanimously* opted for having the technology transfer or marketing function performed by the developing agency, in this case ERDA. In general, no distinction was made by these individuals between on-the-shelf, existing technology and near- or long-term technologies which might require extensive research and development. (Emphasis added.)

As discussed above, the Office of Technology. Assessment similarly has recommended in its reviews of the ERDA National Plans that ERDA not only should have such a role, but further that such a role is an essential and mandatory element of successful, long-range ERDA conservation and solar programs. In short, the consensus of informed opinion clearly is that while other Federal agencies have a definite role to play in energy conservation and new energy technologies, ERDA should and must have the functions which will be included in the National Energy Extension Service program.

Mr. Speaker, to discuss this legislation in detail, I now yield such time as he may consume to the gentleman from Arkansas (Mr. THORNTON), who has done the most work in preparing this legislation, shepherding it through the subcommittee and preparing the details of it.

Mr. THORNTON. Mr. Speaker, I want to commend the chairman and ranking minority member of our committee, Mr. TEAGUE and Mr. MOSHER, and the chairman and ranking minority member of the Subcommittee on Energy Research, Development and Demonstration, Mr. MCCORMACK and Mr. GOLDWATER, for their strong efforts and leadership in developing this proposed legislation. Mr. GOLDWATER's amendments have improved the bill by insuring coordination, rather than duplication, of conservation programs. I want to also commend the gentleman from California (Mr. BROWN), the gentleman from West Virginia (Mr. HECHLER), and the gentleman from New York (Mr. OTTINGER) for their strong and effective support for this bill.

Today we have an opportunity to adopt a positive strategy for energy conservation by passing H.R. 13676.

Everyone agrees that we should conserve energy. We are reminded daily not to be fuelish, to slow our cars, to turn out our lights, to turn back our heating, or cooling. We have learned to do with less of many things requiring the use of energy, from jobs to hot water. Yet in testimony before our subcommittee Assistant Administrator of FEA Roger Sant told us that the total effect of energy conservation programs had only reduced energy consumption by 1 percent. Of course, the reduction because of recession and the loss of productivity and jobs was higher, around 5 percent.

Mr. Speaker, there is a need for a positive program for energy conservation and development of alternate energy resources by those energy consumers who could be reached by this bill, and who account for 41 percent of our national energy consumption.

There is a need to coordinate the fragmented efforts by which a multitude of interested agencies are pursuing public relations programs for conservation. Too little attention has been given to direct face-to-face contact and personal advice which has been proven effective in transferring conservation opportunities to individuals, small businesses, and agricultural and commercial enterprises. The potential of improved efficiencies, and avoidance of waste which could be realized from a strong outreach program to those consumers is equivalent to the construction of another Alaskan pipeline.

The thrust of this legislation is not to supplant other energy conservation efforts, but to coordinate those efforts now underway in many Federal agencies, and further, by involving the States and using extension services, to translate those efforts from theory and public relations into significant action.

The State energy conservation plans being developed under the guidance of the Federal Energy Administration are an important initiative, but we have not implemented the kind of individual-oriented program which will involve the homeowner, the farmer, and the small businessman in our conservation efforts.

The Energy Extension Service will provide the face-to-face contact with the energy consumer that is lacking in present Government programs. It will provide energy consumers with access to conservation techniques and technologies in much the same way that the Agricultural Extension Service has provided the agricultural community with access to our agricultural research programs.

In developing this legislation, the Science and Technology Committee took care to assure the energy extension program will not call for the establishment of a new bureaucracy. Rather, the legislation requires the use of existing programs and agencies such as the extension services of our colleges and universities and the State energy offices. It specifically requires coordination with programs already underway in the private sector and in State and local governments.

Our committee recognized also that to be most effective, the program must allow discretion to the States in order to tailor programs to meet the unique needs of various regions of the country.

Most importantly, the enactment of this legislation will provide direction for the expenditure of funds already approved. In the ERDA authorization bill, we approved $10 million for an extension service program, and the Interior appropriations bill now on the President's desk contains an appropriation of $7.5 million for fiscal year 1977. This bill will assure that the recommendations of Congress which have been developed after extensive hearings will be carried out by the executive branch.

We were told by some agency witnesses that the assignment of varying responsibilities should be the subject of interagency agreements and contracts. I believe the assignment of responsibility for this effort is a matter for decision by Congress.

For that reason we have proposed a bill which will use the resources of the States, coordinate the research capabilities of Federal agencies and State educational institutions, provide an overall direction and guidance to an energy conservation effort, and accomplish all of these objectives by using existing resources of our State and Federal Governments. Such an effort is far from being premature. It is long overdue.

I urge the adoption of H.R. 13676.

Mr. HAMMERSCHMIDT. Mr. Speaker, will the gentleman yield?

Mr. THORNTON. I yield to the gentleman from Arkansas.

Mr. HAMMERSCHMIDT. Mr. Speaker, I want to take this opportunity to compliment my good friend and colleague, the gentleman from Arkansas (Mr. THORNTON), for this very constructive piece of leigslation.

Mr. Speaker, I commend the committee and particularly my colleague from Arkansas (Mr. THORNTON) for this needed and practical legislation. Its approach to conservation of energy through the National Energy Extension Act of 1976 (H.R. 13676) places the primary responsibility on entities of government closest to the people. Admittedly this is not the full answer to conservation of energy by our citizens, but it may create an awareness for the dire need for all to become involved in accomplishing this national good. At the same time, this proposed program could benefit almost every citizen directly through their education toward a better cost effective use of a valuable and ever-increasing commodity—energy.

Another refreshing aspect of this bill is that it does not substantially expand the Federal bureaucracy, but at the same time does not minimize the need for the continued need for a strong Federal presence in furnishing leadership toward a strong energy policy. This is an important first step. Again I congratulate my friend from Arkansas, Mr. THORNTON, for his leadership.

Mr. GOLDWATER. Mr. Speaker, I yield myself such time as I may consume.

Mr. GOLDWATER. Mr. Speaker, I want to commend the committee and particularly RAY THORNTON, for its work in fashioning this very responsible piece of energy conservation and new energy technology legislation. The broad, general concept of an energy extension service, which conceivably could approximate the massive and high-cost structure of an Agriculture Extension Service, greatly concerned me at the outset of our consideration of this legislation. The reported bill includes an energy extension service program which is narrowly bounded to avoid that possibility and to maximize the use of existing programs. It also places primary responsibility for carrying out the program on State and local organizations, with a minimal Federal bureaucracy. I applaud this emphasis on local organizations solving local problems and the avoidance of yet another, new Federal bureaucracy.

I was also concerned at the outset that the proposed program would directly duplicate existing Federal programs, particularly those in FEA, and the Commerce and Agriculture Departments. Our exhaustive review in our hearings of the existing Federal programs indicated the contrary. Also, procedural safeguards should insure that this program does not displace those in the private sector who may have the incentive to provide similar services. Finally, and very importantly, I am satisfied that is a good probability that this program can provide cost-effective assistance to our citizens, who otherwise would not have it, so that they may have the capability to deal effective with their energy problems—both in energy conservation and with energy technologies, such as solar heating and cooling.

Mr. McCORMACK. Mr. Speaker, I yield 2 minutes to the gentleman from West Virginia (Mr. HECHLER).

Mr. HECHLER of West Virginia. Mr. Speaker, I think it is high time that we in this Nation get off the dime on conservation.

We have talked about conservation. We authorized funds and appropriated funds for conservation, but in net we have not done enough in this area.

Mr. Speaker, this is why I strongly support the pending legislation, which has the brilliant concept of the National Energy Extension Service, patterned on the lines of the Department of Agriculture.

Mr. Speaker, I think it is absolutely necessary to enlist citizen cooperation throughout the Nation. I think also it is essential that this program be implemented, not out of Washington, but by enlisting the type of Federal-State relationship with active citizen cooperation which can get the job done.

As has been remarked by the gentleman from California (Mr. GOLDWATER), there is no bureaucracy that is set up here. This is merely a device to insure that there is active citizen cooperation.

Mr. Speaker, I do not think that this legislation would have come to the floor had it not been for the tremendous leadership exerted by the gentleman from Arkansas (Mr. THORNTON). It was his initial legislation that first introduced this idea, and the cooperative work of the Committee on Science and Technology fashioned this legislation into the product that we bring before the House this afternoon, which I urge my colleagues to support.

The key to stepping up energy conservation efforts is to provide information directly to individual homeowners, farmers, and small businessmen. This bill accomplishes this objective.

Forty-one percent of the Nation's energy is consumed by the residential, commercial, and small business sectors of the economy. This individualized approach will give citizens professional advice on how to conserve energy and cut utility bills for their homes and businesses.

New energy technologies, like solar heating and cooling, windpower, and new energy conservation techniques, are being developed, but the average citizen is not now getting the opportunity to use these techniques. The Extension Service furnishes a proven way to get practical advice to people right in their home communities.

GENERAL LEAVE

Mr. GOLDWATER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill now under consideration.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. GOLDWATER. Mr. Speaker, I have no further requests for time.

Mr. McCORMACK. Mr. Speaker, I yield 1 minute to the gentleman from California (Mr. BROWN).

Mr. BROWN of California. Mr. Speaker, I rise in support of H.R. 13676 and urge all of my colleagues to join in supporting it.

I think this legislation probably will rank as one of the more important building blocks in the energy program which this Congress is, with some difficulty, putting together during this session. It is a piece of legislation aimed at structuring a program that will get to every citizen of these United States with the message not only of the importance of energy conservation, but with the technology and the technique for achieving energy conservation. It does so with the requirement of a program which may be unique in many ways.

Mr. Speaker, other speakers have compared this to the program of the Agricultural Extension Service. I think that this program may be superior to that of the Agricultural Extension Service because of the greater emphasis which it puts upon local initiative, the restrictions which it puts upon the overhead at the national level and even at the State level, and the fact that it may become and is intended to become a broadly based instrument for achieving a better understanding of our total energy problems in this country, and it is to be structured as an integral part of our total educational system in this country.

For these reasons, Mr. Speaker, I think that we can all be proud of the legislation before us and of the work done by the gentleman from Arkansas (Mr. THORNTON), the author of the legislation, as well as that done by the gentleman from Washington (Mr. McCORMACK), the chairman of the subcommittee, and by the gentleman from California (Mr. GOLDWATER), the ranking minority member.

Mr. Speaker, this legislation, which was primarily developed by my good friend and colleague from Arkansas (Mr. THORTON), deserves the enthusiastic support of every Member of this body. The purpose and need for this legislation cannot be debated. The mechanisms by which this bill attempts to encourage energy conservation could be altered, but I doubt that alteration, before we have enough experience with this approach, would result in any improvement.

The committee report, No. 94–1348, explains, as have the other Members here today, the rationale for our approach. As both a member of the Agriculture Committee, which has jurisdiction over the proven Agriculture Extension Service, and the Science and Technology Committee, which originated this bill, I am very pleased with this legislation.

I should note that in addition to the Members who have cosponsored H.R. 13676, or one of its earlier drafts, there are many Members who have cosponsored H.R. 14205, the Omnibus Energy Conservation Act, which contains the identical language of H.R. 13676 as part A, title II of H.R. 14205. This widespread support for this energy conservation measure demonstrates the congressional interest and concern. I urge an "aye" vote on passage.

Mr. McCORMACK. Mr. Speaker, I yield 3 minutes to the gentleman from New York (Mr. OTTINGER).

Mr. OTTINGER. Mr. Speaker, I also would like to rise in support of this legislation and to extend my congratulations to the gentleman from Arkansas (Mr. THORNTON), who has done such a spectacular job in putting this legislation together and in carrying it through our committee and to the floor.

Likewise, Mr. Speaker, I extend my congratulations to the distinguished gentleman from Washington (Mr. McCORMACK), and to the distinguished gentleman from California (Mr. GOLDWATER) for their help in putting together a piece of legislation we can all agree upon and heartily support.

It is well past the time that we took conservation off of the drawing boards and got it into the homes, the factories and the forms of our country.

A private organization called Consumer Action Now, did an extensive amount of research with respect to the subject matter contained in this legislation, the conservation of energy, and they found that a lack of knowledge to a very large extent is the reason that energy is wasted. The report shows how much the average homeowner and the average apartment dweller and the average small business, in particular, could save in energy, and how much they could save in money, by instituting various conservation procedures.

At this point, Mr. Speaker, I ask unanimous consent to insert into the record the testimony of Susanna Lawrence of Consumer Action Now, in support of this bill.

The **SPEAKER** pro tempore. Is there objection to the gentleman from New York?

There was no objection.

The material is as follows:

TESTIMONY OF SUSANNAH LAWRENCE—HEARING ON ENERGY EXTENSION SERVICE, MARCH 25, 1975

Good afternoon. My name is Susannah Lawrence. I am the Director of the Washington office of Consumer Action Now—(CAN)—an organization with its headquarters in New York City. CAN was formed six years ago out of our concern for environmental quality and how it is affected by consumer behavior. This point of view has given CAN a wide scope of interests, from air pollution and toy safety to over-the-counter-drugs and no-fault insurance. Of the many topics which have concerned us, however, energy problems and solutions have now become our major focus. Along with other environmental organizations, we were alarmed about the energy crisis long before it became a national issue. We began to realize the enormous importance of conserving our dwindling supply of fossil fuels and of developing clean and renewable energy sources.

By conservation we do not mean rationing but the encouragement of investments that will enable us to use energy more efficiently. We mean a national commitment to reducing waste in all sectors of society and to developing lifestyles in which it is the quality of life not the quantity of things that is most important.

Consumer Action Now is committed to doing what it can to implement conservation and to ensure that renewable energy is developed as a basic element in this nation's energy picture in the next decade and beyond. To this end we have undertaken several projects designed to increase public awareness of both conservation and solar energy. Two of them involve the direct transfer of technical information to a target community. Our experience thus for has bearing on today's discussion.

In the fall of 1975 we began a solar hot water heating demonstration project. Its aims were:

1. To show that in an urban setting and in a northern city it would be possible to save money and fuel through the use of a solar hot water heating system.

2. To focus public attention on the viability of solar energy.

3. To finance this project through conventional channels.

4. *To promote awareness of the necessary partnership between conservation and solar.*

5. To assess what legal barriers or other impediments might exist.

After reviewing the physical data on several buildings, we chose a co-operative apartment building on Manhattan's upper west side—a middle income, high density neighborhood.

Our chief contribution was bringing together consumers who were enthusiastic about the idea together with the information they needed. We organized two assessments of the project. The first involved some very rough figures on energy savings and costs worked out with the help of a solar architect known to us. This was used to seek out funding possibilities.

The second assessment was made after the co-operative had expressed interest and there was a need for more information. CAN contacted Dubin-Mindell-Blume, a firm of consulting engineers with experience both in energy conservation and solar applications. Based on a brief survey they were able to give more precise figures on costs vs. rate of return and savings.

That survey calculated the cost of the entire solar hot water heating system. The most startling element was that because the old boiler system was so inefficient a $15,000 investment in a separate hot water heater would repay itself in about 2 years. This is an apparently common situation in buildings in the area.

CAN again met with the co-operative before proceeding with a complete engineering study that would have cost $2,000. The management elected not to go on due to the difficulty of finding capital. They did decide to install the hot water heater.

The preliminary analysis provided by Dubin-Mindell-Bloome was not an in-depth evaluation of the system and could have been done by anyone somewhat knowledgeable including the superintendant if he had had access to the proper information. Dubin-Mindell-Bloome have, under contract to FEA, worked on a pamphlet that would make such information available.

In further discussions they told us that a firm such as theirs would perform a "walk-through" on a building over 10,000 square feet for about $300 or $400. A building under that size would not be worth their while. Apparently there are some people beginning to offer such services for smaller buildings for about $100 for a half day.

We also sought out information on available tax incentives. We found an existing city statute which allowed for tax abatement on real estate taxes for certain buildings that had made some specific improvements including some energy conservation measures. This was up for renewal and included an amendment which would allow for qualified co-operatively owned buildings to participate. CAN testified in favor of this bill and lobbied for its passage, which was achieved.

On the basis of this experience CAN has made the following conclusions. People are uninformed about energy conservation techniques; they have no concept of the enormous cost savings that can result from implementing conservation measures. Once they do understand, our experience suggests they are eager to make the investment if they can obtain the initial capital at reasonable terms.

It is obvious that the kind of information that CAN obtained on behalf of the co-operative is not at all esoteric or difficult to acquire if you know that such information exists and where it is found. The dissemination of such basic and ready to use information is clearly the responsibility of FEA. While our personal presence in this did act as a catalyst, the results of the assessments if widely publicized should have the same effect.

Our other project—still in the conceptual stage—is the setting up of an energy co-operative on Long Island. The purpose of this co-operative is to provide for the members—

1. A means to obtain information on conservation and renewable energy technologies.

2. Combined purchasing power.

3. Easier access to financing.

4. A tool with which to have some control over their energy future.

In trying to establish some guidelines we looked to the experience of the Rural Electrification Co-operatives. They were a highly successful tool for the spread of a specific technology with a very small net loss to the government in unpaid loans.

The key elements of the REA program were:

1. The REA filled a very specific vacuum. Private industry had refused to service the rural consumer.

2. It provided on the spot technical assistance of very high quality.

3. The co-operatives developed independent of each other with considerable variation in answer to local conditions.

4. The co-operatives were community organizations owned and operated by the members.

5. And they provided low-interest loans directly to the potential consumers.

From the experience of the REA and from our west side project CAN makes the following suggestions for speeding up conservation through outreach programs.

1. That existing programs that serve specific segments of the people be expanded. This includes CSA weatherization, Project Conserve, and other agency efforts.

2. That areas not covered by existing programs—the Small Business community for instance—be the target for new programs designed to their needs.

3. That FEA should foster—through the state energy conservation plans—the setting up of local outreach programs and that local community groups should actively participate. (League of Women Voters, civic clubs, block associations)

4. That there be a major effort to make existing information dissemination materials more accessible. This includes writing them in ordinary language and publicizing their existence. HUD's *In the Bank or up the Chimney is a good model.*

5. That a wider role be given the CSA beyond servicing the poor in conjunction with the Center for Appropriate Technology for the transfer of information to communities.

6. That ERDA take responsibility for co-ordination of existing programs, the collection of data and monitoring of progress.

7. That an expanded, vigorous information campaign be carried out by FEA. "Don't be fuelish" does not have the same appeal as "You could be saving hundreds of dollars if your house had the following items."

8. That REA be included in the co-ordination of outreach programs.

CAN believes that efforts to get information to people by on the spot assistance is a sound concept, but that it will work best if local institutions and organization are the agents for this.

It is also our feeling that outreach programs will not be effective until we firmly establish our commitment to conservation on the national level. This includes energy conservation requirements in federal buildings and federally funded housing, mandatory building efficiency standards, and a marked shift in funding away from supply to conservation in appropriations as well as authorizations.

Finally, any co-ordinated efforts toward reducing consumption must include the utilities. Last year in New York City, consumption did fall off with the result that the local utility went to the PSC for a rate increase to make up lost revenue.

Mr. OTTINGER. Mr. Speaker, ERDA

has already made a grant to the New York Institute of Technology Center for Energy Policy and Research, in Old Westbury, N.Y., to serve as a prototype for a nationwide network of energy advisory centers.

This is the kind of work that has gone on in the various States already, and this important work should be incorporated in the Energy Extension Service established in this legislation.

Also, it is also going to be very important to coordinate the work of the various Federal agencies involved in this effort. The FEA has been given the responsibility under the Energy Responsibility and Conservation Act for a State program disseminating conservation information, as well as ERDA's activities in this field.

The Energy Extension Service can utilize the agricultural extension services and the various kinds of private and State agencies that already exist so as to get this information effectively out to the average person in every kind of activity within our country. This will help us to achieve energy independence in a way that will involve no large investment, public or private, and will involve no pollution of our air or water. It will move us very substantially forward toward energy independence and toward realizing energy conservation savings by all consumers.

I strongly urge passage of the bill.

Mr. McCORMACK. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, in closing debate on this subject, I want to comment that the House has considered many energy bills in the last 3 years, such as the ERDA authorization and appropriation bills, developing long-range energy programs and policies. We have considered solar energy and geothermal energy legislation, electric car research, development and demonstration programs, and the vehicle propulsion research and demonstration programs.

However, I agree with the gentleman from California (Mr. BROWN) that this is one of the most important energy bills that has ever come before this Congress. I think it is one of the most important steps in developing our energy policies. If this bill is enacted into law, our preliminary research indicates that we can save as much as 17 percent of this Nation's energy consumption, compared to what we would otherwise consume by the year 2000. If we can make that reduction of 17 percent, it will reduce our energy consumption from 82 million barrels a day to 68 million barrels a day, saving 14 million barrels a day. At only $12 a barrel, this will be the equivalent of $61 billion a year in savings, consuming energy which we will, hopefully, not need.

That is what this bill is about is how to reduce energy consumption in this Nation, with every person in this country participating, without lowering their standard of living or reducing employment.

I want to congratulate the gentleman from Arkansas (Mr. THORNTON) for his leadership on this legislation, and thank the chairman of the full Commitee on Science and Technology, the gentleman from Texas (Mr. TEAGUE), as well as the ranking minority member, the gentleman from California (Mr. GOLDWATER), on this legislation.

Mr. Speaker, I have no further requests for time.

Mr. MOSHER. Mr. Speaker, I support the passage of H.R. 13676, the National Energy Extension Service Act of 1976.

The Energy Extension Service Act is based on the recognition that the distribution and dissemination of energy technology is as important as the advancement of energy technology itself.

While the Federal Government has fostered many significant technological achievements, it thus far has largely overlooked the necessity of providing comparable leadership to insure that we obtain the maximum return on our technology investment.

Technology that does not reach out past the laboratory or library is wasted technology.

H.R. 13676 seeks to establish a comprehensive and streamlined system to upgrade the ability of State and local governments to conserve energy. The program will focus on the identification, development, and demonstration of energy conserving practices and equipment. It will include technical assistance, instruction, and practical demonstrations related to energy conservation as well as an active interface with end use energy consumers at the local level. Thus, the program has a tone of positive outreach.

The bill enumerates the basic guidelines which the Director of the Energy Extension Service must follow in implementing the program. The Governor of each State will be invited to submit an energy extension service activity plan for his State. The guidelines for the State plans will stress flexibiilty and coordination. The objective is to assist each State in tailoring a plan best suited to its particular circumstances rather than impose a monolithic national plan. The act emphasizes that the State plan should be prepared with input from county and local officials, universities and community colleges, community service agencies, and other interested groups. This assures that a State plan will be based on a broad range of input and consensus.

An important feature of the bill is its provision for local offices to help implement the program. Experience has shown that the presence of qualified personnel on the local scene is a significant benefit. The two-way communication which this permits is far superior to any mass media advertising technique. Evidence of the success of local contact is found in the Department of Agriculture's Cooperative Extension Service. This Service has proven very fruitful over the years in assisting farmers to increase their productivity.

The committee recognized that the States have initiated energy conservation activities in varying degrees. The bill is designed to complement existing State programs. For example, many State universities and community colleges have programs which could serve as the nucleus of the Federal program. As stated above, these institutions are encouraged to participate in the development of their respective States' energy extension service plans to be submitted by the Governor.

The committee was impressed with the innovation and enthusiasm of many of the witnesses representing State energy agencies. It is our intention that the funding made available by this bill enhance and reinforce these pioneering State efforts rather than result in any diversion of attention merely because H.R. 13676 may happen to provide financial assistance opportunities in areas not now being pursued in a particular region.

The Energy Extension Service is not intended to become involved in sophisticated or complex procedures which are only indirectly related to actual energy conservation. For example, a detailed analysis of Federal and State tax incentives is not within this program's ambit. Other Federal and State programs are better suited to address such topics. The Energy Extension Service is meant to act more as a coordinator, a catalyst and clearinghouse for energy technology at the grassroots level.

A logical and necessary collateral mission of the service is to coordinate with the many Federal agencies already carrying on energy programs. The Federal effort should have a minimum of duplication and a maximum of consistency. The public can easily become confused and disenchanted by a multiplicity of Federal programs which are ostensibly fragmented. The bill directs all Federal agencies to cooperate with the service in coordinating information dissemination. At the same time, the committee recoginizes that the various agencies have their own missions and judgments. Accordingly, ERDA should not be placed in the position of second-guessing her sister agencies and perhaps generating interagency antagonisms.

The funding for each State will be determined on a formula basis. The formula specifies that one-half of any appropriated funds will be divided equally among the States and one-half will be divided on the basis of population. The bill also contains a restriction that no more than 5 percent of the total funding will be available for administrative program support within ERDA.

Mr. Speaker, I believe that the Energy Extension Service established in H.R. 13676 will make a valuable contribution in assisting every citizen in every State to do his share in conserving energy. The American public genuinely seeks to do its part in restoring resource responsibility. H.R. 13676 will permit the achievement of this goal.

Mr. TEAGUE. Mr. Speaker, H.R. 13676, the National Energy Extension Service Act of 1976, is a major component of the efforts of the 94th Congress to promote energy conservation measures in all sectors of our economy in ways which maintain or improve our national standard of living. The Arab oil embargo and all of its ominous implications have marked the end of an era in America's history. The fantasy of a United States of unlimited resources is over forever and with it the end of long established patterns of extravagant use. By virtue of our size and the endowment of our many and varied resources we have been able to use timber, water, oil and natural gas for two centuries without ever imagining that they would someday be depleted. But finite is a word we have suddenly had to accept.

Other nations, less fortunate than America, have recognized earlier the limitation of their resources and have for some time practiced the basic precepts of conservation. This has not altered their ability to maintain high standards of living and correspondingly high employment levels.

In fact, a recent study conducted by an energy information specialist at the University of California at Berkeley, revealed that Sweden, which has virtually the same per capita gross national product as the United States, uses 45 percent less energy than America. The study, which was partly funded by the Energy Research and Development Administration—ERDA—concluded that a considerable portion of this lower energy consumption per capita is directly attributed to Sweden's more efficient use of its energy.

This is a substantial confirmation that, as a nation, we can conserve energy and still maintain the stability of our economy and our present standard of living. If we adopt various changes our basic economic vitality can prevail without injury, while our attitudes and lifestyles can be altered to prevent waste.

To carry out this philosophy the Congress has proposed legislation to create an Energy Extension Service which will help the consumer and small businessman to obtain information on all aspects of conservation, including new technologies such as solar heating and cooling.

The Committee on Science and Technology has been ably assisted in developing the concept of an Energy Extension Service by Dr. John Calhoun, vice president on academic Affairs at Texas A. & M. Although the committee has felt ERDA should more aggressively work toward implementation of the Service, progress to date has surely not been commensurate with the high priority established for the concept by the committee last year.

The Senate Committee on Interior and Insular Affairs has proposed an identical program in its companion ERDA authorization bill of fiscal year 1977. I wish to acknowledge the strong leadership of Senator Bentsen in helping to gain speedy initiation of this program.

The Senate committee's proposal included both funding authorization for $15 million and a statutory provision for the specific program procedures to be implemented during 1977.

We all use energy in hundreds of ways from electric toasters to the furnaces that heat our homes. This energy multiplied by the number of homes, offices, and farms we maintain, equals about 40 percent of the total energy consumption of this Nation.

H.R. 13676, the National Energy Extension Service Act of 1976, will have a significant impact on the use of this energy while also providing ERDA with a technical feedback system of the changing public needs at the local level.

The American taxpayer has often been critical and suspicious of tax dollars spent on sophisticated research which may never filter down to benefit him as a consumer, merchant, or farmer. The Energy Extension Service is designed to help just these individuals to obtain information to utilize this research and conserve energy in their particular environments, often at minimal costs that will, in the long view, save them money.

It is not sufficient to establish research and development programs for new energy technologies. These technologies cannot be considered successful until they are applied on a nationwide basis and the Energy Extension Service could provide this critical link between the experts and the users in much the same way that the present Agricultural Extension Service has fulfilled the needs in agriculture. The Service could also remove some of the other barriers which impede the adoption of energy-conserving technologies including not only lack of information on available technologies but also lack of information to assess costs and benefits, users' aversion to risk and many other contributing factors.

This new National Energy Extension Service created by H.R. 13676 will be a person-to-person outreach effort to advise all of us on subjects as diverse as proper home insulation or how to install a solar heating and cooling system.

Although the National Energy Extension Service will originate in ERDA's conservation program it will actually operate through existing local and State government mechanisms to eliminate the involved process of working through a distant and complete Federal agency. I can think of no more logical way to help Americans help themselves and their Nation conserve its precious energy resources.

Mr. Speaker, I want to praise the efforts of Congressman Mike McCormack, chairman of the Subcommittee on Energy Research, Development and Demonstration, and Congressman Ray Thornton for their leadership on and careful guidance of this legislation.

Mr. LLOYD. Mr. Speaker, I wish to recommend to the House H.R. 13676, the National Energy Extension Service Act of 1976, which will assist individual consumers and small business concerns in learning about and adopting energy conservation opportunities.

This act will provide for direct contact between these energy consumers and knowledgeable persons, including many from our universities and colleges.

The success of this approach has already been demonstrated on a local scale in several parts of the Nation, including my own district in Tennessee, where field experience has validated the concept of an energy extension service.

At the University of Tennessee at Knoxville, with the support of the National Bureau of Standards, an in-depth study was carried out on the problem of transferring energy conservation technology to small- and intermediate-size firms.

The Subcommittee on Energy Research, Development and Demonstration of the House Committee on Science and Technology received testimony about this problem from Prof. William T. Snyder, chairman of the Department of Engineering Science and Mechanics at the University of Tennessee at Knoxville.

Three small industries in my State were visited for several days by a group of engineers who conducted a detailed energy audit to determine exactly how these firms use energy.

From this information a very comprehensive list of energy conservation opportunities was developed. Some recommendations dealt with normal operations—opportunities such as turning off equipment during breaks and lunch periods. Some recommendations involved process changes or new retrofit equipment. These involved capital expenditures that would be repaid by reductions in energy bills. Others involved changes that looked promising but would require additional study before it could be established whether or not they were feasible.

A large industry can afford to hire consultants to carry out such a search for energy conservation opportunities. It may even have the in-house technical competence to do so. But a small firm or an individual energy consumer may need outside help.

Professor Snyder testified that "the need for technical assistance to small firms on energy conservation is great and the receptivity of companies to receiving such assistance is high."

In fact, the university has not been able to accommodate all the firms that have requested such assistance.

A model for the energy extension service is the agricultural extension service, which has for many years provided comparable assistance to farmers. The agricultural service has worked closely with our fine universities to identify and solve the farmers' problems and get information about the solutions out into the field.

Energy conservation is not something that can be accomplished by meetings in air-conditioned auditoriums, or by a barrage of fancy brochures, or by a plethora of general guidelines.

It has to be accomplished by direct outreach programs—getting out into the field and collecting hard data and taking a good look at how the energy is actually being used. One firm may make significant dollar savings by careful attention to its lighting system, but another may use so little energy for lighting that it can ignore that aspect.

Our university personnel, such as Professor Snyder and his associates, have the knowledge and the ability to help small businesses conserve energy. They have proved it can be done. The National Energy Extension Service Act of 1976 will provide the funds and mechanisms for them, and universities throughout the Nation, to do it.

The net result will be energy conservation, dollar conservation, and job conservation.

I want to commend Mr. Thornton for his efforts to create the National Energy Extension Service.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Washington, Mr. McCormack that the House suspend the rules and pass the bill H.R. 13676.

Mr. McCORMACK. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 3 of rule XXVII, and the Chair's prior announcement, further proceedings on this motion will be postponed.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Debate has been concluded on all motions to suspend the rules.

Pursuant to the provisions of clause 3 of rule XXVII, the Chair will now put the question on each motion, on which further proceedings were postponed, in the order in which that motion was entertained.

The votes will be taken in the following order: H.R. 12882, H.R. 10546, H.R. 14566, H.R. 14360, H.R. 13489, H.R. 14580, H.R. 3605, H.R. 14469, and H.R. 13676.

The Chair will reduce to 5 minutes the time for any electronic votes after the first such vote in this series.

CIVIL SERVICE ANNUITIES FOR JUDGES

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill H.R. 12882, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from North Carolina (Mr. HENDERSON) that the House suspend the rules and pass the bill H.R. 12882, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 238, nays 143, answered "present" 1, not voting 50, as follows:

[Roll No. 581]

YEAS—238

Abdnor
Adams
Ambro
Anderson, Ill.
Andrews, N. Dak.
Annunzio
Archer
Armstrong
Ashbrook
Ashley
Aspin
Baucus
Bauman
Beard, Tenn.
Bedell
Bennett
Bergland
Bevill
Biester
Blouin
Boggs
Bonker
Brademas
Breaux
Breckinridge
Brooks
Broomfield
Brown, Ohio
Broyhill
Buchanan
Burgener
Burleson, Tex.
Burlison, Mo.
Cederberg
Clancy
Clausen, Don H.
Clawson, Del
Cochran
Cohen
Collins, Tex.
Conable
Corman
Cornell
Cotter
Coughlin
Crane
Daniel, Dan
Danielson
Derrick
Derwinski
Devine
Dickinson
Dodd
Downing, Va.
Drinan
Duncan, Oreg.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Emery
English
Evans, Colo.
Fary
Fascell
Fenwick
Fish
Fithian
Flowers
Foley
Forsythe
Fraser
Frenzel
Frey
Fuqua
Giaimo
Gibbons
Goldwater
Goodling
Gradison
Grassley
Guyer
Haley
Hall, Ill.
Hamilton
Hammerschmidt
Harkin
Harrington
Hayes, Ind.
Hays, Ohio
Hébert
Hechler, W. Va.
Henderson
Hightower
Horton
Howe
Hungate
Hutchinson
Ichord
Jacobs
Jarman
Jeffords
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, Ala.
Kasten
Kelly
Kemp
Ketchum
Keys
Kindness
LaFalce
Landrum
Latta
Leggett
Lent
Levitas
Long, La.
Long, Md.
Lundine
McClory
McCloskey
McCollister
McCormack
McDonald
McEwen
McFall
McHugh
McKay
McKinney
Madigan
Maguire
Mahon
Mann
Martin
Mathis
Mazzoli
Meeds
Melcher
Mezvinsky
Michel
Mikva
Milford
Miller, Ohio
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Morgan
Mosher
Moss
Mottl
Murphy, Ill.
Myers, Ind.
Myers, Pa.
Nedzi
Nichols
Nowak
Oberstar
Obey
O'Brien
Ottinger
Patterson, Calif.
Pattison, N.Y.
Paul
Pettis
Pickle
Poage
Pressler
Preyer
Price
Pritchard
Quie
Railsback
Rees
Regula
Reuss
Rhodes
Robinson
Rodino
Roncalio
Rostenkowski
Roush
Rousselot
Roybal
Runnels
Ruppe
Ryan
Sarasin
Satterfield
Scheuer
Schneebeli
Schroeder
Sebelius
Seiberling
Sharp
Shipley
Shuster
Simon
Sisk
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Spence
Staggers
Stanton, J. William
Stanton, James V.
Steiger, Wis.
Stratton
Stuckey
Symms
Talcott
Taylor, Mo.
Taylor, N.C.
Teague
Thone
Thornton
Treen
Ullman
Vander Jagt
Vanik
Walsh
Wampler
Whalen
White
Whitten
Wiggins
Wilson, Tex.
Winn
Wirth
Wylie
Yates
Zablocki

NAYS—143

Addabbo
Allen
Anderson, Calif.
Andrews, N.C.
Badillo
Bafalis
Baldus
Biaggi
Bingham
Blanchard
Boland
Bowen
Brinkley
Brodhead
Brown, Calif.
Brown, Mich.
Burke, Fla.
Burke, Mass.
Burton, John
Burton, Phillip
Byron
Carney
Carr
Carter
Chappell
Chisholm
Cleveland
Collins, Ill.
Conte
D'Amours
Daniel, R. W.
Davis
de la Garza
Delaney
Dellums
Dent
Dingell
Downey, N.Y.
Duncan, Tenn.
Eilberg
Fisher
Flood
Florio
Gaydos
Gilman
Ginn
Gonzalez
Gude
Hall, Tex.
Hanley
Hannaford
Harris
Harsha
Hawkins
Heckler, Mass.
Hefner
Heinz
Helstoski
Hicks
Hillis
Holt
Holtzman
Howard
Hubbard
Hughes
Hyde
Jenrette
Jones, N.C.
Jones, Okla.
Jordan
Kastenmeier
Kazen
Koch
Krebs
Krueger
Lagomarsino
Lloyd, Tenn.
Lott
Lujan
McDade
Madden
Metcalfe
Meyner
Miller, Calif.
Mills
Mineta
Minish
Mink
Mitchell, Md.
Mitchell, N.Y.
Moakley
Murtha
Natcher
Nix
Nolan
O'Neill
Patten, N.J.
Perkins
Pike
Quillen
Rangel
Richmond
Rinaldo
Roberts
Roe
Rogers
Rooney
Rose
Rosenthal
Russo
St Germain
Santini
Sarbanes
Schulze
Shriver
Sikes
Solarz
Spellman
Stark
Steed
Stephens
Stokes
Studds
Thompson
Traxler
Tsongas
Udall
Van Deerlin
Vigorito
Waggonner
Waxman
Weaver
Whitehurst
Wilson, Bob
Wilson, C. H.
Wolff
Wright
Wydler
Yatron
Young, Alaska
Young, Fla.
Young, Tex.
Zeferetti

ANSWERED "PRESENT"—1

Lloyd, Calif.

NOT VOTING—50

Abzug
Alexander
AuCoin
Beard, R.I.
Bell
Bolling
Burke, Calif.
Butler
Clay
Conlan
Conyers
Daniels, N.J.
Diggs
du Pont
Erlenborn
Esch
Eshleman
Evans, Ind.
Evins, Tenn.
Findley
Flynt
Ford, Mich.
Ford, Tenn.
Fountain
Green
Hagedorn
Hansen
Hinshaw
Holland
Jones, Tenn.
Karth
Lehman
Litton
Matsunaga
Murphy, N.Y.
Neal
O'Hara
Passman
Pepper
Peyser
Randall
Riegle
Risenhoover
Skubitz
Steelman
Steiger, Ariz.
Sullivan
Symington
Vander Veen
Young, Ga.

The Clerk announced the following pairs:

On this vote:

Mr. Dominick V. Daniels and Mr. Pepper for, with Mr. Ford of Michigan against.

Mr. Fountain and Mr. Flynt for, with Mr. Lehman against.

Mr. du Pont and Mr. Bell for, with Ms. Abzug against.

Until further notice:

Mr. Alexander with Mr. Holland.
Mr. Green with Mr. Evins of Tennessee.
Mr. Murphy of New York with Mr. O'Hara.
Mr. Vander Veen with Mr. Matsunaga.
Mr. Young of Georgia with Mr. Randall.
Mr. AuCoin with Mr. Risenhoover.
Mr. Clay with Mr. Riegle.
Mr. Conyers with Mr. Karth.
Mr. Diggs with Mrs. Sullivan.
Mr. Evans of Indiana with Mr. Conlan.
Mr. Ford of Tennessee with Mr. Esch.
Mr. Jones of Tennessee with Mr. Eshleman.
Mr. Litton with Mr. Findley.
Mr. Passman with Mr. Hagedorn.
Mr. Neal with Mr. Hansen.
Mr. Beard of Rhode Island with Mr. Peyser.
Mrs. Burke of California with Mr. Steelman.
Mr. Butler with Mr. Skubitz.
Mr. Erlenborn with Mr. Steiger of Arizona.

Messrs. CARNEY, ALLEN, JONES of Oklahoma, WRIGHT, MADDEN, Mrs. COLLINS of Illinois, and Messrs. KOCH, BINGHAM, and BALDUS changed their vote from "yea" to "nay."

Messrs. RYAN, HORTON, WALSH, and MAGUIRE changed their vote from "nay" to "yea."

So (two-thirds not having voted in favor thereof) the motion was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. LLOYD of California. Mr. Speaker, today I voted "Present" on the bill to delete the 1-percent kicker on Government pension cost-of-living increases. It was necessary for me to do this since I am a retired naval officer who could potentially benefit from the legislation. I do want to reaffirm my belief in the Federal Government keeping its promises and commitments to our active and retired servicemen, and my support for cost-of-living adjustments. I believe as strongly, however, that any possible conflict of interest should be avoided to insure the integrity of elected representatives.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 3(b)(3), rule XXVII, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device may be taken on all the additional motions to suspend the rules on which the Chair has postponed further proceedings.

BOUNDARY WATERS CANOE AREA, MINNESOTA

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill H.R. 10546, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Washington (Mr. FOLEY) that the House suspend the rules and pass the bill H.R. 10546, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 375, nays 5, not voting 52, as follows:

[Roll No. 582]

YEAS—375

Abdnor
Adams
Addabbo
Allen
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Archer
Armstrong
Ashbrook
Ashley
Aspin
Badillo
Bafalis
Baldus
Baucus
Bauman
Beard, Tenn.
Bedell
Bennett
Bergland
Bevill
Biaggi
Biester
Bingham
Blanchard
Blouin
Boggs
Boland
Bonker
Bowen
Brademas
Breaux
Breckinridge
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton, John
Burton, Phillip
Byron
Carney
Carr
Carter
Cederberg
Chappell
Chisholm
Clancy
Clausen, Don H.
Clawson, Del
Cleveland
Cochran
Cohen
Collins, Ill.
Collins, Tex.
Conable
Conte
Corman
Cornell
Cotter
Coughlin
Crane
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Davis
de la Garza
Delaney
Dellums
Dent
Derrick
Derwinski
Devine
Dickinson
Dingell
Dodd
Downey, N.Y.
Downing, Va.
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Eilberg
Emery
English
Evans, Colo.
Fary
Fascell
Fenwick
Fish
Fisher
Fithian
Flood
Florio
Flowers
Foley
Forsythe
Fraser
Frenzel
Frey
Fuqua
Gaydos
Giaimo
Gibbons
Gilman
Ginn
Goldwater
Gonzalez
Gradison
Grassley
Gude
Guyer
Haley
Hall, Ill.
Hall, Tex.
Hamilton
Hammerschmidt
Hanley
Hannaford
Harkin
Harrington
Harris
Harsha
Hawkins
Hayes, Ind.
Hays, Ohio
Hébert
Hechler, W. Va.
Heckler, Mass.
Hefner
Heinz
Helstoski
Henderson
Hicks
Hightower
Hillis
Holt
Holtzman
Horton
Howard
Howe
Hubbard
Hughes
Hungate
Hutchinson
Hyde
Ichord
Jacobs
Jarman
Jeffords
Jenrette
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Jordan
Kasten
Kastenmeier
Kazen
Kelly
Kemp
Ketchum
Keys
Kindness
Koch
Krebs
Krueger
LaFalce
Lagomarsino
Landrum
Latta
Leggett
Lent
Levitas
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lujan
Lundine
McClory
McCloskey
McCollister
McCormack
McDade
McEwen
McFall
McHugh
McKay
McKinney
Madden
Madigan
Maguire
Mahon
Mann
Mathis
Mazzoli
Meeds
Melcher
Metcalfe
Meyner
Mezvinsky
Michel
Mikva
Milford
Miller, Calif.
Miller, Ohio
Mills
Mineta
Minish
Mink
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Morgan
Mosher
Moss
Mottl
Murphy, Ill.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Nedzi
Nichols
Nix
Nolan
Nowak
Oberstar
Obey
O'Brien
O'Neill
Ottinger
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Perkins
Pettis
Pickle
Pike
Poage
Pressler
Preyer
Price
Pritchard
Quie
Quillen
Railsback
Rangel
Rees
Regula
Reuss
Rhodes
Richmond
Rinaldo
Roberts
Rodino
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Roush
Roybal
Runnels
Ruppe
Russo
Ryan
St Germain
Santini
Sarasin
Sarbanes
Satterfield
Scheuer
Schneebeli
Schroeder
Schulze
Sebelius
Seiberling
Sharp
Shipley
Shriver
Shuster
Sikes
Simon
Sisk
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Spellman
Spence
Staggers
Stanton, J. William
Stanton, James V.
Stark
Steed
Steiger, Wis.
Stephens
Stokes
Stratton
Stuckey
Studds
Symms
Talcott
Taylor, Mo.
Taylor, N.C.
Teague
Thompson
Thone
Thornton
Traxler
Treen
Tsongas
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vigorito
Waggonner
Walsh
Wampler
Waxman
Weaver
Whalen
White
Whitehurst
Whitten
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wolff
Wright
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Tex.
Zablocki
Zeferetti

NAYS—5

Goodling
McDonald
Martin
Paul
Rousselot

NOT VOTING—52

Abzug
Alexander
AuCoin
Beard, R.I.
Bell
Bolling
Burke, Calif.
Butler
Clay
Conlan
Conyers
Daniels, N.J.
Diggs
du Pont
Erlenborn
Esch
Eshleman
Evans, Ind.
Evins, Tenn.
Findley
Flynt
Ford, Mich.
Ford, Tenn.
Fountain
Green
Hagedorn
Hansen
Hinshaw
Holland
Jones, Tenn.
Karth
Lehman
Litton
Matsunaga
Murphy, N.Y.
Neal
O'Hara
Passman
Pepper
Peyser
Randall
Riegle
Risenhoover
Robinson
Skubitz
Steelman
Steiger, Ariz.
Sullivan
Symington
Vander Veen
Wiggins
Young, Ga.

The Clerk announced the following pairs:

Mr. Jones of Tennessee with Mr. Holland.

Mr. Dominick V. Daniels with Mr. Evans of Indiana.

Mr. Pepper with Mr. O'Hara.

Mr. Fountain with Mr. Randall.

Mr. Flynt with Mr. Risenhoover.

Mr. Ford of Michigan with Mr. Riegle.

Ms. Abzug with Mr. Karth.

Mr. Lehman with Mrs. Sullivan.

Mr. Ford of Tennessee with Mr. Conlan.

Mr. Green with Mr. Esch.

Mr. Alexander with Mr. Eshleman.

Mr. Murphy of New York with Mr. Findley.

Mr. Vander Veen with Mr. Hagedorn.

Mr. AuCoin with Mr. Hansen.

Mr. Clay with Mr. Peyser.

Mr. Conyers with Mr. Skubitz.

Mr. Diggs with Mr. Steiger of Arizona.

Mr. Litton with Mr. Butler.

Mr. Passman with Mr. Erlenborn.

Mr. Matsunaga with Mr. du Pont.

Mr. Beard of Rhode Island with Mrs. Burke of California.

Mr. Symington with Mr. Bell.

Mr. Young of Georgia with Mr. Robinson.

Mr. Wiggins with Mr. Evins of Tennessee.

Mr. Neal with Mr. Steelman.

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that the Committee on Interior and Insular Affairs be discharged from further consideration of a similar Senate bill—S.1526—to make additional funds available for purposes of certain public lands in northern Minnesota, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore (Mr. McFALL). Is there objection to the request of the gentleman from Washington?

There was no objection.

The Clerk read the Senate bill as follows:

S. 1526

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 6 of the Act of June 22, 1948 (62 Stat. 568, as amended; 16 U.S.C. 577h), is amended to read as follows:

"SEC. 6. (a) There are authorized to be appropriated annually such sums as are necessary to implement this Act: *Provided,* That the total appropriations under the authority of this Act shall not exceed $9,000,000 for the purchase and condemnation of lands, water, or interests therein, and that funds made available through the provisions of the Land and Water Conservation Fund Act (78 Stat. 897), as amended, may also be used for such acquisitions: *Provided further,* That such appropriations may be used for the payment of court judgments in condemnation actions brought under authority of this Act without regard to the date such actions were initially instituted.

"(b) Not later than March 1 of each year 1977 through 1980, the Secretary of Agriculture shall submit to the Congress a report concerning the acquisition of lands or interests in lands under this Act. The final report of the Secretary shall specify whether additional authorizations or appropriations are necessary to carry out the purposes of this Act.".

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House bill (H.R. 10546) was laid on the table.

FREESTONE PEACH RESEARCH AND EDUCATION ACT OF 1976

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill H.R. 14566.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Pennsylvania (Mr. VIGORITO) that the House suspend the rules and pass the bill H.R. 14566, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 105, nays 276, answered "present" 1, not voting 50, as follows:

[Roll No. 583]

YEAS—105

Abdnor
Andrews, N.C.
Andrews, N. Dak.
Baldus
Bauman
Bedell
Bergland
Blouin
Bowen
Breckinridge
Brinkley
Brooks
Brown, Calif.
Buchanan
Burlison, Mo.
Carter
Cochran
D'Amours
de la Garza
Dent
Dickinson
Duncan, Oreg.
Edwards, Calif.
Eilberg
English
Evans, Colo.
Fary
Fascell
Fithian
Florio
Foley
Forsythe
Gaydos
Gonzalez
Goodling
Grassley
Gude
Hamilton
Harkin
Harsha
Hays, Ohio
Hébert
Helstoski
Henderson
Hicks
Hightower
Hillis
Hungate
Jeffords
Johnson, Calif.
Johnson, Colo.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Jordan
Krebs
Krueger
Leggett
Lundine
McCollister
McCormack
McFall
McHugh
Mahon
Mathis
Meeds
Metcalfe
Mills
Mineta
Mollohan
Moore
Moorhead, Pa.
Morgan
Mottl
Murtha
Myers, Ind.
Oberstar
Obey
O'Brien
O'Neill
Patten, N.J.
Pickle
Poage
Pritchard
Roberts
Robinson
Roncalio
Rostenkowski
Ryan
Schneebeli
Sebelius
Shipley
Shuster
Sikes
Sisk
Smith, Nebr.
Staggers
Steed
Taylor, N.C.
Thone
Vigorito
Wampler
Weaver
Wylie
Zablocki

NAYS—276

Adams
Addabbo
Allen
Ambro
Anderson, Calif.
Anderson, Ill.
Annunzio
Archer
Armstrong
Ashbrook
Ashley
Aspin
Badillo
Bafalis
Baucus
Beard, Tenn.
Bennett
Bevill
Biaggi
Biester
Bingham
Blanchard
Boggs
Boland
Bonker
Brademas
Breaux
Brodhead
Broomfield
Brown, Mich.
Brown, Ohio
Broyhill
Burgener
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burton, John
Burton, Phillip
Byron
Carney
Carr
Cederberg
Chappell
Chisholm
Clancy
Clausen, Don H.
Clawson, Del
Cleveland
Cohen
Collins, Ill.
Collins, Tex.
Conable
Conte
Corman
Cornell
Cotter
Coughlin
Crane
Daniel, Dan
Daniel, R. W.
Danielson
Davis
Delaney
Dellums
Derrick
Derwinski
Devine
Dingell
Dodd
Downey, N.Y.
Downing, Va.
Drinan
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Emery
Fenwick
Fish
Fisher
Flood
Flowers
Fraser
Frenzel
Frey
Fuqua
Giaimo
Gibbons
Gilman
Ginn
Goldwater
Gradison
Guyer
Haley
Hall, Ill.
Hall, Tex.
Hammerschmidt
Hanley
Hannaford
Harrington
Harris
Hawkins
Hayes, Ind.
Hechler, W. Va.
Heckler, Mass.
Hefner
Heinz
Holt
Holtzman
Horton
Howard
Howe
Hubbard
Hughes
Hutchinson
Hyde
Ichord
Jacobs
Jarman
Jenrette
Johnson, Pa.
Kasten
Kastenmeier
Kazen
Kelly
Kemp
Ketchum
Keys
Kindness
Koch
LaFalce
Lagomarsino
Landrum
Latta
Lent
Levitas
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lujan
McClory
McCloskey
McDade
McDonald
McEwen
McKay
McKinney
Madden
Madigan
Maguire
Mann
Martin
Mazzoli
Melcher
Meyner
Mezvinsky
Michel
Mikva
Milford
Miller, Calif.
Miller, Ohio
Minish
Mink
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Montgomery
Moorhead, Calif.
Mosher
Moss
Murphy, Ill.
Myers, Pa.
Natcher
Nedzi
Nichols
Nix
Nolan
Nowak
Ottinger
Patterson, Calif.
Pattison, N.Y.
Paul
Perkins
Pettis
Pike
Pressler
Preyer
Price
Quie
Quillen
Railsback
Rangel
Rees
Regula
Reuss
Rhodes
Richmond
Rinaldo
Rodino
Roe
Rogers
Rooney
Rose
Rosenthal
Roush
Rousselot
Roybal
Runnels
Ruppe
Russo
St Germain
Santini
Sarasin
Sarbanes
Satterfield
Scheuer
Schroeder
Schulze
Seiberling
Sharp
Shriver
Simon
Slack
Smith, Iowa
Snyder
Solarz
Spellman
Spence
Stanton, J. William
Stanton, James V.
Stark
Steiger, Wis.
Stephens
Stokes
Stratton
Stuckey
Studds
Talcott
Taylor, Mo.
Teague
Thompson
Thornton
Traxler
Treen
Tsongas
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Waggonner
Walsh
Waxman
Whalen
White
Whitehurst
Whitten
Wiggins
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wolff
Wright
Wydler
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Tex.
Zeferetti

ANSWERED "PRESENT"—1

Symms

NOT VOTING—50

Abzug
Alexander
AuCoin
Beard, R.I.
Bell
Bolling
Burke, Calif.
Butler
Clay
Conlan
Conyers
Daniels, N.J.
Diggs
du Pont
Erlenborn
Esch
Eshleman
Evans, Ind.
Evins, Tenn.
Findley
Flynt
Ford, Mich.
Ford, Tenn.
Fountain
Green
Hagedorn
Hansen
Hinshaw
Holland
Jones, Tenn.
Karth
Lehman
Litton
Matsunaga
Murphy, N.Y.
Neal
O'Hara
Passman
Pepper
Peyser
Randall
Riegle
Risenhoover
Skubitz
Steelman
Steiger, Ariz.
Sullivan
Symington
Vander Veen
Young, Ga.

The Clerk announced the following pairs:

Mr. Jones of Tennessee with Mr. Karth.

Ms. Abzug with Mr. Green.

Mr. Alexander with Mr. Evins of Tennessee.

Mr. AuCoin with Mr. O'Hara.

Mr. Beard of Rhode Island with Mr. Peyser.

Mr. Dominick V. Daniels with Mr. Esch.

Mr. Diggs with Mr. Randall.

Mr. Evans of Indiana with Mr. du Pont.

Mr. Flynt with Mr. Bell.

Mr. Ford of Michigan with Mr. Eshleman.

Mr. Ford of Tennessee with Mr. Matsunaga.

Mr. Fountain with Mr. Skubitz.

Mr. Holland with Mr. Conlan.

Mr. Lehman with Mr. Steelman.

Mr. Litton with Mrs. Sullivan.

Mr. Murphy of New York with Mr. Hagedorn.

Mr. Neal with Mr. Erlenborn.

Mr. Passman with Mr. Hansen.

Mr. Pepper with Mr. Riegle.

Mr. Risenhoover with Mr. Findley.

Mr. Vander Veen with Mr. Steiger of Arizona.

Mr. Young of Georgia with Mr. Symington.

Mrs. Burke of California with Mr. Conyers.

Mr. Butler with Mr. Clay.

Messrs. SIMON, SCHEUER, SATTERFIELD, and HALEY changed their vote from "yea" to "nay."

So (two-thirds not having voted in favor thereof) the motion was rejected.

The result of the vote was announced as above recorded.

JOHN F. KENNEDY CENTER ACT AMENDMENTS

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill H.R. 14360, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Georgia (Mr. GINN) that the House suspend the rules and pass the bill, H.R. 14360, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 260, nays 121, not voting 51, as follows:

[Roll No. 584]

YEAS—260

Abdnor
Adams
Addabbo
Allen
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Annunzio
Armstrong
Badillo
Baldus
Bedell
Bennett
Bergland
Biaggi
Biester
Bingham
Blanchard
Blouin
Boggs
Boland
Bonker
Bowen
Brademas
Breaux
Breckinridge
Brinkley
Brodhead
Brooks
Brown, Calif.
Broyhill
Burke, Mass.
Burlison, Mo.
Burton, John
Burton, Phillip
Byron
Carr
Carter
Cederberg
Chappell
Chisholm
Clausen, Don H.
Cleveland
Cochran
Cohen
Collins, Ill.
Conte
Corman
Cornell
Cotter
D'Amours
Danielson
Davis
de la Garza
Delaney
Dellums
Derrick
Derwinski
Dingell
Dodd
Downey, N.Y.
Drinan
Early
Edgar
Edwards, Ala.
Edwards, Calif.
Eilberg
Emery
Fary
Fascell
Fish
Fisher
Flood
Flowers
Foley
Forsythe
Fraser
Frenzel
Fuqua
Giaimo
Gibbons
Ginn
Goldwater
Gonzalez
Gradison
Gude
Hall, Ill.
Hamilton
Hanley
Hannaford
Harkin
Harrington
Harris
Harsha
Hawkins
Hayes, Ind.
Hays, Ohio
Hébert
Hechler, W. Va.
Heckler, Mass.
Hefner
Helstoski
Henderson
Hicks
Hightower
Hillis
Horton
Howard
Howe
Hungate
Jarman
Jeffords
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Jordan
Kasten
Kastenmeier
Kazen
Keys
Krueger
Landrum
Leggett
Levitas
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
McClory
McCloskey
McCormack
McDade
McEwen
McFall
McKay
McKinney
Madden
Madigan
Maguire
Mann
Mathis
Mazzoli
Meeds
Melcher
Metcalfe
Meyner
Mezvinsky
Mikva
Milford
Miller, Calif.
Mills
Mineta
Minish
Mink
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Moore
Moorhead, Pa.
Morgan
Mosher
Moss
Mottl
Myers, Pa.
Natcher
Nedzi
Nix
Nolan
Nowak
Oberstar
Obey
O'Brien
O'Neill
Ottinger
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Perkins
Pettis
Pickle
Pike
Pressler
Preyer
Price
Pritchard
Quie
Railsback
Rangel
Rees
Reuss
Rhodes
Richmond
Roberts
Rodino
Roe
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Roush
Roybal
Ruppe
Russo
St Germain
Santini
Sarbanes

Scheuer
Schroeder
Sebelius
Sharp
Shipley
Shuster
Sikes
Simon
Sisk
Slack
Smith, Iowa
Spellman
Staggers
Stanton, J. William
Stanton, James V.
Stark
Stephens
Stokes
Stratton
Stuckey
Studds
Taylor, N.C.
Thompson
Thornton
Traxler
Treen
Tsongas
Udall
Ullman
Vander Jagt
Vanik
Vigorito
Walsh
Waxman
Weaver
Whalen
Whitten
Wiggins
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Wirth
Wolff
Wright
Young, Tex.
Zablocki
Zeferetti

NAYS—121

Andrews, N. Dak.
Archer
Ashbrook
Ashley
Aspin
Bafalis
Baucus
Bauman
Beard, Tenn.
Bevill
Broomfield
Brown, Mich.
Brown, Ohio
Burgener
Burke, Fla.
Burleson, Tex.
Carney
Clancy
Clawson, Del
Collins, Tex.
Conable
Coughlin
Crane
Daniel, Dan
Daniel, R. W.
Dent
Devine
Dickinson
Downing, Va.
Duncan, Oreg.
Duncan, Tenn.
Eckhardt
English
Evans, Colo.
Fenwick
Fithian
Florio
Frey
Gaydos
Gilman
Goodling
Grassley
Guyer
Haley
Hall, Tex.
Hammerschmidt
Heinz
Holt
Holtzman
Hubbard
Hughes
Hutchinson
Hyde
Ichord
Jacobs
Jenrette
Kelly
Kemp
Ketchum
Kindness
Koch
Krebs
LaFalce
Lagomarsino
Latta
Lent
Lott
Lujan
Lundine
McCollister
McDonald
McHugh
Mahon
Martin
Michel
Miller, Ohio
Montgomery
Moorhead, Calif.
Murphy, Ill.
Murtha
Myers, Ind.
Nichols
Paul
Poage
Quillen
Regula
Rinaldo
Robinson
Rogers
Rousselot
Runnels
Ryan
Sarasin
Satterfield
Schneebeli
Schulze
Seiberling
Shriver
Smith, Nebr.
Snyder
Solarz
Spence
Steed
Steiger, Wis.
Symms
Talcott
Taylor, Mo.
Teague
Thone
Van Deerlin
Waggonner
Wampler
White
Whitehurst
Winn
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.

NOT VOTING—51

Abzug
Alexander
AuCoin
Beard, R.I.
Bell
Bolling
Buchanan
Burke, Calif.
Butler
Clay
Conlan
Conyers
Daniels, N.J.
Diggs
du Pont
Erlenborn
Esch
Eshleman
Evans, Ind.
Evins, Tenn.
Findley
Flynt
Ford, Mich.
Ford, Tenn.
Fountain
Green
Hagedorn
Hansen
Hinshaw
Holland
Jones, Tenn.
Karth
Lehman
Litton
Matsunaga
Murphy, N.Y.
Neal
O'Hara
Passman
Pepper
Peyser
Randall
Riegle
Risenhoover
Skubitz
Steelman
Steiger, Ariz.
Sullivan
Symington
Vander Veen
Young, Ga.

The Clerk announced the following pairs:

Ms. Abzug with Mr. Green.

Mr. Jones of Tennessee with Mr. Karth.

Mr. Beard of Rhode Island with Dominick V. Daniels.

Mr. Alexander with Mr. Evins of Tennessee.

Mr. Clay with Mr. du Pont.

Mr. Diggs with Mr. Bell.

Mr. Ford of Michigan with Mr. Erlenborn.

Mrs. Burke of California with Mr. Esch.

Mr. AuCoin with Mr. Conlan.

Mr. Conyers with Mr. Ford of Tennessee.

Mr. Evans of Indiana with Mr. Butler.

Mr. Flynt with Mr. Eshleman.

Mr. Holland with Mr. Findley.

Mr. Lehman with Mr. Hagedorn.

Mr. Passman with Mr. Matsunaga.

Mr. Murphy of New York with Mr. Hansen.

Mr. Fountain with Mr. Litton.

Mr. Pepper with Mr. O'Hara.

Mr. Neal with Mr. Peyser.

Mrs. Sullivan with Mr. Randall.

Mr. Risenhoover with Mr. Steelman.

Mr. Skubitz with Mr. Riegle.

Mr. Young of Georgia with Mr. Steiger of Arizona.

So (two-thirds having voted in favor thereof), the rules were suspended and the bill as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ANTITRUST CIVIL PROCESS ACT AMENDMENTS OF 1976

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill H.R. 13489, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Ohio (Mr. SEIBERLING) that the House suspend the rules and pass the bill H.R. 13489, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 254, nays 127, answered "present" 1, not voting 50, as follows:

[Roll No. 585]

YEAS—254

Adams
Addabbo
Allen
Ambro
Anderson, Calif.
Anderson, Ill.
Annunzio
Ashley
Aspin
Badillo
Baldus
Baucus
Bedell
Bennett
Bergland
Bevill
Biaggi
Biester
Bingham
Blanchard
Blouin
Boggs
Boland
Bonker
Brademas
Breckinridge
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Mich.
Burke, Mass.
Burlison, Mo.
Burton, John
Burton, Phillip
Carney
Carr
Cederberg
Chisholm
Clausen, Don H.
Cleveland
Cochran
Cohen
Collins, Ill.
Conable
Conte
Corman
Cornell
Cotter
D'Amours
Danielson
Davis
de la Garza
Delaney
Dellums
Dent
Derrick
Dingell
Dodd
Downey, N.Y.
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Calif.
Eilberg
English
Evans, Colo.
Fary
Fascell
Fenwick
Fish
Fisher
Fithian
Flood
Flowers
Foley
Fraser
Frenzel
Fuqua
Giaimo
Gibbons
Gilman
Goldwater
Gradison
Grassley
Gude
Haley
Hall, Ill.
Hamilton
Hanley
Hannaford
Harkin
Harrington
Harris
Hawkins
Hayes, Ind.
Hays, Ohio
Hechler, W. Va.
Heckler, Mass.
Heinz
Helstoski
Hicks
Hightower
Holtzman
Horton
Howard
Howe
Hughes
Hungate
Hutchinson
Ichord
Jacobs
Jeffords
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, Ala.
Jordan
Kastenmeier
Kazen
Kelly
Keys
Koch
Krebs
Krueger
LaFalce
Lagomarsino
Lloyd, Calif.
Long, La.
Long, Md.
Lundine
McClory
McCloskey
McCormack
McEwen
McFall
McHugh
McKinney
Madden
Maguire
Mahon
Mann
Mazzoli
Meeds
Metcalfe
Meyner
Mezvinsky
Mikva
Miller, Calif.
Mills
Mineta
Minish
Mink
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Moorhead, Pa.
Morgan
Mosher
Mottl
Murphy, Ill.
Murtha
Nedzi
Nichols
Nix
Nolan
Nowak
Oberstar
Obey
O'Brien
O'Neill
Ottinger
Patterson, Calif.
Pattison, N.Y.
Perkins
Pettis
Pickle
Pike
Poage
Pressler
Preyer
Price
Pritchard
Quie
Railsback
Rangel
Rees
Regula
Reuss
Richmond
Rinaldo
Rodino
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Roush
Roybal
Russo
Ryan
St Germain
Sarasin
Sarbanes
Scheuer
Schroeder
Seiberling
Sharp
Simon
Sisk
Slack
Smith, Iowa
Solarz
Spellman
Stanton, James V.
Stark
Steed
Stokes
Stratton
Studds
Talcott
Teague
Thompson
Thornton
Tsongas
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vigorito
Walsh
Waxman
Weaver
Whalen
White
Whitten
Wiggins
Wilson, C. H.
Wilson, Tex.
Wirth
Wolff
Wright
Yates
Yatron
Young, Tex.
Zablocki
Zeferetti

NAYS—127

Abdnor
Andrews, N.C.
Andrews, N. Dak.
Archer
Armstrong
Ashbrook
Bafalis
Bauman
Beard, Tenn.
Bowen
Breaux
Brinkley
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Fla.
Burleson, Tex.
Byron
Carter
Chappell
Clancy
Clawson, Del
Collins, Tex.
Coughlin
Crane
Daniel, Dan
Daniel, R. W.
Derwinski
Devine
Dickinson
Downing, Va.
Edwards, Ala.
Emery
Florio
Forsythe
Frey
Gaydos
Ginn
Goodling
Guyer
Hall, Tex.
Hammerschmidt
Harsha
Hébert
Hefner
Henderson
Hillis
Holt
Hubbard
Hyde
Jarman
Jenrette
Jones, N.C.
Jones, Okla.
Kasten
Kemp
Ketchum
Kindness
Landrum
Latta
Leggett
Lent
Levitas
Lloyd, Tenn.
Lott
Lujan
McCollister
McDade
McDonald
McKay
Madigan
Martin
Mathis
Melcher
Michel
Milford
Miller, Ohio
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moss
Myers, Ind.
Myers, Pa.
Natcher
Patten, N.J.
Paul
Quillen
Rhodes
Roberts
Robinson
Rousselot
Runnels
Ruppe
Santini
Satterfield
Schneebeli
Schulze
Sebelius
Shipley
Shriver
Shuster
Sikes
Smith, Nebr.
Snyder
Spence
Staggers
Stanton, J. William
Steiger, Wis.
Stephens
Stuckey
Symms
Taylor, Mo.
Taylor, N.C.
Thone
Traxler
Treen
Waggonner
Wampler
Whitehurst
Wilson, Bob
Winn
Wydler
Wylie
Young, Alaska
Young, Fla.

ANSWERED "PRESENT"—1

Gonzalez

NOT VOTING—50

Abzug
Alexander
AuCoin
Beard, R.I.
Bell
Bolling
Burke, Calif.
Butler
Clay
Conlan
Conyers
Daniels, N.J.
Diggs
du Pont
Erlenborn
Esch
Eshleman
Evans, Ind.
Evins, Tenn.
Findley
Flynt
Ford, Mich.
Ford, Tenn.
Fountain
Green
Hagedorn
Hansen
Hinshaw
Holland
Jones, Tenn.
Karth
Lehman
Litton
Matsunaga
Murphy, N.Y.
Neal
O'Hara
Passman
Pepper
Peyser
Randall
Riegle
Risenhoover
Skubitz
Steelman
Steiger, Ariz.
Sullivan
Symington
Vander Veen
Young, Ga.

The Clerk announced the following pairs:

Ms. Abzug with Mr. Green.

Mr. Jones of Tennessee with Mr. Karth.

Mr. Beard of Rhode Island with Mr. Dominick V. Daniels.

Mr. Alexander with Mr. Evins of Tennessee.

Mr. Clay with Mr. du Pont.

Mr. Diggs with Mr. Bell.
Mr. Ford of Michigan with Mr. Erlenborn.
Mrs. Burke of California with Mr. Esch.
Mr. AuCoin with Mr. Conlan.
Mr. Conyers with Mr. Ford of Tennessee.
Mr. Evans of Indiana with Mr. Butler.
Mr. Flynt with Mr. Eshleman.
Mr. Holland with Mr. Findley.
Mr. Lehman with Mr. Hagedorn.
Mr. Passman with Mr. Matsunaga.
Mr. Murphy of New York with Mr. Hansen.
Mr. Fountain with Mr. Litton.
Mr. Pepper with Mr. O'Hara.
Mr. Neal with Mr. Peyser.
Mrs. Sullivan with Mr. Randall.
Mr. Risenhoover with Mr. Steelman.
Mr. Skubitz with Mr. Riegle.
Mr. Symington with Mr. Vander Veen.
Mr. Young of Georgia with Mr. Steiger of Arizona.

Messrs. STEPHENS, McKAY, BREAUX, BYRON, ROBERTS, ARMSTRONG, and MYERS of Indiana changed their vote from "yea" to "nay."

Mr. WOLFF and Mr. JOHNSON of Colorado changed their vote from "nay" to "yea."

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ANTITRUST PREMERGER NOTIFICATION ACT

The SPEAKER pro tempore (Mr. McFALL). The unfinished business is the question of suspending the rules and passing the bill H.R. 14580, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey (Mr. HUGHES) that the House suspend the rules and pass this bill, H.R. 14580, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 278, nays 103, answered "present" 1, not voting 50, as follows:

[Roll No. 586]

YEAS—278

Adams
Addabbo
Allen
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Annunzio
Ashley
Aspin
Badillo
Bafalis
Baldus
Baucus
Beard, Tenn.
Bedell
Bennett
Bergland
Biaggi
Biester
Bingham
Blanchard
Blouin
Boggs
Boland
Bonker
Brademas
Breckinridge
Brodhead
Brooks
Brown, Calif.
Brown, Mich.
Broyhill
Burke, Mass.
Burlison, Mo.
Burton, John
Burton, Phillip
Carney
Carr
Cederberg
Chappell
Chisholm
Cleveland
Cohen
Collins, Ill.
Conable
Conte
Corman
Cornell
Cotter
Coughlin
D'Amours
Danielson
de la Garza
Delaney
Dellums
Dent
Dingell
Dodd
Downey, N.Y.
Drinan
Duncan, Oreg.
Early
Eckhardt
Edgar
Edwards, Calif.
Eilberg
Emery
English
Evans, Colo.
Fary
Fascell
Fenwick
Fish
Fisher
Fithian
Flood
Florio
Flowers
Foley
Forsythe
Fraser
Frenzel
Frey
Fuqua
Gaydos
Giaimo
Gibbons
Gilman
Gradison
Grassley
Gude
Haley
Hall, Ill.
Hamilton
Hammerschmidt
Hanley
Hannaford
Harkin
Harrington
Harris
Hawkins
Hayes, Ind.
Hays, Ohio
Hechler, W. Va.
Heckler, Mass.
Hefner
Heinz
Helstoski
Hicks
Hightower
Hillis
Holtzman
Horton
Howard
Howe
Hughes
Hungate
Hutchinson
Hyde
Ichord
Jacobs
Jeffords
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, N.C.
Jones, Okla.
Jordan
Kasten
Kastenmeier
Kazen
Keys
Koch
Krebs
LaFalce
Lagomarsino
Leggett
Lent
Levitas
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lundine
McClory
McCloskey
McCormack
McDade
McEwen
McFall
McHugh
McKay
McKinney
Madden
Maguire
Mann
Martin
Mazzoli
Meeds
Metcalfe
Meyner
Mezvinsky
Michel
Mikva
Miller, Calif.
Mineta
Minish
Mink
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Moorhead, Pa.
Morgan
Mosher
Moss
Mottl
Murphy, Ill.
Murtha
Myers, Ind.
Nedzi
Nix
Nolan
Nowak
Oberstar
Obey
O'Brien
O'Neill
Ottinger
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Perkins
Pettis
Pike
Pressler
Preyer
Price
Pritchard
Quie
Railsback
Rangel
Rees
Regula
Reuss
Richmond
Rinaldo
Rodino
Roe
Rogers
Roncalio
Rooney
Rosenthal
Rostenkowski
Roush
Roybal
Ruppe
Russo
Ryan
Santini
Sarasin
Sarbanes
Scheuer
Schroeder
Sebelius
Seiberling
Sharp
Shipley
Shriver
Sikes
Simon
Sisk
Slack
Smith, Iowa
Solarz
Spellman
Staggers
Stanton, James V.
Stark
Steiger, Wis.
Stokes
Stratton
Studds
Talcott
Taylor, N.C.
Teague
Thompson
Thone
Thornton
Traxler
Tsongas
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vigorito
Walsh
Waxman
Weaver
Whalen
White
Whitten
Wiggins
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wolff
Wright
Wydler
Yates
Yatron
Young, Tex.
Zablocki
Zeferetti

NAYS—103

Abdnor
Andrews, N. Dak.
Archer
Armstrong
Ashbrook
Bauman
Bevill
Bowen
Breaux
Brinkley
Broomfield
Brown, Ohio
Buchanan
Burgener
Burke, Fla.
Burleson, Tex.
Byron
Carter
Clancy
Clausen, Don H.
Clawson, Del
Cochran
Collins, Tex.
Crane
Daniel, Dan
Daniel, R. W.
Davis
Derrick
Derwinski
Devine
Dickinson
Downing, Va.
Duncan, Tenn.
Edwards, Ala.
Ginn
Goldwater
Goodling
Guyer
Hall, Tex.
Harsha
Hébert
Henderson
Holt
Hubbard
Jarman
Jenrette
Jones, Ala.
Kelly
Kemp
Ketchum
Kindness
Krueger
Landrum
Latta
Lott
Lujan
McCollister
McDonald
Madigan
Mahon
Mathis
Melcher
Milford
Miller, Ohio
Mills
Mollohan
Montgomery
Moore
Moorhead, Calif.
Myers, Pa.
Natcher
Nichols
Paul
Pickle
Poage
Quillen
Rhodes
Roberts
Robinson
Rose
Rousselot
Runnels
St Germain
Satterfield
Schneebeli
Schulze
Shuster
Smith, Nebr.
Snyder
Spence
Stanton, J. William
Steed
Stephens
Stuckey
Symms
Taylor, Mo.
Treen
Waggonner
Wampler
Whitehurst
Wylie
Young, Alaska
Young, Fla.

ANSWERED "PRESENT"—1

Gonzalez

NOT VOTING—50

Abzug
Alexander
AuCoin
Beard, R.I.
Bell
Bolling
Burke, Calif.
Butler
Clay
Conlan
Conyers
Daniels, N.J.
Diggs
du Pont
Erlenborn
Esch
Eshleman
Evans, Ind.
Evins, Tenn.
Findley
Flynt
Ford, Mich.
Ford, Tenn.
Fountain
Green
Hagedorn
Hansen
Hinshaw
Holland
Jones, Tenn.
Karth
Lehman
Litton
Matsunaga
Murphy, N.Y.
Neal
O'Hara
Passman
Pepper
Peyser
Randall
Riegle
Risenhoover
Skubitz
Steelman
Steiger, Ariz.
Sullivan
Symington
Vander Veen
Young, Ga.

The Clerk announced the following pairs:

Ms. Abzug with Mr. Clay.
Mr. Jones of Tennessee with Mr. Karth.
Mr. Beard of Rhode Island with Mr. Dominick V. Daniels.
Mr. Alexander with Mr. Evins of Tennessee.
Mr. Green with Mr. du Pont.
Mr. Diggs with Mr. Bell.
Mr. Ford of Michigan with Mr. Erlenborn.
Mrs. Burke of California with Mr. Esch.
Mr. AuCoin with Mr. Conlan.
Mr. Conyers with Mr. Ford of Tennessee.
Mr. Evans of Indiana with Mr. Butler.
Mr. Flynt with Mr. Eshleman.
Mr. Holland with Mr. Findley.
Mr. Lehman with Mr. Hagedorn.
Mr. Passman with Mr. Matsunaga.
Mr. Murphy of New York with Mr. Hansen.
Mr. Fountain with Mr. Litton.
Mr. Pepper with Mr. O'Hara.
Mr. Neal with Mr. Peyser.
Mrs. Sullivan with Mr. Randall.
Mr. Risenhoover with Mr. Steelman.
Mr. Skubitz with Mr. Riegle.
Mr. Symington with Mr. Vander Veen.
Mr. Young of Georgia with Mr. Steiger of Arizona.

Mr. TRAXLER and Mrs. LLOYD of Tennessee changed their vote from "nay" to "yea."

Mr. RHODES and Mr. MELCHER changed their vote from "yea" to "nay."

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

REDUCTION IN BEER TAX FOR SMALL BREWERS

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill H.R. 3605, as amended.

The clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Oregon (Mr. ULLMAN) that the House suspend the rules and pass the bill H.R. 3605, as amended.

RECORDED VOTE

Mr. ASHBROOK. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 236, noes 144, answered "present" 2, not voting 50, as follows:

[Roll No. 587]

AYES—236

Abdnor
Addabbo
Allen
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Archer
Ashbrook
Ashley
Aspin
Badillo
Bafalis
Baldus
Bauman
Bergland
Biaggi
Biester
Bingham
Blanchard
Blouin
Boggs
Boland
Bonker

Breaux
Breckinridge
Brodhead
Brooks
Brown, Mich.
Brown, Ohio
Burgener
Burke, Mass.
Burleson, Tex.
Burton, John
Burton, Phillip
Byron
Cederberg
Chisholm
Clancy
Clausen, Don H.
Cohen
Collins, Ill.
Collins, Tex.
Conable
Corman
Cornell
Cotter
Coughlin
Crane
D'Amours
Daniel, Dan
Daniel, R. W.
de la Garza
Delaney
Dent
Derrick
Derwinski
Dickinson
Dingell
Dodd
Downey, N.Y.
Downing, Va.
Duncan, Oreg.
Early
Eckhardt
Eilberg
English
Fary
Fascell
Fenwick
Fish
Fithian
Flood
Florio
Flowers
Foley
Forsythe
Fraser
Frenzel
Gaydos
Giaimo
Gilman
Goldwater
Gonzalez
Goodling
Gradison
Gude
Hall, Tex.
Hamilton
Hanley
Harsha
Hawkins
Hayes, Ind.
Hays, Ohio
Hébert
Heinz
Helstoski
Henderson
Hillis
Holt
Horton
Howard
Hubbard
Hughes
Hungate
Hyde
Jacobs
Jarman
Jenrette
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, Okla.
Jordan
Kasten
Kastenmeier
Kazen
Kelly
Kemp
Krueger
LaFalce
Landrum
Leggett
Lent
Levitas
Lloyd, Calif.
Long, La.
Long, Md.
Lujan
Lundine
McCloskey
McDade
McFall
McHugh
Madden
Madigan
Mahon
Mazzoli
Meeds
Melcher
Meyner
Mezvinsky
Milford
Miller, Ohio
Mineta
Minish
Mink
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Pa.
Morgan
Murphy, Ill.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Nedzi
Nix
Nolan
Nowak
Oberstar
Obey
O'Neill
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Paul
Pickle
Poage
Preyer
Price
Rangel
Rees
Rinaldo
Robinson
Rodino
Roe
Roncalio
Rooney
Rose
Rostenkowski
Roybal
Runnels
Ruppe
Ryan
Sarasin
Sarbanes
Satterfield
Scheuer
Schneebeli
Schulze
Sebelius
Shipley
Shriver
Sikes
Sisk
Smith, Iowa
Snyder
Solarz
Spellman
Spence
Stanton, J. William
Steed
Steiger, Wis.
Stephens
Stokes
Stratton
Stuckey
Studds
Symms
Teague
Thompson
Traxler
Treen
Udall
Ullman
Vander Jagt
Vigorito
Waggonner
Walsh
Waxman
Weaver
White
Whitten
Wilson, Tex.
Wolff
Wright
Wydler
Yatron
Young, Alaska
Young, Tex.
Zablocki
Zeferetti

NOES—144

Adams
Ambro
Anderson, Calif.
Anderson, Ill.
Armstrong
Baucus
Beard, Tenn.
Bedell
Bennett
Bevill
Bowen
Brademas
Brinkley
Broomfield
Brown, Calif.
Broyhill
Buchanan
Burke, Fla.
Burlison, Mo.
Carney
Carr
Carter
Chappell
Clawson, Del
Cleveland
Cochran
Conte
Danielson
Davis
Dellums
Devine
Drinan
Duncan, Tenn.
Edgar
Edwards, Ala.
Edwards, Calif.
Emery
Evans, Colo.
Fisher
Frey
Fuqua
Gibbons
Ginn
Grassley
Guyer
Haley
Hall, Ill.
Hammerschmidt
Hannaford
Harkin
Harrington
Harris
Hechler, W. Va.
Heckler, Mass.
Hefner
Hicks
Hightower
Holtzman
Howe
Hutchinson
Ichord
Jeffords
Jones, Ala.
Jones, N.C.
Ketchum
Keys
Kindness
Koch
Krebs
Latta
Lloyd, Tenn.
Lott
McClory
McCollister
McCormack
McDonald
McEwen
McKay
McKinney
Maguire
Mann
Martin
Mathis
Metcalfe
Michel
Mikva
Miller, Calif.
Mills
Mitchell, Md.
Moorhead, Calif.
Mosher
Moss
Mottl
Nichols
O'Brien
Ottinger
Perkins
Pettis
Pike
Pressler
Pritchard
Quie
Quillen
Railsback
Regula
Reuss
Rhodes
Richmond
Roberts
Rogers
Rosenthal
Roush
Russo
St Germain
Santini
Schroeder
Seiberling
Sharp
Shuster
Simon
Slack
Smith, Nebr.
Staggers
Stanton, James V.
Stark
Talcott
Taylor, Mo.
Taylor, N.C.
Thone
Thornton
Tsongas
Van Deerlin
Vanik
Wampler
Whalen
Whitehurst
Wiggins
Wilson, Bob
Wilson, C. H.
Winn
Wirth
Wylie
Yates
Young, Fla.

ANSWERED "PRESENT"—2

Lagomarsino
Rousselot

NOT VOTING—50

Abzug
Alexander
AuCoin
Beard, R.I.
Bell
Bolling
Burke, Calif.
Butler
Clay
Conlan
Conyers
Daniels, N.J.
Diggs
du Pont
Erlenborn
Esch
Eshleman
Evans, Ind.
Evins, Tenn.
Findley
Flynt
Ford, Mich.
Ford, Tenn.
Fountain
Green
Hagedorn
Hansen
Hinshaw
Holland
Jones, Tenn.
Karth
Lehman
Litton
Matsunaga
Murphy, N.Y.
Neal
O'Hara
Passman
Pepper
Peyser
Randall
Riegle
Risenhoover
Skubitz
Steelman
Steiger, Ariz.
Sullivan
Symington
Vander Veen
Young, Ga.

The Clerk announced the following pairs:

Ms. Abzug with Mr. Clay.
Mr. Jones of Tennessee with Mr. Karth.
Mr. Beard of Rhode Island with Dominick V. Daniels.
Mr. Alexander with Mr. Evins of Tennessee.
Mr. Green with Mr. du Pont.
Mr. Diggs with Mr. Bell.
Mr. Ford of Michigan with Mr. Erlenborn.
Mrs. Burke of California with Mr. Esch.
Mr. AuCoin with Mr. Conlan.
Mr. Conyers with Mr. Ford of Tennessee.
Mr. Evans of Indiana with Mr. Butler.
Mr. Flynt with Mr. Eshleman.
Mr. Holland with Mr. Findley.
Mr. Lehman with Mr. Hagedorn.
Mr. Passman with Mr. Matsunaga.
Mr. Murphy of New York with Mr. Hansen.
Mr. Fountain with Mr. Litton.
Mr. Pepper with Mr. O'Hara.
Mr. Neal with Mr. Peyser.
Mrs. Sullivan with Mr. Randall.
Mr. Risenhoover with Mr. Steelman.
Mr. Skubitz with Mr. Riegle.
Mr. Symington with Mr. Vander Veen.
Mr. Young of Georgia with Mr. Steiger of Arizona.

Mrs. COLLINS of Illinois, Mr. ASHLEY, and Mr. TREEN changed their vote from "no" to "aye."

Mr. METCALFE changed his vote from "aye" to "no."

So (two-thirds not having voted in favor thereof) the motion was rejected.

The result of the vote was announced as above recorded.

VETERANS' ADMINISTRATION PHYSICIANS AND DENTISTS PAY EXTENSION

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill H.R. 14469.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. ROBERTS) that the House suspend the rules and pass the bill H.R. 14469, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 379, nays 1, answered "present" 1, not voting 51, as follows:

[Roll No. 588]

YEAS—379

Abdnor
Adams
Addabbo
Allen
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Archer
Armstrong
Ashbrook
Ashley
Aspin
Badillo
Bafalis
Baldus
Baucus
Bauman
Beard, Tenn.
Bedell
Bennett
Bergland
Bevill
Biaggi
Biester
Bingham
Blanchard
Blouin
Boggs
Boland
Bonker
Bowen
Brademas
Breaux
Breckinridge
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton, John
Burton, Phillip
Byron
Carney
Carr
Carter
Cederberg
Chappell
Chisholm
Clancy
Clausen, Don H.
Clawson, Del
Cleveland
Cochran
Cohen
Collins, Ill.
Collins, Tex.
Conable
Conte
Corman
Cornell
Cotter
Coughlin
Crane
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Davis
de la Garza
Delaney
Dellums
Dent
Derrick
Derwinski
Devine
Dickinson
Dodd
Downey, N.Y.
Downing, Va.
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Eilberg
Emery
English
Evans, Colo.
Fary
Fascell
Fenwick
Fish
Fisher
Fithian
Flood
Florio
Flowers
Foley
Forsythe
Fraser
Frenzel
Frey
Fuqua
Gaydos
Giaimo
Gibbons
Gilman
Ginn
Goldwater
Gonzalez
Goodling
Gradison
Grassley
Gude
Guyer
Haley
Hall, Ill.
Hall, Tex.
Hamilton
Hammerschmidt
Hanley
Hannaford
Harkin
Harrington
Harris
Harsha
Hawkins
Hayes, Ind.
Hays, Ohio
Hechler, W. Va.
Heckler, Mass.
Hefner
Heinz
Helstoski
Henderson
Hicks
Hightower
Hillis
Holt
Holtzman
Horton
Howard
Howe
Hubbard
Hughes
Hungate
Hutchinson
Hyde
Ichord
Jacobs
Jarman
Jeffords
Jenrette
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Jordan
Kasten
Kastenmeier
Kazen
Kelly
Kemp
Ketchum
Keys
Kindness
Koch
Krebs
Krueger
LaFalce
Lagomarsino
Landrum
Latta
Leggett
Lent
Levitas
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lujan
Lundine
McClory
McCloskey
McCollister
McCormack
McDade
McDonald
McEwen
McFall
McHugh
McKay
McKinney
Madden
Madigan
Maguire
Mahon
Mann
Martin
Mathis
Mazzoli
Meeds
Melcher
Metcalfe
Meyner
Mezvinsky
Michel
Mikva
Milford
Miller, Calif.
Miller, Ohio
Mills
Mineta
Minish
Mink
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Morgan
Mosher
Moss
Mottl
Murphy, Ill.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Nedzi
Nichols
Nix
Nolan
Nowak
Oberstar
Obey
O'Brien
O'Neill
Ottinger
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Perkins
Pettis
Pickle
Pike
Poage
Pressler
Preyer
Price
Pritchard

Quie
Quillen
Railsback
Rangel
Rees
Regula
Reuss
Rhodes
Richmond
Rinaldo
Roberts
Robinson
Rodino
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Roush
Rousselot
Roybal
Runnels
Ruppe
Russo
Ryan
St Germain
Santini
Sarasin
Sarbanes
Satterfield
Scheuer
Schneebeli
Schroeder
Schulze
Sebelius
Seiberling
Sharp
Shipley
Shriver
Shuster
Sikes
Simon
Sisk
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Spellman
Spence
Staggers
Stanton, J. William
Stanton, James V.
Stark
Steed
Steiger, Wis.
Stephens
Stokes
Stratton
Stuckey
Studds
Symms
Talcott
Taylor, Mo.
Taylor, N.C.
Teague
Thompson
Thone
Thornton
Traxler
Treen
Tsongas
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vigorito
Waggonner
Walsh
Wampler
Waxman
Weaver
Whalen
White
Whitehurst
Whitten
Wiggins
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wolff
Wright
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Tex.
Zablocki
Zeferetti

NAYS—1

Dingell

ANSWERED "PRESENT"—1

Paul

NOT VOTING—51

Abzug
Alexander
AuCoin
Beard, R.I.
Bell
Bolling
Burke, Calif.
Butler
Clay
Conlan
Conyers
Daniels, N.J.
Diggs
du Pont
Erlenborn
Esch
Eshleman
Evans, Ind.
Evins, Tenn.
Findley
Flynt
Ford, Mich.
Ford, Tenn.
Fountain
Green
Hagedorn
Hansen
Hébert
Hinshaw
Holland
Jones, Tenn.
Karth
Lehman
Litton
Matsunaga
Murphy, N.Y.
Neal
O'Hara
Passman
Pepper
Peyser
Randall
Riegle
Risenhoover
Skubitz
Steelman
Steiger, Ariz.
Sullivan
Symington
Vander Veen
Young, Ga.

The Clerk announced the following pairs:

Ms. Abzug with Mr. Clay.

Mr. Jones of Tennessee with Mr. Karth.

Mr. Beard of Rhode Island with Dominick V. Daniels.

Mr. Alexander with Mr. Evins of Tennessee.

Mr. Green with Mr. du Pont.

Mr. Diggs with Mr. Bell.

Mr. Ford of Michigan with Mr. Erlenborn.

Mrs. Burke of California with Mr. Esch.

Mr. AuCoin with Mr. Conlan.

Mr. Conyers with Mr. Ford of Tennessee.

Mr. Evans of Indiana with Mr. Butler.

Mr. Flynt with Mr. Eshleman.

Mr. Holland with Mr. Findley.

Mr. Lehman with Mr. Hagedorn.

Mr. Passman with Mr. Matsunaga.

Mr. Murphy of New York with Mr. Hansen.

Mr. Fountain with Mr. Litton.

Mr. Pepper with Mr. O'Hara.

Mr. Neal with Mr. Peyser.

Mrs. Sullivan with Mr. Randall.

Mr. Risenhoover with Mr. Steelman.

Mr. Skubitz with Mr. Riegle.

Mr. Symington with Mr. Vander Veen.

Mr. Young of Georgia with Mr. Steiger of Arizona.

So (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

NATIONAL ENERGY EXTENSION SERVICE ACT OF 1976

The **SPEAKER** pro tempore. The unfinished business is the question of suspending the rule, and passing the bill H.R. 13676.

The Clerk read the title of the bill.

The **SPEAKER** pro tempore. The question is on the motion offered by the gentleman from Washington (Mr. McCormack) that the House suspend the rules and pass the bill H.R. 13676, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 323, nays 55, not voting 54, as follows:

[Roll No. 589]

YEAS—323

Adams
Addabbo
Allen
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Ashley
Aspin
Badillo
Baldus
Baucus
Beard, Tenn.
Bedell
Bennett
Bergland
Bevill
Biaggi
Biester
Bingham
Blanchard
Blouin
Boggs
Boland
Bonker
Bowen
Brademas
Breaux
Breckinridge
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Mass.
Burleson, Tex.
Burton, John
Burton, Phillip
Byron
Carney
Carr
Carter
Cederberg
Chappell
Chisholm
Clancy
Clausen, Don H.
Cleveland
Cochran
Cohen
Collins, Ill.
Conte
Corman
Cornell
Cotter
Coughlin
D'Amours
Daniel, R. W.
Danielson
Davis
de la Garza
Delaney
Dellums
Dent
Derrick
Derwinski
Devine
Dickinson
Dingell
Dodd
Downey, N.Y.
Downing, Va.
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Calif.
Eilberg
Emery
English
Fary
Fascell
Fenwick
Fish
Fisher
Fithian
Flood
Florio
Flowers
Foley
Forsythe
Fraser
Frenzel
Frey
Fuqua
Gaydos
Giaimo
Gilman
Ginn
Goldwater
Grassley
Gude
Guyer
Haley
Hall, Ill.
Hamilton
Hammerschmidt
Hannaford
Harkin
Harrington
Harris
Harsha
Hawkins
Hayes, Ind.
Hays, Ohio
Hechler, W. Va.
Heckler, Mass.
Hefner
Heinz
Helstoski
Henderson
Hicks
Hightower
Hillis
Holtzman
Horton
Howard
Howe
Hubbard
Hughes
Hungate
Hyde
Ichord
Jacobs
Jarman
Jeffords
Jenrette
Johnson, Calif.
Johnson, Pa.
Jones, N.C.
Jones, Okla.
Jordan
Kasten
Kastenmeier
Kazen
Keys
Koch
Krebs
Krueger
LaFalce
Lagomarsino
Landrum
Latta
Leggett
Lent
Levitas
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lundine
McClory
McCloskey
McCollister
McCormack
McDade
McFall
McHugh
McKay
McKinney
Madden
Madigan
Maguire
Mahon
Mann
Martin
Mathis
Mazzoli
Meeds
Melcher
Metcalfe
Meyner
Mezvinsky
Michel
Milford
Miller, Calif.
Miller, Ohio
Mills
Mineta
Minish
Mink
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moorhead, Pa.
Morgan
Mosher
Moss
Murphy, Ill.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Nedzi
Nichols
Nix
Nolan
Nowak
Oberstar
Obey
O'Neill
Ottinger
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Perkins
Pickle
Pike
Poage
Pressler
Preyer
Price
Quie
Quillen
Railsback
Rangel
Rees
Reuss
Rhodes
Richmond
Rinaldo
Roberts
Robinson
Rodino
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Roush
Roybal
Runnels
Ruppe
Russo
Ryan
St Germain
Santini
Sarasin
Sarbanes
Scheuer
Schroeder
Seiberling
Sharp
Shipley
Shriver
Sikes
Simon
Sisk
Slack
Smith, Iowa
Smith, Nebr.
Solarz
Spellman
Staggers
Stanton, J. William
Stanton, James V.
Stark
Steed
Steiger, Wis.
Stephens
Stokes
Stratton
Studds
Talcott
Taylor, N.C.
Teague
Thompson
Thone
Thornton
Traxler
Tsongas
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Waggonner
Walsh
Wampler
Waxman
Weaver
Whalen
White
Whitehurst
Whitten
Wiggins
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wolff
Wright
Wydler
Yates
Yatron
Young, Tex.
Zablocki
Zeferetti

NAYS—55

Abdnor
Archer
Armstrong
Ashbrook
Bafalis
Bauman
Brown, Mich.
Burke, Fla.
Burlison, Mo.
Clawson, Del
Collins, Tex.
Conable
Crane
Daniel, Dan
Edwards, Ala.
Gibbons
Gonzalez
Goodling
Gradison
Hall, Tex.
Holt
Hutchinson
Johnson, Colo.
Kelly
Kemp
Ketchum
Kindness
Lujan
McDonald
McEwen
Mikva
Moore
Moorhead, Calif.
Mottl
O'Brien
Paul
Pettis
Pritchard
Regula
Rousselot
Satterfield
Schneebeli
Schulze
Sebelius
Shuster
Snyder
Spence
Stuckey
Symms
Taylor, Mo.
Treen
Vigorito
Wylie
Young, Alaska
Young, Fla.

NOT VOTING—54

Abzug
Alexander
AuCoin
Beard, R.I.
Bell
Bolling
Burke, Calif.
Butler
Clay
Conlan
Conyers
Daniels, N.J.
Diggs
du Pont
Erlenborn
Esch
Eshleman
Evans, Colo.
Evans, Ind.
Evins, Tenn.
Findley
Flynt
Ford, Mich.
Ford, Tenn.
Fountain
Green
Hagedorn
Hanley
Hansen
Hébert
Hinshaw
Holland
Jones, Ala.
Jones, Tenn.
Karth
Lehman
Litton
Matsunaga
Murphy, N.Y.
Neal
O'Hara
Passman
Pepper
Peyser
Randall
Riegle
Risenhoover
Skubitz
Steelman
Steiger, Ariz.
Sullivan
Symington
Vander Veen
Young, Ga.

The Clerk announced the following pairs:

Ms. Abzug with Mr. Clay.

Mr. Jones of Tennessee with Mr. Karth.

Mr. Beard of Rhode Island with Mr. Dominick V. Daniels.

Mr. Alexander with Mr. Evins of Tennessee.

Mr. Green with Mr. du Pont.

Mr. Diggs with Mr. Bell.

Mr. Ford of Michigan with Mr. Erlenborn.

Mrs. Burke of California with Mr. Esch.

Mr. AuCoin with Mr. Conlan.

Mr. Conyers with Mr. Ford of Tennessee.

Mr. Evans of Indiana with Mr. Butler.

Mr. Flynt with Mr. Eshleman.

Mr. Holland with Mr. Findley.

Mr. Lehman with Mr. Hagedorn.

Mr. Passman with Mr. Matsunaga.

Mr. Murphy of New York with Mr. Hansen.

Mr. Fountain with Mr. Litton.

Mr. Pepper with Mr. O'Hara.

Mr. Neal with Mr. Peyser.

Mrs. Sullivan with Mr. Randall.

Mr. Risenhoover with Mr. Steelman.

Mr. Skubitz with Mr. Riegle.

Mr. Symington with Mr. Vander Veen.

Mr. Young of Georgia with Mr. Steiger of Arizona.

Mr. Hébert with Mr. Jones of Alabama.
Mr. Hanley with Mr. Evans of Colorado.

Mr. CARTER changed his vote from "nay" to "yea."

So (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERMISSION FOR SUBCOMMITTEE ON ENERGY RESEARCH, DEVELOPMENT, AND DEMONSTRATION (FOSSIL FUELS) TO MEET DURING 5-MINUTE RULE ON WEDNESDAY AND THURSDAY NEXT

Mr. HECHLER of West Virginia. Mr. Speaker, I ask unanimous consent that the Subcommittee on Energy Research, Development, and Demonstration (Fossil Fuel) of the Committee on Science and Technology be permitted to meet on Wednesday and Thursday next during the day under the 5-minute rule for the purpose of receiving testimony only.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, has this been discussed with our minority member? Since we are coming in at 10 o'clock and there is substantial legislation, I appreciate the gentleman's guarantee that only testimony will be taken, but has the minority member been consulted?

Mr. HECHLER of West Virginia. Mr. Speaker, if the gentleman will yield, I regret to say the minority member is not on the floor at the present time.

Mr. ROUSSELOT. But I am sure the gentleman consulted the minority member.

Mr. HECHLER of West Virginia. That is correct.

Mr. ROUSSELOT. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

EXTENDING SELECT COMMITTEE ON MISSING PERSONS IN SOUTHEAST ASIA TO JANUARY 3, 1977

Mr. MONTGOMERY. Mr. Speaker, I ask unanimous consent for the immediate consideration of House Resolution 1454.

The clerk read the resolution as follows:

H. Res. 1454

Resolved, That (a) notwithstanding section 5 of House Resolution 335 of the 94th Congress, adopted September 11, 1975, the Select Committee on Missing Persons in Southeast Asia shall transmit its report to the House with respect to the results of its investigation as soon as practicable, but not later than noon on January 3, 1977.

(b) Notwithstanding section 6 of such Resolution, the authority granted in such Resolution shall expire thirty days after the filing of the report of the Select Committee with the House or just prior to noon on January 3, 1977, whichever occurs first.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

Mr. McCLOSKEY. Mr. Speaker, reserving the right to object, might I inquire if this extension of the committee is without any additional cost beyond that already authorized by the House?

Mr. MONTGOMERY. If the gentleman will yield, that is correct. There would be no additional cost to the Congress. We have enough funds to operate this committee until the end of this year.

It was the feeling of the committee that we can write a better report if we can be given until December. Under the resolution we are operating under now, the committee would have to go out of existence September 11.

Also, we are in contact with the North Vietnamese in Paris and hope we can meet with the Vietnamese another time discussing the MIA situation. I might add this committee had something to do with the release of American civilians yesterday from Saigon. It is the feeling of the committee this is not the right time to close out the committee, and I would urge unanimous adoption of this resolution.

Mr. GILMAN. Mr. Speaker, will the gentleman yield?

Mr. McCLOSKEY. I yield to the gentleman from New York.

Mr. GILMAN. Mr. Speaker, I commend the distinguished chairman of the committee for this resolution. So much has been accomplished but so much is still to be accomplished, and so much more can be done if we pass this resolution.

Mr. McCLOSKEY. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

Mr. RHODES. Mr. Speaker, reserving the right to object, I congratulate the gentleman from Mississippi and the committee on the fine work that this select committee has accomplished thus far.

Mr. Speaker, I certainly favor the extension of the committee's life until the 3d of January. There is work yet to be done. I am sure the gentleman and his fine committee can address themselves to questions still remaining and perhaps come up with some answers that we are hopeful of getting in the future. I certainly am in strong support of this extension.

Mr. BRINKLEY. Mr. Speaker, will the gentleman yield?

Mr. RHODES. I yield to the gentleman from Georgia.

Mr. BRINKLEY. Mr. Speaker, I rise to join the distinguished minority leader in his eloquent support for this resolution. I, too, support it.

Mr. Speaker, there is, as one of the earlier gentlemen said, much to be done. The work is unfinished. This will enable the distinguished subcommittee chairman and his committee members to go forward with it. I commend them and pledge to them my support.

Mr. OTTINGER. Mr. Speaker, will the gentleman yield?

Mr. RHODES. I yield to the gentleman from New York.

Mr. OTTINGER. Mr. Speaker, I also join with and congratulate the chairman for this action.

Mr. RHODES. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the request of the gentleman from Mississippi?

There was no objection.

The SPEAKER. The question is on the resolution.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PERMISSION FOR SUBCOMMITTEE ON ENERGY RESEARCH, DEVELOPMENT, AND DEMONSTRATION OF COMMITTEE ON SCIENCE AND TECHNOLOGY TO MEET WEDNESDAY MORNING, AUGUST 4, 1976, DURING THE 5-MINUTE RULE

Mr. McCORMACK. Mr. Speaker, I ask unanimous consent that the Subcommittee on Energy Research, Development, and Demonstration of the Committee on Science and Technology may be permitted to meet Wednesday morning to receive testimony only during the 5-minute rule.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, can the gentleman assure us that the minority member of the committee has agreed to this hearing?

Mr. McCORMACK. Yes. Mr. Speaker, if the gentleman will yield, the minority has been informed and agrees.

Mr. ROUSSELOT. Mr. Speaker, I thank the gentleman for his comment, and I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

There was no objection.

FURTHER LEGISLATIVE PROGRAM

(Mr. O'NEILL asked and was given permission to address the House for 1 minute.)

Mr. O'NEILL. Mr. Speaker, I take this time to announce that the postcard registration bill, due for tomorrow, will be taken from the calendar because of absentees due to four primaries and will be rescheduled the first thing on Thursday.

Tomorrow we will be doing a bill left over from today, the Indian Claims Commission bill in its place and begin the Clean Air Act bill.

Mr. Speaker, the program for tomorrow will be as follows:

The House will meet at noon and will first consider the Private Calendar, and then consider the following bills:

The conference report on H.R. 14234, Transportation appropriations, fiscal year 1977.

H.R. 11909, Indian Claims Commission, under an open rule with 1 hour of debate.

H.R. 12944, Federal Insecticide, Fungicide, and Rodenticide Act extension, under an open rule with 1 hour of debate. The rule has already been adopted.

H.R. 4634, Workweek of Federal Firefighters, under an open rule with 1 hour of debate.

H.R. 10498, Clean Air Act amendments, with 3 hours of debate, with general debate only on that bill.

Mr. Speaker, I trust this meets with the approval of the minority leader.

Mr. RHODES. Mr. Speaker, if the distinguished majority leader, the gentleman from Massachusetts (Mr. O'NEILL) will yield, it does meet with the approval of the minority.

Mr. Speaker, I would like to further ask the distinguished majority leader if this possibly means there will be no session on Friday?

Mr. O'NEILL. I regret that I am not able to answer that at the present time. We have scheduled the bill (H.R. 13372), the Wild and Scenic Rivers Act amendment (New River). If the North Carolina delegation were willing to cooperate with the great bulk of the Membership, there is a remote possibility that we could get through on Thursday.

MICROWAVE RADIATION, TO BORROW A PHRASE, IS NOT HEALTHY FOR CHILDREN AND OTHER LIVING THINGS, INCLUDING STATE DEPARTMENT EMPLOYEES IN MOSCOW

(Mr. KOCH asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. KOCH. Mr. Speaker, an article appeared in July 27 New York Times confirming the existence of tests conducted for 18 months during 1967–68 "to detect genetic damage" on State Department employees who worked in Moscow during the 1960's. The reason for the tests, kept secret from the employees, was to determine the effects of microwave radiation beamed at the U.S. Embassy in Moscow. Dr. Cecil B. Jackson, who oversaw the analysis of the State Department test samples by a laboratory at George Washington University, said of the results: "Things were never really conclusive."

That bothers me. It bothers me that this radiation, which has been going on in excess of 15 years, continues in the absence of conclusive evidence. Statistics show that radiation is harmful to one's health, yet the State Department does not care enough about its staff, about the health of its employees, to call for an immediate halt of such radiation. I am calling for that halt.

Adding to the outrage is the fact that the State Department allows the radiation to continue while testing is being done—certainly the fact of testing reveals a real doubt as to the effects of radiation. As a member of the Foreign Operations Appropriations Subcommittee, I have seen a lack of concern by the State Department for human rights around the world—Chile and Uruguay are good examples—and while I deplore that, I am more distressed and angry that we would permit the same lack of concern to be evidenced toward American citizens who happen to be our employees.

What has the State Department done? Indeed, very little. Time magazine reported in March that radiation had decreased in recent months from previous highs, but that it was not halted. A member of my staff called the State Department yesterday to check on the current situation. The officer he spoke to stated that extensive discussions have taken place over the past months with Russian authorities, and radiation has been reduced to an "insignificant level." That does not satisfy me. Having introduced two bills dealing with excessive X-ray exposure, I am familiar with this subject; experts have conceded that there is no established threshhold below which radiation exposure is not harmful. Radiation is a very inexact field of science—there is little definitive knowledge about its effect on human beings. What we do know is that there have been illnesses, some serious, among employees of the American Embassy. The March 22 issue of Time, from which I will quote, discusses several of the rumored illnesses:

> In the wake of the microwave disclosures, former embassy employees and their families have recalled suffering strange ailments during their tenure in Moscow, ranging from eye tics and headaches to heavy menstrual flows. Some point out that former Ambassadors to Moscow Charles Bohlen and Llewellyn Thompson both died of cancer, within the last two years one other Moscow diplomatic died of cancer, and five women who lived there have undergone cancer-related mastectomies—although no medical authorities attribute these deaths and illnesses to radiation.
>
> Only in recent weeks has Ambassador Walter Stoessel (who is said to be suffering from anemia and eye hemorrhaging) been briefing embassy staffers on the situation. Rumors that the waves can cause leukemia, sterility in males or birth defects are circulating around the embassy.

As the article states, the sicknesses may not have been due to exposure to radiation, but they may have also—we do not know. But as long as doubt remains, State Department employees must not be subjected to possibly harmful rays. It is also important to remember that we are talking about children as well as adults. It bothered me to learn that this past June, as reported in the Washington Post—

> Two three-year old American girls living in the U.S. Embassy, which has been subjected to microwave radiation, have been evacuated to the United States with unusual blood problems.

Again, no "conclusive" evidence as to what caused the blood problems. But American citizens should not be subjected to such potentially harmful radiation—the United States must make certain that the microwaves be stopped immediately.

Since the Soviet officials have released no statement on the subject, there has only been conjecture as to why this radiation has been beamed at our Embassy. Popular opinion holds that it is intended to jam sophisticated electronic monitoring devices which are being used by American authorities in Moscow. First of all, I do not believe that monitoring devices, if they exist, violate international law. Certainly, the Soviet Union has made no charges of illegality. But if the Russians do deem our actions illegal, they should say so, demand that we cease them and if they are correct under international law, then we should. But they have not made such a demand and apparently the United States is not violating international law in this regard. And in any event, they cannot take action which threatens the safety and well-being of our Embassy staff.

Many in this country have been calling for action. In fact, the New York Times, in a February editorial, suggested that the alternative to demanding an immediate cease of microwave bombardment might be "Either total evacuation from Moscow of the American Embassy staff or the institution of retaliatory microwave bombardment of Soviet diplomatic installations in this country."

I was surprised that the New York Times would be so direct, dramatic, and lethal in the response it advocated. And I am not saying that we will not ultimately do that, but I have some other suggestions that should be considered. First, we should put the Soviet Union on notice that, unless all microwave radiation ceases within 10 days, we will forthwith withdraw our consulate in Leningrad and require that the Russian consulate in San Francisco be likewise withdrawn. And, if the microwave radiation continues thereafter, notwithstanding our withdrawal, we will be compelled to close our Embassy in Moscow, and require a corresponding reduction of staff of the Soviet Embassy in Washington.

It is important to make it clear that this would not constitute a rupture of diplomatic relations. We should state at that time that we are prepared to reopen the Embassy within 24 hours after the radiation stops. But health standards and simple concern will not permit U.S. employees to be irradiated on the job. This is simply a question of American lives and health, things which must be placed above diplomatic amenities.

Mr. Speaker, before I conclude, I would like to comment on two areas that have troubled me in my investigation of this radiation matter: secrecy and standards. The secrecy I refer to has largely been the fault of the State Department, and I do not understand why the entire situation has had to be so covert. A recent State Department paper admits long-standing knowledge of the radiation:

> Between November 1962 and August 1963 the existence of these highly directional, focussed microwave transmissions beamed at our Embassy in Moscow was found and verified for the first time, and not in 1953 as may have been implied.

This brings up several disturbing facts. First of all, the State Department was fully cognizant of radiation as early as 1962, and yet they did not let employees know of the danger. The testing was conducted several years later under a false pretext, and still the irradiated employees were kept uninformed about the situation. The fact of the testing indicates that doubt existed within the State Department as to the safey of working in the presence of microwave transmissions.

Furthermore, the 1953 date which the State Department first gave as the time the radiation was recognized, may be closer to the truth—indeed, the review of medical records made to study the effects of the radiation includes files of employees dating back to 1953. A cloak of secrecy has enshrouded this issue since its beginning, and the fact that U.S. employees have been allowed to work under such uncertain and possibly hazardous circumstances for so many years, without any State Department interdiction, is unconscionable. The entire handling of the situation has been faulty.

A Pentagon-funded study of radiation, code name "Operation Pandora," went on from 1966 to 1969. Several scientists who took part in the project now say they believe it was terminated prematurely. One such scientist, Dr. Milton Zaret, maintained that experimental data was discarded; data which suggested potential radiation hazards. The State Department has been active verbally, has had discussions with Russian authorities, and there was even a letter from President Ford to Soviet General Secretary Brezhnev. But all this talk has been ineffective, for the radiation continues even as I speak. Information has been withheld from those employees subject to the radiation—certainly they have a right to know.

The other matter that troubled me in looking into this issue was the low American standards for radiation use: According to the Associated Press, the current published Soviet standard for industrial exposure to microwaves is 10 microwatts per centimeter—1,000 times lower than the U.S. standard. This tremendous difference indicates a greater concern on the part of the Soviet Union for their citizens than we have for ours. In any event, it points up a serious need to revise our definition of safe radiation levels.

One last point bears repeating: This is a health issue, not a political one. Many feel that too much is being made of a few microwaves. However, while facts are few as to the extent of a health risk which microwaves pose, there is one fact we do know: No amount of radiation is good. I would urge Americans to personalize this situation, and thereby empathize: Would anyone like to work in an office which faces daily radiation, especially if the employer were negligent in not informing the employee of the radiation threat? I think not. In this case, the U.S. Government is the negligent employer, and we must reassume our responsibility to our State Department workers. We must remove this threat once and for all.

I am appending an article by Barton Reppert of the Associated Press which points out some scientific reaction to microwave radiation and Operation Pandora. The article follows:

EXCERPTS FROM "EMBASSY RADIATION," BY BARTON REPPERT, MAY 3, 1976

The only U.S. research project known to have been pursued specifically in response to the Moscow radiation problem was a secret Pentagon-funded study code-named "Operation Pandora" from 1966 to 1969. Several scientists who took part in that project now say they believe it was terminated prematurely.

However, one scientist associated with "Pandora" said he would not discount the possibility that the radiation may be calculated to cause a "suppressive effect" on Embassy personnel.

A classified State Department summary of the Moscow situation admits that some experiments have linked microwaves to "a variety of nonspecific complaints—such as inability to concentrate, fatigue, headaches—and other functional and reportedly reversible changes including shifts in the ratios of different blood cells."

According to Moscow sources, abnormally high white blood cell counts have been found in upwards of 50 percent of Embassy personnel tested.

The official summary noted that the Government has paid a claim in connection with the cancer death of a woman who had worked as a secretary at the Embassy in the 1960's. While the claim was paid on grounds of inadequate medical care, the woman's husband has said he believes her fatal disease was linked to the microwaves.

The Department document contended that "no cause and effect relationship has been established between disorders contracted by those in Moscow and their exposure to the electromagnetic field."

Another scientist who took part in the "Pandora" study, Dr. Milton Zaret, said he had been assigned the job of preparing an analysis of pertinent Soviet and Eastern European scientific literature.

The analysis, he said, reported that according to Soviet scientists, pulsed microwave radiation of certain frequencies could produce a "Sechenov inhibition effect" on nerve cells, eventually causing fatigue and poorer performance of mental tasks.

In an interview at his office in Scarsdale, New York, Zaret said the Soviet researchers evidently believed that "the electromagnetic field induced by the microwave environment affects the cell membrane and this results in an increase of excitability of nerve cells."

"With repeated or continued exposure, the increased excitability leads to a stage of exhaustion of the cells of the cerebral cortex," he said in explaining the Soviet theory.

More recent Soviet and Eastern European studies, he added, have shown further evidence of such a "neurasthenic syndrome" at radiation levels as low as 10 to 30 microwatts.

Zaret, an opthamologist who has studied links between microwave exposure and eye cataracts, said he believes senior Pentagon officials deliberately short-circuited "Operation Pandora" and disregarded experimental data that suggested potential radiation hazards.

He said there was fear that if the experiments were pursued more vigorously, "what they found could lead to unwanted restrictions on our own military establishment's usage of its electronic equipment," including radar and other installations.

"There's no question in my mind that this is all part of a cover-up," Zaret asserted.

GUN CONTROL AND PERSONAL LIBERTY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. PAUL) is recognized for 20 minutes.

Mr. PAUL. Mr. Speaker, the issue of gun control is intimately linked to the issue of personal liberty. From the days of our Founding Fathers and the debates concerning the necessity of a Bill of Rights in the U.S. Constitution, the question of the right to keep and bear arms has been seen by a majority of Americans as central to American freedom. The issue of gun control is a divisive one today, and it is not going to go away until the advocates of gun control succeed in wrecking the Bill of Rights, or until they become convinced of the necessity of preserving the original meaning of the second amendment and, therefore, abandon all attempts to register or confiscate guns used by sportsmen. Until gun control advocates shift their attention and efforts to control the use of guns by criminals in the commission of a crime, rather than the control af law-abiding citizens who are trying to defend themselves, those of us who defend the rights of private property are not going to be impressed.

The inability of police departments to defend us from criminals is increasingly obvious. This has been admitted freely by one of America's leading police chiefs, Edward M. Davis of Los Angeles, who heads up one of the finest police departments in any major American city. He has put our plight very well:

> I can tell you that today's law enforcement cannot protect. When you call, do the police immediately appear? . . . So, if the law enforcement agencies can't insure your protection and the protection of your family from hoodlums, it becomes your responsibility.

Gun control advocates are trying to make is impossible to defend ourselves. I call to your attention to Chief Davis' important speech of April 22, 1975, delivered in San Diego, Calif. It was reprinted in "The Journal of Christian Reconstruction," in the winter, 1975–76 issue:

LIBERTY, TYRANNY, AND THE SECOND AMENDMENT

(By Edward M. Davis)

Let me preface my remarks by saying that if you came here to hear Ed Davis speak about gun control, you may be extremely disappointed. My comments will be directed toward two rather basic and endearing concepts—liberty and freedom and the tyrants who would trample them.

Today, we stand at the threshold of celebrating the two hundredth anniversary of this government. If that celebration is to be made complete, it should continue until 1991. For the birth and foundation of this government involved move than the development of a Declaration of Independence. Our government was sired in a revolution which began on April 19, 1775, when a British expedition marched on Concord in an effort to seize colonial arms. So you see that gun control way back then started the American Revolution. The maturation and growth of this nation was nurtured in debate beginning with the Revolutionary War and continuing even today. You have heard the voices of those who desire to limit your rights and instill government control over your life. That concept has been the subject of debate since there was government. One of the very basic liberties that seems to raise serious conflict with some critics is the Second Amendment to the Bill of Rights.

Let's digress for a moment and briefly trace the development of our Bill of Rights. During the Constitutional Convention between 1787–89, our founding fathers sought to modify the articles of Confederation. The convention was composed of two camps of political thinkers. One group, in favor of a strong centralized government, became known as the Federalists. The other group, desirous of state's rights and a loosely knit central government, became known as the Antifederalists.

About mid-way through the convention, a representative from the state of Virginia—a truly outstanding patriot—George Mason, recognized that the Constitution was deficient in providing for the rights of the people. He expressed a desire to preface the Constitution with a Bill of Rights. He said, "It would give great quiet to the people; and, with the aid of state declarations, a Bill might be prepared in a few hours." This was later developed as a motion and it was soundly defeated. As the convention progressed, Mason and others expressed serious concern and reflection over the power this new central government might exert on the states and on the people. In fact, it was through the urging of such men as Mason that the Fifth Article, providing for amendments to the Constitution, was finally adopted. Governor Randolph, of Virginia, George Mason of Virginia and Elbridge Gerry of Massachusetts refused to sign the Constitution because of its serious deficiencies in freedom. They feared that the Constitution's deficiencies in personal liberty would soon lead this nation to monarchy or tyranny. This great concern for liberty coupled with a desire for a Bill of Rights was nothing new to these men. Each state had its own Constitution and a majority of the states had their own Bill of Rights.

The first Bill of Rights, after considering the Magna Carta, was probably the English Bill of rights of 1689. It was codified after the English Revolution of 1688, and after James II fled his kingdom. Among the many provisions of this Bill was the right of the people to keep and bear arms that's back in the British Bill of Rights. Now, with the development of Colonial Charters and Laws in this country, many of these liberties became a part of our law. These liberties were further defined and included in many revolutionary declarations and constitutions. The seventeenth Amendment to the Massachusetts Declaration of Rights, for example, includes a right to keep and bear arms. So, when George Mason asked the Constitutional Convention to consider a Bill of Rights, his request was made as a result of long-standing practice for the insurance of freedom. He was the author of Virginia's Declaration of Rights and he had a profound love for these basic liberties.

However, as I said, his motion was defeated unanimously. The Federalists, like Hamilton, could not see a need for a Bill of Rights. When the work of the convention had concluded and the representatives left for their home states for the purpose of seeking ratification of this document, the fate of the Constitution was in serious jeopardy. Many of the delegates, like Hamilton, Washington, Jefferson, and Madison, voiced concern for the ability of the Constitution to extricate itself from the deep divisions of the Convention.

The first state to ratify the Constitution was Delaware. The vote was unanimous. However, in the second state, Pennsylvania, Robert Whitehill successfully argued for a Bill of Rights. The next states ratifying the Constitution were New Jersey and Georgia. Their ratification did not include a Bill of Rights. Massachusetts was next and because of the efforts of Samuel Adams and other Antifederalists, a Bill of Rights was developed by John Hancock, a president of that state's convention. Maryland and New Hampshire also included a Bill of Rights in their ratification of the Constitution. The most crucial state in the ratification contest was Virginia. It was, at that time in our history, the largest and most important state. The debates in Virginia's State Convention are well recorded. The ratification debates lasted a month. The most profound and most glorious oratory delivered for individual rights was delivered by Patrick Henry and supported by such men as George Mason. Mason expressed a fear that the new government's standing army, like the British Regulars, might invade the state and keep the people under martial law. Henry thought that this new government might exercise its "power oppressively" and cautioned about enslaving the people. He asked if the other members were able to recall that France, Spain, Germany, Turkey and other countries were enslaved by their own people. He agreed with Mason's concern about providing the absolute power of the sword as well as the purse in the hands of this new government. The convention finally adopted 20 provisions for a Bill of Rights. These provisions were later used by Madison in the Congress.

In the first Congress, the issue of a Bill of Rights was a very crucial concern. There was a talk of a Second Constitutional Convention to modify the existing draft of the proposed Constitution; 210 different amendments to the Constitution were proposed by eight states. This was finally refined to 22 amendments, and 14 were included in Madison's recommendations to Congress. However, the great debate on these liberties continued. The 14 amendments submitted by Madison were cut down to 12. Each of those 12 amendments was debated and defined. Finally, ten amendments were adopted.

The purpose of our Bill of Rights was perhaps best summed up in the House: "These are essential and unalienable rights of the people designed to protect them from maladministration."

Let's look at the second provision of the Bill of Rights: "A well regulated militia, being necessary to the security of a free state, the right of the people to keep and bear arms shall not be infringed." When Madison presented that article it read, "The right of the people to keep and bear arms shall not be infringed; (semicolon) a well regulated militia being the best security of a free country; (semicolon) but no person religiously scrupulous of bearing arms shall be compelled to render military service in person." After some debate on the "religiously scrupulous" portion of this provision in both committee and in the full house, the article came out in final form as we have it today. There was little discussion of this provision in the Senate.

Let's tear this article apart and try to define it. The first part says, "A well regulated militia . . ."—Does that mean an Army? Does this mean a national guard? When you read the debates of these meetings the answer is definitely no! The framers of this provision believed that standing armies were a threat to peace and liberty. Madison, Mason and Henry spoke at great lengths about the problems of a standing army ruling the people or supporting a tyrant. So, what was the militia? Well, according to the framers of the Constitution, and this is supported by dictionaries of that era, it was individual free men, like you and me, who would leave their usual occupations to fight for the town or state or the government. The officers of the old militia units were often prominent businessmen or statesmen. The soldiers were just workers, like you and me, lovers of liberty. And Patrick Henry, when speaking at the Virginia Convention said, "All people," he was a women's liber way back then. He didn't say able bodied men.

We are not talking about any army. We are talking about free men willing to fight. The second half of this amendment states, ". . . being necessary to the security of a free state. . . ." These amendments were designed to protect the people against the tyranny of central government. They were concerned about their ability to protect themselves, their families, and their friends from invasion both without and within. Is the danger any less today? I think not. Let us not forget the plight of the British during the second World War. They were about to be invaded by the German Army. If the British citizens had been totally unarmed during an invasion, they would have been forced to peacefully submit to Nazi Germany. If this Country ever again went to war, could our Army and Navy protect us at home while it is divided upon two continents? Could it protect more than 4,000 miles of coastline? I think not! It would become the responsibility of individual citizens. Remember, our Navy was almost destroyed at Pearl Harbor and thousands of our regular army troops were lost in a holding action against the Japanese.

Remember, the same people who advocate gun control are the same people who advocate cutting the budget for the Department of Defense. It could happen again. On June 20, 1940, a United Press story stated, "The British people, undaunted by Germany's air attacks, grimly asked the government to put arms in their hands so that they might meet their invaders in hand-to-hand combat." That was a reality in England a short time ago. That could be a reality for us at any time in the future. The British were saved by American sportsmen sending weapons over and a benevolent President. We represent about five percent of the world's population and have about 50 percent of the world's wealth. President Ford and Secretary of State Henry Kissinger recently commented on the possibility of our using force against some smaller nations. Obviously, 95 percent of the rest of the world can make the same threat against the United States.

Let's discuss the threat from within. During the early days of settling our Western states, there was a threat from the powerful Indian Nations. In the 1800's, the Army was most inept at protecting the frontiersmen from Indian raids. By the time the army heard about an attack and a troop of cavalry travelled a distance of 100 miles, the ashes of the ranch house were cold. The settler-victims were in an advanced state of decomposition. That was less than a century ago and things really haven't changed. Instead of fighting Indians, we are fighting modern hoodlums. The hoodlums and criminals are terrorizing our communities. Look at the crime statistics. Crime increased nationally by 17 percent in 1974. This is the largest annual increase in the recorded history of this Country. The largest increase was not in the central city, it was in the suburbs—the small towns and rural areas. It went up 17 percent on the average; about 6 percent in the major cities, about 19 percent in the suburbs and up 25 percent in the towns under twenty-five thousand. I can tell you that today's law enforcement cannot protect you. When you call, do the police immediately appear? I don't think that there is any town that, when you call, the policeman appears like a genie. In order to insure your protection, we would have to hire ten times as many policemen—as they do in many foreign countries. The costs for such an increase would be prohibitive. So, if the law enforcement agencies can't insure your protection and the protection of your family from hoodlums, it becomes your responsibility. When and if we arrive at a point in time where all the criminals are properly processed through the criminal justice system—properly meaning that the criminal no longer presents a threat to the community—and I am able to insure your protection, then you may want to give up your gun. However, I don't see that secure existence ever presenting itself. The crime rate so far this year is even going up at a higher rate than in 1974.

I've talked about the threat from without and the threat from within, represented by the criminal element, but I failed to mention the terrorists. Groups like the SLA[1] and the Weather Underground could pose a threat to you. If the police and National Guard are busy battling these terrorists, who is going to protect your home and your family? Again, it comes down to the ability of the individual to provide for his own self-protection.

The final part of this Amendment states, ". . . The right of the people to keep and bear arms shall not be infringed." According to Webster's New Collegiate Dictionary, the word infringe means to "defeat, frustrate; violate, or transgress." The final part of the Amendment, therefore, seems to indicate that, "The right of the people to keep and bear arms shall not be" violated or frustrated or defeated. Patrick Henry speaking before the Virginia Convention states, "If you intend to reserve your unalienable rights you must have the most expressed stipulation; for, if implication be allowed, you are ousted of those rights. If the people do not think it necessary to reserve them, they will be supposed given up." Well we expressly reserve them—we think. That statement tends to sum up the intent of our forefathers in developing this Bill of Rights. So, when they said that this right should not be infringed, they meant that Government could not take this right from the people. Mason and Henry and the other Antifederalists had just rid themselves of one King George and they wanted to retain the ability to rid themselves of a future tyrant.

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[1] Symbionese Liberation Army, the group which kidnapped Patty Hearst in 1974.

Mason, Henry, Jefferson and other true patriots had some specific protections in mind when they developed our Bill of Rights. The need for liberties has not become less in our brief 200 year history. The fact that this Amendment was placed second on our Bill of Rights has special significance. Members of the House of Representatives at our First Congress were asked, after debating the amendments, to arrange them in proper order. The Bill of Rights starts with Freedom of Speech, Religion, Press and Assemblage and concludes with an admonition prohibiting the Government from taking any powers not expressly granted by the Constitution. It's interesting to note that the Right to Keep and Bear Arms was placed second after the Right of Free Speech and Religion.

Judicially, the full intent of this Constitutional right has not been tested. In reviewing an old legal text book, I found this definition of the Second Amendment: "This Amendment means no more than that the right of bearing arms for a lawful purpose shall not be infringed by Congress. It is one of the amendments that has no other effect than to restrict the powers of the National Government, leaving the people to look for their protection against any violation by their fellow citizens of the rights it recognizes to the State power of internal police."

The Supreme Court, in *United States* v. *Miller*, in 1939, sustained a statute requiring the registration of sawed-off shotguns. The court said, "In the absence of any evidence tending to show that possession or use of a shotgun having a barrel of less than 18 inches in length at this time has some reasonable relationship to the preservation or efficiency of a well regulated militia; we cannot say that the Second Amendment guarantees the right to keep and bear such an instrument. Certainly it is not within judicial notice that this weapon is any part of the ordinary military equipment or that its use could contribute to the common defense." So, the court has defined the right to keep only military type equipment. What these decisions seem to say is that the type of weapon you bear can be regulated by the federal government. Since there is some discussion in these cases about the military relatedness of the weapon, it appears that both sidearms and rifles are included. It would be difficult for the court to argue against the military relatedness of sidearms. History indicates that ever since the first handgun was manufactured they have served as a part of military hardware, starting with the wheellock pistols of the sixteenth century and continuing with the .45 caliber automatic and the .38 caliber revolver which have distinguished themselves in two world wars. Further, I think the court could take "judicial notice" of the .22 caliber's effectiveness to provide for "common defense."

Justice William O. Douglas, writing in the *New York Law Review*, stated, "A Bill of Rights . . . is a reminder to officials that all power is a heady thing, and that there are limits beyond which it is not safe to go. A few provisions of our Bill of Rights, notably the Third Amendment, and its prohibition against quartering of soldiers in private homes, have no immediate connection to any modern problem. Most of the other guarantees of government are, however, as important today as they were when first adopted. Many of them are even more important." Considering the continued attack by some against our liberties, including the right to keep and bear arms, it seems clear that our Bill of Rights and its provisions are even more important today.

Let's discuss the thinking and reasoning behind those who desire to compromise our liberties. They cite the misuse of guns as a reason for their abolition. They point out that a certain percentage of all robberies, murders and assaults are accomplished with firearms. What they seem to overlook is the fact that we are talking about a very small percentage of people. Would it be fair to sanction 99 plus percent of the people in an effort to control one-tenth of one percent of the population? If such a sanction were imposed on the populace, would it work? Would it be effective? Would it be a viable alternative? Most emphatically NO. Tim Sullivan gave New York one of the strictest gun laws in this country and it has done little to help New York. Criminals still use guns in New York.

As a matter of fact, New York and several other states with strict gun control laws have distinguished themselves with their high crime rate. Some officials from these states are now asking the government to ride roughshod over the Second Amendment. They want others to share in the unsuccessful efforts of their gun control measures. You see, when a criminal makes up his mind to violate one law, like robbery, the violation of another law is a very small thing. A professional criminal—one who makes a living by violating the law—doesn't give a hoot about society's rules. He has his own rules. So, gun laws, like those in New York, restrict the law-abiding citizen and not the criminal.

Alan S. Krug, an economist formerly with Pennsylvania State University, completed a comparison study of jurisdictions with strong gun laws compared to those with lenient laws. He found that firearms are involved in only three percent of all crimes. He found that while the number of guns purchased and owned by citizens has increased significantly during the past decade, the number of deaths resulting from firearms per hundred thousand population, has remained fairly constant. So, the availability of firearms to the general public is not the cause of abuse. The United States Congress in 1967, involved itself in a study dealing with the hypothesis that strict firearm licensing laws resulted in a lower crime rate. The study found no correlation between firearm regulations and crime. The antagonists of our liberties appear to be utilizing a false and emotional argument as a reason for infringing upon our rights. When that is done by government, it smacks of tyranny. King George the third is alive and well in the United States today.

Listen to this king or would-be king. The United States Senate Judiciary Committee of the 93rd Congress, headed by Senator Sam Ervin of Watergate fame, drafted a "Layman's Guide to Individual Rights under the United States Constitution." Under the Second Amendment, the following quote is provided: "The Right to Bear Arms: The Second Amendment provides for the freedom of the citizen to protect himself against both disorder in the community and attack from foreign enemies. This right to bear arms has become much less important in recent decades as well-trained military and police forces have been developed to protect the citizen." I'm just departing from the quotes now, but I wonder where in the heck they got the information. I don't know anything about it. "No longer does he need to place reliance on having his own weapons available." And so I say, No thank you, King Sam. This Senate Committee believes that your right is not as important as it once was. I disagree. I believe that this right is just as important today as it was when it was developed. It is an inalienable right of the people promulgated for posterity by our forefathers. It will not be infringed.

Listen to this would-be King. The new Attorney General of the United States, Edward Levi, in a meeting just a few weeks ago came out with a proposition that would impose federal gun control on certain cities, at certain times, under certain conditions. To me, it's incredible that this brilliant legal scholar has not heard of the Second and Fifth and Fourteenth Amendments to the United States Constitution. No thanks to you, King Ed.

The answer to gun abuse lies not in abolishing the right of the majority, but in protecting that majority against a few. This end should be achieved by the criminal justice system working with existing law. The proper administration of penalties against those who abuse this right will act as a proper deterrent. I have statistics on the workings of this Criminal Justice System which indicate that the criminal is more often rewarded with probation than censured by punishment. Those who would propose an endorsement for the abolition of our right to keep and bear arms must seriously consider this . . . are you listening A.C.L.U.?[2] They must seriously question their future position on the relinquishment or renunciation of other Constitutional guarantees. For to surrender and abandon one liberty might well lead to the surrender of others. When man forsakes his liberties, he becomes a slave.

And now there's the house of lords who would impose something. Listen to what this house of lords has to say. The United States Conference of Mayors just a few days ago endorsed a proposition that would take our bullets away. Now this is the theft of our Second Amendment rights by trick and device—a special form of theft covered in the penal code and we say, No thank you, Lord Mayors. We will not have that here.

In conclusion, let me say that Mason and Henry and Jefferson probably had these protections in mind when they drafted our Bill of Rights. Certainly, the value of these liberties is no less today than it was at the time of our founding. The abandonment of these guarantees will ultimately lead to the destruction of this great nation. I am but a servant of the people and a lover of liberty and I cannot let that happen. And there is in existence in the beginning of this bicentennial, a well-coordinated, nation-wide effort to strip us of our personal Constitutional rights, to keep and bear arms. Unless we match the efforts of those would be tyrants, we will lose these rights. We must alert our fellow countrymen and have them stand with us. Perhaps our badge or lapel pin during the bicentennial period could be a serpent forming a circle with a No. 2 inside. This would be similar to the Minutemen flag of the Colony of Virginia where Patrick Henry did his great work for us. That flag said, "Liberty or death—Don't tread on me." And let this bicentennial of ours mark the beginning of a new declaration against tyrants. Let this bicentennial mark an awareness of our now inalienable rights. Let this mark a return to a deep reverence for the law, its principles, and our rights, liberties, and obligations.

THE NORRIS COTTON BUILDING

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Hampshire (Mr. CLEVELAND) is recognized for 5 minutes.

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[2] American Civil Liberties Union.

Mr. CLEVELAND. Mr. Speaker, I want to take the occasion of this special order to proudly commend the House for the passage earlier this afternoon of H.R. 14545, a bill to designate the new Federal building in Manchester, N.H., the "Norris Cotton Building." Senator Cotton, who retired last year after a sterling career of more than 50 years in public service, including 20 in the Senate and 8 in the congressional seat which I now occupy, has had many honors bestowed upon him, all of them richly deserved, but this legislation is a special kind of tribute. Not only is it an expression of lasting respect and admiration from those of us who remember him as one of our colleagues in the Congress, it is further a living and working memorial to a man whose talents and energies carried him into practically every area of work done by the Government.

Senator Cotton was a leader and innovator in a large variety of Government fields, and thus it is only fitting that a new and innovative Federal building should carry his name above its doors. If I may take a moment, Mr. Speaker, I would like to inform my colleagues of some of the special features of this building.

Its most prominent feature is a solar energy heating and cooling unit, which is to be used as a partial or supplemental source of energy, and is projected to reduce energy consumption in the building by 40 to 50 percent compared to conventional means. In addition to this solar energy source, the building has several other features which are designed to conserve energy. Its design is cubic in shape, to minimize the outside area relative to the interior floor area. It has no windows on its north wall, and those features of a building which do not require windows, such as elevators, stairways, and mechanical equipment rooms, are concentrated on its north side. The walls are very thick, with insulation near the outer surface so that the interior walls act as a thermal reservoir. Windows are double-glazed, and each floor has two different methods of heating, cooling and lighting, so as to test a number of different types of equipment. All the hot water in the building will be provided by solar energy, coming from four rows of solar collectives on the roof which heat water to an average of 180° and store it in three 10,000-gallon storage tanks.

Mr. Speaker, this new Federal office building in Manchester is a remarkable combination of modern technology and basic commonsense in saving energy. It is, therefore, well suited to bear the name of Norris Cotton, a statesman who always met and accommodated the challenges and complexities of modern life with the timeless but oft overlooked virtue of plain commonsense. I want to commend my colleague from New Hampshire, Mr. D'AMOURS, in whose district the building is located, for his initiative in introducing this legislation, and also our two Senators MCINTYRE and DURKIN for their part in getting the bill through the Senate so quickly. All of New Hampshire is grateful to the Congress for so honoring a distinguished citizen and public servant.

GUN CONTROL IN ANOTHER PERSPECTIVE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. TALCOTT) is recognized for 5 minutes.

Mr. TALCOTT. Mr. Speaker, frustrated and exasperated persons often lose their social, moral, and logical compasses They must find something to blame for perceived wrongs. They balk at blaming themselves and quickly accuse society, another person or some inanimate object. A topical example occurred in our capital just recently.

In Washington, as most of us know, there are many traffic "circles" to expedite traffic at six-way intersections—an ingenious system for separating surface traffic before underpasses were feasible. Beautiful old trees now grace the inner circle around which the streets channel the automobiles coming and going in many directions. A spate of serious accidents wherein sleeping, careless, or drunken drivers collided with some of the trees—always at speeds in excess of the speed limit and prudence—caused a newspaper to headline and editorialize against the trees—even suggesting that some trees be destroyed in the simple notion that thereby a human life might someday be saved. No trees, no collisions with trees. Right? No.

At the same time, the Washington City Council passed an ordinance in effect banning all guns except those used by law enforcement officials.

There is at once both a clear anomaly and an analogy. Trees do not kill; guns do not kill; reckless or willful people do.

So we should go after the animate culprit, not the inanimate. If we banish trees from highway landscapes, people will drive into buildings or something else. When we banish all guns, people will use something else. Banishing visible but innocent trees is, of course, easier than banishing guns—which is impossible. But neither is a solution to the real problem of willful and reckless human behavior.

It may be easier to get to the root of a tree than to the root of crime and the wrongful use of guns; but we can. When we do, law abiding citizens will not want or need to carry guns for their protection.

A wanton rush to abdicate our basic personal and societal responsibilities by unloading our frustrations on society, or on an inanimate object, is not a rational answer—only a short-term dismissal of one kind of irritable human behavior.

Laws against guns make about as much sense as laws against trees.

RESTORING TRADE PREFERENCES TO NATIONS WHICH DID NOT PARTICIPATE IN 1973 ARAB OIL EMBARGO

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Louisiana (Mr. LONG) is recognized for 5 minutes.

Mr. LONG of Louisiana. Mr. Speaker, earlier this year I was named chairman of the Joint Economic Committee's Subcommittee on Inter-American Economic Relationships. In the ensuing months, the subcommittee has launched upon a program to reassess United States-Latin American economic relations, and already the subcommittee has held several hearings on this subject.

One thing I have learned is that U.S. relations with Latin America—economic, political or otherwise—have deteriorated to an intolerably low level. Our policy is one of benign neglect more than anything else. Because we have been so preoccupied with international crises, we have paid too little attention to other problems in foreign policy. Granted that détente and crisis intervention are important aspects of foreign policy, but there are other nations in the world and there are other issues in need of resolution.

I think the time has come when we must concern ourselves to a much greater extent with the many issues pending on the United States-Latin American agenda. Our interest is a substantial one. Latin America is an important market for U.S. exports and an important source of raw materials. Also, Latin America accounts for nearly 70 percent of all U.S. direct investment in developing nations.

Questions of investment restrictions, commodity agreements, immigration policies, technology transfers, trade issues and many others are sitting dormant while hemispheric relations continue to deteriorate at an alarming rate. Our failure to address these issues in a comprehensive and timely manner has caused considerable concern among our southern neighbors, and we have much ground to regain before our ties with Latin America can be put on a firmer footing.

Throughout the hearings that the Subcommittee on Inter-American Economic Relationships has held, one issue has surfaced as a major obstacle to improving hemispheric relations—and that is the exclusion of Venezuela and Ecuador from the generalized system of preferences—GSP—in the Trade Act of 1974. Without question, there are more basic issues pending on the United States-Latin American agenda, but none has caused more bitterness in Latin America than this exclusion.

The Trade Act of 1974 established a system of trade preferences—GSP—for the developing nations of the world. These preferences would allow developing nations to export limited amounts of designated products to the United States duty-free so that these nations could increase their export earnings. While we initially intended to grant these preferences to all developing nations, the oil embargo of 1973 led us to deny GSP status to all members of OPEC.

When we passed the Trade Act in 1974, the exclusion of all OPEC members had a certain emotional appeal because of the crippling oil embargo and the devastating quadrupling of oil prices. But the exclusion hit six non-Arab OPEC nations which were faithfully sending oil to the

United States when the Arabs were refusing to do so. Venezuela and Ecuador were particular cases in point—the only nations so affected in Latin America. In fact, Venezuela actually increased its oil exports to the United States, and some estimates indicate that Venezuelan oil shipments to the United States increased by as much as 20 to 22 percent during the embargo.

Today I am introducing legislation to change the exclusion from GSP for OPEC nations. My bill will allow those OPEC nations which did not participate in the 1973 embargo to receive GSP status while keeping the exclusion intact for those OPEC nations that did participate in the embargo. This would have the effect of allowing Venezuela, Ecuador, Nigeria, Iran, Indonesia, and Gabon to begin taking advantage of our GSP treatment.

The benefits to the United States from this legislation would be twofold. First, it will be an important step toward improving relations with our neglected neighbors here in this hemisphere. Elimination of this largely symbolic obstacle will allow more serious negotiations and debate to progress on a number of important issues. Second, the legislation will be an appropriate response to OPEC's pricing and supply actions—a response designed to further our own long-range objectives in dealing with OPEC and the energy question.

OPEC is not a monolithic political or economic entity. Although there is general internal agreement in OPEC on pricing policy, there is considerable disagreement over supply policy as evidenced by the fact that six non-Arab OPEC members refused to participate in the 1973 embargo. I believe the United States should take advantage of this cleavage in OPEC by fostering better trade relations with these six non-Arab OPEC nations.

The benefits of this strategy are substantial. Of our six most important suppliers of foreign oil, four non-Arab nations which presently account for 48 percent of all U.S. oil imports—or about 3.25 million barrels a day—would benefit from my bill. This bill would remove a major obstacle in the process of strengthening our relations with these non-Arab OPEC members.

Whether we are talking about improving United States-Latin American relations or improving relations with the non-Arab members of OPEC, my bill is more a symbolic gesture than anything else. It would cost the United States virtually nothing, and the economic impact on the recipient nations would be minimal. The State Department estimates that the total amount of tariff revenues the United States gives up by granting GSP to all recipient nations is between $100 and $200 million annually.

The six nations which would receive GSP status under my bill would not siphon off large amounts of additional dollars from the United States. For example, only 0.34 percent of Venezuela's exports are expected to be eligible for the preference, only 0.5 percent of Indonesia's, only 0.32 percent of Iran's, only 0.08 percent of Nigeria's, and only 4.5 percent of Ecuador's—for a total of about $50 million a year for all five of these nations combined—data on Gabon not presently available.

I urge my colleagues to give careful consideration to this amendment. I believe it will go a long way towards strengthening United States-Latin American relations, and it will help insure continued U.S. access to non-Arab energy sources until the United States can reduce our dependence on foreign oil imports to a more reasonable level. A copy of my bill follows:

H.R. 14997

A bill to amend section 502(b)(2) of the Trade Act of 1974 to remove certain restrictions on countries which may be designated as beneficiary developing countries

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 502(b)(2) of the Trade Act of 1974 (relating to countries ineligible for designation as beneficiary developing countries) (19 U.S.C. 2462(b)(2)) is amended to read as follows:

"(2) if such country is a member of the Organization of Petroleum Exporting Countries, or a party to any other arrangement of foreign countries, and such country participates in any action pursuant to such arrangement the effect of which is to withhold supplies of vital commodity resources from international trade;".

OVERRIDE OF S. 391, THE FEDERAL COAL LEASING AMENDMENTS ACT OF 1975

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Hawaii (Mrs. MINK) is recognized for 5 minutes.

Mrs. MINK. Mr. Speaker, I am appalled, but not surprised, at the President's veto of S. 391, the Federal Coal Leasing Amendments Act of 1975. I am appalled because we are today obliged to override the veto of a bill which passed this body last January by a vote of 344 to 51—a margin of almost 7 to 1. Indeed, so overwhelming was the support for our bill that the Senate was able to pass it by a voice vote and send it to the President, along with a letter signed by 73 Senators, urging his signature. I am not surprised by the veto, however, because it is the 51st in a long line of administration vetoes of important legislation, including many energy related bills. It typifies the administration's policy of thwarting the development of a national energy policy and then trying to blame the Congress.

Mr. Speaker, the President's veto message on S. 391 ends with an exhortation to the Congress to "work with me" in drafting suitable coal leasing legislation. This exhortation completely overlooks the fact that S. 391 is already the product of prolonged discussion and compromise with the administration. The proof of this lies in the fact S. 391 would largely codify the critical provisions of the administration's new coal leasing policy, which was implemented in May and June of this year with the promulgation of numerous regulations. Specifically, S. 391's land use planning provisions incorporate the Department of Interior's EMARS lease tract selection program, which was published in regulation form on June 1. The President himself, in the veto message, indicates that—

> There are sound reasons for providing in Federal law—not simply in Federal regulations—a new Federal coal leasing policy . . .

S. 391 further accommodates administering law, goes beyond the EMARS regulations to give the Department of Interior requested authority to review and update lease terms and conditions every 10, rather than every 20 years—a provision which will insure that lease terms keep pace with changing requirements and market conditions in the coal industry.

S. 391 further accommodates administration requests by codifying Department of Interior policy abolishing preference right leases, and by permitting future leasing on a competitive basis only. It would also legislate the Department's proposed testing permit regulations published June 1; the Department's EMARS policy of prohibiting coal leasing in National Parks, Wildlife Refuges, and Wilderness Areas; the Department's "diligent development" regulation provisions requiring production from leases within 10 years; and the Department's known coal leasing areas drilling program.

Finally, and very importantly, it would revise the formula for distributing revenues from mineral leasing so that the share received by states impacted by mineral development would increase from 37.5 percent to 50 percent. This provision, to which the President has promise to "pledge my support," is vitally important to the Western States.

Mr. Speaker, from the above it should be abundantly clear that S. 391 represents a carefully reasoned, and reasonable, reform of the Mineral Leasing Act of 1920—a reform that accommodates the major administration concerns with the 1920 act, and enacts the major aspects of their very own leasing program. In analyzing the veto message and asking the reason why, I can only conclude that this veto results from a basic misunderstanding of the provisions of S. 391. In short, it is hard for me to believe that the administration has read the bill in the context of the real world—if they had, they would not have expounded the numerous misleading conclusions, and inaccuracies contained in the veto message. Allow me to elaborate on a point-by-point basis:

Coal production: The veto message alleges that S. 391 would "inhibit coal production," an assertion that directly contradicts Secretary of Interior Kleppe's statement of July 1 that S. 391 would "not seriously hamper" the administration's schedule for coal development. Secretary Kleppe is of course correct. Even if S. 391 contained an outright ban on future Federal coal leasing, there is already enough Federal coal under existing lease and preference right lease application to satisfy demand for over 40 years. Present Western States production, plus estimated production for 30 new mines pending approval by the USGS—seven of which have already been approved for operation and will be mining shortly—will satisfy FEA production goals for Western coal in 1985, without so much as the opening of a single additional new mine on Federal, State or private lands.

Contrary to the administration's predictions, I believe S. 391 will actually increase Western coal production through provisions which will force production within 10 years, improve the data and selection process for future coal leases, guarantee public bodies such as rural electric cooperatives access to Federal coal leases on an equitable basis, and facilitate the leasing of Federal coal to all those interested on a competitive basis.

Increased prices: The veto message states that S. 391 would "probably raise prices for consumers." This is an extremely vague allegation, which is none the less unsupported by the facts.

If the administration is inferring that the 12.5-percent minimum royalty of the bill will raise prices, it should be remembered that the Department of Interior has a target royalty of 8 percent. The 4.5 percent difference will hardly have a significant impact on the ultimate price of electricity to consumers. Indeed, Detroit Edison has estimated that Montana's new 30-percent severance tax will raise average residential electric rates by $3.88 per year—or a penny a day. Using this estimate, one can readily calculate that the impact of the 12.5-percent royalty on residential electric bills will be on the order of a penny per week—hardly a significant increase to consumers.

It should further be noted that S. 391 contains numerous provisions designed to promote competition in the coal industry. Specifically, the bill will: mandate deferred bonus bidding on 50 percent of the acreage leased in a given year to enable small corporations to bid on leases without necessitating a large front-end capital outlay; establish a 100,000-acre limit on Federal coal leases held by any individual or corporation; require that a reasonable number of leasing tracts be reserved for sale to public bodies; and provide the Attorney General with an opportunity to review proposed lease issuances. These competitive provisions should lower coal prices—not raise them.

Twelve and one-half percent minimum royalty: The veto message condemns the 12.5-percent minimum royalty as being too high, but fails to mention that this royalty is applicable to surface mined coal only. S. 391 specifically allows the Secretary of Interior to determine a lesser royalty for production from underground mines. Further, the veto message completely overlooks the fact that under section 39 of the Mineral Leasing Act, a section unchanged by S. 391, the Secretary will be authorized to "waive, suspend or reduce" the minimum royalty for production from both surface and underground mines "for the purpose of encouraging the greatest ultimate recovery of the coal—in the interest of conservation of natural resources." This will give the Secretary flexibility in setting royalty rates.

I would also like to note that the 12.5-percent minimum royalty is entirely consistent with recent dramatic increases in royalties, ad valorem, and severence taxes for coal in the Western States. On State lands in Wyoming and North Dakota, a lessee will henceforth pay combined royalties and taxes of 20 to 25 percent. Anticipated tax increases in Colorado, Utah, and New Mexico should bring those States to a cumulative rate of 20 percent or more. Montana will top them all with a rate in excess of 45 percent.

The conclusion to be drawn from these figures is that coal companies can, and do, pay taxes and royalties on coal that cumulatively exceed 45 percent of the value of the coal at the mine mouth. While the Montana increases are barely a year old, it should be noted that, so far, the companies are paying the royalty and the severance tax. Further, there is no evidence to suggest that the high Montana rates have deterred new leasing in Montana, forced companies to take their operations to States with lower rates, or resulted in significantly higher residential electric bills. Therefore, the 4.5-percent difference between S. 391's 12.5-percent minimum royalty rate and the Department of Interior's 8-percent target rate, should not make large acreages of Federal coal uneconomical to mine. Even when added to State severance and ad valorem taxes, cumulative rates for Federal lands in Wyoming, Colorado, North Dakota, Utah, and New Mexico will be far less than what companies are presently paying in Montana. In Montana itself, the 12.5-percent minimum royalty will have the effect of increasing cumulative rates from around 45 percent on State lands to 47.5 percent on Federal lands. It is most unlikely that this insignificant increase will deter leasing of Federal lands in Montana.

The ultimate question to be asked, of course, is how high a Federal royalty can rise before the cumulative effect of royalties and taxes renders coal deposits uneconomical to mine, or prompts potential lessees to lease State, Indian, or private lands on which the royalties are less?

It is generally accepted, and the Montana experience supports this, that royalties and taxes are not the critical factors in influencing a company's decision to lease a tract of coal lands. If all other factors were identical, then, perhaps, a percentage difference in royalty rates between two potential leasing tracts would cause a company to choose the tract with the lesser rate. However, tracts are rarely, if ever, identical, and other factors such as proximity to transportation lines, thickness of the coal seam, availability of water, sulfur content of the coal, nearness to market, and depth of the overburden, are far more important in influencing a decision as to the best tract for leasing. In short, a 15.2-percent minimum royalty of S. 391 on Federal coal lands should not deter the leasing of Federal coal deposits, especially when given the flexibility offered by section 39 of the Mineral Leasing Act.

Further, the most recent statistics show that, on a Btu basis, coal is only 40 percent as expensive as oil for electric power generation. This indicates that the price paid for coal by utilities could more than double without coal losing its attractiveness as a power generation fuel.

It should finally be noted, that the Federal Government does not assess severance or ad valorem taxes to mitigate the impacts of coal development. Virtually all of the Western States have determined that royalties and taxes aggregating at least 20 percent of the value of the coal are necessary to deal with the impacts associated with coal development on State lands. Is 12.5 percent then too much to ask for Federal lands?

Production from lease within 10 years: S. 391 requires production from new leases "in commercial quantities" within 10 years of issuance. The 534 existing leases would be subject to this provision only to the extent that it is inserted in lease terms at the next scheduled readjustment period, or if an existing lease were consolidated into a logical mining unit. The veto message claims the 10-year deadline would set back efforts to accelerate coal production, despite the fact that the Department of Interior's very own "diligent development" regulations contain a similar 10-year deadline. The Department's regulations further require production of a minimum of 2.5 percent of lease reserves within 10 years, a provision which is arguably more stringent and less flexible than the production "in commercial quantities" standard of S. 391. Thus, the administration is condemning Congress for legislating that which it plans to do by regulation. In any event, it is totally illogical to assert that the 10-year development deadline will somehow "set back efforts to accelerate coal development"—it should do just the opposite.

Finally, the veto message ignores the fact that if the 10-year deadline should, in practice, prove to be too stringent, the Secretary may so state in his required annual report to Congress, and Congress can initiate whatever remedial action it deems appropriate to extend or modify the deadline.

Mining and reclamation plan: The veto message states that S. 391 would "require approval of operating and reclamation plans within 3 years of lease issuance." This is untrue. S. 391 only requires the submission of such plans within 3 years. There is of course a huge difference between submission of a mining plan and final approval by the USGS. Under current practice, a period of several years is normally required for the USGS to analyze and approve a mining plan. During this period, USGS undertakes a detailed analysis of the plan and communicates with the lessee to develop site specific mining and reclamation requirements and conditions.

Quite frankly, Mr. Speaker, I am puzzled by the administration's objection to the mining and reclamation plan requirement, as this requirement was inserted in the bill pursuant to a specific request in a letter from Assistant Secretary of the Interior Jack Horton, dated March 13, 1975. Mr. Horton stated,

> There is a real need for such a plan before the commencement of any activities under a lease.

The administration now attacks its own request.

I agree with Mr. Horton that timely submission of a mining and reclamation plan is essential for the protection of the environment. As both S. 391 and the Department of Interior's new diligent development regulations require production from leases within 10 years, it hardly seems burdensome to require the lessee to submit mining and reclamation plan within 3 years. Rather than serving to "setback efforts to accelerate coal production," as alleged in the veto message, timely mining plan submission should help to accelerate coal production.

Antitrust review: The veto message states that S. 391 "requires detailed antitrust review of all leases, no matter how small"—yet another gross inaccuracy. Section 15 of S. 391 does require the Secretary of Interior to notify the Attorney General of proposed leases, and submit accompanying information which will enable the Attorney General to review any possible antitrust implications of a proposed lease. However, nothing in S. 391 requires the Attorney General to undertake a detailed antitrust review. Indeed, if the Attorney General takes no action on the information submitted, the Secretary of Interior is free to proceed with leasing after 30 days.

Further, given the nature of the antitrust laws, and the previously mentioned acreage limitations and other antimonopolistic provisions of S. 391, it is most improbable that more than a mere handful of future leases will ever require detailed review or a public hearing under section 15. Section 15 is more accurately characterized as a provision which provides the Attorney General with information and an opportunity to review lease issuance—a provision which I believe is eminently reasonable.

Public hearings: The veto message asserts that S. 391 "requires four sets of public hearings." This is completely misleading. Four hearings would be required only of a new lease is to be issued, and included in a logical mining unit, and if the Attorney General advises the Secretary of Interior that lease issuance might violate the antitrust laws—a combination of circumstances that may never occur.

As previously mentioned, antitrust hearings will be exceedingly rare. In the case where a new lease will be included in a logical mining unit, an additional public hearing is justifiably required by S. 391. This is so because logical mining units may total up to 25,000 acres—39 square miles—and the impacts associated with such large scale development will necessarily be of significantly greater magnitude than for individual leases. The veto message further fails to note that many logical mining unit consolidations will involve existing leases—leases for which a public hearing was not required under existing law. It is only equitable to provide the public with an opportunity to comment on development of the new unit, especially if it is of great size and potential impact.

From the above, it can readily be seen that in the overwhelming majority of cases involving future leasing only two public hearings will be required—one on the land use plan, and one prior to the lease sale. Under the Department of Interior's EMARS regulations, which were published June 1, exactly the same number of public hearings will be required—two.

Deferred bonus bidding: The veto message denounces S. 391's requirement that 50 percent of the lease acreage offered for sale in any given year be offered under a system of deferred bonus bidding, as stringent.

Mr. Speaker, I fail to see what is stringent about a provision that is designed to insure that small corporations, which may not have access to the enormous capital required to pay front end bonus bids, will be able to compete in bidding on at least 50 percent of leased acreage. Congress has rightfully reasoned that enabling these small corporations to defer bonus payments until subsequent years, when there is income from mining operations to pay off the bonus bid, will enhance competition in the coal industry. I do not see why the administration should challenge this determination, especially when it cannot even conceivably be argued that deferring bonus payments will in any way decrease coal production, increase prices, or hamper smooth leasing procedures.

Comprehensive exploratory program: The veto message terms the comprehensive exploratory program of S. 391, which designed to upgrade existing data on the Federal coal reserves, as "simply unnecessary." Let me state for the record, Mr. Speaker, that the administration is in the very process of doing exactly that which it terms unnecessary. The USGS is currently conducting exploratory drilling in 16 known coal leasing areas totaling over 9 million acres. Plans for drilling in another 17 proposed known coal leasing areas are in the works. Interior anticipates requesting $16.9 million for these activities through 1979, and openly admits that it could use much more than this. In addition, Director McKelvey of the USGS has told the Subcommittee on Mines and Mining that each proposed coal leasing tract will undergo further exploratory drilling "in the summer field season proceeding each lease sale.

The GAO, in a report issued on April 1, has recommended an exploratory program to upgrade existing coal data, and states that this program should be undertaken before any new leasing occurs. Director McKelvey candidly admits that GAO is correct, and agrees with USGS field personnel on the need for better data, stating:

> Yes. In many areas more drill hole data are needed, especially for purposes of evaluation of specific tracts for lease sales.

S. 391 will provide such data.

The National Coal Association has indicated that under this bill all new leasing will somehow be held up until the entire exploratory program is complete. There is nothing in S. 391 that even remotely supports these contentions.

Subsections (a) and (g) of section 7 of S. 391 make it clear that the exploratory program will be designed by the Department of Interior to "obtain sufficient data" and proceed at such a rate and expenditure level as the Department deems necessary pursuant to an "implementation plan" which will be submitted to Congress. As Congress, of course, retains traditional oversight jurisdiction and must authorize annual appropriations for the program, it can be no larger than Congress sees fit. Further, subsection (g) clearly refutes the National Coal Association's assertion that all new leasing will be held up until the comprehensive exploratory program is complete.

Additionally, it should be noted that at some point in the coal leasing and development process, the data envisioned in the comprehensive exploratory program will have to be acquired—if not by the USGS, by private industry. Such data will be needed to evaluate whether coal deposits are economically and environmentally appropriate for leasing. It will be needed to ascertain whether the tract should be mined via surface or underground methods. It will be needed to calculate a fair market value estimate for bidding on the proposed tract. As this is the case, one can readily conclude that tracts for which data has been fully gathered will attract higher bids than tracts for which additional drilling is needed.

Thus, any costs to the Government of a comprehensive exploratory program will be recouped in the form of higher bonus bids, so in the long run, the program will cost the Government nothing. Is it not therefore, the wiser course of action to acquire sufficient data initially, so that the Secretary of Interior will have it available for land use planning and other lease tract selection processes, and thereby be able to offer the best possible coal tracts for sale.

Those worried that the comprehensive exploratory program will put the Government in the coal exploratory business to the detriment of the private sector, should note that S. 391 specifically authorizes the USGS to contract out the private sector drillers, or purchaser the data generated by private exploratory ventures. USGS has told the Subcommittee on Mines & Mining that it has only "a limited capacity to accomplish in-house drilling programs," mainly due to a shortage of manpower and drilling rigs. So, in reality the private sector will end up performing the bulk of the actual drilling under provisions exactly as it does for current USGS drilling programs.

Finally, it should be obvious that exploration and development costs are continually rising. Delaying the gathering of information can only result in significantly higher costs when the problem is approached on an uncoordinated, individual tract basis by the USGS or private industry in later years.

For all these reasons S. 391 should become law. It is the very same bill which the House passed by an overwhelming vote in January, and is supported by all the western Governors, the Energy Policy Task Force of the Consumer Federation of America, the National Farmers Union, the Sierra Club, Burlington Northern Corp., the United Mine Workers of America, the National Rural Electric Cooperative Association, Union Pacific Corp., Friends of the Earth, the National Wildlife Federation, the American Farm Bureau Federation, the American Public Power Association, the Western Conference of the Council of State Governments, the Wilderness Society, and the National Association of Counties.

S. 391 enjoys this support because it is a reasonable bill. We cannot allow such a vital resource as coal be exploited by regulation only. Passage of this law is essential. It will bring an end to the speculation and nonproduction that has been rampant under existing law. It will allow for greater competition in the bidding process, it will assure the people an adequate return, it will provide for public hearings and, the 239 existing leases in the Western States which currently have no plans for production before 1990 will have to develop mining plans and be in production in 10 years. Without issuing even one more lease and just requiring those already issued in the past, which cover some 16 billion tons of coal, to come into production, this bill will enable us to meet the energy needs of this country.

S. 391 is urgently needed reform. I urge your vote to override this veto.

CONGRESSIONAL IMPOUNDMENT OF FEDERAL-AID HIGHWAY FUNDS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. HOWARD) is recognized for 5 minutes.

Mr. HOWARD. Mr. Speaker, tomorrow when the House takes up the conference report on H.R. 14234, the Transportation Appropriations Act of 1977, we will again confront the issue of congressional impoundment of funds for the Federal-aid highway program.

On June 28, when the bill was originally before the House, this issue was fully and fairly debated with the result that the House voted by a margin of over a hundred—251 to 146—against the imposition of an obligation ceiling on the highway program in the Appropriation Act.

In the period since, the Committee on the Budget, the Committee on Appropriations, and the administration have worked diligently to reverse that position taken by a decisive vote of this body. Communications to Members have taken the form of a flood of Dear Colleague letters, statements in the RECORD and a "discussion sheet" circulated by the administration. Much of the material has merely rehashed the substance of our June 28 floor debate, but I am concerned that some confusion may be created in the minds of Members and therefore I am unwilling to have these arguments go unanswered.

Therefore, Mr. Speaker, my purpose today is to reply directly to the most recent allegations about the merits of obligation ceilings on the highway program, so that Members may have a balanced and updated picture of the real issues at stake when this matter comes to a vote tomorrow.

First, I shall discuss the administration's position paper, partly because it sums up many of the arguments made by not only the administration but by congressional advocates of the ceiling and because we should never lose sight of the fact that the proposal to impose these ceilings originated initially with the administration. Following that, I shall attempt to deal with those issues raised by either the Budget Committee or the Appropriations Committee that were not covered in my response to the administration's arguments.

ADMINISTRATION'S ASSERTIONS

First, I invite Members to consider the following facts with respect to four key allegations made by the administration.

Assertion No. 1: With a $7.2 billion obligational ceiling on the highway program, obligations "could" bust the congressional budget by $4 and $5 billion, increasing the fiscal year 1977 deficit.

Response: It will be impossible for the States to obligate more than $8.5 billion during fiscal year 1977 according to a poll of the States by the Department of Transportation. This assumes that they are able to obtain all necessary matching money. Significantly, the Committee on Appropriations assumes a $7.7 billion obligation level as representing "the practical capacity of the highway construction industry." The leadership of the Committee on the Budget argues that $7.2 billion is "in line with projected construction plans submitted by State highway departments." Best estimates of outlays during fiscal year 1977, assuming a $7.2 billion obligational level, $6.5 billion. Since an $8.5 billion obligation level would be accompanied by outlays of $6.7 billion, removal of the ceiling would increase 1977 outlays negligibly—by only $200 million. A $200 million increase in outlays resulting from absence of a ceiling would represent a short-fall of $359 million in outlays below the target assigned to the Transportation Appropriations Subcommittee in the first budget resolution. Otherwise, according to the chairman of the Budget Committee, the short-fall in outlays would stand at $559 million. This is due to a short-fall in 1976 obligations far below the level projected by the Committee on the Budget in the development of the first concurrent resolution:

Assertion No. 2: Trust funds are not exempt from the overall budget process, with the result that defense, health, mass transit, rail, and airport programs must compete for allocations; opponents of the ceiling want highway construction exempt from this discipline and have access to any amount "off the top."

Response: The Committee on Public Works and Transportation has never asserted that the trust fund financed Federal-aid highway program is exempt from the budget process, but only that it is exempt from the requirement of obligation ceilings in appropriations acts by virtue of the nature of the program and its revenue source in a user-paid self-financing mechanism. The Congressional Budget and Impoundment Control Act of 1974 specifically exempts certain trust fund programs, including the highway program, from provisions of the act requiring obligation ceilings in appropriations acts. The committee asserts that not only is the program subject to the budget process' controls of new spending authority and outlays, but that these are adequate controls in themselves—in addition to the fact that the program is basically controlled by the level of authorization and the amounts of revenues paid into the highway trust fund by users of the system. It is misleading to lump the highway program—subject to controls inherent in the financing mechanism—with general fund programs competing for annual appropriations. It is more misleading to suggest that it competes with the airport development program, which is also financed by its own trust fund.

Assertion No. 3: The Department of Transportation has no intention of implementing any fiscal year 1977 ceiling so as to exercise undue discretion over the Federal-aid highway program.

Response: An estimated $11.9 billion, as a minimum, representing new obligation authority and obligation authority available from prior years, theoretically would be available for obligation during fiscal year 1977. As noted above, even advocates of the ceiling argue that State plans and industry capability suggest an obligation level in the range of $7.5 billion. Regardless of any intention to manipulate or distort priority in the program, the administration would be inescapably forced to pick and choose among programs in the release of obligation authority in the process of administering the ceiling. Entire programs, individual projects in Members' districts, and States would inevitably be short-changed. Because project lead times vary, as do State priorities, distortion of the program would be inevitable.

Assertion No. 4: Failure to impose this limitation will jeopardize this and other programs in that the Secretary of Transportation and the Director of OMB will recommend a veto in the absence of such a limitation.

Response: In view of the minimal impact of obligations and outlays in fiscal year 1977 in the absence of a ceiling. It is evident that control of the program is a primary objective if this bill is vetoed on this basis. Providing funds for a number of worthwhile programs and projects, many of which directly involve creation of jobs in construction and related industries, this bill easily should muster the votes to override such a veto.

The administration has already failed to comply with a mandate of H.R. 9771, the Airport and Airway Development Act of 1976, that apportionment of funds be made immediately upon enactment of that act. This is a direct violation of law which smacks of manipulation of a key transporation program. Any suggestion that that program and others are being held hostage to inclusion of an obligation ceiling of the highway program in this bill suggests a lack of deference to congressional intent in both programs. It speaks poorly for prospects of the highway program's administration under an obligation ceiling on this Appropriations Act.

APPROPRIATIONS AND BUDGET COMMITTEES' ASSERTIONS

Many of the points covered above also were made in communications from the leadership of the Budget and Appropriations Committees. However, they also made other points which warrant rebuttal.

Assertion: An obligation ceiling for fiscal year 1977 is essential to make the budget control process work.

Response: I would point out that in terms of law, this is not required by the Budget and Impoundment Control Act of 1974; in terms of practical realities, it is not required in light of the projected levels of obligations and outlays contemplated for fiscal year 1977.

Assertion: To the effect that we should be concerned with impact on the deficit.

Response: Again, concern over the deficit impact should be allayed by our best estimates available with respect to actual increases in outlays during fiscal year 1977 as a result of the absence of a ceiling: Only $200 million. As previously stated, increase in outlays resulting from absence of a ceiling could represent a short-fall of $359 million in outlays below the target assigned in the first concurrent resolution due to a short-fall in 1976 obligations. It is true that trust funds are lumped in with deficit-generating general fund programs. This suggests that the Budget and Appropriations Committees' objectives are to impose the ceiling in the interests of reducing the deficit—on paper.

Particularly revealing in this connection are the comments of the gentleman from Washington (Mr. ADAMS), on July 22, as follows:

> It should be made clear that any additional outlays resulting from the lack of a ceiling will add to our overall budget deficit. Under the unified budget, Federal expenditures and revenues from all budget sources including this fund are taken into account in determining the deficit or surplus, regardless of whether they are attributable to a particular trust fund, or whether a particular fund is in surplus or deficit. Thus, if total revenues remain as assumed in the budget resolution and outlays are increased—whether for highway or any other activity—the deficit will be higher.

This supports my contention, Mr. Speaker. What other possible interpretation is there when the highway trust fund, a balanced-budget fund, is treated in this manner?

If problems exist, they lie in the concept of the unified budget which understates general fund deficits, rather than in the operation of the highway program, which is self-financing and debt-free, or in the Budget Act which recognizes that fact by not requiring ceilings in appropriations acts.

Assertion: Within the framework of the Budget Act, ceilings could be raised if they prove too low.

Response: Certainly, a great deal could be accomplished "within the framework of the Budget Act" construed as broadly as by our colleagues on the Committees on Budget and Appropriations. After all, they are arguing for an obligation ceiling never required by the Budget Act. But the main point is that a ceiling, once written into this Appropriations Act, must be raised by separate legislation, which would require another vote by this body, committee and floor action in the other body, and signing by the President. Just why the President would sign such an amendment into law, after lobbying successfully for this one, is somewhat beyond me.

Assertion: Funds available to urban mass transportation as a result of the Interstate transfer provision would not be affected by this limitation.

Response: True. However, another aspect of urban mass transportation financing under the highway program, use of urban system apportionments—$800 million in fiscal year 1977—directly for mass transit, would be subject to the ceiling.

Assertion: We have been assured that there is no intention that the program be manipulated by the administration, with safeguards to this effect in the report of the Committee on Appropriations accompanying H.R. 14234.

Response: Report language has no statutory effect. The influence such an expression of congressional intent should be judged in terms of the administration's defiance of the clear mandate in the Airport and Airway Development Act Amendments of 1976 with respect to immediate apportionment of funds.

Assertion: Ceilings are justified on the basis of congressional assertion of control over spending.

Response: It would be a betrayal of the Budget Act's intent to impose a ceiling not required by that same act which had the result of shifting control from the Congress back to the executive branch.

Assertion: We are told repeatedly and at great length that there is no intent to violate the integrity of the highway trust fund, diminish the revenues in it, or divert revenues to purposes other than the Federal-Aid highway program.

Response: It is true that none of these would occur. The Committee on Public Works and Transportation has never argued that they would. But the result would be a violation of the highway program, of which the trust fund is a part, by reduction of the availability of the revenues in the fund for the purposes intended while funds are diverted temporarily through interfund borrowing to help finance general fund programs in deficit.

Assertion: Members are warned of "sudden and devastating" increases in the deficit, partly on the basis of experience with fiscal year 1975.

Response: Fiscal year obligations and outlays have been amply dealt with above. It should be noted, however, that the 1975 surge in obligations was a direct result of the release of previously impounded funds, plus separate legislation enacted by the Congress to accelerate funding of projects through temporary waiver of matching requirements and other categorical restrictions. Moreover, the same 1975 experience was cited in support of an obligation ceiling for fiscal year 1976 to prevent excessive levels of obligation, which never came close to the ceiling because the 1975 surge of obligations cleared the shelves of a backlog of projects ready for obligation.

Assertion: Congressional advocates of the ceiling have offered assurances that remedial legislation will be forthcoming if the ceiling proves too low in terms of States' capability to obligate, or if program priorities are distorted by the Administration.

Response: Why then, if in the absence of clear and present indications of need, run the risk of imposing ceilings which would require further legislation to change and approval of the administration. If legislation were contrary to the administration's wishes, what would be the President's incentive not to veto such a measure?

Assertion: Much has been made of the suggestion that preferential treatment is being sought for the highway program; that all spending programs should be treated alike.

Response: It is misleading to treat—as identical—programs financed by trust funds and those financed by general revenues. Programs should be treated alike, however, in being subjected to the provisions of the Budget and Impoundment Control Act applicable to those programs.

Some 61 percent of the budget for fiscal 1977 consists of programs which the Committee on Appropriations neither imposes obligation ceilings nor otherwise controls outlays other than to provide funds to meet obligations. Significantly, the general revenue sharing program—supported by general revenues rather than any trust fund—recently extended for 3¼ years at a total cost of $25 billion, has been exempted from appropriation ceilings precisely to provide the same long-term predictability and stability as needed for long-term construction projects in the highway field.

Mr. Speaker, all parties appear to agree that the surges and sags which have characterized the program have been a result of past impoundments and other delays. For real stability the program should be allowed to seek its own level. The way to escape the inevitable consequencies of impoundment is to stop impounding, by whatever device and under whatever name.

DR. JOHN McGUINESS RETIRES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. BURLESON) is recognized for 5 minutes.

Mr. BURLESON of Texas. Mr. Speaker, on last Friday John McGuiness retired from the Office of our Attending Physician, where he has performed devoted service since 1954.

I think all of you who have had contact with John will agree that he has always exhibited a quiet personal charm and an eagerness to serve which has endeared him to many of us.

He has been an outstanding representative of the naval service and has served the Navy and the U.S. Congress well and in the highest of naval tradition.

He enlisted in the U.S. Navy August 17, 1942. He advanced through the enlisted rates of the Hospital Corps and attained the rate of chief hospital corpsman on December 15, 1952. While in the U.S. Navy John was stationed with the 69th Naval Construction Battalion—North Atlantic, the Naval Base, New London, Conn.; the Reserve Fleet, Charleston; U.S.S. *Yellowstone;* Naval Research Institute; Naples, Italy, and Washington, D.C.

I know that you join me in wishing for John and his family the very best of good things on his retirement and extend to him our warm thanks and gratitude for his able, efficient, and dedicated service to us.

PERSONAL EXPLANATION

(Mr. KOCH asked and was given permission to extend his remarks at this point in the Record.)

Mr. KOCH. Mr. Speaker, I was unable to be present in the House of Representatives for the session of Friday, July 30, 1976.

Had I been present, I would have voted "aye" on rollcalls 577 and 578, the votes on the rule and final passage of H.R. 2525, the Indian Health Care Improvements Act.

PERSONAL ANNOUNCEMENT AS TO VOTES

(Mr. DANIELSON asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. DANIELSON. Mr. Speaker, on Friday, July 30, 1976 I was compelled to be absent from the House of Representatives during the latter part of the session in order to attend to business in my congressional district. I therefore missed three rollcall votes and would like to announce how I would have voted had I been present.

Rollcall No. 576. An amendment to H.R. 8401, Nuclear Fuel Assurance Act of 1976, that strikes those sections which provide for ERDA-private industry uranium enrichment contracts. Passed by a vote of 170 ayes to 168 noes. I would have voted "aye."

Rollcall No. 577. House Resolution 1267, the rule under which H.R. 2525, improving Indian health care, was considered. Passed by a vote of 327 yeas to 1 nay. I would have voted "yea."

Rollcall No. 578. H.R. 2525, to implement the Federal responsibility for the care and education of the Indian people by improving the services and facilities of Federal Indian health programs and encouraging maximum participation of Indians in such programs. Passed by a vote of 310 yeas to 9 nays. I would have voted "yea."

AMERICA NEEDS RESUMPTION OF COAL FIELD LEASING BY OVERRIDING VETO ON S. 391

(Mr. RONCALIO asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. RONCALIO. Mr. Speaker, the House of Representatives is scheduled to vote Wednesday to override the President's most unfortunate veto of S. 391, the Federal Coal Leasing Amendments Act.

This veto must be overridden. If allowed to stand, it would hurt consumers, it would hurt the American people who are the real owners of Federal coal, and it would hurt the States impacted by federal coal development.

S. 391 was approved overwhelmingly by the Congress with strong bipartisan support. Members of the House and Senate from all parts of the country, Republican and Democratic alike, recognize this bill as fair, practical, sound energy legislation.

S. 391 is also endorsed by many groups. And I would like to share with my colleagues some of the letters I have received from these organizations, all strongly urging that the veto be overridden.

Included are letters of support from the National Rural Electric Cooperative Association, the American Public Power Association, the National Farmers Union, and the National Association of Counties.

Ten Western States' Governors also urge an override, and even Secretary of the Interior Kleppe said to a convention of the mining industry recently that "this administration has no serious objection to this law!"

NRECA,
Washington, D.C., July 23, 1976.

Hon. Teno Roncalio,
House of Representatives,
Washington, D.C.

Dear Congressman Roncalio: On behalf of the National Electric Cooperative Association I am writing to request that you vote to override the President's veto of S. 391, the Federal Coal Leasing Amendments Act. Currently, the vote on the veto override is scheduled for August 4. You may recall that this bill, S. 391, is identical to H.R. 6721, the version of the coal leasing legislation passed by the House of Representatives on January 21, 1976 by a vote of 344 to 51.

NRECA is a national service organization representing nearly 1000 rural electric cooperatives in 46 states. These cooperatives serve in all or part of 87.1% of the nation's counties.

NRECA has long supported legislation which would like S. 391 change the ownership patterns of Federal coal resources. There are, of course, many featuers of S. 391 designed to do just that. Among them are: 1) the provision for a pre-leasing antitrust review, 2) a requirement for competitive bidding, some of which must be on a deferred bonus basis, 3) a limit on the number of acres any entity can lease, and 4) the preference clause for leasing to consumer owned utilities for their own power supply needs. This latter provision is most important because it gives rural electric cooperatives and municipally owned electric utilities an opportunity to develop resources independent of the large energy companies which have held them captive for so long.

There are other features of the bill, however, which NRECA believes are just as important. The Federal coal exploration program will provide the people with information about the resources they own. The minimum statutory royalty rate, which we believe may be too high initially, can, we understand, be adjusted downward in order to encourage coal production.

In fact, we believe that this bill will encourage production in other ways by requiring those who have for many years now been holding leases for speculative purposes to develop those leases within a 10-year period. As for leases granted under the proposed law, the production requirements contained in S. 391 are no more stringent than those contained in the Current Department of Interior regulations. NRECA has long supported the principle of diligent development.

In conclusion, NRECA believes that the time has come to end the debate on coal leasing and undertake a leasing and mining program which will be in the best interest of getting this nation on the road to energy independence. We encourage you and your colleagues to vote to override the President's veto of S. 391, the Federal Coal Leasing Amendments Act.

Sincerely,

Robert D. Partridge,
Executive Vice President and General Manager.

American Public Power Association,
Washington, D.C., July 28, 1976.

Hon. Teno Roncalio,
House of Representatives, Longworth House Office Building, Washington, D.C.

Dear Mr. Roncalio: The American Public Power Association, the national organization representing more than 1,400 local publicly-owned electric systems in 48 States, the Virgin Islands, Guam, Puerto Rico, and American Samoa, supports the override of the President's veto of S. 391, the Federal Coal Leasing Amendments Act of 1976.

Two considerations make immediate enactment of S. 391 essential. They are, first, the urgency of stimulating coal development from existing coal leases; and second, the necessity to stem the formation of a fuel monopoly. The absence of production from the vast majority of Federal lease lands despite the requirement of "diligent development", and the serious concentration of coal ownership in a small number of companies, should not be tolerated in a time of energy shortage which threatens this nation's economic stability.

S. 391 would address these issues in sensible and effective ways. It would require coal production by federal lessees "in commercial quantities" within ten years. Notification would be given to the Attorney General prior to lease issuance, permitting antitrust review when appropriate. The bill also provides for competitive bidding on all leases, and requires deferred bonus bidding on a portion of the leased acreage. These requirements eliminate the need for large amounts of front-end capital, facilitating the participation of small organizations. Although some have considered the royalty high in certain instances, the Secretary of the Interior has discretion to lower it if necessary to encourage greater coal production. And last, S. 391 would limit the acreage any single leaseholder could hold.

Sincerely,

Larry Hobart,
Assistant Executive Director.

National Farmers Union,
July 29, 1976.

Memorandum

To: Members of the U.S. House of Representatives.

From: Tony T. Dechant, President.

National Farmers Union urges you to vote to override the President's veto of S. 391, the Federal Coal Leasing Amendments Act of 1975. S. 391 (then H.R. 6721) passed the House by an overwhelming vote of 344 to 51 in January and was approved by voice vote in the Senate on June 21.

National Farmers Union strongly and unequivocally endorses the basic thrust of S. 391 and believes the bill will promote competition in the coal industry, provide the public with a more fair return from the leasing of Federal coal, prevent speculation in coal leases, encourage the maximum economic recovery of the resources, mandate sound environmental and land use planning prior to leasing and provide increased mineral development impact assistance funds to mineral leasing states.

Of particular merit are the following:

1. The requirement that leasing be preceded by the formulation of comprehensive land use plans. These plans should help insure that coal leasing does not occur in

areas of high agricultural productivity or potential.

2. The features of S. 391 which are designed to promote competition in the coal industry, and ultimately lower prices to consumers. This includes the stipulation that non-profit utilities such as rural electric cooperatives will have access to Federal coal leases on an equitable basis—a provision which should reduce electric bills for many of our members.

3. The reallocation of receipts from mineral leasing will increase the money going to the states for mineral development impact assistance. These funds in affected states are needed to provide for pollution control systems and other public facilities and services that will accommodate and accelerate mineral, especially coal, development and for other related purposes.

NATIONAL ASSOCIATION OF COUNTIES,
Washington, D.C., August 2, 1976.

Re veto override for coal leasing bill (S. 391).

Hon. TENO RONCALIO,
House of Representatives, Longworth House Office Building, Washington, D.C.

DEAR CONGRESSMAN RONCALIO: The National Association of Counties (NACo) actively supports a veto override for the Coal Leasing Reform Bill (S. 391). We commend your efforts to get this important program enacted.

S. 391 (formerly H.R. 6721) amends the Mineral Leasing Act of 1920 to provide for a comprehensive coal leasing program on federal lands.

The bill has several important provisions for counties and other local governments that would be impacted by federal coal leasing activities. Consultation with state and local governments and the public is required in the preparation of the federal land use plans. Further, the Secretary of Interior "shall consider the effects which mining of the proposed lease might have on an impacted community or area, including, but not limited to, impacts on the environment, on agricultural, and other economic activities and on public services."

Of critical importance is the provision in the bill to raise the states percentage of federal coal leasing revenue from 37½% to 50%. The additional 12½% would be available to a state and its subdivisions *giving priority to those communities socially or economically impacted by federal mineral development activities.*

Your support for a veto override on S. 391 with these provisions is greatly appreciated.

Sincerely,

JIM EVANS,
Legislative Representative.

LUMBER PRICES

(Mr. WAMPLER asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. WAMPLER. Mr. Speaker, lumber prices, already high, will again move upward unless Congress quickly clarifies the authority of the Forest Service to make timber harvesting decisions in national forests.

Legislation to accomplish this, in the form of S. 3091 is currently resting on the Senate calendar awaiting action. Markup sessions are underway in the House Committee on Agriculture involving study of seven different bills.

Authority to decide what trees should be harvested was lost by the Forest Service in four States involving nine national forests, as a result of the August 1975 Monongahela court decision.

Action by Congress is needed quickly because other judges all across the country may use this decision as a precedent, thereby increasingly paralyzing the capacity of the Forest Service to play its normal role in helping to meet the timber and wood product needs of America.

Already two judges, one in Texas and one in Alaska, have issued decisions patterned after the Monongahela decision.

Authorities have recently estimated that if the Monongahela decision is applied to all national forests, timber cutting from these areas would be reduced a drastic 50 percent. Such a cutback would eventually result in a 15-percent price hike for softwood lumber and would cause plywood prices to escalate at least 75 percent.

Price increases of this magnitude for softwood products would be nothing short of tragic. Housing is already so expensive that many Americans simply cannot afford to own a home.

The judge in the Monongahela case decided that the 1897 legislative language, which gives the Forest Service its authority to harvest timber in national forests, restricts the Forest Service to authorizing cutting of only "dead, mature or large growth trees," thus prohibiting use of scientific forest management practices.

The judge also said that the legislation language probably needs to be modified, and that is what Congress is currently doing. But speed is needed. Certainly action is needed before Congress adjourns for the election.

The Monongahela decision, as appealed, affects, in addition to the Monongahela National Forest in West Virginia, eight other national forests in the jurisdication of the Fourth Circuit Court of Appeals. This includes forests in the States of Virginia, West Viriginia, and North and South Carolina.

Some people object to granting Forest Service professionals authority to manage harvesting operations in national forests—a power they have been using for years. Other proposals call on Congress itself to set rigid rules and regulations as to what trees may be cut and harvesting methods that may be used. Such restrictions, I believe, would be impractical. Instead, I believe, Congress should delegate authority to the silviculturist while exercising more intensively its oversight responsibilities with respect to all Forest Service operations.

Quick action by the Congress is needed, not only to stave off lumber and other wood product price increases, but also to prevent other harmful consequences that occur to all multiple uses if the Monongahela decision were applied to all national forest areas.

For instance, such an eventuality would—

Cut total U.S. production of softwood timber about 12½ percent at a time when housing starts are increasing;

Put an estimated total of 36,400 primary wood product workers out of a job; ripple effects would put additional workers off payrolls;

Cause nonindustry private owners of timber land to overcut mature woods and cut prematurely young timber stands, thereby reducing our long-range potential to meet national needs for lumber and other wood products;

Reduce the Forest Service's capacity to manage timber cutting and wildlife habitat in national forests in ways that would stimulate production of desired species; and

Increase materially the cost of harvesting timber.

The penalties of a long delay in passage of this needed legislation becomes even more sobering when one considers that according to an assessment made at the request of Congress, it was determined that U.S. demand for lumber and other wood products will more than double in less than 50 years.

What is needed is Forest Service authority to continue use of proven scientific and professional silviculture patterns of forest management including support for use of the time-tested multiple use-sustained yield authority as carried out in conjunction with the National Environmental Policy Act, the Resources Planning Act, and other legislation passed by Congress over the years.

The House and Senate committees have worked hard to put acceptable legislative language together. The goal has been to create a working climate and a national policy that will enable the Forest Service to manage national forest resources in such a manner as to best serve the multiple requirements of all people of America.

Regardless of the efforts being made by both bodies on this legislation, time is growing short and this is an election year. Moreover, the strong possibility also exists that the legislation now being developed by the Subcommittee on Forests may be at odds with that ready for floor action in the other body. If this situation should come about, the results could well mean a long, drawn out conference that might not be decided in this session of Congress.

Therefore, Mr. Speaker, it becomes most evident, that this Congress must be prepared to enact emergency, temporary legislation to authorize the Forest Service to continue to decide what trees should be harvested in the national forests—leaving permanent legislation to the next Congress.

A failure to recognize this possibility and to be prepared for this contingency is to invite chaos and high unemployment in the wood products industry in the coming months.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows to:

Mr. PEPPER (at the request of Mr. O'NEILL), for today, on account of illness in the family.

Mr. FORD of Michigan (at the request of Mr. O'NEILL), for today, on account of official business.

Mr. MURPHY of New York (at the request of Mr. O'NEILL), for today, on account of official committee business.

Mr. FOUNTAIN (at the request of Mr. O'NEILL), for this week, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Shuster) to revise and extend their remarks and include extraneous matter:)

Mr. Kemp, for 30 minutes, on August 3.

Mr. Paul, for 20 minutes, today.

Mr. Cleveland, for 5 minutes, today.

Mr. Talcott, for 5 minutes, today.

(The following Members (at the request of Mr. Moffett) to revise and extend their remarks, and to include extraneous matter:)

Mr. Gonzalez, for 5 minutes, today.

Mr. Annunzio, for 5 minutes, today.

Mr. Long of Louisiana, for 5 minutes, today.

Mr. Koch, for 10 minutes, today.

Mrs. Mink, for 5 minutes, today.

Mr. Howard, for 5 minutes, today.

Ms. Holtzman, for 15 minutes, today.

Mr. Burleson of Texas, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. Lloyd of California, to revise and extend his remarks following the rollcall on H.R. 12882.

(The following Members (at the request of Mr. Shuster) and to include extraneous matter:)

Mr. Young of Florida in five instances.

Mr. Kemp in three instances.

Mr. Walsh.

Mr. Carter.

Mr. Archer.

Mr. Cochran.

Mr. Wiggins.

Mr. Derwinski.

Mr. Paul.

Mr. Del Clawson.

Mr. Ashbrook in two instances.

Mr. Rhodes.

Mr. Abdnor in three instances.

Mr. Bob Wilson.

Mr. Gilman.

(The following Members (at the request of Mr. Moffett) and to include extraneous material:)

Mr. Sisk.

Mrs. Lloyd of Tennessee in five instances.

Mr. Annunzio in six instances.

Mr. Anderson of California in three instances.

Mr. Gonzalez in three instances.

Mr. Brown of California in 10 instances.

Mr. Mazzoli in two instances.

Mr. Hungate.

Mr. Ambro in four instances.

Ms. Abzug.

Mr. Edwards of California.

Mr. de la Garza in 10 instances.

Mr. Ashley.

Mr. Montgomery.

Mr. Holland in three instances.

Mr. McFall.

Mrs. Collins of Illinois in two instances.

Mr. Downey of New York in two instances.

Mr. Mikva.

Mr. Obey.

Mr. Mitchell of Maryland.

Mr. Giaimo in 10 instances.

Mr. Fraser.

Mr. Richmond.

Mr. Vanik in two instances.

Mr. Fary.

Mrs. Mink in two instances.

Mr. Edgar.

Mr. Milford.

Mr. Carney in three instances.

Mr. Leggett.

Mrs. Schroeder.

Mr. Rangel.

Mr. Harris.

Mr. Stark.

Mr. Rogers in five instances.

Mr. Bonker.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 1508. An act to require that certain information about gasoline be disclosed to consumers; to the Committee on Interstate and Foreign Commerce.

S. 1681. An act to amend the Federal Food, Drug, and Cosmetic Act with respect to cosmetic safety; to the Committee on Interstate and Foreign Commerce.

S. 2780. An act to amend the Indian Claims Commission Act of August 13, 1946, and for other purposes; to the Committee on Interior and Insular Affairs.

ENROLLED BILL SIGNED

Mr. THOMPSON, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 5360. An act to increase benefits provided to American civilian internees in Southeast Asia.

BILL PRESENTED TO THE PRESIDENT

Mr. THOMPSON, from the Committee on House Administration, reported that that committee did on July 30, 1976 present to the President, for his approval, a bill of the House of the following title:

H.R. 14514. An act to permit a State which no longer qualifies for hold harmless treatment under the supplemental security income program to elect to remain a food stamp cashout State upon condition that it pass through a part of the 1976 cost-of-living increase in SSI benefits and all of any subsequent increases in such benefits.

ADJOURNMENT

Mr. MOFFETT. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 41 minutes p.m.), the House adjourned until tomorrow, Tuesday, August 3, 1976, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3731. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to section 112(b) of Public Law 92-403; to the Committee on International Relations.

3732. A letter from the Assistant Administrator for Legislative Affairs, Agency for International Development, Department of State, transmitting a report on program allocations for fiscal year 1976, pursuant to section 653 of the Foreign Assistance Act of 1961, as amended; to the Committee on International Relations.

3733. A letter from the Administrator, American Revolution Bicentennial Administration, transmitting the third annual report of the American Revolution Bicentennial Board, pursuant to section 7(b) of Public Law 93-179; to the Committee on Post Office and Civil Service.

3734. A letter from the Administrator, Small Business Administration, transmitting a draft of proposed legislation to amend the Small Business Act by transferring thereto those provisions of the Domestic Volunteer Service Act of 1973 affecting the operation of volunteer programs to assist small business; to the Committee on Small Business.

3735. A letter from the Chairman, U.S. Nuclear Regulatory Commission, transmitting the fourth report on abnormal occurrences at licensed nuclear powerplants, covering the period January–March 1976, pursuant to section 208 of Public Law 93-438; to the Joint Committee on Atomic Energy.

Received From the Comptroller General

3736. A letter from the Comptroller General of the United States, transmitting a report that the withholding, by the Department of Transportation, of operating grant payments to Amtrak constitutes a deferral of budget authority which has not been reported to the Congress by the President, pursuant to section 1015(a) of the Impoundment Control Act of 1974 (H. Doc. No. 94-571); to the Committee on Appropriations.

3737. A letter from the General Counsel, General Accounting Office, transmitting a report on the release of budget authority required to be made available for obligation pursuant to section 1012(b) of the Impoundment Control Act of 1974; to the Committee on Appropriations.

REPORTS OF COMMITTEE ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. ULLMAN: Committee on Ways and Means. H.R. 14844. A bill to revise the estate and gift tax laws of the United States (Rept. No. 94-1380). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ASHLEY (for himself, Mr. Gude, Mr. Martin, and Mrs. Spellman):

H.R. 14990. A bill to establish a national policy on areawide planning and its coordination, to encourage the use of organizations composed of local elected officials to perform federally assisted or required areawide planning, to require use of planning districts established by States in Federal planning programs, to require certain Federal land use actions to be consistent with State, areawide, and local planning, to authorize the Office of Management and Budget to prescribe rules and regulations relating thereto, and for other purposes; to the Committee on Government Operations.

By Mr. FITHIAN:

H.R. 14991. A bill to provide for certain payments to be made to State or local governments by the Secretary of the Interior based upon the amount of certain public lands within the boundaries of such State or locality; to the Committee on Interior and Insular Affairs.

By Mr. FITHIAN:

H.R. 14992. A bill to amend the Federal Trade Commission Act to provide that exclusive territorial arrangements used in the distribution or sale of a trademarked soft drink product or a trademarked private label food product shall not be deemed unlawful per se; to the Committee on Interstate and Foreign Commerce.

By Mr. FITHIAN (for himself, Mr. Madden, and Mr. Hamilton):

H.R. 14993. A bill to deauthorize the Lafayette Dam and Reservoir, Wabash River, Ind.; to the Committee on Public Works and Transportation.

By Mr. FRENZEL:

H.R. 14994. A bill to authorize construction of a project for flood control and other purposes in the Bassett Creek Watershed, Hennepin County, Minn.; to the Committee on Public Works and Transportation.

By Mr. KREBS:

H.R. 14995. A bill to amend the Federal Election Campaign Act of 1971 to provide that political committees shall not be required to report to the Federal Election Commission changes in information relating to the list of candidates supported by such committees contained in statements of organization filed by such committees; to the Committee on House Administration.

By Mr. LAGOMARSINO:

H.R. 14996. A bill to require that the President suspend air transportation rights of any foreign nation which assists air terrorists, and for other purposes; to the Committee on Public Works and Transportation.

By Mr. LONG of Louisiana:

H.R. 14997. A bill to amend section 502(b)(2) of the Trade Act of 1974 to remove certain restrictions on countries which may be designated as beneficiary developing countries; to the Committee on Ways and Means.

By Mr. MAGUIRE (for himself, Mr. Dodd, Mr. Derwinski, Mr. Mineta, Mr. Mikva, Mr. Hyde, and Mr. Simon):

H.R. 14998. A bill to prohibit States from establishing congressional districts more often than once every 10 years; to the Committee on the Judiciary.

By Mr. MIKVA (for himself and Mrs. Spellman):

H.R. 14999. A bill to amend the Internal Revenue Code of 1954 to allow a deduction for State or local taxes imposed on the rental of dwelling units; to the Committee on Ways and Means.

By Mr. OTTINGER (for himself and Mr. Mikva):

H.R. 15000. A bill to amend chapter 21 of the Internal Revenue Code of 1954 and title II of the Social Security Act to provide that the payment of social security taxes by a nonprofit organization with respect to its employees shall constitute (for both tax and benefit purposes) a constructive filing by such organization of the certificate otherwise required to provide social security coverage for such employees if it has not received a refund of such taxes, and to require the filing of such a certificate by any nonprofit organization which paid such taxes but received a refund because it had not previously filed such certificate; to the Committee on Ways and Means.

By Mr. RANDALL (for himself and Mr. Wolff):

H.R. 15001. A bill to amend the Mutual Security Act of 1954 to provide that foreign currencies owned by the United States shall be available for use by the Select Committee on Aging and the Select Committee on Narcotics Abuse and Control of the House of Representatives in connection with foreign travel by the members and employees of such select committee; to the Committee on House Administration.

By Mr. RICHMOND:

H.R. 15002. A bill to amend the Older Americans Act of 1965 to require the Commissioner on Aging to establish a special supplemental food program and medical examination and referral program for older Americans, and for other purposes; to the Committee on Education and Labor.

By Mr. WHITE:

H.R. 15003. A bill to require that the allowances available to a teacher in a Department of Defense overseas dependents' school shall be provided without regard to the location at which the teacher was recruited; to the Committee on Post Office and Civil Service.

By Mr. CONTE (for himself, Mr. Hicks, Mrs. Heckler of Massachusetts, Mr. Zablocki, Mr. Henderson, Mr. Hefner, Mr. Duncan of Oregon, Mr. Kastenmeier, Mr. Broyhill, and Mr. Cornell):

H.R. 15004. A bill to amend the Public Health Service Act to provide assistance for the planning and development of schools of veterinary medicine; to the Committee on Interstate and Foreign Commerce.

By Mr. METCALFE:

H.R. 15005. A bill to prohibit the discharging of fuel at sea, and for other purposes; jointly, to the Committees on Merchant Marine and Fisheries, Public Works and Transportation, International Relations, and Science and Technology.

By Mr. SCHEUER:

H.R. 15006. A bill to amend the National Traffic and Motor Vehicle Safety Act of 1966 to provide for the installation of passive occupant restraints in new motor vehicles, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. SISK:

H.R. 15007. A bill to provide for the preservation and enhancement of critical habitat for migratory waterfowl and other wetland-dependent migratory birds of the Pacific flyway in the grasslands area of the San Joaquin Valley, Calif.; to the Committee on Interior and Insular Affairs.

By Mr. GUDE:

H.J. Res. 1040. A resolution to authorize the Committee for an American Hungarian Bicentennial Monument, Inc., to erect a monument in honor of the late Col. Michael Kovats de Fabrici in the District of Columbia or its environs; to the Committee on House Administration.

By Mr. ADDABBO (for himself, Ms. Abzug, Mr. Badillo, Mr. Baldus, Mr. Beard of Rhode Island, Mr. Bedell, Mr. Boland, Mr. Breckinridge, Mr. Carter, Ms. Chisholm, Mr. Cleveland, Ms. Collins of Illinois, Mr. Conte, Mr. Corman, Mr. Robert W. Daniel, Jr., Mr. Dominick V. Daniels, Mr. Derwinski, Mr. Eilberg, Mr. Emery, Mr. English, Mr. Gilman, Mr. Hall of Illinois, Mr. Harrington, Mr. Hays of Ohio, and Mr. Holland):

H.J. Res. 1041. A resolution authorizing the President to proclaim September 8 of each year as National Cancer Prevention Day; to the Committee on Post Office and Civil Service.

By Mr. ADDABBO (for himself, Ms. Holtzman, Mr. Howard, Mr. Ichord, Mr. Johnson of Pennsylvania, Mr. Lagomarsino, Mr. Long of Maryland, Mr. Long of Louisiana, Mr. McHugh, Mr. Melcher, Ms. Mink, Mr. Mitchell of New York, Mr. Moakley, Mr. Moorhead of California, Mr. Murphy of New York, Mr. Nix, Mr. Nolan, Mr. Nowak, Mr. Ottinger, Mr. O'Brien, Mr. Patten, Mr. Pattison of New York, Mr. Richmond, Mr. Rinaldo, and Mr. Rodino):

H.J. Res. 1042. A resolution authorizing the President to proclaim September 8 of each year as National Cancer Prevention Day; to the Committee on Post Office and Civil Service.

By Mr. ADDABBO (for himself, Mr. Roe, Mr. Roybal, Mr. Santini, Mr. Scheuer, Mr. Solarz, Mr. Whitehurst, Mr. Charles H. Wilson of California, Mr. Wolff, Mr. Won Pat, Mr. Yatron, Mr. Zeferetti, and Mr. Simon):

H.J. Res. 1043. A resolution authorizing the President to proclaim September 8 of each year as National Cancer Prevention Day; to the Committee on Post Office and Civil Service.

Mr. HARKIN (for himself, Mr. Kindness, Mr. Carr, Mr. Hechler of West Virginia, Mr. Ottinger, Mr. Lagomarsino, Mr. Charles Wilson of Texas, Mr. Haley, Mr. Hughes, Mr. Kemp, Mr. Richmond, Mr. Ketchum, Mr. Martin, Mr. Mazzoli, Mr. Hannaford, Mr. Pressler, Mr. Walsh, Mr. Bedell, Mr. Bonker, Mr. Van Deerlin, Mr. Edgar, Mr. Moffett, Mr. Mosher, Mr. Jenrette, and Mr. Blouin):

H.J. Res. 1044. A resolution proposing an amendment to the Constitution of the United States; to the Committee on the Judiciary.

By Mr. KINDNESS:

H.J. Res. 1045. A resolution proposing an amendment to the Constitution of the United States to establish a court of the States; to the Committee on the Judiciary.

By Mrs. COLLINS of Illinois:

H. Con. Res. 696. A resolution expressing the sense of Congress that the President should furnish disaster assistance to the Peoples Republic of China; to the Committee on International Relations.

By Mr. GILMAN:

H. Con. Res. 697. A resolution urging the President to take certain measures against countries supporting international terrorism and persons engaging in international terrorism and to seek stronger international sanctions against such countries and persons; jointly, to the Committees on International Relations and Public Works and Transportation.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BENITEZ:

H.R. 15008. A bill for the relief of Pedro Melchor Diaz; to the Committee on the Judiciary.

By Mr. CLANCY:

H.R. 15009. A bill for the relief of Amy Chan; to the Committee on the Judiciary.

By Mr. FRENZEL:

H.R. 15010. A bill for the relief of George A. Hormel & Co.; to the Committee on the Judiciary.

By Mr. HAGEDORN:

H.R. 15011. A bill for the relief of George

A. Hormel & Co.; to the Committee on the Judiciary.

By Mr. HYDE:

H.R. 15012. A bill for the relief of Umberto Ruffolo; to the Committee on the Judiciary.

By Mr. McFALL:

H. Res. 1455. A resolution referring the bill, H.R. 14988 for the relief of Stockton Townhouse, Inc., to the Chief Commissioner of the Court of Claims; to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause 1 of rule XXII,

534. The SPEAKER presented a petition of the city council, Pittsburgh, Pa., relative to the Consumer Communications Reform Act of 1976, which was referred to the Committee on Interstate and Foreign Commerce.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 10498

By Mr. CARTER:

Page 201, line 12, strike out ", (B), or (C)" and substitute "or (B)".

Page 201, line 21, after the period insert: "The maximum allowable concentration of any air pollutant for which an increase is permitted under subparagraph (C) shall not exceed a concentration for such pollutant for each such period of exposure equal to—

"(i) the concentration permitted under the national secondary ambient air quality standard, or

"(ii) the concentration permitted under the national primary ambient air quality standard,

whichever concentration is lower for such pollutant for such period of exposure."

On page 232, line 1, strike Section 115 in its entirety.

By Mr. LEVITAS:

On page 199, strike out line 3 and all that follows down through line 6.

Redesignate the following paragraphs accordingly.

Page 203, line 18, strike out "designating authorities" and insert in lieu thereof "State".

Page 204, line 9, insert "who may make an initial designation" after "Administrator".

Page 205, line 15, insert "who may make an initial designation" after "Administrator".

Page 205, line 19, strike out "State law" and insert in lieu thereof "the Governor of the State, after consultation with the appropriate Committees of the legislature if it is in session or with the leadership of the legislature if it is not in session (unless State law provides that such designation or redesignation must be specifically approved by State legislation)".

Page 205, line 21, strike "enact" and all that follows down through line 23; insert in lieu thereof "are consulted with regard to the".

Page 207, line 20, insert "or the State (in accordance with the regulations of the Administrator)" after "Administrator".

By Mr. SATTERFIELD:

Page 154, beginning in line 3, strike out "such sums as may be necessary" and insert in lieu thereof "$25,000,000 for each of the fiscal years 1977, 1978, and 1979".

Page 154, strike out line 12 and all that follows through line 3 on page 155, and insert in lieu thereof the following:

"SEC. 120. (a) In the case of vinyl chloride, cadmium, arsenic, and polycyclic organic matter, the Administrator shall, not later than one year after the date of enactment of this section and after notice and opportunity for public hearing, determine whether the substance shall be included in the list published under section 108(a)(1) or 112(b)(1)(A), or whether each category of stationary sources emitting such substance in significant amounts shall be included in the list published under section 111(b)(1)(A), or take any combination of such actions."

Page 115, line 13, strike out "promulgate" and all that follows down through line 2 on page 156 and substitute "determine, on the basis of a study conducted by him during such year, whether or not national ambient air quality standards should be promulgated under this section for NO_2 concentrations over brief periods of exposure."

Page 155, line 15, strike the word "unless" and insert in lieu thereof "if".

Page 155, line 16, strike the word "no".

Page 156, strike out line 12 and all that follows down through and including line 17 on page 158.

Renumber the following sections accordingly and make the necessary conforming changes in the table of contents.

Page 156, strike in their entirety lines 19 through 22.

Page 156, line 13, strike out "(a)(1)" and substitute "(a)".

Page 157, line 4, place a period after the word "welfare" and strike all that follows through and including the first period in line 5.

Page 158, delete lines 4 through 9.

Page 158, line 10, redesignate "(f)" and "(e)".

Page 159, line 6, strike out the word "continuous".

Page 159, strike out line 12 and all that follows down through line 15 and insert in lieu thereof "hazardous pollutants).".

Page 160, line 17, before the period, insert the following: "subject to the same restrictions as apply for purposes of section 114(c) with respect to trade secrets or other confidential data."

Page 159, lines 17 and 18, strike out "notice and public hearing on the record" and substitute "compliance with the requirements of section 307(d)".

Page 160, line 10, strike out "Before any hearing conducted" and substitute "In submitting an application for a compliance date extension".

Conforming amendments: Page 309, line 20, strike out "(but not including" and substitute "and issuance of"

Conforming amendment: Page 309, line 21, strike out the parenthesis.

Page 162, strike the sentence beginning on line 7 and ending on line 10.

Page 162, strike out line 24 and all that follows down through line 2 on page 163 and insert in lieu thereof the following:

"(A)(i) The source will expeditiously use new means of emission limitation and (ii) the Administrator has determined that there is a substantial likelihood that such new means will be adequately demonstrated (within the meaning of subsection (c)(1)(A)),".

Page 164, line 11, strike out the word "significantly."

Page 164, line 12, strike out the word "significantly."

Page 167, line 22, strike out the parenthesis and all that follows down through and including the period in line 23, and insert the following in lieu thereof: "and the cost of such interim system or systems of emission reduction) for the period during which such extension is in effect."

Page 168, strike out line 4 and all that follows down through line 13.

Renumber the following paragraphs accordingly.

Page 168, strike out lines 14 through 19.

Renumber the following paragraphs accordingly.

Page 170, line 16, after "facilities)" insert ", an enforcement order issued under section 113".

Page 171, line 7, insert "enforcement orders," after "exemptions,".

Page 171, line 9, before "118" insert "113,".

Page 172, strike out line 10 and all that follows through line 22.

Page 172, line 23, strike out "(h)" and substitute "(g)".

Page 173, strike out lines 11 through 14 and substitute the following:

"(b) The Administrator may commence a civil action for a permanent or temporary injunction, or in the case of a knowing violation, to assess and recover a civil penalty of not more than $25,000 per day of violation, or both whenever any person—".

Beginning on page 174, strike out section 105 in its entirety.

Renumber the following sections accordingly and make the necessary conforming changes in the table of contents.

Conforming amendment: Page 310, strike out line 23 and all that follows down through line 25 and renumber the following subparagraphs accordingly.

Page 181, strike out lines 6 through 22 in their entirety and substitute the following: "the Administrator, the Administrator determines (after notice and public hearing) that emissions of such air pollutant from such source will have only insignificant effect on the air quality concentrations of such pollutant in any portion of the region where such standard is being exceeded at any time."

Page 182, line 13, strike "good engineering practice" and insert in lieu thereof: "the optimum calculated by meteorological science methods".

Page 183, line 1, strike "good engineering practice" and insert in lieu thereof: "the optimum calcluated by meteorological science methods".

Page 183, strike the sentence beginning on line 8 and ending on line 13.

Page 190, lines 7 and 8, strike out "may reasonably be anticipated to affect" and insert in lieu thereof "affects".

Page 190, lines 9 and 10, strike out "may reasonably be anticipated to endanger" and insert in lieu thereof: "poses a substantial risk of endangering".

Page 192, strike out line 10 and all that follows down through line 14 on page 196 and insert in lieu thereof the following:

"APPROVAL BY CONGRESS

"SEC. 155. Regulations promulgated under section 154 and any amendment or revision thereof shall be transmitted to the Congress. No such regulation (or amendment or revision) and no regulation submitted under section 152(f)(3) shall take effect unless approved by the Congress by concurrent resolution of both Houses."

Page 196, line 23, and page 197, line 8, strike out "or political subdivision thereof".

Page 197, lines 11, 12, and 14, strike out "or political subdivision".

Page 198, strike out line 5 and all that follows down through line 23 on page 216 and insert in lieu thereof:

PREVENTION OF SIGNIFICANT DETERIORATION

SEC. 108. Section 101(b)(1) of the Clean Air Act (42 U.S.C. 1857(b)(1)) is amended to read as follows:

"(1) to protect and enhance the quality of the Nation's air resources by establishing, achieving, and maintaining national ambient air quality standards, standards of performance for new stationary sources, and national emission standards for hazardous air pollutants so as to promote the public health and welfare and the productive capacity of the Nation, but nothing in this Act is intended to require or authorize the establishment by the Administrator of standards more stringent than primary and secondary ambient air quality standards;".

Page 199, beginning on line 23 delete "except as may otherwise be permitted under subsection (d)".

Page 199, line 24, delete "air pollutants other than".

Page 200, beginning after the comma on line 3 delete the rest of the sentence and insert in lieu thereof: sulfur oxides and particulates."

Page 210, delete lines 4 through 13.

Page 210, line 14 redesignate "e" as "d".

Page 210, beginning on line 17 delete "with respect to sulfur oxides and particulates".

Page 210, line 18 capitalize "such".

Page 219, delete the sentence beginning on line 20 and all thereafter through line 5 on page 211.

Page 201, Line 17, strike out "90 percent of".

Page 203 after "satisfactory" insert the following: "(as determined by the designating authorities)".

Page 205, line 19, place a semicolon after "law" and delete all thereafter through and including line 25.

Page 209, line 12, delete "air pollutants" and all thereafter through and including line 16 and insert in lieu thereof the following: "sulfur oxides and particulates included in a list promulgated by the Administrator for purposes of this subtitle."

Page 209, delete lines 13 through 16 and insert in lieu thereof the following: "included in a list promulgated by the Administrator for purposes of this subtitle."

Page 219, line 10, strike the word "technological".

Page 220, strike lines 7 through 14.

Page 220, lines 20, 23, and beginning in line 25, strike the word "technological".

Page 219, line 10, strike the word "technological".

Page 219, lines 10 and 22, strike the word "continuous".

Page 220, strike lines 7 through 14.

Page 220, lines 20, 23, and beginning in line 25, strike the word "technological".

Page 220, line 20, strike the word "continuous".

Page 245, strike out lines 1 through 14.

Page 249, after line 14, insert:

"(g) (1) Section 110(a) (2) (F) is amended by striking clause (i) and by redesignating the following clauses accordingly.

"(2) Any State may revise an applicable implementation plan approved under section 110(a) of the Clean Air Act to suspend or revoke any provisions included in such plan pursuant to section 100(a) (2) (F) (i) of such Act as in effect before the date of enactment of this Act."

Page 249, after line 14, insert:

(g) Section 110(a) of such Act (42 U.S.C. 1857c–5(a)), as amended by section 103(c) of this Act and subsection (b) of this section, is further amended by adding at the end thereof the following new paragraph:

"(7) (A) No applicable implementation plan, or any amendment or revision thereof, shall be required under paragraph (2) (B), (2) (D), (4), or under any other provision of this Act, to include any provision respecting land-use planning or any other provision respecting the planning, designating, or restricting the use of any zone, portion, or area of land within any political subdivision of the State. The preceding sentence shall not preclude the requirements of paragraph (2) (B), (2) (D), and (4) to the extent that such requirements apply only to the granting or denying of permits for construction or modification of particular sources on a source-by-source basis.

"(B) Any State may revise an applicable implementation plan approved under section 110(a) to suspend or revoke any provision described in the first sentence of subparagraph (A) which is included in such plan.

"(C) Nothing in this paragraph shall prevent the Administrator from approving any provision described in the first sentence of subparagraph (A) if it is adopted and submitted by a State as part of an implementation plan.".

Page 249, strike out line 15 and all that follows down through line 2 on page 258, and insert in lieu thereof the following:

TRANSPORTATION CONTROL EXTENSIONS AND LIMITATION ON TRANSPORTATION CONTROL AUTHORITY

SEC. 202. (a) Section 110(a) (2) (B) of the Clean Air Act (42 U.S.C. 1857c–5(a) (2) (B)) is amended by striking out "and transportation".

(b) Section 110(a) of such Act is amended by adding at the end thereof the following new paragraph:

"(8) (A) No implementation plan, or any amendment or revision thereof, shall be required under any provision of this Act to include any transportation control program.

"(B) Any State may revise an applicable implementation plan approved under section 110(a) to suspend or revoke any transportation control program which is included in such plan.

"(C) Nothing in this paragraph shall prevent the Administrator from approving any transportation control program if it is adopted and submitted by a State as part of an implementation plan."

Page 256, line 4, strike out the comma and all thereafter through line 5, and insert in lieu thereof a semicolon.

Page 269, strike out line 3 and all that follows down through line 13 on page 274, and insert thereof the following:

EMISSION STANDARDS FOR HEAVY DUTY VEHICLES OR ENGINES AND CERTAIN OTHER VEHICLES OR ENGINES

SEC. 204. (a) Section 202(a) of the Clean Air Act (42 U.S.C. 1987f–1) is amended by adding the following new paragraph at the end thereof:

"(3) The Administrator shall prescribe regulations under this subsection applicable to emissions of carbon monoxide, hydrocarbons, oxides of nitrogen, and smoke from classes or categories of heavy-duty vehicles and from classes or categories of motorcycles manufactured during and after model year 1978 or from classes or categories of engines manufactured for use in such vehicles. The regulations under this subsection shall contain standards which reflect the greatest degree of emission control which is achievable through the application of technology which the Administrator determines is available, giving appropriate consideration to the cost of applying such technology within the period of time available to manufacturers. In establishing classes or categories of vehicles or engines for purposes of regulations under this subsection, the Administrator may base such classes or categories on gross vehicle weight, horsepower, or such other factors as may be appropriate."

(b) Section 202(b) (3) of such Act is amended by adding the following new subparagraph at the end thereof:

"(C) The term 'heavy duty vehicle' means a truck, bus, or other vehicle manufactured primarily for use on the public streets, roads,, and highways (not including any vehicle operated exclusively on a rail or rails) which has a gross vehicle weight (as determined under regulations promulgated by the Administrator) in excess of six thousand pounds. Such term includes any such vehicle which has special features enabling off-street or off-highway operation and use.".

Page 286, strike out line 19 and all that follows down through line 24 on page 290, and insert in lieu thereof the following: "Air Act (42 U.S.C. 1857c–5(a) (2) (G)) is hereby repealed.

"(b) Section 110(a) of the Clean Air Act (42 U.S.C. 1857c–5(a)) is amended by adding at the end thereof the following new paragraph:

"'(8) (A) No implementation plan, or any amendment or revision thereof, shall be required under any provision of this Act to include any provision respecting the annual inspection and maintenance of motor vehicles registered in such State and no implementation plan promulgated by the Administrator shall include any such provisions.

"'(B) Any State may revise an applicable implementation plan approved under section 110(a) to suspend or revoke any measures referred to in subparagraph (A) which are included in such plan.

"'(C) Nothing in this paragraph shall prevent the Administrator from approving any measures referred to in subparagraph (A) if such measures are adopted and submitted by a State as part of an implementation plan.'"

Page 291, strike out line 13 and all that follows down through line 2 on page 292.

Page 292, strike out line 3 and all that follows down through line 18 on page 293.

Renumber the following sections accordingly and make the necessary conforming changes in the table of contents.

Page 303, strike out line 10 and all that follows down through line 5 on page 305.

Renumber the following sections accordingly and make the necessary conforming changes in the table of contents.

Page 305, strike out line 6 and all that follows down through line 19.

Renumber the following sections accordingly and make the necessary conforming changes in the table of contents.

Page 327, strike in its entirety the sentence which commences on line 2 and ends on line 7.

Page 327, line 20, strike out "309(a)" and insert in lieu thereof "309".

Page 327, line 22, strike out "(i)".

Page 328, line 5, strike out the comma and all that follows down through line 6 and insert in lieu thereof closing quotation marks and a period.

Page 328, strike out line 7 and all that follows down through line 8 on page 330.

Page 332, strike line 1 and all thereafter through and including line 10 on page 335.

And renumber the following sections accordingly and make the necessary conforming changes in the table of contents.

Page 335, strike out line 1 and all that follows down through line 7.

Page 341, strike out line 4 and all that follows down through line 17 and make the necessary conforming changes in the table of contents.

Page 341, after line 17, insert:

TITLE IV—STANDBY PRESIDENTIAL AUTHORITY

STANDBY PRESIDENTIAL AUTHORITY

SEC. 401. The Clean Air Act (42 U.S.C. 1857 and following) is amended by adding the following at the end thereof:

"TITLE IV—STANDBY PRESIDENTIAL AUTHORITY

"PRESIDENTIAL AUTHORITY

"SEC. 401. Upon findings that—

"(1) shortages in the availability of energy are having serious adverse effects on national security of the United States or that imminent shortages are likely to have such effect,

"(2) the availability of energy is likely to be increased by the exercise of any authority contained in this title, and

"(3) the exercise of such authority will not result in a significant risk to the public health or welfare,

the President shall transmit such findings to the Congress and include a detailed proposal for taking any or all of the actions specified in section 403.

"CONGRESSIONAL REVIEW

"SEC. 402. Any action proposed by the President and submitted to the Congress under section 401 shall take effect on the date 60 days after such proposal is submitted to the Congress (or at such later date as may be specified in such proposal) unless, within such 60 day period either House of Congress passes a resolution stating in substance that that House does not favor such proposal. For purposes of this section, a proposal shall be disapproved in the same manner and subject to the same provisions (including provisions relating to the computation of the 60-day period) as provided for disapproval of regulations promulgated by the Administrator under subtitle B of title I (relating to ozone protection).

"STANDBY AUTHORITY

"SEC. 403. A proposal submitted under section 401 may by regulation—

"(1) suspend any requirement of section 110, or section 111 if such suspension will not result in a violation of a national primary or secondary ambient air quality standard,

"(2) suspend the standards applicable to emissions from vehicles and engines under section 202 but not to levels less stringent than that required for vehicles and engines manufactured during the model year 1975.

"(3) suspend the application of any provision of section 211,

"(4) suspend any provision under this Act requiring a continuous means of emission limitation as the exclusive means of meeting any requirement of this Act, or

"(5) take any combination of the foregoing actions.

"PERIOD OF APPLICABILITY

"SEC. 404. Unless a shorter period is specified in the proposal, any action taken under a paragraph of section 403 shall be effective for three years. Action may be taken under section 403 more than once and shall be effective for the period provided in the preceding sentence, but shall take effect only after transmittal of Presidential findings under section 401 with respect to such action and only pursuant to the procedures required under section 402 with respect to Congressional review in the same manner as required with respect to an original action."

And make the necessary conforming changes in the table of contents.

By Mr. WAXMAN:

On page 258, strike out line 3 and all that follows down through line 3 on page 267 and insert in lieu thereof:

LIGHT-DUTY MOTOR VEHILCE EMISSIONS

SEC. 203. (a) Subparagraph (A) of section 202(b)(1) of the Clean Air Act (42 U.S.C. 1857f-1(b)(1)(A)) is amended to read as follows:

"(A) The regulations under subsection (a) applicable to emissions of carbon monoxide and hydrocarbons from light-duty vehicles and engines manufactured during model years 1975 and 1976 shall contain standards which are identical to the interim standards which were prescribed (as of December 1, 1973) under paragraph (5)(A) of this subsection for light-duty vehicles and engines manufactured during model year 1975. The regulations under subsection (a) applicable to emissions of carbon monoxide and hydrocarbons from light-duty vehicles and engines manufactured during the model years 1977 through 1980 shall contain standards which provide that such emissions from such vehicles and engines may not exceed the levels (expressed in grams per vehicle mile) specified in the following table:

"Model year:	Carbon monoxide level	hydrocarbon level
1977	15.0	1.5
1978	9.0	.9
1979	9.0	.41
1980	9.0	.41

The regulations under subsection (a) applicable to emissions of carbon monoxide and hydrocarbons from light-duty vehicles and engines manufactured during or after model year 1981 shall contain standards which require a reduction of at least 90 per centum from emissions of carbon monoxide and hydrocarbons allowable under the standards under this section applicable to light-duty vehicles and engines manufactured in model year 1970.".

(b) Subparagraph (B) of such section 202(b)(1) is amended to read as follows:

"(B) The regulations under subsection (a) applicable to emissions of oxides of nitrogen from light-duty vehicles and engines manufactured during model years 1975 and 1976 shall contain standards which are identical to the standards which were prescribed (as of December 1, 1973) under subsection (a) for light-duty vehicles and engines manufactured during model year 1975. The regulations under subsection (a) applicable to emissions of oxides of nitrogen from light-duty vehicles and engines manufactured during model years 1977 through 1978 shall contain standards which provide that such emissions from such vehicles and engines may not exceed 2.0 grams per vehicle mile. The regulations under subsection (a) applicable to emissions of oxides of nitrogen from light-duty vehicles and engines manufactured during model years 1979 and 1980 shall contain standards which provide that emissions from such vehicles and engines may not exceed 1.5 grams per vehicle mile. The regulations under subsection (a) applicable to emissions of oxides of nitrogen from light-duty vehicles and engines manufactured during or after model year 1981 shall contain standards which require a reduction of at least 90 per centum from the average of emissions of oxides of nitrogen actually measured from light-duty vehicles manufactured during model year 1971 which are not subject to any Federal or State emission standard for oxides of nitrogen. Such average of emissions shall be determined by the Administrator on the basis of measurements made by him.".

(c) Section 202(b) of such Act is amended by adding the following new paragraphs at the end thereof:

"(6) The standard required under the third sentence of subparagraph (B) of paragraph (1) (pertaining to oxides of nitrogen) shall not apply with respect to any manufacturer for any model of light duty vehicles or engines if the Administrator determines that such model will emit for a period of ten years or one hundred thousand miles, whichever first occurs, not more than .41 grams per vehicle mile of hydrocarbons, not more than 3.4 grams per vehicle mile of carbon monoxide, and not more than 1.0 grams per vehicle mile of oxides of nitrogen. Such determination shall be made in accordance with the certification test procedures required under section 206 (with durability testing for not less than one hundred thousand miles).".

"(7)(A) Any manufacturer may file with the Administrator an application requesting the suspension for any model year before the model year 1981 of the effective date of any standard applicable to light-duty motor vehicles or engines under this section for emissions of carbon monoxide, hydrocarbons, oxides of nitrogen, or for suspension of any combination thereof. During any calendar year, no manufacturer may file an application with respect to more than one model year. The Administrator shall grant such suspension for such model year only if—

"(i) standards applicable to emissions of sulfates or sulfuric acid, or both, from such vehicles or engines have been promulgated under subsection (a)(1) for such model year,

"(ii) the Administrator finds, after notice and public hearing, that the applicant has established that—

"(I) effective control technology, processes, or operating methods, or other alternatives are not available or have not been available for a sufficient period of time prior to their effective dates to achieve compliance with the standards applicable in such model year to emissions of carbon monoxide, hydrocarbons, oxides of nitrogen, and the standard or standards applicable to sulfates and sulfuric acid, or

"(II) fuel economy of such vehicles or engines would be substantially less in the case of vehicles or engines meeting standards applicable to emission of all such pollutants than the fuel economy of light-duty vehicles or engines meeting standards applicable for such model year only to emission of carbon monoxide, hydrocarbons, and oxides of nitrogen,

"(iii) the Administrator finds, after notice and public hearing, that emissions of sulfates or sulfuric acid, or both, from light-duty vehicles or engines cause or contribute to air pollution which may reasonably be anticipated to endanger the public health or welfare to a greater extent than emissions from such vehicles of the pollutant or pollutants with respect to which application is made under this paragraph,

"(iv) the National Academy of Sciences has not, pursuant to its study and investigation under subsection (c), issued a report contrary to the findings of the Administrator under clauses (ii) and (iii), and

"(v) notice of such suspension has been reported to the Congress by the Administrator and neither House has passed a resolution disapproving such suspension before the expiration of sixty calendar days of continuous session of Congress after receipt of such notice by such House.

For purposes of congressional action under clause (v), the provisions of subsection (b) and subsections (d) through (g) of section 155 shall apply to suspensions under this paragraph in the same manner as to regulations of the Administrator under subtitle B of title I (relating to stratosphere and ozone protection).

"(B) No suspension under this paragraph of any standard with respect to a pollutant may permit emissions of such pollutant in excess of the levels (expressed in grams per vehicle mile) specified in the following table:

"Suspension of oxides of nitrogen standard	2.0
Suspension of hydrocarbon standard	1.5
Suspension of carbon monoxide standard	15.0

"(C) During any calendar year, no suspension under this paragraph may be granted with respect to any standard for more than one model year and no suspension shall be granted with respect to an application filed for vehicles or engines manufactured during the model year specified in the left-hand column below unless such application is filed on or after November 1 of the year specified in the right-hand column below:

"Model year:	Earliest application year
1980	1977
1981	1978

"(D) In any case in which the requirements of clauses (i) and (ii) of subparagraph (A) are met, if the Administrator finds, after notice and public hearing, that emissions of sulfates or sulfuric acid, or both, from light-duty vehicles and engines do not in his judgment cause or contribute to air pollution which may reasonably be anticipated to endanger the public health or welfare to a greater extent than emissions of the other pollutants referred to in subparagraph (A), and if the National Academy of Sciences has not issued a report under subsection (c) contrary to such finding or contrary to the finding under subparagraph (A) (ii), he shall suspend the standard applicable to emissions of sulfates or sulfuric acid or both (as may be consistent with such finding), subject to the requirements and limitations contained in subparagraph (A) (other than clauses (iii) and (iv) thereof) and (C) of this paragraph. Such suspension shall not permit emissions of such pollutant in excess of the level which the Administrator determines to be technologically feasible for vehicles or engines to meet without resulting in substantially less fuel economy in relation to the fuel economy which would result if no standard for such pollutant were applicable."

(d) Section 202(c)(1) of such Act, relating to arrangements for NAS study, is amended by striking out "subsection (b) of".

H.R. 11552

By Mr. BONKER:

Amendment offered to the amendment offered by Mr. Thompson to H.R. 11552, as reported: In the amendment relating to section 16 of the Act, insert immediately after "on" the following: "January 1, 1979, except that the provisions of section 3 shall take effect on".

Page 5, line 21, insert "(1)" immediately after "(b)".

Page 6, immediately after line 10, insert the following new paragraph:

"(2) In any case in which a State uses a voter registration form which is prescribed by State law and which complies with the requirements of this Act and with rules and regulations issued by the Administration under this Act, the Administration shall permit such State to use such form in lieu of the voter registration form prepared by the Administration under subsection (a)."

Page 10, line 15, strike out "the" and insert in lieu thereof "a".

Page 10, beginning on line 15, strike out "prescribed by this Act" and insert in lieu thereof the following: "approved by the Administration under this Act".

Page 7, line 2, insert "and availability" immediately after "distribution".

Page 7, beginning on line 2, strike out "accordance with the provisions of this section." and insert in lieu thereof the following: "post offices and appropriate Federal, State, and local government offices. Such registration forms shall be generally available, and this section shall not be construed to place any time limitation upon the duration of such availability."

Page 7, strike out line 8 and all that follows through line 15.

Page 7, line 16, strike out "route.".

Page 7, strike out line 22 and all that follows through page 8, line 2.

Page 8, line 3, strike out "(d)" and insert in lieu thereof "(b)".

Page 8, strike out line 7 and all that follows through line 11.

By Mr. FRENZEL:

(Amendment No. 19, in the nature of a substitute.)

Strike out all after the enacting clause and insert in lieu thereof the following:

That this Act may be cited as the "Voter Registration Act of 1976".

SEC. 2. Federal Election Campaign Act of 1971 is amended by redesignating title IV as title V; but renumbering sections 401 through 408 as sections 501 through 508, respectively; and by inserting immediately after title III the following new title:

TITLE IV—ASSISTANCE FOR VOTER REGISTRATION

"SHORT TITLE

"SEC. 401. This title may be cited as the 'Voter Registration Act.'

"DEFINITIONS

"SEC. 402. As used in this title—

"(1) the term 'State' means each State of the United Stats, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States;

"(2) the term 'political subdivision' means any city, county, township, town, borough, parish, village, or other general purpose unit of local government of a State, or an Indian tribe which performs voter registration and

"(3) the term 'grant' means any grant, loan, contract, or other appropriate financial arrangement for the purpose of voter registration.

"ESTABLISHMENT OF GRANT PROGRAM

"SEC. 403. The Federal Election Commission shall, in accordance with the provisions of this title, make grants to the State to carry out programs to encourage voter registration.

"APPORTIONMENT OF GRANTS

"SEC. 404. Amounts appropriated to carry out the provisions of this title for any fiscal year shall be apportioned to each State in an amount which bears the same ratio to the aggregate amount so appropriated for such fiscal year as the voting age population in such State bears to the total voting age population in all the States.

"DELEGATION OF AUTHORITY

"SEC. 405. The chief election officer of each State shall be charged with responsibility for administering grants made under this title. The chief election officer may, after properly and equitably distributing each grant made under this title in accordance with State law, delegate all or part of his responsibility under this title to appropriate officials of the political subdivisions of the State to which any distribution of a grant is made.

"USE OF FUNDS

"SEC. 406. (a) Each State may in its discretion, allocate all or part of any grant made under this title to political subdivisions of such State. Each grant made under this title shall be used for programs related to voter registration including but not limited to—

"(1) programs to increase opportunities for voter registration, such as mail registration, expanded registration hours and locations, mobile registration facilities election day registration, re-registration programs, door-to-door canvassing procedures, and other methods which the State may deem appropriate.

"(2) planning, evaluating, and designing the use of electronic data processing or other appropriate procedures to modernize voter registration and make such registration more efficient with special emphasis on techniques which would allow voter registration closer to election day;

"(3) programs for the prevention and control of fraud.

"(b) No State or political subdivision thereof shall use all or part of any grant made under this title to finance any activity funded by such State or political subdivision on April 1, 1976, unless such State or local financing is continued at the same level as existed on such date.

"(c) Nothing in this title shall be construed to require action by any State or political subdivision thereof. In any case in which a State or political subdivision thereof does not use all or part of any grant made under this title to carry out programs authorized under this title, the unused portion of such grant shall be returned to the Federal Election Commission at the end of the fiscal year for which the grant was made and the Commission shall cover the funds so returned into the Secretary of the Treasury as miscellaneous receipts.

"REVIEW OF PROGRAMS BY THE FEDERAL ELECTION COMMISSION

SEC. 407. (a) The Federal Election Commission shall disseminate to all the chief elections officers of the States a summary of the types of programs found to be most effective and found to be least effective.

"(b) The Federal Election Commission shall collect, analyze, and arrange for the publication and sale by the Government Printing Office of information concerning voter registration and elections in the United States.

"(c) The Federal Election Commission shall submit to the President and to the Congress annually a report concerning his activities under this title together with such recommendations as deemed appropriate.

"CENTRALIZED VOTER REGISTER LISTS AND CONFIDENTIALITY

"SEC. 408. (a). The Federal Government is prohibited from maintaining a centralized voter registration list.

"(b) Nothing in this title shall be construed as allowing the disclosure of information which permits the identification of individual voters.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 409. For the purpose of carrying out the provisions of this title there is authorized to be appropriated the sum of $35,000,000 for the fiscal year ending June 30, 1977."

SEC. 3. Section 301 of the Federal Election Campaign Act of 1971 (2 U.S.C. 431) is amended by striking out "title IV" and inserting in lieu thereof "title V".

Amend the title so as to read: "A bill to amend the Federal Election Campaign Act of 1971 to establish a program of Federal financial assistance to encourage and assist the States and local governments in voter registration.

(Amendment No. 20 in the nature of a substitute.)

Strike out all after the enacting clause and insert in lieu thereof the following:

That this Act may be cited as the "Voter Registration and Election Administration Assistance Act of 1976".

SEC. 2. The Federal Election Campaign Act of 1971 is amended by redesignating title IV as title V; by renumbering sections 401 through 408 as sections 501 through 508, respectively; and by inserting immediately after title III the following new title:

"TITLE IV—ASSISTANCE FOR VOTER REGISTRATION AND ELECTION ADMINISTRATION REFORM

"SHORT TITLE

"SEC. 401. This title may be cited as the 'Voter Registration and Election Administration Assistance Act'.

"DEFINITIONS

"SEC. 402. As used in this title—

"(1) the term 'State' means each State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States;

"(2) the term 'political subdivision' means any city, county, township, town, borough, parish, village, or other general purpose unit of local government of a State, or an Indian tribe which performs voter registration of election administration functions (as determined by the Secretary of the Interior); and

"(3) the term 'grant' means any grant, loan, contract, or other appropriate financial arrangement for the purpose of voter registration or election administration.

"ESTABLISHMENT OF GRANT PROGRAM

"SEC. 403. The Federal Election Commission shall, in accordance with the provisions of this title, make grants to the States to carry out programs to encourage voter registration, education, and participation.

"APPORTIONMENT OF GRANTS

"SEC. 404. Amounts appropriated to carry out the provisions of this title for any fiscal year shall be apportioned to each State in an amount which bears the same ratio to the aggregate amount so appropriated for such fiscal year as the voting age population in such State bears to the total voting age population in all the States.

"DELEGATION OF AUTHORITY

SEC. 405. The Chief election officer of each State shall be charged with responsibility for administering grants made under this title. The chief election officer may, after properly and equitably distributing each grant made under this title in accordance with State law, delegate all or part of his responsibility under this title to appropriate officials of the political subdivisions of the State to which any distribution of a grant is made.

"USE OF FUNDS

"SEC. 406. (a) Each State may, in its discretion, allocate all or part of any grant made under this title to political subdivisions of such State. Each grant made under this title shall be used for programs related to voter registration and election administration, including but not limited to—

"(1) programs to increase opportunities for voter registration, such as mail registration, expanded registration hours and locations, mobile registration facilities, election day registration, re-registration programs, door-to-door canvassing procedures, and other methods which the State may deem appropriate;

"(2) programs to improve election administration procedures, such as the purchase of additional voting machinery, organization and planning of election administration activities, improvements in ballot preparation and absentee ballot procedures, coordination of election activities, and other methods designed to facilitate the efficient functioning of the election administration process;

"(3) planning, evaluating, and designing the use of electronic data processing or other appropriate procedures to modernize voter registration and election administration and make such registration and administration more efficient with special emphasis on techniques which would allow voter registration closer to election day;

"(4) programs for the prevention and control of fraud;

"(5) education and training programs for State and local election officials;

"(6) establishing nonpartisan programs for the purpose of voter and citizen education; and

"(7) other programs designed to improve voter education and participation that are approved by the States or political subdivisions thereof.

"(b) No State or political subdivision thereof shall use all or part of any grant made under this title to finance any activity funded by such State or political subdivision on April 1, 1976, unless such State or local financing is continued at the same level as existed on such date.

"(c) Nothing in this title shall be construed to require action by any State or political subdivision thereof. In any case in which a State or political subdivision thereof does not use all or part of any grant made under this title to carry out programs authorized under this title, the unused portion of such grant shall be returned to the Federal Election Commission at the end of the fiscal year for which the grant was made and the Commission shall cover the funds so returned to the Secretary of Treasury as miscellaneous receipts.

"REVIEW OF PROGRAMS BY THE FEDERAL ELECTION COMMISSION

"SEC. 407. (a) The Federal Election Commission shall audit and review annually the programs of at least five States receiving grants under this title.

"(b) The Federal Election Commission shall disseminate to all the chief elections officers of the States a summary of the types of programs it found to be most effective and found to be least effective.

"(c) The Federal Election Commission shall collect, analyze, and arrange for the publication and sale by the Government Printing Office of information concerning voter registration and elections in the United States.

"(d) The Federal Election Commission shall conduct a study of the reasons for the decline in voter participation and the role of registration obstacles in low voter turnout during the period beginning January 1, 1960, and ending December 31, 1974.

"(e) The Federal Election Commission shall submit to the President and to the Congress annually a report concerning its activities under this title, together with such recommendations as deemed appropriate.

"CENTRALIZED VOTER REGISTRATION LISTS AND CONFIDENTIALITY

"SEC. 408. (a) The Federal Government is prohibited from maintaining a centralized voter registration list.

"(b) Nothing in this title shall be construed as allowing the disclosure of information which permits the identification of individual voters.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 409. For the purpose of carrying out the provisions of this title, there is authorized to be appropriated the sum of $35,000,000 for the fiscal year ending June 30, 1977"

SEC. 3. Section 301 of the Federal Election Campaign Act of 1971 (2 U.S.C. 431) is amended by striking out "title IV" and inserting in lieu thereof "title V".

Amend the title so as to read: "A bill to amend the Federal Election Campaign Act of 1971 to establish a program of Federal financial assistance to encourage and assist the States and local governments in voter registration and election administration, and for other purposes.".

By Mr. MITCHELL of Maryland:

Page 12, section 12, immediately after line 15, insert the following new paragraph:

"(b) (1) Any State which has in effect on the effective date of this paragraph any system of voter registration which permits registration through the use of the mails may not be required to comply wtih any provision of this Act of with any rule or regulation issued by the Administration under this Act."

Page 12, line 16, strike out "(b)" and insert in lieu thereof "(b) (2)."

FACTUAL DESCRIPTIONS OF BILLS AND RESOLUTIONS INTRODUCED

Prepared by the Congressional Research Service pursuant to clause 5(d) of House rule X. Previous listing appeared in the CONGRESSIONAL RECORD of July 30, 1976, page 24818.

HOUSE BILLS

H.R. 14721. July 19, 1976. Ways and Means. Amends the Medicare and Medicaid programs of the Social Security Act to include in the coverage provided under such programs the services of licensed registered nurses.

H.R. 14722. July 19, 1976. Education and Labor. Amends the Older Americans Act of 1965 to allow States to distribute Federal funds for the establishment of projects to provide home-delivered meals to qualified homebound elderly persons.

Directs the Commissioner of the Administration on Aging to conduct a demonstration project involving at least three States to determine the feasibility of using the meals system designed by the National Aeronautics and Space Administration for the elderly as a component of, or substitute for, regular nutrition projects assisted under such Act.

H.R. 14723. July 19, 1976. Judiciary. Imposes a mandatory minimum 90 day term of imprisonment on anyone convicted of selling or receiving stolen vehicles which move in, or are a part of, interstate commerce.

H.R. 14724. July 19, 1976. Judiciary. Prohibits the transportation in interstate commerce of stolen hogs and the sale or receipt of such hogs.

H.R. 14725. July 19, 1976. Public Works and Transportation; Interstate and Foreign Commerce. Amends the Antihijacking Act of 1974 to extend to all common carriers of passengers for hire the protection of the criminal penalties imposed by such Act.

H.R. 14726. July 19, 1976. Armed Services; Merchant Marine and Fisheries; Ways and Means. Includes the Commissioned Corps of the National Oceanic and Atmospheric Administration within provisions authorizing the President to transfer any commissioned officer from such individual's armed force to another armed force.

Deems the Commissioned Corps of the National Oceanic and Atmospheric Administration an armed force for the purpose of provisions entitling a member of an armed force up to three months' pay in advance upon a change of permanent station.

Includes former members of the Commissioned Corps of the National Oceanic and Atmospheric Administration within the classification "ex-servicemen" for purposes of Federal employee unemployment compensation.

H.R. 14727. July 19, 1976. Education and Labor. Amends the Child Abuse Prevention and Treatment Act to authorize appropriations for fiscal years 1978 through 1980 to carry out the purposes of such Act.

Authorizes the Secretary of Health, Education, and Welfare to enter into contracts with or award grants to public agencies or profit or nonprofit organizations for the evaluation of programs and projects assisted with funds provided under such Act.

H.R. 14728. July 19, 1976. Armed Services. Directs the Secretary of the Interior to convey without consideration designated lands in Eglin Air Force Base to the city of Niceville, Florida, for use as a nonprofit cemetery.

H.R. 14729. July 19, 1976. Agriculture. Amends the Federal Crop Insurance Act to extend crop insurance coverage under such Act to all counties of the United States and to all agricultural commodities. Removes the present authorized appropriation limitation for such program.

H.R. 14730. July 19, 1976. Public Works and Transportation. Authorizes the Secretary of the Army, acting through the Chief of Engineers, to place on the beaches of a requesting State, beach-quality sand which has been dredged in maintaining navigation inlets and channels adjacent to such beaches.

H.R. 14731. July 19, 1976. Merchant Marine and Fisheries. Amends the Marine Mammal Protection Act of 1972 to extend the authorization of appropriations necessary to carry out marine mammal research grants and the administration of the Marine Mammal Commission.

Authorizes appropriations (1) for each fiscal year through September 30, 1979, for commercial fishing gear development; (2) to the National Oceanic and Atmospheric Administration through September 30, 1978, to carry out its responsibilities under such Act; and (3) to the Department of the Interior through September 30, 1978, to carry out its responsibilities under such Act.

H.R. 14732. July 19, 1976. Interior and Insular Affairs. Directs the Secretary of Agriculture to study the desirability and feasibility of designating the Shawnee Hills in Illinois as a national recreation area.

H.R. 14733. July 19, 1976. Interstate and Foreign Commerce. Amends the Public Health Service Act to direct the Secretary of Health, Education, and Welfare to make grants to health agencies of States or their political subdivisions, or to any qualified nonprofit agency for programs of prenatal health care for adolescents, health care for infants of adolescent mothers, family planning services, social services and purchase adoption services for adolescent mothers.

H.R. 14734. July 19, 1976. Judiciary. Declares a certain individual lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 14735. July 19, 1976. Judiciary. Declares a certain individual lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 14736. July 19, 1976. Judiciary. Declares a certain individual lawfully admitted to the United States for permanent residence, under the Immigration and Nationality Act.

H.R. 14737. July 19, 1976. Judiciary. Directs the Chairman of the Civil Service Commission to determine and to pay the amount of benefits under the Civil Service Retirement and Disability Fund to which a certain individual would have been entitled had not a certain individual elected certain options regarding such benefits.

H.R. 14738. July 20, 1976. Interstate and Foreign Commerce; Interior and Insular Affairs. Establishes procedures for administrative review and Presidential decisionmaking concerning the selection of a natural gas transportation system to deliver Alaska natural gas to other States. Details procedures for Congressional review of such Presidential decisions.

Suspends various procedural requirements imposed by the Mineral Leasing Act of 1920 and the National Environmental Policy Act of 1969. Imposes limitations on judicial review of administrative actions taken pursuant to this Act.

H.R. 14739. July 20, 1976. Ways and Means. Amends the Internal Revenue Code to allow a deduction to individuals who rent their principal residences for a portion of the real property taxes paid or accrued by their landlord.

H.R. 14740. July 20, 1976. Government Operations. Creates a Federal Program Information Center to establish and maintain a computerized program information system which is capable of identifying all existing Federal domestic assistance programs.

Directs the President to publish an annual catalog of such programs which includes all information in the Center's data base.

EXTENSIONS OF REMARKS

CATO-MERIDIAN HIGH SCHOOL BLUE DEVILS—1976 NATIONAL CHAMPIONS IN GIRLS' ARCHERY

HON. WILLIAM F. WALSH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, August 2, 1976

Mr. WALSH. Mr. Speaker, the sport of archery demands a stern mind, a steady hand and a steel will. If for an instant the archer hesitates in the release of the bow, the arrow strays from its path to the target.

In the 33d Congressional District of New York, the district I am honored to represent, six young women and their coach have mastered the fundamentals of this most testing sport and have earned the title of "national champion."

The girls' archery team of Cato-Meridian High School recently bullseyed its way to first place in the girls' high school championships of the National Archery Association.

These "Blue Devils" competed in the classification of greatest difficulty against teams from coast-to-coast, equaling championships they had won in previous years.

Along with having the highest team score, Cato-Meridian also produced the individual with the best count. Blue Devil Vicki Jenda homed in on the bullseye more consistently than any other competitor, as she earned individual honors.

Mary Dady, coach of this sharpshooting squad, is to be congratulated for her expert guidance. I know that her team must be as grateful to her as she is proud of her team.

The 33d Congressional District of New York abounds with true competitors. I am proud to represent in Congress four 1976 national champions: the West Genesee Senior High School Marching Band, the best high school field band in the United States; Tim Kneale, the best young speller in the country; the Hobart College lacross team, the best college division stickmen in America; and now, the Cato-Meridian High School girls' archery team, the best girls' high school archery team in the 1976 National Archery championships.

These outstanding young women are endowed with the determination of Robin Hood, the fortitude of William Tell and the love of bow and arrow of Cupid. I give them my very best wishes.

POLITICAL EXILES IN ARGENTINA

HON. CARDISS COLLINS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, August 2, 1976

Ms. COLLINS of Illinois. Mr. Speaker, during the recent congressional recess, several important news reports appeared in prominent national newspapers. These articles concern the fate of political exiles in Argentina. I wish to offer them to my colleagues as a reminder that while many of us were thinking about domestic issues and party politics, a serious international problem continued to worsen.

During our adjournment, executions of political exiles in Argentina continued to increase as they have been increasing since the start of this year.

Sadly, the United States has done little to satisfy its moral responsibility to offer asylum to these refugees. Yet we have a chance, at this time, to act. Mr. FRASER of Minnesota and Mr. KOCH of New York have coauthored a resolution that would direct the U.S. Attorney General to grant "parole status," hence political asylum, to those refugees in Argentina whose lives are endangered because of their political beliefs.

I would hope that in reading these articles my colleagues will be prompted to react to this serious situation by joining me in cosponsoring the Fraser-Koch resolution.

The articles follow:

[From the New York Times, July 6, 1976]

ARGENTINES SHOCKED BY SLAYING OF FIVE AT CHURCH

(By Juan de Onis)

Special to the New York Times

BUENOS AIRES, July 5.—The killing of three Roman Catholic priests and two seminarians of an Irish-Argentine order shocked public opinion here today.

The five, including the Rev. Alfred Leden, 60 years old, the highly respected parish priest of St. Patrick's Church, were shot in the back of the head as they kneeled in the parish residence early yesterday.

Words written in chalk on the wall of the residence, later rubbed out during a police inspection of the building, indicated that the killings were in reprisal for the explosion of a bomb Friday that killed 18 policemen.

According to a priest who saw the writing, it said, "For the police that died" and "Corrupters of innocent minds."

"This is senseless killing," said the priest, who asked not to be identified. "These priests never had any political activity."

Since the bomb explosion in the headquarters of the superintendency of federal security, the investigatory arm of the federal police, more than 20 persons have been killed in what appear to be reprisals.

A machine-gunned body was found early today. At the obelisk that stands at the main intersection of this capital, Corrientes and 9 de Julio Avenues.

On Saturday, 15 bullet-riddled bodies were found in various empty fields and parking lots in the city.

The coffins carrying the bodies of the slain priests and seminarians were displayed at St. Patrick's Church this morning before hundreds of parishioners from the middle-class neighborhood where many Irish-Argentine families live.

A woman lifted a white lace cloth covering the face of the Rev. Alfred J. Kelly, Argentine-born but trained for the clergy in Thurles, Ireland. Tears rolled down her cheeks. She touched the dead priests face, then turned and buried her head against the shoulder of her husband.

The mass at the church today was attended by Archbishop Aramburu of Buenos Aires and the Papal Nuncio, msgr. Piol Laghi, as well as hundreds of parishioners, churchmen and groups from parochial schools.

There were a number of army officers in uniform at the mass, and they inquired of the clergymen of the Order of Irish Fathers about the circumstances of the killing.

Since the start of this year, more than 600 people have been killed in political violence here. The conflict is between leftwing guerrilla organizations and the security forces.

[From the Washington Post, July 8, 1976]

EXILES IN ARGENTINA STRUGGLE TO LEAVE

(By Juan de Onis)

Special to the New York Times

BUENOS AIRES, July 8.—Latin-American political refugees in Argentina, who feel trapped, afraid and frustrated, are mounting almost desperate acts of pressure on the United Nations and foreign embassies to help them leave the country.

A group of 44 Chilean and Uruguayan exiles, including 24 children, began a hunger strike yesterday at the shabby residential hotel where some have been waiting for two years to obtain visas to a new country.

"We can't stay here," said a Chilean refugee at the Chelita Hotel. "We have no documents to even walk the streets and we can't work legally. Some of our children have been told they can no longer go to school. We have to get out."

Asking not to be identified, as did the other refugees, he said he came here a year and eight months ago from a working-class sector of San Bernardo, near the Chilean capital, where he said he had been active in the Socialist Party's organization of neighborhood committees.

FLED "PRESSURE" IN CHILE

"After the military overthrew President Allende, the pressure got so bad we had to leave," he continued. "Some people were killed and many went to jail. I went to the Church Committee for Peace and they got us permission to leave."

With his wife and two children, he came to Argentina, like at least 10,000 other Chileans after the fall of the left-wing Government of President Salvador Allende Gossens.

Along with refugees from Bolivia, Uruguay and Brazil, the Chileans make up the majority of the approximately 8,500 registered with the United Nations High Commission for Refugees here. Other thousands of people who came here for political or economic reasons are illegal residents in Argentina.

The group that began the hunger strike said that other refugees in the 18 hotels and shelters maintained by the United Nations would join the movement next week unless there was some movement to accelerate exit visas from embassies here or the issuance of Argentine documents for those who wanted to stay.

Another group of 27 Chileans has been in the Canadian Embassy since last Friday. They have refused to leave the embassy offices until the Canadian Government says it will give them visas.

ARMED MEN BEAT CHILEANS

The pressure from the refugees on the office of the United Nations High Commission for Refugees here has increased since armed men dragged 25 Chileans from two hotels and beat them up. They were later released and said their abductors had been policemen or military personnel.

Rear Adm. Cesar Augusto Guzzetti, the Foreign Minister of the military junta, said the protest movements by the refugees were "a demand for action from the United Nations."

"These people are vegetating and most of them want to reconstruct their lives," said Admiral Guzzetti. "They want solutions."

Admiral Guzzetti said that among the refugees there were some who had political and criminal records that made them "a security danger." He said that these would not be allowed to remain in Argentina.

The Ministry of Interior has issued expulsion orders for 46 refugees since the junta came to power, and the United Nations High Commission has obtained visas for nearly all these. The Argentine Government does not send expelled persons back to their country of origin if they have fled for political reasons, according to the Ministry of Interior.

The admiral said Argentina was analyzing with a representative of the United Nations High Commission here, Robert Muller, the list of refugees under United Nations control to see which ones could be issued Argentine residence documents.

"We want solutions," he said. "Many of these people came here under irregular circumstances before the junta came into office. This is a heavy burden for this country when we are reconstructing our economy and our own people find it difficult to hold their jobs. We expect the United Nations to get cooperation from other governments to accept the people who cannot stay here."

The group at the Chelita Hotel, some in wool ponchos and patched clothing, included mechanics, construction workers, a teacher, students and housewives. Some said that visa requests presented at the embassies of France, Canada, Australia and Algeria had been turned down.

Last year when thousands of Vietnamese fled their homeland in fear of their lives, the United States rightly offered these refugees asylum. Today again we have the opportunity to exercise our traditional responsibility to provide a haven for those fleeing persecution. This time the refugees are from South America and they are fleeing right-wing repression.

Thousands of political exiles from Chile, Uruguay, Brazil, and Bolivia have sought asylum in Argentina as repressive military dictatorships have come increasingly to dominate the governments of South America. When the military recently took control in Argentina, the haven became a virtual prison for the refugees. In the past month prominent opposition leaders living in exile in Argentina—including Uruguayans Zelmar Michelini and Hector Gutierrez Ruiz and former Bolivian President Juan Jose Torres—have been kidnapped and murdered by right-wing paramilitary groups which the Argentine government has been either unable or unwilling to control.

Perhaps most frightening is that those right-wing terrorists are now in possession of a master list of 8,000 political exiles in Argentina. Last month 25 of those refugees were kidnapped and roughed up. Wilson Ferreira Aldunate, a moderate Uruguayan leader now in exile, estimates that there are at least 250 persons in Buenos Aires who know they have been singled out by the death squads for assassination but who have not been able to leave the country.

Both Western and Communist bloc countries have already given asylum to 3,000 of these refugees. To date, the United States has done nothing. Certainly, the United States has a responsibility to do its share in offering asylum to these refugees. To this end, Sen. Edward Kennedy, Congressman Don Fraser, and I have introduced a resolution in Congress asking the Attorney General to parole into the U.S. those refugees in Argentina in danger of their lives because of their political beliefs.

Our asylum policy should be an even-handed one, offering refuge to those fleeing repression whether it comes from the left or the right. To turn our backs on these refugees in Argentina when we have done so much for those fleeing left-wing repression is utter hyprocrisy.

The State Department, in conjunction with the Department of Justice, is empowered to proceed with a parole visa program. I believe rapid implementation of such a program will save the lives of many refugees and may persuade the Argentine government to begin protecting those to whom it has granted asylum.

EDWARD I. KOCH,
Member of Congress.

WASHINGTON.

SIX-YEAR-OLD SHOT DOWN

HON. ROBERT W. EDGAR

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, August 2, 1976

Mr. EDGAR. Mr. Speaker, I strongly oppose moves which would confiscate handguns and deprice our responsible adult citizenry of their constitutional right to bear arms. However, I do believe that we in Congress must work to develop legislation which will provide some modest controls over the manufacture and purchase of these weapons. These regulations, widely backed by police officials across the Nation, would be minimal compared with the kinds of controls we place upon the manufacture, sale, or possession of automobiles and would preserve our freedoms as they save the lives of thousands of innocents.

Nothing speaks more forcefully on the need for controls, than the image of a child shattered by the blast of a 3-year-old's pistol. Therefore, I would like to present for the information of my fellow Members the following article which appeared as an editorial in the July 31st issue of the Philadelphia Inquirer:

ONLY A KID, WHAT DID HE KNOW?

In Baltimore a few days ago, a three-year-old boy came across a loaded .357 magnum pistol, owned by his mother's boyfriend, and marched outside and confronted a six-year-old boy named Jeff, with whom he'd been arguing earlier in the day.

"I'm going to shoot you and I'm not going to miss," he said, according to a nine-year-old girl who witnessed the scene. And he pulled the trigger and he didn't miss.

"It was the awfullest thing I ever saw," said the girl. "Jeffrey just stood there for a moment with a big hole in his stomach and blood all over the place. Then he fell over . . . I don't think the little boy knew what he was doing."

Well, as the gun lobbyists might say, guns don't kill people, three-year-old people kill people. And this year once more Congress has succumbed to the threats and blandishments of the gun lobby and refused to enact even modest legislation to control the spread of handguns all over the country.

Every year, more than 10,000 American citizens are slaughtered by handguns. How long do you suppose Congress will go on acting like a three-year-old?

IMPACT OF INCREASED ELECTRIC COSTS ON LOW-INCOME FAMILIES

HON. TIM LEE CARTER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Monday, August 2, 1976

Mr. CARTER. Mr. Speaker, in a recent "Dear Colleague" letter, Congressman ROGERS, chief proponent of the Clean Air Act Amendments of 1976, has stated the impact of his proposals on consumers of electric power will be minimal.

I call to the attention of my colleagues a report by the Environmental Protection Agency, dated February 5, 1976, which concludes the policy of significant deterioration outlined in section 108 of H.R. 10498, together with the new source standards of performance in the legislation, will result in approximately $28 billion in additional costs to the electric utility industry alone between now and 1990. This is the lowest estimate. If a high growth rate is assumed, a study by the National Economic Research Associates concludes that such additional costs may exceed $50 billion. It should be noted that both these figures assume a constant 1975 dollar and do not take inflation into account.

East Kentucky Power Cooperative, a company supplying power to rural electric cooperatives, consumer-owned organizations covering over half the Commonwealth of Kentucky, advises me this legislation will mean a 33-percent increase in the cost of power to its residential consumers. Mr. Aubrey J. Wagner, chairman of the Board of the Tennessee Valley Authority, has told me on two separate occasions this legislation, as presently drafted, will mean an expenditure by TVA of $300 million for the first year and $200 million every year thereafter for the foreseeable future. Consumers are already upset by the increasing cost of power. Figures such as those in the EPA report of February 5, the NERA report, from East Kentucky Power and from TVA do not calm my fears of the impact of this legislation on the consumer.

Consumers are feeling the pinch now. To illustrate that point, I submit for the RECORD a copy of a statement made by The Honorable C. Leslie Dawson, Secretary for Human Resources for the Commonwealth of Kentucky, before the Governor's Special Advisory Commission on Electric Utility Rates and Regulation meeting last year in Frankfort, Ky. This statement is of fact rather than projection. While these figures pertain only to Kentucky. I feel them to be an indication of the problems facing many citizens who must live on limited or fixed incomes throughout the Nation.

IMPACT OF INCREASED ELECTRIC COSTS ON LOW-INCOME FAMILIES

In opening my remarks, I feel that it is important that we recognize the contribution Governor Carroll has made in the public interest by appointing this Special Advisory Commission on electric rates. Increases in electric rates in recent months have jolted families at all levels.

These increases in combination with other inflationary costs have disrupted the life style and family budgets of even middle income families. The effect on low income families has been devastating.

I appear before you today to neither discuss the cause nor offer solutions to the unprecendented price increases which have occurred in electric rates in recent months. That is a responsibility of others at the present including this Commission.

My purpose is to impress upon you and hopefully the general public, the alarming effect that these increases have had on the elderly, the unemployed, dependent families and other fixed and low income families.

The category of citizens to which I refer and which are served through the programs administered by the Department for Human Resources include the older, or aged American, blind, and disabled individuals and families of all ages and circumstances requiring assistance with medical bills through the state Medicaid program; hundreds of thousands of citizens requiring assistance with food costs through the Food Stamp program; a growing number of families with dependent children whose father is absent or unemployed requiring a monthly cash income under the Aid to Families with Dependent Children program; and lastly, the thousands of families affected by the economic recession who must now make ends meet on a substantially reduced income provided through the Unemployment Insurance program.

These groups represent one-fifth of the population of the Commonwealth.

On a monthly basis the Department, through the Income Maintenance programs mentioned above, is attempting to meet the basic economic needs of over 600 thousand of Kentucky's citizens. The combined expenditure of funds in this effort has now reached a level of $600 million annually. This represents an increase of 60.9 percent in the last year alone.

Funding increases provided through state budget appropriations and Congressional legislation which were designed to maintain a minimum standard of living have been virtually nullified in recent months by only one aspect of basic living cost—that being household utilities. The principle item among these being electricity which is a necessary commodity in all homes.

Staff analysts in the Department, while not having full access to utility cost data, which hopefully will be obtained by this Commission, have estimated that electrical utility rates on an average have increased by at least 56 percent in the last 24 months, most of this occurring in the last few months. Because of variations in the cost of generating electricity in different areas of the state, this increase is vastly understated for specific communities and regions.

First reaction to the substantial increase in total expenditures for the Income Maintenance programs, which has occurred in the past year, is understandably disturbing and is of concern to me personally.

Part of the increase is, of course, due to an increase in the number of program participant attributable to the recession. However to place the increase in payment levels in the proper perspective, it must be recognized that they are predominantly the result of a vicious cycle of cost of living increases with efforts to maintain reasonable parity with those increases.

In support of this statement, it can be demonstrated in individual programs that, even though substantial, these increases in program expenditures have not only failed to keep pace with the aggregate cost of living spiral, but do not even compensate in some instances for recent increases in electrical utility costs.

To illustrate this generalization. Let us now look at some specific programs and relate the payment increases which have been provided within the past year to the single cost item of electricity.

In the Income Maintenance payments to aged, blind and disabled persons which is paid to recipients by the Federal Government under the federal Supplemental Security Income program, Congress legislated annual cost of living increases in the payment level to prevent deterioration in the minimal standard of living provided under the program.

In July, 1974, a single aged, blind and disabled person, without the benefit of a state funded supplementation payment, was entitled to $146. As of July, 1975, the payment level was increased by 8 percent to about $158 or only a $12 monthly increase in the benefit level for the 100 thousand aged and disabled individuals in Kentucky depending on that program.

In the absence of any further legislative action, this payment rate will remain in effect until July, 1976. While conceding that there are other items for which the same analogy could be made, we can state without reservation that the increases which have taken place in electrical utility rates just within the past few months have more than nullified this increase. As a result, available income for other necessities has actually declined.

In the federal-state money payment program for families with dependent children, the 1974 legislature provided funds for the first substantial increase in that program since 1966. Utilizing these additional funds the Department increased the monthly AFDC payment for an average family of 4 in October, 1974, from $181 to $235. The official poverty index level for a family of 4 is $420 per month; the AFDC payment, including the increase, represents only 56% of the official poverty income level. This increase, while representing a substantial commitment of additional state and federal funds, represented a monthly increase of only about $13 per person. Since few welfare families have a multitude of electrical appliances which in other circles are considered necessities, their electric bills are considerably lower than other households. Nevertheless, in some areas of the state at least one-fourth of this $54 per month increase for AFDC families has been absorbed within the past few months by increases in electric bills alone. As you are aware, in some areas of the state the add-on fuel adjustment to electric bills, which is the utility production cost which is permitted to be passed on to the consumer, is as high as 60% of the base rate.

To demonstrate this point further, analysis shows that while the AFDC benefit level was increased by 30%, total utility costs, including electric utilities, for dependent families have increased by 75%, primarily in the past year. This alone has absorbed one-half of the increased payment level.

Thus far, we have been illustrating the almost untenable position of individuals and families dependent on public assistance programs. Let is also consider the impact of these alarming increases in electrical costs on a moderate or middle income family who must now depend on Unemployment Insurance benefits as a result of loss of employment during this recessionary period. Under this program, the average weekly payment is about $65 or $282 per month. Utility costs for this type household may be expected to be substantially higher than those of lower income or dependent families. Living costs do not immediately drop with the loss of employment without drastic changes in the standard of living or life style. In the typical middle class suburban home, electric bills of $50 to $75 are not at all uncommon. As a result, this single item of household expense may require as much as 25% of the Unemployment benefit payment available to the family.

To meet other necessary expenses in this type of situation, there is firsthand knowledge of families having to reduce usage of household appliances in order to lower the monthly electric bill. While there may be second wage earners in some of these families, there are currently 75 thousand individuals or families in Kentucky depending on Unemployment Insurance benefit payments.

Having attempted to relate the impact of rising electric costs on individual households and welfare expenditures, there is also the indirect effect on the cost of supporting needy individuals who are unable to remain in their own homes. There are about 11,500 aged and disabled people who requires group living arrangements to accommodate Personal Care or Medical needs. Institutional costs under the State Supplementation and Medicaid program have increased by $16.8 million in the past year and the Department is being petitioned for additional increases in the payment rates for this type of institutional care. A factor in these increasing costs of institutional care is utilities of which electric costs is the largest item.

In addition to those served through the Income Maintenance programs of the Department, the rising cost of utilities also impacts heavily on other low income families.

Having to cope with a 56% increase in electric costs during recent months has placed many of these families in an untenable position. Income must be diverted from other basic needs or electric usage reduced. However, at this low income level, the ability to divert funds from one budget area to another is extremely limited.

In order that we may not lose sight of the total picture, let us keep in mind that we have zeroed in on only one aspect of increasing costs. In addition to shelter, food, clothing, medical and transportation cost increases which are impacting families at all income levels, utilities other than electricity have increased to the point of virtually pricing low income families out of the market.

The cost of coal, which of course is related to electrical rates, has skyrocketed over the past two years. In 1973, a ton of Western Kentucky coal averaged about $11 and Eastern Kentucky coal, $14. Today the average cost is $27 and $42 respectively.

Effectively, this means that the price of coal has increased by 145 to 200 percent. Other utility costs have under gone similar increases. Over the past two years, natural gas has increased by over 100 percent. The cost of water has gone up 15 percent and fuel oil which was almost out of the reach of most households for heating purposes has increased by some 90 percent.

Finally, I would like to point out that the Department is confronted with additional costs which indirectly affect the clients of this Department. I think just pointing out a comparison between May–June of 1974 and May–June of 1975, costs for electricity will graphically demonstrate the point.

In fiscal year 1974, we paid $1,139,294 for our utility service, and in Fiscal Year 1975, the utility cost was $1,731,726. This represents a 52 percent increase.

INCREASED PUBLIC UTILITIES RATES

Kentucky citizens have paid steadily increased rates for public utilities over the past several years. The information contained in the table below was obtained from the Public Service Commission which has regulating authority over the utilities. This information reveals that rates for electricity, gas, and water have risen steadily from 1970 through 1972.

Average monthly utility rates	1970	1971	1972
Private electric utilities:			
Average residential cost per kilowatt-hour	$0.0214	$0.0214	$0.0216
Average residential monthly bill	10.95	11.54	12.26
Percent increase		(5.4)	(6.2)
Rural electric co-ops:			
Average residential and rural cost per kilowatt-hour	.0167	.0189	.0190
Average residential and rural monthly bill	11.93	13.71	14.38
Percent increase		(15.0)	(4.9)
Gas:			
Average residential cost per thousand cubic feet	.84	.89	.94
Average residential monthly bill	10.78	11.05	11.93
Percent increase		(2.5)	(8.0)
Private water utilities:			
Average residential cost per M-gallons	.86	1.01	1.01
Average residential monthly bill	4.75	5.36	5.68
Percent increase		(13.0)	(6.0)
Water districts and associations:			
Average residential cost per M-gallons	1.22	1.38	1.43
Average residential monthly bill	6.33	6.94	7.40
Percent increase		(9.6)	(6.6)

It should be noted that because of the demand for water and electricity, it has been necessary to meet this demand throughout the State by having both privately owned utilities companies and cooperative corporations.

In addition to the above information, a 1974 publication from the Federal Power Commission indicates that the national average residential electric bill continued to rise throughout 1973. According to this publication, between January 1, 1973 and January 1, 1974, average electric bills were higher than at any time during the previous 39 years. The Federal Power Commission conducted a survey and found that the East South Central region which includes Kentucky has traditionally had the lowest average monthly electric bills. The low bills of this region result largely from the influence of low-cost electric power available from the Tennessee Valley Authority.

The cost of coal in Kentucky has also increased significantly over the past few years. Island Creek Coal Company economists report the following increases in the price of coal per ton in both Eastern and Western Kentucky:

July 1973, Eastern Kentucky, $14; Western Kentucky, $11.

July 1974, Eastern Kentucky, $27 (93 percent increase); Western Kentucky, $14 (27 percent increase).

July 1975, Eastern Kentucky, $42 (56 percent increase); Western Kentucky, $27 (93 percent increase).

It should be noted that these figures are averages and that in different months over the past two years the price of coal has soared to $50 and $75 per ton primarily because of the Arab oil embargo. The reason that coal is cheaper in Western Kentucky is because of the mining methods used and because of the BTU content.

The price of heating oil has greatly increased over the past few years. A representative from the Shell Oil Company reports that the price of heating oil per gallon in July of 1973 was 20.5 cents; in July of 1974, it was 35.3 cents per gallon and by July of 1975, it has climbed to 38.9 cents per gallon. There is not one company that supplies the majority of heating oil to Kentucky residents and the prices quoted by the Shell Company are felt to be representative of other companies throughout the state. The prices are very close to the statewide average cost of heating oil as reported by the Kentucky Petroleum Council.

UTILITY RATES AND RESIDENTIAL COSTS[1]

Type of utility service	July 1973	July 1975	Percent change
Electric:			
Average residential cost per kilowatt-hour	$0.0218	[2] $0.0339	55.5
Average monthly bill	13.02	[3] 20.25	
Natural gas:			
Average residential cost per 1,000 cubic feet	.99	2.00	102.0
Average monthly bill	12.88	[3] 26.02	
Water:			
Average residential cost per M-gallons	1.28	1.47	14.8
Average monthly bill	6.95	[3] 7.98	
Coal:			
Average cost per ton:			
Eastern Kentucky	14.00	42.00	200.0
Western Kentucky	11.00	27.00	145.5
Estimated annual residential cost with 7-ton usage:			
Eastern Kentucky	98.00	294.00	
Western Kentucky	77.00	189.00	
Fuel oil:			
Average cost per gallon	.205	.389	89.8
Estimated annual residential cost with 1,750 gallon usage	358.75	680.75	

[1] Represents projections based on latest available data from the Public Service Commission and public and private utility companies.

[2] Includes an estimated fuel adjustment equivalent to 30 percent.

[3] Estimated assuming same rate of usage as in July 1973 and therefore a percentage increase comparable to the rate change.

PROJECTED EFFECT ON AN AFDC FAMILY OF 4, ASSUMES AVERAGE UTILIZATION AND COST

Type of utility	1973	1975	Percent change
Estimated annual utility cost:			
Electric	$156.24	$243.00	
Water	83.40	95.76	
Coal (eastern Kentucky)	98.00	294.00	
Gas	154.56	312.24	
Heating oil	358.75	680.75	
Total with coal	337.64	632.76	87.4
Total with gas	394.20	651.00	65.1
Total with heating oil	598.39	1,019.51	70.4
Annual AFDC payment	2,052.00	2,820.00	37.4
Utilities as percent of total income:			
Using coal	16.5	22.4	
Using gas	19.2	23.1	
Using heating oil	29.2	36.2	

PROJECTED IMPACT ON AN SSI AGED COUPLE, ASSUMING 25% LESS UTILIZATION THAN FAMILY OF 4

Estimated annual utility cost:			
Total with coal	$253.23	$474.57	87.4
Total with gas	295.65	488.25	65.1
Total with heating oil	448.79	764.63	70.4
Annual SSI payment	2,280.00	2,839.00	24.5
Utilities as percent of total:			
Using coal	11.1	16.7	
Using gas	13.0	17.2	
Using heating oil	19.7	26.9	

GRUMMAN AEROSPACE—A PROUD PAST AND AN EXCITING FUTURE

HON. JEROME A. AMBRO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, August 2, 1976

Mr. AMBRO. Mr. Speaker, the summer issue of "40" magazine has published an article detailing some of the recent successes of Grumman Aerospace, an employer of 20,000 located in Bethpage, N.Y. This highly respected corporation, which is an asset to the congressional district that I am proud to represent, has long been known for its technological expertise.

Grumman's most famous accomplishments include the production of high performance military aircraft and the creation of the Apollo lunar excursion module. In response to the aerospace industry's slump of the early 1970's, however, Grumman has become a highly diversified company as well. In addition to its continued work on military aircraft and on the space program, Grumman is conducting trailblazing research into nuclear, solar, and wind energy, is beginning to market a new Dormavac food shipping container which can greatly extend the fresh life of many perishable foods during transportation and storage, and is now marketing many more familiar items such as aluminum canoes, trucks, and ambulances. Thanks to this diversification program, Grumman has posted 3 consecutive years of profits, reaching a record level of sales in 1975.

Playing a crucial role in this tremendous success are Grumman's employees who have long been known for their professionalism and workmanship. Without the dedication and excellence of these highly skilled individuals, the lunar excursion module may not have been the success it was in assuring the safe landing of our astronauts on the Moon. The employees of Grumman are a credit to the company for which they work, to the communities in which they live, and to their Nation.

I commend to my colleagues this highly informative article by Richard Rodriquez which reflects the tremendous spirit of this highly successful corporation:

LOOKING BEYOND THE MILITARY HORIZONS

(By Richard Rodriguez)

To anyone who responds to the inspiring strains of "Off we go, into the wild blue yonder," the name Grumman evokes visions of sleek fighting jets streaking off in a burst of glory to protect our American way of life. And this response is altogether appropriate, considering the vital role that Grumman has played in delivering the high performance aircraft which have seen our airborne forces through the perils of World War II and many smaller scale conflicts before and since.

But today, the mention of the name Grumman is just as likely to sound a less martial note with the listener. We are not involved in a "hot" war, and diplomacy and caution have become the watchwords of our delicately balanced national foreign policy. Moreover, defense contracts, although higher in dollar value than ever due to the ravaging effects of inflation, are actually *fewer* in number. Consequently the few "plum" contracts available are not enough to go around the large circle of competitive contractors, invariably leaving manufacturers in a "feast or famine" condition. Grumman has felt the effects of this uneven funding system as much as any other defense contractor, as evidenced by the disappointing losses the company suffered in 1971 and 1972.

Therefore, in the best American tradition of ingenuity and flexibility, Grumman is now focusing its technological proficiency into an increasing number of nonmilitary commercial ventures—some quite glamorous, leading to spectacular achievements like the creation of the Apollo Lunar Module built by the Grumman Aerospace team, and some not so glamorous, but useful to man in a variety of ways.

Grumman Corporation President Joseph G. Gavin, Jr. summed up the new diversification spirit at Grumman this way in an exclusive "40" interview: "We are a consolidation of technicial expertise looking for new markets." To demonstrate this technical competence, Gavin pointed out how Princeton University researchers seeking to design a functional nuclear fusion test reactor have called upon Grumman engineers to help them build the systems necessary to withstand the high temperatures and pressures involved, an experiment which will break new ground in this area of research.

On a separate energy front, Gavin also remarked that the Electric Power Research Institute, a private research organization supported by major utility companies, has asked Grumman to investigate new low cost method of uranium enrichment for use in nuclear power plants. Moreover, according to Gavin, new energy forms are not the only ones Grumman finds worth exploring. Company researchers are also hard at work under an Energy Research and Development Agency (ERDA) grant looking into the feasibility of a new two-stage turbine for the generation of electricity by wind power.

Meanwhile, the Sunstream TM Division of Grumman Houston Corporation has also made impressive advances in the area of solar energy, to the point where a variety of Solar Domestic Hot Water Systems are now commercially available.

The widespread respect for Grumman technical know-how has also earned the company a place on the frontiers of aerospace research. For several years, Grumman has been assisting NASA in the development of the world's first satellite solar power station (SSPS), an orbiting utility plant which is hoped to be able to deliver up to 5000 megawatts of electricity to Earth by the end of this century. Grumman also recently delivered the first of five pairs of wings promised for the Space Shuttle Orbiter now being built by Rockwell International, a reusable space vehicle which will be able to carry passengers or cargo to and from Earth orbit, and also fly in the atmosphere like a conventional aircraft.

Grumman's marketing efforts also extend far beyond the horizons of aerospace technology. Some of the more familiar aspects of its corporate programs include the manufacture of aluminum canoes, truck and van bodies, buses, ambulances, light private aircraft, cropdusters, hydrofoils, and most recently, the first corporate/private jet with non-stop transatlantic crossing capability, the 600 mph Gulfstream II.

Other Grumman subsidiaries include: the Pearson Yacht Company, a leading manufacturer of private luxury sailboats and cruising yachts—the Wormuth Brothers Foundry, a mold making company competing in industrial markets—Grumman Allied, which numbers among its inventions a unique electronic fire hose nozzle—Grumman Data Systems, operating in the computer hardware and software field—and Grumman Ecosystems, a designer of environmental products and services such as the regional sewage treatment plant now under construction in West Palm Beach, Florida.

The Grumman Health Systems division is actively involved in supplying the growing market for ultrasonic diagnostic equipment, and is currently working with Duke University specialists on the creation of an advanced ultrasound system that will generate a three-dimensional image of the beating heart for safe, efficient viewing.

But perhaps the recent Grumman product with the greatest potential for substantial commercial impact is the unique Dormavac shipping container—a pressurized vessel which modulates its own interior humidity and temperature and preserves meat, produce, or other perishables without freezing them, greatly extending the fresh line of these perishables during transportation and storage. For examples, tests have shown that chicken can retain its freshness up to 21 days in this controlled environment. As Mr. Gavin pointed out, "Maybe now the folks on the Eastern seaboard will be able to enjoy the taste of fresh pineapples right in their own homes. We also feel that this product can be useful in normalizing the uneven cycles of crop harvesting, so that a greater regularity of availability and delivery of all perishables can be achieved." The Dormavac is currently being tested by Armour Foods to provide further product performance evaluation and economic data prior to wide scale marketing.

Partly as a result of this forward looking diversification policy, Grumman has reversed the nosedive of its financial misfortunes in the early 70's. In 1975, the company posted its third straight year of profits, along with record sales of $1.328 billion.

But the next few years will be a critical period, testing Grumman's ability to survive the vicissitudes of the military market. The company still owes better than half its sales to its controversial bread and butter product: the F-14 Tomcat air superiority fighter, the future of which is now threatened by critics such as Rep. Edward Koch (D-NY) and Rep. Les Aspin (D-Wis) for its high cost and questionable reliability record. Grumman has already delivered almost 200 of these high speed aircraft to the U.S. Navy at an average of $10-11 million per copy, and has a backlog of domestic and foreign orders for at least several hundred more. Many critics, however, favor the purchase of lighter and less expensive jet fighters available from other U.S. manufacturers, even though they lack the demonstrated air supremacy characteristics of the F-14.

Grumman spokesmen are quick to defend their product. George M. Skurla, the colorful and feisty Chairman of Grumman Aerospace (the Grumman division which manufactures the F–14), contends that sending up a fleet of any fighter other than an F–14 against its formidable Russian counterpart, the Foxbat, is "equivalent to sending up a fleet of mosquitoes against a can of Raid." And Grumman Vice President Michael Pellehach answers criticism of the F–14's oversophistication by asserting that, if anything, the F–14 is not enough. Citing Russian missile capabilities exceeding 3 mach (three times the speed of sound, or over 2,000 miles per hour) at a ceiling exceeding 80,000 feet, Pellehach points out how even the F–14's extraordinary 2.38 mach capability and 87,000 foot operating ceiling fall short of an ideal missile intercept capability for the U.S. air forces. Anything less, according to Pellehach, would be a disaster.

In our interview, Mr. Gavin also indicated what he considers to be inaccuracies in the general reporting of the price tag on the F–14. He contends that although the initial start-up costs of producing any fighter aircraft are high, the average unit cost diminishes each year as R&D costs are amortized over a longer period of time. Therefore, the high program costs most often quoted in connection with the F–14 can be misleading when compared with the true "fly-away" cost of delivering one unit.

The debate over the F–14 promises to continue over the coming years, influenced by the economic climate and the changing profile of our military requirements. And there is no question that Grumman would be hard pressed to fill the huge sales gap that would be left by a Navy phaseout of the F–14, a fact which the company may be implicitly acknowledging by its energetic efforts in the commercial sector.

Regardless of the outcome of the F–14 debate, however, it should be recognized that Grumman is a vitally needed resource to our country—as an employer of 20,000 Americans, as a company with a proud tradition of participation in many of the events that have shaped world history, and as a key resource of the technology so necessary to maintain a confident national posture of both military readiness and commercial progress. Within the sprawling complex of buildings that comprises the company's headquarters in Bethpage, Long Island, we found a pronounced human spirit of pride in profession and purposeful energy and activity, the kind of spirit that turns problems into solutions and projects great optimism for Grumman's future.

EMISSION STANDARDS

HON. DALE MILFORD

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, August 2, 1976

Mr. MILFORD. Mr. Speaker, an old saying maintains that, "time is money." While we have been spinning our wheels in formulating new auto emission standards, we have slowed, if not stopped, the wheels of production in the auto industry. In the meantime, inflation rolls along unchecked and aided by these delays.

An editorial in Monday's Dallas Morning News, August 1, 1976, expands on this situation. I share it with my colleagues:

AUTO CONTROLS: SUMMER OF INDECISION

Congress, in this political year, seems much like the cow that starved to death while standing between two bales of hay. It just couldn't make up its mind which one to eat.

But unlike the cow whose ineptness led to its own downfall, when Congress fails to act the public does the starving.

All summer there has been inaction on the issue of revising auto emission standards for 1978 and later-year models. Meanwhile, the clock keeps ticking on its way to the fall of 1977—just a little more than a year from now—when 1978 models go on sale.

More than a year ago Russell Train, the Environmental Protection Agency Administrator, recommended a program for long-term auto emission control. Since that time, committees of both houses of Congress have considered amendments at length. Both committees introduced bills months ago.

But with summer fading, auto manufacturers still have no decision on standards to be met for the 1978 and later-model cars.

Already the delay has caused major disruption in the production cycle for 1978-model cars, industry spokesmen say. Continued congressional inaction on this issue will result in higher costs as the industry tries to make up for lost time and to meet its showroom deadlines.

Guess who will pay those extra costs. New car buyers, of course. Certainly not the Congress. By that time it will be wasting money in other ways.

The normal procedure, according to the auto industry, is that auto manufacturers begin submitting engineering information—including data on emission control systems—during the summer of each year for the cars to be introduced in the fall of the following year. Thus, such data should be submitted now for 1978-model cars.

Also, initial engineering and design programs should be under way now for 1979 models.

If a decision on auto emission standards is not reached soon, the planning and certification for those 1979 models will be marked by the same confusion and uncertainty that have plagued development of cars for the 1978-model year, says the Motor Vehicle Manufacturers Association.

In voting controls and regulations on businesses, Congress, in effect, assumes a responsibility for sharing in the management of those regulated businesses. Its actions play a major role in their successes or failures.

But so can its inactions and indecisions. Uncertainty is one of the dangerous corridors of business. And of all business uncertainties, perhaps the most hazardous is the uncertainty as to what government regulation will be.

Congress needs to reduce to a minimum this hazard it creates, and for which the public must pay a price.

MR. JOHN McGUINESS, OFFICE OF THE ATTENDING PHYSICIAN, U.S. CAPITOL, RETIRES ON JULY 30, 1976

HON. CHARLES J. CARNEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, August 2, 1976

Mr. CARNEY. Mr. Speaker, it has been brought to my attention that Mr. John McGuiness has recently retired from the Office of the Attending Physician of the U.S. Capitol.

I would like to take this opportunity to commend Mr. McGuiness for his outstanding service to his country. John McGuiness served in the U.S. Navy for 20 years—from 1942 to 1962—and he served in the Office of the Attending Physician of the U.S. Capitol for 22 years—from 1954 to 1976—a total of 34 years of dedicated public service.

Because of his genuine concern for the health of the Members of Congress, he has attained the admiration and the respect of my colleagues and myself.

A native of Connecticut, he has demonstrated his care about people through his love of medicine. His devotion to duty and his warm and charming personality have made him a valuable asset to the Office of the Attending Physician.

Mr. McGuiness is an excellent representative of the U.S. Navy, and he has served both the Navy and the Congress with great distinction. All of us on Capitol Hill will truly miss a good friend.

I know that my colleagues join with me in extending sincere congratulations to John McGuiness for a job well done, and in wishing him and his family good health and happiness in the future.

THE DILEMMA OF ENERGY POLICY

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Monday, August 2, 1976

Mrs. SCHROEDER. Mr. Speaker, the past several years have seen Congress and the President tussle unsuccessfully with developing a national energy strategy. Not only are Congress and the President divided, but within the legislative branch the committees display mutual distrust and jurisdictional chauvinism. Likewise, within the executive branch similar disruptions occur.

The April 1976, Harvard Journal On Legislation, contains an article, "Prices and Incomes: The Dilemma of Energy Policy," which discusses the inability of our Government to face up to its responsibilities. The author, Gerard M. Brannon, is an economist wise in the ways of political process. He uses the 1975 debate over crude oil policy as a case study of how the legislative and executive branches deal, ineffectively, he concludes, with price-income issues.

"Prices and Incomes," is too lengthy to reproduce here, so I recommend that my colleagues obtain a copy from the Library.

In brief, Professor Brannon asserts that our country's consensus goals—to reduce dependence on imported oil and to develop alternative energy sources, can be attained through a method that is both economically efficient and equitable to everyone. The method he proposes is a free market program—decontrol—coupled with windfall taxes and income transfer to consumers.

Professor Brannon argues further that continued price control is "a blatant encouragement to high energy consumption and waste," as well as an economic impediment to the development of alternative energy sources.

From the observations Professor Brannon makes, we can extrapolate the economic wrongs that will be perpetuated by the Nuclear Assurance Act and the synthetic fuel subsidy bill.

Both bills are examples of Government support and control of energy production to the exclusion of free-market production and energy conservation. Nuclear energy, synthetic gas from coal, and synthetic oil from shale will be subsidized in the production stage and in the marketplace by guaranteed loans, price supports, and the like.

We are duplicating our folly. As a result of pressures for cheap and abundant fuels and the aversion our entrepreneurial class has for anything that smacked of free enterprise, we will have another artificial set-up like the present oil and gas market.

As a result, solar energy, the one energy source with a potential to be both cheap and abundant, is overshadowed by the false economies we construct for coal, oil shale, and nuclear energy. These false economies have already eliminated the windmills and solar water heaters which used to abound in the South. Meanwhile, the rest of the energy-consuming world looks on as the United States continues to gulp up one-third of the annual world energy production.

A TRIBUTE TO JOHN McGUINESS

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, August 2, 1976

Mr. ANDERSON of California. Mr. Speaker, while Congress is busy healing the Nation's wounds and mending its faults, one individual has remained dedicated to making it all possible with the fullest of representation, by helping to return to those Members—who are afflicted with aches and pains of their own—the prosperity of health.

Today I am proud to take this opportunity to recognize John McGuiness, who for the past 22 years, has dedicated both his time and energy, displaying outstanding service in his capacity of medical assistant to the Office of the Attending Physician. It is however, regrettable at this time, we must commemorate his retirement from that service, effective July 30, 1976.

John McGuiness, enlisted in the U.S. Navy in August of 1942. His devotion and skill in the field of medicine was rewarded by steady advancement, when in 1952, he achieved the prestigious rating of chief hospital corpsman. While in the Navy, John served with the 69th Naval Construction Battalion-North Atlantic; the U.S. Naval base in New London, Conn.; the Reserve Fleet in Charleston, S.C.; the U.S.S. *Yellowstone;* the Naval Research Institute; and, in Naples, Italy. With his assignment to the Office of the Attending Physician, in 1954, John McGuiness brought with him a background of outstanding naval service, a tradition of the highest order he will no doubt continue to carry on for the remainder of his life.

For more than two decades, John's competence and eagerness to serve have earned him the respect so deserving a man of his position. But perhaps a more appropriate reflection of his character was the warmth and personal charm he displayed, endearing him to many of the Members of the House and the other body as well. I believe I speak for all of my colleagues when I say John's presence on the Hill will greatly missed. But with him go our best wishes for a more fulfilling life to be spent with his wife Irene, his daughters Linda Davajon and Janet Mewhort, and his grandson Jonathon.

MORE ON AUTO INDUSTRY PROFITS AND THE CLEAN AIR ACT

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, August 2, 1976

Mr. BROWN of California. Mr. Speaker, last week I placed in the CONGRESSIONAL RECORD a speech entitled "Record Auto Industry Profits Undermine the Dingell-Broyhill Amendment."

In that insert, which can be found on page 24827 of the July 30, CONGRESSIONAL RECORD, I omitted reference to the third of the Big Three auto companies, the Chrysler Corp.

This oversight is regrettable, especially since Chrysler had its best quarterly profits ever in its 51 years of existence. Since the chairman of the board of Chrysler recently wrote to all Members of Congress urging delays in auto emission controls, largely in the name of the consumer, I believe this all-time record profit should be more widely publicized.

Chrysler, it should be noted, was characterized by former EPA Administrator, William Ruckleshaus as the most recalcitrant auto company for their actions in delaying meeting auto emissions laws.

This company wrote July 29 to urge support of the Dingell-Broyhill amendments to the Clean Air Act, out of concern, they said, for consumer costs. Frankly, the costs of providing these record profits concerns me more than the costs of pollution controls to reduce the health costs of continued pollution. I wish to note this hypocrisy on the part of the auto companies, and urge your support of the Waxman-Maguire auto emission amendment, which guarantees continued improvement in air quality while extending the date for meeting the necessary, more stringent standards, to allow for a reasonable time for industry to retool.

The article on Chrysler's profits follows:

[From the Los Angeles Times, July 27, 1976]

CHRYSLER SETS PROFIT MARK IN SECOND QUARTER—3-MONTH RESULTS BEST IN 51 YEARS, AUTO MAKER SAYS

DETROIT.—Chrysler Corp. Monday reported all-time record earnings of $155.1 million for the second quarter of 1976, compared with a $58.7 million loss in the same 1975 quarter.

The nation's No. 3 auto maker also reported record quarterly sales of $4.1 billion, up 41% from $2.9 billion from last year's April–June quarter.

Chrysler said its net profits, equal to $2.58 a share, included an extraordinary tax credit of $30 million, or 50 cents a share. Even without the credit, the firm's earnings were the highest for any quarter in its 51-year history.

The company's previous second quarter earnings record was $108.6 million in the boom year of 1973. The previous record for any quarter was $112.3 million in the fourth quarter of 1968.

For the first six months of the year, Chrysler reported record net earnings of $227.2 million or $3.78 a share on sales of $7.7 billion. First-half profits, which include $45 million in tax credits, surpassed the previous record of $198.3 million set in the first six months of 1973.

The firm had net losses of $152.8 million in the first half of 1975 on sales of $5.5 billion.

Chrysler's second-quarter earnings, substantially higher than most financial analysts had predicted, provided another indication of the firm's dramatic turnaround from record losses during last year's industry recession.

Chrysler had lost money for six consecutive quarters until turning a $72 million profit in the first quarter of this year. Prior to that, the firm had built up total losses of $312 million since mid-1974, including a record $259.5 million loss for 1975.

Analysts attributed the firm's profit resurgence to a robust recovery in the U.S. new car market since last fall.

SEAPOWER MAGAZINE EXAGGERATES SOVIET NAVY, UNDERRATES U.S. FLEET

HON. ROBERT L. LEGGETT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, August 2, 1976

Mr. LEGGETT. Mr. Speaker, the July 1976 issue of Seapower magazine carried a table comparing the United States and Soviet fleets. For 1975, the alleged numbers of "total ships" were United States 496, Soviet Union 2,260. For "operational days out of coastal area," the figures were United States 61,300, Soviet Union 53,100.

I have never placed much stock in such simplified measures. In order to have even a remotely valid idea of the combat effectiveness of a fleet, you have to consider a long list of variables including, but not limited to: Weapon range, accuracy, and power; ship speed, maneuverability, and endurance; submarine quieting; command, control, and communication; overall systems reliability; crew training, initiative, and motivation. If these factors are not considered, more superficial measures are of little or no validity.

But let us take Seapower magazine's figures as they were offered, and examine them more closely.

To begin with, what is the definition of a "ship"? I would begin by including only combat ships, since it is these which fight the battles, and since combat ship deployments are the de facto measure of supply effectiveness. Next, I believe we must set minimum displacement of about 3,000 tons; smaller than this is of little use on the high seas and is, in fact, smaller than our newer Coast Guard cutters. We should also consider only those attack submarines which are nuclear powered, since these are the only ones which can operate with speed and endurance while fully submerged.

On this basis, the United States has 194 major surface combatants plus 62 nuclear attack submarines, totalling 256 major combatants. The Soviet Union has 120 surface combatants plus 75 nuclear attack submarines, totaling 195 major combatants. Thus, to whatever extent ship numbers have meaning, they show the United States with a 31-percent superiority.

Now let us consider ship days on distant deployment. According to a graph released by Secretary of Defense Donald Rumsfeld on March 8, 1976, the United States had in 1975 approximately 38,000 combatant ship days on distant deployment, while the Soviet Union had approximately 17,000 combatant ship days on distant deployment during the same period. By this measure, the United States is 124 percent superior. These figures include all combat ships over 1,000 tons. I do not have ship-day figures for ships over 3,000 tons; these would favor the United States by a wider margin. Total tonnage or ton-day figures would favor the United States by a wider margin still.

In short, let us not sell the U.S. Navy short. The Soviet Navy has come a long way, but it has an even longer way to go.

WOMEN'S RIGHTS IN THE DEMOCRATIC PLATFORM

HON. BELLA S. ABZUG

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, August 2, 1976

Ms. ABZUG. Mr. Speaker, Democratic women and all women can take pride in the recognition of women's concerns in the Democratic platform. The inequities that women face throughout our economic and social system are legion. The party platform addresses these issues head on.

Marilyn Marcosson, a valuable former member of my staff, has written an article for the Women's Political Times—the new newspaper of the National Women's Political Caucus—that relates what is in the platform and how the document was put together. I commend the article to the attention of my colleagues:

WOMEN'S CONCERNS RECOGNIZED IN DEMOCRATIC PLATFORM

(By Marilyn Marcosson)

The Democratic Party Platform as approved by the Platform Committee on June 15, 1976, includes significant sections on the role of women and minorities in American life.

Included in the platform for the first time is support for the 1973 Supreme Court decision on abortion. The language is similar to the position Jimmy Carter took during the campaign. Absent from the Platform Committee report, which will be presented to the full convention for final approval, is any mention of nondiscrimination on the basis of sexual preference in the civil rights plank. These two issues were among the most hotly contested during the five days of the committee's deliberations.

The Democratic Task Force of the National Women's Political Caucus and the Democratic Women's Agenda '76 (known jointly as the Women's Caucus) submitted language to the Democratic National Committee (DNC) staff for a women's plank. The staff prepared the first set of working papers for the drafting subcommittee. A member of the DNC staff informed representatives of the Women's Caucus that the platform would not contain separate planks on issues of concern to special constituencies; rather, those concerns would be addressed throughout the document. The platform was divided into six areas: Economy; Government Reform; Human Needs; States, Counties and Cities; Natural Resources; and International Relations.

Prior to the first meeting of the drafting subcommittee, members of the Women's Caucus consulted with the DNC staff about which women's issues should be included in the platform. Caucus members reported that the subcommittee felt most of the issues would be noncontroversial except abortion and gay rights.

Five days before the drafting subcommittee met, wording on the abortion issue—supporting the 1973 Supreme Court decision—acceptable to both the Women's Caucus and the DNC staff was agreed upon. This language was to be in the first set of working documents given to the drafting subcommittee.

With the subcommittee slated to begin its meeting on Friday at 8 a.m., the Women's Caucus was told by the DNC late Thursday afternoon that the abortion language previously agreed upon was not going to be included in the draft—that no mention of abortion at all would appear.

Through an intense lobbying effort by the Women's Caucus to the Carter people, in addition to pressure from groups such as the Religious Coalition for Abortion Rights, National Abortion Rights Action League, National Organization for Women and Planned Parenthood, the abortion language was inserted into the draft.

Koryne Horbal, Democratic National Committeewoman from Minnesota and chair of the Democratic Women's Agenda, said: "We let the Carter organization know that their own women were supporting our position and that we had the votes to take this issue to the floor of the full convention for debate on prime time television. We assured the Carter people that Governor Carter himself had no problem with the subject."

Stuart Eizenstat and Joe Duffy, representing the Carter campaign, drafted the following language: "We fully recognize the religious and ethical nature of the concerns which many Americans have on the subject of abortion. We feel, however, that it is undesirable to attempt to amend the U.S. Constitution to overturn the Supreme Court decision in this area."

Leaders of the Women's Caucus viewed this language as a compromise they could live with. They felt it was a breakthrough to get any mention of support for abortion into the platform in view of the pressure from the U.S. Catholic Conference and Right-to-Life movement.

According to a spokeswoman for the Women's Caucus the combination of cooperation from the Carter organization and the pressure exerted by the Caucus successfully kept the abortion language in the platform.

An attempt by delegate Francis McGreavy of Rhode Island to delete the language received only 28 votes of the 153-member committee.

Other areas of concern to women were included in the first working draft or added through the process.

Economy: recognition of the depression-level unemployment among women; full and vigorous enforcement of all equal opportunities, laws and affirmative action; provision of small business opportunities for women; overhaul of the estate and gift tax provisions of Internal Revenue Code; elimination of tax inequities that adversely affect individuals on the basis of sex and marital status; encouragement of flexible work schedules and part-time employment opportunities; support for equal pay for comparable work; and full enforcement of the Equal Credit Opportunity Act.

Government Reform: nondiscrimination and affirmative action in the recruitment, hiring and promotion of civil service employees; recruitment and appointment of women and minorities in public appointments.

Human Needs: an exemption for mothers with dependent children from taking jobs or job training; ratification of the Equal Rights Amendment; implementation of Title IX of a 1972 federal education bill which prohibits any federal aid recipient from practicing sex discrimination against either students or education employees; elimination of discrimination against women in federal programs; abortion language; federally financed developmental day care; fellowships for most talented students, especially among minority groups and women.

States, Counties and Cities: mortgage availability for women; amendment of current rape laws to abolish archaic rules of evidence that discriminate against women.

Mildred Jeffrey, chair of the NWPC Democratic Task Force said: "Overall I am pleased with the platform. The language of the economy section is very important. I would like to have seen other items included, such as gay rights, and particularly those areas such as the comprehensiveness of benefits under a national security system or research into family planning.

Jean O'Leary, a leader of the Gay Rights Task Force, accused the Carter organization of using doubtful parliamentary rulings and arm twisting to keep the issue from any serious consideration. Noting that Governor Carter had said he would sign the Abzug sexual preference bill if it came to him while he was president, O'Leary further accused the Carter representatives of not following the Governor's recommendation and allowing discussion to occur.

THE DEATH PENALTY AND CRIME

HON. BILL ARCHER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, August 2, 1976

Mr. ARCHER. I have been very concerned with the growing problem of crime and especially the suffering encountered by the victims of crime. Unfortunately, there appears to be an undue emphasis on the rights of the criminal rather than considering the rights of the victims who may be killed, seriously injured, or permanently disabled from a criminal attack.

During the past few years a movement gained support in the media as well as some academic areas that we needed to eliminate the death penalty, treat the criminal nicely, and "rehabilitate" him to take a useful place in society. This approach has not been successful. Crime continues to increase and many criminals, freed from prison, commit crimes again.

I have sponsored the death penalty for individuals convicted of committing serious crimes. I wish to include in the Congressional Record an excellent column by Pat Buchanan, Chicago Tribune, June 8, 1976, which puts the crime problem and the death penalty in proper perspective. I urge my colleagues to read this column carefully:

The Death Penalty and Crime

Washington.—At the Federal Penitentiary in Lewisburg, Pa., "The going price for murder [is] two cartons of cigarets." This is the sworn testimony of recently released inmate Francis Marziani.

In the last two years, seven of the 1,600 prisoners at Lewisburg have been stabbed to death. Four were murdered in the same fashion within the last five months.

Marziani, who also says he has been gang-raped and beaten repeatedly, contends the inmates at Lewisburg, not the guards, run the institution.

He says the horrors witnessed in his 15 months of incarceration have convinced him that only the death penalty can deter the convicts.

"Cannibals should not be allowed to rape, maim, and murder . . . where they have nothing to lose," he believes.

In a sense, our society has become something of a macrocosm of Lewisburg. Ever since the criminal justice system abandoned the death penalty as punishment and deterrent, that discarded instrument of justice has been picked up, dusted off, and employed with increasing regularity by the criminal elements of society.

Once again, a bold and progressive idea of postwar liberation has produced the opposite of its desired effect. Eliminating capital punishment, we were told, and emphasizing rehabilitation rather than retribution would make ours a more humane society.

The truth, however, is that the abandonment of the death penalty has accompanied, if not contributed directly to, the nation's descent into the most barbarous civilized society in history.

During the last 15 years, as the execution of criminals has been ruled out as barbaric, the number of murders and manslaughters has doubled, forcible rapes have tripled, robberies have quadrupled.

More than 55,000 American women and girls were raped in 1974; more than 20,000 innocent citizens were executed. The number of criminals who paid for these crimes in the gas chamber or electric chair was zero.

When the electric chair was still a realistic threat to the criminal community, 80 per cent of the killings in New York City involved cases where the killer knew his or her victim. Now, more than one-third involve incidents where the killers never met the victims, where they simply executed witnesses during rapes, robberies, or assaults.

In his excellent new book, "Punishing Criminals," Prof. Ernest van den Haag argues for restoring capital punishment with a logic nearly as convincing as Marziani's.

What other deterrent can there be, the author asks, to prevent the life-term convict from murdering another inmate or a guard—even for "two cartons cigarets"? What other penalty will deter kidnapers from murdering their victim, if they know killing will enhance their chances of escaping without increasing the penalty for getting caught?

To suggest that the death penalty is simply legalized murder is as silly as suggesting that arrest and imprisonment are legalized kidnaping and slavery.

Use of the death penalty, that ultimate punishment from which there is no appeal, in capital crimes is the mark of a society which holds dear the life of its citizens. It is the society which holds life cheap that imposes weak penalties for the taking of life.

"Life becomes cheaper as we become kinder to those who take it," Van den Haag writes. For documentation of his argument, one need only read tomorrow's paper, or yesterday's crime reports from the Federal Bureau of Investigation.

Today the burden of proof has shifted onto those who oppose, not those who favor, the death penalty. For if capital punishment does not deter, all we have lost in exacting it is the life of a convicted killer. But if it does deter, by refusing to impose it we have consigned some future innocent victim to death.

TWO HUNDRED YEARS AGO TODAY

HON. CHARLES E. WIGGINS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, August 2, 1976

Mr. WIGGINS. Mr. Speaker, 200 years ago today, on August 2, 1776, an engrossed copy of the Declaration of Independence was signed by the 50 Members of the Continental Congress who were present at the time. In signing the Declaration, the Members committed an act of treason. The danger to them was so great that their names were held secret until January 18, 1777, when the victories at Trenton and Princeton prompted Congress to take the bold step of ordering an authenticated copy of the Declaration and the names of the signers to be sent to each State. Six additional Members later signed the Declaration, bringing the total number of signers to 56.

CORRESPONDENCE FROM GEORGE MEANY

HON. PARREN J. MITCHELL

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, August 2, 1976

Mr. MITCHELL of Maryland. Mr. Speaker, on the occasion of the 67th annual convention of the National Association for the Advancement of Colored People—NAACP—in June of this year, in a letter to NAACP Executive Director Roy Wilkins, AFL-CIO President George Meany reaffirms a commitment to help move the discouraged and disadvantaged of America toward a better quality of life. The vehicles that Mr. Meany identifies to accomplish the goal are national policies of "full employment—full production and full enforcement" of civil rights measures.

The text of Mr. Meany's correspondence warrants serious consideration and reflection by all of my colleagues who share a dream of a better nation for all people.

I, therefore, commend these enlightening and heartening thoughts to the Congress:

CORRESPONDENCE FROM GEORGE MEANY

It is a pleasure to extend the greetings and good wishes of the AFL-CIO to the officers and delegates to the 67th annual convention of the National Association for the Advancement of Colored People.

And I want to join in the warm tributes that will be paid to you personally as you appear before the NAACP's highest policy-making body as its chief executive officer for the last time.

Over the past two-thirds of a century the NAACP has been one of the strongest and most constructive forces for social progress in America. You have been part of it for more than half of its lifetime and its executive director for nearly a third of it. I know of no other American who has fought as hard for human brotherhood and understanding, for social justice and economic justice, and for mutual progress among your fellow citizens, black and white.

We in labor salute your achievements and wish you a long and happy retirement. And we pledge to continue the close cooperation you have so ably helped to build between the labor movement and the organization you have served so well and so long.

That cooperation is as vital today as it was during the great civil rights battles of the 1960s. The victories we won then in wiping out the legal sanctions of discrimination are still not secure. We are still faced, in some parts of the country, with massive resistance to school desegregation. We face the sorry spectacle of a President, in a desperate bid for votes, in effect challenging the U.S. Supreme Court's Brown Decision of 22 years ago.

We find reactionaries working, in the name of equal rights, to reinstate discrimination on the job by robbing some workers—black and white—of the rights they have earned by long service in order to give their jobs to younger unemployed workers.

Above all, we see an Administration consciously and deliberately blocking economic growth and social progress, condemning millions to unemployment, perpetuating slums and poverty in the name of "fiscal responsibility."

Today, as throughout the last seven years of stagnation, recession and economic chaos, the AFL-CIO remains committed to affirmative action to give meaning to the promise of equality.

We continue to apprentice minorities and women in the skilled trades category through our apprenticeship and journeyman Outreach programs despite the fact that unemployment in the building and construction trades is over 14 percent, or about 2 percent higher than the unemployment rate for black workers.

Last year we reported to you that more than 37,000 minority youngsters had been enrolled in apprenticeship Outreach programs. As of this year, the number has risen to over 40,000. In other Outreach programs, AFL-CIO unions have issued journeyman cards to more than 13,500 minority youngsters—an increase of more than two thousand over last year.

As of today, we find that blacks make up 19 percent of all incoming apprentices in the building trades unions, a ratio that exceeds the percentage of blacks in the total population. No other institution in the country can equal that record.

Proud as we are of this record and of the efforts our affiliated unions have been making to open the doors to minority workers, we are bitterly aware that this alone cannot begin to solve the problems of millions of black workers and their families.

The solution, of course, is for America to adopt a policy of full employment and full production, along with full enforcement of the Civil Rights Act of 1964 and the Equal Employment Opportunity Act of 1972.

Securing that policy is the AFL-CIO's highest priority. We are engaged in a major effort to secure passage of the Humphrey-Hawkins Full Employment Act of 1976 in order to see to it that there is a job for every American, black or white, male or female, who is able and willing to work.

That was the goal set 30 years ago in the Employment Act of 1946. We intend to see that America achieves that goal now. And we are proud, once again, to be working shoulder-to-shoulder with the NAACP in order to achieve this goal.

We are under no illusions that the present Administration will not resist passage of this legislation with all its strength, including the same presidential veto power that has crushed nearly every measure aimed at helping workers for the past seven years. And we are under no illusions that the present Congress has the strength to override that veto.

But we do intend to fight for passage of the Full Employment Act and for the election of a more compassionate President and a fully responsive Congress.

From now until Election Day the AFL-CIO and its affiliates will be doing their utmost to see that all union members and their families are registered to vote, that they understand the issues, that they know the candidates and their platforms and voting records, and that they go to the polls and vote November 2.

I have every confidence that the members of the NAACP will be doing the same. Nothing is more important than to rally the strength of the labor movement and the civil rights movement at the ballot box if we are to secure the gains already in law but not in practice and to open the door to new progress.

If we do our job, America will take another long step toward a decent living for all.

With warmest best wishes to you, Mr. Wilkins, and to all the NAACP delegates.

THE ELECTOR WHOSE ONE VOTE WOULD DECIDE THE CLOSEST PRESIDENTIAL ELECTION IN U.S. HISTORY

HON. WILLIAM L. HUNGATE

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Monday, August 2, 1976

Mr. HUNGATE. Mr. Speaker, the following is an article regarding a native of Bowling Green, Pike County, Mo., who played an important role in our Nation's history at the time of our Centennial:

THE ELECTOR WHOSE ONE VOTE WOULD DECIDE THE CLOSEST PRESIDENTIAL ELECTION IN UNITED STATES HISTORY!

("Foghorn Watts", by Van Watts, Hollywood)

"The final decision which gave to Foghorn Watts the one vote that made (Rutherford B.) Hayes President (in 1876) is well-known history," wrote Ida Watts Burns years later.

"But just how all this came about is not as well-known. Neither is it well-known that had the new State of Colorado gone Democratic as an overconfident Democratic House of Representatives expected, the Watts vote would not have mattered and possibly would not have been challenged by the opposition."

And in an Electoral College vote of 185 to 184 (Hayes vs. Tilden) "Foghorn" Watts cast the one vote which decided the closest Presidential election in United States history!

Thus, as current events remind us, 100 years ago the nation celebrated its Centennial, also, by weathering a crisis!

In 1876 charges of corruption flew in every direction! And from the election in November till just hours before the scheduled inauguration in March the nation seethed in suspense—not knowing whether it would have Hayes or Tilden for President! Or—no President! For there was a possibility, with both the incumbent president and vice-president leaving office, of the country being—for a short time at least—without a president!

Tilden had won the popular vote but not by a large majority. And an electoral college dispute raged all winter. Eventually, an electoral college commission set up by Congress would resolve the issue. This issue at first had involved the credentials of electors from four states, then only those from Oregon and, finally, only those of a single Oregon elector!

Appropriately nicknamed—the man in the eye of the storm was "Foghorn" Watts!

A Lincoln in-law—it seems especially fitting also that the elector who on the only occasion in our country's political life wielded such an unprecedented power was also some kind of an in-law—if a distant one—of the Father of Our Country!

For if "Foghorn's Uncle Francis had wed Eleanor Todd years before her cousin Mary moved into the White House—his niece, a Marie Ellen Watts, would wed a Robert Lee Eskridge descended from the George Eskridge whose portrait millions have seen in Mount Vernon and who was the foster father of George Washington's mother!

This family history comes from a Watts family genealogy researched and prepared by a Maude Watts Collier, wife of an eminent Oregon attorney and a sister of the aforementioned Marie Ellen.

But—Maude's Uncle "Foghorn" didn't have to lean on Washington—or Lincoln! Instead, a couple of Presidents—or men who would become President—would lean quite heavily on him!

Born John William Watts in Bowling Green, Pike County, Missouri, November 6, 1830, "Foghorn" was a grandson of a John Watts of Virginia and an Elizabeth Jacoby of Kentucky. He was the second eldest son of the William Watts who, in 1852, led the Watts Wagon Train West. Proud of his family's role in the making of America, William Watts would have been proud indeed could he have known that a son accompanying him would cast the one vote which would decide the closest—and most controversial presidential election in United States history!

But he would have other reasons to take pride in a son who had returned from California's goldfields to assist in herding the family's livestock on a 2000-mile journey over the Oregon Trail.

In Oregon all the Watts boys would pitch in to help the family get established in Columbia County. Over 20 years later one of John William's brothers, relocating in California, would invent, manufacture and market the "Watts Baling Chariots"—a type of portable hay press! Another would leave Oregon to build a good part of the Mexican border town of Douglas, Arizona—including even a "Watts Hotel"! But one who remained in Columbia County is remembered as its most colorful pioneer sheriff! And still another, pioneering to the end of his days in Oregon, would father the first Mayor of Scappoose—the City that grew on the spot where in 1852 the Watts Wagon Train rolled to a stop!

But "Foghorn" had no need to envy his brothers! for only five years after he had helped settle the family on the Scappoose Plain it would be joked that the delegate from Columbia County had "the biggest mouth" at Oregon's Constitutional Convention! It seems the young man from Scappoose had made himself heard! With a voice that won him a nickname! And it would be surprising indeed if—at the age of only 27—it turned out that "Foghorn" was not the youngest of Oregon's Founding Fathers and Framers of its Constitution!

John William Watts already had become a part of that Columbia County heritage when he moved to nearby Yamhill County which, in 1866, would send him to the State Senate!

The office would not normally have taken Senator Watts or Doctor Watts or—if preferred—the Reverend Watts—away from his medical practice or his church for any great length of time each year! For in Lafayette, he would become a physician and clergyman.

He had become an ordained Congregational minister, though the records available say nothing about the circumstances. Nor do they say where and when he studied medicine. Of course, in frontier days a doctor—if one could be found—was not asked for his credentials! And the border line between doctors and barbers was, sometimes, razor-edge thin!

Chances are that John William had some formal medical education.

There is also a reference in his half-sister's account—if she doesn't say when—of his having served for a period as a receiver at the U.S. Land Offices in both Oregon City in Clackamas County and Lakeview in Lake County.

It should be noted that he would serve briefly as Lafayette's postmaster—a fact that would develop political significance. Very often the postmaster was someone—in town—who doubled in some other capacity! John Williams Watts was that kind of a frontier postmaster! And—till he resigned from that office in a political storm—the mail would be just another community service provided by "Doctor Foghorn"! And for which he would receive less than $300 a year.

In any case, Lafayette and Yamhill County would not be able to contain John William's talents for long. His powerful voice was winning him a reputation as a forceful speaker, He would become much in demand for political campaigns, local, state, and national. And, after the election of 1876 brought him to prominence, he would become a nationally-known political campaigner, even stumping Connecticut with great success, in 1888, for Benjamin Harrison.

He would become also a nationally-known leader in the temperance movement. An ardent temperance lecturer, he organized BANDS OF HOPE throughout the Northwest. He was President of the Oregon Temperance Alliance for seven years and at the same time Vice-President of the National League of Temperance. And, in 1876, he must have taken particular pleasure in casting his deciding ballot for a teetotaler!

According to the Watts Family Genealogy compiled by his niece, John William married a Martha Hendrix by whom he had a son, a Charles William Watts who wed a Miss McNary, and a daughter, Ada Watts who married a Frank O'Connor.

By a second wife, Caroline Dorris, "Foghorn" had no children.

Well-known nationally in both the temperance movement and political circles, undoubtedly he would have contributed for many years to come had not his death at the age of 71 and while still in robust health resulted from injuries received in a runaway accident when a young horse, frightened by a railway train, bolted with his carriage, July 6, 1901.

"This explains the unfinished portion of his diary," writes Ida Watts Burns—without saying what happened to a diary a historian or historical novelist might treasure!

But—and for that many a historian and perhaps even a historical novelist will bless her—she does give us a behind-the-scenes and till now evidently unpublished account of the accreditation of the Oregon electors and, finally, of the single Oregon elector who would attain the unique and enviable reputation of having decided the closest presidential election in United States history!

"Watts had been appointed postmaster of Lafayette. This office became of national interest when in 1876 he was elected a Presidential elector on the Republican ticket.

"Governor Groves, a Democrat, held that his election was illegal (alleging it would constitute holding two federal offices). The Republicans countered that it was not in the province of the Governor to decide, but Watts resigned as postmaster.

"At the appointed time the three Republican Electors, W. H. Odell, J. C. Cartwright and J. W. Watts, met at the State House—organized with the three defeated Democratic candidates—E. A. Cronin, W. B. Laswell and H. Klippel. So had two other men—Parker and Miller!

"The Secretary of State came to the door with an envelope addressed to Odell, Cartwright (the Republican winners) and Cronin (a Democratic loser). This he handed to Cronin, who looked at its contents and said it contained the credentials of the three to whom it was addressed. A heated discussion followed between these three (the two Republicans and Cronin) and Cronin put the envelope in his pocket.

"Watts, who had taken no part in a rather ungentlemanly and, at times, profane, exchange, rose and said there seemed to be some controversy over his election; he resigned as Elector. Odell and Cartwright accepted his resignation with reluctance.

"Then it seems Cronin took things into his own hands and, deciding that they (the Republicans Odell and Cartwright) were acting illegally, appointed himself Chairman, declared their offices vacant and appointed the strangely convenient Miller and Parker to fill the vacancies! These three then cast two votes for Hayes and Wheeler and one (Cronin's of course) for Tilden and Hendricks.

"Meanwhile (obviously ignoring Cronin's actions), the Republicans Odell and Cartwright had elected Watts, no longer a postmaster, to fill the electoral vacancy caused by his own resignation! They then cast three votes for Hayes and Wheeler!

"Each group carried returns to Washington where the special Electoral Commission set up for that purpose would arbitrate the dispute. Cronin's group carried credentials issued by the Governor. The Republicans carried their Electoral votes and an abstract of the State election vote attested by the Secretary of State and stamped with the State seal showing that Oregon had gone Republican by a large majority and was entitled to her three Republican votes in the Electoral College.

"The final decision which gave to Watts the One Vote that made Hayes President is well-known history."

History that never happened before! And—the probabilities are—will never happen again! But the crisis was over! And—on schedule—the nation had a new president!

But—one cannot help but wonder how many ancient tyrannies were watching as the struggling young Republic of free men—free to be right and free to be wrong—free to indulge in petty political bickerings but also free to rise above them—pulled that one out of her Centennial Hat—just 56 hours before the scheduled inauguration!

TRIBUTE TO LOUIS BOSCO

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, August 2, 1976

Mr. EDWARDS of California. Mr. Speaker, it is with great sadness that I must rise today to inform my colleagues of the untimely death of Mr. Louis Bosco, a dear friend, a courageous labor leader, a loving family man and a dedicated community leader.

Lou, along with his wonderful wife Sue, literally worked day and night for years to make his local union, Hotel, Motel and Restaurant Employees Union Local 180, a healthy, service-oriented labor organization. It was Lou's work that was really instrumental and essential in making this local an effective labor organization—to competently represent the needs of the membership and allow a better life for them.

Lou was president of the Santa Clara County Central Labor Council for over 10 years and his hard work and effective leadership helped to make that body the important, able organization that it is now.

Lou Bosco retired from active union affairs because of ill health last year. Now, the entire community of San Jose mourns his death. He will be deeply missed. The memory of his quiet courage, his gentle kindness, his boundless energy and his sure and steady leadership and friendship will live on in our memories. I for one will cherish that memory.

THE PASSING OF PAN ANTONI, POLAND'S BELOVED POET LAUREATE

HON. JOHN G. FARY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, August 2, 1976

Mr. FARY. Mr. Speaker, Polish-Americans throughout the free world recently mourned the passing of Antoni Slonimski in his beloved Warsaw. Pan Antoni was the Poet Laureate of Poland who died in his 82d year who loved women as he loved freedom, art and Warsaw.

I would like to call to the attention of my colleagues the touching article appearing below on Pan Antoni. This legendary figure whose mischievous, courageous, tender, and romantic poems instilled much needed strength and courage in the Polish people after the Second World War which enabled them to carry on under such trying conditions. This article which follows was written by columnist Tad Szule and appeared in the Washington Post, July 30, 1976:

Everybody in Warsaw always called him *Pan Antoni* (Mr. Antoni) from the day around 1913 when he started writing his marvelous, mischievous, courageous, insulting, inspiring, ironic, indignant, tender and romantic poems until, most surprisingly, he died the other day—in his beloved Warsaw—in his 82d year.

Antoni Slonimski was *Pan Antoni* to pre-war cafe waiters, literary critics, fellow bohemian poets ("We drank all night and composed all day"), Fascist colonels and beautiful women. When he came back shortly after the war, he was still *Pan Antoni* to an old waiter who remembered him, and, then, to the new generation of Poles who read his poems in the dimness of the city's smashed buildings, to foreign diplomats, Communist Party leaders, and, of course, to beautiful women. For Slonimski loved women as he loved freedom, art and Warsaw.

According to dispatches, Slonimski died as a result of an auto accident. This is why, I presume, he died at all because it was plainly unthinkable that *Pan Antoni* would ever die of natural causes. When I last saw him in Warsaw not quite three years ago (for the first time since I was a child), he seemed to be joyously and infectiously immortal as he tossed off remembrances, rapier-like criticisms of the present regime ambitious plans for tomorrow and lyrical lines of a poem already taking shape in his mind.

In a very Polish way, Slonimski was perhaps the most important person in Warsaw. He would have hated to be called an institution, but that's what he was to all kinds of people in his hometown and beyond. He was, of course, Poland's leading poet, and he was a mocking but unyielding social critic and an absolutely fearless political and cultural dissident under regimes, the pre-war and the post-war ones, that stifled liberty and human in people. Neither the Fascists nor the Stalinists ever dared to imprison him for his mordant poetry and prose and for his unshakable determination to sign public protest letters whenever a human injustice was committed or the government did something wrong (he signed his last protest letter, to a regime of which he rather approved, seven months ago at 81). It was a major event when he published an article or another volume of verse.

But the most important thing about *Pan Antoni*, I think, is that he was a man who straddled epochs with his genius and his decency and understanding. For the present generation of Poles, he symbolized the need and the possibility of coming to terms with their reality—no matter what it was.

He was passionately a Pole, but he wanted a decent Poland. An ardent Roman Catholic (though descended from a Jewish family), he fought pre-war anti-Semitism and protested, as a humanitarian, the torturing of Communists in Polish prisons. Not a Communist, he accepted socialism in Poland, but he wanted it to be good socialism. So he wrote a poem, called "Manifesto" and signed, "Respectfully, The People," with this message:

O poet! More lightness and style.
Who said that Socialism
Must be built in grimness?
Raise your heads!
O painter, throw color on your palette.
Enough of splashes and portraits
Whose only merit was that
They hid the facades of
Bad architecture.
We want the right to mock
Various inflated types.
Humor is a weapon,
But one must not punish
For the illegal possession of jokes . . .
Our cause is clean,
We need not deceit and lies,
We are not a mass of idiots.

Pan Antoni was something of a national conscience. I think that the government as well as the people will miss him. Without *Pan Antoni*, the singer of man's humanity and romantic evenings under the lilacs, ancient Warsaw will not be the same again.

A BILL TO ASSIST ORGANIZATIONS DEDICATED TO THE COMMEMORATION OF FORMER AMERICAN PRESIDENTS

HON. JEROME A. AMBRO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, August 2, 1976

Mr. AMBRO. Mr. Speaker, last week, I introduced a bill on behalf of the Theodore Roosevelt Association, an organization of citizens incorporated by act of Congress in 1920 to "perpetuate the ideals of our 26th President by spreading knowledge of his character and career." I am very proud to be representing the town of Oyster Bay, the home of Theodore Roosevelt's beautiful Sagamore Hill estate.

Among the many gifts presented to the American people by this association of dedicated citizens are the Theodore Roosevelt Birthplace in New York City, the Sagamore Hill National Historic Site at President Roosevelt's Long Island estate in Oyster Bay, N.Y., and Theodore Roosevelt Island in Washington, D.C.

In addition to providing these historic sites for the enjoyment of the American people, the Theodore Roosevelt Association has been a leading sponsor of scholarship concerning President Roosevelt's life. The association's accomplishments in the field of scholarly endeavor include publication of the "Theodore Roosevelt Cyclopedia," "The Free Citizen," and a book of selections from President Roosevelt's writings entitled "T.R.: Champion of the Strenuous Life," as well as sponsorship of the Charles Scribner's Sons editions of Roosevelt's collected works and the Harvard University Press edition of his collected letters.

In sum, this association has made great contributions to American historical knowledge and understanding. My bill will exclude from the definition of private foundation, any organization which is incorporated under the provisions of any Federal law, and which is organized and operated exclusively for the purposes of honoring and preserving the memory of a former President of the United States.

HOUSE FORUM SET ON ACADEMY CODE

HON. THOMAS J. DOWNEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, August 2, 1976

Mr. DOWNEY of New York. Mr. Speaker, I would like to urge all my colleagues to join myself and the undersigned on Wednesday, August 4 at 2 p.m. in room EF–100 to hear from and meet with defense counsel, prosecutors, and West Point cadets who are involved in the present cheating controversy at the Academy.

West Point is now contending with the most serious honor scandal in its 174 year history. More than 200 cadets have been formally charged with cheating and scores more remain under investigation.

No one has been able to explain why this cheating scandal occurred. What we do know about this unfortunate situation comes principally from the cadets themselves and those close to them.

The cadets, their attorneys, and the Academy prosecutors have an important story to tell. We are setting up this public forum to afford Members of Congress an opportunity to meet with them and hear their first-hand account of the cheating incidents.

The Wednesday forum will commence as an ad hoc hearing—the cadets and others from West Point will present testimony to the Members present. Later in the day Members of Congress will be able to meet informally with the witnesses who have testified. The additional congressional sponsors are Barbara Jordan, Richard Nolan, Charles H. Wilson, Mendel J. Davis, Samuel S. Stratton, Richard Bolling, Gillis Long, Floyd V. Hicks, Patricia Schroeder, Edward W. Pattison, Sam B. Hall, Jr., Frank Thompson, Jr., Jim Lloyd, Jerome A. Ambro, and Gerry E. Studds.

The following article concerning the West Point ad hoc hearings appeared in the New York Times, Sunday, August 1:

House "Forum" Set on Academy Code: 16 Congressmen To Explore Cadets' Side of Scandal in an "Informal Hearing"

(By James Feron)

Sixteen members of the House of Representatives will hold an "informal hearing" Wednesday to explore what one of them said yesterday was "the cadets' side" of the West Point cheating scandal.

This "public forum" approach is unusual but not unique in Washington. It has been used by legislators seeking to draw attention to issues that committee leaders have been reluctant to examine on an official basis.

Next week's session in the Capitol will draw testimony from several cadets as well as from Army lawyers, faculty members and others involved in a continuing dispute with Military Academy officials over the cheating and the administration of the honor code, which says cadets "will not lie, cheat or steal, nor tolerate those who do."

177 CADETS CHARGED

A total of 177 cadets have been officially charged with collaboration on a take-home engineering examination in March. Eleven other cases were dismissed before reaching boards of officers, or trials, and nine other cadets have resigned. The boards so far have sustained 46 guilty verdicts and cleared 24 cadets.

A Senate armed services subcommittee investigating military academy honor codes following the furor at West Point adjourned a month ago after having heard West Point officials, but not the cadets, lawyers and others who have challenged the codes.

An administrative aide in the House said that "the Senate leaders don't want to polarize the situation by bringing cadets in to testify and the House leaders don't want to get involved at all, but there are important issues at stake here." Seven of the 16 House sponsors are members of the Armed Services Committee.

A spokesman for Senator Sam Nunn, Democrat of Georgia and chairman of the Senate subcommittee, said hearings would be resumed this month to hear "outside experts" on honor codes, but not cadets or others involved in the current case.

INEQUITY ALLEGED

The cadets, supported by testimony from Army lawyers and faculty members at West Point board hearings, have argued that more than half of last year's junior class of 875 cadets were involved in the cheating. They have also asserted that the honor code is being administered inequitably and unjustly and that the entire system needs reexamination.

More recently, the cadets have focused on the alleged illegal nature of an "internal review panel dominated by officers and appointed by West Point in place of the cadet honor committee at the beginning of summer vacation to handle the cheating scandal.

In a related matter, the Court of Military Appeals in Washington agreed yesterday to hear arguments Aug. 16 on a request by West Point cadets to halt the current inquiry and trials at West Point until the review panels role is examined.

SCOPE OF HEARING

Representative Thomas J. Downey, Democrat of West Islip, said the informal hearing was intended to examine "the process by which the Military Academy is handling the cheating cases, claims by the cadets that their honor-committee functions have been removed, the honor system as cadets see it and possible solutions to this and other cases."

He said the hearing sponsors were all Democrats "but they range from liberal to conservative." They include Representative Samuel S. Stratton of New York, Mendel J. Davis of South Carolina, Barbara C. Jordan of Texas, Richard Bolling of Missouri, Floyd V. Hicks of Washington and Charles H. Wilson and Jim Lloyd of California.

Mr. Downey, who conducted an earlier inquiry of the cheating incident, said he was sponsoring legislation with Benjamin A. Gilman, Republican of Middletown, to establish an outside investigation of honor codes at the Government military academies. Army lawyers at West Point are preparing a petition to ask the Defense Department to do the same.

GENERAL DECLINES INVITATION

Mr. Downey said he had asked the West Point superintendent, Lieut. Gen. Sidney B. Berry to attend the Wednesday session or to send a representative or a statement "but he declined," Mr. Downey said, "saying he did not want to interfere with the conduct of the current investigation."

General Berry has repeatedly denied allegations of a coverup. He testified before the Senate subcommittee that all cases brought to the Academy's attention were being investigated.

The superintendent also has taken issue with contentions of Army lawyers at West Point that the Academy sought to use a proposed petition to persuade the Secretary of the Army, Martin Hoffmann, to waive an active-service requirement for expelled cadets, thus encouraging their resignation.

CEREMONY AT NATIONAL ARCHIVES

HON. JOHN J. RHODES

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Monday, August 2, 1976

Mr. RHODES. Mr. Speaker, our great Nation has the keystone of its political heritage, the documents that make the milestones along our path toward becoming the world's greatest free Republic. During the Bicentennial observance, representatives of the three branches of Government discussed the significance of those documents at a ceremony July 2 at the National Archives building.

Chief Justice of the Supreme Court Warren Burger noted that the Constitution has been tested throughout our history by internal and external stresses, and has remained as a firm guideline that enabled us to emerge from crises.

The distinguished Speaker of the House, Carl Albert, noted that it was 15 years after the Declaration of Independence that the Bill of Rights was enacted and perfected the tripartite form of government that has guided us for two centuries, and guarantees inalienable rights to all our citizens.

President Ford likened the Declaration of Independence to the star Polaris—the fixed star of freedom, and noted that we have strengthened the Constitution through 16 more amendments after the Bill of Rights.

Mr. Speaker, I believe these three messages provide a wealth of background on the meaning of the priceless documents in our Archives. I am hopeful that my colleagues will take the time to read them. Text of the remarks of Mr. Burger, Mr. Albert, and Mr. Ford are as follows:

REMARKS OF THE PRESIDENT, THE VICE PRESIDENT, CARL ALBERT, SPEAKER OF THE HOUSE AND WARREN E. BURGER, CHIEF JUSTICE, U.S. SUPREME COURT

THE NATIONAL ARCHIVES

The VICE PRESIDENT. Mr. President, Mr. Speaker, Mr. Chief Justice: Tonight we will hear from the three great Americans who each head one of the three separate branches of our Federal Government. First, a great and wise human being, the distinguished Chief Justice of the United States, the Honorable Warren Burger.

Chief Justice BURGER. Mr. Vice President, Mr. Speaker, distinguished guests, ladies and gentlemen:

The Declaration that is being honored tonight had no binding legal effect when it was announced 200 years ago, but it guided the men who, 11 years later, drafted the Constitution. The Declaration was a statement of intent and purpose. The Constitution was a compact of people, a contract, if you will, to carry out the Declaration. Our Constitution created a Government in which the people have the supreme and ultimate power. The opening words of the preamble tell us that "We, the people, have agreed among ourselves that power must be used in an orderly way under rules laid down in the Constitution.

As school children, we learned that those who came to our shores agreed to give up some of their individual freedom for the common good. The Mayflower Compact and others like it were in a sense the forerunners of the Constitution, and that Constitution now stands as the greatest human compact in history. Our form of Government differs from all others ever devised, and ever since it was adopted the Constitution has operated like the stars that guided the first travelers on the open seas where there were no landmarks to guide them.

Our Constitution is not perfect, and even less so are the mortals who must try to say what it means. But, what is important is that it has been the guide to keep us on the paths of freedom that were laid out so long ago. The American people have firmly supported the Constitution and the means established to enforce its guarantees. It has been tested under the stress of internal and external warfare, by economic catastrophes and in political crises, and on every occasion the country has emerged stronger.

These two documents, the Declaration and the Constitution, embark the American people on an experiment in a new form of Government, self-government, that has survived longer than any other kind of Government in recorded history. In this experiment, that remarkable group of American leaders wisely recognized the paradox of freedom that to preserve liberty each one of us most give some of it up.

This is why we have come to call our system one of ordered liberty, liberty exercised in an orderly way with restraints and with respect for the rights of others. To create and maintain such a system was the function of our Constitution.

The problems and burdens of those 3 million early Americans who began this experiment were so great from 1776 to 1789 that those leaders constantly called for divine guidance in their efforts. With the complexities of a Nation now grown to 215 million people, and the world problems that we must share, can we survive without it?

Washington, both as a General and as President, constantly called for divine guidance and credited all progress and success to that source. When the Declaration was signed, John Adams wrote his wife Abigail saying that "July 4 ought to be commemorated as the day of deliverance by solemn acts of devotion to Almighty God." And when the Constitution was finally approved, James Madison observed that "All people must perceive in the Constitution a finger of that Almighty hand which has been so frequently extended to our relief in the critical stages of the revolution."

We have survived and prospered for 200 years now because the strength of our Nation was not simply in the words of the Declaration and the Constitution, great as they are, but because of the strength of the people, of personal integrity; of individual responsibility and of the tradition of home and family and of religious beliefs.

Our Constitution, no constitution, can solve all our problems. At its best, our Constitution gives the American people the means and the opportunity to find solutions, by their own efforts, by their dedication and by their love of country.

The French historian de Tocqueville long ago wrote this about America: "I sought for the greatness and genius of America in her commodious harbors and her ample rivers, and it was not there; in her fertile fields and boundless prairies, and it was not there; in her rich gold mines and her vast world commerce, and it was not there. Not until I went into the churches of America did I understand the secret of her genius and her power. America is great because she is good and if America ever ceases to be good, America will cease to be great."

Speaker ALBERT. Mr. President, Mr. Vice President, Mr. Chief Justice, distinguished guests, ladies and gentlemen:

The decisive act of inspiration from England actually took place on July 2, exactly 200 years ago today, when the Continental Congress adopted the resolution of independence, drafted by a committee of five, headed by Thomas Jefferson. Thus, it is especially appropriate that we launch this Fourth of July weekend this evening, July 2.

Yesterday, the House of Representatives and the Senate unanimously passed Concurrent Resolution 672 wherein it was stated that "the Congress of the United States of America does hereby reaffirm its commitment to the ideals and principles expressed in the Declaration of Independence by members of the Congress assembled in Philadelphia on July 2, 1776."

The Declaration launched our quest for freedom. Five long years would pass before the English forces, led by General Cornwallis, would surrender at Yorktown. The emerging Nation would struggle under ineffective Articles of Confederation for six more years before formulating the Constitution in Philadelphia in 1787. The body of our Constitution set up our tripartite system of Government and gave us a mechanism of Government that would endure for generations, that would enable us to accomplish our goals.

It was not until 1791, two years after the Constitution had been ratified, fifteen years after the signing of the Declaration of Independence, that the Bill of Rights breathed life into the immortal document known as the Declaration of Independence. It was handled in the Congress by James Madison, but it was the inspiration of the author of the Declaration of Independence.

The sage of Monticello wanted to make sure in his letters to many leading Americans in many States that the liberties which he proclaimed in 1776 would be given substance in the Constitution. Had it not been for that leadership there would be no guaranteed freedom of worship, no freedom of speech, no freedom of press, no right of peaceful assemblage, no right to petition in case of grievances.

Because of the Bill of Rights to the Constitution, my fellow Americans, no man may cross the threshold of your home without a search warrant, no man may cast you in prison without a trial by a jury of your peers. These are the concrete cornerstones of our liberty proclaimed in the Declaration of Independence; these are the basic principles of the ends of our system of Government.

We meet tonight to rededicate ourselves to the perpetuation of these principles. To this end, it may be well to repeat the closing of the Declaration of Independence itself: "With a firm reliance on the protection of Divine Providence we mutually pledge to each other our lives, our fortunes and our sacred honor."

The PRESIDENT. Mr. Vice President, Mr. Speaker, Mr. Chief Justice, distinguished guests, ladies and gentlemen:

I am standing here before the great charters of American liberty under law. Millions of Americans, before me and after me, will have looked and lingered over these priceless documents that have guided our 200 years of high adventure as "a new nation, conceived in liberty and dedicated to the proposition that all men are created equal."

Those were Lincoln's words, as he looked to the Declaration of Independence for guidance when a raging storm obscured the Constitution. We are gathered here tonight to honor both.

Even the way these parchments are displayed is instructive: Together, as they must be historically understood; the Constitution and its first 10 Amendments on an equal plane; the Declaration of Independence properly central and above all.

The Declaration is the Polaris of our political order—the fixed star of freedom. It is impervious to change because it states moral truths that are eternal.

The Constitution provides for its own changes, having equal force with the original articles. It began to change soon after it was ratified when the Bill of Rights was added. We have since amended it 16 times more, and before we celebrate our 300th birthday there will be more changes.

But the Declaration will be there, exactly as it was when the Continental Congress adopted it—after eliminating and changing some of Jefferson's draft, much to his annoyance. Jefferson's immortal words will remain, and they will be preserved in human hearts even if this original parchment should fall victim to time and fate.

Listen: "We hold these truths to be self-evident that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the Pursuit of Happiness—That to secure these Rights, Governments are instituted among Men deriving their just Powers from the Consent of the Governed."

The act of Independence, the actual separation of colonies and Crown, took place 200 years ago today, when the delegations of 12 colonies adopted Richard Henry Lee's resolution of independence. The founders expected that July 2 would be celebrated as the national holiday of the newborn Republic, but they took two more days to debate and to approve this declaration, an announcement to the world of what they had done and the reasons why.

The Declaration and other great documents of our heritage remind me of the flying machines across the Mall in the new museum we opened yesterday. From the Spirit of St. Louis to the lunar orbital capsules we see vehicles that enabled Americans to cross vast distances in space. In our archives and libraries we find documents to transport us across centuries in time, back to Mount Sinai and the Sea of Galilee, to Runnymede, to the pitching cabin of the Mayflower, and to sweltering Philadelphia in midsummer, 1776.

If we maneuver our time vehicles along to 1787, we see the chamber of Independence Hall, where the Constitution is being drafted under the stern eye of George Washington. Some other faces are familiar. Benjamin Franklin is there, of course, and Roger Sherman of Connecticut. Thomas Jefferson has gone to Paris. The quiet genius of this Convention is James Madison.

But Jefferson's principles are very much present. The Constitution, when it is done, will translate the great ideals of the Declaration into a legal mechanism for effective government, where the unalienable rights of individual Americans are secure.

In grade school, we were taught to memorize the first and last parts of the Declaration. Nowadays even many scholars skip over the long recitation of alleged abuses by King George III and his misguided ministers. But occasionally we ought to read them because the injuries and invasions of individual rights listed there are the very excesses of government power which the Constitution, the Bill of Rights, and subsequent amendments were designed to prevent.

The familiar parts of the Declaration describe the positives of freedom; the dull part, the negatives. Not all the rights of free people, nor all the necessary powers of government, can be enumerated in one writing or for all time, as Madison and his colleagues made plain in the 9th and 10th Amendments.

But the source of all unalienable rights, the proper purposes for which governments are instituted among men, and the reasons why free people should consent to an equitable ordering of their God-given freedom, have never been better stated than by Jefferson in our Declaration of Independence.

Life, liberty and the pursuit of happiness are cited as being among the most precious endowments of the Creator—but not the only ones. Earlier, Jefferson wrote that "The God who gave us life gave us liberty at the same time."

This better explains the bold assertion that "All men are created equal" which Americans have debated for two centuries. We obviously are not equal in size, or wisdom, or strength, or fortune. But we are all born—having had nothing at all to say about it. And from the moment we have a life of our own we have a liberty of our own, and we receive both in equal shares. We are all born free in the eyes of God.

That eternal truth is the great promise of the Declaration; but it certainly was not self-evident to most of mankind in 1776. I regret to say it is not universally accepted in 1976. Yet the American adventure not only proclaimed it, for 200 years we have consistently sought to prove it true. The Declaration is the promise of freedom; the Constitution continuously seeks the fulfillment of freedom. The Constitution was created and continues—as its preamble states—"to secure the blessings of liberty to ourselves and to our posterity."

The great promise of the Declaration requires far more than the patriot sacrifices of the American Revolution, more than the legal stabilizer of the Constitution, more than Lincoln's successful answer to the question of whether a nation so conceived and so dedicated could long endure.

What does the Declaration declare: That all human beings have certain rights as a gift from God; that these rights cannot lawfully be taken away from any man or woman by any human agency, monarchy or democracy; that all governments derive all their just powers from the people, who consent to be governed in order to secure their rights and to effect their safety and happiness.

Thus, both rights and powers belong to the people, the rights equally apportioned to every individual, the powers to the people as a whole.

This November, the American people will, under the Constitution, again give their consent to be governed. This free and secret act should be a reaffirmation, by every eligible American, of the mutual pledges made 200 years ago by John Hancock and the others whose untrembling signatures we can still make out.

Jefferson said that the future belongs to the living; we stand awed in the presence of these great charters not by their beauty, not by their antiquity, but because they belong to us. We return thanks that they have guided us safely through two centuries of national independence, but the excitement of this occasion is that they still work.

All around our nation's capital are priceless collections of America's great contributions to the world, but many of them are machines no longer used, investions no longer needed, clothes no longer worn, books no longer read, songs no longer sung.

Not so with the Constitution, which works for us daily, changing slowly to meet new needs. Not so the Bill of Rights, which protects us day and night in the exercise of our fundamental freedoms—to pray, to publish, to speak as we please.

Above all stands the magnificent Declaration, still the fixed star of freedom for the United States of America.

Let each of us, in this year of our Bicentennial, join with those brave and farsighted Americans of 1776. Let us here and now mutually pledge to the ennobling and enduring principles of the Declaration our lives, our fortunes and our sacred honor.

Let us do so, as they did, with firm reliance on the protection of Divine Providence, that the future of this land we love may be ever brighter for our children and for generations of Americans yet to be born.

INSTABILITY OF MARKETS POSES THREAT TO FARMER

HON. FREDERICK W. RICHMOND

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, August 2, 1976

Mr. RICHMOND. Mr. Speaker, many of us representing urban America are becoming increasingly aware of the critical interrelationship between à sound farm and rural policy and the future of our Nation's great cities. No one segment of our economy or society can prosper without understanding and supporting all others. Unfortunately, there has been a traditional division between urban and rural interests that stem back to prerevolutionary America.

Many of us who have been seeking answers to our many faceted urban crisis have long felt that our pleas were falling on deaf ears when we spoke to our farm-oriented colleagues.

In a recent analysis some of the problems facing farmers, Representative JAMIE WHITTEN, writing in the Delta Farm Press, noted that "it is essential that urban and rural interests cooperate fully to assure that we remain a Nation of plenty."

I recommend this analysis to my collegues and would like to share it with you at this point:

INSTABILITY OF MARKET POSES THREAT TO FARMER

Under present farm programs, as administered by the Department of Agriculture, orderly marketing is no longer available to the American farmer.

With the market stability formerly provided by price support loans gone, many of today's agricultural producers are faced with almost insurmountable threat to their continued operation.

In addition to the normal hazards of weather, pestilence, growing financial investment, and increasing production costs—all of which most farmers have been able to meet through ingenuity and hard work—agricultural producers are now being also forced to take on the hazards of market instability.

With CCC loans no longer available, all too frequently the farmer must sell his crops as soon as harvested, regardless of market conditions, thereby often saturating the market and driving prices down to, or below, the cost of production.

DAMAGES ECONOMY

That is especially damaging to our farm economy in this time of great financial strain and increasing financial burdens.

The average agricultural producer today must invest as much as $200,000 to begin farming. That is about twice as much as the investment required for each factory worker in industry.

Further, the farmer must finance increasingly inflated costs of farm labor, equipment, and other production inputs, without adequate assurance of income to meet such expenditures.

Frequently, the cost of producing a crop requires the expenditure of a sum equal to the total value of his land. USDA figures indicate that the January 1976 index for prices received by farmers was 186, compared to an index of 191 for prices paid by farmers.

Compared to a year earlier, prices received increased by 9 points, whereas prices paid increased by 11 points. That is obviously a losing situation for the farmer.

HIGHER LAND VALUES

The average farmer is also faced with increasing land values, which make it virtually impossible for him to expand his farming operation to help offset rising production costs, or losses at the marketplace.

Further, the normal risks of weather and pestilence—either of which can wipe out his investment overnight—present a continuing threat to farm production.

Where formerly it took 7 years of crop losses to put the average farm unit out of business, today a farmer can lose his total investment in a single crop year.

Because of the increasingly insecure financial position of a large number of the nation's farmers, due to the lack of market stability and other risks, private financial institutions are turning down an increasing number of farm loans.

Information before our Committee shows they have doubled their investments in federal bonds and other lower-risk non-agricultural investments. Contrary to previous practices, they are now referring their agricultural borrowers to federal lending agencies and are urging the Congress to increase loan funds to the Farmers Home Administration to meet this need.

Even the Production Credit Associations of the Farm Credit System are encouraging more of their borrowers to go to FmHA for credit, in view of the damaging effect of market instability on the farmer's ability to repay his loan.

DEBT INCREASES

USDA figures show that, whereas the average loan for farming operations in the middle 1930's was about $4,000, it is over $100,000 today.

Total farm debt has increased by 250 percent in the past 11 years, from about $37 billion in 1965 to around $92 billion today.

It is essential, therefore, that we restore some system of price assurance, at a level which will protect the agricultural producer—at least on his cost of production, plus a reasonable margin of profit to enable him and his family to continue to produce the food and fiber needed to meet the demands of consumers, both at home and abroad.

Anything less will certainly bring financial ruin for our agricultural establishment, with a resulting severe depression extended to all segments of our economy.

Even the urban press is now recognizing that the severe fluctuations of market prices for agricultural products are as damaging to the consumers as to the producers.

And urban consumers now recognize the necessity for those enagaged in agriculture to receive costs of production, plus a reasonable profit, if they are to stay in business.

COMMODITY STOCKS

It becomes necessary, also, to reconsider channeling into and out of the Commodity Credit Corporation stocks of grain, cotton, and other agricultural products to enable an arm of our government to assure that our commodities remain available in world markets at competitive prices.

To retain our overseas customers, we must provide quality merchandise and must assure them of a continuing source of supply.

Also, we must have sufficient quantity on hand to make unnecessary any future embargoes on foreign sales—a practice which in recent years has shaken the confidence of our customers in this country's role as a consistent supplier.

As pointed out last year, farm exports of $21.3 billion in 1974 helped to pay for agricultural imports of $9.6 billion and provided some $11.7 billion toward the 1974 increase of nearly $16 billion in foreign oil imports.

The picture for 1975 is much the same, with exports of about $22 billion and imports of $10 billion, leaving about $12 billion of net exports to strengthen the dollar in international markets.

And according to USDA officials, the world economy is expected to recover gradually in 1976, creating demand for U.S. farm products in the future.

LESSONS OF HISTORY

To refresh our memories as to the consequences of a serious farm depression, we need to recall the causes and effects of the Great Depression of the 1930's.

In the late 20's and early 30's, a drop in the purchasing power of those engaged in agriculture not only wrecked farming, but dragged down the economy of the entire nation.

History reminds us that the seeds of the Great Depression of the 1930's were sown in the agricultural depression of the 1920's, which followed the First World War.

The failure to maintain farm exports, or to support farm prices and income during that period, and thus to maintain farmers' purchasing power, weakened banking and business throughout the country.

Yet people frequently fail to remember the lessons of the terrible financial crises of the 1920's and 1930's. It was graphically illustrated in 1921, in 1929, and again in 1937 that if the farmer's prices and purchasing power collapse, the entire economy suffers, both in the cities and in the rural areas.

It will be recalled that after the First World War ended, the government announced that it would no longer support the price of wheat.

Wheat, which had brought $2.94 a bushel at Minneapolis in July, 1920, brought $1.72 in December, 1920, and 92 cents a year later.

Agricultural prices, in general, collapsed. Cotton fell to a third of its July, 1920 price, and corn by 62 percent.

The Yearbook of Agriculture of 1922 shows that the total value of agricultural products dropped from $18,328 million in 1920 to $12,402 million in 1921.

As a result of the agricultural crash of 1920–21, an estimated 453,000 farmers lost their farms. Many others remained in serious financial trouble which, in turn, was reflected by failures of local banks.

It has been said there were more suicides during that period among those who didn't know what a farm was than at any other period in our history.

That tragic depression was the result of the breakdown in farm or commodity prices, which had led to a fall in prices, income, and values throughout the economy.

It was a sad way to learn it, but people at that time came to realize that real wealth starts with material things—corn, wheat, cotton, food crops of all kinds, and other raw materials—and that the general economy was primed by the sale of raw materials since, in general, the total national wealth averages some seven times the sales value of the farm or raw material production.

INCREASINGLY URGENT

With less than 5 percent of our people engaged in agricultural production; with only 14 of 435 congressional districts classified as rural; and with a news media that appeals to the urban-oriented nonfarmers, it is increasingly urgent that these lessons of history be reviewed frequently by each new generation, and that they be heeded constantly by those who are responsible for the preservation of a sound and productive agricultural establishment in the United States.

Further, it is essential that urban and rural interests cooperate fully to assure that we remain a nation of plenty.

We can no longer afford to gamble with our food supply on a boom-or-bust basis. If we keep agriculture prosperous, our entire economy will be prosperous.

But if we let agriculture fail, the rest of our country will fail with it.

History shows that it has been so in the past, and will continue to be so as long as this nation exists in its present form!

Mr. Whitten is chairman of the House Appropriations Committee's Subcommittee on Agriculture.)

FEDERAL ENERGY CONSERVATION EFFORTS A FAILURE

HON. CHARLES A. VANIK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, August 2, 1976

Mr. VANIK. Mr. Speaker, this morning's mail brought the Federal Motor Vehicle Fleet Report for the fiscal year 1975. This publication, compiled by the General Services Administration, testifies to the fact that the Federal Government has no effective energy conservation program. After reviewing the statistics in this report, I have concluded that there is no comprehensive effort for the Federal Government to move toward smaller, more efficient automobiles.

I have compared statistics in the fiscal year 1975 Motor Vehicle Fleet Report with similar data contained in the same report for fiscal year 1975 and fiscal year 1972. The comparisons reveal that while there are agencies of the Federal Government that are making significant improvements, the efficiency of the cars they drive, most agencies are doing little or nothing.

Table I displays the average miles per gallon for the sedans of our Government's civilian agencies over the 3 fiscal years that I examined. The Bureau of Sports Fisheries and Wildlife of the Department of Interior shows the most remarkable improvement of any agency. The efficiency of their sedans has improved from 14.7 miles per gallon in fiscal year 1972 to 17.3 miles per gallon in fiscal year 1974—an 18-percent improvement.

For other agencies, the results are discouraging. The National Park Service, also in the Department of the Interior, has shown a decline in efficiency over the same time period—from 13.2 miles per gallon in fiscal year 1972 to 12.2 miles per gallon in fiscal year 1975. Other declines are even more dramatic. In just 1 year, the efficiency of sedans owned by the Immigration and Naturalization Service in the Department of Justice declined from 12.1 miles per gallon to 10.7 miles per gallon. Also surprising is the fact that the Energy Research and Development Administration—supposedly the lead agency in researching energy conservation—has one of the worst efficiency records. Its sedans get a dismal 12.8 miles per gallon.

The record of the military is even worse. Table 2 outlines the efficiency ratings in the various services. In each instance, the efficiency of military sedans has stayed even or declined over the past year. There has been no improvement.

Why has the Federal Government's record at improving the efficiency of its automobiles been so uneven? A partial answer can be developed by looking at table 3. This table outlines the proportion of sedans which fall into various weight classes. A comparison of fiscal year 1975 with fiscal year 1974 reveals that although the proportion of compacts in the Federal fleet has increased from 12.2 percent to 18.8 percent, the proportion of heavier, less efficient standard cars has increased from 51.7 percent to 69.4 percent. The proportion of subcompacts has remained essentially unchanged. In short, last year saw a shift away from intermediate cars to compacts, but there was an even larger shift away from intermediates to larger, standard size automobiles.

Mr. Speaker, this evidence is disturbing. It appears that in only a few agencies, energy conservation is taken seriously. In most agencies it is simply ignored. How can the American people take energy conservation seriously when the Federal Government is so lax in enforcing its own energy-saving program? I am hopeful that the General Accounting Office, in its soon to be released report on energy conservation, will make strong recommendations on ways in which our Federal program can be improved. Equally, Congress must no longer pay lip service to energy conservation through reliance on voluntary programs. Stronger mandatory action to reduce energy consumption in both the public and private sector is clearly needed now.

TABLE 1.—CIVILIAN FLEET OF FEDERALLY OWNED SEDANS: AVERAGE MILES PER GALLON

	Fiscal year—		
	1972	1974	1975
Department of Agriculture:			
Agricultural Research Service	15.6	14.7	14.9
Animal and Plant Health Inspection Service	15.3	14.8	14.7
Forest Service	16.7	16.0	16.6
Soil Conservation Service	15.7	15.4	15.4
Energy Research and Development Administration (AEC)	14.5	13.6	12.8
General Services Administration	19.2	13.6	14.0
Department of the Interior:			
Bureau of Indian Affairs	12.8	11.8	13.7
Bureau of Sport Fisheries and Wildlife	14.7	12.9	17.3
National Park Service	13.2	13.6	12.2
Department of Justice:			
Federal Bureau of Investigation	11.2	11.1	11.2
Immigration and Naturalization	NA	12.1	10.7
Tennessee Valley Authority	16.6	14.0	14.9
United States Postal Service	7.0	13.9	13.9
Total—Civilian	NA	13.3	13.6

TABLE 2.—MILITARY SEDANS: AVERAGE MILES PER GALLON

	Fiscal year—		
	1972[1]	1974[1]	1975
Army	15.4	13.3	13.1
Navy	14.2	14.5	13.9
Air Force	15.3	12.0	12.0
Marine Corps	15.2	14.0	13.4
Civil Works, Corps of Engineers	14.7	15.1	14.8
Total	NA	13.4	13.2

[1] Data excludes small portion of fleet which is in forergn countries.

TABLE 3.—SUMMARY CHARACTERISTICS OF VEHICLE TYPE: FEDERALLY OWNED SEDANS

[In percent]

	Subcompact	Compact	Intermediate	Standard	Medium	Heavy	Limousines	Special	Other
Fiscal year 1974	0.8	12.2	33.6	51.1	0.5	0.3	0.04	0.1	
Fiscal year 1975	.7	18.8	10.0	69.4	.5	.3	.40	.2	1.2

LENELL SULLIVAN WINS STATE ESSAY CONTEST

Hon. G. V. (SONNY) MONTGOMERY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Monday, August 2, 1976

Mr. MONTGOMERY. Mr. Speaker, an outstanding young lady from Mississippi's Third Congressional District, Miss Lenell Sullivan, was recently named State winner for Mississippi in the Knights of Pythias essay contest on "What Do I See in America, 1776–1976?" The daughter of Mrs. Margaret E. Brown and the late John W. Sullivan, Lenell graduated this year from Canton Academy. I feel her winning essay is quite thought provoking and would like to share it with my colleagues by including it at this point in the RECORD:

WHAT DO I SEE IN AMERICA FROM 1776–1976

From 1776 to 1976, I see a flag of red, white and blue.

In the late 1700s, General George Washington ordered Betsy Ross to make a flag to represent our new country. The changes in this flag reflect the changes of our nation from the original thirteen colonies to the present fifty states of the most wonderful nation in the world: The United States of America. I see this flag flying at Bunker Hill and Valley Forge, at Fort McHenry, at Bull Run, Manassas, Gettysburg, at San Juan Hill, in the trenches of France, at Normandy and Iwo Jima, and, finally, in Vietnam.

Changes have been made since thirteen white stars on a field of blue and thirteen red and white stripes were first made into a flag of a proud nation. From a world of powdered wigs, knee britches and the minuet of

1776, to women's lib, blue jeans and "the bump" of 1976, I see a continuing series of leaps in progress from the Atlantic to the Pacific Ocean.

I see people like Daniel Boone, Meriwether Lewis and William Clark blazing trails westward through hostile Indian country, treacherous mountain passes, and the waters of deep rivers, to make way for a new civilization. By 1790, only about one hundred thousand of the strongest, healthiest, and most courageous of our total population were able to bear the hardships of frontier life and settle west of the Allegheny Mountains. But in a few years this paid off with the addition of new states to the Union. The Louisiana Purchase of 1803 doubled the size of our nation. I see the flag of 1818 that includes twenty stars, the twentieth representing the State of Mississippi.

I see Francis Scott Key writing our national anthem, The Star-Spangled Banner, during the War of 1812 while on a British ship near Ft. McHenry. I can feel his heartfelt thanks to the "Power that hath made and preserved us a nation".

In 1800, I see large cotton and sugar plantations. Eli Whitney's cotton gin encouraged the rapid production of cotton, and slave ships arrived regularly from Africa with new labor supplies. I see ladies in hoop skirts and gentlemen farmers singing the sentimental songs of Stephen Foster and sipping cool drinks, but I see, also, the blood, sweat, and tears of the black people.

In 1849, I see covered wagons following old trails and making new ones in the rush for gold in California. I see hard-drinking men, saloon girls, and respectable families joining together to stake their claims on the Pacific side of the nation.

I hear the union of the East and the West through the hammers that drove the spikes to make the railroad a final link between these sections. During this itme I see immigrants pouring into our country for freedom to worship, freedom to work, and freedom from tyranny, making our nation a true "melting pot" of race, creed, and color.

Then, sadly, I see a nation at war with itself, a nation torn with its needs of economy, justice, and idealism. The Gettysburg Address, Abraham Lincoln, the ruthless burning march of Sherman and the gentility of Robert E. Lee shine through as symbols of a war-torn country. The sad state of the penniless, homeless, suddenly freed men who had no leaders, and no place to go, is a difficult scene to behold.

The age of Mark Twain's industrious, wealthy, nostalgic, and expansive period is the age I now face—the camp meetings and the reconstruction of the South, the whirring of mills in the North, the roving peddlers, the gangs of the Southwest, and the cowboys of the real West set the scene for the industrial revolution of the twentieth century. America is moving away from the farm and going to town!

Since 1900, I see that "Old Glory" has grown from forty-five to fifty stars, with each star giving its fair share of progress, I see more advances in science, medicine and technology than in all the years of civilization combined. Communication and travel have progressed from the horse and buggy trips of twenty miles a day, to travel into outer space in minutes. I hear and see round-the-world telephone, radio, television, and messages to and from the moon. I see a world at work.

With the red, white and blue of our flag waving above, I see what the colors represent. As stated in the congressional resolution in 1777: "White signifies Purity and Innocence; Red, Hardiness and Valor; Blue, Vigilance, Perseverance and Justice." I see outstanding events, change, and progress in America from 1776 to 1976, but most of all I see a United Nation of God-loving, hardworking, fun-loving people who recognize the dignity of man, and the right of all men to gain knowledge and strive for wisdom.

But brightest of all, I see the dates: November 11, 1918, December 7, 1941, and August 14, 1945, marked in red, white, and blue on calendars, noting attacks and surrenders when our country was drawn into World Wars during this century. I see returning Vietnam veterans, some still in hospitals. But I also see apathy and people who are unconcerned about the feelings of others.

In 1976, I see a generation of people who will learn to control the ecology, establish a good economy, and teach future generations a greater love for the nation that has given them birth!

From the days of George Washington, through the imagination of Mark Twain, and to the moon, our flag has flown with pride, representing this great nation we call The United States of America.

AN ACTIVIST BUREAUCRAT

HON. L. A. (SKIP) BAFALIS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, August 2, 1976

Mr. BAFALIS. Mr. Speaker, today some of the most frequently heard complaints from the American people are those concerning the excessive size and cost of the Federal bureaucracy. In fact, a major compaign plank appearing in all Federal campaigns this fall will be the belief that the bureaucracy should be streamlined.

All this is necessary because the Congress and the executive branch have been seemingly unable to get at the heart of this problem. Over the past 10 years, the bureaucracy has continued to grow, spawning new departments, new programs, new studies, and new employees.

However, in the middle of this seemingly impenetrable situation, we find one individual who is taking corrective action. The following article on Jerry Thomas, Under Secretary of the Treasury, is convincing proof that positive changes can be made in the bureaucracy by a single individual. The taxpayers of the country should be very thankful for the services of Mr. Thomas. With others like him, we could begin to dissolve the massive redtape which binds the bureaucracy and reduce its huge price tag which threatens to smother our economy.

The article follows:

[From the West Plam Beach (Fla.) July 9, 1976]

Thomas Puts Knife to Government Fat

(By Charles Osolin)

Washington.—While the presidential candidates wear out their voices complaining about the bloated, wasteful and unresponsive federal government, Jerry Thomas is quietly trying to do something about it.

The conservative banker-politician from Jupiter, has been Under Secretary of the Treasury for only three months. But in the time it takes many new officials to learn the way to the executive washroom, Thomas already has shaken up the bureaucracy by:

Refusing to use the government limousine assigned to him, and sending his chauffeur home to retirement in North Carolina.

Offering to give up half of his office—already modest by federal standards—when another Treasury official complained that he needed more office space (the shocked official hasn't taken him up on the offer).

Reducing overtime and overlapping in the use of Treasury Department vehicles, at an estimated saving of $40,000 a year.

Drafting an order that will restrict first-class air travel by Treasury Department employes, and require every employe to explain in writing why he had to fly first-class if an economy seat was available.

Blowing the whistle on nine top officers of the government-financed U.S. Railway Association, who had been billing the taxpayers for thousands of dollars in membership fees and dues to private Washington clubs—without the knowledge or approval of the association's board of directors.

Thomas admits that such attacks on the cherished fringe benefits of government service do little to improve his job security.

"Regardless of what happens in the (November) election, I won't be here very long," Thomas said in a leisurely, two-hour interview this week. "You don't make many friends doing what I'm doing."

But Thomas said his goal in coming to Washington was to win respect, not popularity, and he claimed the full backing of Treasury Secretary William Simon and President Ford in his drive to save taxpayers' money.

Since he arrived in March, Thomas said, he has witnessed "some of the most colossal waste I've seen in my life." Using his Treasury Department post as a springboard, he hopes to develop and perfect proposals for cutting the size and cost of government.

If his measures work in Treasury, he said, he will submit them to Ford with a recommendation that they be implemented throughout the government by executive order—thus assuring that the bureaucrats won't revert to their old tricks as soon as Thomas leaves town.

Thomas' tightfisted approach to government is a holdover from his days as president of the Florida Senate, where he cut his office staff to two, banned eating and newspaper reading on the Senate floor, and once kept Senate employees working through the Friday before Christmas—a move that earned him the title "The Scrooge of Tallahassee."

The 46-year-old millionaire, who gave up the chairmanship of 11 Florida banks and put his holdings in a blind trust to take the $52,000-a-year Treasury post, maintains a Spartan lifestyle in Washington. He usually walks to work from his one-bedroom apartment a mile from his office, avoids the Washington social whirl, and commutes to Florida on weekends to be with his family.

When he travels on official business, he goes economy class—and ruefully notes the presence of other, lower-ranking federal officials reading books or sipping free drinks in the spacious first class seats.

"I don't think the people back there (in economy) should be paying for me to ride up front," Thomas said.

Although federal travel regulations discourage the use of first-class air travel for government officials, exceptions are allowed if "necessary for the conduct of the mission or for reasons of the traveler's health."

"Evidently there are quite a few sick people in the government," Thomas observed with a grin.

Under his new policy, Treasury employees will have to produce a letter from a physician certifying a health problem before they'll be allowed to fly first class. And if their "mission" requires first-class travel one way—so they'll have room to spread out papers and get ready for a meeting at their destination, for example—they'll still have to fly economy on the return flight, after the mission is accomplished.

Thomas made Washington headlines recently when he convinced the directors of the U.S. Railway Association that the government shouldn't be paying private club dues for the association's chairman and vice president.

Thomas, the Treasury Department's representative on the railway board, said he learned of the policy shortly after he took office and asked to review the association's records. He told the other directors about it at the next board meeting on May 6, and they voted unanimously to stop the payments.

According to the Washington Star, U.S. Railway Association records showed that the association paid more than $8,000 in initiation fees and $5,679 in dues during the two years the policy was in effect—including $6,400 for railway Chairman Arthur D. Lewis' membership and dues at the exclusive Burning Tree Country Club.

Thomas said the policy was based on a belief that the memberships would help the association sell its program to congressmen and railroad officials.

But he called the payments "an inappropriate expenditure of the taxpayers' funds. Having been in elected office," he added, "I find that you're very mindful of the person who picks up the tab."

In addition to his membership on the railway association board and the Securities Investor Protection Corp., Thomas' job gives him responsibility for a variety of Treasury Department agencies employing 29,000 people—including the Secret Service, the U.S. Customs Service, the Bureau of Alcohol, Tobacco and Firearms, the Bureau of Engraving and the Bureau of the Mint. He also oversees the revenue sharing, enforcement, public affairs and legislative affairs programs and the overall administration of the department, which has a total of 132,000 employees.

He looks on his appointment—coupled with that of fellow Floridian Jack Eckerd to head the U.S. General Services Administration—as an indication the Ford administration is "looking to the South for some of its administrative leadership" after years of federal neglect and abuse of the region.

He also sees his post as an opportunity to put people in touch with federal officials who might be able to help them with their problems.

"People will call me on anything, just to have somebody to talk to," he said. "Government has become so far removed from people that they no longer understand it or believe in it."

The next time he gets frustrated with bureaucratic excuses, Thomas said, he intends to cross the street in front of his office and start shaking hands with the tourists waiting in line to see the White House. "Those are the people we ought to be thinking about up here," he said.

Thomas' appointment became an issue in the Florida presidential primary when Ronald Reagan's state campaign manager accused Ford of trying to buy Thomas' support with a promise of a federal job.

Thomas, who switched parties to run for governor as a Republican in 1974, said he had supported Ford privately all along, but stayed publicly neutral until he resigned his chairmanship of the Florida Conservative Union a few weeks before the election.

He did not deny that his appointment was political—"they're all political decisions." he said—but he noted that he was offered a federal job even before he announced he was backing Ford.

Thomas said he passed up the earlier offer—to a higher position than the one he now holds—because the Senate probably would have required him to sell all his bank stock at a loss.

He said he never wanted to come to Washington in any capacity—not even as a U.S. senator—but changed his mind when Ford asked him to take the Treasury post.

"I couldn't say no to Gerald Ford," Thomas said. "During the last 36 months I had great cause to question our system of government, and it really hurt. President Ford brought respect and confidence back to the White House, and if he did nothing else but that he would have rendered a great public service.

Thomas clearly believes Ford has done more than that, however—especially in his handling of the nation's economy—and he has spent part of his time in office making campaign speeches on Ford's behalf.

Thomas said most of the speeches, given in conservative states like Alabama and Texas just before key primaries, were incidental to official Treasury Department travel—but the full costs of purely political appearances were charged to the President Ford Committee. He said he picked up part of the tab for the Texas speech himself "to avoid a bookkeeping hassle," and reported it as an in-kind contribution to the Ford campaign.

Thomas turned down a chance to be a Ford delegate to the Republican National Convention, however, because he felt it might have looked "too political."

As for his own political plans, Thomas said he never had a "burning desire to be governor"—despite his sometimes-strident campaign against Gov. Reubin Askew in 1974—and has "no present plans" to run for public office again.

"Washington is not normally the place you'd go if you're thinking about running for office in your state," he said.

Thomas expressed concern that the bitterness of the Ford-Reagan battle for the Republican presidential nomination could leave the party too battered to hold on to the White House in November.

"Conservatives seem to have a death wish," Thomas said. "When you tell them to form a firing squad, they have a habit of forming a circle and shooting at each other."

HONORING MRS. ELEANOR SMITH

HON. JEROME A. AMBRO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, August 2, 1976

Mr. AMBRO. Mr. Speaker, last month, Mrs. Eleanor Smith, a constituent of mine who is president of the Nassau-Suffolk School Boards Association, received that association's 1976 Distinguished Service Award in recognition of her more than 30 years of service to education. In addition to being president of the School Boards Association, Mrs. Smith is now and for many years has been the president of the Elwood School Board—the school system which educated all three of my children, a member of the association's executive committee, a member and chairman of the County Leaders Association of the State School Boards Association, and an area director of Area 12 of the County Leaders Association.

During my 7 years as supervisor of the town of Huntington, I worked closely with Mrs. Smith; this afforded me a first-hand opportunity to see her strong efforts on behalf of education. She is a hard worker, and has long been a leader in the fight to increase the awareness of both the Federal and State legislatures to the problems which school boards face in funding education and governing locally.

The inscription on the award presented to Mrs. Smith read:

> Presented to Eleanor M. Smith in recognition of her untiring efforts to improve the educational opportunities for a generation of children by the Nassau-Suffolk School Boards Association at its 17th annual meeting, June 10, 1976.

I am pleased to have this opportunity to publicly commend Mrs. Smith and to make my colleagues aware of her achievements.

SMALL BUSINESS TAX REFORMS

HON. THAD COCHRAN

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Monday, August 2, 1976

Mr. COCHRAN. Mr. Speaker, I am cosponsoring the Small Business Growth and Job Creation Act of 1976 which will reform the present tax laws and provide incentives for small firms to create jobs. The National Federation of Independent Business and its 460,000 member firms enthusiastically endorse this legislation, and I urge the House to adopt it.

The potential for small business to energize the economy is unlimited, yet the Federal Government has been delinquent in providing incentives to small firms which would allow this to occur. Figures show that of the 18½ million jobs that were created between 1950 and 1973, 75 percent were in the distribution and servicing trades where small businesses predominate.

Inflation over the past few years has tested the present tax laws, and small businesses have found it difficult to withstand the pressure these laws impose. Statistics on business failures in 1974 bear this out. More than 10,000 small firms went under for the first time in several years. At Senate hearings in 1975 on small business tax needs, testimony revealed that profits under the impact of these pressures had been declining for the past six quarters. On the other hand, corporate profits had been gaining.

It is clear that larger corporations have the competitive edge on smaller businesses. I firmly believe that incentives must be provided for small business growth to preserve the competitiveness of the American economy and provide avenues for ambition, creativity and individual expression and satisfaction that large enterprises are incapable of providing.

This bill would provide changes in the present tax laws which would foster: Small business independence and continuation; small business growth incentives; and small business tax simplification.

The bill proposes a graduated corporate income tax which would enable small and medium size corporations to accumulate enough capital to stimulate their own growth. Taxing corporations on their ability to pay would also help equalize the unfair competitive capital acquisition advantages enjoyed by big business over smaller firms.

My bill would also adjust holding periods and capital gains rates that would encourage investors to retain their investments for longer periods and help direct them away from speculation and into more stable opportunities like small businesses.

The present estate taxes often force successful, small firms to merge or liquidate in order to avoid payment of the tax. This legislation would update this law so that these businesses can be passed on with equitable treatment being given to the small hard-working businessman and help retain competition in the marketplace.

Gift taxes are also just as unfair as the estate taxes. Changes would be made in this area.

Present tax laws encourage mergers and sellouts. A case in point is the transfer of stock of closely held corporations. My bill would make transfers or sale of stock in these firms nontaxable if the seller reinvests his assets within 2 years. This would treat the sale of stock in a closely held firm the same as the law now treats the sale of a residence.

Changes would also be made in the transfer of business interests at death. Currently, when a owner dies, the heirs must pay a heavy death tax. My bill would change this so that the impact of the tax falls on the heirs if they dispose of the business for profit.

This bill would also eliminate the double taxation on surviving spouses in a business. One hundred percent of a closely held business left to the surviving spouse would be tax-exempt. This would be another method of eliminating pressure to sell or liquidate a business when the principal shareholder or partner dies.

An important aspect of this legislative initiative is the provision for small business growth incentives. A small business would have the option of changing to the simpler and more equitable "cash" accounting method instead of using the required accrual accounting method which is required by the Internal Revenue Service. This would not restrict the business' cash flow and its ability to generate enough capital to meet its day to day operating expenses.

Another incentive would be a deferred tax credit for unincorporated firms to create or retain adequate capital.

Still another incentive would include a graduated investment tax credit which would allow small businesses to purchase capital goods.

Rules would also be changed governing the operation of subchapter S corporations. Present laws often do not allow enough shareholders to raise the capital needed to fuel small businesses. These rules also place too many restrictions on the ability of shareholders to transfer their stock to their children at death.

A fifth incentive would include the creation of a job tax credit. This would encourage small businesses to create jobs by establishing a tax credit high enough to offset the costs of adding new employees that the employer would otherwise have to bear. Presently, job tax credits are not allowed.

Adjustment of depreciation schedules, which would reduce the 100 depreciation guidelines to a schedule of three categories for calculating useful life on an asset, is included in this bill. This measure would simplify the present, complex schedules so that small business persons could understand and utilize them.

Simplifying small business taxes is another area in my bill which would include beneficial changes.

One provision of this bill would allow businesses to claim refunds of overpayments of estimated income taxes immediately instead of waiting until the end of the tax year. This would provide the company with cash if it is badly needed.

This legislation would also end discrimination against new companies, permitting the company to use the net operating loss adjustment. Any company that has been in existence for less than 3 years may still have the option of a total of 8 years of loss carry forward by carrying the loss forward as many years as are necessary to total 8 when added to the number of years which it could carry the loss back.

Another provision of this legislation would increase the accumulated earning credit. Currently the accumulated earnings tax is not imposed on a corporation which has not accumulated earnings over $150,000. This would be changed to not over $500,000.

Adjustments would also be made in the treatment of small business stock. At present, an investor in a qualified small business can claim an ordinary loss of $25,000 if the company fails. This amount would be doubled. Allowing a larger amount to be claimed as ordinary loss would encourage more small business investments because the risk of loss would be somewhat offset by a lower tax consequence if loss did in fact occur.

In my judgment the Small Business Growth and Job Creation Act is a commonsense way of making our Federal laws responsive to one of our important objectives. It will provide more jobs, with little direct cost to Government, than any scheme I have heard proposed. And it will protect the very existence of millions of small family business enterprises which are the backbone of our Nation's economic system.

RABBI BERNARD ROSENBERG, D.D., D.H.L., OF TEMPLE ISRAEL IN STOCKTON, CALIF., RETIRES

HON. JOHN J. McFALL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, August 2, 1976

Mr. McFALL. Mr. Speaker, for 20 years the members of Temple Israel, Congregation Ryhim Ahoovim of Stockton, Calif., have been led by a wise, generous and gifted man, Rabbi Bernard David Rosenberg who is retiring on September 1.

I rise today, Mr. Speaker to make the Members of this House aware of Rabbi Rosenberg's career, countless contributions to his community and to express to him, heartfelt appreciation and best wishes for the future.

The people of Stockton and San Joaquin County, which I am privileged to represent, I know, share a deeply held affection and high regard for Rabbi Rosenberg.

In recognition of his years of service, a testimonial dinner in honor of him and Mrs. Rosenberg will be held on August 28 in Grace Covell Hall of the University of the Pacific in Stockton. That evening, his family, congregation, colleagues, community leaders, and many friends will gather to pay respect and acknowledge with abiding appreciation the years Rabbi Rosenberg has given so much of himself for the well-being of others.

Rabbi Bernard David Rosenberg was born on April 15, 1911, in Chicago, Ill., where he attended elementary school. From there he attended and was graduated from Rayen High School in Youngstown, Ohio. In 1933, Rabbi Rosenberg received his bachelor of arts degree from the University of Cincinnati and the same year received a bachelor of Hebrew degree from Hebrew Union College, also in Cincinnati.

In 1937, he became a Rabbi and received a master of Hebrew law degree from Hebrew Union College. That year he moved to Seattle, Wash., to become associate rabbi of Temple de Hirsch in that city and served that congregation until 1940.

While serving the congregation of Temple de Hirsch, Rabbi Rosenberg married Ruth Phillips on October 28, 1939. Their's has been a marriage which has endured for nearly four decades. Their daughter, Judith and her husband, Alan Marchick, have made Rabbi and Mrs. Rosenberg grandparents of Dina and Jill.

Rabbi Rosenberg, in 1940, assumed the pulpit of Temple Beth Israel in Tacoma, Wash., a post he held until 1955, although interrupted during World War II when he saw service with the U.S. Army Air Force as a chaplain. He was discharged with the rank of major.

During his years in Seattle and Tacoma, Rabbi Rosenberg, as he was in Stockton, was active in community service. He was a member of the Rotary Clubs of Seattle, Tacoma, Daly City and is a 20-year member of the Stockton Rotary Club.

He served as a member of the board of the Tacoma Rotary Club, as vice president of the Washington State Parent-Teachers' Association, and chaplain of the Rhodes Post of the American Legion in Tacoma.

Other community activities included service as a member of the board and chairman of the budget committee of the Tacoma Good Neighbor Fund, chairman of the Tacoma Community Council, and board member and president of the Tacoma Family Service Agency.

An academician, Rabbi Rosenberg also served as a part time lecturer at the College of Puget Sound in Tacoma.

To meet the growing needs of the Hebrew Community in San Francisco, Rabbi Rosenberg moved to our Bay Area in 1955 and became the founding rabbi of Temple Judea, where he served for 1 year.

In 1956, Rabbi Rosenberg assumed the pulpit of Temple Israel in Stockton. He has led the congregation during years of progress and prosperity. A new sanctuary, temple offices and religious school classrooms have been built.

In his professional capacity, Rabbi Rosenberg has served as a member of the board of rabbis of Northern California, has held various offices including president of the Western Association of Reform Rabbis, and is a member of the Central Conference of American Rabbis. For many years, Rabbi Rosenberg has been chairman of the Camp for Living Judaism in Saratoga, Calif.

He has held posts of chaplain of the Stockton Fire Department, Jewish chaplain at Deuel Vocational Institution, Stockton State Hospital, the San Joaquin County Sheriff's Department, and St. Joseph's Hospital.

Within the Stockton community, Rabbi Rosenberg has been active in the Stockton Ministerial Association and on the board of Dameron Hospital. He has seen service as a board member and served two terms as chairman of the budget and allocations committee of the United Crusade of Stockton. He is the founder and first president of the Stockton Family Service League and a member of the founding committee of the Boys Club of Stockton, and has served for many years on the board of Boy Scouts, the Mental Health Society, Cancer Society and numerous other civic and social improvement organizations within the community.

He has found time, also, during these very active years to hold the posts of part-time lecturer at the College of Puget Sound in Tacoma, and lecturer in Bible at the University of the Pacific. He now serves as adjunct professor within the university's department of religious studies, a position he will continue to hold.

Rabbi Rosenberg is, I am told, a dynamo in the classroom. For many years his classes have been oversubscribed by students who wait in line for semesters to have the opportunity to receive his classroom instruction.

In 1962, Rabbi Rosenberg was awarded an honorary doctor of divinity degree by Hebrew Union College and has been awarded an honorary doctor of humane letters by Morningside College of Sioux City, Iowa, in recognition of the teaching he has performed at the University of the Pacific.

Outside of the classroom and throughout our whole community, Rabbi Rosenberg's life has been one from which all who know him cannot but have learned from his example that there is joy and fulfillment in serving one's God and His people.

Mr. Speaker, while he is a leader of a faith different from mine, I am proud to refer to him "as my rabbi."

As I close, I want to express again my appreciation to Rabbi Rosenberg and my hope that this wonderful and compassionate man and his wife enjoy a retirement that is filled with peace and well-being.

TRIBUTE TO JUSTICE BRENNAN

HON. BELLA S. ABZUG

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, August 2, 1976

Ms. ABZUG. Mr. Speaker, for the past 20 years our country has been fortunate enough to have Justice William J. Brennan, Jr. on our Supreme Court. Justice Brennan is a forthright advocate for civil rights and equal opportunity for all people, and has worked and defended this position throughout his career.

This year, Justice Brennan is celebrating his 70th birthday and I would like to take this opportunity to pay tribute to him. Mr. Daniel Crystal, a noted expert in the area of constitutional rights, has written a fine article in the May, 1976 issue of the Reporter regarding Justice Brennan. I would call the attention of my colleagues to this article which follows:

DISTINGUISHED ADVOCATE FOR FREEDOM: JUSTICE WILLIAM J. BRENNAN, JR.

(By Daniel Crystal)

The years race on, and Mr. Justice William J. Brennan, Jr., is 70 years old. It is an occasion for all in this country and particularly in our own state to take pride in his achievements and to wish him many more years of distinguished advocacy for the Bill of Rights and our fundamental constitutional freedoms.

"Until he came to the Supreme Court of the United States," wrote the late Chief Justice Earl Warren in a tribute to Justice Brennan appearing in the Harvard Law Review of November 1966 commemorating his first decade on the Court, "Justice Brennan never held any judicial position very long because always his abilities were soon recognized and he was promoted to a higher one. Appointed a Superior Court Judge in New Jersey in 1949, he was promoted to the Appellate Division in two years, and one year thereafter to the Supreme Court of New Jersey. For four years he strove there to perfect the judicial system of his state under its newly adopted constitution. It was his dedication to this work that gave him national recognition, and in 1956 he was appointed to the Supreme Court of the United States."

And, the late great Chief Justice added in words having equal applicability today—ten long years later:

"This I must say. He administers the Constitution as a sacred trust, and interprets the Bill of Rights as the heart and life blood of that great charter of freedom. His belief in the dignity of human beings—all human beings—is unbounded. He also believes that without such dignity men cannot be free. These beliefs are apparent in the warp and woof of all his opinions."

It would be all to easy to quote from a whole glittering array of the great men and women of the Bench and Bar who have acclaimed Mr. Justice Brennan. We added to the number in our May 1972 issue when we brought to our readers tributes to him written especially for The Reporter by Chief Justice Earl Warren and Justices Tom C. Clark, Arthur J. Goldberg, and Stanley Reed. Nothing that has ever appeared in our little publication thrilled us as much as the feeling that somehow we could repay him in some degree for his stalwart defense of the Bill of Rights by surprising him with these tributes from his own peers. And in that issue we put together an essay on the Bill of Rights, all in his eloquent words—a mosaic of quotations from his opinions and speeches.

That issue of May 1972 was the second time The Reporter had stressed how fortunate the country has been to have Mr. Justice Brennan sitting on its highest court. The November 1956 Reporter was notable for one of those priceless pieces by J. L. Bernstein, entitled "The Philosophy of Mr. Justice Brennan," noting his appointment to the High Court a month earlier. Bernstein was right on target with this brilliant prediction:

"The first State judge to come to the Supreme Court since Benjamin Cardozo, as has been pointed out, and the first non-partisan appointment since then at that, Brennan has youth, learning, and native ability in his favor. He has a fine opportunity to become a co-architect with other great judges of the constitutional structure of civil liberties. The cause of freedom is largely in the custody of the courts today, if they will not have a cavalier disregard of the facts of life. But Justice William J. Brennan, Jr., is hardly one to have obtuse indifference to the vital issues at stake in the middle-twentieth century."

Twenty long years have passed. They have erased Justice Brennan's right to be referred to as chronologically young (although in many ways his opinions reflect an approach toward life and law that is eternally youthfully minded).

But those twenty years have been of immeasurable importance in American law and in the endless battle to preserve the Bill of Rights and make it a living reality, not an embalmed repository of fine-sounding promises, honored in the breach instead of daily respect for its precepts. Mr. Justice Brennan has written his mark large in our legal history. Like others who served on the Warren Court with him, particularly Mr. Justice Douglas who retired this year, they have been participants in a good fight that must continue to be waged, regardless of what appears now to be a swing backward toward far narrower and more rigid views of the meaning of the Constitution.

Jack Bernstein's prediction has been proved again and again to be correct. The record has been written in part. No need for Mr. Justice Brennan to flinch at those grim words of Omar Khayyam in the Rubaiyat:

> The Moving Finger writes; and having writ,
> Moves on; nor all your Piety nor Wit
> Shall lure it back to cancel half a line,
> Nor all your Tears wash out a Word of it.

We shall leave to others the monument building of analyzing and appraising the opinions of Justice Brennan. We simply lack the space to do justice to the contributions he has made to constitutional law. And yet it is possible, even within our space restrictions, to pass on to our readers parts of the vision and clarity of thought which marks his approach toward law.

After all, foraging for eloquent scraps of personal philosophy in the various opinions and dissents Justice Brennan has written is subject to one rather obvious flaw. The connections are lacking. The sense of unity and of synthesis of view is missing. A judge is in some respects like an oyster, waiting patiently for what the tide will waft to him. Whatever links to make clear a jurist's overall approach toward law can be derived from disparate opinions are vulnerable to the criticism that they reflect equally the views of the one who culled out these highlights of opinions and put his own benchmark of meaning and interrelationship on them.

Guesswork and speculation are unnecessary in Justice Brennan's case. He has been a prolific writer for the law reviews and an eloquent speaker. He has made clear his own views in his own words and on his own terms. And the measure of the man and of the justice can be taken from those published articles and speeches.

In a Commencement Address, for example, at the Centennial of Notre Dame Law School (44 NOTRE DAME LAWYER 1029 (1969)) Justice Brennan addressed himself squarely to a topic of particular relevance to Law Day 1976, or, indeed, Law Day of any year. He there soberly acknowledged that the law and the legal system are under heavy attack by disaffected groups in our society. This attack, he noted, takes two forms:

"The law and the legal system as they exist today are challenged as basically inequitable to all those who have been unable to participate fully in the economic and political life of the nation. With rising vehemence, the disaffected point to, among other examples, the blatant inequities in our criminal law and procedures, in our tax and welfare systems, in our selective service system. They demand change now: all deliberate speed is no longer enough.

"The second challenge to law and the legal order is even more fundamental—and has even more ominous portent. It brings under attack the rule of law itself."

And in forthright, unequivocal words, Justice Brennan spoke directly to these challenges in this seminal address at Notre Dame Law School:

"How are we to meet these challenges? It is easy and traditional to extol the virtues of the rule of law and to describe the horribles that would attend an anarchistic society. But we cannot content ourselves with an answer which relies on such abstractions. A philosophical disquisition on the virtues of the rule of law cannot justify inequities in our present legal system. Our first task, therefore, is to demonstrate that we recognize these inequities and are confronting them with a promise of solution. Only if we succeed in this task will it be appropriate to glorify the rule of law.

"Our framework is the activist philosophy of government that emerged from the depression of the 1930's. Our governmental response to that great crisis marked our beginnings as what has been called a 'Positive State.' The positive state conceives of government as having an affirmative role—a positive duty to make provisions for jobs, social security, medical care, housing and thereby give real substance to our cherished values of liberty, equality and dignity. If I may adapt the suggestion of one commentator, Arthur Selwyn Miller, this is a duty rather similar to that expressed in the Universal Declaration of Human Rights. In that Declaration, certain economic and social rights are stated. For example, the rights to work, to equal pay for equal work, to rest and leisure, to an adequate standard of living, to education, to participate in the cultural life of the community. Utopian though it may be, unratified by the United States as it is, unfulfilled for most of the people of the world, the Declaration nevertheless helps point the way in which law and, I hope, society are moving.

"Essentially, of course, these goals recognize the necessity for, and determination to achieve, equal rights for all, protection of the underdog and respect for the dignity of man in a confusingly complex society. The ceaseless insistence of the disaffected upon their right to share these values means that law and lawyers can no longer eschew a role in perfecting the use of government as a social instrument."

It is a truism, Justice Brennan recognizes, and has been since de Tocqueville wrote so discerningly of American society in the nineteenth century, that lawyers occupy a strategic role in the ordering of our society. It is not merely because the law trains one in habits and analysis which can be applied fruitfully throughout the range of social problems, or that individuals disposed to follow a career in politics or public service have inclined toward training themselves as lawyers. Equally significantly, he noted, "is the fact that governmental action which in other societies is exclusively the purview of administrators or legislators is, in America, subject also to judicial or quasi-judicial scrutiny. We have been a legalistic society from the beginning. Lawyers were conspicuous in the vanguard of the revolutionary movement and in the drafting of the Constitution, and ever since our society has framed urgent social, economic and political questions in legal terms, placing great problems of social order in the hands of lawyers for their definition, and in the hands of judges for their ultimate resolution."

And Justice Brennan was candid and blunt in calling upon lawyers to make real contributions, to meet their professional responsibilities, to use their training freely to help others instead of simply to earn a good living for themselves. In his sober words:

"What affirmative, responsible and progressive actions can the legal profession take to meet current problems and avert future crises? Today the focus has shifted from the abuses of concentrated economic power and the vagaries of cycles of boom and bust. Society's overriding concern today is with providing freedom and equality of rights and opportunities, in a realistic and not merely formal sense, to all the people of this nation: justice, equal and practical, to the poor, to the members of minority groups, to the criminally accused, to the displaced persons of the technological revolution, to alienated youth, to the urban masses, to the unrepresented consumers—to all, in short, who do not partake of the abundance of American life.

"Involvement of lawyers in that quest is a moral imperative, for it seems to me unquestionable that the lawyer in America is uniquely situated to play a creative role in American social progress. Indeed, I would make bold to suggest that the success with which he responds to the challenges of what, in an era of crises, is also a new era of promise in the life of our nation, may prove decisive in determining the outcome of this struggle."

New techniques in the law are urgently needed, in Justice Brennan's view. The assurance of equal rights and opportunities to all, he recognizes, will require new techniques and involve new areas of law, such as consumer protection, landlord-tenant relations and general welfare law, including public assistance, housing, education and training programs, child welfare services and unemployment. The law schools must adapt themselves to the urgent task to produce the young lawyers who will be ready to undertake the weighty and different responsibilities of devising means of solving social problems other than through counselling, negotiation, or judicial or administrative proceedings.

At the same time, older lawyers too must rise to the challenge of utilizing their legal and professional skills in the task of remedying the inequities in our law and legal system. That is not the responsibility only of the young members of the bar, Justice Brennan cautioned his attentive audience at the Notre Dame Law School Centennial. As he put it:

"The idea that the public sector should be serviced by young lawyers while older, more experienced lawyers concern themselves only with more lucrative private practice is a pernicious one. The talents and experience of the older practitioner are sorely needed in the public sector. To rebuild our cities, for example, will require the assistance of tax, real estate, and corporation lawyers—men who know how to organize new businesses and plan new projects. The services of first-rate commercial lawyers are necessary if consumer fraud is to be combatted. If we are to restructure our criminal law system to ensure both public safety and rehabilitation of criminals we will need the help of experienced district attorneys and defense lawyers. These tasks cannot be left solely to men just out of law school."

Lawyers who this month celebrated Law Day would do well to ponder long and hard Justice Brennan's demand that lawyers measure up to the high responsibility their professional training has given them at the same time it has made possible for many an open sesame to power and financial independence:

"The widespread cynicism among the disaffected that progress cannot be achieved under law also has roots in the not unfounded conviction that present legislation and court decisions fall short of effecting meaningful change in the life patterns of the expected beneficiaries. Those who dwell in urban tenements and rural shacks, as well as their sympathizers, seeing no tangible results, ask what good are laws and court decisions. It is at this point that faith in progress under law disappears, and apostles of violence and revolution begin to make headway. Thus, we, too, must recognize that past legislation and decisions have hardly begun to eliminate the legal inequities in our society. We must redouble our own efforts not merely by giving effect to those laws already on the books but by leading the effort for new legislation to achieve real equity. Certainly, we as lawyers know the difference between formal and real equality, and therefore we must lead the fight to close the gap between the two."

Lecturing the disaffected or merely reacting to them will not suffice is the urgent message Mr. Justice Brennan was attempting to convey. As he put it:

"We must seek to lead. The only way to demonstrate that the rule of law is consonant with a just and equitable society is to adopt the legal process to create such a society. That process will not fail us if we try. But let us delay no longer. Let us begin."

This is the genuine voice of a modern day Founding Father, one who bridges the centuries between those who forced the Tories of their own day to accede to a Bill of Rights and those who today fight to preserve that same Bill of Rights and make it real for the disadvantaged and the dispossessed. It is an approach toward law that one gleans only by inference and surmise in the disparate opinions where Mr. Justice Brennan has dealt with the myriad separate issues that are presented by the cases the Court agrees to accept for review. It is the approach of a legal and judicial activist, of a realist who refuses to say with the Bourbons, "Apres moi, le deluge."

And it is the authentic voice too of a jurist and a man who extends a strong hand to the unknowable future and does what he can to pass on to them the Bill of Rights bequeathed to all of us by a bygone generation of great political thinkers and innovators. It is the compassionate, wise voice of a man who, giving another Centennial Address, that one at the Centennial Convocation of The George Washington University Law School, October 12, 1965, quoted from an old Oriental proverb:

If you want to plan for a year, plant rice
If you want to plan for ten years, plant a tree
If you want to plan for life, educate a man.

It is the voice happily of a jurist who at the age of 70 in the full vigor of his intellectual strength, moral fervor, and dedication to the Bill of Rights continues to write opinions and speak his mind from the same determined view of law that he expressed eloquently in the closing passage of a speech he gave in 1965 again at Notre Dame Law School (Brennan, Constitutional Adjudication, 40 Notre Dame Law. 359, 369 (1965):

"The constant for Americans, for our ancestors, for ourselves, and we hope for future generations, is our commitment to the constitutional ideal for libertarian dignity protected through law. Crises in prospect are creating, and will create, more and more threats to the achievement of that ideal—more and more collision of the individual with his government. The need for judicial vigilance in the service of that ideal will not lessen. It will remain the business of judges to protect fundamental constitutional rights which will be threatened in ways not possibly envisaged by the Framers. Justices yet to sit, like their predecessors, are destined to labor earnestly in that endeavor—we hope with wisdom to reconcile the complex realities of their times with the principles which mark a free people. For as the nation moves ever forward towards its goals of liberty and freedom . . . the role of the Supreme Court will ever be the same—to justify Madison's faith that 'independent tribunals of justice will consider themselves in a peculiar manner the guardians of (constitutional) rights.'"

CAPTIVE NATIONS WEEK

HON. JEROME A. AMBRO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, August 2, 1976

Mr. AMBRO. Mr. Speaker, the week of July 19 represented the solemn observance of Captive Nations Week. A month ago, we commemorated the 36th anniversary of the forcible occupation and annexation of Lithuania into the Soviet Union as well as the 35th anniversary of the deportation of approximately 100,000 Lithuanians, Latvians, and Estonians to deadly Siberian slave labor camps by the Soviet Union. Today we participate in another somber observance. During this week, we in the United States who enjoy the blessings of liberty and self-determination remember those who are not so fortunate. For far too long, many Baltic and East European nations have been subjected to Soviet colonial tyranny so, today, I join together with East European Americans and indeed all Americans in an expression of sympathy for these tragically oppressed peoples.

Let it not be thought that these people submitted meekly. To the contrary, many of them fought bravely against overwhelming odds, trying vainly to free themselves from the oppressive domination of the Soviet Army. Who can forget the grim sight of Hungarian or Czechoslovakian students throwing rocks at Soviet tanks? Only a few weeks ago, the outbreak of rioting in Poland demonstrated to the world that the ideals of freedom are still alive in Eastern Europe.

Of the many atrocities committed by the Soviet Union against the people of these captive nations, those perpetrated against the people of Latvia, Lithuania, and Estonia are especially appalling. Thirty-six years ago, the people of these nations were unjustly deprived of their inalienable right to self-determination by the Soviet Army. Only 1 year later, the mass deportations began as tens of thousands of already enslaved Baltic people received midnight visits from Russian soldiers. They were dragged from their homes and packed into freight cars like cattle, with husbands separated from wives and children separated from parents. The long journey killed many of the weak and sick, their bodies being tossed out of the train by the guards. Those fortunate enough to survive reached slave labor camps where many more perished in the mines and forests or were annihilated by the cold, the starvation, and diseases because they lacked proper clothing, food, and medical attention.

Mr. Speaker, all those who believe in fundamental human rights must cringe at the horrors of the Soviet treatment of the people of Eastern Europe. It is a terrible tragedy that, since the end of World War II, these people have been suffering the indignities of colonialism. I ask my colleagues to join me in mourning the loss of all those people who were killed by the Russians, honoring those who had the courage to fight back, and affirming the right of all people to self-determination.

ECONOMIC BLOOM STILL ROSY

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, August 2, 1976

Mr. DERWINSKI. Mr. Speaker, in the Chicago Daily News on Monday, July 26, a very objective commentary on the economic picture analyzes the economic trends and emphasizes the overall strength, growth and stability of the U.S. economy.

The article follows:

ECONOMIC BLOOM STILL ROSY

The consensus among economists—a group notorious for agreeing on little else besides the day of the week—is that the U.S. economy will maintain its moderate, steady growth through 1977. The economic signposts are a bit confusing, pointing this way and that, but the economists generally are of a mind that the next recession won't be encountered before early 1978, if then.

The nation's output of goods and services rose at a 4.4-per cent annual rate in the April-to-June quarter. That was less than half the rate scored in the first three months of this year, but the slowup was widely expected, and most forecasters feared that a much higher rate would rekindle the budget-burning fires of inflation. Consumer prices rose at a worrisome 6-per cent rate last month, but that was better than the previous month, and it appears that 1976 consumer prices will come in about 5 per cent higher than 1975, when prices spurted by nearly 7 per cent over the previous year. Unemployment remains high at 7.5 per cent of the labor force. But the trend is downward, and even many Democratic economists concede the administration's contention that the rate will be below 7 per cent in December, and more workers will be employed than ever before.

The rosy economic glow should be enhancing President Ford's election prospects. Voters have never shown much inclination to turn out the White House resident when the economy is on the upswing and the nation is at peace. But Ford is having trouble just getting past Ronald Reagan to win the Republican nomination.

Ford has shown a puzzling inability to get any credit for the economic upturn. And little wonder. Much of the economic gain since Ford has been President was pre-ordained, coming after a once-in-a-lifetime combination of events—devaluation of the dollar, the end of wage and price controls, an explosion in commodity prices and quadrupling of oil prices. The economy had been tinkered with, fine tuned and trampled so that whatever strength it could muster was smothered. It needed quiet recuperation, not intense rehabilitation, and Ford had the sense to follow the instructions.

The wisdom of that course has been confirmed by the economic statistics, but they still leave Ford faced with the puzzle of how to claim credit for showing restraint.

ABUSING THE LAW IN KOREA

HON. DONALD M. FRASER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, August 2, 1976

Mr. FRASER. Mr. Speaker, the Washington Post, Sunday, August 1, published an article by John Saar, a Post correspondent stationed in Tokyo. "Abusing the Law in Korea" makes clear a point many in this country have been trying to make: To combat the authoritarian Communist Government in North Korea, the South Korean Government is becoming like the North Koreans.

Saar's last two paragraphs bring this home:

> Minister Whang [South Korean Justice Minister] derided North Korea for "kangaroo courts" and a criminal code which provides that crime is any act feared to endanger the People's Republic of Korea as well as its law and order.
>
> The description comes uncomfortably close to fitting some aspects of justice in South Korea.

Saar's essay confirms his conclusion. I hope many of my colleagues will read "Abusing the Law in Korea."

The article follows:

ABUSING THE LAW IN KOREA

By John Saar

SEOUL.—Before a prominent South Korean lawyer agreed to defend accused Christian and political leaders in a Seoul criminal trial this year, he drew up his will and called a family conference. His conscience dictated that he accept the brief in defiance of death threats by the country's secret police, the Korean Central Intelligence Agency, and he wanted family to understand his decision and its possible consequences.

He also underwent an extensive medical checkup, including X-rays, so that in the event of his death signs of torture would be readily detectable.

The lawyer's alarm was triggered by a hint that he found particularly ominous. "If you dare to defend, you're going to be the next Chang Jun Ha," a government agent warned him, referring to a widely admired writer and opposition politician, outspoken in his criticism of President Park Chung Hee. Chang died last year in a "climbing accident" that raised many suspicions in Seoul.

The lawyer would not comment on the attempt to intimidate him; to do so would invite prosecution under a statute forbidding "slanderous" conversations with foreign journalists. But his friends confirm the story and say it is consistent with a pattern of intimidation directed at others among the 27 lawyers defending 18 prominent Koreans accused of trying to overthrow the Park regime.

Practicing lawyers and foreign experts in Seoul believe that justice—the citizen's right to a fair and speedy trial—has been perverted and abused by the present government as the key tool in a systematic campaign to crush all political opposition. They complain privately of vindictive laws, rigged prosecutions, forced confessions and government pressure on judges to secure dubious convictions and overly harsh sentences.

Journalist Lee Pu Young, who irritated authorities by leading a reporters' strike against censorship, was arrested a year ago on the familiar charge of plotting to overthrow President Park. Lee told an appeals court he had been forced to make a false confession, and the principal government witness—excused from persecution on grounds of insanity—said he could remember nothing of the alleged plot. The court reduced Lee's eight-year sentence to two and a half years, but upheld the conviction.

Justice Minister Whang San Duk, a former law professor, claims that government interference in the administration of justice is "strictly prohibited." Judges are free to rule as law and conscience decree, he said in an interview, and allegations that "judges who decline to cooperate are removed from office are totally groundless."

Lawyers say justice is meted out fairly in the ordinary criminal cases that make up most of the courts' calendars; the abuses arise in cases allegedly involving challenges to the government's authority.

In the most notorious example, eight members of the People's Revolutionary Party were hanged in April 1975 for "attempting a violent and bloody overthrow of government." An Amnesty International report concluded that the prosecution was a fabrication, but poet Kim Chi Ha, already serving one life sentence, is on trial anew for saying the same thing.

Although the case against the members of the People's Revolutionary Party was, in the view of impartial jurists, an elaborate fraud, 15 of the defendants are still serving terms ranging from 10 years to life. Four of them have been tortured and held in solitary confinement for two years, according to the wife of one of the imprisoned men, for refusing to make false confessions.

POWER OVER JUDGES

The consensus of many lawyers interviewed in Seoul is that independence of the judiciary vanished, except in theory, in 1972 when President Park, ruling under martial law, promulgated a new constitution giving him the right to appoint judges, from chief justice of the Supreme Court on down.

In 1973, approximately a third of the judges staged a short-lived revolt against prosecution pressure. For unspecified reasons, some 30 judges, including seven Supreme Court justices, were not reappointed.

Fear of not being renamed on expiration of their 10-year terms or of transfer to the provinces—the fate of a judge who issued a ruling favorable to opposition figure Kim Dae Jung—has reportedly rendered the judges docile and amenable to KCIA manipulation of South Korea's juryless courts. In a state where all power emanates from the president and judges see their careers at stake, one bright young lawyer said, there's an atmosphere of terror in the courthouse that makes it useless to talk about justice."

In mid-May 1975, under the rule-by-decree powers of the "revitalizing" constitution, Park promulgated Emergency Measure No. 9, a formidable law that outlaws virtually all outlets of peaceful opposition. Since then, about 150 students have been arrested and half of them sentenced.

For such offenses as distributing a declaration favoring democracy or a document smuggled from Kim Chi Ha's cell, in which the poet renounced an earlier confession as made under duress, students have been sentenced to as much as 10 years. Last month, five Catholic seminarians received sentences ranging up to five years for printing and distributing a poem written by someone else.

Habeas corpus was another casualty of the 1972 constitutional revision. Suspects are commonly held for weeks without access to lawyers, or publication of arrest warrants and charges. Many Seoul lawyers believe that measures as sweeping as EM-9 are illegal; but the constitutionality of laws cannot now be challenged in South Korea's courts.

The laws are applied with bewildering intricacy to shield South Korea's leader and constitution from criticism. Kim Chol, founder of the Socialist Party, is serving a two-year sentence. He was prosecuted under the anti-Communist law for allegedly aiding the Communist cause by publishing the indictment in the case of a man convicted of insulting President Park.

"A GREAT TRAGEDY"

Justice Minister Whang defends the emergency measures as similar to steps taken by other countries and as required by "the urgent necessity to protect the national security and survival of our people."

"Imagine what you would do with Kim Chi Ha in Washington, D.C., if you had a Red Army from the Soviet Union out at Dulles Airport, which is about how far we are from North Korea," Whang argued.

Oppositionists contend that Park invokes the Communist bogey as an excuse to consolidate and perpetuate his regime, and, many lawyers agree that there is substance to this charge. "The government prosecutes anti-regime people under the pretext that they are Communists," a wealthy attorney told me. No one disputes that South Korea is the most virulently anti-Communist nation in the world—a diplomat calls it "an understandable national paranoia"—or that the fallout bears profoundly dangerous consequences for anyone accused of being a Communist or helping the Communists.

During the interview, Minister Whang slid a hand-crayoned map of Asia across a coffee table. It explained, he said, the uniqueness of South Korea's situation. The Communist countries were colored red. South Korea alone was a tiny speck of all-white. Other countries, including Japan, Thailand, Malaysia and Indonesia, were diagonally striped in red—denoting, Whang explained, "semi-red, meaning coexistent philosophies."

The minister used the words "dissident" and "Communist" interchangeably about such opposition figures as Yyn Po Sun, a former president of the country with impeccable anti-Communist credentials. The cold war atmosphere has spawned an epidemic of red-hunting and red-branding. Twelve Christian leaders and social workers from a Seoul urban mission were released this month after six weeks of interrogation in what they said was a fruitless effort by police authorities to fabricate a Communist-plot charge.

The spirit of extreme anticommunism common among Seoul prosecutors, contrasted with the accommodating mood in Japan, where colonies of North and South Koreans live side by side, has contributed to what a Japanese correspondent in the South Korean capital calls "a great tragedy."

Of eight persons under sentence of death for spying for Pyongyang, six are Korean residents of Japan. Observers estimate that between 30 and 40 other Koreans from Japan, mostly students, are serving heavy prison sentences. Some have admitted traveling to North Korea for espionage training, and observers accept most of the convictions as reasonable. The question they ask is whether campus spying by gullible students deserves the supreme punishment.

On occasion, the politically associated trials lapse into protracted ideological inquisitions that bear striking similarities to the religious trials of the Middle Ages. In seeking to prove that he is not a Communist but a Catholic radical, Kim Chi Ha has quoted voluminously from the Scriptures and from more than 20 theologians, ranging from Thomas Aquinas to the Catholic liberation activists in South America.

"The emphasis in all these cases," an American resident in Seoul says, "is not what you've done, but what you are." A Jesuit missionary underlined the difficulty of proving ideological purity. "Just by quoting the Pope I can find something that would put a Korean in jail very easily," he said.

Minister Whang derided North Korea for "kangaroo courts" and a criminal code which "provides that crime is any act feared to endanger the People's Republic of Korea as well as its law and order."

The description comes uncomfortably close to fitting some aspects of justice in South Korea.

UNITED STATES-SOVIET RELATIONS

HON. CARDISS COLLINS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, August 2, 1976

Mrs. COLLINS of Illinois. Mr. Speaker, I recently read an extremely interesting and timely article in the Economist of July 3, 1976. The article raises questions about United States-Soviet affairs and specifically examines our perceptions about the Soviets. It has been my opinion for some time that our foreign policy has been dominated by a bipolar view of the world. It seems, all too frequently, that our actions are constrained by a concern for balancing American interests against Soviet interests in efforts to advance détente at all costs. In short, it appears we have tended to view United States-Soviet relations as the core of all international affairs matters. I would go a step further and say such a bipolar view of the world has so dominated our approach to problems that we have heard our officials talk openly about the "Soviet empire" and its rightful extension into Eastern Europe.

Mr. Speaker, this article points out very well that the recent electoral events in Western Europe and the workers' actions in Eastern Europe are cause for the United States to rethink its view of United States-Soviet relations. It is plain that we cannot defer to Soviet hegemony in any region of the world.

I trust my colleagues will find this article provocative:

BETWEEN BREZHNEV'S TOES

The Polish workers who ripped up the railway line outside Warsaw on June 25th to stop their government putting up the price of food may have given the signal for a change of western policy towards the Soviet empire. (It is no longer necessary to assume that any change for the better in Russia's dependencies in eastern Europe can be brought about only through the approval of Mr. Brezhnev; maybe it can be done despite Mr. Brezhnev.)

On the same day as Polish strikers were vetoing their government's price policy, Mr. Henry Kissinger was saying in London that the Americans "recognise no spheres of influence and no pretensions to hegemony" in eastern Europe. That is not quite how his assistant Mr. Helmut Sonnenfeldt put it last December: Mr. Sonnenfeldt said that the smaller east European countries ought to become more independent of Russia, but then he ruffled the hawks leathers by adding "within the context of a strong Soviet geopolitical influence," Mr. Kissinger has deleted that complaisant phrase. What is the connection between the Soviet Union's relationship with the governments of eastern Europe and the problems those governments face in dealing with their own peoples? It is that, for the past 10 years, the west has acted as if the key to change in eastern Europe lay exclusively in Moscow as if nothing could be done to improve the lot of Poles and Czechoslovaks and the rest without the blessing of the Soviet government. For three reasons, it is time to ask whether that western policy is still the right one.

THE POLICY THAT RAN INTO THE STOPS

First, the policy of concentrating on Moscow has achieved just about as much as it was ever likely to achieve, which was not very much. Back in the late 1960s it made sense to think that the road to change in eastern Europe would have to run through Mr. Brezhnev's office. The Soviet invasion of Czechoslovakia in 1968 appeared to confirm the lesson of the Soviet interventions in East Germany in 1953 and Hungary in 1956: nothing could happen in Russia's dominions, it then seemed, that Russia did not like. And indeed, in Russia itself, the west's decision to focus its efforts on influencing Russian policy did produce some modest benefits. It was western pressure that helped to get exit permits for quite a lot of Soviet Jews, and some other dissidents as well; it is the scrutiny of the western media that has kept some of the other dissidents who remain in Russia out of prison. This willingness by Mr. Brezhnev to let a few hornets go on buzzing has spread into the more liberal east European countries, such as Poland and Hungary. But in what matters most to Mr. Brezhnev—the preservation by communist governments of all the rest of their apparatus of political and economic control—the Soviet Union's leader has made it quite plain that there will be no change if he can help it.

Second, however, it has begun to look as if he may not be able to help it, at least as much as he originally thought. The long delayed conference of all Europe's communist parties which was eventually held in East Berlin this week confirms that Mr. Brezhnev's power to give orders to other communists is much more limited than it used to be.) The slogan of "proletarian internationalism" meaning do as Moscow tells you—made no appearance at the conference, and Mr. Brezhnev was obliged to listen to Rumanian and Spanish communists telling him that each communist party should do what it thinks is in its own best interests. In the short run, this may not do much for the east Europeans who have Soviet divisions squatting on their territory. But in the longer run the sight of Italian and Spanish communists insisting on going their own way—and, which is the heart of the matter, winning public support by doing so—is unlikely to go unnoticed by the governments in Warsaw and Budapest, and even in Prague and East Berlin.

Third, therefore, it is important to note this past week's evidence that eastern Europe is by no means the docile and quiescent place the Russians have spent the past few years trying to make it seem. *The Economist* had better make it clear that, on the economics of the issue which blew up in Poland last week, we think the Polish government was right and its worker-opponents wrong. Food prices in Poland have been kept artificially static, partly by holding down the real incomes of farmers while the real wages of industrial workers have risen quite fast, but mainly by subsidies which now take up almost 8% of the national income. These are nonsenses, and will have to be stopped some time. But the real point of the Poles' protests on June 25th is for the Communist world's politicians, not its economists.

The Polish expression shows that even in the most economically successful of all the communist states—Poland claims that its real gross national product has been going up on average by over 10% a year in the past four years—a large number of industrial workers still feel disgruntled enough to resort to violence rather than accept a modest, temporary and economically rational check in the improvement of their living standards. It also shows that they can make their protest stick: the people, when they feel strongly enough, have a veto on the party's will. But it can hardly have escaped the attention of the Polish government, and of the other east European governments, that a system which jerks between the party's yea and the urban population's nay is a peculiar way to run a country. The isolation of Poland's communist party from the public opinion it claims to represent has not been cured by Mr. Gierek's perfectly genuine attempt in recent years to meet more people, and explain his policies better, than most other communist leaders do.

The moral of the Polish affair is a radical one. If communist parties are not to keep on losing contact with public opinion, they will have to change the way they organize themselves which means introducing the principle of pluralism; which means abandoning Lenin's idea of a monolithic and all-powerful party, which is the basis of the way all communist parties except (perhaps) a few west European ones now organise themselves.

WHAT THE WEST CAN DO

All this suggests that there is more possibility of change in the smaller east European countries than there is in the ironclad rigidity of the Soviet Union itself; and that the western democracies should look to these countries rather than to Russia, as the focus of their eastern policy. Can the west do anything to help a gradual and controlled liberalisation of eastern Europe? Yes. For instance:

It can make it clear to these countries that they have rather more scope for running their affairs in ways Mr. Brezhnev may not enjoy than some of them perhaps realise. Hungary runs a looser (and therefore more efficient) economic planning system than Russia does. Poland allows its middle class a bit more freedom of speech and travel, and has a decollectivised peasantry. Rumania runs a markedly non-Brezhnev-type foreign policy. If an east European country tried to combine, say, two of these measures of independence, it is unlikely that the Russia of the second half of the 1970s would intervene to prevent it by force—because such behaviour would cost Russia dear in its hopes of western economic assistance, and in its already fragile influence over the communists of western Europe.

The west could shape its credit policy, including helping to finance the movement of western technology into parts of the communist world, so that more of its economic help goes to those east European countries which show most signs of liberalising themselves. This year's west German deal with Poland gave the Poles a large, cheap loan in return for their release of more ethnic Germans who want to go and live in Germany. It would make even better sense for future help to be steered towards countries that seem to be loosening the Leninist system—because such countries' economies are likely to work more efficiently.

The EEC might offer to include more east European countries in its system of generalised preferences. So far only Rumania enjoys this advantage, because only Rumania has decided to brush aside Russian disapproval; but others might risk it later. And helping eastern Europe is another argument for reforming the EEC's common agricultural policy; if the CAP were changed to put less reliance on the common price system which helps rich farmers and poor alike, and more on direct subsidies for the poorer ones, there might be room for the east Europeans to sell more of their (very good) farm produce to west Europeans.

None of this it should be clear, is within a mile of the "rollback" policy that John Foster Dulles talked about in the early 1950s. It would not re-establish a precommunist system in eastern Europe. Its aim would be to encourage those communist parties in the region which see the advantage of trying to move in the direction in which Mr. Berlinguer's Italian Communists claim to be pointing. The west's reply to "proletarian internationalism" is self-determination; and it should help the people of eastern Europe who want to try to struggle out from under Mr. Brezhnev's toes.

SIX-MONTH SUMMARY JANUARY-JUNE 1976

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Monday, August 2, 1976

Mr. MAZZOLI. Mr. Speaker, continuing my practice of making periodic reports to my constituents, I am inserting in the RECORD a summary of the legislative activities from January 1 to July 1, 1976—the first half of the second and last session of the 94th Congress.

SIX-MONTH SUMMARY

For those of us concerned with the need to abolish fiscal responsibility in the Federal Government, 1976 has proven a banner year. For the first time in history, Congress has demonstrated its ability to plan a budget in advance of a fiscal year, and then successfully stick to that budget.

If 1976 has proven a successful year fiscally, however, it has also seen the emergence of congressional scandals of unprecedented scope and magnitude.

I deplore such scandals, especially since they come at a time when the American people need to have their confidence in their Government reinforced rather than weakened. However, remedial action has already been taken, and I hope that such moves will prevent recurrence of these abuses in the future.

At home, the second year of court-ordered busing approaches. While there have been no significant changes in Louisville's situation—at either Federal or local levels—I continue to press for action to ease or end forced busing in the Louisville area schools.

For a better view of what occurred during the first half of this session I have broken down the various issues by subject matter, as follows:

BUDGET, TAXATION, AND FINANCE

The 94th Congress may well be remembered as the legislature which brought order, method, and direction to the planning of the Federal budget. Heretofore it has been a chaotic, helter-skelter process.

Under the new procedures of the Budget Reform Act, smaller deficits and greater revenues have developed than had been estimated, and the long, hard road to a balanced national budget has begun.

Prior to fiscal 1976, the Federal budget planning process operated almost at random. House and Senate committees reported appropriations bills to the floor with little regard for the total spending or for their overall impact on budget deficits.

To remedy this intolerable situation, in 1974 Congress enacted the Budget Resolution Act. It had my enthusiastic support from the "opening bell."

Under this new budget procedure, all committees must report tentative spending recommendations to their respective budget committees by March 15. Then the budget committees review and adjust these recommendations, forming them into a cohesive, planned budget.

This budget includes proposed ceilings on expenditures, estimated revenues, estimated deficits, and so forth.

Congress must aprove this target budget by May 15 of each year.

Through the summer, the House takes final and binding action on spending bills, always, however, keeping the target budget—adopted the previous spring—in mind.

By September 15, Congress must approve the final budget resolution for the fiscal year beginning October 1. The old fiscal year start of July 1 was revised by the Budget Resolution Act.

This budget resolution sets final spending ceilings and revenue floors. Any later measure which would force expenditures above the ceiling, or lower revenues below the floor, can be ruled out of order, and, thus, rejected.

The budget process is complex, but it has led to a rational, successful planning of our budget.

The new budget procedure was begun on a trial basis in fiscal year 1976, which ended this past June 30. I am pleased to report that, according to congressional estimates, final outlays for fiscal 1976 are $2.43 billion under the original estimates, while revenues are $0.3 billion above the original estimates. The final deficit, therefore, is $2.73 billion below the estimates.

That is no small achievement when one considers that increased deficits have been the "order of the day" around the White House and Capitol Hill for so long.

Figures published by the administration—which uses different accounting procedures than Congress—are even more encouraging. According to administration figures, receipts are $2.5 billion above the January budget estimate. Expenditures are $3.5 billion below the January estimate, and the deficit is $4 billion less than the January prediction.

Representative Brock Adams, chairman of the House Budget Committee, expects an even more successful fiscal year 1977 budget, predicting that in fiscal year 1977 the Federal deficit will be reduced by fully one-third.

While it has been a rugged process, Congress so far is holding to its fiscal guns for fiscal year 1977. And Congress is adhering to the very demanding time frame set forth in the Budget Act.

In June five appropriations measures were sent to the White House; three more passed both House and Senate; three have passed the House and are awaiting Senate action. Only two appropriations measures await House action.

I am pleased with the success of the budget planning process because its success is essential to the fiscal health of the Federal Government.

To supplement these new congressional budget procedures, I have introduced a measure which would require the balancing of the Federal budget in 5 years—by fiscal year 1981. While I am hopeful that the budget process alone will lead to a balanced budget, my measure will add impetus to the move to a balanced national budget.

In other actions related to finance, Congress passed and sent to the President a measure freezing withholding taxes at their present rates for 60 days—in effect, extending the 1975–76 tax cuts until the Senate can complete action on the tax reform bill, which will establish tax levels for the next fiscal year.

I voted for the original tax cuts and for the 60-day extension of such cuts. These cuts paved the way for the solid economic recovery which America is experiencing today.

The Senate is still struggling with the tax reform bill, which the House passed last December. I am apprehensive at the scope and direction of the changes being made in the Senate. Some changes seem to be negating the positive tax reform hammered out earlier by the House. I must, therefore, withhold final judgment on this measure, and I register my hope that the Senate will not convert a reform bill closing tax loopholes into a "reform" bill expanding the loopholes.

In a related move, the House Ways and Means Committee has announced hearings on reform of tax laws relating to single, married, and divorced persons. Much of this tax law is based on a concept of society significantly different from our society of the 1970's, resulting in uneven, unfair, and complex tax laws. The committee will hopefully report a reform measure to the full House early in 1977 when the new Congress has been seated.

ECONOMY/JOBS

In the first half of 1976, the Nation's economy continued its slow recovery. In June, however, Labor Department preliminary figures reported that national unemployment increased 7.3 percent to 7.5 percent.

While this is the first increase in unemployment since mid-1975, and does not signal the end of the economic upswing, the end of the tunnel is not yet at hand. We have to maintain vigilance if the stable, solid economic recovery we all want to happen does, in fact, happen.

To achieve this solid recovery, I voted to extend the 1975–76 tax cuts until Congress adopts final withholding levels for the year starting in October.

And, I supported the budget resolution process, for I believe that a sound Federal budget is essential to the overall economic health of the Nation.

Additionally, I voted for the $3.5 billion public works employment bill, designed to create over 350,000 jobs in construction of needed public works such as municipal offices, courthouses, water and sewer lines, roads and waste treatment plants.

Public works projects, it should be emphasized, do not create massive—and inefficient—Federal bureaucracies or place people in dead end jobs in the public sector. Rather, this kind of bill provides money to localities to contract for the construction of these facilities.

In that way, the measure creates jobs in the private sector where construction industry unemployment is currently hovering at 17.0 percent. These jobs will enable the unemployed to get off welfare and unemployment rolls and on to job rolls. Additionally, wage earners pay taxes and these taxes help to pay for the costs of these programs.

However, relying on dubious advice, President Ford vetoed this measure—as he had vetoed an earlier bill calling for more money to create more jobs. I voted to override this unfortunate veto. It was overriden by a substantial margin and, therefore, became law over the President's objections. The margin of the override indicates the general unease in the Congress with the current unemployment rates.

It is true that June's 7.5 percent unemployment figure is lower than a year ago. But 7.5-percent unemployment is unacceptably high, and unlikely to decline substantially unless the Government provides a stimulus to the private sector to hire the unemployed.

ENVIRONMENT AND ENERGY

In environmental action, the House has sent to the Senate a bill which would provide funds to prevent environmental damage to coastal States from offshore oil and gas development.

Congress has extended the exclusive fisheries zone for American ships to 200 miles offshore, protecting American fish resources from depletion by foreign fishermen. The new limit also provides for a comprehensive fisheries management program to enhance the quality and quantity of our valuable fish resources.

Legislation to regulate strip mining has been reported out of committee, but is awaiting floor rule. I regard a well-written strip mining control law—one protecting the environment and insuring coal production to meet our Nation's energy needs—as a top legislative priority, and will continue to press for passage of such a measure.

Probably the major piece of environmental legislation facing Congress in the near future is the Clean Air Act Amendments of 1976. Presently these amendments are embroiled in controversy, as they involve the extension of automobile emission deadlines, and they involve requirements that the air quality of a given area not be allowed to deteriorate below certain standards.

They basically involve the so-called tradeoff between environmental concerns and economic needs. The House is scheduled to consider these amendments within the next few weeks.

DEFENSE AND FOREIGN POLICY

The comparative strength of the United States and Soviet defense networks has been the subject of much public attention recently.

On June 17, after heated debate, the House passed the fiscal year 1977 Defense Department appropriations bill. The final bill provided for fiscal year 1977 appropriations of $105.4 billion, slightly below the administration request of $107.9 billion.

I voted for the final passage of the bill, though—as with every appropriations measure—there were sections within the bill I did not entirely support.

For example, I voted for a 1-month delay of construction funds for the B–1 bomber. The delay would allow time for further study of the plane's design and performance and for an analysis of the costs-to-benefits of tax dollars spent on the B-1 and other kinds of defense programs.

Present estimates place the cost of building the B-1 at $21.6 billion, or $88.6 million per plane. When originally proposed, the program's total costs were estimated at $8.8 billion.

This $21.6 billion figure does not include future costs resulting from maintenance, upgraded avionics systems, and increased procurement costs. The Air Force has not provided its own, final cost estimate for the B-1, but an independent study commissioned by the Brookings Institution placed that figure at $91 billion in current dollars, or almost a full year's Defense Department budget.

These figures are cause for deep concern that we might better spend our defense dollars elsewhere. Unfortunately, the B-1 amendment failed, but a later amendment appropriating funds for the construction of a fourth nuclear-powered aircraft carrier passed, with my support. Aircraft carriers have long been a major plus in the U.S. arsenal and this additional carrier will strengthen our defense posture.

In my judgment, the final defense appropriations measure represented a successful compromise between two important priorities—our need to maintain a first-rate national defense capability and our need to provide funds to meet our domestic social and health needs.

In other legislation affecting our foreign relations, Congress passed with my support the International Security Assistance Authorizations, authorizing $2.2 billion in military and economic aid to Israel. A new bill also authorizes $1.5 billion in fiscal years 1976 and 1977 for economic aid to developing countries, concentrating these funds on aid to poor countries and prohibiting aid to countries which consistently violate the human rights of their citizens.

IN THE GENERAL INTEREST

In September 1976, Louisville will begin its second year of court-ordered busing.

I have not slackened my efforts to end or find alternatives to court-ordered busing. I continue to press for adoption of my constitutional amendment to limit or prohibit busing.

I have filed discharge petition No. 3, which seeks to take the amendment away from the Judiciary Committee—which has held it without hearings since it was first introduced on January 14, 1975—and bring it to the floor for an immediate vote.

Fifty Members have signed my discharge petition. A total of 218 is needed to bypass the committee and get my resolution on busing to the floor for a vote. The additional signatures will be a stiff task, but not an impossible one.

I am also working on another front. I have cosponsored a measure which would provide Federal funds for the purpose of exploring and developing alternatives to forced busing. It is estimated that reliance on busing as a desegregation tool could be reduced to as little as one-third of present practices if alternatives are adequately employed.

Unfortunately, only busing has received massive Federal attention and support as a desegregation tool. My measure, H.R. 14700, would provide Federal funds to encourage the development of alternatives to busing.

One of the most encouraging of these alternatives involves the construction of "magnet schools," schools that attract students citywide because of the high-quality education they deliver.

H.R. 14700 would also provide Federal help in the construction of schools in areas where the school population is already radically mixed, and in inner-city areas where many school facilities are old and decaying.

This measure—introduced in the Senate by Senator JOHN GLENN—is one which could lessen the social and economic impact of forced busing and, at the same time, reduce the extent to which busing can be ordered.

Recent polls have shown that the No. 1 concern of Americans nationally is fear of the rising wave of crime and violence which has invaded all American cities and most of our neighborhoods.

I have sponsored two measures which will help to stem this wave. Both attack the most important factor in this exploding crime rate: The career criminal, the repeating offender.

A Justice Department survey showed that over 65 percent of the criminals studied had been arrested two or more times in the previous 5 years. Many of these criminals are suspects awaiting trial for another offense or are those who are out on the streets on parole or probation—after being convicted of earlier felonies.

My first measure would give judges considerably more leeway in keeping the hardened criminals off the streets while awaiting trial on a new charge.

While the constitutional rights of defendants are protected, judges would be allowed to consider a defendants' previous record in ordering detention prior to trial. Presently, judicial officers are allowed to consider only a defendant's likelihood to appear for trial before issuing pretrial release orders.

My second measure would create strict, mandatory sentencing guidelines for criminals convicted of certain Federal crimes. If a judge decided to sentence outside the guidelines, he would have to submit a written opinion explaining his reasons for doing so, and his decision would be open for appeal by either defendant or prosecution.

With these measures, I hope to rid America of "revolving door" justice, where criminals move through courtrooms almost as a formality, with no real fear of detention or mandatory sentencing.

In legislation affecting the elderly, Public Law 94-135 authorizes more than $1.6 billion through fiscal year 1978 to extend and strengthen older Americans programs. The money can be used for projects such as in-home services for the infirm, social centers for the elderly, and job-hunting services for the retired who wish to work.

Additionally, Public Law 94-202 expedites the holding of hearings for social security claimants whose applications for benefits have been denied. This should help the several thousand people my staff and I help annually with problems relating to social security benefits.

The Administrative Rulemaking and Reform Act, which I cosponsored, has been reported out of the House Judiciary Committee and is awaiting action by the Rules Committee.

This bill would allow Congress final veto power over agency rules and regulations, as well as the power to order regulations reconsidered. Increased congressional oversight of Federal agencies and bureaucracies will make these agencies more accountable to the will of the people—an accountability that is sadly lacking in today's government.

In the past months, congressional scandals have shaken the House and the Senate. The House response to these scandals was swift and comprehensive. I am convinced that the ensuing reforms will prevent future abuses of the type given wide publicity in recent weeks, and—of more importance—will help to restore the people's confidence in Government.

Included in the changes approved by the Caucus are proposals requiring House votes on increases in Members' staff allowances, reducing travel allowances for Members, and requiring quarterly publication of staff names, salaries, and duties, as well as Members' expenditures.

As an amendment to the Labor-HEW appropriations bill, Representative HYDE proposed that Congress prohibit the use of Federal funds for abortions. I supported that amendment, because I feel that even if the Supreme Court has declared abortion constitutional, it should not become national policy, encouraged and funded by the Government.

Federal funds should be used, instead, to educate women to the alternatives to abortion and to provide counsel for women with unwanted pregnancies.

The Hyde amendment passed the House but unfortunately failed in the Senate. A conference is being held to iron out differences in the House/Senate versions. I have written the conferees, asking that the Hyde amendment be retained.

THE CASE FOR A THIRD FEDERAL DISTRICT JUDGESHIP FOR SOUTH DAKOTA

HON. JAMES ABDNOR

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, August 2, 1976

Mr. ABDNOR. Mr. Speaker, the judicial system within the United States is one of the most significant mechanisms for maximizing respect for the law, and maintaining an equitable and just society. Our judicial system is merely an extension of ourselves. It reflects society's conscience and attitude toward our fellow man.

The judicial decisions rendered and quality of procedures implemented for obtaining those judicial decisions not only have an impact upon present cases but even larger ramifications upon society's values, attitudes, and even actions. The judicial process is, therefore, somewhat of a "showcase" for demonstrating society's fundamental commitment to the well-being of man and exemplifying the high principles of human dignity upon which this country was founded.

However, this judicial process can be a two-edged sword. One can either provide society and the individual with respect for the law and its implication of wrongdoing, or one can breed contempt for the law and its processes by woefully neglecting the mechanisms vital to achieving an effective judicial system.

Therefore, it is imperative that our judicial system continues to be as effective and efficient as possible within the realm of its limitations. The judicial system and its structure has recently come under intense pressure due to increasing caseloads as society witnesses the rapid rise in crime as well as increases in civil litigation.

South Dakota is located within the Eighth Circuit District and currently has two Federal judges with a need for a third. South Dakota is also one of those districts experiencing an increasing caseload, especially in criminal filings, the latter of which have been long recognized as the most complex and time consuming in which to ascertain a judicial decision.

The justification for an additional judge within South Dakota is well warranted, even though South Dakota falls somewhat short of the arbitrary criteria established by the Senate Judiciary Committee and its Subcommittee on Improvements in Judiciary Machinery. However, one only has to look beyond the cold and perhaps sometimes deceiving statistics utilized as the criteria for additional Federal judgeships to perceive the compelling dilemma which is now confronting South Dakota.

For fiscal year 1975, South Dakota has a caseload of 211 criminal filings per judgeship. This ranked South Dakota second within the Eighth Circuit and eighth in the entire Nation. This increase in criminal filings is not only time consuming, but compounding this influx of cases—which has nearly tripled since 81 cases in 1970—is the nature of these criminal cases.

It should be emphasized that 215 of the 422 criminal filings in South Dakota fall into a category of cases in which the Administrative Office of the U.S. Courts considers "heavier than average" in terms of the nature of the offense charged. The "heavier than average" category consists of first, forgery and counterfeiting, second, fraud and embezzlement, and third, homicide, robbery, assault and sex offenses. Since South Dakota has only two Federal judges, each judge must handle on the average of 107.5 "heavier than average" criminal cases out of their 211 criminal filings per judgeship.

The magnitude of these circumstances should be noted when contrasted with the number of "heavier than average" criminal filings confronted by other Federal judges throughout the Nation. The only Federal district judge facing more than 100 "heavier than average" criminal filings is the judge for the district of eastern California. That total is 101 cases. Other than South Dakota and eastern California, there is not another district even above 70 "heavier than average" criminal filings per judgeship.

The majority of criminal findings—51 percent—in South Dakota constitutes a "heavier than average" category, whereas the national level overall has 33 percent of criminal filings constituting the "heavier than average." The excessive number of criminal filings of this nature pertaining to South Dakota would surely more than offset the areas in which South Dakota otherwise falls short of the criteria established by the Senate Judiciary Committee.

Chief Justice Warren E. Burger's year end report on the condition of the judiciary noted that in fiscal year 1975, 160,602 new cases were filed in the U.S. District Courts, making an average of 402 cases per judgeship, an unrealistic number for one judge. South Dakota hears only 70 less cases per judgeship as specified by the Senate Judiciary Committee's criteria for the justification of an additional judgeship, however the Chief Justice himself with all of his experience and expertise has noted this figure to be unrealistically high. Yet South Dakota has by far—with the exception of eastern California—the most criminal filings on a "heavier than average" basis, and is not that far from attaining the specified 400 cases, a figure which has been deemed unrealistic by Chief Justice Burger.

The number of criminal filings found within this nature per judgeships can have several indirect and adverse effects. One of the most obvious and prominent being that of a backlogging of criminal cases and delays in bringing the triable defendant into the judicial process. South Dakota is currently the last in the Eighth Circuit and 14th worst in the Nation in terms of triable defendants in criminal cases over 1-year old as to the percentage of cases—30.5 percent.

The inability to proceed with a pending trial due to congestion, especially a criminal trial, within a reasonable period of time will result in serious tangible and intangible ramifications which will often result in a distortion of justice, and leave many people involved with the judicial process disenchanted.

The memory and location of witnesses, along with other details associated with a criminal trial procedure has a tendency to become vague, and much more difficult to construct with the passage of time. Thus, one has the circumvention of justice due to the structural framework, and eventually the quality of justice rendered will deteriorate as the caseload of pending trials continues to increase. The judicial process can only bear so many filings before the need for an additional judgeship becomes acute. South Dakota is one district that has now attained the necessity for an additional judgeship due to the backlogging of cases, and the indications are that the situation will only worsen with time.

While it would be very difficult to quantify or document intimidation or ostracism encountered by witnesses in a pending trial—especially a criminal proceeding—one could probably be safe to say that it does exist to a certain extent, and probably with increasing leverage as the pending trial remains on the docket.

The amount of cases pending per judgeship in South Dakota is 294, and this has also steadily increased. In fact, the number of cases pending before each judge has nearly doubled from 1970 in which there were 150 cases. Of the 294 cases pending before each of the two Federal judges, 132 of these were pending criminal cases per judgeship as of June 30, 1975.

The increasing number of pending cases is no reflection upon the Federal judges' ability to effectively utilize the judicial process. It is merely a dilemma of an increasing caseload overburdening the existing structure which is in desperate need of an additional judgeship. One only has to analyze the increase in criminal terminations to realize the maximum effectiveness in which they have utilized themselves. The number of criminal terminations for fiscal year 1974–75 increased 80 percent. The Federal judges in South Dakota disposed of 233 cases in 1974 and 420 in 1975. The percentage of increase was the third best in the entire Nation, exceeded only by western Missouri and Delaware.

The average disposition per judgeship, as noted by Chief Justice Warren E. Burger in 1975 was 371 cases, up 27 percent from 292 in 1970. South Dakota's average disposition per judgeship in 1975 was 301, up 46 percent from 139 in 1970. Yet, South Dakota confronts the largest number of pending cases ever, and as mentioned earlier presides over the largest number of "heavier than average" filings per judgeship in the Nation. The progress and achievement made by this district is demonstrated by the aforementioned disposition statistics, however the situation has not been alleviated.

The statistics indicate that the prevailing trend in criminal filings will continue to rise. The continual rise in criminal filings along with the implementation of the 1974 Speedy Trial Act will only add tremendous pressures and difficulties to the existing number of Federal judges in South Dakota and their ability to cope with a caseload of this volume and nature.

The Speedy Trial Act of 1974 stipulates under section 3161 (h)(8)(c) that the general congestion of the courts' calendar is not a valid justification for a lengthy delay. Furthermore, the necessity to proceed with criminal filings in advance of civil litigation will be brought about by the implementation of the 1974 Speedy Trial Act. While the Speedy Trial Act of 1974 does not specify this action, one's interpretation of this legislation will nearly mandate the priority of criminal cases before the consideration of civil litigation.

The absence of an additional Federal judgeship to handle the increasing criminal caseload will result in an unnecessary delay in civil litigation. The need to comply with the 1974 Speedy Trial Act will warrant an additional judgeship when one observes that in fiscal year 1974, 75 percent of the triable defendants were in criminal cases which were over 1 year old. Furthermore, in fiscal year 1975 on a national scale, the criminal pending caseload continued to decline by 1 percent, whereas the total number of pending criminal cases increased in South Dakota.

The recognition for additional judgeships should be realized when the Federal judiciary had to send five Federal judges to preside in Pierre and Rapid City alternating for a period of 3 months beginning in October 1975. The personnel received by South Dakota was effective in helping the existing Federal judges confront the overwhelming backlogging.

However, it would seem very logical to establish an additional judgeship in South Dakota whereby a permanent judge would be familiar to the environment and circumstances surrounding the cases rather than resorting to temporary measures which are going to be needed more and more as the pending caseload in South Dakota continues to mount.

The two Federal judgeships within the large geographical State of South Dakota are located at the extreme ends of the State, Sioux Falls and Rapid City. However, they occasionally hold court in several other areas of the State. South Dakota currently has several Federal courtrooms equipped with a law library which remains vacant for a large extent of the year. One example of this would be the Federal courtroom in Pierre, the State capital.

The Administrative Office of the United States Supreme Court has advised the Senate Judiciary Committee that the creation of a new district judgeship, exclusive of the cost for providing space, furniture, and furnishings is $145,000 in the initial year. However, the recurring cost is $130,000 per year.

The creation of a new Federal judgeship in South Dakota could well be implemented at the expenditure of the latter due to the availability of facilities and materials, thus negating the initial startup costs.

Much publicity was also attained through the media during the Wounded Knee incident of 1973 and other outbreaks of violence throughout areas of South Dakota. However, while the national attention and focus has shifted from South Dakota, the problems concerning the area still persist, and this is borne out by the various underlying statistics which I have cited.

The difficulties confronting the two Federal judgeships in South Dakota have not lessened. It appears it will only be a short period of time before South Dakota will attain the criteria established by the Senate Judiciary Committee.

Meanwhile, the criminal filings, and pending criminal cases continue to multiply, adding extreme pressures to the existing judicial structure. It would seem advantageous to create an additional Federal judgeship as soon as possible to alleviate the pending backlog and the anticipation of future criminal cases in view of the recent statistics.

South Dakota is already last in the Eighth District Circuit from filing to disposition of criminal cases and 77th in the 91 districts. The situation can and will only become worse without the inclusion of an additional Federal judgeship.

NUCLEAR FUEL ASSURANCE

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, August 2, 1976

Mr. PAUL. Mr. Speaker, I would like to explain my opposition to H.R. 8401, the Nuclear Fuel Assurance Act of 1976 and my support of the Bingham amendment on July 30.

First off I would like to emphasize that I am not one of those who flatly oppose expansion of nuclear energy. I believe that the safety record of nuclear fuel plants in this country is exemplary and that increased use of nuclear energy will be absolutely necessary for this country to bridge the gap between exhaustion of fossil fuels and the development of such things as solar energy.

Furthermore, I believe most strongly that private industry ought to become involved in the production of nuclear fuel. I think that the Government's record of cost efficiency and productivity in this is extremely poor; as is the case with almost all areas of Government endeavor, such as the Post Office. I frankly think that eventually all nuclear fuel production ought to be the private sector, including those Government plants already manufacturing nuclear fuel.

My primary objection to this bill and my reason for supporting the Bingham amendment is that I do not like the Government loan guarantee provisions of H.R. 8401.

For too long now, big business has paid lipservice to the free market while carefully cultivating Government programs beneficial to them. This bill is just another example of such welfare programs for big business.

H.R. 8401 would, for example, provide $8 billion in loan guarantees for the building of four uranium enrichment plants. I just do not see the necessity for such guarantees. If the demand for nuclear fuel were any where near as great as its proponents claim, then private industry ought to be happy to build such plants entirely on its own. The fact that it says it cannot makes me very suspicious about the viability of this whole project and very fearful that the U.S. taxpayer will once again be stuck footing the bill. This is precisely the reason why we need the free market: to weed out those enterprises which do not most efficiently satisfy our demands.

Of course, I can very well understand why big business wants such guarantees. After all, why take any risk at all if the Government can be conned into taking it for you. As my distinguished colleague from Kansas, Mr. SKUBITZ, noted:

> On page 10 of the committee report it is pointed out that the sale of enriched uranium and enrichment services to foreign countries has reached $1.1 billion. In addition, it is pointed out that the demand for enriched uranium is extremely high within the United States. If there is such a good market for enriched uranium, there is no reason not to believe that private enterprise on its own will enter the field. The reasons they have not entered the field to date are clear. Under the law it was ERDA who was licensed to produce enriched uranium. Since the government itself had a corner on the market—no private company was interested in entering the market. Now, there are a number of private companies interested in entering the market, including Uranium Enrichment Associates, who have proposed a plant in Louisiana. If the move by private enterprise to fill this need has not been rapid, I suggest it has been delayed simply because someone in Congress held out the prospect of goldplating the venture through the use of loan guarantees.

A further objection to the loan guarantee approach is that it has a serious disruptive effect on our capital markets and gives the illusion of no cost to the taxpayer. Ever since the Congressional Budget Act was passed in 1974 it has been very popular around here to get things off the budget. Loan guarantees have proved to be the most popular method and we have seen it used over and over again.

This matter came up again most recently with H.R. 12112, the synthetic fuels bill. At this time Prof. Murray Weidenbaum of Washington University had this to say about the ultimate effects of loan guarantees on the economy:

> Boiled down to its basics, federal guarantees of bonds issued by business and other institutions really involve putting "the monkey" on someone else's back. They do not increase the amount of investment funds available to the economy. Rather, to the extent they succeed, they mainly take capital funds away from other sectors of the economy and lead to similar requests for aid by those sectors. These government guarantees also tend to raise the level of interest rates in the economy, both for private as well as Government borrowers. They thus increase an important element of business costs.

Lastly, as in the case of synfuels, I fear that Government sponsorship of one particular technology tends to institutionalize it and depress the search for better methods. I feel very strongly that innovation of all kinds must be a top priority in the energy field. This will come most quickly when the Government gets completely out of the picture, eliminates all price controls and regulations, and allows the price of energy to accurately reflect its cost. When this happens there will be the maximum possible incentive for people to conserve what energy they have and make every possible effort to find alternative sources.

Consequently, I believe that H.R. 8401 ought to be defeated. I support the Bingham amendment only as an interim step toward a complete elimination of Government in the nuclear fuel business.

FEDERAL PENSIONS' INFLATION KICKER UNDER HEAVY FIRE

HON. DEL CLAWSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, August 2, 1976

Mr. DEL CLAWSON. Mr. Speaker, Los Angeles Times staff writer Paul E. Steiger has correctly and objectively analyzed the inflationary impact of the Federal pensions' 1 percent "kicker"in his column that appeared in the Sunday, August 1, 1976 issue of the Times. In addition to the many arguments, pro and con, relative to this subject, I commend Mr. Steiger's valuation of some of these arguments to the Members of the House and Senate for their consideration:

FEDERAL PENSIONS' INFLATION 'KICKER' UNDER HEAVY FIRE

(By Paul E. Steiger)

WASHINGTON.—While most retired people have watched in dread in recent years as the flames of inflation have licked away at the purchasing power of their pensions, one select group of retirees has been able to watch the conflagration with equanimity, even pleasure.

That group consists of 2 million retired federal workers. Not only have they been protected from inflation—many of them actually have profited from it.

The reason is a little understood provision of federal law: the so-called "1% kicker."

Under it, every time the cost of living rises 3% or more, each federal pensioner's monthly check is increased by that amount, plus an additional percentage point. Thus, if consumer prices rise 3.5%, the checks are increased 4.5%.

To the Ford Administration, Congress' General Accounting Office and many outside analysts, the kicker provision is an egregious loophole conferring unique privileges on a single group of pensioners.

"It's manifestly unfair," argues Rep. Brock Adams (D-Wash.), chairman of the House Budget Committee. "It's unfair to the millions of nonfederal retirees who don't receive such a benefit. And it's unfair to the taxpayers who have to pay for it."

To retired federal civilian and military personnel and their families, however, the 1% kicker is a cherished benefit, one that they are prepared to use their considerable muscle at the polls to defend. And with a fierce effort they have brought themselves close to winning its retention for at least another year.

In his January budget message to Congress, President Ford recommended wiping out the provision. In its May resolution setting preliminary spending and revenue targets for the coming fiscal year, Congress assumed that legislation repealing the provision would be enacted.

But a massive letter-writing and lobbying blitz by organizations representing present and future pensioners has blunted the enthusiasm among some members of Congress for killing the benefit.

Four times in the last six weeks, the House Post Office and Civil Service Committee has failed to muster the quorum needed to vote on measures to eliminate the kicker.

Despite the committee's failure to act, proponents of such a bill have pressured House leaders to schedule a vote on the issue Monday but only under a special parliamentary procedure requiring a two-thirds vote for passage. If that move fails, the matter is probably dead for this year.

"Many members want to go on record as favoring repeal" of the kicker, Rep. David N. Henderson (D-N.C.), chairman of the Civil Service Committee, said in an interview.

The kicker provision was enacted in 1969. It drew little attention then because inflation was relatively modest and costs were not great.

As inflation has mounted, however, that has changed. In the seven years since the kicker went into effect, it has added $5 billion to the costs of federal retirement programs.

Most private pensions are not adjusted for inflation at all. Social Security and a few nonfederal pension programs (primarily in state and local governments) call for regular adjustments to catch up with increases in the cost of living. None, aside from the federal plan, calls for regular boosts in excess of the inflation rate, according to a recent survey of 1,800 pension programs.

By contrast, since November, 1969, monthly checks to federal retirees have been boosted 71.7%, compared with a rise of less than 52% in the U.S. Labor Department's consumer price index.

Defenders of the kicker mount several arguments.

In the first place, they say, the kicker was installed because there is a five-month delay between the time the cost of living rises 3% or more and the time the pension boost actually shows up in retirees' checks. In the meantime, they argue, the cost of living continues to rise—often by as much as, or more than, 1%.

Second, defenders say, the delay in inaugurating cost-of-living increases means that, calculated month by month, the pensions of some federal retirees sometimes fall behind the amount that would be necessary to maintain the purchasing power they had when they retired.

For example, officials of the 250,000-member National Assn. of Retired Federal Employes here have calculated that a federal worker who retired in February, 1973, with a $400 monthly persion would have had that monthly check increased 27.8% two years later, somewhat above the 23.1% increase in the cost of living over that period.

But because of delays in implementing the pension increases, the association notes, the retiree's total pension income over the two years would have amounted to $10,999—1.2% less than the amount necessary to keep him strictly even with inflation over the entire period.

Critics of the kicker acknowledge that these arguments have some validity, but only with respect to pensioners who have been on the rolls a relatively short time. The longer a person has been retired, the further ahead he is likely to be, particularly in periods of rapid inflation. With mathematical magic, the 1% extra increases rapidly begin mounting up, compounding on one another like interest owed a loan shark.

Thus, if the National Assn. of Retired Employes had carried through its example for another year, it would have found its hypothetical pensioner already ahead of the game and gaining fast.

Furthermore, said R. E. Shelton, a GAO official who worked on the agency's study of the 1% kicker, all this analysis leaves out another, lesser-known provision. Under this provision employes who retire from federal service the day before a cost-of-living pension increase is to take effect—an increasingly popular practice—receive the full increase plus the previous cost-of-living boost. At the same time, these employes have the alternative of taking the benefit of pension increases triggered by cost-of-living salary increases while they remained on the jobs.

Consequently, the employes may start off retirement with pensions as much as 10% higher than called for by their years of service and peak salary.

PHYLLIS SCHLAFLY ON THE MONDALE BILL

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, August 2, 1976

Mr. ASHBROOK. Mr. Speaker, my good friend and able columnist Phyllis Schlafly is one of America's most articulate women. She represents, in my judgment, the clear thinking family oriented women of our country who are conservative and traditionalist. Her columns appear in the Mt. Vernon News and the Ashland Times-Gazette in my home district.

Her recent column on the child and family services bill should be read by all Americans who are concerned about the onslaught against the American home by the bureaucratic and the liberal forces in our Nation. I have fought that proposal since it first reared its ugly head some 6 years ago. The 1976 bill is a watered down version of the excessive 1971 measure but they are from the same drawing boards.

Mrs. Schlafly's column should be a clear warning of the danger's of this monstrosity. I include it with these remarks:

SENATOR MONDALE MADE PRINT WITH BABYSITTING BILL

(By Phyllis Schlafly)

When Jimmy Carter selected Walter Mondale as his running mate, he created a major national confrontation between those who believe in family and local control over children, as opposed to those who favor federal spending and control.

While the polls claimed that Mondale had name recognition with only one per cent of the public, and a comedian cracked that most Americans thought Mondale was a "suburb of Los Angeles," the fact is that he is widely known at the grass roots as the Senate sponsor of the bill that has generated more opposition mail than any in many years.

Mondale himself said, in referring to the mail that reached Capitol Hill, "it started down in Oklahoma and Texas, then it came north like the hoof-and-mouth disease."

The target of all this protest was the Brademas-Mondale Child and Family Services Bill. It is a proposal to spend nearly $2 billion of the taxpayers' money to set up a new bureau in charge of babysitting and child development facilities to be operated by the Department of Health, Education and Welfare (HEW).

With all the other mischief HEW has been getting into, such as forced busing of students and worrying about whether schools are committing sex discrimination by allowing a mother-daughter fashion show or a father-son baseball game, it is hard to see why anyone would want to give HEW new jurisdiction over the lives of preschool children, too.

The Brademas-Mondale bill states that it will "insure decision making at the community level, with direct participation of the parents . . . and other individuals and organizations . . . through a partnership of parents, state and local . . . and federal government."

In other words, the Brademas-Mondale bill would replace the right of decision making that presently rests in the parents alone by a new "partnership" with HEW and assorted other bureaucrats and organizations that claim they are "interested" in your child.

The scope of the Brademas-Mondale bill is vast. By no means is it limited merely to custodial care. It covers the physical, educational, nutritional, social, recreational, medical, psychological and emotional development of the child, as well as "other such services and activities as the HEW secretary deems appropriate."

Nor is the Brademas-Mondale bill a measure primarily designed to help the poor and needy. It clerly states that the program "shall include children from a range of socioeconomic backgrounds." The taxpayers will thus be forced to pay the costs of caring for the preschool children of middle class and even wealthy mothers who choose to evade the so-called burden of caring for their babies.

We are told that the Brademas-Mondale bill will strengthen the family, whereas actually it will do the opposite because it will relieve parents of their responsibility for child-rearing. Anyone who wants to strengthen the family should encourage mothers to stay home and care for their own preschool children. Expert psychologists say that a mother's loving care is the single most valuable thing that can be given to a preschool child.

The Brademas-Mondale bill states that participation will be voluntary. There are, however, no safeguards against a later insertion of mandatory participation similar to the present school truancy laws that now apply to school children over the age of 6. There are already many pressure groups in our country, demanding "universal" government child-care facilities.

Walter Mondale may not be well-known to the public at large, but among those who do know him, he carries the great liability of personal sponsorship of the Brademas-Mondale Federal Baby-Sitting Bill that would inevitably cause higher taxes, more federal control in the hands of HEW, and more mothers and babies leaving their homes.

WPIX: EXCELLENCE IN BROADCASTING

HON. EDWARD I. KOCH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, August 2, 1976

Mr. KOCH. Mr. Speaker, WPIX television in New York received two awards earlier this month from the New York State Broadcasters Association for excellence in broadcasting. I would like to add my congratulations and also my thanks for WPIX's leadership in public affairs programing.

Richard N. Hughes, the senior vice president of WPIX, Inc., writes and delivers channel 11's editorials; the award for editorials brings well-deserved recognition to Mr. Hughes for fine work and true public service. The editorials have always taken responsible stands on controversial and difficult issues, and are well respected. Richard N. Hughes was also the producer, writer, and narrator of the award-winning documentary, "The Concorde: Bird of Prey or Bird of Paradise?", an excellent program which dealt with a problem of great concern to most New Yorkers.

WPIX has been in the forefront of innovative broadcasting: this is the sixth time in 7 years that the editorial award was won by WPIX–TV. I applaud their efforts, and their success, and I wish the station and its staff continued good luck.

BECHTEL CO. ANSWERS NUCLEAR FUEL ACT CRITICISM

HON. TENO RONCALIO

OF WYOMING

IN THE HOUSE OF REPRESENTATIVES

Monday, August 2, 1976

Mr. RONCALIO. Mr. Speaker, last week I inserted into the RECORD a Washington Post column written by Tom Braden in which Mr. Braden was highly critical of H.R. 8401, the Nuclear Fuel Assurance Act, and of the Bechtel Corp., one of the companies interested in the proposed private enrichment of uranium.

The Bechtel Corp. response, published in this morning's Washington Post, does not discuss the merits of the legislation but does reply to Mr. Braden's criticism of the company.

For the sake of balance, I insert the Bechtel reply at this point, although it by no means detracts from my reasoning in urging a reconsideration of the proposed legislation. It should be recommitted to the Joint Committee for Atomic Energy.

The article follows:

THE NUCLEAR EXPORT FIGHT

Tom Braden's column headed "The Nuclear Export Fight," which appeared in the Washington Post on July 24, presents a grossly distored and inaccurate picture of the Bechtel organization, a 78-year-old construction and engineering firm which has long enjoyed a reputation for the highest standards of professionalism and integrity.

Braden's attempt to paint Bechtel as somehow being a sinister organization which carries out its business against the public interest compels us to respond in some detail to his more flagrant charges.

Bechtel is characterized as heading up a "consortium of foreign investors" which is "waiting in the wings to reap guaranteed profits" from enrichment of uranium as provided for in the Nuclear Fuel Assurance Act currently pending before Congress. This is fancy, not fact.

Uranium Enrichment Associates, a limited partnership which responded to the federal government's specific request for proposals from the private sector for the building of enrichment facilities, is comprised of three highly respected U.S. firms, including Goodyear Tire & Rubber Company, The Williams Companies, and Bechtel. Bechtel is just one part of this enterprise. There would be no "guaranteed profits" under the private enrichment proposal advance by UEA. In fact, UEA would take a substantial financial risk of its own should it ultimately be selected to fill this important energy source need following approval of the Nuclear Fuel Assurance Act. UEA would make a capital investment of $3.5 billion in the enrichment plant it proposes to build and operate, all of this coming from the private sector. In addition, U.S. taxpayers would realize tremendous savings through private enrichment facilities such as those proposed by UEA.

To respond to some of Braden's more glaring inaccuracies:

Bechtel does not sell nuclear reactors, as Braden implies. Firms such as General Electric and Westinghouse are in that business, not Bechtel.

Bechtel did not enter into negotiations with Brazil to supply that country with nuclear hardware, as he states. This statement is totally false.

It was the Canadian Candu reactor in India which supplied the plutonium source for India's atomic explosion, not a reactor built by Bechtel as Braden charges.

Bechtel is not "undergoing congressional investigation" in connection with its role on the Alaska pipeline, as stated by Braden. Bechtel was invited to testify at one House subcommittee hearing on this subject in the course of which the company successfully substantiated that it was Bechtel's own quality control system which first called attention to certain pipeline weld problems.

Braden also raises the question of a Justice Department suit against Bechtel alleging certain violations in connection with the Arab boycott. Bechtel has answered these charges in great detail, reaffirming the organization's long standing policy against any form of discrimination.

Some of Braden's more scattershot references, such as the "oft-investigated Bechtel" are so undocumented as to be beyond comment. But his most outrageous statement is contained in the question Braden posed, "Are these the people we want directing our nuclear export program?" There are no conceivable circumstances in which Bechtel would ever be given such a lofty responsibility.

GEORGE R. COFFEY,
Acting Manager, Public Relations,
Bechtel Corp.

INTRODUCTION OF INTERGOVERNMENTAL COORDINATION ACT OF 1976

HON. THOMAS L. ASHLEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, August 2, 1976

Mr. ASHLEY. Mr. Speaker, today I am introducing the Intergovernmental Coordination Act of 1976. The thrust of this bill is to reverse the direction of Federal planning programs by removing some discretion from Federal agencies and placing it in the hands of State and local officials. Those officials would determine the policies by which their areas will be developed. The Federal role will be confined to one of insuring that local prerogatives are protected, determining that Federal funds are well and wisely spent, that legitimate Federal objectives are met, and that plans developed with Federal funds are consistent with one another and with the adopted areawide development policy.

How often have we launched major programs from this Congress, only to see them founder; not because they were faulty in concept, but through lack of coordination and development of comprehensive policies for their use at the local and regional levels where they impact. I know that each Member has felt frustration at programs which clearly are not doing the job.

Part of our difficulty is that from the jurisdictional perspective of a congressional committee one is prone to see a national problem such as clean air and water, housing, health or crime, without seeing that every individual smokestack, river or house or heart attack or robbery is part of a unique network of local circumstance, incredibly complex and beyond committee jurisdiction.

Knowing this all too well, we nevertheless cannot seem to resist creating new special-purpose administrative mechanisms extending over, around, and through existing general government, to insure that the purposes of a particular bill are achieved. There is no mechanism currently available to local officials by which to unify or direct this multitude of planning programs toward the development of a consistent, coherent set of public policies regarding the solutuion of social problems. The potential for conflict among public policy objectives fostered by these Federal programs is greater than the prospect for coordination and cooperation. Only in the past few years, in such efforts as revenue sharing and in community block grants, have we begun to admit the inability of the Congress to draft functional programs to fit comfortably and equitably both North and South, rich and poor, urban and rural, accommodating all the variety of which our Nation is capable.

The Intergovernmental Coordination Act of 1976 is founded on the premise that national efforts in many areas must be drawn together at the grassroots to be effective. Today's communities have grown far beyond city and county lines, but only by letting citizens of a community take control through their local leaders can we avoid conflicts and waste which no administration from above can cure.

This bill would require Federal programs to relate to one another within metropolitan and rural areas and, most importantly, to conform to areawide plans as adopted by officials of local elected governments. It is clear that the Federal Government will remain the principal resource for dealing with major social problems, but experience has shown us that local priorities are not uniform nationwide. Under this bill, the availability of Federal assistance would be dependent on conformance of the activity to locally adopted plans for that area.

Additionally, this bill would encourage local governments which have a common stake in an area, be it urban or rural, to come together and choose their own answers, but within the frameworks of applicable national and State development policies. Every rush hour teaches us that transportation, economic development, housing, and clean air are interrelated problems which can be met effectively only in a common effort of those throughout an area, irrespective of political demarcations inherited from another time. The institutions which we have created for self-governance at the local level are largely inadequate to govern the entirety of the larger urban community or rural region. The powers of local governments can be used in partnership, however, to provide for better, more efficient, and less expensive patterns of development while still retaining units of government which are close enough to be responsive to their needs. Under the bill, existing neighbor governments, without giving up any of their present powers, are encouraged to develop in concert the more powerful planning and coordinative tools they need to confront their mutual problems.

The legislation I am introducing today is a complement to S. 3075, introduced by Senator Magnuson, reflecting the advice and comments of many persons who have shown interest in the earlier legislation. I understand that a forthcoming study of the General Accounting Office will suggest the approach to intergovernmental coordination which is contained in this bill. The measure has already received favorable comment from the Advisory Commission on Intergovernmental Relations. In addition, numerous areawide associations of governments and other bodies who attempt to deal with problems across political boundaries have expressed their support, as have the National Association of Regional Councils and the U.S. Conference of Mayors.

State and local governments today are required to undertake a myriad of activities to apply for and carry out Federal programs, and we have seen the proliferation of special purpose planning agencies with the Federal Government acting to encourage fragmentation at the local level. According to a recent GAO study survey of areawide planning agencies in three areas of the country, the fragmented areawide planning system which has been created by Federal initiative can be wasteful, ineffective, and ineffectual. It is time to change the system. As long as we fail to encourage cooperation among local governments who share an area, and between transportation, community development, environmental, and other officials whose decisions interact, we can further uncoordinated, inefficient, and often self-defeating activities carried out under the banner of programs which we in Congress have labored to make effective. The Intergovernmental Coordination Act, by bringing things together at the grassroots through local elected officials, can be an instrument for better knowledge of both our problems and the choices we have for meeting them.

The problems brought to us by sprawl, leapfrog development, and inadequately planned and serviced growth have been cataloged so often as to scarcely need repetition. We have consumed vast acreages of prime agricultural land. We have polluted our water, requiring vast sums of money to build sewers and treatment plants. We have built vast networks of highways which promote the consumption of ever-increasing amounts of scarce fossil fuels and degrade the air we breathe. Worst of all, we have encouraged the abandonment of our huge capital investment in our Nation's central cities, spending like profligates to build replacements for facilities which are adequate and serviceable, and leaving the less fortunate who cannot follow the flight from decay, isolation, and poverty. The Intergovernmental Coordination Act of 1976 was written with that hope. It provides a process and institutional arrangement which will have to address these issues. Conscious decisions on them will have to be made; we can no longer as a nation perpetuate the current decision processes which because of accidents of geography submerge the implication of the adverse consequences of many of our private and public investment decisions. Moreover, it would reduce waste at the Federal level by making the programs and planning more interdependent and mutually supportive. It will make local government more effective and more responsive by providing local elected officials the means and the obligation to confront their own problems and set their own priorities on an areawide basis which permits truly effective action.

Finally, for the Congress, it would help assure that programs created to answer national needs are brought to each unique locality swiftly, through established flexible machinery; effectively, through positive cooperation of local governments; and with the savings that accrue from ending the conflicts, duplication, overlap, and waste that are all too apparent in our existing programs.

CUBA: SURROGATE FOR SOVIET EXPANSION

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, August 2, 1976

Mr. KEMP. Mr. Speaker, our former colleague and outstanding Secretary of Defense, Melvin R. Laird, has written an outstanding article on the subject of Russians use of Cuba as a surrogate for expansionist purposes. It was published in Reader's Digest of this month. Mr. Laird concludes the Kremlin strategists have converted Cuba into an increasingly potent launching pad for anti-Western subversion throughout the world, and it reinforces that conclusion with a number of convincing examples.

He outlines a strategy for our response that I consider to be imperative. A strategy that includes four basic points; that is, first, we must stop the destructive assaults on our intelligence agencies, which alone can provide the detailed evidence of Russian and Cuban terrorist assaults against the United States, its allies, and neutral states; second, we must reinstitute the economic and political embargo against Cuba; third, we must arrive at a national resolve to counter the Kremlin's political warfare and Cuban aggressions, and fourth, we must convince the Kremlin that we recognize clearly that they are ultimately responsible for Cuban depredations. We are indebted to Mel Laird for his continuing leadership in the interest of the free world.

The article follows:

THE MOSCOW-HAVANA CONNECTION

(By Melvin R. Laird)

A year ago, cooing sounds of rapprochement with Cuba were heard. U.S. Senators and journalists had flocked to Havana and returned with glowing reports of a new moderation. With American concurrence, the Organization of American States' 11-year-old trade and diplomatic embargo, imposed in retaliation for Castro subversion, was quietly ended. It seemed likely that Washington and Havana would soon resume the diplomatic relations broken in 1961.

Then, beginning last August, 14,000 Cuban combat troops, utilizing the latest weaponry, invaded Angola to crush the non-communist opposition and install a Marxist regime. The military power of the Soviet Union—combined with a growing neo-isolationist attitude in Congress—had emboldened Kremlin leaders to throw down a challenge beyond daring a few years ago.

Nothing reveals this new aggressiveness like the Moscow-Havana connection. In brazen defiance of the Monroe Doctrine, the Soviets have converted Cuba into a military base and springboard for anti-Western subversion and strategic thrusts all over the globe. Some examples:

Last spring, Soviet transports ferried 650 Cuban troops, pilots and technicians into the giant Soviet military complex at Berbera, Somalia, where they work with 2500 Russian troops. Cubans fly jet fighters, man missiles and coach guerrilla movements in Yemen and Somalia, preparing "wars of liberation" against Ethiopia, Djibouti and Oman at the Red Sea and Persian Gulf entrances—oil lifelines for West Europe and Japan.

Thirty members of the Cuban secret police—*Dirección General de Inteligencia* (DGI)—who were trained in the Soviet Union, staff a Havana institute that prepares English-speaking Cubans for infiltration into the United States as illegal espionage and terrorist agents.

The Cuban government maintains a Havana headquarters for a minuscule Marxist-Leninist party that encourages Puerto Rican violence. The Soviet and Cuban delegations have pushed a United Nations resolution endorsing independence for this island commonwealth, where only .6 percent favored independence in a 1967 referendum. This U.N. charade has a single purpose: to incite and support the Cuban-trained terrorists whose bombs have rocked Washington, New York and Chicago.

In Havana, Manuel Piñeiro "Redbeard" Losada, chief of the Soviet-backed "Department of America," oversees some 400 agents in stirring up trouble throughout the hemisphere. Twice in the last three years Cuban-trained exiles have landed secretly in the Dominican Republic in abortive efforts to organize guerrilla violence.

To understand the dynamics of the Moscow-Havana relationship, examine its evolution over the past decade. In 1967, Castro sustained a desolate defeat of his grand strategy of violent revolution when Ernesto "Che" Guevara failed in Bolivia to show that Cuba could create "many Vietnams" in South America.

Castro's incendiarism was so counterproductive, and his own economic mess such a mounting $500 million-a-year burden to the Soviets, that they decided to tether him. Oil deliveries to Cuba mysteriously began to fall behind. Sugar mills, factories, highway traffic sputtered. "We have trouble on the docks in Baku," Moscow explained. By mid-1968, Castro capitulated. He placed the DGI under a Soviet KGB general, who sits in an office next to the DGI chief in Havana. The general and his KGB subordinates approve the operational plans of all DGI divisions. Other KGB officers, sons of Spanish communists who fled to the Soviet Union after the Spanish Civil War, have become "Cubans" in the DGI.

The Soviets also imposed a "de-Fidelization" of the Cuban government and economy. Today, 7000 Russians sit in Cuban ministries and enterprises. The Cuban communist party has been remade in the Soviet image with a constitution modeled on the Soviet Union's 1936 Stalinist charter.

Castro's abject surrender was revealed at last year's Havana conference of 24 Latin American communist parties. Hence forth, the Castroites announced, all Cuban help would be given only through the Moscow-approved parties. Revolutionaries must discipline themselves, form a united front, abandon free-lance activity and resort to violence only under tutelage of the local Kremlin subsidiary.

Soviet control of the Cuban operations is virtually complete. In Cuba itself, Czech and Soviet instructors assist Castro's terrorists. Cuban experts joined the Palestinian training camps in Syria, tutoring terrorists from Japan, Germany and Iran as well as Arabs. The graduates depart to wreak global havoc.

MIDDLE EAST

For months, Cuban-supported terrorists in Iran have waged a war of assassination and kidnapping. One killed in a shoot-out last May was found to have been trained in Cuba itself. Victims include Iranians and three U.S. Army officers in Tehran. In February, during his visit to Moscow, Castro promised support to exiled leaders of the Iranian communist party. They are now coordinating Cuban-trained insurgents fighting Iranian forces in Oman.

LATIN AMERICA

In 1970, two Castro-schooled terrorists proclaimed a "People's Revolutionary Army" in Argentina to bring down the government. More recently, other Argentines have taken terrorist instruction inside Russia itself. They have waged a murder-and-kidnap campaign against police, the military, and Argentine- and foreign-owned businesses. Corporate giants have been forced to pay upward of $83 million to ransom executives or buy off murder campaigns.

WESTERN EUROPE

Three Cuban diplomats were expelled by France for collusion with a Venezuelan-born Moscow-trained terrorist who murdered two French policemen and an Arab informer. The Venezuelan fugitive, code named "Carlos"—real name is Ilich (for Lenin) Ramírez Sanchez—is a go-between for German, Japanese and Arab terrorists who have seized embassies, kidnapped political figures and murdered people in Germany, Sweden, Holland, France and Austria. "Carlos" fled to Libya after staging the sensational kidnap of the 11 oil ministers in Vienna last December.

UNITED STATES

Since 1969, more than 2400 young American radicals have visited Cuba as members of the so-called Venceremos Brigades. They spend weeks cutting cane, building schools, undergoing indoctrination and being evaluated by the KGB and DGI as future illegal intelligence agents or supporters for terrorists whose bombs have hit the Capitol, Pentagon, State Department and other targets from coast to coast.

ANGOLA

In January 1975, the Portuguese government and the three Angolan liberation groups agreed on a peaceful transition to independence. By March, the Moscow-spawned Popular Movement for the Liberation of Angola (MPLA) was receiving huge supplies of Soviet Arms.* By April, Cuban advisers were in Luanda instructing MPLA troops. By May, a high-ranking Red Army delegation had arrived in Havana to arrange the massive dispatch of Cuban combat troops to Angola.

Those troops began, arriving in August. Their mission: to operate the sophisticated Soviet weaponry for MPLA attack columns and to control newly conquered areas while the thinly stretched MPLA forces finished their sweep. By early December, 5000 Cubans were engaged in combat; behind the lines the Soviets had an estimated 400 advisers.

Meanwhile, U.S. Secretary of State Henry Kissinger publicly warned the Soviets that they were risking détente by their blatant intervention. For two weeks, the Kremlin and Havana appeared to hesitate, but DGI's intelligence analysts advised Castro and Moscow that the United States, traumatized by the Southeast Asia collapse and Watergate, would be unable to respond.

It proved prophetic advice. On December 19, the U.S. Senate, by a 54–22 vote, amended a foreign-aid bill to forbid any spending for CIA aid to Angola.

Six days later, on December 25, the Soviet airlift resumed. Within a month, the Cuban troop strength zoomed to 12,000. In January, the anti-Marxist forces still controlled about 70 percent of Angola's territory and population. But within weeks, Angola had fallen to the communists. In February, when Castro addressed the 25th Soviet Communist Party Congress in Moscow, he and the assembled comrades were triumphant.

WHAT NEXT?

This kind of Marxist intoxication in the Kremlin poses the greatest danger to world peace. The very day the U.S. Senate passed its no-aid-to-Angola amendment, top Soviet strategist Mikhail Suslov uttered this portentous threat at the Communist Party Congress in Havana: "The revolutionary-liberation movement, now as never before, is linked into a unified global whole. The Cuban revolution has placed an indelible imprint on the development of the whole liberation process in Latin America. Prospects for the second liberation of the continent are becoming increasingly real."

Coming from a man who promoted the "liberation" of Budapest, Prague and Saigon, these are dangerous words which require immediate and long-term U.S. responses:

1. We must stop the destructive assaults on our intelligence agencies, which alone can provide the detailed evidence of Russian and Cuban terrorist assaults against the United States, its allies and neutral states. These attacks have vastly hampered the collection and analysis of intelligence on Soviet-Cuban intervention in Angola and KGB-DGI-orchestrated terrorist campaigns against the United States and other nations.

2. We must reinstitute the economic and political embargo against Cuba. Such sanctions will not topple the totalitarian regime, but they will diminish Castro's capacity for mischief, terror, subversion and armed aggression. And the sanctions must be supported by all our allies, including NATO nations and Japan. They are all now targets of the terroristic regime they are helping to strengthen via trade. Trade should promote peace—not aggression.

For the same reasons, we should not hesitate to use economic sanctions against the Kremlin's aggressions. Even as the Angolan invasion mounted, U.S. representatives in Moscow continued to negotiate a pact, announced October 20, under which the Soviets are buying millions of tons of American grain to support their faltering collectivized agriculture. The fact also envisioned our supplying the Russians with much-needed American oil-well technology that will boost their production within 18 months by 700,000 barrels daily.

3. We must arrive at a national resolve to counter the Kremlin's political warfare and Cuban aggressions. The Cuban invasion of Angola occurred only because of the communist conviction that the United States was in such internal disarray that it lacked the will to resist.

We desperately need a Congress and a White House that are united in this resolve. Says Brookings Institution defense analyst Barry Blechman: "Only by demonstrating a willingness to make major issues of single events which, in isolation, sometimes appear relatively insignificant can the United States bring the Soviet Union to understand that the process of normalizing our mutual relations requires concessions on both sides."

4. We must convince the Kremlin that we recognize clearly that they are ultimately responsible for Cuban depredations.

Our entire relationship with the Soviet Union, including trade and the strategic-arms-limitaion negotiations, is at stake and must be carefully and realistically reappraised. We must stop passively swallowing Moscow's baited proxy challenges at the time, place and manner of their choosing—and make our responses where, when and as we choose.

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*Sec. "Angola's Made-in-Moscow War," The Reader's Digest, June '76.

IN RECOGNITION OF JAMAICA'S 14TH YEAR OF INDEPENDENCE

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, August 2, 1976

Mr. RANGEL. Mr. Speaker, I am pleased to bring to the attention of my colleagues the celebration today of the 14th anniversary of the independence of our Caribbean neighbor, the island of Jamaica. Long a friend of the United States, known to Americans as one of the most beautiful places on Earth, this tiny nation has in recent months suffered from negative publicity in the media resulting from the Government's efforts to achieve rapid social and economic change.

Jamaica's problems are not new. Beset by economic and social difficulties throughout the period of her independence, Jamaica is a poor nation with only limited natural resources. Unemployment has been a constant problem, and presently it is estimated that the unemployment rate in the society is over 30 percent.

The Prime Minister of Jamaica, Michael Manley, who has committed his Government to a broad program of modernization, rectifying the sadly uneven distribution of wealth and putting people back to work. Since his election in 1972, Mr. Manley has taken great strides toward achieving these goals. His management of the budget has reduced remarkably the income disparities which had plagued the island, primarily through public works projects employing thousands. For those that remain unemployed, education programs aim at preparing young people for trades which will be of use later in life. These latter programs have also been responsible for 150,000 adult Jamaicans becoming literate. Finally, Mr. Manley's land reforms have aided small farmers and resulted in greater crop yields.

The Jamaican story is made more extraordinary by the firm adherence by the Prime Minister to democratic norms and values. Unlike leaders of many developing nations, he has relied on popular participation and local involvement to shape his policies. Mr. Manley is a leader in the best tradition of liberal democracy who understands the needs and concerns of his people.

On the anniversary of independence, Jamacia looks forward to a future of prosperity much as we have recently done during our Bicentennial celebration. The Jamaican leadership deserves our praise for the steps taken so far to assure this for all her people, and it is in the best interest of the United States to contribute to her attempts at developing a strong, democratic and equitable society. That is what our Bicentennial is all about. For my colleagues review, I would like to insert a portion of a speech delivered by Prime Minister Manley on May 12, 1976:

IN RECOGNITION OF JAMAICA'S 14TH YEAR OF INDEPENDENCE

A WATERSHED

Jamaica is at one of those great difficult taxing watershed moments that occur in history as a country evolves—a time of fundamental change.

In 1962 political independence opened a door, but those who led then forgot that we had lived with two forms of difficulty—the denial of political rights and an economic system which cannot produce justice for mankind.

IMPERIALISM

We are conscious of this and try to be the agent through which change can be expressed in Jamaica.

We are the product of the process in history known as imperialism. That process established a lopsided economy based on monoculture, made us dependent on imports, lacking in education, lacking in technology, and lacking in self-confidence. It also planted a capitalist structure and psychology in Jamaica and divided the people into a minority who were the beneficiaries of the imperial process and a majority who were its victims.

This system produced a situation whereby in 1972 one-quarter of the adult population could not find work; 300,000 could neither read nor write; all our bauxite lands had been sold off to foreign ownership; such of the best land as remained was concentrated in a very few hands.

Against this background Third World leaders are working together to change the world in which we live and trade.

MORAL RELATIONSHIP

Inside Jamaica, the philosophy of democratic socialism seeks to achieve social justice, development and equality through the political management of the economic process. It seeks to define a moral relationship between all the citizens and to invoke political management to secure the most rapid possible approach to that moral relationship.

It has to be democratic because only all of the people, acting in concert, can ensure that the political process secures a moral purpose in the workings of the economy.

NATIONAL BROTHERHOOD

Attitudes will have to change for the society to accept the idea of a moral outcome to economic activity because the other system has taught that the only purpose of ecnonomic activity is personal gain. The changes will have to show that our economics must be moral in its outcome, serving the needs of the society as a whole with proper rewards to the individual and a wider sense of national brotherhood.

Internally, one has to work towards control of the economy. This involves the power of the state to create a framework of social justice by developing the democratic institutions to ensure that people have the means of making decisions that affect their lives. It also means the development of our human resources so that they are capable intellectually, emotionally and psychologically of meeting the demands, opportunities, responsibilities and attitudinal requirements of a society of justice.

1962–72

In examining our present situation, we have to take a look at the forces at work between 1962, when we gained political independence, and 1972 when this Government took office.

The period of the 60s has come to be known as the booming 60s—a time of unprecedented well-being in the world. Unemployment, which was 13 percent in 1962, had grown to 23.6 percent by 1972.

Taking another indicator, migration in 1962, was 12,000 but in 1972 it had climbed to 31,000.

SINCE 1972

In contrast, 1972 we have:

revolutionised the employment status of women;

distributed land on an unprecedented scale;

waged a major attack on illiteracy;

returned bauxite lands to national ownership.

I must deal with criticisms regarding help to Jamaica from Cuba in certain areas.

MICRO-DAMS

For example, microdams. We need water for our poor farmers. Cuba has perfected the technique of entrapping water in microdams.

It is planned to build 234 micro-dams in four years with total capacity of 17.5 billion gallons, which can irrigate 50,000 acres of new agricultural land. This has been made possible by assistance from Cuba.

SPECIAL EMPLOYMENT

Only 4,000 of the 30,000 employed in the Special Employment Programme are engaged in street cleaning and similar activities, and only $7 million of the total of $53 million is spent on this aspect of the programme. The remainder is employed in dynamic economic activity providing essential infrastructure, mainly for farmers, such as watershed works, roads, forest protection and terracing.

HOUSING

New techniques have been introduced to increase the amount of housing available to the poor. The Cuba/Jamaica housing project in Falmouth will provide 426 3-bedroom units and infrastructure. The prefabrication plant was given by the Cuban Government.

The Sites and Services Programme will provide 6,000 units in 3 years.

EDUCATION

In education, basic school enrollment, which stood at 58,000 in 1972, will pass the 100,000 mark this year. The budgetary provision of $250,000 in 1971 has been increased to $4.2 million this year.

Teachers in these schools who were earning as little as 50 cents per week are now being paid between $20 and $25 through a government subsidy.

Enrollment in the secondary and tertiary school system has increased from 83,000 in 1971 to 151,000 in 1976. Overall, a total of 101,900 additional places have been created in the educational system.

The literacy programme is also moving forward with a total registration of 175,000, with some 55,000 actually having been made literate. Targets for 1976 include an enrollment of 200,000 and a teaching staff of 20,000 volunteers.

COST OF LIVING

On the cost of living, everyone knows how we fought and our newest effort involves a system of voluntary price investigators who will begin work on a pilot basis in Manchester and St. Elizabeth.

WAGES

It should be recognized, however, that although there was a 90 percent rise in the cost of living between 1972 and 1975, remuneration to employees rose from $660 million to $1,568 million, an increase of 137 percent. National disposable income rose by 117 percent.

In 1960, the Jamaican economy provided 570,000 jobs, and, in 1972, 598,000—a growth of 28,000 new jobs in twelve years.

In the four years 1972–76 this Government has provided 87,000 new jobs.

A look at actual wages shows that a man's pay went up from $1.50 per day to $2.10 between 1962 and 1972—40 percent. A woman's wage rose from $1.35 to $1.60—18 percent. After four years, the position is that men's wages have gone from $2.10 to $5.30 and women's from $1.60 to $5.30—152 percent and 231 percent respectively.

WAGE RESTRAINT

A word to the trade union movement is essential. It is a fallacy that rapidly escalating wages for a majority of the population provides the demand through which slowly the rest of the population can be employed.

There has to be restraint as well as a concern for productivity. Government has enforced the strongest price control policy in the history of this country. We have frozen salaries above $16,000 and we are in discussion with professional groups about restraints.

Our tax policy provides for a just sharing of the sacrifices necessary.

Let the country be warned, however, that we cannot go on increasing the benefits to those who already have without increasing the number of people who have no benefits at all. That is why we must have restraint that others may have hope.

FOREIGN POLICY

On foreign policy, let me remind that this policy is based firmly on the maintenance of traditional friendships. For example, in our bauxite strategy, we will not deny to the U.S. one ton of bauxite. But we will not accept that the marketing of our most critical resource is dependent upon one source of demand. Our strategy, then, is to diversify. We are exploring new markets. The JAVA MEX plant is going to be built, because we have pursued a Third World possibility, involving Mexico and Venezuela. Because of our Cuban relationship, we have also been able to open up new market opportunities in such areas as Algeria and Hungary.

SOUTHERN AFRICA

Another tenet of our foreign policy is bound up with the struggles of Southern Africa. For when you talk about the struggle for better sugar or bauxite prices, for better terms of trade and for a new international economic order, it is not a struggle in bits and pieces. It is one struggle aimed at the change of that world system which has, as one of its hinges, the economic power of Southern Africa.

Therefore, the struggle to liberate Angola is part of the same battle for sugar prices.

And look at Mozambique. Rhodesia sits there as one of the remaining focal points of the struggle. At the Commonwealth Conference in Kingston, we all pledged that if Mozambique became independent she would be critical to that struggle. And we pledged that, if she would have the courage as a new poor nation to close her borders, we would all chip in what we could. It is for this reason that Jamaica is pledged to contribute $50,000 annually to that country's survival.

DEMOCRACY

I will say something about democracy, which is our passion, our guiding principle. We are building a democracy in which Parliament is sacred, and the local-government system is strengthened.

Beyond that Community Councils will provide an integral organisation to work with local government.

At the student level, by the end of the calendar year, each student council will be part of a regional council representing students relating to five educational regions. By the start of next year, regional councils will have elected the National Council of Students, who will have access to the Minister to discuss the great decision-making issues.

SOCIAL JUSTICE

As part of our programme of social justice, we have enacted the Industrial Relations Act, which for the first time establishes the legal right of the Jamaican worker to trade-union representation. It also establishes the fundamental right of reinstatement in cases of wrongful dismissal.

The National Minimum Wage Law establishes the principle that no human being can be asked to work for less than a certain sum as determined by the state. The Termination of Employment and Redundancy Payments Act has at last brought to an end the concept of master and servant, and replaced it with the concept of dignity for all labour, even where there is no trade union to protect them.

There is also the sugar workers' out-of-crop Guaranteed Employment Bill, which enshrines the fundamental principle that workers who help to earn profits during the sugar crop should not be discarded out of crop.

Then there is the Family Court, which is providing an atmosphere in which the problems of the family can be dealt with in a court that is sensitive to those problems.

New legislation is coming to provide that dependents of a deceased can make a claim on his estate by establishing that they were in fact dependent.

LAND LAWS

There is to be a new trio of land laws as part of Government's land reform programme. The Land Bonds Act already passed provides that lands acquired for a public purpose by Government may at its discretion be paid for wholly or in part by land bonds. It will also provide that where a residence is part of the property acquired it will be paid for in cash.

The Land Development and Utilisation Act will empower the Government to compulsorily lease idle land for an initial period of 10 years.

Significantly, also, there will be new land to abolish the concept and meaning of illegitimacy in this country.

The Land Acquisition Act will give the Government powers to acquire, in the public interest, lands which have not been declared idle.

These laws will put the Government in a position to ensure that all idle lands are brought into production and secondly to acquire, at realistic prices, properties that are critical to the development of any area.

NATIONAL HOUSING TRUST

The National Housing Trust which arose out of a proposal by the trade union movement has been attacked by the opposition. This scheme will not only build twice as many houses for the country, but will also provide mortgage money for persons who never had access before and will provide funds for repairs and extensions. Any rejection of this scheme is an insult to the country's trade union movement and to the parliament that passed the law.

SOCIAL RESPONSIBILITY

We say we must change the system internally and externally, guaranteeing the security of property in a context of social need and group rights, guaranteeing liberty in a context of social and group responsibility, replacing the principle of competitive aggressiveness with the principle of cooperation, replacing the philosophy of personal acquisitiveness with the philosophy of brotherly duty and service.

The JLP's road is an old low road, which assumes the most cynical view of the possibilities of man's nature. The PNP's road is a new high road based on an undying faith in the moral possibilities of man's nature.

A MORAL CONTEXT

They have presented a clear message of reformist capitalism. We stand for Democratic Socialism with a mixed economy and a system in which social justice and equality are the prime concern of the society. Because it is the only condition in which my liberty, my rights, my freedom are secure because they stand in a moral context and will survive securely, because they have not been achieved at the expense of or by the exploitation of my brother or my neighbour. That is why we have asked businessmen, professionals, nurses, teachers, farmers, machinists, cane-cutters, grass-weeders, architects and the men of God to share in this dream and help in the building of a democratic socialist society.

SACRIFICE

But there is always the group which will not accept change and fights tooth and nail to stop change. But you cannot create a just society without some sacrifice that others may advance.

DESTABILISATION

Recent history is replete with evidence of not only action within nations to stop change, but of international action as well. The unexplained violence at sophisticated levels, upsurge in industrial unrest, organised letters to the press, internationally orchestrated articles published in newspapers, the slowing-down and entangling of aid, are evidence of the destabilisation process. In not one case in history has the country destabilised been able to prove it. Destabilisation operates so skillfully through manipulators. I make no charges, but I do put the country on the alert because the things now happening in Jamaica are not by accident.

Let us look at what is happening. Twelve thousand Jamaicans have migrated last year, some of whom are opposed to change. There is the Mafia, who tried to establish Jamaica as a major transhipment centre for hard drugs. This same Mafia provides some of the channels through which money is illegally taken out of the country. We also note the spate of foreign articles since we took our stand for truth, justice and liberation for Angola.

CONFIDENCE

But, if we only have the confidence among ourselves, our country cannot be destabilised if its people understand the truth and do not allow the manipulators to tell them what to do.

For 300 years, we lived on our knees and in chains. In 1962, we cast off the chains but for ten long, sad years we remained on our knees, because or leaders would not ask us to stand up.

The JLP has declared that it is in the middle of the road. It deceives no one. They are on the extreme right.

CONCLUSION

I took up my position on the left when I was old enough to perceive and understand the nature of poverty and injustice in the world.

I took up my position as a democrat on the left when I came to understand how the elitists of history manipulate the people to preserve their own power and privileges.

Therefore, Power for the People is not a slogan for us but a summons of the will of a people to take up the challenge of true democracy and political self-reliance.

Our mission is to keep our nation on its feet marching forward in the struggle against injustice and up that long winding road that leads one day, in God's good time, to a world and a nation from which poverty has been banished once and for all.

AMENDMENTS TO CLEAN AIR ACT

HON. TIM LEE CARTER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Monday, August 2, 1976

Mr. CARTER. Mr. Speaker, I have two possible amendments to the bill, H.R. 10498, the Clean Air Act Amendments of 1976.

My amendment to section 108, on page 201 of the reported bill, would eliminate the arbitrary reduction by the proponents of this provision of primary ambient air quality standards for certain pollutants.

My amendment striking section 115 of the bill would eliminate the special treatment provided already dirty areas by continuing congressional policy in the 1970 act which provided that all areas of this Nation must attain and maintain ambient air quality standards. Section 115 would allow continued pollution of dirty areas, and I do not believe such a policy is consistent with the intent of Congress.

POST CARD REGISTRATION: MAKING IT WORK

HON. DON BONKER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Monday, August 2, 1976

Mr. BONKER. Mr. Speaker, this week the House will be considering H.R. 11552, the Voter Registration Act. This proposal was rejected by a vote on the rule last session, and it has been held up by the Rules Committee until recent days. The labor-backed measure has considerable merit, but for anyone who has taken time to examine this bill it contains serious deficiencies which I hope will be corrected before final passage.

As a former county supervisor of elections, I am concerned that we develop a program to achieve greater voter participation without disrupting existing State and local voter registration systems. I am keenly aware that our election laws have done more to frustrate and inhibit than to encourage the voter on election day, and it is for that reason I am compelled to speak out as the House begins its deliberation on post card registration. I join many of my colleagues who feel it is time for Government, and specifically the Congress, to shed its passive role in getting the people to the ballot box. We can no longer sit back and accept the decline in voter participation we have seen in this country over the last two decades.

While I feel strongly that we need renewed efforts to get people registered and to the polls, we should not hastily enact a bill that will be counterproductive as I believe H.R. 11552 to be. Here are just a few of the problems:

First. For the first time, the Federal Government will become involved directly in the registration process, a function traditionally left to State and local governments.

Second. The Voter Registration Administration—VRA—represents a new bureaucracy which duplicates and may preempt State and local responsibilities in this area.

Third. The cost is enormous, and may run way in excess of the $50 million estimated in the bill.

Fourth. The waste is unconscionable, with Federal voter registration forms going to every household in the country every 2 years. It is estimated that this amounts to 500 stacks of forms equal in height to the Washington Monument.

Fifth. The distribution formula is also wasteful. Two-thirds are already registered, which guarantees two-thirds waste. Also, households may include anywhere from one to six eligible voters. How does the mailing accommodate such a task?

Sixth. The greatest fear is the possibility of creating dual voter lists—one for Federal electors and one for State and local electors. Here is what happens: A prospective voter receives a Federal form in the mail, completes and returns it to the State. On election day he discovers that he is registered to vote in Federal elections only, thus is ineligible to vote for State and local offices and issues.

Seventh. The administrative problems created by Federal mass mailing are enormous. Local election officials, when they receive a completed Federal form must check to see if the person is previously registered. If so, the person is so notified; if not, he is registered and sent a registration notification form. Two sets of registration lists are necessary—one for Federal and another for State and local elections. Election workers will have to work with both lists. Each precinct will require two sets of paper ballots or voting machines—again, one for Federal candidates and one for State and local candidates and issues.

Mr. Speaker, because I am so committed to postcard registration I will introduce my own proposal in the form of three amendments. My proposal will include achieving the important objectives sought in H.R. 11552, while at the same time addressing the very real concerns that I share with State and local election officials who administer the voter registration programs.

First, however, I would like to distinguish between the "mass mailing" feature in the bill and "post card registration." The Federal mass mailing program is an effort to mail registration forms to every household in the country. Post card registration, or registration by mail, provides a voter registration form designed like a modified post card. Prospective voters can obtain such forms at public buildings, labor halls and other convenient locations. The forms can also be distributed by party workers at fairs or door to door. The distinguished advantage of post card registration is that this form, which can be so readily obtainable, can be completed and mailed to local elections officials with ease by each voter.

States do and can have post card registration without the necessity of the mass mailing of registration forms. Seventeen States, including Maryland, New Jersey, and Minnesota, have had successful experiences with post card registration without the mass mailing feature. The District of Columbia is the lone example of a post card registration system with mass mailing, and it is my understanding that some 578,000 registration forms mailed by July 16 have to date generated only 6,000 responses.

My first amendment would eliminate the mass mailing provisions of H.R. 11552, thereby saving millions in printing and postage costs. We also save the colossal waste caused by mailing to people already registered.

The second amendment insures that in adopting forms the VRA will adopt the State post card forms for any State which had developed one in compliance with the act and the rules and regulations of the administration. This avoids the administrative nightmare and voter confusion inevitable with a dual registration system and keeps elections administration where it should be—with the States.

Third, I propose to change the effective date to January 1, 1979, to give States a chance to adopt post cards systems before a separate registration for Federal elections is instituted. Moreover, does anyone really know what implementing this bill immediately—for this election—entails? Among other things, 150-plus million post card registration forms will have to be mailed this Wednesday under the provisions of this bill as reported.

I hope my colleagues will seriously consider these amendments in an effort to make this program work. It is with some reluctance that I offer them because of the total commitment of those who want to see increased voter participation and, frankly, from labor organizations and our party nominee. However, I would be less than honest if I did not confront what are to me, based on 8 years of election experience, serious and even dangerous flaws in this legislation as it stands.

Mr. Speaker, I would again reaffirm my support of the voter registration by mail concept. My bill would achieve the objective sought by those who support this concept without the administrative problems and wasteful spending that is inherent in a mass mailing program. We can insure that people have access to the ballot box by simplifying registration procedures and making registration easy and convenient. My amendments are intended to accomplish this.

I include the following:

Amendment to H.R. 11552, As Reported Offered By Mr. Bonker

Page 5, line 21, insert "(1)" immediately after "(b)".

Page 6, immediately after line 10, insert the following new paragraph:

"(2) In any case in which a State uses a voter registration form which is prescribed by State law and which complies with the requirements of this Act and with rules and regulations issued by the Administration under this Act, the Administration shall permit such State to use such form in lieu of the voter registration form prepared by the Administration under subsection (a)."

Page 10, line 15, strike out "the" and insert in lieu thereof "a".

Page 10, beginning on line 15, strike out "prescribed by this Act" and insert in lieu thereof the following: "approved by the Administration under this Act".

Amendment Offered By Mr. Bonker to the Amendment Offered By Mr. Thompson to H.R. 11552, As Reported

In the amendment relating to section 16 of the Act, insert immediately after "on" the following: "January 1, 1979, except that the provisions of section 3 shall take effect on".

AMENDMENT TO H.R. 11552, AS REPORTED
OFFERED BY MR. BONKER

Page 7, line 2, insert "and availability" immediately after "distribution".

Page 7, beginning on line 2, strike out "accordance with the provisions of this section." and insert in lieu thereof the following: "post offices and appropriate Federal, State, and local government offices. Such registration forms shall be generally available, and this section shall not be construed to place any time limitation upon the duration of such availability."

Page 7, strike out line 8 and all that follows through line 15.

Page 7, line 16, strike out "route.".

Page 7, strike out line 22 and all that follows through page 8, line 2.

Page 8, line 3, strike out "(d)" and insert in lieu thereof "(b)".

Page 8, strike out line 7 and all that follows through line 11.

IMPROVING FREE ENTERPRISE

HON. JAMES ABDNOR

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, August 2, 1976

Mr. ABDNOR. Mr. Speaker, I would like to share with my colleagues another essay which won a top award in the South Dakota Stockgrowers Association annual essay contest.

The topic for this Bicentennial Year was "How the Free Enterprise System Can Be Improved." The following essay, by Eric Uecker, provides an interesting perspective of the American economic system and the role of the Government and Government regulation in the system. The author then offers some suggestions as to improving our free enterprise system.

The article follows:

HOW THE FREE ENTERPRISE SYSTEM CAN BE IMPROVED

(By Eric Uecker)

To answer the question, "How the Free Enterprise System can be Improved," we must first have an understanding of what the free enterprise system is.

Adam Smith in his book, "The Wealth of Nations", published in 1776, first presented the concept of free enterprise. Under a free enterprise system the means of production is privately owned and controlled, each individual may make his own decision in economic life, and an individual's income is roughly in proportion to his contribution to the system in labor and resources.

The free enterprise system makes the critical decisions of how much of what will be produced, who will be doing what task of production, and how much of the produced product at what cost will each individual receive.

The first decision is made by the consumer. The consumer decides how much of what will be produced by the way they spend their money. If a product is popular large quantities are purchased and more money goes to the producer, giving the producer more profit. In return the producer produces more of the popular product. On the other hand, if a product isn't popular small quantities are purchased and less money goes to the producer, giving the producer little profit or even a loss. In return the producer looks for a new product that will be popular so he can make a profit. In either case the consumers control the market to their advantage.

The second decision is made by the individual laborers. The laborers decide who will do what task by choosing their occupations. They will choose jobs in the more prosperous industries where there is more money available for wages. This is advantageous to the system because even though the decision is made in the self interests of the laborers, it puts the labor force where it is most needed.

The last decision is made by how badly consumers want and how much they are willing to pay for a product. Products go to the people most willing to pay for a product. The cost of a product is determined by the demand (and cost of production). If the demand goes up prices go up because there is competition to buy, so the product goes to those most willing to pay. If demand goes down the price goes down to create more demand for the product.

Competition is not of the most important ingredients for successful free enterprise. Competition between producers benefits the consumer by giving him the most for the money. Competition between labor benefits the producer by providing him with low cost labor. Nearly everyone benefits from competition.

This is how the free enterprise system is supposed to work. However, we will find many problems in adoption of pure free enterprise.

First let's go back to the critical decisions an economic system must make. The consumer cannot manipulate the market unless he has a wide choice of what to buy. His choice can be restricted when monopolies or near monopolies created by giant corporations exist.

The second decision can also be altered under a pure free enterprise system. If the consumer's demands are not being interpreted by the corporations then profit occurs in the wrong areas because of the market's inability to change, thus labor goes to area of false profit.

The third decision can be poorly made under a pure free enterprise system. This stems from the basic cause of the other two. When demand is restricted by lack of competition there is no one to compete for providing the most for the money, so prices can be controlled by a small group of corporations.

Another dreadful thing that can happen under the system is exploitation of a labor group because of their position, such as the sweat shop situation of the last century. This is caused by the corporation's ability to control the working masses.

So we can see that the basic problems in the system arise from monopolies, lack of competition, and the unchallenged powers of corporations.

The federal government tries to avoid these problems within the system by implementing market controls. However, we shall see that many government controls over the free market do more harm than good.

To solve the problem of monopolies controlling consumer choice, the government institutes antitrust laws and campaigns against monopolies. This is great for the free enterprise system. However, the government goes overboard in its efforts to help small business to compete with large corporations by imposing fair trade laws supposedly to prevent big business from underselling small businesses to drive them out of business. The biggest failing of fair trade laws is that they go against competition which is necessary to make the system work.

To solve the problem of exploitation of labor, unions have been formed. Also minimum wage laws and safety standards have been instituted to protect the working class. These laws are basically good. However, in some cases the minimum wage is too high and safety regulations are too strict.

The biggest mistake of the government in controlling the market is subsidizing failing businesses. The government subsidizes businesses that it thinks should be saved. This is a huge mistake! First, it is unnatural. The government blocks the responses of the market. Second, it is inflationary. Under subsidies businesses that would otherwise fail, continue to compete for resources, raising the cost of resources, which raise costs of all manufacturers, who in turn raise prices to the consumer. And third, subsidies cost the government money which could be better spent elsewhere.

I believe the best way to improve the free enterprise system would be to eliminate many government regulations over the free market. Fair trade laws and government subsidies should be phased out. The minimum wage should be reduced. Safety regulations for businesses should be relaxed. The antitrust campaign should be increased as these laws are relaxed, creating an almost completely free market. I believe this would be the best method because it would eliminate the causes of many problems under the system without being over restrictive.

The free enterprise system is the best economic system yet devised. The Russians have found it necessary to provide monetary incentives, for workers to get them to produce to capacity. The Socialist nations have found problems in the inefficiency of a bureaucracy. This inefficiency is seen in the U.S. For example, the U.S. Postal Service (government owned) is 40 percent less efficient than the United Parcel Service (privately owned), and U.P.S. costs less to use.

The free enterprise system has not yet been surpassed. With a few changes the system can be extremely sound.

INTERNATIONAL TERRORISM

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, August 2, 1976

Mr. GILMAN. Mr. Speaker, the resolution I am introducing today is addressed to the exigent necessity to preserve civilized nations from the further calculated destruction of international terrorism. There is no question but that we must meet the diabolical menace of international terrorism with a greater resolve than has heretofore existed. We must launch an intensified, coordinated attack against international terrorism.

Secretary of State Henry A. Kissinger, in an address before the American Bar Association's 1975 annual convention in Montreal, asserted that—

> The modern age has not only given us the benefits of technology; it has also spawned the plagues of aircraft hijacking, international terrorism, the new techniques of warfare. The international community cannot ignore these affronts to civilization; it must not allow them to spread their poison; it has a duty to act vigorously to combat them....
>
> The United States is convinced that stronger international steps must be taken and urgently to deny skyjackers and terrorists a safe haven and to establish sanctions against States which aid them, harbor them, or fail to prosecute or extradite them.

The stage for terrorism is vast; the contextual parameters are global. In 1970, a spokesman for the Popular Front for the Liberation of Palestine declared:

> There can be no geographical boundaries or moral limits to the operations of the

> peoples' camp. In today's world no one is innocent, no one is neutral.

Terrorism is a threat to the very foundation of international relations. As former Secretary of State William P. Rogers stated before the 27th session of the U.N. General Assembly:

> In short, the issue is whether the vulnerable lines of international communication—the airways and the mails, diplomatic discourse and international meetings—can continue, without disruption, to bring nations and peoples together. All who have a stake in this have a stake in decisive action to suppress acts of terrorism.

Hijacking is indeed one of the most virulent manifestations of international terrorism. As a U.N. Secretary's report to the General Assembly in 1972 stated:

> The modern aircraft . . . is perhaps the most vulnerable of all high and complex development of technology, . . . contains assemblages of people many from countries, . . . and if brought under the terrorists' control, offer a speedy and safe means of reaching a distant asylum abroad.

The steps we must take are clear: we must deny any such asylum to terrorists and we must convey to any terrorists the message that there is an aggressive, coordinated multinational effort to apprehend and mete out penalties to these terrorists that are equal to their heinous crimes.

The malignancy of international terrorism was recently demonstrated at Entebbe Airport in Uganda as pro-Palestinian hijackers held 256 hostages aboard a French airliner. The Entebbe terrorists sought to impose their demands through threat of "severe and heavy penalties" if their demands were not met. While three hostages were killed in an ensuing battle to free the hostages, the death toll could have been significantly greater as the terrorists, acting according to the dictates of their whim, continued to control the fate of those hostages aboard the aircraft.

Mr. Speaker, currently there are three international treaties—the Tokyo Convention, the 1970 Hague Convention, and the Montreal Convention—dealing with the hijacking problem. Attempts to make these conventions more effective by providing sanctions against nations harboring hijackers have failed. Moreover, the conviction rate of hijackers—including sentences actually imposed—has been unimpressive.

Yet, there is a glimmer of hope in the antihijacking resolution introduced at the U.N. Security Council recently by the United States and Great Britain, condemning "hijacking and all other acts which threaten the lives of passengers and crews," and which called on all countries "to take every necessary measure to prevent and punish all such terrorist acts." While this resolution was defeated, its sponsors were encouraged by the fact that the vote of the 15 member Security Council was six in favor, two abstentions, and seven nonparticipating—the resolution failed by only three votes. The voting encourages one to predict the emergence of a watershed of intolerance within the international community toward the heinous acts of terrorism.

The resolution I am introducing comes at a critical juncture in the history of efforts to vanquish the forces of international terrorism. Now, more than ever, there is the chance that a civilized international society will prevail over those who would seek to throw that society into chaos.

We are, however, confronting a formidable foe. For as David Fromkin, a recognized authority on international terrorism asserted:

> These terrorists seem to thrive and multiply everywhere in the world, bomb or machine gun in hand, motivated by political fantasies and hallucinations, fully convinced that their slaughter of the innocent will somehow usher in the millenium for mankind.

Mr. Speaker, there is no question but that we must act quickly. While there were only 46 reported aircraft hijackings between 1930 and 1967, between 1968 and the end of 1971, the number of hijackings increased to 170. During that period approximately 100 persons were killed and 142 injured in aircraft related acts of terrorism. From 1972 through the present, estimates indicated that 387 persons have been killed and 177 wounded from terrorist related attacks on the aircraft.

The utterly contemptible nature of these acts is underscored when we consider the extent of conflagration and bloodletting in which some of these abominable deeds have concluded. I recall the recent hijacking in May, of a Philippines Air Lines jetliner in Mindanao, by six gunmen believed to be rebel Moslems, that ended in a fierce gun battle leaving 10 passengers and 3 hijackers dead, and the plane destroyed by fire.

In September 1974, a TWA flight to New York exploded just after takeoff from Athens, killing all 88 persons on board—a Palestinian group quickly claimed responsibility for the explosion.

Yet, as respected Washington investigative reporter Judith Miller recently pointed out:

> Terrorism cannot be measured by statistics. It is violence in its most pernicious form; its victims are innocent; it is unpredictable. And its impact is all the greater because it makes one's own Government seem either helpless or heartless—unable to protect its citizens or callous in the remedies [to effect their release] it employs.

As Judith Miller indicates, while the FBI has a better than 90-percent capture rate concerning criminals involved in kidnapings for ransom, a terrorist involved in an international kidnaping has about an 80-percent chance of escaping capture or death. The average sentence for those caught and brought to trial has been only 18 months. Thus, of 267 international terrorists captured since 1970, a total of less than half were still in jail in September 1975.

In the wake of Entebbe, the United States must, in the strongest manner possible, impress upon the other members of the international community, the exigency of the hijacking problem.

Moreover, we are all too familiar with the havoc and destruction left by other forms of international terrorism and thus, we cannot address our actions merely to hijacking. Incumbent upon those outraged by brazen attacks, assassinations, threats, and the taking of innocent hostages, is the obligation to minimize those opportunities that terrorists have to reach center stage before those nations they wish to extort.

We must also seek the establishment of an appropriate forum within the United Nations framework within which nations may undertake an ongoing study and dialog concerning the root causes and nature of terrorism, and the most efficacious long-term proposals to eradicate this phenomenon from the international community.

While I strongly encourage the sincere and determined efforts continuing within other quarters against international terrorism, I realize also that the United States must not hesitate to utilize those means already approved by Congress, to combat international terrorism.

Mr. Speaker, we must thus initiate an intensified international effort against the scourge of terrorism. We must stir the councils and fora of the international community so that what results is more than an embroglio of counterproductive polemics and nationalistic diatribes. At stake is nothing less than preserving the basic fabric which knits together the civilized elements of our international society.

Accordingly, I urge my colleagues to support this legislation and I insert the full text of this measure at this point in the Record:

H. Con. Res. 697

Urging the President to take certain measures against countries supporting international terrorism and persons engaging in international terrorism and to seek stronger international sanctions against such countries and persons.

Whereas abhorrent acts of international terrorism have resulted in the death and injury of many innocent persons and have caused serious disruption of the channels of international commerce and diplomatic discourse;

Whereas international terrorism takes many shocking forms and continues to threaten the safety and well-being of citizens of all nations; and

Whereas previous efforts on the part of individual nations and of the international community as a whole to eradicate international terrorism have been unsuccessful: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of Congress that the President should exercise his powers under section 620A of the Foreign Assistance Act of 1961 (relating to prohibitions against furnishing assistance to countries which grant sanctuary to international terrorists) (22 U.S.C. 2371) and section 1114 of the Federal Aviation Act of 1958 (relating to suspension by the President of air services to countries which grant sanctuary to terrorist organizations which use hijacking of aircraft as an instrument of policy) 49 U.S.C. 1514) whenever an act of international terrorism occurs.

Sec. 2. It is further the sense of Congress that the President should instruct the Ambassador of the United States to the United Nations to seek the formation of a permanent international commission to conduct an ongoing study for the purpose of—

(1) providing a definition of international terrorism;

(2) determining the underlying causes of international terrorism; and

(3) proposing methods for preventing future incidents of international terrorism and dealing with such incidents when they do occur.

SEC. 3. It is further the sense of Congress that the President should renew efforts begun at the air security conferences held in Rome during 1972 under the auspices of the International Civil Aviation Organization to establish an international convention providing aviation sanctions against countries that refuse to punish or extradite persons responsible for unlawful acts against civil aviation.

SEC. 4. It is further the sense of Congress that the President should use all available means to seek strict compliance with the Convention for the Suppression of Unlawful Seizure of Aircraft by each country which is a party to such convention and to obtain ratification of such convention by countries which are not parties to such convention.

SEC. 5. It is further the sense of Congress that the President should seek an international convention to provide for the prevention and punishment of the taking as hostages of persons who are not already protected by the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents.

NATURAL GAS PRICE INCREASE CHALLENGED

HON. HERBERT E. HARRIS II

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Monday, August 2, 1976

Mr. HARRIS. Mr. Speaker, the Federal Power Commission's decision to triple the price of natural gas is a travesty. This decision will cost the American consumers considerably—in the forms of higher inflation, more unemployment and some $1.5 billion in the first year in direct natural gas price increases. The cost to the consumers of northern Virginia will be over $1.9 million.

To stop this rate increase, on Friday, July 20, 1976, I petitioned the U.S. Court of Appeals for the District of Columbia Circuit and the Federal Power Commission, along with several of my colleagues, to challenge FPC's decision. We are joining the suit filed by the Consumer Federation of America, the Energy Action Committee, the National Rural Electric Cooperative, the American Public Power Association, the American Public Gas Association and several other organizations.

Tripling the price of natural gas will have a devastating impact on the economic recovery of our Nation—it will accelerate both spiraling inflation and lead to increased unemployment. I have asked the FPC and the court of appeals to grant a stay of the new rate and to order a rehearing. This stay is necessary since, as a practical matter, money will never be refunded to interstate consumers when the decision is set aside. I am pleased that the court has granted an emergency stay pending the decision on a rehearing.

FPC's action circumvents the policy of reasonable prices that Congress guaranteed the consumer. We fought decontrol of natural gas in the House this year. Big oil came to us and asked Congress to authorize these price increases. But Congress rejected such an action; we decided to restrict price increases on natural gas in order to protect the consumer from the monopolists. Further, we decided that a lid on prices was necessary to contain the current round of inflation. Labor Department statistics show that energy prices accounted for nearly one-third of the total increase in the Consumer Price Index in June, which rose at the annual rate of over 6 percent. The FPC ignored the will of Congress; and, I believe that the Commissioners' action demonstrates a disregard of both the FPC's statutory responsibilities under the Natural Gas Act and the limits of its administrative powers.

I do not think it is a coincidence that that the three members of the FPC who voted for this rate increase were appointed by the current administration. Down the line, issue after issue, the administration has consistently supported the efforts of big oil to raise the price of energy products, and opposed the rational pricing that reflects actual costs. The administration has sought to fatten the profits of big oil without regard to the concerns of the public. A reading of the financial section of the newspaper shows that Exxon, Standard Oil (Indiana), Texaco and other firms are doing very well—profits are up.

And so it seems that the Commissioners are more interested in corporate profits than in setting equitable cost-based prices. I understand that much of the rate increase is to offset the income tax liability of these corporations. In the past, whenever the firms cried about their income taxes and claimed that they needed more income, the FPC required them to provide actual tax data. They refused. In this instance, the FPC did not request this information. The Commissioners did not press their friends in big oil for accurate data.

This is the largest rate increase in the history of regulatory controls. And yet, the FPC did not even think it necessary to allow consumer representatives to come before the Commission during the ratemaking proceeding. Decisions of this magnitude should not be made in secret without giving full opportunity for interested parties to testify and offer evidence. How many times have my colleagues heard their constituents ask: When will our Government stop listening to the special interests and listen to the people?

The fight for reasonable prices is not over. The fight against big oil's corporate power must go on.

SPEECH BY ANSI PRESIDENT JOHN W. LANDIS

HON. BOB WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, August 2, 1976

Mr. BOB WILSON. Mr. Speaker, energy continues to be one of the primary, if not the main, problem facing the United States today, and we in the Congress are not helping the situation.

The real problem lies in the fact that the Arab oil embargo has been largely forgotten by the American people. They believe that energy is again plentiful—albeit at a higher cost.

The responsibility for educating the public lies with us. Action has to be taken now and public opinion reversed if we are to survive and excel in our present world.

American National Standards Institute president John W. Landis expressed concern for our country's energy future during an April meeting with the Virginia section, American Nuclear Society and I commend his remarks to my colleagues for their consideration.

The article follows:

SPEECH BY ANSI PRESIDENT JOHN W. LANDIS

In the United States today grave deficiencies in both efficacy of government and calibre of the population are aggravating the energy crisis. These deficiencies are so critical that unless they are rectified in the near future the United States will become a second- or third-class power in world affairs—and, even worse, its social inequities, crime rate, and unemployment will soar to unprecedented levels.

Not too many years ago—five to be exact, when I was president of the American Nuclear Society—I felt that the major blame for the energy mess into which the United States had drifted could be laid at the doorstep of the executive branch of the federal government. It had failed to develop and recommend to Congress a clear national energy policy. What may have been the case then is no longer true, however. President Ford, Secretary of the Treasury Simon, and Federal Energy Administrator Zarb have all stated publicly and forcefully what needs to be done to increase our energy supplies and make better use of the energy we do consume.

ADMINISTRATION POLICY

Their policies include (1) deregulating the price of natural gas, (2) increasing off-shore drilling for oil, (3) permitting strip-mining of coal under environmentally acceptable conditions, (4) more fully utilizing nuclear and other advanced technologies (e.g., solar), and (5) providing incentives for businesses and individuals to conserve energy as much as possible. These policies have been incorporated in regulations and executive orders to the extent possible, but often they have been either reversed or undercut by Congress in a vain attempt by that body to satisfy a vociferous misguided portion of the public that believes the United States can have all the energy it wants at reasonable prices with no real sacrifice on anybody's part.

I am convinced now that the blame for the continued failure of the nation to adopt a sound energy policy has to be assigned to Congress and certain segments of the public. The basis for this conclusion is not partisan politics but an objective attempt to crystallize the problem in a way that makes it more amenable to solution. As a matter of fact, about the same proportion of Republicans as Democrats in Congress seem to be bucking the Administration on the energy issue.

Perhaps I had a premonition of this turn in my thinking when I said during my last talk to the Virginia section in February, 1972: "If public distrust of the nuclear community continues to grow and further influences legislators, we shall be spending our time chasing 'red herrings' rather than facing up to these problems, and they will not be solved. In that event it is conceivable that our society could grind to a catastrophic, power-hungry halt."

I had fears then; I have more now. One of them is that Congress appears to be the last group in the nation to understand the true nature of the energy crisis. Why do I say this? Let's take a look at the record.

CONGRESSIONAL ACTION

Currently, there are 33 committees and about twice that many subcommittees in Congress dealing with energy matters. In 1975 they proposed over 1000 bills—and only three passed!

One of the three bills was the repeal of the oil depletion allowance. Of all the perverse actions taken by legislative bodies throughout history this has to rank near the top. There never was a greater need to spur production of oil, yet the highest authority in the land has seen fit to do just the opposite—encourage investors not to put their money in the oil industry.

The second of the three bills was the so-called 1975 Energy Conservation Act, which negated its constructive features by rolling back prices of domestic crude oil. This action vividly illustrates the depths to which Congress has sunk in the energy field. How it could delude itself to the extent of believing that making oil and oil products cheaper would promote conservation is beyond me.

The third of the three bills, on the other hand, was a good one. As you know, it lowered the speed limit for motor vehicles to 55 miles per hour. This has yielded benefits both in conservation of energy and in prevention of accidents.

CONGRESSIONAL INACTION

But the biggest, most incomprehensible failure of Congress last year was its inability to agree on any legislation at all to increase our domestic energy supplies. I am convinced that if this nation disintegrates as the Roman Empire, the Austro-Hungarian Empire, and others did, historians will ascribe our downfall in large measure to the ineptitude and lack of vision of Congress in the energy area. It may well seem to them that Congress was so blinded by its exasperation with the oil industry that it handled the energy crisis in a completely counterproductive way.

Consider these facts and try to visualize how you would judge the situation looking back on it, say, 200 years from now:

1. Sixty percent of all domestic crude oil is still under price controls—controls that hold it on an average at about half the international price and strongly discourage exploration and development.

2. Oil import quotas have been set up in such a haphazard way that they actually work against equitable distribution of energy.

3. Of the 200 largest new energy projects in the country, about 90 percent are in litigation, much of this wrangling fostered or at least condoned by Congress. Indeed, Congress is seriously considering raising taxes on the producers of the nation—laborers, craftsmen, engineers, managers, businessmen, salesmen, economists, and the like—to pay for additional intervention in many of these cases by obstructionists, critics, and other nonproducers. There is only one word for that kind of behavior—asinine.

4. Congress is threatening to break up the large oil companies, a threat that couldn't be made at a more inopportune time—just when we need the special capabilities and know-how of these companies more than ever. Forty-five senators have already voted in favor of such action. I wouldn't be surprised to see it materialize in the next few years.

5. Taxes in the oil industry are at their highest levels in history. They are approximately 900 percent over what they were just ten years ago. In that same period profits have increased too, but only about 250 percent, with a substantial part of the increase due to inventory, or "paper" profits.

6. In 1972, before the Arab oil embargo, members of the Organization of Petroleum Exporting Countries received about two cents for every gallon of gasoline sold in the U.S. while the oil companies received about one and a half cents. In 1974, after the embargo, OPEC received twenty-four cents per gallon while the oil companies received about two and a half cents—an increase of 1100 percent for OPEC, an increase of 67 percent for the oil companies. This should indicate rather clearly to Congress where its ire should be concentrated.

Admittedly, there is trouble in the U.S. oil industry—at least in certain companies. I've been there and seen it. But congressional action that penalizes the entire nation just to hurt the "oil barons" is a little like burning one's house down to get rid of termites.

PUBLIC ATTITUDES

Let's turn now to those segments of the public that I feel deserve some of the blame for the energy predicament the United States is in. The deficiencies here are harder to pinpoint and prove than are those of the Congress, yet they are even more fundamental.

There are four general classes of people upsetting the energy applecart:

A. Those who are ignorant of the facts of economic life and/or want to return to a simpler mode of existence.

B. Those who understand the importance of energy but are alarmed by the safety, health, and environmental implications of continued energy growth.

C. Those who have found that speaking out against energy projects is a convenient way to get attention and publicity with little risk of ever having to shoulder any responsibility.

D. Those who are willfully obstructive or destructive.

IGNORANCE

In Category A, one finds the many individuals who do not realize that the economy of the United States is totally energy dependent, that there is a close correlation between energy supply and jobs, and that even with zero population growth the number of households in the nation will increase 35 percent and the labor force 25 percent in the next ten years. Just to maintain our current standard of living, therefore, substantial new energy capacity will have to be provided by 1985. There are currently almost eight million unemployed persons in the United States. Until either coal-fired or nuclear generating stations are built to take up the slack, we shall throw about 900,000 additional people out of work for every million barrels of oil we need and can't get.

In Category A, one finds, too, the large group of people who think that the energy industry's return on its investment is too high. Taking the oil companies again as an example, their return on investment from 1965 through 1975 ranged from twelve or thirteen percent at the beginning of the period to nine percent just before the oil embargo to fifteen percent in 1974 and back down to about twelve percent last year. This is not enough to generate the capital needed for even the new capacity required in the next ten years just to maintain our present standard of living.

On a worldwide basis, the 24 largest oil companies should reinvest about $800 billion of their profits back in their businesses by 1985, if they want to keep up with demand. That is about $220 million a day. They must make reasonable profits if they are to fill the great need the world has and will continue to have for energy. The same statement applies to heavy equipment manufacturers like Babcock & Wilcox.

I could talk for a long time about the members of Category A. Some of them have rather strange parochial views. A young man I recently met on a flight from Chicago to Denver belongs in this group. He was dressed in hiking clothes and had his backpack with him. He said he was going to climb as high as he could into the Rockies and stay there long enough to "let nature take over my soul." He was appalled when he learned that I was in the nuclear power business. It was obviously difficult for him to understand how anyone as ordinary as I seemed to be could be engaged in such nefarious activity. He cited statistics about the unreliability of nuclear power plants that came straight from David Comey's articles and finally said that he was glad to be going to the Rockies because at the rate nuclear power plants were sprouting up throughout the nation "no place, not even the high country, will be safe and unpolluted in a few years."

When we were getting off the plane, I asked him how he would have gotten the aluminum and nylon in his camping equipment and indeed how he would have traveled to that beautiful section of the country if there were no power for industry and transportation. He didn't reply.

LACK OF PERSPECTIVE

Category B includes many of the active opponents of proposed power generating stations, both coal and nuclear. These people by and large are sincere in their beliefs, but a great number of them seem to be looking so hard for security that they have lost their perspective, or at least their ability to strike a proper balance between benefit and risk in evaluating new technological developments. Perhaps some have never been exposed to the discipline of a benefit-risk comparison.

They fail to realize that in a complex interdependent society an individual cannot be permitted to maximize his own safety at the expense of others. They do not comprehend that in a tightly woven social fabric like the United States there is no such thing as absolute safety, just as there is no such thing as absolute liberty. If the common judgment is that we need energy to run schools, hospitals, motor vehicles, farm machinery, factories, homes, stores, railroads, airlines, etc. to keep the bulk of our population alive and healthy, then these worriers must learn to bend to that will, even if the risk of their contracting emphysema, or some other dread disease, is slightly increased.

Man is dominant on this space vehicle, earth, because he has accepted each new threat to his existence through the ages as a challenge to be met—and has acted aggressively to conquer or neutralize whatever has endangered him and his habitat, using all of the wisdom and ingenuity with which he has been endowed. The energy critics apparently feel that this basic characteristic of the human race must be modified, that we must now be careful not to apply certain portions of the knowledge we have accumulated. Their concern is, of course, directed at new technology. In brief, they seem afraid that man is not capable of controlling the new forces he has learned how to release and therefore the solutions to his problems that involve employing these forces are too risky to explore.

There is nothing novel about this fear. It has been with mankind since the beginning. Fire, the inclined plane, the lever, the wheel, the pulley, the arch, all struck terror in many hearts before being accepted as useful tools. Even the common table fork was denounced as dangerous when it was introduced in England in 1620. Richard Trevithik was threatened with hanging for driving a forerunner of the steam locomotive through the streets of Cambourne in 1801. And here is what Thomas Edison (of all people) had to say about George Westinghouse's proposal (circa 1890) to use alternating current to transport electric power: "My personal desire would be to prohibit entirely the use of alternating currents. They are unnecessary as they are dangerous. . . . I can therefore see no justification for the introduction of a system which has no element of permanency and every element of danger to life and property."

Category B people are in some ways the easiest to deal with and in others the hardest to convince. There is a little bit of them in all of us.

OBSTRUCTION

Fortunately, there are not too many people in Category C. Unfortunately, those who do fall in this class—and you can name them as well as I—are doing irreparable harm to the nation because they do not observe the same code of ethics that most of us do. They have no compunction about stretching the truth, for example, to make their points. Indeed, sometimes the more they lie the more attention they get.

Category D is an even more disturbing group. The percentage of frustrated, unstable individuals in the United States seems to be rising rapidly. Nuclear power in particular, but coal and oil also are drawing heavy opposition from the ranks of this unhappy legion. You have read some of the hundreds of news articles in the last few years about threats to utility executives, the bombing of industrial offices and factories, the toppling of transmission lines, sit-downs in regulatory hearings, arson at oil refineries, prolonged legal maneuvering to hold up energy projects that all directly involved parties favor, and assorted other malfeasances. Many of these acts are being committed by people who have been "turned off" by society. We must find a way to turn them back on.

The crescendo of terrorism throughout the world should sound a warning note to those of us in the energy field. It will not be long, I believe, before the terrorists merge with or infiltrate the energy obstructionist groups and try to bring our entire civilization down around our ears.

SUGGESTED STEPS

What can be done to stem this anti-energy tide? You know one answer: Get out and preach the gospel of common sense to the younger generation, who comprise the majority of each of the categories I have mentioned. Explain to them how energy supply and environmental protection can be coalesced. Another answer is: Collar your congressman or senator and tell him face to face that procrastination on energy matters at this time is tantamount to treachery, that positive action must be taken immediately to increase the sources of energy available to the United States. Do not write a letter! That method of delivering the energy message has been found to be woefully ineffective. If it's worth the time of Ralph Nader and his minions to walk the halls of Congress on this issue, it's worth our time too.

Lastly, I think we should form "pro-energy battalions" in each of our hometowns—task forces of dedicated, articulate, knowledgeable people who will do something every day, primarily through the news media, to push an energy project along. I broached this idea two years ago in San Diego and it was rejected by the city council for lack of interest. I was told this week that the mayor there has resurrected the idea and will probably implement it this summer.

In these ways, we can help to correct the deficiencies that are aggravating the energy crisis and greatly improve the chances of survival of the Free World.

AUTOMOBILE SAFETY

HON. JAMES H. SCHEUER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, August 2, 1976

Mr. SCHEUER. Mr. Speaker, to say that we live in a highly mobile society where technology has dramatically shortened time and distance is to understate a fact of our daily lives. Instead of a 6-week boat crossing, we can fly to Europe in 7 hours by so-called conventional jet and, for an elite few, 3½ hours by Concorde. And a horseback rider from Washington on his way to New York 200 years ago had to plan on a trip substantially longer than the 4½ hours it takes to drive there today. Such speed has altered the very fabric of our existence, generally improving the quality of our lives in ways and to an extent that our grandfathers could never dream possible.

But, of course, there are serious problems with which we must contend, problems which often make us question whether such progress may occasionally detract from instead of add to the quality of our lives. Much of the debate surrounding the commencement of Concorde service into this country rests precisely on such problems and questions, which, in the case of the SST, are very serious indeed.

With automobiles there are other problems. Certainly air pollution is one of the most important, and legislation such as the Clean Air Act and the Automotive Transport Research and Development Act are designed as partial remedies to long overlooked or ignored hazards.

Automobile safety is another major problem area. Last year alone, 46,000 Americans were killed and 2.5 million were injured on our Nation's roads, at a cost to society of over $11 billion. The tragic fact is that so many of these deaths and injuries are not only readily foreseeable but also preventable, as well.

Highway injuries and fatalities are most frequently caused by vehicle occupants being thrown sharply about the interior of the car—or ejected from it. In a headon collision, for instance, occupants will be slammed forward upon impact, and then jolted back again. Front seat occupants may be killed or seriously injured as their bodies are dashed against the steering wheel, their heads thrown against the dashboard or through the windshield, their necks whipped back at high speeds. However, if their bodies are restrained and so prevented from being tossed about uncontrollably, they may escape death and avoid injury. Such is the purpose of vehicle occupant restraint systems, in which category lap and shoulder safety belts are included.

If all Americans had the benefit of an occupant restraint system, we could prevent nearly 12,000 deaths annually and reduce or prevent hundreds of thousands of injuries. Unfortunately, approximately 80 percent of the driving public in this country does not wear safety belts—the only restraint system currently being offered on a large commercial scale—and so travel unrestrained and unprotected.

The cost of such tragic waste in human terms is incalculable, not only to the victims but to their friends and their families, as well.

In social terms, the cost is exorbitantly expensive and clearly unjustifiable—for all of us. Mr. Speaker, either directly or indirectly we all must pick up the tab for highway injuries and fatalities. We must pay for medicaid, medicare, and other forms of public health care benefits. We must pay the social security disability and survivor benefits, the welfare benefits, the pensions, unemployment insurance, and the food stamps which the victim and/or his family may require. And, of course, we must pay the rising medical and automobile insurance premiums.

Also, carnage on the highways places a heavy and costly burden upon our limited police, ambulance, fire, and medical resources, resources which could well be used in other areas.

In the face of such costs, we must do all we can to prevent needless and tragic highway injuries and fatalities. Indeed, we tried to do just that in the National Traffic and Motor Vehicle Safety Act of 1966. In that act we declared our intent to "reduce traffic accidents and deaths and injuries to persons resulting from traffic accidents." To accomplish this we established a National Highway Traffic Safety Administration—NHTSA—within the Department of Transportation, and charged it with promulgating "motor vehicle safety standards" to insure that the driving public is "protected against unreasonable risk of death or injury" in the event of an accident. The definition of "motor vehicle safety standards" is instructive, so I will quote it in full:

> Motor vehicle safety standards means a minimum standard for motor vehicle performance, or motor vehicle equipment performance, which is practicable, which meets the need for motor vehicle safety and which provides objective criteria.

Lap and shoulder belts have never been able to meet this "need for motor vehicle safety." They fail to perform, because the overwhelming majority of Americans fail to wear them. The clear pattern of non-use of lap and shoulder belts—together called an active restraint system because occupants must take positive action—buckle up—if they are to be protected—now compels us to discard them in favor of an occupant restraint system or systems which will perform effectively and meet the ever-increasing national need for safety.

Active belt systems are clearly not the answer to motor vehicle safety in this country. Neither this Congress nor a single State legislature has managed to enact legislation making safety belt use mandatory, despite the tremendous benefits which society would reap as a result of such laws.

In November of last year, I introduced a bill to require States to enact such laws. The Committee on Public Works and Transportation, to which my bill was referred, has not scheduled hearings on the matter, and clearly does not intend to. In addition, the fiasco 2 years ago involving the ignition interlock, a system which was designed to increase safety belt use by preventing a car from starting until occupants buckled their belts, unfortunately injured the cause of motor vehicle safety and left a bad taste in many months.

It is important to recall, however, that before the NHTSA approved the ignition interlock system, it had issued a safety standard on March 3, 1971 requiring the installation of passive restraint systems for front seat passengers in all 1974 model year cars.

Passive restraints are systems that protect passenger car occupants in a crash by automatically restraining them in their seats without requiring any positive action by them. There are two passive systems available today: the passive belt, a Volkswagen-designed safety belt which comfortably engages automatically as one enters the car and closes the door, and the air bag, which in a crash instantaneously to hold the occupant in place. The obvious advantage these systems have over the current belt design is that no action is required of front seat vehicle occupants, all of whom, therefore, would be protected in the event of a crash.

Passive restraint systems are comfortable and convenient. They are technologically feasible and economically cost-effective. And they will protect all front seat occupants, including the 80 percent who do not wear safety belts and the 93 percent of children 10 years old or younger who are presently restrained either inadequately or not at all.

Given the existence of such passive devices, drivers today are not being "protected against unreasonable risk of death or injury" within the meaning of the 1966 act. The fact that automobile size and weight, major factors in withstanding a crash, are now decreasing steadily in response to concern over fuel economy, and that injuries and fatalities therefore can be expected to increase significantly, only makes this already tragic situation potentially even more disastrous.

How much should we expect the public to pay for safety?

Passive restraint systems are cost-effective—the NHTSA has assigned a benefit/cost ratio of 2.3 to air bags and 4.7 to passive belts, as opposed to 2.0 to lap and shoulder belts at current usage levels. Thus, for every dollar we spend on an air bag, for example, we will save $2.30 in societal costs. As a direct result of the high nonuse rate, however, lap and shoulder belts prevent fewer than 3,000 fatalities annually while the passive systems would prevent between 11,000 and 12,000.

Is an additional cost of perhaps $30 for passive belts or $130 for air bags too high to justify requiring mandatory installation of a passive restraint system in all new cars? Is such a cost sufficiently high to justify permitting 80 percent of the American driving public to travel on our nation's roads unrestrained?

I think not. Many of the options purchased by new car buyers—V8 engines, AM-FM radios, power windows, radial tires, and air-conditioning, for example—each cost over $130. For such esthetic additions as white walls or the flashy chrome of deluxe wheel covers, we pay in excess of $30. Should we permit manufacturers to spend hundreds of dollars per car for styling and soundproofing for that "quiet ride" and yet protest mandatory passive restraints—devices which annually will save thousands of lives and billions of dollars—as being too costly?

"Yet," air bag opponents claim, "to require such an additional expenditure is to curtail freedom of choice." This argument is patently absurd.

Do we give citizens a choice of whether to purchase an energy-absorbing steering column?

Do we give them a choice on laminated windshield glass, reinforced side doors and roofs, or padded dashboards?

Do we give them a choice on windshield washing systems, sun visors, door locking mechanisms, nonreflecting surfaces, seat strength, or windshield mounting?

Over the past decade, the Government has required automobile manufacturers to install and consumers to pay for, a wide variety of safety equipment. Such requirements clearly restrict consumer "freedom of choice" clearly goes far beyond the safety demands of the classical marketplace and demonstrates recognition of the basic principle that the voice of the marketplace does not necessarily represent the ultimate best interests either of the individual consumer or of society at large.

The consumer must pay for these safety features, a combination of which probably prevents fewer deaths and injuries and costs more than air bags or passive belts. And we now require the consumer to pay $60 for safety belts which are not used by 80 percent of the people.

Is it not "unreasonable" and irresponsible for the Government to compel its citizens to spend $60 knowing full well the ineffectiveness and wastefulness of such an expenditure and fail to require the installation of a safety system which at most costs an additional $130 and which will effectively protect all front-seat occupants?

To discuss freedom of choice in this context is pious sanctimony generously laced with hypocrisy.

While it is desirable—in the abstract—to maintain freedom of choice, the Congress decided in the 1966 act that such freedom must be sacrificed, in the case of auto safety, for the individual and the common good. Both Federal and State Governments have the authority to restrict freedom of choice where necessary, and have used this authority for generations in a wide array of legislative programs. Occupational safety and health, consumer product safety, flammable fabrics, and hazardous substances are a few of the areas Congress found it necessary to regulate and thereby restrict freedom of choice. Automobile safety is simply another of these areas.

Finally, a driver who is involved in a crash has not merely harmed himself. He cannot simply say, "What I do is my own business." All of society must pay for such an individual's irrational stubbornness through a vast number of public assistance programs and insurance costs. The driver may have been responsible for the death of a child in the car because, whether deliberately or not, he made a decision not to restrain that child properly. What has happened in such a case to the rights, the "freedom of choice," of that child?

The industry also argues that "freedom of the marketplace" should be maintained. Yet here this argument is as specious as the "freedom of choice" argument. As Secretary of Transportation Coleman observed:

> It is difficult to believe for instance, that there would be seat belts in every car today if their installation had had to rely on the demands of the marketplace.

And so with all of the other safety features listed above, developed in recent years. The stated purpose of the 1966 act is unequivocally to reduce deaths and injuries on the highways, where "freedom of choice" and "the marketplace" had failed to provide the necessary incentives to the manufacturers.

Mr. Speaker, I am introducing today a bill which would have the effect of requiring the installation of passive restraint systems in all new cars as of model year 1980. The need for such passive occupant protection is both clear and urgent. Today alone, 131 Americans will die on our Nation's roads, and another 4,800 of our citizens will be injured.

Every day we procrastinate and fail to take up mandatory passive restraint legislation means another 131 people will have died, another 4,800 will have been injured. The time for action is long passed.

CAPTIVE NATIONS COMMITTEE OF WESTERN NEW YORK UPHOLDS THE RIGHT OF ALL TO FREEDOM AND SELF-DETERMINATION

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, August 2, 1976

Mr. KEMP. Mr. Speaker, last Saturday I had the honor and privilege to be the keynote speaker at the commemorative banquet and dance of the Captive Nations Committee of western New York. This excellent group, the president of which is Mr. Frank Z. Till of Croatian heritage, has done a magnificent job in fighting to keep alive the hopes and dreams for freedom of the 150 million people in captive nations behind the Communist Iron Curtain.

Thomas Jefferson, the author of the Declaration of Independence for our Nation 200 years ago, said:

> The God who gave us life, gave us liberty at the same time.

Those same God-given rights of liberty and life are basic to all peoples, no matter where or who they are and are not subject to change.

Yet there are millions of persons yearning for freedom in the world today who are denied their basic human liberties, dignity, and rights of self-determination.

These people are unwillingly living under the yoke of communism, fostered and encouraged by an imperialistic and expansionist Russian foreign policy.

These are the people of the captive nations.

There is no crueler sentence for these captive nations than to abandon them through our present policy of one-way détente. The Soviet attitude of "peaceful coexistence" has not changed since the Russian revolution of 1917. Leonid Brezhnev himself stated in 1973—

> Peaceful coexistence does not mean the end of the struggle of the two world powers. The struggle between the proletariat and the bourgeoisie, between world socialism and imperialism will be waged right up to the complete and final victory of communism on a world scale.

And as recently as this spring's 25th Communist Party Congress, Brezhnev repeated that détente does not "in the slightest abolish the laws of the class struggle."

I believe our perception of the Soviet threat as well as our own approach to national security is deficient for not taking into account the fact that Soviet thinking and values do not mirror our own. Whether Secretary of State Henry Kissinger believes in the eventual reconciliation of the philosophical differences between a free and a totalitarian state, does not alter the fact that right now the Soviet Union is actively pursuing the expansionist philosophy of world communism, through the gradual and not so subtle takeover of defenseless countries.

Since 1917, Soviet aggression has enslaved roughly 125 million people in Poland, Hungary, Lithuania, Ukraine, Czechoslovakia, Latvia, Estonia, Croatia, White Ruthenia, Romania, East Germany, Bulgaria, mainland China, Armenia Azerbaijan, Georgia, North Korea, Albania, Idel-Ural, Tibet, Cossackia, Turkestan, North Vietnam, South Vietnam, Angola, and others.

Where will be the next victims? In Western Europe? In the Mideast? Africa? South America?

I find it inconceivable that, with the evidence before them, senior State Department officials such as Henry Kissinger and Helmut Sonnenfeldt persist in steering the United States in the path of accommodation to Soviet foreign policy, and the abandonment of the millions of people who look to the United States as the citadel of freedom and concern for human rights around the world.

I believe that it is time for the United States to reassert in no uncertain terms its commitment to the freedom of these captive nations, and I support and commend the President for his proclamation marking Captive Nations Week, 1976, which says—

> For two centuries, the fundamental basis of American policy toward other nations has remained unchanged: the United States supports the aspirations for freedom, independence, and national self-determination of all peoples. We do not accept foreign domination over any nation.

The time has come for the United States to demand fair and equitable cooperation from the Soviets before we grant any concessions under the nebulous label of "détente." Détente must be mutually reciprocal and two ways if it is to be détente at all. Otherwise it is but appeasement.

Mr. Speaker, I was privileged to be present in the Capitol when that distinguished and remarkable Nobel prize-winning author, Alexandr Solzhenitsyn, addressed many Members of the Congress. Mr. Solzhenitsyn repeated to us his message to the Western World:

> Whether or not the United States so desires, it stands at the peak of world history and takes the burden of leadership if not of the whole world, then of at least a good half of it. The United States has not had a thousand years to train for this. Maybe the 200 years of your existence has been time to weld together a sense of national awareness. The load of obligations and responsibilities has fallen on you unbidden.
>
> That is why you members of the Senate and of the House of Representatives, each one of you is not just an ordinary member of an ordinary Parliament—you have been elected to a particular position in the contemporary world. I would like to convey to you how we—the citizens of the communist countries look upon your words, deeds, proposals, and enactments—as brought to us over the radio sometimes with warm approval and sometimes also with horror and despair. But we never have a chance to respond out loud.
>
> Perhaps some of you, in your minds, still feel yourselves just representatives of your state or party—but we from over there, far away from here, the whole world itself, does not perceive these differences. We do not look upon you as Democrats or Republicans, not as representatives of the East or West coast or the Midwest, we see you as figures upon ends of whom depends whether the course of world history will tend to tragedy or salvation.

As I told my audience of "freedom fighters," my goal as a Member of Congress from Buffalo area to represent them according to the ideals of Solzhenitsyn.

Mr. Speaker, in our search for world peace, we must never lose sight of the human values embodied in our heritage, never accept the pragmatic expediencies of the moment as paramount to basic principles. As we celebrate our independence from tyrannical colonial rule, we must realize that colonialism and imperialism still exists in a much more suppressive form.

I urge my colleagues in the Congress, and all Americans who have been fortunate enough to experience true liberty, to redouble our efforts to gain freedom for all nations oppressed by the yoke of communism.

Mr. Speaker, at this time I would like to enter into the CONGRESSIONAL RECORD the names of some of those who helped make the Capitive Nations Week dinner in Buffalo such a memorable one:

Mr. Shehat Osmani, of Albanian heritage, Mr. Miro Gergoff, of Bulgarian heritage, Mr. Frank Z. Til, of Croatian heritage, Mr. Steven Glamuzina, of Croatian heritage, Mr. Voldemar Kirss, of Estonian heritage, Mr. Tibor Baranski, of Hungarian heritage, Dr. Daniel Vizsolyi, of Hungarian heritage, Mr. Vidis Malejs, of Latvian heritage, Mr. Romas Masiulionis, of Lithuanian heritage, Judge Joseph Forma, of Polish heritage, Sue Bartos, of Polish heritage, Col. William Cybulski, of Polish heritage, Mr. Karol Tomaszewski, of Polish heritage, Mr. and Mrs. Wasyl Sharvan, of Ukrainian heritage, Mr. Andrew Diakun, J.D., of Ukrainian heritage, Mrs. Dasha Procyk, of Ukrainian heritage, Marta Hawryluk, of Ukrainian heritage.

Spiritual leaders included: Rt. Rev. Msgr. Paul Iwaciw, of Ukrainian heritage; and Rev. Stephan Lackovic, of Croatian heritage.

Further, Mr. Speaker, three great "freedom fighters" were honored, in recognition of their outstanding service on behalf of the captive nations the following past president of the Captive Nations Committee of western New York received awards, and I salute them here:

Dr. Edward M. O'Connor, (the late) Dr. Nestor Procyk, M.D., and Mr. Tibor Baranski.

I am grateful for their courageous and dedicated leadership in the fight for freedom and independence for all people of the captive nation's. They are truly Americans of whom we all can be proud.

RUNAWAY GOOD INTENTIONS

HON. JAMES ABDNOR

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, August 2, 1976

Mr. ABDNOR. Mr. Speaker, when the Federal Government sets out to "improve things" or "correct a bad situation," they never go about things half-way. Too often, the lack of restraint and the desire to impose a single set of standards by which to judge everything creates a situation where the "cure" may be far more deadly than the illness.

The case files of all my colleagues overflow with problems involving the alphabet regulators: HEW, EPA, OSHA, CAB, FCC, ICC, FDA, et cetera, et cetera. On our trips home we are given tours of "what happens" as our business firms and institutions try to cope with Federal rules, regulations, and redtape.

Our homes for the elderly provide but one example of institutions coping with myriad local, State, and Federal regulations. Most certainly none of us can argue on the need for safe, clean, humane homes for those who no longer desire to or are unable to care for themselves. While endeavoring to curb abuses, rules, and regulations have also tended to depersonalize care. One of my constituents, an activities director in a nursing home, calls attention to the growing opportunities for indifference in a perceptive article I would like to share with my colleagues:

NURSING HOMES: PAST, PRESENT, THEN WHAT?

(By Mary Sue Gutheridge)

> On first encounter, mysterious and obscure images of the past seemed to lovingly embrace the run-down two story building. Two towering pine trees faithfully stood guard, making sure the main entrance was iced over long after the snows had melted. Love, compassion, and respect for all aspects of humanity were the credentials needed by those persons who entered "The Old Folks Home."
>
> Once inside, the sights and sounds of people living greeted newcomers. The dayroom was filled with people finding pleasure in the simple joys of talking with a friend, reading a book, crocheting a doily, or humming a

favorite tune. The mismatched furniture and make shift accessories added charm, and a personal touch to each area of the "home." By taking note of the odds and ends in each persons bedroom, a mental picture of the occupant was quickly developed. The kitchen and dining room sparkled with sunlight and buzzed with activity. At least three old men were invariably sitting at a wooden table, supervising the cooks and telling stories of days gone by. Several of the elderly women moved about the dining room clearing tables, washing dishes and talking about how they used to take care of their families before moving to the "old folks home." Occasionally, a stray dog or cat found it's way onto the back porch to beg for scraps and a pat on the head. The strays were never disappointed, for someone was always nearby to give them some food and attention.

Happiness, contentment, and love prevailed for those people who were fortunate to have lived on the edge of progressive care of the aged. No two people living in the "old folks home" were alike. Newcomers and employees learned names by detailed descriptions of unmistakable personalities, unique mannerisms, or unusual style of dress. Individuality was encouraged, understood and accepted by the folks themselves, and the persons engaged in their care.

With the advent of extensive state and federal government intervention into the lives of those persons living and operating Nursing Homes, the wheels of progress swiftly turned, and the "Old Folks Homes" were labeled obsolete. Endless regulations and standards were established by countless governmental agencies in an attempt to change conditions and appearances. The regulations were followed and soon new nursing homes and retirement centers were constructed to provide modern housing for the elderly.

The new homes are shining, well-designed, sanitary, and impersonal monuments to the conformity imposed upon nursing homes over the past decade. There are no towering trees, or obscure images guarding the new homes. The foundations are merely cold concrete slabs which support brick, ranch style structures, complete with brightly painted signs warning of do's and don'ts. The dayrooms, bedrooms, kitchens and dining areas appear as full color illustrations in furniture supply pamphlets. Modern stainless steel appliances and gleaming chrome fixtures clearly reflect uniformed robots programed to sanitize, immunize, and desensitize themselves, as well as the residents and areas for which they are responsible.

Love and freedom of choice, a decade ago, were considered necessities. By the continuation of the most destructive kind of progress, in which regulations take priority over people, those necessities are no longer affordable. The effects of restrictions and regimented routines, which render little time for personal preference or expression, are apparent in the appearance of residents and staff. Similar models in a mail order catalogue, each person blends neatly and tastefully with the decor. Personalities are controlled, individual characteristics are denied, while personal contacts and inter-actions are limited to specific places and time.

Fear of recrimination has been a successful tool used by the state and federal government, to strip the nursing home residents, employees, and operators of their rights. Following regular insections by the controlling governmental agencies, impressive certificates; citing compliance with regulations, are issued and ceremoniously hung on the walls of our modern nursing homes. Failure to receive and display these certificates can result in the discontinuation of federal funding for the resident and financial disaster for the nursing home business.

Today, there are no citations awarded to the nursing home industry for compliance with the human requirements of love, compassion, dignity, and respect for our fellow man. Federal restrictions are silently taking care of those requirements, however. Tomorrow our nations nursing homes may be forced to replace basic human needs and receive a new certificate, suitable for framing. A certificate, which no doubt, will be titled The Standards of Indifference. Will the challenge be ignored, and the trend toward indifference continue, or will the nursing home industry face up to the realities, define their position, stand firm against further intervention, and then get on with the business of caring for people?

THE 10TH CONGRESSIONAL DISTRICT OFFICE FUND

HON. ABNER J. MIKVA

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, August 2, 1976

Mr. MIKVA. Mr. Speaker, the following is a report of the receipts and expenditures of the 10th District office fund, a fund used exclusively to cover nonpolitical expenses in connection with my congressional office:

The Congressional District Office Fund—Report: January 1, 1976–June 30, 1976:

Balance: January 1, 1976	$657.02
Receipts:	
Mr. and Mrs. Jack Bloom, Evanston	10.00
Mr. and Mrs. Stephen D. Keen, Evanston	10.00
Mr. and Mrs. Allen Levis, Glencoe	100.00
Contribution from Citizens for Mikva	1,350.00
Total receipts	1,470.00
Expenditures:	
Petty cash	200.00
Subscriptions	279.57
Membership	561.50
Office supplies	123.44
Town meetings	237.30
Miscellaneous	646.47
Total expenditures	2,048.28
Balance June 30, 1976	78.74

PERSONAL ANNOUNCEMENT

HON. MARTHA KEYS

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Monday, August 2, 1976

Mrs. KEYS. Mr. Speaker, on July 30, 1976, I was unavoidably absent for three rollcall votes. During consideration of H.R. 8401, the Nuclear Fuel Assurance Act of 1976, I missed roll No. 576, the vote on the Bingham amendment which sought to strike those sections which provide for ERDA-private industry uranium enrichment contracts. Had I been present, I would have voted "yea."

The second vote I missed was roll No. 577, the vote on House Resolution 1267, the rule under which the bill H.R. 2525, Indian Health Care Improvement, was considered. Had I been present, I would have voted "yea."

The third vote I missed was roll No. 578, the vote on the final passage of H.R. 2525. Had I been present, I would have voted "yea."

SENATE—*Tuesday, August 3, 1976*

The Senate met at 8:30 a.m. and was called to order by the Acting President pro tempore (Mr. METCALF).

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Eternal Spirit, above us yet deep within us, we ask no sudden rending of the skies, no prophet ecstasies, no mystic journey to the unseen, but take the dimness of our souls away, that we may begin this day aware of Thy presence in all that we think and say and do. Give us ears to hear above all resolutions, debates, and rollcalls the still small voice heard only in the inner chamber of our being. For our soul's sake lead us to quiet places, the still waters, and the green pastures. Give us clear minds, sound judgment, and physical stamina. And with these gifts grant to each of us a serene soul, a peaceful heart, and an enduring faith.

We pray in the name of that One who says: "Come unto me, all ye that labor and are heavy laden, and I will give you rest." Amen.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Monday, August 2, 1976, be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

COMMITTEE MEETINGS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Committee on Interior and Insular Affairs be permitted to meet on August 5, 9, and 10 for the purpose of considering S. 3298, the Central Arizona Indian Private Water Rights Settlement Act of 1976.

Mr. GRIFFIN. Mr. President, at the request of another Senator, I respectfully object.

The ACTING PRESIDENT pro tempore. Objection is heard.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Does the Senator from Michigan desire recognition?

Mr. GRIFFIN. I yield back the time, Mr. President.

CLEAN AIR AMENDMENTS OF 1976

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of S. 3219, which the clerk will state by title.

The legislative clerk read as follows:

A bill (S. 3219) to amend the Clean Air Act, as amended.

The Senate resumed consideration of the bill.

UP AMENDMENT NO. 290

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now proceed to the consideration of the amendments by the Senator from Utah (Mr. Moss) which will be considered en bloc, and which the clerk will report.

Mr. GRIFFIN. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. MOSS. I yield.

Mr. GRIFFIN. Mr. President, I ask unanimous consent that Miss Meredith Mack and Miss Susan Meyers of my staff may have the privilege of the floor during the consideration of S. 3219.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The Senator from Utah.

Mr. MOSS. Mr. President, as the Chair announced, the order is that my amendments 1598, 1599, and 1600 be considered en bloc. They have been written together now in a single document, and I send that forward as an unprinted amendment and for which I ask immediate consideration.

The ACTING PRESIDENT pro tempore. The clerk will report.

The legislative clerk read as follows:

The Senator from Utah (Mr. Moss) proposes an unprinted amendment numbered 290.

The amendment is as follows:

The Clean Air Act is hereby amended by deleting section 6 and renumbering succeeding sections accordingly.

Section 37 is amended as follows:

On page 85, line 2, strike all through and including line 2 on page 88 and in lieu thereof insert the following:

SEC. 315. (a) There is established a National Commission on Air Quality which shall study and report to the Congress on—

(1) the effects of the implementation of any proposed or existing requirement on the States or the Federal Government under this Act to identify and protect from significant deterioration of air quality, areas which have existing air quality better than that specified under current national primary and secondary standards;

(2) the economic, technological, and environmental consequences of achieving or not achieving the purposes of this Act and programs authorized by it;

(3) available alternatives, including enforcement mechanisms to protect and enhance the quality of the Nation's air resources so as to promote the public health and welfare and the productive capacity of its population, and to achieve the other purposes of the Act;

(4) the technological capability of achieving and the economic, energy, and environmental impacts of achieving or not achieving required emission control levels for mobile sources of oxides of nitrogen (including the research objective of 0.4 gram per vehicle mile) in relation to and independent of regulation of emissions of oxides of nitrogen from stationary sources;

(5) air pollutants not presently regulated, which pose or may in the future pose a threat to public health or public welfare and options available to regulate emissions of such pollutants;

(6) the adequacy of research, development, and demonstrations being carried out by Federal, State, local, and nongovernmental entities to protect and enhance air quality; and

(7) the ability of (including financial resources, manpower, and statutory authority) Federal, State, and local institutions to implement the purposes of the Act.

(b) Studies and investigations conducted pursuant to paragraphs (1) and (2) of subsection (a) shall include—

(1) the effects of existing or proposed national ambient air quality standards on employment, energy, and the economy (including State and local), their relationship to objective scientific and medical data collected to determine their validity at existing levels, as well as their other social and environmental effects;

(2) the effects of any existing or proposed policy of prohibiting deterioration of air quality in areas identified as having air quality better than that required under existing or proposed national ambient standards on employment, energy, the economy (including State and local), the relationship of such policy to the protection of the public health and welfare as well as other national priorities such as economic growth and national defense, and its other social and environmental effects.

(c) The Commission shall, as part of any study conducted under subsection (a)(1) of this section specifically identify any loss or irretrievable commitment of resources (taking into account economic feasibility), including mineral, agricultural, and water resources, as well as land surface use resources.

(d) Such Commission shall be composed of fifteen members, including the chairman and the ranking minority Member of the Senate Committee on Public Works and the House Committee on Interstate and Foreign Commerce, who shall serve on such Commission ex officio and without vote, and eleven members of the public appointed by the President. The Chairman of such Commission shall be elected from among its members.

(e) The heads of the departments, agencies, and instrumentalities of the executive branch of the Federal Government shall cooperate with the Commission in carrying out the requirements of this section, and shall furnish to the Commission such information as the Commission deems necessary to carry out this section.

(f) A report, together with any appropriate recommendations, shall be submitted to the Congress on the results of the investigation and study concerning section (a)(4) of this section no later than March 1, 1977, and the results of the investigation and study concerning section (a)(1) of this section no later than one year after the date of enactment of the Clean Air Act Amendments of 1976.

(g) A report shall be submitted with regard to all other Commission studies and investigations, together with any appropriate recommendations, not later than three years after the date of enactment of this section.

(h) The members of the Commission who are not officers or employees of the United States, while attending conferences or meetings of the Commission or while otherwise serving at the request of the Chairman shall be entitled to receive compensation at a rate not in excess of the maximum rate of pay for grade GS-18, as provided in the General Schedule under section 5332 of title V of the United States Code, including traveltime, and while away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence as authorized by law (5 U.S.C. 72b-2) for persons in the Government service employed intermittently.

(i) There is authorized to be appropriated, for use in carrying out this section, not to exceed $17,000,000.

(j) In the conduct of the study, the Commission is authorized to contract with nongovernmental entities that are competent to perform research or investigations in areas within the Commission's mandate, and to hold public hearings, forums, and workshops to enable full public participation.

Mr. MOSS. Mr. President, this matter has been discussed at considerable length in this body and, therefore, I will try to be as brief as I can and, hopefully, we can restate just in outline form what the amendments accomplish, and make the point that it is in the interest of this country, in the interest of the environment, in the interest of all of our citizens that we know where we are going before we write into law some additional regulations which may have very unforeseen and detrimental effects.

As I pointed out before, the nondeterioration issue is not only environmental but it also is economic, having to do with our employment, our ability to continue growth in areas of small growth, our ability to maintain the type of society that we now have and, therefore, we ought to consider all of those factors when we consider the Clean Air Act Amendments.

Section 6, which would be eliminated by my amendment until a study is completed, would set at once in law certain nondeterioration standards that are unrealistic in many instances. There are many existing unknowns in this nondeterioration policy. For example:

First. Where are the "clear air areas?"

Second. What are the "baseline" concentrations of pollutants in such areas?

Third. How many facilities can be sited in a particular given area taking into account other sources not requiring permits which will be attracted by the major industrial emitting facilities?

Fourth. What are the "air quality related values" mentioned in Section 6 which the Federal land manager has an "affirmative responsibility to protect?"

Fifth. Where are the areas most likely to be designated as national parks and national wilderness areas in the future?

Sixth. What natural resources are located in areas which would be severely restricted from development because of their locations in, or proximity to, class I areas?

Seventh. What will be the cost in terms of lost tax revenues, payroll, and jobs as a result of implementation of this policy for each State?

Eighth. If development under this policy is virtually unlimited, as EPA suggests, why do we need to implement it at all?

Ninth. What are the current population trends in the country; are more people moving toward the areas which would be most severely impacted?

Tenth. If we are protecting more than esthetic values by implementation of this policy, and in fact, we are protecting health and welfare, why have not the national ambient standards been adjusted?

Eleventh. If nondeterioration cannot be related to the protection of health and welfare, does Congress have jurisdiction to implement this policy at all?

Then there is the question, Mr. President, of the State and Federal problem regarding clean air legislation.

The supporters of nondeterioration give as one of the primary reasons for their support, the provision in S. 3219 for a greater degree of discretionary decisionmaking by the States. They argue that the bill's rendering of the State's administrative role is more flexible than current EPA regulations, which incidentally would remain in effect if my amendments are adopted. I believe that these current regulations, imperfect though they may be, do provide for significantly greater industrial growth the new provisions called for by S. 3219.

Mr. President, there are competing national goals.

It is time we stopped trying to fool each other about issues involving the catch words "clean" and "environment." I am not prepared to tell you that the existing national ambient standards are adequate to protect every living person or thing in the United States. It is obvious that breathing anything short of air "pure as the driven snow" will not, under normal circumstances, enhance human health. We all recognize that any air pollutants could have adverse health effects over some period of time, on some individuals. This is no startling revelation.

Having recognized this fact, our job in setting national policy is to determine at what level, under existing technology and economic circumstances, we will accept less than pure air in order to balance this important objective against the equally important objectives of fostering a healthy economy, a healthy domestic energy industry, and a healthy job market.

Air, after all, is a natural resource and must be conserved as such. On the other hand, it must also be utilized for man's ultimate benefit. This includes the use of air to produce energy necessary for our domestic well-being.

Now, I am not philosophically opposed to the idea of nondeterioration. Neither am I prepared to say that what is good for industry is good for America. However, anti-industry measures are not necessarily proenvironment either.

Until we know the facts, precipitate action is foolish and unwarranted.

Let us insure that in our enthusiasm to make our environment as acceptable as possible that we do not start a chain reaction of two steps forward for air, and three steps backward for our total environment. We must remember that it has been man's ability to alter this environment through industrial development that enables this planet to support upward of 4 billion people. For too many of these people, change in the environment which expedites the exploitation of Earth's resources, including air, could not come soon enough. I think we have learned the hard lessons of the past that we cannot act irresponsibly in using our environment. But we cannot stop using our environment, either.

MAKING POLICY FOR 1976 AND THE FUTURE

Proponents of nondeterioration continually cite language contained in previous enactments of the Congress as the original basis for the concept of nondeterioration. Even if we accept this "history" as accurate, let us not forget that our responsibility is to examine, define, and where appropriate, enact public policy for the benefit of our citizens in 1976 and hereafter; not to let ancient history, whether legislative or otherwise, dictate our course. I doubt that there is a Member of this body in office in 1970, who realized that the policy of nondeterioration was embodied in the Clean Air Act that we then voted on.

We must recognize that air is a renewable resource. It does cleanse itself when pollution levels decrease. Pollution levels have been decreasing in many areas in recent years largely because of the existing act. Contrary to the impression advanced by proponents of nondeterioration, the skies over the national parks and wilderness areas are not going to turn black, with helpless animals choking from pollution, if we implement a comprehensive and necessary 1-year study by deleting nondeterioration from this bill. We should consider it again with facts in hand.

Mr. President, in order that my colleagues might better understand the policy of nondeterioration, I have prepared a map which points out rather startlingly the full impact of section 6 on the country.

Mr. President, this map was prepared from data obtained directly from the regional offices of EPA, whenever such information was available, and from various State air pollution control agencies when it was not. It represents the most currently available information in existence. Undoubtedly, some of this information will change as future monitoring is done and as new monitoring techniques are developed. Nevertheless, this data forms the basis for present decisionmaking by EPA and by the States, under existing Clean Air Act provisions. It is the best data we have at the present time.

I would also like to stress, Mr. President, that what we are talking about here in the nondeterioration section is whether or not we can continue to have balanced and controlled growth in this country. Growth is a thing that we need very much as our population continues to increase and especially do we notice that in the western part of our country.

I also point out to the chairman that those who are concerned with this matter have announced their support of the Moss amendment.

The National Construction Industry Council, formed in 1974, speaks with a single voice for 30 associations in the construction industry representing contractors, suppliers, design professionals, and others associated with industry.

The National Construction Industry Council collectively, and its member associations individually, have reviewed the subject of this legislation at great length and with sincere recognition of the need for clean, healthy environment, to which all their members subscribe.

For this reason, the National Construction Industry Council is in complete agreement with the amendment offered by this Senator, which would prohibit the adoption of nondeterioration as a policy until a thorough investigation of the impact and consequences of the proposal has been conducted.

Mr. President, I ask unanimous consent that this statement, together with the names of the members of the industries concerned, be printed at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATEMENT ON BEHALF OF THE NATIONAL CONSTRUCTION INDUSTRY COUNCIL

The National Construction Industry Council, formed in 1974, speaks with a single voice for 30 (thirty) associations in the construction industry representing contractors, suppliers, design professionals and others associated with our industry.

The following members join in this submission:

American Concrete Paving Association.
American Consulting Engineers Council.
American Institute of Architects.
American Institute of Steel Construction, Inc.
American Road Builders Association.
American Society of Civil Engineers.
American Society of Landscape Architects.
American Subcontractors Association.
Associated Builders and Contractors, Inc.
Associated Equipment Distributors.
Associated General Contractors of America, Inc.
Associated Landscape Contractors of America, Inc.
Ceilings and Interior Systems Contractors Association.
Concrete Reinforcing Steel Institute.
Council of Construction Employers, Inc.
Mechanical Contractors Association of America, Inc.
National Asphalt Pavement Association.
National Association of Plumbing-Heating-Cooling Contractors.
National Constructors Association.
National Council of Erectors, Fabricators, and Riggers.
National Crushed Stone Association.
National Electrical Contractors Association.
National Society of Professional Engineers.
National Utility Contractors Association, Inc.
Portland Cement Association.
Power and Communications Contractors Association.
Prestressed Concrete Institute.
Producer's Council, Inc.
Sheet Metal and Air Conditioning Contractors National Association.
Society of American Registered Architects.

NCIC collectively, and its member associations individually, have reviewed the subject legislation at great length and with a sincere recognition of the need for a clean, healthy environment to which all our members subscribe. NCIC believes that legislation such as this must reconcile the need for protecting our environment with the need to accommodate population growth and maintain a viable economy. Unfortunately, the nondeterioration provisions included in the Clean Air Act Amendments, currently being considered in Congress, and which are the subject of this statement, do not have the effect of achieving such a balance. These provisions superimpose a radically stringent set of standards over existing standards before the effect of meeting either have been determined. Further, this is being done at a time when this country is engaged in a precarious recovery from a severe recession. Congress has not had time to ascertain the effects such a policy would have on economic recovery, employment, energy conservation and other national goals. The uncertainty surrounding the concept of non-deterioration could easily be dispelled if Congress would endeavor to study the ramifications of such legislation.

For this reason, the National Construction Industry Council is in complete agreement with the amendments offered by Senator Moss which would prohibit the adoption of non-deterioration as a policy until a thorough investigation of the impact and consequences of the proposal has been conducted.

Mr. MOSS. Mr. President, I ask unanimous consent that a letter which has been sent to me by President Ford in which he states strongly that he supports the Moss amendment on the nondeterioration section be printed at this point in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE WHITE HOUSE,
Washington, D.C., May 28, 1976.

Hon. HARLEY O. STAGGERS,
Chairman, Interstate and Foreign Commerce Committee, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: Both Houses of the Congress will soon consider amendments to the Clean Air Act of 1970. There are several sections of both the Senate and House amendments, as reported out of the respective committees, that I find disturbing. Specifically, I have serious reservations concerning the amendments dealing with auto emissions standards and prevention of significant deterioration.

In January 1975, I recommended that the Congress modify provisions of the Clean Air Act of 1970 related to automobile emissions. This position in part reflected the fact that auto emissions for 1976 model autos have been reduced by 83% compared to uncontrolled pre-1968 emission levels (with the exception of nitrogen oxides). Further reductions would be increasingly costly to the consumer and would involve decreases in fuel efficiency.

The Senate and House amendments, as presently written, fail to strike the proper balance between energy, environmental and economic needs. Therefore, I am announcing my support for an amendment to be cosponsored by Congressman John Dingell and Congressman James Broyhill, which reflects the position recommended by Russell Train, Administrator of the U.S. Environmental Protection Agency. This amendment would provide for stability of emissions standards over the next three years, imposing stricter standards for two years thereafter. Furthermore, a recent study by the Environmental Protection Agency, the Department of Transportation and the Federal Energy Administration indicates that the Dingell-Broyhill Amendment, relative to the Senate and House positions, would result in consumer cost savings of billions of dollars and fuel savings of billions of gallons. Resulting air quality differences would be negligible. I believe the Dingell-Broyhill Amendment at this point best balances the critical considerations of energy, economics and environment.

I am also concerned about the potential impact of the sections of the Senate and House Committee Amendments that deal with the prevention of significant deterioration of air quality. In January 1975, I asked the Congress to clarify their intent by eliminating significant deterioration provisions. As the respective Amendments are now written, greater economic uncertainties concerning job creation and capital formation would be created. Additionally, the impact on future energy resource development might well be negative. While I applaud the efforts of your committee in attempting to clarify this difficult issue, the uncertainties of the suggested changes are disturbing. I have asked the Environmental Protection Agency to supply me with the results of impact studies showing the effect of such changes on various industries. I am not satisfied that the very preliminary work of that Agency is sufficient evidence on which to decide this critical issue. We do not have the facts necessary to make proper decisions.

In view of the potentially disastrous effects on unemployment and on energy development, I cannot endorse the changes recommended by the respective House and Senate Committees. Accordingly, I believe the most appropriate course of action would be to amend the Act to preclude application of all significant deterioration provisions until sufficient information concerning final impact can be gathered.

The Nation is making progress towards reaching its environmental goals. As we continue to clean up our air and water, we must be careful not to retard our efforts at energy independence and economic recovery. Given the uncertainties created by the Clean Air Amendments, I will ask the Congress to review these considerations.

Sincerely,

GERALD R. FORD.

Mr. MOSS. Mr. President, I also submit for the RECORD a resolution that was adopted by the National Association of Homebuilders urging the Senate to adopt the Moss amendment to S. 3219.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

SPECIAL COMMITTEE ON FEDERAL GOVERNMENTAL AFFAIRS, NATIONAL COMMISSION ON AIR QUALITY STUDY

Whereas, the Senate is considering legislation (S. 3219) which would, among other things, enact provisions designed to prevent the significant deterioration of air quality in those areas of the country whose air quality is cleaner than any existing ambient air standard, and

Whereas, no reliable information exists on the impact the proposed significant deterioration provisions will have on the economic growth of the nation;

Whereas, Senator Moss has proposed amendments to S. 3219 which will strike the section dealing with significant deterioration and will direct the National Commission on Air Quality to conduct a one-year study on the economic, technological and environmental effects of preventing significant deterioration of air quality; Now, therefore, be it

Resolved, that the National Association of Home Builders urges the Senate to adopt the Moss amendments to S. 3219.

Mr. MOSS. Mr. President, I would like to explain what the map represents, which is now on the easel in the rear of the Senate Chamber.

GENERAL BACKGROUND

The policy of nondeterioration called for by section 6 of the Public Works Committee bill requires that those areas which have air quality better than existing primary or secondary standards, must maintain that air quality within very narrow incremental increases of further deterioration. Only specified increments of sulfur dioxide and particulate matter are to be allowed in each of the two classes established by the section.

We start with a plain white map of the country. The proponents of the nondeterioration policy often suggest that this policy will affect only the air quality over our national parks and wilderness areas. Certainly it is those areas which to date have received the lion's share of the discussion. If this proposed policy did in fact only impact those areas, the amendments I have proposed would not have received the wide support they have received. All of us want to protect these important national treasures. As a major participant in the creation of three national parks in Utah, and others across this country over a period of 14 years, I think I stand at the forefront of those advocating their future protection and preservation.

FIRST OVERLAY

However, since the language of section 6 clearly states that the policy of nondeterioration would apply to any area of the country where the air quality for SO_2 or particulate matter is better than the national standards, areas which do not meet the national standards for both pollutants are necessarily excluded from any substantial development. These excluded areas are shown in yellow on the first overlay. To be more specific, the areas which are marked in yellow are presently in violation of existing national ambient air quality standards, NAAQS, for both SO_2 and particulates. As a result, existing law already prohibits further expansion or development of industrial facilities which emit these pollutants.

I quickly add that any monitoring station which indicates a violation of a national air quality standard twice in a year, anywhere in the region, identifies that entire air quality control region in which the monitor is located, as being in violation. If the air quality control region is large, such as is the case in Nevada, the map indicates that the whole region is in violation. Unfortunately, with existing EPA data, this is the closest we can get to approximating the reality of the situation. Obviously, more study is needed and more specific State-by-State information should be gathered. My amendments would facilitate this need. The only present alternative is to use the data, in spite of itself, to arrive at whatever conclusions are desired. This is hardly a satisfactory procedure.

Returning to the map, one can conclude that major industrial facilities can be located in the remaining white areas, as long as these facilities do not exceed the appropriate nondeterioration increments provided for by the committee bill. Right? Well, not quite. The proponents of nondeterioration overlook the fact that "full increments" do not exist in many areas of the country. As I have said, the committee bill allows only small incremental increases in the level of SO_2 and particulates beyond an established background level. This background level has not been determined for many regional areas. I am sure Senators will agree that until they are established any further policy decisions are premature. These background levels can vary considerably from region to region and even within the same region. Particular regional areas that have been examined show that the already very small incremental allowances are thereby further diminished by these background levels. This occurs because the background level of a given region can approach or even exceed the national ambient air quality standard itself. A full increment of developable air is thereby precluded.

SECOND OVERLAY

Let me show how this problem of high background levels affects the country. As will be noted, these background levels for either one or the other of the two pollutants involved, often approach or exceed the NAAQS. This overlay shows areas in green which already come up to, or violate, the national standard for SO_2 but not particulates. In other words, there can be no further development of industry or business which emit any SO_2 in these areas. I can think of no industry that uses a fossil fuel in any of its operations, which does not emit quantities of SO_2—even with the most stringent pollution control devices intact.

There are many examples of areas which exceed the SO_2 standards apparently as a result of background pollution. Some of these areas have been clearly identified. As our monitoring capabilities improve, and as more data is gathered, additional areas will undoubtedly be identified. Meanwhile, at least all of these areas marked in green are added to the list of nondevelopable areas.

THIRD OVERLAY

An even more startling circumstance is revealed by the next overlay, showing in red those areas which already meet or violate the national standards for particulates but not for SO_2. My colleagues know that little if any industry exists in much of the West and Midwest. And yet this phenomenon occurs in rather large areas—take Alaska for example. Why? It is primarily due to natural causes. In Alaska and the Pacific Northwest, for example, much of this natural pollution results from salt spray in the air, which is picked up by the monitors as particulate matter. In other areas, the national particulate standard is violated by windblown dust from unpaved roads, fields, and desert areas. Now EPA realizes this problem. It is my understanding that they even approached members of the committee after the bill was reported. They wanted to permit development in these areas, even though the NAAQS for one of the pollutants was being violated.

I might add that the fact that vast areas of the country are in violation of the standard for one pollutant—and often because of natural causes—is not satisfactorily explained by the proponents of the committee bill. They argue that a nondeterioration policy will allow development in most of the country. The fact, however, is that many regions will have little or no increment to use, since the background level will itself exceed the required standard. Permissible development alluded to by the committee bill and guaranteed by the committee staff is seen once again to be nonexistent for many large regions of the country.

In the past, EPA has "winked" at provisions in the present act which do not permit construction of new major facilities in such areas if these facilities would prevent the area from attaining and maintaining the national standard. Since EPA knows—Edward J. Lillis and Dexter Young, U.S. Environmental Protection Agency, "EPA Looks at Fugitive Emissions," Journal of Air Pollution Control Association, vol. 25, No. 10, October 1975—that much of this pollution arises from natural sources, its regional offices occasionally permit a new plant—with proper emission control equipment, to be located in such areas. This discretion taken by EPA sets up a situation fraught with uncertainty for long-term business planning needs. Nothing could be more detrimental to our national economic recovery than this inordinate amount of EPA power to influence capital expenditure by the private sector.

Now, it would be inaccurate to state that no development will occur in these areas marked red. However, if industrial development is to occur it must do so under two distinct and burdensome permit procedures. A would-be developer would have to obtain a variance from the State air quality authority to build a facility in any area which exceeds the NAAQS for particulates. However, since the same area is a nondeterioration region for purposes of the other pollutant covered by section 6, SO_2, a separate permit would have to show that the facility would not exceed the allowable increment for SO_2. This amounts to a dual permit procedure. Certainly would-be developers are thereby given a burden of proof which is nearly unattainable.

FOURTH OVERLAY

This fourth overlay is taken from EPA information which shows the mandatory class I areas required by this legislation. Though specific buffer zones are not per se established by the committee bill, it is clear that in and around class I areas no major industrial source will be allowed. Though many areas with hilly terrain and adverse atmospheric conditions will require much greater distances, the map shows the affect of citing restrictions of only 30 miles in radius.

Mr. RANDOLPH. Mr. President, will my able colleague yield? I wish to refer to some of the maps and statements which have been made about them.

Mr. MOSS. I will be glad to yield. I would like to finish my overlays and then I will be happy to yield to my colleague.

Mr. RANDOLPH. That is understandable. I thank the Senator.

Mr. MOSS. In Senator MUSKIE's statement in the June 4 RECORD, he cited the National Academy of Science to show impacts from some pollutants at distances of 300 miles downwind. So, under section 6, a 30-mile buffer area is not at all unreasonable for purposes of illustration. All can see the additional areas that are removed from developable possibility by these class I designations which are mandatory. Others could be imposed if the State and the Federal land manager feel that it is necessary. And, of course, the buffer areas required may have to be considerably enlarged.

ADDITIONAL CONSIDERATION

One further concern has received very little attention to date, in spite of its far-reaching implications. Under the committee bill, Federal land managers having responsiblity for administration of class I designated public lands have an affirmative responsibility to protect the air quality related values of that public land even when class I increments are not exceeded. This means that they are subject to discipline for failure to vigorously preserve nondeterioration in any such land that they administer, if such land has an air quality related value. Obviously, the bill reads as a mandate for erring in the direction of too much enforcement rather than too little. The potential for law suits is absolutely incredible. Presumably any one of a number of environmentally concerned groups could bring legal action requiring the Federal land manager to himself take legal action against any would-be-developer if there is the possibility of air-related deterioration. Of course, that possibility always exists.

The only areas which are still available for any type of growth in the foreseeable future are those still showing up as white on the map. Even in these areas very little growth can be projected since background pollution and/or less-than-full increments for growth restrict development. And even in those areas not affected by class I, background levels, or partial increments, total allowable class II increments are still small enough to cause considerable doubt about how much, how fast, and when growth will occur.

So, Mr. President, the point that I have tried to make by presenting this map is to show that we use EPA's own data on the monitors that are in place in those air quality areas, to show that we have taken out already more than half, as much as two-thirds, of the land area of our country. And unfortunately the total area of red, stretching down through the middle part of the country and into the western part, is the area where we would expect to have some growth. This is an area of many natural resources, particularly a coal area, and the extraction of coal and utilization of coal is bound to cause some degree of pollution.

I think what this map tells us and what we ought to devote ourselves to here is that we need, indeed, to have a full-scale study on the impact of the policy set forth in section 6; and until we know the outcome of that study and until we are prepared to accept the tradeoffs, the impact that it would have, the restriction on growth and population in those areas, we should not enact section 6 into law.

My amendment, Mr. President, simply provides that section 6 shall not be enacted into law, and a study will be made by the Commission which is already set up in the act to do the study work, until that Commission has completed its study and brought back its report, so that Congress will not then be acting in an area where it is not fully informed.

I think one of the problems that we often get into in legislating is to see a desirable objective—and I say as loudly as anyone clean air is a desirable objective, pristine clean air, if it is obtainable—but we see a desirable objective and lock into law a requirement, without looking at the other considerations that are ours; and among the other considerations, of course, are to maintain a healthy economy, to preserve mobility and freedom for our people, and to make our lands and factories productive so that we can maintain an adequate standard of living for our people.

If we neglect those considerations, the people will not long keep us in Congress, I would think, because when the pinch begins to come, we, of course, would have to take the blame if we set in motion the condition that impinges on their livelihood and style of life.

The Senator from West Virginia had a question about the map. I will be glad to respond to it.

(At this point Mr. CLARK assumed the chair.)

Mr. RANDOLPH. I thank my able colleague from Utah. I have long known him in Congress as a Senator who is closely and intensely interested, not only in the subject which he has brought to our attention today, but also in other matters for which we share concern in this body.

The map shows large areas which currently violate primary and secondary standards, and would not be affected by the nondeterioration provision of the measure as reported from the Public Works Committee.

Mr. MOSS. If I may interject, it would affect the decisions, because in those areas no further deterioration would be permitted.

Mr. RANDOLPH. I respectfully suggest that perhaps the Senator's attention might better be directed toward the attainment of primary and secondary standards. What would be his response to that?

Mr. MOSS. As the situation is now, if the Moss amendments were adopted, of course, the standards that are already mandated in the law would remain in place, and this is something that I understand our colleague from Virginia is going to offer an amendment to; he would like to take away even the regulation standards that exist now. My amendment would permit those standards to remain in place, but it would say that section 6, which extends and even in some instances ameliorates slightly those present regulations, not be wired into law until we have completed this full 1-year study that is mandated in the amendment.

What I put the map up to illustrate is that, taking EPA data itself, admitting their monitors may cover very wide areas and there might be variations, yet these are the areas that are reported under these circumstances, and, taking EPA data, all of those colored areas, for one reason or another, either particulates or SO_2 or both, are presently up to or in violation of the permissible standards, and therefore, they cannot put any more increment in there.

The little dark areas are the ones that surround class I areas that are mandated.

There has been some discussion about the size of the buffer zone. I tried to address myself to that. That is simply illustrative and arbitrary, that a 30-mile buffer zone has been drawn around that. But it serves to illustrate that it stretches out over quite a few areas, since we have many national parks and monuments in the West, but it is noticeable even farther east and on the east coast——

Mr. RANDOLPH. There are no buffer zones provided for in the Senate bill.

Mr. MOSS. That is right, there is none mandated. It is simply that nothing may be sited and put into effect that is going to impinge on the class I areas. So the buffer zone, if the wind were always prevailing, might be a mile, and you could depend on all of the pollution going away. But it has to be far enough away that twice a year it does not come into zone 1 and cause the pollution.

Mr. RANDOLPH. Because of what the Senator has just said, I think it is important to point out that there are pollution effects that occur from natural backgrounds.

Mr. MOSS. That is correct.

Mr. RANDOLPH. As well as man-made sources of air pollution.

Mr. MOSS. That is right. That is that big red area on the map.

Mr. RANDOLPH. The mention by the Senator of areas already in violation of national standards causes me to ask this question. Where this occurs the regions are classified as dirty areas, nonattainment areas under extisting law. Is it true that such areas are not subject to the nondeterioration provisions of the bill?

Mr. MOSS. I think section 6 extends to all areas if it is enacted.

Mr. RANDOLPH. The provisions of section 6 are restricted to clean areas or regions now in compliance with the national standards.

Mr. MOSS. That there shall not be any additional pollutants, you mean, in those areas?

Mr. RANDOLPH. That is correct with respect to those areas not covered by section 6.

Mr. MOSS. In those areas. In this then, since these already exceed and exclude any additional and section 6 would pertain to other areas, then we are simply out of business entirely.

Mr. RANDOLPH. Other parts of the bill apply to those areas in which primary and secondary standards have not been achieved; do they not?

Mr. MOSS. Yes.

Mr. RANDOLPH. Yes.

Mr. MOSS. The thing that seems to me that this so strikingly illustrates is that there are natural background pollutants, mostly particulates that exist in areas. If we look at Alaska, most of Alaska is in red and we think of Alaska as being pristine, but if we measure it under the monitors they have there it falls in this category as being up to in excess of the permissible level.

Mr. RANDOLPH. I know that maps sometimes can portray the proposal of an advocate, and I can understand that is the Senator's purpose here. I am not saying that the maps are wholly inadequate and inaccurate. I will say however, that the committee bill requires States to submit lists of the portions of air quality control regions that are dirty and are, therefore, not eligible for the nondegradation policy. Since that process has not taken place, I wonder how maps can be made in an accurate way. In any case, the areas in such maps will be much reduced from the nonattainment maps that have been circulated. That is the reason I questioned the able Senator about nonattainment.

I am not certain that we can have agreement on this. These maps do not argue against nondegradation; or do they?

Mr. MOSS. I think they do.

Since I am limited on time, I am going to have to preserve some of my time. Although I shall gladly respond, I have already consumed a good part of my time.

Mr. RANDOLPH. I can understand, and I am sure that when questions are asked by the Senator, we who would oppose the amendment will be happy to comply with colloquy.

So I have simply this final observation: The maps, of course, only show the number of areas that are governed by policies more stringent than nondegradation. If an area is dirtier than the standards, then no new facilities may be allowed in the area unless assurance is gained that the new source will not cause or contribute to levels which exceed the standards. This would not be changed if the Senator's amendment passes, as I understand it. This is a question dealing with the attainment of those standards, as I first said, and not degradation.

I thank our colleague for yielding.

Mr. MOSS. I thank the chairman for his discussion and pointing out standards of the bill. It seems to me that this illustrates, in part, some of the uncertainties we have here and probably underlines the reasons for the study that my amendment calls for.

There is controlled time on this matter. Will the Chair inform me as to how that time is divided and what the situation is currently?

The PRESIDING OFFICER. There is no time limit on the proponents of the Moss amendment except the vote must occur no later than 1:30 p.m. There is 1 hour assigned to the Senator from Maine in opposition to the amendment and 2 hours limited to the Senator from Virginia (Mr. WILLIAM L. SCOTT) for an amendment to the Moss amendment.

Mr. MOSS. I understood that the Senator from Virginia (Mr. WILLIAM L. SCOTT) was to have an amendment and that that would be debated and probably disposed of before we came to a vote on the Moss amendment. That is the reason I wish to retain my time and permit the others to go forward at this point.

The PRESIDING OFFICER. There is neither a requirement that the Senator from Virginia offer his amendment nor any time set for that.

Mr. MOSS. I will yield to the floor

manager at this point, if he cares to go forward, and we will check with the Senator from Virginia to ascertain if he is going to come to offer an amendment.

UNANIMOUS-CONSENT AGREEMENT

Mr. BAKER. Mr. President, while we try to unravel who goes next and on whose time, I ask unanimous consent that we have a quorum call without the time being charged to either side?

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, will the distinguished Senator from Utah yield to me so that I may ask some questions on this general subject?

Mr. MOSS. I will be glad to yield some time to the Senator from Tennessee.

As I understand the time situation, it is that some time was set aside for the Senator from Virginia to offer an amendment, and there is a time limitation on the proponents of the bill.

I am sort of heir to all residual time, just so that we get to a vote by 1:30. Under those circumstances, I guess I am the richest around here—at the moment, anyway—and I will be glad to yield some of my time, so that the Senator from Tennessee can discuss the bill generally or the amendment specifically.

I point out, in the first place, that I am concentrating on section 6. I think it should not be enacted until we have the full study.

As to the other parts of the bill, I am in favor of them. I believe we should have the emissions on automobiles dealt with, and other things that it does.

I have tried to make clear from the beginning that I do not oppose the bill as such. I have directed my attention only to section 6, which I want out until the study is complete.

I yield to the Senator from Tennessee to proceed as he wishes to at this time.

Mr. BAKER. I thank my colleagues for permitting us to do this. His appraisal of the time situation is exactly right.

I say, parenthetically, that in the 10 years I have been in the Senate, I do not think I have ever had a similar situation, in which the time on one side was controlled and was not controlled on the other. But the Senator from Utah is the richest one of us. At this time, he does have all the time available, except time allocated under the unanimous-consent agreement, which we could use up very promptly.

Mr. President, I really rose to ask a few further questions about the map on the easel behind Senator Moss. Before I do, however, I was looking at the map, and I noticed it purports to be an amendment to section 6 of the Clean Air Act. I ask the Senator from Utah if that is a typographical error. I think it probably is an amendment to the committee bill, S. 3219. In trying to thumb through it, I could not find a section 6 of the Clean Air Act.

Mr. MOSS. It does start off by saying "Clean Air Act, as Amended."

Mr. BAKER. That does not conform with the first paragraph, which I think is a typographical error.

Mr. MOSS. Yes. I will ask to modify that "the committee bill is hereby."

Mr. President, I ask that I be able to modify that language.

The PRESIDING OFFICER. Such a request requires unanimous consent.

Mr. MOSS. Mr. President, I ask unanimous consent that the amendment be modified to refer to the committee bill and simply begin "is hereby deleted."

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The modified amendment is as follows:

On page 11, beginning on line 9, delete section 6 and renumbering succeeding sections accordingly.

Section 37 is amended as follows:

On page 85, line 2, strike all through and including line 2 on page 88 and in lieu thereof insert the following:

SEC. 315. (a) There is established a National Commission on Air Quality which shall study and report to the Congress on—

(1) the effects of the implementation of any proposed or existing requirement on the States or the Federal Government under this Act to identify and protect from significant deterioration of air quality, areas which have existing air quality better than that specified under current national primary and secondary standards;

Mr. BAKER. Mr. President, I thank the Senator from Utah for conforming the amendment in that respect. I should like now to ask a few questions about the map.

I think part of this has been covered by colloquy between the Senator from West Virginia and the Senator from Utah; but, unfortunately, I was at a hearing of the Aviation Subcommittee of the Committee on Commerce which began at 8 o'clock this morning, and missed part of the colloquy. If this is repetitious, I apologize.

The first question relates to the title on the nondeterioration map. The red areas on the map, if they are in fact supposed to be nondeterioration areas affected by the incremental requirements of the committee bill, do not seem to conform to the maps that we had in our committee in that respect. I wonder if there is some possibility that those red areas are something other than nondeterioration areas, pristine, pure areas, or areas cleaner than standards. Might they, in fact, be nonattainment areas instead of nondeterioration areas?

Mr. MOSS. Yes, I suppose they could be nonattainment, as a designation. These are areas which presently show, from the monitors, that they are up to or exceed the acceptable standard, and the red happens to be particulates.

Mr. BAKER. A lot of that may be background dust levels; may it not?

Mr. MOSS. Yes, a vast amount of it. I pointed out earlier that there is a great swath down through the mid part of the country and extending into the western part, and almost all of it is natural background particulates.

Mr. BAKER. So that the particulates probably already prevent, or so far have prevented, attainment of the primary and secondary standards, as distinguished from nondeterioration aspirations.

Mr. MOSS. Yes—on present standards.

Mr. BAKER. I ask the Senator from Utah what his understanding is, then, of the provisions of section 6 in those nonattainment areas. It was my impression, for example, that section 6 did not apply to nonattainment areas, only to nondeterioration areas.

Mr. MOSS. My understanding of it is that in these areas, we already are up to or exceed the standards. No additional increment would be allowed, no permit would be granted, or no more pollutants added in that area. Nonattainment is right, and it would cover vast areas of the country. Even some forest areas would come under this designation.

Mr. BAKER. I thank the Senator for that response.

As I understand it, then, it would amount to a contention—which may be right in many respects; I am not convinced that it is right in every respect—that nonattainment is the functional equivalent of nondeterioration in those cases, insofar as it affects future growth and development.

Mr. MOSS. Yes, I think that is essentially correct.

Mr. BAKER. With respect to the variations on that theme—and I will not move on to them now because they, too, no doubt, will be subject to controversy and attack—I ask the Senator if he has a map that shows the areas that are nonattainment areas and the others that are nondeterioration areas, so that we can make a distinction visually between the two classes of problems. Is there another overlay that goes with the map that might show that?

Mr. MOSS. No, I think the overlays are all down now, and we do not have any additional designations.

I might add that if I seem a little uncertain and this discussion is not as sharply drawn as it might be, it is probably a pretty good argument for having the study made that I want so much to have before we wire in section 6.

Mr. BAKER. Mr. President, if the Senator will yield further, that really sort of gets to the nub of the matter and the point on which we disagree, and disagree in good spirit. There is no doubt in my mind, either, that we need a further study and, as the Senator knows, I was the one who introduced the amendment in committee to provide for the National Air Quality Commission, which has a similar undertaking—to study the whole range of air quality imperatives that ought to be translated into useful legislative language. I think the distinction, though, ought to be clearly drawn. It is the provision of the Moss amendment that the provisions of the act would be tolled or suspended pending the Senator's whole study.

Mr. MOSS. That is correct.

Mr. BAKER. It is the intent of the National Air Quality Commission, proposed in the bill, that the provisions of the act with respect to nondeterioration would go into effect on passage and not await a study.

Mr. MOSS. That is really the turning point, yes, whether or not it is suspended or tolled until the study is complete or whether it goes into effect and then the study is completed and may require some modification.

Mr. BAKER. There is an honest difference of opinion between us on that point.

Mr. MOSS. Yes.

Mr. BAKER. I contend, for instance, that the best interests of commerce and industry and the best interests of the country would be served by abrogating the EPA regulations, as the committee bill does, or proposes to do, and to free us of the interpretation of the 1970 clean air amendment, and the approval of the EPA regulations, as the committee bill does, while the National Air Quality Commission goes forward with this examination. Is it not true that the Moss amendment would leave the EPA regulations and the implementing or approving court decisions in effect while the Moss study is going forward?

Mr. MOSS. Yes, that is true. The status quo now would continue, which would mean the regulations would be in place and the court decisions that have been rendered would be half-way implemented.

Mr. BAKER. I notice that the Court of Appeals for the District of Columbia in the Sierra Club-Ruckelshaus case, I believe on yesterday, affirmed an opinion by Judge J. Skelley Wright, the opinion of the district court upholding the reasonableness of the EPA regulations.

The argument, as the Senator knows, has been heard in the subcommittee that some of the people felt that the EPA regulations need not be abrogated by the statutes because of limitations on progress in effect. People have said we would rather take our chances on litigation than on legislation. Now, with the court of appeals upholding the district court, I guess the only thing left is the Supreme Court. I rather suspect that, in the case at hand, the court of appeals opinion would be a persuasive argument for the Supreme Court on the validity of the EPA regulations.

Is this not true: That the EPA regulations formulated in response to the district court decision would be much stricter in terms of restrictions on development, of nondeterioration of clean air, those already cleaner than the ambient primary or secondary standards, that those EPA regulations remaining in effect after the Moss amendment is adopted are tougher than the committee bills on nondeterioration? Is that not so?

Mr. MOSS. I alluded to that earlier. I think that in some respects, yes, they are, but they are not as far reaching and do not finally wire in, as we say, the legal requirement until the study is completed. I think——

Mr. BAKER. But the EPA regulations would be in effect while the study is going on.

Mr. MOSS. That is true, they are. And they have class III designation for industrial growth in the EPA regulations now.

Mr. BAKER. Mr. President, I thank the Senator. That was a very helpful exchange with him and I am pleased to have had the opportunity.

I understand my colleague from New Mexico has questions and I would like at this time to yield to him.

Mr. MOSS. I am glad to yield to the Senator from New Mexico.

Mr. DOMENICI. I thank my good friend from Tennessee.

I was not here, Mr. President, when the Senator from Utah discussed this map. I have now had an opportunity to look at it. I wonder if the Senator from Utah would tell me again what the red area of this map is supposed to tell the Senators?

Mr. MOSS. The red area is the areas of the country where the monitors for these air designated zones have particulates that equal or exceed those permissible.

Mr. DOMENICI. Permissible under what, I ask?

Mr. MOSS. Permissible under present EPA regulation.

Mr. DOMENICI. Does the Senator mean that the red areas of this map are presently what we would call nonattainment areas?

Mr. MOSS. I think that is what we agreed with the Senator from Tennessee to say, yes, a nonattainment area.

Mr. DOMENICI. Then the Senator is not saying that the nonattainment problem and the red areas of this map that indicate nonattainment are areas that would be impacted by a nondegredation policy; is he?

Mr. MOSS. In effect. If section 6 goes into effect, yes.

Mr. DOMENICI. I wonder why that is.

Let me say first to the Senator that I understand these red areas from reading the map, basically, are as follows: They are areas of the United States, based upon present monitoring data, which exceed the primary and secondary standards of the country. That is for two reasons: First, because the manmade pollutants in the area have not been cleaned up or are excessive; second, where natural pollutants—that is, background particulates—when combined with industrial pollutants—violate the primary and secondary standards.

If that is what the red area does, then, the nondegradation policy, as articulated in this bill, has no application to those areas at this particular time, because they, in fact, are already in violation of the standards absent the nondegradation policy.

I say to my good friend from Utah, and I hope he agrees with this, that nobody should believe that nondegradation is going to prevent growth in those red areas—food growth, bad growth, whatever kind of growth we are talking about—because, as a matter of fact, if they are presently nonattainment areas, growth is prohibited by the existing law of this land, not by nondegradation.

I say to my good friend from Utah that one of the major problems confronting this Congress and our Nation has nothing whatsoever to do with nondegradation, but, rather, how are we going to solve the problem of needed new growth in these nonattainment areas. There, we need to address two things: How much more can we clean up manmade pollution and what is the final policy of this Nation going to be with reference to background particulates.

I repeat: I do not believe any Senator should construe the red parts of that geographic map of the United States to mean that those are areas where the nondegradation policy of this committee, as articulated in this statute, prohibit growth. If growth is prohibited in those areas, that growth is prohibited by definition of the basic clean air statutes of this land and the nonattainment possibilities under the present regulations from both mandate and background particulate.

So, if I am right, then, in speaking of nondegradation, we are talking about the white areas, which are presently pristine areas—that is, areas where the air quality is better than that required by our primary and secondary standards. As a matter of fact, under your map, they end up being the only areas where real growth can occur.

That is the very thing this particular bill and our policy articulated in it direct attention at, and it is saying, if you want growth in those white areas, which are the only ones we are going to address under this particular section, then manage that growth so that you maximize diversified growth rather than permit one of those white areas to become red, and thus become a nonmaintenance area. That is the basic issue, and I think the map serves a very useful purpose.

So, contrary to the map serving the purpose of arousing some fear on this institution as to nondegradation, from this Senator's standpoint, it points up some completely different things, the most serious one of which is the question as to what is going to be the policy of this country with reference to nonattainment—nothing to do with nondegradation—when nonattainment is based upon background particulates combined with manmade pollution in the air.

I yield the floor at this time, Mr. President.

Mr. MOSS. Well, I thank the Senator from New Mexico for his comments. I think his discussion is very enlightening, and it tends to again point to the fact that we are dealing with a large unknown sort of factor.

We are presently under EPA regulations which are administrative regulations. But if section 6 becomes law it can only be revised through a legislative process and, therefore, the questions that the Senator from New Mexico raises seem to me to argue for nonlegislation on air standards until the study has been completed.

There are so many unknowns, that is what we are fishing for, we are trying to get the answers to as to what it will mean, whether it is nondegradation or nonattainment, and we ought to know.

Now, trying to implement a law requiring clean air over this whole country is a large and complex undertaking, and we should not do it piecemeal, and we should not do it without the fullest study possible, with all the data that are possible for us to have before we make that judgment. That is the reason I feel very strongly on section 6.

Mr. President, I suggest the absence of a quorum, and that it be on my time.

The PRESIDING OFFICER (Mr. CLARK). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ALLEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ALLEN. If the distinguished Senator from Utah will yield me some time, I would like to discuss his amendment and support his amendment.

Mr. MOSS. I yield the Senator from Alabama such time as he may need at this point.

Mr. ALLEN. I thank the distinguished Senator from Utah.

Mr. President, the heart of the debate regarding the proposed Clean Air Act amendments is joined today in consideration of the amendments to S. 3219 introduced by the distinguished Senator from Utah (Mr. Moss), amendments numbered 1598, 1599, and 1600, and they are to be voted on en bloc.

Mr. President, I would like to commend the distinguished Senator from West Virginia (Mr. RANDOLPH) who had had his amendment pending, and to this amendment I had offered an amendment, and he was agreeable that his amendment be set aside in order that this basic and fundamental amendment of the distinguished Senator from Utah (Mr. Moss) could be acted on first because the Moss amendment goes to the very heart of this issue, and this issue is: should section 6, the nondegradation provision of the Clean Air Act amendments be enacted into law prior to a study as to the necessity and advisability of the provisions set forth in section 6. It is the practical approach to this problem.

Now, the sponsors of the bill contend that the EPA already has the powers that are contained in section 6 and that, in fact, section 6 is a limitation on the powers that EPA now has.

Well, now, if that is true, Mr. President, there is no need whatsoever for the enactment of section 6 until such time as a study has been made to consider the procedure and the formulas provided by section 6, because EPA already has the basic power, according to the proponents of the bill, and that, in fact, section 6 is a limitation upon those powers.

So what is there to lose, Mr. President, by the adoption of the Moss amendment?

It would provide for the study by a Commission which would report back and the Congress would have the benefit of the recommendations of that commission as it studies the necessity of making a nondegradation provision.

The first amendment contained in the Moss amendment would strike the significant deterioration provisions of S. 3219; the second would require a report to Congress within 1 year regarding nondegradation policy; and the third amendment requires the National Air Quality Commission established by S. 3219 to study economic and energy effects of the present national ambient air quality standards and the policy of prohibiting deterioration of air quality. I shall address myself to the Moss amendments en bloc, because all of them will be voted on as one amendment.

It is rarely possible in the Senate to reach compromises without some exchange of harsh words during debate; perhaps what is said in the heat of a controversy reflects the true nature of the feelings and convictions of various Members about the issues at hand and thus, spirited debate is both to be desired and encouraged—it is the essence of our representative form of government.

The current debate has built to such a point so quickly because most of us know that important matters are to be considered. There is more at stake here than clean air versus dirty air—I suppose all of us would opt for clean air rather than dirty air—environmentalists versus industrialists, health versus economics; what is at stake is the contemplation of a vast reordering of the way in which we think about the future shape of our society. For, surely, if many of the concepts embodied in S. 3219 are enacted without substantial change, we will move the country in a direction that I am not at all sure the average citizen wishes to be moved. More important, we could so move the country in a direction which might not be supported by the population-at-large once the full impact and scope of legislation is made clear to the public by radical changes in living standards brought about by strict compliance by companies who now provide the bulk of the jobs our citizens have.

The Clean Air Act of 1970 requires that Federal standards for air quality be set to protect health and welfare—crops, property, wildlife, and so forth. The States were given the power to control industrial and commercial development within these health and welfare standards and also were given the option of choosing stricter controls for new or old facilities. In addition, new facility construction and modification of existing facilities are required to meet uniform Federal performance standards by use of the best available demonstrated control technology and can be prohibited entirely if it is determined that such construction or modification would interfere with meeting air quality standards.

Thus, the current act presents a balanced program: controls in areas where existing air quality could possibly be harming health and welfare; uniform Federal controls on new installations to assure that the best controls will be used; and provisions for the States to adopt stricter standards if desired.

THE "NONDETERIORATION" CONCEPT

The "nondeterioration" concept came about through court interpretation of the words "protect and enhance" contained in the 1970 act. The Supreme Court, in a four-to-four decision—hardly an overwhelming number, four to four, but they did uphold the lower court because it would have taken a majority, of course, to overrule the lower court—upheld a lower court ruling that the air could not be degraded even if the air quality remained within the health and welfare protective standards.

So even if the air was in the protective standards, the Supreme Court, in this four to four decision, upheld the lower court which had ruled that air could not be degraded to any extent, even if the air quality remained within the health and welfare protective standards.

The Environmental Protection Agency accordingly promulgated regulations for the "prevention of significant deterioration." These regulations now govern development—industrial, commercial, institutional—in clean air areas—those areas already meeting the health and welfare standards.

The nondeterioration section of the proposed Clean Air Act amendments now pending in S. 3219 is the result of the EPA's request to Congress for clarification of the intent of the words "protect and enhance." The administration and most industrial groups contend that Congress did not intend the Federal Government to play any role beyond the protection of health and welfare and that the States, not the Federal Government, should have the authority to choose stricter standards.

I should like to point out specifically that the opposition to the nondeterioration section of S. 3219 is not limited to "industrial groups" and the administration. Last week, when this debate began, I received a brief paper of quotes from the Washington Environmental Coordinating Committee which, on its front page, prominently quotes Mr. Robert A. Georgine, president of the Building and Construction Trades Department of the AFL–CIO, to wit:

> The issue and its consequences are far too important to be brushed aside in the haste to legislate.

Thus, Mr. President, supporting the concept of the Moss amendment which would study and then legislate, rather than legislate and then study.

The paper is a compilation of remarks by various individuals, in and out of the Government, on the serious potential impact of the passage of the "no significant deterioration" section of S. 3219.

Mr. President, I ask unanimous consent that the paper be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. ALLEN. Mr. President, there has also been considerable comment that only the "big" companies and the "big" utilities are fighting section 6 of the bill. Nothing could be further from the truth if the mail I have received on this issue is any indication. I should like to quote the mailgram I received yesterday from the National Rural Electric Cooperative Association. I feel certain that all Members received a copy of the mailgram from Mr. Partridge, executive vice president of the group, but I believe it bears repeating here for it supports my thesis that opposition to section 6 cuts across all the usual coalitions and groupings we are used to hearing from involving very controversial legislation.

The National Rural Electric Cooperative Association is an association of some 1,000 rural electric cooperatives all over the country in every State, if not very nearly every State.

Mr. Partridge said:

> The National Rural Electric Cooperative Association strongly supports the Moss Amendments Nos. 1598, 1599, and 1600 to S. 3219, the Clean Air Amendments of 1976.

Actualy, there is no need to refer to these as three amendments because they are embraced in one amendment on which there will be one vote:

> NRECA believes that the impact of S. 3219 on the national economy and the formation of growth capital has not been adequately evaluated. The Environmental Protection Agency recently analyzed current macroeconomic studies and concluded "hence, one cannot put much faith in the internal consistency or the findings of any of these studies." In view of this uncertainty NRECA urges that you support the Moss Amendments when they are brought to the floor.

The Alabama Power Co. provided me with a fact sheet on that firm's reaction to the proposed additions to the Clean Air Act of 1970 which we are considering today and I should like to share those views with all Members of the Senate. I wish to excerpt from that statement one small portion because it deals with a map—which cannot be reproduced in the Record—showing the potential impact of pending legislation on the service area of the firm, which is some five-sixths of the State of Alabama, the remaining portion of the State being served by the VA.

At the conclusion of my remarks I will ask unanimous consent to have printed in the Record the entire statement of the president and chairman of the board of the Alabama Power Co.

That portion of his statement reads:

> Attached is a map of the State of Alabama which indicates that the only part of the State where nondeterioration provisions would not apply are small areas in the Tennessee Valley. All of Alabama Power Company's service area would be affected by the provisions. Even if it is assumed that all of the State's area is classified as Class II, the allowable increments of SO_2 and particulate concentration are so small as to produce severe restriction on power plant siting in hilly terrain and, in any event, to act to restrict the size of power plants or other particulate or SO_2 emitting industries sited in a particular area.

Mr. President, I ask unanimous consent that the letter dated March 29 to me from Mr. John H. Hawkins, assistant to the senior vice president of APC, and its attachment, "Senate Clean Air Act amendments" be printed in the Record at the conclusion of my remarks.

The PRESIDING OFFICER (Mr. Ford). Without objection, it is so ordered.

(See exhibit 2.)

Mr. ALLEN. I have one further Alabama citation which I wish to bring to the attention of the Members of the Senate and I am sure that most Senators can point—and with pride—to companies in their own States who have compiled environmental records such as the following. One of Alabama's significant industries, which employs 5,000 people across the State, reported to me that in 1975, the company spent more for pollution control equipment than to sustain the existing manufacturing equipment; that, as of August 1975, the company spent, in Alabama alone, $16,800,000 for air pollution only; and as of that same date, the company spent a total of $22,114,000 for air quality compliance and an additional $5,851,000 for water quality for all the installations of the company across the United States. This, to me, represents an enlightened and progressive firm, but they do object to the provisions of S. 3219 calling for heavier and heavier monetary commitments to cleaning up air in the areas of their operations until "the full impact on our society can be ascertained by a full study by the National Air Quality Commission." That firm already knows what the impact of the current law is—they ask, and rightly so—that further economic impact be based on sound data. I submit that that firm is not asking too much of the U.S. Senate.

S. 3219, THE STATES, AND LAND USE

The legislation would require that State plans submitted to the Environmental Protection Agency contain a section providing for "prevention of significant deterioration" in conformity with strict Federal guidelines. These guidelines would dictate that the State designate areas where air is already cleaner than the health and welfare standards as either class I—"pristine" areas such as national parks, where only very small pollutant increases may be permitted—or class II—areas suitable for limited, tightly controlled growth. For each class, the committee's proposal sets forth the amounts, or increments, of pollutant concentration increases that can be allowed and requires that the State environmental agency assure that these increments over baseline concentrations—the levels of each pollutant as of July 1, 1976—are not exceeded. Unfortunately, these increments have been arbitrarily set as fractions of the present air quality standards and, as a consequence, bear no reasoned relationship to the aesthetic qualities above and beyond the health and welfare standards.

In order to obtain a permit to construct an industrial source or to expand an existing source in an area where nondeterioration language would apply, an applicant would first have to meet all preconstruction review requirements under existing law, including the complete statements of all environmental impacts under the Federal Water Pollution Control Act and any State or local environmental regulations.

Under the provisions of section 6 of S. 3219, the nondeterioration section, the applicant would also have to monitor ambient air quality for a period of a year and perform mathematical modeling to predict increases in pollutant concentrations to determine the effect on air quality the source would have. After this extensive review has been completed, the applicant would present his data to the State agency implementing the nondeterioration regulations. He would have to prove that his source could be constructed causing any threat of violation of allowable increases in pollutant concentration—the increments. If he proposes to locate close to a class I area, he would not only be required to show that he could meet the increments where he planned to site but also that the source's emissions would not pose a potential threat of adverse effect on the pristine area through intrusion.

Even if the applicant were able to prove all these things—assuming of course that the applicant could afford to conduct such testing, and so forth—the national nondeterioration proposal would grant the State agency the discretion to make a political land use decision to grant or deny the permit. With a very limited increment to mete out, the agency would choose how, or if, the increment should be spent. It would decide what could be built, and when, even when the applicant could show that the new source would comply with the strict requirements of the act. This, Mr. President, is the backdoor approach to Federal land use planning, and it is especially obnoxious since the Congress has rejected land use planning at the Federal level in each of the last 4 years. Land use planning should never be mandated on the basis of one single factor such as "air quality," and premised on incremental increases which bear no relationship to the values they are designed to protect. Such severe limitations on the economic growth of the our country should not be imposed on so narrow and arbitrary a basis.

WHY I OPPOSE THE NONDETERIORATION SECTION OF THE BILL, S. 3219

Proponents of nondeterioration feel that it is necessary to protect air that is cleaner than health and welfare standards where large, unique Federal lands are located. However, after a year of study by the subcommittee and the full committee, and after many noncongressional inputs have been received, it is dawning on many of us that the legislation has far graver impacts on industrial growth than previously contemplated. So far, the information generated in support of the nondeterioration standards have raised more questions than have answers been provided.

There is also a very significant fact that has been generally overlooked by the proponents: the nondeterioration concept results in part from the fact that only one major industry—the electric utility industry—has been studied in any depth as to the potential impacts of the "no significant deterioration" proposal. Where is the supporting data regarding the steel industry, shipbuilding, foundries, petrochemicals, refineries, the whole agricultural sector, and so forth? In fact, no thorough technical analysis has been performed to study the effects of the committee proposal on any of these industries.

Additionally, the increments which define "no significant deterioration" were arbitrarily picked by the Environmental Protection Agency and bear no identifiable relationship to the qualities they are supposed to protect in the unique land areas. It would be ill-advised to trigger the enormous planning processes to be required of States, not to mention the tremendous expense of economic and technical modeling and duplicative emission control technologies that would be required of industrial sources, to establish and enforce these increments without first undertaking research to determine what levels make an esthetic difference in the various areas.

Furthermore, few States have examined the impact of a national nondeterioration policy on their ability to determine their economic future, and no State has been asked to testify either in support of or in opposition to the concepts in the proposal although there have been statements, for and against, from various State officials. The authority of the States to plan industrial development within the boundaries of public health and welfare or to opt for development within stricter standards of emission reduction is reaffirmed in section 116 of the existing Clean Air Act. This authority would clearly be reduced to a significant degree if the bill, S. 3219, were enacted.

To implement the goal of limiting construction in areas cleaner than health and welfare standards, the nondeterioration proposal would grant the State environmental agency the discretion to make land use decisions to grant or deny a permit to construct an industrial source or to expand an existing source based on compliance with Federal air increments. The States' authority, however, would be greatly reduced no matter how much flexibility is reserved for them.

Mr. President, I feel that the land use policy decision inherent in the nondegradation concept should be made by the local governing body in the area directly affected by such a decision. It is the States, counties or municipalities which are best able to evaluate the needs of the community and determine whether they care to forgeo new industrial development for the sake of preserving air far beyond any health-related standard. The Clean Air Act provides the States with ample authority to prevent the construction of any installation which would violate stricter standards they might wish to maintain.

Once again, it is my contention Mr. President, that land use planning should never be mandated on the basis of one single factor, nor premised on incremental increases which bear no relationship to the values they are meant to protect. Such severe limitations on development and the economic growth of our country should not be imposed on so narrow and arbitrary a basis.

I do not believe, Mr. President, that the U.S. Senate should go on record as approving a policy that will potentially adversly impact future generations without first learning all there is humanly possible to know about the implications of the proposed policy. The Moss amendments provide for the kind of study and time for consideration of the ramifications of their findings, for the Congress to make a more reasoned judgment in the next year or two.

I may be considered an obstructionist for saying that we should proceed with caution on the subject of national ambient air standards, but so be it. I know the people of Alabama are committed to the concept of clean air, of improving air quality, and we do not take lightly our responsibility to provide for the general welfare and the improvement of the general health of our citizens. I do say, however, that individual Alabamians have contacted me in large numbers to request that economic growth in the State not be stymied by the Federal Government, nor that jobs not be lost because of Federal redtape, nor that we bring or impose more Washington decisionmaking into the decisionmaking processes of our local governmental units.

There is growing disenchantment in Alabama with the "know it all" attitude which seems to permeate the Washington scene and is reflected in broader and broader and deeper and deeper national legislative edicts impacting the lives of our citizens. Individual citizens tell me that more and more of their everyday lives are being controlled, manipulated, or impacted by the dictates of an all-wise, all-seeing, not-very-benevolent superbureaucracy. Cynicism is running deep; Alabamians believed that power flowed from them to the Central Government, and not the other way around. The daily incursions of the Federal Government into the lives of our citizens is felt; the proposed legislation can be viewed as a refinement of the new power of the superbureaucrats to have long-term impact without the citizens feeling it directly. The subtlety of S. 3219 is that its provisions, if enacted, would not be felt all at once by the citizens.

I am, of course, not at all convinced that we must take the extra steps to clean up our air quality that is proposed by this measure, but I think it is fair to ask the Congress and the Senate in particular, to study all the ramifications of the proposed policy before attempting to implement that which most citizens do not understand. We have a heavy responsibility to our constituents to not only represent their interests but to protect them from those who would impose a new value system on them through the instrumentality of popular-sounding legislative initiatives.

EXHIBIT 1

NO SIGNIFICANT DETERIORATION

IMPACT ON AIR QUALITY AND HUMAN HEALTH

U.S. Environmental Protection Agency:

". . . there are very strong regulatory measures in existence to prevent deterioration of air quality in regions where the national standards are currently exceeded. Strong regulatory measures also exist to insure that air quality in currently clean areas cannot deteriorate sufficiently to subject the public health or welfare to any currently quantifiable adverse effects."

U.S. Office of Management and Budget:

"(The non-deterioration proposals offer) no benefit relative to EPA's health standards, but will result in significant economic costs."

U.S. Federal Energy Administration:

"(No significant deterioration) sounds great, but it is not aimed at protecting human health. It is aimed at the aesthetic side of the environmental equation—whether or not the air looks clean . . . If you carry non-significant deterioration to its logical end, the West will stay clean and the East will get dirtier."

U.S. Department of Health, Education, and Welfare:

"According to EPA, the only documentable benefits to be achieved by non-deterioration regulations would be 'aesthetic, scenic and recreational.' "

National Economic Research Associates:

". . . these new (no significant deterioration) amendments will have their primary impact in areas in which population density is quite low and in which air quality is already quite good. Consequently, it is unlikely that the benefits from these amendments will be as great as (those) achieved from meeting (present standards) . . . even if the same level of benefit could be achieved, the cost benefit ratio for (the significant deterioration) amendments would be 34 to one."

Lafe Pomerance, Legislative coordinator, National Clean Air Coalition:

"All the (significant deterioration) bill does is to protect national parks, assures that new growth is as clean as possible and prevents the air from being equally dirty around the country."

IMPACT ON PEOPLE

U.S. Department of Housing and Urban Development:

". . . the adoption of any of the (significant deterioration) plans would result in the virtual cessation of community development activities . . . to provide for the future increase in population . . . the proposed rule would result in an intolerable situation—more people, but no place for them to reside."

U.S. Department of Health, Education, and Welfare:

"While non-deterioration regulations risk imposing substantial net costs on the nation as a whole, a disproportionate share of these costs might be borne by persons of limited economic means and residential mobility. These persons would benefit relatively little from the preservation of air quality in rural areas, while they would disproportionately bear any impacts of curtailed economic growth, altered urban and rural development trends, constrained national capacity to absorb anticipated population increases, and higher consumer prices for energy and manufactured goods."

IMPACT ON THE ECONOMY

U.S. Environmental Protection Agency:

". . . the Senate significant deterioration proposal will not prevent the construction of major industrial facilities. However, (it) may require some facilities to employ different air pollution control measures, such as further control of sulfur dioxide emissions, construction of taller stacks or smaller plants, relocation at alternative sites with more favorable terrain conditions, etc. While the use of such control strategies will impose additional costs on consumers, these additional expenditures must be balanced against the benefit that would result from preventing the degradation of air quality up to the National (Health and Welfare) Ambient Air Quality Standards."

U.S. Department of Labor:

". . . we cannot find an adequate basis for agreeing with the statement . . . that 'this (proposed significant deterioration) section protects clean air areas from deteriorating while permitting the economic development necessary to achieve a steady improvement in our standard of living.' "

U.S. Department of Health, Education, and Welfare:

"If non-deterioration regulations do not allow for a sizeable margin of growth, the adverse impacts might be profound. Even with a declining birth rate, this country's population is expected to increase by some 60 million persons (30%) in the next thirty years. Without a 30% growth in economic production during the same period, we would suffer an absolute decline in per-capita income."

Governor Arch A. Moore, Jr. (R-W. Va.):

"It is my considered judgment and my deep concern, that if the (significant deterioration) proposals . . . are enacted into law, the effect upon this nation's already troubled economy could be disastrous."

IMPACT ON LAND USE AND GROWTH

U.S. Environmental Protection Agency:

"EPA's and other analyses indicate that the (proposed) Senate Class II increment would allow projected economic growth in most urbanizing areas to 1980. However, these studies show (that changes) would be necessary in order to avoid significant restriction and/or altered development patterns by 1990."

U.S. Council on Environmental Quality:

"Significant deterioration regulations . . . are also closely tied to land use issues . . . Under one of the (Senate) alternatives . . ., the class (III area) permitting the highest pollution level would be eliminated. This approach might mean that industry would have to disperse, not necessarily the best solution from a land use prospect."

Wallace H. Johnson, former Assistant Attorney General, Land and Resources Division, U.S. Department of Justice:

"A consequence of thus freezing at their current levels of development these 'cleaner than clean' areas might be the confining of industry and population to those areas of the country which are now 'dirty air' areas."

Bureal of Domestic Commerce, U.S. Department of Commerce:

". . . in (EPA's) Class I and Class II area designations the allowable degradation increments would not permit some industries to grow sufficiently to meet local and national requirements and objectives. This would be particularly true in the essential fields of natural resource processing and energy production."

U.S. Department of Health, Education, and Welfare:

"Non-deterioration regulations would produce a national land-use policy giving singular attention to air quality criteria. Serious land-use distortion might result, particularly if only a few regions would be capable of absorbing population or economic growth."

The Sierra Club:

"If the best technological developments are utilized and if numerous pollution producing sources are not concentrated in one place, most industry can enter clean areas without causing significant deterioration."

The Indianapolis (Indiana) News:

"(The House significant deterioration legislation) would achieve what has been the clear goal of EPA since its creation—complete control over land-use decisions and economic development. It would be disastrous for the economic future of the United States to be in the hands of bureaucrats who basically do not believe in the future."

U.S. Environmental Protection Agency:

"Many areas of the country have virtually no man-made emissions. To establish a policy that new emissions can only be introduced to the extent that current emissions are reduced would forever relegate these areas to an essentially undeveloped status. This . . . would, in turn, require that new pollution sources be located only in the semi-urban and urban areas of the country."

Governor Raul H. Castro (D-Arizona):

". . . adequate consideration has not been given to the effects of land ownership patterns and the potential diversities in land management philosophies in the implementation of the (significant deterioration) amendments. . . . Consequently, the economic development of this state could be unduly determined at the federal level."

Governor Mills E. Godwin, Jr. (R-Virginia):

"If this (significant deterioration) legislation is enacted in its present form, Virginia would feel impelled to ask the courts to set it aside as unconstitutional. Once the full impact for disruption of orderly, comprehensive land use planning of these sweeping proposals is comprehended by other states, I believe a substantial number of them will be joining the effort."

IMPACT ON ENERGY RESOURCES

Thomas S. Kleppe, Secretary, U.S. Department of the Interior:

"These Clean Air Act amendments could put us out of business in western coal. I think that the present Congress could make it impossible to utilize our coal resources in the West and that concerns me."

Consulting Geologists, Kent State University:

In a study of the impact of significant deterioration regulations on the 11 states with major portions of the nation's coal, oil shale and uranium resources, Kent State geologists concluded that: 1) new processing of approximately 98 per cent of Kentucky's coal reserves could be prohibited; 2) West Virginia could suffer inhibitions affecting more than 86 percent of its coal areas; and 3) mineral fuel resources—coal, oil shale and uranium—of Montana, Wyoming, Colorado and Utah would be affected by land areas needed to protect adjacent federal lands.

Senator Frank E. Moss (D-Utah):

"State and local governments and major industrial concerns in the country are justifiably alarmed about the full impact this (significant deterioration) legislation will have, for though the data available is too incomplete to list 'which' areas will be affected 'what' way, there is at least general agreement that the new policy will drastically curtail industrial expansion in the majority of the states, and especially in those energy resource states . . . which are being called upon to meet the goal of energy independence . . ."

IMPACT ON CONSUMER ELECTRIC BILLS

U.S. Environmental Protection Agency:

"It is expected that the major impact of the Senate (significant deterioration) proposal will be on the electric utility industry. . . . the Senate proposal will also increase average residential customers yearly expenditures in 1990 by a maximum of $28 per year. This is equivalent to an increase of slightly more than 2%."

The General Electric Company:

"The average cost of electric energy in 1990 could be as high as 10¢ (per) kilowatt hour as a result of meeting the proposed amendments." (Note: The 1975 average cost of electricity is 2.70 cents per kilowatt hour.)

National Economic Research Associates:

"In the absence of currently proposed amendments, the Clean Air Act for the electric utility industry will cost each American household $1,500 between 1975 and 1990. Amendments proposed in S. 3219 are estimated to add $299 per household to these costs but . . . as high as $673 per household if more extreme interpretations of the legislation are accurate and if electricity demand grows at the high end of the projected range."

EXHIBIT 2

ALABAMA POWER CO.,
Birmingham, Ala., March 29, 1976.

Hon. JAMES B. ALLEN,
United States Senator,
Dirksen Senate Office Building,
Washington, D.C.

DEAR SENATOR ALLEN: As you may be aware, on April 5 the Senate Public Works Committee will take to the floor of the Senate the amendments to the Clean Air Act.

Several weeks ago, Mr. Joe Farley sent to you copies of a newspaper article appearing in the *Los Angeles Times*, as well as other large daily newspapers, pertaining to a report by the Task Force Committee within the Environmental Protection Agency assigned to study the harmful effects of sulfur dioxide emissions. According to the newspaper article, there was some disagreement between members of this committee as to the validity of the findings in the final draft regarding the effects of sulfur dioxide on the public health and welfare.

Several members of Congress have requested immediate Congressional hearings in order to get the true facts and an accurate accounting of the findings of the Task Force Committee as quoted in the article.

Enclosed is an analysis of Alabama Power Company's position as to how these amendments to the Clean Air Act by Senator Muskie's committee will adversely affect Alabama Power Company, its customers, and the State of Alabama. We would certainly hope that you will support the Congressional hearings to review the EPA report and that you will further bear in mind our opposition to the pending amendments before casting your vote on this important matter when it comes before the Senate.

Sincerely,

JOHN H. HAWKINS, Jr.,
Assistant to Senior Vice President.

CLEAN AIR ACT AMENDMENTS

INTRODUCTION

The Clean Air Amendments that will be reported out of the Senate Public Works Committee contain provisions for the prevention of "Significant Deterioration" of air quality and requiring use of best available control technology (BACT) in the construction of new major emitting facilities. These provisions, taken together, assure that major incremental costs—over and above those expended under the present Act—will be incurred by the Nation as a whole. The existing Clean Air Act assures adequate health and welfare protection, and these costs will provide no additional benefits for the Nation. Effects which would be associated with the

"Significant Deterioration"—BACT provisions include significant increases in the consumer's electricity bill and major hindrances in the siting and construction of needed new bulk power facilities. "Environmental Control" provisions which return no quantifiable benefits to the citizenry of this Nation, while at the same time requiring large expenditures of funds, are reprehensible under the best of circumstances. During times like the present, when the energy production and financial resources of the Nation are being strained to near the breaking point, passage of such legislation by the Congress may be interpreted by the American people, when they understand the full impact of its provisions, as a betrayal of trust.

PROVISIONS OF SENATE BILL IN REGARD TO SIGNIFICANT DETERIORATION AND BACT

The Senate Bill provides for the division of the country's land area into Class I and Class II areas. Increments of air pollutants allowed in the highly protected Class I area are so small that both Environmental Protection Agency-Federal Energy Administration and utility industry studies show that major power plant sites within such areas will be essentially impractical. The Senate Bill provides for the mandatory designation of all international parks and all national parks and national wilderness areas greater than 5,000 acres as Class I. Larger increments of pollutants are allowed in the Class II areas but, even there, increases are limited to only a fraction of existing ambient air standards which were set for the protection of public health and welfare.

The best available control technology (BACT) provisions of the proposed Senate Amendments provide for case-by-case determinations of what is achievable for a particular facility through the application of production processes and available methods, systems and techniques, including fuel cleaning or treatment, for control of each pollutant. In addition, the bill provides that in no event will the emissions associated with such best available control technology exceed that provided by the New Source Performance Standards section of the existing Clean Air Act. Thus, the practical effect of the best available control technology provision of the proposed amendments is to negate and supersede the existing New Source Performance Standards of the Clean Air Act of 1970.

COMPARABLE PROVISIONS OF THE PRESENT CLEAN AIR ACT

The present Clean Air Act provides no consideration of "Significant Deterioration." By contrast, protection of the public health and welfare is to be assured through attainment and maintenance of ambient air quality standards. The primary standards are set to protect health with an adequate margin of safety. The secondary standard is that level of pollutants determined by the Environmental Protection Agency as being the concentration necessary for the protection of public welfare from any known or anticipated adverse effects. That adequate protection is afforded by this provision is apparent from the explanatory definition contained in Section 302(h) that "language referring to effects on welfare includes, but is not limited to effects on soils, water, crops, vegetation, manmade materials, animals, wildlife, weather, visibility and climate, damage to and deterioration of property and hazards to transportation, as well as effects on economic values and on personal comfort and well being." Because of the all-inclusive nature of this language, it is quite clear that a properly set secondary standard is a threshhold level for public welfare effects and that no quantifiable benefits are possible at concentration levels below the secondary standard. Since all regulation under the proposed Significant Deterioration amendments treats pollutant concentrations at levels lower than the secondary ambient air standards, it follows directly that this legislation can provide no quantifiable benefits to public health or welfare.

Section 111 of the 1970 Clean Air Act, "Standards of Performance for New Stationary Sources," provides that the term "Standards of Performance means a standard for emissions of air pollutants which reflect the degree of emission limitations achievable through the application of the best system of emission reduction which (taking into account the cost of achieving such reduction) the Administrator determines has been adequately demonstrated." Since the Senate Bill sets the minimum level of "best available control technology" equal to the existing Standards of Performance for New Stationary Sources, it is certain that such additional limitation as might be determined on a case-by-case basis as required by the Senate Bill will incur substantial extra costs in providing emission limitations beyond the "best system of emission reduction" already represented by the Standards of Performance for New Stationary Sources.

EFFECTS OF SENATE AMENDMENTS

A December 1975 EPA–FEA study determined the capital cost of the Significant Deterioration provisions to be greater than $11 billion between 1975 and 1990. These estimates agree well with those made by the electric utility industry which estimated 1975 to 1990 costs in a range from $9.45 to $13.19 billion. Industry studies have further broken down this expected cost to a per-customer basis. These estimates indicate that the national average household cost of the significant deterioration-BACT provisions $40–$60 per year in 1975 dollars by 1990. Since there are nationwide averages, a state such as Alabama which relies very heavily on coal as a fossil fuel would incur costs to the customer significantly above these nationwide averages. These costs are to be borne by the consumer with no promise at all of *any* quantifiable benefits, not to speak of commensurate benefits.

The land use effects of the Significant Deterioration provisions are likewise striking. The significant deterioration provision of the Senate Bill would apply in all areas where present air quality meets national secondary standards for either sulfur dioxide or particulates, or both. Attached is a map of the State of Alabama which indicates that the only part of the State where nondeterioration provisions would not apply are small areas in the Tennessee Valley. All of Alabama Power Company's service area would be affected by the provisions. Even if it is assumed that all of the State's area is classified as Class II, the allowable increment of SO_2 and particulate concentration are so small as to produce severe restriction on power plant sitting in hilly terrain and, in any event, to act to restrict the size of power plants or other particulate or SO_2 emitting industries sited in a particular area.

SUMMARY

Without exaggeration and without equivocation, it is clear that the restrictions on power plant and industrial siting and the huge costs which will result from passage of the Senate Bill would have major detrimental economic effects on the citizens of the country. Further, it is absolutely true that the economic costs will not be counterbalanced by commensurate environmental benefits; in fact, there will be no measurable environmental benefits, because health and welfare protection already are provided in accordance with the 1970 Clean Air Amendments. Because of this protection against detrimental effects provided by the existing Clean Air Act, the Senate Amendments should be amended to explicitly affirm that attainment of Primary and Secondary Ambient Air Quality Standards is sufficient to prevent "Significant Deterioration."

If land-use legislation is to be passed, then it should be done under bills so labeled. To pass the wolf of oppressive and insensitive land-use legislation by disguising it in the sheep clothing of clean air protection would be the most irresponsible possible legislative action and would be certain to impose large unproductive costs on the citizens of our State and of our country. To prevent the imposition of these unproductive costs on an already heavily burdened economy, the "Significant Deterioration" and BACT provisions must be stricken from the Senate Bill.

Mr. ALLEN. Mr. President, the unanimous-consent agreement gave the distinguished Senator from Virginia (Mr. WILLIAM L. SCOTT) permission to introduce an amendment. I was presenting my remarks pending the arrival in the Chamber of the distinguished Senator from Virginia (Mr. WILLIAM L. SCOTT). If it is the desire of the distinguished Senator from Virginia to proceed at this time with his amendment, I ask unanimous consent that I be allowed to yield to the distinguished Senator from Virginia (Mr. WILLIAM L. SCOTT) for the purpose of introducing his amendment, and after action has been had on his amendment I will complete my remarks.

The PRESIDING OFFICER. Is there objection?

Mr. WILLIAM L. SCOTT. Reserving the right to object, Mr. President, and I will not object, is it the intention of the distinguished Senator from Alabama to yield the floor so that I will have control of the floor during that time?

Mr. ALLEN. That is correct. I am seeking to accommodate the Senator.

The PRESIDING OFFICER. It is the understanding of the Chair that the unanimous-consent agreement was to allow the Senator to introduce his amendment and then the floor will revert back to the Senator from Alabama.

UP AMENDMENT NO. 291

Mr. WILLIAM L. SCOTT. Mr. President, I call up my unprinted amendment No. 291. It was necessary to amend the printed amendment because of changes ing the amendments made by the distinguished Senator from Utah. The clerk has the amendment, as amended.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Virginia (Mr. WILLIAM L. SCOTT) proposes an unprinted amendment No. 291 to the Moss unprinted amendment No. 290:

On page 1, line 1 after the word "and" insert the following:

"SEC. 6. During the period of the study authorized by section 315 of the Clean Air Act, nothing in such Act shall be construed to require or provide for the establishment of Federal standards more stringent than primary and secondary air quality standards.". and strike line 2.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. WILLIAM L. SCOTT. Mr. President, it is my understanding that there is no substantial change either in the substance of the amendment by the Senator from Utah or in the amendment that I have just offered.

I also understand that the amendment offered by the distinguished Senator from Utah (Mr. Moss) would strike section 6 of the committee bill and would provide for a study. However, the nondegradation policy of the Environmental Protection Agency, and the regulations of the EPA which were established subsequent to the District of Columbia court decision in Sierra Club versus Ruckelshaus, would remain in effect.

It appears to me that if these regulations remain in effect, the amendment by the distinguished Senator from Utah actually is a nullity. It does not accomplish anything because the regulations remain in effect. The Environmental Protection Agency is acting at the present time and will continue to act, unless we have some statutory law to prevent its action to go along with the whole concept of nondeterioration or nondegradation.

While I have not read the entire decision, there was a case yesterday before the Court of Appeals of the District of Columbia which reaffirms the principle of the Sierra Club case. Eleven cases were combined. I have a copy of the opinion of the court with me. It is 54 pages in length.

On pages 53 and 54 of the decision by a three-judge panel, the court concludes:

> We find no ground on which to disturb the regulations upon review, and we therefore affirm the EPA prevention of significant air quality deterioration regulations. Our review of Sierra Club versus Ruckelshaus and subsequent events have revealed no substantial reason for rejection of that decision, and we hold that the nondeterioration regulations promulgated pursuant to that decision are both rational and in accordance with law.

Mr. President, the original decision in Sierra Club against Ruckelshaus in 1972 arose from the District Court of the United States for the District of Columbia, the very same court that heard these combined cases on which the court of appeals ruled yesterday. In the original Sierra Club case, the Supreme Court of the United States sustained the court of appeals by a 4-to-4 decision. But Mr. Justice Powell did not participate in that decision, and Mr. Justice Stevens has since become a member of the Court with the retirement of Mr. Justice Douglas. Therefore, even though the case was sustained by a 4-to-4 decision, it taking a majority to reverse the court of appeals, that could very well happen to these cases when they come to the Supreme Court of the United States. There is no certainty that the cases decided yesterday will be permitted to stand.

In my opinion, the matter of policy regarding the balancing between air quality and economic well-being in our Nation should be decided by Congress and not by the courts or by administrative regulations. Yesterday's decision emphasizes the necessity for and I think gives greater impetus to the amendment that I have just offered for the consideration of the Senate, and the need to suspend the operation of the regulations during the period of the study provided in section 315 and in the Moss amendment.

My amendment simply provides that during the period of the study nothing in the Clean Air Act shall be construed to require the establishment of Federal standards more stringent than the primary and secondary air quality standards. The Administrator of EPA now has the authority to change the national primary and secondary air quality standards. He can raise or he can lower these nationwide air quality standards when he considers it to be in the public interest to make an adjustment in them. However, with nondegradation, his standards would have to be nationwide in their effect.

I say, Mr. President, that I believe that there is a probability that the Supreme Court will grant certiorari and will reverse this court of appeals case. There is a substantial Federal question involved in this matter. But Congress should not shirk its legislative and policymaking responsibilities.

Without my amendment, the Moss amendment leaves the decision up to the Government agencies and to the courts. One should not wonder why Congress continues to lose prestige, when we fail to face up to an issue as we would do in this case.

Mr. FANNIN. Mr. President, will the Senator yield for a question?

Mr. WILLIAM L. SCOTT. I am glad to yield such time as the Senator from Arizona might want.

Mr. FANNIN. I just wanted to be sure the Senator had finished explaining his amendment before I began questioning.

Mr. WILLIAM L. SCOTT. Go right ahead.

Mr. FANNIN. The distinguished Senator—I commend the distinguished Senator for offering this amendment; I think this is the most practical answer that we have to the problem facing us—with all the debate taking place on the floor, I think it finally settles down to one issue, and his amendment would settle that issue.

My question is, Are we debating just the concept of significant deterioration? Are we not also debating the ability of section 6 to get the job done? Is that not correct, I ask the Senator?

Mr. WILLIAM L. SCOTT. Yes. I think what we are attempting to do is to permit the Administrator of the Environmental Protection Agency to continue to set air quality standards nationwide.

Mr. FANNIN. Yes.

Mr. WILLIAM L. SCOTT. With a quality high enough to protect the health and welfare of our citizens, but to preserve to the States the right to establish even higher air quality standards.

Mr. FANNIN. Yes. Is it not true that the present EPA regulations have been granted land-use classifications with three classes of allowed growth?

Mr. WILLIAM L. SCOTT. Yes. In this case that was decided yesterday. That was approved.

I have serious questions about it. We have three classes, and the Court, on page 13 of its opinion, says that class I applies to areas in which practically any change in air quality would be considered significant.

I am talking about these pristine areas, the national parks and national wilderness areas.

Mr. FANNIN. Yes.

Mr. WILLIAM L. SCOTT. We could not build a plant anywhere near such areas that would in any way deteriorate the air quality. That means in my State, in the valley of Virginia, for example, the EPA might not allow construction of certain facilities in the valley region because of the close proximity of the Shenandoah National Park, and I think this is ridiculous and ill-advised.

Mr. FANNIN. That is ridiculous, and that would occur in many States of the Nation. The State I represent would certainly be involved.

Does my colleague agree that under the increments of this act, growth would actually be encouraged? On page 22 of the committee report, we have a chart entitled, "Ambient Air Quality Standards and No Significant Deterioration Increments, in Micrograms Per Cubic Meter," which shows a maximum annual increment on particulate matter in class 1 as 5 micrograms and in class 2 as 10.

Does my colleague agree that under the increments in this act, growth would be greatly encouraged as each industry sought its share of the allowed pollution?

In other words, would they not all be rushing out to build their plants, so as to come within that particular increment?

Mr. WILLIAM L. SCOTT. I am sure this is possible, but I did not quite understand. Did the Senator say growth would be encouraged or discouraged?

Mr. FANNIN. Actually encouraged, the thing about it is, the primary standard is 75 and the secondary standard is 60, and here we have a class 1 increment of 5 and a class 2 increment of 10. Under the stipulations set out in the legislation now before us States could only increase on increment by 5 in class 1. The class 2 increment is 10. In other words, that would be 20 on one and 10 on the other, and you have a secondary standard of 60 and a primary of 75. What would happen is that a company would be planning a facility, say, 5 years from now, and they would say "Perhaps by that time this increment will be used up by other facilities, so we could not build that plant; we had better build it now."

Mr. WILLIAM L. SCOTT. It is my understanding that the Moss amendment would strike this section 6.

Mr. FANNIN. Yes.

Mr. WILLIAM L. SCOTT. But at the same time, under the Court decisions, the Environmental Protection Agency is doing the same thing under regulations.

Mr. FANNIN. Yes.

Mr. WILLIAM L. SCOTT. I think we are overregulated today. I think Congress has actually the authority and the responsibility of establishing this, and not leaving it to unelected people downtown.

Mr. FANNIN. Yes. What the Senator is saying is true, but this does not bring about the desired solution. It seems to me we can find ourselves, as the Senator has stated at previous times and I think also this morning, that we are trying in this legislation for practically a no-growth program.

Mr. WILLIAM L. SCOTT. Does not the distinguished Senator agree that if we have air quality standards established nationwide, if the quality of the air were high enough to protect the health and welfare of the citizens of Arizona, it should be high enough to protect the health and the welfare of the citizens of Virginia and other parts of the State? And then if there is a particular problem area, we should leave that up to the States and to the localities.

Mr. FANNIN. Yes.

Mr. WILLIAM L. SCOTT. That is land-use planning, when we go further and let the Federal Government decide where they can put a plant locally or where they can put a shopping center locally, and that is what they can do if we do not adopt my amendment to the Moss amendment.

Mr. FANNIN. The Senator from Arizona wholeheartedly agrees, and certainly it would be devastating to many areas of the country if this legislation were adopted with these stipulations in it. Certainly I commend the Senator for offering his amendment because it seems the practical solution to this problem.

It is my understanding that natural pollution, dust, and organic particles, would not be included in allowable increments, but I doubt we yet have the ability to keep accurate measurement of pollution sources. This factor could be addressed in the study, could it not? It is one of the great needs we have that justifies the study.

Mr. WILLIAM L. SCOTT. Yes. I am in favor of a study. But I think we need somehow to cut the string now to eliminate these continued regulations because we are still in a recession in this country. Our unemployment is too high. And the Richmond Times Dispatch in an editorial says that "Man does not live by clean air alone."

Mr. FANNIN. That is right.

Mr. WILLIAM L. SCOTT. He needs clothes, he needs food, and he needs all kinds of things.

Mr. FANNIN. Yes.

Mr. WILLIAM L. SCOTT. I believe we need to have our economy continued to expand in order to have a healthy economy and to maintain our standard of living. I believe we ought to do it right now.

Mr. FANNIN. The Senator from Arizona agrees wholeheartedly. What has happened, I am sure, was never intended by Congress, when this legislation was approved—that we should place a barrier upon our economy, and that we should cost the country thousands upon thousands of jobs, maybe millions of jobs. We cannot even evaluate how many jobs have been lost because of some of the unreasonable stipulations that have been in the regulations promulgated. Of course, I certainly cannot blame the EPA for something that we in Congress have done, and I feel that if we had had a few studies before we adopted the legislation, maybe we would not be in the jam we are today.

Mr. WILLIAM L. SCOTT. I say to the distinguished Senator that remarks as this always recall to my mind the statement by our first great Chief Justice, a Virginia Chief Justice Marshall, when he said that the power to tax is a power to destroy. I think the power to regulate is the power to destroy. We can paraphrase his statement a little bit. The Government today overregulates the business community and overregulates the lives of people, and this is one specific instance where we are overregulating.

Mr. FANNIN. The Senator from Arizona wholeheartedly agrees.

The Governor of the State of Arizona, Governor Castro, wrote a letter to me. At this time I shall read from that letter. The letter answers some of the questions about which both of us have expressed concern as to whether or not around the country there is a great distress about what is happening with the promulgation of the different regulations that have been in effect, and those that would be in effect in this legislation is approved. The letter of Governor Castro of the State of Arizona spoke specifically to the issue of section 6. Although allegedly this would be a State-administered program, the western States, with large amounts of public lands, would be subject to vetoes from any number of different Federal land managers. In Arizona, 45.3 percent of our land is in the Federal domain, with 26.7 reserved in trust for Indian tribes.

Mr. McCLURE. Mr. President, will the Senator yield on that point?

Mr. FANNIN. I will as soon as I finish the statement.

Mr. McCLURE. Surely.

Mr. FANNIN. I defy anyone to tell me this will be a State-run program with increments of pollution already set for the entire Nation in this bill and with input by numerous other parties to make development virtually impossible in much of the rural areas of this Nation.

Mr. President, I ask unanimous consent that Governor Castro's letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

OFFICE OF THE GOVERNOR,
Phoenix, Ariz., February 19, 1976.

Hon. PAUL FANNIN,
Senate Office Building,
Washington, D.C.

DEAR SENATOR FANNIN: I wish to call your attention to the impact which the proposed Clean Air Act Amendments of 1975 have upon the State of Arizona. Of major concern is the fact that adequate consideration has not been given to the effects of land ownership patterns and the potential diversities in land management philosophies in the implementation of the amendments. Federally controlled lands in Arizona account for 43.52 percent of the land area; and Indian reservations account for 26.73 percent. The distribution of these lands are such that only a small portion, if any, of the non-federal, non-Indian lands of the state would not be influenced by decisions, made by Federal Land Managers. Consequently, the economic development of this state could be unduly determined at the Federal level.

It is essential that State rights are preserved and that opportunities to participate in the decision making process are provided to local governments particularly when standards to protect human health and welfare are not exceeded.

I urge Congress to establish a study commission to investigate and analyze the implications and consequences of the non-deterioration provisions as promulgated and proposed and to consider the alternative approach outlined by my staff in the enclosed report.

Please feel free to contact me to discuss this matter of extreme concern to the State.

Sincerely,

RAUL H. CASTRO.

Mr. McCLURE. Mr. President, will the Senator yield?

Mr. FANNIN. I am pleased to yield.

The PRESIDING OFFICER. Will the Senator from Idaho suspend?

Mr. McCLURE. Yes.

The PRESIDING OFFICER. The Senator from Virginia has the control of time.

Mr. McCLURE. Will the Senator from Virginia yield only a moment?

Mr. WILLIAM L. SCOTT. I am glad to yield to our distinguished Member.

Mr. McCLURE. One of the most difficult portions of the committee legislation to deal with lies in this area of the State-Federal relationship and it is a very difficult one. That is the reason I interrupted the distinguished Senator from Arizona because he said that the Federal Government would control the State decision because of the ownership of Federal lands, as I understood, to paraphrase his statement.

Mr. FANNIN. That is the way I was reading the Governor's letter, but I will stand behind the Governor's letter in saying that with all of the different provisions in the bill, regardless of what the Senator from Idaho feels will be the case, with the vast experience he has had in this field of activity, I do not think he will deny it is going to be very difficult for the Federal Government not to enter these decisions when we consider the number of Federal parks, recreation areas, monuments, and all that are involved, adjacent to many of the areas which we are talking about. I wish to have his statements of how we are going to get away from Federal regulation.

Mr. McCLURE. The reason that I wish to make the record as clear as it is possible to make it in this rather confused situation is that the distinguished Senator from Maine, the floor manager of the bill, as well as others on the committee have consistently taken the position that the language of the bill provides that the manager of Federal class I areas has the right and the duty to intervene in State decisions that deal with the kinds of structures that will take place outside of those Federal lands, but the decision shall be that of the State, so the Federal Government may have the right to intervene and to raise the question of whether or not the State action will contravene the air quality related values for which the Federal class I area was created. The final decision under the bill is the decision of the State.

If we wish to look at the ability of the State to resist that pressure that is a separate issue, but I do think we ought to separate the issues into the question of who has the authority and then the question of whether or not they can exercise it.

Mr. FANNIN. Does not the distinguish Senator from Idaho agree that appeals are allowed by adjacent States on Federal land and they could have it tied up in court if the time permits? Is that not the case?

Mr. McCLURE. Certainly any aggrieved party, whether it be the Federal Land Manager, the Sierra Club, the industry that is involved, or the State agency, has access to the courts to review what is done. But the bill as provided by the committee says that the State agency shall exercise that authority.

Mr. WILLIAM L. SCOTT. Let me say that, in reading the report and in my limited knowledge of Federal bureaucracy, sometimes the matter such as the distinguished Senator from Idaho was discussing is what the mind of the administrator thinks it is.

I read from page 3 of the report:

> The Administrator thus could go to court to stop a permit for activities which would exceed the increments of pollution or which otherwise did not comply with the requirements of this section, including use of best available control technology.

I submit that, while the distinguished Senator from Idaho may be technically correct, it is not his mind that is going to make this decision. It is the mind of a bureaucrat, an unelected person, who may not share the statement he has just made. I say that this is something that we should eliminate, and we should be sure that the States have the final authority.

Mr. McCLURE. Mr. President, will the Senator yield?

Mr. WILLIAM L. SCOTT. I am glad to yield briefly to the Senator.

Mr. McCLURE. I think the committee has done everything it can and it is trying very hard to move now to make certain the legislation says what we believe it says, to make the legislative history say what we believe it should say.

I say again to the Senator from Virginia that the language he has just read from the report refers to the nonclass I areas. That language refers to the basic strategy for controlling air pollution and not with relation to the Federal lands that are involved. We had a colloquy on that sometime last week, trying to distinguish again the decisionmaking authority as it affects the Clean Air Act generally and the class I areas particularly. It is very difficult to do.

I hesitate to interrupt at this time, but I think it is extremely important that the legislative history be as clear as we can make it on that point.

Mr. FANNIN. I wish it could be clearer. I have great respect and admiration for the distinguished Senator from Idaho and for his expertise in this field. He has devoted a great deal of time to it. We have heard others with expertise who disagree with him that section 6 seeks to accomplish what he states.

I have a letter that was issued by others who feel that they have the knowledge that the Senator from Idaho has. Perhaps they do not have the same expertise. They bring out, among other points advanced for support of section 6, that the bill shifts responsibility for protecting air quality to the States from the EPA, which I support.

I have heard all these arguments. However, under section 6, the Federal Government has, in effect, a veto power over the granting of any permit for construction of a facility if the Federal land manager merely alleges that emissions from a proposed major emitting facility may cause or contribute to a change in air quality or class I area.

The burden of proof is on the owner or operator of such facility to demonstrate that emissions of particulate matter in sulfur dioxide will not violate the infinitestimally small increases in pollution in class I areas. How the burden of proof may be met is not explained.

Mr. McCLURE. Mr. President, will the Senator yield?

Mr. WILLIAM L. SCOTT. I yield.

Mr. McCLURE. I support the Scott amendment, incidentally, so that nobody will have any misapprehension about where I stand. I think it is a very clear statement of philosophical difference between the approach being furthered under existing court law and EPA regulations. I will vote for the Scott amendment because it says that we do not know enough about this field to legislate there now.

However, I am struggling, as best I know how, to make the record absolutely certain as to what the committee said in this particular language. The people who seem to oppose it the most are the ones who are making it read the worst.

Mr. WILLIAM L. SCOTT. Mr. President, I know that the distinguished Senator from Idaho, the chairman of the full committee, and other members of the Public Works Committee have worked long and hard on this matter, and they have tried to report a good bill. However, I think it is capable of being improved a bit, and that is what I am trying to point out.

Mr. McCLURE. I do not question that at all. I have never seen any legislative action in this body that could not be improved upon, and many times the greatest improvement would be not to do it at all; and I am sure the Senator from Virginia feels that way.

I refer to a statement made last week by the distinguished floor manager of the bill which appears on p. 23983 of the Record, dealing with this very point. Senator Muskie at that time said this:

> . . . the State makes the decision as to whether or not he is right.

I cannot underscore that too strongly as to the intention of the committee throughout the entire hearing, throughout the entire markup of the bill. It is the pivotal point around which much of the discussion takes place as to who should make that decision—the Federal land manager or the State.

With respect to what the distinguished Senator from Arizona just read about the applicant having the burden of proof, the applicant does, but that burden of proof will be judged by the State, not by the Federal administrator.

I say to the distinguished Senator from Virginia that a State bureaucracy is not necessarily different from a Federal bureaucrat. He still is unelected, but I think he is more approachable.

Mr. FANNIN. That is debatable, but we will not debate the question of who makes the final permit decision. The distinguished Senator from Idaho has cleared that up—the State is definitely the final judge.

Mr. WILLIAM L. SCOTT. Mr. President, I say to the distinguished Senator from Arizona that several Senators desire to speak, and want the Senator to go ahead and use such time as he feels is necessary, with the knowledge that other Senators desire to speak.

Mr. FANNIN. The Senator from Arizona does not want to take up a great deal of time. If the Senator desires, I will be pleased to put this statement in the Record and not take up the additional time.

Mr. WILLIAM L. SCOTT. I am glad to have the Senator take such time as he sees fit, but with the knowledge that others also wish to speak.

Mr. FANNIN. I thank the distinguished Senator.

Mr. President, the debate over the significant deterioration issue has been one of the most heated Clean Air issues since the amendments of 1970. It is clear that we have yet to even agree on the best remedy to the current committee version. I would like to explain my position and reasons for supporting the clearest solution to this debate—that is Senator Scott's of Virginia—amendment No. 2116, which should allow for no significant deterioration regulation during the period of a study on this concept.

Very simply, Mr. President, I agree with the goal of preventing "significant deterioration" of clean areas. We would not want this entire country on the border of our health-hazard standards. And certainly no State in the Union has more beautiful sunsets, or more of a diversity of breathtaking and panoramic views than my own State of Arizona—obviously significant deterioration would blight the enjoyment of those wonders. I and others do not consider the allowed increments of pollution in this legislation "significant". Actually they have no meaning, unless the existing conditions of an area are known—along with seasonal, natural pollution estimates. This all assumes, of course, that accurate measurement can be made of different pollutants and attributed to specific sources.

Since there is such strong disagreement about the effects of section 6 in the committee bill, I would think reason demands a thorough study of the impact of significant deterioration regulations before implementation—before either program—that promulgated by EPA pursuant to the court's decision or following enactment of the bill before us. At this point, I would like to share with my colleagues two letters. The first is from the Governor of Arizona and has already been inserted earlier in my comments.

(1) Governor Raul Castro's letter speaks specifically to the issue of section 6. Though allegedly this would be a "State" administered program western States with large amounts of public lands would be subject to vetoes from any number of different Federal land managers. In Arizona, 43.5 percent of our lands are Federal domain, with 26.7 percent reserved in trust for Indian tribes. I defy anyone to tell me this will be a State-run program—with increments of pollution already set for the entire Nation in this bill, and with veto power by enough other parties as to make development virtually impossible in much of the rural area of this Nation.

(2) The second letter, I would like to insert for the benefit of my colleagues is from the director of one of our air quality control districts. As is obvious from Mr. Kopisch's remarks, he has become frustrated with the implement now, ask questions later approach.

I ask unanimous consent to have this second letter also printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

PINAL-GILA COUNTIES,
AIR QUALITY CONTROL DISTRICT,
February 11, 1976.

Hon. GERALD FORD,
President, United States of America,
White House, Washington, D.C.

DEAR MR. PRESIDENT: On January 24, 1976, a Phoenix newspaper, the Arizona Republic, carried an item from the New York Times. This release concerned itself with purported deletions of sections of your economic message to the Congress.

Whether it was actually contemplated to include the sections involving the environment and the Environmental Protection Agency in your message, I don't consider important. What is important is that this is the first faint indication of sanity to come out of Washington in this matter. I am in complete agreement that the three issues noted in the reported environmental recommendations are probably the most important issues requiring major changes.

The issue of sulfur dioxide raised is of vital economic significance to the American people. Much, much more than they have been told.

Proper recognition has never been given that much of our energy short-fall is due to premature concern over sulfur dioxide in the 1950's and 1960's. It was this deliberately instigated concern which caused many apprehensive industries and municipalities to switch from coal to natural gas or to low sulfur fuel oil for their fuel needs. Cost evaluation analysis simply did not justify installing expensive control equipment.

The impact of this loss of coal users was a disaster to certain segments of the coal industry. The normal competitive growth of this great industry was turned upside down. Only this past year or so have we seen coal production return to the levels of twenty years ago.

It was the inability of our coal producers and consumers to pick up the extra demand resulting from the oil embargo which tossed this country into the most sickening energy crisis imaginable. The unexpected intensity of the recent depression primarily resulted from the effects of our fuel shortage and practically brought us to our economic knees.

If we are not to bring the consumer to the brink of financial disaster in the 1980's, common sense dictates that the Federal Agencies' brain wash of the American people concerning the potential harm of sulfur dioxide must be corrected.

It is almost beyond belief, that none of our leadership in Washington nor the EPA has informed the people that the high price and the shortage of fuel are a part of the cost of solving our environmental problems.

Polls quote the people as being in complete accord with our environmental goals. Would they be in accord if they were honestly informed of the total cost incurred to this point in time? Would they be in accord if the actual total future costs were completely delineated and not provided piece meal, and inaccurately?

If the President, the Congress and the EPA have not lost complete belief that the American people can be trusted to enter into the National decision making process, the people must be provided all the facts and all the costs involved.

The cynical hypocrisy of the Federal Government in now asking industry to convert back to coal on almost a crash basis and fifteen years too late, surely cannot escape the thoughtful citizen. Perhaps the Washington leadership should not worry though, after all, the only thing it cost us was an appreciable loss of control of our national destiny and tens of billions of dollars each year.

The Schimmel & Murawski ten year study of New York City is the first completed long range investigation of the largest city in the nation, since the Federal Agencies by decree upgraded sulfur dioxide from an indicator of pollution to an actual harmful pollutant. Their failure to find any evidence of harm from sulfur dioxide, as determined by their analysis of mortality statistics, must be given its proper emphasis. The EPA cannot be allowed to bury this report as being of no significance, as so many other reports have been.

Los Angeles County experience as reported at a St. Louis seminar in 1966 has been deliberately under emphasized. In reporting on their experence in cleaning up sulfur dioxide, they noted that year by year as the concentration levels decreased, the number of days of smog steadily increased. Los Angeles had not attacked the sulfur dioxide problem primarily because of health but because they felt it was a significant factor in their smog situation. Informally they admitted that perhaps they had inadvertantly removed a beneficial component which may have had the effect of hindering the formation of smog.

Outside of federally payrolled personnel and those benefiting from the fallout of the sulfur dioxide crusade, very few engineers or scientists in this Country believe there is any harm in existing atmospheric levels of sulfur dioxide. It is past time that this nation gets off this unbelievably expensive, misdirected sulfur dioxide health kick and recognize the truth.

If a nation of engineers and scientists, capable of letting men make the giant step from earth to moon, cannot agree after twenty years of intensive and well funded research searching only for the potential harm of sulfur dioxide, it has to be obvious that harm of any meaningful significance simply does not exist.

In Arizona, our most important industrial activity is the mining and refining of copper. In 1970, an important EPA official personally thrust himself into the public hearings in this State and with absolute conviction stated that the smelter industry could with existing and available technology and at a reasonable price, eliminate 90% of the sulfur dioxide being emitted from the then existing eight copper smelters. Public health officials of the State and many conscientious and concerned citizens believed him. State Statutes and Regulations were adopted to accomplish this 90% clean up. Five years later, after the expenditure of close to a half billion dollars, five of the remaining seven smelters, loaded for the first time in history with almost unmanageble debt, find it impossible to approach the 90% figure. I find the Federal Agency's 1970 actions utterly despicable and appallingly naive. Elements of bureaucratic harassment and almost childish irresponsibility has been evidenced by the EPA since 1970 in this purely Arizona matter. Even more incredible, the EPA is presently in the process of forcing still further uneconomic requirements on this hard hit industry. This, despite the objections now of a much more knowledgeable citizenry, our concerned State Health officials and a worried Arizona State Legislature.

The quoted statement, "Where the damaging effects of pollutants are confined to a locality, then the locality should be allowed to regulate itself" is the most pertinent and important statement ever to be credited to a top official in Washington. I hope that you believe this.

Any program as potentially harmful to the well being of our citizens, with the capability for punitive harassment inherent in the devastating and dictatorial threats contained in Sections 113 and 114 of the Clean Air Act, must be returned to the control of the people.

This winter I have been reading of people freezing to death for lack of fuel. I have been reading of people dying because of malnutrition. Reading of many desirable social activities for our young people curtailed or eliminated because of the expense of heating the required facilities and reading of cold churches, cold schools and cold homes.

Does such suffering actually balance off the advantages we feel will accrue once we achieve clean air?

Is there a difference between the colds, flu and asthma attacks whether caused by cold homes or by air pollution? Is there a difference in the absolute finality of death whether caused by freezing, malnutrition or by air pollution?

It appears that the Congress in their sincere desire to protect the health and the well being of the people, initiated a process which is degrading and killing the people at an increasing rate each year.

It appears that we have developed a debit balance in the mortality and morbidity statistics as a result of the almost holy crusade for clean air. This is a horrifying thought, but what is more horrifying is that these statistics will continue to worsen year after year, even were we to stop all actions previously taken. The effects of those actions are turning out to be irreversable. Actions presently on the legislative drafting boards and in the EPA regulations can only accentuate our existing problems making it even more difficult for those of our people with marginal incomes to obtain food, fuel and the other necessities required for comfortable, healthful living.

Even were the premises scientifically correct, this whole clean air crusade should be re-examined for all its consequential results. But since many of the major premises are not scientifically correct, the course and momentum of our environmental thrust must be modified.

The philosophy that expensive corrections must be made simply because the *potential for harm may exist*, must be rigorously questioned. This nation cannot afford the cost of pure air. We may be able to justify the cost of healthful air, but even this justification must give proper and honest consideration to both the positive and negative results which will occur.

All the qualitative realities of living and dying must be balanced. Death is the ultimate reality, but the quality of the life we live until we face that reality is important also. Clean air is actually only a single relatively minor component of a multicomponent complex total that make for enjoyable living. We must regain a proper sense of proportion about environmental matters.

On April 4, 1974, I wrote to Congressman Conlan requesting help. I expressed at that time my personal frustration with the EPA and the methods used by them to carry out their "Congressional Mandate". I am attaching a copy of that letter as I find a year and a half later I still feel exactly the same about the EPA.

The last paragraph of the Conlan letter stated: "You fellows in Congress have the power to make some corrections or foul the whole mess up worse. I can only hope that you give this some deep thinking and make some vital corrections before it is too late".

Now I am asking the President of the United States to take the necessary time to give adequate thoughtful consideration to the issues I have raised and to use the prestige and power of your office to protect the most fundamental rights of the American people.

Respectfully yours,

L. C. KOPISCH, P.E.,
Director, Pinal-Gila Counties Air Quality Control District.

Mr. FANNIN. Mr. President, it is evident from the floor statements inserted by many Senators how controversial this section is. A study of this regulation's impact is essential. Completing the study before implementation of these far-reaching regulations is clearly the only intelligent means of meeting the overall objective—protecting Americans from unhealthy air.

In summary, Mr. President, we are not debating the concept of "significant deterioration." We are debating the ability of section 6 to get the job done—not just better than existing EPA regulations, but at all.

What I actually foresee in Arizona, under enactment of section 6, is an ill-timed scramble by industry and the utilities to overbuild during the next few years in order to have a share of the stringent increments, before other facilities have used them up and prevented all further growth. Then consumers will have to pay for plants which become obsolete almost before they are needed.

Mr. WILLIAM L. SCOTT. Mr. President, I am grateful for the comments and for the support of the distinguished Senator from Arizona.

I yield 5 minutes to the distinguished Senator from Utah.

Mr. GARN. Mr. President, I rise today in support of the Scott amendment to the Clean Air Act amendments. It seems to me, Mr. President, that this approach to the critical problems of nondeterioration of pristine air presents the most logically defensible case, and that we would be well advised to adopt it. Let me point out what the situation will be if we adopt the Scott amendment.

First of all, the primary and secondary air quality standards established by the 1972 Clean Air Act will remain in effect. The Scott amendment will not reach them, and I do not believe that they should be touched. I know that I would oppose any effort to weaken these standards. These standards go directly to the obligation of the Federal Government in the area of air quality: They protect human health and welfare. That is an obvious need, and one that Congress was quick to meet when air quality legislation was originally proposed.

However, saying that the Government has an obligation to protect human health is much different from the establishment of a national policy of nondeterioration of any air quality. That is a responsibility that should not, in my opinion, be undertaken at this time, certainly not on the basis of the testimony which has been taken by Congress to date.

In my remarks the other day, I emphasized that only 3 hours of hearings had been held last year on nondeterioration and only four witnesses had testified, hardly sufficient evidence on which Congress can act.

I do not believe that Congress intended such a policy when the 1970 act was passed. I believe that the Environmental Protection Agency has misconstrued the law passed that year. It is in the nature of bureaucracies to delegate to themselves more authority than Congress intended, and EPA has shown that tendency many times. Occasionally, the Federal courts help them, but they are quite capable of expanding their reach on their own. This nondeterioration policy is one good example; another is the policy of specifying what measures companies must use to achieve emission standards, rather than letting the companies use their own judgment in attaining the standards.

The Scott amendment goes to the heart of this problem by removing the statutory base EPA has used to promulgate nondeterioration regulations. Senator SCOTT's amendment is a neat, adequate surgical procedure. It deserves the support of the Senate.

In addition, Mr. President, adoption of the Scott amendment would leave in place the laws and regulations of the several States, protecting the quality of air within their jurisdictions. In my opinion, that is where any responsibility beyond simple health protection ought to lie. The local officials are the ones who know the local conditions, and are best equipped to weigh the relative values of preservation and development. The State of Utah long ago adopted an adequate law protecting air quality in the State, and my information is that other States have done the same. Contrary to popular belief, we in the West are not bent on destroying our natural environment, or in dirtying every liter of clean air. We know the mountains, the valleys, and the purity of the air around them. We are not certain that the residents of New York City and Los Angeles are all that well qualified to tell us how to protect our heritage.

Should the Scott amendment fail, Mr. President, I would then support the Moss amendment, of which I am a cosponsor, providing for a study of the impact of a national policy of nondeterioration. The adoption of such a policy is a momentous one, one that must be thoroughly studied before it is adopted. I have requested from a number of Federal agencies an evaluation of the impact of nondeterioration on the areas of responsibility under their jurisdiction. Without exception, they have responded that there is, at the present time, insufficient information on which to make a realistic evaluation. In short, we need more data, and we need time to obtain it. In the meantime, the EPA regulations remain in effect and we have the Federal primary and secondary standards and the State laws, as I have already noted. A vote for the Moss amendment, or for the Scott amendment, is not a vote for dirty air. To say it is is a slander on the 50 States of the Nation, and on the handiwork of the Congress of the United States in 1970.

To me, these amendments simply make sense, that we delay until such time as we can base a decision on facts rather than on emotion or the politically popular position to be for clean air.

There is not one Member of this body who is not in favor of clean air, but we must balance the needs for healthful clean air with the needs for communities and States around this country to have adequate development so that they can provide jobs in their communities and not go beyond the needed health standards to impose esthetic values from the national level. I hope the Scott amendment is adopted and I support it.

Mr. WILLIAM L. SCOTT. I appreciate the friendly comment of the distinguished Senator and thank him very much for contributing to the amendment.

Did the Senator from South Carolina desire some time?

Mr. THURMOND. I thank the Senator. I should like about 6 or 7 minutes.

Mr. WILLIAM L. SCOTT. I am glad to yield 7 minutes to the distinguished Senator from South Carolina.

Mr. THURMOND. Mr. President, I have carefully considered the amendment of my distinguished colleague from Virginia (Mr. WILLIAM L. SCOTT), and have decided it is meritorious and worthy of my support, for the following reasons:

First, like the Moss "significant deterioration" amendment to the clean air bill, which I will support if the Scott amendment fails, the Scott amendment recognizes that Congress does not yet know all the answers regarding the extent to which clean air areas should be kept clean, the most desirable methods of preventing undue degradation of air quality, and the implications of a new policy in this area. Premised in part on this lack of knowledge of what "prevention of significant deterioration" means in terms of its effects on desirable economic growth, the Scott amendment deletes section 6 of the bill—the section which establishes the new policy on nondegradation.

I agree that Congress should withhold definitive judgment on these questions until the state of knowledge regarding the impacts of this policy and its compatibility with other national goals are more accurately determined. I support the National Commission on Air Quality study of these issues and look forward to thorough consideration of the recommendations it is expected to make to Congress on this subject.

Second, the Scott amendment would nullify the effects of Court decisions in the case of Sierra Club against Ruckelshaus. Judicial interpretations of an ambiguous law in this case, which was eventually upheld for the Sierra Club plaintiffs in a tie decision by the U.S. Supreme Court, have compelled EPA to issue nondegradation regulations without specific guidance from Congress.

Mr. President, I have always been opposed to legislating by the courts and/or by the executive branch. Making laws and establishing public policy are, under the U.S. Constitution, the responsibility of Congress. Thus, with respect to this particular issue, I agree that Congress should prohibit the courts and the Federal bureaucracy from establishing through the back door a national policy on protection of clean air areas. The Scott amendment accomplishes this purpose.

Third, as the Senator from Virginia (Mr. William L. Scott) has pointed out, the adoption of his amendment is hardly the radical, dangerous move that the opponents of the amendment claim. If the Scott amendment is passed, we still have the primary ambient air standard to protect public health and the more rigorous secondary air quality standard to protect public welfare, including sensitive crops, property values, et cetera. Even those who favor instituting a nondegradation standard now agree that we still face a herculean task in many areas of the Nation to improve air quality and reduce air pollution down to the level of the secondary standard. Furthermore, the Scott amendment does not prohibit any State from enacting, on its own or in cooperation with other States, air quality standards more stringent than the existing national ambient air quality standards.

Thus, Mr. President, I support the Scott amendment because I think it makes sense as public policy at this time. I do not want to prejudge the issue of prevention of significant deterioration of air quality in clean air areas, because I think it is in the public interest to work toward a cleaner, more healthful environment. This bill creates a National Commission on Air Quality to study all phases of air pollution problems and various control strategies. The Commission is required to make its recommendations on nondegradation and other air quality issues to Congress. I look forward to carefully reviewing these forthcoming recommendations and other relevant evidence with an open mind.

We readily admit that we do not know all the answers with respect to this issue and that we need more information. There is no compelling reason to enact a far-reaching, growth-limiting, nondegradation public policy into law now. Accordingly, I urge my colleagues to support the Scott amendment.

I think the Scott amendment is sound, and I commend the able Senator from Virginia for offering this particular amendment at this time. I feel it is in the public interest.

Mr. WILLIAM L. SCOTT. Mr. President, I appreciate the thoughtful and kindly remarks in support of my amendment by the Senator from South Carolina. He is a cosponsor of this amendment. I might add that Senators Bartlett, Curtis, Eastland, Fannin, Garn, Goldwater, and Helms are also cosponsors.

Senator Curtis is unable to be with us today. He is in Nebraska. He has asked me to submit a statement on his behalf for the Record.

I ask unanimous consent at this time that his statement be printed in the Record.

The PRESIDING OFFICER (Mr. Ford). Without objection, it is so ordered.

STATEMENT BY SENATOR CURTIS

As a cosponsor I wish to support the amendment of the Senator from Virginia, Mr. Scott, which will eliminate those provisions of the Clean Air Act Amendments regarding significant deterioration.

I know of no person in this chamber or in the Congress who would consciously vote for dirty air, or who is against our efforts to clean up the nation's air. I am for clean air, and I think the programs we have established in the Clean Air Act have done much to clean up the air.

I believe we have taken a logical, stern approach to regulating harmful emissions that have led to serious pollution, and that in time we will be able to develop even greater technology for controlling air pollution.

Under the Clean Air Act, we have established ambient air quality standards in two levels that are designed to ensure the health and welfare of the nation. This program is doing an excellent job in regulating and controlling pollution of our air. We are on the road to ensuring that our air and atmosphere will not become dangerously polluted in the future, while at the same time allowing our economic and technological progress as a nation to continue.

But now we are being told by some in and out of the Congress that controlling and abating pollution and cleaning up our air aren't good enough. We are being told that we must protect areas that have no pollution from ever having the slightest bit of pollution. We are hearing that existing areas of the nation with air quality much higher than is required by either the primary or secondary standards, must not have any increase in pollution or deterioration whatsoever.

And I announce that I am not opposed to that ideal. But there is one aspect of such purity of air with which I am concerned—to date I know of no technology, I have heard or read of no scientific development or research, and I am aware of no amazing inventions or discoveries that would automatically put a hold on our current level of air pollution or that would reduce it.

So far as I know, there have been no discoveries of devices that would control air pollution emissions one hundred percent—from automobiles, manufacturing plants, residential furnaces, commercial and public incinerators, or utility plants.

That being the case, Mr. President, I fail to see how we could possibly establish a standard of air quality that would allow for no addition of any pollutants or particulates to the atmosphere, without suffering the obvious consequence of an end to progress. We would, in reality, have to come to a standstill.

Now I know the proponents of the significant deterioration provision have said that it won't stop all progress, that it will allow continued growth and productivity. But what they haven't told us is what the cost will be for such continued progress. What will the cost be to install hastily researched devices that will lower our energy output? Hundreds of millions of dollars? Does anyone know? I don't think so. That is precisely why we cannot afford to initiate a program purely on emotions. We must first have the study, research and investigation will enable us to weigh the benefits against the costs.

It was not the intent of Congress in 1970 when enacting the original Clean Air Act, to establish an air quality standard to be arbitrarily applied nationwide. Yet that is what is being debated here because of court decisions based on the 1970 Act and because of efforts to have these amendments specify such a standard.

No! In 1970 we enacted a tough, hard-hitting bill that was designed to regulate and reduce air pollution on two levels. Through implementation by the Environmental Protection Agency, the Act was to protect human health in primary air quality standards, and protect the ecology around man in secondary standards.

As has been the case with much of the legislation passed by Congress in recent years, that 1970 Act was apparently so ambiguous, so imprecise as to result in court decision that "no significant deterioration" of air quality could be allowed under the Act.

Now that we are confronted with the issue, we have the opportunity to clarify the intent of Congress by legislative action. Instead, it appears we would write the court decisions into law.

Besides the obvious fact that disallowance of any increase in air pollution would be discriminatory against regions of the country where we have little or no pollution—particularly in the West—we will be establishing once and for all in law a constraint that can only shackle any economic growth and development and further our energy crisis.

We are crying for more needed jobs to combat unemployment on the one hand, while on the other we are establishing arbitrary standards that will slow if not stop any economic growth that can provide those jobs. At the same time we are setting back our energy independence effort seriously.

By not allowing any pollutants in the air of our pristine or pure areas of the West, we are stopping any future energy production in those areas which is vitally needed nationwide. What would proponents of this measure have us do? Build new electric generation plants in the northeast and industrial midwest where air quality standards are already constricted by heavy pollution? Or, perhaps, build no new facilities and have severe shortages of electric power?

Whatever the intent or thoughts, under the existing program being implemented by the EPA, and under these amendments before us today, we would virtually preclude any new construction for energy production in most of our presently pure western areas where the fuel for such production is readily abundant.

In an interview in the July 19, 1976 issue of U.S. News and World Report, Deputy Administrator John Hill of the Federal Energy Administration warns that unless we modify the current program, the energy cost to the nation under the Clean Air Act will "be roughly equivalent to the 1.6 million barrels a day of oil that the Alaska pipeline will deliver."

I agree with Mr. Hill when he says "No one wants to be for dirty air," but that what we need "is a plan that will hold pollution to levels that protect health but at the same time not exact any unnecessary economic and energy penalties." Mr. Hill is correct when he says "We have too many other national problems that have to be balanced with the Clean Air Act," and I think it is time that Congress wakes up to the fact that we can't continue to legislate individual programs without regard to all aspects of their impact and effect.

I would like to emphasize that the Administration is opposed to any effort to legislate significant deterioration. In a letter of May 28, 1976 to the Public Works Committee Chairman, the President said, "The Senate and House amendments, as presently written, fail to strike the proper balance beween energy, environmental and economic needs," and he asked that the Congress eliminate those provisions dealing with significant deterioration.

Finally, I would like to quote in part from a recent paper prepared by the Library of Congress on the Clean Air Act and the issue of significant deterioration:

"The relatively slight Federal interest in the no significant deterioration rule stems from the fact that it applies only in clean air areas. The 'deterioration' referred to is a lowering of air quality down to the levels required by national primary and secondary ambient air quality standards. Those standards are set to protect public health and welfare, both broadly defined. Primary standards, designed to protect the public health, are to allow 'an adequate margin of safety.' The public welfare which secondary standards are designed to protect 'includes, but is not limited to, effects on soils, water, crops, vegetation, manmade materials, animals, wildlife, weather, visibility and climate, damage to and deterioration of property and hazards to transportation, as well as effects on economic values and on personal comfort and well-being.' Thus the no significant deterioration rule, by definition, bears no relation to public health or to public welfare, broadly defined. The Environmental Protection Agency has pointed out the conceptual and practical problems of any such regulation; when measured against the drastic impact upon the State's power to control land use, Federal imposition of such a policy also raises constitutional problems.

"Prevention of significant deterioration in clean air areas necessarily involves close regulation of land use. Regulation of land use—or 'zoning' as it used to be called—clearly falls within even the most traditional concept of the State's police power. To usurp this power by regulation purportedly based on the commerce power, but admittedly not related to either public health or public welfare, may impair the State's integrity and capacity to function in a federal system."

It should be clear to all members of the Congress that the issue of significant deterioration is one of mass confusion. Where the courts themselves have been wrestling with the issue, where the administration is opposed to it because of the likelihood of an energy penalty and economic losses, where experts suggest that it is an infringement on the powers of the States, and where we already have strong air pollution control measures in the primary and secondary standards designed to protect our health and welfare, I think it would be foolhardy for the Congress to overstep its bounds by establishing a policy of no growth and land use control under the terms of significant deterioration.

I do not think the American people want this—indeed they cannot afford it. For this reason I urge my colleagues to consider all the aspects of this dangerous provision, and I add my support to an amendment by the Senator from Virginia, Mr. Scott, to eliminate any provisions concerning significant deterioration from the Clean Air Act.

Mr. WILLIAM L. SCOTT. Mr. President, I yield 15 minutes to the distinguished Senator from North Carolina (Mr. HELMS).

Mr. ALLEN. Mr. President, before the Senator yields, would he mind yielding for a couple of questions?

Mr. WILLIAM L. SCOTT. Certainly I would be glad to yield to the Senator from Alabama.

Mr. ALLEN. I would like to ask the distinguished Senator if his amendment would keep the EPA from implementing a national nondegradation policy during the study by the commission.

Mr. WILLIAM L. SCOTT. Let me say it is my understanding that the Administrator of the EPA has the authority under existing law, and will continue to have the authority if my amendment and the amendment of the Senator from Utah are adopted, to establish nationwide standards for the air quality standards to protect the health and welfare of the people of the country. He will not have the authority to spot-zone, to pick out particular areas, and say, "You have to have a higher air quality standard in this particular area or in this State." It leaves it up to the States and localities to set their standards above that if they care to, but not below the national standards, as long as whatever they do in the field of air quality control does not result in any pollution of the air beyond that permitted by the national standards.

I would add that the Administrator of the Environmental Protection Agency can change those standards when he feels it is in the national interest to do so. He can raise the standards or he can lower them. Congress has given him very wide discretion, and I think what Congress has done by statute is enough. I do not believe we should go any further. Leave land-use planning to the States, and let us allow the economy to continue to grow and not stagnate.

I hope that answers the question of the Senator from Alabama.

Mr. ALLEN. Yes, it does.

I want to ask one further question: Without the Senator's amendment, is it not correct that by leaving the Federal regulations in place, Congress is implicitly endorsing the highly restrictive EPA policy toward the States; is that not correct?

Mr. WILLIAM L. SCOTT. Yes, that is correct. In fact, just yesterday the Court of Appeals for the District of Columbia, in a decision wherein 14 cases were combined, upheld the right of the Environmental Protection Agency to continue to make these regulations.

Do we want Government by regulation or do we want Government by law? I think that is the issue before us.

I respect the amendment offered by the distinguished Senator from Utah, but if we let these regulations continue, then his amendment is really enough.

Mr. ALLEN. In other words, the Senator's amendment would not only give relief from the provisions of section 6 of the present bill, it would go farther and limit the regulatory power of the EPA as regards the States; is that not correct?

Mr. WILLIAM L. SCOTT. The Senator is correct. My amendment does not do any harm to the amendment of the distinguished Senator from Utah, but it goes further. It would suspend the operation of any regulation during the period of the study.

Mr. ALLEN. I thank the Senator for his information, and I inform him that I will support his amendment.

Mr. WILLIAM L. SCOTT. I thank the Senator. I thank the Senator for this colloquy.

Mr. HELMS. Mr. President, I would ask the Senator from Virginia a question: In light of the colloquy between the able Senator from Virginia and the able Senator from Alabama, is it accurate to say that the so-called nondeterioration standard is, in effect, nothing but Federal land use planning by another name?

Mr. WILLIAM L. SCOTT. It is land use planning in which you use air quality as the only standard for planning. I believe that good planning requires the use of many factors. Air quality should be one of them but not the only one.

I think that under the 10th amendment, under the police power, this is a matter that is reserved to the States under our dual system of sovereignty, and I think that is where it should be. The right to regulate the health and morals of the people is a State function. We have our county, our city, planning boards and zoning commissions, and they decide where a building should be located. I think that is where it should be as long as they do not do violence to the air quality that is established nationally by the Administrator of the Environmental Protection Agency.

If the quality of the air is high enough in one area to protect the health and the welfare of the citizens, then that same quality is high enough in any area to protect the health and welfare of the citizens. There may be a place like California where the local people feel that due to a specific situation they need higher air quality standards and, if they do, that is fine, let them establish high air quality standards. If they do not want a factory in a particular area, well, that is up to them. It might be they are talking about esthetic values rather than air quality, and that is a decision which, in my opinion, should be made locally, and we should not have an administrator in Washington making decisions that local government should make.

Mr. HELMS. I agree with the Senator.

Would the Senator also agree that our colleagues who have assured their constituents back home that they are opposed to Federal land use planning so-called, ought to be careful in their consideration of how they are going to vote on this amendment? If they vote against this amendment, then they are, in effect, voting for Federal land use planning under another name; is that not correct?

Mr. WILLIAM L. SCOTT. Yes; I think that is true.

I would say that the Governor not only of the State of Arizona—and a letter from him was introduced by the distinguished Senator from Arizona—but the Governor of North Carolina——

Mr. HELMS. Yes.

Mr. WILLIAM L. SCOTT (continuing). The Governor of Virginia and the Governor of a variety of other States, all have also indicated their support for this nondegradation policy. If you leave it out of the statutory law but you permit the court decisions to stand and the regulations of the agency to stand—and I do want to reserve time to review in somewhat greater detail this 53-page opinion that came out yesterday from the Court of Appeals of the District of Columbia because it is just full of regulations which are approved by the court that have not been enacted by Congress.

Mr. HELMS. I think it is essential that the Senator do that.

The PRESIDING OFFICER. The Senator from North Carolina is recognized for 15 minutes.

Mr. HELMS. I thank the Chair, and I thank the able Senator from Virginia.

May I ask the Senator another question? To the Senator's knowledge, concerning the effect of the so-called nondeterioration standard—has its economic impact been studied with regard to any industry other than the electric utility industry?

Mr. WILLIAM L. SCOTT. No; but I understand, and I am relying on my memory entirely, that insofar as the electric utility industry is concerned, something like $28 billion sticks in my mind, that it may cost over the next several years to comply with the proposed very standards.

Mr. HELMS. Who will ultimately pay that, may I ask the Senator?

Mr. WILLIAM L. SCOTT. You know who is going to pay that, the individual citizen.

Mr. HELMS. The consumer, is that not correct?

Mr. WILLIAM L. SCOTT. Certainly; the electric companies and all public utilities, all business enterprises have to pass on the cost.

Mr. HELMS. One is constrained to wonder, where is Ralph Nader when the consumers need him? Here is an instance in which he might pitch in and help in saving the consumers the enormous sum of money to which the Senator just alluded.

Mr. WILLIAM L. SCOTT. I am glad he does not have a vote in this Chamber directly.

Mr. HELMS. One other question. In the Senator's opinion, what would be the economic effect of the adoption of this standard, let us say, on the economy of the less-developed areas of our country?

Mr. WILLIAM L. SCOTT. Obviously, once again, I would have to generalize.

It has been said, and I have a number of editorials which indicate the opinion of editors around the country, that this is a no-growth policy.

I believe that in order for our economy to prosper, in order for us to have less unemployment, to have adequate jobs, that the economy has to expand and has to grow. We are having more and more people.

Mr. BUCKLEY. Will the Senator yield?

Mr. WILLIAM L. SCOTT. I see the distinguished Senator from New York on his feet. I know he feels very strongly on this question of abortion and he wants more people in the world.

As we have more people in the world and more people in this country, we are going to have to have additional industry. We are going to have to feed, clothe, and house these people.

I have the highest respect for my good friend from New York.

Mr. HELMS. We all do.

Mr. WILLIAM L. SCOTT. But I believe we are going to disagree. I believe there is inconsistency in this idea of not limiting the population, but limiting the economic growth of the country.

Mr. President, the Senator from North Carolina has the floor.

Mr. HELMS. I am glad to yield to the able Senator from New York. I presume he has a question.

Mr. BUCKLEY. I have a question I would like to ask.

Mr. HELMS. I might ask, since I only have 15 minutes, if the Senator would use his own time. If he has no time allotted to him, of course, I will be happy to share mine with him.

Mr. BUCKLEY. May I ask it on the time of the Senator from Virginia?

Mr. WILLIAM L. SCOTT. Since the Senator does have time of his own, why does he not use his own time?

The PRESIDING OFFICER. The Senator has no time.

Mr. HELMS. Then I will yield.

Mr. WILLIAM L. SCOTT. We will be glad to yield.

Mr. BUCKLEY. I would like to ask this question: The Senator said this is a no-growth policy. Is the Senator aware of a single example of where a permit was filed and denied under the existing regulations?

Mr. WILLIAM L. SCOTT. I am not one of the regulators. I am not an employee of the Environmental Protection Agency.

I have not searched their records. But I do know that we have groups like this going to the court. We have the Dayton Power & Light Co., intervenors, we have the Public Service Co. of Colorado, the Utah Power & Light Co., the State of New Mexico, the Pacific Coal Gasification Co., the Utah International, Inc., the Indiana-Kentucky Electric Corp., the Dayton Power & Light Co., the Buckeye Co., et al.

All of these have others under this phrase "et al."—and others.

We have the American Petroleum Institute, the Alabama Power Co., the Montana Power Co., the Salt River Project Agricultural Improvement and Power District, and others.

When we have groups like these, they are not just going to court spending their money; there is a large list of lawyers listed as representing various parties in this case. Somehow they are being hurt or they undoubtedly would not be there.

The mail I receive from the business community indicates that the business community may well be hurt under the proposed new Federal requirements.

The United States Chamber of Commerce is deeply concerned over the Federal nondegradation concept, and businessmen generally seem to be opposed to it. The Wall Street Journal indicates in an editorial that my amendment is essential and is what Congress should do.

I do not know the details or specific instances, but I am sure there may well be applicable situations around the country.

Mr. BUCKLEY. The Senator from New York has sought to find an example of any plant that has been denied the right to establish itself under the current policy of nondeterioration. He has discovered none. In fact, studies made by the EPA and FEA, and others, have demonstrated that under the increments in the Senate bill it will be possible to build a 5,000-megawatt, electrical power generating facility, which is twice as large as any we have.

Mr. WILLIAM L. SCOTT. Maybe the Senator can say why these electric companies are going to court.

Mr. BUCKLEY. I believe, they are uninformed as to what the existing law is, and what they can do.

Mr. WILLIAM L. SCOTT. I suspect their counsel is drawing a salary many times above that of any Member of the United States Senate, so they should be informed.

But I am glad to have the comment of my friend from New York.

Mr. BUCKLEY. I thank the Senator.

Mr. HELMS. Mr. President, I commend the able Senator from Virginia for proposing his amendment to the Moss amendment to S. 3219, known as the Clean Air Amendments of 1976.

I am a cosponsor of this amendment, along with several distinguished colleagues and I hope this amendment will be approved.

Simply said, what the Senator from Virginia proposes to do is to stay the effect of the EPA nondeterioration regulations during the 1-year period set out in the Moss amendment. That is correct, is it not?

Mr. WILLIAM L. SCOTT. I say to the distinguished Senator that I am not sure whether the Senator from Utah changed the 1-year provision for the study.

I am told he has not changed it, so it would be during the 1-year period.

Mr. HELMS. Very well.

The distinguished Senator from Utah is on the floor and he has not indicated to the contrary, so I assume the 1-year period does continue.

Mr. President, I would prefer that the court-directed policy of "no significant deterioration" and EPA regulations promulgated subsequent to that court decision were dropped altogether, and that Congress mandate a return to actual intent of the 1970 Clean Air Act, which was to set national air quality standards that apply uniformly.

Any congressional mandate for the "no significant deterioration" standard is, in effect, a mandate for "no growth" for many regions of this country, as the able Senator from Virginia and others have pointed out. Federal bureaucrats will be able to exercise control over every locality and region in the country, determining what areas will grow economically, and those which will not grow, regardless of the needs of the people who live in the area. In effect, the "no significant deterioration" standard is nothing less than a Federal land use policy by another name, as was emphasized in a colloquy earlier this morning.

Many Governors have expressed concern about the built-in potential for mischief inherent in the legislative adoption of this standard. I happen to believe that States and localities know best what their needs are, both as to air quality meeting national standards of the 1970 act, and to their own area's economic growth.

The Governor of my own State of North Carolina, the Honorable James Holshouser, has expressed his opposition to the 1976 amendments:

> "North Carolina is well aware of the provisions of both the House and Senate versions of amendments," Governor Holshouser has stated, "and we oppose the enactment of either of these amendments in the Law."

Similarly, Gov. Reubin Askew, of Florida, in a letter to Senator Randolph, the distinguished chairman of the Committee on Public Works, strongly urged that—

> You consider the consequences of adopting these provisions and empowering the Federal Environmental Protection Agency (EPA) to preempt the states' prerogatives in these areas. It is our position that the states are more capable of evaluating the economic and social implications of the desired air quality within their boundaries than EPA.

Gov. Cliff Finch, of Mississippi, has warned that—

> If pending amendments to the Clean Air Act are passed, it will virtually halt economic development in our state.

So what we have here, Mr. President, is another confrontation with the growing reality that a mushrooming Federal regulatory bureaucracy is moving inexorably to total control, toward the twilight of the States, toward complete domination and control by the Federal bureaucracy.

If for no other reason—and there are countless other reasons—than the issue of State sovereignty, the Senator from North Carolina would be strongly supportive of the amendment of the Senator from Virginia.

Mr. President, by various standards of measurement the State of Mississippi is said to be one of the poorer States in this Nation. I think the question is relevant as to Mississippi and to other States which are trying to burgeon themselves upward, to provide a better life for their people.

I believe we have to raise the question as to whether we are going to deny Mississippi and other States the economic growth they so badly need simply to keep air in that State purer than the standards set by the Clean Air Act of 1970. Or, to put it another way, to satisfy the whims and caprices of Federal bureaucrats in Washington, D.C.

Adoption of the no significant deterioration standard well could have that effect in Mississippi and other States.

Governor Finch said:

> The limitations that would be imposed by the pending amendments are so stringent that development would be severely impacted.

Governor Milliken, of Michigan, has stated his concern that the 1976 amendments, "could lead to federally mandated land-use programs based on air quality."

We have discussed that here today.

I say again that Senators who have gone home and assured their constituents, or who have written to their constituents, saying, "I am opposed to Federal land-use programs," had better be attentive to how they vote on this amendment of the Senator from Virginia today. Otherwise, sooner or later, the people back home may legitimately conclude that some of their Senators have been talking out of both sides of their mouths.

Mr. President, the list of Governors opposed to our concern about the adoption of and continued use of the no significant deterioration standard is long. Not only the Governors, but many businessmen, workers, and labor leaders have expressed themselves on this matter.

Mr. President, I ask unanimous consent that excerpts from several of the hundreds of letters I have received be printed in the Record at this point.

There being no objection, the excerpts were ordered to be printed in the Record, as follows:

DeSoto, Inc.,
Greensboro, N.C., June 9, 1976.

Hon. Jesse A. Helms,
U.S. Senate,
Senate Office Building,
Washington, D.C.

Dear Senator Helms: DeSoto, Inc. is a major manufacturer of paints, wallcoverings, furniture and detergent and has plants in many states. Our plant in Greensboro produces various consumer paint products.

We are deeply concerned about amendments now being considered by Congress to the Clean Air Act. In particular, the nondeterioration amendments will have a serious impact on our plant, other plants of DeSoto, Inc., and industry throughout the United States.

This non-deterioration clause will effectively stop the building of new industrial plants. It will increase the consumption of oil by eliminating coal as an acceptable energy source. It will increase the costs of raw materials and finished goods. The total effect will be a disastrous impact on the economy. Through the present ambient air standards, the Government has adequate tools to protect the health of our country and environment. Consequently, there is no need or justification for adopting this amendment on top of the present ambient air standards.

I therefore urge you to vote against any non-deterioration amendments to the Clean Air Act.

Yours very truly,
W. C. Sheehan,
Plant Manager.

Greater Durham,
Chamber of Commerce,
July 13, 1976.

Hon. Jesse Helms,
U.S. Senate,
Washington, D.C.

Dear Jesse: My Directors have asked me to write you and express their concern over S. 3219 and HR 10498 which include provisions to impose air quality standards that go beyond the requirements of health and welfare. As we understand it, these bills support the concept that there must be "no significant deterioration" of the air quality in any area where the air is already better than present federal standards!

Our Board feels that enactment of these bills will have a serious impact on many existing industries as well as on future economic development throughout the country. We are also concerned over the fact that the methods for measuring the air standards called for by the bills have not yet been adequately defined and, in general, the long range impact of the bill has not been properly assessed. Our Board very much opposes the nondeterioration provisions of these bills.

Very truly yours,
Robert H. Booth,
Executive Vice President.

Bandag,
May 24, 1976.

Hon. Jesse A. Helms,
U.S. Senate,
New Senate Office Building,
Washington, D.C.

Dear Senator Helms: As a businessman I am deeply concerned with the ramifications that the issue of "non-degradation" or "significant deterioration" in the Clean Air Act Amendments of 1975 will have on the business community.

While I support the protection of pristine air quality over a few irreplaceable natural areas, when such a strategy is applied in large areas, I feel that the considerations other than just a desire for clean air have to be included. I urge you to oppose the "non-degradation" issue of the Clean Air Act Amendments of 1975 because of the dubious constitutionality of such legislation, the lack of satisfactory investigation of all factors in light of the enormous impact of such legislation, and the inflexibility of the issue to take into consideration certain local characteristics.

The main points to consider are:

1. Is the need for and the direction of a "non-degradation" policy to be based solely on a single judicial interpretation of the Clean Air Act of 1970? The Clean Air Act of 1970 neither mentioned nor defined significant deterioration. Congress has never stated a policy concerning the issue of "non-degradation". Also, in the Clean Air Act of 1970, Congress found that "the prevention and control of air pollution at its source is the primary responsibility of State and Local governments". The legislation as proposed gives rise to legitimate concern for the public

intrusion upon proper functioning of our federalist system.

2. What does the "non-degradation" policy in its present form mean for economic development; what does it mean for the development of our natural resources and what is it going to do for present land use policies? These are factors which have not been, but must be, considered and investigated before such important legislation is enacted.

3. Each local area will have its own unique problems in satisfying the proposed "non-degradation" laws. Implementation could impose severe economic and/or social constraints on the area with little or no benefit derived from the cleaner air. Is it the intent of Congress to enact standards stricter than needed to protect human health and welfare at the expense of jobs, growth, and independence from other countries for basic materials merely for the sake of clean air?

A more desirable approach to the proposed "non-degradation" provisions would be to:

1. Have Congress state its position on "non-degradation" rather than allowing it to evolve through judicial interpretation.

2. Except in a few special areas under control of federal government, "non-degradation" limitations should be determined at the state level to best reflect the social and economic factors, in addition to the scientific justification for such standards for each local condition.

Again, I urge you to oppose the "non-degradation" issue in the Clean Air Act Amendments of 1975.

Sincerely,

Virgil L. King,
Plant Manager.

Deering Milliken, Inc.,
May 4, 1976.

Hon. Jesse A. Helms,
Senate Office Building,
Washington, D.C.

Dear Jesse: I have been concerned for proposed amendments to the Clean Air Act, especially with regard to the issue of "non-deterioration." As you know, this legislation could seriously impair the continued orderly development of our less populated areas, and could have a direct impact upon the textile industry—particularly in the event of curtailed gas and oil as energy sources.

Due to the lack of dependable data, the questions raised by many concerning the economic and environmental impacts of the proposed legislation have not been answered. In my judgment, a thorough study of these impacts should be made prior to the implementation of the "non-deterioration" legislation. Recent history reminds us that a number of our environmental decisions, though well intentioned, have been hastily made. For example, recall the issues of phosphates in detergents, cyclamates in soft drinks, and possible problems with the catalytic converters on the automobile exhaust. In addition, of course, the 1972 FWPCA is beset by legal challenges on all sides. In short, now is the time for reasoned rather than emotional legislation in the environmental area.

Sincerely,

Roger Milliken.

Outdoors Unlimited, Inc.,
Ogden, Utah, April 28, 1976.

Hon. Jesse A. Helms,
U.S. Senate,
Washington, D.C.

Dear Senator Helms: Outdoors Unlimited is a non-profit citizens conservation organization with a total membership of 4,540 (752 individual and 3,788 affiliate memberships) as of 2/29/76. The common bond of our diverse membership is the desire to see the strategy of multiple use management implemented as widely and as wisely as possible on our public lands.

We believe the "non-deterioration" concept set forth in the Clean Air Act Amendments (S. 3219) would have a disastrous effect on crucial development of energy supplies, and multiple use land management, which will serve to cast intolerable burdens on the consumer. The uncompromising rigidity of the "non-deterioration" proposals will inflict a staggering squeeze on all aspects of land use. It is our conviction that the "non-deterioration" provisions are based on the most scanty evidence of adverse health effects with no economic considerations.

It is our view that this subject should not even be considered until an exhaustive study has been made to establish confidence that serious economic injury will not result from such a decision.

Thank you for your consideration.

Sincerely yours,

John H. LaGrange,
President.

[Telegram]

Thomasville, N.C.,
April 28, 1976.

Hon. Jesse Helms,
Senate Office Building,
Washington, D.C.:

Urge your efforts delete "non-degradation" provisions from Clear Air Amendments bill (S. 3219). This single-purpose, land-use control feature would significantly cut economic growth and eliminate jobs. Understand no legislative hearings have addressed this section of bill. Hope you insist on such hearings prior further consideration this antijob approach. Also urge you support Moss amendment for a study commission on "nondegradation."

Tom A. Finch, *President.*

Mr. HELMS. Mr. President, the no significant deterioration standard was not mandated by the 1970 Clean Air Act. It is a creature of judicial interpretation and bureaucratic rulemaking. It does not protect the health and welfare of the American people; that is done by the standards set out in the 1970 Clean Air Act. What the no significant deterioration standard does do is set up an arbitrary control over localities which have air quality higher than the national standards set by the 1970 act, so that those localities in effect cannot engage in economic expansion which they feel to be vital and necessary for their own well-being.

Mr. President, localities should have local control over their own economic and industrial expansion, within the health and safety standards set out in the 1970 act. We should not allow the courts, EPA, or ourselves to mandate otherwise.

I thank the distinguished Senator from Virginia for yielding. I commend him for his amendment, and I urge its approval.

Mr. WILLIAM L. SCOTT. Mr. President, I am grateful for the support of my friend from North Carolina, and appreciate his contribution in support of this amendment to the Moss amendment.

Mr. President, I will continue with the statement that I was making before yielding to a number of Senators.

Under present law, State and local governments can provide for higher air quality standards either statewide or in problem areas. My amendment would not in any way restrict that State authority. This is as it should be because the nondegradation concept is tantamount to planning or zoning on a local or area basis where air quality is the only factor considered. Yet land planning over the years has been a function reserved to the States and localities under the 10th amendment of the Constitution and under the police power concept, whereby the State and local governments retain the power to regulate matters regarding the health and the morals of citizens within their jurisdiction.

Unless we eliminate the nondegradation regulations, the elimination of statutory authority for practical purposes is a nullity, because nondegradation will remain as a policy of the Environmental Protection Agency unless yesterday's decision by the court of appeals is reversed by the Supreme Court of the United States.

It is a policy the administrator of EPA has admitted goes too far. This is indicated on page 24843 of the Congressional Record of July 30 of this year in which Congressman Paul Rogers, of Florida, quotes from a letter to the distinguished Senator from Utah (Mr. Moss) in which the EPA administrator, Russell Train, states that—

> Current regulations provide much more of a role for EPA in the process than I would prefer.

The Senator from Utah may well want to put the entire letter of June 11 from Mr. Train into the Record at some later point. However, Mr. President, I ask unanimous consent to have printed in the Record at this point a copy of a letter dated May 28, 1976, from the President to the chairman of the Senate Public Works Committee.

There being no objection, the letter was ordered to be printed in the Record, as follows:

The White House,
Washington, D.C., May 28, 1976.

Hon. Jennings Randolph,
Chairman, Public Works Committee, U.S. Senate, Washington, D.C.

Dear Mr. Chairman: Both Houses of the Congress will soon consider amendments to the Clean Air Act of 1970. There are several sections of both the Senate and House amendments, as reported out of the respective committees, that I find disturbing. Specifically, I have serious reservations concerning the amendments dealing with auto emissions standards and prevention of significant deterioration.

In January 1975, I recommended that the Congress modify provisions of the Clean Air Act of 1970 related to automobile emissions. This position in part reflected the fact that auto emissions for 1976 model autos have been reduced by 83% compared to uncontrolled pre-1968 emission levels (with the exception of nitrogen oxides). Further reductions would be increasingly costly to the consumer and would involve decreases in fuel efficiency.

The Senate and House amendments, as presently written, fail to strike the proper balance between energy, environmental and economic needs. Therefore, I am announcing my support for an amendment to be cosponsored by Congressman John Dingell and

Congressman James Broyhill, which reflects the position recommended by Russel Train, Administrator of the U.S. Environmental Protection Agency. This amendment would provide for stability of emissions standards over the next three years, imposing stricter standards for two years thereafter. Furthermore, a recent study by the Environmental Protection Agency, the Department of Transportation and the Federal Energy Administration indicates that the Dingell-Broyhill Amendment, relative to the Senate and House positions, would result in consumer cost savings of billions of dollars and fuel savings of billions of gallons. Resulting air quality differences would be negligible. I believe the Dingell-Broyhill Amendment at this point best balances the critical considerations of energy, economics and environment.

I am also concerned about the potential impact of the sections of the Senate and House Committee Amendments that deal with the prevention of significant deterioration of air quality. In January 1975, I asked the Congress to clarify their intent by eliminating significant deterioration provisions. As the respective Amendments are now written, greater economic uncertainties concerning job creation and capital formation would be created. Additionally, the impact on future energy resource development might well be negative. While I applaud the efforts of your committee in attempting to clarify this difficult issue, the uncertainties of the suggested changes are disturbing. I have asked the Environmental Protection Agency to supply me with the results of impact studies showing the effect of such changes on various industries. I am not satisfied that the very preliminary work of that Agency is sufficient evidence on which to decide this critical issue. We do not have the facts necessary to make proper decisions.

In view of the potentially disastrous effects on unemployment and on energy development, I cannot endorse the changes recommended by the respective House and Senate Committees. Accordingly, I believe the most appropriate course of action would be to amend the Act to preclude application of all significant deterioration provisions until sufficient information concerning final impact can be gathered.

The Nation is making progress toward reaching its environmental goals. As we continue to clean up our air and water, we must be careful not to retard our efforts at energy independence and economic recovery. Given the uncertainties created by the Clean Air Amendments, I will ask the Congress to review these considerations.

Sincerely,

GERALD R. FORD.

Mr. WILLIAM L. SCOTT. I call attention to the next to the last paragraph in which President Ford sets forth the administration's position on nondegradation. I read as follows:

> In view of the potentially disastrous effects on unemployment and on energy development, I cannot endorse the changes recommended by the respective House and Senate committees. Accordingly, I believe the most appropriate course of action would be to amend the Act to preclude application of all significant deterioration provisions until sufficient information concerning final impact can be gathered.

This is the precise purpose of my amendment. The distinguished chairman of the subcommittee, the floor manager of the bill, did refer to it some weeks ago as being the only amendment, to his knowledge, that accomplished that purpose. He was critical of the President's position at that time, and also of my amendment.

Mr. President, my amendment has received substantial editorial support. I ask unanimous consent that a number of editorials be included in the RECORD after I make some brief comment with regard to each of them.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. WILLIAM L. SCOTT. Mr. President, one of the editorials is by the Wall Street Journal of July 26. It is entitled "Senator Muskie's No-Growth Bill."

The Journal states:

> What Congress should really do, though, is simply accept the amendment of Sen. William Scott of Virginia, who would strike the "no significant deterioration" approach and return to the actual intent of the 1970 Act, which was to set national air quality standards that apply uniformly.

A syndicated columnist, Mr. M. Stanton Evans, wrote an article which appear in various papers around the country entitled "Scott Amendment Should Pass."

The Evans' column concluding paragraph reads:

> All the elements of our current distress are enfolded in this issue: usurpation of congressional authority by courts and bureaucrats; Federal controls imposed upon the States; backdoor approaches to land-use planning and "no growth" zealotry; and counterproductive regulations that create more problems than they cure. Senator Scott has taken on a formidable challenge; here's hoping that he wins his battle.

The Northern Virginia Daily of July 14 contained an editorial:

> Senator Scott's amendment makes sense to us. All of us want a wholesome environment and pure air for ourselves and for future generations. But it is also possible to go too far in legislating a stringency that is not required. We believe Senator Scott's amendment is a fair approach to providing the balance needed in air purity while enhancing the solution of the Nation's energy and economic needs.

Mr. RANDOLPH. Mr. President, will the Senator from Virginia (Mr. WILLIAM L. SCOTT) yield at this point?

Mr. WILLIAM L. SCOTT. I am glad to yield to the distinguished chairman of the Committee on Public Works (Mr. RANDOLPH).

Mr. RANDOLPH. Mr. President, I have listened with interest to the recital of those editorials and articles which seem to indicate that this is a "no growth" bill. This is an assertion, by implication and even direct quotation, that is in error.

I wish to underscore that this measure comes to the Senate from a committee of the Senate, the Committee on Public Works, which does believe in growth. This committee, as my colleague knows, has the jurisdiction and the responsibility for the authorization and construction of the highway systems of the United States. We have the responsibility for water resources programs and economic development programs of importance to this country. These are programs which are growth in nature, and to designate, as has the Wall Street Journal, this measure as a "no growth bill" is totally inconsistent with the philosophy of the Public Works Committee.

Mr. WILLIAM L. SCOTT. Let me, if I may, interrupt just very briefly.

Mr. RANDOLPH. Yes.

Mr. WILLIAM L. SCOTT. And say to the distinguished Senator that there is an editorial in today's Bluefield, W. Va., Daily Telegram that says the same thing. So it is being said in West Virginia as well as in New York.

Mr. RANDOLPH. I am certain that the editorials would appear in all States, and I make no distinction.

That is the Bluefield Telegraph, by the way, instead of the "Telegram."

Mr. WILLIAM L. SCOTT. Yes, Daily Telegraph.

Mr. RANDOLPH. The Bluefield Daily Telegraph. One subject I know something about is the correct name of every newspaper in West Virginia, whether it agrees with me or disagrees with me.

I well understand that there is this outpouring of no growth attached to the legislation which has been reported from the Public Works Committee. There may even be some disagreement in connection with the amendment offered by the Senator from Virginia (Mr. WILLIAM L. SCOTT) as to whether this is a no growth bill. Let me say to my colleagues that this measure is not designed to limit growth. The focus of the bill is to provide for growth and development in a manner which maintains air quality in so-called clean air areas.

Mr. WILLIAM L. SCOTT. Mr. President, I assume that the distinguished Senator is using Senator MUSKIE's time.

Mr. RANDOLPH. I had not assumed anything.

The PRESIDING OFFICER (Mr. BAYH). The Chair would like to inquire, is someone controlling the time of the Senator from Maine?

Mr. RANDOLPH. I can take that responsibility. I have shared it at various times from the beginning of the bill.

Mr. WILLIAM L. SCOTT. The only reason I say that is that my time is somewhat limited.

Mr. RANDOLPH. Yes. I will not take longer at this point. I do say, however, that the Wall Street Journal, in my opinion, is inaccurate when it calls this legislation "no growth" because we are intensely interested in the development of industry and business, commensurate, of course, with the high quality of the environment in the country in which we live. I do not think they run head-on one against the other. The well-reasoned attitude of the committee expressed in the bill as reported to the Senate will commend itself to the Senate.

Mr. WILLIAM L. SCOTT. Mr. President, I am glad to have the distinguished chairman of the full committee share his thoughts with us on this important matter. There can well be differences of opinion. The distinguished Senator and I have a great similarity of views, though there may be some differences.

I did, Mr. President, a few minutes ago ask unanimous consent, which the Chair granted, to place in the RECORD a number of editorials. One of them is an editorial from the Bluefield, W. Va., Daily Telegraph. It is dated August 3, 1976, today's date, and in the center of the editorial, in reference to nondegration, it has this paragraph:

> This, of course, is a stunning blow for a great many areas whose hopes are pinned on the acquisiition of new industries or other forms of economic development. It means simply that if the EPA is to continue to have its way, these areas cannot progress economically if this progress is to be accompanied by any lowering of the present air purity levels, despite the fact that significantly greater levels of deterioration are present in other areas, and with no evidence that those levels pose a threat to health or to life.

Mr. President, on July 23, the Lynchburg, Va., News referred to the legislation before us as a "clear disaster," and, in its closing paragraph, stated:

> These amendments, in effect, constitute a Federal land use control act, and control over the economic and industrial development of the Nation. The "no significant deterioration" amendment may improve the quality of the air we breathe, but it surely will limit the amount of food we eat, the number of jobs available, the amount of housing that can be built. It will be deciding what can be built and where, determine how we work and live and how we travel. As such, it is one of the most destructive bills ever to come before the Congress, and the liberals think it is just great.

The Richmond Times-Dispatch, in an editorial dated April 22, 1976, soon after the committee reported the bill, commenced its views with the statement:

> Seemingly acting on the assumption that man can live by clean air alone, the Senate Public Works Committee has reported a package of environmental proposals that could result in economic paralysis of vast areas of the Nation. These measures could impede economic development almost everywhere, and halt industrial growth altogether in some sections, inevitably increasing unemployment and eroding the standards of living of countless Americans. Moreover, the proposal would thrust the power and authority of the Federal Government into some areas of concern that historically have been the provinces of State and local governments and should remain so.

Did the distinguished Senator from Oklahoma wish some time? I am glad to yield 10 minutes to the Senator from Oklahoma.

Mr. BARTLETT. Mr. President, I rise today to speak to the nondegradation of air quality provisions of S. 3219. It is my belief that the amendments relating to nondegradation would seriously affect future economic growth, employment, domestic energy supplies, and capital availability for productive investments without providing significant benefits in air quality for the protection of the public health and welfare.

The National Ambient Air Quality Standards, NAAQS, were established to protect the public health and welfare. The proposed amendments would override the NAAQS and limit the allowable ambient air concentrations in most "clean" areas to levels well below the NAAQS and only to a small fraction of the NAAQS in some areas. I see these provisions as representing a "no growth, no win policy" for our rural areas.

Nondegradation areas are those areas where air quality meets national secondary standards for either sulphur dioxide—SO_2—or particulates or both. Virtually the entire State of Oklahoma will fall in the nondegradation area category if section 6 of this bill is allowed to become law. This circumstance will certainly play havoc with Oklahoma's industrial development program. For this reason and the reasons stated above, I cosponsored the Moss amendment to delete these provisions from the bill and instead study the matter for a better solution than is proposed in S. 3219.

I am now of the belief that a step further needs to be taken if my State, and many other States, are to be able to make any significant progress in its industry-developing program. In view of this belief, I have also cosponsored the Scott amendment, which in addition to deleting section 6 of the clean air bill and calling for a study, also provides for the suspension of the present regulations under which EPA is operating as a result of the Supreme Court decision in Sierra Club against Ruckelshaus. I believe this is a more logical way to handle this most important, and far-reaching matter.

Both the class I and class II designations carry very restrictive allowable increments of deterioration that are, in effect, zoning regulations based not on all of our citizens' social and economic needs, but on only one need—clean air. Given this single criterion, States and local communities would be deprived of at least some of their right to decide for themselves what use they want to make of their lands. In many cases, they would want to go the way of preservation. In others, they might well want to go the way of development—and, under these provisions, not be able to.

Certainly, class I areas should be kept "pristine," and they should be protected against intrusion by airborne pollutants. I refer now to class II areas, where moderate industrial growth would be permitted, within the allowable increments. The question that arises is what happens when one facility moves into a given area and "uses up" all or most of the allowable increments. Other industries which then might want to move into the same area would find it foreclosed to them. They would have to move to yet another class II zone where the increments still remained, even if the site might be ill-suited to a proposed plant's needs.

In the face of such discouraging prospects, it is entirely conceivable that the plant would not be built at all, and jobs would be lost. Moreover, an area with all of its increments used up might well find itself condemned to more or less permanent economic stagnation.

Surely it is the right of the several States and their local governments, long recognized by Congress, to decide how they want to use their own lands. Think for a moment about all of the cities and towns across America which are trying to attract new industries to reverse economic declines and provide job opportunities for their young people. These communities are trying to plan their economic future in a rational way. They have decided, often at town meetings, what types of industry they wish to attract and in many cases have even acquired land at great expense for industrial parks. The nondeterioration provisions could well pull the rug from under many such plans.

Mr. President, I am well aware of the time I was in the Governor's office in Oklahoma and was faced with the problem that my colleague in the Senate, Senator BELLMON, as former Governor, was faced with, the problem of our migration of young people, and we embarked, as he had, on a program of working in the rural areas to expand industrial development and job opportunities. We were able, over a period of time, to reverse the outward migration from the rural areas. Some of it was to the city areas in our own State, but at first the majority of it was to outside the State.

As time went on and opportunities were provided in the rural areas which had depressed economies, people remained in the State, took advantage of various training programs, and helped build up the economy. When the recession, which is just passing, first hit with fury the 50 States, it was very pleasing to see that in our State in Oklahoma unemployment was running about 3 percent less than the national average. This showed that there had been considerable progress made in opportunities for young people throughout the entire State, not only in the two metropolitan areas but also in the entire State for jobs, and enabled us to keep these young well-educated people within our State boundaries.

We had been exporting our No. 1 product, our educated, well-trained young person. But now we are retaining those people in our State.

I am concerned that, without the Moss and Scott amendments, we would be perhaps making it very difficult to continue this kind of aggressive program that bears in mind the two needs of business and industrial growth, and the preservation of our environment. I think the two can go hand in glove. Both are necessary, not one, either one rather than the other, but in my case I feel very strongly that we need both.

The problem, of course, is magnified when one considers the Western United States, where so many energy resources like oil shale and coal are located. Surely, ways can be found to protect the environment and at the same time make these vast energy reserves available to Americans. We need to appreciate the fact that the present air quality standards are very restrictive. We need to ask: What will happen when industries must operate within fractions of these standards, as the proposed significant deterioration provisions call for?

Another thought disturbs me. Under these provisions, the drift toward centralization of government would continue as communities, lacking the power to change things for themselves, increasingly would look to Washington to solve their problems.

I feel very strongly that the implications of the significant deterioration provision deserve the most careful study which, I devoutly hope, will include the land use implications involved. One year is not too long a time to carry out such study. Once again, I wholeheartedly support Senator Moss's amendment.

Because the impacts of the proposed nondegradation regulations are very complicated, and also very significant, in-depth definitive studies, which have not been made on many of the impacts, should be carefully made. However, preliminary studies on some of the effects this legislation would have on future energy supplies are as follows:

First. A sulfuric acid plant meeting EPA's new source performance standards to produce acid for the acid-leaching in a large uranium mill and with a stack height of less than 200 feet could not be located in an EPA Class II area based on SO_2 emissions. This plant would also have to be located over 20 miles from a class I area. These studies did not consider other sulfur oxides from this mill, did not consider other pollutants and did assume the maximum class II area increment was available for the acid plant emissions.

Second. The proposed legislation and the ultimate regulations would seriously affect the timing and economics of development of coal deposits between now and the early 1980's and in addition the development of nuclear, oil shale, and coal conversion projects as domestic energy supplies. The impact would seriously impede our goal to develop the Nation's future energy supplies.

Third. Future supplies of gas and oil could be affected as the nondegradation regulations are extended to hydrocarbons, nitrogen oxides, carbon monoxide, and other pollutants that EPA decides are to be included as provided in the proposed legislation. Meeting these more restrictive hydrocarbons and other standards could incease the cost of gas and oil. Such standards might also restrict oil and gas production in some areas and present siting problems for new refineries and plants as well as expansions.

Many of the areas that would be designated as class I are in the Western States. Many of these same areas have the energy reserves that will have to be developed for future domestic energy supplies. The nondegradation proposals would prevent development of many alternate fuel sources to the level we need to provide greater energy independence.

The National Ambient Air Quality Standards are more than adequate for the protection of public health and welfare and more restrictive standards such as the nondegradation plan in the Clean Air Act amendments being considered are unnecessary and unjustified on environmental considerations. Such a plan could have serious detrimental impact on our Nation's growth, on employment opportunities, and on domestic energy supplies.

These consequences would certainly apply to Oklahoma. Activities in Oklahoma that could be seriously affected by these amendments are metal smelters, utilization and mining of coal, new gasoline plants and refineries, and agriculture activities that produce particulate emissions.

School buildings, shopping malls, and similar-sized facilities with heating plants of 250 million Btu's would be subject to control under the proposed act. I feel it is unconscionable for Congress even to be considering such provisions until the full consequences are measured and evaluated.

To construct new homes, schools, businesses, et cetera, a State would have to assure that the air quality impact of growth associated with the new facility would not adversely affect the EPA standards. Existing facilities would be subject to increasing penalties. One can imagine that a number of marginal industries, operating in rural areas, would shut down.

A rural area that wants to build a vocational-technical school, surely does so with the hope of attracting industry with the new reservoir of skilled workers that the school will produce. This kind of initiative on the part of a State would most certainly be curtailed if the proposed Clean Air Act amendments are enacted.

I say to the Senator from Virginia that we had such a plan when I was Governor, to have such schools throughout the entire State, so that virtually everyone—adult and youngster alike—was within commuting distance of a good vocational technical school.

As a former Governor of the State of Oklahoma, I can personnally testify that one of the goals of Oklahomans is a higher quality of economic growth for its people while still respecting the environment. Oklahomans very much want to achieve both, but not one—either one—at the expense of the other. However, while this legislation is couched in rhetoric regarding the "quality of life," it ignores the fact that a decent and satisfactory life involves more than "pristine air."

I thank the distinguished chairman, and I thank the Senator from Virginia.

Mr. WILLIAM L. SCOTT. Mr. President, I am grateful to the Senator from Oklahoma for sharing his expertise and his experience as Governor of his State.

Mr. President, I shall continue with my prepared remarks.

On July 20, the Staunton, Va., Leader contained an editorial entitled, "Restricts Land Use," endorsing my amendment and concluding:

> The Federal Government already exerts control over our schools, businesses (particularly through OSHA and EEOC) and elections. Should States be required to give up control of land use also?
>
> We hope that reason will prevail. The "non-significant deterioration" policy is not needed to protect health or welfare. It should be rejected.

In a July 26 commentary, Robert F. Hurleigh, a former president of the Mutual Broadcasting System, endorsed my amendment and included this thought:

> In a fine spirit of legislating cleaner air, the well-intentioned Congress has created a situation wherein the economy of many States will be stifled with resultant loss of an experienced work force. This, in turn, would lead to an eroded standard of living.

His concluding sentence is:

> Senator SCOTT's proposals seem reasonable and fair.

Alice Widener, another syndicated columnist, in an article entitled, "Common Sense on Clean Air," included this Statement:

> The whole subject of the Clean Air Act is highly complicated, but Senator SCOTT has penetrated the smog. In plain English he explains that his proposed amendment "would permit construction in rural areas of the country where the air quality is higher than national standards, while still being subject to the regulations of the State and local governments and the national standards for the protection of public health and welfare."

The last editorial I bring to the Senate's attention is entitled "Sane Approach to Clean Air Needed," from the Danville, Va., Register of July 25, 1976, and among other things it states:

> If the friends of the environment will agree to listen to the opponents' arguments, they may find that America can promote industrial growth and the tapping of industrial resources without damaging the environment to the extent that they fear.

Mr. President, in remarks on the floor on July 27, I included letters from a number of Governors, and I do not propose to reinsert these letters at this time in the RECORD. However, the Governors of Florida, South Carolina, North Carolina, Alabama, Arizona, Maine, Mississippi, New Hampshire, Oklahoma, Texas, Utah, Michigan, Louisiana, Ohio, and Virginia, all indicated their opposition to nondegradation. Gov. Mills Godwin even indicated that if this legislation is enacted in its present form Virginia would feel impelled to ask the courts to set it aside as unconstitutional. I believe, Mr. President, that the views of these Governors properly reflect the opinions of the people of the country against a no-growth policy and a desire for our economy to continue to expand for economic prosperity and for the maintenance of our standard of living while at the same time maintaining air quality on a nationwide basis high enough to protect the health and welfare of our citizens.

Mr. WILLIAM L. SCOTT. Mr. President, I do have a few more remarks. I see that my time is limited. How much time do I have remaining?

The PRESIDING OFFICER. The Senator has 21 minutes.

Mr. WILLIAM L. SCOTT. I wonder whether the distinguished Senator from Utah desires to comment before I conclude my remarks, or if he wishes, to wait until later.

Mr. MOSS. I thank the Senator from Virginia.

I have not participated in this discussion because I had thought about my amendment earlier. This constitutes an amendment to my amendment.

I say to the Senator from Virginia that I have listened with considerable interest to his comments and those of my other colleagues about this amendment, the Scott amendment, that is before us. The reason why I did not write my amendment to go as far as the Senator from Virginia indicates is that I felt it was important at least to keep in place EPA regulations that protect health and welfare. There are some difficulties with the administration of those regulations, including the latest court opinion that just came down. I have not had a chance to examine the full opinion but have only seen it in the press.

Despite matters like that, we at least are living under and getting along under a clean air statute now that has had an appreciable effect in improving air quality in many places. I certainly am not in favor of a step so far backward that we would abandon the advances we have made.

I do not say that to indicate that I think that is the import of the amendment of the Senator from Virginia, but that is the reason I felt that we ought to keep in place whatever we have now while we have the 1-year study time. I think it effectively answers those who allege that my amendment or the Senator's amendment would suddenly plunge us back into dirty air if we abandon the clean air objective. In fact, I have been advised by others that they have been called by some organizations saying, "You cannot vote for the Moss amendment, because we will all be strangling in dirty air."

I want to make it perfectly obvious that we are not going to take a step backward. We are going to be where we are now. Section 109 of the Clean Air Act mandates that EPA promulgate standards that protect the health and welfare of the people of this country. So we are not going to step backward.

What my amendment is trying to do is say, "Look, let us hold where we are and make a study that will last for years, make a study before we put permanently into law the provisions of section 6." I think that is a logical way to do.

The Senator from Virginia wants to go a step beyond that, and he has some very valid arguments—and I have not determined yet. I may very well support his amendment. If his amendment, of course, should carry, that would then become part of the Moss amendment and there would be a second vote. So if it carries, I shall be very glad to go ahead and still try to get my amendment. Should it not carry, I still shall press as hard as I can for the Moss amendment.

I guess what I am trying to say is we sort of have two levels here. One is a little more stringent, goes a little farther than does the Moss amendment.

Mr. WILLIAM L. SCOTT. I appreciate the remarks of the distinguished Senator.

Mr. President, as Senators in this Nation's highest legislative policymaking body, we should not take a myopic or a tunnel vision approach to legislative proposals. In my opinion, we have an obligation to consider the overall welfare of the country and its citizens. Will this bill add inflationary pressures to our economy? Will it require additional paperwork for both the Government and the businessman? Will it delay or prevent the construction of new plants, new industries, new jobs? Will it magnify our energy shortages or further restrict the use of coal, our most important fossil fuel? Will it handicap the Nation in expanding the economy and result in no growth or stagnation in many parts of the country?

I know that the Senate Committee on Public Works has worked long and hard to report out a bill and that the House Interstate and Foreign Commerce Committee spent a year considering a similar measure. I believe that in our deliberation today, we should consider whether passage of this bill in its present form is in the national interest.

Mr. President, I wish to yield briefly to my distinguished friend from Idaho and then use the remainder of my time to review briefly this court of appeals decision that was decided yesterday at the District of Columbia court. I yield to my friend from Idaho.

Mr. McCLURE. I thank my friend from Virginia very much for yielding. I yield to the Senator from Oregon for a unanimous-consent request.

Mr. HATFIELD. I thank the Senator for yielding.

Mr. President, I ask unanimous consent that my staff man, Mr. Craig Honeyman, may be allowed the privilege of the floor during debate on this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCLURE. Mr. President, the only reason I rise to take part in this particular debate is to illustrate to Members of the Senate and, hopefully, to persuade some of them, that there is a distinction between the Moss amendment and the Scott amendment which compels me to view the two in quite different lights.

The Senate Committee on Public Works, as well as the committee in the other body, were confronted with a set of facts with which we must work. That set of facts included the decision in the Sierra Club against Ruckelshaus in which the court had decided that the congressional intention, as expressed in the act of Congress, was to protect the clean air areas of the country, as well as to establish primary and secondary standards. This, I think, went far beyond any understanding in Congress as to what was being done at that time, but regardless of whether it did or did not, it was the law.

Mr. WILLIAM L. SCOTT. Will the Senator yield at that point?

Mr. McCLURE. I certainly will.

Mr. WILLIAM L. SCOTT. I call his attention to page 11 of yesterday's decision by the U.S. Circuit Court of Appeals for the District of Columbia. At the beginning of page 11, it reads:

> As is apparent from the provisions of the Clean Air Act outlined above, prohibition of significant deterioration of air cleaner than the national standards is not an express requirement of the Act.

It goes on further and says that Judge Pratt, the trial judge, put it in under the "enhance" provision, to protect and enhance the air. So it is put in there by implication from the "purpose" clause, not the intention of the Senate.

Mr. McCLURE. That is very definitely correct, but the facts with which we were dealing at the committee—we were dealing with the regulations which EPA then had sought to put in place following the court's earlier decision, which was then tested in this case to which the distinguished Senator from Virginia has made reference. Whether it is the earlier case or this later, both or either go far beyond the primary or secondary standards. That is the fallacy that I see in the Moss amendment, because the Moss amendment does nothing at all to solve the basic dilemma to which he addresses himself.

I have listened carefully to the arguments of the Senator from Utah and he has made a very persuasive argument against nondeterioration standards, but leaves them in place with his amendment. I do not understand the logic which says we cannot possibly live with a nondeterioration standard, but we shall leave it there.

Mr. DOMENICI. Will the Senator yield?

Mr. McCLURE. I am happy to yield.

Mr. DOMENICI. Is it not true that, with the more recent decision further interpreting the power of the Administrator under the "purpose" clause and rendering valid his present regulations, the statement of the Senator is even more true today than it was when the committee deliberated the matter?

Mr. McCLURE. I thank the Senator from New Mexico. He is exactly correct. So, regardless of how we feel about the issue of nondeterioration, we ought not to follow the blind path of the Moss amendment by simply saying that we will not adopt the committee's deliberation, we will let EPA and the courts do it, because the EPA and the courts are doing exactly what the Senator from Utah says is absolutely unbearable for us in our society today—because we do not know about it, he says.

I do not disagree with my distinguished friend from Utah. I think we do have very grave difficulties in applying a significant nondeterioration standard when we do not have as many facts and as much information as we would like to have. But the committee was faced with the indisputable fact that the court has said this has been mandated by Congress. So we attempted to deal with that in this committee bill by establishing standards, by setting guideposts, by alleviating a great deal of the uncertainty that was imposed by the original court decision. In my judgment, the bill that has been presented by the committee is an improvement over the existing law, the existing law as established and interpreted and applied by the courts and by the EPA.

Mr. DOMENICI. Will the Senator yield again?

Mr. McCLURE. I am glad to yield.

Mr. DOMENICI. Which laws and which regulations are left wholly in place by the Moss amendment, is that correct?

Mr. McCLURE. That is exactly correct. If you do not like deterioration, you ought to vote for the Scott amendment. If you think we do not know enough about nondeterioration and the effects on our economy, then you ought to vote for the Scott amendment because it does something about it.

Mr. MOSS. Will the Senator yield?

Mr. McCLURE. I am happy to yield.

Mr. WILLIAM L. SCOTT. Mr. President, does the Senator from Utah continue to have time?

The PRESIDING OFFICER (Mr. CULVER). The Senator from Utah has no time remaining.

Mr. WILLIAM L. SCOTT. Mr. President, I have such a little time. I hate to deprive the Senator——

Mr. McCLURE. Let me conclude, if I may.

Mr. WILLIAM L. SCOTT. Yes.

Mr. McCLURE. I do understand that there is a problem with nondeterioration. I do understand that we are not certain what the base levels of pollution are. I do understand that there is a great concern about the State-Federal relationship, and I would like to say a very great deal more about what we have done in this bill to improve that. But if we do not believe we ought to move in that area at all, if we are not prepared now to deal with that question at all, then vote for the Scott amendment. Do not take the Moss amendment by itself, bare, without any description of what we intend, without any guidelines to EPA as to what ought to be accomplished, without any definition of the distinction between the State and Federal roles.

If you do not want to move toward nondeterioration, then vote for the Scott amendment. If you do believe that we are prepared and we must act in this field of nondeterioration, then vote against both. But do not vote for the one that leaves us in that no man's land with no resolution, no improvement, no guidelines, leaving it all to the courts and to the EPA. I think that would be the worst of all worlds.

I thank the Senator from Virginia for yielding.

Mr. WILLIAM L. SCOTT. Mr. President, I appreciate the clarifying statement of the distinguished Senator from Idaho.

I yield very briefly to the Senator from New York.

Mr. BUCKLEY. I thank my friend from Virginia, and I appreciate that his time is limited.

I really want to reinforce what the Senator from Idaho said. The Senator is giving us an honest choice: Either you believe in nondegradation or you do not. But if you do not support the position of the Senator from Virginia then the committee bill comes closer to his objectives than the Moss amendment. The committee bill increases and enhances the authority of the States in making the critical decisions as to future development. So it is either the Scott amendment or the committee bill.

I thank my friend from Virginia.

Mr. WILLIAM L. SCOTT. I appreciate the comments of my friend from New York.

Mr. President, let me just take the remainder of my time and very briefly review the decision of the Court of Appeals for the District of Columbia, the case that was decided yesterday, 14 cases combined on this very question.

On page 11 it states that Judge Pratt held that under the purpose clause you could not significantly deteriorate air quality anywhere in the country regardless of how high that quality of air was, and whether it was still above the national standards.

Pursuant to this court order, the administrator reviewed and disapproved all State plans insofar as they failed to provide for prevention of significant deterioration.

That means, Mr. President, you cannot build in a rural area a plant where the principal business of a particular area is tree farming. If there is no deterioration, no pollution at all, and someone wants to put a factory or plant in this region that would significantly deteriorate the air quality, but it would still be far above the quality required to meet the national standards, why, the administrator could not approve that plan, according to page 11 of yesterday's decision.

Now, Mr. President, I believe it is essential for the welfare of this country that we have a healthy economy. I believe it is essential for maintaining our standard of living that our economy continued to grow and continued to expand. I believe the distinguished Senator from Utah, with his amendment, has taken a step in the right direction. But without doing away, suspending, the regulations of the EPA as well as the statutory law, his amendment has no practical effect at all. It is a mirage, it is just something that appears to be doing some good but it does not.

If my amendment is added to it then we will still have the primary and secondary air quality standards established by the administrator of the Environmental Protection Agency high enough to protect the health and welfare of the people of the country. We will leave to the States and to the local government the authority to require higher standards to meet local conditions.

Mr. President, I urge the adoption of my amendment to the Moss amendment, and I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. WILLIAM L. SCOTT. Mr. President, I am glad to yield back the remainder of my time and have an immediate vote on the amendment.

EXHIBIT 1

[From the Wall Street Journal, July 26, 1976]

SENATOR MUSKIE'S NO-GROWTH BILL

Imagine that Congress passes a law, and an appropriate agency issues a regulation, that prohibits adult male Americans from weighing more than 200 lbs., on the grounds that excessive weight is both unhealthy and unattractive.

Then imagine the little people's lobby wins a federal court ruling that even skinny teenagers weighing 120 lbs. aren't allowed to add any significant weight, on the grounds that this is what Congress seemed to have intended when it passed the law.

Imagine further the outrage of those who think the court ruling to be nonsense—because it bears no realtion to either health or attractiveness, and in error—because Congress didn't intend to starve skinny teenagers when it passed the legislation.

The original author of the legislation then steps forward and says "Yes, indeed, I did have in the back of my mind freezing all Americans at their present weight, except for a pound or two for special cases that will be considered by federal bureaucrats. And to clear up any doubt, we're going to write the federal court ruling into the law."

All of the above is a rough approximation of what has happened since the Clean Air Act was passed in 1970. The legislation established national air quality standards, formulated by the Environmental Protection Agency based on health and ambient findings. The federal courts ruled that "no significant deterioration" of air qualify could be permitted, even in those areas well within the standards. And now Senator Muskie, author of the 1970 Act, spurred by the no-growth lobby, want to write into the law what the federal courts have already said is in the law.

The Senate is scheduled to debate the issue this week, and if common sense is to prevail, the very least it will do is accept the approach of Sen. Frank Moss of Utah, who wants to postpone for a year the engraving into stone of Mr. Muskie's "no significant deterioration" provision. Mr. Moss, whose state is the economic equivalent of our skinny teenager, proposes that a special commission evaluate the economic impact of the Muskie approach during this waiting period.

What Congress should really do, though, is simply accept the amendment of Sen. William Scott of Virginia, who would strike the "no significant deterioration" approach and return to the actual intent of the 1970 Act, which was to set national air quality standards that apply uniformly. President Ford more or less has endorsed the Scott amendment "in view of the potentially disastrous effects on unemployment and on energy development . . . until sufficient information concerning final impact can be gathered."

There is no national air quality standard, after all, when Congress gives the EPA bureaucrats the power to decide what the standard should be in northeastern Utah and what it should be in southwestern Tennessee. There would be varying classes of land, a "pristine" class where no deterioration would be permitted and others where some incremental deterioration would be allowed to accommodate economic expansion. There also will be gray areas, the buffer zones around the pristine areas, the sizes of which haven't been determined. If the buffer strips turn out to be 50 or 100 miles wide, there would be only nooks and crannies left in the country for major economic expansion.

To the browbeaten American businessman and industrialist, criticized for not creating jobs fast enough because they're too much concerned with profit, Senator Muskie's bill is an unnecessary nontariff barrier to trade. It legislates confusion as the chief means of cleaning up the air.

Whatever happened to the original idea, setting a tough federal standard that would provide for the nation's health to a reasonable degree, leaving to the states the option of enacting tighter standards if their citizens so desire? No doubt it was too simple and straightforward an approach for Washington to adhere to. Not enough red tape. Not enough confusion. Not enough bureaucracy.

The way things are going on the Clean Air Act there will be plenty of all those things. And whatever happens to the air, the Muskie proposal can certainly bring about "a significant deterioration" in local economies. That too, over time, can bring about a situation that is "unhealthy and unattractive."

[From the Danville (Va.) Register, July 29, 1976]

SCOTT AMENDMENT SHOULD PASS

(By M. Stanton Evans)

WASHINGTON.—If you doubt that the yen

for regulation in this country has reached the level of fanaticism, consider the "Clean Air Amendments of 1976."

The Environmental Protection Agency has come up with something called "Significant deterioration" standards for purity in circumambient air. These regulations say, in essence, that if a community or area in the United States has higher levels of air quality than those required by national standards, it may not do things that would lower them appreciably. It may not, in other words, reduce its standards to those permitted elsewhere.

The impact of this ultra-purist ruling is felt mainly in rural areas that are planning any kind of economic development—industry, shopping centers, a housing complex. It is an obvious barrier to growth and economic progress, mandating that any area now consisting of sylvan glades or open fields remain that way forever. It is a de facto "no growth" policy for America, a form of backdoor land control.

It has been put across, moreover, with hardly a word of public debate. The policy was not invented by the Congress, nor is there any evidence that Congress envisioned such a program when it passed the Clean Air Act of 1970. The ruling was promulgated by a federal court, and subsequently enforced by guidelines from the EPA—a prime example of "law" created by bureaucrats and judges.

One would think that imposition of such a policy by such a method would stir resistance in the halls of Congress. Such, however, is not the case, at least not with the Public Works committees of House and Senate. Both these bodies have stepped forth with proposals that would enshrine the "deterioration" standards in statue law, giving "no growth" the sanction of the Congress.

Fortunately, there are some members of the national legislature who oppose this abdication of responsibility, and common sense. Virginia's Sen. William Scott has weighed the impact of the "no growth" policy on his state and on the nation, and has taken the lead in trying to get it reversed. He proposed a commonsensical amendment that would establish standards in keeping with economic sanity. His amendment says, quite simply, that existing nondeveloped areas need not adhere to standards more stringent than those required for the nation as a whole, while maintaining adequate safeguards for public health and safety.

Scott's amendment has the backing of Virginia Gov. Mills Godwin, and several other governors, the Ford Administration, and many in the business community concerned about potential paralysis of the economy. It should be supported as well by anyone who cares about America's prospects for energy development, employment and productivity—all of which are serious problems for the nation.

An example cited by Scott makes the point about EPA overreaction. For several years the Hampton Roads Energy Co. has been planning to build a refinery at Portsmouth, Va. Some $6 million has been invested in the project, and an estimated 6,000 jobs, from start to permanent operation, would be generated by it. All existing local, state and federal standards have been met, except EPA's "nonattainment" clean air standards. So the project, the energy supply, and the jobs may be negated.

All the elements of our current distress are enfolded in this issue: Usurpation of congressional authority by courts and bureaucrats; federal controls imposed upon the states; backdoor approaches to land use planning and "no growth" zealotry; and counterproductive regulations that create more problems than they cure. Sen. Scott has taken on a formidable challenge; here's hoping that he wins his battle.

[From the Northern Virginia Daily, July 14, 1976]

SENATOR SCOTT'S AMENDMENT

There is a movement afoot in Congress which perfectly illustrates the fact that even the most highly motivated legislative actions can sometimes get bogged down in a morass of well-intentioned, but nonessential and inappropriate application.

This, we think, may be what has happened to the Clean Air Act amendment of 1976. According to Deputy Administrator John Hill, of the Federal Energy Administration, in the light of what we know today the requirements of the Act were overly ambitious.

Our world of 1976 is one of totally different problems. Serious energy and economic considerations exist now which were not applicable in 1970. And says, Mr. Hill:

"We also know that the targets of 1970 were based on inadequate health data. So, it's time to take stock and insure that our drive for clean air is not aiming at goals over and above what are needed to protect health. We have too many other national problems that have to be balanced with the Clean Air Act."

At present there are pending in Congress in both the House and Senate new amendments to the 1970 act, which would establish by statute a national nondeterioration policy aimed at keeping pristine clean air regions from being polluted significantly by industries and other sources.

The argument for the present interpretation of the 1970 act, which pressures for stronger anti-pollution measures, is not based on the wording of the 1970 act itself but on a federal judge's ruling which held that Congress meant to require a broad national "no significant deterioration" policy, when in fact the act did not even mention it.

Fear among members of Congress who would move more slowly on imposing additional restrictions, is whether in the drive of some of its members, in both the House and the Senate, to insure "pristine air," the more stringent national standards required would not only be unnecessary but would inhibit the development of new energy resources and impose unreasonable restrictions on economic growth.

Senator William L. Scott, of Virginia, is leading the fight in the Senate to maintain a balance between reasonable air pollution controls and the newly infused factors of which the Energy Administration's Hill spoke.

Sen. Scott has introduced an amendment to the Clean Air Act which proposes:

"To protect and enhance the quality of the nation's air resources by establishing, achieving, and maintaining national ambient air quality standards, standards of performance for new stationary sources and national emission standards for hazardous air pollutants so as to promote the public health and welfare and the productive capacity of the nation, but nothing in this act is intended to require or provide for the establishment of standards more stringent than primary and secondary ambient air quality standards."

Sen. Scott's amendment makes sense to us. All of us want a wholesome environment and pure air for ourselves and for future generations, but it is also possible to go too far in legislating a stringency that is not required.

We believe Scott's amendment is a fair approach to providing the balance needed in air purity while enhancing the solution of the nation's energy and economic needs.

[From the Bluefield (W. Va.) Daily Telegraph, Aug. 3, 1976]

SCOTT ON RIGHT TRACK

Sen. William Scott of Virginia should be encouraged in his battle to bring some semblance of sanity to the "clean air" battle. If Congress can be persuaded to accept Scott's proposals in one particular area the nation will be fortunate.

Currently Sen. Scott is attempting to persuade the Senate that it should not permit the courts and bureaucrats in the Environmental Protection Agency to implement rules and policies which were not envisaged by the first national environmental legislation enacted in 1970.

What has happened since then, according to Scott and other crities of the EPA, is that the agency has managed to interpret the law in a fashion which will impose a "no growth" policy on a great many presently undeveloped areas of the nation. In effect the agency, in an interpretation which has been upheld by a federal court, now says that no new "deterioration" in air quality can be permitted anywhere, even though the additional deterioration might still be well below present national standards.

This, of course, is a stunning blow for a great many areas whose hopes are pinned on the acquisition of new industry or other forms of economic development. It means, simply, that if the EPA is to continue to have its way these areas cannot progress economically if this progress is to be accompanied by any lowering of the present air purity level, despite the fact that significantly greater levels of deterioration are present in other areas, and with no evidence that those levels pose a threat to health or life.

When the full impact of the EPA stand becomes apparent, it is obvious there is going to be a national uproar, and there should be. It simply is not permissible for such unfair and unreasonable standards to exist. It should be emphasized that nothing in the original legislation enacted by Congress can be construed to give the EPA such a life or death power over the economic aspirations of undeveloped areas, Congress did not intend this to happen, but it is happening nevertheless.

If Sen. Scott can persuade his colleagues to accept a simple amendment to pending environmental legislation, this problem can be eliminated. Scott wants the law to say simply that nothing in the federal legislation can be construed to require or permit the enforcement of higher air standards than those presently allowed nationally. It is a fair proposal, indeed an essential one, if vast areas of the nation are not to be blocked off forever from achieving any further economic progress.

[From the Lynchburg News, July 27, 1976]

A CLEAR DISASTER

The U.S. Senate is about ready to vote on several amendments to the Clean Air Act of 1970 which will give the Environmental Protection Agency the ultimate authority to determine whether Lynchburg—or any other locality in the country—can build any more shopping centers or industries. The amendments constitute a "no-growth" policy in that they will prohibit construction of any project which threatens to increase air pollution, period.

Senator William L. Scott of Virginia has taken a leading role in opposing the economically destructive consequences of the amendments by striking from them the requirements that "no significant deterioration" of air standards can be permitted. If this requirement stands, it is difficult to see how Lynchburg would be permitted to authorize any new industries, or businesses, or even expand significantly any existing ones. This is because, aside from whatever pollution the EPA considered the new projects to produce, they also attract large numbers of workers who use automobiles to travel to and from work—and automobiles are a leading cause of air pollution.

The 1970 Clean Air Act prohibited the

construction of major industrial sources that might significantly pollute the air in so-called "nonattainment" areas—areas where air standards are already being violated. This includes most industrialized regions in the country. The amendments now before the Senate go further: they provide that there shall be "no significant deterioration" in the quality of air of any region whose air is better than the national standards set by the EPA. These clean air areas will be officially identified and the Federal Government given the authority to restrict economic or industrial growth within them.

The Hampton Roads Energy Company has been trying for two years now to construct a $350 million oil refinery and marine terminal in Portsmouth. The EPA has declared the refinery environmentally unacceptable because the photochemical oxidant (ozone) standards in Virginia are in violation of the national standards established by the 1970 Act. The EPA decision, in effect, constitutes a no-growth policy on the entire East coast because the coast constantly registers ozone concentrations higher than the national standard.

The Hampton Roads company has spent two years and over $6 million on the refinery plans. The EPA decision imperils 3,000 construction jobs, 500 permanent employees and 2,500 related jobs, not to mention the tax benefits to state and local govermnents. The decision also blocks the nation's attempts to provide more energy at a time when it is increasingly dependent upon foreign sources.

A no-growth policy is nonsense on its face because the population of the country continues to expand at an alarming rate. More people require more jobs, more housing, more of the necessities and luxuries of life. All of these require construction, manufacturing, transporting, retailing. We must improve the quality of the air we breathe, and we can while accommodating the millions of new Americans being added to the nation each year. We cannot accommodate them, however, by restricting industrial, manufacturing, and energy growth which their increasing numbers demand.

Senator Scott's attempt to delete the "no significant deterioration" provision has been endorsed by President Ford who has urged the Senate to "preclude application of all significant deterioration provisions until sufficient information concerning final impact can be gathered." Lined up against them, in support of the no-growth policy at a time when the nation is beginning to recover from the recession brought about by inflation caused by government spending and the Vietnam war, are the liberal Democrats who control the Senate. The odds are against the Senator and the President, but they haven't backed off, and Scott intends to press the issue to a vote—which would put the liberals on record in favor of no-growth if they prevail.

While the economic consequences would be disastrous, the political damage would be even more so. This is because the amendments will give the Federal Government ultimate control over all major construction in the country. Nothing could be built without Federal approval anywhere, anytime, and the Feds would also be given final approval power over how anything could be built if it involves large numbers of people using automobiles. Moreover, localities will be required to develop transportation plans designed to curtail use of automobiles. If they fail to come up with plans satisfactory to the EPA, they may lose all Federal aid for their pollution control programs, including the construction of sewage treatment plants.

These "amendments" in effect constitute a Federal land use control act and control over the economic and industrial development of the nation. The "no significant deterioration" amendment may improve the quality of the air we breathe, but it surely will limit the amount of food we eat, the number of jobs available, the amount of housing that can be built. It will, by deciding what can be built and where determine where we work and live, and how we travel. As such, it is one of the most destructive bills ever to come before the Congress—and the liberals think it is just great.

[From the Richmond Times-Dispatch, Apr. 22, 1976]

The Clean Air Bill

Seemingly acting on the assumption that man can live by clear air alone, the Senate Public Works Committee has reported a package of environmental proposals that could result in the economic paralysis of vast areas of this nation. These measures could impede economic development almost everywhere and halt industrial growth altogether in some sections, inevitably increasing unemployment and eroding the standard of living of countless Americans. Moreover, the proposals would thrust the power and authority of the federal government into some areas of concern that historically have been the provinces of state and local governments—and should remain so.

Called the "Clean Air Amendments of 1976," the committee's recommendations constitute a frightening monument to the destructive capabilities of unbridled zealotry. The objective—to protect the public from polluted air—is noble but the suggested means of attaining it are fanatically extreme and dangerous. Consider these prominent features:

(1) There could be in the future "no significant deterioration" in the quality of the air of any region whose air is now better than the national standards maintained by the federal Environmental Protection Agency. Such clean air areas would be officially identified, and the federal government could restrict—or prevent—economic or industrial growth within them, no matter how essential growth might be to the area's economic health. Obviously this would constitute a usurpation of the land use control powers traditionally exercised by state and local governments.

(2) Since shopping centers, apartment buildings and office complexes tend to generate automobile traffic, which is a source of pollution, the federal government apparently could control the location and construction of such facilities. More federal land use regulation.

(3) National parks and wilderness areas would be protected from air pollution not only from sources within their boundaries but also from outside sources close enough to affect their air. This would permit the federal government to designate buffer zones in which economic and industrial development could be restricted or prohibited. Still more federal land use control.

(4) Localities would be required to develop transportation plans designed to curtail the use of the automobile. Communities that failed to develop plans satisfactory to the EPA might lose all federal aid funds for their pollution control programs, including that money used for the construction of sewage treatment plants.

There is more to the committee's horrendous clean air plan, but these illustrations will suffice to show how irrational and dangerous it is. Clean air is desirable, of course, but man does not live by clean air alone. He needs bread, shelter and transportation, which means there will be a continuing need for new industries, new power plants, new apartment buildings, new shopping and office complexes and automobiles. To make the development and regulation of such facilities contingent upon a central federal bureaucracy's concept of what constitutes acceptable air quality, regardless of pecuilar local needs and desires, would be incredibly impractical as well as philosophically repugnant.

Virginia Sen. William L. Scott has vowed to take a "leading role" in fighting the amendments. Gov. Mills E. Godwin Jr. opposes them and says that Virginia may challenge their constitutionality if they become law. Other governors reportedly are also unhappy. The Senate, we hope, will heed these objections and reject the committee's proposals.

[From the Staunton, (Va.) Leader, July 20, 1976]

Restricts Land Use

Large areas in the Shenandoah Valley are embraced in the National Parks and National Forests, as much as 32 per cent of the area of Augusta County. These federal lands are not taxable by the state or localities.

Should the Environmental Protection Agency have the power to control land use in areas adjacent to these federal lands? Use would be controlled to protect the "clean air area" from nonsignificant deterioration which might result from location of a plant or other emission facility in the vicinity.

This does not involve more serious air pollution, which might affect health. Nor does it involve welfare, rather loosely defined by the courts to include (but not limited to) effects on soil, water, crops, vegetation, wildlife, climate, economic values, and personal comfort and well-being.

These already are protected by primary and secondary standards of the Clean Air Act of 1970.

Under new proposals, land use around the forest and parks would be controlled to maintain them above the standards required to protect health and welfare in other parts of the state.

No one wants to be against clean air, but this is a federal intrusion into land use, formerly the province of the states. It is an unnecessary enlargement of federal power.

Restriction of land use near the "clean air areas" will impede economic development of whole areas of our state and nation. Surrounding these federal lands with buffer areas of low-tax land, restricted as to industrial development, will have an effect on the standard of living, and on the tax rates for remaining property.

Both houses of the Congress have reported amendments to the Clean Air Act of 1970. Action on the Senate version is expected by the end of July.

Virginia Senator William L. Scott has announced that he plans to offer an amendment to the Senate version during floor debate. His amendment would eliminate the "non-significant deterioration" policy just discussed unless there is compelling evidence that a stricter policy in certain areas would be in the national interest.

Gov. Mills E. Godwin Jr. also opposes an extension of federal controls in this area, and Virginia may challenge their constitutionality if they are enacted. He, and other governors, feel that they are an intrusion on powers reserved to the states under the Tenth Amendment.

The federal government already exerts control over our schools, businesses (particularly through OSHA and EEOC) and elections. Should states be required to give up control of land use also?

We hope that reason will prevail. The "non-significant deterioration" policy is not needed to protect health or welfare. It should be rejected.

Robert F. Hurleigh Commentary, July 26, 1976

Although the voters in the recently concluded primaries proved rather conclusively that American citizens are fed up with "big government" and the bureaucratic do-gooders cranking out new rules for every state, it comes as somewhat of a surprise that Congress seems to ignore these signs of the times. The immediate case is the Muskie amendment to the Clean Air Act of 1970. In a fine spirit of legislating cleaner air the well-intentioned Congress has created a situation wherein the economy of many states will be stifled with resultant loss of an expanded work force. This, in turn, would lead to an eroding standard of living. The Clean Air Act was passed in 1970 and established national air quality standards which were formulated by the Environmental Protection Agency. The heavy hand of Washington is apparent in trying to set rules and standards for every state in the union from the industrial northeast to the pristine areas of some of our southern and western states. The federal courts have ruled that no "significant deterioration" of air quality as set by the EPA will be allowed even in those areas well within the standards. This Clean Air Act of 1970 was sponsored by Senator Ed Muskie of Maine, who now wants the existing legislation be amended to include what the federal courts have interpreted the law to mean.

Senator Muskie and the well-intentioned fail to recognize that the nation's problems are quite different in 1976 than they were in 1970, and that serious energy and economic problems exist today which were beyond the horizon in 1970. The Deputy Administrator of the Federal Energy Administration says "the targets for the Clean Air legislation in 1970 were based on inadequate data, so it's time to take stock and insure that our drive for clean air is not aiming at goals over and above what are needed to protect health. We have too many other national problems that have to be balanced with the Clean Air Act."

What Congress should do is accept the proposals of Senator William Scott of Virginia which would protect and enhance the quality of the nation's air resources by establishing and maintaining national good air quality standards so as to promote the public health and welfare and the productive capacity of the nation. What Senator Scott wants is to return to the actual intent of the 1970 act, which, by the way, would allow for further study until more information is available concerning the final impact.

So here we have Senator Scott proposing that the tough federal standards of the original Clean Air Act that would provide for the nation's health to a reasonable degree while leaving the states—which the governors and state legislatures know best—the option of enacting tighter standards if so desired by its citizens. Senator Scott's proposals seem reasonable and fair. So goes the world today.

[From the Danville (Va.) Register, July 25, 1976]

SANE APPROACH TO CLEAN AIR NEEDED

One of the major continuing debates of this decade revolves around whether the nation's environment can be maintained in acceptable order while continuing to promote economically feasible industrial growth. That debate will reach a climax on the floor of the U.S. Senate this week as Senators discuss various versions of amendments to the Clean Air Act of 1970. What issues from those floor debates may well determine what direction America will take for decades to come.

Committees in both the Senate and the House have developed guidelines which would mandate tough measures in regard to air pollution controls. The proposed amendments would create "clean air regions" throughout the U.S. and a policy of "no significant deterioration" in the air quality of those areas would be maintained. These regions largely would be policed by the Federal government to make certain that no new sources of air pollution are located within them.

On the surface, that sounds like a good idea—at least some areas of this country would escape accelerating pollution of the air.

But beneath the positive aspirations of the amendments, being promoted by Sen. Edmund Muskie and others, are some quite serious concerns.

According to the amendments as now proposed, the Federal government, working through the Environmental Protection Agency, could restrict or prevent economic growth within those clean air regions. This could constitute a usurpation of state and local governmental control over land use. There is evidence to support a contention by opponents of the proposed amendments that such regulations would violate the U.S. Constitution.

Opponents of the plan, including Virginia Sen. William Scott, have argued that the proposed guidelines go too far, that the environment can be protected without going overboard and stepping on the rights of landowners.

Scott has been leading an effort in the Senate to make reasonable changes in the proposed clean air rules in an attempt to strike a balance between environmental protection and continued economic expansion. Essentially, Scott argues that the 1970 act is strong enough to protect the environment and that further restrictions will inhibit economic progress, as well as take power from the states and localities.

The senator will introduce his amendment to the Clean Air Act early this week. That amendment substantially would curtail proposed EPA activities, while allowing the states to determine if more stringent anti-pollution controls are needed in specific areas.

Gov. Mills E. Godwin, Jr., and President Gerald Ford also oppose the amendments as now written. They are not alone and their cause will be heard.

If the friends of the environment will agree to listen to their opponents' arguments, they may find that America can promote industrial growth and the tapping of new energy resources without damaging the environment to the extent that they fear.

The major damages to the environment were wrought before any controls were placed on industrial expansion. Now there is a surfeit of controls. The proposed amendments, as written by the Congressional committees, would create even more controls which would restrict development far beyond what appears to be necessary at this time.

We hope the advocates of a balanced approach to protection of both economic progress and the environment will prevail.

COMMON SENSE ON CLEAN AIR

(By Alice Widener, Publisher, U.S.A. magazine)

NEW YORK CITY, July 20, 1976.—What really is holding back our full economic recovery? Two things for sure: (1) Government regulation of every aspect of our lives—from father-and-son and mother-and-daughter school meetings to airplane travel fares and private housing construction; and (2) Congressional concessions to the lunatic fringe in ecology and consumer affairs.

As things stand now, it is growing harder and harder for an American to inhale or exhale without being pushed, pulled or scolded by Big Government. Therefore it is growing harder and harder for little and big business to make a profit, for our nation to develop a dynamic energy program, and for the average citizen to be able to afford the every day expenditures he or she must make.

On July 18, the New York Times carried a major article "How Government is Pushing Up the Cost of Housing" by Robert Lindsey. He quotes a California housing industry consultant who says, "There's a saying in the business that every time the City Council meets, the price of housing goes up." Today, members of City Councils and of State and Federal agencies are imposing expensive environmental restrictions on home construction so back-to-Nature oriented one would think we all want to be tree dwellers or beachcombers.

Propagandized by the ecology lunatic fringe, Congress passed a Clean Air Act in 1970 that is so unrealistic it is fit only for fictitious Martians. Despite all charges by zealots in the Sierra Club, Friends of the Earth and Project Survival, the historical fact today is that the air in our cities is far cleaner than it was in the late 19th century when the streets stank and so did even the idle rich.

Very shortly, the Senate and House will revise the 1970 Clean Air Act. Its extreme, Utopian provisions are severely hurting our industries and energy-producing public utilities. Standing resolutely against the fanatics and extremists is Senator William L. Scott of Virginia. He has offered a common sense amendment to currently proposed Clean Air legislation that strikes an appropriate balance between those seeking "clean air" at any price and those seeking technological advance at any price. What Senator Scott is trying to do is achieve *reasonable* environmental protection in a way that will not injure our standard of living.

As currently proposed Clean Air legislation is now, the excessively stringent restrictive regulations imposed on land use and industrial development can strangle our economic recovery. Sen. Scott recognizes that all of us want a wholesome environment. But he points out that presently proposed Clean Air amendments would require certain factories and other industrial concerns "to meet tougher and much more expensive pollution clean up standards than now are in the law." Sen. Scott's proposed amendment would enable factories and industries to locate in areas best suited to their successful, job-creating operations.

The whole subject of the Clean Air Act is highly complicated, but Senator Scott has penetrated the smog. In plain English, he explains that his proposed amendment "would permit construction in rural areas of the country where the air quality is higher than national standards, while still being subject to regulations of the state and local governments and the national standards for the protection of public healh and welfare."

In my judgment, we ought to back U.S. Senator William L. Scott's proposed amendment to the Clean Air Act and let our representatives in Congress know that we know our economy can't work and produce prosperity in such a rarified atmosphere that only non-terrestrial beings could thrive in it on angels' food.

Nobody can make anything worth while without making a mess—not a statue or cake or house-and-garden or even a poem. Making a mess is part of life. We even have to clean up after a baby is born. If we continue to put such totally impractical restrictions for cleanliness on all our endeavors, we'll soon have to limit our activities to unproductive, idle wish-thinking.

Mr. BUCKLEY. Mr. President, I urge the defeat of the Scott amendment, as I will urge the defeat of the Moss amendments.

Adoption of the Scott amendment would eliminate any Federal protection of air quality values of our national parks and wilderness areas.

I believe our Nation has a duty to "protect and enhance" the quality of our air to protect clean air that is already clean, and to enhance air that is found to be dirty to a degree that it endangers public health.

There are many reasons for a program that will prevent uncontrolled pollution up to the national standards. We need it to allow for future growth, trying to prevent one big polluter from preempting all the air for future time. We need it to protect against costly retrofitting of pollution control technology if new evidence shows the health standards must be tighter or that new sources want to build nearby. We need it in order to pass on to our children a nation where some respect is given to pollution control, not simply industry growth.

For these reasons, I urge the defeat of the amendment offered by the Senator from Virginia.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Virginia. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the role.

Mr. ROBERT C. BYRD. I announce that the Senator from Michigan (Mr. Philip A. Hart), the Senator from Hawaii (Mr. Inouye), the Senator from Massachusetts (Mr. Kennedy), the Senator from Louisiana (Mr. Long), the Senator from South Dakota (Mr. McGovern), the Senator from Missouri (Mr. Symington), and the Senator from California (Mr. Tunney), are necessarily absent.

I further announce that, if present and voting, the Senator from California (Mr. Tunney), would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Nebraska (Mr. Curtis) and the Senator from Arizona (Mr. Goldwater) are necessarily absent.

I further announce that, if present and voting, the Senator from Nebraska (Mr. Curtis) would vote "yea."

The result was announced—yeas 17, nays 74, as follows:

[Rollcall Vote No. 454]

YEAS—17

Allen
Bartlett
Brock
Byrd, Harry F., Jr.
Eastland
Fannin
Garn
Hansen
Helms
Hruska
Laxalt
McClure
Scott, William L.
Stennis
Stevens
Thurmond
Tower

NAYS—74

Abourezk
Baker
Bayh
Beall
Bellmon
Bentsen
Biden
Brooke
Buckley
Bumpers
Burdick
Byrd, Robert C.
Cannon
Case
Chiles
Church
Clark
Cranston
Culver
Dole
Domenici
Durkin
Eagleton
Fong
Ford
Glenn
Gravel
Griffin
Hart, Gary
Hartke
Haskell
Hatfield
Hathaway
Hollings
Huddleston
Humphrey
Jackson
Javits
Johnston
Leahy
Magnuson
Mansfield
Mathias
McClellan
McGee
McIntyre
Metcalf
Mondale
Montoya
Morgan
Moss
Muskie
Nelson
Nunn
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Sparkman
Stafford
Stevenson
Stone
Taft
Talmadge
Weicker
Williams
Young

NOT VOTING—9

Curtis
Goldwater
Hart, Philip A.
Inouye
Kennedy
Long
McGovern
Symington
Tunney

So Mr. William L. Scott's amendment to the Moss amendment was rejected.

The PRESIDING OFFICER. The Senate will be in order.

Mr. CRANSTON. Mr. President, I ask unanimous consent that Ann Wray, of my staff, be granted the privileges of the floor throughout the consideration of the Clean Air Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senate will be in order.

Who yields time?

The Senator from Alabama.

Mr. ALLEN. Mr. President, I believe under the previous order the Senator from Alabama is to be recognized at this time.

May I inquire of the Chair how much time is available to the Senator from Alabama to discuss the amendment?

The PRESIDING OFFICER. The Senator has 103 minutes remaining.

Mr. ALLEN. May I use that time at this time?

Mr. MUSKIE. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The vote on this amendment must occur by 1:30.

Mr. MUSKIE. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. MUSKIE. How much time does the unanimous consent agreement give to the Senator from Maine on this amendment?

The PRESIDING OFFICER. It gave him 1 hour in addition to the Scott amendment where he has 58 minutes. The total on both amendments is 58 minutes remaining.

Mr. MUSKIE. I have 58 minutes of the time remaining between now and 1:30?

The PRESIDING OFFICER. If the Senator gets the floor and wishes to use the time.

Mr. MUSKIE. Does the Chair tell the Senator from Maine that, since the Senator from Alabama has the floor, the Senator from Alabama can exclude me from any discussion in this debate between now and 1:30?

Mr. ALLEN. Mr. President, may I——

The PRESIDING OFFICER. The Senator will suspend until we have order in the Senate. The Chair did recognize the Senator from Alabama.

Mr. ALLEN. Mr. President, I do not have any desire to use all the time between now and the time of the vote. At the same time, I feel the distinguished Senator from Utah should have an opportunity, while there are a number of Senators present, to present the case for his amendment. He spoke to empty seats all during the morning. I would ask unanimous consent that the vote on this amendment come at 2 p.m.

Several Senators. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. MUSKIE. Will the Senator yield?

Mr. ALLEN. A parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator will state it.

Mr. ALLEN. How much time remains to the Senator from Alabama?

The PRESIDING OFFICER. Fifty-eight minutes.

Mr. ALLEN. I can use that at this time?

The PRESIDING OFFICER. The Senator has 100 minutes but under the unanimous-consent agreement the vote must occur at 1:30.

Mr. ALLEN. Do I have the right to use that time?

The PRESIDING OFFICER. The Senator can use his time.

Mr. ALLEN. I ask unanimous consent that this hour be divided equally between the distinguished Senator from Utah and the distinguished Senator from Maine.

Mr. MANSFIELD. Mr. President, reserving the right to object——

Mr. MUSKIE. Will the Senator yield?

The PRESIDING OFFICER. The Senator from Montana.

The Senator will suspend until we have order. We are having difficulty hearing. We would appreciate the cooperation of the Senators. The staff is advised to cease conversation in the Chamber.

The Senator from Montana.

Mr. MANSFIELD. Mr. President, I did not have any idea, when the unanimous-consent agreement was made, that the distinguished Senator from Alabama was going to take any except a small portion of the time during the period between now and 1:30.

May I say, incidentally, as far as I am concerned I would not object to a 2 o'clock vote but a Member has objected because of a death in his family and he has to catch a plane so there is nothing we can do about that.

But it was stated specifically that the Senator from Maine would have 1 hour. I think 2 or 3 minutes of that 1 hour has been used. The Senator from Virginia (Mr. William L. Scott) was given 2 hours, and I think he has used that time, and the rest of the time was to be allocated to the Senator from Utah (Mr. Moss).

We did come in at 8:30 this morning. The Senator from Utah called up his amendment, it was laid before the Senate, and he spoke for about 40 minutes. I believe, at that time, and then, because of a lull which occurred, a colloquy ensued between the Senator from Tennessee (Mr. Baker) and the Senator from Utah (Mr. Moss) on Mr. Moss's time, which took up about another 40 minutes.

So if my figures are correct, the Senator from Utah has had an hour and 20 minutes in one form or another, plus the fact that the Senator from Alabama, I think, used up 17 minutes of his own time previously.

The Senator from Maine (Mr. Muskie) is left holding the bag, even though it was specifically stated in the unanimous-consent agreement that he would have 1 hour. Of that time, as I say, I think 2 or 3 minutes has been used by the distinguished Senator from West Virginia, the chairman of the committee.

So I would hope this could be worked out with the smallest degree of friction possible. May I say again, I would not have been adverse to a 15-minute extension, but because of the circumstance which I mentioned, that was not possible.

Mr. ALLEN. I am not asking for any time, Mr. President, but I ask unanimous consent that the Senator from Utah be given 15 minutes between now and 1:30.

Mr. MOSS. Mr. President, reserving the right to object——

Mr. MUSKIE. Mr. President, if the Senator will yield, I would like to have something to say on how the time that was assigned to me through a unanimous-consent agreement is going to be used.

Mr. MOSS. Reserving the right to object, may I address the Chair?

I came here because the leadership asked me to be here at 8:30 to lay my amendment down, which I did. I spoke with one other Senator on the floor. Then Senator BAKER was able to come in, and we did have some colloquy. At one time the Senator from West Virginia was on the floor.

Finally there was no one to talk, and we had a quorum call taken out of my time because there was no one here.

Now the Senator from Maine says, "I have to have my time." Where was the Senator from Maine? He walked on the floor at noon today and the amendment was laid down at 8:30 this morning.

You can beat the game various ways, and it seems to me that this has been a pretty good ploy, just nobody is there, and nobody is going to read the RECORD until tomorrow, and the vote has to happen at 1:30.

What kind of debate is that? I think in fairness the Senator from Maine ought to be heard, and I think in fairness I ought to be heard, when there are a few Senators here to hear us, especially because the votes are going to be cast by the Senators who are sitting on the floor listening; they are not going to be cast on the record that they read tomorrow.

Mr. MANSFIELD. Mr. President, will the Senator yield and allow the Senator from Maine to have his say?

Mr. ALLEN. I yield 2 minutes, provided I do not lose my right to the floor.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. MUSKIE. Mr. President, I am overwhelmed by the Senator's generosity, but in this unanimous-consent agreement, I voluntarily, in order to get an agreement, limited my share of the time since 8:30 this morning, on two amendments, to 1 hour. The opposition to the committee's position had the remainder of the time.

With respect to the time of the Senator from Alabama, I was in the negotiations over this time, and it was agreed that out of the total of 15 hours between this morning and Thursday afternoon, the Senator from Alabama would have 2 hours, the principal purpose of which he told us was to be able to offer amendments, in the event the Moss amendment was defeated, to the Randolph amendment which would then be pending. But now the Senator from Alabama wishes to use that grant of time for the purpose of eating into the time of the Senator from Maine.

Mr. ALLEN. That is not the desire of the Senator from Alabama. The Senator from Alabama said he did not wish to use any time.

Mr. MUSKIE. I will try to accommodate the Senator from Alabama. The Senator from Utah expresses a desire to have me make my case but wants to eat into the time for doing so. I would agree to an agreement to divide the time equally for the remainder of this morning.

Mr. ALLEN. That is perfectly satisfactory.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. ALLEN. I thank the distinguished Senator from Maine for this concession. I think it is a very fair deal.

The PRESIDING OFFICER. Does the Senator from Utah seek recognition?

Mr. MOSS. Mr. President——

The PRESIDING OFFICER. The Senate will be in order.

Mr. MOSS. We are about to come to a vote on this——

The PRESIDING OFFICER. The Senator will kindly suspend until order is restored.

The Senate will be in order before we proceed. The Senate is not in order.

Each side has been allocated 27 minutes for debate on this amendment, and the Chair recognizes the Senator from Utah.

UP AMENDMENT NO. 290

Mr. MOSS. Mr. President, I appreciate the agreement of the Senator from Maine and others, and I would hope that a number of our colleagues would remain on the floor, because we are about to come to a vote on what is really an extremely crucial direction this country is going to take, having to do with continuing to preserve and improve our clean air resource, and at the same time balance it with the other things that we can never exclude from our minds, which include the production of energy, economic growth, and jobs.

This amendment simply says, "Let's leave everything in place where it is now."

Section 109, which mandates EPA to fix standards that will protect the health and welfare of the people of this country, leave that in place, do not disturb it, but do not lay another statute on top that changes the degradation standards and other standards to be met until we have had a study that will tell us what that is going to do. We want to know not only what it will do to our air, we want to know what it will do to our lands and our cities, our production of energy, and all.

I am told, for instance, that the lung association is calling Senators about the Moss amendment and saying it is simply a dirty air amendment.

I deny that. As a matter of fact, the regulations will not deteriorate at all. They will stay right where they are if the Moss amendment passes for a year, while we have our study and the Clean Air Act remains in force.

The issue is not a clean air or dirty air issue; it is more a growth or no-growth issue. I simply ask, why should we legislate blindly?

I pointed out that up until 2 or 3 days ago there had been no indication publicly as to where the President of the United States stands on this matter, and so I presented to this body an article written by a corerspondent for the Deseret News, in an exclusive interview with the President, in which the President stated his position very clearly.

Mr. White, who wrote the article, in summarizing what the President was for and against, said:

> The President favors an amendment which would delay for a year the new stricter provisions of the Clean Air Act.

And in a later paragraph, he writes:

> Ford said a legislative proposal by Senator Frank E. Moss (D.-Utah), to put off new stricter Clean Air Act amendments for a year, is a good one. "I am sympathetic with the Moss amendment. I believe that the significant deterioration issue requires more study, and I think the Moss amendment would give that time."

That is about what it reduces to, Mr. President, all we are saying is, "Of course we want clean air. We want the cleanest air we can possibly get in every part of this country."

But the provisions of section 6 will fix into law certain areas and certain standards that will not then be changeable unless we come back and legislate again. My amendment simply says: Let us not do that. Let us leave what we have in place now, keep all the protection we have now, but let us have a study. And I mean a full-length study that goes into many factors that I read into the RECORD the other day. That is what it is all about.

The map was discussed in the Chambers, and I was hoping that there would be more Senators present when we discussed the map. I found that was not possible. I discussed it, and Senators can read that discussion in the RECORD tomorrow, but they will not hear the discussion, at least from me, before the vote. That is simply the way it has worked out.

I appreciate the courtesy of the Sentor from Maine dividing the time, giving me a chance to say with Senators in the Chamber what my amendment is about and disspelling what I hope are misconceptions about it so that when the vote occurs Senators will vote with that in mind.

I will be glad to yield now to the Senator from Maine and reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. MUSKIE. Mr. President, let me say two things that I understand about the Moss amendment, and I do not think that they are inaccurate statements.

First of all, he proposes a study as a condition to any further action on the part of Congress or the Environmental Protection Agency under existing law doing anything about the clean air areas of our country, and he has said over and over again that there have been inadequate studies.

Mr. President, on May 26, 1976, I had printed in the RECORD some facts with respect to the time the Subcommittee on Environmental Pollution has put in in studying this problem. I also included in considerable detail, that took, I think, three full columns in the RECORD, the studies that have been developed by the Environmental Protection Agency because, Mr. President, under the mandate of the courts, the Environmental Protection Agency held rulemaking hearings all over this country before developing EPA's nondegradation regulations. It is on the basis of that kind of foundation that the U.S. Court of Appeals upheld EPA's regulations. And what did the court say? Let me read this significant paragraph.

> It was a rational policy decision that the significance of deterioration of air quality should be determined by a qualitative balancing of clean air considerations against the competing demands of economic growth, population expansion and development of alternative sources of energy. The approach provides a workable definition of significant deterioration which neither stifles necessary economic development nor permits unregulated deterioration to the national standards. We, therefore, find that EPA acted within the discretion it is granted as matters of policy in choosing this design to prevent significant deterioration of air quality.

Mr. President, if EPA's regulations are a reasonable exercise of the authority provided by current law, it follows that the committee language is even more reasonable from the point of view of those who are concerned about economic growth, population expansion, and development of alternative sources of energy.

Let me direct the Senate's attention to another may in the back of the room. The red areas of that map are the only areas that are required to maintain what anyone might define by any terms pristine air quality. Those are the existing national parks and wilderness areas in excess of 5,000 acres which are included as the class I areas, and even as to them under the standards of the committee bill that air quality may be reduced if the air quality values of those regions are not jeopardized by that kind of a decision. So even as to them the committee bill is less restrictive than EPA's regulations, which were upheld yesterday by the circuit court of appeals.

Mr. DOMENICI. Mr. President, will the Senator yield on that point?

Mr. MUSKIE. Yes, I yield.

Mr. DOMENICI. The Senator is making the point that under the present legal, valid EPA no-significant-deterioration policy there is no flexibility in those red areas under their very regulations that one has to follow on the modeled increment, and that is no flexibility. Ours even has flexibility there. Is that what the Senator is suggesting?

Mr. MUSKIE. That is right. Under EPA's regulations, if there is a source outside those areas, no matter how distant, which intrudes upon them and would cause degradation to the standards set in the bill, they would be prevented, and it is for that reason that we have seen all these buffer zone maps for the last 9 months.

Mr. RANDOLPH. Yes.

Mr. MUSKIE. We have seen all these buffer zone maps for the last 9 months which have no relevance to that new map that has been put up on the floor, absolutely none. It is EPA's regulations, those which were sustained by the court yesterday, which are the basis for the buffer zone maps.

Mr. RANDOLPH. That is right.

Mr. MUSKIE. And that is as clear as can be to anyone who has read the hearings or followed the development of this legislation.

Second, all the white areas on this map are to be defined by the States who are mandated under the committee bill to identify the areas which are not meeting national ambient air quality standards and by definition the other areas which are cleaner than national ambient air quality standards. Until the States have done that job, no one can draw a map more defined than that one, and that map which was on the floor before I arrived in the Chamber this afternoon is such a map. It comes out of someone's daydreams because under the committee bill air quality regions, and by definition clean air quality regions, are to be defined under a process which gives the initiative to the States to establish those designations. So that map is the only map that is relevant to the discussion of nondegradation.

Mr. President, what the Moss amendment would do is not suspend the committee nondegradation provisions but kill them, because in order to reestablish a nondegradation provision if the Moss amendment were adopted, we would have to go through the whole legislative process all over again. Legislation would have to be introduced, committee hearings would have to be held, legislation would have to be reported to each body of Congress and enacted by Congress. The Moss amendment does not suspend anything. It kills it. And leaves in place what? It leaves in place the EPA regulations which the circuit court of appeals yesterday upheld as valid, notwithstanding the pleas of both industry and the environmentalists.

Let me make another point about that. The environmental groups challenged EPA's regulations for what reason? It was for a number of reasons but, among other things, because EPA's regulations cover only sulfur oxides and particulates, and the environmental groups think we ought to cover the other four major pollutants as well.

I do not know how that circuit court of appeals case ultimately is going to be decided by the Supreme Court, but it is going to be appealed by both industry and the environmentalists.

What, I ask Members of this body, will be the attitude of the supporters of the Moss amendment if, on a final judicial determination, the environmentalists win their case? What then? We may have four more major pollutants further restricting the potential for economic development and growth, and we may have some stricter guidelines than those that the circuit court of appeals applied to EPA's regulations yesterday.

The committee bill, in contrast, eliminates that uncertainty, eliminates those unknowns, eliminates those doubts. It is for that reason that 91 witnesses in behalf of industry urged EPA to defer its regulations so that congressional policy on nondegradation could be further clarified. That is exactly what we have done.

The court told us yesterday that this was not an antigrowth provision. This is a growth provision. The nondegradation provisions of this bill permit the construction of a 1,000-megawatt powerplant. That is bigger than anything we have in my State. Is that a no growth policy? Powerplants are the principal contributors of sulfur dioxide and particulate emissions. If a thousand-watt powerplant can meet the standards of this bill, what other source could raise a reasonable objection to this standard?

Mr. President, it is not that these provisions restrict growth. On the contrary, they make it possible for the future growth of this country to take into account, in an orderly and constructive way, not only economic growth, population expansion, and alternative sources of energy, but clean air considerations as well.

I have faced the ranks of opponents to clean air legislation since 1963. Led by the utilities of this country, they have opposed environmental legislation through all that time.

They do not want to suspend these regulations. They do not want to suspend EPA's regulations. They want to kill them. They want to have as much right to invade the public interest in clean air and clean water as they had for the last 200 years. That is what they want. Regardless of the consequences, they want to pioneer the empty areas of this country until they are as dirty as anything else.

I have heard Senator Moss and Senator Scott ask, Why are not the national primary and secondary ambient air quality standards good enough? I will indicate why they are not good enough. It is because they are the minimal standards that we could insist upon in the dirty areas of this country. It is not that they are sufficient by all standards, all measures of the public interest. Not at all.

So I take it, by implications, from what Senator Moss and Senator Scott have said, that they would be satisfied if the standard in every square inch of this country were the national primary and secondary standards.

Well, that was not good enough for this committee, which voted unanimously for this provision. When we have Senator McClure on one end of the political spectrum of this committee—and I will not pick anybody but myself at the other end, lest I hurt somebody politically—but when we consider the range of political philosophies represented in the Committee on Public Works, and they supported this unanimously, and the more conservative members of the committee have been among the most ardent and vigorous and enthusiastic proponents of the committee provisions, there must be a reason. The only reason I can suggest is the reason well reflected in the language in the court's opinion yesterday.

We did not all agree in committee. Some of us wanted stricter standards than those contained in this bill. I cannot recall anybody who wanted anything that would have deliberately weakened the bill. It was a matter of judgment.

The increment approach is simply a device for enabling State and local governments, under the jurisdiction of EPA, but with the initiative clearly left to States, to plan for the orderly growth of their economies, so that they do not again produce for this country situations such as those in Los Angeles, Washington, D.C., Chicago, Boston, and many others that I could define.

I yield to the chairman of the full committee, Senator RANDOLPH.

Mr. RANDOLPH. Mr. President, not only the members of the Committee on Public Works, but also the Members of the Senate, are grateful for the record that the able Senator from Maine (Mr. MUSKIE) has made in the field of well-reasoned environmental programs. Through his leadership the opportunity for continued growth and progress in this country has remained.

To reemphasize what the Senator has just said about the State of Maine under the provisions of this bill, construction of a 1,000-megawatt powerplant would be permitted. Is that correct?

Mr. MUSKIE. That is right.

Mr. RANDOLPH. The Senator said that in Maine there was nothing of that size. In the State of West Virginia, we have some rather large plants. But there is none that is more than about half that size.

Mr. MUSKIE. Mr. President, at this point I reserve the remainder of my time, because I want to yield some time. I assume that Senator Moss and Senator ALLEN will want to respond to what I said. In due course, I will yield to the Senator from New York (Mr. BUCKLEY) and the Senator from New Mexico (Mr. DOMENICI).

How much time do I have remaining?

The PRESIDING OFFICER. The Senator from Maine has 11½ minutes remaining.

Mr. MUSKIE. Mr. President, I yield the floor at this time.

The PRESIDING OFFICER. Who yields time?

Mr. MOSS. Mr. President, I have listened with interest to the presentation of the floor manager of the bill, the Senator from Maine, and I noticed that he placed tremendous emphasis on the fact that this was unanimous. In fact, as I recall, he repeated that again and again.

I have before me the committee report on this bill and I find that in the committee report, individual views were filed—these are separate individual views—by Senators RANDOLPH, MUSKIE, MONTOYA, GRAVEL, BENTSEN, MORGAN; then Senators BAKER, BUCKLEY, and STAFFORD joined in expressing their views; then Senator BUCKLEY and Senator STAFFORD put in some other individual views; then Senator MCCLURE, Senator DOMENICI, and Senator HART.

Mr. MUSKIE. Mr. President, will the Senator yield?

Mr. MOSS. Each had individual views.

Mr. MUSKIE. Individuals views are not necessarily dissenting views.

Mr. MOSS. I did not say they were dissenting views.

Mr. MUSKIE. The vote was 13 to 1 on reporting.

Mr. MOSS. I am not challenging that. I was just saying that the Senator——

Mr. MUSKIE. For what purpose is the Senator wasting valuable time?

Mr. MOSS. I will not yield for that.

The Senator said the committee was unanimous, the committee was unanimous.

Mr. MUSKIE. I mean on this provision.

Mr. MOSS. Will the Senator please not interrupt me? I will yield if I am asked to yield, but I do not like this constant interruption, interruption, interruption.

The committee may have voted finally to report the bill. However, if we are talking about great unanimity, why in the world did every Senator on that committee feel he had to register his individual views? That is the point I am trying to make.

I think the Senator, himself, in discussing this matter, pointed out—in fact, I will quote him from the RECORD of Tuesday. He said:

> As a matter of fact, the whole area of environmental pollution is replete with uncertainties because of our dynamic, ongoing, involving industrial society, so that we can never have a status quo we can measure in its dimensions.

It seems to me, Mr. President, that that is really the basis that we who favor the Moss amendment are talking about. We are playing with uncertainties, replete with uncertainties. That is part of what I am saying on all these individual views, because of those uncertainties.

Does that not argue for having a full, complete study of this matter before we go forward?

The Senator from Maine pointed out that a certain number of hearings were held and that there had been a number of studies on this matter before the bill was written. Well, those that were had before there was any section to write a study about probably did not have much relation to what they had. Consequently, what we need now is to have the commission in place, with the expertise it has, answer the questions that are laid down specifically in the Moss amendment, that have to be answered before we decide what we can write into law, that will then be difficult to change once it is in the law.

The EPA regulations that were upheld yesterday to which the Senator referred had the safety valve of a class III area. The present Senate bill would abolish that safety valve of a class III. That safety valve was part and parcel of the reasonableness of EPA's present regulations.

How does the Senator cite this point as support for its abolition here? What I wanted to hold onto in place is what the court has found reasonable at this point. I say that we are not taking a step backward. We are saying, from here, let us not go any further; let us take what we have in place now. The powers of the EPA remain in place, and then, after the study is complete, in a year's time, we shall then know.

I suppose one of the great faults of the legislative body, and any that is as busy as the U.S. Senate, is that we do legislate without having all the facts at hand. We ought to do everything we can to overcome that deficiency. In this case, we ought to do it by mandating the study, mandating that it be made. I would like to do that.

I also wanted to comment that the Senator indicated that some 91 industry witnesses came in and testified for the bill, but I would also like to point out that the members of the National Construction Industry Council joined in a statement supporting the Moss amendment. This includes a long list of very prestigious national associations—the American Concrete Paving Association, the American Consulting Engineers Council, the American Institute of Architects, the American Institute of Steel Construction, the American Roadbuilders Association, the American Society of Landscape Artists, the American Subcontractors Association, the Association of Builders and Contractors, the Associated Equipment Dealers, the Associated General Contractors of America, the Associated Landscape Contractors of America, Ceilings and Intersystem Contractors, Concrete Reinforcing Steel Institute, the Council of Construction Employers, and the Mechanical Contractors.

As the Senate can see, that is about half of the ones that I have read so far, including, I might say, the National Association of Home Builders. All of them said, "Let us not lock this in until we have a study. That is what we think we ought to have, because we are dealing not only with clean air; we are dealing also with economy, energy, the place where people live, the lifestyle that we have. Let us know the answers to that before we lock it in."

I am happy to yield to the Senator from Alabama if he has a question.

Mr. ALLEN. I would like to make some remarks with respect to the amendment. May I have about 6 minutes?

Mr. MOSS. Yes, I have that time.

Mr. ALLEN. Mr. President, the distinguished Senator from Maine has stated that the power that EPA now has to forbid degradation of the environment is greater than it would have under the provisions of this bill—under section 6, that is. If that be true, Mr. President why does he object to retaining in EPA this greater power that it now has and not, at this time, put in section 6, which is, according to him, a limitation upon the power of EPA?

It is less restrictive, he says, than the present law, the present power of EPA. If that be true, let us leave EPA with this greater power that it now has, greater than is provided in section 6, and then, let us study, under this commission provided by the Moss amendment, the very questions raised in the Randolph amendment—and there are plenty of questions raised.

I ask unanimous consent to insert, as questions to be studied by this commission under the Randolph amendment, sections (A) through (F) of the Randolph amendment as showing the areas that need to be studied—that need to be studied—according to the Randolph amendment, while section 6 is put in, but under the Moss amendment, before section 6 is put in.

There being no objection, the sections were ordered to be printed in the RECORD, as follows:

> In carrying out the authority of this subsection the Commission shall study, among others, the following:

"(A) whether the provisions relating to the designation of, and protection of air quality in class I regions under this Act are appropriate to protect the air quality over lands of special national significance, including recommendations for, and methods to (i) add to or delete lands from such designation, and (ii) provide appropriate protection of the air quality over such lands;

"(B) whether the provisions of subsection (g) of section 110 of this Act, including the three-hour and twenty-four-hour increments, (i) affect the location and size of major emitting facilities, and (ii) whether such effects are in conflict or consonance with other national policies regarding the development of such facilities;

"(C) whether the technology is available to control emissions from the major emitting facilities which are subject to regulation under subsection (g) of section 110 of this Act, including an analysis of the costs associated with that technology;

"(D) whether the exclusion of nonmajor emitting sources from the regulatory framework under this Act will affect the protection of air quality in class I and class II regions designated under this Act;

"(E) whether the increments of change of air quality under this Act are appropriate to prevent significant deterioration of air quality in class I and class II regions designated under this Act; and

"(F) whether the choice of predictive air quality models and the assumptions of those models are appropriate to protect air quality in the class I and class II regions designated under this Act for the pollutant subject to regulation under subsection (g) of section 110 of this Act.

Mr. ALLEN. Let us leave EPA with this great power that it has and let us study and see whether it needs to retain this great power or whether some less power is given to EPA. I do not regard this as being less restrictive than the present power of EPA. The proponents of the bill say, "Yes, section 6 is less restrictive." I do not believe that.

There is another point that I want to take issue with the distinguished Senator from Maine on. He said that certain industries—I believe he spoke of the utilities—want to kill the EPA regulations. If there is any indication of that in the Moss amendment, I do not see it. It does not strike out any present power of EPA. It leaves EPA with all the powers that it now has, but it says, let us not put in these more restrictive or less restrictive—depending on who is talking—let us not put in these measures until we have had a study to recommend to Congress what added or what less power should be given to EPA in the field of nondegradation. The Moss amendment, far from killing EPA's power, leaves it with every single bit of power that it now has; so how is that trying to kill the EPA regulation? It retains it.

The distinguished Senator from Maine says that the bill is less restrictive, so it would seem to the Senator from Alabama, according to the statement of the Senator from Maine, that he is seeking to weaken the power of EPA; whereas, the Moss amendment would allow EPA to retain all of its present power and then have a study by the Commission to determine what the policy of the Congress should be in this regard. After the study, we could legislate.

What is the use of legislating and then studying? It is getting the cart before the horse. We ought to study and then, in the light of that study and the recommendations of the Commission, we should legislate.

One of the points that the Randolph amendment called for a study on is in connection with the implementation of section 6 of the bill—let us listen to this. This is what it is supposed to study.

> (C) whether the technology is available to control emissions from the major emitting facilities which are subject to regulation under subsection (g) of section 110 of this Act—

That is another way of saying section 6—

> including an analysis of the costs associated with that technology.

So apparently, Mr. President, we do not even know the present state of our knowledge on this subject which is such that we do not even know whether the technology is available to control emissions from the major emitting facilities which are subject to regulation under this section. I would say we ought to find that out before we legislate.

Five other areas of study are called for here in the Randolph amendment. I suppose any commission would want to study these very same subjects. I do not think it is peculiar to the Randolph amendment. I am sure the commission under the Moss amendment would make the same study in these areas.

Apparently we know practically nothing about this subject, yet we are legislating in the blind. So I believe the Moss amendment is a sound amendment and, apparently, it would retain the higher power that EPA now has and would not change that until a study has been made indicating the changes that should be made.

But the proponents of the bill say that EPA has more power now than they would have under this bill. So why weaken EPA's power? I would not think the advocates of the clean air amendments would be seeking to make EPA less powerful in this area, and that is exactly what they say they are doing. Yet they have the temerity to say that those who are opposing these amendments are seeking to kill EPA regulations. Well, it is just contrary, it would seem, because the Moss amendment keeps EPA at its present power.

The proponents of this bill say that section 6 will be less restrictive than EPA is now able to mandate.

I yield back the remainder of my time.

The PRESIDING OFFICER (Mr. BUMPERS). Who yields time?

Mr. MUSKIE. Mr. President, what is the situation with respect to time?

The PRESIDING OFFICER. The Senator from Maine has 12 minutes remaining.

Mr. MUSKIE. How much time does the Senator from Utah have?

The PRESIDING OFFICER. The Senator from Utah has 6 minutes remaining.

Mr. MUSKIE. I yield, Mr. President, 4 minutes to the Senator from New York, 4 minutes—3 minutes each to Senators BUCKLEY, MCCLURE, and DOMENICI.

Mr. BUCKLEY. Mr. President, I must oppose this amendment, which seeks to eliminate the Senate provision defining significant deterioration. This issue involves a set of specific numbers—the "increments" listed in the bill—that was developed by the Environmental Protection Agency following extensive study and hearings across the country. These increments, included in regulations in effect for more than 18 months, apply everywhere the air is cleaner than ambient standards now in effect. The significant deterioration numbers in the bill have no effect at all—and this procedure has no effect—in other areas of the Nation.

A major concern of mine is my belief that the Senate must resolve this issue, moving it out of the courts and into the hands of the States. We have produced a reasonable solution to do this.

Under court order, the Environmental Protection Agency on July 16, 1973, published a notice of intent to publish regulations on significant deterioration. This was followed with EPA hearings around the Nation. A year later, EPA published proposed regulations, with final regulations issued on December 5, 1974. Thus, for a year and a half, significant deterioration regulations have existed. Industry has lived under it, with no noticeable, adverse impact on economic growth. The major change in this bill is that the regulations are given specific, legislative sanction, and control of significant deterioration is shifted from EPA and the courts to the States.

Whether we maintain the status quo or adopt the provisions of this bill, potential pollution from a proposed new major industrial source would be studied and projected to determine if the new facility is likely to exceed the allowed increase in air pollution. How burdensome is this process? It means that the owner of the new facility may have to monitor the air in the area of the plant to determine what pollution exists there now. This would establish the "baseline" against which the increment will be measured. Then the proposed source must show, to the satisfaction of the State, that it will not violate the specified increments in the bill—the same increments of growth in the EPA regulations. That seems to me to be a reasonable demand to place on the types of major facility we are covering in this provision, which only covers specified categories of major industrial sources.

So the process is not burdensome. How burdensome are the specific limitations? Delmarva Power concedes that—

> A plant as large as 2,000 megawatts could be built without violating the general numbers. According to a study by the Federal Energy Administration and the Environmental Protection Agency, the increments allow construction of a 1,000-megawatt-power plant "unless the surrounding terrain within three miles was at least 500 feet above the top of the plant's stack.

If the surrounding terrain is at or below the top of the plant's smoke stack, the committee language allows "the siting of a 1,000 megawatt powerplant that meets New Source Performance Standards by the use of low sulfur coal," the FEA-EPA report stated. The analysis also indicates that plants producing as many as 5,000 megawatts of power could be built, if scrubbers are used.

Mr. President, the average size of new electric powerplants is presently 800 megawatts, far less than any of these figures. The Nation's largest existing electric powerplant is, I understand, the Navajo Power Plant at Page, Arizona. It produces 2,250 megawatts of electric power. Thus, according to the FEA-EPA study, our class II numbers could allow construction of plants twice as large as the largest one now in existence.

That does not sound to me like a no-growth provision.

What about other industries? Most of the studies have focused on powerplants. That was because these studies have shown that powerplants would be the ones most affected by the requirements of no significant deterioration. If a large powerplant can be built at a specific site, virtually any other major industrial facility will also be able to locate there.

The pulp and paper industry has argued that its needs have been ignored. But nearly all of the effects of a kraft pulpmill relating to significant deterioration involve the generation of power. Thus the studies of powerplants easily are transferable to a study of kraft pulpmills.

One aspect of the Senate's definition of significant deterioration is the protection provided for a few specific areas—national parks and national wilderness areas over 5,000 acres in size. The test established by the bill involves an analysis of the effects of the potential pollution on park values. It is not a specific test against any specified numbers other than the fact that the proposed plant must meet the regular so-called class II increments, which I have already discussed. Thus, the Senate bill contains no buffer zone of 100 miles radius or 50 miles or even 5 feet. Each decision is based on a case-by-case analysis involving the Federal Land Manager and State.

There are a variety of other options to scrubbers, such as coal cleaning or "beneficiation" to reach the same level of control. A paper presented by Stephen Baruch, Environmental Projects Manager of the Edison Electric Institute, stated:

> The advantages of coal beneficiation are that the process is available and commercially acceptable; it concentrates carbon in the clean coal thereby increasing its heating value; it reduces concentration of trace elements, and the product has more uniform ash, moisture and BTU content.

Mr. President, I believe it is clear that the Senate provision is a reasonable approach. It will produce major improvements in pollution control at a reasonable capital cost. It is a sound investment for our future. And the maps displayed by the Senator from Utah notwithstanding, it permits orderly economic growth.

Mr. President, we have heard a great deal of talk in recent hours and days about increments and charts and maps. Is my projection right or is yours? Whose map is correct?

I would like to put that question aside, because it is not relevant to the Senate's provision relating to no significant deterioration.

First, it is clear that a great deal can be constructed under the Senate class II increments. We have studies from EPA and others that show that well designed powerplants as large as 5,000 megawatts can be built and still meet the class II increments. That is twice as large as anything now in existence in this country.

But if you were to ask me whether a particular plant can be built at a specific location, I cannot give you an answer, yes or no. To a great extent that is what this bill is all about. This bill creates a framework allowing local people—rather than the Federal bureaucrats—the opportunity to make that decision.

The committee's no significant deterioration language is essentially a preconstruction review process that affects the very limited number of major industrial sources. It is a process, to a degree greater than has existed to date, that will bring the public and local governments into the decision of whether or not a particular plant will be located at a particular site, and what degree of technology will be used to control emissions from that source. It is a process that allows local people to decide what they want: one big plant, or five little plants, no growth, or whatever. The committee bill does not prejudge that decision. It creates a framework for that decision.

By establishing a process of public hearings, together with analyses of potential pollution impact, this bill encourages local governments and the people of the area to make the choice they have every right to make.

There are those who say industry should be unfettered in its decisions on where and how to build new sources. In its broadest sense, I support that philosophy. But I also believe that the public has a right to know what effects can be expected from the location of a new major pollution source. Just as the power to tax is the power to destroy. The American public has every right to participate in decisions on where these sources of pollution will be placed, and how they will affect the health, welfare, and esthetics of the area.

For that reason, I urge acceptance of the committee program to prevent significant deterioration of air quality.

As a brief closing remark, I would like to reiterate for, I guess, the 16th or 18th time, certain truths about the situation confronting us.

The committee bill does nothing new. It does not change the basic situation, as it has existed since the Ruckelshaus decision.

What we are doing is inserting a degree of certainty, so that business may go forward with plans in the cleaner areas of our country, knowing the ground rules by which they may develop.

There is ample testimony, as the Senator from Maine pointed out, that you can have large power developments without exceeding the limitations imposed by our bill.

Second, one of the points we have heard from the Senator from Utah (Mr. GARN) and the Senator from North Carolina (Mr. HELMS) is that Governor after Governor after Governor wants to restore greater authority to the States, so that the States—not EPA and not the courts—will have control over the economic development of their own areas. Well, this is precisely what this bill does. It shrinks the authority of EPA, and transfers the critical decisionmaking responsibility to the States so that a State may determine for itself what kind of industry it wants. It can decide if it wants to have one or two major facilities or whatever within the available increments established under this legislation.

Finally, it is argued that we should not lock in the situation, pending the results of the study. Well, the reason the committee has maintained a study, a study that will be more focused with the Randolph amendment, is that we are dealing in a constantly developing situation. It is prudent that we have an ongoing process by which we may periodically review where we are, and decide how we might amend the legislation in order to achieve with greater precision the goals we have set for ourselves, as a Nation.

It is contemplated, of course, that we will come back to the drawing boards when that study is completed. There is no reason in the world why we should not take the opportunity we have now, based on over a year of intensive work by this committee, to fix in law certain of those principles that, in fact, are now operating by virtue of regulations issued by EPA.

The clean air legislation has two objectives: One is to clean up those areas in which we have pollution that is dangerous to health and to other important qualities that we value. The other is to make sure that where we have cleaner air, we do not repeat the process we are trying to correct in other areas of the country. We need to have a policy that enables us to move prudently with our economic objectives, while not fouling our nest. This is precisely what this legislation does.

I urge the defeat of the Moss amendment.

Mr. DOMENICI. Mr. President, I ask unanimous consent that Terry Kay of Senator PACKWOOD's staff be granted floor privileges.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, I would like to address several remarks to the Moss amendment. Although the bulk of my opening remarks addressed Senator Moss' proposal, from what I have heard in subsequent debates, I feel several of the points bear repeating.

First, the study proposed by Senator Moss is a sham. After having reviewed the scope of the study cited in the amendment, I believe it safe to say that an effort of this magnitude is impossible to conduct in a professional manner within 1 year. The analogous National Water Quality Commission study took over 3 years. The Committee on Public Works has been told by the Department of Transportation that it will take 2 to 3 years to determine the impact on the railroads of the construction of a new navigational lock at Alton, Ill. on the Mississippi River. Against such a background, it is almost an affront to the Senate's collective intelligence to propose that the list of investigations cited in the Moss study could be conducted within a year. If we were being candid, I believe we would have to admit that it will take 6 months to pick a director and a staff.

My other objection to Senator Moss' study proposal is that it is inherently flawed. A major premise in the study rationale is that the current state of the art of air quality diffusion modeling makes the studies the committee has relied upon unreliable. However, even if one grants this contention, what is Senator Moss' solution. Does he offer to use different modeling techniques? No.

Does he offer to gather data based on real world experience? No. All the Moss amendment offers us is another study employing the same flawed modeling techniques. This hardly presents a convincing case for the committee to suspend 16 months of effort. Moreover, the committee's efforts were not formulated in a vacuum but rather were built upon several years of hearings and analytic work done by EPA in promulgating its nondeterioration regulations.

If we are looking for a model upon which to base our efforts, the National Air Quality Commission provided for in the Senate bill appears more appropriate. The Commission, during its study of nondegradation, will employ data derived from the actual workings of the law. Such real world feedback can then serve as the basis for making future modifications in the law.

The Moss amendment states that because of our ignorance we need more study. But his study has all the real world relevance of counting angels on pinheads. A serious effort to understand the impact of nondegradation would not fear the present Senate bill, but rather embrace it as the first step in gathering knowledge on how our environmental values can be protected. The Moss amendment has its origins not in intellectual curiosity, but obstructionism. It is designed not to foster knowledge, but to retard it. Accordingly, it is an environmental Trojan horse that should be categorically rejected by the Senate of the United States.

RATIONALE FOR NONDEGRADATION

There is one oversight in the present debate on nondegradation that I believe should be corrected. This is that the rationale for nondegradation has many facets, and is not dependent upon a single line of argument. This has been obscured by the debate over the adequacy of the secondary standards.

For New Mexico, the importance of a nondegradation policy does not hinge on the validity of the secondary standard alone. Eliminating the threat of economic coercion is equally important. New Mexican officials have repeatedly stressed that without a strong Federal nondegradation policy they fear they would be forced to sacrifice environmental quality in negotiating for new industry. The committee's nondegradation policy provides a Federal umbrella for States that are pursuing a policy of orderly economic growth. With such a Federal umbrella in place, States are free to impose reasonable environmental restrictions without fear that a sister State will steal new industry from them by sacrificing environmental restraints.

I surface this point to stress the multifaceted basis of nondegradation. Other States may have their own individual reasons for supporting nondegradation. Some may be concerned over the fate of those industries, such as the tourist industry, which are bedrocked on environmental quality. Some may be concerned that they are producing electrical energy that is exported to other States. Under such circumstances, the producing State is left with the pollution while the receiving State gets the electricity. New Mexico, for example, exports 65 percent of its electricity. Examples such as these only demonstrate that support for nondegradation has a variety of components, and that its legitimacy as a national policy rests on more than a single argument over the adequacy of the national ambient air quality standards.

Mr. President, I have a number of additional things to say. I am going to try to address them mostly with respect to the nature of the argument made by those who favor the Moss amendment.

Let me say at the inception for the Members of the Senate who are interested in whether or not a committee and the committee structure works in the U.S. Senate, and are looking for the reasons for each Senator writing his thoughts in this report, the fact is that the committee structure worked in this case.

The reason why Senators BUCKLEY, BAKER, MCCLURE, STAFFORD, and DOMENICI on the Republican side indicated their concern in this report is that they worked on this bill.

This is not a bill that is the product of a subcommittee made up of one or two members and the staff. This is the product of 14 months, innumerable hearings, well over 70 markup sessions, drafts, redrafts. We have arrived as a committee of this institution, at the conclusion, Mr. President, that, first, as a committee we wanted a policy for this Nation of no significant deterioration.

Second, we arrived at the conclusion that we did not want the Director of EPA under a court mandate interpreting a preamble to the Clean Air Act to implement in a detailed manner this policy of nondegradation.

How many U.S. Senators take this floor and criticize the bureaucracy of the Federal Government for the way it carries out the intent of our acts? We saw in the EPA's regulations with reference to a no-significant-deterioration policy, a congressional abdication.

We saw them establish under court mandate, with only a couple of words in a preamble, a policy of no significant deterioration for this land and, after all those hearings, after hearing the witnesses, we concluded that if we were going to have such a policy, and we unanimously supported it, the Congress ought to be the principal drafters of what made up that policy for this Nation.

So for those Senators who are in doubt as to what we are voting, it is very simple, Mr. President: We are voting as to whether or not we want a no-significant-deterioration policy for this country drawn, and administered, in almost every detail by an administrator, or do we want one that comes from the concerted, collective, committee effort with the kinds of Senators whom I have described on our side of the aisle having the input, from our chairman to Senator MUSKIE with all shades of Senators in between having drafted it for this institution.

That is the issue. If we vote "Yes" for Senator Moss, we want Mr. Train to develop that for us with no guidelines.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. DOMENICI. If we vote against it, we vote for this kind of input for the legislative process.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. McCLURE. I thank the Senator.

Let me state at the outset what I understand the issue to be, or, perhaps better, what it is not.

The issue is not whether we are going to have nondegradation. The issue is not whether or not the Senate is going to decide to have a nondegradation policy. The Senate has already decided that.

The Senate voted against the Scott amendment which would have settled that issue.

Those who supported the Moss amendment should not be permitted to express it in the terms of saying, "If you vote for the Moss amendment, you are against the nondegradation policy."

They are voting in favor of the existing nondegradation policy and against the nondegradation policy expressed in this bill.

There can be no other rationale. There can be no other logic.

So those voting for the Moss amendment are voting for the existing nondegradation policy.

I think, as the Senator from New Mexico and other members of the committee, that this committee, after 14 months of very hard work, has come up with a better policy for nondegradation, that is better to administer, is more flexible, gives the States greater rights in determining their own plans, better opportunities to determine their own direction, with greater opportunities for industry to arrange with the State for the necessary permission to proceed under the plan set forth in the Senate bill.

By all standards and by all regards, I think the Senate bill is an improvement over the situation under which we find ourselves now that would be perpetuated by the Moss amendment.

I think those who voted against the Scott amendment ought to also, in good conscience, vote against the Moss amendment.

If there is any logic at all in voting against the Scott amendment and for the Moss amendment, it must be on the basis that they prefer the regulatory scheme under the existing court decisions and under EPA regulations than they do under this bill.

I voted for the Scott amendment for one reason and one reason alone. That is, that there is enough confusion in this body to persuade me that 100 Members in the U.S. Senate do not understand the issues involved.

Under those circumstances, it seemed to me better to proceed slowly rather than quickly, and if we are going to have a policy, it not be the uninformed policy.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from Maine.

Mr. MUSKIE. Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. RANDOLPH. How much time is there?

The PRESIDING OFFICER. The Senator from Utah has 6 minutes. The Senator from Maine has 3 minutes.

The Chair stands corrected. The Senator from Maine has 2 minutes remaining.

Mr. MOSS. Mr. President, I just have a very few minutes and I think we have talked a great deal about this bill. The last three Senators who addressed this body had certain things to say. Let me, first of all, concur with them.

I think their committee worked extremely hard. I was aware of that long series of markups. I know they struggled with this bill. I once served on that committee.

Incidentally, lest it be thought I am a dirty air man, I supported the Clean Air Act just as I did clean water, I think I have always been further on the side of the environmentalists.

But the Senator from New York (Mr. BUCKLEY) said that certainty is needed, the certainty given by section 6.

If certainty is needed, why then did industry and labor come forward opposing section 6, if it gives all that certainty?

There is a pack of letters coming in from nearly every large corporation in this country, about 50 of them, saying that they want the study of the Moss amendment and they want to have that before they get section 6.

Besides the construction building trades of the AFL-CIO, a vast part of our organized labor came in and said the same thing. They support the Moss amendment.

So obviously, there is no certainty in section 6 that they can see. They are fearful of it and they want to have the study first.

The Senator from New Mexico (Mr. DOMENICI) said that the many individual views that were in the report show the committee's work. I agree with that. They worked hard. Each one went about writing individual views because there were so many variations over views in the committee about the bill and about the subject matter and about the whole thing they were talking about.

It seems to me that this argues very strongly for more specific information about what section 6 is going to do, what its impact will be on the air, land, economy, jobs, and the capital risk before it is written into law.

If there is that much difference among the committee who studied hard for a year and a half or longer on this bill, think of what labor and industry think now, and think what the rest of us think about it.

We would like to know what is down at the bottom before we jump off the cliff. There may be some big rocks down there.

The Senator from Idaho (Mr. McCLURE) said that the committee version is better than the EPA regulations.

That may be so, but industry does not think so, and they are the ones that are putting up now with the regs and, obviously, they are having some trouble with them because we have lawsuits and all that sort of thing.

But at least they prefer to go on with something that is somewhat known to them than take the section now until there has been a study.

I come back to that again and again, because what we have to do is know as best we can what is going to happen if we write nondegradation into law.

As Senator McCLURE so eloquently said, there is enough confusion in the Senate that we do not know, really, what we are doing and what we are getting at.

If I ever heard an argument for the Moss amendment, that is it.

Yes, there is confusion. Yes, there is concern. Yes, there are constituents coming at us from all sides—industry, labor, environmental groups, and others—and they obviously are confused about this.

Why can we not hold where we are, with the regulations and statutes that are in place now, until we get a study? A year's time is not going to cause any great degradation or shift in our pattern of air in this country.

I say that the Moss amendment makes eminent sense. It would give stability to some of the things that we will finally write into law.

If industry is so fearful now that they are unwilling to accumulate capital and risk it on producing energy or building plants, or elsewhere, they can have some degree of knowledge and security if we suspend section 6, drop section 6, and mandate the study and mandate it to be within 1 year's time.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. MUSKIE. Mr. President, I yield the remainder of my time to the distinguished Senator from West Virginia (Mr. RANDOLPH).

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. RANDOLPH. Mr. President, I regret that I must oppose the amendment of the Senator from Utah (Mr. Moss) to strike section 6 from this legislation. If adopted this amendment would leave the Senate in the position of not formally responding to the most controversial issue before the committee during the development of the Clean Air Amendment of 1976.

Furthermore, the absence of any language in this measure on the question of nondeterioration of air quality would imply that this body is unwilling to assert that those areas of our country where the air is relatively clean should be protected from pollution.

I regret that an amendment I proposed became involved in the dispute of the issues raised by the proposals of the Senator from Utah (Mr. Moss). We reached agreement, however, on the schedule for voting on various nondeterioration amendments. I believe that the Senate can now dispose of this question in an orderly fashion that will permit us to consider other sections of this important legislation.

The legislative proposals to protect clean air areas are indeed the most controversial in this bill. Members of the Committee on Public Works believe that we have adopted a balanced and workable approach to this problem. It is unfortunate that there have been numerous misunderstandings about both the intentions of the legislation and its potential impact.

The able Senator from Maine (Mr. MUSKIE), the chairman of our Subcommittee on Environmental Pollution, has spoken on this subject on several occasions. He has placed in the CONGRESSIONAL RECORD a lengthy statement responding to questions about the committee's action and which clearly explained the intent of the committee and the effects of the nondeterioration provisions of the bill. That statement, together with the text of a speech by Senator BAKER on the same subject, was sent to each Member of the Senate. Last week during debate on this question, the Senator from New York (Mr. BUCKLEY) discussed in detail the nondeterioration provisions of the bill. I hope that my colleagues have had an opportunity to review these materials so that we can debate this important issue free of the many misconceptions that have existed.

The issue of nondeterioration was raised initially in court decisions and administrative actions. Many organizations and individuals came to the Congress asking that we review this important policy decision and provide congressional direction to its implementation. The Committee on Public Works, after extensive consideration, has developed what we believe to be a rational and responsive approach to preventing the deterioration of our highest quality air resources.

The reaction to this legislation has been frankly surprising. Those who urged the Congress to become involved originally are now opposing the legislation. They do so for reasons that are often vague and are based on misleading interpretations of fact. Dire consequences are forecast if the nondeterioration provisions of this bill are adopted.

Mr. President, as I said at the outset of the debate, the significant deterioration program will be almost totally administered by the States.

I want to reiterate and strengthen the belief that I think the Members, not only of the committee but of the Senate, have, that this provision in the Clean Air Amendment of 1976 will not bring a halt to industrial and commercial activity in the United States. It will not prohibit the development of needed energy resources. It will not impose land use planning on communities. It will not result in high costs to individual citizens.

The members of the Committee on Public Works would never approve a measure—certainly, I would not approve it—that would impose intolerable conditions on the country in the name of either environmental protection or any other worthy cause.

The basic issue with which the amendment of Senator Moss is concerned is whether there will be a congressionally determined policy to protect clean air areas. The provisions of the committee bill state that there will be such a policy and establish the parameters for its implementation. There should be no question that we must protect those areas where air pollution is nonexistent or at a relatively low level. Such protection is far easier and less costly in the long run than trying to take corrective action after the air has been subjected to harmful emissions.

I repeat, there is a wide latitude in the bill presented to the Senate from the committee. There is adequate protection for the States. The basic authority to carry out the program is there because they know the problems and can better address local conditions.

Mr. President, I say with all respect to my colleagues from Utah that if his amendment is adopted in the Senate, I think we have begun to take a step backward in relationship to the quality of air which Americans desire very much to be as high as possible.

More than a year's work by the committee would be revoked but, more important, the nondeterioration regulations proposed by the Environmental Protection Agency will remain in force. These are the regulations to which strong objections were raised and they would, in fact, bring about many of the undesirable results that are wrongly attributed to the committee bill.

This is an important issue and it is one that must be directly addressed by the Congress. I repeat that the nondeterioration section of the bill is a reasonable and workable answer to a far-reaching and complex question. I urge that the amendment be defeated.

ADDITIONAL STATEMENTS SUBMITTED

Mr. BROOKE. Mr. President, I hope that when future students of our history read that the debate over amending the Clean Air Act of 1970 began in Washington during a summer in which the air quality index was "hazardous" more often than not, they will find it mystifying, sad, and unfamiliar. If we can accelerate the impressive progress the Nation has made toward cleaning our atmosphere, perhaps they will. But, if we allow the remaining areas where the air is relatively pristine to deteriorate to the mediocre quality of present secondary standards, those generations may well look back on the decisions we make today with anger and regret.

I have deliberated long and hard over the method of preventing significant deterioration proposed by the committee. While I am convinced the goal is a proper one, I have definitely been concerned about the questions that have been raised about the economic and social implications of this kind of regulatory mechanism. In the end, I am voting against the 1-year delay because I do not think it will help us solve the fundamental problems this approach does present. On the other hand, I think these problems are less serious than the continuing deterioration of now-cleaner air. I believe they are capable of review and solution by the National Air Quality Commission which will learn from their implementation and propose whatever changes will be necessary to the Congress.

As I debated with myself over this issue, I viewed the arguments as falling into two categories. First, there were the economic arguments that growth in industry and employment would be cut back. I believe we already have enough data to rebut that. Of course, pollution control is never entirely cost free, but I think the costs of a nondegradation policy will be moderate and acceptable in light of the importance of the goal.

More important to me was the governmental or social argument that we are setting up a regulatory system that is overburdensome and which, even worse, may have unintended side effects like distortion of optimal urban growth patterns or misdirection of State planning resources. I admit that these questions have particular merit in this instance and that I do not think the bill answers them all. On the other hand, I see nothing in the Moss amendment which will provide answers to these questions in a year. Furthermore, I have considered alternative methods in my own mind, such as changing the secondary standards and relying on new, tougher minimums. But these, too, have their flaws and all would take a long time to enact and implement while clean air areas deteriorate. On the other hand, the Congress will certainly be receptive to recommendations by the new National Commission on Air Quality once it has reviewed these new provisions in action. Finally, if we delay, we are stuck with the EPA regulations recently promulgated. And I am convinced that Federal regulation is a good deal worse in most instances than State regulation.

Since feelings on this matter are so strong on both sides, I would like to review both kinds of arguments. For example the economic arguments raised in opposition have been several; such as:

First. The class II "intrusion factors" and class I locations will make it impossible to build the very large coal-fired powerplants that will be needed in the next 10 to 15 years.

Response: This is not true. Recently, FEA and EPA randomly selected and analyzed 74 projected coal-fired powerplants, including some as large as 3,000 megawatts. The FEA-EPA report concluded that none of the planned capacity of the 74 powerplants would be affected by the mandatory or mandatory and discretionary class I areas. The same analysis concluded that all of the planned new powerplants could be built and still meet the House class II or class III increments. This is particularly noteworthy because these 74 plants were planned without any consideration of conforming with the prevention of significant deterioration policy.

Second. Even if a single new large coal-fired powerplant could be built in an area, the policy would prohibit large coal-fired powerplants from being constructed in areas in which existing plants are located.

Response: This is not true either. The amount of new pollution increases allowable in any class II area is the same—with a single exception—regardless of whether that area has existing powerplants on date of enactment. This is because the allowable pollution increment is the amount of pollution increase allowed in addition to existing—"baseline"—levels. In fact, greater growth may be achieved in areas with high industrial concentrations, since any pollution reduction from existing sources would leave additional room inside the baseline for new sources to come in without using any of the increment.

Third. Even if new isolated powerplants could be built and expansions or additions to existing plants could be built, large new energy parks could not be built under the PSD provision.

Response: This also is not true. Assuming the new powerplants use best control technology which has been adequately demonstrated, taking into account cost, and assuming fairly flat terrain, up to 8,000 megawatts of new power generating capacity could be built without exceeding class II increments. By contrast, Potomac Electric Power's entire Washington, D.C. service area's historic peak power use was only 3623 megawatts.

Fourth. If other industry wanted to locate in the area of the energy park, this could not be allowed even in a class III area.

Response: This is not true, under the House bill, which is, I think, the better in this case, with fairly flat terrain, a class III area could add up to 16,000 megawatts of new capacity or could permit "colocation" of industrial sources and powerplants. This information is also contained in the EPA's study. The largest coal-fired powerplant in the United States is approximately one-fifth the above capacity.

Fifth. The FEA-EPA analysis which concludes that very large coal-fired powerplants could be built in hilly terrain is based in part on assumptions that tall stacks can be used. But the House bill prohibits tall stacks or stack increases.

Response: This is not true. The House bill allows credit for stack heights up to 2½ times the basic height of the structure. This means that the average new coal-fired powerplant could have stacks as tall as 500 feet.

Sixth. These studies all assume that new growth will be the only occasion for using up the increments. Not all this room for growth will be allowed, because as existing sources return to full capacity operation after overcoming the recession, they will use up much of the available increment.

Response: This is untrue. Again the House bill, unlike the Senate bill, defines the "baseline"—to which new pollution increases may be added—on the basis of total "design capacity" of existing sources, not actual emissions. I support the House version.

Seventh. But existing sources which are now burning oil or natural gas and which must convert to coal because of ESECA-FEA orders or natural gas curtailments will eat up some of the available increment.

Response: This is not necessarily true. It is within the discretion of the Governor of the State not to count these pollution increases from existing sources against the increment. This exclusion authority would last for a long enough time until the existing source could acquire necessary equipment or low sulfur fuels to abate the increase.

Eighth. Dust stirred up by construction equipment could cause the particulate increments to be exceeded. Therefore, this is a "no growth" bill.

Response: Again, the House bill expressly gives the Governor of the State authority to permanently exclude from consideration any pollution from construction or other temporary activities. This important provision should be included in the act.

Ninth. The available room for growth of new sources may not be so great because of natural background particulates.

Response: First, in those areas where natural particulate levels are so great as to cause the national ambient air quality standards to be exceeded in any area, then the significant deterioration provisions for particulates would not apply to that area. Second, natural background levels of pollution would be counted in the "baseline" under the House bill. Thus, allowable increments would be in addition to the baseline. Third, if the full increments could not be used because background particulates approach the level of the ambient standards, the Governor could exclude these background particulates from consideration. Again, I believe these are the provisions we should adopt.

Tenth. Even if large powerplants could be built in an area, they would have to be spaced 40 to 100 miles apart, because of the intrusion effects referred to under first, above.

Response: According to EPA studies of the House bill, a new 1,500-megawatt powerplant "A" using best technology could be located within 1 mile of another powerplant "B" without exceeding class II increments, even if powerplant "B" consumed 90 percent of the class II increment in its area. Under current regulations, in fact, the distance would be 28 miles.

Eleventh. Best technology and prevention of significant deterioration requirements will be extremely costly and the cost figures quoted by EPA are much too low.

Response: Analysis by a contractor for the Electric Utility Industry—National Economic Research Associates, NERA—and by EPA come to similar conclusions on the cost impact of these provisions; that is, the provisions of S. 3219 will have only a small cost impact. For example, by 1990, EPA estimates the bill will require an increase in total utility industry capital investment of 2.3 to 2.7 percent. The industry-NERA estimate is 1.4 to 2.2 percent. EPA estimates that because of these provisions the average residential electric bill will increase by only 1.9 to 2.3 percent by 1990. The industry-NERA estimate is 2.5 to 3.8 percent by 1990.

Twelfth. The best technology requirement for new powerplants will slow western low sulfur coal development and adversely affect railroads which would carry the coal.

Response. In fact, under the bill demand for low sulfur coal will be greater than under present EPA regulations. This has been recognized by the Electric Utility Industry consultants in the NERA study which concluded that under the House bill, by 1990, demand for western low sulfur coal will be 30 to 35 percent higher than if the bill were not enacted. The NERA study also concluded that enactment of this legislation will boost total coal demand 0.7 to 1.1 percent above what it would be without the bill.

Thirteenth. The only values of this policy are to health and environment. There are no economic benefits.

Response. This is not true. First the policy will create an incentive for development of new improved pollution control technology, including inherently clean processes. Second, these new technologies will enable more sources to locate in an area without using up the remaining air resources, thus making greater concentration of growth possible.

The social or political questions about the way we set up the regulatory system are important ones too. For example:

One. Some have said that this is a land use planning bill in disguise and that Federal land use controls based solely on the criterion of air quality will result.

This is not true. As a matter of fact, the bill assures the States will have sole jurisdiction over the air quality classifications of 100 percent of all non-Federal lands and 97 percent of all Federal lands. Since the committee bill allows the States to control air quality over all State and private lands, and even over nearly all Federal lands, it clearly is not "a Federal land use policy."

Moreover, the bill in question only regulates air quality and emissions, not land use. The States are free to use the land as they see fit for any purpose or, if they choose, to allow the land to be used on a first-come-first-serve basis, so long as the air quality and emissions requirements are met. This does not differ from existing laws.

In determining whether to allow major pollution increases or to restrict pollution growth, States are directed by the bill to prepare analyses not only of health and environmental impacts, but also of economic, energy, and social impacts. These analyses are to be available to the public, so that the hearings can be a forum for consideration of economic, energy, and environmental factors. Presumably the States already have planning policies dealing with several variables.

Two. Some say while the States could have final redesignation authority, EPA will have the final say over which sources may get permits to construct.

The States are responsible for deciding whether to issue permits to new sources. EPA will only be issuing permits if a State refuses to do so. No State permit may be disapproved if the procedures are followed and if the ceilings and increments set in the bill are observed. EPA will not be authorized to add new requirements or limitations by regulation.

The purposes of setting specific requirements in the bill are: to set clear minimum national requirements which will not be subject to legal challenge; to give the States the authority to implement in these measures; and to limit EPA's authority to add new requirements and to second guess the States.

There are some who fear the delays will keep growth rates low in the next few years.

Three. The extent of the "intrusion effect" for any new plant cannot be calculated with certainty. It must be calculated by models, which predict widely varying results. And environmental groups with their models may challenge planned new construction which would be allowed under other models.

The distances of 50 miles or more, discussed by some assumes a very large, coal-fired powerplant meeting only minimum emission limitation requirements and under worst case weather and pollution conditions. But the bill requires new industrial sources of pollution to use best available control equipment, thereby reducing the potential distance a huge coal-fired plant would have to be built from a national park or other class I area to as little as 6 miles or less.

The models actually used by EPA do not predict any drastic intrusion effects. Furthermore, at the request of various industry and labor groups, the House bill was amended to require EPA to hold an open conference on air quality modeling and to set a standardized model—or models for varying conditions—after going through stringent rulemaking procedures. Thus, any uncertainty over which model should be applied will be ended. This provision is in the House bill, and should be added to the Senate bill.

Fourth. Some feel the 1-year monitoring requirement for new sources will result in a growth moratorium.

This is not true. First, the monitoring provision only applies to "major sources" as defined in the bill, that is, 100 tons/year. Second, the monitoring may be for less than a year if the basic necessary information can be provided in less time. Third, it may be waived altogether if the data is already available. Fourth, monitoring would normally occur in the site selection process and so should not cause any halt in construction.

As I, like many of my colleagues, considered the alternatives, the one which most often was suggestive that national secondary standards protect against adverse health and welfare effects.

I have concluded this is not true. The Health and Environment Subcommittee has published a 40-page paper describing the ways in which even the national primary ambient air quality standards are inadequate to protect health—"Prevention of Significant Deterioration: An Ounce of Prevention," December 3, 1975. A summary of the limitations of the primary standards is as follows:

First. The margins of safety set to prevent the occurrence of known and anticipated health effects have turned out to be very modest or nonexistent.

Second. The national primary standards are based on the assumption that a no-effects threshold can be proved; in fact, this assumption of a safe threshold appears to be false for many, if not all, of the pollutants.

Third. The national primary standards are not designed to protect against genetic mutations, birth defects, or cancer which may be associated with air pollution, although these risks may be reduced by reducing pollution to levels of the ambient standards.

Fourth. The national primary ambient standards are not designed to provide adequate protection against diseases which result from long-term chronic exposures or periodic short-term peak concentrations of pollutants.

Fifth. The national primary standards fail to protect against hazards to health resulting from cumulative or synergistic effects of multiple pollutants in the air.

Sixth. The national primary air quality standards do not protect against adverse effects which appear to be related to derivative pollutants which result in the atmosphere—such as sulfates and nitrates.

Despite the availability of this document for 4 months, no one has taken issue with its basic conclusions. Moreover, similar studies have shown adverse effects to crops and the environment at levels below the secondary standards.

And the national ambient standards do not protect visibility in areas such as the Grand Canyon or other national parks or national wilderness areas. At sulfur dioxide levels equivalent to the national secondary standard, visibility can be as little as 3 to 4 miles. If particulate pollution levels are simultaneously high, visibility may be reduced still further, without exceeding the secondary standards.

Of course, one answer has been that, if the national ambient air quality standards do not protect health and environment from all adverse effects, then the standards should be revised to provide such protection.

No safe threshold can be established for these pollutants, according to the National Academy of Sciences. Thus, in order to protect against all harmful effects it would be necessary to set a zero or background standard.

Obviously, this no-risk philosophy which ignores all economic and social consequences is impractical. This is particularly true in light of the legal requirement for mandatory attainment of the national primary standards within 3 years.

Others have suggested that unless conclusive proof of actual harm can be found based on the past occurrence of adverse effects, then the standards should remain unchanged and no pollution limits should be applicable to areas which are cleaner than the ambient standards. The second approach ignores the commonsense reality that "an ounce of prevention is worth a pound of cure."

What the committee bill does is to strike a proper balance between these two approaches. Since there is a reasonable basis for anticipation of tightening of the ambient standards, a policy of maximum practicable protection of health and welfare has been developed.

I think the best we can do is keep our clean air clean while we learn more.

Finally, what about Massachusetts? Our area is least affected by these provisions as it would nearly all be class II under the Senate bill, or class III if the House system is enacted. Only two or three areas in New England might be designated class I. Studies made by the State's department of environmental affairs confirm the findings of the EPA and the National Economic Research Associates. To put it simply, at worst it may not be possible to locate a coal-fired electric generating facility in southeastern Massachusetts until the technology of stack scrubbers improves significantly. But no such plant is currently planned. And I believe the time delays that might be involved if this were someday to become a possibility, can be justified by the need to keep our air from further deteriorating.

Thus, the important findings are that the bill allows for many growth options using best technology to control emissions. Indeed, we in the East may benefit by the fact that this may provide incentives to locate new growth in already industrialized regions rather than on new lands on the fringe of development.

All in all, I am persuaded that the committee policy with certain amendments which are contained in the House version, represents the best possible way to go to preserve our atmosphere while we develop more sophisticated tools.

Mr. President, I ask unanimous consent that part of the text of the summary of EPA's study of the economic impact of the Senate significant deterioration provision be printed in the RECORD following my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SUMMARY OF EPA ANALYSIS OF THE IMPACT OF THE SENATE SIGNIFICANT DETERIORATION PROPOSAL [1]

INTRODUCTION AND CONCLUSIONS

A. Introduction

A major purpose of the Clean Air Act of 1970 is "to protect and enhance the quality of the Nation's air resources so as to promote the public health and welfare and the productive capacity of its population." The Act is administered by the U. S. Environmental Protection Agency (EPA) and has been interpreted by the courts as barring the degradation of air in areas that are cleaner than the National Ambient Air Quality Standards.

The purpose of this paper is to summarize over 8 months of analyses that EPA and its consultants have conducted on the specific impacts of the Senate Bill on selected major industries, including electric utilities, kraft pulp and paper, refineries, synthetic fuel plants, and cooper smelters.

B. Conclusions

The principal conclusions of EPA's analyses are:

The Senate significant deterioration proposal will not prevent the construction of major, economically sized industrial facilities. Rather, some sources may have to employ different air pollution control strategies such as further control of sulfur dioxide emissions, relocation at an alternative site, construction of taller stacks or smaller plants, etc.

The Senate significant deterioration proposal allows for the collocation of major industrial sources. Specifically, the minimum required separation distance for economically sized facilities meeting Federal New Source Performance Standards (NSPS) or an equivalently defined control level is 0 to 40 miles for power plants, 0 to 12 miles for kraft pulp and paper mills, 0 to 3 miles for oil shale plants, 0 to 30 miles for gasification plants, 0 to 18 miles for refineries, and 5 to 16 miles for copper smelters. If control beyond NSPS is assumed, the separation distances are reduced to 0 to 31 miles for power plants, 0 to 8 miles for paper mills, 0 to 6 miles for gasification plants, and 0 to 10 miles for refineries.[2]

The Senate proposal gives the States maximum flexibility in determining how close major sources should be located to Federal land such as National Parks and Wilderness areas. If the location of the source would have an adverse impact on the air quality values of the Federal land areas, major industrial sources would have to comply with the Class I increments and locate the following distances away from Federal lands that have been classified as Class I: 5 to 60 miles for power plants, 3 to 28 miles for kraft pulp and paper mills, 3 to 8 miles for oil shale plants, 7 to 40 miles for gasification plants, 12 to 43 miles for refineries, and 13 to 31 miles for copper smelters.[3] However, if the location of the source would not adversely affect the air quality values of the federal land area, the source would not have to comply with the Class I increments and could locate closer than indicated by the previous estimates.

It is expected that the major economic impact of the Senate proposal will be on the electric utility industry. Specifically, the Senate proposal will increase the utility industry's capital requirements over the next fifteen years by a maximum of $11.5 billion which represents about a 3% increase in the industry's projected capital expenditure in the absence of significant deterioration. The Senate proposal will also increase average residential customers yearly expenditures in 1990 by a maximum of $28 per year. This is equivalent to an increase of slightly more than 2%.

The Senate proposal will probably require some other industrial facilities to employ different air pollution control strategies such as further control of sulfur dioxide emissions, relocation at an alternative site, construction of a taller stack or a smaller plant, etc. However, most of these sources would be able to comply with the Senate proposal by meeting Federal New Source Performance Standards and locating in areas of flat or moderate terrain.

In the post-1980 period, a Class III designation or a variance from the Class II increment is probably required in some urbanizing areas in order to prevent significant restrictions and/or altered development patterns by 1990. A similar designation would probably be required for large scale energy and industrial development at one location (i.e., energy or industrial parks) and for copper smelters and gasification plants located in very hilly terrain.

ESTIMATED SIZE OF MAJOR INDUSTRIAL FACILITIES THAT CAN BE CONSTRUCTED UNDER THE SENATE PROPOSAL

EPA and its consultants have conducted extensive modeling analyses in order to estimate the size and type of facilities that could be constructed at one site under the Senate proposal. The results of these analyses, which are summarized in Table 2 and briefly discussed below, indicate that the size of facility which can be constructed is very dependent on assumptions concerning surrounding terrain, stack height, pollution control technology and worst case meteorological conditions. The results presented in Table 2 represent EPA's best estimate of the maximum size facilities which could be built at one site under the Senate proposal. However, in order to obtain site specific estimates for actual facilities, a case-by-case analysis would be required. Such a review may give results slightly higher or lower than indicated in Table 2.

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[1] S. 3219—Clean Air Act Amendments of 1976—(Section 110 g).

[2] The low estimate for each industry assumes flat or moderate terrain while the high estimate assumes hilly terrain.

[3] The low estimate for each industry assumes control beyond NSPS and flat or moderate terrain. The high estimate assumes control equal to NSPS and hilly terrain.

1. Coal-Fired Power Plants—

Between an 1100 to greater than 4000 mw coal-fired power plant meeting New Source Performance Standards (NSPS) could be built in areas of flat or moderate terrain (i.e., where the surrounding terrain is below the top of the stack). If the source controlled beyond NSPS, a 1250 to greater than 5000 mw plant could be built in flat or moderate terrain. EPA's analyses also show that terrain has an important impact on the size power plant that can be built. Specifically, in areas of hilly terrain (i.e., where the surrounding terrain is considerably above the top of the stack—3.5 to 5% slope) only a 450 mw plant meeting NSPS could be built. However, if the plant controlled beyond NSPS, a 1100 mw plant could be built in the East and greater than a 4000 mw plant in the West.

2. Petroleum Refineries—

EPA's analyses show that refineries in flat or moderate terrain will not be constrained by the Senate Class II increment. Assuming compliance with NSPS, one 300,000 bbl/d fuel oil refinery and two 300,000 bbl/d gasoline refineries could be built at one site. If control beyond NSPS is assumed (i.e., .3% oil), two 300,000 bbl/d fuel oil refineries and three 300,000 bbl/d gasoline refineries could be built at one site.[4] In areas of hilly terrain, fuel oil refineries meeting NSPS may have to reduce capacity to 100,000 bbl/d (a typical refinery expansion). Gasoline refineries may have to reduce capacity to 200,000 bbl/d (slightly smaller than a typical new refinery). However, if control beyond NSPS is assumed, even in areas of hilly terrain, typical size new gasoline and fuel oil refineries could be built.

3. Synthetic Fuel Plants—

EPA's analyses show that in areas of flat or moderate terrain typical size oil shale (50,000 bbl/d) and gasification plants (250 mmscf/d) would not be constrained by the Senate Class II increment. In fact, it would be possible to put several oil shale and gasification plants at one site without violating the Senate Class II increments for sulfur dioxide.[4] However, in areas of hilly terrain only an oil shale plant of 68,000 bbl/d can be built. This is slightly larger than the proposed typical size plant. The comparable limitation for a gasification plant meeting NSPS (where applicable) in areas of hilly terrain is 100 mmscf/d. However, if control beyond NSPS is assumed, a 330 mmscf/d gasification plant could be built in hilly terrain. If the constraining terrain feature is closer than 6 miles, a Class III designation may be required to site a 250 mmscf/d gasification plant. However, use of taller stacks or the selection of a nearby site with less hilly terrain could be feasible alternatives.

4. Kraft Pulp and Paper Mills—

EPA's analyses show that at least two 1000 ton per day kraft pulp and paper mills meeting NSPS with on-site coal-fired generation could be constructed in areas of flat or moderate terrain. Since most kraft mills burn fuels with much lower sulfur content than coal, this analysis is extremely conservative. In areas of hilly terrain a kraft mill capacity of about a 600 tons per day mill could be built if the plant just met NSPS. However, if control beyond NSPS is assumed, the allowable size mill in areas of hilly terrain could increase to 1000 tons per day in the East and to over 3000 tons per day in the West. Unbleached mills have much lower emissions and would be significantly less restricted. In view of the fact that the typical size for new paper mills is about 1000 tons per day and 400 tons per day for expansions at existing sites, it can be concluded that the Senate proposal will not prevent the construction of economically efficient draft pulp and paper mills.

5. Copper Smelters—

EPA's analyses show that at least a 1500 ton per day copper smelter meeting NSPS could be constructed in areas of flat or moderate terrain. In areas of hilly terrain about a 1000 ton per day facility could be built. If the constraining terrain feature is closer than 4 miles, a Class III designation may be required. However, use of a taller stack or selection of a nearby site with less hilly terrain could also be feasible alternatives.

ECONOMIC IMPACT OF SENATE PROPOSAL

The data presented in Tables 2, 3 and 4 show that the Senate significant deterioration proposal will not prevent the construction of major industrial facilities. However, the Senate proposal may require some facilities to employ different air pollution control measures such as further control of sulfur dioxide emissions, construction of taller stacks or smaller plants, relocation at alternative sites with more favorable terrain conditions, etc. While the use of such control strategies will impose additional costs on consumers, these additional expenditures must be balanced against the benefit that would result from preventing the degradation of air quality up to the National Ambient Air Quality Standards.

It is expected that the major economic impact of the Senate proposal will be on the electric utility industry. The results of EPA's study[5] are summarized in Table 5.

TABLE 5.—ECONOMIC IMPACT ON THE ELECTRIC UTILITY INDUSTRY OF SENATE SIGNIFICANT DETERIORATION PROPOSAL

	Capital expenditures 1975–90 (billions)	Household expenditures[1] on electricity in 1990 (per year)
Baseline in the absence of significant deterioration	$435	$1,200
Impact of Senate proposal	[2] $2.4–$11.5	$3–$28
Percent increase due to Senate proposal	[2] 0.5–2.6	0.3–2.3

[1] Household expenditures on electricity include the direct expenditures for monthly electricity bills and indirect expenditures to producers of other goods and services in order to pay the cost of the electricity used to produce these goods and services.

[2] The low end of the range assumes that BACT is defined by the States to be NSPS or SIP's where more stringent. The high end of the range assumes that BACT is defined to be low sulfur coal plus scrubbers in the West and medium sulfur coal plus scrubbers in the rest of the country.

As indicated in the above table, the Senate proposal would increase the industry's capital requirements over the next ten years by a maximum of $11.5 billion. This represents a maximum increase of 2.6% in the industry's projected capital expenditures of $435 billion in the absence of significant deterioration. In order to finance the required expenditures, average expenditures per household in 1990 would increase by a maximum of $28 per year. This is equivalent to an increase of about 2.3%.

With regard to other major industrial facilities, Tables 2, 3, and 4 support the conclusion that most facilities will not have to employ different air pollution control strategies. Rather, most of these facilities would be able to comply with the Senate significant deterioration requirements simply by complying with the current requirements of the Clean Air Act (i.e., New Source Performance Standards). However, a few of these facilities may have to relocate to areas of flat or moderate terrain, control beyond NSPS, build a taller stack or smaller plants, etc.

TABLE 1.—SERVICES COVERED BY EPA'S AND U.S. SENATE'S SIGNIFICANT DETERIORATION REGULATIONS

Type of source, EPA regulations, and Senate bill:[1]

1. (a) Fossil-fuel fired steam electric plants of more than 1,000 million BTU per hour input, covered, covered.

(b) Fossil-fuel steam electric plants of more than 250 million BTU per hour input but less than 1,000 million BTU per hour input, not covered, covered.

2. Coal cleaning plants (i.e., thermal dryers), covered, covered.

3. Kraft pulp mills (i.e., recovery furnaces), covered, covered.

4. Portland cement plants, covered, covered.

5. Primary zinc smelters, covered, covered.

6. Iron and steel mills (i.e., metallurgical furnaces), covered, covered.

7. Primary aluminum ore reduction plants, covered, covered.

8. Primary copper smelters, covered, covered.

9. Municipal incinerators capable of burning more than 250 tons of refuse per day, covered, covered.

10. Sulfuric acid plants, covered, covered.

11. Petroleum refineries, covered, covered.

12. Lime plants, covered, covered.

13. Phosphate rock processing plants, covered, covered.

14. By-product coke oven batteries, covered, covered.

15. Sulfur recovery plants, covered, covered.

16. Carbon black plants (i.e., furnace process), covered, covered.

17. Primary lead smelters, covered, covered.

18. Fuel conversion plants, covered, covered.

19. (a) Ferroalloy production facilities, covered, not covered.

(b) Secondary metal production facilities, not covered, covered.

20. Hydrofuric acid plants, not covered, covered.

21. Nitric acid plants, not covered, covered.

22. Sintering plants, not covered, covered.

23. Chemical process plants, not covered, covered.

24. Petroleum storage and transportation for facilities with a capacity exceeding 300,000 barrels, not covered, covered.

25. Taconite ore processing facilities, not covered, covered.

26. Glass fiber processing facilities, not covered, covered.

27. Charcoal production facilities, not covered, covered.

28. Fossil-fuel boilers of more than 250 million BTU per hour input, not covered,[2] covered.

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[4] It should be noted that the National Ambient Air Quality Standards for oxidants may prevent the construction of more than one refinery, oil shale, or gasification plant at one site.

[5] EPA, *A Preliminary Analysis of the Economic Impact on the Electric Utility Industry of Alternative Approaches to Significent Deterioration,* February 5, 1976.

[1] The 29 source categories specified under the Senate Bill must meet the criteria of having the potential to emit more than 100 tons per year. If one of the specified sources does not meet the criteria, it is not regulated under Section 110 g.

[2] Although not covered as a separate source category under EPA regulations, many such facilities would be included as part of the other source categories specified.

TABLE 2.—ESTIMATED SIZE OF MAJOR INDUSTRIAL FACILITIES THAT CAN BE BUILT AT 1 SITE UNDER THE SENATE CLASS II INCREMENT

Type of facility	BACT=NSPS [1]		BACT=Control beyond NSPS [2]	
	Flat or moderate terrain [3]	Hilly terrain [4]	Flat or moderate terrain [3]	Hilly terrain [4]
Coal-fired powerplants [5]	1,100–4,000+ MW	450 MW	1,250–5,000+ MW	1,100–4,000+ MW.
Kraft pulp and paper mills (with onsite generation) [5]	2,000+ TPD	600 TPD	3,600–5,000+ TPD	1,000–3,900 TPD.
Gasoline refinery	Two 300,000 BPD plants	200,000 BPD	Two 300,000 BPD plants	300,000 BPD.
Fuel oil refinery	300,000 BPD	100,000 BPD	Three 300,000 BPD plants	245,000, BPD.
Oil shale plant	Six 50,000 BPD plants	68,000 BPD	Not applicable	Not applicable.
Gasification plant	Four 250 MMSCF/D plants	100 MMSCF/D	Eight 250 MMSCF/D plants	330 MMSCF/D.
Copper smelter	1,500+TPD	1,000 TPD	Not applicable	Not applicable.

TABLE 3.—REQUIRED SEPARATION DISTANCES FOR MAJOR INDUSTRIAL FACILITIES UNDER THE SENATE CLASS II INCREMENTS

Type of facility	BACT=NSPS [1]		BACT=Control beyond NSPS [2]	
	Flat or moderate terrain [2]	Hilly terrain [4]	Flat or moderate terrain [3]	Hilly terrain [4]
Coal-fired power plant (1,000 MW) [5]	0–28 miles	40 miles	0 mile	12–31 miles.
Kraft pulp and paper mills (with coal-fired onsite generation) (1,000 TPD) [5]	0 mile	12 miles	do	3–8 miles.
Gasoline refinery (300,000 BPD)	do	3 miles	do	2 miles.
Fuel oil refinery (300,000 BPD)	2 miles	18 miles	do	10 miles.
Oil shale plant (50,000 BPD)	0 mile	3 miles	Not applicable	Not applicable.
Gasification plant (250 MMSCF/D)	do	30 miles	0 mile	6 miles.
Copper smelter (1,500 TPD)	5–13 miles	16 miles	Not applicable	Not applicable.

TABLE 4.—REQUIRED DISTANCE FROM MAJOR INDUSTRIAL FACILITIES FROM CLASS I AREAS

Type of facility	BACT=NSPS [1]		BACT=Control beyond NSPS [2]	
	Flat or moderate terrain [3]	Hilly terrain [4]	Flat or moderate terrain [3]	Hilly terrain [4]
Coal-fired power plants (1,000 MW) [5]	60 miles	60 miles	5–20 miles	25–42 miles.
Kraft pulp and paper mills (with onsite generation) (1,000 TDP) [5]	10–20 miles	28 miles	3–14 miles	7–16 miles.
Gasoline refinery (300,000 BPD)	20 miles	37 miles	14 miles	26 miles.
Fuel oil refinery (300,000 BPD)	23 miles	43 miles	12 miles	22 miles.
Oil shale plant (50,000 BPD)	3 miles	8 miles	Not applicable	Not applicable.
Gasification plant (250 MMSCF/D)	19 miles	40 miles	7 miles	33 miles.
Copper smelter (1,500 TPD)	13–28 miles	31 miles	Not applicable	Not applicable.

FOOTNOTES TO TABLES 2 TO 4

[1] Best available control technology (BACT)—NSPS assumed the following emission rates. (Note: The letter (A) indicates that no NSPS exists and that a practicable fuel-sulfur content was assumed.)

Coal-Fired Power Plant.—1.2 lbs/million Btu.

Kraft Pulp & Paper Mills (with on site coal-fired power generation).—1.2 lbs/million Btu.

Gasoline Refinery (A).—0.75% sulfur content (by weight).

Fuel Oil Refinery (A).—0.75% sulfur content (by weight).

Oil Shale Plant (A).—Emissions from Colony EIS include controls on major emission sources.

Gasification Plant (A).—1.2 lbs/million Btu. on the steam plant. Emissions from gasification process are derived from individual EIS's.

Copper Smelter.—Stack emissions of 6.4 lbs/ton of concentrate plus 1% of input sulfur (captured fugitive emissions). Uncaptured fugitive emissions equal to 0.5% of input sulfur.

[2] BACT—Control Beyond NSPS was assumed to be equivalent to the following emission rates. (Note: The range indicates the use of different grade coals—FGD on medium-sulfur coal in the East and FGD on low-sulfur coal in the West.)

Coal-Fired Power Plant.—0.12–0.46 lbs/million Btu.

Kraft Pulp & Paper Mills (with on site coal-fired power generation).—0.12–0.46 lbs/million Btu.

Gasoline Refinery.—0.3% sulfur content.

Fuel Oil Refinery.—0.3 sulfur content.

Oil Shale Plant.—Not applicable.

Gasification Plant.—0.2 lbs/million Btu on steam plant only; 99% control of TSP.

Copper Smelter.—Not applicable.

[3] Flat or moderate terrain asumes that the surrounding terrain is below the top of the stack. When a range is given, the more restrictive figure corresponds to terrain at or near the stack top and the less restrictive figure corresponds to terrain at or near the plant elevation (generally equivalent to a 0 to 1 percent slope).

[4] Hilly terrain assumes the direct impaction of the plume on terrain significantly higher than the top of the stack. For Table 2, this was equivalent to a terrain slope of 3.5 to 5 percent. For table 3, the distance to the constraining terrain feature for two facilities varies from industry-to-industry due to different stack heights and emission rates. EPA's analysis indicates that the constraining terrain feature when collocating two typical facilities is within the range of 3 to 20 miles. Table 4, indicates the distance from the typical facility to the point of impaction in an assumed Class I area.

[5] The range of numbers indicated under BACT = Control Beyond NSPS correspond to the use of coals with different sulfur content. The more restrictive member corresponds to the use of medium or washed sulfur coal from the Mid-West with flue gas desulfurization (FGD) plus the most constraining terrain condition (see footnotes 3 and 4), the less restrictive figure corresponds to eastern or western low sulfur coal with FDG plus the less constraining terrain condition.

APPENDIX—DESCRIPTION OF TYPICAL FACILITIES

Description, typical size, and stack height:

Coal-fired power plants, 1,000MW, 500 feet-1,000 feet.

Kraft pulp and paper mills with on-site coal-fired generation, 1,000 TPD, 100 feet-300 feet.

New gasoline and fuel oil refineries, 300,000 BPD, multiple source highest stack 200 feet.

Refinery expansions 100,000 BPD, multiple source highest stack 200 feet.

Oil shale, 50,000 BPD, multiple source highest stack 312 feet.

Gasification, 250 MMSCF/D, multiple source highest stack 300 feet.

Copper smelters, 1,500 TPD, 500 feet-1,000 feet.

Mr. BUCKLEY. Mr. President, as my colleagues know by now, the Circuit Court of Appeals for the District of Columbia yesterday affirmed the existing Environmental Protection Agency regulations to prevent significant deterioration of air quality.

I shall not take the time of the Senate to quote the clear and strong views of the court. But I would like to make two points, as they relate to the decision:

The court found the philosophy of preventing significant deterioration a reasonable and necessary one. And the court, by making this decision, underlined for the Senate the existence of the present regulations.

Thus, as the Senate confronts a decision on the Moss amendment, we have a choice: Do we want the country to be subject to bureaucratic regulations and EPA source review, or do we want to replace that with a carefully defined and reasonable statutory policy. The latter, I believe, is wise public policy. I, therefore, urge the Senate to defeat the Moss amendment.

Mr. EAGLETON. Mr. President, ever since it was introduced 4 months ago, the Moss amendment to delete the nondeterioration provision of S. 3219 has been the subject of intensive debate and lobbying. Serious questions have been raised about the economic and energy impact of such a program and, frankly, I do not believe those questions have been fully answered.

Clearly, we cannot afford to pursue one objective, no matter how worthy, without concern for competing values. And, I think we have to recognize that, increasingly, our environmental programs collide with economic and energy goals. How serious that impact will be and what mitigating steps might have to be taken are matters that will require continuing attention.

I am not persuaded, however, that the existence of unanswered questions should be the basis for abandoning a key program in our effort to provide a healthy environment. It is not enough that we clean up the air after it has been polluted to dangerous levels. I think we must take reasonable preventative measures, as well.

I have no doubt that was the intent of Congress in 1967 and 1970 when it established the broad public policy of protecting and enhancing the quality of our air, and the courts have so ruled. Unfortunately, Congress did not provide specific guidelines for a nondegradation program, and the Environmental Protection Agency, acting under court order, has been left with enormous, unrestrained discretion to write its own program.

That situation led in 1973 to demands by industry and the administration for congressional action exemplified by the following statement by Carl Bagge, representing the National Coal Association at a July 1973 Senate hearing:

> This is far too significant an issue to be determined by the judiciary. Its economic and social implications are so broad that it cannot and should not be determined by an independent regulatory agency in a rulemaking proceeding as has been proposed. This is an issue which can only be resolved . . . by the Congress of the United States.

The Senate Public Works Committee responded to these entreaties by adopting guidelines for a nondegradation program. Those guidelines shift primary responsibility for administering the standards to the States and they substantially reduce the number of areas which automatically would be designated class I.

The Moss amendment proposes to delete those guidelines from the bill and to withhold any congressional action until after completion of an economic and energy impact study. Significantly, however, Senator Moss does not propose to eliminate the court-ordered EPA program which would continue while the study proceeds and I understand he will oppose any effort to do that.

For all practical purposes, then, the choice is whether to allow EPA and the Federal courts to formulate a nondegradation program through regulations or to replace them with carefully considered congressional guidelines which reserve a preeminent role for the States. It was the view of all members of the Public Works Committee—majority and minority members alike—that Congress had to act.

While I am persuaded that there is a need for better understanding of the full implications of the nondegradation program and of the validity of the standards established by the act, I believe that some program is needed and that the Senate committee's approach is superior to that of EPA. For that reason, I support the committee position against the Moss amendment. I will also vote for the proposal for a careful study of these questions, and I am prepared to support any changes in the act which that study indicates are necessary.

Mr. FANNIN. Mr. President, during earlier debate, the distinguished Senator from Idaho and I engaged in discussion on the sovereignty of State permits. Because we did not reach agreement, I would like to ask my colleague further questions. If the permit applicant meets the class I increments, but a Federal land manager is not satisfied, who makes the final permit decision?

Mr. McCLURE. The State makes the final permit decision. Both the committee bill and the report attest to that. There is language in the report, however, which might be used to argue otherwise. I refer to the phrase, "and certify to that effect before the State may issue a permit." This language, however, must be viewed in context with the actual bill language, "to the satisfaction of the State.". Furthermore, the floor manager, Senator MUSKIE, stated explicitly on the floor that, "The State makes the decision as to whether or not he is right," in referring to the FLM decision. As Senator MUSKIE said:

> The State has the option under this bill to decide that he is wrong and to proceed with its decision.

Mr. FANNIN. If the permit applicant does not meet the class I increment, but the State feels there would be no adverse impact on the air-quality related values, may the State grant a permit over a Federal land manager's objection?

Mr. McCLURE. Yes, the State may grant a permit over the FLM objection. Again referring to the floor manager's statement—

> The Federal Land manager has the responsibility to protect his area's clean air values.

If he feels that it is necessary for him to intervene, then he is obligated to do so. But, the final decision still rests with the State.

Mr. NUNN. Will the Senator yield?

Mr. MUSKIE. I am delighted to yield to the Senator from Georgia for a question.

Mr. NUNN. I thank the Senator. Is it not true that, at the present time, EPA has regulations which implement a nondeterioration program?

Mr. MUSKIE. Yes, that is correct.

Mr. NUNN. Is it not also true that if section 6 of the pending bill is struck, these EPA nondeterioration regulations will remain?

Mr. MUSKIE. That would be the situation.

Mr. NUNN. Is it not true that the allowable air quality increments for class I and class II are the same under EPA regulations and under the Senate proposal?

Mr. MUSKIE. Yes.

Mr. NUNN. Furthermore, is it not true that under EPA regulations, any redesignations from the present class II to the stricter class I or the more lenient class III are subject to Federal approval and control?

Mr. MUSKIE. The Senator from Georgia is again correct.

Mr. NUNN. Is it not also true that under the pending bill, such reclassification is left to the discretion of the individual States?

Mr. MUSKIE. That would be the effect of the committee's bill.

Mr. NUNN. It is also my understanding that under EPA regulations, industry may not build in or near a class I area if it cannot meet the class I incremental scheme?

Mr. MUSKIE. Yes, the Senator understands correctly.

Mr. NUNN. Is it not true that under the pending bill, an industry may build near class I area, even if the increments are exceeded, if the State is convinced that this will not impair the air-quality values in the class I area?

Mr. MUSKIE. That is also true.

Mr. NUNN. Mr. President, it would then appear to the Senator from Georgia, that, since the incremental standards are the same under both the Senate bill and the EPA regulations, the major difference involves the individual State's ability to better control the decisions involving a balance between clean air and necessary industrial growth. If section 6 is struck, as the Moss amendment would do, we would be left with the EPA regulations which do not allow this increased State participation. I thank the distinguished Senator from Maine.

Mr. TAFT. Mr. President, I have long believed in a commitment to cleaner air in our environment. I believe that we can proceed with a policy of no major significant deterioration and still continue to progress and grow as a Nation. I believe the bill without the Moss amendment will do this. This policy must be implemented by the States in such a way so as not to prevent growth or to cause economic depression, and I believe this can be accomplished. That is why I support the committee bill, S. 3219, over the Moss amendment, and the EPA regulations.

The Moss amendment would delete section 6 of the bill, the significant deterioration section, in favor of leaving standing the EPA regulations which were promulgated as a result of the court decision in Sierra Club against Ruckelshaus, and which were affirmed by the U.S. Court of Appeals for the District yesterday. Industrial groups, environmentalists, and the executive branch have asked that the Congress legislate the issue of nondegradation, rather than leave it to the regulations to define. After many studies and many markup sessions, the Senate Public Works Committee has written a bill which sets general standards and gives responsibilities for protecting air quality to the States, instead of letting the Federal Government dictate how our land will be used. Under the bill's provisions, National parks and wilderness areas of over 5,000 acres would be protected from the deterioration of their air quality. This is as it should be. The EPA regulations would permit the Federal land manager to designate any Federal area as a class I area.

We all realize that "clean air" areas

are becoming harder to find, just when many Americans are seeking more of these areas closer to their hometowns and cities. The quality of life is too important for us to allow our clean air areas to become dirty. We have spent too much time, effort, and money cleaning up the areas which already have dirty air, and now we are asking whether we should allow the few areas which are considered clean to become dirty. It is a ridiculous question.

The significant deterioration test in the bill affects only new, major industrial sources. It does not preclude construction of major facilities in areas adjacent to class I areas. If a proposed source would exceed the class I pollution increments, it may still be built if the source can show that its emissions will not damage the air quality values of the park or wilderness area. This determination would be made on a case-by-case basis. Under this bill, businesses will know the rules by which they can construct new plants, rather than relying on regulations tied up in the courts indefinitely.

The Senate has defeated the Scott amendment, which would have struck down the policy of nondegradation both in the EPA regulations and in section 6 of S. 3219. Therefore, the Senate now must choose between the nondegradation policy in the regulations or in the bill. The bill provides flexibility for the States to determine where major facilities should be built.

The committee bill sets up the National Commission on Air Quality to study and report to the Congress within 3 years on the adequacy of the clean air programs. I believe this continuing review of the program, to assure that appropriate "midcourse corrections" can be made if necessary, is important. Senator Randolph has an amendment to mandate this study within 2 years, and I expect to support that amendment.

Mr. President, I ask unanimous consent to have printed in the Record an article entitled "Keep Clean Air Clean," published in the Cleveland Plain Dealer on June 2, 1976.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the Plain Dealer, June 29, 1976]

Keep Clean Air Clean

Any day now, a bill to amend the Clean Air Act of 1970 will come up for a vote in the U.S. Senate. An important provision for relaxing pollution emission deadlines appears pretty much a compromise: In the environmentalist view, it goes too far; in the view of the Ford administration and industry, it does not go far enough.

Another important provision remains highly controversial. This section, written by the Senate Public Works Committee, is intended to maintain air purity in areas of the country which have cleaner air than required by the 1970 standards—in other words, to establish a policy of "nondegradation" for air quality in these areas.

This feature would protect national parks and wilderness areas. Also, it aims to assure that new growth within the nation be as clean as possible, and that air will not become equally dirty throughout the country.

These are reasonable goals. They do not, as many opponents allege, seek to stifle industrial and economic progress and impose new federal land-use rules. The "nondegradation" proposal would have states, not the federal government, determine in which of two classifications clean-air areas belong, except that national parks and wilderness areas would automatically go into Class I where the most strict standards would apply. Industries would have to be located far enough away to avoid contamination of the park and wilderness properties.

Sen. Frank Moss, whose home state of Utah has vast energy resources located near national parks, opposes this. He has introduced an amendment to delay nondegradation, pending an impact study. In effect, this would kill the best effort yet to keep clean air clean.

The United States has made significant strides toward air quality improvement. It would make no sense now to let this progress be offset by allowing clean air regions to become dirty. Especially is this true in the case of national parks and wilderness areas which are among the all too few places where Americans can go to find wildlife in natural habitat, see clear, clean skies and draw full breaths of pure, fresh air.

Senators should be so reminded and vote for nondegradation and the health and welfare of their fellowman.

The PRESIDING OFFICER. Time has expired. The question is on agreeing to the amendment.

Mr. MOSS. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The question is on agreeing to the Moss amendment. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

The PRESIDING OFFICER. The clerk will suspend until we have order in the Chamber. Senators have a right to hear their names called.

The assistant legislative clerk resumed and concluded the call of the roll.

Mr. LONG (when his name was called). Mr. President, on this vote I have a pair with the distinguished Senator from California (Mr. Tunney). If he were present and voting, he would vote "nay." If I were permitted to vote, I would vote "yea." I withhold my vote.

Mr. ROBERT C. BYRD. I announce that the Senator from Hawaii (Mr. Inouye), the Senator from South Dakota (Mr. McGovern), the Senator from Missouri (Mr. Symington), and the Senator from California (Mr. Tunney) are necessarily absent.

Mr. GRIFFIN. I announce that the Senator from Nebraska (Mr. Curtis) is necessarily absent.

I further announce that, if present and voting, the Senator from Nebraska (Mr. Curtis) would vote "nay."

The result was announced—yeas 31, nays 63, as follows:

[Rollcall Vote No. 455 Leg.]

YEAS—31

Allen
Bartlett
Bentsen
Brock
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Dole
Eastland
Fannin
Ford
Garn
Goldwater
Griffin
Helms
Hollings
Hruska
Huddleston
Johnston
Laxalt
McClellan
Metcalf
Moss
Schweiker
Sparkman
Stennis
Stone
Talmadge
Thurmond
Tower
Young

NAYS—63

Abourezk
Baker
Bayh
Beall
Bellmon
Biden
Brooke
Buckley
Bumpers
Burdick
Case
Chiles
Church
Clark
Cranston
Culver
Domenici
Durkin
Eagleton
Fong
Glenn
Gravel
Hansen
Hart, Gary
Hart, Philip A.
Hartke
Haskell
Hatfield
Hathaway
Humphrey
Jackson
Javits
Kennedy
Leahy
Magnuson
Mansfield
Mathias
McClure
McGee
McIntyre
Mondale
Montoya
Morgan
Muskie
Nelson
Nunn
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Scott, Hugh
Scott, William L.
Stafford
Stevens
Stevenson
Taft
Weicker
Williams

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Long, for.

NOT VOTING—5

Curtis
Inouye
McGovern
Symington
Tunney

So Mr. MOSS' amendment was rejected.

Mr. MUSKIE. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. BUCKLEY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ADDITIONAL STATEMENTS SUBMITTED ON S. 3219

Mr. BUMPERS. Mr. President, this week the Senate will be considering the 1976 Amendments to the Clean Air Act. I would like to comment briefly on what is likely to be the most strongly debated section of those amendments, namely section 6, the nondeterioration provision. Many have spoken on this issue during the past several months.

In particular, I would refer Members to the excellent technical statements in support of the nondeterioration provision by Senators Muskie and Buckley of the Public Works Committee. There is little that I can add to their excellent refutation of the arguments advanced by some that this provision is a prescription for "no-growth."

I would, however, like to bring to your attention some additional information, and reasons why I feel the maintenance of clean air regions in this country to be essential.

Last fall, the Honorable George Brown of California held a most sophisticated and impressive set of hearings on the effects of chronic low level pollutants in the atmosphere. The hearing record ran to some 1,500 pages, and came to some important and surprising conclusions. The most significant and disturbing findings were in the area of low level air pollutant damage to our agriculture and forests. Let me quote directly from the summary of the report—page 1022:

> The agriculture and forestry groups agreed that large-scale damage to productivity is occurring at *pollutant concentrations much below ambient standards or commonly observed ambient levels.* Moreover, damage is widespread and often not related to proximity to sources of pollutant emissions." (Emphasis added.)

This conclusion is consistent with recent findings of decreased timber production in the Northeastern States and in the Scandinavian countries. In both these regions the decline in timber productivity is highly correlated with the introduction of high sulfur fuels, and the increasingly acid rainfall which appears to be a consequence of their use. The Society of American Foresters make an especially pertinent comment on this matter when they state:

> There is legitimate concern that limits of ambient pollution in local areas leads toward "tall stack" solutions that only tend to distribute the problems of chronic pollution and acidic precipitation over ever widening zones. . . . And there is need to avoid mere cosmetic emission control of particulates, at the expense of creating more invisibles that create chronic air pollution and acid rain.

Mr. President, only this morning I returned from my home State of Arkansas, a State which I am pleased to say, still contains many large regions whose air quality would be protected by the nondeterioration provisions of this act. While I was home, there was much discussion about the impact the nondeterioration provision will have on our industry. I came away convinced that the class II regions permit more than adequate industrial growth for Arkansas.

More to the point is the fact that the nondeterioration provision is critical to the economic well-being of my State. The top three revenue producers in Arkansas are forestry-agriculture, tourism, and industrial-manufacturing. I have already spoken to the adverse impact of chronic low level air pollutants on forestry and agriculture. Tourism in Arkansas is also highly dependent upon our abundant clean air and water resources, as is our growing housing industry. Both younger people and the retired are flocking to Arkansas to escape more developed, environmentally degraded regions of the country.

The point may legitimately be raised that if Arkansas is so anxious to have clean air, why do we not just go ahead and promulgate nondeterioration provisions for yourselves, and leave the rest of you alone. The best answer which I can provide to this challenge is that prepared by the 16 States that filed a brief as amici curiae in the Supreme Court case Ruckelshaus against Sierra Club in support of the nondeterioration principle.

> The Administration promulgated the criteria for protection of existing high quality air as a requirement of the ambient air quality standards in 40 U.S.C. 50.2(c) (Supp. 1972), which provides that air of higher quality than the ambient air quality standards shall be protected from significant deterioration. This requirement of no significant deterioration is essential to the promotion of both the public health and welfare and the productive capacity of the population.
>
> The protection of air resources requires a uniform national requirement of no significant deterioration. Such a requirement protects the air quality in rural areas from being polluted down to the minimum quality level of the standards. It protects the traditional economic base of these areas from the destructive effects of pollution levels at or near the standards. It prevents these areas from attempting to attract industry by enacting lenient emission control requirements that encourage pollution to the minimum quality levels of the standards. It also protects those states that have developed no significant deterioration criteria from the pollution of their neighboring states.
>
> The Administrator's failure to require that state implementation plans protect clean air from significant deterioration frustrates and defeats the purpose of the Act. It results in clean air areas of the country being placed in the position of competing for industrial development by lenient emission control requirements that encourage pollution to the level of the standards. It threatens the economic security of clean air areas that are dependent upon industries that depend on the high quality air resources. It threatens the economic security of the industrial centers of the nation by making it difficult for them to compete for new industry and to develop stringent regulations to clean up their existing industry. It frustrates the efforts of states to protect their own resources from significant deterioration.

In other words, Arkansas and other clean air States need to have their air protected from emissions originating in other States, and, second, we need to avoid the destructive practice of trying to lure industry from one State or one region to another by permitting some States to promise less stringent air quality standards.

Now, I am aware that the proposed nondeterioration standards will mean that greater attention will have to be given to siting of new emitting facilities. There will unquestionably be some increase in the cost of electricity and manufactured goods. By the same token there will be jobs and investment opportunities created to meet the task of meeting these stricter standards.

I might add also that it is usually a good deal less expensive to prevent this pollution and the damage it can cause, than it is to clean up after a power plant or factory has been built.

Finally, I recognize that we need to burn more coal for electrical power generation, and the costs of stricter controls required under section 6 will fall heavily on this particular source. In fact, for those of us concerned about nuclear power, this provision may shift the balance a bit more in favor of that source economically. All of these problems are, in my view, worth the price we must pay to maintain the quality of our air in clean air States like Arkansas.

There are those who claim that we need more time to determine the consequences of enacting the nondeterioration provision. Others state that we need to be more certain of the "proof of effect" before we enact this legislation. Finally, others argue that after all, nature pollutes some clean air areas so why should not we let people pollute these areas as well?

I think we are courting disaster if we follow any of this counsel. These points are well addressed by the House report to which I referred earlier.

> In some cases totally verifiable cause-and-effect evidence for harm due to chronic pollution may be impossible to obtain; even though the potential danger is very great. In these cases, several groups recommended that standard setting be based on probability of risk, rather than 'proof-of-effect.' The American Medical Association, citing the difficulties in obtaining epidemiological evidence and the long time span required, stressed that, 'Ideally, the basis of standards should move from proven effects to probabilities of risk. To do this, the nation will have to improve its capabilities to evaluate the probability of risk.' Similarly, in the field of forestry, 'There is concern in the forestry community that a shift toward "proof-of-effect assessments" as a basis for emission control is short-sighted and could be disastrous to forest ecosystems where we cannot make adequate estimates of pollution impacts and where the effects might not become evident until long after emissions have begun.' "

Finally, I see the nondeterioration provisions of this act as providing the only hope we have for maintaining the diversity of air quality options which the people of this Nation deserve. As people exercise their options by moving to clean air regions, the nondeterioration provisions of this act will also guarantee that the very values which they moved for will not be destroyed by their coming.

Mr. President, I ask unanimous consent that there be printed the summary of statements received at the hearings on effects of chronic pollution chaired by the Honorable George Brown of California, and the accompanying statement by the Society of American Foresters.

There being no objection, the material was ordered to be printed in the Record, as follows:

Summary of Statements Received From Professional Societies for the Hearings on Effects of Chronic Pollution

Congressman George Brown's Subcommittee on the Environment and the Atmosphere solicited contributions from a large number of professional societies. The goal was to broaden the information base of the normal Congressional hearing procedure, and to bring the best and most timely scientific information available into the political decision making process. By inviting the societies to use any convenient working method—task forces, questionaires, review panels, collecting individual scientists' statements, etc.—Congressman George Brown and his Subcommittee hoped to set up a model for rapid, informal input of professional society expertise in questions of public policy.

The material submitted by the societies far transcended, in depth and policy impact, what could possibly have been obtained in ordinary hearing proceedings. Much of the material was not, only generated but also reviewed by the most authoritative leaders in the fields of health, agriculture and meteorology, and thus represents the highest consensus of scientific opinion as to critical problems in this area. The following points represent some of the most strongly stated common themes of these contributions.

(1) *Assessing the effects of pollution in the chronic, low-level range is a much neglected area.* Though contributors from almost all areas—health, agriculture, general ecology, and meteorology—agreed on the possibly enormous costs and complexities of chronic effects, most observed that the resources seemed to be inevitably directed toward short-term crises. The levels of uncertainty regarding low-level pollutants are extremely high, and research programs are very often not targeted towards resolving these uncertainties.

(2) *Lack of coordination among Federal agencies in this inherently interdisciplinary area has made solid research progress almost impossible.* The American Society of Agronomy stressed, "We in Agriculture have been frustrated by the lack of sufficient research in the Health Effects Branch of EPA. We find the environmental health research effort is too small and is fragmented among, EPA, NIH, and FDA." The American Fisheries Society similarly emphasized that "there is a

great need to improve communication between scientists, regulatory groups, industry, and the general public on matters concerning health and the environment. The present structure of many regulatory groups responsible for various phases of environmental and health protection is causing confusion and frustration in the general public."

(3) *Monitoring of base-line and perturbed human, agricultural and biosphere health is essential to reaching an understanding of environmental pollutant threats to health in all these areas.* As a top priority recommendation, the American Phytophathological Society wrote, "To obtain information needed for revision of standards, date on pollutant concentrations . . . need to be obtained. Combined pollutant monitoring with instruments and plants should be done at strategic locations all over the country as a continuous check on the effectiveness of pollutant standards." Similar considerations apply to substances which may affect the total biosphere through affects on climate. An American Meteorological Society Committee emphasized that "it is essential that the global distribution of various trace chemical species in the stratosphere and troposphere be measured, monitored, and interpreted." And in human health itself, the American Society of Biological Chemists stressed that exposures to chemicals are so pervasive, and traditional cause-effect diagnoses of pollutant-caused disease are so ineffective in the chronic realm, that careful statistical analyses of health trends are essential to help us see the dangers we are inflicting on ourselves.

(4) *Transport, transformation and synergetic effects of trace pollutants may be the key to our understanding of their effects, and yet our research has tended to focus on their properties at the source of emission and in isolation from each other.* The A. B. Little Corporation, submitting a statement on behalf of Kennecott Copper, Phelps Dodge, and the Electric Power Research Institute, stressed that all health effects attributed to SO_2 emissions may actually be due to effects of SO_2 combined with other pollutants. The problems of widespread transport and dangerous transformation of pollutants was emphasized by the Society of American Foresters: "there is legitimate concern that limits of ambient pollution in local areas leads toward 'tall stack' solutions that only tend to distribute the problem of chronic pollution and acidic precipitation over ever-widening zones.—And there is need to avoid more cosmetic emission control of particulates, at the expense of creating more invisibles that result in chronic air pollution and acid rains."

(5) *In some cases totally verifiable cause-and-effect evidence for harm due to chronic pollution may be impossible to obtain; even though the potential danger is very great.* In these cases, several groups recommended that standard setting be based on *probability of risk,* rather than "proof-of-effect." The American Medical Association, citing the difficulties in obtaining epidemiological evidence and the long time span required, stressed that, "Ideally, the basis of standards should move from proven effects to probabilities of risk. To do this, the nation will have to improve its capabilities to evaluate the probability of risk." Similarly, in the field of forestry, "There is concern in the forestry community that a shift toward 'proof-of-effects assessments' as a basis for emission control is short-sighted and could be disastrous to forest ecosystems where we cannot make adequate estimates of pollution impacts and where the effects might not become evident until long after emissions have begun."

(6) *The research needed to answer the critical questions of effects of chronic pollutants must be of a long-term, steadily sustained, nature.* Because chronic pollution effects are inherently so complicated to assess, "crash programs" of strictly targeted research are not likely to be helpful. The American Society for Microbiology stressed the need to avoid crisis research, and that "better research and more data are needed to fill the gaps, on which to base new standards, and on which to make predictions." The Institute of Ecology sent the Subcommittee's questionnaire to 220 of its members, with more than 50 responses received. One of the strongest points made by the respondees was the following: "One of the most important [needed] changes involves the time-frame of research, monitoring and control activities. When we are dealing with chronic effects which may take decades to make their magnitude fully apparent, we must move beyond fiscal plans based on a two year cycle."

In the specific areas, starting with human health, the following needs were cited by numerous societies:

(1) Epidemiological studies need to be sharply expanded, better designed, and efforts of Federal, state, county and local agencies need to be much better coordinated in order to obtain a true picture of pollution threats to health. The American Medical Association wrote that, "there is no other way [than epidemiology] to obtain the needed dose-response or exposure-response relationships between complex urban atmospheres and specific health effects."

(2) General screening of mass produced chemicals for mutagenic and carcinogenic effects should be started at once. Numerous societies pointed out that rapid and inexpensive bacterial screening tests could be used as a preliminary alert of possible genetic effects of chemicals produced in large volumes, with more extensive animal testing to be used as a follow-up in suspicious cases, as mutagenic compounds are often carcinogenic as well.

(3) Trained manpower in epidemology and public environmental health is in short supply. Traditional medical curricula do not emphasize the statistical aspects of public health which are so important in evaluating environmental health threats.

In the area of agriculture, the following points were most strongly made:

(1) The agricultural and forestry groups agreed that large-scale damage to productivity is occurring at pollutant concentrations much below ambient standards or commonly observed ambient levels. Moreover, damage is widespread and often not related to proximity to sources of pollutant emissions.

(2) Research is most urgently needed in assessing the costs in agricultural productivity due to pollutants. This is especially critical as we move out of an era of agricultural surpluses, and is essential in striking proper cost-benefit balances in standard setting.

(3) In a particular area, that of using sewage sludge as fertilizer for agricultural land, lack of research data is causing confusion among both farmers and sewage authorities. The disposal of sewage sludge as fertilizer may be essential to the successful economics of some sewage treatment systems, but the conditions of safety of this procedure for land used for food crops is not established, and current research programs are not addressing the problem sufficiently.

In the area of possible climate effects due to chronic pollution, these two points were stressed:

(1) The costs of even small climate changes could be enormous, in terms of agricultural productivity alone. For this reason investment in global monitoring systems of climate trends, and of manmade or natural changes in the atmosphere components, could have a very high return in terms of critically needed data.

(2) In particular, there is near unanimity that carbon dioxide concentrations in the atmosphere are increasing rapidly. Though even the direction (warming or cooling) of the climate change to be caused by this is unknown, very profound changes in the balance of climate factors that determine temperature and rainfall on the earth are almost certain within 100 years. Monitoring programs started now, before the carbon dioxide effect begins to be substantial, could provide essential warnings of needed changes in human activity before disastrous effects occur.

Society of American Foresters,
Bethesda, Md., November 6, 1975.

Hon. George E. Brown, Jr.,
Chairman, subcommittee on the Environment and the Atmosphere, House of Representatives, Washington, D.C.

Dear Mr. Brown: In response to your letter of August 1, I am enclosing the requested statement on the interest of the Society of American Foresters in the consequences of chronic low-level pollution, along with some recent publications on the subject. The statement was prepared by the Society's Working Group on Forest Pathology. The authors were Professor William H. Smith, School of Forestry and Environmental Studies, Yale University, and Dr. Richard G. Krebill (Forest Service, USDA) Chairman, Forest Pathology Working Group, Society of American Forests.

Dr. Krebill has been in touch with Dr. Thomas Moss of your office concerning the coverage and timing of the statement, which is due in mid-November.

Sincerely yours,

John A. Beale,
President,
Society of American Foresters.

Effects of Chronic Low-Level Pollution on Forestry

A statement prepared by the Pathology Working Group of the Society of American Foresters for use of the Subcommittee on the Environment and the Atmosphere of the House Committee on Science and Technology, as requested by Congressman George E. Brown.

The forestry community as represented by the Society of American Foresters has a deep interest in the potential consequences of low-level, chronic air pollution.

We are gravely concerned about potential impacts of pollutants to forest ecosystems and about the potential indirect harmful effects to the numerous goods and services obtained from forest resources. Pollution was identified as one of the top five forestry issues facing us, in an opinion poll amongst our membership in 1974. Some of our thoughts are expressed on the following pages which are arranged according to the proposed Hearings outline.

Agriculture and the Biosphere

I. From the viewpoint of forestry, chronic, low-level pollutants are of considerable concern, but an area of such a limited information that it is possible to do little more than make educated guesses on the consequences. Depending on the kind of pollutant, its amount, the time it's present, and numerous other variables, the effect might vary from a stimulatory "fertilizer" effect, to an innocuous effect, to a subtle or significant loss in timber growth, to a loss of genetic diversity within sensitive forest species, to possible major changes in species composition and major upset in ecosystem functioning. Chronic effects of air contaminants on forest ecosystems may occur over expansive areas and be interstate or international in character.

In forestry, where it is customary to think in terms of life-spans of hundreds of years for forest trees and cutting cycles of several decades, it is recognized as especially important to consider long term consequences of pollutants and not to neglect some of the less conspicuous components. Certainly we need to address the photooxidants such as ozone and peroxyacetylnitrate, the sulfur oxides, the nitric oxides, the fluorides, ethylene, aldehydes, mercaptans, ammonia and heavy metals. But we also mustn't fix too tightly on particular pollutants, since the kinds and mixes are certain to change as man's cultures evolves. Take, for instance, the radioactive pollutants that have only recently entered into ecosystems and the fluorocarbons which are also new but of possible grave consequence if indeed they are destroying the UV-protective ozone layer in the stratosphere.

Part of the threat is direct reduction in photosynthesis and necrosis of tissues with accompanying loss of vitality and loss of growth in exposed trees. Over long periods of exposure to low-level pollutants, it is possible that the more sensitive portion of populations could be eliminated by direct effects of the pollutant. In some species such as eastern white pine, we know that there is considerable genetic variation with respect to sensitivity to air pollution. Both laboratory and field exposures indicate that chronic exposure to a single pollutant might remove a significant portion of the genetic makeup of an exposed population over a fairly short period. Exposure to another pollutant might have a similar impact, so that ultimately a series of exposures to chronic levels of new pollutants could greatly reduce the genetic diversity of a species. (See Dochinger 1972 and Hepting 1964).

Added to direct effects of chronic pollution in trees are indirect effects such as possible increases in susceptibility to insects and diseases. Insects such as bark beetles and diseases such a root rots are known to attack and kill trees weakened by air pollution. For instance, much of the loss in ponderosa pine in the San Bernardino Mountains of southern California is from the western and mountain pine beetles and from annosus root rot that attack pollution-weakened trees. Another item of major concern in forests is the long-term effect on competition amongst species and on reproduction capacity. In the San Bernardino Mountains, for instance, it appears that incense cedar and black oak remain prolific and in other ways less sensitive to photo-oxidant pollution than does ponderosa pine. With continued pollution, the forest is changing from ponderosa pine toward incense cedar and oak. Shrubs are apparently even less sensitive and win out on many sites. In either case, an adverse change in forest type occurs. (See Miller 1973).

Indirect effects can be very subtle. For instance, bees are quite sensitive to sulfur dioxide, and many plant species are dependent upon bees for pollination.

Maintenance of a healthy ecosystem requires a continuing input of nitrogen to replace that which is lost, such as to ground water and to the atmosphere. Much of the nitrogen comes through biological fixation by specialized plants or bacteria. In wet Douglas-fir forests, for instance, blue-green algae of lichens contribute an important portion of the nitrogen input. Unfortunately, lichens and possibly some of the other nitrogen fixers are suspected of being especially sensitive to pollutants. The long term consequence of chronic pollution could be a much less productive system.

The threat of air pollution as a precursor of acidic precipitation is especially great for fragile ecosystems of higher elevations and latitudes and especially in the aquatic environment of lakes and streams. Considerable data is being gained in southern Norway and Sweden, where it appears that pollutants originating across western Europe are transported with storms, transformed into acids, and entering ecosystems as acidic precipitation. Much is in the form of snowfall; acids concentrate in snowpacks so that early runoff is extremely acidic. The effect is dramatic to fish and most other aquatic organisms. Many former trout fisheries are now barren except for tolerant fungi and sphagnum moss. Salmon runs, too, are diminishing in many impacted rivers. And the Scandinavian scientists express a major concern that the acidic precipitation is leaching nutrients needed for sustained forest growth. We share their concern and are alarmed by early warnings, such as in the White Mountains of New Hampshire where we are experiencing early stages of the same phenomena (see Abstracts of Acid Precipitation Symposium—Columbus, Ohio, May 1975).

And there is also concern within the forestry community that we might overreact to air pollution and hastily exclude beneficial forest burning in the name of preventing air pollution. Fire is considered by the experts as part of the natural process by which forests have evolved. Prescribed burning has many highly desirable features such as releasing nutrients from dead materials, reducing hazards of catastrophic wildfires and reducing competition of understory brush species. And smoke from forest burning is not toxic to vegetation and in fact, likely has an important role in maintaining beneficial microorganisms at the expense of pathogens such as rust fungi (see Parmeter and Uhrenholdt, 1975).

Of course, when handled improperly, smoke from forest burning is an esthetic nuisance and irritating to man. But when handled under proper meteorological conditions, smoke can be directed away from habitation and result ultimately in a beneficial nutrient fallout or washout. The strongest point for prescription burning is that it reduces fuels and thereby limits chances of devastating conflagrations. Even with the best of fire control efforts, such fires occur and produce enormous loading of smoke to the air, and often where and when the smoke is needed least. Much of this can be avoided through educated prescribed burning.

II, III, IV. Air pollution has had, is having, and will continue to have an influence on forest ecosystems throughout the temperate regions of the world in both rural and urban locations. The nature of this relationship can be divided into three classes.

Under conditions of low dosage, Class I relationship, the vegetation and soils of forest ecosystems presumably function as a very important sink for air contaminants. When exposed to intermediate dosage, Class II relationship, individual tree species or individual members of a given species may be adversely and subtly affected by nutrient stress, reduced photosynthetic or reproductive rate, predisposition to entomological or microbial stress, or direct disease induction. Exposure to high dosage, Class III relationship, may induce acute morbidity or mortality of specific trees. The ecosystem impact of these various relationships would be very variable (Table 1). In the Class I relationship, pollutants would be transferred from the atmospheric compartment to the biotic (organic) or available nutrient compartments. Depending on the nature of the pollutant, the ecosystem impact of this transfer could be undetectable (innocuous effect?) or stimulatory (fertilizing effect).

If the effect of air pollution exposure on some component of the ecosystem biota is inimical then a Class II relationship is established. The ecosystem impact in this instance could include reduced productivity or biomass, shifts in species composition, increased secondary effects such as insect outbreaks or disease epidemics or increased morbidity and reduced vigor. The ecosystem impacts of Class II relationships are extraordinarily important because of their potentially widespread significance. Taken together, the Class I and II relationships comprise the chronic low-level air pollution-forest ecosystem relationship.

In the presence of high air pollution dosage, Class III relationship, impact on the structure of the ecosystem may be gross simplification and disturbances to the function of the ecosystem may include basic changes in hydrology, nutrient cycling, erosion, microclimate and overall stability. Specific examples in all of these classes are presented in Smith (1974).

A more complicated situation occurs with pollutants such as fluorocarbons, where the concern is not the direct exposure but rather the uncertain hypothesized effect on the stratospheric ozone layer and the resultant effect of increased ultraviolet radiation received at ground line. Through measurement and modeling it appears possible to predict the physical effect, but the biological consequences of an altered UV regime is a great unknown. Somewhat akin to this is the acidic precipitation problem where again it is not direct exposure to a pollutant that is of concern.

While these numerous ecosystem impacts resulting from air pollution stress have been identified, few have been quantified in the field. We are especially deficient in our ability to generally assess Class I and II relationships. This hiatus of knowledge is due to several factors in addition to the obvious difficulty of making accurate measurements of subtle processes in expansive and frequently remote forest ecosystems. Among the most important factors are: (1) the extraordinarily variable response different plant species and individuals within species have to individual air pollutants, (2) the strong controlling influence that local edaphic, topographic and meteorological conditions exert on plant response to air contaminants, (3) the fact that numerous tree species and most forest shrub and herb species have not been evaluated in regard to response to air pollutants, (4) the realization that most of our data stems from studies with a very few pollutants reacted singly and that some gaseous and particulate contaminants and mixtures of pollutants have received little research attention, (5) that much of the research has been conducted employing air pollution dosages in considerable excess of ambient forest levels, and that (6) most of the investigations have been carried out under highly controlled and hence artificial environments. These six difficulties must be taken into consideration in future research.

V. Research should concentrate on Class I and II relationships as these are considerably more significant than Class III situations. With the recognized deficiencies in our information, we can speculate on the total impact of air pollution on forest ecosystems, but presently we cannot model or quantify it. Research whose results will detail the relationships between air pollution and forest ecosystems *must* be given high priority because of the size and significance of these ecosystems in temperate and urban regions and the numerous potentially damaging interactions that have been identified.

The following research problems are considered critical for an acceptable understanding of the relationship between air pollution and trees.

1. Dose-response information on visible (symptomatic) response with experiments appropriately designed to accommodate and consider the influence of genetic factors, environmental factors and interaction of air contaminants.

2. Dose-response information on invisible (asymptomatic) response, including an evaluation of the ability of air pollution stress to reduce growth and influence reproduction.

3. Analysis of the ability of air pollution stress to predispose or aggravate stresses caused by insect, microbial or other abiotic stresses.

4. Determine direct and indirect effects of

various chronic pollutants on birds, wildlife, esthetics, etc. in forest ecosystems.

5. Development of accurate, simple and reproducible methodology to identify and inventory visible (symptomatic) injury in the field.

6. Determine the physiological and biochemical bases of air pollution stress.

7. Determine effects of increased ultraviolet radiation to forest species.

8. Develop models to integrate effects and generate impact data for various doses of an array of the more significant pollutants in representative forest ecosystems.

9. Develop reliable and economically sound cultural procedures for protecting valuable trees and forests where chronic air pollution is inevitable.

10. Determine the usefulness of the use of resistant varieties to reduce air pollution stress of trees.

11. Determine ability of woody plants to reduce atmospheric contamination.

To answer these many questions, acceleration of research on chronic air pollution in forests is needed in both the resource-oriented agencies and the universities. Both are well suited for these kinds of research and realize that the continuation of forestry may be at stake.

VI. There is concern in the forestry community that a shift toward "proof-of-effects assessments" as a basis for emission control is short-sighted and could be disastrous to forest ecosystems where we cannot make adequate estimates of pollution impacts and where the effects might not become evident until long after emissions have begun. One problem is that it is nearly impossible to set a limit for pollutants such as fluorides that continue to accumulate in living plants until they become toxic. Another problem is that ambient levels have no direct relations to problems such as acidic precipitation or reduction of our UV shield in the stratosphere.

In fact, there is legitimate concern that limits of ambient pollution in local areas leads toward "tall stack" solutions that only tend to distribute the problem of chronic pollution and acidic precipitation over ever-widening zones. There is also concern that standards that limit a particular pollutant such as SO_2, can result in increased emissions of the reactive sulfates that can be equally, if not more harmful. Over the long haul pollution can only be adequately handled by control of emissions or by substitute technology with lesser pollution potential. And there is need to avoid mere cosmetic emission control of particulates, at the expense of creating more invisibles that result in chronic air pollution and acid rains.

Our current Clean Air legislation is good, even if difficult to implement. It is criticized by some as being conservative, but for the sake of our forests it is certainly better to err on the safe side. What is needed more than major new legislation is a stronger committment to developing an adequate understanding of pollution and its consequences, and a continuing commitment to regaining and preserving a more natural atmospheric environment. Standard-setting could include greater exposure to the public, and it would be beneficial to expose draft standards and regulations to vitally interested groups such as the professional natural resource societies.

Mr. BEALL. Mr. President, the Clean Air Act, as reported from the Public Works Committee, reflects a continuing desire and commitment on the part of the Senate to protect our Nation's environment. Many provisions contained in the bill are far reaching and, by their very nature controversial. But in my judgment, no portion of the bill is more important to the air quality of this Nation than section 6, "no significant deterioration."

Over the last few months, much evidence on both sides of the issue has been presented to me regarding the nondegradation provisions. I have carefully weighed these arguments, both from an environmental and economic point of view, and have concluded that a national policy of nondegradation in "clean" areas is a desirable and necessary step. Therefore, I support section 6, and oppose the Moss amendment.

We have made tremendous strides in recent years in cleaning up our Nation's air, but we still have a long way to go. The Congress, in setting up air quality standards based on health, did not mean that industry should have a green light to flirt with these thresholds. Rather, we have set minimum standards which must be met, and which will serve as a takeoff point for future efforts. I am deeply concerned that unless we clearly require that clean areas stay clean, we will have a gradual deterioration in our national air quality. We will, in short, be going backward instead of forward in our clean air effort.

Section 6 simply says that, in areas which have achieved ambient air standards, the air quality of the area may not deteriorate beyond certain specified increments. It does not apply to areas which have not acheived those standards. Section 6 also only applies to major emitters, and gives the States, not the Federal Government, primary responsibility and authority for implementation of the act on a case-by-case basis. Finally, the section would affect only new, not existing, sources.

Those who support the Moss amendment language calling for a study of the matter before implementation of the nondeterioration language argue that we do not know the full impact of that section. Yet the fact is that there have been many studies already conducted on the possible impact of nondeterioration. The Environmental Protection Agency alone has spent about $1 million on at least 21 nondeterioration studies. Additionally, private groups have done at least 23 studies on the Senate proposals. The Moss amendment would only continue the existing confusion, and delay significantly the development of a clear national policy on nondeterioration.

However, I fully recognize that the Senate has a responsibility to closely follow the effect of implementation of section 6, and thus I support the amendment offered by Senator RANDOLPH which allows section 6 to go into effect, but directs a national Commission on Air Quality to report back in 2 years on the impact of the nondeterioration section. If adjustments need to be made, this study will indicate them, and the Congress can act accordingly.

We must commit ourselves not only to cleaning up dirty air, but also protecting clean air from getting dirtier.

Therefore, I urge my colleagues to support this commitment by defeating the Moss amendment.

Mr. DOLE. Mr. President, as our Nation heads into the last quarter of this century, we are faced with a host of competing national goals including energy development, full economic recovery, and environmental protection. While efforts to accomplish these goals need not necessarily be mutually exclusive, we are working with limited resources and often with contradictory values. Consequently, all aspects of each of these goals must be thoroughly examined and weighed against each other so that we may have a workable program, composed of relative priorities, as national development proceeds in the future.

NONDETERIORATION PERMIT PROGRAM

Certainly, the effort to sustain the quality of the air we breathe has been, and will continue to be, a matter of primary attention and importance. For concentrated industrial areas, this will involve an effort to clean up ambient air quality to the extent possible, while for relatively "clean" areas like Kansas, the effort will involve a reasonable approach to maintaining healthy air standards in the face of future development. Air quality maintenance must be a principal environmental goal of this Nation. Yet, the approach to this goal must be practical and well-balanced.

In order to facilitate a coordinated approach to air quality management, Congress has, during the last 10 years, initiated legislative guidelines to cover several aspects of air quality management. While recognizing that States and localities must exercise a large share of responsibility in regulating air quality, Congress has nevertheless sought to provide the stimulus and the encouragement for active management programs, and I have supported these legislative initiatives in the past.

Most recently, in 1970, Congress established "public health and welfare" standards—air quality levels for public safety which "dirty" areas were encouraged to work toward. At the same time, the 1970 clean air legislation established a national mandate to "protect and enhance the quality of the Nation's air resources." A subsequent interpretation of that language by the Supreme Court—on a four-to-four decision—has led to a more concrete formulation of a "nondeterioration concept" for clean air areas which, although not specifically spelled out by Congress in 1970, is nevertheless clearly within the spirit of that act.

To comply with the Court's determination, the Environmental Protection Agency promulgated "nondeterioration" regulations—in January 1975—which statutorily limit the degrees of air quality deterioration caused by industry that will be allowed in clean air States like Kansas. Those regulations established three permissible classifications for air quality, including a "class III" category to allow the States to designate certain specific regions where industry could aggregate and where deterioration up to the public health and welfare standards would be permitted.

However, those EPA regulations have been challenged in Court. As a result, Congress has been asked to clarify its intentions for the nondeterioration permit program during work on clean air act amendments this year. Needless to say, there has been a good deal of dispute about the precise nature which such a program should have. The Senate Public Works Committee has issued its recommendation and, while representing a good deal of careful study and consideration, it leaves a number of critical questions unanswered. I want to briefly state my feelings about that report, and the direction in which I feel Congress should move on this issue at the present time.

FOCUS ON COMMITTEE BILL

I commend the Senate Public Works Committee for giving the individual States a predominant role in administering the proposed nondeterioration permit program. In order to mitigate the extent of Federal interference in local land-use planning, the committee correctly recognized that the primary responsibility for implementation and oversight of this permit program should rest with the States. At the same time, the committee has recommended that the States determine for themselves exactly what constitutes "best available control technology" with respect to industrial applications for local expansion or new development. To this extent, the members of the committee have sought to assure a reasonable level of local and State input into the nondeterioration planning process, and I certainly agree with this frame of thought.

There is another point on which I am in general agreement with the committee, and that is in regard to the need for Congress to express itself more explicitly and affirmatively on the nondeterioration issue. The ambiguous and imprecise language contained within the 1970 act needs to be clarified, and this should rightfully be done through legislative action rather than solely through court rulings or administrative regulations. Neither delay for the sake of delay, nor avoidance of the issue by Congress will serve the best interests of either the general public or of industry. But despite my outlook on this point, I do feel that there are a sufficient number of unanswered questions about the administration of the nondeterioration program and its potential impacts that make further study not only desirable, but absolutely necessary for an intelligent resolution of this issue.

For one thing, I am concerned that the Senate committee's bill does not allow for a "class III" category permitting the States to designate certain regions for concentration of industry while still protecting the public health and welfare. Unlike the EPA regulations now in force, the provisions of this bill allow only for extremely restricted development in "class II" areas which comprise all land in the United States except for international and national park areas designated as "class I." Development in class II areas would be significantly limited by standards permitting only small "increments" of air quality deterioration which bear no relationship at all to the "public health and welfare" standards established by Congress in 1970. The impact of this arbitrary national standard could be substantial not only for industry, but for the general public as well.

UNANSWERED QUESTIONS

In spite of the numerous theories set forth about the potential repercussions of the nondeterioration program, and perhaps because of them, Congress simply does not at this time have enough precise information about the program's likely impact on the utilization of our Nation's resources; on the costs of producing goods; or on the availability of capital for industrial expansion, for technological improvement, and for maintenance of existing facilities. We do not know enough about how many jobs will be lost, about the resulting stimulus to higher consumer prices generated by higher industrial costs for compliance with the regulations. We do not know enough about the impact on the ability of this Nation to achieve energy self-sufficiency in the near future, or the incentives which may be established for large companies to locate overseas.

Before this Congress imposes a restrictive nondeterioration permit program on Kansas and the rest of the Nation, I want to know if the application procedures for industry are as economical and expedient as can possibly be expected, and just what the impact of those procedures will be on development planning. I want to know to what extent the nondeterioration provision might be construed as a back-door approach to Federal land-use planning based on the single factor of air quality.

These are all legitimate questions based on material that has recently come to light not only from private sources, but from Federal agencies as well. In separate letters to Senator Moss last spring, both the Federal Energy Administration and the Department of the Interior expressed concern about the provisions embodied in the committee's Clean Air Act amendments. The administrator of the FEA expressed concern that these provisions could result in increased capital costs to the utility sector, resulting in higher consumer costs for essential utilities; and he expressed the belief that nondeterioration provisions "could lead to substantial delays in siting new facilities" for energy development. Similarly, the Secretary of the Interior suggested that the Senate bill "will place substantial constraints on growth and resource use" and advised that "we should press forward with obtaining the basic data required."

Just as alarming to me were the conclusions set forth in a private study conducted by the National Economic Research Associates, Inc., on the estimated costs for the electric utility industry likely to result from the nondeterioration provisions in the Senate bill now before us. In its preliminary draft report issued on April 16 of this year, the NERA provided statistical evidence that the cumulative costs of these nondeterioration provisions between 1975 and 1990 would add an approximate $454 to the average household's normal utility bills during this period. Beyond 1990, the expected annual cost, per household, could be as much as an additional $90 above normal charges. These costs, stated in 1975 dollars, reflect the economic impact of the nondeterioration program on generating plants built after 1975 and covered by the provisions in this bill. These figures are for the south central area States, including Kansas, and similar estimates for other areas are both higher and lower than those just cited. The NERA report is an informative, albeit speculative preview of certain repercussions of what we have before us today. Just how close the NERA figures are to what could eventually transpire is impossible to determine at this time, but the question of increases in consumer utility costs is just one of several matters requiring further study, in my opinion.

TEMPORARY DELAY ADVISABLE

Due to these uncertainties, and gaps in our informational base, I do feel that Congress should have the benefit of additional data on the potential economic and social impacts of a restrictive nationwide, nondeterioration air quality program. The Moss amendments being offered on the floor at this time do, in my opinion, mandate a reasonable and minimal suspension of congressional determination on this issue until further information of this type is collected by the National Commission on Air Quality. It is my understanding that this delay would be in effect for no more than 1 year and would give us a much larger informational base on which to construct a sound air quality preservation program. This temporary suspension of congressional determination will not endanger the integrity of our air or permit undue industrial expansion during the interim, because the EPA regulations promulgated in January 1975 remain in effect at this time.

Under the terms of those regulations, permits for new development and expansion of existing facilities will continue to be reviewed jointly by the States and EPA to assure that no irresponsible pollution of the air occurs while we await further information on the long-range impact of this new program. With all factors given due consideration, I feel that this avenue is the most advisable for Congress to take at this time, and I am prepared today to give my support to passage of the Moss amendments. I am confident that within 1 year's time, this Congress will be in a much better position to act decisively and affirmatively to clarify its intent with respect to a national nondeterioration air quality program that will protect and preserve the integrity of the air we all must breathe.

Mr. PROXMIRE. Mr. President, I want to take this opportunity to thank the manager of the 1976 clean air bill and other Senators who have offered amendments to this legislation for their cooperation in securing a unanimous consent agreement on final passage for this Thursday.

American Motors is the largest single employer in the State of Wisconsin and, like other auto manufacturers, will be very much affected by sections 18, 19, and 20 of the bill dealing with auto emissions standards. Several amendments having to do with these standards have also been offered.

Mr. President, I am and always have been a strong supporter of Federal legislation to clean up our Nation's air. Furthermore, I think we have an obligation not only to protect the environment, but also not to delay indefinitely in reaching a decision on legislation which will have the impact on industry of the bill, S. 3219, now before the Senate. In order to meet its obligations under the law effectively, industry must know what its obligations and the law are going to be.

It has been more than 4 months since S. 3219 was reported to the Senate. I am delighted that we can expect a final vote this week and that House action is also anticipated in the near future. I hope that the conference committee will reach an early agreement so that a joint version can be cleared for the White House as soon as possible.

FEDERAL COAL LEASING AMENDMENTS ACT—VETO

The PRESIDING OFFICER (Mr. BUMPERS). Under the previous order, the hour of 1:45 p.m. having arrived, the Senate will now proceed to the consideration of the President's veto message on S. 391, which the clerk will report.

The assistant legislative clerk read as follows:

Veto message on S. 391, a bill to amend the Mineral Leasing Act of 1920, and for other purposes.

(The text of the President's veto message is printed on page 22556 of the CONGRESSIONAL RECORD of July 19, 1976.)

The PRESIDING OFFICER. Time for debate on the veto message is limited to 30 minutes, to be equally divided and controlled by the Senator from Montana (Mr. METCALF), and the minority leader or his designee with votes thereon to occur at 2:15 p.m.

Time will now be moved back in accordance with the delay on the last vote to 2:20 p.m.

Mr. METCALF. Mr. President, the Chair has answered the parliamentary inquiry that I was going to direct. So the vote will occur 5 minutes later because of the delay on the last vote.

The PRESIDING OFFICER. To be precise the vote should occur at the hour of 2:22 p.m.

Mr. METCALF. I thank the Chair.

Mr. President, I ask unanimous consent that the following persons from the staff of the Committee on Interior and Insular Affairs be granted the privileges of the floor during the consideration and voting on this veto message: Mike Harvey, Dan Dreyfus, Mary Flanagan, Pietro Bevinetto, and Ted Orf.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. METCALF. Mr. President, I yield myself such time as is necessary.

The PRESIDING OFFICER. Will the Senator suspend until the Senate is in order?

The Senator from Montana is entitled to be heard. Will Senators please confine their conversations to the cloakroom or take their seats?

The Senator may proceed.

Mr. METCALF. Mr. President, I shall be brief.

During the course of the last few days, the chairman of the Committee on Interior and Insular Affairs has printed a series of articles in the RECORD explaining some of the provisions of this bill. I suggest that those articles be made a part of the whole record on the determination of overriding this veto.

Mr. President, this is an amendment to the 1920 Mineral Leasing Act. It is not a surface mining bill. Whether or not we passed a strip mining bill in this Congress such as this would have been necessary. In fact, at the time that the surface mining bill was introduced and finally was vetoed by the President of the United States, this bill was also introduced to be considered by the Committee on Interior and Insular Affairs. This bill is a bill to correct many of the deficiencies that we have found in the Mineral Leasing Act of 1920, and to bring the provisions of that act up to date.

During the course of the discussion of this bill in the Committee on Interior and Insular Affairs, the committee decided that we would put in a provision, a title II, that would provide for control of surface mining, on the public lands, but the House of Representatives removed that. So today we are only considering amendments to the Mineral Leasing Act for coal leasing. They provide for regulation of a natural resource that belongs to the people of America—our Federal coal resources.

The President and his advisers have misread and misinterpreted many of the provisions of this bill. Let me give one specific example. Senator JACKSON over the last few days has put into the RECORD several other examples. But one example is the suggestion that because in this bill it is provided that there be an authorization for investigation and survey of our coal lands perhaps that would prevent any leasing whatsoever of the coal lands until that survey is completed. That is not the intent of the committee. That is not the intent of Congress. I have met with the members of the President's advisers and told them that.

Mr. President, anyone who reads the President's veto message and analyzes it, in view of the knowledge of what this bill is trying to do and what the committee has done over weeks and weeks of study and months and months of negotiation, must come to the conclusion that the President was ill-advised and misinformed when he vetoed this bill.

When he says that we will curtail the activities of coal mining, I feel that he is drawing a conclusion that is completely erroneous. Passage of this bill will help the coal mining industry. This will give them the stabilization that they need to go into the leasing and development of Federal lands. At the same time, it will give the people of the United States, whether they are in coal mining areas or not, an opportunity to realize greater benefits from the Federal lands that they own and greater benefits from the development of the resources in specific areas.

Consumers are going to benefit in two ways. This is the people's coal and when we increase the Federal royalty on coal we also increase the benefits to all the people of the United States, whether consumers or not, and we are also giving additional benefits to the local States and local people who need to have the benefits.

Mr. President, Congress in discharging its constitutional duty to determine the uses of Federal lands, has worked diligently on this piece of legislation for over 3 years. By vetoing S. 391, President Ford would deny that special mandate of Congress. As I view it, the President is attempting to arrogate to himself the powers delegated Congress to determine how the vast coal resources underlying Federal lands are to be developed.

Long ago, Congress placed Federal coal resources under the stewardship of the Secretary of the Interior. Nevertheless, it remains an inescapable fact that Federal coal belongs to all of the people of the United States—a fact too often ignored. The bill before us, S. 391, would reassert public ownership of Federal coal and reassert the duty of Congress to control its disposition.

S. 391 clearly recognizes our Nation's increasing reliance upon Federal coal development for the production of electricity and of the various substitutes for our declining domestic oil and gas reserves. The bill provides the Secretary of the Interior with new, updated guidelines for Federal coal leasing. In fostering Federal coal development, S. 391 would simultaneously end the speculative holding of Federal coal leases. It would prevent the domination of Federal coal leasing by the giant coal and energy corporations. In the long run, it would augment revenues returned to the Federal Treasury.

Certainly, I can applaud President Ford's pledge of support for provisions in S. 391 increasing the States' share of Federal leasing revenues from 37½ to 50 percent. But there is no denying that when the President vetoed this bill, he effectively prevented Congress from making this desperately needed impact assistance available to the States in which Federal coal development will very soon accelerate. To those who would point out similar provisions embedded in the BLM Organic Act (S. 507), I would say that is no alternative, considering the shortness of time and the extraordinary difficulties faced by the conference committee in trying to arrive at a compromise on that legislation.

The essential irony of the President's vetoing S. 391 is obvious to anyone familiar with the bill. S. 391 is basically compatible with the new policies and regulations recently unveiled by Secretary Thomas Kleppe. In many significant respects, it would provide legislative support to the new coal leasing program which the Department is now in the process of getting under way.

This is the sort of legislative support that Secretary of the Interior Kleppe indicated that he wanted when he testified at his confirmation hearings. Now under administrative pressure he has changed his mind. Nevertheless Congress should give statutory support to some of

Secretary Kleppe's regulations. We can do so by overriding President Ford's veto.

In our letter to President Ford, dated June 24, Representative PATSY MINK, chairwoman of the House Mines and Mining Subcommittee, and I stressed this very point in urging approval of the bill.

One can safely assume that Secretary Kleppe agreed with us because he is quoted in the Northern Wyoming Daily News of July 1 as having told the National Coal Association:

> If the President signs the bill (S. 391) now on his desk, our schedule for coal development will not be seriously hampered.

The Secretary went on to observe that "75 Senators are asking for it to be signed. Congress is not going to accept not passing a leasing bill."

In my opinion, Secretary Kleppe was absolutely right. The Department can continue to lease coal under its short-term criteria and implement its new program after enactment of S. 391. I am convinced this legislation is long overdue. I am equally convinced it will not do one iota of harm to our national coal producing capacity, contrary to what the President asserts.

There is a very substantial cross-section of industries and organizations intimately concerned with the outcome of our Federal coal leasing program which feels the same way. Among those on record as urging approval of S. 391 are Allied Chemical, Belco Petroleum, Union Pacific Railroad, American Public Power Association, National Farmers Union, FMC, Husky Corp., National Rural Electric Cooperative Association of Counties, and several environmental groups.

A number of Governors of Western States which will be affected by increased Federal coal development have also urged President Ford to approve this bill. Governor Judge of Montana has officially joined in support of S. 391 on behalf of the Western Governors Regional Energy Policy Office, representing the 10 Governors of North Dakota, South Dakota, Nebraska, Montana, Wyoming, Colorado, New Mexico, Arizona, Utah, and Nevada.

Mr. President, a year ago when Congress was attempting to override President Ford's veto of H.R. 25, the Federal Surface Mining Control and Reclamation Act, his administration concocted the most incredible barrage of phony statistics purporting to prove the H.R. 25 would cripple coal production and cause oil imports and utility rates to soar. Subsequent careful investigations by the Baltimore Sun and by the Louisville Courier-Journal failed to uncover any factual basis for those claims. Now, the Wall Street Journal has also helped strip away more of the administration's elaborate facade.

In an article appearing on Wednesday, the Wall Street Journal has this to say about the veto of the strip mine bill:

> Several coal men concede they could have "lived with" last year's vetoed bill. And many officials in the 34 states that have reclamation laws agree with John Witt, Kentucky's Land Commissioner. Given his state's own law, he says, "I can't see where the federal bill would have curtailed our mining and reclamation in any severe way."

Mr. President, there is no question about it. Congress was hood-winked that time by an ill-advised, politically motivated veto of a bill which was designed to bring a greater degree of equity and reason into the development of our national coal resources.

I trust that we will not fall into that trap again. Therefore, I respectfully urge colleagues to vote to override the veto of S. 391.

Mr. President, I yield to the distinguished Senator from Washington.

Mr. JACKSON. Mr. President, the Federal Coal Leasing Amendments Act must become law despite President Ford's ill-advised veto. This is a bill which the Senate has passed twice by overwhelming votes. It is a bill which does what the President's veto message says should be done—establish in law "fair and effective mechanisms for future leasing."

The veto message makes it clear that the disagreement between the President and the Congress is solely over a few specific provisions of S. 391. The President's reasons for the veto are based on errors, misunderstandings, and a desire to retain authority in the executive branch which is properly exercised by the Congress.

Mr. President, S. 391 is the product of many hours of hard work by the Interior Committee under the leadership of Senator METCALF, chairman of our Subcommittee on Minerals, Materials, and Fuels. He has made a tremendous contribution to the development of sound guidelines for a management of the vast coal resources owned by the Federal Government. I also want to recognize the very great contribution made by the Senator from Wyoming (Mr. HANSEN) who continued the committee's tradition of bipartisan cooperation in development of natural resource policy. I agree with Senator HANSEN's description of S. 391 as—

> sound legislation which provides for a sensible leasing program, environmental protection, and critically needed aid for rural communities of the West that are besieged with heretofore nonexistent social and economic problems as a result of intensive new energy development activity.

Enactment of S. 391 now will give the coal industry and the Secretary of the Interior ample time to conform existing regulations and plans to its provisions before starting large-scale coal leasing in 1977.

Mr. METCALF. Mr. President, I reserve the remainder of my time.

Mr. FANNIN. Mr. President, it is with reluctance that the Senator from Arizona opposes the very respected friends of his, Senator HANSEN of Wyoming, and Senator METCALF of Montana.

Certainly, I very seldom am in disagreement with our distinguished colleague from Wyoming.

Mr. President, S. 391, the Federal Coal Leasing Amendments Act, was vetoed by President Ford because it contains provisions which will further postpone coal production from Federal lands.

As late as last month, Secretary Kleppe finalized a process that put in place modern coal leasing regulations—regulations which accomplish the purposes of S. 391, but without time delays and legislative redtape. I am concerned about time delays and legislative redtape. I certainly am not in disagreement with several other provisions of the bill. Those regulations address diligent development, commercial quantities, speculation, and fair return to the public. Recall there has been a moratorium on coal leasing for some 5 years while these new regulations were developed. How much longer must we wait to see Federal coal mined?

Provisions in S. 391 will require more time to prepare NEPA statements, coal exploration, land use plans, and public hearings. It is estimated that no coal will be leased under S. 391 for at least 5 more years.

This country cannot stand 5 more years of inaction. The time to base coal is now. Congress, if it overrides the President's veto, will be placing this country in a straitjacket—preventing it from utilizing the one fossil fuel it has in abundance.

Bringing liquefaction and gasification of coal on line could be lost if S. 391 becomes law. The bill requires that coal from Federal leases be dug in 10 years, yet we all recognize this is not enough time for the planning, construction, and financing of these expensive projects. Coal reserves must be procured first and are the foundation upon which such projects are built.

Requiring the Federal Government to explore Federal lands before offering them for lease is just another tactic to delay coal development. Worse, it sets a precedent for Government exploration for all natural resources—oil, gas, and hardrock minerals. This Nation has always looked to the private sector for exploration because it has the incentives to do the job right. I believe this would be just another step in the direction of nationalization of the coal industry. We should learn a lesson from the experience of Great Britain, which nationalized its coal industry.

For these reasons, I am compelled to support the President's veto of S. 391. In doing so, I am not turning a deaf ear to my colleagues who have urged greater mineral revenues for those States which will suffer socioeconomic impacts from increased coal production. I believe a simple bill which accomplishes the raise in States' share from 37½ to 50 percent is the better approach. The President in his veto message of S. 391 supported that concept.

There are several bills pending conference which have such a provision in them, and I would hope that vehicle would provide the alternative.

Mr. President, if we will look at the veto message, we will see what is involved. The Senator from Montana talks about the adverse parts of the veto message. On page 6, second 8A.(a), we see that the Secretary is authorized and directed to conduct a comprehensive exploratory program. Continuing on, we read "developing a comprehensive land use plan."

So we are talking about a delay each

time a step is taken in the direction of getting coal mined.

On page 2, it is explained that—

> No lease shall be held unless the lands containing the coal deposits have been included in a comprehensive land-use plan and such sale is compatible with such plan.

So, Mr. President, we have great problems with this.

Mr. President, I have a letter from the Secretary of the Interior regarding this matter, in great opposition to the legislation. On the first page, he indicates that the rigid 10-year limit to achieve commercial coal production is one of the items with which he is in disagreement.

He then states:

> The Federal exploration program contemplated in the bill could be extremely costly (potentially billions of dollars), and would unnecessarily involve the Federal Government in an activity that can be handled better by the private sector.

He goes on:

> The required Justice Department antitrust review for each lease—no matter how small—would cause unnecessary delays and costs.

Then he refers to the time delay again:

> It would be impossible in many instances to comply with the requirement to prepare a detailed mining and development plan within 3 years after an issuance of a lease.

Mr. President, I ask unanimous consent to have the letter printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. DEPARTMENT OF THE INTERIOR,
Washington, D.C., August 3, 1967.

Hon. NELSON A. ROCKEFELLER,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: On July 3, 1976, the President returned without his approval S. 391, the Federal Coal Leasing Amendments Act of 1975. That bill dealt with two major issues: the form of Federal assistance for communities affected by development of Federally-owned minerals, and Federal procedures for leasing coal.

In his message, the President agreed with the form of assistance to States adopted by the Congress in S. 391. He pledged support for increasing the States share of Federal leasing revenues covered by the bill from 37½ percent to 50 percent and indicated if S. 391 had been limited to that increased assistance, he would have signed it.

There is ample time remaining in this session of Congress to pass a separate bill and we urge the Congress to do so. We will be pleased to work with you to achieve this objective.

After years of intensive work and research, the Department of the Interior has now implemented a comprehensive new coal program designed to achieve stringent environmental protection while still providing access to the Nation's most abundant fossil fuel energy resource. We believe the Department has adequate authority to fully implement this coal development program. S. 391 would not add to that authority; indeed, we are concerned that it would seriously interfere with the present program and significantly increase the opportunities for litigation. Instead of facilitating coal production, S. 391 would inhibit production, contribute to our growing reliance on foreign oil, probably raise prices for consumers (particularly of electricity), and delay the achievement of greater energy self sufficiency.

It is very important that the Congress recognize the serious deficiencies in the provisions of S. 391 which deal with coal leasing. For example:

1. The rigid 10-year limit to achieve commercial coal production from a lease could prevent the use of Federally-leased coal by major electric utility and synthetic fuel projects. Even with maximum effort, experience has shown that more than 10 years is commonly needed to obtain equipment and support facilities, to build rail and other transportation facilities, and to construct associated generating facilities and coal conversion plants.

2. The requirement that a minimum royalty of 12½ percent be paid on all Federal coal leases (a) would mean that large acreages which might otherwise be developed may become uneconomic to mine, and (b) may mean higher costs passed on to consumers. This figure is unnecessarily high. Latitude must be preserved to set either lower or higher royalties based on economic conditions and the value of the resource.

3. The Federal exploration program contemplated in the bill could be extremely costly (potentially billions of dollars), and would unnecessarily involve the Federal Government in an activity that can be handled better by the private sector. In addition, completion of the studies called for could result in substantial delays in new leasing and production.

4. The requirement for public hearings, or opportunity for public comment at five separate stages in the leasing process is unreasonable and will cause major delays without any material benefit. Department of the Interior regulations now provide appropriate opportunity for public involvement and NEPA and other laws already assure public participation.

5. The required Justice Department antitrust review for each lease—no matter how small—would cause unnecessary delays and costs. The Attorney General already has authority to review leases that he believes may have significant anti-competitive effects. A full anti-trust review of single leases would be time-consuming and represent a major increase in workload for the Department of Justice. Furthermore, it would generally be impractical or impossible to make a meaningful anti-trust judgment on the basis of single leases.

6. The requirement that 50 percent of the total acreage offered must be leased under a deferred bonus payment is unduly rigid and may result in diminished development and production. Authority is already available to use a deferred bonus system when appropriate to increase compensation in leasing and give smaller firms a better opportunity to participate when this approach can be justified by the economics of the situation and the degree of interest in leasing Federal coal.

7. It would be impossible in many instances to comply with the requirement to prepare a detailed mining and development plan within three years after issuance of a lease. Lessees must obtain suitable markets, analyze reserves, arrange transportation, complete baseline data programs, the plan environmental protection efforts before they can complete the development and submission of mining plans which describe proposed operations in the detail and specificity which the Interior Department already requires, in order to assure attainment of environmental and production goals.

8. The 25,000 acre limitation including both Federal and non-Federal lands for consolidated mining units would preclude the development of some large scale electric utility and synthetic fuels projects. This acreage is insufficient to amortize the huge capital investment required to develop many of these projects.

There are other provisions of S. 391 which would adversely affect development of the Nation's coal reserves, add administrative comlexity and delay, provide the potential for lengthy litigation, and add to costs of energy and costs of government.

We should, instead, be seeking ways to avoid unnecessary governmental requirements and costs and to increase the production and utilization of our domestic coal resources where this can be done in any environmentally and economically acceptable manner. The alternatives are greater use of our rapidly diminishing oil and gas reserves or greater reliance on imports.

For these reasons, S. 391 should not become law and the Congress should proceed with a separate bill providing for an increase in States' share of leasing revenues without further delay.

Sincerely yours,

TOM KLEPPE,
Secretary of the Interior.

Mr. FANNIN. Mr. President, I yield 5 minutes to the distinguished Senator from Oklahoma.

Mr. BARTLETT. I thank the distinguished Senator from Arizona.

Mr. President, I ask unanimous consent that my staff assistant, Tom Biery, may have the privilege of the floor during the consideration of this matter, the veto of S. 391.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BARTLETT. Mr. President, this Nation has abundant coal reserves, experts estimate as much as 600 years of supply at current consumption rates. Much of this coal and most of the low sulfur coal is in the West underlying Federal lands.

Our Nation's reliance on insecure foreign oil continues to increase daily. We currently import over 40 percent of our needs, and several months ago, imports of petroleum exceeded domestic production for the first time in our history. Legislation passed by Congress is retarding the production of crude oil; and Congress has failed to pass any legislation to correct our natural gas supply problems.

In the face of continually declining crude oil and natural gas production rates it would seem imperative for Congress to enact legislation to facilitate and expedite the production of our abundant coal reserves. If this is not done, our increasing dependence on crude oil and natural gas will have to be met by increased imports of crude oil.

At the same time, both Houses of Congress have passed, in several bills which have not yet become law, provisions which force boiler fuel users of crude oil and natural gas to convert to coal. While I have opposed such end-use allocation legislation because of its unnecessarily high cost and my belief that an uncontrolled market would be a better allocator of scarce fuel supplies, Congress should also recognize that coal conversion legislation will require the stimulation of coal development rather than its inhibition.

If the Federal coal leasing bill, S. 391, is enacted, new leases and production from our urgently needed low sulfur western coal reserves could be delayed for up to 5 years or more. This bill will severely hamper our Nation's ability to achieve energy independence and will unnecessarily increase our continued dependence on unreliable, imported foreign oil. Not only would it add billions of dollars to the taxpayers' burden, but it would also increase energy costs to the consumer. I urge the Senate to sustain the veto of S. 391.

Before discussing some of the more onerous of the bill's provisions, I want to emphasize to the Senate that the bill before us today is not the bill passed by the Senate last July. It is the bill passed in January by the House of Representatives, on January 21, 1976. All but the enacting clause and the bill number of S. 391 were stricken, and the contents of H.R. 6721 was substituted therefore. Although the press of Senate business has been heavy, no effort was ever made to hold a conference. Conferees were never appointed by either the Senate or the House during the 5-month period following final passage by the House of its substitute for S. 391. The House language was recently passed on a voice vote by the Senate and sent to the President.

The bill involves changes in leasing procedures only. It has no provisions for surface mining regulation. Thus, Senators who voted for the original version of S. 391 because of its reclamation provisions should be aware that the current version of S. 391 contains no reclamation provisions whatsoever. Although I also opposed the original S. 391 because I believed it was detrimental to our Nation's energy future, I believe it is important for Senators to recognize now the exact nature of what we are considering.

In addition, it is important for the Senate to recognize that S. 391 in its present form is poorly drafted and ambiguous and, therefore, is subject to differing interpretations. Consequently, litigation can be anticipated in order to clarify its meaning. For 4 years, we have had an embargo on leasing the coal lands; and it is my concern that because of the provisions of this bill, there will be a further delay of at least 2 years because of the very difficult requirements of the bill and then lawsuits which will follow that. It is very unfortunate, then, that there was no opportunity for this bill to go to conference, because in conference many of the ambiguities and uncertainties could have been corrected.

The veto of S. 391 should be sustained because the bill if enacted would result in the following:

First. S. 391 goes a long way toward putting the Federal Government directly in the energy business and is therefore a step closer to energy nationalization. It requires a mammoth Federal exploration program which would put the Federal Government into costly development drilling.

Section 7 of S. 391 adds a new section 8A to the Mineral Lands Leasing Act which in part states:

> The Secretary is authorized and directed to conduct a comprehensive exploratory program designed to obtain sufficient data and information to evaluate the extent, location, and potential for developing the known recoverable coal resources within the coal lands subject to this act. This program shall be designed to obtain the resource information necessary for determining whether commercial quantities of coal are present and the geographical extent of the coal fields and for estimating the amount of such coal which is recoverable by deep mining operations and the amount of such coal which is recoverable by surface mining operations. . . .

It is possible to interpret these provisions in a way which would require the exploration of all Federal coal lands prior to any leasing, especially when read in conjunction with the following paragraph from the House report:

> Stratigraphic drilling must be carried out so or in such a manner that information pertaining to all recoverable reserves is obtainable. All information regarding results of test borings is to be supplied to the Secretary. The purpose of this requirement is to assure that lands are not leased for surface mining when greater amounts of coal could be recovered through deep mining operations.

It is important to emphasize that an exploratory program as extensive as the one required by this bill is not needed to make a prelease sale evaluation nor is it currently contemplated by the Department. Certainly, an exploratory program designed to determine such things as the "potential for developing" or "whether commercial quantities of coal are present" or an estimate of the amount of coal recoverable by deep mining or surface mining operations would have to be very extensive, on relatively close well spacing, and to depths deep enough to assess the presence of all coal on Federal lands.

It has been estimated by the Budget Office that a program of this magnitude would in the first 5 years encompass expenditures of $1.2 billion. Estimates for the total program range from $5 to $15 billion. These costs have in the past been borne by industry and not by the U.S. taxpayer. Inasmuch as much of the work is unnecessary, I would anticipate a taxpayer rebellion over such a requirement.

The Department of the Interior's request for $7.6 million was not for development drilling to determine commercial quantities of deep and strip coal as this bill requires. It is a mere drop in the bucket to the total cost of this exploration program.

Second. The bill, section 2(a)(1), requires the reservation of a reasonable number of leasing tracts for public bodies including Federal agencies, rural electric cooperatives, or nonprofit corporations controlled by any of those entities. The Federal Government would, therefore, be able to compete directly and perhaps unfairly for the acquisition of Federal coal reserves. Once leased and with mines in operation, it is clear that this provision sets the stage for direct Federal involvement in mining operations.

Third. Further, it must be recognized that the exploratory program is a prerequisite for the land use plan which in turn is a prerequisite for a lease sale.

S. 391 will extend the moratorium on Federal coal leasing that has been in effect since 1971 by another 5 years, perhaps longer. When the bill is administered in conjunction with NEPA, there could be as many as eight or nine public hearings required. There are no provisions in the bill for consolidation of these hearings, and the hearings are called for at separate and distinct stages.

Public hearings are required by the bill prior to a land-use plan, prior to a lease sale, prior to consolidation of leases into a logical mining unit, in the event of an unfavorable antitrust recommendation by the Attorney General, and relative to the evaluation of fair market value by the Department. In addition, the National Environmental Policy Act will require hearings on the Federal exploration program, on the promulgation of new implementing regulations, and upon the issuance of the environmental impact statements accompanying the land-use plan and the lease sale, all of which are major Federal actions under NEPA.

Current Interior Department regulations provide for consolidation of hearings while the bill does not, and hearings are not required under current departmental regulations upon the consolidation of leases into logical mining units, relative to antitrust decisions, or relative to the evaluation of fair market value. In addition, the current Department of the Interior drilling program is not a major Federal action requiring an EIS; new procedural and reclamation regulations have already been implemented; and the environmental impact statements on the land-use plan and on future lease sales are already in progress or are being planned.

The Department of the Interior spent over 3 years working on its coal leasing program which has recently been announced. As is apparent, S. 391 would require an unnecessary and time-consuming duplication of effort. This duplication of effort will be paid for by the American people in the form of higher taxes, higher coal prices and higher energy costs because of the delays associated with this bill.

Additional delays can be caused because of the potential for litigation at each and every stage of the new process. And, because of the bill's poor drafting and ambiguities, the potential for this litigation is very real.

More delay could be caused by the antitrust clearance which is required by the bill. It is misleading for the proponents of this bill to state that an antitrust review is not required. The bill states that no lease shall be issued, renewed, or readjusted, by Interior unless the Attorney General is notified with the necessary information "in order to advise the Secretary" whether or not his action is inconsistent with the antitrust laws. How can the Attorney General advise the Secretary without conducting an antitrust review, which is necessarily complex?

Because of the bill, low-sulfur, western coal production which is needed to comply with clean air standards will be delayed, and our dependence on unreliable high-cost foreign oil will be further increased for the near future. The significance of this delay is highlighted because the Federal Government owns approximately 50 percent of the total coal reserves in the Nation, and even a greater percentage of the low-sulfur western reserves. Federal leasing policy will affect approximately 80 percent of known coal reserves because of land ownership patterns. When the leasing of Federal lands is delayed because of this bill, development of non-Federal adjoining lands will also be hampered because mining units encompassing both the non-Federal and Federal properties is frequently required before mining can be initiated.

Because of the inflexible 10-year production requirement and the 25,000-acre limitation on logical mining units, the bill would jeopardize the use of Federal coal for gasification, liquefaction, and larger size utility plants. This would occur because consolidation of leases into fairly large mining units is necessary before a gasification, liquefaction, and large utility plant can be financed and constructed. Because tons of coal, not acres, are mined, the 25,000-acre limitation could easily prevent the accumulation of sufficient reserves to justify a plant. The Secretary of the Interior is given no flexibility to amend this requirement if circumstances warrant. Additionally, the 10-year production requirement could also prevent the construction of large facilities which use coal. Delays in the acquiring of sufficient acreage to justify construction and in construction could prevent production from Federal leases within 10 years. Again the Secretary is given no flexibility to adjust the 10-year requirement. The Interior Department's new diligence regulations do include a 10-year production requirement. However, the production requirement can be extended for another 5 years in special cases. Further, the codification of this requirement would make it even more difficult for the Interior Department to adjust its regulations if and when necessary.

S. 391 will increase the cost of energy to consumers. The minimum royalty on coal has been increased to 12½ percent. The Senate bill provided a 5-percent minimum royalty and current Interior Department policy is an 8-percent royalty. There is no provision in S. 391 under which the minimum royalty can be reduced by the Secretary in special circumstnaces. Even though section 39 of the Mineral Lands Leasing Act allows the Secretary to lower royalties to encourage the maximum recovery of coal, the two provisions are inconsistent and certainly S. 391 was enacted many years after section 39 of the Mineral Lands Leasing Act. The increased costs caused by the increased royalty would make the mining of Federal coal more expensive and could reduce reserves and production. Increased costs would have to be passed on to the taxpayer along with the cost of the unnecessary Federal exploration program. Additionally, because of the increased crude oil imports which will necessarily result if this bill becomes law, consumers' energy costs will rise because imported crude oil is now approximately twice as expensive as coal.

The PRESIDING OFFICER (Mr. McClure). The Senator's 5 minutes have expired.

Mr. BARTLETT. Mr. President, will the Senator yield me 1 additional minute?

Mr. FANNIN. Mr. President, how much time does the Senator from Arizona have remaining?

The PRESIDING OFFICER. The Senator has 6 minutes remaining.

Mr. FANNIN. I yield the Senator 1 additional minute.

Mr. BARTLETT. I do support the sharing provisions in S. 391 to increase impact assistance to the Western States, and today have introduced legislation to increase the States' share to the exact level of S. 391. This bill does not provide for a minimum royalty. The critical defects of S. 391, however, should not be justified by this one proposition. This legislation I have introduced will correct the impact problem without jeopardizing the availability of western coal which is desparately needed to fuel this Nation.

Mr. President, I urge my colleagues to vote to sustain the President's veto of S. 391. It will increase consumers' energy costs, increase dependence on foreign crude oil, and further hamper the achievement of energy independence. S. 391 is not in the best interests of the Nation.

Mr. President, I ask unanimous consent that a letter from Secretary Kleppe to the President of the Senate be printed in the Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

U.S. Department of the Interior,
Washington, D.C., Aug. 3, 1976.

Hon. Nelson A. Rockefeller,
President of the Senate
Washington, D.C.

Dear Mr. President: On July 3, 1976, the President returned without his approval S. 391, the Federal Coal Leasing Amendments Act of 1975. That bill dealt with two major issues: the form of Federal assistance for communities affected by development of Federally-owned minerals, and Federal procedures for leasing coal.

In his message, the President agreed with the form of assistance to States adopted by the Congress in S. 391. He pledged support for increasing the States share of Federal leasing revenues covered by the bill from 37½ percent to 50 percent and indicated if S. 391 had been limited to that increased assistance, he would have signed it.

There is ample time remaining in this session of Congress to pass a separate bill and we urge the Congress to do so. We will be pleased to work with you to achieve this objective.

After years of intensive work and research, the Department of the Interior has now implemented a comprehensive new coal program designed to achieve stringent environmental protection while still providing access to the Nation's most abundant fossil fuel energy resource. We believe the Department has adequate authority to fully implement this coal development program. S. 391 would not add to that authority; indeed, we are concerned that it would seriously interfere with the present program and significantly increase the opportunities for litigation. Instead of facilitating coal production, S. 391 would inhibit production, contribute to our growing reliance on foreign oil, probably raise prices for consumers (particularly of electricity), and delay the achievement of greater energy self sufficiency.

It is very important that the Congress recognize the serious deficiencies in the provisions of S. 391 which deal with coal leasing. For example:

1. The rigid 10-year limit to achieve commercial coal production from a lease could prevent the use of Federally-leased coal by major electric utility and synthetic fuel projects. Even with maximum effort, experience has shown that more than 10 years is commonly needed to obtain equipment and support facilities, to build rail and other transportation facilities, and to construct associated generating facilities and coal conversion plants.

2. The requirement that a minimum royalty of 12½ percent be paid on all Federal coal leases (a) would mean that large acreages which might otherwise be developed may become uneconomic to mine, and (b) may mean higher costs passed on to consumers. This figure is unnecessarily high. Latitude must be preserved to set either lower or higher royalties based on economic conditions and the value of the resource.

3. The Federal exploration program contemplated in the bill could be extremely costly (potentially billions of dollars), and woud unnecessarily involve the Federal Government in an activity that can be handled better by the private sector. In addition, completion of the studies called for could result in substantial delays in new leasing and production.

4. The requirement for public hearings, or opportunity for public comment at five separate stages in the leasing process is unreasonable and will cause major delays without any material benefit. Department of the Interior regulations now provide appropriate opportunity for public involvement and NEPA and other laws already assure public participation.

5. The required Justice Department antitrust review for each lease—no matter how small—would cause unnecessary delays and costs. The Attorney General already has authority to review leases that he believes may have significant anti-competitive effects. A full anti-trust review of single leases would be time-consuming and represent a major increase in workload for the Department of Justice. Furthermore, it would generally be impractical or impossible to make a meaningful anti-trust judgment on the basis of single leases.

6. The requirement that 50 percent of the total acreage offered must be leased under a deferred bonus payment system is unduly rigid and may result in diminished development and production. Authority is already available to use a deferred bonus system when appropriate to increase competition in leasing and give smaller firms a better opportunity to participate when this approach can be justified by the economics of the situation and the degree of interest in leasing Federal coal.

7. It would be impossible in many instances to comply with the requirement to prepare a detailed mining and development plan within three years after issuance of a lease. Lessees must obtain suitable markets, analyze reserves, arrange transportation, complete baseline data programs, and plan environmental protection efforts before they can complete the development and submission of mining plans which describe proposed operations in the detail and specificity which the Interior Department already requires in order to assure attainment of environmental and produotion goals.

8. The 25,000 acre limitation including both Federal and non-Federal lands for consolidated mining units would preclude the development of some large scale electric utility and synthetic fuels projects. This acreage is insufficient to amortize the huge capital investment required to develop many of these projects.

There are other provisions of S. 391 which would adversely affect development of the Nation's coal reserves, add administrative complexity and delay, provide the potential for lengthy litigation, and add to costs of energy and costs of government.

We should, instead, be seeking ways to avoid unnecessary governmental requirements and costs and to increase the production and utilization of our domestic coal resources where this can be done in an environmentally and economically acceptable manner. The alternatives are greater use of our rapidly diminishing oil and gas reserves or greater reliance on imports.

For these reasons, S. 391 should not become law and the Congress should proceed with a separate bill providing for an increase in States' share of leasing revenues without further delay.

Sincerely yours,

TOM,
Secretary of the Interior.

The PRESIDING OFFICER. Who yields time?

Mr. METCALF. I yield 5 minutes to my very good friend and distinguished colleague, a member of the committee, the Senator from Wyoming (Mr. HANSEN).

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

Mr. HANSEN. Mr. President, in the Powder River Basin of Wyoming many little towns are located that are primarily agrarian in nature, where winter is hard, but life in general is pleasant. The pastoral tranquility of these communities is being severely changed by the burgeoning energy demands of the remainder of the country.

The impact on these communities is and will be disastrous. It is not a question of small increments in population; many of these communities are doubling or tripling in size. New towns are being built in the prairie.

The size of these communities and the predominantly agricultural nature of their economies precludes using normal tax revenues for building facilities necessary for the new workers. The high percentage of Federal land in the areas concerned leaves little in private ownership and on the tax rolls, further exacerbating the situation.

Typical of western communities that heretofore have been primarily rural and agricultural, but which now face doubling and tripling population is Gillette, in Campbell County, Wyo. Gillette lies in the heart of the coal-rich Powder River Basin, where several surface mining operations are ongoing now, and more are planned in the immediate future.

An Interior Department sponsored study by the University of Wyoming of expected social and economic impact in the Gillette area projects a doubling of the population by 1985.

"Operating expenses for the city of Gillette will increase from $3 million to $5 million by 1985, and more than $21 million in capital requirements, such as streets and roads are foreseen. Revenues for the city are expected to lag behind expenditures by more than $3 million in 1980, and will continue to fall short of expenses through 1985," the study stated.

The workers imported to man these energy projects need schools, roads, and sewage facilities. They need the amenition that people everywhere need. The problem is they need them yesterday. This need for the facilities is caused by our national energy demands across the country. It is a national concern. S. 391 addresses that concern. It assures an orderly, stable transition and mitigates the traumatic changes.

The mineral royalty provision authorizes an increase in the portion of the royalties returned to the State to 50 percent, from 37½ percent. Under this provision 37½ percent of the payments to the States would still be reserved for schools and roads as now. The additional 12½ percent would be earmarked for aid to energy impacted areas. The provision says:

> . . . said additional 12½ per centum of all moneys paid to any state on or after January 1, 1976, shall be used by such state and its subdivisions as the legislature of the state may direct giving priority to those subdivisions of the state socially or economically impacted by development of minerals leased under this Act for planning, construction and maintenance of public facilities, and provision of public services.

As this country forges ahead in its efforts to utilize more coal, the Western States are willing to assume their share and provide this energy source, but with the safeguards as embodied in S. 391.

While this front-end money is of prime importance to Wyoming and every other public lands States, the bill accomplishes other important goals clearly in the national interest.

The Senate first passed a Federal coal leasing bill in 1974 by unanimous vote. In 1975, S. 391 was approved by a vote of 84 to 12. Earlier this year, the House of Representatives passed it by a vote of 344 to 51. Enactment of S. 391 will eliminate speculation with Federal coal leases; enhance competition among leaseholders; assure a fair return to the public; provide for coordination with State and local officials, public participation, and environmental protection; require thorough evaluation of Federal coal deposits to be offered for lease; and encourage maximum recovery of the coal.

The President agrees that legislation is needed to provide "fair and effective mechanisms for future leasing." S. 391 does that. The President agrees with the assistance provision of S. 391. The President agrees with the basic leasing policy in the bill. He disagrees with some of the provisions. I think the veto was based on factual errors. The Senator from Montana has offered a point-by-point refutation of the veto message. I heartily concur with the analysis. I urge my distinguished colleagues to join with me in the override of S. 391.

Mr. President, I would like to suggest respectfully that the reasons advanced in opposition to the bill, I believe, are in error. In the first place, the size and timing of the programs are left to the discretion of the Secretary of the Interior. This is clearly not a step toward the nationalization of the energy industry, as has been suggested by some of the opponents of this bill. The bill would not extend the moratorium on Federal coal leasing by another 5 years. Even Secretary Kleppe says our schedule for coal development will not be seriously hampered; nothing in the bill will increase the cost to taxpayers and consumers.

Indeed, the Energy Policy Task Force of the Consumer Federation of America supports enactment of the bill. It has indicated that it believes that it will lower—not raise, but lower—coal prices. I do not believe that the 10-year production requirement will jeopardize development of synthetic fuels for coal; nor will the acreage on logical mining units, which is set at 100,000 acres for the entire United States, retard such projects.

Many of the coal seams in the West are more than 100 feet thick. In these areas, a 25,000 acre logical mining unit will contain more than enough coal for any synthetic fuel or electric generating project.

Criticism has been made because there is no reclamation provision in this bill. As was pointed out by the distinguished Senator from Montana, this is not a strip mining bill and there was no conference between the House and the Senate for one very good reason: There was a strip mining provision in the Senate bill and the House clearly indicated that it did not want to have a strip mining provision in its bill. So the best of both bills were taken, in my opinion, for this reason: We do have a bill before us that is workable. It will achieve important economies insofar as the people of the United States are concerned. It will increase the royalties that go to the people of the United States. It will assure an ecological consideration, as mining units are developed. It will assure sufficient money to be returned to the States that are going to be called upon to produce the coal, to insure that there can be sufficient anticipation of the economic and social impact that surely results when you add twice or three times the population of a small town and then expect to take care of the people who come into that town.

I think this is a good bill. The States of this country, the public land States, particularly, for the most part have passed surface mine legislation that assures the kind of reclamation that the people of this country have indicated they would like to have put into effect.

I hope that the Senate will take occasion this afternoon to pass a bill that addresses the problems that we know about firsthand, because we have come to grips with them. We know that without the money that will be provided under this bill, there is no way that we can hope to minimize the impact that results when you add to the population of a town by two or three times.

This is good legislation. It assures the kind of orderly development that will minimize speculation in the coal fields, it assures the kind of competition that comes from the Department of the Interior knowing what the amount of coal is in a lease before it is granted. It will insure better deals for the Government of the United States than has been true in the past.

It does not provide for the kind of

overall investigative work that some people fear may be hurtful.

Mr. President, I ask unanimous consent that a series of newspaper articles from these Western communities attesting to the facts of energy impacts be inserted in the RECORD at the conclusion of my remarks along with other supporting data.

Again, I sincerely urge that the veto be overridden.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

POWERPLANT WILL HIKE POPULATION TO 5,700

WHEATLAND, Wyo.—Testimony in the fourth day of Industrial Siting Council hearings on the proposed Laramie River Station power plant indicates the project will cause a total population increase of about 5,700 for the Platte County area by 1979.

Gary L. Watts, a University of Wyoming research associate hired by the Missouri Basin Power Project to study the plant's social impact, said 2,200 workers and their families are expected by the peak construction year.

Watts said 85 per cent of the population will probably live in Wheatland with 2,060 housing units such as mobile homes expected to serve them.

Robert L. Valeu, assistant manager for Wyoming operations of Basin Electric which is project manager for the plant, said a Joint Powers Board composed of representatives from Wheatland and Guernsey has been formed to obtain a loan designed to relieve housing problems and school overcrowding.

Valeu said the board would attempt to obtain a $3.3 million loan from the State Farm Loan Board to relieve the population impact in Platte County.

The six power companies forming the MBPP are seeking permission from the Industrial Siting Council to build the $1.3 billion, 1,500 megawatt plant to be fired by northeastern Wyoming coal.

The Power River Basin Resource Council, the Sierra Club, and a group of local farmers and ranchers forming the Laramine River Conservation Council believe more time is needed for study.

James G. Thompson, another UW research associate, said a random survey of Platte County residents indicated the plant would increase crime and require more community services and facilities.

The researcher said questionnaires distributed to county residents were part of a second socio-economic study conducted for six power companies composing the MBPP.

Thompson testified the survey indicated a need for four more doctors in the county, more shopping facilities and an increased police force to handle an expected rise in crime.

When cross-examined by David Palmerlee, an attorney for the Laramie River Conservation Council, Thompson said he felt the "quality of life" would be adversely affected by the power plant's impact, but called the term abstract and hard to define.

MINING WILL PASS AGRICULTURE

LARAMIE, WYO.—The executive secretary of the Wyoming Mining Association told a group of rural educators at the University of Wyoming that mining will soon supersede agriculture as Wyoming's No. 1 commodity.

Bill Budd pointed out in making the prediction that the mining industry is already the largest contributor to state and local revenues.

He also said the federal government is guilty of overregulating not only the mineral industry, but small business as well. Budd said Washington has become "too big, too complex."

COUNTY COAL IMPACT STUDY PLANNED

(By Kathy Rem)

Rocky Mountain Energy has commissioned studies, to begin immediately, to determine what social, economic and environmental effects four coal mines proposed for southwestern Carbon County would have on that area.

The proposed mines, according to Jim Shaw, Rocky Mountain Energy's manager of environmental services, would not begin until late 1978 or early 1979. The mines could draw more than 2,000 persons to the area, according to projections by E. W. Davis, manager of administration for RME.

RME is a wholly-owned subsidiary of the Union Pacific Corp. Representatives of that company and the firms designated to conduct the studies outlined their plans Wednesday at a meeting with the Carbon County Commissioners.

Conducting the social and economic study will be Ted Browne of Bickert, Browne, Coddington and Associates of Denver. Browne said he was interested in exploring the economic base of Rawlins and the surrounding area and how the proposed mines would alter that base.

Concerning the social structure of the area, Browne said he will try to determine how the expected influx of people would affect the library, the schools, the hospital, and so on.

The environmental study will be conducted by Dr. Brent Wahlquist of Westinghouse Environmental Systems Department, located in Pittsburgh, Pa.

Wahlquist will study vegetation on the areas designated as sites for the proposed mines, as well as wildlife, soils, hydrology and reclamation potential.

According to Shaw, the four mines would be located about 10 to 25 miles southwest of Rawlins, all at least partly in Carbon County. They would also run into Sweetwater County. He said they would all begin as surface mines, but may turn into deep mines and "go on for a long period of time."

No land leases have been obtained, which makes the projects "very tentative," said Davis, although RME has been talking to other companies about the mine proposals.

Shaw said the four mines would all be joint ventures. He said his company has been negotiating with Energy Development Co. for a mine at Red Rim, with Arch Mineral for a mine at China Butte, and with Pacific Power and Light for a mine at the Creston-Cherokee area. The other mine is proposed for the Atlantic Rim area.

Although definite estimates are impossible to establish at this early date, Shaw said the Red Rim and Atlantic Rim mines would possibly each yield two million tons of coal a year while the mine at China Butte could furnish up to four million tons. The mine at Creston-Cherokee, he said could yield two tons or up to 12 tons per year.

RME, he said, would plan to open the Red Rim mine first, if plans go as scheduled.

Based on statistics drawn from other mining projects, RME representatives said that 106 jobs can be expected to open with each two-million-ton coal operation. They estimated that for each job, another five people are drawn to the area because of increased business opportunity or as families of employes.

If eight million tons per year are taken from the Red Rim, Atlantic Rim and China Butte projects, there would be 424 employes for those three mines, or 2,120 new residents to the area, including businessmen and family. The estimate does not include Creston-Cherokee.

Shaw said that from 75 to 80 temporary construction people are also expected in the beginning phase of the project.

He also pointed out that if all our four mines are begun as planned, the impact would be gradual. Everyone would not arrive at once, he said.

[From the Northern Wyoming Daily News, June 1, 1976]

WHEATLAND TO SUFFER HEAVY INDUSTRIAL IMPACT

WHEATLAND WYO.—The planner responsible for preparing the Wheatland area for impending industrial impact from a $1.4 billion power plant said residents here are "naive" and will be stunned by the changes that the tide of new residents will bring.

Dave Sneesby, director of the city-county planning office, made that prediction and painted a bleak picture of Wheatland five years from now—town services swamped by a population that has tripled and battling snowballing crime rate and housing problem.

The Laramie River Station will be comprised of three 500-megawat units, according to Missouri Basin Power Project (MBPP) officials. Two units are scheduled to be completed by 1981 and third will be constructed by 1983, a spokesman for the consortium of power groups said.

The MBPP is made up of power groups in Wyoming, Colorado, Montana and the Dakotas. Power generated by the mammoth facility will be transmitted to those states and several others.

Lloyd Ernst, Wyoming operations manager of the MBPP, said construction of the facility is scheduled to begin in July, barring adverse developments in court cases brought by environmental groups in hopes of blocking construction until more study is done.

He said a delay in construction this summer could cost the MBPP $52 million.

"It is really critical that we do begin construction," he said.

"There hasn't been a project this big in a town this small, this far away from major cities," the planner of 13 months said. He said the only city that approaches what Wheatland residents can expect is Craig, Colo., where a government-financed power plant was built recently.

"Sneesby said the construction work force at the power plant will peak at 2,250 workers in five years. He predicted each of the power plant employes would create jobs in Platte County for one and one half service industry workers.

The 1,500-megawatt power generating facility planned by the MBPP for the Laramie River Station five miles north of here will rival the behemoth Jim Bridger power plant 30 miles east of Rock Springs in size.

The Jim Bridger power plant in southwestern Wyoming triggered an influx of construction workers that has beleaguered Rock Springs for the past six years and nearly doubled its 1970 population of 14,000.

But Sneesby pointed out that Wheatland, with a population of only 3,000, is more vulnerable than Rock Springs to industrial impact from the power plant. He said the town's population will probably triple within the next five years while the county's population—7,000 at last count—will most likely double.

The power plant will change the whole life style of the area—from a sleepy agricultural area to a booming, industry-based economy," Sneesby said.

* * * * *

EFFECT OF PROVISION IN S. 391 TO INCREASE MINERAL ROYALTY PAYMENTS TO STATES TO 50 PERCENT[1]

[Based on calendar year 1975 figures]

State	Total royalties paid to Federal Government	Royalties returned to State (37½ percent)	Royalties returned to State with 50 percent provision	Difference between 37½ and 50 percent	State	Total royalties paid to Federal Government	Royalties returned to State (37½ percent)	Royalties returned to State with 50 percent provision	Difference between 37½ and 50 percent
Alabama	$50, 296	$18, 861	$25, 148	$6, 287	Montana	$12, 345, 394	$4, 629, 523	$6, 172, 697	$1, 543, 174
Arizona	923, 976	346, 491	461, 988	115, 497	Nebraska	113, 061	42, 398	56, 530	14, 132
Arkansas	279, 704	104, 889	139, 852	34, 963	Nevada	2, 540, 280	952, 605	1, 270, 140	317, 535
California	18, 595, 624	6, 973, 359	9, 297, 812	2, 324, 453	North Dakota	1, 545, 037	579, 389	772, 518	193, 129
Colorado	92, 249, 754	34, 593, 658	46, 124, 877	11, 531, 219	New Mexico	68, 903, 026	25, 838, 635	34, 451, 513	8, 612, 878
Florida	47, 410	17, 779	23, 705	5, 926	Oklahoma	866, 776	325, 041	433, 388	108, 347
Idaho	2, 965, 576	1, 112, 091	1, 482, 788	370, 697	Oregon	879, 978	329, 992	439, 989	109, 997
Kansas	658, 266	246, 850	329, 133	82, 283	South Dakota	916, 034	343, 614	458, 152	114, 538
Louisiana	494, 554	185, 458	247, 277	61, 819	Utah	15, 269, 261	5, 725, 973	7, 634, 630	1, 908, 657
Michigan	23, 733	8, 900	11, 866	2, 966	Washington	45, 682	17, 131	22, 841	5, 710
Mississippi	27, 690	10, 384	13, 845	3, 461	Wyoming	92, 715, 391	34, 768, 271	46, 357, 695	11, 589, 424

[1] Note: S. 391 also contains a provision to increase the amount of the royalty paid to the Federal Government for coal to 12½ percent of the value of the coal. The figures above do not take into account this change, so the royalties States with coal would be higher.

PUBLIC POLICY RESOLUTION NO. 75, ALBUQUERQUE, N. MEX.—OCTOBER 29, 1975 ON DISTRIBUTION OF REVENUES FROM PUBLIC LANDS

Whereas, the accelerated production of minerals in the ten states comprising the Western Governors' Regional Energy Policy Office, as well as the remainder of the country, will result in substantial social and economic impacts in local communities, and

Whereas, many local communities have limited financial resources to create and sustain the social and economic infrastructure necessary for desirable community living under conditions of accelerated growth, and

Whereas, the revenues derived by the states from the sales, bonuses, royalties, and rentals of public lands under provisions of the Mineral Leasing Act of 1920 have been limited to 37½ percent of the total revenue and are restricted as to use for public school or other public educational institutions and for construction and maintenance of public roads, now, therefore be it

Resolved by the Western Governors' Regional Energy Policy Office.

That WGREPO support the amendment of Section 35 of the Mineral Leasing Act of 1920 (41 Stat. 450), as amended to provide:

(1) A reduction in the revenues distributed to the reclamation fund created by the Act of Congress known as the Reclamation Act, approved June 17, 1902, excepting those revenues from Alaska, from 5½ percent to 30 percent.

(2) An additional 22½ percent of all moneys received from sales, bonuses, royalties, and rentals of public lands to be paid to any State within the boundaries of which the leased lands or deposits are or were located to be used by the State and its subdivisions as the legislature of the State may direct giving priority to those subdivisions of the State socially or economically impacted by development of minerals leased for 1) planning, 2) construction and mainteance of public facilities, and 3) provisions of public services.

(3) That all moneys paid to any State from sales, bonuses, royalties, and rentals of coal deposits in public lands may be used by the State and its subdivisions giving priority to those subdivisions of the State social or economically imported by development of Federal coal, for 1) planning, 2) construction and maintenance of public facilities, and 3) provision of public services, as the legislature of the State may direct.

THE UNITED TEACHING PROFESSION,
Cheyenne, Wyo., July 26, 1976.

Hon. CLIFFORD HANSEN,
U.S. Senate Office Building,
Washington, D.C.

DEAR SENATOR HANSEN: This letter is to assure you that you have our full support in attempts to override the President's veto of S. 391, the Federal Coal Leasing Amendments Act of 1975.

We will do our best to assist you in your efforts.

Sincerely,

DON SHANOR,
Executive Secretary, Wyoming Education Association.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. FANNIN. I yield 3 minutes to the Senator from Idaho.

Mr. McCLURE. I thank the Senator for yielding. I take this moment just briefly and rather sketchily, because of the limitation in time, to rise in support of the President's position.

I hope the Senate will vote to sustain his veto. It is not often that I rise in opposition to a position expressed by my good friend, the Senator from Wyoming, but I know how strongly he feels about the necessity for finding some way for the communities in his State and other States affected by the current energy development in the Western United States to cope with the problems of that sudden community development that does impose very real problems.

I, too, come from a public land State and I am very much in favor of the increase in the States' share of the Federal leasing revenues. But I want to emphasize that, as the Senator from Oklahoma, the Presiding Officer of the Senate at this moment, has stated earlier, we have joined in cosponsoring legislation that will do precisely that this bill does in that field.

I also would like to point out that the President, in his message on the veto of this bill, said that he will pledge his support to the passage of that kind of legislation. So I think we have reasonable expectation that that kind of legislation can become law without it becoming imbedded in this particular bill.

I should point out, too, that the BLM Organic Act, which has passed this body and also passed the other body in different form, also contains a provision for the increase of royalties of the States. So I think that particular thing is going to be resolved and resolved favorably to the position of the Senator from Wyoming and my own position.

My major opposition to this bill does not lie because I oppose the strip mine legislation. I have supported strip mine legislation in the past. I expect to continue to support it if appropriate. But this does embark the Federal Government on a program of exploration of mineral values on public lands which I think we will live to regret if, indeed, we go down that trail.

I spoke to the Senator from Montana about that question before this bill was brought up for passage in the Senate because this bill, in the House form, had that provision. The Senate bill did not have that provision. I am very much opposed to that kind of injection of the Federal Government into what has to be, essentially, a production program—not just exploration to find out what is there. It will inevitably lead to a Federal yardstick in production and marketing as well, just as we have seen it do in other instances.

The information can be obtained without going into the Federal program, because that information is available from the private enterpreneurs.

Mr. President, I hope the Senate will vote to sustain the President's veto.

The PRESIDING OFFICER. The Senator's 3 minutes have expired. The Senator from Montana.

Mr. METCALF. I yield 2 minutes to the Senator from Wyoming.

Mr. McGEE. Mr. President, I rise in support of this effort to override the Presidential veto of S. 391, the Federal coal leasing amendments. The Washington Post this morning carried an editorial which struck an optimistic tone that we have mustered sufficient votes here in the Senate to comfortably override this ill-conceived veto. I hope that this optimism prevails today.

The editorial branded the veto as "the latest act of negativism coming from the Ford administration concerning the creation of a national policy on the mining of coal." The President has twice vetoed surface mining control and reclamation bills. To say that the administration is guilty of negativism is an understatement, Mr. President. I call it a calloused disregard for the problems which face the Western States as national pressures for energy development increase.

The Washington Post also carried an article by Colman McCarthy, "Leasing the West's Unprotected Land," opposite its editorial. Both the article and the editorial underscore the problems which coal-producing States face and the diligent efforts which Congress has made to solve these problems and help prevent the Rocky Mountain area from being transformed into a second Appalachia. I ask unanimous consent that the editorial and Mr. McCarthy's article be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

OVERRIDING THE COAL LEASING VETO

The Senate and House are scheduled to vote this week on the President's July 3 veto of the Federal Coal Leasing Amendments. The veto was the latest act of negativism coming from the Ford administration concerning the creation of a national policy on the mining of coal. The President has twice vetoed strip mine control bills. As with the latter pieces of legislation, the coal leasing bill had strong support in Congress. It passed the Senate by a near-unanimous voice vote and the House by 344 to 51. To let the President's veto stand is not only to waste the considerable work and thought that congressional committees put into the bill, but is to say that a national coal policy isn't needed at this time.

We supported efforts to override the vetoes on the strip mine bills, and we support the move to override the leasing veto. The two are inextricably linked, as discussed on the opposite page. The President argued that the leasing bill "would have an adverse impact" on coal production. If anything, it is the other way around; the bill promises to increase production because, among other things, it would give the industry a clear indication of where it can mine and what the costs would be. The legislation itelf includes such worthwhile provisions as redistributing the allocations to Western states of mineral leasing receipts. Wyoming, for example, would receive an estimated $10 million to $11 million annually, to be used in communities suffering the effects of boomtown growth brought on by coal development. The bill is also useful because it calls for a coal exploration program that would enable the government to discover what kinds of reserves—whether in coal to be stripped or deep-mined—are available.

The Senate, scheduled to vote today, is expected to be comfortably in favor of an override. The House vote, set for Wednesday, will be closer, according to some of the bill's sponsors. The bill deserves support, but no one should have the illusion that it is anywhere close to being the total answer to the question of what kind of coal policy the country needs. Originally, it was planned that the coal leasing bill would follow a strip mine bill, or at least be passed with it. Many of the protections to Western lands and the ranchers and farmers on them were in the vetoed strip mine legislation.

Worthwhile efforts are being made in the House—by Rep. John Melcher (D-Mont.) and others—to revive the strip mine bill. If anything, a successful override on coal leasing ought to be a prod to Congress to move ahead with the strip mine bill. To pass one without the other is to go only part of the way.

[From the Washington Post, Aug. 3, 1976]

LEASING THE WEST'S UNPROTECTED LAND

(By Colman McCarthy)

Last week in Denver, a group of citizens spoke out against what it saw as the raw and relentless power of the federal government to open Western coalfields to energy companies. The Western Coalition, a group of 85 agricultural, environmental and public interest organizations concerned about strip mining and coal development in the eight Rocky Mountain and Northern Plains states, was protesting the Interior Department's June 1 call for nominations for tracts to be considered for new federal coal leasing. It argued, among other points, that the 16 billion tons of western coal already leased to the companies could satisfy national needs for many years. It said also that although the Interior Department did well to ask for the view of citizens, it was impossible for the citizens even to think of participating. Why? "We have 60 days to analyze 92 million acres of federal coal lands and make our nominations for off-limit areas," the coalition explained. "That's one and one half million acres per day. The department requires us, with our meager resources, to provide exhaustive information on why these lands should be protected—the type of information the department has never collected in its decades of existence and billion dollar budgets."

The coalition's outcry is another voicing of a fear, long expressed, that nothing can stop the energy companies, as they roll westward, from repeating the assaults they gave to Appalachia's land and citizens. This fear has a bearing on a related coal issue now before Congress, as it is scheduled to vote (today in the Senate, Wednesday in the House) on whether to override President Ford's veto of the Federal Coal Leasing bill. The legislation establishes a system of deferred bonus payments which allows smaller companies to compete for federal coal leases. At the moment, with the 16 billion tons already leased, the bill's sponsors see their effort as an overhaul of the current system that encourages, among other things, more speculation than production.

In the context of this one vote, strong arguments exist for overriding the veto; as I see it, the Ford administration has allowed itself to be overly influenced by the wishes of the coal lobby, and it is the responsibility of Congress to move if the President won't. But the choice for Congress is subtler and more complex than a for-or-against-the-President vote on leasing rules. This is because the leasing bill comes only as part of the problem created by the sweep of strip mining across the West. The major fear of agricultural and environmental groups is that Congress may pass the coal leasing bill (if the veto is overriden) and end this session without passing a law providing strip mine controls.

The groups agree that money coming to the Western states under the leasing bill would be needed. The effects of the coal boom have already been seen; they are described by Rep. Teno Roncalio (D-Wyo.). "Many small towns in the Rocky Mountain West are suffering severe impact. Wyoming has skyrocketing rates of divorce. We lead in syphilis and gonorrhea per capita. Alcoholism is rampant. Child abuse is a national disgrace in our Western states. Suicide and mental illness are the impacts we suffer in our boomtown growth."

The coal leasing bill would bring money into the Western states, and the politicians who worked hard to override the veto would be hailed for profitably corralling and lassoing a President. But the fear is that once the leasing bill is passed, many of the same politicians will no longer be as enthusiastic as they once were for a strip mine bill. "The timing is wrong," says Carolyn Johnson, the coalition's coordinator. "We need the revenues of the coal leasing bill, but the timing makes me uneasy. We still don't have a strip mine bill. We are so vulnerable out here—ranchers and farmers—to political and economic pressures. If the coal leasing bill is passed, will that take away support for the strip mine bill? I'm leery."

When Johnson and others talk of the states' needing the money, they talk also of needing other things. They have in mind several provisions in the strip mine bill that are not in the one on coal leasing. No protection exists in the leasing bill, for example, for surface owners whose properties lie over federal coal, nor are there mining or reclamation standards to protect land and water resources.

The leasing bill is silent on these matters because when being drafted it was known or assumed that they would be covered in the strip mine bill. When it became clear that the strip mine bill was in trouble, the effort was made by Rep. John Melcher (D.-Mont.) to combine the bills into the National Coal Production, Leasing and Mine Reclamation Act. It was a sensible idea but was defeated late last year in the House Interior committee 21 to 20. At the moment, a revised strip mine bill is again before the Interior Committee (cosponsored by more than half its members), but it is separate from the coal leasing bill being voted on this week.

The separation has forced many of those in the coalition into not working to override the veto, even though they still support the bill. This puts them close to an alliance with forces they have bitterly opposed all along: the coal lobby and the Ford administration. Are their fears justified, that if the coal leasing bill is passed and the money flows into the states (however modest those amounts would be) then support for a strip mine bill will fade? Another reason put forward for not supporting the override is that without a leasing bill Congress would bestir itself to go back and pass both the leasing and the strip mine, as John Melcher once tried to do. But little time remains for that.

The angles to these speculations can form any number of political views. Two congressmen who have been involved in the debate all along dismiss the coalition's fears as groundless. Support for the strip mine bill will remain, both insisted. They agree that the strip mine bill should have passed first, but that that failure is no reason to back away from the coal leasing bill.

What is suggested by this debate, and the new positions that some groups have been forced into, is that Congress is again displaying its talent for complicating the simple: that the need for coal can be balanced with the need to protect the land and those living off it. The tragedies of Appalachia are properly assigned to the coal industry, but it now appears that if similar destruction is moving West, its travel agent may be Congress.

Mr. McGEE. Mr. President, I have made scores of trips to my State this year and have visted all 23 counties and most of the communities. Overwhelmingly the concern which I hear expressed most often by the people of Wyoming is that of the impact which coal and energy development will have upon our State, its communities, and our people. Likewise, I have received countless letters and telegrams in support of S. 391. Some have been copies of communications to President Ford urging that he sign the bill into law. I ask unanimous consent that some of these letters and telegrams be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE UNITED TEACHING PROFESSION,
Cheyenne, Wyo., July 26, 1976.

Hon. GALE McGEE,
U.S. Senate Office Building,
Washington, D.C.

DEAR SENATOR McGEE: This letter is to assure you that you have our full support in attempts to override the President's veto of S-391, the Federal Coal Leasing Amendments Act of 1975.

We will do our best to assist you in your efforts.

Sincerely,

DON SHANOR,
Executive Secretary Wyoming Education Association.

CHEYENNE, WYO.,
June 30, 1976.

Hon. GALE MCGEE,
Senate Office Building,
Washington, D.C.

The following message sent President Gerald R. Ford:

DEAR MR. PRESIDENT: The Wyoming Stock Growers Association urges you to give favorable consideration and approve Senate File 391 the Federal Coal Leasing Amendments Act. The signing into law of this important legislation will go a long way toward relieving Wyoming's "impact problems" that are bound to develop as the "energy crunch" comes upon the U.S. and Western coal and uranium becomes of paramount importance to the entire population of our country.

Sincerely,

KIM J. KRUEGER,
President, Wyoming Stock Growers Association.

GERALD R. FORD,
President of the United States,
White House, Washington, D.C.

DEAR MR. PRESIDENT: Rocky Mountain Energy Company, the mining subsidiary of Union Pacific Corporation, respectfully urges you to sign into law the Federal Coal Leasing Bill, S. 391. In urging you to sign the measure, we understand that you may have received advice from segments of the coal industry and responsible public officials to the effect that certain provisions of the measure are onerous and, therefore, unacceptable to them. We understand these reservations and to some degree have shared these concerns.

However, on balance, we believe that the opportunity authorized in the measure granting the public land states, such as the State of Wyoming, where our principal coal mining activities are now centered, the advantage of receiving a substantially higher share of mineral royalty income for use in ameliorating, in part, the socioeconomic impacts of major mineral development on the public domain outweigh the disadvantages contained in the Bill.

Respectfully,

ROCKY MOUNTAIN ENERGY COMPANY,
By JAMES C. WILSON, *President.*

UNION PACIFIC CORP.,
Casper, Wyo., June 25, 1976.

Hon. GALE W. MCGEE,
U.S. Senate, Russell Senate Office Building,
Washington, D.C.

DEAR SENATOR MCGEE: As you know, we have heretofore caused to be delivered to your office a copy of the attached telegram forwarded by our mining subsidiary Rocky Mountain Energy Company, signed by its President, James C. Wilson, to President Ford expressing Rocky Mountain Energy Company's views that S. 391 should be signed.

As Governor Herschler may have expressed to you, we have some reservations about certain features of the measure which are, presumably, concerns shared in common with other segments of the coal industry. However, as the telegram states, we believe that the opportunity authorized in the measure granting Wyoming and the other public land states the advantages of receiving a substantially higher share of mineral royalty income outweighs the disadvantages contained in the Bill.

Rocky Mountain Energy Company and the entire Union Pacific Family are delighted to join you in supporting this measure which is of such great significance to the State of Wyoming and our neighboring states.

Sincerely,

D. THOMAS KIDD.

Senator GALE MCGEE,
Senate Office Building,
Washington, D.C.

Copy of message sent to President Ford:

Mr. President, urge you approve S. 391 currently pending your approval. We feel this action is critical to the cities in Wyoming to help provide for the impact created by mineral development which will provide energy to the Nation. Thank you.

GEORGE FRANK,
Mayor, City of Cody.

CASPER, WYO.,
June 23, 1976.

Senator GALE MCGEE,
Russell Senate Office Building,
Washington, D.C.

The Wyoming Rural Electric Association consists of 14 cooperative electric distribution systems and serves 45,000 consumers in Wyoming. We are very interested in the orderly development of Wyoming and in the impacts which are attendant to this development. We believe western minerals are essential in finding solutions to the national energy dilemma and that the State of Wyoming and the communities in the State are entitled to some consideration as these developments occur. We urge your approval of Senate Bill 391 as a means of increasing the States share of Federal mineral royalties.

CRAIG THOMAS,
General Manager, Wyoming Rural Electric Association.

NATIONAL ASSOCIATION OF COUNTIES,
Washingotn, D.C., July 19, 1976.

Re: Veto override for Coal Leasing Bill (S. 391).

DEAR SENATOR: The National Association of Counties (NACo) urges your support for a veto override for the Coal Leasing Reform Bill (S. 391).

This bill amends the Mineral Leasing Act of 1920 to provide for a comprehensive coal program on federal lands.

The bill has several important provisions for counties and other local governments that would be impacted by federal coal leasing activities. Consultation with state and local governments and the public is required in the preparation of the federal land use plans. Further, the Secretary of Interior "shall consider the effects which mining of the proposed lease might have on an impacted community or area, including, but not limited to, impacts on the environment, on agricultural, and other economic activities and on public services."

Of critical importance is the provision in the bill to raise the states percentage of federal coal leasing revenue from 37½% to 50%. The additional 12½% would be available to a state and its subdivisions giving priority to those communities socially or economically impacted by federal mineral development activities.

Your support for a veto override on S. 391 with these provisions will be greatly appreciated.

Sincerely,

JIM EVANS,
Legislative Representative.

FARM BUREAU FEDERATION,
Laramie, Wyo, July 6, 1976.

Hon. GALE MCGEE,
Senator, State of Wyoming,
Russell Senate Office Building,
Washington, D.C.

DEAR GALE: I was dismayed at President Ford's veto of S. 391 which would have increased mineral royalty payments from 37½ percent to 50 percent. I consider this one of the most disappointing legislative setbacks the West has suffered in many years.

I want you to know that we strongly support your efforts to override this deplorable veto when Congress reconvenes later this month. As you know the Wyoming Farm Bureau Federation has been a proponent of such increased mineral royalty payments for several years.

The importance of such legislation cannot be overemphasized since Wyoming will suffer the extensive impact which results from energy resource development. Wyoming and the other states with vast energy resources should not be forced to contribute more than is fair in meeting our nation's energy needs. It seems equitable to me for the federal government to help offset some of this impact by increasing mineral royalty payments.

On behalf of more than 7500 member families of the Wyoming Farm Bureau Federation, your efforts to secure Congressional passage of S. 391 are appreciated, as well as an attempt to override this unfortunate Presidential veto.

Best regards,

DAVID A. FLITNER,
President.

Cheyenne, Wyo., June 30, 1976.

President GERALD R. FORD,
Pennsylvania Avenue,
Washington, D.C.

DEAR PRESIDENT FORD: As a member of the Wyoming State Legislature, Appropriations Committee, I feel it necessary to write you in regard to S-391. The Federal Coal Leasing Amendments Act of 1975 is now on your desk for signature.

The State of Wyoming is proud to be in the position of becoming the energy capital of the United States. I feel that the mineral resources of our State are rightfully the property of all the people of the United States. S-391 will not, in the long run, reduce the Federal Treasury income from our minerals. The additional 12½ per cent tax returned to Wyoming is absolutely necessary for us to meet the impact problems associated with the development of these new coal fields.

Mr. President, in my capacity as a member of the Appropriations Committee of our Legislature, I assure you that these monies will be appropriated with the thought in mind to assist the United States in becoming energy sufficient. I urge you to sign S-391 in its present form to enable us to proceed on the road to your established goals of energy self-sufficiency.

Sincerely,

CARROL P. ORRISON,
State Representative.

WYOMING STATE LEGISLATURE,
Rock Springs, Wyo., June 29, 1976.

Hon. GERALD FORD,
President,
The *White House,*
Washington, D.C.

DEAR MR. PRESIDENT: I strongly urge your favorable consideration of S. 391, the Federal Coal Leasing Amendments Act of 1975, which has now been passed by both the Senate and the House.

This act is of great importance to all of Wyoming, and is of particular importance to Sweetwater County and Southwestern Wyoming, a mineral producing area which is now trying to cope with the impact of industrial expansion based on mineral production.

Conservative estimates are that Sweetwater County has doubled in population during the past three years, because of this industrial expansion. The funds which could be available through approval of S. 391 would be of great benefit to this area in meeting the problems occasioned by this industrial expansion.

Sincerely,

ROBERT H. JOHNSON,
State Senator.

CHEYENNE, WYO.,
June 30, 1976.

Hon. GALE MCGEE,
Senate Office Building,
Washington, D.C.

The following message sent President Gerald R. Ford, June 30, 1976:

DEAR MR. PRESIDENT: As Chairman of the Wyoming House of Representatives Mines, Minerals and Industrial Development Committee, I urge you to sign Senate File 391, the Federal Coal Leasing Amendments Act, the finalization of this congressional action into law will be of great assistance to the State of Wyoming in helping us "bridge the gap" regarding the accelerated growth and expansion that is bound to occur as we develop Wyomings coal, uranium, and other mineral resources, for the benefit of the entire Nation.

Sincerely,

Representative DEAN PROSSER,
Chairman, Mines, Minerals and Industrial Development Committee.

ST. PAUL, MINN.,
June 29, 1976.

The PRESIDENT,
The White House,
Washington, D.C.

I strongly urge you to sign S. 391, the Federal Coal Leasing Amendments Act of 1975. In my opinion it makes significant and beneficial amendments to the Mineral Leasing Act of 1920. Its provisions providing for increased payments to the states, instituting a federal exploration program, providing for logical mining units, reserving certain tracts to public bodies, requiring mining and reclamation plans, imposing production requirements, and providing for a study of recovery methods, are most beneficial. In my opinion this bill merits your support and your signature.

LOUIS W. MENK,
Chairman, Burlington Northern Inc.

CHEYENNE, WYO.,
June 28, 1976.

Senator MCGEE,
Old Senate Building,
Washington, D.C.

The following is a copy of telegram sent to President Ford, White House, Washington, D.C.:

The Wyoming Water Development Association comprised of citizens of all water interests in the State urge your signing of S. 391. Funds are vitally needed in our State for use in energy impacted areas.

MERL RISSLER,
President, Alcova.

NATIONAL COUNCIL OF STATE COMMITTEES FOR CHILDREN AND YOUTH,
June 24, 1976.

The PRESIDENT,
The White House,
Washington, D.C.

DEAR PRESIDENT FORD: I urge you to approve the bill designed to increase the states share in mineral royalties. Additional revenues are desperately needed, especially in newly impacted areas, for human services. In Wyoming and other states, great hardship has been created by the influx of people demanded in producing fuel to supply national needs.

Respectfully yours,

EVERETT D. LANTZ,
President, National Council of State Committees for Children and Youth.

WYOMING COUNCIL FOR CHILDREN AND YOUTH,
Laramie, Wyo., June 24, 1976.

Hon. GALE MCGEE,
U.S. Senate,
Senate Office Building,
Washington, D.C.

DEAR SENATOR MCGEE: Congratulations on moving a greatly needed revision of the Mineral Royalty Act toward fruition. This, in my opinion, is one of the most significant events in Wyoming's colorful history. If the bill becomes law, Wyoming will be indeed blessed.

We are fortunate to have Gale McGee representing the people of Wyoming in our Nation's Capitol. Best wishes for continued success and happiness.

Respectfully yours,

EVERETT D. LANTZ.

WYOMING EXECUTIVE DEPARTMENT,
Cheyenne, Wyo., June 24, 1976.

Hon. GERALD R. FORD,
President of the United States,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: Congress has recently passed and sent to you H.R. 6721, a bill to amend the Mineral Leasing Act. The bill contains a provision increasing the states' share of federal mineral royalties from 37½% to 50%.

This additional revenue is of crucial importance to a state such as Wyoming, where federal energy policies have resulted in unprecedented population growth from the opening of new coal and uranium mines and the construction of new power plants. This rapid influx of workers and associated service employees has put a substantial strain upon our small communities, some of which have seen their populations double over the past few years. They are rapidly approaching the limits of their bonded indebtedness.

It is inevitable that such activity will have some adverse effects upon our people, our environment, and our way of life. Nevertheless, Wyoming is willing to do her part in meeting the national energy crisis. I strongly believe that the federal government has a mutual obligation to provide this financial assistance to an area struggling with the effects of federal energy policies.

The royalty share amendment has had broad bi-partisan support throughout the Rocky Mountain area. Our Congressional delegation has backed the concept from its inception and they have spared no effort in guiding its passage through Congress.

The amount of money involved is small, compared to most federal programs. Yet it is a matter of the greatest importance to a rural state such as mine. I respectfully urge you to allow this bill to become law.

Yours sincerely,

ED HERSCHLER.

Mr. MCGEE. Mr. President, S. 391 should become law for two basic reasons. First, our coal leasing laws are in need of modernization so that we can stimulate the production of our coal resources in an orderly, environmentally sound, and equitable manner. The President's objections to this bill, in my opinion, are indeed minor. He fears that some of these provisions would have an adverse impact on coal production. I say let us proceed under the provisions of this bill, and if the President's apprehensions prove to be true, Congress will have ample time to modify its provisions later. On the other hand, our Western States do not have the time to stand idly by while our unprotected lands are being consumed by uncontrolled coal production and while our communities are being impacted by exploding population growth.

The second, and equally important, reason why S. 391 should become law is because of the financial aid it will provide for boom towns and impacted areas. The Western States' share of the Federal mineral royalty will be increased a modest 12½ percent. For Wyoming, at current production levels, this will mean an additional $10 or $11 million annually to be used by our communities to construct sewage disposal plants, provide good water, expand our hospitals and schools, build roads and highways, and provide other necessary services for our growing populations.

This financial assistance is already long overdue. Sweetwater County in southwestern Wyoming, for instance, has doubled its population in 3 short years. The city of Gillette in Campbell County has suffered the same impact due to coal development in the Powder River Basin, and many of the other communities in my State face the same consequences.

Mr. President, I made my case for S. 391 in a lengthy statement when it finally passed the Senate on June 21 of this year. I, therefore, send an urgent plea to my colleagues, both in the Senate and in the House, to vote for an override of the Presidential veto.

I wish to underscore the admonition of the chairman of the subcommittee, the Senator from Montana, and the comments of my colleague (Mr. HANSEN). The two of them have worked long and hard, almost literally, in the legislative mines to produce what we have learned long since is the only way in this body. That is to find the level of reasonable compromise.

That is responsible. I think we are facing here today the consequences of some unfortunate advice or ill advice to the President of the United States.

We appreciate very much the effort of our colleagues who seek to sustain that mistaken judgment. It happens to all of us occasionally and we are very tolerant toward that kind of position. The hard fact of the case is, Mr. President, that we are dealing with hobgoblins here. This is not halloween. Yet, the specter of what might or what if or what of has been paraded before us here. It is not in this bill. This bill is down to earth—in fact, it is in the bowels of the earth—in a responsible way to help us meet our energy demands.

I say to my friends on the other side of this question that time is running out for us in the West in terms of getting help. Everybody wants to help us now on impact funds, but they want to do it in another bill and another one and another one. We tried this a year ago and it is increasingly urgent. Before the time runs clear out, it is important that we get this bill through today.

The PRESIDING OFFICER. The Senator's 2 minutes have expired.

Mr. MCGEE. May I have 30 seconds?

Mr. METCALF. I yield 30 seconds.

Mr. MCGEE. I have asked to have printed in the RECORD a series of letters from people in Wyoming that are selected to show the diversity of the depth of the concern over this and to remind my colleagues that of our 81 incorporated communities in Wyoming, 26 of them are already severely impacted by what is going on in energy in our State and we dare not wait longer.

Mr. METCALF. Mr. President, may I ask about the time?

The PRESIDING OFFICER. The Senator from Montana has 30 seconds remaining; the Senator from Arizona has 2 minutes remaining.

Mr. METCALF. Would the Senator from Arizona use his time and let me close with 30 seconds?

Mr. FANNIN. Mr. President, the Senator from Arizona wishes to make it clear that he supports the position that has been expressed by the Senator from Wyoming as far as the money that would be received from sales bonuses, royalties, and rentals of public lands to the States, and is a cosponsor of this amendment.

Also, there are several bills—even in conference—pending before the Congress at the present time which have such a provision in them, and I would hope the vehicle would provide the alternative that we have.

Mr. President, I do want to emphasize that the surface mining regulations released May 11 by the Department of Interior were effective as published in the Federal Register—in other words, immediately. Pertaining only to Federal coal lands, these rules for leasing, exploration, mining and reclamation were endorsed by both the CEQ and the EPA. State law applies where it is as stringent or more stringent, unless States try to block or lock up Federal coal reserves. BLM will administer coal leasing, permits and licensing; USGS has authority over coal exploration, mining and reclamation.

Mr. President, I bring that to the attention of the Senate because I think it is very important. We can accomplish, I feel, what the Senator from Wyoming wants, what the Senator from Montana desires, if we would just take advantage of the opportunities we have to send these amendments through on pending legislation, and this would be done.

Now, I do not think the Senator from Wyoming or, perhaps, the Senator from Montana feels that this bill—this is not a Senate bill it has been brought out continuously, and it is not what the Senator wanted or would not have been the bill they sent over.

The PRESIDING OFFICER. The time has expired.

Mr. FANNIN. I thank the Chair.

The PRESIDING OFFICER. The Senator from Montana is recognized for 30 seconds.

Mr. METCALF. Mr. President, this bill will stabilize the mining industry. This bill will give encouragement to the mining industry because we will give them the ground rules. This bill will enact into statutory authority many of the regulations that the Senator from Arizona has suggested that the Secretary of Interior has promulgated.

This bill will provide other regulations that Congress, in its capacity as overseer of the public lands, has to assert in its assertion of congressional authority.

This bill will provide help for the various communities in our States that are a result of coal mining activity, so that we can take care of schools, sewers, and all those things, and this bill will also provide for a more stable mining activity in the future. I urge my colleagues to override the President's veto.

ADDITIONAL STATEMENTS SUBMITTED

Mr. HASKELL. Mr. President, later the Senate will vote on whether or not to override the President's veto of the Coal Leasing Amendments Act of 1976, S. 391. I will vote to override that veto and I hope that the Senate will approve the override vote.

Of particular importance to residents of Colorado and other Western States targeted for extensive new mineral and energy source development in the coming decades, is a provision of the bill which increases the States' share of mineral revenues collected under the Minerals Lands Leasing Act, from the present 37.5 percent to 50 percent, and makes the additional 12.5 percent available for a broader set of purposes than is permitted under the present law. While the existing law restricts the use of these revenues to the construction and maintenance of schools and roads, the coal leasing bill would permit the States to spend the additional revenues on all of the public needs of the communities affected by the rapid new development. This bill also permits the moneys already paid, or to be paid under the prototype oil shale leasing program to be spent for more than just schools and roads.

Mr. President, I cannot overemphasize the importance of this issue to Colorado's smaller, rural communities which are already feeling the impact of experimental oil shale development and accelerated coal mining activity. For this reason, I have sought to include provisions for this discretionary authority in a number of bills relating to mineral leasing and energy development. I am extremely pleased that the House-Senate conferees on the Land and Water Conservation Fund Act, S. 327, have just reported a bill which includes a provision I sponsored allowing a State to use its share of its Federal oil shale lease funds—37½ percent—for any public purpose it deems proper, such as planning, public facilities and public services, in addition to roads and schools which are now the only purposes for which those funds may be used. It is simply imperative that the Western States have the unrestricted use of this money to help cope with the rapid growth which will result from shale development, and to provide all types of services to their new residents.

In further support of this point, I would like to recommend to my colleagues a thoughtful speech by Dr. Pamela Kacser of the Federal Energy Administration who recently addressed the American Country Life Association's Annual Forum at West Virginia University in Morgantown, W. Va., on the subject of "Energy, People, and Rural Development."

In this speech, Dr. Kacser discusses the impact of the energy crisis on rural America from two points of view—the costs which rural residents must bear as a result of higher energy prices, and the impact on rural communities of rapid growth associated with accelerated energy resource development. She points out that in one of FEA's western regions, in six States running north and west from Colorado, there are 179 communities which may, within the next few years, suddenly face an influx of from 1,000 to 3,000 new workers directly engaged in energy. She cites a study conducted by the Denver Research Institute, of Sweetwater County, Wyo., the site of a large powerplant and of renewed mining activity. The institute concluded from its study that "an annual growth rate of 10 percent strains local service capabilities. Above 15 percent, seems to cause breakdowns in local and regional institutions."

Mr. President, I believe this interesting and informative discussion of the "energy boomtown" syndrome is pertinent to our debate over the use of the States' share of mineral leasing funds, and I think my colleagues will find Dr. Kacser's address interesting and useful. I ask that it be printed in the RECORD at this time.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

ENERGY, PEOPLE, AND RURAL DEVELOPMENT

(An Address by Dr. Pamela Haddy Kacser)

ACKNOWLEDGMENT

The author gratefully acknowledges the assistance of three colleagues in the preparation of this paper, Ms. Ann Siler in connection with the section on Energy Resource Development, Mr. William Bowman for the section on Price Impacts on Rural Areas, as well as for computer work on this section, and Ms. Neva Harrison for her typing.

INTRODUCTION

It is a particular pleasure to address the Annual Forum of the American Country Life Association on the attractive campus of West Virginia University. This state shows, to an unusual degree, impacts of our nation's energy problems and policies, in both their expansionary and their onerous aspects. To coin a phrase, first the good news. Considerable development of our domestic energy resources, especially of our bountiful supplies of coal, is taking place right in this area. John L. Lewis must be chortling in his grave at the sudden upsurge in coal production and coal-mining income. On the other hand, as I shall spell out later, such areas as West Virginia are especially vulnerable to price increases in energy products.

I would like to take this opportunity to make a few comments first on the general impact of the energy crisis in the long-term aftermath of the embargo, then on the sudden increase in the last two years in energy resource development especially in rural areas, and finally on a method which I have developed in the Federal Energy Administration for analysis of the impact of energy price increases on different sub-groups in the American population, applied here to the rural population, and less reliably to the Appalachian region.

THE MEANING OF THE ENERGY CRISIS

What does the energy crisis mean for the United States over the long haul? We know that it means the likelihood of rising prices for imported fuel, and the possibility of total withdrawal of most foreign supplies.

To meet this crisis, we have tried to embark on a two-pronged policy of developing domestic energy resources and curtailing the use of imports, together with encouraging conservation. As a nation, we have not been notably successful in this policy.

Many people are worried that conservation implies no growth, in spite of the example of prosperous growing countries, such as Germany, who use much less energy per person than we do. Conservation does not mean a reduction, but a reallocation of our growing expenditures, from stoves to microwave ovens, from wasted heating fuel to heating fuel plus more insulation.

Basically, our long-term energy future means that there has been and will be a gradual upward shift in the price of energy compared with all the other factors of production, land, labor, capital and other raw materials. I anticipate that we shall be making gradual adjustments to these changed relative prices over the next fifty years. Why so long? Because we cannot scrap the stock of buildings and communities and transportation patterns which we have built up so laboriously for, as last weekend reminded us, two hundred years.

We might expect a slight acceleration in the existing trend of the population to relocate in the sun belt of the South and West, a rational adjustment to higher fuel costs. Within a region, the cost of commuting may slightly shift the relative desirability of the house in the outlying suburb compared with the one closer in.

In other words, we may have a more intensive use of our existing towns and suburbs, and even possibly slow the march of the suburbs into the rural areas. It is conceivable that eventually the energy crisis may do for some of the cities what successive major efforts of governments have not been able to do, to revitalize them by giving people reasons for wanting to remain in them.

The immediate aftermath of the embargo has, of course, imposed special problems on the rural areas, in terms of needs for, prices of, and availability of fuels, bearing particularly hard on the poor and the elderly. This important subject is discussed in considerable detail later. In sum, these problems created additional needs for public services, in turn putting extra strains on county and state services, just at the time their own costs had risen. In some states, revenues rose in this period, for example, where there was a tax on the production of gasoline. In other states, with a tax on sales of gasoline there was a severe drop in revenues.

For a time, you may recall, people switched to small cars, and stopped buying recreation vehicles. They cut back on long-distance leisure travel. They purchased insulation for their homes.

This first step on the long path of adjustment to higher energy prices was not smoothly followed by more. People stopped believing there was a problem. They reversed everything, switching back to larger cars, and recreation vehicles. One can only hope that this is a temporary deviation from the long-term trend.

This reversal of trend also gives more importance to the painful process of adjustment forced by higher prices, with all their attendant inequities. It also gives major focus to the need to develop many types of domestic fuels, traditional and modern. This domestic energy resource development presents particularly thorny problems for small communities. In one of FEA's Western regions, of six states running north and west from Colorado, there are 179 communities who may, within the next few years, suddenly face an influx of from 1,000 to 3,000 new workers directly engaged in energy.

These people and their families have to be fed, housed, schooled, and provided with roads, sewers and social services.

The financial and other problems this creates are discussed in the next section.

ENERGY RESOURCE DEVELOPMENT

The need for energy resource development is responsible for the "boomtown problem", an expression which appropriately, has both good and bad connotations. In the long-term, increasing energy supplies brings a very positive and healthy contribution both to the local economy and to the nation. But without vision, preparation, and money, the short term growing pains in a small community which happens to be the site of a new energy project can be severe.

Almost any rural area, across the nation, could be affected if selected as the site of a nuclear power plant. Rural areas in the coastal zones, where off-shore oil and gas is to be developed, will be the "land bases" for such activities, such as the Delmarva coast, near Washington, D.C. As I mentioned earlier, the coal areas of Appalachia were immediately affected with the onslaught of the oil embargo. The areas of the Rocky Mountains and the Northern Great Plains, too, have low sulphur coal and the less-economical, but potentially available, shale oil. All these areas are subject in some degree to the boomtown syndrome. But the most extreme recent example is the communities of the State of Alaska.

We now have enough experience with communities undergoing rapid growth from energy projects, to recognize and prepare for some of the inherent difficulties.

These difficulties arise because of the costs and the benefits of rapid growth are not simultaneous. For a small community, there is some initial mixture of both. But, in general, the benefits are long-range and regional, while costs are immediate and local. The Denver Research Institute conducted a study of Sweetwater County, Wyoming. Sweetwater is the site of a large new power plant and of renewed mining activity. The Institute concluded that "An annual growth rate of 10 percent strains local service capabilities. Above 15 percent, seems to cause breakdowns in local and regional institutions."

The initial strain results from the influx of construction workers performing the first phase of energy development workers. Their numbers, and the length of time of this first phase, depends, of course, on the nature of the energy project involved. A nuclear power plant may bring in up to 2,500 workers, and may require a construction period lasting up to ten years. (This brand new situation would be in stark contrast to a long-established mining community, which may have been suffering unemployment, and offers some "slack" in jobs, houses, and places in school.)

While larger urban areas might absorb such an influx, it would be a rare rural community which could do so. Sudden jumps in population require sudden increases in housing and all its attendant services, such as water and sewer systems. More schools are suddenly needed, and all manner of human services involved in health care such as hospitals, doctors, and sanitation services. New streets and connecting roads are necessary, more police, and other public servants.

It is not the need for services, but the sudden onset of the need which creates the problem. Provision of all these community needs requires heavy investment and perhaps greatly increased continuing costs. Yet the revenues produced by energy development will probably not be immediately available. Increased employment does soon produce a tax return for the community, but this return can in no way cover the heavy outlay which has been required. Taxes imposed on energy projects seldom materialize until the project is complete, and in operation, which, as we have seen, may be a matter of several years. Depending on states' tax systems, revenues may or may not be returned to the communities of need. Often energy development may occur in one county, and living development just over the line in another county.

In addition to a mismatch in dollar cost and benefit of energy development, there may be social strains. Long-time rural residents may resent newcomers, the changed pace of life, and face of the land. Newcomers may find little in the way of recreational activity, and the new payroll dollars they are anxious to spend, may bring a degree of inflation to the area. Elderly and retired residents, on fixed incomes, will suffer accordingly.

This general picture of an energy project boomtown will, of course, vary by the type of project, its location, and the particular community or rural area involved. The type of project determines the length of the construction phase, and sets the time required before the locale settles to its new, more stable, level of economic and social activity.

What can be done to alleviate the difficulties of a rural area undergoing the impacts of energy resource development? There is, of course, no pat answer and we seem to know more about the problems than the solutions.

One thing is clear. Foresight, planning and inter-governmental cooperative efforts are a must. We must usually rely upon the estimates of size and timing of projects made by energy companies, although these estimates have sometimes proven faulty. Local governments have to provide inventories of current conditions, and of their abilities to provide expanded services. Close cooperation between energy companies and local officials is mandatory, and based on the understanding that growth must be at a manageable rate. Since energy projects usually occur in small, remote areas, local officials may lack expertise in prediction and management. State and area-wide districts must help them in their problem. Federal assistance, too, may be in order, providing technical assistance and, perhaps, some funding. The Department of Housing and Urban Development, the Federal Energy Administration, and the Rural Development Service of the Department of Agriculture, are examples. This last, the RDS, has assembled an information system covering potential programs in the Catalogue of Federal Domestic Assistance, a must for communities under going rapid development. But the real key to success will still lie in the cooperative efforts of the particular groups involved and the desire to emerge as a stable and productive social unit.

PRICE IMPACTS ON RURAL AREAS

When FEA was first established in 1974, there was very little recent information available about energy consumption in general, and how changes in prices might affect different groups with our population, such as the poor, the Northeast, blacks, the elderly, and rural dwellers. The Congress, rightly concerned about these differential impacts, wrote into the FEA Act the requirement that information on these subjects should be collected and analyzed.

I was given the task of setting up a data system to examine such socio-economic impacts. With the help of a research firm, Mathematica, Inc., we set up the Household Energy Expenditure Model (HEEM), using a national sample of 50,000 U.S. households from the Public Use Sample of the 1970 Census of Population. We fed into this, some energy consumption information in the Census, supplemented by the Nationwide Personal Transportation Study. All these data were then statistically aged by Mathematica to 1973.

We now use this system frequently to examine the impacts of proposed policies and or problems as they arise. Another study which I have underway at present will eventually be used to improve the consumption data in the HEEM system.

We used the HEEM system to analyze the impacts of higher energy prices on rural households in the U.S. First, we examined the impact of higher energy prices on all U.S. households for comparison purposes. Many of the general conclusions apply to rural households as well. Forgive me for the technical nature of this part of my presentation. You may wish to turn to the tables which I circulated.

Tables One and Two show average annual household home fuel and gasoline expenditures for all U.S. households. These expenditures are estimates from the HEEM model for the years 1973, 1974 and 1975. The expenditure estimates are cross-classified by various income groups and by geographic region.

National average annual home fuel expenditures from Table One are estimated to have increased from 1973 to 1974 by $100 from $415 to $515 and from 1974 to 1975 by $76 from $515 to $591.

The total 1973–1975 increase was estimated to have been $176. This 42.4% increase was, indeed, noticed by U.S. household consumers.

Home fuel expenditures, when estimated by income groups, show a pattern of regressive impacts. Increased home fuel expenditures can be expressed as percentages of disposable income. For the period 1973–1975, these percentage increases were estimated to have been 5.37% for the $1000–$4999 income group and only 0.88% for the $20,000–$24,999 income group. As income increases, the impact of higher energy prices decreases. Higher energy prices have a relatively more severe impact on lower income households.

When estimated by region, home fuel expenditures show differential impacts on various regions. For example, total increased annual average home fuel expenditures from 1973–1975 were estimated to have been $274 in New England and only $108 in the Pacific region. Generally, the colder regions and the regions with the highest 1973 energy prices were the regions experiencing the greatest expenditure increases.

National average annual gasoline expenditures from Table Two are estimated to have increased from 1973 to 1974 by $163 from $525 to $688 and from 1974 to 1975 by $43 from $688 to $731. The total 1973–1975 increase was estimated to have been $206. This 39.2% increase was also extremely noticeable to U.S. household consumers.

Gasoline expenditures, when estimated by income group, show a pattern of regressive impacts. When estimated by region, however, differential regional impacts are not evident.

Next, we can examine estimates of increased average annual household energy expenditures for rural U.S. households. Here, a caveat is in order. HEEM model estimates, when too finely disaggregated, become less reliable as the sample size decreases. Nevertheless, some useful conclusions can be made from the rural estimates given in Tables Three and Four.

For the nation as a whole, as shown in Table Three, rural household annual average home fuel expenditures were estimated to have increased from 1973 to 1974 by $154 from $438 to $592 and from 1974 to 1975 by $99 from $592 to $691. The total 1973–1975 increase was estimated to have been $253.

This was a 57.8% increase for rural households compared to a 42.4% increase for all U.S. households.

Rural household home fuel expenditures, when estimated by income group, show a pattern of regressive impacts. Increased annual average home fuel expenditures were estimated as percentages of disposable income. For the period 1973–1975, these percentage increases ranged from 7.6% for the $1000—$4999 income group to 1.24% for the $20,000—$24,999 income group. These regressive impacts are estimated to have been greater for rural households than for all households nationally.

When estimated by region, rural home fuel expenditures show differential impacts on various regions. Rural households in colder regions and in regions with high 1973 energy prices were relatively more affected than were rural households in other regions. Rural households in the North Central regions were relatively more affected than were non-rural households in these regions.

The estimates seem to indicate that rural households were disproportionately affected by higher home fuel prices. Reasons may have been that rural households are relatively more dependent on fuel oil and bottled gas. For example, the price of fuel oil increased by 58.4% from 1973 to 1974, and the bottled gas price increased by 78.7% from 1973 to 1974.

For the nation as a whole, as shown in Table Four, rural household annual gasoline expenditures were estimated to have increased from 1973 to 1975 by 39.4% from $498 to $694. This increase was similar to the national average increase for all U.S. households. Across income groups, a regressive pattern of increases is observed. In regions other than New England, expenditure increases are not noticeably different.

However, higher gasoline prices may have a larger differential impact on rural households than HEEM model estimates indicate. Persons living in rural areas generally have a longer distance to travel to work and find public transportation less available.

The auto is needed relatively more for recreational activities. And, higher gasoline prices cause increased costs for farming.

Concerning this last point, an FEA agricultural economist was consulted. It was reported that higher gasoline prices have had some direct impact on increased farm costs. However, more important is the fact that higher energy prices in general have indirectly caused farm input costs to rise. The higher costs of fertilizer, farm equipment, etc. could either reduce farm revenues or increase consumer food prices or both.

In conclusion, concerning rural households, it can be stated that HEEM estimates and other evidence indicate that rural households, especially low income households, may be relatively more adversely affected by increases in the prices of heating and cooking fuel and by transportation problems. Houses cost more to heat in rural areas, particularly in colder parts of the country, and the rural poor are more dependent on delivery services for fuel, on good neighbors, on limited public transportation, and on their own cars. During the 1973 energy crisis, there was some evidence that some of the fuel companies who delivered in the small units appropriate to the poor went out of business, or would only make larger deliveries.

Finally, the HEEM model was used to provide estimates of the impacts of increased energy expenditures on rural Appalachian households. The estimates are fairly unreliable due to the limited sample size. However, the estimates are presented to show that the limited, available data does not provide evidence to reject the notions that rural Appalachian households may have been adversely affected by higher energy prices in many of the same ways discussed above. See Table Five for the data that is available.

CONCLUSION

In conclusion, we can readily see that country life in the United States, which is already being transformed by a myriad of other economic forces, is of crucial importance both for energy problems and energy policies. Rural dwellers have special needs for transportation and fuel, and, our preliminary studies suggest, they have so far borne a disproportionate share of the energy burden. At the same time many of the new projects to develop further energy resources, both traditional and modern, will take place in rural areas. Those rural communities need planning assistance for their own social welfare. The nation needs that assistance to the rural communities in order to ensure the smooth development of the domestic energy resources with which this country is so richly endowed.

TABLE 1.—AVERAGE ANNUAL HOUSEHOLD HOME FUELS EXPENDITURES ALL U.S. HOUSEHOLDS: 1973, 1974, AND 1975

	1973	1974	1975[1]	1973–75 change as a percent of disposable income
Income:				
Less than $1,000	$345	$432	$499	NA
$1,000 to $4,999	353	444	514	5.37
$5,000 to $9,999	396	495	569	2.31
$10,000 to $14,999	447	551	632	1.48
$15,000 to $19,999	475	578	660	1.06
$20,000 to $24,999	503	615	700	.88
$25,000 and over	526	642	729	NA
	1973	1974	1975[1]	Total increase 1973–75[1]
Region:				
New England	$566	$746	$840	$274
Middle Atlantic	522	665	752	230
East north-central	441	535	619	178
West north-central	413	520	609	196
South Atlantic	404	508	582	178
East south-central	341	415	483	142
West south-central	314	375	440	126
Mountain	346	415	484	138
Pacific	310	365	418	108
National average	415	515	591	176

[1] Data for 1975 are preliminary, tentative estimates.

Source: All data are estimates from FEA's household energy expenditure model.

TABLE 2.—AVERAGE ANNUAL HOUSEHOLD GASOLINE EXPENDITURES ALL CAR-OWNING U.S. HOUSEHOLDS: 1973, 1974, AND 1975

	1973	1974	1975[1]	1973–75 change as a percent of disposable income
Income:				
Less than $1,000	$301	$394	$419	NA
$1,000 to $4,999	267	351	373	3.53
$5,000 to $9,999	431	565	601	2.26
$10,000 to $14,999	546	715	760	1.71
$15,000 to $19,999	705	924	982	1.58
$20,000 to $24,999	732	960	1,020	1.28
$25,000 and over	758	992	1,055	NA
National average	525	688	731	NA
		Increase		Total increase
	1973	1973–74	1974–75[1]	1973–75[1]
Region:				
New England		$168	$45	$213
Middle Atlantic		148	40	188
East north-central		171	46	217
West north-central		157	42	199
South Atlantic		160	43	203
East south-central		139	37	176
West south-central		141	38	179
Mountain		167	45	212
Pacific		158	42	200

[1] Data for 1975 are preliminary, tentative estimates.

Source: All data are estimates from FEA's household energy expenditure model.

TABLE 3.—AVERAGE ANNUAL HOUSEHOLD HOME FUEL EXPENDITURES RURAL U.S. HOUSEHOLDS: 1973, 1974, AND 1975

	1973	1974	1975[1]	1973–75 change as a percent of disposable income
Income:				
Less than $1,000	$344	$463	$545	NA
$1,000 to $4,999	381	517	609	7.60
$5,000 to $9,999	444	599	699	3.40
$10,000 to $14,999	485	658	768	2.26
$15,000 to $19,999	516	691	796	1.60
$20,000 to $24,999	535	709	814	1.24
$25,000 and over	557	734	835	NA
	1973	1974	1975[1]	Total increase 1973–75
Region:				
New England	$549	$766	$865	$316
Middle Atlantic	545	727	827	282
East north-central	524	716	835	311
West north-central	498	709	849	351
South Atlantic	398	528	608	210
East south-central	335	437	516	181
West south-central	362	491	600	238
Mountain	394	527	628	234
Pacific	373	483	559	186
Rural average	438	592	691	253

[1] Data for 1975 are preliminary, tentative estimates.

Source: All data are estimates from FEA's household energy expenditure model.

TABLE 4.—AVERAGE ANNUAL HOUSEHOLD GASOLINE EXPENDITURES RURAL CAR-OWNING U.S. HOUSEHOLDS: 1973, 1974, AND 1975

	1973	1974	1975[1]	1973–75 change as a percent of disposable income
Income:				
Less than $1,000	$328	$429	$457	NA
$1,000 to $4,999	294	384	409	3.83
$5,000 to $9,999	464	608	646	2.43
$10,000 to $14,999	607	795	846	1.91
$15,000 to $19,999	734	961	1,022	1.65
$20,000 to $24,999	805	1,053	1,120	1.40
$25,000 and over	964	1,263	1,343	NA
Rural average	498	652	694	NA
		Increase		Total increase,[1]
	1973	1973–74	1974–75[1]	1973–75
Region:				
New England		$198	$53	$251
Middle Atlantic		138	37	175
East north-central		170	46	216
West north-central		167	45	212
South Atlantic		163	43	206
East south-central		127	34	161
West south-central		136	36	172
Mountain		158	42	200
Pacific		143	38	181

[1] Data for 1975 are preliminary, tentative estimates.

Source: All data are estimates from FEA's household energy expenditure model.

TABLE 5

AVERAGE ANNUAL HOUSEHOLD HOME FUELS EXPENDITURES APPALACHIAN RURAL HOUSHOLDS: 1973, 1974, AND 1975

	1973	1974	1975[1]	Total increase, 1973–75	1973–75 change as a percent of disposable income
Income:					
Less than $1,000	$314	$412	$471	$157	NA
$1,000 to $4,999	336	438	503	167	5.57
$5,000 to $9,999	397	517	588	191	2.55
$10,000 to $14,999	407	529	597	190	1.52
$15,000 to $19,999	NA	NA	NA	NA	NA
$20,000 to $24,999	458	610	670	212	.94
$25,000 and over	563	705	783	220	NA
Average	376	488	556	180	NA

[1] Data for 1975 are preliminary, tentative estimates.

Source: All data are estimates from FEA's household energy expenditure model.

AVERAGE ANNUAL HOUSEHOLD GASOLINE EXPENDITURES APPALACHIAN RURAL HOUSEHOLDS: 1973, 1974, AND 1975

	1973	1974	1975[1]	Total increase, 1973–75	1973–75 change as a percent of disposable income
Income:					
Less than $1,000	$328	$430	$458	$130	NA
$1,000 to $4,999	291	381	406	115	3.83
$5,000 to $9,999	494	648	689	195	2.60
$10,000 to $14,999	597	781	831	234	1.87
$15,000 to $19,999	581	761	809	228	1.30
$20,000 to $24,999	NA	NA	NA	NA	NA
$25,000 and over	NA	NA	NA	NA	NA
Average	476	623	663	187	NA

Note: Estimates for Appalachian rural households are based on a small sample and should be treated cautiously. Further validation is needed before these estimates can be considered representative.

Mr. HASKELL. Mr. President, I urge my colleagues to vote to override this ill-considered veto. The Coal Leasing Amendments Act of 1976 contains numerous provisions which will cause a restructuring of Federal coal leasing policy along much more logical lines.

There are provisions which would end the speculative holding of Federal coal leases, place a limit on the concentration of holdings, increase the return to the public from the development of its resources, increase environmental protection, planning and public participation in decisionmaking, and insure the maximum recovery of the resource.

In addition, and of special interest to my State, the bill contains provisions which would increase the States' share of mineral leasing revenues from 37.5 percent to 50 percent. The additional 12.5 percent could be spent on planning and construction and maintenance at any public facilities and would not be restricted to only schools and roads. Another provision would permit the States of Colorado and Utah, where the vast majority of our Federal oil shale reserves occur, to use the moneys available to them under the prototype oil shale leasing program for any public purpose, with priority to be given to those areas affected by the development of this energy resource.

We have been seeking these changes in the Mineral Lands Leasing Act for 4 years now. Development of western energy resources is increasing at a rapid pace. If our small communities are to cope with these developments in a rational manner, they must have the funds to permit local planning and the construction of the necessary facilities to accommodate large influxes of people.

Enactment of this legislation will answer many of the questions which prevent the reasonable development of western coal lands. Passage of a Federal coal surface mining bill next year will complete the package and enable development of these enormous energy resources to proceed.

Mr. DOMENICI. Mr. President, I am voting to sustain the President's veto of S. 391, the Federal Coal Leasing Amendments Act. This has been an extremely difficult decision for me to reach; however, after closely scurtinizing the reasons which prompted the President to veto this legislation, I find that I share his concerns.

I voted in favor of passage of S. 391 last July. Unfortunately, the bill was significantly changed before it was sent to the President for signature. The bill sent to the President contained provisions to increase impact assistance to the Western States from 37½ percent to 50 percent. This provision also allowed these revenues to be expended in meeting the energy impact needs of the Western States.

I felt that these provisions would outweigh to a certain extent some of the adverse provisions of the bill, therefore, I signed a letter addressed to the President urging that he sign the bill into public law.

In his veto message the President indicated his support for increasing the State share of Federal leasing revenues. In addition, I have received assurance from the Secretary of the Interior that he agreed with the President. He urges the Congress to move forward with a bill providing for an increase in the States' share of leasing revenues. I intend to cosponsor the bill being introduced today to accomplish this objective.

The President pointed out in his veto message that some of the provisions contained in S. 391 could cause delay in the production of low-sulfur western coal which is needed to meet clean air standards. It could jeopardize coal gasification and liquefaction because of the inflexible 10-year production requirement and the acreage limitation on logical mining units. Further, if enacted there would be increases in the cost to taxpayers and consumers because of the higher cost of foreign oil needed to replace the lost coal production.

I find the President's arguments compelling, and, particularly, in view of his offer to accept a higher State royalty, we are not forced to take the bad with the good.

Mr. THURMOND. Mr. President, I rise in support of President Ford's veto of the Federal coal leasing amendments bill, S. 391. I am in agreement that assistance is needed in this area, but I am opposed to the unnecessary and burdensome regulations and other complications included in this bill.

I do not think it is necessary to have rigid rules concerning the terms of leases. Flexibility is needed in this area because of the varied conditions involved.

Other troublesome provisions are the requirement of detailed antitrust review of all leases regardless of size. S. 391 also requires four sets of public hearings where one or two would suffice. These provisions would delay the development of our coal reserves by setting up new administrative hurdles to clear.

Our country is already beset by overregulation in many areas. We should have learned our lesson by now. This bill would cause a flood of time-consuming paperwork; it would have an adverse effect on the production of domestic coal; and it would also result in greater overall costs.

I feel that a much more acceptable bill can and should be passed in the coal leasing area. Thus, I will vote to sustain the President's veto of S. 391.

Mr. MOSS. Mr. President, it is unfortunate that, on July 3, 1976, the President vetoed S. 391, the Federal Coal Leasing Amendments Act of 1975. In so doing the President has manifested his desire to retain power in the executive branch that is properly subject to congressional guidelines. He has demonstrated his intent to oppose the will of Congress in its efforts to respond to a long-felt need for reform of Federal coal leasing policies. He has effectively denied the overwhelming congressional support the substance of this act has received since its introduction in 1974. This action, however, comes as no surprise in light of the President's past record on comprehensive Federal surface coal mining legislation.

The development of Federal coal is a necessity if we are to meet our goals of independence from foreign energy supplies. In my State alone we have 8 million tons of coal reserves. The steel industry in Utah and California uses coking coal of high unit value mined in the Uintah region of Utah and Colorado. The role of coking coal is important in the Western States' economies, even though the reserves are small in comparison to other forms of energy. The deposits of privately owned coking coal are being rapidly depleted, so future supplies will be almost totally from Federal lands. We must adequately provide for the transition to Federal reserves.

The benefits to Western States as outlined in S. 391 would have been considerable. Utah, for example, has over 3 million tons of recoverable coal reserves under Federal leases at the present time. Based on 1975 figures and existing law, Utah received $5,727,972 from these leases last year. Under S. 391 Utah would have received an additional $1,908,659 totaling $7,634,630. Not only would the bill have increased State revenues, it would also have broadened the purposes for which the States could use these funds. Thus, our hard-pressed communities faced with boomtown problems brought about by enhanced energy needs could have used their State's share of funds for purposes such as police and fire protection and water and sewer facilities.

The President's veto of the Federal Coal Leasing Amendments Act of 1975 will have far-reaching consequences. The damaging effects will be felt by every State in which Federal coal reserves exist. These are the two most urgently needed changes in current law. The increased return to the predominantly rural Western States is needed to provide front end money to deal with the sudden population increases and other problems accompanying rapid development of energy to meet national energy requirements.

The PRESIDING OFFICER. All time has expired. The question is, Shall the bill (S. 391) pass, the objections of the President of the United States to the contrary notwithstanding? The yeas and nays are required, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Hawaii (Mr. Inouye), the Senator from South Dakota (Mr. McGovern), the Senator from Missouri (Mr. Symington), the Senator from California (Mr. Tunney), the Senator from New Hampshire (Mr. Durkin), are necessarily absent.

Mr. GRIFFIN. I announce that the Senator from Nebraska (Mr. Curtis), is necessarily absent.

I further announce that the Senator from Maryland (Mr. Beall), is absent due to a death in the family.

The yeas and nays resulted—yeas 76, nays 17, as follows:

[Rollcall Vote No. 456 Leg.]

YEAS—76

Abourezk
Allen
Baker
Bayh
Bentsen
Biden
Brock
Brooke
Buckley
Bumpers
Burdick
Byrd, Robert C.
Cannon
Case
Chiles
Church
Clark
Cranston
Culver
Dole
Eagleton
Eastland
Ford
Garn
Glenn
Gravel
Hansen
Hart, Gary
Hart, Philip A.
Hartke
Haskell
Hatfield
Hathaway
Hollings
Huddleston
Humphrey
Jackson
Javits
Johnston
Kennedy
Leahy
Long
Magnuson
Mansfield
Mathias
McClellan
McGee
McIntyre
Metcalf
Mondale
Montoya
Morgan
Moss
Muskie
Nelson
Nunn
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Ribicoff
Roth
Schweiker
Sparkman
Stafford
Stennis
Stevens
Stevenson
Stone
Taft
Talmadge
Weicker
Williams
Young

NAYS—17

Bartlett
Bellmon
Byrd,
Harry F., Jr.
Domenici
Fannin
Fong
Goldwater
Griffin
Helms
Hruska
Laxalt
McClure
Randolph
Scott, Hugh
Scott,
William L.
Thurmond
Tower

NOT VOTING—7

Beall
Curtis
Durkin
Inouye
McGovern
Symington
Tunney

The PRESIDING OFFICER (Mr. Hatfield). On this vote the yeas are 76, the nays are 17. Two-thirds of the Senators present and voting having voted in the affirmative, the bill, on reconsideration, is passed, the objections of the President of the United States to the contrary notwithstanding.

CHANGE OF VOTE

Mr. BUCKLEY subsequently said: Mr. President, I would like to make a unanimous-consent request. I am advised that on vote No. 456, on the veto override today, I am recorded as having voted "nay." I had intended to vote to override, and I ask unanimous consent that my vote be changed to show me as having voted in the affirmative. I understand it will not change the outcome.

The PRESIDING OFFICER. Is there objection to the request of the Senator from New York? Without objection, it is so ordered.

(The foregoing rollcall vote has been changed to reflect the above order.)

TAX REFORM ACT OF 1976

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of the unfinished business, H.R. 10612, which the clerk will state by title.

The second assistant legislative clerk read as follows:

> A bill (H.R. 10612) to reform the tax laws of the United States.

Mr. LONG. Mr. President, I would like to urge the Senate——

The PRESIDING OFFICER. The Senator will suspend until we have order in the Chamber.

Will the Senators please take their seats? Will Senators please refrain from conversations?

The Senator from Louisiana.

UNANIMOUS-CONSENT REQUEST

Mr. LONG. Mr. President, I would like to urge the Senate today to help us agree on a schedule for voting on amendments so we can bring as many of these matters as possible to a vote during the next few days. I really do not think a great deal of discussion is needed on these different items because most Senators are going to wait until the bell has rung and come in anyhow.

Here is what I would suggest: that we start out by voting on section 805. We can have 15 minutes on both sides. It deals with the investment credit for movies. And then we consider section 1205 with regard to administrative summons. I have an amendment that I am hopeful will be a midground between the two contending sides and hope to resolve that in ways that both sides can agree. Then we would move to title XX, the energy section, and vote on that. Then we would proceed to vote on amendments to title XXIII, which would be the tuition credit, the bond issues for hospitals, group legal services; and then proceed to vote on the captial gains amendment for sliding scale, and then proceed to vote on the provision in section 7.d., which would be charitable contributions of inventory, suggested by Senator RIBICOFF. Then hopefully, we could vote on Senator TAFT's indexing proposal and Senator JAVITS' proposal for contributions made by audit.

If the Senate is willing to vote on these matters without a great deal of discussion, I really do not think many votes are going to be changed by dragging these things out in debate. We could just move right on down the road in voting on these matters.

I ask unanimous consent that we allow for one-half hour to be equally divided, 15 minutes on both sides, 15 to be assigned by the manager of the bill and 15 which the Chair would assign to whoever cares to manage the time in opposition, with regard to the amendment on the investment tax credit for movies.

The PRESIDING OFFICER. Is there objection?

Mr. TAFT. Mr. President, I have no desire to hold up the procedures, but last week the distinguished chairman agreed that he would make an amendment that I have, No. 1902, the order of business today. A number of Senators have come to the Chamber because of that who are interested in speaking on the amendment. As the distinguished chairman said last week, this is a matter of considerable interest and considerable import. It is a matter of principle, not just a matter of detail in the bill. I have no objection to the other parts of the request, but I believe we ought to go ahead with the discussion of this amendment today in view of the arrangements which have been made.

I would be willing to agree to some time. I believe I have already told the distinguished chairman of the committee that I would be willing to go along on perhaps 40 minutes. That is cutting it pretty close because there are quite a few Members who wish to speak.

Mr. LONG. Is that 40 minutes on each side?

Mr. TAFT. Twenty minutes on each side.

Mr. LONG. Then I ask unanimous consent that on Senator TAFT's amendment we have a 40-minute limitation to be equally divided.

Mr. KENNEDY. Mr. President, reserving the right to object——

Mr. TAFT. Mr. President——

Mr. KENNEDY. Reserving the right to object, and I will not object to the request of the Senator from Ohio, I think the proposal of the Senator from Louisiana is eminently fair and I think it will expedite the business of the Senate. Quite frankly, there would be two minor points on it. I would hope that on the capital gains and the estate tax we could have an hour, or an hour and a half, or an hour and 45 minutes. I think the other times could be collapsed.

I would appreciate two things. First is, would the Senator read those items again slowly?

Second, the Senators from California (Mr. CRANSTON and Mr. TUNNEY) had spoken to me when I had indicated I had a floor amendment on the movies. We had considered discussing it last Friday and had given some notice on it. We had tried to work out an approximate time. I would like to see us establish Thursday as the day to start the debate. We could make that the pending business with the time which has been suggested. Maybe it would be 45 minutes equally divided. I think that would be accommodating.

Neither of the Senators are in the Chamber. Obviously, that is an important industry in California and they feel strongly about it.

Could we get that adjustment? Will the Senator be kind enough to read the amendments over again? I want to indicate that I agree with the procedure which the Senator is attempting to achieve.

I would hope that beyond that the other amendments which will come at the conclusion, in terms of trying to do something on the minimum tax and so forth, would follow the same procedure, trying to get an hour or an hour and a half so that we could possibly see the conclusion of the bill Friday or Friday afternoon.

Mr. JAVITS. Reserving the right to object, I do not want the Chair to rule until I have been heard. I do not know about the mechanics that Senator LONG wants to go through, but I want to reserve the right to object.

My amendment, I understand, was to have been dealt with today. I think we have made a lot of progress on it. If possible, I will consent to a time limitation of 20 minutes on a side. We have argued it very thoroughly. If possible, I would like to follow Senator TAFT and have it disposed of.

Mr. LONG. I have the Javits amendment listed here.

Mr. JAVITS. I know the Senator does.

Mr. LONG. I would have to see what the amendment would be and how it could be considered. We will go over that with the Senator as the day proceeds, and I hope we can vote on it today.

Mr. JAVITS. I hope so.

Mr. LONG. I do not see any reason why not. Frankly, I want to vote. I want to see the amendment considered. It is listed.

Mr. President, I would suggest that we simply withhold judgment on the Javits amendment until at least those of us planning the bill for the committee can see how we would work out the amendments. We will do that during the next hour or so.

So if we take the Taft indexing amendment first, we would then proceed to section 805 and have a vote on that.

Mr. KENNEDY. What we could do, we could do the investment credit on the ADR's, the Kennedy-Bayh amendment. We could do that afterward, and have maybe 45 minutes to a side. I would be glad to agree to that with the Senator.

Mr. JAVITS. Mr. President, will the Senator yield to me momentarily?

Mr. LONG. I yield.

Mr. JAVITS. Can we have an understanding that we will try to work with Larry Woodworth on the text of our amendment, but if the manager of the bill finds it as he is told it is, that we may follow after Taft, and then have Kennedy?

Mr. LONG. Fine. I would like to see the ADR amendment before it is called up, because we might not be for the amendment.

Mr. KENNEDY. We prepared the amendment, I think, about 10 days ago, but I will make it available to the Senator.

Mr. LONG. As soon as I have a chance to look at it, I would be glad to have action on that, but let us start out, then, with the Taft indexing amendment, and proceed as best we can with the others. Here is the order I would suggest:

Section 805, investment credit for movies.

Then I would hope we could dispose of section 1205. I have an amendment to offer on that, which would not give all sides everything they are hoping for——

Mr. HASKELL. Mr. President, will the Senator yield at that point? The Senator from Nebraska asked me if we could take up 1205 tomorrow afternoon. I said it was all right with me. The Senator from Nebraska is right behind the Senator.

Mr. LONG. I hoped we could dispose of it today.

Mr. HASKELL. Well, it is up to the Senator from Nebraska.

Mr. LONG. May I suggest, then, that I read this list, and we will do the best we can to vote on these today.

I had mentioned the administrative summons; we may have to postpone that until later on. Then we take the energy title, title XX.

Then we would go to title XXIII amendments, which would deal with tuition credit, the bond issues for hospitals, the group legal services, and then we would consider title XXV, with regard to a capital gains sliding scale; then we would consider charitable contributions of inventory, and as soon as we are ready and can come to terms on it, and see what our differences may be, we will consider the Javits amendment with regard to contributions by guardians.

I would ask unanimous consent that we start now with the Taft amendment.

Mr. HATHAWAY. Mr. President, reserving the right to object——

Mr. HASKELL. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HASKELL. The Senator from Louisiana, I gather, is asking for a listing of the order in which items are to be taken up. He is not asking for time limitations on those now, is that correct?

Mr. LONG. Not at this time. I am only asking for a time limitation on the first one at this moment.

Mr. HASKELL. What is the first one?

Mr. LONG. The Taft amendment regarding indexing on personal exemptions.

The PRESIDING OFFICER. Is there objection?

Mr. HATHAWAY. Mr. President, reserving the right to object, the Senator from New Hampshire (Mr. DURKIN) has an amendment to strike the recycling amendment in title XX, and wants to know whether he could have a time limitation of 1 hour, to be taken up tomorrow or sometime later in the week.

Mr. LONG. Well, Mr. Durkin mentioned he had an amendment. I did not know he wanted to strike the whole amendment.

Mr. HATHAWAY. It is one section of it, I understand. But he would like to defer that until a little later on this week, as long as his rights are preserved, so he could offer his amendment at a later time.

Mr. LONG. I would hope Senators will not be asking for other things, but with regard to Mr. Durkin's proposition, I would suggest we try to accommodate him and vote on his subsequently.

Several Senators addressed the Chair.

Mr. LONG. We are willing to vote on other energy matters except that today, but let us defer that and consider the Taft amendment first.

Mr. BROOKE. Mr. President, I have three energy amendments, which I understand may be accepted. I have agreed to a time limitation on it. That is in title XX. One is in section 1 of the title, and the other is in section 2 of the title.

My question is, could we take those three up on top of each other at any time after the Taft amendment today?

Mr. LONG. I would like to take them up today.

Mr. KENNEDY. Mr. President, reserving the right to object, I want to speak to the Senator about what we take up after Taft, and then, after we work it out with Senator JAVITS, we are prepared, or at least I am, on the ADR investment credit, and also the airline industry subsidy, the Curtis amendment, and are prepared for a short time limitation, 15 minutes on either side, and then to take the foreign investment credit provision, which has some time limitation.

So we are prepared, any time there is a hiatus, to go into that situation. But just one thing. Could I ask that we make it Thursday at 2 o'clock on the movie investment credit to be the pending business, with a 45-minute time limitation, so that we can notify Senators from California if that is agreeable?

Mr. LONG. I had hoped we could vote on that matter about the movies before Thursday. I would hope, if we could make some kind of schedule, that we might vote on that at least tomorrow.

Mr. KENNEDY. All right. Could we make it after the ESOP vote? Coming back from California, they do not mind, obviously, coming back, but if we had some time set——

Mr. LONG. Senator CURTIS wanted to offer a stock ownership amendment right after ESOP. Would it be all right after Senator CURTIS offered that tomorrow?

Mr. KENNEDY. That would be fine. I ask unanimous consent, then, Mr. President, that after the consideration of section 804, after completion of that, that section 805, which would normally follow in any event, be made the pending business, the investment credit in the case of movies and television films, and that there be a 1-hour time limitation.

Mr. JAVITS. Mr. President, reserving the right to object, I did not get all that. After what?

Mr. KENNEDY. After the stock ownership plans.

Mr. LONG. After the Curtis amendment dealing with stock ownership.

The PRESIDING OFFICER. Is there objection?

Mr. JAVITS. Mr. President, reserving the right to object, may I restate what I understand is the situation now?

The Senator from Louisiana is asking us to consent to going ahead with the Taft amendment, but with respect to all other matters except one, as to which Senator KENNEDY has just made his request, he is stating desires, but we are not putting that in except by unanimous consent, is that correct?

The PRESIDING OFFICER. To complete the Senator's understanding, there is also a unanimous-consent agreement pending on a Kennedy amendment to section 805 to commence tomorrow.

Mr. JAVITS. But that would be after the ESOP amendment.

Mr. LONG. That would be tomorrow.

Mr. JAVITS. Tomorrow, which is mine.

And then, in the meantime, the other matters are simply matters of scheduling; those are the only two things we are agreeing on?

The PRESIDING OFFICER. The Senator is correct.

Several Senators addressed the Chair.

Mr. KENNEDY. Mr. President, may we have an agreement on my request?

The PRESIDING OFFICER. Is there objection?

Mr. HASKELL. Mr. President, will the Chair state the substance of the proposed agreement?

The PRESIDING OFFICER. There is a unanimous consent agreement pending of 40 minutes on the Taft amendment, as well as a request for 1 hour on a Kennedy amendment to section 805 after section 804 has been disposed of.

Mr. LONG. Mr. President, I would like to——

Mr. JAVITS. What is 805? I do not quite get that.

Mr. KENNEDY. That is investment credit on movies.

Mr. JAVITS. When is that?

The PRESIDING OFFICER. Tomorrow.

Mr. TAFT. Mr. President, a point of order. Is this coming out of my time?

The PRESIDING OFFICER. There is no time running at this point.

Mr. TAFT. I thought the Chair said there was a unanimous-consent agreement.

The PRESIDING OFFICER. The Chair stated one is pending, but it has not been agreed to yet.

The Chair has stated there is a unanimous-consent agreement pending of 40 minutes on the Taft amendment and 1 hour on a Kennedy amendment to section 805 after disposition of section 804.

Mr. JAVITS. Section 804 being the ESOP amendment; is that correct?

The PRESIDING OFFICER. That is correct.

Several Senators addressed the Chair.

Mr. LONG. Mr. President, Senator CURTIS has an amendment he wishes to offer after we dispose of the employees stock ownership proposal.

Mr. JAVITS. I understand now, Mr. President.

Mr. LONG. After the Curtis amendment, I ask unanimous consent we then proceed to consider section 805 involving the investment credit for movies and have a 1-hour limitation equally divided.

Mr. ROBERT C. BYRD. That is tomorrow.

Mr. LONG. I am talking about tomorrow.

Several Senators addressed the Chair.

Mr. TAFT. Mr. President, it occurs to me, since the Senator from Oregon is not now present and he has a small amendment to my amendment that he might wish to call up, I ask unanimous consent that there be given 10 minutes to a side, if that is agreeable, on his amendment.

The PRESIDING OFFICER. Is there objection to the several requests?

Mr. JAVITS. Mr. President, on another question, which I do not think we are clear on, I was to bring up the amendment pertaining to section 804 tomorrow.

The PRESIDING OFFICER. The Senator is correct.

Mr. JAVITS. Therefore, the agreement to follow is for tomorrow, not today.

The PRESIDING OFFICER. The Senator is correct.

Mr. JAVITS. I thank the Chair.

The PRESIDING OFFICER. Is there objection?

Mr. HASKELL. Yes. Mr. President, reserving the right to object, parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HASKELL. I thought the requested order was to go from section 804 of the Senator from New York, then to the amendment of the Senator from Ohio. What is the agreement?

The PRESIDING OFFICER. The agreements proposed are for a 40-minute limitation on the Taft amendment with 20 minutes on amendments thereto and on tomorrow an hour on a Kennedy amendment to section 805, after disposition of section 804.

Is there objection?

Hearing none, it is so ordered.

Several Senators addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

AMENDMENT NO. 1902

Mr. TAFT. Mr. President, I call up my amendment No. 1902, and ask that it be stated.

The PRESIDING OFFICER. The amendment is pending.

Mr. TAFT. Mr. President, this amendment is sponsored by myself, Senators BARTLETT, BUCKLEY, and DOLE. I ask unanimous consent that there be added as cosponsors Senators GARN, HELMS, and ROTH.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TAFT. Mr. President, this amendment is really quite simple. It would prevent inflation from producing a real increase, a more than proportional increase, in a taxpayer's tax bill, even when the taxpayer has no increase in real income.

The income tax today does not distinguish between that part of a wage increase which is merely a cost of living adjustment and that part which goes beyond the cost of living, and is a real increase. Any increase in wages is taxed at higher and higher rates, whether it represents an increase in real income, or whether it is just a cost of living adjustment.

According to a recent joint economic committee study, at the present time, a 1-percent increase in wages and prices leads to a 1.2-percent increase in taxes. My amendment would change that, so that 1-percent inflation would lead only to a 1-percent increase in taxes. This amendment would change that so that 1-percent inflation would lead only to a 1-percent increase in taxes.

Increases in income which are due only to inflation would result in income, prices, and taxes all going up by the same percent, instead of having taxes go up even faster.

I believe that we need this amendment desperately for a number of reasons.

The progressive tax system is supposed to act as an automatic economic stabilizer. Inflationary booms increase incomes and push people into higher tax brackets. This raises taxes and dampens the boom, which restrains the inflation. Recessions are supposed to be deflationary, pushing people into lower tax brackets, creating tax cuts, and stimulating the economy.

This theory has broken down, because we have had inflation and recession at the same time. Even with real incomes dropping slightly, normal incomes went up because of inflation. This meant that, in spite of falling real income, people were driven into higher tax brackets. They paid a rising share of a falling income to the Government. It is shocking to see the increase in real taxes paid from year to year by millions of typical workers even in years of stagnant or declining real income. This real tax increase during a recession is very destabilizing. It is destabilizing because tax increases in a recession have the effect of lowering personal spending and worsening the downturn.

We must not permit this destabilizing behavior of the tax system to continue. It was one of the causes—of many—of the recent recession, and it is a gross injustice as well to working people on fixed or slowly rising incomes. There is simply no reason whatsoever why a worker who barely receives a cost-of-living increase should see his after-tax real income fall because of an inflation penalty in the tax system.

From 1972 to 1974, construction workers saw their real incomes fall by more than 5 percent, while their real taxes went up more than 1 percent.

In that same period, steelworkers saw their real incomes rise 6 percent. But their real taxes rose 19 percent.

Autoworkers had a 7½ percent fall in real income, while their real taxes fell only 2 percent.

The tax brackets of the average worker in each of these groups was 19 percent in 1972, and 22 percent in 1975, clearly helping to bring on and prolong the recession. What kind of tax code is that?

Over the past 3 years, inflation has added $408 to a typical construction worker's tax bill, compared to an indexed, inflation neutral tax system.

It has added nearly $432 to the autoworker's taxes over and above an increase proportional to the cost of living.

In neither of these cases did these people enjoy higher real incomes. Why should they have paid these sums in higher taxes?

This is a crazy system. The only way to be certain of preventing these results is to move to an inflation-neutral tax.

This destabilizing activity would not have occurred if the tax system had been inflation neutral. My amendment would make the system inflation neutral, so that there would be a real tax increase only in the case of an increase in real incomes. There would never be a tax increase when incomes were falling just because inflation had put people into higher tax brackets.

The amendment attacks this problem of destabilization and inequity by providing an annual inflation adjustment to the personal exemption, standard deduction, the low income allowance, and each of the tax brackets which are the income levels at which taxpayers move up from one rate of tax to another. Adjustment years, running from July 1 to June 30, would be the basis of the calculation. By August of any year, the IRS would have available the data on the average consumer price index for the 2 prior adjustment years. The percent increase in the index would be calculated, and used to adjust the tax and withholding tables in ample time for the beginning of the next calendar year. Since the exemptions, deductions, and tax brackets would all be adjusted upward by the amount of inflation, a person having no increase in real income would also have no increase in real taxes. His tax increase would just keep pace with inflation, just as his income did. He would be taxed at precisely the same rate as he was the previous year.

That does not mean the Government will not receive more money because at that same rate they will be taxing on a larger base by the amount of normal inflation that had occurred. So the Government will keep up with the inflationary factors insofar as its income is concerned. It simply will not be able to go above that as a result of the fact of the various items in the tax code that I have mentioned.

People who received real wage increases would only be taxed at a higher rate on their real increase and would pay the same rate as the previous year on their old income plus cost-of-living.

The first adjustment year would run from July 1, 1975 to June 30, 1976, and the second from July 1, 1976 to June 30, 1977. During the summer of 1977, the IRS would receive data on the CPI for 1976–77, compare it to the CPI for 1975–76, and alter the tax and withholding tables in time for use in calendar year 1978. Therefore, this amendment would have no impact whatsoever on the budget for fiscal year 1977.

It is imperative that this amendment be adopted now, well in advance of next year's first concurrent resolution on the budget. If estimates of tax revenues generated by inflation's impact on the tax brackets are included in the first resolution next year, it will be too late to consider an amendment of this type. We owe it to the Budget Committee, the Congressional Budget Office, and the Treasury, to provide a reasonable amount of time to alter their budget estimates, which will be in the planning stages by the end of this year.

This is not a trivial problem. If this sort of adjustment is not made, the Government will continue to receive approximately an extra $5 billion a year, at current rates of inflation, over and above the amount of increased taxes that are needed to allow for the inflation in the prices of the things the Government itself has to purchase. It is a surreptitious transfer of funds from the taxpayers to the Federal Government. Without any vote having to be taken by the Congress, and without any bill having to be signed into law by the President.

Let me give a numerical example. Suppose taxes are ten percent on the first $1,000 of taxable income, and 15 percent on the second thousand. A person with $1,000 in taxable income would pay $100 in taxes. Now suppose there is an increase in prices and incomes of 6 percent. In the second year, that person has taxable income of $1,060 actually, it would be more if his exemptions and deductions were held constant in dollar amounts. But suppose they were adjusted, while only the brackets were left unadjusted. Then, on the $1,060 in taxable income, he would pay taxes of $109 instead of the $106 that would have just kept pace with inflation. This is because the inflation pushed up taxable income into a higher bracket, 15 percent in this example. The real value of the tax payment is higher than the previous year, even though the real value of income is unchanged.

This is hitting the lower income taxpayer harder than anybody else, because the brackets change more rapidly at that level of income.

In reality, the situation is made even worse by the failure to adjust the personal exemption and standard deduction for inflation, as well as the brackets. Inflation erodes the value of these fixed dollar exemptions, and makes them a smaller percent of income, which has the effect of throwing a larger percent of gross income into taxable income. This pushes taxes up even further.

My amendment would simply return the excess tax, over a strictly proportional increase, to the taxpayer. In this example, it would amount to $3, the difference between $106 and $109. It would leave the taxpayer and the Government with the same purchasing power and the same shares of the same real income as the year before.

Now, what about the effect upon the deficit?

Although I am proposing to prevent the $5 billion increase in real taxes each year which is due solely to inflation, it is not the case that this will increase the deficit by $5 billion in any year.

In 1954, many leading figures opposed the reduction in tax rates that were then in effect due to the Korean war. They feared that lower taxes would increase the deficit. In 1963, they opposed the tax cuts first suggested by President Kennedy. They were again worried about the deficit. Yet in each case, the tax cut stimulated the economy, creating added output, and added employment. This meant that incomes rose and revenues rose.

What was behind these revenue increases?

The answer is that the lowering of taxes was behind it. But even in those years, you still had this retrogression against that attempted stimulation of the economy by lowering taxes, because you kept on this increase that results from the increase in the various brackets and in the various rates in which taxpayers find themselves.

When something is taxed, it shrinks. The greater the tax, the greater the shrinkage. Conversely, lower tax rates produce growth. Workers have more incentive to work overtime. Small businessmen work longer hours. Professional people take shorter vacations. People save more, invest more, hire more workers, and produce more output. Tax revenues rise, and unemployment compensation falls.

Let me stress this. Because of the stimulation of output, tax cuts have, historically, paid for themselves within about 2 years. Some of them have paid for themselves in the first year. By now collecting this $5 billion in inflation-induced additional taxes, the Government should only lose about $1 billion in the first year. Thereafter, because of the higher growth rate of the economy, the Government will actually receive more revenues from the tax decrease in spite of the lower tax rate.

Every businessman knows that overpricing a product can actually reduce revenue. He knows that lowering a too-high price may bring about a greater percentage increase in purchases than the percentage cut in price. I sincerely believe that we face the same situation today with our tax structure. If history is any guide, this amendment will not increase the deficit, it will reduce it. It will reduce it by stimulating economic growth, and by increasing employment. We are simply going to create more jobs with low tax rates than with high tax rates. Low taxes give the private sector an incentive to grow, and to create real jobs producing real goods.

Some Senators have asked, "Why don't we just cut taxes each year, instead of using indexing?"

The point is that we do not cut taxes each year. Even during recession, it takes so long to get a tax bill out of the Congress, that most of this year—and sometimes far longer—has gone by before the tax cut is put into effect. It was very late in the last two recessions before tax cuts were passed, and before the economic drag that inflation produces through higher taxes was eliminated. In between recessions, Congress sees no need for a tax cut. It simply takes the money in and spends it. When it does decide to cut taxes, it is usually by less than would be needed to return taxpayers all the way to the same tax rates that existed right after the previous tax cut. It always keeps something for itself in Washington. Meanwhile, the public thinks that taxes have really been cut, when in fact, we are usually left with a small net tax increase.

The tax reform bill this year is a good example. We have fought over the House and Senate versions of the tax cut. But in fact, the House version is a $5-billion tax increase, because it retains nearly the same tax code as last year. It is not tax reform or tax cutting, either. The Senate version was even less generous than the House. It would have meant a tax increase of $6 billion. Yet both of these provisions were advertised as tax cuts. I voted for the more liberal House version, as the lesser of two evils. But the public must not kid itself. The fact is, because we have not actually had a further $5-billion tax cut, inflation has really resulted in an actual tax increase. I am not so certain that this economic recovery is strong enough to take a $5-billion increase this year, a $5-billion increase this year, a $5-billion tax increase next year, and so on as long as the inflation continues.

This is the Bicentennial Year. Two hundred years ago, this country rebelled against taxation without representation. I feel it is very wrong for the Congress to be reaping a $5-billion windfall every year in increased taxes without ever having had to vote on these tax increases, and without ever having had to produce a tax bill for the President's signature. This hidden tax increase, which is largely unnoticed by the public, and by the news media, is clearly a case of taxation without legislation. It is a terrific drag on our economy, and specifically on the private sector, which produces real jobs and real goods. I think that 1976 would be a good time to put a stop to this sort of thing.

Mr. President, these are the reasons why I believe this amendment should be adopted at this time. I believe it will help the economy. I know it will be more equitable in helping our taxpayers who are hard pressed in these inflationary times. It has been tried in a number of other countries. Canada has had it for 3 years, and they feel that it has worked very well. The Netherlands is now trying it. It has long been known and studied by economists.

Actually, I think the only reason we have not adopted it in the past is that Congress apparently has liked the idea at times—I do not think it is admirable—that we sort of get an additional tax take every year over and above the mere increase in the cost of living that is involved. We have had the present graduated tax system, and we do not make any adjustments in the individual taxpayer's rise in bracket even though his income has gone down.

Mr. President, I reserve the remainder of my time. I will be glad to yield to the distinguished Senator from New York.

How much time remains?

The PRESIDING OFFICER. The Senator has 6 minutes remaining.

Mr. TAFT. I yield 3 minutes to the distinguished Senator from New York.

Mr. BUCKLEY. Mr. President, I am to support the amendment by the distinguished Senator from Ohio.

Two hundred years ago the American people rebelled against taxation without representation. Today the American people are victims of taxation by inflation, a cruel, hidden, deceitful tax brought about by inflation. Taxation by inflation is also tyranny. It must be stopped. We have heard much talk about "obscene" and "windfall" profits in recent years. The fact of the matter is that the U.S. Government has been raking in windfall profits. And the fault can be laid at the doors of the Congress for failure to correct so obviously unfair a system.

Every time a wage earner receives a raise in pay to offset a fall in purchasing power of his hard-earned dollar, he moves up to a higher tax bracket. The Government then takes away a larger percentage of his real earnings. What is given with one hand is taken away with another.

The American worker has become a victim of this governmental shell game and I say the time has come to stop the deceit gilted over with the phrase "inflation bonus" and force Government to be honest with the men and women who work and pay their bills and pay their taxes.

In my opinion, the automatic tax increase resulting yearly from the operation of inflation is one of the most inequitable aspects of the Internal Revenue Code. That taxpayers already squeezed by the spiraling decline in the value of the dollar should now find themselves faced with an automatic yearly tax increase as the result of that same inflationary phenomenon is certainly an ironic "slap in the face" for the American consumer.

It is not those who are already in the 50-percent tax bracket who find themselves the targets of this yearly tax increase. It is those in the steeply graduated lower- and middle-income brackets who must bear this burden. And it is precisely this group which would benefit most from the indexation of the rate tables, standard deduction, and personal exemption, which the Taft amendment would provide.

I have worked hard over the past 2 years for a wider recognition of the need for indexing the tax code. I am proud to have been a major proponent of this type of reform, and to be the principal sponsor of the bills on which the Taft amendment is based. And I am, therefore, particularly appreciative of the keen insight and effective leadership which the Senator from Ohio has brought to bear on this problem.

Mr. President, the concept of indexing is one which is not new to this body. Since I introduced S. 3396 on April 29, 1974, the idea has been written on and endorsed by Milton Friedman, Ken Clarkson, the Wall Street Journal, and Gov. Ronald Reagan. There has been more than enough time for the study and evaluation of indexing, and such study and evaluation has been in fact undertaken by those with a desire to do so. Those studies have in almost every case resulted in an enthusiastic endorsement of this proposal. It is time that we accepted those findings, and abandoned efforts to stall this much-needed reform.

Up to 80 percent of any revenue loss which might occur during the first year of an indexing proposal would be recovered from the feedback effect of pumping $5-billion into the national economy. There is therefore no budgetary, political, or social reason why any Member of this body should oppose this attempt to achieve tax equity.

Mr. President, I congratulate the Senator from Ohio for bringing up this matter. I think it truly deserves the title "Tax Reform." The idea of indexing the income tax is something, as he knows, that I have been working to achieve for 2½ years.

It will mean that we will treat the people with lower earnings and middle earnings fairly. We will get away from an obscene expression called "the inflation bonus," which takes money out of the pockets of citizens least able to afford it and adds to the coffers of the Treasury, creating a windfall profit realized by the U.S. Government.

I believe it is time we face the impact of inflation on the tax system and utilize this entirely reasonable and entirely rational approach that will make automatic adjustments, so that the tax burden that we legislate will be maintained until we readdress the subject.

I know there are others who wish to speak on this subject. I urge all our colleagues to support the Taft amendment. I gladly associate myself with it as a cosponsor, and I urge its adoption.

The PRESIDING OFFICER. Who yields time?

Mr. TAFT. I yield 5 minute to the Senator from Kansas.

The PRESIDING OFFICER. The Senator has 4 minutes remaining.

Mr. TAFT. I yield the 4 minutes to the Senator from Kansas.

Mr. DOLE. Mr. President, I rise to express my enthusiastic support of this proposal to provide for the automatic adjustment of personal income taxes. Year after year the average consumer and taxpayer takes a beating from the persistent rise of prices. Those whose hard-earned dollar incomes do not automatically keep up with the rise in prices they have to pay for food, clothing, housing, and transportation, find their real purchasing power diminished.

Mr. President, it is intolerable that the Federal Government adds to this injury by allowing the real taxes of our citizens to increase as well. This situation currently exists due to the progressive nature of our personal income tax system. In an inflationary situation, this structure of the tax system allows the Federal Government to collect an ever-growing percent of the personal incomes of taxpayers automatically—without making any specific decision or taking any explicit action to do so.

According to budget projection examples by the Congressional Budget Office, personal income taxes could grow from 9.8 percent of personal income in 1976 to 12.2 percent of personal income by 1980. That difference amounts to over $40 billion in taxes per year by 1980. The amendment now before us will correct this intolerable and unintended situation by adjusting personal deductions, exemptions, and tax brackets in accordance with changes in the Consumer Price Index. At the beginning of 1978 and each subsequent year, withholding rates and personal tax liabilities would be adjusted by a factor equal to the previous year's change in the CPI. This is a straightforward proposal that would be easy to administer and would establish an important principle of fairness in the way the Government taxes its citizens.

In addition to making an equitable adjustment for the effects of inflation, this amendment may even have the effect of reducing inflation. Even though it is commonly held that reducing taxes is expansionary and inflationary, the Senator from Ohio has eloquently explained the effect of escalating taxes on wages and subsequently on inflation. It appears likely, therefore, that through this amendment we can mitigate both the causes and the effects of inflation.

Mr. President, this amendment would do nothing to change the widely accepted principle of taxation by ability to pay which underlies our progressive tax structure. Indeed, it would restore that principle. Mr. President, the ability-to-pay principle in theory applies to real—or constant dollar—incomes and real tax payments. This principle, as incorporated in our tax rates, has been undermined by inflation. As prices and incomes stated in inflated dollars rise, taxpayers are put in higher tax brackets. A higher marginal tax rate, and hence a higher average tax rate is applied to incomes that are not longer in any real sense.

For example, with a 5-percent inflation rate, an individual whose income increased by 5 percent from $8,000 to $8,400 would find his tax liability increased by more than 5 percent. For a family of four, the added tax liability would be $19. At the $16,000 level of income, the same example yields a $61 windfall tax gain to the Government. At the $24,000 income level, the excessive increase in tax liability is $149 under current tax law.

Mr. President, this amendment would correct this situation by returning those dollars to their rightful owners—the taxpayers. We are going to hear several objections raised by those whose initial instinct is to oppose this amendment. The Senator from Kansas would like to anticipate those reservations and place them in their proper perspective. First, some will question the wisdom of automatic tax cuts. This is a perversion of reasoning. All this amendment asks is to do away with automatic tax increases.

Second, it will be observed that the automatic adjustment will result in larger budget deficits. This need not be the case. If Government spending needs exceed revenues subsequent to this amendment, let the Congress justify those needs and explicitly vote for the higher taxes to finance them. If the case for the spending needs cannot withstand this test, then the American people would be better served by corresponding spending restraints.

At stake is some $40 billion of tax dollars by 1980. Some in Congress already have designs on those funds. We can act now to reduce the temptation to casually spend those dollars which are so important to the living standard of the taxpayer.

Third, some may think that the automatic adjustments provided by this amendment will interfere with our ability to manage economic fiscal policies. As a member of the Budget and Finance Committees, the Senator from Kansas sees no substance to this concern. In considering the appropriate overall fiscal policy for the coming year, the Budget Committees begin with a projection of tax revenues. This amendment would do nothing to change this starting-point situation—it would change only the number. It would remain, as it currently does, for the Budget Committee—in conjunction with spending targets—to recommend, and the Congress to approve, and for the tax writing committees and Congress to mold any necessary change in taxes.

Mr. President, the Senator from Kansas knows of no experts who assert that the way taxes change with inflation is optional in any sense. Fiscal drag—as it is often called—can exert a restraining effect on inflation. On the other hand, it can exert too much restraint and can impede economic recovery and growth.

Surely Congress can judgmentally determine when is the best time for taxes to be raised or lowered in response to these fiscal policy considerations.

Mr. President, the legislation we are considering has been publicized far and wide as a tax reform bill. We have considered numerous options for increasing or decreasing the taxes paid by various groups in our society. The vast majority of these do not directly affect the average American taxpayer.

It is the opinion of the Senator from Kansas that this amendment represents the most significant tax reform we have so far considered. If this body is serious about tax reform—not just for a few, but for the majority—it will approve this amendment to eliminate the escalating and unfair taxation of the average citizen. I urge my colleagues to take this opportunity to undo some of the damage done by inflation and to return equity and the original purpose to our progressive tax system.

Mr. President, nearly 30 percent of Federal expenditures are now automatically adjusted for inflation. These programs provide either retirement or income support benefits to individuals. They include: Social security—OASDI; supplemental security income—SSI; railroad retirement, Federal civilian retirement, military retired pay, food stamps, and nutrition programs. There are numerous other smaller prorgams that are also indexed.

Many of us in this Chamber have supported indexation of these programs so that we can know that real benefits we are legislating. Fairness and consistency demand that Congress effectively control the real level of taxation as well. Just as the real benefits of these programs cannot be left to the whim of inflation, so must we prevent inflation from altering our real tax decisions after the fact. Whether imposed from abroad, by nature, or by our own policies, we should not allow inflation to either reduce the Government's commitment to the elderly and the poor or to increase its requirement of the taxpayer. To prevent inflation from distorting our priorities and our economic policies, the amendment now before us must be approved.

Mr. President, I yield back the remainder of my time.

Mr. TAFT. Mr. President, I ask unanimous consent that the name of the Senator from New Mexico (Mr. DOMENICI) be added as a cosponsor of this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Who yields time?

Mr. TAFT. I reserve the remainder of my time.

Mr. LONG. Mr. President, I really do not have a lengthy argument to make against this amendment.

The problem is this: When inflation occurs, it raises the cost of Government. We have to raise Government salaries, and it puts the Government more deeply in debt, and we need more revenue.

Of course, inflation does bring more revenue, because it pushes up the earnings of people. It also tends to depreciate the value of the personal exemption, and it tends to move people up the income ladder and therefore into the higher brackets.

That tends to help solve the problem to pay for all these pay raises which inflation makes necessary. I know our distinguished friend from Ohio appreciates that problem because, when inflation hits, he has to bring a bill in here to pay Government employees. We have to do the same thing for the armed services.

Here we are with an enormous deficit, so much so that we see no prospect of ever moving toward a balanced budget. And it is difficult—goodness knows, we have learned in writing this tax bill how difficult it is—to get Senators to vote for tax increases. I have proposed all sorts of tax increases and voted for tax increases that we cannot persuade a majority of Senators to vote for. Even when we call it reform, we cannot get them to vote for it.

One of the few things we have going for us, to give us a better chance to balance the budget, is that inflation does tend to bring in more revenues for the Government. It used to balance our social security fund for us, and we could then look and see how the people had been moved up and what they were paying. Then we could vote either to raise benefits or reduce the social security tax, because we were bringing in more revenue than we had anticipated. But, Mr. President, if this amendment should take place, not only will it increase our deficit, we shall be having to ask for a tax increase every year.

That being the case, Mr. President, with the enormous deficit that we are facing already, in my judgment, we would be making a bad mistake at this point to vote for a measure that is going to make it very difficult to raise Government revenues and make it necessary to ask for more and more tax increases, which it is difficult to ask Congress to pass.

Many times, when we ask people to vote for a tax increase, they will not vote for it, for very understandable reasons. Inflation is one thing that does tend, somewhat automatically, to help bring the budget into balance. In view of the fact, Mr. President, that we have not had a balanced budget for so long now that I cannot recall when the last time was, we ought to be trying to move toward a balanced budget, not away from it. I regret to say that this amendment will make it far more difficult for us ever to achieve a balanced budget.

Mr. BUCKLEY. Will the Senator yield?

Mr. LONG. Yes; for a question.

Mr. BUCKLEY. Is it not true that under an indexed tax system, if the cost of living goes up 10 percent, Government revenues also go up 10 percent? Will there not be a symmetrical increase in revenues to match the increase in cost of living?

Mr. LONG. The problem is that when the cost of living rises by 10 percent, the cost of Government services usually rise by 11 or 12 percent, so they do not balance off.

Mr. President, just as we found when we indexed the social security benefit, we have not been able to project a solvency in the social security fund since that time. It was solvent every day up until that point.

Mr. TAFT. Mr. President, will the Senator yield?

Mr. LONG. Now, it seems that when we index the tax structure, we shall be having to ask for a tax increase far more frequently than in the past and it will make it far more difficult to balance the budget.

Mr. TAFT. Will the Senator yield for a question on that social security matter?

Mr. LONG. I yield on the Senator's time. I am not going to yield on our time, because I want to bring the debate to a conclusion.

Mr. TAFT. Mr. President, do I have time?

The PRESIDING OFFICER. The Senator from Ohio has 1 minute remaining.

Mr. TAFT. Mr. President, the social security analogy is simply completely false. It has been known by the joint committee and the Committee on Finance for years that the whole social security problem comes not from the cost-of-living aspect of the increase, but rather, the fact that we have been going up constantly, biting from a bigger and bigger percentage of the income of the taxpayer. We have increased the coverage and we have taken our benefits up along as we have increased the amount of the salary of the individual that we are putting the tax upon. That is action taken by Congress. It has absolutely nothing to do with the cost-of-living increase. It happened to come along at the same time.

I wish the Committee on Finance and the Committee on Ways and Means would do something to correct it, because I think it is vital to be corrected. It has absolutely nothing to do with this problem whatsoever. The problems of the social security system come not from the cost-of-living increase by one whit, as compared to the other factors involved.

Mr. LONG. I ask for the yeas and nays, Mr. President.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second. The yeas and nays were ordered.

Mr. TAFT. We have heard this afternoon that the Government needs its cost-of-living raise, too. We have heard that the Government must get more revenues to pay for what it needs during an inflationary period. This is all true. My amendment does not interfere with this in the slightest. It would allow Government revenues to rise with inflation, even when there was no increase in real income and we had incomes exactly rising with inflation, too. What this amendment would prevent is the increase in Government taxes on a constant real income at a rate even faster than inflation.

At the present time, a 10-percent increase in prices and incomes means a 12-percent increase in taxes. Is the Government so incompetent, and so inefficient, that where the rest of the population can get by with a 10-percent increase in income, the Government needs a 12-percent increase in income just to break even? What is there about the Government's conduct of its business that requires it to get more than an increase equal to the cost of living? Is the Government so wasteful that it insists upon paying a higher and higher price for everything it purchases over and above the general inflation? If the prices of the things which the Government buys rise more rapidly than the prices of the things which the rest of the population buys, then Uncle Sam will shortly be renamed "Uncle Sucker."

A little bit later on in this bill, in title XX, we shall be considering a recycling tax credit. This tax credit has undergone no study, no testing, and it has certainly not been approved of by anyone in the Treasury or the Environmental Protection Agency or any of the many other agencies which are concerned with the condition of our environment. It is a brandnew loophole of a sort we have never indulged in previously. It is untested, and yet it is indexed. I shall read a passage:

(C) Inflation Adjustment.—

(i) Changes in Amount.—Before the beginning of each calendar year, as soon as the necessary data become available from the Bureau of Labor Statistics of the Department of Labor, the Secretary of Labor shall report to the Secretary the percentage difference between the price index for the most recently ended adjustment year and the price index for the base period. Both dollar amounts listed in subparagraph (B) shall be increased or decreased, as may be appropriate, by such percentage difference and, as increased or decreased, shall be the amount in effect for taxable years beginning during the calendar year following the adjustment year for which such report is made.

Now let me read you a paragraph from my amendment, which is designed to help the American taxpayer:

(e) Inflation Adjustment.—

(1) Changes in amount.—Before the beginning of each calendar year, as soon as the necessary data become available from the Bureau of Labor Statistics of the Department of Labor, the Secretary of Labor shall report to the Secretary or his delegate the ratio which the price index for the most recently ended adjustment year bears to the price index for the adjustment year preceding the most recently ended adjustment year. Each dollar amount listed in the tables under subsections (a), (b), (c), and (d) of this section shall be multiplied by such ratio and, as multiplied, shall be the amount in effect for taxable years beginning during the calendar year following the adjustment year for which such report is made.

So here we have it: The committee says we must study the indexation of the tax system. The committee says it has not been tested. The committee wants to wait.

The indexation of the tax system has been studied in many of America's leading universities since the 1940's. It has received ample discussion and review in America's tax and economic journals. It has been in effect in Europe for years. It was adopted 3 years ago by the Government of Canada, a country which has a tax structure extremely similar to our own. The results there have been outstanding. Indexing of the tax structure has been studied, analyzed, and tested in practical use. It is a respectable and old established concept of great benefit to the taxpayer.

Contrast this with the recycling tax credit. This is the loophole, a brandnew loophole, which is meeting stiff opposition from the Treasury, the environmentalists, and those firms which are already in the industry. It is completely untested. It is of extremely questionable value to the industry, let alone to the taxpayer who will be footing the bill. Yet the committee does not seek to have it tested. The committee does not wish to have it analyzed. The committee does not want to wait. The committee wants the recycling tax credit now. Furthermore, it wants it indexed.

I think it is only fair, if the committee is willing to provide a small special interest group with a very expensive, brandnew loophole, and to have that loophole indexed on top of everything else, that the committee should also grant the boon of indexing to the American taxpayer. If the beneficiaries of the recycling tax credit loophole are to be protected from the ravages of inflation by indexing, then surely the American taxpayer, who is even more hard hit by the ravages of inflation, should have the same protection and the same benefit.

I should like to submit evidence of the serious study and great success of indexing in Canada, which has had an indexed tax system for 3 years, and I ask unanimous consent to have certain material pertaining thereto printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

Excerpt From "Canadian Tax Journal" July-August 1974

. . . NEED FOR INDEXATION

In introducing the indexing proposal, Finance Minister Turner indicated that it was his intention to eliminate the unfair and unintended increase in taxes which occurs automatically as a consequence of the interaction of inflation and a progressive tax structure. It may be useful to comment briefly on the way in which this increase in taxes comes about.

There are two fundamental sources of higher taxes as a consequence of inflation, it is essential that the adjustment process offset both of these. In the first place, inflation causes taxable income to increase more rapidly than total or assessed income. This results from the fact that taxable income is derived from total income by allowing certain exclusions and deductions. If all the exclusions and deductions rose in response to an inflationary process at the same rate as total income, the relationship between total and taxable income would be unchanged. Many of the expenses that are deducted in arriving at taxable income do in fact respond to an inflationary process at approximately the same rate as does total income.

The income tax act, however, specifies other deductions in fixed dollar terms, most notably the basic personal exemptions which account for almost 80% of all exemptions and deductions from income. In consequence, in the course of an inflationary process in which total income may be assumed to rise at the inflation rate, total deductions and exclusions will rise more slowly than that rate. Taxable income will thus rise more rapidly than the inflation rate. For example, if an 8% rate of inflation were to induce an 8% rate of growth in total income, total deductions and exclusions would increase more slowly in an unindexed system. The net result would therefore be an increase in taxable income more rapid than 8% and—even with a proportional tax rate—an increase in taxes in excess of 8%. The real burden of taxes would thus have increased, even though real total income was unchanged. The avoidance of this result requires provision in the act to escalate deductions in such a way as to yield a constant real taxable income for a constant real total income.

The second source of higher real taxes as a consequence of inflation is found in the progressive rate structure. With such a rate structure, tax liability necessarily increases more rapidly than taxable income when taxable income does increase. In consequence, even in a situation in which taxable income rose at precisely the inflation rate (i.e., where the real value of taxable income was unchanged), the purely nominal increase in taxable income would result, in an unindexed system, in more income being taxed at the marginal rate. The net result is therefore an increase in the effective average rate and—with an unchanged real taxable income—higher real taxes. To avoid this result it is necessary that tax brackets be increased at the inflation rate. This would ensure that, for a constant real taxable income, there will be no change in the effective tax rate, and hence no change in real tax liability.

STABILIZATION EFFECTS

One of the traditional arguments against indexing the personal income tax has been that this would seriously impair the macroeconomic stabilizing properties of the tax system. The implications of an automatic adjustment process for the built-in stabilizing properties of the personal income tax are by no means certain. The conventional wisdom on this subject is based upon the assumption that price increases are coincident with an expansion in economic activity, and that indexing the tax system would imply tax cuts which would follow with a very short time lag the price increases. The conventional wisdom thus suggests that, just at the time when stabilization consderations would suggest taxes be increased to dampen aggregate demand, disposable income would be increased automatically by the personal income tax cuts attributable to indexing. In other words, it suggests that the reduction in tax revenues due to indexing would occur at the time of economic expansion, and the tax system would thus fail to perform its function as an automatic stabilizer.

This argument rests on two major assumptions: First that price inflation occurs coincidentally with the expansion in aggregate demand; and second that the tax reduction due to indexing occurs coincidentally with inflation. Both of these assumptions appear to be suspect. In the post-war period in Canada, price-level increases have lagged behind increases in the level of economic activity by approximately 9 to 18 months.

Indeed, the analysis presented by professor Bossons and Wilson in this journal suggests that the indexed tax system may actually, in some circumstances, be more stabilizing than the unindexed system.

Quoting from the Canadian Tax Journal on their experience with indexing . . . such evidence is available suggests that indexation either does not change this effect significantly or may actually enhance it in some circumstances. Should the automatic tax cuts occasioned by indexing be at any time fiscally inappropriate, they could be counteracted by discretionary increases. This could be done while retaining the equity and efficiency gains attributable to reliance upon real rather than nominal income for tax purposes.

. . . One further aspect of the effect of tax indexing on stabilization policy requires attention, namely, the effect of indexing on tax-induced wage inflation. It has often been argued that in a period of rising prices, workers bargain for wage increases which are sufficiently large to preserve their real disposable income—to maintain the purchasing power of their wages after tax. Since, under a progressive tax structure, marginal rates of tax exceed average rates, maintenance of the same disposable income requires that wage and salary increases exceed increases in prices. It is thus argued that the interaction of the progressive rate schedule with rising prices causes workers to bargain for wage increases in excess of price increases, thereby giving rise to "tax-push inflation".

Whatever the behavioral explanation for tax-induced wage inflation, it would appear from empirical evidence that the phenomenon does exist, although its magnitude is uncertain. By preventing purely inflationary increases in income from raising real tax liabilities, indexing should operate in such a fashion as to weaken this particular source of inflation.

. . . With respect to the impact of indexation upon the progressivity of the tax system, it was concluded that indexing decreases the share of total taxes paid by lower-income taxpayers, while increasing their share of disposable income. It is thus unambiguously a progressive measure.

. . . Should indexation occasion a long-run growth in personal income tax revenues below that necessary to finance a desired increase in real government expenditures, discretionary income tax increases could of course be imposed to provide the required revenues. Clearly, this process of explicitly legislated tax increases is superior from the point of view of accountability to taxpayers than is the alternative of relying upon a hidden "inflation tax".

. . . The effect of inflation coupled with progression in the rates of tax on personal income is to increase taxes at each income level to an extent that depends on the rate of progression in tax rates at that income. As a consequence, the tax increases resulting from inflation are highest not at incomes where the marginal tax rates are highest, but rather at incomes where marginal tax rates increase most rapidly. Such inflationary tax increases thus fall most heavily on middle-income taxpayers and on low-income taxpayers with incomes just below the exemption level. It is clearly difficult to argue that this pattern of incidence of the tax changes resulting from inflation reflects rational social policy.

Beyond this perverse incidence of inflation-induced tax changes on different income classes, there is an equally perverse effect on families of different size. The changes in effective tax rates are in most classes greater for families with more children—a result that would be sensible only were it assumed that families with children had their relative spending power improved in periods of general price inflation.

The differential incidence of inflationary tax increases on different income groups is reflected in a differential rate of increase in taxes on labour and property income. Except for small private corporations, the corporation income tax exhibits no progression in tax rates and hence is immune from inflationary increase in effective real tax rates. Further, property income of individuals is heavily concentrated among individuals with higher incomes who are already subject to marginal personal income tax rates equal to or close to the maximum rate of tax. Consequently the average rate of inflation-induced increase on effective tax rates on property income is relatively low.

The reason why taxes on labour income are increased by price changes to a greater extent than taxes on property income is that taxes on labour income are more progressive. This difference partly arises from the fact that the bulk of tax revenues from taxes on property income are collected through the corporation income tax and local property tax rather than through the personal income tax. In part, the difference also is due to the fact that property income taxed under the personal income tax is taxed at effective tax rates which rise less quickly than taxes on labour income, as a result of the effect of the dividend tax credit and the preferential treatment of capital gains.

CONCLUSIONS OF THE CANADIAN TAX JOURNAL, JULY–AUGUST 1974

The indexing procedure proposed by Finance Minister Turner to adjust tax rates for inflation would have two highly beneficial effects. It would eliminate a number of inequities resulting from the way in which inflation now affects effective tax rates. It would at the same time substantially reduce the rate of growth of direct personal tax revenues over the long term, unless such reduction were offset by explicit increases in tax rates. Through so doing, the proposal increases parliamentary control over tax rates.

These benefits would not be accompanied by any significant costs. Contrary to what has previously been assumed, the implementation of the proposed adjustment of tax rates would not reduce the stabilizing properties of the tax system. On the contrary the Turner proposal would slightly enhance the extent to which the tax system helps to stabilize fluctuations in real output. Moreover, taking into account the indirect effects of inflation-induced tax changes on subsequent price changes, the present contributions of the tax system to "cost-push" inflation would be substantially mitigated. As a result, implementation of the budget proposals to index tax rates should prove beneficial to macroeconomic stability.

Mr. TAFT. In conclusion, Mr. President, this amendment does not weaken the fight against inflation. By reducing the risk of recession, it allows the Government to pursue less inflationary policies without higher unemployment. This would increase the chances of bringing inflation under control. It would stimulate output and employment, and help to curb inflation by removing the need for wages to rise even faster than the cost of living just to preserve after-tax income. It would help to protect the taxpayer-wage earner from the cruelest tax of all—inflation.

Mr. ROTH. Mr. President, I rise in support of this amendment to adjust the personal exemption, the standard deduction, and the tax brackets by the annual rate of inflation. I have introduced legislation in the last two sessions of Congress to index the tax system by the rate of inflation, and I am pleased to join my distinguished colleagues from Ohio (Mr. TAFT) and from New York (Mr. BUCKLEY) in sponsoring this amendment to the tax reform bill.

This amendment is an important and fundamental reform of a tax system which uses inflation to automatically push taxpayers into higher tax brackets. This results in an annual tax increase that has its greatest impact on low- and middle-income taxpayers.

Under our present tax laws, the Government is the only beneficiary of inflation. This is because the Government relies on inflation to continually increase tax revenues, and allows Congress to continue spending without facing the political consequences of funding new spending programs through tax increases.

The inflation of the past few years has benefited the Government at the expense of the average low- and middle-income taxpayers of this country. Although the price increases for food, utility, and housing receive more attention, the largest increase in a family's budget the past few years has been in their income taxes.

I believe that an indexed tax system would provide at least partial relief from inflation. It would insure that a family will no longer be forced to pay more taxes simply because inflation has pushed it into a higher tax bracket.

For many senior citizens on fixed incomes, this amendment could result in a tax cut each year that prices rise. And this proposal would reduce the amount of inflated revenues that the Federal Government collects and spends each year.

Despite the recent easing of inflation, we cannot afford to ignore the disruptive impact of inflation on our economy. The Congress cannot continue to spend and spend and then cut taxes every election year.

Although this amendment will be characterized as a radical change in our system of taxation, the approach is modeled after systems that have been successfully adopted by a number of countries, including Canada. I can see no reason why we cannot adopt this amendment to provide real tax relief for low- and middle-income taxpayers, and I urge the adoption of this amendment.

Mr. TAFT. Mr. President, I have an amendment. The Senator from Oregon has not been able to get to the floor, apparently. I have an amendment that I offer on his behalf, which was agreed to under the consent agreement.

The PRESIDING OFFICER. All the time would have to be used or yielded back.

Mr. TAFT. Mr. President, all my time is yielded back. Will the Senator from Louisiana yield his time back? On the amendment, not on the amendment to the amendment.

Mr. FANNIN. Mr. President, 1 minute?

Mr. LONG. I yield to the Senator 1 minute.

Mr. TAFT. Let me say that the amendment to the amendment that has just been offered, under which there are 10 minutes on each side, provides merely that the bracketing goes to the nearest $5 figure, a point which the Senator from Oregon raised. I thought that was a sound point, so I have offered it as an amendment, and I certainly have no objection to an amendment being offered.

I am glad to yield on the amendment to the amendment to the Senator from Arizona.

The PRESIDING OFFICER. The amendment to the amendment is not pending. The Senator from Louisiana has time remaining and has not yielded back. Therefore, the amendment to the amendment is not in order.

Mr. TAFT. I thought the Senator from Louisiana yielded back his time on the amendment.

Mr. FANNIN. Mr. President, the Senator from Louisiana yielded 1 minute to the Senator from Arizona.

Mr. TAFT. I have no time to yield to the chairman.

Mr. FANNIN. The chairman yielded 1 minute to the Senator from Arizona.

I commend the distinguished Senator from Ohio. Certainly, I understand why he is pushing for this amendment and has offered it. I do feel that this amendment raises the important question of whether we should build into the tax laws some form of automatic inflation adjustment mechanism. I have been concerned about that. I feel that I would like to study it further and to learn more about it.

The Senator has furnished information to me and to the other Senators and it has been very helpful. Still, there are some questions that I have concern about.

The Committee on Finance received only a limited amount of testimony on this subject. For a variety of reasons, we in the committee concluded that it would not be possible to deal adequately with this subject in this particular bill. Several members of the committee did feel, however, that it should give further study to it and directed the staff to undertake a study of the possibility of adjusting the tax system for inflation. I am confident that the staff, in this study, will focus on a variety of proposals, including the one embodied in the pending amendment.

For these reasons, and while I support the goals of the Senator from Ohio, I hope that the Senate will defer action on the amendment pending completion of the staff study.

Mr. HATHAWAY. Will the Senator from Louisiana yield a minute or 2?

Mr. LONG. I yield 2 minutes to the Senator from Maine.

Mr. HATHAWAY. I thank the Senator for yielding.

I point out that the whole subject of indexing is a very complicated subject. I think proponents of the amendment understand that indexing in certain areas can lead to greater inflation, rather than protecting those that we intend to protect, by having certain income or, in this case, the income tax bracket indexed. I think the Senator from Arizona makes a wise suggestion when he says that we should study this matter. We should study not only the proposed amendment by the Senator from Ohio, but indexing in general, all these cost-of-living escalator clauses that are in union-management contracts, as well as tacked onto some of the Federal legislation such as the Social Security Act, and come back with some kind of a comprehensive plan that takes into consideration all of the factors that were mentioned here in the debate.

For that reason, although at a later time I might be willing to support the Senator from Ohio, at this time, in view of the tremendous lack of information we have as to the consequences of this amendment, I feel constrained to vote against it. I thank the Senator from Louisiana.

The PRESIDING OFFICER. The Senator from Louisiana has 11 minutes remaining.

Mr. LONG. Mr. President, I hope we can bring this matter to a conclusion and, therefore, rather than vote on two different amendments, I would like to move, in due course, at the proper time, that the amendment be laid on the table, and that would take with it the amendment to the amendment.

Let me ask, Mr. President, assuming that an amendment is offered to the amendment, at what point would it be in order to table the basic amendment?

The PRESIDING OFFICER. When the time has expired on the amendment in the second degree.

Mr. LONG. Then, Mr. President, I yield back the remainder of my time, that is, on the basic amendment.

UP AMENDMENT NO. 292

The PRESIDING OFFICER. All time has been yielded back on the original amendment.

The clerk will report the amendment to the amendment.

The assistant legislative clerk read as follows:

The Senator from Ohio (Mr. TAFT) for Mr. PACKWOOD proposes unprinted amendment No. 292.

Mr. TAFT. Mr. President, I ask that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 2, line 10, after the period insert the following: "If, for taxable years beginning during a calendar year such amounts, as multiplied, are not multiples of 5, each such amount, as multiplied, shall be increased to the next greater multiple of 5, and, as so multiplied and increased, shall be the amount in effect for such taxable years (but for purposes of making the computation required by the preceding sentence, the Secretary shall use the actual product rather than the increased amount).".

On page 3, line 14, after the period insert the following: "If, for taxable years beginning during a calendar year such amounts, as multiplied, are not multiples of 5, each such amount, as multiplied, shall be increased to the next greater multiple of 5, and, as so multiplied and increased, shall be the amount in effect for such taxable years (but for purposes of making the computation required by the preceding sentence, the Secretary shall use the actual product rather than the increased amount).".

On page 4, line 10, after the period insert the following: "If, for taxable years beginning during a calendar year such amounts, as multiplied, are not multiples of 5, each such amount, as multiplied, shall be increased to the next greater multiple of 5, and, as so multiplied and increased, shall be the amount in effect for such taxable years (but for purposes of making the computation required by the preceding sentence, the Secretary shall use the actual product rather than the increased amount).".

Mr. TAFT. This amendment was introduced on behalf of the Senator from Oregon (Mr. PACKWOOD), and I would be glad to yield him 10 minutes.

Mr. HATHAWAY. Mr. President, will the Senator from Oregon yield for a unanimous-consent request?

Mr. PACKWOOD. Yes.

Mr. HATHAWAY. Mr. President, I ask unanimous consent that John Stewart and David Freeman be granted privileges of the floor during the vote and debate on the tax bill.

The PRESIDING OFFICER (Mr. WEICKER). Is there objection? The Chair hears none, and it is so ordered.

Mr. PACKWOOD. Mr. President, I thank the Senator from Ohio for introducing the amendment. It is very simple and it does not go to the substance of the merits of indexing, which I do support. But the amendment that Senator TAFT has offered on my behalf would simply round off the taxpayer's figures to the upward $5, not the nearest up or down but upward $5, so that indexing each year you would not have dollars and cents in fractions of figures.

I think it is a very simple amendment. I do not think this particular amendment should be controversial as far as the concept of indexing is concerned, and I would be prepared to yield back the floor.

Mr. TAFT. Mr. President, I wonder if the Senator would yield me some time?

Mr. PACKWOOD. Yes; I would be happy to.

Mr. TAFT. I would like to concur with the Senator from Oregon that no mathematical problems could be created by his amendment and, therefore, I expect to support it.

I would like to make a couple of points in response to the points that have been made by the distinguished chairman of the committee.

First of all, with regard to the inflationary pressures that might be created by this amendment, it is quite the other way around. We have the cart before the horse here.

The reason, the principal cause, for inflation in this country today, and the principal cause has been the pressure of wages, wage demands.

What has the reason for this been? The reason for this has been that the same worker who about 10 years ago was paying maybe a 5-percent rate on his taxes is now paying at a 15-percent rate even though his real income has not gone up at all; and even though his dollar increase or wages go up every year, when he gets down to the time when he has to pay his taxes he finds he is going to have to pay more and more taxes, a higher percentage of his total income, because he has moved up in the bracket without any increase in real income at all.

So if you are really talking about preventing inflationary pressures on the economy, what you need is this indexing type of amendment so that the worker each year knows approximately what bracket he is going to be in unless he has got a merit increase of some sort. If it is just a cost-of-living increase he knows he is there and he does not, because of the inflationary factors, build further inflationary factors by the wage increases he has to move on.

Let us take just one other argument that has been made, and that is that somehow you are going to increase the deficit by this. As I indicated in my original statement, I think quite the contrary is true in the scenario we have today. The history of tax decreases in the last 10 to 15 years has been in the long run they created revenue, and in the very long run either. We estimated on the basis of past studies and what happened in 1963 that we might lose $1 billion in the first year to which this would be applicable, which would be fiscal 1978. After that we figure we are going to be ahead of the game because of the stimulative effect of a real tax cut that is involved.

We are just kidding ourselves with this bill, as we have kidded ourselves in the past in some of the bills we put in, saying that this is going to help the economy under the Keynesian theory of economics because the taxpayer is not going to have as much money to spend. Actually we are increasing it because we are in an inflationary period, and the increase in the brackets the taxpayers find themselves in, and the smaller percentage of the total income their personal exemptions represent or the standard deduction represents means that really they are having a tax increase even though you say you are giving them a cut in taxes.

So that the two principal arguments that have been made by the chairman to me are totally specious under the circumstances we have been talking about.

I thank the distinguished Senator from Oregon for giving me time.

Mr. PACKWOOD. I agree totally with the Senator from Ohio. If the theory—and I have never been totally convinced that the theory works, but if the theory—is that a tax cut will expand the economy, will increase the revenues, will put people back to work, will make them consumers so that businesses make more profit and pay more taxes, this, in essence, is a tax cut, if you want to call it that. What it really is, is simply making sure that everybody keeps a fair share. Not that he gets a fair share but he keeps a fair share of the taxes without being nibbled away by being put into a higher tax bracket. This is not a theory that you get to keep as much money, which is worth less, but you keep more money, you get to keep more money at a time when inflation has made everything cost more.

If the purpose of tax stimulus is true, if the theory works, that by putting more money into the hands of consumers we spur the economy, then this amendment is going to put more money into the hands of consumers and spur the economy.

Mr. DOLE. Mr. President, will the Senator yield?

Mr. PACKWOOD. Yes.

Mr. DOLE. We are talking about a large sum of money by 1980, and all we seem to be doing is not to avoid a tax cut but to avoid a tax increase on an annual basis, talking about avoiding a tax increase. It is just as simple as that. The Senator from Kansas, as the Senator from Oregon knows, also knows that there are a number of indexing programs such as SSI, food stamps, social security, you name it. We have an indexing program. All we are suggesting here is that we put this $40 billion back into the workers' hands, and taking it out of somebody's hands who does not have an idea of how he is going to spend it. If we have to spend money, let us meet it head-on.

Mr. PACKWOOD. It is the fairest of all amendments because we have indexed almost everybody who is receiving money from the Government, but the very person who is going to pay the tax, the low-income earner, we are not going to index him.

Mr. BUCKLEY. May I say, too, this is an unfair tax increase on those individuals in our society who are least able to afford it because the people in the lowest tax brackets are rapidly raised to the higher tax brackets.

Mr. PACKWOOD. Because we have a maximum fixed tax bracket on earned income, and all we are doing is pushing those lower up to a higher bracket. For those who already paid 50 percent this is not a loophole for the wealthy.

Mr. BUCKLEY. The people in the Treasury talk about this wonderful inflation bonus. They have never asked those who would pay it.

The people who are in the lowest tax brackets suddenly find themselves paying out more tax dollars, and the Senate and the Congress never had the guts to legislate on this matter.

Mr. PACKWOOD. I yield to the Senator from New Mexico.

Mr. DOMENICI. Mr. President, some time ago I participated with the distinguished Senator from New York in a rather interesting dialog about income tax and tax indexing, and I want to commend the Senator from Ohio and the Senator from New York for bringing this matter to the attention of the Senate.

I say whether or not this passes today or whether or not our distinguished chairman is successful in tabling the matter is not really why we are here. I think if we do focus in for Senators on the notion that when we set a progressive income tax and then set brackets that, as a matter of fact, those are totally defied and havoc sets in when you have inflation, and so we have an unintentional resetting of the brackets and the areas and levels of taxation that we are imposing on our citizens, in particular those who work hard for a living.

Speaking of a spiral, I would suggest to the Senator from Ohio that we are talking about a spiral of wanting to make more money, and labor leaders wanting more money for their people, and higher contracts for employment. Here is one of the very reasons why when they go to the bargaining table they say, "After taxes, we are getting less under the new pay raise than we were before, so we want more this year."

So, in a very real sense, this would be one of the most meaningful and true reform measures to come out of this debate that has been here on the floor for 3 or 4 weeks.

If serious attention is given to this real thief in the sense that it is a tax levy without our really wanting it to be, without our telling anyone we are doing it, but it comes to us anyway, then those who work hard to make more, negotiate hard to earn more, end up paying more and getting less.

I commend the Senator from Ohio.

Mr. TAFT. I thank the Senator.

Mr. President, if the Senator will yield for just one comment, I notice in the last 2 years the Senate voted a cost-of-living increase for Government employees by a sizable majority.

I say if we tried to protect the Government employees from inflation, let us try to protect the taxpayers, too.

Mr. PACKWOOD. I am prepared to vote on my amendment.

Mr. LONG. Mr. President, may I have 2 minutes to speak?

The PRESIDING OFFICER. The Senator has 10 minutes. The Senator from Louisiana.

Mr. LONG. Mr. President, this amendment would have the effect of reducing Government revenues when inflation hits. When inflation hits, Government revenues go up and so do Government costs. One tends to offset the other.

But this amendment would have the effect, with 6-percent inflation—which is not at all unusal today—of reducing Government revenues by $5 billion when we already have an absolutely uncontrollable Government deficit.

By reducing taxes further as inflation hits, it tends to feed the fires of inflation by reducing Government revenues and putting more money into circulation at a time when we should be trying to restrain the economy.

Mr. President, we cannot afford this revenue loss. We once had a solvent social security program. It remained so until we started indexing those benefits so that when inflation would move the cost of living up, up would go the benefits automatically.

Prior to that, we would look at the situation and see what we could afford to pay out in increased benefits and how we needed to raise the tax to keep the program solvent.

Then we started indexing the social security program—and we have projected long-range bankruptcy ever since that time.

This amendment would mean that every time we have 6-percent inflation, we will lose $5 billion in revenue.

We cannot afford those kinds of revenue losses. We cannot get this Congress together and vote tax increases when they are needed.

Therefore, these sorts of automatic tax increases that occur by virtue of inflation are needed unless we can find some other way to raise the revenue, which we have not been able to find. We need all the revenue we can find, whether by accident or circumstances. We simply cannot afford this revenue reduction.

The PRESIDING OFFICER. The Senator's 2 minutes have expired.

Mr. LONG. Has all time expired?

The PRESIDING OFFICER. The Senator still has 8 minutes.

Mr. LONG. How much time remains to both sides?

The PRESIDING OFFICER. One minute on the other side. Eight minutes to the Senator.

Mr. LONG. Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. PACKWOOD. Mr. President, I am prepared to yield back and vote on the amendment.

Mr. LONG. I yield back my time.

The PRESIDING OFFICER. All time having been yielded back——

Mr. LONG. Mr. President, I move to table the Taft amendment, which would take with it, I understand, the amendment to the amendment.

The PRESIDING OFFICER. The Senator is correct.

The question is on agreeing to the——

Mr. LONG. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the Taft amendment. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Hawaii (Mr. INOUYE), the Senator from South Dakota (Mr. McGOVERN), the Senator from Missouri (Mr. SYMINGTON), the Senator from California (Mr. TUNNEY), the Senator from New Hampshire (Mr. DURKIN), and the Senator from Minnesota (Mr. MONDALE) are necessarily absent.

Mr. GRIFFIN. I announce that the Senator from Nebraska (Mr. CURTIS), the Senator from Arizona (Mr. GOLDWATER), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I further announce that the Senator from Maryland (Mr. BEALL) is absent due to a death in the family.

The result was announced—yeas 68, nays 22, as follows:

[Rollcall Vote No. 457 Leg.]

YEAS—68

Abourezk
Allen
Baker
Bayh
Bellmon
Bentsen
Biden
Brooke
Bumpers
Burdick
Byrd, Robert C.
Cannon
Case
Church
Clark
Cranston
Culver
Eagleton
Eastland
Fannin
Fong
Glenn
Gravel
Hansen
Hart, Gary
Hart, Philip A.
Hartke
Haskell
Hathaway
Hollings
Hruska
Huddleston
Humphrey
Jackson
Javits
Johnston
Kennedy
Leahy
Long
Magnuson
Mansfield
Mathias
McClellan
McClure
McGee
McIntyre
Metcalf
Montoya
Morgan
Moss
Muskie
Nelson
Nunn
Pastore
Pell
Proxmire
Randolph
Ribicoff
Schweiker
Scott, William L.
Sparkman
Stafford
Stennis
Stevenson
Stone
Talmadge
Weicker
Williams

NAYS—22

Bartlett
Brock
Buckley
Byrd, Harry F., Jr.
Chiles
Dole
Domenici
Ford
Garn
Griffin
Hatfield
Helms
Laxalt
Packwood
Pearson
Percy
Roth
Scott, Hugh
Stevens
Taft
Thurmond
Tower

NOT VOTING—10

Beall
Curtis
Durkin
Goldwater
Inouye
McGovern
Mondale
Symington
Tunney
Young

So the motion to lay on the table Mr. TAFT's amendment (No. 1902) was agreed to.

Mr. LONG. Mr. President——

Mr. McINTYRE. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. LONG. I ask unanimous consent that I may yield to the Senator from New Hampshire without losing my right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McINTYRE. I ask unanimous consent that a member of my staff, Mr. William Donovan, may have the privilege of the floor during the title XX energy provision debate.

The PRESIDING OFFICER (Mr. BROCK). Without objection; it is so ordered.

TITLE XX (AS MODIFIED)

Mr. LONG. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of title XX, energy related provisions, a summary of which I include in my remarks at this point, except for section 2006, which I ask be considered as a separate amendment because the Senator from New Hampshire (Mr. DURKIN) wants to offer an amendment on that tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

TITLE XX—ENERGY RELATED PROVISIONS

1. *Residential insulation credit (sec. 2001 of the bill).*

The committee amendment provided a refundable credit of 30 percent of the first $750 ($225 maximum) spent for insulating an existing residence after June 30, 1976, and before January 1, 1979.

Under present law, no special credit or deduction is allowed for expenditures for insulation of a taxpayer's own residence. Expenditures for insulation that qualify as an improvement of the house may be treated as an addition to the taxpayer's basis in the house.

There was no provision for residential insulation in the House tax reform bill, but the energy tax bill (H.R. 6860) provided a credit of 30 percent on the first $500 spent, for a maximum credit of $150, for installation in existing residences after March 17, 1975, and before January 1, 1978.

2. *Credit for residential solar or geothermal energy or heat pump (sec. 2002 of the bill).*

The committee amendment provided a refundable credit of 40 percent on the first $1,000 and 25 percent on the next $6,400 ($2,000 maximum) spent on the installation of solar or geothermal energy equipment after June 30, 1976, and before January 1, 1981, in a residence occupied by the taxpayer. The committee amendment also provided a refundable credit of 20 percent on the first $1,000 and 12½ percent on the next $6,400 ($1,000 maximum) spent on the installation of a heat pump after June 30, 1976, and before January 1, 1979, for an existing residence.

There is no special credit or deduction for solar or geothermal energy expenditures for a taxpayer's own residence. Expenditures for solar or geothermal energy units that qualify as an improvement of the house may be treated as an addition to the taxpayer's basis in the house.

3. *Investment credits relating to energy conservation and production (sec. 2003 of the bill).*

a. *Business insulation credit.*

The committee amendment extended the investment credit to the insulation costs in an existing business property paid or accrued after December 31, 1976, and before January 1, 1979.

Under present law, insulation of business property is included among structural components which are not eligible for the investment credit.

There is no comparable provision in the House-passed tax reform bill, but in the energy tax bill (H.R. 6860), the House extended the investment credit to include the costs of insulating an existing business structure after March 17, 1975, and before January 1, 1978.

b. *Business solar and geothermal equipment credit.*

The committee amendment provides a special investment credit of 20 percent through 1981 and 10 percent through 1986 for both solar and geothermal energy equipment. Credit is available for equipment which becomes a structural component of a building and for equipment installed for lodging property. Generally it is effective at the 20-percent rate only for property acquired, or the construction of which is commenced, after May 25, 1976, and before 1982, and it is effective at the 10-percent rate for property acquired, or the construction of which is commenced, after 1981 and before 1987.

Under present law, solar or geothermal energy equipment does not usually qualify for the investment credit because this equipment is usually considered as a structural component of a building.

There is no comparable provision in the House-passed tax reform bill, but in the energy tax bill (H.R. 6860), the House extends investment credit at the current rate to solar energy equipment. The credit is available for equipment which becomes a structural component of a building and for equipment installed for lodging property. It would become effective when both the installation and expenditure are made (or incurred) after March 17, 1975, and before 1981.

c. *Waste conversion equipment.*

The committee amendment provides that a 12-percent investment would be available for equipment acquired after December 31, 1976, and placed in service before January 1, 1982. This credit would revert to the statutory rate in effect in 1982. Waste conversion equipment is defined to include equipment to use waste as a fuel, process waste into a fuel, sort and prepare waste for recycling, and recycling equipment.

There are no special tax provisions in present law that specifically relate to these categories of equipment.

There is no comparable provision in the House-passed tax reform bill, but the energy tax bill (H.R. 6860) provided for 5-year amortization and a two-thirds investment credit.

d. *Organic fuel conversion equipment.*

Under the committee amendment, an investment credit of 12 percent is provided for equipment acquired after December 31, 1976, and placed in service before January 1, 1982. After that date, the ordinary rules of the current investment credit would apply to this equipment. Organic fuel conversion equipment is defined to include equipment used to convert organic material into energy forms.

Under present law, there are no special tax provisions that relate specifically to this category of equipment. There is no comparable tax provision in the tax reform bill, but the energy tax bill (H.R. 6860) provided for demonstration and development grants from an energy trust fund for new technologies which would include organic fuel conversion.

e. *Railroad equipment.*

Under the committee amendment, a 12-percent investment credit would be made available for railroad rolling stock, communications, signal or traffic control equipment, classification yard equipment, and freight handling equipment for loading or unloading trailers and containers on and from railroad cars that have been placed in service after December 31, 1976, and before January 1, 1982.

Under present law, no special tax provision is applicable to expenditures for these kinds of railroad equipment. Railroad rolling stock was eligible for five-year amortization through December 31, 1976; the investment credit was not available to equipment for which an election had been made for rapid amortization. Alternatively, the railroad could take the investment credit and use ADR lives with accelerated depreciation. For communications systems, classification yard equipment and freight handling equipment, the taxpayer also may take the investment credit and use ADR guideline lives with accelerated depreciation.,

The House-passed tax reform bill contained no provisions relating to these types of railroad equipment. Under the House-passed energy tax bill (H.R. 6860), eligibility for the election for five-year amortization would be extended through December 31, 1979, for railroad rolling stock, and the election would be made available for equipment used in communications, signal or traffic systems, classification yards and certain freight handling equipment for loading and unloading trailers and containers on and from railroad cars. Equipment eligible for the five-year amortization election also would be eligible for a two-thirds investment credit.

f. *Deep mining coal equipment.*

The committee amendment allows a 12-percent investment credit for deep mining coal equipment for a 10-year period for equipment placed in service after December 31, 1976, and before January 1, 1987. This provision covers depreciable equipment needed to reach underground coal deposits in slope mines, shaft mines, or drift mines and to extract the coal and bring it to the surface. It applies to the machines and equipment used in the process of actual mining, including conveyor belts, loading machines, and cars used to bring coal and miners out of the mine. The credit also applies to machinery and equipment used in newly opened mines, in new shafts or tunnels in existing mines and to reopened shafts or tunnels.

Under present law, this equipment is eligible for the current investment tax credit under the ordinary rules pertaining to all investment.

The House-passed tax reform bill did not contain a comparable provision. The energy tax bill (H.R. 6860) passed by the House included a provision for five-year amortization for deep mining coal equipment placed in service after March 17, 1975, and before January 1, 1981. This equipment also would be eligible for a two-thirds investment credit.

g. *Coal liquefaction and processing equipment.*

The committee amendment permits a 12-percent investment credit for the capital cost of depreciable machinery or equipment used for processing coal into a liquid or gas. This provision covers the range of liquids and gases which can be derived from coal (as well as usable byproducts), including low-BTU gas, high-BTU gas, synthetic crude oils and chemical feedstocks. In addition to gasifiers, reactors, and other equipment directly involved in processing the coal, eligible machinery and equipment includes the facilities for coal preparation and crushing; for upgrading coal oil to synthetic crude oil; for recovering solvent and sulfur; for preparing and disposing of water; and for product storage. Equipment used to drill wells, or to fracture coal in a mine and to pipe process gas to the surface, as part of underground gasification, is also included. The credit is also to be available for equipment used in the solvent refining process to remove sulfur, ash or other pollutants in order to produce a clean solid fuel from coal. The provision also permits machinery and equipment used in demonstration and pilot plants and in other testing activities (as well as machinery and equipment used in commercial production) to receive the extra credit if the equipment is the type that, if used in a trade or business, would be depreciable. The credit is available for eligible property that is placed in service after December 31, 1976, and before January 1, 1987.

Under present law, these kinds of equipment are eligible for the current investment tax credit under the ordinary rules pertaining to all investment.

The House-passed tax reform bill did not contain a comparable provision. The energy tax bill (H.R. 6860) passed by the House included a provision for five-year amortization for qualified equipment for processing coal into a liquid or gaseous state. It also would be eligible for a two-thirds investment credit. Both provisions would apply to equipment placed in service after March 17, 1975, and before January 1, 1981.

h. *Coal slurry pipeline equipment.*

The committe amendment provides a 12-percent investment credit for costs incurred in installing pipeline equipment to carry coal in a slurry. The special credit applies to equipment placed in service after December 31, 1976, and before January 1, 1987. Under the amendment, the credit is confined to the central elements of the slurry system: the main pipeline itself, the high-pressure main pipeline pumps (including spare pumps) necessary to move the coal through the line, and control and communications equipment for operating the pumping stations. The amendment defines an eligible pipeline as depreciable tangible property which constitutes a coal slurry pipeline and related equipment for transporting coal from the mine or other gathering point over relatively long distances from the mine (or from a related preparation plant) to another geographical area where the customer is located or where barges, rail lines, or other facilities for further shipment of the coal are located.

Under present law, the equipment is eligible for the current investment tax credit under the ordinary rules pertaining to all investment.

The House-passed tax reform bill did not contain a comparable provision. The energy tax bill (H.R. 6860) passed by the House included a provision for five-year amortization for a qualified coal pipeline. It also would be eligible for a two-thirds investment credit. These provisions would apply to equipment placed in service after March 17, 1975, and before January 1, 1981.

i. *Shale oil conversion equipment.*

The committee amendment provides a 12-percent investment credit for capital expenditures for machinery or equipment which is necessary to reach, extract and convert shale rock into raw shale oil. The provision does not cover expenditures for refining crude shale oil after it has been extracted from the rock. It is intended to cover machinery and equipment used to obtain water needed for the extraction process, to dispose of spent shale after the oil has been extracted, to dispose of run-off waters from wastes produced in the extraction, and to remove impurities from oil and gas produced from the shale. This provision also permits machinery and equipment used in demonstration and pilot plants for shale oil extraction to receive the 12-percent credit.

Under present law, the equipment is eligible for the current investment tax credit under the ordinary rules pertaining to all investment.

The House-passed tax reform bill did not contain a comparable provision. The energy tax bill (H.R. 6860) passed by the House included a provision for five-year amortization and a two-thirds investment credit for this type of equipment that would be placed in service after March 17, 1975, and before January 1, 1981.

j. *TVA compensatory adjustments.*

The committee amendment would allow TVA to reduce the annual payment by an amount equal to a 12-percent investment credit earned on investments in equipment for organic fuel conversion, coal processing, coal pipeline and shale oil conversion. Unused credits would be carried forward to the next fiscal year.

Under present law, TVA, as a wholly owned government corporation, is not taxable. It is required to make annual payments to the Federal Government as a return on the appropriated Federal funds invested in power facilities.

There is no TVA provision in the House-passed tax reform bill or energy tax bill.

k. *ESOP.*

The committee amendment provides that a corporation which is eligible to receive a 12-percent investment credit under section 2003 of the Senate bill would be eligible for an additional 2 percent if that would be contributed to an ESOP.

Under present law, an employer is entitled to an additional percentage point of the investment credit, if it contributes the additional credit to an ESOP.

The House-passed tax reform bill and energy tax bill did not contain a comparable provision.

4. *Deduction for production and intangible drilling costs of geothermal development (sec. 2004 of the bill).*

The committee amendment allows current expensing of intangible drilling costs for wells drilled for geothermal steam and associated geothermal resources. Also provides a deduction (in the nature of, but in lieu of, a depletion deduction) for 22 percent of the gross income from the property for production of geothermal steam and associated geothermal resources, but not to exceed 50 percent of taxable income from this property. The provision would be effective for taxable years beginning after 1976.

Under present law, it is unclear whether a depletion deduction or the intangible drilling cost deduction is allowable for the production of geothermal steam and associated geothermal resources.

There is no comparable provision in the House-passed tax reform and energy tax bills.

5. *Denial of investment for portable air conditioners and heaters (sec. 2005 of the bill).*

The committee amendment provides that portable, self-contained air conditioning and heating units placed in service after December 31, 1976, no longer would be eligible for the investment credit.

Under present law, portable, self-contained air conditioning and heating units are eligible for the investment credit, if they are not attached to the building or structure.

There is no comparable provision in the House-passed tax reform bill, but the energy tax bill (H.R. 6860) provided that portable, self-contained air conditioning and heating units would no longer be considered to be qualifying property for the investment credit.

6. *Credit for purchase of matter which can be recycled (sec. 2006 of the bill).*

The committee amendment provides a tax credit to a recycler for purchase of recyclable solid waste materials which exceeds 75 percent of the amount purchased during the base period, 1973, 1974, and 1975. For new recyclers, the base period is the first three years of production. The amount of the credit is one-half the rate of percentage depletion for metals (except previous metals), 10 percent for textiles and paper, and 5 percent for glass and plastics. A ceiling and floor are provided for the credit for paper waste. The provision would be effective for materials purchased for recycling after December 31, 1976.

Under present law, there is no provision for a recycling tax credit.

The House passed tax reform and energy tax bills did not include a recycling tax credit.

7. *Repeal of manufacturers excise tax on buses and bus parts (sec. 2007 of the bill).*

The committee amendment repeals the excise tax on all buses and also the excise tax on bus parts and accessories sold after June 30, 1976.

Under present law, there is a 10-percent manufacturers excise tax on the sale of buses weighing more than 10,000 pounds, except for local transit and school buses. The manufacturers excise tax on bus parts and accessories is 8 percent.

There is no comparable provision in the House-passed tax reform bill, but the energy tax bill (H.R. 6860) repealed the excise tax on intercity buses.

8. *Excise tax on rerefined lubricating oil (sec. 2008 of the bill)*.

Under the committee amendment, new lubricating oil would be exempt from the manufacturers excise tax when mixed with 45 percent or more of waste or rerefined oil.

Under present law, new lubricating oil that is mixed with waste or rerefined oil is subject to the manufacturers excise tax on lubricating oil. These is no refund of the tax for nonhighway uses of the new oil portion of the oil mixture.

There is no comparable provision in the House-passed tax reform bill, but the energy tax bill (H.R. 6860) exempted now oil from the excise tax when it is mixed with 45 percent or more of waste or rerefined oil.

9. *Exemption from retail excise tax on special motor fuels in nonhighway use (sec. 2009 of the bill)*.

The committee amendment provides an exemption for nonhighway use such as liquified petroleum gas (propane) used in an industrial lift truck.

Under present law, nondiesel motor fuels used by nonhighway vehicles are subject to a 2-cents-per-gallon tax. Diesel fuel used by a nonhighway vehicle is exempt from tax.

There is no comparable provision in either the House-passed tax reform bill or energy tax bill.

10. *Oil swaps (sec. 2010 of the bill)*.

The committee amendment would permit tariff-free exchanges of equivalent kinds and quantities of oil between the United States and Canada.

Under present law, all petroleum and petroleum products imported into the United States are subject to import duties which vary according to the grade of petroleum or type of product.

There is no comparable provision in the House-passed tax reform and energy tax (H.R. 6860) bills.

Mr. LONG. Mr. President, I send to the desk an amendment in the nature of a modification to the committee amendment.

The PRESIDING OFFICER. The amendment is so modified.

The modification is as follows:

On page 1472, line 14, strike out "(including a clock thermostat)".

On page 1477, line 2, after "expenditures" insert the following: "and qualified wind-related energy equipment expenditures";

On page 1479, line 3, after "expenditures" insert the following: "or qualified wind-related energy equipment expenditures";

On pages 1480, 1481, 1482, and 1483 redesignate paragraphs (4), (5), (6), (7), and (8) of subsection (c) as paragraphs (6), (7), (8), (9), and (10).

On page 1480, after line 18, insert the following:

"(4) QUALIFIED WIND-RELATED ENERGY EQUIPMENT EXPENDITURES.—The term 'qualified wind-related energy equipment expenditures' means any amount paid or incurred by an individual for any installation which occurs after June 30, 1976, and before January 1, 1981, of wind-related energy equipment on or adjacent to any dwelling unit located in the United States.

"(5) WIND-RELATED ENERGY EQUIPMENT.—The term 'wind-related energy equipment' means equipment—

"(A) which, when installed on, or adjacent to, a building uses wind energy to generate electricity to heat or cool such building or provide hot water for use within such building;

"(B) which meets such standards or criteria for performance as the Secretary of Housing and Urban Development may prescribe;

"(C) the original use of which commences with the taxpayer; and

"(D) which has a useful life of at least 3 years.";

On page 1484, strike lines 4 through 8 and insert in lieu thereof the following:

"(e) TERMINATION.—This section shall not apply to any qualified heat pump equipment expenditure paid or incurred after December 31, 1978, nor to any other expenditure paid or incurred after December 31, 1980.".

On page 1486, line 20, after "solar energy equipment" insert the following: ", wind-related energy equipment,".

On page 1488, line 18, strike the phrase "or a clock thermostat".

On pages 1490 through 1496, redesignate paragraphs (4), (5), (6), (7), (8), (9), (10), (11), (12), (13), (14), and (15) of subsection (d) as paragraphs (5), (6), (7), (8), (9), (10), (11), (12, (13) (14), (15), and (16), and strike out "paragraphs (7), (8), and (9)," in paragraph (12), as redesignated by this paragraph, and insert in lieu thereof "paragraphs (8), (9), and (10)".

On page 1490, after line 23, insert the following:

"(4) WIND-RELATED ENERGY EQUIPMENT.—The term 'wind-related energy equipment' means property (of a character subject to the allowance for depreciation) which, when installed on or adjacent to a structure, uses wind energy to generate electricity to heat or cool such structure or to provide hot water for use within such structure, the original use of which commences with the taxpayer, and which meets such criteria as the Secretary of Housing and Urban Development may prescribe. For purposes of this subpart such equipment shall be treated as section 38 property (as defined in section 48(b)), but the rules contained in section 48(a)(3) (relating to property used for lodging) and the words 'and its structural components' contained in section 48(a)(1)(B) shall be disregarded with respect to such property.".

On page 1,516, strike out lines 13 through 16, and insert in lieu thereof the following:

(b) Technical Amendment.—The headnotes to part 10 of Schedule 4 of the Tariff Schedules of the United States (19 U.S.C. 1202) are amended by adding at the end of item 2 the following new subsection:

On page 1,516, in the matter following line 16, strike out the following: "'2. ______".

Mr. LONG. Mr. President, I ask unanimous consent that there be a time limitation on amendments to this title of one-half hour, to be equally divided between the manager of the bill and the sponsor of the amendment.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The Senate will be in order.

The Senator from Massachusetts is recognized.

AMENDMENT NO. 2136

Mr. BROOKE. Mr. President, I ask unanimous consent that the names of Senators MCINTYRE, CASE, RIBICOFF, and JAVITS be added as cosponsors of amendment No. 2136.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BROOKE. Mr. President, I call up my amendment No. 2136, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Massachusetts (Mr. BROOKE), for himself and others, proposes and amendment numbered 2136.

Mr. BROOKE. I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BROOKE's amendment (No. 2136) is as follows:

On page 1470, line 1, strike out "of residence" and insert the following: "and other energy-conserving alteration of principal residence".

On page 1470, line 6, strike out "of residence" and insert the following: "and other energy-conserving alteration of principal residence".

On page 1470, line 10, insert after "insulation" the following: "and other energy-conserving component".

On page 1471, line 13, insert immediately after "insulation" the following: "and other energy-conserving component".

On page 1471, line 22, insert after "lation" the following: "and other energy-conserving component".

On page 1471, insert immediately after line 24, the following:

"(4) CERTAIN NEW EQUIPMENT.—No credit shall be allowed under subsection (a) for any amount paid or incurred for the installation of any entirely new heating system or for the installation of equipment designed to permit the use of alternative fuels.".

On page 1472, strike out lines 3 through 11, and insert in lieu thereof the following:

"(1) QUALIFIED INSULATION AND OTHER ENERGY-CONSERVING COMPONENT EXPENDITURES.—The term 'qualified insulation and other energy-conserving component expenditures' means any amount paid or incurred by an individual for insulation and other energy-conserving components (including amounts paid or incurred for the original installation of such insulation and other energy-conserving components in connection with any reconstruction of a dwelling unit) installed after June 30, 1976, and before January 1, 1979, in a dwelling unit located in the United States which is—

"(A) used by the taxpayer as his residence, and

"(B) in existence on May 25, 1976.".

On page 1473, between lines 2 and 3, insert the following:

"(3) OTHER ENERGY-CONSERVING COMPONENT.—The term 'other energy-conserving component' means any—

"(A) retention head burner or comparable new burner at a reduced firing rate or such firing rate as is necessary to achieve a reduction in the amount of fuel consumed as a result of increased combustion efficiency,

"(B) devices electronically or mechanically operated to provide prompt and effective ignition,

which meets such performance and safety standards, including having a useful life of at least three years, and which will materially increase the efficiency of operation of the unit, thereby conserving fuel, as the Secretary may prescribe by regulations after consultation with the Administrator of the Federal Energy Administration and the Secretary of Housing and Urban Development, and the original use of which commences with the taxpayer.

"(4) HEATING SYSTEM.—The term 'heating system' means the entire assembly of items, fixtures, equipment, or materials which is designed, when installed in or on a building, to provide the heating for such building, to provide for the heating of the water used within such building, and to provide for the automatic operation and control of such hardware. Such term includes, but is not limited to, all necessary fittings and related installations which are a part of such assembly.".

On page 1473, line 9, insert after "insulation" the following: "and other energy-conserving component".

On page 1474, line 1, strike out "(4)" and insert in lieu thereof "(6)".

On page 1474, line 11, insert after "insulation" the following: "and other energy-conserving component".

On page 1474, line 15, insert after "insulation" the following: "and other energy-conserving component".

On page 1475, line 1, insert after "insulation" the following: "and other energy-conserving alteration".

On page 1475, line 13, insert after "insulation" the following: "and other energy-conserving alteration".

On page 1475, strike out the matter between lines 17 and 18 and insert in lieu thereof the following:

"Sec. 44A. Insulation and other energy-conserving alteration of principal residence.".

Mr. BROOKE. Mr. President, the benefits to be derived from a national energy conservation program have been established by a wealth of testimony before several committees in the Senate and the House. Thirty-five million American homes, because of inadequate insulation, waste the equivalent of 130 million barrels of oil each year that could be saved through proper retrofit of the building.

I am delighted that the committee bill included a provision for a refundable tax credit to homeowners who insulate their residences. More than a year ago I testified to the Finance Committee regarding the importance I personally place on providing incentives for retrofitting both existing buildings and existing home central heating systems. In December, and again in March, I introduced amendments to other tax measures to provide tax credits to families for this important energy conservation purpose. Now we at last seem to be ready to enact a measure which will make an important and cost effective contribution to our national energy conservation effort.

But I am disappointed that the committee omitted an important provision which would have created a total and truly efficient program for conserving energy in the home. The home heating system itself is often less than maximally efficient, and therefore wastes fuel. Looking at both ERDA and private studies has convinced me and many of my colleagues that another 21 million homes are wasting the equivalent of 17 million barrels of oil each year which could be saved during the next 3 years if the heating systems were retrofitted with modern components to reduce their fuel consumption. In the long run, 5 to 10 percent of the fuels consumed by oil and gas furnaces in homes could be saved by installation of conservation equipment. In many cases, there can be greater energy savings by upgrading the furnace than by adding more insulation.

But, Mr. President, the industry which produces these devices is underdeveloped. And the idea of retrofitting the heating system is even newer to homeowners than the idea of undertaking extensive insulation. There is yet no mass market and no mass marketing. In fact, if any market situation demands the creation of incentives for the public to make certain purchases that serve the national interest, it is the oil and gas heating system retrofit market.

Indeed, this need will be even more acute once the Congress adopts the generous tax incentives to make electric heating systems more efficient by adding incentives for purchasing heat pumps and solar equipment. Oil and gas heat fires millions and millions of American homes and will not become obsolete in one generation. Those systems must be made as energy-efficient as we know how.

The amendment No. 2136 which I am offering today represents a bare-minimum proposal. There are actually many devices which American homeowners could effectively use to up grade their heating systems. These include in oil units retention head burners, zone controls, convective stack dampers, new baffling, new end cone assemblies, and in gas units, new blower/motors, electronic igniters, and high efficiency burners. But we have found it difficult to estimate the cost of providing a tax credit for all these items. The problem is a real Catch 22.

We need to create market incentives for installation of heating system conservation equipment. But in order to know what the cost to the Treasury will be, we need to know what the demand for retrofit items will be. But there is no way to know the demand because there is no market.

The first amendments my colleagues and I filed would have permitted the same tax credit available for insulation expenditures to be claimed for any energy-conserving equipment that was certified as increasing the fuel efficiency of the heating system. Although the most expensive of the heating systems items costs only between $200 and $300, the open-ended nature of the amendment meant that the Treasury and the FEA felt that the revenue loss could be virtually open-ended too. I disagreed with their estimates, but we did redraft the amendment to make very specific the list of items which would be eligible. However, when the Joint Committee on Taxation provided revenue loss estimates of $46 million the first year, and over $60 million for each of the 2 subsequent years, I had to agree with several of my colleagues that that was too much to add to the anticipated revenue losses for the insulation credit.

Therefore, this provision we offer today makes only the two most energy-saving pieces of heating system hardware eligible for the tax credit. These are: the new burner unit, which mixes fuel with maximum possible amounts of air, often at a low firing rate, to produce maximum combustion efficiency in both oil and gas units, and the electronic igniter, which eliminates the pilot light in gas burners and thus saves 3 to 5 percent of that precious fuel. These two items will, first of all, save large amounts of fuel. Over the 3-year life of the program, we expect to convert enough units to save the equivalent of 17.2 million barrels of oil per year by 1979 alone. Using a $12 per barrel of oil figure, this means saving the equivalent of $207.3 million a year by 1979. These figures are based on ERDA's technical assessment of the savings potential and the Joint Committee on Taxation's estimates of the demand for the new installations. Mr. President, I ask unanimous consent that a table displaying the energy savings figures be printed in the RECORD following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. BROOKE. But most important, the credit will help acquaint the oil and gas heat consumers with the availability of retrofit devices and thus help start up the demand for the savings this kind of item can provide.

The Joint Committee on Taxation has estimated the revenue losses to be:

	Million
In transition	$2
In fiscal year 1977	32
In fiscal year 1978	66
In fiscal year 1979	56
Total	156

I believe these are responsible and realistic figures. Furthermore, I believe we can and must afford them. The Congress is about to enact a separate conservation program totalling $575 million in authority. Of this, $200 million will demonstrate new ways of conserving energy in homes. But not one penny has been designated for expanding the utilization of these existing technologies where we already know they can be effective. Certainly an average of $50 million a year is a modest sum for this addition to our conservation tools, especially when compared to the $1.5 billion we plan to spend for the new conservation and the insulation tax credit combined. And, if we take into account the additional revenue losses for the proposed heat pump and solar tax credits, this additional expenditure virtually disappears. The 17.2 million barrels of potential Btu's saved every year after we have retrofitted most systems will be with us and will grow as the industry develops.

I must add that I share with several of my colleagues a general distaste for using the tax system to establish national priorities and programs. I, too, would prefer to do everything by direct subsidy. But our best efforts this summer have not brought us near to achieving a loophole-free tax package. And I believe this provision offers a sound way to let the ordinary tax-paying family benefit from the system just as does the insulation credit. For once, we have a measure which benefits not a multinational corporation or special interest group, but rather, almost every homeowner with an older oil or gas furnace. And we can, as a result, expect the substantial energy savings which must be a primary national goal.

EXHIBIT 1

ENERGY SAVINGS FROM AMENDMENT NO. 2136

	Savings per unit (ERDA)	Estimated units (in thousands)	Barrel savings (in thousands)	Fiscal year
Retention head burner	4.3 bbl per year	0.425	1.828	1976
		.675	2.902	1977
		.675	2.902	1978
High-efficiency burner	4.3 to 14 bbl per year (estimated average 10).	.25	.250	1976
		.75	.750	1977
		.75	.750	1978
Gas high-efficiency burner	7.0 bbl per year	.495	3.105	1976
		1.395	1.395	1977
		1.395	1.395	1978
Gas electronic igniter	(Estimated 2 bbl per year.)	1.350	.700	1976
		.350	.700	1977
		.350	.700	1978
Total			17.277	

1 Private estimate. ERDA did not study.

Note: Total at $12 per bbl equivalent equals $207,300,000.

Mr. BROOKE. Mr. President, I have discussed this matter with the distinguished floor manager and with the ranking Republican Member (Mr. FANNIN), and it is my understanding that they are willing to accept the amendment.

Mr. LONG. Mr. President, this amendment is consistent with the philosophy of this title. It does have merit, and if it should be the judgment of the Senate that it should be agreed to, I would be happy to go to conference and urge that it be accepted.

The PRESIDING OFFICER. The question is on agreeing to the amendment (No. 2136) of the Senator from Massachusetts.

The amendment was agreed to.

Mr. BROOKE. Mr. President, I yield to the Senator from Ohio for a unanimous-consent request.

Mr. GLENN. Mr. President, I ask unanimous consent that Lynn Weiss of my staff have the privilege of the floor during the consideration and voting on this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2137

Mr. BROOKE. Mr. President, I call up my amendment No. 2137 and ask that it be considered at this time.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Massachusetts (Mr. BROOKE) proposes an amendment numbered 2137.

Mr. BROOKE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BROOKE's amendment (No. 2137) is as follows:

On page 1472, line 13, insert immediately after "any insulation" the following: "(including the insulation of furnaces and/or boilers not so equipped, and the ducts and/or steam and hot water piping extending therefrom),".

Mr. BROOKE. Mr. President, the insulation tax credit does not include explicit recognition that it is as important for energy savings to insulate boilers, furnaces, and exposed ducts and pipes, especially those in unoccupied basements. Although under the committee provision, as written, regulations could be written to include insulating the heating system parts, this was not included in the Joint Committee on Taxation's revenue loss estimates. Therefore, I am introducing an amendment to insure that insulation of these items in the home is covered by the tax credit.

Substantial ambient heat losses take place continuously—even in buildings that are insulated—from the warm air, hot water or steam transmission conduits. This includes warm air ducts, steam pipes, and hot water pipes. These losses are especially severe in older, smaller buildings and homes. A large amount of this heat loss occurs in unoccupied basement areas, and the insulation of ducts and/or steam or hot water pipes would substantially lessen these losses, and conserve considerable amounts of energy and fuel.

Further, substantial heat loss from boiler and furnace casings, uninsulated ducts, steam and hot water mains, and steam and hot water piping occurs during the standby period after the thermostate has shut down the heating unit. This standby loss is especially wasteful, as it supplies heat to the basement and living quarters when it is no longer needed, causing continual overrides. Insulation will sharply reduce this standby loss from furnaces, boilers, ducts, steam or hot water mains, and steam or hot water piping.

On the basis of ERDA estimates of duct and pipe insulation alone, not including the furnace or boiler, each home can save the equivalent of 7 to 12 barrels of oil a year. Since the Joint Committee on Taxation estimates that 3,300,000 homes will use this credit for this purpose, the $68 million additional cost over 3 years is more than justified by the $343.2 million in fuel costs families will be spared. Mr. President, I ask unanimous consent that a table displaying the projected energy savings from this insulation activity be included in the RECORD. I hope the distinguished members of the Finance Committee will be able to accept this modification to their excellent bill.

I ask unanimous consent that a table showing energy savings resulting from amendment No. 2137 be printed in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

ENERGY SAVINGS FROM AMENDMENT NO. 2137

	Savings per unit (ERDA)	Estimated units (in thousands)	Barrel savings (in thousands)	Fiscal year
Duct insulation, oil units	12 bbl per year	220	2.640	1976
		440	5.280	1977
		440	5.280	1978
Duct insulation, gas units	7 bbl per year	440	3.080	1976
		880	6.160	1977
		880	6.160	1978
Total			28.600	

Note: Total at $12 oil equivalent $343,200,000 over life of credit.

Mr. BROOKE. Mr. President, I have discussed this matter with the distinguished floor manager and with the Senator from Arizona (Mr. FANNIN), the ranking Republican member of the committee, and it is my understanding that they are willing to accept this amendment.

Mr. LONG. Mr. President, this amendment is consistent with what we are trying to do with this title, and I am willing to accept the amendment and take it to conference.

Mr. BROOKE. I ask unanimous consent that the name of the Senator from

New Hampshire (Mr. McIntyre) be added as a cosponsor of the amendment.

The PRESIDING OFFICER (Mr. Weicker). Without objection, it is so ordered. Is all remaining time yielded back?

Mr. BROOKE. I yield back the remainder of my time.

Mr. LONG. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment (No. 2137) of the Senator from Massachusetts (Mr. Brooke).

The amendment was agreed to.

AMENDMENT NO. 1934

Mr. BROOKE. Mr. President, I call up my amendment No. 1934, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Massachusetts (Mr. Brooke) proposes an amendment numbered 1934.

Mr. BROOKE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BROOKE's amendment (No. 1934) is as follows:

On page 1,480, strike out lines 11 through 17, and insert in lieu thereof the following:

(3) Qualified heat pump equipment expenditures.—The term "qualified heat pump equipment expenditures" means any amount paid or incurred by an individual for any installation which occurs after June 30, 1976, and before January 1, 1979, of heat pump equipment in any dwelling unit located in the United States which is occupied or habitable on May 25, 1976, but only if such installation is in connection with the replacement or supplementation of existing electric resistance space-heating where such space-heating equipment is an integral part of the structure of such dwelling unit and constitutes the principal source of heat for such dwelling unit.

Mr. BROOKE. Mr. President, section 2002 was originally proposed by the distinguished ranking minority member of the Finance Committee, Mr. Curtis. The Senator's provision, adopted by the Senate Committee on Finance, would provide a refundable income tax credit for the purchase and installation of heat pumps in, or on an existing residence. The amount of the credit is 20 percent of the first $1,000 of qualified expenditures, plus 12½ percent of the next $6,400 for a maximum of $1,000.

The Senator from Nebraska is to be applauded for the initiative that he has shown in seeking to encourage the adoption of energy conservation measures. There is no question that all of our constituents should be given accurate information and every incentive to improve the operating efficiency of their existing heating systems. The projected savings from an effective energy conservation program would make the difference as to whether or not our Nation needs to be dependent on foreign governments for energy. A double benefit derives from the dollar savings that homeowners can enjoy from a reduction in the amount of fuel consumed.

There appears to be no dispute that a heat pump is more efficient than electric resistance space heating. However, when compared with an oil or gas-fired heating system, that is not always the case. In the summary of conclusions section of "Seasonal Fuel Utilization Efficiency of Residential Heating Systems," published April 1975 by the Oak Ridge National Laboratory and jointly supported by FEA and the National Science Foundation, it was reported that:

> The efficiency of a "best" heat pump possibly can exceed that of a "best" furnace in a warm climate, whereas the reverse would be true in a cold climate . . .

In the final report, "Evaluation of the Air-to-Air Heat Pump for Residential Space Conditioning," submitted on contract to FEA by Gordian Associates, Inc., April 23, 1976, it was recommended that:

> For cold climates, or where no simultaneous requirement for cooling exists, the use of fuel oil or natural gas for space heating new homes should not be abandoned.

Unfortunately, the tax credit provision as it emerged from the Finance Committee would provide an incentive for conversions from not only electric resistance space heating systems, but from oil and gas-fired systems as well. The effect of the provision, as it is presently drawn, would be to provide a Federal incentive for conversions from what would be more efficient systems to less efficient heating systems.

It was because of this that I recently filed an amendment that would limit the availability of the tax credit for heat pumps to existing electric resistance space heating systems. With this limiting amendment, there would be no Federal incentives for homeowners to convert from oil and gas-fired systems to heat pumps.

I have discussed this amendment with Mr. Curtis, who unfortunately is not in the Senate today, and he has agreed to support this amendment. I have discussed it with the distinguished floor manager and with Mr. Fannin, the ranking Republican manager of the bill, and it is my understanding that they will accept this amendment.

Mr. President, I ask unanimous consent that Senator Pastore be added as a cosponsor to amendments Nos. 1934, 2137, and 2136.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LONG. Mr. President, I have no objection to the amendment, and I am not aware of any objection.

Mr. FANNIN. Mr. President, the Senator from Massachusetts is correct. The Senator from Nebraska did agree and in fact was wholeheartedly in agreement with the amendment and felt it was beneficial. The Senator from Arizona also supports the amendment.

Mr. BROOKE. I thank the manager of the bill.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Massachusetts.

The amendment was agreed to.

AMENDMENT NO. 2090

Mr. BUCKLEY. Mr. President, I call up my amendment No. 2090.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from New York (Mr. Buckley) proposes amendment No. 2090.

The amendment is as follows:

On page 1517 after line 11, insert the following section:

Sec. 2011. Waterway User Tax.

(a) In General.—Part III of subchapter A of chapter 32 of the Internal Revenue Code of 1954 (relating to petroleum products) is amended by adding at the end thereof the following new subpart:

"Subpart D—Waterway User Tax

"Sec. 4105. Imposition of tax.
"Sec. 4106. Definitions.

"Sec. 4105. Imposition of Tax.

"In addition to the taxes imposed under sections 4041 and 4081, there is hereby imposed a tax of 4 cents a gallon on any fuel sold by any vendor for use by commercial vessels on the inland waterways of the United States.

"Sec. 4106. Definitions.

"(a) Vendor.—As used in this subpart, the term 'vendor' includes any refiner, compounder, blender, importer, or distributor of fuel that sells fuel directly to a commercial vessel using the inland waterways of the United States.

"(b) Fuel.—As used in this subpart, the term 'fuel' means gasoline, diesel fuel, or a special motor fuel (within the meaning of section 4041(b)).

"(c) Commercial Vessel.—As used in this subpart, the term 'commercial vessel' means a vessel used in a trade or business.".

(b) Technical Amendment.—The table of subparts for such part is amended by adding at the end theerof the following:

"Subpart D. Waterway User Tax.".

(c) Effective Date.—The amendments made by this section apply to sales in calendar quarters beginning after the date which occurs 90 days after enactment of this Act, or December 31, 1976, whichever is later.

Mr. BUCKLEY. Mr. President, this amendment seeks to create a more equitabel balance among various modes of transportation.

This amendment is a clean-cut one. It imposes a 4-cent-per-gallon tax on the fuel used in the hauling of commercial traffic on our national system of inland waterways. It is estimated that this would raise $40 million a year in revenues.

Adoption of my amendment would offset a fraction of the hundreds of millions of dollars that our Nation spends each year on construction of new inland navigation projects and the maintenance and operation of the existing 25,000-mile system.

The absence of any cost-sharing for the waterways distorts our national transportation policy and the allocation of resources. Underpricing one form of transportation, by a 100-percent Federal subsidy, leads inevitably to inefficiencies and distortions. It will be argued that a waterway user charge will result in higher consumer prices. To a degree, that is correct. But a waterways users tax will also lesson the general tax burden on the public.

Those who oppose a waterways tax should, for consistency, argue that the Federal taxpayer should pay all the cost of our highway system, instead of taxing the truckers and owners of passenger cars. They should argue that taxpayers should pay all the cost of building and maintaining our railroad network. They should argue that airline passengers should pay nothing toward the construction of airports and operating airways. Such actions would lower transportation costs and thus prices. But such subsidies would lead inevitably to sharply higher general taxes.

Various competing modes of transportation pay registration taxes, route certification fees, State and Federal motor fuel taxes, weight taxes, licensing taxes, mileage taxes, gross receipt taxes, property taxes, landing fees, and a variety of other special taxes, levies, and fees.

What does the waterway industry pay? It pays nothing to the Federal Government and a preceding section of this bill frees commercial barge owners of State and local taxation.

I believe that is wrong and a distortion of our national priorities, and as such an unfair burden on every American family.

Advocacy of a user tax for the inland waterway system is not a new concept. President Ford's 1977 budget recommends such a tax. Every President, beginning with Franklin Roosevelt, has advocated the principle of such a tax. The recent National Water Commission recommended such a tax.

I am offering this amendment because I believe that it is mandated if we are to have equity among transportation modes. Energy conservation mandates this tax. And, in the long run, the viability of a continued program if improvements to the inland waterway network of this Nation mandates such a tax.

We have heard a great deal about the so-called taxpayer revolt across our land. The total insulation of one form of commerce from Federal cost sharing, with competitors repaying a major portion of their Federal cost through use taxes, is the type of distortion and inequity that fosters "revolt."

The Committee on Public Works is now being called on to authorize some $400,000,000 to rebuild locks and dam 26 on the Mississippi River at Alton, Ill. Is it fair that the general taxpayers must pay the full cost of such a mammoth project, while the users of it do not pay a dime? I think not.

Existing Federal policy calls for most identifiable commercial beneficiaries of Federal water resources projects to share in the cost of those benefits. Users of Federal hydroelectric power pay for that power. Users of municipal, industrial, or irrigation water from Federal projects pay for that water. It is also a valid policy that commercial waterway users should pay a modest share of the costs they impose on the public.

And I will stress, Mr. President, that the very small tax that I would have proposed here would reimburse the Treasury with only a tiny fraction of what we will be spending in the coming years on waterways.

It is sometimes argued that the so-called free use of the waterways is an inherent right. If "free" means "open" to all domestic users, then, of course, the waterways must remain "forever free." But if free means the continuation of a perpetual 100-percent taxpayer subsidy, then I must dissent.

The President's 1977 budget included $411,967,000 for expenditure by the Corps of Engineers on inland waterways having a depth of 12 feet or less. Construction spending totals $229,579,000, with operations and maintenance spending at $182,388,000. Those figures were increased substantially by the Congress in the recent Public Works appropriations bill to close to half a billion dollars.

Many ways have been suggested to recover some of these costs from waterway users. There are lockage fees, tonnage charges by river segments, licensing fees, congestion tolls, and so on. A fuel tax, I believe, is the fairest and most equitable approach. It would impose no regional disadvantages. And it will have the associated benefit of encouraging fuel conservation.

Why 4 cents? My amendment sets the tax at 4 cents a gallon for two reasons: A 4-cent tax on fuel used "by commercial vessels on the inland waterways" would set the charge at the same level paid by a competing mode of transportation, namely, the trucking industry. And it would also impose the levy at such a relatively modest level that the industry can easily absorb it without dislocation.

The nature of the inland waterway industry, which is largely exempt from regulation, makes it difficult to provide an exact figure on the revenues to be raised by this amendment. No Federal agency has precise figures upon which to compute income. But the Department of Transportation has estimated that the annual comsumption of fuel by the waterways users is about 1 billion gallons.

On this basis, my amendment would raise $40 million a year.

As noted earlier, a charge set at that level would contribute less than 10 percent of the annual Federal subsidy paid by the general public to build and maintain the inland waterway system. This cannot be considered a burdensome share of the cost when compared with the third to a half of the cost of Federal roadbuilding program contributed by the trucking industry. A 4-cent waterway tax would add only marginally to the operating expenses of the inland waterway industry, which has revenues estimated by the Department of Transportation at close to $1 billion yearly.

Such a tax would establish the important principle that this Nation will not continue to provide a 100 percent subsidy to one mode of transportation, to the detriment of all others.

It may be argued this afternoon that my proposal seeks to retard the development of the waterways industry. That is false. Enactment of this legislation will demonstrate, for the first time, that the waterways users of this Nation are not just along a free ride, that the users are willing to shoulder a portion of the costs that the industry imposes on the general taxpayer. Once they begin to shoulder such costs, I am convinced that the industry will be able to make a stronger and more rational argument for the construction and maintenance of new waterway improvements.

Mr. President, I urge the adoption of my amendment, and call for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. LONG. Mr. President, this tax works out the same way as a major toll on waterways. There is no more efficient way to move tonnage than on the waterways. By water, you can move cargo at a much cheaper price than you can by any other method of transportation. It uses far less energy than the railroads or the truck lines.

In this bill we have a provision to try to keep the States from raising the costs of people moving things on the waterways, and we voted for that. This amendment moves in the other direction, to make it more expensive to move cargo on the waterways and to discourage the most efficient way we have of moving cargo.

This issue has been discussed time and again. I do not think the Senate should agree to it. It has been suggested and Congress has turned this suggestion down when times were far more attractive to it than now. We should be trying to encourage people to use the most efficient, economical means of moving cargo, in which one uses less energy rather than another form that uses more energy. It would be a mistake to enact this tax, more so now than in the past, when Congress would not agree to place heavy burdens on the use of our waterways.

I hope the amendment is defeated.

Mr. ALLEN. Mr. President, will the Senator yield me 5 minutes?

Mr. LONG. I yield.

Mr. ALLEN. Mr. President, amendment No. 2090 seeks to impose a "user charge" in the form of a fuel tax on waterborne commerce moving on America's inland waterways. At first glance, such a fuel tax might appear to be in the public interest and therefore desirable. The sponsor, Mr. BUCKLEY, has, in fact, presented all the chief arguments supporting imposition of waterway user charges. These arguments make user charges on inland waterways seem to be entirely reasonable and logical.

The waterway user charge issue, however, is not quite so simplistic. It is a very complex and complicated matter. Far more is involved than just the question of a tax on waterways fuel and its effect on water transportation and competing modes. A waterways tax would have a direct impact on the competitiveness of certain basic industries in key markets, on employment and wages of workers in affected industries, on the productivity of America's farm belt, on regional economic growth, on inflation, on international trade, and so forth.

In other words, Mr. President, it would seem to be impossible to consider adoption of waterway user charges without determining how such charges would affect regional development policy, economic growth policy, national energy policy, agricultural policy, export policy, and natural resources policy as well as transportation policy. These impacts are rather far-ranging, and I would hope they could be studied in detail before amendment No. 2090 or similar legislation is considered by this body.

With respect to transportation policy, the Congress only 3 months ago enacted legislation subsequently approved by the President which established a 19-member National Transportation Policy Study Commission. It was authorized by section 154 of the Federal-Aid Highway Act of 1976 (Public Law 94–280). The Study Commission was allocated $15 million and given until December 1978 to report its findings and recommendations as to the proper mix of highway, railroad, waterway, pipeline, and air transportation systems to meet anticipated needs, both national and regional, through the year 2000. Also, the Commission was directed to review the existing policies and programs of the Federal Government which affect the development of national transportation systems and to recommend "new policies required to develop balanced national transportation systems which meet projected need."

In all likelihood, the Study Commission will take a hard look at the question of user charges paid—or which should be paid—by the various modes, including waterways, and the effect of such charges on service, rates, competition, and modal equity. I believe the Commission is a proper forum for the examination of the user charge issue in the context of national transportation policy.

In my view, however, waterways are far more important than just another mode of transportation. In many regions, waterway development has helped to revive the entire economy. That was certainly the case in the Tennessee Valley of north Alabama, which President Roosevelt labeled at that time as the Nation's No. 1 economic problem. Conditions have changed a great deal now, and certainly the South presents the No. 1 economic opportunity. Waterway development has also rejuvenated the economy of sections of Appalachia, the Ozarks, and other underdeveloped areas. This economic transformation has come about because of the multiple-purpose development of river valleys—for flood control, hydropower, water supply, recreation, and navigation. Instead of sapping the entire region's economic strength, the river valleys have become great sources of economic vitality.

This is the principal reason, I believe, that Congress has approved river and harbor programs over the years. The Congress acted out of faith that these programs would enhance the regional and national economy and also contribute toward the attainment of other broad public policy objectives. As Prof. Irving K. Fox, formerly of Resources for the Future, Inc., has stated—

> It is evident that water resources development has been viewed as one means of helping to provide the economic opportunity, social security, and personal freedom accepted as among the goals of our democratic society.

Navigation programs, therefore, should be viewed in a much larger context than merely as transportation arteries.

Unlike highways and airways, navigation programs must survive elaborate benefit-cost analysis procedures which usually take many years to complete. Only those projects which promise to return economic benefits to the Nation in excess of the total costs are approved for construction. It should be emphasized that navigation benefits are computed in terms of national economic enhancement—meaning that the national economy is considered to be the principal beneficiary of navigation projects.

Proof that waterway programs serve to generate economic growth is provided by several national surveys. In the Ohio Valley, for instance, the Ohio Valley Improvement Association has been keeping tabs on major capital investment in counties bordering the Ohio River and its navigable tributaries. In the period 1950–74, private investment in new and enlarged plants in the Ohio Valley totaled $50.4 billion. Throughout the Nation, the American Waterways Operators, Inc., reports that 9,368 major waterway-related industrial facilities were built or enlarged between 1952 and 1975 at a cost of $163.4 billion. This figure dramatizes the vital role of Federal waterway programs in encouraging regional development, creation of new jobs and incomes, and stimulation of new business activity—all of which generate new tax revenues for local, State, and Federal Government far exceeding the waterway cost. In other words, the Federal waterway expenditure becomes the "seed money" which serves to attract non-Federal investment and develop the entire area economically.

In the final analysis, the waterway user charge question boils down to, Who really benefits? If the barge and towing company is the primary beneficiary, then most would concede there is merit in a system of waterway user charges. The waterways are public "ways," open to all. Competition is fierce. Some 800 bargelines operate on the Mississippi River system, for example, and keep rates at rockbottom so that the savings in transportation costs are passed on—just as any waterway fuel tax would be—to shippers, processors, wholesalers, and ultimately the consumer. I suggest, therefore, that the real beneficiaries of toll-free waterways are:

The American farmer, who receives large quantities of tractor fuel, fertilizer, and other farm supplies by low-cost water transportation or at water-competitive rail rates and who sells his grain and soybeans at seaport prices minus transportation costs, meaning that any increase in barge rates will come directly out of farmers' pockets. And in 1974, a total of 1.2 billion bushels of grains and soybeans—most of the outbound shipments from the Mississippi Basin—moved in domestic commerce on the inland waterways.

Motorists, who use massive quantities of gasoline and other petroleum products, including antifreeze, moved to both large and small markets by barge. Such movements account for one-third of all inland waterway commerce.

Electric power customers, from Minnesota to Florida, whose electricity is generated from waterborne coal. New York, in fact, often receives peaking power from generating plants on the Ohio River.

Factory workers, particularly at inland industries, whose jobs and livelihoods are dependent on the competitiveness of their products in distant markets. Ironically, imposition of waterway user charges could help foreign steelmakers capture a larger share of gulf coast and Mississippi Valley steel business, costing American workers' jobs.

The housewife and businessman, who would have to pay more for countless products of everyday life—from hairspray and cosmetics to refrigerators and other appliances, cement and building materials. Without doubt, imposition of waterway user charges at cost-recovery levels would feed the fires of inflation, increasing the cost of living and thus penalizing the elderly, the unemployed, and working citizens most of all.

The list, of course, could continue. It is important, however, to note that the beneficiaries of toll-free water transportation are far flung and diverse. In truth, it would be practically impossible to identify them. Yet, they would pay the toll if amendment No. 2090 were adopted. We do not know, as yet, what the impact would be. Perhaps a tax of 4 cents per gallon on waterways fuel would have a minimal effect. On the other hand, it could have a very pronounced impact, in that it would signify an abrupt departure from Federal poilcy in effect since preconstitutional times.

The 4-cent tax is generally viewed as the "opening wedge"—just the initial tax to establish the precedent. Then, with the precedent established, the tax could be periodically increased with the stated objective that "waterway users should pay their fair share." It is this threat of escalation, to higher and higher levels, which is of grave concern to those of us interested in waterway programs. Even at a very low level, a waterway fuel tax would have a chilling effect on waterway-related industrial growth. As the tax increased, I fear that many river valley industries would close up shop and move back to the seacoasts to escape river tolls.

These are the types of unknowns which I believe should be fully explored before serious attention is given to imposition of any waterway user charge. While appealing on the surface, it could set off a veritable volcano of impacts destructive to wide regions of the Nation.

With regard specifically to amendment No. 2090, I wish to make several observations:

"Inland waterways" not defined. Nowhere in amendment No. 2090, nor in the accompanying statement, is there any definition of what is meant by "the inland waterways of the United States." Reference is made in the statement to "the existing 25,000-mile system." The inland waterway system includes at least 1,200 miles of deep-draft channels—the Mississippi River upstream to Baton Rouge, the Houston Ship Channel, the Sacramento River upstream to Sacramento, the Columbia River upstream to the Dalles, the Delaware River upstream to Trenton, the Hudson River upstream to Albany, et cetera. I do not know whether shipping on these deep-draft inland waterways would be subject to the 4-cent fuel tax.

Would waterway user charges create a more equitable modal balance? The supporting statement explaining amendment No. 2090 claims that the amendment "will create a more equitable balance among various modes of transportation." The point seems to be that airway and highway users pay user charges while waterway users do not. For reasons I have detailed earlier, I do not believe waterways can be directly compared on a dollar-to-dollar basis with either airways or highways. Neither is evaluated prior to development in terms of national economic benefits. And, if the waterway fuel tax proposal is to be limited to shallow-draft navigation, what about the cost of navigation improvements benefiting deep-draft harbors and channels, including the Great Lakes? Is it equitable to exclude these waterways?

Equity also involves the matter of public support of the transportation modes. Has it been even-handed? It is a fact that airways, railroads, highways, and waterways have all received Federal assistance for years. Since 1824, Federal expenditures for construction, operation and maintenance of shallow-draft waterways has totaled about $4.6 billion. Another $3.8 billion has gone into deep-draft waterways. In subsidy and subsidy-effect programs, U.S. railroads have received much, much more. So have highways and airways. So it seems to me that Federal support of the various modes have been more even-handed than most waterway critics want to admit.

Is there a complete absence of waterway cost-sharing? The statement accompanying amendment No. 2090 states that there is "no cost sharing whatsoever by the direct beneficiaries of that system." This is not correct. A study mandated by the Congress in the Water Resources Development Act of 1974 and conducted last year by the U.S. Water Resources Council found that non-Federal interests pay 7 percent of the construction costs and 8 percent of the operation and maintenance costs of navigation projects. Most of these non-Federal expenditures involve provision of lands, easements and rights-of-way necessary for the construction and maintenance of navigation channels.

In-channel improvements, such as navigation locks and dredged channels, do not automatically create a viable waterway. Before it is usable, considerable non-Federal investment is required for such on-shore installations as wharves, docks, terminals, elevators, cranes, warehouses, fire and sewer services, highway connections, railroad spurs, and so forth. Preliminary studies by the National Waterways Conference, Inc., show that these port-related investments often total 20 to 40 percent of the Federal cost of the navigation project. It is this partnership arrangement between the Federal and non-Federal sectors which has been so successful in developing a thriving inland waterways system.

How could a waterways tax enhance energy conservation? The statement accompanying amendment No. 2090 asserts that "energy conservation mandates such a—waterways and fuel—tax." This statement is not explained, and I do not believe it can be justified. Numerous studies have shown that water transportation is far more energy-efficient than railroad or truck transportation. A much-quoted Rand survey found that waterways require about 500 Btu's per ton-mile while railroads need about 750 Btu's per ton-mile of freight hauled. Deputy Transportation Secretary John W. Barnum expressed the relative energy requirements in a different manner. He said that diesel-powered trucks get 54 ton-miles per gallon of fuel, railroads 178 ton-miles and water carriers 306 ton-miles for each gallon of fuel.

Some waterway critics are trying to play up a University of Illinois report which, using faulty rail-water and route circuity comparisons, found that "rail is from 10 to 23 percent less energy intensive than barge." The report went on to state that "such a factor is inconclusive in view of the large uncertainty associated with the barge fuel consumption data." The finding is also inconclusive because it compared rail energy data for Mississippi Valley and gulf coast shipments with barge energy data for the entire Nation, including numerous congested and tributary waterways. The report also made much of river circuity, which was estimated at 38 percent, while disregarding railroad circuity—the distance over which rail freight actually moves which is in excess of the most direct rail route between origin and destination—which the Interstate Commerce Commission has estimated at 15 percent. The Illinois report has been, I believe, largely discredited. An objective analysis of energy data will prove that barge transportation is far more energy-efficient.

It should be noted that about 60 percent of all inland waterway commerce consists of energy products—coal, petroleum and petroleum products. In no small way, water transportation is contributing to the attainment of national energy self-sufficiency, by moving more commerce with less energy, and by moving energy supplies from refineries, mines and railheads to widely scattered coastal and interior markets.

In addition to encouraging energy conservation, water transportation also promotes numerous environmental advantages and important efficiencies. Barge transportation is less capital intensive than other modes. Barges also require less steel per unit of cargo, thereby conserving raw materials. Barges have an enviable safety record in the movement of hazardous substances. The water transportation system is already in place and does not disrupt land use. In short, water transportation has every right to lay claim as the environmentally superior mode.

Federal cost-sharing policy for water resources projects. The assertion is made in the statement supporting amendment No. 2090 that—

> Existing Federal policy calls for identifiable commercial beneficiaries of Federal water resources projects to share in the cost of providing those benefits.

This is true with respect to municipal and industrial water supply, hydropower and irrigation. But existing Federal law does not provide for beneficiaries of flood control, navigation and water quality programs to share in the cost.

Congress has long taken the view that the benefits of such programs are not confined to identifiable users and beneficiaries but, rather, are bestowed generally throughout the Nation and the economy. By shifting the cost of navigation programs to users to be passed on, in the form of progressively higher and higher charges, the Federal Government would be turning its back on the public-private partnership which has helped to attain numerous public policy objectives, including depressed area rehabilitation, rural renewal, export expansion, energy conservation, and economic stability.

Mr. President, I do not believe that recovery of Federal waterway expenditures is worth this gamble. The Nation is getting its money's worth from inland waterway programs. I urge my colleagues, therefore, to reject amendment No. 2090.

Mr. BAKER. Mr. President, I intend to vote against the amendment offered by my distinguished colleague from New York (Mr. BUCKLEY) to impose a 4-cent per gallon excise tax on fuel used in transportation of cargo on inland waterways.

I would like to make clear, however, my view that some form of user fees is inevitable in the future if this Nation is to achieve a unified transportation policy. I am sympathetic to the view that other modes of transportation have long paid their share of the cost of maintaining facilities and rights of way constructed for their use and that water carriers should not expect to benefit indefinitely from the hundreds of millions of Federal dollars which have been expended on our waterways system without some cost-sharing arrangement.

The question of waterway user charges is not a new one, and it is a complex issue which deserves the careful study of the Congress and the benefit of the hearing process. For this reason, I believe that the matter should be considered, not as a floor amendment, but as a major legislative priority for the appropriate committees of the Senate. I hope that, as a member of the Committee on Public Works, I will have an opportunity to take part in fashioning an equitable system of fees or charges which will meet the future needs of American taxpayers, the water carrier industry, and a balanced transportation system.

The PRESIDING OFFICER. Who yields time?

Mr. FANNIN. Mr. President, will the Senator yield a couple of minutes?

Mr. LONG. I yield.

Mr. FANNIN. Mr. President, the Senator from New York should be commended for attempting to try to bring some equity into the different areas of the transportation industry. It seems to the Senator from Arizona that we need additional information; we need to know more about this.

I believe that what the Senator from Alabama has said illustrates the tremendous benefits that accrue today from the low-cost transportation that is involved.

I ask this of the Senator from New York: Would this money go into the highway trust fund? I understand that in the bill, it goes into the highway trust fund.

Mr. BUCKLEY. If that is the case, that could be readily amended to have the Federal collections deposited in the general fund. It certainly is my intent that the moneys go into the general fund. I shall make that modification before——

Mr. FANNIN. That was one question the Senator from Arizona had. My second question goes to the equity involved as far as 4 cents a gallon on fuel for inland waterways transportation is concerned that could be vastly different than when we are talking about trucking on the highways. We must consider the tremendous burden that is imposed upon the highways by these heavy trucks and heavy units. If we do not transport on the waterways, in such instances as cement hauling and the types of transportation that perhaps would cause greater trouble if that were transferred from the waterways back onto the highways or onto the entire rail transportation system, then we will create even more problems on our highways. Without having a detailed study, which I think would be very necessary, the Senator from Arizona could not support the amendment, although I do think it is something that should be looked into very thoroughly.

I am not saying that the Senator from New York has not taken adequate time to study this amendment, but I do think there are some problems involved that I do not think should be settled here on the floor. I think it should be in hearings and as a result of further testimony.

Mr. President, I feel that this is something that is not supportable with the information that is available at this time.

The PRESIDING OFFICER. Who yields time?

Mr. BUCKLEY. Mr. President, I thank my colleague for his remarks.

First of all, legislation similar to this amendment was put into the hopper back in March. I regret that there has not been a hearing by the Committee on Finance.

We did have hearings on this matter. in the Committee on Public Works. We had testimony on the need and benefits to be derived from a tax of the kind proposed, a tax that would restore some kind of equity.

The Senator from Alabama spoke earlier of the waterways as a bargain. That is correct. Why? Because, uniquely, they do not pay any share of the cost of maintaining the rights of way on which they travel—unlike highways, unlike air, and unlike the railroads.

It is not correct to say that this matter has not been studied. Perhaps it has not been studied by the Committee on Finance, but there have been a number of groups commissioned by the Government of the United States that have gone into the matter in great depth.

For example, they have come out with a positive recommendation that we impose a user charge that would be modest in its impact and not cause any distortions of the sort that the Senator from Arizona fears. This is what the National Water Commission said on the subject in a recent report.

> A change in the policy governing the division of the cost of waterway projects between the public Treasury and those who directly benefit is long overdue. The lack of an equitable costsharing policy is a major weakness of the present waterway program.

With respect to the economic impact on the industry itself, the General Accounting Office, in a study entitled "Factors to be Considered in Setting Future Policy for use of Inland Waterways," dated November 20 of last year, found that—

> Fuel tax of about 7 cents a gallon . . . would have increased (the industry's) total operating cost by about 4 per cent.

They were speaking of a tax nearly twice as high as the one I propose. In other words, the burden of the user tax that my amendment would impose on the inland waterways industry would be about 2 percent of revenues.

What about the charge that taxation would "destroy" the waterways industry? The GAO found that—

> A 5 percent diversion could be expected if a 4-cent-a-gallon fuel tax were imposed.

This is when we confront major new capital costs GAO said:

> The total cost of improvement to the system in the Mississippi, Illinois, and Ohio Rivers to adequately accommodate added growth of the waterway transportation industry is estimated to be at least $6.7 billion.

I would suggest that if a 5 percent diversion occurred, it would result in a better balance among the competing modes of transportation, it would not break this industry and, also, it may delay by a little bit the need to make the huge new capital investment that would be required which, under the present system, would be paid for by all taxpayers.

I make this suggestion to the Senators from Alabama and Louisiana. The taxpayers do not benefit——

The PRESIDING OFFICER. All time of the Senator from New York has expired.

Mr. BUCKLEY. I am suggesting, Mr. President, that there comes a point when the Congress may no longer authorize these huge expenditures without a user tax.

The PRESIDING OFFICER. The Senator from Louisiana has 5 minutes.

Mr. LONG. Mr. President, I believe this matter has been adequately discussed. I yield back the remainder of my time.

I ask for the yeas and nays on this amendment.

The PRESIDING OFFICER. The yeas and nays have already been ordered. The question is on agreeing to the amendment.

The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Hawaii (Mr. INOUYE), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Missouri (Mr. SYMINGTON), the Senator from California (Mr. TUNNEY), the Senator from New Hampshire (Mr. DURKIN), and the Senator from Minnesota (Mr. MONDALE) are necessarily absent.

Mr. GRIFFIN. I announce that the Senator from Massachusetts (Mr. BROOKE), the Senator from Nebraska (Mr. CURTIS), the Senator from Kansas (Mr. DOLE), the Senator from North Carolina (Mr. HELMS), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I further announce that the Senator from Maryland (Mr. BEALL) is absent due to a death in the family.

The result was announced—yeas 17, nays 71, as follows:

[Rollcall Vote No. 458 Leg.]

YEAS—17

Biden
Buckley
Domenici
Garn
Goldwater
Hart, Gary
Laxalt
McClure
McIntyre
Moss
Percy
Ribicoff
Roth
Scott, William L.
Stafford
Stevenson
Weicker

NAYS—71

Abourezk
Allen
Baker
Bartlett
Bayh
Bellmon
Bentsen
Brock
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Chiles
Church
Clark
Cranston
Culver
Eagleton
Eastland
Fannin
Fong
Ford
Glenn
Gravel
Griffin
Hansen
Hart, Philip A.
Hartke
Haskell
Hatfield
Hathaway
Hollings
Hruska
Huddleston
Humphrey
Jackson
Javits
Johnston
Kennedy
Leahy
Long
Magnuson
Mansfield
Mathias
McClellan
McGee
Metcalf
Montoya
Morgan
Muskie
Nelson
Nunn
Packwood
Pastore
Pearson
Pell
Proxmire
Randolph
Schweiker
Scott, Hugh
Sparkman
Stennis
Stevens
Stone
Taft
Talmadge
Thurmond
Tower
Williams

NOT VOTING—12

Beall
Brooke
Curtis
Dole
Durkin
Helms
Inouye
McGovern
Mondale
Symington
Tunney
Young

So Mr. BUCKLEY'S amendment (No. 2090) was rejected.

AMENDMENT NO. 2036

Mr. LEAHY. Mr. President, I call up my amendment No. 2036.

The PRESIDING OFFICER (Mr. BROCK). The amendment will be stated.

The legislative clerk read as follows:

> The Senator from Vermont (Mr. LEAHY) proposes amendment No. 2036.

Mr. LEAHY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> At the end of title XX, add a new section as follows:
>
> SEC. . TRADE OR BUSINESS EXPENSE ATTRIBUTABLE TO AUTOMOBILES NOT SATISFYING FUEL ECONOMY STANDARDS.
>
> (a) DISALLOWANCE OF CERTAIN AUTOMOBILE EXPENSES.—Part IX of subchapter B of chapter 1 (relating to items not deductible), as amended by section 601 of this Act, is amended by adding at the end thereof the following new section:
>
> "SEC. 281. DISALLOWNCE OF CERTAIN AUTOMOBILE EXPENSES.
>
> "(a) GENERAL RULE.—Except as provided in subsection (b), no deduction shall be al-

lowable under section 162, 167, 179, or 212 with respect to the depreciation of, or any rental payments for the use of, a passenger automobile if the fuel economy for such automobile is less than the average fuel economy standard, if any, applicable to the model year for such automobile.

"(b) EXCEPTIONS.—

"(1) TRANSPORTATION FOR HIRE.—Subsection (a) shall not apply with respect to any passenger automobile to the extent such automobile is used during a taxable year by the taxpayer in the trade or business of furnishing transportation for hire.

"(2) TRANSPORTATION OF GOODS AND EQUIPMENT.—In accordance with regulations prescribed by the Secretary, subsection (a) shall not apply with respect to a passenger automobile to the extent the use of that automobile during a taxable year by the taxpayer is reasonably required in connection with the taxpayer's trade or business to transport goods for display, delivery, or sale or to transport tools and equipment.

"(3) LESSORS.—In the case of a lessor of a passenger automobile, subsection (a) shall not apply with respect to the automobile which is the subject of the lease. This paragraph shall not apply with respect to any lease between members of an affiliated group (within the meaning of section 1504(a)).

"(c) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) PASSENGER AUTOMOBILE.—The term 'passenger automobile' has the meaning assigned to such term under section 501(2) of the Motor Vehicle Information and Cost Savings Act.

"(2) FUEL ECONOMY.—The 'fuel economy' for a passenger automobile shall be determined in accordance with section 503(d) of the Motor Vehicle Information and Cost Savings Act.

"(3) AVERAGE FUEL ECONOMY STANDARD.—The term 'average fuel economy standard' means the standard determined under section 502(a) of the Motor Vehicle Information and Cost Savings Act (without regard to the exceptions authorized under section 502 (c) and (d) of such Act) which is applicable to the model year for a passenger automobile.

"(4) MODEL YEAR.—The term 'model year' has the meaning assigned to such term under section 501 (12) of the Motor Vehicle Information and Cost Savings Act.

"(d) COORDINATION WITH INVESTMENT CREDIT.—For purposes of section 48(a)(1), the determination of whether any passenger automobile is treated as property with respect to which depreciation is allowable by reason of the application of subsection (b) shall be made at the time the taxpayer places such automobile in service.".

(b) CLERICAL AMENDMENT.—The table of sections for such part IX is amended by adding at the end thereof the following new item:

"SEC. 281. DISALLOWANCE OF CERTAIN AUTOMOBILE EXPENSES."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to passenger automobiles acquired by a taxpayer after December 31, 1976, and which are manufactured by a manufacturer in any model year after model year 1977.

Mr. LEAHY. Mr. President, in brief, my amendment, with certain exceptions, would require that beginning next year an individual or a corporation could take depreciation, deduct rental payments or utilize the investment tax credit only on an automobile that conforms to the average fuel economy standard for a particular model year established pursuant to the Energy Policy and Conservation Act.

If this amendment is passed, it would by 1980 result in the saving of approximately 80 million gallons of motor gasoline a year and in increased revenues of approximately $138 million in increased revenues, really, is a conservative estimate.

Mr. President, this amendment would not in any way affect the right of an individual or a corporation to depreciate an energy-efficient automobile—as defined by the laws we have already passed in this Congress—used in a business or profession.

It would not in any way affect their eligibility for deducting rental costs of an energy-efficient automobile used in a business or profession.

It would not in any way affect their eligibility for applying the investment tax credit to an energy-efficient automobile used in a business or profession.

It would require that in the future the use of these provisions in the tax laws be limited to automobiles that meet average fuel economy performance standards established for a given year by the Congress in the Energy Policy and Conservation Act enacted last December.

There are three categories of taxpayers that my amendemnt specifically excludes from its provisions. First, those who are in the trade or business of furnishing transportation for hire, such as taxicab owners or operators of limousine rental services. Second, those who reasonably require larger automobiles in connection with their trade or business to transport goods for display, delivery or sale or to transport tools and equipment. This would assure that salesmen, small shopkeepers, and others who legitimately need heavier cars for their work are not penalized. Finally, lessors of automobiles would not be penalized for furnishing heavier automobiles for rent to those who are willing to forgo the present tax deduction.

The way the amendment would operate is simple. The Energy Policy and Conservation Act we have already passed, mandates that the average fuel economy for passenger automobiles manufactured by any manufacturer in any model year after model year 1977 shall not be less than 18 miles per gallon in 1978, 19 miles per gallon in 1979, 20 miles per gallon in 1980, and thereafter as determined, not later than July 1, 1977, by the Secretary of Transportation until 1985 when the average fuel economy standard of 27.5 miles per gallon must be reached.

Using 1978 as the example year, this means that the total automobile fleet built by any one manufacturer must average 18 miles per gallon. In even simpler terms, for every car built by a given manufacturer getting 10 miles to the gallon, one must be built to get 26 miles per gallon or two others each getting 22 miles per gallon, and so on and so forth.

In order to avail themselves of depreciation, the investment credit, or the deductibility provisions of the tax law, individuals or corporations, with the noted exceptions, would have to buy or rent an automobile meeting the average fuel economy standard for that year in which it was purchased.

The amendment is designed to accomplish three goals:

First, to encourage the use of energy-efficient automobiles; second, to at least partially close provisions that have too often constituted flagrant tax loopholes; and third, to raise revenue.

Mr. President, our income tax laws are designed not only to raise revenues but are just as often enacted to achieve desirable social ends. The tax bill now under consideration contains at least 13 energy-related provisions to encourage energy conservation and not necessarily related to increasing tax revenues.

The amendment, while significantly raising revenues, would also achieve the much desired goal of conserving energy—perhaps the most crucial goal toward which the Nation will be striving in coming decades. Last December, Congress mandated that beginning in 1978 automobile manufacturers must begin producing more energy-efficient cars. It seems to me then only logical that our tax laws, as well as all others, should whenever feasible, be structured to complement that mandate.

According to estimates developed in consultation with staff of the Environmental Protection Agency and the Department of Transportation, we can assume that there are approximately 500,000 gas guzzlers now being used for business purposes for which a tax benefit is being taken. Approximately 200,000 of them are being used for purposes exempted from the provisions of the amendment. Let us further assume that 50,000 larger cars will be used by individuals and corporations for business and professional purposes even if the amendment is enacted. That leaves 250,000 cars that can reasonably be expected to shift to economy engines.

Given a gasoline savings of approximately 3 miles per gallon. We can expect to save about 106 gallons of gas per car each year, or 27 million gallons in 1978, 53 million gallons in 1979, and 80 million gallons in 1980 and that amount plus each year thereafter as the standards are gradually increased until they reach 27.5 miles per gallon.

Mr. President, when we consider that the motorists in the State of Vermont in 1975 consumed a total of 240 million gallons of gasoline, we are not talking about an inconsequential amount. By 1980, this amendment could result in an annual saving of gasoline equal to one-third of all the gas consumed in my State in 1 year.

Most important, Congress would be telling the American people that we really mean what we say when we enact legislation to save energy.

Mr. President, at the same time we would be conserving energy, we would with the adoption of this amendment, be increasing tax revenues in a relatively painless manner. The deprivation of these tax benefits for 50,000 automobiles would result in increased revenues of $54 million for model year 1978; $96 million for model year 1979; and $138 million for model year 1980 and thereafter.

Translated into revenue estimates by fiscal year, it would mean $5 million more in fiscal year 1977; $73 million more in fiscal year 1978; $115 million more in fiscal year 1979; and $138 million a year thereafter.

Mr. President, it is clear that the enactment of the amendment could save energy and increase tax revenues. It would also plug a glaring tax loophole. while the automobile depreciation and deductibility provisions of the Internal Revenue Service Code have ample justification in our tax system, they have too often been abused for the benefit of a select few.

Too often individuals and corporations in the higher income tax brackets find it expedient to purchase or lease large expensive gas guzzlers knowing that they can take full depreciation on them, or deduct the rental payment or apply the investment tax credit. In essence, the Federal Government is paying for half the cost or more, of the car.

I personally know of several incidents—and I am sure the same is true for many of my colleagues—where tax advisors or consultants have explicitly advised their clients to buy expensive cars just for that purpose. Why not drive a Mercedes, a Cadillac, or Lincoln if Uncle Sam is footing a good share of the bill? Why not drive a $10,000 car if the Federal Treasury is going to pay for at least half of it.

Of course, the average citizen who buys a $5,000 family car pays for all of it out of his or her own pocket. No subsidy for them.

Mr. President, it is unconscionable for a corporation executive, or the owner of a prosperous business, or a financially successful professional to drive huge expensive gas hogs and write a large share of their cost off their income taxes, while the vast majority of Americans are not only denied this privilege but have to make up the lost revenue with their hard earned tax dollars.

If a corporation feels it would diminish the status of its executives to drive in energy-efficient cars, it is free under this amendment to continue to purchase any automobile it wants to. The only difference is, it would no longer be allowed to charge it off to the public.

If individual businessmen or professionals now availing themselves of these tax benefits want to continue driving gasoline guzzlers, no one is stopping them. The only difference is that the full cost would come out of their pockets just as it does for the rest of us.

On the other hand, enactment of this amendment would not affect those who apply available tax benefits to energy-efficient cars. And it would in no way harm those who legitimately require heavier cars for their trade or business.

Mr. President, whenever we raise tax revenues someone's ox is always getting gored, and there are roars of complaints. Here is one area in which we can do so in a painless manner, with little resultant squealing. At the same time we will reassert our commitment to conserve energy, and end a glaring abuse of our income tax laws.

Mr. President, this amendment does not limit anyone's right to own any kind of an automobile he or she wants. It just says that the taxpayers will subsidize only those automobiles that are energy conserving.

Mr. President, I reserve the remainder of my time.

Mr. LONG. I yield to the Senator from Wyoming.

Mr. HANSEN. Mr. President, I have not had an opportunity to study this amendment as closely as I would have liked to. I do share the sentiment expressed by my good friend from Vermont in hoping to achieve some laudable objectives. It occurs to me that this is the sort of an amendment which would be administratively difficult to handle. I think about the responsibility that would be placed upon authorities to determine if a station wagon, as an example, used in a business might very well be identified as a gas guzzler or a gas hog when someone could contend that a smaller car would do the job very well during most of the week. Yet we might find on the weekend that that also happens to be the family car.

Mr. LEAHY. Will the Senator yield on that point?

Mr. HANSEN. Yes.

Mr. LEAHY. We considered that problem in drafting the amendment. The Energy Policy and Conservation Act is already in place. That would state very clearly what fell into the category covered by the amendment and what did not fall into the category. Certainly, any demonstration by shopkeepers who deliver their wares that they have always used station wagons, that it was necessary, would cause them to fall into an exemption. They do not even come under this amendment. The determination of what cars do and do not come under it would not be within this act. It is already determined by a law that Congress passed last year.

Mr. HANSEN. Does the Senator mean under the energy conservation——

Mr. LEAHY. The Energy Policy and Conservation Act. I will tell my good friend from Wyoming that what that does is to have the EPA test the cars and then state whether these cars meet certain mileage figures or not. There would be nothing under this act that would require an administrative determination. The car either does or does not fit into that category. Whether it would be fitted into that category or not would be based upon the provisions of the Energy Policy and Conservation Act.

Mr. HANSEN. I would say in response to my good friend that makes me even more wary of the amendment. I cannot help but be concerned about some bureaucrat here in Washington who would tell some painter up in Vermont what kind of a car he could drive. It would seem to me that the economies that would be effected, the savings in fuel which might be achieved, would be more than offset by the extra bureaucrats who would have to be around making the sort of decisions which could be required on any number of individual cases.

I would just have to say I think there are better ways to accomplish the overall goals we have in this tax reform bill than to seize upon this. I say that with all due appreciation for the good motivations that I know prompt my friend from Vermont to offer the amendment.

Mr. LEAHY. Will the Senator yield for a moment?

Mr. HANSEN. I just have 5 minutes.

Mr. LEAHY. I would point out that the concern about the bureaucracy which the Senator raises, while a laudable one, does not apply here at all. The sign painter or house painter, whatever, just would not fall under the amendment. He falls under the second exception of the amendment.

Mr. HANSEN. Does the Senator mean those reasonably required to have heavy cars in their business?

Mr. LEAHY. He could have any kind of car he wanted. He could have a car that got 1 mile to the gallon, if he wanted. No one could tell him what kind of a car he should have.

Mr. HANSEN. The point I am trying to make concerns the exemptions, as I read them, including No. 2, those reasonably requiring heavier cars for their business. The business might not require the heavier car, but if a guy is not making that much money, and can afford only one car, as I know happens time after time, it would occur to me that the impact of this amendment could very well deny him the benefit of the credit that he would otherwise be entitled to. Yet in the long run, as we have seen all too often, there will be some silly bureaucratic rule that says he has to have two small cars when maybe he has a family of six or seven children, and it makes sense any way we consider it to have a bigger car.

Being on the Interior and Insular Affairs Committee I have seen this kind of nonsense suggested time after time. I think it falls in the area of the kind of a decision that ought to be left to the individual.

Mr. LEAHY. But if a person simply has a car solely for the use of his or her family, they cannot deduct it or depreciate it in any way whatsoever under present law. If that car is used for their family and also for their business, then they fall under certain standards already in the Internal Revenue Code as to what can be used in that business. They are not going to have a small car for a business which needs a larger car. If that is the kind of car needed for that business, they fall immediately into the second exception. We drew it very carefully with that situation in mind. We have a lot of small business owners in the State of Vermont who would fall particularly into that category.

Prior to the time he retired, my father's business would have fallen directly into that category. He is no longer in business so he cannot take a deduction one way or the other. I want to emphasize that for the RECORD.

This second exemption would remove small businessmen, like he was, completely from the provisions of the amendment, and they could have any kind of car they required.

Mr. HANSEN. I believe I understand my friend from Vermont. I am trying to make the point that maybe under number two the kind of care that would suffice for business might not be the heavier car. Yet when a small businessman has one car and he cannot afford two cars, which I think would be the natural thing, for very good reasons it would seem to me we should not deny him the use of a bigger car on a weekend going to church or to the country, wherever, when he uses that same automobile 5 days of the week pursuing his regular vocation.

I have nothing further, I will say to my chairman.

Mr. LONG. Shall we yield back the remainder of our time?

Mr. LEAHY. How much time have I remaining?

The PRESIDING OFFICER. The Senator has 5 minutes remaining.

Mr. LEAHY. I inquire of the distinguished chairman if this is an amendment which could or could not be agreed to by the Finance Committee?

Mr. LONG. Mr. President, the amendment simply was not considered in the committee. As far as the Senator from Louisiana is concerned, he has heard arguments on both sides.

I suggest we let the Senate decide what it wants to do about the amendment.

Mr. LEAHY. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Is all remaining time yielded back?

Mr. LEAHY. Mr. President, I understand no one else is seeking time, so I yield back the remainder of my time.

Mr. LONG. I yield back the remainder of my time.

The PRESIDING OFFICER (Mr. Stone). All remaining time having been yielded back, the question is on agreeing to the amendment (No. 2036) of the Senator from Vermont. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Virginia (Mr. Harry F. Byrd, Jr.), the Senator from New Hampshire (Mr. Durkin), the Senator from Hawaii (Mr. Inouye), the Senator from South Dakota (Mr. McGovern), the Senator from Minnesota (Mr. Mondale), the Senator from Mississippi (Mr. Stennis), the Senator from Missouri (Mr. Symington), and the Senator from California (Mr. Tunney) are necessarily absent.

I further announce that, if present and voting, the Senator from Virginia (Mr. Harry F. Byrd, Jr.) would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Massachusetts (Mr. Brooke), the Senator from Nebraska (Mr. Curtis), the Senator from North Carolina (Mr. Helms), and the Senator from Maryland (Mr. Mathias) are necessarily absent.

I further announce that the Senator from Maryland (Mr. Beall) is absent due to death in the family.

The result was announced—yeas 30, nays 57, as follows:

[Rollcall Vote No. 459 Leg.]

YEAS—30

Abourezk
Bayh
Bumpers
Case
Cranston
Culver
Eagleton
Eastland
Hart, Gary
Hart, Philip A.
Hartke
Hatfield
Humphrey
Jackson
Javits
Kennedy
Leahy
Magnuson
Mansfield
McGee
McIntyre
Metcalf
Nelson
Pell
Proxmire
Ribicoff
Stafford
Stevenson
Stone
Weicker

NAYS—57

Allen
Baker
Bartlett
Bellmon
Bentsen
Biden
Brock
Buckley
Burdick
Byrd, Robert C.
Cannon
Chiles
Church
Clark
Dole
Domenici
Fannin
Fong
Ford
Garn
Glenn
Goldwater
Gravel
Griffin
Hansen
Haskell
Hathaway
Hollings
Hruska
Huddleston
Johnston
Laxalt
Long
McClellan
McClure
Montoya
Morgan
Moss
Muskie
Nunn
Packwood
Pastore
Pearson
Percy
Randolph
Roth
Schweiker
Scott, Hugh
Scott, William L.
Sparkman
Stevens
Taft
Talmadge
Thurmond
Tower
Williams
Young

NOT VOTING—13

Beall
Brooke
Byrd, Harry F., Jr.
Curtis
Durkin
Helms
Inouye
Mathias
McGovern
Mondale
Stennis
Symington
Tunney

So Mr. Leahy's amendment (No. 2036) was rejected.

AMENDMENT NO. 2134

Mr. ABOUREZK. Mr. President, I call up my amendment No. 2134.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from South Dakota (Mr. Abourezk) proposes amendment No. 2134.

Mr. ABOUREZK. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 1487, line 1, insert after the comma the word "or".

On page 1487, strike out line 2.

On page 1487, line 3, strike out "(9)" and insert in lieu thereof "(8)".

On page 1487, line 20, strike out "(8), and (9)" and insert in lieu thereof "and (8)".

On page 1494, strike out lines 13 through 17.

On page 1494, line 18, strike out "(10)" and insert in lieu thereof "(9)".

On page 1495, line 1, strike out "(1)" and insert in lieu thereof "(10)".

On page 1495, lines 1 and 2, strike out "(7), (8), and (9)" and insert in lieu thereof "(7) and (8)".

On page 1495, line 3, strike out "(12)" and insert in lieu thereof "(11)".

On page 1495, line 21, strike out "(13)" and insert in lieu thereof "(12)".

On page 1496, line 11, strike out "(14)" and insert in lieu thereof "(13)".

On page 1496, line 21, strike out "(15)" and insert in lieu thereof "(14)".

Mr. ABOUREZK. I shall make two brief points about the amendment.

The first point is it reduces the investment tax credit on coal slurry pipelines from 12 percent back down to 10 percent.

The second point is that the committee has informed me that if it is reduced to 10 percent from 12 percent the resulting reduction in tax expenditure, if that is the way the committee puts it, would be $7 million in fiscal year 1977, $17 million in 1978, and $28 million in 1981.

I hope that the committee will accept this amendment. I see no real reason to try to increase the coal slurry pipeline tax credit up to 12 percent.

I reserve the remainder of my time.

Mr. HASKELL. Mr. President, will the Senator yield?

Mr. ABOUREZK. I yield.

Mr. HASKELL. I hope the committee will accept that. I also hope that the Senator will not yield the floor until the Senator receives an answer because, if the committee does not accept this amendment. I think it is well worth talking about for some time. If the committee will accept it, that is one thing.

Mr. ABOUREZK. Mr. President, I ask unanimous consent that George Rutger, of my staff, be granted the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LONG. Mr. President, so far as the Senator from Louisiana is concerned, he is not particularly concerned about the coal slurry pipeline one way or the other. There may be some here who are very much concerned about the problems of the coal slurry pipelines, and I would be happy to yield them time to discuss it.

Mr. PASTORE. Mr. President, while we are waiting, will the Senator please explain this amendment?

Mr. ABOUREZK. The amendment reduces the investment tax credit on the coal slurry pipelines from 12 percent to 10 percent, a saving in tax expenditures of $7 million in fiscal year 1977, $17 million in 1978, and $28 million by 1981.

Mr. PASTORE. Will the Senator explain why they are not entitled to the 12 percent?

Mr. ABOUREZK. I do not really see any reason to give the coal slurry pipeline people an additional 2 percent over the 10 percent they already have.

Mr. PASTORE. In other words, everybody else has 10 and they have 12?

Mr. ABOUREZK. That is correct.

I might explain, also, while the conference is going on, that a member of my staff contacted the Coal Slurry Transport Association. They were not aware that the additional 2 percent was in this bill. It is news to them. We are unable to find out how the 2 percent was added on.

Mr. LONG. Mr. President, the purpose of the 12 percent was to encourage the use of coal. So far as the Senator from Louisiana is concerned, it is immaterial to me whether we encourage the use of coal by encouraging coal slurry pipelines. In certain situations, railroads get the benefit of the 12 percent, and that is competition, and therefore the 12 percent was proposed. Personally, I have no strong objection to the amendment. So far as I am concerned, if the Senate wishes to take it, it is all right with the Senator from Louisiana.

Mr. ABOUREZK. Mr. President, I yield back the remainder of my time.

Mr. LONG. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. ABOUREZK. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. PASTORE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2135

Mr. ABOUREZK. Mr. President, I call up my amendment No. 2135.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from South Dakota (Mr. ABOUREZK) proposes an amendment numbered 2135.

Mr. ABOUREZK. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 1486, line 25, insert after the comma the word "or".

On page 1487, strike out line 1.

On page 1487, line 2, strike out "(8)" and insert in lieu thereof "(7)".

On page 1487, line 2, strike out the comma and the word "or" and insert a period in lieu thereof.

On page 1487, strike out line 3.

On page 1487, line 20, strike out "(7), (8), and (9)" and insert in lieu thereof "and (7)".

On page 1494, strike out lines 8 through 12.

On page 1494, line 13, strike out "(9)" and insert in lieu thereof "(8)".

On page 1494, strike out lines 18 through 26.

On page 1495, line 1, strike out "(11)" and insert in lieu thereof "(9)".

On page 1495, lines 1 and 2, strike out "(7), (8), and (9)" and insert in lieu thereof "(7) and (8)".

On page 1495, line 3, strike out "(12)" and insert in lieu thereof "(10)".

On page 1495, line 21, strike out "(13)" and insert in lieu thereof "(11)".

On page 1496, line 11, strike out "(14)" and insert in lieu thereof "(12)".

On page 1496, line 21, strike out "(15)" and insert in lieu thereof "(13)".

Mr. ABOUREZK. Mr. President, this amendment also would reduce the investment tax credit from 12 percent to 10 percent for energy-related investments concerning oil shale and coal gasification projects.

At this time, Congress is still considering legislation to encourage development in these areas. I do not think it is prudent to provide encouragement through the tax laws until we have had an opportunity to explore these issues much more thoroughly through the appropriate substantive committees that are dealing with coal gasification and oil shale. If the 12 percent goes though, it will cost the Government more than $20 million in 1981 and more afterward.

I hope the committee will accept this amendment.

Mr. LONG. Mr. President, this provision was in the energy bill passed by the House of Representatives and sent to the Senate. Its purpose was to encourage the development of technology in the gasification of coal and oil derivation from shale.

In view of the fact that the Senate saw fit to reduce the coal slurry pipelines to 10 percent, so far as I am concerned, I have no objection.

Mr. HANSEN. Mr. President, it is my opinion that this amendment has to be questioned. I am not one who is ready to contend that the state of technology with respect to oil shale is sufficiently advanced that we are going to have oil shale on the market tomorrow. I know that we have some problems to work out so far as coal gasification is concerned.

However, I think this is the direction in which this country should be moving. There is no question that we are running out of natural gas. It is a very important fuel for this part of the country; and if there is a way in which we can encourage further work and investment of money in coal gasification, I think it will be clearly in the public interest.

Mr. RIBICOFF. Mr. President, will the Senator yield for a question?

Mr. HANSEN. I yield.

Mr. RIBICOFF. What are the potential reserves in this country for energy from oil shale?

Mr. HANSEN. The figure I have seen—and it is about a year old or more—is approximately 1.6 trillion potentially recoverable barrels of oil in the three-State area of Colorado, Utah, and Wyoming—in oil shale.

Is it not also true that the first alternative to oil will be coal gasification?

Mr. HANSEN. That is my understanding.

Mr. RIBICOFF. So, looking ahead into the future, with the United States running out of oil reserves, should we not be doing everything possible to encourage alternate sources of energy, and coal gasification would be the No. 1 alternative? I think that it would be foolhardy, I think it would be shortsighted, if we do not do everything we can to encourage the gasification of coal.

I see on the floor the distinguished chairman of the Committee on Public Works and Senator BYRD of West Virginia, who probably know something about this, coming from a coal State. We should be encouraging this rather than discouraging it.

Mr. HANSEN. I agree completely with my friend from the State of Connecticut. That is what we should be doing. The fact is that for a long time, there was not very much done on the twin problems of coal gasification and coal liquefaction. The reasons were simple: the price of natural gas was regulated by the Federal Power Commission and it was fixed at around 24 or 25 cents a thousand. It was at such a ridiculously low rate that there was absolutely no incentive for anyone in the coal business to try to work out the technology to make synthetic gas from coal.

Mr. RIBICOFF. Am I correct in assuming that both West Germany and England have done considerable work, with success, in the liquefaction and gasification of coal reserves?

Mr. HANSEN. That is my understanding.

Mr. RIBICOFF. And that the United States is really far behind; with all our technology, we have not developed this technology?

Mr. HANSEN. That is my understanding.

Mr. RIBICOFF. And this technology takes a considerable amount of capital?

Mr. HANSEN. It does indeed.

Mr. RIBICOFF. And in order to encourage capital, we are going to have to have some incentive for them to go into it?

Mr. HANSEN. As a matter of fact, I think ERDA now has four or five powerplants that they are helping fund, partly. I know the Senator from Rhode Island is very knowledgeable in that. We are trying to encourage that.

Mr. PASTORE. If I may have something to say here, I hope that the Senator from South Dakota will withdraw this amendment. This is unlike the previous amendment that we all supported.

The fact of the matter remains that nuclear energy today, which is commercially practicable, is in trouble. We are striving for solar energy. We are striving for thermonuclear energy and certainly, it will be a boon on the day that it becomes practicable and commercialized. The fact remains that we are not there. The best evidence that we have is that it might take 25 years, it might take 30 years. In the meantime, what do we do?

Governor Carter has made the statement that he has certain qualms about the development of nuclear energy, that he would proceed very, very carefully, and he is making a strong pitch for greater use of coal. I think this is one area where we have to have incentive.

I hope that the Senator will not pursue this particular amendment.

Mr. ABOUREZK. Mr. President.

The PRESIDING OFFICER. The Senator from South Dakota is recognized.

Mr. ABOUREZK. Mr. President, in all this talk about incentives for development of oil out of oil shale and natural gas or imitation natural gas out of coal, we are talking about reducing the investment tax credit from 12 percent to 10 percent. We are not talking about stopping the programs that have been discussed here today.

So far as oil shale is concerned, I think the last estimate I heard was that no oil company, no government, nobody could do any development in oil shale feasibly, economically, until we got up to somewhere around $25 a barrel for oil, to make oil shale development feasible.

Mr. PASTORE. And therefore——

Mr. ABOUREZK. Wait, just a minute, I ask the Senator.

Twenty-five dollars a barrel. Now, there is no lousy 2-percent investment tax credit that is going to increase the production or the development of oil shale based upon that lousy 2 percent.

With regard to coal gasification, coal gasification has been a total failure in this country, as the Senator from Connecticut said. There is a German process that has been developed. The Germans have found some reasonable success with theirs. However, most of the coal, most of the new coal, the cheap coal, is out in the West, and coal gasification requires a great deal of water.

We are again talking about a lousy 2-percent differential of an investment tax credit to try to rip all the water out of the West, where we do not have very much, to try to develop coal gasification.

All it really amounts to in both of these areas is not incentives to develop anything, but a tax expenditure, or, in the words of many people, a rip off—a 2-percent giveaway, a windfall, a boondoggle. All it amounts to is a giveaway to these companies that are not going to do anythings additional except put the money in their pockets. That is all it amounts to.

I hope the Senate will accept the amendment.

Mr. KENNEDY. Will the Senator yield?

Mr. ABOUREZK. I am happy to yield to the Senator from Massachusetts.

Mr. KENNEDY. I just wanted to speak with regard to the comment of the Senator from South Dakota because I had intended to offer an amendment relevant to this same section. I would like to raise this point, because the Senator is using a line of argument that I think is very convincing.

It seems to me, as has been pointed out during the course of this discussion and debate, that we are in serious deficiency in terms of new technology in a variety of these areas, whether it is coal slurry, coal gasification, or a number of other items that are raised in these particular areas. On the one hand, we appropriate hundreds of millions of dollars to ERDA, with very, very strict guidelines. That issue has been debated and discussed here on the floor of the U.S. Senate for hours and for days, during recent years.

We also place on ERDA very strict requirements for reporting back to Congress. We have very active committees to oversee where this new technology is possible, and where it is taking place, and what the various costs are going to be in terms of meeting national energy problems and needs.

What we are doing here on the other hand—after we have a very tight system in terms of ERDA—is providing all kinds of incentives in many different areas for technology of which we have very little understanding and comprehension.

We are going to send these incentives out into the commercial area, with the resulting fact that we are going to have hundreds of millions and, I bet, billions of dollars that will be lost as a new tax expenditure. Instead of talking about 5 percent or $10 million, we are going to be wrestling around on this 10 years from now, talking about hundreds of millions or tens of billions of dollars.

Mr. PASTORE. Will the Senator yield?

Mr. KENNEDY, Yes.

Mr. PASTORE. Is this boon being given to develop other sources rather than alternatives to the shortage of oil and petroleum? As I understand the purpose of the 12-percent tax credit, it is to encourage the development of alternatives. If we have another embargo and if we again have long lines at the gas pumps and we do not come up with an alternative and we do not inspire people to get into alternatives, where are we going to be?

Mr. KENNEDY. I could not agree more.

Mr. PASTORE. Everybody talks about $25 or $30 million against a budget that is over $200 billion.

Mr. KENNEDY. If the Senator will permit me, I am all for the development of alternatives. It seems to me that we have debated and discussed within FEA extremely elaborate review procedures by which Congress will be informed, the committees will be informed, where the technology breakthroughs are going to come about in each of these various areas of alternative sources of energy. It seems to me that kind of overview, that kind of oversight, through the appropriation process, is the way to deal with this problem.

In the alternative, what we are doing here is writing into stone, effectively, because we know how, once these various matters get written in in terms of investment credit or other types, they are almost impossible to remove. Sure, they are potential, but there is no now-known technology that is going to justify, I do not believe, the kind of extensive tax expenditures that we are going into. What I understand at least the thrust and the purpose of the Abourezk amendment to be, although I would think that it ought to go further, quite frankly, is to recognize, if Congress is attempting really to deal effectively with alternative sources of energy, we ought to do it through the FEA kind of program—reporting back to the oversight committees of Congress that are dealing in energy areas, appropriating money annually in those areas where particular opportunities for technological breakthroughs are coming, and provide a constant overview and oversight. To write new tax expenditures does not seem to me to be sound policy.

Mr. RIBICOFF. Mr. President, will the Senator yield?

Mr. PASTORE. Mr. President, will the Senator yield?

Mr. RIBICOFF. I am asking for some time on the Senator's time.

Mr. ABOUREZK. Mr. President, I have the floor. I just want to ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. RIBICOFF. Mr. President, will the Senator yield on Senator LONG's time?

Mr. ABOUREZK. All right.

Mr. RIBICOFF. Mr. President, will the Senator yield to me?

Mr. LONG. How much time?

Mr. RIBICOFF. Five minutes.

Mr. ALLEN. Let us have order.

Mr. RIBICOFF. I think we have here one of the problems facing this country, and it has been posed accidentally by the Senator from Massachusetts. What the Senator from Massachusetts is saying is that this whole question of alternate sources of energy should be in the hands of and should be done by the Government; that ERDA and FEA will supply the money, and let them decide it.

I think what we are trying to determine is, and it always was the plan in setting up ERDA, and I think the Senator from Rhode Island understands it, that they were going to undertake pilot programs. The intention in setting up ERDA always was that, ultimately, the private enterprise system was to do the developing of the alternate sources of energy.

Now, what we are saying is that certainly in the early stages the Federal Treasury will set up the pilot programs, but somewhere along the line private enterprise and private capital should come in and develop the alternate sources of energy.

Now, since the No. 1 alternate source of energy, and the fastest one to come upstream, is the liquefaction and gasification of coal, we should be doing everything we possibly can to encourage the liquefaction and gasification of coal not by the Federal Government but by private enterprise.

Therefore, it is not a lousy 2 percent. Two percent is substantial, and we have got a very grave policy question here of whether all alternate sources of energy and development should be developed by the Federal Government or whether private enterprise should be encouraged into doing it.

I see eye to eye with my friend from Rhode Island, and I think this question is what is bothering him.

Mr. PASTORE. Mr. President, will the Senator yield?

Mr. RIBICOFF. I will be pleased to yield at this time.

Mr. PASTORE. Not too long ago, the Democratic Policy Committee gave me a job that was not wanted. They gave it to me because I was not there when they assigned it to me [laughter] because if I were there, I would have refused it. The job was to become the chairman of an ad hoc committee to come up with a comprehensive plan on energy. We strove and we strove and we strove. We gave it hour after hour after hour, and we came out with the exact recommendation that the committee has proposed in this bill. Now they are saying here, "We have not reached a technology, so why don't we just forget it."

The point here is if we have not got it, let us go out and get it, and the only way you are ever going to get it is by giving a little bit of incentive.

If you say this is picayune, if you say this technology has not yet been found, then I say the fault is ours, and we had better put up the money.

All this business about what we did with ERDA, sure, we have oversight over ERDA. My committee has that oversight. But the fact still remains that the fulfillment of this dream is a long way off.

I am telling you that unless this country comes up with alternatives, the day will come when we will regret it.

America is on wheels, we need gasoline to run the machinery of this country, and if we do not do something about it, and foreign oil producers ever put on another embargo, and we cannot get the petroleum because we are importing now about 60 percent of what we use in this country, the time is going to come when this country will have to retrogress and not progress, because we are an industrial country, and unless we keep the machinery going we are not going to produce the number of jobs we need to keep our people working, and that is what is in question here.

I know we do not have the answer, but somehow we have to find it, and unless we put up the incentive to find it, I am afraid we are giong to be lost. We are going to be lost in the wilderness of ignorance.

Mr. ABOUREZK addressed the Chair.

Mr. RIBICOFF. I believe I have the floor.

The PRESIDING OFFICER. The Senator from Connecticut still has the floor.

Mr. RIBICOFF. I believe I have the floor.

Mr. TAFT. Mr. President, will the Senator yield?

Mr. RIBICOFF. Mr. President, I just want to make one point. In World War II when Hitler was closed off from the supply of oil, he ran the German war machine on the liquefaction and gasification of the coal reserves in Germany. I have always been puzzled as to why, if the Germans could do it—and about 2 years ago I visited——

The PRESIDING OFFICER. The Senator's time has expired.

Mr. RIBICOFF. May I have 5 more minutes, Mr. President?

Mr. LONG. I yield 5 more minutes.

Mr. RIBICOFF. I visited in England, and I found they are way ahead of us in the liquefaction and gasification of coal. I would say the 2 percent, the 12 cent, whatever incentives you get, that is a cheap price to encourage American technology instead of spending hundreds of millions of dollars for the Federal Government to do it.

I recall when the Government Operations Committee was setting up ERDA and FEA and going into these hearings, it was always the intention, in establishing ERDA, that ERDA would really be setting up pilot programs. It never was the intention that ERDA was going into the energy business. They were there to encourage all types of alternate sources of energy. Then it came within the orbit of the distinguished Senator from Rhode Island.

Now, suddenly, to hear the remark, "Why do it? Let the Federal Government and the Appropriations Committee decide how much we are going to spend." That was not the intention in setting up ERDA. The basic intention was to get ERDA going with all types of alternate sources, report back to Congress, and to work with private enterprise to do it. We would be foolhardy to stop private enterprise from getting into this field.

Woe to this country if we depend on the Government to develop alternate sources of energy. They cannot do it, and they will not do it.

Mr. FANNIN. Mr. President, will the Senator yield?

Mr. RIBICOFF. I am pleased to yield.

Mr. FANNIN. I concur with what has been said by the Senator from Connecticut and the Senator from Rhode Island.

The PRESIDING OFFICER. All time of the Senator from South Dakota has expired. The Senator from Louisiana has 8 minutes.

Mr. ABOUREZK. A parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. ABOUREZK. Was all that time charged to me, the time that Senator RIBICOFF was debating?

The PRESIDING OFFICER. The time of the Senator from Connecticut was charged to the Senator from Louisiana.

Mr. FANNIN. Just a couple of minutes, Mr. President.

Mr. LONG. I yield.

Mr. FANNIN. Just 2 minutes.

I wholeheartedly agree with what the Senator from Connecticut and the Senator from Rhode Island have said. There are both old coal gasification processes as well as new processes being developed. Pilot gas is being developed, they are working on it in the State of Illinois and other States.

What are we talking about? We are talking about plants that will cost $1.25 billion to develop.

These pilot plants are developing new programs, but we must have private industry go forward with it. At first, a coal gasification plant was to cost $650 million. The Southern California Gas Company was going to build one. But now it costs almost twice that amount, and unless we provide this incentive, we are not going to get this job done. It is a small price to pay for making gas available to cities and small towns throughout the United States. In Southern California alone there is over $10 billion of gas equipment that would be idle if gas became unavailable. So we are not just talking about a supply of gas; we are talking about the salvation of the way in which many people are heating their homes, cooking their food, and taking care of the water heating needs throughout the country. It is a small price to pay to have the extra 2 percent investment tax credit which sec. 2003 provides. In fact, if they had doubled that amount it would be more in order.

I feel, Mr. President, that if we pass this amendment, we are going in the wrong direction.

Mr. ABOUREZK. Mr. President, I ask unanimous consent that each side have 5 additional minutes.

Mr. LONG. I object. We have not used that time yet.

The PRESIDING OFFICER. Objection is heard.

Mr. LONG. I yield 2 minutes to the Senator from Ohio.

Mr. TAFT. I thank the Senator for yielding. I think there is some information we ought to reflect on.

The idea that coal gasification is not going to work, that it is small, limited to the West, is totally false. ERDA has already acted to start on a $200 million plant in Illinois; they have chosen Ohio for a second location. They have gone ahead with a $65 million project there.

Those projects are not total ERDA projects; they are projects in joint ventures with private enterprise to get private enterprise in here, and then to set up—they are demonstration plants, they are not really pilot plants. They are on a production basis, and they are going to be economic, and I think they will be so within the very near future.

But in order to get private enterprise in this, competing with these plants, using what they proved in those plants, I think we have every reason to go ahead with incentives here.

We will be saving money in the long run. In fact, ERDA is taking, in these contracts is taking, into account that you are taking money out of one pocket and putting it into another. ERDA takes account of the financing, and the joint venture is taken into account. Contracts are not closed at this point, they are still being initiated. But they are going ahead with this $65 million I know about here today as an outlay and to encourage some private investors to go ahead and put their money in, too.

I thank the chairman for yielding to me.

Mr. LONG. Mr. President, I ask the Senator for 4 additional minutes.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. ABOUREZK. I yield 2 minutes to the Senator.

Mr. KENNEDY. Mr. President, in response to the comments of the Senator from Connecticut and others about the investment credit, I do not think there was a finer chapter in American foreign policy than the Marshall Plan, our investment in Western Europe.

I do not think there has been any measure more important than the investment credit at 10 percent.

Here we are talking about a basic perversion of that, trying to give to one particular industry.

He says we cannot tell which horse is going to win the race, but we are prepared to give them all the horses in this race at 12 percent.

I wonder where the real competitive system is in this country. It seems to me, in terms of the large amounts of money necessary for the research and development, that ought to be at the Federal expense. But once we develop that technology and it is competitive, it ought to be out in the American competitive system and not be ongoing and continuing as this particular program would make it in terms of 12 percent.

Finally, Mr. President, there are a lot of industries up my way that would like 12 percent, the shoe industry, the textile industry, the fishing industry. I can list all those industries that would like it, too, I think they would make a possibly stronger case in employment impact in local communities than this particular provision.

Let us do it in terms of the moneys necessary for these breakthroughs in research and development, with strong congressional oversight through ERDA, and make sure we have a free competitive system to try to see these various alternative techniques benefit the American system, but not through these extraordinary increases, trying to pick out some and discount others in the energy area.

Mr. LONG. I yield 4 minutes to the Senator from West Virginia.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. RANDOLPH. Mr. President, to the extent necessary I recall the past.

In 1944, the Congress passed the Synthetic Liquid Fuels Act.

The Senator from Wyoming. Mr. O'Mahoney, and the Senator now speaking, then in the House of Representatives, cosponsored that measure. At the time the law was enacted, submarines were roving up and down the east coast and in the New England waters shutting off energy supplies from abroad. We were beginning to feel the fringes of an energy problem.

The Senator from Rhode Island (Mr. Pastore) who speaks very realistically will remember, that the German Luftwaffe was actually being fueled with aviation gasoline from coal.

Had the war lasted a little longer, no one knows what would have happened in their continued bombing of Great Britain, including the city of London.

Using the German pilot plant efforts we were not attempting to develop synthetic fuels at a certain price; we were attempting to see if it was feasible with American resources. We began work to convert coal into aviation fuel.

On November 6, 1943, I flew with Arthur Hyde 175 miles from Morgantown, in a single engine aircraft fueled with gasoline produced from West Virginia coal.

Under the Synthetic Liquid Fuels Act of 1944 the Bureau of Mines demonstrated oil shale extraction at Rifle, Colo., between 1944 and 1949. The facility was placed on standby in 1955.

In addition pilot plant studies were undertaken at the Bureau of Mines Petroleum and Oil-shale Experiment Station at Laramie, Wyo., in 1945 and completed in 1947. However, these efforts did not become realities in large part due to economic factors.

Mr. President, on many occasions in this Chamber I have emphasized that what is needed is an acceptance and solid national commitment to meeting our country's energy needs from domestic resources. Failure to act years ago left us unprepared.

In recognition of our omissions in 1974 the Congress created the Energy Research and Development Administration to foster non-nuclear energy alternatives and to assure that such technologies as coal gasification and liquefaction, solar energy, geothermal energy, and oil shale would receive their equitable share of Federal funds for energy research, development, and demonstration.

Mr. President, when this body approved S. 598 last year, in July 1975, the report of the Interior Committee contained these words on the 1976 ERDA authorization bill:

> Greater Federal incentives are needed to cut the Gordian Knot of economics for the first generation of pioneer synthetic fuels plants in this country. The market place does not now provide sufficient incentives or an adequate mechanism for encouragement of the establishment of this industry.

For this reason the United States does not now possess an adequate infrastructure to support the expeditious creation of a domestic synthetic fuels industry. If this is to be achieved in a timely fashion the Congress has recognized that the Federal Government must encourage the commercialization of first generation technologies.

Until very recently Federal tax laws provided an incentive for the exploration of oil and natural gas in their natural form. These incentives extended to overseas activities. These same tax incentives acted as disincentives to the development of nonconventional energy technologies such as oil shale, and coal gasification and liquefaction.

Similarly the Federal Government was providing major funds for the atoms for peace program under which nuclear power was developed. This program provided further disincentives to the development of nonconventional energy technologies.

With the creation of the Energy Research and Development Administration an effort is being made to provide balance to the Federal program so that all new energy technologies can compete on approximately equal terms. It was on this basis, in part, that the Congress abolished the oil depletion allowance.

The tax reform measure before us today continues this policy by providing the same investment tax credit not just to all energy companies but to all industry in the United States.

The amendment of the diligent Senator from South Dakota (Mr. Abourezk) would reduce the investment tax credit for just the oil shale industry before it has even become an economically viable industry. Oil shale is viewed as an energy option for the mid term between 1985 and the year 2000. Even under an accelerated program oil shale is not expected to supply the equivalent of more than 500,000 barrels of oil per day before the year 1990. This is less than 2 percent of our anticipated total oil supply.

Mr. President, as a nation we must keep all our energy options open at this point in the development of new energy technologies. The amendment prejudices oil shale before the technology has even been demonstrated as to its economic and technologic feasibility.

I warn the Senate now because this country is in a greater crisis than during World War II. I wish the candidates for the Presidency would discuss our submerged energy crisis more and some other issues less. We are importing more petroleum products than we were at the time of the 1973 OPEC embargo.

But it is difficult to convince people of this crisis, before it surfaces in a way that will open the eyes of many of the Senators, as well as the American public.

I am underscoring that we need to develop all of the coal synthetic technologies. We also need to develop, insofar as possible, the use of oil shale.

We need all of this program, because, very frankly, we act after the fact, rather than before the fact. Thus we often fail to come to grips with problems of this scope.

I am sure the amendment is offered in good conscience by my colleague from South Dakota, but it leads us down a road we should not follow.

Mr. KENNEDY. Will the Senator yield for one question?

Mr. ABOUREZK. On his time.

Mr. KENNEDY. Just a one-word answer. Was that a direct appropriation or a tax expenditure, the legislation?

Mr. RANDOLPH. It was an authorization bill followed by an appropriation.

Mr. KENNEDY. I thank the Senator.

The PRESIDING OFFICER. The time of the Senator from West Virginia has expired.

The Senator from South Dakota has 2 minutes.

Mr. ABOUREZK. All I can say in response is that they have more water in South Dakota than in Utah.

Mr. President, when we were talking, I thought world war III was going to start almost any time.

But what we are talking about is not providing oil and gas for the next war, for the next oil embargo. What we are talking about is reducing the investment tax credit from a very favored 12 percent to a more equal 10 percent. Like everyone else is getting 10 percent. Like they have been getting.

We are not talking about destroying the United States, or destroying the world, or destroying energy development.

As I pointed out before, there are many ways that we can provide alternate sources. There are many ways we can conserve what we have now, except we are not doing either.

There is a way to prevent an oil embargo. We settle a Middle East war.

There is a way to save on oil and gas, and that is to develop a real conservation measure. That is something we have not done yet.

So far as coal gasification and oil shale are concerned, 2 percent is not going to do it. An extra 2 percent will provide no incentive. All it is is a boondoggle.

We will need a 100 percent tax credit before we can come around to a feasibility process on the development of oil shale and gasification of coal.

The PRESIDING OFFICER. All time has expired.

Mr. PASTORE. Mr. President, I move to table the amendment.

Mr. ROBERT C. BYRD. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Virginia (Mr. Harry F. Byrd, Jr.), the Senator from New Hampshire (Mr. Durkin), the Senator from Minnesota (Mr. Humphrey), the Senator from Hawaii (Mr. Inouye), the Senator from South Dakota (Mr. McGovern), the Senator from Minnesota (Mr. Mondale), the Senator from Missouri (Mr. Symington), and the Senator from California (Mr. Tunney) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. Humphrey) would vote "nay."

I further announce that, if present and voting, the Senator from Virginia (Mr. Harry F. Byrd, Jr., would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Massachusetts (Mr. Brooke), the Senator from Nebraska (Mr. Curtis), the Senator from North Carolina (Mr. Helms), and the Senator from Maryland (Mr. Mathias) are necessarily absent.

I further announce that the Senator from Maryland (Mr. Beall) is absent due to a death in the family.

The result was announced—yeas 66, nays 21, as follows:

[Rollcall Vote No. 460 Leg.]

YEAS—66

Allen
Baker
Bartlett
Bayh
Bellmon
Bentsen
Brock
Buckley
Burdick
Byrd, Robert C.
Cannon
Case
Chiles
Church
Cranston
Dole
Domenici
Eastland
Fannin
Fong
Ford
Garn
Glenn
Goldwater
Gravel
Griffin
Hansen
Hartke
Hatfield
Hruska
Huddleston
Jackson
Javits
Johnston
Laxalt
Long
Magnuson
McClellan
McClure
McGee
Montoya
Morgan
Muskie
Nunn
Packwood
Pastore
Pearson
Pell
Percy
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Scott, William L.
Sparkman
Stafford
Stennis
Stevens
Stone
Taft
Talmadge
Thurmond
Tower
Weicker
Young

NAYS—21

Abourezk
Biden
Bumpers
Clark
Culver
Eagleton
Hart, Gary
Hart, Philip A.
Haskell
Hathaway
Hollings
Kennedy
Leahy
Mansfield
McIntyre
Metcalf
Moss
Nelson
Proxmire
Stevenson
Williams

NOT VOTING—13

Beall
Brooke
Byrd, Harry F., Jr.
Curtis
Durkin
Helms
Humphrey
Inouye
Mathias
McGovern
Mondale
Symington
Tunney

So the motion to lay on the table Mr. Abourezk's amendment (No. 2135) was agreed to.

The PRESIDING OFFICER. The Senate will be in order.

The Senator from Montana is recognized.

Mr. MANSFIELD. Mr. President, I have been discussing the schedule for the rest of the day with the distinguished senior Senator from Louisiana, the manager of the bill now pending (Mr. Long).

He would like to continue. The leadership would like to continue, and this is just to inform the Senate, in response to many inquiries, that we will be in until 9, 10 o'clock, or thereabouts tonight.

The Senate is aware we have a heavy schedule covering clean air, the pending business, the Defense appropriation bill, we are going out a week from Wednesday for 10 or 12 days, and then we come back for less than 2 weeks.

We have a very heavy schedule. We have been unable to get much in the way of time agreements on the legislation on the books, and the manager of the bill in this particular instance would like to finish the tax bill this week. I think we have been on it long enough—too long, in my opinion—but there are still some important amendments to attend to, and I think a little sacrifice and cooperation on the part of all of us will stand us in good stead in the weeks ahead.

Mr. WILLIAM L. SCOTT. Mr. President, will the Senator yield?

Mr. MANSFIELD. I yield to the Senator from Virginia.

Mr. WILLIAM L. SCOTT. Mr. President, under the special order I was given the right to offer a second amendment with 1½ hours allocated to it. I do believe I will offer it, but I will take about 5 minutes and ask for a rollcall vote on it, because I believe my position is the right position, but I do not see any reason to extend the debate any further. This is on the Clean Air Act. That will give you an extra hour and a half.

Mr. MANSFIELD. The distinguished Senator echoes the sentiments of all of us when we offer amendments. I agree with him; not that I will vote with him, but I think he thinks he is right, as all of us think we are right when we offer amendments, and this is as it should be.

UP AMENDMENT NO. 293

Mr. HASKELL. Mr. President, I send a motion to strike to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Santor from Colorado (Mr. Haskell) proposes an unprinted amendment numbered 293.

Mr. HASKELL. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

I move to strike the following:

On page 1486, lines 20–25.

On page 1487, lines 1–3, 10–25.

On page 1488, lines 1–12.

On page 1489, lines 9–25 through page 1495 to line 12.

Mr. HASKELL. Mr. President, what this does is eliminate from section 2003 the extra 2 percent and in the case of solar energy which I believe would get 20 percent, I would eliminate the extra 10 percent in solar energy. It reduces all the energy items back to 10 percent. I believe the Senator from South Dakota talked only about coal and shale. This would cut everything back.

The Senator from South Dakota said that 2 percent was pretty small and he suggested that maybe what certain industries needed was 100-percent investment tax credit. I will merely say to the Senator from South Dakota, if he sticks around about 12 more years, we probably will have about a 100-percent investment tax credit.

Mr. President, if Senators believe that what we need is welfare for the rich, I suppose we need for these coal companies, shale companies, and all these companies that are in the energy field, 12 percent rather than 10 percent. I do not think they happen to need 12 percent. But I think we are kidding ourselves if we think an extra 2 percent is equitable to the American people. I think we are kidding ourselves if we think this is the way to get energy.

With that, Mr. President, I ask for the yeas and nays on this amendment and am willing to go to a vote.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. LONG. Mr. President, I am willing to waive the reading of the amendment, but reluctantly I find that we do not really know what this amendment is. So I suppose the first thing we better do is to ask exactly what the amendment would do.

I ask that the amendment be read.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Colorado (Mr. Haskell) moves to strike the following:

On page 1486, lines 20–25.

On page 1487, lines 1–3, 10–30.

On page 1488, lines 1–12.

On page 1489, lines 9–25 through page 1495 to line 12.

Mr. LONG. If I understand it, Mr. President, what the Senator wants to do is simply to strike from the bill all those proposals that have to do with encouraging the development of solar energy, geothermal energy, waste conversion, organic fuel conversion, railroad equipment, deep mining equipment, coal processing equipment, coal pipeline equipment, and shale oil conversion equipment. Basically, as I understand it, what the Senator is seeking to do here would seek to strike out all the incentives that we would try to provide.

Incidentally, Mr. President, this did not start with the Senate. The House of Representatives sent us incentive proposals for these areas in their energy bill last year. They have been waiting for action on this. But, we thought before we tried to decide what we should recommend in this area that we had to have some answers as to what was going to be done about deregulation of natural gas and production of more energy.

The House of Representatives had recommended incentives in these areas last year. It involves the same thing that we just got through voting on. So the Senator's amendment would strike from the bill what the Senate just got through voting not to strike from the bill, except he goes right further and seeks to strike about everything else we have here to try to provide incentives by way of tax credit to encourage people to produce more energy and to help meet our energy shortage. I do not think the Senate wants to agree with the amendment.

The House of Representatives, as I say, already is a year ahead of us in moving for more energy production than we provide only through some spending by ERDA and FEA, but we put in some tax advantages for people who will be insulating and making better use of the energy that is available to us now and in developing even more energy sources. He would knock out those incentives.

I do not think the amendment should be agreed to, Mr. President, and I really think the Senate just got through answering its views on the amendment when it voted down the Abourezk amendment.

Mr. HASKELL. Mr. President, what the amendment does is not knock out 12 percent; it knocks out the additional 2 percent because, if my understanding is correct, when we knock out the section—I ask the distinguished floor manager to consult with staff—the remaining items would get the normal investment credit, which is 10 percent, and that is my understanding of what would happen if this amendment were agreed to.

I do not happen to feel that giving an extra handout to someone that we think is in the energy business is automatically going to get us more energy. It may make the guy who takes it richer, but I cannot see that it is going to get us more energy. But I stress that it is my understanding that if this amendment should be agreed to everyone would be in the same boat on investment credit; it would be 10 percent. If that is not the case, I wish to modify my amendment to make it the case.

Mr. McINTYRE. Mr. President, will the Senator from Colorado yield for a question?

Mr. HASKELL. I yield.

Before he questions me, we are not dealing with the section the Senator is interested in, section 2002.

Mr. McINTYRE. We are not dealing with solar energy?

Mr. HASKELL. We are dealing with solar energy in section 2003, not residential solar energy.

Mr. LONG. The Senator asked me a question. The House bill proposed in these areas that there should be a 5-year amortization as well as the 10-percent investment tax credit. We did not provide for the 5-year amortization. We simply said make it a 12-percent investment tax credit. So rather than having a 5-year amortization and a 10-percent investment tax credit, we suggested that it merely be a 12-percent investment tax credit which we thought would be appropriate financially under the circumstances.

What the Senator would seek to do is to say in these energy areas they get no more favorable tax treatment than they would if buying other kinds of equipment.

Mr. HASKELL. The Senator is correct.

Mr. LONG. I understand. If we do not want to provide any additional incentive in this area, we do not have to. The view in the last vote was we should.

Mr. FANNIN. Mr. President, will the Senator yield?

Mr. LONG. I yield.

Mr. FANNIN. We have a very serious problem on energy facing this Nation. We should give every incentive possible. Let us talk about solar energy equipment, whether commercial or domestic. The big problem is the price. We are trying to get the price down. The way to get the price down is by generating a greater volume of production. Many say: "As soon as they get the price down we will buy." But how are we going to get the price down without a greater volume? So it is exactly as the chicken and the egg. Which comes first? We must provide an incentive so that people will start buying in larger volume so that prices will decrease and make it possible for more individuals to afford this type of energy rather than conventional modes. Perhaps the greatest savings will be in natural gas, and that is the energy that is in extremely short supply. So it seems to me ridiculous not to give every incentive possible for conversion to an energy source that is in great supply, the Sun.

So, Mr. President, I hope that the Senator will either withdraw the amendment or, if he does not see fit to withdraw the amendment, that it be defeated.

Mr. HASKELL. Mr. President, I might ask the Senator, I do not see that equipment for natural gas gets the extra 2 percent. I wonder, Mr. President, whether that was an oversight.

Mr. LONG. No, it is absolutely intentional. If the House of Representatives can provide, in addition to the 10 percent, they get a 5-year amortization, we thought the least we could do would be to provide, without the 5-year amortization, they ought to have an additional 2 percent investment tax credit to encourage and stimulate the development of energy and energy conservation measures that are suggested here in this bill in this title.

Mr. BUMPERS. Mr. President, will the Senator from Colorado yield for some questions?

Mr. HASKELL. I yield.

Mr. BUMPERS. I wish to clarify something in my own mind. I understood the Abourezk amendment would strike 12 and insert 10 or it would delete 2 percent of the investment tax credit for gasification and liquefaction of coal; is that correct?

Mr. HASKELL. This is correct.

Mr. BUMPERS. The Senator's amendment or motion is a striking motion which would do the same thing in all other energy fields, including solar; is that correct?

Mr. HASKELL. The Senator is correct.

Mr. BUMPERS. Let me say this: I supported the Abourezk amendment because I take exception to the way we grandfather people in and make constant exceptions for one kind of industry and another, but I would probably oppose the amendment of the Senator from Colorado because we are going to provide it for one area. I would certainly hate to reduce, for example, in the solar energy field, geothermal, biomass conversion. I certainly hope to except them.

Mr. HASKELL. May I respond?

Mr. BUMPERS. Certainly.

Mr. HASKELL. I would strike the extra 2 percent across the board which would include coal gasification. The Abourezk motion would just sweep one of those extra 2 percents off.

Mr. BUMPERS. I take it the reason the Senator's motion is in order then is because he broadened Senator Abourezk's amendment?

Mr. HASKELL. The Senator is correct.

Mr. BUMPERS. I thank the Senator.

Mr. HASKELL. I yield back the remainder of my time.

The PRESIDING OFFICER. All time is yielded back. The yeas and nays have been ordered, and the clerk will call the roll.

The second asisstant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Virginia, (Mr. Harry F. Byrd, Jr.), the Senator from New Hampshire (Mr. Durkin), the Senator from Minnesota, (Mr. Humphrey), the Senator from Hawaii (Mr. Inouye), the Senator from South Dakota (Mr. McGovern), the Senator from Minnesota (Mr. Mondale), the Senator from Missouri (Mr. Symington), the Senator from California (Mr. Tunney), the Senator from Indiana (Mr. Hartke), and the Senator from Mississippi (Mr. Stennis) are necessarily absent.

I further announce that, if present and voting, the Senator from Virginia (Mr. Harry F. Bryd Jr.), the Senator from Minnesota (Mr. Humphrey) would each vote "nay".

Mr. HUGH SCOTT. I announce that the Senator from Massachusetts (Mr. Brooke), the Senator from Nebraska (Mr. Curtis), the Senator from Michigan (Mr. Griffin), the Senator from North Carolina (Mr. Helms), and the Senator from Maryland (Mr. Mathias) are necessarily absent.

I further announce that the Senator from Maryland (Mr. Beall) is absent due to a death in the family.

The result was announced—yeas 20, nays 64, as follows:

[Rollcall Vote No. 461 Leg.]

YEAS—20

Abourezk
Biden
Clark
Culver
Eagleton
Hart, Gary
Hart, Philip A.
Haskell
Hathaway
Hollings
Kennedy
Leahy
Mansfield
McIntyre
Metcalf
Montoya
Nelson
Proxmire
Stevenson
Weicker

NAYS—64

Allen
Baker
Bartlett
Bayh
Bellmon
Bentsen
Brock
Buckley
Bumpers
Burdick
Byrd, Robert C.
Cannon
Case
Chiles
Church
Cranston
Dole
Domenici
Eastland
Fannin
Fong
Ford
Garn
Glenn
Goldwater
Gravel
Hansen
Hatfield
Hruska
Huddleston
Jackson
Javits
Johnston
Laxalt
Long
Magnuson
McClellan
McClure
McGee
Morgan
Moss
Muskie
Nunn
Packwood
Pastore
Pearson
Pell
Percy
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Scott, William L.
Sparkman
Stafford
Stevens
Stone
Taft
Talmadge
Thurmond
Tower
Williams
Young

NOT VOTING—16

Beall
Brooke
Byrd, Harry F., Jr.
Curtis
Durkin
Griffin
Hartke
Helms
Humphrey
Inouye
Mathias
McGovern
Mondale
Stennis
Symington
Tunney

So Mr. Haskell's amendment was rejected.

Mr. HASKELL. Mr. President, I do not know whether the Senator from New Hampshire is on the floor. I shall have an amendment to strike section 2002. The Senator from New Hampshire (Mr. McIntyre) is interested in it. He apparently would be interested on my side, depending upon the language developed in the FEA conference report for direct loans to residential solar energy. He wants to see that language, which is not available now but will be available in the morning.

Mr. President, I should like to have the attention of the floor manager of the bill, if I may. I ask the floor manager of the bill, when we come to vote on title XX this evening, if we could exempt specifically section 2002 so that could be voted on tomorrow, so that the Senator from New Hampshire could be accommodated.

Mr. McINTYRE. Will the Senator from Colorado yield?

Mr. HASKELL. I do.

Mr. McINTYRE. Mr. President, I was absent from the Chamber when the Senator from Colorado started his remarks, but I am sure that what he said I am in total agreement with.

The situation is this: The FEA extension bill, which is now in conference and presently being written, may very well satisfy this Senator insofar as solar energy is concerned. Therefore, I would have no objection tomorrow, or whenever we have definitive language from the FEA conference, to the amendment that I understand will be offered by the Senator from Colorado to delete that portion of the solar energy that would depend upon tax credits.

Mr. BENTSEN. I say to the distinguished Senator from Colorado that we had already agreed to accommodate the Senator from New Hampshire on section 2006. Now he is asking to be accommodated on 2002. If we continue to make these kinds of exceptions, we will never get the bill completed on time.

Mr. HASKELL. If the Senator does not wish to do so, Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BENTSEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BENTSEN. Mr. President, does the Senator from Massachusetts have an amendment on 2003?

Mr. KENNEDY. Yes.

UP AMENDMENT NO. 294

Mr. KENNEDY. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Massachusetts (Mr. KENNEDY) proposes an unprinted amendment numbered 294.

Mr. KENNEDY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of section 2003, add the following new subsection:

(e) EFFECTIVE DATE.—Notwithstanding the provisions of subsections (a), (b), (c), and (d), the provisions of this section shall expire on December 31, 1978.

Mr. KENNEDY. Mr. President, this is a very simple amendment. It applies a 2-year time limitation for all the provisions in section 2003 to limit it a 2-year program.

It gives Congress an opportunity to review it after a 2-year period.

A number of the energy provisions already have a 2-year limit. For example, the home insulation credit in section 2001 is 2 years. The business insulation credit in section 2003 is 2 years. Yet some provisions in 2003 have a 5- or 10-year period.

This amendment would treat them all the same. The limit would be 2 years for all section 2003 programs, and give Congress an opportunity to examine these matters.

As this debate brought out earlier, there are some profound and significant implications of a number of these provisions involving increases in the investment credit.

I wonder whether the manager of the bill would be willing to accept a 2-year limit. As I have stated, a number of the provisions already have a 2-year limitation.

It would give us an opportunity to examine these provisions in the new Congress, to get some idea how they were functioning, and require the oversight in Congress which would be very useful and valuable in monitoring this very sizable area of new tax expenditures.

So I hope we can reach a limit. I suggest 2 years so that the Congress will have a chance to examine these various provisions soon.

Mr. BENTSEN. I, frankly, would disagree with that kind of limit for geothermal energy.

It is a situation where we must try to develop these reserves and gear up to do the drilling. If individuals try to get the capital through stock issues, to buy the rigs, go out and get the leases, and then find they have a 2-year limitation, I do not think they are going to be able to capitalize those companies and be able to sell the securities.

I think it is very important under those conditions that we have the same kind of incentives we had originally, or at least sometime back, in the oil and gas business. That gets into the intangible drilling costs and, in turn, the 22-percent depletion on geothermal, and that we be given enough time to accomplish this.

The mere problem of going out, buying the leases, forming the company, raising the capital, takes us beyond that period of time.

Mr. KENNEDY. I want to make it clear, this provision is limited to section 2003. It does not affect the geothermal provisions in section 2004.

Mr. BENTSEN. Just to 2003?

Mr. KENNEDY. Right.

Mr. BENTSEN. If I may reply, if we settle it for 3 years with the idea of giving us time to go into the next Congress after that, at an appropriate time, with that compromise, and I would have to clear that with other members of the committee.

Mr. KENNEDY. That would not be as——

Mr. BENTSEN. That would give us a year.

Mr. KENNEDY. That is not as satisfactory, but I think it is in the spirit of compromise. I think it would be useful.

Mr. FANNIN. Mr. President, the problem is that the time elements in the bill before us were worked out on a schedule according to the type of activity involved.

I think that the way in which we arrived at those figures, from testimony we had, a great deal of thought was given to what would be best for the development of particular energy industries.

Certainly, to tell someone that they have no assurance beyond a certain short period of time, I think would be a disincentive to them as far as further investment is concerned.

It seems to me the provisions of the legislation are very fair and equitable.

Again, this was discussed in the Interior Committee at times, and we have the distinguished chairman of that committee with us here tonight.

This is tremendously important to many of the States of this Nation. I feel it would be very unfair not to abide by the time elements that are provided in the bill.

Mr. KENNEDY. The fact of the matter is that this limit provides more incentive, because it would encourage businesses to take advantage of the subsidy in the 2- or 3-year period, as the Senator from Texas pointed out. So it has an extra incentive for fast action in conservation.

Even if they cannot use the full credit in the 3-year period, they would still have a 7-year carry forward, under the normal investment credit provisions.

But it would give Congress an opportunity to examine the programs within that period and find out what is being achieved.

So I modify my amendment, Mr. President, to 3 years.

Mr. BENTSEN. That would carry it through December 31, 1979. It is that Congress and for a year following the next one.

Mr. KENNEDY. The Senator is correct.

Mr. BENTSEN. And just the 2003?

Mr. KENNEDY. The Senator is correct.

Mr. FANNIN. Does this include (a), (b), and (c)?

Mr. KENNEDY. Yes.

Mr. FANNIN. They cannot even plan a coal gasification plant in the time the Senator is talking about.

The PRESIDING OFFICER. Will the Senator please send that modification to the desk?

The modification is as follows:

Strike "1978" and insert in lieu thereof "1979".

The PRESIDING OFFICER. The amendment will be so modified.

The question is on agreeing to the amendment, as modified.

Mr. BENTSEN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BENTSEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. HASKELL. Objection.

The PRESIDING OFFICER. Objection is heard.

The assistant legislative clerk resumed the call of the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the quorum call be dispensed with in order to take up the conference report on the Maritime Administration authorization and a Senate concurrent resolution, and that the quorum call be resumed following those two items.

Mr. BENTSEN. I object. I have a unanimous consent request. I ask unanimous consent that the time not be charged to either side of the quorum call.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Without objection, the quorum call will be dispensed with.

The Senator from Alaska is recognized.

MARITIME AUTHORIZATION ACT, 1977—CONFERENCE REPORT

Mr. STEVENS. Mr. President, I submit a report of the committee of conference on H.R. 11481 and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. Stone). The report will be stated by title.

The assistant legislative clerk read as follows.

> The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 11481) to authorize appropriations for the fiscal year 1977 for certain maritime programs of the Department of Commerce, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the Record of July 29, 1976, beginning at p. 24391.)

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

DIRECTING THE CLERK OF THE HOUSE TO MAKE A CORRECTION IN THE ENROLLMENT OF H.R. 11481

Mr. STEVENS. Mr. President, I send to the desk a concurrent resolution, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will state the concurrent resolution.

The assistant legislative clerk read as follows:

S. Con. Res. 134

> That the Clerk of the House of Representatives in the enrollment of the bill (H.R. 11481) to authorize appropriations for the fiscal year 1977 for certain maritime programs of the Department of Commerce, and for other purposes, is authorized and directed to make the following correction: strike out "SEC. 4", and insert in lieu thereof "SEC. 3".

The PRESIDING OFFICER. The question is on agreeing to the concurrent resolution.

The concurrent resolution was agreed to.

Mr. STEVENS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BENTSEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

TAX REFORM ACT OF 1976

The Senate continued with the consideration of the bill (H.R. 10612) to reform the tax laws of the United States.

Mr. BENTSEN. Mr. President, I ask unanimous consent that section 2002 be deferred for consideration until tomorrow, and treated as a separate item.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Texas? Without objection, it is so ordered.

Mr. HASKELL. Mr. President, I appreciate the distinguished acting floor manager's request and the unanimous-consent order, and I would like to state that if the Senator from New Hampshire (Mr. McIntyre) is able to look at the language that affects section 2002 tonight before we get to finishing the title, I would have no objection to taking up the section tonight.

Mr. BENTSEN. I appreciate that statement of the Senator from Colorado.

UP AMENDMENT NO. 294, AS MODIFIED

Mr. KENNEDY. Mr. President, I have modified the amendment for a 2-year limit on section 2003 to make it 3 years, and I hope it will be acceptable.

The Senator from Arizona mentioned particular problems in terms of coal gasification, I believe; am I correct?

Mr. FANNIN. That is correct.

Mr. KENNEDY. And wanted a more extended time for that. I understood it was to go beyond, is that correct?

Firms will be able to get started within this period of time and then be able to carry forward the investment credit for 7 years. Basically we are talking about, if they get started now, a 12- or 14-year period.

Mr. FANNIN. Mr. President, if the Senator will yield, the desire of the Senator from Arizona was to have the provision of the bill apply. It was carefully thought out, we had witnesses and testimony, and the committee members gave consideration to the time elements involved. This is a tremendously important issue, and I feel that if the Senator is willing to let it go as it is provided for in the bill, it would be satisfactory.

Mr. KENNEDY. Mr. President, if I may have the attention of the Chair, I modify my amendment to provide for the 3-year limit on section 2003, with the exception of the areas which have already been designated as 2 years, and to leave the provision of the section unchanged as it applies to coal liquefaction and gasification equipment.

Mr. BENTSEN. Do I understand the Senator is taking the language of the bill on coal gasification?

Mr. FANNIN. And liquefaction?

Mr. KENNEDY. The Senator is correct.

The PRESIDING OFFICER. The further modification as sent to the desk by the Senator from Massachusetts will be received, and the amendment will be so modified.

The modification is as follows:

> Strike the proposed language inserted by UP–294 and insert the following:
>
> (e) Effective date.—Notwithstanding the provisions of subsections (a), (b), (c), and (d), other than the provisions affecting coal liquefaction and coal gasification, the provisions of this section shall expire on December 31, 1979, unless such expiration date in such subsection shall occur earlier.

Mr. BENTSEN. The Senator from Texas, under those conditions, after conferring with the Senator from Arizona and the Senator from Massachusetts, has no disagreement with the amendment.

The PRESIDING OFFICER. Is all remaining time yielded back?

Mr. KENNEDY. I yield back the remainder of my time. Let me inform the manager about the next amendment while we are in the process of modifying this amendment, to expedite matters.

Mr. BENTSEN. To which section is this one addressed?

Mr. KENNEDY. This would be on section 2001.

In this particular section, Mr. President, the bill provides a 30-percent credit up to $750. The amendment which I send to the desk would lower that 30-percent credit to a 20-percent credit. The administration had actually favored a 15-percent credit in its proposals.

Mr. President, we have recently passed the energy conservation legislation, which provided for a 20-percent subsidy for insulation in the area of homes. This amendment to the tax bill would equalize the tax credit and the direct subsidy for a 2-year period. We want to find out which program is going to work. I think this would be instructive and informative to Congress in making its decision two years from now on whether the tax credit or the direct subsidy is the more effective way to encourage the insulation of homes.

The PRESIDING OFFICER. The Chair would ask, is all remaining time yielded back on the amendment which is now pending, the modification having been received?

Mr. BENTSEN. I yield back the remainder of my time.

Mr. KENNEDY. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment, as modified.

The amendment, as modified, was agreed to.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

UP AMENDMENT NO. 295

Mr. KENNEDY. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

> The Senator from Massachusetts (Mr. Kennedy) proposes unprinted amendment No. 295:
>
> On page 1470, line 9, delete "30" and insert "20".
>
> On page 1472, line 13, delete "or door".

Mr. KENNEDY. Mr. President, when we had the FEA bill before us, we adopted a provision which I had introduced for myself, Senator HOLLINGS and other Senators, which provided a direct subsidy for the homeowner to initiate a program of home insulation, and for the adoption of solar energy equipment.

That provision is now about to be reported out of the conference as a 2-year demonstration program. We have, under the pending legislation, 30 percent credit, up to $750 for basically the same kind of home insulation, though obviously there are differences between a credit and a subsidy. You have to have the financial resources in order to be able to take full advantage of the credit.

The purpose of this amendment is to try to provide a reasonable period of time for the testing of these two concepts by giving the same level of credit to those who are interested in taking a tax credit for home insulation, and to be able to measure that against the 20 percent subsidy that they would be given if they are able to take advantage of the demontration program in the FEA bill.

The grants program will amount to a total of $200 million over the 2-year period.

I would hope that after 2 years we would have the basis to make some judgment as to how we can best proceed. Beyond that, the amendment provides some savings, $65 million in the first year and $100 million in the second year.

So I hope this amendment can be accepted.

Mr. BENTSEN. Mr. President, as I understand the Senator from Massachusetts is referring to the 20 percent subsidy for low-income groups, a provision of the bill in which he is also interested.

Mr. KENNEDY. No. That is a separate item in terms of the low-income weatherization program that has already been agreed to. This was the amendment that was actually agreed to. It was the Kennedy-Hollings amendment that would provide a direct subsidy for homeowners for insulation, and it provided for a 20 percent subsidy up to $2,000. It had procedures working through FHA and through State administrative agencies to provide protections and safeguards.

That, as I understand, is ready to be reported back from the energy conference. It is as a demonstration program at $200 million for the next 2 years.

My only purpose in offering this is to try to get a true comparison as to which ways are more effective and which are able to do the job so we will be able to proceed more effectively in the future. That really is the purpose of this particular amendment, and it seems to me to be a useful step.

Mr. BENTSEN. I think what the Senator is seeing here in the Finance Committee bill is a reflection of the very high sense of priority in trying to encourage people to install insulation and, in effect, what the Senator is talking about is cutting the tax credit by one-third. The committee is of the opinion that a higher priority should be placed on it. Therefore, the committee strongly supports the 30 percent credit. We have that provision on a trial basis until January 1, 1979.

When we first considered this, we put it in at 20 percent, and we put it in for a larger amount, but then we decided that we wanted to give greater assistance to those with lower incomes and cut it down to the first $750 for a maximum credit of $225, and raised the percentage from 20 percent to 30 percent. So we have been through the decision process and have come to this conclusion. The committee would have to stay in support of the provisions that it submitted in the bill.

Mr. KENNEDY. The point that I make is that I do not know there is any other provision in the code where we go as high as 30 percent. In just about every other area the investment credit is 10 percent. Child care goes to 20. Earned income credit is 10 percent. Even the ESOP program is only adding 1 more percent on it and the home purchase credit 5 percent. We are going a good deal higher than in any other provision in the code, and I am wondering whether it is not going to go to a rather special group. It is going to go primarily to those who have the resources to be able to take it, and it is going to end up that the people who do not have the resources are going to end up paying more for it because they are not going to have the income to be able to take this particular credit.

This program is also costly in terms of translating the costs in dollars and cents per barrel.

Mr. BENTSEN. It will only be a cost if it is very effective in encouraging insulation and a lot of people take advantage of it. One of the things we are trying to protect against is the very thing the Senator is talking about. which is only making it available where it was something that was of great advantage to people with high incomes. We did that by cutting it down to the first $750 and making it a maximum tax credit of $225 instead of going to 20 percent for a very much larger amount on the tax credit.

I have to say that those of us on the committee have supported this position and feel that it would be very instrumental in encouraging people to insulate and to save in the use of oil in this country.

Mr. KENNEDY. Are there any provisions in that section that will protect against the manufacturers themselves simply raising the cost of various insulation equipment so that actually the moneys are only going to be passed on to the manufacturers and not to in this area?

Mr. BENTSEN. This is a very competitive industry.

Mr. KENNEDY. As I understand, in the last year in the home purchase credit aspect we had some rather strict controls to prevent the developers from raising the price. I am wondering whether similar provisions have been put in to provide protections in these areas.

Mr. BENTSEN. A great deal of this work will be done by the individual himself. We see no practical way of, in effect, imposing price controls on insulation material. We feel that competitiveness in the marketplace will hold these prices in line.

Mr. KENNEDY. As I understand, there are only three manufacturers of home insulation.

Mr. BENTSEN. Not to my knowledge. On home insulation?

Mr. KENNEDY. Home insulation. I believe that is so.

Mr. BENTSEN. I do not believe that is correct, frankly.

Mr. KENNEDY. We heard a good deal about the credit for home insulation a year or so ago when the very detailed studies and reviews were done. It became an idea whose time had not yet come because of the very legitimate concern about whether the benefits were actually going to be realized or worth the expenditures. It seems to me that a reasonable credit—20 percent—would be one that I could support, although I do have some serious questions about even a credit itself. It seems to me the sound public policy approach is to try and compare credits to subsidies in order to try and find out which is the most effective way of doing it and to insure that we are going to have adequate protections.

Mr. BENTSEN. I say to the distinguished Senator there are quite a number of means of insulation. We have aluminum foil, rockwall, and vermiculite. We must have hundreds of companies building storm windows. So there are many approaches in trying to insulate homes, saving on the use of energy, and taking advantage of this. When one talks about the difference between a 30-percent credit and a 20-percent credit and the concern about some particular manufacturer trying to raise the price, or several manufacturers trying to do it, they have the same kinds of incentives and disincentives, be it a 20-percent credit or be it a 30-percent credit.

Mr. KENNEDY. Mr. President, what is the cost of this particular program?

Mr. BENTSEN. The cost is $192 million in 1977, $320 million in 1978, and $272 million in 1979. Under the amendment, as the Senator has proposed it, the figures are $110 million in 1977, $190 million in 1978, and $160 million in 1979. But what we have tried to do, to the extent we think feasible, is to provide a bery strong incentive, and we agreed on that because we think the energy problem is that serious.

Mr. KENNEDY. Mr. President, in a minute I will ask for a vote on this particular measure.

The effect of our savings would be approximately $82 million the first year, $130 million the second year, and $112 million the third year. The purpose of offering this particular amendment is because of the concern that I have generally about the use of the credit in this area. I recognize that we ought to provide some opportunity for the period of time which has been outlined in the bill, which is the 2-year period. We ought to try and be able to measure this particular credit against the other ways that the Senate has attempted and which I believe the energy conference will report back in the next day, and to measure those particular items and do it in a way which is roughly comparable. It seems to me that that is the more desirable way, rather than offering the very substantial provision which is included in section 2001.

Mr. LONG. Mr. President, will the Senator yield?

Mr. BENTSEN. I yield.

Mr. LONG. Is it not true that this applies only to existing homes and drastically reduces the cost of this, the way it is? If you want people to insulate and install storm windows and storm doors in their existing homes, to save energy, you need to make it sufficiently attractive that those people will do that.

Is it not true that if you reduce the 30-percent credit incentive to 20 percent, you are going to drastically reduce the incentive for people to insulate their homes, make it far less attractive to do so?

Mr. BENTSEN. The Senator is correct.

What we are talking about under the insulation tax credit that we have proposed is saving between 50,000 and 100,000 barrels per day by 1979.

In effect, the Kennedy amendment would be cutting this by one-third.

We feel this is such a high priority item that we raised the tax credit to 30 percent to try to significantly encourage insulation.

Mr. KENNEDY. Mr. President, I make a final comment: What the Senator cannot tell us is how much more is going to be insulated with 20 percent than with 30 percent.

Mr. BENTSEN. That is correct.

Mr. KENNEDY. So when he says we are going to save *x* barrels of oil a day with 30 percent and that with the Kennedy amendment we are going to reduce it by a third, there is little basis for that calculation.

I am convinced that 20 percent is the kind of fair incentive to get people to move in this area. The committee made a judgment that it is 30 percent. I think the additional 10 percent, which is $100 million a year, is an excessive underwriting. Even as valuable and worthwhile as the purpose is, that is an unjustified expenditure in this case. That is one of the reasons.

Second, I feel, as I mentioned earlier, that by having it in a more comparable position with the basic kind of subsidy program for which we have already gone on record, we will have a better idea in a 2-year period which is the more effective way of dealing with it. The additional 10 percent is important, but it is not as important as the $100 million a year which this amendment would cost, in my judgment.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. LONG. Mr. President, will the Senator yield?

Mr. BENTSEN. I yield.

Mr. LONG. Is it not true that this is a tax advantage that we hope rank and file people throughout this country—low income, middle income, people in any tax bracket—will take advantage of? We would like to make it attractive enough so that people whose homes are built without proper insulation, without storm windows, without storm doors, will make their homes energy efficient.

Could we not follow the same logic about the Senator's amendment? We could say that if you reduce the tax incentive to 10 percent, people will take advantage of it. It stands to reason that very few people would insulate their homes if we made the tax credit 20 percent. We feel that 30 percent is the correct incentive, and it is limited in how much each person can claim. It is the thought that if we limit this to existing homes with a 30-percent tax credit, it will be an incentive to get a lot of homes insulated.

Mr. BENTSEN. I say to the Senator from Louisiana that we really are trying to aim this at the low-income individual. If someone has a high income, do you think he is going out to buy a home without insulation? Do you think he is going to have a home which is not fully insulated?

What we are talking about is a maximum tax credit of $225. The wealthy individual is already taking care of that, and he is not going to be motivated by the $225. We are trying to take care of the low-income man who buys a house which some builder has put up to give the man some bare housing. He will not have the kind of insulation he needs, and he does not want to pay for the labor that goes into that insulation. This would help the low-income man to buy the insulation, put the battings of wool in, pour in the rockwool, install storm windows, do the job that has to be done, and give him a $225 credit. It will encourage that, and 30 percent is not excessive.

I say to the Senator from Massachusetts that it is a judgment matter, but it is aimed at the individual who will take care of his own installation of that kind of insulation. I think it will save the barrels of oil that have been estimated.

I hope the Senate will support the committee's position.

Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. KENNEDY. Mr. President, I ask for the yeas and nays, and I ask unanimous consent that it be a 10-minute rollcall vote.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Is there objection to the request for a 10-minute rollcall vote? The Chair hears none and a 10-minute rollcall vote is ordered.

The question is on agreeing to the amendment of the Senator from Massachusetts. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Virginia (Mr. HARRY F. BYRD, JR.), the Senator from New Hampshire (Mr. DURKIN), the Senator from Kentucky (Mr. FORD), the Senator from Michigan (Mr. PHILIP A. HART), the Senator from Indiana (Mr. HARTKE), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Hawaii (Mr. INOUYE), the Senator from Montana (Mr. MANSFIELD), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Montana (Mr. METCALF), the Senator from Minnesota (Mr. MONDALE), the Senator from Maine (Mr. MUSKIE), the Senator from Wisconsin (Mr. NELSON), the Senator from Mississippi (Mr. STENNIS), the Senator from Missouri (Mr. SYMINGTON), the Senator from Georgia (Mr. TALMADGE), and the Senator from California (Mr. TUNNEY) are necessarily absent.

I further announce that, if present and voting, the Senator from Virginia (Mr. HARRY F. BYRD, JR.) and the Senator from Minnesota (Mr. HUMPHREY) would each vote "nay."

Mr. GRIFFIN. I announce that the Senator from Massachusetts (Mr. BROOKE), the Senator from Nebraska (Mr. CURTIS), the Senator from North Carolina (Mr. HELMS), the Senator from Maryland (Mr. MATHIAS), the Senator from Idaho (Mr. MCCLURE), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

I further announce that the Senator from Maryland (Mr. BEALL) is absent due to a death in the family.

The result was announced—yeas 17, nays 59, as follows:

[Rollcall Vote No. 462 Leg.]

YEAS—17

Abourezk
Biden
Brock
Clark
Culver
Dole
Eagleton
Eastland
Haskell
Hathaway
Hollings
Johnston
Kennedy
Percy
Proxmire
Stevenson
Taft

NAYS—59

Allen
Baker
Bartlett
Bayh
Bellmon
Bentsen
Buckley
Bumpers
Burdick
Byrd, Robert C.
Cannon
Case
Chiles
Church
Cranston
Domenici
Fannin
Fong
Garn
Glenn
Goldwater
Gravel
Griffin
Hansen
Hart, Gary
Hatfield
Hruska
Huddleston
Jackson
Javits
Laxalt
Leahy
Long
Magnuson
McClellan
McGee
McIntyre
Montoya
Morgan
Moss
Nunn
Packwood
Pastore
Pearson
Pell
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Scott, William L.
Sparkman
Stafford
Stevens
Stone
Thurmond
Tower
Williams
Young

NOT VOTING—24

Beall
Brooke
Byrd, Harry F., Jr.
Curtis
Durkin
Ford
Hart, Philip A.
Hartke
Helms
Humphrey
Inouye
Mansfield
Mathias
McClure
McGovern
Metcalf
Mondale
Muskie
Nelson
Stennis
Symington
Talmadge
Tunney
Weicker

So Mr. KENNEDY'S amendment was rejected.

Mr. PASTORE. Regular order, Mr. President.

The PRESIDING OFFICER. Regular order has been called for.

UP AMENDMENT NO. 296

Mr. KENNEDY. Mr. President, I send an amendment to the desk and ask for its consideration.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk proceeded to read the amendment.

Mr. KENNEDY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> On page 1498 beginning with line 1 strike out all through line 13 on page 1502.

Mr. KENNEDY. Mr. President, I shall be glad to agree to a 20-minute limitation on this amendment. I invite the attention of the Members.

It is a very simple principle that is involved. Hopefully, we can dispose of the amendment quickly, if that is agreeable to the floor manager.

The PRESIDING OFFICER. Is there objection to a 20-minute time limitation?

Mr. ALLEN. What is the amendment, first?

Mr. KENNEDY. The amendment is to strike section 2004, which provides a 22-percent depletion allowance for geothermal steam, and an intangible deduction for geothermal steam. It affects only, probably, a handful of firms. But it is a basic commentary on this tax bill that the Senate of the United States is now preparing to offer the depletion allowance to a whole new industry. I think it may very well portend serious tax expenditures during the 1970's and 1980's. The revenue loss for 1977 is $7 million, rising to $21 million by 1981.

Mr. FANNIN. Mr. President, will the Senator yield? It will attract a great number of companies, and do not say that it affects four or five. I can give the Senator a list.

The PRESIDING OFFICER. Is there unanimous consent for 20 minutes?

Mr. FANNIN. No objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Massachusetts.

Mr. KENNEDY. Here is what the Treasury says about this section:

> The fact of the matter in geothermal energy is that there is only one known field which produces super-heated steam: the Geysers field in California which is already exploited and in use. Geologists believe there may be one other such field in the United States, but the most likely form of geothermal energy will be underground water heated by rocks which, in turn, have been heated by the earth's core. Such sources of geothermal energy are known to exist, but the technology for dealing with dissolved solids and gases is not yet developed. To provide the permanent tax incentives proposed in the bill would thus assure a windfall to present operators of the Geysers and an uncertain benefit for the research and developmental work yet to be completed in the more likely areas of geothermal potential.

The administration position, the Treasury position, is strongly opposed to the enactment of this particular provision.

We know that in 1975 there were only 38 geothermal wells; in 1976, there are 12, which makes 50 so far. As I indicated, they are by established companies.

It is well understood and known where these geothermal fields are. I think this amendment is providing a very substantial windfall to the established firms that are already drilling in these fields. We know the defects of the depletion allowance from the experience of the Senate, which recognized it was not wise or justified for assisting the oil industry. Yet now we extend it to steam.

The section also contains an intangible drilling deduction for steam which again is modeled after the provisions for the oil industry. This particular amendment offers both of those tax benefits, the 22-percent depletion allowance and the intangible drilling deductions.

So I would hope and urge the Members of the Senate to support the amendment.

Again to quote from the Treasury position, they say:

> Ironically, while the bill—

They are talking about this complete bill—

> would attempt to limit shelters in oil and gas syndication, it opens up a wholly new area of predictable tax abuse by sanctioning expensing of capital outlays of geothermal resource investment, and by exempting from tax 22 percent of the gross income from such investments.

That is the position of the Treasury Department, and I think that is a sound position on this section.

I withhold the remainder of my time.

Mr. FANNIN. Mr. President, the Senator is correct. The Treasury Department through its administrative decision has been holding back production of geothermal steam, and it is shameful. The U.S. Court of Appeals for the Ninth Circuit held that geothermal steam is entitled to depletion under the law as a mineral resource and not as a water resource. We are talking about abiding by what the Federal court decisions have held decisions which Treasury has not been willing to abide by. Consequently, we have not had adequate development of this great resource.

Mr. President, FEA Project Independence states that geothermal energy could replace 1 million barrels of daily oil production by 1985. We are holding it back by the lack of a firm tax policy. We have a chance to go forward with this development by adopting section 2004. It would be shameful for us not to do so.

Now, when we talk about where it can be developed, the geothermal field at Geysers Field in northern California, near San Francisco, is producing 500 megawatts of electricity. Five hundred megawatts are about half of the electricity used by the city of San Francisco.

The Senator from Massachusetts says this is perhaps the only field in this country. Just over the hill there is a geothermal development which is estimated to produce as much as 3,000 megawatts. So what are we talking about? We are talking about areas in New Mexico, along the coastal line of the gulf of Texas and in Louisiana, and many other areas around the country.

So, Mr. President, when the Senator says there is no potential, there is tremendous potential. San Diego Gas & Electric has invested heavily in geothermal sites in the Imperial Valley in southern California. The potential is great for the production of large amounts of electricity at these Imperial Valley sites.

This provision costs relatively little. In 1976 the estimated cost is only $14.8 million, going up in 1980 to $20 million. I hope it is much more, because I hope for much greater development.

Mr. President, we have an opportunity to hold this in the bill and to make this development possible. Geothermal is a clean energy source which should be encouraged by this Congress. Section 2004 represents such an incentive.

Mr. BENTSEN. The Senator from Texas yields 3 minutes to the Senator from California.

Mr. CRANSTON. I thank the Senator for yielding.

I rise to oppose the amendment. Not only California but at least 11 Western States are States that have an opportunity to provide geothermal energy.

The Geysers field in California alone is providing the equivalent now of enough electricity to provide all the needs for the city of San Francisco.

In the West it is estimated that the output can produce what would match the output of 25 large nuclear reactors or the equivalent of 300 million barrels of crude oil.

Rather obviously this is a very significant, a very important, way to move toward a much better energy situation. This happens to be one form of energy that is about as pure environmentally as any that will ever be available to us, with the possible, probable, exception of solar energy.

It is a very costly field to get into, costly field to develop. Assistance is needed or we will not develop this new form of energy, and without clearly established tax incentives, geothermal is at a competitive disadvantage with other available energy resources which now enjoy tax benefits, such as coal, oil, gas and uranium.

If this amendment is adopted, if we delete this section, we will be voting to place on the back burner one of the best hopes we have to move toward energy independence.

I, therefore, urge rejection of the amendment.

Mr. KENNEDY. Mr. President, as has been mentioned by—how much time do I have?

The PRESIDING OFFICER. The Senator has 6 minutes remaining.

Mr. KENNEDY. I yield myself 3 minutes.

As has been mentioned by the Senator from California and others, this is already a going industry. The cost of this amendment is $7 million in 1977 which will go mostly to existing companies that are already in operation.

There is no provision, as we adopted in the elimination of the depletion allowance, to limit the benefit to the small producers. One of the beneficiaries is Union Oil Co.

If it does make sense in terms of new exploration, then why do we not have at least a proposal with incentives targeted toward exploration?

The fact of the matter is, as the Senator from California has pointed out, there are already existing companies in the field for whom this benefit will be extremely lucrative, yet they are making a substantial profit.

When this matter was before us in 1975, the Senate did not make any decision. We did not say, "There is a problem, there is a sense of urgency, and we have to provide an additional incentive."

At that time we left it for the courts to make the determination.

Suddenly, in 1976 we are bestowing the loophole we refused to grant in 1975—the 22-percent depletion allowance. And we are also adding the intangible drilling deduction, without any real consideration, without attempting to target the relief where it can do the most good, for the small firms, the new explorers, the new development. Make no mistake about it, the benefit of this amendment is going to established firms already in existence today.

They are going to get the benefit of this new tax subsidy. We should have learned our lesson from the oil depletion allowance over the past 25 years. We are creating what I consider to be that same kind of windfall with this amendment.

Come back to us, show us how it can be shaped or structured efficiently to provide incentives for the new exploration, and then I believe we will be doing the will of the Senate.

But now we are simply providing a windfall for existing companies, including some of the oil companies, to enjoy a windfall at the expense of the taxpayer.

Mr. BENTSEN. The Senator from Texas yields 1 minute to the Senator from California.

Mr. CRANSTON. I say that there is only one field in significantly successful production now, that is the Geyser's Field.

There are other fields where there is great potential, they are not presently being developed. The odds are that most of them will not be developed because they happen to be fields that will be more expensive, unless we provide some incentive, as the present language in the tax bill would provide.

The Union Oil Co. may be a company and there may be some other large ones that have a crack at some of these fields. But there are very many small companies working and hoping to have an opportunity to develop these fields and get into this new energy industry development approach.

If we tighten this opportunity, we will be denying many quite small companies an opportunity to compete effectively in a very important field of energy development.

Mr. FONG. Will the Senator yield me 2 minutes?

Mr. BENTSEN. How much time do I have left?

The PRESIDING OFFICER. The Senator has 4 minutes remaining.

Mr. BENTSEN. I yield 2 minutes to the Senator from Hawaii.

Mr. FONG. Just the other day, Mr. President, the hole at the volcano of Kilauea was opened and there was 60 feet of steam that was generated.

Hawaii, as we know, has no fossil fuel. It is believed that this steam at Kilauea will be able to take care of the Island of Hawaii with 65,000 people.

We also believe if we were to build on Oahu where 700,000 people live, we may be able to strike geothermal energy to take care of our needs in Hawaii.

I think this is a great incentive for new companies to go into that field.

Mr. BENTSEN. Mr. President, I yield myself 1 minute.

The Senator from California makes a very pertinent point in talking about the geothermal industry as being a relatively new industry with a lot of small companies trying to enter the business.

I went to New Zealand's north island where they develop 14 percent of their power from geothermal sources.

Geologists estimate that we have great reserves of geothermal energy. But there is no way to find out for certain without drilling.

A major company can utilize cost depletion but the small independent producer who really needs cash flow has to have the intangible drilling deduction.

I think it it would be absolutely essential to a small company that goes into this business. I do not think it makes that much difference to the major companies that can use a regular cost depletion approach. The small company just cannot keep going, particularly a new one, unless they can have intangible drilling costs charged off to maintain a cash flow to continue to drill.

Mr. KENNEDY. Mr. President, what time do I have remaining?

The PRESIDING OFFICER. The Senator has 3 minutes remaining.

Mr. KENNEDY. Mr. President, I yield myself 2 minutes.

The point is, Mr. President, if we were considering a section here that was patterned after what we did on the oil depletion allowance, I would not be offering this amendment.

But this is not a small producer's amendment. Some of the people who are going to be taking advantage of this subsidy are the dentists up in Haverhill, Mass., because it will be opening up new tax shelters in geothermal energy, just like tax shelters in oil.

If we had the kind of limitation provided for the oil depletion allowance for the small producers, the 2,000 barrels a day limit, I would not be offering this amendment.

Instead, we are opening up a very significant loophole for the major oil companies to take advantage of this whole opportunity.

That is where we are going with this section and the tax benefits it provides.

Mr. BENTSEN. May I interrupt?

I would agree with the Senator, the dentists ought to stick to their own drilling and not get involved in geothermal.

Mr. KENNEDY. But they will not, because the tax shelters will be just as attractive in steam as in oil.

We are going to find a lot of people drilling in the Internal Revenue Code under this section, unless this amendment is accepted.

Mr. President, I am prepared to yield back the remainder of my time.

Mr. FANNIN addressed the Chair.

Mr. KENNEDY. Mr. President, I withhold that.

Mr. FANNIN. Mr. President, the Senator from Massachusetts talks about large companies being involved in the energy area. Let us talk about small companies such as Geothermal Kinetics which is very much involved at Geyserville, also in Idaho, and in Utah. Earth Power Corp., Geothermal Resources, Inc., and many others are small companies which have been formed to invest in and develop this new industry.

I have a study from the Pacific-Northwest Laboratories of the Battelle Institute, a highly recognized institute. Battelle is one of the highest recognized research institutes in the Nation.

This study points to the need for special tax incentives for geothermal in order to achieve noticeable development of this new energy industry. .

Mr. President, it seems like a very small provision when we talk about $14.8 million in 1976 and $20 million in 1980.

I think this certainly is money well spent.

Mr. PASTORE. Vote.

Mr. BENTSEN. I am prepared to yield back the remainder of my time.

Mr. KENNEDY. I yield back my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. BENTSEN. I ask unanimous consent it be a 10-minute rollcall vote.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered, there will be a 10-minute rollcall vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Massachusetts. The yeas and nays have been ordered and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Virginia (Mr. Harry F. Byrd, Jr.), the Senator from New Hampshire (Mr. Durkin), the Senator from Kentucky (Mr. Ford), the Senator from Minnesota (Mr. Humphrey), the Senator from Hawaii (Mr. Inouye), the Senator from South Dakota (Mr. McGovern), the Senator from Montana (Mr. Metcalf), the Senator from Minnesota (Mr. Mondale), the Senator from Mississippi (Mr. Stennis), the Senator from Missouri (Mr. Symington), the Senator from Georgia (Mr. Talmadge), the Senator from California (Mr. Tunney), the Senator from Indiana (Mr. Bayh), the Senator from Michigan (Mr. Philip A. Hart), the Senator from Indiana (Mr. Hartke), and the Senator from Wisconsin (Mr. Nelson) are necessarily absent.

I further announce that if present and voting, the Senator from Virginia (Mr. Harry F. Byrd, Jr.) and the Senator from Minnesota (Mr. Humphrey) would each vote "nay."

Mr. GRIFFIN. I announce that the Senator from Massachusetts (Mr. Brooke), the Senator from Nebraska (Mr. Curtis), the Senator from Arizona

(Mr. GOLDWATER), the Senator from North Carolina (Mr. HELMS), the Senator from Maryland (Mr. MATHIAS), the Senator from Idaho (Mr. McCLURE), the Senator from Virginia (Mr. WILLIAM L. SCOTT), the Senator from Alaska (Mr. STEVENS), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

I further announce that the Senator from Maryland (Mr. BEALL) is absent due to a death in the family.

The result was announced—yeas 24, nays 50, as follows:

[Rollcall Vote No. 463 Leg.]

YEAS—24

Abourezk
Biden
Brock
Buckley
Bumpers
Case
Clark
Culver
Eagleton
Hart, Gary
Haskell
Hathaway
Hollings
Jackson
Kennedy
Leahy
Mansfield
Morgan
Nunn
Pell
Proxmire
Stafford
Stevenson
Taft

NAYS—50

Allen
Baker
Bartlett
Bellmon
Bentsen
Burdick
Byrd, Robert C.
Cannon
Chiles
Church
Cranston
Dole
Domenici
Eastland
Fannin
Fong
Garn
Glenn
Gravel
Griffin
Hansen
Hatfield
Hruska
Huddleston
Javits
Johnston
Laxalt
Long
Magnuson
McClellan
McGee
McIntyre
Montoya
Moss
Muskie
Packwood
Pastore
Pearson
Percy
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Sparkman
Stone
Thurmond
Tower
Williams
Young

NOT VOTING—26

Bayh
Beall
Brooke
Byrd, Harry F., Jr.
Curtis
Durkin
Ford
Goldwater
Hart, Philip A.
Hartke
Helms
Humphrey
Inouye
Mathias
McClure
McGovern
Metcalf
Mondale
Nelson
Scott, William L.
Stennis
Stevens
Symington
Talmadge
Tunney
Weicker

So Mr. KENNEDY's amendment was rejected.

Mr. BENTSEN. Mr. President, the next vote will be the final vote for the evening, and will be on the title of the bill, and we will defer until tomorrow sections 2002 and 2006 to title XX.

The PRESIDING OFFICER. The Senate is not in order. Senators will please take their seats.

Mr. BENTSEN. We will be voting on title XX. I ask unanimous consent that it be a 10-minute rollcall.

The PRESIDING OFFICER. Is there objection?

Mr. HASKELL. Mr. President, reserving the right to object, did the Senator from Texas say we would be voting on title XX with the exception of section 2002?

The PRESIDING OFFICER. The Senator is correct.

Mr. BENTSEN. That is as stated by the Senator from Texas, that we are not voting on sections 2002 and 2006, and title XX would be voted on as if they were not in it, and they will be voted on tomorrow.

The PRESIDING OFFICER. The question is on agreeing to committee amendment No. 30, which is title XX minus the two sections cited, section 2002 and section 2006.

The question is on agreeing to the amendment.

Mr. BENTSEN. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment as modified. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BARTLETT. Regular order, Mr. President.

The rollcall was concluded.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Virginia (Mr. HARRY F. BYRD, JR.), the Senator from New Hampshire (Mr. DURKIN), the Senator from Kentucky (Mr. FORD), the Senator from Michigan (Mr. PHILIP A. HART), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Hawaii (Mr. INOUYE), the Senator from South Dakota (Mr. McGOVERN), the Senator from Montana (Mr. METCALF), the Senator from Wisconsin (Mr. NELSON), the Senator from Mississippi (Mr. STENNIS), the Senator from Missouri (Mr. SYMINGTON), the Senator from Georgia (Mr. TALMADGE), and the Senator from California (Mr. TUNNEY) are necessarily absent.

I further announce that, if present and voting, the Senator from Virginia (Mr. HARRY F. BYRD, JR.) and the Senator from Minnesota (Mr. HUMPHREY) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Massachusetts (Mr. BROOKE), the Senator from Nebraska (Mr. CURTIS), the Senator from Arizona (Mr. GOLDWATER), the Senator from North Carolina (Mr. HELMS), the Senator from Maryland (Mr. MATHIAS), the Senator from Idaho (Mr. McCLURE), the Senator from Virginia (Mr. WILLIAM L. SCOTT), the Senator from Alaska (Mr. STEVENS), and the Senator fom Connecticut (Mr. WEICKER) are necessarily absent.

I further announce that the Senator from Maryland (Mr. BEALL) is absent due to a death in the family.

The result was announced—yeas 73, nays 2, as follows:

[Rollcall Vote No. 464 Leg.]

YEAS—73

Abourezk
Allen
Baker
Bartlett
Bellmon
Bentsen
Brock
Buckley
Bumpers
Burdick
Byrd, Robert C.
Cannon
Case
Chiles
Church
Clark
Cranston
Culver
Dole
Domenici
Eagleton
Eastland
Fannin
Fong
Garn
Glenn
Gravel
Griffin
Hansen
Hart, Gary
Hartke
Hatfield
Hathaway
Hollings
Hruska
Huddleston
Jackson
Javits
Johnston
Kennedy
Laxalt
Leahy
Long
Magnuson
Mansfield
McClellan
McGee
McIntyre
Montoya
Morgan
Moss
Muskie
Nunn
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Sparkman
Stafford
Stevenson
Stone
Taft
Thurmond
Tower
Williams
Young

NAYS—2

Biden
Haskell

NOT VOTING—25

Bayh
Beall
Brooke
Byrd, Harry F., Jr.
Curtis
Durkin
Ford
Goldwater
Hart, Philip A.
Helms
Humphrey
Inouye
Mathias
McClure
McGovern
Metcalf
Mondale
Nelson
Scott, William L.
Stennis
Stevens
Symington
Talmadge
Tunney
Weicker

So committee amendment No. 30, title XX, less sections 2002 and 2006, was agreed to.

ADDITIONAL STATEMENT SUBMITTED

Mr. JAVITS. Mr. President, last Friday, July 30, the Department of Labor and the Internal Revenue Service issued proposed regulations to guide the adoption and use of employee stock ownership plans covered under the Employee Retirement Income Security Act and under the Tax Reduction Act of 1975. The Tax Reform Act of 1976 would make permanent and double the present 1-percent investment tax credit-ESOP covered under the proposed regulations. I believe the regulations directly bear upon the amendment which I will call up tomorrow on behalf of myself, Senator HUMPHREY, and Senators PERCY, MUSKIE, PROXMIRE, and KENNEDY.

I ask unanimous consent to have printed in the RECORD, the Wall Street Journal account of the nature and purpose of the ESOP regulations which appeared in yesterday's edition.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, Aug. 2, 1976]

U.S. AGENCIES PROPOSE RULES TO PREVENT ABUSES IN EMPLOYE STOCK OWNERSHIP PLANS

WASHINGTON.—The government moved to prevent potential abuses of a popular new investment device, the employe stock ownership plan.

Congress encouraged such plans, called ESOPs, in 1974 by exempting them from certain prohibitions in the new federal pension law if they meet certain conditions. Sen. Russell Long (D., La.), chairman of the Senate Finance Committee and a long-time champion of the plans, also has encouraged them through amendments to other federal legislation.

Some companies find the plans attractive because they generate tax advantages to arranging corporate financing and increase employe ownership in company stock. However, the Labor Department and the Internal Revenue Service have been concerned that, instead of providing retirement benefits, some ESOPS may expose workers to unnecessary risks by investing in companies with uncertain futures. They also worry that some owners may design ESOPs mainly to benefit themselves rather than employes.

To cope with such problems, the two agencies Friday published in the Federal Register proposed regulations setting limits on ESOP investments and operations. They asked for public comment by Sept. 30.

SENSITIVE TRANSACTIONS

ESOP transactions are particularly sensitive because they involve dealings in which both employer and employes have a special interest. For example, an ESOP might invest in the employer's securities with proceeds from a loan guaranteed by the employer. Or an employer might sell securities to an ESOP, instead of making a public offering, and achieve considerable tax savings. The pension law prohibits most pension plans from entering into such transactions, but specifically authorizes the ESOPs to do so.

The proposed regulations seek to assure that employe interests will be protected in such intimate dealings with employers. For example, employer loans, or loan guarantees, to an ESOP would be permitted only if the transactions were arranged and approved by an independent third party acting on behalf of the employe plan.

The regulations also require that any loan made to an ESOP must be primarily for the benefit of the plan participants and beneficiaries rather than merely for the benefit of the employer.

Some ESOP critics have been concerned that retired employes wouldn't find a market for closely held stock they had received during their working years. Therefore, the new regulations propose that after Sept. 30 employes must be assured of a market for such stock for two years after they receive it, usually at retirement. The provision requires that the option to sell provide at least the "fair market value" of the securities.

BUYING BACK SECURITIES

In addition, the proposed regulations would prevent employers from insisting on the right to buy back securities from an ESOP before the securities are offered for sale elsewhere.

Both the two-year sell option and the ban on right-of-first-refusal would reverse interpretations of the 1974 pension law issued last fall by the Labor Department and the IRS.

The agencies also proposed to limit ESOP transactions involving life-insurance proceeds. The regulations would prohibit a company's owner from arranging for an ESOP to purchase life insurance on the owner's life with the proceeds at death to be used to buy the owner's stock.

Other regulations seek to prevent a company from selling to an ESOP stock that is inferior because of reduced dividend rights or limited voting rights.

Mr. JAVITS. The Journal reporter believes that the regulations were issued because "some ESOP's may expose workers to unnecessary risks by investing in companies with uncertain futures." The article goes on to explain the need for caution where ESOP's are used as conduits for loans to companies. In many cases, ESOP's are used because of the tax advantages and financing possibilities they afford to companies. The Labor Department and the Internal Revenue Service have recognized and have attempted to limit the potential for abuse that exists whenever ESOP's are utilized for corporate financing, estate planning, or divestiture purposes.

Such risks to which employees may be exposed were outlined in our "Dear Colleague" letters and in my statement upon introduction of our amendment.

The scope of the regulations indicates that the dangers to the employees are genuine, but I am concerned that this area is too complex and the potentials for abuse of ESOP's are too insidious to be handled by regulations alone. Only after receipt of public comment on these regulations will we be in a position to consider permanent incentives. Indeed, after public comment, we may see the need for broad and supplemental legislation containing new safeguards for employees participating in stock ownership plans.

The regulations affirm that much remains to be learned about the ESOP mechanism and its potential benefits and abuses. We must go forward in studying ESOP and all the other alternatives for broadening employee stock ownership before closing the door with permanent tax provisions. I propose that the relevant committees of Congress use their own expertise to investigate and examine the different vehicles for expanded stock ownership. Only upon conclusion of that examination will comprehensive and permanent legislation be in order.

The wide scope of the regulations indicates also that much work still must be done by Congress before we make permanent incentives for one particular plan. The public has been asked to comment on the proposed regulations by September 30, and of course, no one knows what will surface by that date. In any case, it is apparent that enactment of permanent legislation, such as that contained in the Tax Reform Act, and in the form of an amendment to a tax bill, would be premature and imprudent.

I might add that one of the regulations proposed for Investment Tax Credit ESOP's is particularly germane to our amendment. Some have maintained in support of the permanency provisions of the ESOP tax credit contained in the Tax Reform Act, that companies will not adopt ESOP's unless they can be certain the tax benefit will be continued permanently, since the law requires continuing contributions to such plans. The proposed regulations would permit a company to satisfy the permanency standard as long as it contributes the tax credit proceeds in the years the credit is available and in which the company qualifies for it. The regulations state:

> (ii) Permanence. A TRASOP will not fail to be a permanent plan merely because employer contributions are not made for a year for which the 11-percent credit is not available.

This means that a company may establish a tax credit ESOP under our amendment, transfer its allowable amount of tax credit to the plan this year and, if the ESOP tax credit is not extended after 1977, never again have to make another contribution. Certainly, then, the regulations eliminate the reason given by the Finance Committee for immediate, permanent ESOP tax credit extension.

I urge my colleagues to obtain a copy of the Federal Register of Friday, July 30, and to examine the comprehensive regulations that have been proposed.

The proper course available to us at this time, therefore, is to give ESOP the benefit of the doubt, extend the credit for 1 more year at 1 percent, and begin as soon as possible the task of conducting hearings and drafting legislation on employees stock ownership an essential area of national economic policy.

CLEAN AIR AMENDMENTS OF 1976

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that it be in order to order the yeas and nays on the Allen amendment to the Randolph amendment to the Clean Air Act, with the understanding that the distinguished Senator from Alabama will modify his amendment, which he intends to do.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

TAX REFORM ACT OF 1976

The Senate continued with the consideration of the bill (H.R. 10612) to reform the tax laws of the United States.

UP AMENDMENT NO. 297

Mr. LONG. Mr. President, I was informed by Senator Kennedy and those who worked with him on the Kennedy amendment which was agreed to earlier today that the amendment is in need of some technical correction. I ask unanimous consent that the amendment be modified as indicated in the amendment I sent to the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment will be stated.

The assistant legislative clerk read as follows:

> The Senator from Louisiana (Mr. Long) proposes technical amendments numbered 297.

The amendments are as follows:

On page 1495:

On line 21, strike "1987" and insert "1980".

On page 1476:

On line 3, strike "1987" and insert "1980".

On line 16, strike "1981" and insert "1979".

On line 17, strike "1982" and insert "1980".

On line 17, strike "1986" and insert "1981".

On line 18, strike "1987" and insert "1982".

On line 18, strike "1982" and insert "1980".

On page 1487:

On line 8, strike out "1982" and insert "1980".

On line 11, strike out "1982" and insert "1980".

On line 14, strike out "1987" and insert "1980".

On line 18, strike out "1982" and insert "1980".

On line 17, strike out "and (4)" and insert in lieu thereof ", (4), (5), (6), and (9)".

On line 20, strike out "(5), (6), (7), (8), and (9)" and insert in lieu thereof "(7)".

On line 21, strike out "1987" and insert "1982".

Mr. LONG. Mr. President, my understanding is that Senator Kennedy wants to modify it that way, and I ask unanimous consent that it be so modified.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 298

Mr. HATHAWAY. Mr. President, I ask unanimous consent to reconsider amendment No. 279, an unprinted amendment, and substitute therefor the Stevens-Hathaway amendment, which is at the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

> The Senator from Maine (Mr. Hathaway), on behalf of Mr. Stevens, Mr. Muskie, Mr. Kennedy, Mr. McIntyre, Mr. Durkin, and

himself, proposes unprinted amendment No. 298.

Mr. HATHAWAY. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 333, after line 12, strike Sec. 808 (as added by unprinted amendment No. 279) and in lieu thereof the following:

SEC. 808. Small Fishing Vessel Construction Reserves.—In addition to any other vessel which may be deemed an "eligible vessel" and a "qualified vessel" under section 607 of the Merchant Marine Act, 1936 (46 U.S.C. 1177), a commercial fishing vessel under five net tons but not under two tons—

(1) which is constructed in the United States and, if reconstructed, is reconstructed in the United States;

(2) which is owned by a citizen of the United States;

(3) which has a home port in the United States, and

(4) which is operated in the commercial fisheries of the United States,

shall be considered to be an "eligible vessel" and a "qualified vessel" for the purposes of such section 607.

Mr. HATHAWAY. This is simply to correct a technical error that was made in the amendment when it was offered and accepted by the Senate last Friday. I have discussed it with the floor manager of the bill, and I believe he is in agreement with it.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

VETO MESSAGE—S. 2447, TO AMEND TITLE IV OF UNITED STATES CODE

The PRESIDING OFFICER. The Chair lays before the Senate the President's veto message on S. 2447, which the clerk will report, and it will be spread in full upon the Journal.

The legislative clerk read as follows:

Veto message on S. 2447, an act to amend title IV of the United States Code to make it clear that Members of Congress may not, for the purpose of State income tax laws, be treated as residents of any State other than the State from which they were elected.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the message remain at the desk pending further action thereon.

The PRESIDING OFFICER. Without objection, it is so ordered.

The message from the President is as follows:

To the Senate of the United States:

I am returning today without my signature S. 2447, which would exempt Members of Congress from certain local income taxes. This bill provides that a Member of Congress need not pay the income tax levied by a state or municipality in which the Member lives for the purpose of attending Congress.

Since Virginia and District of Columbia laws already exempt from payment of their income taxes Members living in such jurisdictions only while attending Congress, S. 2447 would serve principally to prevent Maryland from levying such taxes on Members of Congress. However, it is one thing for a taxing jurisdiction voluntarily to exempt Members of Congress from its income tax laws and quite another for Congress to mandate a Federal exemption on a state income tax system. I believe such Federal interference is particularly objectionable where, as is the case in Maryland, a portion of the income tax is collected on behalf of counties to pay for local public services which all residents use and enjoy. It should also be noted that this bill would in effect freeze the exemptions now provided by Virginia and the District of Columbia, and they would then be powerless to change their tax laws in this regard.

Since this bill benefits a narrow and special class of persons it violates, in my view, the basic concept of equity and fairness by creating a special tax exemption for Members of Congress while other citizens who are required to take up temporary residence in the Washington area—or elsewhere—do not enjoy a similar privilege.

Finally, those who assert that there is a Constitutional infirmity in applying a state income tax to Members while attending Congress may present the issue to the courts for resolution.

As the end of this session of Congress approaches, the American people would be better served if Congress would direct its attention to the important laws that should be passed this year—to cut taxes and spending; to expand catastrophic health care programs; to limit court ordered school busing; to attack crime and drugs; and to address many other important matters of concern to the American people—rather than by enacting legislation such as S. 2447.

For these reasons, I am returning S. 2447 and asking Congress to reconsider this bill.

GERALD R. FORD.

THE WHITE HOUSE, *August 3, 1976*.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

RESOLUTION COMMENDING THE U.S. OLYMPIC TEAM

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. Kennedy, I send to the desk a resolution and ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 503) commending the United States Olympic team for its excellent record of achievement at the Olympic Games in Montreal.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. KENNEDY. Mr. President, I am extremely pleased to introduce a resolution commending the U.S. Olympic team for its excellent record of achievement at the XXI Olympiad in Montreal.

For the past several weeks the American people were treated to the majesty of Olympic competition in the finest tradition of these ancient games. From each nation came athletes whose commitment to fair competition and sportsmanship transcended national barriers to rekindle the ancient spirit of the Olympiad.

The skill and courage displayed by the U.S. Olympic team brought more to the American people than the 94 medals that were won by our athletes. The U.S. team brought lasting honor to the United States, and their fine performance warrant the commendation of a grateful nation.

Coming from every corner of our country, our competitors displayed the best traditions of the American people. Whether we were in Montreal or here at home, all Americans experienced over and over again the thrill of victory as well as the agony of defeat. And while I cannot do justice in these short paragraphs to the endless stories emerging from Montreal, it is important that we recognized their long record of successes.

We take great pride in the performance of the U.S. men's and women's basketball teams. And while we held greater hopes for our track and field team—they gave their best, and are no less deserving of our appreciation.

In the swimming competition, the names of young American swimmers will remain with us for years to come. Men like Jim Nabor and Jim Montgomery, and all the others who snapped up 27 of 35 available medals leaving a trail of broken world records in their wake.

The list of victories is almost endless. In track, in wrestling, in boxing and gymnastics, in every major event the American team excelled.

From my home State of Massachusetts comes one young man deserving of special recognition. Gymnast Peter Kormann won the bronze medal in the floor exercise with a daring performance that ended a 44 year American individual medal drought in men's gymnastics. I know he will bring additional honor to this sport in the years ahead.

I also take great pride in the record of achievement displayed by young athletes from my State who were on the U.S. Olympic team.

Dorothy Morkas of Raynham won a bronze medal in the equestrian team dressage.

Susan Rojcewicz of Worcester was a member of the outstanding U.S. women's basketball team which won a silver medal in this competition.

Anne Warner of Lexington received a bronze medal as a member of the U.S. women's rowing team of eight.

And from throughout Massachusetts there were others on the U.S. Olympic team. John Everett of South Easton, rowing; David Fellows of Wayland, captain of the U.S. rowing team; Elizabeth Hills of Hingham, and Nancy Storrs, rowing; Gary Piantedosi of Burlington, rowing; William Rodgers of Melrose, who gave his best in the gruelling marathon; and David Weinberg of Newton, rowing.

There were many more who trained in Massachusetts and who went to school in my home State. They too deserve the commendation of the American people.

But as we take great pride in the record of our entire U.S. Olympic Team, it is fitting that we recall the ancient words of Socrates which serve as an inspiration for the Olympiad even now. Socrates said:

> I am a citizen not of Athens, nor of Greece, but of the whole world—the world is my parish.

This universal spirit is truly reflected in the feelings of the athletes themselves toward the Olympic games, and we all have much to learn not only from their sacrifice, but also from the hopes they have for the future of the Olympiad.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 503) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 503

Resolved,

Whereas, the courage, sacrifice, and skill displayed by The United States Olympic Team at the XXI Olympiad in Montreal has brought great pride to our nation, and

Whereas, our nation's gifted athletes displayed the highest degree of sportsmanship—reflecting the time-honored tradition of the ancient Olympiad, and

Whereas, the United States Olympic Team won 94 medals in major events, demonstrating the best athletic heritage of America; and

Whereas, each member of the United States Olympic Team represented the finest spirit of international cooperation and peace in lasting tribute to the Olympic Games and the American people;

Therefore, be it resolved that the Senate of the United States commends the entire United States Olympic Team and the United States Olympic Committee for the outstanding achievements of the American athletes at the XXI Olympiad held in Montreal, Canada

Resolved further, That the Secretary of the Senate be authorized to transmit a copy of this Resolution to the United States Olympic Committee.

SENATE RESOLUTION 504—RESOLUTION RELATING TO THE BIRTHDAY OF PRESIDENT BOURGUIBA OF TUNISIA

Mr. PERCY. Mr. President, I send to the desk a resolution and ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated by title.

Mr. PERCY. Mr. President, I ask unanimous consent that reading be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PERCY. Mr. President, I simply would like to report that earlier today, the Committee on Foreign Relations unanimously reported this resolution. In view of the timely nature of it, I very much appreciate the leadership's willingness to have it considered immediately.

Mr. ALLEN. Mr. President, reserving the right to object, what is the resolution?

Mr. PERCY. The resolution, I say to the distinguished Senator from Alabama, concerns the relationship between Tunisia and the United States.

Today is the birthday of President Bourguiba. He is in his fourth term as President of Tunisia. We have had a long and constructive and friendly relationship between the United States and Tunisia. As the distinguished Senator knows, it is considered, in the minds of the Senator from Illinois and the members of the Committee on Foreign Relations, desirable to confirm our longstanding friendship with Tunisia, the desire for peace in the area, and the desire to see Tunisia continue in its sovereign independence in the program that it has embarked upon.

Mr. ALLEN. Mr. President, reserving the right to object—and I do not want to object, I should like to suggest the absence of a quorum in order that I may look at the resolution.

Mr. ROBERT C. BYRD. Will the Senator withdraw the suggestion while we transact some other business and lay this matter aside temporarily?

Mr. ALLEN. Yes.

EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the action on the resolution by Mr. PERCY be temporarily laid aside and that the Senate go into executive session to consider the nomination of Mr. John W. Eden, of Pennsylvania, to be Assistant Secretary of Commerce.

There being no objection, the Senate proceeded to the consideration of executive business.

The PRESIDING OFFICER. The nomination will be stated.

THE DEPARTMENT OF COMMERCE

The assistant legislative clerk read the nomination of John W. Eden, of Pennsylvania, to be an Assistant Secretary of Commerce.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the President be notified of the confirmation of the nomination.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate resume the consideration of legislative business.

The motion was agreed to, and the Senate resumed the consideration of legislative business.

REQUEST THAT H.R. 13489 AND H.R. 14580 BE HELD AT THE DESK

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that H.R. 13489, and H.R. 14580 be held at the desk pending further disposition.

Mr. ALLEN. Mr. President, reserving the right to object, what was that request?

Mr. ROBERT C. BYRD. I asked that H.R. 13489 and H.R. 14580 be held at the desk pending further disposition.

Mr. ALLEN. What are those measures?

Mr. ROBERT C. BYRD. These are antitrust bills passed by the other body.

Mr. ALLEN. I object.

The PRESIDING OFFICER. Objection is heard.

COMMITTEE MEETINGS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Interior and Insular Affairs be authorized to meet on August 4 to consider several items of legislation; that the Committee on Armed Services be permitted to meet on August 5 to consider certain nominations; that the Subcommittee on Parks and Recreation of the Committee on Interior and Insular Affairs be authorized to meet on August 6 to authorize the establishment of the Congaree Swamp National Preserve in the State of South Carolina; that the Manpower and Personnel Subcommittee of the Committee on Armed Services be authorized to meet on August 4, 5, 6, and 9 relative to promotions for officers in the armed services and the honor code and overall discipline problems at the Military Academy.

The PRESIDING OFFICER. Without objection, it is so ordered.

The PRESIDING OFFICER. May I ask the Senator from West Virginia if he will include in that unanimous-consent request a meeting of the Subcommittee on African Affairs at 10 o'clock tomorrow morning?

Mr. ALLEN. I object.

The PRESIDING OFFICER. I am told that it has already been entered.

SENATE RESOLUTION 504—RELATING TO THE BIRTHDAY OF PRESIDENT BOURGUIBA OF TUNISIA

The Senate continued with the consideration of the resolution (S. Res. 504) expressing the sense of the Senate regarding U.S. relations with Tunisia on the occasion of the birthday of President Bourguiba.

The PRESIDING OFFICER. The resolution will be stated by title.

The assistant legislative clerk read as follows:

> A resolution (S. Res. 504) expressing the sense of the Senate regarding United States relations with Tunisia on the occasion of the birthday of President Bourguiba.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

Mr. PERCY. Mr. President, to the knowledge of the Senator from Illinois, there is no objection to the immediate consideration of the resolution that is pending at the desk now.

There being no objection, the Senate proceeded to consider the resolution.

Mr. PERCY. Mr. President, on the occasion of the birthday of President Habib Bourguiba of Tunisia, and in recognition of the constructive and friendly relationship between the United States and Tunisia, I am at this time offering a concurrent resolution expressing the sense of Congress regarding U.S. relations with Tunisia. I am pleased to share the sponsorship of this resolution with the distinguished Senator from Minnesota (Mr. HUMPHREY).

President Bourguiba is well known to the U.S. Government and to the American people as a responsible leader of his country which has played a constructive international role while pursuing a domestic policy of progress in the economic and social spheres. Recently, on a private visit to Tunisia, I met with President Bourguiba and was favorably impressed with his determination to build, improve and defend his country.

I find of special interest two farsighted policies of the Tunisian Government. Since achieving independence in 1956, the country has devoted 35 percent of its national budget to education. And the first law passed by the new Tunisian Government provided equal rights for women.

Tunisia also pursues its economic development with a view to the future well being of its citizens. During the fourth economic plan period, 1973–76, an average annual growth rate of 6.2 percent has been attained. Now, looking toward the fifth economic plan period, 1977–81, a growth rate of 7.5 percent has been targeted.

Among projects foreseen for the fifth plan period are the development of manufacturing facilities for phosphates and nitrogen fertilizers, natural gas production, increases in iron smelting and metallurgy, the building of cement plants, and improvement in the agricultural infrastructure, the transportation system and educational and health facilities.

The Tunisian Government projects that the fifth plan will require 28.5 percent foreign funding, and I am sure that the United States will wish to contribute appropriate amounts of assistance, as we always have, recognizing that Tunisian stability has been beneficial to peace in North Africa and that economic and social progress in Tunisia are important ingredients of Tunisian stability.

On President Bourguiba's birthday, we congratulate him on the progress already achieved in his country and assure him of our continuing interest in Tunisia's development. We are very pleased with the healthy state of Tunisian-American relations.

Mr. President, the Senate Foreign Relations Committee earlier today voted out unanimously this resolution.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 504) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. Res. 504

Whereas August 3 marks the birthday of Habib Bourguiba, who has served as President of his country since independence in 1956 and is now in his fourth constitutionally elected term of office;

Whereas the years of President Bourguiba's tenure have been characterized by peaceful relations with neighboring states and by a close and friendly relationship with the United States;

Whereas the President and people of Tunisia share with the United States the ideals and goals of peace and undisturbed economic progress in an atmosphere of freedom;

Whereas Tunisia under President Bourguiba has achieved a commendable measure of peaceful economic development through the effective combined use of domestic and international resources: Now, therefore, be it

Resolved, That it is the sense of the Senate that for these reasons President Bourguiba should be honored for his wise and courageous leadership of Tunisia through nearly two decades.

Sec. 2. It is the sense of the Senate that the continuation of Tunisia's economic and social development in circumstances of peace, liberty, and independent sovereignty is important for the stability of the Mediterranean area and for the interest of the United States.

Sec. 3. It is the sense of the Senate that the United States should continue to contribute to the maintenance of peace and the economic and social development of Tunisia through the provision of appropriate levels of economic and military assistance.

Sec. 4. The Secretary of the Senate is directed to transmit a copy of this resolution to the Secretary of State for appropriate transmission.

Mr. PERCY. I thank my distinguished colleague. I thank the leadership for its consideration.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Roddy, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORT OF THE FEDERAL COUNCIL ON AGING—MESSAGE FROM THE PRESIDENT

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, which was referred to the Committee on Labor and Public Welfare:

To the Congress of the United States:

I am transmitting herewith the Annual Report of the Federal Council on Aging, together with two studies undertaken by the Council as required by sections 205(f–h) of the Older Americans Act (P.L. 93–29).

Last year I indicated that I was looking forward to receiving then two studies from the Federal Council on Aging. The Council recognized its responsibilities and undertook the task in a forthright manner. I appreciate the fine work that the Council has done, particularly with the severe time constraints imposed upon it.

The Council's report and studies provide documentation, from the viewpoint of our elderly citizens, which support the need for legislation along the lines of my proposed Financial Assistance for Health Care Act and the Income Assistance Simplification Act which I will be proposing shortly. My proposals would permit both Federal and State programs to be simplified and integrated into a coordinated system that would best meet the needs of our citizens.

COUNCIL RECOMMENDATIONS

With respect to the Supplemental Security Income (SSI) program, the Council has recommended in its program report that legislation be passed that mandates continuance of a specific State supplementation for certain recipients. The Federal Government took over this program from the States on January 1, 1974, and provided a basic payment level to recipients. For those individuals who received benefits under the State programs in December 1973 that were larger than the basic Federal payment level, and who continue to be eligible for SSI, States are required to supplement the basic Federal payment up to the level of the December 1973 payment to such recipients. The requirement does not apply to new recipients who become eligible after December 1973. The Council's legislative proposal would require that the size of the State supplementation to recipients carried over from the State programs on January 1, 1974, could not be reduced. Thus, whenever the basic Federal payment level is increased, this proposal would allow States to continue to maintain a disparity in the benefits for the carried-over recipients versus those recipients who came on the rolls after December 1973—a disparity equal to the amount of the original State supplementation.

Adoption of this recommendation would have two effects. First, it would dictate to the States how they should spend the taxes they assess on their residents. Such action would distort the original concept of the program of separate but complementary roles of the States and the Federal Government. Second, it would require the States to maintain payments to people based on the date they started receiving assistance, even though other residents of the States may have equivalent needs and incomes.

The Council also recommends that the Veterans' Administration (VA) be directed to study the problem of benefit reduction rates caused by simultaneous receipt of benefits from pensions for veterans with nonservice-connected disabilities and other Federal programs. We share the concern of the Council. This problem is being studied by the Veterans' Administration within the context of total reform of the veterans' pension program. The Agency has discussed pension reform with both the House and Senate Veterans' Affairs Committees, and is committed to continuing these discussions with Congress this year. The relationship of veterans' pensions to other Federal benefits can best be addressed in the course of these discussions.

To assess the tax burden on the elderly, the Older Americans Act also required the Council to undertake a study of the combined impact of all taxes on the elderly. Since many of the tax recommendations of the Council are directed toward State and local government, consistent with the enabling authority I am also transmitting this study to the Governors and legislatures of the States for their consideration.

In recognition of the Bicentennial and the many contributions made by older Americans to the welfare of the Nation, the Council's annual report requests the promulgation of a Bicentennial Charter for Older Americans. I have asked Secretary Mathews of the Department of Health, Education, and Welfare, in consultation with the Administration on Aging, to promote discussion of these vital matters at forums of older persons organized by Advisory Committees to the Area Agencies on Aging.

The Federal Council on Aging Annual Report and attendant studies reflect an earnest effort to deal with the lack of equity and efficiency in the present patchwork of income security programs. This unfortunate situation, which has developed over the years, presents problems not only to the elderly and other population groups, but to the taxpayer who must pay the added costs resulting from such inefficiency. My legislative proposals reflect careful consideration of how best to resolve these issues, and I urge prompt action on them by the Congress.

Additional mention should be made of the substantial contribution of the two studies undertaken by the Federal Council on Aging. The efforts of those that participated in the studies will contribute to our effort to provide necessary income and services to our less fortunate elderly citizens in an efficient manner.

These reports will be sent for review and analysis to those Federal agencies serving older persons. After this review, decisions on the recommendations contained in the Council's report will be reflected in future legislative proposals and administrative actions of this Administration.

GERALD R. FORD.

THE WHITE HOUSE, *August 3, 1976.*

PROPOSED FOREIGN PAYMENTS DISCLOSURE ACT—MESSAGE FROM THE PRESIDENT

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, which was referred to the Committee on Commerce:

To the Congress of the United States:

Certain improper activities abroad undertaken by some American corporations have resulted in an erosion of confidence in the responsibility of many of our important business enterprises. In a more general way, these disclosures tend to destroy confidence in our free enterprise institutions.

With this in view, I established the Task Force on Questionable Corporate Payments Abroad on March 31, 1976, and directed it to undertake a sweeping policy review of approaches to deal with the questionable payments problem. On June 14, after reviewing an interim report of the Task Force, I directed the Task Force to develop, as quickly as possible, a specific legislative initiative calling for a system of reporting and disclosure to deter improper payments.

Today, I am transmitting to the Congress my specific proposal for a Foreign Payments Disclosure Act. This proposal will contribute significantly to the deterrence of future improper practices and to the restoration of confidence in American business standards.

This legislation represents a measured but effective approach to the problem of questionable corporate payments abroad:

—It will help deter improper payments in international commerce by American corporations and their officers.

—It will help reverse the trend toward allegations or assumptions of guilt-by-association impugning the integrity of American business generally.

—It will help deter would-be foreign extorters from seeking improper payments from American businessmen.

—It will allow the United States to set a forceful example to our trading partners and competitors regarding the imperative need to end improper business practices.

—It does not attempt to apply directly United States criminal statutes in foreign states and thus does not promise more than can be enforced.

—Finally, it will help restore the confidence of the American people and our trading partners in the ethical standards of the American business community.

The legislation will require reporting to the Secretary of Commerce of certain classes of payments made by U.S. businesses and their foreign subsidiaries and affiliates in relation to business with foreign governments. The reporting requirement covers a broad range of payments relative to government transactions as well as political contributions and payments made directly to foreign public officials. By requiring reporting of all significant payments, whether proper or improper, made in connection with business with foreign governments, the legislation will avoid the difficult problems of definition and proof that arise in the context of enforcement of legislation that seeks to deal specifically with bribery or extortion abroad.

The Secretary of Commerce will, by regulation, further define the scope of reporting required. Small or routine payments will be excluded, as will certain clearly *bona fide* payments such as taxes. Reports will include the names of recipients.

Reports will be made available to the Departments of State and Justice as well as to the Internal Revenue Service and the Securities and Exchange Commission. The Department of Justice and the State Department will, in appropriate instances, relay reported information to authorities in foreign jurisdictions to assist them in the enforcement of their own laws.

Reports also will be made available to appropriate congressional committees. All reports would be made available to the public 1 year from the date of their filing, except in cases where a specific written determination is made by the Secretary of State or the Attorney General that considerations of foreign policy or judicial process dictate against disclosure.

This proposed legislation is intended to complement and supplement existing laws and regulations which can affect questionable corporate payments abroad.

In this regard, I wish to recognize and build upon the fine record of the Securities and Exchange Commission. The Commission already has taken prompt and vigorous action to discover questionable or illegal corporate payments and to require public disclosure of material facts relating to them. Moreover, as the Commission has noted, public disclosure of matters of this kind generally leads to their cessation. In virtually all the cases reported to the Commission, companies discovering payments of this kind have taken effective steps to stop them and to assure that similar payments do not recur in the future.

A principal emphasis of the Commission's activities in this area has been to prompt the private sector to take actions that would restore the integrity of the existing system of corporate governance and accountability. I applaud this approach and expect the Secretary of Commerce to follow the same spirit in administering this new legislation.

However, not all firms engaged in international commerce are regulated under the securities laws and are subject to the disclosure requirements of the Commission. The Commission requires disclosure of payments only when necessary or appropriate for the protection of investors. Further, it has not generally required reporting of the name of a recipient, a requirement which I believe can be an important deterrent to extorters. In addition, the Commission's system of disclosure—focusing as it does primarily on the interests of the investing public—is not designed to respond to some of the broader public policy and foreign policy interests related to the questionable payments problem.

Accordingly, the legislation which I am proposing deals with *all* U.S. participants in foreign commerce—not just firms subject to Commission regulatory requirements—and it calls for the active involvement of the Secretaries of State and Commerce and the Attorney General in administering a system which addresses the full range of public policy interests inherently involved in the questionable payments problem.

The Secretary of Commerce will take every feasible step to minimize the reporting burdens under this new legislation. The legislation directs the Secretary to consult with other federal agencies to eliminate duplicative reporting. Where appropriate, agencies are authorized to combine reporting and recordkeeping in single forms.

In this regard, I also wish to recognize and build upon the Securities and Exchange Commission's acknowledged expertise in financing reporting. Persons subject to the Commission's jurisdiction must maintain books and records that are sufficient to provide data the Commission believes should be disclosed. The requirement that persons subject to SEC jurisdiction maintain adequate books and records is now implicit in existing law; the legislation recommended by the Commission, which the Task Force and I support, would make that requirement explicit. It is contemplated that the Commission will take further steps to assure that companies it regulates maintain adequate systems of internal accounting controls. Thus, it may well be unnecessary for the Secretary of Commerce to impose additional recordkeeping requirements on companies regulated by the Commission to enable compliance with the proposed legislation.

We remain mindful that the questionable payments problem is an international problem which cannot be corrected by the United States acting alone. Consequently, we are continuing our efforts to secure an international agreement which will establish a mutually acceptable framework for international cooperation in eliminating improper business practices.

The legislation I am proposing today can contribute in an important way to the restoration of confidence in America's vital business institutions. I urge its prompt consideration and enactment by the Congress.

GERALD R. FORD.

THE WHITE HOUSE, *August 3, 1976.*

MESSAGES FROM THE HOUSE

At 12:25 p.m., a message from the House of Representatives delivered by Mr. Berry, one of its reading clerks, announced that the House has passed without amendment the following bills:

S. 537. An act to improve judicial machinery by amending the requirement for a three-judge court in certain cases and for other purposes; and

S. 1526. An act to make additional funds available for purposes of certain public lands in northern Minnesota, and for other purposes.

The message also announced that the House has passed the following bills in which it requests the concurrence of the Senate:

H.R. 13297. An act to amend title 5, United States Code, to provide for the application of city withholding taxes to Federal employees who are residents of such city;

H.R. 13489. An act to amend the Antitrust Civil Process Act to increase the effectiveness of discovery in civil antitrust investigations, and for other purposes; and

H.R. 14469. An act to permit agreement providing special pay to physicians and dentists in the Veterans' Administration to be entered into until October 1, 1977.

ENROLLED BILL SIGNED

The message further announced that the Speaker has signed the following enrolled bill:

S. 3589. An act to designate the Federal office building located in Manchester, New Hampshire, as the "Norris Cotton Building."

The enrolled bill was subsequently signed by the President pro tempore.

At 1:10 p.m., a message from the House of Representatives delivered by Mr. Berry announced that the House had passed the following bills in which it requests the concurrence of the Senate:

H.R. 5161. An act to amend section 451 of the Internal Revenue Code of 1954 to provide for a special rule for the inclusion in income of magazine sales for display purposes;

H.R. 10101. An act to amend the Internal Revenue Code of 1954 to exempt certain aircraft museums from Federal fuel taxes and the Federal tax on the use of civil aircraft, and for other purposes;

H.R. 13676. An act to establish in the Energy Research and Development Administration an Energy Extension Service to oversee the development and administration of State plans for the development, demonstration, and analysis of energy conservation opportunities, and the development of programs to encourage the acceptance and adoption of energy conservation opportunities by energy consumers; and

H.R. 14360. An act to amend the John F. Kennedy Center Act to authorize funds for repair, reconstruction, and for other purposes.

At 3:05 p.m., a message from the House of Representatives delivered by Mr. Hackney, one of its reading clerks, announced that the House has passed the bill (H.R. 14580) to amend the Clayton Act to provide for premerger notification and waiting requirements, and for other purposes, in which it requests the concurrence of the Senate.

At 4:36 p.m., a message from the House of Representatives delivered by Mr. Hackney announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 14234) making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1977, and for other purposes; that the House recedes from its disagreement to the amendments of the Senate numbered 10, 36, and 40 concurs therein; and that the House recedes from its disagreement with the amendments of the Senate numbered 3, 7, 12, 26, 27, and 61, and concurs therein, each with an amendment in which it requests the concurrence of the Senate.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The PRESIDING OFFICER laid before the Senate the following letters, which were referred as indicated:

REPORT OF THE FEDERAL ENERGY ADMINISTRATION

A letter from the Administrator of Federal Energy transmitting, pursuant to law, a report on the Crude Supply Alternatives for the Northern Tier States (with an accompanying report); to the Committee on Appropriations.

PROPOSED LEGISLATION BY THE SMALL BUSINESS ADMINISTRATION

A letter from the Administrator of Small Business transmitting a draft of proposed legislation to amend the Small Business Act (with accompanying papers); to the Committee on Banking, Housing and Urban Affairs.

REPORT OF THE FEDERAL ENERGY ADMINISTRATION

A letter from the Administrator of Federal Energy transmitting, pursuant to law, a report entitled "The Exploration, Development, and Production of Naval Petroleum Reserve Number 4" (with an accompanying report); to the Committee on Interior and Insular Affairs.

PROPOSED RESEARCH PROJECTS BY THE DEPARTMENT OF THE INTERIOR

Two letters from the Deputy Assistant Secretary of the Interior transmitting, pursuant to law, two proposed contracts for certain research projects (with accompanying papers); to the Committee on Interior and Insular Affairs.

ORDERS OF THE IMMIGRATION AND NATURALIZATION SERVICE

Two letters from the Commissioner of the Immigration and Naturalization Service transmitting, pursuant to law, copies of orders suspending deportation and a list of the persons involved (with accompanying papers); to the Committee on the Judiciary.

REPORT OF THE COURT OF CLAIMS

A letter from the Chief Commissioner of the Court of Claims transmitting, pursuant to law, a report on the case of Edward White Rawlins v. U.S. (with accompanying report); to the Committee on the Judiciary.

REPORT OF THE NATIONAL COMMISSION FOR MANPOWER POLICY

A letter from the Chairman of the National Commission for Manpower Policy transmitting, pursuant to law, the Third Interim Report entitled "Addressing Continuing High Levels of Unemployment" (with an accompanying report); to the Committee on Labor and Public Welfare.

FEDERAL COAL LEASING AMENDMENTS ACT

A letter from the Secretary of the Interior relating to the proposed legislation (S. 391) the Federal Coal Leasing Amendments Act of 1975; ordered to lie on the table.

PROPOSED REGULATIONS OF THE FEDERAL ELECTION COMMISSION

A letter from the Chairman of the Federal Election Commission transmitting, pursuant to law, a set of proposed regulations (with accompanying papers); to the Committee on Rules and Administration.

PETITIONS

The PRESIDING OFFICER laid before the Senate the following petitions, which were referred as indicated:

A resolution relating to Federal payments for public land adopted by the Board of County Supervisors of Prince William County, Virginia; to the Committee on Interior and Insular Affairs.

Resolutions adopted by the Western Conference of the Council of State Governments as follows:

(1) relating to water pollution control; to the Committee on Public Works.

(2) relating to the local impact of energy resource development; to the Committee on Finance.

(3) relating to in-lieu tax payments; to the Committee on Interior and Insular Affairs.

(4) relating to the saline water program; to the Committee on Interior and Insular Affairs.

(5) relating to weather modification; to the Committee on Interior and Insular Affairs.

(6) relating to western regional energy policy; to the Committee on Interior and Insular Affairs.

(7) relating to vehicle number identification inspection; to the Committee on Commerce.

(8) relating to reduction of red tape for small Federal aid highway contracts; to the Committee on Public Works.

(9) relating to 55 mph speed limit; to the Committee on Finance.

(10) relating to school bus safety; to the Committee on the Judiciary.

(11 and 12) relating to intermediate care facilities for the mentally retarded; to the Committee on Labor and Public Welfare.

(13) relating to dependent children of unemployed fathers; to the Committee on Finance.

(14) relating to Federal supplemental security income assistance; to the Committee on Finance.

(15) relating to the Federal Coal Mineral Leasing Act; laid on the table.

(16) relating to the role of the Western Conference; laid on the table.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. EAGLETON, from the Committee on the District of Columbia, without amendment:

H.R. 13121. An Act to direct the Law Revision Counsel to prepare and publish the District of Columbia Code through publication of supplement V to the 1973 edition, with the Council of the District of Columbia to be responsible for preparation and publication of such Code thereafter (Rept. No. 94-1059).

EXECUTIVE REPORTS OF COMMITTEES

As in executive session, the following executive reports of committees were submitted:

By Mr. McGEE, from the Committee on Post Office and Civil Service:

Robert L. Hardesty, of Texas, and

Hung Wai Ching, of Hawaii, to be governors of the U.S. Postal Service.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. SPARKMAN, from the Committee on Foreign Relations:

Ignacio E. Lozano, Jr., of California, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to El Salvador.

POLITICAL CONTRIBUTIONS STATEMENT

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: Ignacio E. Lozano, Jr.

Contributions:

1. Self, none.
2. Spouse, none.
3. Children and spouses names, none.
4. Parents names, none.
5. Grandparents names, none.
6. Brothers and spouses names, none.
7. Sisters and spouses names, none.

I have listed above the names of each member of my immediate family including their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Nancy V. Rawls, of Georgia, to be the Alternate Representative of the United States of America for Special Political Affairs in the United Nations, with the rank of Ambassador.

POLITICAL CONTRIBUTIONS STATEMENT OF NANCY V. RAWLS

A. Self: none.

B. Parents—Mr. and Mrs. Eugene L. Rawls, Atlanta, Ga.: none

C. Brother—Mr. Eugene L. Rawls, Jr., Johnson City, Tenn.: none.

D. Mrs. Eugene L. Rawls, Jr. (Joanne Wexler Rawls), Johnson City, Tenn.: none.

I have listed above the names of each member of my immediate family including their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Stephen Low, of Ohio, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Zambia.

POLITICAL CONTRIBUTIONS STATEMENT

Nominee: Stephen Low

Post: Lusaka, Zambia.

Contributions: contributer, amount ($), date, and donee.

Self, $50, May 5, 1974, Greg Wolfe; $200, September 10, 1974, Willis D. Gradison.

Spouse, Helen C. Low, $25, January 29, 1976, Morris Udall.

Son (SCL), Stuart C. Low, $25, March 3, 1976, Morris Udall.

Son (RML), Rodman M. Low, $20, May 28, 1976, Morris Udall.

Brother (MLL), Martin L. Low, under $200 per year, Federal, State and local Democratic Party.

Brother (RJL), Robert J. Low, Died in 1976—no way of tracing contributions.

Mother, Margaret F. Low, $25, December 10, 1975, Bella Abzug; $25, July 3, 1975, Jimmy Carter; $25, September 30, 1975, Jimmy Carter; $10, October 21, 1974, Ramsey Clark; $25, December 10, 1975, Ramsey Clark; $25, April 24, 1976, Ramsey Clark; $10, July 26, 1974, Thomas Eagleton; $15, September 30, 1974, Judy Green; $25, September 30, 1975, Fred Harris; $15, October 2, 1974, Lowenstein; $200, April 24, 1972, George McGovern; $16, September 21, 1972, George McGovern; $10, August 7, 1974, Maya Miller; $25, January 5, 1972, Edmond Muskie; $25, December 4, 1973, Proxmire & Metcalf; $185, from May 20, 1975 to May 20, 1976, Morris Udall.

I have listed above the names of each member of my immediate family including their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

(The foregoing nominations from the Committee on Foreign Relations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. WILLIAMS, from the Committee on Labor and Public Welfare:

John A. Penello, of Maryland, to be a member of the National Labor Relations Board.

(The above nomination was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

HOUSE BILLS REFERRED

The following bills were read twice by their titles and referred as indicated:

H.R. 13297. An act to amend title 5, United States Code, to provide for the application of city withholding taxes to Federal employees who are residents of such city; to the Committee on Post Office and Civil Service.

H.R. 13489. An act to amend the Antitrust Civil Process Act to increase the effectiveness of discovery in civil antitrust investigations, and for other purposes; to the Committee on the Judiciary.

H.R. 14469. An act to permit agreements providing special pay to physicians and dentists in the Veterans' Administration to be entered into until October 1, 1977; to the Committee on Veterans' Affairs.

H.R. 5161. An act to amend section 451 of the Internal Revenue Code of 1954 to provide for a special rule for the inclusion in income of magazine sales for display purposes; to the Committee on Finance.

H.R. 10101. An act to amend the Internal Revenue Code of 1954 to exempt certain aircraft museums from Federal fuel taxes and the Federal tax on the use of civil aircraft, and for other purposes; to the Committee on Finance.

H.R. 13676. An act to establish in the Energy Research and Development Administration an Energy Extension Service to oversee the development and administration of State plans for the development, demonstration, and analysis of energy conservation opportunities, and the development of programs to encourage the acceptance and adoption of energy conservation opportunities by energy consumers; to the Committee on Interior and Insular Affairs.

H.R. 14360. An act to amend the John F. Kennedy Center Act to authorize funds for repair, reconstruction, and for other purposes; to the Committee on Public Works.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that today, August 3, 1976, he presented to the President of the United States the enrolled bill (S. 3589) to designate the Federal office building located in Manchester, N.H., as the "Norris Cotton Building."

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. BARTLETT (for himself, Mr. McCLURE, and Mr. FANNIN):

S. 3716. A bill to amend section 35 of the Mineral Lands Leasing Act, as amended, with respect to the payment of moneys received from sales, bonuses, royalties, and rentals of public lands to States. Referred to the Committee on Interior and Insular Affairs.

By Mr. EASTLAND (for himself and Mr. STENNIS):

S. 3717. A bill to amend title II of the Social Security Act so as to add the State of Mississippi to that list of States which are authorized to modify their social security coverage agreements so as to provide coverage thereunder for individuals in certain policemen's or firemen's positions. Referred to the Committee on Finance.

By Mr. BENTSEN:

S. 3718. A bill for the relief of Dr. Juan Fidel Viola, Helen de Guzman, Viola, Mariquit de Guzman Viola and Mark Winston de Guzman Viola. Referred to the Committee on the Judiciary.

By Mr. HARTKE (for himself and Mr. EAGLETON):

S. 3719. A bill to amend title XVIII of the Social Security Act to provide that podiatrists shall be treated as "physicians" for certification and related purposes under the medicare program, and to provide coverage under the supplementary medical insurance program for the cutting and removal of warts; to amend title XIX of the Social Security Act to include podiatrists' services as physicians' services for the purposes of the medical assistance program authorized by that title. Referred to the Committee on Finance.

By Mr. CHILES (for himself, Mr. Long, Mr. Bentsen, Mr. Tower, Mr. Stone, Mr. Allen, Mr. Sparkman, Mr. Eastland, Mr. Thurmond, and Mr. Johnston):

S. 3720. A bill to amend the Tariff Schedules of the United States to impose a duty on imports of shrimp, to limit the quantity of shrimp which may be imported into the United States during any calendar year, and for other purposes. Referred to the Committee on Finance.

By Mr. CHILES (for himself and Mr. Stone):

S. 3721. A bill to authorize payments in lieu of taxes on account of lands acquired for the national park system, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

By Mr. BAKER:

S. 3722. A bill to amend title 5, United States Code, to remove the restriction that survivor compensation to any widow or widower will be terminated if such widow or widower remarries. Referred to the Committee on Post Office and Civil Service.

By Mr. HELMS:

S. 3723. A bill to provide for high levels of employment, stable prices and economic growth by reform of Federal economic policy, revision of Congressional spending practices, stabilization of the United States monetary system, the limitation of artificial barriers to employment, and for other purposes. Referred to the Committee on the Budget, the Committee on Banking, Housing and Urban Affairs, and the Committee on Labor and Public Welfare, jointly, by unanimous consent.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HARTKE (for himself and Mr. Eagleton):

S. 3719. A bill to amend title XVIII of the Social Security Act to provide that podiatrists shall be treated as "physicians" for certification and related purposes under the medicare program, and to provide coverage under the supplementary medical insurance program for the cutting and removal of warts; to amend title XIX of the Social Security Act to include podiatrists' services as physicians' services for the purposes of the medical assistance program authorized by that title. Referred to the Committee on Finance.

Mr. HARTKE. Mr. President, with regard to S. 3205, the Medicare and Medicaid Administrative and Reimbursement Reform Act, about which the Senate Finance Committee's health subcommittee held hearings last week, Senator Eagleton and I are introducing today legislation which, we are confident, complements the objectives of that very proposal.

We applaud the constructive solutions S. 3205 advances to bring improved efficiency and quality to both medicare and medicaid. Now we must responsibly and expeditiously act to effect these needed improvements, or our remaining recourse might well be a reduction in the scope and quality of medical care services available to the programs' beneficiaries. This we can and must avoid at all costs.

The legislation Senator Eagleton and I introduce today addresses three specific problem areas which, if corrected, would bring about additional improvements to both titles XVIII and XIX. Our proposal seeks: The removal of "warts" from medicare's excluded benefit list—section 1862(13)(c); the elimination of extraneous language from medicare's "physician" definition as it relates to podiatrists' services—section 1861(r)(3); and the addition of the doctor of podiatric medicine to title XIX's definition of physician—section 1905(a)(5).

MEDICARE: WARTS

The treatment of "warts" when they affect areas of the body other than the foot is considered a covered medicare benefit. When they affect the foot, they are not. This inconsistent application of the law is deserving of the remedy we have proposed. We are also pleased to note that others in the Congress, as well as the American Podiatry Association and the American Academy of Dermatology, have already acknowledged this inconsistency and do support an appropriate remedy for it.

MEDICARE: PHYSICIAN DEFINITION IMPROVEMENT

It is our further recommendation that improvements to medicare's "physician" definition, section 1861(r)(3), are both needed and justified. I specifically refer to deleting from this section the following language in italics:

except for the purposes of Section 1914(*a*) *Section 1835, and subsections* (*f*), (*k*), (*m*) *and* (*o*) *of this section,* a doctor of podiatry or surgical chiropody, but (*unless clause* (*1*) *of this section also applies to him*) only with respect to functions which he is legally authorized to perform as such by the state in which he performs them.

Although not underscored in the above definition, the words "or surgical chiropody" could also be removed since their significance is fully embraced by "doctor of podiatry."

Having carefully evaluated this recommendation, it is our considered judgment that its adoption would cause no substantive change in either medicare's administration or its projected cost. This is true since the net effect of the recommendation would merely be to authorize the podiatrist as a "physician" under medicare for the following purposes: certifying or recertifying a patient's need for inpatient hospital, skilled nursing facility or home health care; and serving as a "physician" member of a hospital or skilled nursing facility utilization review committee. Whether a podiatrist can or should serve as a medicare "physician" for these purposes is a decision which should be made by participating hospitals, skilled nursing facilities, and home health agencies. Such a restriction serves no useful purpose in Federal law, the primary reason for which we offer this recommendation.

MEDICAID: PHYSICIAN DEFINITION IMPROVEMENT

The third and final issue addressed in our proposal refers to the limited definition given the term "physician" in title XIX. Unlike medicare, whose physician definition includes the podiatrist, medicaid limits the term to medical doctors and osteopaths. This lack of consistency in defining an important statutory term has unnecessarily produced serious problems over the years for carriers, administrators and program beneficiaries. We are hopeful this obstacle can and will be overcome in the foreseeable future.

The principal reason given for limiting title XIX's physician definition has been to help curb program costs. With regard to podiatric medicine, this argument is questionable for at least two reasons:

Nearly 40 State medicaid plans have opted to include the podiatrist within their title XIX benefits. So adding the podiatrist to medicaid's physician definition would not represent a major change in public policy.

More importantly, it should be noted that the medical and surgical care of the foot has always been and remains a required medicaid benefit in every State plan. So adding the podiatrist to medicaid's physician definition does not increase the program's benefit structure, but it does make available additional professional manpower to deal with an already covered service.

When the subject of program costs is considered, an important analogy should be borne in mind. I refer to podiatry's experience with the various States' Blue Shield plans, 48 of which, plus the District of Columbia, have, since 1950, been amended to cover podiatrists' services. Interestingly, only two of these State plans—Illinois and Massachusetts—found it initially necessary to increase their subscribers' premiums for this added benefit. And after brief experiences with this surcharge, each State decided to remove it as an unnecessary assessment. Though not a direct parallel to medicaid, this experience is a meaningful one.

In conclusion, Mr. President, it is important to recall the important health benefits which have accrued to our older and deprived citizens during the past decade. Medicare and medicaid have been blessings for countless Americans. However, both programs have considerable room for genuine improvement. It is with this thought in mind that Senator Eagleton and I offer this measure and urge its early enactment.

By Mr. CHILES (for himself, Mr. Long, Mr. Bentsen, Mr. Tower, Mr. Stone, Mr. Allen, Mr. Sparkman, Mr. Eastland, Mr. Thurmond, and Mr. Johnston):

S. 3720. A bill to amend the Tariff Schedules of the United States to impose a duty on imports of shrimp, to limit the quantity of shrimp which may be imported into the United States durng any calendar year, and for other purposes. Referred to the Committee on Finance.

Mr. CHILES. Mr. President, I introduce on behalf of myself and Senators Long, Bentsen, Tower, Stone, Allen, Sparkman, Eastland, Johnston, and Thurmond, a bill which I will refer to as the "shrimp import bill of 1976."

Very briefly, Mr. President, this bill would provide an annual quota on the amount of foreign shrimp that may be imported into the United States. The quota would be established by taking the average of the imports from a particular country during the years 1971, 1972, and

1973. I believe this is to be a fair method of determining the quota inasmuch as 1972 was a relatively high year for shrimp imports into the United States.

A country-by-country quota seems most appropriate in that it tracks the previous import record as established by those countries.

Further, this bill would permit a monthly breakdown of that annual quota allotted to that particular country. This would avoid the typical means of circumventing our import quotas by dumping the entire annual quota in a short period of time.

Further, the bill would provide for a small ad valorem duty of 5½ percent—that duty is certainly small when you recognize that around the world other countries impose higher ad valorem duties on shrimp—Japan has a duty on shrimp ranging from 5 to 12 percent: The Common Market countries have a duty ranging from 18 to 20 percent: and India, the second largest exporter of shrimp to the United States has a duty on shrimp coming into that country of 60 percent.

The bill also establishes a mechanism by which countries that limit the shrimp production of U.S. vessels in their resource areas will incur concomitant percentage reductions in their imports to the United States. Under this provision whatever limitation there is of U.S. production from a foreign fishery resource will be met with a parallel reduction in imports.

Mr. President, for many months now in both Houses of this Congress, we have debated both in committee and on the floor the neglect of America's first industry—the fishing industry—how we have undertaken every means to insure adequate protection, preservation, and conservation of other resources and industries in our great country, and have done little, if anything, to protect America's fishermen.

As a result of that lengthy debate and strenuous effort, we have on our books today the Fishery Conservation and Management Act of 1976.

This bill provides for a 200-mile economic zone around the United States intended for the protection of America's fishermen. That protection, however, is of little value if we provide no protection whatever against the manipulation and potential destruction of the marketplace in which the fisherman sells his product.

The United States is the strongest seafood market in the world, yet the producing fishermen, operating under the American flag, have little, if any, control over that market. This is especially true in the shrimp industry where there has never been any other form of control exercised over the rampant importation of shrimp such as we witnessed during 1973 and 1974.

During that period we saw shrimp imports in certain months exceed the total amount of shrimp consumed in this entire country, while the U.S. shrimp fishermen who offloaded their production at dockside were faced with such overwhelming competition that they were forced to literally give their catch away at whatever price they could beg.

The shrimp industry, faced with this dilemma, utilized the 1974 Trade Act and petitioned the International Trade Commission—ITC—for relief. After extensive hearings throughout the United States, the ITC, in a 3 to 2 decision, determined that the American shrimp producer had, in fact, received serious injury by the large quantities of foreign shrimp imported into the United States. Unfortunately, they did not heed completely the pleadings of the American shrimp producer, who told them that dollars alone did not answer his needs.

He needed some form of control over the imported shrimp coming into this country. Unfortunately, the ITC sought to provide him dollars, not controls. Their decision stated his remedy should be adjustment assistance.

The industry will undertake every effort to take advantage of this opportunity. However, they are faced with the same dilemma as flood victims who move back into a flooded area after the waters have receded, recognizing that they have been furnished funds to rebuild, but no water control mechanisms whatever to prevent future flooding—and thus they are as vulnerable today as they were the day before the flood, to being totally wiped out at any future time by events over which they have no control.

This, Mr. President, I do not believe should be the fate of America's finest fishery and the fishing industry's greatest dollar producer, the American shrimp industry. For that reason among many, I am introducing this legislation.

I would also like to recognize one other factor that bears mightily upon my decision. Since the beginning of this country, and the early beginnings of our neighbor to the south, Mexico, fishermen of both countries have utilized the gulf. The gulf fishery moves in cycles and for that reason it is essential that our fishermen move from time to time in order to maintain a steady production and to keep our processing plants in full employment.

While we have recognized a 12-mile limit off the United States for fishing purposes, our fleets have historically fished up to 12 miles of the Mexican baseline, and Mexican vessels have done likewise off certain points of the United States.

Mexico recently declared a 200-mile limit to go into effect July 27, 1976. We have declared a 200-mile economic zone which will become effective March 1, 1977. Inasmuch as it is the stated position of the U.S. Government that U.S. shrimp fleet catches off Mexico have historically been from the surplus of shrimp over and above the Mexican fleet's actual catch records, it is a resource which should be readily available to continued fishing by U.S.-flag vessels.

This is especially significant in light of the fact that shrimp has a 1-year life span and after approximately 12 to 14 months will die a natural death if not harvested. Our distant water fleets have historically taken upward of 10 million pounds of shrimp off those fishing grounds, and these 10 million pounds have been an important factor in maintaining level and continuing employment in our processing plants.

Furthermore, Mexico, who has a desire to expand its fishing fleets, has had an opportunity to fish up to 12 miles of our baseline, and, under the statutory provisions of our 200-mile economic fishing zone would be permitted to continue doing so for such fish stocks where surpluses exist. In addition, our country represents a market for approximately $200 million worth of shrimp each year from Mexican production, and the bulk of all Mexican seafood production comes into our markets. However, in recent talks with Mexican officials, our Government and its industry representatives have been faced with an unsympathetic neighbor who has displayed no concern for our interest and needs, or the fact that a resource will waste. They have merely pointed to mathematical projections as justification for denying our fleets access to these fishery grounds where we have traditionally fished. They have ignored statesmanlike offers by U.S. industry representatives and have quoted our 200-mile economic zone provisions when beneficial to their cause, and ignored it when it tended to conflict with their interest.

Further, they have indicated a belief that the United States lacks the will and determination to enforce each and every aspect of that law—most notably those provisions which require embargoing seafood products from countries which refuse to negotiate in good conscience to provide access to fishery surpluses.

I know not what other Members of this body believe to be the proper course of our Government. For myself, I believe any law we have on our books, such as the 200-mile economic zone provision, must be enforced against all parties. It was intended as a Fisherman's Protective Act. If it is not honored, if it is not to be enforced, it is worthless and a fraud on the fishermen. I for one opposed that legislation, but I also support the laws of these United States. Now that it is law, I will undertake every effort to see that it is fully implemented and enforced.

I take this opportunity to indicate to the Senate, to the President, and to the Department of State that I expect them to look upon this law in the same vein. I might also at this point state that in many instances in the past I, and other Members of this body, have been critical—I believe justifiably so—for what appeared to be an ineffective effort of the State Department to represent our interest in dealing with foreign countries. In this particular instance, however, I would like to state for the RECORD that every report I have received from American fishing representatives present in Mexico City during recent negotiations has indicated our Ambassador in those negotiations, and her staff, performed admirably.

Their comments have been commendable in every instance, and have emphasized the fortitude and professionalism with which their interests were represented, and I would like to add my commendation to the State Department officials involved.

I would, however, issue an invitation to all of my colleagues in the Senate to join with me in stating unequivocably to the President, and to all segments of the executive branch affected by this law, that we expect and will demand that every aspect of it be fully and adequately implemented and effectively enforced, and I point with particular emphasis to the so-called embargo provision.

Further, I believe that we have a valuable fishery in the shrimp industry—the No. 1 dollar producer of our fishing industry—and it justifies our interest, our support, and our protection in areas where they are incapable of protecting themselves from foreign influence and manipulation such as in the marketplace. I believe this bill will do this.

I believe we should establish appropriate controls to insure that no country will manipulate, abuse, or damage that market or take advantage of it without paying its fair share in the form of a relatively low import duty.

Mr. President, I ask unanimous consent that the text of the bill I am introducing be printed in the RECORD.

Mr. President, I also ask unanimous consent that a recent article that appeared in the Wall Street Journal concerning the problems of American shrimpers be printed in the RECORD.

There being no objection, the bill and article were ordered to be printed in the RECORD, as follows:

S. 3720

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Shrimp Import Act of 1976".

SEC. 2. FINDINGS.

The Congress finds that erratic changes in the volume of shrimp imported into the United States which have resulted in unstable prices for shrimp on the domestic market have injured and will continue to injure the American shrimp industry. In order to maintain stable prices for shrimp in the domestic market essential to promote the growth of the American shrimp industry, it is the policy of the Congress to stabilize the quantity of shrimp imported into the United States.

SEC. 3. IMPOSITION OF DUTY ON SHRIMP.

(a) IN GENERAL.—Subpart E of part III of schedule 1 of the Tariff Schedules of the United States (19 U.S.C. 1202) is amended by inserting after item 114.40 the following new item:

." 114. 42 Shrimp_ 5½% ad val. 5½% ad val".

(b) STATUS OF RATE.—The rate of duty prescribed in rate column numbered one of the Tariff Schedules of the United States, as amended by this section, shall be considered to have been proclaimed by the President as necessary or appropriate to trade agreements to which the United States is a party, not as a statutory provision enacted by the Congress.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to articles entered, or withdrawn from warehouse, for consumption after December 31, 1976.

SEC. 4. IMPOSITION OF QUANTITATIVE RESTRICTION.

(a) IN GENERAL.—No quantity of shrimp, specified in item 114.42 of the Tariff Schedules of the United States, from a foreign country may be entered, or withdrawn from warehouse, for consumption after December 31, 1976, in excess of the base period quantity for that country, as determined by the Secretary of Commerce under subsections (b) and (c) and certified to the Secretary of the Treasury.

(b) BASE PERIOD QUANTITY.—Except as provided in subsection (c), the term "base period quantity" means the average annual quantity of shrimp imported from a foreign country into the United States computed over the calendar years 1971, 1972, and 1973, as determined by the Secretary of Commerce.

(c) SPECIAL RULES.—Notwithstanding subsection (b)—

(1) If shrimp was imported into the United States from a foreign country during one or two, but not during all three, of the calendar years 1971, 1972, and 1973, then the Secretary of Commerce shall determine the base period quantity for such country on the basis of the most recent representative 3-calendar-year period during which shrimp was imported into the United States from such country. For purposes of such determination, the Secretary shall use information for each of the calendar years 1971, 1972, and 1973 during which shrimp was imported into the United States from such country.

(2) If shrimp was imported into the United States from a foreign country before calendar year 1971 and no shrimp was imported into the United States from such country during calendar years 1971, 1972, and 1973, then the base period quantity for such country shall be the largest quantity of shrimp imported into the United States from such country during any calendar year before calendar year 1971, as determined by the Secretary of Commerce.

(3) If no shrimp was imported into the United States from a foreign country during any calendar year before calendar year 1974, then the base period quantity for such country shall be 50,000 pounds.

(d) LIMITATIONS.—

(1) TEN PERCENT PER MONTH.—No quantity of shrimp from a foreign country may be entered, or withdrawn from warehouse, for consumption during any 30-day period in excess of 10 percent of such country's base period quantity, as determined under subsections (b) and (c).

(2) NUMBER OF HEADLESS SHRIMP PER POUND.—The number of headless shrimp per pound from a foreign country entered, or withdrawn from warehouse, for consumption may not exceed 110 percent of the average number of headless shrimp per pound imported from such country into the United States computed over the base period. For purposes of this paragraph, the term "base period" means the period of time over which the base period quantity for such country is determined under subsection (b) or (c) or, in the case of a foreign country the base period quantity of which is determined under subsection (c) (3), the most recent representative period.

(d) ADJUSTMENT OF QUANTITATIVE RESTRICTIONS.—

(1) INCREASES.—If the Secretary of Commerce determines that total shrimp supplies are inadequate to meet consumer demand the Secretary may, upon individual petition of each foreign country, increase such country's quantity of imports by not more than 10 percent of the quantitative restriction which, but for this paragraph, would apply to that country.

(2) DECREASES.—Whenever the Secretary of Commerce determines that a foreign country, by agreement with the United States or through other action of the government of such country, causes a reduction in the annual volume of shrimp harvested by United States vessels from waters over which such country asserts jurisdiction, the quantitative restriction which, but for this paragraph, would apply to that country shall be reduced by an amount which bears the same ratio to such restriction as the amount of the annual reduction bears to the annual volume of shrimp harvested by such vessels from such waters prior to such agreement or action.

SEC. 5. SHRIMP CONSIDERED TO BE DOMESTIC SHRIMP.

For purposes of this Act and item 114.42 of the Tariff Schedule of the United States, domestically produced shrimp shall be considered to include shrimp caught by a vessel which is registered in the United States without regard to the location from which such shrimp is shipped when it is entered into the customs territory of the United States.

SEC. 6. SHRIMP MARKETING, RESEARCH, AND FOOD ASSISTANCE FUND.

(a) ESTABLISHMENT.—There is established on the books of the Treasury an account to be known as the Shrimp Marketing, Research, and Food Assistance Fund (hereafter referred to as the "fund").

(b) APPROPRIATION.—There are appropriated to the fund amounts equal to the amounts collected under item 114.42 of the Tariff Schedules of the United States (relating to shrimp). Such amounts shall remain available without fiscal year limitation.

(c) SHRIMP MARKETING AND RESEARCH.—There are authorized to be appropriated from time to time to the Secretary of Commerce one-half of the amounts in the fund solely for the purposes of—

(1) conducting marketing studies with respect to the sale of domestic shrimp in the United States and in foreign countries,

(2) research to develop better methods for catching and processing shrimp, and

(3) promoting increased sales of domestic shrimp in the United States and in foreign countries.

(d) SHRIMP FOOD ASSISTANCE ACCOUNT.—

(1) IN GENERAL.—There are authorized to be appropriated from time to time to the Secretary of Agriculture one-half of the amounts in the fund solely for the purpose of purchasing surplus domestic shrimp products to help carry out programs described in clause (3) of the first sentence of section 416 of the Agricultural Act of 1949 (7 U.S.C. 1431) and other food assistance programs administered by the Secretary of Agriculture.

(2) CONDITION.—No amount may be obligated for the purposes of paragraph (1) unless there is in effect a determination that the supply of domestic shrimp exceeds the demand for such shrimp to such an extent that the stability of the market for domestic shrimp is threatened, as determined by the Secretary of Commerce and certified to the Secretary of Agriculture.

Any determination made under this paragraph shall remain in effect for the 90-day period beginning on the date on which such determination is certified to the Secretary of Agriculture. A firm or its representative may petition the Secretary of Commerce (hereafter in this paragraph referred to as the "Secretary") to make a determination under this paragraph. Upon the receipt of the petition, the Secretary shall promptly publish notice in the Federal Register that he has received the petition and initiated an investigation. If the petitioner, or any other person, organization, or group found by the Secretary to have a substantial interest in the proceedings, submits not later than 10 days after the date of the Secretary's publication under the preceding sentence a request for a hearing, the Secretary shall provide for a public hearing and afford such interested persons an opportunity to be present, to produce evidence, and to be heard. A determination shall be made by the Secretary for purposes of this paragraph not later than 60 days after the date on which a petition is filed under this paragraph. For purposes of this paragraph, the term "firm" includes an individual proprietorship, partnership, joint venture, association, corporation, business trust, or cooperative engaged in the business of catching, processing, or selling domestic shrimp.

[From the Wall Street Journal, July 28, 1976]

Fishing-Boat Blues: Despite Higher Prices, Shrimpers' Profits Are Hurt by Rising Expenses and Imports

(By Karen L. Arrington)

Freeport, Tex.—Two years ago, depressed prices, rising costs and import competition rocked the U.S. shrimp-fishing industry, sending many single-boat operators into dry dock.

Today, retail shrimp prices have rebounded sharply, up about 50% from a year ago in some cases and more than doubled since 1973, but the folks who net the seafood delicacies are still struggling to make ends meet.

To be sure, shrimpers aren't bemoaning the higher prices and their return to marginal profitability, but they do feel they have a long way to go and several problems to overcome before once again becoming a healthy industry. "Prices are satisfactory, and shrimpers have been showing a small profit since about mid–1975," says George Snow, executive director of the Louisiana Shrimp Association. "But this is only allowing most shrimpers to recoup their losses of two years ago."

A combination of factors is preventing domestic shrimpers from fully enjoying increased profits that should follow higher prices and strong demand for their catches. Skyrocketing operating costs and a further influx of lower-priced imported shrimp continue to plague U.S. shrimp fishermen. In addition, poor weather and a political hassle over territorial fishing rights in the Gulf of Mexico threaten U.S. shrimpers along the Gulf Coast, the source of this country's most productive and valuable shrimp beds.

GULF COAST CONCENTRATION

Shrimping accounts for more than a quarter of the production and annual sales of U.S. seafood industry. Last year, more than half of the 208 million pounds of shrimp and 79% of its $206 million value came from catches concentrated between Brownsville, Texas, and Key West, Fla. (The Pacific Northwest ranks second, with 39% of the country's shrimp volume, mostly from Alaskan catches.) Nearly 8,100 boats, or three-quarters of the total U.S. shrimp fleet, work out of Gulf ports, employing more than 20,000 crewmen.

There isn't any estimate of how many shrimp-boat operators were squeezed out of business two years ago, but even those who survived had a scare. "Shrimp prices went down when everything else was going up, and it almost put me out of business," says Eugene Vandergrifft, a Freeport shrimper and president of the Texas Shrimp Association. "In 1974, when the price here was $2.10 a pound, it was costing us $2.40 a pound to produce."

Imported shrimp depressed domestic shrimp prices at a time when operating costs were on the rise. As a result, shrimpers showed an average loss of nearly $10,000 a boat in 1974, according to data submitted to the Commerce Department. Last year, their profit was a slim $600 a boat or about 2% of sales, far below the 14% average profit for the three years prior to 1974.

Along the Gulf Coast today, shrimp is retailing for as much as $5.40 a pound, with prices hitting $6 or more a pound in New York and $7 in Washington, D.C. "For us to survive we need the price of shrimp to be up there," contends Julius Collins, a Brownsville shrimp-boat operator.

And, although shrimp is rapidly becoming a luxury item on most menus, consumers appear willing to pay the higher prices. Whether fresh, frozen, canned, breaded, boiled, fried or in cocktails, gumbo or jambalaya, Americans are eating more shrimp and resisting any shift to less-expensive substitutes, industry studies show.

Still, the average shrimp-boat operator is finding it difficult to pay his bills. Shrimpers typically are small operators, with half of all U.S. shrimp boats being captain-owned. Larger operators may own several boats. All shrimpers say their operating costs have tripled in the last three years. Wright Gore Jr., vice president of Western Seafood Co., a Freeport wholesaler and operator of 10 boats, says, "Our operating costs have jumped to $20,000 a boat annually from $7,500 in just two years."

Fuel costs, for example, now account for a third of a shrimper's operating expenses, compared with only one-tenth three years ago. The price of diesel fuel along the Southeast coast averages 35 cents a gallon, up from 10 cents in 1973 (an average shrimp boat uses 400 to 500 gallons of fuel a day). This expense alone, shrimpers say, has forced them to trawl shorter distances, shrimp fewer days and just keep the boat moored during lean months.

Rising insurance rates and crew wages are also taking an increased share of a boat's revenues. Average yearly insurance premiums have doubled in two years to about $5,000 a boat. Inexperienced crewmen are demanding $4 an hour, up from $2 an hour two years ago. (An average shrimp boat carries a crew of three, including the captain, although larger corporate-owned boats may have five to 10 with each man earning between $8,000 to $10,000 a year.)

Shrimpers complain too that imported shrimp is undercutting domestic prices. Fuel and labor costs alone for U.S. shrimpers are up to four times greater than those of their international counterparts—principally Mexico, India, Pakistan and some South American countries. This enables foreign shrimpers to sell their catches here at prices below those of domestic shrimp, depending on size and quality.

DUMPING HAS HURT

Shrimp-industry spokesmen agree that the country needs imported shrimp to help supply the U.S. market, "but dumping (selling the shrimp at below fair market value) in the past by Mexico and India has hurt us," says Western Seafood's Mr. Gore. Increased imports during a good domestic season force U.S. prices down. In 1974, shrimp imports totaled 252 million pounds, up 20% from a year earlier and comfortably more than the 224 million pounds landed by U.S. shrimpers that year. (Shrimp are weighed after their reads have been pinched off, and all weights refer to heads-off weight.)

Earlier this year, the U.S. International Trade Commission found that shrimp imports were entering the country in large enough quantities to be "a substantial cause of injury" to the U.S. shrimp industry. Soon afterwards, President Ford ordered trade-adjustment assistance for the industry and its employees, offering low-interest loans to those shrimpers who bailed out during the recent slump.

But that won't solve the present problems of Gulf Coast shrimpers. Above-average rainfall and unseasonably cold weather in the last two years have contributed to reduced supplies. "Fresh water from heavy rains and unusually low temperatures in April and May killed many of the susceptible young shrimp maturing in the estuaries," says Gary Graham, a marine fisheries specialist with the Texas Agricultural Extension Service.

Some shrimp-boat captains along the Gulf Coast also stand to lose one of their prime fishing areas. The U.S. and Mexico are continuing negotiations over fishing rights off the Mexican coast. Beginning next month, Mexico proposes to prohibit all but its own boats from fishing within 200 miles of its coast. If that proposal takes effect, U.S. shrimpers will lose about 10 million pounds of shrimp annually, some sources estimate.

PRICES COULD GO HIGHER

In addition, if the 600 boats that normally fish the Mexican waters are forced to compete for supplies inside the Gulf waters from Texas to Florida, prices of these supplies will probably go even higher. If this country is denied rights to Mexican waters, legislation sponsored by Texas Democratic Sen. Lloyd Bentsen, and passed earlier this year, would prohibit Mexico from exporting 80 million pounds of shrimp annually to the U.S. (Shrimp is Mexico's third largest export, and the U.S. is its principal market.)

"If they (Mexico) can push us out and if our government doesn't put a high tariff on Mexican shrimp, then we don't have much of a government left," says J. W. Beatty, a Cameron, La., shrimp boat owner-operator.

For different reasons, shrimpers in Maine, New Hampshire and Massachusetts have had their coasts closed off to them since April. "There just aren't any shrimp," says Jack Mahoney with the National Marine Fisheries Service in Gloucester, Mass. "All fish supplies are in a depletive state here, especially shrimp." Too much fishing shrunk the supplies, officials say. State biologists say they will monitor shrimp breeding this fall, but no date has been set to reopen shrimping in New England.

Mr. TOWER. Mr. President, I want to thank my friend, Senator Chiles, for introducing this legislation to revise the tariff structure relating to shrimp imports, and to take this opportunity to express my wholehearted support for this much-needed bill.

I would further like to associate myself with his remarks, and those of my very able colleague and good friend, Senator Long, whose knowledge and expertise on the tax structure of this country is unmatched. The senior Senator from Louisiana likewise has long been recognized as a friend and supporter of the gulf coast shrimp industry, which my State of Texas shares with Louisiana, Mississippi, Alabama, and Florida.

Mr. President, during the recess just past, I had the opportunity to visit with shrimp producers in Brownsville, Tex., and to discuss with them the problems they face. Shrimping in Texas has always accounted for a dominant share of our total fisheries industry, and so many of the citizens in Texas depend on that industry for related jobs and income. I might add, with all due respect to my colleagues from other States, that Texas-caught shrimp always are far superior in taste and texture to those of the rest of the world.

But while I am extremely proud of the contribution which Texas shrimpers make to our State's economy, I am quite concerned that forces beyond their control threaten their very livelihoods, and in the process, the future viability of their industry.

One of the key problems which they face is the large importation of shrimp into this country, particularly from Mexico, which in the past has provided a great deal of competition. Now, with the decision of Mexico to impose a 200-mile limit and to shut off historical shrimping area to our fishermen, the threat of import domination of the market is greater than ever.

I believe, along with Senators CHILES and LONG, that the bill introduced here today, which I am pleased to cosponsor, will ameliorate somewhat the situation, without threatening the domestic supply of shrimp available to consumers.

However, the bill will not solve the basic dilemma facing our shrimpers from south of our border. There is need, Mr. President, for serious, and good-faith, negotiations between the United States and Mexico, for if there are not, I believe it may be necessary to trigger those provisions of law which were recently passed as part of the law establishing an American 200-mile limit, and which would penalize those countries which seek to advance their own economic interests at the expense of this country.

I had hoped that recent talks between the United States and Mexico might be fruitful in reaching a solution to the question of American access to shrimp beds in Mexico's now-claimed waters.

Unfortunately, this was not the case, and there is strong feeling that there is a lack of cooperation on the part of the Mexican interests represented in these negotiations. This is regrettable. We do not need a trade war with Mexico, and neither do they with this country. However, it is clear that there will eventually reach a point at which the anger of this body and this Congress is provoked because of the absence of good-faith negotiations with Mexico.

Mr. President, we should take this step, in enacting this legislation, to rectify an inequitable situation. As I said, it will help. And at the same time, we must look at the total picture to understand the ramifications of these problems on the American shrimping industry. They are complicated, and they must be solved to insure the stability and continued viability of the industry. Part of the problem can be resolved here, but much of it cannot. I would ask only that, in supporting this bill, my colleagues do not overlook that which remains to be done.

Mr. STONE. Mr. President, recently the Senate Select Committee on Small Business held hearings on the economic problems confronting the American fishing industry. The object of these hearings was to find out why the U.S. commercial fishing industry has declined over the last 30 years to the extent that it is now ranked only 17th in the world.

The last few years have been particularly devastating for American fishing interests. When the energy crisis occurred in 1973, fuel costs for fishing boats increased nearly threefold. The shrimp industry was hit the hardest. The price of shrimp declined dramatically in 1974. For example, gulf fishermen received only 93 cents per pound for 36–40 count shrimp in September 1974, compared to $1.98 per pound a year earlier.

The report prepared by the Small Business Committee contains the following statement:

> Although there are many reasons for the difficulties which the shellfish (shrimp, crab, lobster) section of the fisheries industry is suffering, testimony received indicated that the three main problems were:
>
> (1) the lack of long-term, low-interest loans to help finance the purchase of new boats, or the repair of used boats and new or used shoreside facilities;
>
> (2) the dumping of foreign imports on the American markets; and
>
> (3) the spiraling cost of fuel to the smaller fishing operations.

Senator HATHAWAY has introduced legislation to take care of the first problem cited in the report, by providing for incentive loans to the commercial fisheries industry. I have cosponsored this bill, which I believe will do much to ease the financial condition of the industry. And today I am happy to join my colleague from Florida, Senator CHILES, by cosponsoring his bill, the Shrimp Import Act of 1976, which seeks to solve the second problem as it relates to the shrimp industry.

Senator CHILES' bill would impose an annual quota on imported shrimp. The quota would be based on the average amount of shrimp that a foreign country sent to the United States during 1971–73. Thus, the quota will be responsive to each foreign nation's needs and should not unduly restrict their shrimp exports to this country. Additionally, each foreign country is required to distribute their quota evenly throughout the year. To prevent sudden flooding of the American market with foreign shrimp—which in the past has resulted in greatly depressed prices for American shrimp—a country may not send more than 10 percent of its quota during any 30 day period.

The bill would also establish a 5½ percent ad valorem duty on imported shrimp. Currently, no duty is imposed. This modest charge on imported shrimp will be used not only to provide some protection for American shrimpers, but also to help fund a marketing program to increase the sale of domestic shrimp.

Mr. President, the American fishing industry needs help. I believe that the Shrimp Import Act of 1976 will go a long way toward stabilizing an uncertain market and insuring that domestic shrimp can compete effectively with imported shrimp.

Mr. BENTSEN. Mr. President, I am delighted to join with my gulf coast colleagues in cosponsoring the legislation being introduced today to establish a quota on shrimp imports. Shrimping is a very important industry in my State of Texas and I am concerned over its continued well-being in view of an alarming trend toward rising imports of foreign shrimp. For example, in 1971, imports of shrimp totaled 193 million pounds, increasing to 216 million pounds in 1975. In 1974 alone, imports were 252 million pounds, 14 percent above the previous year, and the highest level in history. At the same time, imported shrimp is being sold at sharply declining prices, by as much as 30 percent in 1974.

These lower prices have had a depressant effect on the price of domestically produced shrimp. As a direct result of the influx of cheap foreign shrimp, domestic production by U.S. shrimpers has decreased by as much as 10 percent in recent months with resulting serious unemployment in the gulf coast shrimping industry.

The U.S. shrimp industry is an industry which does not have at present, nor has it ever had, any form of benefit from import duties, restrictions, or quotas. It is, therefore, an excellent example of what disasters can befall a viable industry which has no form of protection from foreign products, produced at exceptionally low labor costs, and at minimum capital investment on the part of the producing countries—either because such products are produced with primitive equipment and cheap labor methods, or because they are produced with modern methods and technology, fully financed by exceptionally low cost loans furnished, in many instances, by the U.S. Government or U.S. Government supported organizations.

The U.S. shrimp industry is America's No. 1 dollar-producing fishery and has been for decades. It is one of the most modern, and efficiently run fisheries in the United States, and has been financed over the years by substantial private investment. The wisdom of such private investment was readily recognized in the form of economic returns to the investors, to the industry, and to the Nation's gross national product. In the past few years, however, this gem of the U.S. fishing industry has been brought virtually to its knees. While there are several factors involved in the economic hardship with which they are presently faced, one of the largest of those factors is the totally unrestrained or unregulated importation of cheap, foreign shrimp.

There is a desperate need for some form of regulation of the imported shrimp entering this country each year, if the U.S. shrimp industry which we have known is to survive and recover.

Mr. President, I urge the Senate's support of this legislation.

By Mr. CHILES (for himself and Mr. STONE):

S. 3721. A bill to authorize payments in lieu of taxes on account of lands acquired for the national park system, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

Mr. CHILES. Mr. President, I am today introducing legislation, along with Senator STONE, which will authorize the Secretary of the Interior to provide compensation for tax losses sustained as a result of any acquisition by the United States, subsequent to the approval of this act, of privately owned real property for any unit of the National Park System. These payments shall be made by the Secretary of the Interior to the State wherein the property lies for distribution to those affected areas according to the following schedule:

For the year of acquisition, the amount paid shall be equal to the full amount of annual taxes last assessed on that property, less any amount previously paid for that period; for each of the 4 succeeding years, the amount paid shall be equal to the full assessed value, less 20, 40, 60, and 80 percent, respectively.

The importance of this bill may be seen when one realizes the potentially harmful effects suffered by a local government as a result of Federal acquisition of land within that jurisdiction. Local governments have few sources of tax revenue on which to rely in providing necessary services to its residents. The single most important of these has been, increasingly, the real estate tax. When this key resource is diminished, both the quantity and the quality of the provided services are put into jeopardy. It is not only a question of whether a given number of services can be maintained, but whether the quality of these services can be improved.

When the national government, in the process of acquiring privately owned land for the park system, takes large tracts of land off the local tax rolls, a great burden is placed upon these local governments. An example of this type of situation may be seen in Collier County, Fla., where 32 percent of the county is being placed in a tax-exempt status as a result of the purchase of the big cypress watershed.

Although approximately only 5 percent of the county's tax revenue—estimated between $600,000 and $800,000—is derived from this area, it is still a significant figure when viewed in the light of the possible consequences—a drop in public services by the county. As long as people continue to reside in the area, the county has a responsibility to provide services to them.

This measure is a phased program designed to lessen the impact of the tax loss and permit the county to plan for alternative sources of revenue. It involves a 5-year transition period of steadily decreasing Federal payments based on the total tax revenues lost to the affected area. During this period the development of the park will slowly bring the new benefits of increased tourism and rising property values to the surrounding area. However, these benefits will not be felt for a period of years; in the meantime, public services must be maintained at an undiminished level, in a time when households are already heavily burdened by rising tax rates.

The Big Cypress acquisition is an example of the National Government removing a source of revenue to which the county would ordinarily be entitled. The people of Florida believe that when the National Government deprives a locality of revenue by removing land from its tax rolls, there exists a responsibility on the part of the National Government to ease, to some degree, the harsher effects of the loss. We are not proposing a program of indefinite or permanent assistance, but one which will allow affected areas to phase in new sources of revenue without placing an unfair burden upon its residents.

Mr. President, I ask unanimous consent to have the bill printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3721

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in order to provide compensation for tax losses sustained as a result of any acquisition by the United States, subsequent to the approval of this Act, of privately owned real property for any unit of the national park system, the Secretary of the Interior shall make payments to an officer designated for such purpose by the Governor of the State in which such property is situated for distribution to the county, township, district, or other local body which assessed taxes on the property immediately prior to its acquisition by the United States, in accordance with the following schedule:

(1) For the fiscal year in which the real property is acquired the amount paid shall be an amount equal to the full amount of annual taxes last assessed and levied on the property by public taxing bodies, less any amount, to be determined by the Secretary of the Interior, which may have been paid on account of taxes during such period; and

(2) For each of the four (4) succeeding fiscal years there shall be paid an amount equal to the full amount of taxes referred to in paragraph (1), less 20, 40, 60, and 80 percent, respectively, of such full amount for each fiscal year, including the year for which the payment is to be made.

SEC. 2. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

By Mr. HELMS:

S. 3723. A bill to provide for high levels of employment, stable prices and economic growth by reform of Federal economic policy, revision of congressional spending practices, stabilization of the U.S. monetary system, the limitation of artificial barriers to employment, and for other purposes. Referred to the Committee on the Budget, the Committee on Banking, Housing and Urban Affairs, and the Committee on Labor and Public Welfare, jointly, by unanimous consent.

JOB OPPORTUNITIES AND ECONOMIC REFORM ACT OF 1976

Mr. HELMS. Mr. President, today I am introducing a bill which would provide for comprehensive reform of Government economic policy. It would affect Government's declared responsibilities, spending policies, our monetary system, and the problems the unemployed find in obtaining jobs. Because if enacted, the bill would allow increased economic output, and high levels of employment, it has been titled, "The Job Opportunities and Economic Reform Act of 1976."

Since this is a major piece of legislation, I approached the problem deliberately. I have looked at where we are economically, and I have come to some inescapable conclusions.

First, the status of our economy is bad. We have not experienced "just another recession." We have had a recession with record inflation and we are entering a period of growth with record unemployment. What preceded the mid-recession high unemployment and the newly diagnosed recovery was a period of inflation of unparalleled depth and duration. Prior to that inflation, we witnessed Government intervention in the economy unprecedented in peacetime. And, we witnessed Government-spending practices which must be termed both reckless and irresponsible.

What does this add up to? It adds up to Government intervention in the economy with evidently little private regard, and almost no public regard to the consequences.

Recent economic history of the United States is exemplified by a series of Government interventions of great magnitude. The most obvious was the Great Society guns-and-butter budgets, when even the most orthodox Keynesian economists in the administration at that time warned of overstimulation via Government spending. This was followed by the problems of the Nixon administration during which we saw wage and price controls clamped onto the economy at the same time the Federal Reserve Board seemed to take off all controls on money supply expansion. The suppressed inflation of the interminable phases I through III, soon pushed price increase rates into the teens during 1973. The concomitant recession that followed the required monetary contraction, then, resulted in record high unemployment levels; levels which have only declined a few points from their record highs.

The low point of this past recession included inflation at about 6 percent, or about twice the low point for the previous recession. The high point of price rise rates in the previous boom was about 13 percent, or about twice the previous boom's high. Unemployment was not quite double previous levels, but if present trends continue, it is likely to remain at double the low point in the previous boom.

It is not, therefore, unreasonable to suppose that if all things remain the same, inflation next time may get to the 20's. We may see that boom followed by double-digit unemployment, and a recession accompanied by inflation that could effectively thwart any significant recovery.

But, of course, conditions in the future will not be identical to those in the past. Government does not appear to be willing to start spending less to allow business to invest for the future. In fact, we are threatened with programs like $100 billion compulsory health insurance, a $40 billion make-work program under the Humphrey-Hawkins bill, and other big spending proposals.

Such a program for the future—more spending, more government, more controls, less growth, less economic freedom, and less investment means what might be called the Britainization of America. It is a sad prospect.

THE BRITAINIZATION OF AMERICA

How did the most prosperous nation in the world get into a position where it threatens to stagnate itself? It takes some going back. It has to do with the economics of Sir John Maynard Keynes, author of "The General Theory of Employment, Interest, and Money," perhaps the most important economic tract since Adam Smith's "Wealth of Nations." In it, Keynes points out that government can stimulate the economy from time to time by artificially creating demand. Such demand is created by issuing money, and the people with money will spend it.

Keynes also pointed out the pitfalls of continued stimulation of this nature; runaway inflation.

After the war, the Government of Great Britain adopted a law which provided that the Government had full responsibilty to see that high rates of employment would be maintained. It was with similar motivation, that the Employment Act of 1946 was passed in the United States. This act provided that the Federal Government has the responsibility to "promote maximum employment, production, and purchasing power."

The act in effect gave the Federal Government a positive responsibility to take action when only refraining from action will accomplish the desired goals. It is as if we demand that a doctor treat a malady that can be best left alone to cure itself. It is saying that Government must act to get involved in employment programs when in fact those things that can really provide for employment are promoted when Government does not get involved. No doubt, the symptom of unemployment can be treated on occasion, but the more Government tries to treat symptoms, the less effective the treatment and the more costly it becomes. A point is reached when the treatment causes more harm than good.

And so what do we have with the Employment Act of 1946? A bill that most people have come to accept because it sounds good. We all want high levels of employment. But, do we all want inflation? Do we all want Government growth that stifles economic freedom, stifles economic growth, and do we all want Government controls that can threaten the roots of our free society?

Such side effects are the costs of "full" employment, and these costs should be discussed in greater detail.

INFLATIONARY MAKE-WORK

Every Member of the Senate has heard repeatedly the argument put forward that a given bill will help employment by providing for a specific project, or a specific allocation of resources, or a specific tax benefit. But let us look closely at that argument. Are we saying that by providing a certain number of jobs that there will be more jobs overall? That seems to be what the advocates say. In effect, are we saying that the income that certain people will receive on a Federal project would not have been received by anyone if that project was not done? That is the logical conclusion. And does this mean that somehow by Federal action, this productive effort was made with no cost to anyone else? If so, we have found Rumplestiltskin.

The opposite is true, of course. If taxes were raised to pay for the Federal make-work jobs, then the money came out of someone's income. That someone was not able to spend his money as he saw fit. The Government usurped that person's economic freedom—the freedom to decide what to do with a segment of his or her income. Certainly the money was not spent or saved—two actions that create employment. If the Government spent money it did not have for the project, what happened? Well, it probably issued a Treasury bill.

In other words, savings went to buy the Treasury bill, savings that would have gone for another investment perhaps—in jobs-creating business investment, or in other securities. Finally, the end result is that in an effort to hold down the interest rates forced up by the competition of new Treasury bills being sold, the Federal Reserve Board increased the money supply. This would have brought about inflation, and that would have meant that everyone's dollar was worth less. It meant that a certain degree of economic freedom was taken away because the dollar would not purchase as many things as it had previously. There is no economic difference, in the end, in a tax that takes 3 cents out of the dollar on payday, or inflation which takes 3 cents out in higher prices.

But, on the other hand, there is a political difference. An income tax must be legislated: approved by both Houses of Congress and either signed by the President or enacted over his veto. Inflation is a creature of stealth. Its victims are never mentioned in the inflationary spending bills passed by Congress. Its effects come at times removed from the commission of the acts that cause them. And, the effects of inflation are usually blamed on third parties: business, labor, imports, oil or farm prices.

Perhaps that is what makes inflation more of a problem to decry than to do something about.

But inflation is just one side effect of the masses of spending bills Congress approved. Surely, few bills are ever passed that have as their only justification an antirecessionary or anti-inflationary effect. Usually the bills have another salutary purpose. For example, tax bills will provide incentives or disincentives to people. Some of these tax incentives I personally support, but all tax incentives are allocations of resources—limited, finite resources—outside of the marketplace. As such the Government-allocated capital goes for things of questionable, politically determined economic worth. Yet, it is the marketplace, not Washington, that can decide such worth. The U.S. Congress cannot determine marginal economic worth. It can only determine marginal political worth. Politics can only foul the marketplace.

Most of the bills, as I said, are passed with altruistic purposes in mind. It comes from a politician's natural desire to do good or at least do something. It comes in large part, from an unfortunate belief that Government can make proper decisions about the use of the Nation's resources to achieve all sorts of desirable ends—that Government can indeed bring about heaven on earth. In the process of achieving the desirable ends, we find that the means become burdensome. The allegedly necessary schemes become more and more expensive and more bureaucrats are required to write rules, administer them, and enforce them. If the Government goal is in fact impossible to achieve, then one could expend an infinite amount of resources and still not achieve it. That is what I am afraid is happening in many cases in our Federal Government today.

There are those who accept the argument that if the government spends more than it takes in, then the economy will be simulated and more people will be employed and more people will pay taxes and somehow government deficits will go away. If that is the case, then it isn't so very bad to have bad programs as long as the motives are good. Money must be spent somewhere to stimulate the economy.

BUREAUCRATIC REFORM VIA BALANCED BUDGETS

But, what if things are different? What if priorities had to be set? What if leaders were to become serious about setting those priorities? What would happen to marginal programs? They would start to fall by the wayside. If Congress had to choose between taxing for programs and eliminating programs, not just a lot of fat would be trimmed. Tons of blubber would be hacked away.

The effects of such a happening would be entirely salutary. Resources would not be grabbed away by the government, the Federal employment would tend to stabilize. One set of government regulations would remain in effect long enough for people to understand them.

There would be some additional unemployment created by the elimination of Federal make-work jobs, and the Federal jobs administering the make-work jobs. But, if we are to make a serious attack on the unemployment situation, it will take a concerted look at what has caused unemployment: First, economic instability. There is a reduced incentive for investment, reduced predictability and as a result, fewer new jobs in industry. Second, there is government intervention in creating barriers to employment. Barriers place a legal impediment to people coming to mutually agreeable economic arguments. Third, there are incentives for not working: High levels of benefits for the unemployed, and penalties on social security recipients who seek employment are just two incentives that come to mind. What is clear that we have unemployment caused by government. It is foolish to talk about unemployment and how to cure it without discussing the causes of unemployment.

With these assumptions, how should one approach the problem of growth, government and unemployment? My bill, the Job Opportunities and Economic Reform Act, has four titles.

ECONOMIC POLICY REFORM

Title 1 establishes goals for the Federal Government to reduce intervention in the Nation's economy and avoid it whenever possible. This is a major shift in Federal policy. For years, it has been the accepted wisdom in Washington that it is the Federal Government that has the ability and the full responsibility to see to it that the economy grows or doesn't grow, inflates or does not inflate, according to the wishes of Washington economists and central bankers.

My critique of this position is two-pronged. First, it is not only highly unlikely, but impossible to suppose that a small number of men can know what the perfect economy is. It is not within finite abilities of men or machines to decide the condition of the American economy that will be the best set of circumstances for all. Any goal, set of goals, or parameters set by a group or groups of politicians is by definition, subjective and reflective only of those various individuals' personal viewpoints.

What economic fine-tuners propose to do is change the tax system, change the monetary system, or change Federal spending policies to conform with their goals. It is just as though the rules of the game are changed so that the desired outcome would be achieved. However, changing the rules has an awesome effect on the players—the average American, the businessman, the person planning a career or retirement. Changing the rules of the game means that everyone loses.

My second criticism of such economic intervention is that the size and magnitude of the American economy is such that the only regulator can be the marketplace. The only participants should be individuals acting in their personal behalf. The only responsibility of government must be to provide a stable framework and to prevent nonmarket forces from making market decisions. In other words, Government must not only keep its role to a minimum in the marketplace, but it must serve as policeman to see that other groups do not do the same sort of things that the Government now is doing. The chief difference in effect between Government economic manipulation and private manipulation of the marketplace, is that government intervenes with altruistic motives while private individuals and groups engage in monopolies and restraints of trade which most often are not altruistic.

Government intervention in the economy for purposes of the manipulation of economic conditions assumes that all participants will act as predicted. The experts have to rely on computers and past history. They do not know what effect a new set of conditions or combination of conditions will have. For example when Congress enacted the income tax surcharge in 1972, the Federal Reserve Board expected the American people to cut back their spending dramatically. So, in order to counteract the effects of Congress' action, the Federal Reserve Board took action to pump in money. Well, Americans did not cut back their spending when the surcharge came into effect, they cut their savings. This action, coupled with the inflationary stimulation provided by the Federal Reserve Board, meant that massive price increases were just down the road. We saw them: 14 to 15 percent per year increases in many cases.

My bill would amend the Employment Act of 1946 to state that the Federal Government should avoid and reduce whenever possible intervention in the economy, "recognizing that fiscal and monetary policies, when used for purposes of regulating the economy, tend to be counterproductive, and that the absence of such intervention tends to foster and promote free competitive enterprise; the general welfare; conditions which promote balanced growth; and useful employment opportunities . . ."

I believe that this change in policy means a gradual reduction in Federal Government intervention. I would oppose any radical change in Government programs. Because many Americans have grown dependent on certain programs and Federal actions, I advocate gradual implementation of this new policy.

FISCAL POLICY REFORM

The second title of the bill contains a statement of findings which indict Federal deficits and attribute many of our current economic ills to Federal deficits. The achievement of reform in this area would be via congressional acceptance of Congress' role in causing recessions and inflations by deficit spending, and most importantly a congressional pledge that change will be effected by a gradual return to balanced budgets.

This provision of the bill was a particularly difficult one for me to develop. There is no practical way that Congress can be prevented from spending more than it takes in except perhaps by Constitutional amendment. But such an amendment would presumably take a two-thirds vote of each House before the various States would have an opportunity to consider it. Not only is this unlikely, but there has not to my knowledge been a constitutional amendment drafted on this topic that is completely satisfactory. Second, in times of national emergency, there may be an instance when flexibility of the speedy enactment of a law will be necessary for our national well-being.

My bill, therefore, amends sections 202, 203, 204, 301, 304, and 310 of the Congressional Budget Act of 1974 to provide that Congress will gradually adopt over a period of years a budget which would balance Federal outlays with Federal income. This concept was originally introduced by my able colleague from Oklahoma, Senator BARTLETT. The only change I made was that my bill would provide a phased-in balanced budget. On advice of counsel I included this provision, as it is generally felt in economic circles that an abrupt reduction in the rate of Federal spending or an abrupt increase in Federal taxes would have massive destabilizing economic effects. I believe we should avoid such effects, and I believe we should allow people who have come to expect Federal largess in certain areas to make adjustments.

MONETARY REFORM

The third title of the bill would phase out the political power of the Federal Government to manipulate the value of money. This is a most significant relinquishment of power. It would provide for a limitation upon the Federal Government for inflating the currency by restoring the marketplace as the determining force of the value of the monetary system. It would do this by providing for a gradual adoption of the market price for the free sale and purchase of gold. It would, in effect, remove from the Federal Reserve Board, the freedom to destroy the purchasing power of the dollar. It would provide for the gradual assumption of a standard gold price for the dollar over a period of years. It would be phased in by initially offering U.S. gold for sale at a price above the market, and offering to purchase gold at a price below the market. Over time, the purchase time offered and the selling price would be brought together and fixed. From that time, unless Congress acted, the dollar would have a fixed relationship with gold.

Why gold? The best reason is that it works. People throughout history have chosen gold as a monetary standard. Why not politicians, as the determiners of monetary values? The answer is that politicans have failed. The dollar has been inflated for a variety of reasons and as a result, our economy has been beaten and battered. We have exported inflation to our allies and their economies are in tragic conditions.

At worst, gold will do as well as the politicians in the Federal Reserve Board. At best, it will usher in a new era of economic growth and stability; an era of prolonged growth and minimum price level changes. From 1879 to 1914, the United States averaged 3.6 percent real levels that varied no more than 2 percent per year.

Americans have grown used to inflation and its unpredictability. They are able to grow used to price stability and an economic future they can rely upon. It will take adjustments of significant proportions in an number of areas and I do not wish to ignore them. Labor-management negotiations will have a new framework of reference, for inflation will not cover over excessive pay increases or provide, artificially, a sense of achievement in wage increases, But, I believe we have already passed the day when union officials and members will ignore inflation.

There will also be changes in areas of investment. Inflation has the effect of subsidizing debtors and penalizing creditors. It has the effect of discouraging savings and encouraging indebtedness. It promotes certain kinds of business and hinders others. These effects have cost our economy dearly in improperly allocating resources. Change would cause some difficulty but the difficulties will not compare with the great benefits the economy will reap.

In proposing that the Federal Government adopt a fixed price for gold, and a fixed measurement for the dollar in gold, I am proposing nothing less than the depoliticization of the monetary system. Such a proposal would mean that if the Federal Reserve Board chose to inflate the dollar for whatever reason, dollars would soon be turned into the Treasury for gold. This would indicate that people did not trust the dollars, and that they sought refuge from inflation in gold. Depletion of our gold supplies would place pressure on the Government to reverse its policies. A refusal would eventually result in the voluntary or compulsory devaluation of the dollar. This would be an action to be avoided for it would destroy future credibility in our currency, and lead to greater speculation against the dollar. Eventually it would lead to the kind of international monetary chaos we have today. Prices change daily. Trade is a refined form of currency speculation. Capital flows are stagnated.

We cannot view money as an instrument of national policy. Such a view has led to the Keynesian excesses of which we have witnessed. It can lead to the Britainization of America.

Economic reform must therefore be a recognition that money cannot be used to cover up foolish fiscal policies. It cannot be used to accomplish utopian social goals. Money is the means of economic activity and politicization of money can only lead to the disruption of economic activity.

I propose restoring freedom to individuals to engage in economic activity without having to guess how the political manipulation of the currency will effect their economic position. I propose shifting the burden from the individual to the Government by forcing Government to conform with monetary constraints and freeing individuals by removing capricious Government manipulation.

EMPLOYMENT BARRIERS

The fourth title of my bill would establish a Federal Commission on Barriers to Employment. The Commission would be devoted to the investigation and deliniation of the costs and effects of impediments to employment. By this I do not mean the sociological and psychological theories dreamed up by highly paid professors at Harvard or bureaucrats in the Department of Health, Education, and Welfare. By impediments, I mean what keeps the jobs available and the unemployed apart.

The Commission would have among its responsibilities, a full assessment of the affects of Government incentives to individuals to stay out of the job market. It would provide an assessment of the Government-imposed costs to starting new business, expanding businesses, and of even maintaining present levels of business operations. The Commission would analyze the effects of the tax code on employment practices. And, it would analyze the powers Government has bestowed on certain groups to reduce or restrict employment opportunities. There are some economists who state that in a truly free market, there is no such thing as unemployment. They say that if individuals are free to bargain then all who seek jobs would find them. I do not think that we can or would want to eliminate all disincentives or barriers to employment, but we should recognize that Government restrictions and regulations are some of the greatest causes of unemployment. We should know just what the exact causes and effects are. Then we can propose remedies.

THE START OF A DIALOG ON MAJOR ECONOMIC REFORM

The bill I am proposing is a major one. I acknowledge that there are provisions which must be studied at great length before Congress adopts them. We must make sure that any hardships which may result from these changes are minimized. I am convinced, however, that on the whole, the reforms in this proposal are good ones. Indeed, they are necessary ones.

I submit the Job Opportunities and Economic Reform Act of 1976 so that Congress can begin a serious debate on real economic reform. We have passed the time when we can throw money at the Nation's economic problems and expect more good results than bad. We have passed the time when we can afford something like the "guaranteed" jobs bill which attempts to treat symptoms and not causes.

In full recognition of the political tone of the day. I do not expect approval of this bill in the near future. The U.S. Congress is far more likely, unfortunately, to adopt bills which provide for "more of the same." We will, unless the American people begin to demand meaningful reform, continue down the road to big government; to centralized decision-making; to economic intervention; to the Britainization of America.

I introduce the Job Opportunities and Economic Reform Act of 1976 simply to begin the debate. After 30 years of Keynesian economics we must assess the results and the Keynesians must defend them. The Job Opportunity and Economic Reform Act of 1976 is a comprehensive reply to the economic policies of the past. It is comprehensive because we cannot attack any single one of our economic difficulties separately. Money, unemployment, growth, and stability are integral and they must be looked at in the same context.

I look forward to reviews, comments, and criticism on this proposal. It has been so long since Keynesian economics has held sway that critics of it are looked upon as being either fools or knaves. But, I hope that the Keynesians will recognize this proposal as a serious and comprehensive critique of their potlicies. I hope those who are sincere in their regard for this Nation will look twice and consider these specific provisions. I hope that businessmen, economists, and political leaders from all sides will comment on this bill and contribute to the debate. It is a debate on the most important domestic issue our Nation has faced since the Civil War. It is a debate on whether we have an economy that can provide resources for our children, for their betterment and for the accomplishment of national goals, or whether we will go the way of some nations and stagnate our productive enterprise in government coersion, economic disruption, and the relinquishment of our freedoms.

Mr. President, I ask unanimous consent that my proposal, the Jobs Opportunities and Economic Reform Act of 1976, be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3723

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act and the following table of contents may be cited as the "Job Opportunities and Economic Reform Act of 1976".

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GENERAL FINDINGS

SEC. 2. (a) The Congress finds that the nation has suffered substantial economic disruption including inflation, unemployment and underemployment, the underutilization of productive capacity and the misallocation of resources, over prolonged periods of time, imposing numerous economic and social costs. Such costs include the following:

(1) The monetary system has ceased to serve as a standard of value.

(2) Individual income taxes have increased faster than real income.

(3) The disadvantaged and the elderly and those on fixed incomes are deprived of purchasing power.

(4) The nation is deprived of the full supply of goods and services, the full utilization of labor and capital resources, and the related increase in individual income and well-being that would exist under stable economic conditions.

(5) Insufficient production is available to meet pressing national priorities.

(6) Workers are deprived of job security, income, skill development, and productivity necessary to maintain and advance their standards of living.

(7) Business and industry are deprived of a stable economic environment and consequently have lost production, sales, capital flow and productivity necessary to maintain adequate profits, create jobs, and contribute to meeting society's economic needs.

(8) The nation's citizens are exposed to social costs and traumas, including disruption of family life, loss of individual dignity and self-respect, drug addiction, crime and social conflict.

(9) Federal, State and local government activity is disrupted as government revenues decline in periods of economic contraction.

(b) The Congress further finds that—

(1) inflation increases unemployment by reducing the confidence of the consumer in the economy, it disrupts the individual's and businessman's ability to predict economic activity, and inflation thus reduces the productivity of capital, and tends to increase demands for remedies such as wage and price controls, restrictions on international commerce, subsidy programs, allocations, and economic regulations which tend to reduce the market's ability to economically allocate resources and adjust to the inflation, thus, increasing the costs of inflationary disruption to the entire economy;

(2) although a stable, non-inflationary economic growth is impossible without proper monetary and fiscal policies, high levels of employment, the maximum rate of economic growth, and increased per capita income cannot be achieved without concerted efforts to reduce private and public barriers to job and capital markets, and such barriers have not been lowered, in part because this goal has not been established and implemented by the President and the Congress;

(3) federal deficits result in economic disruption and impose great costs on the American people and the nation's economy by providing incentives for the Federal Reserve System to increase the money supply, and by displacing private investment by causing interest rates to be higher than those which would otherwise prevail;

(4) the Federal Reserve Board, when it creates money to finance federal deficits, debases the currency resulting in inflation and its concomitant dislocations;

(5) inflation, thus used to finance federal expenditures, places inequitable burdens on Americans and, further, disrupts productive enterprise so as to reduce the real and potential output of the nation's economy, thus, reducing the average income of all Americans;

(6) when money is created to finance federal deficits, the full effects of inflation are felt throughout the economy a considerable period of time after the deficits occur, thus giving rise to public misinterpretations of the real cause of inflation; and

(7) a sound and effective program for the nation's economic well-being should be based on minimum government interference in the economy.

TITLE I—ESTABLISHMENT OF GOALS AND GENERAL ECONOMIC POLICIES

STATEMENT OF PURPOSE

SEC. 101. It is the purpose of this Act to provide a stable economic environment under which individuals and groups can act with maximum freedom, to minimize disruptive Government intervention in the economy, to provide a framework for a sound and fiscal policy and to provide for a monetary system exemplified by stable values and minimum fluctuations.

DECLARATION OF POLICY

SEC. 102. Section 2 of the Employment Act of 1946 is amended to read as follows:

"DECLARATION OF POLICY

"SEC. 2. (a) The Congress declares that it is the continuing policy and responsibility of the Federal Government to avoid and reduce whenever possible intervention in the economy, recognizing that fiscal and monetary policies when used for purposes of regulating the economy tend to be counterproductive, and that the absence of such intervention tends to foster and promote free competitive enterprise; the general welfare; conditions which promote balanced growth and useful employment opportunities, including self-employment, for those able, willing and seeking to work and to foster and promote high levels of employment, increased production and increased standards of living for all.

"(b) The Congress declares that all adult Americans able, willing, and seeking work should not be restricted from obtaining jobs because of Government regulations which impede the freedom of employee and employer to enter into mutually satisfactory agreements.

"(c) The Congress further declares that inflation results and has resulted from the creation of excessive quantities of money by the Federal Reserve System in its attempts to control interest rates, minimize the adverse effects of fiscal policy, and generally regulate the Nation's economy; and that such efforts have caused greater disruption and resulted in greater costs to the Nation than the conditions those efforts are intended to remedy."

TITLE II—BALANCED BUDGETS AND ECONOMIC STABILITY

CONGRESSIONAL FINDINGS AND DECLARATION OF POLICY

SEC. 201. The Congress finds and declares that—

(1) the American economy has been adversely affected by Federal deficits which have resulted in inflation, misallocation of resources, and other hardships caused by economic instability, and in the imposition of inequitable burdens on individuals for the cost of Federal programs;

(2) the Federal Government must balance its revenues with outlays to avoid disruptive effects on the economy; and

(3) the chief responsibility for determining Federal revenues and outlays rests with the Congress in accordance with article I of the Constitution.

CONGRESSIONAL BUDGET ACT AMENDMENTS TO REDUCE DEFICITS

SEC. 202. (a) Section 301(a) of the Congressional Budget Act of 1974 is amended by adding at the end thereof the following new sentence: "For the fiscal year beginning on October 1, 1977, the appropriate level of total budget outlays shall not exceed the recommended level of Federal revenues by more than 7 percent; for the fiscal year beginning on October 1, 1978, the appropriate level of total budget outlays shall not exceed the recommended level of Federal revenues by more than 4 percent; and for the fiscal year beginning on October 1, 1979, and each fiscal year thereafter, the appropriate level of total budget outlays shall not exceed the recommended level of Federal revenues.".

(b) Section 304 of such Act is amended by adding at the end thereof the following new sentence: "No such concurrent resolution on the budget shall set forth an appropriate level of total budget outlays which exceeds the amount permissible under the last sentence of section 301(a).".

(c) Section 310(a) of such Act is amended by inserting after the first sentence thereof the following new sentence: "No such concurrent resolution on the budget shall set forth an appropriate level of total budget outlays which exceeds the amount permissible under the last sentence of section 301 (a).".

CONGRESSIONAL BUDGET ACT AMENDMENTS TO BALANCE BUDGET

SEC. 203. Effective with respect to the fiscal year beginning on October 1, 1979, and succeeding fiscal years—

(1) section 301(a)(3) of the Congressional Budget Act of 1974 is amended by striking out "or the deficit";

(2) section 301(a)(5) of such Act is amended by striking out "increased or";

(3) section 301(d)(6) of such Act is amended by striking out "or deficit";

(4) section 303(a)(3) of such Act is amended by striking out "an increase or" and inserting in lieu thereof "a"; and

(5) section 202(f)(1) of such Act is amended by striking out "and deficits".

EMERGENCY PROVISIONS

SEC. 204. The provisions of section 904 of the Congressional Budget Act of 1974 shall apply with respect to amendments made by sections 202 and 203 (other than the amendment made by section 203(5)) of this Act.

TITLE III—SOUND CURRENCY

CONGRESSIONAL FINDINGS AND DECLARATION OF POLICY

SEC. 301. The Congress finds and declares that—

(1) without a sound monetary system, the United States will suffer economic, political and social consequences of unacceptable severity;

(2) the present monetary system has lead to abuse and has resulted in inflation, economic instability, and unemployment;

(3) a sound money system cannot be dependent on the individual judgments of small numbers of individuals;

(4) a sound money system must have the trust and support of the American people;

(5) the American people view inflation as the single most important problem facing our Nation; and

(6) money redeemable in gold meets the vital needs of the United States in the foreseeable future.

U.S. TREASURY SALE AND PURCHASE OF GOLD

SEC. 302. During the fiscal year beginning on October 1, 1980, the Secretary of the Treasury shall offer for sale gold from United States gold stocks at the price of $185 per troy ounce (hereinafter referred to as the "selling price").

ADJUSTMENTS IN SALE AND PURCHASE PRICES OF GOLD

SEC. 303. (a) During each of the fiscal years beginning on October 1, 1981, 1982, 1983, and 1984, the Secretary of the Treasury shall offer to sell and purchase gold at selling and purchase prices successively adjusted in accordance with subsection (b).

(b)(1) The selling price during each such fiscal year shall be determined as the selling price during the most recent fiscal year during which purchases and sales under this title were made, reduced by the product of $25 ($10 for the fiscal year beginning on October 1, 1984) and a fraction, the numerator of which is the difference between the world market price (determined under subsection (c)) and the selling price which was in effect during the most recent fiscal year during which purchases and sales under this title were made, and the denominator of which is the difference between the selling price and the purchase price, as in effect during that most recent fiscal year.

(2) The purchase price during such fiscal year shall be determined as the purchase price during the most recent fiscal year during which purchases and sales under this title were made, plus the product of $25 ($10 for the fiscal year beginning on October 1, 1984) and a fraction, the numerator of which is the difference between the world market price (determined under subsection (c)) and the purchase price during the most recent fiscal year during which purchases and sales under this title were made, and the denominator of which is the difference between the selling price and the purchase price, as in effect during that most recent fiscal year.

(c) The world market price shall be determined by the Secretary of the Treasury as the average market price of gold at major international markets (1) during the 10-month period beginning on October 1, 1980, for fiscal year 1981, and (2) during the 12-month periods beginning on August 1, 1981, 1982, and 1983, for the fiscal years beginning October 1, 1982, 1983, and 1984, respectively.

EXTENSION OF TRANSITION PERIOD

SEC. 304. Notwithstanding any other provision of this title, the President may extend for not to exceed 1 year any purchase price or selling price established in under section 302 or 303—

(1) if he determined that the market price of gold has been manipulated in order to affect the actions of the Secretary of the Treasury under this title,

(2) if he reports such determination to the Congress, and

(3) if neither the Senate nor the House of Representatives agrees, within 30 days after receipt of the report, to a resolution stating in substance that the purchase price or selling price as established under the provisions of this title should be put into effect.

TITLE VI—FEDERAL COMMISSION ON BARRIERS TO EMPLOYMENT

APPOINTMENT OF COMMISSION

SEC. 401. (a) There is established a Federal Commission on Barriers to Employment (hereinafter referred to as the "Commission").

(b) The Commission shall be composed of seven members, to be appointed by the President, by and with the advice and consent of the Senate, one of whom shall be designated by the President at the time of appointment to serve as Chairman of the Commisison.

DEFINITIONS AND PARAMETERS OF STUDY

SEC. 402. The Commission shall undertake a comprehensive study and investigation of the costs of various barriers to the employment of individuals to businesses, to the economy, and to the Government. For the purpose of its study, the Commission shall treat any law, regulation, or judicial decree or consent agreement which prevents or tends to prevent individuals or businesses from offering or filling positions of employment, as barriers to employment.

SOURCES OF INFORMATION

SEC. 403. In carrying out its study, the Commission shall solicit and receive information on barriers to employment from private organizations, individuals, and Government agencies.

CONGRESSIONAL REPORTS

SEC. 404. The Commission shall report to the Congress at least semiannually on the following matters:

(1) Government incentives to individuals to stay out of job markets;

(2) laws or regulations which increase the cost of starting a business enterprise and thereby reduce job opportunities;

(3) laws or regulations which increase the cost of expanding business enterprises, thereby reducing employment opportunities;

(4) laws or regulations which increase the cost of operating or maintaining a business enterprise, thereby reducing job opportunities;

(5) provisions contained in the Internal Revenue Code of 1954 which have an influence on or which constitute a determining factor with respect to business practices affecting employment; and

(6) laws or regulations which confer special rights or powers to any group or individual thereby enabling that group or individual to reduce or restrict employment opportunities.

COMPENSATION OF COMMISSION MEMBERS

SEC. 405. (a) Members of the Commission who are Members of Congress or full-time officers or employees of the United States shall serve without additional compensation, but shall be reimbursed for travel, subsistence, and other necessary expenses incurred in the performance of the duties vested in the Commission.

(b) Members of the Commission, other than those referred to in subsection (a), shall receive compensation at the rate of $100 per day for each day they are engaged in the actual performance of the duties vested in the Commission and shall be entitled to reinbursement for travel, subsistence, and other necessary expenses incurred in the performance of such duties.

ADMINISTRATIVE PROVISIONS

SEC. 406. (a) The Commission shall have the power to appoint and fix the compensation of such personnel as it deems advisable, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classification and General Schedule under section 5332 of such title.

(b) The Commission may procure, in accordance with the provisions of section 3109 of title 5, United States Code, the temporary or intermittent services of experts or consultants. Persons so employed shall receive compensation at a rate to be fixed by the Commission but not in excess of $100 per day, including travel time. While away from his or her home or regular place of business in the performance of services for the Commission, any such person may be allowed travel expenses, including per diem in lieu of subsistance, as authorized by section 5703(b) of title 5, United States Code, for persons in Government service employed intermittently.

(c) Each department, agency, and instrumentality of the United States is authorized to furnish to the Commission, upon request made by the Chairman, on a reimbursable basis or otherwise, such statistical data, reports, and other information as the Commission deems necessary to carry out its functions under this Act.

(d) The Commission or, on the authorization of the Commission, any subcommittee or member thereof, may, for the purpose of carrying out the provisions of this Act, hold hearings, take testimony, and administer oaths or affirmations to witnesses appearing before the Commission or any subcommittee or member thereof.

AUTHORIZATION

SEC. 407. There are authorized to be appropriated such sums as may be necessary to carry out this Act.

Mr. ROBERT C. BYRD subsequently said: Mr. President, I ask unanimous consent that a bill introduced earlier by the distinguished Senator from North Carolina (Mr. HELMS) be referred jointly to the Committee on the Budget, the Committee on Banking, Housing and Urban Affairs, and the Committee on Labor and Public Welfare.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL COSPONSORS

S. 2910

At the request of Mr. SCHWEIKER, the Senator from New York (Mr. JAVITS) was added as a cosponsor of S. 2910, to establish the National Diabetes Advisory Board.

S. 3182

At the request of Mr. TAFT, the Senator from Montana (Mr. METCALF) was added as a cosponsor of S. 3182, a bill to amend the Occupational Safety and Health Act of 1970.

S. 3205

At the request of Mr. TALMADGE, the Senator from New York (Mr. BUCKLEY) was added as a cosponsor of S. 3205, to provide for reform of administrative and reimbursement procedures under Medicare and Medicaid.

S. 3339

At the request of Mr. RIBICOFF, the Senator from Ohio (Mr. GLENN) was added as a cosponsor of S. 3339, to establish a Department of Energy and Natural Resources.

S. 3554 AND S. 3555

At his own request, Mr. HUGH SCOTT was added as a cosponsor of S. 3554, the National Neighborhood Policy Act; and S. 3555, the Voluntary Standards and Certification Act of 1976.

S. 3624

At the request of Mr. HATHAWAY, the Senator from Maine (Mr. MUSKIE), the Senator from Oregon (Mr. HATFIELD), and the Senator from Massachusetts (Mr. BROOKE) were added as cosponsors of S. 3624, to provide for incentive loans to the commercial fisheries industry.

S. 3652

At the request of Mr. GARN, the Senator from Arizona (Mr. FANNIN) was added as a cosponsor of S. 3652, to amend the Consumer Credit Protection Act.

S. 3697

At the request of Mr. ABOUREZK, the Senator from Wisconsin (Mr. NELSON) was added as a cosponsor of S. 3697, to assist farmers and ranchers to replace foundation herds of cattle forced to be sold as a result of natural disasters.

SENATE CONCURRENT RESOLUTION 118

At the request of Mr. JACKSON, the Senator from Rhode Island (Mr. PASTORE) was added as a cosponsor of Senate Concurrent Resolution 118, relating to religious freedom in the Soviet Union.

SENATE JOINT RESOLUTION 101

Mr. BURDICK. Mr. President, I request that the Senator from Maine (Mr. MUSKIE) be added as a cosponsor of Senate Joint Resolution 101, to authorize the President to issue annually a proclamation designating that week in November which includes Thanksgiving Day as "National Family Week."

Mr. President, I would like the record to show that Senator MUSKIE was a strong supporter of my National Family Week proposal. It was an oversight that his name was not added as a cosponsor back in June when the measure was introduced. Just so the record can be made clear, I ask that his name be added as a cosponsor now.

The PRESIDING OFFICER. Without objection, it is so ordered.

SENATE RESOLUTION 502—SUBMISSION OF A RESOLUTION OF DISAPPROVAL OF BUDGET AUTHORITY FOR THE NATIONAL RAILROAD PASSENGER CORPORATION

(Ordered held at the desk.)

Mr. HARTKE (for himself, Mr. BAYH, Mr. BEALL, Mr. BUCKLEY, Mr. CASE, Mr. KENNEDY, Mr. MAGNUSON, Mr. PASTORE, Mr. WEICKER, and Mr. WILLIAMS) submitted the following resolution:

S. RES. 502

Resolved, That the Senate disapproves the deferral of budget authority for operating grants to the National Railroad Passenger Corporation as reported by the Comptroller General of the United States to the President of the Senate and the Speaker of the House of Representatives in his letter dated July 29, 1976, under section 1015(a) of the Impoundment Control Act of 1974.

Mr. HARTKE. Mr. President, I send to the desk a resolution of disapproval of a deferral of budget authority and ask unanimous consent that it be held at the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARTKE. Mr. President, I am submitting, on behalf of myself and Senators MAGNUSON, PASTORE, WEICKER, BEALL, BAYH, CASE, KENNEDY, WILLIAMS, and

BUCKLEY, a resolution of disapproval of a deferral of budget authority. The Comptroller General has submitted to the President of the Senate and the Speaker of the House of Representatives a report of deferral of budget authority on the 29th of July because the President has failed to send a deferral message as required by the Impoundment Control Act of 1974. Since April, the Department of Transportation has been illegally withholding authorized and appropriated funds for the use of the National Railroad Passenger Corporation in an attempt to coerce Amtrak and the Consolidated Rail Corporation to rescind a legal agreement by which ConRail sold the properties of the Northeast corridor to Amtrak. Congress specifically provided for the possibility of just such a sale, if the appropriate parties—Amtrak and ConRail—could agree to it. Unfortunately, the Department of Transportation was not interested in following the law and tried to force the parties to renegotiate this sale agreement by illegally impounding funds. It is unfortunate that so much time needs to be spent in restraining the counterproductive policies of the Department of Transportation. I am sure that many of my colleagues here in the Senate will be pleased to vote for this resolution in order to end the delaying tactics of DOT. Already the public will be forced to bear the costs of delay that the DOT has caused, and I am most interested in seeing to it that no further delay is permitted.

AMENDMENTS SUBMITTED FOR PRINTING

TAX REFORM ACT OF 1976—H.R. 10612

AMENDMENT NO. 2147

(Ordered to be printed and to lie on the table.)

Mr. **NELSON** submitted an amendment intended to be proposed by him to the bill (H.R. 10612) to reform the tax laws of the United States.

AMENDMENT NO. 2148

(Ordered to be printed and to lie on the table.)

Mr. **HATFIELD** submitted an amendment intended to be proposed by him to the bill (H.R. 10612), supra.

AMENDMENTS NOS. 2150 AND 2151

(Ordered to be printed and to lie on the table.)

Mr. **HASKELL** submitted two amendments intended to be proposed by him to the bill (H.R. 10612), supra.

AMENDMENTS NOS. 2152 AND 2153

(Ordered to be printed and to lie on the table.)

Mr. **KENNEDY** submitted two amendments intended to be proposed by him to the bill (H.R. 10612), supra.

AMENDMENT NO. 2154

(Ordered to be printed and to lie on the table.)

Mr. **HRUSKA** submitted an amendment intended to be proposed by him to the bill (H.R. 10612), supra.

CLEAN AIR ACT AMENDMENTS OF 1976—S. 3219

AMENDMENT NO. 2149

(Ordered to be printed and to lie on the table.)

Mr. **ALLEN** submitted an amendment intended to be proposed by him to the bill (S. 3219) to amend the Clean Air Act, as amended.

ADDITIONAL STATEMENTS

CONFERENCE ON THE LAW OF THE SEA

Mr. **WEICKER**. Mr. President, the Third United Nations Conference on the Law of the Sea convenes this week and will again attempt to reach some accord on provisions of the so-called single negotiating text. Many speculate that this will be the do-or-die session for any Law of the Sea Treaty. Several nations are preparing to mine the incredibly rich mineral fields of the ocean floor, and without a reasonable treaty, a lawless free-for-all for mining rights could ensue.

The single negotiating text of the Law of the Sea Conference addresses the problems of unilateral exploitation of the world's ocean resources, and it is my hope that the conferees in New York today and throughout the next 6 weeks will work in a spirit of peace and unity toward our mutual goal of a reasonable, fair treaty.

I am concerned, however, that the tedium of years of negotiations with little solid results mixed with the political jealousies of many of the participating nations, will push the conferees to adopt an inferior treaty. Such a treaty may be worse than no treaty at all.

We must take care that the United States, for one, not be placed at the mercy of an international "authority" which lacks proper guidelines to assure fair dealings with all ocean interests.

IS CONGRESS SPENDING TOO MUCH MONEY?

Mr. **HUMPHREY**. Mr. President, recently Senator JOSEPH M. MONTOYA published a compact statement concerning congressional spending and the economy in the Advocate, a publication of the Association of Retail Clerks.

Our colleague's statement clearly indicates some of the misconceptions which are common today concerning the economy and its relationship to Federal spending. He has attempted to explain to the average citizen the real story about the way Congress appropriates funds and the reasons why he believes that jobs and career education programs are vitally important in order to put both the national economy and individual Government budgets on a firmer footing. I ask unanimous consent that Senator MONTOYA's article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

IS CONGRESS SPENDING TOO MUCH MONEY?

(By Senator JOSEPH MONTOYA)

(New Mexico Senator Joseph Montoya is chairman of the Subcommittee on General Government of the Appropriations Committee. As such, he has an excellent oversight view of government spending. The problem, he suggests, is not in the total amounts or even in the particular programs, but rather is in the failure to match revenues with expenditures, a problem caused basically by the high unemployment rate. According to Senator Montoya, the key to the solution is jobs and career education programs to develop a full employment economy.)

For eight years the Congress of the United States has been under attack for spending too much money. There has been a thinly veiled effort by the Administration to blame Congress for the wild fluctuations of our economy, with both inflation and unemployment keeping us on a roller coaster for most of the last few years. As the recession deepened, and unemployment rose at the same time that inflation raged, the Administration looked for a scapegoat—and found Congress.

They began with the myth that Congress was creating the economic problems by spending more than was needed on federal programs. They attempted to blame Congress by attacking each federal program which Congress funded as "wasteful" and by claiming that the federal budget was out of control.

Of course, there was one other scapegoat for the inflation—working men and women. High wages—that was another cause of inflation, according to the Administration. The way to cure inflation, they claimed, was with a little benign unemployment. They almost made you feel guilty—and unpatriotic—if you had a job, or got a raise.

What are the real facts about Congressional spending? Is it true that the federal budget is out of bounds? Is it true that Congress has been profligate with the taxpayers money?

In order to understand the true facts about federal spending, it is necessary to consider how our budget process works—and how it is related to our total economy.

In January of each year the Congress receives a budget request from the President, explaining in detail what he expects from the Congress for the following fiscal year, and what he needs to run government programs. Since we have had the Office of Management and Budget assisting the President, that budget request is followed by a "justification" explaining the Administration request for each section of the budget, and the reasons for any changes which the President recommends.

In spite of White House accusations of "overspending" by the Congress, the fact is that the Congress has appropriated less money than the President requested every year since 1969 when the Nixon Administration took office. The problem has not been in the total amount which the Congress appropriated. The screams of anguish we have all heard from the Administration have concerned specific programs which the President did not want to fund, or wanted to reduce, and about other programs which he wanted to increase in size and spending.

The real quarrel between the Administration and the Congress has not been about total amounts to be spent by the federal government—but about what we should spend our money to buy. Since 1969 the Congress has appropriated $39 billion dollars less than the President has requested in his total budgets—but we have not always appropriated money for the programs he wanted to support, and we have often appropriated money for programs he wanted to cut down or do away with.

Last year the Congress established a new budget process, through which we will set our own budget ceilings early in each year, and will consider each spending bill within the framework of a budget resolution which Congress must pass. This is the first official year of that budget process. We will all know more about how well our new system will work at the end of this year.

However, the key to federal spending problems—and the key to most of our other problems, too—is not the total amount spent or even the squabbles we have over what we should spend our money for. The real key lies in something much more serious: how do our tax revenues match up to our spending? Our federal revenues from tax dollars have quadrupled over the last twenty years, but the percentage which comes from corporate income taxes has gone steadily down while the percentage which comes from individual income taxes and from social security taxes has gone steadily up.

When unemployment began to rise dramatically during the current recession, revenues went down of course. Men and women who are not working don't pay taxes. Expenditures for unemployment insurance and welfare went up in direct proportion—so that the deficit grew. The cost to the federal government for every one percent of unemployment is estimated to be about $13 billion in tax receipts not collected and about $5 billion in spending for unemployment and welfare.

Or we can think about this problem another way. If we had had an unemployment rate of three percent in the years since 1970 instead of the rate we did have, we would have had a surplus instead of a deficit in every year except 1975—and the deficit that year would have been much less than it was.

The real answer to our economic problems in government and in the private economy is the same: jobs. That is why I believe that we must continue to support job programs and career education programs. We must find the right way to put people to work at a decent wage. That will mean, as it always has in the past, that our whole economic picture is healthy. Without jobs, no amount of economic tinkering, and no amount of rhetoric from the Administration is going to work.

When we put people to work, they produce the things we need, they can afford to care for their families, and they can afford to pay for things which they expect government to do for all of us.

Once that happens, I believe we will stop hearing the accusations of overspending by the Congress—and we will be back on the road to a common sense approach to our representative government. I hope that will begin to happen this year.

THE KGB IN PARIS

Mr. HELMS. Mr. President, the operations of the Soviet secret services—KGB—in the West have grown rapidly in recent years. According to a report in a French magazine, there are more than 600,000 KGB operatives in the nations of the free world and more than 20,000 in France alone. Our antisubversion agencies have attempted to bring the threatening presence of Soviet intelligence and subversive agents in our midst to the attention of our public, but the real danger has not yet been fully understood or evaluated.

The report to which I referred, which appeared in a recent issue of the magazine Paris Match on July 7, 1976, makes very informative reading. The article describes in detail several of the routes through which the KGB has worked in France to implant its agents into the business and governmental affairs of the nation. The report concludes with the frightening comparison between the direction which the KGB is taking in France today and the events in Prague in 1968. Perhaps we should also consider whether there is anything to prevent the KGB's arrogant actions in France from being duplicated in the United States.

Mr. President, I ask unanimous consent that a translation of this article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE KGB IN PARIS

The most powerful and skillful of all intelligence services of the world made the French capital its headquarters for Western Europe and Africa. The Soviet representation in France is employing 241 agents positively identified by the special police forces. This is what is known today about the Russian intelligence set-up in our country:

Two iron gates protect its mystery. Similar to the doors of a gigantic safe, they bar access to mysterious quarters in this huge quadrangle of concrete, built in "colossal" style, which is the new Soviet embassy in Paris, on Boulevard Lannes, between Porte Dauphine and Porte d'Auteuil. In reality, while we have there an embassy, at the same time it is also a fortress protecting some of the most up-to-date spying techniques. Spying in the James Bond style "made in the U.S.S.R.", it is provided with an interception center for the purpose of catching both local emissions as well as hertzian radio waves. In the reception rooms a secret device permits photographing of the visitors as well as the taping of their conversation even when it is in a low voice.

At a time when the police or rather the D.S.T. (Surveillance du Territoire or Territorial Supervision) is uncovering or dismantling every day or almost every day networks of spies or terrorist supporters, one is tempted to believe that this simile of a concrete fortress, the Soviet Embassy well worthy of the Maginot line, will become the top secret and mysterious general headquarters of a formidable intelligence establishment. The heads of the majority of these networks still remain unknown.

Modern espionage can be compared to a screen with a multitude of folds, behind which there is always someone who pulls all the strings, a foreign power whose aim is to organize intelligence gathering by individuals, teams or interposed networks. This is good war-making. This practice has a tradition since our world began—since Philip "the Fair", Richelieu, Metternich or Talleyrand. Today, however, intelligence gathering has become more than a handicraft for diplomats or counter-intelligence officers. It is now a quasi-industrial enterprise with a sales office, studying and ensuring penetration into a "market" which is the environment of the adversary.

The Russians have always been champions in this field. It seems however that this time with their new Embassy in Paris they want to build their enterprise to dimensions unequaled in the past where techniques and gadgets employed as well as the personnel are concerned. They are also very adept in covering their tracks. The press has recently accused a certain Henri Curiel, a staunch Stalinist with mysterious sources of income, of being the head of a network of supporters of terrorists. However the D.S.T. was never successful, in the face of his denials, in bringing proof sufficient to inculpate him.

Until present days, the U.S.S.R. Embassy was in the building of the former Embassy of Imperial Russia, a town mansion at 79 Rue de Grenelle, not long ago the residence of the Duke of the Tsars. The staff of this Embassy comprises 143 persons. If one considers what is accepted in a so-called normal embassy, one could assume the presence of one spy, or, to put it more elegantly, one intelligence agent, for every 100 employees. Experience, however, proves that in Soviet embassies, conversely there are, say, 99 intelligence agents and only one authentic officer of the Ministry of Foreign Affairs per 100 employees. It is even being said that the Ambassador is not necessarily the most important person in a Soviet embassy abroad, but sometimes it is his chauffeur or the door-keeper. This would be the important member of the State Security Committee (KGB).

Actually the personnel who are entrusted with the interests of a power such as the Soviet Union in France are of particular importance. The Russians are not stingy. At the present time the employees who are representing the Soviet Union number 225. This is a record number which includs not only the career diplomats and the presumable ones of the U.S.S.R. Embassy, but also the employees of the connected services such as the Consulate General (14 Place Malesherbes) which numbers 19 members, the Military Mission (131 Rue de Longchamp) with its 22 employees, the Commercial Mission (49 Rue de la Faisanderie)—95 strong, the Consulate in Marseille whose temporary staff comprises 22 people, the TASS Agency with its 25 journalists and not counting the Soviet Information Office (Rue de Prony), professors on exchange programs, Soviet students, and others. The French offices have noticed that the number of these exchange professors, visitors or occasional officials has recently increased considerably. Applications for visas for Soviet nationals number into hundreds for periods of staff which vary considerable. As a matter of fact, Soviet diplomats and officials on their post of duty abroad come and go as they please. They vanish without letting anyone know about it. They cross our border at a date which is at great variance with the real date of their depature and the official announcement which is made by their superiors, often in a very casual way. Actually the Embassy of the U.S.S.R. is returning the residence permits (carte de sejour) of the person in question only a long time after the departure. Or, conversely, the same Embassy surrenders carefully the mentioned document while its recipient remains in France for some time, eluding all control, since it is assumed that he has departed. The importance of this type of abuse should be put in proper perspective if one realizes that these incidents numbered over 100 in 1973 and doubled during 1975 alone.

In that connection, the question should be asked—why not impose on all Soviet citizens leaving the French territory the obligation to surrender their residence permits at the point of crossing our frontier. It seems that in view of being unable to answer this question, the French diplomacy has reasons which are unknown to the D.S.T. Actually a distinction must be made between those officials who belong to the Soviet diplomatic services and therefore are persona grata enjoying diplomatic immunity and those who operate in the export-import field, or those who visit our country as engineers, students, exchange scholars, and others. It is the number of these exchange scholars which at this moment increases by leaps and bounds. In short the total of all Soviet representatives in France, including the Embassy, actually surpasses 800 persons.

Now then, out of those, 241 are identified in a formal way as being officials of the K.B. B. or the G.R. U. K.G.B. stands for Komitet Gosudarstvennoy Bezopasnosti—State Security Committee. The G.R.U. is Glabnoye Razvedyvatelnoye Upravlenye—Main Administration of Intelligence, which is the "service" of the Red Army.

To the above, one has to add the representatives of the East European countries, satellites of the U.S.S.R. Among Poland's 70 diplomats or various officials, some 45% are here on behalf of special services. For Romania which has 37 diplomats and 31 officials this percentage amounts to 40%, while for Czechoslovakia it is 42%, for Bugaria—40%, East Germany 50% and Hungary 40%.

But this is only one aspect of the problem, a small tip of the iceberg floating in the troubled waters of intelligence. The Soviet penetration in a country like ours is being done through the intermediary of various banking and commercial supports. That list is quite long. To start, let us cite the Eurobank, or the Banque Commerciale pour l'Europe du Nord (79–81) Boulevard Haussman, Paris 8) which is controlled up to 99% by the Gosudarstvennyy Bank (State Bank) and the Rost Kommertsiya Bank (Bank for Foreign Commerce); this enterprise is directed by the Soviet citizen Vladimir Fedorovich Mikhailov and assisted, at least until 1975, by a Frenchman, Guy Boysson, former Secretary of the Jeunesses Communistes (Communist Youths). The Banque Commerciale pour l'Europe du Nord is also the bank of the French Communist Party and of the C.G.T. The same bank is also being used by the U.S.S.R. for their transactions from France with their satellites, including Cuba. The Vice President of the Eurobank is Georgii Leonidovich Trussevich, a well known member of the K.G.B.

The Black Sea and Baltic Insurance Company Ltd. (30 Boulevard Haussman, Paris 9), insures, in her capacity as an insurance company, all Western automobilists going to the U.S.S.R. Its role consists mainly in culling economic information from international registers to which the company has access due to its functions as an insurance agent.

Let us also mention the Morflot which represents the Soviet Merchant Marine and which shelters two probable members of special services, Vladimir Petrovich Kaznachev and Yuriy Georgyevich Luchikov. The Stanko France or Stanko Import which specializes in purchasing machine-tools of all kinds is, despite its cover of a composite Franco-Soviet company, the exclusive representative in France of the "Main Office (Central Office). In the vernacular of special services the "Main Office" cannot be anything elseelse but the management of the famous K.G.B. The novelists and fanciers of criminal novels are constantly using this expression. This company has as its representative in Paris—the Consortium Francais de Machines-Outils C.O.F.M.O.—C.F.F., (18 Rue Philippe Lalouette in Drancy) which shelters the Stanko Import Moscow; and the Societe des Etablissements P.-L. Martin (42 Rue Saint-Maur in Paris 11), which shelters the Stanko Import Martin. Let us add to it the "Sorice", export-import company of industrial installations (50 Rue Croix-des-Petits-Champs, Paris 1), which shelters Stanko France. Among the personnel of these companies two intelligence agents have been identified: Mikhail Yegorov and Erik Kassinov.

Let us be brief because the list is long and cite briefly the company Activ-Auto—its director general Komonov is a KGB agent; the S.A. Rusbois sheltering the intelligence agents Oleg Pergat and Portseveski; and the S.O.G.O. et Cie, representing Soyuzkhimexport, a company manufacturing chemical products, who among its employees has several agents of the G.R.U. and of the K.G.B.

The penetration with the aid of these perfectly "frenchified" agents who have no "James Bond" traits (they are much too refined for it) takes place also in the provinces in the form of "secondary residences". This is why the USSR Embassy went out to buy, 50 kilometers from Paris on National Highway 4, an old house which was converted to some sort of French-style "dacha". In Deauville the Embassy purchased a large country house, "Albatross" on the ocean, at the corner of the Boulevard Eugene Cornuche and Rue de Gheest. This house is open for all members of the Embassy who can stay there with their wives and children during their vacation and over the weekends. Actually with the laws now in force Soviet citizens have the right to acquire and to build secondary residences or professional premises of their choice anywhere on French territory. If some of these purchases are known, others conversely remain very difficult to identify, because very often they have been negotiated under assumed names with no contact being even made with the Communist Party. In short, it is often difficult to find the origin of the buyers.

Therefore there is a great difference between the facilities extended to the Soviets in France and the restrictions imposed upon French and Western diplomats in the Soviet Union. A Soviet agent can easily cross our border and make use of innumerable deceptions and covers which are difficult to identify. If everybody in this world is spying on everybody else, we as well as the Russians or the Americans, one must, if one is professional in this business, take off his hat to the agent of the Soviet intelligence service. Not only is its infiltration policy remarkable but if it uses foreign agents you have also to admit that they apply know-how and high-class knowledge in all the contacts which are available in a consumer society such as ours. In short, they are swimming like fish in water. They enter, they leave, they come, they go, they accomplish their business with hardly any delays and without or almost without impunity. And very often they are contemptuous. "Your country is finished," said a man who was recently intercepted by the management of the D.S.T., the French Counter-espionage service. The man, an agent of the K.G.B., crossed our border in order to intimidate a Soviet writer, Andrej Sinyavski, a friend of Solzhenitsyn, who took refuge in our country. This arrogant individual entered our country openly with a visa valid for 10 days. This example, almost trivial by itself, has been picked from a number of routine happenings which occur almost daily.

Thus, whether we consider the diplomatic personnel, the engineers, or various technicians visiting in France or secret agents traveling under some fictitious names, the presence of Soviet official and obscure services on our territory permits us to make this first statement: Moscow broadly exploits the liberties and respect for the individual which Western democracies extend equally to all foreigners without distinction as well as to their own citizens.

In fact, in our modern world, a world which pretends to be quiet and seems to be peaceful, a clandestine war is being waged every day. There is a constant state of tension. Crimes of secret agents, those from the Soviet Union and from other countries are known to all governments. But for obvious political reasons everybody agrees not to publicize the strains, not to mention worse facts, all for the sake of good international relations.

All of a sudden Paris became the primary meeting place for international intelligence due to the events in Angola. This happened because, on one side, the Embassy of the United States in Paris has become the command post in African affairs. The game of checkers which only yesterday was played at Bern or Geneva is now being played in Paris, according to spy novels and reports of Western and Soviet intelligence services. On the other hand, the Soviet services in France just plainly accelerated their activities. It is estimated that the total of their agents of various origin and importance now numbers 20,000 in France, and it is true. In fact the K.G.B. and the G.R.U. comprises a total of some 600,000 agents throughout the whole world. In the face of this invasion, the Western governments and particularly those of Europe, strive to remain vigilant and to control, contain, and curb if need be the illegal activities of agents who sometimes have an official cover and sometimes work in great secrecy. Incidentally, the Soviets do not hesitate to send to France agents who are well-known to our services. In that connection let us cite the case of Zhrokin, Counselor of the Soviet Embassy during the 1950–54 period. When he returned to his country he was immediately decorated with the Order of Lenin for "exceptional services". This is a euphemism. He is well known to all our special services. It was a case of espionage pure and simple. Zhrokin has been promoted to the rank of general and reappeared in Paris in 1966 as a counselor with the title of Minister. Proven guilty of espionage he was expelled. That was in 1971. As of now, nobody has seen him.

Rather than linger over such tame cases, the question which has to be considered now is what would be the situation in France or in any other Western country in a case when its Prime Minister or the Minister of Interior was favorable to the Soviet ideology and for that reason would not have the desire or the capability to react against the placement of Soviet agents. This is how the 1968 operation was executed in Prague.

FARM PROGRAMS

Mr. HUDDLESTON. Mr. President, last December I introduced a bill, S. 2823, designed to assist small farmers in upgrading their farming operations. This legislation would amend title V of the Rural Development Act of 1972 to reinforce the commitment of Congress toward preserving the small farm by amending section 502(c) of the Rural Development Act to provide for small farm extension, research and development programs.

The programs provided for in S. 2823 would consist of the following:

First. A comprehensive study and survey to identify small farmers, and to determine their resources, abilities, education, and experience.

Second. A program designed by the USDA and the Cooperative Extension Services for improving operations of small farmers.

Third. Procedures for providing for regular updating of the study, survey, and program.

Fourth. Research and development with respect to measures for upgrading small farmer operations.

Fifth. The Secretary of Agriculture is required to submit an annual report on his stewardship of this program.

Mr. President, many experts within the USDA argue that there is no point in trying to help those farmers who are operating farm units which are too small to sustain a family entirely. I take exception with this view and would like to bring to my colleagues' attention a research effort at the University of Kentucky regarding limited-resource farms that has recently been completed by Dr. Fred J. Stewart of the Natural Resource Economic Division of USDA-ERS and Dr. Harry H. Hall and Dr. Eldon D. Smith of the University of Kentucky Department of Agricultural Economics.

This work points out the value research and extension can be in assisting limited-resource farmers increase their net incomes. An article entitled "Brighter Options for Appalachia" which recaps the Stewart, Hall, Smith work appeared in the July issue of the Farm Index. I recommend this article to my colleagues and to the members of their staffs who are responsible for agricultural policy, and I ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

BRIGHTER OPTIONS FOR APPALACHIA

Rural areas in general, and farm families in particular, have more than their share of poverty, statistics show. But what the numbers don't tell are some ways poor families can improve their income picture.

In a study of the potential for improving net incomes from farming in a limited resource area, economists focused on Appalachia—where poverty is more prevalent than in some other rural areas—and surveyed farms in four counties in eastern Kentucky.

Results held out some hope for these farmers, whose incomes are low for a number of reasons. For one thing, farms are small, averaging 114 acres in 1969. Also, much of the farmland consists of steep hillsides which are either wooded or badly eroded from past cultivation, providing only marginal pasture land at best. Even if existing resources on these farms were used at maximum efficiency, at prevailing prices, incomes would still be small compared with other farming areas.

In 1970, for example, more than 40 percent of the commercial farm operators in the four-county study area grossed less than $5,000 in farm sales. Over half of the family incomes were below the poverty level, and off-farm jobs were very limited.

HARD CHOICES

Outside of public assistance, area families had three options for improving their incomes; migrate to greener pastures, seek off-farm employment, or boost income from existing farm resources.

Many, especially the younger and better educated residents, have already migrated to larger metropolitan areas in search of employment. Others, despite the area's high unemployment rates, have sought off-farm jobs. However, researchers noted that some migrants would probably like to return to the area, even at a financial sacrifice, if some minimal income were possible.

Those remaining on the farm tended to be older, less educated farmers with little or no management experience in many of the more profitable farm enterprises for the area. Their principal viable option was to use their production resources more effectively.

Most of their farm income was derived from crops, with tobacco the most important money-earner. Other crops included hay, corn, and small acreages of cucumbers and peppers. The farms had very few livestock, mostly beef cows and some sows.

MULES VS. TRACTORS

Two types of farms emerged from the survey of 102 farms—those that mainly used tractors for draft power (43 farms) and those that mainly used mules (59 farms). On the average, animal-power farms were smaller than the tractor-power farms (89 vs. 127 acres), and their agricultural production, measured either in quantity or value, was also smaller. Operators of animal-power farms were generally older, had higher disability rates, and fewer children for family labor.

Net income, while low for a representative farm of either type, was only $1,621 for an animal-power farm, compared with $2,662 for a tractor-power farm.

In reviewing ways to boost these incomes, researchers focused on the effects of changes in enterprise mix and improvements in the technology employed.

They used a linear programming model to come up with alternative enterprise combinations under existing and improved farming practices. But they cautioned that while the model pointed out more profitable enterprises, it assumed the same relative local prices and demand for the goods produced regardless of the number of farmers who adopted the optimum mix. If all farmers in the four counties made the same changes, they might have trouble marketing their products. Certainly, prices would not remain constant.

UNRESTRICTED CAPITAL BORROWING

If farmers could borrow any amount of capital, incomes for both types of farms would rise substantially even with no change in technology.

The tractor-power farm could increase its net income about 70 percent—from $2,662 to $4,562—by growing more profitable crops and substituting dairy cows for beef cows. With similar enterprise changes, the animal-power farm could more than double its net income—jumping from $1,621 to $3,486. In both cases, crop changes included increases in tobacco, cucumber, and pepper acreages. Boosting tobacco production would require leasing-in a sufficient tobacco allotment to fill existing curing-barn space.

Adopting improved technology as well as more profitable enterprises would increase net incomes even more—to $6,571 on the tractor-power farm and to $5,248 on the animal-power farm. In this case feeder pigs would replace dairy cows, and most of the feed corn would be purchased rather than grown. Maximum net income would be higher for the tractor-power farm largely because it had more land.

BACK TO REALITY

Despite the apparent gain from leasing in additional tobacco allotment, very little was reported in the survey. And the optimal acreages for cucumbers and peppers also turned out to be considerably larger than what farmers had actually planted.

Many of the indicated enterprise changes, researchers noted, were more labor-intensive, and would increase hired labor requirements at different times of the year. Capital requirements for farm operations, buying animals, and building facilities would also rise dramatically if feeder pigs were added to the mix. Whether farmers would be willing to make these changes remained an unanswered question. But where capital was concerned, economists figured ability to borrow could be more of a limitation than farmers' willingness to change.

RESTRICTED CAPITAL BORROWING

To determine the effects of restricted capital borrowing, researchers limited total capital to $3,000 for the tractor-power farm and $2,000 for the animal-power farm.

With existing technology, both types of farms would again emphasize tobacco, cucumbers, and peppers, but would reduce the number of dairy cows. Since pasture requirements would be shaved accordingly, the farms would increase the amount of hay harvested and sold from pasture land.

If the tractor-power farm could borrow as much as $3,000, its net income would decline only negligibly from the unlimited borrowing situation. But if no more than $1,000 could be borrowed, dairy cows would disappear completely and net income of approximately $4,600 would be reduced by 20 percent.

Net income for the animal-power farm would be largely unaffected by limitations of either $1,000 or $2,000 on borrowed capital.

If improved technology were employed, both farms would still focus on crops and reduce the number of livestock—in this case, feeder pigs. But net incomes would be affected more severely by capital limitations, shrinking by as much as 16 percent for the tractor-power farm and 13 percent for the animal-power farm when no more than $1,000 was borrowed. The drop would be largely due to the declining number of feeder pigs, which are far more profitable under improved technology than under existing practices.

LEASING TOBACCO ALLOTMENTS

Tobacco production is an important means to improving small-farm incomes in Appalachian Kentucky. Leasing of burley tobacco allotments by the pound has been permitted since 1971, but such leases may not exceed 5 years, and the leassor and leassee must be residents of the same county.

If these leasing restrictions were removed, some allotments *might* move from counties where labor is scarce and relatively expensive to counties such as those in Appalachia, where labor is frequently more plentiful and less costly.

Assuming modifications were made in the tobacco program, and unlimited capital borrowing were possible, net incomes would raise sharply for both types of farms, under both existing and improved technology.

At a lease price of 20 cents a pound, for example, income of approximately $4,600 for the tractor-power farm would jump by roughly 20 percent using existing technology. Tobacco would be strongly emphasized over other enterprises, and as a result, more labor would be required for harvesting.

With improved technology, tobacco would still take precedence over livestock and other crops, and net income of approximately $6,600 would rise by nearly 14 percent.

Enterprise combinations on the animal-power farm would look much the same as on its tractor-power counterpart. Using existing technology, income would increase by about 39 percent (from $3,486 to $4,839) and under improved technology by 21 percent (from $5,248 to $6,356).

ADVERSE POSSIBILITIES

However, modifying the tobacco allotment program could have undesirable effects on small farms as well. If the within-county leasing restriction were lifted, for example, allotments could tend to move to large-scale farms in other tobacco-growing areas, rather than to the small-scale farms in Appalachian counties. This might be particularly true if tobacco harvesting becomes further mechanized.

Under these circumstances, if Appalachian farmers leased out their tobacco allotments to other growers—eliminating their own production—incomes would plunge downward for both animal and tractor-power farms.

Assuming no share leasing and limited capital borrowing, net income for the tractor-power farm would be $3,544 under existing technology and $5,123 under improved technology. For the animal-power farm, net incomes would be $2,645 and $3,950 using existing and improved practices, respectively.

These results emphasize the importance of tobacco to low-income farms in eastern Kentucky. Without tobacco, farmers would increase the number of livestock and boost cucumber and pepper acreages. But while these crops can substitute for tobacco to some extent, they are substantially less profitable. Moreover, they are riskier ventures in that their production technologies are not as widely nor as well known, their markets aren't as well established, and their prices are subject to wider fluctuations.

GLIMMER OF HOPE

Overall, however, the study provided a ray of hope for small farmers in Appalachian Kentucky, showing that they can increase their incomes even with no technological improvements. Of course, by some standards, even the largest of these potential incomes would still be low. The median family income in Kentucky was $7,439 back in 1969. But since they represented substantial gains over the current financial picture, researchers wondered why farmers apparently were not making changes that would be advantageous.

Some additional survey results partially answered this question. Each farm operator had been asked what enterprises he would be interested in pursuing if he were to expand his operation, and the responses were not always the most profitable ones. For instance, beef cows scored a higher preference than either feeder pigs, dairy cows, or leasing additional tobacco allotments, even though beef cows appeared in none of the researchers' proposed solutions.

Operators had not been told the relative profitability of various enterprises, and they may not have known. It was also possible, researchers figured, that many operators could have an aversion to certain enterprises. In either case, some educational effort would probably be required to inform farmers and aid them in adopting different techniques if they wanted to do so.

EDUCATIONAL CONSIDERATIONS

But researchers cautioned that if such a program was to be effective, several findings should be kept in mind:

The average educational level of the operators interviewed was only 6½ years, and some could have difficulty reading or handling mathematical calculations.

Many of the farmers weren't in contact with established educational organizations, such as county extension agents.

With the exception of tobacco, the level of technology employed in many enterprises was low.

Some changes in enterprises and technology cannot be fully exploited without additional capital. Consequently, if educational efforts are to be successful, they may have to be accompanied by programs providing more borrowing power.

It is important to remember, however, that the Kentucky study concentrated on finding ways to make farming more profitable, and not on outside jobs, which might be combined with some farm operations. For those who could find them—and if they were available—off-farm jobs might yield more income than tobacco, dairying, or other farm enterprises with high labor requirements. This question was not studied.

[Based on the manuscript, "Potential for Increasing Net Incomes on Limited-Resource Farms in a 4-County Area in Eastern Kentucky," by Fred J. Stewart, Natural Resource Economics Division, and Harry H. Hall and Eldon D. Smith, University of Kentucky.]

SUCCESS OF THE DA VINCI BALLOON SERIES

Mr. DOMENICI. Mr. President, New Mexico has long been noted for the vital and extensive research that its scientific and technical communities have been engaged in for the advancement of our Nation. Just recently, it has once more participated in a scientific endeavor carried out under the supervision of Sandia Laboratories, of Albuquerque, N. Mex. The project, designated as Da Vinci III, was the nautral successor of two earlier projects, Da Vinci I and Da Vinci II. As I indicated 2 years ago in remarks before this body, Da Vinci I involved a balloon which sailed from Las Cruces, N. Mex. to Wagon Mound, N. Mex., in November, 1974. It established the feasibility of using a manned helium balloon as an atmospheric research platform at low altitudes. It also provided an integrated study of aerosol and gaseous pollutant characteristics and of related atmospheric properties in a clean environment.

Da Vinci II was also a highly successful 24-hour flight from St. Louis, Mo., to Griffiin, Ind. on June 8 through June 9, 1976. Data gathered from Da Vinci II established that a plume, which is a floating parcel of air pollutants, remained relatively intact throughout the flight.

Like the two previous Da Vinci projects, Da Vinci III is a joint effort by the Energy Research and Development Administration, its Sandia Laboratories; Los Alamos Scientific Laboratory, of Los Alamos, N. Mex.; the U.S. Army Atmospheric Science Laboratory, at White Sands Missile Range, N. Mex., the National Geographic Society, the National Oceanic and Atmospheric Administration, the Environmental Protection Agency and many other organizations.

St. Louis was selected as the site of the balloon lift-off because it has been the subject of a report compiled by the Environmental Protection Agency's Regional Air Pollution Study, which has been in progress since 1974. As a result of this extensive gathering of scientific data relating to the environmental impact of pollutants upon the upper atmosphere, its industry, and its major power production facilities, have been well characterized.

The helium-filled and heavily instrumented balloon was launched August 24 for the flight which lasted for about 24 hours.

From its point of origin near St. Louis, the balloon and its four-man crew were carried along, with the pollutants understudy, at altitudes from 1,000 to 3,000 feet, to its destination near Moorehead, Ky.

A principal objective of the Da Vinci III project was to determine the physical and chemical changes which air pollutants undergo as they travel over distances of several hundred miles from their source. Some pollutants can have an impact upon air quality far from their source. To cite an example, sulfur dioxide, as it travels through the atmosphere, chemically changes to become sulfuric acid and other noxious sulfates, which ultimately affect environmental quality.

In order for the researchers aboard the balloon to observe the complex changes as they occurred, they conducted more than 20 experiments using a variety of instruments to study the moving parcel of urban air pollutants. This investigation provided a detailed picture of what happens to a particular plume of polluted air in the lower atmosphere as it slowly traveled along the balloon's path. This information will contribute immeasurably to the development of improved air pollution control measures.

Thus, Da Vinci III has begun to provide an insight into how the chemical and physical changes of the pollutants occur so that scientists can develop appropriate control measures to limit the harmful health effects and property damage that can result from these "age" pollutants.

In closing, I would like to pay a special tribute to the New Mexico-based Sandia Laboratories for the most remarkable progress they have made thus far in the remarkable Da Vinci series.

At this time in our Nation's history when such a large quantity of research and effort is being expended upon the maintenance of our environment, I feel most confident that the New Mexico-directed and organized Da Vinci III project has made a memorable and lasting contribution to that effort.

UNITED NATIONS DEVELOPMENT PROGRAM

Mr. McGEE. Mr. President, in recent years the United Nations Development Program has been the target of some criticism within the Congress. The criticism has been aimed, more often than not, at management aspects of the UNDP program. Little attention has been paid to the substantive role of UNDP in meeting urgent development needs globally.

Therefore, it was with considerable interest that I read of the role UNDP has played in developing the timber industry of Honduras in an effort to not only enhance the quality of timber resource management in that richly endowed country, but to also move Honduras away from such a heavy reliance upon one export commodity—bananas.

In an article written by Donald J. Casey for the July–August 1976 issue of "Action UNDP" the Honduras experience with a very important UNDP effort was outlined. As noted by the author:

> The rich pine forests of Olancho, Honduras, which have survived countless fires, a devastating bark beetle attack, careless exploitation by sawmill owners and continuous cutting by farmers for cultivation and firewood, have become the site for a recently approved $415 million investment in a pulp and paper industry which when completed will be the largest of its kind in Central America.
>
> Behind the announcement of the details of the project by the Inter-American Development Bank (IDB) in Cancun, Mexico in May 1976, lies a history of 25 years of struggle by the Government of Honduras, bilateral donors and international agencies to conserve the forests and provide for their rational exploitation for industrial purposes.

The story of UNDP involvement in this effort is both intriguing and a compliment to this highly important multilateral development agency. Among the perplexing problems to be overcome before the Olancho project could get off the ground included the development of a forest policies management and conservation scheme for Honduras, the training of engineers, rangers and guards to properly care for Honduran forests, the establishment of an ownership policy and numerous other details which needed to be carefully worked out before the actual capital inputs for development of a pulp and paper industry could be forthcoming.

The Honduras project is an example of what we call preinvestment technical assistance. It involved a wide variety of experts in forest management, investment, and national legislation required for the establishment of a national forest policy for Honduras. Therefore, I urge my colleagues to devote their attention to this example of UNDP development efforts. It serves to enhance our understanding over what UNDP is all about.

I ask unanimous consent the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE MAKING OF A FOREST INDUSTRY

(By Donald J. Casey)

The rich pine forests of Olancho, Honduras, which have survived countles fires, a devastating bark beetle attack, careless exploitation by sawmill owners and continuous cutting by farmers for cultivation and firewood, have become the site for a recently approved $415 million investment in a pulp and paper industry which when completed will be the largest of its kind in Central America.

Behind the announcement of the details of the project by the Inter-American Development Bank (IDB) in Cancún, Mexico, in May 1976, lies a history of 25 years of struggle by the Government of Honduras, bilateral donors and international agencies to conserve the forests and provide for their rational exploitation for industrial purposes.

The events of those years tell the story of a development project which grew slowly and organically—one stage maturing before the next one started. Before any substantial investment could become a reality the Honduran Government had to establish forestry policy and legislation; survey its forestry resources; train technicians to run a national forest service; determine who owned the land on which the forests stood; control fires and natural plagues; and secure the best possible terms from foreign investment proposals.

In 1951, when the Government requested technical assistance from the United Nations, it had a rudimentary forest service, ineffective forest legislation and only a general knowledge of its forestry resources. The first FAO/UNDP analysis of the forests in 1952 said that "there was no effective control of exploitation methods . . . no consistent effort at management, no fire protection or regeneration possible because there existed no government services."

That report and subsequent ones predicted that a serious deterioration of the nation's abundant forest resources would occur unless new policies were implemented. Honduras had much to lose. Over 65 per cent of its mountainous terrain is covered with forests. Palm and mangrove forests thrive around the swamps in the eastern part of the country. Further inland and in the western highlands, pine forests such as those of Olancho cover the rugged landscape and form 40 percent of the total forested area. In the mountains and valleys toward the north coast, mahogany, Spanish cedar, balsa, rosewood and other species of trees grow.

But from the early 1950s it was the pine forests and their potential for a pulp and paper industry that provided the impetus for many forestry projects. Honduras is an agricultural country that receives most of its foreign exchange from the export of bananas. The development of an integrated forest industry that exported timber, pulp and manufactured lineboard for boxes used to ship bananas, could provide work for rural peoples and secure foreign exchange vital to improve the economy.

Providing employment and food for its three million citizens is a serious problem for Honduras. About 70 per cent of its population live in the rural areas and cultivate small plots of land that produce little food. Ninety per cent of Hondurans under the age of five suffer from malnutrition. Few have clean drinking water so that 14 per cent of all deaths are caused by diseases of the digestive system.

Many Hondurans are landless. Before the agrarian reform law was promulgated in January 1975, three per cent of the rural population owned about 27 per cent of the cultivatable land. Poor farmers with small land holding burned woodland and stubble to clear and fertilize land for corn, rice and beans. These fires and others destroy 650,000 cubic meters of wood each year. "If that wood had been sold, it would have brought $5.5 million every year," an FAO/UNDP report stated.

"EL GORGOJO"

But while fires pose the greatest danger for the large pine forests of Olancho, there are other threats. In 1963, a bark beetle epidemic began in the Department of Olancho and spread to the other pine forests destroying 20 per cent of the pine trees in Honduras. The bark beetle, called in Spanish "El Gorgojo," is a natural inhabitant of the tropical pine forest whose attacks are usually controlled by natural forces. Why the epidemic raged from 1963–1965 no one is certain, but some individuals feel that earlier fires and a lack of rain during those years had weakened the trees and allowed the beetles to cause the growth of "hongo azul," a blue fungus which kills.

The Government enlisted the help of USAID, UNDP/FAO and other donors in a "Campaign for the Defense of the Pine Tree" to cut sanitary zones several kilometres wide to separate the infested zones and to fell the stricken trees. But there was not sufficient manpower to do this effectively and the plague eventually worked itself out.

But nature is not the only destroyer of pine forests. Timber is a major export item for Honduras, traditionally the third greatest foreign exchange earner after bananas and coffee. Since 1951, sawmills have proliferated, increasing from 64 sawmills in 1952 to 143 mills in 1974. Many of these mills are wasteful, cutting only the best wood and not replanting deforested areas. As a FAO/UNDP report put it, "at least 25 per cent of the total usable production is wasted." In 1974, only 21 sawmills in the country had bandsaws. The remainder had circular saws that are notoriously wasteful. Better sawmills could increase timber production by an estimated 5 per cent a year.

Reckless exploitation, fires and insect epidemics were the visible signs that the forests of Honduras were in trouble. But there existed less tangible problems that affected the future of those forests more seriously. The first FAO/UNDP reports stated that existing forest legislation was outdated and did not provide the proper protection for the forests. Moreover there was no long-range policy for forest development and the existing Government forest service did not have sufficient technicians to cope with the problems.

"There is a need for a clearly stated forest policy," the first FAO report stated. "This policy must provide the basis for overhauling existing fragmentary laws and formulating and enacting comprehensive forest legislation." The Government acted on this recommendation and much of the technical cooperation supplied by FAO/UNDP in the following 20 years helped to evolve such a policy. In January 1974 Honduras approved a new law that set forth a comprehensive forestry policy and established the corporacion Hondureña de Desarrollo Forestal (COHDEFOR), an agency responsible for the conservation and management of forests, the extracting of timber and the processing and selling of timber products.

One thing the new law settled was the question of ownership of land in forests such as Olancho, an issue that had to be clarified before companies would invest in forest industries in the area. COHDEFOR became the administrative center for forestry development in Honduras, and its "Committee to Promote the Establishment of a Pulp and Paper Industry" worked together with the IDB and the Venezuelan Government to create the Olancho project.

When COHDEFOR was established the international agencies working in forestry projects in Honduras met to re-orientate their activities to help strengthen the new agency's capabilities. Already an impressive number of COHDEFOR's 700 employees had received training in a forestry school in Siguatepeque. The establishment of such a centre in Honduras was among the early recommendations made to the Government and in 1968 the UNDP Governing Council approved a Honduran request to establish the school. (A study indicates that for the next 10 years a total of 50 forest engineers, rangers and guards must be trained each year to properly care for Honduran forests).

The Siguatepeque school, which had initial difficulties with a first year drop-out rate of 66 per cent and an inability to keep skilled teachers, graduated its first students in 1972—14 forest experts and 30 guards. One of the major goals of the school was to prepare technicians to collaborate with any pulp and paper industry that would be set up in Olancho. The school benefitted from scholarships offered by the Federal Republic of Germany and USAID, and has reached such a degree of competency that plans have been completed for its continuing operation as a regional training centre for Latin America.

Besides matters that related directly to Honduran forests and forest industries, a series of political and natural crises hindered the ability of Honduras to turn its full attention to the forestry sector.

In July 1969, Honduras was involved in a five-day war with El Salvador, a conflict that grew out of a combination of factors including disputes about national borders and the emigration of Salvadorean workers to Honduras. This war slowed down the Honduran economy considerably and disrupted economic co-operation within the Central American Common Market.

Hurricane "Fifi" in September 1974 claimed 5,000 lives; destroyed more than half of the country's productive capacity and caused an estimated $400 million in damages disrupting economic plans and development projects.

The Department of Olancho itself was the scene of a bitter conflict between organized rural workers and large landowners. Honduras passed a land reform measure in January 1975 to deal with a situation where 74 per cent of the rural population owned only 12 per cent of the total land. In May, campesino groups, impatient that the details of the law had not been worked out, took over 108 haciendas. Conflict broke out between both groups. A peasant training centre was attacked, and following a hunger march by the campesino groups, six Honduran farmers and two priests were found dead at the bottom of a well in Olancho.

But the political crisis that attracted most attention was one related to both the banana industry and the pulp and paper industry. Honduras, Costa Rica, Guatemala, Panama and Colombia formed the Union of Banana Exporting Countries (UBEC) in 1974 to increase their income from bananas and to gain greater participation in a banana industry controlled by United Brands, Standard Fruit and Del Monte. One of the first actions of the group was to impose a tax on each carton of bananas to be exported.

As a result the "banana war" broke out in Central America with the transnational banana companies refusing to ship bananas from Honduras and other countries. This increased the tension between the Government and the transnational companies which had participated in an earlier effort to start a pulp and paper industry in Olancho. United Brands and Standard Fruit were partial stockholders (7.5 per cent each) in a venture started by the International Paper Company (IPC) and the Honduran Government. COPINO (Compañia Pino Celulosa de Centroamérica) was created to establish a pulp and paper industry in Olancho that would produce the linerboard and corrugated material needed to make the cartons in which bananas are shipped.

In the late 1960s, there were 18 plants manufacturing banana boxes in Central America. They imported over 200,000 tons of the containerboard used to make the cartons. United Brands and Standard Fruit either owned or were the major customers of over 85 per cent of these plants. COPINO then proposed that the banana companies buy their linerboard from the new plant, instead of importing it.

But the plant was never built. IPC insisted on maintaining its 51 per cent interest in the proposed industry, and other factors eventually caused a breakdown in negotiations. Later in 1971, the Government of Honduras bought IPC's interest in COPINO; then Honduras requested UNDP/FAO to assess the future of such a project. A forestry expert who had participated in previous projects in Honduras, went there and summed up the conclusions of 20 years of study—the forests of Honduras were the richest untapped resources of their kind in Latin America and were indeed suitable for a major integrated pulp and paper industry. The Honduran Government then proceeded to contact the IDB to finance the venture.

Four years later, on 15 May, 1976, in Cancun, Mexico, the Government of Honduras, the Venezuelan Investment Fund and the IDB agreed to finance an integrated programme of forestry development in Olancho costing about $415 million which would have as its goal the establishment of a pulp and paper plant in Honduras.

The project consists of a pulp and paper plant that will produce 203,000 tons of linerboard and 28,000 tons of corrugated paper a year for the manufacture of banana cartons. There will be a principal sawmill with an annual capacity of 213,000 cubic metres of sawn wood and two satellite sawmills each with an annual capacity of 127,400 cubic metres.

The financing of the project includes assistance to COHDEFOR offered by the Canadian International Development Agency (CIDA) to continue COHDEFOR's efforts at forest conservation and development. A port will be built at Puerto Castilla, about 40 kms from Corocito, the site of the plant. A network of roads will connect the plant, the sawmills and the port. Financing for the projects will be in stages starting in 1976 and concluding with the construction of the pulp and paper plant, as now scheduled, in 1979.

Barring unforeseen difficulties Honduras could have a new major industry by the early 1980s that would lessen its dependence on bananas as its major export and provide much needed employment in an isolated part of the country. But bananas will still play a major part in the economy and in the development of the pulp and paper plant. Earlier market studies indicated that such a plant could not be economically feasible if its products were not bought by the major market, the banana companies.

What arrangements will be worked out by Honduras and the other members of the banana association, UBEC, with the transnational banana companies could determine how significant the new industry will be.

On May 16, 1976, the New York Times reported from Cancúm, Mexico, that the Government of Honduras, the Inter-American Development Bank and the Venezuelan Investment Fund had formed a multinational project to invest $400 million to establish a pulp and paper industry in the Olancho pine forests in Honduras. This new investment project brings to a successful conclusion 24 years of work by Honduras to benefit from its rich pine forests.

1954–56: FAO study recommends that pulp and paper industry be established in the pine forests of Olancho.

1958: Government begins negotiations with National Bulk Carriers and Crown Zellerback Corporation to set up industry in Olancho. (1960, negotiations break off).

1961: International Finance Corporation requested by Honduras to help find suitable investors to develop Olancho area.

1963: Parsons and Whitmore Company makes offer to set up pulp and paper plant in Trujillo, port town on Caribbean coast. No agreement reached.

1965: Government receives $594,000 loan from Central American Bank for Economic Integration to finance feasibility studies for pulp and paper industry.

1967: ADELATEC finishes studies and Government commissions ADELA as financial agent for Olancho project to find suitable technical partner for Honduras and to suggest company for construction and operation of integrated pulp and paper complex in Olancho.

1968: Honduras signs general agreement with International Paper Company (IPC) which was chosen as technical partner for project. IPC carries out own studies on Olancho and obtains a 51 per cent share in pilot company, Compañia Pino Celulosa de Centroamérica (COPINO) to develop Olancho.

1969: COPINO, headquartered in Tegucigalpa with capital fund of $1 million, further develops plans for pulp and paper industry, modifying previous ADELATEC studies.

1971: Government negotiates withdrawal of IPC from project and buys IPC's interest in COPINO. Government requests UNDP/FAO to help assess future of pulp and paper industry in Olancho.

1972: Government seeks financial aid from Inter-American Development Bank (IDB) to establish Olancho industry. IDB mission visits Honduras.

1973: Group of IDP/FAO/UNDP/Honduras experts visits Olancho area and confirms previous studies about potential for integrated pulp and paper industry. IDB approves grant to ready proposal for major investment in Olancho.

1974: IDB, FAO, UNDP and Honduran officials hold meetings to co-ordinate and revise forestry programmes in light of new developments in Olancho and the establishment of new state corporation for forestry administration and marketing, COHDEFOR.

1975: IDB and the Honduran and Venebuelan Governments work to form multinational project to bring together investment needed for Olancho project. Negotiate with several large paper companies to find one that will supervise project and provide management and technical advice.

1976: Announcement made in Cancún, Mexico, at IDB annual meeting that IDB and Venezuelan Investment Fund would provide capital to realize the Olancho pulp and paper industry.

Since 1951, when the Government of Honduras requested technical assistance, FAO and UNDP have sponsored the work of forestry experts in a series of projects that have surveyed Honduran forestry resources; trained personnel to manage and protect forests; conducted feasibility studies on forest industries and evolved forestry legislation and policy.

1952: Forest Legislation and Protection: Major survey urges protection and development of forestry resources through a Comprehensive Forestry Act to replace existing fragmentary laws. Establishment of trained forestry service suggested.

1953: The Resin Industries: Research reveals that 300,000 pine trees die each year because of poor methods of resin extraction or through overtapping; series of steps suggested to improve resin industries' production methods.

1954: Inventory of Forestry Resources. Detailed report on location and type of forestry resources given to Government.

1957: Protection and Preservation of Forests: Analysis of forest industries urges Government to control exploitation of forest resources by ever-increasing number of sawmills that use wasteful methods and fail to develop forests for the future.

1962–65: Major Survey of Pine Forests: 21,500 square kilometres of pine forests in five of the nation's departments, including Olancho, surveyed, representing 80 per cent of the nation's total pine resources area.

1968: Forestry School: UNDP Governing Council approves Honduran request to establish school to train forestry experts. Siguatepeque chosen as school site.

1965–68: Implementing Forestry Programmes: Forestry expert assists Government develop forest policy based on previous analyses and intensify efforts to start pulp and paper industry.

1970: Major Strategy Outlined: Integrated programme for forestry resources proposed.

1971: Pulp and Paper Analysis: UNDP/FAO expert makes major recommendations for establishment of pulp and paper industry.

1972: Forestry Administration: Five-year programme to elaborate national forestry plan and develop forest industries begins.

1973: Inefficient Sawmills: Study of 125 sawmills indicates many operate with low efficiency and much wastage. Programme begun to improve efficiency of sawmill industries and product quality.

1974: New Laws and a New State Industry: Incorporating suggestions of previous studies and reports, Government establishes semi-autonomous agency, Corporacion Hondureña de Desarrollo Forestral COHDEFOR), to oversee forest policy. Project Adjustments: Existing technical co-operation programmes revised to assist COHDEFOR develop needed expertise. Scope of Siguatepeque forestry school expanded.

Olancho Pulp and Paper: Experts from ongoing project cooperate with IDB and Government in study of Olancho area.

1975: New Training Project: Trains Hondurans in all skills needed for correct forestry management, conservation, protection, selection for cutting, sawmilling and quality maintenance of timber products.

Regional Forestry School: Suggested that Siguatepeque forestry school become a regional centre.

1976: Wood Processing Industries: Programme proposed to develop quality standards and methods for small furniture and joinery plants.

CONSERVATION OVERSIGHT

Mr. DOLE. Mr. President, I am pleased to report that the Committee on Agriculture and Forestry has recently initiated a major project of oversight and evaluation pertaining to Federal soil and water conservation programs.

Existing Federal conservation programs have made significant gains in preserving and restoring our soil and water resources. Agricultural productivity has been greatly enhanced by the implementation of sound conservation practices through Federal programs. But the time has now come to consider whether these programs could be made even more effective.

Unlike past oversight efforts which usually focused on a single program or agency, the committee intends to look at all conservation-related programs administered by the Department of Agriculture and determine how well they interface with similar programs in other Federal Departments and with State and local efforts. In this way we hope to assess the efficacy of USDA conservation programs in the total context of national conservation policy and needs.

On May 24, Senator HERMAN E. TALMADGE and I wrote to Secretary Butz informing him of our oversight plans and expressing several of our major concerns. We indicated that:

> Farming has changed in many ways since the first major conservation programs were instituted during the Great Depression, and we wonder if practices have changed so much that the conservation programs we purchase each year with the taxpayers' money are still the best buy.

We further indicated to the Secretary that "the agricultural and forestry communities are being required by legislation, and by the courts, to take serious steps to avoid practices which might cause environmental degradation. Some of these environmental requirements are likely to have a costly effect on food and fiber production. We wonder if present programs are adaptable to these changes."

Mr. President, now that our oversight project is well underway, I would like to describe our efforts in greater detail.

EFFICIENCY AND EFFECTIVENESS

Since 1935, when the Federal Government initiated its first major soil conservation program, the Department of Agriculture has expended increasing sums of money for the protection and enhancement of the Nation's soil and water resources. During fiscal year 1976 alone, eight agencies of the Department will spend more than $1 billion through 43 individual conservation-related programs.

Mr. President, I ask unanimous consent that a list of these agencies and programs be printed in the RECORD at this point.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

USDA CONSERVATION-RELATED PROGRAMS LISTED BY AGENCY

AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE

Agricultural Conservation program.
Appalachian Regional Development Program.
Rural Environmental Conservation Program.
Administrative Support (ACP and Appalachia).
Water Bank Program.
Greenspan Program.
Cropland Adjustment Program.
Cropland Conversion Program.
Conservation Reserve Program.
Emergency Conservation Measures.

ANIMAL AND PLANT HEALTH INSPECTION SERVICE

Pest Management Program.

AGRICULTURAL RESEARCH SERVICE

Research on Conservation and use of land and water Resources and Protecting Environmental Quality.
Research on watershed development.

ECONOMIC RESEARCH SERVICE

Economic Research and Analysis of Environmental Quality Issues.
Economic Research and Analysis of the the Use and Development of Natural Resources.

EXTENSION SERVICE

Support for Extension Education for Pest Management.
Support for Extension Education Assistance in Community Resource Development.

FARMERS HOME ADMINISTRATION

Flood Prevention Loan Program.
Watershed Works of Improvement Loan Program.
Recreation Association Loan Program.
Recreation Loans to Individuals.
Water and Waste Disposal Loan and Development Grant Program.
Water and Waste Disposal Planning Grants Program.
Resource Conservation and Development Loan Program.
Soil and Water Conservation Loans to Individuals.
Soil and Water Conservation Loans to Associations.

FOREST SERVICE

National Forest Soil and Water Program.
Pollution Abatement Program.
Rangeland Management Program.
Minerals Management Program.
Land Aquisition Program.
Forest Watershed Management Research Program.
Surface, Environment and Mining Program.

SOIL CONSERVATION SERVICE

Conservation Technical Assistance.
Watershed Works of Improvement (P.L. 566 Program).
Watershed Planning Program.
Flood Prevention Program.
Great Plains Conservation Program.
Soil Surveys.
Snow Surveys and Water Supply Forecasting.
River Basin Survey Program.
Conservation Plant Minerals Centers.
Resource Conservation and Development Project Operations.

Mr. DOLE. Mr. President, the committee wants to know whether these programs are working efficiently and effectively toward compatible goals with a minimum of overlap and duplication. We intend to ask some tough and pointed questions: Are programs focused on a clearly defined problem or goal? Are older programs addressing problems which are still pertinent or valid? Are programs promoting up-to-date conservation practices and techniques? Are program resources directed toward areas where the needs are greatest and where the problems are remediable? Can paperwork requirements be streamlined and reduced? Is progress toward goals being periodically measured in quantitative terms? Could goals be better achieved through the private sector or at a different level of government? Would more efficient management afford identical results at a lower level of public funding? Could similar programs be merged in order to lessen administrative costs?

AN INDEPENDENT PERSPECTIVE

Our purpose is not simply to promote efficiency and realize economies. The committee is also concerned with taking a closer look at agricultural conservation and soil erosion problems, and determining what levels of public and private effort are required to get the job done. Earlier this year, the committee sent to the Senate the Land and Water Conservation Act of 1976. If this measure becomes law, it will lay a foundation for ongoing oversight by establishing a mechanism for the appraisal of national soil and water resources and requiring a report of the findings to Congress.

In the meantime, our work will include hearings both in Washington and in the field; technical conferences which we hope can be organized in cooperation with USDA agencies; management studies, where applicable; and considerable data collection. We expect to complete our oversight and draft legislation by March 1977.

Our task is ambitious and requires a good deal of outside assistance. But we have gotten off to an excellent start. The Congressional Research Service and the General Accounting Office have already assigned personnel to work with the committee staff, and Secretary Butz has pledged his full cooperation. Several nongovernmental organizations have agreed to provide us with an independent perspective. The Council for Agricultural Science and Technology has already gathered a task force of distinguished agronomists and conservationists at our request. The National Association of Conservation Districts, the National Water Resources Association, and the Soil Conservation Society of America will also give us their insights in the weeks ahead.

BASIC CONCERNS

Mr. President, I take this opportunity to express some of my own concerns about soil and water conservation and its meaning for agriculture. The Nation has now entered an era of all-out farm production. The markets for American food and fiber have expanded both at home and abroad. Agricultural exports are running at $22 billion a year and have now become the single largest category in our export inventory. American farmers and ranchers have responded admirably to the challenge of increased production by making maximum and efficient use of technology while using a minimum of labor inputs.

But fence row to fence row cultivation has also placed an enormous burden on our soil and water resources. Fragile grasslands have been put under the plow, windbreaks have been chopped down, and water tables are declining as a result of increased irrigation. The ancient but effective practice of crop rotation is giving way to continuous single cropping and double cropping, and farmers are becoming increasingly dependent on chemicals to replenish the soil. In some cases, hillside terraces have been broken down to make room for larger farm machinery. The problem is compounded throughout large portions of the Great

Plains where a new cycle of drought caused serious wind erosion which damaged more than 6 million acres this year.

Ten years ago, when the Soil Conservation Service published the Conservation Needs Inventory, it appeared that we were making slow but steady progress in protecting or restoring agricultural land. But in the last 2 years we have suffered critical losses. The Soil Conservation Service now estimates that the annual rate of soil loss through erosion is increasing. At the present rate, we are losing as much as 1-inch of rich topsoil on sloping farmland in the Corn and Wheat Belts every 10 to 12 years. Clearly, a more effective conservation effort is needed if we are to sustain our high level of agricultural production.

WISER INVESTMENT OF CURRENT RESOURCES

I suspect, however, that what is needed is not more Federal programs addressing individual problems areas, but a wiser investment of current resources and better direction and coordination among the programs we already have.

Earlier this year, for instance, I introduced legislation to redirect the agricultural conservation program—ACP. Dating from the Dust Bowl days the ACP is one of the earliest nationwide efforts at promoting good conservation practices on agricultural land. Unfortunately, the ACP has not kept pace with changing conservation needs. Every President since Harry Truman has called for statutory reform, but Congress has been slow to respond. My bill, S. 3299, would redirect the ACP toward an emphasis on long-term enduring-type practices.

It would encourage greater use of long-term agreements which provide for a total conservation plan on an individual farm and which are tailored to the farmer's particular problems and capabilities. This is one way to use our limited public funds with maximum effectiveness.

ACP cost sharing funds, and other Federal conservation incentives, should be used to encourage those enduring and comprehensive projects that landowners are reluctant or unable to undertake on their own. Incentives should not be used merely to subsidize short-term, production-oriented practices that landowners would implement in any case.

FEDERAL POLICIES NOT CONSISTENT

Federal incentives and policies should also be consistent with one another and with current conservation needs. At the present time, however, this is not always the case. The General Accounting Office reports that Federal loan programs are subsidizing construction on unprotected flood plains and are encouraging suburban sprawl on prime agricultural land. Another GAO report states that the Bureau of Reclamation has unwittingly encouraged the overirrigation of farm lands thereby contributing to the increasingly serious problem of groundwater depletion.

I am also troubled by the detrimental impact of some recent environmental standards on existing conservation programs. A case in point concerns the Public Law 566 watershed development program administered by the Soil Conservation Service. This program has proved a highly successful means of containing flooding in the Nation's smaller watersheds.

Yet, the Public Law 566 program is far behind schedule and faces a 10-year backlog of uncompleted projects. Some of this delay is the result of paperwork and other complications necessitated by the passage of the National Environmental Policy Act of 1969 and the court decision, 3 years later, to make that measure retroactive. The Soil Conservation Service has now begun to integrate NEPA into its watershed planning process, but one can only guess at what the delay has already cost in terms of damaged crops and livestock, the loss of irreplaceable topsoil, and the silting of waterways.

The sad example of the Public Law 566 program should serve as a warning of similar problems that loom ahead. In September, the Army Corps of Engineers will implement phase II of the dredge and fill permit program authorized by section 404 of the Water Pollution Control Act (Public Law 92–500). Farmers and ranchers are already faced with the complex and ambiguous requirements for point source and nonpoint source pollution control as mandated by the Environmental Protection Agency's section 402 permit program and the section 208 planning mechanism. Like the "dredge and fill" program, sections 402 and 208 are being implemented by timetable, and I understand that stricter requirements will soon be phased-in.

I urge the Water Resources Council to exercise its statutory authority and take a more active part in assuring that new environmental restrictions are implemented with the least possible disruption to existing programs and to private farm operations.

Mr. President, I conclude these remarks by stating my conviction that while the Federal Government has a legitimate and vital role in conserving the Nation's soil and water resources, the ultimate responsibility lies with the individual landowner. The strength of our present conservation efforts is based on our recognition of this fact. Agricultural conservation and erosion control measures are not imposed on landowners, as they are in most other nations, but are carried out voluntarily and in cooperation with local conservation districts or locally elected ACP county committees.

This is as it should be since farmers and ranchers have proven to be the best conservationists. If Government provides the necessary assistance, we can be certain that the farmers and ranchers will get the job done.

THE GENOCIDE CONVENTION AND DOMESTIC SOVEREIGNTY

Mr. PROXMIRE. Mr. President, there are those who believe that the Genocide Convention poses a double-edged threat to the U.S. Government. First, they maintain that the convention would entitle foreign governments to determine and act upon incidents of possible genocide occurring within the borders of the United States. This, in their view, would be a violation of sovereignty. Second, these critics are wary of any treaty which might require the United States to take similar punitive action in the internal affairs of a foreign state.

Certainly, these fears are legitimate, but they are unjustifiably aroused by the articles of the Genocide Treaty. For this treaty, endorsed by the United Nations and ratified by an overwhelming number of member nations, quite explicitly safeguards these nations against such difficulties. No action is unilateral. Rather, contracting countries employ appropriate agencies of the U.N. according to the provisions of the charter, to intervene in instances of obvious violations of the convention's articles. Questionable situations are presented before an international tribunal acceptable to the parties concerned. Finally, all subsequent actions of the tribunal, including powers of extradition, must be consistent with the existing contradiction treaties and constitutions of the nations involved.

In reality, those who remains skeptical of the convention need only to realize that no foreign State can intervene directly or indirectly in American domestic affairs. Only international organizations can mediate or arbitrate disputes, and the protections guaranteed by the U.S. Constitution and existing treaties cannot be superseded or abrogated.

The Genocide Convention represents a tangible commitment to peace and human dignity. Therefore, I call upon my colleagues in the Senate to act now to ratify this treaty without further delay.

LONG-RANGE PLAN TO COMBAT DIABETES

Mr. HUGH SCOTT. Mr. President, in setting our priorities we must give special attention to the health of all Americans. We must realize that many Americans do not have the good fortune of good health. As a cosponsor, I am pleased to see that earlier this session the Senate, with my active support, passed S. 1664, a bill to amend the Lead-Based Paint Poisoning Prevention Act. This is certainly a step forward on the road to a healthier United States of America.

There is another important health matter that merits our immediate attention—diabetes. Diabetes can cause blindness, stroke, heart attack, kidney failure, and complications during pregnancy and childbirth. It is unique in producing severe complications in many different organs. Unless a method of prevention is found, the average American born today has more than a 1 in 5 chance of developing diabetes. It is estimated that the number of people with diabetes will double every 15 years.

The National Commission on Diabetes was established by the 93d Congress to develop a "Long-Range Plan to Combat Diabetes." On December 10, 1975, the Commission, in its report to Congress, recommended a long-range plan that called for more basic research, better training of skilled manpower, and more efficient use of existing agencies for the care of patients who have diabetes or who may develop diabetes before a cure is found. The fourth component of the plan is the establishment of the National

Diabetes Advisory Board. This Board would "review, evaluate, and advise" the Government and the public with respect to the implementation of all components of the plan. Presently the many widely dispersed diabetes programs and resources fall within the scope of at least seven institutes. The National Diabetes Advisory Board would provide an organizational focus for coordinating these programs and resources.

The National Diabetes Advisory Board Act, S. 2910, which I am cosponsoring, is now pending before the Senate. It is important that we give this legislation our prompt attention. The establishment of this Board is essential to the effiective implementation of the long-range plan. I quote Oscar B. Crofford, M.D., Chairman of the National Commission on Diabetes:

> It is my firm conviction that if S. 2910 should fail, the entire plan will fail because the Diabetes Plan was built with four interlocking parts and—quite simply—this is the fourth and final part.

Mr. President, I urge the Senate to act favorably on this vital piece of legislation without delay. Legislation such as this, which looks toward the future of our health care system, deserves our attention. Let us make life a little better for those who are less fortunate, and hope that someday soon a cure for diabetes can be found.

I would also like to take this opportunity to urge that the Senate act on S. 1619 to extend and revise programs for sickle-cell anemia. This legislation, which I am cosponsoring, is long overdue. There is still much research to be done in the area of sickle-cell anemia. Those inflicted with this disease are in need of attention. This is another health matter which cannot be properly dealt with without our support.

ARTHUR BARRIAULT—FRIEND

Mr. MANSFIELD. Mr. President, during the July 4 recess, a long-time friend, Arthur Barriault, of NBC News, died suddenly of a heart attack. It is my understanding that at the time this occurred, he was taping a TV program at the NBC studios in Washington with his friend, Robert McCormick, the well-known TV and radio commentator.

I have known Arthur Barriault since he came to Washington and I looked upon him as one of the great reporters of his time. He was factual, candid, impartial and a man of integrity and a deep sense of responsibility. It was a joy always to be with Arthur, to be the beneficiary of his wit and wisdom and to be aware of his interpretation of events as they occurred. He was probably the most popular reporter on the Hill and he was esteemed by all Members of the Senate and by all of us was looked upon as a friend.

It is with a deep sense of sadness that I make these remarks because I feel a sense of personal loss in the passing of this great reporter, this man of conscious and integrity, this man whom I was proud to call friend.

Maureen and I wish to extend our deepest condolences and heartfelt sympathy to his wife, Wanda, and their children, Anne and Greer. May his soul rest in peace.

Mr. President, I ask unanimous consent to print at this point in the RECORD a tribute paid to Arthur Barriault by his long-time friend, Robert McCormick of NBC, under date of August 2, 1976.

There being no objection, the tribute was ordered to be printed in the RECORD, as follows:

TRIBUTE PAID TO ARTHUR BARRIAULT

During the July Fourth recess, with most Members of the Senate away, Congress lost a news correspondent outstanding for his integrity, his knowledge and his fairness. Arthur Barriault of NBC News, died suddenly of a heart attack while taping a television program at the NBC studios in Washington.

Barriault had covered Washington since 1945 and his experience included a period as White House correspondent during the Truman administration as Pentagon correspondent, and later as State Department correspondent. But it was during his 15 years as a reporter covering Congress that he made the most friends and the most enduring reputation.

He was a native of Fall River, Mass., a 1936 graduate of the University of Pennsylvania, and a reporter for the New Bedford, Mass., Standard-Times and the Providence, Rhode Island, Journal and Bulletin, before he began five years World War II Army service with anti-aircraft and intelligence units. He came to NBC in 1945, where he served as editor of the News of the World radio program before going to the field.

He also served his country for several years, in the early 1960's, as a liaison officer between the broadcasting industry, and the White House Office of Emergency Planning.

He is remembered by most of us as a friend who was respected for his accuracy, his honest reporting and his skill in interpreting the sometimes confusing machinations of our deliberations.

He died July 7, at the age of 61. He is survived by his wife, the former Wanda Greer; a daughter, Anne, and a son, Greer. He lived at 6703 Hazel Lane, McLean, Va.

CURRENT U.S. POPULATION

Mr. PACKWOOD. Mr. President, I wish to report that, according to current U.S. Census approximations, the total population of the United States as of August 1, 1976, reached 215,779,915. This represents an increase of 1,549,781 since August 1 of last year. It also represents an increase of 124,182 since July 1 of this year, that is, in just 1 short month.

Thus, in this last year, we have added enough additional people to our population to more than fill the combined cities of Phoenix, Ariz., Cincinnati, Ohio, and Denver, Colo. And in 1 month our population has grown enough to more than fill two cities the size of Oshkosh, Wis. and Santa Barbara, Calif.

AGPLANE RESEARCH REQUESTED OF NASA

Mr. MOSS. Mr. President, we are all aware that one of the most critical problems that we face today is the production of food and fiber to feed and clothe the growing world population. As this growth has taken place, especially since the end of World War II, we have been fortunate to see a corollary growth in food production, not so much by the increase in tillable land, but by an enormous increase in productivity due to greater mechanization, increased use of fertilizer and pesticides, and, more recently, the so-called green revolution.

We may hope to see these productivity trends continue. Scientists, through research, will continue to develop new plant strains, new fertilizers, new pesticides, new procedures, and new tools. One of the fastest growing and most promising of these new tools is the agplane, which is really an old tool—the crop duster—that is being put to new uses.

Agplanes not only dust crops now; they can weed, fertilize, and sow. In fact, they can sow a second crop, such as soybeans, in a standing field of an unharvested crop, such as wheat, in a new procedure called "double cropping". This procedure can substantially raise the output of the field in a single growing season.

Ground vehicles can cause as much as a 20-percent reduction in usable land because of ground compaction, widespread rows, and the need for maneuvering room. This 20 percent can obviously be gained with the use of agplanes. Another advantage of the agplane is that it can do in minutes what it takes ground vehicles hours to do and on only one-tenth to one-sixth the fuel.

No wonder the market for U.S. agplanes is growing; 1,200 were sold last year for more than $45 million, approximately 30 percent for export. However, of the estimated 17,000 agplanes in the world today, 13,000 are in Russia and the United States, indicating that prospects for exporting these aircraft are promising indeed. But the United States is not the main supplier of agplanes for world markets. Believe it or not, this honor goes to Poland, primarily because it is the only country in the world still manufacturing a small but powerful radial air-cooled engine that is ideal for agplanes. Such engines have been out of production in the United States for many years, and American airframe manufacturers who want these engines are going to have to buy them from the Poles.

Even in this country, while greater and more versatile uses for agplanes have been developed, no significant change has occurred in agplane technology in 30 years. This is not because agplanes are perfect, in fact, they have some nagging drawbacks. Let me list a few:

First. They are not maneuverable enough to treat sloping or irregular plots.

Second. Current chemical dispersal systems cannot be controlled accurately.

Third. Spray droplet size is not uniform enough. Smaller droplets tend to evaporate before settling.

Fourth. Some droplets do not settle in the desired area and are blown away by winds.

Fifth. It is difficult to fly swaths without either overlapping too much or leaving gaps. The former is wasteful of chemicals while the latter supplies insufficient spray.

Sixth. Flying close to the ground and in and around obstacles is dangerous, and although the fatality rate is low, and accident rate for agplanes is higher than for normal general aviation aircraft.

In spite of these acknowledged shortcomings, there has as yet been no systematic and integrated efforts to improve agplane technology. I have therefore asked the National Aeronautics and Space Administration to prepare a comprehensive plan for a systems oriented research program in this field.

Mr. President, I ask unanimous consent that my letter to Dr. James C. Fletcher, Administrator of NASA, and his reply to me be printed in the Record at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection it is so ordered.

(See exhibit 1.)

Mr. MOSS. Mr. President, I am happy to report that NASA studies showed the possibilities for major benefits in this area, and that they are now reviewing all of the elements of this program with the idea of preparing the comprehensive plan that I requested.

Encouraged by the response from NASA, I wrote a letter to each Governor in order to assess the feelings at the State level for the potential improvement of agplanes.

One of the first replies I received was from the Honorable Sherman W. Tribbitt, Governor of Delaware. He says Delaware is now using such aircraft extensively and that there are "tremendous potentials for further use." He concludes as follows:

> I believe your proposed program development by NASA has considerable merit and would greatly benefit agriculture in Delaware.

Mr. President, as these replies come in, I will bring them to the attention of the Senate. In the meantime, I ask unanimous consent that my letter to the Governors and Governor Tribbitt's reply be printed in the Record.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Exhibit 1

May 21, 1975.

Dr. James C. Fletcher,
Administrator, National Aeronautics and Space Administration, Washington, D.C.

Dear Dr. Fletcher: The Senate Committee on Aeronautical and Space Sciences would like to determine the value to our Nation of a NASA research program on aerial applications technology. It has come to our attention that agricultural aircraft are playing an important role in this Nation's agricultural production and that NASA studies indicate the potential of significant technology improvements in such aircraft.

To permit an adequate evaluation of such technology, we request that NASA develop a comprehensive plan for a research program on aerial applications technology. Emphasis should be placed on an innovative systems approach, and the size and configuration of American farms should be considered.

It would appear desirable that the potential program be developed in consultation and cooperation with appropriate representatives of agriculture, the aircraft industry, research institutions, and related government agencies. Major subprograms, relationships to existing activities, milestones, costs, and goals should be specified. An economic analysis which considers agricultural productivity and benefits to the Nation should be included. Specific attention should also be given to protection of the environment, safety, and the conservation of natural resources.

The Committee will utilize the plan and economic studies and other information to determine the desirability of including it within authorized appropriations.

Sincerely,

Frank E. Moss,
Chairman.

National Aeronautics and
Space Administration,
Washington, D.C., July 6, 1976.

Hon. Frank E. Moss,
Chairman, Committee on Aeronautical and Space Sciences, U.S. Senate, Washington, D.C.

Dear Mr. Chairman: This responds further to your May 21, 1976, letter requesting NASA to develop a comprehensive plan for a research program on technology for the aerial application of agricultural chemicals.

NASA recently completed a study of the potential benefits of research into the agricultural uses of aircraft. The results of this study show the possibilities for major benefits to the U.S. if certain key problems in the accuracy of application and the control of chemical drift can be overcome. A preliminary description of these conclusions was presented in the briefing to your staff on May 6, 1976.

NASA is continuing studies to better define research needs in this important area. Steps are underway to review our activities with all elements involved in the aerial application of chemicals in agriculture so that we assure that our studies are directed to the real needs. In response to your specific request for a comprehensive plan, the in-depth analysis required will take some time to complete. However, we are prepared, if you desire, to brief you and/or your staff during the month of July on the details of our studies related to aerial application.

We appreciate your interest in this matter.

Sincerely,

James C. Fletcher,
Administrator.

Exhibit 2

U.S. Senate,
Committee on Aeronautical and
Space Sciences,
Washington, D.C., June 4, 1976.

Dear Governor: The Senate Committee on Aeronautical and Space Sciences has requested that the National Aeronautics and Space Administration (NASA) develop for the Senate's consideration an aerial applications technology program for improvements in agricultural aircraft.

Aircraft are now performing operations such as seeding, fertilizing, and pest and weed control on millions of acres of crops, range and forest lands. However, I am told that only a limited portion of suitable land is being treated by aircraft. It has been suggested that the increase in agricultural production could be many billions of dollars annually if all suitable land were treated aerially by a vehicle designed to utilize improved related technology.

NASA is optimistic that they can achieve technology improvements that could make the use of agricultural aircraft more financially attractive to farm operators and more environmentally acceptable.

I would very much appreciate receiving your opinion on the merits of such a program and its desirability in terms of agricultural productivity in your State.

Sincerely,

Frank E. Moss,
Chairman.

State of Delaware,
Executive Department,
Dover, June 14, 1976.

Hon. Frank E. Moss,
Chairman, Committee on Aeronautical and Space Sciences, U.S. Senate, Washington, D.C.

Dear Senator Moss: Thank you for your letter of June 4 requesting my opinion on an aerial applications technology program for improvements in agricultural aircraft, which your Committee has requested that NASA develop.

Delaware agriculture is presently using aircraft extensively for pesticide application, weed control, seeding and fertilization. I feel that there are tremendous potentials for further use of aircraft in agriculture, as well as more efficient use to make it more environmentally acceptable.

I believe your proposed program development by NASA has considerable merit and would greatly benefit agriculture in Delaware.

Sincerely,

Sherman W. Tribbitt,
Governor.

DR. DAVID MATHEWS' WISE POLICY AT HEW

Mr. ALLEN. Mr. President, widespread criticism of the executive branch of the Federal Government has been that although Congress may pass legislation that has been carefully considered and fully debated, the bureaucracy often makes interpretations that not only distort the intent of Congress, but also which make little distinction between the reality of public wishes and planners dreams.

This has been particularly true in burgeoning agencies of Government, such as the Department of Health, Education, and Welfare, where decisions and interpretations touch almost every man, woman, and child in this country.

So it was with considerable interest that I read an editorial entitled "Strange Words From HEW" which appeared in the Wednesday, July 28, 1976, edition of the Montgomery Advertiser in Montgomery, Ala. The editorial writer, as do I, takes hope from a recent statement by Dr. David Mathews, Secretary of HEW, that from now on no major policy decision will be made by HEW affecting the people of this country until after the people have had an opportunity to express themselves on the issue or issues involved. Dr. Mathews, who is demonstrating an innovative approach to public service, also indicates that he intends to conduct public meetings throughout the Nation, to speak at civic meetings and to use other open methods to test the public's reactions to proposed major HEW policy changes before they are instituted.

Mr. President, I find it most refreshing for a top Federal official not only to admit that his department can make a judgment error, but also one who publicly states his intentions to remedy such errors and to seek to prevent their occurrence in the future.

My hope is that Dr. Mathews will be able to get his message down into the burrows of HEW where faceless and nameless bureaucrats make so many of the decisions which he finds—and which the American people find—so objectionable.

Mr. President, in the interest of making Dr. Mathews' message broadly known, I ask unanimous consent that the editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

STRANGE WORDS FROM HEW

All too frequently people who write laws and regulations that govern our lives tend to do so in such a manner as to make their work easier.

That these edicts may complicate the lives of millions in order to make work easier for a few, seems to make little difference to those creating the rules.

In one segment of the federal government this may soon end. Or, we can hope that the problem may be a mite alleviated.

Over the years the public has become increasingly put out over the petty rules and red tape that entangle it in a morass of frustrations, aggravations and unanswered complaints.

In dealing with the federal government, the buck never seems to stop, it just passes from one bureaucrat to another until the citizen finally surrenders to the system.

It's little wonder that presidential candidate Jimmy Carter has found much voter acceptance of his bureaucracy-taming statements—even though they may be more talk than action.

Nonetheless, the electorate is fed up with "the system" and wants a change.

And from the same Southland that gave us Mr. Carter, comes our own David Mathews, who says he is going to do something about the "evils" in the regulatory process in his bailiwick, the Department of Health, Education and Welfare.

On Sunday he announced that the procedure for manufacturing red tape in that domain would be reversed—somewhat.

From now on those of us whose lives will be touched by HEW rules and guidelines will be asked to give HEW our two-cents worth.

Says Dr. Mathews, to a silent chorus of amens:

"For far to long HEW has gone to the public . . . only to tell (it) what it intends to do. From now on our first step will be to ask the people of this country what they think we should do."

In this almost unprecedented reversal of governmental procedures, Mathews promises that his office "will not put forward a major proposal until the people affected by it have had their say."

To carry out this welcome change he intends to hold town hall-type meetings, advertise, present the proposed changes at civic meetings and utilize a host of other devices to test the public's reactions to HEW changes.

One of the changes we like best is Mathews' decision to hold training sessions for his regulation writers and teach them to write in plain, understandable English—not governmentese.

He also plans to review existing regulations to see if they're doing what they were intended to do.

In all, it sounds like a laudable, if not lofty, enterprise.

If Dr. Mathews' change in HEW operations succeeeds, it can be the best thing that has happened to the average citizen in years.

No longer will he have to shrug his shoulders and resign himself to the persecutions of an impersonal Big Government.

In a sense, we are returning to the spirit that has made this Nation great, a spirit that was beginning to be submerged in bureaucratic indifference.

At HEW, we may see the return of a government of the people, by the people and for the people.

PROGRESS SLOW ON ESTABLISHING INTERNATIONAL FUND FOR AGRICULTURAL DEVELOPMENT

Mr. HUMPHREY. Mr. President, I wish to share with my colleagues an article by Ann Crittenden in the August 2 edition of the New York Times entitled "World Food Fund Short of Target."

Officials of the World Food Council, established to implement the recommendations of the World Food Conference of late 1974, indicate their hope that the target of $1 billion for the IFAD can be met by the end of September and put into operation by the end of this year. If the financial goals are not met, the fund will be started with whatever money it has available.

In spite of the delays in getting the fund organized and underway, it has been one of the more successful initiatives of the World Food Conference. Other targets such as world food reserve have not yet been accomplished, and there is no certainty as to when agreement might be reached.

The world food situation has improved for many of the food-deficit nations with some experts expecting a growth in the world food stocks by as much as 40 million tons by the end of the current crop year.

The grain harvest in Southeast Asia has been outstanding so that India has been able to build up a 15 million-ton buffer stock, and the country now faces grain-storage problems.

In spite of these hopeful signs, the World Food Council concludes that "the basic world food situation remains insecure, with long-run food production trends in the developing countries still inadequate to meet their rising needs."

Clearly, this will remain a problem which will require our devoted attention over the years to come. We will need to play an effective part in terms of developing more effective policies and also in providing our fair share of food assistance for the food-deficit nations.

Mr. President, I ask unanimous consent that this article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

WORLD FOOD FUND SHORT OF TARGET

(By Ann Crittenden)

More than two years after it was proposed, the International Fund for Agricultural Development, which it was hoped would help to increase food production in the chronic food-deficit countries, is still $63 million short of its $1 billion target.

Officials of the World Food Council, the executive body established to implement the recommendations of the World Food Conference held in Rome, hope that the goal can be met by the end of September and that the fund can be put into operation by the end of this year. If not, its financial goals will have to be lowered and it will be started with whatever money it has.

Ironically, the fund "is the only World Food Conference initiative that has gotten off the ground at all," John Hannah, executive director of the Rome-based council, said in a recent interview. According to documents prepared for the second annual meeting of the council in June, "there has been no significant progress" on what Dr. Hannah calls the most important food issue, the evolution of a dependable system of food security and food reserves.

THREE RECOMMENDATIONS

Little action has been taken on any of the council's three recommended food security measures: the establishment of an international reserve of 500,000 tons for emergencies, the earmarking of a fixed portion of the stocks of major grain producers for food aid (to better assure aid continuity) or the building of a stockpile of 15 million to 20 million tons of grain to stabilize world grain prices.

To be sure, the council report noted that there has "been a distinct improvement in the immediate food situation of many developing countries, except some in Africa following bumper cereal crops in 1975, particularly rice in Asia."

As a result, world cereal stocks are expected to reverse a three-year decline and grow about 10 percent this year, according to Larry Minear, a consultant on hunger for the Church World Service and Lutheran World Relief. The World Food Council estimates that stocks will grow by as much as 40 million tons by the end of the 1976–77 crop year.

BUFFER FOR INDIA

A record grain harvest of 118 million tons, for example, has enabled India to build up a 15-million-ton buffer stock. The country is now faced with grain storage problems.

Significant progress in food aid has also occurred since 1974. Worldwide food-aid pledges this year of 9.2 million tons, including 6 million tons from the United States, are ahead of last year's total of 8.4 million tons but are still short of the 10-million-ton target set at the World Food Conference.

The increased food aid will be needed, however. Despite better harvests, the import requirements of the poorest nations for the 1975–76 crop year will apparently be the same as last year.

Assistance to agriculture in developing countries has risen 65 percent in real terms since 1972, according to Mr. Minear, with loans to agriculture by the World Bank more than tripling to $1.8 billion in 1975.

American development assistance to agriculture amounted to $530 million in fiscal 1976, up from $331 million in 1974. This is not counting the $200 million American contribution to the International Fund for Agricultural Development—which, according to Dr. Hannah, stimulated other developed nations to also contribute, although some have been especially reluctant to do so. As late as last month, France had contributed only $25 million and Switzerland only $8 million, in comparison with $29 million, for example, from Nigeria, and $400 million from the member nations of the Organization of Petroleum Exporting Countries.

Nevertheless, the council report concludes that the "basic world food situation remains insecure," with "long-run food production trends in the developing countries still inadequate to meet their rising needs." The average annual food production increase in the developing countries for the last five years has been 2.5 percent, just under the 2.6 percent annual increase in population and well below their 2.9 percent average annual increase in the 1960's.

Until recently many experts indicate, poor nations concentrated more on increasing food aid rather than improving their own agricultural productive capacity and providing incentives to their own farmers.

Also, the Soviet Union and China have been unwilling either to contribute to the fund or to provide the international community with information on their output.

China maintains it has no accurate crop reporting service, and the Soviet Union has been reluctant to acknowledge that its crops have been poor in recent years, although unexpected Soviet purchases have disrupted world grain markets in the past.

"It is difficult to have an internationally managed food policy," Dr. Hannah said, "when countries don't even have national food policies."

THE SELECT COMMITTEE ON SMALL BUSINESS

Mr. STONE. Mr. President, on April 29, 1976, when the Senate adopted Senate Resolution 104 granting limited legislative jurisdiction to the Select Committee on Small Business, I was unavoidably absent from Washington and therefore unable to cast my vote. As one of the cosponsors of Senate Resolution 104 I want to take this opportunity to express my continuing support for Senate Resolution 104 and my praise for the work of the Small Business Committee.

In 1975 the Small Business Committee held 63 days of public hearings looking into the special problems that small businesses are faced with. Problems such as Federal procurement, competitive disadvantages in the drug industry, and EPA regulations on farmers were examined from the point of view of the small businessman. The findings of this extensive investigation are already reflected in legislative proposals which recognize some of the concerns of small business including estate tax reform and simplified reporting requirements.

The record of the Small Business Committee proves that it is able and willing to focus its efforts on the problems that are the concern of small business in today's complex economy. Granting this committee legislative jurisdiction over Small Business Administration matters is a wise step toward insuring a strong and healthy small business community in America.

THE 1-PERCENT KICKER

Mr. MORGAN. Mr. President, for weeks now my mail has been heavy concerning the proposed repeal of the "socalled 1-percent kicker in Federal retirees' pay. In order that my position may be public I desire to speak briefly on the matter. The 1-percent kicker, as it is called, is an extra cost-of-living increase Congress granted retired Federal workers, back in 1969. And it is the reason Federal retirement pay has gone up faster than the cost of living since then. There is now a bill in the House which would do away with it.

But let me go back and give the history of the kicker. The problem was, the Federal retirees were given a periodic cost-of-living increase, on an automatic basis.

But there turned out to be a time lag, between the time the cost-of-living raise went into effect, and the time it showed up in the retiree's check. So the law passed in 1969 gave the retiree an additional 1-percent increase, with the intention of compensating him for the lag.

But now the General Accounting Office has studied the matter, and this week released its recommendation that the kicker be done away with. It is in effect an increase on an increase, and it has had a snowballing effect.

According to the GAO, the cost of living has gone up 56 percent over 1969, but Federal retirement pay rates have gone up 72 percent. The extra cost of that 1-percent ad-on has created a $5 million deficit in the civil service retirement fund.

Let us take the case of a Federal worker who retired in 1969 with a pension of $10,000. That is not unusual, because Federal salaries are high and the Federal pension plan is generous. In order to keep up with the cost of living, that person would be entitled to more than $15,000 today.

But because of the 1-percent kicker, his pension has actually increased to over $17,000.

If the kicker were not included, the pension would have been just about right, following the formula of the cost-of-living increase by itself.

Now, that GAO report pointed out one important fact. An automatic cost-of-living increase of any sort is extremely rare for people outside the Government, and any such thing as an extra bonus on top of that is unheard of.

In private industry, workers cannot hope for that. In fact, only 4 percent of private retirement plans have a cost-of-living provision to begin with.

It is true that civil servants contribute 7 percent of their salary to the pension fund, but on the average they get that back within 18 months of retirement. So we are talking about the taxpayers' money making up the difference.

There are over 2 million retired Federal employees, including military personnel, and the cost of extra retirement pay is beginning to have a great impact on the budget. In the case of military retirees, pension costs have increased 600 percent since 1964, and it is going up more than $1 billion a year.

It is good to be generous, but we cannot afford to be ruined by our own generosity. Nobody is arguing for the end of a cost-of-living increase for retired military people or any other Federal employee. But there is no point in having a cost-of-living increase that is more than the cost of living actually goes up.

Congressman DAVID HENDERSON of North Carolina is sponsoring a bill which would revise the way cost-of-living increases are passed on. Instead of having to wait for the cost of living index to go up and stay up for 3 months, the increase could go out as soon as that index makes a 3-percent jump in 1 month.

That ought to remove the reason for the kicker, and bring Federal retirement more in line with the cost of living.

Congressman HENDERSON's bill deserves to pass, but it is being heavily lobbied against. It behooves any taxpayer who wants to be generous—but not generous to a fault—to make his voice heard as well.

HAWAII'S SUCCESSFUL GEOTHERMAL VOLCANO WELL

Mr. FONG. Mr. President, on July 22, the first geothermal volcano well in the United States was capped on the Big Island of Hawaii on the side of Kilauea. Drilling for this well started in December of 1975, and the first geyser of steam was reported on July 2 of this year. The well, which was 6,400 feet in depth, spewed steam measuring 617° F to a height of 80 feet.

This is an important first step in the possible development of potential geothermal energy that could ultimately provide many of our Island citizens with electrical power from a source of energy other than oil.

This project was jointly funded by the State of Hawaii, the County of Hawaii, the National Science Foundation, and the U.S. Energy Research and Development Administration. Dr. John Shupe of the University of Hawaii was the project coordinator.

I am a strong supporter of geothermal energy research to develop alternative energy sources for resource-poor states like Hawaii which have no oil or coal deposits whatsoever. Hawaii is almost 100 percent dependent on oil for energy, and every drop of oil must be imported into our Islands.

This successful effort makes Hawaii a leader in our nation's drive to create viable alternative forms of energy. Other important potential sources of energy available in Hawaii for future research and development include ocean thermal energy conversion, wind energy, wave energy, and solar energy.

Mr. President, I ask unanimous consent that the entire Star-Bulletin news article regarding our geothermal volcano be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

WELL'S FLASHING TEST A SUCCESS—GEOTHERMAL STEAM ROARS

(By Dave Shapiro, Big Island Bureau Chief)

PAHOA, HAWAII.—The Big Island yesterday took a giant step toward future geothermal power production with a successful four-hour "flashing" of the State's first geothermal test well.

The well, drilled 6,400 feet into Kilauea Volcano's east rift zone three miles south of Pahoa, emitted prolific volumes of clean steam throughout the test, sending a white cloud several hundred feet into the air.

John Shupe, director of the Hawaii geothermal project, estimated the well could produce 5 to 10 megawatts of electrical power, enough to serve up to 10,000 persons on the Big Island.

He said the test seems to prove the well can recharge itself and produce steam over extended periods without burning out.

More than 100 residents watched project engineers flash the well for the third time since drilling was completed earlier this year.

The process involves regulating the pressure within the well to vaporize the hot water within, which has been measured at 617 degrees Fahrenheit at the bottom.

As the steam gushed through a short vertical pipe at the speed of sound, a roar measured at 120 decibels—louder than a 747 at takeoff—inundated the area. Most of the onlookers left because of the deafening sound.

The earlier flashes, designed to test the procedure, lasted only minutes.

Yesterday's exercise was aimed at determining whether the well has sufficient rock permeability and fluid storage to recharge itself, a question that had concerned scientists working on the project.

Shupe said the test indicates there is recharging ability since the main reservoir would have emptied within 15 minutes if there were no reserve fluids to continue feeding into the main channel.

He said the test does not prove conclusively that the well is a potential power producer but is encouraging enough to warrant further tests.

"We are quite pleased with the results we got today," he said. "The volume was much greater than we expected. And the steam seemed relatively clean although further tests will be needed to determine if there are potentially polluting elements.

"But we are very optimistic that we have a well which can be converted to energy."

Shupe said the next step will be a four- to six-week flash within the next two months to gather more information on recharging capabilities.

He said at least two more comparative test wells probably will be drilled before a prototype power plant is built to convert the steam to electrical energy.

He said there could be "power on the line" within four years if the project proceeds on schedule.

More than $3 million already has been committed to the project from State, County, National Science Foundation and U.S. Energy Research and Development Administration funds, with another $300,000 being requested to complete the current testing phase.

Most of the research has been done by the University of Hawaii, with assistance from the New Zealand consulting firm of Kingston, Reynolds, Tom and Allardice Ltd. New Zealand is one of the world's forerunners in geothermal power production.

Despite the initial success of the project, which started as a vague concept only four years ago, it will be many years before the dream of cheaper electricity in Hawaii is fulfilled.

In addition to the technical problems that must be solved to make geothermal power production cost-efficient, there are numerous legal problems to be resolved, such as ownership and regulation of the resource.

There is also the problem of protecting the wells from future earthquakes and volcanic eruptions.

Such potential side benefits as direct heating, agricultural and industrial uses must also be explored.

The existing well may never be used for commercial power production. Project officials may recommend that it be retained as a research prototype for worldwide studies of geothermal energy.

WRONG TO DEAL WITH CASTRO

Mr. STONE. Mr. President, on July 22, 1976, the International Trade and Commerce Subcommittee of the House International Relations Committee held hearings on the question of whether American businesses desire or in fact actually carry on economic relations with Cuba. As you may remember, last year the President through Executive order allowed American companies with offices abroad to trade with Cuba through those offices. These hearings were held to monitor the extent of business activity which has resulted from the President's Executive order.

The Miami News has written a thoughtful editorial expressing concern with the concept of American businesses resuming trade ties with Cuba in face of Castro's uncompensated confiscation of U.S. business and property, Cuba's military intervention in Angola, and the manifestly inhuman situation existing in Castro's political prisons. I respectfully urge all of my colleagues to review this editorial. I ask unanimous consent that the editorial be printed in the Record.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

[From the Miami News, Monday, July 26, 1976]

Wrong To Deal With Castro

A congressional committee has been listening to testimony about American businesses wanting to resume trade ties with Communist Cuba. We find it hard to believe Americans would want to deal with this Latin version of Idi Amin and wonder if there is any limit to the gullibility of U.S. businessmen.

Obviously they learned no lesson when Fidel Castro confiscated U.S. businesses and property in the early sixties.

Obviously, Castro's military intervention in Angola hasn't convinced them that Communist Cuba is not minding its own business.

Obviously, they seem unconcerned that Americans and thousands of Cubans are rotting in Castro's political prisons.

And, obviously, it matters not one bit to them that Castro is trying to foment troubles between the United States and the Commonwealth of Puerto Rico despite the fact that the people of Puerto Rico voted for such an arrangement, which is more than we can say for the people of Cuba. Their election was at the end of a gunsight.

To those who would have business dealings with the Communist Cubans, we ask them to take their heads out of the sand and see Castro for what he is. To the elected officials of the U.S. Congress, we would ask that they remember the confiscations, the political prisoners, Angola, Puerto Rico and the outright belligerence of this man Castro.

Not until Castro satisfies all the concerns of U.S. interests and the hundreds of thousands of exiles in this country should we offer Castro anything more than a phone call when a hurricane is approaching his island.

THE U.S. ARMY BAND

Mr. TOWER. Mr. President, in this, the 200th anniversary of the United States, it is only fitting to honor the foremost musical organization of the U.S. Army the world famous U.S. Army Band. It is also my pleasure to note that the current leader and commanding officer is Lt. Col. Eugene W. Allen, from the great State of Texas.

Colonel Allen received his master of arts degree in music education from Teachers College, Columbia University, and has received advanced instruction in orchestral conducting from Hugo Fiorato of the New York City ballet.

During his Army service, Colonel Allen has been assigned every type of duty in the Army Band program, from instrumentalist to commander. On March 16, 1976, Colonel Allen assumed the position of leader and commanding officer of the U.S. Army Band—Pershing's own. His military decorations include the Meritorious Service Medal and three awards of the Army Commendation Medal.

The U.S. Army, which is only 1 year older than our country, is represented by the most qualified musicians in America. These ladies and gentlemen make up the world famous U.S. Army Band.

As the senior band of the senior armed service, it led President Coolidge's inaugural parade in 1923, initiating a tradition which has been continued for every President since that date. The Army Band was the only Washington based military band ever to be ordered overseas to participate in a theater of combat operations.

The U.S. Army Band is the official band for most diplomatic and state functions in the Nation's Capital and performs musical honors for the arrival in Washington of foreign chiefs of state, diplomats and high ranking military officers. It also conducts numerous other performances.

The U.S. Army Chorus, originally organized from members of the U.S. Army Band, was established as a separate unit in January 1956. The chorus has earned an enviable reputation in the worlds of serious and popular music.

Other elements of the Army's fine musical organization include the Herald Trumpets, the Blues, the Strings, the Chamber Orchestra, and the Brass Quintet.

The many contributions made by the U.S. Army Band during the past few months for heads of state visiting the United States are tremendous. Our July 4th celebration at the Washington Monument is the climax to the years of planning for our birthday. The U.S. Army Band and Lt. Col. Eugene W. Allen are to be congratulated for a job well done.

THE FUTURE OF AMERICA'S UPSTREAM WATERSHED PROGRAM

Mr. FONG. Mr. President, in late June, the National Watershed Congress held their annual meeting in Biloxi, Miss. A topic of prime importance to this group was the challenges faced by the small watershed program (Public Law 566) administered by the Soil Conservation Service, USDA.

In recent years, the great value and contributions of the watershed program have been overshadowed by the increasing constraints of the Federal budget and environmental protection legislation.

We have addressed these very issues in the recent enactment of the Agriculture and Related Agencies Appropriation Act for Fiscal Year 1977 and our current consideration of amendments to the Federal Water Pollution Control Act.

The distinguished senior Senator from the State of Mississippi (Mr. Eastland) made the opening address to the National Watershed Congress. His speech titled, "The Future of America's Upstream Watershed Program" is a clear and forthright statement on where we have been, where we are, and where we must go in America's watershed program.

The Senator's leadership and insight in the establishment and success of our Nation's small watershed program are unparalleled and I believe the thoughts he has expressed for the future of this effort are instructive to us all.

I ask unanimous consent that his remarks be printed in the Record.

There being no objection, the remarks

were ordered to be printed in the Record, as follows:

The Future of America's Upstream Watershed Program

I am delighted to welcome you to Mississippi. It is appropriate that you hold your National Watershed Congress here in Mississippi, a state with great need, and opportunity, for watershed protection and development. I will discuss the legislative viewpoint with you, including where we've been, and where we're going in watershed programs.

To date, there have been nearly 2,900 applications for watershed assistance. Out of that 2,900 about 1,720 have been approved by the Soil Conservation Service for planning assistance. A total of 1,145 projects have been approved for operations with about 70 additional plans to be completed this fiscal year. Over 900 projects have started construction, of which about 440 have all structural measures completed. An estimate made several years ago showed a potential of almost 9,000 feasible and needed projects. We have made a good start, but there is still a great backlog of urgently needed watershed development.

I recall that a few years ago, as many as a hundred new watershed work plans were being processed in one year. Sponsors and local people, at least my constituents, were very enthusiastic about the program. They had a new and unique tool available to stimulate the total conservation effort. The program expanded by leaps and bounds. The Soil Conservation Service at one time projected a goal of completing 200 plans a year so that all the feasible projects could be completed within 50 years. That was somewhat optimistic. That rate of completion has not been achieved. The Congress and urban oriented administrations promised more than they have delivered.

The slowdown started back about 1969 or 1970. Contributing factors were the fiscal situation, inflation, and the sentiment that was building towards the preservation of natural areas. Suddenly, some of the projects were accused of exploiting flood plains. Quality of streams and lakes were temporarily degraded, and more people considered this a problem. The so-called "degradation crisis" was given wide publicity. Projects were blamed, often unjustly, and without full information.

The public is becoming more interested, and more concerned, about protecting our cultural heritage, protecting endangered species (both plant and animal), and showing a stronger desire to preserve the natural scenic beauty of the landscape. This is indicated in a number of ways. Recommendations were made in the National Water Commission Report which affected almost all aspects of water resources problems; a number of wild and scenic rivers were designated; wilderness areas were designated; the Uniform Relocation and Real Property Acquisition Policies Act was passed; and in 1969 the National Environmental Policy Act, with its environmental impact statement requirements, was enacted.

The water resource planning procedures have been changed to conform to the Water Resources Council's new Principles and Standards. Most recently, enactment of the Archeological and Historical Preservation Act of 1974 requires investigations and salvage of significant cultural values by the National Park Service without providing adequate funds to do it. Since the National Park Service does not have sufficient funds available, it and other archeological and historic interests are looking at watershed construction funds for salvage and recovery of cultural values. If the funding aspects of this law are not resolved, and watershed construction funds are used for salvage, the effectiveness of the watershed program could be reduced by 10–20 percent.

These shifts in public views with comparable changes in public policies over the past 20 years were well meant, but the fact remains that there were many projects in the planning stage or nearing construction completion that suffered delays and caused frustrations to the local sponsors.

These delays have caused the Soil Conservation Service to stop, back up, and retrace their steps in the planning process. In many cases, environmental impact statements have had to be prepared, and archeologists demanded to dig extensive test pits. In other words, it is a catch-up ball game in order to fulfill some of the new requirements retroactively placed upon the watershed program. I'm told that the Soil Conservation Service still must prepare environmental impact statements on about 365 older projects with an estimated average cost of about $40,000 each. As new project areas are planned, the environmental assessments and preparation of environmental impact statements become an integral part of the planning process. This should not create the extended delays that have been inherent over the past few years on the older projects.

In the future, the progress of the watershed program must accelerate, but it will not achieve the old rate. It costs more to plan, it costs more to collect data and prepare environmental impact statements. An impact statement can cost up to $100,000. The projects themselves will be more attuned to the environment, will have greater public involvement, and will identify both beneficial and adverse effects. No longer will the environmental group be isolated from the planning group, but to the contrary, they will work very closely together. This assures that the watershed program will be responsive to the public's needs.

A watershed project can be likened to a case of acute appendicitis. Before the operation, the patient is in severe pain. After diagnosis, there must be an incision to correct the problem. In the case of a watershed, there is the pain of erosion, gullying, sediments and debris choking streams, flooding of potentially productive cropland, and rural and urban, private and public property damage, and occasionally the loss of human life. In the treatment or surgery, there must be some disturbance in the ground surface cover. There is some bleeding from the wounds, or in the case of the project, some sediment produced during construction. But, like the appendectomy, the watershed heals quickly, the surface is restored, and the watershed problem is reduced or eliminated. In a short time, both are healthy and in better shape than before.

It can also be likened to remodeling an old house to strengthen its structure, improve its appearance, and increase its livability and comfort.

The Soil Conservation Service has been a leader in trying to combine the watershed work plan and environmental impact statement into a single document which helps to avoid repetition. This concept, I understand, is now being implemented by other agencies. This allows the impact statement along with the plan to be effective decisionmaking tools. That was the intent of NEPA. In my judgment, this is a very worthwhile goal. Such a document can provide concise and accurate information needed by the sponsors to make their decisions and to outline for the public and for the Congress why they chose a particular alternative to improve the resource and the environment. It allows us in our deliberations to understand the tradeoffs between the various possibilities available to the sponsors, to have a better idea as to why certain decisions were made, and why certain project proposals are before us for consideration.

Looking at the backlog of unfunded construction work, it becomes obvious that a better program balance is needed. It is evident that the number of projects being planned should be correlated with the number of projects completed. This should *not* be accomplished by a further reduction in planning, but in accelerating financing for construction. Protected and improved soil and water resources are essential to increase food production to meet present day and future domestic and export requirements. Food is essential to life, and more food must be produced.

In 1975, the Soil Conservation Service began construction on 41 projects, but were able to complete only 17. This kind of imbalance through the years has resulted in an accumulated backlog of unfunded construction in PL 566 projects in excess of $800 million, of which over $60 million is in Mississippi. I enlist the support of all of you, and your organizations, to work together to accelerate funding for the many projects already planned, but not constructed. With your support, a better program balance can be achieved.

In recent months, much has been said about permits required under Section 404 of the Water Pollution Control Act amendments of 1972, about the definition of navigable waters, the role of the Corps of Engineers in the permitting procedure, and the role of EPA. With all the rhetoric on the subject, my judgment is the final resolution on the problem must be made by the Congress in further defining terminology and clarifying its intent.

Similar problems exist in relation to the permit provisions under Section 402. Once again the definitions are excessively broad as to what point sources are. It seems that the language and legislative history of the act does not make it clear that the law was aimed at pollution sources which can be dealt with by treatment at the end of a pipe. The Congress will have to make its intent clear by providing further amendments to Public Law 92–500.

There is no question that quality of the environment is a prime concern to all persons in the United States. We know there is serious interest in such matters as air pollution, water pollution, and even noise pollution. These problems are not limited just to metropolitan areas or to specific streams or lakes. Essentially, the entire United States is involved. Recognizing these problems, we must be urgently about the task of solving them. But, to burden ourselves with unrealistic definitions, unrealistic permit programs, unrealistic restrictions, and unwieldly bureaucracies, will not lead to judicious and timely settlement of such grave problems.

There are many available sources of assistance in improving the quality of our environment. Conservation districts across the country have been in the front ranks in administering programs aimed at solving pollution problems, whether they arise from the land or directly affect the land. However, to do the best job, districts and local units of government must have your increasing support so that they can properly sponsor watershed projects, sediment control programs, pollution control programs, flood plain management programs, and other related activities. I commend all of you who are affiliated with the National Watershed Congress for your past efforts in conserving our natural resources. You must actively petition the Congress, and Administration, to support local initiative in these areas. With that support and concern, and with Congressional and Administrative action, we will see the day when many of our pressing problems of food and fiber production, unique value preservation, and depleting resources are resolved. We must not be shortsighted in our goal of attaining our objective of high quality in our environment and for human life. We must depend on local leadership rather than a massive federal establishment to accomplish these things. This can be accomplished with federal participation, to the extent of providing some of the technical assistance and providing cost sharing without making it into a federal program.

The watershed projects that have been approved and constructed over the years have varied in orientation from highly rural in most cases to very urbanized in a few. They provide protection to rural areas, cropland, pastureland, and forests. Also, they protect urban areas and rural or agricultural communities.

Many other purposes have been included in these watershed projects. Badly needed irrigation water has been provided. Urgently needed recreational facilities have been and can be built in for small county parks, city parks, and regional parks that are coordinated with the master recreation plans of many states. Large areas of fish and wildlife habitat have been improved.

Land treatment has also been a major part of all watershed projects. Land treatment measures have produced magnificent improvements to the landscape, especially here in Mississippi. I have seen many areas covered with raw, unsightly gullies restored to grass or forests through the application of proper land treatment practices. These areas, once so sickening to view, are now productive with the soil held in place and not polluting downstream rivers or reservoirs.

Research, information and applied conservation to our productive natural resources have contributed greatly to our economy and standard of living. I have seen pastureland that took 10 acres to support an animal unit improved to support one on one acre. I have seen land that took five acres to produce a bale of cotton produce two bales on one acre. This could not have happened without the combination of the conservation district support, financial assistance through the ACP, and technical assistance from the Forest Service and Soil Conservation Service.

One of the requirements in watershed projects is that 50 percent of all the land above each reservoir be under conservation agreement. The landowner must have agreed that he will practice and apply proper conservation measures to prevent or reduce erosion from his land. Farmers who depend on their land for their living recognize the validity of good conservation and are more than willing to participate. They cannot always do so by themselves. It is individuals, local groups, local units of government, and state governments working with the Federal Government that has accomplished so much over the 22 years since the inception of the watershed program. Benefits, both monetary and nonmonetary, achieved through the watershed program have far exceeded the costs.

Looking ahead, there is much that must be done. Recently, further stress has been placed on what are called nonstructural measures to prevent future flood damages. I am referring to the provisions of Public Law 93–251, which provide for consideration of and cost sharing for nonstructural measures such as land acquisition, flood proofing, or flood warning systems. To date, such measures have been at a disadvantage in being included in many watershed projects. Cost sharing for these kinds of measures has not been allowed by the Administration. It is my hope that existing water resource legislation will make cost sharing for such measures consistent with the cost sharing requirements for structural measures and thereby allow the development of projects to more fully satisfy the needs and requirements of the local watershed residents.

In summary, great accomplishments have been achieved in the watershed program. See some of them on the ground before you leave Mississippi. But, only five percent of the potential projects are done, with only another eight percent under construction. Planning starts have begun on less than 20 percent of the total needed projects. It is essential that basic capital investments be made to assure our future food supplies, to ensure a viable agriculture, and to protect our most valuable natural resources, land and water. I recognize the need to control federal outlays, but I feel that the distribution of available funds should be such that watershed construction be strongly supported. Your encouragement to Congress and Congress' favorable response will be in the public interest. With your support, I see a great future for a responsive, responsible, innovative watershed program. The Eighty-Third Congress had such in mind, I know I did, when we passed the Watershed Protection and Flood Prevention Act in 1954.

ENERGY CONSERVATION

Mr. TOWER. Mr. President, earlier this summer my good friend and colleague from New Mexico, PETE DOMENICI, addressed a meeting of the World Congress on Thermal Insulation and Acoustics in Stresa, Italy. In attendance were individuals from all over the world who are involved in the insulation business.

On many occasions, I have worked closely with Senator DOMENICI on energy-related legislative matters, and I know him to be a strong and active supporter of energy production and conservation programs. In his comments before the World Congress, Senator DOMENICI stressed the need for increased awareness of the energy problem on a worldwide basis, and suggested several examples of energy conservation techniques.

I would like to commend this fine statement to the attention of my colleagues here in the Senate, and I ask unanimous consent that it be printed in the RECORD. In addition, I ask unanimous consent that a letter regarding Senator DOMENICI's statement from Mr. W. Robert Murfin of Houston, Tex., be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Senator DOMENICI. I am honored to be here today to discuss with you a problem of over-riding international importance. First, I wish to read to you a letter of greetings sent to this Congress by the President of the United States, President Gerald Ford.

I was delighted to learn that you will be attending the World Congress on Thermal Insulation and Acoustics, meeting in Stresa, Italy.

This convention comes at a time of grave international concern over the problems of energy shortage, degradation of the environment and the need to control noise pollution.

This international Congress will provide the guidance necessary for the expansion of improved methods in thermal insulation, energy conservation and noise abatement as applied to building technology. Some of the most critical challenges of tomorrow will be among the topics on its important agenda. The concern of the delegates for the future of their industry and of its vital role in the world community will be emphasized and addressed. People the world over look to these deliberations for new ideas and initiative.

I wholeheartedly applaud this fine and farsighted effort and hope you will convey my very best wishes to all who attend for a productive and highly rewarding meeting.

Sincerely,

JERRY FORD

I would remind you all that President Ford has put energy conservation and a truly international energy stability as one of the highest priority items for his administration. His diligence in attempting to solve this problem, and his courage in pushing for action at the international level, merit high praise from all who are concerned about the future of the world.

The issue we address at this convention is international in scope. But, the industrialized nations bear the biggest burden, for they are the greatest users of energy. And, among the industrialized nations, America has an even greater burden because she uses such a large percentage of all the energy consumed in the world.

Because America occupies this pivotal position, my remarks today will focus on the attitude in my nation and the actions of the Congress of which I am a member. However, some of the problems of apathy I will outline also apply to other nations.

In America, I fear, conservation consciousness is dropping to pre-oil embargo levels, threatening the free world's attempts to achieve energy self-sufficiency and pointing to world-wide oil shortage in the not so distant future.

This distressing fact—evidenced by the purchase of larger autos by Americans, polls that show that the energy crisis seems far from the minds of most of my neighbors, and a large increase in energy consumption in recent months—is especially disheartening because we now have new facts that indicate that the world's oil supplies are less prevalent than we had originally thought.

For example, most conservative estimates of the oil supply in America indicate that our petroleum reserves will be exhausted within a half century at best and perhaps as soon as 25 years from now. Production rates, demand for oil and the discovery of new oil reserves are calculated to determine when oil will run out in the Mideast and elsewhere. Based on proven reserves, and I should stress that word, "proven," oil supplies in Kuwait will be gone in 75 years. Saudi Arabia's supplies will last only another 60 years at present consumption rates. Abu Dhabi has 55 years of proven reserves left, Iraq 50 years, Libya 45, Iran 40, Indonesia 28, Nigeria 25, Algeria 20, and Venezuela 16 years. Even allowing for new discoveries and significant improvements in second and tertiary recovery techniques, it becomes apparent to geology experts that the age of petroleum will come to an end in the next century.

This means that we have, conservatively, about 50 years of time left before the world has to switch to other energy sources for the vast majority of its power needs. Each year beyond the 50 that we can gain through conservation is another year to perfect the energy generating methods of the future. Each year we lose through waste, means a tighter timetable and greater chances for error.

In light of this theory—that we will use our petroleum resources efficiently to gain time for the world—we must all be particularly dismayed by the low level of energy consciousness too many citizens in the world display. In my nation, immense savings through proper use of industrial and residential insulation are being wasted because the American people have been lulled into complacency by a short-term-glut of petroleum products.

Indeed, most recent studies, some of them still in the draft stage prior to publication, indicate that about 20 percent of all energy used in America is either wasted or the result of excess use. This translates into 30 million barrels of oil a day down the drain.

We who are concerned about energy consumption and the problems wasteful practices cause for the industrial world were encouraged by the drop in energy use in America in 1974, the first such drop in 22 years. Since Americans consistently use more energy per capita than any other industrialized population, and since the unprecedented industrial power of the United States has been built on this energy use, it is critical that America lead the way in energy conservation.

Sadly, most recent statistics show that energy consumption in America is rising dramatically once again. The American people have been misled by what I believe is a wholly temporary surplus of petroleum products. This misconception, if not cleared up by experts in the field such as yourselves, will lead to catastrophic dependence on foreign sources of oil for the entire free, industrialized world. Conservation, after all, in any form in the free world depends not upon government stricture of laws, but upon the cooperation and individual action of businesses and citizens. All the research in the world, all the hopes for more intelligent energy use, will go unfulfilled without a new ethic of conservation.

In 1974 alone, America could have saved millions of barrels of oil through conservation practices that are completely within the state-of-the-art. Stringent conservation practices that are encouraged by federal regulations and legislation, and bolstered by the active support of the American people, could virtually wipe out excess petroleum use and be one of the most important single steps toward improving the economic health of the free world's economy. As in other realms of life, if I may paraphrase, no nation is a land unto itself, apart from all others. Americans, Europeans, citizens of all nations, have become tied together in an energy web that is terribly fragile. Every tremor is communicated almost instantly from nation to nation. Every mis-use must show up somewhere as a shortage, whether temporary or permanent. It is in this spirit of interdependence that all of us in this room must preach the conservation sermon to our countrymen.

I think it fair to point out that both President Ford and the American Congress have shown a high degree of interest in energy conservation. The Congress has passed laws encouraging conservation. I expect further legislation. But, the basic decision rests with the people. We have the technology, both in America and in the rest of the industrialized world. We have the scientific how-how. The question is whether we have the will to free our nations from the specter of an economic disaster that we can prevent by intelligent planning now.

We must remember that scarcity is the mother of invention. We cannot expect the necessary investment in alternate sources of energy, development of new engines, use of optimum conservation practices until we instill a "scarcity atmosphere" in the industrialized world. If we operate with full knowledge of the limitation of our resources, we will find that solutions will be far quicker in coming.

One of the most disturbing things to me is the lack of energy discussion except among experts. In times not too long past we can all recall that the newspapers in the industrialized world headlined every day of the energy crisis. We saw in-depth stories. We saw politicians of every persuasion addressing the issue in every kind of forum. We saw, in sum, a focus on the inter-relation of our energy problems and our economic future. It is now safe to say that we see no such headlines. We see no highly-publicized forums of a national character. We see no more investigative articles. In the political campaigns in my nation, energy is not a big issue. Indeed, energy seems to be treated merely as a fad issue. And it is not.

I am pleased to see the large number of people at this conference because you are in the vanguard of the conservation effort. You know first-hand just how much energy, in the form of heat loss, excess noise, and other by-products, is lost in the industrial sector.

I have been most interested in research that indicates that about 33 percent of heat loss in American industry could be eliminated by installing the economic thickness of insulation over current thickness used.

In the petrochemical industry, one study indicates, this reduction of heat loss could amount to 34 percent. That translates into 87.2 million barrels of oil through the year 1990. In the petroleum refining industry, some 36.9 million barrels of oil a day could be saved by most economic use of insulation. Process industries could improve insulation and save some 243 million barrels of oil. And utilities could save 73.8 million barrels of oil through the year 1990 with best use of insulation against heat loss.

In the residential housing construction sector of the American economy, great savings could occur with proper insulation and use of storm doors and windows, as well as other conservation devices. The fact is that insulation is a true conservation method at use point, as well as source point. This fact opens new vistas for your companies and for policymakers.

I would be remiss if I didn't discuss briefly one more aspect of conservation, and that is the much-talked-about, but often ignored, topic of re-use and re-cycling. Studies indicate that great savings could occur in the industrial world if we embarked on a re-use and re-cycling strategy of large proportions. Such esoteric areas as conversion of animal and human waste for generation of electricity, and the re-use and re-refining of waste petroleum products, should achieve a higher priority. The savings from these areas, used to their fullest, would just about close the gap between American production and American demand.

And, if America closes that gap, as the nation that uses more than one-third of all the energy consumed in the world, that means that the industrialized world begins to close the energy needs gap. Our past spendthrift ways have caused havoc not just in our nation, but in the world. It has been argued that America's immense use of energy has contributed greatly to the world's economic strength. No doubt, this is true. But, by the same token, America's more efficient use of energy will contribute just as much to a world economic future free from the peaks and valleys of the past three years.

I assure you that the world's economists and the world's leaders are most aware of the grave dangers the energy crisis poses. You, as experts in the field, are acquainted first-hand with the possibilities for better use of energy that will reduce these dangers. Now, we must all join together in an unprecedented international education effort to persuade citizens throughout the world that every bit of savings in the energy field means a better world ahead. We must remind everyone that economic disruptions that will eventually harm every country in the world will come from a failure to act in the energy field now. The consequences of social unrest caused by economic chaos are well-known to everyone in this room. It would be a tragedy of the first order, and a tragedy well within our power to prevent, if through complacency or resignation those of us with knowledge and authority failed to make the strongest case possible for energy conservation.

I thank you again for asking me to address you and I hope my "view from America" will help you as you consider the problems of energy conservation during this Congress.

IB and B Insulation, Inc.,
Houston, Tex., June 15, 1976.
Hon. Pete V. Domenici,
U.S. Senate,
Washington, D.C.

Dear Senator Domenici: Thank you for your excellent presentation at the World Insulation Congress in Stresa, Italy. Your talk and understanding of the energy conservation potential both in the United States and in the industrial world impressed both the United States delegation and our European colleagues.

The success of a technical congress such as this is dependent not only upon the quality of papers presented, but also upon the intellectual level at which they are understood. Your speech emphasized a world view of the energy problem which assisted the delegates in looking beyond national differences in technology and technique.

The penetration of your remarks combined with your mission of investigating the earthquake damage in northeast Italy could not help but have a strengthening effect on our American-Italian and American-European ties.

Again, Senator Domenici, it was an honor both for the American delegation and all members of the World Congress to have had you joint us.

I hope to have the opportunity of working with you in the future.

Yours very truly,
W. Robert Murfin,
President.

LAW OF THE SEA NEGOTIATIONS

Mr. HOLLINGS. Mr. President, the Law of the Sea Conference reconvened yesterday in New York. Control of the resources of the deep seabed, an area that has been called the common heritage of mankind, is the basic bone of contention in the conference.

These resources are immensely valuable to the United States. The projected worth to our country of the mineral resources alone is supposed to be in the neighborhood of $19 billion by the year 2000. Ignoring possible oil and gas reserves for the moment, development of the manganese nodules could have a tremendous effect upon this Nation, turning us into exporters, instead of importers, of nickle and copper—elements which are vital to our industrial well-being. This, then, is what is at stake in these Law of the Sea negotiations.

The United States has been seeking to reach agreement on some kind of process for dealing with these deep seabed minerals. In fact, Law of the Sea negotiations on this matter have been proceeding on one basis or another for some 7 years now. During the last session of the conference, which concluded in May, Secretary Kissinger proposed setting up an international authority that resembles a mini-United Nations in structure. According to this proposal, two tracts could be applied for, with the mining company receiving rights to mine one of them and the authority retaining the other to be mined for the benefit of the undeveloped nations. A second part of this proposal suggests a world commodity agreement to protect vested mining interests in the undeveloped nations from disruption of their markets by regulating the amount of deep seabed minerals that could be mined.

A flexible dispute settlement procedure has been advanced that would allow nations to choose one, several, or all of the four settlement procedures that have been agreed upon. Other facets of this design remain fuzzy, however, and along with the concrete aspects, raise some troublesome questions.

How will the voting work under this proposed international authority? The United States and other industrialized countries are heavily outnumbered under a U.N.-type of arrangement. Under these circumstances, being outvoted would be a matter of course.

Should the United States accept what is in essence a monopoly on both production and price? This appears to lend itself to another OPEC/cartel situation.

Should the United States support and accept a huge United Nations kind of bureaucracy that will manage the international authority? In light of the fact that we will be footing most of the bill, we could end up supporting a monopoly that is not, to say the least, sympathetic to the needs of our own country. And this would be in addition to the burden we already carry in being the financial mainstay of the United Nations.

State Department officials are finally admitting what many of us knew was true some time ago—that no treaty will be forthcoming from this session. In fact, some nations are projecting the need for 3 more years to reach a solution to this deep seabed mining issue.

Perhaps it is time we seriously considered the other options that are available to us. Several U.S.-based companies possess the technological know-how to begin mining operations. As a matter of fact, it has been reported that Japan has already begun mining for manganese nodules on a small scale. There are no domestic or international legal constraints to keep firms from jumping into the business in a big way. So with no treaty seemingly forthcoming in the near future, and no action needed by Congress, operations could begin immediately.

There is another option, however, that offers some promise: We can take national action in the form of properly—devised, reasonable, and responsible legislation. This could carry the same proviso that the Fishery Conservation and Management Act of 1976 contains—that the legislation could be set aside upon acceptance and approval of a Law of the Sea Treaty. It could very well be that in the long run, such action could serve to better define international law. It is certainly a matter we will have to come to grips with during the new Congress.

Mr. President, I ask unanimous consent that two articles from the Washington Post describing the internal problems of our Law of the Sea team and issues surrounding the deep seabed mining issue be printed in the Record.

There being no objection, the articles were ordered to be printed in the Record, as follows:

American Team on Sea Treaty Said In Turmoil

(By George C. Wilson)

The American delegation that will resume efforts next week to negotiate an international treaty for dividing up the riches of the ocean is in "a first class mess," according to the Pentagon executive who used to work on national ocean policy.

What is needed, Deputy Defense Secretary William P. Clements Jr. said in an interview, is a general housecleaning of the bureaucrats "who have literally made a career" out of traveling around the world to Law of the Sea conferences.

Those conferences, under United Nations auspices, are designed to get nations of the world to agree on how the deep seas shall be used and exploited—including mining for minerals.

The next Law of the Sea Conference is scheduled to be held in New York City from Aug. 2 to Sept. 17. Secretary of State Henry A. Kissinger has called the Law of Sea negotiations one of the most important that have ever taken place.

Kissinger has warned that if the Law of the Sea negotiations "are not completed this year, the world will have lost its best chance to achieve a treaty in this generation."

While not disagreeing with the importance of negotiating a treaty for developing the deep ocean, other American officials involved in the negotiations predicted in interviews that no agreement will be reached in 1976.

Instead, they said, the best that can be hoped for until after the November U.S. elections is a narrowing of remaining differences on Law of the Sea questions—with the central question how the seabed should be mined and the money made on the minerals there should be divided among nations.

In what Kissinger said was President Ford's attempt to underline the importance of next week's Law of the Sea talks, Kissinger was told by the President to head the delegation.

Clements and others interviewed said that Kissinger will be taking over a delegation which has been torn with dissension since T. Vincent Learson succeeded John R. Stevenson as chairman on Dec. 15, 1975. (Carlyle E. Maw, under secretary of state for security assistance, chaired the delegation between Stevenson's departure and Learson's appointment.)

"All this behind-the-scenes knifing, backbiting and so forth didn't start until after he was appointed," Clements said of Learson without mentioning his name.

"I think it's a first class mess," Clements said when asked how the negotiations are being handled now. American Law of the Sea policymaking "hasn't had the direction and management that it should have had," he said.

Clements served on the under secretaries committee on Law of the Sea policy from Jan. 30, 1973, when he became deputy secretary of defense, until Sept. 17, 1975, when he withdrew from the committee because of his concern about conflict of interest.

"Over the past several months," Clements wrote Robert S. Ingersoll, deputy secretary of state, "I have become increasingly concerned that it might be perceived that a conflict of interest might exist with respect to my participation on the under secretaries committee with Law of the Sea matters . . ."

He did not elaborate in his letter on the conflict of interest concern but said in an interview that as soon as he learned that his former firm—SEDCO of Dallas—planned to go into seabed mining, he withdrew from Law of the Sea discussions.

Clements acknowledged that before resigning from the under secretaries committee he had reviewed the seabed mining rules the U.S. delegation planned to offer at the Law of the Sea conference in Caracas in 1974.

He said that the proposed rules were so easy on the seabed mining companies which would have leased great tracts of ocean that he and two other under secretaries "hit the roof."

As a result of their protests, Clements said, the seabed mining rules were tightened at a time the bureaucrats who had drafted the rules were "getting ready to give away the store."

Another possible appearance of conflict-of-interest came earlier this year when Clements' son, B. Gill Clements, was nominated to become a member of the advisory committee to the Law of the Sea delegation. The younger Clements has succeeded his father as chief executive officer of SEDCO, which drills wells on land and under the ocean for oil companies and nations.

Another challenge to the current leadership of the Law of the Sea delegation came last week from John Norton Moore, who last year was chairman of the National Security Council Task Force on the Law of the Sea.

Moore said in an interview that Kissinger "has paid only minimal attention to Law of the Sea negotiations" and tolerated a "leadership vacuum" on the delegation for more than a year.

Moore's complaint about a leadership vacuum was directed at Learson, former board chairman of IBM, but he did not mention him by name.

Learson could not be reached yesterday to respond to the criticism about his leadership. A government executive who works closely with Learson, but declined to be named, said that Learson is lending forceful leadership to the delegation and has mastered the issues since taking over.

If the negotiations fail to bring a Law of the Sea treaty, Congress may act to give mining companies exclusive rights to specific tracts of the seabed.

Sens. Ernest F. Hollings (D-S.C.), chairman of the Oceans and Atmosphere Subcommittee of the Commerce Committee, and Warren G. Magnuson (D-Wash.), chairman of the Commerce Committee, predicted in interviews that Congress would move quickly to pass seabed mining bills in 1977 if a treaty remains out of reach.

The Last Frontier Sharing the Wealth Under the Sea

(By George C. Wilson)

The great Indian warrior Tecumseh was incredulous when white speculators tried to buy up the land of his people after the Revolutionary War.

"Sell the country?" he cried. "Why not sell the air, the clouds, the great sea?"

Tecumseh tried to hold the land for the Indians who revered it. He was killed while commanding Indian braves fighting alongside the British in the War of 1812—a war he saw as the last chance to stop the march of the white settlers.

The Indians did lose their land—with many of them unaware of what was happening. And today, 163 years after Tecumseh's death, "the great sea" he talked about is up for sale—again with many people unaware of what is happening.

Delegates from countries around the world will gather at the United Nations building in New York from tomorrow through Sept. 17 to try for the fifth time to agree on how the great sea—the last frontier—should be divided up.

This last frontier—taking up 70 per cent of the earth's surface—dwarfs the one Tecumseh lost. And it contains riches that are expected to trigger a new kind of Gold Rush before this century is out.

Already American mining companies are pushing for exclusive rights to mine vast tracts of the ocean bed for nickel, copper and other minerals. One nation's mining claims could be jumped by another country in this rush to exploit the last frontier.

Statistics can provide a dim perception of the riches out there:

The whole North American continent of 9,390,000 square miles would sink out of sight in just one corner of the Pacific Ocean, which takes up 64,186,300 square miles of the unexploited frontier. Add in the Arctic, Atlantic and Indian oceans and the frontier grows to 131,062,500 square miles—or 14 times the area of North America.

The value of the ocean riches to the United States alone will be $45 billion by the year 2000—with oil, gas and manganese nodules accounting for about $19 billion of that total and fish $4 billion, according to estimates made by Robert R. Nathan Associates for the Senate Commerce Committee.

The nickel and copper extracted from manganese nodules lying on the ocean bottom could transform the United States from an importer of these minerals to an exporter, according to the Interior Department's Ocean Mining Administration—a change that would shake up the economies of many countries.

"Today it is the oceans which suddenly are accessible to new technology and alluring to exploration," Secretary of State Henry A. Kissinger told the Foreign Policy Association in April. "Their promise may be even greater than the untapped lands of the century past. So too is their potential for conflict. The decision will be ours."

Kissinger said the United States does not want to see nations climbing all over each other in an international Gold Rush.

"The nations of the world cannot afford to indulge in another round of unrestrained struggle for the wealth of our planet when the globe is already burdened by ideological strife and thermonuclear weapons," he argued.

The delegates gathered around tables at the United Nations tomorrow are supposed to find a way to avoid that "unrestrained struggle" by writing a treaty for harvesting the riches of the ocean without leaving the sea bottom ravaged like an underwater Appalachia; for sharing the wealth among all the world's nations; for using the oceans like a world "commons."

The purpose of the Law of the Sea session, said T. Vincent Learson, the former 1BM board chairman who is chairman of the American delegation, "is to bring law and order to the use of the oceans and therefore to avoid conflicts so we don't have to have battleships running around to keep peace in the world."

"Eighty per cent of of the nations really want to see a treaty concluded," Learson added, predicting that differences will be narrowed in this next meeting so that a final treaty can be agreed to by the Law of the Sea Conference next year.

But the Ocean Education Project, a nonprofit, privately funded group trying to educate the public on what is at stake as diplomats divide up the wealth of the oceans, contends the people of the world have already lost much of their frontier without knowing it.

"The vision of the oceans as 'the common heritage of mankind' whose wealth—chiefly in oil—should be used to narrow the gap between rich and poor nations has largely faded," said the Ocean Education Project in assessing what has happened to date.

STAKING CLAIMS

Instead of sharing the 1967 vision of former Ambassador Arvid Pardo of Malta, who saw the ocean riches as common property for all the world's peoples, the United States and other coastal nations have staked out claims to all these riches from the beach to a line 200 miles out to sea.

"The oil boys got what they want," said Samuel R. Levering, a lobbyist for the privately financed U.S. Committee for the Oceans, in referring to the 200-mile economic zone now established in the draft treaty. Most of the untapped oil is believed within this 200-mile zone.

Wide agreement also has been reached among Law of the Sea delegates to consider the band extending 12 miles from shore as territorial waters. But, under language already drafted, coastal nations would allow other countries to sail into territorial waters and through straits as long as these trips constituted innocent passage.

"In the territorial sea," states one article in the draft treaty which shows the emphasis on innocent passage, "submarines and other underwater vehicles are required to navigate on the surface and to show their flag."

Since the 200-mile economic zone is virtually established worldwide and there is also agreement on rules for navigation and pollution, the big question facing diplomats in tomorrow's and future Law of the Sea sessions is how the frontier more than 200 miles from shore should be apportioned among nations of the world.

The United States hopes to avoid a "might makes right" grab of this seabed, which has billions of dollars worth of manganese nodules lying on the bottom. The U.S. government has proposed establishing a mini-United Nations to control the exploitation of this deep seabed.

DUAL CONTROL PLAN

But American officials fear in making this proposal that the less-developed nations would outvote the United States and other industrial powers capable of mining the seabed if the voting was a straight one-country, one-vote arrangement. Said Kissinger on this dilemma:

"The United States understands the concern that the riches of the seas not be the exclusive preserve of only the most powerful and technologically advanced nations . . . What the United States cannot accept is that the right of access to seabed minerals be given exclusively to an international authority, or be so severely restricted as effectively to deny access to the firms of any individual nation including our own."

The Kissinger proposal—to be debated at the conference this week—calls for the have and have-not nations to share the wealth of the deep seabed by mining it under both international and industrial control. A mining company under his proposal would apply to an international authority for the right to mine two tracts of the seabed. The authority would keep one of the two requested tracts to develop for undeveloped nations and let the private company mine the other one on its own.

Another American offer—designed to reassure countries with economies based on selling the metals they still extract from the ground—is to enter into a world commodity agreement to control the pace of mining of the seabed to keep markets from being disrupted. Some critics have attacked this scheme as madness, since the United States would be inviting an OPEC-type cartel run by the Third World.

Despite optimistic predictions of Learson, Kissinger and other American officials about the prospects of reaching final agreement on a treaty text by next year, other members of the Law of the Sea delegation warn that the issues are so tough that resolving them may take another three years.

How should the voting within a new international seabed authority be distributed between the developed and undeveloped countries and the coastal and landlocked nations? How should the money coming out of the "common heritage" of the seabed be shared? How should disputes be settled as claims are jumped or the seabed is stripped like a West Virginia coal mine with no regard to environmental rules?

The American Mining Congress is at the forefront of organizations pressuring Congress to let American mining companies start mining the seabed without waiting for the world to agree on an international treaty. U.S. negotiators regard the pending bills to allow this go-it-alone mining as valuable leverage for them. But there is a real danger that this negotiating game may get out of hand next year as Congress runs out of patience and passes the seabed mining bills.

Leigh S. Ratiner, the administrator of the Interior Department's Ocean Mining Administration and the U.S. negotiator for the seabed mining part of the Law of the Sea treaty, "is playing such a byzantine game with this threat of congressional legislation that we're losing our credibility with the other delegates," said one of Ratiner's critics involved with Law of the Sea diplomacy. Ratiner also has drawn fire from Deputy Defense Secretary William P. Clements, who said the negotiator should have been fired long ago"—an indication that the Ford Administration is not going into this new round solidly behind its negotiating team. Ratiner himself has declined to comment.

Clements reviewed the administration's proposed seabed mining rules when he was a member of the Under Secretaries Committee on Law of the Sea issues. He is still a major stockholder in SEDCO, a Dallas firm which has drilled wells on land and sea for international oil companies and foreign nations. SEDCO last fall entered into a consortium to mine the seabed—a venture which Clements said prompted him to resign from the Under Secretaries Committee for fear of giving the appearance of having a conflict of interest.

"We've got plenty of time to negotiate a treaty," Clements said in warning against rushing to mine the seabed. "We in the United States are way out ahead of the rest of the world in this technology." The former drilling contractor said it is not generally realized that Japan is not waiting for the treaty, however, but is already mining the seabed on a small scale.

WEARING TWO HATS

U.S. mining companies, under bills pending in Congress, want the Federal Government to grant them exclusive rights to mine tracts of the seabed and come to their aid if other nations try to interfere. If a mining company invested money in deep seabed mining and then lost it because of an international treaty coming into being, the U.S. government under pending legislation would make up the loss.

American mining executives are both sponsoring such go-it-alone legislation for the seabed and sitting in as advisers to the Law of the Sea delegation. There is no Tecumseh—in the form a a militant consumer organization or citizens group—sitting alongside industry representatives who watch the Law of the Sea deliberations on how the wealth of the ocean should be shared.

"The Law of the Sea operations," said one international lawyer who serves as an adviser to the delegation, "is a classic example of Galbraith's thesis that the real power in the industrialized United States flows from the corporations to government rather than the other way around." (He was referring to economist John Kenneth Galbraith.)

Learson is the former board chairman of IBM; Caryle E. Maw, under secretary of state for security assistance and deeply involved in Law of the Sea policy, came from the New York law firm of Cravath, Swaine and Moore, where he served as Kissinger's personal lawyer; and the advisory committee to the Law of Sea delegation is dominated by industry executives and international lawyers.

This establishment dominance of the advisory committee seems to be at odds with the State Department charter for the group, which states that the chairman of the U.S. Law of the Sea task force "will, after consultation with other members of the National Security Council Interagency Law of the Sea Task Force, name as public members selected individuals who can provide adequate representation of the diverse interests."

Asked why the general public is not more fully represented on the advisory group as the U.S. government decides how this last frontier shall be exploited, a State Department executive replied: "We would look with sympathy upon such applications."

THE WALL STREET JOURNAL EDITORIALIZES AGAINST A NUCLEAR COPOUT

Mr. CRANSTON. Mr. President, I ask unanimous consent to have printed at this point in the RECORD an editorial from yesterday's Wall Street Journal urging the United States to develop a serious policy for checking the proliferation of nuclear weapons through nuclear exports.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

A NUCLEAR COP-OUT?

President Ford has just announced a full-scale White House review of nuclear export policy, and we hope the President and his aides recognize the full importance of their own review. They confront not some kind of public relations problem, but a vastly important policy wildly out of control.

This review will go far toward determining how many additional nations will acquire nuclear weapons over the next decade or two. Nuclear power reactors have now spread to some 45 nations. More importantly, we have just witnessed the first purchases of reprocessing technology, which extracts plutonium from spent power-reactor fuel; the plutonium ostensibly is for use as further reactor fuel but can be converted almost at a moment's notice into nuclear bombs. Thus unless a decision is made almost immediately, we will lose our last chance to erect meaningful barriers to the spread of nuclear weapons.

A decision will be easy to postpone, since even the most important matters of 15 years hence tend to get lost in the rush of government, not to mention the rush of a presidential campaign. Then too, U.S. companies have not been allowed to sell reprocessing technology; the immediate problems are sales by West Germany to Brazil and by France to Pakistan. A school of thought, further, would solve the problem by internationalizing it, oblivious of the fact that the International Atomic Energy Agency approved "safeguards" for the Pakistan plant even though it makes sense only as an eventual bomb factory. There are endless temptations for the White House to cop out.

Yet in fact the U.S. has been instrumental in creating the international atmosphere that leads our allies to play such dangerous games for fleeting commercial advantages, and encourages the feebleness at the IAEA. For the U.S. has never really been serious about proliferation dangers in nuclear exports, and if the leading nuclear nation is not serious, why should the others be?

Consider the case of India, which actually did build a nuclear bomb with materials and technologies supplied for peaceful purposes. It happened that the Indians used a Canadian reactor to make plutonium for its bomb, but the reactor employed U.S. heavy water, like nuclear fuel a "special nuclear material" limited by treaty to peaceful uses. Indian compliance with this provision consisted of labeling their nuclear explosion a "peaceful" one.

The Canadian reaction was to halt work on two power reactors in India, demand tough new safeguards, and when these were not forthcoming to halt all sales and shipments of nuclear materials for India. The U.S. State Department's reaction has been to make excuses for the Indians.

The U.S. did announce that shipments to India would be suspended pending agreement that henceforth "peaceful uses" would not include explosions. In fact, even this wrist-slap was not carried through; a shipment of nuclear fuel for American-built reactors in India went out a month after the explosion. Then State asked the Nuclear Regulatory Commission to expedite licensing of new shipments to India on the grounds that the American-built reactors were running out of fuel. Persistent questioning determined that the reactors had a two-year fuel supply on hand.

State even accepted the Indian argument that its reactor leaked heavy water at the rate of 10% a year, and that since the U.S. heavy water had been supplied more than 10 years ago it was not actually used. The 10% leakage is almost certainly a lie to begin with, but even if it were true it would not have exhausted the U.S. heavy water—unless, as one witness put it, the heavy water molecules in an Indian reactor do not follow the laws of physics but a caste system under which only American-supplied molecules are allowed to leak.

The NRC has granted one of two pending licenses for exports to India, under State Department warnings that, as it and presumably the Indians read the treaty, interrupting fuel supplies would be a U.S. violation freeing the Indians to use all the spent fuel for bombs. Under pressure from the NRC and others, State has agreed to approach the Indians about returning the spent fuel to the U.S. These negotiations will probably be handled the way past ones have been.

With leadership like this, little wonder the State Department has had little success in persuading the West Germans and French to limit their own nuclear sales. It will be quite a different matter if the new White House review comes up with a policy concentrating on a few fundamentals: That the U.S. will control any reprocessing of spent fuel from American-built reactors; that in any event reprocessing remains economically dubious at this stage; that the U.S. will not supply nuclear materials to any nation that holds open the option of a weapons program; that the first step in implementation must be following the Canadian example on India.

Making anti-proliferation policy truly effective will of course require similar policies from other exporters. But such agreement will be far easier to achieve if the U.S. refuses to cop out, if it comes up with a serious policy befitting a serious nation.

Mr. CRANSTON. Mr. President, this statement by the leading newspaper of the American business world should be read by all those who work in the nuclear industry. It urges the United States Government to decide—now—to control the reprocessing of spent fuel from American built reactors, and to decide—now—that we will not supply nuclear materials to any nation that holds open the option of a weapons program.

Several Members of Congress have been proposing serious legislation to reach these goals in recent months. One significant piece of legislation has already been passed this year, and we're on the threshold of considering others. It is no accident that the White House recently got around to announcing a full scale review of nuclear export policy. I fear that this is simply a delaying tactic, a public relations gambit, rather than a belated but sincere effort to bring our nuclear export policy under control. Certainly the study by the administration should not be allowed to undermine present legislative efforts to act in this area.

Mr. President, I would call to the attention of my colleagues important legislation in this field that will shortly come before us. We have already passed, and the President has signed into law the Symington bill—section 669 of the Foreign Assistance Act—which requires the termination of economic and military assistance to any country supplying or receiving nuclear enrichment equipment, materials or technology, unless certain safeguard requirements are met. In a few weeks the Senate will have before it the Export Administration Act, which will afford another opportunity to legislate restrictions on nuclear exports; Representatives ZABLOCKI and FINDLEY have introduced important amendments to this legislation in the House. Finally, Senators RIBICOFF and GLENN have proposed a large number of measures incorporated in the Export Reorganization Act designed to reorganize the executive branch of the American Government so as to effectively integrate into a coherent policy the disparate bureaucratic interests that influence nuclear exports.

Nuclear power for potential weapons use is on the loose in the world. We must do all that we can to bring it under control—and eventually eliminate this menace to civilized life on this planet.

WOMEN'S CHRISTIAN TEMPERANCE UNION

Mr. MOSS. Mr. President, I am pleased to present to the Senate a resolution of the Women's Christian Temperance Union and ask unanimous consent that it be printed in the RECORD for the benefit of the Senate.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

Whereas: *First*, tobacco is recognized by the U.S. Surgeon-General as a dangerous habit-forming poison;

Second, the U.S. Commission on Drug Abuse has recognized that alcohol is the number one drug problem;

Third, Dr. Melvin H. Knisely, of the Medical University of South Carolina, has proved that even small amounts of alcohol cause irreversible brain damage; therefore:

We, the undersigned, hereby petition our legislators to follow the example of Norway, Iceland, and other nations and enact laws stopping all advertising of alcohol and tobacco throughout the United States.

Barbara E. Fisher, Long Meadow, Mass.
Lenna Burgess, Cambridge, Mass.
Virginia Q. Jarrett, Richmond, Va.
Harriet H. Slade, Ware, Mass.
Melvina Marshall, Holyoke, Mass.
Madeline Moor, Mansfield, Mass.
Marian B. S. Crymes, Washington, D.C.

TANKS—DO THEY HAVE A PLACE IN MODERN WARFARE?

Mr. LEAHY. Mr. President, the heavy tank losses incurred by all sides in the 1973 Middle East war prompted a debate on the tactics of tank warfare and the future of the main battle tank as the centerpiece of the Army. In fact, the continued use of several of the weapons systems developed for use in World War II, including the tank, the manned bomber, and the large aircraft carrier, is now being challenged by new weapons development and modern weapons technologies.

An excellent analysis of the debate on

the future of the tank and the questions involved in that debate appeared in the August 2, 1976, edition of the Washington Star in an article written by Henry S. Bradsher. As the Senate will probably be faced with a request for funds for procurement of a new main battle tank in the fiscal year 1978 defense budget, I commend this article to my colleagues.

Mr. President, I ask unanimous consent that Mr. Bradsher's article be printed in the RECORD.

There being on objection, the article was ordered to be printed in the RECORD, as follows:

TANKS—DO THEY HAVE A PLACE IN MODERN WARFARE?

(By Henry S. Bradsher)

There is a growing belief that new military technology is producing another turning point in the history of land warfare.

A military analyst at a suburban Washington "think tank," Philip A. Karber, has suggested that it is like the unseating of knights in feudal armor from their padded horses by Swiss pikemen in 1339. That "established the defense superiority of light infantry over the shock action of mobile and heavily armored forces."

Frederick W. Young, a Brookings Institution expert, says the use of machine guns and massed artillery in World War I stopped the infantry. But then the development of tanks and armored vehicles "again placed the emphasis of land warfare on massive offensive operations.

"Now," Young thinks, "the development of precision-guided antitank weapons is making tanks and armored vehicles more vulnerable—seemingly shifting the advantage back toward the defense."

In World War II it was almost impossible to hit a moving tank from a mile away; combat was usually at a range of about a third of a mile. The improved tank guns and aiming systems now give about a 20 percent chance of a hit at 2½ kilometers (1½ miles). But an infantry weapon, the TOW antitank missile, is claimed by the U.S. Army to have an 80 or 90 percent chance of a hit at that distance or farther—up to 3 kilometers (2 miles).

At the same time, new artillery munitions make it possible to lay minefields quickly enough to stop tanks, making them sitting targets.

Some experts suggest that this makes tanks obsolete and there is no sense in spending so much money on them, especially not to buy a new improved type that the Army is developing. The General Accounting Office has raised questions about rushing into a new tank-building program.

The Army argues that, just as machine guns did not eliminate the need for infantry, so the new weapons do not mean the disappearance of tanks from the battlefield. It still wants a new XM1 tank in either a Chrysler or General Motors version (the two are now being evaluated), with a new type of armor that it claims can withstand infantrymen's missiles.

The Soviet Army seems even more worried. Its whole style of warfare is based upon massive tank attacks.

The State Department wonders if changes in "the nature of land warfare" will have any effect on the sleepy negotiations in Vienna to reduce armed forces in central Europe, especially the 19,000 Communist tanks which loom over the West's 7,000. Maybe that wide gap does not make so much difference any more.

The Air Force has worries, too. The impact of new weaponry is wider than tank warfare; the Army is not the only service whose future role is in doubt. The Air Force, which has already lost much of its bombing mission to missiles, could lose more.

Small hand-held missiles give infantrymen the capability of bringing down aircraft with a high degree of dependability. Battlefield use of tactical air power might be disappearing—ironically, just when the Soviet Union is finally beginning to match U.S. Air Force tactics of close combat support.

These trends were beginning to become apparent in 1972 during the last big battles fought by American soldiers in Vietnam. Antitank missiles checked the first significant North Vietnamese tank offensives of that war, while the appearance of Soviet-made SA7 antiaircraft missiles in the hands of North Vietnamese soldiers began to change aerial warfare.

U.S. planes were forced into more cautious tactics by the missiles, and the use of helicopters became more difficult. By the time the war ended in 1975, South Vietnamese pilots had lost most of their ground attack effectiveness because fear of SA7s kept them too high to hit targets accurately.

One precision-guided weapons development late in the Vietnam war enhanced the value of air power in places where it can get through the more threatening ground defenses, however. This was the "smart bomb." Repeated attacks used to be required to knock out small targets such as bridges; now bombs can be guided into them with television devices or laser beams.

If the Vietnam war began to show the potency of the new technology, it was the 1973 "Yom Kippur war" that brought home the change with literally a lot of bangs. In a recent article in the British journal Survival, Karber compared the 14th century Swiss pikemen's success at Laupen to that war "when an Arab infantry force armed with antitank weapons met and halted an Israeli tank offensive."

The most recent Middle East war has been extensively studied by soldiers around the world. They noted the heavy tank losses in short, intensive battles, the inability of Israeli air power to have much more than a marginal effect in the face of missiles and Soviet-made clusters of four 23-millimeter antiaircraft guns, and such related innovations as the jamming of Israeli communications by Arab armies.

The quick conclusions in the West were that the apparent advantage of tank numbers in Europe might no longer be so important for Soviet-led Warsaw Pact armies and that lots of relatively cheap armored vehicles carrying missiles and infantrymen could replace expensive tanks.

It alarms the Army. Here it is finally about to choose the best, most sophisticated, most expensive new tank that it has ever had and a lot of analysts come along and tell it tanks are out of date.

Not so, the Army contends, for a lot of reasons. Take visibility, for instance. In the deserts around Israel, it is possible to see and shoot at a tank at those long ranges where the new missiles perform most spectacularly. But in central Europe the hills, woods, villages and morning mists cut down targeting distances, bringing tank guns into effective range before missiles ever have a long-range chance.

There will always be a job for the tank in combination with light armored vehicles, infantrymen, missiles and artillery, the Army argues. Only tanks can operate in the face of artillery—the Soviets believe in massive use of artillery and rockets—to screen the other elements during the necessary movement of either offensive or defensive fighting.

While missiles can theoretically keep tanks beyond the effective range of tank guns, in the confusion of battle on rolling, dust-obscured terrain the tank can move in close and fire 10 rounds for each missile that infantrymen can get off.

The XM1 tank now under development will have armor made of layers of steel, other material like toughened nylon, and air spaces. This is harder to penetrate than just a slab of steel. It might make the new tanks relatively immune to infantrymen's missiles, although not to higher-powered 122 millimeter Soviet tank guns.

This immunity plus the need for mobility under fire make the Army think the XM1 is both necessary and sensible. But it will be expensive. The program to build them, underway since 1963, is supposed to produce 3,312 tanks by 1989 at a cost currently estimated at $710,000 each.

The Army recently postponed a choice between the General Motors and Chrysler versions of the XM1 and ordered the companies to try to standardize such basic components as guns, engines, transmissions and tracks with the new West German Leopard-2 tank. This is a partial recognition of the theory that both the United States and West Germany would make whichever country's new tank proved best in competition.

The number of XM1s to be ordered was fixed years ago, before revisions in the U.S. troop commitment in Europe which might raise it and before the high attrition in 1973 indicated a greater need for reserves. But the Army has avoided the public argument over raising the number, perhaps to keep from raising the more basic question of whether so many really should be built.

A number of observers, from Brookings' Young to the General Accounting Office's anonymous analysts, have pointed out the need for lots of light armored vehicles. At the same cost as a few XM1s, a cluster of vehicles could offer greater maneuverability with some protection for missile-firing infantrymen.

Right now U.S. soldiers must expose themselves to hostile fire for the 15 to 20 seconds it takes to guide a missile to its target, while Soviet antitank missiles can be fired from armored vehicles. Faster missiles will reduce this time, and a quick fix is being made on armored personnel carriers to give some protection while better vehicles are developed.

"We believe," the GAO said in a recent analysis, "that previous Army studies have insufficiently considered the potential of a force having a greater number of tanks consisting of cheaper tanks in addition to XM1s." It said Congress should consider whether to encourage the Pentagon to develop cheaper tanks than the XM1 monsters and to consider related questions like the choice of gun on the XM1. Others have suggested that not even tanks but smaller vehicles deserve more consideration.

The effect of all this might be to make their massed tanks less important to the Soviets and therefore increase their willingness to bargain some of them away in the Vienna troops reduction negotions. The negotiations are known in the West as the MBFR talks for "mutual and balanced force reduction," but the presently numerically-predominant Warsaw Pact refuses to accept the idea of achieving something closer to a military balance in central Europe as a result of bargained cuts.

There has not, in fact, so far been any sign of greater Soviet willingness in Vienna. The talks appear stalemated to all except diplomats, who can always manage to discover some trace of encouraging fluidity in the most immobile of situations.

Soviet generals might be uncertain what attitude to adopt toward the Vienna talks. Karber, who is director of strategic studies at The BDM Corp. in Vienna, has traced an intensive debate in Soviet military writing over implications of the new technology for the long-standard reliance on massive tank offensives.

Karber discerned three groups in the debate. One argues for using tactical nuclear weapons early in a conflict as a way of overcoming antitank defenses, but this "seems to have been ruled out by both political and operational considerations."

A second contends that massive use of conventional artillery on the armored and self-propelled tracks now replacing separate field guns in Warsaw Pact armies can destroy defenses and open the way for the traditional use of tanks.

But the tank men argue that the answer is to hit hard and fast with overpowering numbers of tanks that can saturate defenses. This leads to the idea that surprise attacks are the best. Early this year a senior officer in the North Atlantic Treaty Organization alarmed a lot of people in Western Europe by perceiving the danger of a surprise Communist offensive which could carry to the Rhine River before effective resistance might be offered.

This danger would seem to heighten the importance of a high degree of preparedness by American and allied soldiers in Western Europe. Recent GAO reports have found that there is a considerable measure of unpreparedness in weapons to meet an attack. The Pentagon insists that the problems are old ones which have been recognized and are being corrected.

SPEAKING FOR THE NEIGHBORHOODS

Mr. PERCY. Mr. President, over the last few years, the Congress and the administration have been working together in many ways to shift Federal strategy for alleviating urban problems from Washington to State and local governments. Revenue Sharing and the community development block grant program created by the Housing and Community Development Act of 1974 are the two major examples of this change in direction, which gives these units of Government greater flexibility in choosing among the options available to meet the needs of the people they serve.

I am encouraged by the success of these programs. They have fostered more creativity among local governments and have nurtured increased awareness in the community of the need and desirability of citizen participation in designing plans for creative government at the grassroots level.

One of the developments stemming from this intensified local activity in an appreciation of the neighborhood as a unique depository of the various cultural and economic traditions our cities are heir to and as a fertile ground for the cultivation of the new activities needed to revitalize our declining urban centers. This is a good sign. The cities people thought dying are showing sparks of life and we need to give these efforts our support.

I was pleased therefore when HUD Secretary Carla Hills announced the formation of the President's Committee on Urban Development and Neighborhood Revitalization, a major initiative aimed at focusing the efforts of all Federal agencies on the problems of the neighborhoods and their hope for the future.

Mr. President, I ask unanimous consent that an article by Secretary Hills, entitled "Speaking for the Neighborhoods," that appeared in this morning's Washington Post be printed in the RECORD. It describes the administration's interest in revitalizing our neighborhoods and outlines the agenda of the President's committee. I believe it will be of interest to all Senators.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

SPEAKING FOR THE NEIGHBORHOODS

(By Carla A. Hills)

An article in The Post by Msgr. Geno C. Baroni and Dr. Arthur Naparstek on June 30 speaks of the declining neighborhoods of our older cities. "Neighborhoods," they said, "are the key to the problems of the cities. If the neighborhoods die, the cities die. . . ."

I could not agree more fully.

I cannot, however, agree with the assertion that "no one is speaking for the neighborhoods."

The same day the Baroni-Naparstek article appeared, I met with the U.S. Conference of Mayors in Milwaukee and reviewed actions taken by the Department of Housing and Urban Development in the past year to reverse the trend toward deterioration of our neighborhoods. During that meeting, I announced the establishment of the President's Committee on Urban Development and Neighborhood Revitalization—a major initiative aimed at focusing the efforts of all federal agencies on neighborhood problems.

The President has long been concerned about the difficulties besetting many of our cities and the neighborhoods from which the cities draw their vitality and stability. He is particularly concerned that federal efforts have not had the degree of impact that is both desirable and necessary on the problems of the cities despite the many federal programs which are intended to meet urban needs and despite the substantial amount of federal funds channeled to the nation's cities. He is convinced that by better using the resources currently available the federal government can be a more effective partner with state and local governments in resolving urban problems.

The President is creating this committee to analyze these problems and to develop proposals for greater cooperation and coordination among the federal agencies administering programs which have an impact on cities and their neighborhoods.

As chairperson of the committee, which includes eight Cabinet members as well as other top federal officials with responsibilities in the urban field, I will (1) coordinate a comprehensive review of all federal programs having an impact on the cities and their neighborhoods; (2) seek the perspective of local officials and neighborhood groups on federal programs which affect them; and (3) develop recommendations to the President and the Congress for changes in federal policies and programs affecting neighborhoods in order to place maximum decision-making at the local level, remove legal and administrative obstacles to the exercise of that authority, and provide for better coordination and delivery of federal programs.

A good start already has been made toward creating the conditions necessary for declining neighborhoods to begin to live again:

The Community Development Block Grant program, by placing responsibility on local officials, has promoted local achievement and cut red tape.

Some 23 cities are participating in the Urban Homesteading Demonstration Program, through which HUD-owned structurally sound dwellings are conveyed to communities for sale at nominal cost to individuals who promise to rehabilitate and live in them.

Abandoned single-family properties are being restored to active use at lower cost than new public housing construction.

The Urban Reinvestment Task Force, jointly sponsored by HUD and the bank regulatory agencies, is bringing together local residents, city officials, and local lenders in a commitment to a coordinated strategy for reinvestment.

We have increased three-fold the amount of grants funded for neighborhood preservation.

Urban housing has been upgraded through HUD's program of rental subsidies for lower-income families.

A massive study of the future role of the Federal Housing Administration, including its role in neighborhood revitalization, is nearing completion.

A new policy of temporarily taking over mortgages to help homeowners threatened with foreclosure because of temporray income loss has been adopted.

And we supported a recently passed law aimed at requiring banks to disclose where they place their loans.

The task of reversing the trend toward neighborhood decline is immense. One role HUD can play is to return the housing stock it has inherited to neighborhood residents who will transform "unfriendly neighbors" into much-needed homes.

In pursuit of that objective, we reduced in June the inventory of HUD-held single-family homes by 3,241—a 42-year record for a single month. For the fiscal year ending June 30, 1976, we sold 57,901 units while acquiring 37,563 for a net inventory reduction of 20,338—another record.

Through continued cooperation between all levels of government and local neighborhood associations, we anticipate similar happy statistics in the future.

We surely are engaged in a war for the preservation of our cities. It will be a costly war, yet one that money alone will not win. It is a war that will not be won unless skillfully directed and supported on the local level with enlightened state and federal assistance.

LEGISLATIVE STRATEGY TARGETING DRUG TRAFFIC KINGPINS

Mr. BAYH. Mr. President, last week the Subcommittee to Investigate Juvenile Delinquency began its assessment of President Ford's April 27, 1976, drug abuse message to the Congress and the accompanying proposal for fighting drug abuse, the Narcotic Sentencing and Seizure Act of 1976, S. 3411, which was introduced on May 11, 1976, by Senators HRUSKA, EASTLAND, HUGH SCOTT, THURMOND, and BUCKLEY.

Since this Presidential proposal was introduced in mid-May, other committee business, and my illness coupled with recent recesses made immediate hearings impossible. We are especially appreciative that Majority Leader MANSFIELD and Minority Leader SCOTT permitted us to proceed with these vital hearings late in the session.

We intend to give specific attention to the stark reality that many who sustain the flow of heroin and equally dangerous drugs such as barbiturates, do so while on bail and that when convicted only a few spend substantial time in custody. To add insult to injury these same high-level traffickers manage to avoid the tax collector while law-abiding citizens carry their share of the tax burden. It is intended that these hearings will help refocus national concern and stimulate fair, but firm Federal response to those who profit from the havoc wrought by drug traffic.

Last week we heard impressive and

alarming testimony about our Nation's inability to even focus our drug law enforcement apparatus and our criminal justice resources on these "kingpin" profiteers. While I am especially concerned that the constitutional rights of criminal defendants are fully secured, I am likewise concerned that within such a framework our citizens are fully protected. We must reallocate our resources and sharpen our prosecutorial tools and strengthen our criminal justice system so that it deters, disrupts, and detains these criminals.

Since the passage of the Comprehensive Drug Abuse Prevention and Control Act—Public Law 91-513—in 1970, our subcommittee to investigate juvenile delinquency, which developed this measure, has monitored its implementation and sought to assure that the Federal agencies responsible for its enforcement acted appropriately to curb the illegal importation, manufacture, and distribution of controlled drugs.

The 1970 act also established a comprehensive scheme for the regulation and control of dangerous drugs manufactured for legitimate purposes. It was to more specifically address this facet of the 1970 act—the Controlled Substances Act and the Controlled Substances Transport and Export Act—that the constitutional cornerstone became the commerce clause rather than the taxing authority. In any case, regarding illegal traffic in natural opiates—heroin, morphine—whether under the tax authority approach or the commerce clause it is difficult to hypothesize a case with no interstate aspect.

Regarding the dimension and abuse of domestic legally manufactured controlled substances we have made considerable progress in the last several years. We have obtained a drastic, but necessary, 95-percent reduction in domestic amphetamine production. We have secured more appropriate control over our production and distribution of other drugs with high abuse potential, including the barbiturates and methaqualone. And to prevent illegal traffic and abuse of methadone we have obtained stricter controls over its storage and distribution. In short, these and similar important steps have effectively helped to reduce illicit traffic and clandestine manufacture of controlled drugs.

Our efforts aimed at curbing illegal traffic in illegal drugs have not experienced the same degree of success.

The subject of extensive hearings by the subcommittee last year on the effectiveness of the Nation's drug control laws—the opium poppy—is not of domestic origin, but its byproducts, or at least one of them—heroin—is certainly familiar to every American.

Indeed, we are all too familiar with the devastating effects of heroin on the individual addict, their families, and society at large. We know that heroin abuse has destructive physiological consequences, debilitating the health of the abuser and impairing an addict's ability to lead a normal productive life. The social consequences are equally devastating. In order to support a habit, the addict is driven to engage in criminal activities which threaten the safety and well-being of all our citizens. The costs in human and economic terms are enormous:

Billions of dollars are expended each year to protect our citizens from drug-related crime;

Billions of dollars of merchandise are stolen each year to support heroin habits;

Billions of dollars are invested annually in drug prevention, treatment, and rehabilitation programs;

Many innocent people are physically assaulted and even killed in the course of drug-related crime; and

Hundreds of thousands of otherwise productive lives are lost to the destructive and often endless cycle of heroin addiction.

We have learned—and through the course of our recent hearings are still learning—from bitter experience that there are no simple solutions to the epidemic of narcotic addiction nor to the ever-escalating levels of illegal narcotic traffic. There are no panaceas—no magic wands.

In fact, opium control presents especially difficult and complex considerations. The plant which spawns heroin to which our citizens succumb likewise issues drugs to ease the misery of the terminal cancer patient and, ironically, provides us with the antagonist medication necessary to treat those suffering acute narcotic overdose. There is little doubt that the opium poppy is a double-edged sword, life threatening and life saving.

We have made some progress in curbing narcotic traffic and addiction, but we must be forever vigilant that rhetoric about "the light at the end of the tunnel" or "turning the corner" on any problem not delude us into believing that we have actually accomplished our objectives.

One thing that we established through our hearings last year was that the White House was less than candid with Congress and the American people regarding their assessment of the importance of the Turkish ban on the cultivation of opium poppies in the effort to curb heroin traffic and addiction.

Former Presidential assistants with special responsibilities in the area of drug control and abuse told the subcommittee that in October 1971 shortly after the Turkish Government announced the ban, that the plan was ill-conceived.

Dr. Jerome Jaffe, former Director of the White House Special Action Office testified that he never believed that a ban on the growth of opium poppies would be effective in stopping the spread of heroin in the United States.

Mr. Walter Minnick, former White House Staff Assistant to the President for Domestic Affairs and Staff Coordinator for the Cabinet Committee on International Narcotics Control, told the subcommittee, quite candidly, that:

> The Congress and the American people were led to believe that the ban was an indispensable part of getting on top of heroin addiction.

Throughout 1972 the White House produced release after release, heralding the Turkish ban as a major breakthrough in the fight against heroin addiction and as clear evidence that the battle was well on its way to being won. This "hoopla" about the ban stepped up markedly during the fall of that year.

Apparently the Nixon administration was more concerned in 1972 with the reelection campaign than they were about controlling poppy production and solving the heroin problem.

The record developed to date by the subcommittee leaves little doubt that the Nixon administration not only created a misimpression about the ban and the policy of eradication, but that it had little time, if any, to heed the caution and advice of medical experts and others who warned that such policies could have long-term damaging ramifications including possible shortages and the emergence of a strong, viable Mexican connection along our southwestern border.

Even prior to former President Nixon's message to the Congress in June 1971, which set out the duel objectives of a ban on poppies and the development of synthetic alternatives to opiates, agencies experts in a confidential memorandum had alerted the White House to these likely ramifications.

Testimony presented to the subcommittee, however, revealed that White House advisers including Mr. John Ehrlichman, reportedly had decided that the poppy ban was "good politics" in that it would provide a high-profile, simple, ostensible answer to the crime problem with which heroin addiction and traffic are so intimately associated.

Even in late 1972 and 1973 when the prospect of an opiate shortage was rapidly becoming a reality, the White House ignored warnings by the medical community and others that White House "poppy politics" was responsible for the shortage as well as the failure to effectively focus on heroin traffic.

In a very short period of time Mexico had become the primary supplier of heroin to the United States, and although the Turkey ban did cause a shortage of heroin it was, as General Accounting Office investigators told the subcommittee, limited to major cities in the East and "a temporary thing at best."

The heroin problem now is worse than it was before the ban.

The American people are sick and tired of being sold a bill of goods.

As a Member of Congress who has, likewise, relied on less than candid representations at the highest levels of the executive branch in recent years, I know we were sold a bill of goods in this instance.

We are interested in developing a full and complete understanding of these issues so that sound national policies in the area can be substituted for past mistakes.

As late as February 21, 1974, President Nixon concluded his drug abuse in America message to the Congress by saying in part:

> Drug abuse is a problem that we are solving in America. We have already turned the corner on heroin.

Now, even White House officials, as they announce that all the indicators of heroin abuse are up again, are cautioning others about claiming victory in the war against the poppy and heroin. In fact, on March 5, 1975, Dr. Robert Dupont then Director of the White House Special Action Office on Drug Abuse Prevention, told the subcommittee that "we can no longer talk about having turned the corner on heroin anywhere."

Similar discouraging observations were contained in the recently released National Institute on Drug Abuse publication "Heroin Indicators Trend Report." Director Dupont reiterated the mistake that was made in interpreting what proved to be a regional, temporary downtrend in usage in 1973 as a turning point in the national antidrug fight and revealed that the evidence is now clear that since 1973 the heroin use problem in the United States had deteriorated.

Maps provided for the subcommittee use in December 1974 by GAO graphically illustrate the source of what Dr. Dupont termed the deteriorating heroin problem: Mexico.

Mexico has become a significant supplier of the heroin reaching United States markets for illicit distribution. DEA statistics show that in the year ending June 30, 1972, 8 percent of the heroin seized in the United States was Mexican. By June 30, 1973, the amount of seized heroin from Mexico had more than quadrupled and accounted for 37.2 percent of all heroin seized in the United States. In March of 1975 DEA informed the subcommittee that 65 percent of the heroin reaching the United States comes from Mexican peoples.

By last fall Mexico had taken over as the dominant or nearly exclusive source for illegal heroin throughout the Nation, overshadowing Europe, the Near East, and Southeast Asia. According to a special October 19, 1975, DEA report to the subcommittee during the first months of 1975, 90 percent of 305 heroin samples confiscated in 13 major cities by the DEA were Mexican processed.

The special DEA report confirms the view that the route that brought French-processed Turkish heroin has been effectively blocked. Less than 2 percent of the confiscated heroin analyzed between January and June 1975, came from Europe or the Near East. In 1972, 44 percent of the sample came from those areas. During the period, Turkey halted the growing of the opium poppy from which heroin is made. Earlier last year, Turkey resumed cultivation. Let us hope that the use of the poppy-straw process of harvesting the opium will effectively prevent resurrection of the infamous "French Connection".

Thus I am extremely concerned that all necessary steps be taken to prevent the diversion and traffic in Turkish opium that has formerly contributed so heavily to the destruction of so many thousands of lives and was so intimately linked to the ever-escalating levels of violent crime.

The Turkish Government claims that it will prevent the new opium crop from getting into criminal channels. The resort to the poppy straw method of proccessing will help to assure the desired objective, but much more is necessary. To date slightly more than 300 agents are reportedly available to monitor 50,000 acres of poppies being cultivated in small plots. The jeeps necessary to reach remote areas as I understand it have not yet arrived. To get the job done will require a dedicated and committed effort by the Turkish Government.

I urge the President to monitor the harvesting and processing of the new crop very carefully, so that if necessary he can take appropriate action under the Foreign Assistance Act to suspend economic and military aid.

When drastic action was taken to rescue American seamen seized by Cambodia, the President stressed the importance of showing that the United States intends to remain strong. If and when the lives of thousands are threatened by diverted Turkish opium, I hope that the President is at least equally committed and willing to show the strength of the United States.

Already the Turkish decision to again cultivate the poppy has made some impact on the illicit market. In Seattle, for instance, the resumption reportedly prompted many distributors to release "stockpiled" Mexican heroin which had been withheld from the market in an attempt to force the price up. This surge in supply has lead to more narcotic seizures in January of this year than in all of 1974 in that area. Similar reports are being received from around the Nation.

Whether the Turkish Government fails to hold to their commitments or not, we are again confronted with a horrendous heroin trafficking problem.

The increasing flow of Mexican heroin toward the major cities of the Northeast and the drying up of the European supply are the most startling aspects of the first half of 1975 DEA figures. A survey completed early in 1972, showed that the furthest penetration of Mexican-proccessed heroin eastward was an irregular line running from Detroit to the Florida Panhandle. The GAO maps supplied to the subcommittee also illustrate the significant Mexican heroin market during the same period.

For instance, in Boston 100 percent of all confiscated samples came from Mexico in 1975 and none from Europe. In 1974, 50 percent of the Boston samples had come from Mexico and 17 percent from Europe.

In New York City, 83 percent of the samples were Mexican-processed in the first half of 1975 compared with 10 percent from Europe. In 1974, 21 percent of the samples were Mexican and 67 percent were European.

For Philadelphia, 83 percent of the samples were Mexican in 1975 and none were from Europe in 1975. In 1974, 50 percent of the samples were Mexican and 17 percent were from Europe.

The new figures show that Mexican-processed heroin has even established itself for the first time in the Pacific Northwest, replacing heroin from Southeast Asia.

The already entrenched position of Mexican-processed heroin in the Middle West and the Southwest was further confirmed by the new figures. For instance. Detroit samples were 93 percent Mexican in 1974 and 94 percent in 1975, while Chicago remained at 100 percent Mexican for both years.

However, in 1972, Detroit samples showed 58 percent of the heroin was processed in Europe and 30 percent in Mexico. For Chicago, 44 percent in 1972 was European and 33 percent was Mexican.

The Midwest, and the Chicago area in particular, has become the main line of distribution for the Mexican brown heroin. The DEA deputy regional director in Chicago relates that "we are up to our ears in Mexican heroin". It is estimated that between 3.8 and 7.5 tons of heroin arrive in this principal U.S. marketplace for Mexican brown.

Renewed diplomatic steps are required. Mr. Bensinger, the DEA Administrator and Executive Director of the New Cabinet Committee for Drug Law Enforcement, and U.S. Ambassador Sheldon Vance, Senior Adviser and Coordinator for International Narcotics Matters to the Secretary of State, have kept the subcommittee apprised of important diplomatic efforts, including the recent June 8, 1976, meeting between Attorney General Levi and Mexican Attorney General Pedno Ojeda-Paullada on the apparently successful opium poppy eradication program, but much more must be done.

I ask unanimous consent that four charts illustrating the extensive impact of Mexican heroin be printed at this point in the RECORD.

There being no objection, the charts were ordered to be printed in the RECORD, as follows:

HEROIN SOURCE IDENTIFICATION FOR THE U.S. HEROIN MARKET, JANUARY TO JUNE 1975 [1]

DEA region headquarters	Number of samples	Origin							
		Europe/Near East		Southeast Asia		Mexico		Unknown	
		Number	Percent	Number	Percent	Number	Percent	Number	Percent
1. Boston	10					10	100		
2. New York	30	3	10	2	7	25	83		
3. Philadelphia	18			3	17	15	83		

HEROIN SOURCE IDENTIFICATION FOR THE U.S. HEROIN MARKET, JANUARY TO JUNE 1975 [1]—Continued

DEA region headquarters	Number of samples	Origin							
		Europe/Near East		Southeast Asia		Mexico		Unknown	
		Number	Percent	Number	Percent	Number	Percent	Nu mber	Percent
4. Baltimore	29	1	3	9	31	19	66		
5. Miami	10			2	20	8	80		
6. Detroit	34			2	6	32	94		
7. Chicago	25					25	100		
8. New Orleans	16			3	19	13	81		
10. Kansas City	17			2	12	15	88		
11. Dallas	36					35	97	[2] 1	3.0
12. Denver	28	1	4	1	4	26	93		
13. Seattle	15			2	13	13	87		
14. Los Angeles	37					37	100		
U.S. total	305	5	2	26	9	273	90	1	.3

[1] Estimate based on 305 in-depth analyses, which constitute a 10.5-percent stratified sample of 2,893 DEA heroin records for the first half of 1975.

[2] Sample contained both Mexican type and Southeast Asia #3 type heroin.

HEROIN SOURCE IDENTIFICATION FOR THE U.S. HEROIN MARKET IN 1974 [1]

DEA region headquarters	Number of samples	Origin							
		Europe/Near East		Southeast Asia		Mexico		Unknown	
		Number	Percent	Number	Percent	Number	Percent	Number	Percent
1. Boston	6	1	17	2	33	3	50		
2. New York	24	16	67	2	8	5	21	1	4
3. Philadelphia	18	3	17	3	17	9	50	3	17
4. Baltimore	27	10	37	9	33	8	30		
5. Miami	12			1	8	11	92		
6. Detroit	30			2	7	28	93		
7. Chicago	24					24	100		
8. New Orleans	21			6	29	15	71		
10. Kansas City	18			3	17	15	83		
11. Dallas	39					39	100		
12. Denver	28			1	4	27	96		
13. Seattle	18	1	6	7	39	10	56		
14. Los Angeles	36			1	3	35	97		
U.S. Total	301	31	10	37	12	229	76	4	1

[1] Estimate based on 301 in-depth analyses, which constitute a 7-percent stratified, sample of 4,216 DEA heroin records for 1974.

HEROIN SOURCE IDENTIFICATION FOR THE U.S. HEROIN MARKET, 1973 [1]

DEA region headquarters	Number of samples	Origin							
		Europe/Near East		Southeast Asia		Mexico		Unknown	
		Number	Percent	Number	Percent	Number	Percent	Number	Percent
1. Boston	12	9	75	2	17	1	8		
2. New York	36	20	56	11	30	3	8	2	6
3. Philadelphia	18	12	67			4	22	2	11
4. Baltimore	24	9	38	5	20	10	42		
5. Miami	12	2	17	4	33	5	42	1	8
6. Detroit	34	1	3	1	3	32	94		
7. Chicago	21	1	5	10	48	10	48		
8. New Orleans	10			2	20	8	60		
10. Kansas City	18	1	6			17	94		
11. Dallas	33	1	3	2	6	30	91		
12. Denver	27					27	100		
13. Seattle	15			6	40	9	60		
14. Los Angeles	39			6	15	33	85		
U.S. total	299	56	19	49	16	189	63	5	2

[1] Estimate based on 299 in-depth analyses, which constitute a 6-percent stratified, sample of 1,973 DEA heroin records.

HEROIN SOURCE IDENTIFICATION FOR U.S. HEROIN MARKET, 1972 [1]

DEA region headquarters	Number of samples	Origin							
		Europe/Near East		Southeast Asia		Mexico		Unknown	
		Number	Percent	Number	Percent	Number	Percent	Number	Percent
1. Boston	15	10	67			1	7	4	27
2. New York	51	26	51	15	29	4	8	6	12
3. Philadelphia	9	6	67					3	33
4. Baltimore	18	15	83	1	6	2	11		
5. Miami	27	17	63	3	10	3	11	4	15
6. Detroit	31	18	58	1	3	12	39		
7. Chicago	18	8	44	1	6	6	33	3	17
8. New Orleans	18	10	56			4	22	4	22
10. Kansas City	27	3	11			24	89		
11. Dallas	16	3	19	1	6	12	75		
12. Denver	20	2	10			18	90		
13. Seattle [2]									
14. Los Angeles	30	5	17			25	83		
Total	280	123	44	22	8	111	40	24	9

[1] Estimates based on a random sampling of 280 in-depth analyses which represent a 6-percent stratified, sample of 1972 DEA heroin records.

[2] No exhibits available for Seattle region.

Mr. BAYH. Since the subcommittee's extensive hearings on "poppy politics" in March 1975, I have been encouraged by the work of the Domestic Council Drug Abuse Task Force. In the fall of 1974 and early 1975 the subcommittee staff had detected signs of enlightenment regarding Federal drug enforcement policy in the approach of several individuals, including the chairman of the White House Opium Policy Task Force, Mr. Johnson, who in turn became the Director of the Working Group that developed the "White Paper on Drug Abuse." At our March 1975 hearings we were pleased to learn that this important project was well underway and that they intended to give special attention to the lack of Federal drug law enforcement coordination.

The widely publicized "tug of war" between DEA or its predecessor BNDD and the Bureau of Customs regarding jurisdiction on narcotics investigation has been at best a grave disappointment. I am confident that my colleague, Senator NUNN, and others on the Senate Government Operations Committee are dedicated to assuring that the proper governmental structure is devised to assure integrity and streamlined narcotics law enforcement.

The Government Operations Committee Interim report, "Federal Narcotics Enforcement," raises important issues regarding the respective DEA-Customs roles. It concludes that reorganization plan No. 2 of 1973, which created DEA "caused a break in the jurisdictional authority of this Government to combat drug smuggling." This less than satisfactory result followed after the approval of plan No. 2. The interim report leaves the impression that Congress had little or nothing to do with the approval of the reorganization plan No. 2, and that its role was "sharply limited," because if after 60 days from the date of submission of the plan, Congress had done nothing, the plan would be implemented.

My recollection was that another lengthy discussion and debate accompanied the consideration of reorganization plan No. 2—the vehicle that created DEA and a review of the record supported this view.

A Senate Government Operations Committee Report entitled "Reorganization Plan No. 2 of 1973, Establishing a Drug Enforcement Administration in the Department of Justice" documents the extensive review given the proposed plan No. 2. It reveals that "nearly 3 months before the President submitted reorganization plan No. 2, this committee's Subcommittee on Reorganization, Research, and International Organizations began an investigation of Federal drug law enforcement" and that they conducted "more than 100 staff interviews of current and former law enforcement officials and prosecutors at the Federal, State, and local levels, of other present and past Government officials, including former Cabinet Officers and White House aides, and of drug abuse prevention and treatment specialists."

A central aspect of this inquiry was the "uncontrolled bitter feuding and the actual sabotaging of each other's investigations" by BNDD and Customs. The report notes that "by mid-March representatives of the Nixon administration informed * * * the * * * members of the subcommittee that the President would soon submit a reorganization plan to bring the primary drug enforcement efforts together in a single agency in the Justice Department."

According to the report, testimony was taken regarding plan No. 2 in Washington from Mr. Kleindienst, Attorney General; Roy Ash, Director of the Office of Management and Budget; John Ingersoll, Director of BNDD; Vernon Acree, Commissioner of Customs; Miles J. Ambrose, Director of ODALE and Special Consultant to the President for Drug Abuse Law Enforcement. When coupled with field hearings held around the country on plan No. 2 "a total of 158 witnesses were heard in 11 hearings."

The report on plan No. 2 reveals that the Government Operations Committee found that there was a strong need for the new superagency and it endorsed the reorganization plan and cited, among several, the following advantage expected to be derived from the reorganization:

> (1) It will put on end to the interagency rivalries that have undermined Federal drug law enforcement, especially the rivalry between BNDD and the Customs Bureau.

It is interesting to note that the actual plan No. 2 submitted by the President to the Congress (H. Doc. No. 93–69, March 28, 1973) stressed the need to strengthen our narcotics law enforcement effort at our borders. It proposed in fact, in order to reduce the possibility that narcotics will escape detection at ports of entry because of divided responsibility, and to enhance the effectiveness of the DEA that all functions vested in the Justice Department respecting the inspection of persons or the documents of persons be transferred to Treasury to augment the effort of the Bureau of Customs at our borders.

According to the 1973 committee report, the hearings on plan No. 2 "did not dwell on the BNDD-Customs dispute because the chairman and members felt that no legislative purpose would have been served inasmuch as the plan acknowledged and remedied the problem by uniting the rival agencies." Apparently because President Nixon proposed the transfer of Immigration and Naturalization Service inspectors to Customs to accomplish the renewed focus at the border—thus possibly jeopardizing the rights and benefits of the inspectors—Customs lost out.

The new agency—DEA— would absorb virtually all of the Customs Service's drug enforcement functions except at the border and ports of entry. It would appear that no attention was given to beefing up Customs in a manner consistent with the rights of the Immigration and Naturalization inspectors, for example providing Customs with 1,000 additional positions. Consistent with such an approach former Assistant Secretary of the Treasury Mr. Eugene Rossides in a memorandum he submitted for my review, April 2, 1974, recommended the return of antidrug-smuggling responsibilities, including related intelligence collection, to Customs. The Government Operations Committee should give serious consideration to this recommendation.

Thus the reorganization plan No. 2 apparently did not resolve the "tug-a-war" between DEA and Customs. The Domestic Council in the white paper, however, has called for a settlement of the jurisdictional disputes between DEA and Customs. At the subcommittee hearing last week, both Administrator Bensinger and Commissioner Acree expressed strong support for the December 11, 1975, memorandum of understanding between their two agencies. I ask unanimous consent that the memorandum and attached guidelines be printed at this point in the RECORD.

There being no objection, the report and guidelines were ordered to be printed in the RECORD, as follows:

MEMORANDUM

To Principal Field Offices (U.S. Customs Service/Drug Enforcement Administration).

From Commissioner of Customs/Acting Administrator, Drug Enforcement Administration.

Subject Memorandum of Understanding Between U.S. Customs Service/Drug Enforcement Administration.

As the Commissioner of Customs and the Acting Administrator, Drug Enforcement Administration, we wish to assure all personnel of both agencies that this Memorandum of Understanding was signed in good faith by both parties and it is our intention to insure that the relationships between our agencies are conducted according to these operational guidelines in both a coordinated and professional manner.

It is of the utmost importance that the U.S. Customs Service and the U.S. Drug Enforcement Administration work together in an atmosphere of harmony and efficiency in combating the illegal importation and trafficking in illicit drugs. It is essential that each agency complement and support the other in fulfilling their respective obligations.

The attached policy guidelines have been established between the Drug Enforcement Administration and the U.S. Customs Service for the purpose of clarifying the respective operations of each agency in regard to drug related enforcement activities. It is anticipated that the guidance established in this agreement will promote and insure that the inter-agency relationships are in the best interests of the United States and will result in effective and efficient law enforcement.

A copy of this memorandum and the attached Memorandum of Understanding is being sent directly to all field offices of both agencies so that all personnel will be immediately aware of the agreed upon operational guidelines. We expect all principal field offices to insure that meetings are arranged at the earliest date between U.S. Customs Service and Drug Enforcement Administration counterparts at the various managerial and working levels to develop the closest possible working relationships within these operating guidelines.

VERNON D. ACREE,
Commissioner of Customs.
HENRY S. DOGIN,
Acting Administrator, Drug Enforcement Administration.

MEMORANDUM OF UNDERSTANDING BETWEEN THE CUSTOMS SERVICE AND THE DRUG ENFORCEMENT ADMINISTRATION ON OPERATING GUIDELINES

The purpose of this memorandum is to emphasize and clarify the roles and the need for cooperation between the respective agencies. Under the broad guidelines of Reorganization Plan No. 2, the Drug Enforcement Administration has been assigned the primary responsibility for ". . . intelligence, investigative and law enforcement functions . . . which relate to the suppression of illicit traffic in narcotics, dangerous drugs or marihuana. . . ." Under the plan and delegations, Customs retains and continues to perform those functions ". . . to the extent that they relate to searches and seizures of illicit narcotics, dangerous drugs, marihuana or to the apprehension or detention of persons in connection therewith at regular inspection locations at ports-of-entry or anywhere along the land or water borders of the United States . . . ."

Both agencies have vital roles to perform within the Federal drug enforcement program. Customs, as part of its overall responsibility for interdicting the smuggling of contraband, retains the full responsibility for searching,' detecting, seizing smuggled narcotics, and arresting suspected smugglers of any contraband. DEA has the full responsibility for any narcotic-related follow-up investigation as well as for providing Customs with information related to narcotics interdiction. Clearly, for the Federal effort to accomplish its enforcement goals related to reducing narcotics trafficking, both agencies must cooperate and provide appropriate mutual assistance in performing their respective functions. It is mutually agreed that an employee who willfully violates the intent and conditions of this agreement will be subject to firm disciplinary action.

To implement the above, the Commissioner of Customs and the Administrator of the Drug Enforcement Administration jointly approve the following guidelines for dealing with specific operational problems.

(1) Operational Roles of Customs and DEA.

Customs is the agency with primary responsibility for interdiction of all contraband, including all drugs at the land, sea, and air borders of the United States.

DEA is the agency with primary responsibility for investigation and intelligence gathering related to drug smuggling and trafficking.

The Drug Enforcement Administration will notify the U.S. Customs Service of information from its narcotic investigations which indicates that a smuggling attempt is anticipated at or between an established port-of-entry as soon as possible after the information is received. Such information may result in a cooperative joint interdiction effort but shall in no case result in uncoordinated unilateral action.

Within the limitations of its resources, Customs will cooperate when requested to support DEA operations and ongoing investigations, including interception of aircraft suspected of drug smuggling and convoys.

For purposes of this agreement an ongoing investigation includes only those cases in which information indicates a seizure and/or arrest should not occur at the initial point of contact in the United States, but should continue as a convoy to the final delivery point. The mere fact that a suspect or vehicle is known to DEA does not constitute an ongoing investigation.

(2) Law Enforcement Coordination

Whenever Customs has information on any person, aircraft, vessel, etc., that is involved in or suspected of being involved in drug smuggling or trafficking, DEA will be the first agency contacted by Customs. DEA will then have primary responsibility for the coordination of all investigative efforts.

Whenever DEA has information on any person, aircraft, vessel, etc., that is involved in or suspected of being involved in the smuggling of contraband, Customs will be the first agency contacted by DEA. Customs will then have primary responsibility for interdiction if a seizure or arrest is to occur at the initial point of contact in the United States except in those cases under the control of DEA.

(3) Placing of Transponders on Aircraft and Transponder Alerts

Transponders will not be utilized by Customs in drugs related activity without prior advice to DEA of the aircraft's identity and suspects involved. If DEA has an ongoing investigation, DEA will make the tactical decision as to the course of action to be taken.

Both agencies will expeditiously advise each other of all transponders placed on aircraft, and immediately upon receiving signals therefrom.

Customs will normally respond to all specially coded transponder alerts crossing the border. DEA will be given immediate notification whenever Customs responds to a drug-related transponder alert.

(4) Combined Seizures of Narcotics and Other General Contraband

Where both narcotics and general contraband are seized in the same case, the Customs Office of Investigations is to be notified and they will coordinate with DEA on a joint investigation.

Investigative efforts will be dependent upon the magnitude of the violations and/or the value of the general merchandise seized.

(5) Violations to be Reported to the U.S. Attorney

DEA case reports will include any customs reports related to the drug violation. Customs will furnish their reports to DEA in an expeditious manner. DEA will present the violations to the concerned prosecutor for determination of charges.

(6) International and Domestic Drug Intelligence Gathering, Coordination

DEA is the agency with primary responsibility for gathering intelligence on drug smuggling and trafficking, including air trafficking.

Customs has primary responsibility for intelligence gathering of smuggling activities and also a supportive role to DEA in drug smuggling and trafficking. Nothing in this agreement precludes Customs from gathering information from the air and marine community related to the smuggling of contraband. Customs will continue to maintain liaison and gather information from foreign Customs services on all smuggling activities.

Customs will expeditiously furnish all drug-related information to DEA. DEA will expeditiously furnish drug smuggling intelligence to Customs. Unless immediate action is required, such drug smuggling intelligence collected will not be subjected to enforcement action prior to coordination between Customs and DEA.

DEA and Customs will refrain from offering or lending support to any derogatory remarks regarding the other agency. When dealing with other law enforcement agencies, Federal, state and local officials should not be misled as to DEA and Customs respective responsibilities.

Neither Customs nor DEA will discourage potential sources of information from working for the other agency. The promising of rewards to informants for intelligence shall not be competitively used to increase the price of information and knowingly encourage the source of information to "Agency Shop."

Under no circumstances will Customs officers employ a participating informant for drug-related matters unless prior agreement and concurrence is obtained from DEA. Both agencies recognize that the identity of an informant may have to be revealed in court and that the informant may have to testify.

In those drug smuggling cases involving a DEA confidential source, Customs will be promptly notified of the role of the informants so that the safety of the cooperating individual is not jeopardized. Customs officers will not attempt to debrief DEA informants.

None of the foregoing is intended to limit total resource utilization of DEA and Customs law enforcement capabilities, but rather to insure coordination, elimination of duplication of effort, and prevention of counter-productive or potentially dangerous enforcement activities.

At the field level, Customs and DEA offices will identify specific persons or organizational units for the purpose of information referral and to coordinate enforcement matters.

(7) Procedures to be Followed When DEA has Information that an Aircraft, Vehicle, Vessel, Person, etc., will Transit the Border Carrying Narcotics

For criminal case development purposes, DEA may request that such persons or conveyances be permitted to enter the United States without enforcement intervention at that time. These requests will be made by DEA supervisory agents at the ARD level or above to District Directors or their designated representative. Such requests will be rare and made only when DEA intends to exploit investigations of major traffickers.

Customs officers will participate in the enforcement actions until the initial seizure and arrest. The number of Customs personnel and equipment needed will be decided by the Customs supervisor with input from the DEA Case Agent, subject to the limitations of available Customs resources, not to exceed the number recommended by the DEA Case Agent.

On drug-related joint enforcement actions, no press releases will be made by Customs or DEA without the concurrence of each other.

(8) Drug Seizure Procedures

Customs responsibility for interdiction of contraband, including illegal drugs, remains unchanged. Using every enforcement aid and technique available to them, Customs officers will continue to search for illicit drugs. Each time any drugs are discovered, they will be seized and the nearest DEA office will be immediately notified unless otherwise locally agreed upon. Questioning of arrested violators will be limited to obtaining personal history and seizure information for Customs forms. Further questioning is the responsibility of DEA. Chain of custody forms or receipts are required for transfers, of all seized items.

Customs will take every step possible to preserve all evidentiary material and not remove suspected drugs from original containers when such action compromises evidentiary and investigative potential.

In these instances where DEA will not accept custody of detained persons or seizure of drugs due to U.S. Attorney prosecutive policy, DEA will notify local enforcement authorities for prosecutive consideration. Otherwise DEA will request Customs to notify these authorities. When local enforcement authority declines, Customs will proceed to assess administrative and civil penalties, as appropriate. Otherwise, administrative and civil penalties should be held in abeyance until local prosecution is completed.

(9) Convoy Operations After Customs Seizures

In those instances where DEA decides to convoy the contraband seized by Customs to the ultimate consignee, Customs personnel will fully cooperate, and will withhold publicity. All seized vehicles or conveyances will be included in a chain of custody receipt.

The weighing of the contraband may be waived when the method of concealment makes it impractical. At the termination of the convoy, an accurate weight will be supplied by DEA to the orginating district director, and the chain of custody will be annotated with the correct weight. Customs officers will not normally participate in this type of convoy operation.

At the termination of this type convoy operation, involved vehicle or conveyance shall be released to the custody of the nearest district director of Customs.

(10) Disposition of Vehicles, Vessels, Aircraft and Seizures in Joint Enforcement

All vehicles, vessels, and aircraft involved in joint smuggling cases will be seized and forfeited by Customs. Final disposition of the conveyance will be determined by a joint Headquarters review board comprised of Customs and DEA personnel. Guidelines governing disposition will be developed.

Upon prior DEA request in writing, Customs will not admistratively dispose of seized aircraft or other conveyance until it is no longer required for evidence by the courts or termination of DEA investigation.

(11) Referral to Other Agencies (Chain of Custody and Laboratory Sampling)

Customs will continue, in the case of seized heroin and cocaine, weighing two ounces or more, to make samples not to exceed 7 grams. However, the Customs laboratory will not perform the quantitative and qualitative analysis until completion of the prosecutive action, except for special contingencies.

(12) DEA Access to Customs Personnel and Controlled Areas

Designated Customs areas are not normally accessible to others. Access to Customs controlled areas and Customs personnel on an as needed basis will be obtained from the officer-in-charge of the Customs facilitiy in each instance. Customs will honor such requests, provided that DEA personnel in no way interfere in examination and inspection processes.

(13) Procedures When Discovery of Drugs is Made Before Actual Violators Have Been Identified and Goods or Conveyances are Still in Customs Custody

When Customs officers discover the presence of concealed drugs in imported goods, and the goods or conveyances are still under Customs custody or control, and they have been claimed by a consignee or reached their ultimate destination, Customs shall maintain control of the drugs, but DEA will be notified immediately. Customs officers will cooperate with DEA and be guided by DEA's tactical decisions regarding investigative development, arrest and seizure.

(14) Any representation made to Federal, State or local prosecutors for mitigation of sentence or other consideration on behalf of a defendant who has cooperated in narcotic cases or investigations will be made by DEA. DEA will bring to the attention of the appropriate prosecutor cooperation by a narcotic defendant who has assisted Customs.

There are existing DEA/Customs agreements not covered in this document that pertain to cross-designation of DEA agents, mail parcel drug interdiction and other matters. DEA and Customs mutually agree to review each of these and amend where appropriate for consistency with the cooperative intent of this agreement.

No guidelines are all encompassing and definitive for all occasions. Therefore, the appropriate field management of both agencies are directed to establish communication with their respective counterparts to better coordinate their respective operations. Similar cooperation and harmonious working relationships should be implemented at all subordinate levels. It must be recognized that good faith as well as mutual respect for the statutory responsibilities of our agencies and for the employees are the cornerstones upon which full cooperation must be established. To this end, Customs and DEA personnel must take the appropriate affirmative actions to minimize conflict and develop a combined program which adequately serves the interests of the United States of America and its citizenry.

HENRY S. DOGIN,
Acting Administrator, Drugs Enforcement Administration.
VERNON D. ACREE,
Commissioner, U.S. Customs Service.

Mr. BAYH. I was impressed by the sincerity of these two men at our hearing last week, but in light of the failure of a similar prior agreement to resolve jurisdictional problems, I urge the President to clearly delineate a White House level monitoring system to assure that our drug law enforcement agencies get on with their mandates namely to curb the flow of heroin and other dangerous drugs into this country.

Whatever agency or agencies are eventually assigned the drug law enforcement responsibilities it is my subcommittee's mandate to assure that the Controlled Substances Act and the Controlled Substances Import and Export Act that were drafted by the subcommittee after extensive hearings in 1969 and enacted in 1970 provide the Nation's drug law enforcement officers and our criminal justice system with the most effective constitutionally sound tools to help take the profit out of heroin and other illegal dangerous drug traffic.

Through our 1975 hearings on opium policy and presently on legislation introduced by the President the subcommittee intends to develop a better understanding of the ramifications of the public policy developed by the Nixon administration to curb heroin traffic and abuse and whether or not the current administration has learned from their mistakes.

I agreed with the President when he stressed in his April 27, 1976, message that "drug abuse constitutes a clear and present threat to the health and future of our Nation" that we must "refocus and revitalize the Federal effort," especially with regard to those who accumulate substantial wealth through such tainted trade.

This is not the first time, since 1968 that the administration has expressed support for congressional effort to curb drug traffic. Earlier proposals lacked focus and did not reflect the judicious use of limited public resources. Thus, although I am encouraged by some recent remarks, I would be less than candid if I did not admit that earlier rhetoric and indifference about these important issues only reaffirms former Attorney General Mitchell's enjoinder that it was more important to watch what is done than what is said. You do not help take the easy profits out of drug traffic with tough talk and hollow promises.

MANDATORY PENALTIES

I believe that firm and certain punishment must be the response to drug traffickers. Because of the understandable concern and debate regarding Senate bill 1, a rewrite of the entire Federal Criminal Code, I agree with the President and the distinguished Senator from Nebraska (Mr. HRUSKA) that we not delay the enactment of appropriate measures to curb narcotics traffickers. Thus I intend to report a separate drug bill this year.

Although there seems to be a bandwagon syndrome regarding the application of mandatory minimum penalties to all crimes I agree with Prof. James Vorenberg "that the rush to mandatory minimum sentences distracts attention from a general restructuring of sentencing laws as well as from the futility of efforts to run our criminal justice system 'on the cheap' ". But I concur with the distinguished executive director of the American Civil Liberties Union, Mr. Aryeh Neier, that:

> Some people who have committed very serious crimes of violence should be given incapacitating sentences to protect everyone else.

The 1970 act eliminated most mandatory sentences. As the former President said in his June 17, 1971, drug abuse message to Congress:

> The act contains credible and proper penalties against violators of the drug law. Several punishments are invoked against the drug pushers and peddlers while more lenient and flexible sanctions are provided for the users.

The President continued:

> These new penalties allow judges more discretion, which we feel will restore credibility to the drug control laws and eliminate some of the difficulties prosecutors and judges have had in the past arising out of minimum mandatory penalties for all violators.

The only provision of the 1970 act providing minimum mandatory sentences is the continuing criminal enterprise provision, section 408, which was intended to serve as a strong deterrent and to keep those found guilty of such violations out of circulation.

It provides that persons engaged in continuing criminal enterprises involving violations of the bill, from which substantial profits are derived, shall, upon conviction, be sentenced to not less than 10 years in prison, and may be imprisoned up to life, with a fine of up to $100,000, plus forfeiture of all profits obtained in that enterprise. A second conviction under this section will lead to a mandatory sentence of not less than 20 years and up to life imprisonment, a fine up to $200,000, and forfeiture of all such profits.

Except when continuing criminal enterprises serve as the basis for an indictment, manufacture, sale, or other distribution of controlled drugs will carry penalties which vary, depending upon the danger of the drugs involved. If the drugs are narcotic drugs listed in schedules I or II, which have the highest probability of creating severe physical as well as psychological dependence, the penalties which may be imposed are up to 15 years imprisonment and a fine of up to $25,000 for a first offense. If the drug involves nonnarcotic substances listed in schedules I or II, or any substance—whether or not a narcotic—included in schedule III, the penalties for a first offense are up to 5 years imprisonment, plus a fine of not more than $15,000. If the drug is a schedule IV substance, the penalty is up to 3 years imprisonment and a fine of $10,000, and if a schedule V substance is involved, the penalty is up to 1 year imprisonment, plus a fine of not more than $5,000.

Where a violation of the bill involves distribution to a person below the age of 21 by a person who is 18 or more years of age, the penalty authorized is twice the penalty otherwise authorized for a first offense, with substantially increased penalties for second and subsequent violations.

The President's proposed legislation would require mandatory minimum sentences for all persons convicted of trafficking in heroin and similar narcotic drugs. It calls for a 3-year mandatory sentence for the first offense, and at least 6 years for any subsequent offenses or selling illegal drugs to a minor, subject in each instance to exceptions.

This approach does not focus on the financier, importer, or organized criminal leaders who control drug traffic—it does not focus on these kingpins. What we need is meaningful sentencing for major traffickers. The problem with current Federal policy and focus was clearly presented to the subcommittee last week by Hon. Sheldon B. Vance, Senior Adviser to Secretary Kissinger for International Narcotics Matters, when he told the subcommittee that—

> While we can point with some satisfaction to our efforts toward improving the effectiveness of international narcotics control over the past several years, our own efforts to deal with traffickers has acquired a reputation of leniency. Minimal sentences, liberal parole policies and prosecutorial bargaining with cooperating defendants have caused some foreign officials to criticize the United States judicial system, often referring to it as a "revolving door." Specific complaints have been registered, primarily from Latin American countries, about low bail, release on personal cognizance, plea bargaining, lenient sentences, and early paroling of traffickers apprehended following close collaboration with foreign law enforcement officials.

Ambassador Vance cited an especially illustrative case. He explained that—

> It concerned two individuals arrested in November 1972 in New York subsequent to their delivery from Singapore of 2.5 kilos of # 4 heroin to Special Agents of the Drug Enforcement Administration. The exhibit was delivered as a free sample toward a 23 kilo delivery scheduled for the future. They were tried without a jury in the Southern District of New York and in March 1973 were given sentences of 15 years for each of two counts, to run consecutively. On June 26, 1974, the judge reduced their sentences pursuant to their motions, making them eligible for parole.
>
> On August 30, 1974, one of them filed an application for parole. His application was heard on October 16, 1974. An Institutional Review Hearing was held in March 1976 and parole was granted. He was delivered to the U.S. Immigration and Naturalization Service Authorities on July 15, 1976 for deportation.
>
> On July 17, 1976, upon his arrival in Singapore, he was arrested by officers of the Singapore Central Narcotics Bureau. On July 20, 1976, the Assistant Director, Central Narcotics Bureau requested the High Court Magistrate to order his detention for the remainder of his U.S. prison sentence.

Ambassador Vance commented that—

> These developments have caused the Singapore authorities seriously to question the commitment and sincerity of the United States in its efforts against the international trafficking of narcotics.

And that—

> Such cases and other indicators clearly show a soft and imprecise handling of narcotics offenders. This inhibits our ability to obtain cooperation from foreign governments.

We need to restore credibility to the sentencing process to assure that the "kingpins" are disrupted. I endorse the Domestic Council White Paper recommendation regarding sentencing of drug traffickers to require "minimum mandatory sentences for persons convicted of high-level trafficking in narcotics and dangerous drugs." I took particular note of the task force recommendation that the President's proposal be expanded to include high-level traffickers of barbiturates and amphetamines.

The most effective way to curb the flow of illicit drugs is to immobilize substantial trafficking networks through the prosecution and conviction of their leaders. I concur in the White Paper recommendation that:

> Federal law enforcement efforts should focus on the development of major conspiracy cases against the leaders of high-level trafficking networks, and should move away from "street-level" activities.

In calendar year 1974, DEA special agents in the United States spent 28 percent of their time in pursuit of class I violators, or those at the high level of traffic; 19 percent investigating class II's; 45 percent of their time on class III's; and 8 percent of their time on IV's. Even fewer of the arrests made were class I or II violators.

According to DEA Administrator Bensinger, however, the trend has improved. He told the subcommittee last week that class I, major, heroin violator arrests have increased by 106 percent in the 9-month period ending March 31, 1976, and class IV street-level arrests have decreased significantly.

These are encouraging signs but only time will determine whether DEA has finally focused its limited resources on the class I violators. The New York Drug legislation was recently amended to reflect this priority. The so-called Rockefeller shotgun approach clogged the counts but failed to sharpen the system's focus on major traffickers. To help assure this long-term objective the subcommittee is considering provisions that would restrict Federal drug control jurisdiction and authority to major interstate and international cases.

In 1973, the subcommittee desired to significantly strengthen the hand of our law enforcement officials in dealing with one of the most dangerous types of criminals in our society—major dealers who are the purveyors of heroin to our young people. This concern was reflected in the public menace amendment to S. 800, introduced by Senators BAYH and TALMADGE. This amendment was aimed at the backbone of heroin trade and distribution in this country, not addicts who are supporting a habit, for whom current laws are adequate, but the high-level traffickers who hook others. The Senate passed this amendment on April 3, 1973. It was not favorably reported from the House Judiciary Committee before the close of the 93d Congress. Similar provisions are included in S. 1800, the Violent Crime and Repeat Offender Control Act of 1975, which I introduced last June.

There is no criminal element in this country which is more dangerous and despicable than those who are the purveyors of heroin to our young people. My approach is not aimed at addicts who are already hooked and who are trying to support their habits. For such people laws already on the books and adequate treatment—together with the capture and imprisonment of big time dealers—offer the best hope. My target is those who have hooked others and not themselves.

Under my bill persons convicted of manufacturing, distributing, or dispensing heroin or morphine in amounts equal to or in excess of one-tenth of an ounce of pure narcotic would receive, on the first offense, a mandatory minimum sentence of 10 to 30 years. For second convictions, these pushers would get a mandatory life sentence. In neither case would the offender be eligible for probation, suspended sentence, or parole—except after serving 30 years of a life sentence. In both cases the mandatory minimum sentence would have to be imposed in addition to the sentence provided under existing law; and in both cases the additional sentence would have to be consecutive to, not concurrent with, the existing punishment.

One-tenth of an ounce of heroin or morphine may seem to be a tiny amount, Mr. President, but it is as deadly as it is small. It can and is turned into a large number of bags of heroin on the street, and is worth a handsome sum. As a measure of the seriousness of the criminal conduct it is preferable to the President's bill which applies to any detectable amount of opiate. It best assures that we reach the high-level dealers who handle very pure and very valuable heroin. This test also assures that we do not bring under these very severe penalties a person with a mixture which contains only traces of a narcotic. Under this approach the volume of the material sold or manufactured would not matter; the only question would be whether it contained the equivalent of one-tenth of an ounce of pure heroin or morphine.

The following table, prepared by subcommittee staff, illustrates graphically the amount of heroin involved in the application of my bill:

Estimates of heroin dosage units derived from 1/10 ounce of pure heroin or morphine

Total units	*Unit size (milligram bags)*	*Percent of heroin or morphine*
a. 2,835	100	1
b. 1,417.5	100	2
c. 945	100	3
d. 708.7	100	4
e. 567	100	5
f. 472.5	100	6
g. 405	100	7
h. 354.3	100	8
i. 315	100	9
j. 283.5	100	10

Note: 0.1 ounce equals 28.35 grm. or 28,350 mgms. 0.2 ounce equals 2.835 grm. or 2,835 mgs.

Any nonaddict who manufactures, distributes, or dispenses one-tenth of an ounce of heroin or morphine is, we can be confident, a high-level trafficker who is rationally and for profit pushing drugs. Such a person deserves no quarter.

The President's bill neither distinguishes as to amount or purity of the drug involved, it would even mandate a 3-year jail term for one who illegally transfers a portion of a methadone maintenance patient's average 100 milligram dosage. Although we have not received an assessment from the Bureau of Prisons as to the impact of the President's proposal, we can rest assured that multimillions of nonexistent dollars would be required for new prisons. This shotgun-nonspecific approach should be rejected.

While, I believe present statutes are adequate for addicts, the subcommittee is considering an amendment to the 1970 act to include an "attempt" section punishable by up to 5 years imprisonment, that would apply to nonaddict traffickers; such provision may provide the necessary impetus for such nonaddicts to cooperate in the prosecution of major trafficking cases.

A sound drug enforcement policy must reflect the reality that all drugs are not equally dangerous, and all drug use is not equally destructive. The Domestic Council White Paper on Drug Abuse stresses this theme when it concludes that enforcement efforts should therefore concentrate on drugs which have a high addiction potential, and treatment programs should be given priority to those individuals using high-risk drugs, and to compulsive users of any drugs.

I ask unanimous consent that chart 12 from the Domestic Council's White Paper, A Summary of Drug Priorities and accompanying text—pages 32–34—be printed at this point in the RECORD.

There being no objection, the chart and text were ordered to be printed in the RECORD, as follows:

SUMMARY: DRUG PRIORITIES

Chart 12 ranks the various drugs according to the following criteria: (1) likelihood that a user will become physically or psychologically dependent; severity of adverse consequences, both (2) to the individual and (3) to society; and (4) size of the core problem.

SUMMARY OF DRUG PRIORITIES

	Dependence liability	Severity of consequences		Size of core problem
		Personal	Social	
Heroin	High	High	High	High/ 400,000.
Amphetamines:				
Needle	High	High	High	High/ 500,000.
Oral	Low	Medium	Medium	
Barbiturates:				
Mixed	High	High	High	Medium/ 300,000.
Alone	Medium	High	Medium	
Cocaine	Low	Low	Medium	Low.
Marihuana	Low	Low	Low	Low.
Hallucinogens	Medium	Medium	Medium	Low.
Inhalants	Medium	High	Medium	Low.

Though the data are flawed and the rankings therefore imprecise, a clear pattern emerges.

Heroin ranks high in all four categories;

Amphetamines, particularly those injected intravenously, also rank high in all four categories;

Mixed barbiturates rank high three out of four categories;

Cocaine,* hallucinogens, and inhalants rank somewhat lower; and

Marihuana is the least serious.

On the basis of this analysis, the task force recommends that priority in Federal efforts in both supply and demand reduction be directed toward those drugs which inherently pose a greater risk to the individual and to society—heroin, amphetamines (particularly when used intravenously), and mixed barbiturates—and toward compulsive users of drugs of any kind.

This ranking does not mean that *all* efforts should be devoted to the high priority drugs, and none to the others. Drug use is much too complicated and our knowledge too imprecise for that. Some attention must continue to be given to all drugs both to keep them from exploding into major problems and because there are individuals suffering severe medical problems from even a low priority drug, such as marihuana.

However, when resource constraints force a choice, the choice should be made in favor of the higher priority drugs. For example:

In choosing whom to treat, we should encourage judges and other community officials not to overburden existing health facilities with casual users of marihuana who do not exhibit serious health consequences. (But, a person who is suffering adverse consequences because of intensive marihuana use should have treatment available.)

In assigning an additional law enforcement agent, preference might be given to Mexico, which is an important source of both heroin and "dangerous drugs", rather than to Miami, where an agent is more likely to "make" a cocaine or marihuana case.

This drug priority strategy is essential to better targeting of limited resources and it will be further addressed in relation to supply and demand reduction activities in chapters 3 and 4. Further, the process of assessing the current social costs of drug abuse should be a continuing one, to ensure that resources are allocated on the basis of priorities which reflect current conditions and current knowledge.

Mr. BAYH. Our priorities in drug law enforcement must reflect reasoned judgments based on the facts. The fact is that nationally, arrests for marihuana violations have escalated from 188,682 in 1970 to 450,000 in 1974. This is not nearly as dramatic as the 1,000-percent increase between 1965–70 from 18,815 to 188,682, but it is rather astonishing that this 4-year increase is more than 12 times the total marihuana arrests just 10 years ago.

The fact is that the number of marihuana arrests as a percentage of all drug arrests has increased substantially. In 1970 these arrests amounted to 45.4 percent of total drug arrests. During the 1970–73 period 1,127,389 of the total 2,063,900 drug arrests were for marihuana. And in 1974, the most recent year for which records are available, 70 percent of all drug arrests were for marihuana.

Available studies and research to date have found that the majority of those arrested are otherwise law-abiding young people in possession of small amounts of marihuana. In fact, a Presidential commission found that the vast majority of users are essentially indistinguishable from their nonuser peers by any criteria other than its use.

In 1969 and 1970 the subcommittee considered the adequacy of penalties for marihuana with the result that the new Controlled Substances Act provided that simple possession or distribution of a small amount of marihuana for no remuneration were both designated misdemeanors, not felonies, punishable by up to 1 year in jail and/or up to a $5,000 fine. It was the view of many Members that the sanctions should be further reduced. Some suggested that the sanction be eliminated for such conduct.

In order to permit a thorough assessment of these issues the subcommittee recommended the creation of a Presidential commission. The Congress agreed and provided for the establishment of the Commission on Marihuana and Drug Abuse in part F of the Controlled Substances Act.

This body, known as the Shafer Commission, after its distinguished chairman, conducted an in-depth study of the issues and concluded that marihuana was not dangerous enough to the user or to the general public for its private possession and use to remain a criminal offense.

In the last several years a growing list of States, organizations, and individuals have endorsed and adopted approaches comparable to the Shafer Commission recommendations.

Rather than ignore the law on marihuana or prosecute possession cases selectively as some would suggest, I believe that: We must recognize that the $600 million invested annually to prosecute marihuana cases can be used in a manner more consistent with the protection of property and safety of the taxpayers who must sustain our severely overburdened criminal justice agencies; we must recognize that public interest is not served by arresting annually 500,000, mostly young people, for simple possession of small amounts of marihuana and thereby assuring that they are inhibited for life—in their education and careers—by the unrelenting stigma of a criminal record; and we must recognize that the public is not going to get the highest return on their tax dollars in the national effort to curb drug traffic and drug-related crime when 7 in 10 drug arrests are for predominantly simple marihuana possession. We must reject such counterproductive drug law enforcement policy.

Thus an integral title of the bill we plan to report from the subcommittee will provide for the decriminalization of marihuana. I will recommend an approach similar to that undertaken by the State of Oregon which abolished criminal penalties for simple possession and substituted a civil fine up to $100 for possession and nonprofit transfers of up to 1 ounce of marihuana. Criminal penalties for the sale of the drug for profit would remain intact. This approach maintains a policy of discouragement toward marihuana use while recognizing the current inappropriate use of law enforcement resources and the destructive impact of potentially 30 million criminal records for such common conduct.

The fact of the matter is that if the American public knew that more dollars are spent each year to prosecute marihuana cases than the Federal Government expends on its combined drug law enforcement and drug treatment program with the results I have outlined, I would speculate that rather than the near deadlock of opinion reflected in the most recent Harris poll—January 26, 1976—on decriminalization showing 43 percent in favor and 45 percent opposed a clear majority would support my approach. Concentrating our Federal drug enforcement resources on high-level heroin and dangerous drug traffickers is sound policy, but will call for a shift in the standards for measuring success. We in Congress should deemphasize the number of arrests as a criterion of success. And as the Assistant Attorney General for the Criminal Division concluded in his July 22, 1976, speech before the fifth Controlled Substances Conference in Minneapolis, Minn.: "No statistical striving or" seizure syndromes can or will substitute for the quality, prosecution of those cases which place behind bars for extended jail sentences individuals responsible for the plan of illegal drugs into American communities. Such a strategy applies limited public resources more judiciously and simultaneously reflects sensible priorities.

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* This ranking is on the basis of current patterns. As mentioned earlier, if intensive use patterns develop, cocaine could become a considerably more serious problem.

REFORM OF BAIL LAWS FOR DRUG TRAFFICKERS

Another serious problem with current Federal law and practice is that even the most notorious drug traffickers are often released on bail. I agree with the President's concern about bail jumpers. He emphasized in the April 22, 1976, message one aspect of the problem when he stated:

> These offenders simply flee to their homelands upon posting bail. Then, they serve as walking advertisements for international traffickers attempting to recruit other couriers.

Yet, title II of the President's legislation, S. 3411, would enable judges to deny bail to almost anyone arrested for a drug offense if otherwise suspected, such as nonresident aliens. Thus, the nearly 7 million aliens admitted last year under nonimmigrant status whether foreign government officers, temporary visitors for business, or pleasure, and a myriad of other bases for admission become suspect under S. 3411.

Rather than resort to preventive detention which would reverse the basic tenet of our criminal justice system—the presumption of innocence—what we lack today is a realistic application of bail within the confines of the constitutional protection of the eighth amendment. We need full and expeditious implementation of the Speedy Trial Act to assure that justice is not only fair but swift and certain.

Incidentally, I recently reviewed the status of the 540 Americans in Mexican jails, mostly on drug offenses, with an eye to numerous allegations of torture and police brutality and general outrage at the fact that these Americans were "languishing" in foreign jails. The impact and significance of our cherished presumption of innocence was unmistakably clear when juxtaposed to the plight of these persons. The reliance in Mexico on the Napoleonic Code's "guilty until proven innocent" had assured that some innocent persons could be held as long as a year and that many would not be able to prepare an adequate defense. It is ironic that the White House is recommending a similar denial of basic rights for suspected citizens and nonresident aliens.

Aside from constitutional and humanitarian objections, preventive detention has failed to accomplish its goals in the District of Columbia. The 1972 Vera Institute-Georgetown University Law Center Study as well as testimony before the subcommittee last week supported this conclusion. Earl Rauh, the Chief Assistant U.S. Attorney, testified that of the more than 30,000 felony cases handled by the District of Columbia criminal justice system the preventive detention procedure had been used only 70 times in the last 5 years. Even on practical grounds such a track record hardly bespeaks adoption of this approach on a national basis.

The subcommittee will carefully consider for incorporation in the drug legislation, however, provisions that mandate the denial of bail when necessary to prevent the flight of major drug traffickers. These provisions will include specific judicial guidelines. DEA Administrator Bensinger discussed what appeared to be an appropriate case for the mandatory denial of bail with the subcommittee last week. He set out the case as follows:

> In Miami in 1975, two defendants were arrested at the Miami International Airport for smuggling 13½ pounds of pure Asian heroin. Initial bond was set at $500,000 surety bond for each defendant, but was later reduced to $100,000 surety bond each despite the following facts: (1) At the time of their arrest, each defendant possessed false identification; (2) they were operating a smuggling conspiracy bringing in 35–40 kilos of Asian heroin per month; (3) they had access to Swiss bank accounts of several million dollars; (4) one defendant was under a murder indictment in Southern California, and both were under other Federal narcotic indictments in California; (5) they were extensive international travelers. Both defendants posted the surety bonds by paying a $10,000 premium. Both are now fugitives, and have since withdrawn $400,000 from their Swiss bank accounts.

An additional reform under consideration by the subcommittee concerns major narcotics traffickers who jump bail.

To help remedy this growing problem we may amend the Federal law to make the penalty for bail jumping equal to that of the underlying substantive offense.

These are the type of realistic changes we need to more effectively combat those who accumulate incredible profits from the misery of hundreds of thousands.

NARCOTICS AND PROFITS

A primary premise of the legislation that the subcommittee intends to report is that the Federal Government must act more decisively to attempt to take the easy profits out of major drug trafficking. I support provisions that would require the forfeiture of the proceeds used or intended to be used in illegal narcotic or dangerous drug transactions.

These forfeiture provisions should apply to subsequent profits or value generated by the investment of the tainted proceeds. We must disrupt major narcotic distribution lines and attempt to provide a greater degree of deterrence and risk for these kingpins.

As policymakers we must place the nature and extent of heroin traffic in perspective. As Assistant Secretary of the Treasury David Macdonald told the subcommittee last week, it is important to recognize that what we are talking about "is big business. In terms of dollars, it is one of the larger industries in the United States and exceeds the gross sales of many multinational corporations."

The Treasury Department estimates that the retail value of heroin sold in the United States each year is in the neighborhod of $7 billion. In my view this is a conservative estimate. Others speculate that the domestic heroin market sales are in excess of $10 billion annually. In 1972, the entire domestic prescription drug industry accounted for $5.4 billion in sales, or significantly less than the domestic heroin industry, which incidentally pales by comparison with our legitimate domestic narcotic market. The drug industry employed 143,985 persons in the United States and in the latest year for which data are available paid a total of nearly a billion dollars in taxes. The outlaw drug industry paid negligible taxes, if any.

What does it mean when one says that high level drug dealing is very profitable? According to analysis of the distribution hierarchy gross profits are considerable at every level. At the higher levels of the distribution systems, however, the operating costs—basically wages and stock finance costs—are claimed to be a larger percentage of the value added than at lower levels. So-called average profits in this market would be considered astronomical in most markets with which I am familiar. The rate of return on investment is approximately as follows: 300 percent for the importer; 100 percent for the kilo connection; 145 percent for the connection—or ounce man; 114 percent for the weight dealer; 124 percent for the street dealer; and 50 percent for the juggler or the seller from whom the average street addict buys heroin.

According to Sterling Johnson, Jr., special narcotics prosecutor for New York City, an active seller at a level comparable to the street dealer—one-eighth ounce of diluted heroin selling for an average price of $55—can clear $500 to $1,000 profit a day. A key dealer in the Baltimore, Md., area was recently sent to prison for a 15-year term. As the No. 2 person in Baltimore heroin trade he was clearing $140,000 a week in 1973. Kilo importers in Harlem are reportedly clearing $150,000 a week and their distributors a paltry $50,000 a week. It is estimated that these dealers take home more than $4 million every week in this one community. These figures are all "before taxes" for little revenue is collected from this multibillion-dollar-a-year business.

Obviously these illicit activities generate large flows of money, both domestically and internationally. Secretary Macdonald reported to the subcommittee that "hundreds of millions of dollars, usually in the form of currency, are moved out of the United States annually to pay foreign producers and processors for their services." He went on to say that "within the United States, drugs are also a cash-and-carry business." In a recent case a major trafficker was arrested with $1 million in cash in his possession.

I believe that as a basic theme of our drug law enforcement strategy we should attack drug smugglers and traffickers through the currency and profits generated by their illegal activity.

High-level traffickers, who may be insulated from the illegal merchandise and consequently cannot readily be convicted for drug violations are often vulnerable to financially oriented investigations. As

Secretary Macdonald pointed out last week such an approach "could have greater impact than by concentrating solely on the drug transactions themselves." In this connection the United States-Swiss Mutual Assistance Treaty in Criminal Matters, recently ratified by the Senate should help to expedite the exchange of information relative to the international aspects of this dirty, tainted trade. By carefully monitoring the vast flow of currency and monetary instruments important information is developed with respect to narcotics trafficking.

To help facilitate the prosecution of major trafficker couriers, I intend to amend current law to clarify the time frame for violations relating to traffickers' proceeds and by granting additional authority to search persons suspected of smuggling tainted drug proceeds in excess of $5,000 out of the country. These provisions will include fines that are far more than those under present law which any major traffickers could assume as a cost of doing business.

The subcommittee is concerned that DEA reliance on techniques in which their agents and informants use Federal moneys to purchase illegal narcotics or information may be far too costly and even counterproductive. There is some evidence that these practices, known as PE—purchase of evidence—and PI—purchase of information—may actually expand the narcotic trade.

We intend to address this problem, to the extent necessary, in the subcommittee legislation.

To even the casual student of the activities of those who control the flow of heroin and other dangerous drugs in the United States one thing is strikingly clear: they take in exorbitant profits and pay no income tax.

I was especially pleased that the President stressed, in his April drug message, the need to reestablish the Internal Revenue Service tax enforcement program aimed at high-level drug traffickers. In reaffirming his support for this vital program the President said:

> We know that many of the biggest drug dealers do not pay income taxes on the enormous profits they make on this criminal activity. I am confident that a responsible program can be designed which will promote effective enforcemeent of the tax laws against these individuals who are currently violating these laws with impunity.

The IRS program aimed specifically at major drug traffickers was announced by the former President in June 1971, and the Congress then voted emergency funds for this vital and worthwhile initiative. Though a recent review of the impact of this program by the Domestic Council Drug Abuse Task Force characterized it as "extremely successful," all is not well with this special attempt to tax narcotics merchants. In fact, since 1973, after an impressive 18-month track record, the current IRS Commissioner downgraded and eventually deemphasized—some would assert dismantled—the program.

An especially articulate supporter of this innovative program, who played a major role in its establishment is former Assistant Secretary of the Treasury, Mr. Eugene Rossides. In the past we have worked together to help curb the unrestricted availability of nonsporting handguns as well as on efforts to curb drug traffic. I recall that my good friend Congressman PAUL ROGERS, chairman of the House Interstate and Foreign Commerce Subcommittee on Public Health and Environment, brought to my attention the impressive and persuasive October 27, 1971, testimony of Mr. Rossides regarding the narcotics trafficker tax program. He set out the program for tax investigators of major narcotics traffickers as follows:

> Included in the June 17, 1971, Presidential message, which announced the administration's expanded effort to combat the menace of drug abuse, is a high priority program to conduct systematic tax investigations of middle- and upper-echelon narcotics traffickers, smugglers and financiers. These are the people who are generally insulated from the daily operations of the drug traffic through a chain of intermediaries. This program will mount a nationally coordinated effort to disrupt the narcotics distribution system by intensive tax investigations of these key figures. By utilizing the civil and criminal tax laws, our objective is to prosecute violators and to drastically reduce the profits of this criminal activity by attacking the illegal revenues of the narcotics trade.
>
> Reflecting the high priority given this program by the President, Congress has provided financial support for the program amounting to $7.5 million in fiscal 1972 and authorization for 541 additional positions—200 special agents, 200 revenue agents, and 141 support personnel.
>
> Certain major features of this program should be noted:
>
> (1) Treasury will not only coordinate its efforts with all other interested Federal agencies, but will actively seek the maximum cooperation of State and local enforcement agencies as well. This is a vital feature of this program;
>
> (2) With the manpower provided, our goal is to have at least 400 full-scale ongoing IRS investigations;
>
> (3) In line with the high priority given this program by the President, the Internal Revenue Service has already assigned more than 100 experienced special agents and more than 100 experienced revenue agents, full time to this program. Additional experienced agents are presently being phased into the program.

Mr. Rossides has recently expounded upon the need to revitalize this effort to remove the capital and the profit from the drug trafficking business by utilizing the Federal tax laws, and I ask unanimous consent that these pertinent and timely remarks regarding the IRS NTTP be printed at this point in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

REMARKS OF EUGENE ROSSIDES

It seemed clear to me in 1969 that from an enforcement point of view the Achilles heel of the illicit drug trafficking business was its financing and its illegal but taxable income or profits.

Obtaining evidence against major drug dealers on drug charges is one of the most difficult law enforcement jobs. They can easily insulate themselves from the street-level pusher and minor dealers. It is a rarity to catch them in possession of drugs. The crime is victimless in the enforcement sense in that the addicts and users are not interested or willing to give evidence. They don't consider it a crime. They want the drugs. They want to protect their source of supply, not turn him in.

This is the key reason why I felt it was a necessity to develop a tax enforcement program against the illicit drug traffickers.

I tried unsuccessfully in mid-1969 to get the Organized Crime Strike Forces to accept illicit drug trafficking as a priority item, if not the priority item. I then recommended that Treasury initiate its own special Narcotics Trafficker Tax Program for two reasons: (1) jurisdiction over the tax laws was in Treasury, and (2) from the time of Al Capone, the tax laws have proven to be an effective tool to put major crime figures out of business.

In the short period the Treasury/IRS Narcotics Trafficker Tax Program* was active—from July 1, 1971 to early 1974, it proved to be one of the most successful enforcement efforts in Federal history. (I happen to believe it is the finest from the point of view of results, professionalism, and costs.)

The NTTP was designed to take the illegal profit out of drug trafficking and to disrupt the distribution system. In the short period of its active existence, the IRS initiated full tax audit investigations of over 1800 upper and middle level drug traffickers and dealers; found tax deficiencies totaling $200 million; it paid for itself or practically paid for itself in taxes and penaltes collected; and its impact put drug dealers out of the illicit drug business.

The essence of the NTTP was (1) the careful selection of targets utilizing the talents and information of Federal, state and local enforcement agencies, and (2) the use of both the criminal and civil sections of the IRS Code against major drug distributors and financiers who are often insulated from the traffic and, therefore, in effect, immune from prosecution under the drug laws.

The Treasury Department developed through the target selection system of the NTTP a comprehensive nationwide list of over 1800 major drug traffickers and financiers who were put under full tax audit investigations; gathering information from the then BNDD, Customs, IRS, the Bureau of Alcohol, Tobacco & Firearms, and of substantial importance, from state and local police.

The importance of this substantial list of major drug dealers cannot be overemphasized. While DEA and its predecessors tried, with little success, to bring drug cases against major drug dealers (there were not more than a handful of successful cases), the NTTP, within its first twelve months, identified and put under tough tax investigation 793 major targets in 53 metropolitan areas in 40 states!

State and local police agencies and personnel welcomed the NTPP because it helped them get immediate, short-term, and long-term results, they could see and feel the almost immediate effect of their activities, and of great significance, the NTTP did not encroach on their jurisdictions.

The NTTP was downgraded by IRS Commissioner Donald Alexander shortly after he assumed his duties in mid-1973 and by 1974 it was gutted, despite the clear Congressional and Executive policy, and specific earmarked appropriations. Although Commissioner Alexander has unjustifiably criticized the NTTP, the fact remains it was a most successful tax program which had an extraordinary impact on the illicit drug traffic. Fortunately, the NTTP has now been revived by Presidential directive.

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*The abbreviation most often used is NTP. I prefer NTTP because it emphasizes that it is a tax program.

The importance of NTTP to our nation's efforts to reduce the illicit drug traffic and bring it within manageable proportions is overriding and requires a detailed analysis of the program.

I state to this Subcommittee and to the Congress that without an effective Treasury/IRS Narcotics Trafficker Tax Program we will fail in our efforts to reduce the illicit drug traffic. In view of the overriding importance of this program, I would like to describe in some detail its theory and practice.

The NTTP was initiated as part of the overall effort to crack down on the illegal traffic in narcotics. Recognizing that the huge profits of the drug trafficking business are largely unreported and therefore untaxed, in late 1969 I recommended to the Secretary of the Treasury, David M. Kennedy, and to Under Secretary Charles E. Walker, who had the responsibility for direct supervision of IRS, that the Treasury develop a tax program aimed at the drug trafficking business.

Preliminary surveys in 1970 showed that among a group of suspected narcotics traffickers several patterns could be observed. First, there was a high incidence of nonfiling of income tax returns. Second, a large number appeared to have life styles which would require income far in excess of that on which taxes were being paid.

As a result of these findings and our general studies and review, in the late spring of 1971, Secretary John B. Connally obtained White House and Congressional approval for the program and $7½ million in appropriations for the first year of operation.

Thus, this program had the full backing of the Congress and the Executive Monies were appropriated specifically for the NTTP—monies and manpower which would not have been authorized or appropriated but for this program and were not authorized and appropriated for any other IRS activity.

The Narcotics Trafficker Tax Program is an income tax program. The goal of the NTTP is to tax the illegal profits of the drug trafficking business, a major area of tax noncompliance. The program was carefully developed over a two-year period and the results during the short time it was active—from July 1, 1971, to some time in 1974, including substantial start-up and training time—demonstrate that it was extremely successful.

It is important and central to the NTTP program to understand that the income from the illegal narcotics traffic business is taxable. And it is the responsibility of the Treasury Department to go after this taxable income. Drug trafficking is a business. It is not some isolated activity.

It is damaging to the "voluntary compliance" concept of tax administration to suggest that income from illegal activity should be given a lower priority than income from lawful activity. The narcotics trafficking business is a highly organized criminal activity which requires a sophisticated and comprehensive program to identify the individuals involved and to determine the income which is taxable. Are we to encourage unlawful activity of the most serious kind by our failure to enforce the tax laws against the narcotics traffickers?

The enormous profits of the narcotics trafficking business constitute taxable income to traffickers. To develop a program to identify major narcotics traffickers and tax them is part of administering the tax laws. There is no meaningful distinction between this type of activity and the ordinary IRS methods of identifying what is referred to as "pockets of noncompliance."

There is no difference in concept in deciding to select suspected major drug traffickers for tax audit and in deciding to select waitresses and taxicab drivers regarding gratuities income, corporate executives, individuals regarding interest and dividends payments or tax resister groups, and other classifications of taxpayers. Indeed, the incidence of tax noncompliance by drug traffickers is, I submit, higher than other noncompliance groups.

The significant point with respect to the NTTP was that under such a tax program we were able for the first time on an organized and comprehensive basis to get at major drug traffickers, persons who use intermediaries to insulate themselves from the day-to-day operations of the drug traffic. In this way, they achieve virtual immunity from prosecution under the substantive narcotics laws. The Narcotics Trafficker Tax Program was able to get at many of the "Kingpins" of the traffic.

In developing the original program and thereafter while I served at the Treasury, the program had the full bipartisan support of the Congress; the full support of three Secretaries of the Treasury, David M. Kennedy, John B. Connally, and George P. Shultz; the excellent cooperation and leadership of two Commissioners of IRS, Randolph Thrower and Johnnie M. Walters; and the full support of the Tax and Criminal Divisions of the Department of Justice and the various U.S. Attorneys.

Important and central to the NTTP was the policy decision to stress civil as well as criminal enforcement. This policy decision was a significant improvement on previous uses of tax administration to go after profits from criminal activity. It was our position that the illegal profits must be taxed and should be attacked either by civil enforcement or criminal enforcement. If a criminal case could be made, fine. If not, then the decision should be made as soon as possible and appropriate civil action pursued vigorously. It can be argued that in many cases the greater punishment and deterrent is taking the illegal profits from the illicit drug trafficker.

A critical innovation in federal law enforcement, and essential to the success of NTTP, was the development of the major drug traffickers target selection procedure—a coordinated and cooperative selection of persons to be audited.

As of July 1, 1971, the paucity of information identifying known major drug traffickers was appalling.

We developed a program for selection of targets, which once selected would be turned over to the IRS for audit. We organized field target selection committees throughout the country and developed guidelines for target selection. The persons selected had to be considered major traffickers and there had to be an indication of assets to warrant a full audit.

The field target selection committees were composed of professional career personnel from federal, state and local agencies. On the federal level, the committees included personnel from IRS, the then BNDD, and Customs. On the state and local levels, it included representatives from the local and state police. The committees would meet periodically and pool their knowledge.

Targets selected would then be sent to Washington, D.C. for review and final selection by an inter-agency target selection committee composed of personnel from IRS, BNDD and Customs and chaired by the Deputy Assistant Secretary for Enforcement. This Treasury committee would meet periodically to review the field recommendations and decide to accept, reject, or hold for further consideration each field recommendation.

Once a person was accepted the file would be sent to IRS and from that point on in the investigative process, it was an IRS tax case and handled in accordance with IRS operating procedures. After investigation if the decision was that the evidence justified a criminal prosecution it was referred to the appropriate U.S. attorney's office. Otherwise it was pursued civilly by IRS.

Important byproducts of multi-agency analyses and review of potential targets, supervised by the Office of the Secretary and not at IRS or other agency level, are that it insures selection of high-level targets, increases cooperation and efficiency, and reduces the possibilities of corruption in the selection process to a minimum. I want to stress my belief that this interdepartmental and interagency activity must be supervised by the Office of the Secretary of the Treasury and not at an agency level.

We also developed a minor drug trafficker tax program designed to go after the profits of the minor dealer and pusher. The individuals involved were primarily lower-level drug traffickers—dealers and pushers—who were arrested by state, local and federal officials on substantive drug charges and where there was cash found. We decided against a full audit of these individuals but instead we took tax action; we stressed a tax check type of investigation—did they file a return—and the use of tax year termination and jeopardy assessment procedures on these individuals to reach their large, conspicuous assets. Such tax action was taken on over 3,300 minor dealers and pushers.

This part of the program achieved outstanding success in taxing and reducing the working capital and street-level profits and, thereby, in disrupting the distribution system.

A monthly report system was developed to monitor the progress of this tax program. That report system enabled the Secretary and me to follow the progress of each element of the program. The monthly report listed the number of cases by states and metropolitan areas and the status of the cases.

Within the first twelve months of the NTTP, 793 major targets in 53 metropolitan areas in 40 states were selected for intensive tax investigation and 565 minor traffickers were put under tax action. Within seventeen months 1,175 major targets were selected for intensive tax investigation and 1,239 minor traffickers were put under tax action * * *.

The extraordinary success of the program stems from three groups of dedicated personnel: (1) the target selection efforts of Federal, state and local officials; (2) the several hundred men and women in IRS—tax specialists performing a tax function—who took this program to heart and dedicated themselves to it; and (3) the attorneys in the Department of Justice and the U.S. attorneys' offices throughout the country.

I strongly recommend that the NTTP be reactivated quickly and given the highest priority possible under the overall supervision of the Assistant Secretary of the Treasury for Enforcement, Operations and Tariff Affairs.

This highly successful program was unique in the spirit of cooperation it engendered among state, local and Federal officials and among Federal agencies. No jealousies and no infringement of jurisdiction existed among the various agencies cooperating in the NTTP. I submit that it ranks as one of the finest, if not the finest, cooperative law enforcement programs in our history from the point of view of results, professional performance, and costs. It can be put back in operation and effective within months with strong supervision from the Office of the Secretary of the Treasury.

Mr. BAYH. It appears that the Internal Revenue Service is in the processes of reconsidering the viability of the NTTP. Whether this apparent reassessment was voluntary or not should be left to the speculators; but, coincidentally, the day before our first hearing on the

President's drug message, July 27, 1976, the Administrator of DEA and the Commissioner of the Internal Revenue signed a memorandum of understanding regarding the Presidential directive to reestablish a tax enforcement program aimed at high level drug trafficking. Though the ink had actually dried when the memorandum was presented in testimony to the subcommittee by DEA Administrator Bensinger, the Executive Director of the newly appointed Presidential Cabinet Committee for Drug Law Enforcement—members are the Secretary of Treasury, the Attorney General, and the Secretary of Transportation—we did not have the opportunity to inquire as to the details of this July 27, 1976, agreement.

The ostensible objectives of the new agreement as well as the development and track record of the NTTP will be diligently assessed at the subcommittee hearing on August 5, when IRS Commissioner Donald Alexander and others will appear before the subcommittee.

NARCOTICS SMUGGLING

In addition to provisions which will assist the detection of couriers smuggling tainted proceeds out of the country, the subcommittee legislation will incorporate sections to facilitate the detection and prosecution of narcotics smugglers who use seagoing vessels, including private yachts and pleasure boats. This so-called deep-six connection has developed into an integral conduit for major narcotics smugglers and distributors.

The Commissioner of Customs, Mr. Vernon Acree, explained this growing problem to the subcommittee, in part as follows:

> The high speed and fuel carrying capabilities of today's small boats permits them to travel distances which were not envisioned when the vessel reporting requirements were enacted in 1930. Thus, a small boat can journey from our eastern coast to larger vessels hovering off-shore outside the 12 mile Customs waters, or to the Bahamas or other nearby foreign islands for the purpose of picking up narcotics. They may then return to the U.S., pull into a small cove or marina and unload the drugs. Some of these boats will then call Customs to report their arrival, while others will ignore this requirement. In either case, the present reporting requirements are virtually useless since any contraband will have been removed before Customs officers arrive to inspect the vessel.
>
> This problem has become particularly acute in Florida where private yachts and pleasure vessels, with easy access to nearby foreign islands, the high seas and the United States' inland waterways, complicate detection. Futher magnifying the problem is the fact that hard evidence has been developed establishing that foreign flag vessels are moving multi-ton loads of marijuana and smaller portions of hashish to positions on the high seas adjacent to the United States eastern and gulf coasts. At a position usually between 40 and 60 miles offshore, the mother ship—or hovering vessel—is met, under cover of darkness, by small vessels that take on a portion of the load for introduction into the United States. The mother ship then moves to the next rendezvous point where similar discharges are made. When the mother ship is empty it returns to its country of origin without ever having entered U.S. waters.

To respond more effectively to these special distribution channels and to address the fact that many vessels consistently ignore current law the subcommittee intends to amend the relevant reporting requirements.

As I mentioned earlier we are concerned that the reorganization plan No. 2 processed by the Government Operations Committee in 1973, though not without merit, has resulted in the underutilization or misdirection of intelligence gathering and dissemination, especially at our borders and most importantly our Southwestern border. The full utilization of Customs intelligence and investigative resources is a necessary step in bringing Federal narcotics enforcement effectiveness to its highest possible level. It should be recalled that narcotics traffic is a giant, incredibly profitable industry. Even if it were taxed comparable to the level of our domestic prescription drug industry—it would owe the American taxpayers at least $1 billion or every American citizen $5 each year. Thus these merchants of death—by the most conservative and cautious assessment—would owe more in taxes than the combined Federal drug abuse law enforcement and Federal drug abuse prevention budgets. I ask unanimous consent that two tables prepared by Peter Goldberg of the Drug Abuse Council be printed in the RECORD at this point.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

TOTAL FEDERAL DRUG ABUSE PREVENTION FUNDING

[In millions of dollars]

	Fiscal year —								
	1971 Actual	1972 actual	1973 actual	1974 actual	1975 actual	1976 estimated	TQ estimated	1977 estimated	Total, 1971–77
SAODAP		1.5	39.9	27.3	13.0				81.7
DHEW	69.7	193.1	255.1	349.4	320.1	338.4	46.4	359.0	1,931.2
NIDA	56.2	116.7	181.4	[1] 272.9	220.1	232.2	21.2	247.8	1,348.5
NIMH				4.5	5.2	4.2		4.3	18.2
NIH				3.3	3.0	3.2		3.5	13.0
SRS	3.6	58.0	53.0	54.0	79.0	88.0	23.0	94.0	452.6
OE	5.4	13.0	11.9	5.7	4.0	2.0			42.0
OHD	4.5	5.4	8.8	9.0	8.8	8.8	2.2	9.4	56.9
OEO	12.8	18.0	(2)						30.8
VA	1.1	16.2	27.7	30.3	33.2	36.7	9.4	38.0	192.6
DOD	1.1	58.7	73.0	68.6	64.0	61.3	14.3	57.8	398.8
Justice	40.3	36.5	33.5	34.5	26.6	46.4	6.7	24.3	248.8
State		1.0	1.0	.9	.7	.8		.8	5.2
HUD	8.7	13.0	6.3	1.6	2.9	4.0	.9	4.8	42.2
USDA		2.5	1.9	1.8	1.6	1.6		1.0	10.4
Other Federal [3]	.2	1.4	2.9	2.8	9.0	3.5	1.3	4.0	25.1
Total	133.9	341.9	441.3	517.2	471.1	492.7	79.0	489.7	2,966.8

[1] High because of supplemental received in fiscal year 1973, and not obligated until fiscal year 1974.

[2] Total of $23,000,000 included in NIDA funds.

[3] Includes amounts of less than $1,000,000 each year in DOL, DOC, CSC, DOT, ACTION, other.

CONSOLIDATED DRUG ABUSE LAW ENFORCEMENT BUDGET, IN OBLIGATIONS

[In millions of dollars]

	Fiscal year—		
	1975	1976	1977
SUPPLY REDUCTION			
Justice:			
Drug Enforcement Administration	139.4	[1] 156.4	160.8
LEAA and other Justice	62.2	43.6	40.9
Treasury:			
Customs	39.1	[1] 43.2	43.4
IRS	20.0	20.0	15.0
State	32.0	43.4	34.0
Other	1.9	2.1	2.1
Total	294.6	308.7	296.2

[1] Both DEA and Customs have applied for a supplemental appropriation in fiscal year 1976. DEA asked for $2,200,000, primarily for salary and insurance increases. Customs asked for $4,000,000, $2,000,000 of which would be carried over into fiscal year 1977. These funds are for the Customs' drug interdiction program.

Source: OMB, Federal Drug Management Division.

Mr. BAYH. There is little doubt that the drug law enforcement task at hand is substantial. Thus, it is even more essential than ever to focus resources at our borders where high purity narcotics are traded in volume. It is with this focus that we can most effectively disrupt key distribution networks.

Another unfortunate aspect of reorganization plan No. 2 is that though the Government Operations Committee cited the benefit of a single focal point for coordinating Federal drug enforcement with that of State and local authorities, the plan as approved did not contain stipulations to prevent Federal interference with State and local drug law enforcement activities.

As I indicated, in the discussion of Federal drug control jurisdiction, the subcommittee will consider restricting Federal enforcement agencies statutorily to interstate and international major trafficking cases. While we are concerned that Federal efforts do not erode local initiative and accountability, we believe that the Federal Government should expand its programs of assistance to State and local drug enforcement officials. The controlled substance units and diversion investigation units should be expanded to assist State and local investigation and prosecution of major diversion and trafficking cases.

The subcommittee is exploring the possible use of forfeited assets of drug traffickers and moneys collected by IRS under a revitalized NTTP to support the expansion of these successful efforts to assist State and local governments.

I intend to incorporate other salutary provisions in the legislation which I will soon ask the subcommittee to consider, including crucial enabling legislation to permit Senate ratification of the psychotropic treaty and sections addressing the problem of pharmacy related crime and more adequate controls for some barbiturates. I especially appreciate the enthusiastic support of the Senate leadership for our efforts and invite my colleagues to assist us in the enactment of a sensible statutory response to high risk drugs and to major drug traffickers. It is about time and it is clear that the taxpayers of this country demand and deserve no less.

ORDER FOR ADJOURNMENT UNTIL 8:30 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 8:30 tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will convene at the hour of 8:30 tomorrow morning. Immediately after the two leaders or their designees have been recognized, Mr. JAVITS will be recognized for not to exceed 15 minutes, at the conclusion of which the Senate will resume consideration of the Clean Air Act, at which time the question will be on the adoption of the Allen amendment No. 2101 to the Randolph amendment No. 1798.

Rollcall votes will occur on amendments to the Clean Air Act and on motions in relation to the same.

At no later than the hour of 2 p.m. tomorrow, the Senate will resume the consideration of the tax reform bill and undoubtedly, throughout the afternoon and into the evening, rollcall votes will occur on amendments and motions in relation to the same, by unanimous consent, Mr. President.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADJOURNMENT UNTIL 8:30 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until the hour of 8:30 tomorrow morning.

The motion was agreed to; and, at 9:13 p.m., the Senate adjourned until tomorrow, Wednesday, August 4, 1976, at 8:30 a.m.

NOMINATIONS

Executive nominations received by the Senate August 3, 1976:

IN THE JUDICIARY

Richard M. Bilby, of Arizona, to be U.S. circuit judge for the ninth circuit, vice Richard H. Chambers, retiring.

DEPARTMENT OF JUSTICE

Frank J. Violanti, of Illinois, to be U.S. attorney for the district of the Canal Zone for the term of 8 years, vice Lester Engler, resigning.

IN THE COAST GUARD

The following-named officers of the Coast Guard for promotion to the grade of lieutenant (junior grade):

Michael L. Hunt
Steven J. Brantner
Hugh S. Edwards
Allan L. Shell
Gordon P. Lau
Thomas A. Murphy
Robert D. Olsen
James R. Watson
Kenneth M. Hay
John E. Williams
James C. Montgomery
Douglas L. Hickcox
John H. Williams, Jr.

IN THE AIR FORCE

The following officer to be placed on the retired list in the grade indicated under the provisions of section 8962, title 10 of the United States Code:

To be lieutenant general

Lt. Gen. Donald G. Nunn, [redacted] FR (brigadier general, Regular Air Force), U.S. Air Force.

The following officer to be placed on the retired list in the grade indicated under the provisions of section 8962, title 10 of the United States Code:

To be lieutenant general

Lt. Gen. James T. Stewart, [redacted] FR (major general, Regular Air Force), U.S. Air Force.

CONFIRMATION

Executive nomination confirmed by the Senate August 3, 1976:

DEPARTMENT OF COMMERCE

John W. Eden, of Pennsylvania, to be an Assistant Secretary of Commerce.

The above nomination was approved subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

HOUSE OF REPRESENTATIVES—*Tuesday, August 3, 1976*

The House met at 12 o'clock noon.

The Reverend F. Bertram Brandreth, United Methodist Church, Malvern, Pa., offered the following prayer:

O Lord, our Lord and Heavenly Father, we praise Thy name. For it is a good thing to give thanks unto Thee, and to show forth Thy loving kindness in the morning, and Thy faithfulness every night, and sing forth Thy praise at noonday. Thou hast not dealt with us after our sins, nor rewarded us according to our iniquities, for as the heaven is high above the Earth, so great is Thy mercy toward them that fear Thee. So heal our land, O Lord, and teach us to number our days that we may apply our hearts to wisdom and let the beauty of the Lord our God be upon us. Yea, the work of our hands establish Thou it. Amen and Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Roddy, one of his secretaries, who also informed the House that on July 31, 1976, the President approved and signed bills of the House of the following titles:

H.R. 11504. An act to amend section 502 of the Merchant Marine Act, 1936;

H.R. 13308. An act to amend the Federal Aviation Act of 1958 to extend the authority of the Secretary of Transportation with respect to war risk insurance; and

H.R. 14231. An act making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1977, and for other purposes.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 11670) entitled "An act to authorize appropriations for the Coast Guard for the procurement of vessels and aircraft and construction of shore and offshore establishments, to authorize for the Coast Guard a year-end strength for active duty personnel, to authorize for the Coast Guard average military student loads, and for other purposes."

The message also announced that the Senate had passed a concurrent resolution of the following title, in which the concurrence of the House is requested:

S. Con. Res. 133. Concurrent resolution to make certain corrections in the enrollment of H.R. 11670.

REV. F. BERTRAM BRANDRETH

(Mr. SCHULZE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHULZE. Mr. Speaker, I am pleased to introduce the Reverend F.

Bertram Brandreth of Royersford, Pa., pastor of the Malvern United Methodist Church of Malvern, Pa., who just offered the opening prayer.

Reverend Brandreth is a native of Pennsylvania and has been a resident of our State all of his life, having held pastorates at the Neshaminy United Methodist Church, Neshaminy, Pa., for 3 years; the Ashland Avenue United Methodist Church of Belmont, Pa., for 9 years, and at Malvern for 4 years where he is still giving his dedicated service.

Reverend Brandreth attended the Philadelphia College of Pharmacy and Science and is a graduate of Wesley Seminary of Washington, D.C. He was ordained at Albright College in Reading, Pa., and presently has a scholarship to attend the Seminary on the Holy Spirit which is to be held in Utrecht, Holland, later this month.

Also, I am pleased to welcome his fine family—his wife, Christine; his daughter, Marylou Quay; and his two grandchildren, Tina and Tommy Quay.

I am sure my colleagues join in my appreciation to Reverend Brandreth for his inspiring prayer.

PRIVATE CALENDAR

The SPEAKER. This is Private Calendar day. The Clerk will call the first individual bill on the Private Calendar.

FIDEL GROSSO-PADILLA

The Clerk called the bill (H.R. 6817) for the relief of Fidel Grosso-Padilla.

Mr. WYLIE. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

There was no objection.

MRS. ROSE THOMAS

The Clerk called the bill (H.R. 1424) for the relief of Mrs. Rose Thomas.

Mr. BAUMAN. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Maryland?

There was no objection.

MURRAY SWARTZ

The Clerk called the bill (H.R. 1560) for the relief of Murray Swartz.

Mr. WYLIE. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

There was no objection.

FRANKLIN R. HELT

The Clerk called the bill (H.R. 2564) for the relief of Franklin R. Helt.

Mr. WYLIE. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

There was no objection.

CHESTER C. CLARK, MARY L. CLARK, AND DOROTHY J. WILBUR

The Clerk called the bill (H.R. 6507) for the relief of Chester C. Clark, Mary L. Clark, and Dorothy J. Wilbur.

Mr. BAUMAN. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Maryland?

There was no objection.

JACINTO VAZQUEZ CAMACHO

The Clerk called the bill (H.R. 7624) for the relief of Jacinto Vazquez Camacho.

There being no objection, the Clerk read the bill as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Jacinto Vazquez Camacho may be classified as a child within the meaning of section 101(b)(1)(F) of the Act and a petition filed in his behalf by Michael P. McAndrew, a citizen of the United States, may be approved pursuant to section 204 of the Act: *Provided,* That the natural parents or brothers or sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

HOLLIS ANTHONY MILLET

The Clerk called the bill (H.R. 11199) for the relief of Hollis Anthony Millet.

There being no objection, the Clerk read the bill as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding the provision of section 212(a)(23) of the Immigration and Nationality Act, Hollis Anthony Millet may be issued a visa and admitted to the United States for permanent residence if he is found to be otherwise admissible under the provisions of that Act: *Provided,* That this exemption shall apply only to a ground for exclusion of which the Department of State or the Department of Justice had knowledge prior to the enactment of this Act.

With the following committee amendment:

On page 1, line 10, strike out the word "Act." and substitute in lieu thereof the following: "Act: *Provided further,* That for the Immigration and Nationality Act the said Hollis Anthony Millet shall be held and considered to be a minor and to have retained his priority date for Western Hemisphere immigration."

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

BERNARD JULIAN PHILLIPS

The Clerk called the bill (H.R. 11890) for the relief of Bernard Julian Phillips.

There being no objection, the Clerk read the bill as follows:

H.R. 11890

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding the provision of section 212(a)(23) of the Immigration and Nationality Act, Bernard Julian Phillips may be issued a visa and admitted to the United States for permanent residence if he is found to be otherwise admissible under the provisions of that Act: *Provided,* That this exemption shall apply only to a ground for exclusion of which the Department of State or the Department of Justice had knowledge prior to the enactment of this Act.

AMENDMENT OFFERED BY MS. HOLTZMAN

Ms. HOLTZMAN. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Ms. HOLTZMAN: Line 10, strike out the period and insert in lieu thereof ": *Provided further,* That while an alien, the beneficiary shall be subject to deportation, in accordance with section 241(a)(11) of the Immigration and Nationality Act, if, subsequent to the enactment of this Act, he is convicted of a violation of any law or regulation with regard to the illicit possession of narcotic drugs or marijuana or if he otherwise engages in conduct which would serve as the basis for deportation under such section."

The SPEAKER. Does the gentlewoman from New York (Ms. HOLTZMAN) desire to be heard on the amendment?

Ms. HOLTZMAN. No, Mr. Speaker. I yield back the balance of my time.

Mr. EILBERG. Mr. Speaker, I move to strike the last word.

The SPEAKER. That motion is not in order, but does the gentleman from Pennsylvania (Mr. EILBERG) desire to be heard in opposition to the amendment?

Mr. EILBERG. On the amendment, yes, Mr. Speaker.

Mr. Speaker, I would like to inquire of the gentlewoman from New York (Ms. HOLTZMAN) as to the need for this amendment.

Ms. HOLTZMAN. Mr. Speaker, I would advise the gentleman from Pennsylvania (Mr. EILBERG) that this amendment was discussed with a minority objector, the gentleman from California (Mr. ROUSSELOT), and he is concerned, just as I am, that the present immigration law which is relevant to this circumstance shoud be applied.

Mr. EILBERG. Mr. Speaker, can the gentlewoman from New York (Ms. HOLTZMAN) advise me as to why this amendment was not offered during the subcommittee or full committee consideration of this private immigration bill?

Ms. HOLTZMAN. I believe the law already covers the subject, I would advise the gentleman from Pennsylvania.

Mr. EILBERG. If the law already covers the subject, what is the need for the amendment?

Ms. HOLTZMAN. Since the law already covers the subject, I would say to the gentleman from Pennsylvania (Mr. EILBERG) that I can see no objection to including it. It was offered at the request of the gentleman from California, the minority objector, who wanted it placed in this bill.

Mr. WYLIE. Mr. Speaker, will the gentleman yield?

Mr. EILBERG. I yield to the gentleman from Ohio.

Mr. WYLIE. Mr. Speaker, the reason for including the amendment in the bill is that this is a bill on the Private Calendar and provides for a waiver of section 212(a) (23) of the Immigration and Nationality Act which provides for the exclusion of any alien who has been convicted of a violation of any law relating to narcotic drugs or marihuana, so we wanted to be very clear that the waiver does not carry over to any situation where later on there might be a violation of the law once the beneficiary has entered the United States.

Mr. EILBERG. Mr. Speaker, I respectfully disagree, and I say that because it is already in the law. If this gentleman came in and was convicted of a crime involving narcotics, he could be deported under our current immigration law and it, therefore, appears there is no need for the amendment.

Mr. WYLIE. Mr. Speaker, if the gentleman will yield further, I would ask him what is wrong with having the amendment in the bill so we can pin it down? Ever since the early days of the House, private legislation has been considered under a procedure which allows any Member the opportunity to amend it so that the House can express its will. Since this is a bill on the Private Calendar, the minority objectors can see no harm by including this language so there can be no doubt in anyone's mind as to what the status of the beneficiary will be once he is allowed in this country. The beneficiary himself is being put on notice that there will be an automatic adjustment of his status and he would be subject to deportation if there is any subsequent violation of narcotic laws.

Mr. EILBERG. Mr. Speaker, I wish to state that the procedure we are following today; that is, attempting to amend a private immigration bill, is indeed an extraordinary procedure, and I do not recall a similar instance in my years of service in the Congress and as chairman of the Subcommittee on Immigration in which this has occurred. I wish to emphasize my hope that the procedure we are following today is not viewed as a precedent for future consideration of private bills by the House, particularly since the amendment is purely redundant and unnecessary.

The SPEAKER. The question is on the amendment offered by the gentlewoman from New York (Ms. Holtzman).

The amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

The SPEAKER. This concludes the call of the Private Calendar.

PERMISSION TO FILE CONFERENCE REPORT ON H.R. 14232, DEPARTMENTS OF LABOR, AND HEALTH, EDUCATION, AND WELFARE, AND RELATED AGENCIES APPROPRIATIONS, 1977

Mr. FLOOD. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tonight to file a conference report on the bill (H.R. 14232) making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies, for the fiscal year ending September 30, 1977, and for other purposes.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

Mr. BAUMAN. Mr. Speaker, reserving the right to object, I wonder whether the gentleman from Pennsylvania (Mr. Flood) could tell the House when, if this permission is granted, he might consider bringing the conference report before the House for action.

Mr. FLOOD. Mr. Speaker, if the gentleman will yield, we would hope it would be eligible to be brought up by this Friday. However, I cannot guarantee that one way or the other.

Mr. FLOOD. Mr. Speaker, if the gentleman is hopeful that it will be brought up on Friday; is that correct?

Mr. FLOOD. We would try to do that. I have not had a chance to discuss this with my friend, the gentleman from Illinois (Mr. Michel) for the leadership on the other side, but it is eligible. Under the circumstances, it is eligible.

Mr. BAUMAN. Mr. Speaker, I thank the gentleman and withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

ANNUAL REPORT OF THE FEDERAL COUNCIL ON AGING—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER laid before the House the following message from the President of the United States; which was read and together with the accompanying papers, referred to the Committee on Education and Labor:

To the Congress of the United States:

I am transmitting herewith the Annual Report of the Federal Council on Aging, together with two studies undertaken by the Council as required by sections 205(f-h) of the Older Americans Act (P.L. 93-29).

Last year I indicated that I was looking forward to receiving the two studies from the Federal Council on Aging. The Council recognized its responsibilities and undertook the task in a forthright manner. I appreciate the fine work that the Council has done, particularly with the severe constraints imposed upon it.

The Council's report and studies provide documentation, from the viewpoint of our elderly citizens, which support the need for legislation along the lines of my proposed Financial Assistance for Health Care Act and the Income Assistance Simplification Act which I will be proposing shortly. My proposals would permit both Federal and State programs to be simplified and integrated into a coordinated system that would best meet the needs of our citizens.

COUNCIL RECOMMENDATIONS

With respect to the Supplemental Security Income (SSI) program, the Council has recommended in its program report that legislation be passed that mandates continuance of a specific State supplementation for certain recipients. The Federal Government took over this program from the States on January 1, 1974, and provided a basic payment level to recipients. For those individuals who received benefits under the State programs in December 1973 that were larger than the basic Federal payment level, and who continue to be eligible for SSI, States are required to supplement the basic Federal payment up to the level of the December 1973 payment to such recipients. The requirement does not apply to new recipients who became eligible after December 1973. The Council's legislative proposal would require that the size of the State supplementation to recipients carried over from the State programs on January 1, 1974, could not be reduced. Thus, whenever the basic Federal payment level is increased, this proposal would allow States to continue to maintain a disparity in the benefits for the carried-over recipients versus those recipients who came on the rolls after December 1973—a disparity equal to the amount of the original State supplementation.

Adoption of this recommendation would have two effects. First, it would dictate to the States how they should spend the taxes they assess on their residents. Such action would distort the original concept of the program of separate but complementary roles of the States and the Federal Government. Second, it would require the States to maintain payments to people based on the date they started receiving assistance, even though other residents of the States may have equivalent needs and incomes.

The Council also recommends that the Veterans' Administration (VA) be directed to study the problem of benefit reduction rates caused by simultaneous receipt of benefits from pensions for veterans with nonservice-connected disabilities and other Federal programs. We share the concern of the Council. This problem is being studied by the Veterans' Administration within the context of total reform of the veterans' pension program. The Agency has discussed pension reform with both the House and Senate Veterans' Affairs Committees and is committed to continuing these discussions with Congress this year. The relationship of veterans' pensions to other Federal benefits can best be addressed in the course of these discussions.

To assess the tax burden on the elderly, the Older Americans Act also required the Council to undertake a study of the combined impact of all taxes on the elderly. Since many of the tax recommendations of the Council are directed toward State and local government, consistent with the enabling authority I am also transmitting this study to the Governors and legislatures of the States for their consideration.

In recognition of the Bicentennial and the many contributions made by older Americans to the welfare of the Nation, the Council's annual report requests the promulgation of a Bicentennial Charter for Older Americans. I have asked Secretary Mathews of the Department of Health, Education, and Welfare, in consultation with the Administration on Aging, to promote discussion of these vital matters at forums of older persons organized by Advisory Committees to the Area Agencies on Aging.

The Federal Council on Aging Annual Report and attendant studies reflect an earnest effort to deal with the lack of equity and efficiency in the present patchwork of income security programs. This unfortunate situation, which has developed over the years, presents problems not only to the elderly and other population groups, but to the taxpayer who must pay the added costs resulting from such inefficiency. My legislative proposals reflect careful consideration of how best to resolve these issues, and I urge prompt action on them by the Congress.

Additional mention should be made of the substantial contribution of the two studies undertaken by the Federal Council on Aging. The efforts of those that participated in the studies will contribute to our effort to provide necessary income and services to our less fortunate elderly citizens in an efficient manner.

These reports will be sent for review and analysis to those Federal agencies serving older persons. After this review, decisions on the recommendations contained in the Council's report will be reflected in future legislative proposals and administrative actions of this administration.

Gerald R. Ford.

The White House, *August 3, 1976.*

APPOINTMENT AS MEMBERS OF SELECT COMMITTEE ON NARCOTICS ABUSE AND CONTROL

The SPEAKER. Pursuant to the provisions of House Resolution 1350, 94th Congress, the Chair appoints as members of the Select Committee on Narcotics Abuse and Control the following Members of the House: The gentleman from New York (Mr. Wolff), chairman; the gentleman from New Jersey (Mr. Rodino); the gentleman from Florida (Mr. Rogers); the gentleman from Texas (Mr. de la Garza); the gentleman from South Carolina (Mr. Mann); the gentleman from New York (Mr. Badillo); the gentleman from Illinois (Mr. Murphy); the gentleman from New York (Mr. Rangel); the gentleman from California (Mr. Stark); the gentleman from New York (Mr. Scheuer); the gentleman from Oklahoma (Mr. English); the gentleman from California (Mr. Waxman); the gentleman from Florida (Mr. Burke); the gentleman from Illinois (Mr. Railsback); the gentleman from Florida (Mr. Frey); the gentleman from Tennessee (Mr. Beard); the gentleman from New York (Mr. Gilman); and the gentleman from Ohio (Mr. Guyer).

CALL OF THE HOUSE

Mrs. SMITH of Nebraska. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. McFALL. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 590]

Abzug
Andrews, N.C.
Ashley
Bolling
Brown, Calif.
Burlison, Mo.
Chisholm
Clay
Conlan
Conyers
Diggs
Esch
Evins, Tenn.
Findley
Flynt
Ford, Mich.
Fountain
Giaimo
Hansen
Harsha
Hawkins
Hébert
Heinz
Hinshaw
Jarman
Johnson, Colo.
Jones, Tenn.
Karth
Litton
McKinney
Melcher
Moorhead, Pa.
Neal
O'Hara
Passman
Peyser
Pike
Randall
Riegle
Risenhoover
Santini
Scheuer
Skubitz
Slack
Steelman
Steiger, Ariz.
Sullivan
Symington
Teague
Udall
Vander Veen
Waxman
Wilson, Tex.
Young, Ga.

The SPEAKER. On this rollcall 378 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

CONFERENCE REPORT ON H.R. 11009, PROVIDING FOR AN INDEPENDENT AUDIT OF FINANCIAL CONDITION OF THE GOVERNMENT OF THE DISTRICT OF COLUMBIA

Mr. REES (on behalf of Mr. Diggs) filed the following conference report and statement on the bill (H.R. 11009) to provide for an independent audit of the financial condition of the government of the District of Columbia:

Conference Report (H. Rept. No. 94–1381)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 11009) to provide for an independent audit of the financial condition of the government of the District of Columbia, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

That there is hereby established the Temporary Commission on Financial Oversight of the District of Columbia (hereinafter referred to as the "commission").

(b) The commission shall consist of eight members as follows:

(1) three Members of the Senate appointed by the President of the Senate (or any designee of any such Member so appointed, which designee shall act for such Member in his stead);

(2) three Members of the House of Representatives appointed by the Speaker of the House of Representatives (or any designee of any such Member so appointed, which designee shall act for such Member in his stead);

(3) the Mayor of the District of Columbia (or any designee of the Mayor, which designee shall act for the Mayor in his stead);

(4) the Chairman of the Council of the District of Columbia (or any designee of the Chairman, which designee shall act for the Chairman in his stead).

(c) Five members of the commission shall constitute a quorum.

(d) (1) A chairman and vice chairman of the commission shall be selected by a majority vote of the full commission from among the members thereof. The vice chairman shall act in the place and stead of the chairman in the absence of the chairman.

(2) The commission is authorized to establish such operating procedures as it determines necessary to enable it to carry out its functions under this Act.

(e) The first meeting of the commission shall be called by the Majority Leader of the Senate and the Speaker of the House of Representatives, jointly.

(f) The commission is authorized to utilize the personnel of the government of the District of Columbia, with the approval of the Mayor, or the Chairman of the Council of the District of Columbia, as the case may be, and the Committee on the District of Columbia of the Senate, the Committee on the District of Columbia of the House of Representatives, the Committee on Appropriations of the Senate, or the Committee on Appropriations of the House of Representatives, with the approval of the Chairman of such Committee. The commission is authorized to utilize, on a reimbursable basis, the services and personnel of the General Accounting Office to assist the commission in carrying out its functions under this Act.

Sec. 2. (a) For the purpose of meeting the responsibilities imposed by the Constitution on the Congress with respect to the District of Columbia, it shall be the function of the commission, after consultation with the Comptroller General, to select such qualified persons as the commission may determine necessary for the development of certain plans on behalf of the government of the District of Columbia (including assistance in the implementation thereof) for the purpose of improving the financial planning, reporting, and control systems of such government. Plans to be considered for development and implementation pursuant to this Act shall include, among others, plans for the following: immediate improvement in financial control and reporting; assessing the scope of further necessary improvements; financial management system improvements; personnel-payroll system improvements; water-sewage billing and information system improvements; purchasing and material management system improvements; property accounting system improvements; real property system improvements; welfare payments system improvements; human resources eligibility, payment, and reporting system improvements; health care financial system improvements; and traffic ticket system control improvements.

(b) Each contract entered into with a person pursuant to subsection (c) of this section for the development of a system improvements plan shall contain a provision requiring that person to include within such plan procedures for the establishment of an ongoing training program for operating personnel of the government of the District of Columbia whose duties involve matters covered by such plan or part thereof in order to provide training for such personnel in connection with the operation of such system. Each such contract shall further contain provisions comparable to those provided by Standard Form 32, section 1–16.901–32 of title 41, Code of Federal Regulations.

(c) Upon the selection by the commission of each qualified person to develop and implement a plan pursuant to this section, the chairman of the commission shall enter into a negotiated fixed price contract or contracts with that person for the development and implementation of such plan.

(d) (1) Each such contract so entered into shall set forth the scope of the work to be performed, amounts to be paid thereunder, and a schedule of reporting and completion dates, including a schedule of implementation dates, for each portion of such work. Each contractor shall have full access to such books, individuals, accounts, financial records, reports, files, and other papers, things, or property of the government of the District of Columbia as such contractor deems necessary to complete such contract. The Comptroller General shall have full access to all documents produced under each contract.

(2) After establishment of the schedule for completing each such contract and until the completion of such contract, each contractor shall report, at such time as such contract shall provide, to the commission and the Comptroller General on the progress toward completion of such contract, except that each such contractor shall report at least once during the one-hundred-and-eighty-day period after establishment of such schedule for completion of such contract.

(e)(1) With respect to any such contract or part thereof involving the design (including a preliminary design) of a system referred to in subsection (a) of this section, the contractor, upon the completion of the plan or part relating to such design (including procedures for its implementation), shall submit such plan or part, together with a schedule for its implementation, to the Comptroller General.

(2) With respect to any such contract involving work other than the design of such a system, the contractor, upon the completion of the plan or part thereof relating to such work, shall submit such plan or part thereof, together with a schedule for implementing such plan or part, to the Comptroller General.

(3) Notwithstanding the foregoing provisions of paragraphs (1) and (2) of this subsection, in no case shall any contractor under this Act submit a plan, part, or schedule to the Comptroller General unless such plan, part, or schedule has first been submitted by that contractor to the contractor responsible for the development and implementation of a financial management system improvements plan for such contractor's review, comments, and recommendations. A copy of such comments and recommendations, if any, shall be submitted, together with such plan, part, or schedule, to the Comptroller General in accordance with paragraphs (1) and (2) of this subsection.

(4) Within the sixty-day period following the date of the receipt by him of such plan or part thereof, and after consultation with the commission, the Comptroller General shall approve, disapprove, or modify such plan or part (including any schedule for the implementation thereof), in whole or in part. On or before the expiration of such sixty-day period, the Comptroller General shall submit such plan or part, as so approved, modified, or disapproved to the Congress for its consideration, together with his reasons for such modification or disapproval.

(f)(1) Each such plan or part thereof so approved by the Comptroller General without modification shall be deemed on the date of such approval, to be a part of the financial planning, reporting, accounting, control, and operating procedures of the government of the District of Columbia. Each such plan or part thereof modified by the Comptroller General shall, upon the expiration of the forty-five-day period of continuous session of the Congress following the date on which such modified plan or part thereof is so submitted to the Congress, be deemed to be a part of the financial planning, reporting, accounting, control, and operating procedures of the government of the District of Columbia, unless within such forty-five-day period, the Congress adopts a concurrent resolution disapproving the action of the Comptroller General with respect to such modifications. In any case in which any such concurrent resolution is so adopted by the Congress, such plan or part thereof, as it existed immediately prior to any such modification, shall be deemed a part of such procedures as of the date of the adoption by Congress of such concurrent resolution. No such plan or part thereof disapproved by the Comptroller General shall take effect, unless, within such forty-five-day period following the date of its submission to the Congress, the Congress adopts a concurrent resolution disapproving the action of the Comptroller General in disapproving such plan or part thereof. If such action of the Comptroller General is so disapproved, such plan or part thereof shall be deemed a part of such procedures as of the date of the adoption by Congress of such concurrent resolution.

(2) For purposes of this section, the continuity of a session of Congress is broken only by an adjournment of the Congress sine die, and the days on which either House is not in session because of adjournment of more than three days to a day certain are excluded in computation of such forty-five-day period.

(g) With respect to any such plan or part so deemed to be a part of the financial planning, reporting, accounting, control, and operating procedures of the government of the District of Columbia under subsection (f)(1), the Mayor of the District of Columbia, with the assistance of the contractor responsible for such plan or part, shall implement such plan or part for the government of the District of Columbia in accordance therewith. The Comptroller General shall monitor such implementation and report as he deems appropriate to the commission.

SEC. 3. (a)(1) For the purpose of meeting the oversight responsibilities imposed by the Constitution on the Congress with respect to the District of Columbia, the Congress hereby authorizes the commission, in accordance with the provisions of paragraph (2) of this subsection, to cause to be undertaken, on behalf of the government of the District of Columbia, by a certified public accountant licensed in the District of Columbia, a balance sheet audit of the financial position of the District of Columbia as of September 30, 1977. Such audit may—

(A) include an identification of assets, liabilities, accumulated surplus or deficit; and

(B) exclude statements of revenues and expenses, changes in fund balances, statements of changes in financial position for enterprise funds, and property and equipment.

(2) The balance sheet audit authorized by paragraph (1) of this subsection shall cover the financial position of the District of Columbia as of September 30, 1977, unless the commission, on or before August 1, 1977, is notified by the Comptroller General to the effect that such an audit as of that date is not practicable, in which case the commission is authorized to cause to be undertaken a balance sheet audit of the financial position of the District of Columbia as of such date as the Comptroller General shall recommend to the commission.

(b) The commission is further authorized to cause to be undertaken, on behalf of the government of the District of Columbia, by a certified public accountant licensed in the District of Columbia, an audit or audits of the financial position and results of operations of the District of Columbia for each fiscal year or years next following September 30, 1977, or the date recommended by the Comptroller General for the conduct of a balance sheet audit pursuant to subsection (a) of this section, whichever last occurs, and which precede the fiscal year commencing October 1, 1979.

(c) Upon the selection by the commission of each qualified person to conduct an audit pursuant to this section, the chairman of the commission shall enter into a negotiated fixed price contract with that person for that purpose. Each such audit shall be carried out in accordance with generally accepted auditing standards and the financial statements shall be prepared in accordance with generally accepted accounting principles. The results of each such audit shall be submitted to the Congress, the President of the United States, the Council of the District of Columbia, the Mayor of the District of Columbia, and the Comptroller General.

(d) Such contractor shall have full access to such books, individuals, accounts, financial records, reports, files, tax returns, and other papers, things, or property of the government of the District of Columbia as such contractor deems necessary to complete each such audit required by such contract.

SEC. 4. (a) For the fiscal year beginning October 1, 1979, and each fiscal year thereafter, the government of the District of Columbia shall conduct, out of funds of the government of the District of Columbia, an audit of the financial operations of such government. Each such audit shall be conducted by a certified public accountant licensed in the District of Columbia and carried out in accordance with generally accepted auditing standards and the financial statements shall be prepared in accordance with generally accepted accounting principles.

(b) For the purpose of conducting an audit for each such fiscal year as required by subsection (a) of this section, the Mayor of the District of Columbia shall, on or after January 2, 1979, select, subject to the advice and consent of the Council of the District of Columbia, a qualified person to conduct such audits for the fiscal year commencing October 1, 1979, and the next following three fiscal years. Thereafter, each individual elected as Mayor in a general election held for Mayor of the District of Columbia shall, on or after January 2 next following his or her election to, and the assuming of, the Office of Mayor, select, subject to the advice and consent of the Council of the District of Columbia, a qualified person to conduct such audits for the fiscal year commencing October 1 of the calendar year in which such Mayor takes office, and the next following three fiscal years. The person previously selected for a four-year period shall not succeed himself or herself. If the Council fails to act on any such selection within a thirty-day period following the date on which it receives from the Mayor the name of such person so selected, the Mayor shall be authorized to enter into a contract with that person for the conduct of such audits. If any person so selected by the Mayor to conduct any such audits for such fiscal years is rejected by the Council, the Mayor shall submit to the Council the name of another qualified person selected by the Mayor to conduct such audits. In the event that the Council rejects the second person so selected by the Mayor, the Mayor shall, within thirty days following that rejection, notify the chairman of the Committee on Appropriations of the Senate and the chairman of the Committee on Appropriations of the House of Representatives, in writing, of that fact. Within fifteen days following the receipt of that notice, such chairmen shall jointly select a person to conduct such audits and shall inform the Mayor, in writing, of the name of the person so selected. Within ten days following the receipt by the Mayor of such name, the Mayor shall enter into a contract with such person pursuant to which that person shall conduct such audits for such fiscal years as herein provided.

(c) The Mayor shall submit a copy of the audit report with respect to each such audit so conducted to the Congress, the President of the United States, the Council of the District of Columbia, and the Comptroller General.

SEC. 5. (a) For the purpose of making payments under contracts entered into under sections 2 and 3 of this Act, for reimbursing the Comptroller General under subsection (f) of the first section of this Act, and for meeting other expenses incurred by the commission under this Act, there is authorized to be appropriated to the commission the sum of $16,000,000, of which $8,000,000 shall be from funds in the Treasury not otherwise appropriated, and $8,000,000 shall be from funds in the Treasury to the credit of the District of Columbia. Sums appropriated pursuant to this section are authorized to remain available until expended.

(b) No funds appropriated pursuant to subsection (a) of this section out of funds in the Treasury to the credit of the District of Columbia may be used for any payment under any contract entered into pursuant to section 2 or 3 of this Act, for any payment as reimbursement to the General Accounting Office, or for expenses of the commission, in an amount greater than 50 per centum of the total amount of any such payment.

(c) The chairman of the commission may enter into contracts under sections 2 and 3 of this Act only to the extent and in such amounts as are provided in appropriation Acts.

SEC. 6. As used in this Act, the term—

(1) "person" means any individual, partnership, firm, corporation, or other entity; and

(2) "government of the District of Columbia" includes the Mayor of the District of Columbia, the Council of the District of Columbia, the courts of the District of Columbia, and all agencies (as defined in paragraph (3) of section 3 of the District of Columbia Administrative Procedure Act (D.C. Code, sec. 1-1502(3))).

SEC. 7. Thirty days after notification by the Comptroller General to the commission of the completion and implementation of all plans and designs under this Act, or thirty days after final payment of all contracts entered into pursuant to sections 2 and 3 of this Act, whichever last occurs, the commission shall cease to exist.

And the Senate agree to the same.

CHARLES C. DIGGS, Jr.,
WALTER E. FAUNTROY,
THOMAS M. REES,
ROMANO L. MAZZOLI,
JAMES R. MANN,
HERBERT E. HARRIS II,
DAN DANIEL,
GILBERT GUDE,
CHARLES W. WHALEN, Jr.,
S. B. MCKINNEY,
Managers on the Part of the House.

THOMAS F. EAGLETON,
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JOHN GLENN,
CHARLES MCC. MATHIAS, Jr.,
DEWEY F. BARTLETT,
JAKE GARN,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and Senate at the Conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 11009) to provide for an independent audit of the financial condition of the government of the District of Columbia, submit the following joint statement to the House and Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report.

The Senate amendment struck out all the House bill after the enacting clause and inserted a substitute text.

The Committee of Conference has agreed to a substitute for both the House bill and the Senate amendment to the text of the bill. The Conference substitute conforms to the format of the Senate amendment. Except for clarifying, clerical, and conforming changes, the major differences are noted below.

COMMISSION

The House bill and the Senate amendment differed in the provisions establishing the contracting authority for the design, development and implementation of financial planning, reporting and control systems for the District of Columbia in the following respects:

The House bill authorized the Comptroller General of the United States (after consultation with the Chairmen and ranking minority members of the Senate and House Committees on the District of Columbia and the Appropriations Committees, and the Chairman of the Council of the District of Columbia) to determine the scope of the work to be contracted, select the contractor to perform each contract, and determine the completion schedule.

The Senate amendment established a 4-member Joint Congressional Committee (called the Temporary Joint Committee on Financial Oversight of the District of Columbia) to consist of the Chairmen of the Senate and House Committees on the District of Columbia, and of the Appropriations Committees, or the latter's delegates, and authorized the Committee (after consultation with the Comptroller General, the Mayor of the District of Columbia and the Chairman of the Council of the District of Columbia) to select one or more contractors to develop plans (and assist in the implementation thereof) in specific areas to improve the financial planning, reporting and control systems of the District of Columbia Government.

The Conference substitute establishes an eight-member Commission (called the Temporary Commission on Financial Oversight of the District of Columbia) to consist of three members of the House appointed by the Speaker of the House, three members of the Senate appointed by the President of the Senate, and the Mayor and the Chairman of the Council of the District of Columbia. The Conference Committee stated its expectations that the Congressional appointees shall be the Chairmen of the Senate and House Committees on the District of Columbia and Chairmen of the Senate and House District of Columbia Appropriations Subcommittees, and one ranking minority Member from either the District of Columbia Committee or the Appropriations Subcommittee on the District of Columbia of each House. Each Member of the Commission is authorized to name a designee to act in his absence.

The Conference substitute (Section 1) conforms to the Senate amendment regarding the selection and functions of a Chairman and Vice Chairman of the Commission. The Conference substitute authorizes the Commission to establish its own procedures for carrying out its duties and to utilize the personnel responsible to the Members of the Commission with that Member's consent.

The House bill designated the Comptroller General as the actual contracting officer. The Conference substitute conforms to the Senate amendment in designating the Chairman of the Commission as the person to sign all contracts authorized by the Commission.

Scope of contracts

(1) Both the House bill and the Senate amendment provided for contracts to be entered into for plans for improving the financial planning, reporting, and control systems for the Government of the District of Columbia.

The House bill authorized the Comptroller General to determine the scope of the contracts. The Senate amendment authorized the Joint Committee to negotiate the scope of each contract, the amounts to be paid, and the schedule for completion and implementation. The Senate amendment also itemized certain plans, among others, to be considered for development and implementation and imposed a requirement on all contractors to establish an ongoing training program for operating personnel of the District of Columbia, whose duties involve matters covered by the system improvement plans developed by the contractor.

The Conference substitute (Section 2) conforms to the Senate amendment. The Conference substitute provides for negotiated fixed price contracts. The Conference Committee agreed that there shall be periodic reports by the contractors on their expenses to date, their estimate of additional costs which may be incurred, and their estimate of total cost of the job.

It is the Conference Committee's belief that while a fixed cost contract is most desirable, the Commission should be given some leeway in determining contract details, since price is one factor to be considered. To permit the effective control of the contractor cost associated with systems improvement work, the Commission should have the authority to cancel contracts at any time. The liability for payment to the contractor is limited to the charges for work actually performed, even though the amount allocated for the work may be higher.

It is the intent of the Conference Committee that any contract entered into as provided herein shall be executed by the Chairman of the Commission and not by any person designated by him.

(2) The House bill required the contractor to make progress reports at least once each quarter to the Congress, the President, the District of Columbia Council and the Comptroller General.

The Senate amendment required each contractor to make progress reports at least once every 180 days until the termination of the contract to the Joint Committee and the Mayor and Council of the District of Columbia.

The Conference substitute (Section 2) conforms to the Senate amendment and requires the contractor to make progress reports according to the terms of the contract but requires such reports at least once during the 180-day period after the establishment of the schedule for completion of the contract.

(3) The House bill required contractors, upon completing each contract, to report to the Congress, the President, the Mayor and Council of the District of Columbia (1) his recommendations for changes in the financial planning, reporting, and control systems of the District of Columbia Government deemed necessary before an audit could be conducted and (2) his schedule for implementation of such changes by the District of Columbia employees (Sec. 1).

The Senate amendment required the contractors to submit their plans and schedule for implementation to the Comptroller General for his consideration.

The Conference substitute conforms to the Senate amendment and (Section 2(e)) requires (1) the contractor to submit to the Comptroller General his plans, together with procedures for implementing same, with respect to any contract involving the design of a systems improvement plan, or other work, upon completion of such plan or part thereof; and (2) prior to such submission to the Comptroller General, the contractor shall submit such plan, part or schedule to the contractor responsible for the development and implementation of a financial management system improvements plan for his review; his comments and recommendations thereon shall thereafter be submitted to the Comptroller General along with such plan, part or schedule of the contractor as per (1) above.

Role of Comptroller General and Congress

The Senate amendment authorized the Comptroller General (after consultation with the Mayor and Council of the District of Columbia) to approve, disapprove or modify plans within 60 days of receipt. Plans and parts of plans so approved shall be submitted to the Congress for its information within the 60-day period. Plans disapproved by the Comptroller General were also to be submitted to Congress within the same time period together with reasons for the disapproval. The Senate amendment provided that approved plans and parts thereof were to be deemed part of the District of Columbia's systems. Plans disapproved were not to take effect.

The House bill contained no such provisions.

The Conference substitute generally conforms to the Senate amendment by authorizing the Comptroller General (after consultation with the Commission) to approve, disapprove, or modify plans within 60 days of receipt (including a schedule of implementation). The same requirements for reporting to Congress are imposed within the same 60 days.

Each plan or part thereof modified by the Comptroller General shall not become effective until receipt by Congress and the expiration of a 45-day period when the Congress is in continuous session, and provided that during such time, the Congress does not adopt a concurrent resolution disapproving the action of the Comptroller General. If such disapproval resolution is adopted, then the plan or part, as it existed prior to modification, becomes effective.

Any plan disapproved by the Comptroller General is also subject to the 45-day layover referred to, and the disapproval becomes final if no concurrent resolution of disapproval is adopted by the Congress. If, however, a resolution is adopted disapproving the Comptroller General's action, then such plan or part thereof is effective immediately.

The Comptroller General is directed to monitor and report on the implementation of plans.

Role of the District government

The House bill provided that: (1) the Mayor, assisted by the contractors, should implement the changes in the District's financial planning, reporting, and control systems, as recommended by the contractors, and make quarterly reports on the status thereof to the Congress, the President, the District of Columbia Council and the Comptroller General; (2) the Council would contract for an audit by an independent certified public accountant upon completion of the implementation of the changes, and once every three years thereafter; and the results of the audits to be submitted to the Congress, the President, the Mayor and Council of the District of Columbia, and the Comptroller General; (23) the District Government would provide each contractor full access to its books and necessary records.

The Senate amendment provided that: (1) the Mayor implement plans as approved by the Comptroller General; (2) the District Government undertake and finance annual audits for the fiscal year commencing October 1, 1979; (3) the District Government shall provide each contractor full access to its books and records, and the GAO access to all documents produced under each contract.

The conference substitute (Section 2(g)) generally conforms to the Senate amendment in that it provides that the Mayor, assisted by the contractor responsible for such plan or part, shall implement same for the District Government; and the Comptroller General shall monitor same, and, as he deems appropriate, report to the Commission.

The District Government is required to provide full access to its books and records, and the Comptroller General such access to all documents produced under each contract.

The initial audits (Section 3) are to be by contractor selected and paid for by the Commission.

Audits of the District's financial operations for the fiscal year beginning October 1, 1979 and thereafter are to be conducted by an auditor selected by the Mayor with the advice and consent of the Council of the District of Columbia, and paid for by the District of Columbia Government (Section 4).

Audits

The Senate amendment authorized the Joint Committee: (1) to contract with a Certified Public Accountant for a balance sheet audit of the District's financial position as of September 30, 1977, or such other date as the Comptroller General recommends; (2) to contract with a Certified Public Accountant for audit of the District's financial position and results of operations for fiscal years commencing October 1, 1977 and October 1, 1978; and (3) to submit the results of such audits to the Congress, the President, the Mayor and Council of the District of Columbia and the Comptroller General. The Senate amendment also provided that the Mayor, with advice and consent of the Council, should, after January 2, 1979, select an auditor to serve for 4 years and conduct the annual audits beginning with the fiscal year commencing October 1, 1979. A new auditor was to be selected every four years. If the Mayor and the Council failed to agree, the selection was to be made by the Chairmen of the Senate and House Committees on Appropriation.

The House bill provided that the Council of the District of Columbia authorize funds for an audit within six months after the first day of the first full fiscal year after the Mayor had implemented the plans and recommendations of the contractors. The House bill provided for an audit every three years thereafter.

The Conference substitute (Section 3) conforms to the Senate amendment and authorizes the Commission to contract for such audits as are authorized in the Senate amendment language referred to above. The Conference substitute also conforms to the Senate amendment regarding the annual audit by the District Government.

Audit Control Commission

The Senate amendment established (Section 4(d)) a 5-member Audit Control Commission to whom auditing firms would report prior to beginning an audit, as to the scope thereof, and, after completion of the audit as to the results thereof.

Neither the House bill nor the Conference substitute contains such provision.

Costs

The House bill required the District of Columbia to pay 50 percent of the costs of the financial systems improvement contracts and authorized the appropriation of no more than $750,000 in any one year, and no more than $2.25 million over 3 years, as the Federal share of the costs. Also, the District would pay the costs of the audits required by the Act.

The Senate amendment authorized a Federal payment of not in excess of $20 million of Federal funds to be appropriated to the District to cover (1) all costs and expenses arising out of contracts made pursuant to the Act and implementation thereof, which would be obligations of the District of Columbia Government; (2) any assistance furnished by the Comptroller General in connection with his review of plans called for by this Act; (3) cost of the balance sheet audit of September 30, 1977, and the audits of the financial position and results of operations for fiscal years, commencing October 1, 1977 and October 1, 1978

The Conference substitute (Section 5) provides that all costs and expenses from contracts made pursuant to this Act, and in connection with the implementation thereof, shall be paid from the funds provided by the Act, namely, by authorization for the appropriation of a total of $16 million, of which $8 million should be from the Treasury (as the Federal share) and $8 million from Treasury funds credited to the District of Columbia (as the District's share); and further, that the Treasury funds to the credit of the District may not be used for more than 50% of the total payment under any contract or reimbursement to the General Accounting Office.

Termination of contract

The Senate amendment provided that thirty days after notification by the Comptroller General of completion and implementation of all plans or 30 days after the final payments are made to contractors, whichever occurs last, the Joint Committee would cease to exist.

The House bill contained no such provision.

The Conference substitute (Section 7) conforms to the Senate amendment with respect to the termination of the Commission.

CHARLES C. DIGGS, Jr.,
WALTER E. FAUNTROY,
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Managers on the Part of the Senate.

CONFERENCE REPORT ON H.R. 14234, DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS FOR FISCAL YEAR 1977

Mr. McFALL. Mr. Speaker, I call up the conference report on the bill (H.R. 14234) making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1977, and for other purposes, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of July 22, 1976.)

Mr. McFALL (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the statement be dispensed with.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

The SPEAKER. The gentleman from California (Mr. McFALL) and the gentleman from Massachusetts (Mr. CONTE) will each be recognized for 30 minutes.

The Chair now recognizes the gentleman from California (Mr. McFALL).

Mr. McFALL. Mr. Speaker, I yield myself such time as I may consume.

Mr. BROWN of Michigan. Mr. Speaker, will the gentleman yield?

Mr. McFALL. I yield to the gentleman from Michigan.

(By unanimous consent, Mr. BROWN

of Michigan was allowed to speak out of order.)

FIRST TIME IN 30 YEARS THAT CONGRESSMAN HUTCHINSON WILL NOT BE IN THE MICHIGAN PRIMARY

Mr. BROWN of Michigan. Mr. Speaker, I take this opportunity to recognize a particular event today. Today is the primary in the State of Michigan. Although it is a special event to all of us who are running in that primary, it has even greater significance for one of the Members of the Michigan delegation. For the gentleman from Michigan (Mr. Hutchinson) this is the first time in 30 years that Ed Hutchinson will not have had his name on the ballot in the Michigan primary. This very respected and revered Member of the House will be missed, and I want to take this opportunity Mr. Speaker, to point out that many of us wish that Ed Hutchinson had continued to keep his name on the primary ballot.

Mr. McFALL. Mr. Speaker, the conference agreement on the transportation appropriations bill would provide $5,311,839,357 in new budget authority. At the time our conference report was filed this was $138,457,000 more than the President's budget. However, subsequent to the filing of our conference report, we received an additional budget request of $95.6 million. The conference agreement, therefore, is actually $42,857,000, or less than 1 percent, over the President's budget. And the bill total is well within the targets established in the first concurrent resolution and is only $15,762,000 more than when the bill left the House.

In addition, the conference agreement includes $8,863,080,000 in appropriations to liquidate contract authorizations. This is $11,800,000 less than the House bill.

For the Office of the Secretary of Transportation the conference agreement would provide a total of $65.25 million. We have included the full amount requested for the Department to develop an integrated comprehensive national transportation plan. This plan involves all the transportation agencies of the Government, including the U.S. Army Corps of Engineers.

The conference agreement would provide $1,276,625,578 for the Coast Guard. This includes $80 million for the new 200-mile limit legislation. As you will recall, the second supplemental for fiscal year 1976 appropriated $10 million to initiate this program. The Coast Guard, therefore, will have a total of $90 million to begin its implementation of this important national program.

The major items in conference in the aviation area were related to grants-in-aid for airports. Under the conference agreement there will be $510 million available for airport development grants in fiscal year 1977 and $437.5 million available for this program in the transition period. This is the same as the House passed bill. In addition, $15 million will become available for airport planning grants on the date of enactment of this bill.

The largest increases over the House bill are in the rail area. The conference agreement would provide $70 million for the recently authorized railroad rehabilitation and improvement financing fund. The budget request for this program was submitted too late for consideration in the House bill. The conference agreement also permits the initiation of the loan guarantee program authorized by title V of Public Laws 94-210. I believe the funding for both of these programs should be used to promote the revitalization of our railway system so that this mode will remain in the private sector of the economy and will be able to provide transportation services with greater efficiency, effectiveness and economy. In addition, we have agreed to $62.6 million for Amtrak's northeast corridor operations, as well as $420 million for Amtrak's other operations and $93.1 million for the Corporation's capital program. These funds should permit Amtrak to operate its full system during fiscal year 1977.

For urban mass transportation the conference agreement includes a $125 million increase over the House bill. The conference agreement also provides for a total program of $575 million for Interstate transfer projects, including $400 million for the Washington, D.C., Metro system.

The most controversial item is Senate amendment No. 61. There will be a separate vote on this amendment after the conference report is adopted. This amendment would limit the amount of obligations to be incurred under certain Federal highway programs to $7.2 billion for fiscal year 1977. It would also exempt certain emergency and special highway programs with potential obligational authority of $500 million. On this item, I intend to offer a motion to concur in the Senate amendment with an amendment. I believe that such a ceiling is essential if the congressional budget process is to work properly.

Mr. Speaker, I believe we have brought a good conference report back to the House and I urge its adoption. I insert at this point in the Record a table giving the conference figures in detail:

[Fiscal years]

	New BA enacted, 1976	New BA estimates, 1977	New BA House, 1977	New BA Senate, 1977	New BA conference, 1977	Conference compared with—			
						1976 enacted	1977 estimates	House bill	Senate bill
TITLE I									
DEPARTMENT OF TRANSPORTATION									
Office of the Secretary									
Salaries and expenses	32,950,000	35,350,000	34,900,000	34,900,000	34,900,000	+1,950,000	−450,000		
Transportation planning, research, and development	28,000,000	29,800,000	28,000,000	31,000,000	28,000,000		−1,800,000		−3,000,000
Transportation research activities overseas	250,000	100,000	100,000	100,000	100,000	−150,000			
Grants-in-aid for natural gas pipeline safety	1,650,000	2,500,000	2,000,000	2,500,000	2,250,000	+600,000	−250,000	+250,000	−250,000
Total	62,850,000	67,750,000	65,000,000	68,500,000	65,250,000	+2,400,000	−2,500,000	+250,000	−3,250,000
Coast Guard									
Operating expenses	738,241,000	823,900,000	818,580,000	818,580,000	818,580,000	+80,339,000	−5,320,000		
Appropriation for debt reduction	−187,225	−197,422	−197,422	−197,422	−197,422	−10,197			
Subtotal	738,053,775	823,702,578	818,382,578	818,382,578	818,382,578	+80,328,803	−5,320,000		
Acquisition, construction, and improvements	166,100,000	198,100,000	241,000,000	251,000,000	241,000,000	+74,900,000	+42,900,000		−10,000,000
Alteration of bridges	6,500,000	8,600,000	9,600,000	12,300,000	10,900,000	+4,400,000	+2,300,000	+1,300,000	−1,400,000
Retired pay	123,650,000	147,103,000	147,103,000	147,103,000	147,103,000	+23,453,000			
Reserve training	32,100,000	34,800,000	34,650,000	34,650,000	34,650,000	+2,550,000	−150,000		
Research, development, test, and evaluation	18,600,000	19,000,000	18,800,000	18,800,000	18,800,000	+200,000	−200,000		
State boating safety assistance	5,790,000	5,790,000	5,709,000	5,790,000	5,790,000				
Supply fund	2,000,000					−2,000,000			
Pollution fund	10,000,000	5,000,000				−10,000,000	−5,000,000		
Total	1,102,793,775	1,242,095,578	1,275,325,578	1,288,025,578	1,276,625,578	+173,831,803	+34,530,000	+1,300,000	−11,400,000
Federal Aviation Administration									
Operations	1,567,250,000	1,677,519,000	1,666,000,000	1,666,000,000	1,666,000,000	+98,750,000	−11,519,000		
By transfer	(6,000,000)	(----------)	(----------)	(----------)	(----------)	(−6,000,000)	(----------)	(----------)	(----------)

[Fiscal years]

	New BA enacted, 1976	New BA estimates, 1977	New BA House, 1977	New BA Senate, 1977	New BA conference, 1977	Conference compared with—			
						1976 enacted	1977 estimates	House bill	Senate bill
TITLE I—Continued									
DEPARTMENT OF TRANSPORTATION—Continued									
COAST GUARD—Continued									
Facilities, engineering, and development	14,750,000	15,992,000	15,500,000	15,500,000	15,500,000	+750,000	−492,000		
By transfer	(----------)	(1,900,000)	(1,900,000)	(1,900,000)	(1,900,000)	(+1,900,000)	(----------)	(----------)	(----------)
Facilities and equipment (Airport and airway trust fund)	245,537,000	226,595,000	200,000,000	200,000,000	200,000,000	−45,537,000	−26,595,000		
Research, engineering, and development (Airport and airway trust fund)	67,500,000	76,700,000	72,000,000	76,700,000	74,350,000	+6,850,000	−2,350,000	+2,350,000	−2,350,000
Grants-in-aid for airports (Airport and airway trust fund):									
Appropriation to liquidate contract authorization	(370,000,000)	(355,000,000)	(355,000,000)	(386,000,000)	(355,000,000)	(−15,000,000)	(----------)	(----------)	(−31,000,000)
Operation and maintenance, Metropolitan Washington airports	18,602,000	20,700,000	20,700,000	20,700,000	20,700,000	+2,098,000			
Construction, Metropolitan Washington airports	11,625,000	8,100,000	5,000,000	5,000,000	5,000,000	−6,625,000	−3,100,000		
Total	1,925,264,000	2,025,606,000	1,979,200,000	1,983,900,000	1,981,550,000	+56,286,000	−44,056,000	+2,350,000	−2,350,000
Federal Highway Administrtion									
Limitation on general operating expenses	(144,480,000)	(152,300,000)	(150,400,000)	(150,400,000)	(150,400,000)	(+5,920,000)	(−1,900,000)	(----------)	(----------)
Motor carrier safety	6,667,000	6,949,000	6,949,000	6,949,000	6,949,000	+282,000			
Highway safety research and development	9,000,000	9,000,000	9,000,000	9,000,000	9,000,000				
Highway beautification:									
Appropriation	1,000,000	32,000,000	28,000,000	28,000,000	28,000,000	+27,000,000	−4,000,000		
Appropriation to liquidate contract authorization	(30,000,000)	(40,000,000)	(33,600,000)	(33,600,000)	(33,600,000)	(+3,600,000)	(−6,400,000)	(----------)	(----------)
Highway-related safety grants (appropriation to liquidate contract authorization)	(15,000,000)	(25,820,000)	(25,820,000)	(26,820,000)	(26,820,000)	(+11,820,000)	(+1,000,000)	(+1,000,000)	(----------)
Railroad-highway crossings demonstration projects	1,400,000	10,000,000	10,000,000	10,000,000	10,000,000	+8,600,000			
By transfer	(15,220,000)	(----------)	(----------)	(----------)	(----------)	(−15,220,000)	(----------)	(----------)	(----------)
Rural highway public transportation demonstration program	15,000,000					−15,000,000			
Territorial highways (appropriation to liquidate contract authorization)	(4,000,000)	(3,400,000)	(3,560,000)	(3,560,000)	(3,560,000)	(−440,000)	(+160,000)	(----------)	(----------)
Darien Gap highway	4,900,000					−4,900,000			
Alaska Highway		15,000,000	15,000,000	15,000,000	15,000,000	+15,000,000			
Off-system roads (appropriation to liquidate contract authorization	(10,000,000)	(92,000,000)	(70,000,000)	(70,000,000)	(70,000,000)	(+60,000,000)	(−22,000,000)	(----------)	(----------)
National Scenic and Recreational Highway (appropriation to liquidate contract authorization)	(----------)	(22,500,000)	(22,500,000)	(22,500,000)	(22,500,000)	(+22,500,000)	(----------)	(----------)	(----------)
Access highways to public recreation areas on certain lakes	10,000,000					−10,000,000			
By transfer	(----------)	(----------)	(4,767,000)	(4,767,000)	(4,767,000)	(+4,767,000)	(+4,767,000)	(----------)	(----------)
Federal-aid highways (trust fund-appropriation to liquidate contract authorization)	(6,533,800,000)	(6,065,000,000)	(6,143,100,000)	(6,143,100,000)	(6,143,100,000)	(−390,700,000)	(+78,100,000)	(----------)	(----------)
Highway safety construction programs (trust fund-appropriation to liquidate contract authorizafion)	(300,000,000)	(385,000,000)	(385,000,000)	(385,000,000)	(385,000,000)	(+85,000,000)	(----------)	(----------)	(----------)
Right-of-way revolving fund (trust fund-appropriation to liquidate contract authorization)	(20,000,000)	(46,600,000)	(35,000,000)	(35,000,000)	(35,000,000)	(+15,000,000)	(−11,600,000)	(----------)	(----------)
Highways crossing federal projects			35,000,000	35,000,000	35,000,000	+35,000,000	+35,000,000		
Baltimore-Washington Parkway		6,900,000		3,000,000	1,500,000	+1,500,000	−5,400,000	+1,500,000	−1,500,000
Overseas Highway	500,000		12,500,000	12,500,000	12,500,000	+12,000,000	+12,500,000		
Recission of contract authority	−25,000,000					+25,000,000			
Highland Scenic Highway (trust fund-appropriation to liquidate contract authorization)	(15,000,000)	(----------)	(----------)	(----------)	(----------)	(−15,000,000)	(----------)	(----------)	(----------)
Bikeway program	6,000,000					−6,000,000			
Project acceleration demonstration program			10,000,000	10,000,000	10,000,000	+10,000,000	+10,000,000		
Alaska roads study				200,000	200,000	+200,000	+200,000	+200,000	
Total	29,467,000	79,849,000	126,449,000	129,649,000	128,149,000	+98,682,000	+48,300,000	+1,700,000	−1,500,000
National Highway Traffic Safety Administration									
Traffic and highway safety	68,000,000	79,890,000	68,000,000	89,326,000	72,362,000	+4,326,000	−7,654,000	+4,326,000	−17,000,000
State and community highway safety (appropriation to liquidate contract authorization)	(71,000,000)	(92,000,000)	(83,300,000)	(88,500,000)	(88,500,000)	(+17,500,000)	(−3,500,000)	(+5,200,000)	(----------)
Federal Railroad Administration									
Office of the Administrator	6,075,000	6,485,000	6,300,000	6,300,000	6,300,000	+225,000	−185,000		
Railroad safety	16,450,000	18,500,000	18,300,000	18,300,000	18,300,000	+1,850,000	−200,000		
Grants-in-aid for railroad safety	1,500,000	2,000,000	1,000,000	1,000,000	1,000,000	−500,000	−1,000,000		
Railroad research and development	64,150,000	56,500,000	51,500,000	54,300,000	52,900,000	−11,250,000	−3,600,000	+1,400,000	−1,400,000
Interm operating assistance	60,000,000					−60,000,000			
Rail service assistance	290,130,000	81,200,000	60,000,000	113,500,000	83,000,000	−207,130,000	+1,800,000	+23,000,000	−30,500,000
Northeast corridor improvement program	25,000,000	150,000,000	150,000,000	150,000,000	150,000,000	+125,000,000			
Grants to National Railroad Passenger Corporation	471,200,000	546,300,000	495,200,000	603,700,000	575,700,000	+104,500,000	+29,400,000	+80,500,000	−28,000,000
Rail transportation employment and improvement	90,000,000					−90,000,000			
Payment to the Alaska railroad revolving fund	9,000,000	6,000,000	6,000,000	6,000,000	6,000,000	−3,000,000			
Railroad rehabilitation and improvement financing funds		70,000,000		70,000,000	70,000,000	+70,000,000		+70,000,000	
Total	1,033,505,000	936,985,000	788,300,000	1,023,100,000	963,200,000	−70,305,000	+26,215,000	+174,900,000	−59,900,000

	New BA enacted, 1976	New BA estimates, 1977	New BA House, 1977	New BA Senate, 1977	New BA conference, 1977	Conference compared with—			
						1976 enacted	1977 estimates	House bill	Senate bill
Urban Mass Transporation Administration									
Urban mass transportation fund:									
Administrative expenses	10,300,000	18,600,000	12,600,000	12,600,000	12,600,000	+2,300,000	−6,000,000		
Research, development, and demonstrations and university research and training	54,000,000	70,000,000	57,000,000	65,000,000	61,200,000	+7,200,000	−8,800,000	+4,200,000	−3,800,000
Appropriation to liquidate contract authorization	(1,276,300,000)	(1,441,000,000)	(1,718,000,000)	(1,700,000,000)	(1,700,000,000)	(+423,700,000)	(+259,000,000)	(−18,000,000)	( )
Rail service operating payments	25,000,000	55,000,000	55,000,000	55,000,000	55,000,000	+30,000,000			
Projects substituted for interstate system projects	188,000,000	400,000,000	575,000,000	400,000,000	400,000,000	+212,000,000		−175,000,000	
Total	277,300,000	543,600,000	699,600,000	532,600,000	528,800,000	+251,500,000	−14,800,000	−170,800,000	−3,800,000
St. Lawrence Seaway Development Corporation									
Limitation on administrative expenses	(943,000)	(982,000)	(982,000)	(982,000)	(982,000)	(+39,000)	( )	( )	( )
Total, title I	4,499,179,775	4,975,865,578	5,001,874,578	5,115,100,578	5,015,900,578	+516,720,803	+40,035,000	+14,026,000	−99,200,00
TITLE II									
RELATED AGENCIES									
National Transportation Safety Board									
Salaries and expenses	11,260,000	12,000,000	13,800,000	13,800,000	13,800,000	+2,540,000	+1,800,000		
Civil Aeronautics Board									
Salaries and expenses	19,855,000	21,654,000	21,450,000	21,450,000	21,450,000	+1,595,000	−204,000		
Payments to air carriers	60,695,000	80,007,000	80,007,000	80,007,000	80,007,000	+19,312,000			
Total	80,550,000	101,661,000	101,457,000	101,457,000	101,457,000	+20,907,000	−204,000		
Interstate Commerce Commission									
Salaries and expenses	52,455,000	55,976,000	56,400,000	57,036,000	57,036,000	+4,581,000	+1,060,000	+636,000	
Payment for directed rail service	15,000,000					−15,000,000			
Total	67,455,000	55,976,000	56,400,000	57,036,000	57,036,000	−10,419,000	+1,060,000	+636,000	
The Panama Canal									
Canal Zone Government:									
Operating expenses	60,150,000	66,047,000	65,800,000	66,000,000	65,900,000	+5,750,000	−147,000	+100,000	−100,000
Capital outlay	2,240,000	3,647,000	3,150,000	3,150,000	3,150,000	+910,000	−497,000		
Panama Canal Company:									
Limitation on general and administrative expenses	(24,371,000)	(26,585,000)	(25,285,000)	(25,285,000)	(25,285,000)	(+914,000)	(−1,300,000)	( )	( )
Total	62,390,000	69,694,000	68,950,000	69,150,000	69,050.000	+6,660,000	−644,000	+100,000	−100,000
Department of the Treasury									
Office of the Secretary:									
Investment in fund anticipation notes	( )	(70,000,000)	( )	(70,000,000)	(70,000,000)	(+70,000,000)	( )	(+70,000,000)	( )
United States Railway Association									
Administrative expenses	22,300,000	12,100,000	12,000,000	12,000,000	12,000,000	−10,300,000	−100,000		
Payments for purchase of Conrail securities:									
Fiscal year 1976	500,000,000					−500,000,000			
Fiscal year 1978	425,000,000					−425,000,000			
Fiscal year 1979	136,000,000					−136,000,000			
Total	1,083,300,000	12,100,000	12,000,000	12,000,000	12,000,000	−1,071,300,000	−100,000		
Washington Metropolitan Area Transit Authority									
Federal contribution:									
Fiscal year 1976	9,500,000					−9,500,000			
Fiscal year 1977	90,059,000	6,800,000	6,800,000	6,800,000	6,800,000	−83,259,000			
Fiscal year 1978		15,421,779	15,421,779	15,421,779	15,421,779	+15,421,779			
Subtotal	99,559,000	22,221,779	22,221,779	22,221,779	22,221,779	−77,337,221			
Interest subsidy	22,200,000	19,374,000	19,374,000	19,374,000	19,374,000	−2,826,000			
Total	121,759,000	41,595,779	41,595,779	41,595,779	41,595,779	−80,163,221			
National Transportation Policy Study Commission				1,000,000	1,000,000	+1,000,000	+1,000,000	+1,000,000	
Total, title II	1,426,714,000	293,026,779	294,202,779	296,038,779	295,938,779	−1,130,775,221	+2,912,000	+1,736,000	−100,000
TITLE III									
GENERAL PROVISIONS									
Federal Aviation Administration:									
Grants-in-aid for airport development (limitation on obligations)	(350,000,000)	(350,000,000)	(510,000,000)	(510,000,000)	(510,000,000)	(+160,000,000)	(+160,000,000)	( )	( )
Federal Highway Administration.									
Highway Beautification (limitation on obligations)	(40,000,000)	( )	( )	( )	( )	(−40,000,000(	)	( )	( )
Highway related safety grants (limitation on obligations)	( )	(17,000,000)	( )	(21,000,000)	(21,000,000)	(+21,000,000)	(+4,000,000)	(+21,000,000)	( )
Territorial highways (limitation on obligations)	(4,600,000)	(4,600,000)	(5,600,000)	(5,600,000)	(5,600,000)	(+1,000,000)	(+1,000,000)	( )	( )
Federal-aid highways and highway safety construction programs (limitation on obligations)	(7,200,000,000)	(6,700,000,000)	( )	(7,200,000,000)	(7,200,000,000)	( )	(+500,000,000)	(+7,200,000,000)	( )
National Highway Traffic Safety Administration:									
State and community highway safety (limitation on obligations)	(120,000,000)	(103,000,000)	( )	(129,000,000)	(129,000,000)	(+9,000,000)	(+26,000,000)	(+129,000,000)	( )

[Fiscal years]

	New BA enacted, 1976	New BA estimates, 1977	New BA House, 1977	New BA Senate, 1977	New BA conference, 1977	Conference compared with— 1976 enacted	Conference compared with— 1977 estimates	Conference compared with— House bill	Conference compared with— Senate bill
TITLE III—Continued									
GENERAL PROVISIONS—Continued									
Federal Railroad Administration (limitaton on loan guarantee program for the National Railroad Passenger Corporation	(----------)	(----------)	(746, 000, 000)	(----------)	(----------)	(----------)	(----------)	(−746, 000, 000)	(----------)
Urban Mass Transportation Administration:									
Urban Mass transportation fund (limitation on commitments)	(1, 732, 150, 000)	(1, 963, 600, 000)	(1, 947, 000, 000)	(2, 083, 000, 000)	(2, 077, 700, 000)	(+345, 550, 000)	(+114, 100, 000)	(+130, 700, 000)	(−5, 300, 000)
Interstate transfer	(----------)	(175, 000, 000)	(175, 000, 000)	(175, 000, 000)	(175, 000, 000)	(+175, 000, 000)	(----------)	(----------)	(----------)
Total	(9, 446, 750, 000)	(9, 313, 200, 000)	(3, 383, 600, 000)	(10,123,600,000)	(10,118,300,000)	(+671, 550, 000)	(+805, 100, 000)	(+6, 734, 700, 000)	(−5, 300, 000
Total, title III									
Total, NB(O)A	5, 925, 893, 775	5, 268, 892, 357	5, 296, 077, 357	5, 411, 139, 357	5, 311, 839, 357	−614, 054, 418	+42, 947, 000	+15, 762, 000	−99, 300, 000
Total, titles I, II, and III, New budget (obligational) authority	5, 925, 893, 775	5, 268, 892, 357	5, 296, 077, 357	5, 411, 139, 357	5, 311, 839, 357	−614, 054, 418	+42, 974, 000	+15, 762, 000	−99, 300, 000
Consisting of—									
Appropriations:									
Fiscal year 1976	(5, 274, 834, 775)					(−5, 274, 834, 775)			
Fiscal year 1977	(90, 059, 000)	(5, 253, 470, 578)	(5, 280, 655, 578)	(5, 395, 717, 578)	(5, 296, 417, 578)	(+5, 206, 358, 578)	(+42, 947, 000)	(+15, 762, 000)	(−99, 300, 000)
Fiscal year 1978	(425, 000, 000)	(15, 421, 779)	(15, 421, 779)	(15, 421, 779)	(15, 421, 779)	(−409, 578, 221)			
Fiscal year 1979	(136, 000, 000)					(−136, 000, 000)			
Memoranda:									
Appropriations to liquidate contract authorizations	8, 645, 100, 000	8, 568, 320, 000	8, 874, 880, 000	8, 894, 080, 000	8, 863, 080, 000	+217, 980, 000	+294, 760, 000	−11, 800, 000	−31, 000, 000
Appropriations for debt reduction	187, 225	197, 442	197, 442	197, 422	197, 442	+10, 197			
Grand total	14,571,181,000	13,837,409,779	14,171,154,779	14,305,416,779	14,175,116,779	−396, 064, 221	+337, 707, 000	+3, 962, 000	−130, 300, 000

Mr. CONTE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the conference report to the transportation appropriations bill for fiscal year 1977 (H.R. 14234).

I stand here with a slight note of disappointment. This appropriations bill was reported out of committee at $66.215 million below the budget. I am proud to note that this was not unusual. We have been able to keep this bill below the budget for several consecutive years. In fiscal responsibility—our bills have and these days of concentrated emphasis on still serve as a model to follow.

Unfortunately, because of budget requests which are still not forthcoming this bill is now $42.857 million above the administration budget. At page 14 of the conference report, members will note a table giving the financial statistics of this bill. At the time of filing the conference report, the bill was $138.547 million above the budget. Since that time, the administration has submitted $95.6 million in additional budget request for the Northeast Corridor rail passenger improvement program and Coast Guard operating expenses and "acquisition and improvement funds."

Thus we have a total over the budget figure of $42.857 million which is still less than 1 percent above the President's budget. Because of the fact that many transportation programs were unauthorized at the time the House considered the bill, the administration requests were prepared much later this year. That is the reason budget requests are still on the influx. Accordingly, it was virtually impossible for the committee to provide for all these essential programs without exceeding the budget at least this minimal degree. I should like to note however that this bill is far below the congressional budget resolution (H. Con. Res. 611).

Because the chairman has already given a thorough review of all the changes from the House version, I should like to take this opportunity to highlight those changes which are of major import.

One of the Senate amendments which received a great deal of attention was $15 million for airport planning grants as authorized under the new Airport and Airway Development Act. The conferees chose to accept the total Senate figure of $15 million for this important program as well as providing that the funds will be made available upon enactment.

The conferees agreed to a funding compromise of $1.5 million in support funds for the Baltimore-Washington should insure a significant level of recon-
Parkway. This, coupled with $1.5 million available in unobligated funds
struction throughout fiscal year 1977.

For the Federal Railroad Administration, the conferees added $1.4 million above the House level of $51.5 million to insure adequate support for research and development. It is my hope that the increase will concentrate on hazardous materials transportation safety research which is of critical concern.

Just as I indicated in my June 28, 1976, floor presentation on this bill, I would concentrate on getting the House conferees to accept a higher level for rail service assistance. The House bill contained $59.25 million for the branch line subsidy program in the 17-State ConRail system and 33-State program outside the ConRail system. I was concerned that this level was inadequate and fought to obtain the $75 million figure contained in this conference report. This level should adequately supply the needs of the States throughout fiscal year 1977. Should an insufficiency arise, I am sure this committee will once again review the program and make any necessary changes in the first supplemental.

The Amtrak funding figure has increased to $421 million in operating assistance. This figure is only $9 million below the full authorization level. I am satisfied that Amtrak could not justify any route termination based on inadequacy of operating assistance.

Under the Urban Mass Transit Administration, the conferees accepted language to change the limitation on projects for interstate transfer substitutions from $575 million to $400 million. The reason is that by statute these transfers must now go through the appropriation process. This $400 million limitation affects only Washington, D.C., Metro. The remaining $175 million has been preserved in section 307 of this bill. All States which withdrew prior to May 5, 1976—Massachusetts, Oregon, Pennsylvania—would be guaranteed their limitation of $175 million as it occurred in the House version.

Of final and most important note is the decision of the conferees to include the Senate amendment placing a $7.2 billion obligation limitation on the Federal-aid highway program. As you may recall, this provision was stricken from the House version during floor consideration on June 28, 1976. Without this limitation the States would be free to obligate in excess of $11.9 billion. This must not happen. The $7.2 billion level has proven to be more than adequate for fiscal year 1976—it deserves to continue.

All sources of Federal revenues and

expenditures are taken into account to determine our deficit or surplus. Red ink makes no distinction between trust fund and general fund sources. I will speak more extensively on this matter later; however, at this time I urge Members to read the June 29, 1976, Budget Committee "Dear Colleague" and July 29, 1976, appropriations "Dear Colleague" on this matter. This is a very technical and important issue which cannot and must not be decided with a false assertion that trust fund spending has no effect on the budget—additional outlays over the $7.2 billion figure would have a direct and serious effect on the budget. It is clear that if this limitation is not part of the legislation sent to the President, the Secretary of Transportation and the Director of the Office of Management and Budget will recommend a veto. This responsible bill must not be jeopardized. I urge Members to accept the limitation in Senate amendment No. 61.

This concludes my remarks on the changes which are reflected in this conference report. Mr. Speaker, this is a responsible bill and I urge your support.

Mr. GUDE. Mr. Speaker, will the gentleman yield?

Mr. CONTE. I yield to the gentleman from Maryland.

Mr. GUDE. Mr. Speaker, I wish to commend the gentleman from Massachusetts (Mr. CONTE) for his work and the work of the other members of the conference committee; in particular for their work on those aspects of the legislation that make possible a continuation and future expansion of the commuter rail service along the Potomac River Valley. The funding, of which will be of great assistance to hundreds of commuters from my district and from at least three other congressional districts along the route. This will include many commuters who today would like to utilize the rail service but for whom all schedules conflict with their working day. It also will include many who drive miles over narrow, crooked country roads, especially in West Virginia and Virginia, to reach the terminus of service that can get them to and from work on time.

These funds will help to alleviate the overcrowded conditions now existing on this line, thereby encouraging more commuters to leave their cars behind in order to take the train. Problems of congestion in downtown Washington, pollution, and energy expenditures will be alleviated. This will go a long way toward the more effective use of mass transit by area commuters and be a significant factor in our struggle against the energy shortage.

Mr. McFALL. Mr. Speaker, I yield 5 minutes to the gentleman from New Jersey (Mr. HOWARD).

Mr. HOWARD. Mr. Speaker, it is my understanding that following the vote on the conference report, the floor manager on the part of the Appropriations Committee will offer a motion to recede and concur in Senate amendment No. 61 to impose an obligation ceiling on the Federal-aid highway program.

Like most of my colleagues in the House, I had thought that the issue had been resolved 5 weeks ago, when their attempt to impose such a ceiling was defeated by a resounding vote of 251 to 146. But, like Oliver Goldsmith's stubborn old parson, though vanquished, they would argue still. Now they tell us we did not know what we were doing. They want a recount, and this time they hope we will do as we are told, and never mind the weaknesses and fallacies of their argument.

Very well, Mr. Speaker, we welcome the opportunity to reopen the question so that it may be made unmistakeably clear that the Members of this body did know what they were doing and that the expressed will of the House stands.

I ask only that the distinguished gentleman from California, as floor manager on the part of the Appropriations Committee, will grant us one-half of time to restate the case for the majority when his motion to recede and concur is brought before the House. I am sure that his sense of fairness will permit us to be heard.

Mr. SHUSTER. Mr. Speaker, will the gentleman yield?

Mr. HOWARD. I yield to the gentleman from Pennsylvania.

Mr. SHUSTER. Mr. Speaker, I thank the gentleman for yielding.

I rise in support of the position that the gentleman in the well has stated. I urge my colleagues likewise to consider this position when we get to the appropriate time in this debate.

Mr. MITCHELL of Maryland. Mr. Speaker, will the gentleman yield?

Mr. HOWARD. I yield to the gentleman from Maryland.

Mr. MITCHELL of Maryland. Mr. Speaker, at any time in the past history of releasing funds from the highway trust fund, have we ever exceeded the ceiling which is now suggested in one given year?

Mr. HOWARD. Yes; in fiscal year 1975, $7.8 billion was obligated for the Federal-aid highway program.

Mr. MITCHELL of Maryland. My point is that the proposed ceilings would be sufficient based on the history of the past expenditures of the highway trust fund to meet the needs that are anticipated; is that correct?

Mr. HOWARD. That is not correct. If a ceiling is brought here by the Committee on Public Works and Transportation before the second concurrent resolution, the Committee on Public Works and Transportation is the only committee which can authorize that those expenditures must be uniform and fair throughout the entire program.

If the ceiling is set as intended here today, then we in effect give a personal grant-in-aid program to the Office of Management and Budget and the Secretary of Transportation so that they may fund or not fund programs such as urban extensions which can be converted into mass transit. This is the great disaster that could occur to the legislative process should the motion to recede and concur be agreed to.

Mr. MITCHELL of Maryland. Mr. Speaker, I thank the gentleman for yielding, and if he will yield further, let me ask this: In the past there have been ceilings imposed; is that not correct?

Mr. HOWARD. There was a ceiling imposed once.

Mr. MITCHELL of Maryland. Once. And in that instance there was not a holdup of funds by the executive branch of Government to jeopardize that ceiling; is that correct?

Mr. HOWARD. The gentleman is correct.

Mr. MITCHELL of Maryland. Mr. Speaker, I assume that I will speak on this issue later on when we get to the amending process. I am one Member who did not vote the last time to impose a ceiling, but I am now prepared to vote to impose a ceiling because, after careful study and after receiving a good bit more information from many sources, it is absolutely clear to me that unless a ceiling is imposed we are going to wreak havoc on the other programs because of the danger to the proposed budget outlay targets.

Mr. Speaker, I thank the gentleman for yielding, and I will speak further when we get to the amending process.

Mr. HOWARD. Mr. Speaker, I would just like to say to the gentleman that this is placing a lot more concern or consideration and confidence in the Office of Management and Budget to manage this entire program than is provided by the legislation that has been passed by the Members of Congress.

The SPEAKER. The time of the gentleman from New Jersey (Mr. HOWARD) has expired.

Mr. McFALL. Mr. Speaker, I yield 2 additional minutes to the gentleman from New Jersey.

Mr. MYERS of Indiana. Mr. Speaker, will the gentleman yield?

Mr. HOWARD. I yield to the gentleman from Indiana.

Mr. MYERS of Indiana. Mr. Speaker, I thank the gentleman for yielding.

Part of the trust funds are not being spent for urban mass transit. If this ceiling is allowed, does that apply against the expenditures for urban mass transit?

Mr. HOWARD. Under the interstate transfer, the money that may be taken for mass transit comes out of part of the revenue, so that would not apply. However, in the urban extension program, which has $800 million in it for this year alone, plus $1 billion in backlog funds which the States may now use, they may use any or all of that for mass transit capital, such as for buses, building mass transit systems, improving and repairing their own mass transit systems, et cetera.

This money, even though it is there pursuant to the law, will be exempt from any mandatory provision and will be up to the whim of Jim Lynn of OMB and the Secretary of Transportation, as to whether they want to fund some of it, all of it, or none of it. If this motion to recede and concur passes, this is the big matter this year.

Mr. MYERS of Indiana. Mr. Speaker, if the gentleman will yield further, as I understand it, then, the Department of Transportation could spend all the money in either highways or in urban mass transit, denying funds to anything else; is that right?

Mr. HOWARD. Only up to the overall ceiling. I cannot say with certainty. We are not going to fund any off systems, any railroad relocation, or whatever, as long as the Secretary meets with that ceiling.

Mr. ADAMS. Mr. Speaker, will the gentleman yield?

Mr. HOWARD. I yield to the gentleman from Washington.

Mr. ADAMS. Mr. Speaker, I have a question.

It is my understanding that the gentleman from California will offer a motion that basically says that there will be a ceiling unless there is enacted into law a different ceiling that comes out of the Committee on Public Works and Transportation, setting a different amount on which we can base the second budget resolution.

Mr. Speaker, I ask the gentleman this question: Is it the intention of the Committee on Public Works and Transportation to pass such a ceiling with whatever type of allocation system they want prior to the beginning of the fiscal year on October 1, which would be the ceiling that would apply, rather than the one we are debating today?

The SPEAKER. The time of the gentleman from New Jersey (Mr. HOWARD) has again expired.

Mr. McFALL. Mr. Speaker, I yield 1 additional minute to the gentleman from New Jersey.

Mr. HOWARD. Mr. Speaker, if it is shown that such a legislative action by the Committee on Public Works and Transportation is necessary—and I assume that the gentleman from Washington and the Committee on the Budget will do what they have to do under the law—this certainly would be done. However, that would not mean that we would agree to this proposal before us at this time, even with any amendment to it, because what it is is an attempt by the Secretary of the Department of Transportation and by the Office of Management and Budget, in concert, at the present time with the Committee on the Budget to eliminate the Committee on Public Works and Transportation from this decisionmaking process.

Mr. ADAMS. I might state that that is not the intent of the Committee on the Budget.

Mr. HOWARD. It is the result.

Mr. ADAMS. Our intent is that we have a potential swing of $4 billion in obligational authority because of the surplus in the trust fund, and we cannot place an outlay figure or a budget obligational figure in the final budget resolution without having something to operate on because the recent bill we passed on public works makes available large amounts of matching money.

Therefore, I would hope that the gentleman from New Jersey (Mr. HOWARD) in later debate would comment on whether there is going to be an obligational ceiling because we simply will have a hole in the second budget resolution which we cannot cover.

Mr. HOWARD. I answered the gentleman. I said that if this is the case, then certainly.

Mr. CONTE. Mr. Speaker, I yield 3 minutes to the gentleman from Kentucky (Mr. SNYDER).

Mr. SNYDER. Mr. Speaker, I have asked for this time to attempt to clarify a provision in the conference report in regard to section 311 of the bill. That is Senate language, which reads:

> SEC. 311. No funds appropriated or made available by this Act shall be used to implement the provision of section 155 of title 2 of the Canal Zone Code relating to the establishment of employment standards, pay levels and other conditions of employment within the Canal Zone.

Reading that section of the code, which I have here, I say it does not, of itself, establish these employment standards and pay levels.

My understanding is that amendment No. 55 to the bill, contained in section 311, is not designed to affect the promulgation of regulations or the necessary coordination of activities and wage and employment practices in the zone which are invested in the President. What amendment No. 55, section 311, does affect is the establishment of employment standards, pay levels, and other conditions of employment in the Canal Zone. At present, the establishment of such standards, levels, and conditions is accomplished by the Canal Zone Civilian Personnel Policy Coordinating Board, consisting of the designee of the Secretary of the Army, the Governor of the Canal Zone, and the Commander of SOUTHCOM. This bill, H.R. 14234, would deny any funds appropriated or made available by this act for that Board as the establishing authority with the intent that the personnel policymaking authority traditionally exercised by the Governor and the SOUTHCOM Commander be restored or continued.

The amendment is not intended to impair the functions of bureaus or offices which coordinate the administration of employment and compensation in the zone, or which provide services for employment but have nothing to do with the establishment of policy.

The events which occasioned this amendment in the Senate committee included a slowdown at the Panama Canal in March of this year and criticism in the Congress of personnel policy decisions of the Board, and of the veto authority over that three-member Board exercised by one member of the Board.

Mr. Speaker, I would ask the gentleman from California (Mr. McFALL) who is handling the bill, if that is their understanding?

Mr. McFALL. Mr. Speaker, if the gentleman would yield, this provision was put in on the Senate side. I have no information that would lead me to disagree with the gentleman's interpretation. I know that the gentleman from Kentucky is on the authorizing committee. I believe that the gentleman is correct in his interpretation of this provision.

Mr. SNYDER. Mr. Speaker, I thank the gentleman.

Mr. McFALL. Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. ANDERSON).

Mr. ANDERSON of California. Mr. Speaker, I would like to engage the chairman of the House Department of Transportation Appropriations Subcommittee, my colleague from California, in a brief colloquy on the implications of the conference committee action on the ADAP—airport grant-in-aid program.

The new Airport and Airway Development Act Amendments of 1976, recently signed by President Ford as Public Law 94–353, apportions two-thirds of the ADAP program for air carrier airports on a basis of numbers of enplaned passengers. Smallest airports—some 180 of them—are authorized under that act to accumulate their annual $150,000 minimum apportionments for up to 3 years so that their matching local funds can be joined to their accumulated Federal apportionments to undertake periodic, sizable projects. Thus, in the 3d year of the program, those smallest airports would have $450,000 apportioned and available to them for a major project.

There is considerable concern by many of the operators of these airports that the annual ceilings imposed on ADAP obligations by the Appropriations Committee means that, contrary to the authorization act, sponsors must use their apportionments in the first year or lose them forever. That there is no 3-year period during which their apportionments can be transformed into grants.

If this concern is true, those smaller sponsors must rush in now to save their $150,000 before it expires on September 30—perhaps by using that small amount of money for a low priority project. The Authorization Act, which was reported from the Subcommittee on Aviation which I chair, envisioned those sponsors being able to accumulate that money for a bigger, higher priority project within the next 2 years.

Now, I have two questions.

My first question: Can my colleague from California assure us, and those airports, that the accumulation provision of the Authorization Act—designed to help local governments do better longer term planning—will not be affected adversely by the fiscal year 1976 and fiscal year 1977 ADAP limitations in this conference report? And that September 30 is not a use it or lose it deadline?

Mr. McFALL. Mr. Speaker, if the gentleman will yield, let me say that there was no intention on our part to prevent any airports—large or small—from utilizing the accumulation provisions contained in the authorizing legislation and I do not believe the airport grant limitations for fiscal years 1976 and 1977 will have that effect. Nor do I think that these limitations will adversely affect the ability of these airports to conduct long range planning.

Mr. ANDERSON of California. My second question: If the FAA cannot wisely obligate $437.5 million in ADAP funds between the date of enactment of this appropriations act and September 30, a period of not more than 45 days, would your subcommittee be sympathetic to a rollover or carryover of the apportioned but unobligated balance beyond September 30?

The SPEAKER. The time of the gentleman has expired.

Mr. McFALL. I yield 1 additional minute to the gentleman from California.

If the gentleman will yield further, in establishing limitations on this program, we were attempting to operate within the framework of the new congressional budget process. We believe it is necessary for the Budget Committee to have specific obligational figures on which to base its fiscal year 1977 spending ceilings. If later in the fiscal year there is sufficient room within the ceilings, and there is a demonstrated need to increase the limitation on airport grants, I personally would be sympathetic to such request. I have told those interested in this very important program that we would give prompt consideration to such a proposal. We have discussed this with the Budget Committee. The gentleman from Washington (Mr. Adams) who is chairman of the Committee on the Budget, is also very interested in the program, because he helped write the original legislation back in 1970.

Mr. ANDERSON of California. I thank my colleague from California for his answers.

The SPEAKER. The time of the gentleman has expired.

Mr. FRENZEL. Mr. Speaker, this attempt to repeal the limits we have placed on ourselves through the budget process poses a hard problem for those who support the trust fund and our Interstate System development. I do, but I know that our Budget Act will not be worth the paper it is written on unless we use it to control all spending.

Therefore, in the interest of fiscal responsibility, I have to support the conference report, and vote against the recommendation of the Public Works Committee.

We cannot have it both ways. We cannot pretend to control spending on one hand, but allow some pet programs to escape control on the other. I see no alternative but to support the conference committee.

Mr. ALLEN. Mr. Speaker, while I voted to remove the ceiling when this bill was last before the House, I have talked to the majority whip, the Honorable John McFall, and he has convinced me the Senate absolutely will not, in any circumstances, recede from its position on this issue. Furthermore, the letter read from the Secretary of Transportation has convinced me that even if Mr. McFall is mistaken, and the Senate should recede, the bill would face an almost certain veto. Judging from the last vote, there would then not be sufficient support in the House to override such a veto. That being the case, we must either recede from the previous position of the House and accept the Senate amendment, or wind up with no bill at all.

For these reasons, I have changed my vote and supported Mr. McFall's motion to recede, and accept the Senate amendment.

Mr. McFALL. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER. The question is on the conference report.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. BELL. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 384, nays 9, not voting 39, as follows:

[Roll No. 591]

YEAS—384

Abdnor
Adams
Addabbo
Alexander
Allen
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Archer
Armstrong
Ashley
Aspin
AuCoin
Badillo
Bafalis
Baldus
Baucus
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Bell
Bergland
Bevill
Biaggi
Biester
Bingham
Blanchard
Blouin
Boggs
Boland
Bonker
Bowen
Brademas
Breaux
Breckinridge
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burton, John
Burton, Phillip
Butler
Byron
Carney
Carr
Carter
Cederberg
Chappell
Chisholm
Clancy
Clausen, Don H.
Clawson, Del
Cleveland
Cochran
Cohen
Collins, Ill.
Conable
Conte
Corman
Cornell
Cotter
Coughlin
D'Amours
Daniel, Dan
Daniel, R. W.
Daniels, N.J.
Danielson
Davis
de la Garza
Delaney
Dellums
Dent
Derrick
Derwinski
Devine
Dickinson
Dingell
Dodd
Downey, N.Y.
Downing, Va.
Drinan
Duncan, Oreg.
Duncan, Tenn.
du Pont
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Eilberg
Emery
English
Erlenborn
Eshleman
Evans, Colo.
Evans, Ind.
Fary
Fascell
Fenwick
Fish
Fisher
Fithian
Flood
Florio
Flowers
Foley
Ford, Tenn.
Forsythe
Fraser
Frenzel
Frey
Fuqua
Gaydos
Gibbons
Gilman
Ginn
Goldwater
Gonzalez
Goodling
Gradison
Grassley
Green
Gude
Guyer
Hagedorn
Haley
Hall, Ill.
Hall, Tex.
Hamilton
Hammerschmidt
Hanley
Hannaford
Harkin
Harrington
Harris
Harsha
Hayes, Ind.
Hays, Ohio
Hechler, W. Va.
Heckler, Mass.
Hefner
Heinz
Helstoski
Henderson
Hicks
Hightower
Hillis
Holland
Holt
Holtzman
Horton
Howard
Howe
Hubbard
Hughes
Hungate
Hutchinson
Hyde
Ichord
Jacobs
Jarman
Jeffords
Jenrette
Johnson, Calif.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Jordan
Kasten
Kastenmeier
Kazen
Kelly
Kemp
Ketchum
Keys
Kindness
Koch
Krebs
Krueger
LaFalce
Lagomarsino
Landrum
Latta
Leggett
Lehman
Lent
Levitas
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lujan
Lundine
McClory
McCloskey
McCollister
McCormack
McDade
McEwen
McFall
McHugh
McKay
McKinney
Madden
Madigan
Maguire
Mahon
Mann
Martin
Mathis
Matsunaga
Mazzoli
Meeds
Melcher
Metcalfe
Meyner
Mezvinsky
Michel
Mikva
Milford
Miller, Calif.
Mills
Mineta
Minish
Mink
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Morgan
Mosher
Moss
Mottl
Murphy, Ill.
Murphy, N.Y.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Nedzi
Nichols
Nix
Nolan
Nowak
Oberstar
Obey
O'Brien
O'Neill
Ottinger
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Pepper
Perkins
Pettis
Pickle
Pike
Poage
Pressler
Preyer
Price
Quie
Quillen
Railsback
Rangel
Regula
Reuss
Rhodes
Richmond
Rinaldo
Roberts
Robinson
Rodino
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Roush
Rousselot
Roybal
Runnels
Ruppe
Russo
Ryan
St Germain
Santini
Sarasin
Sarbanes
Satterfield
Scheuer
Schneebeli
Schroeder
Schulze
Sebelius
Seiberling
Sharp
Shipley
Shriver
Shuster
Sikes
Simon
Sisk
Skubitz
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Spellman
Spence
Staggers
Stanton, J. William
Stanton, James V.
Stark
Steed
Stephens
Stokes
Stratton
Stuckey
Studds
Talcott
Taylor, Mo.
Taylor, N.C.
Teague
Thompson
Thone
Thornton
Traxler
Treen
Tsongas
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vigorito
Waggonner
Walsh
Wampler
Waxman
Weaver
Whalen
White
Whitehurst
Whitten
Wiggins
Wilson, Bob
Wilson, C. H.
Winn
Wirth
Wolff
Wright
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Tex.
Zablocki
Zeferetti

NAYS—9

Ashbrook
Bennett
Collins, Tex.
Crane
McDonald
Miller, Ohio
Paul
Steiger, Wis.
Symms

NOT VOTING—39

Abzug
Bolling
Burlison, Mo.
Clay
Conlan
Conyers
Diggs
Esch
Evins, Tenn.
Findley
Flynt
Ford, Mich.
Fountain
Giaimo
Hansen
Hawkins
Hébert
Hinshaw
Johnson, Colo.
Jones, Tenn.
Karth
Litton
Neal
O'Hara
Passman
Peyser
Pritchard
Randall
Rees
Riegle
Risenhoover
Slack
Steelman
Steiger, Ariz.
Sullivan
Symington
Vander Veen
Wilson, Tex.
Young, Ga.

The Clerk announced the following pairs:

Mr. Jones of Tennessee with Mr. Conlan.
Ms. Abzug with Mr. Findley.
Mr. Flynt with Mr. Litton.
Mr. Fountain with Mr. Hansen.
Mr. Giaimo with Mr. O'Hara.
Mr. Passman with Mr. Esch.
Mr. Hébert with Mr. Pritchard.
Mr. Hawkins with Mr. Risenhoover.
Mr. Neal with Mr. Steelman.
Mr. Slack with Mrs. Sullivan.
Mr. Young of Georgia with Mr. Peyser.
Mr. Randall with Mr. Symington.
Mr Burlison of Missouri with Mr. Vander Veen.

Mr. Diggs with Mr. Riegle.

Mr. Clay with Mr. Rees.

Mr. Ford of Michigan with Mr. Steiger of Arizona.

Mr. Conyers with Mr. Karth.

Mr. Evins of Tennessee with Mr. Charles Wilson of Texas.

Mr. SYMMS and Mr. ASHBROOK changed their vote from "yea" to "nay."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

AMENDMENTS IN DISAGREEMENT

The SPEAKER. The Clerk will report the first amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 3: Page 4, line 5, strike out "$241,000,000" and insert "$251,000,000,".

MOTION OFFERED BY MR. M'FALL

Mr. McFALL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. McFALL moves that the House recede from its disagreement to the amendment of the Senate numbered 3 and concur therein with an amendment, as follows: In lieu of the matter stricken and inserted by said amendment, insert the following: "$241,000,000, of which not to exceed $5,000,000 may be transferred to the appropriation 'Pollution Fund'."

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment is disagreement.

The Clerk read as follows:

Senate amendment No. 7: Page 8, line 24, strike out: "$355,000,000" and insert: "$401,000,000, of which $15,000,000, shall be for airport planning grants: *Provided*, That the sum appropriated for airport planning grants shall be available for obligation upon the date of enactment of this Act: *Provided further*, That the amounts appropriated for airport planning grants shall be available only upon enactment into law of appropriate authorizing legislation."

MOTION OFFERED BY MR. M'FALL

Mr. McFALL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. McFALL moves that the House recede from its disagreement to the amendment of the Senate numbered 7 and concur therein with an amendment, as follows: In lieu of the matter stricken and inserted by said amendment, insert the following: "$355,000,000; and for airport planning grants $15,000,000 to be derived from the Airport and Airway Trust Fund to remain available until expended: *Provided*, That the sum appropriated for airport planning grants shall be available for obligation upon the date of enactment of this Act."

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 10: Page 12, line 14, insert: "*Provided*, That section 163 of Public Law 93–87 is hereby amended to include project at Terre Haute, Indiana."

MOTION OFFERED BY MR. M'FALL

Mr. McFALL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. McFALL moves that the House recede from its disagreement to the amendment of the Senate No. 10 and concur therein.

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 12: Page 15, line 7, insert:

BALTIMORE-WASHINGTON PARKWAY

For necessary expenses, not otherwise provided, to carry out the provisions of the Federal-Aid Highway Act of 1970, for the Baltimore-Washington Parkway, to remain available until expended, $3,000,000 to be derived from the "Highway Trust Fund" and to be withdrawn therefrom at such times and in such amounts as may be necessary.

MOTION OFFERED BY MR. M'FALL

Mr. McFALL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. McFALL moves that the House recede from its disagreement to the amendment of the Senate numbered 12 and concur within an amendment, as follows: In lieu of the sum named in said amendment insert the following: "$1,500,000".

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 26: Page 18, line 20 strike out: "Corporation." and insert: "Corporation, including $68,000,000 which shall be available for the payment of additional operating expenses of the National Railroad Passenger Corporation, resulting from the operation, maintenance, and ownership or control of the Northeast Corridor pursuant to title VI of the Railroad Revitalization and Regulatory Reform Act of 1976, and not more than $105,700,000 shall be available for capital improvements: *Provided, however*, That none of the funds herein appropriated shall be used for the lease or purchase of passenger motor vehicles or for the hire of vehicle operators for any officer or employee, other than the President, of the National Railroad Passenger Corporation, excluding the lease of passenger motor vehicles for those officers or employees while in official travel status."

MOTION OFFERED BY MR. M'FALL

Mr. McFALL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. McFALL moves that the House recede from its disagreement to the amendment of the Senate numbered 26 and concur therein with an amendment, as follows: In lieu of the matter stricken and inserted by said amendment, insert the following: "Corporation, including $62,600,000 which shall be available for the payment of additional operating expenses of the National Railroad Passenger Corporation, resulting from the operation, maintenance, and ownership or control of the Northeast Corridor pursuant to title VII of the Railroad Revitalization and Regulatory Reform Act of 1976, and not more than $93,100,000 shall be available for capital improvements: *Provided, however*, That none of the funds herein appropriated shall be used for the lease or purchase of passenger motor vehicles or for the hire of vehicle operators for any officer or employee, other than the President, of the National Railroad Passenger Corporation, including the lease of passenger motor vehicles for those officers or employees while in official travel status."

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 27: Page 20, line 8, insert:

RAILROAD REHABILITATION AND IMPROVEMENT FINANCING FUNDS

The Secretary of Transportation is hereby authorized to expend proceeds from the sale of Fund anticipation notes to the Secretary of the Treasury and any other monies deposited in the Railroad Rehabilitation and Improvement Fund pursuant to sections 502, 505–507 and 509 of the Railroad Revitalization and Regulatory Reform Act of 1976 (Public Law 94–210) for the uses authorized for the Fund, in amounts not to exceed $70,000,000, to remain available until September 30, 1978. The Secretary of Transportation is also authorized to issue to the Secretary of the Treasury notes or other obligations pursuant to section 512 of the Railroad Revitalization and Regulatory Reform Act of 1976 (Public Law 94–210) in such amounts and at such time as may be necessary to pay any amounts required pursuant to the guarantee not to exceed $400,000,000 principal amount of obligations under sections 511 through 513 of such Act, such authority to exist as long as any such guaranteed obligation is outstanding, and to make such expenditures from the Obligation Guarantee Fund established pursuant to section 511(b) of such act as may be necessary to carry out the program in sections 511 through 513 of such Act."

MOTION OFFERED BY MR. M'FALL

Mr. McFALL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. McFALL moves that the House recede from its disagreement to the amendment of the Senate numbered 27 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert the following:

"Railroad Rehabilitation and Improvement

FINANCING FUNDS

"The Secretary of Transportation is hereby authorized to expend proceeds from the sale of Fund anticipation notes to the Secretary of the Treasury and any other monies deposited in the Railroad Rehabilitation and Improvement Fund pursuant to sections 502, 505–507 and 509 of the Railroad Revitalization and Regulatory Reform Act of 1976 (Public Law 94–210) for the uses authorized for the Fund, in amounts not to exceed $70,000,000, to remain available until September 30, 1978. The Secretary of Transportation is also authorized to issue to the Secretary of the Treasury notes or other obligations pursuant to section 512 of the Railroad Revitalization and Regulatory Reform Act of 1976 (Public Law 94–210) in such amounts and at such time as may be necessary to pay any amounts required pursuant to the guarantee not to exceed $400,000,000 principal amount of obligations under sections 511 through 513 of such act, such authority to exist as long as any such guaranteed obligation is outstanding: *Provided*, That the aggregate principal amount of guarantees and commitments to guarantee obligations under section 511 of Public Law 94–210 shall not exceed $400,000,000."

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 36: Page 24, line 24, insert: ", of which not to exceed $300 shall be used for official reception and representation expenses."

MOTION OFFERED BY MR. M'FALL

Mr. McFALL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. McFall moves that the House recede from its disagreement to the amendment of the Senate numbered 36 and concur therein.

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 40: Page 28, line 3, insert:

"DEPARTMENT OF THE TREASURY

"OFFICE OF THE SECRETARY

"INVESTMENT IN FUND ANTICIPATION NOTES

"For the acquisition, in accordance with section 509 of the Railroad Revitalization and Regulatory Reform Act of 1976 (Public Law 94-210), of fund anticipation notes, $70,000,000, to remain available until September 30, 1978."

MOTION OFFERED BY MR. M'FALL

Mr. McFALL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. McFall moves that the House recede from its disagreement to the amendment of the Senate numbered 40 and concur therein.

The motion was agreed to.

The SPEAKER. The Clerk will report the last amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 61: Page 35, line 4, insert:

"Sec. 317. None of the funds provided under or included in this Act shall be available for the planning or execution of programs, the obligations for which are in excess of $7,200,000,000 for 'Federal-Aid Highways' and for 'Highway Safety Construction Programs' in fiscal year 1977: *Provided*, That this limitation shall not apply to obligations for emergency relief under section 125 of title 23 U.S.C., special urban high density traffic program under section 146 of title 23 U.S.C., and special bridge replacement program under section 144 of title 23 U.S.C.".

MOTION OFFERED BY MR. M'FALL

Mr. McFALL. Mr. Speaker, I offer a motion. This is the motion that is in controversy, Mr. Speaker.

The Clerk read as follows:

Mr. McFall moves that the House recede from its disagreement to the amendment of the Senate numbered 61 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert the following:

Sec. 317. None of the funds provided under or included in this Act shall be available for the planning or execution of programs, the obligations for which are in excess of $7,200,000,000 for "Federal-Aid Highways" and for "Highway Safety Construction Programs" in fiscal year 1977: *Provided*, That this limitation shall not apply to obligations for emergency relief under section 125 of title 23 U.S.C., special urban high density traffic program under section 146 of title 23 U.S.C., and special bridge replacement program under section 144 of title 23, U.S.C.: *Provided further*, That this limitation shall not become effective if subsequent legislation containing an obligation limitation on the Federal-Aid Highways and Highway Safety Construction Programs for fiscal year 1977 is enacted into law by September 30, 1976.

CALL OF THE HOUSE

Mr. ROUSH. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. McFALL. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 592]

Abzug
Ashley
Biaggi
Bolling
Burlison, Mo.
Burton, John
Chisholm
Clay
Cleveland
Collins, Ill.
Conlan
Conyers
Crane
D'Amours
Dellums
Diggs
Downey, N.Y.
Downing, Va.
Esch
Evins, Tenn.
Findley
Flowers
Flynt
Ford, Mich.
Fountain
Fraser
Frey
Giaimo
Hansen
Harsha
Hébert
Hinshaw
Holtzman
Jarman
Johnson, Colo.
Jones, Tenn.
Karth
Kastenmeier
LaFalce
Litton
Mathis
Mazzoli
Melcher
Milford
Mitchell, N.Y.
Mollohan
Montgomery
Neal
Nolan
O'Hara
Passman
Patterson, Calif.
Peyser
Preyer
Randall
Rangel
Rees
Rhodes
Riegle
Risenhoover
Rosenthal
Satterfield
Sisk
Slack
Stanton, James V.
Steelman
Steiger, Ariz.
Stokes
Stuckey
Sullivan
Symington
Vander Veen
Waxman
Wiggins
Wilson, C. H.
Wilson, Tex.
Young, Ga.

The SPEAKER. On this rollcall 355 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

CONFERENCE REPORT ON H.R. 14234, DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS FOR FISCAL YEAR 1977

The SPEAKER. The Chair recognizes the gentleman from California (Mr. McFall).

Mr. McFALL. Mr. Speaker, I yield myself 5 minutes.

Mr. STAGGERS. Mr. Speaker, will the gentleman yield?

Mr. McFALL. I yield to the gentleman from West Virginia.

Mr. STAGGERS. I thank the gentleman for yielding.

Mr. Speaker, I just rise to congratulate the gentleman from California (Mr. McFall) and the gentleman from Massachusetts (Mr. Conte) and all of the members of the committee for the great job they have done on a piece of legislation which I think is so important to America—transportation in America. A good transportation system has been one of the great strengths of America, and is needed today more than any time in history. I urge the Members to vote for this bill as it is presented to the House.

You gentlemen have done a great job on this piece of legislation. I especially want to congratulate all of them on the addition of commuter service from Washington, D.C., to Martinsburg, W. Va.

Mr. McFALL. I thank the gentleman from West Virginia.

Mr. Speaker, I suppose it is inevitable that in the legislative process of developing the budget control act we should have this debate today to determine just exactly how this new legislation is going to work. The Appropriations Committee and the Budget Committee are taking one point of view and our good friends and colleagues on the Public Works Committee on both sides of the aisle are taking a different point of view.

I think it is important for the Members to make a determination about what we are going to do regarding the control of highway spending and the Budget Act.

Last year we set a limitation on obligations and it was accepted by a substantial vote in this House. A month ago this same issue came up when our bill was on the floor and the Members of this House voted against a ceiling.

So in a sense what we have here is the rubber match where we will determine what the policy of this House should be.

I would like briefly to explain what I am proposing with regard to amendment No. 61. We agreed to bring amendment No. 61 back to the House and offer a motion to recede and concur with the Senate amendment which establishes an obligation ceiling on Federal highway programs. However, after some discussion with my colleagues on the Budget Committee and the Public Works Committee, we agreed to offer a motion to recede and concur in the Senate amendment with an amendment. This is the same as the Senate amendment except we add this proviso:

Provided further, That this limitation shall not become effective if subsequent legislation containing an obligation limitation on the Federal-Aid Highways and Highway Safety Construction Programs for fiscal year 1977 is enacted into law by September 30, 1976.

This amendment will provide the Public Works Committee with an opportunity to set an obligation ceiling for the highway program. It is a good motion. I have reason to believe the other body and the administration would accept this provision.

Mr. Speaker, I ask for an affirmative vote on this motion for one very important reason. I believe that we need this limitation to make our new congressional budget process work. I know that when the gentleman from Washington (Mr. Adams) gets up to explain his position, he will agree with my statement.

In my opinion, the obligation level of $7.2 billion that we have in the budget control resolution means nothing without this limitation in the appropriation bill because there is no way to enforce that spending level without some sort of limitation.

If there is no way of enforcing this projected level of spending, what we will have is a higher priority for highways, a priority that would come first before anything else in the budget process—before health, before education, before defense, and before anything else that is under the budget control act. The highway program would be uncontrolled and unpredictable.

Some of my friends in the House apparently believe section 401(d) of the Budget Act exempts trust fund programs from the budget control process. Of course this is not the case. The gentleman from Washington (Mr. ADAMS) will discuss this contention. Section 401(d) exempts trust fund programs from the back door spending controls. Nowhere in the Budget Act are trust fund programs exempted from the other spending controls. In fact in the conference report on the Budget Act (H. Rept. 93-1101), the managers explicitly state that the exemption is narrow in scope:

> The managers note that these exemptions relate only to the procedures in section [401] and that the programs are fully subject to the Congressional budget process.

It has been said that spending from a trust fund does not affect the Federal budget. Mr. Speaker, the fact is that we cannot have an increase in highway spending without increasing total Federal outlays and debt held by the private sector. The ceiling is not an attack on the highway trust fund. I have always supported the trust fund concept. But there is no magic to highway spending; it counts against the budget outlay ceiling and the deficit just like health and housing and foreign aid.

Those who are interested in mass transit may think that transit substitutions are affected by this limitation. They are not. When mass transit projects are substituted for interstate projects, the money comes out of the general fund. Other provisions in the bill provide funds for this very important program.

Mr. Speaker, I personally feel that, as of today, the ceiling we propose is the practical maximum which can be used in fiscal year 1977. In 5 of the past 6 years, highway obligations have been between $4.4 and $5.2 billion. Only in 1975, when many projects were started under the temporary suspension of State matching requirements, did the level exceed $5.2 billion. Our motion would provide for obligations of up to $7.7 billion.

If we find that the States can move ahead at a rate above $7.7 billion, I would personally advocate more spending for the highway program. We have included a provision in our motion to permit a subsequent revision of this limitation, if we find that more money can and should be spent on highways. However, we should do that consciously and deliberately, as part of the budget process and not in an uncontrollable and unpredictable way.

The SPEAKER. The time of the gentleman from California has expired.

Mr. McFALL. Mr. Speaker, I yield myself 1 additional minute.

Mr. Speaker, it is important that all Members fully understand what can happen if this limitation is not agreed to. Sometime in September, the Congress will agree to the second concurrent resolution. Before that time, we will have completed our work on all of the regular appropriation bills. The total amount of the appropriation bills will be somewhat less than the total budget authority and outlays contained in the resolution. The difference, of course, would relate to appropriations to be provided in supplemental bills. This difference represents the flexibility the Congress needs to meet unforeseen events and contingencies.

There are also several pieces of authorizing legislation which have not, as yet, been enacted, which may require funding. Members will recall that funding for nearly $1 billion of various health programs was deferred in the Labor-HEW bill due to the lack of authorizing legislation. Another $3.2 billion for various education programs was also deferred. If we allow the highway program to go ahead unrestrained, without a specific congressional limitation, and the ceiling gets used up, funding for other important programs will either require a higher ceiling, resulting in a higher deficit, or will be knocked out on a point of order.

We should not put ourselves into the position of having two levels of budget priority—one for highways and a lower level for the rest of the Federal Government; one level held inviolate and another to bear the brunt of any adjustments. This would be a very damaging precedent for the congressional budget process. A precedent which I do not think was intended by the Budget Control Act. It is also providing special treatment for a program which does not need special treatment. I believe the highway program can stand on its own and effectively compete with other programs in the regular budget process.

Mr. Speaker, as the economy slowly emerges from the worst economic recession since the 1930's, most of the Members of this body are deeply concerned about the issue of jobs. When we made our initial recommendation, the question of jobs was foremost on our minds. We recognize the important job-creating effects of the highway program and we feel our recommended ceiling is the maximum amount of obligational authority which can be used by the States during fiscal year 1977. However, as I said earlier, we can raise that ceiling if we find that the States can move ahead at a faster rate and if we, the Congress, decide that is appropriate. I want to emphasize: voting against this motion will not create more jobs; voting for this motion will not reduce the job-creating potential of the program.

My good friends on the Public Works Committee have expressed their sincere concern about the discretionary authority by which the executive could distort the highway program. I have been deeply concerned about this same issue and during our hearings this year, I impressed upon Secretary Coleman, Governor Tiemann, and Under Secretary Lutz how we in the Congress feel about this very important program. We have received assurances from the Department that any action taken to administer this ceiling will be done in consultation with the Public Works and Appropriations Committees of both bodies. Mr. Speaker, these assurances were made in good faith and I believe they represent a sincere commitment on the part of the administration.

Mr. Speaker, our new congressional budget process is now in its first full year of operation. It is part of a growing effort by the Congress of the United States to regain an important legislative power which had partially been lost to the executive—the power of the purse. The process of setting national priorities is closely tied to the budget process. We need this provision to make the new budget process effective and viable.

I ask for a yea vote on this motion.

Mr. CONTE. Mr. Speaker, I yield 5 minutes to the gentleman from Pennsylvania (Mr. SHUSTER).

Mr. SHUSTER. Mr. Speaker, I have great respect for the gentleman from California, who has just spoken.

I would like to specifically address myself to two points which the gentleman has made. First, I believe the gentleman structured the disagreement here as one between the Committee on Public Works and the Committee on Appropriations. I think this House should know that when the vote on this issue occurred in June, 24 members of the Committee on Appropriations voted with us, voted to remove the ceiling.

Therefore, I think it is very clear that this is not simply a clash between two committees, but rather an issue which transcends the two committees.

Second, Mr. Speaker, the distinguished gentleman from California (Mr. McFALL), whom I greatly respect, also made the point that highway spending goes unchecked if we do not impose this ceiling. I would emphasize to the House that not 1 cent can be spent for highways out of the highway trust fund unless the money is there. In fact, it is one of the few programs in this Nation where deficit spending cannot occur.

Indeed, the Secretary of the Treasury has the legal obligation to certify that the funds will be there or the money cannot be spent; so to suggest that the highway spending can go unchecked simply is not the case.

I think the key point here, Mr. Speaker, is that if there are funds in the highway trust fund put there, put there by the highway users, they should be available to be expended for our highways and for our transportation system.

Trust fund money is different from other general fund money because trust fund money is dedicated money. An arbitrary lid denies the taxpayer the use of these funds, and it instead diverts those trust fund dollars, makes them available to be borrowed by the Treasury to fund deficit spending for other, unrelated programs.

Second, Mr. Speaker, it is extremely important, I think, to recognize that by placing such an arbitrary ceiling here we can, in effect, cause an expenditure below the ceiling placed, and many, many States can be hurt by this. Specifically, obligational ceilings can result in actual obligational levels below the ceilings if certain States are unable to obligate in the category selected for full funding by the administration. This means that the need for this can be an expenditure below the ceiling.

Right now, there are 24 States who have already obligated substantial portions of their fiscal 1977 interstate apportionments. These States could be severely limited in the amount of money made available to them. I will have this list at the desk for the Members to read. In addition, there are 35 States which have already obligated substantial portions of fiscal 1976 noninterstate moneys, and they could be seriously hurt by this.

So, I believe, Mr. Speaker, that we are dealing with the integrity of the highway trust fund. We are dealing with a question of integrity as far as the users putting money into that trust fund and expecting that money to be spent on highways.

Last, I would like to make the point that if we adopt this ceiling that it gives the Secretary of Transportation the power to say which programs are going to be funded, how much they are going to be funded by and, in effect, which States are going to get funding and which States are going to have their funding most seriously hurt. I suggest that this Congress does not want to give the Secretary that sole power, that decision, that has been made by this House and by the Congress in the past. We should not abrogate and let the Secretary of Transportation have that much power in the future.

In conclusion, Mr. Speaker, I believe that we should not deny the taxpayer who paid that gasoline tax the use of his tax dollars that he paid into the trust fund, and we should not let trust fund dollars be used—that is, borrowed—by the Treasury to cover up its deficit spending in other, unrelated areas.

Mr. McFALL. Mr. Speaker, I yield 4 minutes to the gentleman from Oregon (Mr. DUNCAN).

Mr. DUNCAN of Oregon. Mr. Speaker, the amendment offered by the gentleman from California to this appropriation bill does not have a great deal of emotional appeal. Indeed, the reason for it and for its importance are technical, even esoteric, and somewhat difficult to understand.

But, I consider it to be one of the most significant votes of this session. At stake is not really a question of the number of dollars to be spent on highways. The gentleman who just preceded me in the well suggested in his argument that the dollar ceiling was arbitrary. I say to the Members that they are the farthest from an arbitrary ceiling that we could possibly have, because the limitation on this bill is the amount estimated at the time as the maximum that could be reasonably utilized by the States. I would suggest that the limitation was imposed by this Congress on these expenditures last year, and I have not heard a single suggestion that a single highway program was impaired by the existence of that ceiling. Indeed, the chairman of the subcommittee of the Committee on Public Works admitted very frankly and honestly in the well a few minutes ago that this was not so.

Mr. HOWARD. Mr. Speaker, will the gentleman yield?

Mr. DUNCAN of Oregon. I yield to the gentleman at this point.

Mr. HOWARD. I thank the gentleman for yielding.

Mr. Speaker, I misunderstood the gentleman's question. The gentleman was asking me whether the limit in this bill had ever been exceeded in expenditures in other years, and the answer to that was "Yes," it certainly has. The States were able to use $7.8 to $7.9 billion in fiscal year 1975. I had misunderstood the question.

Mr. DUNCAN of Oregon. Mr. Speaker, the gentleman has confessed his error in that respect, to his advantage. I suggest that the House should look carefully to the balance of his arguments for further errors, because I would suggest to the Members—further acknowledging what the gentleman from New Jersey has just said—that if the estimate in this bill is incorrect, the committee stands prepared to accept a different, and higher one. Indeed, in the amendment that is being offered, the Committee on Appropriations is prepared to turn this whole question over to the Committee on Public Works to set its own limitation if the one which we have tried to set is in any way improper or incorrect.

So if dollars and committee jurisdiction are not at stake, what is at stake?

In my judgment, it is the integrity of the congressional budget process itself. Seldom has this Congress done anything that has met with such universal approbation in the country as the passage of the Congressional Budget Act. At the same time, universal apprehension has been expressed that this Congress would prove incapable of implementing it. So far, the Congress has proved the doubters wrong. The system is working.

The deficit, frighteningly large as it is, is coming down. This performance by the Congress is bringing credit upon the chairman and the members of the Committee on the Budget, but also on the entire Congress, at a time when we sorely need that credit.

I have no doubt, likewise, of the impact of this budget process on the decline of the rate of inflation. It has not been done easily or painlessly. All of us have had to accept less for our favorite programs than we would like. I have accepted in the Interior Committee a limitation on the forest highways program and rescissions of $178 million of accumulated authorization for forest highways, when roads are the absolute foundation of our forest products industry and the recreation industry. Others in this House have sacrificed, as well.

The SPEAKER. The time of the gentleman from Oregon has expired.

Mr. CONTE. Mr. Speaker, I yield 1 minute to the gentleman from Oregon (Mr. DUNCAN).

Mr. DUNCAN of Oregon. Mr. Speaker, we cannot plug all loopholes here this afternoon in this budget. We cannot limit all entitlement programs at once. But we can take a strong position this afternoon to plug one of the largest and most difficult ones. And if we do so, the next step will be much easier. But if we do not, we may never take the next step, and this exercise in self-discipline will all have been in vain.

I urge every Member's support of the committee's position this afternoon. The Member's vote will not be against highway construction, it will not be against the Committee on Public Works; it will be a vote for fiscal responsibility and sound self-government.

Mr. CONTE. Mr. Speaker, I yield 3 minutes to the gentleman from Michigan (Mr. CEDERBERG).

Mr. CEDERBERG. Mr. Speaker, I rise in support of the position of the gentleman from California (Mr. McFALL) and the ranking minority member of the committee, the gentleman from Massachusetts (Mr. CONTE). I believe what we are dealing with here is the integrity of the budget process, as already has been mentioned. I think the Members will recall that the President sent in a budget of something around $395 billion for this fiscal year, and then in the wisdom of the House—or lack of wisdom, whichever one wants to call it—we are up now to about $413 billion, and that included the ceiling on the trust fund that we are talking about here today.

Mr. Speaker, if we break this ceiling, then I fail to understand how we can possibly do anything other than come up with an increased ceiling in September. I think it is going to be completely inconsistent for Members to vote to break this ceiling and then, in September when it is essential that the ceiling be increased, vote against that ceiling.

I did not vote for the earlier ceiling, and I will probably not vote for the new ceiling, and I think it would be a completely inconsistent position for Members to vote to extend this by an additional $4.5 billion.

To be honest with the Members, we may not spend all of that in the fiscal year 1977. However, it would be substantial, and it would require the breaking of this ceiling by a substantial amount of money.

Let me say also, Mr. Speaker, that I believe there are a great many Members in this body who, when this vote was taken before, did not really quite understand what the process was going to be or what the impact on the budget process which we have developing here in the House would be.

So I would urge all my colleagues, especially those on my side of the aisle, and especially those on the Committee on Appropriations—and I believe most of them understand what happened—to vote for this motion, because it will maintain some semblance of fiscal integrity. Breaking this ceiling would be, in my opinion, absolutely irresponsible fiscally, and I think, as a matter of fact, it would require the President of the United States to veto this bill if it comes in without this spending ceiling, because I do not see how he can possibly stand for another expenditure of $3 billion to $4 billion more than what we have already committed.

Mr. CONTE. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio (Mr. HARSHA).

Mr. HARSHA. Mr. Speaker, I rise in strong opposition to the McFall amendment which, if passed by this body, would accomplish three things: First, reverse the action by this House on June 28; second, delegate to the executive branch the authority to decide to whom and for what purpose highway trust fund receipts will be expended; and third, repeal a portion of the Budget Impoundment and Control Act during the first Congress that has attempted to live within its terms.

As my colleagues will recall, when H.R. 14234 was before this body a month ago, we addressed this precise issue and, by a vote of 251 to 146, stated that we would not break faith with the taxpayers into this fund by directly diverting its moneys into other programs.

Second, I sympathize with my friends who are attempting to put a cap on Federal spending and fully support the achievement of that goal. Normally, the rules of this body do not authorize legislation in an appropriation act. To circumvent these rules they are therefore relegated to specifying an obligational ceiling which in turn results in delegating to the executive branch where and to whom the cuts will be effectuated. Passage of the McFall amendment will grant to OMB and the executive branch the right to pick and choose as between those States and those programs that they in their infinite wisdom decide should receive money for highway and safety construction programs.

Finally, trust funds, such as the highway trust fund, from which over 90 percent of the proceeds are dedicated to those from whom collected, are, by the terms of the Budget Impoundment and Control Act, specifically exempt from appropriation acts obligational control. Therefore, adoption of the McFall amendment constitutes a partial repeal of that act. I am not arguing here that this trust fund is not subject to the congressional budget process. It is, and I assure my colleagues, that our committee has, and will continue to in the future, take the necessary steps to make the program conform to the second concurrent budget resolution.

Mr. Speaker, for all the reasons just stated, I urge my colleagues to join with me in defeating the McFall amendment.

Mr. McFALL. Mr. Speaker, I yield 2 minutes to the gentleman from Alabama (Mr. JONES).

Mr. JONES of Alabama. Mr. Speaker, on a Sunday afternoon I drove out from the airport in Detroit and passed one of the large automobile manufacturing plants. They had a sign showing the temperature and the date.

On this sign they gave the number of vehicles that had been produced in the automobile manufacturing industry; and less than 24 hours after I came back, the number had been increased by over 2,000 vehicles manufactured in 24 hours.

Are we going to continue a program of inhibition so that these vehicles that are manufactured throughout the country are not going to have the accommodation of a highway system that is adequate to accommodate the number of vehicles that are being produced and manufactured?

Mr. Speaker, we are up against a proposition here that is far more important than the gymnastics of what committee is doing this or what committee is doing that. We are confronted with a situation that is profound and is becoming more aggravated every moment we live; and that is, Are we going to manufacture automobiles without knowing what those automobiles can be used for and how they are going to be accommodated?

Mr. Speaker, we are falling way, way behind. We authorized 40,000 miles of interstate in 1956. Since then we authorized only an additional 2,500 miles of interstate highways.

Therefore, Mr. Speaker, let us get about the business of providing for the mobile use of these vehicles and more importantly the people and goods they carry, and let us quit quibbling about how the mechanics are going to be accomplished.

Mr. McFALL. Mr. Speaker, I yield 5 minutes to the gentleman from Washington (Mr. ADAMS).

Mr. ADAMS. Mr. Speaker, I rise in support of the motion to recede and concur with an amendment on amendment No. 61. This motion will continue ceilings on obligations for the Federal-aid highway program. Some limitation on this program is necessary if we are to assure adherence to the binding budget ceilings the Congress will soon consider as part of the second budget resolution for fiscal year 1977. At the same time, the motion specifically provides the Public Works Committee with the opportunity to express its will regarding the size of this ceiling before the fiscal year begins.

The Budget Committee strongly supports this motion. This is one of the most important budget votes this year. The budget process belongs to the whole House. The issue of ceilings on outlays from the highway trust fund is complex and has generated some discussion in recent days. I intend to deal fully with the technical aspects of the issue but first would like to address myself to the broad general aspects of the situation.

What this proposal does not do is to violate the intergity of the trust fund, or diminish the amount of money that is in the trust fund, or permit the diversion of trust fund moneys for other purposes.

What it does do is provide a safeguard against a sudden and devastating increase in the Federal deficit that would be totally unanticipated and particularly difficult to explain.

The highway program can be volatile and unpredictable, with the real possibility of producing such unanticipated increases in the deficit. Our experience in fiscal year 1975 showed that, even as late as 1 week before year's end, no one could anticipate a last minute surge of $1 billion in program commitments.

Establishing safeguards to prevent unanticipated obligations is a commonsense and orderly approach that has been used in many similar programs. It was adopted by the Congress last year for the highway program and had no adverse impact. The phrase "congressional impoundment" has been used to describe the setting of limits. This is a false description. Every appropriation bill and every authorization bill could be called an "impoundment" if setting congressional limits on a program is so defined.

Congress now has a budget procedure, and to make sense of that procedure, we must have some idea of how much money is to be spent each year in every program. Setting a program level in volatile activities such as highways is a means to achieve this necessary predictability. Without this limitation the binding ceiling in the second resolution can press out other congressional programs.

No one is trying to tell the Public Works Committee how much money should be expended from the trust fund in a given year. We would welcome the Public Works Committee setting of a ceiling each fiscal year which the Congress could consider as part of the overall budget process each year. All that is required is for the Public Works Committee to set an annual program level from which the Budget Committee can set outlays, first in the target resolution, and later in the second budget resolution which sets ceilings in the overall Federal outlays for the upcoming fiscal year.

But without any highway ceiling at all, we are vulnerable to sudden and vast increases in the amount of money that Congress must spend. Such unanticipated increases in expenditures will either swell the deficit or crowd out other programs as a result of the fixed ceiling contained in the second budget resolution.

Let me reiterate the fact that, under the unified budget, all expenditures—including those from the highway trust fund—in excess of total Federal revenues will swell the size of the Federal deficit. If total revenues remain as assumed in the budget resolutions and outlays are increased—whether for highways or any purpose—the deficit must be higher or funds must be taken from another category of spending.

There are substantially unused resources in various highway apportionments that could lead to a rise in obligations and consequent outlay increases. In fiscal year 1977, highway funds available for obligation by the States will total at least $11.9 billion and could rise to as much as $14 billion if current spending does not adhere to present estimates. The availability of matching funds through the recently approved public works jobs bill could be the key to a greater use of available highway funds. To the extent this can be anticipated before the fiscal year begins, it can be provided in the second budget resolution, and the McFall motion provides the mechanism by which the obligation ceiling can be modified.

If no control is established, highway program obligations could rise by $4 billion or more above the level projected in the present limitation. With the exemptions provided in the Senate amendment, the proposed limitation could amount to an estimated $7.7 billion, or $1 billion more than the amount requested by the President.

This amount is consistent with construction plans submitted by the State highway department and is a major step toward the full utilization of past impounded balances in an orderly fashion. With the clear directions of the Appropriations Committee, congressional control over program priorities is retained.

The Budget Act intended that the overall budget process apply to trust fund financed programs. The enactment of budget authority for these programs is exempted from the new backdoor spending controls, but this is a limited exemption. The statement of managers on the conference report on the Budget Act legislation covers this clearly:

> The managers note that these exemptions relate only to the procedures in section [401] and that the programs are fully subject to the congressional budget process.

I have appeared before the Members this year again and again asking Members to limit their programs in order to produce control over the many Federal programs, many of which are in the permanent law and are not voted on each year in the appropriations or any other legislative process. You cannot hold the ceiling unless we all restrain ourselves. And it may be hard to do it in any event.

A vote in favor of the motion made by the gentleman from California is a vote to uphold the budget process and I urge my colleagues to join me in voting "aye."

Mr. MAGUIRE. Mr. Speaker, will the gentleman yield?

Mr. ADAMS. I yield to the gentleman from New Jersey.

Mr. MAGUIRE. Mr. Speaker, in view of the limited time remaining to the gentleman from Washington, I wonder if the gentleman from Washington might be yielded 2 additional minutes.

Mr. McFALL. I am sorry, Mr. Speaker, but I do not have the additional time to yield.

Mr. MAGUIRE. Mr. Speaker, I have heard the arguments on both sides. But I am concerned about two things: First, whether the States can plan for the future; and second, whether the formula which apportions money between the States will, in fact, be the same and continue to operate if the gentlemen's—Mr. McFALL and Mr. ADAMS—proposal is adopted by the House here today.

The SPEAKER. The time of the gentleman has expired.

Mr. CONTE. Mr. Speaker, I yield 1 additional minute to the gentleman from Washington (Mr. ADAMS).

Mr. MAGUIRE. The argument has been made that, first of all, States will not be able to plan beyond 1 fiscal year, which is clearly counterproductive and, second, that the formula will cease to apply.

Mr. ADAMS. We do not change in any way the planning process for the future, it can continue and will continue as it has. In the case of the gentleman's State their allocation is available for the next number of years because they usually are in the position of not having allocated their funds.

Mr. McFALL. And the legislative formula would not be changed in any way unless the total obligations were to come near the ceiling. As a practical matter, I do not think the States can use more than $7.7 billion.

The SPEAKER. The time of the gentleman has again expired.

Mr. CONTE. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio (Mr. LATTA).

Mr. LATTA. Mr. Speaker, it is essential that the House support the motion of the chairman of the Department of Transportation Appropriation Subcommittee for the House to recede and concur with an amendment in Senate amendment No. 61, to place a limit on the total amount that can be obligated for certain highway construction programs in fiscal year 1977. This is basically the same kind of limitation that was contained in this bill as it was reported to the House.

There seems to be many misconceptions as to what the effect of an obligation limit would be and the record should be made clear. This limitation would not divert highway trust fund money to other programs, as some suggest. It would not diminish the effectiveness of the highway program or undercut the strength of the highway trust fund. Every highway trust fund dollar will remain available for its intended purpose.

What the amendment will do is to help in setting effective limits on overall Federal outlays for fiscal year 1977 and succeeding fiscal years. If the new budget process is to work, we must be able to place overall controls on Government spending and this includes limitations on spending from trust funds. This is the key to controlling overall Government spending. If there are programs so structured which permit expenditures outside the outlay limitations fixed by the Congress, it is imperative that the Congress take corrective steps forthwith. Without such limitations, the budget process cannot operate as intended.

Without the ceiling proposed by the gentleman from California (Mr. McFALL), outlays for the highway program could run rampant in fiscal year 1977.

Available for obligation by the States in fiscal year 1977 is at least $11.9 billion and that could rise another $4 billion. If trust fund obligations were suddenly to increase by such an amount next fiscal year, this obviously could have an inflationary effect in fiscal year 1977 due to the additional outlays.

To place this program under proper spending levels and help avoid the adverse effects that such additional amounts of deficit spending could have on the Nation's economy, the President in his budget asked for an obligation limitation in the Federal highway program of $6.7 billion for fiscal year 1977. The Budget Committee was in agreement that an obligation limit should be included in the first budget resolution but increased the total to $7.2 billion, the level that a survey of State highway departments indicated would be appropriate. I would emphasize again that the $7.2 billion proposed limitation was the amount that the States have indicated would be sufficient for fiscal year 1977. Thus the limitation would not operate to slow down or impede the highway program. Instead, it would act as a fiscal safeguard and assist in avoiding a potential massive increase in spending, an increase that could add greatly to the deficit for fiscal year 1977 and further fuel the flames of inflation.

The motion to recede and concur proposes an amendment stipulating that the limitation in this bill would be effective only until Congress adopts an obligation ceiling as part of the basic law governing this program provided such a limitation is enacted into law by September 30, 1976. This I believe is fair and reasonable. It means that we will defer to the judgment of the authorizing committees and give them more time to come up with acceptable obligation ceilings for the program. Such limitations would replace the limitation in this appropriation act. The important thing is that we have some sort of acceptable obligation ceiling in place.

Mr. Speaker, I agree with the statement just made by the chairman of the Committee on the Budget. I do not want to repeat the arguments that he has made so well, but I just want to point out to the Members of the House how ridiculous it seems to be making a fight over this question on the highway trust fund and not on the other trust funds contained in this bill. For example, nothing is being said about the limitation put on the airport grants-in-aid trust fund—$355 million. Nobody has said anything about that. Why has it not been discussed and the limitation taken off of it?

Let me read to the Members section 303 on page 30:

> None of the funds provided under this Act shall be available for the planning or execution of programs the obligations for which are in excess of $21,000,000 for "Highway-related safety grants" in fiscal year 1977.

This is a trust fund and it contains a limitation for budgetary purposes. Section 304:

> None of the funds provided under this Act shall be available for the planning or execution of programs the obligations for which are in excess of $129,000,000 in fiscal year 1977 for "State and Community Highway Safety".

This is a trust fund with a limitation. If it is proper in one instance, it is proper in another. If we are going to have any kind of budgetary control, as has been pointed out so well by the chairman of the Committee on the Budget, we have to have a limitation on this trust fund. This is what all the argument is about. There is no raid on the highway trust fund. There is not going to be any diversion of funds. It is going to remain intact. The funds are going to be there when needed. But it is going to come within the budget just like all trust funds and that is all we have been talking about—that we are for a total budget process. Now you can vote to prove it. Support the amendment offered by the gentleman from California.

Mr. McFALL. Mr. Speaker, I yield 8 minutes to the gentleman from New Jersey (Mr. Howard).

Mr. HOWARD. Mr. Speaker, as the year has gone by, this Congress last December voted on a Federal-aid highway bill. This bill was brought to the floor by the Committee on Public Works and Transportation after 13 months of discussion, debate, listening to 168 different witnesses, having testimony from 75 other persons. The bill came to the floor, was debated by this House, and was approved by the Members of the House by a vote of 410 to 7. The House spoke in that instance.

What this bill determined was how much money ought to be available in our cooperative effort with the States to promote transportation in this country, and it was so divided up into categories such as urban systems—money which, incidentally, can be converted into mass transit if the State so desires—interstate, primary, rural, bridge construction, safety measures, off-systems programs. All of these things the Congress wanted to make available to the States so that if they determined in their estimation of priorities that they wanted to move in a certain way on a certain program, and they have done their paperwork, met the environmental needs, and have their matching money, the Secretary of Transportation would then have to provide the Federal share, either 70 or 90 percent. This is the assurance that we gave the States. Here is the whole program. These are their authorizations. Work within them, and we will cooperate.

This amendment before us today states that the Committee on Appropriations can set a ceiling by law and send it down to the Secretary of Transportation. That means that the Secretary not only cannot spend more than that amount of money, cannot give any State any more than it has been authorized either in any category or totally, but the Secretary of Transportation will not be forced to meet the requests that the State sends them.

All bets are off for the people in the rural areas. If their State determines after this passes that it would like to have an offsystem program, for which we have $200 million, that it would like to do something on railroad crossings, and the Secretary of Transportation decides he can spend the $7.2 billion in some other area, he can for the first time say "no" to the States and spend little or no money on that.

In the urban areas where we have a program on urban systems, there is $800 million in this year and billions left over from previous years. If a State determines it wants to match part of that money and convert it to transportation uses for construction of subways and mass transit, the Secretary can, if he wishes, say "no." He can also make determinations between and among the States, giving them some money if they have it coming to them and giving other States little or no money.

It is not surprising that the people supporting this amendment the strongest are the Secretary of Transportation, Mr. Coleman, and the head of the Office of Management and Budget, Mr. Lynn, because we will turn over a personal grant-in-aid program to them so that they can completely ignore the legislation we pass here year after year. Jim Lynn himself said:

> This motion is better than the old Presidential impoundment.

And it is better—better for him, but not better for the States and not better for the needs of the States.

Under the old impoundments, all they could do was hold back money, but in this they have $7.2 billion or $7.7 billion.

To get to the point of the amendment, this motion to recede and concur has been amended and it says if this amendment passes and if the Public Works Committee, the only committee that can authorize how the money can be spent, comes through with a program, then this limitation will be eliminated.

I would like to say this is worse than no amendment at all, because if this passes with the amendment giving total control of the whole program over to the whim of the Secretary of Transportation and the head of the Office of Management and Budget, then if we do come in, as we have plenty of time to do, to legally set a ceiling and say how the money can be spent and build it in before the second budget resolution, what do Members think will happen to that if it passes the House and the Senate? It will be vetoed, because the President and the administration will have total control over the program. Are they then going to voluntarily sign a bill that takes that control away and goes back to congressional control? Of course not.

Orderly procedure is not possible completely. The Budget Committee and others would like to see us spend the same amount of money month by month or quarter by quarter, but let us remember we are going to establish spending that starts October 1. On November 1 many of our States, almost half of them, stop their outside construction, States such as Indiana, Minnesota, Wisconsin, and the States in New England. They do not build roads in November, December, January, and February. The other allocations, however, during those months can be handed out. Then when these Northern States, who have to have a crash summer program, come down to the Secretary of Transportation and say, "Here we are, ready to go," the Secretary of Transportation says: "Sorry, we spent all of our $7.2 billion. Try next year."

Then the States will say: "But we have it coming to us. It has been authorized by law. We have our matching money. We have done our paperwork."

For the first time the administration will be able to say, "We do not have to pay any more attention to the law because the Appropriations Committee and the Budget Committee in the House and in the Senate said in this instance we could ignore the law."

What is basically on the line in this vote, I would say, is not whether we are going to observe the Budget Act. The Public Works Committee has been working completely within the Budget Act and we will continue to do so. What is at stake here is not only whether or not we are going to continue to have a viable Public Works Committee as an authorizing committee but also determine the real determinations on the programs and how the money of the people of the United States is going to be spent and whether it is going to be spent according to the will of the House and the people of the United States or whether the control is going to be transferred downtown to the bureaucracy. That is why, as much for the Congress as for the people of the United States, I urge a "no" vote on this motion.

Mr. CONTE. Mr. Speaker, I yield myself 10 minutes.

Mr. MAHON. Mr. Speaker, will the gentleman yield?

Mr. CONTE. I yield to the gentleman from Texas.

Mr. MAHON. Mr. Speaker, I think we all recognize that a Government cannot endure if it cannot practice some degree of restraint. What we have before us today as we consider the basic issue is this, the intergrity of the budget process.

Mr. Speaker, the Congress found it was unable to restrain spending and the new budget process was created. This is a test of whether or not it will endure. The new budget process is the best present hope for allowing the Congress to do a better job in handling the Federal finances.

Mr. Speaker, I thank the gentleman for yielding in order that I might support the position of the gentleman from California (Mr. McFall), the chairman of the Subcommittee on Transportation of the Committee on Appropriations and those who have spoken in favor of the position of the gentleman from California (Mr. McFall).

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. CONTE. I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Speaker, I just would like to say to the distinguished chairman of the Committee on Appropriations, if we had not voted for that $4 billion public works boondoggle, we would not have this major budget problem today.

Mr. CONTE. Mr. Speaker, I rise in support of the motion by the conference managers to recede and concur with Senate amendment No. 61 to the fiscal 1977 transportation appropriations bill. This amendment restores the original House provision which imposes a $7.2 billion limitation on obligations for the Federal-aid highway program.

This matter was discussed at great length in this Chamber during the consideration of the original House-passed version of this bill. Unfortunately the subject matter was of such complexity and the debate so frequently concentrated on peripheral issues, that it is little wonder if the average Member of this body failed to grasp the probable ramifications of striking the limitation from the bill.

On July 29, 1976, Chairman Mahon, Mr. Cederberg, who serves as ranking minority member of House Appropriations, Chairman McFall, and I sent a "Dear Colleague" which specifically sets out the major points of concern which must not be overlooked in considering the limitation question.

First and most importantly it is essential to begin with the fact that trust fund financed programs are not exempt from the budget process. Expenditure and revenue controls of the new budget process specifically include trust fund financed programs. One of the most uninformed arguments that prevail is that trust fund spending does not affect Federal spending and the budget deficit. Since the adoption of the unified budget in 1968, the Treasury Department administers the budget on a consolidated basis, which allows for interfund borrowing and General Treasury repayment plus interest. Accordingly, spending from a trust fund does affect the economy and the Federal debt held by the private sector. There is no question about the fact that trust fund spending has the same impact on the budget as spending from the general fund.

The $7.2 billion limitation is not an arbitrary figure. It is the same figure which was adopted in the fiscal year 1976 appropriations bill and $500 million above the administration request for this year's bill.

I should like to note that as of June 30, 1976, the States were unable to obligate their $7.2 billion level. This surely supports the fact that the same figure for 1977 would be adequate. In fiscal year 1977, more than $11.9 billion will be available for obligation to States—$3.8 billion will become available October 1, 1976, along with $8.9 billion which is already available from prior years.

The budget resolution (H. Con. Res. 611) contains this $7.2 billion limitation. It is clear that additional outlays will add to our Federal deficit.

This limitation is most appropriate. It is the only check the Congress has on funding for these programs that otherwise would only superficially touch the appropriations process. The Public Works Committee was silent on this issue throughout the hearings on the budget resolution, with the exception of one sentence on page 492 of the 700-page hearing transcript—and throughout the floor consideration of the budget resolution (H. Con. Res. 611). We had no alternative but to place this limitation in our bill. It is my hope that next year the Public Works Committee will take the lead in this matter to insure the existence of an adequate highway limitation ceiling throughout fiscal year 1978.

I have continually heard the false allegation that this amendment is an attempt to turn over the highway program to the Secretary of Transportation to deal with at his discretion regardless of congressional intent. On this point I should like to review the report language in the House report on this matter at pages 25–26:

> It is not the intent of the committee that the limitation imposed under section 316 and the provisions of section 317 be used by the Secretary as discretionary authority to distort the priorities established in the Federal Highway Legislation. For example, it is not intended that the Secretary set aside all or a major portion of the unobligated interstate funds available in fiscal year 1977 merely to comply with these provisions and in so doing severely limit the availability of non-interstate funds.
>
> Rather, the Secretary should take only the action necessary, consistent with the intent of Congress, to insure that a program level of $7.2 billion is achieved, consistent with each State's highway program abilities and priorities.

I am thoroughly satisfied that Secretary Coleman will follow this language to the letter.

Under our unified budget, all sources of Federal revenues and expenditures are taken into account to determine our deficit or surplus. Red ink does not distinquish between trust fund and general fund moneys—if it did, our whole scheme of the unified budget jointly maintained by the Authorization, Budget, and Appropriations Committees, would be superfluous. We must maintain the integrity of the Appropriations budget process. For these reasons, it is essential that this limitation be preserved in this conference report.

Mr. Speaker, I would like now to read a letter received, together with my chairman, the gentleman from California (Mr. McFall), on August 2, 1976, from Secretary Coleman of the Transportation Department:

The Secretary of Transportation,
Washington, D.C., August 2, 1976.

Hon. John J. McFall,
House of Representatives,
Washington, D.C.
Hon. Silvo O. Conte,
House of Representatives,
Washington, D.C.

Gentlemen: This is in response to your request for the Department's views on the Conference Report on H.R. 14234, the FY 1977 Department of Transportation and Related Agencies Appropriation Act. Specifically, you have requested the Administration's views on the motion which Mr. McFall plans to offer to recede and concur with an amendment to Senate Amendment Number 61.

The Administration strongly supports this motion which would establish a limitation on obligations for Federal-Aid highway construction programs for FY 1977 and assure that they are not exempt from the same comprehensive budget review process to which other Federal programs are subjected. Furthermore, such a limitation is essential in order to maintain the Federal fiscal discipline that both Congress and the Administration believe is so necessary at this time.

Without such a limitation, over $12 billion in Federal-Aid highway funds would be available for obligation in FY 1977. Obligations of this magnitude would increase the President's budget proposals by $5 billion. Furthermore, they would exceed by as much as $4.5 billion the obligation levels for these programs contemplated in the First Concurrent Budget Resolution approved by the Congress. Such action would generate an unnecessary and ill-advised increase in the FY 1977 Federal deficit and even larger uncontrollable expenditure increases in FY 1978 and FY 1979.

I want, in particular, to address one argument that has been raised in opposition to this limitation—that it would somehow create the opportunity for the Secretary of Transportation to pervert the Federal-Aid highway program by allocating money solely in his discretion. I can assure you this is *not* the intention of the Department, nor, as you know, is it the intention of the Appropriations Committee.

The House Committee Report on H.R. 14234 (House Report 94-1221), states clearly that the Secretary should not use this limitation as discretionary authority to distort the priorities in the Federal highway legislation. The Department has long supported the formula approach incorporated into the highway authorizing legislation and plans to administer this ceiling to provide all States with the opportunity to advance their highway program in an orderly manner.

As Secretary of Transportation, I am the first to want prompt enactment of the FY 1977 DOT Appropriations Act, thus enabling important programs for airport development grants, passenger rail improvements in the Northeast Corridor, implementation of the 200-mile zone fisheries conservation legislation, METRO grants, and branch line rail continuation subsidies to move forward effectively and in timely fashion. However, in view of the paramount need for maintaining fiscal responsibility in all Federal programs as well as the need to avoid disrupting a balanced transportation policy by exempting some programs and not others from a comprehensive budget review process, I will unfortunately have to recommend that the President veto DOT Appropriations legislation if it does not include an obligation ceiling such as that provided by Amendment Number 61. As you know, OMB Director Lynn has already indicated that he would concur in such a recommendation.

Thank you for the opportunity to present these views.

Sincerely,
William T. Coleman, Jr.

Mr. Speaker, I urge my colleagues to safeguard the integrity of our budget process and support the amendment to restore the limitation on highway obligations.

All I ask is, what do you want—diamonds?

Mr. HOWARD. Mr. Speaker, will the gentleman yield?

Mr. CONTE. I yield to the gentleman from New Jersey.

Mr. HOWARD. Mr. Speaker, I am sure the gentleman would agree with me that budget deficits and actual deficits have nothing to do with this amendment. I would like to ask the gentleman, since he stated that the Secretary has no intention of changing the law that the Congress passed in distributing this money, would the gentleman agree with me that if this amendment passes, there is no legal requirement that, within the overall spending, that the Secretary observe the law?

The SPEAKER. The time of the gentleman from Massachusetts (Mr. Conte) has expired.

Mr. CONTE. Mr. Speaker, I yield myself 1 additional minute.

The SPEAKER. The gentleman from Massachusetts (Mr. Conte) is recognized for 1 minute.

Mr. CONTE. All I can say is that Secretary of Transportation Coleman is a decent, honorable, trustworthy man, and I take him at his word.

Mr. HOWARD. Mr. Speaker, in response to the gentleman, I would like to say that the Secretary does have plans.

Mr. McFALL. Mr. Speaker, I yield 2 minutes to the gentleman from Maryland (Mr. Mitchell).

Mr. MITCHELL of Maryland. Mr. Speaker, I rise in support of the position being taken by the distinguished chairman of the Appropriations Subcommittee and by the chairman of the Budget Committee. I will vote to place a limitation on next year's obligations in the Federal-aid highway program.

This position is contrary to the one I took when the House had this limitation under consideration during the debate on the transportation appropriations bill. During the interim, I have carefully studied the relationships between the highway program and our evolving congressional budget process and reached the conclusion that such a limitation is necessary to assure the effective operation of the budget process.

Highway program obligations have proven to be most volatile in the past. Clear evidence of this came in the closing days and hours of fiscal year 1975, when careful estimates of program activity were unexpectedly exceeded by more than a billion dollars. This kind of unpredictability run counter to the objectives of careful budgeting. Once an overall budget ceiling has been established, an increase in a program area such as highways would have to be at the expense of outlays in some other program that had also been assumed as part of the process of arriving at overall ceilings. Under our unified budget process, this must be the case, and I do not consider it to be fair for highway expenditures, however worthy the projects may be, to have this priority over other more discretionary elements in our budget package.

I am, of course, concerned that highway construction be used to maximum advantage in stimulating employment as part of the congressionally developed economic recovery program. The amendment offered by the gentleman from California would permit a reevaluation of the highway program needs in advance of the second budget resolution for fiscal year 1977. If additional job-creating highway spending is possible, perhaps with the use of matching funds provided in the Local Public Works Employment Act, it could be accommodated in the budget resolution. The important factor from the overall budget perspective is that the amount of highway spending must be a predictable, known, quantity in order to preserve the total statement of priorities that goes into a budget resolution. For this reason, I support the proposed amendment to the conference agreement.

Mr. McFALL. Mr. Speaker, I yield 1 minute to the gentleman from New York (Mr. RANGEL).

Mr. CONTE. Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. RANGEL).

Mr. RANGEL. Mr. Speaker, this Congress must today help shatter the myth that highway trust funds are separate and apart from our national interests and our national responsibilities.

The motoring public is still a part of the general public and their needs are not restricted to the expansion of our highway systems. Millions of Americans are locked into the cities and inner cities throughout this country, unable to reach employment opportunities and recreational facilities. Others are forced to take their cars on the public highways because adequate mass transportation is not available.

In the past, billions of dollars have been spent on the highway systems throughout this country. But today many of the mayors are exercising their option of diverting some of the highway trust funds to meet the mass transportation needs of their cities.

When this issue of establishing a limitation on the Federal-aid highway program was under consideration by the House several months ago, I was under the impression that such a ceiling would restrict the funds available for States and local communities to exercise their legal option to transfer funds from unnecessary and unwanted interstate highway projects to mass transit substitute projects. In view of my support for this concept, I voted against the retention of such a ceiling.

However, after examining the conference report on H.R. 14234, I find that such interstate transfer funds are provided by separate sections of this bill. In part, these changed circumstances stem from the recently enacted Federal-Aid Highway Act of 1976 in that new interstate transfer funds are provided through direct appropriations action. In effect, under the new congressional budget control process, excess funds which are allocated to highway spending help to diminish the funds which are available now and in future years for allocation for interstate transfer mass transit projects in New York City and in other cities.

As a supporter of the new congressional budget control process, I recognize the need for Congress to make difficult choices between competing Federal programs. Consequently, in view of the above, I am voting today to support the fiscal year 1977 highway obligation ceiling.

Mr. HOWARD. Mr. Speaker, will the gentleman yield?

Mr. RANGEL. I yield to the gentleman from New Jersey.

Mr. HOWARD. Mr. Speaker, I would like to say that the Subcommittee on Surface Transportation was very happy to change its interstate transfer provision in behalf of the urban areas.

Would the gentleman also not agree that there is $800 million now, with a $1 billion backlog, available to the States under the urban systems programs which the States may, if they wish, transfer over to mass transit programs for construction, maintenance, and improvements of subway system, for building mass transit systems, and for buying of buses, and that would legally be in jeopary if this amendment carried?

The SPEAKER. The time of the gentleman from New York (Mr. RANGEL) has expired.

Mr. CONTE. Mr. Speaker, I yield myself 1 minute so I may answer the question asked by the gentleman from New Jersey (Mr. HOWARD).

Mr. Speaker, in answer to that question, we have held hearings on that particular point, and I believe only about $50 million has been used in that category. There is plenty of money there, and there is nothing in jeopardy, as I see it.

Mr. HOWARD. Mr. Speaker, if the gentleman will yield, there is no way that can be in jeopardy.

Mr. McFALL. Mr. Speaker, I move the previous question on the motion.

The previous question was ordered.

The SPEAKER. The question is on the motion offered by the gentleman from California (Mr. McFALL).

The question was taken; and the Speaker being in doubt, the House divided, and there were—yeas 85, nays, 49.

Mr. HOWARD. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 226, nays 167, not voting 39, as follows:

[Roll No. 593]

YEAS—226

Adams
Addabbo
Alexander
Allen
Anderson, Ill.
Armstrong
Ashley
Aspin
AuCoin
Badillo
Baldus
Baucus
Bauman
Beard, Tenn.
Bell
Bennett
Biaggi
Biester
Bingham
Blanchard
Boland
Bonker
Brademas
Breckinridge
Brodhead
Broomfield
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill
Burgener
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Byron
Carney
Carter
Cederberg
Chisholm
Clawson, Del
Cohen
Collins, Ill.
Collins, Tex.
Conable
Conte
Cornell
Cotter
Coughlin
Danielson
de la Garza
Delaney
Dellums
Derrick
Devine
Dickinson
Dodd
Downey, N.Y.
Drinan
Duncan, Oreg.
Duncan, Tenn.
du Pont
Early
Edgar
Edwards, Ala.
Edwards, Calif.
Emery
Erlenborn
Eshleman
Evans, Colo.
Evans, Ind.
Fenwick
Fish
Fisher
Flood
Foley
Ford, Tenn.
Forsythe
Frenzel
Frey
Giaimo
Gibbons
Goodling
Gradison
Gude
Guyer
Haley
Hall, Ill.
Hamilton
Hanley
Hannaford
Harrington
Harris
Hayes, Ind.
Hays, Ohio
Hechler, W. Va.
Heckler, Mass.
Hicks
Holt
Holtzman
Horton
Hungate
Hutchinson
Hyde
Ichord
Jacobs
Jarman
Jeffords
Jordan
Kastenmeier
Kemp
Kindness
Koch
Krebs
LaFalce
Latta
Leggett
Lehman
Lent
Lloyd, Calif.
Long, La.
Long, Md.
Lujan
Lundine
McClory
McCormack
McDade
McEwen
McFall
McHugh
McKay
McKinney
Madigan
Maguire
Mahon
Martin
Mazzoli
Meeds
Metcalfe
Michel
Mikva
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Moorhead, Calif.
Moorhead, Pa.
Mosher
Moss
Mottl
Natcher
Nedzi
Obey
O'Neill
Pattison, N.Y.
Paul
Pepper
Perkins
Pettis
Pickle
Poage
Pritchard
Quie
Quillen
Railsback
Rangel
Regula
Reuss
Rhodes
Richmond
Rogers
Roncalio
Rooney
Rosenthal
Roush
Rousselot
Roybal
Runnels
Russo
Sarbanes
Scheuer
Schneebeli
Schroeder
Sebelius
Seiberling
Sharp
Shipley
Shriver
Sikes
Simon
Sisk
Skubitz
Solarz
Spellman
Staggers
Stanton, J. William
Stark
Steiger, Wis.
Stokes

Stratton
Studds
Symms
Talcott
Teague
Thompson
Thornton
Treen
Tsongas
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vigorito
Weaver
Whalen
Wilson, Bob
Wirth
Wolff
Wydler
Wylie
Yates
Yatron
Young, Alaska
Zablocki
Zeferetti

NAYS—167

Abdnor
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Archer
Ashbrook
Bafalis
Beard, R.I.
Bedell
Bergland
Bevill
Blouin
Boggs
Bowen
Breaux
Brinkley
Brooks
Buchanan
Burke, Calif.
Burton, John
Burton, Phillip
Butler
Carr
Chappell
Clancy
Clausen, Don H.
Cleveland
Cochran
Corman
Crane
D'Amours
Daniel, Dan
Daniel, R. W.
Daniels, N.J.
Davis
Dent
Derwinski
Dingell
Downing, Va.
Eckhardt
Eilberg
English
Fary
Fithian
Flowers
Ford, Mich.
Fraser
Fuqua
Gaydos
Gilman
Ginn
Goldwater
Gonzalez
Grassley
Green
Hagedorn
Hall, Tex.
Hammerschmidt
Harkin
Harsha
Hawkins
Hefner
Heinz
Helstoski
Henderson
Hightower
Hillis
Holland
Howard
Howe
Hubbard
Hughes
Jenrette
Johnson, Calif.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Kasten
Kazen
Kelly
Ketchum
Keys
Krueger
Lagomarsino
Landrum
Levitas
Lloyd, Tenn.
Lott
McCollister
Madden
Mann
Mathis
Matsunaga
Melcher
Meyner
Mezvinsky
Milford
Miller, Calif.
Miller, Ohio
Mills
Mineta
Minish
Mink
Montgomery
Moore
Morgan
Murphy, Ill.
Murphy, N.Y.
Murtha
Myers, Ind.
Myers, Pa.
Nichols
Nix
Nolan
Nowak
Oberstar
O'Brien
Ottinger
Patten, N.J.
Patterson, Calif.
Pike
Pressler
Preyer
Price
Rinaldo
Risenhoover
Roberts
Robinson
Rodino
Roe
Rose
Rostenkowski
Ruppe
Ryan
St Germain
Santini
Sarasin
Satterfield
Schulze
Shuster
Smith, Iowa
Smith, Nebr.
Snyder
Spence
Stanton, James V.
Steed
Stephens
Stuckey
Taylor, Mo.
Taylor, N.C.
Thone
Traxler
Waggonner
Walsh
Wampler
Waxman
White
Whitehurst
Whitten
Wilson, C. H.
Winn
Wright
Young, Fla.
Young, Tex.

NOT VOTING—39

Abzug
Bolling
Burlison, Mo.
Clay
Conlan
Conyers
Diggs
Esch
Evins, Tenn.
Fascell
Findley
Florio
Flynt
Fountain
Hansen
Hébert
Hinshaw
Johnson, Colo.
Jones, Tenn.
Karth
Litton
McCloskey
McDonald
Neal
O'Hara
Passman
Peyser
Randall
Rees
Riegle
Slack
Steelman
Steiger, Ariz.
Sullivan
Symington
Vander Veen
Wiggins
Wilson, Tex.
Young, Ga.

The Clerk announced the following pairs:

On this vote:

Ms. Abzug for, with Mr. Jones of Tennessee, against.

Mr. Hansen for, with Mr. Fountain against.

Until further notice:

Mr. Florio with Mr. Conlan.

Mr. Hébert with Mr. Evins of Tennessee.

Mr. Slack with Mr. Findley.

Mrs. Sullivan with Mr. Peyser.

Mr. Randall with Mr. Esch.

Mr. Burlison of Missouri with Mr. Vander Veen.

Mr. Flynt with Mr. Rees.

Mr. Neal with Mr. McCloskey.

Mr. Passman with Mr. Steelman.

Mr. Conyers with Mr. Karth.

Mr. Diggs with Mr. Symington.

Mr. Clay with Mr. Riegle.

Mr. Fascell with Mr. Steiger of Arizona.

Mr. Young of Georgia with Mr. Wiggins.

Mr. Litton with Mr. O'Hara.

Mr. McDonald with Mr. Charles Wilson of Texas.

Mr. WAXMAN changed his vote from "yea" to "nay."

So the motion was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider the votes by which action was taken on the several motions was laid on the table.

GENERAL LEAVE

Mr. McFALL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and include pertinent extraneous material and tables, on the conference report on the bill, H.R. 14234 just agreed to.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Roddy, one of his secretaries.

PERMISSION FOR COMMITTEE ON RULES TO FILE CERTAIN PRIVILEGED REPORTS

Mr. PEPPER. Mr. Speaker, I ask unanimous consent that the Committee on Rules may have until midnight tonight to file certain privileged reports.

The SPEAKER. Is there objection to the request of the gentleman from Florida?

There was no objection.

AUTHORIZING APPROPRIATIONS FOR THE INDIAN CLAIMS COMMISSION FOR FISCAL YEAR 1977

Mr. PEPPER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1210 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. Res. 1210

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 11909) to authorize appropriations for the Indian Claims Commission for fiscal year 1977. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interior and Insular Affairs, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Interior and Insular Affairs now printed in the bill as an original bill for the purpose of amendment under the five-minute rule and all points of order against said substitute for failure to comply with the provisions of clause 7, rule XVI are hereby waived. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions. After the passage of H.R. 11909, the Committee on Interior and Insular Affairs shall be discharged from the further consideration of the bill S. 2981, and it shall then be in order in the House to move to strike out all after the enacting clause of the said Senate bill and insert in lieu thereof the provisions contained in H.R. 11909 as passed by the House.

The SPEAKER. The gentleman from Florida (Mr. Pepper) is recognized for 1 hour.

Mr. PEPPER. Mr. Speaker, I yield 30 minutes to the able gentleman from Mississippi (Mr. Lott), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 1210 provides for the consideration of H.R. 11909, a bill authorizing appropriations for the Indian Claims Commission for fiscal year 1977. The resolution provides for 1 hour of general debate following which the bill will be read for amendment under the 5-minute rule. The rule makes in order an amendment in the nature of a substitute recommended by the Committee on Interior and Insular Affairs which will be considered as an original bill for the purpose of amendment under the 5-minute rule. All points of order against the substitute for failure to comply with the provisions of clause 7, rule XVI, the germaneness rule, are waived.

The waiver of the germaneness rule is necessary because the subject matter of the substitute goes beyond the scope of H.R. 11909 as introduced. The bill authorizes the appropriations of necessary sums to carry out the Indian Claims Commission Act for fiscal year 1977. The committee amendment in the nature of a substitute not only authorizes the appropriation of funds for fiscal year 1977, but extends the life of the Commission for 3½ years, provides for the transfer of pending cases to the Court of Claims prior to the expiration of the Commission, and requires semiannual status reports to the Congress. While there is no question that these additional items are within the jurisdiction of the Interior Committee, the recommended committee amendment goes beyond the intent of H.R. 11909 as introduced. Consequently, the waiver is necessary.

The rule also provides that after passage of H.R. 11909, the Committee on Interior and Insular Affairs is discharged from the further consideration of a similar Senate bill, S. 2981, and it shall then be in order to strike all after the enacting clause of the Senate bill and insert in lieu thereof the provisions of H.R. 11909 as passed by the House.

Mr. Speaker, there was some testimony in opposition to this bill before the Committee on Rules. However, the committee did vote to grant a rule, and I would urge my colleagues to adopt House Resolution 1210 so that the merits of H.R. 11909 may be debated by the full membership of the House.

Mr. LOTT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the gentleman from Florida has stated that this is a 1-hour, open rule providing for the consideration of H.R. 11909, authorizing appropriations for the Indian Claims Commission for fiscal year 1977. The rule makes in order the amendment in the nature of a substitute recommended by the Committee on Interior and Insular Affairs now printed in the bill as an original bill for purposes of amendment. All points of order against this substitute for failure to comply with Rule XVI, clause 7, relating to germaneness are waived. After the passage of H.R. 11909, the rule makes it in order to move to strike all after the enacting clause of S. 2981 and insert in lieu thereof the provisions of H.R. 11909 as passed by the House.

This legislation extends the life of the Indian Claims Commission to September 30, 1980, and authorizes $1,650,000 for fiscal 1977. The Commission is required to certify to the Court of Claims, on or before September 30, 1979, all cases which cannot be finally adjudicated by the 1980 termination date. Further, the bill directs the Commission to file semiannual, rather than annual, reports to Congress and to list in its semiannual report for July 1979, all cases which will be transferred to the Court of Claims.

I am advised the administration supports the enactment of this legislation.

There are objections to extending the life of the Commission, and these objections are not without some justification. However, the Commission has made significant progress recently toward completing the adjudication of all claims pending on the dockets. I know that this will be discussed, and I urge the adoption of this rule so that we may proceed with the consideration of the Indian Claims Commission authorization.

Mr. PEPPER. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER. The question is on the resolution.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. ROUSSELOT. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 391, nays 0, not voting 41, as follows:

[Roll No. 594]

YEAS—391

Abdnor
Adams
Addabbo
Alexander
Allen
Ambro
Anderson, Ill.
Andrews. N.C.
Andrews, N. Dak.
Annunzio
Archer
Armstrong
Ashbrook
Ashley
Aspin
AuCoin
Badillo
Bafalis
Baldus
Baucus
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Bell
Bennett
Bergland
Bevill
Biaggi
Biester
Bingham
Blanchard
Blouin
Boggs
Boland
Bonker
Bowen
Brademas
Breaux
Breckinridge
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burton, John
Burton, Phillip
Butler
Byron
Carr
Carter
Cederberg
Chappell
Chisholm
Clancy
Clausen, Don H.
Clawson, Del
Cleveland
Cochran
Cohen
Collins, Tex.
Conable
Conte
Corman
Cornell
Cotter
Coughlin
Crane
D'Amours
Daniel, Dan
Daniel, R. W.
Daniels, N.J.
Danielson
Davis
de la Garza
Delaney
Dellums
Dent
Derrick
Derwinski
Devine
Dickinson
Dingell
Dodd
Downey, N.Y.
Downing, Va.
Drinan
Duncan, Oreg.
Duncan, Tenn.
du Pont
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Eilberg
Emery
English
Erlenborn
Evans, Colo.
Evans, Ind.
Fary
Fascell
Fenwick
Fish
Fisher
Fithian
Flood
Florio
Flowers
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fraser
Frenzel
Frey
Fuqua
Gaydos
Giaimo
Gibbons
Gilman
Ginn
Goldwater
Gonzalez
Goodling
Gradison
Grassley
Green
Gude
Guyer
Hagedorn
Haley
Hall, Ill.
Hall, Tex.
Hamilton
Hammerschmidt
Hanley
Hannaford
Harkin
Harrington
Harris
Harsha
Hawkins
Hayes, Ind.
Hays, Ohio
Hechler, W. Va.
Heckler, Mass.
Hefner
Heinz
Helstoski
Henderson
Hicks
Hightower
Hillis
Holland
Holt
Holtzman
Howard
Howe
Hubbard
Hughes
Hungate
Hutchinson
Hyde
Ichord
Jacobs
Jarman
Jeffords
Jenrette
Johnson, Calif.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Jordan
Kasten
Kastenmeier
Kazen
Kelly
Kemp
Ketchum
Keys
Kindness
Koch
Krebs
Krueger
LaFalce
Lagomarsino
Landrum
Latta
Leggett
Lehman
Lent
Levitas
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lujan
Lundine
McClory
McCloskey
McCollister
McCormack
McDade
McDonald
McEwen
McFall
McHugh
McKay
McKinney
Madden
Maguire
Mahon
Mann
Martin
Mathis
Matsunaga
Mazzoli
Meeds
Melcher
Metcalfe
Meyner
Mezvinsky
Michel
Mikva
Milford
Miller, Calif.
Miller, Ohio
Mills
Mineta
Minish
Mink
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moorhead, Calif.
Moorhead, Pa.
Morgan
Mosher
Moss
Mottl
Murphy, Ill.
Murphy, N.Y.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Nedzi
Nichols
Nix
Nolan
Nowak
Oberstar
Obey
O'Brien
O'Neill
Ottinger
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Paul
Pepper
Perkins
Pettis
Pickle
Pike
Poage
Pressler
Preyer
Price
Pritchard
Quie
Quillen
Railsback
Rangel
Rees
Regula
Reuss
Rhodes
Richmond
Rinaldo
Risenhoover
Roberts
Robinson
Rodino
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Roush
Rousselot
Roybal
Runnels
Ruppe
Russo
Ryan
St Germain
Santini
Sarasin
Sarbanes
Satterfield
Scheuer
Schneebeli
Schroeder
Schulze
Sebelius
Seiberling
Sharp
Shipley
Shriver
Shuster
Sikes
Simon
Sisk
Skubitz
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Spellman
Spence
Staggers
Stanton, J. William
Stanton, James V.
Stark
Steed
Steiger, Wis.
Stephens
Stokes
Stratton
Stuckey
Studds
Symms
Talcott
Taylor, Mo.
Taylor, N.C.
Teague
Thompson
Thone
Thornton
Traxler
Treen
Tsongas
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vigorito
Waggonner
Walsh
Wampler
Waxman
Weaver
Whalen
White
Whitehurst
Whitten
Wilson, Bob
Wilson, C. H.
Winn
Wirth
Wolff
Wright
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Tex.
Zablocki
Zeferetti

NAYS—0

NOT VOTING—41

Abzug
Anderson, Calif.
Bolling
Burlison, Mo.
Carney
Clay
Collins, Ill.
Conlan
Conyers
Diggs
Esch
Eshleman
Evins, Tenn.
Findley
Flynt
Fountain
Hansen
Hébert
Hinshaw
Horton
Johnson, Colo.
Jones, Tenn.
Karth
Litton
Madigan
Moore
Neal
O'Hara
Passman
Peyser
Randall
Riegle
Slack
Steelman
Steiger, Ariz.
Sullivan
Symington
Vander Veen
Wiggins
Wilson, Tex.
Young, Ga.

The Clerk announced the following pairs:

Mr. Hébert with Mr. Conlan.

Mr. Passman with Mr. Findley.

Ms. Abzug with Mr. Peyser.

Mr. Jones of Tennessee with Mr. Wiggins.

Mr. Fountain with Mr. Steiger of Arizona.

Mr. Slack with Mr. Esch.

Mrs. Sullivan with Mrs. Collins of Illinois.

Mr. Randall with Mr. Steelman.

Mr. Burlison of Missouri with Mr. Eshleman.

Mr. Flynt with Mr. Evins of Tennessee.

Mr. Neal with Mr. Hansen.

Mr. Conyers with Mr. Karth.

Mr. Diggs with Mr. Riegle.

Mr. Clay with Mr. Madigan.

Mr. Young of Georgia with Mr. Horton.

Mr. Litton with Mr. Moore.

Mr. Carney with Mr. O'Hara.

Mr. Symington with Mr. Charles Wilson of Texas.

Mr. Anderson of California with Mr. Vander Veen.

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. MEEDS. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 11909) to authorize appropriations for the Indian Claims Commission for fiscal year 1977.

The SPEAKER. The question is on the motion offered by the gentleman from Washington (Mr. MEEDS).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 11909, with Mr. MURTHA in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from Washington (Mr. MEEDS) will be recognized for 30 minutes, and the gentleman from Alaska (Mr. YOUNG) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Washington (Mr. MEEDS).

Mr. MEEDS. Mr. Chairman, I yield myself 8 minutes.

Mr. Chairman, I approach the consideration of this legislation with very mixed emotions. As chairman of the subcommittee and as the manager designated by the committee to bring this bill to the floor, I agree in part with the legislation but disagree in part.

Although I have serious reservations about a part of that legislation, I shall try, in an evenhanded and balanced way, to present an objective view of the matter before us and will not state my objections until the time for the amending stage.

Mr. Chairman, the purpose of the legislation as originally introduced by myself and by others was very simple—to authorize appropriations for the Indian Claims Commission for fiscal year 1977 in the amount of $1,650,000.

For those Members who may have forgotten, the Indian Claims Commission was originally created in 1946 for the purpose of adjudicating all claims by Indian tribes against the United States, both legal and moral, for unconscionable dealings prior to 1946.

Prior to the enactment of the legislation setting up the Indian Claims Commission, all indivdual Indian claims were considered by the Congress on an ad hoc basis. Of course, the purpose of the original Indian Claims Commission, I think, was tremendously laudable; and I think the Indian Claims Commission has done a very good job on some very serious questions.

Mr. Chairman, the requirements were that the claims had to be filed with the Commission within 5 years of the establishment of that Commission, so that the time for filing claims actually ended in 1951. It was further the purpose that the Congress would not consider any jurisdictional acts filed after the 5-year time period has elapsed and that the tribes would be paid in money rather than in the return of land.

Mr. Chairman, during the 30 years of the existence of the Indian Claims Commission, that Commission has had before it some 615 dockets, of which it has disposed of 460. It has made awards of some $576,300,372 in that 30-year period.

The 1946 statute creating the Commission provided that the Commission would complete its work and expire in 10 years. Therefore, under the original timetable, it should have finished its work in 1956. However, in 1956 it was determined that there were a large number of dockets unfinished, and legislation was then introduced in 1956 to extend life of the Commission until 1962. In 1962 it was extended again for 5 years to 1967, and in 1967 it was extended again for 5 years to 1972.

In 1967 we met in the Committee of the Whole and enacted legislation which extended the Commission for 5 years, but which also added two members to the Commission, raising it to a total of five Commissioners. This was done in an effort to expedite and finish the claims which were before the Commission within the period of time then allowed, which would have been April 1972.

Mr. Chairman in 1972 we provided for annual review, and that is really why we are here today. This is really an annual review in the form of an authorization for just 1 year's appropriations.

We also set up in the legislation in 1972 a mechanism to transfer the remaining dockets at the expiration of the present term to the court of claims.

The present law provides that the Commission will expire on April 10, 1977 and all of the remaining dockets and claims will be transferred to the Court of Claims.

In the subcommittee the gentleman from Alaska, Mr. YOUNG, offered an amendment which extends the life of the Commission to September 30, 1980. It also requires the Commission to certify to the Court of Claims by September of 1979 all cases which the Indian Claims Commission will not be able to finish on the then termination date of September 30, 1980.

It is contended by the proponents of this amendment—and I might say with certainly some very good reason—that there are approximately 120 dockets which will have to be transferred to the Court of Claims if this Claims Commission lapses in April, 1977. Therefore, this transferring and the hearings in the Court of Claims will actually require a lengthening of the time from 2 to 5 years. I think that is a reasonable estimate of the time, and perhaps it will be even more, because some of these are extremely complex cases involving accounting.

It is contended that the judges of the Court of Claims favor the extension. That is true. They would prefer to see the bulk of this work done in the Indian Claims Commission.

It is also contended that the administration supports an extension to September, 1978, or longer than the original bill which I introduced would have done.

They contend, further, that delays could result in additional interest costs, particularly in the event that there is a recognition of fifth amendment takings which could very well happen.

They also contend that it will require additional staff for the Court of Claims to adjudicate these matters in any kind of timely fashion and that at least three additional judges would be required in the Court of Claims and additional technical and legal staffs.

They contend further, and again I think with good rationale, that the original intent of this legislation was that all Indian tribes would have an opportunity to have their claims adjudicated by the same tribunal.

The CHAIRMAN. The time of the gentleman has expired.

Mr. MEEDS. Mr. Chairman, I yield myself 1 additional minute.

In the event that this transfer takes place, as it will if the termination occurs in April 1977, that will not happen.

I have, as I said, some serious reservations about the extension and about the rationale supporting it, but I shall withhold my comments until the time of the amendment. I simply say that this is a matter upon which reasonable men can differ. I think the House should have an opportunity to work its will. I will abide by the decision of the House.

Mr. YOUNG of Alaska. Mr. Chairman, I yield myself 10 minutes.

Mr. Chairman, this bill, H.R. 11909, has three purposes but, before I go into those three purposes, I would like to say to my good colleagues, the chairman of the subcommittee, the gentleman from Washington (Mr. MEEDS), and the chairman of the full committee, the gentleman from Florida (Mr. HALEY), that, in no way, am I attempting to do the impossible here; I am attempting to arrive at a just and righteous solution to the claims that have been filed before the Commission, and I am sure they are both in agreement on this.

Mr. Chairman, I rise in favor of H.R. 11909, and to urge the House to adopt it as amended and reported by the Interior Committee.

The bill has three purposes: First, to authorize funds to operate the Indian Claims Commission in fiscal year 1977; second, to extend the life of the Commission for 3½ years; and third, to provide a flexible yet mandatory procedure for the orderly transfer of unfinished cases to the U.S. Court of Claims prior to the Commission's termination date.

Congress created the Indian Claims Commission in 1946 to provide a forum for the adjudication of the numerous unsettled tribal claims against the United States. Prior to the creation of the Commission, such claims were heard individually by the Court of Claims under special jurisdictional acts. The 1946 act gave the Indian tribes 5 years to file their claims, authorized the Commission to award money judgments, but barred any return of lands to a claimant tribe.

A total of 370 claims were filed which, through severance and redocketing, resulted in 615 total dockets. As of March 18, 1976, 460 of the 615 claims had been disposed of, with 195 dockets having been dismissed and 265 dockets resulting in awards totaling $576,300,000; 155 dockets are still pending before the Commission in various stages of litigation. Of these dockets, 107 are land claims involving some 290 million acres.

The other 48 are extremely complex accounting claims, in which the United States must account for its management of moneys and other property on behalf of Indian tribes.

Mr. Chairman, the sole issue before the House as far as this bill is concerned is the amendment I sponsored to extend the life of the Claims Commission for 3½ years, to September 30, 1980. Without this amendment the Commission would, under existing law, expire in April 1977, and an estimated 120 cases in various stages of litigation would be transferred to the Court of Claims.

In hearings before the Subcommittee on Indian Affairs, on which I serve as ranking minority member, we examined the progress of the Commission's work and explored the feasibility of the transfer of cases to the Court of Claims. We found that the work is going steadily forward toward completion of the remaining cases. We found that the Commission has accelerated the rate at which it is adjudicating claims, and that it has completed more cases in the past 8 years than it did in the first 21 years of its existence.

All witnesses who testified before us agreed that the most practical, expeditious and least costly way to complete the adjudication of the remaining claims is to extend the life of the Claims Commission.

Accordingly, all witnesses, including the Chief Judge of the Court of Claims, supported an extension of the life of the Commission. The administration, with OMB's approval, recommended an extension through fiscal year 1978, and to my knowledge has no objection to the extension contained in this legislation.

There are several major reasons for the extension.

The pending transfer of an estimated 120 uncompleted cases to the Court of Claims would inevitably delay, rather than expedite, their completion. The court and the commission estimate that the transfer of such a large number of cases would result in anywhere from 2 to 10 additional years to finally adjudicate all of them. Such delays would be directly contrary to the original intent of Congress that these claims be adjudicated as expeditiously as possible. Delays in litigation and appeal and final judgment would result in additional interest costs to the United States which would exceed any savings realized from the transfer.

In cases in which the United States is found liable for a taking of Indian property in violation of the fifth amendment or for misuse or mismanagement of Indian property, interest would continue to accrue until final judgment. Without knowing the principal or the length of time involved, we can only estimate how much additional interest the United States would have to pay. In any event, the amount would be likely to be far more than the cost of funding the entire Claims Commission for 3 more years.

If the cases were transferred, they would have to be heard by the trial judges of the court of claims. These judges conduct trials in 18 major categories of litigation, but they are unfamiliar with the unique field of Indian claims law. Consequently, these judges would require considerable additional time to become sufficiently familiar with the complexities of the Indian cases before continuing work on them. Such unnecessary delay is avoided by extending the life of the Commission.

The transfer of cases which have been tried but not decided by the Commission raises important questions of due process of law. If a trial judge of the Court of Claims used the record made by the Claims Commission for the purpose of arriving at his decision, it would be contrary to the notion that due process requires that decisions issue from the body which conducted the trials. If this view were upheld, it would mean that any cases tried by the Commission but not decided between now and next April would have to be retried.

Because trial, briefing, and decision on these extremely complicated cases require approximately 1 year, the Commission would be unable to hold any more trials. It would also mean that new trials would be necessary once the cases were transferred to the Court of Claims. Again, the result would be delay, duplication of work, and considerable expense to all parties.

The most important reason for extending the life of the Indian Claims Commission is that Congress should honor this Nation's promise to permit American Indian tribes to have their grievances redressed by a tribunal created especially for that purpose. The tribes whose cases are still in litigation should be allowed to receive the same considerations of equity and fairness other tribes have received.

Mr. Chairman, Congress must not allow the Indian Claims Commission to die a premature death next year. It would serve no purpose to transfer Indian claims from the court created specifically to hear them to a court that does not want them and lacks expertise in Indian claims law. It would not make sense for Congress to willfully disrupt and delay due process of law, particularly when no economy or benefit to anyone would result.

By approving H.R. 11909 with the extension amendment the Congress will be keeping a solemn promise made long ago to this Nation's first citizens. It will be avoiding unnecessary delays and expense to the Federal Government and to the Indian tribes.

A majority of the Subcommittee on Indian Affairs and the Committee on Interior and Insular Affairs has concluded that an extension of the Commission is the quickest, cheapest, and most honorable alternative available. The Senate and executive branch take the same position. For the same reasons, I strongly urge the House to pass H.R. 11909 with the committee amendment extending the life of the Commission.

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Alaska. I yield to the gentleman from Texas.

Mr. ECKHARDT. Mr. Chairman, I wish to compliment the gentleman in the well for a very excellent statement of why the Indian Claims Commission should be extended.

I note that the Commission was established by the act August 13, 1946, for the purpose not only of hearing and deciding, once and for all, all Indian tribal claims against the United States which arose on the basis of legal claims, but also claims based on moral grounds, based on unconscionable dealings which occurred before August 13, 1946.

I would assume over the period of time from then until now a kind of common law on what is an unconscionable claim—which is something which had to be established—would have been developed. It would be my feeling that it would be most difficult to move from one tribunal charged with that responsibility to another tribunal.

What would the gentleman in the well feel about the justice in the switching of tribunals, so to speak, after such experience has been established and placing this question of the unconscionable claim in the Court of Claims?

Mr. YOUNG of Alaska. I can say that the transfer would be a very grave injustice, that the expertise created by the Commission and the finalization of decisions in the last 8 years has far exceeded the previous 21 years because the Commission has developed a background and an understanding and a feeling.

What I am asking in this bill is to continue the Commission until it can finalize adjudication of the remaining claims. I believe to do otherwise would be to do a grave injustice to the Indian people.

I hope the extension will be agreed to.

Mr. MEEDS. Mr. Chairman, I yield 5 minutes to the gentleman from Texas (Mr. ECKHARDT).

Mr. ECKHARDT. Mr. Chairman, I strongly support the legislation as it came from the committee, that is to extend the period of time of the Indian Claims Commission until September 30, 1980. Both the Commission and the Court of Claims desire this extension and both say that to do otherwise would tend to delay justice to people who have waited 70 years for this Indian Claims Commission to be established.

I know that there is a certain prevailing impatience with all governmental agencies and with the Commission. It is argued that the Commission has had 30 years. But remember now, the Indians have waited 70 years before that Commission was established, and there is no agency of the Government that makes the contention that the transfer would do other than delay justice for an additional period of time. I feel that is unconscionable.

Besides further amplifying my discussion with the distinguished gentleman from Alaska, I have never been able to understand the kind of impatience we have with the process of doing justice. Justice has been slow to the Indians. I have heard of a response that is reputed to have come from a source within the Court of Claims that, after all, these are injustices committed many, many years ago to the fathers and to the grandfathers of the persons now seeking justice; but these injustices, though committed many years ago, though grey inequities, venerable injustices to a whole people, still leave their marks on people living today, because many of these people do continue to live in tribes. All have suffered injustice by deprivation of opportunities over many years; so it seems to me it ill behooves us to be impatient about 30 years of processing their claims, when that 30 years was only commenced some 70 years after the first of these injustices commenced.

It seems to me entirely improper, when we have established a standard of attempting to make whole a people to change the tribunal which is putting into effect the process by which unconscionable and illegal actions against Indians can be to some extent rectified.

How would we feel if we happened to be plaintiffs in an ordinary lawsuit. Some other litigants came before the court who were injured in the same situation in which we were injured. Their case was tried before one judge and then for some reason, in order to speed up the process, our case was tried by a less experienced judge, a judge who has not been in on the first part of the case?

I think that it is a matter of prudence, fairness, justice, and patience for us to continue the Indian Claims Commission until September 30, 1980. As has been pointed out here very effectively, action was at first slow, and I think understandably slow, since the charge to that Commission was an unusual one—not only to deal with respect to illegal acts, but also to delve into what constitutes an unconscionable act calling for remedy. But in the last 2 years the progress of that Commission has moved at a greatly accelerated rate. It is now estimated, I think, that by 1977 all but about 48 of the claims will be decided. Now, why should we not reduce that 155 claims to as little a number as possible?

The CHAIRMAN. The time of the gentleman from Texas has expired.

Mr. MEEDS. I yield the gentleman from Texas 1 additional minute.

Mr. Chairman, will the gentleman yield?

Mr. ECKHARDT. Surely, I yield.

Mr. MEEDS. Mr. Chairman, I am sure, as the gentleman points out, the gentleman is aware that even if the date of extension which is now contained in the bill is accommodated, there will still be some 48 cases left.

Mr. ECKHARDT. Yes, I understand that to be the case.

Mr. MEEDS. Mr. Chairman, if the gentleman will yield further, can the gentleman tell me if the same argument the gentleman just made cannot be made with the same validity with respect to the remaining 48 cases?

Mr. ECKHARDT. Perhaps it should and perhaps they should be listened to, because the time will be very short; but I would assume the last 48, which are more or less mechanical accounting problems, might well be carried through by the Court of Claims as a windup. It is a bridge I would not like to cross at this time.

Mr. MEEDS. Mr. Chairman, if the gentleman will yield further, most of the cases transferred now or later will be accounting cases in which the Court of Claims has expertise.

Mr. ECKHARDT. That is also true, but there are other questions involved, too.

Mr. YOUNG of Alaska. Mr. Chairman, I yield 5 minutes to the gentleman from Texas (Mr. COLLINS).

Mr. COLLINS of Texas. Mr. Chairman, this bill gives us an opportunity to take a positive stride forward for America by abolishing a Government bureau. The Indians Claims Commission was established by the act of August 13, 1946, and provided that the work of the Commission was to be completed within 10 years and the Commission would be abolished at that time. That was back in 1956 that the Indian claims bureaucracy should have died.

I have seen this extension come up in 1970 and in 1971, and every time we hired and authorized additional staff. The last extension was back in 1972, which said that the Commission would definitely expire on April 10, 1977, and that any outstanding cases would be transposed to the Court of Claims for completion.

Let us review this Indian Claims Commission. It was formed for a noble purpose. Throughout the years, one Indian claim after another was championed by some smart lawyer. But after the Indians had stopped roaming the American prairies for over 100 years, it was time to end these suits. Therefore, in 1946, this law said that all claims that arose before 1946, must be filed within 5 years of the date of this act. Any claims that were not filed by 1951 would be barred, which meant that all Indian claims must be filed of record as of 1951 which gave 5 years to file claims.

It then stated that they would provide jurisdiction which would settle all the claims, and get the entire Indian claims matter completed by 1956.

On August 13, 1951, the Commission had docketed 370 claims. However, through severence and redocketing, the Indian Claims Commission was able to build this up later as high as 615 dockets.

The figures as of March 18, 1976 shows that the Commission still has outstandink 155 dockets—after 25 years they had reduced the workload a little below half. They had provided cash settlements of $576 million. The first thought that comes to mind is that the poor Indians on the Manhattan Island did not have a good lawyer when they took $20. Every time the matter has come up, it has been suggested the Indian Claims need additional staff, so Congress has authorized the hiring of additional staff so that the matter would be expeditiously completed.

We have before us today this Committee bill, H.R. 11909, which proposes to extend the life of the Commission to December 30, 1980. I commend the statement of Chairman HALEY of Florida. This fine gentleman who is chairman of the Committee of the Interior sums up the situation very well in urging the colleagues to bring the matter to a close by voting to no longer extend the life of the Indian Claims Commission. The gentleman from Washington (Mr. MEEDS) quotes the history of this bill where specifically four times it had been written into the CONGRESSIONAL RECORD that this bill was the last extension that was being asked.

We do much talking about streamlining Congress. Today, we have an opportunity to cast a constructive vote. I urge my colleagues to join me in casting a positive vote for a more efficient Government and less bureaucracy. Let us vote no and end this Indian Claims Commission once and for all.

Mr. YOUNG of Alaska. Mr. Chairman, will the gentleman yield?

Mr. COLLINS of Texas. I yield to the gentleman from Alaska.

Mr. YOUNG of Alaska. Mr. Chairman, I would just like to say this: If we were to transfer all these cases to the Court of Claims we would actually be eliminating about 27 people now, but they would have to turn right around and hire additional expertise to expedite justice in these claims. That is what we are looking for, justice.

I ask the gentleman, what is the big rush about meting out injustice? The Claims Commission has the expertise. They have moved very rapidly in the last 8 years, and they are close to finalizing the remaining claims. If we start all over again, there is no justice.

The gentleman suggests that maybe we will come back in 3 years asking for another extension. I am not going to say that will not happen, but I will say this: As long as there is an injustice, we are going to try to maintain the position of the tribunal established to give them the justice they deserve.

Mr. COLLINS of Texas. I appreciate what the gentleman from Alaska has added. I think, what we are talking about today concerns the definition of the word "expertise." I tend to think of expertise, as it is being used, as a training program of perpetual bureaucracy. It is true that they become experts, but they seem to become experts in how to continue and continue and continue for 30 years. This act began in 1946, and we have continued, we have continued, we have continued.

The only way to end a bureaucracy is for Congress to simply vote, "This is the end." We have an outstanding opportunity to stand up today for America and vote, "This is the end to one bureaucracy."

Mr. MEEDS. Mr. Chairman, I yield such time as he may consume to the gentleman from Florida (Mr. HALEY).

Mr. HALEY. Mr. Chairman, the gentleman who has just left the well of the House put this thing right on the table, so to speak. We have extended this commission time and time again, with promises from them that they would finish their work down there—"Just give us 5 more years."

I make this prediction to the House: If this bill is passed in its present form, in 1980 the same people will be back here saying, "Give us a little more time; give us a little more time."

My Lord, if 30 years is not enough time to give justice, then we are in an awfully bad fix in this great Nation of ours. I say, let us end this bunch of parasites feeding on the American people and get this thing on the road, get it back to some reason of what is involved and what should be done here.

Mr. MEEDS. Mr. Chairman, I yield 5 minutes to the gentleman from Oklahoma (Mr. JONES).

Mr. JONES of Oklahoma. Mr. Chairman, I rise today to speak in support of the Indian Claims Commission authorization bill and the committee amendments which extend the life of the Commission for 3½ more years. Actually, I suppose, if the opportunity were there, I would shorten the extension of the life period, but given the alternatives between closing it down in April 1977, or in September 1980, I think clearly the amendment extending it to 1980 is preferable.

We have to recognize, as was pointed out today, that the Congress established the Indian Claims Commission because of an exceeding amount of delay of justice to the Indian people that was brought about when these claims were processed through the Court of Claims. This special forum, the Indian Claims Commission, was established to help bring some justice and to rectify errors and injustices that were inflicted on the native Americans.

For the first 20 years, the progress in adjudicating these claims was slow because there was a new body of case law developing, there was a new Commission established, and the Commission's staff was not adequately staffed. But beginning in 1967, the record of the Indian Claims Commission has been very good in processing these claims. I think the proof that the proper course of action of extending the Indian Claims Commission can be found in the record of the hearings before the Committee on Interior and Insular Affairs. As was pointed out, virtually all of the witnesses asked for the extension of the Commission, including the chief judge of the Court of Claims, which is the body to which the remaining cases would be referred if the Commission expired next year. The chief judge of the Court of Claims recommended extending the life of the Commission.

Mr. Chairman, the question was brought up about doing away with bureaucracy. I think those of us who are interested in this area recognize that I have a bill to reform the bureaucracy, one of the sunset bills. But I do not think the issue we are talking about today is one of doing away with an unnecessary bureaucratic agency. What we are talking about today is the pursuit of justice, pursuit of justice for a group of people who were subjected to many injustices in years past.

As was pointed out by the gentleman from Texas, it took 70 years at least to ever start to deal with the question of justice for the Indian people.

Mr. Chairman, the history of our governmental policy toward the Indian people has been one of changing policy and shortchanging justice. I think what we need to do today is to extend this Commission, which has indicated it does have an interest in justice and sound policies and a sound rule of law which can be followed.

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield?

Mr. JONES of Oklahoma. I yield to the gentleman from Texas.

Mr. ECKHARDT. I thank the gentleman for yielding.

Mr. Chairman, I think one thing that needs to be pointed out, in answer to the remark of my colleague from Texas, is that this is not like a bureaucracy that would perpetuate itself, because the claims are limited to those which, if they occurred before 1946, were filed within 5 years of the date of the act. So we are talking about a tangible number of claims. And to disassemble this Commission before the cases are all tried would be very much like the situation of a case before a master in chancery which has not been completed with respect to all of the litigants, in which the authority of the master in chancery is ended prior to the conclusion of the case.

I am sure the gentleman would not urge that, if the question of justice were involved with respect to businesses. Certainly this is just as important as business. I think more so, because it deals, as the gentleman has said, with a deep and lasting and pervasive injustice to a whole group of people.

Mr. JONES of Oklahoma. I thank the gentleman and I concur with his comments.

Mr. Chairman, in conclusion, the distinguished chairman of the subcommittee pointed out that he supports this but with reservations.

Let me just say that, from the standpoint of the State of Oklahoma, we have no reservations either about the bill with the committee amendments or reservations for the Indians of Oklahoma. We think the Indian Claims Commission should be extended until 1980.

Mr. Chairman, I urge passage of the bill with the amendments.

Mr. YOUNG of Alaska. Mr. Chairman, I yield such time as he may consume to the gentleman from New Mexico (Mr. LUJAN).

Mr. LUJAN. Mr. Chairman, I suppose if the feelings of all of us could be summed up, we would find that we must come to the conclusion that we have no alternative but to continue the Indian Claims Commission. We all wish that their work had been completed, that all of the cases before them had been completed, and that proper disposition would have been made of them.

However, what we are talking about here is not ending the process; it is simply that some of us are talking about ending one department of Government and thereby reducing the number by some 27 positions. But all that is going to happen if we do that is that we are going to have to go to another department and perhaps increase that department by 27 positions or perhaps more, because we cannot simply dismiss the cases. It would be just changing them from one department to another.

It is a complex business that we are involved in. Certainly 30 years may seem like a long, long time for the Commission to have existed, and now we would go beyond that. However, we are looking at a situation where the lands were taken over 100 years ago, and it is difficult to go back and establish what the aboriginal claim was, what the value of it was, and how we are able to justify what was done and correct an injustice that occurred many years ago.

So the problem is complex, and I can understand very well why it has taken so many years. As I say, I would prefer, as I am sure everyone else would, that these cases would have been completed, but the fact of the matter is that they are still pending.

Mr. Chairman, we have no alternative but to continue the Indian Claims Commission, and I hope that is exactly what happens by our action here this afternoon.

Mr. MEEDS. Mr. Chairman. I yield 5 minutes to the gentleman from Oklahoma (Mr. RISENHOOVER).

Mr. RISENHOOVER. Mr. Chairman, let me first of all commend the chairman of the subcommittee, the gentleman from Washington (Mr. MEEDS), and the chairman of the full committee, the gentleman from Florida (Mr. HALEY), for the work they have done in the past in continuing the life of the Indian Claims Commission to this point and helping to justly resolve the claims of the Indians. We all know that both gentleman have been friends of the Indian people during their entire tenures in Congress.

I would like to point out that the Oklahoma delegation stands firmly behind extending the Indian Claims Commission, because 68 of the 144 cases still pending are cases that involve Indian tribes in Oklahoma. I would agree that there has been a lot of dragging out of these cases, and there have probably been some unnecessary delays in getting these cases adjudicated. However, I think if we can extend the bill until 1980, certainly the cases that are involved in Oklahoma will then be adjudicated. They are relatively short cases; they are not like the accounting cases that require so much time, such as has been the case in so many of the pending claims.

Mr. Chairman, I rise today to speak in support of the Indian Claims Commission authorization bill and the committee amendments which extend the life of the Commission for 3½ more years. Enactment of this bill, particularly those sections which provide for the Commission's extension, will serve as a reaffirmation by Congress of the desire of the American people to see Indian tribes finally redress their long history of grievances against the Government. The Congress recognized that the establishment of the Indian Claims Commission in 1946 was the best method of fairly and quickly adjudicating the claims of Indian tribes against the Government. The Congress in its wisdom recognized that a special forum for the hearing of these claims was necessary because of the great delay which had occasioned the final adjudication of the tribes' claims in the Court of Claims. However the Congress did not anticipate that 615 dockets would be filed nor that those claims would present so many unique and varied fact situations covering a period of so many years—that would make the work of the Commission virtually monumental.

For 20 years, Mr. Chairman, the Commission was grossly understaffed to hear so many difficult and time consuming cases. But, since 1967 when the staff of the Commission was enlarged, the Commission has demonstrated a propensity to quickly adjudicate those cases remaining before it. The record should note that the Commission has completed more cases in the last 9 years than it did in the first 20 years of its existence. Therefore, Mr. Chairman, the argument that the Commission has been dilitory on its own volition is unsupportable by the facts. Furthermore, Mr. Chairman, the committee hearing record notes that even the chief judge of the Court of Claims—the body to which those remaining cases would be transferred if the Commission expires—recommended that the Congress extend the life of the Commission. But, Mr. Chairman, most importantly, those people who are most effected by our decision today—the Indian people—strongly expressed their support for the extension of the Commission. They do so for many reasons, Mr. Chairman, but I submit that one of those reasons is based on the memory of the Court of Claims' track record with regard to favorably and quickly adjudicating Indian claims. History shows that the Court of Claims prior to the advent of the Indian Claims Commission, often took more than 20 years in adjudicating Indian claims. In many instances the court took in excess of 30 years. Therefore, Mr. Chairman, the belief held by some that the court will more quickly adjudicate the remaining 120 Indian claims cannot be supported by the record.

Finally, Mr. Chairman, the history of governmental policies toward Indian people has been one of vacillation and continuing change year in and year out. This fluctuating process has resulted in a lack of faith by Indian people in the desire of the Government to deal with Indians in a consistently fair manner. Such policy changes historically have also wrought much hardship on Indian tribes in their efforts to deal with those changing policies.

Mr. Chairman, I think it is time for the Congress to finally see through this just and honorable cause which it initiated 30 years ago. Let us enact this bill, extend the life of the Commission and give the Indian tribes a chance to finally receive their measure of justice from a compassionate government that believes in holding to its word. The Indian Claims Commission represents a chance for the Government to finally see through one of its policies which beneficially effects Indian people.

Mr. DON H. CLAUSEN. Mr. Chairman, I rise in support of H.R. 11909 and to urge the House to pass it as amended and reported by the Committee on Interior and Insular Affairs.

This legislation authorizes $1,650,000 to continue the work of the Indian Claims Commission in fiscal year 1977. A total of $1,525,000 has been included for this purpose in the Interior and Related Agencies appropriations bill which the House and Senate approved last week. However, unless this authorization is enacted as required by the Budget Control Act, the funds will not be available for the Commission's use.

H.R. 11909 also contains a subcommittee amendment which extends the statutory life of the Commission for 3½ years. Without this amendment, the Commission would, under existing law, expire on April 10, 1977, at which time any remaining claims would be transferred to the Court of Claims for completion.

The amendment gives the Commission until September 30, 1980 to complete its work. Furthermore, the amendment requires that all cases which cannot be completed by September 30, 1980 be certified to the Court of Claims on or before September 30, 1979. This requirement assures an orderly and efficient transfer of such cases, if any. The Commission will thus be able to direct its full efforts to completing those cases which can be finally adjudicated by 1980 while the Court of Claims will be able to commence work on whatever claims will remain for completion after 1980.

I am aware that in the recent past the Interior Committee has indicated that it would not look favorably on any further extension of the life of the Commission. Nonetheless, after a thorough investigation of the Commission's progress in completing its work and on the likely consequences of a wholesale transfer of cases, the committee reluctantly concluded that a further extension of the Commission is the most practical, expeditious and least expensive means to achieve the final adjudication of all, or virtually all, the claims filed by the Indian tribes. Normally, I would vote to abolish unnecessary commissions but in this case it would be unfair to the Indians.

To date some 460 claims have been finally adjudicated. If the Commission were to expire next April, about 120 of the remaining 145 cases would abruptly be transferred to the Court of Claims. All parties to the litigation have testified that such a transfer would inevitably delay completion of these cases without realizing any savings in effort or money to the Government or the tribes.

Accordingly, the administration recommended an extension of the Commission. The judges of the Court of Claims, the Justice Department, the Bureau of Indian Affairs, and the Claims Commission all support the extension. The Senate earlier this year passed a similar extension in counterpart legislation authorizing funds for the Commission for fiscal 1977.

Most importantly, American Indian tribes, for whose claims Congress long ago promised speedy justice, emphatically endorse the extension. About 100 tribes or tribal groups have a direct interest in the outcome of the pending cases. Indians residing in my State of California have an interest in some of these cases. They oppose any further delays and they believe they are entitled to final decisions by the forum created especially to hear their cases.

The Indian Claims Commission has proven, particularly in recent years, to be an effective and inexpensive agency. In the 26 years since 1951, when most of the claims were filed, the Commission has adjudicated some of the most complex and novel cases ever presented before a judicial body. During the past 8 years the Commission has disposed of some 239 dockets, more than double its production in the 20 years prior to 1967. The total cost to operate the Commission for 30 years is less than $13 million. This represents a very small price indeed to keep Congress solemn promise to America's Indian people to provide a measure of justice for their historic grievances.

Mr. Chairman, for these reasons I strongly urge the Members of this House to approve H.R. 11909 with the amendment adopted by the Interior Committee.

Mr. YOUNG of Alaska. Mr. Chairman, I have no further requests for time.

Mr. MEEDS. Mr. Chairman, I have no further requests for time.

The CHAIRMAN. Pursuant to the rule, the Clerk will read the committee amendment in the nature of a substitute recommended by the Committee on Interior and Insular Affairs now printed in the reported bill as an original bill for the purpose of amendment.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there is authorized to be appropriated to carry out the provisions of the Indian Claims Commission Act (25 U.S.C. 70), during fiscal year 1977, not to exceed $1,650,000.

SEC. 2. Section 23 of the Act entitled "An Act to create an Indian Claims Commission, to provide for the powers, duties, and functions thereof, and for other purposes", approved August 13, 1946 (60 Stat. 1049, 1055), as amended (86 Stat. 115; 25 U.S.C. 70v), is hereby amended by striking said section and inserting in lieu thereof the following:

"DISSOLUTION OF THE COMMISSION AND DISPOSITION OF PENDING CLAIMS

"SEC. 23. The existence of the Commission shall terminate at the end of fiscal year 1980 on September 30, 1980, or at such earlier time as the Commission shall have made its final report to the Congress on all claims filed with it. Upon its dissolution the records and files of the Commission in all cases in which a final determination has been entered shall be delivered to the Archivist of the United States. When the Commission shall be of the opinion that any case pending before it can be handled more expeditiously by the United States Court of Claims, the Commission may certify such case to the Court of Claims. But, in any event, the Commission shall, on or before September 30, 1979, certify to the Court of Claims all cases which cannot be finally adjudicated prior to September 30, 1980. Jurisdiction is hereby conferred upon the Court of Claims to adjudicate all such certified cases under the provisions of section 2 of the Indian Claims Commission Act: *Provided,* That section 2 of said Act shall not apply to any case filed originally in the Court of Claims under section 1505 of title 28, United States Code. Upon dissolution of the Commission all pending cases including those on appeal shall be transferred to the Court of Claims for adjudication on the same basis as those permitted to be transferred by this section.".

SEC. 3. Section 27 of such Act of August 13, 1946, as amended (25 U.S.C. 70v–1), is amended by adding the following:

"SEC. 27. (c) No trial or hearing shall be conducted nor shall any proceeding be initiated before the Commission in any phase of a claim on or after December 31, 1979: *Provided, however,* That the provisions of this subsection shall not apply to hearings or proceedings relating to a compromise settlement of a claim.".

SEC. 4. Section 28 of such Act of August 13, 1946, as amended (25 U.S.C. 70v–2), is amended by striking said section and inserting in lieu thereof the following:

"STATUS REPORT TO CONGRESS

"SEC. 28. The Commission shall, on the first day of each session of Congress and six months thereafter, submits to the Committees on Interior and Insular Affairs of the Senate and House of Representatives, a report showing the progress made and the work remaining to be completed by the Commission, as well as the status of each remaining case, along with a projected date for its completion. The report to be made in July 1979 shall include a list of all cases which cannot be finally adjudicated prior to September 30, 1980, and which, pursuant to the provisions of section 23 of the Indian Claims Commission Act, will be certified to the Court of Claims on or before September 30, 1979.".

Mr. MEEDS (during the reading). Mr. Chairman, I ask unanimous consent that the committee amendment in the nature of a substitute be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Washington?

There was no objection.

AMENDMENT OFFERED BY MR. MEEDS

Mr. MEEDS. Mr. Chairman, I offer an amendment.

The Clerk reads as follows:

Amendment offered by Mr. MEEDS: Page 2, strike out line 3 and all that follows down through and including line 9 on page 4.

Mr. MEEDS. Mr. Chairman, the purpose of this amendment is to leave the bill as it originated, a simple authorization for appropriations for the fiscal year 1977, and to cut out all of that language which deals with the extension.

As I said, I greet this with mixed emotions because I have a great deal of regard for the accomplishments of the Indian Claims Commission. However, I think that the time has come to do something which will bring the continuous litigation in that Commission to an end.

As has been pointed out here, that Commission was originally created in 1946, with a life expectancy of 10 years. That life has been extended on four separate occasions, for 5 years each. On one occasion we increased the number of the Commission members and the staff so we could more expeditiously complete the cases. On another occasion we made more money available through another bill so that more expert witnesses could be hired for the tribes in order that their testimony could be more expeditiously presented.

On the last occasion, in 1972, Mr. Chairman, we required annual authorizations so that we could come before this body each year and justify and show that the Commission was indeed acting expeditiously. On the last extension, we provided for the transfer of all unfinished cases in an orderly procedure to the Court of Claims.

Mr. Chairman, despite this 30 years, despite the additional staff, despite the additional money for expert witnesses, and despite the annual authorization, we still find the Indian Claims Commission, 30 years later, having completed only 75 percent of all of the dockets.

I believe that the House really has to take stock. I know as a member of the subcommittee that has been present during the last two extensions, 1967 and 1972, that the members of our committee have gone before this House, at least on those last two occasions, and have solemnly promised that this would be the last time. I believe it is time that we take stock of those promises. I want to read from some of them to you.

Mr. Aspinall on March 6, 1972, said:

> The second alternative is to extend the life of the Commission again but to make certain that this extension will be the last one . . . Our committee chose this second alternative.

The chairman of the full committee, the gentleman from Florida (Mr. HALEY) stated in March of 1972:

> . . . and this extension of the life of the Commission will really be the last one. No further legislation will be needed.

The late Mr. Saylor agreed in March of 1972.

Even one of the proponents, the gentleman from Arizona (Mr. STEIGER) one of the present proponents of the extension, said in March of 1972:

> If the Commission cannot without good reason finish this congressionally assigned task in the time allotted, pending cases will automatically be transferred to the Court of Claims.

And myself, in 1974, in response to a query by the gentleman from Iowa (Mr. GROSS) our former colleague, said:

> It is not the intent of this Committee to come before this body again and ask for an extension of the Indian Claims Commission.

The record is replete in the last 10 years with promises and with indications that this extension or that extension would indeed be the last extension. I believe it is time the House took stock of those promises.

Let us discuss the arguments of the proponents of this extension. First of all we should point out that there will be, by the estimate of the Commission, some 48 cases which will be left after we extend it for 3 years.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. MEEDS was allowed to proceed for 5 additional minutes.)

Mr. MEEDS. Even if we extend it the additional 3 years that the proponents of the extension are now asking for, 48 cases will still be remaining and will have to be transferred to the Court of Claims. So there is not going be any loss of time if the Court of Claims keeps working on all these cases being transferred, which should take place in April of 1977.

It is also true that the Indian Claims Commission does not sometimes properly allocate its time. They come before the committee and say that they are starting cases but will not be able to finish them. When a Member asks, why do they not just take the cases that they can finish and put more manpower on those and finish them up and transfer the ones that they will not be able to start to the Court of Claims?

And then they kind of look at you with a blank kind of a stare, as if that was some new mechanic to be more efficient.

The proponents say that this delay will cost more in interest. I disagree with this. Indeed, the transfer to the Court of Claims in April 1977, really would be less costly in interest and more expeditious to the Indian claims because it may well cut out one step in the appeal. There is no way that this question of interest is going to be solved without going to the U.S. Supreme Court. That means that they have to be appealed to the U.S. Supreme Court. If it comes from the Indian Claims Commission, it will go first to the Court of Claims and then to the U.S. Supreme Court.

If it starts in the Court of Claims, there will only be one appeal and, therefore, the time will be cut.

They next say that the expertise exists in the Commission and it does not exist in the Court of Claims. First of all, to those I would say that if a body has not built up some expertise after 30 years, it would be a bad situation. But I deny this, because there is expertise on Indian Claims matters in the Court of Claims. Every appeal which goes from the Indian Claims Commission, goes next to the Court of Claims. They have had over this 30-year period all of the appeals. Almost one-third of all dockets, incidentally, are appealed to the Court of Claims—68 percent of them by the plaintiff and 30-some percent by the defendants or by the Government. So there is expertise in the Court of Claims.

The proponents say that transfer to the Court of Claims will take additional staff. I agree. If we transfer these cases to the Court of Claims, we should be prepared to give them additional staff. They will need probably two more hearing commissioners, and in all probability they would be some of the present members of the Indian Claims Commission, and they should be some of them. There should be additional staff transferred to the Court of Claims, but it will not need to be the 42 people that is presently with Indian Claims Commission.

The Court of Claims estimates that they can take care of this problem with 13 or 14 additional staff, 2 of which would be commissioners and who would be getting about the salary that they are getting now.

The last argument is that all cases should be heard by the same tribunal. I think this is a very laudable objective. But after 30 years and faced with the fact that even in 3 more years we are going to be transferring, by the Commission's own admission some 48 dockets, it is clear that we will not be able to achieve with the present Commission that state of utopia which we would really like to achieve, that state where all litigants on the same subject matter have the same tribunal.

So, I say if that argument is valid today, it will be just as valid in 1980 and in 1985 and in 1990. I think it is time that we exhibit a willingness to finally bring this thing to an end. It has been extended now 20 years. Its workload can be transferred to the Court of Claims and at least as expeditiously handled there for what I feel will be a smaller cost.

Continuation of the Commission will only lead to continued foot-dragging and delay, and it is, indeed, time to say "enough."

The CHAIRMAN. The time of the gentleman has expired.

Mr. YOUNG of Alaska. Mr. Chairman, I rise in opposition to the amendment and I will be very brief.

I think we have debated pretty thoroughly the offer of the amendment. The decision here, Mr. Chairman, is that the administration, the Court of Claims, and the Commission support the bill as written. More than that, the tribes that are affected by the decisions of this Commission do support the extension. They are the ones who are seeking the justice that they must receive. I am saying to the Members—and I honor and respect the good chairman of the subcommittee; I recognize his promise; and the chairman of the full committee; I recognize his promise—we have just passed an Indian Health bill here. We turned back that length of time from 7 years to 3 years because we could not predict the future. I do not think we have the wherewithal to predict what is going to happen, nor could the Commission predict how long some of the litigation was going to take.

The amendment proposed basically destroys a good bill, a bill that has been thought out. It has been accepted by the Senate. It is a bill that will do the job for the first Americans of this Nation, a nation in which they should receive justice under these provisions.

Mr. ECKHARDT. Mr. Chairman, I move to strike out the request number of words.

Mr. Chairman, I rise in opposition. The distinguished gentleman from Washington (Mr. MEEDS) indicated that somehow his amendment might be better for the Indians, for the claimant, by shortening the time by taking out the present trial court and transferring the trial court authority to the Court of Appeals—to what has been the Court of Appeals in Indian claims cases.

I have before me a letter from the National Congress of American Indians to the distinguished chairman of the full committee dated May 19. The National Congress can speak in behalf of the American Indian tribes of the United States, most of whom are members of the National Congress, and of course the National Congress and most of those here on the floor who have the largest number of Indians in their area are indicating their opposition to this amendment.

It is very easy to see why the Indians do not want to do away with the Commission, and I think the gentleman from Washington (Mr. MEEDS) has pointed that out in his statement very well. The way these claims are processed is that the Commission acts as the trial court. The Claims Commission is called on to make extremely difficult decisions dealing with certain presumptions and certain factual situations in which the rules of evidence are tried to their utmost extent to provide a means of determining title as of 100 years ago. The Commission therefore has a very difficult, tedious, and important job.

In addition to this, they must establish the most complex accounting procedures respecting what these lands were worth then and how they must be considered as to their worth today.

What would be the next step in the procedure which is available to the Indian tribes or to others making contrary claims is an appeal to the Court of Claims. The Court of Claims then is acting in the same position as the Court of Appeals acts toward a Federal District Court. Virtually all of the claims that have gone to the Court of Claims are then appealed to the Supreme Court because obviously the cases are generally important ones and all of them raise very substantial issues of Federal law.

Now, what is done by shortening the time of the process by which the matter is tried? In truncating the process, we do away with what was the trial court and place that authority in what was the appellate court.

Frequently the appellate court has been in the position of reversing Indian claims. Obviously this would put the person who is a claimant at a disadvantage when we destroy that original trial court. That original trial court is a sympathetic one because it knows the facts and it has got the expertise to cut past sometimes very difficult evidentiary points and get at the facts. So this amendment would put this in what was previously the appellate court where cases frequently were reviewed and sometimes reversed.

Now, can we say that the cases which are taken to the appellate court in the first instance will be given the same rights and advantages? They claim they will not and I suggest they know that.

I suggest what is involved is not expedition but simple justice. It is not a question of simple democracy or future rights or future advantages. This is a case of vested rights triable in a court in which persons are entitled to the same equal processes of law as others in the same position.

I urge the Members strongly to continue this body for only 2½ years and let the process be completed in the same way as cases which have been tried up to the present time.

Mr. HALEY. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, the distinguished and able gentleman from Texas made a very emotional appeal here for this, but let me tell the Members this: This bill as it is now will not do justice to the Indians. I do not think the Indians want it as it is now. I do not think that people in the various parts of the country want it. They think the Indians have been treated pretty well, involving something over a half billion dollars.

Certainly as I said some time ago, those people sitting down in the Indian Claims Commission at $37,800 a year would like to have it extended.

Mr. Chairman, I venture this, too, that if we extend it, they will be back here in 1980 and they will be back here in 1990. We will never complete this situation and be done with it, which we should have done years ago.

Mr. Chairman, I rise in strong opposition to the provisions of sections 2, 3, and 4 of H.R. 11909, as reported by the Committee on Interior and Insular Affairs. These provisions would, for the fifth time, perpetuate the existence of the Indian Claims Commission, sure, at $37,800 apiece.

Mr. Chairman, I do not oppose the authorization of appropriations of $1,650,000 contained in section 1 of the bill to cover the Commission's financial needs for fiscal year 1977, but I am against the committee's recomendation to extend the life of the Indians Claims Commission to September 1980.

Mr. Chairman, at the outset, may I say to my colleagues, that having served as chairman of the Subcommittee on Indian Affairs for some 18 years in the House, and I will say I have probably handled more Indian legislation in that 18 years than any man in history, I believe I can speak with some measure of authority on this important matter.

The Indian Claims Commission was established by the Congress in 1946 for a 10-year period to properly adjudicate Indian tribal claims against the Federal Government in 1956, as chairman of the Indian Affairs Subcommittee, I supported the need to extend the life of the Commission for another 5-year period. In 1961, again based upon the Commission's needs, the committee was sympathetic enough to grant another extension of 5 years in order for the Commission to complete its work; but in 1967, the Commission again asked for another extension of 5 years. The Commission also recommended that two or more members should be added to its membership, so that there would be greater acceleration in the processing and adjudication of the cases. The committee accepted the recommendations, but in its report it states:

> The Committee expects that the enlarged commission will expeditiously set up and insist upon compliance with rules which will insure adjudication of the remaining dockets within the 5-year extension . . . The Committee will not look favorably on future requests to extend the life of the Indian Claims Commission.

Mr. Chairman, I say to my colleagues that perhaps with more patience than was warranted, this same committee once again extended the life of the Commission in 1972 for another 5-year period, to April 30, 1977. This time the committee promised the House that there would be no further extensions—that this matter needed finality—and that the committee had taken the difficult step of terminating this congressionally created governmental body.

The CHAIRMAN. The time of the gentleman from Florida has expired.

(By unanimous consent, Mr. HALEY was allowed to proceed for an additional 2 minutes.)

Mr. Chairman, there was appropriate language added to the extension bill to provide a winding-up mechanism in which unfinished cases were to be transferred to the U.S. Court of Claims.

Mr. Chairman, I believe the Congress has been more than generous to the Indian tribes, and especially their attorneys. I would like to stress their attorneys, because I think that a great deal of this delay has been because of the attorneys dragging this thing out with the cooperation, I might say, of the people downtown, and especially in allowing them sufficient time to prepare and present their claims.

With the U.S. Court of Claims assuming responsibility for pending claims on April 10, 1977, and since this forum will be made available for any future claims, there is absolutely no justification to continue the existence of the commission.

I urge my colleagues to bring this matter to a close by supporting this amendment, which deletes this provision to once again extend the life of this, I think worthless, commission.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Washington (Mr. MEEDS).

The question was taken; and the Chairman announced that the ayes appeared to have it.

Mr. ECKHARDT. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

The CHAIRMAN. A quorum of the Committee of the Whole has not appeared.

The Chair announces that a regular quorum call will now commence.

Members who have not already responded under the noticed quorum call will have a minimum of 15 minutes to record their presence. The call will be taken by electronic device.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 595]

Abzug
Adams
Addabbo
Alexander
Andrews, N.C.
Archer
Badillo
Blanchard
Boggs
Bolling
Broomfield
Burke, Calif.
Burlison, Mo.
Burton, John
Burton, Phillip
Cederberg
Chisholm
Clay
Cochran
Collins, Ill.
Conlan
Conyers
Coughlin
D'Amours
Davis
de la Garza
Derwinski
Diggs
Dingell
Edgar
Esch
Eshleman
Evins, Tenn.

Findley
Flynt
Fountain
Fraser
Fuqua
Giaimo
Goldwater
Hansen
Harsha
Hébert
Hefner
Hinshaw
Johnson, Colo.
Jones, N.C.
Jones, Tenn.
Karth
Levitas
Litton
Lundine
McEwen
Mathis
Melcher
Mosher
Murphy, N.Y.
Obey
O'Hara
O'Neill
Passman
Peyser
Pickle
Pike
Railsback
Randall

Rees
Riegle
Runnels
Santini
Satterfield
Scheuer
Schneebeli
Shriver
Shuster
Sikes
Skubitz
Slack
Steelman
Steiger, Ariz.
Stephens
Stuckey
Sullivan
Symington
Teague
Thompson
Thone
Udall
Ullman
Vander Veen
Waxman
Wiggins
Wilson, C. H.
Wilson, Tex.
Wright
Wydler
Young, Ga.
Zablocki

Accordingly the Committee rose; and the Speaker having resumed the Chair, Mr. MURTHA, Chairman of the Committee of the Whole House on the State of the Union, reported that that committee, having had under consideration the bill H.R. 11909, and finding itself without a quorum, he had directed the Members to record their presence by electronic device, whereupon 334 Members recorded their presence, a quorum, and he submitted herewith the names of the absentees to be spread upon the Journal.

The Committee resumed its sitting.

RECORDED VOTE

The CHAIRMAN. The pending business is the demand of the gentleman from Texas (Mr. ECKHARDT) for a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 270, noes 122, not voting 40, as follows:

[Roll No. 596]

AYES—270

Adams
Alexander
Ambro
Andrews, N.C.
Annunzio
Archer
Ashbrook
Ashley
Aspin
Badillo
Bafalis
Bauman
Beard, R.I.
Bedell
Bell
Bennett
Bergland
Bevill
Biaggi
Bingham
Blanchard
Blouin
Boggs
Boland
Bonker
Brademas
Breaux
Brinkley
Brooks
Brown, Mich.
Broyhill
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burton, John
Byron
Carney
Carter
Cederberg
Chappell
Clancy
Cleveland
Collins, Tex.
Conte
Corman
Cotter
Coughlin
Crane
D'Amours
Daniel, Dan
Daniel, R. W.
Daniels, N.J.
Danielson
de la Garza
Delaney
Dellums
Dent
Derwinski
Devine
Dingell
Dodd
Downey, N.Y.
Downing, Va.
Drinan
Early
Edwards, Calif.
Eilberg
Eshleman
Evans, Colo.
Evans, Ind.
Fary
Fascell
Fisher
Fithian
Flood
Florio
Flowers
Foley
Ford, Mich.
Fraser
Frenzel
Frey
Fuqua
Gaydos
Gibbons
Ginn
Goodling

Gradison
Grassley
Green
Haley
Hall, Ill.
Hall, Tex.
Hamilton
Hanley
Hannaford
Harkin
Harrington
Harris
Harsha
Hawkins
Hayes, Ind.
Hays, Ohio
Hechler, W. Va.
Hefner
Heinz
Helstoski
Henderson
Hicks
Hightower
Hillis
Holland
Holt
Holtzman
Horton
Howard
Hubbard
Hungate
Hutchinson
Hyde
Ichord
Jacobs
Jeffords
Jenrette
Johnson, Calif.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Kastenmeier
Kelly
Kemp
Ketchum
Keys
Krebs
Krueger
LaFalce
Landrum
Leggett
Lehman
Levitas
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
McCloskey
McDade
McDonald
McFall
McHugh
McKay
Madden
Madigan
Mahon
Mann
Martin
Mathis
Mazzoli
Meeds
Metcalfe
Meyner
Mezvinsky
Mikva
Milford
Miller, Calif.
Miller, Ohio
Mills
Mineta
Minish
Mink
Mitchell, Md.
Moakley
Moffett
Mollohan
Montgomery

Moore
Moorhead, Pa.
Morgan
Moss
Mottl
Murphy, Ill.
Murphy, N.Y.
Murtha
Natcher
Neal
Nedzi
Nichols
Nix
Nolan
Obey
O'Neill
Ottinger
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Paul
Pike
Poage
Preyer
Price
Pritchard
Railsback
Rangel
Rees
Regula
Reuss
Richmond
Rinaldo
Robinson
Rodino
Roe
Rogers
Roncalio
Rooney
Rosenthal
Rostenkowski
Roush
Rousselot
Russo
Ryan
St Germain
Sarasin
Satterfield
Scheuer
Schroeder
Seiberling
Sharp
Shipley
Sikes
Simon
Sisk
Smith, Iowa
Snyder
Spellman
Spence
Staggers
Stanton, J. William
Stanton, James V.
Stark
Stephens
Stokes
Stratton
Stuckey
Symms
Taylor, Mo.
Taylor, N.C.
Thompson
Thornton
Treen
Tsongas
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vigorito
Waggonner
Wampler
Waxman

Whalen
White
Whitehurst
Whitten

Wilson, C. H.
Wright
Wylie
Yatron

Young, Fla.
Young, Tex.
Zablocki
Zeferetti

NOES—122

Abdnor
Addabbo
Allen
Anderson, Calif.
Anderson, Ill.
Andrews, N. Dak.
Armstrong
AuCoin
Baldus
Baucus
Beard, Tenn.
Biester
Bowen
Breckinridge
Brodhead
Brown, Ohio
Buchanan
Burgener
Burton, Phillip
Butler
Carr
Clausen, Don H.
Clawson, Del
Cochran
Cohen
Conable
Cornell
Davis
Derrick
Dickinson
Duncan, Oreg.
Duncan, Tenn.
du Pont
Eckhardt
Edwards, Ala.
Emery
English
Erlenborn
Fenwick
Fish

Ford, Tenn.
Forsythe
Giaimo
Gilman
Gonzalez
Gude
Guyer
Hagedorn
Hammerschmidt
Heckler, Mass.
Howe
Hughes
Jarman
Jones, Okla.
Jordan
Kasten
Kazen
Kindness
Koch
Lagomarsino
Latta
Lent
Lott
Lujan
Lundine
McClory
McCollister
McCormack
McEwen
McKinney
Maguire
Matsunaga
Melcher
Michel
Mitchell, N.Y.
Moorhead, Calif.
Mosher
Myers, Ind.
Myers, Pa.
Nowak
Oberstar

O'Brien
Pepper
Perkins
Pettis
Pickle
Pressler
Quie
Quillen
Rhodes
Risenhoover
Roberts
Rose
Roybal
Runnels
Ruppe
Santini
Sarbanes
Schneebeli
Schulze
Sebelius
Shriver
Shuster
Skubitz
Smith, Nebr.
Solarz
Steed
Steiger, Wis.
Studds
Talcott
Thone
Traxler
Walsh
Weaver
Wiggins
Wilson, Bob
Winn
Wirth
Wolff
Wydler
Yates
Young, Alaska

NOT VOTING—40

Abzug
Bolling
Broomfield
Brown, Calif.
Burke, Calif.
Burlison, Mo.
Chisholm
Clay
Collins, Ill.
Conlan
Conyers
Diggs
Edgar
Esch

Evins, Tenn.
Findley
Flynt
Fountain
Goldwater
Hansen
Hébert
Hinshaw
Johnson, Colo.
Jones, Tenn.
Karth
Litton
O'Hara
Passman

Peyser
Randall
Riegle
Slack
Steelman
Steiger, Ariz.
Sullivan
Symington
Teague
Vander Veen
Wilson, Tex.
Young, Ga.

Mr. SANTINI changed his vote from "aye" to "no."

Mr. NATCHER and Mr. DAN DANIEL changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. Are there further amendments?

If not, the question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. MURTHA, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee having had under consideration the bill (H.R. 11909) to authorize appropriations for the Indian Claims Commission for fiscal year 1977, pursuant to House Resolution 1210, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

Is a separate vote demanded on the amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole. If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the bill.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. BELL. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 374, nays 13, not voting 46, as follows:

[Roll No. 597]

YEAS—374

Abdnor
Adams
Addabbo
Alexander
Allen
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Archer
Armstrong
Ashbrook
Ashley
Aspin
AuCoin
Badillo
Bafalis
Baldus
Baucus
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Bell
Bennett
Bergland
Bevill
Biaggi
Biester
Bingham
Blanchard
Blouin
Boggs
Boland
Bonker
Bowen
Brademas
Breaux
Breckinridge
Brooks
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burton, John
Burton, Phillip
Butler
Byron
Carney
Carr
Carter
Cederberg
Chappell
Clancy
Clausen, Don H.
Clawson, Del
Cleveland
Cochran
Cohen
Conable
Conte
Cornell
Cotter
Coughlin
Crane
D'Amours
Daniel, Dan
Daniel, R. W.
Daniels, N.J.
Danielson
Davis
de la Garza
Delaney
Dellums
Dent
Derrick
Derwinski
Devine
Dickinson
Dingell
Dodd
Downing, Va.
Drinan
Duncan, Oreg.
Duncan, Tenn.
du Pont
Early
Eckhardt
Edwards, Ala.
Edwards, Calif.
Eilberg
Emery
Erlenborn
Eshleman
Evans, Colo.
Fary
Fascell
Fenwick
Fish
Fisher
Fithian
Flood
Florio
Flowers
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fraser
Frenzel
Frey
Fuqua
Gaydos
Giaimo
Gibbons
Gilman
Ginn
Goodling
Gradison
Grassley
Green
Gude
Guyer
Hagedorn
Haley
Hall, Ill.
Hamilton
Hanley
Harkin
Harrington
Harris
Harsha
Hawkins
Hayes, Ind.
Hays, Ohio
Hechler, W. Va.
Heckler, Mass.
Hefner
Heinz
Helstoski
Henderson
Hicks
Hightower
Hillis
Holland
Holt
Holtzman
Horton
Howard
Howe
Hubbard
Hughes
Hungate
Hutchinson
Hyde
Ichord
Jacobs
Jeffords
Jenrette
Johnson, Calif.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jordan
Kasten
Kastenmeier
Kazen
Kelly
Kemp
Ketchum
Keys
Kindness
Koch
Krebs
Krueger
LaFalce
Lagomarsino
Landrum
Latta
Leggett
Lehman
Lent
Levitas
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lujan
Lundine
McClory
McCloskey
McCollister
McCormack
McDade
McEwen
McFall
McHugh
McKay
McKinney
Madden
Madigan
Maguire
Mahon
Mann
Martin
Mathis
Matsunaga
Mazzoli
Meeds
Melcher
Metcalfe
Meyner
Mezvinsky
Michel
Mikva
Milford
Miller, Calif.
Miller, Ohio
Mills
Mineta
Minish
Mink
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Morgan
Mosher
Moss
Mottl
Murphy, Ill.
Murphy, N.Y.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nichols
Nix
Nolan
Nowak
Oberstar
Obey
O'Brien
O'Neill
Ottinger
Patten, N.J.
Pattison, N.Y.
Pepper
Perkins
Pettis
Pickle
Pike
Poage
Pressler
Preyer
Price
Pritchard
Quie
Quillen
Railsback
Rangel
Rees
Regula
Reuss
Rhodes
Richmond
Rinaldo
Roberts
Robinson
Rodino
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Roush
Rousselot
Roybal
Runnels
Ruppe
Russo
Ryan
St Germain
Santini
Sarasin
Sarbanes
Satterfield
Scheuer
Schneebeli
Schroeder
Schulze
Sebelius
Seiberling
Sharp
Shipley
Shriver
Shuster
Simon
Sisk
Skubitz
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Spellman
Spence
Staggers
Stanton, J. William
Stanton, James V.
Stark
Steiger, Wis.
Stephens
Stokes
Stratton
Stuckey
Studds
Symms
Talcott
Taylor, Mo.
Taylor, N.C.
Thompson
Thone
Thornton
Traxler
Treen
Tsongas
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vigorito
Waggonner
Walsh
Wampler
Waxman
Weaver
Whalen
White
Whitehurst
Whitten
Wiggins
Wilson, Bob
Wilson, C. H.
Winn
Wirth
Wolff
Wright
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Tex.
Zablocki
Zeferetti

NAYS—13

Albert
Collins, Tex.
English
Evans, Ind.
Gonzalez
Hall, Tex.
Hammerschmidt
Jarman
Jones, Okla.
McDonald
Paul
Risenhoover
Steed

NOT VOTING—46

Abzug
Bolling
Brinkley
Brodhead
Broomfield
Burke, Calif.
Burlison, Mo.
Chisholm
Clay
Collins, Ill.
Conlan
Conyers
Corman
Diggs
Downey, N.Y.
Edgar
Esch
Evins, Tenn.
Findley
Flynt
Fountain
Goldwater
Hannaford
Hansen
Hébert
Hinshaw
Johnson, Colo.
Jones, Tenn.
Karth
Litton
O'Hara
Passman
Patterson, Calif.
Peyser
Randall
Riegle
Sikes
Slack
Steelman
Steiger, Ariz.
Sullivan
Symington
Teague
Vander Veen
Wilson, Tex.
Young, Ga.

The Clerk announced the following pairs:

Mr. Fountain with Mr. Broomfield.

Mr. Jones of Tennessee with Mr. Conlan.

Ms. Abzug with Mr. Esch.

Mr. Hébert with Mr. Peyser.

Mr. Passman with Mr. Steelman.

Ms. Burke of California with Mr. Evins of Tennessee.

Mr. Burlison of Missouri with Mr. Findley.

Mr. Flynt with Mr. Goldwater.

Mr. Young of Georgia with Mr. Hansen.

Mr. Charles Wilson of Texas with Mr. Steiger of Arizona.

Mr. Teague with Mr. Johnson of Colorado.

Mrs. Chisholm with Mr. Litton.

Mr. Clay with Mr. Karth.

Mr. Conyers with Mr. O'Hara.

Mr. Slack with Mr. Riegle.

Mr. Randall with Mrs. Sullivan.

Ms. Collins of Illinois with Mr. Vander Veen.

Mr. Symington with Mr. Edgar.

Mr. Sikes with Mr. Brodhead.

Mr. Downey of New York with Mr. Brinkley.

Mr. Hannaford with Mr. Patterson of California.

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

The SPEAKER. Pursuant to the provisions of House Resolution 1210, the Committee on Interior and Insular Affairs is discharged from further consideration of the Senate bill (S. 2981) to authorize appropriations for the Indian Claims Commission for fiscal year 1977, and for other purposes.

The Clerk read the title of the Senate bill.

MOTION OFFERED BY MR. MEEDS

Mr. MEEDS. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MEEDS moves to strike out all after the enacting clause of the Senate bill (S. 2981) to authorize appropriations for the Indian Claims Commission for fiscal year 1977, and for other purposes, and to insert in lieu thereof the provisions of H.R. 11909, as passed, as follows:

That there is authorized to be appropriated to carry out the provisions of the Indian Claims Commission Act (25 U.S.C. 70), during fiscal year 1977, not to exceed $1,650,000.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House bill (H.R. 11909) was laid on the table.

GENERAL LEAVE

Mr. MEEDS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

There was no objection.

REQUEST FOR PERMISSION FOR SUBCOMMITTEE ON ACTIVITIES OF REGULATORY AGENCIES OF COMMITTEE ON SMALL BUSINESS TO SIT WEDNESDAY AND THURSDAY, AUGUST 4 AND 5, 1976, WHILE THE HOUSE IS IN SESSION

Mr. HUNGATE. Mr. Speaker, I ask unanimous consent that the Subcommittee on Activities of Regulatory Agencies of the Committee on Small Business may be permitted to sit on Wednesday and Thursday of this week while the House is in session.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, may I ask the gentleman, Is that the Committee on the Judiciary?

Mr. HUNGATE. That is the subcommittee of the Committee on Small Business.

Mr. ROUSSELOT. The gentleman is also on the Committee on the Judiciary; is he not?

Mr. HUNGATE. I am.

Mr. ROUSSELOT. That committee is having a big meeting on a lobbying bill.

How can the gentleman be in both places?

Mr. Speaker, I object.

The SPEAKER. Objection is heard.

REQUEST FOR PERMISSION FOR SUBCOMMITTEE ON CRIMINAL JUSTICE OF COMMITTEE ON THE JUDICIARY TO SIT THURSDAY, AUGUST 5, 1976, WHILE THE HOUSE IS IN SESSION

Mr. HUNGATE. Mr. Speaker, I ask unanimous consent that the Subcommittee on Criminal Justice of the Committee on the Judiciary be permitted to sit on Thursday, August 5, 1976, while the House is in session.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, the chairman has just asked permission to sit on another bill. How can he do both?

Mr. HUNGATE. If the gentleman will yield, I am talking about Thursday.

Mr. ROUSSELOT. He is talking about Thursday, too.

Still reserving the right to object, Mr. Speaker, will the gentleman wait until the chairman gets finished with his unanimous-consent requests. Otherwise, I will object if he insists on it.

The SPEAKER. Does the gentleman from Missouri withdraw his request?

Mr. HUNGATE. Mr. Speaker, I withdraw it for the time being. I do not see my chairman here.

Mr. ROUSSELOT. He is around here somewhere.

PERMISSION FOR COMMITTEE ON THE JUDICIARY TO SIT TOMORROW DURING 5-MINUTE RULE

Mr. FLOWERS. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary be permitted to sit tomorrow during the 5-minute rule for the further consideration of H.R. 15, which is the Public Disclosure of Lobbying Act, and H.R. 14535, to amend the Immigration and Nationality Act of Western Hemisphere Preference Legislation.

The SPEAKER. Is there objection to the request of the gentleman from Alabama?

There was no objection.

REQUEST FOR PERMISSION FOR SUBCOMMITTEE ON ADMINISTRATIVE LAW AND GOVERNMENTAL RELATIONS OF COMMITTEE ON THE JUDICIARY TO SIT DURING 5 MINUTE RULE ON THURSDAY AND FRIDAY, AUGUST 5 AND 6, 1976

Mr. FLOWERS. Mr. Speaker, my second unanimous-consent request is this: I ask unanimous consent that the Subcommittee on Administrative Law and Governmental Relations of the Committee on the Judiciary be permitted to sit during the 5-minute rule on Thursday and Friday, August 5 and 6, 1976, for the purpose of conducting hearings.

The SPEAKER. Is there objection to the request of the gentleman from Alabama?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, does the gentleman from Alabama know whether the minority member of the committee has been consulted?

Mr. FLOWERS. Yes, on both issues, and it has been agreed to.

Mr. ROUSSELOT. I asked that question because the gentleman from Alabama knows that we are going to come in at 10 o'clock on those days, and I have been assured by the gentleman's chairman that all we really need is time to meet on the two bills on which the gentleman just got unanimous consent.

Mr. FLOWERS. That was the full committee.

Mr. ROUSSELOT. It is pretty difficult for a subcommittee to meet while the full committee is meeting.

Mr. FLOWERS. The subcommittee was on Thursday and Friday and the full committee on Wednesday.

Mr. ROUSSELOT. I would appreciate it if the gentleman would let me consult with my minority leader; otherwise I would have to object on the second request.

Mr. FLOWERS. Mr. Speaker, I withdraw my second unanimous-consent request.

PERMISSION FOR SUBCOMMITTEE ON CRIMINAL JUSTICE OF COMMITTEE ON THE JUDICIARY TO SIT THURSDAY, AUGUST 5, 1976, WHILE THE HOUSE IS IN SESSION

Mr. HUNGATE. Mr. Speaker, I renew my unanimous consent request that the Subcommittee on Criminal Justice of the Committee on the Judiciary be permitted to sit on Thursday, August 5, 1976, while the House is in session.

I would advise the Members that I have cleared this with the minority member on the subcommittee. At this time I know of no full committee meeting of the Committee on the Judiciary that is scheduled at that time. We are meeting on the habeas corpus legislation, and if it is not acted on by this House before the conclusion of this session, the Supreme Court rules automatically become effective. We are working against a deadline.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, I would ask the gentleman from Missouri whether that will be the only bill that would be considered during the 5-minute rule?

Mr. HUNGATE. It is the one on habeas corpus, I would state to my friend, the gentleman from California, and there is no markup scheduled at that time. This is simply for public hearings.

Mr. ROUSSELOT. I appreciate the gentleman's statement, and I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

There was no objection.

PERMISSION TO PRINT THREE AMENDMENTS

Mr. BROYHILL. Mr. Speaker, I ask unanimous consent for the printing in the RECORD of three amendments, under clause 6 of rule XXIII.

The SPEAKER. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

PERMISSION FOR COMMITTEE ON AGRICULTURE TO SIT WEDNESDAY AND THURSDAY, AUGUST 4 AND 5, 1976, FROM 10 A.M. TO 12 NOON AND DURING THE 5-MINUTE RULE

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that the Committee on Agriculture may have permission to sit on Wednesday and Thursday of this week, August 4 and 5, 1975, during the hours of 10 a.m. and 12 noon and during the 5-minute rule, for the consideration of H.R. 13613, the pending food stamp legislation.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, I yield to the gentleman from Virginia (Mr. WAMPLER).

Mr. WAMPLER. Mr. Speaker, I concur in the request of the gentleman from Washington.

Mr. ROUSSELOT. Mr. Speaker, I would ask the gentleman from Washington whether it is only for consideration of this one bill?

Mr. FOLEY. There is only one pending bill, if the gentleman would yield. I might advise the gentleman that there has been some interest in the legislation. We have a motion adopted last week by the gentleman from Texas to take a final vote thereto at 11 o'clock on Thursday.

Mr. ROUSSELOT. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

There was no objection.

APPOINTMENT OF CONFEREES ON S. 5, GOVERNMENT IN THE SUNSHINE ACT

Mr. BROOKS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 5) to provide that meetings of Government agencies shall be open to the public, with the House amendments thereto, insist on the House amendments, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from Texas? The Chair hears none, and appoints the following conferees: Messrs. Brooks, Moss, Fascell, Conyers, Ms. Abzug, Messrs. Flowers, Danielson, Miss Jordan, and Messrs. Mazzoli, Pattison of New York, Horton, McCloskey, Moorhead of California and Kindness.

FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT EXTENSION

Mr. FOLEY. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 12944) to extend the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, for 6 months.

The SPEAKER. The question is on the motion offered by the gentleman from Washington (Mr. Foley).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 12944, with Mr. Murtha in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from Washington (Mr. Foley) will be recognized for 30 minutes, and the gentleman from Virginia (Mr. Wampler) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Washington (Mr. Foley).

Mr. FOLEY. Mr. Chairman, I yield myself 30 minutes.

Mr. Chairman, I rise in support of H.R. 12944, a bill to provide a 6-month extension of the Federal Insecticide, Fungicide and Rodenticide Act.

H.R. 12944 extends the authorization for appropriations for FIFRA for a 6-month period until September 3, 1977, at a level of $19,735,100. The funding authorization currently in the act terminates March 31, 1977.

There would be a total authorization of appropriations under the act for the fiscal year ending September 30, 1977, in the amount $43,335,100 when account is taken of the authorization for the first 6 months of the fiscal year of $23,600,000 provided by Public Law 94-140 and the supplemental amount authorized by H.R. 12944 for the balance of the year. The authorization provided by H.R. 12944 covers all activities under FIFRA. A portion of the authorization would be available for research programs carried out under section 20 of the act. There would be available for this purpose the amount authorized by the House in H.R. 12704.

Action is being taken at this time to extend the authorization through the balance of fiscal year 1977 because of the provisions of the Congressional Budget Act of 1974. H.R. 12944 provides new budget authority for the fiscal year ending September 30, 1977, and under section 402(a) of that act it would not be in order to consider the bill in the House, without an emergency waiver, if the bill had been reported after May 15, 1976.

When hearings were held on the bill, statements in support of the legislation were received from the EPA, the USDA, the National Association of State Departments of Agriculture, American Farm Bureau Federation, National Agricultural Chemicals Association, and the National Council of Agricultural Employers. A supplemental statement was also received from the Pesticide Formulators Association addressing the committee's attention to problems the small formulators had encountered regarding registration delays and data compensation.

The committee will examine these and other issues in detail during oversight hearings early in 1977 at the time it will have before it for consideration legislation for further extension of the act. It was not thought advisable to conduct oversight hearings at this time because of the short period that has elapsed since the committee had its extended oversight hearings on the act in 1975, and Congress enacted a number of substantive changes in the act. Also, EPA now has several studies underway and additional time is needed for the studies to be completed. The committee has requested that prior to the convening of the 94th Congress, the EPA furnish the committee with a detailed report regarding its decisions on resolution of the outstanding issues and recommendations it might have for changes in the legislation.

Mr. Chairman, I urge the Members to join me in supporting enactment of H.R. 12944.

Mr. Chairman, I reserve the remainder of my time.

Mr. WAMPLER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise to support H.R. 12944, a bill to extend the Federal Insecticide, Fungicide and Rodenticide Act, as amended.

H.R. 12944 extends the authorization for appropriations for FIFRA for a 6-month period until September 30, 1977, at a level of $19,735,100. The funding authorization currently in the act terminates March 31, 1977, and without further action by the Congress, EPA would have no authorization to continue its activities under FIFRA beyond that date.

There would be a total authorization of appropriations under the act for the fiscal year ending September 30, 1977, in the amount of $43,335,100 when account is taken of the authorization for the first 6 months of the fiscal year of $23,600,000 provided by Public Law 94-140 and the supplemental amount authorized by H.R. 12944 for the balance of the year. The authorization provided by H.R. 12944 covers all activities under FIFRA. A portion of the authorization would be available for research programs carried out under section 20 of the act. There would be available for this purpose the amount authorized by the House in H.R. 12704.

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When hearings were held on the bill, statements in support of the legislation were received from the EPA, the USDA, the National Association of State Departments of Agriculture, American Farm Bureau Federation, National Agricultural Chemicals Association and the National Council of Agriculture Employers. A supplemental statement was also received from the Pesticide Formulators Association addressing the committee's attention to problems the small formulators had encountered regarding registration delays and data compensation.

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In conclusion, I wish to state that in the past I have been disturbed by many of the administrative actions taken by EPA. Therefore, while I support this bill, I do so with the clear knowledge that our committee will be holding hearings on an extension of the FIFRA act early in the 95th Congress. However, I urge your support of this bill, which merely extends the authorization for appropriations in the fiscal year 1977 from March 31, 1977, to September 30, 1977—the end of the new fiscal year.

Mr. GUYER. Mr. Chairman, will the gentleman yield?

Mr. WAMPLER. I yield to the gentleman from Ohio.

Mr. GUYER. Mr. Chairman, I wonder what the status in this bill is of the self-certification? Was that taken out?

Mr. WAMPLER. Self-certification was not a part of this bill. That is something we debated in the last bill and it is something which we shall consider, I am sure, in the authorization bill during the next Congress.

Mr. GUYER. I thank the gentleman from Virginia.

Mr. VIGORITO. Mr. Chairman, I support H.R. 12944, to extend the Federal Insecticide, Fungicide, and Rodenticide Act for 6 months, as reported by the Committee on Agriculture.

This legislation is essential to continue an orderly funding for the Environmental Protection Agency, to carry out the FIFRA programs.

The administration of the FIFRA programs require a difficult balancing of the Nation's interest in simultaneously protecting pesticide users and handlers against hazards to human health, protecting our natural resources against avoidable contamination, and maintaining an efficient and productive agricultural system.

While there are tensions and problems in working out the adjustments among these often conflicting objectives, I am convinced that the EPA has generally acted commendably in doing so. Omissions and mistakes have been made, but the Agency has demonstrated an openness toward learning from and correcting its errors.

Legislation approved earlier in this 94th Congress has, in my view, improved the likelihood of minimizing costs of the tradeoffs among health, agricultural, and environmental objectives that EPA decisions necessarily involve. That legislation established a formal procedure for EPA to elicit the views of both the U.S. Department of Agriculture and the Congressional Committees on Agriculture prior to the issuance of regulations or when canceling or reclassifying a pesticide.

These changes have set the stage for a much better continuing dialog between the EPA and the USDA, a dialog that is absolutely essential if the environmental and agricultural tradeoffs are to be made with the least necessary friction and the most possible gain in both areas of concern.

Furthermore, the Committee on Agriculture of this House is committed to an ongoing, intensive oversight of EPA's operations under the FIFRA. Our oversight activities will assure responsiveness of the EPA to the real concerns of farm producers and others in agriculture that the legislation be administered in ways least disruptive to food production while the Agency attempts to hold down adverse risks to farmers and others who come in contact with pesticides.

Mr. Chairman, I commend this bill to my colleagues for approval, as reported by the Agriculture Committee.

Mr. FOLEY. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. WAMPLER. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

H.R. 12944

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 27 of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended (7 U.S.C. 136 (y)), is amended by inserting immediately before the period at the end of the section ", and for the period beginning April 1, 1977, and ending September 30, 1977, the sum of $19,735,100".

AMENDMENT OFFERED BY MR. MATHIS

Mr. MATHIS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MATHIS: Immediately after line 8 add the following new section:

SEC. 2. Section 25(a) of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, is amended by adding the following new paragraph at the end thereof:

(4) RULE AND REGULATION REVIEW.—

(A) Any rule or regulation issued under authority of this Act after the date of enactment of this provision may by resolution of either House of Congress be disapproved, in whole or in part, if such resolution of disapproval is adopted not later than the end of the first period of 60 calendar days when Congress is in session (whether or not continuous) which period begins on the date such rule or regulation is finally adopted by the Department or agency adopting same. The Department or agency adopting any such rule or regulation shall transmit such rule or regulation to each House of Congress immediately upon its final adoption. Upon adoption of such a resolution of disapproval by either House of Congress, such rule or regulation, or part thereof, as the case may be, shall cease to be in effect.

(B) Congressional inaction on or rejection of a resolution of disapproval shall not be deemed an expression of approval of such rule.

Mr. MATHIS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Georgia?

There was no objection.

Mr. MATHIS. Mr. Chairman, this amendment is one I think every member of this committee is familiar with by now. It simply provides that this House and the other body shall retain veto power over any proposed rule or regulation prescribed by the EPA in conjunction with or operating under the authority of the FIFRA that we are extending for the 6-month period until next September.

There is ample precedent in law for this being done. This congressional veto provision goes back to the thirties. We have in fact in this body adopted some three amendments in the last several weeks which do exactly the same thing I attempt to do with this amendment.

I concur completely with the statements made by the distinguished gentleman from Washington.

There is no need to prolong debate over this amendment. I think everyone understands it. I think we ought to adopt it and get on with the business of making democracy responsive to the wishes of people as reflected by their elected representatives in Congress.

Mr. ECKHARDT. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I am perfectly aware that the gentlemen on that side like the amendment, but I wonder if they would like the amendment if they saw it in action. What we are talking about, as we know, is a review of every rule or regulation of an administrative agency. Of course, this is a piecemeal adoption of that proposition, because every interest group would have a second appeal as against a regulation issued in behalf of the people's interests. Who is going to come to Congress? Who can afford to come to Congress to seek a reversal of a rule or regulation by any agency of the Government, except those who have lobby groups here?

Of course, the gentleman from California likes this process, because many of those he finds congenial to his viewpoint would have a second opportunity to veto legislation for the protection of the environment and the safety of the people. Of course, the gentleman likes it and, of course, a number of his colleagues on that side like it.

Mr. Chairman, what puzzles me is why my colleagues on this side accept that kind of proposition.

Now, what I want to point out to the gentleman on that side is another proposition. Once we begin to feel that we have administrative authority on a yo-yo string, we grant them a good deal more administrative authority. This proposition of assuming that we may delegate general authority, but we do not have to worry about it because it is going to come back to Congress for a veto, is an invitation to irresponsible delegation.

The way to curb administrative agencies is by first defining the scope of their action, and second, providing that in the process of rulemaking there will be real due process, because really when it comes right down to it, Congress never has time to review for the purpose of veto legislation which is attached to that kind of yo-yo string.

How many serious reviews have we had in Congress of bills fashioned in that manner? How are we going to delve into the really deeper technical problems in a matter of a truncated proceeding in a few days and if we do not veto it, it goes into effect.

What we do is give the people of the United States an assumption of security which they really do not have and the assumption of security is that we have, in fact, reviewed the rule and we have come to the decision that the rule is good, when we simply do not have time to look into it.

Mr. MATHIS. Mr. Chairman, will the gentleman yield?

Mr. ECKHARDT. I yield to the gentleman from Georgia.

Mr. MATHIS. Mr. Chairman, I appreciate the gentleman's argument. I wonder what assumption of security the American people have now against the bureaucracy?

Mr. ECKHARDT. Mr. Chairman, the difficulty on that point is that Congress has not been careful to delineate its delegation of power; but if we adopt such an amendment as this, we will be less careful of delineating power.

I recall what happened in the Committee on Interstate and Foreign Commerce. There was a proposal by your President, the gentlemen to my left, and he is also my President, but he belongs to your party, in which he asked us to give to an agency of Government the unrestricted power to put into effect in any place, anything that would conserve energy—anything—and then reserve the veto power.

Now, that is an invitation to absolute trenchment on the rights of people in the States. The only reason anyone would ever dare to do that is because of this yo-yo string proposition.

I suggest that if we pass this kind of provision with respect to all these agency matters, we make mistakes in both directions. First, we encourage the delegation of too much authority with too little process in the delegation.

Second, we provide an appeal for every interest group to review the people's regulation issued by the Commission.

Mr. FOLEY. Mr. Chairman, I move to strike the last word, and I rise in opposition to the amendment.

Mr. Chairman, I know the instinct Members have to accept an amendment of this kind. There is a real concern in the country and in the Congress about the extent of bureaucratic activity, unchecked by any restraints at all.

But, in this particular legislation, the basic act that we are extending, there is a provision—in fact, a variety of provisions—that limit the authority of the Administrator of the Environmental Protection Agency to issue regulations. By action this Congress took last year, the EPA Administrator is required on any proposed regulation to give 60 days notice to the following institutions and individuals:

First, to the Secretary of Agriculture; second, to a board of scientific advisors drawn from the National Institutes of Health and the National Academy of Sciences; and third, to the Agriculture Committees of the House and the Senate.

They have an opportunity, particularly the scientific board and the Secretary, they are encouraged 30 days thereafter to submit their comments and objections to the administrator. He has 30 days to respond, then both are published in the Federal Register. Then, if the administrator still desires to go ahead, he must give 30 days notice before any final regulations are issued, and the Secretary of Agriculture and the Scientific Board have 15 days in which to make objections to that, which are printed in the Federal Register. The same notice is given to the Congress prior to final issuance.

Now, the gentleman from Georgia wants another 60 days after the final regulation is promulgated for either House of the Congress to decide whether these regulations are to take effect. One of the problems with bureaucratic activity has been its slowness to respond to needed actions. It has not always been its promptness, sometimes it has been its slowness, its sluggishness, its nonresponsiveness, but we have built in over a 90-day delay process where the Congress can be fully informed about any proposed or final regulation. Any activity the Congress wishes to take has plenty of time to be taken without having 2 more months after that time to prolong this process.

I believe that the proper course is one that has been suggested by others in this Congress, that we have shorter terms of authorization; that we have sunset laws to put some of these agencies out of business, or at least renew their charter periodically by judgement of the Congress, and not to get into this business of reviewing every regulation, which I think is not a legislative function as much as it is an administrative function.

We ought to do our legislative business in deciding on powers and actions we give to these agencies, how they will be carried on in a general way, and then periodically review those powers. There are 15,000 or 16,000 regulations issued every year by the departments of government. If we try to individually review those 15,000, we will so bog this Congress down in particulars, many of which are not really relevant, and many of which are not even very controversial, we will not be able to do the legislative job which we should be doing, and thereby bringing real oversight and real control to the bureaucracy.

In my judgment, this agency has already been singled out under very harsh conditions by the Committee on Agriculture and had imposed against its regulatory authority provisions which I do not think are paralleled in any other agency of the Government. Let us let this particular opportunity to review the operation of this agency under these recent directives take effect a while longer before we rush into what I think is an ill-advised action at this time.

If it occurs that this kind of overview does not work and this agency, in the judgment of the Congress, is completely without responsibility in the handling of those regulations, then I will not object, as a final resort, to this type of regulation and control, but I think at this time that it is premature.

Mr. LEVITAS. Mr. Chairman, I move to strike the requisite number of words, and I rise in strong support of the amendment offered by my colleague, the gentleman from Georgia (Mr. MATHIAS), I think it addresses a very specific question that I wish every Member of this Committee would ask himself or herself. Who makes the laws in this country? Who makes the laws that put people in jail, that deprive them of their property, that regulate their lives from morning to night? Is it the elected Representatives of the people? Or is it the unelected bureaucracy?

Rules and regulations have the force of law.

If the Members believe and want to continue to perpetuate laws passed by administrative fiat, adopted by unelected bureaucrats, then vote against the amendment offered by the gentleman from Georgia. But if the Members really believe that Representatives elected by the public and responsible to the public ought to have the final say-so on those rules and regulations which order our lives, then I urge the Members to join with me in supporting the amendment offered by the gentleman from Georgia.

In 1974 this Congress passed 404 laws. During that same year, the bureaucracy passed over 7,000 rules and regulations. That is who is running our lives and our businesses.

I suggest to the Members that the only remedy and redress that is available to the public is for us as elected officials to assume the responsibility of saying when the bureaucracy has gone too far, perverted the intent of Congress, and promulgated arbitrary and oppressive rulings. It is the responsibility of this Congress.

The gentleman from Washington, the distinguished chairman of the committee, said there are so many regulations. But I suggest to the Members that there are 20,000 bills that have been introduced in Congress. We are only going to consider a handful of those. We will select only those that are important. The same will be true in dealing with these oppressive rules and regulations.

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield?

Mr. LEVITAS. I yield to the gentleman from Texas.

Mr. ECKHARDT. I thank the gentleman for yielding.

Mr. Chairman, I would like to ask if the gentleman believes that this amendment permits Congress as a body to review and reject the rules.

Mr. LEVITAS. This amendment provides that either House of the Congress can adopt a resolution of disapproval. And it is that very provision that was adopted by this Congress in the Federal election law, I suggest.

Mr. ECKHARDT. If the gentleman will yield further, why should either House be able to review and perhaps alter the delegation of both Houses?

Mr. LEVITAS. Because if this Congress, in passing the delegated authority, provides that either House can review and reject those rules and regulations, it has the power to do so. Mr. Justice White's concurring and dissenting opinion in the case, *Buckley* v. *Valco* said as follows: In the light of history and modern reality, the provision for congressional disapproval of agency regulation does not appear to transgress the constitutional design.

I suggest that this one House veto is not novel. It is part of the Federal Election Commission law. There are many statutes which have similar provisions. We have already adopted this amendment on seven occasions in this 94th Congress.

Mr. ECKHARDT. If the gentleman will yield, we made seven mistakes.

Mr. LEVITAS. It is time that the Members of this Congress go back and ask their constituents whether they want Government by elected officials or whether they want Government by an unelected bureaucracy.

Mr. DAVIS. Mr. Chairman, will the gentleman yield?

Mr. LEVITAS. I yield to the gentleman from South Carolina.

Mr. DAVIS. I thank the gentleman for yielding.

Mr. Chairman, I would like to say to the Members that we passed the Federal Election Commission bill, which contains rules and regulations that directly reflect those who run for public office, in which we govern our lives and govern our elections, and we want to have total review and total veto power, and everything else; but, when we get down to the little man, who is really feeding this country, they say, "Pass it on to the bureaucracy and wash our hands of it," and we do not want to be responsible.

I would urge a vote for the amendment offered by the gentleman from Georgia.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. LEVITAS. I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Chairman, I think the comments of the gentleman from Georgia are very important. It brings up the responsibility we have when we delegate this authority, in the first place. But, in answer to my colleagues, the gentlemen from Texas and Washington, who complain that we have to review too many rules and regulations, that is part of the problem; and that does not mean we would necessarily reject every rule and regulation. It merely gives us the opportunity for review and the opportunity to reject those that clearly go far beyond the scope of the legislation.

Mr. LEVITAS. I fully agree with the gentleman from California.

The CHAIRMAN. The time of the gentleman from Georgia (Mr. LEVITAS) has expired.

(By unanimous consent, Mr. LEVITAS was allowed to proceed for 2 additional minutes.)

Mr. LEVITAS. Mr. Chairman, I would say further that the very existence of this kind of authority in the Congress will make the bureaucrats much more sensitive and responsive to the concerns of the people they are regulating than they are now when they know they are relatively immune to challenge against the administration of their legislative fiat.

I would also like to respond to the observation of the gentleman from Washington (Mr. FOLEY) that it may mean too much work for this Congress. If the rules and regulations are in fact laws regulating the lives of the people of this country, I think it is our responsibility to deal with these matters. We cannot cop-out. We cannot pass the buck. The duty is ours to bring the bureauracy under control.

Mr. FOLEY. Mr. Chairman, will the gentleman yield?

Mr. LEVITAS. I yield to the gentleman from Washington.

Mr. FOLEY. Mr. Chairman, this is a matter that has been debated and discussed in the committee not only on this bill but on many others. As far as I am concerned, I am perfectly willing to have the Committee present here decide this issue and not prolong the proceedings. I do not believe we need to have a prolonged debate, and I am willing to suspend further debate and let the Members decide.

Mr. KETCHUM. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I shall not use my full 5 minutes, and I thank my friends from the majority party for their support of the fact that I am not going to use the entire 5 minutes.

I simply take this time—and I would be remiss if I did not—to indicate to the body that the amendment offered by the distinguished gentleman from Georgia (Mr. MATHIS) should indicate to the body and to the country that this is not a partisan issue. It is kind of refreshing around here to have something that is not a partisan issue.

I strongly support the Mathis amendment. It has been agreed to in all but one of our authorizing bills this year, and I strongly urge support of the amendment now.

Mr. Chairman, I would suggest respectfully to the chairman of the Committee on Rules that a bill resides in that committee that, if passed out of the committee and brought to this floor, could resolve this matter once and for all by attaching this amendment to all authorizing legislation and letting the Congress decide.

Mr. SEBELIUS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I know that we want to get a vote on this, but first I would like to at least counter the remarks made by the gentleman from California (Mr. KETCHUM) who says this is a bipartisan matter. He perhaps suggests that it becomes a bipartisan matter by joining with our colleague from Georgia (Mr. MATHIS). I will continue to make it a partisan matter by joining with the gentleman from Washington (Mr. FOLEY) in opposition to the amendment.

It is very seldom that I do not vote with the gentleman from Georgia (Mr. MATHIS) on these important agriculture issues. I have no more use for EPA as to many of its rulings than any other members of this committee, and I do not take second place in that regard at all.

Although I sympathize in principle with the gentleman's desire to require congressional review of each and every FIFRA related regulation effected by EPA, I sincerely question whether Congress has adequate resources, personnel, or the ability to address the numerous and highly complex and technical considerations arising from FIFRA.

If this amendment were adopted and Congress failed to act in a timely and efficacious manner on a regulation which later proved to be a blunder, our inaction would be tantamount to tacit approval of a nearsighted action by a regulatory agency.

Furthermore, I remind my colleagues that Congress is already currently authorized to address and ultimately reverse any administrative regulation by specific legislative action.

Mr. Chairman, I urge that this amendment be defeated. I do understand and appreciate the remarks that have been made and join in the spirit behind them, but I must oppose the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Georgia (Mr. MATHIS).

The question was taken; and on a division (demanded by Mr. FOLEY) there were—ayes 36, noes, 7.

So the amendment was agreed to.

The CHAIRMAN. If there are no further amendments, under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. MURTHA, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee having had under consideration the bill (H.R. 12944) to extend the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, for 6 months, pursuant to House Resolution 1245, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

The question is on the amendment.

The amendment was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the bill.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. BAUMAN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 347, nays 33, not voting 52, as follows:

[Roll No. 598]

YEAS—347

Abdnor
Adams
Addabbo
Alexander
Allen
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Ashley
Aspin
AuCoin
Bafalis
Baldus
Baucus
Beard, R.I.
Beard, Tenn.
Bedell
Bell
Bennett
Bergland
Bevill
Biaggi
Biester
Bingham
Blanchard
Blouin
Boggs
Boland
Bonker
Bowen
Brademas
Breaux
Breckinridge
Brooks
Brown, Calif.
Brown, Mich.
Broyhill
Buchanan
Burgener
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burton, John
Burton, Phillip
Butler
Byron
Carney
Carr
Carter
Cederberg
Chappell
Clancy
Clausen, Don H.
Cleveland
Cochran
Cohen
Conte
Corman
Cornell
Cotter
Coughlin
D'Amours
Daniel, Dan
Daniel, R. W.
Daniels, N.J.
Danielson
Davis
de la Garza
Delaney
Dellums
Dent
Derrick
Derwinski
Dickinson
Dingell
Dodd
Downey, N.Y.
Downing, Va.
Drinan
Duncan, Oreg.
Duncan, Tenn.
du Pont
Early
Eckhardt
Edwards, Ala.
Edwards, Calif.
Eilberg
Emery
English
Erlenborn
Eshleman
Evans, Colo.
Fary
Fascell
Fenwick
Fish
Fisher
Fithian
Flood
Florio
Flowers
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fraser
Frenzel
Frey
Fuqua
Gaydos
Giaimo
Gibbons
Gilman
Ginn
Goldwater
Gradison
Green
Gude
Hagedorn
Haley
Hall, Ill.
Hall, Tex.
Hamilton
Hammerschmidt
Hanley
Hannaford
Harkin
Harrington
Harris
Harsha
Hayes, Ind.
Hays, Ohio
Hechler, W. Va.
Heckler, Mass.
Hefner
Helstoski
Henderson
Hicks
Hightower
Hillis
Holland
Holtzman
Horton

Howard
Howe
Hubbard
Hughes
Hutchinson
Hyde
Jacobs
Jarman
Jeffords
Johnson, Calif.
Johnson, Pa.
Jones, N.C.
Jones, Okla.
Jordan
Kasten
Kastenmeier
Kazen
Kelly
Kemp
Ketchum
Keys
Koch
Krebs
Krueger
LaFalce
Lagomarsino
Leggett
Lehman
Lent
Levitas
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lujan
Lundine
McClory
McCloskey
McCormack
McDade
McFall
McHugh
McKay
McKinney
Madden
Madigan
Maguire
Mahon
Mann
Martin
Mathis
Mazzoli
Meeds
Melcher
Metcalfe
Meyner
Mezvinsky
Michel
Mikva
Milford
Miller, Calif.
Mills
Mineta
Minish
Mink
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Morgan
Mottl
Murphy, Ill.
Murphy, N.Y.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nichols
Nix
Nolan
Nowak
Oberstar
Obey
O'Brien
O'Neill
Ottinger
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Pepper
Perkins
Pettis
Pickle
Pike
Poage
Pressler
Preyer
Price
Pritchard
Quie
Quillen
Railsback
Rangel
Rees
Regula
Reuss
Rhodes
Richmond
Rinaldo
Risenhoover
Roberts
Robinson
Rodino
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Roush
Roybal
Runnels
Ruppe
Russo
Ryan
St Germain
Santini
Sarasin
Sarbanes
Scheuer
Schneebeli
Schroeder
Schulze
Sebelius
Seiberling
Sharp
Shipley
Shriver
Simon
Sisk
Skubitz
Smith, Iowa
Smith, Nebr.
Solarz
Spellman
Staggers
Stanton, J. William
Stanton, James V.
Stark
Steed
Stokes
Stratton
Stuckey
Studds
Talcott
Taylor, N.C.
Thompson
Thone
Thornton
Traxler
Treen
Tsongas
Ullman
Van Deerlin
Vander Jagt
Vanik
Vigorito
Waggonner
Walsh
Wampler
Waxman
Weaver
Whalen
White
Whitehurst
Whitten
Wiggins
Wilson, Bob
Wilson, C. H.
Winn
Wirth
Wolff
Wright
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Tex.
Zablocki
Zeferetti

NAYS—33

Archer
Armstrong
Ashbrook
Bauman
Brown, Ohio
Clawson, Del
Collins, Tex.
Conable
Crane
Devine
Evans, Ind.
Gonzalez
Goodling
Grassley
Guyer
Holt
Ichord
Jenrette
Kindness
Latta
McCollister
McDonald
McEwen
Miller, Ohio
Paul
Rousselot
Satterfield
Shuster
Snyder
Spence
Steiger, Wis.
Symms
Taylor, Mo.

NOT VOTING—52

Abzug
Badillo
Bolling
Brinkley
Brodhead
Broomfield
Burke, Calif.
Burlison, Mo.
Chisholm
Clay
Collins, Ill.
Conlan
Conyers
Diggs
Edgar
Esch
Evins, Tenn.
Findley
Flynt
Fountain
Hansen
Hawkins
Hébert
Heinz
Hinshaw
Hungate
Johnson, Colo.
Jones, Ala.
Jones, Tenn.
Karth
Landrum
Litton
Matsunaga
Mosher
Moss
O'Hara
Passman
Peyser
Randall
Riegle
Sikes
Slack
Steelman
Steiger, Ariz.
Stephens
Sullivan
Symington
Teague
Udall
Vander Veen
Wilson, Tex.
Young, Ga.

The Clerk announced the following pairs:

Mr. Jones of Tennessee with Mr. Conlan.
Ms. Abzug with Mr. Esch.
Mr. Hébert with Mr. Peyser.
Mr. Fountain with Mr. Steelman.
Mr. Passman with Mr. Evins of Tennessee.
Mrs. Burke of California with Mr. Findley.
Mr. Sikes with Mr. Brinkley.
Mrs. Collins of Illinois with Mr. Hansen.
Mr. Slack with Mr. Steiger of Arizona.
Mr. Randall with Mr. Vander Veen.
Mr. Flynt with Mrs. Sullivan.
Mr. Young of Georgia with Mr. Broomfield.
Mr. Burlison of Missouri with Mr. Heinz.
Mr. Teague with Mr. Edgar.
Mrs. Chisholm with Mr. Brodhead.
Mr. Clay with Mr. Riegle.
Mr. Diggs with Mr. O'Hara.
Mr. Conyers with Mr. Karth.
Mr. Symington with Mr. Hawkins.
Mr. Johnson of Colorado with Mr. Hungate.
Mr. Jones of Alabama with Mr. Matsunaga.
Mr. Landrum with Mr. Stephens.
Mr. Litton with Mr. Mosher.
Mr. Moss with Mr. Udall.
Mr. Badillo with Mr. Charles Wilson of Texas.

Mr. KINDNESS changed his vote from "yea" to "nay."

Mr. WHITE changed his vote from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 12944, the bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

There was no objection.

PROPOSAL FOR A FOREIGN PAYMENTS DISCLOSURE ACT—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 94–572)

The SPEAKER laid before the House the following message from the President of the United States; which was read and referred to the Committee on Interstate and Foreign Commerce and ordered to be printed:

To the Congress of the United States:

Certain improper activities abroad undertaken by some American corporations have resulted in an erosion of confidence in the responsibility of many of our important business enterprises. In a more general way, these disclosures tend to destroy confidence in our free enterprise institutions.

With this in view, I established the Task Force on Questionable Corporate Payments Abroad on March 31, 1976, and directed it to undertake a sweeping policy review of approaches to deal with the questionable payments problem. On June 14, after reviewing an interim report of the Task Force, I directed the Task Force to develop, as quickly as possible, a specific legislative initiative calling for a system of reporting and disclosure to deter improper payments.

Today, I am transmitting to the Congress my specific proposal for a Foreign Payments Disclosure Act. This proposal will contribute significantly to the deterrence of future improper practices and to the restoration of confidence in American business standards.

This legislation represents a measured but effective approach to the problem of questionable corporate payments abroad:

—It will help deter improper payments in international commerce by American corporations and their officers.

—It will help reverse the trend toward allegations or assumptions of guilt-by-association impugning the integrity of American business generally.

—It will help deter would-be foreign extorters from seeking improper payments from American businessmen.

—It will allow the United States to set a forceful example to our trading partners and competitors regarding the imperative need to end improper business practices.

—It does not attempt to apply directly United States criminal statutes in foreign states and thus does not promise more than can be enforced.

—Finally, it will help restore the confidence of the American people and our trading partners in the ethical standards of the American business community.

The legislation will require reporting to the Secretary of Commerce of certain classes of payments made by U.S. businesses and their foreign subsidiaries and affiliates in relation to business with foreign governments. The reporting requirement covers a broad range of payments relative to government transactions as well as political contributions and payments made directly to foreign public officials. By requiring reporting of all significant payments, whether proper or improper, made in connection with business with foreign governments, the legislation will avoid the difficult problems of definition and proof that arise in the context of enforcement of legislation that seeks to deal specifically with bribery or extortion abroad.

The Secretary of Commerce will, by regulation, further define the scope of reporting required. Small or routine payments will be excluded, as will certain clearly *bona fide* payments such as taxes. Reports will include the names of recipients.

Reports will be made available to the Departments of State and Justice as well as to the Internal Revenue Service and the Securities and Exchange Commission. The Department of Justice and the State Department will, in appropriate instances, relay reported information to authorities in foreign jurisdictions to assist them in the enforcement of their own laws.

Reports also will be made available to appropriate congressional committees. All reports would be made available to the public one year from the date of their filing, except in cases where a specific written determination is made by the Secretary of State or the Attorney General that considerations of foreign policy or judicial process dictate against disclosure.

This proposed legislation is intended to complement and supplement existing laws and regulations which can affect questionable corporate payments abroad.

In this regard, I wish to recognize and build upon the fine record of the Securities and Exchange Commission. The Commission already has taken prompt and vigorous action to discover questionable or illegal corporate payments and to require public disclosure of material facts relating to them. Moreover, as the Commission has noted, public disclosure of matters of this kind generally leads to their cessation. In virtually all the cases reported to the Commission, companies discovering payments of this kind have taken effective steps to stop them and to assure that similar payments do not recur in the future.

A principal emphasis of the Commission's activities in this area has been to prompt the private sector to take actions that would restore the integrity of the existing system of corporate governance and accountability. I applaud this approach and expect the Secretary of Commerce to follow the same spirit in administering this new legislation.

However, not all firms engaged in international commerce are regulated under the securities laws and are subject to the disclosure requirements of the Commission. The Commission requires disclosure of payments only when necessary or appropriate for the protection of investors. Further, it has not generally required reporting of the name of a recipient, a requirement which I believe can be an important deterrent to extorters. In addition, the Commission's system of disclosure—focusing as it does primarily on the interests of the investing public—is not designed to respond to some of the broader public policy and foreign policy interests related to the questionable payments problem.

Accordingly, the legislation which I am proposing deals with *all* U.S. participants in foreign commerce—not just firms subject to Commission regulatory requirements—and it calls for the active involvement of the Secretaries of State and Commerce and the Attorney General in administering a system which addresses the full range of public policy interests inherently involved in the questionable payments problem.

The Secretary of Commerce will take every feasible step to minimize the reporting burdens under this new legislation. The legislation directs the Secretary to consult with other federal agencies to eliminate duplicative reporting. Where appropriate, agencies are authorized to combine reporting and recordkeeping in single forms.

In this regard, I also wish to recognize and build upon the Securities and Exchange Commission's acknowledged expertise in financial reporting. Persons subject to the Commission's jurisdiction must maintain books and records that are sufficient to provide data the Commission believes should be disclosed. The requirement that persons subject to SEC jurisdiction maintain adequate books and records is now implicit in existing law; the legislation recommended by the Commission, which the Task Force and I support, would make that requirement explicit. It is contemplated that the Commission will take further steps to assure that companies it regulates maintain adequate systems of internal accounting controls. Thus, it may well be unnecessary for the Secretary of Commerce to impose additional recordkeeping requirements on companies regulated by the Commission to enable compliance with the proposed legislation.

We remain mindful that the questionable payments problem is an international problem which cannot be corrected by the United States acting alone. Consequently, we are continuing our efforts to secure an international agreement which will establish a mutually acceptable framework for international cooperation in eliminating improper business practices.

The legislation I am proposing today can contribute in an important way to the restoration of confidence in America's vital business institutions. I urge its prompt consideration and enactment by the Congress.

GERALD R. FORD.

THE WHITE HOUSE, *August 3, 1976.*

PERMISSION FOR SUBCOMMITTEE ON LEGISLATION AND NATIONAL SECURITY OF THE COMMITTEE ON GOVERNMENT OPERATIONS TO SIT DURING 5-MINUTE RULE ON WEDNESDAY, AUGUST 4, 1976, FROM 10 A.M. UNTIL NOON

Mr. BROOKS. Mr. Speaker, I ask unanimous consent that the Subcommittee on Legislation and National Security of the Committee on Government Operations may be permitted to sit during proceedings in the House under the 5-minute rule on Wednesday, August 4, 1976, from 10 a.m. until noon.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

Mr. ROUSSELOT. Mr. Speaker, I object.

Mr. BROOKS. Mr. Speaker, would the gentleman from California make that a reservation of objection, so that I may give an explanation?

Mr. ROUSSELOT. Mr. Speaker, I reserve the right to object.

Mr. BROOKS. Mr. Speaker, if the gentleman will yield, this is a hearing that we are having, not marking up any legislation, I say to my distinguished friend, and we hope to continue and conclude the hearings by 10 o'clock. If it runs over, I would like to have the authority to legally complete the legislation which the GSA, the OMB, and GAO have requested.

Mr. ROUSSELOT. Mr. Speaker, has the minority been consulted on this?

Mr. BROOKS. Mr. Speaker, if the gentleman will yield further, the minority has no objection and supports this and is the coauthor of the legislation.

Mr. ROUSSELOT. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

CONGRESS SHOULD TAKE A STRONG POSITION IN SUPPORT OF THE ISRAELI RESCUE MISSION AT ENTEBBE AIRPORT AND A NEW TREATY MORE EFFECTIVELY LIMITING TERRORISM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. KEMP) is recognized for 30 minutes.

Mr. KEMP. Mr. Speaker, my good friend and colleague from New York, ED KOCH of Manhattan, and I have taken this special order and have introduced an important resolution today. We have been joined in this introduction by over 80 of our House colleagues.

This resolution does five things:

First, it commends the Government and commandos of Israel for the success of the rescue mission.

Second, it expresses our disapproval of efforts to condemn or censure Israel for the action.

Third and fourth, it expresses our approval both of the position taken by the Government of the United States and of the joint United States-United Kingdom resolution before the United Nations Security Council.

Fifth, it requests our President to accelerate efforts leading to a new international agreement—with strong and enforceable sanctions—to curb terrorist acts.

I can assure my colleagues that this issue is far from being over—despite the end of debate before the Security Council, debate which saw the United States-United Kingdom resolution condemning terrorism fail for lack of enough support from other nations.

Let me comment for a moment or two on this particular action and on what I feel is its significance.

THE NATURE OF TERRORISM

Acts of international terrorism have mushroomed in the past decade. More than 800 persons have been killed and another 1,700 persons injured, most of them innocent private citizens, in international terrorist incidents since 1968. The safety, welfare, and rights of citizens of all nations are endangered by the assassinations, bombings, skyjackings, kidnapings, and seizure of conference buildings which have become part and parcel of the political movements which support terrorism.

Why?

One of the world's foremost experts on terrorism—Brian Crozier, the director of the Institute for the Study of Conflict in London—was recently interviewed in U.S. News & World Report. I think his observations are very relevant to our discussion here. The Institute conducts research on revolutionary violence, urban terrorism and subversion. Let me quote some of his most pertinent observations:

> Many terrorist groups have ideological or psychological bonds—such as the common rejection of existing society. And there's also a great impatience among young terrorists to change the system of government overnight. This, more than anything else, distinguishes terrorists even from political extremists, who prefer not to resort to violence.
>
> To all of this you must add a desire for publicity, an innate flamboyance and a com-

> plete contempt for human life. Their motivation is always that "we're going to change everything, and it doesn't matter how we do it." By the time they become terrorists, I think they have gone beyond the point where they are open to argument. What goes on in the mind of the extremists is more important than any objective reality.
>
> Basically, they want to make people conform to their views—force them into obedience. That's why they tend to terrorize their own side. In many of the revolutionary situations I've studied, the terrorists have killed far more of their supporters than the so-called enemy.

Crozier then used a specific act of terrorism—the recent murder of the U.S. Ambassador to Lebanon—to further develop this concept of what terrorists think is in it for their causes. He continued:

> Normal criteria do not apply when assessing "gains" or "losses" in a terrorist action of this kind.
>
> From the terrorist standpoint, a number of advantages result from the murder of an American ambassador in a Lebanon-type situation:
>
> One is symbolic. In the eyes of Marxist terrorists especially, the representative of the United States stands as a symbol of the "main citadel of capitalism and imperialism." To remove him is considered a legitimate act of war.
>
> * * * * *
>
> There is also what might be termed the muscle-flexing aspect. The terrorist group responsible for this particular outrage demonstrated its capacity and will to act as it did.

When asked the question, "Do Arab States actively support world terrorism?", Crozier responded:

> Yes, indeed. The main centers in the Middle East are in Lebanon, largely because of the weakness of that state, and Syria. The Syrians have backed terrorism in a deliberate way. They're mostly concerned with the Palestinians, but they have trained others—Turks, for example.

Iraq is involved, too.

The present Libyan regime is also in the game of exporting terrorism.

Is it possible to curb terrorism? Would terrorists be deterred if they knew no one would give them asylum? Crozier's answer points the way to a solution here, and it is one reflected through the resolution now before us. He answered this way:

> Unless it is possible to penalize countries harboring terrorists and to achieve some kind of unanimity in the treatment of terrorists, we shall remain a long way from stamping out terrorism.
>
> All but the most fanatical probably would be (deterred if they knew no one would give them asylum).

This last observation is why, in my opinion, we need to move quickly and with an exertion of leadership toward a new international treaty with specific and enforceable sanctions of such magnitude as to make it impossible for a country to provide sanctuary to terrorists. The question of sanctuary is probably the single most crucial aspect of this problem. It is also why the Entebbe airport rescue mission is of such profound significance.

THE SIGNIFICANCE OF THE ENTEBBE AIRPORT RESCUE MISSION

On June 27, terrorists acting in the name of the Palestinian Liberation Organization—the PLO—skyjacked an Air France airliner on a flight from Tel Aviv to Paris after a brief stop in Athens. The terrorists took the airliner, its passengers and crew to Entebbe airport near Kampala, Uganda, where they were met there by additional terrorists in an apparently prearranged sanctuary.

Less than 30 hours after the skyjacking, the Israeli Transportation Minister, Gad Yaakobi, told the cabinet—

> If we accept the hijackers' conditions, the Palestinians will escalate their terror and no Israeli leaving the country will be safe.

After a forceful exchange between Yaakobi, Prime Minister Yitzhak Rabin, Chief of Staff Lt. Gen. Mordechai Gur, Defense Minister Shimon Peres, and others, agreement was unanimously reached to do two things: To continue to explore the possibility that negotiations might gain the release of the hostages without bloodshed and simultaneously to come up with a viable military option.

Here is how Newsweek detailed the events of those few days:

> The Israeli Army went into action almost immediately. Even as the generals and their special agents began to piece together the intelligencedata to mount a raid on Entebbe, a potential strike force was assembled at a desert military base somewhere in Israel. It was the first of four days of rehearsal for a mission that might or might not take place.
>
> Jerusalem's dilemma was twofold. On the one hand, Israel had to collect a vast amount of information on a distant and hostile country. On the other hand, Israel had to convince the terrorists that it was negotiating in good faith. A "crisis-management group"—Rabin, Peres, Yaakobi, Foreign Minister Yigal Allon, Justice Minister Chaim Zadok and Minister Without Portfolio Israel Galili—was set up to coordinate the government's double-edged policy. Negotiations were begun. Cables were sent to the Israeli Embassy in Paris, which passed the message on via the French Foreign Office to the Somali ambassador in Kampala—and finally to the hijackers in Entebbe.
>
> But as each hour passed, the idea of a successful military strike became ever more tempting to Israel, and the government sought information from every possible source. Officials checked with the Israeli construction company Solel Boneh, which had built Entebbe Airport—only to learn that it had been enlarged so greatly in recent years that old blueprints were useless. Next, they turned to the Pentagon for assistance. They quizzed members of El Al's sizable staff in the Kenyan capital of Nairobi—the only accessible refueling stop on the Tel Aviv-Johannesburg run—seeking information about possible flight routes, refueling opportunities, communication facilities. They booked Maj. Gen. Rehavam Zeevi, the government's special adviser on counterterror action, aboard El Al's Flight 023 to Paris in case the commandos released any hostages. They slipped agents into Uganda. All the while the briefing books grew thicker.
>
> On June 30, Israel began to get the breaks. The hijackers began to release non-Israeli hostages, presumably to increase the pressure on the Jewish state to yield to their demands. The move had precisely the opposite effect. It also reduced the number of hostages from 256 to 108—a far more manageable number during a split-second rescue operation. It reduced the chances that foreign nationals might be killed and that Israel would have to face international repercussions. And it gave General Zeevi vital information. The released hostages reported that the transit lounge where the hostages were kept was not wired with explosives and that the terrorists' security seemed lax.
>
> The crisis-management group began to tilt toward a military strike. But it still kept up the pretense of negotiation. The government named special "deception teams" to create the impression that Jerusalem had no choice but to deal with the hijackers, and these teams began to draw up lists of prisoners whom Israel would be "willing" to free. Then on July 2, came three pivotal developments: the Pentagon supplied Israel with aerial-reconnaissance and satellite photographs of Entebbe Airport, clandestine Israeli agents penetrated Entebbe and brought out vital information, and Kenya gave secret assurances that an Israeli strike force would be permitted to land at Nairobi to refuel and care for the wounded on its return trip from Uganda. "Militarily, the situation on the ground now looked easier than when the Palestinians held hostages here in Israel," said one member of the crisis group.
>
> To the outside world, however, it still looked as though Israel would have to give in—and the Israelis continued their attempts to keep up that impression. The morning meeting of the crisis group on July 3 was held up while Foreign Minister Allon kept a scheduled breakfast with Daniel Patrick Moynihan, former American ambassador to the United Nations. "It was an amazing performance," Moynihan said later. "I thought I'd be out as soon as we finished coffee, but Allon went on and on, as if he didn't have a care in the world. He told me: 'We have great hope that the French will be able to negotiate something. We're waiting.' And he gave me a tour d'horizon that lasted an hour."
>
> When the crisis group did meet, it was ready to act. It agreed to recommend to the Cabinet that Israel launch a military strike. At 2 p.m., nineteen ministers—some of whom had walked to the meeting in order not to break the religious ban on driving on the Sabbath—assembled in Tel Aviv's Cabinet Room. Most had never heard of the military preparations and they were concerned about the possible loss of life. But Rabin fought strongly in favor of the raid, "even if we lose 10 or 20 or 25 killed." At 3:30 p.m., Rabin took a vote. It was a unanimous "yes" and the meeting ended with a prayer.
>
> Chief of Staff Gur hurried from the room. His raiding party was by now honed to a strike force of handpicked men specially trained in air-assault operations. They had practiced the raid again and again—and shaved the time down to an almost-unbelievable 55 minutes on the ground. The units involved were the 35th Airborne Brigade and the infantry-men of the Golani Brigade—"the best of the best," as one Israeli called them. The field commander of the force was Lt. Col. Yonatan Netanyahu, a 30-year-old officer who came to Israel from the U.S. as a child of 2. Gur gave his men the go-ahead and at 3 p.m. on July 2 Neganyahu's commandos took off from a desert air base near Sharm el Sheikh, deep in the Sinai, and headed for Africa.
>
> The strike aircraft were two huge U.S.-built Hercules C–130 cargo planes and two Boeing 707 jets, one of them a hospital plane. With Israeli Phantom jets protecting them part of the way, the four planes followed El Al airline's usual route to South Africa: down the Red Sea and over Ethiopia and Kenya. The hospital plane landed at Nairobi. The three military aircraft slipped out of the Nairobi landing pattern and descended sharply for their run on Entebbe. Over the airfield, the first Hercules announced that it was an Air France plane bringing the pro-Palestinian prisoners that the hijackers had demanded be released. The second identified itself as an East African Airways flight expected at about that time. The tower

okayed their landing. At 11 p.m. in the half-dark of a moonlit night, the Israeli Herculeses skimmed over the shores of Lake Victoria and began to descend into Entebbe to attempt their rescue mission. The 707 continued to circle overhead, functioning as a flying communications center.

There were between 100 and 200 commandos in the strike force, the Jerusalem government has kept the exact number classified. Despite their thorough briefings, the raiders were not sure what awaited them in Entebbe. They knew that there were between seven and ten terrorists—but they did not know where they were positioned or how heavily they were armed. The commandos knew that about 70 Ugandans were on duty at the airfield—but they did not know their exact deployment.

In fact, almost everything worked to the commandos' advantage. Even before the two giant planes came to a halt, their rear ramps dropped open and Israeli jeeps and lightweight armored personnel carriers roared out on to the airfield. The vehicles raced for the terminal buildings a half-mile away where the hostages were being held (drawing). No one stopped them because no one was ready for them. Within minutes, one team of raiders reached the terminal, where most of the hostages were asleep. In short order, the Israeli commandos cut down most of the hijackers, while Israeli reserve officers among the hostages told the Israeli captives, "Tishkavu!" ("Lie Down!").

Then there was a brief lull in the shooting. One of the hijackers—a West German named Wilfried Böse, said to be the leader of the terrorists—suddenly charged into the transit lounge with a submachine gun in his hands. A hostage, Ilan Hartuv, saw Böse swing the gun into firing position and aim it at the scores of hostages sprawled on the parquet floor. Böse froze. And, as Hartuv recalled, just when it seemed that the terrorist would pull the trigger, he spun around, dashed outside and opened fire into the darkness.

Hartuv later speculated that Böse's decision might have been caused by a conversation he had had the night before with Yitzhak David, a survivor of Buchenwald. "This is what your fathers did to me," David told Böse, showing him the concentration-camp number tattooed on his arm. "I've been telling my sons that your generation of Germans is different. How am I going to explain to them what you're doing to us now?"

The rescue was not letter-perfect. Three hostages made the tragic error of standing up as the Israeli commandos poured into the lounge, and the soldiers—mistaking them for hijackers—gunned them down by accident. One of the dead hostages was a 19-year-old Israeli of Moroccan origin. "I shouted 'Crawl!' but he stood up," Hartuv said. "He looked like an Arab and one of our soldiers shot him." Other hostages feared that the hijackers were coming to kill them. "Some people fled to the toilets, others threw themselves on their mattresses," recounted hostage Sylver Ayache. The transit lounge had become a noisy and frightening hell. "We heard submachine guns, rockets, detonations—you name it," said Davidson. "The stuff was flying in all directions for something like ten minutes." The initial Israeli barrage killed seven of the hijackers; perhaps three others escaped. Among the dead terrorists were two Palestinians and two West Germans—one identified as Böse, 27, the other possibly 24-year-old Gabriele Kröcher-Tiedemann.

But the rescue mission was still not over, and the Israelis were not yet safe. One team of commandoes took off for a corner of the airfield, and with satchel charges blew up more than ten of Uganda's Soviet-supplied MiG fighter jets. (The Israeli clearly wanted to forestall pursuit, but their destruction of the planes may not have been necessary. No Ugandan pilots know how to fly the MiG's and the Palestinians who normally do so were reportedly out of the country.) With the commandos' forces scattered the Ugandans who had been guarding the airfield rallied. The fire fight was brief—but it took its toll. Twenty Ugandans soldiers were killed, and so was one Israeli commando; mission commander Natanyahu. A sniper in the control tower killed him with a bullet in the back.

Only 50 minutes after the Israelis had landed, the first Hercules was ready to lift off the ground. "The Israeli pilot shook my hand, asked if all my crew was there and in good health," recalled Michael Bacos, the captain of the hijacked Air France jet. "Then they counted the passengers twice and closed the door." One hostage, Dora Bloch, 73 was inadvertently left behind in a hospital—and is believed to be dead. As the aircraft flew out of Entebbe bound for an initial stop at Nairobi's Embakasi Airport some of the freed hostages wept. Others prayed. Others sat in stupefied silence. One woman kept crying out: "Ness! Ness!"—"A miracle! A miracle!"

Uganda President Idi Amin's first reaction to the raid was shock. He had returned to Kampala that very day after attending an Organization of African Unity summit in Mauritius. He was celebrating what he felt to be a diplomatic victory, and his aides were too frightened to tell him what had happened. He first heard of the successful assult in a phone call from Israel. Retired Israeli paratrooper Baruch Bar-Lev, once in command of the Israeli military mission in Kampala and the man who taught Amin how to parachute, is said to have called Amin after the raid and broken the news. Amin rushed the 23 miles to Entebba with an armored column. Humiliated, Amin ordered the execution of four airport radar operators, whose bullet-riddled bodies were later found near the airfield.

Eight hours later, the hostages were home on Israeli soil. After a brief stopover at the military air base at Sharmel Sheikh, the caravan of planes landed at Tel Aviv's Ben-Gurion airport. News of the commando's success had electrified Israel, and estatic throngs (and a beaming Prime Minister Rabin) were on hand to greet their returning countrymen. As the hostages clambered out of the pot-bellied transport planes, jubilant Israelis danced and passed around bottles of wine. They waved Israeli flags and a bearded rabbi blew the ram's horn in a scene reminiscent of the euphoric hours after Irael's victory in the 1967 Six Day War.

Like most of the other freed hostages, Uzi Davidson and his wife, Sara, arrived home exhausted. But Israel's national party was not over, and the Davidsons found their Tel Aviv apartment decorated with Israeli flags, piled high with flowers, wine and whisky and crammed with well-wishers. They did not even know many of the guests who were there. "It was an unbelievable experience," said Mrs. Davidson. "We knew our friends would think of us, but when we got back we discovered that the whole of Israel cared."

Mr. Speaker, all of us care.

Mr. Speaker, the Israelis recognized that such terrorist acts have continued in recent years because of inadequate deterrents and because sanctuaries provided by many nations have often gone unchallenged by the world community. The Israelis also recognized the duty of a nation to protect its citizens from unwarranted harm, when those citizens are located in a foreign country whose government is unwilling or unable to protect them from terrorists.

Israeli officials articulated these points about deterrents and sanctuaries. The day after the rescue mission, Prime Minister Rabin in an address to the Knesset—the Israeli parliament—warned Israel's Palestinian terrorist foes that it would not be complacent despite its stunning strike deep into Africa. "We will never use the same methods twice and we will be constantly ready for action," said Rabin. "The basic principle is to fight the terrorists whenever you have a reasonable chance," Rabin remarked to an aide. "You fight them in Zion Square in Jerusalem or you fight them in Entebbe, but you fight. You do not give in."

Where do we go from here?

WHAT CONGRESS SHOULD DO NOW

The first thing we should do is to pass this resolution. We must not let failures to do so to give comfort to the worldwide chain of terror groups which cooperate closely with one another in the paramilitary, political, financial, and propaganda fields. Passing this resolution would also put us on record in commending the Israelis for the courage, skill, and execution of the rescue mission, the saving of lives, and the creation of deterrents. It would put us on record in expressing our strong disapproval of the efforts made by certain nations and international forces to condemn or censure Israel for undertaking the rescue mission. And it would put us on record in approving the forceful and effective position taken by the Government of the United States, through its Ambassador to the United Nations, and in supporting the joint United States-United Kingdom resolution condemning all acts of terrorism.

Most importantly, it would put the Congress on record in requesting the President to accelerate efforts to negotiate agreements with other nations to help prevent acts of terrorism by, among other means, denying assistance or asylum to persons who perpetrate acts of terrorism, and by invoking sanctions against any nation which gives assistance or grants asylum to such persons. This is of crucial importance.

A treaty has to be structured which invokes total and multinational economic sanctions—trade and assistance—against a country which provides assistance or asylum to terrorists or provides sanctuary to them. In my opinion Uganda—Idi Amin or whomever—would probably not have provided sanctuary to the terrorists if they knew, for example, that all their drawing rights at the IMF would have been suspended, that they would have received no further foreign economic or military assistance from any other country, that their imports would have stopped, as well as their exports, and that these sanctions would be applied against them whether they were signatories to the treaty or not.

Our colleague from Pennsylvania, Congressman Heinz, has outlined for us a step which can be taken unilaterally by the President now, while we are waiting for a new treaty to be concluded. He has suggested that the President deny designation as a beneficiary developing country for purposes of title V of the Trade Act of 1974—relating to the generalized system of preferences which give developing nations an advantage over industrialized countries in competing for the U.S. markets by eliminating duties on certain products brought in from those countries. The President should deny designation to any country which he finds aids or abets, or has aided or abetted, by granting sanctuary from prosecution, any individual or group which has committed an act of international terrorism. And in the case of any such country which has already been so designated, the President is urged to review such designation for possible termination.

Our colleague from New York, Congressman GILMAN, has argued convincingly before this House that the President should exercise his powers under section 620A of the Foreign Assistance Act of 1961—relating to prohibitions against furnishing assistance to countries which grant sanctuary to international terrorists—and section 1114 of the Federal Aviation Act of 1958—relating to suspension by the President of air services to countries which grant sanctuary to terrorist organizations which use hijacking of aircraft as an instrument of policy—whenever an act of international terrorism occurs.

Congressman GILMAN has asked that a permanent International Commission on Terrorism be constituted within the United Nations, and he has asked the President to renew efforts begun at the air security conferences held in Rome during 1972 under the auspices of the International Civil Aviation Organization to establish an international convention providing aviation sanctions against countries that refuse to punish or extradite persons responsible for unlawful acts against civil aviation. He has also made the point well that the Government of the United States ought to seek strict compliance with the Convention for the Suppression of Unlawful Seizure of Aircraft and a new treaty to cover those persons not now protected by the Convention on the Prevention and Punishment of Crimes Against Internationally Protected Persons, Including Diplomatic Agents. I call everyone's attention to his remarks yesterday on pages 25140–25142 of the RECORD.

Our colleague from New York, Congresswoman ABZUG, has outlined for us some components of a new international framework for dealing with terrorism. She has suggested, among other points, that the major airlines suspend all air service to countries which give sanctuary to terrorists.

I wish to associate myself with the points made by these colleagues.

I hope the Committee on International Relations, which has jurisdiction over the resolutions which have been introduced, will act speedily on them. I think now is the time to act. There is substantial public sentiment in support of these measures.

If one looks at the measures which have been introduced, a clear pattern starts to emerge on what ought to constitute the American response to the Entebbe incident in particular and international terrorism in general.

If one looks at the cosponsorship of these measures—the Kemp-Koch, Gilman, Abzug, Heinz, and Rinaldo resolutions—it is well over 100.

I hope the committee acts as soon as we return from the August 12 to 23 recess, and I hope the administration supports the measures proposed.

COSPONSORS AND TEXT OF THE KEMP-KOCH RESOLUTION

The Members who have cosponsored the resolutions introduced by ED KOCH and myself today follow, as does the text of that resolution:

LIST OF COSPONSORS

Mr. Kemp of New York.
Mr. Koch of New York.
Ms. Abzug of New York.
Mr. Alexander of Arkansas.
Mr. Ambro of New York.
Mr. Archer of Texas.
Mr. AuCoin of Oregon.
Mr. Bafalis of Florida.
Mr. Bauman of Maryland.
Mr. Beard of Rhode Island.
Mr. Bevill of Alabama.
Mr. Bingham of New York.
Mr. Burke of Massachusetts.
Mr. Burke of Florida.
Mr. Cohen of Maine.
Mr. Corman of California.
Mr. Cotter of Connecticut.
Mr. Crane of Illinois.
Mr. Dan Daniel of Virginia.
Mr. Derwinski of Illinois.
Mr. Devine of Ohio.
Mr. Downey of New York.
Mr. Drinan of Massachusetts.
Mr. Edwards of Alabama.
Mr. Eilberg of Pennsylvania.
Mr. Evans of Indiana.
Ms. Fenwick of New Jersey.
Mr. Gilman of New York.
Mr. Gradison of Ohio.
Mr. Green of Pennsylvania.
Mr. Gude of Maryland.
Mr. Hanley of New York.
Mr. Heinz of Pennsylvania.
Ms. Holtzman of New York.
Mr. Horton of New York.
Mr. Hyde of Illinois.
Mr. Johnson of Pennsylvania.
Mr. Ketchum of California.
Mr. Krebs of California.
Mr. LaFalce of New York.
Mr. Lagomarsino of California.
Mr. Lehman of Florida.
Mr. Lent of New York.
Mr. Long of Maryland.
Mr. Lundine of New York.
Mr. McHugh of New York.
Mr. McKinney of Connecticut.
Mr. Mathis of Georgia.
Mr. Mazzoli of Kentucky.
Mr. Miller of Ohio.
Mr. Mineta of California.
Mr. Mitchell of New York.
Mr. Moffett of Connecticut.
Mr. Murphy of New York.
Mr. Murphy of Illinois.
Mr. Murtha of Pennsylvania.
Mr. Nowak of New York.
Mr. Ottinger of New York.
Mr. Pattison of New York.
Mr. Paul of Texas.
Mr. Peyser of New York.
Mr. Pike of New York.
Mr. Preyer of North Carolina.
Mr. Rees of California.
Mr. Richmond of New York.
Mr. Robinson of Virginia.
Mr. Rodino of New Jersey.
Mr. Rosenthal of New York.
Mr. Rousselot of California.
Mr. Roybal of California.
Mr. Russo of Illinois.
Mr. Satterfield of Virginia.
Mr. Scheuer of New York.
Mr. Solarz of New York.
Mr. Stratton of New York.
Mr. Traxler of Michigan.
Mr. Won Pat of Guam.
Mr. Young of Florida.
Mr. Zeferetti of New York.

H. CON. RES. 700

Whereas acts of international terrorism, such as assassinations, bombings, skyjackings, kidnappings, and seizures of conference buildings, persist, causing death and serious injury to citizens of many nations and endangering the safety, welfare, and rights of citizens of all nations; and

Whereas terrorists acting in the name of the Palestinian Liberation Organization skyjacked an Air France airliner on June 27, 1976, and took that airliner, its passengers and crew to Entebbe airport near Kampala, Uganda, where they were met there by additional terrorists in an apparently prearranged sanctuary; and

Whereas having recognized that such terrorist acts continue because of inadequate deterrents and because sanctuaries provided terrorists by many nations have often been uncontested by the world community, and having recognized the prerogatives of a sovereign nation to protect its citizens from unwarranted harm or illegal action, even while those citizens are in foreign lands, the Israeli government determined to rescue all passengers and crew in the interest of its citizens who constituted the majority of persons on that flight; and

Whereas Israeli commandos in a courageous mission of July 3–4, 1976, did rescue the hostages being held by the terrorists with a minimum loss of life, thereby giving notice to the forces of international terrorism that such forces could no longer be assured of protection in sanctuaries and giving notice to countries which shelter terrorists that they are no longer immune from "hot pursuit" rescue missions; and

Whereas the condemnation or censure of Israel for these actions, upon the insistence of Third World and other forces, would give comfort to the worldwide chain of terror groups, cooperating closely with one another in the paramilitary, political, financial, and propaganda fields, and further could encourage such groups to initiate additional acts of terrorism: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That the government and commando units of Israel are commended for the courage, skill, and execution of the rescue mission, the saving of lives, and the creation of deterrents arising therefrom; and

That strong disapproval is expressed of the efforts being undertaken by certain nations and international forces to condemn or censure Israel for undertaking this rescue mission; and

That vigorous approvals are expressed for the forceful and effective position taken by the government of the United States, through its Ambassador to the United Nations, during the deliberations of the United Nations Security Council, and for support of the joint United States-United Kingdom resolution which condemns all acts of terrorism; and

That the President of the United States is requested to initiate and to engage in negotiation of agreements with other nations to help prevent acts of terrorism by, among other means, denying assistance or asylum to persons who perpetrate acts of terrorism, and by invoking sanctions against any nation which gives assistance or grants asylum to such persons; and

That the Clerk of the House is directed to transmit copies of this resolution to our President, the Secretary of State, and our Ambassador to the United Nations; to the President of the United Nations Security Council and to the ambassadors of all nations constituting such Security Council; and to the Prime Minister of Israel.

Mr. ROUSSELOT. Mr. Speaker, it is a pleasure for me to take part in this special order to commend the Nation of Israel for their heroic and skillfully executed rescue mission at Entebbe Airport in Uganda, on July 3–4, and to make a firm, resolute statement denouncing all forms of terrorism in the world today. I wish to thank my able colleagues, Congressmen JACK KEMP and ED KOCH, who have organized the special order, for their leadership and initiative in bringing this issue to the forefront and providing for many of us this opportunity to express our feelings on this vital and important matter of world concern.

In recent years, international terrorism has developed into a revolting form of political weaponry. In all of its sadistic forms—assassinations, bombings, kidnapings, and seizures of conference buildings—it has mushroomed and persisted, causing death and serious injury to citizens of many nations, while endangering the safety, welfare, and rights of the citizens of all nations.

As it has grown, it has continued without significant deterrence. The United Nations, the world organization which should be most concerned with such abhorent acts, has been conspicuously silent in the face of these reproachful actions. Sanctuaries have been provided by many countries which have acted complicitly in the terrorist acts—most of which have gone uncontested in the world community.

The Israeli commando raid on Entebbe—operation Thunderbolt, as it has come to be called—marks a turn in the tide, however, in the free world's response to the new techniques of terror. It is an achievement of great importance in the struggle against terrorism.

There is no doubt that the brave and courageous rescue mission performed by the Israeli commando will not be soon forgotten, but rather will set a new precedent in humanity's struggle against international terrorism.

Mr. KETCHUM. Mr. Speaker, I am proud to be a cosponsor of the resolution introduced by the two distinguished gentlemen from New York (Mr. KEMP and Mr. KOCH) commending the Government of Israel for its courageous raid on Entebbe Airport.

I, along with millions of Americans, was thrilled to learn of Israel's daring rescue mission to free the 104 individuals held hostage by terrorists in Uganda. Rather than bend to the unreasonable demands of a group of despicable outlaws, Israel retaliated in a manner deserving of the world's admiration and respect. I am positive that the Israeli commandos' rescue will long be remembered as one of the most brilliant military maneuvers ever undertaken.

The significance of the Israeli action lies in its message to international terrorists—such actions cannot and shall not be tolerated by civilized people. The nations that harbor terrorists deserve to be ostracized by the world community. Any claims that Israel has violated the national sovereignty of another nation by its action is outrageous.

Our Nation, and indeed all nations, must take a stand against terrorism of the kind practiced by the hijackers of Entebbe. It is not Israel which should be condemned but the individuals who violate international law and the decency of mankind by their acts of terrorism. In this regard, I am proud that our Ambassador to the United Nations spoke forcefully in favor of Israel and against efforts by Third World nations to brand Israel an aggressor.

The Israeli raid on Uganda occurred during the height of our Bicentennial celebration. It is fitting that our Nation, founded upon democratic principles, should set an example worldwide by taking a strong stand against international terrorism. The issues outlined in this resolution transcend Democrat or Republican, liberal or conservative. The resolution represents what is morally right and I commend it to the House of Representatives for immediate action.

Mr. CORMAN. Mr. Speaker, the Israeli commando raid on Entebbe Airport on July 4 must be viewed as a courageous blow against world terrorism. It not only was a daring and unprecedented military operation, but more importantly, a skillfully executed deterrent to the atrocities of sky piracy. Prior to this hostage freeing mission, deterrents to skyjackers have been inadequate when harbored by neutral countries. Now, neutral nations can no longer shelter terrorists without running the risk of being treated as outlaws themselves.

When terrorists hijacked the Air France Airbus on June 27, they revived the bitter memories of other tragedies. The horrors of this action were yet another flagrant violation of individual safety, welfare, and human rights and a challenge to Israel's right to exist. Israel took on the lonely and dangerous burden to free her citizens from the bondage of terrorists, and again fight for her survival as a nation. The world again witnessed Israel's inexhaustible determination and energy to protect individual freedoms, to prove her undying belief in her right to exist, and to discourage nations from shielding the international terrorists. As Yerucham Amitai, former deputy chief of the Israeli Air Force has stated:

> If Israel should ever fail to protect her own, she would cease to have meaning. We have been forced into aggressive defense and the stakes keep getting higher.

Today, Mr. Speaker, we commend Israel for her daring rescue mission. The spirit of world justice would have been tested had it not been for the courage and precision of the Israeli raid. It must be interpreted more broadly than a humanitarian mission and resounding defeat for terrorism. It is a strong warning to all who seek to embark on sky piracy and to all who sanction such actions, that Israel will not sit idly by while innocent lives are bartered for jailed terrorists.

Mr. Speaker, this is a moment for us to reflect on the horrors of this latest act of violence and aggression. It is, as House Resolution 680 states, a time to call upon the President to initiate and negotiate agreements with other nations to prevent acts of terrorism. The time has come to cease these senseless atrocities and horrors, restore true freedom to the airways, and bring peace to Israel and her surrounding Arab neighbors.

Mr. ARCHER. Mr. Speaker, I am pleased to join with my colleagues today to condemn acts of international terrorism and to support the recent Israeli action against the terrorists in Uganda.

I have been greatly concerned with certain terrorist organizations in the world which defy international law and concern for human life in the name of their cause. These terrorist acts have brought serious injuries, economic hardships, fear, and even death to many people throughout the world. These terrorists are a band of outlaws who seek to make their own law and their own morality. These actions have brought condemnation from political and religious leaders throughout the world.

It is especially regrettable when certain nations throughout the world aid this terrorist activity by providing sanctuaries and protection for the terrorists.

A few years ago we were concerned about hijacking of commercial airlines. In 1969 there were 70 such incidents, including 33 in the United States. Fortunately, these incidents declined to only seven successful skyjackings in 1975 with four of these in the United States. The fact that one nation which provided a haven for these international criminals agreed to extradite or punish skyjackers contributed to this decline.

Recently, we were alarmed to read that four pro-Palestinian guerrillas hijacked an Air France plane on its flight from Israel to Paris and forced it down at the Entebbe Airport in Uganda. These terrorists were met by their supporters at the airport and received additional weapons there. The Israelis in Uganda had become hostages of Uganda. It appeared that the terrorists had once again gotten away with defying law and morality.

A trained unit of Israeli commandos gave the world an example of courage by flying 2,500 miles, landing at Entebbe Airport, attacking the terrorists, and rescuing the hostages. The rescue operation was accomplished within 90 minutes.

Israel gave the entire world an example of a nation willing to protect its citizens from terrorism and from national leaders who are willing to give a sanctuary and support to terrorists.

It is my hope that this message will be clear that terrorism will not be tolerated and that nations which cooperate with and support terrorists will be subject to retaliation.

I am proud to join as a cosponsor of House Concurrent Resolution 680 which praises Israel's courageous action, discourages efforts to censure or condemn Israel for its role, and gives support for the U.S. position in opposing Third World nations' efforts to condemn Israel. It also encourages the movement for negotiations leading to a new treaty to curb terrorist activities.

It is essential that the United States, Israel, and all law-abiding nations take action to end the threat of international terrorism.

Mr. DERWINSKI. Mr. Speaker, I am pleased to join other Members in this special order and also as a sponsor of the resolution commending the Government of Israel for the strong stand it has taken against international terrorism.

There is no doubt that the political encouragement and outright support given some of the terrorist groups is, in large part, responsible for this growing international problem. I believe it is time that the United Nations properly addresses itself to this problem. Failure to do so could encourage such groups to initiate additional acts of terrorism.

There are, however, a number of special considerations involved in the raid on the Entebbe airport in Uganda, including the collaboration between the Amin government and the terrorists, the role of the radical Libyan Government of Colonel Qadaffi, and the targeting of innocent civilians by the terrorists in carrying out their insane political vendetta.

The blood of the 3 Israeli hostages, the Israeli commander, and the 20 Ugandan soldiers is first and foremost on the hands of those criminals who perpetrated the crime. The time is long past due when the world should refuse to reward such terrorism, and in my opinion, Israel acted in the best tradition of international law by defending its citizens—and others—from international piracy and extortion.

Mr. ZEFERETTI. Mr. Speaker, for some years now, the world has been cowed and shocked by a new breed of international criminal; the terrorist. Armed and aided by certain nations who approve of their actions, these groups of bandits have roamed the world, perpetrating awful atrocities upon innocent travelers and citizens of various nations. Much of this terror and lawlessness has been aimed at Israel and her citizens.

Crime after crime has been committed, including the calculated murder of women and children. Schoolbuses have been blown up. Letter bombs have been sent through the mails. Innocents have been held hostage. Murder has come creeping through the night, intent upon the butchery of those who were not only surprised, but who lacked the means to immediately defend themselves. All of this has been done within sight of the world, and the so-called international world organizations. None of them have lifted a finger to prevent or punish these perpetrators.

Only Israel has had the courage to confront these terrorists and to deny them the successful extortion of compromise, ransom, or surrender. All over the world, while one government after another caved in to these people and their outlandish demands, the Israelis have demonstrated their strengh with the Uganda raid, which thrilled and uplifted all men and women throughout the world who are disgusted by the actions of international terror organizations.

To the surprise of few observers of the scene, many Third World nations, fearful of Arab oil money and Communist weapons, have rushed to condemn Israel's courageous initiative. To no one's amazement, the U.N., long since totally discredited, sought to condemn Israel's action. After the "Zionism is racism" resolution, now so infamous, these initiatives came as no surprise.

Since 1968, over 800 persons have been killed and some 1,700 injured in such international terrorist incidents. Few if any of the perpetrators have been brought to justice. Many murderers, including those who killed U.S. diplomats, walk about freely and as heroes in many Arab lands. The time has come for the United States to stand up to these people, as our forefathers did in the Barbary wars and as the Israelis have done today.

A resolution is before the House which I have joined in sponsoring, commending Israel's initiative in Uganda and expressing the sense of the House to the effect that our country should strengthen our antiterrorist stand. Such an endeavor on our part is long overdue. To yield to terrorism is to invite further intimidation. It is my hope that the House will act and that the President will stiffen our backbone against these acts and their perpetrators.

Mr. EVANS of Indiana. Mr. Speaker, I want to express my support for the House concurrent resolution expressing congressional support for the Israel action against the terrorists in Uganda. We must make it clear that we condemn terrorists acts everywhere and urge cooperative action by all nations to work together to stop future terrorists actions and treat such terrorists with harshness.

The intricate planning and determination of the Israel Government and the courageous efforts of the Israel commandos should give worldwide notice to the forces of international terrorists that such actions will not be tolerated and that there are no longer any safe sanctuaries for these evil people.

We are a nation founded and nurtured on the ideals of freedom, man's humanity and the sovereign rights of individuals and nations. It is imperative that we put the world on notice that we will not stand by and watch either selected political groups or nations infringe upon these basic rights either in the case of a nation or as individual citizens.

Israel's action was a necessary step to assure the safety of her citizens and give notice that such terrorist action will not be condoned or tolerated. As we are one of the most powerful nations in the world, we must do all we can to stop terrorist activities. For a start we must continue to make it impossible or nearly impossible for any terrorist group to have any opportunity to initiate terrorist actions. We must invoke sanctions against any nation which assists or harbors such persons. Finally we must hunt down and deal harshly with terrorists who live by inflicting harm and death on innocent and peace-loving people.

Mr. MAZZOLI. Mr. Speaker, on July 3 and 4, Israeli commando units undertook a skillful and courageous rescue mission at Entebbe Airport in Uganda, rescuing 105 hostages from their terrorist captors.

Today, I am cosponsoring House Concurrent Resolution 680, commending the Government of Israel for its rescue mission, disapproving any efforts to condemn or censure Israel, and requesting the President to initiate and engage in negotiations leading to a new treaty to curb terrorist attacks.

I feel that it is important that we underline the message sent by the Israelis to international terrorists.

Under normal circumstances, I do not condone the violation of international boundaries. If undertaken carelessly, the Israeli raid could have resulted in dire trouble for both Israel and her allies.

The rescue operation was carefully planned and executed, however. It was undertaken only after the Israelis had twice demonstrated their willingness to negotiate a reasonable compromise. It was undertaken after every recourse other than outright intervention had been tried. Most importantly, it was undertaken with an eye toward minimizing violence and casualties.

Only the terrorists and two hostages died as a result of the Israeli intervention, a remarkably low figure which demonstrates the Israelis' commitment to minimal bloodshed and turmoil.

The finesse and planning which went into the Israeli move reinforced the Israeli's claim that they are sincerely interested in a just expeditious settlement of the Mideast situation.

The Israeli Government recognized that terrorism—bombings, kidnappings, skyjackings, assassinations—persists because deterrents have been inadequate, and because sanctuaries have often been provided to terrorists by ostensibly neutral countries.

The Israeli Government also recognized the duty of a nation to protect its citizens from unwarranted harm, when those citizens are located in a foreign country whose government is unable or unwilling to protect them from terrorists.

Aside from its nationalistic overtones, the Israeli action deserves praise because it serves as a warning to all who would engage in acts of terrorism. It plainly underlines the commitment of civilized nations to stamp out terrorism, and to refuse shelter or tolerance to those engaging in terrorist activities.

House Concurrent Resolution 680 will set the stage for such a public, international declaration of repudiation of terrorist acts, by urging the United States to initiate and engage in negotiations for an international treaty to condemn such operations.

Such a declaration would have only the force of the world opinion to back it up. World opinion, reinforced by international treaty, can be a potent tool, however, in determining individual nations' policies toward terrorists.

Mr. BINGHAM. Mr. Speaker, the Israeli raid on Entebbe Airport in Uganda on July 3 was welcomed and applauded by Americans and free men and women everywhere. For too long we have all been forced to watch governments and international agencies sit by helplessly as innocent civilians have been hijacked, attacked, kidnaped, and killed by international terrorists. Hardly a week goes by without word of some new outrage. We have come to accept the inevitability of terrorism and the reality of our impotence in its face.

The events on July 3–4 in Uganda changed all that. Once again, Israel taught the world a lesson about courage, technical skill, and, most important, about regard for the sanctity of human life. With minimal violence, the Israeli commandos freed the hostages and brought them home. The Israeli action will be remembered as long as there are free men and women anywhere.

In response to the Israeli action, we must take our own. We must initiate negotiation of agreements with other nations to prevent terrorism by denying assistance or asylum to persons who engage in acts of terrorism and by invoking sanctions against any nation that does grant such assistance or asylum. The Israeli effort was a brilliantly executed lone action. There was no alternative to it. Our response to it must not be unilateral but international. Nations should not have to go it alone, but should be able to call on an international machinery to prevent and fight terrorism. We must move expeditiously before the terrorists strike again and we once again stand helpless.

Ms. ABZUG. Mr. Speaker, I rise in strong support of House Concurrent Resolution 680. I, too, wish to commend the bravery and ingenuity of the Israelis in their rescue of the hijacked airliner at Entebbe. The Israelis have repeatedly demonstrated their resolute courage and resourcefulness in their struggle to survive and to prosper in a hostile environment.

Any move to condemn or censure Israel for this valiant mission grossly distorts the issues at hand and gives comfort to terrorists throughout the world. The United States should oppose any such statements in the United Nations or elsewhere.

In its daring rescue mission at Entebbe, Israel once again has moved to the forefront in asserting that terrorism, whether on land or in the air, cannot be tolerated if we are to assure the safety and welfare of all citizens in all nations. Now the time has come for the United States to make an equally powerful statement in condemnation of all forms of terrorism. To fail to address this problem rigorously can only endanger world security and peace. A definitive United States policy against terrorism is clearly needed. House Concurrent Resolution 680 is a step toward such a policy and for this reason I endorse it.

Yet further action directly opposing terrorists is obviously necessary. To this end, I have introduced two bills, H.R. 14484 and H.R. 14485.

H.R. 14485 would require the President to suspend air operations, for at least 1 year, with any country that aids, abets, or arms any terrorist organization. This bill would also require the President to suspend air operations with any country maintaining air operations with a country that aids, abets, or arms terrorists.

H.R. 14484 would bar U.S. foreign assistance to any nation during the period in which we have suspended air operations. These are serious measures. However, they are the sort of strict actions that are necessary if we are to effectively deter any future episodes of hijacking such as the Entebbe incident.

Each terrorist action is a learning experience for other would-be terrorists. What is to be learned depends in great part on the consequences of such irrational and harmful behavior. If we fail to respond or respond feebly and ineffectually we communicate a weakness or indifference that is certain to encourage future onslaughts of terrorism. Only a firm and unequivocal position on these violations will serve as a deterrent to future attacks. A determined and potent reply by the United States is essential.

Mr. GREEN. Mr. Speaker, today I rise to praise the courage and daring of the Israeli commandos who carried out the raid that freed the hostages held at Entebbe Airport. But more important, I believe, is the need to initiate some sort of action that will make such daring acts unnecessary in the future. The United States must take a greater role in the effort to curb the wave of international terrorism that threatens us all.

It is an act of international diplomatic perversity to speak, as some have done, in criticism of the Israeli act. The commandos deserve our praise and thanks, not criticism. They were not the ones who hijacked a jet and subjected its passengers to nearly a week of terror. They did not represent the government that provided assistance to the hijackers and promoted payment of ransom demands. They were not among those who did nothing more than sorrowfully wring their hands over their inability to affect the situation.

The Israeli commandos were the heroes. They saved lives. And their act should serve notice on other potential hijackers that similar efforts of terrorism are not risk free.

That is why I have cosponsored a resolution which praises the Israelis for their brave act; condemns those in complicity with the hijackers; and, most importantly, initiates action to prevent a recurrence of the situation.

Mr. LAGOMARSINO. Mr. Speaker, I have risen on several occasions in this House to declare my support for the state of Israel. I speak now in support of Israel's commando raid at Entebbe Airport on July 4th. I have cosponsored House Concurrent Resolution 680 in hopes of putting the Congress on record in support of the commando raid and in support of Israel's anti-terrorist activities in general.

Violence and terror are not proper methods of social or political change. Threatening innocent civilians with death in order to make political statements or coerce a government is not proof of a terrorist's power; it is evidence of his impotence. The terrorists cannot usually enlist enough people to peacefully achieve his objectives and so must turn to guns and bombs as a last resort to try to achieve his goals. The terrorist is isolated from the mainstream of society and tries to force his will upon those who disagree with him.

We must do everything we can to stop terrorists from blackmailing governments by holding their citizens hostage. Since every time terrorists fail, or are thwarted in their aims, other potential terrorists are deterred, the House must go on record in support of the Entebbe raid, and like actions, to encourage any government held hostage by terrorists to take similar action. Israel's heroic raid was thrilling to many Americans, and I hope that Congress will go on record reflecting that support. We must let the world know that Israel does not stand alone in the battle against terror.

Mr. DRINAN. Mr. Speaker, I rise in enthusiastic support of House Concurrent Resolution 680, of which I am cosponsor. This resolution, introduced by the distinguished gentlemen from New York, states unequivocally the policy of the United States regarding the daring and successful Israeli rescue of the hostages at Entebbe Airport in Uganda and the determination of the United States to take decisive action to deter acts of international terrorism in the future.

The single greatest cause of terrorist actions such as the hijacking of the Air France jet and the kidnapping of its passengers is the provision of sanctuary for terrorists by many nations. Never before has this sanctuary assumed the dimensions of the outright cooperation with the terrorists exhibited by the Ugandan Government. President Amin apparently expected the hijackers; he welcomed them to his nation; he permitted their comrades, already in Uganda, to join them; he ordered his troops to assist the terrorists in guarding the hostages; he supplied the terrorists with submachine guns; and he reportedly added ransom demands of his own to those of the hijackers. The passengers on the aircraft were not only the hostages of the terrorists; they were also the prisoners of the Ugandan Government.

Had the terrorists and their Ugandan accomplices succeeded in their piracy and extortion, the world would have witnessed the establishment of a fearful precedent: the overt and active participation of a sovereign state in an act of terrorism. Surely this precedent, and the knowledge that a safe haven awaited them in Africa, would have emboldened terrorists the world over. Civilized people everywhere, therefore, owe a profound debt to Israel for its courageous rescue of the hostages. This rescue served notice on behalf of all law abiding nations to all terrorists that the international community will not sit idly by while outlaws and outlaw nations perpetrate crimes against innocent civilians. This rescue restored our faith, after the bloodbath at Munich and the capitulation to terrorist demands on several occasions, that men and nations of good will are not helpless in the face of terrorism.

The argument that Israel violated international law in its assault on Entebbe Airport simply will not stand. The active participation of the Ugandan Government in the detention of the Israeli hostages was a clear violation of Israel's sovereignty. International law, under the doctrine of reprisal, clearly recognizes that a nation has the right to take reasonable action to redress a violation of its own rights, even though such action would otherwise be deemed violative of international law. This doctrine is invoked most typically in cases involving the rescue of nationals held by a foreign state—precisely the situation in Uganda. In such cases, the principal question is whether the reprisal was reasonably limited to those actions needed to effect the rescue. The Israelis scrupulously limited their operation to those measures which were essential to release the hostages.

House Concurrent Resolution 680 calls upon the President to initiate and engage in multilateral negotiations to achieve international agreements to prevent acts of terrorism by denying assistance or asylum to individuals who perpetrate acts of terrorism and by invoking sanctions against nations which provide assistance or asylum to such individuals. Such international action against terrorism is long overdue. Hopefully, the despicable conduct of the Ugandan Government will reinforce the need for such action, and the courageous rescue by the Israeli Government will demonstrate that decisive and successful action against terrorism is possible.

Mr. KOCH. Mr. Speaker, I am proud to rise in support of the courageous and inspiring action taken by the Israelis in rescuing the passengers and crew of the airliner hijacked to Entebbe, Uganda, recently. This special order, arranged by Congressman KEMP and myself, gives Members of Congress an opportunity to express their support of the Israel action and to demonstrate to the nation and the world that the risks taken in pursuit of justice and freedom are not unnoticed. Congressman KEMP and I are the two original sponsors of House Concurrent Resolution 680, which commends Israel for its action in rescuing its citizens as well as other innocent passengers and crew at the Entebbe airport on July 4, and which applauds the position taken by the United States in the United Nations in condemning all acts of terrorism.

I was excited, as I think many were, by the news that Israel had once again shown its resourcefulness in organizing a mission to Uganda to save the innocent civilians trapped in that hostile land, facing death at the hands of terrorists. It is important that Members of Congress demonstrate their approval for this action and its condemnation of those nations who would imitate Uganda and provide aid and comfort to these modern-day pirates of the air.

The Palestine Liberation Organization may convince some Third World nations submitting to oil blackmail that their actions in kidnapping innocent civilians have political objectives and meaning, but I do not believe they can convince people of conscience around the world that they are anything other than common criminals engaging in wanton terrorism. It behooves us to condemn those nations that would provide aid to terrorists as Uganda has been willing to do, and to congratulate Israel for its actions in protecting civilians.

In this resolution we are calling on other nations to do their part to halt rampant terrorism by refusing to provide shelter to those who would threaten, kidnap, and kill innocent civilians simply to make political points or to capture the world's attention for a brief moment. Last week I made a statement in this body in which I drew my colleagues' attention to the distinction between terrorists and guerrillas drawn by William F. Buckley in a recent column of his:

> The killing of uninvolved citizens is terrorism, not guerrilla warfare—which is defined as killing armed representatives of the oppressor state.

In this year of celebrating our 200th year of independence it is important to remember that the original American revolutionaries were guerrillas, not terrorists, and that the founders of our country would have been horrified by the thought of using the lives of innocent civilians as hostages to a political goal.

There are a number of legislative proposals being offered that would deal with the problem of terrorism, and I urge my colleagues to carefully consider these proposals and support those which take effective steps to prevent terrorism in the future. I would also urge the State Department to make our opposition to terrorism a matter of first priority with other governments and in the United Nations. In this regard I was pleased to see that the United Nations resisted the effort made by those nations held in thrall by Arab and Soviet blackmail to condemn the Israeli action. If any government needs to be condemned in the strongest terms, it is the Government of Uganda, essentially the government of an unstable dictator, Gen. Idi Amin, which allowed the terrorists to occupy the Entebbe airport and to hold their hostages there.

If men and women of conscience do not indicate their disapproval of acts of terrorism and take action against it, terrorism will continue. We must make it clear that those who murder civilians in the name of a political goal can never find a refuge in the civilized world, and will be hunted down like the rabid animals they are.

Mr. GILMAN. Mr. Speaker, it is with pride and admiration that I join my colleagues in rising in support of the recent gallant mission of Israel that smashed those forces which perpetrated a most reprehensible act of international terrorism. The skill and daring of the Israelis electrified the world, heartening those feeling indignation yet helplessness as international terrorists struck once again.

I laud my colleagues, the gentlemen from New York, Mr. KEMP and Mr. KOCH, for their efforts in their resolution to commend the Government and commandos of Israel for their swift strike at Entebbe in the face of terrorist extortion attempts. And I embrace their position disapproving any efforts to condemn or censure Israel for its action. The valiant Israeli mission has gained the well-earned respect of those nations and peoples embracing accepted international standards of justice and respect for the law.

I call attention to the efforts of our other colleagues—ABZUG, HEINZ, and RINALDO—for their well-considered resolutions addressed to the reprehensible acts of international terrorism.

This is an appropriate time for my colleagues to join together in urging the President to consider the ground swell of support in the Congress and throughout the Nation for action against international terrorism. It is the intention of our well-spoken colleagues condemning this virulent menace, that the President accelerate his efforts to negotiate agreements with other nations in order to prevent and punish acts of terrorism. The forces mobilized against such heinous acts must be equal to the repugnance of the crime.

Stressing those points considered to be the backbone of a mobilization against international terrorism, I have introduced legislation (H. Con. Res. 697) calling upon the President to exercise his powers to suspend air services and foreign assistance to countries collaborating with terrorists; seeking the formation of an international commission to study the most efficacious means to deal with international terrorism; urging conclusion of a multilateral convention providing sanctions against countries found to be aiding and abetting terrorists; and seeking an international treaty to prevent and punish the taking of hostages. This resolution also urges the President to seek the adherence to the Convention for the suppression of unlawful seizure of aircraft, by those countries party, and the ratification of this Convention by other countries.

Being fully aware that other potentially efficacious measures must be considered, I support the intentions and arguments of my colleagues—we must thoughtfully evaluate every possible weapon in our inventory that can be effectively used to eradicate international terrorism.

GENERAL LEAVE

Mr. JEFFORDS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include therein extraneous material on the subject of the special order today by the gentleman from New York (Mr. KEMP).

The SPEAKER pro tempore (Mr. McFALL). Is there objection to the request of the gentleman from Vermont?

There was no objection.

AMERICA'S BICENTENNIAL AND THE CAPTIVE NATIONS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. FLOOD) is recognized for 5 minutes.

Mr. FLOOD. Mr. Speaker, America's Bicentennial celebration did not pass without a politico-moral concern on the part of our people for those peoples and nations which have lost their independence under successive waves of totalitarian Communist imperialism centered in Moscow. Other free nations have joined us in this celebration and with the same moral concern toward the captive nations. In Korea, the Republic of China, Japan, West Germany, and other nations citizens participated in events associated with the Bicentennial Captive Nations Week. As in previous years, those close to the battlelines of freedom from Communist domination know the plight of the capitive nations. They know, too, what might befall them if in the spirit of our American Revolution and in the spirit of the traditional Captive Nations Week, we should lapse in pursuing a policy of peace and freedom through strength.

In presenting further examples of the '76 week's activities, I introduce for the RECORD proclamations by Gov. Thomas P. Salmon, of Vermont; Gov. Dolph Briscoe, of Texas; Mayor John C. Mandanici, of Bridgeport; Mayor Stanley M. Makowski, of Buffalo; Mayor Arthur J. Holland, of Trenton; Mayor William H. Hudnut III, of Indianapolis; a broadcast on "Helsinki Plus One"; a report and editorial on the free Chinese event; and a report on Gov. Michael S. Dukakis, of Massachusetts, issuing his proclamation:

PROCLAMATION

Whereas, the imperialistic policies of Russian Communists have led, through direct and indirect aggression, to the subjugation and enslavement of the peoples of Poland, Hungary, Lithuania, Ukraine, Czechoslovakia, Latvia, Estonia, Byelorussia, Rumania, East Germany, Bulgaria, Mainland China, Armenia, Azerbaijan, Georgia, North Korea, Albania Idel-Ural, Croatia, Slovenia Cossackia, North Vietnam, Cuba, Cambodia, South Vietanm, Laos, and others; and

Whereas, the desire for liberty and independence by the overwhelming majority of peoples in these conquered nations constitutes a powerful deterrent to any ambitions of Communist leaders to initiate a major war; and

Whereas, the freedom loving peoples in the captive nations look to the United States as the citadel of human freedom and to the people of the United States as the leaders in bringing about their freedom and independence; and

Whereas, the Congress of the United States by unanimous vote passed Public Law 86-90 establishing the third week in July each year as Captive Nations Week and inviting the people of the United States to observe such week with appropriate prayer, ceremonies and activities; expressing their sympathy with and support for the just aspirations of captive peoples;

Now, therefore, I, Thomas P. Salmon, Governor of the State of Vermont, do hereby proclaim the week beginning July 18 through July 24, 1976, as Captive Nations Week in Vermont, and call upon the citizens to join with others in observing this week by offering prayers and dedicating their efforts for the peaceful liberation of the captive nations.

OFFICIAL MEMORANDUM BY DOLPH BRISCOE, GOVERNOR OF TEXAS

AUSTIN, TEX.

Greetings:

In its thrust toward world domination, communist imperialism has deprived many millions of people of Central and Eastern Europe, Asia and even the Western Hemisphere of human rights and fundamental freedoms. Silenced, but unconquered, these people will never cease to struggle for their inalienable right to a free life.

The national security and well-being of the citizens of the United States is dependent on the continued desire for liberty and justice on the part of the people of these captive nations.

By action of Congress, the third week of July has been designated as Captive Nations Week. It is fitting that we observe this period in tribute to the fight for freedom and in recognition of the natural interdependency of the people and nations of the world.

Therefore, I, as Governor of Texas, do hereby designate the week of July 8, 1976, as Captive Nations Week in Texas.

PROCLAMATION

Whereas, the imperialistic policies of Russian Communists have led, through direct and indirect aggression, to the subjugation and enslavement of the peoples of Poland, Hungary, Lithuania, Ukraine, Czechoslovakia, Latvia, Estonia, Byelorussia, Rumania, East Germany, Bulgaria, Mainland China, Armenia, Azerbaijan, Georgia, North Korea, Albania, Idel-Ural, Serbia, Croatia, Slovenia, Tibet, Cossackia, Turkestan, North Vietnam, Cuba, Cambodia, South Vietnam, Laos and others; and

Whereas, the desire for liberty and independence by the overwhelming majority of peoples in these conquered nations constitutes a powerful deterrent to any ambitions of Communist leaders to initiate a major war; and

Whereas, the freedom loving peoples in the captive nations look to the United States as the citadel of human freedom and to the people of the United States as the leaders in bringing about their freedom and independence; and

Whereas, the Congress of the United States by unanimous vote passed Public Law 86-90 establishing the third week in July each year as Captive Nations Week and inviting the people of the United States to observe such week with appropriate prayer, ceremonies and activities; expressing their sympathy with and support for the just aspirations of captive peoples;

Now therefore, I, John C. Mandanici, Mayor of the City of Bridgeport, Connecticut, do hereby proclaim the week of July 18-24, 1976 as Captive Nations Week in Bridgeport, and call upon the citizens to join with others in observing this week by offering prayers and dedicating their efforts for the peaceful liberation of the captive nations.

PROCLAMATION

Whereas, the imperialistic policies of Russian Communists have led, through direct and indirect aggression, to the subjugation and enslavement of the peoples of Poland, Hungary, Lithuania, Ukraine, Czechoslovakia, Latvia, Estonia, Byelorussia, Rumania, East Germany, Bulgaria, Mainland China, Armenia, Azerbaijan, Georgia, North Korea, Albania, Idel-Ural, Serbia, Croatia, Slovenia, Tibet, Cossackia, Turkestan, North Vietnam, Cuba, Cambodia, South Vietnam, Laos and others; and,

Whereas, the desire for liberty and independence by the overwhelming majority of peoples in these conquered nations constitutes a powerful deterrent to any ambitions of Communist leaders to initiate a major war; and,

Whereas, the freedom loving peoples in the captive nations look to the United States as the citadel of human freedom and to the people of the United States as the leaders in bringing about their freedom and independence; and,

Whereas, the Congress of the United States by unanimous vote passed Public Law 86-90 establishing the third week in July each year as Captive Nations Week and inviting the people of the United States to observe such week with appropriate prayer, ceremonies and activities; expressing their sympathy with and support for the just aspirations of captive peoples.

Now, therefore, I, Stanley M. Makowski, Mayor of the City of Buffalo, and I, Edward V. Regan, Erie County Executive, do hereby proclaim the week of July 18-24 1976 as "Captive Nations Week" in Buffalo and Erie County, and call upon the citizens to join with others in observing this week by offering prayers and dedicating their efforts for the peaceful liberation of the captive nations.

PROCLAMATION: CAPTIVE NATIONS WEEK

Whereas, the imperialistic policies of Russian Communists have led, through direct and indirect aggression, to the subjugation and enslavement of the peoples of Poland, Hungary, Lithuania, Ukraine, Czechoslovakia, Latvia, Estonia, Byelorussia, Rumania, East Germany, Bulgaria, Mainland China, Armenia, Azerbaijan, Georgia, North Korea, Albania, Idel-Ural, Serbia, Croatia, Slovenia, Tibet, Cossackia, Turkestan, North Vietnam, Cuba, Cambodia, South Vietnam, Laos and others; and

Whereas, the desire for liberty and independence by the overwhelming majority of peoples in these conquered nations constitutes a powerful deterrent to any ambitions of Communist leaders to initiate a major war; and

Whereas, the freedom loving peoples in the captive nations look to the United States as the citadel of human freedom and to the people of the United States as the leaders in bringing about their freedom and independence; and

Whereas, the Congress of the United States by unanimous vote passed Public Law 86-90 establishing the third week in July each year as Captive Nations Week and inviting the people of the United States to observe such week with appropriate prayer, ceremonies and activities; expressing their sympathy with and support for the just aspirations of captive peoples;

Now, therefore, I, Arthur J. Holland, Mayor of the City of Trenton, New Jersey, do hereby proclaim the week of July 18-24, 1976, as Captive Nations Week in Trenton, and call upon the citizens to join with others in observing this week by offering prayers and dedicating their efforts for the peaceful liberation of the captive nations.

PROCLAMATION: "CAPTIVE NATIONS WEEK" JULY 18-24, 1976

Whereas: The foreign policies of Russian Communists have led, through direct and indirect aggression, to subjugation and enslavement of the peoples of Poland, Hungary, Lithuania, Ukraine, Czechoslovakia, Latvia, Estonia, Byelorussia, Rumania, East Germany, Bulgaria, Mainland China, Armenia, Azerbaijan, Georgia, North Korea, Albania, Idel-Ural, Serbia, Croatia, Slovenia, Tibet, Cossackia, Turkestan, North Vietnam, Cuba, Cambodia, South Vietnam, Laos and others; and

Whereas: The desire for liberty and independence by the overwhelming majority of peoples in these conquered nations constitutes a powerful deterrent to any ambitions of Communist leaders to initiate a major war; and

Whereas: The freedom loving peoples in the captive nations look to the United States as the citadel of human freedom and to the people of the United States as the leaders in bringing about their freedom and independence; and

Whereas: The Congress of the United States by unanimous vote passed Public Law 86-90 establishing the third week in July each year as Captive Nations Week and inviting the people of the United States to observe such week with appropriate prayer, ceremonies and activities; expressing their sympathy with and support for the just aspirations of captive peoples;

Now, therefore, I, William H. Hudnut, III, Mayor of the City of Indianapolis, do hereby proclaim the week of July 18–24, 1976, as "Captive Nations Week" in Indianapolis, and call upon the citizens to join with others in observing this week by offering prayers and dedicating their efforts for the peaceful liberation of the captive nations.

Helsinki Plus One

Reporter: Philip C. Clarke, with Dr. Lev E. Dobriansky.

Index: Helsinki Accord.

For Broadcast: Wednesday, July 28, 1976.

It has been just under a year since the U.S., Russia and more than 30 other nations met in Helsinki and signed a declaration on security and human rights. The Soviet Union got what it wanted: Western recognition of Russia's post-World War II conquest of Eastern Europe. In return, the West obtained Soviet agreement to ease up on Moscow's authoritarian rule—including freer emigration, relaxation of border restrictions and permission for greater flow of people and ideas across frontiers.

As Chairman of the National Captive Nations Committee, Dr. Lev E. Dobriansky of Georgetown University, has been watching developments closely since Helsinki. He says violation of human rights behind the Iron Curtain have increased rather than decreased:

Dr. Lev E. Dobriansky: "It is significant that over this year there has been almost an uncanny focus on a part of Moscow dealing with human rights. And, in the course of this year there has been an increase in the repressions within the Soviet Union and also in Central Europe against the human rights of individuals, of institutions, and of nations; so much so that the Congress has been forced to set up a Commission on European Security and Cooperation to monitor the behavior of Moscow in terms of the Helsinki Accord."

In the past year, says Professor Dobriansky, Moscow has been pursuing two main objectives:

Dr. **Dobriansky.** "One of propaganda—mainly using these accords to propagandize them in terms of a legitimization of the borders and also the Communist regimes within Eastern Europe. The very thing that we try to avoid. And, unfortunately, our counter-propaganda has been virtually nil on this score.

"The second prong of its action has been what I call 'Ptompkin tactics.' They would allow for the release of a Leonid Plyusch, the Ukranian dissident. In the meantime, they would incarcerate a hundred or so within the jails and also psychiatric wards of the Soviet Union."

Professor Dobriansky says the U.S. should not wait until the next conference on European Security and Cooperation, scheduled for Belgrade in 1977.

Dobriansky: "I think every American should be given an accounting today by the Executive branch of our government as to how far Moscow has observed the accords. The State Department has monitored this since August or September of 1975 and it is time now to get the report to the American people."

Dr. Lev E. Dobriansky of Georgetown University, Chairman of the National Captive Nations Committee.

[From the China Post]

President Addresses Mass Rally: Assures Early Victory for Forces of Freedom

The future of the anti-Communist movement will be bright and firm, President Yen Chia-kan told a 50,000-strong rally in Taipei to mark the Captive Nations Week yesterday evening at the Taipei City Stadium.

To encourage enslaved people to rise against tyranny, the President said to resist slavery is to regain freedom.

Emphasizing the importance of freedom, the President said that "Freedom is one of man's fundamental rights and the goal of our common endeavors."

President Yen also closely linked the relationship between freedom and justice. He said "Freedom is the signpost of justice. This is to say that freedom can be reached only by upholding justice."

The President told the audience that this is the crucial moment in which we must extinguish Communist slavery and safe-guard democracy and freedom.

Yen said that in all history there has never been an enslaving tyranny which was not destroyed by anti-tyrannical people and there has never been a freedom-depriving totalitarianism which was not swept away by those striving for freedom.

The rally, sponsored by Dr. Ku Cheng-kang, honorary president of the World anti-Communist League, highlighted the Captive Nations Week activities from July 18 to July 24 in Taipei.

In addition to Dr. Ku's inauguration speech at the meeting all delegates from foreign nations, also lectured at the meeting.

A big chorus and morale-encouraging performances added to the tone of the anti-slavery gathering.

A declaration and open letter to the people on the mainland were issued at the meeting.

Captive Nations Week Mass Rally

The Captive Nations Week observance in the Republic of China came to a successful climax with a gigantic mass rally last night attended by more than 50,000 people of all walks of life.

It was a fitting demonstration of man's determination to remain free and to liberate the enslaved millions behind the Iron Curtain from tyranny and oppression.

As President Yen Chin-kan pointed out in his address to the mass rally supporting the Captive Nations, "freedom is one of man's fundamental rights and the goal of our common endeavors" and to resist slavery is to regain freedom. It is the signpost of justice. It symbolizes kindness and love. And freedom is the key to peace". Referring to the continuous and furious struggles by our mainland compatriots against the handful of their suppressors. President Yen declared that "This affords positive proof that Mao thought and Communist system are totally bankrupt and abhorred by the freedom loving people". "This is the crucial moment", he stated, "in which we must extinguish Communist slavery and safeguard democracy and freedom". He urged the people to "consolidate ourselves in this anti-Communist bastion, unite the forces of freedom, inspire moral courage and reinforce our faith in the final victory".

Many other speakers also addressed the rally voicing their staunch support of this worldwide observance which as initiated by a Joint Resolution of the U.S. Congress on July 17, 1959.

[From the Ukrainian Weekly, July 25, 1976]

Massachusetts Governor Issues CN Week Proclamation

Boston, Mass.—Governor Michael S. Dukakis designated the week of July 18–24, 1976. as "Captive Nations Week" in Massachusetts in a special proclamation which stressed that Americans from the captive nations "by their commitment to the national independence of the Captive Nations—Armenia, Byelorussia, Latvia, Lithuania, Estonia, Ukraine, and others—have heightened the appreciation of the blessings of liberty and self-determination among their fellow citizens."

Gov. Dukakis issued the proclamation on June 30, in the presence of representatives from Ukrainian, Lithuanian and Latvian organizations in Boston.

The Boston chapter of the Ukrainian Congress Committee of America, which was instrumental in staging this year's observance in Boston, was represented by: Konrad Hitsak, president; Orest Szczukluk, vice-president; Maria Walzer and Tania D'Avigon, who were dressed in Ukrainian stylized costumes.

CLEAN AIR ACT AMENDMENTS

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from Tennessee (Mr. Ford) is recognized for 5 minutes.

Mr. FORD of Tennessee. Mr. Speaker, I rise today to convey my personal appreciation to the members of the Committee on Interstate and Foreign Commerce for their diligent efforts on the Clean Air Act amendments. It is apparent that they cooperated extensively with representatives of industry and environmental groups to develop feasible amendments to a most crucial piece of legislation. The report on the Clean Air Act Amendments of 1976 represents a balanced approach to widely conflicting demands and competing interests.

Proposed sections of the controversial bill have been attacked by some industrial interests as being unreasonable in their approach to emission ceilings and penalty regulations. These same, and other proposals were considered too weak by environmentalists, some even stating that their acceptance could halt or reverse present progress in protecting the environment and the public health. The committee was placed in the position of arbitrator, providing a forum for the evaluation of current standards and serving as a catalyst for constructive change.

Two particular sections of the act are examples of the cooperative process which resulted in a bill acceptable for the most part to all parties involved in its formulation. Section 121 of the bill deals with the authorization of compliance date extensions for direct stationary sources. The sections presently regulating these extensions have been attacked as being inconsistent, inflexible and circumventing the act's intended goal of informed public participation in decisionmaking.

By replacing these sections with the new section 121 the committee hopes not only to eliminate these problems, but also to establish incentives for future compliance. Under the proposed regulation, the Administrator or the State is authorized to grant the extension to companies that have demonstrated good-faith efforts, such as the Caterpillar Tractor Co., which participated to a great extent in the formulation of the bill. This expansion of State authority also meets with the approval of environmentalists who see this as placing enforcement authority where it is most effective.

Addressing the emission standards for heavy duty vehicles, section 204 has also gained the support of environmentalists and industrial interests. This support stems primarily from the widespread dissatisfaction with present EPA regulations. The incorporation of an "escape clause," allowing revision of standards which prove to be technologically unfeasible, or result in excessive fuel penalties, is an especially important assurance to those industries ready to attempt to meet the standards. Environmental groups feel that the proposed provision would be a substantial improvement over the present ones, since such an application of statutory standards is an effective way to implement the intent of the bill.

In my opinion these examples are indicative of the committee's painstaking and reasoned approach to the current need to balance the goal of environmental improvement with equally important economic and energy considerations. Thus, I would like to offer my sincere commendations for a job well done.

OVERRIDE OF S. 391, THE FEDERAL COAL LEASING AMENDMENTS ACT OF 1975

The **SPEAKER** pro tempore. Under a previous order of the House, the gentlewoman from Hawaii (Mrs. MINK) is recognized for 5 minutes.

Mrs. MINK. Mr. Speaker, this bill, S. 391, originated here in the House of Representatives. It is, word for word, the same bill which this House passed overwhelmingly, 344 to 51. It is a bill which has drawn the support of a wide and diverse range of groups and individuals concerned with the orderly and efficient development of our great reserves of Federal coal.

Mr. Speaker, since the House passed this bill, we have received letters and resolutions in its support—and in opposition to the veto—from consumer groups, from industry, from environmentalists, and from State and local governments. I include in the RECORD for the information of all Members these expressions of support and these reasons for overriding the veto from the following groups: The Energy Policy Task Force of the Consumer Federation of America; the United Mine Workers of America; the Governor of New Mexico; the Governor of Montana; the National Rural Electric Cooperative Association; the National Farmers' Union; the American Public Power Association; the Friends of the Earth; the Burlington Northern & Union Pacific Corps.; and the National Association of Counties.

THE WESTERN CONFERENCE OF THE COUNCIL OF STATE GOVERNMENTS, ANNUAL MEETING, JULY 21–24, 1976, SALT LAKE CITY, UTAH

(Resolutions approved by the Western Conference of the Council of State Governments, July 23, 1976)

FEDERAL COAL MINERAL LEASING ACT

On July 3, 1976, the President vetoed Senate Bill 391, the Federal Coal Mineral Leasing Act. This bill would have increased from 37½% to 50% the percentage of federal mineral royalty tax funds to the states. It would also have placed restrictions on the attainment of mining leases and the operation of mines. In his veto message, the President expressed support for the increased funding to the states, but indicated he could not accept the mining restrictions in the bill. For that reason, the President vetoed the legislation.

The Western Conference of The Council of State Governments therefore urges the Congress and the President to work expeditiously and cooperatively in enacting legislation to increase the percentage of federal mineral royalty tax funds to the states.

UNITED MINE WORKERS OF AMERICA,
Washington, D.C., July 29, 1976.

DEAR REPRESENTATIVE: S. 391 is a product of over two years of dedicated work by committees in both houses of Congress. It is a reasonable bill built upon many hours of hearings and markups. S. 391 was passed only after undergoing careful debate in Committee and on the floor of both the House and Senate. It is a bill marked by the true spirit of compromise. There is a great need to reform the entire coal leasing process and this bill will bring the long overdue changes. The UMWA urges you to vote to override the President's ill-advised veto of this bill.

The UMWA endorses S. 391 for its strong solutions to some very complex problems. It provides for competitive bidding for leases and installment payment of the bid. This allows smaller companies to compete with the large energy conglomerates. The bill contains a termination clause for nonproductive leases which will end speculation and stimulate production; it increases the minimum royalty rate to insure a reasonable rate of return on the resources; and it alters the royalty revenue distribution formula so that areas adversely impacted by the mining of federal coal will receive a fair share of the revenue. It allows for the consolidation of adjacent leases into logical mining units; provides for land use policy formulation; and mandates a comprehensive inventory of the nation's coal reserves. The bill adequately addresses all the problems cited by government and industry witnesses concerning the suspended leasing program.

In light of our national energy problems, and the proposed solutions, there is a necessity for the optimum utilization of our domestic energy sources. However, this utilization should be consistent with the public interest. S. 391 not only helps assure the deligent production of federal coal but also assures the public an equitable return on this valuable resource.

On January 21, 1976, the House of Representatives passed S. 391 by a vote of 344–51. This vote demonstrates the strong, bipartisan support for an improvement and continuation of our federal coal leasing program. The UMWA hopes that the House of Representatives will be able to maintain this earlier margin and override the veto of S. 391. This will only be possible with your support. I urge you to vote for the override of this veto.

Sincerely,

ARNOLD MILLER.

NRECA,
Washington, D.C., July 23, 1976.

Hon. PATSY T. MINK,
House of Representatives,
Washington, D.C.

DEAR CONGRESSWOMAN MINK: On behalf of the National Rural Electric Cooperative Association I am writing to request that you vote to override the President's veto of S. 391, the Federal Coal Leasing Amendments Act. Currently, the vote on the veto override is scheduled for August 4. You may recall that this bill, S. 391, is identical to H.R. 6721, the version of the coal leasing legislation passed by the House of Representatives on January 21, 1976 by a vote of 344 to 51.

NRECA is a national service organization representing nearly 1000 rural electric cooperatives in 46 states. These cooperatives serve in all or part of 87.1% of the nation's counties.

NRECA has long supported legislation which would like S. 391 change the ownership patterns of Federal coal resources. There are, of course, many features of S. 391 designed to do just that. Among them are: 1) the provision for a pre-leasing antitrust review, 2) a requirement for competitive bidding, some of which must be on a deferred bonus basis, 3) a limit on the number of acres any entity can lease, and 4) the preference clause for leasing to consumer owned utilities for their own power supply needs. This latter provision is most important because it gives rural electric cooperatives and municipally owned electric utilities an opportunity to develop resources independent of the large energy companies which have held them captive for so long.

There are other features of the bill, however, which NRECA believes are just as important. The Federal coal exploration program will provide the people with information about the resources they own. The minimum statutory royalty rate, which we believe may be too high initially, can, we understand, be adjusted downward in order to encourage coal production.

In fact, we believe that this bill will encourage production in other ways by requiring those who have for many years now been holding leases for speculative purposes to develop those leases within a 10-year period. As for leases granted under the proposed law, the production requirements contained in S. 391 are no more stringent than those contained in the current Department of Interior regulations. NRECA has long supported the principle of diligent development.

In conclusion, NRECA believes that the time has come to end the debate on coal leasing and undertake a leasing and mining program which will be in the best interest of getting this nation on the road to energy independence. We encourage you and your colleagues to vote to override the President's veto of S. 391, the Federal Coal Leasing Amendments Act.

Sincerely,

ROBERT D. PARTRIDGE,
Executive Vice-President and General Manager.

ENERGY POLICY TASK FORCE,
Washington, D.C., August 2, 1976.

Hon. PATSY T. MINK,
House of Representatives,
Washington, D.C.

DEAR CONGRESSWOMAN MINK: I am writing to you on behalf of the Energy Policy Task Force of the Consumer Federation of America. The Energy Policy Task Force is a coalition of 30 national organizations representing consumers, labor and farm associations whose purpose is to protect and promote the consumers' viewpoint and to ensure consumer participation in the decision-making process as it affects national energy policy.

The Task Force protests the recent Presidential veto of S. 391, the Federal Coal Leasing Amendments Act, and supports efforts of the Congress to override the veto. One of the major purposes of the bill is to change the existing ownership patterns of Federal coal resources, to take them out of the hands of the large energy companies by affording opportunities for other smaller entities to lease and develop coal. We believe the President is mistaken in his contention that these and other provisions of the bill would possibly raise energy prices to consumers. We believe that through the increased competition in the leasing and development of Federal resources which will result from adoption of this bill, competition in the coal industry will be stimulated and prices lowered.

Furthermore, S. 391 has a feature that will prevent continued speculation with Federally owned coal resources. For existing leases, there must be development of coal within 10 years of the date of enactment. For new leases, a similar period of time is given. Elimination of speculation will prevent the large energy companies from manipulating coal and other energy prices.

Also, S. 391 provides for a pre-leasing antitrust review which will hopefully prevent the development of energy monopolies before they can grow and become difficult to break up. S. 391 places a limit on the amount of acres any one entity can lease, a feature bound to prevent the development of large energy monopolies.

Finally, we applaud the Congress for including a provision which returns to the states a fair share of the Federal royalties. Consumers in those states are severely impacted because of the rapid development of energy resources and will need the assistance provided by this portion of the bill.

We urge you to override the Presidential veto of S. 391.

Sincerely.

Lee C. White, *Chairman.*

State of New Mexico,
Santa Fe, July 20, 1976.

Hon. Teno Roncalio,
U.S. Representative, State of Wyoming, Longworth House Office Building, Washington, D.C.

Dear Representative Roncalio: As Governor of one of the nation's largest energy producing states, I was greatly distressed to learn of President Ford's recent veto of S 391, the Amendments to the Mineral Leasing Act.

New Mexico strongly supported the passage of this bill. We particularly favored those provisions which would give increased mineral royalty return to the states, and would allow those revenues to be expended in meeting the energy impact needs of those states.

As you may know, the northwest corner of our state is already experiencing severe impacts from rapid energy developments. The funds, that would be made available through implementation of S 391, could help finance the planning and construction of public facilities and services that are urgently needed to prevent boom town situations from occurring.

New Mexico is committed to helping the nation meet its energy needs. However, we feel there should be a parallel commitment at the federal level to ensure, that as our mineral development proceeds, we are given adequate financial assistance to deal with the effects of this development. Enactment of S 391 would be a responsible way of achieving this goal.

I strongly urge you and your colleagues to override the Presidential veto of S 391 when the issue is brought back before the Congress.

Sincerely,

Jerry Apodaca,
Governor.

State of Montana,
Office of the Governor,
Helena, July 23, 1976.

The Honorable Gerald R. Ford,
President of the United States, The White House, Washington, D.C.

Dear Mr. President: Your veto of S. 391, the Federal Coal Leasing Amendments Act of 1975, is most disappointing.

The increase in the state share of revenues generated by the leasing and extraction of Federal minerals and the modernization of the Federal coal leasing procedures provided in this legislation would have accomplished two objectives.

First, state and local governments would have received financial assistance to initiate advance planning, the construction and maintenance of public facilities, and the provision of services needed by the influx of people expected to accompany increased Federal coal development. As Senator Lee Metcalf so accurately and eloquently has said (Congressional Record, June 21, 1976):

"No other substantial Federal assistance is available to the coal-producing states to deal with predicted population increases triggered by Federal coal development. The new financial resources provided in S. 391 could spell the difference between, on one hand, the chaotic disintegration of a stable life-style dominated by agriculture, together with all the social ills, and on the other hand, an orderly transition to an urban or semi-urban lifestyle."

Your agreement that the Federal government should provide assistance to the states by increasing our share of Federal leasing revenues from 37½ per cent to 50 per cent, as stated in your veto message to Congress, is appreciated.

Second, the Federal Coal Leasing Amendments Act of 1975 has been designed to eliminate the speculative holding of Federal coal leases, assuring development of Federal coal on a timely basis and in a manner beneficial to the public. Nearly sixteen billion tons of federal coal have already been leased in the western states, but only 242 million tons have been developed.

Conservative estimates indicate that the tonnage available under existing leases could support over fifty 2,000 megawatt power generating stations for forty years. Nonetheless, the Department of Interior has renewed coal leasing without establishing the need to do so and without conducting environmental studies to determine which coal reserves already leased are acceptable for mining. By requiring that federal coal leased by the Department of Interior be produced within ten years and that the holders of nonproductive leases be ineligible to receive additional leases, S. 391 assures the production of coal to achieve national energy independence.

With all due respect, Mr. President, I submit that the objections in your veto message of S. 391 are unfounded.

In your July 3rd statement, you said that S. 391 "would insert so many rigidities, complications, and burdensome regulations into the Federal coal leasing procedures that it would inhibit coal production of Federal lands, probably raise prices for consumers and ultimately delay our achievement of energy independence."

Unnecessary and duplicative regulations at all levels of government clearly should be eliminated. But regulations designed to serve efficiently actual public needs must continue to be established and employed.

You state that a minimum royalty of 12½ per cent based on the value of the coal is more than is necessary in all cases. This rate, however, would eliminate inequities noted by the General Accounting Office in its study of royalties. Increasing the minimum royalty with a concurrent increase in the state share would have more evenly distributed the costs of coal development. The Secretary of Interior would still retain discretionary authority to reduce this royalty to encourage underground mining and the conservation of coal.

Legislation enacted by the State of Montana last year increased severance taxes on coal from 10 to 30 per cent, with production continuing to expand. Outer Continental Shelf oil and gas royalties of 16½ per cent have been established with no indication that leasing and production have been discouraged. A minimum royalty as set forth in S. 391 will not render Federal coal uneconomical to mine, provided that the national need truly exists.

The undisputed environmental value of the western states, recognized by numerous presidents and the Congress for many years, more than justifies the requirement of S. 391 for reclamation planning.

Specific provisions, requiring lease termination when production is not attained within ten years and the submittal of a mining and reclamation plan within three years from issuance of a lease would not frustrate accelerated Federal coal development. On the contrary, these provisions would insure it. Production requirements in S. 391 are less stringent than Interior's new regulations, but admittedly do not contain language which allows an extension to meet specified production levels. These statutory provisions discourage speculative holding of Federal mineral leases. Within the mining industry presently stating that at least four to six years lead time is necessary for the purchase of required equipment associated with site-specific mining plans, the above time sequence does not appear restrictive.

Contrary to another of your objections, the antitrust review requirement and the deferred bonus payment on one-half of the leased acreage would strengthen competitive aspects of the coal industry and hold down consumer prices. Delays caused by the Attorney General's review of proposed lease sales would be minor compared with those caused by lengthy litigation. Smaller companies would be encouraged to participate in the competitive bidding process, knowing that the deferred bonus payment system requires less front-end capital so easily available to the larger coal and multi-national oil companies.

I view the provisions of this legislation allowing the states' review and comment on proposed lease sales within National Forests as essential. The maximum eight month delay resulting from this prerogative is negligible when compared to the potential long range effects on our states' mining of federal minerals in National Forests.

You contend, Mr. President, that the requirement of public hearings is excessive, yet leasing regulations issued in May, 1976, by Interior Secretary Kleppe require the opportunity for the same number.

Comprehensive Federal exploration of Federal coal reserves is necessary to determine the actual value of tracts proposed for lease sale, to estimate the reserves for establishing logical mining units and specifying advanced royalties. It seems logical that the Federal Government should not depend on industry to furnish this data. The U.S. Geological Survey has recognized the need for this program in projecting a three-fold expansion by 1979 of its coal reserve base investigations.

In short, I view S. 391 as constructive, progressive, and fair legislation for the purpose of correcting mismanagement of the coal resources owned by the people of this nation. Recent comments by Secretary Kleppe before the American Coal Association noted, in a manner contradictory to his testimony before Congress and your subsequent veto action, that the Federal Coal Leasing Amendments Act of 1975 would ". . . not seriously hamper the administration's schedule for coal development.". Denial of desperately needed financial assistance to mitigate the impacts of Federal actions because of an inexplicable administration reversal of this view is a tremendously painful price to ask of the western states and the areas of natural splendor entrusted to our care.

In conclusion, Governors Castro of Arizona, Lamm of Colorado, Exon of Nebrakas, O'Callaghan of Nevada, Apodaca of New Mexico, Link of North Dakota, Kneip of South Dakota, Rampton of Utah, and Herschler of Wyoming join me in expressing our extreme concern and dissatisfaction with your veto of S. 391. We endorse and fully support affirmative overriding action by Congress.

Sincerely,

Thomas L. Judge,
Chairman, Western Governors' Regional Energy Policy Office.

American Public Power Association,
Washington, D.C., July 26, 1976.

Hon. Lee Metcalf,
U.S. Senate, Dirksen Senate Office Building, Washington, D.C.

Dear Senator Metcalf: The American Public Power Association, the national organization representing more than 1,400 local publicly-owned electric systems in 48 States, the Virgin Islands, Guam, Puerto Rico, and American Samoa, supports the override of the President's veto of S. 391, the Federal Coal Leasing Amendments Act of 1976.

Two considerations make immediate enactment fo S. 391 essential. They are, first, the urgency of stimulating coal development from existing coal leases; and second, the necessity to stem the formation of a fuel monopoly. The absence of production from the vast majority of Federal lease lands despite the requirement of diligent development, and the serious concentration of coal ownership in a small number of companies, should not be tolerated in a time of energy shortage which threatens this nation's economic stability.

S. 391 would address these issues in sensible and effective ways. It would require coal production by federal lessees in commercial quantities within ten years. Notification would be given to the Attorney General prior to lease issuance, permitting antitrust review when appropriate. The bill also provides for competitive bidding on all leases, and requires deferred bonus bidding on a portion of the leased acreage. These requirements eliminate the need for large amounts of front-end capital, facilitating the participation of small organizations. Although some have considered the royalty high in certain instances, the Secretary of the Interior has discretion to lower it if necessary to encourage greater coal production. And last, S. 391 would limit the acreage any single leaseholder could hold.

We hope you will strongly support this legislation when the Senate votes on overriding the President's veto.

Sincerely,

ALEX RADIN.

FRIENDS OF THE EARTH,
Washington, D.C., August 2, 1976.

DEAR REPRESENTATIVE: Friends of the Earth strongly supports HR 6721, the Federal Coal Leasing Amendments Act of 1975. We urge you to vote to override the President's misguided veto of this legislation.

The Mineral Leasing Act of 1920 was written when the terricidal capability and bent of modern mining technology were little more than a glint in a mad engineers eye. The authors of the Act did not anticipate a situation where entire regions may be ravaged to extract coal and other minerals, and normal use of the surface estate foreclosed.

By failing to consider the profoundly adverse economic, environmental and social impacts of mining activities on surrounding areas, and by being without a mechanism to assess realistic royalties and redistribute them to those suffering damages, the 1920 Act forces local industries and units of government to bear much of the real cost of mining. Under this Act, the Federal government is—in effect—placed in partnership with mining companies in "ripping off" local government and local people; making them subsidize the production of coal and other minerals.

The weak language of the 1920 Act invites speculation and devious dealings. This invitation clearly has not been ignored. Under feeble—if not collusive—administration of this Act, coal leases have evolved from a public trust to a negotiable commodity. A large percentage of public coal reserves in the West have fallen into the hands of speculators who are now sitting on them. Chief among these speculators are multinational corporations which dominate world production of oil and minerals, and large utilities. Fifteen leaseholders control 70% of the land under lease. Fourteen of these 15 are large energy corporations. According to the Council on Economic Priorities, "The largest leaseholders speculate the most. While 89% of all leases are inactive, 93% of the leases held by the top 15 are not producing coal . . . Five of these major leaseholders . . . have never produced a ton of coal from their leases".

The legacy of the 1920 Act is that the ability to decide when and how public coal should be mined, and therefore, what the nations long term energy policies should be, has passed from public hands and into those of large corporations. This situation will certainly prevail as long as the present Act remains in effect.

HR 6721 was developed to terminate abuses which fluorish under the 1920 Act, to help mitigate the impacts of mining by redistributing royalties, and to prevent destructive, piece-meal development through requirement of "logical mining units". FOE would, frankly, prefer that the minimum royalty for surface mined coal be considerably higher than it is in the bill, with a much greater percentage going to affected states, counties, and municipalities. Noting that the nations requirement for western coal might be extracted with the least adverse impact, and at the least cost from one major surface mining site on the Wyodak seam in northeastern Wyoming, we would like to see the "logical mining unit" concept carried a good deal further than it has been. We would like to see a provision which prohibits the mining of Federal coal without the consent of the surface owner.

But we feel that this bill is worthy of environmentalist support, and the best that can be hoped for. We regard it as a necessary complement to a strip mining bill. We consider the situation under the present leasing Act, with or without new regulations, to be intolerable.

Enclosed is a sheet containing a summary of the findings of the Council on Economic Priorities in its 1973 analysis of coal leasing under the 1920 Mineral Leasing Act, and the Omnibus Tribal Leasing Act of 1938, and a short discussion of the President's veto message.

Sincerely,

TOM GARRETT,
Conservation Director.

[Telegram]

ST. PAUL, MINN.,
June 29, 1976.

The PRESIDENT,
The White House,
Washington, D.C.:

I strongly urge you to sign S. 391, the Federal Coal Leasing Amendments Act of 1975. In my opinion it makes significant and beneficial amendments to the Mineral Leasing Act of 1920. Its provisions providing for increased payments to the states, instituting a federal exploration program, providing for logical mining units, reserving certain tracts to public bodies, requiring mining and reclamation plans, imposing production requirements, and providing for a study of recovery methods, are most beneficial. In my opinion this bill merits your support and your signature.

LOUIS W. MENK,
Chairman, Burlington Northern Inc.

[Telegram]

GERALD R. FORD,
President of the United States, White House,
Washington, D.C.

DEAR MR. PRESIDENT: Rocky Mountain Energy Company, the mining subsidiary of Union Pacific Corporation, respectfully urges you to sign into law the Federal Coal Leasing Bill, S. 391. In urging you to sign the measure, we understand that you may have received advice from segments of the coal industry and responsible public officials to the effect that certain provisions of the measure are onerous and, therefore, unacceptable to them. We understand these reservations and to some degree have shared these concerns.

However, on balance, we believe that the opportunity authorized in the measure granting the public land states, such as the State of Wyoming, where our principal coal mining activities are now centered, the advantage of receiving a substantialy higher share of mineral royalty income for use in ameliorating, in part, the socioeconomic impacts of major mineral development on the public domain outweigh the disadvantages contained in the Bill.

Respectfully,

ROCKY MOUNTAIN ENERGY CO.,
By JAMES C. WILSON,
President.

NATIONAL ASSOCIATION OF COUNTIES,
Washington, D.C., August 2, 1976.

Re veto override for coal leasing bill (S. 391).

Hon. TENO RONCALIO,
House of Representatives, Longworth House Office Building, Washington, D.C.

DEAR CONGRESSMAN RONCALIO: The National Association of Counties (NACo) actively supports a veto override for the Coal Leasing Reform Bill (S. 391). We commend your efforts to get this important program enacted.

S. 391 (formerly H.R. 6721) amends the Mineral Leasing Act of 1920 to provide for a comprehensive coal leasing program on federal lands.

The bill has several important provisions for counties and other local governments that would be impacted by federal coal leasing activities. Consultation with state and local governments and the public is required in the preparation of the federal use plans. Further, the Secretary of Interior "shall consider the effects which mining of the proposed lease might have on an impacted community or area, including, but not limited to, impacts on the environment, on agricultural, and other economic activities and on public services."

Of critical importance is the provision in the bill to raise the states percentage of federal coal leasing revenue from 37½% to 50%. The additional 12½% would be available to a state and its subdivisions giving priority to those communities socially or economically impacted by federal mineral development activities.

Your support for a veto override on S. 391 with these provisions is greatly appreciated.

Sincerely,

JIM EVANS,
Legislative Representative.

NATIONAL FARMERS UNION,
July 29, 1976

MEMORANDUM

To: Members of the U.S. House of Representatives.

From: Tony T. Dechant, President.

National Farmers Union urges you to vote to override the President's veto of S. 391, the Federal Coal Leasing Amendments Act of 1975. S. 391 (then H.R. 6721) passed the House by an overwhelming vote of 344 to 51 in January and was approved by voice vote in the Senate on June 21.

National Farmers Union strongly and unequivocally endorses the basic thrust of S. 391 and believes the bill will promote competition in the coal industry, provide the public with a more fair return from the leasing of Federal coal, prevent speculation in coal leases, encourage the maximum economic recovery of the resources, mandate sound environmental and land use planning prior to leasing and provide increased mineral development impact assistance funds to mineral leasing states.

Of particular merit are the following:

1. The requirement that leasing be proceeded by the formulation of comprehensive land use plans. These plans should help in-

sure that coal leasing does not occur in areas of high agricultural productivity or potential.

2. The features of S. 391 which are designed to promote competition in the coal industry, and ultimately lower prices to consumers. This includes the stipulation that non-profit utilities such as rural electric cooperatives will have access to Federal coal leases on an equitable basis—a provision which should reduce electric bills for many of our members.

3. The reallocation of receipts from mineral leasing will increase the money going to the states for mineral development impact assistance. These funds in affected states are needed to provide for pollution control systems and other public facilities and services that will accommodate and accelerate mineral, especially coal, development and for other related purposes.

INTERNATIONAL CONFERENCE OF
POLICE ASSOCIATIONS,
Washington, D.C., August 3, 1976.

DEAR REPRESENTATIVE: On Wednesday of this week, the House will attempt to override President Ford's veto of S. 391, the Federal Coal Leasing Act Amendments of 1975.

The International Conference of Police Associations, representing 180,000 police officers, urges you to vote to override this veto.

We feel this is a good energy bill. S. 391 provides guidelines for orderly development of vast Federally owned coal reserves in the Rocky Mountains. S. 391 has provisions that stimulate production, increase competition, and put an end to speculative holding of Federal coal leases. S. 391 provides assistance to communities that are and will be experiencing dramatic growth prompted by rapid energy development.

As our nation prepares to become energy independent, we are turning to the Rocky Mountain States for their vast reserves of Federally owned coal.

Already, areas in Montana, Wyoming, Colorado, Utah and New Mexico are experiencing severe impact problems from rapid energy development. Schools, hospitals, fire protection districts, and law enforcement facilities are desperately needed. Crime in some of these "boom towns" is up 600%! Raising Federal mineral royalties from 37.5% to 50% return to the States affected, as provided in S. 391, would help alleviate community impact problems.

The International Conference of Police Associations urges you to vote to override the Veto of S. 391.

Sincerely,

EDWARD J. KIERMAN.
ROBERT D. GORDON.

PUBLIC ACCOUNTABILITY FOR USE OF PUBLIC MONEYS FOR OFFICIAL TRAVEL

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. CARR) is recognized for 5 minutes.

Mr. CARR. Mr. Speaker, the abuse of committee funds for pleasure junkets has long been a problem that has lowered the reputation of Congress. While many have sought to obfuscate congressional expenditures so as to permit the use of public moneys for personal pleasure, public confidence ratings continue to indicate a basic dissatisfaction with such congressional folly.

I propose a public accountability for all those who see fit to use public moneys for official travel. Many trips justify themselves, and serve the public efficiently, and I believe the public will support the Congress as it does its rightful business. But we must eradicate costly and extravagant joy rides which undermine the image of this institution.

The main provision of the resolution I am introducing calls for each member to travel on the committee's funds to file with the respective committee a statement of the necessity for the travel as well as an estimate of the expenses. Further, any travel would have to be approved by the full committee on a majority vote in public session. The bill also requires a report to be filed with the respective committee within 10 working days of completion of the trip. Finally, the proposal and report are to be kept on file by the respective committee available for public perusal.

Not only has the privilege of congressional travel been abused by some Members of Congress, but this abuse has led to widespread distrust of any travel by Members. The effect is that those trips which are necessary cannot be distinguished from those which are a simple ripoff of the taxpayers. Legitimate travel can and should be defended before the committee in full view of the public, and any travel which cannot should be exposed to the public and the Member held accountable.

CITY FINANCIAL EMERGENCIES DEMONSTRATE NEED FOR ACCRUAL ACCOUNTING

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. CRANE) is recognized for 60 minutes.

Mr. CRANE. Mr. Speaker, the current financial difficulties in New York City and other localities reflect the problem officials face in trying to ascertain exactly the financial situation of the Nation's cities. Often, city officials are in the dark not only about the revenue needed to meet future obligations but also the extent of the obligations themselves.

Similarly, the controversy over the solvency of the social security system in this country makes clear that the difficulties in assessing current and future financial conditions are not confined to the local level, but extend to the Federal level as well. The Congress, despite the new budget procedure, is still very much in the dark about the actual financial condition of the U.S. Government, especially about future expenditures and their effect on taxes. In view of that information, Congress seems willing to go on spending without due consideration for the future impact of that spending.

Close examination of several cities and their financial condition will make clear the difficulties officials at all levels of government face in meeting their financial problems. It should also serve as a warning as to what can happen when the discipline complete financial disclosure can bring to a given situation is lacking.

By virtue of last December's $2.3 billion bailout by the Federal Government, New York City has practically overnight become the symbol of municipal financial difficulty. However, the crisis was a long time in the making, born not only of spendthrift fiscal policies but also of an accounting system that allowed the city fathers to continue spending beyond their means far longer than was wise or prudent.

Instead of publishing a consolidated financial statement showing liabilities accumulated as well as cash spent, New York City's previous financial statements accrued most revenues but not expenditures. Thus, while reimbursements from the State and Federal Government were recognized as receivables and the entire tax levy was shown on the books as an asset, the liabilities incurred were not accounted for. As a result, the 7.16 percent tax delinquency rate for 1975 which meant $207 million less in taxes than was levied, was not accounted for.

With accounting like this, showing more in revenues and less in obligations than was actually the case, it is understandable that purchasers of bonds and the voters in general were unaware of the seriousness of the situation. Had they been, it is quite likely they would have not bought the bonds to finance these spending deficits nor would they have voted the spending programs that created them in the first place.

Of course, deficit financing and fiscal coverup can go on just so long before the roof caves in. Finally, things reached the point in New York, that in June, 1975, the Municipal Assistance Corporation—MAC—had to be set up to help the city avoid default on its short-term bonds. Its purpose, mainly, was to convert short-term bonds into long-term obligations and by August, it had sold $2 billion out of the $3 billion in bonds it had hoped to sell. At that point, however, the market became saturated, no more bonds could be sold, and something else had to be done.

In September, New York State moved in to help New York City put its financial house in order. The State set up the emergency financial control board to help administer city finances, and demanded the city prepare a plan to balance the budget within 3 years.

Throughout the fall, debate raged in Congress about a Federal bailout plan to save New York. Finally, in December of 1975, with default just around the corner Congress passed a $2.3 billion loan program, but only after certain conditions were agreed to.

Two of the requirements for continuation of the loans stand out. The first is that the city will stick to its financial plan promising a balanced budget by the year 1978. The second is that the city change its accounting systems to bring them in line with State law which prohibits a municipal government from using such unorthodox accounting procedures. But, by January of this year, there are already signs that New York may not stick to the first requirement. Mayor Beame for one has expressed concern that the city will not be able to keep on schedule insofar as spending cuts are concerned. More recently, Sidney Schwartz, a State deputy comptroller, chimed in with similar doubts and then, in May, the city adopted a budget with a $686 million deficit suggesting even further slippage from the financial plan. As a consequence of the latter, Moody's dropped its rating for MAC bonds four steps from A to B, putting into question the legality of banks continuing to hold MAC bonds.

Thus, New York is still in deep financial trouble and, prior to a July 2 deadline, Secretary of the Treasury William Simon came under pressure not to renew New York's loans unless the city could show that deeper spending cuts would be made. Fifty-two Members of Congress, myself included, asked the Secretary not to make any further loans to New York unless city officials take the necessary steps to live up to their commitment to balance the city budget by 1978. However a $500 million loan was approved even though there are still $941 million in obligations that will come due after the bailout program ends on June 30, 1978.

It is important to realize that New York brought the crises on itself. City expenditures are rising at 12 percent annually, while revenues are increasing at 4 to 5 percent a year. Many of these expenditures are incredibly lavish. For instance, retired sanitation workers are paid $18,000 a year, university professors are paid $38,000 a year, and up until a few weeks ago, New York charged no tuition for its city university. In addition, the temporary commission on city finances reports that not only do city workers receive fringe benefits in the amount of $2 an hour for every $3 an hour in pay, but many employees not required to wear uniforms are still paid uniform allowances. With extravagances like these, it is little wonder that New York claims it is impossible to balance the budget by 1978. What is not so clear is whether city officials are willing to make the necessary spending cuts or accounting changes necessary to put New York's financial house in order.

Ironically, New York City is not the only city in the Empire State facing a default situation. Yonkers, N.Y., at the last moment, was able to get local banks to agree to purchase $4.9 million in tax anticipation notes but only after it agreed to raise its sales tax to an alltime high of 8 percent. Earlier, banks had refused a $15 million loan to avoid default, forcing State officials to come to the rescue of the city. The State made $10 million advance payment of revenue sharing moneys due in fiscal 1976 and then made a $15 million insurance fund loan to the city. In return, the city had to accept an emergency financial control board with powers similar to those exerted by the Emergency Financial Control Board in New York City.

The Yonkers control board set up a plan that included an $18 million cut in spending, and a 25-percent cut in the payroll, in order to bring the city back in a position of solvency. The goal is to balance the city's budget by June of 1977 but increased taxes and more cutbacks will be necessary in order to meet the goal. In view of the cutbacks already made, it is clear that these cutbacks will have a severe impact on municipal services.

New York, however, is not the only State where cities are in financial difficulty. Just down the east coast, Washington, D.C., despite, or as a result of—depending on one's point of view—congressional control of its budget until 1975, has a serious fiscal problem centered around its pension programs. In fact, things are so messed up that an accounting firm just reported that the District government is losing millions of dollars a year because it does not know how much it owes, is owed, or has in the bank.

The gist of the problem, however, is that the D.C. government has $1.1 billion in pension obligations but no money set aside to pay them off. With these obligations growing by $50 million each year, and with the city forced to finance them out of general revenues, city officials warn that pension costs for retired workers could exceed payroll costs for actual employees within the next 40 years. Obviously, some adjustment has to be made.

Inasmuch as Congress not only set up the pension program but failed to insist on adequate audit procedures it must share the responsibility for the problems D.C. now faces. Had complete disclosure and accrual accounting been required all along, it is doubtful things would have deteriorated to the point where the chairman of the Senate District Committee, Senator EAGLETON, felt compelled to introduce legislation calling for $20 million to bring some order out of what has been described as fiscal chaos. How much more bailing out the pension plans might cost the Nation's taxpayers is anybody's guess.

Philadelphia, Pa., although not in dire financial straits, appears to be moving in that direction. State law requires cities to draw up a balanced budget, yet Philadelphia reported a deficit of $19 million in 1975 and has projected an $80 million deficit for 1976. And were it not for some controversial accounting procedures, the red ink in the books would have been far more in evidence.

Prior to 1975, Philadelphia used an accounting system whereby expenditures were accrued but revenues were, for all practical purposes, counted only when in the bank or covered by contributions to an anticipation account. However, in order to have a so-called balanced budget in 1975, the city's finance director changed the system and began counting as in the bank $44.2 million in moneys due from the State and Federal Government but not yet collected. The rationale given for this unorthodox technique was that such moneys constituted 28 percent of anticipated revenues in 1975, as compared to 2 percent in 1954, and failure to include them made it difficult to plan.

The problem with this reasoning is, however, that if you plan on these revenues, spend accordingly and the money does not come in, then the deficit is increased without most people being aware of what is going on in time to stop it. As if to underscore the dangers of such an approach, Philadelphia's 1976 budget included as earned income $65.3 million in revenue from dubious sources, such as $6.3 million in real estate taxes from the bankrupt Penn Central Railroad which had not paid its taxes in 5 years and $12 million in proceeds from a Federal energy tax that had not even been passed. As a consequence of this financial legerdemain and continued high spending, the city found itself, at the beginning of this year, looking for $50 million in short-term financing and facing the prospect of a tax increase. Philadelphia's bond rating had already been dropped, in November 1975, to single A by Standard & Poor, and the city not only had difficulty in selling a $25 million bond issue, but can be expected to have even more difficulty in the future. One does not need a crystal ball to predict that, unless the patterns of the past few years are reversed, Philadelphia could find itself in a position similar to that of New York in the fall of 1975, unable to roll over its short-term debt and looking to Washington for a Federal bailout.

Another point not to be overlooked in the Philadelphia example is that enough citizens were upset by the prospect of a tax increase, after they had been led to believe there would not be one, that a recall drive was launched against the city's mayor. Whether it was justified, or will be successful, is not the question; the key thing here is that the public's willingness to keep on financing deficit spending, regardless of how it is camouflaged, cannot be taken for granted. Instead of being confronted with a fait accompli, the voters have a right to know what kind of taxes they will have to pay—to meet existing obligations—before new spending programs are enacted.

Cleveland, Ohio, provides another example of what can happen when the public's willingness to go along with tax increases is taken for granted. Back in 1970–71, when authority for a property tax levy expired, the voters refused to approve new tax increases even though their action meant severe curtailment of revenue and a 20-percent reduction in the size of the budget. Despite a major effort to cut the expenses, Cleveland still finished 1971 with a $13 million deficit. However, Ohio law provides that such a deficit must be fully provided for in the following year's budget. Yet to do this would have resulted in further layoffs, so the city asked for permission to issue general obligation bonds to cover the deficit. In effect, this plan allowed Cleveland to pay off its deficit over a 5-year period, plus interest, rather than just during the following year's budget. Thus, while Cleveland is not in an acute financial emergency, the factors are present that could precipitate one.

Newark, N.J., faces a different type of financial emergency, stemming from Newark's high tax rate which cannot compensate for an eroding and somewhat undependable tax base. In addition to people and business moving out of town, there is a 12-percent delinquency rate on tax collections. This condition has existed since the 1960's and has necessitated cutbacks in spending in order to balance the budget.

The crisis came in 1971, when the State commissioner of education ordered the city to restore its slashed school budget to its original level, thus requiring an additional $10 million appropriation not called for in the proposed budget for 1971. Again, State law dictated that the city must allow for repayment of the deficit in the next year's budget. But, with increased expenditures and the required funding of the deficit, the new budget was $61.3 million higher than the previous year. So the State legislature authorized new local taxes, and with this new revenue, balanced the budget for 1971 and on December 31, 1971, no short-term outstanding loans existed. The city is now financially sound, but with the tax base in danger of eroding further, problems could recur, particularly since Newark also accrues intergovernmental revenues in a manner not dissimilar to that used by the city of Philadelphia.

East St. Louis, in my home State of Illinois, has problems similar to those of Newark: eroding tax base, a high rate of tax delinquency, and a similar system of financial accounting and reporting. However, there is a somewhat different twist. According to a 1973 study by the Advisory Commission on Intergovernmental Relations—ACIR—entitled "City Financial Emergencies: The Intergovernmental Dimension," East St. Louis has gone to local banks when it runs low on cash and has gotten them to advance the city money. Then, when the city was unable to repay, which was chronically the case, the banks would file a judgment suit against the city. Once this was filed, the law permitted the city to issue judgment bonds which could be repaid by increasing property taxes. Thus, the city was able to circumvent the State law that placed a statutory limit on property taxes, but in view of the economic consequences, one has to wonder if it would have been better to get all the facts out on the table and balance the budget each year instead of resorting to continued deficit financing that State law, for good reasons, attempted to prevent. As it stands now, if the city ever is pressed to pay the principal and interest due on its bonds, it could be in an extremely precarious financial position.

Lest the preceding examples create a false impression, small cities are just as vulnerable to fiscal crisis as large municipal governments. In fact, the 1973 ACIR report is replete with examples which suggest that full financial disclosure and comprehensive accrual accounting would be a good idea for all size governments.

For example, Hamtramck, Mich., a city of 27,000, was plunged into a fiscal emergency back in 1970 because of inadequate fiscal controls. In fact, things got so bad that the city was unable to pay its employees, its pensioners or its creditors at the appropriate times. In short, Hamtramck defaulted.

A financial audit of the city's finances done on an accrual basis showed that deficit financing covered over $2.4 million of the city's $5.6 million in expenditures for the year ended June 30, 1970. The money in excess of revenues was raised several ways. One involved using city pension funds—for policemen and firemen—to cover general expenditures. Another involved deferring or delaying payment on bills due. A third involved collecting taxes a year in advance. Finally, the city sought approval of $400,000 in tax anticipation notes to cover the deficit but, before the Michigan Municipal Finance Commission—MMFC—could complete its investigation and authorize approval, the city ran out of cash and defaulted.

In the wake of the default, the MMFC stepped in and restored fiscal order. Equally significantly, the city's own certified public accounting firm recommended to the city fathers that, among other things, Hamtramck adopt accrual accounting—instead of cash-flow which the city had used and the Federal Government still uses—in order to keep history from repeating itself.

Somerville, Mass., provides another example of a city that successfully resolved a financial emergency through proper fiscal restraint. Somerville faced a rather unique combination of events that led up to the crisis. These were the bankruptcy of the Boston and Maine Railroad, and its subsequent failure to pay the city any taxes, plus the suit of the First National Stores against the city to prevent the further collection of property taxes. The suit was based on the ctiy's alleged failure to properly assess property and the court granted an injunction allowing the First National Stores not to pay taxes until the suit was settled.

With the two largest taxpayers not paying any taxes, the city was faced with the prospect of severely diminished revenue. But rather than cut back on expenditures, the city chose to budget as though all the past due taxes would eventually be collected. By 1970, the litigation and bankruptcy were still underway, causing a lack of tax revenue and the cash position of Somerville had reached crisis proportions.

At that point, the city appealed to the State for help. Massachusetts then approved the issuance of $6,800,000 notes but imposed conditions to prevent the recurrence of the deficit. The conditions were rather simple, but effective. The State ordered the city to stop budgeting for taxes that it would not reasonably collect and to make up any shortfall in tax revenue in the next year's budget. This sound financial policy, in contrast to those utilized by New York and Philadelphia, enabled the city to prevent another fiscal crisis from occurring the following year.

In examining the case studies, a pattern emerges that can spell disaster. When city expenditures exceed revenues, the deficit is frequently covered by the issuance of either short- or long-term bonds. Then, instead of systematically retiring the bonds, cities frequently "rollover" the debt, covering any bonds that are still outstanding, as a result of continued deficit spending, by the issuance of still more short-term obligations. The day of reckoning may be delayed, but the consequences associated with its arrival, whenever it may be, are sure to be compounded.

The question arises as to whether improved accounting procedures could have averted, or at least helped avert, the crisis mentioned. It is obvious that the financial woes of many cities are complex and will not disappear overnight but, at least, production of consolidated financial statements on an authentic accrual basis can give cities a more accurate picture of what future expenditures are likely to be. This, in turn, will give the politicians and taxpayers a more accurate idea of the amount of taxes and other revenues that will be needed in order to prevent future deficits or excessive debt.

It is also clear that such financial statements, and the independent audit necessary to produce these statements, would prohibit fancy bookkeeping or fund transfers from taking place without the knowledge of the taxpayer and possibly even some of his elected representatives. The resultant early warning system would also provide the leadtime needed to avert a fiscal crisis such as those just described. Taxes could be increased gradually rather than a large boost all at once, expenditures could be cut over a period of time rather than a sudden mid-year budget cut, and layoffs of thousands of employees could occur gradually and with sufficient notice to provide them the opportunity to seek new employment.

As for the objections to using accrual accounting principles, they are far from insurmountable. One such objection is that the principles involved, do not always apply to the cities or to the Federal Government. However, I am convinced a standardized system can be adopted with footnotes being added to both the balance sheet and income statement to take any adjustments into account. As for the adjustments, they should be minor.

A second objection to accrual accounting is that the necessary bookkeeping and accounting methods may not exist at present within city governmental structure. However, as was seen in some of the case studies, a lack of centralized accounting and budget controls was partially responsible for the occurrence of the aforementioned financial emergencies. So this objection should be overcome regardless of whether or not accrual accounting is adopted.

But underlying these two objections is a more basic one, usually unspoken but nevertheless omnipresent—the fear on the part of some politicos that if the people really know how much their Government owed, some of their pet programs would get cut. A consolidated financial statement using accrual accounting techniques would be politicized, according to some critics, but that is what the American system is all about. After all, it is the people who should decide what their Government should do. They pay the bills and they should be entitled to know how high the tax rates will have to be in order to pay debts coming due in the future. True, the Federal Government can cover a deficit in ways a city cannot, but ultimately, the people will pay a price just as surely as if there was a default.

The major difference between the cities and the Federal Government is the ability of the Federal Government to, in effect, borrow as much as is needed to cover a deficit. Cities have a credit limit with the banks, and, in emergencies, can seek State aid. But the Federal Government can either borrow in the open market or from itself, through the Federal Reserve. The ceiling on the national debt is supposed to limit the borrowing but, in practice, the ceiling is raised whenever necessary—which is frequently.

Carrying things one step further, if the Federal Government issues bonds on the open market, it must offer higher interest rates to attract investors. If the Federal Government borrows a great deal on the open market that, together with higher interest rates to attract investors, crowds out private investment as more capital is drawn away from the private sector. But, since more capital is needed by corporations to expand their production in order to maintain old jobs or create new market results in higher unemployment ones, Federal borrowing on the open and economic stagnation.

Furthermore, when the Federal Government borrows from the Federal Reserve, what in effect happens is that the Treasury Department sells bonds to the Federal Reserve, which prints money to pay for the bonds, which increases the money supply. This puts inflationary pressure on the economy and results in higher consumer prices. Thus, accumulating liabilities that must be paid by excessive Federal borrowing, regardless of how it is done, is a prescription for inflation, unemployment, and a sluggish economy.

Given these potential consequences, there is every bit as much need for the Federal Government to publish an annual consolidated financial statement based on accrual accounting procedures as there is for city governments to do so. In a republic such as ours, it should not be assumed that people will pay higher taxes or accept more inflation indefinitely. Moreover, we would be remiss if we ignored what has happened in some of our cities, or at the example being set by Great Britain and Italy today, or what happened to Germany in the 1920's, to take an extreme example. The fiscal strength of the Federal Government is only as good as the public's confidence in it and I think people will have a lot more confidence if they are told what the story really is so that, if remedial measures are needed, they can be taken in time to forestall a crisis rather than as a reaction to one.

In order to provide for full disclosure and accrual accounting at all levels of government, I have presented two major legislative proposals. The first, amending the Securities Act of 1933, would require that municipal governments make the same type of full financial disclosure to the Securities and Exchange Commission that is required of corporations. This would open the door to "budget in the sunshine." The second, called the "truth in accounting bill," mandates the Federal Government to produce an annual, consolidated financial statement on an accrual basis, something that has been recommended several times before but, until now, never implemented.

At this point, I am happy to say that not only does the "truth in accounting" proposal have 116 cosponsors in the Congress but Secretary of the Treasury Simon has announced that it will be put into effect administratively for fiscal year 1977. Thus, if plans do not change, we should see the first of these statements in February 1978.

However, the fact that plans could shift, particularly if the Secretary of the Treasury happens to change, underscores the need for this proposal to be enacted into law even though Treasury is going ahead with it administratively. Something as important to the American people as the extent to which their Government is financially obligated should be a matter of public record each year no matter who is in office. As Secretary Simon has said:

> The people have a right to know what they owe and what they own. What they do with that knowledge is up to them.

THE FIRST ANNIVERSARY OF THE HELSINKI AGREEMENT: NOT A TIME FOR CELEBRATION

(Mr. SIKES asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. SIKES. Mr. Speaker, we have observed the first anniversary of the Helsinki agreement. A year ago it was outlined as a new hope for peace and understanding between the free world and the Communist bloc. It is notable that the Soviet Union happily crows about how well the Helsinki agreement is working. American officials maintain an attitude of restraint; they express no enthusiasm. One can readily understand the situation because, thus far, the accord has worked just the same as most accords and agreements with the Communists work, "one way—not our way."

It is little wonder then that Communist leader Leonid Brezhnev termed the meeting at Helsinki a conference of "enormous importance." It confirmed for the Soviets the inviolability of the Communist frontiers which had been greatly extended as a result of World War II. In effect, the United States joined with other nations to make legitimate what heretofore had been illegitimate—the seizure of whole nations and millions upon millions of people by the Soviets.

On the contrary, little, if anything, has been done about one of the major goals of the accord, "the human aspect." The exchange of information, freer emigration from all Communist countries, freedom of travel and, more importantly, reunification of families torn asunder by wars and relocation. The doors have not been opened any wider for those desiring to leave the Soviet Union and the plight of the Jews, with the exception of some of the more prominent ones, has not eased and, in fact, is reported by some to have worsened.

So, as we reviewed the Helsinki agreement on this its first anniversary, it is not hard to see the Soviet Union leading us down the primrose path—a path strewn with broken dreams of peace, false hopes and, most of all, a loss of national pride for allowing ourselves to sign another agreement that means little or nothing.

True, there have been what I call token gestures by the Soviet Union—such as allowing Western officers from NATO to observe certain maneuvers, a lifting of some restrictions on journalists, and the allowing of freer travel for U.S. businessmen. On the latter point, this was done more as a matter of national self-interest than as a desire to adhere to the agreement on freer travel.

I continue to be amazed that after Yalta, Tehran, Potsdam, and the United Nations, this Nation can continue to ignore the lessons of history which are so painfully clear. Those lessons, written with broken promises and the blood of countless thousands, are indicative that "communism intends to rule the world in their own time and in their own way."

Regrettably, the United States along with much of the free world seems to have an insatiable attitude for swallowing sugar-coated offerings by the Communists. I am reminded again of the words of Nikita Khrushchev who bellowed "we shall bury you." It is a sad commentary that we keep digging the holes and seem determined to find a way to pull the dirt in after ourselves.

A DESCRIPTION OF PENDING LEGISLATION

(Mr. KOCH asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. KOCH. Mr. Speaker, constituents are interested in how legislation is developed in Congress. I thought it would be helpful to speak on this subject and to list some of the bills of which I am the principal sponsor and which have not yet been enacted into law. I have selected 56 bills to discuss. They illustrate the range of legislation now occupying my attention Not included are bills and amendments which I have sponsored which have already become law in this Congress. It is my hope that constitutents who have a particular interest in any of the bills listed will write to me for more information on them.

The wide range of legislation with which I am involved reflects the diversity of my district. The 18th Congressional District is small in area, being approximately 5 miles long—or 100 blocks. It runs from East 98th Street south to Houston Street with the widest point extending from the East River to Eighth Avenue. But it has the same 467,000 residents as other New York State districts have. And at one time, when I was first elected to serve in January 1969, it was the home of the newly elected President, the Governor of the State of New York, the two Senators from New York, and the mayor of the city of New York.

Since the beginning of the 94th Congress in January 1975, 17,721 bills have been introduced in the House. To date 1,227 of those bills have passed the House of Representatives, and 331 have been signed into law by the President. One of the keys of enacting legislation into law is first getting hearings for the bills and then having the committee report the legislation to the floor for a vote. My thought is, Mr. Speaker, that those of my constituents who are interested in a particular bill I have introduced, and which I am listing, will want to write to the committee chairman before whose committee the bill is presently pending urging hearings and action on the legislation.

I should note that these are not the only bills which I am sponsoring. I believe in supporting legislation that other Members have initiated as they do mine. What I am listing is simply a number of bills of which I have been the originating sponsor.

There are constituents who are interested in other areas not covered by this list. These may well be areas on which I am also working. Interested persons should write to me and ask for the legislation on the subject of interest and I will provide them with all relevant legislation on it—proposals introduced by other Members as well as mine. My bills follow with their short titles:

Description of Pending Legislation

TAXES AND TAX RELIEF

H.R. 578—allows a deduction to tenants of houses or apartments for their proportionate share of the taxes and interest paid by their landlords. Chairman Al Ullman, Ways and Means Committee.

H.R. 9812—provides that landlords using an accrual method of accounting may not deduct real property taxes on their rental property until such taxes are paid. Chairman Al Ullman, Ways and Means Committee.

H.R. 579—provides that in the case of a dependent 62 or older the support test shall be satisfied if the taxpayer contributes $1,500 or more to the support of such dependent. Chairman Al Ullman, Ways and Means Committee.

H.R. 582—provides that blood donations shall be considered as charitable contributions deductible from gross income. Chairman Al Ullman, Ways and Means Committee.

H.R. 583—increases to $1,500 the personal income tax exemptions of a taxpayer, including the exemption for a spouse, for dependents, for old age and blindness. Chairman Al Ullman, Ways and Means Committee.

H.R. 585—restores the artist's tax deduction for donations of his or her own work to public institutions. Chairman Al Ullman, Ways and Means Committee.

H.R. 850—gives tax equality to single taxpayers and working married couples. Chairman Al Ullman, Ways and Means Committee.

H.R. 5696—provides that the 4% excise tax on the net investment income of a private foundation shall not apply to a private foundation organized and operated exclusively as a library, museum, or similar educational institution. Chairman Al Ullman, Ways and Means Committee.

H.R. 8945—disallows the business expense tax deduction for first class air and rail travel in excess of the coach fare for such travel. Chairman Al Ullman, Ways and Means Committee.

H.R. 14478—allows persons 65 and older to take income tax deductions for medical and drug expenses without regard to the present 3% limitation on medical expenses and 1% on drugs. Chairman Al Ullman, Ways and Means Committee.

HUMAN RIGHTS

H.R. 11463 and H.R. 13151—Foreign Boycotts Acts of 1976, prohibits American companies from providing information aiding boycotts of companies or individuals because of their racial or religious identification or because they deal with Israel or any other friendly nation; prohibits American companies from participating in any such Arab or other boycott; requires companies to report any demands to participate in or provide boycott information; and makes all boycott reports public. Chairman Thomas E. Morgan, International Relations Committee.

H. Con Res. 588—expresses the request of the U.S. government that the government of the USSR provide Valentyn Moroz with the opportunity to accept the invitation of Harvard University. Chairman Dante B. Fascell, Subcommittee on International, Political and Military Affairs.

H. Con. Res. 656—expresses the sense of the Congress that the Attorney General provide parole into this country for Argentinian and Uruguyan political refugees, Chairman Joshua Eilberg, Subcommittee on Immigration, Citizenship and International Law.

H. Con. Res. 681—provides that Lebanese citizens in danger of losing their lives be paroled into the U.S. Chairman Joshua Eilberg, Subcommittee on Immigration, Citizenship and International Law.

MILITARY SERVICE

H.R. 548—provides that members of the Armed Services may be separated or discharged from active service only by an honorable discharge, a general discharge, or discharge by court-martial. Chairman Lucien N. Nedzi, Subcommittee on Military Personnel.

H.R. 1323—amends the Miiltary Selective Service Act of 1967 clarifying the definition of conscientious objector so as to specifically include conscientious opposition to military service in a particular war. Chairman F. Edward Hebert, Subcommittee on Investigations.

H.R. 6875—provides amnesty to persons who, because of their principled objection to service in the Armed Forces of the United States, failed or refused to register for the draft or who refused induction or failed to be inducted into the Armed Forces or who were absent without official leave from the Armed Forces during the period from August 4, 1964, to March 28, 1973, and for other purposes. Chairman Don Edward, Subcommittee on Civil and Constitutional Rights.

H.R. 14619—provides that, except in certain limited circumstances, it shall be an unlawful employment practice for an employer to request that an employee or an applicant for employment provide military discharge papers or other service-connected records. Chairman Augustus F. Hawkins, Subcommittee on Equal Opportunities.

URBAN ENVIRONMENT

H.R. 554—provides for loans for the establishment and/or construction of municipal, low-cost nonprofit clinics for the spaying and neutering of dogs and cats. Chairman Paul Rogers, Subcommittee on Health and the Environment.

H.R. 11112—establishes a Commission on the Humane Treatment of Animals. Chairman W. R. Poage, Subcommittee on Livestock and Grains.

H.R. 569—imposes additional standards with respect to the construction, conversion, and operations of oil tankers in order to prevent the pollution of the marine environment and for other purposes. Chairman Mario Biaggi, Subcommittee on Coast Guard and Navigation.

H.R. 9044—authorizes the Secretary of Transportation to make grants for the construction of bikeways in urbanized areas. Chairman James J. Howard, Subcommittee on Surface Transportation.

H.R. 10302—requires warrantors to refund or replace defective new motor vehicles, extend new motor vehicle warranties in certain instances for the period of time a consumer is deprived of the use of a new motor vehicle, and provide a substitute motor vehicle during periods of repair. Chairman John M. Murphy, Subcommittee on Consumer Protection and Finance.

H.R. 11560—amends the Tariff Schedules of the US in order to require proof of liability insurance for automobiles entered into the US for personal use by nonresidents and foreign government personnel. Chairman Al Ullman, Ways and Means Committee.

H.R. 12954—requires the protection of passengers of schoolbuses from concentrations of carbon monoxide within the vehicles. Chairman Paul Rogers, Subcommittee on Health and the Environment.

H.R. 14388—requires that operators of a schoolbus be at least eighteen years of age. Chairman John Dent, Subcommittee on Labor Standards.

SOCIAL SECURITY

H.R. 1325—waives the existing requirement that all medicaid patients be given free choice in the selection of treatment facilities in cases where the services involved are being effectively provided through locally operated public health centers, or where such services may be most effectively obtained in designated specialized medical centers. Chairman Paul Rogers, Subcommittee on Health and the Environment.

H.R. 1329—provides that the Sec. of HEW (in the case of the old-age, survivors, & disability insurance program) or the appropriate state agency (in the case of any of the public assistance or medicaid programs) shall be liable for attorneys' fees incurred by an individual successfully challenging a decision which denies him the benefits or assistance, or reduces or limits the benefits or assistance, to which he is entitled under such program. Chairman James Burke, Subcommittee on Social Security.

H.R. 7033—provides that support and maintenance (in cash or kind) furnished to an eligible individual by members of his or her immediate family shall be disregarded (and shall not serve to reduce his or her supplemental security income benefits) to the extent that it does not exceed $200 a month. Acting Chairman James Corman, Subcommittee on Public Assistance.

H.R. 7158—reduces from 20 to 10 years the length of time a divorced woman's marriage to an insured individual must have lasted in order for her to qualify for wife's or widow's benefits on his wage record. Chairman James Burke, Subcommittee on Social Security.

PRIVACY

H.R. 550—prevents unwarranted invasions of privacy by prescribing procedures and standards governing the disclosure of information from financial institutions to government agencies. Chairman Fernand St Germain, Subcommittee on Financial Institutions Supervision, Regulation and Insurance.

H.R. 562—protects confidential sources of the news media. Chairman Robert Kastenmeier, Subcommittee on Courts, Civil Liberties and the Administration of Justice.

H.R. 1984—the Koch-Goldwater Comprehensive Right to Privacy Act extends to the private sector and state and local governments privacy safeguards now in effect for federal agency files on individuals. Chairman Don Edwards, Subcommittee on Civil and Constitutional Rights.

H.R. 2596—prohibits the use of polygraphs (lie detectors) for employment purposes.

Chairman Don Edwards, Subcommittee on Civil and Constitutonal Rights.

H.R. 3655—restricts the disclosure of information in the possession of telephone companies or telegraph companies concerning members of the news media. Chairman Lionel Van Deerlin, Subcommittee on Communications.

HEALTH, EDUCATION AND WELFARE

H.R. 557—establishes research programs and treatment centers for the study and treatment of problems associated with human fertility, sterility and the reproductive process. Chairman Paul Rogers, Subcommittee on Health and the Environment.

H.R. 558—directs the Secretary of HEW to prescribe radiation standards for and conduct regular inspections of diagnostic and other x-ray equipment. Chairman Paul Rogers, Subcommittee on Health and the Environment.

H.R. 559—provides for the protection of the public health from unnecessary medical exposure to ionizing radiation by providing for the licensure of radiologic technologists. Chairman Paul Rogers, Subcommittee on Health and the Environment.

H.R. 587—provides for comprehensive education programs for severely and profoundly mentally retarded children. Chairman John Brademas, Subcommittee on Select Education.

H.R. 9003—increases the excise tax on cigarettes and establishes a trust fund for research programs at the National Cancer Institute. Chairman Al Ullman, Ways and Means Committee.

H.R. 9474—authorizes financial assistance for the operating deficits of nonprofit hospitals which are attributable to the provision of outpatient health services to persons who are unable to pay and for whom reimbursement for the costs of such services is not authorized under any public program. Chairman Paul Rogers, Subcommittee on Health and the Environment.

H.R. 10383—provides for supportive day treatment and in-home services to children and families. Chairman James Burke, Subcommittee on Social Security.

H.R. 10422—National Home Health Care Act expands home health care and home maker services provided under medicare and medicaid. Chairman Dan Rostenkowski, Subcommittee on Health.

H.R. 11613—establishes a commission to study the impact of compulsory racial balancing in schools on education and neighborhoods and the use of busing to achieve it. Chairman Don Edwards, Subcommittee on Civil and Constitutional Rights.

H.R. 11646—reforms the food stamp program by simplifying the administration of the program and by providing incentives through bonuses for the working poor. Chairman Thomas Foley, Agriculture Committee.

H.R. 12591—makes it an unlawful employment practice to discriminate against individuals who are physically handicapped because of such a handicap. Chairman Augustus Hawkins, Subcommittee on Equal Opportunities.

H.R. 12953—Library Services Matching Grant Program provides for federal matching of private contributions made to public libraries for operating expenses. Chairman John Brademas, Subcommittee on Select Education.

H.R. 13527—amends the Vocational Rehabilitation Act to provide equality for the handicapped in employment. Chairman John Brademas, Subcommittee on Select Education.

CIVIL LIBERTIES, JUSTICE AND THE COURTS

H.R. 547—allows for the donation of certain surplus commodities by the Commodity Credit Corporation to state and local penal institutions. Chairman Joseph Vigorito, Subcommittee on Domestic Marketing and Consumer Relations.

H.R. 555—provides a remedy for sex discrimination by the insurance industry with respect to the availability and scope of insurance coverage for women. Chairman John Murphy, Subcommittee on Consumer Protection and Finance.

H.R. 561—decriminalizes personal use and possession of marihuana. Chairman Paul Rogers, Subcommittee on Health and the Environment.

H.R. 6108—reduces to a civil fine of up to $100 the penalty for personal possession and use of up to 1 ounce of marihuana. Chairman Paul Rogers, Subcommittee on Health and the Environment.

H.R. 567—amends the Immigration and Nationality Act so as to permit a waiver of certain grounds for exclusion and deportation where the offense was for personal use and possession of marihuana. Chairman Joshua Eilberg, Subcommittee on Immigration, Citizenship and International Law.

H.R. 6296—provides for the payment by the United States of attorneys' fees and other costs of the accused in criminal cases where the ultimate disposition is other than a conviction. Chairman Walter Flowers, Subcommittee on Administrative Law and Governmental Relations.

H.R. 13901—Public Participation in Government Proceedings Act of 1976 permits federal regulatory agencies to award attorneys' fees where there is a showing that the applying party could substantially contribute to the fairness of the proceeding. Chairman Walter Flowers, Subcommittee on Administrative Law and Governmental Relations.

H.R. 1330—requires federal employees to file with the Office of the Federal Register a statement with respect to certain gifts made or received by such employees. Chairman Peter Rodino, Subcommittee on Monopolies and Commercial Law.

Among the unlisted bills which I originated and which already have become law is legislation to ease adoption of alien children by single parents, a $95 million increase in solar energy research, and a waiver of the 25-percent matching requirement in the school lunch equipment program for especially needy schools. Already, as a result of this last piece of legislation St. Joseph's school of Yorkville in my district has been able to secure the necessary equipment for a hot lunch program.

In other instances, legislation and proposals I have originated have been incorporated in omnibus measures, such as the removal of $3 million in military aid to Uruguay; the removal of an Administration limitation on mass transit operating assistance that would have increased the City's transit deficit by $57.5 million; the inclusion of municipal financial auditing requirements in the Revenue Sharing Act of 1976; and a provision for research on disautonomia as well as research authority relating to genetic and metabolic diseases in newborns.

"CLOSE THE LIBRARY—AND CLOSE THE MINDS OF MILLIONS OF AMERICANS": DO NOT LET THAT HAPPEN

(Mr. KOCH asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. KOCH. Mr. Speaker, I rise today to address the severe problem facing the public libraries of our Nation. The problem is indeed a tragic one. At a time when the public library's full potential as a resource center is being realized, it is simultaneously being denied the support it desperately needs to implement and sustain its innovative programs.

For example, in Minneapolis all branch libraries are closed on Saturdays. In New York City, a 6.2-percent budget cut has put 500 library employees out of work, closed 10 branches, and drastically reduced the hours which the library is open.

It has been projected that public libraries need about $1 billion to stay afloat. The National Commission on Libraries and Information Services in its 1974 report, recommended that 20 percent of this total figure should come from the Federal Government.

The Library Services Construction Act (H.R. 11233) passed the House, February 17, 1976; with the Senate's approval the program will be continued for another 5 years. However, the money for this program has been inadequate.

Additional legislation is clearly needed. H.R. 12953 is a bill I introduced, and it is one avenue which should be pursued. This bill would alleviate some of the public libraries' financial problems: Federal matching funds would be distributed so as to equal private contributions. Such donations would help the public libraries meet their operating expenses.

We should keep in mind that many groups depend on public libraries for services. The elderly in particular frequent libraries. A Russel Sage Foundation Study entitled, "Aging and Society," reported that those individuals over 60 read more books and magazines than those between the ages of 40 and 60. The new educational philosophy of lifelong learning explains the increase in library use by older Americans. By 1980, it is estimated that 1 in every 10 Americans will be in this age group.

The elderly have been characterized generally as mobile and healthy with only 5 percent of their age group institutionalized. It seems imperative that the elderly, who often live on fixed incomes, and enjoy more leisure time, be able to patronize the public libraries freely.

The importance of the public library is reflected in a remark from a Brooklyn senior citizen as published in the annual report of the Brooklyn Public Library:

> Since retirement I have become dependent on the public library for mental stimulation . . . Do you know what a library does for such as I? I can't do without the book discussions. They are stimulating, exciting, challenging, listening and learning and exchanging thoughts, being with people who are alive and alert. To me, it is like getting out in the fresh air, like a tonic, like a medicine, giving me strength to go on.

In addition, approximately 45 million elementary and high school students use the public library. Many students of lower-income neighborhoods depend especially on the library as the one quiet place where they can study.

The handicapped use the library as a primary means for expanding their knowledge and for pursuing their interests. Circulation of recorded books for the blind increased more than 100 percent between 1967–74.

For the young and old, for people from all walks of life the public library provides access to books, films, records, and other daily resources, such as magazines and newspapers which are often taken for granted by others.

Furthermore, in conjunction with the College Entrance Examination Board, public libraries have arranged a program whereby an individual can attain a college degree through self-directed study. This program, which began its development in 1974, has become a success. As a result, as noted by the renown educator, Dr. Alvin Johnson, the public library is coming to be thought of as the "People's University."

Clearly an institution which serves so many groups within our society so well, deserves our special attention. Recently, under the leadership of Mr. Whitney North Seymour, Jr., the National Citizen's Emergency Committee To Save Our National Libraries was formed. It was organized to raise additional Federal financial aid for public libraries, and to generate national support for this worthy cause.

I commend Mr. Seymour and his organization for their efforts in focusing attention on this issue. I hope that Congress is sympathetic to this problem, and can play a significant role in correcting the current situation.

We should not let our public libraries close due to economic default. The outcome of such an action is frightening. Mr. Patrick M. McGrady, Jr., president of the American Society of Journalists and Authors commented on this subject:

> Close the library—and put library employees on unemployment and the welfare rolls. Close the library—and put ghetto kids out on the street. Close the library—and sentence old people to solitary confinement of their rooms. Close the library—and close the minds of millions of Americans.

AMENDMENTS TO THE ESTATE AND GIFT TAX REFORM ACT OF 1976

(Mr. MIKVA asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. MIKVA. Mr. Speaker, for the benefit of my Democratic colleagues, I am inserting the text of two amendments to the Estate and Gift Tax Reform Act of 1976 that will be discussed at tomorrow's Democratic Caucus meeting:

Generation-Skipping Amendment

Page 94, strike out line 21 and all that follows down through line 2 on page 95 and insert:

"(4) Distributions subject to gift or estate tax excluded.—The term 'taxable distribution' does not include any transfer to the extent such transfer is subject to a tax imposed by chapter 11 or 12."

Page 97, strike out line 3 and all that follows down through line 19 and insert:

"(5) Terminations subject to gift or estate tax excluded.—The term 'taxable termination' does not include any transfer to the extent such transfer is subject to a tax imposed by chapter 11 or 12."

Page 97, line 20, strike out "(7)" and insert "(6)".

Page 98, after line 21, insert:

"(7) Certain discretionary trusts to distribute income to spouse and children of grantor.—The term 'taxable termination' does not include the termination of an interest of a child of the grantor where—

"(A) the only interest of the child in the trust is as a permissible recipient of income under a power exercisable by an unrelated party,

"(B) the spouse of the grantor of the trust is a premissible recipient of income under the same power,

"(C) during the life of the grantor's spouse and children, only these individuals are permissible recipients of income from the trust, and

"(D) all children of the grantor who were perimssible recipients of income under the power predeceased the grantor's spouse."

Split-Credit Amendment

Page 1, after line 7, in the item relating to section 2 which appears in the table of contents, insert after "exemptions" the following: "; additional estate tax credit for closely held business".

Page 2, line 9, strike out "EXEMPTIONS." and insert "EXEMPTIONS; ADDITIONAL ESTATE TAX CREDIT FOR CLOSELY HELD BUSINESS."

Page 5, strike out line 8 and all that follows down through line 18 and insert:

"(a) General Rule.—There shall be allowed as a credit against the tax imposed by section 2001 with respect to the estate of every decedent an amount equal to the sum of—

"(1) a basic credit of $29,800, and

"(2) the closely held business credit (if any) determined under section 2017.

"(b) Adjustment to Basic Credit for Certain Gifts Made Before 1977.—The $29,800 amount set forth in subsection (a)(1) shall be reduced by an amount equal to 20 percent of the aggregate amount allowed in respect of the decedent as a specific exemption under section 2521 (as in effect before its repeal by the Estate and Gift Tax Reform Act of 1976).

Page 5, line 19, strike out "(d)" and insert "(c)".

Page 7, after line 12, insert:

"(6) Closely held business credit.—Part II of subchapter A of chapter 11 (relating to credits against tax) is amended by adding at the end thereof the following new section:

"Sec. 2017. Closely Held Business Credit.

"(a) Entitlement to Credit.—The estate of any decedent who was (at the time of his death) a citizen or resident of the United States shall be entitled to the closely held business credit allowable under section 2010 (a)(2) if—

"(1) the closely held business percentage for such estate is 65 percent or more, and

"(2) the executor elects to have section 2010(a)(2) apply with respect to such estate and files the agreement referred to in subsection (f)(2).

"(b) Amount of Credit.—For purposes of this chapter, the amount of the closely held business credit is $25,000.

"(c) Phaseout of Credit Where Adjusted Gross Estate Exceeds $1,000,000.—If the adjusted gross estate exceeds $1,000,000, the amount of the closely held business credit shall be reduced (but not below zero) by the amount which bears the same ratio to the closely held business credit (determined without regard to this subsection) as—

"(1) the excess of the adjusted gross estate over $1,000,000, bears to

"(2) $1,000,000.

"(d) Closely Held Business Percentage Defined.—For purposes of this section, the term 'closely held business percentage' means the percentage determined by dividing the closely held business amount by the amount of the adjusted gross estate.

"(e) Other Definitions and Special Rules.—For purposes of this section—

"(1) Adjusted gross estate.—The term 'adjusted gross estate' means the excess of—

"(A) the value of the gross estate, over

"(B) the sum of the amounts allowable as a deduction under section 2053 or 2054.

"(2) Closely held business amount.—The term 'closely held business amount' means the aggregate value of the qualified interests in a closely held business.

"(3) Qualified interest in a closely held business.—The term 'qualified interest in a closely held business' means an interest in a closely held business which is included in determining the gross estate of the decedent and which is acquired or passes from the decedent to a qualified heir, but only if, during the 8-year period ending on the date of the decedent's death, there were periods aggregating 5 years or more during which—

"(A) in the case of a proprietorship, the decedent or a member of his family was the proprietor,

"(B) in the case of a partnership, 65 percent or more in value of the total capital interest in the partnership was held by the decedent or a member of his family, or

"(C) in the case of a corporation, 65 percent or more in value of the voting stock in the corporation was held by the decedent or a member of his family.

To the extent provided in regulations prescribed by the Secretary or his delegate, where the form in which a trade or business is conducted changes during the 8-year period ending on the date of the decedent's death, periods during such 8-year period which qualify under one of the subparagraphs of the preceding sentence may be added to periods during such 8-year period which qualify under one or more of the other such subparagraphs.

"(4) Interest in closely held business.—The term 'interest in a closely held business' means—

"(A) an interest as a proprietor in a trade or business carried on as a proprietorship;

"(B) an interest as a partner in a partnership carrying on a trade or business, if—

"(i) 20 percent or more of the total capital interest in such partnership is included in determining the gross estate of the decedent, or

"(ii) such partnership had 15 or fewer partners; or

"(C) stock in a corporation carrying on a trade or business, if—

"(i) 20 percent or more in value of the voting stock of such corporation is included in determining the gross estate of the decedent, or

"(ii) such corporation had 15 or fewer shareholders.

"(5) Rules for applying paragraph (4).—For purposes of paragraph (4)—

"(A) Time for testing.—Determination shall be made as of the time immediately fore the decedent's death.

"(B) Certain interests held by husband and wife.—Stock or a partnership interest which—

"(i) is community property of a husband and wife (or the income from which is community income) under the applicable community property law of a State, or

"(ii) is held by a husband and wife as joint tenants, tenants by the entirety, or tenants in common,

shall be treated as owned by one shareholder or one partner, as the case may be.

"(C) Personal holding companies excluded.—An interest in a corporation shall not be treated as an interest in a closely held business if such corporation was a personal holding company (within the meaning of section 542(a))—

"(i) for that portion of its first taxable year ending after the date of the decedent's death which ends on such date (determined as if such portion constituted a taxable year), or

"(ii) for more than 3 taxable years out of the 8 most recent taxable years of such corporation ending before the date of the decedent's death.

"(6) INDIRECT OWNERSHIP.—Property owned, directly or indirectly, by or for a corporation, partnership, estate, or trust shall be considered as being owned proportionately by or for its shareholders, partners, or beneficiaries. For purposes of the preceding sentence, a person shall be treated as a beneficiary of any trust only if such person has a present interest in the trust.

"(7) MEMBER OF FAMILY.—The term 'member of the family' means, with respect to any individual, only such individual's ancestor or lineal descendant, a lineal descendant of a grandparent of such individual, the spouse of such individual, or the spouse of any such descendant. For purposes of the preceding sentence, a legally adopted child of an individual shall be treated as a child of such individual by blood.

"(8) QUALIFIED HEIR.—The term 'qualified heir' means, with respect to any interest, a member of the family of the decedent who acquired the property (or to whom such property passed) from the decedent. If a qualified heir disposes of any interest in a closely held business to any member of his family, such member shall thereafter be treated as the qualified heir with respect to such interest.

"(9) COMMUNITY PROPERTY ADJUSTMENTS.—

"(A) ADJUSTED GROSS ESTATE.—The adjusted gross estate (determined under paragraph (1) without regard to this paragraph) shall be increased by the amount (if any) determined under clauses (i), (ii), and (iii) of section 2056(c)(2)(B).

"(B) CLOSELY HELD BUSINESS AMOUNT.—The closely held business amount (determined under paragraph (2) without regard to this paragraph) shall be increased by the amount (if any) of that portion of the amount determined under clauses (i), (ii), and (iii) of section 2056(c)(2)(B) which is attributable to a qualified interest in a closely held business.

"(10 VALUE.—Value shall be the value for purposes of this chapter.

"(1) CERTAIN RESIDENTIAL STRUCTURES TAKEN INTO ACCOUNT.—

"(A) ON FARM.—An interest in a closely held business which is in the business of farming includes an interest in residential buildings and related improvements on the farm which are occupied on a regular basis by the owner or lessee of the farm or by persons employed by such owner or lessee for purposes of operating or maintaining the farm.

"(B) PRINCIPAL RESIDENCE NOT ON A FARM.—An interest in a closely held business includes an interest in any residence—

"(i) which does not qualify under subparagraph (A), and

"(ii) which, during the 8-year period ending on the date of the decedent's death, was used by the decedent as his principal residence for periods aggregating 5 years or more. An interest referred to in this subparagraph shall be taken into account only to the extent that its value does not exceed 25 percent of the decedent's adjusted gross estate.

"(f) ELECTION, AGREEMENT.—

"(1) ELECTION.—Any election under subsection (a) shall be made not later than the time prescribed by section 6075(a) for filing the return of tax imposed by section 2001 (including extensions thereof), and shall be made in such manner as the Secretary or his delegate shall by regulations prescribe.

"(2) AGREEMENT.—The agreement referred to in this paragraph is a written agreement signed by each person in being who has an interest (whether or not in possession) in any property which is a qualified interest in a closely held business with respect to the estate of the decedent consenting to the application of subsection (g) with respect to such interest.

"(g) RECAPTURE WHERE, WITHIN 15 YEARS, INTEREST IS DISPOSED OF OR FUNDS ARE WITHDRAWN.—

"(1) DISPOSITION OF INTEREST; WITHDRAWAL OF FUNDS FROM BUSINESS.—

"(A) IMPOSITION OF TAX.—If, within 15 years after the decedent's death and before the death of the qualified heir—

"(i) one-third or more in value of a qualified interest in a closely held business is distributed, sold, exchanged, or otherwise disposed of (other than a disposition by the qualified heir to a member of his family), or

"(ii) aggregate withdrawals of money and other property from the trade or business, an interest in which is a qualified interest in a closely held business, made with respect to such interest equal or exceed one-third of the value of such interest,

then there is hereby imposed an additional estate tax.

"(B) CERTAIN REORGANIZATIONS AND EXCHANGES.—Subparagraph (A)(i) does not apply to an exchange of stock pursuant to a plan of reorganization described in subparagraph (D), (E), or (F) of section 368(a)(1) nor to an exchange to which section 355 (or so much of section 356 as relates to section 355) applies; but any stock received in such an exchange shall be treated for purposes of subparagraph (A)(i) as a qualified interest in a closely held business.

"(C) CERTAIN TRANSFERS NOT TREATED AS DISPOSITIONS.—Subparagraph (A)(i) does not apply to a transfer of property of the decedent to a person entitled by reason of the decedent's death to receive such property under the decedent's will, the applicable law of descent and distribution, or a trust created by the decedent.

"(D) PRINCIPAL RESIDENCES.—For purposes of subparagraph (A) (and for purposes of subsection (f)(2)), the interest in a closely held business does not include any interest which was taken into account for purposes of the 65-percent test of subsection (a)(1) solely by reason of paragraph (11) (B) of subsection (e).

"(2) AMOUNT OF ADDITIONAL TAX.—The amount of the additional tax imposed by paragraph (1) with respect to a qualified interest in a closely held business held by any person shall be the amount which bears the same relationship to the tax difference with respect to the estate of the decedent as the value of such interest bore to the total value of all qualified interests in a closely held business with respect to such decedent. For purposes of the preceding sentence, the term 'tax difference' means the excess of what would have been the estate tax liability but for the credit allowable under section 2010(a)(2) over the estate tax liability. For purposes of the preceding sentence, the term 'estate tax liability' means the tax imposed by section 2001 reduced by the credits allowable against such tax.

"(3) PHASEOUT OF ADDITIONAL TAX BETWEEN 10TH AND 15TH YEARS.—If the date of the transaction resulting in the imposition of tax under this subsection occurs more than 120 months and less than 180 months after the date of the death of the decedent, the amount of the tax imposed by this subsection shall be reduced (but not below zero) by an amount determined by multiplying the amount of such tax (determined without regard to this paragraph) by a fraction—

"(A) the numerator of which is the excess of the number of full months after such death in excess of 120, and

"(B) the denominator of which is 60.

"(4) DUE DATE.—The additional tax imposed by this subsection shall become due and payable on the day which is 6 months after the date of the transaction resulting in the imposition of tax under this subsection.

"(5) LIABILITY FOR TAX.—The qualified heir shall be personally liable for the additional tax imposed by this subsection with respect to his interest.

"(h) STATUTE OF LIMITATIONS.—If any transaction results in the imposition of an additional tax under subsection (g), then—

"(1) the statutory period for the assessment of such additional tax shall not expire before the expiration of 3 years from the date the Secretary or his delegate is notified (in such manner as the Secretary or his delegate may by regulations prescribe) of such transaction, and

"(2) such additional tax may be assessed before the expiration of such 3-year period notwithstanding the provisions of any other law or rule of law which would otherwise prevent such assessment."

(7) SPECIAL LIEN.—Subchapter C of chapter 64 (relating to lien for taxes) is amended by inserting after section 6324B the following new section:

"SEC. 6324C. SPECIAL LIEN FOR ADDITIONAL ESTATE TAX ATTRIBUTABLE TO RECAPTURE OF CLOSELY HELD BUSINESS CREDIT.

"(a) GENERAL RULE.—In the case of any estate with respect to which an election has been made under section 2017(a)(2), an amount equal to the recapturable credit of any qualified heir shall be a lien in favor of the United States on all property of such heir which is a qualified interest in a closely held business (as defined in section 2017(e)(3)) with respect to such estate.

"(b) PERIOD OF LIEN.—The lien imposed by this section shall arise at the time an election is filed under section 2017(a)(2) and shall continue with respect to any qualified interest in a closely held business of a qualified heir—

"(1) until the liability (if any) for tax under section 2017(g)(1) with respect to such heir has been satisfied or has become unenforceable by reason of lapse of time, or

"(2) until it is established to the satisfaction of the Secretary or his delegate that no further tax liability may arise under section 2017(g)(1) with respect to such heir.

"(c) CERTAIN RULES MADE APPLICABLE.—The rules set forth in paragraphs (1), (3), and (4) of section 6324A(d) shall apply with respect to the lien imposed by this section as if it were a lien imposed by section 6324A.

"(d) SUBSTITUTION OF SECURITY FOR LIEN.—To the extent provided in regulations prescribed by the Secretary or his delegate, the furnishing of security may be substituted for the lien imposed by this section.

"(e) DEFINITIONS.—For purposes of this section—

"(1) RECAPTURABLE CREDIT.—The term 'recapturable credit' means, with respect to any qualified heir, the aggregate amount of the additional tax which may be imposed under section 2017(g)(1) with respect to qualified interests in a closely held business held by such qualified heir.

"(2) QUALIFIED HEIR.—The term 'qualified heir' has the meaning given to such term by section 2017(e)(8).'

(8) CREDIT FOR TAX ON PRIOR TRANSFERS.—Section 2013 (relating to credit for tax on prior transfers) is amended by adding at the end thereof the following new subsection:

"(f) TREATMENT OF RECAPTURE OF CLOSELY HELD BUSINESS CREDIT.—If an additional tax is imposed under section 2017(g)(1) with respect to any property included in the gross estate of the transferor before the date which is 2 years after the date of the decedent's death, for purposes of this section, such additional tax shall be treated as a Federal estate tax payable with respect to the estate of the transferor."

Page 8, strike out line 13 and all that follows down through line 17 (including the table below line 17) and insert:

"(1) $29,800, reduced by

"(2) the sum of the amounts allowable as a credit to the individual under this section for all preceding calendar quarters.

Page 8, line 18, strike out "(c)" and insert "(b)".

Page 9, line 1, strike out "(d)" and insert "(c)".

Page 13, line 9, strike out "$12,450 and insert in lieu thereof "$8,400".

Page 13, strike out line 14 and all that follows down through line 20.

Page 13, line 21, strike out "(4)" and insert "(3)".

Page 13, line 24, strike out "(5)" and insert "(4)".

Page 16, line 8, strike out "$153,000" and insert "$120,000".

Page 16, strike out line 14 and all that follows down through line 24 and insert:

"(3) ADJUSTMENT FOR CERTAIN GIFTS.—The $120,00 amount set forth in paragraph (1) and the $60,000 amount set forth in paragraph (2) shall each be reduced (but not below zero) by the sum of—

Page 18, before line 14, insert:

(iii) The table of sections for such part II is amended by adding at the end thereof the following new item:

"Sec. 2017. Closely held business credit."

Page 18, line 14, strike out "(iii)" and insert "(iv)".

Page 18, line 18, strike out "(iv)" and insert "(v)".

Page 18, after line 20, insert:

(vi) The table of sections for subchapter C of chapter 64 is amended by inserting after the item relating to section 6324B the following new item:

"Sec. 6324C. Special lien for additional estate tax attributable to recapture of closely held business credit."

On page 41, line 9, strike out "(f)" and insert "(g)".

Page 55, strike out lines 17 and 18 and insert:

"(A) $316,000; or

Page 60, line 15, strike out "6324B." and insert "6324B or 6324C."

Page 85, strike out line 19 and all that follows down through line 23 and insert:

"(3) UNUSED PORTION OF BASIC CREDIT.—If the generation-skipping transfer occurs at the same time as, or after, the death of the deemed transferor, then the portion of the basic credit under section 2010(a)(1) (relating to unified credit) which exceeds the sum of—".

Page 103, line 14, strike out "(g)" and insert "(h)".

CONFERENCE REPORT ON H.R. 14232

Mr. FLOOD submitted the following conference report and statement on the bill (H.R. 14232) making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies, for the fiscal year ending September 30, 1977, and for other purposes:

CONFERENCE REPORT (H. REPT. No. 94–1384)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 14232) "making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies, for the fiscal year ending September 30, 1977, and for other purposes," having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 1, 5, 6, 12, 27, 73, 74, 76.

That the House recede from its disagreement to the amendments of the Senate numbered 2, 3, 10, 28, 34, 43, 44, 53, 58, 60, 61, 64, 66, 69, 70, 72, 75 and agree to the same.

Amendment numbered 7: That the House recede from its disagreement to the amendment of the Senate numbered 7 and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$130,333,000"; and the Senate agree to the same.

Amendment numbered 9: That the House recede from its disagreement to the amendment of the Senate numbered 9, and agree to the same with an amendment, as follows: In lieu of the matter stricken and inserted by said amendment insert: "$73,018,000, of which $5,614,000"; and the Senate agree to the same.

Amendment numbered 11: That the House recede from its disagreement to the amendment of the Senate numbered 11, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$1,016,021,000"; and the Senate agree to the same.

Amendment numbered 14: That the House recede from its disagreement to the amendment of the Senate numbered 14, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$175,228,000"; and the Senate agree to the same.

Amendment numbered 15: That the House recede from its disagreement to the amendment of the Senate numbered 15, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$815,000,000"; and the Senate agree to the same.

Amendment numbered 16: That the House recede from its disagreement to the amendment of the Senate numbered 16, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$396,661,000"; and the Senate agree to the same.

Amendment numbered 17: That the House recede from its disagreement to the amendment of the Senate numbered 17, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$55,573,000"; and the Senate agree to the same.

Amendment numbered 18: That the House recede from its disagreement to the amendment of the Senate numbered 18, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$209,000,000"; and the Senate agree to the same.

Amendment numbered 19: That the House recede from its disagreement to the amendment of the Senate numbered 19, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$155,500,000"; and the Senate agree to the same.

Amendment numbered 20: That the House recede from its disagreement to the amendment of the Senate numbered 20, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$141,000,000"; and the Senate agree to the same.

Amendment numbered 21: That the House recede from its disagreement to the amendment of the Senate numbered 21, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$205,000,000"; and the Senate agree to the same.

Amendment numbered 22: That the House recede from its disagreement to the amendment of the Senate numbered 22, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$145,543,000"; and the Senate agree to the same.

Amendment numbered 23: That the House recede from its disagreement to the amendment of the Senate numbered 23, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$30,000,000"; and the Senate agree to the same.

Amendment numbered 24: That the House recede from its disagreement to the amendment of the Senate numbered 24, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$64,000,000"; and the Senate agree to the same.

Amendment numbered 25: That the House recede from its disagreement to the amendment of the Senate numbered 25, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$137,500,000"; and the Senate agree to the same.

Amendment numbered 26: That the House recede from its disagreement to the amendment of the Senate numbered 26, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$763,141,000"; and the Senate agree to the same.

Amendment numbered 29: That the House recede from its disagreement to the amendment of the Senate numbered 29, and agree to the same with an amendment, as follows: In lieu of the matter stricken and inserted by said amendment insert: "$59,008,000, of which $9,000,000"; and the Senate agree to the same.

Amendment numbered 30: That the House recede from its disagreement to the amendment of the Senate numbered 30, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$1,750,000,000"; and the Senate agree to the same.

Amendment numbered 31: That the House recede from its disagreement to the amendment of the Senate numbered 31, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$22,316,000"; and the Senate agree to the same.

Amendment numbered 32: That the House recede from its disagreement to the amendment of the Senate numbered 32, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "($2,258,981,000)"; and the Senate agree to the same.

Amendment numbered 33: That the House recede from its disagreement to the amendment of the Senate numbered 33, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "($3,500,000)"; and the Senate agree to the same.

Amendment numbered 35: That the House recede from its disagreement to the amendment of the Senate numbered 35, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$2,703,572,000"; and the Senate agree to the same.

Amendment numbered 37: That the House recede from its disagreement to the amendment of the Senate numbered 37, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "($2,258,981,000)"; and the Senate agree to the same.

Amendment numbered 38: That the House recede from its disagreement to the amendment of the Senate numbered 38, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$25,000,000"; and the Senate agree to the same.

Amendment numbered 39: That the House recede from its disagreement to the amendment of the Senate numbered 39, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$6,000,000"; and the Senate agree to the same.

Amendment numbered 40: That the House recede from its disagreement to the amendment of the Senate numbered 40, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$8,000,000"; and the Senate agree to the same.

Amendment numbered 42: That the House recede from its disagreement to the amendment of the Senate numbered 42, and agree to the same with an amendment, as follows: In lieu of the matter stricken and inserted by said amendment insert: "$274,700,000, of which $35,750,000"; and the Senate agree to the same.

Amendment numbered 45: That the House recede from its disagreement to the amendment of the Senate numbered 45, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$467,625,000"; and the Senate agree to the same.

Amendment numbered 46: That the House recede from its disagreement to the amendment of the Senate numbered 46, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$315,000,000"; and the Senate agree to the same.

Amendment numbered 47: That the House recede from its disagreement to the amendment of the Senate numbered 47, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$12,500,000"; and the Senate agree to the same.

Amendment numbered 49: That the House recede from its disagreement to the amendment of the Senate numbered 49, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$932,053,000"; and the Senate agree to the same.

Amendment numbered 50: That the House recede from its disagreement to the amendment of the Senate numbered 50, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$80,500,000"; and the Senate agree to the same.

Amendment numbered 51: That the House recede from its disagreement to the amendment of the Senate numbered 51, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$352,170,000"; and the Senate agree to the same.

Amendment numbered 52: That the House recede from its disagreement to the amendment of the Senate numbered 52, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "($56,900,000)"; and the Senate agree to the same.

Amendment numbered 54: That the House recede from its disagreement to the amendment of the Senate numbered 54, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "($154,330,000)"; and the Senate agree to the same.

Amendment numbered 55: That the House recede from its disagreement to the amendment of the Senate numbered 55, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$214,567,000"; and the Senate agree to the same.

Amendment numbered 56: That the House recede from its disagreement to the amendment of the Senate numbered 56, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$47,493,000"; and the Senate agree to the same.

Amendment numbered 57: That the House recede from its disagreement to the amendment of the Senate numbered 57, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$115,784,000"; and the Senate agree to the same.

Amendment numbered 59: That the House recede from its disagreement to the amendment of the Senate numbered 59, and agree to the same with an amendment, as follows: In lieu of the matter stricken and inserted by said amendment insert: "$18,040,850,000, of which $56,500,000"; and the Senate agree to the same.

Amendment numbered 62: That the House recede from its disagreement to the amendment of the Senate numbered 62, and agree to the same with an amendment, as follows: In lieu of the matter stricken and inserted by said amendment insert: "$82,409,000, of which $2,500,000"; and the Senate agree to the same.

Amendment numbered 63: That the House recede from its disagreement to the amendment of the Senate numbered 63, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$1,896,023,000"; and the Senate agree to the same.

Amendment numbered 67: That the House recede from its disagreement to the amendment of the Senate numbered 67, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$20,000,000"; and the Senate agree to the same.

Amendment numbered 71: That the House recede from its disagreement to the amendment of the Senate numbered 71, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$511,170,000"; and the Senate agree to the same.

The committee of conference report in disagreement amendments numbered 4, 8, 13, 36, 41, 48, 65, 68.

DANIEL J. FLOOD,
WILLIAM H. NATCHER,
NEAL SMITH,
EDWARD J. PATTEN,
DAVID R. OBEY,
EDWARD R. ROYBAL,
LOUIS STOKES,
JOSEPH D. EARLY,
GEORGE MAHON,
GARNER E. SHRIVER,
SILVIO O. CONTE,
Managers on the Part of the House.

WARREN G. MAGNUSON,
JOHN C. STENNIS
(with an exception on the abortion issue, No. 68),
ROBERT C. BYRD,
WILLIAM PROXMIRE,
JOSEPH M. MONTOYA,
ERNEST F. HOLLINGS,
THOMAS F. EAGLETON
(with exception to amendment No. 68, I favor House provision on abortion),
BIRCH BAYH,
LAWTON CHILES,
JOHN L. MCCLELLAN
(with an exception on the abortion issue, No. 68),
EDWARD W. BROOKE,
CLIFFORD P. CASE,
HIRAM L. FONG,
TED STEVENS,
RICHARD S. SCHWEIKER,
MILTON R. YOUNG,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 14232) making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies, for the fiscal year ending September 30, 1977, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

TITLE I—DEPARTMENT OF LABOR

Employment and Training Administration

Program Administration

Amendment No. 1: Appropriates $69,774,000 as proposed by the House, instead of $70,374,000 as proposed by the Senate.

Employment and Training Assistance

Amendment No. 2: Appropriates $3,311,830,000 as proposed by the Senate, instead of $3,311,831,000 as proposed by the House.

Community Service Employment for Older Americans

Amendment No. 3: Changes legal citation as proposed by the Senate.

Amendment No. 4: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate, amended to read as follows: ", of which $75,300,000 shall be for section 906(a)(1)."

The conferees are agreed that the amount in the bill, $90,600,000, will support a level of 22,600 jobs and shall be utilized for a 12-month period beginning July 1, 1977 and ending June 30, 1978. During this period, it is the intent of the conferees that 18,800 jobs be allocated to national contractors and that 3,800 jobs be allocated to the States according to the formula in the basic law.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Grants to States for unemployment insurance and employment services

Amendment No. 5: Appropriates $89,100,000 as proposed by the House, instead of $147,500,000 as proposed by the Senate.

Amendment No. 6: Authorizes $1,412,700,000 to be expended from the Employment Security Administration account in the Unemployment Trust Fund, as proposed by the House, instead of $1,354,300,000, as proposed by the Senate.

Occupational Safety and Health Administration

Salaries and Expenses

Amendment No. 7: Appropriates $130,333,000, instead of $129,833,000 as proposed by the House, and $134,333,000 as proposed by the Senate. The conference agreement includes the following changes from the amounts proposed by the House: a reduction of $1,000,000 for inflationary impact studies, a reduction of $2,000,000 for providing consultation services to employers, and an increase of $3,500,000 for the support of 178 additional positions for compliance officers and related support personnel. The conferees are agreed that none of the new positions are to be used for legal support.

Amendment No. 8: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate, amended to read as follows:

That none of the funds appropriated under this paragraph shall be obligated or expended for the assessment of civil penalties issued for first instance violations of any standard, rule, or regulation promulgated under the Occupational Safety and Health Act of 1970 (other than serious, willful, or repeated violations under section 17 of the Act) resulting from the inspection of any establishment or workplace subject to the Act, unless such establishment or workplace is cited, on the basis of such inspection, for 10 or more violations: *Provided further,* That none of the funds appropriated under this paragraph shall be obligated or expended to prescribe, issue, administer, or enforce any standard, rule, regulation, or order under the Occupational Safety and Health Act of 1970 which is applicable to any person who is engaged in a farming operation and employs 10 or fewer employees.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Bureau of Labor Statistics

Salaries and Expenses

Amendment No. 9: Appropriates $73,018,000, instead of $72,196,000 as proposed by the House, and $73,451,000 as proposed by the Senate and earmarks $5,614,000 for expenses of revising the Consumer Price Index as proposed by the Senate, instead of $5,652,000 as proposed by the House.

Departmental Management

Salaries and Expenses

Amendment No. 10: Appropriates $49,182,000 as proposed by the Senate, instead of $49,312,000 as proposed by the House. The conferees are agreed that the reduction of five positions may be taken in any activity within this appropriation account, with the exception that no reduction may be taken in the Office of Budget under the Assistant Secretary for Administration and Management.

TITLE II—DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Services Administration

Health Services

Amendment No. 11: Appropriates $1,016,021,000, instead of $981,021,000, as proposed by the House, and $1,056,021,000 as proposed by the Senate. The conference agreement includes the following changes from the amounts proposed by the House:

Maternal and Child Health:	
Grants to States	$+7,000,000
Sudden Infant Death	+2,000,000
Research and training	+2,000,000
Family Planning	+13,000,000
Hypertension	+4,000,000
Medical care standards	−1,000,000
Public Health Service Hospitals and Clinics	+8,000,000

The Conferees direct HEW to develop a master plan for the modernization and renovation of the Public Health Service Hospital and Clinic System. This plan shall be submitted to the Appropriations Committee within 30 days following the enactment of this bill.

Amendment No. 12: Deletes language proposed by the Senate making funds for Buildings and Facilities available until expended.

Center for Disease Control

Preventive Health Services

Amendment No. 13: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate, amended to read as follows: "title XVII of the Public Health Service Act, the Lead-Based Paint Poisoning Prevention Act,".

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 14: Appropriates $175,228,000, instead of $121,728,000 as proposed by the House and $189,928,000 as proposed by the Senate.

The conference agreement includes the following changes from the amounts proposed by the House:

Venereal disease control	+$18,000,000
Immunization	+13,000,000
Rat Control	+13,000,000
Lead-based paint poisoning	+8,500,000
Health education	+1,000,000

The Senate receded to the House position deleting initial construction funding of $1,500,000 for the laboratory facility for the National Institute for Occupational Safety and Health. In view of the strong disagreement between House and Senate Conferees on the adequacy of existing site selection studies, the Conferees agree that the Secretary of HEW shall study site selection and report his results to the Congress prior to December 31, 1976. The study shall also review existing site selection studies and with no prejudice to the site selected as a result of such existing studies.

In addition, the Conferees direct the Secretary to review and develop a plan for the construction and renovation of the Appalachian Laboratory for Occupational Safety and Health in West Virginia by December 31, 1976.

With the rapid influx of new personnel and the high priority which has been placed on lung diseases as a result of occupational hazards, a modern and effective facility in West Virginia is badly needed.

National Institutes of Health

National Cancer Institute

Amendment No. 15: Appropriates $815,000,000, instead of $773,412,000, as proposed by the House, and $850,000,000 as proposed by the Senate.

National Heart, Lung, and Blood Institute

Amendment No. 16: Appropriates $396,661,000, instead of $380,661,000, as proposed by the House and $420,661,000, as proposed by the Senate.

National Institute of Dental Research

Amendment No. 17: Appropriates $55,573,000, instead of $54,573,000, as proposed by the House, and $59,573,000, as proposed by the Senate.

National Institute of Arthritis, Metabolism, and Digestive Diseases

Amendment No. 18: Appropriates $209,000,000, instead of $202,837,000, as proposed by the House and $230,837,000, as proposed by the Senate.

National Institute of Neurological and Communicative Disorders and Stroke

Amendment No. 19: Appropriates $155,500,000, instead of $153,132,000, as proposed by the House, and $163,132,000, as proposed by the Senate.

National Institute of Allergy and Infectious Diseases

Amendment No. 20: Appropriates $141,000,000, instead of $139,615,000, as proposed by the House and $143,615,000 as proposed by the Senate.

National Institute of General Medical Sciences

Amendment No. 21: Appropriates $205,000,000, instead of $198,435,000, as proposed by the House and $218,435,000, as proposed by the Senate.

National Institute of Child Health and Human Development

Amendment No. 22: Appropriates $145,543,000, instead of $140,343,000, as proposed by the House and $150,343,000 as proposed by the Senate.

National Institute on Aging

Amendment No. 23: Appropriates $30,000,000, instead of $29,200,000, as proposed by the House and $31,200,000 as proposed by the Senate.

National Eye Institute

Amendment No. 24: Appropriates $64,000,000, instead of $56,270,000, as proposed by the House and $70,000,000 as proposed by the Senate.

Research Resources

Amendment No. 25: Appropriates $137,500,000, instead of $136,299,000, as proposed by the House and $142,299,000 as proposed by the Senate.

Alcohol, Drug Abuse, and Mental Health Administration

Alcohol, Drug Abuse, and Mental Health

Amendment No. 26: Appropriates $763,141,000, instead of $761,441,000 as proposed by the House and $764,599,000 as proposed by the Senate. The conference agreement includes the following changes from the amounts proposed by the House:

Mental Health:	
Research	+$1,000,000
Training	+1,500,000
Community programs—new centers	−2,500,000
Alcoholism:	
Research	+1,000,000
Training	+700,000

Buildings and Facilities

Amendment No. 27: Deletes language proposed by the Senate which would have authorized $25,000,000 to be expended for construction of buildings and facilities on the grounds of St. Elizabeths Hospital.

The Conferees have deleted the building and facility funds for St. Elizabeths Hospital pending the completion of a master facilities construction plan. The Conferees direct HEW to submit the master plan within 60 days after the enactment of this bill, in order that the Congress may provide the necessary funds in a fiscal year 1977 supplemental appropriations bill to carry out the plan.

Health Resources Administration

Health Resources

Amendment No. 28: Inserts legal citation as proposed by the Senate.

Amendment No. 29: Appropriates $359,008,000, instead of $351,896,000 as proposed by the House and $363,120,000 as proposed by the Senate, and earmarks $9,000,000 for carrying out section 305(b)(3) of the Public Health Service Act, as proposed by the Senate, instead of $4,000,000 as proposed by the House.

The conference agreement includes the following changes from the amounts proposed by the House:

Health Planning	+$5,000,000
Health Services Research	−2,000,000
Nursing Programs:	
Capitation	−4,000,000
Educational research grants and contracts	+3,000,000
Research fellowships	+1,000,000
Special Medical Facilities	+5,000,000
Program management	−888,000

Medical Facilities Guarantee and Loan Fund

Amendment No. 30: Limits the total principal amount of loans to be guaranteed or directly made, which may be allotted among States, pursuant to titles VI and XVI of the Public Health Service Act to $1,750,000,000, instead of $1,500,000,000 as proposed by the House and $2,000,000,000 as proposed by the Senate.

Assistant Secretary for Health

Salaries and Expenses

Amendment No. 31: Appropriates $22,316,000 instead of $22,416,000 as proposed by the House and $22,216,000 as proposed by the Senate. The conferees are agreed that $800,000 shall be available to support the President's Council on Physical Fitness and Sports in fiscal year 1977.

Education Division

Office of Education

Elementary and secondary education

Amendment No. 32: Earmarks $2,258,981,000 for title I, part A of the Elementary and Secondary Education Act instead of $2,223,981,000 as proposed by the House and $2,323,981,000 as proposed by the Senate.

Amendment No. 33: Earmarks $3,500,000 for the Environmental Education Act instead of $3,000,000 as proposed by the House and $4,000,000 as proposed by the Senate.

Amendment No. 34: Deletes legal citation for part J of the Vocational Education Act proposed by the House and inserts legal citation for the Communications Act of 1934, as amended, as proposed by the Senate.

Amendment No. 35: Appropriates $2,703,-

572,000, for "Elementary and secondary education" instead of $2,649,022,000 as proposed by the House and $2,787,350,000 as proposed by the Senate. For programs not otherwise earmarked, the conferees are agreed that the appropriation includes $26,000,000 for right to read, $750,000 for Ellender fellowships for the disadvantaged, and $2,300,000 for ethnic heritage studies. The funds provided for Bilingual education would support approximately 480 classroom demonstration projects.

Amendment No. 36: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the Senate amendment amended to read as follows: "and $15,000,000 for educational broadcasting facilities shall remain available until expended, including $1,000,000 for carrying out section 392A of the Communications Act of 1934, as amended."

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 37: Provides that $2,258,981,000 for title I, part A of the Elementary and Secondary Education Act shall become available for obligation on July 1, 1977, instead of $2,223,981,000 as proposed by the House and $2,323,981,000 as proposed by the Senate.

School assistance in federally affected areas

Amendment No. 38: Appropriates $25,000,000 for providing school facilities instead of $20,000,000 as proposed by the House and $30,000,000 as proposed by the Senate.

Amendment No. 39: Provides up to $6,000,000 for repairs to school facilities instead of $5,000,000 as proposed by the House and $7,000,000 as proposed by the Senate.

Amendment No. 40: Provides that no more than $8,000,000 may be used to fund section 5 of the Act of September 23, 1950, instead of 47.5 percent as proposed by the House and $9,000,000 as proposed by the Senate.

Amendment No. 41: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the Senate amendment which authorizes the Commissioner of Education to approve applications for funds to increase school facilities near the Trident Support Site in Bangor, Washington without regard to any provision in law.

Emergency school aid

Amendment No. 42: Appropriates $274,700,000 instead of $249,700,000 as proposed by the House and $294,950,000 as proposed by the Senate. Earmarks $35,750,000 for section 708(a) of the Emergency School Aid Act instead of $21,500,000 as proposed by the House and $50,000,000 as proposed by the Senate.

Amendment No. 43: Earmarks $137,600,000 for section 706(a) of the Emergency School Aid Act as proposed by the Senate instead of $126,850,000 as proposed by the House.

Education for the handicapped

Amendment No. 44: Revises legal citations proposed by the House the effect of which is to permit an appropriation for section 619 of the Education of the Handicapped Act as proposed by the Senate.

Amendment No. 45: Appropriates $467,625,000 instead of $426,375,000 as proposed by the House and $507,125,000 as proposed by the Senate. For programs not otherwise earmarked, the conferees are agreed that the appropriation includes $5,000,000 for severely handicapped projects, $9,000,000 for specific learning disabilities, $22,000,000 for early childhood education, $19,000,000 for media services and captioned films, and $45,375,000 for special education manpower development.

Amendment No. 46: Earmarks $315,000,000 for part B of the Education of the Handicapped Act instead of $300,000,000 as proposed by the House and $330,000,000 as proposed by the Senate.

Amendment No. 47: Earmarks $12,500,000 for section 619 of the Education of the Handicapped Act instead of $25,000,000 as proposed by the Senate.

Amendment No. 48: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the Senate amendment, amended to read as follows: "*Provided*, That the appropriations for 'Education for the handicapped' contained in title I, chapter VI of Public Law 94–303 (Second Supplemental Appropriations Act, 1976) is amended by adding at the end thereof", to remain available until September 30, 1977": *Provided further*, That funds contained in this title for "Special benefits for disabled coal miners" shall remain available for benefit payments from July 1, 1976 through September 30, 1977."

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees have added bill language to avoid the possibility of cutting off benefit payments to disabled coal miners during the July 1–September 30, 1976 transition period. Conventional language authorizing use of the succeeding year's appropriation to cover shortfalls in benefit payments was left out of the transition quarter appropriation. Such authorizing language was included in the fiscal year 1976 appropriation, and is again contained in the fiscal year 1977 Labor-HEW Appropriations bill.

Occupational, vocational, and adult education

Amendment No. 49: Appropriates $932,053,000 instead of $928,553,000 as proposed by the House and $936,553,000 as proposed by the Senate.

Amendment No. 50: Earmarks $80,500,000 for the Adult Education Act instead of $77,000,000 as proposed by the House and $85,000,000 as proposed by the Senate.

Higher education

Amendment No. 51: Appropriates $352,170,000 instead of $350,170,000 as proposed by the House and $352,670,000 as proposed by the Senate. The conferees are agreed that the increase over the amount proposed by the House is for aid to land grant colleges under section 22 of the Act of June 29, 1935.

Library resources

Amendments Nos. 52, 53, 54, and 55: Appropriate $214,567,000 instead of $204,079,000 as proposed by the House and $229,079,000 as proposed by the Senate; and earmark $56,900,000 for title I of the Library Services and Construction Act instead of $53,900,000 as proposed by the House and $63,412,000 as proposed by the Senate, earmark $3,337,000 for title III of the Library Services and Construction Act as proposed by the Senate, and earmark $154,330,000 for title IV part B of the Elementary and Secondary Education Act instead of $147,330,000 as proposed by the House and $162,330,000 as proposed by the Senate.

Special projects and training

Amendment No. 6: Appropriates $47,493,000 instead of $45,493,000 as proposed by the House and $50,443,000 as proposed by the Senate. The conferees are agreed that the increase over the amount proposed by the House includes $1,000,000 for women's educational equity and $1,000,000 for arts in education of which $750,000 is for the alliance for arts project.

Salaries and expenses

Amendment No. 57: Appropriates $115,784,000 instead of $115,434,000 as proposed by the House and $116,649,000 as proposed by the Senate.

Office of the Assistant Secretary for Education

Salaries and expenses

Amendment No. 58: Appropriates $20,446,000 as proposed by the Senate instead of $21,446,000 as proposed by the House.

Social and Rehabilitation Service

Public assistance

Amendment No. 59: Appropriates $18,040,850,000 instead of $18,036,150,000 as proposed by the House and $18,045,100,000 as proposed by the Senate; and earmarks $56,500,000 for child welfare services instead of $52,500,000 as proposed by the House and $60,000,000 as proposed by the Senate. The conferees are agreed that the appropriation includes $8,150,000 for child welfare training.

Program administration

Amendment No. 60: Appropriates $62,895,000 as proposed by the Senate instead of $63,095,000 as proposed by the House.

Special Institutions

American Printing House for the Blind

Amendment No. 61: Appropriates $3,012,000 as proposed by the Senate instead of $2,762,000 as proposed by the House.

Howard University

Amendment No. 62: Appropriates $82,409,000 instead of $82,909,000 as proposed by the House and $81,909,000 as proposed by the Senate; and earmarks $2,500,000 for construction instead of $3,000,000 as proposed by the House and $2,000,000 as proposed by the Senate.

In agreeing to an amount of $500,000 for the development of university property at Beltsville, Maryland, the conferees are assured that the University will continue to have an opportunity to retain the Beltsville site. The conferees direct the Secretary of HEW to submit a report to the House and Senate committees on appropriations by December 31, 1976 describing the proposed use of the site, specifications, total capital cost estimates, annual operating cost estimates, alternative methods of processing laboratory animals, expected benefits to the University's academic program, and comparisons with similar activities of other universities in the Washington area.

Assistant Secretary for Human Development

Human Development

Amendment No. 63: Appropriates $1,896,023,000 instead of $1,883,514,000 as proposed by the House and $1,906,523,000 as proposed by the Senate. The conference agreement includes the following changes from the amounts proposed by the House:

Youth development	+$1,000,000
Aging:	
Area agencies	+1,000,000
Research/Training	+1,500,000
Vocational Rehabilitation:	
Basic grants	+309,000
Special projects	+3,000,000
Research	+5,000,000
Developmental disabilities	+1,000,000
Salaries and expenses	−300,000

The Conferees agree that the Administration on Aging should place greater emphasis on supporting research and development activities (Title IV–B of the Older Americans Act) aimed toward improving the lives of older Americans and consistent with the national objectives expressed in Title I of the Act. Conferees expect evaluation of projects and activities supported under the Act to be funded under Section 207 of the Act instead of Title IV–B.

Amendment No. 64: Earmarks $309,000 for section 110(b) of the Rehabilitation Act of 1973 as proposed by the Senate.

Amendment No. 65: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the Senate amendment relating to the level of operations for the nutrition program for the elderly.

Departmental management

General Departmental Management

Amendment No. 66: Appropriates $89,511,000 as proposed by the Senate instead of

$92,661,000 as proposed by the House. The conferees direct the Department to take such steps as necessary not to apply the reduction in this appropriation against previously-authorized positions. The conferees expect the Department to submit a plan for applying the reductions to the maximum extent against other than permanent employment in both the Departmental direction and operation activities.

The Conferees reaffirm the language of the House report calling on the Department to bring the spiraling indirect cost rates under control. The conferees are concerned over the substantial sums ostensibly appropriated for activities authorized by law, but which are in actuality being diverted to pay overhead costs of universities and other recipients of federal grants. It is thus imperative that the Department work closely with the Office of Management and Budget and other Federal agencies, to undertake revisions in the indirect cost mechanism which will result in a significant reduction in funds being diverted into indirect costs. The Department ought to seriously consider including cost competition as part of the grant approval process in connection with the revision.

The Department should submit a report by January 1, 1977 as to the steps it has taken and the total projected dollar savings that will result.

Policy Research

Amendment No. 67: Appropriates $20,000,000 instead of $24,950,000 as proposed by the House and $12,475,000 as proposed by the Senate.

General Provisions

Amendment No. 68: Reported in disagreement.

TITLE III—RELATED AGENCIES

ACTION

Operating expenses, domestic programs

Amendment No. 69: Deletes legal citation inserted by the House.

Amendment No. 70: Appropriates $108,200,000 and inserts technical language as proposed by the Senate, instead of $56,800,000 as proposed by the House.

Community Services Administration

Community Services Program

Amendment No. 71: Appropriates $511,170,000, instead of $496,000,000 as proposed by the House, and $573,500,000 as proposed by the Senate. The conference agreement includes the following increases over the amounts proposed by the House: $12,500,000 for the community food and nutrition program, $1,670,000 for community economic development, and $1,000,000 to initiate a migrant and seasonal farmworker program.

The conferees are agreed that the amount in the conference agreement for the emergency energy conservation services program represents funding for the first six months of fiscal year 1977. Funding requirements for the remainder of the fiscal year will be considered in a supplemental appropriations bill.

Corporation for Public Broadcasting

Public Broadcasting Fund

Amendment No. 72: Appropriates $103,000,000 as proposed by the Senate, instead of $96,750,000 as proposed by the House.

Amendment No. 73: Appropriates $107,150,000 as proposed by the House, instead of $121,000,000 as proposed by the Senate.

Amendment No. 74: Appropriates $120,200,000 as proposed by the House, instead of $140,000,000 as proposed by the Senate.

National Commission on Libraries and Information Science

Salaries and Expenses

Amendment No. 75: Appropriates $492,575 as proposed by the Senate, instead of $517,000 as proposed by the House.

National Labor Relations Board

Salaries and Expenses

Amendment No. 76: Appropriates $77,776,000 as proposed by the House, instead of $78,204,000 as proposed by the Senate. The conferees are agreed that the conference agreement includes $4,222,000 for payment of standard level user charges to the General Services Administration. The conferees are further agreed that the reduction of $428,000 for payment of standard level user charges is in no way intended to reduce the employment levels approved by the Congress.

Conference total—with comparisons

The total new budget (obligational) authority for the fiscal year 1977 recommended by the Committee of Conference, with comparisons to the fiscal year 1976 amounts, the 1977 budget estimates, and the House and Senate bills for 1977 follows:

New budget (obligational) authority, fiscal year 1976	[1] $53,424,480,270
Budget estimates of new (obligational) authority, fiscal year 1977	[2] 52,618,208,000
House bill, fiscal year 1977	56,205,212,000
Senate bill, fiscal year 1977	57,167,116,575
Conference agreement	56,618,207,575
Conference agreement compared with:	
New budget (obligational) authority, fiscal year 1976	+3,193,727,305
Budget estimates of new (obligational) authority, fiscal year 1977	+3,999,999,575
House bill, fiscal year 1977	+412,995,575
Senate bill, fiscal year 1977	−548,909,000

[1] Includes $1.625 billion appropriated in H.J. Res. 499 for Temporary Employment Assistance.

[2] Includes $81,112,000 for items not considered by the House due to lack of authorizing legislation.

The conferees are agreed that the earmarking in the Senate report should be used as a guideline in allocating increases over the amounts proposed by the House, except where more explicit instructions are given in this statement.

Daniel J. Flood,
William H. Natcher,
Neal Smith,
Edward J. Patten,
David R. Obey,
Edward R. Roybal,
Louis Stokes,
Joseph D. Early,
George Mahon,
Garner E. Shriver,
Silvio O. Conte,
Managers on the Part of the House.

Warren G. Magnuson,
John C. Stennis
(with an exception on the abortion issue, No. 68),
Robert C. Byrd,
William Proxmire,
Joseph M. Montoya,
Ernest F. Hollings,
Thomas F. Eagleton
(with exception to amendment No. 68, I favor House provision on abortion),
Birch Bayh,
Lawton Chiles,
John L. McClellan
(with an exception on the abortion issue, No. 68),
Edward W. Brooke,
Clifford P. Case,
Hiram L. Fong,
Ted Stevens,
Richard S. Schweiker,
Milton R. Young,
Managers on the Part of the Senate.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows to:

Mr. Fountain (at the request of Mr. O'Neill), for the balance of this week, on account of a death in the family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

Mr. Crane, for today, for 60 minutes.

(The following Members (at the request of Mr. Baldus) to revise and extend their remarks and include extraneous material:)

Ms. Holtzman, for 15 minutes, today.
Mr. Gonzalez, for 5 minutes, today.
Mr. Annunzio, for 5 minutes, today.
Mr. Flood, for 5 minutes, today.
Mr. Dodd, for 15 minutes, today.
Mr. Ford of Tennessee, for 5 minutes, today.
Mrs. Mink, for 5 minutes, today.
Mr. Carr, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. Jeffords), and to include extraneous matter:)

Mr. Erlenborn.
Mr. Talcott.
Mr. Conable.
Mr. Myers of Indiana.
Mrs. Holt.
Mr. Lent.
Mr. Carter.
Mr. Rhodes.
Mr. Brown of Ohio.
Mr. Emery.
Mr. Broyhill.
Mr. Michel in two instances.
Mr. McClory.
Mr. Sebelius.
Mr. Collins of Texas in two instances.
Mr. Ashbrook in two instances.
Mr. Bob Wilson in two instances.

(The following Members (at the request of Mr. Baldus) and to include extraneous matter:)

Mr. Ford of Tennessee in two instances.
Mr. Dingell in nine instances.
Ms. Holtzman in two instances.
Mr. Ryan.
Mr. Richmond.
Mr. Mathis.
Mr. McDonald.
Mr. Simon in three instances.
Mr. Patten.
Mr. Gonzalez in three instances.
Mr. Anderson of California in three instances.
Mr. Burke of Massachusetts.
Mr. Bingham in 10 instances.
Mr. Fraser in two instances.

Mr. SANTINI.
Mr. METCALFE.
Mr. FISHER.
Mr. MAZZOLI in three instances.
Mr. ZEFERETTI.
Mr. BREAUX.
Mr. RANGEL.
Mr. LEHMAN.
Mr. GINN.
Mr. HANNAFORD.
Mr. ROGERS in five instances.
Mr. BRADEMAS in 10 instances.
Mr. MOORHEAD of Pennsylvania.
Mr. ROBERTS.
Mr. BEDELL.
Mr. HOWE in four instances.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 3589. An act to designate the Federal office building located in Manchester, N.H., as the "Norris Cotton Building."

ADJOURNMENT

Mr. BALDUS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 37 minutes p.m.), under its previous order, the House adjourned until tomorrow, Wednesday, August 4, 1976, at 10 o'clock a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3738. A letter from the Administrator, National Aeronautics and Space Administration, transmitting a report concerning the waiving of the contract clause requirement authorizing review by the Comptroller General of pertinent books and records of a foreign contractor, pursuant to 80 Stat. 850 [10 U.S.C. 2313(c)]; to the Committee on Armed Services.

3739. A letter from the Chairman, Federal Election Commission, transmitting proposed regulations as required by the Federal Election Campaign Act of 1971, as amended pursuant to section 316(c) of the Act (H. Doc. No. 94–573); to the Committee on House Administration.

3740. A letter from the Deputy Assistant Secretary of the Interior, transmitting a copy of a proposed contract with Raytheon Co., Waltham, Mass., for a research project entitled "Separation of Non-Ferrous Metals in Automobile Scrap by Means of Permanent Magnets," pursuant to section 1(d) of Public Law 89–672; to the Committee on Interior and Insular Affairs.

3741. A letter from the Deputy Assistant Secretary of the Interior, transmitting a copy of a proposed contract with Dames and Moore, Washington, D.C., for a research project entitled "Conceptual Design and Development of a Dry Land Sodding Reclamation System," pursuant to section 1(d) of Public Law 89–672; to the Committee on Interior and Insular Affairs.

3742. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a report of allocations, by country, of grant military assistance and of international military education and training assistance for fiscal year 1976 and the transition quarter, pursuant to section 653(a) of the Foreign Assistance Act of 1961, as amended; to the Committee on International Relations.

3743. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a report on the quantities and actual value of major items of excess military equipment programed during the month of June 1976, for delivery on a grant basis, pursuant to section 8(d) of the Foreign Military Sales Act Amendments of 1971, as amended 22 U.S.C. 2321b(d); to the Committee on International Relations.

3744. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a report on political contributions made by Nancy V. Rawls, Ambassador-designate to Togo, and her family pursuant to section 6 of Public Law 93–126; to the Committee on International Relations.

3745. A letter from the Secretary of Commerce, transmitting a draft of proposed legislation to require the disclosure of payments to foreign officials and for other purposes; to the Committee on Interstate and Foreign Commerce.

3746. A letter from the Chairman, Federal Communications Commission, transmitting copies of proposed legislation to amend the Communications Act of 1934 to add a new section with respect to the dissemination of obscene or indecent material by means of radio communication or cable television, and to repeal section 1464 of title 18, United States Code; to the Committee on Interstate and Foreign Commerce.

3747. A letter from the Administrator, Federal Energy Administration, transmitting a report on crude oil supply alternatives for the northern tier States, pursuant to a request by the Senate Appropriations Committee; to the Committee on Interstate and Foreign Commerce.

3748. A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting copies of orders suspending deportation under the authority of section 244(a)(1) of the Immigration and Nationality Act, as amended, together with a list of the persons involved pursuant to section 244(c) of the act [8 U.S.C. 1254(c)]; to the Committee on the Judiciary.

3749. A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting a copy of an order suspending deportation under the authority of section 244(a)(2) of the Immigration and Nationality Act, as amended, pursuant to section 244(c) of the act [8 U.S.C. 1254(c)]; to the Committee on the Judiciary.

3750. A letter from the Assistant Secretary of the Army (Civil Works), transmitting a report on the State of California's assurance of continued local cooperation on the Sacramento River bank protection project (second phase), recommended by the Chief of Engineers in House Document 93–151; to the Committee on Public Works and Transportation.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. DIGGS: Committee of conference. Conference report on H.R. 11009 (Rept. No. 94–1381). Ordered to be printed.

Mr. HALEY: Committee on Interior and Insular Affairs. H.R. 14578. A bill to authorize various Federal reclamation projects and programs, and for other purposes; with an amendment (Rept. No. 94–1382). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on Government Operations. Report on questionable contract for mobile field radios by Department of the Army (Rept. No. 94–1383). Referred to the Committee of the Whole House on the State of the Union.

Mr. FLOOD: Committee of conference. Conference report on H.R. 14232 (Rept. 94–1384). Ordered to be printed.

Mr. YOUNG of Texas: Committee on Rules. House Resolution 1457. A resolution providing for the consideration of H.R. 13615. A bill to amend the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, as amended, and for other purposes (Rept. No. 94–1385). Referred to the House Calendar.

Mr. PEPPER: Committee on Rules. House Resolution 1458. A resolution providing for the consideration of H.R. 14032. A bill to regulate commerce and protect health and the environment by requiring testing and necessary restrictions on certain chemical substances and mixtures, and for other purposes (Rept. No. 94–1386). Referred to the House Calendar.

Mr. PERKINS: Committee on Education and Labor. H.R. 14824. A bill to authorize appropriations for purposes of making certain grants under the Indian Elementary and Secondary School Assistance Act, the Elementary and Secondary Education Act of 1965, and the Adult Education Act; with an amendment (Rept. No. 94–1387). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ADDABBO:

H.R. 15013. A bill to amend title V of the Federal Aviation Act of 1958 to require certain identifying markings on aircraft; to the Committee on Public Works and Transportation.

By Mr. BAUCUS:

H.R. 15014. A bill to authorize Federal assistance under the Consolidated Farm and Rural Development Act with respect to using solar energy in residential structures on family farms; to the Committee on Agriculture.

By Mr. BAUCUS:

H.R. 15015. A bill to provide more Federal assistance under certain housing programs for dwelling units which utilize solar energy; to the Committee on Banking, Currency and Housing.

By Mr. BAUCUS:

H.R. 15016. A bill to amend title 38, United States Code, to provide Federal loans and loan guarantees to veterans for the purchase and installation of heating and cooling systems which utilize solar energy; to the Committee on Veterans' Affairs.

By Mr. BEDELL (for himself and Mr. MELCHER):

H.R. 15017. A bill to authorize appropriations for purposes of making certain grants under the Indian Elementary and Secondary Assistance Act, the Elementary and Secondary Education Act of 1955, and the Adult Education Act; to the Committee on Education and Labor.

By Mr. ROYBAL for himself and Mr. EMERY):

H.R. 15018. A bill to extend for 3 additional years the provision which exempts from taxation amounts received under certain medical scholarships; to the Committee on Ways and Means.

By Mr. SCHULZE (for himself, Mr. DENT, Mr. EILBERG, Mr. ESHLEMAN, Mr. JOHNSON of Pennsylvania, Mr. NIX, Mr. TRAXLER, and Mr. YATRON):

H.R. 15019. A bill to impose quantitative limitations on the importation of mushrooms into the United States; to the Committee on Ways and Means.

By Mrs. SPELLMAN:

H.R. 15020. A bill to amend title 5, United States Code, to provide for the review of agency reorganization plans by the Comptroller General and the Congress, and for other purposes; jointly, to the Committees on Post Office and Civil Service, and Government Operations.

By Mr. TAYLOR of North Carolina:

H.R. 15021. A bill to amend the Land and Water Conservation Fund Act of 1965 (78 Stat. 897), as amended, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. THOMPSON:

H.R. 15022. A bill to reaffirm the intent of Congress with respect to the structure of the common carrier telecommunications industry rendering services in interstate and foreign commerce; to reaffirm the authority of the States to regulate terminal and station equipment used for telephone exchange service; to require the Federal Communications Commission to make certain findings in connection with Commission actions authorizing specialized carriers; and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. WALSH:

H.R. 15023. A bill to protect the shoreline of Lake Ontario; to the Committee on Public Works and Transportation.

By Mr. WALSH (for himself and Mr. Mottl):

H.R. 15024. A bill to amend the Internal Revenue Code of 1954 to allow individuals to designate $1 of their income tax liability to be used for purposes of providing financial assistance to the U.S. Olympic Committee; to the Committee on Ways and Means.

By Mr. ABDNOR (for himself, Mr. Pressler, Mr. Thone, and Mr. McCollister):

H.R. 15025. A bill to amend the Rivers and Harbors Act, approved June 28, 1938, as amended and supplemented, to provide bank stabilization works on the Missouri River between Fort Randall Dam and Sioux City, Iowa; to the Committee on Public Works and Transportation.

By Mr. ANDERSON of California (for himself, Mr. Snyder, Mrs. Lloyd of Tennessee, Mr. Henderson, Mr. Johnson of California, Mr. Hammerschmidt, Mr. Roncalio, Mr. Mineta, Mr. Wright, Mr. Abdnor, Mr. Cochran, Mr. Hagedorn, Mr. Taylor of Missouri, Mr. Goldwater, and Mr. Walsh):

H.R. 15026. A bill to amend the Federal Aviation Act of 1958 to authorize reduced-fare transportation on space-available basis for elderly persons, young persons, and handicapped persons; to the Committee on Public Works and Transportation.

By Mr. BLOUIN:

H.R. 15027. A bill to amend the Age Discrimination in Employment Act of 1967 to remove the 65-year age limitation; to the Committee on Education and Labor.

By Mr. DAVIS (for himself, Mr. Mathis, and Mr. Rose):

H.R. 15028. A bill to provide for emergency allotment lease and transfer of tobacco allotments or quotas for 1976 in certain disaster areas in South Carolina; to the Committee on Agriculture.

By Mr. EILBERG:

H.R. 15029. A bill to amend the Ports and Waterways Safety Act of 1972 to provide for the award of grants to port authorities in the United States to enable such authorities to protect public ports and land areas adjacent to such ports from fires and other accidents or casualties occurring in such ports, and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. JENRETTE:

H.R. 15030. A bill to provide for emergency allotment lease and transfer of tobacco allotments or quotas for 1976 in certain disaster areas in South Carolina; to the Committee on Agriculture.

By Mr. MONTGOMERY (for himself, Mr. Bowen, Mr. Cochran, Mr. Lott, and Mr. Whitten):

H.R. 15031. A bill to amend section 218 of the Social Security Act to include Mississippi among the States which may provide coverage for policemen and firemen under their agreements entered into pursuant to that section; to the Committee on Ways and Means.

By Mr. RUPPE (for himself, Ms. Abzug, Mr. Aspin, Mr. Beard of Rhode Island, Mr. Edgar, Mr. Esch, Mr. Ford of Michigan, Mr. Gibbons, Mr. Howe, Mr. Hyde, Mr. Moorhead of Pennsylvania, Mr. O'Brien, Mr. Ottinger, Mr. Scheuer, Mr. Simon, Mr. Traxler, Mr. Udall, and Mr. Vander Veen):

H.R. 15032. A bill to provide that mining companies may not discharge certain asbestos fibers except on land and in a manner provided by the Secretary of the Interior; to the Committee on Interior and Insular Affairs.

By Mr. RUPPE (for himself, Ms. Abzug, Mr. Aspin, Mr. Beard of Rhode Island, Mr. Edgar, Mr. Esch, Mr. Ford of Michigan, Mr. Gibbons, Mr. Howe, Mr. Hyde, Mr. Moorhead of Pennsylvania, Mr. O'Brien, Mr. Ottinger, Mr. Scheuer, Mr. Simon, Mr. Traxler, Mr. Udall, and Mr. Vander Veen):

H.R. 15033. A bill to provide that mining companies that discharge asbestos fibers into Lake Superior shall be required to pay for the cost of removal of such fibers from water used for public drinking purposes; to the Committee on Interior and Insular Affairs.

By Mr. RUPPE:

H.R. 15034. A bill to amend the Social Security Act by adding thereto a new title XXI which will provide insurance against the costs of catastrophic illness; jointly, to the Committees on Ways and Means and Interstate and Foreign Commerce.

By Mr. STAGGERS:

H.R. 15035. A bill to amend the Communications Act of 1934 to provide that licenses for the operation of broadcasting stations be issued and renewed for 4 years for television and 5 years for radio, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. BRADEMAS (for himself and Mr. Dickinson):

H. Con. Res. 698. A resolution providing for the printing as a House document "Art in the United States Capitol"; to the Committee on House Administration.

By Mr. MOSS (for himself and Mr. Devine):

H. Con. Res. 699. A resolution authorizing the printing of proceedings unveiling the portrait of Hon. Harley O. Staggers; to the Committee on House Administration.

By Mr. KEMP (for himself, Mr. Koch, Ms. Abzug, Mr. Ambro, Mr. Archer, Mr. Beard of Rhode Island, Mr. Crane, Mr. Derwinski, Mr. Drinan, Ms. Fenwick, Mr. Ketchum, Mr. Lehman, Mr. Long of Maryland, Mr. McHugh, Mr. Mazzoli, Mr. Miller of Ohio, Mr. Moffett, Mr. Ottinger, Mr. Rees, Mr. Richmond, Mr. Rodino, Mr. Rosenthal, Mr. Rousselot, Mr. Roybal, Mr. Russo, and Mr. Zeferetti):

H. Con. Res. 700. A resolution expressing commendation to the Government of Israel for its Entebbe Airport rescue mission, disapproval of efforts to condemn or censure Israel for the action, approval of the position taken by the Government of the United States and of United States-United Kingdom resolution, and requesting the President to initiate and engage in negotiations leading to an international agreement to curb terrorist acts; to the Committee on International Relations.

By Mr. KEMP (for himself, Mr. Koch, Mr. Alexander, Mr. Bevill, Mr. Cohen, Mr. Corman, Mr. Cotter, Mr. Dan Daniel, Mr. Devine, Mr. Downey of New York, Mr. Eilberg, Mr. Gradison, Mr. Hanley, Mr. Heinz, Ms. Holtzman, Mr. Johnson of Pennsylvania, Mr. Krebs, Mr. Lagomarsino, Mr. Lent, Mr. Mathis, Mr. Murphy of Illinois, Mr. Nowak, Mr. Satterfield, and Mr. Traxler):

H. Con. Res. 701. A resolution expressing commendation to the Government of Israel for its Entebbe Airport rescue mission, disapproval of efforts to condemn or censure Israel for the action, approval of the position taken by the Government of the United States and of the United States-United Kingdom resolution, and requesting the President to initiate and engage in negotiations leading to an international agreement to curb terrorist acts; to the Committee on Internal Relations.

By Mr. KEMP (for himself, Mr. Koch, Mr. Addabbo, Mr. Bafalis, Mr. Bauman, Mr. Bingham, Mr. Burke of Massachusetts, Mr. Burke of Florida, Mr. Evans of Indiana, Mr. Gilman, Mr. Gude, Mr. Horton, Mr. Hyde, Mr. LaFalce, Mr. Lundine, Mr. Mineta, Mr. Mitchell of New York, Mr. Murtha, Mr. Paul, Mr. Pike, Mr. Robinson, Mr. Scheuer, Mr. Solarz, and Mr. Won Pat):

H. Con. Res. 702. A resolution expressing commendation to the Government of Israel for its Entebbe Airport rescue mission, disapproval of efforts to condemn or censure Israel for the action, approval of the position taken by the Government of the United States and of the United States-United Kingdom resolution, and requesting the President to initiate and engage in negotiations leading to an international agreement to curb terrorist acts; to the Committee on International Relations.

By Mr. KEMP (for himself, Mr. Koch, Mr. AuCoin, Mr. Edwards of Alabama, Mr. Green, Mr. Murphy of New York, Mr. Pattison of New York, Mr. Preyer, Mr. Stratton, Mr. Young of Florida, and Mr. Peyser):

H. Con. Res. 703. A resolution expressing condemnation to the Government of Israel for its Entebbe Airport rescue mission, disapproval of efforts to condemn or censure Israel for the action, approval of the position taken by the Government of the United States and of the United States-United Kingdom resolution, and requesting the President to initiate and engage in negotiations leading to an international agreement to curb terrorist acts; to the Committee on International Relations.

By Mr. CARR:

H. Res. 1456. A resolution to amend the Rules of the House of Representatives to require committee approval of certain travel proposals, and for other purposes; to the Committee on Rules.

MEMORIALS

Under clause 4 of rule XXII,

443. The SPEAKER presented a memorial of the Legislature of the State of Louisiana, relative to prohibiting issuance of regulations by Federal regulatory agencies having the effect of preempting and rendering null

and void any State law or local law, which was referred to the Committee on the Judiciary.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. SMITH of Iowa:

H.R. 15036. A bill for the relief of Eun Kyung Park and Sang Hyuk Park; to the Committee on the Judiciary.

By Mr. ZEFERETTI:

H.R. 15037. A bill for the relief of the estate of Nicholas A. Monfort; to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

535. By Mr. ANDERSON of Illinois: Petition of members of credit unions in Texas and Illinois, relative to the proposed "Financial Institutions Act of 1975"; to the Committee on Banking, Currency and Housing.

536. By Mr. HYDE: Petition of members of credit unions in Illinois, relative to the proposed "Financial Institutions Act of 1975"; to the Committee on Banking, Currency and Housing.

537. By the SPEAKER: Petition of the Western Conference of the Council of State Governments, San Francisco, Calif., relative to revenue sharing; to the Committee on Government Operations.

538. Also, petition of the Western Conference of the Council of State Governments, San Francisco, Calif., relative to in-lieu tax payments to States; to the Committee on Interior and Insular Affairs.

539. Also, petition of Michael H. Bader, and others, Washington, D.C., relative to political activities of the American Telephone & Telegraph Co. and the Bell System Co.; to the Committee on Interstate and Foreign Commerce.

540. Also, petition of the Western Conference of the Council of State Governments, San Francisco, Calif., relative to creating a western regional energy policy; to the Committee on Interstate and Foreign Commerce.

541. Also, petition of the Western Conference of the Council of State Governments, San Francisco, Calif., relative to the Clean Water Act of 1972; to the Committee on Public Works and Transportation.

542. Also, petition of the Western Conference of the Council of State Governments, San Francisco, Calif., relative to weather modification; to the Committee on Science and Technology.

543. Also, petition of the Western Conference of the Council of State Governments, San Francisco, Calif., relative to regulations governing financial assistance to dependent children of unemployed fathers; to the Committee on Ways and Means.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 8911

By Mr. OTTINGER:

Page 26, after line 16, insert the following new section (and redesignate the succeeding section accordingly):

INCREASE IN SSI BENEFITS TO REFLECT CERTAIN EXPENSES

SEC. 17. Part A of title XVI of the Social Security Act is amended by adding at the end thereof the following new section:

"INCREASE IN BENEFITS TO REFLECT CERTAIN EXPENSES

"SEC. 1618. (a) In the case of any eligible individual whose annual housing expenses exceed 33⅓ per centum of his or her annual income (which for purposes of this section shall include benefits determined under section 1611 and any income which would otherwise be excluded pursuant to section 1612 (b)), and who makes application for assistance under this section, the benefit otherwise payable under this title shall be increased by an amount determined at a rate which is the lesser of—

"(1) $600, or

"(2) the amount by which such individual's annual housing expenses exceed 33⅓ per centum of his or her annual income.

"(b) For purposes of this section, an individual's annual housing expenses shall consist of such individual's annual expenses for rent or for mortgage payments and real estate taxes, together with such individual's annual expenses for gas and electric utilities and home and water heating.

(c) If two aged, blind, or disabled individuals are husband and wife (which shall be determined in accordance with section 1614(d)) and are not living apart from each other, only one of them may be qualified to receive an increase in benefits under this section; and the income and annual housing expenses of the other shall be included for purposes of determinations under this section to the same extent as they would be if such determinations involved eligibility for an amount of benefits under section 1611.

"(d) The Secretary shall administer this section and shall prescribe such regulations as may be necessary or appropriate to effectuate its purposes and conform its administration, to the maximum extent feasible, to the general administration of the supplemental security income benefits program under this title.

"(e) The provisions of this section shall be effective on and after October 1, 1976."

By Mr. RANGEL:

Page 26, after line 16, insert the following new section (and redesignate the succeeding section accordingly):

INCREASE IN SSI BENEFITS TO REFLECT CERTAIN EXPENSES

SEC. 17. Part A of title XVI of the Social Security Act is amended by adding at the end thereof the following new section:

"INCREASE IN BENEFITS TO REFLECT CERTAIN EXPENSES

"SEC. 1618. (a) In the case of any eligible individual whose annual housing expenses exceed 33⅓ per centum of his or her annual income (which for purposes of this section shall include benefits determined under section 1611 and any income which would otherwise be excluded pursuant to section 1612(b)), and who makes application for assistance under this section, the benefit otherwise payable under this title shall be increased by an amount determined at a rate which is the lesser of—

"(1) $600, or

"(2) the amount by which such individual's annual housing expenses exceed 33⅓ per centum of his or her annual income.

"(b) For purposes of this section, an individual's annual housing expenses shall consist of such individual's annual expenses for rent or for mortgage payments and real estate taxes, together with such individual's annual expenses for gas and electric utilities and home and water heating.

"(c) If two aged, blind, or disabled individuals are husband and wife (which shall be determined in accordance with section 1614(d)) and are not living apart from each other, only one of them may be qualified to receive an increase in benefits under this section; and the income and annual housing expenses of the other shall be included for purposes of determinations under this section to the same extent as they would be if such determinations involved eligibility for and amount of benefits under section 1611.

"(d) The Secretary shall administer this section and shall prescribe such regulations as may be necessary or appropriate to effectuate its purposes and conform its administration, to the maximum extent feasible, to the general administration of the supplemental security income benefits program under this title.

"(e) The provisions of this section shall be effective on and after October 1, 1976."

H.R. 10498

By Mr. BROYHILL:

Section 108 is hereby amended by deleting it in its entirety and substituting in lieu thereof the following; page 198, line 5:

SEC. 108. The Clean Air Act is amended by inserting a new section 315 and renumbering succeeding sections accordingly:

"NATIONAL COMMISSION ON AIR QUALITY

"SEC. 315. (a) There is established a National Commission on Air Quality which shall study and report to the Congress on—

"(1) the effects of the implementation of any proposed or existing requirement on the States or the Federal Government under this Act to identify and protect from significant deterioration of air quality, areas which have existing air quality better than that specified under current national primary and secondary standards;

"(2) the economic, technological, and environmental consequences of achieving or not achieving the purposes of this Act and programs authorized by it;

"(3) available alternatives, including enforcement mechanisms to protect and enhance the quality of the Nation's air resources so as to promote the public health and welfare and the productive capacity of its population, and to achieve the other purposes of the Act;

"(4) the technological capability of achieving and the economic, energy, and environmental impacts of achieving or not achieving required emission control levels for mobile sources of oxides of nitrogen (including the research objective of 0.4 gram per vehicle mile) in relation to and independent of regulation of emissions of oxides of nitrogen from stationary sources;

"(5) air pollutants not presently regulated, which pose or may in the future pose a threat to public health or public welfare and options available to regulate emissions of such pollutants;

"(6) the adequacy of research, development, and demonstrations being carried out by Federal, State, local, and nongovernmental entities to protect and enhance air quality;

"(7) the ability of (including financial resources, manpower, and statutory authority) Federal, State, and local institutions to implement the purposes of the Act.

"(b) Studies and investigations conducted pursuant to paragraphs (1) and (2) of subsection (a) shall include—

"(1) the effects of existing or proposed national ambient air quality standards on employment, energy, and the economy (including State and local), their relationship to objective scientific and medical data collected to determine their validity at existing levels, as well as their other social and environmental effects;

"(2) the effects of any existing or proposed policy of prohibiting deterioration of air quality in areas identified as having air quality better than that required under existing or proposed national ambient standards on employment, energy, the economy (including State and local), the relationship of such policy to the protection of the public health and welfare as well as other national priorities such as economic growth and national defense, and its other social and environmental effects.

"(c) The Commission shall, as a part of

any study conducted under subsection (a) (1) of this section, specifically identify any loss or irretrievable commitment of resources (taking into account economic feasibility), including mineral, agricultural and water resources, as well as land surface-use resources.

"(d) Such Commission shall be composed of fifteen members, including the chairman and the ranking minority member of the Senate Committee on Public Works and the House Committee on Interstate and Foreign Commerce, who shall serve on such Commission ex officio and without vote, and eleven members of the public appointed by the President. The Chairman of such Commission shall be elected from among its members.

"(e) The head of the departments, agencies, and instrumentalities of the executive branch of the Federal Government shall cooperate with the Commission in carrying out the requirements of this section, and shall furnish to the Commission such information as the Commission deems necessary to carry out this section.

"(f) A report, together with any appropriate recommendations, shall be submitted to the Congress on the results of the investigation and study concerning section (a) (4) of this section no later than March 1, 1977, and the results of the investigation and study concerning section (a)(1) of this section no later than one year after the date of enactment of the Clean Air Act Amendments of 1976.

"(g) A report shall be submitted with regard to all other Commission studies and investigations, together with any appropriate recommendations, not later than three years after the date of enactment of this section.

"(h) The members of the Commission who are not officers or employees of the United States, while attending conferences or meetings of the Commission or while otherwise serving at the request of the Chairman shall be entitled to receive compensation at a rate not in excess of the maximum rate of pay for grade GS–18, as provided in the General Schedule under section 5332 of title V of the United States Code, including traveltime and while away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence as authorized by law (5 U.S.C. 73b–2) for persons in the Government service employed intermittently.

"(i) There is authorized to be appropriated, for use in carrying out this section not to exceed $17,000,000.

"(j) In the conduct of the study, the Commission is authorized to contract with nongovernmental entities that are competent to perform research or investigations in areas within the Commission's mandate, and to hold public hearings, forums, and workshops to enable full public participation."

Page 219, line 2, delete section 111 in its entirety.

Redesignate subsequent sections accordingly.

Page 258, strike out line 7 and all that follows down through line 2 on page 263 and insert in lieu thereof the following:

"(A) The regulations under subsection (a) applicable to emissions of carbon monoxide and hydrocarbons from light-duty vehicles and engines manufactured during model years 1975 and 1976 shall contain standards which are identical to the interim standards which were prescribed (as of December 1, 1973) under paragraph (5)(A) of this subsection for light-duty vehicles and engines manufactured during model year 1975. The regulations under subsection (a) applicable to emissions of carbon monoxide and hydrocarbons from light-duty vehicles and engines manufactured during model years 1977 through 1979 shall contain standards which provide that such emissions from such vehicles and engines may not exceed 1.5 grams per mile of hydrocarbons and 15.0 grams per mile of carbon monoxide. The regulations under subsection (a) applicable to emissions of carbon monoxide and hydrocarbons from light-duty vehicles and engines manufactured during model years 1980 and 1981 shall contain standards which provide that emissions from such vehicles and engines may not exceed .9 grams per mile of hydrocarbons and 9.0 grams per mile of carbon monoxide. The regulations under subsection (a) applicable to emissions of carbon monoxide and hydrocarbons from light-duty vehicles and engines manufactured during or after model year 1982 shall contain standards which require a reduction of at least 90 per centum from emissions of carbon monoxide and hydrocarbons allowable under the standards under this section applicable to light-duty vehicles and engines manufactured in model year 1970."

(b) Subparagraph (B) of such section 202 (b)(1) is amended to read as follows:

"(B) The regulations under subsection (a) applicable to emissions of oxides of nitrogen from light-duty vehicles and engines manufactured during model years 1975 and 1976 shall contain standards which are identical to the standards which were prescribed (as of December 1, 1973) under subsection (a) for light-duty vehicles and engines manufactured during model year 1975. The regulations under subsection (a) applicable to emissions of oxides of nitrogen from light-duty vehicles and engines manufactured during model years 1977 through 1981 shall contain standards which provide that such emissions from such vehicles and engines may not exceed 2.0 grams per mile."

(c) Section 202 (b) of such Act is amended by striking out paragraph (5) thereof and substituting the following:

"(5)(A)(i) The Administrator, after notice and opportunity for hearing (as provided in section 307(d)), shall promulgate, affording a sufficient period to permit the development and application of the requisite technology (giving appropriate consideration to the cost of compliance within such period), regulations containing standards applicable to emissions of oxides of nitrogen which shall apply to light-duty vehicles or engines manufactured during the model years 1982 and 1983 and, in the discretion of the Administrator, subsequent model years.

"(ii) Standards established under regulations promulgated under this paragraph shall provide for the maximum reduction of emissions which the Administrator determines to be technologically practicable for the model year to which they apply, giving appropriate consideration to the cost of compliance, the need for such standards to protect health and the impact of such standards on motor vehicle fuel consumption.

"(B) Regulations promulgated under this paragraph may be revised pursuant to clause (ii) of subparagraph (A). A standard established in any such revised regulation shall apply for two or more model years within the period specified in subparagraph (A)(i).

"(6) (A) Upon promulgation of a regulation under paragraph (5) applicable to any period of two or more model years, the Administrator shall report to the Congress respecting the motor vehicle fuel consumption consequences, if any, of the standards applicable for such period in relationship to the motor vehicle fuel consumption associated with the standards applicable for the model year immediately preceding such period.

"(B) The Secretary of Transportation and the Federal Energy Administration shall each submit to Congress, as promptly as practicable following submission by the Administrator of the fuel consumption report referred to in subparagraph (A), separate reports respecting such fuel consumption."

By Mr. DINGELL:

Page 258, strike out line 7 and all that follows down through line 2 on page 263 and insert in lieu thereof the following:

"(A) The regulations under subsection (a) applicable to emissions of carbon monoxide and hydrocarbons from light-duty vehicles and engines manufactured during model years 1975 and 1976 shall contain standards which are identical to the interim standards which were prescribed (as of December 1, 1973) under paragraph (5) (A) of this subsection for light-duty vehicles and engines manufactured during model year 1975. The regulations under subsection (a) applicable to emissions of carbon monoxide and hydrocarbons from light-duty vehicles and engines manufactured during model years 1977 through 1979 shall contain standards which provide that such emissions from such vehicles and engines may not exceed 1.5 grams per mile of hydrocarbons and 15.0 grams per mile of carbon monoxide. The regulations under subsection (a) applicable to emissions of carbon monoxide and hydrocarbons from light-duty vehicles and engines manufactured during model years 1980 and 1981 shall contain standards which provide that the emissions from such vehicles and engines may not exced .9 grams per mile of hydrocarbons and 9.0 grams per mile of carbon monoxide. The regulations under subsection (a) applicable to emissions of carbon monoxide and hydrocarbons from light-duty vehicles and engines manufactured during or after model year 1982 shall contain standards which require a reduction of at least 90 per centum from emissions of carbon monoxide and hydrocarbons allowable under the standards under this section applicable to light-duty vehicles and engines manufactured in model year 1970."

(b) Subparagraph (B) of such section 202 (b) (1) is amended to read as follows:

"(B) The regulations under subsection (a) applicable to emissions of oxides of nitrogen from light-duty vehicles and engines manufactured during model years 1975 and 1976 shall contain standards which are identical to the standards which were prescribed (as of December 1, 1973) under subsection (a) for light-duty vehicles and engines manufactured during model year 1975. The regulations under subsection (a) applicable to emissions of oxides of nitrogen from light-duty vehicles and engines manufactured during model years 1977 through 1981 shall contain standards which provide that such emissions from such vehicles and engines may not exceed 2.0 grams per mile."

(c) Section 202(b) of such Act is amended by striking out paragraph (5) thereof and substituting the following:

"(5)(A)(i) The Administrator, after notice and opportunity for hearing (as provided in section 307(d)), shall promulgate, affording a sufficient period to permit the development and application of the requisite technology (giving appropriate consideration to the cost of compliance within such period), regulations containing standards applicable to emissions of oxides of nitrogen which shall apply to light-duty vehicles or engines manufactured during the model years 1982 and 1983 and, in the discretion of the Administrator, subsequent model years.

"(ii) Standards established under regulations promulgated under this paragraph shall provide for the maximum reduction of emissions which the Administrator determines to be technologically practicable for the model year to which they apply, giving appropriate consideration to the cost of compliance, the need for such standards to protect public health and the impact of such standards on motor vehicle fuel consumption.

"(B) Regulations promulgated under this paragraph may be revised pursuant to clause (ii) of subparagraph (A). A standard established in any such revised regulation shall apply for two or more model years within the period specified in subparagraph (A)(i).

"(6)(A) Upon promulgation of a regulation under paragraph (5) applicable to any period of two or more model years, the Administrator shall report to the Congress respecting the motor vehicle fuel consumption consequences, if any, of the standards applicable for such period in relationship to the motor vehicle fuel consumption associated with the standards applicable for the model year immediately preceding such period.

"(B) The Secretary of Transportation and the Federal Energy Administration shall each submit to Congress, as promptly as practicable following submission by the Administrator of the fuel consumption report referred to in sbparagraph (A), separate reports respecting such fuel consumption."

By Mr. FLORIO:

Page 248, line 22, strike out the quotation marks and period at the end, and after line 22, insert:

"(h)(1) The Administrator may not deny, on the basis of any provision of this Act (other than section 111 or section 112), an application for Federal financial assistance under any other provision of law for construction of a sewage treatment plant (with a specified capacity level), except as otherwise provided in paragraph (2).

"(2) The prohibition contained in paragraph (1) shall not apply if the Administrator determines that the effects of the sewage treatment plant (with such capacity level) would (A) cause or contribute to air pollution which exceeds the national ambient air quality standard for any air pollutant after the attainment date required for such standard in the applicable implementation plan or (B) violate any requirement of an applicable implementation plan. The Administrator shall, within 30 days after the determination under the first sentence of this paragraph, notify the State of such determination and provide opportunity for the State to revise the implementation plan accordingly. If, at any time after a determination under the first sentence of this paragraph, the applicable implementation plan is revised and approved under section 110(a)(3) so as to assure that the effects of such plant will not cause or contribute to such pollution or violate any such requirement, the Administrator may not deny any such application on the basis of any provision of this Act (other than section 111 or section 112).

"(3) In making the determination referred to in paragraph (2)(A) of this subsection, the Administrator must apply the assumptions specified in subsections (a)(1) and (2)."

By Mr. MAGUIRE:

Page 200, line 9, strike out ", class II, or class III" and substitute "or class II."

Page 201, strike out line 3 and all that follows down through line 9.

Page 201, line 10, strike out "(D)" and insert in lieu thereof "(C)."

Page 201, line 22, strike out "(E)" and insert in lieu thereof "(D)."

Page 203, strike out line 15 and all that follows down through line 7 on page 204 and insert in lieu thereof:

"(ii) No Federal lands may be designated or redesignated as class II unless the appropriate Federal agency (or agencies) having authority over such lands concurs in such designation or redesignation."

Page 205, line 8, strike out "only" and all that follows down through line 13 and insert in lieu thereof: "as class II."

Page 206, line 14, before the period insert: "or that the State has arbitrarily and capriciously disregarded relevant environmental, social, or economic considerations in making such designation or redesignation."

Page 211, line 21, strike out "(D)" and insert in lieu thereof "(C)".

Page 213, line 10, strike out "(E)" and insert in lieu thereof "(D)".

By Mr. MILLER of California:

Page 326, line 16, insert "(a)" after 308.

Page 327, after line 18, insert:

(b) Section 313 of the Clean Air Act (42 U.S.C. 1857j-2) is amended by striking out "and" at the end of clause (9) and adding after clause (10): "and" (11)(A) the status of plan provisions developed by States as required under section 110(a)(2)(F)(v), and an accounting of States failing to develop suitable plans; (B) the number of annual incidents of air pollution reaching or exceeding levels determined to present an imminent and substantial endangerment to health (within the meaning of section 303) by location, date, pollution source, and the duration of the emergency; (C) measures taken pursuant to section 110(a)(2)(F)(v), and an evaluation of their effectiveness in reducing pollution; and (D) an accounting of those instances in which an air pollution alert, warning, or emergency is declared as required under regulations of the Administrator and in which no action is taken by either the Administrator, State, or local officials, together with an explanation for the failure to take action."

By Mr. MOORE:

Page 341, after line 17, add the following new section:

SEC. 318. (a) Any rule or regulation prescribed pursuant to the Clean Air Act may by resolution of either House of Congress be disapproved, in whole or in part, if such resolution of disapproval is adopted not later than the end of the first period of 60 calendar days when Congress is in session (whether or not continuous) which period begins on the date such rule or regulation is finally adopted by the Administrator. The Administrator shall transmit such rule or regulation to each House of Congress immediately upon its final adoption. Upon adoption of such a resolution of disapproval by either House of Congress within said 60 day period, such rule or regulation, or part thereof, as the case may be, shall cease to be in effect.

(b) Congressional inaction on or rejection of a resolution of disapproval shall not be deemed an expression of approval of such rule.

By Mr. SCHEUER:

Page 278, line 13, before the closing quotation marks insert the following: "Such standards shall take effect six months after the date of issuance. In the case of any such nonmilitary supersonic aircraft or nonmilitary supersonic aircraft engine manufactured before January 1, 1979, such regulations shall contain emission standards which reflect the degree of emission limitation achievable through the application of the best system of emission reduction which the Administrator determines will be available upon the effective date of such standards. In the case of any such aircraft or engine manufactured on or after January 1, 1979, such regulations shall contain emission standards which require a level of emission reduction for each air pollutant which is no less stringent than the level permitted under the least stringent standard for such pollutant applicable to any class or category of subsonic aircraft or aircraft engines."

Page 278, after line 13, insert:

(c) Section 232 of such Act is amended by adding the following new subsections at the end thereof:

"(c) No certificate referred to in this section may be issued to any nonmilitary supersonic aircraft or aircraft engine manufactured on or after January 1, 1979, unless the Administrator determines that such aircraft or engine complies with applicable emission standards without an increase in the noise level above the noise level which such aircraft or engine would exhibit but for the application of such standards.

"(d) Nothing in this title shall be construed to affect or impair any right, privilege, or authority respecting air pollution which may be exercised under State or local law by the owner or operator of any airport or airport facility."

(d) Upon the date 18 months after the date of enactment of this Act, the Secretary of Transportation may not permit any nonmilitary supersonic aircraft to land in the United States unless such aircraft has been certified by the Secretary to be in compliance with the emission standards promulgated as required in section 231(a)(4) of the Clean Air Act.

Offered by Ms. SCHROEDER:

Page 297, strike out line 19 and all that follows down through "he" in line 24 and substitute: "with instructions provided by the manufacturer and approved by the Administrator unless the Administrator".

Page 298, line 4, after the period insert: "In any case in which emissions of one or more pollutants are increased by reason of alterations or adjustments made to reduce emissions of one or more other pollutants, emission control performance may be found by the Administrator to be equivalent for purposes of this subsection if emissions of any pollutant which are increased in such manner do not exceed the emissions of such pollutant allowable under the standards under section 202 which were applicable to the vehicle or engine when manufactured."

Page 298, strike out line 5 and all that follows down through line 17 and insert in lieu thereof the following:

"(b) After the date six months after (1) the date on which a class or category of motor vehicles or motor vehicle engines first becomes available for sale to the general public, or (2) the date of enactment of this section, whichever last occurs, the manufacturer shall make instructions approved under subsection (a) available to any person upon request. Any violation by a manufacturer of the preceding sentence shall be treated as a violation by such manufacturer of section 203(a)(3) for purposes of the penalties contained in section 205."

H.R. 11552

By Mr. HAWKINS:

Page 6, line 1, strike out "include matter as State law requires and" and insert in lieu thereof the following: "be prepared so as to include such matter as would be required by all applicable State and Federal law if such forms were prepared by the State or a political subdivision thereof, and shall include such other matter".

FACTUAL DESCRIPTIONS OF BILLS AND RESOLUTIONS INTRODUCED

Prepared by the Congressional Research Service pursuant to clause 5(d) of House rule X. Previous listing appeared in the CONGRESSIONAL RECORD of August 2, 1976, page 25105.

H.R. 14741. July 20, 1976. Government Operations. Provides, under the Federal Property and Administrative Services Act of 1949, that no Federal agency shall dispose of property by exchange unless the acquisition of property to be achieved by such exchange is in accordance with applicable provisions of law governing the acquisition of property by purchase.

H.R. 14742. July 20, 1976. Government Operations. Amends the Federal Property and Administrative Services Act of 1941 to permit any Federal agency to procure janitorial, trash removal, and similar services for periods not exceeding three years.

H.R. 14743. July 20, 1976. Interstate and Foreign Commerce. Directs the Secretary of Health, Education, and Welfare to establish a National Diabetes Advisory Board to insure the implementation of a long range plan to combat diabetes. Authorizes the Secretary to make grants to scientists who have shown productivity in diabetes research for the purpose of continuing such research. Authorizes, under the Public Health Service Act, the appropriation of specified sums for the purposes of making grants to centers for research and training in diabetic related disorders.

H.R. 14744. July 20, 1976. Interstate and Foreign Commerce. Amends the Public Health Service Act to direct the Secretary of Health, Education, and Welfare to indemnify physicians, health care personnel, and health facilities providing nonprofit professional services in connection with the national influenza immunization program against civil claims resulting therefrom, except in cases of gross negligence.

H.R. 14745. July 20, 1976. Interstate and Foreign Commerce. Directs the Secretary of Health, Education, and Welfare to establish a National Commission on Digestive Diseases. Requires the Commission to develop a long-range plan for the use of national resources to deal with digestive diseases.

Directs the Secretary to establish a Coordinating Committee for Digestive Diseases to improve coordination among Federal agencies in the research, training, control, and treatment of digestive diseases.

H.R. 14746. July 20, 1976. Education and Labor. Revises the conditions for terminating the payment of compensation to survivors of Federal employees who die from job-related injuries.

H.R. 14747. July 20, 1976. Public Works and Transportation; Interior and Insular Affairs. Terminates the authorization for the Tocks Island Reservoir project in New Jersey, New York, and Pennsylvania. Requires that property acquired by the Secretary of the Army pursuant to such authorization be transferred to the Secretary of the Interior for management by the National Park Service.

H.R. 14748. July 20, 1976. Armed Services; Merchant Marine and Fisheries. Establishes a Commission to Study the Quality of Instruction at the Service Academies to: (1) study the quality of instruction and training at the service academies; (2) study the feasibility of including more civilian professors and instructors; and (3) study the rules of the academies concerning the conduct of cadets.

H.R. 14749. July 20, 1976. Judiciary. Requires that persons convicted of specified terrorist activities receive a sentence additional to that provided for the offense committed. Directs that the death sentence be imposed if the death of any person occurs during the commission or attempted commission of such an offense. Permits reduction of the death sentence to an additional term of imprisonment if the required sentencing hearing results in a finding that specified mitigating factors exist.

H.R. 14750. July 20, 1976. International Relations; Interstate and Foreign Commerce. Amends the Export Administration Act of 1969 to make it the policy of the United States to oppose restrictive trade practices or boycotts imposed by foreign countries against any domestic concern of the United States. Amends the Securities Exchange Act of 1934 by imposing additional disclosure requirements on any investor who proposes to acquire more than five percent of the equity securities of any United States company.

H.R. 14751. July 20, 1976. Merchant Marine and Fisheries. Extends the coastwise laws of the United States to the Virgin Islands with respect to the transportation in bulk by water of crude oil, unfinished oils, residual fuel oil, and finished petroleum products.

H.R. 14752. July 20, 1976. Interstate and Foreign Commerce. Amends the Federal Power Act to revise procedures for suspension of new rate schedules pending final determination by the Federal Power Commission. Stipulates that public utilities may not file proposals for additional rate increases while similar proposals are pending before the Commission.

H.R. 14753. July 20, 1976. Ways and Means. Amends the Social Security Act by including the services of optometrists under the Medicare supplementary medical insurance program.

H.R. 14754. July 20, 1976. Ways and Means. Amends the Medicare and Medicaid programs of the Social Security Act to include rural health facilities of 50 beds or less within the definition of the term "hospital."

H.R. 14755. July 20, 1976. Merchant Marine and Fisheries. Amends the Marine Mammal Protection Act of 1972 to prohibit the issuance of permits thereunder which authorize the taking of marine mammals in connection with commercial fishing.

Amends such Act to grant the Secretary of the Interior exclusive jurisdiction over such Act.

H.R. 14756. July 20, 1976. Banking, Currency and Housing. Establishes a National Commission on Neighborhoods to consist of Members of Congress and Presidential appointees. States the duties of such Commission, including studying the factors necessary to neighborhood survival and revitalization and making recommendations for modification of existing laws and policies.

H.R. 14757. July 20, 1976. Interstate and Foreign Commerce. Amends the Federal Food, Drug, and Cosmetic Act to require disclosure on food package labels of the portion of the weight of the food which is sugar in instances where sugar constitutes ten percent or more of the total number of calories in the food.

H.R. 14758. July 20, 1976. Post Office and Civil Service. Designates the song "God Bless America" as the national anthem of the United States.

H.R. 14759. July 20, 1976. Rules. Amends the Legislative Reorganization Act of 1970 to require that each public bill or resolution reported by a Congressional committee be accompanied by a Paperwork Impact Statement which assesses the amount and character of the information that such bill or resolution will require of private individuals and businesses and the cost of time required of such individuals or businesses who must provide the information sought by such legislation.

H.R. 14760. July 20, 1976. Ways and Means. Amends the Internal Revenue Code to establish graduated corporate income tax rates. Increases the gift tax exclusion and exemption and establishes a new gift tax rate. Provides special treatment for the sale of stock in a closely held corporation when sold to pay estate taxes. Redefines a subchapter S corporation. Redefines section 1244 stock (small business stock, losses on which are treated as ordinary losses).

EXTENSIONS OF REMARKS

A SERIOUS PROBLEM OF OCCUPATIONAL HEALTH AND SAFETY

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, August 2, 1976

Mr. STARK. Mr. Speaker, each day we gain more insight into the extent and spreading nature of on-the-job hazards to the health and safety of millions of working men and women.

The Los Angeles Times, in an exhaustive 3-month examination of this urgent concern, has described in vivid detail the mushrooming threat to our national health and safety. Appearing in its June 27 editions, this is the first of a two-part series that indicates a menace whose consequences we cannot ignore.

Mr. Speaker, this is a thought provoking article for which the Times deserves acknowledgement. I commend it to my colleagues:

OCCUPATIONAL HEALTH HAZARDS, A NATIONAL CRISIS

(By Richard T. Cooper and Paul E. Steiger)

WASHINGTON.—In bygone days, coal miners took caged canaries underground with them because the tiny birds were far more sensitive than men to the deadly, invisible "white damp," carbon monoxide gas. By collapsing—and sometimes dying—the canaries warned of a danger that would otherwise have crept up undetected.

Today, in factories and mills, and even in beauty parlors, dentists' offices and auto repair shops, hundreds of thousands of American workers have themselves become canaries—for their fellow workers and for society as a whole. By falling sick and often dying, they are signaling the fact that a major crisis has struck the nation as stealthily as poison gas in a coal mine.

The source of the danger is a little understood but rapidly growing array of occupational health hazards, many of them toxic chemicals routinely used by industry, that kill an estimated 100,000 workers every year, cause at least 390,000 new cases of job-related disease annually and pose an increasing threat to the entire spectrum of U.S. society and the environment.

As documented in a three-month investigation by a team of Times reporters, the occupational health crisis and its implications for the larger society are only dimly perceived by the public, yet specialists regard them as perhaps the most serious medical challenge facing the United States in the remainder of this century. And the battle to deal with the problem is in jeopardy because of bureaucratic red tape, public apathy, political sniping and claims that reform would be too costly.

At the Occupational Safety and Health Administration and the National Institute of Occupational Safety and Health, the two federal agencies most directly responsible for dealing with the problem, officials are struggling with inadequate budgets, scattered and ill-equipped staffs and lack of expertise. Labor leaders have lobbied for a larger commitment, and there has been significant response among some business executives. But overall the problem is growing faster than are the efforts to contain it.

Occupational health hazards have existed from earliest times, of course. One of the cruel ironies of the present situation is that toxic substances identified more than 100 years ago still inflict widespread disability and death. What has caused the problem to mushroom in the last three decades, however, is the technological explosion of new chemicals, new industrial processes and new products.

This flowering of technology, responsible for much that is good and desirable in modern life, unfortunately has sent a deluge of carcinogens, systemic poisons, lung-destroying dusts, brain-damaging metals and other hazardous substances cascading down upon the nation's workers in unprecedented volume and variety.

Clearly, one reason for the apparent public indifference to job-related health problems is that many of the worst ones, lung cancer and heart disease, for example, normally take 15 to 20 years to develop and often have not been associated with the work place. More immediate problems tend to be perceived as isolated incidents—50 or so workers afflicted by Kepone pesticide poisoning in Hopewell, Va., a dozen or so poisoned by lead at a Visalia auto battery plant.

The problem is pervasive, not scattered, however. And if workers, like the miners' canaries, are the first exhibit its symptoms because they are exposed to the hazards first and most intensively, the toxic substances originating in the nation's mills and factories are showing insidious capacity to seep out into the community at large.

Says Joseph K. Wagoner, director of field studies and clinical investigations for the institute, "The tendency to separate health hazards found in the work place from general environmental problems is a deadly division. This is a continuum, not isolated events." And, Wagoner says of the government's effort to cope, "The problem is so vast that we have been reacting in a crisis environment for the past two or three years."

For a glimpse of the problem's scope, consider the following:

—As many as 90% of all cancer cases are believed to be environmentally induced, according to an analysis by the National Cancer Institute. Of these, scientists estimate, at least 10% resulted in about 30,000 deaths a year, stemming chiefly from occupational carcinogens. In fully half of all cancer deaths, occupational factors are believed to have contributed to the disease.

—Heart disease is the greatest single killer of Americans. It is conservatively estimated that 5% of such deaths, or 37,000 a year, result from occupational causes.

—In a general health study of 908 persons performed by the University of Washington, 31% of all the diseases and other "medical conditions" found were judged to be occupational in origin. In an additional 10% of the problems, job-related factors appeared to have played some role.

Significantly, however, only 2% or 3% of all the medical conditions had been reported by employers, a fact suggesting that available data vastly understate the extent of job-related health problems.

—Evidence from a number of fields indicates that white-collar, professional and service workers are often in as much danger as employees in steel mills, chemical plants and other forms of heavy industry.

Dentists' chronic exposure to X rays, mercury and anesthetics contributes to their abnormally high rates of leukemia, Hodgkin's disease and suicide. Female operating room personnel, with similar exposures, have unusually large numbers of miscarriages and babies with congenital birth defects. Beauticians are extraordinarily susceptible to cardiac problems, lung cancer and respiratory diseases generally.

Chemicals and other substances and equipment used in the work place are not the only dangers. The unique stresses, lifestyles and patterns associated with particular occupations also can be factors. For instance, statistics reveal that office administrators are more likely to suffer coronary heart disease than many other types of whitecollar workers, such as scientists and engineers. As with other hazards, the causes and cures for these occupational health problems are imperfectly understood.

—An estimated 500,000 living workers have been significantly exposed to asbestos. Of these, 100,000 are expected to die from lung cancer, 35,000 more from a rare cancer of the lining of the lungs and stomach called mesothelioma, and another 35,000 will die from asbestosis, also an affliction of the lungs.

Recently, evidence has been found in a study for the Environmental Protection Agency that employes in office buildings constructed before the 1973 ban on use of asbestos as a structural fire retardant are being exposed to the mineral. Apparently the asbestos coating on steel girders on such buildings has begun to flake away, and microscopic fibers are being carried to unsuspecting workers through the ventilation systems. It is not yet known how serious this threat may be.

—Health hazards are particularly acute in some industries and job classifications. Rubber workers are 1.7 times as likely to die of stomach cancer as members of the general population, 1.6 times as likely to succumb to lymphatic malignancies, according to a joint study by the rubber workers' union and industry. Workers in steel mill coke ovens are 7.5 times as likely to die of kidney cancer as workers assigned elsewhere in the same mills and 10 times as likely to die of lung cancer.

—In three Ohio towns where the carcinogen vinyl chloride was manufactured, the Ohio Department of Health has reported abnormally high incidences of birth defects, particularly affecting the central nervous system, among newborn babies, and an unexpectedly high level of tumors of the central nervous system in adult men.

Studies of two Montana towns, Butte and Anaconda, where copper is mined and smelted, found unusually high rates of lung cancer in both men and women.

Experts agree that no accurate measurements of the overall problem exist. The U.S. Public Health Service uses indirect statistical techniques to form its estimates of the annual toll of job-related deaths and diseases. Owing to insufficient knowledge of the biochemistry involved, inadequate monitoring of workers, and the often years-long delay between exposure to a carcinogen and the onset of the disease, these numbers may be just the tip of the iceberg.

The catalogue of hazardous substances, with their sometimes equally dangerous permutations, combinations and interactions, seems endless: benzenes, phenols, cadmium, nickel, gold, lead, asbestos, vinyl chloride, coke oven gases, creosote, textile lint, X-rays, silica, carbon tetrachloride, tar, beryllium, bischloromethyl ether, chloromethyl methyl ether, polychlorinated biphenols, pesticides, paraffin, beta naphthylamine. . . .

The government has thus far established links between about 12,000 substances and particularly serious health problems—a huge number but probably just a small fraction of the hazards still undetected among the scores of natural elements and the 500,000 chemical compounds now in use by American industry, which synthesizes about 3,000 new chemicals each year. With virtually no outside control and scant knowledge of what the full consequences may ultimately be, this cornucopia of materials is mixed, modified, boiled, baked, burned, sprayed and vaporized in a rush of technical ingenuity that never stands still.

On an April morning this year, at an hour when the sun was bright but the air retained a sharp edge, half a dozen employes of a small plastics plant near Slatersville, R.I., crowded into an aging Pontiac and drove to the seacoast town of Groton, Conn. A team of occupational health specialists from New York was to examine almost 1,000 workers there and the Rhode Islanders were to be tested as well.

Somehow, they arrived several hours before the special clinic, set up in the gymnasium of Groton's trim new civic center, was to open. As they waited, the six grumbled about the delay, joked sardonically about the general malevolence of things and discussed their jobs. It seemed clear there had been ample reason to invite them.

Service Color, Inc., where they worked, is a small plant that takes raw plastics compounds, cooks them up with pigments, flame retardants, and fillers, then converts the resulting material to pigmented pellets that are sold to fabricators of colored plastic products. Turning out about 1 million pounds a month, Service Color's 18 employes handled compounds of lead oxide, lead chromate, mercury-cadmium, lead-cadmium, and toxic, organic dyes.

Medical problems had cropped up, and several had been hospitalized. There was apprehension mixed with the bravado and dark humor in the six who had come to Groton. "Everything . . . we handle kills you," one of them laughed. "It says so right on the cartons."

As they were unloaded and mixed, the powdery chemicals would fill the air, silting over everything and sometimes turning their skin bright colors, the men said. A photograph taken about that time by a safety administration inspector showed a worker who had just crawled out of an enormous vat he had cleaned with an air hose. An Occupational Safety and Health Administration inspector pointed out that a face mask issued by the company was so oversized that its bottom hung several inches below the worker's chin, nullifying its effectiveness even if it had not been the wrong type. The man's hair showed white, but his face and arms were a violent orange.

"Ventilation?" one of the workers at Groton said. "One place we got ventilation—four windows. And if you breathe real hard, you can blow the dust out."

During their examinations, the workers were checked for lead poisoning by a machine called a hematofluorometer, which subjects a tiny sample of blood to a powerful quartz light and instantly flashes a lead exposure value on a display screen. Readings up to 50 are considered acceptable, but at 60 to 70 there is concern. The Service Color workers registered such values as 101, 107 and 370, according to technicians.

Depending on extent of exposure, lead poisoning can produce brain damage, respiratory failure, anemia, tremors, paralysis, kidney problems, loss of teeth, depression, feelings of hostility and chronic unhappiness. The dangers and conditions in the plant led workers and their union, the United Rubber Workers, to protest. A team of safety administration inspectors swooped down.

Today, according to plant manager John Busco, some new duct work, dust collectors, and other ventilating equipment are being installed at Service Color. Also, workers are being instructed to wash themselves before eating or smoking and to take other precautions of that sort. "Not much is involved," Busco said.

What has the safety administration done? Busco has heard nothing, he says. Some citations are said to be wandering somewhere in the clogged arteries of this administration bureaucracy, but two months after the inspection nothing has been done.

"The joke is," one Service Color employe had said in Groton. "They give you a good pension but you don't live to collect it."

There is a quandary workers often face, and Morton Corn, the industrial hygienist who now heads the occupational safety agency, sees it clearly: where health is concerned, what seems a gross hazard may be harmless, and what looks lovely may be lethal.

He recalls a clean, air-conditioned factory in the South; "people thought it was like working in a hotel," yet a chemical undetectable by human senses poisoned 73 of the 300 employees. At the same time, in certain kinds of dehydrating plants, Corn says, "I've walked through dust that I left footprints in, but it won't harm anyone.

"When the worker takes a job he thinks, 'Gee, somebody must have thought about this thing. It must be safe. I'm being asked to work here! He's seen a lot of dust in his life. How is he to know whether this is the dust that will kill him?"

When people are sick, most turn without question to their family doctors, yet the typical family physician knows little about a worker—as employes of Life Science Products Co. in Hopewell, Va., discovered last year.

After only a few weeks of working in the plant, set up two years ago in a converted gas station, many began to suffer dizzy spells, poor vision, tremors. One man later recalled that when he stopped off for a beer after work, friends had to help him hold the glass. Inevitably, workers went to their doctors.

Could it be something at the plant, some asked? Probably not, the physicians said. More likely it was overwork or nervousness. Or perhaps too many of those beers on the way home. So, worrying about mortgage payments and child support payments and just getting by, they returned to work.

One man who could not stop trembling eventually went to see a young specialist in cardiology and internal medicine, a recent emigre from Taiwan named Yi-nan Chou. Chou asked what it was they made in that converted gas station. "Kepone," the man said. Kepone. Chou looked it up in a handbook of poisons.

A chlorinated hydrocarbon related to DDT, combining hexachlorocyclopentadiene and sulfur trioxide, potent in controlling ants, roaches and banana pests. Chou took samples of the man's blood and urine and sent them to the federal Center for Disease Control in Atlanta for analysis. Some days later Virginia health authorities arrived in Hopewell and began unraveling a major industrial scandal.

The result: Life Science Co. was shut down, 13 workers were hospitalized and about 40 others were found to have high levels of the pesticide in their blood. Federal indictments were returned against the company, its owners and Allied Chemical Co., which had been involved in the creation of Life Science, but no way was found to cleanse workers' blood of the Kepone, which has been linked to blood cancer in laboratory animals.

"The guys who have no voices," Sheldon Samuels of the AFL–CIO calls them, and there is a special horror to their anonymous plight. In isolated shops and businesses too small for company doctors and union hygienists, seldom visited even by safety administration inspectors, they are sometimes victims only of ignorance, but sometimes they are also undone by the tricks of their assorted trades.

Commercial fishermen mending their tar-soaked nets sometimes hold the darning needle momentarily in their mouths to free both hands; they contract lip cancer in extraordinary numbers. Auto mechanics often clean off brake drums with a deft blast from an air hose, thereby sending asbestos fibers winging toward their own lungs. House painters and shoe repairmen work with benzene solvents, unaware of the bladder and bone marrow malignancies those chemicals inflict on their trades.

"Who is telling them?" Samuels asks. "Who is doing something for them?"

Even safely behind his desk in his office, there is something gingerly about the way Robert L. Harris sits in a chair, an apprehensive stiffness as if the last egg of a rare and dying bird has been entrusted to his lap.

Harris' unease is understandable. An industrial hygienist at the University of North Carolina in Chapel Hill, he is the director of an unusual occupational health research program sponsored jointly by the United Rubber Workers and the seven giants of the U.S. rubber industry. Established during negotiations on the industry's 1970 master labor contract, Harris' group and a similar unit at Harvard together receive more than $1 million a year in corporate funds to probe the industry's operations and study the health of its workers.

The North Carolina group is a promising model of what could be done in other basic industries. Like similar units in government and other private institutions, it is working to protect workers now and also to overcome the critical shortage of basic research data. The problem is that almost all these units are extremely fragile, lacking permanent foundations.

In Harris' case, the unit is precariously balanced between two sponsors whose interests often conflict.

The researchers cannot function without cooperation from the companies, yet their findings often support the union's contention that more needs to be done to protect workers. The situation is especially touchy now: health hazards have become an issue in the rubber industry's long and bitter strike.

Thus far, Harris and his associates say, there has been no lack of cooperation, no restricting of their plans, no attempts to alter or suppress research findings. Still, an administrator is understandably nervous.

As a long-range goal with enormous potential, the unit is trying to devise a comprehensive, computer-based system for continual recording and analysis of the materials and processes used in each rubber plant, as well as the work and health histories of all employes. Since chemicals, processes, and employe work assignments change constantly, a system such as this would vastly simplify the needle-in-a-haystack task of pinpointing occupational health problems and their specific causes.

The system might even detect incipient problems, raising warning flags long before workers begin to sicken and die.

Such a capability and its fruits are years away. Meanwhile, the team has proved its worth in more immediate ways: it has done pioneering work in identifying job classifications where death and serious disease are high. And in one case, it quietly headed off what might years later have become a well-publicized disaster.

A major rubber company had begun using a manufacturing process previously abandoned by another company because of pulmonary damage to workers involved; the company believed it had eliminated the problem. Tests by the North Carolina group showed "reversible" pulmonary changes in workers after initial exposure to the new process, with the likelihood that the damage would prove permanent with continued exposure. The process was abandoned for the second time.

What is to be done?

Experts argue over details, but there is widespread agreement that progress must involve these elements:

—More money for scientific and technical research to pinpoint problems and devise solutions.

—Development of government health and safety regulations that place the burden of protecting workers squarely, and equally, on all employers.

—Designing an enforcement strategy that increases voluntary compliance and gives the safety agency's limited inspection force a deterrent impact comparable to that of the Internal Revenue Service.

—The budding alliance between labor and environmentalists should be nurtured to assure integrated government policies; unions must maintain, or in some cases increase, their insistence that workers' health is not to be traded off for additional pennies an hour; corporations that are trying to improve should be encouraged while those that now profit by avoiding health-related expenditures must be brought to heel.

"If you can't afford to provide a safe, healthy working place, then you shouldn't be in business. You don't have that right," a veteran safety administration health specialist declared recently. "A businessman rents a worker's time, not his safety and health."

It is important to remember, however, that requiring companies to meet unnecessarily stringent health standards will raise costs and prices, possibly eliminating some jobs. Also, forcing employers to buy needlessly elaborate control systems for one hazard will mean less money available to deal with other dangerous substances.

Can government, labor, and management ever have enough solid information to make all the necessary decisions with perfect wisdom? No. Decisions cannot be avoided—ignoring them amounts to a decision to let disease and premature death continue—but they will have to be made with imperfect knowledge, experts agree.

The safety administration, for example, established worker exposure limits for 14 major carcinogens even though it does not know precisely where the dangerous exposure level begins; to get that information would have required the rounding up of 3 million laboratory animals for testing—an impossibly costly and protracted experiment that might have been useless anyway because of the difficulties in assembling "megamouse" populations that are genetically comparable enough to yield valid results.

The struggle against occupational disease, those involved agree, will be controversial, messy and long.

ADMINISTRATION OFFICERS WRITE IN SUPPORT OF DINGELL–BROYHILL (TRAIN) AUTO EMISSION AMENDMENT TO THE PENDING CLEAN AIR BILL

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 3, 1976

Mr. DINGELL. Mr. Speaker, besides the support of President Ford and Administrator Train of the Environmental Protection Agency for the Dingell-Broyhill amendment to the Clean Air Act Amendments, H.R. 10498, the Honorable William T. Coleman, Jr., Secretary, Department of Transportation, and the Honorable Frank G. Zarb, Administrator, Federal Energy Administration, have written in with support for the Dingell-Broyhill (Train) amendment Congressman Jim Broyhill and I will offer to the bill.

I insert the noted correspondence at this point in the Record.

The Secretary of Transportation,
Washington, D.C., July 29, 1976.

Hon. John D. Dingell,
Chairman, Subcommittee on Energy and Power, Committee on Interstate and Foreign Commerce, U.S. House of Representatives, Washington, D.C.

Dear Mr. Chairman: As you requested, I have carefully reviewed the amendment to the Clean Air Act to be offered by you and Congressman Broyhill which sets new emission standards for automobiles.

In reviewing the problem, I am convinced that:

Emission standards more stringent than those you have offered are likely to cause significant losses in fuel economy;

Improvement in air quality due to more stringent standards will be marginal while the cost for owning and operating a vehicle meeting such standards would be excessive:

Air pollution caused by automobiles presently on the road will decline as older cars are replaced by those which meet current Federal emission standards.

Accordingly, I would like to commend you for your foresight and understanding of this difficult problem and I heartily endorse your proposal.

With warm regard,

Sincerely,

WILLIAM T. COLEMAN, Jr.

FEDERAL ENERGY ADMINISTRATION,
Washington, D.C., July 29, 1976.

Hon. JOHN D. DINGELL,
House of Representatives,
Washington, D.C.

DEAR MR. DINGELL: In view of the continuing debate regarding the relationship of motor vehicle emission control standards and fuel economy and the upcoming consideration of this issue in the House, I would like to reiterate my support for the emission standards schedule contained in the Dingell/Broyhill Amendment.

As the President said in his May 28 letter to Mr. Staggers, "the Dingell/Broyhill Amendment at this point best balances the critical considerations of energy, economics and environment." I feel that this continues to be the case despite the apparent technological advancement represented by Volvo 1977 certification data which has received much attention lately. A most important consideration is the stability of the emissions standards over the next three years provided by your amendment which is necessary if the auto manufacturers are to have every possible opportunity to achieve the mandated fuel economy standards.

In view of the above, I wish you success with your amendment on the floor of the House.

Sincerely,

FRANK G. ZARB,
Administrator.

VOTER REGISTRATION ACT

HON. ALLEN T. HOWE

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 3, 1976

Mr. HOWE. Mr. Speaker, the process of participatory democracy in this country now faces a crisis. The percentage of eligible voters participating in Federal elections has decreased from 64 percent in 1960 to 55 percent in 1972. Reforms are immediately necessary to halt this decline and insure maximum input in the political process from all citizens. We cannot legislate against the ills of alienation and apathy which contribute to this problem, but making the process of voter registration simpler and more convenient could greatly increase the number of eligible voters who actually cast a vote. Our present inconvenient, inconsistent, and unaccommodating voter registration procedures are a major factor in poor voter turnout, and we have at our disposal the means to correct this problem.

The Voter Registration Act, H.R. 11552, gives voters the ease and convenience of registration by post card, while still retaining safeguards against fraud. Through such a system, voters are spared the trouble and hardship of being required to bodily present themselves at inconvenient times and places in order to register to vote. It also simplifys and standardizes the present confusing system of registration procedures. The bill establishes a Voter Registration Administration which would disperse voter registration forms through the Postal Service, and provide assistance to States in originating post card registration programs for State elections.

Through implementation of this bill, we have the potential for a system of voter registration that would correct many of the abuses which our present system perpetuates. Historically, restrictive registration procedures have been used to deny the voting franchise to minority groups, the unpropertied poor, and to those hampered by language barriers. Our present laws often discriminate against those unfamiliar with the laws and against the increasingly mobile urban population which is hampered by residency requirements. It is time to stop deterring these large segments of the population from exercising their franchise by means of bureaucratic regulations.

Many States have experimented with post card registration systems and have achieved very favorable results. Utah is one of these and there has been no detectable increase in fraudulent registrations since implementation of the simplified system. In general, fraud occurs at the ballot box, not in the registration process. It should also be recognized that H.R. 11552 would not interfere with current practices of validation or verification of signatures or addresses upon registration. The Federal involvement would be limited to the distribution of cards, offering of expertise and funding to cover system transition. Groups and organizations that have traditionally worked to increase voter turnout would continue to do so.

Whatever dangers the opposition anticipates in this legislation appear negligible compared to the great benefits which would certainly accrue through greater franchisement of the population. I urge my colleagues to act favorably on the Voter Registration Act and cease the irrational practice of making it unnecessarily difficult for citizens to register to vote.

WASTE IN GOVERNMENT

HON. NORMAN F. LENT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 3, 1976

Mr. LENT. Mr. Speaker, quite often, grassroots concerns are best expressed in the media which are closest to the people. In many instances, this means that the weekly press contains opinions which we, as elected representatives, fail to heed at our own peril. I recently came across an editorial in the Bellmore, N.Y., Life which I feel expresses the sentiments of millions of American taxpayers. I commend the publisher of the paper, Johannes Laursen, and insert the editorial at this point, for the benefit of my colleagues:

WASTE IN GOVERNMENT

Waste in government of late has become a topic that can be discussed in polite conversation. It used to be a touchy subject and those who brought it up were considered slightly off-beat. It is strange that it should have been that way, but so it was. Sometimes, perhaps, the examples brought up seemed petty, but even if they were not, the only response would be a shrug of the shoulder.

There is still not much progress, but at least now leading and ambitious politicians will be associated with exposes of Government waste. The cause is becoming respectable and maybe, just maybe, something will be done.

The occasion for these observations is a recent series on "Waste in Washington" in the highly respected "Christian Science Monitor," not a publication to go off half-baked. Lucia Mouat, of its Washington bureau, has gathered an impressive list of concrete examples of senseless waste, and a stream of Washington officials, in Congress and in the administration, speak out candidly on the subject.

Similar things have happened before, though. How come, when so many are aware of the situation, that so precious little is still being done? Where are the weekly bulletins announcing what has been done to eliminate those wasteful situations?

It must be the attitude, the approach, that needs changing. Surely the Founding Fathers were aware of the need to protect the public purse, but, somehow, over the past two hundred years, and probably mostly the last few decades, the view has become prevalent that if the government pays, the reins are off.

Can it again become the accepted rule for government that frugality must be the watchword? Government should be used to serve the people wherever worthwhile and wherever government can do so to best advantage—but at the lowest possible cost. Simple, isn't it? But, then just read a series such as the Monitor's and see how many good programs, even fairly new ones, have been allowed to join the wasters.

There is a new concept being aired, that each program should present justification of its existence every three or four years. Sounds great, although it really should be clear every day that a program is needed, or it should not be there. Taking status every so often is useful, but one shudders to think that the big agencies will probably be hiring people just to prepare the justification reports and other people will be needed to evaluate the reports. . . . With a little imagination one can see a whole new profession of justification officers coming up, and the universities granting degrees in justification.

Common sense and a new attitude towards government, nationally, as well as on the state and local level—is it too much to hope that it will arise before we have a total collapse and are forced to start all over again? So many seem to agree, but so little is actually happening.

IOWA REPRESENTATIVE GRASSLEY FIGHTS BACKDOOR PAY RAISE

HON. ROBERT E. BAUMAN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 3, 1976

Mr. BAUMAN. Mr. Speaker, last Friday the House of Representatives celebrated a sad anniversary—passage of the automatic pay raise for Members of Congress. It is fitting that the following day the Des Moines Register printed an editorial praising the efforts of Iowa Congressman CHARLES GRASSLEY, the leader of the fight to rescind that pay raise. I would like to share with my colleagues that editorial from the July 31 Register and remind them that the gentleman from Iowa (Mr. GRASSLEY), myself, and other members will continue our efforts to repeal the bill which allows the representatives of the United States taxpayers to raise their salaries without ever again having to publicly vote on the matter:

BACKDOOR PAY RAISE

As matters now stand, members of Congress will get a pay raise Oct. 1, about the time they head home for the last stretch of the election campaign. They did not have to vote themselves higher salaries this year—and risk a public debate that would call attention to what they were doing—because they arranged a year ago to get automatic annual increases coinciding with cost-of-living rises.

Congressional salaries rose from $42,500 to $44,600 after a five per cent boost last year. They are expected to rise another five or six per cent this year, to the neighborhood of $47,000.

Representative Charles Grassley (Rep., Ia.) has had little success so far with his moves to repeal the automatic cost-of-living increase as applied to congressional salaries. He introduced a repeal bill last September. After Chairman David N. Henderson (Dem., N.C.) of the House Post Office and Civil Service Committee told Grassley he had no intention of scheduling hearings on the bill, Grassley began circulating a discharge petition to force the bill out of committee.

About 80 representatives, including Iowa Democrats Berkley Bedell and Michael Blouin, joined Grassley's cause. It is a cause that has attracted the interest of Democratic presidential candidate Jimmy Carter, who has said he favors "going back to the old system" of Congress publicly voting on each pay raise, and Republican Ronald Reagan, who charged that Congress "vaccinated itself against [inflation] pain" with the automatic pay-booster provision.

The Ford administration backed the salary increase and, consequently, gave no encouragement to repeal moves. The Democratic leadership in Congress has tried to ignore the matter.

The way the senators and representatives voted themselves salary increases last year showed how fast they can move when they put their minds to it. Approval came five days after the automatic pay-booster surfaced publicly in a Senate committee as a rider on a minor postal service bill. The Senate passed the measure, 58–29, on July 29, and the House cleared it, 214–213, the next day.

What upset opponents of the bill was the ease with which their colleagues hitched a ride on the cost-of-living escalator so they could escape accountability to the taxpayers. Members of Congress deserved a salary increase (they had not had one since 1969), but they got it almost surreptitiously.

Most Americans do not enjoy the luxury of being insured against the adverse effects of inflation. Neither should congressmen, lest they lose sight of how damaging inflation can be or vote thoughtlessly for bills that could push up living costs.

Grassley deserves support in his efforts to repeal the automatic pay-booster scheme. If senators and congressmen feel that they deserve a salary increase, they ought to have the courage to take a stand in view of their constituents.

NEW RIVER ISSUE OFFERS CLEAR CHOICE

HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 3, 1976

Mr. SIMON. Mr. Speaker, there is perhaps no issue before the Nation that is as clear cut a question between the special interests and the public interest as the New River proposal.

My family and I went down the New River with Mr. and Mrs. Thomas Wagner and family and Mr. and Mrs. Jack Lorenz and family.

It is unbelievable to me that we seem to be inching toward destruction of this beautiful old river and the destruction of the way of life of 3,000 people, and doing it needlessly.

I am inserting into the RECORD a column I wrote a few weeks ago on the New River question as well as an article by Colman McCarthy in the Washington Post and an editorial which appeared in the Washington Star Saturday, July 31.

This is one battle the public should win.

The articles follow:

[From the Washington Star, July 31, 1976]

THE RIVER AND THE LOBBYISTS

Next week before the House Rules Committee, a power company and the AFL–CIO will line up against environmentalists, the Department of the Interior and several thousand mountain people trying to preserve their homes.

Which side has the most clout may determine whether a section of the New River in North Carolina and Virginia will be destroyed in its natural form and families that have farmed the river valley for generations displaced.

At issue is a plan by the Appalachian Power Co., a subsidiary of American Electric Power Co., to dam the New River for a hydroelectric generating plant. The power company and the AFL–CIO, which thinks the project will provide nearly 2,000 construction jobs, have teamed up in an intense lobbying effort to block legislation that would kill the project.

There seems little doubt that the legislation would be approved if it reached the floor of the House; the question is whether the pro-dam lobbyists will be able to persuade the Rules Committee to keep the bill off the floor. Nose counters think it will be nip and tuck when the Rules Committee takes it up Thursday.

There are many reasons why this dam should not be constructed. It would destroy a river that is considered by geologists to be the oldest river in North America and perhaps the second oldest in the world. Aside from its natural beauty, it is said to be one of the best smallmouth bass and trout fishing rivers in the area. It is the habitat of several species of aquatic life which exist nowhere else in the world.

The project would flood 42,000 acres of farmland, displace 3,000 persons, inundate nearly a thousand homes, 15 churches and a dozen cemeteries. According to opponents of the dam, some people who would be displaced are living on land granted to their ancestors by an English king in the 18th century.

An unusual aspect of the project—one that legislators should consider in this era of energy shortages—is that it would be a net consumer of energy. Water flowing from a lake upstream would power generators to provide additional electricity for a multistate area during peak use periods. The water then would be impounded below the generating plant and, during the non-peak periods, it would be pumped back upstream, and the process would start all over during the next peak use period. This recycling process would require consumption of four energy units for each three produced.

The Department of Interior, in an attempt to head off the project, recently designated a 26.5-mile section of the river as part of the nation's wild and scenic river system. There is some question as to the legality of this action, however, since the power company had been granted a license earlier by the Federal Power Commission to dam the river. The legislation before the House Rules Committee would settle the dispute by invalidating the FPC license and making it illegal to develop the 26.5-mile section of the river.

The North Carolina congressional delegation is behind the bill. During the presidential primaries, such candidates as President Ford, Ronald Reagan and Jimmy Carter supported it. The Environmental Protection Agency supports it. The House leadership is said to support it.

Why then is there a question about its passage? Well, the power industry carries a goodsized stick on Capitol Hill. George Meany and his AFL–CIO carry an even bigger one.

Is it possible that a handful of Rules Committee members, persuaded or bludgeoned by a handful of lobbyists, can destroy a river 100 million years old for a power project with an estimated life of 50 years?

THE RULERS OF THE NEW RIVER

(By Colman McCarthy)

The New River, which has been flowing through the hills and bottomlands of Eastern Appalachia for an estimated 10 million years, may soon be destroyed by the House Rules Committee. Not as old as the river, assuredly, but often as changeless in its direction, the committee will soon vote on whether to allow the House membership to consider legislation that will save the river. Until now, it has been the American Electric Power Company that has been seeking the New's destruction, by constructing dams for a power project that the company says is justified. But fears now exist that a dam cemented by the politics of the Rules Committee may doom the river in ways that the power company arguments have failed to do.

That failure has been colossal. Among those unpersuaded by AEP are the entire North Carolina congressional delegation, Gerald Ford, Ronald Reagan, Jimmy Carter, the Interior Department, the Environmental Protection Agency, the House Interior Committee, the Senate Interior Committee, national conservation groups, major newspapers in the area, and local citizens groups.

The solidity and breadth of this support is uncommon in land disputes, but in this case the compelling arguments for saving the river go far beyond any mindless down-with-the-power-company reaction. Instead, it is clearly seen that too many other values will go down if the project is sanctioned. According to Rep. Stephen Neal of North Carolina, who has sponsored the legislation in the House, the Blue Ridge project of American Power would flood 40,000 acres, displace 3,000 citizens, submerge 936 homes, 600 farms, 10 industrial buildings, 23 commercial buildings, 5 U.S. Post Offices, 15 churches and 12 cemeteries. American Power has protested—in double full-page newspaper ads and elsewhere—that it has not gotten a fair hearing. But the evidence suggests otherwise. It has been heard, it just hasn't been heeded. This Congress is the second one to give large support to the New River. In 1974, a bill passed the Senate 50 to 19, and in the House 196 to 181 (a two-thirds majority was needed to suspend the rules).

But the numbers meant nothing because the Rules Committee, in December 1974, blocked the bill 13 to 2. In the committee room on the day of the vote were some members who were sleeping, joking and behaving like the best of good old boys being obedient to the hovering lobbyists from the power company and the AFL–CIO. Correctly perceiving the Rules Committee to be a government within a government—a junta vulnerable to pressures that don't work in the full Congress—the lobbyists were able to get their way because instead of having to work over a majority of the 435 members of the House they needed to concentrate on only a majority of the 15-member Rules Committee.

The arguments of the lobbies—there's an energy crisis and jobs are at stake—deserve to be heard, as they have been repeatedly. And rejected repeatedly. But the place for the hearing is not the Rules Committee. This group's function is the modest one of examining bills for procedural problems as they move from committees to the House floor. But the committee has become a medieval court which welcomes in jesters to make any clownish appeals that a private interest may want.

Supporters of the New River legislation are now worried that the committee will again put itself in the pocket of the lobbyists. "The public is hearing about the scandals in Congress," says Rep. Neal, "but this is as scandalous as any to date. A few labor bosses and a power company may be about to subvert Congress because they can get to the Rules Committee."

One of those working hard to persuade Rules members against the bill is Jack Curran, legislative director of the Laborer's International Union of the AFL–CIO. "It's a phony bill, because it does not do what it says it will do. The only purpose of the New River bill is to deny implementation of a license which was authorized by the Federal Power Commission and upheld by the Court of Appeals."

At the moment, the 16 members committee (a new seat was created in this Congress) is said to be about evenly divided on the New River bill. Seven members are believed to be unwaveringly for it, with a possible three who could go either way. One of these is Rep. John Moakley (D-Mass). In 1974 he voted on the floor as part of a 196–181 majority. At the moment, however, Moakley is no longer for the bill but is undecided. His office says he is being heavily lobbied both by labor and environmentalists and that "Mr. Moakley wants to study the information."

Whichever way Moakley goes another question remains. Why aren't the Democratic House leaders—Reps. Albert, O'Neill and McFall—telling the Democrats on the committee to let the bill pass through? It can be stated that not much leadership should be needed to get Democrats behind an idea so unrisky that Gerald Ford and Ronald Reagan are supporting it.

As for the citizens along the New River whose hopes and homes may be submerged, the rulers in Washington can only seem more remote than ever. In 1974, a group of the citizens came to Washington to observe the committee in action. But the committee hearing room was too small—big enough for mostly the members and the lobbyists. Thus, the only action that day was watching a corridor security guard making sure that no citizens sneaked into the room, possibly to make trouble by suggesting so bold a thought as that the majority view be considered.

A FIGHT THE PUBLIC MAY LOSE: THE NEW RIVER

As a member of Congress I must vote on legislation that affects areas outside of my district, and one of these issues is about as pure a public interest fight against the special interests as any I have seen.

The New River—this nation's oldest river—goes through the mountains of Virginia and North Carolina, eventually flowing into the Ohio, which runs along a portion of my district.

Our family took a canoe trip down this river two weeks ago, through the rapids, and along a scenic area that looks much like some of the territory we have in Pope County in Southern Illinois.

The utilities want to build a dam for a hydro-electric plant on the river, covering 50,000 acres of rich bottom land and moving 3,000 mountain people from their homes.

While the dam is to be built in Virginia, most of the land to be flooded is in North Carolina, and the North Carolina General Asembly has unanimously opposed the project.

Two powerful lobbying groups favor the dam—the utility companies and the AFL–CIO.

The unions favor the project because it will mean 1,500 temporary construction jobs, and because they say the power is needed.

I favor both jobs and an adequate power supply, but there are better ways of getting both than ruining this beautiful area—and changing the way of life of 3,000 people, many of whom have lived for generations on these small farms.

The Federal Power Commission has issued the license to build the dam, even though the Secretary of the Interior has designated the area which would be dammed as part of the nation's "wild and scenic rivers" program.

A bill has been introduced by the congressmen of North Carolina to stop the project. The measure has been approved by the Interior Committee, but it has one major hurdle.

The House Rules Committee holds the key to what happens. And in this case the combined pressure from the utilities and the AFL–CIO (with whom I usually agree) probably will be enough to stop congressional action which would save the New River.

If the dam is built, one of the world's oldest and most scenic rivers will be lost. Three thousand people who like their homes and farms will be forced to move. Indians used the river for travel for 10,000 years or more. Archeologists are just beginning to uncover the evidence of that history. But it. too, will be lost.

Those 3,000 people and the scenic values and those artifacts which will be lost probably will not weigh as heavily as the powers opposed to them.

But the nation is the loser if that happens.

CONGRESSMAN PEPPER ADDRESSES NEW AMERICAN CITIZENS

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 3, 1976

Mr. LEHMAN. Mr. Speaker, I was honored to be on the dais with other Florida officials for the Fourth of July ceremonies in Miami at which over 7,000 persons were sworn in as new American citizens. I was particularly pleased to share this experience with my colleagues in the House, Congressmen CLAUDE PEPPER and DANTE FASCELL.

Congressman PEPPER made a very moving welcoming address to the new citizens, and I would like to take this time to share it with the rest of our colleagues.

Mr. Speaker, the address by the Honorable CLAUDE PEPPER follows:

ADDRESS OF HON. CLAUDE PEPPER, JULY 4, 1976, MIAMI, FLA.

Two centuries ago today, a new light burst into the firmament of nations—the United States of America. That light, feeble in its beginning, has grown in glow and glory until today, like a giant sun, it warms the world with its rays of liberty, freedom and the dignity of Man.

The Declaration of Independence was not merely a document declaring the Independence of the thirteen colonies from Great Britain and a tyrannical king, but it was also a document which set forth the character, the goals, and the dreams of a new nation. Hear these words penned by Thomas Jefferson:

"We hold these truths to be self evident, that all men are created equal, and endowed by their creator with certain unalienable rights, among which are life, liberty and the pursuit of happiness."

You now share with your fellow citizens the legacy of freedom won and preserved by all those who have offered or given their lives for it for two centuries.

You now, with your fellow citizens, share the wealth of this great nation built by the sweat and toil of all who have labored in this land for two hundred years.

You share with your fellow citizens the honor of being a citizen of the greatest and noblest nation of the world.

But we must all remember that the blessings of citizenship in this great republic do not come to any of us without obligations. As those blessings have been won and passed on to us by our predecessors, so must we dedicate our lives, our fortunes and our sacred honor, if need be, as did the signers of the Declaration of Independence, to preserve the freedom and greatness of our country and pass it on in all its grandeur, and goodness and glory to generations yet unborn.

Many of you know from sad experience what liberty and freedom mean. I know you will be especially vigilant to assure the survival of these blessings in this, your new country.

I have the honor and privilege on behalf of this honorable court, to welcome you all as new citizens of the United States of America. I congratulate you upon being able to say when you see that flag—the Stars and Stripes—that that is not just the American flag—that is My flag. And I know that from the heart of every one of you will now and all the days of your lives rise a fervent prayer to heaven—God Bless America.

"GOVERNMENT IN THE SUNSHINE"

HON. ALLAN T. HOWE

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 3, 1976

Mr. HOWE. I am proud to have cast my vote in support of H.R. 11656, the "Government in the Sunshine Act" which passed the Congress overwhelmingly, 390 to 5, on July 28. Passage of this bill will not only help relieve criticism about an isolated, secretive Government, but it also reaffirms an important founding principle of our democratic Nation. Few will dispute the fact that a system of open, accessible Government has been the heart of our 200 years of liberty and is chiefly responsible for our strong, thriving democracy. Yet this principle has not survived 200 years entirely intact, and it has been eroded and undermined to the point where we must take steps to reaffirm and rededicate ourselves to its full meaning.

As a Member of Congress, I hear a lot about the people's "right to know." I respect that right and would go even further in saying Government officials have a responsibility to engage in efforts that would fulfill this need. The right to know also involves legislators in the responsibility to provide access and opportunity for knowledge. Enactment of this legislation is a solid, constructive step toward filling that need and providing such critical access.

Interestingly, but not inaccurately, the current vehicle through which we can reinforce the principle of open Government has come to be known as the "Sunshine Act." Theoretically it will let some clean, bright light into the dark, musty corners of governmental operations. This bill will provide that the meetings of multimember Federal agencies be open to the public with the exceptions of discussions of several specific areas. Advanced public notice will be required of the meetings and a reasonable effort must be made to make meetings accessible to the public. The exceptions under which meetings can be closed include considerations of national security and defense matters, internal personnel problems, trade secrets or matters that would invade individual privacy.

Openness in Government is an issue where Congress should follow the lead by States in recent years through the opening of internal proceedings. There has been a rapid and widespread acceptance of various sunshine laws by the State legislatures. I feel this direction is reflective of a general desire for more accountability and disclosure in Government. Already 49 States have some kind of open-meeting law and 35 State legislatures conduct their committee deliberations in open view.

The Federal Government and Congress, however, have made some steps in the direction of opening their deliberations to public view. In 1972, the Congressional Quarterly found that 79 percent of all committee bill drafting sessions in the House and 98 percent in the Senate were held behind closed doors. Since 1973, however, this attitude has been reversed and much more emphasis is placed on general openness. The most notable piece of legislation in this area was the Freedom of Information Act, a major step forward in allowing public access to Government documents. Yet, even this is a sort of after-the-fact measure since records are the result of prior deliberations and internal documents on which decisions have already been made.

To me it is apparent that when Government closes its doors to people, those people are going to assume the worst and believe there is something to hide. Until now, the public has had little more than limited information, misinformation, or no information at all about the operations of Government. These are all dangerous conditions which cause widespread mistrust and discontent with political parties and leaders as shown in polls and general political apathy. Some of this mistrust is justified, and it should not be based on groundless, or confused information, but instead on balanced consideration of the true facts.

The logical response to this problem is a process of public education with the first place being to open the meetings of Government and the Federal agencies to public scrutiny. Since broadcasting of House sessions—the most comprehensive step we could take in this direction—was blocked, enactment of the sunshine bill is a significant alternative measure.

Passage of the "Government in the Sunshine Act" represents an important reaffirmation of our commitment to the principle of open Government. I am pleased to see this recognition by the Congress of our duty to keep the public informed on how important matters of their business are being conducted.

ADMINISTRATOR TRAIN OF EPA WRITES IN SUPPORT OF DINGELL-BROYHILL AMENDMENT TO CLEAN AIR BILL

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 3, 1976

Mr. DINGELL. Mr. Speaker, Administrator Train of the Environmental Protection Agency has contacted me with his strong support for the Dingell-Broyhill amendment to the pending Clean Air Act Amendments, H.R. 10498. As my colleagues are aware, Congressman BROYHILL and I will be offering the Train recommended auto emission control standards in our amendment to the bill for model years 1978 onward.

I insert Administrator Train's letter at this point.

UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY,
Washington, D.C., Aug. 2, 1976.

Hon. JOHN D. DINGELL,
House of Representatives,
Washington, D.C.

DEAR JOHN: I am glad that we have agreed upon language to modify your proposed amendment to H.R. 10498 so as to solve the lead time problem I identified in my July 28 letter by leaving the determination of lead time to the Administrator as under Section 202(a) of the current law. As we have discussed, that determination by the Administrator certainly would take account of statutorily-required fuel economy standards and the lead time provided to comply with those standards.

This modification removes the only technical problem which we had identified with regard to your amendment. As you know, the President has endorsed your proposed schedule and it has my support.

Sincerely,

RUSSELL E. TRAIN.

As noted in Administrator Train's letter from EPA, we have agreed to all aspects of the amendment to be offered and the language of the amendment is herewith enclosed for information to my colleagues. The amendment also has been printed in the amendment section of the RECORD this date.

AMENDMENT TO H.R. 10498, AS ORDERED REPORTED BY MR. DINGELL AND MR. BROYHILL

(As printed in the CONGRESSIONAL RECORD, August 3, 1976)

Page 258, strike out line 7 and all that follows down through line 2 on page 263 and insert in lieu thereof the following:

"(A) The regulations under subsection (a) applicable to emissions of carbon monoxide and hydrocarbons from light-duty vehicles and engines manufactured during model years 1975 and 1976 shall contain standards which are identical to the interim standards which were prescribed (as of December 1, 1973) under paragraph (5)(A) of this subsection for light-duty vehicles and engines manufactured during model year 1975. The regulations under subsection (a) applicable to emissions of carbon monoxide and hydrocarbons from light-duty vehicles and engines manufactured during model years 1977 through 1979 shall contain standards which provide that such emissions from such vehicles and engines may not exceed 1.5 grams per mile of hydrocarbons and 15.0 grams per mile of carbon monoxide. The regulations under subsection (a) applicable to emissions of carbon monoxide and hydrocarbons from light-duty vehicles and engines manufactured during model years 1980 and 1981 shall contain standards which provide that the emissions from such vehicles and engines may not exceed .9 grams per mile of hydrocarbons and 9.0 grams per mile of carbon monoxide. The regulations under subsection (a) applicable to emissions of carbon monoxide and hydrocarbons from light-duty vehicles and engines manufactured during or after model year 1982 shall contain standards which require a reduction of at least 90 per centum from emissions of carbon monoxide and hydrocarbons allowable under the standards under this section applicable to light-duty vehicles and engines manufactured in model year 1970."

(b) Subparagraph (B) of such section 202 (b) (1) is amended to read as follows:

"(B) The regulations under subsection (a) applicable to emissions of oxides of nitrogen from light-duty vehicles and engines manufactured during model years 1975 and 1976 shall contain standards which are identical to the standards which were prescribed (as of December 1, 1973) under subsection (a) for light-duty vehicles and engines manufactured during model year 1975. The regulations under subsection (a) applicable to emissions of oxides of nitrogen from light-duty vehicles and engines manufactured during model years 1977 through 1981 shall contain standards which provide that such emissions from such vehicles and engines may not exceed 2.0 grams per mile."

(c) Section 208 (b) of such Act is amended by striking out paragraph (5) thereof and substituting the following:

"(5) (A) (i) The Administrator, after notice and opportunity for hearing (as provided in section 307(d)), shall promulgate, affording a sufficient period to permit the development and application of the requisite technology (giving appropriate consideration to the cost of compliance within such period), regulations containing standards applicable to emissions of oxides of nitrogen which shall apply to light-duty vehicles or engines manufactured during the model years 1982 and 1983 and, in the discretion of the Administrator, subsequent model years.

"(ii) Standards established under regulations promulgated under this paragraph shall provide for the maximum reduction of emissions which the Administrator determines to be technologically practicable for the model year to which they apply, giving appropriate consideration to the cost of compliance, the need for such standards to protect public health and the impact of such standards on motor vehicle fuel consumption.

"(B) Regulations promulgated under this paragraph may be revised pursuant to clause (ii) of subparagraph (A). A standard established in any such revised regulation shall apply for two or more model years within the period specified in subparagraph (A)(i).

"(6)(A) Upon promulgation of a regulation under paragraph (5) applicable to any period of two or more model years, the Administrator shall report to the Congress respecting the motor vehicle fuel consumption consequences, if any, of the standards applicable for such period in relationship to the motor vehicle fuel consumption associated with the standards applicable for the model year immediately preceding such period.

"(B) The Secretary of Transportation and the Federal Energy Administration shall each submit to Congress, as promptly as practicable following submission by the Administrator of the fuel consumption report referred to in subparagraph (A), separate reports respecting such fuel consumption."

THE DINGELL-BROYHILL (TRAIN) AUTO EMISSION SCHEDULE

1977–79—HS, 1.5; CO, 15.0; NO_x, 2.0.

1980–81—HC, .9; CO, 9.0; NO_x, 2.0.

1982 and future—HC, .41; CO, 3.4; EPA to set Administratively.

RURAL HEALTH CARE: LESSONS AND NEEDS

HON. JOHN P. MURTHA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 3, 1976

Mr. MURTHA. Mr. Speaker, one of the problems Congress must increasingly focus on is rural health care—the problems of attracting doctors to rural areas and providing the health care facilities to treat the people quickly and conveniently.

On Wednesday, July 7, I visited the Hoffman Memorial Medical Center in East Brady, Pa. I believe this center has some importnt lesssons for us. One of those lessons is that it is an example of wise Federal Government planning.

The Center was established 4 years ago by a local citizens group. The Center is not a Federal facility. It belongs to the community. It did begin, however, as part of a Federal program administered by the National Health Service Corps. It shows how the Government can help stimulate answers without permanently involving itself in local communities.

One very strong point in its favor is that this is possibly the only Public Health Center in the United States where doctors originally contracted with the Government are still present. It is a husband and wife team. From my observations they appear to be doing an excellent job and personalizing treatment as much as possible.

There remains problems, as there always are with health facilities. Some citizens would like to see more extensive coverage; others are concerned about the need for at-home care for the elderly. These and other problems should not detract from the job being done by the facility; they should remind us that rural health care still has a long way to improve that will demand the initiative and innovation of a concerned, active Congress.

The combination of governmental efforts, plus concerned local citizens, such as I met and talked with in East Brady, will eventually help us solve the medical dilemma faced by many rural citizens in the United States.

FRANK NUSTRA FOUNDER'S AWARD ESTABLISHED

HON. ROBERT McCLORY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 3, 1976

Mr. McCLORY. Mr. Speaker, the veteran Lake County, Ill., recorder of deeds, Frank Nustra, is receiving recognition from the International Association of Clerks, Recorders, Election Officials, and Treasurers attesting to his long and distinguished service in county government.

Frank Nustra, who served Lake County earlier as Lake County treasurer and has been Lake County recorder of deeds since 1959, has established an unblemished record of useful, courteous, and efficient service which has gained him a national and now an international reputation.

Mr. Speaker, at the recent meeting of the International Association of Clerks, Recorders, Election Officials, and Treasurers the organization took action to establish the "Frank Nustra Founder's Award" which will be granted annually by that organization to "a deserving member of the association for meritorious service."

Mr. Speaker, at another meeting later this year, Frank Nustra will also be honored by the Illinois Association of Clerks and Recorders in Chicago or Springfield. This dual recognition of my longtime friend, Frank Nustra, is well-deserved and attests to the great value of local government in our society—which is the real bulwark of our democratic system. Throughout his career Frank has been supported by his devoted wife, Florence.

Mr. Speaker, I am proud to advise you and my colleagues in the U.S. House of Representatives of these honors being paid to the Lake County recorder of deeds, Frank Nustra, and to extend to him through this means my own and the public's appreciation for his service, as well as my heartfelt congratulations.

THE CLEAN AIR ACT AMENDMENTS OF 1976

HON. TIM LEE CARTER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 3, 1976

Mr. CARTER. Mr. Speaker, last October, I contacted public service commissions in this country to obtain their reactions to suggested amendments to the Clean Air Act of 1970. There has been a great controversy over the potential impact of this bill on consumers across the Nation. I feel the comments of the authorities within the States who have jurisdiction over utilities and rate cases could prove useful in an analysis of the effects of the stricter standards imposed by this legislation.

I asked each commission for information on the average residential consumer's bill for July 1973, as compared to the bill for July 1975. During that period, electric rates jumped 56 percent in the Commonwealth of Kentucky. This jump in rates was due, in part, to the increased cost of coal. I was interested to see what increase occurred in other States to determine for myself whether consumers outside the Commonwealth were experiencing the same squeeze. I found rates to have increased substantially during that time. I believe the situation in Kentucky was similar to that in other States.

I asked a second question. Was there any information or any projection available on the increased cost to consumers of electric power as a result of the application of scrubber technology to generating plants in the respective jurisdictions?

Responses I received on that question varied. Many commissions had made no study of the impact on rates as a result of application of technology. Many authorities stated that information on impact was unavailable or unknown. In other words, the impact on the economic situation of consumers of electric power was unknown. Several replies mentioned that, although information was unavailable, the expected costs would be considerable and be reflected in the rate base.

Of those with projections, it was clear that in areas heavily dependent on coal-fired generating facilities for electric power, the cost would range between 20 and 30 percent to the consumer.

I believe this lack of information, this uncertainty over impact expressed by those with responsibility for reviewing requests for rate adjustments, is indicative of need for a careful approach to the Clean Air Act Amendments of 1976. I am inserting in the RECORD at this time responses I have received from the States of Florida, Mississippi, Connecticut, Delaware, South Carolina, and Indiana:

FLORIDA PUBLIC SERVICE COMMISSION,
October 23, 1975.

Hon. TIM LEE CARTER,
Representative, 2441 Rayburn Office Building, Washington, D.C.

DEAR CONGRESSMAN CARTER: This is in response to your letter of October 14, 1975, regarding the effects of the Clean Air Act of 1970 on consumers of electric power.

The Florida Public Service Commission is vitally concerned about the rapid increases in the cost of electric power and the implications these changes have on the lifestyle and well-being of consumers in the State of Florida.

Environmental regulations have unmistakably contributed to these increases during the past few years. We sincerely appreciate the consideration you are giving to the economic impact of environmental policy in the area of electric rates.

Enclosed is an attachment containing the information you have requested. If we can be of any further assistance, please do not hesitate to contact us.

Sincerely,

WILLIAM T. MAYO,
Chairman.

TYPICAL ELECTRIC BILL FOR 1,000 KWH PER MONTH [1]

Company [2]	July 1973	July 1975
Florida Power Corp	$26.92	40.57
Florida Power & Light Co	23.08	37.00
Gulf Power Co	18.73	34.33
Tampa Electric Co	23.36	38.63
Weighted average	23.70	37.79
Percent increase		59

[1] 1,000 kwh/mo. is approximately the average residential consumption in Florida.

[2] These 4 companies account for 99.7 percent of the residential customers served by investor owned utilities in Florida.

Note: Tampa Electric Co. has projected that the cost of scrubber technology in terms of 1975 dollars would be 0.92¢/kwh. This would translate into an increase of $9.20/mo. for the average residential customer (1,000 kwh/mo).

MISSISSIPPI PUBLIC SERVICE COMMISSION,
Jackson, Miss., October 28, 1975.

Hon. TIM LEE CARTER, *Member, U.S. House of Representatives Washington, D.C.*

DEAR MR. CARTER: Your October 14, 1975, letter to Mississippi Public Service Commission Chairman Norman A. Johnson, Jr., regarding electric fuel costs has been received and referred to me for appropriate research and reply.

I am enclosing comparision of rates for the two major electric companies in Mississippi, which reflects rates and all associated fuel costs for the months of July 1973, and July 1975.

With reference to increases in residential rates resulting from the application of scrubber technology, we have no figures. We are keenly aware that the associated cost will be considerable.

Sincerely yours,

C. KEITH HOWLE,
Director of Utilities.

COMPARISON OF RATES FOR MAJOR ELECTRIC COMPANIES IN THE STATE OF MISSISSIPPI AS OF JULY 1, 1973

	250 kWh	500 kWh	750 kWh	1,000 kWh	1,500 kWh	2,000 kWh
1. Company name: Mississippi Power & Light Co.						
2. Largest city served: Jackson.						
3. Base rate *	$7.35	$9.85	$11.55	$14.05	$19.05	$24.05
4. Fuel adjustment ($.003825) per kWh	.96	1.91	2.87	3.83	5.74	7.65
5. Total	8.31	11.76	14.42	17.88	24.79	31.70
6. Amount in base rate that represents fuel cost (2.5 mills)	.63	1.25	1.88	2.50	3.75	5.00
1. Company name: Mississippi Power Co.						
2. Largest city served: Meridian.						
3. Base rate *	7.70	11.18	14.18	17.18	24.00	32.00
4. Fuel adjustment ($.002235) per kWh	.56	1.12	1.68	2.24	3.35	4.47
5. Total	8.26	12.30	15.86	19.42	27.35	36.47
6. Amount in base rate that represents fuel cost (2.5 mills)	.63	1.25	1.88	2.50	3.75	5.00

* Rates based on schedule for residential water heater (excluding sales tax) as used in FPC typical bill analysis.

COMPARISON OF RATES FOR MAJOR ELECTRIC COMPANIES IN THE STATE OF MISSISSIPPI AS OF JULY 1, 1975

	250 kWh	500 kWh	750 kWh	1,000 kWh	1,500 kWh	2,000 kWh
1. Company name: Mississippi Power & Light Co						
2. Largest city served: Jackson.						
3. * Base rate	$9.12	$13.37	$17.37	$21.37	$29.37	$37.37
4. Fuel adjustment ($.0071080) per kWh	1.78	3.55	5.33	7.11	10.66	14.22
5. Total	10.90	16.92	22.70	28.48	40.03	51.59
6. Amount in base rate that represents fuel cost (7 mills)	1.75	3.50	5.25	7.00	10.50	14.00
1. Company name: Mississippi Power Co.						
2. Largest city served: Meridian.						
3. * Base rate	8.75	13.50	17.88	22.25	31.00	39.75
4. Fuel adjustment ($.007617) per kWh	1.90	3.81	5.71	7.62	11.43	15.23
5. Total	10.65	17.31	23.59	29.87	42.43	54.98
6. Amount in base rate that represents fuel cost (4.5 mills)	1.13	2.25	3.38	4.50	6.75	9.00

* Rates based on schedule for residential water heater (excluding sales tax) as used in FPC typical bill analysis.

STATE OF CONNECTICUT,
PUBLIC UTILITIES COMMISSION,
Hartford, Conn., November 5, 1975.

Hon. TIM LEE CARTER,
U.S. Representative,
Rayburn House Office Building,
Washington, D.C.

DEAR CONGRESSMAN CARTER: This is in reply to your letter of October 14, 1975 requesting cost information in regard to average residential electric bills.

The average residential electric bill for customers served by electric utilities under our jurisdiction for July 1973 and July 1975 is as follows:

Average bill: July 1973, $19.35; July 1975, $27.64.

Average usage: July 1973, 580 Kilowatthours; July 1975, 550 Kilowatthours.

Please note the difference in average usage between the two periods and to assist you further in your comparison a July 1973 bill for 550 kilowatthours amounted to $18.58.

A 1974 study made by the Connecticut Department of Environmental Protection indicated that the installed cost of a scrubber system on an existing generating unit would be in the range of $100–$125 per kilowatt of installed capacity. In addition, the operating and maintenance costs of the scrubber system were estimated to be in the range of 4–8 mills per kilowatthour.

I trust you will find this information helpful.

Sincerely,

HOWARD E. HAUSMAN,
Chairman.

STATE OF DELAWARE,
PUBLIC SERVICE COMMISSION,
Dover, Del., November 14, 1975.

Hon. TIM LEE CARTER,
U.S. House of Representatives,
House Office Building,
Washington, D.C.

DEAR CONGRESSMAN CARTER: In reply to your letter of October 14, 1975, my staff has obtained the following information from the Delmarva Power & Light Company.

The average bill for a residential Delaware Delmarva Power & Light Company customer in July, 1973 was $27.16 and in July, 1975 was $30.00.

The increase in residential user charges resulting from the application of scrubber technology is impossible to estimate with any degree of accuracy. The total cost of adding scrubbers to five (5) of Delmarva Power & Light Company's generating units will be $110,600,000. The carrying charges on such an investment would be almost eighteen million dollars per year which would need to be reflected in rates to all customers.

I trust that I have answered your questions, and I will be happy to provide whatever information you need in the future.

Very truly yours,

CURTIS W. STEEN,
Chairman.

STATE OF SOUTH CAROLINA,
PUBLIC SERVICE COMMISSION,
Columbia, S.C., October 30, 1975.

Hon. TIM LEE CARTER,
Congress of the United States, House of Representatives, 2441 Rayburn Office Building, Washington, D.C., 20515

DEAR CONGRESSMAN CARTER: In response to your letter of October 14, 1975, I am pleased to furnish you the following information.

The average South Carolina residential electric bill for July, 1973, was $22.58, as compared to $33.12 for July, 1975. The average kilowatt-hour usage for July, 1973, was 1059, as compared to 1000 for July, 1975.

Due to the scarcity of information and lack of experience, we cannot give you specific figures, but only a range based on our best estimates. The projected increases in residential-user charges, resulting from the application of scrubber technology, would range from five to seven mills per kilowatt hour as an average for our three major electric utilities in South Carolina. This computes to a 15–21% increase on the average residential electric bill in South Carolina for July, 1975.

I want to thank you for the interest you have shown by contacting this Commission as a member of the Subcommittee on Health and the Environment, pertaining to any action Congress may consider.

Very truly yours,

ABNEY A. SMITH,
Commissioner.

STATE OF INDIANA,
PUBLIC SERVICE COMMISSION,
Indianapolis, November 12, 1975.

Hon. TIM LEE CARTER,
U.S. Congressman, 2441 Rayburn Office Building, Washington, D.C., 20515

DEAR CONGRESSMAN CARTER: My apologies for being so long in replying to your letter of October 14, 1975, requesting certain information concerning residential bills for electric service and the impact of application of scrubber technology as it now exists on such bills.

The requested information is as follows:

1. The average residential electric bills for the five investor-owned utilities in the state

of Indiana for July 1973 was $18.76 as contrasted with the average residential electric bills of July 1975 for the sum of $23.85.

2. The best figures available for the electric utilities in the state of Indiana on projected increases and residential user charges resulting from the application of scrubber technology is estimated (a) will cost a little over one billion dollars of additional capital if scrubbers were required in all electric generating plants and (b) would cost $350,000,000 in annual operating costs. The effect of these above figures would be an increase cost of 20.7% per customer in Indiana to comply with the application of scrubber technology.

The figures available for scrubber technology were as of June 13, 1975, and it is estimated that there has been an increase of approximately $25.00 per kilowatt for capital expenditures.

If we can provide any other information helpful to you, please do not hesitate to let us know.

Yours very truly,

LARRY J. WALLACE,
Chairman.

I am also including in the RECORD at this time a copy of the Scrubber Cost Summary provided me by East Kentucky Power Cooperative, Spurlock No. 1 Station listed has just been dedicated so information is not complete. The Dale Station listed and the John Sherman Cooper Station listed are existing plants. Both may be required, as a result of this legislation, to install scrubbers to meet the requirements of the new act. According to engineers with East Kentucky, this summary can be translated as meaning an increase of 62 percent in the cost of producing bulk power by East Kentucky. These experts further state this increase will mean an additional 33 percent on top of present residential consumer bills.

Make no mistake, this legislation will be costly to consumers of electric power. I strongly support the attainment and maintenance of primary and secondary ambient air quality standards, and I firmly believe there are less costly strategies by which we can accomplish our goal, strategies which reflect a more realistic appreciation of the crunch in which many Americans are finding themselves today.

I urge each Member of this body to carefully review the additional, separate, and minority views accompanying the bill, H.R. 10498:

SCRUBBER COST SUMMARY

EAST KENTUCKY POWER COOPERATIVE

Question	Cooper	Dale	Spurlock No. 1
1. What is the original cost of the power station?	$45,000,000	$25,000,000	[1] $115,000,000
2. Cost of adding scrubbers [2]	$36,480,000	$22,116,000	$34,200,000
3. Estimate of SO^2 removal equipment operating cost	$7,469,400	$3,713,600	$6,330,000
4. Estimated cost of money (percent)	7.56	7.56	7.56
5. Estimated loss of plant capacity (3 percent) (megawatts)	10.62	5.28	9.0
6. Fuel adjustment for August (mills per kilowatt-hour)	7.208	7.208	
7. Base power rate increase in last 3 years (percent)	3.9	3.9	

[1] Estimated construction cost.

[2] Plus approximately $12,500,000 at each facility for sludge disposal.

PERSONAL EXPLANATION

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 3, 1976

Mr. LEHMAN. Mr. Speaker, due to unbreakable commitments in my district, I was unable to be present in the House for the final vote on Thursday, July 29, or for Friday, July 30th. Had I been present, I would have voted as follows:

On rollcall No. 573, agreeing to House Resolution 1350, to establish a Select Committee on Narcotics Abuse and Control, as a cosponsor of a similar resolution, I would have voted "yea."

On rollcall No. 576, the Bingham amendment to H.R. 8401, the Nuclear Fuel Assurance Act, I was paired for the amendment and would have voted "aye."

On rollcall No. 577, the rule for H.R. 2525, the Indian Health Care Improvement Act, I would have voted "yea."

On rollcall No. 578, final passage of H.R. 2525, I would have voted "yea."

YOUTH DIRECTOR: "I'M CHANGING THEIR LIVES"

HON. CHARLES E. BENNETT

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 3, 1976

Mr. BENNETT. Mr. Speaker, I include here an article published in the July 31 Jacksonville Journal about Mr. Al Miller who is the youth director for the Ortega United Methodist Church, and I do so not just to pay tribute to this fine man and the church which stands behind him, but also to point out the great need for activity of this sort in these times. Many young people in the immediate past have practically said to the world, "Stop, I want to get off."

The need for increase in communications between all people and the need to get into the mainstream of being a helpful citizen can be met by constructive work in church and social-minded organizations, the sooner, the better.

The article follows:

YOUTH DIRECTOR: "I'M CHANGING THEIR LIVES"

(By Barbara White)

Al Miller spends his week organizing activities for young people in the seventh through the 12th grades. He takes them to the beach one day a week, ice skating or to a movie another, and twice a week they play softball.

"Sometimes the parents come to me and ask what kind of group I'm running—a social group or a church group?"

Miller, the youth director of Ortega United Methodist Church, admits that he has occasionally wondered about that himself. The activities he plans may be fun, but are they religious?

"I was talking about this very thing with the minister, Rev. Don Jones, and his wife, Mary Ann, who is director of the youth choir. She said that she had had parents tell her that since we instituted the full program, their kids are coming home changed—it's making a difference in their home lives.

"That's when you know you're making a difference, you can feel you're doing the right thing, when they really change their lives."

Miller has been youth director at the Ortega church for two and a half years. The group has grown from 25 to 30 junior and senior high school youths to "close to 80 with the new crop of seventh-graders."

"I can't take all the credit though. Rev. Jones started developing the youth program the year before I came, with another director."

In the past two and a half years, though Miller has devoted his time to providing something for the young people to do almost all the time.

"During the summer we have something for them to do every day but Monday. That's my day off, though I have finally gotten close enough to the kids for them to come by my house on Mondays—they even get me out of bed—to talk about their problems with me.

"Then I take a van load to the beach every Tuesday morning and we play in a softball league on Tuesday evenings. Wednesday morning a lady at the church teaches arts and crafts and on Wednesday evenings I teach a Bible study group.

"That is one of my high points. It's the first year I've actually taught Bible. I started it just as a discussion group, but now I see that you don't have to be a high-powered theologian to teach the Bible. I really feel God working with and through me in this class. He's touching their lives and meaning something to them.

"That's when I know I'm not just a social director."

Thursdays offer service and more softball as the group fills a regularly scheduled slot at the Normandy Day Care Center in the morning, helping with the children or mowing the yard, and returns to the softball field in the evening.

"Last year we made it to the finals and were the champs. This year, we were moved into a harder league and we didn't win."

On Friday mornings Miller teaches a percussion class with five or six youngsters who are just becoming interested in playing an instrument.

"Friday evenings we go to a movie or go ice skating . . . just do something fun together."

Some special activities are included, "olympic" games have been established with about 300 youths from eight Methodist churches in the subdistrict taking part.

"We use the same games every year so we can keep records. We are going to contact Guiness and see if we can get our records in there. In the pyramid build, we put up 10 kids in 2.9 seconds flat. And there is one youngster who threw a frisbee 245 feet."

A subdistrict in Orlando has picked up the olympics idea and Miller said he had a call from a church in Miami that was interested in beginning. "Maybe we can have a state meet one day."

Most weekends the group plans a special activity, Miller said. "We go on retreats or something like that. The youth choir, the Sonshine People, went on tour and most of the group, 60 or 65 of them, belong to the choir."

They have scheduled a car wash for today to raise funds for their latest project and tomorrow afternoon they will make final preparations for this venture.

"We'll leave Monday and come back on Aug. 9—we'll be gone a full week," said Miller.

The group will make a hiking trip along the Appalachian Trail, the third year they have made the trek.

"In the past we've gone with other groups and ended up with about 80 kids—and that's too many, so this year there will just be 34 of us and counselors."

Fellowship is a vital part of all the activities Miller plans for the youth.

"But it isn't just fellowship. On this hike, in the evenings, we will sit around and talk and there will be devotionals and little programs. It's so quiet and away from everybody; you feel so close to God.

"My kids may not walk around saying, 'I love God.' But they show it."

THOUGHTS ON MY COUNTRY'S BIRTHDAY

HON. BO GINN

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 3, 1976

Mr. GINN. Mr. Speaker, I believe that the true meaning of our Bicentennial Year can be measured by the impact that it is having on our young people. The Bicentennial has shown that our youth, perhaps more than our older citizens, recognize the real significance of our Nation's 200th birthday.

I can think of no individual who has better demonstrated the importance of this great event in American history than Mr. Dennis Carr, a student at Edmund Burke Academy in Burke County, Ga. Dennis recently won first place in the academy's essay contest on the subject, "Thoughts on My Country's Birthday." The contest was sponsored by the Ladies Auxiliary World War I Veterans Otranto Barracks 1049.

In his essay, Dennis has shown a penetrating understanding of our Nation's place in the world, and the special responsibility that Americans have to their heritage. I commend Dennis for his outstanding work, and I insert the text of his essay to be reprinted at this point:

> Nineteen hundred and seventy six marks the 200th anniversary of our great Nation, perhaps the greatest birthday of America during our life time. When one thinks of it in this way, he should strive to make this year a success for himself and also for his Nation. The Bicentennial success lies in the people, for it is the people who are the Nation.
>
> One might wonder what he has to celebrate. Could it be the unforgettable Watergate or maybe the vast inflation upon the Nation? No, this year did not come to be put down by its human faults, the faults which are tearing at the country. We are here to celebrate the wonder of our country, "One Nation under God," for being such a success for 200 years.
>
> This country has had her downfalls and weaknesses. But, then, what country has not? Where else can one find the most powerful Nation in the world, a country whose people are free to make her what they want her to be. Truly the people have ever more to look up to than they have to look down upon.
>
> Forever shall this country be praised around the world! No one has yet to match the uniqueness which links this nation together. Such a bind is not likely ever to occur again, and it is that fact that makes America so special. So, for the one who wonders what there is to celebrate, maybe he has never been a real American, but for those in glory with happiness in their hearts, the "Stars and Stripes" shall ever bear forth.

U.S. SUPPORT GROUPS FOR ARGENTINE TERRORISTS

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 3, 1976

Mr. McDONALD. Mr. Speaker, the actions of several powerful terrorist organizations have brought Argentina to a condition of near anarchy. The Marxist-Leninist terrorist groups were substantially aided by two decisions of the late President Juan Peron in 1973—an amnesty which freed hundreds of imprisoned terrorists—and the admittance to Argentina of Chilean, Bolivian, and Uruguayan terrorists and revolutionaries as "political refugees" after the overthrow of Salvador Allende's regime.

These refugee terrorists have in many instances joined forces with the indigenous Argentinian terrorists to attack not only the government of Juan Peron's widow and successor, Isabel Peron, but also of the military government which replaced her in March of this year.

The refugee terrorists and refugees who were providing support services for the terrorists such as providing "safe houses," money, serving as couriers, hiding fugitives, and so forth, have been the subject of strict control measures by the Argentine police and military. Some of the so-called political refugees who in fact were members or supporters of the Chilean MIR, the Bolivian ELN, or the Uruguayan Tupamaros have been expelled. Others have been given notification to leave.

In this country, supporters of these Cuban-trained and armed terrorists have commenced a pressure campaign aimed at gaining U.S. visas for them; at pressuring the U.S. State Department into interceding on behalf of arrested revolutionaries who are not American citizens, and at cutting off all U.S. aid to Argentina.

In 1974, four Cuban supported Latin American revolutionary organizations formed a united command—a sort of "terrorist international" called the JCR—Revolutionary Coordinating Council. The JCR includes the ERP—Ejercito Revolucionario del Pueblo, Peoples Revolutionary Army—of Argentina; the Chilean MIR—Movimiento de la Izquierda Revolucionaria, Movement of the Revolutionary Left—the Bolivian ELN—Ejercito de Liberacion Nacional, National Liberation Army; and the Tupamaros of Uruguay.

Strong antiterrorist measures in Chile, Bolivia, and Uruguay drove the surviving terrorists and their supporters into exile. Large numbers of them entered Argentina legally and illegally where they joined with the ERP terrorists.

Mario Munoz was a leader of the Regional Miners Councils, a labor front of the MIR. JCR organizations in Europe have charged that Munoz had been in Argentina "aiding Chilean refugees" and that he was arrested on July 2 in a raid by security forces on a United Nations operated facility for so-called political refugees who were aiding terrorists. A Trotskyist Communist source states that Munoz has been released. However, a check with Argentinian authorities reveals that Sr. Munoz had never officially entered Argentina; that its security agencies have no record of having arrested him and no information as to his location, although no doubt they would like him in custody.

In similar previous cases, revolutionaries have clandestinely entered a country with false identification and have been picked up routinely in checks—and have been released routinely before their true identities were known.

Within days of his alleged disappearance, an international support operation for Munoz went into operation. Support for the MIR and ERP comes from both the Cuban apparatus and from Trotskyist Communists. Trotskyist organized the ERP and participated in the formation of the MIR.

In Europe, the support effort for Mario Munoz has been spearheaded by the Committee To Defend the Worker & Sailor Prisoners in Chile. Their arm in this country is the Partisan Defense Committee—PDC—which operates from Post Office Box 633, Canal Street Station, New York, N.Y. 10013, 212/925-2426.

The PDC's list of endorsers of the Munoz campaign is very interesting and revealing. Sponsors of special interest include:

> Edmund Samarakkody, leader of the Revolutionary Workers Party, a militant Trotskyist communist faction in Sri Lanka.
>
> Denis Cassin, national organizer of the Irish Republican Clubs, USA and Canada, the support front for the terrorist Official (Marxist-Leninist) branch of the Irish Republican Army.
>
> Rosie (Roosevelt) Douglas, a well-known violence-oriented revolutionary who after resisting Canadian deportation proceedings for several years returned recently to the West Indies.
>
> Revolutionary Marxist Group, the Canadian Trotskyist organization which supports the "terrorism now" position of the Fourth International's ruling International Majority Tendency (IMT).

Carmen Castillo, a top leader of the Chilean MIR terrorists. Castillo was wounded and arrested in a November, 1974, shootout in which her "comrade" Miguel Enriquez was killed. After a few months detention, the Chilean military government expelled her. Since then she has spent considerable time in Cuba and Europe organizing the reinfiltration into Chile of MIRistas.

Irish Republican Socialist Party (IRSP) is a Trotskyist communist party headed by Bernadette Devlin McAllister. The IRSP has been working closely with the Saor Eire, an Irish Trotskyist terror gang.

Alain Krivine is head of the Ligue Communiste Revolutionnaire (LCR), the French section of the Fourth International which supports the IMT "terrorism now" group. Krivine and other French Trotskyists were arrested recently in France for encouraging army recruits to turn their guns around on their officers.

Pierre Lambert heads an international Trotskyist organization which is a rival of the Fourth International, the Organisation Communiste Internationaliste (OCI). OCI maintains close contact with Palestinian terrorists.

Jiri Pelikan has an interesting background. Back in the days when he had KGB assignments he served as head of the International Union of Students; later he served as head of the Czech television network. When the Russians invaded his country in 1968, he fled; and has since been active in "independent" Marxist circles.

Luis Vitale is another leader of the Trotskyist Fourth International.

M. Warschawski leads the Revolutionary Communist League (Matzpen-Marxist) in Israel. The RCL is the Israeli section of the Fourth International. Under the alias "Mikado," Warschawski votes with the IMT faction on the Fourth International's International Executive Committee in support of the Palestinian terrorists.

The sponsors of the Committee To Save Mario Munoz—PDC—in the United States are varied, ranging from old Communist Party, USA, activists such as Alvah Bessie, Anne Braden, Angela Davis, Charles R. Garry, and Paul Jacobs through Trotskyist Communists like Froben Lozada of the Socialist Workers Party and Trotskyist splinter groups such as the Communist Cadre, the International Socialists and the Revolutionary Socialist League to "new left" supporters of the Vietcong, Palestine Liberation Organization and other terrorist groups.

A large number of sponsors are drawn from the National Lawyers Guild—NLG—the principal legal support group for terrorists in this country. NLG sponsors include William Goodman, NLG president; Eve Pell; Abdeen Jabara; Conrad Lynn; Sanford Katz; Michael Kennedy; Fred Cohn; Thomas I. Emerson, recently retired from Yale Law School; and Judge Justin Ravits, of Detroit.

The Institute for Policy Studies and its Transnational Institute subsidiary are represented by Eqbal Ahmad and Paul Jacobs, an admitted Communist Party member.

It is amusing that in this united front effort among the endorsers are a Trotskyist group, The Spartacist League's Militant Solidarity Caucus, an "insurgent" rank-and-file group in a UAW local, which has found "Militant Solidarity" for once with the old Stalinist Norman Roth, former president of UAW Local 6, and a member of the Lieber Club (Auto Workers) of the Communist Party, USA.

The full roster of endorsers of the Partisan Defense Committee's Mario Munoz effort follows:

Roster of Endorsers

UNITED STATES

Raymond Lee Abraham, Jr., B.S.O.C.
Father Antoine Ardien, Haitian Fathers."
American Federation of State, County and Municipal Employees (AFSCME) Local 634, Madison, Wi.
AFSCME, Local 1695, Berkeley, Ca.
Eqbal Ahmad.
Ellery Allen.
Robert L. Allen, editor, *The Black Scholar*.*
Roxana Alsberg, folksinger.
Associated Student Government, Northwestern U.*
John August, Teamsters for Democracy, IBT 695.*
Roldo Bartimole, editor, *Point of View*.*
Thomas Barton, member 1199.*
Andrew Beattie, Biology Dept., Northwestern U.*
Larry Bensky, General Manager, KPFA Radio.*
Jim Berland, Public Service Dir., KPFK Radio.*
Daniel Berrigan.
Alvah Bessie.
Black Students Organization and Communication, Chicago.
Frederick Blum, V.P., A.F.T. Local 3500*; Assoc. Prof. of Geography.
James Bond, City Council of Atlanta, Ga.
Anne Braden, civil rights activist.
Fred Branfman.
J. Quinn Brisben, V.P. candidate, SPUSA.*
Finley Campbell, Progressive Faculty Caucus,' of Wisconsin.*
Joe Carnegie, Dir., Brooklyn Fight Back.*
John Carroll, Esq., Southern Poverty Law Center.*
Chicago Alliance Against Racist and Political Repression.
Noam Chomsky.
David Clarenbach, state senator, Wisconsin.
William E. Clark, Sec'y, Graduate Assistants Union, U. of Conn.
Coalicion de Latinoamericanos.
Fred Cohn, Atty.
Comandos de la Resistencia de la Republica Dominica.
Comite Pro Defensa de los Derechos Humanos en la Republica Dominicana, New York.
Committee Against Friedman/Harberger Collaboration with the Chilean Junta, Chicago.
Committee on Palestinians in New England.
Communist Cadre.
Community Action on Latin America, Madison.
Christopher R. Conybeare, The Ecumenical Justice Project.*
Robert H. Cowen, Math Dept., Queens College.*
William V. D'Antonio, Dept. of Sociology, U. of Conn.*
Angela Davis, Co-chairperson, National Alliance Against Racist and Political Repression.*
Jaime De La Isla, Chicano-Boricua Studies, Wayne State U.*
Dave Dellinger.
Desmond Trotter Defense Committee.
Carter R. Dodge.
Dominicans in Support of Progress.
Frank Donner, Gen. Counsel United Electrical Workers (UE),* member ACLU.*
East Bay Women for Peace.
Donn R. Edmark, News Dir., WRJN Radio.*
Elizabeth Dore, Latin American Institute, Columbia U.*
Ecumenical Program for Inter-American Communication and Action.
Thomas I. Emerson, Prof. of Law, Yale U.*
Alexander Erlich, Prof., Russian Institute, Columbia U.*
Rick Feinberg.
Michael Ferber, Lecturer, English Dept., Yale U.*
Lawrence Ferlinghetti, City Lights Books, S.F.
Norman Fisher, Dept. of Philo., Kent State U.*
Jane Fonda.
Mauricio Font, Group on Latin American Issues.*
Geoffrey Fox, Chicago Commission of Inquiry into the Status of Human Rights in Chile.*
Frank Fried.
Friends of Indochina.
Marina Garcia, Sec'y, Assoc. of Latin Musicians of America.*
Charles R. Garry, Atty.
Barbara Garson, author.
Eugene Genovese, Prof. of History, Rochester U.*
James Gillespie, Local 1247, Boilermakers.*
Jorgen Goderstad, Chairman, S. Central Wisconsin local, Socialist Party.*
Harvey Goldberg, Prof. of History, U. of Wisconsin.*
William Goodman, Nat'l Press. Nat'l Lawyers Guild.*
JoAnne Granquist, U. of Wisconsin, Madison, School of Nursing.*
Lee Grant.
Rev. G. G. Grant, S.J., Amnesty International*, Committee to Save Lives in Chile.*
Jim Grant, SCEF.*
Dick Gregory.
Eliot Grossman, Nat'l. Lawyers Guild, Hastings Chapter.*
Group of Concerned South Asians.
Will Haasch, Pres., Local 507 Graphic Arts Industrial Union (GAIU),* Madison.
Burton Hall, Atty.
Bill Hampton.
Harlem Fight Back.
Paul Harris, Atty.
R. Hauert, Program Co-ord., Ethics and Religion, U. of Michigan.*
James Haughton, Harlem Fight Back.
Tom Hayden.
Nat Hentoff.
Adam Hochschild, editor, *Mother Jones*.*
Richard A. Hodge, Atty.
William L. Hoover, Dept. of Soc., Kent State U.*
Independent Caucus, American Federation of Teachers (AFT),* New Jersey State College.*
International Socialists, Chicago local.
International Socialists, Madison local.
International Student Defense Committee, U. of Chicago.*
International Workers Party.
Iowa City Federation of Labor.
Abdeen Jabara, Atty.
Paul Jacobs, ex-editor, *Ramparts*.*
E. Roy John, Dir. Brain Research Laboratory, New York Medical College.*
Dale Johnson, Prof. of Sociology, Rutgers U.*
Sanford Katz, Atty.
Ira Katznelson, Assoc. Prof. Pol. Sci., U. of Chicago.*
Neil Kaufler, Dove County, Board of Supervisors.*
Theodore W. Keller.
John Kelly-Gadol, Dept. of History, City College of New York.*
Mark Kelly.
Florynce Kennedy, Atty.
Michael Kennedy, Atty.
Martin Kenner, screenwriter and author.
Ronald Kent, Field Rep., Wisconsin State Employees Union, AFSCME.*
Noah Kimerling.
Rose Kirk, Chief Steward, Local 7507, Oil, Chemical and Atomic Workers Union (OCAW).*

Donald J. Klimovich, assoc. editor, *Chicago Magazine*.*
Pat Knight, Pres., Social Service Employees Union (SSEU).* Local 371.
Paul Krassner, editor, *The Realist*.*
Labor Struggle Caucus, Local 6, United Automobile Workers (UAW).*
James T. Lafferty, Atty.
Kenneth P. Langton, Prof., U. of Michigan.*
Lavender and Red Union, L.A.
League for the Revolutionary Party.
Amy Lee, Dir. American Indian Rights Assn., Kent State U.*
Gerald Lefcourt, Atty.
John Leggett, Assoc. Prof. of Sociology, Rutgers U.*
Sidney Lens, author.
Denise Levertov.
Ben Levy, Democratic Socialist Organizing Committee.*
Longshore Militant, S.F.
Richard Lowenthal, Dept. of Soc. and Anthro., Kent State U.*
Froben Lozada, Chicano Studies Faculty, Merritt College.*
Salvador Luria, Nobel Laureate.
Florence Luscombe, activist/leader women's suffrage movement.
Conrad Lynn, Atty.
Staughton Lynd, author.
Bradford Lyttle, War Resisters League.*
Madison Women's Union.
Aadeddin A. Malley, Organization of Arab Students.*
Tanya Mandel.
William Mandel.
Michael Marcus, Prof. of Math., Northwestern U.*
Robert Mattoon, Jr.
Gertrude Mayes, San Quentin Six Defense Committee.
Edward McGehee, English Dept., Kent State U.*
Helen McMillan.
John McMillan.
Dr. Kim McQuaid, Hist. Dept., Northwestern U.*
Michael Meeropol.
Robert Meeropol.
Memorial Union Labor Organizations Stewards Council, Madison, Wi.
Luis Mendiola, Chicano advocate, U. of Michigan.*
Militant Action Caucus, Communication Workers of America (CWA), Local 9410.*
Militant-Solidarity Caucus, National Maritime Union.*
Militant Solidarity Caucus, Local 906, UAW.*
Kate Millett, author.
John Mitchell, International Rep., Amalgamated Meatcutters and Butcherworkers.*
Ian Mueller, Dir. of Grad. Studies in Philo., U. of Chicago.*
Mark Naison, Mid-Atlantic Radical Historians Society.*
National Jury Project.
National Lawyers Guild, Chicago chapter.
National Lawyers Guild, Massachusetts chapter.
National Lawyers Guild, Yale U.*
New American Movement, national office.
New American Movement, U. of Chicago.*
David Newby, State V.P., Wisconsin Federation of Teachers, AFT.*
New York Unemployed Council.
Richard Newhouse, state senator, Illinois.
Azinna Nwafor, author.
Skip Oberbruner, Steward, Local 171 AFSCME.*
OCAW, District Council 8.
Dr. Philip Oke, UN rep., Christian Peace Conference.*
Organization of Arab Students, Boston chapter.
Grace Paley, Sarah Lawrence College.*
Partido Revolucionario Dominicano.
Susan Paul, American Friends Service Committee.*
Dean Peerman, *Christian Century*.*
Eve Pell.
Joseph Persky, Union of Radical Political Economists (URPE).*
James Petras, Prof. of Soc., State U. of N. Y. at Binghamton.*
Otto Pikaza, Assoc. Prof. Latin Amer. Studies, U. of Ill.*
Portage County Campaign for a Democratic Foreign Policy.
Postal Action Committee.
Adam Przeworski, Assoc. Prof. Pol. Sci., U. of Chicago.*
Joanne Fox Przeworski, Chicago Commission to Investigate Status of Human Rights in Chile, 1974.*
Leonard Radinsky, U. of Chicago.*
Rank and File Coalition, Local 6, UAW.*
Justin Ravitz, Judge, Recorders Court, Detroit.
Revolutionary Communist League (Internationalist).
Revolutionary Marxist Committee.
Revolutionary Marxist Organizing Committee.
Revolutionary Socialist League.
Jack L. Roach, Prof., U. of Connecticut.*
Janet K. Roach, Instructor, Eastern Connecticut State College.*
Michael Rogin, Prof. Pol. Science, U. of Cal. at Berkeley.*
Norm Roth, former Pres., Local 6, UAW.*
Betsy Rubin, Ann Arbor UFW Support Committee.*
Richard Rubinstein, Prof. Pol. Sci., Roosevelt U.*
Bobby L. Rush.
Richard Sable, Atty.
Joel Samoff, Dept. of Pol. Sci., U. of Michigan.*
J. Leon Samper, Dept. of Soc., U. of Conn.*
Maria Samper.
San Quentin Six Defense Committee.
Fay Schmidt.
Henry Schmit, Member of Bay Area Pensioners.*
Jay Schulman, National Jury Project.
Charles Schwartz, Prof. of Physics, U. of Cal. at Berkeley.*
James Scully, Prof., U. of Conn.*
Search for Justice and Equality in Palestine.
Dennis Serrette, Coalition of Black Trade Unionists.*
John Sharpe, Sec'y, international Spartacist tendency.
James J. Sheehan.
Sylvia Sherman, Sec'l, Local 171, AFSCME.*
William M. Shepherd, Prof. of Economics, U. of Michigan.*
Carl Shier, International Representative, UAW.*
Socialist Party, S. Central Wisconsin local.
Roney L. Sorenson, Alderman Dist. 5, Madison, Wi.
Martin Sostre.
Spark.
Stan Steiner, author *La Raza*.
I.F. Stone.
Student Government, University of Illinois*, Circle Campus.
Doris E. Strieter, Chicago Committee to Save Lives in Chile.*
Willie Tate, defendant, San Quentin Six.
Teaching Assistants Association, AFT, Local 3220.
Walter Teague, Friends of Indochina.
Studs Terkel, author.
Tom Thompson, editor, *Los Angeles Vanguard*.*
Rip Torn, actor/director.
Esteban E. Torres, assistant director, International Affairs Dept., United Auto Workers.*
United Farmworker Support Committee, Madison, Wi.
University of Chicago Student Government.
Arturo Vazquez, Latin American Studies Dept., U. of Illinois, Circle Campus.
Virgil J. Vogel, Sec'y., Socialist Party of Illinois.
George Wald, Nobel Laureate, Prof. of Biology, Harvard U.
Anthony Walsh, National Lawyers Guild.
Warehouse Militant, S.F.
John F. Weeks, Dept. of Economics, U. of Wisconsin.
What She Wants.
John K. Whitmore, Prof., U. of Michigan.
Sidney E. William, Youth Vision Integrity.
Wisconsin Student Association.
Women's Coffee House Collectors, Ltd.
Bernard Wiltshire, Desmond Trotter Defense Committee.
Peter Yarrow.
Howard Zinn.
Marvin Zonis, Prof., U. of Chicago.
Eddison J.M. Zvobgo, ZANU.

ASIA

Revolutionary Workers Party, Sri Lanka.
Edmund Samarakkody, Revolutionary Workers Party, Sri Lanka.

AUSTRALIA

Australian Meat Industries Employees Union.
Laurie Brereton, Legislative Assembly, New South Wales.
A. E. Bull, Sec'y, Waterside Workers, Federation of Australia, Melbourne branch.
Hon. Dr. Jim Cairns, House of Representatives, Australian Labor Party (ALP).
Hon. Dr. Moss Cass, House of Representatives, ALP.
Senator Ruth Coleman, ALP.
Federated Engine Drivers and Fireman's Association of Australia, Victoria and New South Wales branches.
Senator Arthur Gietzelt, ALP.
Frank Hardy, novelist.
Bob Hawke, Federal President, ALP, Pres., ACTU.
Ted Innes, House of Representatives, ALP.
Seamen's Union of Australia.
Ship Painters and Dockers Union, Victoria.
Socialist Workers Party.
Transport Workers Union of Australia, New South Wales branch.
Union of Postal Clerks and Telegraphists.
Waterside Workers Federation of Australia.

CANADA

David F. Aberle, Prof. of Anthropology, U. of British Columbia.
African Liberation Week Committee.
David Archer, President, Ontario Federation of Labour.
Black Education Project.
Trent M. Brady, Prof., York U.
Andrew Brewin, Member of Parliament, New Democratic Party (NDP).
Ed Broadbent, MP, Leader, NDP (verbal).
Brian Campbell, NDP, Vancouver.
Canadian Arab Federation.
Canadian Labour Congress.
Canadian Union of Public Employees, Local 1230.
Dr. Maria Canive.
Dr. Jose Canive.
Denis Cassin, National Organizer, Irish Republican Clubs, USA & Canada.
Florrie Chacon, Inter-Church Committee on Chile.
Paul Copeland, Law Society of Upper Canada.
Sheila Delaney, Prof., Simon Fraser U.
C. H. DeRoo, Instructor of English, Simon Fraser U.
Don J. DeVoretz, Dept. of Econ., Simon Fraser U.
Oduardo Di Santo, Member of Provincial Parliament, Ontario NDP.*
Dominicans in Support of Progress.
Rosie Douglas.
Jan Dukszta, MPP, Ontario NDP.*
Group for Defense of Civil Rights in Argentina.
Sami Gupta, Dept. of Communication Studies, Simon Fraser U.*
Janet Howard, Alderman, 7th Ward, Toronto.
Jamaica Nationals League.
Ron Johnson, NDP,* Vancouver.
Stu Leggatt, MP, NDP* (verbal).

Edwin, Levy, Philosophy Dept., U. of Columbia.*

Ligue des Droits de l'Homme, Montreal.

Bob McBurney, Shop Steward, Letter Carriers Union of Canada,* Local 1.

Leo McGrady, Atty.

Norman Penner, Prof. of Pol. Sci., Glendon College, York U.*

Alex Power.

Revolutionary Marxist Group.

Charles Roach, Atty.

John Rodriguez, MP, NDP.*

H. M. Rosenthal, United Nations Assn.,* Vancouver.

R. B. Scranton, Mine, Mill and Smelter Workers' Union.*

Socialist League.

Sudbury and District Labour Council.

Dorothy Thomas, Alderman, Ward 9, Toronto.

Vancouver Area Council of the NDP.

Vancouver Chilean Association.

Gordon Vichert, Sec'y, Ontario NDP* (verbal).

William Vidaver, Prof. of Biology, Simon Fraser U.*

Micheline Walker, Dept. of Romance Languages, McMaster U.*

EUROPE

Frank Aliaun, MP, British Labour Party.*

Alliance Against Fascist Dictatorship in India, London.

Louis Althusser, Paris.

Argentine Support Movement, London.

Asian Socialist Forum, London.

Association Francaise des Juristes Democrates.

Bertrand Russell Peace Foundation, London.

Ernst Bloch, philosopher.

Claude Bourdet, journalist, Paris.

Dr. Peter Brandt, Berlin.

Pierre Broue, Organisation Commniste Internationaliste (OCI),* Grenoble.

Campaign for the Release of Indian Political Prisoners, London.

Campaign to Repeal the Immigration Act, London.

Carmen Castillo, Chilean MIR.*

Comite International Contre la Repression, Paris.

Commission of Overseas Students Organization, U. of Birmingham.*

Pierre Daix.

H. Dubedout, mayor of Grenoble.

Jean-Pierre Faye, writer, Paris.

Mario Felmer, Chilean Young Socialists,* London.

Martin Flannery, MP, British Labour Party.*

J.-A. Gau, deputy.

Prof. Helmut Gollwitzer, Free University,* Berlin.

Daniel Guerin, Paris.

The Gulf Committee, London.

Paco Ibanez, singer.

Irish Republican Socialist Party, London.

Joint Council for the Welfare of Immigrants, London.

Alain Krivine, Ligue Communiste.

Revolutionaire (LCR), France.

Jean Michel Krivine, Ligue Communiste Revolutionnaire (LCR).

Pierre Lambert, OCI.

Gerard Lancomme, Grenoble.

Tom Litterick, MP, British Labour Party.

Marxist-Leninist Organization of Britain.

Prof. Klaus Meschkat, U. of Hannover.

Miners International Federation.

A. Minkowski.

Paul Mistral, senator.

Stan Newens, MP, British Labour Party.

Paul Noirot, journalist, *Politique Hebdo*, Paris.

North London Committee Against Repression in Spain.

Alexandre Oliveira, *Gazeta de Semana*, Lisbon.

Parti Socialiste Unifie (PSU).

Jiri Pelikan, editor, *Listy*.

Friedrich Prechtl, chairman, Railroad Union, Austria.

Michele Ray, photographer/journalist, *Politique Hebdo*, Paris.

Ernie Roberts, assistant general secretary, Amalgamated Union of Engineering Workers, London.

George Rodgers, MP, British Labour Party.

Maxime Rodinson, author.

Claude Roy, writer, Paris.

Jean Paul Sartre, Paris.

Catherine Sauvage, singer, Paris.

Laurent Schwartz, mathematician.

Syndicat de la Magistrature.

P. Vidal-Naquet.

Daniel Viglietti, singer.

Luis Vitale.

Cristina Whitecross, London.

Richard Whitecross, London.

NEAR EAST

The Committee of Arab Students, Jerusalem University.

Felicia Langer.

Israel Shahak, Israeli League for Human and Civil Rights.

Joshua Sobel, writer and journalist.

M. Warschawski, Revolutionary Communist League (Matzpen-Marxist).

A PHONE CALL FROM JIMMY

HON. BARBER B. CONABLE, JR.

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 3, 1976

Mr. CONABLE. Mr. Speaker, the attached editorial from yesterday's Washington Star is an excellent statement of the issues in the dramatic call from Plains, Ga., which has the majority in our House galvanized to do the candidates' bidding. Those concerned about the separation of powers should read it:

A PHONE CALL FROM JIMMY

What's the big rush on postcard voter registration?

All of a sudden the House Rules Committee has cleared a registration-by-mail bill that has been lying around for months.

And Frank Thompson Jr., the new head of the Administration Committee, which did the original work on the bill, is carrying around a batch of amendments aimed at putting the postcard registration plan into effect for the fall presidential election.

The bill is expected to go to the floor of the House this week. If it wins approval there, no doubt the sponsors will then put on a strong push to get immediate action in the Senate. The Senate approved the legislation in 1973 but it has to go through the process again since the House didn't act during that session of Congress.

The present flurry of activity apparently flows from a telephone call Gov. Jimmy Carter made last week to House Speaker Carl Albert. The Democratic presidential nominee is reported to have said he hoped the bill could be passed now. Mr. Albert called Rules Committee Chairman Ray Madden and, lo and behold, the postcard registration bill miraculously came unstuck.

It is pretty obvious that Mr. Carter sees some benefit to his campaign if postcard registration goes into effect before the November election. Why else would he be in such a hurry with the "universal voter registration" that he promised in his convention acceptance speech?

If the Postal Service, which already has enough problems getting the regular mail delivered, couldn't inundate the nation with postcards, the labor unions backing Mr. Carter undoubtedly would send their troops into the breech, putting a postcard registration form into every hand that might be expected to pull the Democratic lever in November.

Perhaps some cool heads on Capitol Hill will slow things down. The need for postcard registration is questionable, to say the least.

Whatever Mr. Carter may think of it, this is not "universal voter registration." It is, as one opponent put it, "universal postcard distribution." The only way to achieve universal registration is to declare by law that anyone who shows up at the polls can vote.

A few states have postcard registration, but surveys have shown that it has not added significantly to the voter turnout. There is no reason to believe that a federal program would produce any better results.

The possibility of fraud probably would be increased under postcard registration. Officials could be kept hopping trying to chase down registrants using fictitious names or borrowing the names of others.

What's wrong with an applicant being required to show up in person to register to vote? Anyone who won't make that minimum effort is hardly a concerned citizen.

Perhaps the worst feature of this registration-by-mail scheme is federal intrusion into state prerogatives. The federal bill would deal only with registration for federal elections. But states and localities undoubtedly would feel pressured to make their registration laws conform to the federal program. It could be expected that before long federal bureaucrats would have taken over registration for all elections, or at least be dictating how it should be done.

No one seems to know exactly how much the federal postcard registration plan would cost the taxpayers. Estimates range from $30 million to $500 million. The legislation provides for creation of a National Voter Registration Administration. Given the enormous administrative problems that would arise, NVRA would soon require several layers of bureaucratic chieftains and Indians.

Even if the program were necessary and desirable—and we don't think it is—it is not something that can be put into effect overnight. The confusion and chaos that would result in trying to ram it into operation in time for the November election can hardly be imagined.

The chairman of the House Republican Conference, Rep. John Anderson, said the other day that "it's rather presumptuous of the Democratic presidential nominee to be sending legislative messages to the Hill." We agree that it's a little premature for Mr. Carter to be muscling the House; it will be time enough after November, if he's elected, to send a "universal voter registration" proposal to the Hill.

If Congress does rush the bill through at Mr. Carter's urging, we would suggest that the present President—Mr. Ford—veto it.

RETIREMENT SALUTE

HON. RAY ROBERTS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 3, 1976

Mr. ROBERTS. Mr. Speaker, I would like to say a few words concerning the retirement of a loyal and dedicated man, John McGuiness, on July 30. As you know, John served in the Office of the Attending Physician, U.S. Capitol, since 1954. I am sure I speak for all my colleagues in the House of Representatives in saying that he will be missed. John enjoys an outstanding reputation as a man of great charm and ability.

As a fellow "Navy man, I am proud to say that he has been an outstanding representative of the naval service and has served the Navy and the U.S. Congress well and in the highest of naval tradition. Again, I know I echo the sentiments of all my colleagues in wishing him a most enjoyable retirement.

EASTERN SHORE'S BAUMAN: BURR UNDER THE CONGRESSIONAL SADDLE

HON. MARJORIE S. HOLT

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 3, 1976

Mrs. HOLT. Mr. Speaker, yesterday's Washington Star had an interesting article by Rebecca Leet on my good friend and colleague, Bob Bauman, who represents the First District of Maryland so ably. I am very proud of the job that Congressman BAUMAN is doing for our Nation and I would like to share this article with all of you:

EASTERN SHORE'S BAUMAN: BURR UNDER CONGRESSIONAL SADDLE

(By Rebecca Leet)

In mid-July the House Democratic leadership, stirred by the increasingly poor public image of Congress as word of Rep. Wayne Hays' sexual behavior got around the country, came up with a list of reforms in congressional spending.

Several Democrats were unsure exactly what the impact of the changes would be.

Many Republicans downright disagreed that the measures would, in fact, constitute reform.

Amid all the public and private dissenters, however, it fell to a Republican congressman with only three years in the House to momentarily block the reform steamroller and force some explanation that otherwise would not have taken place.

He was Republican Rep. Robert E. Bauman of Maryland's Eastern Shore, and the David-and-Goliath stance was nothing new to him.

Ever since H. R. Gross, the Iowa Republican who for a quarter-century was the bane of congressional boondogglers, retired in 1974 Bauman has been coming to grips headon with House power brokers to whom many a fresh-faced congressman barely dares say hello.

He took on the Republican and Democratic leadership on the issue of sending 25 members and their wives to London to pick up the Magna Carta. Bauman lost the battle but brought public attention to the cost.

He alienated many of his colleagues by forcing a recorded vote on the measure that increased congressional salaries.

He's a watchdog who cares more for proper procedure and clarity of legislative intent than he does for hurrying away at the end of a late night or just before a recess—even though he has a 90-minute ride to his home in Easton, Md.

As a result, when you mention his name to a cross-section of members of Congress and their aides, some of the replies you get can't be printed in a family newspaper.

House Minority Leader John J. Rhodes, who praises Bauman's effectiveness as the "minority objector," facetiously calls him "the 'bleep' of the House." Majority Leader Tip O'Neill curtly says, "It is hard for me to say anything nice about Bob Bauman."

All of which bothers the 39-year-old legislator not at all. He notes that Gross was only warmly spoken of when he was about to retire.

"Everybody likes to be loved, but you can't do the things that need to be done here and expect to have people fall all over you with love and kisses," he added.

The things Bauman thinks need to be done involve mostly keeping watch on the Democratic majority, a bunch that Bauman rarely sees eye-to-eye with on congressional matters.

A founder and former national leader of both the Young Americans for Freedom and the American Conservative Union, Bauman holds strongly conservative views.

While he smilingly mentions his hope that he will see a "conservative millenium" one day, he knows there is little chance that House legislation is going to become more reflective of his views in the near future.

He does not, in fact, concentrate a great deal on initiating legislation, having introduced only 15 measures in this Congress and seeing only one enacted. His lack of seniority, his minority party affiliation and conservative bent do not augur well for his making a mark legislatively.

But in his H. R. Gross role he is having an impact probably far beyond any other House member who has warmed the chamber's chairs for only three years.

Often House power brokers—committee chairmen and the leadership—come by to brief him on a bill they want to move quickly through the House before they bring it up on the floor.

It is not a task the veterans enjoy. But they know they can either notify him in advance or have him rise from his favorite chair at the minority table, swing the mike in front of himself and begin questioning what is going on, or why it is, or what it will cost.

Bauman's self-appointed role requires something almost no other member is willing to do: Be on the floor all day every day while the House is conducting business. His attendance record for the first two years in Congress was 100 percent. It fell to 99 percent last year.

Three other Republican conservatives—Reps. John Ashbrook of Ohio, John Rousselot of California and Steven Symms of Idaho—sometimes share the watchdog role and fill in for Bauman when he is not there. They were all considered likely prospects to take over from Gross, but Bauman was the one who evolved as the main watchdog.

"Others do not have the stomach for the tedium," he explains.

Many others, also, don't know the House rules inside and out the way Bauman does.

Before returning to Easton to take up a law practice in 1968, Bauman had worked on Capitol Hill for 15 straight years, beginning as a page and ending as head of the Republican cloakroom staff.

In the latter job almost five years, it was his responsibility to know at all times what was happening on the floor and to anticipate what might happen next.

It was invaluable training for the native of Bryn Mawr, Pa., who decided after reading Abraham Lincoln's World when he was 7 years old that he wanted to be a congressman.

The nattily dressed, somewhat pudgy Bauman is one of those persons who commands more respect than affection.

Bauman says he never takes his battles off the House floor, but some who have locked horns with him over the last couple of years are not so generous in leaving their personal feelings at the chamber door.

"The thing about H. R. (Gross) was that he could rub you the wrong way on the floor but then he'd go behind the chairs and rub you the right way," said one longtime House member.

In some instances, Bauman can be his own worst enemy. He is articulate and can be witty but tends to turn the humor into sarcasm or a biting aside. And he is hardly demure. He is the type of person who, without fidgeting or smiling uncomfortably, can say, "Members tell me, 'By God, if we didn't have you we'd have to invent you'."

But he is not without his friends in Congress, even among liberals. Phillip Burton, chairman of the Democratic Caucus and a candidate to take O'Neill's job next Congress, said he likes Bauman. "I admire and respect a well-informed, hardworking colleague who does not necessarily share all my opinions."

Rep. Paul N. McCloskey, noting that he and Bauman are at opposite ends of the Republican spectrum, said, "I respect him a great deal . . . He raises points that would not be raised except for a member with his somewhat brash approach."

Even O'Neill conceded Bauman is "a very able and talented fellow . . . He serves a purpose for those who agree with his philosophy."

Bauman would disagree that he fights only for his own conservative viewpoints, noting that he raises objections which others, Democrats and Republicans, would rather not raise.

"They come up and ask me to play the bastard," Bauman said. For example, he explained, a colleague may not want a committee report filed but doesn't want to object to it himself for fear of alienating the chairman.

"The people who get angry when you do something are the same people who two days before were asking you to do something to somebody else," Bauman said.

PERSONAL EXPLANATION

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 3, 1976

Mr. LEHMAN. Mr. Speaker, due to unforeseen circumstances in my district this past weekend, I was unable to return to Washington until this morning. Therefore, I was not present for yesterday's vote in the House. Had I been present, I would have voted as follows on the motions to pass various bills under suspension of the rules:

On rollcall No. 581, Civil Service Annuities for Judges, including the elimination of the 1-percent add-on for civil service annuity cost-of-living increases, I was paired against and would have voted "nay."

On rollcall No. 582, Boundary Waters Canoe Area, Minnesota, I would have voted "yea."

On rollcall No. 583, Freestone Peach Research and Education Act, I would have voted "nay."

On rollcall No. 584, the John F. Kennedy Center Act Amendments, I would have voted "yea."

On rollcall No. 585, the Antitrust Civil Process Act Amendments, I would have voted "yea."

On rollcall No. 586, the Antitrust Premerger Notification Act, I would have voted "yea."

On rollcall No. 587, the Reduction in Beer Tax for Small Brewers, I would have voted "no."

On rollcall No. 588, the Veterans' Administration Physicians and Dentists Pay Extension, I would have voted "yea."

On rollcall No. 589, the National Energy Extension Service Act, I would have voted "yea."

IUE SUPPORTS DINGELL-BROYHILL (TRAIN) AMENDMENT TO CLEAN AIR BILL

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 3, 1976

Mr. DINGELL. Mr. Speaker, the International Union of Electrical, Radio and Machine Workers has kindly corresponded to me their determinations regarding the Clean Air Act Amendments, H.R. 10498, pending for House floor action. I am pleased to note to the Members of the House the strong support of this union for the Dingell-Broyhill (Train) amendment.

INTERNATIONAL UNION OF ELECTRICAL, RADIO AND MACHINE WORKERS,

Washington, D.C., July 30, 1976.

DEAR REPRESENTATIVE: The IUE is greatly concerned about the legislation affecting auto emission standards (H.R. 10498). Unless the Congress does two things—act promptly and act properly—our membership could lose a significant number of jobs next year and for the years to come.

By acting promptly, we mean taking the legislation to the Floor for action before the August recess. The Interstate and Foreign Commerce Committee reported the bill out on May 15, but Chairman Staggers has failed to move forcefully for Rules Committee action. Since the auto companies are forced by EPA's certification lead time requirements to submit applications already for the 1978 model year, the Congress must make clear—as soon as possible—what the 1978 emission standards will be. We urge you to persuade Chairman Staggers and the Rules Committee to move now.

By acting properly, we mean to vote in a reasonable schedule of auto emission standards which balance the competing requirements of emission control and fuel efficiency without slowing down progress toward cleaner air.

There is ample evidence that fuel efficiency suffers when emission standards are tightened. In 1976, for example, it is an indisputable fact that California cars suffer a 10 percent fuel penalty over cars in the other 49 states in order to attain more stringent standards. There is also ample evidence by EPA itself that air quality is improving as new cars replace older, dirtier ones (one pre-1968 car emits more pollutants than did six 1976 cars). There is also little difference, so far as rate of progress of cleaner air is concerned, between any of the proposals before the House.

Specifically, then, our IUE membership urges you to vote for the amendment to H.R. 10498 which Representatives John Dingell and Jim Broyhill will offer. Its emission standards will save 67,000 barrels of gasoline per day over the Committee standards. It will save consumers $22.3 billion between now and 1985, compared to the House bill. It will give the automobile industry a set of standards through 1981 so that they can make effective plans to meet the fuel economy standards legislated last winter by the Congress. It will enable the industry to maintain healthy employment rates.

We need your help in getting a decision on auto emission standards promptly; we need your support for the Dingell-Broyhill amendment.

Sincerely yours,

DAVID J. FITZMAURICE,
President.

VOTING RECORD

HON. CLARENCE J. BROWN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 3, 1976

Mr. BROWN of Ohio. Mr. Speaker, as you know, every vote that I cast on the floor of this House is a matter of public record. As such, every citizen is entitled to know how I vote on each item that comes before us. Although, in retrospect, I might have cast some of those votes differently, taken all in all, I am proud of the voting record I have compiled in my 11 years in Congress. I welcome all inquiries into that record.

In order to provide the most detailed possible report of the proceedings of this House and my votes, I have arranged to have the CONGRESSIONAL RECORD sent to many of the libraries and colleges and universities in the Seventh District. Unfortunately, the RECORD is so detailed and thorough that it may not be useful to those who are only casually interested in my activities on behalf of my constituents.

From them, I welcome inquiries of any type at any time. I respond to thousands of letters a year with details of my votes on issues of particular interest to the inquirer. I also write a weekly column on issues of importance.

Still, Mr. Speaker, it seems to me that there may be some who would like to review my voting record without having to write specifically for my vote on a particular issue. For them, I have decided to have printed here my voting record for the 1st session of the 94th Congress with bills listed in alphabetical order:

VOTING RECORD

H.R. 4296—AGRICULTURE CONSUMER PROTECTION ACT

Amendment to keep cotton target prices and loan rate at existing level of 88c and 43c per pound, rejected 159–260, aye; Amendment to lower target price for cotton to 45c from 48c per pound and lower rates for cotton to 38c from 40c per pound, adopted, 321–97, aye; Amendment to retain existing target prices for '75 crops of cotton, corn and wheat with adjustments to reflect increased production costs and set minimum loan rates for '75 corn and wheat crops at $1.34 and $1.67 per bushel, rejected 105–306, aye; Amendment to lower the milk support rate to present level of 80% but to retain provisions for quarterly cost-of-living adjustments, adopted 222–202, no; Amendment to raise milk support rate to not less than 82% beginning 3rd quarter of '75, rejected 206–211, aye; Motion to recommit with instructions to report bill back to House striking provisions making loans for '75 soybean crop, rejected 118–198, yea.

Final passage, a bill to adjust target prices, loan and purchase levels, on '75 crops of upland cotton, corn, wheat and soybeans for period ending 3–31–76, passed 259–162, yea; 3–20–75.

Conference report adopted 248–166, aye; 4–22–75.

Vote to override Presidential veto of Agriculture Consumer Protection Act, failed, 245–182, nay; 5–13–75.

H.R. 8516—AGRICULTURE APPROPRIATIONS FOR FISCAL YEAR 1976

Amendment to add $250 million to the Farmers Home Administration revolving loan fund to help small farmers meet federal water pollution control standards, adopted 307–86, no; Amendment to delete $3 million in government subsidies for Cotton Inc., a private promotional and research organization, rejected 196–199, aye; Motion to recommit to the House Appropriations Committee the bill to appropriate funds for the Department of Agriculture and related agencies for fiscal year 1976 and the transition period, rejected 58–333, nay.

Final passage, a bill to appropriate $11,047,263,000 for the Department of Agriculture and related agencies for fiscal year 1976 and $2,037,545,000 for the transition period, passed 353–38, yea; 7–14–75.

H.R. 9771—AIRPORT AND AIRWAY DEVELOPMENT ACT AMENDMENTS

Amendment to delete language placing a ceiling on the use of funds for development of airport terminals, adopted 246–138, no; Amendment to ban for 6 months the use of supersonic aircraft with noise levels above that of present supersonic aircraft, adopted 199–188, no.

Final passage, a bill to authorize $4.76 billion for airport development and other aviation activities for the five year period, fiscal year 1976–fiscal year 1980, passed 368–16, yea; 12–18–75.

H.R. 6673—AMERICAN FOLKLIFE PRESERVATION ACT

Final passage, a bill to create an American Folklife Center in the Library of Congress to encourage preservation of the customs, arts and crafts of American ethnic and regional groups, passed 272–177, nay; 9–8–75.

H.R. 4975—AMTRAK IMPROVEMENT ACT OF 1975 (AUTHORIZATION)

Amendment to delete provision increasing from $60,000 to $85,000 the salary of the Amtrak President, rejected 155–198, aye.

Final passage, a bill to authorize $1.118 billion through 9–30–77, for the National Passenger Corporation, passed 280–63 nay; 4–24–75.

H.R. 4073—APPALACHIAN REGIONAL DEVELOPMENT ACT AMENDMENTS OF 1975

Final passage, a bill to extend the termination date of the Appalachian Regional Development Act to July 1, 1977, passed 309–88, yea; 5–19–75.

H.R. 1753—USE OF BUREAU OF CENSUS DATA TO FACILITATE STATE LEGISLATIVE APPORTIONMENT OR DISTRICTING

Final passage, a bill to authorize the Secretary of Commerce to provide a tabulation of population statistics, upon request, for use by the individual states to facilitate the apportionment of state legislatures (this bill provided that the Census Bureau also would collect population statistics by precincts and state legislative districts in addition to its usual compilations), passed 356–2, not voting; 11–7–75.

H.R. 9573—LEAVE ACT AMENDMENTS OF 1975

Motion to suspend the rules and pass the bill to limit to sixty days the number of unused leave days an enlisted member of the armed services might accrue during his career, agreed to 399–3, not voting; 11–17–75.

H.R. 8089—INCREASE OF THE PER DIEM EXPENSES FOR TRAVEL ON OFFICIAL BUSINESS FOR ARMED FORCES PERSONNEL

Motion to suspend the rules and pass the bill to raise the maximum allowable reimbursement for military travel on official business to $35 per day from $25 per day, and to raise the travel allowance when expenses exceeded the allowable per diem to $50 per day from $40 per day, agreed to 351–55, not voting; 11–17–75.

H.R. 9691—REVIEW BY SECRETARY OF DEFENSE OF MILITARY SECRETARIES' DECISIONS ON RETIREMENTS

Motion to suspend the rules and pass a bill to provide for the review by the Secretary of Defense of the military secretaries' decisions on certain disability retirements, passed 398-4, not voting; 11-17-75.

H.R. 7567—ARMS CONTROL AND DISARMAMENT ACT AMENDMENTS

Final passage, a bill to authorize $23 million to finance the operations of the Arms Control and Disarmament Agency for two years (FY 1976 and FY 1977) and to make various changes in the law establishing the agency, including a requirement for agency participation in government assessments and analyses of the impact of proposed defense programs on arms control policy, passed 382-28, yea; 7-9-75.

H.R. 7782—ARTS AND ARTIFACTS INDEMNITY ACT

Motion to suspend the rules and pass the bill to allow the federal government to insure foreign art and human endeavors exhibits while on display in the United States, agreed to 253-116, nay; 12-1-75.

H. RES. 864—RESOLUTION TO EXPRESS THE SENSE OF THE HOUSE ON THE ILLEGAL SEIZURE OF BALTIC NATIONS

Motion to suspend the rules and pass the resolution to reaffirm the sense of the Congress that the U.S. continue its policy of nonrecognition of the annexation by the Soviet Union of the Baltic Nations: Latvia, Estonia, and Lithuania, agreed to 407-0, yea; 12-2-75.

H.R. 10624—MUNICIPAL BANKRUPTCY ACT (REVISE CHAPTER IX)

Amendment to revise municipal bankruptcy proceedings for cities of over 1 million in population, rejected 145-264, aye.

Final passage, a bill to enable a municipality to file a petition of bankruptcy without the approval of its creditors and to continue limited borrowing while it develops a debt adjustment plan with a court, passed 373-29, yea; 12-9-75.

H.R. 7656—BEEF RESEARCH AND INFORMATION ACT

Final passage, a bill to enable cattle producers to establish, finance and carry out a coordinated program of beef research, dissemination of producer and consumer information and promotion to improve and develop markets for cattle, beef, and beef products, passed 229-189, yea; 10-2-75.

Motion to recommit to the conference committee the conference report on the bill to authorize cattle producers, under Agriculture Department supervision, to create and finance through self-assessments a promotion and research program to improve markets for beef, agreed to 263-112, yea; 12-15-75.

H.R. 5158—EX GRATIA PAYMENT TO BIKINI ATOLL, PACIFIC ISLANDS

Motion to suspend the rules and pass bill to authorize a $3 million payment to former inhabitants and descendants of Bikini Atoll for use of area for atomic weapons tests by the U.S. Government in 1946, agreed to 346-10, nay; 5-5-75.

S. 2230—APPROPRIATIONS AUTHORIZATION FOR INTERNATIONAL BROADCASTING BOARD FOR FY 1976

Amendment to permit delivery of arms contracted for by Turkey before Feb. 5, 1975, provided the President certify significant progress has been made on the refugee problem on Cyprus, rejected 187-229, not voting; Amendment to give Congress 60 days after the President reported to Congress on the Cyprus situation, as required by the bill, to stop, by concurrent resolution, the arms deliveries and sales authorized by the bill, rejected 190-223, not voting.

Final passage, a bill to authorize FY 1976 funds for the Board for International Broadcasting, including Radio Free Europe and Radio Liberty, and to provide a partial lifting of the embargo on U.S. arms shipments to Turkey, passed 237-176, not voting; 10-2-75.

H.R. 6461—AUTHORIZATION OF FUNDS FOR PUBLIC BROADCASTING CORPORATION

Final passage, a bill to authorize $634 million in long range funding for FY 1976-80 for the Corporation for Public Broadcasting, passed 336-26, yea; 11-10-75.

Conference report adopted 313-72, yea; 12-17-75.

CIVIL SERVICE PENSIONS

HON. HAROLD E. FORD

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 3, 1976

Mr. FORD of Tennessee. Mr. Speaker, I am pleased to note that on Monday, the House, acting under the suspension of the rules, declined to pass the amended version of H.R. 12882, a bill "to discontinue civil service annuity payments for periods of employment as a justice or judge of the United States, and for other purposes." Mr. Henderson's amendment to H.R. 12882 adopted the language of H.R. 14520, a bill that would discontinue the 1% add-on to the cost-of-living raises of retired civil service employees. I would like to voice my unconditional opposition to any legislation that would diminish the cost-of-living increase that former civil service workers receive. The elimination of the add-on would have this effect.

In reviewing the remarks of my colleagues who rose in opposition to H.R. 12882, as amended, I noticed that many objections were procedural, rather than substantive, in nature. I agree that it would have been unwise for the House to pass the legislation before the full Post Office and Civil Service Committee has had the opportunity to complete its proceedings regarding the provision that would eliminate the add-on. The limited opportunity for debate, imposed by the suspension of rules, is another factor which made House consideration of H.R. 12882 of questionable merit on Monday.

Nonetheless, my opposition to elimination of the 1-percent add-on would not have been mitigated even if procedural circumstances had been more favorable. Advocates of legislation that would discontinue the add-on claim that fiscal responsibility requires revision of the manner by which cost-of-living raises are to be computed.

Mr. Speaker, I would match my commitment to fiscal responsibility with that of any other Member of Congress. Commitment to fiscal responsibility necessitates a corresponding ordering of national priorities in such a way as to insure that the funds that are appropriated go to those who have the greatest need. To many retired Civil Service employees, the 1 percent that is added to their cost-of-living raises is virtually indispensable.

I therefore intend to oppose attempts to elimate the 1-percent add-on and urge my colleagues to reject any such efforts. Fiscal responsibility certainly permits maintaining the add-on. Human sensitivity and fair treatment demand it.

EDUCATIONAL VOLUNTEER TUTORING SYSTEM

HON. BOB WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 3, 1976

Mr. BOB WILSON. Mr. Speaker, one of the major problems in our country today, of course, concerns unemployment, and a large factor in the unemployability of some of our citizens is their lack of education.

The Equal Employment Opportunity Office of the Naval Electronics Laboratory in San Diego, under the auspices of the 11th Naval District has instituted a unique self-help program to try to help reduce the number of school dropouts. Under the direction of Dr. T. O. Bartley, the Community Educational Volunteer Service Tutoring Program and Deputy EEO Officer of the installation, and very capably assisted by Ms. Madelaine Kohler, the Deputy Coordinating Director, Community Educational Volunteer Service Tutoring Program, students who are failing or who are deemed by their parents, teachers, or peers to be on a certain dropout course are matched with a volunteer tutor to help them over the rough spots.

In the volunteer tutoring program, volunteers are sought from military and civilian establishments; they are placed in schools with failing students; they tutor such students, and they provide motivation and knowledge to encourage the student to finish school. Faltering students are turned around, grades are improved, and some dropouts that would otherwise occur, do not.

The obvious benefit to the student is the instruction which the tutor provides. Perhaps more important than this, however, is the example the tutor provides of a person successful in today's world, who has faith in the student's potential and ability to succeed in that world. Those tutors who have given of their experience and knowledge, of their energy, and of their free time and devotion, report almost without exception that the experience for them is a rewarding one. They feel useful, important, gratified, and fulfilled.

Dr. Bartley and his team, consisting of himself, Ms. Kohler, Commander D. D. Rainville, the Chief Staff Officer of the Electronics Laboratory, and Mr. R. W. Sarvis, the Laboratory's Associate Technical Director described the Volunteer Tutoring Program to a number of interested parties this morning and will hold another briefing tomorrow, August 4 in room 2212 Rayburn Building. The briefing will start at 9:30 a.m. and will run for about half an hour. The panel will then be available for a question and answer period for an additional 45 minutes.

I wholeheartedly endorse this program and urge as many of my colleagues as can make it to attend. As Dr. Bartley said:

> You are all so used to having problems brought to your attention that it should be a welcome relief to have a solution for a change, and our program is a solution.

Dr. Bartley is right. It is indeed refreshing to be shown a program that works.

HISTORICAL PERSPECTIVE

HON. RALPH H. METCALFE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 3, 1976

Mr. METCALFE. Mr. Speaker, I call to my colleagues' attention a statement recently made by Mrs. Virginia Wilson Julien, Chairman of Research, Chicago Jean Baptiste Pointe DuSable League:

Revising the History of the American Revolution in the West—1778–1796

(By Virginia Wilson Julien, chairman of Research; consultant, Lillian O'Neil, Chicago Jean Baptiste Pointe Dusable League)

In this year of the bicentennial of the American Revolution, we feel that it is vital to the future of the United States as a participatory democracy that the history of this country be re-written from the historical record regarding the involvement of citizens of all races in the development of this country beginning at the American Revolution and the founding of this nation.

We find that facts concerning the history of the American Revolution in the west, although strongly supported by extant primary sources and other documents, as set forth in this document, have been ignored in the celebration of the Bicentennial by the official American Revolution Bicentennial Commissions.

Chicago was on the map officially, permanently and as a settlement for the first time in 1778, and the historical record indicates that from that time throughout the entire era of the American Revolution until 1796, Chicago played a strategic political role, decisive to the outcome of the Revolution, and that the black founder there, Jean Baptiste Point du Sable played a part during this entire period that was a matter of grave concern to the British. A modern historian, Robert R. Palmer has pointed out that the charge against Chicago as a center of agitation against England, with particular reference to the "Black Chief" there—as Point Sable at Chicago was known—was made by the Canadian British officials in 1794 and that it must be the first mention of political activity in Chicago.

The great map of Thomas Hutchins, "A New Map of the Western Parts of Virginia, Pennsylvania, Maryland and North Carolina; Comprehending the River Ohio and all the Rivers which fall into it; Part of the River Mississippi, the Whole of the Illinois River, Lake Eries, Part of the Lakes Huron, Michigan and all of the Country bordering on these Lakes and Rivers," published in London, England in 1778, shows Chicago at that times: "Chikago, Indian Village and Fort at the Entrance." Although this map is ignored as an historical artifact during the celebration of the Bicentennial of the Revolution, curators from London to Chicago regard it as uniquely accurate for its day and as a tremendous step forward is cartography. Copies may be seen in the National Archives upon which is noted the official governmental business of the Revolutionary period. Historians have also suggested that had Hutchins' map been used in the treaty negotiations of 1783, errors in setting the boundaries and the ramifications of those errors might have been avoided as well as the negotiations of almost a century that were required to make necessary adjustments. Hutchins, who had previously served as a British officer, was to become an American. Hutchins performed the important duty of running the first meridians upon which the grid system of land survey in this country depended and is generally given credit for devising the land plat system of international use. He dictated his own title of "Geographer of the United States of America". Hutchins claimed to have visited all the forts of the Great Lakes in 1762. In 1765, he entered southern Illinois with the invading British army, serving as an engineer and topographer. At that time he made many reconnoitering tours of the Illinois country and sounded Lake Michigan.

The "Indian Village" of Hutchins' map is without question the Patawatomi settlement to which the American Rebel Commandant George Rogers Clark of Virginia wrote in 1779 seeking the cooperation of the inhabitants of his projected drive against the British stronghold at Detroit after he had wrested control of the southern Illinois settlements and Vincennes on the Wabash river.

The "Fort at the Entrance" is also without question the stockaded settlement of Point Sable—such "forted" settlements of the frontier were commonly called forts—at the entrance to the Chicago river at Lake Michigan. It is shown thus by Captain John Whistler on his blueprint of Fort Dearborn which he built for the United States in 1803 on the south side of the river, just across from the founding settlement on the north. Milo M. Quaife, the noted Chicago historian, has also identified the settlement as shown on the blueprint as Point Sables and that Jean Baptiste and his settlement as the only non-Indian documentation at Chicago during the entire eighteenth century. Quaife has also indicated that he put Chicago on the map and opened up the mid-west to traffic through Chicago. The settlement is further identified as Point Sables by the extant copy of the bill of sale and inventory of his holdings at Chicago in 1800, recorded at Wayne County in September of that year, which is presently at Chicago at the Cook County Recorder's Office. There is little doubt that the settlement of Point Sables is also the "American Rebel fort built at Chicago by American sympathisers" as noted by historian George Brennan. Although the early settlements at Detroit and at St. Louis were held by foreign powers, Chicago was held free of foreign encroachment by Red and Black men until the Americans marched in to build Fort Dearborn three years after Point Sable's removal from Chicago.

The historical record contains many references to the pro-American Rebel activity of the French, Black and Red men in northern Illinois relative to Clark's projected march against Detroit from the time Point Sable was seized by the British holding a cache of provisions recognized as intended for the Americans in 1779 until the charge by the British that he was active in the alienation of the Indians to the British interests and in the pay of the United States government in 1794. The historical record also indicates that the pro-American Rebel activity on the part of the northern men escalated throughout the remainder of the war, in 1780 and 1781. In 1782, the British commandants Haldimand and de Peyster insisted on the necessity of "removing the settlers at Chicago" but nothing could be effected. The influence of the Ottawa Chief Pontiac seemed evident. Fifteen years earlier Pontiac's alliance of Red, Black and White men had almost driven the British from America, failing only when Pontiac could not take Detroit. The British were prevented from regaining control of what is the present state of Illinois. Quaife points out that in 1787, although the United States had been given title to the west in the terms of the Treaty of Paris that ended the war in 1783, the Indians to the east continued assaults on the Americans preventing them from entering and occupying the western country. It has been pointed out that the winning of the Indian factor was considered necessary for the control of the west, and the United States could not win it. During this critical period the Ordinance of 1787 was enacted that provided for the governing of the western territory. This Ordinance embodied all the liberation promises of the Declaration of Independence and the American Revolution without regard to race or color. Quaife has pointed out that this Ordinance became the very cornerstone of the preservation of our freedoms.

In 1790 and 1791, two American armies under General Harmar and General St. Clair, respectively, met disaster in what is now the state of Ohio, under assault from the Indians allied with the British. In 1972, a third American General, Anthony Wayne moved into Ohio and began to train a new force. In December 1793, he complained bitter against what he called the "insiduous" actions of Captain Alexander McKee who had devastated the Americans in the west and Lt. Governor John H. Simcoe of upper Canada. In February 1794 Lord Dorchester, Governor of Canada, exhorted the Indians to continue their aggressions against the Americans, adding that he expected Britain to resume official warfare against the Americans. In April 1794, Simcoe stated that McKee agreed with him that a post at Chicago would be more in the English interest than Mackinac at the head of Lake Michigan. He charged that the people at Chicago "refugees from Detroit, and a Black Chief who have constantly been in the pay of the United States, and by every possible means have endeavoured to alienate the Indians from the British interest." Simcoe began to predict victory for the Americans. Joseph Brant, the famed Mohawk Chief who together with McKee had devastated the Americans in the west and prevented Clark's final attempt against Detroit, stated that the Mackinac tribes and all the northwestern Indians were leaving and going home. By August 1974 Wayne with a force quoted at 3,500, was easily able to force the retreat of the Indians said to number 800 at the Battle of Fallen Timbers. The Indians fell back to the fort Simcoe had built on "American" territory to stop the advance of the Americans where they found the gates of the fort slammed shut against them. In August 1795, Wayne obtained the signatures of the important chiefs on the Treaty of Greenville which ceded a large part of Ohio, other small sections on the portages, and six square miles at sites of the forts including in what appears an illegal cession—Chicago, where according to Quaife, neither French nor British ever took a garrison or a fort. The following summer a contingent led by Baptiste Pointsable from "St. Josephs and Chickago" according to Peter Audrain, Wayne's Quartermaster, confronted Wayne at Greenville over the cession at Chicago. Wayne reported that the issue was resolved satisfactorily and he proceeded to Detroit where the American occupancy of the great lakes forts held by the British was thus begun. He says that the summer of 1796 may be regarded as marking the close of the Revolution in the Northwest.

Thus was the west won, the country stabilized and set on the road to becoming a rich world power through the efforts, in great part, of the Red, White, and Black men of the western frontier who have been disregarded and forgotten in our celebration of the Bicentennial of the American Revolution, the founding of America.

STUDENTS AND BANKRUPTCIES

HON. JOHN N. ERLENBORN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 3, 1976

Mr. ERLENBORN. Mr. Speaker, within the next few weeks, we will be considering legislation (H.R. 14070) to continue the guaranteed student loan program. Included in that bill are several measures to curb default of these loans and one which restricts the circumstances under which repayment of these student loans can be discharged through bankruptcy.

Without the GSLP, college would have been beyond the reach for millions of our young people. Because of the GSLP, the potential for each of these borrowers is enhanced. More than 9 million loans, valued at $9.5 billion, have been made at a comparatively small cost to the rest of us over the 10-year life of this program. Almost all of these student borrowers have every intention of repaying their loans. A few, perhaps 25,000 to 35,000 have found or will find themselves in financial difficulties which prevent their honoring these commitments. Many thousands of others have discovered ways to take advantage of our bankruptcy laws.

Although those who abuse this route are few in number now, we cannot permit their numbers to grow. That would not be fair to the taxpayers, nor to those who struggle to repay their loans. Most assuredly, failure to act would jeopardize the continuation of the program, and thus the education of millions of future students.

The "Chronicle of Higher Education" on July 19, 1976 told of this spreading problem. I urge our colleagues to read this article:

MANY STUDENT BORROWERS DECLARING BANKRUPTCY—NUMBER HAS RISEN 300 PERCENT IN SOME STATES; CONGRESS TO WEIGH RESTRICTIONS

(By Anne C. Roark)

College graduates in growing numbers are declaring bankruptcy to avoid repaying their student loans.

In some states, such bankruptcies have risen this year by as much as 300 per cent.

The increase is particularly startling because bankruptcies in other sectors of society have decreased.

In the federal government's 1975 fiscal year, 4.6 per cent of the defaults on government-insured student loans were due to bankruptcies. After 11 months of the 1976 fiscal year, the figure had increased to 6 per cent.

Under the insured-loan program, private lenders make funds available to students at low interest rates in return for a 100-per-cent guarantee from the federal government that the money will be repaid. In 26 states, state agencies insure the loans, and Washington reinsures them.

RATE DOUBLES IN NEW JERSEY

This year, bankruptcies as a percentage of defaults are about equal on both the state and federally insured loans.

By contrast, U.S. District Court records indicate that bankruptcies in other parts of society will probably decrease in 1976 by 2.7 per cent.

The Pennsylvania Higher Education Assistance Agency—one of 26 state agencies that insure education loans—reports that the number of bankruptcies in its state went from 113 in 1974 to 391 in 1975—an increase of 350 per cent in one year.

"A decided upward trend" is reported by the New Jersey Department of Education. "Student bankruptcies doubled last year and again this year," says William Nester of the Office of Student Assistance.

Similar trends are being reported in other states. New York's student bankruptcy rate doubled in fiscal year 1976, Maryland's increased by 250 per cent and Illinois's by 180 per cent in 1975–76.

FURTHER INCREASE FEARED

Congress is expected to grapple with the bankruptcy problem later this summer when it rewrites omnibus higher education legislation for most federal education programs whose authorizations expired last month.

Although the actual number of students who filed bankruptcy is still small—nationally, less than one-half of one per cent of all student borrowers—experts fear that the upward trend will continue.

The reasons for the rise in student bankruptcies are not entirely clear. But college students are apparently better informed than other persons about their legal right to bankruptcy and less worried about the social stigmas or the financial repercussions that might result.

"Every time an article appears in a newspaper, we get a rash of potential bankruptcies," observes Carol Wennerdahl, director of the guaranteed-loan program at the Illinois State Scholarship Commission.

"Bankruptcy is available. Social penalties are much less. And it is known or believed in some student undergrounds that credit ratings will actually be better, because once you have declared bankruptcy you cannot file again for six years."

Although not all educators agree, some experts argue that the poor state of the economy is contributing to the number of bankruptcies.

Eileen Dickinson, president of New York State Higher Education Services, says the drastic economic situation in that state during the last year has caused otherwise conscientious students to file for bankruptcy.

"Not all the students involved are bright kids trying to avoid their financial obligations," she says.

COLLECTIONS IMPROVING

Increasing sophistication in collecting on defaulted loans is also driving some students into bankruptcy court, says Kenneth Reeher, executive director of Pennsylvania's state loan agency. He predicts that as more states improve their collection programs, the number of bankruptcies will go up.

Four states with particularly high bankruptcy rates—Illinois, New Jersey, New York, and Pennsylvania—are among the "most sophisticated in the collection area," observes Ms. Wennerdahl.

"As we push students for payments, they tell us to get off their backs or they'll declare bankruptcy," she says.

Demographic data on who declares bankruptcy is not yet available, although many financial-aid experts clearly sense that he or she is likely to be a better-informed, liberal, and wealthier student than the norm.

Illinois is one of the few state agencies that have enough data on the bankrupt students to venture even preliminary assessments.

According to its statistics, students filing bankruptcy do not differ from the total population of student borrowers.

"But we get a sense of what kind of student we're talking about from phone conversations," says Ms. Wennerdahl. "It's the recent law-school graduate who holds us up against the wall and says, 'Make a compromise on my payments, or I'll declare bankruptcy and you won't be able to get a penny.' "

Some student-loan agents say many students appear to be considering bankruptcy at the time they arrange their borrowing.

BANKRUPT WITH $11,000

The case of Whitney G. Wilkes is apparently not unusual.

A New York Department of Education employee, Mr. Wilkes, now earning a salary of $11,000 a year, was awarded the right to declare bankruptcy. He filed five months before his first repayment installment was due on a $6,900 student loan. An appeal by the state is pending.

"Certainly the really poor student never declares bankruptcy," declares Ms. Wennerdahl. The cost of bankruptcy is higher, she points out, often amounting to hundreds or even thousands of dollars in court costs and lawyers' fees.

"The concept of equal access under the law to bankruptcy is a joke," she says.

In some parts of the country, student-loan officials maintain that bankruptcies in their states are not increasing. They often attribute their states' low bankruptcy rates to the moral fiber of the local people.

J. William Keifer, of the Office of Education's regional branch in Kansas City, whose territory includes Kansas, Iowa, Nebraska, and Missouri, says that "our people just don't avail themselves of bankruptcies as much as they do in the more liberal parts of the country."

Robert Brown, of the State Department of Education and Cultural Services in Maine, says it may sound like flag waving, "but people in Maine don't believe in that kind of behavior. Maine students and their parents are a pretty nice set of people. It may be their Yankee-Puritan upbringing."

California was plagued with high rates of bankruptcy in the early '70's. In the past year, however, an administrative restructuring and a tightening of its loan collections has led to a drop in student bankruptcy rates, says Charles Hampton, a regional official of the Office of Education.

"We filed suit locally in the courts against students who had declared bankruptcy and who, we thought, were blatantly trying to avoid payments. With 400 cases, we had 90 per cent positive results."

"That kind of information through the local press, along with requests that certain university newspapers stop running advertisements, counseling students in bankruptcy, has helped," says Mr. Hampton.

QUESTIONS FOR CONGRESS

Whether applying those and similar administrative changes throughout the country would cut the bankruptcies on student loans or whether changes must be made in the bankruptcy laws themselves is a matter that must be settled by Congress when the bills re-authorizing education programs are brought before the full houses later this summer.

In the view of most financial-aid experts, administrative changes alone would be insufficient. Such changes, they say, would not close a fundamental loophole: Because students do not put up security when they get a loan, they stand to lose little from bankruptcy.

Student loans, the aid officials contend, are a special class of indebtedness.

"A student loan is the only kind of loan available where the conditions for bankruptcy exist at the time it is made," says Pennsylvania's Mr. Reeher.

For that reason, many aid officers support a change now written into both the House and Senate versions of the new bill.

The change would restrict former students from taking student loans into bankruptcy for the first five years after leaving school. The proposed five-year restriction would not, according to its supporters, take away the student's right to declare bankruptcy on other property.

O'HARA OPPOSES LIMIT

James G. O'Hara, the Michigan Democrat who chairs the House Subcommittee on Post-secondary Education, argues, however, that a change in the law would discriminate against students and give "special advantage" to protect the lender whose loans are already insured. Mr. O'Hara has said he will oppose the five-year limitation.

"We simply do not have enough research on whether the behavior of these students is any different than the rest of the population," argues a staff member of Mr. O'Hara's subcommittee. "Before we pass sentence on these kids, we should know something about them."

Others argue that constitutional rights should not be determined by the costs of bankruptcies.

"If bankruptcy is a right and a privilege, we shouldn't argue the matter on statistics," maintains Ms. Wennerdahl.

NEED FOR POSTCARD VOTER REGISTRATION

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 3, 1976

Mr. RANGEL. Mr. Speaker, this week the House will consider H.R. 11552, the Voter Registration Act. Under the provisions of this bill a Voter Registration Administration will be created with the purpose of putting into effect a system of voter registration by post card.

Voting rates in Presidential elections have been continually declining since 1960. In that year 64 percent of the voting age population participated, but by 1972, the figure had been reduced to 55 percent. In Congressional elections the figures are even more depressing; since 1962 participation has decreased from 49 percent to 40 percent. There is no simple explanation for these statistics. Clearly, however, part of the problem lies with the restrictive registration procedures which have served to exclude willing participants from the electoral process.

Voting is a right which should be readily available to all citizens irregardless of their geographic location, physical condition, or economic status. In some Western States it is reported that potential voters must drive 100 miles to register. Many of our disabled citizens find it virtually impossible to travel to a registration office, and countless other people simply cannot afford to do so.

It is clearly not the intent of the Constitution to disenfranchise the disadvantaged people of our society nor the random thousands who find it difficult to reach voter registration offices. Yet this is precisely what the complex registration procedures have served for so long to do. If we are to have a truly democratic political system, a participatory democracy in fact and not just in name, then we must pass H.R. 11552. I urge my colleagues to support this important piece of legislation.

THE OBSERVANCE OF OUR 200TH BIRTHDAY

HON. JOHN J. RHODES

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 3, 1976

Mr. RHODES. Mr. Speaker, one of the highlights of the observance of our 200th birthday was the Honor America program at the Kennedy Center. President Ford gave a short address, in which he touched upon the lightness of spirit which has characterized America throughout our history, and helped us bear the burdens of adversity. He noted that the pursuit of happiness was one of our most cherished rights, protected by the Constitution. I believe this lively message sums up the role of the arts in our historical perspective, and recommend that my colleagues take time to read this entertaining talk by the President. Text of Mr. Ford's remarks are as follows:

REMARKS OF THE PRESIDENT AT THE HONOR AMERICA PROGRAM

Thank you very much, Bill Marriott. May I express my appreciation and the gratitude of the American people for the wonderful job that you and your associates with the Honor America Committee have done for the last few years.

We are most appreciative of a wonderful job and such a tremendous effort, and let me say on behalf of all of us, thank you very much.

There are times for solemn ceremony and there will be many reverent thanksgivings all over America this week and next. But, we Americans are uncomfortable with too much solemnity. We like to make a joyful noise unto the Lord, to sing our country's praise with grateful hearts.

Laughter and liberty go well together. Ragtime and jazz, marches as well as hymns and spirituals, set the beat of the American adventure. We have exported America's happiness to the world with our gramophones, our movies and our own talented performers.

Americans sang on riverboats, danced around wagon trains, joked as they marched into battle. We took all of the arts of those who came to join the American adventure and made new arts of our own.

No nation has a richer heritage than we do, for America has it all. The United States is probably the only country on earth that put the pursuit of happiness right after life and liberty among the God-given rights of every human being.

When Jefferson wrote that, he pulled off an historic switch. For a long time, English law has used the phrase "life, liberty and property" to describe the most precious things that couldn't be taken away from anybody without due legal process.

But Jefferson dropped property "in the Declaration" of Independence and substituted the "pursuit of happiness." Like any good politician, Jefferson knew how to say exactly what he meant when he wanted to. So, life and liberty are plain enough to everybody, but Jefferson never did say what he meant by the pursuit of happiness.

If we have liberty, how each of us pursues happiness is up to us. However you define it, the United States of America has been a happy nation over the past 200 years. Nobody is happy all the time, but most of the people have been happy most of the time. Even in our darkest hours, we have managed a little fun.

I knew what happiness was when I was a boy. It was the Fourth of July. For weeks we would save up our pennies, nickels, and dimes, and then at the last moment Dad would come through with a couple of bucks for skyrockets.

Then, of course, there would be the big flag to hang out on the front porch and the ice cream freezer to turn and the first big spoonful that gave you a headache. Then there were parades and bands and those long speeches—this won't be one. (Laughter)

There would be a picnic and softball games, the endless wait until it got dark enough for the roman candles, sparklers for the little ones, who really liked the lightning bugs better. When it was all over, you went to bed happy because you knew it would happen all over again the next Fourth of July.

Here we are on the eve of our 200th, the greatest Fourth of July any of us will ever see. We are happy people because we are a free people, and while we have our faults and our failures, tonight is not the time to parade them. Rather, let's look to the third century as the century in which freedom finds fulfillment in even greater creativity and individuality.

Tonight, we salute the pursuit of happiness as we listen to our exciting past in songs and in stories. Two hundred years ago today John Adams wrote his wonderful wife, Abigail, that he expected the glorious anniversary of independence to be observed down through the ages with shows, games, sports, guns, bells, bonfires and illumination from one end of this continent to the other.

So, break out the flags, strike up the band, light up the skies, let the whole wide world know that the United States of America is about to have another happy birthday, going strong at 200, and in the words of the immortal Al Jolson, "You ain't seen nothing yet."

Thank you very much.

Now, Betty and I will return to our seats to join you in the enjoyment of this Bicentennial celebration. But first, I have one very satisfying task to perform. The next personality you will meet is a gentleman I have introduced on a number of occasions, and who has introduced me on a number of occasions. There is no doubt in my mind that introducing him is a lot easier than following him. (Laughter)

So, ladies and gentlemen, I present my very good and very dear friend, Bob Hope.

BOY SCOUT TROOP I, HUNTINGTON BEACH, CALIF.

HON. MARK W. HANNAFORD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 3, 1976

Mr. HANNAFORD. Mr. Speaker, it is a privilege for me to commend to my colleagues in the Congress the fine accomplishments of Boy Scout Troop I, Huntington Beach, Calif. The Boy Scouts of America are a dedicated group, committed to building the character, knowledge, and citizenship of America's young people. The scouts and leaders of Troop I exemplify these goals.

Troop I has been involved in many projects to improve their community and make it a better place in which to live. They donated material and volunteer labor for the renovation of a cabin in Huntington Beach which has been used for scouting activities since 1917. The cabin has been formally designated an historical site and is available for use by other civic groups. So that they may render first-aid service in any community emergency, many of the members of Troop I have completed the Red Cross standard first aid and personal safety course. The troop has been designated as a civil disaster relief team by the Red Cross.

Troop I assists in civic functions whenever possible. In August 1975, the city council presented a plaque to them for their "Outstanding Contribution to the Youth of This Community." They have participated in the Marine Corps' toys for tots program, to obtain gifts for needy children at Christmas. They have organized and operated a handicapped Boy Scout Troop.

The members of Troop I have repeatedly demonstrated their dedication to their community. I encourage all young people to get involved in their community and contribute their ideas and time and efforts for the benefit of their friends and neighbors. Boy Scout Troop I of Huntington Beach is a fine example of what they can accomplish and deserves our highest praise.

RAILROADS AND RAIL LABOR SUPPORT DINGELL-BROYHILL (TRAIN) AUTO EMISSION AMENDMENT

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 3, 1976

Mr. DINGELL. Mr. Speaker, railroad management and railroad labor have endorsed the Dingell-Broyhill (Train) auto emission amendment to be offered to the Clean Air Act Amendments, H.R. 10498.

The support of the American Association of Railroads and the Railway Labor Executives is appreciated and certainly in the public interest.

Additionally, I have received the following communication from the Michigan Railroads Association which I insert at this point:

MICHIGAN RAILROADS ASSOCIATION,
July 22, 1976.

Congressman JOHN D. DINGELL,
House of Representatives,
Washington, D.C.

Subject: Clean Air Act Amendment, H.R. 10498.

DEAR CONGRESSMAN DINGELL: The Members of this Association favor the adoption of the Dingell-Broyhill Amendment to HR 10498 because it offers the best balance of continued clean air improvements, total energy conservation, auto fuel savings, and reduced consumer auto purchase and maintenance costs.

Your support of this amendment would be appreciated very much.

Very truly yours,
W. A. MCCLINTIC,
Executive Director.

A SIGNIFICANT DETERIORATION IN LOCAL ECONOMIES

HON. JAMES T. BROYHILL

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 3, 1976

Mr. BROYHILL. Mr. Speaker, on July 26, 1976, the Wall Street Journal carried the following article which strongly questions the wisdom of establishing a national policy of "significant deterioration," and expresses concern over the anticipated effects of such a national policy. While the article makes specific reference to the Senate Clean Air Act amendments, it is equally applicable to the House provision relating to "significant deterioration."

It should be noted that the Senator Moss amendment which would require a thorough review of the effect of such a policy prior to its enactment is the same amendment that the Honorable BILL CHAPPELL will offer on the floor of the House. I would urge you to vote for the Chappel amendment in order to avoid what the article describes as "as significant deterioration in local economies."

The article follows:

A SIGNIFICANT DETERIORATION IN LOCAL ECONOMIES

Imagine that Congress passes a law, and an appropriate agency issues a regulation, that prohibits adult male Americans from weighing more than 200 lbs., on the grounds that excessive weight is both unhealthy and unattractive.

Then imagine the little people's lobby wins a federal court ruling that even skinny teenagers weighing 120 lbs. aren't allowed to add any significant weight, on the grounds that this is what Congress seemed to have intended when it passed the legislation.

Imagine further the outrage of those who think the court ruling to be nonsense—because it bears no relation to either health or attractiveness, and in error—because Congress didn't intend to starve skinny teenagers when it passed the legislation.

The original author of the legislation then steps forward and says "Yes, indeed, I did have in the back of my mind freezing all Americans at their present weight, except for a pound or two for special cases that will be considered by federal bureaucrats. And to clear up any doubt, we're going to write the federal court ruling into the law."

All of the above is a rough approximation of what has happened since the Clean Air Act was passed in 1970. The legislation established national air quality standards, formulated by the Environmental Protection Agency based on health and ambient findings. The federal courts ruled that "no significant deterioration" of air quality could be permitted, even in those areas well within the standards. And now Senator Muskie, author of the 1970 Act, spurred by the no-growth lobby, wants to write into the law what the federal courts have already said is in the law.

The Senate is scheduled to debate the issue this week, and if common sense is to prevail, the very least it will do is accept the approach of Sen. Frank Moss of Utah, who wants to postpone for a year the engraving into stone of Mr. Muskie's "no significant deterioration" provision. Mr. Moss, whose state is the economic equivalent of our skinny teenager, proposes that a special commission evaluate the economic impact of the Muskie approach during this waiting period.

What Congress should really do, though, is simply accept the amendment of Sen. William Scott of Virginia, who would strike the "no significant deterioration" approach and return to the actual intent of the 1970 Act, which was to set national air quality standards that apply uniformly. President Ford more or less has endorsed the Scott amendment "in view of the potentially disastrous effects on unemployment and on energy development . . . until sufficient information concerning final impact can be gathered."

There is no national air quality standard, after all, when Congress gives the EPA bureaucrats the power to decide what the standard should be in northeastern Utah and what it should be in southwestern Tennessee. There would be varying classes of land, a "pristine" class where no deterioration would be permitted and others where some incremental deterioration would be allowed to accommodate economic expansion. There also will be gray areas, the buffer zones around the pristine areas, the sizes of which haven't been determined. If the buffer strips turn out to be 50 or 100 miles wide, there would be only nooks and crannies left in the country for major economic expansion.

To the browbeaten American businessman and industrialist, criticized for not creating jobs fast enough because they're too much concerned with profit, Senator Muskie's bill is an unnecessary non-tariff barrier to trade. It legislates confusion as the chief means of cleaning up the air.

Whatever happened to the original idea, setting a tough federal standard that would provide for the nation's health to a reasonable degree, leaving to the states the option of enacting tighter standards if their citizens so desire? No doubt it was too simple and straightforward an approach for Washington to adhere to. Not enough red tape. Not enough confusion. Not enough bureaucracy.

The way things are going on the Clean Air Act there will be plenty of all those things. And whatever happens to the air, the Muskie proposal can certainly bring about "a significant deterioration" in local economies. That too, over time, can bring about a situation that is "unhealthy and unattractive."

A RISKY ROAD FROM HYPOTHESIS TO FACT

HON. DAVID F. EMERY

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 3, 1976

Mr. EMERY. Mr. Speaker, I wish to commend to the attention of my colleagues a most perceptive essay exploring the interaction of the media with the scientific community. Recently appearing in Business Week, Dr. James P. Lodge's "A Risky Road From Hypothesis to Fact" addresses a complexity familiar to us all—how to cope responsibly with a prolific scientific community committed to publicly pondering all questions of catastrophe and imminent danger. Unfortunately, the context of most scientific pronouncements on the possible dangers of this or that are not intended for public consumption, much less public alarm until the obligatory refinements of a prolonged critiquing process are endured.

Dr. Lodge gently chides fellow scientists for bringing the press into the laboratory—and admonishes those in the media who are overly indulgent of simplification when reporting on scientific matters that transcend their immediate understanding.

Lodge cites as an example of oversimplification the fluorocarbon/ozone controversy where recitation of alleged consequences has become a familiar litany in the press, yet substantiation of a real danger to the ozone layer has not even been documented by the scientists who first advanced the theory.

Mr. Speaker, the opinions and observations of Dr. Lodge merit the attention of all Members particularly as we involve this body in consideration of proposed revisions to the Clean Air Act.

The essay follows:

A RISKY ROAD FROM HYPOTHESIS TO FACT

It is in the nature of science that scientists are wrong a large fraction of the time. However, paradoxical as it may sound, this is the way that science makes progress. A scientist formulates a hypothesis, either to explain something he has observed or to extrapolate from current knowledge. He then makes the best efforts of which he is capable to prove himself wrong. If he is unsuccessful, the hypothesis makes an official transition into the status of a theory, and it is provisionally accepted until such time as it fails to explain something it should have explained. Then it is replaced by a new theory, grown from a hypothesis like the last.

Today the presentation of preliminary hypotheses carries substantial risk to the scientist and to the society in which he works. The scientific journals that have served as his conduit to his peers throughout the world are no longer limited in audience. These, along with scientific symposia, are routinely covered by the mass media. Too often, what began as appropriate—indeed necessary—scientific questioning is assumed to be scientific fact. The attendant publicity tends to be in direct proportion to the extent that the original question carries "doomsday" implication. (Why is the continuation of the world so much less welcome news than the end of the world? Are our consciences troubling us?)

All too often a scientist's statement that "under highly unrealistic laboratory conditions, I have a small amount of evidence to suggest that lifetime exposure to elephant hide could, with 5% probability, cause cancer" becomes "Scientist says elephants cause cancer." A few conscientious reporters will add an ellipsis to indicate omitted words or will carry a brief amplification several pages back from the elephant-damning headline.

Lest it be thought that the media are unilaterally responsible, I must add that there are certain scientists who, either spontaneously or under pressure from institutional public information offices, make similar claims in their own names. There are undoubtedly occasions when the gravity of the situation justifies this approach, although probably not as many as are claimed. However, there is some reason to think that premature public disclosure is at least occasionally motivated by a perception of positive benefit in the current scramble for scarce research funds.

The effects are far-reaching.

SCIENTIFIC RESPONSIBILITY

A formerly cooperative effort, in which the developer of the hypothesis solicits help from his peers in determining whether his methodolgy and preliminary conclusions are flawed in any way, becomes an adversary situation. Since funding agencies are only marginally aware of the positive value of fallibility in science and are vulnerable to pressure from a public that has still less understanding, the affected scientist must defend his position to protect his future support.

In areas that concern public health and consumer products, the risks are compounded. An easily frightened public reacts to publicity, and pressure for government action grows.

The costly death of cyclamates is one example of premature acceptance of hypothesis as fact. Recently it has come to light that some women had abortions because spray adhesives, since shown to be harmless, were suspected of causing birth defects. As a scientist, I find that kind of reaction chilling. I know I do not deserve that sort of life-and-death power.

But what of the opposite situation, such as the thalidomide scandal? Certainly that case illustrates the need for new areas of pharmaceutical testing. I doubt if any drug now reaches the market that has not been tested for *in utero* effects on the fetuses of experimental animals. However, I submit that we are ultimately faced with only two alternatives: a retreat from even present levels of technology, or the acceptance of an occasional tragedy of that magnitude. The reason is simple: There is always some probability that any finite series of studies will miss a unique impact.

Still under public and scientific scrutiny is the question of whether the chlorofluorocarbons, widely used as refrigerants and aerosol propellants, are damaging the ozone layer. The question involves a long chain of interlocking hypotheses and theories, few of which have been tested in the real world. Yet every minor measurement in the least pertinent to the subject is trumpeted in the press as "proving" the hypothesis, despite the fact that a number of these have, when dispassionately examined, tended to cast doubt on it. The National Academy of Sciences now has two committees studying the subject, and they have recently announced a postponement of their reports because so much additional information is becoming available. Nevertheless, every jurisdiction in the land, of whatever size, seems filled with legislators rushing to be the first to ban underarm deodorants.

WEIGHING THE RISKS

My intimate involvement in this particular controversy has forced me to examine the way such matters are, and should be, handled. I should therefore like to suggest a modification of the present approach to questions of this sort. I suggest that we approach each case by making an initial assessment of the risks and the costs involved.

The urgency of action in any particular case must be determined by some sort of product of the probability that the hypothesis is correct and the size of the population at risk if it is. But the calculation of this product should be realistic. It does not follow from our concern with the size of the population that even a fairly improbable hypothesis must be acted on at once when it affects something as global as the worldwide ozone layer.

In this case, the entire population of the world is involved, but a much smaller number are actually at risk. Nonwhites are almost totally immune to skin cancer, and swarthy whites are only slightly susceptible. Moreover, the cost of delaying action while we determine the validity of the hypothesis is small. A delay of two or three years in banning aerosol products in the United States would, if the theory is completely correct, cause an increase in ozone depletion of no more than 0.1%. Hence, while a final somber appraisal of observational fact may ultimately lead to the end of the present halocarbons, there is no reason for a panicky instant response.

A similar argument can probably be made for the entire class of suspected carcinogens of low potency that now seem to occupy so much of our attention. If—but only if—we can assume the validity of the data, it is probably expedient to remove chloroform from cough medicines. However, such long exposure to weak carcinogens of this sort is necessary before cancer actually results that the instant removal of present stocks of these medicines from the market will have a trivial effect. Once again, it is necessary to weigh not only the probability of harm and the size of the population at risk but also the cost of increasing the state of knowledge or decreasing the cost of action by less precipitate regulation.

POSSIBLE ANSWERS

As with most social as well as scientific problems, there are no easy or quick answers to the problem of public investment of preliminary hypotheses as revealed scientific truth. One cannot enhance scientific freedom at the expense of freedom of the press. One can try to enlist the media in helping the public understand the difference between a hypothesis, a theory, and a law of science. One can perhaps also ask the media to report more accurately the full context of scientific announcements. Scientists must simultaneously realize the risk and responsibility that they undertake when they initiate release of frightening but unproven hypotheses. They also bear a responsibility to assist in public education, precisely in the area I have called the "value of fallibility."

Beyond this point, which requires a period of education of the media, the public, and the scientists, there are shorter-range questions. One of the key items of discussion at the moment appears to be responsibility for costs—first for research to prove or disprove safety for both life and the environment, and then for compensation of those affected. The latter problem is perhaps easier to solve.

The thalidomide case has provided a precedent. Clearly, in a case of this sort, the responsible industry must pay the affected individuals for the damage inflicted. Where the damage is more diffuse, as in the case of broad environmental impact, the solution is correspondingly more diffuse. Nevertheless, there seems to be adequate legal precedent for the concept, and reasonable legislation could be enacted to charge responsible industry for its equitable share of environmental degradation of whatever sort.

Conceivably the same legislation that made industry liable for damages could create an insurance pool to compensate it for losses caused by abrupt changes in regulations. In view of its role as the chief regulator, the federal government might reasonably undertake to reimburse the pool for any payments it has to make to the producers of improperly suppressed products.

THE COSTS OF RESEARCH

The question of financing research is still more complex. A friend recently put it in a nutshell: "Why should I as a taxpayer pay for research to prove whether or not some big company's flourocarbons are destroying the ozone?"

I pointed out that the manufacturing industry is now committed to some $5 million of research support, the recipients being universities, research institutes, and research corporations. And I added that a substantially larger amount is being devoted to internal studies of possible replacement chemicals. However, the question set me thinking about the reasonable allocation of such costs.

Despite some problems, the present national toxic substances legislation has one helpful philosophical concept: It makes the development of test protocols the responsibility of the Environmental Protection Agency, while their execution for individual substances is the responsibility of the manufacturer. The difficulty with the halocarbon question, and many similar ones. is that the basic research to define the necessary conditions for acceptance and rejection has not been done. Accordingly, the external research supported by the industry is almost totally devoted to fundamental studies leading to the possibility of setting criteria for acceptable materials. To this extent the industry is responding far beyond the standards of responsibility established by the Toxic Substances Act. The nation as a whole has been seriously remiss in failing to support research on the structure of our atmosphere that would permit reasonable answers to the halocarbon/ozone questions.

Whatever approach we take to these problems, there is an obvious need to accept the clear fact that no institutional structure can provide a life completely free of risk. After all, it has been pointed out that the removal of the smog of Los Angeles would, according to present theory, lead to a doubling of the present rate of skin cancer in the affected area—just because of the added sunlight it would let in.

SUPPORTERS LISTED FOR DINGELL-BROYHILL (TRAIN) AUTO EMISSION AMENDMENT

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 3, 1976

Mr. DINGELL. Mr. Speaker, in addition to President Ford, Administrator Train of the Environmental Protection Agency, Administrator Zarb of the Federal Energy Administration, and Secretary Coleman of the Department of Transportation, and the entire administration, several national organizations have reported their support for the Dingell-Broyhill (Train) auto emission amendment to the pending Clean Air Act Amendments.

For information to my colleagues, I insert at this point a list of such organizations:

National Automobile Dealers Association.

American Automobile Association.

Motor Vehicle Manufacturers Association.

Highway Users Federation.

American Association of Railroads.

Railway Labor Executives.

Michigan Railroads Association.

International Union of Electrical, Radio and Machine Workers.

National Rural Letter Carriers Association.

American Farm Bureau Federation.

National Grange.

Car and Truck Rental Leasing Association.

Discover America Travel Organization.

American Petroleum Institute.

Rubber Manufacturers Association.

Recreational Vehicle Institute.

United Commercial Travelers of America.

American Trucking Association.

Automotive Suppliers.

LEGAL REMEDIES TO THE FORD ADMINISTRATION'S FOOD PROGRAM FAILURE

HON. FREDERICK W. RICHMOND

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 3, 1976

Mr. RICHMOND. Mr. Speaker, recently an article appeared in the law section of Time magazine, which dealt with the Food Research Action Center—FRAC. This group of dedicated young lawyers, headed by Mr. Ron Pollack, have over the past 5 years worked "to use the law to feed people." As a member of the Agriculture Committee, I have had the opportunity to work closely with Mr. Pollack on various projects related to food programs, and have come to learn we share a dedication to feeding our nation's hungry, which the Department of Agriculture lacks.

It is unfortunate that the Ford Administration and the Department of Agriculture have chosen to ignore the expressed will of Congress and that it is necessary for concerned citizens to initiate legal action to ensure compliance with the law.

I am inserting a copy of this article into the CONGRESSIONAL RECORD in the hope that it will illustrate how deficient the Department of Agriculture has been in meeting the needs of hungry Americans and how important the victories of the hunger lawyers have been.

The article follows:

THE HUNGER LAWYERS

Ron Pollack's small New York City law firm consistently wins the biggest money judgments in the nation. Yet Pollack and the four other young lawyers (average age: 31) who work with him do not handle the traditionally lucrative kinds of cases—personal-injury litigation, treble-damage civil antitrust suits, defending giant corporate clients. Ron Pollack is into food for the poor. For the past six years, his Food Research and Action Center has successfully fought Administration efforts to cut back federal spending on food for those who would otherwise have to do without. In the process, Pollack and FRAC (as the center is acronymously known) have forced the Government to free hundreds of millions of dollars' worth of congressionally approved food benefits that the White House had sought to eliminate by Executive fiat. Says Pollack: "Our function is to use the law to feed people."

He uses it with devastating success. Of 150 suits filed in the past half-dozen years, FRAC has won all but four—and three of those losses generated legislative changes in favor of FRAC's causes, while the last may yet be won on appeal. The past few months have been especially rewarding for Pollack and his team. In May FRAC got a judicial order directing the Department of Health, Education and Welfare to stop blocking $37.5 million in food benefits for 63,000 elderly citizens. Then came a $125 million victory over the Department of Agriculture, which had been holding back congressionally appropriated food funds for pregnant women, nursing mothers, and young children. The topper was last month's stunning blow to the Ford Administration's bid to eliminate $1.2 billion in food stamps. Ruling that the proposed action was probably illegal, Federal Judge John Lewis Smith Jr. blocked the food-stamp cut until the case is finally resolved. Said Smith: "Hunger and deprivation might result, which could hardly be cured through any retroactive relief."

BAD POLICY

The New York City-born attorney, now 32, was a student civil rights activist who went to Mississippi in the mid-'60s, where he "saw in the starkest terms people who were extraordinarily hungry and needed government assistance." Only five months out of law school (New York University, class of '68), Pollack filed 26 suits in a single day against foot dragging on food programs by 26 states and the Agriculture Department. "I was arrogant," he now concedes. But, proceeding with careful research and thorough preparation, he won 25 of the 26. These legal triumphs helped him get a $250,000 federal grant in 1970 to start FRAC, which is now supported by a host of religious and foundation sources. Pollack's work has won him respect from supporters and opponents alike. Justice Department Attorney Mack Norton, who has faced him in court and lost, says, "With Ron, we have to work a little harder." Adds Marshall Matz, general counsel of the Senate Nutrition Committee, "He argues congressional intent better than anyone else I've seen."

That is almost always Pollack's key argument—that the intention of the lawmakers is being subverted or ignored by Executive actions. But the young lawyer wishes that the adversary relationship were not necessary. The Government's problem, he explained to Time Correspondent Don Sider, "is constant pressure to minimize spending. The areas that are most vulnerable are the ones with the weakest political constituencies." Thus in recent years, despite congressional appropriations to help the poor, the Administration has often withheld the money, prompting FRAC lawsuits on behalf of the deprived beneficiaries. Says Pollack: "It's almost an institutionalized thing and it's not a good way to make public policy."

Even with a friendlier White House attitude, Pollack would still have plenty of work just making sure that his victories stuck. Two months after winning one lawsuit, he called the appropriate federal administrator, who admitted with shock that he had never done anything about the court order because he had never been told about it.

REDWOODS ENDANGERED

HON. LEO J. RYAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 3, 1976

Mr. RYAN. Mr. Speaker, in 1968, with great fanfare and high expectations, Congress passed legislation later signed by President Johnson which created the 54,000-acre Redwood National Park. Today Redwoods Park is threatened with clearcutting on the upper slopes outside the park's boundaries. At this very moment new timber harvest plans are being prepared and submitted for approval by the timber companies which would further decimate Redwoods Park.

Five consecutive studies carried out by the National Park Service vividly describe the damage and threats of damage to the park caused by the logging operations of timber companies on adjacent lands. Yet even though the law which established Redwoods National Park vested the Secretary of the Interior with the authority to protect the park from damage caused by logging operations on the surrounding privately-owned lands, the Interior Department and the National Park Service have failed to take action.

Clearly the park is in danger and time is of the essence. For this reason the Conservation, Energy and Natural Resources Subcommittee, of which I am chairman, plans to hold hearings in September to look at the damage being caused to Redwood Park by destructive clearcutting.

I recommend to the Members' attention the following article which appeared this past Saturday in the New York Times. The authors provide an accurate description of the urgent need to move quickly in order to save the last of the great redwoods:

The Redwoods: Going, Going . . .

(By Robert Rienow and Leona Rienow)

Selkirk, N.Y.—Out of a welter of vehement debate, Congress in 1968 passed what now turns out to be a phony Redwood National Park bill. For what was hailed as a triumph of conservation, complete with Lyndon B. Johnson's dedication of the park, in California, now seems foredoomed.

Amid the current political turmoil, Congressional bills to salvage the park from vicious border-cutting and landslides are shunted aside. And the redwoods we thought were saved may have only a few years to go.

At the 54,000-acre park's inauguration in 1964 there were expectations and misgivings. The primeval redwood in its swirling mists is an ethereal wonder; it lacks any semblance of relationship to a crass load of redwood logs. The Sierra Club, Friends of the Earth, Wilderness Society, National Parks Association, any many other groups and conscientious citizens, knowing that the straggling park was unable to survive, struggled to enlarge it to a viable 90,000 acres. The lumbermen defeated them.

The compromise was a sequence of three small state parks and enough throwaway cut-over land—land that has been lumbered to the last stick—to sweeten the kitty for the timber operators.

The original idea for a Redwood National Park had been tremendous. The watersheds of Lost Man Creek and Mill Creek were included. But unfortunately there was a grave defect: Only 10 percent of the famed Redwood Creek basin, site of the world's tallest trees, was acquired.

The impending devastation of the watersheds on the periphery of the park is the critical issue of the moment. You can never save the big trees on the creek flats if you clear-cut the upland watersheds. That was tragically learned when in 1955 a flood in the Bull Creek watershed in Humboldt State Park inundated the superb Rockefeller Grove. Upstream logging practices prostrated 500 of the giant trees. It was a hideous price to pay.

Yet we learned nothing. The lumbermen are now consciously, cold-bloodedly repeating the same error. As Secretary of the Interior, Rogers C. B. Morton was directed by law to watch over and protect the park borders. He declared his role "discretionary" and evaded his obligation with seven years of "studies." When a California District Court judge recently directed the current Secretary, Thomas S. Kleppe, to take prompt rescue steps, a whole cloud of legal entanglement suddenly smoke-screened the scene while the lumbermen moved the big tractors in close for the summer kill.

The devastating plans of three companies, now in progress, actually call for clear-cutting 75 acres in the virgin heart of Devil's Creek where erosion hazards are listed as "extremely high." Exquisitely beautiful streams are brutally churned up. A 61-acre clear-cut is scheduled for the banks of Forty-Four Creek. From five to 15 feet of red mud thicken Redwood Creek and pile up near the base of the world's tallest trees.

Indeed the desecration is now so great that most champions of the redwoods have lost all hope.

Right now, a bill sponsored by Representative Phillip Burton, Democrat of California, and co-sponsored by 51 colleagues, could rescue the park by giving it buffer zones. In a survey, we found no members of the entire National Parks and Recreation subcommittee of the House Interior and Insular Affairs Committee resisting quick passage. It would be a kingly gesture indeed if the retiring chairman, Roy A. Taylor, Democrat of North Carolina, who has blocked action, would respond to this sentiment.

Time, that ally of the redwoods, is no longer on their side. Fifteen new clear-cut patches above beautiful Emerald Creek are to be cut this summer, bleeding red silt into the creek and eventually toppling the world's tallest trees on the banks below. The lumbermen have a deadline to meet in their frenzy to make grape sticks out of eternity—before the public learns what is happening.

It will take all the pressure an aroused public can muster to convince the Interior Secretary and the Congress of their holy mission to preserve this once-in-a universe phenomenon. It is crass to mention loss of money when such grandeur is at stake, but if the park goes down, the public loses the $118 million investment it has already made in the park.

This summer, says the Emerald Creek Committee, a local preservation group, will decide the issue of Redwood National Park, Will we quickly put forth the effort and appropriation necessary to give the redwoods a new lease on eternity?

Five years ago, my wife and I purchased, through the Save-the-Redwoods League, a tiny "honor grove" of ten acres. It is a buffer zone, and perhaps we shall never look upon it or the sturdy bench and plaque that records our commitment. But in inner staisfaction it exceeds any purchase we have ever made.

THE POLITICS OF CRUELTY

HON. JOHN T. MYERS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 3, 1976

Mr. MYERS of Indiana. Mr. Speaker, this week, the Indianapolis Star ran an article written by my good friend, Ben Cole, which most accurately shows that public employment is not the cure-all for today's economic and unemployment problems. I share this article with my colleagues and all readers of the Record:

The Politics of Cruelty

(By Ben Cole)

Washington.—The trouble with Democrats is that they want to cure Space Age problems with Depression Era remedies. They keep foisting off on the President all kinds of spending programs that look so humane and anti-recessionary, yet are cruel and inflationary.

Take for example . . .

Last week Congress overrode President Ford's veto of a bill that will authorize spending $3.95 billion with the idea of making jobs for 300,000 Americans. The model for the bill was the Public Works Administration of the Depression Era, which in fact did a lot of good using public funds to put up libraries, college buildings, school houses, municipal buildings, hospitals and the like. They were bargains because both labor and materials were at rock-bottom prices.

During the veto debate in the House of Representatives, Speaker Carl Albert went down into the well and made a speech. He condemned President Ford for the veto and likened him to President Hoover who in 1932 vetoed a public relief measure. Nobody challenged the Speaker's comparison of President Ford and his problems with President Hoover and the troubles of his time.

President Hoover had a Depression on his hands, the likes of which Americans never knew before. Millions went hungry while beefsteak sold for 25 cents a pound and the nickel candy bar contained 4 full ounces. Houses rented for $5 to $30 a month, and a good automobile could be driven out of the showroom for $500 by anybody lucky enough to afford one.

In those times, the problem was getting money into the hands of the people. The objectives were demand for goods, higher wages, higher prices and, above all, more jobs in mills and factories.

From where President Ford is sitting, the Depression might even look like a kindergarten problem compared with the complications of today's economy. The currency is bloated with inflation, circulating into everybody's hands and buying less every day. A pound of beefsteak costs $2 to $3, and the nickel candy bar disappeared long ago. Houses rent for $400 to $1,000 a month, and a modest automobile costs $4,000 to $5,000.

Every time the government spends a dime, it makes matters worse. Today's problem is to increase production, stabilize prices and wages, get inflation under control and stanch the wasting value of the people's savings.

When Congress forced another $3.95 billion spending program on the country, it simply ordered that much taken out of the value of the money in the people's hands. Since the United States government is already spending far more than it gets from taxes, the difference is made up by diminishing the value of the money in circulation. The price for the made-work program thus will have to come from savings accounts, insurance policies, United States savings bonds, Social Security checks, pensions and pay checks. It is inescapable.

So far from being a humane piece of legislation to relieve unemployment, the measure is highway robbery and will compound the problems of Americans in meeting their everyday problems. Worse, it will hamper the job-makers by reducing the worth of their investments and making new factories and machinery harder to buy.

Representative John J. Rhodes (R-Ariz.), the Republican floor leader, warned the Congress that private employers can make far more jobs than the Federal government can ever provide. But few listened to him.

Made work was a solution in the Depression days when a $15 paycheck made the difference between survival and desolation. But that old fashioned medicine won't cure today's ills. Instead, it could poison the economy and leave Americans the bleakness of Socialism as the final solution.

CONRAIL AMENDMENTS CONTROVERSIAL RATEMAKING SECTION

HON. JAMES M. COLLINS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 3, 1976

Mr. COLLINS of Texas. Mr. Speaker, I address my colleagues today in regard to title IV, section 401 of H.R. 14932, the Rail Amendments of 1976. Next week, the Subcommittee on Transportation and

Commerce will commence its markup of the bill.

The inclusion of section 401 in the amendments to the ConRail bill would unquestionably foster a discriminatory situation in the area of freight transportation because it would give freight forwarders the right to make contracts with railroads for carload and piggyback freight rates which are less than those charged other customers on comparable shipments.

What distresses me is that last year, the full House rejected an almost identical provision, section 309 of H.R. 10979. It did not provide equal rates for shippers nor does section 401 in this ConRail legislation. My amendment to strike the preferential rate section in last year's legislation was adopted by the House on December 17, 1975.

Let us briefly review the history of this proposal which very precisely speaks for itself. It has been appropriately deemed "shopworn". Here in the House it took 10 years to get the provision out of committee, and as I have indicated, it first appeared before the full House last December. It has never been approved by committee on the Senate side. In my mind the inclusion of section 401 in the ConRail bill would represent a blatant defial of established congressional sentiment in this regard. This has been and is strictly a bipartisan issue, and the support we have amassed on both sides is impressive. My distinguished colleague, Jim Santini, from Nevada has joined me in the fight. He will offer the motion to strike the section during the subcommittee deliberations and, if necessary, we will jointly do the same when the question is presented before the House Interstate and Foreign Commerce Committee. If stricken again, existing law will allow equal treatment, and both cooperative shipping associations and forwarders will continue to pay the railroads the same rates and charges for handling comparable carload and piggyback shipments.

Now let me explain exactly what we are talking about in terms of day-to-day business. As involved in this issue, both nonprofit shippers cooperative associations and forwarders handle shipments in one city destined for customers in another part of the country. They assemble small shipments into carload or piggyback loads and send them by rail to their destinations. At that point, these loads are disassembled into small shipments for delivery to the consignees.

Railroad charges for carload and piggyback loads are cheaper than aggregate of charges for small shipments which make up the carload or piggyback. Thus, the difference between the cost of the carload shipment and the aggregate of charges received for the small shipment is the spread.

This spread covers the operating costs and profit of the forwarders. For nonprofit shippers associations, any amount over operating costs is returned to its members in the form of lower rates or patronage dividends. Except for this difference, both perform identical physical and functional services, and both pay the railroads to move the goods.

Freight forwarders want special contract rights to undercut the use of shippers associations. By so doing, they will place co-op shippers on the road to demise. Let us now look at the history of the revenue tonnage originated by railroad shipper association and freight forwarder traffic. The table to follow was obtained from: Statement No. 69100-A, Freight Commodity Statistics, Class 1, Railroads in the United States, Bureau of Accounts, Interstate Commerce Commission for years 1964–73.

Year	Shipper associations traffic (tons)[1]	Freight forwarders traffic (tons)[1]	Shipper associations as a percent of freight forwarders[1]
1964	2,413,474	4,753,768	50.7
1965	2,520,110	4,785,587	52.8
1966	2,834,757	5,247,678	54.1
1967	3,102,308	4,820,202	64.5
1968	3,602,630	4,678,617	77.2
1969	4,031,252	4,846,093	83.3
1970	4,288,804	4,706,604	91.1
1971	4,765,002	3,827,715	124.5
1972	5,659,383	3,977,334	142.3
1973	6,417,905	4,313,746	148.8
Percent increase, 1973 versus 1974	165.9	9.9	

[1] These statistics include shippers associations and related traffic.

These statistics alone reveal the forceful reason why the freight forwarding industry is determined to obtain special ratemaking privileges. Consider for example:

First. In the year 1964, shippers' associations handled only 50 percent of the amount of freight handled by freight forwarders.

Second. By 1973, the amount of traffic handled by shippers' associations had increased 165 percent—that is from 2½ million tons to 6½ million tons. Whereas the amount of shipments handled by freight forwarders in 1973 was less than 4½ million tons, a decrease of approximately 10 percent.

Third. Thus, in the direct competition between freight forwarders and shippers' associations who supply the small shipper with LCL service—cooperative shippers' associations are winning the battle.

This brings us to one additional, yet very strong, objection to section 401. It differs in one major and serious respect. It contains a grant of antitrust immunity of unprecedented scope.

Forwarders should not be granted this antitrust immunity to negotiate preferential contracts with the railroads on an industrywide basis. Current law grants such antitrust immunity only to agreements between carriers of the same mode and then permits the ICC to suspend or modify rates arising out of such agreements. Section 401 would give forwarders and railroads a special exemption from the antitrust laws which is unprecedented and contrary to public policy.

In conclusion, I urge that my colleagues join Congressman Santini and me in our bipartisan effort. Our motion to strike offers the one and only equitable alternative to the subject provision. We have the support of the NIT League, Non Profit Shippers Associations, the American Farm Bureau, the American Retail Federation, and some railroads.

ECONOMIC POLICY

HON. JOSEPH L. FISHER

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 3, 1976

Mr. FISHER. Mr. Speaker, I am inserting into the Congressional Record correspondence between Matthew J. Kerbec, president of Output Systems Corp., Arlington, Va., and the administration on the subject of economic policy.

Mr. Kerbec's statements do not necessarily reflect my own point of view; however, I did want to share this correspondence with my colleagues:

Output Systems Corp.,
Arlington, Va., July 23, 1976.

The President,
The White House,
Washington, D.C.

Dear Mr. President: This is in reference to the questions I asked in my Eighth Economic Report to you, dated June 21, 1976 and the answers your spokesman, Acting Secretary of the Treasury James C. Van Horne, made to these questions.

I was extremely disappointed with the general nature of the answers and had the feeling that whoever had formulated them was thinking of a textbook version of an economic system rather than one operating in the real world. For example, the statement that price and wage controls do nothing to remove the causes of inflation, shows a complete lack of understanding of how "cost push" factors caused most of the 1973–76 inflation.

Also, in the answer to Question 2, a statement is made to the effect that the economy has been expanding for more than a year. This assertion does not agree with the facts. Front page emphasis was placed on each of the quarterly increases in the Gross National Product (GNP) which occurred in 1975. These increases were primarily caused by one-time government spending efforts (tax rebates, social security payments, tax reductions, etc.) and the statistical aberrations which occur when quarterly statistics are converted to annual figures. Actually, when the statistical aberrations are stripped away real GNP dropped by 2.0 percent in 1975. It is strongly emphasized that this occurred despite the record $70 billion the Government spent in 1975, to stimulate the economy. This indicates that higher prices (inflation) drained money out of the economy faster than it was put back, in the form of higher wages or more Government fiscal actions. It is too early to tell what the annual GNP will be for 1976.

My estimate is that it will be closer to zero than the 6.8 percent forecasted by Administration economists. My forecast is based on the latest monthly statistics which affect GNP. They are far from encouraging. In May 1976, inventories were higher than ever before (including the depth of the 1975 recession). Also in May, sales dropped for the first time since November 1975. Under these conditions it was not surprising that unemployment increased from 7.3 percent in May to 7.5 percent in June. Again, in June, the Personal Income monthly report put out by the Department of Commerce showed that "Wages and Salaries" decreased in June compared to May. When adusted for inflation, real "Wages and Salaries" dropped about 6 percent on an annual basis. This is the first time "Wages and Salaries" have dropped since February 1975. These facts indicate siphoning away purchasing power faster than it is being returned. In an effort to resolve some of our differences I have added detailed comments to each of your answers. These appear in Attachment 1.

One thing is certain—consumers and businessmen are being subjected to misleading interpretations of economic facts. The economy may or may not be helped when spending decisions by businesses and consumers are based on slanted economic news. However, there are definite adverse affects. Businessmen who believe the economy is improving are increasing rather than decreasing their prices even as inventories go up and sales go down. This is what is happening—inventories and prices are at all time highs. In addition to slanted news, another problem is not enough news. Since 1973, I have been trying to obtain figures that represent the total yearly energy (coal, natural gas and refined petroleum products) bill for the U.S. at the consumer and industrial levels for the years 1973, 1974. 1975, and an estimate for 1976. Most people know how increased prices for electric, heating oil and gasoline have hurt them. However, very few of them realize that they are being hurt even more by the hidden energy costs in food, automobiles, houses, appliances, etc. I am sure the data for computing the total energy bill is available and would appreciate anything you can do to release these totals to the public. Candidly, I do not know how the executive agencies, or any one else can compute the economic impact of higher energy prices unless they have this information. Finally, there is the frightening realization that the Congress cannot be responsive to the Country's needs if they do not know if the economy is getting better or worse.

Mr. President you have many times been quoted as saying that, "inflation is the Nation's top problem." It is now generally agreed that the increases in oil, coal and natural gas prices were the main causes for forcing up prices for all food and nonfood products. This caused the record inflation, which in turn caused the recession, which caused the unemployment, which caused the critical financial problems for Federal, state and local governments which caused significant wage increases which caused the second round of the above effects which we are now going through. This process is continuing and there is little hope for improvement under current Federal economic policies. The above events were detailed and predicted in my eight previous reports to the Office of the President since 1973. There is absolutely no doubt in my mind that many of these events could have been avoided if my recommendations had been evaluated before key legislative bills were vetoed.

As it stands now, whoever becomes President as a result of the November 1976 elections, will inherit an economic "can of worms." Briefly, real Gross National Product has decreased two years in a row (1974–1975); millions of people have lost their jobs; inventories are now the highest they have ever been; capital spending and construction have leveled off; many state and local governments have critical financial problems, the National Debt is increasing faster than during World War II; and we still have inflation increasing at a 6 percent rate with more to come. The only good economic news was the monetary halt in the recession. However, this was due more to deficit spending (robbing Peter to pay Paul) rather than to a real increase in economic activity. There is no getting away from the fact that the economy is in serious trouble and there is no relief in sight.

There is a disturbing tendency for political candidates to obscure real campaign issues by "name calling." The present attempts to use the labels "liberal" or "conservative" can backfire. I presume that being branded a "liberal" is supposed to infer that a person is irresponsible and wasteful, while a "conservative" is supposed to be one who acts responsibly and is prudent.

The performance of the Nation's economy under a so-called "conservative" has been disastrous since January 1974. Inflation, as measured by the Consumer Price Index, has increased over 23 percent since then. Unemployment has reached the second highest level in the Nation's history. Interest rates reached the highest ever recorded while percentage increases for crimes against property hit an all time high. Budget deficits set new records and the National Debt is skyrocketing. The anticipated 6 percent inflation for 1976 will drain another $96 billion out of consumer pocketbooks which will aggravate recessionary pressures. All of this happened under the label of so-called "conservative" government.

A great deal of the blame for our present economic plight can be laid to the inadequacy of contemporary beliefs and theories to analyze and evaluate the economic ripple effects associated with a "cost push" inflation/recession. It is extremely important that we all realize there are real holes in our understanding of how an economic system operates. For example, computerized models used to forecast economic trends completely missed the huge inflation which occurred in 1974. In the Third Quarter of 1973, the Nation's top nine econometric models forecasted what they calculated would be the state of the economy by the end of 1974. The results were more than embarrassing. The average forecast for real economic growth was 1.4 percent—actually, the economy did not grow, it went down by 2.1 percent (1958 dollars). The average forecast for inflation was that there would be an annual increase of 5.3 percent—the actual increase was 10.3 percent (Implicit Price Deflator, 1958 dollars).[1] Using these forecasts as a basis for making economic decisions would have been dangerous.

In a needed effort to clarify where our economic beliefs are applicable or inapplicable, I respectfully submit the following two questions for your comment:

1. Do you believe changes in availability and/or prices for some commodities have more impact in terms of inflation, recession and unemployment than equivalent changes in other commodities? For example, do you think if refineries stopped production there would be a greater economic impact than if steel mills stopped production? If so, why?

This question is critical because there is no concept of Relative Economic Impact in contemporary economics. From a practical standpoint this was one of the reasons classical economists missed recognizing the inflation/recession implications of the 60 percent average price increases that occurred in the energy intensive basic industries in 1974. I was the only one at the Conference on Inflation you held in September 1974 that even mentioned the disasterous economic consequences that were inevitable when prices for basic products increased this much in one year. The inflationary impact was predictable but was ignored. Dr. Aurthur Okun, former top Economic Adviser to President Lyndon B. Johnson admitted in a Newsweek Magazine interview that, "We never understood inflation and never felt we had to."[2]

2. Do you believe there are different causes, effects and cures for inflation? For example, do you believe the causes, effects and cures for the double digit inflation following World World II were the same as the double digit inflation in 1974? After World War II people fought to buy goods they could not get during the War and they had the money to pay for these goods (too much money chasing too few goods). Factories were working full time and unemployment was under 4 percent. Money was being returned to workers in terms of wages and more jobs. Instead of a budget deficit there was a $3.8 billion surplus in 1947. During the inflation in 1974 economic conditions were totally different. The automotive and construction industries were in a depression. Unemployment was at 6 percent and rising and the money from high prices went to energy companies and others that could make high prices stick (too few dollars chasing too many goods). This guaranteed a recession. An absolute policy of not using selective price controls under these conditions is analagous to a cancer specialist declaring he would never use surgery as a technique for curing breast cancer. Your spokesman's answer relative to whether or not you would use price controls was "Price controls do nothing to remove the causes for inflation but simply repress the symptoms temporarily at the cost of serious economic distortion and inefficiency." I submit, we only have price controls on energy and I cannot see how the economy can be more distorted and inefficient than it now is under current economic policies. I further submit, that the idea that price controls do nothing to remove the causes for inflation would be relevant in a discussion of a World War II (demand pull) type of inflation but has little bearing on the virulent (cost push) inflation/recession we are now experiencing. This is the kind of logic that has slammed us into our present price-wage-price spiral and will perpetuate the process until we use all available economic anti-inflation tools including selective price and wage controls and rapid response anti-trust actions.

The foregoing is an attempt to help reconcile some of the economic policy confrontations between the Executive and Legislative Branches of Government. I believe you will agree that this must be done if we are ever to control our economic destiny.

I would appreciate anything you might do to expedite answers to the above questions as they would go to the core of why we are in a perpetual economic crisis. Please call on me if there are any questions.

Sincerely,

MATTHEW J. KERBEC,
President.

Enclosures: Copy of Mr. James C. Van Horne letter to Matthew J. Kerbec, dated July 13, 1976.

REFERENCES

[1] Theory Deserts the Forecasters, *Business Week*, McGraw-Hill, June 29, 1974, pp. xxix.

[2] Hunting New Remedies, *Newsweek Magazine*, May 17, 1976, pp. 77.

ATTACHMENT 1

The following are questions Matthew J. Kerbec asked President Gerald R. Ford in his eighth economic report to the Office of the President, dated June 21, 1976. The answers were made on the President's behalf by Acting Secretary of the Treasury for Economic Policy, James C. Van Horne in a letter to Kerbec, dated July 13, 1976. Kerbec's comments relative to President Ford's answers are also included and were sent to President Ford, in the form of this attachment, on July 23, 1976:

1. Kerbec's Question: Do you feel that all energy prices (via the BTU equivalent concept) in the U.S. should match OPEC price increases?

Van Horne's Answer: No, the prices of energy should be determined by the market place. Since all forms of energy, i.e., oil, gas, electricity, have their own individual characteristics and can be substituted, one for the other only to a limited degree, a BTU basis for price is not realistic. In general, we believe that prices of energy forms should be set through competitive forces and thereby reflect underlying supply and demand considerations.

Kerbec's Comment: The Administrations belief that energy forms (prices) should be set through competitive forces and thereby reflect underlying supply and demand forces does not address itself to real world events.

OPEC is a price fixing organization which arbitrarily increased international oil prices over 300 percent in one year. Uncontrolled U.S. domestic crude oil prices immediately followed and prices for natural gas and coal also went up by significant amounts. These events happened as the result of price fixing—not competitive market forces.

It takes about 6,000 cubic feet (MCF) of natural gas to equal the heating value of one barrel of crude oil (BTU equivalence). Almost all uncontrolled natural gas not under long term contract has went from an average of 25 cents per MCF in 1973 to about $2.00 a MCF by 1975—an eightfold increase. At this time both natural gas producers and the Federal Energy Administration (FEA) are are vigorously pushing for decontrol of all new natural gas which will mean that if decontrol is successful this gas will immediately increase in price to about $2.00 per (MCF).

Evidence of the fact that the BTU equivalence concept has been accepted by the FEA is found in its report National Energy Outlook, 1976.[1] The computer models used to project national gas prices are based on the concept of BTU equivalence. To illustrate, the footnote to Table III–9 states, "Quantities of non-associated natural gas are presented for a BTU-equivalent petroleum price." This is another way of saying that domestic gas producers, with OPEC's help are fixing natural gas prices. As this gas is a major raw material for agricultural chemicals (fertilizer, pesticides, etc.) and the giant plastics industries (tires, food containers, automobile parts, furniture, appliances, etc.), this guarantees continued inflationary pressures for years to come.

It takes approximately four barrels of crude oil to produce the heating value of one ton of coal (BTU equivalence). Esentially, this mean that when residual oil used to generate electric power goes up to $12 per barrel, which it is now, coal will go up to $48.00 per barrel to reach BTU equivalence. Coal now sells for about $17 per ton, on the average.

According to the Council on Wage and Price Stability, the average price for coal jumped 93.4 percent in 1974. The Council gives as the primary reason for this increase "the dramatically high prices for imported oil."[2]

In the coming years a growing number of electric power plants will be forced to convert from oil to coal. When this happens, logical profit concerns on the part of coal producers will dictate that they increase their prices to the precise point that will keep power companies from switching to oil or other substitute fuels. The end result is that coal prices will be on a steady upward march as they converge on the $48 per ton price. This estimate is conservative as both domestic and international crude oil prices are already programmed to increase on an annual basis and will continue to do so under present laws.

This process will add more short and long term inflationary pressures on electric rates which will be passed on, with appropriate markups, to all consumers.

As energy is required to obtain, produce and transport all products (food and nonfood) under present energy pricing policies, strong inflationary effects are guaranteed until 1979. They will be accelerated, if all remaining oil controls are completely lifted at that time in accordance with the Energy Policy and Conservation Act. There is nothing in this inflationary process that remotely resembles competitive market forces.

Because inflation causes unemployment and these are the two top national priorities I suggest these differences in the perception of what is happening in the real world be subjects of national discussion. These inflationary price actions have resulted in the greatest redistribution of wealth (ripoff) in the Nation's history and have caused serious damage to the economy—with more to come.

2. Kerbec's question: Is your position still, no price or wage controls (selective or otherwise)? Do your advisers believe, that when basic product prices keep increasing in the face of falling demand, that this is the way a free enterprise system should operate?

Van Horne's Answer: Price and wage controls do nothing to remove the causes of inflation but simply repress the symptoms temporarily at the cost of serious economic distortion and inefficiency. When the controls are removed, as they must be eventually in a market economy, the pent-up inflationary pressures are released and prices advance very rapidly. For these and other reasons, the current Administration does not contemplate a return to controls.

Continuing increases in basic product prices in the face of falling demand would not normally be expected to occur. Such a result is conceivable in the face of certain supply conditions, or if monetary factors are causing a general increase in prices and costs to occur. In any event, the state of affairs contemplated in the question is unclear. Falling demand is characteristic of recessions and the economy has been expanding for more than a year.

Kerbec's Comment: I agree that in some cases wage and price controls do not remove the causes for inflation. However, in the 1974–1976 years the basic causes for inflation were the huge price increases for energy and energy intensive products produced by the basic industries. For example, in my Fifth Economic Report to the Office of the President, I listed some of the price increases that occurred in the most basic industries for the year ending September 1974.[3] Here are some percentage increases for that year. Refined petroleum products up 85.2 percent; industrial chemicals up 67.2 percent; agricultural chemicals up 51.2 percent; plastic resins and materials up 87.5 percent; iron and steel up 45.1 percent and nonferrous metals up 42.2 percent. As some combination of these products are used in all industries, these huge price increases caused massive disruptions in the structure of the economy which will be with us for years.

Reference your comment, "when controls are removed, as they must be eventually in a market economy, the pent-up inflationary pressures are released and prices advance very rapidly." I submit, that OPEC, in complete harmony with almost all energy companies and, with approval of the FEA, is absolutely controlling prices for crude oil in the U.S. with the exception of those prices that are Government controlled. If you have any arguments or logic that says this is not true, please let me know. The Nation is now in the grip of a monopolistic energy price squeeze that is the main reason for our inflation, unemployment and huge budget deficits. Alternatively, can you tell me why you believe crude oil prices in the U.S. are being set by competitive market forces? This is a basic reason for part of the lack of confidence in government and should be discussed nationally.

The fact that prices increased in the face of falling demand you attribute to supply conditions or monetary factors. There were no significant shortages in supplies in late 1974 when inflation was building up to a 12 percent rate. The automotive and construction industries were in a depression and laying people off at an alarming rate. The problem at that time was lack of sales—not lack of supplies.

Also you imply that monetary factors could have contributed to rising prices and costs. By monetary factors I am assuming you mean changes in the money supply and/or actions by the Federal Reserve Board. If this were true there should have been some large scale disruptions in the money supply statistics prior to the 12.2 percent annual rate of inflation which the Consumer Price Index reported in December 1974. A careful examination of money supply statistics shows no singular distortion in the growth of the money supply. Also, if increases in the money supply were a major cause for the inflation, it would be logical to assume that the 1974 inflation/recession would have been predicted by those who believe that the only cause for inflation is increases in the money supply or in the velocity of money. The truth is that, not only was the inflation not predicted but one of the top proponents of "monetary theory" stated at the Conference on Inflation in September 1974 that there would be no recession. This is another reason for my asseration that there are a number of gaping holes in contemporary economic thinking. I again reiterate that the inflation and resultant general increase in prices was the result of monopolistic actions by energy producers and those companies who had the market power to make arbitrary price hikes stick. In 1974 and 1975 energy price increases directly drained over $124 billion out of the economy and caused another $124 billion increase in prices for food, transportation, electricity and all other products.

Finally, I question your statement that the economy has been expanding for more than a year. Most of the so-called economic improvement has been the result of misreading the statistics rather than improved business conditions. One of the many examples is the way GNP is reported. In 1975, the GNP (1972 $) was given front page news coverage every quarter. The news media reported a 3.3 percent increase in GNP in the Second Quarter, a 12 percent increase in the Third Quarter, and a 5.4 percent increase in the Fourth Quarter. There were no public announcements by government leaders that GNP for the entire year (without quarterly statistical aberrations) decreased by 2 percent. This is doubly disturbing when you realize that this happened even after the Government spent over $70 billion to stimulate spending. Why this happened is a prime target for national discussion. One basic question is—Where did the money go? Certainly, the unemployed did not get it. Even though $70 billion was given back to consumers GNP still dropped by 2 percent. Where did the money go?

3. Kerbec's Question: Can you provide estimates that show what the state of the economy would be in terms of inflation, unemployment, plant capacity utilization and crimes against property if we had insisted on operating with a balanced budget for those years?

Van Horne's Answer: Estimates of some of the magnitudes could, in principle, be obtained through use of a large-scale econometric model. It is highly questionable whether the results would be worth the cost. In general, efforts to achieve a balanced budget during recession are self-defeating and can make a bad situation worse. On the other hand, excessive government spending and budget deficits over longer periods of time can cause inflation and eventually bring about recession. In the present situation, we believe that the economy would benefit greatly from more stable policies and a marked reduction of inflationary pressures.

Kerbec's Comment: The reason I asked for the estimates was that I thought there was a detailed analysis made upon which to base the $70 billion that was given to consumers to stimulate spending in 1975. I should have been more precise in formulating the question and specifying a time frame. The reason this is important is that in the coming months voters are going to be inundated with accusations that government spending has caused most of our economic problems. I believe this spending was necessary to keep a bad economic situation from getting worse. To me, having to incure the huge budget deficits, is like ignoring a small infected foot wound until you have to make a decision to cut off the leg or die of blood poisoning. Had we taken price actions to stabilize energy and other basic product prices, in 1974, we would not now have persistent inflation, millions jobless and governmental financial problems at all levels with no relief in sight.

Here is one scenario that will provide a feel for what would have happened if the $70 billion had not been spent. On the average, about 20 percent of the selling prices of all products goes for wages. If all the $70 billion were used to purchase products, it would mean wage earners received $14 billion of the $70 billion after it was spent. There would be secondary ripple effects as they spent the $14 billion. However, suppose the $70 billion had not been spent. This would mean $70 billion less would be spent and labor would lose $14 billion in wages. If each worker received an average annual wage of $10,000.00 per year, it would have cost about 1.4 million jobs or increased unemployment by another 1.5 percent in addition to many other side effects. For those who argue Government spending always adds to inflation there is a problem in explaining why after spending $70 billion in 1975 inflation dropped from 12.2 annually in December 1974 to 7.0 percent in December 1975.

I believe the effects of Government spending should be discussed nationally.

4A. Kerbec's Question: Are you in favor of stabilizing the U.S. economy by having the U.S. Government buy all foreign oil and sell it to our refineries at some fixed price?

Van Horne's Answer: No, we do not believe it is the government's proper role to buy foreign oil and sell it to U.S. refineries. Procurement and distribution of imported oil is properly the function of the petroleum industry. Additionally, such a mechanism would implicitly subsidize consumption of petroleum and thereby impact unfavorably on its efficient use and conservation.

Kerbec's Comment: I certainly question the statement that "it is not the Government's proper role to buy foreign oil and sell it to U.S. refineries." I believe, when energy is in real or threatened short supply, it is mandatory that the problem be dealt with the same urgency as would be given air or water shortages. There can be energy without an industrialized economy but there cannot be an industrialized economy without energy, regardless of the system of government. As many others and I have stated, there can be no economic stability when most prices for energy in the U.S. are fixed by foreign governments. In the light of our past experiences with OPEC, I cannot see how the U.S. Government can justify jeopardizing the Nation's economic health and security by putting its economy at the mercy of a foreign monopoly.

Also there is an important conservation element in this equation. It is a truism that we are running out of oil in that we are using it up faster than evolutionary processes are replacing it. The Federal Energy Administration in its report "National Energy Outlook, 1976" has admitted, "It is highly uncertain how much oil remains to be found and produced." This is a startling statement. Under these conditions, taking the position that procurement and distribution of oil is a function of only the oil industry shows an irresponsible disregard for the short and long term health of the Nation in terms of insuring adequate energy supplies at prices that allow sufficient purchasing power to the people to maintain a production-consumption balance that will promote the best interests of all people. Many people feel that exploration, production, distribution, price and mandatory conservation measures have to be a responsibility of government and not be left to a few companies whose first priorities (and rightly so) energy production and price decisions that are based on maximizing profits—not economic stability.

The Canadian Government realizes there is no free market for crude oil and has isolated its economy from foreign price actions by buying foreign oil at one price and selling it to its refineries at another price. If prices increase, the government loses money; if prices ever decrease the government will make a profit. The important advantage is that energy prices within the U.S. will be stabilized and the Nation's economy will be isolated from OPEC actions. It has been my sincere belief, since 1973, that this country will never have control over its economic destiny if it maintains a policy that allows its economic health to be a function of the whims of foreign leaders whose interests differ from ours.

4B. Kerbec's Question: In October 1974, Saudi Arabia's Petroleum Minister ordered American oil companies to stop shipping Arabian oil to U.S. Armed Forces worldwide. The companies stopped shipments. Do you think the U.S. should tolerate a situation in which a foreign power can order American companies to withhold vital supplies from our military services? What is your fix for this type of situation until we can at least reach energy independence?

Van Horne's Answer: Certainly not, this sort of pressure is detrimental to our national security. The OPEC boycott was effective only because we are so dependent on foreign oil. The solution to this problem is to become less dependent on insecure sources of foreign oil. This is the goal of Project Independence. As on specific measure, the nation is currently establishing a strategic stockpile of petroleum to mitigate any adverse effects of supply disruptions.

Kerbec's Comment: For all practical purposes Project Independence has been a huge failure. As of July 1976, we are importing more OPEC oil than ever before. This despite the huge price increases received by domestic oil companies. Compared to 1973, the costs for refined petroleum products to consumers and industrial users has jumped over 100 percent. From January 1974 to June 1975 increases in refined oil prices alone have drained away about $130 billion. Of this, about $42.5 billion went to pay foreign oil producers. The rest, $87.5 billion was pure "ripoff" as we paid more for less oil products. It was this process that led me to coin the term "Oil Price Syndrome" (produce less, charge more). There is a snowballing attitude, by many businessmen—that if oil can do it, so can we.

While the "ripoff" aspects of this huge redistribution of wealth will overshadow the newsworthiness of the Watergate scandals when this story is finally told, the real tragedy lies in the fact that this has caused untold human suffering by senior citizens who have to exist on fixed incomes and has resulted in severe hardships for those who have lost their jobs through no fault of their own.

The total economic damage resulting from the direct and economic ripple effects have started a chain reaction that will be with us for many years. Under present U.S. energy pricing policies that are aimed at getting all U.S. energy prices up to OPEC levels in the shortest possible time, there is no hope for any real improvement. These concerns should be discussed nationally and in great depth. These are the gut issues of the day.

NOTE.—If it appears that any of the above comments are unclear or misrepresent the facts, I will be glad to clarify them or provide further substantiation to support these views. I only hope that I have been successful in communicating the worsening nature of our economic situation. We are not in an expanding economy when we have a 6 percent "cost push" inflation unless the U.S. Government increases its budget deficits to the point where it compensates for inflation. No government can keep this up without creating serious financial problems. For example, New York City, Great Britain, Italy, etc.

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Prepared by: Matthew J. Kerbec, President, Output Systems Corp., 2300 S. Ninth Street Arlington, Virginia 22204, (703) 521-2300

DR. MAX M. NOVICH AUTHOR OF BOOK: "HIGH ENERGY DIET FOR DYNAMIC LIVING"

HON. EDWARD J. PATTEN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 3, 1976

Mr. PATTEN. Mr. Speaker, three remarkable persons: my close friend, Dr. Max M. Novich, and Ted and Jean Kaufman, have coauthored a fascinating book called, "High Energy Diet for Dynamic Living." I am sure that thousands of persons interested in this important area will find it beneficial.

The Sunday Star Ledger, of Newark, N.J., covered this fine book in a feature article, so I hereby insert it with special pride, because it was coauthored by Dr. Novich, whose talents are considerable.

Max M. Novich is the chief of staff of the United Hospitals Orthopedic Center, Hospital of Crippled Children and Adults in Newark and clinical associate professor of orthopedic surgery at the College of Medicine and Dentistry of New Jersey. He was team physician for the U.S. AAU boxing team, and is a member of the U.S. Olympic Boxing Commission and the President's Commission on Olympic Sports. He is also team physician for the U.S. Maccabiah teams.

Jean and Ted Kaufman, gourmet cooks and nutritionists, have coauthored "The Complete Bread Cookbook," "Cooking for Two," "Low-Cost Gourmet Cooking," and several other volumes.

TRIO CONCOCTS ACTION DIET FOR SIT-DOWN TYPE WORKERS

(By Joan Whitlow)

The hyperactive executive and today's businessman or woman needs a special kind of diet, not just for losing weight but for living, according to a new book co-authored by orthopedic surgeon Dr. Max M. Novich of South Orange.

The "High Energy Diet for Dynamic Living" was written by Novich and the husband-and-wife team of Ted and Jean Kaufman, who have previously authored books on nutrition and cooking.

Novich, who is chief of staff of the Hospital for Crippled Children and Adults in Newark, and Clinical Associate Professor of Orthopedic Surgery at the College of Medicine and Dentistry of New Jersey, specializes in the physical conditioning of athletes and has served as a team physican for the United States Amateur Athletic Union Boxing team.

The book is aimed at "action people" who are described as "hyperactive executives and the occupationally dynamic individuals of all the professions," people who "employ a more continuous use of brain power in their occupations than they do muscular energy."

In addition to a diet plan, with menus, the book gives the "action person" tips for getting through a day without undue stress and mental fatigue.

The authors advise:

"Several times during both the morning and afternoon hours, get up from your work, walk around the office or room several times, and take at least six to eight deep but normal breaths (do not hyperventilate). Remember, even a little physical activity can relieve mental fatigue, and oxygen improves mental alertness.

During the latter part of the morning, engage in a few simple exercises that can be performed in an office.

About two hours after you have had your lunch, put your work aside, 'close shop' for 10 to 15 minutes, and take a 'cat nap.' It will refresh your mind and help you through the remaining 'drain and lag' hours of the day."

Before getting into the "high energy diet" the authors present information on food and nutrition, with a table that shows how many calories per minute different forms of activity will burn and detailed information on why we need proteins, carbohydrates, vitamins and minerals and how they are used by the body.

The diet itself is designed to be low in the fats which have been associated with heart disease, since "action people, with the unique nature of their activities, are subject to stresses, strains and fatigue that may place an undue load on the heart."

And while the diet is not a weight-reducing plan per se, it does allow about 340 calories less for men and 230 calories less for women than the National Research Council usually recommends for daily caloric intake levels.

The authors say they believe the sedentary activities of most of the population predispose persons to obesity, and it is therefore better to leave a little "caloric room" in the diet.

Basically, the diet presents a balanced menu plan which stresses lean meats, fish and poultry, the use of only three eggs per week, and reduction of fats to reduce cholesterol. The recipe section includes desserts which make more use of fruits than sugar, and a number of ways to dress up vegetables.

COMMERCIAL TRAVELERS SUPPORT DINGELL-BROYHILL (TRAIN) AMENDMENT

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 3, 1976

Mr. DINGELL. Mr. Speaker, the United Commercial Travelers of America have written in support of the amendment Congressman BROYHILL and I will offer to the Clean Air Act amendments.

A resolution adopted by the organization is inserted at this point:

Whereas, the United Commercial Travelers of America is an organization comprised of members whose livelihoods are dependent upon the automobile,

Whereas, the Clean Air Act Amendment of 1976 (H.R. 10498) contains an auto emission standard schedule which would have severe adverse impacts upon the purchasers and operating costs of vehicles for all commercial travelers,

Whereas, Representative John Dingell (D-MI) and James Broyhill (R-NC) intend to offer an amendment on the floor of the House which would be a far more acceptable provision in the law,

Whereas, the Dingell-Broyhill Amendment would save consumers, including commercial travelers, 9–15 billions of gallons of gasoline and 30–41 billions of dollars of vehicle equipment and maintenance costs over the next decade, while at the same time providing for the improved quality of air that we breathe,

Therefore be it resolved, that the 246,000 members of the United Commercial Travelers of America support the Dingell-Broyhill Amendment and urge its adoption by the Congress of the United States of America.

PETER KORMANN, OLYMPIC CHAMPION

HON. JAMES A. BURKE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 3, 1976

Mr. BURKE of Massachusetts. I always look forward to the Olympic Games with a sense of excitement and pride in the knowledge that our Amercan team will excel. The summer games just completed in Montreal have surpassed all expectations, with the excitement of many new world records and American medals in all phases of the competition.

The American athletes and coaches worked long and hard on their way to Montreal, and they indeed deserve our support and high praise for their excellent representation.

I am particularly proud of a young man from Braintree, Mass., who scored a major upset in the gymnastic competition. In a sport traditionally dominated by East European nations, Peter Kormann came from behind in the gymnastics floor exercises to capture the bronze medal for the United States. I saw Peter's performance on television and was amazed by his skills and total perfection. I am sure I join with all the Members of Congress in congratulating Peter Kormann on his achievement.

Mr. Speaker, I would like to share with my colleagues a Boston Globe article on Olympic champion Peter Kormann and his return to Braintree, Mass.:

BRINGING THE BRONZE TO BRAINTREE

(By Peter Mancusi)

Peter Kormann arrived home in Braintree yesterday afternoon hoping to relax and watch television.

Instead Kormann, the first American in 44 years to win an Olympic men's gymnastic medal, came home to a house full of friends, relatives and reporters who quickly killed any hopes of catching the remainder of the Olympics on TV.

Kormann and two friends surprised the group gathered at his home at 154 Middle st., when they arrived at 5 p.m., two hours earlier than expected.

"I'm really surprised everyone is so excited," he said, after posing with his parents in front of the house—holding an Olympic flag his father had hung on a pole by the driveway. Minutes later, a camerman cornered Kormann and asked him to hold up the bronze medal he won for floor exercises.

Earlier in the day the latch holding the medal's chain broke.

For Kormann, 21, a Braintree High graduate, capturing the Bronze medal was a bittersweet climax to a frustrating week for the American team. Most of Kormann's teammates planned to leave Montreal early in the week, but stayed when Kormann qualified for the final Wednesday night.

"The guys were really excited for me," he said, sitting in his backyard as neighbors offered congratulations. "They were beside themselves. I'm glad I eased their frustration a little bit."

Although the American team performed with few errors in 35 of 36 exercises, they repeatedly received low scores while East European teams scored much higher.

"All of us were just about in tears when we watched what was going on with the Russians in the second session," he said. "They would make mistakes and still score higher than we did. By the time we were finished with the compulsories we knew we couldn't place well."

"I don't know," he added. "I guess I feel about third place. Maybe my winning will open up some doors for gymnastics in this country. We need something."

Kormann came from sixth place in the finals to win the bronze after performing a near-perfect routine including a full-twisting double back (flip), a risky move that Kormann had not tried for two months prior to Friday.

"I knew that if I hit my regular routine and the Russians and Germans hit theirs, I would lose," he said. "I could take a chance that they'd make a mistake. The move was a calculated risk."

Kormann was frequently met by strangers who would introduce themselves, offer congratulations and leave. Other Braintree residents did not stop at the house, but drove by honking their car horns.

"I saw you shaking hands with one of the Communists, on television," one neighbor said to Kormann.

"Good," Kormann replied, "they shake hands too." Some residents brought their children so Kormann could shake their hands. Kormann's father, Martin, even hired several Braintree policemen in anticipation of heavy traffic on the street.

Kormann plans to remain at home until Aug. 1 when he leaves to teach junior high gymnastics at a friend's camp in Stroudsburg, Pa. Two weeks later, he will travel to China with seven other American gymnasts for a series of exhibitions and competitions for ABC television.

In September, Kormann will begin his senior year at Southern Connecticut State college and start training for the world gymnastics championships in Paris. He also hopes to compete in the 1980 Olympics, but said he and many other American gymnasts will make their final decisions after seeing whether the judges who plagued them in Montreal have improved.

"I want to compete in 1980," said Kormann. "But if this (poor judging) happens again, a lot of us are going to say forget it. We just haven't been getting the scores, and that's the maximum goal in the Olympics for a gymnast."

Kormann's brother, Paul, 16, also hopes to go to the 1980 Olympics. He will be co-captain of Braintree High's gymnastic team next year which is expected to win its seventh consecutive state gymnastics championship under coach Joseph Schuhwerk.

TELEVISION VIOLENCE CAUSE FOR CONCERN

HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 3, 1976

Mr. SIMON. Mr. Speaker, I have long opposed censorship and have fought the civil liberties battle during my years in the Illinois General Assembly, during 4 years as Lieutenant Governor, and I trust that my record here in Congress continues to reflect the belief that the battle for freedom must constantly be fought.

I do not believe it is an infringement of fundamental civil liberties to recognize that excessive violence on our television screens is not healthy for this Nation. The same is true for movies. I recall when my wife and I saw the movie "The Godfather" in St. Louis; when it came to the scene where someone was being beaten up in front of a fire hydrant the audience cheered. It was a chilling experience for me.

I do not believe we can present movies like that without some civil liberties problems.

I do believe that we do not need to make the licensed airwaves of the United States available for such violence.

I am inserting a column written recently by an old friend, Jack Mabley, who had this column in the Chicago Tribune appropriately on July 4, and an article by William Braden, a veteran reporter for the Chicago Sun-Times in that publication.

The articles follow:

[From the Chicago Tribune, Sunday, July 4, 1976]

THE ALMIGHTY BUCK MIGHT SAVE YOU YET

(By Jack Mabley)

There is one motivation for TV producers and writers and networks to put violence in shows, and for sponsors to pay for them. The motivation is the almighty buck. Violence is the quick and easy way to gain attention and pack one dramatization and its solution into 25 or 30 minutes.

There is one motivation that can reduce violence on television—the almighty buck.

Two avenues can effectively communicate public disapproval of TV violence. The first can start today. The second is tougher.

The first is to refuse to support companies which sponsor the programs. This action can be taken individually or collectively.

The other approach is to oppose renewal of licenses of stations which carry excessive violence. Networks are not licensed, but individual stations are. The air waves belong to the public, and the stations have the privilege of getting rich through use of our air space at our tolerance. They are not only getting rich, they are destroying the moral fabric of the nation.

Is that a little extreme? The National Commission on the Causes and Prevention of Violence, chaired by Milton Eisenhower, stated:

"Television enters powerfully into the learning process of children and teaches them a set of moral and social values about violence which are inconsistent with the standards of civilized society . . . children can and do learn aggressive behavior from what they see in a film or on a TV screen."

The death rate for ages 15 to 24 rose 16 percent from 1963 to 1973. The rise was entirely due to deaths by violence.

The average American child will view the killing of more than 13,000 persons on television from the time he is 5 until he is 15.

A Nielsen survey finds preschoolers watch an average of 54 hours a week, or seven to eight hours every day. Even taking out Sesame Street, that leaves the kids daily watching dozens of stabbings, shootings, sluggings, and beatings.

The prestigious New England Journal of Medicine broke tradition recently with a long article by Anne R. Somers, a professor at Rutgers Medical School, which began, "For a considerable proportion of American children and youth, violence has become a major health problem."

Prof. Somers thoroughly documents the change in youthful behavior coinciding with the flood of the televised violence.

Youngsters before the advent of TV saw some dramatized violence. Saturday afternoon movie matinees were popular. But other than that children generally were denied access to theater or other dramatic entertainment.

Now most American children spend more time watching televised entertainment in their homes than they spend in school. It is bound to have an impact, and anyone who thinks TV isn't a factor in the 100 percent rise in murders since 1960 is living in dreamy dreamland.

The editor of the New England Journal followed the Somers article with this: "The American Medical Association, if it is really ready to fight this environmental disease, should appoint a panel that will identify the programs most notorious for their routine and persistent portrayal of violence.

"Once these programs have been so identified, let the list be posted in doctors' offices. The application of the boycott is then straightforward: those who believe that violence on TV must be contained will simply pledge themselves not to purchase products promoted in association with the offending programs.

". . . Or shall we medicos and our spouses and friends sit back, as we have been doing, and fold our hands over continued bellies, while the after-dinner entertainment of our children shows that nothing can be accomplished in this world without brass knucks, kicks in the groin, switch blades, or Saturday night specials."

The American Medical Association convened in Dallas last week and took a tough stand on TV violence.

They voted to encourage doctors to "actively oppose" both the programs and their commercial sponsors.

Recognition by medical science of violence as a health problem that is taking thousands of lives is a significant step. They must have support from the rest of us.

[From the Chicago Sun-Times, May 9, 1976]

DEFINITE "NO" TO FILM VIOLENCE

(By William Braden)

Simple question: "Does watching violence on television and movie screens make some children more violent?"

Simple answer: "Yes."

That is now the prevailing opinion of the scientific community, based on massive research. It is the conclusion reached by most social scientists—psychologists and sociologists—who have studied the influence of entertainment media violence on behavior.

The Sun-Times interviewed scores of scientists at universities and major research centers across the nation. And even the minority of dissenters agreed it is now the majority view that make-believe violence breeds real violence.

Many dissenters warned that such a starkly stated conclusion could be dangerously misleading when implemented as a basis for social policy—and their concern that it might be one reason for the carefully guarded language and qualified statements that have frustrated parents and policymakers.

There are those who support the violence findings who say, however, that too much academic waffling can be equally dangerous.

One of the most outspoken members of this camp has been Leonard D. Eron, editor of the Journal of Abnormal Psychology and chairman of the department of psychology at the Chicago Circle campus of the University of Illinois.

Eron directed a widely discussed study of 875 boys and girls in a semirural county of New York. The study began in 1960, when the subjects were third-graders, and ended a decade later, a year after high school.

Eron's conclusion was clear cut: "One of the best predictors of how aggressive a boy will be at age 19 is the violence of television programs he prefers at age 8." Aggression was defined as "an act which injures or irritates another person." And the finding was that an 8-year-old boy who prefers a heavy diet of violent television will be more aggressive at 19 as a direct result of watching the electronic violence.

Discussing the study, Eron rejected the interpretation that later aggression is merely a reflection of the original preference for television violence—that violence-prone children watch violent TV.

"We controlled for that," he said. "So if you take those kids who were nonaggressive at age 8 but preferred and watched violent TV, at age 19 they were significantly more aggressive than children who were aggressive at age 8 but watched nonviolent TV. Which indicates it's the TV violence causing the aggression, rather than the other way around."

That's boys. For girls, the study found indications that "viewing television violence may lead to lessened aggression."

Among Eron's explanations for this is that television may provide girls a vicarious outlet for aggression not socially acceptable in females. Furthermore, there are fewer aggressive females on television for a girl to imitate. Girls on television are usually victims of aggression—or passive observers. So girls are more likely to feel the aversive consequences of aggression.

But times are changing, as Eron noted. There are now more aggressive females on the tube, from Maude to Wonder Woman, and girls in experimental situations are now for the first time "getting aggression scores just as high as boys."

There has been less research into the impact of movie violence. But other studies suggest that movie-theater films, if anything, are more likely than television to produce aggressive behavior.

Some of Eron's critics argue that, while he may be right, concentrating on media violence may distract the public's attention from social conditions and other factors that contribute to antisocial aggression.

"A lot of factors cause violence," said Eron. "A child may be predisposed to violence by his genes, or his home, or his social situation. And none of that should be ignored. But those factors are very hard to control, and media violence is something we can control. If you reduce the amount of exposure to media violence, you reduce the amount of later violent behavior. A child may still become a violent adult—but he'll be less violent than he might have been."

Eron says the critical period for exposure to media violence are the formative years, between 6 and 12 perhaps, or even up to age 18 in some individuals who are slow to develop. After 18, he said, the effect of such exposure is transient. It doesn't last and become a part of the individual's over-all character or personality.

Other critics are more concerned with another aspect of entertainment-media violence. They worry about its impact on a possible majority of the population who may react to it by becoming not more aggressive but more fearful and docile. And a leading spokesman for this view is George Gerbner, dean of the Annenberg School of Communications at the University of Pennsylvania.

The theory, in brief, is that persons who watch a lot of television imagine the real world is much more violent and dangerous than it actually is. They see themselves as potential victims, not aggressors. And this makes them distrustful of other persons and more submissive to social authority figures (symbolized by all those television cops and sheriffs).

But Gerbner said the view represented by Eron "is probably correct, in terms of our assessment of the evidence."

The layman has to take that view on faith, because it is based on sophisticated statistical techniques such as cross-lagged correlations, path analysis and multiple regression (the experts themselves sometimes appear bewildered by their tools). And virtually all of Eron's critics in the Sun-Times survey said—on and off the record—that his conclusions were indeed "probably correct." "They quarreled with the statistical model he used to reach those conclusions. And most of them said the almost infinite number of variables involved well may preclude the possibility that the sanctity of science ever will permit a definitive answer to the question.

That fact—and a lot of jargon—obscured the value of an otherwise impressive report published in 1972 by a special committee appointed by the U.S. surgeon general (then Jesse Steinfeld). The report on the impact of television violence on children was so qualified that all sides used it to support their positions. Also obscured was subsequent testimony at a congressional hearing by Steinfeld, who said:

"While the committee report is carefully phrased and qualified in language acceptable to social scientists, it is clear to me that the causal relationship between televised violence and antisocial behavior is sufficient to warrant appropriate and immediate remedial action. The data on social phenomena such as television and violence and/or aggressive behavior will never be clear enough for all social scientists to agree on a formulation of a succinct statement of causality. But there comes a time when the data are sufficient to justify action. That time has come."

And that statement was made five years ago.

TWO-CAREER COUPLES

HON. DONALD M. FRASER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 3, 1976

Mr. FRASER. Mr. Speaker, one of the seemingly permanent social changes that has come out of the sixties is the increasing number of well-educated, highly motivated young women who are interested in careers and marriage with children. These are the female graduates in law, medicine, business administration, and other professions who are trying to work out a new accommodation to the multiple problems of the two-career marriage: how to handle the conflicting demands of two professions in one family, whose job should take precedence in conflicting situations, how to resolve mutual responsibilities for the care of children, and so forth.

Because no real answers are likely to be found without a more general understanding from employers and the public, I am inserting the following article by Alan Otten of the Wall Street Journal:

[From the Wall Street Journal, July 29, 1976]

TWO-CAREER COUPLES

(By Alan L. Otten)

Both husband and wife planned careers in investment banking in New York, but banking firms didn't like the idea of hiring a person whose spouse might be working for a competitor. So she's agreed to look for another type of financial job.

A young professor wanted to stay at Harvard, but his wife couldn't get a teaching post there. So he's switched to a less prestigious university, but one where they both are guaranteed tenure.

Another woman, a Russian expert, sought to live in the Soviet Union a couple of years to further her career. Her husband is a statistical consultant whose contracts and career would be unsettled by going there with her. They haven't yet solved their dilemma.

As these examples suggest, conflicts and potential conflicts between career-seeking marriage partners are becoming common and complex. Expert testimony to this effect—and some helpful hints for easing the conflicts—come from Patricia Light, chief psychologist in the office of career development at the Harvard Business School.

When Mrs. Light took on the job several years ago, she expected to deal chiefly with traditional student difficulties: personality problems, identity crises, overwork, depression. To her surprise, she found that one of the most common calls for help came from young couples anxious over how they were going to manage to handle separate careers.

"There's absolutely no question that the two career couple is a direction in which we will continue to go, and probably at an accelerating pace," declares Mrs. Light, herself half of a two career marriage; her husband teaches at the Harvard School of Education, and they have two small children. Higher education levels, the feminist movement, efforts to limit population growth, and other factors all push the trend to two career or dual career marriages, Mrs. Light believes.

And, she warns, business firms are sooner or later going to have to change many personnel policies if they want to compete to hire these bright young men and women.

In most families where both husband and wife work, they labor at more or less routine jobs and chiefly to enlarge family income. In two career marriages, however, money is rarely the major motivation; each partner, usually well educated, aims to advance steadily in the chosen business or profession, seeking psychological as well as financial satisfaction.

MANY FACETS INVOLVED

The dual career problem has many facets, of course. One is the issue, still faced chiefly by women, of role conflicts. Despite women's liberation, Mrs. Light finds, society generally still expects a married career woman to continue to fulfill also the traditional roles of companion, housekeeper, mother, hostess.

"Things are beginning to change," Mrs. Light says, "but very slowly. The burden of proof still falls on the wife if the souffle for the dinner party falls or if the kids don't have clean clothes for school. Men are for the most part still shielded culturally from this sort of role strain. Typically, unless family needs reach crisis proportions, people just naturally expect the man to put the demands of work first."

Conflict arises in many other ways, too. How much competition will the partners feel with each other? If career opportunities clash, which career gives way? What is each partner prepared to do for the other's career?

Having children intensifiies all the strains, of course, yet almost all the young couples Mrs. Light has counselled individually and in special group discussions had definitely decided to have children eventually. Most career wives, though, now plan to have the children later, after their own careers have been firmly launched. Then when they have the children, they figure, they can resume part-time or full-time work more easily.

Even then, though, trials abound: corporate discrimination against women who drop out to have babies, parental guilt feelings that the children will be neglected, arguments over which parent comes home to take the sick child to the doctor.

With problems so perplexing, just what help can Mrs. Light offer? The most important thing, she tells her couples, is to try to think and talk about questions in advance. The woman, for example, should try to figure out whether she really will be able to juggle all the different roles, and find out just what her husband will do to help.

"Talking things over and trying to anticipate trouble spots isn't going to solve all the problems," Mrs. Light declares. "But then at least, they don't come up and hit you in the face with quite the same force." And, she adds, "there are few if any institutional devices that will help two career couples make it work. Above all, they have to be very creative and flexible."

If one is offered a good opportunity in a city 200 miles from where the other is happily at work, perhaps they can live in between and commute daily in opposite directions. Quite a few couples, she finds, are willing to consider living apart in different cities during the week and just spending weekends together; "they argue that's not so different from the situation where one partner is always traveling and away from home anyhow."

One partner may have to change his or her career goal. A wife who's an expert on international finance ought to be working in Europe or New York, but her engineer husband wants a career with a manufacturing firm in a small Midwestern city. So she's now looking for a teaching job in universities near that city.

More couples, too, Mrs. Light says, "seem to have the idea that they can alternate cycles of opportunity—one partner's career being the prime concern for a few years, and then the other career getting priority." And when a corporation asks a young executive to transfer to another city, the wife's situation is increasingly a factor in his decision. "It's no longer certain," Mrs. Light says, "that a young man with a career wife will automatically accept a transfer to a place that gives the wife a mediocre career opportunity."

Another of Mrs. Light's precepts is the need to be realistic in estimating how much can really be accomplished. She cites "Dottie's fantasy"—the case of a talented, hard-driving young woman clearly headed for the top of a major corporation. Yet Dottie also sees herself sitting on the sofa each night reading bedtime stories to two freshly-scrubbed kids.

"For her, time is elastic," Mrs. Light observes. "She thinks she can have everything, as long as she's willing to work harder and run faster." But that's extremely naive, Mrs. Light believes. To get to the top will require long days and lots of travel—and Dottie's simply not going to have much time for children.

"Two career couples," Mrs. Light asserts, "must set priorities, make choices, accept tradeoffs."

CAREFUL PLANNING NEEDED

Even more than for most people, time and energy are critically scarce resources for two career couples, and their use must be carefully planned, Mrs. Light advises. "Spontaneity may be great," she says, "but two career couples will find that planning ahead helps make things work—that allocating your time and energy carefully keeps you from chasing your tail." This means not only planning flexible work patterns but also planning relaxed time together and even time alone for each partner.

A career couple must be willing, too, to spend their money to save time and energy: to buy labor-saving appliances, to hire people to do household jobs, to employ a reliable and sympathetic person to take care of the children during working hours and to hire baby-sitters frequently to give themselves ample diversion.

They must work out what each partner has to do for the children. Mrs. Light's husband, for example, is on full-time child-caring duty two weekday afternoons and she's on duty the other three; they usually can trade if an office crisis develops for him or her. Two career couples with children must also develop a strong relationship with the children's caretaker, Mrs. Light says, so that the caretaker has a clear idea of how the parents want disciplinary and other child-rearing troubles handled.

And they must show creativity in working out relationships with their employers. One acquaintance starts work an hour later than her co-workers, having taken the children to school first. Her husband leaves work for 40 minutes each day at 3:15, to pick up the kids and take them to a babysitter. Both husband and wife make up the lost time at the end of the day.

"This isn't the sort of demand you make when you go in for your first personnel interview," Mrs. Light admonishes. "You have to build your relationship with your employers first, so they become confident that you're going to get all your work done, even though you need special arrangements to do it."

Just as two career couples are going to have to learn to compromise and adjust, so will many companies, Mrs. Light believes.

They'll have to permit some employes to work unusual hours, refrain from penalizing an employe who turns down a transfer, guarantee that women who drop out to have babies can return to their old career levels, and perhaps provide new routes to top management that are easier for a man or woman in a dual career marriage to follow.

"We're not going to see major change in business attitudes overnight," Mrs. Light concedes. "Many companies will insist that all this simply isn't their problem.

"But more companies are going to recognize that a very different group of young people is coming out of the colleges and universities today, and that corporate policies must accommodate to some extent. Otherwise, they're going to lose out on getting the services of some extremely talented young people."

CARTER AND MONDALE STIRRING UP HATE

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 3, 1976

Mr. MICHEL. Mr. Speaker, in a column which appeared in the July 27 edition of the Chicago Tribune, Pat Buchanan exposes the hypocrisy of Messrs. Carter and MONDALE by noting that while, on the one hand, they talk about healing and compassion, on the other they unleash the most hateful diatribes against President Ford for his pardon of Richard Nixon.

Again, while they promise to honor the late Dr. Martin Luther King by making his birthday a national holiday, they are silent about the persecution of Dr. King conducted by the last two Democratic Presidents, Kennedy and Johnson.

Jimmie Carter and WALTER MONDALE are setting a new standard for cynicism, and Mr. Buchanan's article is prime, but by no means complete, evidence of what they are up to.

[From the Chicago Tribune, July 27, 1976]

APOSTLES OF LOVE ARE RANKLED

(By Patrick Buchanan)

WASHINGTON.—Former First Lady Pat Nixon was still at Long Beach Hospital recovering from a stroke when a grinning Walter Mondale gripped the lectern at the Democratic National Convention. Sniffing out the mood of his audience, the vice presidential choice of what Jimmy Carter calls the "party of compassion" ripped into President Ford for having interrupted the prosecution of former President Nixon.

Carter was up next. "Our country," he said, "has lived through a time of torment. It is now a time for healing." Carter's idea of healing was to tear the scab off the Watergate wound and remind his cheering audience that "bigshot crooks," are going free.

Two years after Ford's magnanimous pardon of his predecessor—done at great political cost and no personal gain—it still rankles the Nixon-haters. If there is any political juice left in that rotten old melon of Watergate, you can bet that Carter and Mondale, the candidates of compassion and love, are just the boys to find it.

Now, do not get them wrong. They are not against charity—just charity toward the Nixons. They are not against pardons, either. In fact, they plan to dole out about 5,000 pardons the first week they are in office—to the draft dodgers who ran away to Canada and Sweden when other, better young men went off to fight and die in Viet Nam in what Carter likes to call our "racist" war.

Seeing the apostles of love up there stoking the embers of revenge was not the only paradox at the Madison Square Garden convention.

We heard endlessly about the abuses of the Federal Bureau of Investigation and the Central Intelligence Agency—nothing about the principal abusers, Presidents Kennedy and Johnson.

We heard corruption in government denounced. And the oratory was applauded by enthusiasts of a fighting 94th Congress which has distinguished itself by the amount of boodle it has extracted from the taxpayers and the number of trollups it has put on the payroll.

One of the more appropriate pledges was the promise to make the birthday of the Rev. Martin Luther King, Jr. a national holiday. It is fitting that Democrats should take the lead here, since it was their last two presidents who wiretapped the telephones and bugged the bedroom of the late civil rights leader.

One wonders what went through the mind of "Daddy" King, delivering his benediction to a convention which contained politicians and press who knew, and kept silent, during the early 1960s when the agencies of a Democratic administration were gathering and distributing dirt on his murdered son.

But, back to the pardon of Nixon. While controversial and costly, it remains the most presidential decision of Ford's abbreviated term in office. True, it produced a firestorm, but it was the last firestorm. It lanced the boil that had been festering, at great cost to the nation, for 18 months.

Left to the Democrats or liberal press, we would still be recycling the garbage, replaying the tapes.

Two years after the pardon, after the revelations of the sins of previous Presidents are laid alongside those of Nixon's men, it is clear that what, the Left was after was not justice, but Nixon. For 18 months they had been mainlining it on Watergate. And the individual, no matter his name, who cut off the supply, who put them through cold turkey, would earn their eternal enmity. Ford, courageously, chose to be that man.

Because of his single act in September, 1974, this nation entered its Bicentennial far less divided, with a political climate far less poisoned than it would have been had that decision been left to those who were profiting personally, psychologically, and politically from the Watergate circus.

AFFIDAVITS CLAIM 1960 NIXON TIE TO CUBAN PLOT

HON. DAWSON MATHIS

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 3, 1976

Mr. MATHIS. Mr. Speaker, I note with great interest the news reports concerning the John F. Kennedy assassination material which my colleague from Virginia, Mr. DOWNING, made public yesterday. I ask unanimous consent that this article from this morning's Washington Post be inserted at this point in the RECORD. I agree fully with my colleague from Virginia that this information should be investigated properly, by a select committee of the House. If certain Cuban elements were in any way responsible for President Kennedy's death, let us determine that. If former President Nixon had been associated with such groups, and if the "White House tapes" do, in fact, refer to such an association, let us determine that. If the material released yesterday is not true, let us determine that.

Mr. Speaker, the time has come to settle these and many other disturbing questions about the Kennedy assassination. We have waited long enough. I am confident a majority of my colleagues would support the resolution to establish an investigating committee, if it came to the floor for a vote. I strongly urge the Committee on Rules to allow the House that opportunity.

AFFIDAVITS CLAIM 1960 NIXON TIE TO CUBAN PLOT

Rep. Thomas Downing (D-Va.) released sworn statements yesterday quoting an anti-Castro Cuban exile leader as claiming he had an agreement with then-Vice President Nixon in 1960 for "elimination" of leftist Cuban exiles after the Bay of Pigs invasion.

Downing said he had no way of validating the information and was in no position to vouch for its authenticity.

He said he released the statements only because they are sworn and part of a package of documents raising the possibility that President Kennedy was assassinated by right-wing Cuban exiles who felt betrayed because promises that they thought they had from Nixon had not been kept in the Bay of Pigs invasion.

The two sworn statements were made this month by Mario Kohly Jr., son of the late Cuban leader who claimed the agreement with Nixon, and Robert Morrow, an author who says he was a Central Intelligence Agency contract employee.

Morrow's statement says that the elder

Kohly said the agreement was made on his pledge to have his 42,000 underground forces inside Cuba, as well as 300 to 400 guerrillas in the Escambrey Mountains, support an invasion by CIA-trained Cuban exiles.

Kohly Jr. says in his sworn statement: "I was told that Vice President Nixon had agreed to the elimination of the leftist approved Cuban Revolutionary Front leaders at a time when the island would be invaded by the exile troops trained under the direction of the Central Intelligence Agency."

Besides withholding U.S. air cover from the Bay of Pigs invasion when it began to fail, Kennedy stood in the way of a plan anti-Castro Cuban leaders were preparing in the fall of 1963 for a second invasion, Morrow said.

DIRECT ELECTIONS FOR EUROPEAN PARLIAMENT

HON. DONALD M. FRASER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 3, 1976

Mr. FRASER. Mr. Speaker, the European Community is about to start an historic political process which will culminate with direct elections for its Parliament in May 1978. This decision was made last month by the Community's Council of Ministers. It culminates 25 years of discussion of an elected all-European assembly: it follows by 19 years the explicit commitment by the European Community, in its Treaty of Rome, to elect directly its Parliament.

The significance of this decision lies not only in the enhanced quality of democracy within the Community, itself a major improvement over the present system of appointing members of the European Parliament from the nine national parliaments. Rather, the most important result of this decision may be the development of trans-European political parties.

Until now, the Parliament, which has operated since the Treaty of Rome went into effect in 1958, has functioned with a lack of authority strikingly similar to that which burdened our own Congress during the years of Confederation. The obvious difference comes in the political units represented in each assembly; our original States had been colonies until the Revolutionary War and lacked, therefore, a strong historical sense of unity and community. The European countries which the Community and its Parliament seek to unify have existed for many centuries. They still possess strong elements of national resistence to the goals of political unification to which their respective governments have pledged themselves.

The present Parliament has, however, made important steps toward developing a European sense of political community. For example, the six polit-groups of the Parliament—Socialists, Christian-Democrats, Liberals, European Progressive Democrats, Conservatives and Communists—sit together on the floor of the Parliament. They meet in their political groups for legislative planning and strategy. But essentially they are unions of diverse members, for each of whom respective national politics are much more important than their part-time participation in the European Parliament.

Under the procedure approved last month by the Council of Ministers all nine member countries of the Community will vote in the same period—probably over 3 days to take into account national differences—in May 1978. The electorates of the nine countries will choose from a slate of candidates proposed by the major political groups in each country. The Parliament to be elected will serve for 5 years.

In the 1978 election, national procedures will be followed but the parliament thus elected will be required to prepare a uniform election law for 1983. For the 1978 election, member countries will be allowed to decide individually, for example, whether members of the European Parliament may also be members of their national parliaments, which is presently mandatory. It is anticipated that over the longer time, this "dual mandate" will prove increasingly unworkable as the workload of the European Parliament grows.

One of the major obstacles to the 1978 elections, resolved successfully by the Council of Ministers, was the size of the delegation chosen by each country. The following paragraphs show the present and new distribution of seats.

Germany, present share, 36; new share, 81; percent of all seats, 19.8; percent of EEC population, 24.1.

Britain, present share, 36; new share, 81; percent of all seats, 19.8; percent of EEC population, 21.8.

Italy, present share, 36; new share, 81; percent of all seats, 19.8; percent of EEC population, 21.4.

France, present share, 36; new share, 81; percent of all seats, 19.8; percent of EEC population, 20.4.

Holland, present share, 14; new share, 25; percent of all seats, 6.1; percent of EEC population, 5.2.

Belgium, present share 14; new share, 24; percent of all seats, 5.9; percent of EEC population, 3.8.

Denmark, present share, 10; new share 16; percent of all seats, 3.9; percent of EEC population, 1.9.

Ireland, present share, 10; new share 15; percent of all seats, 3.7; percent of EEC population, 1.2.

Luxembourg, present share, 6; new share, 6; percent of all seats, 1.5; percent of EEC population, 0.2.

Total, present share, 198; new share, 410; percent of all seats, 100; percent of EEC population, 100.

An election nearly 2 years hence may seem remote as our country prepares for its national election in less than 3 months but for the European Community 2 years may be barely enough time to prepare for direct elections. Between now and the end of 1977, each of the nine countries of the Community must introduce, debate and pass legislation on how the election for the European Community will be conducted. Presently, some of the Community countries use a system of direct proportional representation for their national parliaments, others use a single-member system like our House of Representatives, and others a mixed system. For those countries using electoral districts for the direct elections to the European Parliament, boundaries must be drawn. For all countries, the political parties must begin selecting candidates in 1977 also.

Finally, the delicate work of creating new European political parties must begin. The Christian Democratic parties have already announced the European Peoples Party to coordinate their work in the nine countries. The Liberals have started a similar movement. The Socialists and other parties must soon begin the same effort.

The regional differences within our own country should allow us to understand the difficulties inherent in this political integration. Party platforms must be drawn, for example, by the European Socialists which can apply to Scottish shipyard workers and to Italian farm workers. The powerful Christian Democrats of the Federal Republic of Germany must work with the small and divided Christian parties of the Netherlands to find common ground. In each country, alliances and allegiances must develop to bind the interests of peoples separated for centuries.

As our own country marks its 200th anniversary, we should follow with interest and enthusiasm the efforts of Europe to create, as we did in other, perhaps easier times, a unity from diversity. This is the significance of the decision last month to build, for the first time, a parliament uniting the peoples of Western Europe.

JOHN WARNER

HON. WILLIAM S. MOORHEAD

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 3, 1976

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, as we remember the splendid celebration of our Bicentennial July 4, we must also acknowledge the tireless efforts of a Bicentennial Commission which made such a peaceful and orderly celebration possible.

The American people owe much of the effectiveness of the Commission to its Administrator John W. Warner, who bore the responsibility of coordinating and organizing much of the national activity.

On the Fourth of July, 1976, Americans properly celebrated the 200 years of greatness made possible by the sacrifice and dedication of its people. The American people are proud of John Warner's dedication and his part in helping America celebrate those two centuries of greatness. I would like to insert into the RECORD the following editorial from the July 22 issue of Fauquier Democrat, "Thank you, John Warner."

THANK YOU, JOHN WARNER

This nation has once more been through a major anniversary celebration of its founding. America's centennial observance in 1876 was centered in a gigantic exposition in Philadelphia, an international fair participated in by many countries of the world. It attracted wide attention and was believed to be an appropriate method for honoring our independence.

Planning for our Bicentennial began in 1962 and resulted in the creation by Congress of the American Revolution Bicentennial Commission four years later, 1966. The new organization immediately became involved in political tangles, differences in approach to the methods of celebration, and location of the central points of action. They finally agreed upon a single site, a completely undeveloped swamp on the outskirts of Philadelphia with a cost factor approaching one billion dollars.

By 1972 the Bicentennial Commission had become so deeply mired in politics, commercialism, bureaucracy and inabilities to organize and plan, that Congress, after a lengthy investigation, voted to disband it and create a totally new and independent commission. This law was enacted in December, 1973.

On April 11, 1974, John W. Warner, Upperville, Virginia, was sworn in on the Capitol steps as administrator of the new commission with full responsiiblity for correcting the twelve years of mismanagement and poor judgment rolling over the swamps of Philadelphia. Warner had proven his abilities as Secretary of the Navy, and immediately opened the gates for a proper celebration of 200 years of freedom and growth for a great nation.

Warner has rendered a superb service to his country. We of Fauquier County are proud to have known him as a neighbor and grateful to him for the deep movement of patriotism through this country in our Bicentennial year.

From the tiniest villages and cities, and from many countries of the world, we have felt and witnessed a subtle new understanding of the greatness of our liberty. John Warner's quiet but massive approach to the Bicentennial celebration buried the overkill and bad taste and installed a new sense of dignity and pride in the American community. The people of Fauquier County are proud of our American heritage, proud of John W. Warner, and happy to look forward to another such event in 2076.

In the meantime we hope the President of the United States will give appropriate public thanks to Warner in behalf of more than 200 million Americans who have received a message of patriotism.

OUR GOD, OUR COUNTRY, AND OUR FLAG

HON. BOB WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 3, 1976

Mr. BOB WILSON. Mr. Speaker, our venerable philosopher of the House, Joe MacHugh, has produced another of his inimitable essays that have come to be a feature of our lives on Capitol Hill over the past quarter of a century. Joe writes with great inspiration, and I am particularly pleased to introduce his latest essay, and include it in the Record as a portion of my remarks:

Our God, Our Country, and Our Flag

(By Joseph V. MacHugh)

Birthdays are for only once. Anniversaries may be many. United States now is celebrating its 200th Anniversary; and looking in two directions: in the past and toward the future. What were our achievements in those 200 years; and what should be our agenda for parlous period ahead? In March 1775 Patrick Henry said: "I have but one lamp by which my feet are guided, and that is the lamp of experience. I know no way of judging of the future than by the past."

United States is present Western world leader—militarily, industrially & economically. Caustic critics assert we are already going downhill; and considering "Isolation—in Fortress America." Astute Al Smith was wont to say: "Let's *'Take A Look'* at the Record!" After two centuries—struggling British Colonies had attained unprecedented eminence. "Pinnacle-posture" always arouses ignoble sentiments like the sixth of seven deadly sins—*envy*. Much criticism stems from yearning by leaders of *other* countries to achieve "summitry of their own." They strive to "pull down" the current leader in mistaken belief—thereby they will be elevating themselves.

Success doesn't just happen. It is the fruit of long labor and dedicated integrity. Enduring success requires extraordinary *competence* in its builders. First is solid, sound foundation, without which any structure erected thereon eventually may collapse. When the gentle Nazarene established his Church on Earth, he said: "Peter (meaning rock) thou are a *rock;* and upon this rock I shall build my Church!" *Expertness and talent,* too, are important. Reaching recklessly beyond one's capacity—rarely results in success which *must be earned!* Earning implies *deserving* fruit of efforts. Jesus said: "A new commandment I give unto you. That ye love one another, as I have loved you." It demands *genuine interest in others*. That was *after*. He had washed diciples' feet. Businessmen often focus on selling products; but perceptive advisers counseled an oil company: *Service is our business,* winning unshakeable customers for the company.

Worldly fame is fragile, fickle & fleeting. What lends it durability are supporting props as set forth above. A nation can be no greater than a cross section of its people, as every true leader realizes. Vividly that was illustrated by Mahatma Gandhi: "There go the people. I am their leader. I must follow them." Leaders also are spokesmen for their people; and in democracies—*only* as long as people retain respect for their chief. If human life exists on Mars; and a Martian visits our planet his first request might be: "Take me to your leader!"

Theoretically—wars could be won without Generals or Admirals. "Troops" are the *consolidating* force. Writer recalls General George Patton saying: "The Private is *my favorite soldier!*" To memoralize all our fallen soldiers, *one of four dead* taken from American Cemeteries in France—was selected by Sergeant Edward Younger; and buried November 11, 1921. Probably it is *not* an Admiral nor a General who sleeps forever beneath that meaningful monument in Arlington Cemetery: *Tomb of the Unknown Soldier*. "Here lies in honored glory an American soldier known but to God."

In United States let us continue *separation of church and state;* but *keep both!* They are correlates. Never forget there *is* a power greater than all humanity. That trust immeasurably contributed to our salvation and survival through two centuries. Such faith again sorely will be needed if United States is to provide future leadership for a world in confusion, conflict & contagious closeness to catastrophe! Early in this century the writer's loved father composed a patriotic song incorporating three elements indispensable for perpetuity of Constitutional government: Obeisance to the Creator; National Pride and Devotion to "The colors!" Each of writer's current essays *must be one-pager*. Hence, those so desiring may *xerox my full copy of the song;* meanwhile its clarion, crescendo-conclusion and its *title*—appear below

"The welkin kings o'er plain and crag; our
god, our country, and our flag."

A NATIONAL HELIUM POLICY NEEDED

HON. KEITH G. SEBELIUS

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 3, 1976

Mr. SEBELIUS. Mr. Speaker, for some years now I have been actively involved in the effort to get the Government to rethink their policies regarding the conservation of helium. Recently those efforts have been given renewed emphasis with the passage of S. Res. 253 and my introduction in the House of a companion bill, H. Res. 1215, a bill to express the sense of the House that the President direct the Secretary of the Interior to conserve the helium now being extracted from natural gas and vented into the atmosphere. I believe this continued effort to be necessary in order that the United States meet the expected need for this natural resource after the year 2000 when three helium-dependent energy-related technologies will become technically and economically feasible. Superconducting magnetic energy storage, superconducting power transmission and fusion reactors will all require immense amounts of helium.

Although the Bureau of Mines has at last seen fit to enter into new contracts for the storage of privately owned helium, I remain very concerned that the Bureau has yet to address itself to the broader issue raised by the ERDA report on helium conservation—establishment of a national helium policy.

The current supply of helium in U.S. depositories is expected to last only another 40 years. As reported by ERDA, 25 to 50 percent of the originally held helium resources have already been dissipated into the atmosphere. I would hope, Mr. Speaker, that the Government will not be so foolish as to wait to reverse their helium policies until such time as we either must go through the expensive process of extracting this precious resource from the atmosphere or depend on foreign sources.

The potential need for substantial and ready supplies of helium in the near future is real. The need for a national helium policy is no less real as a result. The following article from the Wall Street Journal of July 9, I believe will bear this out.

GE Electric Motors Will Feature the Use of Superconductors—Two Units Planned for Navy Offer 3,000 Horsepower at Much Smaller Size, Weight

Schenectady, N.Y.—General Electric Co. and its engineers are designing and preparing to build two electric motors utilizing superconductors or metals that have lost all resistance to an electric current.

The motors will produce 3,000 horsepower each and, because of their superconducting elements, will be less than half the size and one-third the weight of conventional 3,000-horsepower electric motors. GE said the motors are being developed for the U.S. Navy and are forerunners of electric motors that would drive small, high-speed Navy ships.

Superconductors are created when certain metals are cooled, usually by liquid helium, to temperatures near absolute zero, which is almost 460 degrees below zero Fahrenheit. Because the supercold metals don't have electrical resistance they can carry an electric current without any loss. Thus, a current can flow through a superconductor with very little "push" or at low voltages. As a result superconductors would make an electric motor extremely efficient.

GE said the two motors are being built under a $4.6 million contract with the Naval Sea Systems Command. The contract calls for the first motor to be ready for sea trials late next year.

The motors will produce about seven times the horsepower of superconducting motors previously built, the company said. The motors will weigh about 7,000 pounds each, compared with 25,000 pounds for conventional electric motors in the 3,000-horsepower range.

The superconducting windings for the motors' magnetic coils, a key element in electric motors, are to be made of niobium-titanium filaments produced by Intermagnetics General Corp., Guilderland, N.Y., an independent spin-off of GE superconductor business.

TASK FORCE ON ACCOUNTS—A REPORT

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 3, 1976

Mr. MAZZOLI. Mr. Speaker, responding to the public outcry over House and Senate scandals, the 94th Congress has undertaken more reforms than any previous Congress. One of the most significant of these reforms was a thorough review of the systems under which Federal funds are used by Members of Congress for their various office expenses.

I am inserting the final report of the Task Force on House Accounts, with its concrete suggestions on how House accounting procedures can be made more efficient and more foolproof.

The task force recommendations enjoy my wholehearted support because they help in a positive way to restore the confidence of the American people in Congress and in the American Government:

REPORT OF THE TASK FORCE ON ACCOUNTS

The Task Force on House Accounts was created by the Speaker on June 4, 1976, and was charged with the responsibility of reporting to the Democratic Steering and Policy Committee on how to "rationalize the accounts systems of the House of Representatives, to improve accountability, and to assure both propriety and the appearance of propriety in the administration of House accounts."

That task is as essential as it is difficult.

It is clear to this Task Force that both the accounts system and the process by which that system is established are often confusing, unaccountable and more expensive than necessary.

The existing procedure for establishment of the nature and magnitude of House accounts has encouraged the creation of an independent, unaccountable power center in the House Administration Committee.

The process by which the accounts system is determined has become a mystery to the public—and to many Members of Congress as well.

The product of that process, a system of 14 separate Member accounts, is not a system at all; it is a rigid, confusing, gerrybuilt hodgepodge which can easily result in unintentional misapplications. It is supposed to meet the legislative needs of 435 separate offices, each charged with representing and providing services to one-half million people.

But because each account was designed to meet all the needs of 435 very different Members and very different districts, it does not adequately meet anyone's needs. The system's inflexibility and multiplicity of forms, vouchers and accounts procedures buries Members' offices and the financial and administrative officers of the House in confusion and needless red tape. Many legitimate official expenses are not covered by the accounts system, and Members of Congress must bear significant out-of-pocket expenses. Yet the system at the same time offers excessive opportunity for abuse; and it costs the taxpayers money!

The recommendations of the Task Force will—we hope—provide the blueprint for immediate corrective surgery and the opportunity for a long-range restructuring of the management system of the House of Representatives. Even though the GAO conducts an annual audit of all of the accounts and disbursements of the Clerk of the House, our recommendations go even further. They will restore accountability, increase efficiency, enhance the public's right to know . . . and they will save money.

HOW WE WORKED

The Task Force arrived at its conclusions in a number of ways. We first solicited comments from all Members of Congress. Over fifty Members from both parties supplied written recommendations to the Task Force and almost two hundred others provided us with verbal suggestions. The Task Force spent an entire day with the officers and employees of the House and Senate charged with the responsibility to manage the financial affairs of the Congress. We studied their methods and procedures as well as the practical implications of the changes that had been suggested. Former employees also were consulted for further suggestions and recommendations. We thank all of these persons for their time and contributions, which were invaluable to the Task Force in completing its job.

We reviewed the hearing records for legislative appropriations for the last four years. We reviewed a whole range of press accounts over several years, which defined, criticized, or analyzed the system. We reviewed past legislative suggestions for reforms.

Out of it all, six common threads emerged:

1. Few people are happy with the present system, either substantively or procedurally;

2. There is a need to restore major decision-making accountability;

3. There is a need to create greater flexibility;

4. There is a need to increase meaningful disclosures;

5. There is a need to eliminate cash-outs.

6. There is a need to establish a mechanism for the long-range review of the operation, staffing and the appropriate prerequisites provided to Members of Congress.

RECOMMENDATIONS FOR IMMEDIATE REFORM

The Task Force recommends immediate sweeping reform of the House Administration Committee.

I. Reform of House Administration

Recommendation No. 1: Rescind the authority of the House Administration Committee to expand, change the character, or create new categories of allowances without a direct vote on the House floor.

Rationale: This Task Force has concluded that the action taken in 1971 to give the House Administration Committee, as presently constituted, the authority on its own volition to adjust accounts was a mistake. That does not mean that the system prior to 1971 was good. It was not. The old system under which each adjustment in office accounts, no matter how trivial, had to be voted on by the entire House, did not protect the public interest. It merely guaranteed that only the most non-controversial items (not necessarily the most rational, efficient, or cost-effective ones) could be passed.

The Committee on House Administration presently has the authority to fix and adjust the amounts, terms and conditions of numerous allowances. The Task Force recommends that such authority be largely rescinded. The rescission includes: (1) removal of authority to create new allowances, and (2) removal of authority to make adjustments in the amounts of the allowances in excess of (a) increases made necessary by changes in the price of services or materials; and (b) increases made necessary by technological changes in communications equipment, office equipment and the like. Thus, under our recommendation a vote on the floor would be required to authorize any new allowances or to expand the amounts of allowances in excess of that necessary to maintain the present real level of constituent service.

Recommendation No. 2: Reconstitute the membership of the House Administration Committee so that all Democratic members are nominated by the Speaker with the approval of the Democratic Caucus.

Rationale: The Rules of the Democratic Caucus should be modified to provide for selection of Democratic members of the House Administration Committee in the same manner in which Democratic members of the Rules Committee are selected. The House Administration Committee is the administrative arm of the House of Representatives. As such, we believe it should be directly responsible and accountable to the House through its leaders. Giving the Speaker the responsibility to nominate members of House Administration will insure that the leadership pay strict attention to the activities of that committee.

II. Accounts reform and disclosure

The Task Force recommends adoption of the Senate system of consolidated accounts, eliminating cash-outs, requiring total, frequent, and easily understandable disclosure of expenditures from these accounts, monthly certification of employment and salary by Members, committee chairmen, subcommittee chairmen and all officers of the House.

PERFORMANCE OF THE ALLOWANCE SYSTEM

Recommendation No. 3: Eliminate cash-outs.

Recommendation No. 4: Abolish the Postage Allowance.

Recommendation No. 5: Reduce the current 20¢ per mile reimbursement rate for automobile mileage to the prevailing GSA rate (currently 15¢ per mile).

Recommendation No. 6: Consolidate the following remaining accounts:

a. District office space.

b. Telecommunications service.

c. Expenses outside the District of Columbia.

d. Stationery.

e. Constituent communications (newsletter, questionnaire).

f. Equipment rental (including amounts currently available from unused clerk-hire).

g. Travel (Congressional home city to Washington, D.C.).

The value of each present account would be folded into one streamlined account. Members may draw upon that account for any expense incurred in their official capacity with the accompanying requirement that expenditures from the accounts will be published quarterly on a Member-by-Member basis, thus increasing flexibility, accountability and disclosure.

Recommendation No. 7: Require disbursements to be only upon properly documented, signed, certified vouchers.

Recommendation No. 8: Eliminate the provision which currently allows equipment and computer rental from unused clerk-hire.

Recommendation No. 9: Institute the Senate system of installing WATS service which reduces by one-half the telecommunications allowance.

Rationale: It is no accident that, in comparison to the House, the Senate system of accounts is relatively free from criticism. Three years ago the Senate abandoned the anachronistic, inflexible and expensive House system of mutiple accounts. The House should follow suit.

The needs of each Congressional district vary greatly. It is simply not possible to service a six square-mile district in Manhattan in the same manner as the 586,000 square-mile State of Alaska. It is, therefore, imperative that we recognize the diversity that exists and allow Members to expend the available funds from the consolidated allowance in the way Members determine best fit the needs of their constituents—with the requirement that every expenditure be disclosed.

The consolidation of allowances will not increase costs to the taxpayer, and in fact, is likely to effect substantial savings. Those responsible for administering the Senate accounts system indicate that the consolidation of allowances led to reduction in the cost of administering the separate allowances, and provided a more efficient means of overseeing expenditures. They also indicated its reduced pressure to increase Senate allowances and resulted in return of substantial amounts by Senators.

It has been estimated that it costs about $500,000 per year to operate a House office under the present system. Elimination of the postage allowance and elimination of the "cash-out" provisions, coupled with the consolidation and streamlining of the accounts system, should reduce that estimate.

A further benefit to the taxpayer is the incentive inherent in a consolidated allowance to stretch available resources as far as possible, thereby encouraging the economical use of the allowance dollar. All funds disbursed from the consolidated allowance will be vouchered and certified, compiled on a Member-by-Member basis, and published quarterly. Disclosure, certified vouchers and the elimination of "cash-outs" will serve as the best guarantee of effectively preventing the types of abuses which are alleged to have occurred in the recent past.

Certain accounts such as the "stationery account" and the "outside of the District of Columbia expense account" allow Members to receive cash instead of providing direct payment for services. Eliminating the option to "cash-out" such allowances will remove a major criticism of the present system.

The rationale for reducing the 20c per mile auto reimbursement rate to the current prevailing G.S.A. rate which applies to all other employees, is that there is no justification for Members of Congress to be reimbursed at a higher rate than anyone else.

The provision for equipment and computer leasing from unused clerk-hire should be eliminated. Under our recommendations the amounts previously available from clerk-hire would be included in the consolidated allowance, thus limiting the use of clerk-hire to the purpose for which it was intended, i.e., the provision of clerical, professional and other personnel and legislative support services.

The postage allowance of $1,140 in air mail and special delivery stamps should be eliminated because the franking privilege covers domestic first class mail costs for official business. Postage for overseas insured, certified, return-receipt, and special delivery mailings can be vouchered for from the consolidated allowance.

PUBLIC DISCLOSURE

The Task Force is recommending a number of items to increase the public's right to know how its tax money is being spent.

Recommendation No. 10: Members, committee chairmen, subcommittee chairmen and all officers of the House should be required to certify monthly to the salary and performance of official duties of every employee on their payroll or assigned to their committee or subcommittee.

Recommendation No. 11: The Task Force recommends the information in Recommendation No. 10 be published quarterly. The report shall include alphabetical indices by employee and employing office, indicating title and salary during each quarterly period.

Recommendation No. 12: The Task Force recommends the publishing of all expenditures from the Member's consolidated account quarterly, on a Member-by-Member basis.

Rationale: The Task Force believes that a key to public trust is public knowledge. Disclosure of expenditures by a Member of Congress of public money in the performance of his/her official duties protects the public from misuse of government funds and the Member from unjust innuendo.

The above recommendations can be immediately implemented. Their rapid adoption should make it evident that the House intends to meet its responsibilities to function in a proper, efficient and open manner which will do a great deal to insure propriety and the appearance of propriety in the administration of accounts and staff of the House.

ESTABLISHMENT OF A COMMISSION ON FUTURE REFORMS

The preceding recommendations, sweeping as they are, represent only a first step in terms of what is needed to make the House a truly modern, effective institution. We therefore make the following recommendation:

Recommendation No. 13: The Speaker shall appoint a commission composed of 8 Members of Congress (5 Democrats and 3 Republicans) and 7 persons from outside the Congress to conduct a thorough complete study with respect to the administrative services of the House including staff personnel, administration, accounting and purchasing procedures, office equipment and communication facilities, record-keeping, emoluments and allowances. The commission will seek the advice of both the G.A.O. and the business community. The Commission shall report its findings and recommendations no later than December 31, 1977, after which time it shall cease to exist.

We are mindful that representative government was never intended to be the most efficient form of government—just the best.

But this does not mean that efficiencies cannot be achieved which will increase the ability of Members to respond to their constituents and better inform themselves.

The duties and responsibilities of the House of Representatives have mushroomed over the past twenty years. The day-to-day operations of the Congress have been drastically outpaced by the demands upon Members to provide their constituencies with adequate representation and fair judgments. For example, in the 94th Congress the House has been in session longer, taken more votes, and had more committee meetings than any Congress in history. The number of votes Members must cast has increased dramatically over the past decade—from some 100 per year during the historic 89th Congress to more than 600 per year during the 94th Congress.

In the area of committee meetings, Members have spent upwards of 12,000 hours in committee sessions during the First Session of the 94th Congress. There were 3,878 committee meetings and hearings conducted in 1975, constituting an increase of 30% over the First Session of the 93rd Congress and 60% over the First Session of the 92nd Congress.

Demands from home have expanded just as dramatically. The House Postmaster has calculated that the number of letters flowing into the offices of the House members has increased 200% in the past six years alone—from 14 million in 1969 to 42 million in 1975.

These and other demands have necessitated increasing legislative staff services. The half-million Americans each of us represents have the right to expect that we are going to discharge our legislative duties in a well-informed, responsible fashion. They have the right to expect intelligent answers to their letters, phone calls, and inquiries and they have a right to expect reasonable and efficient access to our offices and services.

We have witnessed an explosion in the number of people coming to Washington—either individually or collectively—in an effort to petition the Congress in the finest democratic tradition.

Members must be equipped to cope with this burgeoning workload—and that cannot be done with mirrors. Nor can it be accomplished by simply streamlining the present antiquated system of accounts and eliminating the current atmosphere of public suspicion and accusation.

What is needed are fundamental changes, both in Congress itself and in public attitudes toward Congress, and such changes cannot be accomplished without a thorough, long-range study by a commission composed of both Members of Congress and the public.

AN AVERAGE GI JOE HITS THE NAIL ON THE HEAD

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 3, 1976

Mr. ASHBROOK. Mr. Speaker, for the past 20 years, I have watched a steady litany of events in the liberal media and the liberal community which has had an almost unbelievable effect of turning up down, making fair foul, and the nuts the saints. Laugh if you will but that is just what has happened. The dirty, obscene, arrogant kids were portrayed as the heroes and the patriotic and valiant as square at best, stupid at worst. Even today the American left would have you believe that all of the real patriots are in Sweden or Canada.

A conscious effort over these years has made the policeman the bad guy, the crook a victim of society. The law enforcement agency has become the enemy and traitors like Daniel Ellsberg are heroes. J. Edgar Hoover is bad, Chou En-Lai a great international statesman. Subtle sometimes, brutal at others, this effort goes on methodically in the American liberal press.

Those who rioted in the streets, even dynamited university campuses now are respectable. The likes of the Jane Fonda and Tom Hayden leftists are suddenly transformed into visionaries by the press. Maybe by the press but not by any thinking, patriotic American. Just like making the radical, lawless kids at Kent State the martyrs and the National Guardsmen the bad guys. They can keep trying but they will not fool most good Americans.

Every now and then a good patriotic American speaks up to cut through the cynical veneer of the liberal trash peddlers and hit the nail right on the head. I do not know Ernest S. Poyser of New Brunswick, N.J., but I would like to. He sounds like the good Americans I see back home in the VFW and American Legion Posts who love and work for their country and detest its enemies. His letter probably makes more sense than anything you will read in the Congressional Record today. It was in today's New York Times letters to the editor section. Too bad the management of the Times does not have this landscape Joe on its editorial staff rather than the sophisticated snobs who see more merit in America's enemies than in the likes of the average vet who fought for his country. Here is his letter:

Of the Vietnam Generational Crisis

New Brunswick, N.J., *July 19, 1976.*

To the Editor: Tom Hayden (Op-Ed July 12) writes of a "generational crisis which we have just passed through"—I must have missed it—and proclaims the advent of a "new political alliance with the power to elect candidates and shape issues for years." While this new alliance will presumably be accorded the views of Mr. Hayden, it is somewhat presumptuous for him to suggest that this "new generation" will flock to his standard and standards.

As a member of this generation (I am 33) I too experienced the turbulent years of the Southeast Asia wars, most of them in my home town, Washington. Unlike Hayden I was never gassed or indicted, but I sat in a room full of people who, upon hearing the news of two B–52's being shot down by North Vietnamese SAM's broke into ecstatic cheers. To me that cheering was far more painful than gas (and I know the reactions to gas, for also, unlike Hayden, I served four years in the military).

I saw the demonstrators that descended on Washington and other cities, not for the most part as real advocates of peace (Why then the VC flags?) but as a sort of floating Woodstock. Shouting vulgarisms, scoring dope and skinny-dipping in the reflecting pool may have been the advent of the new morality, but it didn't save any lives in Vietnam.

Yet now Hayden is saying his convictions have been proven right. Just how "right" is it to have supported the Hanoi regime, which has (so far) given to those it "liberated" such things as re-education camps, forced labor, book burning, etc.? Of course, we may not be reading much more about these negative aspects as all foreign journalists and diplomats have been expelled from what was once South Vietnam (I wonder why?), and was Hayden "right" to assail his country for siding with the Cambodians opposing those poor oppressed farm boys, the Khmer Rouge?

Yet Hayden sees threats to freedom coming only from the U.S. Government and its agencies and derides those who go about the (sometimes murky) business of defending the Western world. Well, even with their occasional outrageous perversions of the law (which I hope to God have ceased) I feel a deep personal gratitude to those men and women of our intelligence and law enforcement agencies (which Hayden would dismantle) who are out there penetrating terrorist groups, trying to keep a step ahead of the Kremlins and the S.L.A.'s trying to ensure that America remains a country where Mr. Hayden has a right to run for public office and I have a right to vote against him.

I am a landscaper earning about $6,500 per year, and, no, I don't despise the rich, not even Tom Hayden.

Ernest S. Poyer.

THE TV NETWORKS AND THE MOSCOW OLYMPICS

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 3, 1976

Mr. MICHEL. Mr. Speaker, I would like to introduce into the Record an editorial from the July 26 issue of the Peoria Journal-Star, which, when I read it, sent a shriver down my spine.

Editor C. L. Dancey raises the question of whether or not there is a conflict of interest involving the American TV networks who are currently falling all over themselves to curry favor with the hierarchy in the Kremlin who will decide which network will get the chance to carry the 1980 Olympics.

"Anyway you slice it," Dancey writes, "it ain't healthy."

I agree. I think the networks owe the Nation a full disclosure account of everything they are offering the Soviets in return for the TV rights. My liberal colleagues who are so concerned about the machinations of ITT and Lockheed vis-a-vis foreign governments may also want to reflect on what lengths ABC, NBC, and CBS might go to in return for a prize of similar value.

The editorial follows:

A Conflict of Interest?

Put together two innocent facts and we have a situation that sounds a lot less innocent.

ABC-TV paid $25,000,000 for the privilege of covering the Olympic games this year, and the next is expected to go at twice that high.

So?

The next Olympics will be in Moscow, and ABC, NBC, and CBS have already begun "wooing" the Soviet regime. At least they have established hospitality suites in Moscow to wine and dine Soviet bigwigs. Beyond that, who knows what they are doing?

We can hardly feel comfortable, however, in a situation where for the next couple of years or more, the folks who control the "hidden curriculum" of American humor, entertainment and news-related information on every TV tube in the land are busy courting the Soviet regime.

One does not figure that the networks would sell us out to Russia in their efforts to capture the prize now valued at more than fifty million bucks.

But we would hardly be comfortable with any American corporation of any other kind that was placed in a like situation since the Lockheed bribery cases.

You don't bribe the Russians with money.

And the networks are in no position to "sell" them on the performance benefits of their product simply as a better product.

You have to wonder a little bit while they are in such a competitive selling effort with Moscow whether there might not be a temptation to say, "Go easy!" if something broke that covered critically might cause Moscow to toss them out on their ears. Or "Let's wait and see what hapens next!"

You have to wonder if somebody has a documentary idea on the growth of the Soviet armed forces, nuclear strength and navy, if the networks won't be tempted to say: "This isn't a good time for us to air that kind of documentary."

You have to wonder if an entertainment package is proposed that shows the Russians "in a bad light," whether they wouldn't hesitate.

You have to wonder, indeed, in the light of one long broadcast of Russian puffery, if they might not be looking for ways to "reassure" and soften up the Russians on the networks' "fairness" to the Soviet Union and its point of view.

Anyway you slice it, it ain't healthy.

Then, when you consider that this Olympics in Montreal teetered on the brink for a few days because the government intervened with some rules of its own—what happens if Moscow decides to impose a few rules of its own next time?

And a major TV network with a massive investment already made realizes that it can be kicked out overnight if it fails to "understand" the Soviet position—on excluding Israel, for example, unless they call themselves Palestine?

It's a lousy situation.

So there we are. One network locked in is bad enough to such dependence on a foreign government's "friendship." All three networks ardently bidding for such a "favor" from a foreign government, that government being the Soviet Union, and the game beginning four years ahead of the ultimate pay-off—well, it surely isn't healthy.

We've hung politicians for less of a "conflict of interest" situation than this.—C.L. Dancey.

EVADING THE INTENT OF THE 1964 MEAT IMPORT LAW

HON. BERKLEY BEDELL

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 3, 1976

Mr. BEDELL. Mr. Speaker, during the past few weeks, I have become increasingly concerned about the effect on the troubled American cattle market of large amounts of meat entering our country from Australia and New Zealand by way of the foreign-trade zone at Mayaguez, Puerto Rico.

These imports are clearly an attempt to evade the intent of the 1964 meat import law.

I have written a letter to Secretary of Commerce Elliot Richardson expressing my concerns as well as my hope that the Foreign-Trade Zone Board, which the Secretary chairs, will closely examine this situation and take action to bring about the cessation of the foreign-trade zone status of the Mayaguez meat processing plant.

The text of my letter to Secretary Richardson follows:

House of Representatives,
Washington, D.C., August 2, 1976.

Hon. Elliot L. Richardson,
Chairman, Foreign-Trade Zone Board, U.S. Department of Commerce, Washington, D.C.

Dear Mr. Chairman: The American cattle market now finds itself in economically perilous circumstances. Our livestock producers are experiencing a growing sense of frustration and concern for their financial well-being which, in light of current economic realities in the domestic marketplace, combined with the lingering effects of the past few hard years, is certainly understandable.

The American livestock producer must watch as the price of the grain which he feeds to his cattle rises. He has few controls over the costs of his production and almost no control over the amount of profit which he can eventually take in.

Now, the cattleman has become aware of one more obstacle to his ability to remain in the business of providing meat and meat products for American tables while at the same time assuring himself of a fair and reasonable return.

As of July 10, 21.2 million pounds of foreign meat had entered the United States since January, 1976, through a Foreign-Trade Zone processing plant at Mayaguez, Puerto Rico. This meat was not counted against the 1976 quota level established under the 1964 Meat Import Law because the meat is changed at Mayaguez into a form that is no longer among the specific types of meat subject to the statute.

The Mayaguez facilities have a processing capacity of 4 million pounds per month. These additional poundage figures are not now being included in the growing tally against the quota level which was calculated by the U.S.D.A. according to a legislatively established formula.

The State Department, which has the responsibility for the actual negotiating of voluntary trade restraints with individual livestock producing countries, has negotiated these restraints at a cumulative level of 1,223 billion pounds for 1976, a mere 10 million pounds below the level at which a cut off of meat imports could be triggered.

Certainly, this slim, 10 million pound margin would be greatly exceeded if the 21 million pounds which have already entered the continental United States by way of Puerto Rico, were counted as a part of these import levels. As the situation now stands, the letter and intent of the Meat Import Law of 1964 are most assuredly being circumvented.

In a July 13, 1976, letter to you, as Chairman of the Foreign-Trade Zone Board, Secretary of Agriculture Earl Butz strongly expressed the U.S.D.A.'s opposition to the continuation of the Mayaguez processing plant and to the proposed establishment of a second such plant.

In that letter, Secretary Butz wrote that, "Limitations on the importation of such meat are needed to assist in the recovery of the domestic livestock industry which for the past two and one-half years has suffered from low returns to producers and rising costs. Other major world markets continue to be restricted and potentially excessive supplies of meat from major exporting countries could further reduce the returns to U.S. beef producers."

While the Secretary of Agriculture and I have held differing points of view from time to time, I could not agree with him more than on this particular issue and his statement that, "The use of the Foreign-Trade Zone solely to circumvent a statute or agreement providing for import limitations is not in the public interest."

It is my understanding that the Foreign-Trade Zone Board announced on July 28, that it will decide within 30 days whether such meat imports are indeed harmful to the public interest. I also understand that the Board has asked that the packing companies in Mayaguez show cause within 15 days why the Board should not limit or exclude the processing of this foreign meat from the Puerto Rico Foreign-Trade Zone.

It is my hope that the Foreign-Trade Zone Board will also give careful consideration to the U.S.D.A.'s request for a cessation of the Foreign-Trade Zone status of the Mayaguez meat processing facility.

Should the Board fail to recognize the injustice of this situation and not move to correct it, the Congress will have to investigate possible legislative remedies.

If the Mayaguez plant is allowed to remain in operation and the applications to expand such meat processing facilities in Puerto Rico, as well as in New Orleans, are approved by the Board, I believe that the consequences for the recovery of the American livestock industry are too great for Congress to stand idle and do nothing to relieve what is becoming a greater and greater pressure for our livestock producers.

Sincerely,

BERKLEY BEDELL,
Member of Congress.

SYMBIOSIS BETWEEN THE EARTH AND HUMANKIND

HON. JOHN BRADEMAS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 3, 1976

Mr. BRADEMAS. Mr. Speaker, one of the most thoughtful scholars in our country is René Dubos, professor emeritus at the Rockefeller University in New York.

I believe that Members of the House of Representatives and Senate will read with interest the following article by Professor Dubos, "Symbiosis Between the Earth and Humankind," published in the August 6, 1976, issue of Science magazine.

The article is adapted from the text of the lecture he delivered at the first International Tyler Ecology Symposium on April 9, 1976 in response to his receiving the Tyler Ecology Award, which is administered by Pepperdine University, Malibu, Calif. The award was shared with Charles S. Elton and Abel Wolman.

The article follows:

SYMBIOSIS BETWEEN EARTH AND HUMANKIND

(By René Dubos)

I was born and raised in the farming country of the Ile de France, north of Paris. This is a part of the earth that has been occupied and profoundly transformed by human beings since the late Stone Age. Before it was inhabited, the region was covered with forests and marshes, and it would return to this state of wilderness if it were not for the human presence. Now that it has been humanized, however, it consists of a complex network of prosperous farmlands, tamed forests and rivers, parks, gardens, villages, towns, and cities. It has long been heavily populated and has continuously supported various forms of civilizations. While it has repeatedly experienced destructive wars and social disturbances, it has remained ecologically diversified and economically productive. From the human point of view, it is more satisfying visually and more rewarding emotionally—for me and most people—than it would be in the state of wilderness. It provides a typical example of symbiosis between humankind and the earth.

The historical development of the region where I was raised has certainly conditioned my ecological philosophy. It has convinced me that human beings can profoundly alter the surface of the earth without desecrating it and they can indeed create new and lasting ecological values by working in collaboration with nature. In this article, I shall focus my remarks on the creative aspects of the interplay between human beings and the earth.

I know, of course, that many human interventions into nature have been destructive; history is replete with ecological disasters. I know also that many industrial and agricultural practices of our times have distressing ecological effects and are likely to have frightening consequences in the future. However, I do not find it useful to elaborate on these dangers because they are well known. Instead of describing the manifestations of the ecological crises and of repeating once more that further environmental degradation can be minimized only by conservation measures. I take a more constructive view of the interplay between humankind and the earth. I shall consider how the practices of environmental conservation might be complemented by prospective policies of environmental creation.

For thousands of years, human beings have been engaged in creative transformations of the wilderness and of humanized environments, but the process has been greatly accelerated and intensified since the 19th century. One of the psychological effects of the Industrial Revolution was to encourage the belief that any kind of change was justified if it was economically profitable—even if it caused a degradation of human life and of environmental quality. During recent decades, however, there have been signs of a reversal in this psychological attitude. For the sake of convenience, I take the middle of the 20th century as the watershed in the social view of the relationships between human beings and the earth.

In 1933, the city of Chicago held a World's Fair to celebrate its hundredth anniversary. The general theme of the fair was that the increase in wealth and in the standard of living during the "Century of Progresss" has been brought about by scientific technology. The guidebook to the exhibits had a section entitled "Science discovers, Industry applies, Man conforms," and the text proclaimed "Individuals, groups, entire races of men fall into step with . . . science and technology." There could not be a more explicit statement of the then prevailing belief that the real measure of progress is industrial development, regardless of consequences.

Scientific technology is even more creative in 1976 than it was in 1933. Yet, no one would dare state today that humankind must conform to, or fall in step with, scientific or technological dictates. The present view is rather that industry must conform to human nature and be managed within strict ecological constraints. The desire for technological innovation and for industrial expansion is now checked by an equally strong concern for the long-range consequences of human interventions into nature.

The following examples illustrate that the concern for social and ecological consequences is not incompatible with creative human interventions into natural systems.

ARTIFICIAL ECOSYSTEMS IN THE TEMPERATE ZONE

Among people of Western civilization, the English are commonly regarded as having a highly developed respect and appreciation of nature; but the English landscape, admirable as it is, is far different from what it was in the state of wilderness. It is not the native landscape, only one which has become familiar because it has been progressively shaped from the primeval forest by centuries of human intervention. Roadsides and riverbanks are trimmed and grass-verged, trees no longer obscure the views but appear to be within the horizon, foregrounds contrast properly with middle distances and backgrounds. Much of the English landscape is indeed so humanized that it might be regarded as a park or a vast ornamental farm.

In England, as in many other parts of the world, the prodigious and continuous efforts of settlers and farmers have created an astonishing diversity of ecosystems that appear natural only because they are familiar, but that are really of human origin. For example, the enclosures so characteristic of East Anglia were created in the 18th century to facilitate certain types of agricultural improvements. At that time, the farming country was divided by law into a patchwork of semirectangular fields, each 5 to 10 acres in area, often without much regard to the natural contour of the land. The fields were divided by drainage ditches and straight lines of hawthorn hedges, and trees were planted in regular rows. This famous landscape is thus a very artificial human creation. When it first came into being, in fact, it greatly shocked farmers, nature lovers, and landscape architects. Within a very few generations, however, it has evolved into a pleasing and highly diversified ecosystem; its ditches and hedges harbor an immense variety of plants, insects, song birds, rodents, and larger mammals. It has come to be regarded as a "natural" environment.

While the enclosure type of landscape was developed for a certain kind of agriculture, it is poorly suited to modern practices. As a result, ditches, hedges, and trees must now go in order to make possible the creation of larger tracts of land, more compatible with the use of high-powered agricultural equipment. This change is destroying the habitats for the many kinds of wild animals and plants that lived in the hedged enclosures, but the open fields will certainly develop their own fauna and flora and, furthermore, have the advantage of permitting large sweeps of vision.

Thus, the ecological characteristics of an environment are determined not only by geographic and climatic factors but also by sociocultural imperatives. In addition, the genius of the place is profoundly affected by purely cultural values, as is illustrated by the great English parks created in the 18th century.

The English landscape architects transformed the humanized land of East Anglia by taking their inspiration from bucolic but imaginary landscapes painted by Claude Lorrain, Nicholas Poussin, and Salvatore Rosa. They obviously did not believe that "nature knows best," but instead tried to improve on it by rearranging its elements. They eliminated vegetation from certain areas and planted trees in others; they drained marshes and channeled the water into artificial streams and lakes; they organized the scenery to create both intimate atmospheres and distant perspectives. In other words, they invented a new kind of English landscape based on local ecological conditions but derived from the images provided by painters.

The English parks are now the envy of the world. However, as can be seen from 18th-century illustrations, they were then far less attractive than they are now. The planted trees were puny, the banks of the artificial streams were bare and raw, the masses of vegetation were often trivial, and, in any case, were poorly balanced. The marvelous harmony of scenic and ecologic values that are now so greatly admired did not exist in the 18th century except in the minds of the landscape architects who created the parks. The sceneries composed from the raw materials of the earth acquired their visual majesty and came to fruition only after having matured with time. Their present magnificence symbolizes that human interventions into nature can be creative and indeed can improve on nature, provided that they are based on ecological understanding of natural systems and of their potentialities for evolution as they are transformed into humanized landscapes.

PLANNING FOR THE ECOLOGICAL FUTURE OF SEMIDESERTIC AREAS

Every part of the world can boast of humanized lands that have remained fertile and attractive for immense periods of time. From China to Holland, from Japan to Italy, from Java to Sweden, civilizations have been built on a variety of ecosystems that have been profoundly altered by human intervention. Many of these artificial ecosystems have proved successful even in regions not highly favored by nature. In Greece, for example, a large olive grove in a valley near the Delphi site has been under continuous cultivation for several thousand years; many rice paddies of tropical Asia also have been successful for millennia. Israel, which was once the land of milk and honey, then became largely desertic after Roman times, has once more achieved agricultural prosperity as a result of skillful ecological management, including irrigation and reforestation.

In our own times, the development of the world's arid regions will continue to require the creation of new artificial ecosystems. The oil countries of the Middle East are now wallowing in petrodollars, but the wealth underground will virtually disappear within 30 to 40 years. To prepare for the future, the income now derived from oil must be invested in the development of human and material resources that will remain productive after the wells have dried up. To this end, some Arab countries have initiated programs aimed at determining what kinds of crops and livestock suitable to semidesertic conditions can be introduced and improved. Giant irrigation programs, focused on desalinated water, are also being considered in the hope of converting several million acres of sand into agricultural land.

Since irrigation projects of such magnitude will probably be ecologically unsound, it has been suggested to create in the desert self-contained cities so designed as to be able to grow their own food, perhaps in greenhouses located on the roofs of buildings. The economy of these hypothetical cities would be based not on scarce and unreliable water supplies, but on the abundant sunlight that can be used to produce solar energy for the development of intensive agriculture and of certain specialized industries. By concentrating agriculture and industry in a limited area with a fairly high population density, most of the desert could be kept as wilderness—a natural resource that may be much in demand when the earth becomes overpopulated.

The most interesting aspects of these approaches to the development of arid regions is not their technical boldness but a vision of the future in which a transient form of natural wealth—oil—would be converted into agricultural, industrial, and social creations of lasting value. Whatever the financial resources available for these projects, however, the ultimate success of any venture will depend on the creation of artificial ecosystems designed within the constraints of local environmental conditions.

ECOLOGICAL ASPECTS OF RENEWABLE RESOURCES IN ENERGY AND MATERIALS

A century ago, wood was the fuel used to heat most homes, as well as to fire steam engines and even locomotives. In our times, fossil fuels and nuclear fuels have almost completely displaced wood for such uses and several other sources of energy are under consideration. It is not impossible, however, that trees and other plants will again become important sources of energy; they may also come to compete with petroleum and coal as a source of raw materials for the chemical industries. The potentialities of these uses can be surmised from the magnitude of the role played by the vegetation of natural areas (wilderness) in the economy of the earth.

Only 3 percent of the incident solar energy on the earth is fixed by the photosynthetic activity of plants, yet the amount of energy produced by the total vegetation of natural areas, in any given year, vastly exceeds the total amount used by humankind for its daily life and for driving even its most extravagant technologies. The precise figures are not available, but what matters is the magnitude of the difference.

It has been estimated that organic materials equivalent to 840 trillion kilowatt-hours are produced yearly on the whole surface of the earth by photosynthesis. Of this grand total, about two-thirds is produced by the land vegetation, especially the forests; the other third is fixed by the vegetation growing in water, especially the various wetlands, the marine estuaries, and the areas of ocean plankton. Surprising as it may seem, the contribution of agriculture to the energy derived from photosynthesis is rather small—much smaller than one-tenth the contribution of the natural areas. Cultivated lands produce only the equivalent of 50 trillion kilowatt-hours per year, and from this must be deducted the enormous amounts of energy used in the form of fossil fuels by modern agricultural techniques.

In contrast to the 840 trillion killowatt-hours produced yearly by photosynthesis in natural areas, the total energy consumption by humankind was only 70 trillion kilowatt-hours in the year 1973. Another way of formulating this relationship is that the present annual production of biomass on the land areas alone is of the order of 100 billion tons (dry weight) with an energy equivalent about six times greater than the current utilization of energy by all human activities. These figures indicate that the energy needs of the world and even of the United States might be met in theory by devoting only a small fraction of the land areas to this purpose—as could the production of organic materials derived from plants to serve as feedstocks for the chemical industry. In practice, of course, many agricultural and chemical techniques have to be developed or refined before vegetation can be used on a significant scale to provide a renewable source of energy and of substitutes for petrochemicals. But the problems as a whole have been sufficiently well defined to warrant some long-range ecological speculations.

Plant materials have an obvious advantage over coal and petroleum, that they are renewable. Furthermore, their use as sources of energy and of chemicals would probably result in less environmental contamination than the use of fossil fuels, especially with regard to sulfur compounds and carbon dioxide—an environmental hazard of unknown magnitude; since plants use this substance for their growth, the result is a closed cycle instead of accumulation, as is the case with organic fossil fuels.

One of the objectionable aspects of vegetation as a source of energy and chemicals is that it is more diffusely distributed and more difficult to transport than coal or petroleum. This will probably require that the biomass be handled in fairly small industrial units, a limitation that has some advantages. One of them is that it may favor social decentralization. Another is that decentralization will facilitate the return to the land of the waste products from plant materials which can then serve as plant nutrients.

Granted that the techniques for production of energy and chemicals by photosynthesis are still in a primitive stage, the ecological prospects are sufficiently encouraging to justify a vast program of research in fields pertaining to the production and utilization of plant materials, such as photosynthesis; plant physiology; plant genetics, including the production of new artificial species; ecological association of different plant species; and development of techniques for the fermentation of plant materials to produce methane and for their hydrogenation to produce combustible liquids. While the new technologies that could thus be developed are not urgently needed in the United States, they might be of immediate practical importance in some countries that have abundant vegetation but lack other resources. Furthermore, the production of energy and materials by photosynthesis points the way to long-range global solutions based on biological techniques compatible with the ecological health of the planet.

CREATIVE STEWARDSHIP

There are different kinds of satisfactory landscapes: on the one hand, the various types of wilderness still undisturbed by human intervention; on the other, the various humanized environments created to fit the physiological, esthetic, and emotional needs of modern human life.

There will be less and less wilderness as the world population increases, but a strenuous effort must be made to preserve as much of it as possible, for at least two different reasons. As was mentioned earlier, the wilderness is the greatest producer of renewable sources of energy and of materials—as well as of biological species—and is, therefore, essential to the maintenance of the ecosystems of the earth. Furthermore, human beings need primeval nature to reestablish contact now and then with their biological origins; a sense of continuity with the past and with the rest of creation is probably essential to the long-range sanity of the human species.

In practice, however, most people spend most of their time in humanized nature. They feel most at ease in landscapes that have been transformed in such a way that there exists a harmonious interplay between human nature and environmental forces, resulting in adaptive fitness. The quality of this interplay requires a constant expenditure of efforts because any environment, left to itself, tends to return to a state of wilderness no longer adapted to the physiological and mental needs of modern man. Even though a landscape has been economically productive and esthetically attractive for many generations, it will be invaded by brush and weeds as soon as it is neglected. The rapid degradation of abandoned gardens, farmlands, or pastures is evidence that humanized nature cannot long retain its quality without constant human care. Conservation practices are as essential for the maintenance of humanized nature as they are for the protection of the wilderness.

The stewardship of the earth, however, goes beyond good conservation practices. It involves the creation of new ecosystems in which human interventions have caused some changes in the characteristics of the land and in the distribution of living things, to take advantage of potentialities of nature that would remain unexpressed in the state of wilderness. Throughout history and even prehistory, humankind has tampered with blind ecological determinism. Forests have been cut down or managed, certain swamps have been drained, and agricultural productivity has been increased by practices designed to modify the physical structure, chemical composition, and microbal life of soils. The fauna and flora have also been managed by introduction of new plant and animal species, selection and improvement of strains, crop rotation, control of weeds. Ever since Neolithic times, human life has taken place in managed environments.

Experience shows that most natural situations can be converted into several different ecosystems involving different kinds of relationship to humankind. As was mentioned earlier, East Anglia was at first completely forested, then it was cultivated in open fields, then the fields were converted into hedged enclosures, and the tendency is now to return to large open fields. In the American Southwest the Navajos, the Zunis, and the Mormons have established viable relationships with nature based on very different ways of livelihood and different social relationships; these three ethnic groups relate to the same kind of soil under the same sky but march to different social drums in their own artificial ecosystems. Until our times, the photosynthetic activity of plants has been used chiefly for the production of food, fibers, and building materials, but there are now projects to use it for the production of various kinds of fuel and of feedstocks for the synthetic chemical industries.

Nature is like a great river of materials and forces that can be directed in this or that channel by human intervention. Such intervention is justified because the natural channels are not necessarily the most desirable, either for the human species or for other species. It is not true that "nature knows best." It often creates ecosystems that are inefficient, wasteful, and destructive. By using reason and knowledge, we can manipulate the raw stuff of nature and shape it into ecosystems that have qualities not found in wilderness. Many potentialities of the earth become manifest only when they have been brought out by human imagination and toil.

Just as the surface of the earth has been transformed into artificial environments, so have these in turn influenced the evolution of human societies. The reciprocal interplay betwen humankind and the earth can result in a true symbiosis—the word symbiosis being used here in its strong biological sense to mean a relationship of mutualism so intimate that the two components of the system undergo modifications beneficial to both. The reciprocal transformations resulting from the interplay between a given human group and a given geographical area determine the characteristics of the people and of the region, thus creating new social and environmental values.

Symbiotic relationships mean creative partnerships. The earth is to be seen neither as an ecosystem to be preserved unchanged nor as a quarry to be exploited for selfish and short-range economic reasons, but as a garden to be cultivated for the development of its own potentialities of the human adventure. The goal of this relationship is not the maintenance of the status quo, but the emergence of new phenomena and new values. Millennia of experience show that by entering into a symbiotic relationship with nature, humankind can invent and generate futures not predictable from the deterministic order of things, and thus can engage in a continuous process of creation.

NEED FOR SOUND MANAGEMENT OF COASTAL RESOURCES

HON. JOHN B. BREAUX

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 3, 1976

Mr. BREAUX. Mr. Speaker, much has been said in this Congress on the subject of wetlands; how to define them, how to manage them, their value to society and the need to protect them in the public interest. I would like to share with my colleagues the following letter I have received from Professor James Gottelink of the Louisiana State University Center for Wetland Resources, by way of the National Wildlife Federation, which I hope will broaden the appeal for sound coastal resources management and wetland protection:

LOUISIANA STATE UNIVERSITY,
Baton Rouge La., July 19, 1976.

NATIONAL WILDLIFE FEDERATION,
Washington, D.C.
Attention: Mr. Bob Danko

DEAR MR. DANKO: I would like to acquaint you with what I feel are some of the cogent arguments to maintain the coastal wetlands of the United States under sound management practices controlled above the level of the local political unit, and in some cases above the state level. I think it is clear that coastal wetlands are regional and national resources. The piecemeal development of small areas, one at a time, without regard to the whole wetland system has a cumulative effect which will have repercussions far outside of the immediate zone of activity.

Much has been said in recent years about the value of the coastal wetlands. First, let me document some of these and then try to put them in perspective by illustrating the consequences of failure to protect them. Coastal wetlands are the nursery grounds for nearly all commercially important offshore fisheries. McHugh (Amer. Fish. Soc. Spec. Public. No. 3, 1966) stated that 2/3 of the cash value of species harvested on the Atlantic and Gulf coasts are estuarine dependent. Others put the degree higher. It is more difficult to draw a direct relationship between the magnitude of the fish harvest and the coastal wetlands. However in a recent study Dr. Eugene Turner of this department has shown that on a world-wide basis there is a direct relationship between the offshore harvest of shrimp and the total area of the salt marsh upon which that fishery is dependent. The relationship is with the marshes as a source of organic food for the shrimp and a nursery habitat.

In addition to commercial fisheries recreational use of the coastal zone has generally been underestimated. Two-thirds of the population of the United States lives in about one-third of the land that lies along its coasts. This has resulted in tremendous population pressures on the coastal wetlands, sport fishing and recreational use is a natural outcome. Louisiana, for instance, has 2,000,000 licensed fishermen. A recent study in Georgia concluded that on the average each coastal sports fisherman spends $80 a year in sport fishing. I think that is probably low but even at that level for 2,000,000 fishermen that is $160,000,000 per year spent for sport fishing in Louisiana. In many areas coastal sports fishing is much more important economically than commercial fishing.

In addition to the fisheries and recreational value of marshes wetlands perform another general function which has sometimes been called the free work of nature. What this has come to mean to me is that certain work is accomplished by natural systems when maintained in a productive natural state. By low expenditures for maintenance and protection of this condition society as a whole protects itself against really high investments duplicating the services of nature. An example of this is the treatment of sewage along the Atlantic coast. In a recent EPA report (Sweet, D. 1971. The Economic and Social Importance of Estuaries) it was shown that five major estuaries on the Atlantic coast treat amount of organic sewage equivalent to an average of 19 pounds of biological oxidation demand (BOD) per day per acre. These estuaries treat this in the sense that sewage is dumped into them and it disappears.

That is, the organic matter is oxidized, and the inorganic nutrients are removed from the estuarine waters in one way or another. In a sewage treatment plant we call the oxidation of organic matter secondary treatment, and it is relatively inexpensive—2½¢ a pound of BOD. But the removal of inorganic nutrients, especially nitrogen and phosphorus, which occurs in the tertiary treatment step of treatment plants, is very expensive—something like $2.00 for the equivalent nutrients found in a pound of BOD. So along the east coast the estuaries and associated marshes are removing nutrients which would cost about $2.00 a pound of BOD to remove. The load of organic matter dumped into these estuaries is destroying the water quality as is shown by periodically low-oxygen concentrations and fish kills. The cost of providing secondary treatment plants for all this sewage while high, is a cost which our cities can absorb and should absorb in order to maintain the wetland-estuarine systems in a healthy state so that they can effectively perform the more expensive task of tertiary treatment. So the very real free work east coast estuaries perform is worth about $4,000,000 per day—at least that is what it would cost to treat the domestic sewage currently dumped into them.

Domestic sewage is a special case of a general problem which estuaries, over many millenia, have evolved to handle. Estuaries are the downstream receivers of river discharges. Rivers in general have high nutrient concentrations and have had them since before man started applying fertilizers on his farmland. The downstream reservoirs have evolved in this high nutrient environment, and have developed as efficient nutrient traps. The conditions for this are shallow well-mixed waters, marshes which trap silt and associated nutrients, and very high microbial activity. When the organic load is too high as in cases of extreme pollution or when the river by-passes the estuaries, as is happening with the Mississippi River, the offshore waters become polluted, that is, anoxic and unable to support marine life. This leads to the kinds of problems currently experienced on the beaches from the New York bight north, with the accompanying high cost of clean-up.

In addition to this general role of estuarine systems as nutrient traps, the extensive expanses of wetlands act as storm reservoirs and protect inland areas from the severe effects of hurricanes and other storms. Marsh filling and human encroachment into coastal areas has resulted in enormous damage from storms, damage which is usually paid for finally by the taxpayer through the federal government.

Another free service of nature is that of harbor and beach protection. Harbors in particular are a good example. In 1888, a geologist, named Dunbar described how all the harbors of New England filled with silt when the great marshes were drained and leveed. This occurred because the marshes were no longer able to trap silt, and because water currents in tidal passes were reduced as the intertidal volume decreased.

It is difficult to put a monetary value on these free services. One can quote the enormous expense of dredging, the enormous costs of storm damage in low-lying coastal areas, and the expenses which would be incurred in building tertiary treatment plants along coastal waters. For instance a rough estimate shows that the value of the tertiary treatment which the east coast marshes perform is presently about $2,500 per acre per year based on the cost of operation of tertiary treatment plants. It should be emphasized that this is the social value, that is it does not accrue to the owner of the wetlands. These free services accrue to society as a whole and should the wetlands be destroyed, government would be placed in the position of providing many of the same services at tremendous cost in taxes to the general populace. The conflict between private ownership and the welfare of society is particularly clear here, and is one reason strong regionally-based management plans and practices are needed.

The problem is a regional one rather than a local one. For instance the Mississippi drains nearly half the continental United States. Problems of the Louisiana estuarine areas result in part because of the conditions of drainage, farm fertilization and sewage disposal throughout the Mississippi watershed. The same can be said of nearly every estuary in the country. Thus wetlands need to be protected from piecemeal developments which individually have no great effect on the estuarine system, but, taken as a whole have a very significant cumulative effect. This can only be done by development of strong management plans, and review and permitting authority which transcends that of local governments.

Sincerely yours,

JAMES G. GOSSELINK,
Professor and Chairman, Department of Marine Sciences.

VOTER REGISTRATION BY POST CARD WILL LEAD TO DESTRUCTION OF SECRET BALLOT

HON. BURT L. TALCOTT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 3, 1976

Mr. TALCOTT. Mr. Speaker, as we all know now, Governor Carter has requested the majority leadership of the Congress to quickly enact national legislation to require voter registration by post card. He, obviously, expects to garner extra votes by such a law. Other special interest groups share the same expectations and concur with the Presidential nominee of the Democratic Party.

The majority leadership of the House and Senate has capitulated to this demand and ordered a bill brought to the floor this week in what can only be termed unseemly haste. Parenthetically, imagine the alacrity and the supineness with which the majority would respond if Governor Carter were President. There would be neither check nor balance nor veto of even this kind and quality of legislation.

Obscene legislative speed, a vulgar influx of money and a flagrant disregard for the integrity of our electoral system are all being used to assist Governor Carter to prostitute our election processes to gain a few paltry votes in this Presidential election.

The integrity of the electoral process ought to be our first concern. The convenience of the voter must give way to the protection of the electoral process. Loading up the voter registration rosters with disinterested names should be rejected.

Any degradation of the integrity of our election system must be resisted at every stage. The battle is on. Years ago in the struggle for power in the world, it was realized that political power was easier to achieve than economic, intellectual, technological or military power. Achievement of political power by military coup and revolution has succeeded in many countries, but these methods have always been abjured in the United States of America. Inciting riots, chaos and revolution has temporarily failed in the United States.

The most likely scheme for achieving power in the United States is through the ballot and then by socialistic legislation and with delegation of control to the bureaucracy. Americans respect the law no matter how it is enacted. No single individual or group in America can directly flaunt the law. So the power hungry in America have resorted to using the ballot. This movement toward dominance of our society is developing almost unnoticed. There are many ways.

First, extend the franchise to more and more voters who do not care and can be easily manipulated. Much of this has already been accomplished. Any citizen of minimum age who can make an "X" can register to vote—and he can vote, no matter what disability, if someone completes his ballot for him.

Next, make it easier to register to vote. Already, in many States, no registration is required; in other States, registration is required only on election day; in some, thousands of ad hoc registrars roam the streets, neighborhoods, shopping centers, schools and union halls to register voters for a fee; periods in which registration is required have been reduced; some States already permit absentee registration; some already permit registration by post card; and some no longer purge the registration rosters for failure to vote.

Then, make it easier to vote. Some are already planning to allow everyone to vote by mail. Voting by mail will permit third parties to monitor our ballots. When this occurs, we no longer have a secret ballot—which is the key to the integrity of representative democracy. When the secret ballot is breached, elections can be manipulated and political control of America can be seized.

Bilingual elections and balloting have been imposed on many communities thereby permitting people to vote when they have not even shown enough interest in America to learn its official language. This is just another example of degrading the franchise and, thereby, the quality of the process and the product of our electoral system.

Those who have advocated all these changes to degrade the ballot, the voter and the system are the very ones who have the design and intention to seize political power—something they have failed to do through economic, intellectual or social revolution.

All of the extensions, relaxations and lowering of standards permit, even encourage, more fraudulent practices.

Registration by post card, or other mail device, provides an added convenience to persons who wish to register and vote. This is over-indulgence. Anyone who is unwilling to take the time and interest to go to the courthouse or city hall or to telephone a registrar of voters does not have sufficient interest to entitle him to vote. Disinterested registrants are more susceptible to fraud and the undue influence of the political power brokers.

Opportunity to register by mail does not increase voter registration. Historical and empirical evidence proves this in Texas, Maryland and New Jersey. Registration by mail only makes it easier for the disinterested citizen and those who plan to dupe him. There is no compelling reason for providing an expensive and questionable service for this group.

Voter interest in the candidate and the issues is a more important factor in voter turnout than the number or method of registration.

Even the cost of registration—an argument of the proponents—will be decreased only if we abandon the conventional and effective means of personal registration. Duplicate methods of registration will permit duplicate registrations, and invite more fraud, as well as cause increased costs and errors.

The potental for vote fraud under post card registration greatly exceeds any claimed reduction in cost.

Post card registration when combined with universal voting by mail—the next step being planned by the political power brokers—will more than double the opportunity for fraud—and make the fraud almost impossible to detect and virtually impossible to prove and prosecute.

Voter registration fraud not only degrades and distorts our political process, it can be used for other fraudulent purposes. Voter registration cards can be used for official identification to establish citizenship, residence, employment, marriage, age and credit eligibility. This weakens and degrades other legitimate governmental functions. Even those who might tolerate State post card registration, strongly oppose a Federal mandate to force post card registration upon State and local political subdivisions.

National legislation would certainly result in superseding State legislation. This is an encroachment upon State's rights. Our Federal system is based upon our elections being conducted by the States. It has been thus for 200 years; we should be wary about changing this without positive assurance of safeguarding the integrity of our electoral system.

Post card registration is an invitation to error as well as fraud. Cards will be available wholesale in numerous public places. Sabotage would be easy. It would be impossible for election officials to discover errors or prosecute fraud—especially in time to avoid or prevent corruption or distortion of an election.

Citizens who take the interest and initiative to register to vote personally are more likely to take the interest to vote and to safeguard the integrity of their vote and the whole election process. Those whose interest is so apathetic that they await the post card are more likely to fall prey to fraud or victim of error.

Even if we could tolerate Federal imposition of post card registration we should insist on more time for study, evaluation and deliberation. There are many differing proposals. Hastily designed and hurriedly enacted legislation for partisan political advantage will certainly produce inferior legislation which will plague us in future elections.

Face-to-face registrations will produce more registrations and reduce the opportunity for fraud and error over all methods of mail registration. Face-to-face registrations enhance interest in our total government as well as just the elections. We need to make government more intimate and personal. Mail, computers and numbers are moving us in the wrong directions.

An illegal, erroneous or illegible post card cannot be easily corrected. Face-to-face registration permits detection and correction of mistakes promptly.

One-tenth of all first class letters contain errors on the envelope. Yet addresses are much simpler to complete than voter registration cards. I believe we can expect 20 to 30 percent error in post card registration. Registration by mail will add to the cost and increase the number of uncorrected errors. It will also lull some registrants into a false sense that they are properly registered until election day when they arrive to vote and discover too late that their vote cannot be counted.

Federal registration by mail will be more remote and impersonal than State registration by mail.

Speaking of the U.S. mail, some post cards may be lost or misplaced thereby disenfranchising some expectant voters.

Some States will deem it necessary to maintain a separate voter registration system. In such cases, there will be two systems with resultant duplication and confusion.

Federal post card registration would occur every 4 years, probably concurrent with the Presidential elections. Yet many States and local political subdivisions require elections every 2 years, even every year. The Federal post card registration must then be unnecessarily duplicated in some States or necessarily inadequate for other States.

Without closer scrutiny than can be employed with post card registration, illegal aliens could be able to vote fraudulently and also to use their voter registration cards for other purposes that are illegal, such as: employment, permanent residence, welfare assistance and medical care.

Federal voter registration implies a usurpation of Federal control of election when there is no demonstrated Federal problem or identifiable Federal need.

The Federal Government would be able to maintain and use a computerized, centralized voter registration list. Most Americans would prefer not to be on a Federal list when there is no need.

The Federal voter registration program will require another bureaucracy, more people, more office space and equipment, more computers and facilities, more costs and taxes and tons of new paperwork. We do not need any of them.

Federal post card registration is not only a new and unnecessary Federal project; it is an unwanted Federal encroachment upon a basic State function; it will require an exorbitant additional cost; it will offer unlimited opportunity for error and fraud; it will degrade the most precious function of a representative democracy; it will be a foot-in-the-door toward voting by mail which will enable third persons to monitor ballots thus breaching our secret ballot—the linch pin of representative government and democracy.

This is part of a worrisome scheme to degrade our political system. I deplore it. I urge everyone to resist this move and the corollary actions which are certain to follow. We can reverse this ominous trend before it is too late. But first we must be aware of what is happening and the reasons and motivations behind this political power play.

I have called attention to what I consider an ominous trend toward a devastating objective to dominate America through the wrongful use of the ballot and the destruction of our venerable election system.

I urge the House to reject this bill when it is called up later this week.

ADMINISTRATIVE RULEMAKING CONTROL ACT

HON. ALLAN T. HOWE

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 3, 1976

Mr. HOWE. Mr. Speaker, in 1776, Thomas Paine said that those who expect to reap the blessings of freedom must undergo the fatigue of supporting it. What brings this quote to mind is the fatigue and frustration I increasingly feel in trying to support and preserve these same freedoms.

As a Member of Congress this task should be simplified, but I can testify to the fact that it is only further complicated by the responsibility I carry as a Representative. In asking myself the simple question, who makes the laws? I am puzzled and must admit I am no longer certain. I used to think Congress, the Executive and the courts worked together, but now feel we are being superseded by an increasingly powerful fourth branch of Government—the regulatory bureaucracy.

Many of us have watched with alarm as the regulatory structure has grown to the point where it is almost out of control. It is no longer unusual for Congress to pass legislation with one aim in mind only to have its intent subverted or circumvented by an unresponsive bureaucracy. The statistics themselves are overwhelming when one realizes that in 1974 alone, 67 Federal agencies, departments, and bureaus adopted 7,406 new and amended regulations. During the same period of time, Congress enacted only 404 public laws—a ratio of almost 18 to 1! It must be remembered that the rules and regulations promulgated by the regulatory agencies have the force of law and yet are beyond the realm of accountability. In the face of these facts, the trend has not been of an assertive legislative branch reclaiming its authority. It has rather been the agencies assuming more and greater powers than they were ever intended to have. The time of reckoning has truly come for this expensive, isolated, inefficient and bloated bureaucracy and some tough decisions must be made.

There exists in Congress a very effective vehicle for asserting control over this bureaucracy and getting a solid grip on the future course of events and legislation. That vehicle is the Administrative Rulemaking Control Act of 1976, introduced by Representative ELLIOTT LEVITAS. H.R. 3658 is already cosponsored by a broad bipartisan coalition of 155 Members, including myself. This bill is simply stated and if passed would enable Congress to exert a large and significant degree of control over the actions of the Federal regulatory bureaucracy. Under this proposal, whenever an administrative rule is adopted by an agency under procedures of the Administrative Procedures Act, and a violation of the rule could result in a criminal penalty, then either House would have a period of time to pass a resolution disapproving the proposed regulation. The passage of such a resolution would prevent the regulation from becoming operative and in effect it would be vetoed. Similar measures are pending before the Senate and the likelihood is good that some of this legislation will reach the floor this year.

During my campaign for Congress, I frequently pledged to direct my efforts toward controlling the growth of the Federal bureaucracy and its vast number of regulations which plague the public. This is one of many ways which I think will go far toward fulfilling that promise—toward making government more responsive and accountable. This bill should help restore citizen confidence in government by giving them an input in the regulatory process through their elected representatives.

However, we must not be fooled into thinking a single piece of legislation will solve all the probems that have been created over the years of uncontrolled growth and neglect. A new attitude must be taken toward the regulatory agencies by the Congress that establishes a new and realistic balance for future relations. The heart of this would be an effective and orderly congressional oversight system that will compel regulatory agencies to respond more vigorously to changing needs. Congress must also stop being content to endorse the use of old regulatory mechanisms which were set up to meet an entirely different set of needs and expect them to be effective in meeting the sophisticated problems these agencies face today. Structural changes and organizational reforms tailored to specific agencies should also be studied and considered. Also, the framework for appointment and advancement of officials should be reviewed. In a recent study published by the Senate Commerce Committee, the conclusion was reached that many Federal regulatory appointees are not qualified for their jobs. The study found the selection process for regulators "tends to eliminate the person with talents for imaginative, aggressive regulation" while the chief factors governing appointments are "powerful connections and political acceptability." Obviously, something needs to be done.

ANOTHER LOOK AT THE ILLEGAL ALIEN PROBLEM

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 3, 1976

Mr. BIAGGI. Mr. Speaker, I wish to bring to the attention of my colleagues a very interesting article on illegal aliens entitled "Indentured servants." The author of this article which appeared in the New York Post was Harriet Van Horne one of their more noted columnists.

Ms. Van Horne raises the very significant point that this Nation has been unsuccessful in its ability to slow the tide of illegal immigration. She cites two basic reasons. First, the Immigration Service lacks sufficient enforcement personnel and second, Congress has failed to enact legislation to penalize employers of illegal aliens.

I remind my colleagues that I have introduced illegal alien control legislation, H.R. 5987. My bill would make it an immediate crime to knowingly hire illegal aliens as well as add 2,500 new enforcement personnel to the Immigration Service. I further remind my colleagues that another such bill has been pending before the House Rules Committee since last September. I refer to H.R. 8713 as introduced by Congressman RODINO. While I do have some basic objections to this legislation, I feel very strongly that the Rules Committee should release this bill from captivity at once and allow the full House to discuss this vitally important issue. Its resolution will be of profound importance to the economic security of all Americans. We must be aware that as long as we fail to act, the problem will continue and intensify. It will also contribute to the misconception which has been allowed to develop whereby legal and illegal aliens are mixed together—and this is followed by calls that we stop all legal immigration into this Nation. I do not feel this is necessary. Prohibiting the employment or the indentured servitude of illegal aliens as well as stricter enforcement of our immigration laws is what is needed.

I now enclose Ms. Van Horne's article for the consideration of my colleagues:

INDENTURED SERVANTS

(By Harriet Van Horne)

There's a kind of small talk in which I no longer play a stellar role, owing largely to my economic infirmities and boredom with other people's sex lives.

Thanks to an automatic tune-out device, I am spared all the chatter about toilet-training Junior, about finding a cheap hotel in Paris and the current hanky-panky in Southampton. Or next door. I can replay the after-dinner talk of "the ladies" in my sleep.

But now and then a new line rings out above the general babble, riveting me to my chair. Such a line as "The cook I have now doesn't dare quit. She's an illegal and she knows I could turn her in."

A variation on this is the much too common remark, "Get an illegal, darling, they'll do *anything.*"

So, we've come to that. Indentured servants, toiling for substandard wages, with no hopes of working out the indenture. Captive maids and baby-tenders, terrified that an immigration officer will arrive one day with the warrant that says, "Back to Santo Domingo!" Or back to Jamaica, Haiti, Mexico, Trinidad, Colombia or whatever.

It seems not to matter to these illegals that they are in virtual peonage here, doing the menial clean-up jobs, working 12 hours a day, living like rats in the woodwork. The life they left behind is far, far worse.

But the problems these non-citizens are giving us are radically altering the face—and the voice—of America. They are pushing us closer to the Third World, to the oligarchic structure of South America, to a land of teeming poverty with a few rich and powerful families in absolute control.

If we do not stem the tide of illegal aliens, sociologists are warning, we shall find ourselves a polyglot land in 50 years, with more welfare clients than the government can support, and with democracy only a memory.

How, they ask, can we absorb 10 million illegal aliens with nearly 300,000 legal newcomers arriving each year? We now have seven million Americans unemployed. To keep the economy healthy we should be generating 72,000 new jobs every year.

The illegals now cost us $16 billion per year, a staggering sum. It is the illegals who now crowd the hospital clinics and public schools, who tax the transportation system and the welfare system. They keep wages down, take jobs away from our poorest citizens and they pay no taxes.

Should a family of illegals produce one child on American soil, the family is eligible for welfare. Naturally, they manage to do so. And so the welfare rolls grow and the cities, where the illegals can best make a living, continue to close libraries and expand their jails.

New York is said to shelter one million illegals, most of them competing for jobs with the Puerto Ricans and blacks, long our poorest citizens.

Traditionally, we are a land that is proud to give asylum to the poor and homeless. We built a fine country on Europe's "wretched refuse." But Europe sent us families with a cultural tradition, a religious ethic, a consuming desire to "make good." Above all, the 19th century immigrant wished to become "Americanized."

The Immigration Act of 1965 changed our laws in a manner that may forever change our national character. Immigration from Western Europe and Canada has been cut by 75 per cent. At the same time, immigration from Jamaica and the Philippines has increased by 700 per cent.

And here, mind you, we are speaking of legal immigrants, duly processed through channels. The illegals sneak across the Mexican border, come by night in small boats. Or they arrive by plane on a visitor's permit and never return home.

Why do we not send these illegals back? The easy answer is that we lack the immigration police to round them up. The real answer is that Congress will take no steps to stem the tide of illegals because "agribusiness"—those huge corporate farms of the West—and sweatshop factories and building contractors save money by hiring illegals.

Bills have been proposed, over and over, that would severely penalize any employer who hired illegal aliens. Thanks to Senator Eastland and other stoneheads, these bills die in committee.

Are we being cruel and intolerant to fear this relentless tide of aliens? Not if you think of this troubled country as an overcrowded lifeboat in a choppy sea. There comes a time when there's no more room in the boat.

For these newcomers, there is no melting pot. Hispanic children, by the millions, avoid school. There is an acute shortage of bilingual teachers. The children are not learning to become participating American citizens. They are a group apart, with no upward mobility.

Someday soon, there will be a savage reaction against these newcomers, and that will produce riots and bitterness. In the meantime, the ladies who chat after dinner about the servant problem will feel secure—Conchita will do anything to remain in this Paradise.

45TH ANNUAL UKRAINIAN DAY CELEBRATED IN YOUNGSTOWN, OHIO

HON. CHARLES J. CARNEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 3, 1976

Mr. CARNEY. Mr. Speaker, on Sunday, August 1, 1976, I had the pleasure and the privilege of attending the 45th Annual Ukrainian Day celebration sponsored by the Mahoning County Chapter of the Ukrainian Congress Committee of America. This year's Ukrainian Day celebration was dedicated to the American Bicentennial and the centennial of Ukrainian immigration to America.

Mr. Speaker, there are more than 2 million Americans of Ukrainian descent. They are deeply patriotic citizens who have made great contributions to our country both in war and in peace. At the same time, they have not abandoned the beautiful customs and rich tradition their ancestors brought with them to America from the Ukraine.

One aspect of the heritage of Americans of Ukrainian descent is their intense passion for liberty. Because of this love of liberty, they have not forgotten their friends and relatives in the Ukraine who are unable to share in the blessings of liberty.

The 45th annual Ukrainian Day festivities exemplied all that is best in the Ukrainian culture, religion, history, and tradition. I commend all Americans of Ukrainian descent for their patriotism, their love of liberty, and their devotion to the land of their fathers.

I also want to commend Mr. Peter Lischak, president of the Ukrainian Congress Committee of America, Mahoning County Chapter, the other officers of the Mahoning County Chapter, the 45th annual Ukrainian Day committee chairmen and members, and all those who participated, for making the 45th annual Ukrainian Day celebration a most successful and enjoyable occasion.

Mr. Speaker, I would like to take this opportunity to insert portions of the 45th annual Ukrainian Day program in the RECORD at this time. Excerpts from the program follow:

45TH ANNUAL UKRAINIAN DAY

Dedicated to American Bicentennial and Centennial of Ukrainian Immigration to America.

PROGRAM

1. American National Anthem—Trio: Mrs. Marusia Marczyshyn, Miss Karen Patrick, Miss Irene Hawrylko.
2. Invocation—Rev. Wolodymyr Wysochansky, Pastor of St. Anne Ukrainian Catholic Church.
3. Opening remarks—Mr. Peter Lischak, President, UCCA.
4. Trio Selections (in Ukrainian): 1. On Dnieper, 2. Three Colors.
5. Ukrainian Dances—Ukrainian Dancers of Youngstown, Ohio, Mr. Nicholas Woloszyn, Director.
   1. Kozachok.
   2. Hopak.
6. Introduction of guests.
7. Address—Mr. Joseph Lysawyer, President of Ukrainian National Assn., New York, N.Y.
8. Roman Rudnytsky, Pianist. Suzanne Rudnytsky, Lyric Soprano.
   1. Mother—A. Rudnytsky.
   2. You Will Resurrect—A. Rudnytsky.

   (In Ukrainian). Suzanne and Roman Rudnytsky.
9. Bouree in A Major, Op. 19, No. 6—Kosenko.

   Rhapsody No. 14—Liszt. Roman Rudnytsky.
10. A Quiet Evening—Stetsenko.

    By My Window (In Ukrainian)—Arr. A. Rudnytsky. Suzanne and Roman Rudnytsky.
11. Six Songs for Suzanne, Op. 52 (1974)—A. Rudnytsky (in English).
    a. Sweet and Low.
    b. A Red, Red Rose.
    c. Twilight.
    d. To Love Is Sweet.
    e. Passion and Love.
    f. Invitation to Love. Suzanne and Roman Rudnytsky.
12. Benediction—Very Rev. Msgr. Leo Adamiak.
13. Ukrainian National Anthem.

UNRAINIAN CONGRESS COMMITTEE OFFICERS FOR 1976

President and Chairman of Ukrainian Day—Peter Lischak. Co-Chairman of Ukrainian Day—Michael Martynszyn.

First Vice-President and Toastmaster—Atty. Michael Yurchison.

Second Vice-President—Michael Martynyszyn.

Third Vice-President and Chairman of Advertising Committee—Wasyl Prokopyk. Co-Chairlady—Catherine Gill.

Recording Secretary—Michael Terlecky. Corresponding Secretary—Myroslawa Lischak.

Financial Secretary—Alexander Rybalt.

Treasurer—Walter Werblan.

National Fund Committee—Mychajlo Bolotenny, Chairman; John Lischak.

Public Relations—Prof. George Kulchycky.

Auditing Committee—Walter P. Prochak, Chairman; Dr. Ilarion Dombchewsky, Kazymyr Bulwan, Theodore Swerdan.

Program Committee—Nicholas Styn, Chairman; Wasyl Prokopyk, Myroslawa Lischak, Mykola Woloszyn.

Advisors: Catherine Gill, Michael Bilon, Dmytro Hlywa, Mykola Lenyk, Michael Yarosh, Steve Wasylewych, Gregory Kowal, Deacon Peter Wesolowsky.

Ladies' Social Committee: Anna Kulynych, Chairlady; Maria Rybalt, Maria Bagan, Zonia Hlywa, Emily Church, Elizabeth Prokopyk, Jean Yash, Tania Martynyszyn, Helen Yurchison.

Social Committee: Michael Choros, Chairman; Theodore Kulynych, Co-Chairman; John Bagan, Nick Church, John Lischak, Basil Hewko, Dan Hlywa, Michael Bolotenny.

Advertising Committee: Wasyl Prokopyk, Chairman; Catherina Gill, Co-Chairlady; Atty. Michael Yurchison, John Strilka, Walter Briach, Michael Bilon, Michael Martynyszyn, Peter Lischak, Nicholas Styn, John Lischak, Anna Pirko, Jean Yash, Walter Werblan.

Admission Tickets: Alexander Rybalt, Steve Waslylewych, Michael Terlecky, Myron Lischak, John Lischak, Mykola Lenyk, Michael Bolotenny, Wasyl Hewko.

Refreshment Tickets: Mr. and Mrs. Wasyl Prokopyk, and William Prokopyk.

UKRAINIAN CHURCHES, ORGANIZATIONS AND CLUBS

Holy Trinity Ukrainian Catholic Church—Msgr. Leo Adamiak, Pastor.

Holy Trinity Choir—Basil Hewko, Director.

Holy Trinity Altar Boys Society.

Senior Sodality of B.V.M.—Mrs. Mary Lou Prochak.

Mother's Club—Mrs. Julia Hrybiniak.

St. Anne's Ukrainian Catholic Church—Rev. Walter J. Wysochansky, Pastor.

St. Anne's Choir—Miss Marian Izak, Directress.

St. Anne's Altar Boys' Society—Mark Billy.

St. Anne School—Sister Thadea, S.S.M.I., Principal.

Parents Guild Association—Mrs. Tania Fak

St. Anne's Ukrainian School—Mrs. Daria Kulchycky.

St. Anne's Mother of God Society—Mrs. Annabelle Borovitcky.

St. Anne's Apostolic Men's Society—Donald Billy.

Sts. Peter & Paul Ukrainian Orthodox Church—Very Rev. William Olynyk.

Sts. Peter & Paul Ukrainian Orthodox Church—Theodore Senediak, President.

Sunday School Teachers' & Pupils' Association—Very Rev. William Olynyk.

Sts. Peter & Paul Church Council—John Sencheshak.

Sts. Peter & Paul Altar Boys' Society—Gregory Temnick.

Sts. Peter & Paul Junior Sisterhood—Mrs. Emma Zebosky.

Parish Choir "Bandurist"—Mrs. Olga Hayiev, Directress.

St. Mary's Sisterhood—Mrs. Mary Opalka.

Senior Chapter of Ukrainian Orthodox League—Mike Woloschak.

Junior Chapter of Ukrainian Orthodox League—Michael Walkowiec.

American-Ukrainian Progressive Club—Charles Serednesky.

Ukrainian Congress Committee of America—Peter Lischak.

Providence Association, Branch 135—Mykola Lenyk.

League of Ukrainian Catholics—Michael Bilon.

Ukrainian-American Citizen Club—John Danalchak.

Urainian Credit Union—Trident—Bohdan Bolotenny.

S.U.M.A.—Gregory Kowal.

Ukrainian Dance Group—Mykola Woloszyn

Ukrainian National Aid Association, Branch 19—Mrs. Irene Kowal.

Ukrainian National Aid Association, Branch 96—Mrs. Catherine Gill.

U.N.A., Branch 119—Mrs. Anne Soroka.

U.N.A., Branch 140—Steve Terilecky.

U.N.A., Branch 348—Mrs. Estelle Wolosyn.

U.N.A., Branch 230—Michael Martynyszyn.

U.N.A., Branch 218—John Danylchak.

U.N.A., Branch 274—Charles Hankovich.

BEST WISHES TO ALL UKRAINIANS ON THIS 45TH ANNUAL UKRAINIAN DAY

We are gathered here to celebrate Ukrainian Day in Youngstown and the 200 years of independence of our country and the centennial of the Ukrainian settlement in America. This is the land where we enjoy our independence and freedom. Our hearts and minds are with our brothers and sisters who are scattered all over the world where they enjoy freedom. But in the land of our fathers, the beautiful, rich land of Ukraine, where the enemy now occupies the land, there is no freedom. We that live in the land of freedom must never forget our fathers' country. We must always keep in our minds: independence of Ukraine and freedom for her people. We do not ask for anything more than what is ours. We have our own culture, history, religion and traditions. All we want and must strive for is freedom for our people in their own home. We should never forget to think and pray.—Peter Lischak, President of the Ukrainian Congress, Committee of America, Mahoning County Chapter.

[From June 26, 1976 issue of Ukrainian daily newspaper "SVOBODA"]

CENTENNIAL, OR PERHAPS 375TH ANNIVERSARY

Officially the mid-1970's have been designated by the Ukrainian Congress Committee of America as the Centennial of Ukrainian settlement in the United States, but some evidence exists which reveals that Ukrainians lived here long before the mass immigration to America began in the 1870's and 1880's.

In the early years of the 17th century, Captain John Smith, who was later to become governor of the colony of Virginia, was escaping through Ukraine from Turkish captivity. His memoirs include vivid description about the land he escaped through and a man he befriended named Lavrentiy Bohoon, who subsequently came with him to the New World.

In the latter part of the 17th century several Ukrainians who were persecuted for their religious beliefs, left Ukraine and went to Holland. They later traveled to America with Dutch colonists and settled down in Pennsylvania.

During the Revolution, General Washington's army included such Ukrainian names as Petro Polyn, Mykola Bizun, Ivan Lator, Stephen Zubley, Yakiv Nemyrych, James Sadovsky, and Samiilo Grabovsky.

In 1784, the Russians founded the first settlement in Alaska at Three Saints Bay on Kodiak Island, and brought with them Ukrainian Kozaks who were exiled to Siberia. At the turn of the century several of these same Alaskan colonists traveled south to the vicinity of San Francisco and established more settlements.

Two brothers, Adolph and Francis Petrussevich, fought at the Alamo and Goliad, along with such legendary heroes as Davey Crockett and Jim Bowie. The name of Francis Petrussevich is carved in the Goliad battlefield monument where the artillery captain lost his life.

One of the first Ukrainian priests to come to America was Rev. Agapius Honcharenko, who came from Kiev in the mid-1800's to escape Tsarist persecution. Travelling all over the country, he finally settled near San Francisco where he published "The Alaska Herald," the first Ukrainian bi-weekly in the United States, from 1867–1872.

Many Ukrainians had fought during the Civil War, the most famous perhaps being Union Officer Brig. Gen. John Turchin, a former officer in the Tsarist army and a descendant of a Ukrainian Kozak family. Among the many battles for which he was cited was the conflict at Chickamauga. Other officers and enlisted men included such Ukrainian names as Vihovsky, I. H. Yarosh, Ivan Mara, Andrey Ripka, Julian Koblansky, and Petro Semen.

Subsequent generations of Ukrainians to come to the New World also left an indelible mark on America by being active in American community and political life, and by becoming leading authorities in science, technology, education, law, medicine, and many other fields.

UKRAINIAN BICENTENNIAL EVENTS PROGRAM

The Ukrainian Bicentennial Committee of the Mahoning Valley was organized May 28, 1975. Participating in the Committee, which works closely with the Youngstown Bicentennial Commission, and which is headed by Atty. M. Yurchison, are all local Ukrainian organizations as well as interested individuals. The purpose of the Ukrainian Committee is to commemorate the 200th Anniversary of American Independence and the 100th Anniversary of Ukrainian settlement in the United States.

The Ukrainians of Youngstown are the first ethnic group to begin the Bicentennial commemorations on the Federal Plaza.

UKRAINIAN BICENTENNIAL CALENDEAR OF EVENTS

Saturday and Sunday, May 15 and 16, 1976: Ukrainian Arts Exhibit of Ukrainian artists of tri-state area in conjunction with Youngstown State University Bicentennial Celebration.

Saturday, July 3, 1976: Participation in Mahoning County Bicentennial Ball at Idora Park.

Monday, July 5, 1976: Ukrainian float entered in Mahoning County Bicentennial parade.

Sunday, August 1, 1976: Participation in 45th Annual Ukrainian Day at St. Anne Church.

Sunday, October 10, 1976: World-famous "Kalyna" dancers will perform at the Powers Auditorium.

LET HIS MEMORY REMAIN WITH US FOREVER

Symon Petliura—May 10, 1879–May 25, 1926

Fifty years have elapsed since the tragic death of the Supreme Commander and Head of the Directorate of the Ukrainian National Republic, Symon Petliura, which occurred on May 25, 1926 in Paris.

During the last half of the century, two new generations of Ukranians were born and reared in Ukraine. The land had undergone the Golgotha of World War 2. In the aftermath of the war hundreds of thousands of emigres left Ukraine and were dispersed throughout the free world—telling the truth about Ukraine and its enslavement. In Ukraine itself a continuous struggle is going on against a forced Russification which threatens the very existence of the Ukrainian people.

Nevertheless, the image of Symon Petliura is still before our eyes—the image of one of the greatest figures of our modern history.

The fateful date of May 25, 1926, shall always be regarded as a day of national tragedy. In commemorating this date we should realize fully who Symon Petliura was for the Ukrainian people and recognize his role in the Ukrainian aspirations for statehood; we ought to realize this not only out of reverence for the martyred leader, but also because this awareness becomes a guidepost in our continuing struggle for the attainment of the national ideals of the Ukrainian people.

While in exile, Symon Petliura wrote: "We firmly believe in the Ukrainian statehood. For us, it is a living reality, because we are carrying the ideals in our hearts, and because its spirit and significance permeate our very lives . . ."

Therefore, the enemy was only quieted when the hands of Schwartzbard insidiously terminated the life of the Supreme Commander of the Ukrainian Government.

Symon Petliura, as a man and statesman in the modern history of the Ukrainian people, has become a symbol of the struggle for freedom and independence, for a Ukraine free of Bolshevik occupation.

Therefore, we call on our community—the Ukrainian central organizations and their branches—to commemorate reverently this year the memory of the tragically fallen Supreme Commander. We all live in the shadow of his personality. Let his memory remain forever with us and future generations in Ukraine and beyond it.

Let these words of Symon Petliura become a testament for all of us who are fighting for an independent Ukraine:

"The blood shed for this great ideal is not drying out. Its warmth will remain forever in the soul of our nation as a restive and durable ferment which reminds us of the unfinished task and calls on us to bring it to its successful fruition."

STATEMENT BY MAX BAUCUS ON SOLAR ENERGY LEGISLATION

HON. MAX S. BAUCUS

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 3, 1976

Mr. BAUCUS. Mr. Speaker, the congressional view of the position of solar power in the national energy program was clearly demonstrated in House and Senate action on the ERDA budget request earlier this year. Where ERDA requested just under $116 million for all solar programs for fiscal year 1977, Congress provided over one-quarter billion dollars, doubling the ERDA request.

It is clear that Congress sees a much greater potential for solar power in the short and middle range than does the administration. There are a number of good reasons for this. Solar energy is clean, renewable, available for exploitation at nearly every point on Earth, and it is completely free of foreign controls. Moreover, equipment for solar space and water heating and cooling is commercially available today, and solar electric systems are also appearing with increasing frequency on the market.

A logical extension of congressional sentiment would be an alteration of certain provisions of Federal housing programs which discourage the use of solar thermal equipment by homeowners. While these provisions were not formulated with the express purpose of discouraging mortgagors from including solar systems in their new homes, that is their effect. In an era of increasing scarcity of fossil fuels, it would be appropriate for Congress to remove disincentives to the replacement of conventional heating and cooling equipment with systems powered by the rays of the Sun.

Until recently, the Federal Housing Administration, FHA, categorically denied Government loans or loan guarantees to applicants who desired to use solar rather than conventional systems to heat or cool the property on which they sought to secure a loan. Due to a lack of sufficient research, FHA felt that it could not approve any solar systems for its minimum property standards—standards which must be met in order to qualify for Federal housing loan programs.

With the information provided by the solar heating and cooling demonstration program—set up by Public Law 93-409—FHA recently formulated intermediate standards for solar equipment, and final standards will be available by the end of the decade. Solar systems which meet these standards will now be approved by FHA and can be included in applications for its loan programs.

There is still a feature of these programs, however, which discourages potential mortgagors from "going solar."

Almost every Federal mortgage program contains a limit or limits on the size of loans which are covered. Because these limits do not, in my opinion, realistically reflect the higher initial cost of solar as opposed to conventional thermal equipment, they tend to turn potential program participants away from the former. Let me elaborate.

There are two ways of comparing the costs of conventional and solar thermal systems. The first way, which is unrealistic, is to look only at the initial costs of the two. A good solar system, including the necessary conventional backup equipment, when fitted to a new home, would be reasonably priced at $6,000. This would represent 15 percent of the cost of a $45,000 home, or 20 percent of a $30,000 home. It is significantly higher in price than a conventional system.

A more realistic perspective on the two is gained by looking at the comparative costs of each system over a 10- to 15-year period. Because the Sun's rays are free, homeowners who have installed solar equipment in their homes experience substantial reductions in their monthly fuel bills. Estimates of the savings from solar systems vary, but most studies indicate that within the 10- to 15-year period after installation, savings in fuel costs offset the initial cost of solar equipment. Over a longer period, solar systems are actually cheaper than conventional systems.

The unpredictability of future fuel supplies and prices makes solar systems even more attractive over the long run. In my own State of Montana, for example, a recent report by the Montana Energy Advisory Council highlights this uncertainty. According to the report:

> At current levels of production, Montana's proven gas reserves will be exhausted in about 20 years. Assuming an increasing proportion of these reserves might be consumed in state and/or that production of gas will increase as Canadian imports are eliminated, the gas reserves are apt to be exhausted in less time.

Natural gas is used to heat many Montana homes, and the shortages and price hikes implied in this passage make solar equipment appear even more attractive.

Unfortunately, mortgage loans and loan programs are concerned only with the initial outlay for a home. Undoubtedly, some sort of incentive systems to encourage the use of initially expensive solar equipment is justified. However, it is difficult to trace the sources and beneficiaries of the advantages which solar systems offer homeowners and the general public, and I am not prepared to endorse any of the incentive packages proposed thus far. This will require further study. But I do advocate changing current housing loan programs so that those who choose solar equipment for their homes can enjoy the same benefits which Federal programs offer to those who opt for conventional systems. In other words, while it may be premature to provide a system of incentives to solar equipment users, we should certainly remove disincentives to them.

In an effort to do just that, I introduced on April 9, 1976, H.R. 13143, the Solar Energy for Homes Act. It would increase by up to 10 percent the limits on most FHA loan and loan guarantee programs for those who need such an increase to cover the higher initial cost of solar equipment which they wish to install in the property they plan to purchase.

Since April, I have received many favorable comments on H.R. 13143, not only from Montanans, but from solar equipment manufacturers and users across the country. Along with their praise, many of these people have included constructive criticism of the bill.

In response to this criticism and further research which my office has conducted, I am today introducing three bills which, as a package, improve and strengthen the original Solar Energy for Homes Act. Let me outline the changes contained in this package.

First of all, I am replacing one bill with a package of three because housing loan programs exist in three different agencies: HUD, USDA, and VA. I feel that, in the interests of uniformity, all Federal housing programs should be indifferent between conventional and solar systems. My original bill only amended FHA programs.

Second, I have increased the maximum extension of loan limits from 10 to 20 percent. Many Federal loan programs have limits in the $20,000 to $30,000 range. Even on a $30,000 home, a 10-percent limit extension would only cover a $3,000 solar system. Since most solar systems sell for $4,000 to $6,000, I feel that 20 percent is a more realistic figure. Furthermore, loan programs for low-income families often have lower limits than other programs, and a 20-percent figure would allow such low-income families to purchase better solar equipment.

Finally, my new bills include major home repair as well as new home loan programs. This extends the benefits of Federal home improvement loan programs to those who wish to improve their homes by adding solar heating and cooling equipment to them.

As far as cost is concerned, my proposals, by themselves, call for no greater Federal outlays. Nearly all of the affected programs provide Government guarantees for loans. That is, the Federal Government does not provide the loan, it simply guarantees that it will repay the loan if the mortgage defaults.

The overall effect of these three bills would be to provide the same benefits of Federal loan programs to those who heat and cool their homes with the Sun's rays as are available to those who prefer conventional systems. In light of Congress determination to accelerate development of solar power as an alternate source of energy, it only seems appropriate that we remove obstacles to the use of solar equipment by homeowners. I do not claim that these bills, if passed, will result in a massive stampede to solar manufacturers. But they do represent a small uncontroversial step which we can take this year to make conditions a little more favorable for solar power.

Mr. Speaker, there are several items I would like to be included with my statement. First, I am attaching a copy of a letter I sent last week to the General Accounting Office, seeking an audit of HUD's solar energy program and asking for information directly related to my solar energy legislative proposals. Second, I am attaching copies of the three bills I am introducing today:

JULY 28, 1976.

Hon. ELMER STAATS,
Comptroller-General of the United States, General Accounting Office, Washington, D.C.

DEAR MR. STAATS: On September 3, 1974, President Ford signed into law H.R. 11864, the "Solar Heating and Cooling Demonstration Act of 1974." The law, now known as P.L. 93–409, set up a program of demonstration, testing, and advanced development of heating and cooling equipment powered by the sun for residential and commercial applications.

The ultimate goal of the demonstration program was to stimulate the use of solar heating and cooling equipment to a greater degree than would be the case in the absence of the program. This was to be accomplished by, first, testing solar equipment under field conditions to develop effective performance criteria; second, setting up demonstration solar homes and commercial establishments in various locations around the country to lend exposure to solar advantages; third, conducting research to advance solar heating and cooling technology; and finally, establishing a system of data dissemination to bring advanced techniques to the commercial market quickly.

Two sections of the Act stand out in my mind. Section 14 states:

"In carrying out their functions under this Act, all Federal officers and agencies shall take steps to assure that small business concerns will have realistic opportunities to participate in the programs to the maximum extent possible.

Thus a distinct desire to support small businesses is expressed in the Act.

Section 15(a) expressed congressional desire to a good geographical distribution of the demonstration sites. It reads:

"The residential dwelling and other buildings which will be part of the demonstration programs . . . shall be located in a sufficient number of different geographic areas . . . to assure a realistic and effective demonstration . . . in both rural and urban locations and under climatic conditions which vary as much as possible."

Two other sections of the Act are of interest. Section 15(b) indicates that the administrators of the program should take the costs of alternative systems into consideration when making purchases. This implies that administrators should purchase the least expensive system which performs at a given level.

Sections 5(c) and (d) and 6(d) and (e) give the Secretary of the Department of Housing and Urban Development a broad range of alternate methods of selecting the homes and homeowners to participate in the demonstration program. Section 13 indicates that federal low-interest loan programs would be extended to these homes and homeowners. Thus, those selected to participate in the program stand to benefit from low-interest finance of expensive solar equipment.

My study of the operation of the Solar Heating and Cooling Demonstration Program indicates that the administrators are not implementing the Act in a manner consistent with these four areas, particularly in my own State of Montana. Small businesses are being ignored, large areas of the country have been excluded from participation in the program, high costs units are being purchased when equally efficient low cost units are available, and HUD grants are being withheld from individual homeowners and contractors with presold units.

According to Part II of a Senate Select Committee on Small Business report entitled "Energy Research and Development and Small Business," small businesses, as defined by the Small Business Administration, received 5.9% of the dollar amount of contracts awarded in connection with the P.L. 93–409 program over the past two fiscal years. This hardly seems consistent with the congressional intent cited above.

Montana has not yet received a demonstration project under the program. This is in spite of the fact that Montana contains eight National Oceanic and Atmospheric Administration Principal Climatological Stations—more than all but two of the continental United States. Two major climate systems divide the state, yet apparently they do not vary or represent their respective systems enough to meet the geographical distribution requirement of P.L. 93–409.

I have been informed by officials in both HUD and ERDA that a lack of interest on the part of Montanans is responsible for the absence of solar demonstration projects in the State. Yet, my travels and meetings in the State have led me to a different conclusion. I have received expressions of serious interest in solar energy from homeowners, inventors, and contractors all over Montana. Under a recent state law, proposals were solicited for funds available through the state coal tax for alternate energy research and development. Over sixty separate proposals for solar R & D alone were received in Helena. I wonder how many other areas in the country have been excluded from the program for this kind of a "lack of interest in solar energy."

The enclosed reprint from materials I received from Dr. Harry Thomason summarizes the complaints about HUD/ERDA favoritism of high-cost equipment which I have heard from many sources. I have tried in vain to understand why these agencies would not purchase the least expensive unit which meets given performance standards.

Finally, HUD has adopted a policy of inviting project proposals only from contractors who have not presold the units which are to be included in the program. This means that if an individual is planning to build a home with solar heating or solar heating and cooling and is willing to provide information to the government about the performance of the system, his proposal will be turned down by HUD and he will be ineligible for the low-interest loan limit extension outlined in Section 13. This policy would seem to favor big contractors who can afford the risk of putting solar units into unsold homes. This policy also seems to go against the grain of congressional intent as embodied in the Act.

Because of the evidence I have received that P.L. 93–409 is not being administered in accordance with express and implied congressional intent, I am requesting the General Accounting Office to conduct an audit of the program. Specifically, I desire the following information:

(1) Who has been informed of the specific opportunities available for participation in the program?

(2) Who has submitted proposals for participation in the program, either for research, data dissemination, or demonstration?

(3) Who has been accepted for such participation, and to what degree are they participating in the program?

In terms of defining the "who" in each of these areas, I wish the information broken down:

Among individuals, small businesses, government agencies, giant corporations, other businesses, and colleges, universities, and other nonprofit institutions, the last five groups as defined by the Senate Select Committee on Small Business, and

By location of the person or group in question.

I also want a listing of other grants which each person or group has received from ERDA or HUD during the last five years in connection with any other programs which these two agencies have administered.

One final item. I have introduced my own solar energy bill, H.R. 13143, which seeks to raise the unit ceilings on federal housing loan programs. A more detailed description of my bill is enclosed. I am now drafting three new bills along the same lines as H.R. 13143. In all of these bills, I am seeking to remove obstacles and replace them with incentives for developers who might install solar power equipment in homes they are building. These bills are based on the assumption that the current ceilings on federal housing loan programs actually deter solar powered equipment installation. I would like to know whether this assumption is correct. Would you be able to look into this for me?

I have asked Steve Browning, my administrative assistant, to coordinate this request. Should you or your staff have additional questions on this matter, please do not hesitate to call me or Steve.

I do hope you will be able to carry out the study requested. I look forward to hearing from you on your proposed study schedule.

With best personal regards, I am

Sincerely,

MAX BAUCUS.

H.R. 15014

A bill to authorize Federal assistance under the Consolidated Farm and Rural Development Act with respect to using solar energy in residential structures on family farms

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 303 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1923) is amended by inserting "(a)" immediately before the first sentence and by adding the following new subsection at the end thereof:

"(b) For purposes of this subtitle—

"(2) the term 'improving farms' includes the acquisition and installation of any solar heating, solar heating and cooling, or combined solar heating and cooling system in a residential structure located on a family farm;

"(2) the term 'solar heating' has the same meaning given such term in section 3(1) of the Solar Heating and Cooling Demonstration Act of 1974; and

"(3) the terms 'solar heating and cooling' and 'combined solar heating and cooling' have the same meaning given such terms in section 3(2) of the Solar Heating and Cooling Demonstration Act of 1974."

H.R. 15015

A bill to provide more Federal assistance under certain housing programs for dwelling units which utilize solar energy

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Solar Energy for Homes Act of 1976".

INCREASE IN AMOUNT OF LOAN WHICH MAY BE MADE, INSURED, OR PURCHASED BY FMHA, FHA, AND GNMA IF SUCH LOAN CONCERNS A DWELLING UNIT UTILIZING SOLAR ENERGY

SEC. 2. The administrator of any Federal program which is established by title II or III of the National Housing Act or title V of the Housing Act of 1949 shall increase by not more than 20 per centum any amount which represents a limitation on the amount of a loan that may be made on a single- or multifamily dwelling unit or a limitation on the amount of the princpal obligation of a mortgage on such unit which may be insured or purchased under any such program, if such increase represents the increase in the cost of the dwelling unit which may be attributed to the unit's being heated or cooled (or both) by solar heating, solar heating and cooling, or combined solar heating and cooling, as defined in paragraphs (1) and (2) of section 3 of the Solar Heating and Cooling Demonstration Act of 1974.

INCREASE IN AMOUNT OF HOME IMPROVEMENT LOAN WHICH MAY BE INSURED IF THE LOAN IS USED TO ACQUIRE A SOLAR ENERGY SYSTEM

SEC. 3. Section 2(b) of the National Housing Act is amended by adding at the end thereof the following new undesignated paragraph:

"Notwithstanding any limitation in this section or in any other provision of law, the principal obligation of any loan or advance insured under this section and used for the acquisition and installation of any solar energy system may be equal to the reasonable, total cost of such acquisition and installation."

AUTHORITY TO USE COMMUNITY DEVELOPMENT BLOCK GRANTS TO ENCOURAGE COMMUNITY DEVELOPMENT ACTIVITIES RELATED TO THE USE OF SOLAR ENERGY IN RESIDENTIAL HOUSING

SEC. 4. Section 105(a) of the Housing and Community Development Act of 1974 is amended by striking out "and" at the end of paragraph (12), by striking out the period at the end of paragraph (13) and inserting in lieu thereof "; and", and by adding the following new paragraph at the end thereof:

"(14) payments to assist residential housing owners to acquire and install any solar heating, solar heating and cooling, or combined solar heating and cooling system, as defined in paragraphs (1) and (2) of section 3 of the Solar Heating and Cooling Demonstraiton Act of 1974, if such acquisition and installation is part of community development activities designed to utilize new energy resources."

H.R. 15016

A bill to amend title 38, United States Code, to provide Federal loans and loan guarantees to veterans for the purchase and installation of heating and cooling systems which utilize solar energy

Be it enacted by the Senate and House of Representatives of the United States of America in Congres assembled, That section 1810(a) of title 38, United States Code, is amended by adding at the end thereof the following new paragraph:

"(7) To purchase and install solar heating, solar heating and cooling, or combined solar heating and cooling, as defined in paragraphs (1) and (2) of section 3 of the Solar Heating and Cooling Demonstration Act of 1974 (42 U.S.C. 5502), in any dwelling, farm residence, or residential unit described in paragraph (6), owned and occupied or to be owned and occupied by him as his home.".

SEC. 2. Section 1810(c) of title 38, United States Code, is amended—

(1) by inserting "(1)" immediately after "(c)";

(2) by inserting ", other than for the purposes of paragraph (7) of subsection (a)," immediately before "shall not be";

(3) by inserting ", other than paragraph (2) of this subsection," immediately before "and other"; and

(4) by adding at the end thereof the following new paragraph:

"(2) An amount of guaranty entitlement shall be available to a veteran for the purchase and installation of a solar energy system described in paragraph (7) of subsection (a) in an amount equal to the lesser of—

"(A) the reasonable, total cost of such purchase and installation; or

"(B) 20 percent of the value, as determined by the Administrator, of the structure in which such system is to be installed.".

SEC. 3. Section 1811(d)(2) of title 38, United States Code, is amended—

(1) by striking out "in section" and inserting in lieu thereof "in sections 1810(a)(7) and" in subparagraph (A);

(2) by redesignating subparagraph (B) as subparagraph (C); and

(3) by inserting immediately after subparagraph (A) the following new subparagraph:

"(B) The original principal amount of any loan made under this section for purposes described in section 1810(a)(7) of this title shall not exceed the amount of guaranty entitlement available to a veteran under section 1810(c)(2) of this title.".

SEC. 4. The amendments made by this Act shall take effect on the one hundred and twentieth day beginning after the date of the enactment of this Act.

SHIPPING LEADER TALKS SENSE ON CANAL

HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 3, 1976

Mr. SIMON. Mr. Speaker, a friend of mine from Panama, Jim Holland, originally from my district in southern Illinois, sent me a copy of a speech given by Mr. James J. Reynolds, president of the American Institute of Merchant Shipping, which represents some 35 companies which own and operate more than half of the ocean-going vessels in the active U.S. Merchant Marine. The talk which Mr. Reynolds gave was to the Propeller Club in San Francisco, Calif.

Obviously Mr. Reynolds and the people he represents have as much at stake economically in seeing that the Panama Canal stays open as anyone.

It is significant that he calls for sane, sensible policies of negotiation.

His talk appears in the July 25 issue of the Star and Herald of Panama City.

In his talk he says:

> It is certainly fair to say that there is a long, hard road to be traveled before the ratification of any Treaty implementing such principles could be seriously considered. Yet, if there is a breakdown of negotiations or a flat rejection of a Treaty by Congress, the consequences for Canal users could be catastrophic. I am not going to engage in a lot of scare talk about riots and sabotage, this nation does not jump to knee jerk diplomatic reaction because of such threats, but it is not at all difficult to conjure up scenarios under which Canal operations would be very seriously disrupted. The problem is there, and all of the loose talk about shoulder-to-shoulder Marines is not going to make it go away.

He calls for a five-point program which we can initiate immediately before any treaty is finally signed between the United States and Panama. The five points he suggests are points which any reasonable observer, I believe, should agree to. They are:

> Most importantly, a very specific commitment should be made by the U.S. Government to fully protect residents of the Canal Zone who may be required to relocate as the result of changes agreed to by the United States and Panama. These individuals, many of whom are second and third generation Zonians, must receive full financial and employment protection, and this should be clearly spelled out well in advance.
>
> A specific plan should be adopted to increase participation by Panamanians at all levels of Canal Company management. Although over 70 per cent of Company employees are Panamanians, they are generally restricted to lower level and minor supervisory jobs.
>
> The highly visible American presence in the Zone should be reduced where possible. The Zone is 10 miles wide and is inhabited by over 40,000 U.S. citizens. It has been called a swath of American suburbia, dropped into the middle of another and wholly different world. I doubt whether all of the people and facilities located in the Zone are needed for either operating or defending the Canal, and these should be promptly identified and relocated.
>
> Segregation by nationality in both schools and housing must be permanently abandoned. The present Governor of the Canal Zone, General Parfitt, has taken some very specific and courageous steps in this area, and deserves a great deal of commendation.
>
> Finally, some consideration should be given to increasing the present annuity payment to Panama which was last adjusted in 1955.

Mr. Reynolds concludes his remarks with these words:

> At a recent hearing of the House of Representatives' Panama Canal Subcommittee, its very distinguished Chairman, Congressman Ralph Metcalfe, called for an air of humaneness and decency to pervade our dialogue with Panama. I fully support his plea, and am certain it would be seconded over and over again by our industry. Chauvinism and jingoism are dead. The era of gunboat diplomacy and campaign-hatted Marine landings are well behind us.
>
> It is time to recognize what our real interests in the Canal are, and then to take such steps as may be required to protect them. And in such an effort, you can hardly find two better watchwords than humaneness and decency.
>
> I greatly appreciate your giving me this opportunity today to express some of my thoughts on a very complex and emotional subject. If your inclination is to rally round the flag and say to my country right or wrong, I do hope you will reflect on things a little more. If you have not given this too much thought yet, I urge you to do so. And I further urge you, individuals having a strong interest and background in international commerce, to make your views known, and to participate in this growing national dialogue.

"SUNSET" LEGISLATION—GOVERNMENT ECONOMY AND SPENDING REFORM

HON. ALLAN T. HOWE

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 3, 1976

Mr. HOWE. Mr. Speaker, the State of Colorado has recently begun an important experiment in governmental reform which we should all take note of. The State legislature has passed and the Governor just signed, a novel "sunset" law which should have a dynamic influence on the performance of the State's regulatory agencies. The bill would literally "let the sun set" on the State's agencies by terminating them within 7 years unless the legislature votes to continue them. The original concept was devised by Common Cause, but was ultimately carried and passed with the combined support of both consumer advocates and Republican conservatives. In this particular instance, Colorado had more than 40 State boards and agencies whose activities ranged from the granting of licenses to more grandiose regulatory involvements. It is hoped that this action will become a model for other State legislatures to follow and even for Congress itself to consider.

It seems that for once the Federal Government has not been caught unaware and several efforts which resemble Colorado's "sunset" law are in the works already. These range from bills with specific termination dates for Federal agencies unless they prove cost effectiveness or similar performance in the public interest to those of more moderate proportions. It is generally recognized that a major failing of congressional procedure on many fronts, is an unwillingness to reexamine what it has created or review what it has directed. The only result of such negligence is an ever-increasing budget, an isolated bureaucracy, unaccountable, recalcitrant agencies, and overall unmanageability. These reasons are enough for us all to consider Federal "sunset" legislation with the utmost seriousness. In such a consideration I think that three goals can readily be agreed upon: first that Federal agencies should be made more sensitive to the needs of citizens, second, that they should become more responsive to these needs, and third, that Congress must install a more effective oversight mechanism than presently exists.

The heart of exercising effective control lies in budget control, a concept which, although it has long been recognized by Congress, has only recently been taken seriously. I firmly believe that we will not get the cost of living or the cost of anything under control until we get the cost of government under control. The first step was taken through implementing the Budget Impoundment and Control Act and I think we can agree that this process has proven itself worthy and invaluable. This new "watchdog" process enables us to mandate spending limitations and establishes national priorities. If we remain with the pre-set guidelines just agreed upon by both Houses, we will have a one-third reduction in the deficit over last year and be well on the road to a balanced budget position. The next essential step in bringing the Government programs we have now under control and reclaiming the public trust is enactment of the "Government Economy and Spending Reform Act of 1976" (HR 11734). This bill would require complete congressional review of current spending programs to determine, first, whether it is duplicated by other programs; second, whether it is achieving its objectives; third, what its objectives are for the succeeding 4 years. The bill is founded on the premise of "zero-based" budgeting concept which would require Congress to evaluate an entire appropriation request from the bottom up, rather than just considering requests for increases, and therein identify unnecessary expenditures. In essence, this "sunset" concept as applied to budgetary reviews would take Congress away from its habit of shot-gun appropriations and instead institute a methodical, organized, and extremely thorough confrontation with the question of how and where public funds are to be spent.

Several facts of budgetary life in Congress point out the need for restoration of effective management. During the drafting of the Government Economy and Spending Reform Act, the Senate sponsors encountered difficulties in cataloging the horrendous number of Federal agencies. Beginning from the 11 Cabinet-level departments, they tallied 44 independent agencies, and more than 1,200 advisory boards, commissions, committees, and councils. There is really no complete list of the countless Federal agencies and jurisdictions under the Federal auspices whose existence was at one time or other probably legislated, extended, or affirmed by Congress. Spread throughout the vast bureaucracy there are 1,000 aid programs for State and local governments, 228 health programs, 156 income security programs, and 83 housing programs—many of these overlapping one another and duplicating efforts. The extent of the problem is reflected in the fact that many congressional committees do not even know the programs in their jurisdictions. A sad fact for an oversight body.

One reason for this is that of the approximately $400 billion we will spend this year, approximately 75 percent is classified by the Office of Management and Budget as "uncontrollable." These funds include social security benefits, medicare and medicaid, interest on the public debt, and other longstanding, mandated programs which have become woven into our national fabric. The financing level of these programs was prescribed by formulas written into the law and cannot be influenced by the Appropriations Committee. Of the remaining 25 percent which is in the control of Congress, the better part goes to defense. After this large share is accounted for, there is only a scant 7 percent which remains in the control of yearly authorizations. This share consists of grants to States and localities, and many social programs such as employment, education, health care, environment, law enforcement, recreation, and natural resources. When considering reductions in these areas, important considerations of human needs must be accounted for. Thus a critical aspect to be considered in a program of budget reform should be bringing much of this uncontrollable sector into the review and authorization process at least every 4 years.

There are many diverse efforts in Congress which share the goal of governmental reform or curbing the bureaucracy. These range from rulemaking activities and paperwork control to opening Government and increasing accountability. However, it is my feeling that the cornerstone of reform remains within the pursestrings and regaining control of the budget. It is interesting that even these problems of expanding Government did not go unrecognized by the founders of this Nation. Jefferson once commented that we would never be happy unless we could prevent Government from wasting the labors of the people under the pretense of caring for them. I find it perfectly credible that our present impacted, overextended Government stems directly from efforts to care for and anticipate every need of American citizens. Yet, however virtuous our motives, we must realize that a government that does too much for the people prevents them from doing things themselves and fosters resentment. The task ahead is now to recognize and accommodate ourselves to a new conception of the future which is not predicated on government omnipotence.

HOUSE OF REPRESENTATIVES—*Wednesday, August 4, 1976*

The House met at 10 o'clock a.m.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

Keep yourselves in the love of God.—Jude 21.

Almighty Father, who art above all and in all, whose love never fails and whose truth endures forever, make us aware of Thy presence as we worship Thee in spirit and in truth. Keep us true to ourselves at our best, giving us power to resist everything that is dishonest and helping us to so live that we can face our loved ones, our fellowmen, and Thee without fear or favor. Give us the will to do our work as well as we can do it and to accept our responsibilities cheerfully and with enthusiasm.

We are stunned by the passing of our beloved Jerry Litton and his family. We thank Thee for him and for his devotion to his people and to our country. May the memory of his presence in our midst linger long in our hearts. Bless those who grieve with the comfort of Thy Spirit and give them the assurance Thou art with them all the way.

Guide us all with Thy truth and keep us in Thy love: through Jesus Christ, our Lord. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair desires to announce that the announcement of the death of our beloved colleague, the gentleman from Missouri (Mr. Litton) will be made prior to all other business, under the 1-minute rule and otherwise.

The Chair recognizes the gentleman from Missouri (Mr. Hungate).

THE LATE HONORABLE JERRY LITTON

(Mr. HUNGATE asked and was given permission to address the House for 1 minute, to revise and extend his remarks and to include extraneous material.)

Mr. HUNGATE. Mr. Speaker, most men walk through life. Jerry Litton ran. He ran hard; he ran fast; he ran far. No one who knew Jerry well doubts that he had not gone as far as he could go when last night's tragic accident cut short his career.

A prosperous farmer, a Charolais cattleman, a distinguished Congressman, an accomplished politician—everything Jerry Litton did he did well.

He approached public service with a zeal and a dedication which justified the faith his Sixth District constituents placed in him and which earned him deserved recognition not only in Missouri but in Congress.

It is sad and ironic that he died on the night of the greatest victory in his life. He died as Missouri Democrats chose him to carry their standard in this fall's Senate race.

Mr. Speaker, I know that I join all of his colleagues in the Congress and all Missourians in mourning the loss of this committed public servant. That loss is only compounded by the death of his wife and their children. Jerry Litton will be missed in Missouri and in Washington, and we can only hope that we may lift our efforts and better serve our Nation because of his exemplary record of service.

THE LATE HONORABLE JERRY LITTON

(Mr. ICHORD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ICHORD. Mr. Speaker and Members of the House, I join with my colleague, the gentleman from Missouri (Mr. Hungate), in announcing to the House the tragic airplane accident which has just taken the life of our colleague, Jerry Litton, and, as well, his entire family, consisting of his wife, Sharon, his son Scott, and his daughter Linda.

Mr. Speaker, I have had the privilege of serving in public office for 24 years, and during that time I have met many people who have mapped out a political career and who were possessed with a strong and determined desire to serve the American public. When I first met Jerry Litton some 20-odd years ago, he was, I believe, at that time a high school student or, at most, he was in the first or second year of college. He was working in the campaign of the senior Senator from Missouri, Stuart Symington, the father of our colleague, JIMMY SYMINGTON.

At that time JERRY LITTON asked me how he could best serve the public. At that tender age, as a teenager working for Senator SYMINGTON, in his campaign for either the Presidency or the U.S. Senate, he had come to the conclusion that the best way to be successful in his efforts to obtain public office was to first be successful in business. He pursued a very successful business career, with the idea in mind of later pursuing a public career.

I will state to the Members of the House that the campaign which he just conducted in Missouri was a classic one that will be studied for many years by men and women who aspire to hold public office. In the primary he defeated a former two-term Governor, Governor Hearnes, and our colleague, JIMMY SYMINGTON, by the latest figures with 53 percent of the vote, enjoying a share of the votes approximately equal to that received by the second candidate, Governor Hearnes, and the third candidate, our colleague, JIM SYMINGTON. The final returns are not yet available and the results could be different, but victory was his.

Mr. Speaker, all of JERRY's ambitions were in his grasp but yet never realized.

This is not the first time that a lightplane accident has taken the life of one of our Members, and I doubt if it will be the last. As one who flies light airplanes, along with several of my colleagues in the House, as an effective means of communicating with my constituents, I must say that it is just one of those things that happens. Personally, I do not consider light airplane flying any more dangerous than flying a commercial airline, because you are taking off and landing many, many times in short-hop general aviation flying. Yet it is a hazard that many of us in this House and in the Senate face.

Mr. Speaker, in light of this great tragedy which faces us today, and in an attempt to console and perhaps admonish the Members of this House, I can only use the words of one of America's greatest poets, William Cullen Bryant, in his famous poem written at the tender age of 17 years, Thanatopsis:

> So live, that when thy summons comes to join
> The innumerable caravan which moves
> To that mysterious realm, where each shall take
> His chamber in the silent halls of death,
> Thou go not, like the quarry-slave at night,
> Scourged to his dungeon, but, sustained and soothed
> By an unfaltering trust, approach thy grave,
> Like one that wraps the drapery of his couch
> About him, and lies down to pleasant dreams.

JERRY LITTON approached the unknown hereafter in a similar manner.

Mr. Speaker, I cannot adequately express the great and tragic loss, nor the grief that holds me personally and grips the Litton family as well as JERRY's colleagues and the entire State of Missouri.

The SPEAKER. The Chair recognizes the gentleman from Missouri (Mr. HUNGATE).

Mr. HUNGATE. Mr. Speaker, I should like to state that it is the purpose of the Missouri delegation to take a special order at a later date in which all may join in an appropriate tribute to our departed colleague, JERRY LITTON.

THE LATE HONORABLE JERRY LITTON

(Mr. TAYLOR of Missouri asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. TAYLOR of Missouri. Mr. Speaker, I deeply regret the tragic and untimely death of my friend and colleague, JERRY LITTON, and his family.

JERRY and I entered the Congress together in 1973 and, while we sat on opposite sides of the aisle, we were good friends and always worked closely together on matters concerning the people of our State.

JERRY was a good Congressman. A strong and able advocate for his point of view. He was knowledgeable of the issues and a hard worker. He was a staunch supporter of the farmer and was an eloquent speaker in behalf of the preservation of the family farm.

He was innovative and imaginative. His dialog with Litton television programs were well received around the State of Missouri because of their unique format and wide range of subject matter.

Certainly no greater tribute could be paid to JERRY than the overwhelming victory that was accorded him by the people of Missouri when they cast more votes for his candidacy than the two distinguished and well known Missourians who contested him in the Democratic primary election for nomination to the U.S. Senate on Tuesday, August 3, 1976.

His presence will be missed in the House of Representatives and by the constituents he served so well.

I extend my heartfelt condolences to his mother and father who mourn his loss.

PERMISSION FOR COMMITTEE ON HOUSE ADMINISTRATION TO SIT TODAY DURING 5-MINUTE RULE

Mr. BRADEMAS. Mr. Speaker, I ask unanimous consent that the Committee on House Administration be permitted to sit today during the 5-minute rule.

The SPEAKER. Is there objection to the request of the gentleman from Indiana?

Mr. BAUMAN. Mr. Speaker, reserving the right to object, I assume that this request has been cleared with the gentleman from Alabama (Mr. DICKINSON) for the minority.

Mr. BRADEMAS. Mr. Speaker, if the gentleman will yield, I cannot say that to the gentleman because I do not know. I was asked to make this request.

These are standard matters that are before the Committee on House Administration. I do not know of anything unusual about them, but I could not make that assurance to the gentleman.

Mr. THOMPSON. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from New Jersey.

Mr. THOMPSON. To answer the inquiry of the gentleman from Maryland (Mr. BAUMAN), Mr. Speaker, I have discussed these matters with the minority.

There are one or two controversial items which, because of their nature, have been isolated on the agenda for the day. The other matters are routine matters which have been gone over and will be taken up en bloc.

Mr. Speaker, the gentleman from California (M. WIGGINS) has been extremely anxious to have law fees for four or five contested elections paid. They are a year overdue; and, in my judgment, it is really imperative that the committee have the opportunity to act on these matters.

Mr. BAUMAN. Mr. Speaker, does the gentleman from New Jersey assure us that the minoriy has no objection to meeting for this purpose?

Mr. THOMPSON. If the gentleman will yield further, my staff informed me this morning that the gentleman from Alabama (Mr. DICKINSON) has acquiesced with respect to this request, and I talked with him yesterday.

Mr. BAUMAN. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Indiana?

There was no objection.

PERMISSION FOR SUBCOMMITTEE ON PRINTING OF COMMITTEE ON HOUSE ADMINISTRATION TO SIT TODAY DURING 5-MINUTE RULE

Mr. BRADEMAS. Mr. Speaker, I ask unanimous consent that the Subcommittee on Printing of the Committee on House Administration be permitted to sit today during the 5-minute rule.

The SPEAKER. Is there objection to the request of the gentleman from Indiana?

There was no objection.

PERMISSION FOR COMMITTEE ON RULES TO FILE CERTAIN PRIVILEGED REPORTS

Mr. MOAKLEY. Mr. Speaker, I ask unanimous consent that the Committee on Rules may have until midnight tonight to file certain privileged reports.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

CALL OF THE HOUSE

Mr. ROUSSELOT. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. O'NEILL. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 599]

Andrews, N.C.
Archer
Ashley
Badillo
Biaggi
Boggs
Bolling
Bonker
Brinkley
Burke, Calif.
Burke, Mass.
Burlison, Mo.
Chappell
Chisholm
Clay
Collins, Ill.
Conlan
Conyers
Corman
D'Amours
Diggs
Esch
Evins, Tenn
Findley
Flynt
Ford, Mich.
Ford, Tenn.
Fountain
Fraser
Hansen
Hayes, Ind.
Hébert
Heckler, Mass.
Hefner
Heinz
Helstoski
Hinshaw
Holtzman
Howe
Ichord
Jones, Ala.
Jones, N.C.
Jones, Tenn.
Jordan
Long, La.
McCollister
McKinney
Melcher
Mills
Murphy, Ill.
Murphy, N.Y.
O'Brien
O'Hara
Passman
Patten, N.J.
Pressler
Randall
Rees
Riegle
Risenhoover
Rostenkowski
Santini
Sebelius
Sisk
Skubitz
Steed
Steelman
Steiger, Ariz.
Stephens
Stokes
Stuckey
Sullivan
Symington
Udall
Vander Jagt
Vander Veen
Waxman
Wiggins

The SPEAKER. On this rollcall 353 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

NUCLEAR FUEL ASSURANCE ACT OF 1976

Mr. PRICE. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 8401) to authorize cooperative arrangements with private enterprise for the provision of facilities for the production and enrichment of uranium enriched in the isotope-235, to provide for authorization of contract authority therefor, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from Illinois (Mr. Price).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill H.R. 8401, with Mr. Pike in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee rose on Friday, July 30, 1976, the bill had been considered as read and open to amendment at any point.

Mr. HARSHA. Mr. Chairman, there have been all sorts of rumors around as one would expect about the Nuclear Fuel Assurance Act and the intention of the administration as to what it shall do insofar as the "add-on" facility at Portsmouth, Ohio, is concerned. To clarify the administration's position, I have received a letter from the President of the United States and I herewith include it in my remarks:

The White House,
Washington, July 29, 1976.

Hon. William H. Harsha,
U.S. House of Representatives,
Washington, D.C.

Dear Bill: I understand that you have a concern about our intentions to build the enrichment facility add-on at Portsmouth, Ohio. I can assure you that in the context of the Nuclear Fuel Assurance Act, it is our firm intention, subject, of course, to the completion of the required environmental procedures, to complete that plant.

Moreover, the Portsmouth plant does not conflict with other additions to our enrichment capacity and our progress on it will not depend upon completion of any other facilities.

I hope that these comments give you the assurances that you require.

Sincerely,

Gerald R. Ford.

Mr. HILLIS. Mr. Chairman, I rise in opposition to the Bingham amendment. I believe that there are really two issues which the House is debating today. The first issue is whether or not we should allow private industry to build uranium enrichment plants and the second issue, and perhaps the most important, is the underlying question of whether or not we are willing to provide an adequate supply of energy for the future growth and economic well-being of the United States.

I do not believe that those who oppose the passage of H.R. 8401, as reported, do so simply because they oppose the private sector of our economy getting involved in uranium enrichment plants or because they object to the use of loan guarantees by the Federal Government. It is obvious to me that passage of this measure will reduce the future budget of the Federal Government by billions of dollars. There are adequate safeguards in this bill to protect the United States from the misuse, or careless use, of nuclear technology. The bill is designed to give the Congress an active role in determining which corporations will be awarded contracts to build the enrichment plants. I commend the Joint Committee, and its chairman, Senator Pastore, and its vice chairman, Congressman Price, for their fine work in these areas.

Historically, the United States has relied upon private industry to develop and provide needed energy resources. Our free enterprise system demands that this practice be continued. Private industry is prepared to take reasonable risks, has the flexibility, the investment funds, and the managerial capabilities to build and operate uranium enrichment plants effectively.

In "A National Plan for Energy Research, Development, and Demonstration—Creating Energy Choices for the Future," recently published by ERDA—ERDA states that—

> A basic premise in national energy policy and planning for R.D. & D. is that the private sector has the primary role in creating new energy alternatives; the federal government's role is to assist the private sector in the development and market penetration of new energy technologies.

It is the rightful place for the private sector of our economy to get actively involved in uranium enrichment plants. The Federal Government should play a supplementary role of sharing risks, conducting R.D. & D. programs, and developing general energy policies. H.R. 8401 as reported appropriately defines the roles of both the public and private sectors in the area of uranium enrichment plants.

I am fully aware that there are several Members who would disagree with me on this point. Studying the House debate on the Bingham amendment July 30, it appears that the major objection to H.R. 8401 as reported is the loan guarantee provision. The House heard the argument that H.R. 8401 "represents an unhealthy precedent of excessive Federal subsidy." I submit that H.R. 8401 represents no such precedent. There are several areas of the private sector which the Federal Government already provides subsidies. I do not believe that the loan guarantees provided for in H.R. 8401 are really that much different than the subsidies provided to the railroads and PanAm Airlines for example. To imply that this Congress is against seting subsidy precedents is a misrepresentation of the facts. Must I remind the Congress of the precedent set last December in giving Federal loans to New York City? In fact, the Congress provided loan guarantees for new underground coal mines in section 102 of the Energy Conservation and Oil Policy Act of 1975, Public Law 94–163. The loan guarantee provision, as set forth in H.R. 8401, is not unique, nor does it establish a precedent.

If we are to accept the arguments expressed by the supporters of the Bingham amendment, it is not clear why an amendment was not offered to simply delete the loan guarantee provisions of the bill as reported instead of gutting the measure almost entirely. In fact, it is not even clear why the loan guarantee provision of the bill has attracted so much attention unless there is an underlying reason which the supporters of the Bingham amendment do not wish to debate openly. The loan guarantee merely acts as a warranty on already proven technology. I do not understand why so many Members of Congress are upset with Federal warranties when we demand warranties from the private sector for their products. The House was also told on Friday that the Bingham amendment was not an antinuclear amendment.

In my opinion, the underlying reason for support of the Bingham amendment is that some Members of Congress do not want to use nuclear power to meet our future energy needs. Our energy situation is, without a doubt, the single most important issue with which this Congress must deal. It is perhaps the most complex, most far reaching, and most urgent issue to which this body can address itself. With this in mind, I do not feel we can afford to limit the options the United States has in determining how to meet our future energy needs. This is the basic issue with which this Congress must come to grips.

The United States faces a serious, and continuing, energy problem caused by increased and undue reliance on imported oil and the lack of readily available energy alternatives. I would like to remind the Congress of President Ford's State of the Union message of 1975 in which he enunciated three national energy policy goals necessary for the Nation to regain energy independence. These goals, which he reiterated in his 1976 energy message are: First, to halt our growing dependence on imported oil during the next few critical years; second, to attain energy independence by 1985 by achieving invulnerability to disruptions caused by oil import embargoes; and third, to mobilize our technology and resources to supply a significant share of the free world's energy needs beyond 1985. In April 1976, our crude oil stocks equaled 21.8 days' supply of input to refineries. Through 1976, crude stocks have been only about 2 days' supply higher than during the months immediately prior to the embargo of 1973. This fact must not escape the attention of Congress, for we must act effectively, and responsibly, in determining how to improve this situation.

To refuse, or to continue to delay, the full development of nuclear energy as an alternative source of fuel would severely limit our available options enabling the United States to become independent from imported oil, and on how to meet our future energy needs. Nuclear energy, along with coal, are the major exploitable resources which the United States can use to supplement and offset oil and gas over the next several decades. A number of my colleagues here in the House of Representatives would rather not see nuclear energy developed as an alternative source of fuel.

I must disagree with them. In the report entitled "Review of National Breeder Reactor Program," published by the ad hoc Subcommittee To Review the Liquid Metal Fast Breeder Reactor Program of the Joint Committee on Atomic Energy, the subcommittee noted that even if projected energy contributions from solar, geothermal and other alternative technologies were to be doubled, the need for nuclear power would not change significantly. We must realize that even though our country has an abundant amount of energy resources, we are currently dependent upon a very narrowly based supply of petroleum and natural gas resources. Because oil and gas supplies are limited, there will be a shift to electricity between now and the year 2000 causing electrical growth rates to be substantially larger than our total energy growth rate. This Congress must produce a coordinated energy program which includes every possible alternative source of fuel. To do otherwise would be extremely dangerous.

I know that we have heard a number of fears expressed concerning the safety of nuclear energy. I hope that those who express these fears will not forget the dangers which face the United States should we run short of energy to run this country. The results of such an energy shortage may well prove more drastic than any of the fears which have been expressed concerning nuclear safety. I ask those who oppose the further development of nuclear energy to consider the ramifications of depleted U.S. energy supplies to our economy. I ask them to consider what will happen to those who lose their jobs because our industries do not have available energy to operate their plants; what will happen to those who do not have fuel to heat their homes in the winter; what will happen to our national security should our military not be able to defend us because they do not have the energy necessary to operate; what will happen to our agricultural production should the farmer not have the fuel to operate his machinery; and what will happen to our economy should our trucks and railroads be forced to stop running?

In the Nuclear Regulatory Commission's reactor safety study, it was determined that risks to the public from potential accidents in nuclear powerplants are comparatively small compared to the possible consequences of nonnuclear accidents.

NRC stated that—

> Consequences (of nuclear reactor accidents) are predicted to be smaller than people have been led to believe by previous studies which deliberately maximized estimates dents that have similar consequences.

NRC further determined that—

> The likelihood of reactor accidents is much smaller than that of many non-nuclear accidents that similar consequences.

All nonnuclear accidents examined in the study, including fires, explosions, toxic chemical releases, dam failures, airplane crashes, earthquakes, hurricanes and tornadoes, are much more likely to occur and can have consequences comparable to, or larger than, those of nuclear reactor accidents.

It is true that nuclear energy has inherent safety hazards. However, we can provide safeguards adequate to protect us from these hazards as we have with all other forms of energy. We cannot, however, provide safeguards to prevent the drastic economic consequences I have described should we run short of energy. I, therefore, urge this body to include the full development of nuclear power in our scenario on how to meet future energy needs. Although it is impossible to determine the exact scenario which will be needed to meet these needs, it is clear that the United States must maintain nuclear power as an active and viable source of fuel for the future, and passage of H.R. 8401 as reported is a vital factor in maintaining this option.

The responsibility we have to our future generations mandates that we recognize the Bingham amendment as a camouflaged antinuclear power effort. We have seen this same tactic used before and we will undoubtedly see it used again. It is my sincere hope that the House will ignore the arguments so skillfully designed by the supporters of the amendment to camouflage the intent of this move and vote on the true merits of H.R. 8401 as reported. Failure to reverse the earlier House vote on this amendment can only lead to the most serious breach of responsibility with which our constituents have entrusted us to act in the best interest of the United States.

Mr. CLEVELAND. Mr. Chairman, I intend to vote against the Bingham amendment to H.R. 8401, the Nuclear Fuel Assurance Act, as I did when the House first considered the issue on July 30.

The Bingham amendment would remove from this bill the provisions for entry of the private sector into uranium enrichment, subject to congressional and GAO review. My concern is that this action would have a drastic impact on the availability of nuclear power to meet our energy needs in the future and could conceivably lead the United States to a position of dependence upon foreign sources of even this supply of energy, a situation which is unacceptable.

As one who strongly supports solar and other alternative forms of energy—I recently cosponsored amendments to sharply increase both the authorization and appropriation of funds for development of solar energy technology—I feel that the U.S. energy supply situation is so critical that we cannot allow ourselves to run out of nuclear generating capacity on the assumption that solar and other sources will be available in the near future. The risks of facing another energy crisis demand that we be prepared to meet the projected need for enriched uranium and the best way to do this, in my opinion, is under the terms prescribed by this legislation.

The argument has been made that the bill's authorization of $8 billion maximum contingent liability that the Government could conceivably assume if private firms cannot furnish the enriched uranium amounts to a "sweetheart" deal for big business. I simply cannot accept the assumption underlying this argument which discounts the fact that any proposed contracts will be subjected to intensive review of their terms and conditions by the Congress and the General Accounting Office prior to any awards.

Ms. ABZUG. Mr. Chairman, the state of our economy and the priorities of this administration have resulted in tremendous cutbacks in our cities and forced austerity upon social service programs at all levels. Yet, in a time of peace, while our defense budget is continually increasing H.R. 8401 was brought to the floor including provisions to subsidize private industry by placing a heavier burden on the taxpayer and limiting services and employment in the public sector.

Contrary to claims by proponents of the bill, private contracts will not foster competition and low prices. Bechtal Corp., the major partner of Uranium Enrichment Associates and the largest construction company in the world, will be the prime beneficiary of private contracts. With both a virtual monopoly on the market and unrestricted Government guarantees of risk, there will be little motivation for equitable operation or technological development. The Bingham amendment removes the undesirable provisions which create these conditions.

The Federation of American Scientists, a group which is neither against nuclear power, nor against private industry's involvement in enrichment has taken a stand against the thrust of H.R. 8401 because of its unnecessary private industry assurances. A statement by the organization observes that—

> The agreement would provide UEA with little or no risk to balance its expectation for substantial gain.

In the same statement of June 23, 1976, the GAO summary is quoted as finding the proposal for Government liability as "excessively generous."

Hidden outlays are inherent in the bill, providing extensive assurances for operation, completion, or disposal of a plant if there is insufficient demand. Approval of this legislation would again illustrate our willingness to prop up industries with "special interests" who, by any standards should be judged by the activities of the free market, and who should not be given special consideration.

Although the provisions stricken by the Bingham amendment provide for assistance only to domestic concerns, it is the nature of private industry that—without sufficient regulation to assure adequate control on the marketing of the enriched uranium—there will be substantial motivation for foreign sales. Sixty-six percent of Uranium Enrichment Associates is comprised of foreign ownership. There will be no safeguards against decisions and sales of a dangerous technology to any of a number of foreign investors. Even with the reliance on foreign markets from the resulting overabundance in supply, ERDA's own studies cast doubt on foreign demand for the technology.

Foreign investment will result in a drain on profits and payments. At a time when we are all deeply concerned with our economic outlook and effects of legislation on unemployment, we should heed the opposition of the United Auto Workers to this proposal, as well as the threat it poses to oil, chemical and atomic workers. The positive impact on unemployment of the provisions deleted by the Bingham amendment is questionable. The dangers they pose to workers are real.

There is considerable doubt as the necessity and usefulness of these additional plants. Science magazine states:

> The prospect of so much additional enrichment capacity, however, raises the possibility that what was at one time expected to be an acute shortage is to be replaced by a glut.

ERDA's plants are operating in a mode that is not only economically inefficient and contributive to perceived shortages and high prices for uranium, but, paradoxically, results in the accumulation of a huge Federal stockpile of enriched uranium.

The enriched uranium stockpile being created presently, could serve for nearly 5 years supply of enriched material. This stockpile is being accumulated for the benefit of private industry as a guarantee against possible shortages. The stockpile, however, is greatly responsible for perceived shortages of uranium, and persistent rate hikes that have resulted. Its existence will cost the consumer an estimated $1 billion yearly.

Mr. Chairman, we cannot continue to pass on the burden of monopolistic business practices and unnecessary appropriations to the taxpayer. By financing uranium enrichment through the private sector rather than direct Government authorizations, we will be confronted with hidden costs that keep risk in the hands of the Federal Government with the benefits accruing to big business. Our cities and social service programs at all levels are suffering at the hands of austerity budgets. At a time when our priorities should be in maximizing employment and increasing the domestic flow of capital, we are only fooling ourselves and the public by enacting this legislation.

Mr. PATTISON of New York. Mr. Chairman, for the second time within a 7-day period, we are considering the Nuclear Fuel Assurance Act, H.R. 8401. In the previous debate we discussed the various problems with the bill. It would be repetitive to raise them all again. However, there is one question I ask you to seriously consider. If the Government is interested in creating a private enterprise, do we want it to be the uranium enrichment business? The answer must be no. The risks of increased nuclear proliferation are too great to allow private industry to enter this sensitive area.

The proponents of this bill argue that unless it is passed, proliferation will increase because the United States will lose its lead in the production of enriched uranium. They argue that many smaller countries will be forced to go elsewhere to obtain their supplies of this dangerous substance. If we pass this bill we will insure that there will be ample supplies of enriched uranium for many smaller nations. The United States does not have the authority to decide how this uranium will be used once it is sold to another country. We can provide for its production, but once they get it, they will use it for whatever reason they want, including atomic weapons. One country has taken this substance, sold to them as a fuel, and produced an atomic weapon. Will we be able to control proliferation by allowing private industry, such as the Uranium Enrichment Associates—60 percent owned by Iran, France, Japan, and West Germany—to begin producing enriched uranium?

Enriched uranium is one of the most potentially dangerous fuels we have ever developed. It takes only 37 pounds to produce a single atomic weapon. Enriched uranium is one of the most difficult substances to produce, and it is imperative that such potentially dangerous materials be adequately safeguarded from misuse. I question the ability of private industry to do this, and I have serious doubts that they would.

Let us look at the record of private industry in protecting the environment in which they operate, and in reducing the health hazards to the people who live and work in the area in which they operate. The record is not very distinguished. Look at the rivers and lakes near your home. What has the industry of this Nation done to many of them? Has the industry of this Nation led the effort to reduce the amount of pollution released into our atmosphere? We are just beginning to realize the close connection between many fatal diseases and industrial pollution. The fact is that the record of industry in caring for the environment is very poor. And now, we are seriously considering a bill which would allow them to start producing a fuel that, unless it is properly handled and protected, could have a disastrous effects on our environment.

On the other hand, private industry has been very successful in the realization of profits. Their success has benefited this country greatly, but along with the gains have come the losses. Uranium enrichment is not a money making industry. The costs have skyrocketed with the addition of safeguards and protective devices. The costs will continue to rise as additional safeguards are needed in the future. The uranium industry is not a profitmaking industry, it is at best a break even process. But private industry does not succeed by breaking even; it demands profit. Once engaged in the uranium enrichment business, it would be forced to make certain cuts in expenditures in order to realize a certain amount of profit.

The Government is not motivated by profit. It is motivated by concern for the health and welfare of the people. The Government has been concerned with the type of protection needed for this particular industry, it has been concerned with the pollution of the environment, and it has been concerned with the problem of proliferation of nuclear weapons. There are too many possible disasters associated with the production of nuclear fuel. We must continue to be responsible for its production and safety, and we must continue to maintain our controls on its use.

The CHAIRMAN. Are there further amendments?

If not, under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. PIKE, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 8401) to authorize cooperative arrangements with private enterprise for the provision of facilities for the production and enrichment of uranium enriched in the isotope-235, to provide for authorization of contract authority therefor, and for other purposes pursuant to House Resolution 1242, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment?

Mr. PRICE. Mr. Speaker, I demand a separate vote on the so-called Bingham amendment.

The SPEAKER. Is a separate vote demanded on any other amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER. The Clerk will report the amendment on which a separate vote is demanded.

The Clerk read as follows:

> Amendment: Starting on page 1, line 5, delete sections 2 and 3 of the bill, and renumber section 4 as section 2.

The SPEAKER. The question is on the amendment.

The question was taken; and the Speaker announced that the noes appeared to have it.

RECORDED VOTE

Mr. RYAN. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 192, noes 193, not voting 47, as follows:

[Roll No. 600]

AYES—192

Abzug
Addabbo
Allen
Ambro
Andrews, N.C.
Ashley
Aspin
AuCoin
Baldus
Baucus
Beard, R.I.
Bedell
Bergland
Biester
Bingham
Blanchard
Blouin
Boland
Bonker
Brademas
Breckinridge
Brodhead
Brooks
Brown, Calif.
Burke, Calif.
Burton, John
Burton, Phillip
Byron
Carr
Chisholm
Conte
Cornell
Coughlin
D'Amours
Daniels, N.J.
Danielson
Davis
Delaney
Dellums
Dent
Derrick
Dingell
Dodd
Downey, N.Y.
Drinan
Duncan, Oreg.
du Pont
Early
Eckhardt
Edgar
Edwards, Calif.
Eilberg
Evans, Colo.
Evans, Ind.
Fascell
Fenwick
Fish
Fisher
Fithian
Florio
Fraser
Gaydos
Gibbons
Gilman
Gradison
Green
Gude
Hamilton
Hanley
Hannaford
Harkin
Harrington
Harris
Hawkins
Hays, Ohio
Hechler, W. Va.
Helstoski
Holland
Holtzman
Howard
Hubbard
Hughes
Hungate
Jacobs
Jeffords
Jenrette
Jones, Okla.
Jordan
Karth
Kastenmeier
Keys
Koch
Krebs
LaFalce
Leggett
Lehman
Levitas
Lloyd, Calif.
Long, Md.
Lundine
McHugh
McKay
Madden
Maguire
Mann
Matsunaga
Mazzoli
Meeds
Melcher
Metcalfe
Meyner
Mezvinsky
Mikva
Miller, Calif.
Mineta
Minish
Mink
Mitchell, Md.
Moakley
Moffett
Mollohan
Moorhead, Pa.
Morgan
Mosher
Moss
Mottl
Murphy, N.Y.
Natcher
Neal
Nedzi
Nix
Nolan
Nowak
Oberstar
Obey
Ottinger
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Paul
Pepper
Peyser
Pike
Railsback
Rangel
Rees
Reuss
Richmond
Rinaldo
Rodino
Roe
Rogers
Roncalio
Rosenthal
Rostenkowski
Roush
Roybal
Russo
Ryan
St Germain
Sarbanes
Scheuer
Schroeder
Schulze
Seiberling
Sharp
Simon
Skubitz
Smith, Iowa
Solarz
Spellman
Staggers
Stark
Studds
Thompson
Traxler
Tsongas
Udall
Ullman
Van Deerlin
Vanik
Vigorito
Waxman
Weaver
Whalen
Whitten
Wirth
Wolff
Yates
Young, Ga.
Zablocki
Zeferetti

NOES—193

Abdnor
Albert
Anderson, Calif.
Anderson, Ill.
Andrews, N. Dak.
Annunzio
Archer
Armstrong
Ashbrook
Bafalis
Bauman
Beard, Tenn.
Bell
Bennett
Bevill
Bowen
Breaux
Broomfield
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Butler
Carney
Carter
Cederberg
Chappell
Clancy
Clausen, Don H.
Clawson, Del
Cleveland
Cochran
Cohen
Collins, Tex.
Conable
Cotter
Crane
Daniel, Dan
Daniel, R. W.
de la Garza
Derwinski
Devine
Dickinson
Downing, Va.
Duncan, Tenn.
Edwards, Ala.
Emery
English
Erlenborn
Eshleman
Fary
Flood
Flowers
Foley
Forsythe
Frenzel
Frey
Fuqua
Giaimo
Ginn
Goldwater
Gonzalez
Goodling
Grassley
Guyer
Haley
Hall, Ill.
Hall, Tex.
Hammerschmidt
Harsha
Hébert
Heckler, Mass.
Henderson
Hicks
Hightower
Hillis
Holt
Horton
Hutchinson
Hyde
Ichord
Jarman
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, Ala.
Kasten
Kazen
Kelly
Kemp
Ketchum
Kindness
Krueger
Lagomarsino
Landrum
Latta
Lent
Lloyd, Tenn.
Long, La.
Lott
Lujan
McClory
McCloskey
McCollister
McCormack
McDade
McDonald
McEwen
McFall
McKinney
Madigan
Mahon
Martin
Mathis
Michel
Milford
Miller, Ohio
Mitchell, N.Y.
Montgomery
Moore
Moorhead, Calif.
Murphy, Ill.
Murtha
Myers, Ind.
Myers, Pa.
Nichols
O'Brien
O'Neill
Perkins
Pettis
Pickle
Poage
Pressler
Price
Pritchard
Quie
Quillen
Regula
Rhodes
Risenhoover
Roberts
Robinson
Rooney
Rose
Rousselot
Runnels
Ruppe
Sarasin
Satterfield
Schneebeli
Shipley
Shriver
Shuster
Sikes
Slack
Smith, Nebr.
Snyder
Spence
Stanton, J. William
Stanton, James V.
Steed
Steiger, Wis.
Stratton
Symms
Talcott
Taylor, Mo.
Taylor, N.C.
Teague
Thone
Thornton
Treen
Vander Jagt
Waggonner
Walsh
Wampler
White
Whitehurst
Wiggins
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Winn
Wright
Wydler
Wylie
Yatron
Young, Alaska
Young, Fla.
Young, Tex.

NOT VOTING—47

Adams
Alexander
Badillo
Biaggi
Boggs
Bolling
Brinkley
Burlison, Mo.
Clay
Collins, Ill.
Conlan
Conyers
Corman
Diggs
Esch
Evins, Tenn.
Findley
Flynt
Ford, Mich.
Ford, Tenn.
Fountain
Hagedorn
Hansen
Hayes, Ind.
Hefner
Heinz
Hinshaw
Howe
Jones, N.C.
Jones, Tenn.
Mills
O'Hara
Passman
Preyer
Randall
Riegle
Santini
Sebelius
Sisk
Steelman
Steiger, Ariz.
Stephens
Stokes
Stuckey
Sullivan
Symington
Vander Veen

The Clerk announced the following pairs:

On this vote:

Mr. Corman for, with Mrs. Boggs against.

Mr. Badillo for, with Mr. Santini against.

Mrs. Collins of Illinois for, with Mr. Stuckey against.

Mr. Diggs for, with Mr. Adams against.

Mr. Evins of Tennessee for, with Mr. Mills against.

Mr. Hefner for, with Mr. Hagedorn against.

Mr. Preyer for, with Mr. Burlison of Missouri against.

Mr. Conyers for, with Mr. Fountain against.

Mr. Clay for, with Mr. Conlan against.

Mr. Ford of Tennessee for, with Mr. Hansen against.

Mr. Stokes for, with Mr. Steiger of Arizona against.

Mr. Vander Veen for, with Mr. Sebelius against.

Until further notice:

Mr. Jones of Tennessee with Mr. Esch.

Mr. Alexander with Mr. Findley.

Mr. Biaggi with Mr. Flynt.

Mr. Brinkley with Mr. Heinz.

Mr. Ford of Michigan, with Mr. Riegle.

Mr. Hayes of Indiana with Mr. Sisk.

Mr. Howe with Mr. Steelman.

Mr. Jones of North Carolina with Mr. Stephens.

Mr. O'Hara with Mrs. Sullivan.

Mr. Randall with Mr. Symington.

Mr. McFALL changed his vote from "aye" to "no."

The SPEAKER. The Speaker votes "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. ANDERSON OF ILLINOIS

Mr. ANDERSON of Illinois. Mr. Speaker, I offer a motion to recommit.

The SPEAKER. Is the gentleman opposed to the bill?

Mr. ANDERSON of Illinois. I am, Mr. Speaker, in its present form.

The SPEAKER. The clerk will report the motion to recommit.

The Clerk read as follows:

Mr. ANDERSON of Illinois moves to recommit the bill H.R. 8401 to the House Members of the Joint Committee on Atomic Energy with instructions to report back to the House forthwith with the following amendments:

On page 2, line 4 insert the words "Administrator of" after the word "The", and on page 2, lines 4 and 5 delete the word "Administration".

On page 2, line 5 insert the following after the word "authorized,": "subject to the prior congressional review procedure set forth in subsection b. of this section".

On page 2, lines 8 and 9 delete the words "of the Energy Research and Development Administration".

On page 2, line 20 strike all after "public;" and insert the following: *"Provided, however,* That the guarantees under any such cooperative arrangement which would subject the Government to any future contingent liabilities for which the Government would not be fully reimbursed shall be limited to the assurance that the Government-furnished technology and equipment will work as promised by the Government over a mutually-agreed-to and reasonable period of initial commercial operation. Consistent with the foregoing, such cooperative arrangements may include, inter alia, in".

On page 3, line 15 delete the word "individuals" and substitute therefor the words "investors or lenders".

On page 3, line 16 delete the words "to any" and substitute therefor the words "are a".

Delete subsection b which begins on page 4, line 1 and continues through pages 5, line 2, and substitute therefor the following: "b. The Administrator shall not enter into any arrangement or amendment thereto under the authority of this section, modify, or complete and operate any facility or dispose thereof, until the proposed arrangement or amendment thereto which the Administrator proposes to execute, or the plan for such modification, completion, operation or disposal by the Administrator, as appropriate, has been submitted to the Joint Committee on Atomic Energy, and a period of sixty days has elapsed while Congress is in session with passage by the Congress of a concurrent resolution stating in substance that it does favor such proposed arrangement or amendment or plan for such modification, completion, operation, or disposal (in computing such sixty days, there shall be excluded the days on which either House is not in session because of adjournment for more than three days): Provided, That prior to the elapse of the first thirty days of any such sixty-day period the Joint Committee shall submit a report to the Congress of its views and recommendations respecting the proposed arrangement, amendment or plan and an accompanying proposed concurrent resolution stating in substance that the Congress favors, or does not favor, as the case may be, the proposed arrangement, amendment or plan. Any such concurrent resolution so reported shall become the pending business of the House in question (in the case of the Senate the time for debate shall be equally divided between the proponents and the opponents) with twenty-five days and shall be voted on within five calendar days thereafter, unless such House shall otherwise determine".

On page 5, line 3 delete the word "the" which appears after the word "of", and on page 5, line 4 delete the word "administration".

On page 5, line 7 after the words "as amended," insert the following: "and subject to all of the limitations of Section 45 including the scope of the guarantees under subsection 45a. and the requirement for prior congressional review and approval set forth in subsection 45b.".

On page 5, lines 8 and 9 delete the words "as may be approved in an appropriation Act." and substitute therefor the following: "but in no event to exceed the amount provided therefor in a prior appropriation Act: Provided, That the timing, interest rate, and other terms and conditions of any notes, bonds or other similar obligations secured by any such arrangements shall be subject to the approval of the Administrator with the concurrence of the Secretary of the Treasury.".

On page 5, line 12 delete the words "of the Energy Research and Development Administration".

Mr. QUIE. Mr. Speaker, will the gentleman yield?

Mr. ANDERSON of Illinois. I yield briefly to the gentleman from Minnesota.

Mr. QUIE. I thank the gentleman for yielding. I support private business getting into the nuclear fuel enrichment business but I oppose the guarantees provided in subsection 4 and 5 of section 45(a). Those subsections could remove the risk which private business must assume. It is risk that causes efficiency and economy.

In listening to the motion to recommit, am I right that the gentleman's motion to recommit in effect negates subsections 4 and 5 on page 3 of the bill?

Mr. ANDERSON of Illinois. The gentleman is correct. In order to make crystal clear to the Members of the House I meant what I said the other day that we were limiting this to a warranty of technology, we have put specific language in the motion to recommit that the guarantees under any cooperative arrangement which would subject the Government to any future contingent liabilities for which the Government would not be fully reimbursed shall be limited to the assurance that the Government-furnished technology and equipment will work, as promised by the Government, over a mutually agreed to and reasonable period of initial commercial operation—a warranty of technology and nothing more.

We are in an extremely unique parliamentary situation. That is why the vice chairman of the committee on this side of the aisle will join me in urging Members to support this motion to recommit.

The Bingham amendment struck sections 2 and 3. Even with the defeat of that amendment, we are now back to the original committee bill in its unamended form. We must put back in the bill with this motion to recommit and sections that provide for prior congressional approval of any contract that provides that there can be no contingent liability on the part of the Government, save that provided for in an appropriation bill, plus the additional language which I just read to the Members which will assure that we are limiting this to a warranty of technology.

I am sure that regardless of the feelings of the Members on the Bingham amendment that all Members on both sides of the aisle will want to join in supporting the motion to recommit.

Mr. PRICE. Mr. Speaker, will the gentleman yield?

Mr. ANDERSON of Illinois. I yield to the distinguished gentleman from Illinois (Mr. PRICE).

Mr. PRICE. I thank the gentleman for yielding.

What the gentleman from Illinois is saying is that unless we do recommit the bill with instructions, we will go back to the original bill before it was worked on in the Joint Committee and amended in a way that was palatable to the House and which caused the House eventually to support it. Is that correct?

Mr. ANDERSON of Illinois. The gentleman has stated the parliamentary situation correctly. We will be back to the committee bill before we had amended it with those committee amendments which were accepted without dissent in the Committee of the Whole. Because those sections as amended were stricken, even though we defeated the Bingham amendment, we must now go back and assure this House that we report this bill to this House in a form that contains the provisions for a 60-day congressional review and the vote on any contractual undertaking plus provision for any contingent liabilities being provided for in an appropriation, plus assurance that was not contained in the original committee amendments that we are strictly limiting assurances here to a warranty of the technology the Government is selling and for which over a period of years the Government will receive back hundreds of millions of dollars of royalty payments.

That is the effect of the motion to recommit.

Mr. PRICE. I concur with the statement of the gentleman and I recommend support of the motion to recommit.

Mr. BINGHAM. Mr. Speaker, will the gentleman yield?

Mr. ANDERSON of Illinois. I yield to the gentleman from New York.

Mr. BINGHAM. Mr. Speaker, for the reasons explained by the gentleman I will support the motion to recommit and then I will vote against the bill on final passage.

Mr. ANDERSON of Illinois. I thank the gentleman.

Mr. MYERS of Pennsylvania. Mr. Speaker, will the gentleman yield?

Mr. ANDERSON of Illinois. I yield to the gentleman from Pennsylvania.

Mr. MYERS of Pennsylvania. Mr. Speaker, does this in any way affect the so-called Myers amendment?

Mr. ANDERSON of Illinois. No, the Myers and the Hughes amendments were not stricken by the Bingham amendment. Therefore, they will not be affected and they will be in the bill as it will be reported back to the House forthwith by the committee.

Mr. Speaker, I urge a vote for the motion to recommit.

Mr. OTTINGER. Mr. Speaker, I rise in opposition to the motion to recommit.

I will speak only very briefly. I do not think the motion to recommit changes the situation significantly. It is still a bill whereby favored corporations are going to receive all the benefits if they are successful and the Government is going to pay all the losses if they are unsuccessful. I think the whole thing is a really bad deal for the people of the United States and the bill with or without the Anderson amendment certainly ought to be defeated.

The SPEAKER. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER. The question is on the motion to recommit.

The motion to recommit was agreed to.

Mr. PRICE. Mr. Speaker, in accordance with the instructions of the House in the motion to recommit, I report back the bill with amendments.

The SPEAKER. The Clerk will report the amendments.

The Clerk read as follows:

AMENDMENTS: On page 2, line 4 insert the words "Administrator of" after the word "The", and on page 2, lines 4 and 5 delete the word "Administration".

On page 2, line 5 insert the following after the word "authorized,": "subject to the prior congressional review procedure set forth in subsection b. of this section".

On page 2, lines 8 and 9 delete the words "of the Energy Research and Development Administration".

On page 2, line 20 strike all after "public;" and insert the following: "*Provided, however*, That the guarantees under any such cooperative arrangement which would subject the Government to any future contingent liabilities for which the Government would not be fully reimbursed shall be limited to the assurance that the Government-furnished technology and equipment will work as promised by the Government over a mutually-agreed-to and reasonable period of initial commercial operation. Consistent with the foregoing, such cooperative arrangements may include inter alia, in".

On page 3, line 15 delete the word "individuals" and substitute therefor the words "investors or lenders".

On page 3, line 16 delete the words "to any" and substitute therefor the words "are a".

Delete subsection b which begins on page 4, line 1 and continues through page 5, line 2, and substitute therefor the following: "b. The Administrator shall not enter into any arrangement or amendment thereto under the authority of this section, modify, or complete and operate any facility or dispose thereof, until the proposed arrangement or amendment thereto which the Administrator proposes to execute, or the plan for such modification, completion, operation or disposal by the Administrator, as appropriate, has been submitted to the Joint Committee on Atomic Energy, and a period of sixty days has elapsed while Congress is in session with passage by the Congress of a concurrent resolution stating in substance that it does favor such proposed arrangement or amendment or plan for such modification, completion, operation, or disposal (in computing such sixty days, there shall be excluded the days on which either House is not in session because of adjournment for more than three days): *Provided*, That prior to the elapse of the first thirty days of any such sixty-day period the Joint Committee shall submit a report to the Congress of its views and recommendations respecting the proposed arrangement, amendment or plan and an accompanying proposed concurrent resolution stating in substance that the Congress favors, or does not favor, as the case may be, the proposed arrangement, amendment or plan. Any such concurrent resolution so reported shall become the pending business of the House in question (in the case of the Senate the time for debate shall be equally divided between the proponents and the opponents) within twenty-five days and shall be voted on within five calendar days thereafter, unless such House shall otherwise determine".

On page 5, line 3 delete the word "the" which appears after the word "of", and on page 5, line 4 delete the word "administration".

On page 5, line 7 after the words "as amended," insert the following: "and subject to all of the limitations of Section 45 including the scope of the guarantees under subsection 45a. and the requirement for prior congressional review and approval set forth in subsection 45b.".

On page 5, lines 8 and 9 delete the words "as may be approved in an appropriation Act." and substitute therefor the following "but in no event to exceed the amount provided therefor in a prior appropriation Act: *Provided*, That the timing, interest rate, and other terms and conditions of any notes, bonds or other similar obligations secured by any such arrangements shall be subject to the approval of the Administrator with the concurrence of the Secretary of the Treasury.".

On page 5, line 12 delete the words "of the Energy Research and Development Administration".

Mr. PRICE (during the reading). Mr. Speaker, since these amendments were contained in the substitute that was considered as an original bill, I ask unanimous consent that they be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The SPEAKER. The question is on the amendments.

The amendments were agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the time.

The SPEAKER. The question is on the passage of the bill.

Mr. BLOUIN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 222, nays 168, not voting 41, as follows:

[Roll No. 601]

YEAS—222

Abdnor
Alexander
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Archer
Armstrong
Ashbrook
Ashley
Bafalis
Beard, Tenn.
Bell
Bennett
Bergland
Bevill
Bowen
Breaux
Broomfield
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Butler
Carney
Carter
Cederberg
Chappell
Clancy
Clausen, Don H.
Clawson, Del
Cleveland
Cochran
Cohen
Collins, Tex.
Conable
Cotter
Coughlin
Crane
Daniel, Dan
Daniel, R. W.
Davis
de la Garza
Dent
Derrick
Derwinski
Devine
Dickinson
Downey, N.Y.
Downing, Va.
Duncan, Tenn.
Edwards, Ala.
Emery
English
Erlenborn
Eshleman
Fary
Flood
Florio
Flowers
Foley
Forsythe
Frenzel
Frey
Fuqua
Giaimo
Ginn
Goldwater
Gonzalez
Gradison
Guyer
Hagedorn
Haley
Hall, Ill.
Hall, Tex.
Hammerschmidt
Hanley
Harsha
Hébert
Heckler, Mass.
Heinz
Henderson
Hightower
Hillis
Holland
Horton
Hutchinson
Hyde
Ichord
Jarman
Jenrette
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, Ala.
Jones, Okla.
Jordan
Karth
Kasten
Kazen
Kelly
Kemp
Ketchum
Kindness
Krueger
Lagomarsino
Landrum
Latta
Lent
Lloyd, Tenn.
Long, La.
Lott
Lujan
McClory
McCloskey
McCollister
McCormack
McDade
McDonald
McEwen
McFall
McKinney
Madden
Madigan
Mahon
Mann
Martin
Mathis
Matsunaga
Michel
Milford
Miller, Ohio
Mitchell, N.Y.
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Mosher
Murphy, Ill.
Murtha
Myers, Ind.
Myers, Pa.
Nichols
O'Brien
O'Neill
Patten, N.J.
Pepper
Perkins
Pettis
Peyser
Pickle
Poage
Pressler
Preyer
Price
Pritchard
Quie
Quillen
Railsback
Rees
Regula
Rhodes
Rinaldo
Risenhoover
Roberts
Robinson
Roe
Rogers
Rooney
Rose
Rousselot
Runnels
Ruppe
Sarasin
Satterfield
Schneebeli
Schulze
Shipley
Shriver
Shuster
Sikes
Slack
Smith, Nebr.
Snyder
Spence
Stanton, J. William
Stanton, James V.
Steed
Steiger, Wis.
Stratton
Symms
Talcott
Taylor, Mo.
Taylor, N.C.
Teague
Thone
Thornton
Treen
Vander Jagt
Waggonner
Walsh
Wampler
White
Whitehurst
Whitten
Wiggins
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Winn
Wright
Wydler
Wylie
Yatron
Young, Alaska
Young, Fla.
Young, Tex.

NAYS—168

Abzug
Adams
Addabbo
Allen
Ambro
Aspin
AuCoin
Baldus
Baucus
Bauman
Beard, R.I.
Bedell
Biester
Bingham
Blanchard
Blouin
Boland
Bolling
Bonker
Brademas
Breckinridge
Brodhead
Brooks
Brown, Calif.
Burke, Calif.
Burton, John
Burton, Phillip
Byron
Carr
Chisholm
Conte
Cornell
D'Amours
Daniels, N.J.
Danielson
Delaney
Dellums
Dingell
Dodd
Drinan
Duncan, Oreg.
du Pont
Early
Eckhardt
Edgar
Edwards, Calif.
Eilberg
Evans, Colo.
Evans, Ind.
Fascell
Fenwick
Fish
Fisher
Fithian
Fraser
Gaydos
Gibbons
Gilman
Goodling
Grassley
Green
Gude
Hamilton
Hannaford
Harkin
Harrington
Harris
Hawkins
Hays, Ohio
Hechler, W. Va.
Helstoski
Hicks
Holt
Holtzman
Howard
Hubbard
Hughes
Hungate
Jacobs
Jeffords
Kastenmeier
Keys
Koch
Krebs
LaFalce
Leggett
Lehman
Levitas
Lloyd, Calif.
Long, Md.
Lundine
McHugh
McKay
Maguire
Mazzoli
Meeds
Melcher
Metcalfe
Meyner
Mezvinsky
Mikva
Miller, Calif.
Mineta
Minish
Mink
Mitchell, Md.
Moakley
Moffett
Mollohan
Morgan
Moss
Mottl
Murphy, N.Y.
Natcher
Neal
Nedzi
Nix
Nolan
Nowak
Oberstar
Obey
Ottinger
Patterson, Calif.
Pattison, N.Y.
Paul
Pike
Rangel
Reuss
Richmond
Rodino
Roncalio
Rosenthal
Rostenkowski
Roush
Roybal
Russo
Ryan
St Germain
Sarbanes
Scheuer
Schroeder
Seiberling
Sharp
Simon
Skubitz
Smith, Iowa
Solarz
Spellman
Staggers
Stark
Studds
Thompson
Traxler
Tsongas
Udall
Ullman
Van Deerlin
Vanik
Vigorito
Waxman
Weaver
Whalen
Wirth
Wolff
Yates
Young, Ga.
Zablocki
Zeferetti

NOT VOTING—41

Badillo
Biaggi
Boggs
Brinkley
Burlison, Mo.
Clay
Collins, Ill.
Conlan
Conyers
Corman
Diggs
Esch
Evins, Tenn.
Findley
Flynt
Ford, Mich.
Ford, Tenn.
Fountain
Hansen
Hayes, Ind.
Hefner
Hinshaw
Howe
Jones, N.C.
Jones, Tenn.
Mills
O'Hara
Passman
Randall
Riegle
Santini
Sebelius
Sisk
Steelman
Steiger, Ariz.
Stephens
Stokes
Stuckey
Sullivan
Symington
Vander Veen

The Clerk announced the following pairs:

Mrs. Boggs with Mr. O'Hara.
Mr. Corman with Mr. Mills.
Mr. Jones of Tennessee with Mr. Conlan.
Mrs. Collins of Illinois with Mr. Steiger of Arizona.
Mr. Diggs with Mr. Sebelius.
Mr. Evins of Tennessee with Mr. Esch.
Mr. Hefner with Mr. Findley.
Mr. Passman with Mr. Steelman.
Mr. Conyers with Mr. Flynt.
Mr. Clay with Mr. Ford of Michigan.
Mr. Ford of Tennessee with Mr. Sisk.
Mr. Stokes with Mr. Riegle.
Mr. Vander Veen with Mr. Stuckey.
Mr. Santini with Mr. Symington.
Mr. Fountain with Mr. Randall.
Mrs. Sullivan with Mr. Howe.
Mr. Burlison of Missouri with Mr. Jones of North Carolina.
Mr. Biaggi with Mr. Hayes of Indiana.
Mr. Badillo with Mr. Hansen.
Mr. Brinkley with Mr. Stephens.

So the bill was passed.

The result of the vote was announced as above recorded.

The title was amended so as to read: "A bill to authorize cooperative arrangements with private enterprise for the provision of facilities for the production and enrichment of uranium enriched in the isotope-235, to provide for authorization of contract authority therefor, to provide a procedure for prior congressional review and approval of proposed arrangements, and for other purposes.".

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. PRICE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the legislation just passed.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

PROVIDING FOR CONSIDERATION OF H.R. 4634, BASIC WORKWEEK OF FEDERAL FIREFIGHTING PERSONNEL

Mr. MATSUNAGA. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1340 and ask for its immediate consideration.

The Clerk read the resolution as follows:

HOUSE RESOLUTION 1340

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4634) to amend title 5, United States Code, to improve the basic workweek of firefighting personnel of executive agencies, and for other purposes. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Post Office and Civil Service, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Post Office and Civil Service now printed in the bill as an original bill for the purpose of amendment under the five-minute rule. At the conclusion of such consideration, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER. The gentleman from Hawaii (Mr. MATSUNAGA) is recognized for 1 hour.

Mr. MATSUNAGA. Mr. Speaker, I yield 30 minutes to the gentleman from Mississippi (Mr. LOTT), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 1340 provides for the consideration of H.R. 4634, a bill reported by the House Committee on Post Office and Civil Service, which would improve the basic workweek of Federal firefighters.

House Resolution 1340 is an open rule, providing 1 hour of general debate to be equally divided and controlled by the chairman and ranking minority member of the Post Office and Civil Service Committee. After general debate, the bill shall be read for amendment under the 5-minute rule. The resolution makes in order the consideration, for purposes of amendment, of the committee amendment in the nature of a substitute, which is printed in the bill.

After the bill has been considered for amendment, the committee shall rise and report it to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted by the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute.

The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion, except one motion to recommit without instructions.

As the author of H.R. 4634, I strongly urge that the rule be adopted so that the bill can be considered as expeditiously as possible by the House. The bill would correct a serious injustice suffered by Federal firefighters, and would make it easier for the Federal Government to recruit and retain qualified firefighting personnel. I intend to explain the bill's provisions during general debate on the bill and I am confident that my colleagues will agree that it merits prompt enactment. Mr. Speaker, I urge a vote for the rule in order that H.R. 4634 may be considered by the House.

Mr. LOTT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this resolution makes in order the consideration of H.R. 4634, legislation designed to improve the basic workweek of Federal firefighting personnel, under a 1-hour, open rule. The resolution further makes it in order to consider the amendment in the nature of a substitute recommended by the Committee on Post Office and Civil Service now printed in the bill as an original bill for the purposes of amendment.

H.R. 4634 primarily does two things:

First. It provides that the basic administrative workweek of each Federal firefighter shall be reduced from 72 to 54 hours per week beginning the first pay period in January 1977.

Second. It authorizes payment of 25 percent premium pay in lieu of all other premium pay, except for irregular, unscheduled overtime work, to firefighters who have a basic workweek averaging 54 hours.

No additional costs are reported to be associated with the passage of a 54-hour workweek, in and of itself.

I am advised that the administration strongly opposes this legislation as do some members of the committee reporting it.

Since we have a 1-hour, open rule allowing full discussion of the bill, I urge its adoption.

Mr. Speaker, I have no further requests for time.

Mr. MATSUNAGA. Mr. Speaker, I have no further requests for time.

I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER. The question is on the resolution.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. ROUSSELOT. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 380, nays 4, answered "present" 1, not voting 46, as follows:

[Roll No. 602]

YEAS—380

Abdnor
Adams
Addabbo
Alexander
Allen
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Archer
Armstrong
Ashbrook
Ashley
Aspin
AuCoin
Bafalis
Baldus
Baucus
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Bell
Bennett
Bergland
Bevill
Biester
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonker
Bowen
Brademas
Breaux
Breckinridge
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burton, John
Burton, Phillip
Butler
Byron
Carney
Carr
Cederberg
Chappell
Chisholm
Clancy
Clausen, Don H.
Clawson, Del
Cleveland
Cochran
Cohen
Collins, Tex.
Conable
Conte
Corman
Cornell
Cotter
Coughlin
Crane
D'Amours
Daniel, Dan
Daniel, R. W.
Daniels, N.J.
Danielson
Davis
de la Garza
Delaney
Dellums
Dent
Derrick
Derwinski
Devine
Dickinson
Dingell
Dodd
Downey, N.Y.
Downing, Va.
Drinan
Duncan, Oreg.
Duncan, Tenn.
du Pont
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Eilberg
Emery
English
Erlenborn
Eshleman
Evans, Colo.
Evans, Ind.
Fary
Fascell
Fenwick
Fish
Fisher
Flood
Florio
Flowers
Foley
Forsythe
Fraser
Frenzel
Frey
Fuqua
Gaydos
Giaimo
Gibbons
Gilman
Ginn
Goldwater
Gonzalez
Goodling
Gradison
Grassley
Green
Gude
Guyer
Hagedorn
Haley
Hall, Ill.
Hall, Tex.
Hamilton
Hammerschmidt
Hanley
Hannaford
Harkin
Harrington
Harris
Harsha
Hawkins
Hébert
Hechler, W. Va.
Heckler, Mass.
Heinz
Helstoski
Henderson
Hicks
Hightower
Hillis
Holland
Holt
Holtzman
Horton
Howard
Hubbard
Hughes
Hungate
Hutchinson
Hyde
Ichord
Jacobs
Jarman
Jeffords
Jenrette
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, Ala.
Jones, Okla.
Jordan
Kasten
Kastenmeier
Kazen
Kelly
Kemp
Ketchum
Keys
Kindness
Koch
Krebs
Krueger
LaFalce
Lagomarsino
Landrum
Latta
Leggett
Lehman
Lent
Levitas
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lujan
Lundine
McClory
McCloskey
McCollister
McCormack
McDade
McDonald
McEwen
McFall
McHugh
McKay
McKinney
Madden
Madigan
Maguire
Mahon
Mann
Martin
Mathis
Matsunaga
Mazzoli
Meeds
Metcalfe
Meyner
Mezvinsky
Michel
Mikva
Milford
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mink
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Morgan
Mosher
Moss
Mottl
Murphy, Ill.
Murphy, N.Y.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nichols
Nix
Nowak
Oberstar
Obey
O'Brien
O'Neill
Ottinger
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Paul
Pepper
Perkins
Pettis
Peyser
Pickle
Pike
Pressler
Preyer
Price

Pritchard
Quie
Quillen
Railsback
Rangel
Regula
Reuss
Rhodes
Richmond
Rinaldo
Roberts
Robinson
Rodino
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Roush
Rousselot
Roybal
Runnels
Ruppe
Russo
Ryan
St Germain
Sarasin
Sarbanes
Satterfield
Scheuer
Schneebeli
Schroeder
Schulze
Seiberling
Sharp
Shipley
Shriver
Shuster
Sikes
Simon
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Spellman
Spence
Staggers
Stanton, J. William
Stanton, James V.
Stark
Steed
Steiger, Wis.
Stokes
Studds
Symms
Talcott
Taylor, Mo.
Taylor, N.C.
Teague
Thompson
Thone
Thornton
Traxler
Treen
Tsongas
Udall
Ullman
Van Deerlin
Vander Jagt
Vander Veen
Vanik
Vigorito
Walsh
Wampler
Waxman
Weaver
Whalen
White
Whitehurst
Whitten
Wiggins
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wolff
Wright
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Ga.
Young, Tex.
Zablocki
Zeferetti

NAYS—4

Burleson, Tex.
Carter
Poage
Stratton

ANSWERED "PRESENT"—1

Wydler

NOT VOTING—46

Abzug
Badillo
Biaggi
Brinkley
Burlison, Mo.
Clay
Collins, Ill.
Conlan
Conyers
Diggs
Esch
Evins, Tenn.
Findley
Fithian
Flynt
Ford, Mich.
Ford, Tenn.
Fountain
Hansen
Hayes, Ind.
Hays, Ohio
Hefner
Hinshaw
Howe
Jones, N.C.
Jones, Tenn.
Karth
Melcher
Mills
Nolan
O'Hara
Passman
Randall
Rees
Riegle
Risenhoover
Santini
Sebelius
Sisk
Steelman
Steiger, Ariz.
Stephens
Stuckey
Sullivan
Symington
Waggonner

The Clerk announced the following pairs:

Mr. Jones of Tennessee with Mr. Howe.

Mr. Biaggi with Mr. Conlan.

Mrs. Collins of Illinois with Mr. Steiger of Arizona.

Mr. Diggs with Mr. Sebelius.

Mr. Evins of Tennessee with Mr. Waggonner.

Mr. Hefner with Mr. O'Hara.

Mr. Nolan with Mr. Findley.

Mr. Conyers with Mr. Steelman.

Mr. Clay with Mr. Flynt.

Mr. Ford of Tennessee with Mr. Hayes of Indiana.

Mr. Brinkley with Mr. Sisk.

Mr. Ford of Michigan with Mr. Riegle.

Mr. Santini with Mr. Stuckey.

Mr. Fountain with Mr. Symington.

Mrs. Sullivan with Mr. Randall.

Mr. Burlison of Missouri with Mr. Hansen.

Mr. Badillo with Mr. Stephen.

Mr. Passman with Mr. Hays of Ohio.

Ms. Abzug with Mr. Jones of North Carolina.

Mr. Fithian with Mr. Karth.

Mr. Melcher with Mr. Mills.

Mr. Risenhoover with Mr. Rees.

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERMISSION FOR SUBCOMMITTEE ON GOVERNMENT ACTIVITIES AND TRANSPORTATION OF COMMITTEE ON GOVERNMENT OPERATIONS TO SIT DURING 5-MINUTE RULE TODAY

Mr. ENGLISH. Mr. Speaker, I ask unanimous consent that the Subcommittee on Government Activities and Transportation of the Committee on Government Operations be permitted to sit today while the House is proceeding under the 5-minute rule.

The SPEAKER. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

PROVIDING FOR CONSIDERATION OF H.R. 10498, CLEAN AIR ACT AMENDMENTS OF 1976

Mr. PEPPER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1430 and ask for its immediate consideration.

The Clerk read as follows:

H. Res. 1430

Resolved, That upon the adoption of this resolution, it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 10498) to amend the Clean Air Act, and for other purposes. After general debate which shall be confined to the bill and shall continue not to exceed three hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interstate and Foreign Commerce, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Interstate and Foreign Commerce now printed in the bill as an original bill for the purpose of amendment under the five-minute rule and said substitute shall be read for amendment by titles instead of by sections. At the conclusion of such consideration, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committe amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER. The gentleman from Florida (Mr. PEPPER) is recognized for 1 hour.

Mr. PEPPER. Mr. Speaker, I yield 30 minutes to the able gentleman from Illinois (Mr. ANDERSON), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 1430 provides for the consideration of H.R. 10498, a bill reported by the Committee on Interstate and Foreign Commerce, the Clean Air Act Amendments of 1976, which makes major modifications in air pollution and prevention programs, and authorizes $200 million for each of the next 3 fiscal years through fiscal year 1979.

House Resolution 1430 provides for an open rule with 3 hours of general debate to be divided and controlled in the customary manner. When general debate has been completed, the bill will be considered for amendment under the 5-minute rule. Under the rule it will be in order to consider the amendment in the nature of a substitute recommended by the Committee on Interstate and Foreign Commerce which is printed in the bill as an original bill for the purpose of amendment and said substitute shall be read for amendment by titles instead of by sections.

Mr. Speaker, the goal of the 1970 Clean Air Act was to reduce pollution by May 1975 to a level which would not pose a danger to human health. That act was passed in the House by a vote of 374 ayes to 1 nay, and in the Senate by 73 ayes with none voting nay. Since that time, energy, economic and technological factors, in combination with pleas from key industries for delays in implementation of the standards, have interceded and prevented the attainment of the original purpose.

I commend my able and distinguished colleague from Florida, Representative PAUL G. ROGERS, chairman of the Commerce Subcommittee on Health and the Environment, for his leadership in bringing out this legislation. This bill is designed to insure the protection of the public health and the environment, for this generation and future generations, while at the same time providing for new timetables and the resolution of several disputatious issues which have arisen since enactment of the original legislation.

One of the most controversial issues since the enactment of the Clean Air Act was the failure to give local governments any role in its implementation. H.R. 10498 remedies this deficiency and changes the current EPA regulations to insure that local governments will have the major role in planning programs to clean up the air consistent with the economic, social, and environmental conditions which prevail within local jurisdictions. This should eliminate the serious intergovernmental conflicts which have diminished the act's effectiveness.

Mr. Speaker, I just want to add this observation. There is one great need, in my opinion, for those who have responsibilities for the structure of the environmental protection legislation of this country and that is to provide methods and procedures by which decisions respecting the environment, EPA decisions, and other decisions of the Federal, State, and local governments, may be more expeditiously made. There are a great many people in this country who are strongly for proper environmental protection for our people, but they do want to get a decision on an application to build something or dig a canal or to do something else that will affect the environment, within a reasonable time.

Mr. Speaker, I commend to the committees that have jurisdiction of this subject an examination of the procedures at the Federal, State, and local level, to see if we cannot devise procedural techniques and a procedural structure under which it would be possible to get reasonably expeditious decisions in these environmental matters when they are duly presented.

Mr. Speaker, this legislation offers the Congress a compromise proposal that will establish a national policy to protect air quality.

Mr. Speaker, I urge adoption of House Resolution 1430, so that this very important environmental legislation may be considered and, I hope, adopted in the House.

Mr. ANDERSON of Illinois. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 1430, which was adopted by a vote of 10 to 3 in the Committee on Rules, would permit the House to consider the so-called Clean Air Act Amendments of 1976 under an open rule with 3 hours of general debate. The rule makes the committee substitute in order as an original bill for the purpose of amendment and further provides for the reading of the bill by title instead of by section for amendment.

Mr. Speaker, while the bill which this rule makes in order does involve considerable controversy and will be the subject of extended debate and numerous amendments, so far as I know there is no objection to this rule and I urge its adoption.

Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from North Carolina (Mr. BROYHILL).

Mr. BROYHILL. Mr. Speaker, I thank the gentleman for yielding time to me. If I may take just a moment, I would like to point out that there are a number of amendments which will be offered to this bill. It is my understanding that over 50 amendments have been printed in the RECORD, pursuant to clause 6 of rule XXIII. If all these amendments are offered and fully considered by the House, we could be here for many hours—in fact, for many days—in consideration of this bill.

I think there are a number of changes that should be made in the bill before the House adopts the bill on final passage.

Mr. Speaker, it is imperative that the Congress act upon the Clean Air Act Amendments of 1976 so that our Nation may progress further on the road to cleaner air and increased economic stability. Further procrastination regarding this matter would be a gross injustice not only to those industries which will be most directly affected, but to the American people and to Congress as well. However, I would call to your attention those sections of this bill which are particularly objectionable to those of us who would legislate prudently and equitably in this matter.

I must initially dissent with that portion of the bill dealing with automobile emission standards. The debate thus far seems to have been concerned more with argument than with fact, but Government experts provided Congress with an objective analysis of the effects on health, employment, costs to consumers, and fuel efficiency of several levels of automobile emission control. That analysis clearly demonstrates that the Committee on Commerce bill with its auto air emission standards would: First, waste energy; second, produce negligible air quality benefits; third, increase consumer costs; and fourth, severely limit technological development.

ENERGY WASTE

The Commerce Committee standards would waste great quantities of petroleum products, particularly gasoline, which would further drain domestic energy resources. This in turn would result in more dependence upon uncertain foreign sources for oil, higher prices, aggravated shortages, and more environmental damage.

NEGLIGIBLE AIR QUALITY BENEFITS

The air quality impact of the Commerce Committee standards is negligible by comparison to the Dingell-Broyhill-Train amendment and the health benefits are almost imperceptible. Studies have not proven that such stringent standards are necessary to protect health and to meet national ambient air quality standards. Negligible benefits, if any, will be offset by corresponding increases in emissions of other harmful pollutants, such as sulfuric acid. Finally, the technology does not yet exist which can guarantee continued pollution reduction at these levels without sacrificing pollution equipment efficiency.

INCREASE CONSUMER COSTS

The Commerce Committee standards would unnecessarily and unreasonably increase the costs to be paid by consumers.

The Commerce Committee standards—by providing for frequently shifting targets and year-to-year waivers—create consumer uncertainty, reluctance to buy, and further decline in production and employment. Since such stringent standards would severely limit the availability of some automobile models and prohibit others, the Nation would experience a ripple effect of productive stagnation which would affect a multitude of industries.

Together, the problems specified in my objections would sorely aggravate the Nation's economic recovery with higher inflation rates, reduced purchasing power, reduced consumption of new cars, unemployment in the auto industry, unemployment in related supplier industries—steel, rubber, glass, et cetera—and a return to the inflationary spiral.

Additionally, if by reason of fuel inefficiencies and excessive costs, consumer confidence is undermined, the purchase of new cars may be delayed and retirement of older, dirtier cars may be postponed.

LIMITS ON TECHNOLOGICAL DEVELOPMENT

Untimely standards lock in catalyst technologies and place a "straightjacket" on industry development. Extreme standards rule out other technologies—diesel, lean burn, et cetera—which show promise of achieving the objectives of both air quality improvement and fuel economy. Congress would be making a risky sole source technology selection which may present its own air quality problem for the future and which may preclude other, more suitable methods.

Commonsense and a concern for balancing economy, energy, and environment require moderation in the rate of progress towards the single goal of emission control. The goal of protection of public health must include adequate employment to feed families and enough energy to heat homes, as well as clean air to breathe. We can have clean air without risking the others if we are willing to amend this legislation.

OTHER ASPECTS OF THE CLEAN AIR ACT

SIGNIFICANT DETERIORATION

No section in this bill is more controversial than section 108, the new provision to prevent significant deterioration. This provision would impose land use zones upon States and localities across the Nation without regard to their prerogatives or desires. It would do so on the single criterion of air quality, to the detriment of other environmental considerations, and to the exclusion of pertinent social and energy factors.

The inescapable effect of this section is that it would lock existing industrial and nonindustrial sources which qualify as major sources in areas of highest pollution, where there is little or no margin for expansion, and where the pollution would steadily worsen. At the same time, these sources would have severe difficulties in locating in areas with low pollution concentrations and greater margins for growth, the only areas in which substantial major growth could occur.

INTERSTATE POLLUTION ABATEMENT

Section 309 of the bill would add a new mechanism to the Clean Air Act which would allow the Administrator to shutdown a major source even though it be in compliance with the plan of the State in which it is situated. Any State or political subdivision would be empowered to file a petition against an alleged offending source, even though the petitioner is neither situated within a zone of interest nor even injured by the offense. For example, a county in Florida could petition the Administrator with respect to a major source in New Jersey which allegedly may be impacting adversely upon Pennsylvania or New York.

UNREGULATED POLLUTANTS

This section (101) would require the Administrator to promulgate final primary and secondary ambient air quality standards for presently unregulated substances within a specified period of time, even though he does not have available the data and facts which would enable him to determine at what level such substance would become a public health hazard or at what level such standards should be fixed in order to assure a reasonable margin of safety.

NITROGEN DIOXIDE STANDARDS—SECTION 101

This would mark the first time that Congress would have mandated the establishment of an ambient air quality standard for a specific increment of time. Under current law, that judgment has been left to the Administrator, who is best able to make it on the basis of scientific information available. So definitive a mandate would be highly questionable, for it requires measurement in the absence of sufficient data.

BASIS FOR ADMINISTRATIVE STANDARDS—SECTION 102

Passage of this section would alter the fundamental standards which are the bases of past decisions respecting the Clean Air Act. There is little justification for this section, since it does not result from allegations that the current standards are inadequate. In fact, there was no testimony supportive of the substitute standards contained in this section of the bill during the course of hearings on the act.

COMPLIANCE DATE EXTENSIONS

Section 103 of this bill would repeal the Administrator's authority to issue a postponement of or permit a delay or violation of requirements of the act or an applicable implementation plan.

It would establish, in place of present options, six narrowly drawn grounds upon which a source might be granted a compliance date extension, even though it prevents timely attainment and maintenance by the State or air quality control region of their requirements.

BEST AVAILABLE CONTROL TECHNOLOGY—SECTION 111

Given the criteria which must be taken into consideration such as cost, environmental impact, and energy requirements, it would be difficult for the Administrator to determine that any scrubber technology has been adequately demonstrated. There is considerable evidence that their reliability should be subject to serious doubt. To compound that problem is the unfortunate situation which could result should a scrubber technology prove to be faulty. Since the use of clean fuels and intermittent controls as alternative means of meeting standards would also be prohibited by this bill, we will have painted ourselves into a corner with no means of escape.

Because of these and other problems, it is my opinion that H.R. 10498 does not provide the balanced approach which is needed for effective clean air legislation. It is my hope that action on the floor will remove the major defects in this bill so that it will warrant the support of Congress.

Mr. ANDERSON of Illinois. Mr. Speaker, I have no further requests for time, and I reserve the balance of my time.

Mr. PEPPER. Mr. Speaker, I yield such time as he may consume to the able gentleman from New York (Mr. OTTINGER).

Mr. OTTINGER. Mr. Speaker, I rise in support of the rule and the bill.

Mr. PEPPER. Mr. Speaker, I yield such time as he may consume to the able gentleman from Florida (Mr. ROGERS).

Mr. ROGERS. Mr. Speaker, I thank the gentleman for yielding to me. I also rise in strong support of the rule.

Mr. PEPPER. Mr. Speaker, I have no further requests for time.

Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER. The question is on the resolution.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. SHUSTER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 382, nays 2, not voting 47, as follows:

[Roll No. 603]

YEAS—382

Abdnor
Adams
Addabbo
Alexander
Allen
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Archer
Armstrong
Ashbrook
Ashley
Aspin
AuCoin
Bafalis
Baldus
Baucus
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Bell
Bennett
Bergland
Bevill
Biester
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonker
Brademas
Breaux
Breckinridge
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burton, John
Burton, Phillip
Butler
Byron
Carney
Carr
Carter
Cederberg
Chappell
Chisholm
Clancy
Clausen, Don H.
Clawson, Del
Cleveland
Cochran
Cohen
Collins, Tex.
Conable
Conte
Corman
Cornell
Cotter
Coughlin
Crane
D'Amours
Daniel, Dan
Daniel, R. W.
Daniels, N.J.
Danielson
Davis
de la Garza
Delaney
Dellums
Dent
Derrick
Derwinski
Devine
Dickinson
Dodd
Downey, N.Y.
Downing, Va.
Drinan
Duncan, Oreg.
Duncan, Tenn.
du Pont
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Eilberg
Emery
English
Erlenborn
Eshleman
Evans, Colo.
Evans, Ind.
Fary
Fascell
Fenwick
Fish
Fisher
Fithian
Flood
Florio
Flowers
Foley
Forsythe
Fraser
Frenzel
Frey
Fuqua
Gaydos
Giaimo
Gibbons
Gilman
Ginn
Goldwater
Gonzalez
Goodling
Gradison
Grassley
Green
Gude
Guyer
Hagedorn
Haley
Hall, Ill.
Hall, Tex.
Hamilton
Hammerschmidt
Hanley
Hannaford
Harkin
Harrington
Harris
Harsha
Hawkins
Hays, Ohio
Hechler, W. Va.
Heckler, Mass.
Heinz
Helstoski
Henderson
Hicks
Hightower
Hillis
Holland
Holt
Holtzman
Horton
Howard
Hubbard
Hughes
Hungate
Hutchinson
Hyde
Ichord
Jacobs
Jarman
Jeffords
Jenrette
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, Ala.
Jones, Okla.
Jordan
Kasten
Kastenmeier
Kazen
Kelly
Kemp
Ketchum
Keys
Kindness
Koch
Krebs
Krueger
LaFalce
Lagomarsino
Landrum
Latta
Leggett
Lent
Levitas
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lujan
Lundine
McClory
McCloskey
McCollister
McCormack
McDade
McEwen
McFall
McKay
McKinney
Madden
Madigan
Maguire
Mahon
Mann
Martin
Mathis
Matsunaga
Mazzoli
Meeds
Melcher
Metcalfe
Meyner
Mezvinsky
Michel
Mikva
Milford
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mink
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Morgan
Mosher
Moss
Mottl
Murphy, Ill.
Murphy, N.Y.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nichols
Nix
Nolan
Nowak
Oberstar
Obey
O'Brien
O'Neill
Ottinger
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Paul
Pepper
Perkins
Pettis
Peyser
Pickle
Pike
Poage
Pressler
Preyer
Price
Pritchard
Quie
Quillen
Railsback
Rangel
Regula
Reuss
Rhodes
Richmond
Rinaldo
Roberts
Robinson
Rodino
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Roush
Rousselot
Roybal
Runnels
Ruppe
Russo
Ryan
St Germain
Sarasin
Sarbanes
Satterfield
Scheuer
Schneebeli
Schroeder
Schulze
Seiberling
Sharp
Shipley
Shriver
Shuster
Sikes
Simon
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Spellman
Spence
Staggers
Stanton, J. William
Stanton, James V.
Stark
Steed
Steiger, Wis.
Stokes
Stratton
Studds
Talcott
Taylor, Mo.
Taylor, N.C.
Teague
Thompson
Thone
Thornton
Traxler
Treen
Tsongas
Udall
Ullman
Van Deerlin
Vander Jagt
Vander Veen
Vanik
Vigorito
Walsh
Wampler
Waxman
Weaver
Whalen
White
Whitehurst
Whitten
Wiggins
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wolff
Wright
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Ga.
Young, Tex.
Zablocki
Zeferetti

NAYS—2

McDonald
Risenhoover

NOT VOTING—47

Abzug
Badillo
Biaggi
Bowen
Brinkley
Burlison, Mo.
Clay
Collins, Ill.
Conlan
Conyers
Diggs
Dingell
Esch
Evins, Tenn.
Findley
Flynt
Ford, Mich.
Ford, Tenn.
Fountain
Hansen
Hayes, Ind.
Hébert
Hefner
Hinshaw
Howe
Jones, N.C.
Jones, Tenn.
Karth
Lehman
McHugh
Mills
O'Hara
Passman
Randall
Rees
Riegle
Santini
Sebelius
Sisk
Steelman
Steiger, Ariz.
Stephens
Stuckey
Sullivan
Symington
Symms
Waggonner

The Clerk announced the following pairs:

Mr. Jones of Tennessee with Mr. Conlan.
Mr. Biaggi with Mr. Steiger of Arizona.
Mrs. Collins of Illinois with Mr. Sebelius.
Mr. Diggs with Mr. O'Hara.
Mr. Evins of Tennessee with Mr. Findley.
Mr. Hefner with Mr. Steelman.
Mr. Clay with Mr. Flynt.
Mr. Ford of Tennessee with Mr. Hayes of Indiana.
Mr. Brinkley with Mr. Sisk.
Mr. Santini with Mr. Riegle.
Mr. Fountain with Mr. Stuckey.
Mr. Ford of Michigan with Mr. Symington.
Mrs. Sullivan with Mr. Randall.
Mr. Burlison of Missouri with Mr. Hansen.
Mr. Badillo with Mr. Stephens.
Mr. Passman with Mr. Mills.
Mr. Howe with Mr. Rees.
Ms. Abzug with Mr. Bowen.
Mr. Conyers with Mr. Dingell.
Mr. Hébert with Mr. Esch.

Mr. Jones of North Carolina with Mr. Karth.

Mr. McHugh with Mr. Lehman.

Mr. Waggonner with Mr. Symms.

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

BASIC WORKWEEK OF FEDERAL FIREFIGHTING PERSONNEL

Mr. HENDERSON. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4634) to amend title 5, United States Code, to improve the basic workweek of firefighting personnel of executive agencies, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from North Carolina (Mr. HENDERSON).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 4634, with Mr. LEVITAS in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from North Carolina (Mr. HENDERSON) will be recognized for 30 minutes and the gentleman from Illinois (Mr. DERWINSKI) will be recognized for 30 minutes.

The Chair recognizes the gentleman from North Carolina (Mr. HENDERSON).

Mr. HENDERSON. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the purpose of H.R. 4634 is to establish an average workweek of 54 hours for Federal firefighters and authorize payment of 25 percent premium pay to firefighters having a 54-hour workweek.

Under existing law, the authority to fix the hours of work of Federal employees, including firefighters, rests with the heads of the agencies. The typical workweek for the Federal firefighter now is 72 hours which consists of three 24-hour shifts.

Each shift generally is divided into 8 hours of actual work and 16 hours in a standby status, including a designated sleeping period.

The authority to fix the rates of premium pay on an annual basis for longer than ordinary tours of duty involving substantial amounts of standby duty rests with the Civil Service Commission.

At present, most Federal firefighters qualify for the maximum percentage allowable by law—25 percent—based on their present 72-hour per week tour of duty. The annual premium pay is paid in lieu of overtime, night differential, Sunday, and holiday pay.

For irregular, unscheduled hours of work in excess of 72 hours per week, firefighters are paid overtime compensation in accordance with the provisions of title 5 of the United States Code.

Additionally, Federal firefighters are subject to the overtime provisions of the Fair Labor Standards Amendments of 1974 (29 U.S.C. 207(k)). For calendar year 1976, the FLSA requires payment of overtime for all hours in excess of 58 per week. Thus, most Federal firefighters receive premium pay under title 5, United States Code, and overtime pay for 14 hours per week under the FLSA. Effective January 1, 1977, the FLSA overtime standard drops to 54 hours per week.

H.R. 4634, as amended by the committee, would amend existing law to provide that the basic administrative workweek of each Federal firefighter shall average 54 hours per week and to authorize payment of 25 percent premium pay in lieu of all other premium pay—except for irregular unscheduled overtime work—to firefighters who have such a basic workweek.

Though the pay of the Federal firefighter is not being changed by this legislation, it is obvious that the firefighters who have their hours reduced from 72 to 54, with no corresponding reduction in annual premium pay, will receive the same pay—exclusive of overtime—for less hours of work.

There are approximately 12,500 firefighters employed by the Federal Government. The Department of Defense is by far the largest employer with 10,500 firefighters. The Department of Transportation, the Nuclear Regulatory Commission, and other smaller agencies employ the balance.

The primary objective of this legislation is to regulate the hours of employment for firefighters to conform their hours of work to the practices generally found throughout the country.

There are few major municipal fire departments which work more than 56 hours per week. Of the 50 largest cities in the United States, only one has an established workweek in excess of 56 hours for firefighters, and many have workweeks of less than 54 hours.

The requirement of a 54-hour workweek, by itself, will not result in any additional cost to the Government. Additional cost will arise, however, if administrative action is taken to require an administrative workweek longer than 54 hours at overtime rates of pay, or to hire additional employees.

In May of this year, the Congressional Budget Office provided the committee with a cost estimate of H.R. 4634 based on the assumption that the Federal agencies will retain the present level of fire protection and the existing 72-hour shift schedule. That cost estimate appears on pages 7 and 8 of the committee report.

Yesterday the committee received a revised cost estimate from the Congressional Budget Office.

The revised cost estimate for fiscal year 1977 is $34.3 million, and the total additional costs for fiscal years 1977 through 1981 is $246.5 million.

Again, I hasten to point out that such costs would be incurred only if the affected agencies decide to retain the present 72-hour tour of duty.

Mr. Chairman, I reserve the remainder of my time.

Mr. DERWINSKI. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in opposition to H.R. 4634 because very simply there is no justifiable reason for its enactment.

As we Republican Members pointed out in our minority views on this legislation and the "Dear Colleague" letter we circulated yesterday, this legislation flies in the face of overwhelming public opinion against concessions to unrealistic union demands.

The ostensible reason for enactment of this legislation is to reduce the workweek of Federal firefighters to conform with the work practices of non-Federal firefighters. However, it is obvious at this juncture that the committee majority wishes to stop drawing comparisons between Federal firefighters and their counterparts in the public sector.

Consider for example that according to the CSC, experienced Federal firefighters now are paid approximately 15 percent higher minimum salaries and approximately 25 percent higher maximum salaries than are paid to municipal firefighters, on a national average.

Therefore, it is illogical and unjustified to reduce the regular workweek of firefighters. They already enjoy a considerable pay advantage over their counterparts in the public sector, and this legislation simply reinforces that advantage.

Presently firefighters perform a 72-hour workweek which consists of three 24-hour shifts. Normally, each shift includes 8 hours of actual work and 16 hours in standby status, including a designated sleep period of 8 hours. The DOD, the largest employer of firefighters, testified that on the average only about 2 of the 72 hours are actually spent answering and returning from firecalls.

Department of Defense witnesses also testified that fires tend to be less ardous and less frequent at its facilities than in urban areas. Because of the controlled conditions at military installations, there is a low incidence of fires and few severe fires.

We think the facts are indisputable that in view of the nature of the job, firefighters' pay and hours of work are reasonable and much more than fair.

Plain and simple, this legislation is a pay bonanza for firefighters.

Mr. Chairman, the CBO may have understated the situation when it stated in its report to the committee:

> This would establish firefighters as a favored class of employees as compared to other standby employees in the Federal Government.

This is preferential legislation of the worst order. It is unjustified, too costly, and it should be rejected.

Mr. Chairman, at this point I would like to sum in this fashion: This bill, H.R. 4634, is innocently entitled "a bill to improve the basic work week of Federal firefighters."

I happen to think that it is one of the worst bills to come up on the House floor in this session. From speaking to Members I find a great deal of misconception in their minds as to what we are doing. First of all, we are speaking of Federal firefighters, not civilian firefighters. Speaking of these Federal firefighters, we are speaking of people who are now paid substantially higher than their counterparts in civilian service and, frankly, with a lot less work to do in their capacities.

The Department of Defense pointed out that the duties of these firefighters are less arduous and far less frequent than those at facilities in urban areas. The reason for it is because of the controlled nature of military installations, the security and safety precautions in force, there is a very low incidence of fires and few severe fires.

If the Members are wondering about the cost figures in this bill, I will take the figures supplied by Alice Rivlin, Director of the Congressional Budget Office. In an official communication with the committee we are advised that between fiscal years 1977 and 1981 the estimated cost of this bill would add $246 million to the Department of Defense budget. This is based on the assumption that when we set this 54-hour week, what will happen is they will continue working 72 hours but be paid overtime. So what this really amounts to, then, is more pay for no additional work.

The only other course that could be taken was if they worked just 54 hours and that could really mean an additional work force of one-third. The Department of Defense is working under a personnel ceiling so they cannot go that route, so it is logical to assume that what will happen will be an increase in overtime. The budget estimates for 5 years will run about $246 million additional. The present overtime payment of the Federal firefighter based on present law is $1,395 a year. Under H.R. 4634, the overtime payment would come to approximately $5,578, which would be $4,183 a year increase. This is based again on the assumption that there will not be additional personnel, that they will continue to work 7½ hours, and the effect of this bill will mean they will be paid $4,833 additional per year without performing any additional duties.

At the present time the average starting salary of a Federal firefighter is approximately 15 percent higher than the national average for municipal firefighters. The maximum Federal salary for Federal firefighters is 25 percent above that of the municipal firefighters.

If Members are wondering if this bill might be needed to attract personnel to the assignment, the latest figures we have from the Civil Service Commission register show that for 2,433 projected vacancies in Federal firefighting positions, they listed over 8,100 applicants. This is a ratio of better than 3 to 1 applicants to projected vacancies, so it shows even at the present rates this is a position that is in demand.

But if I may voice what I think is the major objection to the bill, Mr. Chairman, it is in the precedent set, because what we are doing here is providing for very special benefits for a select group of Federal employees. We will be then swamped with requests from other Federal employees in comparable positions who will say: "Look. You set the precedent. We want to be treated in the same way." Our estimates are there are approximately 23,000 Federal employees in comparable positions with the Federal firefighters who will come to this benevolent Congress and say: "You took care of the firefighters. Now take care of us."

To sum it up, this is bad legislation. It is costly legislation. It is brought up supposedly at a time when we have a budget-conscious Congress. I am amazed our committee would bring to the floor a bill that adds to the compensation of an already overpaid group of employees a substantial increase without requiring any additional service. This flies in the face of the public demand to cut the cost of government. It flies in the face of the public demand to reduce the deficit and the unwieldly structure of our Government. It flies in the face of the demand that there be equity between Federal employees and civilian employees. This bill performs a disservice to the taxpayers and to the other Federal employees. It creates a Pandora's box that will haunt this Congress and future Congresses.

Mr. MATSUNAGA. Mr. Chairman, will the gentleman yield?

Mr. DERWINSKI. I yield to the very distinguished gentleman—I was going to say very distinguished candidate for the Senate, but I will say I yield to the gentleman from Hawaii.

Mr. MATSUNAGA. I thank the gentleman from Illinois for yielding.

I might say to the gentleman I met some of his constituents on my latest trip to Hawaii. They spoke very highly of the gentleman, and I agreed with them and I spoke even more highly of the gentleman in the well, so I am somewhat surprised that the gentleman is opposing this bill on the floor here today, inasmuch as I revealed that to the gentleman earlier.

Mr. DERWINSKI. I escaped the rigors of the Democratic Convention by traveling to Hawaii for my vacation, and if I was as popular in my district as the gentleman is in his, I would be even more relaxed than I normally am.

Mr. MATSUNAGA. Mr. Chairman, if the gentleman will yield further, and with the kidding aside and in all seriousness, the gentleman knows, of course, that in his own city of Chicago the workweek of the municipal firefighter there is only 47½ hours, as compared to 72 hours for the Federal firefighter and that the Chicago firefighter earns as much as $12,686 per annum to begin with and reaches a maximum of $16,764 within a period of 5 years.

Now, on the other hand, a Federal firefighter begins with a lowly salary of $9,970 and works up to a maximum of only $12,963. He needs to work 19 years to obtain the maximum.

Now, the bill would merely provide that the number of work hours per week be reduced from 72 hours to 54 hours, still in excess of what the Chicago firefighter works per week and still is making less than what a Chicago firefighter would make.

So in all equity, and while the gentleman has testified or has alleged that the Federal firefighter works less and has less hazardous duties, I know for a fact that Federal firefighters in Hawaii engage in even more hazardous duty, because they have to put out fires down at the airport where the military planes land.

So I would say this is a very reasonable bill, one that has been long overdue. I ask the gentleman, be reasonable and come to our side.

Mr. DERWINSKI. Mr. Chairman, I just wish to tell my friend from Hawaii that we have an honest difference of opinion here. I know the gentleman from Hawaii has long championed this bill. I recall the gentleman as a member of our committee. The gentleman has made his mark as a committee member of the Committee on Rules. I respect the gentleman's dedication to this cause, but I do not agree with the gentleman's logic.

Mr. BEARD of Tennessee. Mr. Chairman, will the gentleman yield?

Mr. DERWINSKI. I yield to the gentleman from Tennessee.

Mr. BEARD of Tennessee. Mr. Chairman, if we are going to compare and talk about equity, we have to look at the overall thrust of the bill. We might want to decrease the pay of the firefighter's salary, if we want to start comparing municipal firefighters on the Federal payroll versus municipal firefighters from Dickson, Tenn., or from Franklin, Tenn., or let us say the majority of other areas; so I am sure we could look at firefighters in the city of New York and it would make a very favorable comparison to the point the gentleman is trying to make; so I think we have to look at the overall thrust throughout the country.

Mr. DERWINSKI. Mr. Chairman, I think that is a valid point.

Let me point out to my good friend, the gentleman from Hawaii, the figures we have, and these have been supplied by the Civil Service Commission. They indicate that the maximum salary of Federal firefighters when it reaches the figure the gentleman quoted, at that point it is 125 percent of the national average. That obviously takes into account the scale of firefighters across the country, not just in highly paid areas such as New York and Chicago.

However, to correct the record, the gentleman from Hawaii put me on the defensive when he referred to figures in Chicago. I think the proper rebuttal is that the mayor of Chicago, Mayor Daley, is such a fine administrator that he is able to avoid the chaos that faces the municipal fathers in New York City. He allocates his resources in such a way to be very generous to the firefighters who, by the way, because of his generosity do not strike and are for the most part loyal members of the Daley team and part of the reason for the efficiency of the city of Chicago, which I grudgingly admit is a fact of life.

I think the gentleman from Hawaii

should really commend Mayor Daley for his expert administration of the city of Chicago, rather than using those figures as an argument for the bill.

Mr. HENDERSON. Mr. Chairman, I yield 10 minutes to the gentleman from Hawaii (Mr. MATSUNAGA), the author of the bill.

Mr. MATSUNAGA. Mr. Chairman, as the author of H.R. 4634, I am pleased to rise in support of this long-overdue legislation.

Its only intention is to bring the workweek of federally employed firefighters more closely into line with today's world. It would reduce the current 72-hour basic workweek to 54 hours per week, and assure that firefighters would suffer no reduction in pay as a result.

Over the last few years, Mr. Chairman, there has been much discussion about experiments with 35-hour weeks, even 32-hour weeks. It seems almost incredible that the House is considering today a bill to permit Federal firemen to work a reduced 54-hour week—but that is the situation.

Almost 11,000 of the 13,000 Federal firefighters are now working 72 hours a week, most of them in the Department of Defense.

They stand guard at air bases, veterans' hospitals, some civilian airports, and other Federal installations.

They face the same, and sometimes even greater, dangers than their municipal fire department counterparts. Yet for the past 20 years the Federal firefighter has been working a 72-hour week, about 1½ times as long as the week worked by his municipal counterpart. The average workweek in the 50 largest municipal departments, for example, is approximately 48.7 hours.

Furthermore, the Federal firefighter is not compensated for his longer hours by higher pay. Despite the figures submitted by the Civil Service Commission, all the data I have seen show that salaries in the two firefighting situations are comparable.

As of July 1, 1975, the total compensation for a federally employed senior engineer at Hickam Air Force Base in Honolulu could reach a maximum, including premium pay and noncontiguous cost-of-living allowance, of $16,341. It takes 18 years to reach that maximum.

His municipal counterpart in the Honolulu Fire Department, on the other hand, received $17,666—and could reach that grade in only 5 years. Comparable figures for hosemen showed the two employees within $100 of each other.

Yet the Honolulu firefighter works only 56 hours each week and is paid 1½ times his normal salary for any overtime he may put in, as well as special holiday pay.

Ironically, since Hickam is close to Honolulu International Airport, the two forces often find themselves fighting the same fire side by side.

Nor is Hawaii the only place where the inequity shows up. One firefighter who wrote to congratulate me on introducing H.R. 4634 had this to say:

> When I first began working, Federal firefighters worked a 60-hour week, and our neighbors, the Pennsylvania State police, were working an 84-hour week.
>
> Today, Pennsylvania State police are working a 40-hour week. Federal firefighters are working a 72-hour week. To add insult to injury, our brother firefighters in the city of Harrisburg are working a 56-hour workweek, and Capital City Airport is working a 48-hour workweek.

One further example: In New York State, with some 10 percent of the country's professional firefighters, the standard workweek is 40 hours.

For the convenience and information of the Members of the House, I have prepared and reproduced a chart showing the workweeks and pay scales for the 50 largest cities in the country.

For the Members who have not yet seen this chart, I would suggest that they get a copy from the desk and look at it. It compares the number of hours worked a week, the annual starting salary, the maximum annual salary, and the time required to reach the maximum, in each city. It lists, for example, New York City, with a 40-hour workweek, Buffalo, with a 40-hour workweek, and Rochester, with a 40-hour workweek. When we look at the salaries in the case of Buffalo, for example, by working 32 hours less a week the Buffalo firefighter makes $10,880 as a beginning salary and a maximum salary of $13,000. It takes him only 1 year to reach the maximum. The Federal firefighter, by working 72 hours a week, makes only $9,970, and a maximum of $12,963. It takes him, as I said earlier, 19 years to reach that maximum.

Mr. PATTERSON of California. Mr. Chairman, will the gentleman yield?

Mr. MATSUNAGA. I yield to the gentleman from California.

Mr. PATTERSON of California. I thank the gentleman for yielding.

I am looking at the statistics, and I will ask the gentleman, concerning these hours, particularly a 40-hour workweek, which includes an 8-hour workday, 5-day week, or a 4-day week at 10 hours a day, if it is not true that the fighters under the Federal service are working a 24-hour duty day rather than a workday?

Mr. MATSUNAGA. That is correct. As a matter of fact, most of the fire units still continue that practice.

Mr. PATTERSON of California. It seems to me, if the gentleman will yield further, that we might be comparing apples to oranges when we set a 72-hour workweek. It seems to me that is a duty week, because they sleep one-third of the time unless there is a fire, and they are working a period of time perhaps, and they have meals and perhaps other duties to attend to. I wonder if we are talking about a shorter workweek if we are going to compare an 8-hour day today in other fields.

Mr. MATSUNAGA. I am not that well versed with all of the cities named here, but I know for a fact that most of the cities still maintain the 24-hour tour of duty work schedule.

Mr. PATTERSON of California. I thank the gentleman.

Mr. MATSUNAGA. Mr. Chairman, I have with me a more complete survey compiled by the International Association of Firefighters, which has the same information for almost every city in the country, and I invite my colleagues to peruse it.

Mr. Chairman, in view of these facts, is it any wonder that good, young Federal firefighters are leaving the Federal service to work for municipal departments?

Is it any wonder that officials are finding it difficult to adhere to existing Federal personnel standards or to attract high quality firefighters to the Federal force?

Actually, I was hopeful that this problem had been resolved 2 years ago, when Congress enacted the Fair Labor Standards Act Amendments of 1974. That legislation extended several overtime provisions to all police and fire personnel, including Federal. Overtime was to be paid for all hours in excess of 60 as of January 1, 1975, with further phased reductions over the next several years.

The goal was to acquire overtime pay, commonly referred to as "time and a half," for hours worked in excess of 60. Two facts quickly became clear, however.

First, the Defense Department, which employs most of the Federal firefighters, had no intention of reducing the actual number of hours an individual firefighter would work. It would remain 72 hours a week, but DOD would pay each of them "overtime" for the extra 12 hours.

Second, the Civil Service Commission interpreted the law in such a way that paying 11,000 or more firefighters time and a half for 12 hours each week would not cost the Defense Department very much, only $1.25 or $1.30 an hour extra—a real bargain.

And how was this accounting magic accomplished? It centered around the receipt by firefighters of premium pay which amounts to either 22½ percent or 25 percent of their base pay.

The Civil Service Commission asserted that firefighters were already getting the equivalent of "straight time" for the 12 hours between 60 and 72 in the form of their premium pay. Therefore, the Commission argued, all that the Department of Defense needed to pay these employees was the extra "half" to make up the time and a half.

Incredible, but that is the reasoning the Civil Service Commission arrived at. Then they calculated the hourly rate in such a way that it barely exceeds the Federal minimum wage.

To make matters worse, since most installations schedule firefighters in 2-week cycles, 144 hours in 2 weeks rather than 72 hours in 1, taking a single 24-hour day off would cost the average firefighter 2 weeks of the meager overtime payments he could otherwise receive.

One 24-hour shift not worked would reduce the 2-week total from 144 to 120 hours or 60 per week and no overtime. Such fiscal slight of hand convinced me that the 1974 amendments were not a sufficient remedy for Federal firefighters.

That is why I reintroduced H.R. 4634, a bill which would reduce the firefighter workweek to 54 hours. Just as important, it would require that the base pay on which the time-and-a-half for overtime is calculated include premium pay.

I know this is a complicated issue, Mr. Chairman, but grasping the intricacies of the matter of premium pay is central to the merits of H.R. 4634, and I would like to explain briefly the concept of premium pay.

Premium pay is at the heart of the controversy. In addition to his base pay—usually GS-4, by the way, or GS-5 at the most for most firefighters—the firefighter receives a "premium pay" bonus of 22½ percent or 25 percent. H.R. 4634 would reduce the number of hours worked by Federal firefighters, and opponents of the bill do not really object to that. No, the core of their objection is that H.R. 4634 would retain present levels of premium pay for those reduced hours.

So the question arises: What is the purpose of paying premium pay to Federal firefighters?

Is it because they work 72 hours a week instead of 40, like other Federal employees?

In my judgment the fair answer to that question is "yes," but only partly. Premium pay compensates for long hours, to be sure, but it also compensates for shift work, for holiday overtime and, most importantly, for the hazardous nature of a firefighter's duties. It also compensates for the fact that firefighters must often work on Sundays; indeed, the amount of the differential is adjusted according to the number of Sundays a firefighter agrees to work.

Clearly, Mr. Chairman, Congress intended in the 1974 Fair Labor Standards Act Amendments that Federal firefighters be required to work fewer hours per week, and I cannot believe that Congress intended for that reduction in hours to be accompanied by a reduction in pay.

Passage of H.R. 4634 would simply correct an obvious misapplication of the 1974 law and put Federal firefighters more nearly on an equal footing with their municipal counterparts.

Mr. Chairman, this is a matter of equity, to correct a situation that has persisted too long. I urge the approval of H.R. 4634.

Mr. DERWINSKI. Mr. Chairman, I yield 3 minutes to the gentleman from Missouri (Mr. TAYLOR).

Mr. TAYLOR of Missouri. Mr. Chairman, this legislation is unnecessary, and should be rejected outright.

H.R. 4634 would statutorily set a 54-hour weekly tour of duty for Federal firefighters and would establish their legal entitlement to premium pay for standby duty at the maximum percentage allowed by law, 25 percent.

This would be inconsistent with the existing practices of agencies administratively determining the hours of work of their employees and of the Civil Service Commission establishing by regulation the rates of premium pay for varying tours of duty.

This would establish the Federal firefighters as a favored class of employees separate from other Federal employees who perform standby duty. Reducing their tour of duty from 72 hours to 54 hours without reducing their pay would amount to a 33⅓-percent increase in the rate of pay for Federal firefighters.

There is no basis for maintaining the higher rate of premium pay if the tours of duty are reduced. Rather, the percentage rate of premium pay should also be reduced to new percentage rates in which firefighters would qualify under Commission regulations.

This would be no different than a night shift employee being reassigned to the day shift and losing the night shift differential or an employee returning from a foreign area where a cost-of-living allowance was authorized.

Federal firefighters presently receive adequate compensation for the duties they perform. Section 5303 of title 5, United States Code, provides for the payment of special rates higher than those provided under the general schedule when the Civil Service Commission finds that pay rates for an occupation in a particular area are so substantially above the Federal pay rates as to handicap significantly the Government's recruitment and retention of well-qualified personnel in this occupation.

The necessity to establish special rates is thus a good indicator of whether or not Federal compensation practices—pay and hours—compete favorably with those of other employers at any given time.

I believe that the fact that no area within the contiguous 48 States currently warrants special rates for firefighters is persuasive evidence that the current combination of base pay and annual premium pay for standby duty is adequate compensation for their present 72-hour weekly tour of duty.

A recent review of the classification and pay practices in the Federal and non-Federal sectors conducted by the Civil Service Commission indicates that firefighters' duties in Federal and non-Federal activities are similar and that Federal firefighters are paid at higher rates than their non-Federal counterparts.

A comparison of salaries paid to municipal firefighters in cities of 10,000 or more as reported in the Municipal Yearbook of 1975, salary data as of January 1, 1974, with the salary levels—including the 25-percent differential for a 72-hour tour of duty—for Federal firefighters in effect in January 1974, reveals that the average minimum and maximum pay levels for Federal firefighters was somewhat higher than the national average of minimum and maximum pay levels for municipal firefighters. The rate for GS-4, step 1—the entry level for experienced firefighters—was 7 percent higher than the average entrance salary for municipal firefighters and the average of step 10 rates for GS-4 and GS-5 was 15 percent higher than the average maximum municipal salary.

This comparison of salaries as of January 1974 does not, however, include the effect of the additional overtime pay due Federal firefighters as of January 1975 under the Fair Labor Standards Act.

Adding this approximately 8-percent increase in total salary to the salaries of Federal firefighters and assuming the same relative differences in salaries from January 1974 to January 1975 indicates that experienced Federal firefighters now are paid approximately 15 percent higher minimum salaries and approximately 25 percent higher maximum salaries than are paid to municipal firefighters.

Mr. Chairman, the facts strongly argue against enactment of this unjustified legislation.

Mr. HENDERSON. Mr. Chairman, I yield 3 minutes to the distinguished gentlewoman from Maryland (Mrs. SPELLMAN), a member of our committee.

Mrs. SPELLMAN. Mr. Chairman, I, too, rise in support of this legislation, H.R. 4634, which will improve the basic workweek of our Federal firefighters. At present, the more than 12,500 firefighting personnel who are employed by the Federal Government work on the average 72-hours each week, consisting of three 24-hour shifts. In reducing their workweek to an average of 54 hours per week, this legislation makes the schedules of firefighters consistent with the nonovertime tour of duty established for them under the Fair Labor Standards Amendments of 1974 and consistent with the tours of duty established for most municipal firefighters throughout the country.

Under current law, most Federal firefighters qualify for the maximum percentage allowable by law—25 percent—based on their present 72-hour per week tour of duty. The annual premium pay is paid in lieu of overtime, night differential, Sunday, and holiday pay. For irregular, unscheduled hours in excess of 72-hours per week, firefighters are paid overtime compensation in accordance with the provisions of title 5, United States Code.

According to the committee's findings, Federal firefighters are subject to the overtime provisions of the Fair Labor Standards Amendments of 1976. As such, overtime payment for all hours in excess of 58 per week is required and most firefighters did receive some overtime during 1976.

H.R. 4634 in prescribing an average 54-hours workweek continues to authorize the payment of 25 percent of annual premium pay and also provides that for irregular, unscheduled hours of duty in excess of the average 54-hours per week, firefighters will be entitled to overtime pay.

Although the pay of the Federal firefighter is not being changed by this legislation, the requirement of a 54-hour workweek, by itself, will have no inflationary impact on the national economy.

As a member of the Post Office and Civil Service Committee which favorably reported this legislation to the floor of the House of Representatives by a recorded vote of 16 yeas—1 nay and 1 present on April 29, 1976, I ask my distinguished colleagues to join in correcting this inequity by reducing the workweek of our invaluable Federal firefighters and permitting them to continue their fine service.

Mr. DERWINSKI. Mr. Chairman, I

yield 5 minutes to the gentleman from Tennessee (Mr. BEARD).

Mr. BEARD of Tennessee. Mr. Chairman, I oppose this bill because it reduces the workweek of Federal firefighters from 72 hours to 54 hours without a reduction in premium pay. It thus grants them—and I think this is a key figure—an approximately 33⅓ percentage raise in annual pay.

Mr. Chairman, this raise is an outright gift to Federal firefighters which justifies similar demands by Federal employees everywhere.

The generosity of Congress is being requested through statistics which do not reflect the real working conditions or the present benefits enjoyed by these employees. The workweek which the bill proposes to shorten is indeed 72 hours, but the three 24-hour shifts each include an 8-hour sleeping period and an 8-hour standby period, in addition to 8 more hours of light work such as manning alarm rooms and doing firehouse chores.

Furthermore, Mr. Chairman, Federal firefighters enjoy preferential treatment with respect to retirement benefits. Retirement is allowed at age 50 with 20 years of service on an annuity equal to 50 percent of their high 3-year salary. This is nearly as generous as any Federal retirement formula.

Mr. Chairman, Congress would be rash in burdening the taxpayer with an estimated 5-year cost of over $246 million to make Federal firefighters still a more favored class of employees.

Mr. Chairman, I think the two important points are that no moneys at all are provided in the congressional budget resolution for this legislation, and also, in response to the fact that we are losing our Federal firefighters all too consistently to municipalities.

Mr. Chairman, I think that if the Members look at the register that is provided in the different areas by the Civil Service Commission, it will show that the availability is excellent or good to excellent in every major area of our country.

I just do not believe at this time, in view of the feelings of our constituents, considering the heavy burden of the economy these days, that the taxpayers are willing to grant a 33⅓ percent increase at this particular time. So. Mr. Chairman, I hope that the bill H.R. 4634 will be rejected.

Mr. MATSUNAGA. Mr. Chairman, will the gentleman yield?

Mr. BEARD of Tennessee. I yield to the gentleman from Hawaii.

Mr. MATSUNAGA. Mr. Chairman, I am sure the gentleman from Tennessee knows that in Nashville the firefighters work only 56 hours a week and receive $9,072 a year to begin with and reach a maximum of $12,168 within 6 years. Does the gentleman from Tennessee believe that the firefighters in Nashville are being overpaid?

Mr. BEARD of Tennessee. I would have to contact my colleague, the gentleman from Tennessee (Mr. ALLEN) from Nashville, to get his opinion on that. Dickson, Tenn., I can talk to you all day about.

Mr. MATSUNAGA. What does a firefighter in Dickson average, I might ask?

Mr. BEARD of Tennessee. It is much lower.

Mr. MATSUNAGA. How much lower? Does the gentleman know?

Mr. BEARD of Tennessee. I cannot tell the gentleman specifically but it is nowhere close to this. There are many men in Dickson and the Clarksville area on the municipal forces that would give their eyeteeth to be on the Federal firefighting force at Fort Campbell.

Mr. MATSUNAGA. Perhaps the firefighters in Dickson are being sorely underpaid.

Mr. BEARD of Tennessee. I think the point made by my colleague, the gentleman from Texas, is very appropriate in that we have been comparing apples and oranges. I think that point was well taken. As well as working with a different type schedule that we are talking about. I do not feel that at this particular time a 33⅓ percent increase should be permitted. Also, when we cut back on the manpower, will we hire more men? When we cut back on the hours, are we going to hire more men?

Mr. MATSUNAGA. Initially they will continue to work the 72 hours and merely draw overtime pay which the Civil Service Commission had denied them. Any overtime payment ought to be paid at 1½ times the usual. Does the gentleman from Tennessee not agree with that?

Mr. BEARD of Tennessee. That is the way they have it set up.

Mr. MATSUNAGA. The Federal firefighters are getting only one-half time for overtime pay.

Mr. BEARD of Tennessee. I would ask the gentleman from Hawaii, has the gentleman projected how much money for overtime that will be?

Mr. MATSUNAGA. The overtime would cost about $30 million a year.

The CHAIRMAN. The time of the gentleman has expired.

Mrs. SPELLMAN. Mr. Chairman, we have no further requests for time.

Mr. DERWINSKI. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, I have taken this time merely to support two points made by the gentleman from Tennessee (Mr. BEARD). The gentleman reminded the House that although they do work a 72-hour week, it is really in shifts of 24 hours. Of the 72 hours, 24 are allocated for sleeping time, 24 hours allocated for light work and only 24 hours are they actually on the line.

They put in only 2 hours a week in fighting fires or returning from fires, according to our records.

The other point I believe we should keep in mind is whether or not these jobs are going begging because the compensation is too low. But the answer to that is there are over three times as many applicants for projected vacancies. So obviously these positions are much sought after.

To sum it all up, I would refer the Members not to my own views, which the Members may find suspect, but the views of the Congressional Budget Office, which states this would treat Federal firefighters as a favored class of employees.

That is the comment from the Congressional Budget Office based on their analysis. I commend that statement to the Members.

Mr. Chairman, I have no further requests for time.

The CHAIRMAN. There being no further requests for time, pursuant to the rule, the Clerk will now read the committee amendment in the nature of a substitute recommended by the Committee on Post Office and Civil Service now printed in the bill as an original bill for the purpose of amendment.

The Clerk read as follows:

H.R. 4634

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) chapter 61 of title 5, United States Code, relating to hours of work, is amended by inserting after section 6101 the following new section:

§ 6102. Basic workweek of firefighters

"(a) The basic administrative workweek of each firefighter shall be an average of 54 hours per week, computed on the basis of a period of 3 consecutive biweekly pay periods. The duration and frequency of workshifts occurring within such period shall be determined under regulations prescribed by the Civil Service Commission.

"(b) For the purpose of this section, 'firefighter' means an employee in an Executive agency, the duties of whose position are primarily to perform or to supervise work directly connected with the control and extinguishment of fires or the maintenance and use of firefighting apparatus and equipment. Such term does not include any employee who has an administrative workweek of 40 hours which is established under section 6101(a) (2) (A) of this title.".

(b) Effective with respect to pay periods beginning after December 31, 1977, section, 6102(a) of title 5, United States Code, as added by subsection (a), is amended—

(1) by striking out "54 hours" and inserting in lieu thereof "the lesser of the prevailing number of hours or 54 hours"; and

(2) by inserting at the end thereof the following new sentence: "For the purpose of this subsection, 'prevailing number of hours' means one-quarter of the number of hours determined by the Secretary of Labor pursuant to section 6(c) (3) of the Fair Labor Standards Amendments of 1974 (29 U.S.C. 213 note) for tours of duty of 28 consecutive days.".

(c) (1) Section 5545 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

"(e) Except for irregular unscheduled overtime work, each firefighter with an administrative workweek established under section 6102(a) of this title shall be entitled, in lieu of premium pay provided by other provisions of this subchapter, to premium pay equal to 25 percent of so much of his annual rate of basic pay as does not exceed the minimum rate of basic pay for GS–10. For the purpose of the preceding sentence, 'firefighter' has the meaning given it in section 6102(b) of this title.".

(2) Section 5545(c) (1) of title 5, United States Code, is amended by inserting ", unless subject to subsection (e) of this section," after "shall receive".

(3) Section 5547 of title 5, United States Code, is amended by striking out "5545(a)–(c)" and inserting in lieu thereof "5545 (a)–(c) and (e)".

(4) Section 8331(3) (C) of title 5, United

States Code, is amended by striking out "section 5545(c) (1)" and inserting in lieu thereof "sections 5545 (c) (1) and (e)".

(d) The analysis of chapter 61 of title 5, United States Code, is amended by inserting after the item relating to section 6101 the following new item:

"6102. Basic workweek of firefighters.".

SEC. 2. The first section of this Act shall take effect at the beginning of the first applicable pay period which begins after December 31, 1976.

Mr. HENDERSON (during the reading). Mr. Chairman, I ask unanimous consent that the committee amendment in the nature of a substitute be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

Mr. DERWINSKI. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to remind the House that there are two reasons why we find a bill brought to the floor without amendments. One reason would be that the bill is a perfect measure and does not require amendments; the other would be the bill is such a bad bill that it cannot be amended. That is why we do not have amendments to offer.

Mr. MATSUNAGA. Mr. Chairman, will the gentleman yield?

Mr. DERWINSKI. I yield to my distinguished colleague, the gentleman from Hawaii (Mr. MATSUNAGA).

Mr. MATSUNAGA. I thank the gentleman for yielding.

The gentleman is inferring that there are no amendments because it is the former reason, I am sure? We are referring to the bill as a perfect bill?

Mr. DERWINSKI. I will say to the gentleman no, to the contrary.

The CHAIRMAN. There being no further amendments, the question is on the committee amendment in the nature of a substitute.

The committee amendment in the nature of a substitute was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. LEVITAS, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee having had under consideration the bill (H.R. 4634) to amend title 5, United States Code, to improve the basic workweek of firefighting personnel of executive agencies, and for other purposes, pursuant to House Resolution 1340, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

The question is on the amendment.

The amendment was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the bill.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. DERWINSKI. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 184, nays 204, not voting 43, as follows:

[Roll No. 604]

YEAS—184

Addabbo
Alexander
Allen
Anderson, Calif.
Annunzio
AuCoin
Baucus
Bauman
Beard, R.I.
Bennett
Bevill
Biaggi
Blanchard
Boland
Bolling
Bowen
Brodhead
Brown, Calif.
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burton, John
Burton, Phillip
Byron
Carney
Carter
Chappell
Chisholm
Conte
Corman
D'Amours
Daniels, N.J.
Davis
de la Garza
Delaney
Dellums
Dent
Drinan
Duncan, Tenn.
Eckhardt
Edgar
Edwards, Calif.
Eilberg
Fary
Fithian
Flood
Florio
Foley
Fraser
Frey
Fuqua
Gaydos
Giaimo
Gilman
Ginn
Gonzalez
Green
Gude
Hanley
Hannaford
Harrington
Harris
Hawkins
Hays, Ohio
Heinz
Helstoski
Henderson
Hicks
Hightower
Holt
Holtzman
Howard
Hungate
Jenrette
Johnson, Calif.
Jordan
Kazen
Koch
Krebs
Krueger
Leggett
Lloyd, Tenn.
Long, La.
Lott
Lundine
McCloskey
McCormack
McFall
Madden
Mathis
Matsunaga
Meeds
Melcher
Metcalfe
Meyner
Mezvinsky
Mikva
Mineta
Minish
Mink
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Morgan
Moss
Mottl
Murphy, Ill.
Murphy, N.Y.
Natcher
Nedzi
Nichols
Nix
Nolan
Nowak
Oberstar
O'Neill
Patten, N.J.
Pepper
Perkins
Pickle
Pressler
Price
Quillen
Rangel
Richmond
Risenhoover
Rodino
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Roybal
Runnels
Ruppe
St Germain
Santini
Sarbanes
Schroeder
Seiberling
Sikes
Simon
Skubitz
Solarz
Spellman
Spence
Staggers
Stanton, James V.
Stark
Steed
Stokes
Studds
Symms
Teague
Thompson
Thornton
Traxler
Tsongas
Udall
Ullman
Van Deerlin
Vanik
Vigorito
Walsh
Wampler
Waxman
Weaver
Whalen
White
Whitehurst
Wilson, Bob
Wilson, C. H.
Wolff
Wright
Yatron
Young, Alaska
Young, Ga.
Young, Tex.
Zablocki
Zeferetti

NAYS—204

Adams
Ambro
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Archer
Armstrong
Ashbrook
Ashley
Aspin
Bafalis
Baldus
Beard, Tenn.
Bedell
Bell
Bergland
Biester
Blouin
Boggs
Bonker
Brademas
Breaux
Breckinridge
Brooks
Broomfield
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burleson, Tex.
Burlison, Mo.
Butler
Carr
Cederberg
Clancy
Clausen, Don H.
Clawson, Del
Cleveland
Cochran
Cohen
Collins, Tex.
Conable
Cornell
Cotter
Coughlin
Crane
Daniel, Dan
Daniel, R. W.
Danielson
Derrick
Derwinski
Devine
Dickinson
Dodd
Downey, N.Y.
Downing, Va.
Duncan, Oreg.
du Pont
Early
Edwards, Ala.
Emery
English
Erlenborn
Eshleman
Evans, Colo.
Evans, Ind.
Fascell
Fenwick
Fish
Fisher
Flowers
Forsythe
Frenzel
Gibbons
Goldwater
Goodling
Gradison
Grassley
Guyer
Hagedorn
Haley
Hall, Ill.
Hall, Tex.
Hamilton
Hammerschmidt
Harkin
Harsha
Hechler, W. Va.
Heckler, Mass.
Hillis
Holland
Horton
Hubbard
Hughes
Hutchinson
Hyde
Ichord
Jacobs
Jarman
Jeffords
Johnson, Colo.
Johnson, Pa.
Jones, Okla.
Kasten
Kastenmeier
Kelly
Kemp
Ketchum
Keys
Kindness
LaFalce
Lagomarsino
Landrum
Latta
Lehman
Lent
Levitas
Lloyd, Calif.
Long, Md.
Lujan
McClory
McCollister
McDade
McDonald
McEwen
McHugh
McKay
McKinney
Madigan
Maguire
Mahon
Mann
Martin
Mazzoli
Michel
Milford
Miller, Calif.
Miller, Ohio
Mills
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Mosher
Murtha
Myers, Ind.
Myers, Pa.
Neal
Obey
O'Brien
Ottinger
Patterson, Calif.
Pattison, N.Y.
Paul
Pettis
Peyser
Pike
Poage
Preyer
Pritchard
Quie
Railsback
Regula
Reuss
Rhodes
Rinaldo
Roberts
Robinson
Roush
Russo
Ryan
Sarasin
Satterfield
Scheuer
Schneebeli
Schulze
Sharp
Shipley
Shriver
Shuster
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Stanton, J. William
Steiger, Wis.
Stratton
Talcott
Taylor, Mo.
Taylor, N.C.
Thone
Treen
Vander Veen
Waggonner
Whitten
Wiggins
Wilson, Tex.
Winn
Wirth
Wydler
Wylie
Yates
Young, Fla.

NOT VOTING—43

Abdnor
Abzug
Badillo
Bingham
Brinkley
Clay
Collins, Ill.
Conlan
Conyers
Diggs
Dingell
Esch
Evins, Tenn.
Findley
Flynt
Ford, Mich.
Ford, Tenn.
Fountain
Hansen
Hayes, Ind.
Hébert
Hefner
Hinshaw
Howe
Jones, Ala.
Jones, N.C.
Jones, Tenn.
Karth
O'Hara
Passman
Randall
Rees
Riegle
Rousselot
Sebelius
Sisk
Steelman
Steiger, Ariz.
Stephens
Stuckey
Sullivan
Symington
Vander Jagt

The Clerk announced the following pairs:

On this vote:

Ms. Abzug for, with Mr. Howe against.

Mr. Badillo for, with Mr. Hébert against.

Mrs. Collins of Illinois for, with Mr. Passman against.

Until further notice:

Mr. Bingham with Mr. Abdnor.

Mr. Jones of Tennessee with Mr. Conlan.

Mr. Stuckey with Mr. Hansen.

Mr. Sisk with Mr. Jones of North Carolina.

Mr. Hayes of Indiana with Mr. O'Hara.

Mr. Fountain with Mr. Rees.

Mr. Ford of Tennessee with Mr. Rousselot.

Mr. Clay with Mr. Steelman.

Mr. Diggs with Mrs. Sullivan.

Mr. Ford of Michigan with Mr. Esch.

Mr. Dingell with Mr. Sebelius.

Mr. Evins of Tennessee with Mr. Steiger of Arizona.

Mr. Jones of Alabama with Mr. Symington.
Mr. Randall with Mr. Findey.
Mr. Brinkley with Mr. Vander Jagt.
Mr. Conyers with Mr. Karth.
Mr. Flynt with Mr. Riegle.
Mr. Stephens with Mr. Hefner.

Mrs. BOGGS, Mr. RAILSBACK and Mr. RUSSO changed their vote from "yea" to "nay."

Mr. SYMMS changed his vote from "nay" to "yea."

So the bill was rejected.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. HENDERSON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and to include extraneous matter, on the bill just considered.

The SPEAKER. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

CLEAN AIR ACT AMENDMENT OF 1976

Mr. ROGERS. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 10498) to amend the Clean Air Act, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from Florida (Mr. ROGERS).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 10498, with Mr. ROUSH in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from Florida (Mr. ROGERS) will be recognized for 1½ hours, and the gentleman from Kentucky (Mr. CARTER) will be recognized for 1½ hours.

The Chair recognizes the gentleman from Florida (Mr. ROGERS).

Mr. ROGERS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I am pleased to present to this body H.R. 10498, the Clean Air Act Amendments of 1976. This measure is the product of nearly 18 months of careful subcommittee and committee deliberations and study. More than 60 subcommittee markups were held on this bill, and the full committee met 20 times to consider it.

As the Members recall, it has been more than 6 years since Congress enacted the Clean Air Act of 1970, a truly landmark piece of legislation. The act was designed as a Federal-State partnership to protect the public from dangerous air pollution. The clean air bill employs federally set national air quality standards with emission standards being developed and enforced by the State governments.

Events of the past 6 years have confirmed the importance of reducing air pollution where it exists and preventing it where it does not. Emergencies such as in Pittsburgh in 1975 or in Birmingham in 1970 seized our attention. But there are fewer headlines alerting us to the serious health and welfare effects of everyday levels of industrial pollution. Increasingly, evidence compiled by the National Academy of Sciences, as well as other organizations, demonstrates that there are potential serious health dangers from air pollutants at levels at and far below the supposedly safe standards set by the EPA. Similarly, there are perhaps 200 to 300 harmful substances in the air for which sufficient data are not yet available on which to base firm health standards. We do know, however, that proven cancer-causing agents now have been reported in the ambient air. These include arsenic, polyvinyl chloride, organics, and nitrosamines, the latter perhaps the most deadly carcinogen known to man.

Clearly, continued strong action is needed to protect the public health and welfare, and that is the basis of the legislation we present to the Members today—the protection of the public health and welfare.

It is equally clear that over the past few years our Nation has been beset by serious economic and energy problems, these factors have presented a new challenge requiring midcourse adjustments in the 1970 Clean Air Act, adjustments which will help assure our Nation's continued economic growth and vitality.

During the committee's lengthy deliberations on these amendments we heard widely divergent demands for changes in the law. There were those on one hand who argued for air pollution cleanup without concern for cost. Opposing them, of course, were those who, disregarding health and environmental concerns, would roll back the progress we have won over the past 6 years.

The committee bill rejects the arguments of both these extremes. Under the committee bill public health protections are not abandoned. The committee bill recognizes that we must continue to move forward to clean up existing air pollution and to minimize significant, new air pollution problems.

But the committee recognizes that our Nation's economic, industrial, and energy resources are limited. Therefore, meeting our necessary clean air goals will take longer than we had originally planned and required under the 1970 act.

Here are just a few examples of provisions balancing environmental goals with other social needs of the Nation:

Sections 103, 106, and 112 authorize extensions and variances for industrial polluters where necessary, including where technology is not available, to allow a plant to develop and use new technology or to convert to burning coal;

Section 203 defers until 1980—potentially as late as 1985 in the case of nitrogen oxides—final, new-car emission standards. Even though we should have them in 1975, this gives them an extension;

Section 202 authorizes, where necessary, extensions of currently unfeasible transportation controls for States and localities;

The Administrator's authority to require State and local governments to control parking lots, shopping centers; and

Section 108, prevention of significant deterioration, restores broad authority to the States, and this is a very important point. We take authority away from EPA and give it to the States for determining the future air quality in presently clean-air regions.

It, in effect, repeals EPA's authority to veto on substantive grounds the States' classification decisions, and I think Members will welcome that approach.

Section 115, authorizes State variances to permit continued industrial development in presently polluted areas, while simultaneously continuing progress toward meeting health and welfare standards.

Other important sections include:

Section 102, which assures a precautionary, preventive approach to standard setting under the act, but requires the Administrator to have a reasonable basis for his standards.

Section 107, which provides for a comprehensive study of the stratosphere, including the ozone layer which shields the Earth from excess cancer-causing radiation, and which authorizes regulatory action, if it is needed, to protect the public health and to preserve a safe, productive natural environment.

Section 111, requiring the Administrator to revise the current lax new source performance standards so those performance standards actually reflect the pollution reductions that can be achieved by the best technological systems of continuous emission reduction. In determining which are the best systems of control—and I think Members will be interested in this—the Administrator is directed to consider costs, energy requirements, and other nonair environmental impacts. The present act does not require consideration of energy impacts, and this is a change which I think Members will agree to.

Section 204, establishes long-range emission standards for new heavy duty trucks in 1985 and beyond.

So the committee bill retains and strengthens the primacy of the commitment of the act to public health protection and to preservation of the environment. But within that basic commitment the committee bill emphasizes these significant concerns:

The need for greater State and local authority over clean air programs; and I think that is a most significant part of this bill giving greater authority to State and local authorities.

The need to assure proper consideration of the costs of cleaning the air in a reasonable and balanced approach.

The need to give greater recognition to energy needs of the Nation.

As you know, public attention has

focused primarily on two sections: Section 203—auto emission standards—and section 108—prevention of significant deterioration of clean air.

First, let me discuss the automobile standards. The administration proposed a 5-year freeze of current hydrocarbon and carbon monoxide standards, and the complete abolition of the congressionally established nitrogen oxide standard in favor of a presently undetermined standard to be set by administrative action set not by the Congress, but by the bureaucracy. These proposed delays would be in addition to 3 years of delay which have already been granted under existing law.

The auto companies have had 3 years of delay now, so that the actual proposal of the administration would result in 8 years of delay.

Opposition to any further delay was heard from the National Association of Counties. The counties said, "We do not want them to continue to pollute our areas from Detroit."

The National League of Cities said, "We do not want these relaxations either, and we want you to hold the emission standards firm and tight."

Opposition to the 5-year delay of auto standards was also heard from the U.S. Conference of Mayors, numerous State Governors, and air pollution control administrators.

The American Medical Association said that it would have an adverse effect on health.

Likewise, opposition was heard from the American Lung Association, the American Public Health Association, and a large variety of commercial interests.

Mr. CARTER. Mr. Chairman, will the gnetleman yield?

Mr. ROGERS. I yield to the gentleman from Kentucky.

Mr. CARTER. Mr. Chairman, I would ask the gentleman from Florida if it is not true that the letter the gentleman received from the American Medical Association was written by his assistant and sent to the representative of the AMA and then signed by the president of the AMA and sent back? Is that correct?

Mr. ROGERS. I am certainly not aware of it and I do not know of anyone who is going around writing the AMA's letters.

Mr. CARTER. The gentleman did not have that letter written?

Mr. ROGERS. I did not have that letter written.

Mr. CARTER. I want to thank the gentleman for his information.

Mr. ROGERS. I never heard of that.

Mr. CARTER. I thank the gentleman.

In evaluating the present new car standards the committee balanced public health, technological feasibility, consumer cost, fuel economy impacts and the extent to which further delay would necessitate more transportation controls and more control of shipping centers and parking lots. Not surprisingly, the committee recommendation falls between those who would retain present standards and those who would delay those standards for 5 more years or longer or abolish those standards. The committee proposal would freeze for 3 years the standards for hydrocarbons and carbon monoxide. Nitrogen oxide standards would be frozen for at least 4 years, with final control of NO_x being delayed—a total of 8 years—until as late as 1985 if necessary because of fuel economy problems or technological infeasibility.

Since the remaining questions about fuel economy and emission standards relate primarily to NO_x control, this waiver provision will assure that the congressionally mandated fuel economy standards will not be compromised by emission standards. In fact, a joint FEA-DOT-EPA study confirms that the emission standards in the committee bill can be met while achieving national fuel economy goals. The validity of this projection was underlined by the recent announcement that Volvo will sell in California in 1977, a 3,500-pound car using an American-built three-way catalyst to meet the full 90-percent reduction standards for all three pollutants for 50,000 miles. This 90-percent reduction was achieved with a 10-percent improvement in fuel economy.

Mr. DINGELL. Mr. Chairman, would the gentleman yield?

Mr. ROGERS. Mr. Chairman, I would prefer if the gentleman from Michigan would permit me to finish my statement because I know we will get into a discussion on this later. However, I will be glad to yield to the gentleman from Michigan if the gentleman would prefer, at this time? Or would the gentleman prefer me to complete my statement? I would be glad to yield to the gentleman at this time if the gentleman would prefer.

Mr. DINGELL. No; Mr. Chairman, I would defer to the gentleman from Florida in order to complete his statement. I just wanted the gentleman from Florida to know I strongly disagree with him.

Mr. ROGERS. I thought the gentleman might.

Mr. DINGELL. The gentleman does disagree with him.

Mr. ROGERS. Mr. Chairman, let me emphasize NO_x control is a pressing public health need—from automobiles as well as from powerplants and other stationary sources. NO_x emissions contribute to the formation of NO_2, oxidants, nitrates, nitrites, nitric acid and nitrosamines.

Of course, despite the balance and flexibility of the committee compromise, amendments will be offered to this section. One would tighten the standards. This is the Waxman/Maguire amendment. The other, the Dingell amendment, would grant further delays and abolish the nitrogen oxide standard. I think this only demonstrates that the committee proposal is a balanced, reasonable approach. Let me point out that Leonard Woodcock of the United Auto Workers has denied industry's charge that the committee standards and deadlines are unreasonable. In fact, Woodcock has stated that the bill is "feasible from an engineering standpoint in the time frame specified."

I would like to focus on section 108, "prevention of significant deterioration," the other provision that I think is probably the most controversial along with the auto section. This issue is how much dirtier should we allow our air in clean air areas to become, and who should make the decision? The committee recognized that section 101(b) of the Clean Air Act which was enacted as part of the 1967 act requires that air quality which is superior to national primary and secondary ambient standards be protected and prevented from significant deterioration. That was the holding of the courts in 1972, and that decision, as I am sure the Members saw in the paper yesterday, was affirmed by the U.S. Court of Appeals for the District of Columbia; but that act does not clearly spell out a nationally uniform process by which the air quality of clean air regions will be preserved.

Section 108 of the committee bill spells out such a process and seeks to advance several underlying purposes.

These purposes include: Protecting the public from harmful increases in pollution;

Providing adequate air resources for long-term industrial and energy development in all regions while minimizing increased health risks;

Maximizing States' rights and responsibilities while minimizing Federal agencies' involvement;

Protecting air quality over certain national lands, particularly national treasures such as the Grand Canyon, and Yellowstone;

Insuring informed public participation in State and local decisions on how to balance health, welfare, economic, and energy needs; and

Quickly settling by congressional action current uncertainties surrounding this issue.

In other words, instead of allowing the issue of significant deterioration to be in limbo and allowing uncertainty in the court process, we set here in the law the congressional intent on how significant deterioration is to be prevented. This sets the issue at rest, so people will know with certainty what can be done.

The committee considered several options, including simply leaving the act and current EPA regulations unchanged. But the committee firmly believes that Congress must settle these disputes now. Prolonged litigation must be ended, and Congress—not EPA and the courts—must bring it to an end now. This will be done in the bill.

The administration originally proposed abolishing completely the current act's policy of preventing significant deterioration. The committee soundly rejected this proposal. While this approach would end the uncertainty surrounding this issue, it completely fails to recognize the other national policy considerations—health, welfare, and economics—which I previously outlined. This "head in the sand" approach would convert the national ambient standards, which the 1970 act intended as a ceiling to be achieved by dirty areas, into a floor for the entire Nation. It would mean that before long, the entire country—from coast to coast, even the national parks—would be as polluted as some major urban, industrial areas.

Abolishing the policy of prevention of significant deterioration would ignore the commonsense that in the long run it is cheaper and more effective to prevent a problem before it arises than to cure the problem later. Abolishing that policy would also lead to long-term growth curtailment as limited air resources are quickly used up by a few large polluters who fail to use the best technology available on their new plants.

The committee rejected the administration's proposed repeal, just as it turned away from other unreasonable extremes, which would lock up clean air areas and ban further industrial and economic growth. We do not think that should be done.

The committee chose a middle ground to encourage clean growth. The proposal protects public health and welfare, and assures availability of future air resources for continuing industrial and energy development. It does so by establishing a process in which State and local governments are authorized to make the classification decisions—not EPA.

The committee bill permits and encourages continued economic growth for the Nation. Studies by both FEA and EPA demonstrate that under the significant deterioration provisions of H.R. 10498 even class II pollution limits would provide for substantial heavy industrial and energy development.

There are 3 classes, I, II, and III, but even class II would provide for substantial heavy industrial development. Twice as much development would be allowed in a class III area. In fact, studies spanning more than 9 months and costing more than $1 million have led EPA to conclude:

> The House significant deterioration proposal will not prevent the construction of major industrial facilities . . . under a three-class increment plan (. . . as provided for in the House bill . . .), all planned new sources would be able to build if desired by the States, provided that they do not violate the existing national ambient air quality standards.

This analysis included electric utilities, pulp and papermills, oil refineries, synthetic fuel plants, and copper smelters. Furthermore, the cost of the proposal is quite modest. EPA has concluded that—

> The major economic impact of the House proposal will be on the electric utility industry . . . (T)he House proposal would increase the industry's capital requirements over the next fifteen years by a maximum of $11.6 billion . . . A maximum increase of 2.7% . . . (T)he consumers' average annual electricity bill in 1990 would increase by a maximum of about 2.3%.

FEA projects the average consumer electric bill will increase by 0.6 percent to 1 percent by 1990.

Someone on the Rules Committee said: "I would settle for that if we could do it right now and hold inflation at that point."

So you can see that the committee provision is balanced and reasonable. Let me cite one further example of this balance and reason.

Under current EPA regulations, an ambient standard is considered to be exceeded only if the second highest measurement during a year exceeds that standard. In other words, the highest reading is disregarded. Under the committee's provision on prevention of significant deterioration, the highest actual measurement or computer model calculation also would be disallowed.

There is widespread public recognition of the careful balancing contained in this section. Here are just some of the endorsements that the committee's proposal has received:

First, the National Governors' Conference—the Governors themselves; the State and territorial air pollution program administrators, those who administer the State programs; the National League of Cities, the cities are in accord with this approach; the U.S. Conference of Mayors, and the National Council of State Legislatures, where we have the people who represent those areas.

The National Association of Counties, the county governments; the National Association of Home Builders, the people who have to go out and build the homes; they say this is a good position and support it.

Then we have the National Association of Realtors, the people whose livelihood depends on being able to sell houses and have growth, they support the committee position; the industrial parks and shopping center developers, who build new industrial parks and shopping centers, they support the committee bill; the United Steel Workers do not want to have to do without a job. They support the bill, including significant deterioration, and they would not support it if it would put people out of work.

Other supporters of the committee position include the United Mine Workers; the American Retail Federation, these are the retail stores of America with some 12 million employees; the National Parking Association; and the American Lung Association. These are just a few examples of some of the people in strong support of the committee bill.

Now, I am sure, despite this broad support, amendments likely will be offered to section 108. This is to be expected. Some wish to strengthen the section by sharply reducing the amount of pollution allowed and by restricting State discretion over these decisions. Others will propose, probably, to strike the section in favor of yet another study, in spite of the fact we have had between $1 million and $2 million worth of studies already.

I believe that each of those approaches would be unwise, because the committee bill is balanced. It provides for fair and open State and local decisionmaking. It would be unwise to increase Federal controls and restrict State authority.

Similarly, calls for further delays and study while maintaining in force current EPA regulations, which is proposed by the Chappell amendment, are merely a smokescreen, because since 1972 more than 44 separate studies from government and industry have been conducted on this issue, various policy approaches to it, and present congressional proposals. Over $1.5 million to $2 million has already been spent by EPA and FEA studies in studying this issue. Further delay will only result in continued uncertainty as to congressional intent, and further time-consuming litigation will result.

Now, by leaving the EPA regulations in force, the Chappell amendment would leave to the courts and to the EPA the job of fashioning ultimate policy, without further congressional guidance. The committee rejects such an approach as both unnecessary and unwise, and unfair to both industry and the States.

In fact, last week the chairman of the National Governors' Conference, Governor Cecil Andrus, informed me of the Governors' support for the committee's proposal for preventing significant deterioration, without amendments.

Further, on July 5, 1976, the Governors' conference overwhelmingly adopted a resolution opposing any further delays in congressional action, such as proposed by the Chappell amendment.

Mr. Chairman, I might add that the other body rejected such delays and such further studies by an overwhelming vote in that body, as of yesterday.

So, Mr. Chairman, the committee has produced a balanced bill. We have permitted waivers. We have allowed extensions. We have written in flexibility to consider the economy and energy and the technological knowledge available to meet goals and standards. We take into account the resources that are available. We even allow for delays caused by strikes.

Some people have said that the 1970 act asked too much, but I do not think it asked too much. Perhaps we asked for healthier, cleaner air, too soon.

But I make no mistake about this legislation. Its main thrust is clear, to clean up the pollution in the air, to restore healthy air and protect clean air where it still exists. I think this is each American's birthright.

The primary objective, premise and foundation of the Clean Air Act remains under this bill the protection of the health of the American people. That we committed ourselves to in 1970, and we should retain that commitment today.

As we well know, the National Cancer Institute and, indeed, authorities around the world have estimated that as much as 80 to 90 percent of all cancers are environmentally related. I think we will see even more evidence of this in the coming years, as we more fully develop the ability to detect this.

When we speak of protecting the public, we are also talking about protecting ourselves, protecting the men and women who work with us and protecting the future generations.

Mr. Chairman, I believe this act, and these amendments, achieve two goals: We are progressing to clean the air and, thus, improve our environment, an environment which is vitally important to our productivity. Second, we are progressing along a course which is reasonable and which considers our other needs: economic, energy, and growth.

Mr. Chairman, I believe in this legislation we have reached a balance. I think we all have a responsibility to help, for protection of the public health and preservation of clean air are national goals to which we should all pledge our support. I would urge all my colleagues to help through their support of this bill.

Mr. CHAPPELL. Mr. Chairman, will the gentleman yield?

Mr. ROGERS. I am delighted to yield to the gentleman from Florida.

Mr. CHAPPELL. Mr. Chairman, would the gentleman explain to the committee whether or not we have, at the present time, a policy with reference to nondegradation?

Mr. ROGERS. There is such a policy in the present law, that has just been upheld again by the courts saying, "You should not have significant deterioration of the air." The decision of how to implement this policy has been made by the EPA. In the committee bill we try to change EPA's regulations to let the States have a greater say-so.

Mr. CHAPPELL. But, is the gentleman saying then, "Yes, we do have a policy of nondeterioration?" By whatever method we obtained it, there is one today, is that not correct?

Mr. ROGERS. Yes, approved through the courts.

Mr. CHAPPELL. So, whatever method we have——

Mr. ROGERS. If the gentleman will let me, on my own time, explain things to him, I will be happy to do so.

Mr. CHAPPELL. I would be delighted.

Mr. ROGERS. We are having policy set by administrative agencies and courts. Industry has come in and said, "We need to know a definite policy." The committee has responded.

Mr. CHAPPELL. Would the gentleman tell the House whether or not, at the present time, the EPA has implemented that policy of nondegradation?

Mr. ROGERS. They are doing it, and court suits are coming about because there are no clear statutory guidelines.

Mr. CHAPPELL. The gentleman, I think, would agree that if we pass this bill, it is not going to guarantee any freedom from lawsuits. Would the gentleman agree?

Mr. ROGERS. No, I do not agree, because the bill lays out the process on how to prevent significant deterioration and turns the basic classification decision over to the State and local governments, where it ought to be.

Mr. CHAPPELL. Now, if section 108, even if it were completely deleted—which I certainly am not attempting to do—but if it were completely deleted from the bill, would not there remain in existence in our Nation a policy of nondegradation?

Mr. ROGERS. We do not know how the policy would be implemented because the regulations are subject to review by the courts. We do not want people who go in to build a factory or try to expand to be challenged in court every time they want to do something. In other words, we want to set a congressional policy that people can understand. State and local decisionmaking can implement the process and not just allow veto of substantive State decisions by the Federal Government. I think the gentleman would basically agree with that approach.

Mr. CHAPPELL. No, I would not.

Mr. ROGERS. I am sure the gentleman believes in State control.

Mr. CHAPPELL. I will wait for my own time to reply.

Mr. BROYHILL. Mr. Chairman, will the gentleman yield?

Mr. ROGERS. I yield to the gentleman from North Carolina.

Mr. BROYHILL. Would the gentleman not agree with me that the court case he referred to was by a split decision of the Supreme Court? And second, that another case is presently on its way to the Supreme Court to ask for a definitive decision, and that the courts have not made a definitive decision on this matter?

Mr. ROGERS. I would say that the Supreme Court's action is pretty definitive, even though it may have been a split decision. That is the law of the land which upheld a lower court.

We just had a unanimous decision by the court of appeals here 2 days ago, confirming what they did before. So I think it is without question that the present act requires the prevention of significant deterioration.

Mr. BROYHILL. Is it not a fact that that case is on the way to the Supreme Court?

Mr. ROGERS. I do not know that as a fact.

Mr. BROYHILL. I know they have had a unanimous decision.

Mr. ROGERS. I would think it would be a rather useless waste of time, perhaps, to take a unanimous court of appeals decision that has gone up once before and has been upheld.

Mr. BROYHILL. Can the gentleman in the well point to anywhere in the present Clean Air Act where it gives the power to the administrator to promulgate regulations calling for a classification system imposed on the States for air quality?

Mr. ROGERS. Yes. It is stated in the court decision.

Mr. BROYHILL. Can the gentleman point to the specific authority in the bill?

Mr. ROGERS. Yes. Section 101(b) of the act would prevent significant deterioration.

Mr. BROYHILL. The specific authority granted to the administrator I can find nowhere in this act.

Mr. ROGERS. I can refer the gentleman to the court decision.

Mr. SATTERFIELD. Mr. Chairman, will the gentleman yield?

Mr. ROGERS. I yield to the gentleman from Virginia.

Mr. SATTERFIELD. I thank the gentleman for yielding.

I want to pick up on that point, because I read that decision and I am interested in the gentleman's statement that the problem we have today is that the courts are establishing policy.

Is it not a fact that the District Court for the District of Columbia, the court which rendered the decision, created this policy and in this bill we would be confirming a policy which the court has made out of whole cloth?

Mr. ROGERS. No. What we are doing is we are setting congressional intent, clearing up the matter, and giving the classification decisions to the State. I would hope the gentleman would support that, because I know he is a good States righter.

Mr. SATTERFIELD. Is it not a fact that the District Court for the District of Columbia predicated its entire decision on only three words in a finding and purpose paragraph of the 1970 amendment?

Mr. ROGERS. I think that is correct. The complete basis is stated in the court decision.

Mr. SATTERFIELD. Those words were "to protect and enhance," and the court ignored the remaining part of that paragraph which is to protect and enhance the quality of the Nation's air resources so as to protect the public health and welfare and the productive capacity of the Nation.

Mr. ROGERS. That is right. And the Supreme Court agreed that these words required prevention of significant deterioration.

Mr. SATTERFIELD. If the gentleman will yield further, the Supreme Court neither confirmed nor denied it, because it was a tie decision, which means no decision.

Mr. ROGERS. We have just had it reconfirmed here by a unanimous decision of the Court of Appeals the day before yesterday.

Mr. SATTERFIELD. If the gentleman will yield further, would the gentleman really expect the court which made the decision in the first place, and the Circuit Court of Appeals for the District of Columbia which confirmed the original decision, would reverse themselves now? I would not.

Mr. ROGERS. I know that the gentleman, being the particularly fine lawyer he is, supports the law of the land until it is overturned by the Court.

Mr. SATTERFIELD. Of course, I support the law of the land. And the best way to support the law of the land is to reject the significant deterioration provision in this bill.

Mr. ROGERS. What we are saying is we should establish clear congressional intent that EPA is not going to be primarily responsible. We should let the States do more.

Mr. SATTERFIELD. I do not know how the gentleman can say we "let the States do more" when this bill, so far as sulfur dioxide and particulates are concerned, would tell the States what they must do, and which would also require significant deterioration standards as to all other pollutants at least as stringent.

Mr. ROGERS. All we are saying is that we must look at these pollutants that are cancer-causing and set the standards, and the States can set the classification one or two or three. It is their judgment.

Mr. SATTERFIELD. I trust we will get into this later.

I thank the gentleman.

Mr. BROWN of California. Mr. Chairman, will the gentleman yield?

Mr. ROGERS. I yield to the gentleman from California.

I offer this amendment as a third alternative to the arbitrary reduction of primary standards as provided in section 108.

Primary standards are to protect the Nation's health. According to section 109 of the 1970 act, this standard is to reflect an adequate margin of safety. Should there be a need for reduction of this standard, section 110 of these amendments provides for a review of standards every 2 years. In other words, every 2 years, the Administrator is to review all relevant scientific data and testimony to determine whether the standards do reflect that adequate margin of safety. This authority should take care of any fears my colleagues might have concerning the accuracy of the primary standards in question.

Mr. BROWN of California. I thank the gentleman for yielding.

I personally feel that the gentleman has brought to the floor one of the finest bills that could be brought to the floor at this time. I have my own differences with it, but the very point that is being criticized I think is part of the strength of the bill. The fact that the State and local governments will now have a much higher input into this process is of a particular importance to the State of California. We are a State which is heavily polluted, and we look forward to exercising the discretion granted in this bill.

If I have any dissatisfaction with the bill, it is that it has not been significantly strengthened, contrary to the position expressed by the gentlemen who spoke before me. But on balance, I think that the chairman of the subcommittee is to be thoroughly complimented for his great work and the statesman-like way in which the subcommittee and the chairman have handled the many problems raised by the legislation.

Mr. ROGERS. Mr. Chairman, I thank the gentleman from California (Mr. Brown) for his kind remarks. We all know of the gentleman's dedication to trying to clean up the air for the health of the American people.

Mr. CHAPPELL. Mr. Chairman, will the gentleman yield?

Mr. ROGERS. I will yield only briefly to the gentleman from Florida.

Mr. CHAPPELL. Mr. Chairman, will the gentleman tell us whether or not the EPA has promulgated rules and regulations which do the very same thing with reference to classification as has been done in this bill?

Mr. ROGERS. No, there are significant differences.

Mr. CHAPPELL. Will the gentleman tell us what those differences are?

Mr. ROGERS. Yes. Mr. Chairman, if the gentleman will permit me to say this, I have other Members who have asked for time to speak. We will get into this discussion when the amendments are offered, and at that time I will be glad to point those differences out.

Mr. CHAPPELL. Mr. Chairman, I want to thank the gentleman for yielding, and I will say that while I disagree with portions of the bill, the gentleman from Florida (Mr. Rogers) is to be commended and his committee is to be commended for their work. I join with the gentleman from California (Mr. Brown) in commending the gentleman and the committee for the fine work that was done. I do happen to disagree with some of the provisions, and I think the debate will bring out some of the discrepancies and some of the weaknesses that we find in the bill.

Mr. ROGERS. I thank the gentleman for his remarks, and I respect his position.

Mr. Chairman, I wish to bring specific attention of the Members of the House to three important endorsements of the committee bill from both labor and industry.

First, this afternoon the American Federation of Labor-Congress of Industrial Organizations strongly endorsed the Commerce Committee's clean air amendments, H.R. 10498. The AFL-CIO urged "that you resist all crippling amendments to this legislation now before the House of Representatives." Mr. Biemiller went on to say:

> I wish to inform you of our strong support for H.R. 10498—the 1976 amendments to the Clean Air Act.

Previously, H.R. 10498, including the section on prevention of significant deterioration, was endorsed by the United Steelworkers of America. With specific regard to the committee's proposal on prevention of significant deterioration, the steelworkers stated:

> We support the significant deterioration provision in the bill because it will not impede economic development.

Finally the National Association of Homebuilders—writing on behalf of the more than 76,000-member firms in 603 local associations—have endorsed the committee bill. Speaking of section 108—prevention of significant deterioration—the homebuilders stated:

> The provisions of H.R. 10498 which deal with the subject are fair and reasonable in their content and scope. . . . (W)e feel that H.R. 10498 grants sufficient protection to areas of critical environmental concern while permitting adequate development in these areas which will be designated Class III.

I ask that the text of the AFL-CIO endorsement letter be printed in the Record at this point and that all Members follow these great organizations' leadership in supporting H.R. 10498 without amendment:

AFL-CIO,
Washington, D.C., August 4, 1976.

Hon. Paul G. Rogers,
U.S. House of Representatives,
Washington, D.C.

Dear Congressman Rogers: On behalf of the American Federation of Labor and Congress of Industrial Organizations I wish to inform you of our strong support for H.R. 10498—the 1976 amendments to the Clean Air Act.

We urge that you resist all crippling amendments to this legislation now before the House of Representatives.

Sincerely yours,
Andrew J. Biemiller,
Director, Department of Legislation.

The CHAIRMAN. The gentleman from Florida (Mr. Rogers) has consumed 43 minutes.

Mr. CARTER. Mr. Chairman, I yield such time as he may consume to the distinguished gentleman from North Carolina (Mr. Broyhill).

Mr. BROYHILL. Mr. Chairman, I believe that our Nation's environmental policy should be carefully balanced, keeping employment, economic, and energy considerations in mind. Of course, serving all these needs simultaneously is difficult, but it is necessary to do that.

It is my judgment that the committee has failed to walk this tightrope and has reported amendments to the Clean Air Act which will severely limit the economic development which is going to be required in this country in order to create new jobs in the years ahead. In my judgment, numerous amendments and changes are needed to adjust this measure so that its provisions will not threaten the other legitimate and important national concerns and social goals that all of us have.

In the first place, if I may enumerate some of the concerns I have with provisions in this bill, I will join with my colleague, the gentleman from Michigan (Mr. Dingell), to offer an amendment to the auto emissions section which I feel will provide a more sensible and steady progress toward reduced automobile emissions without jeopardizing economic recovery. This approach the gentleman from Michigan (Mr. Dingell) and I are taking reflects the positions that have been taken by the Administrator of the Environmental Protection Agency, Mr. Russell Train, and would replace what we feel are the more overly stringent standards and schedules that are imposed by the committee bill.

We have in the minority views on this section detailed scientific analyses which have been provided by several governmental agencies. These are analyses of the requirements of the committee bill which show that by the amendment that will be offered by the gentleman from Michigan (Mr. Dingell) and myself, we will achieve virtually the same level of clean air down at the end of the road.

But in the meantime, if we retain the language which is in the committee bill, it will result in the wasting of billions of gallons of fuel. It will produce only a negligible improvement in air quality, and it would force the use of catalytic converters instead of possibly other measures which may be more economical and more efficient technologically.

I have joined with my distinguished colleague from Michigan in the Dingell-Broyhill—Train—amendment for quite a few reasons: energy savings, less cost to the consumer, equally clean air, freeing up of technical options such as the diesel, less risk of an economic setback—just to mention some. All of these are important reasons to support our amendment and all are well justified by the record.

I have yet another reason which may be even more basic than all the others. The Dingell amendment returns the final, tough technical decision to EPA, where it belongs, instead of forcing the Congress to decide a technical matter of this complexity. I believe most of you are as uncomfortable as I am with decisions on technical, scientific matters all outside our education, experience, or—dare I say it—our competence. We created an EPA to gather the expertise to analyze just such questions. The Dingell amendment would let them do what it was we intended they should.

So far as the energy and cost savings involved, I don't believe I can add anything to what my esteemed colleague from Michigan has already said.

NEGLIGIBLE HEALTH BENEFITS

The health benefits certainly do not justify the costs which are associated. In HC and CO, there are no identifiable differences between the Brodhead and Dingell amendments. The NO_x differences between the two are less than a 10-percent improvement in ambient air quality, which may be a very different thing than a 10-percent improvement in health. Knowing as little as we know of the health effects of NO_x, the economics of the proposal argues strongly against premature establishment of anything like an 0.4 NO_x standard by the Congress for 1981. Under the Dingell amendment, I would note, if we should acquire the information we need for an informed decision, there is nothing to prevent EPA from establishing an 0.4 NO_x standard in 1982. Happily, under the Dingell amendment, if the health data so indicates, EPA could also establish a higher NO_x standard which would be more economical of energy without having to come back to the Congress.

ECONOMIC EFFECT

My ideas of the economics involved arise in part from the unpleasant experience of the recent recession, into which automobile unemployment led the entire country. We cannot afford a repetition of 1974 and 1975. It was not only Detroit that suffered but the rest of the country as well. Detroit, except for American Motors, has recovered pretty well. However, we must indeed be sensitive to what we may do to the economy with overly stringent standards. The study done by Chase Econometrics has suggested what the effects of more stringent standards may be on unemployment, predicting more than 300,000 jobs lost by 1985, even with the waivers granted on NO_x standards, as permitted by the House bill, and with optimistic technology.

I doubt that any econometrics study is accurate, but we should be alerted to any study that portends such ominous results, particularly if the benefits are as slim as they seem to be in this case.

We have heard many claims about clean air benefits, but it seems to me we have heard them chiefly from lobbyists for the catalyst industry. During markup of the bill, they raised the specter of carcinogenic nitrosamines in the air over two east coast cities. They failed to note that five other cities were also investigated. They have an equal density of auto traffic, but no nitrosamines.

The nitrosamines were traced to stationary sources, not autos. The catalyst lobbyists have alluded to statistical relationships between nitric oxides and cancer. Statisticians do not normally accept such relationships on the basis of the kind of data that presently exists. As I understand it, no recognized Federal health agency has ever claimed that a cause-and-effect relationship exists between NO_x and cancer. The same catalyst lobby handout suggests that Washington's smog episodes lead to headaches, nausea, dizziness, and so forth. A recent study in June reported to the American Pollution Control Association its conclusion that an analysis of health care utilization data, air pollution data, and weather data in the Washington area for 1973 and 1974 showed that there does not appear to be a significant relationship between photochemical oxidant readings on any given day and health effects. "It would seem reasonable to question allegations in the past that there have been significant increases in asthmatic and other respiratory complaints during the air pollution alert periods" in Washington.

In sum, if for no other reason than the energy wasted for negligible health benefits, one should vote for the Dingell amendment. When one adds in the economic risk involved, again for negligible benefits, then there is but one clear choice and that is to vote for the Dingell amendment.

It is our contention that the provisions of the committee bill would cost consumers billions of dollars in higher automobile purchase prices and maintenance costs and could even risk the dislocation of the automobile industry, which is only now recovering from the impact of the Arab oil embargo, and the possible loss of jobs, directly or indirectly, which are related to the automobile industry, with negligible gain in air quality.

Mr. Chairman, commonsense, it seems to me, indicates that if the same level of clean air can be obtained without risking these negative effects, that should be the approach the Nation should follow.

For that reason, Mr. Chairman, I would urge the adoption of what has come to be called the Dingell-Broyhill amendment.

Mr. Chairman, there are other concerns that I have with the way this bill is directed. The gentleman from Florida (Mr. CHAPPELL) has, in the few moments that he has already had in the debate, enumerated some of his concerns that he has with section 108, which has come to be called the "significant deterioration section."

The committee bill, as the gentleman from Florida (Mr. ROGERS), the chairman of the subcommittee, has stated, does confirm and write into law in a rigid way the Supreme Court confirmation of the lower court decision that there was an intention in the act to prevent significant deterioration of the air that was already cleaner than the national air-quality standards.

In my judgment, Mr. Chairman, and from my review of the act, I do not believe that this kind of policy was ever the intent of Congress. I just question and oppose ratifying such an unwise and unnecessary policy at this time of continuing economic uncertainty.

Mr. Chairman, implementation of this policy involving all sections of the country, is going to have, certainly, grave economic impact by restricting development in many, many areas, such as the development and mining of coal, which we are going to have to have in order to have the energy resources for the future.

Mr. Chairman, it will also restrict the development and the manufacture of synthetic fuels, the construction of all sorts of industry and plants, such as oil refineries, metal smelters, paper mills, powerplants, and so forth. It could also result in the limitation of utilities' use of abundant coal resources, and thus, this nondegradation policy in this bill could result in increased dependence on foreign oil.

Mr. Chairman, it is our contention that adoption of this policy will result in higher electric costs and that the policy in this bill amounts to a thinly disguised Federal land-use policy based on this one single criterion, that is, air quality.

It would trespass on the States' authority to plan for development within their boundaries, and it would saddle the States with excessively burdensome redtape in order to abide by the rules laid out in this section.

Furthermore, Mr. Chairman, if adopted, it would mean that there would be different air quality standards from area to area, from region to region, and from State to State.

Therefore, it is my judgment that until we have some better information, some better evidence, and some more facts on how this policy will impact on different areas of the country, I think we should postpone adoption of this nondegradation policy.

IMPACTS UPON LAND USE OF SIGNIFICANT DETERIORATION

I would like to speak on some disturbing land-use questions raised by the significant deterioration provisions in H.R. 10498. The class I, class II, and class III designations carry very restrictive allowable increments of deterioration that are, in effect, zoning regulations based not on all of our citizens' social and economic needs, but on only one standard—clean air. Given this single criterion, States and local communities would be deprived of at least some of their right to decide for themselves what use they want to make of their lands. In many cases, they would want to go the way of preservation. In others, they might well want to go the way of development—and, under these provisions, not be able to.

Certainly, class I areas should be kept "pristine," and they should be protected against intrusion by airborne pollutants. I refer now to class II and III areas, where industrial growth would be restricted by the allowable increments. The question that arises is what happens when one facility moves into a given area and "uses up" all or most of the allowable increments. Other industries which then might want to move into the same area would find it foreclosed to them. They would have to move to yet another zone where the increments still remained, even if the site might be ill-suited to a proposed plant's needs.

In the face of such discouraging prospects, it is entirely conceivable that the plant would not be built at all, and jobs would be lost. Moreover, an area with all of its increments used up might well find itself condemned to more or less permanent economic stagnation.

Surely it is the right of the several States and their local governments, long recognized by Congress, to decide how they want to use their own lands. Think for a moment about all of the cities and towns across America which are trying to attract new industries to reverse economic declines and provide job opportunities for their young people. These communities are trying to plan their economic future in a rational way. They have decided, often at town meetings, what types of industry they wish to attract and in many cases have even acquired land at great expense for industrial parks. The nondeterioration provisions could well pull the rug from under many such plans.

The problem, of course, is magnified when one considers the Western United States, where so many energy resources like oil shale and coal are located. Surely, ways can be found to protect the environment and at the same time make these vast energy reserves available to Americans. We need to appreciate the fact that the present air quality standards are very restrictive. We need to ask: What will happen when industries must operate within fractions of these standards, as the proposed significant deterioration provisions call for?

Another thought disturbs me. Under these provisions, the drift toward centralization of government would continue as communities, lacking the power to change things for themselves, increasingly would look to Washington to solve their problems.

I feel very strongly that the implications of the significant deterioration provision deserve the most careful study which, I devoutly hope, will include the land use implications involved.

THE CLEAN AIR ACT WILL LIMIT GROWTH

The committee bill (H.R. 10498) appears to allow classified areas to have a pollution level which would allow further substantial growth. Proponents of the bill would have us believe that class I and class II rated areas would be able to have a pollution level equal to 90 percent of the national air quality standard, or that an area could develop up to the point that none of the six pollutants regulated by EPA exceeds 90 percent of the amount EPA thinks is safe. This would not be the case. In reality, only rarely could an area come close to a 90 percent concentration. A class II area is allowed to increase the concentration of pollutants by only 25 percent of the national standards. A class III area would be limited to 50 percent of the national standard.

EVEN NONINDUSTRIAL AREAS WILL BE AFFECTED

Because of high background levels of "pollutants" created by nature—usually oxidants emitted from pine forests; this is what makes the Smoky Mountains smoky—rural areas may already be at their mandated air quality limits. And this may be without any industry whatsoever. This affects a surprisingly large portion of our Nation.

Even dust and dirt in the air from farming activities or unpaved roads can prohibit a rural area from further development by violating "particulate" regulations. Mr. Rogers does not take this into account when he writes that the bill "does not discriminate against rural and other presently clean areas."

The distinguished Member also fails to address the fact that, while not specifically mandated, some type of "buffer zone" will, in fact, be necessary. Even EPA acknowledged that de facto exclusion zones, based on topography, meteorology, and other factors, will be necessary if emissions from a source in one class are not to exceed allowable increments in other areas. This would mean that a nearby city or industrial region might severely limit the growth potential for a rural area—even though the rural area was creating no pollutants of its own. It should be clear that this legislation goes far beyond both the scope and the direction originally intended by Congress.

THE NUMEROUS STANDARDS MANDATED BY THE CLEAN AIR ACT WILL CREATE MANY PROBLEMS

The committee bill would lead to a variety of different standards of air quality. Every region which has a different concentration of any of the six pollutants will have a different standard. This would happen within every one of the three classes of air quality control regions which would be created by the committee version of the Clean Air Act.

In addition to that, there is the possibility that every State will have a crazy quilt of class I, II, or III areas scattered across it.

It is left to the State to designate which locations within its boundaries will be class I, II, or III, but the State must have the consent of the majority of the political units—counties, towns, cities, et cetera—within the proposed area before the designation. It follows that the State would have to gerrymander each zone within which there were varying degrees of industrial development so that it would be sure that the majority within that zone were in favor of that particular classification.

It would seem that this bill would establish a nightmare of complicated formulas, tests, and zones few can comprehend—let alone administer—and do away with a system that allows each State the flexibility to achieve national standards as it sees fit. It would preclude a State from designing a method of compliance that best suits the economic, social, and environmental needs of its citizens and require the States to meet a mish-mash of regulations that are a bureaucrat's dream come true.

There are other concerns that we have with the provisions that are in this bill. One of these is the excess emission fee section, section 105. Section 105 really contains "catch 22." What it does is to authorize an extension of the date by which a stationary source must be in compliance with the clean air standards. Then it subjects that source to the possibility of being fined up to $5,000 a day while it is not in compliance. If there are certain reasons for extending the compliance date, then the operator should not be penalized. In the meanwhile, if there are sound reasons for not extending the compliance date then the date should not be extended.

Mr. Chairman, clean air is important to our Nation more than just from the standpoint of beauty. The health effects of it, of course, are broad. Air pollution economic costs are high. But since the adoption of the 1970 amendments to the Clean Air Act we have made tremendous progress in cleaning up the air of our Nation. Sulfur dioxide concentrations in the upper air have dropped 26 percent. The concentration of particulates are down 15 percent. Auto emissions are down 83 percent. We have been making progress toward our goal.

Mr. Chairman, I believe that H.R. 10498, the committee bill, does set schedules and requirements for continuation of this goal of cleaning up the air which will be expensive, which will be most difficult to meet in light of other social goals, in light of other recognized national priorities. We are all concerned about the problems of unemployment, of energy dependence, of the economic recession. The passage of this bill without some amendments could negate any progress that we are making on these problems in the 94th Congress.

EFFECTS OF SIGNIFICANT DETERIORATION UPON ENERGY DEVELOPMENT

I would remind my colleagues of an unfortunate fact which many Americans have lost sight of: We still face a serious energy crisis in this country.

I offer this reminder because section 108 of the bill dealing with significant deterioration, as written, would have a devastating impact on this country's ability to locate and develop many remaining energy reserves. I refer mainly to coal, oil—particularly shale oil—natural gas, and uranium ore reserves.

The few modest studies that have been undertaken on this subject indicate that our energy industries would be severely restricted in their ability to produce new energy supplies if significant deterioration legislation should be enacted.

As an example of the impact this legislation could have on energy supplies, I call attention to the situation respecting shale oil development. Several oil companies have leased considerable shale oil acreage in some of our Western States. Over and above this investment, they will have to expend major sums to process the shale. One study indicates that the development of much of the shale oil in the States of Colorado, Utah, and Wyoming would be effectively prohibited.

In other States the story is similar. Vast areas would be sealed off to intelligently planned energy resource development at a time when such development is crucial. The effects of these restrictions on our energy independence goals and on our national economy generally could be staggering.

We should bear in mind also that these provisions not only would bar the development of many oil, gas, coal, and uranium reserves, but also would hamper the construction of refineries, electric generating plants, steel mills, and many other industrial facilities essential to our national growth and prosperity.

The U.S. Department of the Interior has expressed its conviction that, and I quote, "the benefits of nondeterioration would be more than offset by its costs"—a sentiment shared by many others who have examined the implications of this far-reaching legislation. The Department of Commerce has gone even farther. In a letter dated February 5 of this year, Acting General Counsel Ellert wrote—and again I quote:

> The Department of Commerce finds that the economic consequences of nondeterioration proposals have not been fully appreciated. Our analysis and our review of other studies indicate that the significant deterioration proposals under consideration will force a change in the pattern of expansion of economic activity and will result ultimately in a cessation of industrial growth.

In short, the significant deterioration provisions, as written, appear to lack balance. They need to be studied further so as to take into account all of our country's needs—social and economic, as well as environmental. Congressman CHAPPEL's amendment would permit such an evaluation, and I urge my colleagues to adopt it.

Mr. Chairman, in my judgment, without modification, this bill will amount to a no-growth policy and could result in economic stagnation.

Mr. Chairman, I am also concerned about the statements that have been made by the chairman of the subcommittee, the gentleman from Florida (Mr. ROGERS) concerning the supporters of this bill. The gentleman has listed, for example, a number of supporters such as Sears, Roebuck and J. C. Penney, the Federated Department Stores, National Association of Retailers, National Home Builders, National Parking Association, National Retail Merchants Association. In reality all of these associations and retailers are interested in only one provision in this bill and that is section 201 which gives some very much needed relief from the Environmental Protection Agency regulation relating to indirect sources. This situation I think provides a good indication of the problems that are now arising with the present Clean Air Act. These retailer associations are in such dire need of relief in the area of indirect sources that they are willing to agree to support the entire bill in exchange for an agreement that they would be given the relief which they so badly need.

There is obviously a compelling need to make the changes and adjustments in the law in this area and it is our opinion that the Congress should grant this needed relief. But in reality, in my conversations with some of the representatives of these associations, they have been named, and others say that if that section of the bill were dropped, they would then reverse their position and would be probably issuing statements that they were in opposition to the bill as written.

The gentleman from Florida has mentioned the Governors' support for the bill, but I have been informed that the Governors conference adopted a resolution in respect to section 108 which reiterated the Governors' feeling that the significant deterioration issue should be clearly resolved by Congress in a manner which gives each State the flexibility to determine for itself what is meant by "significant" consistent with State values. I have a letter from my own Governor, the Governor of the State of North Carolina, Governor Holshouser, in which he states that:

> We hope that the North Carolina congressional delegation will support an amendment which would refer the entire question of no significant deterioration to the proposed National Commission on Air Quality for not less than one year of study.

The amendment would necessarily have to provide that existing EPA regulations not be implemented until the Congress has had time to act on the question. So he is in effect supporting the amendment that will be offered by my colleague, the gentleman from Florida (Mr. CHAPPELL). I only take this time to point out that some of the supporters that the gentleman from Florida (Mr. ROGERS) is claiming, have concerns over several sections of the bill as written and they would be supportive of efforts to make these needed changes in the bill.

INDIVIDUALIZED EFFECTS OF THE CLEAN AIR ACT

Proposed clean air legislation will adversely affect our industrial sector as well as several States. Not only will growth be limited, but costs will escalate because of the restrictions which new proposals would impose.

Nondeterioration requirements will necessitate the use of smaller size plants, the installation of additional control technology, the construction of taller stacks, and relocation of plants at alternative sites.

Future growth opportunities will be restricted without a class III designation or a variance from class II requirements.

To highlight some of the effects upon individual sectors of our economy, portions of several studies are included below:

OIL REFINERIES

Production costs would increase due to reduction in plant capacity, the necessity to use stringent control technology and locating plants at less advantageous sites. Dislocation of planned industrial plants to non-impacted sites would cost $640 million to $1.8 billion in capital investment in 1975 dollars in order to meet 1985 demand growth. The regulations will affect energy independence. (Bonner & Moore Study)

POWER PLANT CAPACITY

In flat terrain, a 2000 megawatt power plant could be built; but in hilly or mountainous terrain, only a small plant could operate in a Class II area. For example, in New Mexico, the maximum size calculated allowable was 158 megawatts, an inefficient size for a new facility, and in very hilly terrain, such as West Virginia, 49 to 64 megawatts would be the maximum size allowable. (ERT Study)

WESTERN COAL MINING

For air quality control regions (AQCR) where more than one surface mine is proposed, the proposed amendments would prohibit new surface mining operations in such AQCR's. (ERT Study)

STATE OF MAINE

Industrial development in Maine would be more severely restricted than in many other states. The presence of hilly or mountainous terrain and the potentially large number of Class I areas would exclude industrial development in many parts of Maine. (ERT Study)

STATE OF FLORIDA

Significant deterioration proposals will add $120 to $300 million to costs of electricity supplied to Florida Light and Power Company customers. (Fla. Power & Light Co. Study)

STATES OF MINNESOTA AND WISCONSIN

Impact on both Minnesota and Wisconsin would be severe in terms of the siting of new power plants and providing electricity for new industries in these states. (Hoffman & Bechthold Study)

RURAL AREAS

Rural area development will be higher in cost due to added control requirements; not locating plants where they would otherwise have been located, and plants would be built smaller than otherwise. (ICF Study)

URBAN AREAS

Economic development and employment in urban areas violating NAAQS would not increase; this is attributable to current Clean Air Act. Nondeterioration provisions may result in siting new facilities further from urban centers than would otherwise occur. This would tend to contribute to further urban sprawl, a lengthening in job travel time, adverse environmental effects and other socio-economic effects. (ICF Study)

ENERGY DEVELOPMENT

Oil consumption would increase by 1 million barrels a day (MBD) of largely imported oil. Oil field development, such as tertiary recovery, could be inhibited. Natural events which degrade air quality, e.g., dust storms, could preclude development of energy and material resources such as oil shale, coal, and copper. (ICF Study)

CONSUMER UTILITY BILLS

In the absence of nondeterioration, the Clean Air Act will cost each American household $1,500 between 1975–1990. The nondegradation amendment to S. 3219 would add $299 to $673 per household. (NERA Study)

JOBS

The electric cost per household between different regions "indicates the extremely disparate regional effects of the legislation. To the extent these costs are passed on to industrial customers regionally, they are likely to discourage the expansion of electric-intensive industries in high-cost areas, and, as a consequence, adversely affect employment and economic growth in those regions." (NERA Study)

Mr. CHAPPELL. Mr. Chairman, will the gentleman yield?

Mr. BROYHILL. I yield to the gentleman from Florida.

Mr. CHAPPELL. I thank the gentleman for yielding.

Will the gentleman state briefly the essential differences between the requirements of section 108 and the regulatory implementation of present law which already has been made by EPA and funds enforcement until the current litigation is final.

Mr. BROYHILL. If I could wait a few minutes, I would like to get some notes to refer to. Could I reserve that until a few minutes later in the debate?

Mr. CHAPPELL. I thank the gentleman. Will the gentleman yield on another point?

Mr. BROYHILL. I yield to the gentleman.

Mr. CHAPPELL. The gentleman from Florida (Mr. ROGERS) had made substantial comment about how much power, how much authority, we are handing back to the States. Does the gentleman have that same view with reference to the fact that, as the gentlestated here, that we are really handing back to the States anything?

Mr. BROYHILL. I do not see, particularly in section 108, where we are handing back to the States any authority, because what we are doing is setting far more stringent standards—and they are differing standards, as I pointed out—for every region, for every section of every State, and State by State.

Every area is going to have a different standard. At the present time EPA sets national ambient air quality standards, and the States are free to make those standards stricter if they so desire. They have that freedom under the act as written and amended in 1970. I do not think that the amendments that we are proposing here today will give them any more freedom; in fact, they will be more restrictive.

Mr. CHAPPELL. As a matter of fact, is it not true that throughout this particular section it is repeated over and over that the final say really rests with the Administrator in the event he does not approve?

Mr. BROYHILL. The Administrator in many instances in this act was given more authority than he has had in the past.

Mr. CHAPPELL. I thank the gentleman.

Mr. LENT. Mr. Chairman, will the gentleman yield?

Mr. BROYHILL. I yield to the gentleman from New York.

Mr. LENT. I thank the gentleman for yielding.

Mr. Chairman, I rise in support of the Clean Air Act Amendments of 1976 (H.R. 10498) as reported by the Committee on Interstate and Foreign Commerce. I want to commend the gentleman from Florida (Mr. ROGERS), the chairman of the Health and Environment Subcommittee, for his willingness to work with all members of the committee to produce a fair and well-balanced bill.

This is a most difficult time to be considering clean air legislation, because of our need for continued economic growth and energy conservation. I believe H.R. 10498 strikes a reasonable balance between these needs and that of continued progress toward clean air. While the bill is complex, I want to address myself to two major parts of it—nondegradation and auto emissions.

Where nondegradation is concerned, I must speak parochially. This section has been called by its opponents a "no growth" provision. For my home State, failure to enact this provision will clearly mean no growth. Since 1964, industry in the State of New York has, rightfully so, been operating with a nondegradation law. Quite frankly, it has been convenient and profitable for businesses to leave New York State for areas where air quality standards are not so stringent. If Congress fails to provide a set of national guidelines on the prevention of significant deterioration, we can expect the exodus of industry from New York and other major industrial States to continue.

Further, and I am certain it will be pointed out in the debate, both private and Federal studies have indicated that no area will be precluded from a reasonable amount of industrial growth if this section is adopted. Most important, it will be the States, not the Federal Government, making decisions as to how 99 percent of the land in this country will be used. I therefore intend to oppose amendments to weaken the significant deterioration provisions of section 108 of H.R. 10498.

I also intend to support the committee language on auto emissions, because I feel it strikes a responsible balance between fuel conservation and environmental needs. It sets a date certain for strict emissions standards; while at the same time providing flexibility for the auto industry to help our Nation achieve its energy and economic goals. I fear that a long delay in new standards will eliminate whatever incentive the auto industry might now have to improve the environmental quality of its product.

My attention was recently drawn to a study on the effects of auto pollution on police officers in the metropolitan area of New York and New Jersey. This study has made it quite clear that the pollution from automobiles is harmful to health, causing and aggravating respiratory illness, high blood pressure, heart disease, and other cardiovascular abnormalities.

It is true that since the effort to reduce auto emissions began several years ago, we have been successful in reducing those emissions by 83 percent. Progress from this point to the final goal of 90 percent reduction will be most difficult, but I believe it must be made. The committee proposal is technologically feasible; it will not keep the auto industry from meeting congressionally mandated fuel economy standards and it will have only a minor impact on the cost of new automobiles.

I urge my colleagues to give careful attention to the debate on these two issues, and the others in the bill. I am certain that when consideration of H.R. 10498 is ended, most Members will see the importance of giving this bill final approval.

Mr. HEINZ. Mr. Chairman, I rise today in support of H.R. 10498, the Clean Air Act Amendments of 1976.

As many of my Republican colleagues know, I am a cosponsor of this bill and have been a strong supporter of it throughout its legislative history.

I have taken particular interest in the controversial section on significant deterioration—section 108—and would like now to attempt to clear up some of the mystery surrounding it.

First. Although the term "significant deterioration" may be relatively new—it relates back to a 1972 Supreme Court decision—the concept that the Federal Government is responsible for the enhancement as well as the protection of the national air quality dates back to the Air Quality Act of 1967.

Second. This bill does not create some new untested creature that will blanket the land with regulations. Significant deterioration is already part of the EPA regulations.

The EPA, in fact, was responding to a Federal court decision requiring the Federal Government to come up with a policy of prevention of significant deterioration. That decision was upheld by a divided Supreme Court in 1973. A divided court, as some of my colleagues failed to point out in their committee views means that the lower court is upheld. It does not mean no decision.

Third. The response of EPA to this directive was upheld just 2 days ago by a unanimous decision of the U.S. Court of Appeals for the District of Columbia.

Thus, the concept and active policy of significant deterioration, contrary to the position taken in the minority views, is on firm legal footing.

Now, having established this background, I point out to my colleagues one especially relevant fact:

These amendments, that incorporate the legally tested concept of significant deterioration—actually take away power from the Federal Government and give it back to the States and the local governments.

As we will doubtless hear many times today, the bill requires each State to classify all areas that are cleaner than the national ambient air quality standards—ambient simply means all air that is not indoors, or enclosed—into three classes for sulfur dioxides or particulates.

Then, within each area, air pollution would only be permitted to increase within certain limits. Class I areas include national parks and wilderness areas. Class II initially would be all other lands, with the States having the power to redesignate certain lands to a class III designation, meaning that the allowable amounts of pollution in that area could be greater than those under the initial designation as class II.

As I said earlier, this bill actually takes authority away from the Federal Government. It does this in four ways:

First, it prevents EPA from overruling a State classification on the grounds that the State had not properly weighed the critical factors that are required for land classification; second, it removes the Federal land manager's authority to classify Federal lands other than mandatory class I areas; third, it prohibits EPA from compelling "no growth" buffer zones around any area; and fourth, it prevents EPA from revising the levels of pollution that would be permitted within an area classification.

Mr. Chairman, when this bill was under consideration by the Health and Environment Subcommittee, the question of significant deterioration received extremely careful study by subcommittee members as well by the Environmental Protection Agency and the Federal Energy Administration. The close attention we paid to this matter was motivated by a dual concern for the future of our environment and for the future of our economy. Both concerns are crucial ones, and we cannot afford to play one against the other. For that reason, the subcommittee carefully crafted a compromise that recognized the legitimate need for clean air as well as sustained economic growth.

I am proud as a member of the subcommittee to have played a contributing role in my subcommittee's work on the nondegradation issue. As my subcommittee colleagues know, I authored the amendment which provided for the "class III" designation in the subcommittee's approach to this problem. I did so because I believe we must insure that in our approach to environmental matters we allow for sustained economic growth. And under my amendment, which was adopted in subcommittee, we have done just that. We have found a method for allowing needed growth without blindly endangering the quality of the air we and our children must breathe.

This approach was partly rejected by the Senate Public Works Committee. The Senate version of the bill contains only two classes and "rejected a national policy that some clean air areas should be set aside for industrial development where deterioration of the national ambient standards would be allowed, as under EPA's class III areas." That quote is from the Senate committee's report on the bill. I hope, Mr. Chairman, that the House will be more realistic than the Senate and will support the committee bill provisions, including the retention of class III designations.

Regarding the section on significant deterioration as a whole, I think it is noteworthy that the Senate yesterday overwhelmingly approved its version and rejected a move to remove their significant deterioration section from the bill.

I would point out to my colleagues that the vote in the Senate on the question—on the Moss amendment to remove the significant deterioration section and substitute a study—was 63 to 31.

To those who claim that this vote or this policy is a purely partisan matter backed only by Democratic Party members, I would point out that 23 Senate Republicans voted to reject the Moss amendment, including such familiar names as Baker, Buckley, and Taft.

I think the House approach is a better one simply because it provides more room for State discretion while preserving and enhancing the air.

I urge your support for the amendments as a whole and in particular for section 108 as it is written in the committee bill.

Mr. STAGGERS. Mr. Chairman, I yield myself 2 minutes.

Mr. STAGGERS. Mr. Chairman, I rise in support of H.R. 10498, the Clean Air Act Amendments of 1976.

H.R. 10498 provides a 3-year extension of authorizations for administration of the Clean Air Act. This bill covers fiscal years 1977, 1978, and 1979. The authorized levels are $200 million for each of the 3 fiscal years. None of this authorization is for research activities under the Clean Air Act. Authorizations for research are handled separately by the Committee on Science and Technology.

The bill also provides needed flexibility for States and the Administrator of EPA which is lacking in the current law. It would permit the States or the Administrator to grant delays for emission standard deadlines for stationary pollution sources, such as powerplants, steel mills, and copper smelters. It would enable States to grant further delays to assist the coal conversion program under the Oil Policy Act.

The bill also contains provisions authorizing variances to encourage use of new, less costly or less energy intensive technology. Variance authority is also authorized to permit continued economic growth while maintaining clean-up progress in dirty areas of the country.

The bill also contains provisions to relax transportation control measures, indirect source controls, parking management restrictions, new car emission standards, and provisions to assure the act will not harm competition by the automotive aftermarket parts and service industry and independent gasoline marketers.

While providing increased flexibility and greater State responsibility, the bill retains its primary commitment to protection of public health. This is critical. While we must take energy needs and technology into account, we must not sacrifice the public's health. Abandonment of this primary purpose is unnecessary and unwise.

The bill has been one of the most thoroughly studied pieces of legislation this Congress. In March 1975, 2 weeks of hearings were conducted by the subcommittee. After more than 60 subcommittee markup sessions, the bill was reported to the full committee. Over 20 markup sessions were held in the full committee.

During these deliberations studies were conducted on the effect of the bill by the EPA, the FEA, other government agencies, private contractors, regulated industries, and environmental groups. The results have been carefully considered. The committee's report is extremely comprehensive and accurately reflects the committee's intent and the considerations which led the committee to support the bill. The report contains certain typographical errors, however, and I would like to submit a list of corrections for inclusion in the Record at the end of my statement.

Because of the lengthy process of deliberation on this bill and the careful compromises reached by the committee, the bill has the support of the following groups among others:

The National Governor's Conference,
The National Council of State Legislatures,
The National League of Cities,
The National Association of Counties,
The National Realtors Association,
The National Homebuilders Association,
The International Council of Shopping Centers,
The American Retail Federation,
The Association of Industrial Parks,
The United Mine Workers of America,
The United Steel Workers,
The United Auto Workers,
The League of Women Voters,
The American Lung Association.

In light of these endorsements and the lengthy and balanced consideration given to the bill, I urge your support for the legislation—H.R. 10498.

Committee Report—Corrections

Due to the length of the House Commerce Committee Report on "the Clean Air Act Amendments of 1976" (H.R. 10498—H. Rep. No. 94–1175) and the press of business facing the Government Printing Office during the May 15, 1976, filing date of that report, numerous errors and omissions occurred in the report, as printed. In order to correct the record, the following changes should be noted:

1. Page III—Strike out "Section 104—Assembly of civil penalties" and insert in lieu thereof "Section 104—Assessment of civil penalties".

2. Page 49—The first three paragraphs is quoted material which should be indented.

3. Page 94—In the third line of the sixth paragraph, the word "CO_2" should be "SO_2".

4. Page 161—In the first full paragraph strike out the third sentence and insert in lieu thereof the following:

"This latter phrase would include two types of systems with respect to which the Administrator would be expected to give consideration in determining the "best technological system of continuous emission reduction": (1) treatment of emission products in the post-combustion or post-pollution generating stage (e.g. flue gas desulfurization, catalytic combustors, electrostatic precipitators) and (2) pre-combustion treatment of fuels (or other pre-process activities in non-combustion situations) so as to remove pollutants and thus reduce the pollution characteristics of the fuel (e.g. various coal-cleaning technologies such as solvent refining, oil desulfurization/denitrification at the refinery)."

5. Page 167—Strike out the paragraph beginning "To the extent that such national standards . . ." and insert in lieu thereof the following paragraph:

"To the extent that such national standards have not yet been promulgated for certain pollutants or categories of sources under section 111 or 112 of the Act, the purposes stated in the background discussion are not being served. Accordingly, section 111 of the Committee bill will require the Administrator to specify the categories of sources which may have emissions of one hundred tons or more per year of any criteria pollutant but which are not yet included on the list of categories for which new source performance requirements must be promulgated. This section will also require the Administrator to include all such categories on the list within four years (at least 25 per cent of such categories must be listed each year). The priority for listing is based on three independent criteria: (1) the quantity of pollutant emitted; (2) the risk of harm to public health or welfare; and (3) the mobility and competitive nature of the category of sources and consequent need for nationally applicable standards of performance requiring use of best technology."

6. Page 223—In the first sentence the word "cuch" should have been "much".

7. Page 226—In the first full paragraph, the date "1958" should be "1978".

8. Page 226—The last sentence of the second full paragraph should read: "To the extent possible production testing regulations should be compatible with and consider, among other things, the nature of heavy duty certification testing, the fact that engines may be produced prior to receipt of certification, and those instances where the

manufacturer of a heavy duty engine is not the manufacturer of the completed heavy duty vehicle."

9. Page 245—The second line of the first full paragraph on that page should be deleted.

10. Page 247—The word "Water" in the heading of Section 213 should be "Waiver".

11. Page 306—In the third line of new paragraph (7) of section 110(a) of the Act, the word "disportion" should be "dispersion".

Mr. CARTER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, during the years I have served in the House I have cosponsored and supported clean air legislation. I want to see, as much as any man or woman here, continuation of responsible Federal efforts assisting in realizing our goal of a clean environment. I supported observance of the national primary and secondary air quality standards established by the Clean Air Act of 1970 as determined by the Environmental Protection Agency.

Primary standards, of course, protect the public health of the people of our Nation. The secondary standards protect the environment and certainly I want to have an adequate margin of protection there. My support of Federal and State efforts to see that the standards are attained and mainained is not changed by my objections to certain amendments in this bill.

I do not believe that H.R. 10498 reflects adequate consideration of the predicament in which many Americans find themselves today. Consumers are upset over the rising cost of their utility bills. My feeling is that I am not the only Member here who has heard these calls for help. In fact, the senior Senator from Pennsylvania (Mr. HUGH SCOTT), submitted a proposal not long ago for a passthrough for increases of power to be paid out of the Federal Treasury for those who were on fixed incomes. Many Members remember that. Many constituents throughout the area of some of the Members have complained of high utility bills and I wonder if there is a Member here who has not had that complaint from his constituents. If there is, I would like to see him.

The bills are going up and we know that. Just a few days ago one of my black friends showed me a bill for $104 a month. This happened to be a lady, with her husband, on a fixed income of $251.80. How can she live and pay that much?

This legislation, unless amended further, Mr. Chairman, will mean a 33⅓-percent increase in the cost of power to residents of my State. I have evidence here from the East Kentucky Power stating just that.

Also Mr. Aubrey J. Wagner, chairman of the board of TVA, has advised me on two separate occasions that this proposal will mean an expenditure by TVA—and I hope those who live in the Tennessee Valley hear this—and will cause an initial expenditure of $300 million and an expenditure of $200 million for every year in the foreseeable future.

The Environmental Protection Agency in its report of February 25 has concluded that the concept of "significant deterioration provision" together with a new set of standards in the bill will result in approximately $28 billion in additional costs to the electrical utility industry alone between now and 1990.

Now, this is a far cry from what we have been told of a 3-percent increase in cost. This not in accordance with the facts which I have received and which I have here now at this time.

Mr. Chairman, this legislation would divide our country into three different areas: Class 1: a pristine area. I certainly support that. This is our parks and wild river areas and such as that. I am very supportive of the cleanest air possible for such areas.

Class 2: Areas such as where I live at the present time, which is one which is relatively clean. The only pollution we get there is pollution blown over from the areas west of us to amount to anything; but this committee, in its wisdom, if we want to call it that, has reduced or made more stringent the pollution standards in class 2 areas by 10 percent; that is, in case of primary standards if we are permitted 100 milligrams of pollution per cubic meter, then in this area it is reduced to 90 milligrams, which would be 90 percent, an increased stringency in these regulations in an area which is already relatively clear.

Now, the purpose of this, Mr. Chairman, is to keep industry from coming into that area, not just to clean up the air. Cleaner air is not the first purpose at all.

Now, we have a class 3 area and here is where we deviate from the normal. We have made less stringent the regulations than in class 2 areas.

Now, in the dirty areas, in the manufacturing areas, we loosen the standards 15 percent; that is, if they are permitted 100 milligrams per cubic meter of pollution in a class 3 area, and my good friend, the gentleman from Indiana (Mr. MADDEN) lives in such an area, Hammond and Gary, Ind., and that area, the dirty air would be permitted to increase to 115 milligrams for every cubic meter. This is not cutting the scale across the board and acting fairly, as it should.

Mr. Chairman, this is not a good bill. It is not fair to the people of our country. Not only that, a class 3 area starts out here in Delaware and goes up the eastern coast to New York and there we have the nitrosamines that my good friend has talked about. In that area it would not diminish those nitrosamines one bit. This area, called "Cancer Alley" would still be able to exceed the levels permitted by 15 percent and would still retain the name of Cancer Alley and retain its high incidence of cancer. The only way to do this is for us to fix the primary and secondary standards as they should be; first, to protect the public health of this Nation, fix them as they should be fixed.

Second, to fix the secondary standards as they should be and that is to protect the environment. This, Mr. Chairman, I want to say, we are not doing.

As we get down to the cost of this legislation, as it was brought in, I want to read a letter from the State of Ohio. We are told that the Governors of the States opposed this, but I went to the utility commissions, the people who know the cost of the utility bills to our constituents and this is what they state in this instance:

> I am of the belief that some environmental protection controls are a necessity, but the imposition of such rigid rules only tend to threaten the utilities' financial stability and to increase the monthly bill the consumer pays.

That is from C. Luther Heckman, chairman of the State of Ohio Public Utilities Commission.

All right, the State of South Carolina:

> The average South Carolina residential electric bill for July, 1973, was $22.58, as compared to $33.12 for July, 1975. This shows an increase in two years of $12.00. The average kilowatt hour usage for July, 1973, was $10.59, as compared to $10.00 for July, 1975.

Of course, they expect a great increase when the new technology is in place. Now, from the State of Indiana, the average residential electric bills for the five investor-owned utilities in the State of Indiana for July 1973 was $18.76. In July 1975, this rate had gone up to $23.85. It is estimated that to obtain the best available technology, the cost to the State of Indiana will be $1 billion if scrubbers are required, and will cost an additional $350 million in operating costs. The figures available for scrubber technology were as of June 13, and it is estimated that there has been an increase of approximately $25 per kilowatt-hour for capital expenditures.

The Members can see that every State in the Union is going to be involved, and every one of the Members' constituents is going to be involved. We can maintain our primary and secondary standards for clean air, and yet if we amend this legislation to do away with these ridiculous amendments that are presently before us, we can save the consumers of our country a great deal.

Now, we get down to the good State of Florida and the Florida Public Service Commission. I do not know how the Governor feels about this, but the commissioner states:

> Enclosed is an attachment containing the information you have requested, and if we can be of further assistance, don't hesitate to contact us.

All right, the Florida Power Co. in July 1973, the average bill for the month was $26.92. In 1975, it had gone up to $40.57—$15, over 50 percent in those 2 years. And, we are going to tack onto that 25 to 30 percent more at least per year. The distinguished commissioner says:

> Tampa Electric Company has projected that the cost of scrubber technology in terms of 1975 dollars would be 92 cents per kilowatt hour. This would translate into an increase of $9.20 per month for the average residential consumer.

Nine dollars more a month for every resident in the Tampa area of Florida. Now, are we willing to increase those prices for all those constituents? This is going to go on through the United States, in every State, in every congressional district. I would hope that we would so amend this legislation as to not increase the price to each homeowner, each person on a fixed income in this country who has difficulty in paying.

I want to show the Members, in a class 2 area, where we have old steamplants which will be required actually to install scrubbers as a result of certain provisions of this bill—in the district which I represent, the Cooper-Burnside steamplant cost originally $45 million. To install scrubbers, the cost will be $36 million—almost as much as the original cost. Dale steamplant in Winchester originally cost $25 million.

To reach the standards required by this legislation will cost, by the installation of scrubbers, $22 million. The Spurlock plant at Maysville, which cost $115 million for installation of scrubbers, will come to $34,200,000. This means that the people of Kentucky who use electricity will pay approximately 30 percent more for each consumer of electricity in that State, in the State of Kentucky.

I say that, since we are a class 2 area and we do not exceed the primary or secondary standards, these amendments should not go into effect.

Mr. ROGERS. Mr. Chairman, will the gentleman yield?

Mr. CARTER. I yield to the gentleman from Florida.

Mr. ROGERS. I thank the gentleman for yielding.

I presume the gentleman is talking about plants currently in being.

Mr. CARTER. Yes, sir. In most cases, that is true. In the law we have provided that new plants would come in with scrubber technology, yes. That was in the 1970 act.

Mr. ROGERS. But the existing plants do not have to use best technology so long as they meet applicable emission limits.

Mr. CARTER. They have to do that if they exceed the primary or secondary standards as we put forward in these amendments.

Mr. ROGERS. But that does not have anything to do with this bill, because if the national primary or secondary standards is exceeded, under present law, the existing plants must meet applicable emission limits. Existing plants do not necessarily have to put on scrubbers.

Mr CARTER If a new plant came in, it would have to install scrubbers.

Mr. ROGERS. If they are new they should use best technology. That was intended under the present law. Significant deterioration does not change that.

Mr. CARTER. Whenever we make the standard 10 percent more stringent, we are going to force our old plants to use this best available technology in order to reach the standards which we want. That is my understanding of the bill.

Mr. ROGERS. They could use low-sulfur coal.

Mr. CARTER. They can, in some instances. As the gentleman knows, low-sulfur coal is much more expensive than high-sulfur coal. In many cases that cannot be used with scrubber technology.

Mr. ROGERS. I thank the gentleman.

Mr. CARTER. Mr. Chairman, I respect the distinguished gentleman very much. But whenever any of the Members feel they have heat from their constituents within a year, whenever these prices go up—and they are going to go up—I will be there, and I will not say, "I told you so." I will say, "Well, I will shed a tear for you."

I certainly do not want to increase the price of electricity to our constituents.

Mr. PREYER. Mr. Chairman, I yied 10 minutes to the gentleman from Virginia (Mr. SATTERFIELD).

Mr. SATTERFIELD. Mr. Chairman, I have generallly supported clean air legisolation and the long-range objectives sought by that legislation. In this regard I have recognized the need for a Federal effort if the objectives are to be achieved.

My position with regard to H.R. 10498, therefore, does not reflect a change in my general viewpoint. It does reflect, however, a grave concern about the thrust of this bill and the far-reaching substantive changes it would make in existing law without our having a reasonable opportunity to obtain and consider experience under the 1970 act.

After all the earliest date which any State impementation plan set for initial attainment of national air quality standards was not until May 31, 1975, and I understand that the attainment date for many plans has not arrived. It is interesting to note, I think, that our subcommittee held public hearings prior to May 31 of last year, before any satisfactory experience under existing law was available.

No doubt the current act and amendments adopted in 1970, might well require adjustment, but I firmly believe such corrections should be predicated upon actual experience under our last legislative action and not on the basis of supposition and conjecture.

I am concerned that the basic thrust of this bill would alter the basis upon which national primary and secondary air quality standards have been set and that as a prerequisite to future regulatory action it would require less information, less facts and little or no scientific data. I am further concerned that passage of H.R. 10498 would result in the loss of vital flexibility found in existing law which is essential to any measure which would alter so drastically the way in which citizens of the United States have conducted their everyday affairs and endeavors.

I am concerned that the bill lacks the balance needed to achieve the desired long-term results. In this regard I find it defective in its concentration upon the question of clean air to the exclusion of the other important factors which bear heavily upon the well-being of this Nation and its people.

I am concerned about the adverse effect the bill will have upon our economy and the tendency so apparent in it to limit and, in time no doubt, to prevent industrial growth which is essential to the good health of our economy and the creation of new jobs to support our people. I am especially concerned about the dampening effect which the provisions of this bill will have upon capital formation essential to our future economy and the continuation of our free enterprise system.

I am concerned about the undesirable effects which this measure would have upon our Nation's energy problems, especially upon our efforts to increase the domestic production of energy. That concern results, in part, from a realization that the long-range effect of this bill will be to create greater reliance upon foreign nations for the supply of our vital energy and mineral needs and vulnerability to those foreign nations which would naturally flow from that situation, to the detriment of national security.

I am concerned about the adverse effects of this measure upon our productive growth and capacity. I am concerned that it will increase consumer costs, especially in the area of utilities, and the resulting threat of accelerating inflation.

I am concerned about land use planning which several provisions of this bill would impose upon the States. These provisions would result in Federal control over the use of lands in the several States without regard to the desires or exclusive prerogatives of the States. What is worse, the land use control would be predicated upon clean air considerations only and not upon other pertinent, social, environmental, and economic factors.

I do not recall a measure which has raised as many valid questions as does H.R. 10498. Indeed there is scarcely a paragraph which does not raise doubt and inquiries, many of which cannot be satisfactorily answered. This is especially true of provisions which trespass upon the essential separation between the levels of State, local, and Federal Government which is inherent in our federal system and which, therefore, raise serious constitutional questions.

Mr. Chairman, perhaps some measure of the depth of the controversy involved in this bill is to be found in the fact that the Subcommittee on Health and the Environment of the Interstate and Foreign Commerce Committee required 63 markup sessions and 22 markup sessions of the full committee to bring the bill this far.

Although two provisions of this bill have emerged as the primary focal points of public concern—the provision to prohibit significant deterioration and the section dealing with motor vehicle emission standards—they are by no means alone, for there are many other provisions which are objectionable and cause for deep concern. I have dealt with most of them in my separate views published in the committee report which accompanies this bill and I will not dwell upon them at length now in anticipation of further discussions under the 5-minute rule.

I wish to make some particular observations, however.

First, I invite your attention to the unusual circumstances which give rise to the significant deterioration question before us. I arose in the case of Sierra Club against Ruckelshaus, a unique aspect of which is the fact that the final decision of the District Court for the District of Columbia came a mere 6 days after the suit was instituted.

A chronology of that case follows:

May 24, 1972, Wednesday:

Morning: Sierra Club filed: motion for temporary restraining order; motion for preliminary injunction; complaint; memorandum of points and authorities.

Afternoon: District Court hearing on motion for temporary restraining order; court denied motion; Court scheduled hearing on motion for preliminary injunction for Tuesday, May 30; Court gave government two days to file its opposition to Sierra Club's papers.

May 26, Friday: Government filed memorandum in opposition to Sierra Club's papers. This was only paper filed by the government prior to the decision.

May 29, Monday: Memorial Day Holiday.

May 30, Tuesday: Oral arguments on the motion for preliminary injunction. No witnesses testified. At conclusion of arguments, Court read its prepared decision orally granting the injunction. The actual injunction order was prepared, signed and filed that day.

June 2, Friday: Court filed its written opinion with the Court—which had been read orally on May 30.

August: Government filed notice of appeal.

November 1, 1972: Court of Appeals affirmed the District Court opinion without writing an opinion.

June 11, 1973: Supreme Court affirmed the District Court decision without writing an opinion (4 to 4 decision).

What is even more remarkable is the fact that the District Court of the District of Columbia predicated its decision upon a mere portion of the findings and purposes section of the 1970 act which reads:

> To protect and enhance the quality of the nation's air resources so as to promote the public health and welfare and the productive capacity of its population.

Even though it is a settled legal principle that the findings and purposes section of legislation is in the nature of a preamble and neither broadens nor grants powers conferred elsewhere in the act—the court focused its attention narrowly upon the three words "protect and enhance" while ignoring the stated reason for that protection and enhancement contained in the remainder of that sentence. It is unfortunate that this highly questionable decision was permitted to stand as a result of a 4-to-4 tie vote in the U.S. Supreme Court.

And so this case is the basis for the principle even though it was not set out in the substantive provisions of the 1970 amendments. It is time, in fact past time, to make clear now that we did not intend to incorporate any provision dealing with significant deterioration in the 1970 amendments and that we do not intend to do so now.

Second, my good friend from Michigan, Congressman DINGELL will offer an amendment to the motor vehicles emissions section which I will support. I will not trespass upon his time in this regard except to make what I consider to be an important observation. I refer to statements about granting an extension of years, 2 or 3, with regard to motor vehicle emission limitations. This can be misleading. Normally the statement of a 3-year extension for example, relates to the model year of a motor vehicle and is thus geared to that year in which the effect of emission limitations can be expected. When used in this sense such a phrase does not mean that the manufacturer of a motor vehicle has 3 years in which to conduct research and development to meet that limitation. This is so because of a built in lead time in the manufacture of motor vehicles.

For example, 1977 model motor vehicles will arrive on the market in September of 1976. For all intent and purpose the manufacturer had to meet the limitation requirements for the 1977 model in his design on or before the end of December of 1974. Thus, a 3-year extension of the emissions limitations provides the manufacturer with but a 1½ year extension in terms of the design requirements and a 2-year extension provides 6 months only in which to design vehicles to meet the applicable emission standards. I think it is important to bear this fact in mind when we consider the motor vehicle emission section of the bill.

Now let me mention briefly some of the other controversial issues contained in this measure.

This bill would require the Administrator to list certain unregulated pollutants under one or more of three provisions of current law. This action will force him to promulgate specific standards for each pollutant so listed.

This would be required regardless of whether the Administrator has available the necessary data which would enable him to determine if the pollutants are a threat to health and if so at what level they become injurious to health. Thus he will be required to establish standards without having the information essential to his determination.

Another section would alter, liberalize, and standardize the prerequisite findings which the Administrator must make in order to promulgate primary and secondary air quality standards. This provision is lacking in rationality and could seriously undermine the validity of existing standards and case law based upon current regulations and other actions of the Administrator.

Another provision provides six narrow grounds upon which a compliance data extension may be provided. This provision does much to remove desired flexibility and would require lengthy administrative procedures.

I might mention, also, that the bill would provide an excess emission fee to be imposed upon major sources whose grounds for obtaining a compliance date extension are found not to be primarily beyond the control of the applicant. These penalties would result from highly questionable procedures in which the Administrator would act as accuser, judge, and jury and the money paid as a result would not be used to assist the source involved to achieve earlier compliance.

Another provision dealing with interstate pollution abatement constitutes a further land use infringement and would contribute to the establishment of de facto buffer zones in connection with the significant deterioration provision.

Another provision in the bill would require certain State motor vehicle inspections while imposing Federal mandates upon action within the exclusive jurisdiction of the several States.

Another section would take from the Attorney General of the United States his responsibility and authority to represent the EPA in civil matters and for the first time would provide a means whereby the Administrator of a Federal agency, in this case the Administrator of the EPA, could by-pass the Attorney General and the Solicitor General in handling appeals before the Supreme Court of the United States.

There is another section which would authorize the Administrator to delegate to a local unit of government the authority for the enforcement of an implementation plan, devised by him thus making a local unit of government an agent of the United States.

Another provision would provide the Administrator with extraordinary powers to issue his own orders in connection with emergencies rather than leave such orders with the courts as is now provided by law.

There are other matters of deep concern such as questions of regional limitation, coal conversion, the requirement of best available technology whether it be needed or not, which I hope will be discussed under the 5-minute rule.

In conclusion, let me reiterate, I am not opposed to a Federal effort to achieve clean air as soon as practicable. I believe that it must be done, however, in a measured, well-balanced, and carefully conceived Federal effort designed to produce long-term results. My great fear with respect to H.R. 10498 is that it fails to meet these standards and this could precipitate adverse public reaction which might endanger and impede the progress in clean air which we all seek to achieve. By judiciously amending this bill this danger can be avoided and an acceptable measure perfected.

Mr. PREYER. Mr. Chairman, I yield 10 minutes to the gentleman from Michigan (Mr. DINGELL).

Mr. DINGELL. Mr. Chairman, Congressman BROYHILL and I will offer an amendment to H.R. 10498 which would substitute the schedule of auto emissions standards recommended by EPA Administrator Train for those proposed by the House Interstate and Foreign Commerce Committee.

Members of this House know, I am sure, that I have a multifaceted interest in this legislation. I am interested, first, because I am chairman of the Energy and Power Subcommittee of the House Interstate and Foreign Commerce Committee and had a significant role in the development of the Energy Conservation Act so recently adopted by this Congress. An overly restrictive schedule or level of emission standards, as I believe the committee bill is, will waste energy and retard our progress toward fuel conservation goals.

The committee bill is bad with respect to the auto emission standards. Those standards were adopted in committee without sound evidence.

In order to better focus the debate, Government experts in the Environmental Protection Agency, the Federal Energy Administration, and the Department of Transportation were requested by me to supply an objective analysis for

Congress of the effects on health, employment, costs to consumers, and fuel efficiency of several levels of automobile emission control. That analysis has been made available to each Member of the House. It is dated April 1976. It is the most recent official U.S. Government document addressing this issue.

That analysis clearly demonstrates that the Commerce Committee bill (H.R. 10498) with its auto air emission control standards would:

First. Waste energy;

Second. Produce negligible air quality benefits;

Third. Increase consumer costs; and

Fourth. Impose a technological strait jacket.

The Commerce Committee auto emission standards would waste energy, particularly petroleum. This waste of energy will require development of increased domestic energy resources. This in turn would result in more dependence on uncertain foreign sources for oil in more and more environmental damage.

According to the joint study by the Federal Energy Administration, the Environmental Protection Agency, and the Department of Transportation, the amendment Congressman BROYHILL and I offer would prevent a 5-percent loss in fuel economy that would result in 1980 under the committee bill. This amounts to a savings of 2.46 billion gallons of gasoline over the 10-year life of the 1980 fleet, and a savings of 16,000 barrels per day. The differences in 1981 and 1982 resulting from the NO_x standard differentials between the Dingell-Broyhill (Train) amendment and the committee bill could be as high as 20 percent, or four times higher.

In model years 1980–85, cumulative fuel consumption differences between the two standards amount to 9.27 billion gallons, or 67,000 barrells per day, of gasoline.

The Waxman standards would waste over 16.7 billion gallons in greater gasoline consumption than under the Dingell-Broyhill (Train) amendment. Historical data, based on EPA test of vehicles, the most reliable consistent data available today to the Congress, proves that California cars which meet more stringent—by comparison to 49 State cars—emissions standards, suffer a fuel economy penalty of about 10 percent. That fuel loss is proven.

The Commerce Committee auto emission standards would unnecessarily and unreasonably increase the costs to be paid by consumers. The Commerce Committee standards—by providing for frequently shifting targets and year-to-year waivers—creates consumer uncertainty, reluctance to buy, and further decline in production and employment.

The wasted fuel is not the only increased cost consumers would pay under the committee bill. Higher first purchaser costs and higher maintenance costs for new cars would also result. The additional purchase and operating costs of the committee bill in 1980 would be $1.47 billion. Total consumer costs between 1977 and 1985 would be $22.3 billion more under the committee bill than under the Dingell-Broyhill (Train) amendment. The Waxman proposal would cost consumers nearly $30 billion more than the Dingell-Broyhill (Train) standards. With inflation, the Committee bill would cost $30 billion, and Waxman $39 billion, more than the standards recommended by Administrator Train of EPA, which Congressman BROYHILL and I will offer.

Furthermore, and as most Members recognize, I represent a congressional district which encompasses possibly the most concentrated automobile manufacturing enterprise in the whole of the United States. It is part of a State that has just experienced a very high percentage of unemployment—an unemployment rate of 9.7 percent which remains well above the national average of 7.5 percent. To say that I am interested in the continued recovery of the automobile industry is to state the obvious—but I am interested in the recovery of the automobile industry primarily because of its employment effect not only in my district but in Detroit, the State of Michigan and throughout the Nation. Detroit today has an unemployment rate of 13.4 percent. Emissions standards which are too stringent and which are imposed at too early a date increase the cost of those products to consumers with a consequent depressing effect on sales, production and jobs. Any proposal which fails sufficiently to take these factors into account, as do the committee's proposal and that of Congressman WAXMAN and others, merit not only my opposition but that of anyone concerned with the all-too-high unemployment level in our country today.

Third, I am interested in this matter because for many years I have, as a member of the House Small Business Committee, vigorously opposed any efforts to create monopolies whether those efforts emanated from private industries—including the automobile industry—or the Government. I say to the Members of this House that both the committee proposal and the Waxman proposal have been justified by their sponsors largely on the basis of a single technology—a catalyst technology—yet, the adoption of these levels could at the same time prevent other noncatalyst technologies from developing beyond their current promising levels. Of course, this would be pleasing to the catalyst makers and many of them have extensively lobbied the Members of this House in support of the committee's proposal. The catalyst makers, under these proposals, would have an assured market probably for a decade and possibly more. But I see no national purpose to be achieved by affording them such a sheltered existence from competition. It makes far more sense to me, as one who has fought the creation and continuance of monopolies for years, not to bestow such a favor on the catalyst industry. The standards which Mr. BROYHILL and I are offering allow the utilization of the catalyst technology without impairing research and development and production of other technologies which may not require catalysts—technologies possessing significant fuel economy potential—at a negligible difference in air quality benefits from the levels provided in the committee and the Waxman proposals.

You have all heard a lot about the Volvo test—from Governor Brown of California and my distinguished colleagues Representatives WAXMAN and MAGUIRE. Let me deal with that test first—because it is important that we not legislate based on incomplete and some spurious information.

It is important to understand what has happened in the Volvo test and that is simply that one small engine, which has yet to be certified by EPA, achieved some low emissions levels during testing.

It is not true, as Mr. WAXMAN has asserted, that this is a car which will beat the full statutory standards established by the Congress in 1970. According to Volvo, the durability vehicle met the 1977 California requirement but clearly exceeded the hydrocarbon and oxides of nitrogen statutory standard. It could not have been certified at statutory levels.

Also, the fuel economy gain of 10 percent that my California colleagues tout is exaggerated in its inference. Actually, such a gain was in comparison to a 1976 Volvo without a catalyst of any kind. The addition of an oxygen catalyst in 1975 and 1976 brought even more dramatic fuel economies to domestic cars.

Further, as Volvo and others in the auto industry have stressed, obtaining low emission levels from relatively few test vehicles, even during certification testing, is a different matter than insuring that all vehicles from a particular year's production will achieve the same results. That is what current Federal requirements demand. A manufacturer must, in effect, guarantee that the emission performance of each and every vehicle will fall below the standards, and no manufacturer is likely to do so unless convinced that adequate margins exist between test results and the regulated emission levels. This is essential to insure that all production vehicles will comply. Volvo was testing for 1977 California standards and, although the test results were low, they were in no way indicative of a certainty by Volvo that their production could achieve those levels.

There are a number of problems which must be overcome in order to apply this technology to a wider range of engine configurations. According to Volvo, sensor positioning is critical in these larger engines and is likely to have a significant impact on the levels that could be achieved.

While development work in the industry, both by foreign and domestic companies, goes forward on other advanced systems which might provide the needed degree of control of air-fuel mixtures, the test Volvo used fuel injection, an admittedly expensive and highly sophisticated system. It is, in fact, a system that many automakers have not added to their engine fleets due to the extremely high cost which would have to be borne by the consumers. It is also a system upon which there has been only limited field testing and is not technically ready nor practicable for mass production at this time. EPA has indicated that the feasibility of using three-way technology without fuel injection has not been demonstrated. It flies in the face of reason to assume that expensive hardware will not be required to make three-way catalyst systems work. Remember, Volvo's base price alone is $6,500.

Additionally, there continues to be serious questions as to the availability of rhodium. At present, three-way catalyst durability seems to be a function of the loading of rhodium, that is, only heavier loadings give adequate durability. More extensive application of three-way technology to larger engines may well be largely related to rhodium content. Rhodium supplies are very limited. One of the two principal rhodium suppliers has told CARB that they would be capable of supplying rhodium for heavier loadings during the initial stages of use, but thereafter "the ratio will have to revert to the mine ratio." Mine ratio of rhodium to platinum is approximately 1 to 18; the Volvo catalyst loading is 1 to 5, or almost four times heavier.

The most important reason not to legislate on the basis of this test is that Congress should not be in the position of locking in any particular technology. The three-way catalyst may prove to be the technology of the future—but there are options, many less costly. Should we take it upon ourselves to require a not yet field-tested system when the stakes are so high? Locking in the original catalyst prematurely led to the sulfate scare. That one proved not to be as serious as first feared, but I am not, as a representative of the people, going to vote to require any particular technology—which could result in a monopoly by any specific industry—over other options.

The Volvo test is an important step in field testing some new technology—not the tablets coming down from the mountain. Now let me get back to what the Dingell-Broyhill amendment would do for the Nation. The amendment that Mr. BROYHILL and I offer to H.R. 10498 would have two major advantages over the committee bill. First it would allow time to phase in new technology and second, it would take a sensible approach to the oxides of nitrogen standard.

EPA estimates that the absolute earliest date at which a new technology such as the three-way catalyst might be used on a widespread basis is 5 model years away. What this means is that if we require the industry to meet statutory standards earlier than the time in which new technology is available they'll have to modify present systems—and that is going to cost fuel.

Second, if we rush the process of phasing in new technology we impose on the consumer the burden of increased costs of compressed programs—and deprive him of the usual reductions in cost and improvements in operations that are always gained from field experience.

Third, EPA has not yet finished testing these new systems for unregulated pollutants. As I said before, let us not have a repeat of the sulfate scare.

The schedule of standards suggested by the technical arm of the Government with the most expertise in this area—which is the schedule contained in our amendment—will keep a firm, stringent target in front of the industry, but allow the orderly phasein of technology to meet these standards so that we do not waste energy, increase consumer purchase and operating costs, and end up with reduced sales impacting Michigan employment which will snowball throughout the United States through auto-related industries.

All of this can be obtained with almost no difference in air quality gains between my amendment and the committee bill. As I noted earlier in this statement, I asked the EPA, DOT, and FEA to analyze the various proposals under consideration at that time and they reported negligible differences in air quality gains between the schedule of emission standards in the Dingell-Broyhill amendment and that contained in the so-called Brodhead amendment.

The second clear advantage for the American public of our amendment is its approach to the final oxides of nitrogen standard. Under the Dingell-Broyhill amendment, the NO_x standard would be set for model year 1982 and forward by the EPA, the Government research and enforcement agency with the most expertise in the field of auto air emission control standards and clean air health requirements. They are to be set at a level determined to be technologically practicable, after taking into account the cost of compliance, the need for such standards to protect public health and the impact on motor vehicle fuel consumption. The amendment requires that any given standard must apply for at least two model years so that the consumer will not have to bear the expensive and unnecessary cost of annual equipment changes. It also provides that the NO_x standards be promulgated early to insure sufficient lead-time.

Some may consider the statutory standards set originally by the Congress in 1970 to be sacred. I do not. They were set with the knowledge that they could be revised if they proved to be too severe.

There have been some serious questions raised concerning the need for the statutory NO_x standard. The auto emission standards were set in 1970 on the basis of information then available on the relationship between auto emissions and air quality. Since that time, new information has come to light that casts doubt on the need for such stringent standards. First, the NO_2 ambient measurement techniques were found to be in error, and instead of 43 regions being in violation of the NO_2 ambient standards, less than 10 were found to be a problem. Second, a study by a panel of the Committee on Motor Vehicles of the National Academy of Sciences concluded:

> Present Federal emission requirements for 0.41 gm/mi (HC) and 0.4 gm/mi (NO_x) seems more restrictive than need be by a factor of about three. Based on the state of knowledge now available, the California 1975–76 standards . . . seem more nearly what is required.

Third, a 1975 Yale Medical School study concluded that the CO and NO_x standards were too stringent by a factor of four. Fourth, a study undertaken by Columbia University, MIT, and Harvard for the National Science Foundation concluded that—

> Recent corrections to measurements of ambient NO_2 levels indicate that the statutory NO_x emission standard may be more stringent that is necessary to achieve NO_2 ambient air quality standards nationwide in 1985.

Today the auto already contributes less NO_x than stationary sources in most major cities; and NO_x control of stationary sources is projected to be far more cost effective than further control of automobiles. So, obviously the question or need for the 0.4 gpm standard must be further examined.

Further, 0.4 gpm NO_x has not been demonstrated to be feasible on mass production. Inevitably requiring expensive, and perhaps unnecessary efforts to meet 0.4 NO_x will detract from available manpower and resources to meet the 1981–85 fuel economy requirements of the Energy Policy and Conservation Act.

Perhaps most important, a 1.0 or 0.4 NO_x standard locks in technologies and places a "straitjacket" on alternate developments. Such extreme NO_x standards rule out other technologies—such as diesel, CVCC, leanburn, turbine—which show promise of achieving the objectives of both air quality and fuel economy improvement. Again, Congress would be taking on itself the risks of choosing a particular technology.

We are all in favor of continued efforts to improve air quality. But the committee bill—much less the Waxman proposal—would accomplish this goal by an unreasonable sacrifice in fuel economy and consumer costs and possibly employment. It would lock in some technologies and preclude others by its unreasonable time schedule and NO_x requirement and it would provide only negligible benefits in air quality improvement in exchange for this cost. The Dingell-Broyhill (Train) amendment provides a much more realistic and sensible approach to the same goal and I urge its adoption by the House.

Mr. CARTER. Mr. Chairman, I yield 7 minutes to the distinguished gentleman from Ohio (Mr. BROWN).

Mr. BROWN of Ohio. Mr. Chairman, I rise today in strong opposition to the Clean Air Act amendments, as reported by the Interstate and Foreign Commerce Committee. This legislation may be one of the most seriously defective and misguided bills to come before this Congress. Many of the provisions of the bill have been crafted with little thought to the impacts they will have on our Nation's economy and the individual consumer. Let me outline for you some of the most onerous provisions.

The nondeterioration provisions of section 108 and the new source standards of performance provisions of section 111, if enacted, will result in significantly greater expenditures by industry in order to comply with the provisions, and these expenditures will, of course, be passed on to the consumers. One industry that would be affected by this is the electric utility industry. Now I am sure that all of you have received many letters from constituents about increasing utility bills. Well, if you want those bills to further increase, vote for the nondeterioration and new source standards provisions as they are.

The State of Kentucky estimates that, as a result of the legislation reported by the Commerce Committee, an increase of 25 to 30 percent would occur in cost of electric bills in that State. The city of Los Angeles estimates electric rates to Los Angeles consumers could be raised as much as 60 percent if its generating facilities must be changed from coal fired to oil fired in order to comply with the nondeterioration and new source standard of performance provisions.

The cost of installation of the scrubber equipment to comply with this bill for the Cincinnati Gas & Electric Co. will result in additional company operating costs of $115 million per year. That money represents capital investment that could be made in additional plant and job expansion to meet the expanding demand for electricity. It was brought out time and again in hearings before the Energy and Power Subcommittee that the utility industry is one of the most capital intensive and capital strapped industries in the country. In 1973–74, plant expansion expenditures trimmed solely for financial reasons totaled $21 billion. There is a real danger of undercapacity, and yet here we are trying to increase operating expenditures. A February 1976 study by EPA estimates that these two provisions would result in $28 billion in additional costs to the electric utility industry between now and 1990, and if a high growth rate is assumed for that period, the National Economic Research Associates conclude that additional costs may exceed $50 billion.

But are we cleaning up the environment with these provisions? No, I think not. An EPA study concludes that the implementation of these policies will result in the generation of substantial amounts of new waste, and that by the year 1990, we will be producing 50 million tons of additional sludge per year. Just to dispose of this sludge, it will take 2,000 acres of land per year at a depth of 20 feet.

Now let us look at the consumer cost impact of another provision of H.R. 10498—the auto emissions standards provisions. The FEA estimates that if the provisions currently in the bill are enacted, the fuel penalty by 1981 would be as much as 300,000 barrels of oil per day. That would mean an additional $1.6 billion per year in payments to the OPEC cartel by U.S. consumers. Furthermore, the consumer cost of the new equipment necessary to meet statutory standards is estimated to be between $125 and $350 per vehicle. It should also be noted that no one, as yet, knows how to meet these statutory standards on most vehicles and that is why we are postponing them for the second time in 6 years. California, which has higher standards than the rest of the country, provides a good example of what will happen if these standards are not further relaxed. General Motors estimates that 70 of its models for 1977 cannot be sold in California in 1977; Chrysler estimates that 90 of its 1977 models will not be able to be sold; and American Motors says a full one-half of its models will not be able to be sold in California. This means reduced sales and a corresponding rise in unemployment in the auto industry.

H.R. 10498 AND THE OIL SHORTAGE

I would like to remind my colleagues of an unpleasant truth: Almost 3 years after the Arab oil embargo, we are steadily growing more—not less—dependent on foreign oil. The nondeterioration provisions of H.R. 10498 would make us even more dependent upon foreign oil by requiring many decisions regarding the development of such alternate domestic energy sources as coal, oil shale, and uranium to be based on only one criterion; namely, the quality of air.

The people of this country need and want the cleanest air they can get, and they are willing to pay for it. But certainly they need and want other things as well. And the economic consequences of such growing dependence on foreign sources of oil appear to be so potentially disastrous for this Nation that I feel compelled to present them to you. I do so in order that you may seriously consider whether it would not be prudent to have the nondeterioration provisions and their ramifications studied for 2 years before voting on them.

To enact these provisions hastily into law now might very well cause catastrophic and even irrevocable damage to our country's energy independence and economic well-being. Back in 1970, domestic crude oil production peaked at an average of 9.6 million barrels per day, and crude oil imports were a mere 9 percent of our total domestic supply. In each succeeding year, however, domestic production either declined or stagnated—as the natural consequence of oil field depletion—until by this year daily output averaged almost 15 percent less than in 1970. At the same time, demand kept increasing inexorably. The difference between supply and demand was made up by increasing imports of foreign oil—imports which have soared some 210 percent from 1970 to 1975.

During this same period, oil imports from friendly countries such as Canada drastically and ominously declined. In 1970, for example, imports from Canada were over half of all imports, but by 1975 they had fallen to less than 15 percent. It is forecast that by the early 1980's, Canada will not be sending us any oil at all. By contrast, the import share which came to us from the Arab countries increased from 14 percent in 1970 to almost 33 percent in 1975. It was these same Arab countries, remember, which initiated the oil embargo against us and other countries in 1973, an embargo which, according to FEA studies, set the economy back $10 to $20 billion and cost the country over one-half million jobs.

It is appalling to realize that the Arabs have increased their share of our import market from one-quarter at the time of the 1973 embargo to over one-third today and appear likely to increase it even more in the future to well over half by 1985, if present trends continue. If there is another flareup in the Middle East, and another oil embargo is put into effect, how much more will it cost us in lost jobs and production? No American wishes to see his country put into such an intolerable position of economic blackmail.

Our balance-of-payments outflow is another crucial factor that must be reckoned with. In 1970, payments for oil imports were $2.8 billion. Because of soaring demand and the fivefold rise in oil prices by OPEC since then, however, payments outflow in 1975 was over $25 billion, almost 10 times as much. Here is an enormous sum sent abroad which could otherwise have been invested in new plants and equipment at home to spur lagging economic growth and make American industry more competitive.

The solution of the problem of growing dependence on foreign oil has been obvious all along, and that is to develop alternate sources of domestic energy, such as coal, oil shale, and uranium. By developing such sources, not only will this country protect itself from the potentially disastrous effects of another Arab oil boycott, but also it will be able to keep tens of billions of dollars at home, where they can be put to work creating hundreds of thousands of new jobs for the unemployed and for young people coming into the job market.

The nondeterioration provisions, as presently written, appear to place insuperable obstacles in the path of energy development. They would, for example, severely inhibit the mining of coal in West Virginia and Kentucky. The energy resources of Wyoming, Montana, Colorado, and Utah, which comprise coal, oil shale, and uranium would be largely unavailable for mining, since all too often the required facilities to mine and process these resources, no matter how well controlled, could not be built where needed.

We must ask ourselves what would be the true energy and economic costs of enforcing the nondeterioration provisions. From the evidence to date, these potential costs appear to be staggering. Two independent FEA studies show that these provisions would force the electric utilities to increase their oil consumption by 1 million barrels a day by 1990. This amount equals all of the crude oil produced in the Gulf of Mexico last year, that is, almost 12 percent of the Nation's total output. FEA consultants also calculated that because of the nondeterioration provisions, coal production could be as much as 150 million tons lower than otherwise projected for 1990, an amount equal to almost one-quarter of all coal being mined at present. Then, too, the FEA estimates that electric utilities would have to pay an extra $6 to $16 billion during the 1980's for equipment to remove sulfur from coal in order to comply with the strict nondeterioration provisions. In consequence, the electric bill to consumers would skyrocket some $4 to $6 billion during the same period.

These crippling restrictions which the nondeterioration provisions would place on coal production and use would drastically affect energy independence because coal constitutes over 80 percent of our economically recoverable energy resources. It is the only major alternative to large-scale dependence on foreign oil. The truth is that we can double coal production by 1985 and thus take great strides toward energy independence if—and only if—we do not make unrealistic demands upon the coal producers and users.

The question before us is whether cleaning up the air is so urgent a matter as to take precedence over all other pressing concerns. Employment, economic growth, and protection against future oil embargoes, with such momentous issues at stake, it would seem wise to refer the nondeterioration provisions to a commission for 2 years of study. In this way, the potential social, economic, and energy consequences that would flow from such provisions could be studied and their true costs calculated.

Once armed with such knowledge, this body would be in a position to weigh possible tradeoffs between the nondeterioration of air quality and the other needs of this country. Without such knowledge, we would move ahead only at considerable peril, for from much of the evidence to date, the impact of the nondeterioration provisions upon the Nation's economy appear to be massive.

Adding up the combined impact of just these two provisions, passage of this legislation as it will result in your constituent's paying $350 for his new car, if he can afford it, and about $50 to $70 more per year in electric utility bills.

Mr. ROGERS. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. ROUSH, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 10498) to amend the Clean Air Act, and for other purposes, had come to no resolution thereon.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate having proceeded to reconsider the bill (S. 391) entitled "An act to amend the Mineral Leasing Act of 1920, and for other purposes," returned by the President of the United States with his objections, to the Senate, in which it originated, it was resolved, that the said bill pass, two-thirds of the Senators having voted in the affirmative.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 14234) entitled "An act making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1977, and for other purposes," and that the Senate agreed to the House amendments to the Senate amendments numbered 3, 7, 12, 26, 27, and 61 to the foregoing bill.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 11481) entitled "An act to authorize appropriations for the fiscal year 1977 for certain maritime programs of the Department of Commerce, and for other purposes."

The message also announced that the Senate had passed a concurrent resolution of the following title, in which the concurrence of the House is requested:

S. Con. Res. 134. Concurrent resolution directing the Clerk of the House to make a correction in the enrollment of H.R. 11481.

MESSAGE FROM THE SENATE

The SPEAKER laid before the House the following message from the Senate:

The Senate having proceeded to reconsider the bill (S. 391) entitled "An Act to amend the Mineral Leasing Act of 1920, and for other purposes", returned by the President of the United States with his objections, to the Senate, in which it originated, it was

Resolved, That the said bill pass, two-thirds of the Senators present having voted in the affirmative.

CALL OF THE HOUSE

Mr. BURGENER. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. McFALL. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 605]

Abzug
Adams
Archer
Ashley
Brinkley
Cederberg
Clay
Collins, Ill.
Conlan
Conyers
Dellums
Esch
Eshleman
Evins, Tenn.
Findley
Flynt
Ford, Tenn.
Fountain
Fraser
Hansen
Hays, Ohio
Hébert
Hinshaw
Howe
Jarman
Jones, Ala.
Jones, Tenn.
Karth
Koch
LaFalce
Mathis
Miller, Calif.
O'Hara
O'Neill
Passman
Peyser
Pressler
Rees
Richmond
Riegle
Risenhoover
Roncalio
Ruppe
Spellman
Stanton,
 James V.
Steelman
Steiger, Ariz.
Stuckey
Sullivan
Symington
Thornton
Udall
Vander Jagt
Waxman
Wilson, C. H.
Wilson, Tex.
Wright
Young, Ga.

The SPEAKER. On this rollcall 373 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

FEDERAL COAL LEASING AMENDMENTS ACT OF 1975—VETO MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (S. DOC. NO. 94-229)

The SPEAKER laid before the House the following veto message from the President of the United States:

To the Senate of the United States:

I am returning to the Congress today without my approval S. 391, the Federal Coal Leasing Amendments Act of 1975.

This bill addresses two essential issues: the form of Federal assistance for communities affected by development of Federally-owned minerals, and the way that Federal procedures for the leasing of coal should be modernized.

On the first of these issues, I am in total agreement with the Congress that the Federal Government should provide assistance, and I concur in the form of assistance adopted by the Congress in S. 391. Specifically, I pledge my support for increasing the State share of Federal leasing revenues from 37½ to 50 percent.

Last January I proposed to the Congress the Federal Energy Impact Assistance Act to meet the same assistance problem, but in a different way. My proposal called for a program of grants, loans and loan guarantees for communities in both coastal and inland States affected by development of Federal energy resources such as gas, oil and coal.

The Congress has agreed with me that impact assistance in the form I proposed should be provided for coastal States, and I hope to be able to sign appropriate legislation in the near future.

However, in the case of States affected by S. 391—most of which are inland, the Congress by overwhelming majority has voted to expand the more traditional sharing of Federal leasing revenues, raising the State share of those revenues by one third. If S. 391 were limited to that provision, I would sign it.

Unfortunately, however, S. 391 is also littered with many other provisions which would insert so many rigidities, complications, and burdensome regulations into Federal leasing procedures that it would inhibit coal production on Federal lands, probably raise prices for consumers, and ultimately delay our achievement of energy independence.

I object in particular to the way that S. 391 restricts the flexibility of the Secretary of the Interior in setting the terms of individual leases so that a variety of conditions—physical, environmental and economic—can be taken into account. S. 391 would require a minimum royalty of 12½ percent, more than is necessary in all cases. S. 391 would also defer bonus payments—payments by the lessee to the Government usually made at the front end of the lease—on 50 percent of the acreage, an unnecessarily stringent provision. This bill would also require production within 10 years, with no additional flexibility. Furthermore it would require approval of operating and reclamation plans within three years of lease issuance. While such terms may be appropriate in many lease transactions—or perhaps most of them—such rigid requirements will nevertheless serve to set back efforts to accelerate coal production.

Other provisions of S. 391 will unduly delay the development of our coal reserves by setting up new administrative roadblocks. In particular, S. 391 requires detailed antitrust review of all leases, no matter how small; it requires four sets of public hearings where one or two would suffice; and it authorizes States to delay the process where National forests—a Federal responsibility—are concerned.

Still other provisions of the bill are

simply unnecessary. For instance, one provision requires comprehensive Federal exploration of coal resources. This provision is not needed because the Secretary of the Interior already has—and is prepared to exercise—the authority to require prospective bidders to furnish the Department with all of their exploration data so that the Secretary, in dealing with them, will do so knowing as much about the coal resources covered as the prospective lessees.

For all of these reasons, I believe that S. 391 would have an adverse impact on our domestic coal production. On the other hand, I agree with the sponsors of this legislation that there are sound reasons for providing in Federal law—not simply in Federal regulations—a new Federal coal policy that will assure a fair and effective mechanism for future leasing.

Accordingly, I ask the Congress to work with me in developing legislation that would meet the objections I have outlined and would also increase the State share of Federal leasing revenues.

GERALD R. FORD.

THE WHITE HOUSE, *July 3, 1976*.

The **SPEAKER**. The objections of the President will be spread at large upon the Journal.

The question is, Will the House, on reconsideration, pass the bill, the objections of the President to the contrary notwithstanding?

The Chair recognizes the gentlewoman from Hawaii, (Mrs. MINK) for 1 hour.

Mrs. **MINK**. Mr. Speaker, I yield 30 minutes to the gentleman from Michigan (Mr. RUPPE), pending which I yield myself 10 minutes.

Mr. Speaker, on July 3, the President vetoed S. 391, the Federal Coal Leasing Amendments Act of 1975. S. 391 is the very same bill which this House passed in January by the overwhelming vote of 344 to 51—a margin of almost 7 to 1. Our bill passed the other body by voice vote, and as you know the veto was overridden yesterday by a 76 to 17 vote in the Senate.

The real issue at hand today is whether we intend a fulfill our responsibilities to the public as trustee of the Federal coal lands.

Mr. Speaker, the President's veto message on S. 391 ends with an exhortation to the Congress to "work with me" in drafting suitable coal leasing legislation. This exhortation completely overlooks the fact that S. 391 is already the product of prolonged discussion and compromise with the administration.

During subcommittee and full committee markup of S. 391, we adopted 13 major, and numerous minor changes to accommodate Department of the Interior concerns with the bill as originally drafted. One of these changes inserted almost verbatim in the bill Department of the Interior language requiring submission of a mining and reclamation plan within 3 years of the issuance of a coal lease. Submission of such a plan within 3 years, initially characterized in a letter from the Department of the Interior as vitally necessary for the protection of the environment, is now attacked by the President as rigid and likely to hamper coal production. Likewise, the provision in S. 391 increasing the States' share of mineral leasing receipts from 37.5 percent to 50 percent, to which the Department of the Interior strongly objected in a letter dated January 19, 1976, is now one to which the President has promised to, and I quote, "pledge my support."

Such a pattern of contradictions and last minute changes of positions by the administration has become all too familiar—especially to those of us who worked long and hard on the twice vetoed strip mining bill. I submit to my colleagues that negotiation with this administration on coal development is a one-way street—the more we give, the more we are asked to give. The give by Congress comes into clearer focus if one appreciates that S. 391 in its present form would largely codify the major provisions of the administration's new coal leasing policy, which was finalized in June with the promulgation of numerous regulations. Specifically S. 391 would: Incorporate many of the key facets of Interior EMARS tract selection process; give Interior the requested authority to abolish preference right leasing; grant Interior the desired ability to readjust lease terms every 10, rather than every 20 years; legislate Interior's testing permit regulations published June 1; codify the U.S. Geological Survey's known coal leasing area drilling program; and enact Interior's regulatory provisions requiring production from coal leases within 10 years of lease issuance.

Mr. Speaker, from the above it should be obvious that S. 391 is the product of compromise, and represents a carefully reasoned, and reasonable, reform of the Mineral Leasing Act of 1920—a reform that accommodates the major administration concerns with the 1920 act, and enacts important aspects of their very own leasing program. And yet, we are told by the veto message that—

> S. 391 restricts the flexibility of the Secretary of the Interior in setting terms of individual leases so that a variety of conditions—physical, environmental and economic—can be taken into account.

This is totally unsupported by the facts, and which, when considered along with the numerous misleading statements and outright falsehoods in the veto message, leads one to the inescapable conclusion that the administration either totally misunderstands the provisions of S. 391, or simply wishes no coal legislation at all. Allow me to elaborate briefly on a point-by-point basis.

Coal production: The veto message states that S. 391 would "inhibit coal production." This assertion directly contradicts Secretary of Interior Kleppe's statement of July 1 that S. 391 would "not seriously hamper" the administration's schedule for coal development. Secretary Kleppe is of course correct. S. 391 will actually increase western coal production through provisions which will force production from leases within 10 years, improve the caliber of coal tracts offered for lease through sound land-use planning and data gathering, guarantee public bodies such as rural electric cooperative access to Federal coal leases on an equitable basis, and facilitate the competitive leasing of Federal coal to all those interested, whether they be large corporations or smaller ventures.

Increased prices: The veto message states that S. 391 would "probably raise prices for consumers."

On the contrary, S. 391 was carefully drawn to promote competition in the coal industry. Specifically, the bill will enable small corporations to bid on leases without necessitating a large front end capital outlay; prevent concentration or monopolization of coal leases by large corporations; stipulate that a reasonable number of leasing tracts be reserved for sale to public bodies; and provide the Attorney General with an opportunity to review proposed lease issuances. These competitive provisions should lower coal prices—not raise them.

A 12.5 percent minimum royalty: The veto message condemns the 12.5 percent minimum royalty of S. 391 as being "too high in all cases," although this royalty is required for surface-mined coal only. The veto message also fails to mention that under section 39 of the Mineral Leasing Act, a section unchanged by S. 391, the Secretary will be authorized to "waive, suspend, or reduce" the minimum royalty for production from both surface and underground mines "for the purpose of encouraging the greatest ultimate recovery of the coal—in the interest of conservation of natural resources." This will give the Secretary flexibility in setting royalty rates.

Production from lease within 10 years: The veto message claims S. 391's 10-year production requirement from leases would set back efforts to accelerate coal production, despite the fact that the Department of Interior's very own "diligent development" regulations contain a similar 10-year deadline. Further, the Department's regulations require production of a minimum of 2.5 percent of lease reserves within 10 years, a provision which is arguably more stringent than the production "in commercial quantities" standard of S. 391. This is but another example of the administration's condemning Congress for legislating that which it plans to do by regulation. In any event, it is totally illogical to assert that the 10-year development deadline will somehow "set back efforts to accelerate coal development"—it should do just the opposite.

Mining and reclamation plan: The veto message states that S. 391 would "require approval of operating and reclamation plans within 3 years of lease issuance." This is untrue. S. 391 only requires the submission of such plans within 3 years. As I have already noted, the mining and reclamation plan requirement was inserted in the bill at the request of the Department of Interior.

Antitrust review: The veto message states that S. 391 "requires detailed antitrust review of all leases, no matter how small"—yet another gross inaccuracy. Section 15 of S. 391 only requires the Secretary of Interior to notify the Attorney General of proposed leases, and submit accompanying information which will enable the Attorney General to review any possible antitrust implications of a proposed lease. Nothing in S. 391 requires the Attorney General to undertake a "detailed" antitrust review. Indeed, if the Attorney General takes no action on the information submitted, the Secretary of Interior is free to proceed with leasing after 30 days. Given the nature of the antitrust laws, and the previously mentioned acreage limitations and other antimonopolistic provisions of S. 391 it becomes clear that most proposed leases will, on their face, not require review by the Attorney General.

Public hearings: The veto message asserts that S. 391 "requires four sets of public hearings." This is completely misleading. Four hearings would be required only if a new lease is to be issued, and included in a logical mining unit, and if the Attorney General advises the Secretary of Interior that lease issuance might violate the antitrust laws—a combination of circumstances that may never occur. In the overwhelming majority of cases involving future leasing only two public hearings will be required—exactly the same number as will be required under newly published Department of Interior regulations.

Deferred bonus bidding: The veto message denounces S. 391's requirement that 50 percent of the lease acreage offered for sale in any given year be offered under a system of deferred bonus bidding, as stringent.

Mr. Speaker, I fail to see what is stringent about a provision that is designed to insure that small corporations, which may not have access to the enormous capital required to pay front end bonus bids, will be able to compete in bidding on at least 50 percent of leased acreage.

Comprehensive exploratory program: The veto message terms the comprehensive exploratory program of S. 391, which is designed to upgrade existing data on the Federal coal reserves, as "simply unnecessary." Let me state for the record, Mr. Speaker, that the administration is in the very process of doing exactly that which it terms unnecessary. To wit, U.S. Geological Survey is currently conducting exploratory drilling in 16 known coal leasing areas totalling over 9 million acres. Plans for drilling in another 17 proposed known coal leasing areas are in the works. Interior anticipates requesting $16.9 million for these activities through 1979, and openly admits that such a program is absolutely necessary to fill a large gap in existing Federal coal data.

This bill has the support of the United Mine Workers of America, the National Rural Electric Cooperative Association, the National Farmers Union, the Energy Task Force of the Consumer Federation of America, National Farmers Union, the American Farm Bureau Federation, the American Public Power Association, and the Union Pacific and Burlington Northern Corps., as well as the Friends of the Earth, National Associates of Counties, and the Western Conference of the Council of State Governments.

Finally, Mr. Speaker, let me state why S. 391 deserves our overwhelming support today. The Mineral Leasing Act of 1920 has permitted rampant speculation in Federal coal leases, a totally inadequate return to the public, the issuance of 239 leases in the Western States—more than half of existing leases in those States—which have no plans for production of a single ton of coal prior to 1990, and an incredibly low production of 32 million tons from Federal leases in 1975 from an estimated available 16 billion tons under lease. The country needs this bill if it is to effectively and reasonably meet its energy needs.

Clearly it is time for Congress to take the lead in establishing the new coal leasing policy and thereby fulfill our constitutional duty to the public as trustee of the Federal coal lands. We have the vehicle to accomplish such reform before us—I urge your vote to overide.

Mr. RUPPE. Mr. Speaker, I yield my-

Mr. Speaker, I would like to say first of all today that I am not out here to try to kill this legislation. I do support the President and I do not believe that his veto should be overridden, but I do think that we need a Federal leasing bill.

Let me say this: That if the President's veto is upheld, we can go back in committee and in one morning come up with a bill which would meet, I believe, all the criteria that the Members would accept for this House and at the same time that would meet the present objections of the President of the United States.

What we really do want frankly is not to kill the leasing bill. We certainly want a leasing bill that establishes a logical mining unit in combination with so many acres of Federal land and so many acres of privately held land. We certainly want to limit the number of acres that can be controlled by any one major corporation in the United States. That can be readily done.

We want comprehensive resource planning, which we might call land use planning on Federal coal lands. That can be readily done.

We also want to force production of coal within a given period of time when it is on Federal leased land. That can be done.

What I want to emphasize is the upholding of the President's veto today is not going to kill this legislation. We can go back in committee and make a decent bill out of this particular work of art in a morning.

There are none of us in the committee who want to kill the bill, and most of us are willing to go back to the drawing boards and make this a productive, adequate piece of legislation. What the present bill does, and it is important to know this, what the present bill does is simply two things. It makes the price of coal in this country higher than it is today and higher than it should be. It also makes the coal in the United States in the Western lands more difficult to mine. There is absolutely no excuse, either, for our raising the price of coal like we are doing in this bill. There is no excuse in this Congress, in my opinion, to come out with legislation that makes it so much more difficult to mine western coal than it has been in the past.

Let us take the first point, the increased cost of coal in the United States. Right now the Department of the Interior is charging a 5-percent minimum royalty on new coal mines in the West on Federal lands. The bill sets up an absolute minimum royalty on Federal lands of 12½ percent. That figure is too high. What I would suggest, and what we should have in the legislation, is a minimum royalty of 8 percent; 12½ percent merely means that the minimum royalty is going to increase the price of coal in the United States.

Let us take an example. I have been in communication with Detroit Edison. Detroit Edison says this single provision alone, increasing the minimum royalty to 12½ percent, will increase the cost of coal when they buy that coal from Federal lands by a full 10 percent. I do not know what it is going to cost the consumer in the city of New York, but I recently read in the Wall Street Journal that the Con Edison rates in New York were twice as high as any charged by any large utility in the United States. This bill would make the New York Con Edison rates increase by another significant factor.

Mr. Speaker, there is no excuse for the passage of this bill to make utilities pay an additional amount of money for their coal supplies.

It has been said that the Western States need more money for their coal, and I agree. The Western State now receive about $4 million each year for the mining of Federal coal; however, let us look a couple years ahead to 1985. At that time the production of coal on western lands will total 200 million tons a year. If that is sold at an aver- million tons production with an 8-percent royalty, the mineral revenue sharing to those Western States with 200 million tons production with an 8-percent royalty would amount to $42 million overall. It is a tremendous increase.

The States would get at least 37½ percent and maybe 50 percent of that money. It means in 1985 the States in the West will, under present legislation, get 10 times the money they are receiving now, $42 million, and if the BLM Organic Act is passed, they will get at least $56 million. In any event, under normal increases in production, the Western States under a mere 8 percent, not a 12½-percent royalty, will see their revenues increased tenfold.

Beyond that, Mr. Chairman, let me make a few additional points. How difficult it will be to mine Western coal in this particular legislation. First of all, we set, in my opinion, too low an acreage limitation for logical mining units. The present bill says there can only be 25,000 acres of combined Federal and private land in any particular lease. The fact of the matter is that there is already a mine in the West, the Rosebud Mine in Wyoming that combines Federal acreage of 20,000 with private acreage of 60,000 to form a logical mining unit of 80,000 acres; by limiting the size of the logical mining unit, we will make it more difficult to mine and leave an awful lot of coal in the ground.

Mr. Speaker, let us look for a moment at what is going to happen to a coal body, when we limit the mining body to 25,000 acres of land. What will happen, the mining company will come in and take only the best of the coal. If they can mine 50,000 combined Federal and private acres, they will mine the best of the coal and mine the marginal coal. By limiting the logical mining unit to 25,000 acres whenever Federal acreage is involved, we are simply going to tell the coal company to take the heart out of the coal deposit and leave the marginal areas unmined. As far as getting coal into production, there are going to be at least three or four public hearings required. I think one or two public hearings are necessary, but I would suggest that three or four public hearings are not necessary.

Let us look again at one objection to the bill that I personally have. This bill says that every time we issue a new lease, we turn that lease over to the Antitrust Department of the United States Justice Department for examination. I think that is all right. Let us put every new lease into the hands of the Justice Department and examine it. This legislation, however, says that anytime one renews a lease, one has to put that renewal into the Justice Department for examination. Any time one makes any adjustment to a lease; every time one changes a comma or a sentence or a paragraph of any lease in the United States that involves Federal coal, we have to turn that lease back to the Justice Department for review and inspection.

I am only going to say this: It is going to make it much more difficult, cumbersome and expensive to secure either a new lease or a change or modification of a lease.

The final thing I object to, and I think this is a provision that is almost even untenable and which does a great disservice to the United States, is that in this bill we now have a provision which requires every mine to be in production within 10 years. I think, generally speaking, mines on Federal property can get into production within the 10-year period. However, when it comes to the gasification or liquefaction of coal, I would suggest that there are times when it is simply impossible to get that mining operation into production within a 10-year period of time. Let us look at what happens if, indeed, we have a gasification or liquefaction plant as a prospective user of this Federal coal. Let us look at the procedures the operator has to go through. First, he has to define the reserves. Then, he must develop a mining and reclamation plan. He has got to arrange financing, order the equipment, much of which can have a lead time of up to 5 years. Transportation has to be taken into consideration. A railroad spur line may have to be built.

The operator has to find a market. In the case of fossil fuel utility plants or synthetic plants, there are going to have to be various Federal, State and local permits. The plant has to be financed; it has to be built; it has to be in operation between there is any need for the coal itself.

So, I simply say that this piece of legislation increases the cost of Western coal beyond what is necessary to satisfy the financial requirements of the Western States. It is going to increase this cost to Detroit Edison, to Con Edison of New York, to all of the Eastern users who are going to have to pay a substantially higher utility bill because of the passage of this legislation.

It is also going to make it much more difficult to mine coal in the West. That does not mean that we are not going to mine coal in the West. We certainly are going to increase that production, but there is no reason, in my opinion, for making that coal difficult to get at, for making it as cumbersome as possible and to impede production.

I would like to say this: In my opinion, this bill is not a proenvironmental bill; it is really an antienvironmental piece of legislation because it limits the size of a logical mining unit to 25,000 combined acres, Federal and private property. We are simply telling the operator to cut the heart out of the mining property and leave the marginal land aside, do not mine it, take the best. If we have a logical-sized mining unit, say 25,000 Federal acres along with any amount of private acres, then we have a situation wherein an operator would find it to his advantage not only to take the best deposits, but marginal acres as well.

Second, by raising the minimum royalty from 5 percent to 12.5 percent, a lot of areas that would be marginal in the United States, which would be strip mining operations, will not be mined. If the deposit is good, the Department can raise the minimum royalty well beyond 12.5 percent. If it is marginal, really not much to begin with, then I think we would be very wise to give the Department enough latitude so that they can establish a minimum royalty of 8 percent and encourage the mining of those deposits which are marginal. Without a certain amount of support on the part of the Interior Department, they simply will not be mined.

So, Mr. Speaker, I would say that this legislation can be changed within a single day's period to make it workable.

Unless we support the President's veto of this legislation, we are going to see western coal more expensive to use on the part of eastern utilities, more expensive to utility customers. We are going to see, procedurally, a bill come out of this Congress that is the type of nightmare that businessmen and consumers object to nationwide.

Third and finally, instead of being a proconsumer bill, this bill, in my opinion, is an antienvironmental piece of legislation because it actually discourages the fullest and wisest use of the coal deposits.

Mrs. **MINK**. Mr. Speaker, I yield 3 minutes to the gentleman from Montana (Mr. MELCHER).

Mr. **MELCHER**. Mr. Speaker, this bill is part of a needed program for Federal coal development. It is only a part. But it is a significant part. About one-half of the Montana coal reserves are federally owned. Montana has high stakes in the Federal coal leases and subsequent mining of that coal.

In that development for Montana and our neighboring States of Wyoming and North Dakota, there are key parts of the strip mine bill that must be solved by Federal legislation. The strip mine bill is the other part of the needed legislation for proper and sound Federal coal development.

Of particular importance to us is the surface owners rights over federally-owned coal, water and land protection, and the prohibition of mining in areas where reclamation is doubtful. Those portions of needed legislation are contained in the strip mining bill and not in this bill. Although the Congress has twice passed the strip mine bill only to be vetoed by the President, we are ready to try again to pass that legislation and, hopefully, to receive the President's endorsement.

If the strip mine bill were passed first, before development, we would have the proper sequence. But neither this bill nor the Department of the Interior regulations will solve the problems that I mentioned. Yet this bill is a forward step. It is in the public interest. There will be greater competition. There are antitrust requirements, there are increased Federal revenues and requirements for sensible exploration and evaluation of the quantity and quality of federally owned coal. There are also provisions to recognize and help on local impact problems that go along with Federal coal development.

This bill as part of the package of needed legislation and it is deserving of our vote to override, enact it into law, and I urge the Members to vote emphatically to override the President's veto.

Mr. **RUPPE**. Mr. Speaker, I yield 3 minutes to the gentleman from Alaska (Mr. YOUNG).

Mr. **YOUNG** of Alaska. Mr. Speaker, I will address myself to one specific provision of S. 391 and the absurdity and waste that it would create. The Federal exploratory drilling program mandated in the bill will launch a multibillion dollar Government search for coal that will almost certainly not be economically recoverable until well after our Nation celebrates its tricentennial.

Taxpayers would rise up in arms if they realized the future cost that Congress is committing them to pay—a cost conservatively estimated to be well over $16 billion. The first 5-year phase alone—before the massive drilling program could hardly begin—will run $1.2 billion.

It must be clearly recognized that this provision is not merely a codification of the existing drilling program. The bill requires "developmental drilling" to determine "commercial qualities" of coal for both surface and deep reserves. This would force expensive core sample drilling up to a depth of 3,000 feet for every 80 to 160 acres of Federal coal lands. Developmental drilling is presently done by industry after a lease is obtained, and the data is furnished at the industry's expense to the Government. Industry will continue to conduct its own drilling because the accuracy of drilling data can determine the profitability of a mining operation. Mr. Speaker, the Federal exploration program created by this bill will add an unnecessary and astronomical burden on the taxpayer and the consumer. Such waste cannot be justified.

It is insanity for Congress to require a search for coal on western lands below 1,000 feet, if it will not be economical to recover that coal for many decades and possibly even centuries.

Our Nation is blessed with an incredible wealth of easily minable coal—let us not create a law which will bring extensive delay to its use or create wasteful Federal programs that duplicate work that private enterprise will be compelled to perform anyway.

Thank you.

Mr. RONCALIO. Mr. Speaker, will the gentleman yield for a question?

The SPEAKER. The time of the gentleman from Alaska (Mr. YOUNG) has expired.

Mr. RUPPE. Mr. Speaker, I yield 2 additional minutes to the gentleman from Alaska (Mr. YOUNG).

Mr. YOUNG of Alaska. I yield to the gentleman from Wyoming.

Mr. RONCALIO. Mr. Speaker, I thank the gentleman from Alaska for yielding.

I had hoped so very, very much for the gentleman's support in this legislation. The program the gentleman referred to for exploratory treatment of coal lands has not been conducted solely by private industry, but work has also been done by the U.S. Geological Survey in known geological structures over the past decades. The U.S. Geological Survey has always cooperated very well with the private sector. For the program for the development of coal we have already appropriated $16 million; that is for the development of these materials.

So, Mr. Speaker, we are putting nothing in this bill except we are agreeing to a program that has worked well in the past.

Mr. YOUNG of Alaska. Mr. Speaker, any time we set up a Federal exploratory agency, any time we set up such an agency for coal or for offshore minerals, we are proceeding in the wrong way. If private industry can do it, that is the way it should be done. The Government has no business in the energy field; it has no business developing industries in this field. If private industry can do it, it should be allowed to do it.

I have no argument with the rest of the bill at all. I have no argument with any portion of the bill except this one which seeks to get the Federal Government into the field and create a Federal bureaucracy. That is not the right way to produce energy for this Nation.

Mr. RUPPE. Mr. Speaker, will the gentleman yield?

Mr. YOUNG of Alaska. I yield to the gentleman from Michigan.

Mr. RUPPE. Mr. Speaker, I think it is fair to point out that at the present time the Federal Government spends a couple of million dollars annually in an exploratory program, but this bill would mandate a new Federal exploratory program that would cost $1.2 billion over 5 years. That is the figure given by our new Budget Office. The bill provides for a whole new $1.2 billion program over 5 years, and there is no need for the program.

The companies have done this work in the past, and they will continue to do it in the future. There is absolutely no logic to this except for the purpose of creating a new Federal bureaucracy at a cost of $1.2 billion over 5 years.

Mr. RONCALIO. Mr. Speaker, will the gentleman yield?

Mr. YOUNG of Alaska. I yield to the gentleman from Wyoming.

Mr. RONCALIO. Mr. Speaker, I want to reply to the statement the gentleman made that the Government has no business in the energy field. I agree totally, but it happens that in this case the Government owns the source of energy.

Mr. YOUNG of Alaska. Yes, Mr. Speaker, the Government owns the source, but under our past practices the private sector has always produced the resource.

Mr. RONCALIO. Mr. Speaker, I believe nothing has worked more successfully than has the cooperation between the U.S. Geological Survey and the oil companies over the past 3 or 4 years.

The SPEAKER. The time of the gentleman from Alaska (Mr. YOUNG) has again expired.

Mrs. MINK. Mr. Speaker, I yield 3 minutes to the gentleman from Wyoming (Mr. RONCALIO).

Mr. RONCALIO. Mr. Speaker, I thank the gentlewoman from Hawaii for yielding me this time.

I would like to continue the colloquy, if I may, that was just begun with my colleague on the committee.

We have heard this issue raised before as one of the reasons for opposition to this legislation, and I think it is about as wrong and ill-advised as some of the other points of opposition that have come from the White House primarily.

Opposition has also come, unfortunately, from one or two excellent energy companies which have taken this position and have not joined some of their more enlightened corporate brethren who have accepted this legislation. Some of those companies say, "This in fact is not what we like particularly. We would like to have other provisions, but we recognize there has to be movement forward for the aid of some of the impacted Western States that are taking the brunt of the program." They say, "We recognize this bill ought to be passed, and we will not oppose its passage." That is the position of most of the better energy companies in America.

Mr. Speaker, I would only comment for the benefit of those who say this brings back revenue to the States only from those States endowed with Federal coal that they are in error. This legislation affects every dollar and every Federal acre owned by the Government, and we cannot take the Government out of the business. It was in fact George Washington who put the country into the business 200 years ago last month when we had a revolution against Great Britain.

The people of this country own the coal, nobody else. Nothing has given us the right to give away all the coal that the people own. There ought to be some healthful, respectable balance in the development sector.

Mr. Speaker, 12.5 percent has worked well for oil and gas companies for 70 years. I see no reason that it should not work well for coal development.

If 12.5 percent is too high for marginal or deep coal, as my good friend, the gentleman from Michigan (Mr. RUPPE), said, the Secretary of the Interior can reduce that 12.5 percent to 7 percent, 5 percent, or 3 percent. He has always had the right to do that. Nothing in this bill takes that highly discretionary right away from the Secretary. He can cut the royalty down to whatever he wishes.

Mr. Speaker, I beg my colleagues on the other side of the aisle not to sustain the veto. This is the most important legislation affecting mineral development in the past 12 years. We have attempted to do something about coal and the leasing of Federal coal. Sustaining this veto is not going to achieve effective production.

Mr. Speaker, may I remind the Members of this statement of Secretary Kleppe to the National Coal Association convention, July 1 in Colorado Springs. He said that if S. 391 becomes law, "our schedules for coal development will not be seriously hampered." He said that would be the case if President Ford signed this bill.

Mr. Speaker, I believe our debate now must make reference to the facts of life. The facts of life are that there has been an unfortunate exploitation of the obvious. There was an editorial appearing in the Washington Post on overriding the coal leasing veto. It said that this bill should have been signed into law 5 weeks ago.

Mr. Speaker, all the Members including myself know what has happened here, and we are faced with the political realities of life. We have had this veto, and we are going through this vain exercise.

The SPEAKER. The time of the gentleman from Wyoming (Mr. RONCALIO) has expired.

Mrs. MINK. Mr. Speaker, I yield 2 additional minutes to the gentleman from Wyoming (Mr. RONCALIO).

Mr. RONCALIO. To continue, Mr. Speaker, there is no basis whatever for sustaining this veto.

With respect to the very provision that the President objected to, his Interior Department asked the chairman of the Committee on Interior and Insular Affairs last March 13 about it, and the Interior Department Assistant Secretary Jack Horton said to the gentleman from Florida (Mr. HALEY)—

> Please put in the bill that there has to be operation and reclamation plans submitted within 3 years of lease issuance.

We put it in the bill, and now the President says that it is a reason for a veto.

Mr. Speaker, I submit that this is a good basis for proving that the veto message is not of sufficient importance to merit the vote of the Members to sustain it.

This veto, I believe, should be overridden.

Mr. TSONGAS. Mr. Speaker, will the gentleman yield?

Mr. RONCALIO. I yield to the gentleman from Massachusetts.

Mr. TSONGAS. Mr. Speaker, I would like to associate myself with the remarks of the gentleman from Wyoming (Mr. RONCALIO).

I think it is a tragedy that we do not have a strip mining bill to go along with this bill. I think that the strip mining bill veto is likewise indefensible.

Mr. RONCALIO. Mr. Speaker, let me speak again in reference to this question of increases.

If this 12.5 percent that has been mentioned is going to raise anything, it will raise no more than 1 penny a day to the ultimate consumer, and $3.88 is the result of a 7-percent tax increase paid by the consumers of electricity.

The truth is that if this is going to go into effect, the raise will be just 1 penny a day for the consumer. That is little enough to pay to get the additional amount distributed to those who are feeling the tragic impact of this.

Mr. Speaker, we cannot help these communities without some assistance for acres and acres of mobile homes. They need assistance. They have the highest child-abuse rate in America, and instead of helping them, in years to come we are going to help good old Exxon and other oil companies and we are going to rip off the public itself.

Mr. Speaker, this is not justice. Therefore, I say to the Members, please join us in overriding the veto as the Senate did.

Mr. Speaker, I wish to commend the gentlewoman from Hawaii (Mrs. MINK) for the outstanding job she has done with this bill, and for her excellent remarks that accurately and thoroughly rebut the President's veto message.

This bill, S. 391, recognizes that the vast federally owned coal reserves must play a vitally important role if our Nation is to solve its energy problems and reduce its reliance on foreign oil. Coal makes up about 88 percent of America's total domestic recoverable fossil fuels. And half of it—closer to 60 percent of it in the Rocky Mountain States—is owned by the Federal Government.

The existing, badly outdated coal leasing law—written in 1920—and lax enforcement and regulation by the Interior Department have combined to assure that Federal coal played only a minor role in meeting our energy needs.

This bill updates that law and finally sets up guidelines for the orderly development of those billions of tons of Federal coal. It also provides several important safeguards. It will enhance competition, assuring that the field will not be taken over entirely by the multinational energy companies. It will end the speculative holding of Federal coal leases by requiring diligent development. It requires proper planning and environmental protection. It makes sure that the States and concerned public citizens will be heard. It provides a fairer return to the U.S. Treasury. And it sets up a program of assistance to the dozens of small communities that are already struggling to cope with the dramatic and traumatic impacts triggered by rapid coal development.

It is this impact aid provision I want to discuss. Yes, I know that the President, in his veto message, said he is "in total agreement with the Congress" that this assistance should be provided. Unfortunately, he also vetoed the bill, and with that veto would prevent the Congress from making the desperately-needed assistance available.

The small towns of Wyoming—and of our neighboring States as well—are just now in the beginning of an upheaval never before experienced. Development of the billions of tons of federally-owned coal will permanently change the character and environment of our region of the country.

Rapid coal development does not mean only intense strip mining. It also means coal-fired powerplants, coal gasification plants, coal slurry pipelines, new rail lines and heavy rail traffic, new dams and aqueducts, power transmission lines, and all the other construction and technology needed to support these and other developments.

Most of all it means a massive influx of people. People arriving every day, people who need homes and schools and health care, and roads and police and fire protection, people straining the ability of communities to provide even the most basic of services to their populations, old and new citizens alike.

What does living in such a "boom town" mean? What does it do to the individual—to the family—to the children growing up in such an environment? In Wyoming, the stress is begining to show—skyrocketing rates of crime, alcoholism, divorce, venereal disease, suicide, and child abuse.

Let me describe the situation in just one community—Gillette and the surrounding area of Campbell County, Wyo., a sparsely populated ranching area in the heart of the Powder River basin in the northeastern part of the State. The figures I use are all compiled from various Federal reports.

By way of background, production from Federal coal leases in the entire State of Wyoming last year, 1975, totaled 14 million tons.

But the U.S. Geological Survey estimates that within 9 short years, by 1985, coal production from Federal leases in Campbell County alone—not the entire State now, just the Federal leases in this one county—that production from 11 Federal leases in Campbell County by 1985 will total nearly 140 million tons a year.

For Gillette and Campbell County, such a phenomenal increase in coal production in such a short time will produce phenomenal problems.

Gillette had a population of about 7,000 in the 1970 census. That stands at about 12,000 today, is projected to rise to as much as 37,000 by 1985, and to as much as 58,000 by the year 2000. This is new population associated with coal development only. New population connected with other activities has not been estimated.

There were 3,897 students enrolled in Campbell County schools in 1970. School enrollment was well over 5,000 this past year, is projected to rise to more than 13,000 by 1985, and to more than 20,000 by the year 2000. Just to build the schools—to say nothing about teachers salaries and all the other operating expenses—just to construct the school buildings, Campbell County will have to spend more than $117 million between now and the year 2000.

The studies estimate that the town of Gillette will need an additional 197 miles of roads and streets over the next 15 years. The estimated cost, in 1974 prices, is $89 million.

Add to these figures the cost for all the other basic physical needs that any community requires—water and sewage systems, police and fire facilities, hospitals, and libraries. And then add to all that, the community's costs in working to deal with the myriad social problems so common in "boom town" environments.

That is the situation in just one community. But it is much the same story in dozens of other communities in Wyoming and our neighboring States. In Wyoming alone, of our 81 incorporated towns and cities, 26 of them are already severely impacted.

We in Wyoming and the West understand fully that this coal, these natural resources are indeed Federal resources, and that the revenues they generate are indeed Federal revenues. But, the problems I have discussed, the often traumatic problems associated with the rapid development of these resources, are problems of the State and local community.

The assistance provisions of S. 391 provide the only substantial Federal help to the coal-producing States to deal with those problems. The assistance provisions of S. 391 could spell the difference between, on one hand, a chaotic, disastrous disintegration of a stable small-town lifestyle dominated by agriculture, together with all the social ills connected with such a disintegration, or on the other hand, an orderly transition to an urban or semiurban environment.

I beseech you, my colleagues, to consider these problems, to realize that they are an extremely important and inseparable part of our overall energy problem, and that S. 391 provides the means to help solve them. I most strongly urge you to vote to override this most unfortunate veto of S. 391.

Mr. Speaker, I include with my remarks a table showing what the impact aid provision in this bill would mean for Wyoming and the other Western States:

EFFECT OF PROVISION IN S. 391 TO INCREASE MINERAL ROYALTY PAYMENTS TO STATES TO 50 PERCENT[1]

[Based on calendar year 1975 figures]

State	Total royalties paid to Federal Government	Royalties returned to State (37½ percent)	Royalties returned to State with 50 percent provision	Difference between 37½ and 50 percent
Alabama	$50,296	$18,861	$25,148	$6,287
Arizona	923,976	346,491	461,988	115,497
Arkansas	279,704	104,889	139,852	34,963
California	18,595,624	6,973,359	9,297,812	2,324,453
Colorado	92,249,754	34,593,658	46,124,877	11,531,219
Florida	47,410	17,779	23,705	5,926
Idaho	2,965,576	1,112,091	1,482,788	370,697
Kansas	658,266	246,850	329,133	82,283
Louisiana	494,554	185,458	247,277	61,819
Michigan	23,733	8,900	11,866	2,966
Mississippi	27,690	10,384	13,845	3,461
Montana	$12,345,394	$4,629,523	$6,172,697	$1,543,174
Nebraska	113,061	42,398	56,530	14,132
Nevada	2,540,280	952,605	1,270,140	317,535
North Dakota	1,545,037	579,389	772,518	193,129
New Mexico	68,903,026	25,838,635	34,451,513	8,612,878
Oklahoma	866,776	325,041	433,388	108,347
Oregon	879,978	329,992	439,989	109,997
South Dakota	916,034	343,614	458,152	114,538
Utah	15,269,261	5,725,973	7,634,630	1,908,657
Washington	45,682	17,131	22,841	5,710
Wyoming	92,715,391	34,768,271	46,357,695	11,589,424

[1] Note: S. 391 also contains a provision to increase the amount of the royalty paid to the Federal Government for coal to 12½ percent of the value of the coal. The figures above do not take into account this change, so the royalties in States with coal would be higher.

Mr. RUPPE. Mr. Speaker, I yield such time as he may consume to the gentleman from Idaho (Mr. SYMMS).

Mr. SYMMS. Mr. Speaker, some of my colleagues have asked, "If we have 16 billion tons of Federal coal presently under lease, why do we need to lease additional coal?" They ask, will not the present coal tonnage under lease take care of our Nation's energy needs for the near future? The answer to this question is an unequivocal no. We urgently need additional Federal leases to reach projected development increases necessary to a timely achievement of energy independence.

To look only at the total tonnage of coal, under lease is a simplistic and misleading approach. This approach fails to consider how much of this tonnage is presently economically recoverable. As a matter of fact, the overwhelming majority of outstanding Federal coal leases which are presently not under production or plans for production need additional leases to form minable units. A lease alone does not comprise a unit from which coal can be economically recovered. Landownership patterns in the West make it necessary to combine Federal leases with other leases to put together a minable unit. Additional leases can include State, private, and Indian lands.

If additional Federal leases are not issued, many coal reserves will not be practical to mine. This will have the effect of either forcing mining of tracts that are uneconomical to mine alone and passing the increased cost to the consumer or of leaving valuable coal reserves undeveloped. Needless to say, this would insure our dependence on expensive imported foreign oil.

Passage of this bill will delay Federal coal leasing for at least 5 years and thereby prevent industry from obtaining the leases necessary to put together minable units. The delays built in this bill will thereby delay western coal production and devastate any hopes for achievement of energy independence in the near future. I urge you to vote to sustain the President's veto.

Mr. RUPPE. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, I would like to take just a couple of moments to respond to the remarks of my distinguished colleague, the gentleman from Wyoming (Mr. RONCALIO). My colleague has indicated that under this legislation, the minimum royalty goes to 12½ percent, but in the case of conservation purposes, the Secretary would have the option of cutting back that royalty to a lesser figure.

My understanding in talking to the Secretary's office is that the limitation of the 12½ percent will hold and that for conservation purposes the Secretary can cut the royalty from the figure, if it was above 12 percent, down to 12 percent, but does not mean, according to the Department of the Interior, that they can cut the minimum royalty down below the 12-percent figure.

I think we ought to comment on what Secretary Kleppe stated to the Western mining people, a few days before the President acted on his veto message; he said, when he was addressed on the subject, that it could well be the industry will have a piece of legislation that it will have to live with.

Maybe we will have it today and maybe we will not.

Raising the minimum royalty from 5 to 12½ percent is simply a ripoff of the consumers of this country. It means the people who are in Detroit and who are buying electricity from Detroit Edison, will have to pay substantially more in monthly fuel bills. And the same thing will occur on the east coast in New York and in numerous New England communities where the utility bills are already excessively high. Under the legislation as originally proposed by the administration, by 1985 the moneys flowing to the Western States would increase from the present $4 million to at least $42 million a year. However, with the basic BLM Organic Act, the States royalty will be increased from the present 37½ to 50 or 60 percent, so the royalties that are received by the Western States will total some $60 million or 15 times what they are today.

I am certainly in favor of the Western States having more money to alleviate the impacts in these areas, however, let us remember that a good part of the country is suffering from unemployment at a rate from 8 to 12 percent. There are people in this country who would be tickled to death to go West and have some of these strip mining jobs paying 5, 6, and 7 dollars an hour.

So I would like to say that the development of Western surface mining is not a total tragedy to the Western States; indeed it may be a blessing in that in those areas it will provide thousands of well-paying jobs, and it will improve property taxes and income taxes in many of the States and communities. However, I think there are limits to the benefits that we should pay Western States because of the utilization of our national Federal coal resources in these areas of the country.

Mr. Speaker, I urge a vote on the part of my colleagues to sustain the President's position.

Mr. ICHORD. Mr. Speaker, will the gentleman yield?

Mr. RUPPE. I yield to the gentleman from Missouri.

Mr. ICHORD. Mr. Speaker, I rise simply for a point of information. I know that the gentleman in the well has national forest lands on which there are royalties going back to the States. I observe in the President's veto message that the President states that this will raise the share of the States from 37½ percent to 50 percent. That is one of the objections.

Is it not true, I would ask the gentleman from Michigan, that the State of Wyoming is now getting 25 percent?

Mr. RUPPE. Mr. Speaker, in response to the inquiry of my colleague, the gentleman from Missouri (Mr. ICHORD), let me state that the situation now, as I understand it, is that the States are getting 37½ percent. I have no argument about raising the percentage of the take. All I am saying under this or any other bill, the take will increase, on a percentage basis, from 37½ percent to 50 percent, and the State's portion, if the BLM Act is passed, will go to 60 percent to the State.

Mr. ICHORD. That was my point of inquiry. The States are now getting 37½ percent?

Mr. RUPPE. That is correct. And they are going either to 50 percent under this bill, or perhaps even 60 percent if the Senate position on the BLM Act is sustained. I have no objection to a higher percentage of the take going to the State; I simply have a personal objection to the fact that the minimum royalty is also substantially increased at the same time. That is just too much of a good thing on a given date.

The SPEAKER. The time of the gentleman has expired.

Mr. RUPPE. Mr. Speaker, I yield myself 5 additional minutes.

Mr. MYERS of Indiana. Mr. Speaker, will the gentleman yield?

Mr. RUPPE. I yield to the gentleman from Indiana.

Mr. MYERS of Indiana. Mr. Speaker, our colleague, the gentleman from Alaska (Mr. Young) raised the question about test borings and explorations. It was not clear to this Member what the purpose of those test borings are, if private industry is presently doing the present exploration without any cost to the Federal Government.

Mr. RUPPE. I am not certain what the desires of those sponsors of this particular amendment were. I do know that the industry is doing a lot of exploration and development work at the present time. I know further that with the passage of this legislation there would be a mandated $1.2 billion Federal exploration program over 5 years, and the $1.2 billion is not the Bureau of Mines' or the Department of the Interior's figure, but is our own Budget Office's in the Congress. That is the minimum program. If we want to have a drilling or exploration program nationwide, it means drilling a 3,000-foot hole in every 40-acre tract of land in the United States; we could then have a $60 billion drilling program. But presumably the Congress in its appropriation process will be more merciful than that.

Mr. YOUNG of Alaska. Mr. Speaker, will the gentleman yield?

Mr. RUPPE. I yield to the gentleman from Alaska.

Mr. YOUNG of Alaska. I thank the gentleman for yielding.

I cannot understand the motive behind it, but unless the coal sampling was done to the level of 3,000 feet, I doubt if the leases would be let. I doubt it in that case. If we pass this legislation, there would undoubtedly be lawsuits if the drilling has not been done on coal lands. My argument has always been that the Government has no business setting up any new agencies to develop any exploratory activities when private industry can do so at a better return to the taxpayer in the production of energy.

We talked extensively in the OCS bill about Federal exploration work, and it was decided at that time it would be a deterrent to the production of energy. I cannot understand why it was put in the bill, but I do know the end result would be an expense to the taxpayer, and I do not think there would be any matching benefit.

Mr. RUPPE. I do not think we had any testimony in support of the Federal exploration provision.

Mr. RONCALIO. Mr. Speaker, will the gentleman yield?

Mr. RUPPE. I yield to the gentleman from Wyoming.

Mr. RONCALIO. I thank the gentleman for yielding.

The gentleman is correct. We do not want a Federal exploration program. This bill does not give us one. Every dollar that USGS spends for drilling is spent in the private sector. They contract out to the private drilling companies, and the private companies report back as to whether or not it is a known geologic structure.

Mr. RUPPE. That program sublet by USGS involves a few million dollars a year. But here we are talking about $1.2 billion over 5 years. That is $240 million a year. That is an infinitely greater resource study program than we have on the books at the present time, and there has been no testimony that would indicate that a Federal program of well over a billion dollars is really necessary.

Mr. MYERS of Indiana. Mr. Speaker, will the gentleman yield?

Mr. RUPPE. I yield to the gentleman from Indiana.

Mr. MYERS of Indiana. I thank the gentleman for yielding.

It would appear that what we are doing here would be repetitive. I do not think any coal industry would accept these borings or these drillings and build on land, according to what they are being told by this exploration. It seems to be a complete waste of money.

Mr. RUPPE. My guess is industry would go back and do its job anyway. The size of a mining project of several hundred million dollars would, undoubtedly warrant an affirmation, if not an initial test of the property itself.

Mr. MYERS of Indiana. If the gentleman will yield further, it appears by the language here that the Secretary is mandating to do this drilling, and it is not one of those discretionary items that he has in this act where he may or may not do it. He is mandated to do it before he can lease.

Mr. RUPPE. The program is mandated, and the figures given us by our own Budget Office indicate that that cost on a 5-year trial basis will be $1.2 billion.

Mr. RONCALIO. Mr. Speaker, will the gentleman yield?

Mr. RUPPE. I yield to the gentleman from Wyoming.

Mr. RONCALIO. I thank the gentleman for yielding.

The truth is, Mr. Speaker, most energy companies do not care to have the drilling information from the USGS. They know where the coal is. They have been through these seams many years ago. They have tied up 80 to 90 percent of the best coal in Wyoming now. There are already 234 leases in existence now that are not going to be mined in the next 5 or 6 years.

Mr. RUPPE. The reason the leases are not being mined is because the Government was too dumb in the original drafting of the leases. It is the Government's own foolishness over two decades, that have the situation in the West today where many of these mining properties are not being mined. They could have put a due diligence requirement in the initial lease. The fact that they have not done so is no reason to make it tougher and tougher on the mine operators to mine in the future.

Let us remember we are limiting the amount of land available to all of the big guys, the Exxon's and the Texaco's, to 100,000 acres federally, nationwide. That is all they can have in all of the Western States—100,000 acres under lease. So we are inviting competition by a myriad of new and hopefully smaller companies, but by making them go through all of these requirements, it is going to make it tougher and tougher on the small operators to get into operation and get a piece of the action. It is going to make it tougher and tougher for them to get financing. And it is going to make it tougher and tougher for them if the bill requires three or four hearings. It is going to make it tougher and tougher for them to get into business and stay in business if every time they get a new lease or change a dot or cross a "T" they have to come to Washington and fight it through with the Justice Department.

We do not hurt Exxon in this or the big companies. We hurt the small operators because if they do not have the money and the lawyers in Washington to fight every change in the lease with the Justice Department, they simply do not get into the business. The only guy who is going to get around to doing all this and who, despite all our protestations, is going finally to walk away with the leases, is the big company.

Mr. MYERS of Indiana. Will the gentleman yield?

Mr. RUPPE. I yield to the gentleman from Indiana.

Mr. MYERS of Indiana. Mr. Speaker, I agree with the remarks of the gentleman.

What purpose does this section serve? The industry knows where the coal is. They would not rely on Government information. Why was this section put in the bill? It looks like a waste of the taxpayers' money.

Mr. RONCALIO. Mr. Speaker, if the gentleman will yield, let me say there is no other way I know that one can plan and ascertain what is in his assets than by what is in this bill.

Mr. RUPPE. There is no evidence that it will do that.

The SPEAKER. All the time of the gentleman from Michigan (Mr. Ruppe) has expired.

Mrs. MINK. Mr. Speaker, I yield 3 minutes to the gentleman from Arizona (Mr. Udall).

Mr. UDALL. Mr. Speaker, this is one of the key environmental and resources decisions this Congress will make. I would hope that the House would stand up today and look the administration in the eye and vote to override this veto, because this is a good bill. It ought to be law. There is an admonition in the Bible that says: "By their fruits ye shall know them." I would change that today to read: "By their vetoes ye shall know them." And you can tell a lot about the Ford administration by this and the strip-mine veto.

One of the great things about the conservation movement, one of the great things about our policy toward treatment of the land in the country and our resources has been that it has been a bipartisan movement. The Republicans and the Democrats are working together to save the land and make the decisions. I remember people such as John Saylor, who was with us in the strip mining and other decisions, yet the President has been misled time after time after time. These coal barons will have an important place when the history of the robber barons in America is written. They now want to tear up the West like they did in West Virginia.

On this key piece of legislation. the key subject of coal and its use, the administration has not been with the people or with the land or with the environment on a single issue. Time after time after time, they have been for all practical purposes a wholly owned subsidiary of big coal interests and they are on this bill today. Big coal says "no", and Gerald Ford picks up the veto stamp.

There are good people on the Republican side of the aisle who know we need more coal but who hope to put the land back this time when we get the coal out.

We can do it and we can have more sensible policies, such as we have in this bill, and get more energy and free us from foreign oil and give us time to solve the tough questions about nuclear power.

I think the voters will pass judgment on November 2 on many things. This is going to be one of the key votes. In deciding it, the voters in the marginal districts will watch this vote to see who cares about natural resources and who wants to get coal out in a way so as to save the land. It is a good bill and it has my bipartisan support.

The gentlewoman from Hawaii and her committee have done a good job. It is vital to the West and to the country that this legislation be enacted and be enacted today.

I urge my colleagues to override this veto.

Mr. PICKLE. Mr. Speaker, I rise in support of the motion to override the presidential veto of S. 391, coal leasing amendments. While this bill does not pretend to be the total answer to the problems concerning Federal coal policy, and indeed, the wider question of energy problems our country faces, at least it is a good start toward facing these problems.

I am particularly interested in this bill, apart from the need for energy legislation, because it clears up an anomaly in the present law dating back to 1920 which affects Texas, and more specifically, my congressional district. Section 12 of this bill was added by the committee based on an amendment I had submitted. Under present law, coal under military land that is Federal public land can be leased; however, coal under military land that is federally acquired land cannot be leased.

In Texas, all Federal land is acquired land. In my 10th District of Texas there are sizeable lignite deposits under a military reserve used by the Texas National Guard. My amendment allows the Department of Interior to lease coal under acquired land, but only to State or municipal entities that generate electricity. This is important to the citizens of central Texas, whose publicly owned electric companies would thus have a source of lignite to fire new coal burning plants. And it is very important to my area because, believe it or not, because of an unreliable supplier utility costs of Austin, Tex., is equal if not higher than those of New York City. My amendment is approved by the Interior Department, Defense Department, and the Interior Committee—and nearly all groups. But that amendment will fail if this veto is not overridden. It would go down with the veto. So I ask your vote to override.

So the way for our people to lessen forthcoming utility bills is to override the veto of this year's bill.

In short, I think the industry should accept this reasonable leasing bill instead of trying to get the coal for nothing, or mighty little.

This is Federal coal. It is the people's coal. It makes sense to me that before private interests make more money from the coal the public should have some hearings and input on the mining plans.

As to the other provisions, I do not see how anyone can say a company should be allowed to sit on the coal. Although the royalty payments may be a bit high, in the opinion of some, I do not see why one can seriously object to giving a little more money to our sister States in the West, unless they are mad at them.

Objections to the bill are overblown. This bill is a basic approach to utilizing the vast coal reserves under Federal lands. The committee has labored long and hard to produce a reasonable bill. This bill is urgently needed to provide mineral impact assistance to the Western States, and to insure the public a fair return from the leasing of its coal mines, while helping all of us to solve our energy problems.

I urge your vote to override the veto of this bill. I know that the utilities and the administration are leaning on some of you. The utilities have termed this bill a bad bill. But I submit to you that this Congress can hardly pass any coal leasing bill that the private utilities would classify as a "good bill." That just will not happen. I think the utilities go too far in opposing this bill; and I hope our Members do not lay down and play dead just because of some utility opposition. As one Member, I want to get production of coal and lignite; I want to help both the private and publicly owned utilities to find and produce coal. But we have got to have the leases, and the mines first unless these are leasing regulation and other guidelines we cannot get there from here.

Mrs. MINK. Mr. Speaker, I yield 2 minutes to the gentleman from Montana (Mr. BAUCUS).

Mr. BAUCUS. Mr. Speaker, we have heard many reasons why we should vote to override the veto of S. 391 and several reasons why we should not. We should keep one thing in mind during this debate. This vote, this battle today, is an issue between the haves and the have-nots. It is a battle between the Western States, who enjoy the quiet beauty of the open spaces, who have the coal and produce the coal, and those States in the rest of the country who need the coal to fire their generators and have electric power.

Mr. Speaker, I would like to tell the Members here from those consuming States that we in the West, we in Montana and Wyoming, want to produce this coal. It is Federal coal. It belongs to all Americans. We in the West want, as a part of our national energy policy, to help those consuming States so they can light their homes and fire their industries, so they can produce the goods and services that they so desperately need.

Mr. Speaker, all we ask in the West is that the national coal policy be reasonable, that we produce the coal reasonably, that we have some kind of limit on the terms of coal leases. We ask for a moderate exploratory program, so that we know, apart from the word of the coal companies, exactly how much coal we do have. Because we in the West do want to help all America to produce the coal, that is all we ask.

Two other points: This leasing reform will not significantly increase the price of coal. Of all the coal that is used to fire generators, only 3 percent is from Federal lands. If there is any tendency to increase the price of coal, the competitive features in this bill should help to keep prices reasonable. The bill allows small companies to get a part of the action so they, too, can mine some of this coal.

Mr. Speaker, this bill is desperately needed by the West and Montana. I hope all the Members will join with us in a spirit of cooperation to override the veto.

Mr. Speaker, the real issue before us today is whether we are going to allow the administration's veto of S. 391 to take the third and final step in totally nullifying Congress will on national coal development policy. For if we vote to sustain the veto, the President will have succeeded in completely excluding Congress from having any voice in the management and development of the Federal coal lands—lands which, under the Constitution, are held in trust by the Congress for the American people.

While the President's veto message of S. 391 closes with a plea to "work with me" in developing legislation suitable to the administration, experience with the twice-vetoed strip mining bill indicates that "working with me" really means unconditional surrender to administration demands. Short of total surrender by Congress any "compromise" measure reached will almost surely be vetoed again, using the same time-worn and hollow cliches that the bill would "inhibit coal production, raise prices for consumers, and ultimately delay our achievement of energy independence."

We now know, and several mining companies have admitted, that these allegations were totally untrue as applied to the strip mining bill. Even the backup figures were contrived in that case. With S. 391 the allegations are equally false, and no backup data is provided. Instead, the veto message expounds numerous inaccuracies and some outright falsehoods in an attempt to discredit S. 391. We should not be fooled. Even Secretary of Interior Kleppe has stated that S. 391 will not deter coal production.

On the contrary, S. 391 was carefully drafted to increase coal production from Federal leases by requiring production from leases within 10 years. This requirement is in S. 391 because only 59 of the 534 existing Federal leases have ever produced coal. Indeed 239 of 467 western leases have no production plans prior to 1990. Instead, most existing leases are held for speculative purposes—to be developed when the price for coal is right—for the coal companies. Profits from rising coal prices, therefore, go not to the Federal Government which owns the coal, but to the lessee. As trustee of the Federal coal lands, Congress must put an end to this. S. 391 does, and yet so reasonable are its provisions that the 534 existing leases will not have to produce coal until 10 years after the next scheduled readjustment of lease terms, which in many cases will not be for 15 or 20 years. This can hardly be termed unfair.

The charge that S. 391 will raise coal prices to consumers is likewise unfounded. In the first place Federal coal accounts for only 3 percent of the coal burned in this country, and any tendency towards increased prices from the higher royalty of S. 391 will be more than offset by the bill's numerous provisions to increase competition in the coal industry. These include provisions facilitating the leasing of Federal coal to rural electric cooperatives, small corporations, or public bodies which produce electricity. Such provisions which can only benefit the consumer. I think it is clear, therefore, that it is time to dismiss the President's feeble arguments against S. 391 and vote to override. Anything less would constitute an abrogation of our duty to the American people as trustee of the Federal coal lands.

Mrs. MINK. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Illinois (Mr. SIMON).

Mr. SIMON. Mr. Speaker, the President in his veto message to the Senate yesterday, made reference to an amendment which I introduced and which was accepted by this body, an amendment which authorizes a Governor to delay any strip mining that may take place in a national forest within his State.

The President says that my amendment authorizes the Governors to delay the leasing process and that national forests are solely the Federal responsibility. He suggests that the effect of my amendment is unprecedented. Apparently the same was suggested yesterday during Senate debate. Actually, there are all kinds of precedents in almost every agency of the Federal Government, including the Department of the Interior. The 93d Congress passed the Deep Water Port Act, Public Law 93-627, which gives precisely the kind of postponing feature my amendment gives to a Governor of a State.

I happen to have the Shawnee National Forest in my district, which has substantial Federal coal reserves. We in southern Illinois, do not want to wake up one morning and find that a Secretary of the Interior, who has never been to southern Illinois, has all of a sudden authorized devastation, strip mining and blight on this beautiful national forest. So, I think the point that we have mandated, that a Governor at least have the authority to delay action in a national forest, is a sound procedure.

Mr. Speaker, I urge that the President's veto be overridden.

Mrs. MINK. Mr. Speaker, I yield myself the remaining time.

Mr. Speaker, I take this time to refute the suggestions that have been made by those who are seeking a vote to sustain the veto with reference to the exploratory program. The bill which we passed is explicit. The committee report on the bill sets down on page 6 the criteria, the reasons and justification for the exploratory program.

It is designed to obtain the resource information necessary for determining where there are commercial quantities of coal and what the geological extent of those deposits are, in order to set the proper basis for a land-use determination, and for the determination of the value of the resource. If there is anything which is clear under the Constitution and laws, it is the congressional responsibility toward the assets that belong to all of the people of these United States. That responsibility is to make sure that when we lease out our resources, we are able to get the dollar value back which we are deserving of.

Without an exploratory program, we are unable to know the extent of these deposits. We can only depend upon what the private sources now tell us. So, consistent with what the U.S. Geological Service has already done, we are simply enacting this program as a method in order to make sure that in the future these assets are preserved and that the values are turned back into the treasuries of the States, where they belong. It seems to me that is absolutely necessary.

The bill also provides that 6 months after enactment of this legislation, the Secretary shall develop a plan for exploration. He will come back to the Congress and lay out the extent to which this plan is to be implemented, and the cost. It will be completely within the domain of this Congress to decide exactly what the program will be, and the extent of it. There is an absolute grant of authority for contracting private companies to do the actual exploratory work.

The only difference now is that the private companies have absolute control over the information, and the public is not protected. This way, when we contract the exploration to private industry, we will be able to gather data about the resources of the lands in order to lay out what values to assess, and will be able to protect the values of our people.

Some of the cost figures mentioned earlier are ridiculous. They are based upon an average hole of 1,500 feet depth. All of our estimates and those of the experts we have consulted suggest the average depth shall be no more than 300 feet. Members in debate earlier have made wild estimates as to the number of drill holes to put in each one of these sites.

They say the bill requires the Government to complete the program in 5 years. There is no such thing mandated in this legislation. I submit that the importance of this bill is what we have learned from history. Two hundred thirty-nine leases having 16 billion tons of coal in the West are sitting there not producing because the existing leasing act is obsolete.

Mr. Speaker, I urge a vote to override the veto.

Mr. LEGGETT. Mr. Speaker, the motion to override the President's veto of S. 391, the Federal Coal Leasing Act amendments, raises a set of issues similar to those we faced with H.R. 6218, the bill to provide a comprehensive policy for the development of the petroleum resources of the Outer Continental Shelf. Once again, we face a choice between an approach which would leave coal development largely in the hands of the big energy companies and a policy which would provide a better return to the public, stimulate production and competition, and provide for protection of the environment.

Just as with the OCS bill, a major emphasis of S. 391 is the provision to end reliance on front end bonus bidding for coal leases. It would require 50 percent of Federal coal acreage to be leased each year under a system of deferred bonus bidding. This is not as desirable an alternative as royalty bidding, which would provide a better return to the taxpayer. But it would enable the smaller companies without the massive capital needed for "front end" bonuses to defer this cost until later and get into the bidding. This should stimulate competition for coal leases.

A related provision designed to protect the interests of the consumer and taxpayer is the requirement that a reasonable number of lease tracts be reserved for sale to nonprofit public entities, such as electricity cooperatives. This will insure that the cooperatives, which have done so much for rural America, will have access to a fair share of the coal.

Another provision which is also comparable to our new policy for the Outer Continental Shelf is the requirement for a coal exploration program on Federal lands. This will provide prospective lessees with the data to evaluate a potential tract, and also insure that the data generated is available equally to all parties.

Still another section of the bill would require that information be provided the Attorney General about the leasing process so he would have the opportunity to examine it from the antitrust standpoint. This, together with the other provisions, should go a long way toward increasing competition and providing the public a fairer return on its lands. If the administration really meant what it says in general about the desirability of competition and free markets, it would eagerly support this bill. What we have, on the contrary, is a veto which appears to serve only the interests of the energy oligopolists.

Would this bill inhibit coal production, raise prices, and delay our achievement of energy independence, as the President alleges? I submit that there is no evidence in support of these allegations.

A program to stimulate competition, as is envisioned in this bill, ought to hold down prices rather than the reverse.

And what of production? Would the

President continue the present situation, where there is now no plan for production prior to 1990 for fully half of the existing Federal coal leases in Western States? Our bill would require termination of leases at the end of 10 years if they were not producing coal in economical quantities, as well as consolidation of uneconomical lease areas into more efficient mining units.

This approach ought to stimulate, not inhibit, production of coal on Federal lands. And if we produce more, we will progress toward energy independence. If we do not do one, we will not do the other. It is as simple as that.

This bill would also provide assistance to the affected Western States to help them deal with the substantial impact which accelerated development of Federal coal lands will have on them. Through redistribution of leasing receipts, impacted States, such as Wyoming, would receive around $10 million annually to deal with the growth effects which would ensue from coal mining efforts.

Mr. Speaker, this legislation is certainly not the last word in national coal policy. In my estimation, we still need a strip-mining bill. But S. 391 represents a step which 344 of us thought should be taken last January. I believe it still is, and I urge my colleagues to vote accordingly.

The SPEAKER. The time of the gentlewoman from Hawaii (Mrs. MINK) has expired.

Mrs. MINK. Mr. Speaker, I move the previous question.

The previous question was ordered.

The SPEAKER. The question is, Will the House, on reconsideration, pass the bill, the objections of the President to the contrary notwithstanding?

Under the Constitution, this vote must be determined by the yeas and nays.

The vote was taken by electronic device, and there were—yeas 316, nays 85, answered "present" 1, not voting 29, as follows:

[Roll No. 606]

YEAS—316

Abdnor
Adams
Addabbo
Alexander
Allen
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Armstrong
Ashley
Aspin
AuCoin
Badillo
Baldus
Baucus
Beard, R.I.
Bedell
Bell
Bennett
Bergland
Bevill
Biaggi
Biester
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonker
Bowen
Brademas
Breckinridge
Brodhead
Brooks
Brown, Calif.
Broyhill
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burlison, Mo.
Burton, John
Burton, Phillip
Byron
Carney
Carr
Chappell
Chisholm
Clancy
Clausen, Don H.
Cleveland
Cohen
Conte
Corman
Cornell
Cotter
D'Amours
Daniel, Dan
Daniels, N.J.
Danielson
Davis
de la Garza
Delaney
Dellums
Dent
Derrick
Derwinski
Devine
Diggs
Dingell
Dodd
Downey, N.Y.
Downing, Va.
Drinan
Duncan, Oreg.
Duncan, Tenn.
du Pont
Early
Eckhardt
Edgar
Edwards, Calif.
Eilberg
Emery
Erlenborn
Eshleman
Evans, Colo.
Evans, Ind.
Fary
Fascell
Fenwick
Fish
Fisher
Fithian
Flood
Florio
Foley
Ford, Mich.
Fraser
Frenzel
Frey
Fuqua
Gaydos
Giaimo
Gibbons
Gilman
Ginn
Gonzalez
Goodling
Gradison
Grassley
Green
Gude
Hagedorn
Haley
Hall, Ill.
Hamilton
Hanley
Hannaford
Harkin
Harrington
Harris
Harsha
Hawkins
Hayes, Ind.
Hechler, W. Va.
Heckler, Mass.
Hefner
Heinz
Helstoski
Henderson
Hightower
Hillis
Holland
Holt
Holtzman
Horton
Howard
Hubbard
Hughes
Hungate
Ichord
Jacobs
Jeffords
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, Ala.
Jordan
Kasten
Kastenmeier
Kazen
Keys
Koch
Krebs
Krueger
Lagomarsino
Landrum
Leggett
Lehman
Lent
Levitas
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lujan
Lundine
McCloskey
McCormack
McDade
McFall
McHugh
McKay
McKinney
Madden
Madigan
Maguire
Mahon
Martin
Mathis
Matsunaga
Mazzoli
Meeds
Melcher
Metcalfe
Meyner
Mezvinsky
Mikva
Miller, Calif.
Mills
Mineta
Minish
Mink
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moorhead, Calif.
Moorhead, Pa.
Morgan
Mosher
Moss
Mottl
Murphy, Ill.
Murphy, N.Y.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nichols
Nix
Nolan
Nowak
Oberstar
Obey
O'Neill
Ottinger
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Pepper
Perkins
Peyser
Pickle
Pike
Pressler
Preyer
Price
Pritchard
Rangel
Rees
Regula
Reuss
Richmond
Rinaldo
Risenhoover
Rodino
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Roush
Roybal
Runnels
Russo
Ryan
St Germain
Santini
Sarasin
Sarbanes
Scheuer
Schroeder
Schulze
Sebelius
Seiberling
Sharp
Shipley
Shriver
Sikes
Simon
Sisk
Slack
Smith, Iowa
Smith, Nebr.
Solarz
Spellman
Staggers
Stanton, James V.
Stark
Steed
Stephens
Stokes
Stratton
Stuckey
Studds
Talcott
Taylor, N.C.
Thompson
Thone
Thornton
Traxler
Tsongas
Udall
Ullman
Van Deerlin
Vander Veen
Vanik
Vigorito
Waxman
Weaver
Whalen
White
Whitten
Wiggins
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wolff
Wright
Wylie
Yates
Yatron
Young, Ga.
Young, Tex.
Zablocki
Zeferetti
Wampler
Whitehurst
Wilson, Bob
Wydler
Young, Alaska
Young, Fla.

NAYS—85

Anderson, Ill.
Archer
Ashbrook
Bauman
Beard, Tenn.
Breaux
Broomfield
Brown, Mich.
Brown, Ohio
Buchanan
Burgener
Burleson, Tex.
Butler
Carter
Cederberg
Clawson, Del
Cochran
Collins, Tex.
Conable
Coughlin
Crane
Daniel, R. W.
Dickinson
Edwards, Ala.
English
Flowers
Forsythe
Goldwater
Guyer
Hall, Tex.
Hammerschmidt
Hébert
Hutchinson
Hyde
Jarman
Johnson, Pa.
Jones, N.C.
Jones, Okla.
Kelly
Kemp
Ketchum
Kindness
Latta
Lott
McClory
McCollister
McDonald
McEwen
Mann
Michel
Miller, Ohio
Moore
O'Brien
Paul
Pettis
Poage
Quie
Quillen
Railsback
Randall
Rhodes
Roberts
Robinson
Rousselot
Ruppe
Satterfield
Schneebeli
Shuster
Skubitz
Snyder
Spence
Stanton, J. William
Steiger, Wis.
Symms
Taylor, Mo.
Teague
Treen
Waggonner
Walsh

ANSWERED "PRESENT"—1

Bafalis

NOT VOTING—29

Abzug
Brinkley
Clay
Collins, Ill.
Conlan
Conyers
Esch
Evins, Tenn.
Findley
Flynt
Ford, Tenn.
Fountain
Hansen
Hays, Ohio
Hicks
Hinshaw
Howe
Jones, Tenn.
Karth
LaFalce
Milford
O'Hara
Passman
Riegle
Steelman
Steiger, Ariz.
Sullivan
Symington
Vander Jagt

The Clerk announced the following pairs:

On this vote:

Mr. Jones of Tennessee and Ms. Abzug for, with Mr. Steiger of Arizona against.

Mr. Esch and Mr. LaFalce for, with Mr. Conlan against.

Mr. Steelman and Mr. Fountain for, with Mr. Hansen against.

Until further notice:

Mr. Passman with Mr. Hicks.
Mr. Brinkley with Mr. Milford.
Mr. Hays of Ohio with Mr. Findley.
Mrs. Collins of Illinois with Mr. Conyers.
Mr. Evins of Tennessee with Mr. Karth.
Mr. Flynt with Mr. Ford of Tennessee.
Mr. Howe with Mr. O'Hara.
Mr. Clay with Mr. Riegle.
Mr. Symington with Mrs. Sullivan.

Mr. DERWINSKI changed his vote from "nay" to "yea."

So, two-thirds having voted in favor thereof, the bill was passed, the objections of the President to the contrary notwithstanding.

The result of the vote was announced as above recorded.

The SPEAKER. The Clerk will notify the Senate of the action of the House.

GENERAL LEAVE

Mrs. MINK. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed, S. 391.

The SPEAKER. Is there objection to the request of the gentlewoman from Hawaii?

There was no objection.

PERMISSION TO FILE CONFERENCE REPORT ON H.R. 12169

Mr. STAGGERS. Mr. Speaker, I have two unanimous consent requests. First, Mr. Speaker, I ask unanimous consent that the managers may have until midnight tonight to file a conference report on the bill (H.R. 12169) to amend the Federal Energy Administration Act of 1974 to provide for authorizations of appropriations to the Federal Energy Administration, to extend the duration of authorities under such act, and for other purposes.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

PERMISSION FOR COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE TO SIT BETWEEN 10 O'CLOCK A.M. AND 1 O'CLOCK P.M. ON THURSDAY, AUGUST 5, 1976

Mr. STAGGERS. Mr. Speaker, my second request is that I ask unanimous consent that the Committee on Interstate and Foreign Commerce be permitted to sit between the hours of 10 o'clock a.m. and 1 o'clock p.m. tomorrow, August 5, 1976, for the purpose of considering the swine flu vaccine legislation.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, can the gentleman from West Virginia assure us that the committee will meet only on the one bill the gentleman has described?

Mr. STAGGERS. Mr. Speaker, if the gentleman will yield, that is correct.

Mr. ROUSSELOT. And only from 10 o'clock a.m. until 1 o'clock p.m. tomorrow?

Mr. STAGGERS. That is correct.

Mr. ROUSSELOT. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

REQUEST FOR COMMITTEE ON THE JUDICIARY TO SIT DURING DEBATE TOMORROW

Mr. FLOWERS. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary be allowed to sit during debate tomorrow for further consideration of the bill H.R. 15.

The SPEAKER. Is there objection to the request of the gentleman from Alabama?

Mr. ROUSSELOT. Mr. Speaker, I am constrained to object.

The SPEAKER. Objection is heard.

FURTHER LEGISLATIVE HEARING

(Mr. O'NEILL asked and was given permission to address the House for 1 minute.)

Mr. O'NEILL. Mr. Speaker, I have taken this time so that I may announce the program for the remainder of today.

The House will go back into the Committee of the Whole for further consideration of the Clean Air Act Amendments of 1976 and we hope, Mr. Speaker, to be able to finish the general debate but we will rise, under any circumstances, at 5:30 this afternoon. So the House will adjourn at 5:30.

Further, Mr. Speaker, may I say that we will meet at 10 o'clock tomorrow.

There will be no session on Friday because of the special committee that will be going to Missouri to attend the funeral of our late colleague, JERRY LITTON.

Mr. DON H. CLAUSEN. Mr. Speaker, if the gentleman will yield, what is the business scheduled for tomorrow?

Mr. O'NEILL. Regarding the business for tomorrow, we will announce at a later hour what the order will be.

CLEAN AIR ACT AMENDMENTS OF 1976

Mr. ROGERS. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 10498) to amend the Clean Air Act, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from Florida (Mr. ROGERS).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill H.R. 10498, with Mr. ROUSH in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose earlier today, the gentleman from Florida (Mr. ROGERS) had consumed 49 minutes, and the gentleman from Kentucky (Mr. CARTER) had consumed 47 minutes.

The Chair recognizes the gentleman from Florida (Mr. ROGERS).

Mr. ROGERS. Mr. Chairman, I yield 10 minutes to the gentleman from California (Mr. WAXMAN).

Mr. WAXMAN. Mr. Chairman, the legislation the House begins debating today is the product of over a year's work by the Health and Environment Subcommittee and the full Committee on Interstate and Foreign Commerce. The leadership of the subcommittee chairman, Representative PAUL ROGERS of Florida, in crafting these amendments deserves widespread recognition and approbation. Not only has he understood the proper course to be charted by the Clean Air Act Amendments of 1976, but he has sought to bring all the interested parties—industry and labor, environmentalists and citizens, Governors and mayors, and the relevant agencies of our Government—together. This has, generally, been accomplished. This legislation represents a broad consensus of where our environmental efforts should be directed over the next decade, and what constitutes the best means to fulfill them. It has not been an easy task, but it has been one which I believe well serves the Nation. I am proud to be associated with Mr. ROGERS and the other members of the subcommittee and, with but a few reservations, am pleased with the bill we are today proposing to the House.

The issues involved in this legislation are numerous and complex, and at times as intangible as the air we breathe. I therefore wish to briefly review and comment on what I believe to be the major themes guiding our debate.

WHAT THE CLEAN AIR ACT SET OUT TC DO

The 1970 Clean Air Act, which was the culmination of a years-long environmental effort throughout the country, began a concerted effort to clean up the Nation's air in this decade. It directed the Environmental Protection Agency to establish air quality standards for the most pervasive and dangerous pollutants. The standards were to protect not only the health of the American people but also against the damages pollution causes to crops, vegetation, and building materials. These standards were to be enforced within specific time limits, generally by 1975.

Of crucial importance, the States were given primary responsibility for achieving and enforcing these standards. They were to devise, subject to final review by EPA, a series of implementation plans designed to insure that the standards would be met on time.

The Clean Air Act of 1970 established a four-tiered pollution control program. First, each stationary source—utilities, refineries, smelters, and so forth—was directed to comply with emissions limitations on its effluents by adopting a continuous method of pollution control. These sources, in other words, were to adopt whatever equipment or use whatever fuel was necessary to meet the pollution standards. Only by each source assuming responsibility for its own emissions in this manner could the regional air quality standards be achieved.

Second, the Congress established deadlines for severely reducing the amount of pollution caused by automobiles. The law mandated that the three tailpipe pollutants—hydrocarbons, carbon monoxide, and oxides of nitrogen, or NO_x—be reduced 90 percent from their uncontrolled levels. This was to be accomplished by 1975 for hydrocarbons and carbon monoxide, and by 1976 for NO_x.

Clearly the major emphasis of these amendments was on the control of the two most obvious and widespread sources of air pollution—automobiles and stationary facilities. But it was also evident at the time that even if these sources were controlled to the levels contemplated under the law, several areas of the country—particularly around our major cities—would still experience pollution levels in excess of the ambient standards. The Clean Air Act therefore authorized the States to require the implementation of transportation and land use programs to control such important factors as commuting patterns and the siting of large facilities in order to insure that the standards would be met.

The Congress embarked on this comprehensive program because it was apparent that earlier attempts to control air pollution, using less stringent methods, were inadequate. Involved were not merely questions of esthetics, but also the growing realization that air pollution posed a severe threat to the health of the American people.

THE PROGRESS ACHIEVED TO DATE

In the intervening 6 years, significant progress has been achieved in meeting the Nation's air quality goals, although much remains to be done. Nationally, the air is cleaner now than it was in 1970. There has been a 25-percent decrease in atmospheric levels of sulfur oxides, and a decrease of more than 14 percent in particulates—the two major pollutants from industrial sources. Overall, new cars marketed today are 67-percent cleaner than those sold in 1970.

On the other hand, of the country's 247 air quality control regions, 188 remain out of compliance with the standards for particulates, 34 for SO_2 70 for oxidants and carbon monoxide, and 16 for NO_x. Disturbingly, an analysis of these figures reveals that although most of these areas surround large cities, some cities have even shown increases in pollution while significant amounts of air pollution continue to be measured in rural areas.

An industry-by-industry examination of the status of compliance with the Clean Air Act's requirements shows that although many facilities have been able to make the necessary adjustments, significant portions of many of them remain in violation of the law's requirements. Although there are some 200,000 stationary sources of air pollution in the country, only 15,000 of the 20,000 major sources have been brought into compliance or placed on compliance schedules—and that most of these violators are the largest polluters and presumably those in the best position to come into compliance. Indeed, such statistics raise the gravest questions as to whether those who have chosen to comply within a given industry have placed themselves at a competitive disadvantage with respect to those who remain outside the bounds of the law's requirements.

This is what must be weighed when we consider that 200 of the 480 coal-fired powerplants, 150 of the 200 steel complexes, 19 of 28 nonferrous smelters, 130 of 250 large refineries, 1,000 of 3,500 commercial boilers, and nearly half the 320 municipal boilers in the country all remain in violation of the Clean Air Act.

Although the cost of pollution control is often cited by industry as being prohibitive, the cost of this program to date has not been excessive. Total national expenditures for air pollution control in 1975 were $15.7 billion—around 1 percent of our total output of goods and services—and a rate which has been constant for the past several years—and less than is being spent on water pollution control. Meanwhile, it has been conservatively estimated that the cost of air pollution in health and material damage exceeds $25 billion annually.

The fact remains that whether or not these recalcitrant polluters clean up their act, the American people are already paying—through either higher medical costs or days lost to illness or death, or because of damage to crops, animals or other property—the high price of air pollution. Air is a resource that does have a value, and the choice before us is whether that value will be internalized in the price of materials or externalized through widespread harm to the health of the American people. The question is not whether but simply in what manner this burden is to be borne.

All of these efforts were complicated and somewhat compromised by the oil embargo of 1973–74 and the ensuing recession. Utilities which had come to rely on oil rather than install scrubbers which would allow them to burn coal demanded relief from pending pollution control deadlines. Automobile manufacturers eagerly sought extensions for compliance with the statutory standards in exchange for greater promises to improve the fuel economy of their gas guzzlers. In the crisis atmosphere and state of energy siege which gripped the country—and which washed over the more reasoned voices who insisted that energy conservation and environmental protection were not mutually exclusive, but compatible—the Congress relented, postponing Detroit's requirements for a year, and giving the Nation's coal-fired powerplants until 1979 to come up with acceptable ways to burn our abundant coal reserves.

It was the issues raised during this debate—the balance between concerns over energy, the economy, the environment, and ultimately the question of the quality of future growth—which would shape this years deliverations on this legislation.

THE CHALLENGE TO THE CONGRESS

The progress which has been achieved to date, and the realization of how far we remain from realizing the Clean Air Act's goals, reflects both the essential nature of congressional action in this area if our air is to be cleaner, and the need for such programs to be responsive to changing circumstances and conditions if they are to be effective. Although some critics have contended that if good faith efforts had been consistently undertaken by industry we would not be encountering deadlines which could not be realistically met, it is clear that several real problems have emerged which have been contributed to the delays in meeting the law's requirements.

The fact remains that the mid-1975 deadlines for complying with the standards in the Clean Air Act have come and gone with significant numbers of major sources out of compliance, and with our automobiles well short of meeting the statutory standards.

At the same time, the growing body of scientific information clearly shows that the causes and effects of air pollution are more complex than previously thought. This evidence has revealed that air pollution hardly respects political boundaries—that it is borne in the atmosphere over long distances, contributing to environmental hazards sometimes hundreds of miles from its original source. Without continued efforts to reduce the loading of harmful pollutants into the air, it is conceivable that rather than becoming uniformly clean, our air could turn uniformly dirty.

Additionally, all of the data on health effects continues to show that whatever safety margins may have been thought to exist by virtue of the primary—or health—standard are small indeed. Epidemiological studies have concluded that there is no threshold level below which adverse effects do not occur, and that particularly susceptible populations, such as the very young and the elderly, would be afforded little relief even if the standards were met. Moreover, evidence that air pollution contributes to a variety of heart and lung diseases—pulmonary dysfunction, asthma, emphysema, chronic bronchitis—has been compounded by studies which have tentatively linked air pollution and cancer. If anything, therefore, both the Congress and EPA should err, if at all, on the side of caution in both establishing and enforcing our air quality standards.

The challenge to this Congress, then, is to maintain adherence to the goals and standards of the law, while making the necessary adjustments and midcourse corrections which would insure that the goals will be met as quickly, and economically, and responsibly as possible. Our intent is to neither paralyze industry by applying unfairly burdensome requirements, nor jeopardize the health of the American people by allowing industry to construct massive shelters which would shield them from the implementation of the law.

I believe we have generally succeeded in this endeavor.

THE COMMITTEE BILL RESPONDS

In every area in which there were serious problems with compliance with the law's deadlines, the Commerce Committee has provided for a series of extensions from them. At the same time, we have imposed a new series of obligations upon those who seek these extensions in order to insure that they will not be abused and in the hope that at the expiration of these grace periods these sources will be in full compliance.

We have been most generous. If adequate pollution control technology has not been demonstrated; if there is a shortage of technology; if the equipment is unavailable due to a strike or emergency; if construction has been delayed; if financing is unavailable; if a source wants to try out new technology—for all these reasons an extension of up to 5 years may be granted.

These extensions are fully responsive to the problems we heard from most segments of industry. These provisions meet their needs.

However, if these sources were primarily at fault for the circumstances which led them to seek these extensions, they are liable for an excess emissions fee in an amount which is designed to insure compliance as quickly as possible, and which should prevent any extension from creating a competitive disadvantage for those who are complying—and are therefore absorbing the costs for pollution control. All sources receiving extensions, moreover, must take steps to alleviate the reasons for the delay, and use the best feasible pollution control measures in the interim.

Such a scheme provides, therefore, extensions for all the legitimate obstacles which have prevented compliance to date, while cracking down on those who would seek to take advantage of the delays provided by law.

Our approach is balanced, reasonable, and fair.

We have nevertheless refused to back down on two sore points of contention with the industry: the use of tall stacks and intermittent controls as an acceptable means of pollution control. The Congress firmly intended in 1970 that all stationary sources adopt a continuous method of pollution control—either the application of filtering technology or the continuous use of cleaner fuels.

There has never been any misunderstanding, either by EPA or the courts, of our policy in this regard. And yet, the utility industry in particular has tried to gain acceptance for operating methods which only disperse harmful emissions over a larger area, which are unreliable in practice, and which mask each source's contribution to a region's air quality problems. The committee has unequivocally rejected the use of tall stacks and intermittent controls as a final means of compliance with the Clean Air Act's requirements. I feel that the committee has finally, after a half-dozen years, laid this argument to rest.

We have also continued to insist that all new sources be required to use the best available control technology on their plants. It makes the best of sense that any new complex, as part of its planning, factor in the best pollution control achievable. The committee's action in this regard reflects the judgment that pollution control should more and more be considered as a regular cost of doing business, and not simply as exception to expected capital outlays.

In order to encourage the development of new, more fuel-efficient, and more effective technology, the committee has provided a series of incentives for technology innovations. We fully expect major breakthroughs to result in part from the use of the opportunities provided in this bill.

Many areas of the country face the prospect that even if all automobile standards and stationary source controls were met, additional steps to modulate the rate and patterns of auto traffic and the location of facilities—such as shopping centers—which attract cars, and hence pollution, would have to be undertaken to meet air quality standards. In and of themselves these programs hold out the prospect of significantly affecting the way we go about our daily business.

However, in the absence of adequate public transportation in most of these areas, and because of the extensions we have granted for both stationary sources and automobiles, it seemed particularly unfair to compensate for these delays by maintaining strict adherence to the original transportation and indirect source control programs. And so we have directed EPA and the States to extend these regulations for several years, provided that our cities begin to commit themselves to improving their mass transit systems.

But it is important to remember that in the last analysis, transportation controls not only reduce pollution but conserve energy by causing a switch from single-passenger commuting to group travel—an approach that is not only sane and prudent, but reflective as well of the compatibility between our environmental and energy goals.

The subcommittee also adopted an amendment I offered to allow States to delete gas rationing and vehicle retrofits from these plans. Such measures are extraordinarily unpopular; their imposition would cause widespread social and economic disruption. Their imposition by Federal agencies far removed from the scene would be not only unworkable, but precisely the kind of solution which erodes peoples' faith in the legitimacy and desirability of environmental legislation. As far as these two discredited strategies are concerned there simply has to be a better accommodation among the conflicting needs involved. My amendment will insure that one will be found.

In one of the most crucial areas of this legislation, the prevention of significant deterioration of air quality, the committee has outlined a major program designed to insure that our air which is cleaner than required by law will remain clean. We have chosen to set aside from the ravages of air pollution the most pristine—and fragile—land resources in the Nation so that they may be protected and enjoyed by future generations of Americans. Our national parks, wilderness areas, and wildlife refuges should remain free from the encroachment of industry.

In response to the need for economic expansion, however, we have initially directed that most of the rest of the land in the country be open for vigorous and sustained amounts of growth. At the same time, we have required the States to carefully review their future planning, so that development occurs in an orderly and rational manner, with due regard to all the factors—energy development, economic growth, and environmental protection—which must be weighed in these decisions. By requiring all new sources to use the best available control technology we have insured that as many facilities as possible will be able to use the limited air resources available to them.

Let there be no mistake: If we do not adopt a comprehensive nondegradation policy, it will be too late to reclaim the air once it has deteriorated to the level of the ambient standards—and too expensive as well. This legislation strikes the necessary balance between fostering economic growth and protecting our scarce clean air reserves.

On the other hand, in several crucial respects, I believe this section could be made stronger. By permitting the States to classify some of their land area for industrial growth to pollution levels rivaling our larger cities, the bill allows a degree of flexibility which is inconsistent with the purposes behind the policy. I will therefore be supporting, along with Representative MAGUIRE, a series of strengthening amendments which would eliminate class III and provide for slightly more Federal protection of certain precious land areas. I believe there is compelling evidence—on not only a health basis but in every economic analysis of this section's impact—that we have been too lenient in drafting these provisions, the bitter criticisms of the Chamber of Commerce notwithstanding.

Finally, there is the issue of automobile emissions. For over a year I have consistently advocated tighter controls on tailpipe emissions—a position which I believe has been vindicated not only by the latest technological developments but by all the data we have on the need to reduce these harmful pollutants.

The committee bill in my judgment represents too great a capitulation to one of the most intense lobbying and propaganda campaigns this Congress has witnessed—a capitulation based more on emotion than reason, more on distortion than fact.

Moreover, the committee's position only invites the industry to return once again in 3 years and repeat their present performance. The committee bill, in other words, only mortgages into the future the final reckoning with the statutory standards.

I believe we can take a firmer stand. As my colleagues are well aware, I will be offering an amendment which maintains pressure on the industry to comply with the thrice—delayed statutory standards, but within a timetable that is both reasonable and responsive to the need to protect public health.

I urge my colleagues to join in supporting the Waxman-Maguire automobile emissions amendment.

THE ISSUES BEFORE THE HOUSE

More than ever it is evident that the environmental concerns of the 1960's are the public health issues of the 1970's. Clean air is no longer merely a question of intangibles or esthetics, but an issue that is as important as the purity of our food, the cleanliness of our water, the safety of where we work, and the quality of the health care we receive. Some still refuse, however, to believe the issue is as momentuous as that.

This, then, is the challenge before the House: will it retreat under the assault of some powerful voices in industry or will it reaffirm—with the adjustments necessary—the Nation's commitment to reclaiming, protecting, and enhancing our clean air resources? Will we sacrifice the long-term benefits to be obtained by staying the course we have previously charted for an ill-conceived, short-term deferral of responsibility for these efforts?

I trust we will not.

The Clean Air Act of 1970 reflected the realization that this job must be done; the Clean Air Act Amendments of 1976 affirm that the job can still be done.

Thank you, Mr. Chairman.

Mr. BROWN of California. Mr. Chairman, will the gentleman yield?

Mr. WAXMAN. I yield to the gentleman from California.

Mr. BROWN of California. Mr. Chairman, I just want to compliment the gentleman from California (Mr. WAXMAN) on his excellent statement and associate myself with the gentleman's remarks. I know of the great work the gentleman has put into the drafting of this bill and I share the same feelings the gentleman has expressed with regard to some of its deficiencies, which I hope can be corrected during the process of amendment here on the floor.

Mr. Chairman I view this bill, H.R. 10498, the Clean Air Act Amendments of 1976, with mixed feelings and from a variety of perspectives. The reason for my mixed feelings is that although I believe much, if not most, of H.R. 10498 is good legislation and deserving of enactment into law, several parts of this bill are serious retreats from the landmark legislation we enacted in 1970. The various perspectives come from my position as a Representative from one of the most heavily polluted districts in the United States, from my position as chairman of the Subcommittee on Environment and the Atmosphere of the Committee on Science and Technology, and from my role as a politician who tries to be pragmatic about legislation. H.R. 10498 is a very complex and important piece of legislation that represents the best efforts of the Interstate and Foreign Commerce Committee. Although I do not support all aspects of this bill, I have nothing but praise for the members and staff who molded this compromise legislative package.

As one who introduced a major package of amendments to the Clean Air Act, H.R. 4369, I know that the committee carefully and thoroughly considered all of the proposals before it. The hearing record was quite extensive, and the markup process was slow and deliberate.

As the report which accompanied H.R. 10498, House Report No. 94–1175, demonstrates, this legislation is based upon extensive evidence of its need.

H.R. 4369, THE CLEAN AIR ACT AMENDMENTS OF 1975

H.R. 4369, the Clean Air Act Amendments of 1975, was introduced by myself and Mr. OTTINGER as a response to the Ford administration's Clean Air Act package and in an effort to strengthen the existing law in several particulars. The Brown-Ottinger bill, H.R. 4369, was subsequently introduced as H.R. 4836 and H.R. 5220 with the following Members as cosponsors: STEPHEN J. SOLARZ, SIDNEY R. YATES, JAMES H. SCHEUER, HERMAN BADILLO, YVONNE B. BURKE, EDWARD I. KOCH, LARRY WINN, JR., ROBERT F. DRINAN, JONATHAN B. BINGHAM, BENJAMIN S. ROSENTHAL, DOMINICK V. DANIELS, RONALD V. DELLUMS, FREDERICK W. RICHMOND, GLADYS NOON SPELLMAN, PATRICIA SCHROEDER, FORTNEY H. STARK, DON EDWARDS, BELLA ABZUG, EDWARD W. PATTISON, LOUIS STOKES, KEN HECHLER, and JOHN F. SEIBERLING.

Further information on H.R. 4369, the Brown-Ottinger Clean Air Act amendments, can be found on page 8264 of the March 21, 1975, CONGRESSIONAL RECORD, and on pages 207 to 218 of the hearings before the Subcommittee on Health and the Environment, serial No. 94–25.

Among other things, the Brown-Ottinger bill established an excess emissions fee; required the revision of the national particulate standard to include small particulates; mandated standards for currently unregulated pollutants, such as suspended sulfates, nitrates, and other "secondary" pollutants; extended transportation control plan deadlines by 4 years instead of the administration proposed 10 years; required new air pollution monitoring; required new emission controls on uncontrolled motor vehicles; added an employee protection provision; and other amendments to existing law designed to strengthen, rather than weaken the Clean Air Act Amendments of 1970.

H.R. 4369 did not extend auto emissions standard deadlines and it did not grant extensions to stationary sources which violated air pollution laws. Further, it did not allow significant deterioration of our Nation's unpolluted regions. This bill, and the Members who cosponsored it, stood in sharp contrast to the package of weakening amendments proposed by the Ford administration.

Perhaps the best short summary of this legislation was presented by the National Clean Air Coalition in testimony:

> The Brown-Ottinger Bill, unlike the Administration bill, addresses responsibly the public health and welfare problems that result from our increasing use of energy, especially energy generated from coal. It includes means for allowing flexibility in meeting the Act's deadlines, while retaining significant and workable measures to encourage the earliest possible compliance.

Without elaborate analysis, it is obvious that much, but by no means all of H.R. 4369 is included, in some form or another, in H.R. 10498. I am not pleased with the form of some of these amendments, but given the presence of numerous weakening amendments in H.R. 10498 to existing law, I should be grateful for the few strengthening provisions that the committee did adopt.

I would hope that the full House sees fit to adopt the strengthening amendments to section 108, the significant deterioration provision, and section 203, the automobile emissions section, and make H.R. 10498 a package that we can be proud, rather than reluctant to support.

SUBCOMMITTEE ON ENVIRONMENT AND THE ATMOSPHERE

The Subcommittee on Environment and the Atmosphere of the Committee on Science and Technology, which I chair, has conducted numerous investigations into subjects directly related to the legislation before us. Several of the reports of this subcommittee have been sent to Members in the House in the hopes that the information gathered from the researchers would help illuminate the regulatory approach which should be taken.

I do not wish to take the time necessary to thoroughly discuss this work, some of which was done in support of justifying authorizations for research, development and demonstration under the Clean Air Act, and some of which was done as oversight on important issues relevant to the Clean Air Act, but I would like to reference some of this material for those who may want to review this issue in depth.

On sulfates, including emissions from mobile sources and from stationary sources, the Subcommittee on Environment and the Atmosphere has published the Congressional Research Service prepared report entitled, "Research and Development Relating to Sulfates in the Atmosphere," Serial F; the 1,029 page hearing record on "Research and Development Related to Sulphates in the Atmosphere," No. 39; the Congressional Research Service prepared "Summary of Hearings on Research and Development Related to Sulfates in the Atmosphere," Serial L; and the very excellent staff report of our oversight investigations entitled "Review of Research Related to Sulfates in the Atmosphere," Serial AA.

On the broad range of pollutants which are not now regulated, the subcommittee held major hearings on the costs and effects of chronic, low level pollution in the environment. As background to these hearings, the Congressional Research Service prepared an excellent 402-page report entitled, "Effects of Chronic Exposure to Low-Level Pollutants in the Environment," Serial O.

A summary of the findings of this report can be found in the November 5, 1975, issue of the CONGRESSIONAL RECORD on pages 35243 to 35245. In addition, the 1,457-page hearing record, entitled "The Costs and Effects of Chronic Exposure to Low-Level Pollutants in the Environment," No. 49, is also available from the committee. Finally, a very concise and useful staff report has been published, entitled, "Report on the Costs and Effects of Chronic Exposure to Low-Level Pollutants in the Environment," serial GG.

JOINT ACTIVITIES BY THE COMMITTEE ON SCIENCE AND TECHNOLOGY AND THE COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE

The two environment subcommittees of the two committees have conducted joint activities in two areas of concern to H.R. 10498. One of these activities concerned section 107, the stratosphere and ozone protection section, which is substantially identical to H.R. 3118, the Stratospheric Research and Protection Act of 1975, which was reported by the Committee on Science and Technology by unanimous rollcall vote of 25 to 0 on October 9, 1975. The report which accompanied this bill, House Report 94–575, Part I, is available from the document room and should provide Members with ample justification for section 107 of H.R. 10498.

The reason for the House report by the Science and Technology Committee is that the jurisdiction for environmental research and development is in that committee. Therefore, when H.R. 3118 was originally introduced by Congressman ROGERS and Congressman ESCH, who I might note is ranking minority member on the Subcommittee on Environment and the Atmosphere, the bill was jointly referred to the two committees, and subsequently to the two environment subcommittees involved.

During the course of our deliberations on H.R. 3118, and related legislation, the staffs of the two subcommittees worked very closely together. After initial markups were completed in both subcommittees, Chairman ROGERS of the Subcommittee on Health and the Environment, and myself, as chairman of the Subcommittee on Environment and the Atmosphere, called an unofficial joint "markup" session to agree on a single bill. I believe H.R. 3118, as reported, and section 107 of H.R. 10498, accurately reflects the concerns of the scientific community, and adequately addresses the threat of manmade pollutants to our fragile, but vital stratospheric ozone shield.

The pictures from Mars, a planet without an ozone shield to deflect harmful ultraviolet radiation from its surface, should be remembered when we consider the consequences of inadvertent modification of our own atmosphere. It may take centuries to occur, but if our own ozone shield is destroyed, this planet too may become barren and lifeless.

The legislation instructs the EPA to conduct a broad research program to study the cumulative and separate effects of all "substances, practices, processes and activities which may affect the stratosphere, especially ozone in the stratosphere." This broad language is supplemented by specific instruction to consider release of halocarbons, other compounds containing chlorine or bromine, and aircraft emissions; and to conduct whatever physical, chemical, atmospheric, biomedical, or other research is necessary to understand causes of changes in the ozone layer and the relation between ozone layer changes and effects on public health.

EPA is also instructed to conduct research to provide an information base for possible future regulatory action, specifically research on methods to recover, recycle or prevent the escape of substances harming the ozone layer; substitutes for such substances, and other methods to control or eliminate the need for substances which may affect the ozone layer.

The research program is to be conducted in conjunction with other Federal agencies, such as NASA, NOAA, NIEHS, NCI, the Department of Agriculture, and the Department of State. Further, the National Academy of Sciences is to conduct its own study and to review the research by the Federal agencies.

The legislation provides for a continuing program in NOAA of research and monitoring of the stratosphere to provide early warning of potentially harmful changes in the ozone layer. The monitoring program is to encourage the cooperation of other Federal agencies, universities, industry, and others which have expertise.

Finally, the legislation provides for promulgation of regulations to control potentially harmful substances. Before proposing regulations, EPA shall consider the results of research and studies carried out under this program. At the end of 2 years, or earlier if there is cause, the administration of EPA shall "propose regulations for the control of any substances, practice, process, or activity—or any combination thereof—which may reasonably be anticipated to endanger public health or welfare." I believe this careful reasoned approach contained in section 107, is well deserving of support.

The other joint activity by the two subcommittees concerned the serious allegations which were made about an EPA health effects study, the "community health and environment surveillance system"—CHESS—study. The allegations were that the EPA researchers involved systematically and intentionally distorted the results of the CHESS study to indicate adverse health effects which could not be substantiated by the data. The Subcommittee on Health and the Environment and the Subcommittee on Environment and the Atmosphere held a marathon joint hearing on April 9, 1976, during which nearly two dozen witnesses testified. The hearings found no evidence to substantiate these allegations and, in fact, received strong testimony in favor of the current air quality standards, and even strong support for changing these standards to make them more, rather than less stringent.

The conclusions reached as a result of this hearing follows:

CONCLUSIONS

Personal conduct of Dr. John F. Finklea

1. There was no evidence that Dr. Finklea tampered with, distorted, or withheld data.

2. There was general agreement that no basis exists to question Dr. Finklea's integrity or scientific honesty.

3. Those who took issue with **Dr. Finklea's** actions during the preparation of the CHESS studies did so largely on the grounds that he may have overinterpreted the data in reaching conclusions. Those same witnesses, however, testified that the issue of overinterpretation was a matter of scientific judgment on which reasonable persons could differ.

4. There was agreement that Dr. Finklea had rewritten many individual drafts in the course of preparing the CHESS monograph, and that important qualifiers may have been left out of the drafts in the process. However, there was an equally strong consensus that ample opportunity for the individual authors to replace important qualifiers existed in the review process, and that many qualifiers were replaced at that time, before the monograph was published.

5. Testimony revealed that Dr. Finklea was demanding of both himself and his staff. This caused some conflict among the staff.

Validity and adequacy of the CHESS studies

6. The CHESS studies are pioneering efforts in the very difficult field of environmental epidemiological research. As such, they are subject to some legitimate scientific criticisms. These criticisms, however, do not totally invalidate the studies.

7. There was agreement that the CHESS studies confirm an association between sulfur oxide emissions and adverse health effects.

8. There was agreement that no data had been distorted or tampered with in the CHESS studies.

9. There was some testimony that much of the criticism of CHESS was focused on the first draft of the monograph (which had been sent to 150 outside critics for comments).

10. There was agreement that many, if not most, of the criticisms of the draft were corrected before the monograph was published. Nevertheless, some questions of scientific judgment (as to whether CHESS data had been overinterpreted) remained.

11. There was agreement that reanalysis of the data would be a major task.

Impact of CHESS on regulations

12. The National Ambient Air Quality Standards (NAAQS) for sulfur dioxide were set before CHESS, and were based on other data.

13. There was general agreement that the sulfur dioxide primary NAAQS should not be relaxed at this time.

14. There was testimony that, although supported by the CHESS results, EPA's policy with respect to tall stacks and intermittent control is based on the Clean Air Act and data other than CHESS.

15. There was testimony that while the CHESS studies point out deleterious health effects of sulfates, we do not yet have enough information to set an ambient standard for sulfates (as distinguished from sulfur dioxide).

EPA research program

16. Certain weaknesses in EPA's CHESS research program were noted and alternative measures for addressing such weaknesses were considered. An initial measure includes separating the functions of environmental regulations and environmental research.

17. One major criticism was that the CHESS study had not been conducted openly. Thus, EPA did not take full advantage of the perceptions of outside observers in the planning and conducting of the studies.

18. There were several comments criticizing EPA's management of the CHESS program.

19. Several specific, technical questions about the conduct of CHESS were raised.

20. The possibility of further hearings on this and related matters was left open.

21. The unanalyzed CHESS data should be analyzed and interpreted as quickly as posssible to provide a check on the validity of the monograph.

The entire "Report on the Joint Hearings on the Conduct of the Environmental Protection Agency's 'Community Health and Environment Surveillance System' (CHESS) Studies," may be obtained from either of the two committees involved.

AMENDMENTS TO H.R. 10498

I will be supporting, quite strongly, two key amendments to H.R. 10498. The first amendment, the Maguire-Waxman amendment, attempts to improve the significant deterioration section, section 108 of the bill. The second amendment, the Waxman-Maguire amendment, attempts to deal responsibly with the auto emissions issue, section 203 of the bill.

Given the remarks I have already made here today, it should not be too difficult to understand why I am supporting these two amendments. Both provisions should have been in the committee bill, and probably would have been if the Members involved had voted without the presence of intense and extensive economic and political pressure to weaken the requirements for clean air. The reports which I have referenced above, as well as the documents made directly available to the Committee on Interstate and Foreign Commerce, thoroughly support the Maguire-Waxman and the Waxman-Maguire amendments.

The Maguire-Waxman amendment to the significant deterioration provision, section 108, is quite similar to the provision in the Senate amendments to the Clean Air Act, which were supported just yesterday by an overwhelming vote in the Senate. It seeks to guarantee that in future years we do not let clean areas, not yet blighted by air pollution, become dirty. The argument that these presently unpolluted areas would only become as polluted as the primary ambient air quality standards, which is not harmful, is irresponsible. First of all, we do not know what currently unregulated pollutants should be regulated. H.R. 10498 attempts to force the EPA to proceed rapidly in finding out, but this will take time. Second, we do not believe the current standards are the ultimate standards, and all evidence indicates that the current standards are too lax. Third, besides human health, there are many adverse effects besides those to humans.

As testimony to the Subcommittee on Environment and the Atmosphere pointed out, in the field of agriculture "large-scale damage to productivity is occurring at pollutant concentrations much below ambient standards or commonly observed ambient levels."

The Maguire-Waxman amendment to section 108 moves in the right direction in attempting to prevent this large-scale damage to our precious agricultural economic base.

The Waxman-Maguire amendment to section 203, on automotive emissions, has received extensive comment from me in the past in numerous statements to this body. There is no sound reason to oppose this amendment, unless one is concerned about the profit margin from auto sales. The technology is proven and available at an economical level; fuel economy is not a factor with the use of the proper technology; and the need to improve air quality by reducing auto emissions is more real than ever. The Waxman-Maguire amendment puts the entire United States about 2 to 3 years behind the controls already on and operating in California. When we started Federal controls on auto emissions in the 1970 law, California was only 1 year ahead of the rest of the United States.

I do not wish to repeat the arguments that I have made in the past. Instead I wish to reference some of them in the hopes that anyone who is interested in the facts will go back and review the record.

Among the statements I have made on auto emissions in recent years are those on pages 29789 of September 13, 1973, CONGRESSIONAL RECORD; 30329 on September 19, 1973; 31927 on September 27, 1973; 35986 on November 5, 1973; 41305 on December 13, 1973; 41737 on December 14, 1973; 8074 on March 25, 1974; 10718 on April 10, 1974; 12247 on April 29, 1974; 12759 on May 1, 1974; 20669 on June 21, 1974; 21118 on June 25, 1974; 21363 on June 26, 1974; 21789 on June 28, 1974; 832 on January 20, 1975; 1174 on January 23, 1975; 2713 on February 6, 1975; 5952 on March 10, 1975; 6160 on March 11, 1975; 7089 on March 18, 1975; 7632 on March 19, 1975; 8959 on March 26, 1975; 17963 on June 9, 1975; 21662 on July 8, 1975; 25043 on July 25, 1975; 27231 on September 3, 1975; 30829 on September 29, 1975; 1428 on January 28, 1976; 4447 on February 25, 1976; 11962 on April 29, 1976; 12058 on April 30, 1976; 15397 on May 25, 1976; 15443 on May 25, 1976; 18446 on June 15, 1976; 24811 on July 30, 1976; 24827 on July 30, 1976; and 25112 on August 2, 1976, to name only the main comments I have made on auto emissions and the related issues in the past.

I urge, in the strongest words possible, the adoption of the Waxman-Maguire amendment to the bill before us.

CONCLUSION

Mr. Chairman, I have attempted to briefly present here today an overview of my concerns about H.R. 10498. This presentation has omitted many important and relevant issues in an effort to focus on the concerns of others. I have spent more than 20 years of my life either directly or indirectly attempting to combat air pollution. As the years have progressed, I have grown more involved, more pragmatic, and more cynical.

I stand here today convinced that the goals of the 1970 amendments to the Clean Air Act are attainable with only a few modifications in the timetables to control emissions. I am further convinced that the currently regulated pollutants are only a small fraction of those which will have to be regulated in the future. To establish this fact, better and more extensive research will have to be done. But the problem we are faced with in H.R. 10498 is not one of inadequate research, but one of commitment to protecting the public health, the general environment, and future generations from pollution.

It is my sincere hope that the votes which are to come will demonstrate the same commitment the Congress demonstrated in 1970.

Mr. MAGUIRE. Mr. Chairman, I yield 10 minutes to the gentleman from North Carolina (Mr. PREYER).

Mr. PREYER. Mr. Chairman, few bills that are so wideranging and touch so many social and economic problems will come before this House this session to deal with health, welfare, jobs, industrial growth, energy development, national parks and Federal-State relationships. There will be few bills that will come before this body in this session that have been more carefully considered than this bill. We are operating in areas in this bill where often there is a lack of scientific certainty and in situations where cause and effect cannot always be definitely proved, although strongly suspected.

There are some things that industry and EPA are asked to do under this bill where the technology is coming over the horizon. It is coming into view, but it is not yet available at our local supermarkets and has not been absolutely convincingly demonstrated; so in this situation, the committee has moved with great caution.

Mr. Chairman, I want to compliment the gentleman from Florida (Mr. ROGERS), who has proved to be a monument of patience, fair-mindedness, and tolerance.

In the markups on this bill, we have revised the section to meet the problems that have been called to our attention. We have revised the revisions, and then on further information we revised the revised version. I might say at this point that it is not just a Democratic bill either. The gentleman from Pennsylvania (Mr. HEINZ) pointed out in his supplemental views in the report the contributions and leadership of his colleagues on his side of the aisle. He spoke of former Member James Hastings and all that he contributed to the automobile emission standards. On the Senate side he spoke of Senator BUCKLEY, Senator BAKER, and Senator MCCLURE, and their contributions. He modestly did not mention his own very significant contributions to this bill.

This entire process has yielded a product that is not very dramatic, perhaps; that does not satisfy the ideological purists, either on the environmental side or among the free enterprisers, but that is moderately balanced and will bring stability in the relationships between environmental interests and industrial growth. It is a bill that moves steadily and firmly toward cleaner air in this country. It is not a compromise bill in the sense of splitting the difference, but only in the sense of establishing a proper balance between the interests involved.

I wish this bill was not necessary. It would be nice if the free market system would solve these problems and we could solve the regulatory redtape and delay which will inevitably follow, and we might as well brace ourselves for this now, but what we are seeking to accomplish here is worth some trouble, worth a lot of trouble. I hope we will stand fast on that point.

The dynamics of the marketplace, unfortunately, just do not work where environment is concerned. A conscientious corporate citizen who tries to do something about environmental problems is put at a competitive disadvantage to the unscrupulous polluter. It is important that all play by the same ground rules if we are to have a competitive game.

The process by which this bill was formed had continuous consultations with all affected parties, constant revisions to meet valid objections, and has broad general agreement on both sections of the bill—a remarkable amount of agreement for such a wide-ranging bill.

There are several key areas, however, where consensus has proved impossible. One is section 108, the prevention of significant deterioration section; another is section 203, dealing with automobile emissions. The details on these two provisions will go to some length, but let me just make a few general observations. The news on the health effects of polluted air is getting steadily worse, and while we are not able to measure this with the scientific exactitude we would like, we do know that the more we learn about it, the worse the news becomes. The more we learn, the more we find at fault, so we ought to err on the side of caution as far as air pollution is concerned.

Finally, Mr. Chairman, let us bring into focus what the clean air debate is really all about. This bill, in the simplest terms, is a health bill. It is a pro-health bill.

I represent a district which flourishes with the expansive pristine green of rural North Carolina, yet I also represent other citizens who reside in a highly urbanized city. I feel, therefore, that I can objectively be sensitive to the needs of both areas. As I think of my own district, and more importantly, as I think of my country, so diverse with desert, country towns, booming metropoli, and untainted wilderness—I ask myself one question: What level of pollution can our people afford below which there is no danger to them, to their crops, to their buildings, to their oceans, to their world?

I do not know the answer to that question. But I do know that my throat burns when I drive home some nights. I do know that a black smokestack is strangely out of place alongside a quiet mountain stream. And I do know that the oceans, and the life in it, are not equipped to carry soot, sludge, and oil spills.

When the Congress first adopted the Clean Air Act of 1963, there was very good intention to get at the bottom of this problem, and learn as much as we could. In 1970, when we adopted the Clean Air Act amendments, we pooled the previous 7 years of knowledge to set timetables for enforcement of standards—standards merely to protect the health of our people and our natural environment. The bill before you today, 6 years later, seeks to guarantee implementation of what should have already been done.

This is a reasonable and balanced bill. It is not "anti-growth." It favors neither the environmentalists nor the industrialists—it works to the advantage of both. It allows for delays where technological achievement has not yet been proven, yet it encourages development of control technology. It allows for moderate degradation of air quality. It is cost-effective. It has the support of scores of major organizations and of the boards of elected officials. It puts the decisions back where they belong—into the hands of the people, through State and local representation in decisionmaking process.

The powerplants have a right to be here. The factories have a right to be here. The automobiles have a right to be here. And, because of that, we need to spur our economic growth and to continue development lest we surrender our vote as the world's greatest economic power.

But the oceans have a right. So do the forests. The heavens. You and me. A Supreme Court Justice used to cite the environment as a plaintiff of equal, if not greater value, than man. Let us not in hindsight reject the wisdom of his foresight.

Mr. CARTER. Mr. Chairman, will the gentleman yield?

Mr. PREYER. I yield to the gentleman from Kentucky.

Mr. CARTER. Mr. Chairman, I want to thank my good friend from North Carolina for yielding to me, and say that I support clean air also. However, I feel, Mr. Chairman, that we have a double standard here. We are cutting down on the class 2 areas at 90 percent of their primary standards, arbitrarily. We here in Congress, in other areas, the most polluted areas, are making them dirtier, allowing them to become 15 percent dirtier than they are at the present time. Am I correct in that?

Mr. PREYER. The gentleman is correct that the cleaner the air in an area, it proportionately is penalized. We will get into a discussion of that a little later. It does appear to have some unfairness to those areas, and I think it is something that we ought to be concerned about.

Mr. CARTER. If the gentleman will permit, I want to thank the gentleman for his very good answer. This is one of the very objections I have to this legislation, because it does not go squarely across the board.

I am afraid, if the gentleman will permit me, sir, that if we continue to have the pollution from Delaware through New Jersey and New York of this 115 percent of what is allowable now, this increase of 15 percent, I object to that.

Mr. PREYER. I think the gentleman has pointed up some problems we ought to discuss fully, and we will when we get to that amendment in the bill.

In the few minutes left, I would like to mention two further points. One, as I said, is the health effect of the pollution. The news gets worse and worse the more we learn about it. The basic answer to air pollution is not a no-growth economy. But the answer is technology progress. The enemy is not growth. The enemy is pollution. We will habitually stifle ourselves to death from pollution if we have a no-growth economy, even if we all end up making candles in the woods. It will just take a little longer for us to do it.

Therefore, this bill attacks this basic problem by encouraging—forcing, if you will—technological development. It allows for delays where technological achievement has not yet been proven, but it strongly encourages development of controlled technology. It applies the Dr. Samuel Johnson principle that if you know you are going to be hung in a fortnight, it concentrates your attention wonderfully. So in the automobile emissions section, deadlines and statutory standards are used for the purpose of concentrating the automobile companies' attention and for encouraging technology, or forcing it, if you will.

I oppose the Dingell amendment because it does not offer enough encouragement. For competitive reasons, the automobile companies are not likely to do things they do not have to do, in terms of meeting regulatory standards. On the other hand, the Waxman-Maguire amendment carries Dr. Johnson a little too far. It would hang him in a week, not a fortnight. The demands made in the committee's provisions are more realistic and attainable, using sounder technological means.

I hope the Members will support the committee's position on the automobile emissions.

The "no significant deterioration" policy of the committee bill is designed in part so that there will be no longer an incentive for new sources to abandon technological approaches to pollution control in favor of low-sulfur coal or in favor of simply moving to a clean air State. Along with the requirement that all new major pollution sources are required to use the best available technology, the "no significant deterioration" provision will encourage the development of technology and allow us to have both expanded growth and clean air.

Mr. CARTER. Mr. Chairman, I yield 2 additional minutes to the gentleman in order that we may have a colloquy.

If the gentleman would yield, I would like to ask the distinguished gentleman if, in regard to automobile emissions, by placing on them a catalytic converter we may well have made a mistake.

Mr. PREYER. I assume the gentleman is referring to the fact that the sulfate emission in the catalytic converter may be adding a new pollutant to the air that was not there before.

Mr. CARTER. Is that true?

Mr. PREYER. It is true that the catalytic converter does give off some sulfates; and, in fact, we were very concerned about that. As the gentleman knows, in committee Mr. Train gave that as a reason for the Dingell amendment. But if the gentleman will recall, we heard a great deal of testimony and evidence on that.

I believe the EPA itself admitted that the dangers from that were greatly overrated, and I do not think that is really a problem now. In fact, I understand a car without any catalytic converter gives off in test about the same amount of sulfates as a car equipped with one. So I think the arguments concerning that danger have been overridden.

Mr. CARTER. But the fact is that they do emit sulfates?

Mr. PREYER. Yes; they do.

Mr. CARTER. And that was a matter of concern?

Mr. PREYER. Yes.

Mr. CARTER. And is it not true that these sulfates, when they are mixed with mists, become sulfuric acid?

Mr. PREYER. Yes; the gentleman is correct.

Mr. CARTER. Therefore, we stand in danger of inhaling sulfuric acid fumes, whereas at one time, when the cars emitted nitric acid or, rather, NO_x, which in the presence of a mist becomes nitric acid, we inhaled nitric acid fumes. In other words, it might be stated that we swapped the devil for a witch; is that correct?

Mr. PREYER. Mr. Chairman, I would not adopt the gentleman's characterization on that point. The gentleman is right, of course, in saying that the sulfuric acid problem is one that we had not been concerned with. It was an unexpected byproduct and an unwelcome byproduct of the catalytic converter.

However, I think, after going into the subject in some detail and hearing a lot of testimony on it, it is generally agreed that it is an overrated danger. I believe we can ask EPA to study this subject and to come up with standards relating to sulfates, if they believe it is necessary.

Mr. CARTER. Mr. Chairman, if the gentleman will yield further, I certainly hope we will do that, and I want to thank the distinguishd gentleman for his answers. The gentleman from North Carolina has been one of the finest gentlemen in this House, and I appreciate his interest in this subject.

The CHAIRMAN. The time of the gentleman from North Carolina (Mr. PREYER) has expired.

Mr. ROGERS. Mr. Chairman, I understand I have 6 minutes remaining, and I yield the balance of my time to the gentleman from North Carolina (Mr. PREYER).

Mr. BOLAND. Mr. Chairman, will the gentleman yield?

Mr. PREYER. I yield to the gentleman from Massachusetts.

Mr. BOLAND. Mr. Chairman, I would like to ask a question about section 110 of this bill. This week, a group of industry spokesmen from Congressman CONTE's and my district met with aides from our local offices. They expressed a very real concern about the present ambient air quality standard for photochemical oxidants. In their opinion, and I understand this to be the opinion of others, there is not an adequate data base to support this standard. This group contended that the Massachusetts State implementation plan based, in part, on the present photochemical oxidant standard, would have a severe effect on industry in western Massachusetts.

They and I, of course, recognize the need for ambient air quality standards to protect the public health and welfare. But I am concerned about the allegation that the data do not completely justify the photochemical standard, that a revised standard may be equally protective of public health while not harming industry and jobs.

Do I understand section 110 to state, that the Administrator will allay this concern of myself and others, by periodically reviewing the ambient air quality standards to insure that they are, in fact, supported by sound, scientific data? And if the data do not support the standard, as the case may be for photochemical oxidants or other pollutants, the standard can be revised?

Mr. ROGERS. Mr. Chairman, if the gentleman from North Carolina will yield, that is true, with reference to section 110.

Mr. BOLAND. Mr. Chairman, I thank the gentleman very much.

Mr. MAGUIRE. Mr. Chairman, will the gentleman yield?

Mr. PREYER. I yield to the gentleman from New Jersey.

Mr. MAGUIRE. Mr. Chairman, the Clean Air Act Amendments of 1976 (H.R. 10498) represent the first major review of the Clean Air Act of 1970. The scope of the amendments is quite broad, ranging from the establishment of strategies to control dangerous unregulated pollutants and to protect the quality of the Nation's remaining clean air to a reconsideration of the timetable for compliance with the existing requirements for stationary sources of pollution as well as of the timetable for reducing pollution from automobiles—the single largest source of pollution.

Most debate over these amendments has been over complex data concerning the cost and technological feasibility of control equipment for stationary and mobile sources of pollution. However, there has been far too little consideration of the primary purpose of the Clean Air Act which is to protect public health.

Today there is more scientific and medical evidence than ever before indicating severe health dangers of pollution. Perhaps these health dangers seem abstract because it is virtually impossible for fair-minded scientists and physicians to be absolutely certain of specific health effects of pollution. The dangers may also seem abstract because it may take years before the deadliest effects of pollution take their toll on a human life. It is increasingly clear, however, that while the death toll may be difficult to prove, pollution is slowly killing hundreds of thousands of Americans.

New evidence shows a strong relationship between pollution and cancer—one of the greatest killers of all. The National Cancer Institute estimates that 75 to 80 percent of all cancer is environmental in origin. It now appears to be no coincidence that my own State of New Jersey suffers the highest cancer death rate in the Nation and also has one of the highest levels of pollution. Expert testimony by witnesses at a hearing of the Commerce Subcommittee on Oversight and Investigation which I conducted in Newark, N.J., emphasized this relationship between pollution and cancer in the State.

In particular these hearings uncovered an alarming relationship between the automobile pollutant nitrogen oxides, NO_x, and nitrosamines—one of the most potent cancer causing agents known. Testimony indicated that NO_x combines in the air with the common pollutant, amines, to form nitrosamines. Reports of the National Academy of Sciences, NAS, in 1974 and 1975 pointed to the health dangers of another automotive pollutant—carbon monoxide. The 1975 NAS report concluded:

> The addition of any CO above background represents an additional stress on persons with heart and artery disease.

The NAS has estimated that in the aggregate automotive pollutants cause as many as 4,000 deaths and 4,000,000 days of illness per year. The individuals most vulnerable to the health effects of these pollutants are older persons, those with respiratory or heart ailments, and comprising nearly 20 percent of the population.

The dangers of pollution do not end with those polutants emitted from autos. As each pollutant is subjected to exhaustive scientific research, it becomes increasingly clear that the human body can tolerate very little pollution without adverse effects. The results of the Conference on Health Effects of Air Pollution conducted in 1975 under the aegis of the NAS found that—

> It is impossible at this time to establish an ambient air concentration of any pollutant—other than zero—below which it is certain that no human beings will be adversely affected.

Dr. John Finklea stated in testimony before the Health Subcommittee in 1973 that—

> Our new information does show that even low levels of pollutant can adversely affect health.

Congress has a responsibility to reasonably protect the Nation's health, and it is clear that this responsibility can only be fulfilled by reducing existing pollution and minimizing any additional pollution. We cannot afford to gamble with the health of the American people by ignoring these very real dangers.

There are some who suggest that pollution control is incompatible with the economic health of the country. I reject this notion. While most attention is focused upon the cost of pollution control, Congress must face the fact that pollution costs money—a great deal of money—according to reliable studies.

According to the Environmental Protection Agency, EPA, air pollution annually results in $20 billion in damages to health, property, materials, and vegetation. The Commerce Committee report on H.R. 10498 explains that considerable damage to crops may be occurring at levels significantly below national air quality standards. New evidence also shows that sulfur oxides and nitrogen oxides in the atmosphere cause a phenomenon known as acid rain. This rainfall acidity is having a very significant effect on forest, soils, and crops. The U.S. Forest Service reported "substantial reduction in timber volume caused by chronic low levels of SO_2 or acid rains," which compelled them to urge "a cautious approach to allowing any deterioration of air quality."

The Energy and Power Subcommittee of the Commerce Committee, which studied the effect of pollution on agriculture, reported that damage directly linked to industrial pollution "extending hundreds of miles beyond the sources of emission, has already reduced yields in forests and other crops in some areas by as much as 75 percent." This evidence of significant pollution damage to crops and forests emphasizes the fact that pollution is not merely an urban problem but rather a national problem.

In the debate over the economic aspects of pollution control, there are some who maintain that expenditures on pollution abatement programs divert financial resources into "unproductive" purposes. The fact is that pollution control helps the economy. In a recent study the President's Council on Environmental Quality reported that industry, Federal, State, and local spending for the environment, is currently providing the Nation with 1.1 million jobs for the economy as a whole. The study concluded that—

> When all factors are considered, including the impact on health and property, there does seem to be an outright economic advantage to pollution control.

In sum, effective pollution control is good for both economic and public health.

On the whole I believe that the Commerce Committee bill represents a well-balanced approach to the development of national strategies for pollution abatement. A brief view of the more important aspects of the bill is appropriate.

Section 101 concerning unregulated pollutants corrects administrative oversight in failing to regulate four specific pollutants which have been associated with serious health hazards. The section would require EPA to control pollution of vinyl chloride, arsenic, cadmium, and polycyclic organic matter unless the Administrator finds on the basis of new evidence that these pollutants are safe at current and future levels of exposure.

Section 102 of the bill would prevent EPA from being prevented from acting against potential endangerment to public health. The section emphasizes the responsibility of EPA to evaluate and to act on potential risks to health caused by pollution rather than acting only after proof of actual harm. I firmly support both sections 101 and 102.

I am disappointed over the committee's action in section 103 which provides excessive authority to the States and to EPA to grant stationary sources extensions in order to meet emission control requirements. The section fails to require adequate demonstration of need of additional time for compliance and permits long delay.

I am pleased to have been actively involved in the development of section 105. This section would require the payment of an excess emission fee for major stationary sources which received a compliance date extension based on circumstances not beyond the sources control. While I would have preferred a higher ceiling on excess emission fees, the section provides a reasonable step forward in preventing industries which devote little or no resources to pollution control from gaining a competitive advantage over publicly minded concerns which invested in effective control equipment.

Section 106 would dangerously permit compliance date extensions in areas which exceed the national air quality standards established to protect public health.

Perhaps the most important provision in the clean air bill is section 108 concerning whether to prevent significant deterioration in the quality of the Nation's remaining clean air. The committee position unfortunately adopts an approach which would contribute to the graying of America. Section 108 establishes three categories of air quality deterioration ranging from small permissible increases in pollution to massive permissible increases—from class I to class III.

I have been actively involved in the development of this section, but I believe that the committee failed to achieve a reasonable balance among economic, environmental and energy considerations. The class III category would permit significant deterioration in clean air quality and, in effect, would repeal section 101 (b)(1) of the act which established that one of the purposes of the act is—

> To protect and enhance the quality of the Nation's air resources so as to promote the public health and welfare and the productive capacity of its population.

Congressman Henry Waxman of California and I will be offering an amendment to eliminate the class III category of air quality degradation. This proposal—which is consistent with the bill which was approved by the Senate yesterday by a vote of 63 to 31—is designed to prevent significant deterioration of clean air quality while providing for full economic development. Without such effective air quality planning, uncontrolled or poorly controlled industrial development would quickly increase pollution to maximum permissible levels. Then further industrial development would be impossible without posing serious health hazards. This would force millions of Americans to choose between endangerment of their health and endangerment to their economic well-being, a bleak choice which can be avoided with reasonable planning. The class III category would minimize incentives for the development of improved technology to reduce pollution and permit maximum economic growth.

The class II category of air quality degradation would allow for significant economic development. EPA Assistant Administrator Roger Strelow explained that any one of the major point source catergories regulated by EPA can be accommodated within the committee class II designation with the exception of a new grassroots steel complex which is not planned. The class II category could accommodate even the once proposed, massive, 3,000 megawatts, Kaiparowits power project, the largest coal-fired powerplant ever planned. This project, which has been abandoned due to economic considerations and overestimated projection of energy requirements, would have provided enough energy for the entire Washington, D.C., area during normal periods of use.

The cost for the consumer for eliminating the class III designation would be minimal. A February 1976 EPA report indicated that the elimination would increase capital expenditures to the electric utility industry by only 0.2 percent over the committee's proposal, or by $27 million annually. This estimate is particularly important since the amount of air pollution generated by other industries is typically much lower, and thus their capital requirements would be lower.

It is clear that the elimination of class III would maximize long-term economic growth by precluding unnecessary pollution before it is too late and too expensive to reverse. More pollution now means less growth later.

The amendment which Congressman Waxman and I will offer would also permit the EPA to disapprove air quality reclassifications which arbitrarily and capriciously disregard economic, health, social, and environmental concerns. While we believe that maximum flexibility should be provided for the States for effectuating the purposes of the Clean Air Act, there exists an overriding public interest to review ill-considered actions. While we firmly believe that this authority should be used only sparingly, it is a necessary safeguard.

Similiarly, we believe that Federal lands such as Death Valley in California or the Badlands in South Dakota which are initially classified in the class I designation should enjoy Federal protection against excessive pollution increases which would destroy these valuable national resources. In particular Federal land managers should have the authority to disapprove reclassification of these lands to lesser categories of protection from pollution.

Thus this amendment would provide a balance to section 108 which it fails to achieve in its present form. The National Conference of State Legislatures, Governors Apodaco of New Mexico, Dukakis of Massachusetts, Hammond of Alaska, Lamm of Colorado, and Kneip of South Dakota are among the many proponents of a clean air policy without class III.

The Maguire-Waxman amendment has been specifically endorsed by the American Lung Association, the League of Women Voters, Common Cause, the Sierra Club, the Friends of the Earth, the Environmental Policy Center, and other public interest groups.

Integrally related to the need to prevent significant deterioration of the quality of clean air is the need to insist upon the best avaliable pollution control technology that has been adequately demonstrated for new sources of pollution. Section 111 of the bill provides important clarification to the intent of the 1970 act by requiring the use of such technology.

Sections 201 and 202 of the committee bill would hinder EPA's ability to reduce pollution. Specifically, section 201 would significantly restrict EPA's authority to require that State and local governments establish programs to cut pollution emanating from indirect sources of pollution such as shopping centers and sports arenas which attract a considerable volume of auto traffic.

Section 202 would grant lengthy delays for compliance with the national air quality standards to protect health to those 29 metropolitan regions which otherwise need to implement transportation control plans. These extensions could be granted on social or economic grounds even though they may result in violation of the standards.

Pollution is a multisource problem. It comes from both stationary and mobile sources all of whch require control. We can neither hope nor expect to protect and enhance the Nation's air quality if Congress permits weak and ineffective control strategies for any single source of pollution. Unfortunately, the committee bill has adopted section 203 which would significantly delay the achievement of the full 90 percent emission reduction in automobile pollution required by the 1970 act.

There has been considerable controversy over the technological feasibility of meeting the full 90 percent reduction requirement. This controversy should be placed in the context of the historical fact that the goal was set 6 years ago in order to provide sufficient time for the development of the necessary technology. In 1970 Congress set 1975 as the deadline for its 90-percent statutory reduction standards. At the insistence of the automobile manufacturers, this deadline has already been delayed three times: First to 1976 by administrative action; second, to 1977 by congressional action; and once again to 1978 by administrative action.

The committee bill would freeze the present standards until 1980 for hydrocarbon and carbon monoxide pollutants. The section would delay until at least 1981 implementation of the statutory standards for nitrogen oxides.

Congressman WAXMAN will be offering an amendment which provides a more reasonable approach to the problem of reducing automobile pollution. Interim standards for 1978 would be implemented which are identical to the 1975–76 California standards, and in 1979–80 the 1977 California standards would be put into effect nationally.

This amendment would allow adequate leadtime to the automobile manufacturers for the development of and perfection of pollution control technology. These standards can be met with little or no fuel penalty and with nominal cost to the consumer. It has the support of the Governors of New York, New Jersey, and California as well as several environmental and public interest groups.

I am very pleased that the committee adopted section 203 which would provide effective, yet flexible standards to reduce pollution from motorcycles and heavy-duty vehicles. As a member of the Health and Environment Subcommittee, I sponsored the amendment which established this section. In adopting this section the committee has acted where EPA has failed to act.

The committee report documents well the need for effective standards to reduce pollution from these virtually uncontrolled mobile sources. The NAS, for example, reported in 1975:

> There is a need to complete the development of emission standards and more effective controls for sources (both mobile and stationary) other than light-duty motor vehicles of HC, CO, NO_x . . . Of particular concern are exhaust emissions from heavy-duty vehicles and motorcycles.

A report prepared by the Library of Congress explains that a heavy-duty vehicle will emit as much nitrogen oxides as 9 automobiles, as much HC as 18 automobiles, and as much CO as 45 automobiles. The report makes the alarming conclusion that at some time between 1980 and 1995, the emissions from heavy-duty vehicles will be more than half of all transportation emissions, unless control regulations are modified.

Many people do not realize that motorcycles emit high levels of pollution due to incomplete combustion. Presently uncontrolled motorcycles emit twice as much CO and six times as much HC as a 1976 new car.

For these reasons the committee adopted a proposal which would set interim standards between 1978 and 1984 which would reflect the greatest degree of emission reduction achievable. EPA would have the authority to consider cost, noise, energy, leadtime, and safety factors.

The standards after 1985 would require a 90-percent reduction of HC and CO, and a 65-percent reduction of NO_x, from uncontrolled emission levels. The EPA would also be provided the flexibility to review these standards and revise them upon determination that they are infeasible.

I worked actively with representatives of industry and public interest groups to develop this moderate approach. Congressmen JOHN MURPHY of New York and BOB ECKHARDT of Texas, and PHIL SHARP of Indiana deserve special commendation for their efforts in making this section a reality.

Emissions from aircraft are another source of serious pollution particularly for urban areas. Pollution standards for subsonic aircraft have already been effectuated by the EPA upon congressional directive. However, pollution from supersonic aircraft has been ignored. EPA has failed to promulgate final regulations for these aircraft. For this reason, I offered an amendment which the committee adopted which required the Administrator to issue final rules within a year of enactment of the Clean Air Act Amendments of 1976.

As my colleagues from New Jersey know, our State has been operating a very successful program of vehicle inspection. Included in the inspection process is a check of emission levels to determine whether the vehicle is in compliance with standards. This system results both in lower emissions and lower fuel consumption since a well-tuned car uses less gas. Through the diligent efforts of Congressman JAMES SCHEUER of New York, the committee adopted a proposal which would extend this system throughout the country.

In conclusion, I should emphasize that despite my serious reservations to certain sections of this bill, I believe that as a whole it represents an excellent effort in attempting to reduce the persistent and dangerous pollution problem which endangers the health and welfare of all Americans. I commend Chairman ROGERS, the members of the subcommittee, and the full committee for their efforts on this vital piece of legislation.

Mrs. SCHROEDER. Mr. Chairman, a situation now exists in Denver and other high-altitude areas of the country where the letter of the Clean Air Act is being obeyed, but its spirit is being violated.

As incongruous as it may seem, cars in high-altitude areas which are equipped with emission control devices are polluting more than they would without the devices. Emission control devices are geared to sea level operation and, when used at sea level, function efficiently. At high altitudes, however, they run extremely fuel-rich and actually emit up to twice the amount of pollutants as a well tuned car at sea level. For cities such as Denver, which Mr. WIRTH and I represent, Salt Lake City, and Albuquerque, this results in the waste of millions of gallons of gasoline, with cars emitting more pollutants than they would without the emission control devices.

I find it ironic that several States, including Colorado, are forced by the Federal Government to accept more pollutants in the air than they would otherwise have. It is obviously impossible for high-altitude States to meet Federal ambient air standards if the devices required to help meet those standards actually cause twice the pollution, simply because they cannot be adjusted to the proper setting for the higher altitudes.

Unsatisfactory emission control performance can be corrected, but auto dealers are prohibited from making such adjustments by the antitampering provision of the Clean Air Act, which carries a $10,000 penalty for its violation. Dealers are only permitted to make adjustments within manufacturer's specifications, which do not compensate for high altitude. The dealer's hands are tied. The only way dealers could make such adjustments would be to run long mileage tests and submit the results to the Environmental Protection Agency—EPA—for possible approval—an impossible task for small businessmen. Moreover, auto dealers, who are probably best able to satisfactorily adjust emission control devices, are the only ones that are singled out and prevented from doing so. The service station on the corner, Joe's garage down the street, as well as the individual car owner, are all permitted to adjust emission control devcies. In many cases, these adjustments are done in a less than satisfactory manner. The individual car owner, in particular, often relies on one of the many do-it-yourself kits on the market, for which there is absolutely no standardization.

The auto dealer's situation could be solved, however, by the manufacturer. Manufacturers can develop high-altitude modifications for certified vehicles of earlier model-year designations and get approval from EPA for such modifications relatively easily. The only requirement is that the manufacturer install the modifications on a vehicle with stabilized missions—that is, a vehicle that has been operated for the basic 4,000-mile stabilization period—and that he then demonstrate that, when modified, the vehicle can meet emission standards at high altitudes. In the vast majority of cases, the only change that is needed to allow a vehicle to meet emission standards at high altitudes is a change in carburetor and ignition calibrations.

The fact that there is a procedure by which the manufacturer can readily obtain approval for high-altitude modifications for earlier model-year cars, however, does not mean the manufacturer will elect to make such modifications. Auto dealers in the Denver area have requested this assistance, citing the tremendous good will and public welfare of such help, but to no avail. The realization that the manufacturer can offer such modifications but has chosen not to—disregarding that such refusal greatly increases the pollution at high altitudes and results in the burning of additional gasoline which we can ill-afford—was the impetus behind the Schroeder-Wirth high-altitude amendment. The Schroeder-Wirth amendment was offered in the full Interstate and Foreign Commerce Committee by Mr. WIRTH on March 16, 1976. The amendment passed by a unanimous voice vote.

In its present form, the Schroeder-Wirth amendment provides:

First. Any adjustment or alteration of emission control equipment would not be considered a violation of the antitampering provision, as long as such adjustments or alterations would not adversely affect emissions performance of the vehicle.

Second. Adjustments or alterations would not be considered as adversely affecting performance of the vehicle if the adjustments or alterations are performed in accordance with manufacturer's instructions approved by EPA, or with instructions promulgated by EPA, to permit better fuel economy in high-atltitude areas.

Third. The manufacturer of any motor vehicle or engine made after model year 1968 would be required to publish and make generally available to the public the instructions necessary to make appropriate altitude adjustments to emission control systems on that vehicle.

Fourth. If a manufacturer has failed to submit approvable instructions within 6 months after the date of enactment of the amendment or 6 months after the date on which the vehicle first becomes available to the general public, whichever last occurs, EPA would be required to promulgate regulations within 18 months after the date of enactment to carry out this provision.

Representative WIRTH and I would like to amend our original amendment to correct some oversights in the language of that amendment. On Thursday, August 4, I will offer an amendment on behalf of Mr. WIRTH and myself to do the following:

First. Allow an increase in nitrogen oxide—NO_x—emissions, as long as they do not exceed the Federal new vehicle emission standard. This change is necessitated by the fact that when carbon monoxide — CO — and hydrocarbon — HO—emissions are decreased, nitrogen oxide emissions are inadvertently increased due to changes in combustion.

Second. Mandate that the manufacturer must submit approvable instructions within 6 months after the date of enactment of the amendment, or 6 months after the date on which a class or category of motor vehicles first becomes available to the general public, whichever last occurs. If the manufacturer does not do so, he will be subject to the same $10,000 penalty which is now invoked if auto dealers "tamper" with auto emission devices. The rationale behind changing the amendment was our desire to insure that the responsibility for providing these instructions would remain with the manufacturer, and not be passed on to EPA after the 6-month period had expired. If the original wording of the amendment were to remain, I am afraid we would be creating a giant loophole for the manufacturer to legally shirk this responsibility.

I would also like to point out that Representative WIRTH and I are aware that EPA has issued regulations which, beginning with model year 1977, would allow the manufacturers to ship only cars that will meet the air quality standards at their designated place of sale. These EPA regulations will do nothing to solve the emission problems of cars already on the road. Our amendment will enable dealers to improve emission control performance on any car built after 1968, which will assist the average carowner who may not be driving the latest model car.

In sum, we realize the auto manufacturers are busy attempting to meet 1977 and future standards, and that the percentage of cars in our high-altitude areas is small in comparison to the total number of cars on the road. Nevertheless, this is a very real and serious problem to the people who live in these high-altitude areas. Our amendment has been endorsed by both environmental and business groups, as well as by Denver Mayor William H. McNichols and Colorado Gov. Richard D. Lamm.

We ask your support of this amendment. It would greatly improve the air pollution situation in the urban areas of the Rocky Mountain States.

Mr. DRINAN. Mr. Chairman, I am pleased to rise in support of H.R. 10498, the Clean Air Act Amendments of 1976. This massive and complex bill is probably the most significant piece of legislation to be acted upon by the 94th Congress in the area of environmental quality.

THE CLEAN AIR ACT OF 1970

The Federal response to the growing problem of air pollution does not, of course, originate with H.R. 10498. In 1970, Congress passed the landmark Clean Air Act which established specific deadlines and mechanisms to "protect and enhance the quality of the Nation's air resources so as to promote the public health and welfare and the productive capacity of its population."

Significant progress has been made to date in attaining the goal of clean air embodied in the 1970 act. According to the Environmental Protection Agency, approximately 94 percent of the designated air quality control regions have met the primary standard for atmospheric concentrations of nitrogen dioxide; 80 percent have met the standard for sulphur dioxide; 72 percent for carbon monoxide; 68 percent for photochemical oxidents; and 47 percent for particulates.

While these results are encouraging, the Clean Air Act has far from solved our national air pollution problem. Contamination of the air in some parts of the country has continued to intensify, while the national levels of hydrocarbons, sulphur oxide, and nitrogen oxide emissions have remained virtually unchanged during the past 6 years. Many of the EPA's efforts to enforce the provisions of the act have been resisted by State governments and private industry and stymied repeatedly through dilatory legal action.

The greatest failure of the Clean Air Act has been in the area of automobile emissions. According to a report by the National Academy of Science, auto pollution causes approximately 4,000 deaths and 4 million days of illness in the United States each year. Our Nation's vast fleet of cars spews out massive quantities of carbon monoxide, hydrocarbons, and nitrous oxides. Automobiles are the primary source of nitrous oxides in the atmosphere which lead to the formation of nitrosamines, a deadly carcinogen, which has been linked to leukemia and other forms of cancer.

Recognizing the serious health hazard posed by auto emissions, Congress acted in 1970 to require a 90-percent reduction in these contaminants by 1976. The auto industry, which fought the standards every step of the way, has managed to secure postponements of the requirements from the EPA and from Congress itself. At this point, the 90-percent reduction standards will take effect in 1978, but the auto industry continues to fight for additional delays.

TOUGH AUTO EMISSION STANDARDS MUST BE IMPLEMENTED

I certainly do not intend to discuss each of the numerous provisions of this comprehensive bill which totals 190 pages in length. The most significant changes contained in this 3-year reauthorization of the Clean Air Act are in the areas of: First, auto emission controls; second, restrictions on the deterioration of air quality in areas which currently surpass clean air standards; and third, requirements for emissions controls on new industrial facilities. Perhaps the greatest controversy on the floor will surface on the issue of auto emission controls. The provision contained in the committee bill, which freezes emissions controls at their present levels until 1970, constitutes a tremendous concession to the automobile industry which has successfully staved off the implementation of the statutory 90-percent reduction standard since its enactment in 1970. The industry claims that reduced automobile emissions will require lower fuel efficiency and a sharp rise in auto prices. Yet the 1976 model cars, which meet the toughest antipollution standards ever imposed, are the most fuel efficient vehicles produced in the last 20 years. Moreover, one automotive company has produced a car, to be distributed in the fall of 1976, which exceeds the 90-percent pollution reductions standards, and surpasses previous fuel economy by 10 percent at an additional cost of only $50 per vehicle. Thus the industry's claims simply do not stand up to rigorous examination.

Our most important consideration, however, in resolving this issue, must be to safeguard the health of the American people. There is no question that the pollutants spewed out by our Nation's automobiles cause disease and contribute substantially to the deterioration of the environment. According to the EPA, an additional 200,000 children will suffer attacks of lower respiratory disease each year between 1980 and 1990 if emissions standards continue to be frozen at their current levels. Since the technology is readily available and the need for stronger controls is immediate, I cannot support the committee's recommendation that current auto emissions standards remain unchanged until the 1980's or beyond.

Rather, I intend to support the Waxman-Maguire amendment which would put the more stringent emission standards currently employed in California in effect throughout the Nation. If the automakers can produce cleaner cars for the citizens of California, they can produce those same cars for the citizens of Massachusetts as well. The Waxman-Maguire amendment, which has been endorsed by the League of Cities, the National Association of Counties, the League of Women Voters, and Common Cause, would provide automakers with an interim period to improve their pollution control technology before implementing the 90-percent reduction standards by 1981.

SIGNIFICANT DETERIORATION MUST BE STOPPED

We are fortunate that large expanses of our Nation are still relatively free from serious air pollution. These areas, including farmland, national parks, and public wilderness areas, become increasingly precious as our urban centers continue to expand. It is imperative to our national well-being that these areas remain relatively clean and free from air contamination. For that reason, I support the limitations on significant deterioration contained in the committee bill. I believe that those limitations should be further strengthened, however, and intend to support floor amendments to accomplish that objective.

STANDARDS FOR NEW SOURCES

One of the most laudable sections of H.R. 10498 establishes requirements for the use of emission control devices by all new industrial facilities and other stationary sources. The provision mandates the use of the best "continuous control technological system" available. At the same time, it permits the issuance of variances to companies which wish to experiment with innovative systems if there is a likelihood that such systems might surpass existing technology. This provision will insure that the future development of American industry will not contribute any more than necessary to the extent of our air pollution problem.

NO RETREAT FROM CLEAN AIR

Mr. Chairman, the commitment which this Congress made in 1970 to improve air quality must not be broken or forgotten. The quality of life in the United States depends, to an increasing extent, upon the quality of our environment. Air pollution cannot be taken lightly or shunted aside. According to the EPA air pollution costs the Nation $20 billion annually in damage to health, property, and vegetation. The National Cancer Institute estimates that 75 to 80 percent of all cancer is environmental in origin. Unless we act swiftly to clean up our air, the generations which succeed us will suffer the consequences of death, disease, and eventual extermination. The major bill before us today is a step away from that nightmare and toward a more livable environment for all Americans.

Mr. BINGHAM. Mr. Chairman, it has now been 6 years since Congress enacted the Clean Air Act. That law, the product of a new environmental consciousness which swept the Nation in the late 1960's, was designed to eliminate most air pollution within a decade. But today we are breathing air that has improved little since 1970. In many areas, especially in our major cities, air quality has, in fact, deteriorated.

We have permitted serious slippage in the achievement of our clean air goal. The energy crisis proved itself a godsend to those who want to delay compliance with clean air standards. The recession too has been their ally. They have told us that they just cannot afford to provide fuel economy and meet emission control standards at the same time. Three times the "big three" automakers have been granted delays in compliance. Today they seek one more. They are not alone in urging a certain laxity in enforcement. Virtually every section of the Clean Air Act has been challenged by some group or interest that is finding compliance difficult or expensive. That is to be expected. No one in 1970 suggested that the achievement of clean air would be an easy task. Congressional review of the original standards is a good idea but that review can only convince us that laxity is inappropriate and that we must redouble our commitment to our original clean air goal.

H.R. 10498, the Clean Air Act Amendments of 1976 as reported by the Committee on Interstate and Foreign Commerce, remedies several of the defects in the original legislation while at the same time weakening some of its most significant provisions. Strengthened, as I hope it will be, in at least two areas, it will go far toward the implementation of the goals of the original landmark legislation.

Section 203 of the committee bill extends the date of compliance of automobile emission standards another 3 years until 1981. Standards now in effect for hydrocarbons and carbon monoxide would be frozen until then. The statutory standard on nitrous oxides, the third major auto pollutant, would be delayed until at least 1981 and possibly 1985. These freezes, especially the one on nitrous oxide which is suspected of being a deadly carcinogen when combined with other air pollutants and which is most difficult to control, might well result in a dramatic increase in illness, disease, and disability from auto pollution. Moreover another 3-year freeze only removes Detroit's incentive to improve their clean fuel-efficient auto technology.

These delays are not warranted. We already have the technology necessary for the mass production of clean, fuel-efficient cars as is evidenced by the 1977 California Volvo and the fact that stringent California clean air standards are already being met by 10 percent of all cars of domestic manufacture.

I shall support the Waxman-Maguire amendment which requires nationwide standards in 1978 equivalent to those being met by 1976 California vehicles; 1979 and 1980 Federal standards equivalent to those met by next year's California cars; and 90-percent reduction in hydrocarbons, carbon monoxide, and nitrous oxide in 1981. The rationale behind the amendment is sound. California, with its stricter emission controls, would serve as a 2-year laboratory in each step toward implementation of the full statutory standard. Waxman-Maguire insures that there will be no slackening in the clean air effort. Without it, the goal of clean air will remain a distant dream.

The stated purpose of the 1970 act was to "protect and enhance the quality of the Nation's air resources." It was clear that significant air deterioration could not be permitted, being in direct contradiction of the law's goal. This was the view of the Congress and the administration until, in 1971, the EPA issued guidelines permitting massive deterioration of air quality in areas cleaner than minimal Federal standards. This was regrettable as it would have resulted in a uniform national standard of barely tolerable air. Air cannot be too clean. In 1972 the U.S. District Court for the District of Columbia ruled that "significant deterioration" of clean air was not permitted under the act. That ruling was upheld in 1973 by the Supreme Court.

The architects of the committee bill before us have drawn up specific "significant deterioration" guidelines but unfortunately they are not tough enough. The committee bill requires each State to classify areas which ae cleaner than required by national clean air standards as class I, II, or III, and within each area pollution would be allowed to increase within clearly defined limits. In class I areas, primarily federally designated park and wilderness areas, only the slightest increase in pollution levels would be permitted. In class II areas, by far the largest category of clean air regions which would include virtually 100 percent of all non-Federal lands in clean air areas and 95 percent of Federal lands, moderate deterioration would be permitted. In class III areas deterioration up to the Federal ambient level would be permitted. With certain exceptions, States would be authorized to reclassify areas as class I, II, or III at any time.

I believe that there is no need for a class III classification which, in essence, allows States to opt for dirty air. Industry does not need class III since even the electric utility companies are well able to construct even their largest powerplants within the class II guidelines. The massive Kaiparowits project—the largest coal fired powerplant ever planned—could have been constructed in a class II area. Class II permits massive industrial development and is, in fact, lenient enough to permit sulfur dioxide concentrations in previously clean areas at the level of Toledo's or Houston's. We do not need class III which, in the name of clean air, would permit concentrations at the level of Los Angeles.

I shall therefore support the Maguire amendment to eliminate class III altogether, this conforming to the Senate bill, currently under consideration.

The Maguire amendment also provides for review by the Federal Land Manager of any State reclassification of federally designated park land from Class I to Class II. It also permits EPA to disapprove any State redesignation which arbitrarily ignores relevant environmental, social, or economic consideration. EPA must have override authority. Federal override authority will strengthen the State's hand in dealing with those pressing for the maximum levels of pollution. It is essential.

I certainly hope that we will today see the passage of H.R. 10498 with the amendments offered by Mr. WAXMAN and Mr. MAGUIRE. The issue of environmental cleanup grows more pressing every day. Since 1933 there has been an increase in the cancer death rate of 1 percent a year, year after year. This past year the rate of increase jumped to 2.3 percent. Respiratory cancers are increasing at a 4.5 percent annual rate. The Department of Health, Education, and Welfare and the World Health Organization tell us that cancer is 70-to-90 percent environmental in origin. In the last few days I have been receiving letters and calls from police groups in New York telling me that due to automotive air pollution pulmonary and cardiac abnormalities are showing up in large numbers of patrolmen between age 20 and 30. They urge our support of the early enforcement of clean air standards.

We now know that there is no such thing as a safe level of air pollutants. The only safe level of sulfur dioxides, nitrous oxides, hydrocarbons and the rest, especially given their synergestic effects, can only be zero. I do not expect that we will attain a zero air pollution level any time soon. Limited pollution may well be the price we have to pay for industrialization. But there must be limits. There must be standards. H.R. 10498, strengthened by the Waxman and Maguire amendments, provide those standards. This time they must not be relaxed.

Mr. KOCH. Mr. Chairman, in the debate over how to improve the quality of the environment in our cities and particularly the quality of the air, I think it is particularly important to consider the key factor of providing adequate and inexpensive mass transportation. There are those who feel that the Clean Air Act should be amended in order to postpone indefinitely the hard decisions that must be made in all our major cities as to the most expeditious means to reduce air pollution. New York City's transportation control plan contains four controversial strategies: First, a plan to impose toll increases on the bridges which carry automobile traffic across the East and Harlem Rivers; second, a plan to limit truck deliveries in Manhattan to nonbusiness hours; third, a plan to restrict taxicab cruising; and fourth, a plan to impose parking restrictions in the downtown area. All of these options have implications for business activity in the city of New York, and some may be painful to certain constituencies. However, just as each of these options has social and economic implications, so does a failure to do anything about the environment of New York City. Just as economic factors may cause businesses to leave, business may also choose to leave New York City or not to expand there, because of the poor quality of the air, or because the mass transportation system, for all its well-known virtues, is relatively rundown. Mass transit is becoming increasingly expensive while suffering from a lack of funds to fix up the stations and cars.

I do not know which set of options New York City should choose, but I do know that a failure to maintain the city's subway system or to maintain a reasonable fare level will have at least the same impact on the environment, on the social and economic well-being of the city, as would the adoption of any of the four strategies contained in the transportation control plan. Adoption of a strategy of putting tolls on the bridges crossing the East River will make a lot of motorists unhappy, but raising the fares on the subways will make a lot of transit customers unhappy, too, and may cause serious environmental problems.

Some of those motorists will no doubt wonder why they should be asked to contribute to the subway system, as is proposed by the "toll bridge" option of the transportation control plan. Yet I understand that the evidence shows that each car that travels into Manhattan costs the city 11 cents per mile traveled, while only returning 2 cents per mile in revenues. If a commuter makes a 20-mile round trip, the city is losing $1.80. So even though a toll strategy seems unfair to these motorists and even though such a strategy is primarily a device to raise revenue for the subway system and not to reduce car traffic, a toll does help the city pay the actual cost of these vehicles to the city each day. Such a toll strategy would raise a net of $140 million for the city, but there may be other ways to raise such money for transit, when it is needed.

I do not want to leave the impression that I believe the city should adopt the toll strategy as a means of subsidizing transit, but I do think that, before a waiver or exemption or delay in implementing the control plan is granted, because of social and economic implications, the social and economic implications of doing nothing should also be considered. Luckily, for subway riders, the transit authority believes that it can maintain the present 50-cent-fare structure until December 31, 1977. If it is to maintain the fare beyond that point in time, it may be necessary to look to alternate revenue sources. In the meantime, New York City should be willing to take some serious steps toward reducing the unnecessary flow of traffic in the city. Bridge tolls will not reduce such traffic, so the city may be justified in resisting them. But there are other options, and the city cannot in good conscience do nothing.

In conclusion, let me make it clear that I do not believe the Environmental Protection Agency should mandate which of the alternative strategies the city should choose to improve the quality of the air in New York, so long as the city does take adequate measures to improve the air. There will be severe social and economic consequences, if the city chooses to do nothing to control traffic and improve the air. The city should not view the requirements of the Clean Air Act as an obligation to be avoided, but as an opportunity to improve the quality of life in New York City.

Mr. ROGERS. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. MCFALL) having assumed the chair, Mr. ROUSH, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 10498) to amend the Clean Air Act, and for other purposes, had come to no resolution thereon.

GENERAL LEAVE

Mr. ROGERS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and include extraneous matter, on the bill H.R. 10498.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

PERMISSION TO FILE CONFERENCE REPORT ON H.R. 8410, THE PACKERS AND STOCKYARDS ACT AMENDMENTS

Mr. ROSE. Mr. Speaker, I ask unanimous consent that the managers have until midnight tonight to file a conference report on the bill (H.R. 8410), the Packers and Stockyards Act amendments.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

CONSUMER COMMUNICATIONS REFORM ACT

(Mr. HILLIS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HILLIS. Mr. Speaker, with the passage of the Communications Act of 1934, the Congress developed a national philosophy to govern the communications industry. In this act the Congress mandated that the communications industry "make available, so far as possible to all the people of the United States, a rapid, efficient, nationwide, and worldwide wire and radio communications service with adequate facilities at reasonable charges. The 1934 act also created the Federal Communications Commission charging it with the responsibility of regulating, in the public interest, interstate and foreign communications by wire and radio.

Recent Federal Communications Commission rulings, however, appear to deviate from established communications philosophy. These rulings allow competition in two areas of telephone service, terminal equipment and private lines, and have proven the cause of much alarm. As have a number of my colleagues, I have heard from many who fear that rather than improve the telephone system through the introduction of competition, the FCC rulings may result in increased rates and poor service.

These fears are centered on the fact that telephone charges are based on the concepts of "value of service" and "average pricing." In keeping with these principles, revenues from the more profitable business services are used to lower the cost of basic residential service so that all customers can afford to be served. The FCC ruling threatens the continued application of these pricing policies since the competition will enter the market only where it is profitable thereby taking in that revenue so necessary to keeping all telephone rates reasonable.

These charges bring the issue of whether or not it is possible to mix the concepts of monopoly and free enterprise to the fore. In many ways I find these concepts irreconcilable. Our country does have a long history of following the path of allowing certain types of utilities to hold monopolies as long as they are given restrictive territories and are carefully regulated by law. The Communications Act of 1934 and various State statutes came about precisely because early in phone development it was recognized that the industry could best develop in the monopoly form since competition lead to duplication of facilities which only proved uneconomic and inconvenient.

These charges deserve to be aired. It is not and should not be the prerogative of the Federal Communications Commission to make decisions which may have far reaching effects on consumer interests. Too often the Congress has allowed regulatory agencies to rule on events which change the intent of the law. The recent FCC rulings fall into this category and should be subjected to congressional scrutiny. Therefore, I am introducing today the Consumer Communications Reform Act which would reverse the FCC decisions in the hopes that this legislation will serve as a vehicle for needed congressional hearings on this issue. This is a view shared by many of my colleagues and one which should be honored.

ABUSING THE LAW IN SOUTH KOREA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Connecticut (Mr. COTTER) is recognized for 5 minutes.

Mr. COTTER. Mr. Speaker, a tragedy is in the making in South Korea, where democratic intellectuals and church leaders have been arrested, tortured and killed because they oppose the martial law regime of President Park Chung Hee.

Since South Korea is our ally and a recipient of billions of dollars of American military and economic aid, we in Congress should do our best to ascertain the truth about the Seoul government.

For the information of my colleagues, I would like to insert the following article from the August 1, Washington Post:

ABUSING THE LAW IN KOREA

(By John Saar)

SEOUL—Before a prominent South Korean lawyer agreed to defend accused Christian and political leaders in a Seoul criminal trial this year, he drew up his will and called a family conference. His conscience dictated that he accept the brief in defiance of death threats by the country's secret police, the Korean Central Intelligence Agency, and he wanted his family to understand his decision and its possible consequences.

He also underwent an extensive medical checkup, including X-rays, so that in the event of his death signs of torture would be readily detectable.

The lawyer's alarm was triggered by a hint that he found particularly ominous. "If you dare to defend, you're going to be the next Chang Jun Ha," a government agent warned him, referring to a widely admired writer and opposition politician, outspoken in his criticism of President Park Chung Hee. Chang died last year in a "climbing accident" that raised many suspicions in Seoul.

The lawyer would not comment on the attempts to intimidate him; to do so would invite prosecution under a statute forbidding "slanderous" conversations with foreign journalists. But his friends confirm the story and say it is consistent with a pattern of intimidation directed at others among the 27 lawyers defending 18 prominent Koreans accused of trying to overthrow the Park regime.

Practicing lawyers and foreign experts in Seoul believe that justice—the citizen's right to a fair and speedy trial—has been perverted and abused by the present government as the key tool in a systematic campaign to crush all political opposition. They complain privately of vindictive laws, rigged prosecutions, forced confessions and government pressure on judges to secure dubious convictions and overly harsh sentences.

Journalist Lee Pu Young, who irritated authorities by leading a reporters' strike against censorship, was arrested a year ago on the familiar charge of plotting to overthrow President Park. Lee told an appeals court he had been forced to make a false confession, and the principal government witness—excused from prosecution on grounds of insanity—said he could remember nothing of the alleged plot. The court reduced Lee's eight-year sentence to two and a half years, but upheld the conviction.

Justice Minister Whang San Duk, a former law professor, claims that government interference in the administration of justice is "strictly prohibited." Judges are free to rule as law and conscience decree, he said in an interview, and allegations that "judges who decline to cooperate are removed from office are totally groundless."

Lawyers say justice is meted out fairly in the ordinary criminal cases that make up most of the courts' calendars; the abuses arise in cases allegedly involving challenges to the government's authority.

In the most notorious example, eight members of the People's Revolutionary Party were hanged in April 1975 for "attempting a violent and bloody overthrow of government." An Amnesty International report concluded that the prosecution was a fabrication, but poet Kim Chi Ha, already serving one life sentence, is on trial anew for saying the same thing.

Although the case against the members of the People's Revolutionary Party was, in the view of impartial jurists, an elaborate fraud, 15 of the defendants are still serving terms ranging from 10 years to life. Four of them have been tortured and held in solitary confinement for two years, according to the wife of one of the imprisoned men, for refusing to make false confessions.

POWER OVER JUDGES

The consensus of many lawyers interviewed in Seoul is that independence of the judiciary vanished, except in theory, in 1972 when President Park, ruling under martial law, promulgated a new constitution giving him the right to appoint judges, from chief justice of the Supreme Court on down.

In 1973, approximately a third of the judges staged a short-lived revolt against prosecution pressure. For unspecified reasons, some 30 judges, including seven Supreme Court justices, were not reappointed.

Fear of not being renamed on expiration of their 10-year terms or of transfer to the provinces—the fate of a judge who issued a ruling favorable to opposition figure Kim Dae Jung—has reportedly rendered the judges docile and amenable to KCIA manipulation of South Korea's juryless courts. In a state where all power emanates from the president and judges see their careers at stake, one bright young lawyer said, "there's an atmosphere of terror in the courthouse that makes it useless to talk about justice."

In mid-May 1975, under the rule-by-decree powers of the "revitalizing" constitution, Park promulgated Emergency Measure No. 9, a formidable law that outlaws virtually all outlets of peaceful opposition. Since then, about 150 students have been arrested and half of them sentenced.

For such offenses as distributing a declaration favoring democracy or a document smuggled from Kim Chi Ha's cell, in which the poet renounced an earlier confession as made under duress, students have been sentenced to as much as 10 years. Last month, five Catholic seminarians received sentences ranging up to five years for printing and distributing a poem written by someone else.

Habeas corpus was another casualty of the 1972 constitutional revision. Suspects are commonly held for weeks without access to lawyers or publication of arrest warrants and charges. Many Seoul lawyers believe that measures as sweeping as EM–9 are illegal; but the constitutionality of laws cannot now be challenged in South Korea's courts.

The laws are applied with bewildering intricacy to shield South Korea's leader and constitution from criticism. Kim Chol, founder of the Socialist Party, is serving a two-year sentence. He was prosecuted under the anti-Communist law for allegedly aiding the Communist cause by publishing the indictment in the case of a man convicted of insulting President Park.

A GREAT TRAGEDY

Justice Minister Whang defends the emergency measures as similar to steps taken by other countries and as required by "the urgent necessity to protect the national security and survival of our people."

"Imagine what you would do with Kim Chi Ha in Washington, D.C., if you had a Red Army from the Soviet Union out at Dulles Airport, which is about how far we are from North Korea," Whang argued.

Oppositionists contend that Park invokes the Communist bogey as an excuse to consolidate and perpetuate his regime, and many lawyers agree that there is substance to this charge. "The government prosecutes anti-regime people under the pretext that they are Communists," a wealthy attorney told me.

No one disputes that South Korea is the most virulently anti-Communist nation in the world—a diplomat calls it "an understandable national paranoia"—or that the fallout bears profoundly dangerous consequences for anyone accused of being a Communist or helping the Communists.

During the interview, Minister Whang slid a hand-crayoned map of Asia across a coffee table. It explained, he said, the uniqueness of South Korea's situation. The Communist countries were colored red. South Korea alone was a tiny speck of all-white. Other countries, including Japan, Thailand, Malaysia and Indonesia, were diagonally striped in red—denoting, Whang explained, "semi-red, meaning coexistent philosophies."

The minister used the words "dissident" and "Communist" interchangeably about such opposition figures as Yyn Po Sun, a former president of the country with impeccable anti-Communist credentials. The cold war atmosphere has spawned an epidemic of red-hunting and red-branding. Twelve Christian leaders and social workers from a Seoul urban mission were released this month after six weeks of interrogation in what they said was a fruitless effort by police authorities to fabricate a Communist-plot charge.

The spirit of extreme anticommunism common among Seoul prosecutors, contrasted with the accommodating mood in Japan, where colonies of North and South Koreans live side by side, has contributed to what a Japanese correspondent in the South Korean capital calls "a great tragedy."

Of eight persons under sentence of death for spying for Pyongyang, six are Korean residents of Japan. Observers estimate that between 30 and 40 other Koreans from Japan, mostly students, are serving heavy prison sentences. Some have admitted traveling to North Korea for espionage training, and observers accept most of the convictions as reasonable. The question they ask is whether campus spying by gullible students deserves the supreme punishment.

On occasion, the politically associated trials lapse into protracted ideological inquisitions that bear striking similarities to the religious trials of the Middle Ages. In seeking to prove that he is not a Communist but a Catholic radical, Kim Chi Ha has quoted voluminously from the Scriptures and from more than 20 theologians, ranging from Thomas Aquinas to the Catholic liberation activists in South America.

"The emphasis in all these cases," an American resident in Seoul says, "is not what you've done, but what you are." A Jesuit missionary underlined the difficulty of proving ideological purity. "Just by quoting the Pope I can find something that would put a Korean in jail very easily," he said.

Minister Whang derided North Korea for "kangaroo courts" and a criminal code which "provides that crime is any act feared to endanger the People's Republic of Korea as well as its law and order."

The description comes uncomfortably close to fitting some aspects of justice in South Korea.

THE 1976 CAPTIVE NATIONS WEEK

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. FLOOD) is recognized for 5 minutes.

Mr. FLOOD. Mr. Speaker, from all reports the 1976 Captive Nations Week was an impressive success. Guided by the National Captive Nations Committee in the Nation's Capital, the recent 18th observance of the week fulfilled its purposes. The observance in Congress the spectacular rally at the State of Liberty, assemblies in Cleveland, Chicago, Los Angeles, and elsewhere in the country bicentennialized the week by relating our national independence as a moral responsibility toward all the captive nations under Communist domination. As in previous years, the week also provided a national forum for constructive criticism of détente, the Helsinki agreements, so-called normalization of relations with Peking and other pending issues. Above all, it served the additional purpose of reminding our citizens of the continuing plight of over two dozen nations that have lost their independence to Soviet Russian imperialism and, as the Vice President pointed out, the continuing reality of this growing threat to our national independence.

The proclamations of our Governors and mayors across the land well indicate these facts. So do the commentaries written here and abroad. I refer further examples of this to the attention of my colleagues by appending to my remarks the proclamations of Gov. James B. Edwards of South Carolina, Gov. Ella Grasso of Connecticut, Mayor Gene Rhodes of the city of Fremont, Calif., Mayor Henry W. Maier of Milwaukee, Mayor Bobbie Sterne of Cincinnati, and a commentary in the Review of the News, and pertinent editorials in America and the China Post:

PROCLAMATION BY GOV. JAMES B. EDWARDS ON CAPTIVE NATIONS WEEK

Whereas, the imperialistic politics of Russian Communists have led, through direct and indirect aggression, to the subjugation and enslavement of the peoples of Poland, Hungary, Lithuania, Ukraine, Czechoslovakia, Latvia, Estonia, Byelorussia, Rumania, East Germany, Bulgaria, Mainland China, Armenia, Azerbaijan, Georgia, North Korea, Albania, Idel-Ural, Serbia, Croatia, Slovenia, Tibet, Cossackia, Turkestan, North Vietnam, Cuba, Cambodia, South Vietnam and others; and

Whereas, the desire for liberty and independence by the overwhelming majority of peoples in these conquered nations constitutes a powerful deterrent to any ambitions of Communist leaders to initiate a major war; and

Whereas, the freedom loving peoples of the captive nations look to the United States as the citadel of human freedom and to the people of the United States as the leaders in bringing about their freedom and independence; and

Whereas, the Congress of the United States by unanimous vote passed Public Law 86–90 establishing the third week in July each year as "Captive Nations Week" and inviting the people of the United States to observe such week with appropriate prayer, ceremonies, and activities; expressing their sympathy with and support for the just aspirations of captive peoples.

Now, therefore, I, James B. Edwards, Governor of the State of South Carolina, do hereby proclaim the week of July 18 through July 24, 1976; as:

Captive Nations Week in South Carolina.

OFFICIAL STATEMENT OF HER EXCELLENCY ELLA GRASSO, GOVERNOR

"For ever in thine eyes, O Liberty,
Shines that highlight whereby the world is saved,
And though thou slay us, we will trust to thee!"

The thoughtful and eloquent words of the 19th century American diplomat John Hay reflect the sincere dedication and spirit of all people who share a devotion to liberty and individual freedom.

As the people of our state and nation observe the American Bicentennial, we are reminded of the citizens of many countries who continue to seek independence and justice.

Each year, the United States Congress and many of our states proclaim Captive Nations Week in recognition of the longing for freedom by those men and women who continue to live under oppressive rule.

The Polish Freedom Fighters are typical of those organizations committed to the cause of independence for Poland and other nations controlled by foreign governments.

I, Ella Grasso, therefore designate the week of July 11 through 17, 1976, as Captive Nations Week in Connecticut, and I urge all our citizens to support and encourage those devoted men and women who labor diligently for the establishment and preservation of liberty throughout the world.

PROCLAMATION

Whereas, the imperialistic policies of Russian Communists have led, through direct and indirect aggression, to the subjugation and enslavement of the peoples of Poland, Hungary, Lithuania, Ukraine, Czechoslovakia, Latvia, Estonia, Byelorussia, Rumania, East Germany, Bulgaria, Mainland China, Armenia, Azerbaijan, Georgia, North Korea, Albania, Idel-Ural, Serbia, Croatia, Slovenia, Tibet, Cossackia, Turkestan, North Vietnam, Cuba, Cambodia, South Vietnam, Laos and others; and

Whereas, the desire for liberty and independence by the overwhelming majority of peoples in these conquered nations constitutes a powerful deterrent to any ambitions of Communist leaders to initiate a major war; and

Whereas, the freedom loving peoples in the captive nations look to the United States as the citadel of human freedom and to the people of the United States as the leaders in bringing about their freedom and independence; and

Whereas, the Congress of the United States by unanimous vote passed Public Law 86–90 establishing the third week in July each year as Captive Nations Week and inviting the people of the United States to observe such week with appropriate prayer, ceremonies and activities; expressing their sympathy with and support for the just aspirations of captive peoples.

Now, therefore, I, Gene Rhodes, do hereby proclaim the week of July 18–24, 1976, as "Captive Nations Week" in the City of Fremont, and call upon the citizens to join with others in observing this week by offering prayers and dedicating their efforts for the peaceful liberation of the captive nations.

PROCLAMATION

Whereas: The policies of Communist Russia have led to enslavement for many peoples of many captive nations in all parts of the world; and

Whereas, The desire for liberty and independence by the overwhelming majority of peoples in these nations constitutes a powerful deterrent to any ambitions of Communist leaders to initiate a major war; and

Whereas, The freedom-loving peoples in the captive nations look to the United States as the citadel of human freedom and to the people of the United States as the leaders in bringing about their freedom and independence; and

Whereas, The Congress of the United States, by unanimous vote, passed Public Law 86–90, establishing the third week in

July each year as Captive Nations Week and inviting the people of the United States to observe such week with appropriate prayer, ceremonies and activities as expressions of their sympathy with and support for the just aspirations of captive peoples;

Now, therefore, I, Henry W. Maier, Mayor of Milwaukee, do hereby proclaim the week of July 18–24, 1976, as Captive Nations Week in Milwaukee, and I call upon the citizens of our community to join with others across the nation in observing this week by offering prayers and dedicating their efforts toward the peaceful liberation of the captive nations.

PROCLAMATION

Be It Proclaimed:

Whereas, the history of our Nation reminds us that the traditions of liberty must be protected and preserved by each generation; and

Whereas, we must rededicate ourselves to the ideals of our own democratic heritage; and

Whereas, in so doing, we manifest our belief that all men everywhere have the same inherent right to freedom that we enjoy today; and

Whereas, in support of this sentiment, the Eighty-sixth Congress, by a joint resolution approved July 17, 1959 (73 Stat. 212), authorized and requested the President to proclaim the third week in July of each year as Captive Nations Week:

Now, therefore, I, Bobbie Sterne, Mayor of the City of Cincinnati, do hereby proclaim the week of July 18–24, 1976 as Captive Nations Week and call upon the people of Cincinnati to observe this week with appropriate ceremonies and activities, and I urge rededication to the aspirations of all peoples for self-determination and liberty.

[From the Review of the News, July 21, 1976]

CORRECTION, PLEASE!

The world should know that we stand for freedom and independence in 1976, just as we stood for freedom and independence in 1776, . . . Now, therefore, I, Gerald Ford, President of the United States of America, do hereby designate the week beginning July 18, 1976, as Captive Nations Week.

CORRECTION: Other statements and actions by the Ford Administration over the twelve months since the last Presidential proclamation of Captive Nations Week make these words a sham and a farce.

For example, while Secretary of State Henry Kissinger was unleashing a bitter attack against the anti-Communist Government of Rhodesia, the Communist dictatorship of East Germany was without protest installing more men and barriers all along its border with West Germany. But, people continue to flee, often at great risk. United Press International reported last February: "The August 13 organization, named after the day the Russians built the Berlin Wall in 1961, said a total of 6,011 East Germans emigrated illegally to the West in 1975, including 673 who braved the minefields and barbed wire. . . . The West German Ministry for Intra-Government Relations said the East Germans laid 26,000 mines along the border in 1975, increased fencing between East and West Germany by 63 miles to a total of 659 miles and built 30 new watch towers. The number of self-firing border devices, which last year killed four persons trying to escape, rose from 13,300 to 19,000." When have you heard the Ford Administration so much as mildly protest such barbaric practices?

These Communist slavemasters freely engage in such activity because the West has failed to oppose it. President Ford went so far as formally to accept Communist Russia's dictatorship over Eastern Europe at last year's Helsinki Conference. In August of 1975 the Final Act of the Conference on European Security and Cooperation was signed by the United States, Russia, Canada, and many European nations. Its language in effect guaranteed the continued enslavement of the Captive Nations.

The President has been strongly criticized for agreeing to this betrayal and for backing away elsewhere as well. For example, Congressman Jerome Ambro (D.-New York) reminded his colleagues on December 2, 1975, that for thirty years the American government had refused to recognize Soviet seizure of the Baltic states of Estonia, Latvia, and Lithuania. But, he observed "Unfortunately this firm stand for freedom and against aggression and enslavement appears to be eroding because of actions taken by the Ford Administration. I am specifically referring to the Declaration adopted by the European Conference of Security and Cooperation . . . which recognized all of the boundaries of the participating countries.

"Thus, after 30 years of the Soviet Union's insistence, recognition has been accorded to the status quo of the present boundaries of Europe, meaning that the United States and 43 other states have apparently legitimized the illegal incorporation of the Baltic States of Estonia, Latvia and Lithuania into the Soviet Union. . This is an insult and a shocking disappointment to the brave, freedom loving people of the Baltic States and to those of Latvian, Lithuanian and Estonian background presently living in the United States."

That shocking disappointment can be better appreciated when one realizes what life is like in those enslaved nations. The Los Angeles Herald-Examiner for February 16, 1976, published an interview with Jonus Jurasas, former chief director of the State Drama Theatre of Kauna, Lithuania. Mr. Jurasas and his wife are among the few who have been able to escape that Red hell. He reports: "We had the constant fear of being sent to one of the camps or worse, of being placed in a mental institution where they inject you with all kinds of drugs until you are crazy. . . . In 1972 there was one of the biggest demonstrations against the government. A college student burned himself and everyone marched for 'freedom for Lithuania.' The girls all carried black scarves. There were thousands of arrests but the spontaneous protest continued. When the burned student was buried secretly, there were four more days of protest."

The Ford Administration even accepts the status quo in Communist Poland where resistance also continues. Last month, when the government announced price increases for meat and other foodstuffs, riots and strikes broke out in three Polish cities. Workers barricaded roads, tore up railroad tracks, and engaged in pitched battles with the police. At least 75 policemen were injured and two demonstrators were killed. The situation is apparently typical, and so widespread that even in the U.S.S.R. it is still necessary for the slavemasters to hold more than a million people in concentration camps.

The hypocrisy in President Ford's Captive Nations Week Proclamation was pointed up by Aleksandr Solzhenitzyn's observation that "America's détente with Russia nudges the governments of East Europe into more restrictively communistic internal policies." But the hope for freedom is not dead in the Captive Nations. Concerned Americans would do well to keep the issue of Communist enslavement before the public to expose détente as a Communist fraud, and to remind the world at every opportunity that Communists hold power only by treason and tyranny. There is no such thing as a legitimate Communist Government and never could be.

[From the Philadelphia "America," July 29, 1976]

LET US REMEMBER OUR CAPTIVE ALLIES IN THE U.S.S.R.

". . . The United States supports the aspirations for freedom, independence and national self-determination of all peoples. We do not accept foreign domination over any nation. We reaffirm this principle and policy . . ." (From President Ford's "Captive Nations Week" Proclamation, 1976).

As the United States now is officially observing its 200th birthday anniversary, these words of our Chief Executive assume especial meaning and significance, as the official opening of the Bicentennial celebrations coincides with "Captive Nations Week" observances.

We rejoice over our freedom, power and prosperity which began to grow and develop from the very inception of American Independence in 1776.

The United States of America is a "Nation of Nations"—E Pluribus Unum—One of the Many. Over the past two centuries millions of immigrants from every corner of the world have come to these shores, giving their toil, sweat and blood. Millions of these immigrants came from the lands of Central and Eastern Europe, and the Balkans, all of which are now under Communist domination. In July, 1959, the U.S. Congress in its political far-sightedness passed the "Captive Nations Week Resolution," now Public Law 86–90, which enumerated some 22 countries, including Ukraine, which were subordinated to Russian Communist rule, and which were entitled to their own freedom and national independence. The law authorized and requested the President of the United States to issue in the third week of July of each year a Presidential Proclamation, calling on the American people to rededicate their efforts toward the attainment of freedom for all who are deprived of it.

During the past ten years or so, with the policy of detente between the U.S. and the USSR, observances of the "Captive Nations Week" were left almost entirely to ethnic organizations, while Presidential Proclamations were a mere dry and meaningless formality.

This year the situation has changed, to the effect that more attention and emphasis is placed on "Captive Nations Week" on the part of the general American public. In contrast to Presidential Proclamations in past years, President Ford's 1976 "Captive Nations Week Proclamation" is forceful and meaningful, in which he speaks bluntly of U.S. support of aspirations of freedom, independence and national self-determination.

The Communist takeover of South Vietnam, Cambodia and Laos last year and the defeat of the pro-Western movement in Angola by the pro-Soviet forces this year made clear to all that the forces of Soviet Russian imperialism are relentlessly on the move everywhere.

This concern of the American people for the captive nations was best exemplified by the AFL–CIO's active participation in the national "Bicentennial Salute to the Captive Nation," sponsored together with the National Captive Nations Committee on July 11, 1976, at the Statue of Liberty in New York Harbor.

"The purpose of the Bicentennial Salute,—explained Dr. Lev E. Dobriansky, chairman of the National Captive Nations Committee,—is to keep the hope of freedom alive in the many peoples who do not enjoy the liberty we Americans do."

[From the China Post, July 28, 1976]

ADVICE FOR PRESIDENT FORD

It is significant members of U.S. President Ford's own political party are urging the

President to reiterate the United States' commitment to the Republic of China. One of those who has given this advice is Congressman Edward Derwinski of Illinois. In a speech on Congress the Republican Congressman warned that a series of events in recent months has raised grave concern about America's continued support for its allies.

Congressman Derwinski told the U.S. House of Representatives: "To continue to move in a direction that appears to abandon the Republic of China, courts disaster, not only for our loyal allies in Taiwan, but for our whole strategic and economic posture in East Asia".

Other members of President Ford's party in Congress have urged the White House not even to consider any unilateral concessions to the Peiping regime under the guise of normalization of relations with Red China. The list includes, among others, Senator Barry Goldwater, who was the Republican candidate for President in 1964.

Leading Americans in civilian life are joining in support of the Republic of China. Dr. Lev E. Dobrinsky of Georgetown University in Washington, D.C. is one of the authorities warning of the danger of any change in American policy. In a recent article he pointed out that the future relationship between the United States and the Republic of China "is critical to the question of general confidence in the entire region of Asia."

Dr. Dobrinsky added: "Aside from the strategic values of the Republic of China to our national interest and in spite of all the pro con arguments bearing on future normalizing our relations with Peiping, the basic truth is that a severance of diplomatic relations with Taipei would be a prime and dishonorable example of how not to stand by one of our most loyal friends."

Asian authorities agree with Dr. Dobrinsky that any change in American policy would "abnormalize" America's position with every nation in Asia friendly to the United States. It would not only damage American prestige with its friends, but it would also virtually destroy the forces of anti-Communism in mainland China.

We hope that the Republican leaders who support the Republic of China will use their influence to persuade the drafters of the party's 1976 Platform to include a plank calling for continued support for the Republic of China. All of the recent public opinion polls in the United States reveal that a great majority of the American people favor the maintenance of diplomatic relations with the Republic of China.

OLD MYTHS AND NEW REALITIES IN SOUTHERN AFRICA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. SOLARZ) is recognized for 30 minutes.

Mr. SOLARZ. Mr. Speaker, there are few areas of the world where we have more at stake but about which we know less than Southern Africa.

The recent competition between the United States and U.S.S.R. in Angola highlighted the extent to which the struggle to overthrow the remaining vestiges of white rule on the African continent has important implications, not only for the people of Southern Africa, but for ourselves as well.

To get a better sense of the forces at work in this critically important part of the world, I recently went on a fact-finding mission, on behalf of the Committee on International Relations, to South Africa, Rhodesia, Mozambique, Zambia, and Tanzania. During the course of my travels, I met with spokesmen for the white regimes in South Africa and Rhodesia, leaders of the liberation movements for Zimbabwe and Namibia, American, British, and Israeli diplomats, journalists, intellectuals, farmers, businessmen, and U.N. Representatives. I came away full of impressions not only about the direction in which events are moving but, more importantly, about what the United States should—and should not—do to influence events in the area.

The most pressing problem in the region is Rhodesia. Full scale war between the white regime of Prime Minister Ian Smith and the Zimbabwean Liberation Movement has already broken out. Since the abortive discussions between Smith and leaders of the liberation movement nearly a year ago, both sides have concluded there is no real prospect for a negotiated settlement of the conflict. In my judgment, they are both right. The leaders of the liberation movement, as well as spokesmen for the frontline black African states of Zambia, Mozambique, and Tanzania, all contended they were no longer interested in a gradual transition from minority to majority rule but would now insist on an immediate transfer of power. The representatives of the white regime with whom I spoke in Salisbury, on the other hand, made it quite clear they had no intention of turning over control of their country—instantly, gradually, or any other way—to the blacks who, in their view, though they constitute 94 percent of the population, are incapable of governing themselves.

Right or wrong, the Smith government is convinced that once the blacks come to power—regardless of whether they do it peacefully or violently—the white minority will inevitably lose their privileges and position. In addition, they are convinced they can militarily control the insurgency. They realize they are in for a prolonged struggle. They concede they may have to tighten their belts by cutting back, as one of them put it, "from two servants to one." But they are confident that, just as England won the Battle of Britain against overwhelming odds 36 years ago, they too can win their own struggle for survival. Believing that black rule will result in disaster and convinced the blacks are incapable of overwhelming them, the whites have little incentive to relinquish their power voluntarily.

Black rule in Rhodesia may well mean the end of the lifestyle the whites have come to know and enjoy. But if this is so, the whites will have mainly their own intransigence to blame. Had concessions to the just demands of the black majority been made even several years ago, a climate could have been created in which a truly multiracial society might have emerged. But the whites, determined to maintain their power, refused to make changes which would have enabled the blacks to throw off the shackles of racial repression and participate as equals in the economic and political life of their own country.

In the meantime, attitudes that were once soft have now hardened, and what the blacks might have accepted a decade ago, they would never accept today. Power is rapidly passing from those who once did the talking to those who are now doing the fighting. And whatever slim chance the whites have for a future role in Rhodesia will be eliminated unless they soon come to terms with the blacks.

Only time will tell whether the whites are correct in their assessment of the political consequences of black rule. But I believe they are profoundly mistaken in their analysis of the military situation. The days of the Smith regime are numbered. Exactly when it will fall no one can say—although fall it will and probably sooner than later.

In the kind of liberation struggle now underway in Rhodesia, military analysis estimate a ratio of about 10 government soldiers for every guerilla fighter is needed to keep the insurgency under control. But the Rhodesian Army has only 7,000 men under arms (about half of whom are black and whose loyalty, particularly as the tide of battle begins to turn, is questionable) while the liberation movement has 2,000 freedom fighters in the field and another 10,000 in training. By the time the rainy season begins in December, the troops in training will have already been sent into the fray, thereby tipping the military scales in favor of the liberation movement.

Already, close to 2,000 lives have been lost, and the number of casualties is likely to increase sharply as the fighting intensifies. Under the circumstances, for all their bravado, the morale of the Rhodesian whites is likely to crumble. Although the Smith regime would dispute it, there is reason to believe that last year over 20,000 whites left the country—close to 10 percent of the entire white population—indicating that many have already come to the conclusion there is no future for them in Rhodesia.

After the fall of the American-backed forces in Angola, there was genuine concern in Washington that the Cuban contingents responsible for the triumph of the Soviet-backed faction would join forces with the Zimbabwean Liberation Movement for a new march on Rhodesia. The leaders of the liberation movement with whom I spoke made it clear, however, that while they welcome whatever military equipment and financial assistance they are given, they want to do the fighting themselves, and do not want foreign troops—for or against them—on Rhodesian soil. To some extent, they very much want "the pride of liberating themselves," as one of the members of the Central Committee of the Zimbabwe African National Union told me in Mozambique.

To a larger extent, however, it stems from their fear that once foreign troops come in, they may never leave. And the Liberation leaders have no intention of winning power only to lose their independence in the process. This fear of foreign forces may change, however, if their expectations of victory are not realized in the relatively near future. The longer it takes to force the whites to relinquish power, the sooner they may decide to call upon foreign forces to assist them. The liberation leaders clearly prefer to liberate themselves by themselves. But they would undoubtedly prefer to liberate themselves with the help of foreign troops than not to liberate themselves at all. To the extent that it is in our interest to avoid another Angola—as a way of precluding both the possibility of an American military involvement as well as the use of Soviet surrogates on the African Continent—the sooner the war ends the better.

Under these circumstances, I find that the policy of our own Government—articulated by Secretary Kissinger in his now famous Lusaka speech—is based on an illusion. The Secretary's eloquent call for majority rule throughout all of Southern Africa was, to be sure, a significant step forward in the development of our African foreign policy. It was, in many respects, one of Dr. Kissinger's finest moments. And his energetic effort to obtain a peaceful settlement of this explosive conflict clearly deserves our profound respect and sincere appreciation.

But to work for a negotiated solution when neither side is interested in a compromise is to tilt with diplomatic windmills. In each of the black African countries I visited, I found a growing dissatisfaction with our present policy toward Rhodesia. To be sure, the black leaders welcomed our newly expressed rhetorical support for majority rule. But because we have refrained, in contrast to the Chinese and Russians, from doing anything to help the Liberation Movement achieve it, they question our sincerity.

I think it would be a profound mistake for us to send American troops to do for the Zimbabweans what the Zimbabweans should be doing for themselves. This is their fight and, as their spokesmen say, it is up to them to win it. Perhaps more importantly, our strategic stake in the political future of Southern Africa, unlike Western Europe, Japan, and the Middle East, where our most vital national interests are truly engaged, is much more marginal. But I do believe that short of a military involvement we can and should more actively identify ourselves with the Liberation Movement. We could, for example, provide humanitarian and economic assistance to the more than 20,000 Zimbabwean refugees now living in squalid refugee camps in Mozambique and Zambia.

The refugees, many of whom fled Rhodesia as a result of the government's decision to force them into "protective settlements" (to deprive the Liberation Movement of indigenous popular support) are desperately in need of assistance. They urgently require food, clothing, shelter, and medical supplies. It would be entirely consistent with our own humanitarian traditions to provide it to them. At the same time, we could also offer economic and administrative training to those Zimbabweans living in exile who will ultimately assume the responsibility of running an emergent Zimbabwe. Such assistance would, in my judgment, help convince the leaders of the Liberation Movement, and the rulers of the black African States, we are truly committed to majority rule in Rhodesia. Because the Zimbabwean insurgents are badly divided, however, with several factions contending for power and position within the movement, it would be a mistake for us to provide assistance to any of them directly. What we should do is channel our contributions through the OAU—which has already requested that all foreign aid be distributed through them. Indeed, the Liberation leaders with whom I spoke supported the OAU position—precisely because they wanted to minimize any external influence, in their internal affairs.

Very often, in the formulation of foreign policy, one has to choose between the obligations of principle and the requirements of reality. I would suggest that the situation of Rhodesia is one which requires a response that is both principled and pragmatic. The just cause of the black majority in Rhodesia, which is fighting for freedom within its own land, deserves our sympathy and support. But even if we did not feel obligated to support the liberation movement as a matter of principle, it would still make sense for us to do so pragmatically. Time, after all, is on the side of the blacks. Sooner or later they will come to power—6 percent of the population cannot, in the final analysis, suppress the remaining 94 percent forever—and when they win, our chances for a productive relationship with them, and the 46 other black African nations, will be significantly enhanced if we make it clear that we support them in deed as well as in word.

As part of his effort to produce a negotiated settlement in Rhodesia, Secretary Kissinger has suggested the whites should be given political and economic guarantees to encourage them to turn power over to the blacks. If the Rhodesian whites could be compensated for whatever economic losses they might suffer after the blacks assume power, so the Kissinger theory goes, they might be more willing to accept the risks involved. What this theory fails to take into account is that the Rhodesian whites do not see themselves as bears in a bull market: they have no interest in selling their shares in Rhodesia at the optimum moment in order to take their money and run. They clearly prefer to fight it out rather than surrender their way of life in exchange for token resettlement payments.

To the extent that "compensation" might, however, provide a theoretical inducement for the whites to accept majority rule, it would cost more than a billion dollars to cover the market value of their residential properties, farms, industrial investments, pension plans, and other financial interests. Can anyone expect the U.S. Congress—even in cooperation with other countries—to appropriate this kind of money, particularly when we have a backlog of unmet social and economic needs at home? Consequently, even if the Rhodesian whites were willing to accept compensation in exchange for their acceptance of majority rule, which they are not, there is no reason to believe the Congress, or any other parliament in the Western World, would be willing to provide it.

If "compensation" is a nonstarter, repeal of the Byrd amendment allowing the importation of chrome from Rhodesia would at least be a beginning of a long overdue change in our foreign policy. No one seriously believes the Smith regime will be brought to its knees if the United States prohibits the purchase of Rhodesian chrome. Indeed, sanctions appear to have had relatively little economic effect (except in forcing Rhodesia to become more self-sufficient) and, from a purely political point of view, seem to have effectively precluded the emergence of an indigenous white opposition to Smith.

Be that as it may, African activists see a refusal to enforce economic sanctions against Rhodesia as a symbolic manifestation of support for the Smith regime. As long as we continue to trade with Rhodesia—in violation of U.N. resolutions calling for a total embargo on Rhodesia which we supported—our credibility concerning majority rule will be fatally impaired. Leaders of the Liberation Movement view the repeal of the Byrd amendment as a litmus test of our attitude toward their fight for freedom. The only question is whether we pass the test before the Smith regime falls.

Pending the repeal of the Byrd amendment, Secretary Kissinger has been attempting to persuade Prime Minister Vorster of South Africa to pressure Prime Minister Smith of Rhodesia into coming to terms with his black majority. There is no question Vorster, if he chose to, could force Smith to capitulate. Now that the Mozambique border has been closed, the only way in and out of landlocked Rhodesia is through South Africa. Should Vorster cut the rail and road links between the two countries, Rhodesia would literally collapse in a matter of weeks. Yet Vorster, a shrewd judge of his country's own self interest, at least when it comes to South Africa's external relations, hardly needs to be persuaded that a negotiated transition to majority rule in Rhodesia would be to South Africa's advantage. Ideologically opposed to black rule in his own country, he realizes it is inevitable in Rhodesia. And to the extent a peaceful transition to majority rule in Salisbury would enhance the prospects for a more moderate leadership in Zimbabwe—thereby creating fewer problems for South Africa—Vorster already has ample incentive to facilitate a transfer of power from the white minority to the black majority in Rhodesia, the blandishments of Secretary Kissinger notwithstanding.

The problem is not that Vorster fails to recognize his interests, but that he is politically incapable of acting on them. There is enormous sympathy, and a great sense of identification, on the part of South African whites for their beleaguered brethren in Rhodesia. Over 15 percent of the white population in Rhodesia consists of transplanted South Africans. Any attempt on Vorster's part to force Rhodesia into accepting a settlement by threatening to cut the rail and road traffic to South Africa would provoke a firestorm of political criticism within his own white nationalist constituency. And Smth, acutely aware of Vorster's economic leverage as well as his political problems, would not hesitate to appeal to white public opinion in South Africa. In addition to the political obstacles, there are ideological ones as well. South Africa is, for understandable reasons, vehemently opposed to boycotts. And Vorster would find it extremely difficult to justify imposing such sanctions on Rhodesia while simultaneously decrying similar tactics against South Africa.

Some have suggested that Vorster could quietly reduce the flow of oil and arms to Rhodesia as a way of pressuring Smith into a settlement. This strategy, however, is unlikely to have the desired effect. A slowdown of supplies could conceivably produce a minor modification in the Smith regime's negotiating position should talks with the leaders of the Liberation ever be resumed. But it cannot be expected to effect a fundamental reversal of attitude, particularly when the whites are convinced that the transition to black rule will result in catastrophe. Only by severing Rhodesia's links to the outside world can South Africa force Rhodesia into accepting the inevitable. But this is the very strategy which the prevailing political realities preclude.

It would appear, therefore, that there is no more hope of getting both sides back to the negotiating table than of buying the whites out or of persuading South Africa into forcing the Smith regime to yield. In the absence of such developments, the armed struggle will intensify. White morale, which is already deteriorating, will crumble. And sooner or later the Smith regime will fall—the victim of its own intransigence as much as the overwhelming odds against it.

One can only hope, before this day comes, that we will have demonstrated by our deeds, not merely our words, where we stand. And it would not, I think, be too egregious an exaggeration to say that the future of our relations with the rest of Africa will be significantly affected by what we do.

Unlike the situation in Rhodesia, where the prospects for a settlement have been lost in the mutual antagonisms of an armed conflict, there is still a chance for a constructive reconciliation between the white and black populations of South Africa. If the Vorster regime were to make the necessary changes now, it would probably be able to avoid bloodshed later. In spite of the Sweto riots, however, the white regime in Pretoria gives no indication of a willingness to ameliorate apartheid. Indeed, they seem determined to press forward with their "homelands" policy under which the blacks, who constitute 80 percent of the population, will be consigned to 13 percent of the land.

As bad as the racial situation may be in Rhodesia, it is infinitely worse in South Africa. In Rhodesia, the blacks have at least nominal representation in Parliament; in South Africa, they have none. In Rhodesia, blacks are more or less free to travel around the country, although they can only live in specially designated areas; in South Africa, blacks cannot leave their own community for more than 72 hours, and they cannot live with their own families unless they have resided in the area in which they work all their lives, or have worked there continuously for at least 15 years. For millions of black contract laborers in South Africa, this means they can only see their families for several weeks a year—producing understandable bitterness.

The black South Africans are, in short, among the most repressed people in the world. During the course of my visit to South Africa, I spoke with many of them and came away with the feeling that their accumulated resentment constitutes a political volcano on the verge of erupting. The younger generation of blacks, much more militant than their elders, are particularly afflicted by feelings of rage and frustration. And there is every reason to believe they will refuse to accept the grinding indignities of their existence with the same sense of futile resignation as the preceding generation.

There is a widespread feeling on the part of many thoughtful analysts of the South African situation that, in spite of the repressive character of the regime, there is unlikely to be any major upheaval in the country for the foreseeable future. Since the establishment of apartheid in 1948, they point out, the blacks in South Africa have remained relatively docile and, the recent rioting notwithstanding, are likely to refrain from violent protests in the years ahead. I believe this analysis is completely mistaken and that tranquillity is likely to soon give way to turmoil. The reason blacks failed to engage in systematic efforts to change the status quo until now was not because they accepted their status with equanimity but because they felt there was nothing they could do to change it. Precluded from participation in the political system, confronted by a massive security operation which effectively crushed any significant opposition, and surrounded by a series of white buffer states that insulated South Africa from the rest of the continent, they had no realistic prospect of being able to overthrow the system that oppressed them.

The fall of the white regimes in Angola and Mozambique, and the imminent collapse of the Smith government in Rhodesia, have had a profound psychological impact on the South African blacks. The triumph of black nationalism in the surrounding states has inevitably led to a growing sense that if the blacks in Angola and Mozambique could achieve independence, they should be able to liberate themselves as well.

But even more important than the psychological implications are the logistical possibilities opened up by such a development. As long as South Africa was surrounded by buffer states under white control, it was virtually impossible for the blacks to organize an effective insurgency. Now that the neighboring nations have come under black control, however, the ability of indigenous opposition forces to launch a liberation movement has been significantly enhanced.

At the moment, Africa's attention is focused on Rhodesia. But once Rhodesia falls, South Africa will be the sole remaining white redoubt on the continent, and the stage will be set for the final act in this racial drama. Despite their desire for the elimination of apartheid, it is most unlikely that the other African countries will organize a Pan African army to descend on South Africa. Logistically, they lack the resources to mount such an operation. And the OAU is sufficiently divided that, even if an expeditionary force were technically possible, it would be politically impossible to organize. In any case, the leaders of the black African States with whom I spoke made it clear that, their antagonism toward apartheid notwithstanding, the liberation of South Africa was something the South African blacks would have to accomplish for themselves.

The existence of a substantial amount of trade and travel between South Africa and the other African nations has led a number of white South Africans to conclude that, even after the fall of Rhodesia, the leaders of the neighboring states will put their economic interests above their ideological inclinations and refrain from supporting a war of national liberation against them. If the border between South Africa and Mozambique or between South Africa and Botswana were closed it would, indeed, create significant economic problems for these developing African nations. But the decision on the part of President Machel of Mozambique, in comparable circumstances, to close the border with Rhodesia gives ample indication of what is likely to happen when a similar situation develops in South Africa. And the leaders to the liberation movement for Zimbabwe, as well as the representatives of the front-line states, made it clear they would provide a South African Liberation Movement with the same advice and assistance they provided to the Liberation Movements for Angola and Mozambique in the past, and which they are now providing to the liberation movement in Rhodesia.

For all these reasons, I believe the emergence of an active insurgency in South Africa is only a matter of time. Once Rhodesia falls and the Zimbabwe border is available for such purposes, I find it hard to believe that substantial numbers of young South African blacks would not be prepared to go into exile, and to lay down their lives if necessary, to join the liberation movement. Operating from bases in Mozambique and Zimbabwe, with access to the Botswana border as well, an organized insurgency could create serious security problems for the white regime in South Africa. Unlike the situation in Rhodesia, however, where the collapse of the Smith regime is imminent, the white government in South Africa is likely to prove more durable. Several reasons account for this—not the least of which is that the whites have been in South Africa for over 300 years and truly feel that South Africa is their country and that they have nowhere else to go. As the threat to their survival grows, so will a sense of beleaguered embattlement resulting in a deep determination to fight it out until the bitter end. But by far the most important factor involved here is the disparate numbers involved. In Rhodesia, after all, there are only 250,000 whites. In South Africa, there are 4 million. And the latter provides a critical mass of manpower which the whites can use with great effectiveness to suppress the blacks.

South Africa is thus likely to enter a period of prolonged violence—with the development of a rural insurgency feeding on a growing racial rebellion in the cities—although the whites will probably retain their power for some time to come. Faced with increasing pressure for change, the whites are likely to become more, not less, intransigent. And whatever slim chances now exist for the development of a more moderate policy will probably be eliminated in a vicious cycle of fear and repression.

From the point of view of the South African whites, the answer to their dilemma lies in the creation of autonomous "homelands" for each of the tribal groupings in the country. Within the confines of their tribal homeland, so the theory goes, the blacks will be free to govern themselves, thereby giving them the right to determine their own future. Aside from the fact that the black homelands only include 13 percent of the land (although the blacks constitute 80 percent of the population), there are several other reasons why the policy is unlikely to secure the support of the very people it is supposed to serve. Perhaps most significant is the failure of the homelands policy to make any meaningful provision for the urban blacks who refuse to move there after they are established. Those blacks who now live in the rural areas, where the homelands are located, may find the establishment of a series of independent black nations within South Africa an acceptable solution to the problem of apartheid. But the 6 million blacks living in and around the big cities—who constitute the backbone of the industrial labor force—are unlikely to accept with equanimity the loss of South African citizenship which the creation of the tribal homelands will entail. What they want is not symbolic citizenship in a tribal homeland, hundreds of miles away from where they live, but the right to participate as equals in the social, economic, and political life of South Africa.

A number of white liberals, and even some enlightened white nationalists, think the situation can be saved if the regime will only mitigate some of the more irksome consequences of its racially repressive policies. But the elimination of petty apartheid, in the absence of fundamental change in the social and political system as a whole, will do no more than buy the whites a little more time. Unless the blacks can be made equal partners in the entire South African enterprise, the prospects for an ultimate reconciliation between the races will be dim indeed.

Under these circumstances, it would be a profound mistake for us to recognize the Transkai, the homeland for the Xhosa people, when it receives its independence on October 26. The OAU has already condemned the imminent independence of the Transkai and, were we to provide it with the respectability of American diplomatic recognition, we would seriously alienate the rest of Africa. The homelands are, after all, one of the main political props in the ideological foundation of apartheid, and any support we give the Transkai would inevitably be interpreted as an indication of our indifference toward the plight of the South African blacks.

If the blacks had voluntarily opted for the homelands policy, it might have provided a legitimate basis for American support. But the homelands, like apartheid, have been imposed on them. And, if for no other reason, they are almost certain to fail.

If there is nothing we can do about the homelands, there is something we can do about the economy. There are, at the moment, over 350 American firms doing business in South Africa. The book value of our investment there comes to $1.5 billion and constitutes 15 percent of the total foreign investment in the country. Representatives of the frontline African States were all in favor of a prohibition on American investment in South Africa as a way of economically isolating the white regime. But within South Africa, I found black activists virtually unanimous in saying that the withdrawal of American investment would hurt blacks far more than whites. It is, after all, their jobs that are on the line, and they did not appear eager to sacrifice the interests of their people, who might be thrown out of work as a result, to score symbolic victories against an entrenched regime. On the other hand, they felt very strongly that American investment should be used to promote constructive change rather than simply to maximize profits. We should, they strongly argued, require American firms to adopt progressive pay and personnel policies as a precondition for investment in South Africa. I believe they are right. In view of the escalating demands for an economic boycott against South Africa, the only way to morally and politically justify our existing investment in the country will be to show that it has, in fact, created opportunities for advancement the blacks might otherwise not have had.

The winds of change are blowing throughout Southern Africa. There are, of course, limitations on our ability to determine the future course of events. Certainly we must avoid any kind of military involvement on the African continent. But we can move with the tide of history rather than against it. And we should, consistent with our own democratic principles and humanitarian traditions, do more to promote racial harmony and majority rule in the region than we are at present.

A TRIBUTE TO CHARLES O'DONNELL

The SPEAKER pro tempore. Under a previous order of the House the gentleman from Massachusetts (Mr. BURKE) is recognized for 5 minutes.

Mr. BURKE of Massachusetts. Mr. Speaker, it is with great sadness that I announce the passing of an old and respected friend, Mr. Charles C. O'Donnell of Lynn, Mass. I do not think we will soon see the likes of Charlie again—he was a completely selfless individual who dedicated nearly 50 years of his life to causes for the elderly. Charlie O'Donnell, in his capacity as vice president and executive director of the Senior Citizens and Associates of America, Inc., which he founded in 1926, became a well known figure in the Massachusetts State House. For days at a time he would stalk the corridors, buttonholing every legislator that he came across to make sure that the bill being considered would serve the best possible interests of the elderly. I worked closely with Charlie in those days, and I found him to be one of God's great and noble men.

Charlie brought his message down to Washington, too. His testimony before the House Ways and Means Committee and the Senate Finance Committee was compelling, and forcefully expressed the needs and concerns of the elderly of this Nation. He came to Washington time and time again, until he could come no longer because of age and illness. Charlie will always have a special place in my heart for his efforts in behalf of the elderly.

I include an article written by the Boston Herald American's excellent columnist, Mr. Wendell Coltin, and an article which appeared in the Boston Globe.

[From the Boston Herald American, Aug. 4, 1976]

A TRIBUTE TO CHARLIE O'DONNELL

(By Wendell Coltin)

Cynics may disagree, but it is true that the good men do (and women, too) lives after them.

So, too, it will be when we and others think of "Charlie" O'Donnell, who died Monday at age 86 in Lynn Hospital.

His death came after a long illness; but even that illness did not deter him from his dedication to the elderly, to whom he had devoted 47 years of his life as head of the Senior Citizens and Associates of America, Inc.

From time to time—most recently less than two months ago—he would call us to comment on a column, express his views on a matter that concerned older persons, or make a suggestion. He was held in great affection by the older generation; his generation and the older generation that preceded it.

We saw a good example of that affection when, a few years ago—we believe now it could have been on his 80th birthday anniversary—he "tossed" a party for elderly persons in Lynn.

It was a chicken pie dinner and was served a Sunday afternoon in a veterans' post home that was filled to capacity.

"Charlie" had invited this writer to be his guest and said, "Be sure to bring your wife, too."

We recall another birthday party in his honor, tendered by Lynn Postmaster Thomas Costin, a former mayor of that city.

We can recall "Charlie"—Charles C. O'Donnell—going to Washington to testify, in failing health, before a congressional committee in behalf of the elderly. He had the admiration and respect of the entire Massachusetts delegation—in both houses of Congress. Like Frank Manning. "Charlie" O'Donnell was not a person who sought things for himself; but he was a fighter for others; always with his sights set on a better life for the elderly among us; a sincere person who did not know the meaning of the word "quit" and made his voice heard at a time when advocates for the elderly were not given the ear they have come to receive today, when Senior Power is demonstrated at the polls and large national organizations, such as the National Council of Senior Citizens, American Ass'n of Retired Persons and National Retired Senior Teachers Ass'n command respect on Capitol Hill and also have chapters and legislative councils active in all the states.

In his own way, "Charlie" O'Donnell, a plodder who very well could have given up the fight many, many, times in the face of discouragement or rebuff over the years, was truly a pioneer who did much to pave the way for recognition and programs the elderly of our country—yes, our country, not just Massachusetts—share today. As his "obit" in Tuesday's Herald American stated, he worked for "legislation pertaining to senior citizens on the national and state level."

A Mass for Charles C. O'Donnell will be offered tomorrow at 9 a.m. in St. Joseph's Church, Lynn.

[From the Boston Globe, Aug. 4, 1976]

C. C. O'DONNELL, 86; PIONEERED AID FOR ELDERLY

A funeral Mass for Charles C. O'Donnell, 86, of Lynn, who devoted nearly 50 years of his life in work to help the elderly, will be held tomorrow at 9 a.m. at St. Joseph's Church, Lynn. Interment will be in St. Joseph's Cemetery.

Mr. O'Donnell died Monday in Lynn Hospital after a long illness.

For 47 years he headed the Senior Citizens and Associates of America and he sponsored the American Loyalty League, which worked for legislation pertaining to senior citizens at state and national levels. His efforts for the aging went back to the Depression years and the Townsend Plan.

He leaves three stepsons, John D. Rose of Upton, Charles A. Rose of Hollywood, Fla., and Joseph C. Rose of West Palm Beach, Fla.

THE DEATH OF A SIX-YEAR-OLD

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. METCALFE) is recognized for 5 minutes.

Mr. **METCALFE**. Mr. Speaker, I am inserting an editorial from this morning's Washington Post. I do not intend to expand on what is said in the editorial. The tragedy speaks for itself. If this senseless, tragic incident does not prompt us to pass strong handgun legislation, then I wonder what will.

"The Death of a Six Year Old," editorial, The Washington Post, August 4, 1976:

THE DEATH OF A SIX-YEAR-OLD

The words, or actions, of children often speak volumes to adults, and nothing illustrates that truism as vividly as the death in Baltimore the other day of a six-year, shot by a three-year-old boy, using a .357 magnum pistol that had been left fully loaded, within easy reach. Millions of words have been written about this country's cavalier attitude toward the proliferation of handguns. The argument over the efficacy of gun control laws goes on interminably. But there is something about the senseless shooting of a six-year-old by a three-year old that concentrates the mind on the role of hand guns in modern urban society and quite literally begs for a break in the stalemate over handgun control.

The three-year-old was a visitor in a household in which a security guard was also a house guest. It was the guard's gun, and it was stored in a dining room cabinet. The three-year-old boy and his six-year-old brother got hold of the gun and took it outside, where they had earlier had a small argument with Jeffrey Krauch. Jeffrey and a friend were off buying ice cream with their lawn-mowing earnings. "When they walked back," as Philip McCombs reconstructed the tragedy for The Washington Post, "the three-year-old and the six-year-old were waiting for them with the magnum." The smaller child was wielding the gun and threatening people, but no one took him seriously, assuming a three-year-old would only have a toy gun. Then, without a word, said a witness, "he just pointed the gun, his brother cocked it and the little boy pulled the trigger. It was the awfullest thing I ever saw. Jeffrey just stood there for a moment with a big hole in his stomach and blood all over the place. Then he fell over."

That's how Jeffrey Krauch, 6, became a statistic. The special difference in this case is the tender age of the victim and the even tenderer age of his assailant. Most of the other details could be about thousands of Americans who lose their lives each year in the grim carnage caused by a portion of the 40 million handguns lying around in America. A man by the name of Nelson Shields lost a son to random handgun violence not long ago, and it made him decide to work for the control of handguns. In an interview with the New Yorker magazine, he put the matter of the handgun in a startling statistical context:

To give you a better idea of what the murder figures alone mean, between 1966 and 1972, the peak years of the war in Vietnam, 44,000 Americans were killed in battle there. During the same period, 52,000 people were murdered with handguns here at home.

As a spokesman at Mr. Shields' organization, the National Council to Control Handguns, pointed out, adequate gun control laws would include requirements that their owners be thoroughly trained in their use, handling and storage—and the requirements with respect to storage would categorically preclude access by children aged three and six.

There is more to be learned about the tragedy in Baltimore than the obvious lesson it offers about the need for better gun control. This is a story that pleads to be studied by the presidents of television networks, the creators of comic books and by parents, teachers, ministers and all who really care about what we are doing to children when we expose them daily to television shows, books and comic strips that celebrate violence books and comic strips that celebrate violence, in general, and gunplay in particular. This impact of violence—which is discussed by Therman Evans on the opposite page—is the wider part of the lesson in the death of Jeffrey Kraugh. The other part of the lesson, which has to do with gun control, is nicely captured by a poster in Mr. Shields office here that says:

"In the eight seconds it takes to read this sentence, another handgun will have been produced in the United States. By the time you finish reading this poster, it will have been sold. Aren't things moving a little too fast?"

The gun lobbyists who succeed in thwarting each attempt to bring this crazy proliferation of civilian weaponry under control persist in the argument that slowing down the arms race will only make the world safe for criminals. The simple truth is that handguns do their most devastating work in the home by accident or because of a momentary fit of rage. The chance of a gun hurting a family member or friend is many times greater than its chances of ever harming a burglar. By bringing the handgun under some semblance of control, we doubt the world will be any safer for criminals. But if we could have made it safer for Jeffrey Krauch, aged six, wouldn't that be something worth doing?

PERSONAL EXPLANATION

The **SPEAKER** pro tempore. Under a previous order of the House, the gentlewoman from New York (Ms. ABZUG) is recognized for 5 minutes.

Ms. **ABZUG**. Mr. Speaker, I was unable to be here yesterday for the vote on rollcall No. 593, which was on the motion that the House recede from its disagreement to the amendment of the Senate numbered 61 and concur therein with an amendment. This vote concerned the decision whether to place a ceiling of $7.2 billion on the amount of highway funds which could be spent in the 1977 fiscal year.

Due to some confusion in instructions, I was paired in favor of the motion. Had I been here for the vote, I would have voted against the motion.

FURTHER LEGISLATIVE PROGRAM

(Mr. **MYERS** of Indiana asked and was given permission to address the House for 1 minute.)

Mr. **MYERS** of Indiana. Mr. Speaker, I thought that this afternoon the majority leader, the gentleman from Massachusetts (Mr. O'NEILL) in a colloquy, made the statement that the program for the remainder of today and tomorrow would be announced at a later hour today. It would appear that the hour is getting pretty late today to make such an announcement. Is there going to be such an announcement made?

Mr. **SHARP**. Mr. Speaker, will the gentleman yield?

Mr. **MYERS** of Indiana. I yield to the gentleman from Indiana.

Mr. **SHARP**. Mr. Speaker, I thank the gentleman for yielding.

It is my understanding, Mr. Speaker, that the schedule for tomorrow will begin with the consideration of H.R. 9719, payments in lieu of taxes, H.R. 11552, postcard registration and a continuation of the Clean Air Act amendments, H.R. 10498. Those three items.

Mr. **MYERS** of Indiana. I would ask the gentleman from Indiana if he can tell us what the adjournment time for tomorrow will be?

Mr. **SHARP**. Mr. Speaker, I am sorry, but I cannot answer the gentleman.

Mr. **MYERS** of Indiana. Mr. Speaker, I have asked that question because I believe there are many Members who would like to make reservations so as to go back to their constituencies.

The **SPEAKER** pro tempore. The Chair will advise the gentleman from Indiana (Mr. MYERS) that although he talked to the majority leader a while ago, he would have to verify the adjournment time with the majority leader and the Speaker.

INTRODUCTION OF VOLUNTEER FIREFIGHTER BILLS

(Mr. OTTINGER asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. OTTINGER. Mr. Speaker, today I am introducing three bills originally authored by Congressman Murtha aimed at providing assistance to the Nation's volunteer firemen.

Approximately 95 percent of all the fire companies in the United States are manned by volunteers, giving their time and risking their lives to perform a vital service for their communities. Many of these communities and fire departments are finding it increasingly difficult to maintain effective fire protection.

The financial crises that local governments have faced in the past few years have often precluded the purchase of equipment and prevented the provision of training necessary for a modern firefighting capability. The financial pressures on Government have been matched by inflationary pressures on the price of equipment; that purchased by the community or company and those items which must be provided by the individual volunteer.

There can be little question that many deaths and injuries might be prevented were better preparation and equipment available to the volunteers. As it is, these public-spirited citizens are faced with a hard choice: To reduce their efforts for lack of financial support or to continue serving their communities with inadequate equipment, posing ever-increasing risks to their health and safety.

The legislation I am introducing will not alleviate all of the problems confronting volunteer firefighters, but it is a necessary response to some of the distressing problems which they face in carrying out their work.

The first bill is designed to assist volunteer departments which are having trouble purchasing vehicles or other items because of the rapidly increasing prices for that equipment.

The bill authorizes $8 million annually for a Federal grant program to pay the difference between the 1972 and the present price for firefighting equipment. Some of these prices have doubled during that time, precluding the modernization of the local departments. I was told of one situation in my district where a company purchased a vehicle in 1970 for $52,000 and that upon inquiring they found that today that same vehicle sells for approximately $100,000.

This program will not only alleviate these financial pressures which are working against the improvement of local fire protection, but, in addition, will return to the individual departments some initiative in establishing their force structure and capabilities.

The second bill amends the Internal Revenue Code to exempt volunteer fire companies from Federal liquid fuel taxes, excise taxes on communications equipment and services, and fire trucks in excess of 10,000 pounds. The basis for these changes is that these companies should not be required to pay these taxes when they are already sacrificing time and effort on behalf of their communities and find themselves hard pressed financially. The revenue loss to the Federal Government would not be significant, and this measure could make a significant difference to many small companies.

The last bill I am introducing addresses the question of the individual firefighter's safety. It would allow volunteers to deduct from their Federal income tax the cost of protective clothing used in firefighting activities. Hopefully this bill's passage would give the individual firefighter an incentive to invest in the protective equipment which his company might not be able to provide.

Volunteer firefighters deserve all the praise and support we can give them for their selfless work. Passage of these bills would represent recognition of the fine work done by these men, and would help them to continue serving their communities with less financial hardship and less risk.

The texts of the bills follow:

H.R. 15053

A bill to authorize the Administrator of the National Fire Prevention and Control Administration to make grants to volunteer fire departments which are unable to purchase necessary firefighting equipment because of the increased cost of such equipment as the result of inflation

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2201–2219) is amended by adding at the end thereof the following new section:

"ASSISTANCE FOR VOLUNTEER FIRE DEPARTMENTS

"Sec. 24. (a) The Administrator may make grants, on such terms and conditions as he deems appropriate, to volunteer fire departments to enable such departments to purchase firefighting equipment which is necessary for providing adequate community fire protection, but which such departments are unable to purchase because of the increase in price of such equipment since 1972 as a result of inflation.

"(b) In making grants under this section the Administrator shall give preference to volunteer fire departments serving areas having a population of less than fifty thousand people.

"(c) The amount of a grant made under this section for the acquisition of firefighting equipment shall be the amount which, as determined by the Administrator, represents the increase in price of such equipment since 1972 as a result of inflation. If such equipment was not available for purchase in 1972, the Administrator shall estimate the 1972 price of such equipment on the basis of the 1972 prices of comparable equipment.

"(d) (1) No grant may be made under this section unless an application for such grant has been submitted to, and approved by, the Administrator. Any such application shall be in such form, shall be submitted to the Administrator in such manner, and shall contain such information as the Administrator shall by regulation prescribe.

"(2) The Administrator may not approve an application for a grant under this section unless the applicant provides assurances satisfactory to the Administrator that upon receipt of such grant it will have sufficient funds available for the purchase of the firefighting equipment with respect to which such application was submitted.

"(e) For pruposes of making payments pursuant to grants authorized by this section, there are authorized to be appropriated not to exceed $8,000,000.".

H.R. 15054

A bill to amend the Internal Revenuue Code of 1954 to exempt nonprofit volunteer firefighting or rescue organizations from the Federal excise taxes on gasoline, diesel fuel, and certain other articles and services.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subsection (a) of section 4221 of the Internal Revenue Code of 1954 (relating to certain tax-free sales) is amended—

(1) by striking out "or" at the end of paragraph (4), by inserting "or" at the end of paragraph (5), and by inserting immediately after paragraph (5) the following new paragraph:

"(6) to a nonprofit volunteer firefighting or rescue organization for its exclusive use,"; and

(2) by adding at the end thereof the following new sentence: "Paragraph (6) shall not apply in the case of the sale of any article which is taxable under section 4161 or 4181.".

(b) Subsection (d) of section 4221 of such Code is amended by adding at the end thereof the following new paragraph:

"(7) Nonprofit volunteer firefighting or rescue organization.—For purposes of this paragraph, the term 'nonprofit volunteer firefighting or rescue organization' means an organization—

"(A) the primary purpose of which is to provide firefighting or rescue services,

"(B) the services of which are primarily provided by volunteer members, and

"(C) which is described in section 501(c) and which is exempt from income tax under section 501(a).".

(c) Section 4041 of such Code (relating to special fuels) is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

"(h) Exemption for Use by Nonprofit Volunteer Firefighting or Rescue Organizations.—Under regulations prescribed by the Secretary or his delegate, the taxes imposed by this section shall not apply to any liquid sold to any nonprofit volunteer firefighting or rescue organization (as defined in section 4221(d)(7)) for its exclusive use.".

(d) Paragraph (2) of section 6416(b) of such Code (relating to special cases in which tax payments considered overpayments) is amended—

(1) by inserting after subparagraph (D) the following new subparagraph:

"(E) sold to a nonprofit volunteer firefighting or rescue organization for its exclusive use;"; and

(2) by adding at the end thereof the following new sentence: "Subparagraph (E) shall not apply in the case of an article in respect of which tax was paid under section 4161 or 4181.".

(e) The amendments made by this section shall apply with respect to articles sold by the manufacturer after the date of the enactment of this Act.

Sec. 2. (a) Section 4253 of the Internal Revenue Code of 1954 (relating to exemptions from the tax on communication services) is amended by adding at the end thereof the following new subsection:

"(h) Nonprofit Volunteer Firefighting or Rescue Organizations.—The tax imposed by section 4251 shall not apply with respect to payment received for services furnished to a nonprofit volunteer firefighting or rescue organization (as defined in section 4221(d)(7)).".

(b)(1) Subject to the provisions of paragraph (2), the amendment made by subsection (a) shall apply with respect to amounts paid after the date of the enactment of this Act for services rendered after such date.

(2) The amendment made by subsection (a) shall not apply with respect to amounts paid pursuant to bills rendered on or before the date of the enactment of this Act. In the case of amounts paid pursuant to bills rendered after such date for services for which no bill was rendered on or before such date, such amendment shall apply except with respect to such services as were rendered more than 2 months before such date. In the case of services rendered more than 2 months before such date, the provisions of subchapter B of chapter 33 of the Internal Revenue Code of 1954 in effect at the time such services were rendered shall apply to the amounts paid for such services.

H.R. 15055

A bill to amend the Internal Revenue Code of 1954 to provide a deduction for clothing purchased and used by taxpayers serving in volunteer firefighting organizations

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) part VII of subchapter B of chapter 1 of the Internal Revenue Code of 1954 (relating to additional itemized deductions for individuals) is amended by redesignating section 220 as section 221 and by inserting after section 219 the following new section:

"Sec. 220. Clothing Expenses for Volunteer Firemen.

"(a) Allowance of Deduction.—In the case of an individual who serves as a qualified member of a volunteer firefighting organization, there shall be allowed as a deduction firefighting-related clothing expenses paid or incurred by him during the taxable year.

"(b) Definitions.—For purposes of this section—

"(1) Qualified member.—The term 'qualified member' means any individual who for a 6-month period during the taxable year was an active member (as determined by regulations prescribed by the Secretary or his delegate) in any volunteer firefighting organization defined in paragraph (2).

"(2) Volunteer firefighting organization.—The term 'volunteer firefighting organization' means any organization—

"(A) which is organized and operated to provide firefighting services for persons in a community which otherwise has no such services during the period in which such organization provides such services;

"(B) which mets the minimum standards for such organizations—

"(i) established by each State in which such organization provides such service; or

"(ii) if the State has no such standards, established by the Secretary or his delegate;

"(C) which charges no amount for its firefighting services in excess of an amount determined by regulations prescribed by the Secretary or his delegate; and

"(D) which is described in section 501 (c) (4) and is exempt from taxation under section 501(a).

"(3) Firefighting-related clothing expenses.—The term 'firefighting-related clothing expenses' means amounts paid by the taxpayer for clothing reasonably necessary and directly related to providing firefighting services with the volunteer firefighting organization of which the taxpayer is a qualied member.".

(b) The table of sections of such part VII is amended by striking out the last item and inserting in lieu thereof the following:

"Sec. 220. Clothing expenses for volunteer firemen.

"Sec. 221. Cross references."

Sec. 2. Section 62 of the Internal Revenue Code of 1954 (relating to the definition of adjusted gross income) is amended by inserting before the last sentence thereof the following new paragraph:

"(13) Clothing expenses for volunteer firemen.—The deduction allowed by section 220 (relating to clothing expenses of volunteer firemen)."

Sec. 3. The amendments made by the first two sections of this Act shall apply to taxable years ending after the date of the enactment of this Act.

CONFERENCE REPORT ON H.R. 8410

Mr. POAGE submitted the following conference report and statement on the bill (H.R. 8410) to amend the Packers and Stockyards Act of 1921, as amended, and for other purposes:

Conference Report (H. Rept. No. 94–1391)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 8410) to amend the Packers and Stockyards Act of 1921, as amended, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 57, 58, and 59.

That the House recede from its disagreement to the amendments of the Senate numbered 1, 2, 3, 4, 5, 7, 8, 9, 10, 13, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, and 55, and agree to the same.

Amendment numbered 6: That the House recede from its disagreement to the amendment of the Senate numbered 6, and agree to the same with an amendment, as follows: On page 1 of the Senate engrossed amendments, strike out the comma on line 10 and all that follows down through line 3 on page 2; and the Senate agree to the same.

Amendment numbered 11: That the House recede from its disagreement to the amendment of the Senate numbered 11, and agree to the same with amendments, as follows: Restore the matter proposed to be stricken out by the Senate amendment.

On page 3, line 3, of the House engrossed bill, strike out "$100,000" and insert "$10,000".

And the Senate agree to the same.

Amendment numbered 12: That the House recede from its disagreement to the amendment of the Senate numbered 12, and agree to the same with an amendment, as follows: On page 2, line 11, of the Senate engrossed amendments, strike out "(b)" and insert "(c)".

And the Senate agree to the same.

Amendment numbered 14: That the House recede from its disagreement to the amendment of the Senate numbered 14, and agree to the same with an amendment, as follows: Restore the matter proposed to be stricken out by the Senate amendment and immediately thereafter insert "purchasing livestock"; and the Senate agree to the same

Amendment numbered 56: That the House recede from its disagreement to the amendment of the Senate numbered 56, and agree to the same with amendments, as follows: Strike out the matter proposed to be stricken by the Senate amendment.

On page 9 of the House engrossed bill after line 20, insert the following:

"(d) On or before February 15 of each calendar year beginning with calendar year 1977, or such other date as may be specified by the appropriate committee, the Secretary of Agriculture shall testify before the Senate Committee on Agriculture and Forestry and the House Committee on Agriculture and provide justification in detail of the amount requested in the budget to be appropriated for the next fiscal year for the purposes authorized in the Packers and Stockyards Act, 1921, as amended."

And the Senate agree to the same.

W. R. Poage,
John Melcher,
Bob Bergland,
Tom Harkin,
Jack Hightower,
Berkley Bedell,
Glenn English,
Keith G. Sebelius,
Charles Thone,
Steve Symms,
Managers on the Part of the House.

Herman E. Talmadge,
Walter D. Huddleston,
George McGovern,
Hubert H. Humphrey,
Dick Clark,
Robert Dole,
Carl T. Curtis,
Henry Bellmon,
Managers on the Part of the Senate.

Joint Explanatory Statement of the Committee of Conference

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 8410) to amend the Packers and Stockyards Act of 1921, as amended, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report.

Except for technical, clerical, and conforming changes, the differences between the two Houses and the adjustments made in the committee of conference are noted below.

Amendment No. 1.—Small Packers Exempt From Bonding

The House bill amends the Act of July 12, 1943, 7 U.S.C. 204, to extend to packers the discretionary authority of the Secretary of Agriculture (presently applicable only to market agencies and dealers) to require reasonable bonds. However, the bill exempts from this requirement those packers whose average annual purchases do not exceed $1,000,000.

The Senate amendment retains this provision but reduces from $1,000,000 to $500,000 the level of average annual livestock purchases below which a packer must fall in order to qualify for the exemption.

The House receded.

AMENDMENT NO. 6—DEFINITION OF THE TERM "PACKER"

The House bill amends the definition of the term "packer" contained in section 201 of the Packers and Stockyards Act, 7 U.S.C. 191, to extend its coverage to include any person engaged in the business of marketing meats, meat food products, or livestock products in an unmanufactured form acting as a wholesale broker, dealer or distributor in commerce. The House bill also adds to section 201 the proviso that nothing in this section shall affect the jurisdiction of the Federal Trade Commission with respect to retail sales of meat, meat food products, livestock products in unmanufactured form, or poultry products as provided in section 406 of the Act.

The Senate amendment retains the expanded definition of the term "packer" but deletes the proviso with reference to the jurisdiction of the Federal Trade Commission and adds language which authorizes the Secretary to exclude as packers, such general food brokers, dealers, or distributors as he determines not necessary to carry out the purposes of the Packers and Stockyards Act.

The committee of conference agreed to accept the provision of the House bill with an amendment. The proviso with reference to the jurisdiction of the Federal Trade Commission was deleted as redundant in view of the provisions of section 406 of the Packers and Stockyards Act.

The conferees recognized the desirability of providing the Secretary with the flexibility to meet changing methods of marketing meat and meat food products. However, the conferees intend that those brought within the jurisdiction of the Secretary under the expanded definition of "packer" not be burdened with unnecessary regulation by the Federal Government. Too often, regulation has taken the form of requiring unnecessary reports or actions. The conferees expressed their intent that reports or actions only be required with respect to wholesale dealers, brokers, and distributors where the Secretary determines that there is a real need in seeing that the Packers and Stockyards Act is being complied with and then only to the extent the Secretary deems necessary for that purpose. If the Secretary is considering a matter in a geographic area or involving a particular type of business, or other criteria, reports should be required only of those persons which are necessary. If the matter only involves one wholesale dealer, broker, or distributor, reports should only be required of that person.

AMENDMENT NO. 11.—ADMINISTRATIVE CIVIL PENALTIES UPON PACKERS, STOCKYARD OWNERS, MARKET AGENCIES AND DEALERS

The House bill amends section 203(b) of the Packers and Stockyards Act, 7 U.S.C. 193 (b) (which authorizes the Secretary of Agriculture after notice and hearing to order a packer to cease and desist from continuing any violation of title II of the Act) and section 312(b) of the Act, 7 U.S.C. 213(b) (which authorizes the Secretary of Agriculture after notice and hearing to order any stockyard owner, market agency, or dealer to cease and desist from engaging in or using any unfair, unjustly discriminatory, or deceptive practice or device, etc.) to add at the end of both sections a new provision granting to the Secretary authority after notice and hearing to assess a civil penalty of not more than $100,000 for each violation.

The Senate amendment deletes this provision of the House bill in its entirety.

The committee of conference agreed to accept the House provision with an amendment reducing the maximum civil penalty from $100,000 to $10,000.

AMENDMENT NO. 14.—SECRETARY MAY ORDER PACKERS TO CEASE AND DESIST PURCHASING LIVESTOCK WHILE INSOLVENT

The House bill amends the Act of July 12, 1943, to authorize the Secretary, if after notice and hearing he finds any packer is insolvent, to issue an order requiring such packer to cease and desist from purchasing livestock "while insolvent, or while insolvent except under such conditions as the Secretary may prescribe to effectuate the purposes of the Act."

The Senate amendment retains this provision but deletes the words "while insolvent" the second time they appear and inserts immediately thereafter the words "purchasing livestock".

The committee of conference agreed to accept the House provision and the language inserted by the Senate amendment.

AMENDMENT NO. 31.—PROMPT PAYMENT BY PACKER TO SELLER'S "REPRESENTATIVE"

The House bill adds to the Packers and Stockyards Act a new section 409 which requires that each packer, market agency, or dealer purchasing livestock shall, before the close of the next business day following the purchase of livestock and transfer of possession thereof, deliver to the seller or his duly authorized agent the full amount of the purchase price.

The Senate amendment retains this provision but deletes the word "agent" and substitutes the word "representative".

The House receded.

AMENDMENT NO. 39.—PROMPT PAYMENT BY PACKER WHERE SELLER OR DULY AUTHORIZED REPRESENTATIVE NOT PRESENT

The House bill provides in new section 409 that, if the seller or his duly authorized representative is not present to demand payment at the point of transfer of possession, the packer, market agency, or dealer shall wire transfer funds or place a check in the United States mail for the full amount of the purchase price, etc.

The Senate amendment retains this provision but deletes the requirement that the seller or his duly authorized representative "demand" payment and provides instead that the packer, market agency, or dealer shall wire transfer funds or place a check in the United States mail if the seller or his duly authorized agent is not present to "receive" payment at the point of transfer of possession.

The House receded.

AMENDMENT NO. 48.—SMALL PACKERS EXEMPT FROM TRUST PROVISIONS

The House bill adds to the Packers and Stockyards Act a new section 206 which provides that all livestock purchased by a packer in cash sales, and all inventories of, or receivbles or proceeds from meat, meat food products, or livestock products derived therefrom, shall be held by such packer in trust for the benefit of all unpaid cash in trust for the benefit of all unpaid cash sellers of such livestock until full payment has been received by such unpaid sellers. However, the House bill exempts from the provisions of this section any packer whose average annual purchases do not exceed $1,000,000.

The Senate amendment retains this provision but reduces from $1,000,000 to $500,000 the level of average annual livestock purchases below which a packer must fall in order to qualify for the exemption.

The House receded.

AMENDMENTS NO. 50 AND 51.—PRESERVATION OF TRUST BY UNPAID SELLER

The House bill provides in new section 206 that the unpaid seller shall lose the benefit of such trust if he has not preserved it by giving written notice to the packer and to the Secretary within fifteen days after the final date for making payment under new section 409 (if no payment instrument has been received) or within five business days after he has received notice that the payment instrument promptly presented for payment has been dishonored.

The Senate amendments retain this provision but extend the period within which an unpaid seller must preserve his trust from fifteen to thirty days (Amdt. No. 50) in the case of a seller who has received no payment instrument, and from five business days to fifteen business days (Amdt. No. 51) in the case of a seller who receives notice of dishonor of a payment instrument promptly presented for payment.

The House receded.

AMENDMENT NO. 54.—PREEMPTION PROVISIONS

The House bill adds to the Packers and Stockyards Act a new section 410 which provides that no requirement of any State or territory of the United States, or any subdivision thereof, or the District of Columbia, with respect to bonding of packers or prompt payment by packers for livestock purchases may be enforced upon any packer operating in compliance with the bonding provision under the Act of July 12, 1943, and prompt payment provisions of section 409 of the Packers and Stockyards Act.

The Senate amendment retains this provision but adds two provisos which provide (1) that this section shall not preclude a State from enforcing a requirement, with respect to payment for livestock purchased by a packer at a stockyard subject to this Act, which is not in conflict with this Act or regulations thereunder, and (2) that this section shall not preclude a State from enforcing State law or regulations with respect to any packer not subject to this Act or the Act of July 12, 1943.

The House receded.

AMENDMENT NO. 56.—BIENNIAL AUTHORIZATION OF APPROPRIATIONS

The House bill adds to section 407 of the Packers and Stockyards Act, 7 U.S.C. 228, a new subsection which requires, beginning with the fiscal year ending September 30, 1978, biennial authorizations of appropriations to carry out that Act.

The Senate amendment deletes this provision in its entirety.

The committee of conference agreed to strike out the House provision and substitute therefor a provision requiring that on or before February 15 of each calendar year beginning with calendar year 1977, or such other date as may be specified by the appropriate committee, the Secretary of Agriculture shall testify before the Senate Committee on Agriculture and Forestry and the House Committee on Agriculture and provide justification in detail of the amount requested in the budget to be appropriated for the next fiscal year to carry out the purposes of the Packers and Stockyards Act.

W. R. Poage,
John Melcher,
Bob Bergland,
Tom Harkin,
Jack Hightower,
Berkley Bedell,
Glenn English,
Keith G. Sebelius,
Charles Thone,
Steve Symms,
Managers on the Part of the House.
Herman E. Talmadge,
Walter D. Huddleston,
George McGovern,
Hubert H. Humphrey,
Dick Clark,
Robert Dole,
Carl T. Curtis,
Henry Bellmon,
Managers on the Part of the Senate.

CONFERENCE REPORT ON H.R. 12169

Mr. STAGGERS submitted the following conference report and statement on the bill (H.R. 12169) to amend the Federal Energy Administration Act of 1974 to provide for authorizations of appropriations to the Federal Energy Administration, to extend the duration of authorities under such Act, and for other purposes:

CONFERENCE REPORT (H. REPT. NO. 94–1392)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 12169) to amend the Federal Energy Administration Act of 1974 to provide for authorizations of appropriations to the Federal Energy Administration, to extend the duration of authorities under such Act, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate to the text of the bill and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

That this Act may be cited as the "Energy Conservation and Production Act".

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TITLE I—FEDERAL ENERGY ADMINISTRATION ACT AMENDMENTS AND RELATED MATTERS

PART A—FEDERAL ENERGY ADMINISTRATION ACT AMENDMENTS

SHORT TITLE

SEC. 101. This title may be cited as the "Federal Energy Administration Act Amendments of 1976".

LIMITATION ON DISCRETION OF ADMINISTRATOR WITH RESPECT TO ENERGY ACTIONS

SEC. 102. Section 5 of the Federal Energy Administration Act of 1974 is amended by adding at the end thereof the following:

"(c)(1) The Administrator shall not exercise the discretion delegated to him by the President, pursuant to section 5(b) of the Emergency Petroleum Allocation Act of 1973, to submit to the Congress as one energy action any amendment to the regulation under section 4(a) of such Act, pursuant to section 12 of such Act, which amendment exempts any oil, refined petroleum product, or refined product category from both the allocation and pricing provisions of the regulation under section 4 of such Act.

"(2) Nothing in this subsection shall prevent the Administrator from concurrently submitting an energy action relating to price together with an energy action relating to allocation of the same oil, refined petroleum product, or refined product category.".

ENVIRONMENTAL PROTECTION AGENCY COMMENT PERIOD AND NOTICE OF WAIVER

SEC. 103. Paragraphs (1) and (2) of section 7(c) of the Federal Energy Administration Act of 1974 are amended to read as follows:

"(1) The Administrator shall, before promulgating proposed rules, regulations, or policies affecting the quality of the environment, provide a period of not less than five working days during which the Administrator of the Environmental Protection Agency may provide written comments concerning the impact of such rules, regulations, or policies on the quality of the environment. Such comments shall be published together with publication of notice of the proposed action.

"(2) The review required by paragraph (1) of this subsection may be waived for a period of fourteen days if there is an emergency situation which, in the judgment of the Administrator, requires making effective the action proposed to be taken at a date earlier than would permit the Administrator of the Environmental Protection Agency the five working days opportunity for prior comment required by paragraph (1). Notice of any such waiver shall be given to the Administrator of the Environmental Protection Agency and filed with the Federal Register with the publication of notice of proposed or final agency action and shall include an explanation of the reasons for such waiver, together with supporting data and a description of the factual situation in such detail as the Administrator determines will apprise such agency and the public of the reasons for such waiver.".

GUIDELINES FOR HARDSHIP AND INEQUALITY AND HEARING AT APPEALS

SEC. 104. Section 7(i)(1)(D) of the Federal Energy Administration Act of 1974 is amended to read as follows:

"(D) Any officer or agency authorized to issue the rules, regulations, or orders described in paragraph (A) shall provide for the making of such adjustments, consistent with the other purposes of this Act, as may be necessary to prevent special hardship, inequity, or unfair distribution of burdens and shall, by rule, establish procedures which are available to any person for the purpose of seeking an interpretation, modification, rescission of, exception to, or exemption from, such rules, regulations, and orders. Such officer or agency shall, within ninety days after the date of the enactment of the Federal Energy Administration Act Amendments of 1976, establish criteria and guidelines by which such special hardship, inequity, or unfair distribution of burdens shall be evaluated. Such officer or agency shall additionally insure that each decision on any application or petition requesting an adjustment shall specify the standards of hardship, inequity, or unfair distribution of burden by which any disposition was made, and the specific application of such standards to the facts contained in any such application or petition. If any person is aggrieved or adversely affected by a denial of a request for adjustment under the preceding sentences, he may request a review of such denial by the agency and may obtain judicial review in accordance with paragraph (2) of this subsection when such a denial becomes final. The agency shall, by rule, establish appropriate procedures, including a hearing when requested, for review of a denial, and where deemed advisable by the agency, for considering other requests for action under this paragraph, except that no review of a denial under this subparagraph shall be controlled by the same officer denying the adjustment pursuant to this subparagraph.".

REQUIREMENTS FOR HEARING IN THE GEOGRAPHIC AREA AFFECTED BY RULES AND REGULATIONS OF THE ADMINISTRATOR

SEC. 105. Section 7(i)(1) is amended by adding after subparagraph (E) the following new subparagraph:

"(F)(i) With respect to any rule or regulation of the Administrator the effects of which, except for indirect effects of an inconsequential nature, are confined to—

"(I) a single unit of local government or the residents thereof;

"(II) a single geographic area within a State or the residents thereof; or

"(III) a single State or the residents thereof;

the Administrator shall, in any case where he is required by law, or where he determines, to afford an opportunity for a hearing or the oral presentation of views, provide procedures for the holding of such hearing or oral presentation within the boundaries of the unit of local government, geographic area, or State described in subclauses (I) through (III), as the case may be.

"(ii) For purposes of this subparagraph—

"(I) the term 'unit of local government' means a county, municipality, town, township, village, or other unit of general government below the State level; and

"(II) the term 'geographic area within a State' means a special purpose district or other region recognized for governmental purposes within such State which is not a unit of local government.

"(iii) Nothing in this subparagraph shall be construed as requiring a hearing or an oral presentation of views where none is required by law or, in the absence of such a requirement, where the Administrator determines a hearing or oral presentation is not appropriate.".

LIMITATION ON THE ADMINISTRATOR'S AUTHORITY WITH RESPECT TO ENFORCEMENT OF REGULATIONS AND RULINGS

SEC. 106. Section 7 of the Federal Energy Administration Act of 1974 is amended by adding at the end thereof the following:

"(K) The Administrator or his delegate may not exercise discretion to maintain a civil action (other than an action for injunctive relief) or issue a remedial order against any person whose sole petroleum industry operation relates to the marketing of petroleum products, for any violation of any rules or regulation if—

"(1) such civil action or order is based upon a retroactive application of such rule or regulation or is based upon a retroactive interpretation of such rule or regulation; and

"(2) such person relied in good faith upon rules, regulations, or ruling interpreting such rules or regulations, in effect on the date of the violation.".

MAINTAINING ACCOUNTS OR RECORDS FOR COMPLIANCE PURPOSES; AND ALLEVIATION OF SMALL BUSINESS REPORTING BURDENS

SEC. 107. Section 13 of the Federal Energy Administration Act of 1974 is amended by adding at the end thereof the following:

"(g) With respect to any person who is subject to any rule, regulation, or order promulgated by the Administrator or to any provision of law the administration of which is vested in or transferred or delegated to the Administrator, the Administrator may require, by rule, the keeping of such accounts or records as he determines are necessary or appropriate for determining compliance with such rule, regulation, order, or any applicable provision of law.

"(h) In exercising his authority under this Act and any other provision of law relating to the collection of energy information, the Administrator shall take into account the size of businesses required to submit reports with the Administrator so as to avoid, to the greatest extent practicable, overly burdensome reporting requirements on small marketers and distributors of petroleum products and other small business concerns required to submit reports to the Administrator.".

PENALTIES FOR FAILURE TO FILE INFORMATION

SEC. 108. Section 13 of the Federal Energy Administration Act of 1974 as amended by this Act is further amended by adding at the end thereof the following new subsection:

"(i) Any failure to make information available to the Administrator under subsection (b), any failure to comply with any general or special order under subsection (c), or any failure to allow the Administrator to act under subsection (d) shall be subject to the same penalties as any violation of section 11 of the Energy Supply and Environmental Coordination Act of 1974 or any rule, regulation, or order issued under such section.".

REPORTS

SEC. 109. (a) Section 15 of the Federal Energy Administration Act of 1974 is amended—

(1) by striking out subsection (a) thereof; and

(2) by redesignating subsections (b), (c), (d), and (e) as subsections (a), (b), (c), and (d), respectively.

(b) Section 15(b) of such Act (as redesignated by subsection (a) of this section) is amended—

(1) by striking out "and" in paragraph (4) after "period;";

(2) in paragraph (5) by striking out the period at the end thereof and inserting in lieu thereof "; and"; and

(3) by inserting at the end of such subsection the following:

"(6) an analysis of the energy needs of the United States and the methods by which such needs can be met, including both tax and nontax proposals and energy conservation strategies.

In the first annual report submitted after the date of enactment of the Energy Conservation and Production Act, the Administrator shall include in such report with respect to the analysis referred to in paragraph (6) a specific discussion of the utility and relative benefits of employing a Btu tax as a means for obtaining national energy goals.".

(c) Section 15 of such Act (as amended by this section) is further amended by adding at the end thereof the following:

"(e) The analysis referred to in subsection (b)(6) shall include, for each of the next five fiscal years following the year in which the annual report is submitted and for the tenth fiscal year following such year—

"(1) the effect of various conservation programs on such energy needs;

"(2) the alternate methods of meeting the energy needs identified in such annual report and of—

"(A) the relative capital and other economic costs of each such method;

"(B) the relative environmental, national security, and balance-of-trade risks of each such method;

"(C) the other relevant advantages and disadvantages of each such method; and

"(3) recommendations for the best method or methods of meeting the energy needs identified in such annual report and for legislation needed to meet those needs.

Notwithstanding the termination of this Act, the President shall designate an appropriate Federal agency to conduct the analysis specified in subsection (b)(6).".

(d) Section 18(d) of the Federal Energy Administration Act of 1974 is amended by striking out "a report every six months" and inserting in lieu thereof "an annual report".

AUTHORIZATIONS OF APPROPRIATIONS

SEC. 110. Section 29 of the Federal Energy Administration Act of 1974 is amended to read as follows:

"SEC. 29. (a) There are authorized to be appropriated to the Federal Energy Administration the following sums:

"(1) subject to the restrictions specified in subsection (b), to carry out the functions identified as assigned to Executive Direction and Administration of the Federal Energy Administration as of January 1, 1976—

"(A) for the period beginning July 1, 1976, and ending September 30, 1976, not to exceed $8,655,000; and

"(B) for the fiscal year ending September 30, 1977, not to exceed $33,086,000.

"(2) to carry out the functions identified as assigned to the Office of Energy Policy and Analysis as of January 1, 1976—

"(A) for the period beginning July 1, 1976, and ending September 30, 1976, not to exceed $8,137,000; and

"(B) for the fiscal year ending September 30, 1977, not to exceed $34,971,000.

"(3) to carry out the functions identified as assigned to the Office of Regulatory Programs as of January 1, 1976—

"(A) for the period beginning July 1, 1976, and ending September 30, 1976, not to exceed $13,238,000; and

"(B) for the fiscal year ending September 30, 1977, not to exceed $62,459,000.

"(4) to carry out the functions identified as assigned to the Office of Conservation and the Environment as of January 1, 1976 (other than functions described in title II of the Energy Conservation and Production Act)—

"(A) for the period beginning July 1, 1976, and ending September 30, 1976, not to exceed $7,386,000; and

"(B) for the fiscal year ending September 30, 1977, not to exceed $37,000,000.

"(5) to carry out the functions identified as assigned to the Office of Energy Resource Development as of January 1, 1976—

"(A) for the period beginning July 1, 1976, and ending September 30, 1976, not to exceed $3,052,000; and

"(B) for the fiscal year ending September 30, 1977, not to exceed $16,934,000.

"(6) to carry out the functions identified as assigned to the Office of International Energy Affairs as of January 1, 1976—

"(A) for the period beginning July 1, 1976, and ending September 30, 1976, not to exceed $300,000; and

"(B) for the fiscal year ending September 30, 1977, not to exceed $1,921,000.

"(7) subject to the restriction specified in subsection (c), to carry out a program to develop the policies, plans, implementation strategies, and program definitions for promoting accelerated utilization and widespread commercialization of solar energy and to provide overall coordination of Federal solar energy commercialization activities—

"(A) for the period beginning July 1, 1976, and ending September 30, 1976, not to exceed $500,000; and

"(B) for the fiscal year ending September 30, 1977, not to exceed $2,500,000.

"(8) for the purpose of permitting public use of the Project Independence Evaluation system pursuant to section 31 of this Act, not to exceed the aggregate amount of the fees estimated to be charged for such use.

"(b) The following restrictions shall apply to the authorization of appropriations specified in paragraph (1) of subsection (a)—

"(1) amounts to carry out the functions

identified as assigned to the Office of Communications and Public Affairs as of January 1, 1976, shall not exceed $607,000 for the period beginning July 1, 1976, and ending September 30, 1976, and shall not exceed $2,036,000 for the fiscal year ending September 30, 1977; and

"(2) no amounts authorized to be appropriated in such paragraph may be used to carry out the functions identified as assigned to the Office of Nuclear Affairs as of January 1, 1976.

"(c) No amount authorized to be appropriated in paragraph (7) of subsection (a) may be used to carry out solar energy research, development, or demonstration activities.

COLLECTION OF INFORMATION CONCERNING EXPORTS OF COAL OR PETROLEUM PRODUCTS

SEC. 111. Section 25 of the Federal Energy Administration Act of 1974 is amended by adding at the end thereof the following new subsection:

"(d) The Administrator shall not be required to collect independently information described in subsection (a) if he can secure the information described in subsection (a) from other Federal agencies and the information secured from such agencies is available to the Congress pursuant to a request under subsection (b).".

FEDERAL ENERGY ADMISTRATION ACT EXTENSION

SEC. 112. (a) The second sentence of section 30 of the Federal Energy Administration Act of 1974 is amended to read as follows: "This Act shall terminate December 31, 1977.".

(b) The amendment made by subsection (a) to section 30 of the Federal Energy Administration Act of 1974 shall take effect on July 30, 1976.

PROJECT INDEPENDENCE EVALUATION SYSTEM DOCUMENTATION AND ACCESS

SEC. 113. The Federal Energy Administration Act of 1974 is amended by adding at the end thereof the following new section:

"PROJECT INDEPENDENCE EVALUATION SYSTEM DOCUMENTATION AND ACCESS

"SEC. 31. The Administrator of the Federal Energy Administration shall—

"(1) submit to the Congress, not later than September 1, 1976, full and complete structural and parametric documentation, and not later than January 1, 1977, operating documentation, of the Project Independence Evaluation System computer model;

"(2) provide access to such model to representatives of committees of the Congress in an expeditious manner; and

"(3) permit the use of such model on the computer system maintained by the Federal Energy Administration by any member of the public upon such reasonable terms and conditions as the Administrator shall, by rule, prescribe. Such rules shall provide that any member of the public who uses such model may be charged a fair and reasonable fee, as determined by the Administrator, for using such model.".

Part B—Production Enhancement and Other Related Matters

EXEMPTION OF STRIPPER WELL PRODUCTION

SEC. 121. Section 8 of the Emergency Petroleum Allocation Act of 1973 is amended by adding at the end thereof the following new subsection:

"(i)(1) The first sale price of stripper well crude oil shall be exempt from the regulation promulgated under section 4 of this Act as amended pursuant to the requirements of this section. For the purpose of this section, the President shall include in the computation of the actual weighted average first sale price for crude oil produced in the United States in any month subsequent to August 1976 the actual volume of stripper well crude oil produced in the United States in such subsequent month and such actual volume shall be deemed to have been sold at a first sale price equal to $11.63 per barrel plus the difference between the actual weighted average first sale price in August 1976, for crude oil, other than stripper well crude oil, produced in the United States, and the actual average first sale price in such subsequent month of all classifications of crude oil, other than stripper well crude oil, produced in the United States, weighted as if each such classification were produced in such subsequent month in the same proportion as such classification, or the most nearly comparable classification which existed on August 1, 1976, was produced in August 1976.

"(2) For the purposes of this subsection, 'stripper well crude oil' means crude oil produced and sold from a property whose maximum average daily production of crude oil per well during any consecutive 12-month period beginning after December 31, 1972, does not exceed 10 barrels.

"(3) To qualify for the exemption under this subsection, a property must be producing crude oil at the maximum feasible rate throughout the 12-month qualifying period and in accordance with recognized conservation practices.

"(4) The President may define terms used in this subsection consistent with the purposes thereof.".

ENHANCEMENT OF DOMESTIC PRODUCTION

SEC. 122. Section 8 of the Emergency Petroleum Allocation Act of 1973 (as amended by section 121 of this Act) is further amended—

(1) in subsection (d)(1), by striking out "any adjustment as a production incentive shall not permit an increase in the maximum weighted average first sale price in excess of 3 per centum per annum (compounded annually), unless modified pursuant to this section, and";

(2) in subsection (d)(3)(C), by striking out ", including production from stripper wells";

(3) in subsection (e)(1), by striking out "(A) a production incentive adjustment to the maximum weighted average first sale price in excess of the 3 per centum limitation specified in subsection (d)(1), (B)", and by striking out "such subsection, or (C) both.", and inserting in lieu thereof "subsection (d) (1).";

(4) in subsection (e)(2), by striking out "an additional adjustment as a production incentive, or", and by striking out ", or both,";

(5) in subsection (f)(1), by adding before the period at the end thereof the following: "and an analysis of the effects on price and the production of domestic crude oil resulting from the amendments made to this section by sections 121 and 122 of the Energy Conservation and Policy Act";

(6) in subsection (f)(2), by striking out "The President may" and inserting in lieu thereof "On March 15, 1977, the President may";

(7) in subsection (f)(2)(A), by striking out "or modification", and by striking out "as may have been amended pursuant to subsection (e)";

(8) in subsection (f)(5), by striking out "or modify", and by striking out "or of a modification of such adjustment"; and

(9) by adding at the end thereof the following new subsection:

"(j)(1) As soon as practicable after the date of enactment of this subsection, taking into consideration the greater flexibility provided by the amendments relating to the production incentive adjustment under section 122 of the Energy Conservation and Production Act, the President shall promulgate such amendments to the regulation under section 4(a) (relating to price) as shall (A) provide additional price incentives for bona fide tertiary enhanced recovery techniques and (B) provide for the adjustment of differentials in ceiling prices for crude oil that are the result of gravity differentials which are arbitrary, discriminatory, applied on a regional or local basis without reasonable justification, or fail substantially to reflect current relative market valuations of such differentials.

"(2) As used in this subsection, the term 'tertiary enhanced recovery techniques' means extraordinary and high cost enhancement technologies of a type associated with tertiary applications including, to the extent that such techniques would be uneconomical without additional price incentives, miscible fluid or gas injection, chemical flooding, microemulsion flooding, in situ combustion, cyclic steam injection, polymer flooding, and caustic flooding and variations of the same. The President shall have authority to further define the term by rule.".

CONSTRUCTION OF REFINERIES BY SMALL AND INDEPENDENT REFINERS

SEC. 123. (a) It is the intent of the Congress that, for the purpose of fostering construction of new refineries by small and independent refiners in the United States, the Administrator of the Federal Energy Administration shall take such action, within his authority under other law consistent with the attainment, to the maximum extent practicable, of the objectives under section 4(b)(1)(D) of the Emergency Petroleum Allocation Act of 1973, as the Administrator determines necessary to insure that rules, regulations, or orders issued by him do not impose unreasonable, unnecessary, or discriminatory barriers to entry for small refiners and independent refiners.

(b) Not later than April 1, 1977, the Administrator shall report to the Congress with respect to actions taken to carry out the policies in subsection (a).

(c) For the purposes of this section the terms "small refiner" and "independent refiner" have the same meaning as such terms have under the Emergency Petroleum Allocation Act of 1973.

EFFECTIVE DATE OF EPAA AMENDMENTS

SEC. 124. The amendments made to section 8 of the Emergency Petroleum Allocation Act by sections 121 and 122 of this Act shall take effect on the date of enactment of this Act.

Part C—Office of Energy Information and Analysis

FINDINGS AND PURPOSE

SEC. 141. (a) The Congress finds that the public interest requires that decisionmaking, with respect to this Nation's energy requirements and the sufficiency and availability of energy resources and supplies, be based on adequate, accurate, comparable, coordinated, and credible energy information.

(b) The purpose of this title is to establish within the Federal Energy Administration an Office of Energy Information and Analysis and a National Energy Information System to assure the availability of adequate, comparable, accurate, and credible energy information to the Federal Energy Administration, to other Government agencies responsible for energy-related policy decisions, to the Congress, and to the public.

OFFICE OF ENERGY INFORMATION AND ANALYSIS

SEC. 142. The Federal Energy Administration Act of 1974 is amended by inserting "PART A—FEDERAL ENERGY ADMINISTRATION" after the enacting clause and by adding at the end thereof the following:

"Part B—Office of Energy Information and Analysis

"ESTABLISHMENT OF OFFICE OF ENERGY INFORMATION AND ANALYSIS

"SEC. 51. (a)(1) There is established within the Federal Energy Administration an Office of Energy Information and Analysis (hereinafter in this Act referred to as the 'Office') which shall be headed by a Director who shall be appointed by the President, by and with the advice and consent of the Senate.

"(2) The Director shall be a person who, by reason of professional background and experience, is specially qualified to manage an energy information system.

"(b) The Administrator shall delegate (which delegation may be on a nonexclusive basis as the Administrator may determine may be necessary to assure the faithful execution of his authorities and responsibilities under law) the authority vested in him under section 11 of the Energy Supply and Environmental Coordination Act of 1974 and section 13 of this Act and the Director may act in the name of the Administrator under section 12 of the Energy Supply and Environmental Coordination Act of 1974 and section 13 of this Act for the purpose of obtaining enforcement of the authorities delegated to him.

"(c) As used in this Act the term 'energy information' shall have the meaning described in section 11 of the Energy Supply and Environmental Coordination Act of 1974.

"NATIONAL ENERGY INFORMATION SYSTEM

"SEC. 52. (a) It shall be the duty of the Director to establish a National Energy Information System (hereinafter referred to in this Act as the 'System'), which shall be operated and maintained by the Office. The System shall contain such information as is required to provide a description of and facilitate analysis of energy supply and consumption within and affecting the United States on the basis of such geographic areas and economic sectors as may be appropriate to meet adequately the needs of—

"(1) the Federal Energy Administration in carrying out its lawful functions;

"(2) the Congress; and

"(3) other officers and employees of the United States in whom have been vested, or to whom have been delegated, energy-related policy decisionmaking responsibilities.

"(b) At a minimum, the System shall contain such energy information as is necessary to carry out the Administration's statistical and forecasting activities, and shall include, at the earliest date and to the maximum extent practical subject to the resources available and the Director's ordering of those resources to meet the responsibilities of his Office, such energy information as is required to define and permit analysis of—

"(1) the institutional structure of the energy supply system including patterns of ownership and control of mineral fuel and nonmineral energy resources and the production, distribution, and marketing of mineral fuels and electricity;

"(2) the consumption of mineral fuels, nonmineral energy resources, and electricity by such classes, sectors, and regions as may be appropriate for the purposes of this Act;

"(3) the sensitivity of energy resource reserves, exploration, development, production, transportation, and consumption to economic factors, environmental constraints, technological improvements, and substitutability of alternate energy sources;

"(4) the comparability of energy information and statistics that are supplied by different sources;

"(5) industrial, labor, and regional impacts of changes in patterns of energy supply and consumption;

"(6) international aspects, economic and otherwise, of the evolving energy situation; and

"(7) long-term relationships between energy supply and consumption in the United States and world communities.

"ADMINISTRATIVE PROVISIONS

"SEC. 53. (a) The Director of the Office shall receive compensation at the rate now or hereafter prescribed for offices and positions at level IV of the Executive Schedule as specified in section 5315 of title 5, United States Code.

"(b) To carry out the functions of the Office, the Director, on behalf of the Administrator, is authorized to appoint and fix the compensation of such professionally qualified employees as he deems necessary, including up to ten of the employees in grade GS-16, GS-17, or GS-18 authorized by section 7 of this Act.

"(c) The functions and powers of the Office shall be vested in or delegated to the Director, who may from time to time, and to the extent permitted by law, consistent with the purposes of this Act, delegate such of his functions as he deems appropriate. Such delegation may be made, upon request, to any officer or agency of the Federal Government.

"(d) (1) The Director shall be available to the Congress to provide testimony on such subjects under his authority and responsibility as the Congress may request, including but not limited to energy information and analyses thereof.

"(2) Any request for appropriations for the Federal Energy Administration submitted to the Congress shall identify the portion of such request intended for the support of the Office, and a statement of the differences, if any, between the amounts requested and the Director's assessment of the budgetary needs of the Office.

"ANALYTICAL CAPABILITY

"SEC. 54. (a) The Director shall establish and maintain the scientific, engineering, statistical, or other technical capability to perform analysis of energy information to—

"(1) verify the accuracy of items of energy information submitted to the Director; and

"(2) insure the coordination and comparability of the energy information in possession of the Office and other Federal agencies.

"(b) The Director shall establish and maintain the professional and analytic capability to evaluate independently the adequacy and comprehensiveness of the energy information in possession of the Office and other agencies of the Federal Government in relation to the purposes of this Act and for the performance of the analyses described in section 52 of this Act. Such analytic capability shall include—

"(1) expertise in economics, finance, and accounting;

"(2) the capability to evaluate estimates of reserves of mineral fuels and nonmineral energy resources utilizing alternative methodologies;

"(3) the development and evaluation of energy flow and accounting models describing the production, distribution, and consumption of energy by the various sectors of the economy and lines of commerce in the energy industry;

"(4) the development and evaluation of alternative forecasting models describing the short- and long-term relationships between energy supply and consumption and appropriate variables: and

"(5) such other capabilities as the Director deems necessary to achieve the purposes of this Act.

"PROFESSIONAL AUDIT REVIEW OF PERFORMANCE OF OFFICE

"SEC. 55. (a) The procedures and methodology of the Office shall be subject to a thorough annual performance audit review. Such review shall be conducted by a Professional Audit Review Team which shall prepare a report describing its investigation and reporting its findings to the President and to the Congress.

"(b) The Professional Audit Review Team shall consist of at least seven professionally qualified persons who shall be officers or employees of the United States and of whom at least—

"one shall be designated by the Chairman of the Council of Economic Advisers;

"one shall be designated by the Commissioner of Labor Statistics;

"one shall be designated by the Administrator of Social and Economic Statstics;

"one shall be designated by the Chairman of the Securities and Exchange Commission;

"one shall be designated by the Chairman of the Federal Trade Commission;

"one shall be designated by the Chairman of the Federal Power Commission; and

"one, who shall be the Chairman of the Professional Audit Review Team, shall be designated by the Comptroller General.

"(c) The Director and the Administrator shall cooperate fully with the Professional Audit Review Team and notwithstanding any other provisions of law shall make available to the Team such data, information, documents, and services as the Team determines are necessary for successful completion of its performance audit review.

"(d) Except as authorized by law, any person who—

"(1) obtains, in the course of exercising the functions of the Professional Audit Review Team, information which constitutes a trade secret or confidential commercial information, the disclosure of which could result in significant competitive injury to the person to which such information relates; and

"(2) willfully discloses such information;

shall be fined not more than $40,000, or imprisoned not more than one year, or both.

"COORDINATION OF ENERGY INFORMATION ACTIVITIES

"SEC. 56. (a) In carrying out the purposes of this Act the Director shall, as he deems appropriate review the energy information gathering activities of Federal agencies with a view toward avoiding duplication of effort and minimizing the compliance burden on business enterprises and other persons.

"(b) In exercising his responsibilities under subsection (a) of this section, the Director shall recommend policies which, to the greatest extent practicable—

"(1) provide adequately for the energy information needs of the various departments and agencies of the Federal Government, the Congress, and the public;

"(2) minimize the burden of reporting energy information on businesses, other persons, and especially small businesses;

"(3) reduce the cost to Government of obtaining information; and

"(4) utilize files of information and existing facilities of established Federal agencies.

"(c) (1) At the earliest practicable date after the date of enactment of this section, each Federal agency which is engaged in the gathering of energy information as a part of an established program, function, or other activity shall promptly provide the Administrator with a report on energy information which—

"(A) identifies the statutory authority upon which the energy information collection activities of such agency is based;

"(B) lists and describes the energy information needs and requirements of such agency; and

"(C) lists and describes the categories. definitions, levels of detail, and frequency of collection of the energy information collected by such agency.

Such agencies shall cooperate with the Administrator and provide such other descriptive information with respect to energy information activities as the Administrator may request. The Administrator shall prepare a report on his activities under this subsection, which report shall include recommendations with respect to the coordination of energy information activities of the Federal Government. Such report shall be available to the Congress, and shall be transmitted to the President and to the Energy Resources Council for use in preparation of the plan required under subsection (c) of section 108 of the Energy Reorganization Act of 1974.

"REPORTS

"SEC. 57. (a) The Director shall make periodic reports and may make special reports to the Congress and the public, including but not limited to—

"(1) such reports as the Director determines are necessary to provide a comprehensive picture of the quarterly, monthly, and, as appropriate, weekly supply and consumption of the various nonmineral energy resources, mineral fuels, and electricity in the United States; the information reported may be organized by company, by States, by regions, or by such other producing and consuming sectors, or combinations thereof, and shall be accompanied by an appropriate discussion of the evolution of the energy supply and consumption situation and such national and international trends and their effects as the Director may find to be significant; and

"(2) an annual report which includes, but is not limited to, a description of the activities of the Office and the National Energy Information System during the preceding year; a summary of all special reports published during the preceding year; a summary of statistical information collected during the preceding year; short-, medium-, and long-term energy consumption and supply trends and forecasts under various assumptions; and, to the maximum extent practicable, a summary or schedule of the amounts of mineral fuel resources, nonmineral energy resources, and mineral fuels that can be brought to market at various prices and technologies and their relationship to forecasted demands.

"(b)(1) The Director, on behalf of the Administrator, shall insure that adequate documentation for all statistical and forecast reports prepared by the Director is made available to the public at the time of publication of such reports. The Director shall periodically audit and validate analytical methodologies employed in the preparation of periodic statistical and forecast reports.

"(2) The Director shall, on a regular basis, make available to the public information which contains validation and audits of periodic statistical and forecast reports.

"(c) Prior to publication, the Director may not be required to obtain the approval of any other officer or employee of the United States with respect to the substance of any statistical or forecasting technical reports which he has prepared in accordance with law.

"ENERGY INFORMATION IN POSSESSION OF OTHER FEDERAL AGENCIES

"SEC. 58. (a) In furtherance and not in limitation of any other authority, the Director, on behalf of the Administrator, shall have access to energy information in the possession of any Federal agency except information—

"(1) the disclosure of which to another Federal agency is expressly prohibited by law; or

"(2) the disclosure of which the agency so requested determines would significantly impair the discharge of authorities and responsibilities which have been delegated to, or vested by law, in such agency.

"(b) In the event that energy information in the possession of another Federal agency which is required to achieve the purposes of this Act is denied the Director or the Administrator pursuant to paragraph (1) or paragraph (2) of subsection (a) of this section, the Administrator, or the Director, on behalf of the Administrator, shall take appropriate action, pursuant to authority granted by law, to obtain said information from the original sources or a suitable alternate source. Such source shall be notified of the reason for this request for information.

"CONGRESSIONAL ACCESS TO INFORMATION IN POSSESSION OF THE OFFICE

"SEC. 59. The Director shall promptly provide upon request any energy information in the possession of the Office to any duly established committee of the Congress. Such information shall be deemed the property of such committee and may not be disclosed except in accordance with the rules of such committee and the Rules of the House of Representatives or the Senate and as permitted by law.".

EFFECTIVE DATE

SEC. 143. The amendments made by this part C of the Federal Energy Administration Act of 1947 shall take effect 150 days after the date of enactment of this Act, except that section 56(c) of the Federal Energy Administration Act of 1974 (as added by this part) shall take effect on the date of enactment of this Act.

PART D—AMENDMENTS TO OTHER ENERGY-RELATED LAW

APPLIANCE PROGRAM

SEC. 161. (a) Section 325(a)(1)(A) of the Energy Policy and Conservation Act is amended to read as follows:

"(a)(1)(A) The Administrator shall direct the National Bureau of Standards to develop an energy efficiency improvement target for each type of covered product specified in paragraphs (1) through (10) of section 322(a). Not later than 90 days after the date of enactment of the Energy Conservation and Production Act, the Administrator shall, by rule, prescribe an energy efficiency improvement target for each such type of covered product.".

(b) Section 325(a)(2) of such Act is amended by striking out the first sentence and inserting in lieu thereof the following:

"(2) The Administrator shall direct the National Bureau of Standards to develop an energy efficiency improvement target for each type of covered product specified in paragraphs (11), (12), and (13) of section 322 (a). Not later than one year after the date of enactment of this Act, the Administrator shall, by rule, prescribe an energy efficiency improvement target for each such type of product.".

ENERGY RESOURCES COUNCIL REPORTS

SEC. 162. (a) Section 108(b) of the Energy Reorganization Act of 1974 is amended—

(1) by striking out "and" at the end of paragraph (2);

(2) by striking out the period at the end thereof and inserting in lieu thereof a semicolon; and

(3) by adding at the end thereof the following new paragraphs:

"(4) prepare a report on national energy conservation activities which shall be submitted to the President and the Congress annually, beginning on July 1, 1977, and which shall include—

"(A) a review of all Federal energy conservation expenditures and activities, the purpose of each such activity, the relation of the activity to national conservation targets and plans, and the success of the activity and the plans for the activity in future years;

"(B) an analysis of all conservation targets established for industry, residential, transportation, and public sectors of the economy, whether the targets can be achieved or whether they can be further improved, and the progress toward their achievement in the past year;

"(C) a review of the progress made pursuant to the State energy conservation plans under sections 361 through 366 of the Energy Policy and Conservation Act and other similar efforts at the State and local level, and whether further conservation can be carried on by the States or by local governments, and whether further Federal assistance is required;

"(D) a review of the principal conservation efforts in the private sector, the potential for more widespread implementation of such efforts and the Federal Government's efforts to promote more widespread use of private energy conservation initiatives; and

"(E) an assessment of whether existing conservation targets and goals are sufficient to bridge the gap between domestic energy production capacity and domestic energy needs, whether additional incentives or programs are necessary or useful to close that gap further, and a discussion of what mandatory measures might be useful to further bring domestic demand into harmony with domestic supply.

The Chairman of the Energy Resource Council shall coordinate the preparation of the report required under paragraph (5).".

(b) Section 108 of the Energy Reorganization Act of 1974 is amended—

(1) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(2) by adding after subsection (b) the following new subsection:

"(c) The President, through the Energy Resources Council, shall—

"(1) prepare a plan for the reorganization of the Federal Government's activities in energy and natural resources, including, but not limited to, a study of—

"(A) the principal laws and directives that constitute the energy and natural resource policy of the United States;

"(B) prospects of developing a consolidated national energy policy;

"(C) the major problems and issues of existing energy and natural resource organizations;

"(D) the options for Federal energy and natural resource organizations;

"(E) an overview of available resources pertinent to energy and natural resource organization;

"(F) recent proposals for a national energy and natural resource policy for the United States; and

"(G) the relationship between energy policy goals and other national objectives;

"(2) submit to Congress—

"(A) no later than December 31, 1976, the plan prepared pursuant to subsection (c)(1) and a report containing his recommendations for the reorganization of the Federal Government's responsibility for energy and natural resource matters together with such proposed legislation as he deems necessary or appropriate for the implementation of such plans or recommendations; and

"(B) not later than April 15, 1977, such revisions to the plan and report described in subparagraph (A) of this paragraph as he may consider appropriate; and

"(3) provide interim and transitional policy planning for energy and natural resource matters in the Federal Government.".

EXTENSION OF ENERGY RESOURCES COUNCIL

SEC. 163. Section 108(e) of the Energy Reorganization Act of 1974, as redesignated by subsection (b)(1) of this section, is amended by striking out "two years after such effective date," and inserting in lieu thereof "not later than September 30, 1977,".

DEVELOPMENT OF UNDERGROUND COAL MINES

SEC. 164. Section 102 of the Energy Policy and Conservation Act is amended by adding at the end of subsection (c) the following new paragraph:

"(4) the term 'developing new underground coal mine' includes expansion of any existing underground coal mine in a manner designed to increase the rate of production of such mine, and the reopening of any underground coal mines which had previously been closed.".

TITLE II—ELECTRIC UTILITY RATE DESIGN INITIATIVES

FINDINGS

SEC. 201. (a) The Congress finds that improvement in electric utility rate design has great potential for reducing the cost of electric utility services to consumers and current and projected shortages of capital, and for encouraging energy conservation and better use of existing electrical generating facilities.

(b) It is the purpose of this title to require the Federal Energy Administration to develop proposals for improvement of electric utility rate design and transmit such proposals to Congress; to fund electric utility rate demonstration projects; to intervene or participate, upon request, in the proceedings of utility regulatory commissions; and to provide financial assistance to State offices of consumer services to facilitate presentation of consumer interests before such commissions.

DEFINITIONS

SEC. 202. As used in this title:

(1) The term "Adminstrator" means the Administrator of the Federal Energy Administration; except that after such Administration ceases to exist, such term means any officer of the United States designated by the President for purposes of this title.

(2) The term "electric utility" means any person, State agency, or Federal agency which sells electric energy.

(3) The term "Federal agency" means any agency or instrumentality of the United States.

(4) The term "State agency" means a State, political subdivision thereof, or any agency or instrumentality of either.

(5) The term "State utility regulatory commission" means (A) any utility regulatory commission which is a State agency or (B) the Tennessee Valley Authority.

(6) The term "State" means any State, the District of Columbia, Puerto Rico, and any territory or possession of the United States.

(7) The term "utility regulatory commission" means any State agency or Federal agency which has authority to fix, modify, approve, or disapprove rates for the sale of electric energy by any electric utility (other than by such agency).

ELECTRIC UTILITY RATE DESIGN PROPOSALS

SEC. 203. (a) The Administrator shall develop proposals to improve electric utility rate design. Such proposals shall be designed to encourage energy conservation, minimize the need for new electrical generating capacity, and minimize costs of electric energy to consumers, and shall include (but not be limited to) proposals which provide for the development and implementation of—

(1) load management techniques which are cost effective;

(2) rates which reflect marginal cost of service, or time of use of service, or both;

(3) ratemaking policies which discourage inefficient use of fuel and encourage economical purchases of fuel; and

(4) rates (or other regulatory policies) which encourage electric utility system reliability and reliability of major items of electric utility equipment.

(b) The proposals prepared under subsection (a) shall be transmitted to each House of Congress not later than 6 months after the date of enactment of this Act, for review and for such further action as the Congress may direct by law. Such proposals shall be accompanied by an analysis of—

(1) the projected savings (if any) in consumption of petroleum products, natural gas, electric energy, and other energy resources,

(2) the reduction (if any) in the need for new electrical generating capacity, and of the demand for capital by the electric utility industry, and

(3) changes (if any) in the cost of electric energy to consumers,

which are likely to result from the implementation nationally of each of the proposals transmitted under this subsection.

RATE DESIGN INNOVATION AND FEDERAL ENERGY ADMINISTRATION INTERVENTION

SEC. 204. The Administrator may—

(1) fund (A) demonstration projects to improve electric utility load management procedures and (B) regulatory rate reform initiatives,

(2) on request of a State, a utility regulatory commission, or of any participant in any proceeding before a State utility regulatory commission which relates to electric utility rates or rate design, intervene and participate in such proceeding, and

(3) on request of any State, utility regulatory commission, or party to any action to obtain judicial review of an administrative proceeding in which the Administrator intervened or participated under paragraph (2), intervene and partiicpate in such action.

GRANTS FOR OFFICES OF CONSUMER SERVICES

SEC. 205. (a) The Administrator may make grants to States, or otherwise as provided in subsection (c), under this section to provide for the establishment and operation of offices of consumer services to assist consumers in their presentations before utility regulatory commissions. Any assistance provided under this section shall be provided only for an office of consumer services which is operated independently of any such utility regulatory commission and which is empowered to—

(1) make general factual assessments of the impact of proposed rate changes and other proposed regulatory actions upon all affected consumers;

(2) assist consumers in the presentation of their positions before utility regulatory commissions; and

(3) advocate, on its own behalf, a position which it determines represents the position most advantageous to consumers, taking into account developments in rate design reform.

(b) Grants pursuant to subsection (a) of this section shall be made only to States which furnish such assurances as the Administrator may require that funds made available under such section will be in addition to, and not in substitution for, funds made available to offices of consumer services from other sources.

(c) Assistance may be provided under this section to an office of consumer services established by the Tennessee Valley Authority, if such office is operated independently of the Tennessee Valley Authority.

REPORTS

SEC. 206. Not later than the last day in December in each year, the Administrator shall transmit to the Congress a report with respect to activities conducted under this title and recommendations as to the need for and types of further Federal legislation.

AUTHORIZATIONS OF APPROPRIATIONS

SEC. 207. (a) There are authorized to be appropriated to carry out this title (other than section 205) for the period beginning July 1, 1976, and ending September 30, 1977, not to exceed $13,056,000, of which not more than $1,000,000 may be assigned for purposes of section 204 (2) and (3).

(b) There are authorized to be appropriated to carry out section 205 for such period not to exceed $2,000,000.

TITLE III—ENERGY CONSERVATION STANDARDS FOR NEW BUILDINGS

SHORT TITLE

SEC. 301. The title may be cited as the "Energy Conservation Standards for New Buildings Act of 1976".

FINDINGS AND PURPOSES

SEC. 302. (a) The Congress finds that—

(1) large amounts of fuels and energy are consumed unnecessarily each year in heating, cooling, ventilating, and providing domestic hot water for newly constructed residential and commercial buildings because such buildings lack adequate energy conservation features;

(2) Federal performance standards for newly constructed buildings can prevent such waste of energy, which the Nation can no longer afford in view of its current and anticipated energy shortage;

(3) the failure to provide adequate energy conservation measures in newly constructed buildings increases long-term operating costs that may affect adversely the repayment of, and security for, loans made, insured, or guaranteed by Federal agencies or made by federally insured or regulated instrumentalities; and

(4) State and local building codes or similar controls can provide an existing means by which to assure, in coordination with other building requirements and with a minimum of Federal interference in State and local transactions, that newly constructed buildings contain adequate energy conservation features.

(b) The purposes of this title, therefore, are to—

(1) redirect Federal policies and practices to assure that reasonable energy conservation features will be incorporated into new commercial and residential buildings receiving Federal financial assistance;

(2) provide for the development and implementation, as soon as practicable, of performance standards for new residential and commercial buildings which are designed to achieve the maximum practicable improvements in energy efficiency and increases in the use of nondepletable source of energy; and

(3) encourage States and local governments to adopt and enforce such standards through their existing building codes and other construction control mechanisms, or to apply them through a special approval process.

DEFINITIONS

SEC. 303. As used in this title:

(1) The term "Administrator" means the Administrator of the Federal Energy Administration; except that after such Administration ceases to exist, such term means any officer of the United States designated by the President for purposes of this title.

(2) The term "building" means any structure to be constructed which includes provision for a heating or cooling system, or both, or for a hot water system.

(3) The term "building code" means a legal instrument which is in effect in a State or unit of general purpose local government, the provisions of which must be adhered to if a building is to be considered to be in conformance with law and suitable for occupancy and use.

(4) The term "commercial building" means any building other than a residential building, including any building developed for industrial or public purposes.

(5) The term "Federal agency" means any department, agency, corporation, or other entity or instrumentality of the executive branch of the Federal Government, including the United States Postal Service, the Federal National Mortgage Association, and the Federal Home Loan Mortgage Corporation.

(6) The term "Federal building" means any building to be constructed by, or for the use of, any Federal agency which is not legally subject to State or local building codes or similar requirements.

(7) The term "Federal financial assistance" means (A) any form of loan, grant, guarantee, insurance, payment, rebate, subsidy, or any other form of direct or indirect Federal assistance (other than general or special revenue sharing or formula grants made to States) approved by any Federal officer or agency; or (B) any loan made or purchased by any bank, savings and loan association, or similar institution subject to regulation by the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Comptroller of the Currency, the Federal Home Loan Bank Board, the Federal Savings and Loan Insurance Corporation, or the National Credit Union Administration.

(8) The term "National Institute of Building Sciences" means the institute established by section 809 of the Housing and Community Development Act of 1974.

(9) The term "performance standards" means an energy consumption goal or goals to be met without specification of the methods, materials, and processes to be employed in achieving that goal or goals, but including statements, of the requirements, criteria and evaluation methods to be used, and any necessary commentary.

(10) The term "residential building" means any structure which is constructed and developed for residential occupancy.

(11) The term "Secretary" means the Secretary of Housing and Urban Development.

(12) The term "State" includes each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory and possession of the United States.

(13) The term "unit of general purpose local government" means any city, county, town, municipality, or other political subdivision of a State (or any combination thereof), which has a building code or similar authority over a particular geographic area.

PROMULGATION OF ENERGY CONSERVATION PERFORMANCE STANDARDS FOR NEW BUILDINGS

SEC. 304. (a)(1) As soon as practicable, but in no event later than 3 years after the date of enactment of this title, the Secretary, only after consultation with the Administrator, the Secretary of Commerce utilizing the services of the Director of the National Bureau of Standards, and the Administrator of the General Services Administration, shall develop and publish in the Federal Register for public comment proposed performance standards for new commercial buildings. Final performance standards shall be promulgated within 6 months after the date of publication of the proposed standards, and shall become effective within a reasonable time, not to exceed 1 year after the date of promulgation, as specified by the Secretary.

(2) As soon as practicable, but in no event later than 3 years after the date of enactment of this title, the Secretary, only after consultation with the Administrator and the Secretary of Commerce utilizing the services of the Director of the National Bureau of Standards, shall develop and publish in the Federal Register for public comment proposed performance standards for new residential buildings. Final performance standards for such buildings shall be promulgated within 6 months after the date of publication of the proposed standards, and shall become effective within a reasonable time, not to exceed 1 year after the date of promulgation, as specified by the Secretary.

(3) In the development of performance standards, the Secretary shall utilize the services of the National Institute of Building Sciences, under appropriate contractual arrangements.

(b) All performance standards promulgated pursuant to subsection (a) shall take account of, and make such allowance or particular exception as the Secretary determines appropriate for, climatic variations among the different regions of the country.

(c) The Secretary, in consultation with the Administrator, the Secretary of Commerce, the Administrator of the General Services Administration, and the heads of other appropriate Federal agencies, and the National Institute of Building Sciences, shall periodically review and provide for the updating of performance standards promulgated pursuant to subsection (a).

(d) The Secretary, if he finds that the dates otherwise specified in this section for publication of proposed, or for promulgation of final, performance standards under subsection (a)(1) or (a)(2) cannot practicably be met, may extend the time for such publication or promulgation, but no such extension shall result in a delay of more than 6 months in promulgation.

APPLICATION OF ENERGY CONSERVATION PERFORMANCE STANDARDS FOR NEW BUILDINGS

SEC. 305. (a) Subject to the provisions of subsection (c) and after the effective date of final performance standards for new commercial and residential buildings pursuant to section 304(a), no Federal financial assistance shall be made available or approved with respect to the construction of any new commercial or residential building in any area of any State, unless—

(1) such State has certified, in accordance with regulations of the Secretary, that—

(A) the unit of general purpose local government which has jurisdiction over such area has adopted and is implementing a building code, or other construction control mechanism, which meets or exceeds the requirements of such final performance standards, or

(B) such State has adopted and is implementing, on a statewide basis or with respect to such area, a building code or other laws or regulations which provide for the effective application of such final performance standards;

(2) such new building has been determined, pursuant to any applicable approval process described in subsection (b), to be in compliance with such final performance standards; or

(3) such new building is to be located in any area in which the construction of new buildings is not of a magnitude to warrant the costs of implementing final performance standards, as determined by the Secretary after receiving a request for such a determination (and material justifying such request) from the State in which the area is located; except that the Secretary may rescind such a determination whenever the Secretary finds that the amount of construction of new buildings has increased in such area to an extent that such costs are warranted.

The Secretary shall review and conduct such investigations as are deemed necessary to determine the accuracy of such certifications and shall provide for the periodic updating thereof. The Secretary may reject, disapprove, or require the withdrawal of any such certification after notice to such State and an opportunity for a hearing.

(b)(1) The provisions of this subsection shall not apply to any area subject to the jurisdiction of a unit of general purpose local government or of a State described in subsection (a)(1), and the provisions of this subsection and the approval process applicable under this subsection shall cease to apply to any area at such time as the Secretary receives a certification under subsection (a)(1) with respect to such area.

(2) The Secretary shall have overall responsibility for the effective application of the applicable approval process described in this subsection in any area not exempted therefrom pursuant to paragraph (1).

(3) As used in this section, the term "approval process" means a mechanism and procedure for the consideration and approval of an application to construct a new building and which involves (A) determining whether such proposed building would be in compliance with the final performance standards for new buildings promulgated under section 304, and (B) administration by the level and agency of government specified by the Secretary pursuant to paragraph (4).

(4) The level and agency of government which shall administer the approval process described in this subsection is—

(A) first, the agency which grants building permits on behalf of the unit of general purpose local government which has jurisdiction over the area in which new construction is proposed, if such agency is willing and able to administer such approval process;

(B) second, if the agency described in subparagraph (A) is not willing and able to administer such approval process, any other agency of the unit of general purpose local government described in such paragraph which has authority to administer such approval process, if such agency is willing and able to administer such approval process; and

(C) third, if no agency described in subparagraphs (A) and (B) is willing and able to administer such approval process, any agency of the State in which new construction is proposed which has authority to administer such approval process, if such agency is willing and able to administer such approval process.

(c) The President shall transmit the final performance standards for new buildings to both Houses of Congress upon the date of promulgation of such standards pursuant to section 304(a), for review by the Congress under this subsection to determine whether the sanction set forth in the introductory clause to subsection (a) is necessary and appropriate to assure that such standards are in fact applied to all new buildings. Such sanction shall be deemed approved as necessary for such purpose (and shall thereafter be enforced, directly and indirectly, by each applicable person and governmental entity) if the use of such sanction is approved by a resolution of each House of Congress in accordance with the procedures specified in section 552 of the Energy Policy and Conservation Act; except that for purposes of this section the 60 calendar days described in section 552(b) and (c)(2) of such Act shall be lengthened to 90 calendar days.

FEDERAL BUILDINGS

SEC. 306. The head of each Federal agency responsible for the construction of any Federal building shall adopt such procedures as may be necessary to assure that any such construction meets or exceeds the applicable final performance standards promulgated pursuant to this title.

GRANTS

SEC. 307. (a) The Secretary may make grants to States and units of general purpose local government to assist them in meeting the costs of adopting and implementing performance standards or of administering State certification procedures or any applicable approval process to carry out the provisions of section 305.

(b) There is authorized to be appropriated for the purpose of carrying out this section, not to exceed $5,000,000 for the fiscal year ending September 30, 1977. Any amount appropriated pursuant to this subsection shall remain available until expended.

TECHNICAL ASSISTANCE

SEC. 308. The Secretary (directly, by contract, or otherwise) may provide technical assistance to States and units of general purpose local government to assist them in meeting the requirements of this title.

CONSULTATION WITH INTERESTED AND AFFECTED GROUPS

SEC. 309. In developing and promulgating performance standards and carrying out other functions under this title, the Secretary shall consult with appropriate representatives of the building community (including representatives of labor and the construction industry, engineers, and architects), with appropriate public officials and organizations of public officials, and with representatives of consumer groups. For purposes of such consultation, the Secretary shall, to the extent practicable, make use of the National Institute of Building Sciences. The Secretary may also establish one or more advisory committees as may be appropriate. Any advisory committee or committees established pursuant to this section shall be subject to the provisions of the Federal Advisory Committee Act.

SUPPORT ACTIVITIES

SEC. 310. The Secretary, in cooperation with the Administrator, the Secretary of Commerce utilizing the services of the Director of the National Bureau of Standards, and the heads of other appropriate Federal agencies, and the National Institute of Building Sciences, shall carry out any activities which the Secretary determines may be necessary or appropriate to assist in the development of performance standards under section 304 (a) and to facilitate the implementation of such standards by State and local governments. Such activities shall be designed to assure that such standards are adequately analyzed in terms of energy efficiency, stimulation of use of nondepletable sources of energy, institutional resources, habitability, economic cost and benefit, and impact upon affected groups.

MONITORING OF STATE AND LOCAL ADOPTION OF ENERGY CONSERVATION STANDARDS FOR BUILDINGS

SEC. 311. The Secretary, with the advice and assistance of the National Institute of Building Sciences, shall—

(1) monitor the progress made by the States and their political subdivisions in adopting and enforcing energy conservation standards for new buildings;

(2) identify any procedural obstacles or technical constraints inhibiting implementation of such standards;

(3) evaluate the effectiveness of such prevailing standards; and

(4) within 12 months after the date of enactment of this title, and semiannually thereafter, report to the Congress on (A) the progress of the States and units of general purpose local government in adopting and implementing energy conservation standards for new buildings, and (B) the effectiveness of such standards.

TITLE IV—ENERGY CONSERVATION AND RENEWABLE RESOURCE ASSISTANCE FOR EXISTING BUILDINGS

SHORT TITLE

SEC. 401. This title may be cited as the "Energy Conservation in Existing Buildings Act of 1976".

FINDINGS AND PURPOSE

SEC. 402. (a) The Congress finds that—

(1) the fastest, most cost-effective, and most environmentally sound way to prevent future energy shortages in the United States, while reducing the Nation's dependence on imported energy supplies, is to encourage and facilitate, through major programs, the implementation of energy conservation and renewable-source energy measures with respect to dwelling units, nonresidential buildings, and industrial plants;

(2) current efforts to encourage and facilitate such measures are inadequate as a consequence of—

(A) a lack of adequate and available financing for such measures, particularly with respect to individual consumers and owners of small businesses;

(B) a shortage of reliable and impartial information and advisory services pertaining to practicable energy conservation measures and renewable-resource energy measures and the cost savings that are likely if they are implemented in such units, buildings, and plants; and

(C) the absence of organized programs which, if they existed, would enable consumers, especially individuals and owners of small businesses, to undertake such measures easily and with confidence in their economic value;

(3) major programs of financial incentives and assistance for energy conservation measures and renewable-resource energy measures in dwelling units, nonresidential buildings, and industrial plants would—

(A) significantly reduce the Nation's demand for energy and the need for petroleum imports;

(B) cushion the adverse impact of the high price of energy supplies on consumers, particularly elderly and handicapped low-income persons who cannot afford to make the modifications necessary to reduce their residential energy use; and

(C) increase, directly and indirectly, job opportunities and national economic output;

(4) the primary responsibility for the implementation of such major programs should be lodged with the governments of the States; the diversity of conditions among the various States and regions of the Nation is sufficiently great that a wholly federally administered program would not be as effective as one which is tailored to meet local requirements and to respond to local opportunities; the State should be allowed flexibility within which to fashion such programs, subject to general Federal guidelines and monitoring sufficient to protect the financial investments of consumers and the financial interest of the United States and to insure that the measures undertaken in fact result in significant energy and cost savings which would probably not otherwise occur;

(5) to the extent that direct Federal administration is more economical and efficient, direct Federal financial incentives and assistance should be extended through existing and proven Federal programs rather than through new programs that would necessitate new and separate administrative bureaucracies; and

(6) such programs should be designed and administered to supplement, and not to supplant or in any other way conflict with, State energy conservation programs under part C of title III of the Energy Policy and Conservation Act; the emergency energy conservation program carried out by community action agencies pursuant to section 222(a) (12) of the Economic Opportunity Act of 1964; and other forms of assistance and encouragement for energy conservation.

(b) It is, therefore, the purpose of this title to encourage and facilitate the implementation of energy conservation measures and renewable-resource energy measures in dwelling units, nonresidential buildings, and industrial plants, through—

(1) supplemental State energy conservation plans; and

(2) Federal financial incentives and assistance.

PART A—WEATHERIZATION ASSISTANCE FOR LOW-INCOME PERSONS

FINDINGS AND PURPOSE

SEC. 411. (a) The Congress finds that—

(1) dwellings owned or occupied by low-income persons frequently are inadequately insulated;

(2) low-income personas, particularly elderly and handicapped low-income persons, can least afford to make the modifications necessary to provide for adequate insulation in such dwellings and to otherwise reduce residential energy use;

(3) weatherization of such dwellings would lower utility expenses for such low-income owners or occupants as well as save thousands of barrels per day of needed fuel; and

(4) States, through community action agencies established under the Economic Opportunity Act of 1964 and units of general purpose local government, should be encouraged, with Federal financial and technical assistance, to develop and support coordinated weatherization programs designed to ameliorate the adverse effects of high energy costs on such low-income persons, to supplement other Federal programs serving such persons, and to conserve energy.

(b) It is, therefore, the purpose of this part to develop and implement a supplementary weatherization assistance program to assist in achieving a prescribed level of insulation in the dwellings of low-income persons, particularly elderly and handicapped low-income persons, in order both to aid those persons least able to afford higher utility costs and to conserve needed energy.

DEFINITIONS

SEC. 412. As used in this part:

(1) The term "Administrator" means the Administrator of the Federal Energy Administration; except that after such Administration ceases to exist, such term means any officer of the United States designated by the President for purposes of this part.

(2) The term "Director" means the Director of the Community Services Administration.

(3) The term "elderly" means any individual who is 60 years of age or older.

(4) The term "Governor" means the chief executive officer of a State (including the Mayor of the District of Columbia).

(5) The term "handicapped person" means any individual (A) who is a handicapped individual as defined in section 7(6) of the Rehabilitation Act of 1973, (B) who is under a disability as defined in section 1614(a) (3)(A) or 223(d)(1) of the Social Security Act or in section 102(7) of the Developmental Disabilities Services and Facilities Construction Act of 1976 or (C) who is receiving benefits under chapter 14 or 15 of title 38, United States Code.

(6) The term "Indian", "Indian tribe", and "tribal organization" have the meaning prescribed for such terms by paragraphs (4), (5), and (6) respectively, of section 102 of the Older Americans Act of 1965.

(7) The term "low-income" means that income in relation to family size which (A) is at or below the poverty level determined in accordance with criteria established by the Director of the Office of Management and Budget, or (B) is the basis on which cash assistance payments have been paid during the preceding 12-month period under titles IV and XVI of the Social Security Act or applicable State or local law.

(8) The term "State" means each of the States and the District of Columbia.

(9) The term "weatherization materials" means items primarily designed to improve the heating or cooling efficiency of a dwelling unit, including, but not limited to, ceiling, wall, floor, and duct insulation, storm windows and doors, and caulking and weatherstripping, but not including mechanical equipment valued in excess of $50 per dwelling unit.

WEATHERIZATION PROGRAM

SEC. 413. (a) The Administrator shall develop and conduct, in accordance with the purpose and provisions of this part, a weatherization program. In developing and conducting such program, the Administrator may, in accordance with this part and regulations promulgated under this part, make grants (1) to States, and (2) in accordance with the provisions of subsection (d), to Indian tribal organizations to serve Native Americans. Such grants shall be made for the purpose of providing financial assistance with regard to projects designed to provide for the weatherization of dwelling units, particularly those where elderly or handicapped low-income persons reside, in which the head of the household is a low-income person.

(b)(1) The Administrator, after consultation with the Director, the Secretary of Housing and Urban Development, the Secretary of Health, Education, and Welfare, the Secretary of Labor, the Direction of the ACTION Agency, and the heads of such other Federal departments and agencies as the Administrator deems appropriate, shall develop and publish in the Federal Register for public comment, not later than 60 days after the date of enactment of this part, proposed regulations to carry out the provisions of this part. The Administrator shall take into consideration comments submitted regarding such proposed regulations and shall promulgate and publish final regulations for such purpose not later than 90 days after the date of such enactment. The development of regulations under this part shall be fully coordinated with the Director.

(2) The regulations promulgated pursuant to this section shall include provisions—

(A) prescribing, in coordination with the Secretary of Housing and Urban Development, the Secretary of Health, Education, and Welfare, and the Director of the National Bureau of Standards in the Department of Commerce, for use in various climatic, structural, and human need settings, standards for weatherization materials, energy conservation techniques, and balanced combinations thereof, which are designed to achieve a balance of a healthful dwelling environment and maximum practicable energy conservation; and

(B) designed to insure that (i) the benefits of weatherization assistance in connection with leased dwelling units will accrue primarily to low-income tenants; (ii) the rents on such dwelling units will not be raised because of any increase in the value thereof due solely to weatherization assistance provided under this part; and (iii) no undue or excessive enhancement will occur to the value of such dwelling units.

(c) If a State does not, within 90 days after the date on which final regulations are promulgated under this section, submit an application to the Administrator which meets the requirements set forth in section 414, any unit of general purpose local government of sufficient size (as determined by the Administrator), or a community action agency carrying out programs under title II of the Economic Opportunity Act of 1964, may, in lieu of such State, submit an application (meeting such requirements and subject to all other provisions of this part) for carrying out projects under this part within the geographical area which is subject to the jurisdiction of such government or is served by such agency. If any such application submitted by a unit of general purpose local government proposes that the allocation requirement and the priority for an applicable community action agency, as set forth under section 415(b)(2)(B), be determined to be no longer applicable, the Administrator, as part of the notice and public hearing procedure carried out under section 418 with respect to such application, shall be responsible for making the necessary determination under the proviso in section 415(b)(2)(B). A State may, in accordance with regulations promulgated under this part, submit an amended application.

(d)(1) Notwithstanding any other provision of this part, in any State, in which the Administrator determines (after having taken into account the amount of funds made available to the State to carry out the purposes of this part) that the low-income members of an Indian tribe are not receiving benefits under this part that are equivalent to the assistance provided to other low-income persons in such State under this part, and if he further determines that the members of such tribe would be better served by means of a grant made directly to provide such assistance, he shall reserve from sums that would otherwise be allocated to such State under this part not less than 100 percent, nor more than 150 percent, of an amount which bears the same ratio to the State's allocation for the fiscal year involved as the population of all low-income Indians for whom a determination under this subsection has been made bears to the population of all low-income persons in such State.

(2) The sums reserved by the Administrator on the basis of this determination under this subsection shall be granted to the tribal organization serving the individuals for whom such a determination has been made, or, where there is no tribal organization, to such other entity as he determines has the capacity to provide services pursuant to this part.

(3) In order for a tribal organization or other entity to be eligible for a grant for a fiscal year under this subsection, it shall submit to the Administrator an application meeting the requirements set forth in section 414.

(e) Notwithstanding any other provision of law, the Administrator may transfer to the Director sums appropriated under this part to be utilized in order to carry out programs, under section 222(a)(12) of the Economic Opportunity Act of 1964, which further the purpose of this part.

FINANCIAL ASSISTANCE

SEC. 414. (a) The Administrator shall provide financial assistance, from sums appropriated for any fiscal year under this part, only upon annual application. Each such application shall describe the estimated number and characteristics of the low-income persons and the number of dwelling units to be assisted and the criteria and methods to be used by the applicant in providing weatherization assistance to such persons. The application shall also contain such other information (including information needed for evaluation purposes) and assurances as may be required (1) in the regulations promulgated pursuant to section 413 and (2) to carry out this section. The Administrator shall allocate financial assistance to each State on the basis of the relative need for weatherization assistance among low-income persons throughout the States, taking into account the following factors:

(A) The number of dwelling units to be weatherized.

(B) The climatic conditions in the State respecting energy conservation, which may include consideration of annual degree days.

(C) The type of weatherization work to be done in the various settings.

(D) Such other factors as the Administrator may determine necessary in order to carry out the purpose and provisions of this part.

(b) The Administrator shall not provide financial assistance under this part unless the applicant has provided reasonable assurances that it has—

(1) established a policy advisory council which (A) has special qualifications and sensitivity with respect to solving the problems of low-income persons (including the weatherization and energy-conservation problems of such persons), (B) is broadly representative of organizations and agencies which are providing services to such persons in the State or geographical area in question, and (C) is responsible for advising the responsible official or agency administering the allocation of financial assistance in such State or area with respect to the development and implementation of such weatherization assistance program;

(2) established priorities to govern the provision of weatherization assistance to low-income persons, including methods to provide priority to elderly and handicapped low-income persons, and such priority as the applicant determines is appropriate for single-family or other high-energy-consuming dwelling units; and

(3) established policies and procedures designed to assure that financial assistance provided under this part will be used to supplement, and not to supplant, State or local funds, and, to the extent practicable, to increase the amounts of such funds that would be made available in the absence of Federal funds for carrying out the purpose of this part, including plans and procedures (A) for securing, to the maximum extent practicable, the services of volunteers and training participants and public service employment workers, pursuant to the Comprehensive Employment and Training Act of 1973, to work under the supervision of qualified supervisors and foremen, and (B) for complying with the limitations set forth in section 415.

LIMITATIONS

SEC. 415. (a) Financial assistance provided under this part shall, to the maximum extent practicable as determined by the Administrator, be used for the purchase of weatherization materials, except that not to exceed 10 percent of any grant made under this part may be used for the administration of weatherization projects under this part.

(b) The Administrator shall insure that financial assistance provided under this part will—

(1) be allocated within the State or area in accordance with a published State or area plan, which is adopted by such State after notice and a public hearing, describing the proposed funding distributions and recipients;

(2) be allocated, pursuant to such State or area plan, to community action agencies carrying out programs under title II of the Economic Opportunity Act of 1964 or to other appropriate and qualified public or nonprofit entities in such State or area so that—

(A) funds will be allocated on the basis of the relative need for weatherization assistance among the low-income persons within such State or area, taking into account appropriate climatic and energy conservation factors;

(B)(i) funds to be allocated for carrying out weatherization projects under this part in the geographical area served by the emergency energy conservation program carried out by a community action agency under section 222(a)(12) of the Economic Opportunity Act of 1964 will be allocated to such agency, and (ii) priority in the allocation of such funds for carrying out such projects under this part will be given such a community action agency in so much of the geographical area served by it as is not served by the emergency energy conservation program it is carrying out: *Provided*, That such allocation requirement and such priority shall no longer apply if the Governor of a State preparing an application for financial assistance under this part makes a determination, on the basis of the public hearing required by paragraph (1) of this subsection, or if the Administrator makes a determination, on the basis of a public hearing pursuant to section 413(c), that the emergency energy conservation program carried out by such agency has been ineffective in meeting the purpose of this part or is clearly not of sufficient size, and cannot in timely fashion develop the capacity to support the scope of the project to be carried out in such area with funds under this part; and

(C) due consideration will be given to the results of periodic evaluations of the projects carried out under this part in light of available information regarding the current and anticipated energy and weatherization needs of low-income persons within the State; and

(3) be terminated or discontinued during the application period only in accordance with policies and procedures consistent with the policies and procedures set forth in section 418.

(c) The cost of the weatherization materials provided with financial assistance under this part shall not exceed $400 in the case of any dwelling unit unless the State policy advisory council, established pursuant to section 414(b)(1), provides for a greater amount with respect to specific categories of units or materials.

MONITORING, TECHNICAL ASSISTANCE, AND EVALUATION

SEC. 416. The Administrator, in coordination with the Director, shall monitor and evaluate the operation of projects receiving financial assistance under this part through methods provided for in section 417(a), through onsite inspections, or through other means, in order to assure the effective provision of weatherization assistance for the dwelling units of low-income persons. The Administrator shall also carry out periodic evaluations of the program authorized by this part and projects receiving financial assistance under this part. The Administrator may provide technical assistance to any such project, directly and through persons and entities with a demonstrated capacity in developing and implementing appropriate technology for enhancing the effectiveness of the provision of weatherization assistance to the dwelling units of low-income persons, utilizing in any fiscal year not to exceed 10 percent of the sums appropriated for such year under this part.

ADMINISTRATIVE PROVISIONS

SEC. 417. (a) The Administrator, in consultation with the Director, by general or special orders, may require any recipient of financial assistance under this part to provide, in such form as he may prescribe, such reports or answers in writing to specific questions, surveys, or questionnaires as may be necessary to enable the Administrator and the Director to carry out their functions under this part.

(b) Each person responsible for the administration of a weatherization assistance project receiving financial assistance under this part shall keep such records as the Administrator may prescribe in order to assure an effective financial audit and performance evaluation of such project.

(c) The Administrator, the Director (with respect to community action agencies), and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, information, and records of any project receiving financial assistance under this part that are pertinent to the financial assistance received under this part.

(d) Payments under this part may be made in installments and in advance, or by way of reimbursement, with necessary adjustments on account of overpayments or underpayments.

APPROVAL OF APPLICATIONS AND ADMINISTRATION OF STATE PROGRAMS

SEC. 418. (a) The Administrator shall not finally disapprove any application submitted under this part, or any amendment thereto, without first affording the State (or unit of general purpose local government or community action agency under section 413(c), as appropriate) in question, as well as other interested parties, reasonable notice and an opportunity for a public hearing. The Administrator may consolidate into a single hearing the consideration of more than one such application for a particular fiscal year to carry out projects within a particular State. Whenever the Administrator, after reasonable notice and an opportunity for a public hearing, finds that there is a failure to comply substantially with the provisions of this part or regulations promulgated under this part, he shall notify the agency or institution involved and other interested parties that such State (or unit of general purpose local government or agency, as appropriate) will no longer be eligible to participate in the program under this part until the Administrator is satisfied that there is no longer any such failure to comply.

(b) Reasonable notice under this section shall include a written notice of intention to act adversely (including a statement of the reasons therefor) and a reasonable period of time within which to submit corrective amendments to the application, or to propose corrective action.

JUDICIAL REVIEW

SEC. 419. (a) If any applicant is dissatisfied with the Administrator's final action with respect to the application submitted by it under section 414 or with a final action under section 418, such applicant may, within 60 days after notice of such action, file with the United States court of appeals for the circuit in which the State involved is located a petition for review of that action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Administrator. The Administrator thereupon shall file in the court the record of the proceedings on which he based his action, as provided in section 2112 of title 28, United States Code.

(b) The findings of fact by the Administrator, if supported by substantial evidence, shall be conclusive. The court may, for good cause shown, remand the case to the Administrator to take further evidence, and the Administrator may thereupon make new or modified findings of fact and may modify his previous action. The Administrator shall certify to the court the record of any such further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

(c) The court shall have jurisdiction to affirm the action of the Administrator or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification, as provided in section 1254 of title 28, United States Code.

NONDISCRIMINATION

SEC. 420. (a) No person in the United States shall, on the ground of race, color, national origin, or sex, or on the ground of any other factor specified in any Federal law prohibiting discrimination, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program, project, or activity supported in whole or in part with financial assistance under this part.

(b) Whenever the Administrator determines that a recipient of financial assistance under this part has failed to comply with subsection (a) or any applicable regulation, he shall notify the recipient thereof in order to secure compliance. If, within a reasonable period of time thereafter, such recipient fails to comply, the Administrator shall—

(1) refer the matter to the Attorney General with a recommendation that an appropriate civil action be instituted;

(2) exercise the power and functions provided by title VI of the Civil Rights Act of 1964 and any other applicable Federal nondiscrimination law; or

(3) take such other action as may be authorized by law.

ANNUAL REPORT

SEC. 421. The Administrator and (with respect to the operation and effectiveness of activities carried out through community action agencies) the Director shall each submit, on or before March 31, 1977, and annually thereafter through 1979, a report to the Congress and the President describing the weatherization assistance program carried out under this part or any other provision of law, including the results of the periodic evaluations and monitoring activities required by section 416.

AUTHORIZATION OF APPROPRIATIONS

SEC. 422. There are authorized to be appropriated for purposes of carrying out the weatherization program under this part, not to exceed $55,000,000 for the fiscal year ending September 30, 1977, not to exceed $65,000,000 for the fiscal year ending September 30, 1978, and not to exceed $80,000,000 for the fiscal year ending September 30, 1979, such sums to remain available until expended.

PART B—STATE ENERGY CONSERVATION PLANS

DEFINITIONS

SEC. 431. Section 366 of the Energy Policy and Conservation Act is amended by (1) redesignating paragraphs (1) and (2) as paragraphs (7) and (8), respectively; and (2) inserting after "As used in this part—" the following new paragraphs:

"(1) The term 'appliance' means any article, such as a room air-conditioner, refrigerator-freezer, or dishwasher, which the Administrator classifies as an appliance for purposes of this part.

"(2) The term 'building' means any structure which includes provision for a heating or cooling system, or both, or for a hot water system.

"(3) The term 'energy audit' means any process which identifies and specifies the energy and cost savings which are likely to be realized through the purchase and installation of particular energy conservation measures or renewable-resource energy measures and which—

"(A) is carried out in accordance with rules of the Administrator; and

"(B) imposes—

"(i) no direct costs, with respect to individuals who are occupants of dwelling units in any State having a supplemental State energy conservation plan approved under section 367, and

"(ii) only reasonable costs, as determined by the Administrator, with respect to any person not described in clause (i).

Rules referred to in subparagraph (A) may include minimum qualifications for, and provisions with respect to conflicts of interest of, persons carrying out such energy audits.

"(4) The term 'energy conservation measure' means a measure which modifies any building or industrial plant, the construction of which has been completed prior to the date of enactment of the Energy Conservation and Production Act, if such measure has been determined by means of an energy audit or by the Administrator, by rule under section 365(e)(1), to be likely to improve the efficiency of energy use and to reduce energy costs (as calculated on the basis of energy costs reasonably projected over time, as determined by the Administrator) in an amount sufficient to enable a person to recover the total cost of purchasing and installing such measure (without regard to any tax benefit or Federal financial assistance applicable thereto) within the period of—

"(A) the useful life of the modification involved, as determined by the Administrator, or

"(B) 15 years after the purchase and installation of such measure,

whichever is less. Such term does not include (i) the purchase or installation of any appliance, (ii) any conversion from one fuel or source of energy to another which is of a type which the Administrator, by rule, determines is ineligible on the basis that such type of conversion is inconsistent with national policy with respect to energy conservation or reduction of imports of fuels, or (iii) any measure, or type of measure, which the Administrator determines does not have as its primary purpose an improvement in efficiency of energy use.

"(5) The term 'industrial plant' means any fixed equipment or facility which is used in connection with, or as part of, any process or system for industrial production or output.

"(6) The term 'renewable-resource energy measure' means a measure which modifies any building or industrial plant, the construction of which has been completed prior to the date of enactment of the Energy Conservation and Production Act, if such measure has been determined by means of an energy audit or by the Administrator, by rule under section 365(e)(1), to—

"(A) involve changing, in whole or in part, the fuel or source of the energy used to meet the requirements of such building or plant from a depletable source of energy to a nondepletable source of energy; and

"(B) be likely to reduce energy costs (as calculated on the basis of energy costs reasonably projected over time, as determined by the Administrator) in an amount sufficient to enable a person to recover the total cost of purchasing and installing such measure (without regard to any tax benefit or Federal financial assistance applicable thereto) within the period of—

"(i) the useful life of the modification involved, as determined by the Administrator, or

"(ii) 25 years after the purchase and installation of such measure,

whichever is less.

Such term does not include the purchase or installation of any appliance.".

SUPPLEMENTAL STATE ENERGY CONSERVATION PLANS

SEC. 432. (a) Part C of title 3 of the Energy Policy and Conservation Act is amended by adding at the end thereof the following new section:

"SUPPLEMENTAL STATE ENERGY CONSERVATION PLANS

"SEC. 367. (a)(1) The Administrator shall, within 6 months after the date of enactment of the Energy Conservation and Production Act, prescribe guidelines with respect to measures required to be included in, and guidelines for the development, modification, and funding of, supplemental State energy conservation plans. Such guidelines shall include the provisions of one or more model supplemental State energy conservation plans with respect to the requirements of this section.

"(2) In prescribing such guidelines, the Administrator shall solicit and consider the recommendations of, and be available to consult with, the Governors of the States as to such guidelines. At least 60 days prior to the date of final publication of such guidelines, the Administrator shall publish proposed guidelines in the Federal Register and invite public comments thereon.

"(3) The Administrator shall invite the Governor of each State to submit to the Administrator a proposed supplemental State energy conservation plan which meets the requirements of subsection (b) and any guidelines applicable thereto.

"(4) The Administrator may prescribe rules applicable to supplemental State energy conservation plans under this section pursuant to which—

"(A) a State may apply for and receive assistance for a supplemental State energy conservation plan under this section; and

"(B) such plan under this section may be administered; as if such plan was a part of the State energy conservation plan program under section 362. Such rules shall not have the effect of delaying funding of the program under section 362.

"(5) Section 363(b)(2)(A), the last sentence of section 363(b)(2), section 363(b)(3), and section 363(c) shall apply to the supplemental State energy conservation plans to the same extent as such provisions apply to State energy conservation plans.

"(6) The Administrator may grant Federal financial assistance pursuant to this section for the purpose of assisting any State in the development of any supplemental State energy conservation plan or in the implementation or modification of such a plan or part thereof which has been submitted to and approved by the Administrator pursuant to this section.

"(b)(1) Each proposed supplemental State energy conservation plan to be eligible for Federal financial assistance under this section shall include—

"(A) procedures for carrying out a continuing public education effort to increase significantly public awareness of—

"(i) the energy and cost savings which are likely to result from the implementation (including implementation through group efforts) of energy conservation measures and renewable-resource energy measures; and

"(ii) information and other assistance (including information as to available technical assistance) which is or may be available with respect to the planning, financing, installing, and with respect to monitoring the effectiveness of measures likely to conserve, or improve efficiency in the use of, energy, including energy conservation measures and renewable-resource energy measures;

"(B) procedures for insuring that effective coordination exists among various local, State, and Federal energy conservation programs within and affecting such State, including any energy extension service program administered by the Energy Research and Development Administration;

"(C) procedures for encouraging and for carrying out energy audits with respect to buildings and industrial plants within such State; and

"(D) any procedures, programs, or other actions required by the Administrator pursuant to paragraph (2).

"(2) The Administrator may promulgate guidelines under this section to provide that, in order to be eligible for Federal assistance under this section, a supplemental State energy conservation plan shall include, in addition to the requirements of paragraph (1) of this subsection, one or more of the following:

"(A) the formation of, and appointment of qualified individuals to be members of, a State energy conservation advisory committee. Such a committee shall have continuing authority to advise and assist such State and its political subdivisions, with respect to matters relating to energy conservation in such State, including the carrying out of such State's energy conservation plan, the development and formulation of any improvements or amendments to such plan, and the development and formulation of procedures which meet the requirements of subparagraphs (A), (B), and (C) of subsection (b)(1). The applicable guidelines shall be designed to assure that each such committee carefully considers the views of the various energy-consuming sectors within the State and of public and private groups concerned with energy conservation;

"(B) an adequate program within such State for the purpose of preventing any unfair or deceptive acts or practices affecting commerce which relate to the implementation of energy conservation measures and renewable-resource energy measures;

"(C) procedures for the periodic verification (by use of sampling or other techniques), at reasonable times, and under reasonable conditions, by qualified officials designated by such State of the purchase and installation and actual cost of energy conservation measures and renewable-resource energy measures for which financial assistance was obtained under section 509 of the Housing and Urban Development Act of 1970, or section 451 of the Energy Conservation and Production Act; and

"(D) assistance for individuals and other persons to undertake cooperative action to implement energy conservation measures and renewable-resource energy measures.

"(c) There are authorized to be appropriated for supplemental State energy conservation plans which are approved under this section $25,000,000 for fiscal year 1977, $40,000,000 for fiscal year 1978, and $40,000,000 for fiscal year 1979.".

(b) Section 363(b)(2) of the Energy Policy and Conservation Act is amended by adding at the end thereof the following:

"No such plan shall be disapproved without notice and an opportunity to present views.".

(c) Section 363(c) of the Energy Policy and Conservation Act is amended by (1) striking out "project or program" and "projects or programs" in the first sentence and inserting in lieu thereof "plan, program, projects, measures, or systems" in each case; and (2) striking out "examination" in the second sentence and inserting in lieu thereof "examination, at reasonable times and under reasonable conditions.".

(d) Section 365 of the Energy Policy and Conservation Act is amended—

(1) by redesignating subsection (d) as subsection (f);

(2) by adding immediately after subsection (c) the following two new subsections:

"(d) The Federal Trade Commission shall (1) cooperate with and assist State agencies which have primary responsibilities for the protection of consumers in activities aimed at preventing unfair and deceptive acts or practices affecting commerce which relate to the implementation of measures likely to conserve, or improve efficiency in the use of, energy, including energy conservation measures and renewable-resource energy measures, and (2) undertake its own program, pursuant to the Federal Trade Commission Act, to prevent unfair or deceptive acts or practices affecting commerce which relate to the implementation of any such measures.

"(e) Within 90 days after the date of enactment of this subsection, the Administrator shall—

"(1) develop, by rule after consultation with the Secretary of Housing and Urban Development, and publish a list of energy conservation measures and renewable-resource energy measures which are eligible (on a national or regional basis) for financial assistance pursuant to section 509 of the Housing and Urban Development Act of 1970 or section 451 of the Energy Conservation and Production Act;

"(2) designate, by rule, the types of, and requirements for, energy audits."; and

(3) in subsection (f), as redesignated by paragraph (1), by inserting "(other than section 367)" after "part".

PART C—NATIONAL ENERGY CONSERVATION AND RENEWABLE-RESOURCE DEMONSTRATION PROGRAM FOR EXISTING DWELLING UNITS

ENERGY CONSERVATION AND RENEWABLE-RESOURCE DEMONSTRATION

SEC. 441. Title V of the Housing and Urban Development Act of 1970 is amended by adding the following new section at the end thereof:

"ENERGY CONSERVATION AND RENEWABLE-RESOURCE DEMONSTRATION

"SEC. 509. (a) The Secretary shall undertake a national demonstration program designed to test the feasibility and effectiveness of various forms of financial assistance for encouraging the installation or implementation of approved energy conservation measures and approved renewable-resource energy measures in existing dwelling units. The Secretary shall carry out such demonstration program with a view toward recommending a national program or programs designed to reduce significantly the consumption of energy in existing dwelling units.

"(b) The Secretary is authorized to make financial assistance available pursuant to this section in the form of grants, low-interest-rate loans, interest subsidies, loan guarantees, and such other forms of assistance as the Secretary deems appropriate to carry out the purposes of this section. Assistance may be made available to both owners of dwelling units and tenants occupying such units.

"(c) In carrying out the demonstration program required by this section, the Secretary shall—

"(1) provide assistance in a wide variety of geographic areas to reflect differences in climate, types of dwelling units, and income levels of recipients in order to provide a national profile for use in designing a program which is to be operational and effective nationwide;

"(2) evaluate the appropriateness of various financial incentives for different income levels of owners and occupants of existing dwelling units;

"(3) take into account and evaluate any other financial assistance which may be available for the installation or implementation of energy conservation and renewal-resource energy measures;

"(4) make use of such State and local instrumentalities or other public or private entities as may be appropriate in carrying out the purposes of this section in coordination with the provisions of part C of title III of the Energy Policy and Conservation Act;

"(5) consider, with respect to various forms of assistance and procedures for their application, (A) the extent to which energy conservation measures and renewable-resource energy measures are encouraged which would otherwise not have been undertaken, (B) the minimum amount of Federal subsidy necessary to achieve the objectives of a national program, (C) the costs of administering the assistance, (D) the extent to which the assistance may be encumbered by delays, redtape, and uncertainty as to its availability with respect to any particular applicant, (E) the factors which may prevent the assistance from being available in certain areas or for certain classes of persons, and (F) the extent to which fraudulent practices can be prevented; and

"(6) consult with the Administrator and the heads of such other Federal agencies as may be appropriate.

"(d)(1) The amount of any grant made pursuant to this section shall not exceed the lesser of—

"(A) with respect to an approved energy conservation measure, (i) $400, or (ii) 20 per centum of the cost of installing or otherwise implementing such measure; and

"(B) with respect to an approved renewable-resource energy measure, (i) $2,000, or (ii) 25 per centum of the cost of installing or otherwise implementing such measure.

The Secretary may, by rule, increase such percentages and amounts in the case of an applicant whose annual gross family income for the preceding taxable year is less than the median family income for the housing market area in which the dwelling unit which is to be modified by such measure is located, as determined by the Secretary. The Secretary may also modify the limitations specified in this paragraph if necessary in order to achieve the purposes of this section.

"(2) No person shall be eligible for both financial assistance under this section and a credit against income tax for the same energy conservation measure or renewable-resource energy measure.

"(e) The Secretary may condition the availability of financial assistance with respect to the installation and implementation of any renewable-resource energy measure on such measure's meeting performance standards for reliability and efficiency and such certification procedures as the Secretary may, in consultation with the Administrator and other appropriate Federal agencies, prescribe for the purpose of protecting consumers.

"(f) In carrying out the demonstration program required by this section, the Secretary is authorized to delegate responsibilities to, or to contract with, other Federal agencies or with such State or local instrumentalities or other public or private bodies as the Secretary may deem desirable. Such demonstration program shall be coordinated, to the extent practicable, with the State energy conservation plans as described in, and implemented pursuant to, part C of title III of the Energy Policy and Conservation Act.

"(g) The Secretary shall submit an interim report to the Congress not later than 6 months after the date of enactment of this section (and every 6 months thereafter until the final report is made under this subsection) indicating the progress made in carrying out the demonstration program required by this section and shall submit a final report to the Congress, containing findings and legislative recommendations, not later than 2 years after the date of enactment of this section. As part of each report made under this subsection, the Secretary shall include an evaluation, based on the criteria described in subsection (h), of each demonstration project conducted under this section.

"(h) Prior to undertaking any demonstration project under this section, the Secretary shall specify and report to the Congress the criteria by which the Secretary will evaluate the effectiveness of the project and the results to be sought.

"(i) As used in this section:

"(1) The term 'Administrator' means the Administrator of the Federal Energy Administration; except that after such Administration ceases to exist, such term means any officer of the United States designated by the President for purposes of this section.

"(2) The term 'approved', with respect to an energy conservation measure or a renewable-resource energy measure, means any such measure which is included on a list of such measures which is published by the Administrator of the Federal Energy Administration pursuant to section 365(e)(1) of the Energy Policy and Conservation Act. The Administrator may, by rule, require that an energy audit be conducted as a condition of obtaining assistance under this section for a renewable-resource energy measure.

"(3) The terms 'energy audit', 'energy conservation measure', and 'renewable-resource energy measure' have the meanings prescribed for such terms in section 366 of the Energy Policy and Conservation Act.

"(j) There is authorized to be appropriated, for purposes of this section, not to exceed $200,000,000. Any amount appropriated pursuant to this subsection shall remain available until expended.".

PART D—ENERGY CONSERVATION AND RENEWABLE RESOURCE OBLIGATION GUARANTEES PROGRAM

SEC. 451. (a)(1) The Administrator may, in accordance with this section and such rules as he shall prescribe after consultation with the Secretary of the Treasury, guarantee and issue commitments to guarantee the payment of the outstanding principal amount of any loan, note, bond, or other obligation evidencing indebtedness, if—

(A) such obligation is entered into or issued by any person or by any State, political subdivision of a State, or agency and instrumentality of either a State or political subdivision thereof; and

(B) the purpose of entering into or issuing such obligation is the financing of any energy conservation measure or renewable-resource energy measure which is to be installed or otherwise implemented in any building or industrial plant owned or operated by the person or State, political subdivision of a State, or agency or instrumentality of either a State or political subdivision thereof, (i) which enters into or issues such obligation, or (ii) to which such measure is leased.

(2) No guarantee or commitment to guarantee may be issued under this subsection with respect to any obligation—

(A) which is a general obligation of a State; or

(B) which is entered into or issued for the purpose of financing any energy conservation measure or renewable-resource energy measure which is to be installed or otherwise implemented in a residential building containing 2 or fewer dwelling units.

(3) Before prescribing rules pursuant to this subsection, the Administrator shall consult with the Administrator of the Small Business Administration in order to formulate procedures which would assist small business concerns in obtaining guarantees and commitments to guarantee under this section.

(b) No obligation may be guaranteed, and no commitment to guarantee an obligation may be issued, under subsection (a), unless the Administrator finds that the measure which is to be financed by such obligation—

(1) has been identified by an energy audit to be an energy conservation measure or a renewable-resource energy measure; or

(2) is included on a list of energy conservation measures and renewable-resource energy measures which the Administrator publishes under section 365(e)(1) of the Energy Policy and Conservation Act.

Before issuing a guarantee under subsection (a), the Administrator may require that an energy audit be conducted with respect to an energy conservation measure or a renewable-resource energy measure which is on a list described in paragraph (2) and which is to be financed by the obligation to be guaranteed under this section. The amount of any obligation which may be guaranteed under subsection (a) may include the cost of an energy audit.

(c)(1) The Administrator shall limit the availability of a guarantee otherwise authorized by subsection (a) to obligations entered into by or issued by borrowers who can demonstrate that financing is not otherwise available on reasonable terms and conditions to allow the measure to be financed.

(2) No obligation may be guaranteed by the Administrator under subsection (a) unless the Administrator finds—

(A) there is a reasonable prospect for the repayment of such obligation; and

(B) in the case of an obligation issued by a person, such obligation constitutes a general obligation of such person for such guarantee.

(3) The term of any guarantee issued under subsection (a) may not exceed 25 years.

(4) The aggregate outstanding principal amount which may be guaranteed under subsection (a) at any one time with respect to obligations entered into or issued by any borrower may not exceed $5,000,000.

(d) The original principal amount guaranteed under subsection (a) may not exceed 90 percent of the cost of the energy conservation measure or the renewable-resource energy measure financed by the obligation guaranteed under such subsection; except that such amount may not exceed 25 percent of the fair market value of the building or industrial plant being modified by such energy conservation measure or renewable-resource energy measure. No guarantee issued, and no commitment to guarantee, which is issued under subsection (a) shall be terminated, canceled, or otherwise revoked except in accordance with reasonable terms and conditions prescribed by the Administrator, after consultation with the Secretary of the Treasury and the Comptroller General, and contained in the written guarantee or commitment to guarantee. The full faith and credit of the United States is pledged to the payment of all guarantees made under subsection (a). Any such guarantee made by the Secretary shall be conclusive evidence of the eligibility of the obligation involved for such guarantee, and the validity of any guarantee so made shall be incontestable in the hands of a holder of the guaranteed obligation except for fraud or material misrepresentation on the part of such holder.

(e)(1) No guarantee and no commitment to guarantee may be issued under subsection (a) unless the Administrator obtains any information reasonably requested and such assurances as are in his judgment (after consultation with the Secretary of the Treasury and the Comptroller General) reasonable to protect the interests of the United States and to assure that such guarantee or commitment to guarantee is consistent with and will further the purpose of this title. The Administrator shall require that records be kept and made available to the Administrator or the Comptroller General, or any of their duly authorized representatives, in such detail and form as are determined necessary to facilitate (A) an effective financial audit of the energy conservation measure or renewable-resource energy measure investment involved, and (B) an adequate evaluation of the effectiveness of this section. The Administrator and the Comptroller General, or any of their duly authorized representatives, shall have access to pertinent books, documents, papers, and records of any recipient of Federal assistance under this section.

(2) The Administrator may collect a fee from any borrower with respect to whose obligation a guarantee or commitment to guarantee is issued under subsection (a); except that the Administrator may waive any such fee with respect to any such borrower or class of borrowers. Fees shall be designed to recover the estimated administrative expenses incurred under this part; except that the total of the fees charged any such borrower may not exceed (A) one percent of the amount of the guarantee, or (B) one-half percent of the amount of the commitment to guarantee, whichever is greater. Any amount collected under this paragraph shall be deposited in the miscellaneous receipts of the Treasury.

(f)(1) If there is a default by the obligor in any payment of principal due under an obligation guaranteed under subsection (a), and if such default continues for 30 days, the holder of such obligation or his agent has the right to demand payment by the Administrator of the unpaid principal of such obligation, consistent with the terms of the guarantee of such obligation. Such payment may be demanded within such period as may be specified in the guarantee or related agreements, which period shall expire not later than 90 days from the date of such default. If demand occurs within such specified period, then not later than 60 days from the date of such demand, the Administrator shall pay to such holder the unpaid principal of such obligation, consistent with the terms of the guarantee of such obligation; except that (A) the Administrator shall not be required to make any such payment if he finds, prior to the expiration of the 60-day period beginning on the date on which the demand is made, that there was no default by the obligor in the payment of principal or that such default has been remedied, and (B) no such holder shall receive payment or be entitled to retain payment in a total amount which together with any other recovery (including any recovery based upon any security interest) exceeds the actual loss of principal by such holder.

(2) If the Administrator makes payment to a holder under paragraph (1), the Administrator shall thereupon—

(A) have all of the rights granted to him by law or agreement with the obligor; and

(B) be subrogated to all of the rights which were granted such holder, by law, assignment, or security agreement applicable to the guaranteed obligation.

(3) The Administrator may, in his discretion, take possession of, complete, recondition, reconstruct, renovate, repair, maintain, operate, remove, charter, rent, sell, or otherwise dispose of any property or other interests obtained by him pursuant to this subsection. The terms of any such sale or other disposition shall be as approved by the Administrator.

(4) If there is a default by the obligor in any payment due under an obligation guaranteed under subsection (a), the Administrator shall take such action against such obligor or any other person as is, in his discretion, necessary or appropriate to protect the interests of the United States. Such an action may be brought in the name of the United States or in the name of the holder of such obligation. Such holder shall make available to the Administrator all records and evidence necessary to prosecute any such suit. The Administrator may, in his discretion, accept a conveyance of property in full or partial satisfaction of any sums owed to him. If the Administrator receives, through the sale of property, an amount greater than his cost and the amount paid to the holder under paragraph (1), he shall pay such excess to the obligor.

(g)(1) The aggregate outstanding principal amount of obligations which may be guaranteed under this section may not at any one time exceed $2,000,000,000. No guarantee or commitment to guarantee may be issued under subsection (a) after September 30, 1979.

(2) There is authorized to be appropriated for the payment of amounts to be paid under subsection (f), not to exceed $60,000,000. Any amount appropriated pursuant to this paragraph shall remain available until expended.

(h) All laborers and mechanics employed in construction, alteration, or repair which is financed by an obligation guaranteed under subsection (a) shall be paid wages at rates not less than those prevailing on similar construction in the locality, as determined by the Secretary of Labor in accordance with the Davis-Bacon Act. The Administrator shall not gaurantee any obligation under subsection (a) without first obtaining adequate assurance that these labor standards will be maintained during such construction, alteration, or repair. The Secretary of Labor shall, with respect to the labor standards in this subsection, have the authority and functions set forth in Reorganization Plan Number 14 of 1950 and section 276c of title 40, United States Code.

(i) As used in this part:

(1) The term "Administrator" means the Administrator of the Federal Energy Administration; except that after such Administration ceases to exist, such term means any officer of the United States designated by the President for purposes of this part.

(2) The term "Comptroller General" means the Comptroller General of the United States.

(3) The terms "energy audit", "energy conservation measure", "renewable-resource energy measure", "building", and "industrial plant" have the meanings prescribed for such terms in section 366 of the Federal Energy Policy and Conservation Act.

PART E—MISCELLANEOUS PROVISIONS

EXCHANGE OF INFORMATION

SEC. 461. The Administrator shall (through conferences, publications, and other appropriate means) encourage and facilitate the exchange of information among the States with respect to energy conservation and increased use of nondepletable energy sources.

REPORT BY THE COMPTROLLER GENERAL

Sec. 462. (a) For each fiscal year ending before October 1, 1979, the Comptroller General shall report to the Congress on the activities of the Administrator and the Secretary under this title and any amendments to other statutes made by this title. The provisions of section 12 of the Federal Energy Administration Act of 1974 (relating to access by the Comptroller General to books, documents, papers, statistics, data, records, and information in the possession of the Administrator or of recipients of Federal funds) shall apply to data which relate to such activities.

(b) Each report submitted by the Comptroller General under subsection (a) shall include—

(1) an accounting, by State, of expenditures of Federal funds under each program authorized by this title or by amendments made by this title;

(2) an estimate of the energy savings which have resulted thereby;

(3) a thorough evaluation of the effectiveness of the programs authorized by this title or by amendments made by this title in achieving the energy conservation or renewable resource potential available in the sectors and regions affected by such programs;

(4) a review of the extent and effectiveness of compliance monitoring of programs established by this title or by amendments made by this title and any evidence as to the occurrence of fraud with respect to such programs; and

(5) the recommendations of the Comptroller General with respect to (A) improvements in the administration of programs authorized by this title or by amendments made by this title, and (B) additional legislation, if any, which is needed to achieve the purposes of this title.

(c) As used in this part:

(1) The term "Administrator" means the Administrator of the Federal Energy Administration; except that after such Administration ceases to exist, such term means any officer of the United States designated by the President for purposes of this part.

(2) The term "Comptroller General" means the Comptroller General of the United States.

(3) The term "Secretary" means the Secretary of Housing and Urban Development.

And the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate to the title of the House bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the amendment of the Senate to the title of the House bill, insert the following:

An Act to amend the Federal Energy Administration Act of 1974 to extend the duration of authorities under such Act; to provide an incentive for domestic production; to provide for electric utility rate design initiatives; to provide for energy conservation standards for new buildings; to provide for energy conservation assistance for existing buildings and industrial plants; and for other purposes.

And the Senate agree to the same.

Titles I, II, IV, and V—
HARLEY O. STAGGERS,
JOHN D. DINGELL,
TIMOTHY E. WIRTH,

PHILIP R. SHARP,
WILLIAM M. BRODHEAD,
BOB ECKHARDT,
RICHARD L. OTTINGER,
ROBERT KRUEGER,
TOBY MOFFETT,
ANDREW MAGUIRE,
CLARENCE J. BROWN,
JOHN HEINZ,
Titles III and IV—
HENRY REUSS,
THOMAS L. ASHLEY,
WILLIAM S. MOORHEAD,
Managers on the Part of the House.

ABE RIBICOFF,
JOHN GLENN,
CHARLES H. PERCY,
JACOB JAVITS,
BILL BROCK,
Titles III, IV, and V—
WILLIAM PROXMIRE,
ALAN CRANSTON,
WARREN G. MAGNUSON,
ERNEST F. HOLLINGS,
J. BENNETT JOHNSTON,
JOHN TOWER,
JAMES B. PEARSON,
CLIFFORD P. HANSEN,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 12169) to amend the Federal Energy Administration Act of 1974 to provide for authorizations of appropriations to the Federal Energy Administration, to extend the duration of authorities under such Act, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment to the text of the bill struck out all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

Like the Senate amendment, the conference substitute is a broad energy bill which addresses both procedural and substantive energy matters involving the regulatory responsibilities of the FEA. An overview of the more significant aspects of the conference substitute follows:

SUMMARY OF THE CONFERENCE AGREEMENT

At the outset, a general description of the House bill, the Senate amendment, and the Conference substitute may be useful. As passed by the House, the bill was largely confined to a simple extension of and authorization of appropriations for the Federal Energy Administration Act of 1974 (FEA Act). The House-passed bill, in addition to an 18-month extension of the Federal Energy Administration, included amendments to the FEA Act intended to improve Congressional oversight of the agency and to make the agency more responsive to public needs.

The Senate amendment to the House bill was far broader in scope. The Senate amendment addressed several of the same issues as had the House-passed bill. In particular, the Senate amendment extended the FEA Act for a 15-month period and made other changes in the FEA Act, several of which were designed to address deficiencies in FEA procedures. In addition, the Senate amendment dealt with a variety of energy issues related to FEA regulatory programs. These included pricing of domestic crude oil produced from stripper wells or by reason of application of enhanced recovery techniques, FEA energy information data gathering and analysis, electric utility industry rate reform, and a wide range of energy conservation measures.

Energy conservation measures

The conference substitute provides a broad range of energy conservation measures designed to take advantage of untapped opportunities for reducing the Nation's increasing dependence upon foreign energy sources by improving the efficiency with which we use energy. The energy appetite of the United States has been growing voraciously; at present growth rates, there is little hope that this appetite could be satisfied without increasing energy imports even if the most optimistic domestic energy production forecasts were realized. This unhappy conclusion does not mean that reduced energy import dependency is unattainable. Rather, it underscores the need for focusing greater attention and effort upon reducing the rate of growth of domestic energy demand and, ultimately, leveling off the Nation's energy consumption.

Since the embargo of 1973, great emphasis has been placed upon increasing domestically produced supplies of energy. A corresponding emphasis has not been placed upon enregy conservation, however. While some programs have been enacted, such as the automotive fuel economy program contained in the Energy Policy and Conservation Act, areas of great energy conservation potential remain undeveloped by existing energy conservation programs.

The energy conservation programs included in the conference substitute are intended to place needed emphasis upon reducing wasteful consumption without detracting from the nation's continuing efforts to maximize domestic energy production. These programs are the beginning of a long overdue process of increasing Federal incentives to encourage energy conservation. The conference substitute contains: Federal energy conservation performance standards for new residential and commercial buildings; a $200 million grant program to permit low-income persons to weatherize existing homes; a program at the state level designed to provide home owners and owners of public and commercial buildings with reliable information regarding the costs, savings, and benefits of energy conservation related investments; a $2 billion loan guarantee program to encourage energy conservation related investments in public and commercial buildings; and a $200 million demonstration program to identify incentives to encourage home owners to make energy conservation related investments in home improvements.

It is estimated that the Federal energy conservation performance standards for new residential and commercial buildings, if fully implemented, will alone account for energy conservation savings of up to 6 million barrels per day by 1990. Similarly it is estimated that the several programs designed to encourage investments in energy conservation improvements in existing buildings will reduce energy consumption by up to 500,000 barrels per day by 1980. Combined with savings achieved by other conservation programs and taken in conjunction with the results of programs designed to expand domestic production of energy, these savings make achievement of greater security of energy supply a more realistic and attainable goal.

Extension of the Federal Energy Administration Act of 1974 and other amendments to the FEA Act

The conference substitute provides an eighteen-month extension of the Federal Energy Administration. This period of time should provide adequate opportunity for the Congress to develop a permanent agency responsible for energy matters as a replacement for the FEA, which was originally established as an agency with a fixed and short life span.

This extension of the FEA Act is coupled with a series of amendments to that Act designed to render the agency more responsive to public needs. In particular, provision is made for improvement in FEA procedures with respect to: the standards of hardships applicable to exception and exemption requests; appeals from adverse decisions on exception and exemption requests; holding of local hearings where the effects of a rule or regulation are essentially local in character; public access to the Project Independence Evaluation System model; and the gathering of energy information from small businesses so as to alleviate unnecessary reporting burdens. The conference substitute establishes certain limitations on the Administrator's discretion. These include restraints upon retroactive application of rules and regulations under specified circumstances and upon the submission, in a single energy action, of a proposal to exempt an oil, refined petroleum product, or refined product category from both the price and the allocation provisions of the regulations under the Emergency Petroleum Allocation Act of 1973. In order to increase Congressional oversight of the agency's operations and to assure that appropriated funds are utilized consistently with Congressional intent, authorizations of appropriatons are provided on a functional basis. These authorizations of appropriations are combined with prohibitions on utilization of funds appropriated pursuant to these authorizations for certain specified purposes.

Finally, as part of the FEA Act amendments, an improved system for coordinating the gathering of energy information and energy data analysis is established within the Federal Energy Administration under a newly-created Office of Energy Information and Analysis. The purpose of these latter amendments is to insulate the energy data gathering and analysis functions of the Federal Energy Administration from the policy making responsibilities of the agency.

Enhancement of domestic crude oil production

In keeping with the need to encourage expanded domestic energy production as well as reduction in energy consumption through increased energy conservation efforts, the conference substitute amends the crude oil pricing policy established in the Energy Policy and Conservation Act (EPCA).

The Energy Policy and Conservation Act amended the Emergency Petroleum Allocation Act (EPAA) to establish a forty-month program of continued price controls on domestic crude oil. EPCA established as the benchmark for regulatory purposes a "weighted average" or "composite" price. The composite was initially set at $7.66 per barrel. The President was authorized within certain limits, to increase the composite price to:

(1) account for inflation, and thereby maintain the composite price in real dollar terms; and

(2) provide an incentive to increase production.

The limitations on the President's authority to increase the composite price included:

(1) a 3% limitation on the production incentive factor; and

(2) a 10% overall limitation on combined increases based upon the inflation adjustment and the production.

Incentive factor

Neither percent limitation was absolute, however. In fact, EPCA established a procedure whereby the President, upon making certain findings, may propose to the Congress that adjustments to the composite price in excess of the 3% and/or 10% limitations be permitted. If neither House of Congress disapproves such a proposal within a 15-day Congressional review period, the President may implement the proposal.

The crude oil pricing policy established in EPCA was formed by the concerns which dominated the Congress' consideration of this issue in its first session.

The United States was then, and continues to be, confronted by a strong and effective cartel of oil-producing nations. Neither the world market, nor the domestic market in crude oil is "free". The market price of oil is not a function of consumer/producer bargaining: It is rather a matter of agreement among the OPEC nations. The fourfold increase in world crude oil prices experienced during 1973 and 1974 bears stark witness to the absence of a "free" market.

Also of concern to the Congress during its consideration of this issue, was the state of the economy at that time.

During the third and fourth quarters of 1975, inflation, as measured by the GNP deflator, was eroding consumer purchasing power at the annual rate of 7.9 percent and 7.0 percent, respectively. Unemployment rates of 8.6 percent and 8.4 percent represented over 8 million unemployed workers. Moreover, the Gross National Product in the third quarter of 1975 showed an actual decline of -.7 percent as compared to the third quarter of 1974; the increase in the GNP during 4th quarter, 1975, over 4th quarter, 1974, was a mere 2.5 percent.

Thus, 1975 was a year of continuing poor economic condition. The economic well-being of the Nation was simultaneously threatened by rapid inflation and widespread unemployment. In significant measure, the recession which created the Nation's serious unemployment problems had been brought on by the quadrupling of oil prices in late 1973 and 1974. Similarly, the inflationary spiral which was eroding consumer purchasing power had been given strong momentum by the initial round of OPEC price increases. Once begun, that spiral was fueled by a succession of domestic and foreign oil price increases which rippled throughout the economy.

The economy had mainifestly been unable to absorb abrupt increases of great magnitude in the price of so critical a commodity as petroleum. It followed that economic health could not be restored until these past price increases had been absorbed. Moreover, because the economy had not yet adjusted to the price increases of 1973–74, it could not be expected to bear further price increases of the magnitude which would have resulted if crude oil price controls had been abruptly terminated, without unacceptably severe inflationary and unemployment consequences.

Under these circumstances, the Congress perceived it to be the primary responsibility of government to assure that economic health was restored, that unemployment rates reversed themselves and that inflationary pressures were diminished. During such a recessional period, energy policy as well as other governmental programs were constrained to proceed in a manner consistent with these overriding objectives.

As a matter of general principle, the Congress would agree that the market mechanism allows the most efficient and equitable allocation of resources. Consequently, increasing energy prices through decontrol would clearly encourage consumers to use less energy and to utilize more efficiently the energy which they must consume. At the same time, increases in energy prices would encourage producers of energy to make additions to supplies which, in turn, can be expected to exert a moderating influence on further price increases. However, these effects could not and would not have been achieved in the short term.

Both personal and industrial patterns of energy consumption require time during which to adjust. In a modern society, energy, like food and shelter, is a necessity of life. More efficient utilization of energy frequently requires capital investments which, paradoxically, are more difficult to make in view of the competing demands for consumer dollars created by higher prices for essential energy supplies. Moreover, the long lead times involved in developing energy resources mean that higher prices for oil resulting from complete decontrol would not elicit additions to supplies of significant proportion for at least 3 to 5 years. During such an interim period, such marginal additions to supply as would be likely to occur might well not justify the burden which higher prices for all oil would have imposed upon the economy.

Econometric analysis of the effects of sudden decontrol prepared during Congressional deliberation of the crude oil pricing issue confirmed the foregoing analysis and demonstrated the serious negative impacts that a large and sudden oil price increase would have had on the Nation's economy. By the end of 1977, sudden decontrol would have reduced real GNP by more than $20 billion, or more than 2 percent, relative to the level of GNP projected to occur under a continuation of the then-existing crude oil price regulations. Sudden decontrol would have caused consumer prices to rise by 1.5 percent by the end of 1977. Finally, these analyses forecast that sudden decontrol would cause the unemployment rate to increase by .8 percent by the end of 1977, representing nearly 800,000 additional unemployed workers. In summation, these forecast demonstrated that sudden decontrol and reliance upon market mechanisms—would have propelled the economy into a deeper recession and delayed economic recovery.

Given Congress' overriding concern with attainment of the objectives of economic recovery, other crude oil pricing policies were also rejected. Thus, proposals for phased 30-month and 39-month decontrol were judged inadequate to assure economic recovery. Yet, the efforts made by the Congress and the President to seek resolution of this critical issue evidences recognition of the fact that a series of short extensions of the then-existing crude oil price regulatory system was not a satisfactory solution.

Similarly tested, the crude oil pricing policy established in EPCA proved responsive to the Congressional objectives of restoring economic growth, providing expanded job opportunities to the unemployed, and relieving inflationary pressures.

Nonetheless, EPCA contemplates future price increases to encourage increased domestic production and discourage wasteful consumption. Most importantly, EPCA ties the magnitude and timing of these future price increases to the state of the economy at the time such increases occur. This is the characteristic which distinguishes EPCA: the recognition of the justification and need for future price increases tempered by a procedure which allows these increases to be absorbed by the economy without undue economic disruption. This procedure provides the necessary weaning of the Nation from a low-cost energy based economy to one based upon substantially higher-cost energy.

Enactment of EPCA resulted in imposition of stability to domestic crude oil prices. EPCA had the effect of pulling the rug from under the inflationary spiral which had beset the economy and been a contributing cause of the recession. Prices of energy and other consumer goods began to stabilize during the first quarter of 1976. The rate of inflation was halved. Other signs of economic recovery were forthcoming. The rate of unemployment plummeted by a full point, as compared to its level just 6 months earlier. Correspondingly, the Gross National Product rose at an annual rate of 7.2 percent, evidencing broad-based economic recovery.

The economic recovery experienced during the first quarter of 1976 has continued through the second quarter. GNP, unemployment, and inflation indices all indicate that the economy is responding to a number of Congressional programs, including EPCA, designed to achieve a return to economic well-being. Although unemployment continues to remain at unacceptably high levels, recovery is clearly underway.

Consistent with the concerns which led to enactment of EPCA, the conferees believe it is appropriate to assess the crude oil pricing policy of EPCA in light of present-day economic circumstances. The economy is today in far better condition than it was anticipated that it would be at the time EPCA was enacted. In short, EPCA has been more successful than expected. The conferees, by recommending modification of the EPCA crude oil pricing policy, are carrying forward the EPCA decisionmaking principle. This principle relates the timing and magnitude of future price increases to the state of the economy and reposes in the Congress primary responsibility for assessing the appropriateness of oil price increases by direct legislative initiative or Congressional veto. In the exercise of that responsibility, the conferees believe it is appropriate for the Congress at this time to consider permitting price increases in excess of those initially permitted by EPCA.

The crude oil pricing policy established in EPCA allocated price increases in the composite price of domestic oil in order to maintain crude oil prices in constant real dollar terms. Thus the composite price may be increased by an adjustment related to the GNP deflator. This adjustment assures that lost purchasing power of the dollar resulting from general inflation may be restored to producers by an offsetting crude oil price increase. In addition, EPCA permits real dollar price increases in the composite through a production incentive factor.

Economic circumstances prevailing at the time of EPCA's enactment led to the imposition of limits upon the increases permitted the production incentive factor and the combined price increases permitted by the production incentive factor, and the inflation adjustment factor. The former limitation is 3 percent while the latter limitation is 10 percent.

The 10 percent limitation was imposed as a preliminary Congressional assesment of the maximum rate of increase which could be sustained in nominal dollar terms without threatening the continuity of economic recovery. In addition, the 3 percent limitation on the production incentive adjustment was imposed as a corresponding limit on the level of real dollar increases which could be tolerated without adverse economic effect.

The operation of these limitations was synchronized to assure attainment of the Congressional objectives. Thus, if inflation occurred at a rate in excess of 7 percent, the 10 percent limitation checked the level of real dollar price increases permitted by the production incentive factor. Correspondingly, to the extent that inflation was less than 7 percent a full 3 percent real dollar price growth could be sustained. The rationale for these twin limitations was that the ability of the economy to absorb price increases in real dollar terms was diminished if inflation was occurring at a rate in excess of 7 percent. Correspondingly, the ability of the economy to absorb the full 3 percent real dollar increase would be enhanced, if inflation were to decline below 7 percent.

At the time of the enactment of EPCA it was not anticipated that the rate of inflation would decrease as rapidly as it has to the present 3 to 4 percent level (as measured by the GNP deflator). However, this dramatic change in the inflation rate itself evidences the ability of the economy to absorb more substantial real dollar price increases than those permitted by the 3 percent limitation on the production incentive factor. Consideration of other factors, including the decline in the rate of unemployment and the steady strong growth in GNP, confirm this ability. The conferees therefore believe experience has demonstrated that it is appropriate to remove the 3 percent limitation on the production incentive factor. The practical effect of this removal will be to permit marginally greater real dollar price increases when the inflation rate is lowest, during periods in which the economy has the greatest ability to absorb inflationary pressures. The 10 percent limitation on combined price increases attributable to the inflation adjustment factor and the production incentive factor will continue to assure that real dollar price increases are diminished if the inflation rate increases. The conferees do not believe that there exists a need or justification for modification of the latter limitation at this time, although the President clearly retains the authority under EPCA to propose such a modification in the future if it can be justified.

Having determined that the 3 percent limitation on production incentive adjustment factor should be removed as no longer necessary, a secondary issue arises regarding the distribution of the allowable increases and the administrative requirements of the present regulatory system. Strong arguments may be made for initially concentrating the permitted price increases in the areas of stripper well production and production achieved through application of enhanced recovery techniques.

Prior to enactment of EPCA, stripper well production was free from Federal crude oil price controls. The resulting imposition of price ceilings upon stripper well production has increased the administrative and compliance burdens associated with implementation of EPCA. Imposition of Federal price ceilings on stripper well operators—largely small and independent producers—has required them to comply with Federal regulations, adding to the costs and administrative difficulties of operating these already marginal wells. The administrative, enforcement and compliance burdens may be unnecessary because, while 70 percent of all domestic wells are strippers, stripper well production accounted for only 12–15 percent of actual production. In addition, stripper well production is already priced at the upper tier. The conferees believe that exemption of stripper well production from price ceilings is desirable to reduce the burdens and costs imposed upon stripper well operators, as well as the administrative and compliance costs associated with implementation of EPSA. Equally important, the price increases permitted by such an exemption are likely to permit continued operation of marginally profitable stripper wells beyond the period which would be possible at current price levels.

The second form of production which the conferees believe deserves special treatment, as a result of removal of the 3 percent limitation on the production incentive factor, is production resulting from application of certain enhanced recovery techniques. A special need to encourage expanded use of high-cost, enhanced recovery techniques has led the conferees to provide that this category of production be given high priority consideration in distribution of any price increases which may be permitted by reason of the removal of the 3 percent limitation on the production incentive factor.

TITLE I—FEDERAL ENERGY ACT AMENDMENTS AND RELATED MATTERS

Limitation on discretion respecting the submission of certain energy actions

House Bill

Under existing law, the Administrator of the Federal Energy Administration, in the exercise of authority delegated to him by the President, is permitted to submit to the Congress for review a proposal which combines in a single energy action the removal of both allocation and price controls as they apply to a single oil, refined petroleum product or product category. The House bill would circumscribe this discretion so as to require that energy actions deal separately with the question of allocation and price decontrol.

Senate Amendment

No provision.

Conference Substitute

The conference substitute adopts the provision of the House bill with an amendment which makes clear that the limitation is not intended to preclude the concurrent submission to the Congress of separate energy actions which propose the removal of price and allocation controls related to the same oil, product or product category. Thus, the questions of price and allocation decontrol could pend before the Congress at the same time, but either House would have the opportunity to address itself specifically and selectively to either proposal.

EPA comment and waiver

House Bill

No provision.

Senate Amendment

The Senate amendment amended section 7(c)(2) of the FEA Act of 1974 which provides for a five-day comment period by the Environmental Protection Agency on FEA rules, regulations, or policies which affect the quality of the environment. The Senate amendment extended the comment period to 5 "working" days in order to provide for adequate time for the EPA to assess the environmental impact of any such FEA action.

Existing law authorizes the Administrator to waive the comment period for not more than 14 days if, in his judgment, there is an emergency situation requiring immediate action. The Senate amendment further provided that a notice of such waiver must be published in the Federal Register on the same day as any such action is first authorized or undertaken and must include a complete explanation of the nature of the emergency which caused him to waive the comment period.

Conference Substitute

The conferees adopt the Senate amendment with an amendment. The conference substitute amends paragraphs (1) and (2) of section 7(c) of the FEA Act of 1974. The conference substitute would require the Administrator, prior to promulgating proposed rules, regulations or policies affecting the quality of the environment, to provide a period of 5 working days for comment thereon by the Administrator of the Environmental Protection Agency. Such comments are to be published along with the public notice of the proposed action.

Second, the substitute would leave undisturbed the authority to waive the EPA prior comment requirement for a period of 14 days if the Administrator determines that there is an emergency situation which requires immediate action. The conference substitute would require notice of any such waiver to be given to the EPA Administrator and filed with the Federal Register with the notice of agency action. Further, the notice of waiver shall include a full and complete explanation, accompanied by such supporting data and description of the factual situation as will apprise EPA and the public of the reasons for such waiver.

Thus, while the conferees do not intend to restrict FEA's right to invoke the emergency provision, they do wish to impose as a condition precedent to the invocation of such waiver notice and procedural requirements designed to assure adequate documentation of the nature of the emergency justifying such action.

Office of exceptions and appeals

House Bill

No provision.

Senate Amendment

The Senate amendment to the House bill included a requirement that the FEA establish guidelines and criteria under which special hardship, inequity, or unfair distribution of burdens shall be evaluated. Further, the Senate amendment required that the agency specify the standards of hardship, inequity, or unfair distribution of burdens by which any disposition of a case was made under the Office of Exceptions and Appeals, and the specific application of such standards to the facts contained in any such application or petition. If any person was aggrieved or adversely affected by a denial of a request for adjustment, the Senate amendment provided that he may request a review of such denial by the agency and may obtain judicial review when such denial became final. In addition, the agency was required to provide a hearing, when requested, for review of the denial. The Senate amendment also provided that no review of a denial under this provision shall be controlled by the same officer denying the adjustment pursuant to this subparagraph.

Conference Substitute

The conferees accepted the Senate provisions with amendments.

The conferees intend the provisions relating to publication of criteria and guidelines to require that the FEA publish a description of standards which it has employed, in the past, in approving or denying applications for exception relief. The conferees expect that these guidelines, together with precedents contained in the published decisions and orders of the Office of Exceptions and Appeals, will assist applicants in making presentations to the agency by providing them with a statement of the grounds on which relief has been accorded in the past. It is not the intention of the conferees, however, that these provisions require the FEA to anticipate all situations in which relief may be appropriate in the future, since the exceptions process is designed in substantial measure to resolve factual situations which could not have been and were not contemplated at the time the general statutory or regulatory programs were adopted. Thus, the guidelines the FEA is required to issue will not foreclose the FEA from granting relief in the future on grounds in addition to those specified in the guidelines.

A provision adopted by the Senate, which was erroneously excluded by the Senate bill, as enrolled, would have required the FEA to establish a procedure whereby a hearing for review of a denial of relief would be held within 30 days of filing and would have provided for the making of a transcript of such a hearing, if requested. Although the conferees have not included this requirement in the legislation, they agree with its basic purpose and expect that FEA would take such action as may be necessary to see that its purposes are achieved.

Requirements for hearings in areas affected by FEA rules and regulations

House Bill

The House bill required the Federal Energy Administration to hold local hearings in circumstances where a proposed rule or regulation was to apply to a single State, geographic area or political subdivision within a State or to the residents thereof.

Senate Amendment

No provision.

Conference Substitute

The conference substitute incorporates the House provisions with technical changes. By incorporating provisions which provide for a local hearing where the effects of a proposed rulemaking are themselves "localized", the conferees intend to assure that the Federal Energy Administration will take into consideration the particularized concerns and needs of the areas, governmental units or residents most substantially affected. This provision can be expected to make every citizen's opportunity to participate in governmental decisionmaking more meaningful and direct and should result in a more responsive and responsible exercise of governmental authority at the Federal level. The conference substitute makes clear, as did the House provision, that these provisions do not of themselves require that a hearing be held with respect to a rule or regulation which has local effect. Whether the Administrator is required to afford an opportunity for hearing would continue to be controlled by provisions of other law. The local hearing requirement would become operative in those circumstances where the Administrator is required by law to hold a hearing or where he determines in the exercise of his discretion to afford an opportunity for hearing or the oral presentation of views, provided the rule or regulation in question has only local applicability.

Limitation on the administrator's authority with respect to enforcement of rules and regulations

House Bill

The House bill prohibited the Administrator of the FEA from using his discretion to maintain a civil action or issue a remedial order against any person whose only petroleum industry operation relates to the marketing of petroleum products, where such civil action or order is based upon FEA rules, regulations, or rulings interpreting such rules and regulations, which were being applied retroactively and where such person relied in good faith upon rulings that were in effect at the time of the alleged violation.

Senate Amendment

The Senate amendment contained a similar prohibition but extended the protection of the provision to independent refiners or small refiners, as described in the Emergency Petroleum Allocation Act of 1973 for independent producers. It also prohibited the Administrator from seeking criminal penalties against such persons.

Conference Substitute

The conferees agreed to the House language with technical amendments.

It is the intent of this provision to provide relief to businesses which have been subjected to seemingly endless changes in rules and regulations by the FEA and to penalties arising from those changes made after the original effective date of such rules and regulations. Many firms, especially smaller marketers, have attempted in good faith to rely on FEA rules and regulations, but have been confronted by subsequent amendments to those rules applied retroactively. This has presented a difficult situation and has frequently subjected small marketers to severe hardships. By adopting this language, the conferees intend to relieve small marketers from an unnecessary burden. They do not intend to restrict the FEA from perfecting its rules and regulations, indeed, the conferees encourage this. However, they do not believe that such a periodic updating should cause unjust penalties to small businessmen.

The conferees do not mean for this subsection to provide marketers with the means to challenge all enforcement actions based upon arguably ambiguous rules, regulations or rulings or upon clarifying amendments thereto. It is intended to apply where the agency has officially taken one position then changes its mind and takes another. Further the conferees do not intend for this provision to limit argument or defense by any other person who may similarly be negatively affected with respect to a retroactive ruling or interpretation by the agency. The conferees do not intend for the provision to encourage the retroactive application of rules and regulations to any other class of person not similarly protected.

Amendments to information-gathering authorities

House bill

The House bill contained a direction to the Administrator of FEA, in the exercise of his authority to collect energy information, to take into account the size of businesses so as to avoid to the greatest extent practicable actions which impose overly burdensome reporting requirements on small marketers and distributors of petroleum products and other small business concerns. The House bill expressly prohibited the Administrator from engaging in surveys or polling activities or disseminating information related to public opinion, attitudes or views as determined by such surveys or polling.

Senate amendment

The Senate amendment would direct the Administrator to establish a "uniform system of standards, procedures and methods for the accounting for and measurement of certain identified energy information." The Senate amendment also amended section 13 of the Federal Energy Administration Act to incorporate a system of penalties for failures to comply with FEA rules, regulations or orders related to its information collection functions. The scope of the energy-gathering authority was redefined to specifically include foreign activities of United States firms and activities occurring in the United States conducted by foreign entities. As in the House bill, the Senate amendment directed the Administrator to alleviate small business reporting burdens. No provision of the Senate amendment related to the use of polling information or surveys.

Conference substitute

The conferees have determined not to include the direction to the Administrator to establish a uniform system of standards, procedures and methods for the accounting for and measurement of certain energy information. Instead the conferees determined to make clear that the Administrator was to have authority to require the keeping of such records or accounts as may be necessary to determine compliance with applicable rules, regulations, orders, or other provision of law. The conferees understand this to be an authority common to regulatory agencies to assure that they may be able to faithfully execute the law. It is not intended that the FEA exercise this authority to evolve and make mandatory uniform accounting practices or standards, a task which has implications which transcend the authorities and responsibilities which current law has assigned to the Administrator.

The conferees have not included the Senate language which restates the scope of the energy information-gathering authority on a determination that the inclusion of this language was unnecessary. The conferees believe that the energy information authority already vested in the Administrator is adequate to permit him to obtain information from both United States and foreign domiciled firms and that the information-gathering power may reach to obtain relevant data wherever located. The conferees have agreed to add a system of penalties for failure to comply with the Administrator's lawful demands for information, but have modified the provisions of the Senate bill so as to incorporate by reference the system of penalties already provided for in existing law relating to a failure to comply with rules, regulations or orders of the Administrator issued under authorities of the Energy Supply and Environmental Coordination Act of 1974. The conferees believe that persons required to submit information should not be placed in jeopardy of differing sanctions depending on which energy information-gathering authorities the Administrator chooses to employ (i.e., those contained in section 13 of the Federal Energy Administration Act or those provided in section 11 of the Energy Supply and Environmental Coordination Act). Accordingly the conference substitute makes parallel the enforcement mechanisms applicable to the information-gathering authorities contained in these Acts.

The conference substitute includes the provisions related to the alleviation of small business reporting burdens which were contained in identical form in both the House bill and Senate amendment. The substitute does not, however, contain the provisions of the House bill which restricted the authority of the Administrator to conduct surveys or polling activities. Instead the conferees agreed that this joint statement should admonish the Administrator against the use of any such surveys or polling information to lobby the Congress or attempt to influence Congressional policies by evidencing support of the policies of the President or a lack of support of the policy positions of any member of the Congress or positions taken by any Committee or House of the Congress.

Keeping of data related to the export of coal, crude oil, residual oil and refined petroleum products to foreign nations

House Bill

No provision.

Senate Amendment

The Senate amendment proposed to change the requirement of existing law to make permissive, rather than mandatory, the keeping on file by the Administrator of specific information concerning exports of coal, crude oil, residual oil or any refined petroleum product. The Administrator was also permitted to obtain representative samples of any such shipment.

Conference Substitute

The conferees understand that it was the intention of the Senate amendment to avoid the maintenance of a file of information by the Administrator which was duplicative of data already collected and in the hands of the Customs Bureau of the Department of Commerce. The conference substitute accordingly relieves the Administrator of the necessity to maintain a file of this information provided he can satisfy himself that the information was maintained by some other Federal agency in adequate detail, such information was freely and fully available to the Administrator upon request and, as provided in existing law, such information would in turn be available to the Congress.

Reports

House Bill

No provision.

Senate Amendment

The Senate amendment provided that the report required by section 18(d) of the FEA Act of 1974 concerning the impact of the energy shortage on the economy and employment be submitted annually, rather than semi-annually. A Senate amendment also required the Administrator to submit to Congress a comprehensive, interdisciplinary study of the energy needs of the United States and the methods by which such needs could be met. Third, a Senate amendment to the House bill required that the FEA Administrator conduct a study of the relative benefits of employing a Btu tax as a means of reaching national energy goals. Fourth, a Senate amendment required the Energy Resources Council to coordinate the preparation of reports now issued by the FEA and ERDA on a national energy policy and program.

Conference Substitute

The House recedes with respect to the Senate amendment concerning the annual submission of the report on the impact of the energy shortage on the economy and employment.

The conferees agreed, with respect to the Senate amendment concerning the interdisciplinary, comprehensive study of the energy needs of the United States and the methods by which those needs could bet met, to revise this provision so as to include such study as an analysis, within the existing FEA annual report.

The conferees agreed that the Senate amendment with respect to a Btu tax study should be included in the next FEA annual report. It is the intent of the conferees that the FEA study and report to Congress on the use of this tax and other energy taxes, as a means of attainment of an acceptably low level of energy imports by 1985. The conferees agreed that the following elements were to be included in this analysis: (1) energy taxes based on (a) an across the board tax on the use of non-renewable forms of energy to be levied at the mine-mouth, well-head, or port-of-entry; and (b) taxes designed to correct existing price distortions arising from uninternalized social costs, including, for example, costs of reliance upon insecure foreign sources of supply, and costs of adverse environmental impact; and distortions arising from regulation of prices, (2) refund of taxes on the basis of a uniform payment to each adult.

The analysis should evaluate the impact of such taxes on: (1) the economy, including the general price level and energy prices, employment, government revenue, and distribution of income and relative purchasing power; (2) the supply of and demand for energy; (3) the degree of reliance on insecure foreign sources of supply; (4) reduction of adverse social costs, including environmental, health and safety costs; and (5) the degree to which the need for FEA regulatory programs would thereby be diminished or eliminated.

The Senate receded from its amendment which required the Energy Resources Council to coordinate the two reports now being prepared by the FEA and ERDA, believing that such a requirement might inhibit the free exchange of views.

Authorization of appropriations

House bill

The House bill contained an authorization of appropriations for the FEA for the current Transitional Quarter and for the next fiscal year, as specified below. The House subjected these funds to the restrictions that no more than $607,000 for the transitional quarter and $2,036,000 for fiscal year 1977 could be used for the Office of Communications and Public Affairs, and that no funds could be used for the Office of Nuclear Affairs or the functions assigned to that office as of January 1, 1976. The total level of authorizations for the Transition Quarter was $43,379,200 and for fiscal year 1977 was $172,411,800.

Senate amendment

The Senate adopted restrictions similar to the House provision in its authorization amendment. The authorization levels were at a slightly lower budget level in almost all cases. The Senate authorization for the Office of Conservation and Environment was set at $40,596,000. The Senate also contained an authorization for Federal solar energy commercialization activities at $500,000 for the transition quarter and $2,500,000 for fiscal year 1977. The total level of authorizations for the Senate amendment was $38,193,000 for the Transition Quarter from July 1, 1976 to September 30, 1976, and for administration of the Act for fiscal year 1977, $185,757,000.

TABLE I

	Senate version		*House version*	
	Transition quarter [1]	*Fiscal year 1977* [1]	*Transition quarter* [1]	*Fiscal year 1977* [1]
Executive Direction & Administration	$8,596,000	$31,554,000	$8,655,000	$33,086,000
Office of Energy Policy and Analysis	8,000,000	34,472,000	8,137,000	34,971,000
Office of Regulatory Programs	11,600,000	47,800,000	13,238,000	62,459,000
Office of Conservation and Environment	7,400,000	40,596,000	7,386,000	12,596,000
Electric Utility Demonstration Project	----------	----------	----------	13,056,000
Office of Energy Resource Development	2,800,000	14,914,000	3,052,000	16,934,000
Office of International Energy Affairs	300,000	1,921,000	300,000	1,921,000
Federal solar energy commercialization activities	500,000	2,500,000	----------	----------

[1] Need to exceed.

Conference Substitute

The Senate receded and accepted the House figures with two exceptions. First, the House and Senate conferees agreed to accept a compromise figure of $37,000,000 for the Office of Conservation and Environment. Second, the House receded to the Senate authorization for solar commercialization projects. The higher House figures were accepted by the Senate to cover activities in the following areas: compliance and enforcement; energy resource development; executive direction and administration; and policy and analysis. The higher House figures were accepted in order to encourage a more intensive compliance effort on the part of the FEA than has characterized their activities in the past; and in order to intensify the agency's effort to bring about conversion of oil and gas-fired electrical generation plants to coal.

The conferees agreed to a Senate amendment for FEA to continue to carry out the policy and planning functions associated with promoting accelerated utilization and widespread commercialization of solar energy, and also with providing overall coordination of Federal solar energy commercialization activities. Further, the amendment added an explicit restriction banning use of such funds authorizing FEA for conduction solar research, development, and demonstration (R, D&D). The conferees believe that the explicit language of the Senate amendment addresses House concerns that contributed to the deletion of the solar energy measure on the House floor. For example, the Senate amendment explicitly bans any use of funds by FEA for solar research, development or demonstration. Further the conferees recognize that a multi-agency approach to accelerated commercialization may be necessary.

The conferees expect that Congress shall receive, in a timely manner, the results and recommendations of FEA's solar commercialization program to "develop the policies, plans, implementation strategies, and program definitions for promoting accelerated utilization and widespread commercialization of solar energy." Of particular interest, the conferees expect that Congress will receive, in the shortest feasible period of time, results and recommendations regarding: a "national plan for the accelerated commercialization of solar energy" to include workable options for achieving on the order of 1 million barrels per day of oil equivalency in energy savings by 1985 from a combined total of all solar technology; studies and analyses addressing mitigation of economic, legal, environmental, and institutional constraints; development of such major commercialization projects as, but not limited to, the "Southwest Project"; the "Solar Energy Government Buildings Project", among others; development of State solar energy commercialization programs (an assurance that such programs, as they relate to the on site use of solar energy for providing electricity or thermal energy to buildings or building complexes, are closely coordinated with State energy conservation implementation programs); and the development of commercialization plans for each major solar technology.

Further the conferees expect that Congress will receive, in the shortest feasible period of time, the status and recommendations concerning FEA's efforts to encourage participation by the various agencies, and to provide overall coordination of Federal solar energy commercialization activities. As the current Federal energy structure is being reorganized into a more permanent insitution, the conferees also expect that Congress will be kept advised of options developed for institutional arrangements, Federal energy structure, and of such other appropriate parts of the Executive Branch, for accelerating the commercialization of solar energy.

For the purpose of permitting public use of the Project Independence Evaluation System, pursuant to section 31 of this Act, the conferees also agreed to authorize the aggregate amount of the fees estimated to be charged for such use to the FEA, by the public.

Federal Energy Administration Act Extension

House Provision

The House extended the FEA Act for 18 months, until December 31, 1977.

Senate Amendment

The Senate amendment extended the FEA Act for 15 months, until September 30, 1977.

Conference Substitute

The conferees accepted the House language. All the conferees were agreed on the need to provide only a short-term extension of this agency. It was the belief of the conferees that a 17-month extension allows ample time for planning and implementation of a reorganization plan for Federal responsibilities for energy activities. Additionally, the extension of the FEA permits the continued implementation of programs already established which can then be readily transferred as this country moves toward a reorganization of its energy programs.

The Federal Energy Administration Act of 1974, as originally enacted, provided for the termination of FEA on June 30, 1976. On June 1, 1976, the House passed H.R. 12169, which extended this legislation for 18 months beyond the June 30th, 1976 expiration date. On June 16, the Senate passed S. 2782, which provided for a 15-month extension of the Agency. Because of these substantial differences between the House and Senate bills, the conferees were not able to complete their action on the legislation before the June 30, 1976 expiration date of the FEA Act. Therefore, on June 28th, the Senate acted favorably on S. 3625 which extended the Agency for an additional 30 days—until July 30, 1976. The House likewise acted favorably on this legislation and it was signed by the President on June 30, 1976.

The conferees completed their work on this legislation on July 30, 1976. Because the conference report could not be filed and acted upon by both Houses and presented to the President before the expiration of the Agency, the conferees added language to the bill to make the extension retroactive. It is the intent of the conferees that this retroactive provision have the effect of permitting the Organic Act to continue uninterrupted. Further, it is the intent of the conferees that the Agency, its functions (including pending regulatory matters), appointments and other personnel matters, prior obligations and programs, shall be deemed to have continued uninterrupted despite the brief period between July 30th, 1976 and the effective date of this legislation.

The conferees are aware that, because of the necessity to continue existing energy programs, the President issued Executive Order No. 11930 on July 30th establishing a Federal Energy Office (FEO) in the Executive Office of the President. The conferees do not intend to suggest that action taken during the hiatus period by the FEO and consonant with the procedures required by the FEA Act would be invalidated by this Act.

Construction of small and independent refineries

House Bill

No provision.

Senate Amendment

The Senate bill contained a provision requiring the Administrator to establish a new category of entitlements for persons in the process of constructing a new oil refinery. The Administrator was directed to establish criteria for inclusion in this category so that new refineries by small or independent refiners might be fostered and encouraged.

Conference Substitute

The conference accepted a substitute for the Senate amendment. The conferees agreed with the underlying purposes of the Senate provision, but were concerned with the scope and ramifications of the proposed Senate amendment. Accordingly, the conference substitute directs the Administrator to make a careful study of the entire issue of new refinery construction by small and independent refiners and to take action, under existing law, to remove any unnecessary, unreasonable and discriminatory barriers to entry for such persons that are created by the regulatory structure. The conferees have directed that the Administrator report to the Congress in April 1977, explaining what action has been taken pursuant to this provision. The report is also to include a discussion of the problems in this area that cannot be resolved within the existing framework and recommendations for legislative change that could remedy these difficulties.

Project independence evaluation system documentation and access

House provision

The House bill required the Federal Energy Administration to provide structural, econometric and operating documentation on the Project Independence Evaluation System Computer Model. The House required that this documentation be provided by specific date and that access to the model be made available to representatives of Congressional committees and to members of the general public, upon payment of fees covering the costs of such access.

Senate amendment

No provision.

Conference Substitute

The conferees accepted the House provision with an amendment to clarify the requirements that public access to the Model would, in fact, be required, but that any member of the public requiring access to the model would be expected to reimburse FEA for the actual cost of using the model. In accordance with language in the authorization section, any funds so received might be later appropriated to the use of FEA, as reimbursement for the costs incurred by FEA in providing these services.

Congressional review of rules, regulations, 60-day layover

House Bill

The House bill contained a provision which require that all rules and regulations likely to have a substantial impact on the nation's economy or large numbers of individuals or businesses, must be submitted to each House of Congress prior to their effective date. Further the provision stated that such rules and regulations could not take effect if disapproved by concurrent resolution of the Congress during the 60 legislative day review period.

Senate amendment

No provision.

Conference Substitute

The House receded from its provision yielding to Senate objections related to the workability and constitutionality of the provisions of the House bill.

Amendments to crude oil pricing policy

House Bill

No provision.

Senate Amendment

The Senate amendment changed in two respects the pricing policy embodied in the Energy Policy and Conservation Act signed into law this last December. First, the Senate amendment contained a statutory exclusion from price controls for stripper well production. Such volumes were also to be excluded from calculation of the weighted average composite price formula which serve as a restraint on the President's authority to increase domestic energy price over the 40 month period which began in February, 1976. Secondly, the Senate amendment proposed to exclude from price controls production which is attributable to certified enhanced recovery projects undertaken subsequent to February 1st of this year. These volumes, also, would be excluded from calculation of the weighted average composite price.

Conference Substitute

Prior to stating the agreement reached by the conferees it is useful to describe the pricing requirements of existing law. The Energy Policy and Conservation Act (EPCA) amended the Emergency Petroleum Allocation Act (EPAA) to establish a forty-month program of continued crude oil price controls.

EPCA established as the benchmark for regulatory purposes a "weighted average" or "composite" price. The composite was initially set at $7.66/bbl. The President was authorized to increase the composite price to:

(1) account for inflation, and thereby maintain the composite price in real dollar terms; and

(2) provide an incentive to increase production.

Limitations were imposed upon this authority. These limitations included:

(1) a 3% limitation on the production incentive factor; and

(2) a 10% overall limitation on combined increases based upon the inflation adjustment and the production incentive factor.

Neither percent limitation is absolute. EPCA established a procedure whereby the President, upon making certain findings, is authorized to propose to Congress that adjustments to the composite price in excess of the 3% and/or 10% limits be permitted. If neither House of Congress disapproves such a proposal within a 15-day Congressional review period, the President may implement the proposal.

The conferees have agreed to that portion of the Senate amendment which would exclude stripper well production from price controls. The substitute, however, does not remove stripper well production from the calculation of the weighted average composite price. The conferees determined that to do so would greatly amplify the effect of the exemption of stripper well production and permit unjustified price increases with respect to other classifications of domestic crude oil production. Indeed, the effect of removing stripper well production from the composite calculation would have a price impact more than three times that which would result from the simple exemption of stripper production from price controls themselves. Instead, the conferees have determined to include actual volumes of stripper well production in the composite calculation.

Stripper oil production is to be given an imputed value, however. This is done to minimize the reporting burdens which attend administration of the pricing provisions and to guard against the eventuality that future OPEC directed increases in world market prices might inexorably raise the market price of stripper well production to the point that roll backs in ceiling prices applicable to other prices of oil would be necessitated in order to stay within the composite "benchmark".

The imputed price is to be first calculated at $11.63, an approximation of today's average first sale price of stripper well production. This imputed value is to be adjusted to reflect increases in the actual average price of domestic production remaining subject to controls. It is the intent of the formula agreed upon in the conference substitute to require an upward adjustment in the imputed value to reflect increases in actual prices excluding any increase which occurs solely by reason of a shift in the relative values of upward and lower tier oil attributable to natural field decline.

The conferees are agreed that there exists great potential for augmenting domestic crude oil production through the application of enhanced recovery techniques. There is also general agreement that current economic circumstances would permit adjustments to the pricing mechanism contained in the Energy Policy and Conservation Act to give needed additional incentives for the application of high-cost enhancement techniques which today are not economical. The conferees could not, however, agree to the provisions of the Senate amendment which would permit substantial price increases for commonplace secondary enhancement techniques such as water flooding and gas displacement. Moreover, the conferees did not believe it wise to attempt to create in rigid statutory language a special classification of domestic production which would be freed of price restraints. Unlike the case of stripper well production, for which there is both a long legislative and administrative history, there is not common agreement as to the practicality, feasibility or cost-effectiveness of the various enhancement techniques employed throughout the industry. Also, a great deal of time, money and effort is currently being expended to develop new and more effective techniques. Accordingly, any statutory classification is likely to be either so narrowly stated as to exclude important emerging technologies or so broadly stated as to create a loophole of undiscernible proportions.

For these reasons, the conference substitute seeks to obtain the objective of providing additional price incentives for high-cost enhancement techniques by equipping the Administrator with greater flexibility to provide for such incentives within the framework of the existing price regulatory structure. In so doing, the conferees seek to maintain the integrity of the pricing policies contained in the Energy Policy and Conservation Act while at the same time providing the President with the means of targeting additional price incentives to those extraordinary and high-cost enhancement techniques commonly associated with tertiary applications which are uneconomical under today's pricing regimen. Accordingly, the conference substitute removes the 3% limitation on production incentive adjustments to afford the President a greater flexibility to respond to an improving economy by giving greater price incentives to optimize domestic production. The conferees have identified, as matter of high priority, correction of gravity differential problems in the current price regulatory mechanism and the creation of additional price incentives for the application of bona fide tertiary enhancement techniques.[1] Thus, the President is directed, taking into consideration the greater flexibility as attends the removal of the 3% limitation, to amend the regulation which pertains to the price of domestic crude oil at the earliest practicable date to provide for these Congressionally identified priorities.

As a matter of emphasis, it should be noted that the conference substitute preserves the current 10% limitation on the combined adjustments to the domestic composite price to take into account inflation and to provide incentives for optimizing domestic production. The President must, therefore, keep within the 10 percent overall limitation in making adjustments to the price control mechanism, thereby assuring that consumers and the economy in general will not be called upon to absorb abrupt increases in basis energy prices of a dimension likely to damage national economic recovery or impose particular hardship.

It is the conferees understanding that within the 10% limitation the President has adequate flexibility to provide for correction of gravity differential problems and to give further price incentives as may be necessary to encourage the application of high-cost enhancement techniques. Removal of the 3% limitation, coupled with the exclusion of stripper well production from price controls, as proposed in the conference substitute, will obviate the need for presenting to the Congress a proposal to provide for the implementation of the so-called "third phase" of the pricing policy established in the Energy Policy and Conservation Act. In keeping with this understanding, the conferees have received and hereby incorporate as an integral part of their agreement, the following letter from John A. Hill, Deputy Administrator of the Federal Energy Administration.

FEDERAL ENERGY ADMINISTRATION,
July 30, 1976.

Hon. HARLEY O. STAGGERS,
Chairman, Conferees on the Part of the House.
Hon. ARBAHAM RIBICOFF,
Chairman, Conferees on the Part of the Senate.

DEAR CHAIRMEN: In light of the amendments to the price control mechanism, as proposed in the Conference substitute to the bill H.R. 12169, (referred to as the Eckhardt amendments), it is the FEA's understanding that neither the President nor any delegate exercising authority under the Emergency Petroleum Allocation Act of 1973, will submit to the Congress in the period which begins on this date and ends March 15, 1977, an energy action to further increase the composite price of domestic crude oil, provided those amendments become law.

JOHN A. HILL,
Deputy Administrator.

Should the President sign this legislation or otherwise permit it to become law, he would, thereby, indicate his acceptance of the common understanding reflected in Mr. Hill's letter.

The President would be called upon, as under existing law, to submit a report to the Congress on February 15 concerning his administration of the price control authorities. The conference substitute requires that specific information be contained in that report concerning the use of greater flexibility which attends removal of the 3% limitation as well as the effects (on both production and price) resulting from the removal of price controls for stripper well production. This report would lay over a period of approximately 30 days or until March 15, 1977, before the Congress would be called upon to consider a proposal related to the continuation of the production incentive or one which seeks adjustment at 10%.

Prior to the deletion of the three percent limitation on price adjustments as a production incentive, section 8(e)(1) of the EPAA permitted the President to submit to the Congress an amendment to the regulations which provided for: (1) a price increase in excess of the three percent limitation on adjustments as a production incentive, (2) a price increase in excess of the 10 percent limitation on the combined effect of adjustments to take into account the impact of inflation and as a production incentive, or (3) both.

Since the three percent limitation on adjustments as a production incentive has been deleted, the corresponding provision for submitting to the Congress amendments to exceed that limitation has also been deleted. The conferees wish to make clear, however, that an amendment to exceed the overall 10 percent limitation could also, nonetheless, be submitted in a format which specified a fixed percentage adjustment for price increases as a production incentive subject to an increase in the overall 10 percent limitation. Alternatively, such a submission may specify a fixed percentage adjustment for price increases as a production incentive not subject to a fixed percentage combined adjustment limitation, but with the overall limitation determined on a quarterly basis by adding the percentage rate of inflation as measured by the adjusted GNP deflator to the fixed rate of increase specified in the amendment as a production incentive.

The conferees wish to comment specifically on that provision of the conference substitute which directs the President to take corrective action with respect to certain gravity differential problems, particularly as they relate to crude oil produced in California and Alaska.

It appears that heavy, or low gravity crude oil produced in these states—and possibly elsewhere—was on May 15, 1973 subject to a price penalty of as much as 6 cents per barrel per API degree of gravity. As a result, the price ceiling for such crude oil, determined by reference to May 15, 1973 posted prices, perpetuates this penalty. One of the factors which led this Committee to agree upon the amendment which removes the three percent limitation on price adjustments as a production incentive was the understanding that this flexibility be used by the Administrator to adjust prices for heavy California crude oil to more equitable levels. The increase in actual old crude oil prices resulting from such adjustments would properly be regarded as a production incentive price adjustment, and would, as such, meet the requirements of section 8(b)(2) of the EPAA with respect to the findings necessary to increase prices for old crude oil production.

Appliance program

House bill

No provision.

Senate amendment

The Senate amendment transferred all FEA functions under the appliance labeling and energy efficiency standards program under Part B of Title III of EPCA to the National Bureau of Standards. In addition, the deadline for prescribing energy efficiency improvement targets under section 425(a)(1) of EPCA was extended for 90 days.

Conference substitute

The conferees amended the provisions of the Senate amendment to provide as follows: The Administrator of the FEA shall direct the National Bureau of Standards to develop energy efficiency improvement targets for each covered product specified in paragraph (1) through (10) of section 322(a) of the Energy Policy and Conservation Act. The Administrator would then propose and promulgate targets for these types of products. Further, the Administrator is given an additional 90-day period after enactment of the bill to prescribe by rule the targets for each of these products. The 90-day extension is necessary in order to provide NBS adequate time to develop the targets and to allow FEA an opportunity for presentation of views and informal questioning prior to promulgation of the targets. However, the conferees feel that FEA should promulgate the targets as expeditiously as possible within the constraints of the statute.

The Administrator is also required to direct the National Bureau of Standards to develop an energy efficiency improvement target for each type of covered product specified in paragraphs (11) through (13) of section 322(a) of EPCA.

Under the substitute, FEA retains authority to propose and promulgate energy efficiency improvement targets, and in doing so, may modify any targets developed by NBS. However, it is anticipated that FEA will consider the recommendations of NBS.

In developing energy efficiency targets, NBS should observe the same constraints as are applicable to FEA in prescribing targets; namely, they should be based upon a maximum percentage improvement which it determines is economically and technologically feasible, but which in any case is not less than 20 percent.

It should be noted that section 336 of EPCA requires that the Administrator afford manufacturers and other interested persons an opportunity for an informal hearing (including an opportunity for limited informal questioning) with respect to any proposed energy efficiency improvement targets published by the Administrator. Section 336 contains no specific provision for judicial review of these targets; however, judicial review under the Administrative Procedure Act, chapter 7 of Title 5, U.S.C., is available in accordance with the terms of that chapter.

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[1] The conferees wish to emphasize that the use of the term tertiary is intended to refer to techniques of a generic class. It is not intended, in a chronological sense, to imply that traditional secondary applications must first be exhausted before use of these high cost and extraordinary enhancement techniques could qualify for additional price incentives.

Extension of the Energy Resources Council

House Bill

No provision.

Senate Amendment

The Senate extended the life of the Energy Resources Council until September 30, 1977.

Conference Substitute

The conferees agreed to the Senate amendment to extend the life of the Energy Resources Council until September 30, 1977. Since the House had no comparable provision extending the life of the Energy Resources Council, it was not possible within the scope of the conference to extend the termination date of that Council until December 31, 1977. However, the conferees intend that the Council should serve as a focal point for the transition planning and reorganization work until a reorganization of the Federal government's responsibilities in this area can be brought about. It was the intent of the Senate amendment to make the expiration of the Energy Resources Council coterminous with the expiration date of the Federal Energy Administration.

Energy Resource Council reports

House Bill

No provision.

Senate Amendment

The Senate adopted two provisions requiring reports from the Energy Resources Council. The first of these required that an annual energy conservation report be prepared by the Energy Resources Council with the assistance of all agencies involved in conservation-related programs, detailing (1) all such activities at the Federal, state and local levels and in the private sector; (2) what the potential conservation could be from such actions if widespread implementation were effected; and (3) what further conservation activity should be undertaken.

The Senate also adopted a requirement that the President, through the Energy Resources Council, prepare a plan for the reorganization of the Federal government's responsibilities for energy and natural resources including but not limited to, the study of principal laws and directives that constitute the energy and natural resource policy of the United States; prospects of developing a consolidated national policy; the major issues and problems of existing and natural resource organizations; the options for Federal energy and natural resource organizations; and overview of available resources pertinent to energy and natural resources organizations; recent proposals for a national energy and natural resource policy for the United States; and the relationship between energy policy goals and other national objectives. The provision required that the report be submitted to the Congress by December 31, 1976, with an update to be sent to Congress by March 1, 1977.

Conference Substitute

The conferees accepted both Senate amendments with an amendment extending the update report submission to April 15, 1977, on the reorganization of the Federal government's energy and natural resource responsibilities.

Further, in light of the strong desire to include the Senate amendment with respect to the reorganization study and analysis from the Energy Resources Council, the House rejected a Senate provision which provided for the dispersion of the functions of the Federal Energy Administration upon its determination. It was the strong belief of the conferees that an effort to move towards consolidation of the functions of energy and natural resources now carried out by the Federal government is the proper course of action.

Office of Energy Information and Analysis

House Bill

No provision.

Senate Amendment

The Senate provisions amended the Federal Energy Administration Act of 1974 to establish within the FEA an Office of Energy Information and Analysis headed by a Director appointed by the President subject to Senate confirmation. The Director would be required to have background experience appropriate to the task of managing the National Energy Information System authorized by the amendment. This system, when complete, would contain the energy information required to permit comprehensive and detailed analysis of energy-related issues by agencies of the Executive Branch, the Congress and the publiic.

The Senate amendment utilized only that authority to gather energy information which is part of existing law. The existing protection in law for sensitive or confidential information was also unchanged by the Senate amendment.

It was the intent of the Senate amendment that the Office be separated from the role the FEA has assumed in formulating and communicating the Administration's energy policies. The Office would serve as an objective, professional resource for both the Congress and the public as well as the FEA. As a further check on the objectivity and professionalism of the Office, the procedures of the Office would be subject to a performance audit review on an annual basis by a team of professionally qualified employees of the leading Federal statistical agencies.

Under the Senate amendment, the FEA Administrator would be required to conduct a review of Federal energy information gathering activities and develop recommendations designed to reduce burdensome and duplicative reporting of energy information. These recommendations would become part of the President's reorganization proposal required elsewhere in the Act.

The Senate amendment contemplates that, in the operation of the Office, the Director would utilize the files of energy information already being maintained by various Federal agencies to the maximum extent practicable. No information in possession of the Office could be withheld from Congress.

The Senate amendment requires the Director of the Office to make both regular periodic and special reports to the Congress and the public providing a comprehensive picture of energy supply and consumption in the United States, including a description of important trends.

The Senate amendment further required the Director of the Office to collect on an annual basis from major energy companies energy information of a financial nature relating to the economics of the energy supply. Information permitting an analysis of costs, profits, cash flow and investments by companies engaged in exploration, development, production processing and other phases of the energy industry would be collected on an annual basis and published in summary form.

To assure that the Office would be established as part of the Administration taking office in January, 1976, the Senate amendment would become effective 180 days after enactment.

Conference Substitute

The conference substitute generally follows the Senate amendment, although a number of changes were made by the Conference Committee. The most substantial of these changes is the deletion of a provision of the Senate bill which would have required the collection of energy information of a financial nature from companies in the energy industry.

With respect to the Director of the Office of Energy Information and Analysis established by the conference substitute it is the understanding of the conferees that the delegation of energy information authority to the Director of the Office by the Administrator may be on a non-exclusive basis. The conferees do not intend that the provisions of the conference substitute be construed to limit the exercise of authority with respect to energy information by the Administrator where such exercise is required to fulfill roles assigned the Administrator by statute or by delegation by the President. However, it is the intent of the conferees that the Director be given the lead energy information responsibility within the FEA and that the Office serve as a focal point for the processing and analysis of energy data and information relevant to energy policy decisionmaking. The conferees further intend that no internal institutional barriers or impediments with respect to the availability of energy data, information or related documents to the Director exist within the FEA.

The conference substitute adopts the major features of the Senate provision describing the National Energy Information System which would be established and maintained by the Office. The conferees recognize that the description of this system implies substantial tasks for the Office. The conferees expect that the Director of the Office will exercise prudent judgment in establishing priorities and in assigning the resources available to the Office with respect to the achievement of the goals set for the National Energy Information System by this Act. However, the conferees do not intend that the flexibility granted the Director in this regard and reflected in the statutory language be used as an excuse for failure to forcefully address gaps in our current knowledge of the systems which supply and consume energy, particularly with respect to the impacts of energy policies on the economy and employment and the relationships between the economics of energy supply and energy availability.

The conference substitute deletes the requirement of the Senate amendment that all analytic capabilities be maintained "within the Office". The conferees wish to permit the Director the flexibility to utilize contractual or other arrangements if the maintenance of the required capabilities can be achieved most efficiently thereby. However, the conferees wish to emphasize their clear intent that these capabilities be available to the Director on a real-time basis and that the flexibility granted by the Act not result in deficiencies in the Office with respect to the collection, processing or analysis of energy information.

The conferees expect that sensitive or confidential information, if any, contained in any Federal agency report to the Director be afforded the protection which such information would have received in the agency producing the report.

The conferees adopted the Senate provision describing the reports to be prepared by the Director with an amendment deleting the requirement of a detailed description of the extent of compliance or non-compliance by industry or other persons subject to the rules and regulations of the Office. The conferees do not intend, however, that the Director's reports on the activities of the Office necessarily refrain from commenting on any compliance problems. The conferees feel strongly that the Congres and the public should be made promptly aware of any problems in this area which may arise. However, it is not intended that a lengthy, item-by-item description of compliance activities related to energy information be required on a routine basis.

The conferees also deleted the entire Senate provision which would have required the Office to collect annually from major energy-producing companies energy information of a financial nature relating to the economics of the energy industry. The conferees do not intend that the deletion of this provision be construed as an indication of Congressional intent to limit the authority of the FEA to gather energy information. Rather, the conferees believe that adoption of a Senate provision which was closely contested in the Senate and has not been the subject of hearings and analysis in the House is premature at this time. The conferees recognize that the objective determination of the sensitivity of energy supply to economic factors is one of the goals of the National Energy Information System established by this part. The conferees also note that, with respect to persons engaged in whole or in part in the production of crude oil and natural gas, a detailed and rigorous process required by the Energy Policy and Conservation Act (P.L. 94-163) is currently under way to establish orderly and uniform standards and procedures with respect to the reporting of certain financial information. It is the wish of the conferees that the Director of the Office fully exercise his authority to gather the energy information including information of a financial nature, where such information can be obtained in useable form and is relevant to, and will assist in the clarification of, energy policy issues. However, in the absence of further Congressional study and analysis the conferees are reluctant to write into law detailed and technical requirements with respect to the collection of specific categories of energy information of a financial nature.

The conferees understand and intend that the provisions of the conference substitute in no way expand or limit the authority of the FEA to gather any energy information. Similarly, it is not in any way intended that these provisions result in the unauthorized disclosure of information protected under existing law. For example, in suggesting methods by which the Director of the Office may organize the energy information presented in reports, including organization of such information on a company basis, the conferees intend only that information be disclosed to the public, in such manner and to such an extent as would be consistent with requirements of existing law respecting the protection of certain information from disclosure.

Under provisions of the conference substitute, no information in possession of the Office could be withheld from Congress on request of a duly established Committee. By providing that information so acquired is the "property" of any such Committee, the substitute makes it clear that appropriate handling of sensitive information will occur under the auspices of such Committee. This provision is not, of course, intended to suggest a taking of commercially valuable information by any Committee of the Congress.

TITLE II—ELECTRIC UTILITY RATE DESIGN INITIATIVES

Rate design proposals

House bill

No provision.

Senate Amendment

The Senate amendment required that the Administrator of the FEA develop and publish in the *Federal Register* no later than 180 days after enactment, voluntary electric utility rate structure guidelines for the purpose of encouraging electric utility companies to develop innovative rate structures. Within 90 days after publication of the guidelines, copies were required to be sent to the utility regulatory commissions along with a written request for compliance. These guidelines were to be reviewed, revised and republished at least annually.

Conference Substitute

The conferees agreed to a provision which directs the FEA Administrator to develop proposals to improve electric utility rate design. These proposals are to be transmitted to each House of Congress not later than six months after enactment of the bill for review and for such further action as the Congress may by law direct.

The conferees deleted all references to voluntary guidelines in order not to prejudge the result of further Congressional action. In particular, some of the conferees felt that the conference substitute should not exclude the possibility that the proposals could provide the basis for enactment of legislation establishing national minimum standards for electric untility rate design. Others felt that the proposals could result in legislation directing FEA to prescribe voluntary guidelines, or in no legislative action by Congress.

Further, the adopted provision describes the general objectives which the proposals should be designed to achieve; namely "to encourage energy conservation, minimize the need for new generating capacity, and minimize costs to consumers". The Administrator is specifically directed to submit four proposals:

(1) A proposal for implementation of load management techniques which are cost-effective. A load management technique is a technique to reduce maximum kilowatt demand on an electric utility. Such a technique may involve use of interruptible electrical services, energy storage devices, ripple or radio control mechanisms, load limiting devices, elimination of master metering or techniques to minimize inefficient end uses of electrical energy; as well as time-of-use pricing techniques discussed under paragraph (2). A load management technique is cost-effective if such technique is likely to reduce maximum kilowatt demand on the electric utility in question and if long-run benefits of such reduction are likely to exceed the long-run costs associated with the implementation of such technique.

(2) A proposal for implementation of rates which reflect marginal cost of service, or time-of-use of service, or both. The proposal could provide for redesign of electric utility rate structures in order to reflect marginal cost pricing principles (without increasing overall utility revenues beyond the levels necessary to produce a fair rate of return). Alternatively, the proposal could provide for peakload pricing on a daily or seasonal basis in order to reflect differences in cost attributable to daily or seasonal time of use of electric utility services.

(3) A proposal for implementation of rate-making policies which discourage inefficient use of fuel and encourage economical purchases of fuel. Among the types of proposals the Administrator could consider in this connection would be proposals to modify fuel adjustment or other automatic adjustment clauses to provide for (A) a partial (*e.g.* 90%) pass-thru of increases and decreases in fuel costs, (B) a threshold above which fuel costs must increase (and below which they must decrease) before any automatic adjustment is triggered, or (c) a requirement of audit or review by utility regulatory commissions of fuel related transactions.

(4) A proposal for rates (or other regulatory policies) which encourage greater electric utility system reliability and reliability of major items of electric utility equipment. Such a proposal could, for example, recommend that reliability standards for major generating equipment be prescribed and that in the event that such equipment failed to meet the applicable standards, adjustments would be made in the utility rates. Or, if the Administrator finds that reliability standards are feasible and in the public interest, he may want to propose mechanisms other than changes in ratemaking practices. Alternatively, he might wish to propose changes in the design of fuel adjustment clauses which would have the effect of precluding the automatic recovery of increases in fuel costs which result from a decrease in system efficiency, as opposed from those which result from an increase in fuel prices.

Finally, he may combine any of the above proposals if he deems it to be appropriate, he may submit proposals in alternative form, and he may submit additional proposals related to matters not described above.

The Administrator is also required to transmit to Congress, at the time he transmits his proposals, an analysis of the projected benefits, if any, which are likely to result from the implementation of each of the proposals which he transmits to Congress; including projected savings in energy consumption, projected reduction in the need for new generating capacity and demand for capital, and the projected changes in the cost of electric energy.

Demonstrations and FEA intervention

House Bill

The House-passed bill authorized funds for the utility demonstration project program and for rate reform initiatives.

Senate Amendment

The Senate amendment authorized the Administrator of the FEA to provide financial assistance to State utility regulatory commissions so that they may continue or initiate electric utility rate structure and load management demonstration projects. The Administrator was further authorized to provide technical assistance to State utility regulatory commissions and to intervene in proceedings before those commissions for the purpose of promoting the implementation of the Federal guidelines.

Conference Substitute

The conference susbtitute authorizes the Administrator:

(1) to fund demonstration projects to improve electric utility load management procedures and regulatory rate reform initiatives,

(2) on request of a State, a utility regulatory commission or of any participant in any proceeding before a utility regulatory commission which relates to electric utility rates or rate design, to intervene or participate in such proceeding, and

(3) On request of any State, utility regulatory commission, or party to any action to obtain judicial review of an administrative proceeding in which the Administrator intervened under paragraph (2), to intervene or participate in such proceeding as a party.

This provision is not intended to limit any authority which FEA may otherwise have in administrative or judicial proceedings.

Office of Consumer Services

House Bill

No provision.

Senate Amendment

The Senate bill authorized the Administrator to make grants to States to provide for the establishment and operation of offices of consumer services to facilitate the presentation of consumer interests before the utilty regulatory commissions. These offices are to be operated independently of the commissions. $2 million is authorized for FY '77.

Conference Substitute

The Senate provision was adopted.

Reports

House Bill

No provision.

Senate Amendment

The Senate bill required that the Administrator report annually to Congress with respect to this Title.

Conference Substitute

The Senate amendment was adopted.

Authorization

House Bill

The House-passed bill authorized $13,056,000 for the transition quarter and FY '77 for demonstration projects and rate reform initiatives, with a limitation of not to exceed $1 million for the purpose of FEA intervention and participation in regulatory actions at the State level.

Senate Amendment

The Senate authorized the appropriation of $10 million for FY '77 for the purposes of funding the demonstration projects, providing technical assistance, and intervening before regulatory commissions. $2 million is authorized (for FY '77) for offices of consumer services.

Conference Substitute

The conferees accept the House authorization figures for demonstration projects, rate reform initiatives and FEA intervention and participation. The conferees also accept the $2 million Senate authorization for offices of consumer services.

III—MATTERS RELATED TO ENERGY CONSERVATION STANDARDS FOR NEW BUILDINGS

Minimum energy conservation performance standards for new buildings

House Bill

No provision in H.R. 12169.

(For the purpose of informing members, the following describes the related provisions of H.R. 8650* as that bill passed the House.

(H.R. 8650 directed the Secretary of Housing and Urban Development (after consultation with the Administrator of the FEA, the Secretary of Commerce utilizing the services of the National Bureau of Standards, and the Administrator of the General Services Administration) to develop proposed performance standards for new commercial buildings with respect to energy conservation. The proposed standards were required to be published in the Federal Register for public comment not later than 18 months after the enactment of the legislation. That bill further directed that final performance standards for such buildings should be developed and promulgated within 6 months after the publication of the proposed standards.

(H.R. 8650 also directed the Secretary of HUD (after consultation with the same officers) to develop proposed energy conservation performance standards for new residential buildings. The proposed standards were required to be published in the Federal Register for public comment not later than 3 years after enactment. Final performance standards, with respect to energy conservation for new residential buildings, were required to be developed and promulgated within 6 months after such publication.

(The Secretary was directed to utilize the services of the National Institute of Building Sciences, under appropriate contractual arrangements in the development of these performance standards, as soon as practicable after the activation of this Institute.

(The House bill, H.R. 8650, directed the Secretary, in developing and promulgating these energy conservation performance standards for new commercial and residential buildings, to take account of, and to make appropriate allowance for, climatic variations in various regions of the nation. The Secretary was also directed to consider (1) the probable effect of any standard promulgated on the cost of new residential or commercial buildings, and (2) the benefit to be derived from such standard. In addition, the Secretary was directed to periodically review and provide for the updating of the standards promulgated under these provisions (after consultation with the same officers and other Federal officials).

(The House bill (H.R. 8650) authorized the Secretary to extend any of the time requirements specified for proposed or final energy conservation standards so long as no such extension resulted in delaying by more than 6 months the date specified for the promulgation of any final energy conservation performance standards).

Senate amendment

The Senate amendment was the same as the provisions in H.R. 8650, as per the House, except as follows:

(1) Proposed performance standards for new commercial buildings were required to be published for comment not later than 3 years after the enactment of the legislation, but that 3 year period could be extended by 6 months.

(2) The final and promulgated energy conservation performance standards for new commercial buildings and for new residential buildings were required to become effective within a reasonable time after the date of promulgation of the standards, as specified by the Secretary of HUD, but the effective date could not be more than 1 year after the date of promulgation.

(3) The Secretary of HUD was not required, as in the House bill, to utilize the services of the National Institute of Building Sciences.

Conference substitute

The conferees adopted the Senate amendment with an amendment which requires the Secretary of HUD to utilize the services of the National Institute of Building Sciences as in H.R. 8650 as passed by the House.

Application of performance standards to new construction

House bill

No provision in H.R. 12169.

(No provision in H.R. 8650 as that bill passed the House.)

Senate amendment

The Senate amendment prohibited any Federal officer or agency from approving any financial assistance for the construction of any building in an area of a State unless that State had certified (1) that the unit of general purpose local government having jurisdiction over that area had adopted and was implementing a building code or similar requirement that met or exceeded the applicable energy conservation performance standards promulgated by the Secretary of HUD under this legislation, or (2) that a State code or requirement providing for the enforcement of these performance standards had been adopted and was being implemented on a statewide basis or in that area.

In the event that any State had not developed, by the effective date of these energy conservation performance standards, a procedure for certifying local codes or requirements and had not adopted and started to implement a State code or requirement, the Secretary of HUD could grant a temporary approval (for a period not to exceed 1 year) to a local code or other requirement which was proposed by a unit of general purpose local government.

The Senate amendment specifically directed each Federal instrumentality responsible for supervising, regulating, or insuring banks, savings and loan associations, or similar institutions to adopt certain regulations to implement the foregoing sanctions. Under these regulations, each such supervised, regulated, or insured institution was prohibited from making or purchasing loans for the construction or financing of any building, after the effective date of applicable energy conservation performance standards, unless such buildings were to be located in areas in which Federal officers and agencies could approve financial assistance for building construction.

As part of its certification to the Secretary of HUD, a State could recommend that specific units of general purpose local government within that State be excluded from the requirements of these standards on the basis that the amount of new construction in areas subject to such units was not sufficient to warrant the costs of implementing the standards or of providing for the inspections necessary to assure compliance. The Secretary was authorized, in his discretion, to exclude such a unit without affecting the State's certification.

The Secretary was directed by regulation, to provide for the periodic updating of the certifications by the States under this provision, and was further directed to conduct reviews and investigations as necessary to determine the accuracy of such certifications. The Senate amendment authorized the Secretary to reject or disapprove any such certification or to require that it be withdrawn provided that he first afforded the State involved a reasonable opportunity for a hearing.

Conference substitute

The conference substitute modifies the Senate amendment and the conferees adopted the Senate amendment with an amendment which provides as follows:

After the final performance standards are prepared under this legislation the President shall transmit such standards to the Congress for review to determine whether the sanction provided in the legislation shall become effective, no Federal financial assistance shall be made available or approved with respect to the construction of any new commercial or residential building in any area of any State unless such new building satisfies the performance standards. This sanction will not apply until both Houses of Congress find, pursuant to application of expedited review procedures and approve a resolution that this sanction is necessary and appropriate to assure that such standards are in fact applied to all new buildings.

Upon adoption of a concurrent resolution the performance standards are satisfied for a new building in any area of any State if the Secretary has received a certification from that State (in accordance with regulations to be promulgated by the Secretary of HUD) (1) that the unit of general purpose local government which has jurisdiction over that area has adopted and is implementing a building code or other code which meets or exceeds the final performance standards or (2) that the State itself has adopted and is implementing (statewide or as to that area) a building code or other laws or regulations which provide for the effective application of these final performance standards.

The sanction will also not apply to the construction of a new building if that building has been determined, pursuant to any applicable approval process, to be in compliance with the final performance standards. The term "approval process" is defined to mean a mechanism and procedure for the consideration of an application to construct a new building which involves determining compliance with such standards and which is administered by the level and agency of government specified by the Secretary in accordance with designated minorities. Priority number one would be the agency which grants building permits within the applicable unit of general purpose local government. If this agency is unable to, or will not administer such a process, the second priority is any other agency of the same local government. The third priority for administration is an agency of the applicable State's government.

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*The House and Senate passed differing versions of H.R. 8650, the Energy Conservation in Buildings Act of 1975. Title III of H.R. 12169, as passed by the Senate, contained the provisions of title II of H.R. 8650, as passed by the Senate.

Application of Performance Standards to Federal Buildings

House bill

No provision in H.R. 12169.

(No provision in H.R. 8650 as that bill passed the House.)

Senate amendment

The Senate amendment required the head of each Federal agency responsible for the construction of any Federal buildings to adopt such procedures as would be necessary to assure that any such construction was in compliance with or exceeded the applicable energy conservation performance standards promulgated by the Secretary of HUD under this legislation.

Conference substitute

The conference substitute contains the Senate provision.

Grants to States for Energy Conservation Standards for New Buildings

House bill

No provision in H.R. 12169.

(For the purpose of informing members, the following describes the related provisions of H.R. 8650 as that bill passed the House. H.R. 8650 authorized the Secretary of Housing and Urban Development to make grants to States and to local government units to assist them in implementing, through building codes, energy conservation standards approved by the Secretary. The House bill authorized the appropriation of not to exceed $10,000,000 for this purpose.)

Senate Amendment

The Senate amendment authorized the Secretary of HUD to make grants to States to assist them to meet the costs of developing standards or State certification procedures required as part of the process for application of the final energy conservation performance standards for new buildings. The Senate amendment authorized the appropriation of not to exceed $5,000,000 for this purpose in fiscal year 1977.

Conference Substitute

The conferees adopted the Senate amendment with an amendment which makes units of general purpose local governments eligible for such grants.

TECHNICAL ASSISTANCE TO STATES

House Bill

No provision in H.R. 12169.

(For the purpose of informing members, the following describes the relevant provisions of H.R. 8650 as that bill passed the House. H.R. 8650 authorized the Secretary of HUD to provide technical assistance to States and to local government units with respect to implementation of energy conservation standards for new buildings.)

Senate Amendment

The Senate amendment authorized the Secretary (by contract or otherwise) to provide technical assistance to State and local governments to assist them in meeting the requirements of this title.

Conference Substitute

The conferees adopted the Senate provision.

Consultation in the development and promulgation of performance standards

House Bill

No provision in H.R. 12169.

(For the purpose of informing members, the following describes the provisions of H.R. 8650 as that bill passed the House. H.R. 8650 required the Secretary of HUD to consult with appropriate representatives of the building community (including labor, the construction industry, engineers, and architects) with appropriate public officials and organizations thereof, and with representatives of consumer groups in developing and in promulgating energy conservation performance standards for new buildings and in carrying out his other functions under this title. To the extent feasible, the Secretary was also directed to make use, to consult with the National Institute of Building Sciences. If the Secretary established any advisory committees for this purpose, those committees were made subject to the Federal Advisory Committee Act.)

Senate amendment

The Senate amendment was essentially the same as the provision in H.R. 8650 as passed by the House.

Conference substitute

This provision of the Senate amendment is included in the conference substitute.

Research and demonstration activities

House bill

No provision in H.R. 12169.

(For the purpose of informing members, the following describes the provisions of H.R. 8650 as that bill passed the House. H.R. 8650 directed the Secretary of Housing and Urban Development to carry out any research and demonstration activities which the Secretary finds to be necessary (1) to assist in the development of energy conservation performance standards for new commercial and residential buildings and (2) to facilitate the implementation of such standards by State and local governments. The Secretary was required to conduct such activities in cooperation with the Administrator of the Federal Energy Administration, the Administrator of the Energy Research and Development Administration, the Director of the National Bureau of Standards, and the National Institute of Building Sciences. The bill provided that these activities were to be designed to assure adequate analysis of such performance standards in terms of energy use, economic cost and benefit, and other specified factors.)

Senate Amendment

The Senate amendment provision was the same as the corresponding provision of H.R. 8650 as passed by the House except that the Secretary was directed to conduct such activities in cooperation with the Federal Energy Administration but not with the National Institute of Building Sciences.

Conference Substitute

The conferees adopted the Senate amendment with an amendment which directs the Secretary to conduct such activities in cooperation with the National Institute of Building Sciences and other appropriate Federal agencies.

IV—MATTERS RELATED TO ENERGY CONSERVATION ASSISTANCE FOR EXISTING BUILDINGS

Part A—Weatherization assistance for low-income persons

House Bill

No provision in H.R. 12169.

(For the purpose of informing members, the following describes the relevant provisions of H.R. 8650 as that bill passed the House, H.R. 8650 provided for the development and implementation of weatherization programs to insulate the dwellings of low-income persons in order to conserve energy and to assist the persons least able to afford increased energy costs. The Administrator of the Federal Energy Administration was authorized to make grants to the Governors of the States (including the Mayor of the District of Columbia) and to transfer funds to the Commissioner of Indian Affairs to assist in the carrying out of programs designed to provide for weatherization (i.e. improvement in the thermal efficiency of a dwelling) of dwellings of low-income persons (defined as persons having income at or below the poverty level determined in accordance with criteria established by the Office of Management and Budget), particularly of such persons who are 65 or older or who are handicapped by a disability.

(Within 90 days after enactment of the legislation, and after consultation with the Secretaries of HUD, HEW, Labor, and other appropriate Federal officials the Administrator was directed to develop and publish criteria upon which to evaluate applications for such assistance; the criteria could include the amount of fuel to be conserved, the number of dwellings to be weatherizeed under the program, the areas to be served and their climatic conditions, the type of work to be done, the amount of non-Federal resources to be applied in the case of an application from a State, mechanisms under the program for obtaining the services of volunteers, and priorities among weatherization recipients and types of dwellings. Rents on dwelling units could not be raised because of the increased value of such units resulting solely from weatherization assistance under this provision. The Federal funds received could only be used for the purchase of weatherization materials (e.g. ceiling insulation, storm windows, caulking, and weatherstripping, but not mechanical equipment), except that a State or governmental agency could use no more than 10 percent of its grant for the administrative costs of its weatherization program. The Administrator was directed to provide, by regulation, that no weatherization programs under this provision duplicated any existing effective weatherization program being carried out by the Community Services Administration through community action agency programs in the same area. The Administrator of FEA was also required to monitor the operation of these weatherization programs through reporting requirements or onsite inspections to assure effectiveness, and he was authorized to provide technical assistance to any program funded under this provision. The Administrator was authorized to obtain necessary information and grant recipients were required to keep necessary records.

(H.R. 8650 directed the Administrator to suspend additional Federal grant payments upon a finding that a weatherization program was not in substantial compliance with the provisions of its application for assistance, as approved. H.R. 8650 also provided for audit by the Comptroller General; the issuance of necessary or appropriate rules, regulations, and orders by the Administrator; notice and an opportunity for a hearing before any final disapproval of any weatherization program application; judicial review of final actions by the Administrator; a prohibition on discrimination on the ground of race, color, national origin, or sex; a plan for evaluating the effectiveness of the weatherization program; and an annual report to the President and the Congress on the results of the weatherization programs receiving Federal assistance under this provision.

(H.R. 8650 authorized appropriations for weatherization assistance in the following amounts: $55,000,000 for fiscal year 1976, $55,000,000 for fiscal year 1977, and $55,000,000 for fiscal year 1978, with such sums to remain available until expended.)

Senate Amendment

The Senate amendment was in substance the same as the House bill, except for the following major items:

(1) The term "weatherization" was not used; the provision was entitled "residential insulation assistance for low-income persons" and Federal financial assistance was authorized to assist in carrying out projects designed to improve insulation and energy conservation in dwellings in which the head of household was a low-income person, particularly such dwellings in which persons

who are 60 or older or who are handicapped by disability are residing.

(2) The term "low-income" was defined to mean that individual or family income which does not exceed 50 percent of the median income for individuals or families in the particular geographical area.

(3) If a State did not submit an application meeting statutory requirements within 150 days after enactment, a community action agency under the Economic Opportunity Act of 1964 could do so, in lieu of such State, with respect to residential insulation projects in the geographical area served by it.

(4) A State applying for financial assistance under the Senate amendment was required to designate or create a State agency or institution which has (or which has a policy advisory council which has) special qualifications and sensitivity with respect to solving the problems of low-income persons, and which is broadly representative of organizations and agencies providing services to low-income persons in such State. That agency or institution was required to be the sole agency for administration, coordination, and allocation of funds with respect to residential insulation programs for low-income persons in such State.

(5) The Senate amendment provided for joint concurrence on regulations by FEA and the Community Services Administration (CSA). The Senate bill also provided for joint monitoring and evaluation of projects by FEA and CSA.

(6) Grant funds would be allocated to community action agencies presently conducting a residential insulation assistance program funded under section 222(a)(12) of the Economic Opportunity Act of 1964 (unless there was a finding by the State, after a public hearing, that such program was ineffective or of insufficient size to carry out the proposed program for a given area).

(7) Standards for insulation materials and conservation methods would be approved by the National Bureau of Standards.

(8) The Administrator of FEA was required to insure that not less than 50 percent of the sums appropriated for residential insulation assistance under this provision was to be allocated by him to community action agencies.

(9) The Senate amendment authorized appropriations for residential insulation assistance for low-income persons in the following amounts: $55,000,000 for fiscal year 1977; $65,000,000 for fiscal year 1978; and $80,000,000 for fiscal year 1979.

Conference Substitute

The conferees adopted the Senate amendment with an amendment which provides for:

(1) The term "low-income" means that income in relation to family size which is at or below the poverty level in accordance with criteria established by the Office of Management and Budget or on the basis of which assistance payments have been paid under titles IV or XVI of the Social Security Act or applicable State or local law during the preceding 12 months.

(2) The term "weatherization" is used, as under House bill H.R. 8650, and the term "weatherization materials" is defined to mean items designed primarily to improve the heating or cooling efficiency of a dwelling (such as ceiling, wall, floor, and duct insulation; storm windows and doors; and caulking and weatherstripping; and mechanical equipment up to $50 in value per dwelling unit involved); and the cost of materials cannot exceed $400 per dwelling unit unless a higher amount is provided for by the State policy advisory council with respect to categories of dwellings or materials.

(3) If a State does not submit an application meeting requirements within 90 days after the publication of final regulations with respect to this program, a unit of general purpose local government or a community action agency may submit an application, in lieu of such State, with respect to weatherization projects in the geographical area served by such unit or agency. A State may also amend its application in accordance with regulations of the Administrator.

(4) Weatherization grants may be made directly to Indian tribal organizations or other similar qualified entities, to serve the low-income members of an Indian tribe, upon the making of certain determinations.

(5) The 50 percent requirement with respect to community action agencies is not retained because of the conferees' expectation that such agencies conducting effective emergency energy conservation programs would probably in due course receive a high proportion of the total appropriation in the fair application of the funding priorities established in the bill.

(6) The provision for CSA concurrence on regulations is deleted and CSA monitoring and reporting on programs is limited to those programs carried out by community action agencies. The substitute, however, provides for full coordination between the FEA Administrator and the Director of CSA in the development of the regulations. The conferees intend that the process of full coordination with the Director of CSA in the development and promulgation of the regulations will include full involvement of CSA staff in developing the regulations, and the submission of proposed interim and final regulations to the CSA Director, in such a way as to give the Director adequate time to submit pre-publication comments to the FEA Administrator.

(7) Each State is required to submit a State plan for allocating funds within the State based on certain general factors, and the public hearing requirement is revised by substituting a requirement for a single public hearing on that plan.

(8) Standards for insulation materials and conservation methods are to be prescribed in coordination with the National Bureau of Standards.

State energy conservation implementation programs

House Bill

No provision.

Senate amendment

The Senate amendment provided Federal financial assistance for "State energy conservation implementation programs" established by the States in accordance with statutory requirements and approved by the Administrator of FEA, in accordance with guidelines to be established by the Administrator within 120 days after enactment of the legislation. These guidelines were required to be consistent and coordinated with the guidelines prescribed by the Administrator under part C of title III of the Energy Policy and Conservation Act with respect to "State energy conservation plans".

In order for a State to be eligible for Federal financial assistance, the Senate amendment required that a State energy conservation implementation program provide for the following:

(1) a State energy conservation advisory committee with broad community representation;

(2) coordination among various Federal, State, and local energy conservation programs, with assurance that financial assistance under this legislation supplements, and does not supplant, the expenditure of other Federal, State, or local funds for the same purposes;

(3) an effective public education effort with respect to the energy and cost savings possible through conservation, and assistance available for conservation activities under this and other acts and programs;

(4) procedures for learning of energy conservation advances and for encouraging the utilization of such advances;

(5) a reliable system of energy audits to identify cost-effective energy conservation measures in housing and nonresidential buildings. Such audits are to be available at no direct cost to homeowners, and at reasonable cost to owners of nonresidential buildings;

(6) protection for consumers against unfair and deceptive acts or practices related to the implementation of energy conservation measures;

(7) procedures for periodic verification (i) of findings by lending institutions pursuant to the granting of energy conservation loans, and (ii) that energy conservation measures for which financial assistance is made available under this legislation are fully implemented;

(8) procedures for encouraging and facilitating the participation of energy consumers in energy conservation cooperatives, established to provide to members information and technical assistance with respect to energy conservation; and

(9) appropriate enforcement provisions to facilitate a State's efforts to carry out an energy conservation implementation program.

Most of these requirements involve steps or procedures relating to the implementation of "energy conservation measures". That term was defined in the Senate amendment to mean an investment, action, or procedure which was designed to modify any existing housing, nonresidential building, or industrial plant and which was likely to improve the efficiency of energy use and reduce energy costs sufficiently to be cost-effective if it either (a) had as its primary purpose an improvement in the efficiency of energy use in such housing, building, or plant, or (b) was a renewable-resource energy measure. The term "renewable-resource energy measure" was defined to mean any such investment, action, or procedure which involves a shift from a depletable (e.g. fossil fuel) to a nondepletable (e.g. solar, wind) source of energy in housing, nonresidential buildings, or industrial plants.

The Administrator of FEA was required, in addition to the promulgation of guidelines, to describe and set forth the provisions of one or more model State energy conservation implementation programs; to prescribe rules for approving certain energy audits; to consult with the Governors of the States in developing the guidelines and model programs; to invite each Governor (at the earliest practicable date after the effective date of the guidelines) to develop and submit a proposal for an energy conservation implementation program for his State; and to promptly review each such proposal submitted. The Adminstrator was authorized to approve and fund any such proposed State program if he found that it met the foregoing requirements.

The FTC was required to cooperate with, and assist State agencies, as it has traditionally done, in the area of consumer protection as it relates to the implementation of energy conservation measures. In addition, where appropriate, the FTC was required to undertake its own law enforcement actions under its existing powers to prevent unfair or deceptive acts or practices affecting commerce which relate to the implementation of energy conservation measures.

The Federal share of the cost incurred by a State in carrying out an approved implementation program was not to exceed 90 percent after fiscal year 1977. The Administrator was required to establish rules for disbursing such assistance to the States; these rules had to include a provision prohibiting a denial of funding unless the State involved received notice and an opportunity for an agency hearing. No State could receive, in any fiscal year, more than 10 percent of the sums authorized to be appropriated under this provision. The Senate amendment also provided for financial auditing and for performance evaluation by the Comptroller General.

The Senate amendment authorized appropriations for State energy conservation implementation programs in the following amounts: not to exceed $25,000,000 for fiscal year 1977, not to exceed $50,000,000 for fiscal year 1978, and not to exceed $50,000,000 for fiscal year 1979, with such sums to remain available until expended.

Conference Substitute

The conferees adopted the Senate amendment with an amendment. As adopted it provides for the following:

(1) The term "supplemental State energy conservation plan" is used in place of "State energy conservation implementation program".

(2) Definitions of "energy audit", "building", and "industrial plant" have been added, and the definition of "renewable-resource energy measure" has been separated from that of "energy conservation measure". Specific language has also been added to these later two definitions to clarify the following points:

(A) the construction of any building or industrial plant modified by an energy conservation measure or a renewable-resource energy measure must have been completed as of the date of enactment;

(B) energy costs, as reasonably projected over time by the Administrator, are to be used in calculating the Energy cost savings likely to result from implementation of such measures;

(C) the Administrator is authorized to exclude from the definition of energy conservation measure, by rule, any conversion from one fuel or energy source to another if he finds that such conversion is not consistent with national policy with respect to energy conservation and reduction of fuel imports;

(D) the cost of an energy conservation or renewable-resource energy measure is to mean "total" cost, including the cost of materials, labor, and interest; however, it is to be computed without regard to any tax benefit or any other applicable Federal financial assistance, including assistance under the bill;

(E) a renewable-resource energy measure must "involve changing, in whole or in part * * * from a depletable source of energy to a nondepletable source of energy."

(3) With respect to energy audits, the conferees intend to allow the Administrator maximum flexibility in determining the manner and form of such audits. The Administrator may by rule, require different types of audits to be used, depending on the use to be made of such audits.

(4) Certain of the requirements of an implementation program under the Senate amendment are not included in the conference substitute and certain of the requirements are not required to be included in a supplemental energy conservation plan for it to be approved and funded unless the Administrator of FEA, by rule, requires such inclusion. Under the conference substitute, the following requirements are mandatory: (a) procedures for carrying out a continuing public education effort to increase public awareness of the energy and cost savings which are likely to result from the implementation of energy conservation measures and renewable-resource energy measures, and of available information and other assistance with respect to the planning, financing, installing, and effectiveness-monitoring of such measures; (b) procedures for insuring effective coordination among various local, State, and Federal energy conservation programs within and affecting the State, including any energy extension service program administered by ERDA; (c) procedures for encouraging and carrying out energy audits which meet certain standards; and (d) any programs, procedures, or actions on the list of contingent requirements which the Administrator may impose. Under the conference substitute, the following are contingent requirements which may be imposed at the discretion of the Administrator: (i) establishment and maintenance of an adequately empowered State energy conservation advisory committee; (ii) an adequate program within the State for preventing unfair or deceptive acts or practices affecting commerce which relate to the implementation of energy conservation measures and renewable-resource energy measures; (iii) procedures for the periodic verification of the complete implementation, and actual cost of such measures; and (iv) assistance for individuals and other persons to undertake cooperative action to implement energy conservation measures and renewable-resource energy measures. Among the groups to be considered for membership on a State's energy conservation advisory committee are the following: political subdivisions of the State; organized labor; small businesses; commercial, banking, manufacturing, and agricultural interests; professional engineers, architects, contractors, and associations thereof; colleges and universities; the low-income community; and organizations and groups concerned with consumer protection or environmental protection, or which have significant capacity and demonstrated willingness to assist in developing and carrying out a State energy conservation plan.

(5) To assure coordination and avoid duplication of reporting and auditing requirements, the provisions are included as amendments to the appropriate provisions of part C of title III of the Energy Policy and Coordination Act.

The Administrator is also specifically authorized to prescribe rules under which (a) a State may apply for and receive assistance for a supplemental State energy conservation plan under this section, and (B) such a supplemental plan may be administered, as if such supplemental plan were part of a State energy conservation plan under section 362 of the Energy Policy and Conservation Act, except that any such rules must not have the effect of delaying funding of the program established under section 362 of EPCA. The prescription of such rules is not mandated, but the possibility of such prescription is included to provide flexibility to the FEA Administrator in order to simplify administrative procedures associated with the State energy conservation plans under EPCA and the supplemental plans under this legislation.

The conferees wish to emphasize their firm intention that the establishment of guidelines and regulations for, and the implementation of, the supplemental State energy conservation program authorized under this title shall in no way impede the progress of the ongoing program of State energy conservation programs authorized under part C of Title III of the Energy Policy and Conservation Act (P.L. 94–163).

A state may, under the conference substitute as under the Senate amendment, meet the requirements of this provision and receive Federal funding whether or not it has an approved State energy conservation plan under EPCA as it existed prior to these amendments. But coordination with existing State energy conservation plans is improved under the conference substitute. Under the provisions of the substitute, a State is given an option to continue solely with the existing EPCA program (in which case it is eligible for assistance from the existing authorization), to meet only the requirements of the new program (in which case it is eligible for assistance from the new authorization under this legislation) or to meet the requirements of both programs (in which case it may receive funding under both authorizations).

(6) The Funds for the new supplemental State energy conservation plans are authorized as follows: not to exceed $25,000,000 for fiscal year 1977, not to exceed $40,000,000 for fiscal year 1978, and not to exceed $40,000,000 for fiscal year 1979, with such sums to remain available until expended.

Energy Conservation Assistance For Existing Dwelling Units

House Bill

No provision.

Senate Amendment

The Senate amendment amended section 2(a) of the National Housing Act to provide that home improvement loans under that section would be authorized for energy conservation measures and renewable-resource energy measures, as defined in the provision on State energy conservation implementation programs.

The Senate amendment also amended section 2 of the National Housing Act by adding at the end thereof a new subsection which provided for the granting of Federal financial assistance by the Secretary of Housing and Urban Development with respect to the financing of energy conservation measures to be implemented in existing housing. Under this provision, the Secretary of HUD was required to make a grant to any lending institution in an amount which is the lesser of $400 or 20 percent of the principal of any loan made by that institution to finance an energy conservation measure (other than a renewable-resource energy measure) which is identified in accordance with an approved State energy conservation implementation program or which is included on a list of energy conservation measures published by the Administrator of FEA. The Secretary was required to make a similar grant with respect to a loan made by such an institution to finance a renewable-resource energy measure, but in that case the amount of the grant was the lesser of $2,000 or 25 percent of the principal of the loan. An additional payment was required to be made, on a matching basis with the State involved, if the Secretary found that the cost of implementing energy conservation measures in that particular State was so high (because of its isolated geographic location or other unique features) that substantial implementation of such measures was unlikely in the absence of additional financial incentives; the total which the Secretary could expend in any fiscal year on such supplemental assistance could not exceed $2 million. The amount of a payment to a lending institution would be credited to the borrower through a reduced principal amount of the loan.

The Senate amendment prohibited the making of such a grant with respect to an energy conservation loan entered into by a person whose individual or family income exceeded 200 percent of the median family income in the housing market area in which such person maintained his principal place of residence. No assistance could be provided to finance a renewable-resource energy measure unless the measure was identified by an energy audit (1) carried out in accordance with an approved State energy conservation implementation program or (2) approved by rule by the Administrator.

The Senate amendment also provided that a person would not be eligible for financial assistance under this provision if he received a credit against income tax for the same energy conservation measure investment, and vice versa.

A person who received the benefit of a grant under this provision was barred from receiving any additional financial assistance under this provision for an additional energy conservation measure.

The Senate amendment authorized the following amounts to be appropriated for purposes of making these grants to lending institutions to subsidize and encourage the implementation of energy conservation measures in existing housing: not to exceed $100,000,000 for fiscal year 1977; not to exceed $200,000,000 for fiscal year 1978; and not to exceed $200,000,000 for fiscal year 1979; with no more than $10 million, $30 million, and $40 million to be used to subsidize renewable-resource energy measures.

Conference substitute

The conferees adopted the Senate amendment with an amendment which the amounts authorized, and directs the Secretary of Housing and Urban Development to carry out the program as a national energy conservation demonstration program for existing dwelling units. The program will become a new section 509 of title V of the Housing and Urban Development Act of 1970. The program consists of the following basic elements:

(1) The Secretary is directed to undertake a national demonstration program designed to test the feasibility and effectiveness of various forms of financial assistance for encouraging the installation or implementation of approved energy conservation measures and approved renewable-resource energy measures in existing dwelling units. The Secretary is to carry out such demonstration program with a view toward recommending to the Congress within 2 years of enactment a national program or programs designed to reduce significantly the consumption of energy in existing dwelling units.

(2) The Secretary is authorized to make financial assistance available in the form of grants, low interest rate loans, interest subsidies, loan guarantees, and other appropriate forms of assistance.

(3) In carrying out the demonstration program the Secretary is directed to:

(*a*) consider a wide variety of types of dwelling units and income levels,

(*b*) consider various financial incentives for different income levels,

(*c*) consider other financial assistance which may be available,

(*d*) make use of other public and private organizations in carrying the program,

(*e*) develop procedures to make the program cost-effective and efficient and to prevent fraud,

(*f*) consult with the Administrator of FEA and the heads of other Federal agencies as may be appropriate.

The conferees expect that the Secretary will coordinate the national energy conservation demonstration program with the supplemental State energy conservation plans to be undertaken by the States pursuant to part B of this title.

(4) The amount of a grant to an individual is the same as in the Senate amendment except that the percentage of subsidy and maximum amount of each grant may be increased by the Secretary, by rule, for applicants with a gross family income below the median family income in the housing market area in which they reside.

(5) The conference substitute follows the Senate amendment by providing that no person shall be eligibile for both financial assistance under this program and a credit against income tax for the same energy conservation measure or renewable-resource energy measure.

(6) The Secretary is authorized to limit financial assistance under the program to measures that meet standards for reliability and efficiency for the purpose of protecting consumers.

(7) The Secretary is authorized to delegate responsibilities under this demonstration program to other Federal, State, or local agencies or other public or private bodies.

(8) The Secretary is directed to report to the Congress on progress in carrying out the program at 6-month intervals and shall submit a final report to Congress containing findings and legislative recommendations not later than 2 years after the enactment of this section.

(9) There is authorized for purposes of this section $200,000,000 to remain available until expended.

The conferees expect the Secretary to propose a national program to reduce significantly the consumption of energy in existing dwelling units as rapidly as possible but certainly no later than the conclusion of the demonstration program 2 years after the enactment of this part.

Energy conservation assistance for small business concerns

House Bill

No provision.

Senate Amendment

The Senate amendment amended section 7 of the Small Business Act by adding at the end thereof a new subsection with respect to energy conservation loans for small business concerns. The Small Business Administration was required to pay a lending institution which makes an authorized loan to a small business concern an amount not to exceed $5,000 or 20 percent of the principal amount of the loan, whichever was less. The amount paid by the Administration would be applied to reduce the principal amount of the loan. Such loans were only authorized by the Senate amendment with respect to an energy conservation measure (including a renewable-resource energy measure) which the lending institution found to be consistent with the provisions of an approved State energy conservation program or which was included on a list of measures published by the Administrator of the Federal Energy Administration, and only with respect to an energy conservation measure which was identified by an energy audit carried out in accordance with a State program or which was approved by rule by the Administrator of FEA. (The amount of the loan could include the cost of such audit.)

If the Small Business Administration made a finding in writing that the cost of implementing energy conservation measures in any specified State was so high (because of isolated geographic location or any other unique feature) that substantial energy conservation implementation was unlikely to take place in the absence of additional financial incentives, the amount required to be paid by the Administration was to be increased, by no more than 50 percent, provided that the State involved paid an amount equal to this Federal increment. No more than an aggregate amount of $2,000,000 could be used for such incremental assistance.

The Senate amendment also made conforming amendments to other provisions of the Small Business Act and granted $300,000,000 in additional loan guarantee authority to the Small Business Administration. The total amount which the Senate amendment authorized the Administration to pay to lending institutions under this provision was limited to an amount not to exceed $60,000,000.

Conference substitute

The Senate recedes. However, in the administration of the loan guarantee program under part D of the conference substitute the Administrator is specifically directed to consider the needs of small businesses.

Energy conservation obligation guarantees

House Bill

No provision.

Senate Amendment

The Senate amendment authorized the Administrator of the Federal Energy Administration to provide financial assistance, in the form of loan guarantees, to eligible borrowers for the following purposes:

(1) To advance achievement of the industrial energy efficiency targets established under part D of title III of the Energy Policy and Conservation Act.

(2) To improve energy efficiency in industries not subject to such targets but which consume a significant amount of energy.

(3) To improve energy efficiency in publicly owned properties and in properties owned by nonprofit entities.

(4) To improve energy efficiency in other sectors of the economy, to the extent obligational authority remained.

The Administrator was authorized to guarantee, and to enter into commitments to guarantee, lenders against loss of principal or interest on loans, bonds, debentures, notes, obligations issued by a State or instrumentality or political subdivision thereof or other obligations issued by an eligible borrower. The term "eligible borrower" was defined to mean the owner of an industrial plant or a commercial building a corporation or subsidiary, a nonprofit institution, or any other person or government entity identified by the Administrator, by rule, if such owner, corporation, institution, or other person or entity will use the funds made available by the guarantee to finance energy conservation measures (including renewable-resource energy measures).

The Senate amendment prohibited the Administrator from guaranteeing any obligation unless the energy conservation measure on which the proceeds of the guaranteed obligation would be used had been identified by an energy audit which was carried out in accordance with an approved State energy conservation implementation program or which was approved by the Administrator by rule.

The Administrator was directed to limit the availability of such a guarantee to obligations which would result in cost-effective energy conservation measure investments and to eligible borrowers demonstrating that, absent such guarantees, such investments would not be made.

The Senate amendment limited the amount of an obligation which could be guaranteed by the Administrator to 90 percent of the cost of the energy conservation measure with respect to which the loan or other obligation was made or entered into.

The Senate amendment authorized the Administrator to guarantee obligations having a face value of up to $2 billion in fiscal year 1977 or an additional $2 billion in fiscal year 1978. A total of not to exceed $60,000,000 was authorized to be appropriated for fiscal year 1977, and not to exceed $60,000,000 was authorized to be appropriated for fiscal year 1978, to pay any obligations of the United States in case of a default on a guaranteed obligation. These amounts would remain available until expended.

The Senate amendment also contained provisions with respect to the incontestability of a guaranteed obligation (except as to fraud or material misrepresentation); required record-keeping, financial audits, and performance evaluations; time and form of payment in the event that the obligor defaulted on a guaranteed obligation and the rights of the United States following payment upon such default; the taxability of interest on a guaranteed obligation; the authority of the Administrator to borrow from the Secretary of the Treasury under specified circumstances; calculation of the probability of default ratio on such obligations; and labor wage standards for construction, alteration, or repair work performed under an obligation guaranteed under this provision.

The Senate amendment required that at least 40 percent of the obligational authority authorized be used to support obligations issued by States and political subdivisions thereof and by privately owned nonprofit institutions.

Conference Substitute

The conference substitute follows the Senate amendment, except as follows:

(1) Obligations can be guaranteed by the Administrator (subject to certain limitations) if they are entered into by any person, State, political subdivision of a State, or agency or instrumentality of either, for the purpose of financing any energy conservation measure or renewable-resource energy measure, and if the measures so financed are installed or otherwise implemented in buildings or industrial plants owned or operated by the person or governmental entity which enters into or issues such an obligation or to which such measure is leased.

Among those eligible to receive an obligation guarantee would be nonprofit institutions such as universities or hospitals, general purpose units of local government, persons leasing energy conservation or renewable-resource energy measures to such institutions or units of government, and other persons, particularly small businesses, that could not finance such measures in the absence of such guarantees. However, a general obligation of a State may not be guaranteed.

The Administrator is prohibited from guaranteeing obligations for energy conservation measures or renewable-resource energy measures, entered into or issued for the purpose of installing such measures in residential buildings containing two or fewer dwelling units.

In addition, the rules prescribed by the Administrator pursuant to this part should be coordinated with the national demonstration program for existing dwelling units established under Part C so as to preclude any person from receiving assistance under both parts C and D for the same energy conservation measure or renewable-resource energy measure.

(2) Before prescribing rules pursuant to the issuance of obligation guarantees, the Administrator shall consult with the Small Business Administration so as to facilitate the use of loan guarantees by small businesses. In carrying out this part, he should give special consideration to the needs of small businesses.

(3) The guarantee does not include a guarantee of the payment of interest on the obligation involved.

(4) The amount of the guarantee may not exceed 25 percent of the fair market value of the building or industrial plant being modified by the energy conservation measures or renewable-resource energy measures so financed.

(5) The amount of an obligation guarantee issued with respect to any obligor may not exceed $5 million. In the case of obligors which are businesses, the Administrator's rules under this part would apply to $5 million limitation to aggregates of guarantees issued with respect to the obligor and all his affiliates. In the case of nonprofit institutions and public agencies, the Administrator's rules, or his policies in issuing guarantees, should be designed to reach a similar result.

(6) The Administrator is authorized to collect for administrative expenses under this part from the borrower a fee, not to exceed 1 percent of the amount of a guarantee or 0.5 percent of the amount of a commitment to guarantee, whichever is greater. The Administrator is also given discretion to waive such a fee, if in his judgment, such a fee is not consistent with the purposes of this part.

(7) The term of a guarantee may not exceed 25 years, and no guarantee or commitment to guarantee may be issued after September 30, 1979.

(8) The language on the following items is deleted:

(a) taxability of interest on a guaranteed obligation,

(b) calculation of the probability of default ratio on such obligations, and

(c) the requirement that at least 40 percent of the obligational authority be used to support obligations issued by States and political subdivisions thereof and by privately owned nonprofit institutions.

(9) The total obligational authority is $2 billion.

(10) The amount authorized to be appropriated for the payment of defaults on guaranteed obligations is $60,000,000.

The conferees did not include the provision that interest on guaranteed indebtedness should be subject to Federal income tax, even though such interest would otherwise be tax exempt, because such a provision would have involved the jurisdiction of committees not a part of the conference. The conferees anticipate that the jurisdictional committees will take early action on legislation including in gross income interest on obligations guaranteed under this part. The Administrator should not guarantee these tax-exempt obligations during the period required to enact this legislation.

Exchange of energy conservation information

House Bill

No provision.

Senate Amendment

The Senate amendment directed the Administrator of the Federal Energy Administration to encourage and facilitate an exchange of information and ideas with respect to energy conservation among the various States, through conferences, publications, and other appropriate means.

The Senate amendment required States with State energy conservation implementation programs to collect the information developed as a result of energy audits conducted pursuant to such programs and to make that information available to the Administrator. The Administrator was not authorized to disclose any such information which was a trade secret or other matter described in section 552(b)(4) of title 5, United States Code, if the disclosure could cause significant competitive damage, except that such information could be disclosed to committees of the Congress upon request.

The Senate amendment also directed the Administrator of FEA to make available to the States any information subject to his control which could be useful to the States in carrying out State energy conservation implementation programs. The States were prohibited from imposing any reporting requirement which would result in the receipt of formation which had been or would be reported to the Administrator under regulations already in force when this legislation is enacted.

Conference Substitute

The conference substitute follows the Senate amendment except that the requirement that the Administrator make all useful information available to the States and the prohibition on State reporting requirements which could result in duplication are not included in the conference substitute. In addition, the provisions of the Senate amendment respecting trade secrets and similar matter are deleted. The release of trade secrets and other information is governed by the Freedom of Information Act.

Annual report on energy conservation implementation

House Bill

No provision.

Senate Amendment

The Senate amendment directed the Administrator of FEA to prepare and submit to the Congress and the President an annual report on the State energy conservation implementation programs and on the energy conservation measures for which financial assistance is provided under this statute and other statutes amended by this title. Particular items were specified for inclusion in each such report.

Conference Substitute

The conference substitute joins the reporting requirement as to the supplementary State energy conservation plans with the existing requirement of an annual report on State energy conservation plans under part C of title III of the Energy Policy and Conservation Act. Annual reports on energy conservation financial assistance for dwelling units and for small business concerns will be included in the regular annual report of the lead agency involved with this program; the Department of Housing and Urban Development.

Report by the Comptroller General

House Bill

No provision.

Senate Amendment

The Senate amendment directed the Comptroller General of the United States to report to the Congress annually on the activities of the Administrator of FEA under title IV, and authorized the Comptroller General to use the authority granted under section 12 of the FEA Act of 1974. Each such report was required to include at least each of the following: (1) an accounting of Federal expenditures; (2) an estimate of the energy savings resulting from such expenditures; (3) a thorough evaluation of the effectiveness of the various programs established by title IV of the Senate amendment in achieving the existing potential for conservation in the sectors and regions affected by the programs; (4) a review of the extent and effectiveness of compliance monitoring of such programs and the evidence of fraud with respect to such programs; and (5) recommendations for administrative improvements and additional legislation, if any.

Conference Substitute

The conference substitute follows the Senate amendment, except that the report requires an evaluation of the activities of the Secretary of Housing and Urban Development under this title as well.

Titles I, II, IV, and V—
Harley O. Staggers,
John D. Dingell,
Timothy E. Wirth,
Philip R. Sharp,
William M. Brodhead,
Bob Eckhardt,
Richard L. Ottinger,
Robert Krueger,
Toby Moffett,
Andrew Maguire,
Clarence J. Brown,
John Heinz,
Titles III and IV—
Henry Reuss,
Thomas L. Ashley,
William S. Moorhead,
Managers on the Part of the House.

Abe Ribicoff,
John Glenn,
Charles H. Percy,
Jacob Javits,
Bill Brock,
Titles III, IV, and V—
William Proxmire,
Alan Cranston,
Warren G. Magnuson,
Ernest F. Hollings,
J. Bennett Johnston,
John Tower,
James B. Pearson,
Clifford P. Hansen,
Managers on the Part of the Senate.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Member (at the request of Mr. Crane) to revise and extend his remarks and include extraneous material:)

Mr. Crane, for 5 minutes, today.

(The following Members (at the request of Mr. Sharp) to revise and extend their remarks and include extraneous matter:)

Mr. Cotter, for 5 minutes, today.
Mr. Gonzalez, for 5 minutes, today.
Mr. Annunzio, for 5 minutes, today.
Mr. Dodd, for 5 minutes, today.
Mr. Flood, for 5 minutes, today.
Mr. Solarz, for 30 minutes, today.
Mr. Burke of Massachusetts, for 5 minutes, today.
Mr. Metcalfe, for 5 minutes, today.
Ms. Abzug, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. Harsha, and to include extraneous matter during 5-minute rule in Committee of the Whole today during consideration of Nuclear Fuel Assurance Act.

Mr. Heinz to revise and extend his remarks during general debate in the Committee of the Whole today on H.R. 10498 immediately following the remarks of Mr. Preyer.

Mr. Brown of California to revise and extend his remarks and include extraneous material immediately following Mr. Waxman today in the Committee of the Whole on H.R. 10498.

(The following Members (at the request of Mr. Jeffords) and to include extraneous matter:)

Mr. Johnson of Colorado.
Mr. Derwinski.
Mr. Brown of Ohio.
Mr. du Pont.
Mr. Shuster.
Mrs. Pettis.
Mr. Forsythe.
Mr. Paul in two instances.
Mr. Sarasin.
Mr. Del Clawson.
Mr. Ashbrook in three instances.
Mr. Dickinson.
Mr. Abdnor.
Mr. Mitchell of New York.
Mr. Crane.
Mr. Rhodes.
Mr. Frenzel in two instances.
Mr. Conte.
Mr. Gilman.
Mr. Rousselot in two instances.

(The following Members (at the request of Mr. Sharp) and to include extraneous matter:)

Mr. Roush.
Mr. Gonzalez in three instances.
Mr. Anderson of California in three instances.
Mr. Howard in two instances.
Mr. Santini in two instances.
Mr. Jacobs.
Mr. Bennett.
Mr. Harrington.
Mr. McDonald in two instances.
Mr. Fary.
Mr. Rangel in five instances.
Mr. Ambro in two instances.
Mr. Wirth.
Mr. Drinan.
Mr. Solarz.
Mr. Hefner.
Mr. Dan Daniel.
Mr. Eckhardt.
Mr. Rosenthal in two instances.
Mr. Long of Louisiana.

SENATE ENROLLED BILLS SIGNED

The SPEAKER announced his signature to enrolled bills of the Senate of the following titles:

S. 537. An act to improve judicial machinery by amending the requirement for a three-judge court in certain cases and for other purposes;

S. 1526. An act to make additional funds available for purposes of certain public lands in northern Minnesota, and for other purposes.

BILL PRESENTED TO THE PRESIDENT

Mr. THOMPSON, from the Committee on House Administration, reported that that committee did on August 3, 1976 present to the President, for his approval, a bill of the House of the following title:

H.R. 5360. An act to increase benefits provided to American civilian internees in Southeast Asia.

THE LATE HONORABLE JERRY LITTON

The SPEAKER pro tempore. The Chair recognizes the gentleman from Missouri (Mr. Bolling).

Mr. BOLLING. Mr. Speaker, I offer a privileged resolution.

The Clerk read the resolution, as follows:

H. Res. 1461

Resolved, That the House has heard with profound sorrow of the death of the Honorable Jerry Litton, a Representative from the State of Missouri.

Resolved, That a committee of 80 Members of the House with such Members of the Senate as may be joined be appointed to attend the funeral.

Resolved, That the Sergeant at Arms of the House be authorized and directed to take such steps as may be necessary for carrying out the provisions of these resolutions and that the necessary expenses in connection therewith be paid out of the contingent fund of the House.

Resolved, That the Clerk communicate these resolutions to the Senate and transmit a copy thereof to the family of the deceased.

Resolved, That as a further mark of respect the House do now adjourn.

The resolution was agreed to.

The SPEAKER pro tempore (Mr. McFall). The Chair appoints as members of the funeral delegation the following Members on the part of the House: Mr. Bolling, Mr. O'Neill, Mrs. Sullivan, Mr. Randall, Mr. Ichord, Mr. Hungate, Mr. Burlison of Missouri, Mr. Clay, Mr. Symington, Mr. Taylor of Missouri, Mr. Poage, Mr. Diggs, Mr. Findley, Mr. Harsha, Mr. Udall, Mr. Fraser, Mr. Phillip Burton, Mr. de la Garza, Mr. Foley, Mr. Vigorito, Mr. Rees, Mr. Jones of North Carolina, Mr. Wampler, Mr. Biester, Mr. Gude.

Mrs. Heckler of Massachusetts, Mr. Railsback, Mr. Stuckey, Mr. Whalen, Mr. Dan Daniel, Mr. Mann, Mr. Sebelius, Mr. Jones of Tennessee, Mr. Melcher, Mr. Bergland, Mr. Dellums, Mr. McKinney, Mr. Mathis, Mr. Mazzoli, Mr. Peyser, Mr. Thone, Mr. Brown of California, Mr. Bowen, Mr. Breckinridge, Mr. Robert W. Daniel, Jr., Mr. Ginn, Mr. Johnson of Colorado, Mr. Madigan, Mr. Rose, Mr. Symms.

Mr. Thornton, Mr. Baldus, Mr. Bedell, Mr. English, Mr. Fithian, Mr. Grassley, Mr. Hagedorn, Mr. Harkin, Mr. Harris, Mr. Hightower, Mr. Hubbard, Mr. Jeffords, Mr. Jenrette, Mr. Kelly, Mr. Krebs, Mr. McHugh, Mrs. Meyner, Mr. Moore, Mr. Nolan, Mr. Nowak, Mr. Richmond, Mr. Sharp, Mr. Simon, Mr. Weaver, Mr. Fauntroy.

The Clerk will report the remaining resolution.

The Clerk read as follows:

Resolved, That as a further mark of respect the House do now adjourn.

The resolution was agreed to.

ADJOURNMENT

Accordingly (at 5 o'clock and 37 minutes p.m.), under its previous order, the House adjourned until tomorrow, Thursday, August 5, 1976, at 10 o'clock a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3752. A letter from the Acting Director, Office of Management and Budget, Executive Office of the President, transmitting seven plans for works of improvement in various watersheds, none of which involves a project with a structure which provides more than 4,000 acre-feet of total storage capacity, pursuant to section 5 of the Watershed Protection and Flood Prevention Act, as amended (16 U.S.C. 1005); to the Committee on Agriculture.

3753. A letter from the Chairman, National Commission for Manpower Policy, transmitting the third interim report of the Commission, entitled "Addressing Continuing High Levels of Unemployment"; to the Committee on Education and Labor.

3754. A letter from the Administrator, Agency for International Development, Department of State, transmitting notice of his intention to obligate Middle East special requirements fund is for the Sinai support mission, pursuant to section 903(b) of the Foreign Assistance Act of 1961, as amended; to the Committee on International Relations.

3755. A letter from the Secretary of Transportation, transmitting a report on preliminary standards, classification, and designation of lines of class I railroads in the United States, pursuant to section 503(b) of the Railroad Revitalization and Regulatory Reform Act of 1976; to the Committee on Interstate and Foreign Commerce.

3756. A letter from Vice President for Government Affairs, National Railroad Passenger Corporation, transmitting the financial report of the Corporation for the month of April 1976, pursuant to section 308(a)(1) of the Rail Passenger Service Act of 1970, as amended; to the Committee on Interstate and Foreign Commerce.

3757. A letter from the Vice President for Government Affairs, National Passenger Corporation, transmitting a report covering the month of June 1976 on the average number of passengers per day on board each train operated and the on-time performance at the final destination of each train operated, by route and by railroad, pursuant to section 308(a)(2) of the Rail Passenger Service Act of 1970, as amended; to the Committee on Interstate and Foreign Commerce.

3758. A letter from the Acting Director, Office of Management and Budget, Executive Office of the President, transmitting five plans for works improvement in various watersheds, each of which involves a project with at least one structure which provides more than 4,000 acre-feet of total storage capacity, pursuant to section 5 of the Watershed Protection and Flood Prevention Act, as amended (16 U.S.C. 1005); to the Committee on Public Works and Transportation.

3759. A letter from the Assistant Secretary of the Army (Civil Works), transmitting a letter from the Chief of Engineers, Department of the Army, submitting a report on San Juan Harbor, P.R. (H. Doc. No. 94–574); to the Committee on Public Works and Transportation and ordered to be printed with illustrations.

3760. A letter from the Secretary of the Treasury, transmitting a draft of proposed legislation to amend the Tariff Act of 1930 to raise the monetary ceiling for nonjudicial forfeiture of any vessel, vehicle, merchandise, or baggage seized under the customs laws, and for other purposes; to the Committee on Ways and Means.

3761. A letter from the Administrator, Federal Energy Office, transmitting a report on the exploration, development, and production of Naval Petroleum Reserve No. 4, pursuant to section 164 of Public Law 94–163; jointly, to the Committees on Interstate and Foreign Commerce, Interior and Insular Affairs, and Armed Services.

RECEIVED FROM THE COMPTROLLER GENERAL

3751. A letter from the Comptroller General of the United States, transmitting a report on the current capabilities, problems, and status of the Navy's F–14A/Phoenix weapon system; jointly, to the Committees on Government Operations, and Armed Services.

3762. A letter from the Comptroller General of the United States, transmitting a report on improvements needed in the Federal Aviation Administration's financial disclosure system; jointly, to the Committees on Government Operations, and the Judiciary.

3763. A letter from the Comptroller General of the United States, transmitting a report on the need for tighter controls over payments for laboratory services under medicare and medicaid; jointly, to the Committees on Government Operations, Ways and Means, and Interstate and Foreign Commerce.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. HÉBERT: Committee on Armed Services. House Joint Resolution 519. Joint resolution to provide for the appointment of George Washington to the grade of general of the Armies of the United States (Rept. No. 94–1388). Referred to the House Calendar.

Mr. PEPPER: Committee on Rules. House Resolution 1462. Resolution providing for agreeing to the Senate amendment with an amendment to H.R. 8532. An Act to amend the Clayton Act to permit State attorneys general to bring certain antitrust actions, and for other purposes (Rept. No. 94–1389). Referred to the House Calendar.

Mr. MADDEN: Committee on Rules. House Resolution 1463. Resolution providing for the consideration of H.R. 13372. A bill to amend the Wild and Scenic Rivers Act (82 Stat. 906; 16 U.S.C. 1271), and for other purposes (Rept. No. 94–1390). Referred to the House Calendar

Mr POAGE: Committee on Agriculture. Conference report on H.R. 8410 (Rept. No. 94–1391). Ordered to be printed.

Mr. STAGGERS: Committee of conference. Conference report on H.R. 12169 (Rept. No. 94–1392). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Ms. ABZUG (for herself, Mr. Badillo, Mr. Edgar, Mr. Fraser, Mr. Harrington, Mr. Mitchell of Maryland, Mr. Rosenthal, Mr. Scheuer, Mr. Stark, and Mr. Waxman):

H.R. 15038. A bill to amend chapter 17 of title 38, United States Code, to direct the Administrator of Veterans' Affairs to initiate and carry out a special psychiatric, psychological, and counseling program for veterans of the Vietnam era, especially former prisoners of war, and their dependents who are experiencing psychological problems as the result of the military service performed by such veterans; to the Committee on Veterans' Affairs.

By Ms. ABZUG (for herself, Mr. Badillo, Mr. Downey of New York, Mr. Drinan, Mr. Hannaford, Mr. Harrington, Mr. Helstoski, Mr. Hinshaw, Mr. Mitchell of Maryland, Mr. Ottinger, Mr. Simon, Ms. Spellman, Mr. Richmond, and Mr. Waxman):

H.R. 15039. A bill to amend title XVI of the Social Security Act to provide that payments of tuition, fees, or other training costs by any person for a mentally retarded adult individual attending a school for the retarded shall not be treated as income of such individual in determining his or her eligibility for supplemental security income benefits; to the Committee on Ways and Means.

By Ms. ABZUG (for herself, Mr. Badillo, Ms. Burke of California, Mr. Carney, Mr. Harrington, Mr. Mitchell of Maryland, Mr. Moakley, Mr. Ottinger, Mr. Richmond, Mr. Roybal, Mr. Simon, Mr. James V. Stanton, and Mr. Waxman):

H.R. 15040. A bill to provide certain benefits for persons who are unemployed as a result of certain Federal actions for the improvement of environmental quality or because of the administration of Federal laws relating to the regulation or control of nuclear energy; to the Committee on Ways and Means.

By Ms. ABZUG (for herself, Mr. Matsunaga, Mr. Stark, and Mr. Young of Georgia):

H.R. 15041. A bill to amend titles IV, XI, and XIX of the Social Security Act to increase the Federal matching rate for purposes of reimbursement to States under the programs of aid to needy families with children and medical assistance; jointly to the Committees on Ways and Means and Interstate and Foreign Commerce.

By Mr. AuCOIN:

H.R. 15042. A bill to amend the Internal Revenue Code of 1954 to provide that heads of households (whether or not married) may produce 200 gallons of wine per year for use by the household without payment of Federal tax; to the Committee on Ways and Means.

By Mr. CRANE (for himself, Mr. Stephens, Mr. Kemp, Mr. Kindness, Mr. Brinkley, Mr. Derwinski, Mr. Whitehurst, Mr. Ketchum, Mr. Lagomarsino, Mr. Davis, Mr. Rose, Mr. Paul, Mr. Conlan, Mr. Symms, Mr. Rousselot, Mr. Archer, Mr. Miller of Ohio, Mr. Collins of Texas, Mr. Robinson, and Mr. Mathis):

H.R. 15043. A bill to guarantee the right of all Americans to quality medical care, and other purposes; jointly to the Committees on Interstate and Foreign Commerce, Ways and Means, and Rules.

By Mr. HILLIS (for himself and Mr. Myers of Indiana):

H.R. 15044. A bill to reaffirm the intent of Congress with respect to the structure of the common carrier telecommunications industry rendering services in interstate and foreign commerce; to grant additional authority to the Federal Communications Commission to authorize mergers of carriers when deemed to be in the public interest; to reaffirm the authority of the States to regulate terminal and station equipment used for telephone exchange service; to require the Federal Communications Commission to make certain findings in connection with Commission actions authorizing specialized carriers; and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. JACOBS:

H.R. 15045. A bill to reaffirm the intent of Congress with respect to the structure of the common carrier telecommuncations industry rendering services in interstate and foreign commerce; to reaffirm the authority of the States to regulate terminal and station equipment used for telephone exchange service; and for other purposes; to the Committee on Interstate and Foeign Commerce.

By Ms. KEYS (for herself, Mr. Jacobs, Mr. Scheuer, Mr. Pepper, Mr. Ottinger, Mr. Mineta, Mr. Harris, Ms. Chisholm, Mr. Edwards of California, Mr. Stark, Mr. Moss, Mr. Simon, Ms. Spellman, Mr. Oberstar, and Mr. Lundine):

H.R. 15046. A bill to amend part B of title XI of the Social Security Act to assure appropriate participation by professional registered nurses in the peer review, and related activties authorized thereunder; jointly to the Committees on Ways and Means and Interstate and Foreign Commerce.

By Ms. KEYS (for herself, Mr. St Germain, Ms. Heckler of Massachusetts, Mr. Fraser, Mr. Howe, Mr. LaFalce, Mr. Moakley, Mr. Wirth, Mr. Jenrette, Mr. Fascell, Mr. Sarbanes, Mr. Beard of Rhode Island, Mr. Conte, Mr. Yates, Mr. Matsunaga, Mr. Davis, and Mr. Hyde):

H.R. 15047. A bill to amend part B of title XI of the Social Security Act to assure appropriate participation by professional registered nurses in the peer review, and related activities authorized thereunder; jointly to the Committees on Ways and Means, and Interstate and Foreign Commerce.

By Mr. McKINNEY (for himself, Mr. Anderson of Illinois, Mr. Duncan of Tennessee, Mr. Gude, Mr. LaFalce, Mr. McClory, Mr. Sarasin, Mr. Thompson, and Mr. Bob Wilson):

H.R. 15048. A bill to amend the Internal Revenue Code of 1954 to allow an individual to exclude from gross income the gain from the sale or exchange of the individual's principal residence; to the Committee on Ways and Means.

By Mr. McDONALD (for himself and Mr. Paul):

H.R. 15049. A bill to repeal titles XV and XVI of the Public Health Service Act; to the Committee on Interstate and Foreign Commerce.

By Mr. ROGERS (for himself, Mr. Satterfield, Mr. Florio, Mr. Carney, Mr. Carter, Mr. Broyhill, Mr. Heinz, and Mr. Madigan):

H.R. 15050. A bill to amend the Public Health Service Act to authorize the establishment and implementation of a national influenza immunization program and to provide an exclusive remedy for persons injured as a result of inoculation with vaccine under such program; to the Committee on Interstate and Foreign Commerce.

By Mr. NEAL (for himself, Ms. Abzug, Mr. Adams, Mr. Bingham, Mr. Phillip Burton, Mr. Carr, Mr. Conyers, Mr. de Lugo, Mr. Eckhardt, Mr. Edgar, Mr. Edwards of California, Mr. Fraser, Mr. Gibbons, Mr. Gude, Mr. Hayes of Indiana, Mr. Hyde, Mr. Lagomarsino, Mr. Maguire, Mr. Miller of California, Mrs. Mink, Mr. Moffett, Mr. Ottinger, Mr. Pritchard, Mr. Roybal, and Mr. Scheuer):

H.R. 15051. A bill to amend the Wild and Scenic Rivers Act (82 Stat. 906; 16 U.S.C. 1271), and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. NEAL (for himself, Mr. Roncalio, Mr. Seiberling, Mr. Simon, Mrs. Spellman, Mr. Stark, Mr. Steelman, Mr. Studds, Mr. Tsongas, and Mr. Waxman):

H.R. 15052. A bill to amend the Wild and Scenic Rivers Act (82 Stat. 906; 16 U.S.C. 1271), and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. OTTINGER:

H.R. 15053. A bill to authorize the Administrator of the National Fire Prevention and Control Administration to make grants to volunteer fire departments which are unable to purchase necessary firefighting equipment because of the increased cost of such equipment as the result of inflation; to the Committee on Banking, Currency and Housing.

H.R. 15054. A bill to amend the Internal Revenue Code of 1954 to provide a deduction for clothing purchased and used by taxpayers serving in volunteer firefighting organizations; to the Committee on Ways and Means.

H.R. 15055. A bill to amend the Internal Revenue Code of 1954 to exempt nonprofit volunteer firefighting or rescue organizations from the Federal excise taxes on gasoline, diesel fuel, and certain other articles and services; to the Committee on Ways and Means.

By Mr. ROBINSON:

H.R. 15056. A bill to reaffirm the intent of Congress with respect to the structure of the common carrier telecommuniactions industry rendering services in interstate and foreign commerce; to grant additional authority to the Federal Communications Commission to authorize mergers of carriers when deemed to be in the public interest; to reaffirm the authority of the States to regulate terminal and station equipment used for telephone exchange service; to require the Federal Communications Commission to make certain findings in connection with Commission actions authorizing specialized carriers; and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. RUPPE (for himself, Mr. Buchanan, Mr. Burgener, Mr. Don H. Clausen, Mr. Forsythe, Mr. Frenzel, Mr. Goldwater, Mr. Hillis, Mr. Lagomarsino, Mr. Miller of Ohio, Mrs. Pettis, Mr. Quie, Mr. Regula, Mr. Schneebeli, and Mr. J. William Stanton):

H.R. 15057. A bill to amend the Mineral Leasing Act of 1920, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. ST GERMAIN:

H.R. 15058. A bill to amend section 8 of the United States Housing Act of 1937 for the purpose of reducing the amount of rent required to be paid by elderly families residing in dwelling units assisted by Federal contributions authorized by such section; to the Committee on Banking, Currency and Housing.

By Mr. BERGLAND:

H.R. 15059. A bill to amend the Emergency Livestock Credit Act of 1974; to the Committee on Agriculture.

By Mr. FORSYTHE:

H.R. 15060. A bill to reaffirm the intent of Congress with respect to the structure of the common carrier telecommunications industry rendering services in interstate and foreign commerce; to reaffirm the authority of the States to regulate terminal and station equipment used for telephone exchange service; to require the Federal Communications Commission to make certain findings in connection with Commission actions authorizing specialized carriers, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. ROUSSELOT:

H.R. 15061. A bill to amend chapter 49 of title 10, United States Code, to prohibit union organization in the Armed Forces, and for other purposes; to the Committee on Armed Services.

By Mr. SNYDER (for himself, Mr. Harsha, Mr. Don H. Clausen, Mr. Walsh, Mr. Cleveland, Mr. Shuster, Mr. Ginn, Mr. Cochran, Mr. Milford, Mr. Mineta, Mr. Taylor of Missouri, Mr. Breaux, Mr. Johnson of California, Mr. Wright, Mr. Goldwater, Mr. Anderson of California, Mr. Hagedorn, and Mr. Roncalio):

H.R. 15062. A bill to terminate the study of water resources development opportunities in the Beargrass Creek Basin, Jefferson County, Ky.; to the Committee on Public Works and Transportation.

By Mr. ADDABBO:

H. Res. 1459. Resolution concerning committee hearings on the future telecommunications policy of the Nation; to the Committee on Interstate and Foreign Commerce.

By Mr. MOAKLEY:

H. Res. 1460. Resolution disapproving the deferral of budget authority; to the Committee on Appropriations.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. ABDNOR presented a bill (H.R. 15063) for the relief of Song Chan Ki, which was referred to the Committee on the Judiciary.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 8911

By Mr. RANGEL:

Page 26, after line 16, insert the following new section (and redesignate the succeeding section accordingly):

INCREASE IN SSI BENEFITS TO REFLECT CERTAIN EXPENSES

Sec. 17. Part A of title XVI of the Social Security Act is amended by adding at the end thereof the following new section:

"INCREASE IN BENEFITS TO REFLECT CERTAIN EXPENSES

"Sec. 1618. (a) In the case of any eligible individual whose annual housing expenses exceed 33⅓ per centum of his or her annual income (which for purposes of this section shall include benefits determined under section 1611 and any income which would otherwise be excluded pursuant to section 1612 (b)), and who makes application for assistance under this section, the benefit otherwise payable under this title shall be increased by an amount determined at a rate which is the lesser of—

"(1) $600, or

"(2) the amount by which such individual's annual housing expenses exceed 33⅓ per centum of his or her annual income.

"(b) For purposes of this section, an individual's annual housing expenses shall consist of such individual's annual expenses for rent or for mortgage payments and real estate taxes, together with such individual's annual expenses for gas and electric utilities and home and water heating.

"(c) If two aged, blind, or disabled individuals are husband and wife (which shall be determined in accordance with section 1614 (d)) and are not living apart from each other, only one of them may be qualified to receive an increase in benefits under this section; and the income and annual housing expenses of the other shall be included for purposes of determinations under this section to the same extent as they would be if such determinations involved eligibility for and amount of benefits under section 1611.

"(d) The Secretary shall administer this section and shall prescribe such regulations as may be necessary or appropriate to effectuate its purposes and conform its administration, to the maximum extent feasible, to the general administration of the supplemental security income benefits program under this title.".

H.R. 10498

By Mr. HUGHES:

On page 236, after line 12, insert the following new section:

TEMPORARY EMERGENCY REVISIONS

Sec. 116. Section 110 of the Clean Air Act (42 U.S.C. 1857c–5), as amended by section 103 of this Act, is amended by adding at the end thereof the following new subsection:

"(f) (1) Upon application by the owner or operator of a fuel burning stationary source, and after notice and public hearing on the record, an emergency revision of an implementation plan with respect to such source may be made by the Governor of the State in which such source is located and may take effect immediately pending approval or disapproval by the Administrator.

"(2) An emergency revision under this subsection shall be made only if the Governor of such State finds that—

"(A) there exists in the vicinity of such source an economic emergency involving actual or threatened high levels of unemployment;

"(B) such unemployment can be totally or partially alleviated by such emergency revision; and

"(C) such emergency revision, together with all other revisions effective under this subsection, will not result in emissions from such source of any air pollutant which may cause, or materially contribute to any delay in the attainment of, or preventing the maintenance of, any national ambient air quality standard for such pollutant.

"(3) A temporary emergency revision made by a Governor under this subsection shall remain in effect for a maximum of four months. The Administrator shall, within such four month period, approve and make permanent such revision if he determines that it meets the requirements of paragraph (2) of subsection (a) of this section.

"(4) This subsection shall not apply in the case of a plan promulgated by the Administrator under subsection (c) of this section."

By Mr. KRUEGER:

On page 284, line 11, strike the period and closing quotation marks and insert in lieu thereof a comma and the following: "nor shall any such warranty be invalid on the basis of the installation or use of any air-conditioning system not installed in the factory of the vehicle manufacturer, where the particular vehicle or engine in which such air-conditioning system is installed is certified in accordance wth section 206(a)(4) with an allowance for air-conditioning or similar equipment to be subsequently installed.".

On page 286, after line 16, insert the following new subsection:

(b) Section 206(a) of the Clean Air Act is amended by adding the following new paragraph:

"(4) Each new motor vehicle or new motor vehicle engine shall be certified to conform to the regulations prescribed under section 202 for the particular vehicle configuration, anticipated use pattern, and equipment of such vehicle or engine with such allowance to assure conformity with such regulations for air-conditioning or similar equipment to be subsequently installed. Such vehicle or engine shall be deemed to be covered by a certificate of conformity only if no equipment is added or other modification made which is not within the allowance provided for in this paragraph.".

By Mr. MAGUIRE:

Page 200, line 9, strike out ", class II, or class III" and substitute "or class II".

Page 201, strike out line 3 and all that follows down through line 9.

Page 201, line 10, strike out "(D)" and insert in lieu thereof "(C)".

Page 201, line 12, strike out ", (B), or (C)" and insert in lieu thereof "or (B)".

Page 201, line 22, strike out "(E)" and insert in lieu thereof "(D)".

Page 205, line 8, strike out "only" and all that follows down through line 13 and insert in lieu thereof: "as class II.".

Page 213, line 10, strike out "(E)" and insert in lieu thereof "(D)".

Page 203, strike out line 15 and all that follows down through line 7 on page 204 and insert in lieu thereof:

"(ii) No Federal lands may be designated or redesignated as class II unless the appropriate Federal agency (or agencies) having authority over such lands concurs in such designation or redesignation."

Page 206, line 14, before the period insert: "or that the State has arbitrarily and capriciously disregarded relevant environmental, social, or economic considerations in making such designation or redesignation".

By Mr. SATTERFIELD:

Page 199, beginning on line 23 delete "except as may otherwise be permitted under subsection (d)".

Page 199, line 24, delete "air pollutants other than".

Page 200, beginning after the comma on line 3 delete the rest of the sentence and inset in lieu thereof: sulfur oxides and particulates."

Page 210, delete lines 4 through 13.

Page 210, line 14 redesignate "e" as "d".

Page 210, beginning on line 17 delete "with respect to sulfur oxides and particulates".

Page 210, line 18 capitalize "such".

Page 210, delete the sentence beginning on line 20 and all thereafter through line 5 on page 211.

Page 203, line 8, delete "satisfactory".

By Mr. WHALEN:

Page 293, strike out lines 6 through 18 and insert in lieu thereof the following:

"SEC. 324. (a) Except as provided in subsection (b) the regulations under this Act applicable to vapor recovery from fueling of motor vehicles at retail outlets of gasoline shall provide, with respect to independent small business marketers of gasoline, for a three-year phase-in period for the installation of such vapor recovery equipment under which such marketers shall have—

"(1) 33 percent of their outlets in compliance at the end of the first year during which such regulations apply to such marketers,

"(2) 66 percent at the end of such second year, and

"(3) 100 percent at the end of the third year.

"(b)(1) The regulations referred to in subsection (a) shall not apply to independent small business marketers of gasoline before the expiration of the period ending two years after the date of enactment of this section or the period ending six months after the date of submission of the report under paragraph (3), whichever is later.

"(2) The Federal Trade Commission shall study, and not later than one year after the date of enactment of this section report to the Administrator on, the effect the application to independent small business marketers of gasoline of the regulations referred to in subsection (a) will have on the ability of such marketers to compete in gasoline marketing. In the course of such study, the Commission shall provide opportunity for a public hearing and for submission of written views, data, and argument and shall request the participation in such hearing of other interested departments and agencies (including the Federal Energy Administration).

"(3) Not later than 18 months after the date of enactment of this section, the Administrator shall submit a report to the House Interstate and Foreign Commerce Committee and to the Senate Public Works Committee, which analyzes (A) the effect referred to in subsection (b)(2); (B) the need for such regulations to be applied to independent small business marketers of gasoline to assist in attaining or maintaining national ambient air quality standards or in preventing significant deterioration of air quality; and (C) the availability of means for eliminating or minimizing any effects referred to in subsection (b)(2) which are detrimental. The analysis required under clause (C) shall include a discusion of the measures referred to in subsection 202(a)(5) (pertaining to fill pipe standards) and 202(a)(6) (pertaining to onboard hydrocarbon technology). The Administrator's report under this paragraph shall include his conclusions as to whether, and to what extent, such regulations (or such other regulations relating to vapor recovery from fueling of motor vehicles at retail outlets of gasoline) should apply to independent small business marketers of gasoline.

"(4) The Administrator may, on the basis of the conclusions contained in the report under paragraph (3), promulgate regulations—

"(A) exempting independent small business marketers of gasoline, or any class thereof, from the duty to comply with the regulations referred to in subsection (a);

"(B) deferring or modifying the regulations referred to in subsection (a) in the case of independent small business marketers of gasoline, or any class thereof;

"(C) containing provisions to eliminate or minimize any effects referred to in subsection (b)(2) which are detrimental; or

"(D) taking any combination of the actions referred to in subparagraphs (A) through (C).

Regulations under this paragraph may be promulgated by the Administrator only upon a finding that such regulations are necessary in order to assure that application of the regulations referred to in subsection (a) to independent small business marketers of gasoline will not cause such independent marketers to be unable to compete in gasoline marketing.

"(5) The Administrator and the Federal Trade Commission shall keep confidential the commercial or financial information obtained under this section, except that such information may be disclosed to other officers, employees, or authorized representatives of the United States concerned with carrying out this Act or when relevant in any proceeding under this Act.

"(c) For purposes of this section, an independent small business marketer of gasoline is a person engaged in the marketing of gasoline who would be required to pay for procurement and installation of vapor recovery equipment under section 320 of this Act or under regulations of the Administrator, unless such person (1) is a refiner, or (2) controls, is controlled by, or is under common control with, a refiner, or (3) is otherwise directly or indirectly affiliated (as determined under the regulations of the Administrator) with a refiner or with a person who controls, is controlled by, or is under a common control with a refiner (unless the sole affiliation referred to in (3) is by means of a supply contract or an agreement or contract to use a trademark, trade name, service mark, or other identifying symbol or name owned by such refiner or any such person). For the purpose of this section, the term 'refiner' shall not include any refiner whose total refinery capacity (including the refinery capacity of any person who controls, is controlled by, or is under common control with, such refiner) does not exceed 65,000 barrels per day. For purposes of this section, 'control' of a corporation means ownership of greater than 50 percent of its stock.

FACTUAL DESCRIPTIONS OF BILLS AND RESOLUTIONS INTRODUCED

Prepared by the Congressional Research Service pursuant to clause 5(d) of House rule X. Previous listing appeared in the CONGRESSIONAL RECORD of August 3, 1976, page 25372.

HOUSE JOINT RESOLUTIONS

H.J. Res. 1020. July 2, 1976. Judiciary; International Relations. Directs the President to proclaim that Valentyn Moroz shall be an honorary citizen of the United States. Urges the Soviet Union to allow Valentyn Moroz to accept the invitation of Harvard University for the 1976–77 academic year.

H.J. Res. 1021. July 2, 1976. Judiciary; International Relations. Directs the President to proclaim that Valentyn Moroz shall be an honorary citizen of the United States. Urges the Soviet Union to allow Valentyn Moroz to accept the invitation of Harvard University for the 1976–77 academic year.

H.J. Res. 1022. July 19, 1976. Post Office and Civil Service. Designates the week beginning October 3, 1976, and ending October 9, 1976, as "National Gifted Children Week."

H.J. Res. 1023. July 19, 1976. Post Office and Civil Service. Designates January 13, 1977 as "Religious Freedom Day."

H.J. Res. 1024. July 20, 1976. Judiciary. Proposes an amendment to the Constitution which allows persons lawfully assembled, in any public building supported by public funds, to participate in voluntary prayer.

H.J. Res. 1025. July 21, 1976. Judiciary. Proposes an amendment to the Constitution which allows persons lawfully assembled, in any public building supported by public funds, to participate in nondenominational prayer.

H.J. Res. 1026. July 21, 1976. Post Office and Civil Service. Designates the month of October of each year as "National Learning Disabilities Month."

H.J. Res. 1027. July 21, 1976. Judiciary. Proposes an amendment to the Constitution prohibiting deficit spending and increases in the national debt.

H.J. Res. 1028. July 21, 1976. Judiciary. Proposes an amendment to the Constitution establishing constitutional guidelines for treaties.

H.J. Res. 1029. July 22, 1976. Post Office and Civil Service. Authorizes and requests the President to issue annually a proclamation designating the second Sunday of September of each year as Bataan Day.

H.J. Res. 1030. July 22, 1976. Appropriations. Appropriates funds to the Department of Health, Education, and Welfare for a program of influenza A-New Jersey 76 immunization.

H. Res. 1401. July 1, 1976. Rules. Amends Rule XXII of the Rules of the House of Representatives to remove the limitation on the number of Members who may introduce jointly any bill, memorial, or resolution.

H. Res. 1402. July 1, 1976. Rules. Creates a House Select Committee which shall conduct an investigation of all records, memorandums, papers, documents, books, and other information of any standing or select committee of the House or officer of the House respecting expenses incurred by or on behalf of any such committeee or its members or employees.

H. Res. 1403. July 1, 1976. House Administration. Provides that no Member of the House of Representatives shall expand or draw against the stationery allowance fund except by presentation of a receipt of purchase of stationery, or office supplies. Requires that any unexpended portion of the stationery allowance of a Member of the House of Representatives shall be returned to the contingent fund of the House of Representatives at the close of each Congress.

H. Res. 1404. July 19, 1976. House Administration. Provides that no payment shall be made from the contingent fund of the House of Representatives unless such payment is approved by a resolution adopted by the House of Representatives.

H. Res. 1405. July 19, 1976. House Administration. Provides that any statement furnished by the Clerk of the House to any Member relating to the expenditure of funds from any expense allowance shall be made available to the public.

H. Res. 1406. July 19, 1976. House Administration. Provides that any amount of the stationery allowance of a Member of the House of Representatives which is unexpended on the date of the adjournment of a session of the Congress shall be paid into the contingent fund of the House.

H. Res. 1407. July 19, 1976. International Relations. Expresses the sense of the House of Representatives that Israel be commended for its rescue operation in Uganda.

H. Res. 1408. July 19, 1976. House Administration. Authorizes expenditures for the House Select Committee on Professional Sports.

H. Res. 1409. July 19, 1976. Interstate and Foreign Commerce. Calls for hearings by the committee with appropriate jurisdiction to consider and determine what should be the Nation's future telecommunications policy.

H. Res. 1410. July 20, 1976. International Relations. Declares it the sense of the House of Representatives that the United States should retain sovereignty and jurisdiction over the Panama Canal Zone.

H. Res. 1411. July 21, 1976. Elects a Representative to the House Committee on the Judiciary and the Committee on Veterans' Affairs.

H. Res. 1412. July 21, 1976. International Relations. Expresses the disapproval of the House of Representatives to the actions of the Canadian Government and the International Olympic Committee in excluding the Republic of China from the XXI Summer Olympics.

H. Res. 1413. July 21, 1976. Interstate and Foreign Commerce. Disapproves energy action numbered five, exempting naphthas and gas oils from the mandatory petroleum allocation and price regulations.

H. Res. 1414. July 21, 1976. House Administration. Authorizes the expenditure of additional funds for expenses of the ad hoc Select Committee on the Outer Continental Shelf.

H. Res. 1415. July 21, 1976. Rules. Sets forth the rule for consideration of H.R. 13372.

SENATE—*Wednesday, August 4,1976*

The Senate met at 8:30 a.m. and was called to order by the Acting President pro tempore (Mr. METCALF).

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Eternal Father, take this day's life and labor into Thine own keeping. Control our thoughts, our feelings, and our words. May Thy Spirit brood over us and remain in us. Keep us ever aware of who we are and whom we serve. Preserve in us the crowning virtue of doing to others as we pray they might do to us. Amid the stresses and tensions of crowded hours show us how to find the quiet moment of spiritual renewal. May this be a day of high achievement which brings us to its end with joy and peace.

In Thy holy name, we pray. Amen.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Tuesday, August 3, 1976, be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

EXECUTIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider nominations under "New Reports."

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

DEPARTMENT OF STATE

The second assistant legislative clerk proceeded to read sundry nominations in the Department of State.

Mr. MANSFIELD. I ask unanimous consent that the nominations be considered en bloc.

The ACTING PRESIDENT pro tempore. Without objection, the nominations are considered and confirmed en bloc.

U.S. POSTAL SERVICE

The second assistant legislative clerk proceeded to read sundry nominations in the U.S. Postal Service.

Mr. MANSFIELD. I make the same request.

The ACTING PRESIDENT pro tempore. Without objection, the nominations are considered and confirmed en bloc.

NATIONAL LABOR RELATIONS BOARD

The second assistant legislative clerk read the nomination of John A. Penello, of Maryland, to be a member of the National Labor Relations Board for the term of 5 years expiring August 27, 1981.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the President be notified.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(All nominations confirmed today are printed at the conclusion of Senate proceedings.)

LEGISLATIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate return to legislative session.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

CONSUMER CONTROVERSIES RESOLUTION ACT

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate turn to the consideration of Calendar No. 808, S. 2069.

The ACTING PRESIDENT pro tempore. Is there objection? The Chair hears none, and it is so ordered. The clerk will state the bill by title.

The legislative clerk read as follows:

Calendar No. 808, S. 2069, a bill to regulate commerce by establishing national goals for the effective, fair, inexpensive, and expeditious resolution of controversies involving consumers, and for other purposes.

The Senate proceeded to consider the bill which had been reported from the Committee on Commerce, with amendments, as follows:

On page 18, in line 6, strike out "(a)" and insert in lieu thereof "(A)".

On page 18, line 8, strike out "(b)" and insert in lieu thereof "(B)".

On page 18, in line 11, strike out "(c)" and insert in lieu thereof "(C)".

On page 22, in line 3, strike out "$500,000" and insert in lieu thereof "$500,000,000".

On page 22, in line 4, strike out "1976," and insert in lieu thereof "1977,".

On page 22, in line 6, strike out "1977:" and insert in lieu thereof "1978:"

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Consumer Controversies Resolution Act".

DECLARATION OF POLICY

SEC. 2. (a) FINDINGS.—The Congress finds and declares that—

(1) For the majority of American consumers, mechanisms for the resolution of controversies involving consumer goods and services are largely unavailable, ineffective, unfair, or invisible.

(2) The total amount of money involved each year in consumer controversies in the

United States exceeds $100,000,000, but the amount involved in any single controversy is apt to be small, less in many cases than the cost of legal representation for the affected consumer.

(3) The enormous volume of controversies involving consumers is adjudicated, settled, or handled inadequately, if at all, by the existing mechanisms for consumer controversy resolution.

(4) There is substantial nonavailability, for most consumers, of—

(A) meaningful remedies in cases of fraud, deception, and manipulation;

(B) adequate representation of the interests of consumers;

(C) meaningful protections in cases of overreaching and unfair repossession of goods and products;

(D) effective barriers against sewer service, abuse of default judgments, and other unconscionable practices; and

(E) readily available and adequate forums for the fair, effective, and efficient resolution of controversies involving consumer goods and services.

(5) A major and inseparable portion of the goods and services which form the underlying subject matter of such controversies flow through interstate and foreign commerce, the circumstances of their sale and distribution to consumers affect interstate commerce, and almost all of the consumer controversies involving the more than forty million Americans who live in the thirty-one metropolitan areas which encompass more than one State arise out of interstate commerce. The unavailability of effective, fair, inexpensive, and expeditious means for the resolution of such controversies constitutes an undue burden on commerce.

(6) While there have been substantial efforts on the part of the business community to resolve consumer disputes and such efforts must be encouraged and expanded, effective consumer redress will be brought about only through a cooperative functioning of both public and privately sponsored mechanisms.

(b) Purpose.—It is therefore declared to be the purpose of the Congress in this Act to assure all consumers convenient access to consumer controversy resolution mechanisms which are effective, fair, inexpensive, and expeditious, and to facilitate better representation of consumer interests.

DEFINITIONS

Sec. 3. As used in this Act, the term—

(1) "Bureau" means the Bureau of Consumer Redress;

(2) "commerce" means trade, traffic, commerce, or transportation—

(A) between a place in a State and any place outside thereof, or

(B) which affects trade, traffic, commerce, or transportation described in subparagraph (A);

(3) "Commission" means the Federal Trade Commission;

(4) "Director" means the Director of the Bureau;

(5) "local" means of or pertaining to any political subdivision within a State;

(6) "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Canal Zone, and the Trust Territory of the Pacific Islands;

(7) "State Administrator" means the individual or government agency which is designated, in accordance with State law, to direct, coordinate, or conduct a State system; and

(8) "State system" means all of the State sponsored mechanisms and procedures within such State for the resolution of controversies involving consumers, including, but not limited to, small claims courts, arbitration, and other mechanisms and procedures set forth in the State plan under section 6 of this Act.

BUREAU OF CONSUMER REDRESS

Sec. 4. (a) General.—The Commission shall establish, within 30 days after the date of enactment of this Act, a new Bureau to be known as the Bureau of Consumer Redress. The Commission shall appoint a Director of the Bureau.

(b) Duties.—The Commission, through the Director shall, consistent with the purposes and goals of this Act—

(1) enter into or renew cooperative agreements with the States;

(2) allocate and pay to the States funds appropriated for financial assistance to States under cooperative agreements;

(3) issue, from time to time, such regulations as are necessary to carry out the provisions of this Act, in accordance with the provisions of section 553 of title 5, United States Code;

(4) encourage and assist the development and implementation of innovative concepts and approaches, including but not limited to, adapting or expanding the mechanism of the unsatisfied judgment fund in the field of automobile compensation law to satisfy all unsatisfied judgments;

(5) investigate and award discretionary grants;

(6) determine whether a State plan is in accordance with this Act;

(7) review the operation and effectiveness of each State plan for the resolution of controversies involving consumers which has been approved under this Act;

(8) articulate and evaluate the goals for a model State system of consumer controversy resolutions, including the formulation and promotion of Model Small Claims Court Acts and ordinances which may be adopted by the several States. The Model Acts and ordinances shall be formulated within the 12 months after the date of enactment of this Act and shall be revised from time to time as is deemed appropriate by the Director;

(9) coordinate and integrate the functioning of both public and business sponsored mechanisms; and

(10) take such other actions as are appropriate to fulfill the purposes of this Act.

COOPERATION WITH THE STATES AND PRIVATE ENTERPRISE

Sec. 5. (a) General.—In carrying out its functions under this Act, the Director and the Commission shall cooperate, to the maximum extent practicable, with the States and the business community. In addition to any other enumerated obligation, the Director shall consult, from time to time, with the State Administrator, if any, in each State.

(b) Financial Assistance to States.—The Commission, through the Director, is authorized to enter into a cooperative agreement to provide financial assistance to any State which establishes and maintains a system approved by the Commission for the effective, fair, inexpensive, and expeditious resolution of controversies involving consumers or to assist any State to develop such a system. Before a State shall be deemed eligible to enter into or renew a cooperative agreement for the development or maintenance of a State system, the Director shall make, justify, and publish in the Federal Register a finding that such agreement would further the purpose of this Act and that such State has developed, or in the case of an initial grant has developed or is developing, a system under which—

(1) the State has a State Administrator and such State Administrator is authorized under the law of the State to receive and disburse moneys, to submit required reports to the Director, including assembling copies of the rules and regulations covering each redress mechanism within such State, to conduct studies pursuant to section 5(b)(2) of this Act, and to supervise, direct, coordinate or conduct the State system;

(2) a comprehensive survey of the State system and major business-sponsored mechanisms within the State has been or will be conducted which discloses (A) the nature, number, and location of all consumer controversy resolution mechanisms within the State; (B) the annual expenditure and operating authority for each such mechanism; (C) the existence of any program for informing the potential users of each such mechanism of its availability; and (D) statistical data on the following factors with respect to each such mechanism, to the extent practicable and appropriate; annual caseload; jurisdiction limit, if any; number of cases filed by corporations or partnerships and their disposition; number of cases filed by individuals and their disposition; availability and nature of legal or para-legal assistance which is available to low-income consumers during preparation, at settlement during arbitration, or at trial; and number of defaults each year, by category of plaintiff and method of service.

(3) funds expended pursuant to such system for the development and maintenance of consumer controversy resolution mechanisms within the State for which application for a cooperative agreement is made are distributed in accordance with need and in a manner which would further the policies of this Act;

(4) the State Administrator has submitted a 4-year plan for the development or maintenance of consumer controversy resolution mechanisms within such State for which the application for a cooperative agreement is made and such plan is designed to meet or exceed the goals set forth in section 7 of this Act; and

(5) provision is made for participation by consumers, including low-income consumers, in developing and commenting upon such plan or plans, which comments become part of any application for a cooperative agreement.

(c) Allocation of Funds.—Moneys appropriated for financial assistance pursuant to this section shall be available to the Director for allocation to the States under cooperative agreements. Such agreements shall have a duration of no more than 4 years. The purposes for which such funds may be used include, but are not limited to—

(1) compensation of personnel engaged in the administration, adjudication, conciliation, or settlement of controversies involving consumers, including personnel whose function it is to assist private citizens in the preparation and resolution of their claims and the collection of judgments;

(2) recruiting, organizing, training, and educating personnel described in paragraph (1) of this subsection;

(3) public education and publicity relating to the availability and proper use of consumer controversy resolution mechanisms and settlement procedures;

(4) improvement, purchase, or lease of buildings, rooms, vehicles, and other facilities and equipment needed to improve the settlement of controversies involving consumers;

(5) continuing supervision and study of the mechanisms and settlement procedures employed in consumer controversy resolution within the State;

(6) research and development of more fair, less expensive, or more expeditious mechanisms and procedures for consumer controversy resolution; and

(7) sponsoring programs of nonprofit organizations to accomplish any of the provisions of this subsection.

The Director shall consider population density when allocating appropriated funds to the States under cooperative agreements.

The proportion of the Federal share of the estimated cost of a cooperative agreement shall not exceed 70 per centum of the total cost of such agreement. The aggregate expenditure of funds of the State and political subdivisions thereof, exclusive of Federal funds, for such purposes shall be maintained at a level which does not fall below the average level of such expenditures for the last two full fiscal years preceding the date of application for a cooperative agreement.

DEMONSTRATION PROJECTS

SEC. 6. (a) GENERAL.—The Director, in accordance with the purposes and goals of this Act, shall promote, develop, encourage, and assist in the development of consumer controversy resolution mechanisms through research and demonstration projects or other activities that will encourage innovation or effectuation of the policies of this Act.

(b) PROJECTS.—Notwithstanding the provisions of section 5(b), the Director is authorized to make discretionary grants, in a total amount each year not to exceed 25 per centum of the financial assistance appropriated under this Act.

(c) ELIGIBILITY FOR GRANTS.—The Director shall establish criteria for awarding grants for research or demonstration projects which are consonant with the purposes and goals of this Act. These grants may be made to units of local government, combinations of such units, or nonprofit organizations, under established criteria and such terms and conditions as may from time to time be established by the Director. No discretionary grant shall be made to any professional organization whose consumer controversy resolution mechanisms do not fairly represent the consumers of the services provided.

APPLICABILITY WITHIN STATES

SEC. 7. (a) STATE PLAN.—By the end of six months after the date of enactment of this Act, a State may establish and submit a plan in accordance with this Act for the resolution of controversies involving consumers. A plan is in accordance with this Act if it is designed to meet or exceed the requirements set forth in section 5 of this Act, responds to the goals set forth in section 7 of this Act, and represents an effective response to the Nation's need for fair, expeditious, and inexpensive resolution of such controversies. Upon the establishment of such a plan, the State administrator shall promptly transmit a certified copy to the Commission.

(b) DETERMINATION.—Within 90 days after the Commission receives a certified copy of a State plan established under subsection (a) of this section, the Director shall make a determination whether (1) the State is eligible to receive financial assistance under section 5(b) of this Act and (2) such State has established a plan which is in accordance with this Act. Unless the Commission determines, within 30 days after the Director determines that a State plan is in accordance with the Act, that such plan is not in accordance with this Act, the Director shall, to the extent resources are available, enter into a cooperative agreement designed to effectuate such plan. A State may submit a revised or improved plan designed to better effectuate the goals of this Act at any time.

(c) REVIEW.—The Director shall periodically, but not less than once every 2 years, or may at any time upon complaint of affected consumers, review any State plan or any discretionary grant for the resolution of controversies involving consumers which has been approved and for which there is (1) experience to determine whether such plan or grant is still in accordance with the goals of this Act, and (2) to evaluate the success of such plan or grant in terms of the policies and purposes of this Act. In addition to the data required under sections 5(b)(2) and 9 (a) of this Act, reports must be submitted on each mechanism showing the extent to which it has met the applicable goals of section 8, including results of random sample surveys of attitudes of consumers who have actually used the services of the organization. Any plan or grant which is found not to be in accordance with such goals or which has not been successful shall be terminated in accordance with the procedures set forth in subsection (d) of this section. To facilitate such review, the State Administrator in each such State shall submit to the Director, not later than March 15 of each year, an annual report containing all relevant information requested by the Director and comments of consumers, including low-income consumers, on the effectiveness of mechanisms funded under this Act.

(d) PROCEDURE.—Before making any determination under subsection (b) or (c) of this section, the Director shall cause a notice and a summary of the plan under consideration to be published in the Federal Register and shall afford the affected State and all interested parties a reasonable opportunity to present their views by oral or written submission, and to propose amendments, if any, to such plan or grant program. The Commission, through the Director, shall notify the affected State or grantee of any determinations made under this section and shall publish these determinations with reasons therefor in the Federal Register. Any final determination by the Director under this section shall be subject to judicial review in accordance with chapter 7 of title 5, United States Code, in the United States Court of Appeals for the circuit in which is located the State whose plan or grant is the subject of such determination or in the United States Court of Appeals for the District of Columbia. Any such review shall be instituted within 60 days from the date on which the determination of the Director is published in the Federal Register.

GOALS

SEC. 8. (a) FOR STATE SYSTEM.—A State is responsive to national goals if—

(1) there are sufficient numbers and types of readily available consumer controversy resolution mechanisms responsive to the goals set forth in subsection (b) of this section;

(2) a public information program is effectively communicating to potential users the availability and location of consumer controversy resolution mechanisms and consumer complaint offices in such State; and

(3) each such mechanism and unit thereof files an annual report with the State Administrator in such form and with such content as is prescribed by him in consultation with the Director, including not less than the information required in section 5(b)(2) of this Act.

(b) FOR CONSUMER CONTROVERSY RESOLUTION MECHANISM.—A consumer controversy resolution mechanism is responsive to national goals if—

(1) its forms, rules, and procedures are, so far as practicable, easy for potential users to understand, free from technicalities, and it is inexpensive to use;

(2) it is designed so that assistance, including paralegal personnel, where appropriate, is provided to consumers and other persons in pursuing claims and collecting judgments;

(3) it is open and available for the adjudication or resolution of controversies during hours and on days that are convenient for consumers, such as evenings and weekends, and that a fair proportion of controversies are scheduled to be resolved at such times;

(4) it provides for adequate arrangements for translation in areas with substantial non-English-speaking populations;

(5) it is governed by reasonable and fair rules and procedures which are approved by the State administrator. Such rules and procedures shall:

(A) facilitate the early resolution of consumer controversies by means in addition to the adjudication of claims;

(B) encourage the fairest and most effective use of the services of attorneys in the resolution of such controversies;

(C) encourage the finality and conclusiveness of the resolution of such controversies;

(D) provide for the qualification, tenure and duties of persons charged with resolving or assisting in the resolution of such controversies;

(E) prohibit the use of consumer controversies resolution mechanisms by assignees or collection agencies in any manner inconsistent with the policies of this Act;

(F) provide for the maintenance of thorough and complete records of each grievance submitted to it and each complaint filed with it together with a notation as to and the disposition of each such grievance or complaint;

(G) insure that both sides to a dispute are directly involved in the resolution of such dispute;

(H) insure that the results of dispute settlement efforts are actually carried out;

(I) assure that the consumer is informed of the status of his case; and

(J) provide useful information about other available redress mechanisms in the event that dispute settlement efforts fail or the controversy does not come within the jurisdiction of such mehcanism; and

(6) it provides for the identification and correction of product design problems and patterns of service abuse by—

(A) maintaining public records on all closed complaints;

(B) bringing substantial authority and meaningful influence to bear on complainee to correct patterns of product or service deficiency; or

(C) providing information to Government agencies responsible for the administration of applicable laws so they can perform their remedial deterrent tasks more effectively.

(c) FOR SMALL CLAIMS COURTS.—A small claims court is responsive to national goals if, in addition to meeting the requirements of subsection (b) of this section, it—

(1) is part of the regular court system maintained by the State;

(2) has a jurisdictional limit which is adequate to permit all, or substantially all, consumer controversies in its area to be resolved therein;

(3) provides methods for assuring that process served is actually received by defendants, including, but not limited to, procedures for supplemental notification after service of process;

(4) provides an easy way for an individual to determine the proper name in which, and the proper procedure by which, any person may be sued;

(5) provides informal means for the resolution of controversies through conciliation, mediation, arbitration, or other means: *Provided*, That such informal means (A) are required to be used in good faith by persons other than individuals, before a date may be set for trial involving a claim initiated by such person; and (B) involve the presence and approval of, or decision by a disinterested third party or the participation of a representative for both parties with judicial approval of the term of any proposed resolution; and

(6) discourages the entry of judgments by default by requiring, as a prerequisite thereto, that the appropriate judge find, after a proceeding in open court, that—

(A) the defendant was given adequate notice of such claim. If any person other than the defendant accepted service on behalf of the defendant, the judge must find that there was a business, family, or personal relationship between that person and the defendant sufficient to assure that the defendant in fact received notice of such claim;

(B) the defendant understood the nature of the claim and the proceedings;

(C) the plaintiff established a prima facie case demonstrating entitlement to judgment; and

(7) provides effective means for insuring that judgments awarded to aggrieved individuals are paid promptly.

RECORDS, AUDIT AND ANNUAL REPORT

SEC. 9. (a) GENERAL.—Each recipient of assistance under this Act shall keep such records as the Commission, through the Director, shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such assistance is given or used, and the amount of that portion of the project or undertaking supplied by other sources, and such other records as will facilitate an effective financial and performance audit. This provision shall apply to all recipients of assistance under this Act, whether by direct grant or contract with the Commission through the Director or by subgrant or subcontract from primary grantees or contractors of the Commission, through the Director, or from any State Administrator receiving financial assistance under this Act.

(b) Audit.—The Commission or any of its designated representatives shall have access for purpose of audit and examination to any relevant books, documents, papers, and records of the recipients of grants and financial assistance under this Act.

(c) COMPTROLLER GENERAL.—The Comptroller General of the United States, or any of his duly authorized representatives, shall, until the expiration of 3 years after the completion of the program or project with which the assistance is used, for the purpose of financial and performance audits and examinations, have access to any relevant books, documents, papers, and records of recipients of financial assistance under this Act.

(d) ANNUAL REPORT.—The Commission, through the Director, shall submit an annual report to the President and the Congress simultaneously by June 15 each year. Such report shall include, but need not be limited to—

(1) A summary of any reviews undertaken pursuant to section 7(c).

(2) The results of financial and performance audits conducted pursuant to section 9.

(3) An evaluation of the effectiveness of the Bureau and the Commission in implementing the purposes of the Act, together with any recommendations for additional legislative or other action.

AUTHORIZATION FOR APPROPRIATION

SEC. 10. For purposes of this Act, there are authorized to be appropriated to the Commission not to exceed $500,000,000 for the fiscal year ending June 30, 1977, and not to exceed $20,000,000 for the fiscal year ending September 30, 1978: *Provided,* That not more than 10 per centum of the amount authorized to be appropriated under this Act shall be used for Federal administrative expenses.

The ACTING PRESIDENT pro tempore. Without objection, the committee amendments are agreed to and the bill as so amended is considered as original text for the purpose of further amendment.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed at this point in the RECORD remarks by the Senator from California (Mr. TUNNEY).

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

STATEMENT BY SENATOR TUNNEY

It is a pleasure for me to join my colleagues, Senators Moss and Magnuson, is calling up the Consumer Controversies Resolution Act. In the last Congress we introduced this bill (S. 2928), which was unanimously reported by the Commerce Committee and favorably reported by my Subcommittee on Representation of Citizen Interests. Unfortunately, due to the pressing demands of legislative business at the end of the last session, the bill was not voted on by the full Senate. I urge now that the Senate act to assure its speedy passage.

In this day and age few consumers who desire to air a legitimate grievance have effective access to redress mechanisms: courts, small claims courts, arbitration, mediation and conciliation services, informal business mechanisms. In many cases, the consumer is caught in the bind of the solution being more expensive than the problem.

In joint hearings in 1974, two subcommittees addressed this problem in depth. We found that the present formal and informal redress mechanisms are almost universally inadequate. Existing avenues of redress are not widely publicized, have limited hours, inconvenient locations, and often hostile judges, arbitrators, and supporting personnel. The costs of counsel to aid the hapless consumer are prohibitive in view of the small monetary claim at issue.

In recent years, expanded use of informal business procedures—money-back guarantees, consumer complaint divisions—has improved consumer satisfaction. But the 1973 report of the National Institute for Consumer Justice showed that business-sponsored mechanisms met only a small percent of the need, and recommended expansion of both informal and formal redress mechanisms.

The bill, which Senators Moss, Magnuson and I have called up today, would set up a program of matching Federal grants, administered from a new Bureau of Consumer Redress in the office of the Secretary of HEW, to states that formulate a system of consumer redress, the total result of which is effective, fair, inexpensive, and expeditious resolution of consumer controversies. These mechanisms would include such things as increased use of arbitration, small claims courts, consumer complaint bureaus, and better use and access to already existing grievance mechanisms. It will help bring speedy and inexpensive relief to the consumer.

The Federal money will be conditioned on adequate assurance that the redress mechanism involves forms and procedures which the average consumer can understand and which protect his interests, and that it will be accessible at times when working people can utilize it. There must be assurances that assistance is provided the citizen in pursuing his claims from start to finish, and that information about the availability and the workings of these mechanisms are widely disseminated. Except for these conditions, the bill is otherwise designed to give maximum flexibility to states in fashioning their own programs.

During the 2nd session of the 93rd Congress, both the Commerce Subcommittee on Consumers and the Judiciary Subcommittee on Representation of Citizen Interests held a joint hearing to receive the report of the National Institute of Consumer Justice, established by former President Nixon. While the Institute looked at several models, including the Los Angeles Small Claims Court which bans attorneys except on their own behalf, and made several specific recommendations, under this legislation each State will be free to design its own program as long as the system furthers the goals set forth in the bill.

This bill has received overwhelming support, both in and out of Congress. Eighteen major business consumer and governmental organizations now support the Consumer Controversies Resolution Act, S. 2928. Among these organizations are: National League of Cities, U.S. Conference of Mayors, U.S. Chamber of Commerce, National Urban League, Federal Trade Commission, Council of Better Business Bureaus, American Retail Federation, Sears, Roebuck & Co., National Home Furnishing Association, Consumers Union of the United States, and Consumer Federation of America.

Additionally, following a White House-sponsored conference on "Consumer Complaints—Public Policy Alternatives," Virginia Knauer, Special Assistant to the President for Consumer Affairs, wrote that:

"Over three-fourths of the conference participants surveyed agreed in whole or in part with these recommendations and findings (including business support for S. 2928), and 36 percent indicated a decision to actively support such a program. (Only four percent stated active opposition.) Additionally, there was strong agreement with many of these recommendations in the public policy clinic dealing with 'Feasibility of Complaint Handling Systems.' Strong support for S. 2928 was also evidenced in the legislative clinic. We think that these and other reactions and conclusions of the conference are highly significant to effective public policy in the area of complaint handling."

The legislation gives states incentive, flexibility and freedom to experiment and adopt programs appropriate to their needs. At the same time, it precludes unfair, ineffective, or collection-agency dominated grievance machinery. The net result of the limited Federal expenditures involved will be, as one witness at the hearings testified, "a considerable savings to taxpayers all over the country."

Both the input and the support of business groups such as the Council of Better Business Bureaus, Sears, Roebuck & Co., the American Retail Federation and such consumer and community groups as the League of Cities, the National Urban League, Consumers Union, Consumers Federation of America, and many others, coupled with the recommendations of the NICJ and many of the other witnesses have helped develop the legislation, and I am deeply appreciative.

It is my hope that this legislation will be promptly considered by the Senate and will make, in the area of consumer redress, the humblest and the most powerful peers before justice.

I have some technical amendments which have been agreed to by the Committee.

Mr. MOSS. Mr. President, I would like to say a few words in support of the passage of S. 2069, the consumer controversies resolution bill. As I stated when I introduced this bill last year, this bill would provide for the effective, fair, inexpensive, and expeditious resolution of consumer controversies.

In recent years, at the urging of the Commerce Committee, the Senate has passed a number of bills that are designed to aid the consumer and insure that he gets what he pays for. Such legislation includes the Magnuson-Moss Warranty-Federal Trade Commission Improvement Act and the Consumer Products Safety Act. Yet what good is such legislation unless there are effective mechanisms available to the consumer for the resolution of controversies arising under these and other acts, as well as the laws of the States.

Unfortunately, for the majority of Americans, redress of grievances at low cost, and by a simple and accessible process is unattainable. The utilization of the legal system and small claims courts where they exist is in most cases too expensive. Although the total amount of money involved each year in consumer controversies in the United States is tremendous, the amount involved in any single controversy may be quite small—less in many cases than the cost of legal representation for the affected consumer.

Many existing small claims courts serve only as collection agencies for professionally represented creditors. In many cases, the forms, rules, and procedures are too complex for the average consumer to use. Courts are not available for resolution of controversies during hours and on days that consumers can easily utilize them; and jurisdictional limitations are often far too low.

This bill would mark the beginning of the development and establishment of accessible, inexpensive, effective consumer resolution mechanisms. The legislation is largely based on a 2-year comprehensive study conducted by the National Institute for Consumer Justice.

The bill establishes two types of grant programs which will encourage the States to create new mechanisms and improve existing mechanisms for the inexpensive and effective resolution of consumer controversies. State plans must meet minimum standards outlined in the bill in order to receive funding. The program is completely voluntary; States are free to choose whether to participate or not in the grant program. This program does not permit the Federal Government to ram down the throats of an unwilling State any requirement that consumer controversy resolution mechanisms be established.

I understand that the distinguished Senator from Michigan, Senator GRIFFIN, has offered an amendment to S. 2069 to place grant-making authority in the Department of Health, Education, and Welfare rather than in the Federal Trade Commission. Senator GRIFFIN has pointed out that unlike HEW, the FTC has no experience or expertise in making grants to State programs. I understand that the FTC does not object to this change. As a sponsor of this bill, I have no objection to this amendment. My only concern is that the department or agency authorized to administer this program will implement the program as expeditiously as possible, and will keep to a minimum its expenditure of funds for administrative expenses. The bill expressly limits the percentage of funds that may be expended for administrative purposes, but the permitted level of expenditure for administrative purposes is quite high, and it is my hope that HEW will spend far less than this. I would like to emphasize that the limit on expenditures for administrative expenses is a ceiling—and a rather generous one at that—not a target.

I urge my colleagues to join me in supporting this bill.

Mr. MAGNUSON. Mr. President, I am most pleased to support the passage of S. 2069, the Consumer Controversies Resolution Act. This important and innovative bill is designed to help the American consumer resolve disputes effectively, fairly, inexpensively, and expeditiously. The bill would facilitate improvement in consumer redress mechanisms, such as small claims courts, arbitration programs, and other devices that will help resolve disputes in accordance with the goals of this legislation. Consumer redress would be improved through two types of grant programs which will encourage the States to create new mechanisms and to improve existing mechanisms for the resolution of disputes effectively, fairly, inexpensively, and expeditiously, and improve existing dispute resolution mechanisms. The bill also provides for the creation of a model State system of consumer redress and for review of the programs funded under the bill.

BRIEF DESCRIPTION

S. 2069 would establish a new Bureau of Consumer Redress. The Bureau would have the responsibility of administering a program of matching grants to States whose plans for improving the resolution of disputes meets the goals of the legislation and certain other requirements set forth in the bill. The Bureau would also administer a discretionary grant program designed to encourage and assist the development of improved mechanisms for the resolution of disputes, and would review the operation and effectiveness of all programs funded under the bill. The Bureau is to articulate and evaluate the goals for a model system of consumer controversy resolution, and is directed to coordinate and integrate, on a cooperative basis, the functioning of publicly and privately sponsored mechanisms for the resolution of disputes.

The bill would authorize the administering agency, through the Director of the Bureau of Consumer Redress, to enter into cooperative agreements with States that have developed—or, in the case of an initial agreement, are developing—a comprehensive system for the effective, fair, inexpensive, and expeditious resolution of controversies involving consumers. Consumer participation in the development of these plans is required. The States are required to designate a State administrator to coordinate the State program and to conduct studies and submit information and reports in accordance with the requirements of the legislation and rules promulgated by the Bureau. Grants to the States pursuant to cooperative agreements are to be on a 70 percent Federal—30 percent State matching basis. The Bureau is directed to distribute funds appropriated for cooperative agreements equitably among the participating States.

The second type of grants authorized by the bill are discretionary grants. There is no required proportion of State or other matching funding with respect to discretionary grants, but the total amount of discretionary grants that would be authorized is limited to 25 percent of the appropriations for financial assistance. The bill would confer substantial discretion on the Director of the Bureau in administering the discretionary grant program in order to further the purposes of the legislation.

In order to qualify for either type of financial assistance the plan, program or project to be funded should respond to the applicable goals set forth in the legislation: First, goals for a State system of consumer redress; second, goals for a consumer controversy resolution mechanism; and third, additional specific goals for a small claims court. These goals are designed to promote the efficient, fair, inexpensive and expeditious resolution of controversies. They are to be considered both for purposes of initial qualifications for assistance under the legislation and for evaluating the effectiveness of those programs and projects funded.

Because substantial questions have been raised concerning the ability of State sponsored dispute resolution mechanisms to adequately deal with controversies arising in the interstate context, it is anticipated that a study of the special problems of consumer redress involving citizens of different States will be conducted.

An increasing amount of evidence has come to the attention of the Senate Committee on Commerce over the past several years indicating that the average citizen is not able to adequately resolve disputes without a great deal of difficulty and expense. Some specific problems of consumer remedies—in the area of enforcing warranty obligations—were dealt with by the committee in the Magnuson-Moss Warranty-Federal Trade Commission Improvement Act. Unfortunately, the problem of adequate enforcement of consumer rights is not limited to warranty complaints. A recent report by the New York Regional Office of the Federal Trade Commission on debt collection practices has demonstrated that existing redress mechanisms are often inadequate when the consumer is a defendant. Certain court procedures, the inconvenient location of courthouses, and the inability to afford legal fees are significant problems for the consumer who wishes to contest an alleged debt or present a defense. In recognition of these and other problems faced by consumers, the Better Business Bureau has recently initiated a program of voluntary consumer arbitration in several cities.

In 1972, the Small Claims Study Group, a university related organization, released an in-depth study of small claims courts with specific recommendations for reform. In 1973, the National Institute for Consumer Justice, established at the suggestion of the President to investigate the adequacy of existing procedures for resolving disputes arising out of consumer transactions, made a number of specific findings and recommendations which were reported to the Congress at a joint hearing held by the Subcommittee for Consumers of the Senate Commerce Committee and the Subcommittee on Representation of Citizen Interests of the Senate Judiciary Committee, on November 13, 1973. On January 31, 1974, the Consumer Controversies Resolution Act was introduced as S. 2928 by Senators MAGNUSON, MOSS, TUNNEY, and KENNEDY. The bill was originally referred to the Senate Commerce Committee, but by unanimous consent of the Senate on March 26, 1974, it was referred also to the Committee on the Judiciary with an agreement that if either committee should report the bill, the remaining committee will have 45 calendar days to file a report on it. The Committee on Commerce ordered the bill to be reported to the full Senate on August 13, 1974, with an amendment, with a recommendation that the bill be passed as amended. The Committee on the Judiciary has not taken any action on the bill and thus it has been restored to the calendar. S. 2069 is essentially the same bill.

For the majority of American consumers, there is no way to enforce consumer rights inexpensively, fairly, quickly, and effectively. Small claims courts, where they exist, have frequently not fulfilled their intended purpose of providing a convenient and inexpensive forum where the average citizen can pursue his or her own claim to the extent that small claims courts have received any attention in the past 25 years, it has been the attention of critics who have charged they have become collection agencies for professional creditors. Arbitration procedures, where they exist, can operate only with the agreement of the parties. In many areas, there are no effective procedures for resolving disputes without the retention of expensive legal counsel.

The Small Claims Study Group and the National Institute for Consumer Justice have compiled extensive documentation of problems faced by the average citizen when attempting to enforce a right, defend him or herself, or resolve a controversy. These reports reinforced numerous other examples of the inability of the average citizen to obtain a just, speedy, inexpensive and effective resolution of disputes involving his or her interests that had come to the committee through its legislative and oversight responsibilities.

Existing mechanisms, including small claims courts, are not adequate for the resolution of most consumer controversies. Typically the amount in controversy, while not insignificant to the parties involved, is insufficient to justify the retention of counsel; in fact, in many cases the cost of legal representation would exceed the amount in controversy. Many small claims courts are relatively difficult for the consumer plaintiff to gain access to, and some courts appear to be far more useful to collection agencies and professional creditors than to the average citizen. Court forms, rules, and procedures are sometimes needlessly complex, and jurisdictional limits are often too low. With some exceptions there is no effective alternative for the consumer who cannot utilize a small claims court. While there has been some experimentation with arbitration, and several more programs have been initiated recently, there is no agreement on the success of arbitration. There is a need to stimulate improvement in existing small claims courts and to assist in the creation of alternative methods of dispute resolution. At the same time, there is a need to coordinate the functioning of these programs with the dispute resolution programs sponsored by private enterprise.

At the present time, over 41 million Americans, many living in rural areas, do not have any access to a small claims court, let alone a responsive one. There is a need to assure all Americans some forum for the resolution of disputes that are too small to justify the retention of counsel. Even if the cost of representation were far cheaper than it is at the present, employing lawyers for the resolution of all consumer disputes might not be the best solution; there is something to be said for allowing one to stand on his or her own feet and present a case to a judge or arbitrator without being at a hopeless disadvantage, the victim of technical ignorance. The sense of controlling one's personal destiny is becoming an increasingly rare experience these days; and if people are offered the opportunity to right what they perceive to be the injustices in their own lives, it is entirely possible that there will be an increased sense of meaningful participation and involvement in society.

Small claims courts and other dispute resolution mechanisms should have a sufficiently high jurisdictional amount to allow most consumer disputes to be resolved. Many States have jurisdictional limits for small claims courts that are so low that a controversy involving the purchase of almost any major consumer appliance would be excluded.

One of the most difficult problems confronting the average citizen in using any dispute resolution mechanism is the need for assistance in the preparation of his or her case. This need is especially evident where experienced corporate or business representatives, frequently attorneys, represent the other side. There is a need to assure that adequate assistance is provided the citizen in pursuing his claim from start to finish. It makes little difference that a consumer plaintiff has won a case in a small claims court, for example, if he or she is unable to collect the judgment.

Statistical and other information submitted to the committee indicates that there is substantial abuse of default judgments in some areas. There is a need to assure that default judgments are entered only when appropriate. Substantial evidence has been received that indicates there are instances where default judgments have been entered against consumer defendants, especially residents of inter-city areas, without their having first received any effective notice of the nature or pendency of proceedings. There is a need to assure that defendants have actual knowledge of the pendency of such proceedings and that they are equipped to present any defense that may exist.

There is also a need to assure that reforms and changes in existing procedures and structures will in fact be of benefit to the average citizen. There is a need to condition Federal financial assistance on adequate assurances that the redress mechanisms which result will have forms and procedures that will permit the average citizen to effectively use them, that they will be open and available at times when working people will have access to them, and that information about the availability and purpose of dispute resolution mechanisms is widely distributed so that citizens and consumers will be aware of the possibility of securing effective, fair, inexpensive, and expeditious resolution of their controversies.

I urge the passage of S. 2069.

UP AMENDMENT NO. 299

Mr. GRIFFIN. Mr. President, I send an amendment to the desk and I ask for its immediate consideration. I might say this amendment has been cleared all the way around.

The ACTING PRESIDENT pro tempore. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Michigan (Mr. GRIFFIN) proposes an unprinted amendment numbered 299.

The amendment is as follows:

On page 4, strike lines 5 and 6.

On page 4, line 7, strike "(2)", and insert in lieu thereof "(1)".

On page 4, strike lines 13 through 15, and insert in lieu thereof "(2) 'Director' means the Director of the Office;".

On page 4, line 16, strike "(5)", and insert in lieu thereof "(3)".

On page 4, between lines 17 and 18, insert the following:

"(4) 'Office' means the Office of Consumer Redress;

"(5) 'Secretary' means the Secretary of the Department of Health, Education, and Welfare;".

On page 5, strike lines 9 through 15, and insert in lieu thereof the following:

"OFFICE OF CONSUMERS REDRESS

"SEC. 4. (a) GENERAL.—The Secretary shall establish, within 30 days after the date of enactment of this Act, a new Office to be known as the Office of Consumer Redress. The Secretary shall appoint a Director of the Office.

"(b) DUTIES.—The Secretary, through the Director,".

On page 5, strike line 22, and insert in lieu thereof "(3) issue, in consultation with the Federal Trade Commission, such regulations as are".

On page 7, lines 5, 10, 11, and 14; page 12, lines 21, 22, and 23; page 13, line 3; page 14, line 17; page 20, lines 12, 22, and 24; page 21, lines 1, 14, and 23; and page 22, line 3, strike "Commission", and insert in lieu thereof "Secretary".

On page 21, lines 22 and 23, strike "Bureau", and insert in lieu thereof "Office".

Mr. GRIFFIN. Mr. President, as reported by the Committee on Commerce, S. 2069, the Consumer Controversies Resolution Act, would establish a Bureau of Consumer Redress within the Federal Trade Commission. The principal responsibility of this Bureau would be to administer a program of financial assistance to the States for the development of methods for resolving controversies involving consumers, such as small claims courts and arbitration programs.

The purpose of the amendment I am offering is to place the functions of this Bureau in the Department of Health, Education, and Welfare, rather than the Federal Trade Commission. It would establish an Office of Consumer Redress within the Office of the Secretary of HEW and require the Secretary to consult with the FTC prior to issuing regulations necessary to carry out the provisions of the act.

In testifying on a substantially identical bill in the 93d Congress, the FTC supported the establishment of a program of Federal assistance to improve State and local dispute resolution mechanisms. However, the Commission also felt that this program should more properly be located in another agency. The Commission noted that: First, it lacked experience in grant management; second, it is doubtful whether an agency that performs adjudicative and quasi-legislative functions should administer grant programs; and third, the amount of money authorized for the program might affect the Commission's priorities to the detriment of its primary responsibilities.

Mr. President, I believe that the Department of Health, Education, and Welfare is the appropriate agency to administer this program of Federal financial assistance for several reasons.

First, the Department already maintains extensive contacts at both the State and local level through the Office of Consumer Affairs and the Office of Consumer Education.

Second, there presently exists within HEW the capability to develop and administer grant programs. As a result of this capability, the program authorized by this legislation can be implemented soon after enactment.

Finally, under my amendment, the expertise of the Federal Trade Commission would be utilized in developing the program, inasmuch as the Secretary of HEW is required to consult with the FTC prior to issuing regulations implementing the program.

Mr. President, I have discussed this amendment with the manager of the bill, and I understand that it is acceptable to him. I urge its adoption by the Senate.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the amendment of the Senator from Michigan.

The amendment was agreed to.

UP AMENDMENT NO. 300

Mr. MANSFIELD. Mr. President, I send to the desk some amendments by and on behalf of the Senator from California (Mr. TUNNEY) and I ask for their immediate consideration.

The ACTING PRESIDENT pro tempore. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Montana (Mr. MANSFIELD) for Mr. TUNNEY proposes unprinted amendment No. 300.

The amendment is as follows:

On page 1, line 5, strike "DECLARATION OF POLICY", and insert in lieu thereof "FINDINGS AND PURPOSE".

On page 1, line 8, strike "For", and insert in lieu thereof "for".

On page 2, strike line 2, and insert in lieu thereof "effective, or unfair;".

On page 2, line 3, strike "The", and insert in lieu thereof "the".

On page 2, line 7, strike the period and insert in lieu thereof a semicolon.

On page 2, strike lines 8 through 11, and insert in lieu thereof the following: "(3) the mechanisms for consumer controversy resolution are inadequate to handle the enormous volume of such controversies;".

On page 2, strike line 12, and insert in lieu thereof "(4) there is substantial unavailability, for most".

On page 2, line 21, strike "sewer service", and insert in lieu thereof "improper service of process".

On page 2, lines 22 and 23, strike "unconscionable", and insert in lieu thereof "such".

On page 3, line 2, strike the period and insert in lieu thereof a semicolon.

On page 3, line 3, strike "A", and insert in lieu thereof "a".

On page 3, line 5, strike "interstate and foreign".

On page 3, strike lines 7 through 11, and insert in lieu thereof "tion to consumers affect commerce, and the unavailability of".

On page 3, line 14, strike the period and insert in lieu thereof "; and".

On page 3, line 15, strike "While", and insert in lieu thereof "while".

On page 3, line 20, strike "privately sponsored", and insert in lieu thereof "privately-sponsored".

On page 5, line 8, strike "under section 6", and insert in lieu thereof "established pursuant to section 7".

On page 6, line 9, strike "investigate and".

On page 6, lines 17 and 18, strike "Model Small Claims Court Acts", and insert in lieu thereof "model small claims courts acts".

On page 6, line 19, strike "Model Acts", and insert in lieu thereof "model acts".

On page 6, line 20, strike "within the 12 months", and insert in lieu thereof "within 12 months".

On page 6, line 24, strike "business sponsored", and insert in lieu thereof "business-sponsored".

On page 7, line 2, strike "purposes", and insert in lieu thereof "purpose".

On page 7, line 3, strike "COOPERATION WITH THE STATES AND PRIVATE ENTERPRISE", and insert in lieu thereof "FINANCIAL ASSISTANCE TO STATES".

On page 7, line 4, strike "GENERAL", and insert in lieu thereof "COOPERATION WITH THE STATES AND PRIVATE ENTERPRISE".

On page 7, line 10, strike "TO STATES".

On page 7, line 22, strike "in the case of an initial grant has developed or".

On page 8, strike lines 5 through 7, and insert in lieu thereof "anism within such State, to conduct the comprehensive survey required by paragraph (2) of this subsection, and to supervise, direct, coordinate, or conduct the State system;".

On page 9, line 2, strike the period and insert in lieu thereof a semicolon.

On page 9, line 8, strike "policies", and insert in lieu thereof "purpose".

On page 9, line 14, strike "section 7", and insert in lieu thereof "section 8".

On page 9, line 18, insert "shall" after "ments".

On page 10, strike lines 3 and 4, and insert in lieu thereof "(1) compensation of personnel engaged in the resolution of".

On page 10, line 19, insert "the resolution of" after "employed in".

On page 10, line 20, strike "controversy resolution", and insert in lieu thereof "controversies".

On page 11, line 2, strike "appropriated".

On page 11, strike lines 14 and 15, and insert in lieu thereof "with the purpose of this Act, shall promote the development of con-".

On page 11, line 18, strike "policies", and insert in lieu thereof "purpose".

On page 11, line 19, strike "PROJECTS", and insert in lieu thereof "DISCRETIONARY GRANTS".

On page 11, line 22, insert "authorized to be" after "assistance".

On page 11, line 25, insert ", terms, and conditions" after "criteria".

On page 12, strike lines 1 through 5, and insert in lieu thereof "tion projects which are consonant with the purpose of this Act. Such grants may be made to units of local government, combinations of such units, or nonprofit organizations.".

On page 12, line 8, strike "do", and insert in lieu thereof "does".

On page 12, line 10, strike "APPLICABILITY WITHIN STATES", and insert in lieu thereof "STATE PLANS".

On page 12, strike line 11, and insert in lieu thereof "SEC. 7. (a) GENERAL.—Within 6 months".

On page 12, line 17, strike "section 7", and insert in lieu thereof "section 8".

On page 12, line 18, strike "Nation's", and insert in lieu thereof "State's".

On page 13, line 2, strike "State has established a" and "which".

On page 13, line 5, strike "the" and substitute in lieu thereof "this".

On page 13, line 5, strike "that such plan is".

On page 13, line 6, strike "not in accordance with this Act,".

On page 13, line 10, strike "goals" and insert in lieu thereof "purpose".

On page 13, line 13, strike "compliant of affected consumers" and insert in lieu thereof "complaint of an affected consumer".

On page 13, line 19, strike "policies and purposes" and insert in lieu thereof "purpose".

On page 13, line 22, strike "applicable".

On page 13, lines 24 and 25, strike "organization" and insert in lieu thereof "mechanism".

On page 14, line 16, strike "amendments; if any," and insert in lieu thereof "modifications".

On page 15, line 7, insert the word "system" after the word "State" and before the word "is".

On page 16, line 5, strike the comma after the word "personnel" and before the word "where".

On page 16, line 6, strike "consumers and other".

On page 16, line 11, strike "that".

On page 16, line 18, strike the colon immediately after the word "shall" and insert in lieu thereof "——".

On page 17, line 1, strike "and conclusiveness".

On page 17, line 8, strike "policies" and insert in lieu thereof "purposes".

On page 17, line 10, strike "thorough".

On page 17, line 11, strike "and".

On page 17, line 12, strike "it" the first time it appears and insert in lieu thereof "the consumer controversy resolution mechanism".

On page 17, line 13, strike "and".

On page 17, line 15, strike "both" and insert in lieu thereof "all".

On page 17, line 17, strike "results" and insert in lieu thereof "resolution".

On page 17, line 18, strike "are" and insert in lieu thereof "is".

On page 17, line 19, strike "the consumer is" and insert in lieu thereof "all parties are".

On page 17, line 20, strike "his" and insert thereof "the".

On page 18, line 10, strike "or" the second time it appears and insert in lieu thereof "and".

On page 18, line 17, strike "requirements" and insert in lieu thereof "goals".

On page 18, line 21, strike "in" and insert in lieu thereof "within".

On page 18, line 22, strike "area" and insert in lieu thereof "jurisdiction".

On page 19, line 10, strike "persons other than individuals" and insert in lieu thereof "all parties".

On page 19, line 18, insert "," between the words "by" and "a".

On page 19, line 14, strike "both" and insert in lieu thereof "all".

On page 21, line 18, strike "A" and insert in lieu thereof "a".

On page 21, line 19, strike "." and insert in lieu thereof ";".

On page 21, line 20, strike "The" and insert in lieu thereof "the".

On page 21, line 21, strike "section 9." and insert in lieu thereof "this section; and".

On page 21, line 22, strike "An" and insert in lieu thereof "an".

On page 21, line 23, strike "purposes" and insert in lieu thereof "purpose".

On page 22, line 4, strike "$500,000,000" and insert in lieu thereof "$5,000,000".

On page 22, line 4, strike "June" and insert in lieu thereof "September".

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed at this point in the RECORD an explanation of the four-page technical amendment by Mr. TUNNEY.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

STATEMENT BY SENATOR TUNNEY

The technical amendments I am offering to S. 2069, the Consumer Controversies Resolution Act, have been drafted by the combined efforts of the majority and minority staffs of the Commerce Committee and agreed to by both sides. While there are several amendments, I can assure the Senate that they are technical in nature and make no substantial changes in the legislation.

The vast majority of these amendments are merely minor improvements in language or style. There is one amendment that deserves comment, however, and that may be found on page 22, line 4 of the bill. When this legislation was reported by the Committee, a printing error resulted in an authorization level of $500,000,000 being indicated rather than what the Committee actually reported for fiscal year 1976, which was an authorization level of only $5,000,000. This error would be corrected by these technical amendments, but I wanted to note it because obviously it looks at first glance rather like a large change in the amount authorized, rather than a technical correction of a printing error.

All of these technical amendments have been reviewed on both sides by the majority and minority staff, and they are jointly recommended as a stylistic and technical improvement to the bill. I urge their adoption.

The ACTING PRESIDENT pro tempore. Without objection, the technical amendments are considered and agreed to en bloc.

The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. 2069

An act to regulate commerce by establishing national goals for the effective, fair, inexpensive, and expeditious resolution of controversies involving consumers, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Consumer Controversies Resolution Act".

FINDINGS AND PURPOSE

SEC. 2. (a) FINDINGS.—The Congress finds and declares that—

(1) for the majority of American consumers, mechanisms for the resolution of controversies involving consumer goods and services are largely unavailable, ineffective, or unfair;

(2) the total amount of money involved each year in consumer controversies in the United States exceeds $100,000,000, but the amount involved in any single controversy is apt to be small, less in many cases than the cost of legal representation for the affected consumer;

(3) the existing mechanisms for consumer controversy resolution are inadequate to handle the enormous volume of such controversies;

(4) there is substantial unavailability, for most consumers, of—

(A) meaningful remedies in cases of fraud, deception, and manipulation;

(B) adequate representation of the interests of consumers;

(C) meaningful protections in cases of overreaching and unfair repossession of goods and products;

(D) effective barriers against improper service of process, sewer service, abuse of default judgments, and other such practices; and

(E) readily available and adequate forums for the fair, effective, and efficient resolution of controversies involving consumer goods and services;

(5) a major and inseparable portion of the goods and services which form the underlying subject matter of such controversies flow through commerce, the circumstances of their sale and distribution to consumers affect commerce, and the unavailability of effective, fair, inexpensive, and expeditious means for the resolution of such controversies constitutes an undue burden on commerce; and

(6) while there have been substantial efforts on the part of the business community to resolve consumer disputes and such efforts must be encouraged and expanded, effective consumer redress will be brought about only through a cooperative functioning of both public and privately-sponsored mechanisms.

(b) PURPOSE.—It is therefore declared to be the purpose of the Congress in this Act to assure all consumers convenient access to consumer controversy resolution mechanisms which are effective, fair, inexpensive, and expeditious, and to facilitate better representation of consumer interests.

DEFINITIONS

SEC. 3. As used in this Act, the term—

(1) "commerce" means trade, traffic, commerce, or transportation—

(A) between a place in a State and any place outside thereof, or

(B) which affects trade, traffic, commerce, or transportation described in subparagraph (A);

(2) "Director" means the Director of the Office;

(3) "local" means of or pertaining to any political subdivision within a State;

(4) "Office" means the Office of Consumer Redress;

(5) "Secretary" means the Secretary of the Department of Health, Education, and Welfare;

(6) "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Canal Zone, and the Trust Territory of the Pacific Islands;

(7) "State Administrator" means the individual or government agency which is designated, in accordance with State law, to direct, coordinate, or conduct a State system; and

(8) "State system" means all of the State sponsored mechanisms and procedures within such State for the resolution of controversies involving consumers, including, but not limited to, small claims courts, arbitration, and other mechanisms and procedures set forth in the State plan established pursuant to section 7 of this Act.

OFFICE OF CONSUMER REDRESS

SEC. 4. (a) GENERAL.—The Secretary shall establish, within 30 days after the date of enactment of this Act, a new Office to be known as the Office of Consumer Redress. The Secretary shall appoint a Director of the Office.

(b) DUTIES.—The Secretary, through the Director, shall, consistent with the purposes and goals of this Act—

(1) enter into or renew cooperative agreements with the States;

(2) allocate and pay to the States funds appropriated for financial assistance to States under cooperative agreements;

(3) issue, in consultation with the Federal Trade Commission, such regulations as are necessary to carry out the provisions of this Act, in accordance with the provisions of section 553 of title 5, United States Code;

(4) encourage and assist the development and implementation of innovative concepts and approaches, including but not limited to, adapting or expanding the mechanism of the unsatisfied judgment fund in the field of automobile compensation law to satisfy all unsatisfied judgments;

(5) award discretionary grants;

(6) determine whether a State plan is in accordance with this Act;

(7) review the operation and effectiveness of each State plan for the resolution of controversies involving consumers which has been approved under this Act;

(8) articulate and evaluate the goals for a model State system of consumer controversy resolutions, including the formulation and promotion of model small claims court acts and ordinances which may be adopted by the several States. The model acts and ordinances shall be formulated within 12 months after the date of enactment of this Act and shall be revised from time to time as is deemed appropriate by the Director;

(9) coordinate and integrate the functioning of both public and business-sponsored mechanisms; and

(10) take such other actions as are appropriate to fulfill the purpose of this Act.

FINANCIAL ASSISTANCE TO STATES

SEC. 5. (a) COOPERATION WITH THE STATES AND PRIVATE ENTERPRISE.—In carrying out its functions under this Act, the Director and the Secretary shall cooperate, to the maximum extent practicable, with the States and the business community. In addition to any other enumerated obligation, the Director shall consult, from time to time, with the State Administrator, if any, in each State.

(b) FINANCIAL ASSISTANCE.—The Secretary, through the Director, is authorized to enter into a cooperative agreement to provide financial assistance to any State which establishes and maintains a system approved by the Secretary for the effective, fair, inexpensive, and expeditious resolution of controversies involving consumers or to assist any State to develop such a system. Before a State shall be deemed eligible to enter into or renew a cooperative agreement for the development or maintenance of a State system, the Director shall make, justify, and publish in the Federal Register a finding that such agreement would further the purpose of this Act and that such State has developed, or is developing, a system under which—

(1) the State has a State Administrator and such State Administrator is authorized under the law of the State to receive and disburse moneys, to submit required reports to the Director, including assembling copies of the rules and regulations covering each redress mechanism within such State, to conduct the comprehensive survey required by paragraph (2) of this subsection, and to supervise, direct, coordinate, conduct the State system;

(2) a comprehensive survey of the State system and major business-sponsored mechanisms within the State has been or will be conducted which discloses (A) the nature, number, and location of all consumer controversy resolution mechanisms within the State; (B) the annual expenditure and operating authority for each such mechanism; (C) the existence of any program for informing the potential users of each such mechanism of its availability; and (D) statistical data on the following factors with respect to each such mechanism, to the extent practicable and appropriate; annual caseload; jurisdiction limit, if any; number of cases filed by corporations or partnerships and their disposition; number of cases filed by individuals and their disposition; availability and nature of legal or para-legal assistance which is available to low-income consumers during preparation, at settlement during arbitration, or at trial; and number

of defaults each year, by category of plaintiff and method of service;

(3) funds expended pursuant to such system for the development and maintenance of consumer controversy resolution mechanisms within the State for which application for a cooperative agreement is made are distributed in accordance with need and in a manner which would further the purpose of this Act;

(4) the State Administrator has submitted a 4-year plan for the development or maintenance of consumer controversy resolution mechanisms within such State for which the application for a cooperative agreement is made and such plan is designed to meet or exceed the goals set forth in section 8 of this Act; and

(5) provision is made for participation by consumers, including low-income consumers, in developing and commenting upon such plan or plans, which comments shall become part of any application for a cooperative agreement.

(c) ALLOCATION OF FUNDS.—Moneys appropriated for financial assistance pursuant to this section shall be available to the Director for allocation to the States under cooperative agreements. Such agreements shall have a duration of no more than 4 years. The purposes for which such funds may be used include, but are not limited to—

(1) compensation of personnel engaged in the resolution of controversies involving consumers, including personnel whose function it is to assist private citizens in the preparation and resolution of their claims and the collection of judgments;

(2) recruiting, organizing, training, and educating personnel described in paragraph (1) of this subsection;

(3) public education and publicity relating to the availability and proper use of consumer controversy resolution mechanisms and settlement procedures;

(4) improvement, purchase, or lease of buildings, rooms, vehicles, and other facilities and equipment needed to improve the settlement of controversies involving consumers;

(5) continuing supervision and study of the mechanisms and settlement procedures employed in the resolution of consumer controversies within the State;

(6) research and development of more fair, less expensive, or more expeditious mechanisms and procedures for consumer controversy resolution; and

(7) sponsoring programs of nonprofit organizations to accomplish any of the provisions of this subsection.

The Director shall consider population density when allocating funds to the States under cooperative agreements. The proportion of the Federal share of the estimated cost of a cooperative agreement shall not exceed 70 per centum of the total cost of such agreement. The aggregate expenditure of funds of the State and political subdivisions thereof, exclusive of Federal funds, for such purposes shall be maintained at a level which does not fall below the average level of such expenditures for the last 2 full fiscal years preceding the date of application for a cooperative agreement.

DEMONSTRATION PROJECTS

SEC. 6. (a) GENERAL.—The Director, in accordance with the purpose of this Act, shall promote the development of consumer controversy resolution mechanisms through research and demonstration projects or other activities that will encourage innovation or effectuation of the purpose of this Act.

(b) DISCRETIONARY GRANTS.—Notwithstanding the provisions of section 5(b), the Director is authorized to make discretionary grants, in a total amount each year not to exceed 25 per centum of the financial assistance authorized to be appropriated under this Act.

(c) ELIGIBILITY FOR GRANTS.—The Director shall establish criteria, terms, and conditions for awarding grants for research or demonstration projects which are consonant with the purpose of this Act. Such grants may be made to units of local government, combinations of such units, or nonprofit organizations. No discretionary grant shall be made to any professional organization whose consumer controversy resolution mechanism does not fairly represent the consumers of the services provided.

STATE PLANS

SEC. 7. (a) GENERAL.—Within 6 months after the date of enactment of this Act, a State may establish and submit a plan in accordance with this Act for the resolution of controversies involving consumers. A plan is in accordance with this Act if it is designed to meet or exceed the requirements set forth in section 5 of this Act, responds to the goals set forth in section 8 of this Act, and represents an effective response to the States' need for fair, expeditious, and inexpensive resolution of such controversies. Upon the establishment of such a plan, the State Administrator shall promptly transmit a certified copy to the Secretary.

(b) DETERMINATION.—Within 90 days after the Commission receives a certified copy of a State plan established under subsection (a) of this section, the Director shall make a determination whether (1) the State is eligible to receive financial assistance under section 5(b) of this Act and (2) such plan is in accordance with this Act. Unless the Secretary determines, within 30 days after the Director determines that a State plan is in accordance with this Act, the Director shall, to the extent resources are available, enter into a cooperative agreement designed to effectuate such plan. A State may submit a revised or improved plan designed to better effectuate the purpose of this Act at any time.

(c) REVIEW.—The Director shall periodically, but not less than once every 2 years, or may at any time upon compaint of an affected consumer, review any State plan or any discretionary grant for the resolution of controversies involving consumers which has been approved and for which there is (1) experience to determine whether such plan or grant is still in accordance with the goals of this Act, and (2) to evaluate the success of such plan or grant in terms of the purpose of this Act. In addition to the data required under sections 5(b)(2) and 9(a) of this Act, reports must be submitted on each mechanism showing the extent to which it has met the goals of section 8, including results of random sample surveys of attitudes of consumers who have actually used the services of the mechanism. Any plan or grant which is found not to be in accordance with such goals or which has not successful shall be terminated in accordance with the procedures set forth in subsection (d) of this section. To facilitate such review, the State Administrator in each such State shall submit to the Director, not later than March 15 of each year, an annual report containing all relevant information requested by the Director and comments of consumers, including low-income consumers, on the effectiveness of mechanisms funded under this Act.

(d) PROCEDURE.—Before making any determination under subsection (b) or (c) of this section, the Director shall cause a notice and a summary of the plan under consideration to be published in the Federal Register and shall afford the affected State and all interested parties a reasonable opportunity to present their views by oral or written submission, and to propose modifications to such plan or grant program. The Secretary, through the Director, shall notify the affected State or grantee of any determinations made under this section and shall publish these determinations with reasons therefor in the Federal Register. Any final determination by the Director under this section shall be subject to judicial review in accordance with chapter 7 of title 5, United States Code, in the United States Court of Appeals for the circuit in which is located the State whose plan or grant is the subject of such determination or in the United States Court of Appeals for the District of Columbia. Any such review shall be instituted within 60 days from the date on which the determination of the Director is published in the Federal Register.

GOALS

SEC. 8. (a) FOR STATE SYSTEM.—A State system is responsive to national goals if—

(1) there are sufficient numbers and types of readily available consumer controversy resolution mechanisms responsive to the goals set forth in subsection (b) of this sction;

(2) a public information program is effectively communicating to potential users the availability and location of consumer controversy resolution mechanisms and consumer complaint offices in such State; and

(3) each such mechanism and unit thereof files an annual report with the State Administrator in such form and with such content as is prescribed by him in consultation with the Director, including not less than the information required in section 5(b)(2) of this Act.

(b) FOR CONSUMER CONTROVERSY RESOLUTION MECHANISM.—A consumer controversy resolution mechanism is responsive to national goals if—

(1) its forms, rules, and procedures are, so far as practicable, easy for potential users to understand, free from technicalities, and it is inexpensive to use;

(2) it is designed so that assistance, including paralegal personnel where appropriate, is provided to persons in pursuing claims and collecting judgments;

(3) it is open and available for the adjudication or resolution of controversies during hours and on days that are convenient for consumers, such as evenings and weekends, and a fair proportion of controversies are scheduled to be resolved at such times;

(4) it provides for adequate arrangements for translation in areas with substantial non-English-speaking populations;

(5) it is governed by reasonable and fair rules and procedures which are approved by the State administrator. Such rules and procedures shall—

(A) facilitate the early resolution of consumer controversies by means in addition to the adjudication of claims;

(B) encourage the fairest and most effective use of the services of attorneys in the resolution of such controversies;

(C) encourage the finality of the resolution of such controversies;

(D) provide for the qualification, tenure and duties of persons charged with resolving or assisting in the resolution of such controversies;

(E) prohibit the use of consumer controversies resolution mechanisms by assignees or collection agencies in any manner inconsistent with the purposes of this Act;

(F) provide for the maintenance of complete records of each grievance submitted to the consumer controversy resolution mechanism and each complaint filed with it together with a notation as to the disposition of each such grievance or complaint;

(G) insure that all sides to a dispute are directly involved in the resolution of such dispute;

(H) insure that the resolution of dispute settlement efforts is actually carried out;

(I) assure that all parties are informed of the status of the case; and

(J) provide useful information about other available redress mechanisms in the event that dispute settlement efforts fail or the controversy does not come within the jurisdiction of such mechanism; and

(6) it provides for the identification and correction of product design problems and patterns of service abuse by—

(A) maintaining public records on all closed complaints;

(B) bringing substantial authority and meaningful influence to bear on compliance to correct patterns of product and service deficiency; or

(C) providing information to Government agencies responsible for the administration of applicable laws so they can perform their remedial deterrent tasks more effectively.

(c) For Small Claims Courts.—A small claims court is responsive to national goals if, in addition to meeting the goals of subsection (b) of this section, it—

(1) is part of the regular court system maintained by the State;

(2) has a jurisdictional limit which is adequate to permit all, or substantially all, consumer controversies within its jurisdiction to be resolved therein;

(3) provides methods for assuring that process served is actually received by defendants, including, but not limited to, procedures for supplemental notification after service of process;

(4) provides an easy way for an individual to determine the proper name in which, and the proper procedure by which, any person may be sued;

(5) provides informal means for the resolution of controversies through conciliation, mediation, arbitration, or other means: *Provided*, That such informal means (A) are required to be used in good faith by all parties, before a date may be set for trial involving a claim initiated by such person; and (B) involve the presence and approval of, or decision by, a disinterested third party or the participation of a representative for all parties with judicial approval of the term of any proposed resolution; and

(6) discourages the entry of judgments by default by requiring, as a prerequisite thereto, that the appropriate judge find, after a proceeding in open court, that—

(A) the defendant was given adequate notice of such claim. If any person other than the defendant accepted service on behalf of the defendant, the judge must find that there was a business, family, or personal relationship between that person and the defendant sufficient to assure that the defendant in fact received notice of such claim;

(B) the dependent understood the nature of the claim and the proceedings;

(C) the plaintiff established a prima facie case demonstrating entitlement to judgment; and

(7) provides effective means for insuring that judgments awarded to aggrieved individuals are paid promptly.

RECORDS, AUDIT AND ANNUAL REPORT

Sec. 9. (a) General.—Each recipient of assistance under this Act shall keep such records as the Secretary, through the Director, shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such assistance is given or used, and the amount of that portion of the project or undertaking supplied by other sources, and such other records as will facilitate an effective financial and performance audit. This provision shall apply to all recipients of assistance under this Act, whether by direct grant or contract with the Secretary through the Director or by subgrant or subcontract from primary guarantees or contractors of the Secretary, through the Director, or from any State Administrator, or from any State Administrator receiving financial assistance under this Act.

(b) Audit.—The Secretary or any of its designated representatives shall have access for purpose of audit and examination to any relevant books, documents, papers, and records of the recipients of grants and financial assistance under this Act.

(c) Comptroller General.—The Comptroller General of the United States, or any of his duly authorized representatives, shall, until the expiration of 3 years after the completion of the program or project with which the assistance is used, for the purpose of financial and performance audits and examinations, have access to any relevant books, documents, papers, and records of recipients of financial assistance under this Act.

(d) Annual Report.—The Secretary, through the Director, shall submit an annual report to the President and the Congress simultaneously by June 15 of each year. Such report shall include, but need not be limited to—

(1) a summary of any reviews undertaken pursuant to section 7(c);

(2) the results of financial and performance audits conducted pursuant to this section; and

(3) an evaluation of the effectiveness of the Office and the Secretary in implementing the purpose of the Act, together with any recommendations for additional legislative or other action.

AUTHORIZATION FOR APPROPRIATION

Sec. 10. For purposes of this Act, there are authorized to be appropriated to the Secretary not to exceed $5,000,000 for the fiscal year ending September 30, 1977, and not to exceed $20,000,000 for the fiscal year ending September 30, 1978: *Provided*, That not more than 10 per centum of the amount authorized to be appropriated under this Act shall be used for Federal administrative expenses.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. The Senator from Michigan is recognized.

Mr. GRIFFIN. I yield back the time, Mr. President.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. GRIFFIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

PRIVILEGE OF THE FLOOR—S. 3219

Mr. GRIFFIN. Mr. President, I ask unanimous consent that Hope Woodhouse and Ken Sparks of my staff have the privileges of the floor during the consideration of S. 3219.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. GRIFFIN. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. GRIFFIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Under the previous order, the Senator from New York (Mr. Javits) is recognized for not to exceed 15 minutes.

REPORT ON STUDY MISSION TO GENEVA, ROME, AND MADRID

Mr. JAVITS. Mr. President, I wish to advise the leadership that I do not expect to take that long.

Mr. President, I have asked for the time this morning to report on a study mission to Geneva, Rome, and Madrid which I undertook early in July during the recess.

Mr. President, I ask unanimous consent that there be included in my remarks as exhibit 1 a report on my visit to various international organizations in Geneva, notably the staff of the General Agreement on Tariffs and Trade, the GATT; the staff of the International Labor Organization, the ILO, to which we have served notice of withdrawal, and my comments on the consequences of that which, on the whole, I think have been beneficial; and my visit to the World Health Organization, the WHO, similarly located in Geneva; and to the United Nations Fund for Drug Abuse Control to which we contribute about three-quarters of its resources because of our great interest in the control of drug abuse; and to the World Food Organization, the World Food Program, and the World Food Council in Rome.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(See exhibit No. 1.)

Mr. JAVITS. Mr. President, I also ask unanimous consent to include in my remarks a press conference held in Madrid on July 9, 1976.

The ACTING PRESIDENT pro tempport. Without objection, it is so ordered.

(See exhibit 2.)

Mr. JAVITS. I hope very much that Members may be helped by this reading because it represents the first step beyond the staff and questionnaires of a study which the Government Operations Committee, of which I am a member, has undertaken, of some 73 international organizations to which the United States adheres, with a view toward determining their efficiency, the way in which they are being run, our contribution, and the value of that contribution, and other comparable questions.

By the way, I was very pleased with the assistance of Ambassador Dale, who was about to retire from his post in Geneva as our Ambassador to all these organizations as well as other members of his staff.

During a recess of the Senate for the Democratic Convention, in my capacity as a member of the Foreign Relations Committee, I visited Geneva, Rome, and Madrid.

My trip to Geneva was for the purpose of visiting the headquarters of four international agencies as an element in the beginning of the study of United States participating in international organizations being conducted by the Government Operations Committee.

My visits to Rome and Madrid were undertaken in connection with my responsibilities as a member of the Foreign Relations Committee.

Out of personal, political conviction, I never visited Spain during the many years of the Franco regime, despite the fact that I have frequently worked in Western Europe on congressional affairs during the 30 years since my first election in 1946 as a Member of the House of Representatives. I was actively involved in the Senate's recent consideration of the Spanish bases treaty and I was favorably impressed with King Juan Carlos during his recent visit to the United States. I was, thus, prompted to visit Spain under the new political conditions there, and in view of my belief that there is now developing an important new opportunity for Spain to achieve membership in two of the international institutions of the Western democracies—NATO and the European Economic Community—EEC.

My decision to visit Rome was prompted by my interest in, and concern over, the unsettled political and economic conditions of Italy—a nation with especially close ties to the United States—and a key member of NATO and the European Economic Community, whose well-being is important to the security and prosperity of the West, generally, and of the United States.

GENEVA

A detailed report on the organizations which I visited is attached as annex A.

I was in Geneva on July 5 and 6. During that time, in addition to extensive briefings from Ambassador Dale and his staff respecting U.S. participation in the major international organizations headquartered there, I visited the headquarters of the General Agreement on Tariff and Trade, GATT; the International Labor Organization, ILO; the World Health Organization, WHO, and the United Nations Fund for Drug Abuse Control, UNFDAC.

My discussions were with GATT Deputy Director General Gardiner Patterson, and, at the ILO headquarters, with Deputy Director General McDonald and Legal Adviser Wolf. At the WHO headquarters, I met with Acting Director General Rivero and Dr. Flache and Mr. Furth. At the UNFDAC headquarters, I met with UNFDAC Executive Director DeBeus.

In addition, I attended a working lunch on July 5, hosted by Ambassador Dale. The participants included Mr. McDonald, ILO; Mr. Furth, WHO; Mr. Patterson, GATT, and Mr. Wellman, UNFDAC.

During my discussions in Geneva and my calls at the headquarters of the various international agencies there, I obtained a great deal of information and material which I am submitting to the Government Operations Committee for use in preparation of the committee's study. In this interim report to the Senate, I shall confine myself to preliminary and general impressions. Upon Senator RIBICOFF's return from visiting several of these organizations later this month, a more comprehensive report will be filed in the Senate.

I also wish to report that while in Rome, I took the occasion to meet with high officials of three international agencies which are headquartered in Rome. In this connection, I met with Dr. Edward Saouma, Director General of the Food and Agriculture Organization, FAO; Tom Robinson, Executive Director of the World Food Program, WFO, and Harry Walters, Assistant Executive Director of the World Food Council, WFC.

As my inquiries on international agencies on this trip were primarily from the viewpoint of the study of some 73 such organizations being undertaken by the Government Operations Committee of U.S. participation in those agencies, the central focus of my discussions, and my preliminary remarks concern the efficiency and efficacy of those agencies as I was able to observe them from the perspective of the value of continuing participation by the United States, and the equity of our share of their support.

GATT

The GATT headquarters is a secretariat which serves a multinational agreement. The Secretariat appears to me to be that of an efficient, capable, and tightly run organization, which has remained small and seems determined to continue that way. Morale and esprit appear to be high and there is considerable knowledge concerning, and pride in, the accomplishments and ongoing work of GATT. In my judgment, GATT is clearly one of the most worthwhile—and from a headquarters perspective, most efficient—of the international agencies in which the United States participates.

WHO

In my judgment, the WHO is an organization with a tremendous potential for making a significant contribution to world health and to the kind of objectives respecting world development the U.S. holds. The WHO appears to be entering a period of good relations with the nations of the developing world through the kinds of assistance programs that meet the needs and desires of those nations—right now giving a new emphasis to technical assistance. From a substantive viewpoint, the WHO is an almost indispensable agency. Its current top leadership strikes me as being of a very high caliber.

ILO

I believe that the operations of the ILO have been affected measurably and favorably by the U.S. notice of intent to withdraw. This improvement, if uninterrupted, is likely to be sufficient, in my judgment, to warrant a withdrawal by the United States of its notice of intent to withdraw. But any decision to retract the U.S. notice of intent to withdraw must be based on actual performance by the ILO. The United States has been trying for too long to get the changes required in the ILO which alone will warrant continued U.S. participation for us to be satisfied with only cosmetic or atmospheric changes in ILO's modus operandi. In my judgment, this is a situation which looks promising, but must be under continued monitoring.

It looks to me as if the situation is promising and we will have it, I am sure, under continuing observation.

As to the United Nations Fund for Drug Abuse Control, some good work is being done, but a much greater degree of agility and capacity to make changes in its activities in order to keep pace with the frequent and rapid efforts in the source of illicit drug production and traffic is essential.

UNFDAC

The United Nations Fund for Drug Abuse Control represents a good idea. It seeks to deal with the problems of drug abuse on the first level—production and offshore distribution. to fulfill its promise this agency must better develop and maintain the alertness, agility, and capacity to make changes in its activities which will enable it to keep pace with the frequent and rapid shifts in foreign countries of illicit drug production and traffic.

The Food and Agriculture Organization I consider one of the strongest and most essential of all the United Nations agencies. Nevertheless, it must be run efficiently if it is to live up to its potential and the expectations that we and the rest of the world will come to look for.

FAO

In my judgment, the FAO is one of the strongest and most essential of all the United Nations agencies. Its high desirability notwithstanding, the FAO must be run efficiently if it is to live up to its potential and the expectations that have come to be based on it.

Mr. President, my judgment, on the operation so far, would be favorable.

I believe that it can do the job.

I am not so convinced that it already has, but nonetheless, it certainly is important and worthwhile for the United States and our membership and cooperation should continue.

As to the world food program, I think we have a really good outfit functioning well, but the other nations of the world are not making an adequate contribution to its activities and I hope we will turn our diplomatic effort to that end.

WORLD FOOD PROGRAM

This is a relatively small program deserving one of the highest priorities in my judgment. The participation and performance of the United States within this agency has been most effective. A major role for the United States at this time lies in persuading other nations to make a proportionate contribution so that the WFP can achieve its potential.

As to the World Food Council, it needs very urgently the buttressing of its Secretariat. This is the organization charged with strategy for food in the world. It is not yet operating at the level of effectiveness which we had hoped, nor is its own mission crystal clear.

We need to buttress its Secretariat and should turn our efforts to that end.

Then having been given a chance with a good Secretariat, if it does not show it has a role to fill, we should not continue our relationship to it.

WORLD FOOD COUNCIL

Based upon my preliminary observations, this organization does not appear to be operating at the level of effectiveness for which we had hoped. It needs to be reconsidered and if continued buttressed considerably.

So much for the international organization, Mr. President.

ITALY

In visiting Rome at this time, I sought a personal assessment of the political and economic situation in Italy following the recent, indecisive elections there which saw the Christian Democratic Party retain its position as the largest party in the Parilament, but which also resulted in significant gains for Italy's Communist Party.

I was in Rome from July 6 through 8. No new government had yet been formed after the election and the nation was being administered by a caretaker government. Ambassador Volpe arranged for me to meet three of the cabinet ministers of the caretaker government: Franco Malfatti, Minister of Education; Giulio Orlando, Minister of Post and Telecommunications; and Giovanni Marcora, Minister of Agriculture and Forestry.

In addition, I was able to meet with thirteen other non-Communist members of the newly elected Parliament—most of whom represented the newer generation, which is beginning to come to positions of authority in Italy.

I found two subjects paramount in the minds of the Italian political leaders with whom I met. The first is the grave economic crisis facing Italy, manifested not only by sharp inflation and high unemployment, but also by the severe strain which has been placed on Italy's political, economic and social institutions by this aggravated economic crisis.

They are trying to find their way through that. The big question is, will labor cooperate?

The second subject of preoccupation is the growing strength and momentum of Italy's Communist Party, which is laboring—and not unsuccessfully—to acquire nationalistic credibility—whether and to what extent this is rhetoric or truth is the question.

Of course, the industrialists in Italy have the rationale that if they can work with the Communists they can get the cooperation of labor.

It is my judgment that they risk by taking the Communists into the government the Finlandization of Italy.

It is very serious proposition, particularly since the Brezhnev doctrine, which proclaims the irreversibility of any Communist succession to power and pledges the might of the Soviet Union to guarantee this irreversibility remains, as far as we know, in effect. Therefore, in my judgment, notwithstanding their urgent necessity, the worst alternative is to bring the Communists into the government. I hope Italy does not do it, and in Andriotti they have an outstanding statesman of high character who may be able to prevent this.

Mr. President, the businessmen of Italy and the property owners of Italy can give the workers enough of a break to more than adequately counter the Communists appeal, and that is what is at stake.

I hope very much in our policy we will recognize that and make that clear to the Italian Government, to the Italian industrialists and owners; that is what it takes.

They have got to have a sense of greater participation and a greater share of the economy among Italian workers, and if they can do that, then the democratic parties can do at least as well as and, in my judgment, much better than the Communist Party.

Increased productivity and labor discipline are regarded as essential to weather the severe economic crisis in Italy and it is questioned in many quarters in Italy whether these prerequisites can be achieved without the cooperation of the Communist Party because of its allegedly strong base in the labor unions.

For despite the conspicuous efforts of Italy's Communist Party, especially in recent years, to create an image of independence from the Soviet Union, and acceptance of democratic methods, I found that deep suspicions remain about the trustworthiness of the Italian Communists as custodians of power.

Nonetheless, however ironic it may be, the Italian Communist Party appears to have appropriated to itself many of the issues, programs and causes which have been the staple of non-Communist, social democratic parties in other nations of Western Europe. It is this appropriation to itself of a "social democratic" program, at least for rhetorical purposes, which in my judgment explains the strength of Italy's Communist Party in the last election.

I believe that the United States and the other members of NATO have a great responsibility to help Italy to surmount its present crisis through a solution which does not involve Communist participation in the Government. Despite the claimed evolution which has been noticeable in the statements and avowed platform of Italy's Communist Party, I believe that it would be a very grave and risky eventuality for Italy—and for the United States—to bestow democratic legitimacy upon the Italian Communist Party at this time through membership in the Government. The repercussions of such an eventuality upon Italy and upon NATO would, in my judgment, be dangerously adverse to the cause of freedom and free institutions. I just do not believe that we can take it on trust that the Communist leopard has yet changed its spots.

Moreover, even if the Italian Communist Party did honor its surety if given power, the demonstration effect upon other nations in Europe, where powerful Communist movements also clothed in sheep's clothing stalk power, could be ruinous for democracy. Especially is this the case in this time against the background of the unrepudiated Brezhnev doctrine, which proclaims the irreversibility of a Communist accession to power—and which pledges the might of the Soviet Union to guarantee this irreversibility. A doctrine whose aim can only be the Finlandization of Western Europe.

There are, of course, strict limits on what the United States can or should do in trying to influence the evolution of Italian politics in any direct sense. I believe that we have a right—even a duty as a close and old friend of Italy—to state our assessment of the situation and to point out the dangers in various courses as we see them.

I do not agree that it is impermissible "interference" for the United States, or other NATO governments, to warn publicly of the difficulties and consequences for NATO that could be posed by an accession to power in Italy of a communist or communist-dominated government. I can also appreciate that such statements by outside friends can be painful and inconvenient, even for our closest non-Communist friends within Italy who are engaged in excrutiatingly delicate negotiations to put together a government which can tackle the acute crisis now gripping Italy. But now is the time for laying the cards on the table before the Italian people. It could be too late, if the non-Communists default.

In my judgment, is is clear that Italy will require substantial outside credits, probably along the lines of the recent large credits extended to Britain. I believe that such credits are fully warranted from an economic as well as political perspective. Once the crisis precipitated by the quadrupling of oil prices and ensuing worldwide recession is surmounted, there is every reason to believe that the Italian economy will be able to resume the rapid growth which it sustained for more than a decade.

Of course, a greater measure of political and social cohesion in Italy must be achieved. And, Italy cannot afford the kind of economic debilitation and political polarization which was precipitated by the troubled Allende regime in Chile. For this reason, there is a double responsibility falling upon non-Communist progressives and moderates in Italy to rise to the occasion.

I believe it could be a disastrous mistake for Italy's industrialists to buy short-term labor peace at the expense of long term concessions of power to Italy's Communist Party. We all know the story of the lady who went for a ride on the back of a tiger. And that danger is not one to be dismissed in Italy, merely on the basis of the so far unproved "social-democrat" rhetoric of the Italian communists.

SPAIN

I visited Madrid on July 8 through 10. It was my first trip to Spain, although I have been a frequent visitor to Western Europe for 30 years. For reasons of political conscience, I did not go to Spain during the Franco period.

I had met His Majesty, Juan Carlos, during his visit to the United States earlier this year. And, I have been following developments in Spain closely for several years, particularly, in the context of the negotiations and Senate consideration of the Spanish Bases Agreement.

During my visit to Madrid, I met with King Carlos, I met also with Prime Minister Adolfo Suarez and met Foreign Minister Oreja. In addition, I met with former Foreign Minister Areilza and former Justice Minister Garrigues.

The give and take of my visit to Spain may be best perceived from an edited transcript of my press conference in Madrid on July 9, the text of which is attached as annex B.

The central issue from a U.S. perspective, in my judgment, is the pace and direction of post-Franco political evolution in Spain. It is my impression that significant progress toward the democratization of Spain is taking place. It is also my impression that, while the pace of this evolution has not been dazzling, there is an earnest and sincere determination on the part of the King to put Spain fully onto a recognizably democratic footing in accordance with a deliberate, measured time table.

I am optimistic that the evolution of democracy in Spain can and will succeed, but I do not think that anyone should discount the difficulties and the delicacy of such a process. Nor, the fear of Spain and its leaders of disorder and civil war.

It is the stated desire of the Government of Spain to earn membership in NATO and the European Economic Community by reforming its institutions. Both of these objectives are in accordance with declared United States policy as I understand it and, in my judgment, would be beneficial to the interests of the United States and the western democracies collectively.

Over the centuries Spain has been a major contributor to Western civilization and culture, not only in Europe itself, but also very definitely in the western hemisphere. The long isolation of Spain from its natural friends and neighbors, which took place during the painful years of the Franco regime has been costly to Spain and to Spain's friends and neighbors. The reintegration of Spain into the democratic system of the North Atlantic makes sense from many practical standpoints, in addition to the more sentimental and historic one which I have just mentioned.

Geographically, Spain occupies an important strategic location in Europe for NATO. It is beyond the reach of any sudden military thrust by land which might conceivably be attempted from the East. In addition, Spain geographically commands an impressive position in the zone of the Mediterranean Sea and the Atlantic.

Economically, at present Spain is experiencing difficulties of a sort which are common throughout the industrial world: inflation and unemployment. Nonetheless, Spain has enjoyed rapid economic growth over the past decade and is now on a par with other nations of the European Economic Community from a per capita income and an industrial productivity standpoint. I believe that membership in the European Economic Community would be economically of considerable mutual benefit to Spain and the other members. And, over the longer run, I believe that Spain could benefit considerably from the steadying influence which membership in NATO and the EEC would accord to Spain's still fragile and evolving democratic institutions.

Spain wants to join NATO, I believe, and wants to join the European Economic Community.

I think both are highly desirable so that she may have lateral support after so many years in order to bring herself into a democratic framework.

Mr. President, the people of Spain are very much afraid of disorder and civil war, and who can blame them? Therefore, we must understand that that is a key to many of their actions which may not seem as rapid to us here.

I do not agree with it, but I can understand it. The fundamental thrust of the country, in my judgment, is definitely in the direction of an arrangement in Spain to the democratic nations and a movement for freedom and self-determination throughout the world.

I believe Spain, which showed an excellent economic development and is still doing very well in terms of Western Europe, has an excellent chance to accomplish its goals.

I believe that the study and supportive influence of the United States is deserved so long as the phasing in continues, such as we have already seen, with elections and a parliament and a chosen government by popularly elected universal suffrage.

I hope very much, therefore, that our Government's policy respecting Spain will continue the way it has.

Mr. President, we are living in an intensely revolutionary world, and I am just belaboring the subject in saying that.

Spain is an excellent example of a nation which is returning to the fold of the free, and it can be a very inspiring example that our system works.

I do not mean necessarily the capitalist economic system, per se, but the system of freedom, the democratic institutions, works to the satisfaction of people and the ennoblement of nations.

I think if we can prove it in Spain, it will be of immeasurable value to us in the confidence in our own society and in the demonstration to all of the nations of the world.

Mr. President, I yield back the remainder of my time.

EXHIBIT 1

REPORT ON VISIT TO VARIOUS INTERNATIONAL ORGANIZATIONS, GENEVA AND ROME, JULY 5 AND 6, 1976

1. GENERAL AGREEMENT ON TARIFFS AND TRADE (GATT)

The existence and ongoing work of the GATT is a major reason why world trade has multiplied many times in the postwar era and more recently why the world has been able to emerge from its worst postwar recession without major recourse to trade restrictions. The various rounds of tariff-reduction negotiations have been so successful that nontariff barriers already long in existence have become more visible. While some nontariff barriers have come and others have gone, there is general agreement that nontariff obstacles to trade as a whole have not intensified through the years but have only been made more visible by the considerable success in lowering tariffs. Another major accomplishment of the GATT has been the recent negotiations of a textiles agreement which has thus far satisfied most participants; the developed countries as well as developing countries. This agreement will soon be up for renegotiation.

Theoretically, GATT voting procedures provide for one country, one vote. In practice, however, the countries in the GATT—some of whom are involved in confrontation tactics elsewnere—rely on consensus rather than showdown voting. The GATT thus far is not "radicalized" to the degree that many other international organizations are, in spite of the fact that many developing countries actively participate in the GATT and aggressively pursue their own trading goals. These latter include such considerations as special and differential treatment and generalized tariff preferences.

Eastern European countries belonging to the GATT include Poland, Czechoslovakia, Hungary, Romania, Yugoslavia. Bulgaria is an observer. The Soviet Union is not a member (nor is China). Czechoslovakia has maintained it membership, although in 1951 the United States invoked GATT Article XXXV, which withholds GATT privileges and suspends MFN treatment. Poland, Romania, and of course Yugoslavia, receive MFN treatment from the United States.

The major current activity being carried out under GATT auspices at the present time is of course the Multilateral Trade Negotiations. The MTN was launched in Tokyo in September, 1973 and an agreed target has been set to complete the negotiations in 1977. Ninety-four countries are participating in MTN (including twenty-two countries who are not contracting parties to the GATT).

The organizational structure of the MTN includes a Trade Negotiations Committee with specialized groups on Tariffs, Agriculture (with subgroups on grains, meat and dairy), a Parent Group on Non-Tariff Measures (with subgroups on Technical Barriers to Trade—"Standards," Quantitative Restrictions, Customs Matters including customs valuation and licensing procedures, and Government Purchasing), Safeguards, and Tropical Products.

The pace of work in the MTN got off to a slower start than was originally expected due to a combination of (a) a delay in passage of the U.S. Trade Act, (b) the requirements of the U.S. Trade Act of 1974 for Public and Congressional advice, and (c) the economic downturn in all major developed countries in '74 and '75. The pace of activity has increased markedly in the past year, exemplified by the tabling of tariff-cutting formulae by both the U.S. and the European Communities, and th tabling of tariff-cutting formulae by both Products sector which had been singled out by Ministers in the Tokyo Declaration for priority attention. Work on a draft code on "Standards" is well advanced. A major unresolved area of controversy in the MTN concerns agricultural policy where sharp differences of opinion exist between the EC on the one hand and the U.S., Canada, Australia and New Zealand on the other.

With economic recovery now well underway in all major developed countries plus the recent reaffirmation at the Puerto Rico Summit of the '77 completion date for the MTN by leaders of the major trading countries, prospects have improved that the 1977 target will be achieved.

Organizationally, the GATT is unlike other entities in that it is a treaty serviced only by a small secretariat. Thus, GATT does not have "programs" in the sense of other organizations; rather, the work emanates from the initiatives of the member countries themselves.

The United States contribution to the GATT is based on our percentage of trade. Thus, if the U.S. share of trade goes down, our contributions decline with it. Recently our share has tended to be approximately 15 per cent.

The GATT budget is expressed in Swiss francs, not dollars. This is largely because GATT has no operations anywhere in the world outside Switzerland. As a result of the more than 70 per cent appreciation of the Swiss franc against the dollar, the budget in dollar terms has grown much faster than costs have risen. The total GATT budget for 1976, including both contributions to the GATT/UNCTAD International Trade Centre and to the Building Fund associated with renovation of the old ILO building for future GATT headquarters, totals 34,000,000 Swiss francs, or about $14,000,000 at current exchange rates. The 1975 budget was 29,000,000 Swiss francs, and the 1974 budget was 24,000,000 Swiss francs.

The United States review of its membership in international organizations was welcomed by the Deputy Director General Patterson who said this was a good thing because organizations tend to live beyond their intended purpose and because of this need change. In spite of its huge responsibilities in the field of world trade, GATT has remained small through the years. Consequently, GATT has not tried to expand into other areas such as multinational corporations and commodities.

The total permanent employment of the GATT, including support—right down to the doorman—has remained just below 200 people. The GATT has followed a policy of hiring temporary additional help to meet temporary needs. For example, approximately 30 additional people have been employed on a temporary basis to assist in the added workload generated by the current MTN.

The GATT is remarkably free of DC–LDC confrontation. The LDCs have been encouraged to keep their confrontation elsewhere. UNCTAD, however, was structured around the concept of confrontation. Nonetheless, LDCs vigorously pursue their objectives in the GATT. For example, Brazil, which is on the borderline between a developed and developing country status, is proposing a major GATT reform group under the MTN, the objective of which would be to formalize special privileges and standards for the LDCs in GATT.

GATT, however, does need some updating. The United States has favored improvements in the rules of balance-of-payments procedures, safeguards, subsidies and elsewhere. Some other countries, however, have not been enthusiastic about changing the rules. Dispute settlement is still an area of particular concern although it is hoped improvements can soon be made in that area.

In conclusion, the question the United States must face is whether to believe that upon conclusion of the current MTN an organization like the GATT should be continued in precisely its present form, and whether their present system of periodic rounds of trade negotiations should not be changed to a continuous negotiation under GATT auspices.

I believe that the principal item of negotiation as far as GATT is concerned and which appears to be of interest in the world is that respecting the U.S. concern with agricultural products now, perhaps, our major source of exports. It is pointed out that this involves not only a trade question but a very important political and social question because, whereas less than 5% of the U.S. population is involved in agriculture as far as other countries are concerned in the world, including developed European countries, there is a heavier population in the countryside than in our proportion and hence, while I believe that this should not represent any basic stumbling block respecting the negotiations on the export of agricultural products by the U.S., and while we remain the principal agronomy nation of the world, we should have in mind this political and social question and give some accommodation to it. I believe that this would ease very considerably our problem in trade negotiations.

The GATT headquarters is a secretariat which services a multinational agreement of nations. The Secretariat appears to me to be that of an efficient, capable and tightly run organization which has remained small and seems determined to continue that way. Morale and esprit appear to be high and there is considerable knowledgability concerning, and pride in the accomplishments and ongoing work of GATT. In my judgment, GATT is clearly one of the most worthwhile—and from a headquarters perspective, most efficient—of the international agencies in which the United States participates.

2. INTERNATIONAL LABOR ORGANIZATION (ILO)

At the ILO, I met with Francis Wolf, Legal Adviser of ILO, John McDonald, Deputy Director General of ILO, Ambassador Francis Dale, U.S. Mission Geneva, Jeffrey Binda, Health Attache of U.S. Mission Geneva, and Robert Pfeiffer, Labor Attache of U.S. Mission Geneva.

The ILO officials referred to the difficulty created in 1954 by the entry of the USSR and other communist countries. They felt the objective procedures provided for in the ILO Constitution would be effective in handling this situation and then made the following points on ILO work in developing international labor standards.

The key factor is the constitutional obligation of member countries to report to ILO on the way in which they have implemented ILO Conventions; this mandatory obligation is unique in the UN system.

The role of ILO is to seek jurisdictional proof of alleged violations of ratified Conventions. In addition to the examination of application of Conventions at the annual ILO conference, they also referred to investigatory procedures used by the Freedom of Association Committee of the ILO Governing Body. They noted that very few complaints had been brought against communist states. They said that 150 ILO Conventions have now received almost 5,000 ratifications and that some 750 of these ratifications consisted of assumption by newly independent states of obligations made on their behalf by former colonial powers. The body of ratified ILO Conventions has been described by former Director General Wilfred Jenks as the "international labor code." The participation of employer and worker representatives in development and implementation of this code is unique in international affairs.

Since 1950 ILO programs have put growing emphasis on technical assistance to developing countries, but in their opinion there could be much more assistance to industrialized countries. They noted ILO assistance before World War II in the development of the US Social Security System and to the United Kingdom in the drafting of the Beveridge Plan. When the U.S. joined the ILO in 1934 the joint resolution of Congress reflected U.S. concern for international labor standards in the context of trade competition; whereas this remains an important concern, since the initiation of the World Employment Program in 1969, the ILO program has emphasized promotion of employment in the Third World.

To illustrate the role of employer and worker representatives in ILO work on human and trade union rights, the officials noted that the International Labor Conference (ILC) expelled the entire Hungarian delegation in 1959 whereas other UN bodies did nothing. They also underlined the contrast between the ILO which took a year to grant observer status to the PLO, and other UN bodies which gave the PLO more immediate recognition.

The officials recalled my speech in 1970 at the inauguration of Development Decade II before the U.N. General Assembly in New York, and said that the "basic needs" concept (under which developing countries would concentrate on providing food, clothing, shelter and basic social services for the lowest 20 percent of their populations) was expected to become the core of Development Decade III. The concept, unanimously adopted at the World Employment Conference (WEC) in June, will be sent to other U.N. specialized agencies for their contribution; ILO will work on employment aspects of development.

I asked what the effect of U.S. notice of intent to withdraw had been. The reply was that the impact at the ILC and WEC last month had been positive: U.S. positions were supported by the EC–9 and other industrialized countries; and U.S.-supported candidates for major positions in the ILO Governing Body, ILC and WEC had been elected.

An effort had been made at the last meeting of the ILO to require the ILO to deal as a body with the group of 77 developing nations, now well over a hundred, who were the principal factors on the side of the developing world at the UNCTAD meeting in Nairobi. The ILO rejected this approach, which is very much to its credit. Also, it is noteworthy that this group showed some discipline itself in avoiding a call for a constitutional convention in the ILO confining its activities to seeking development projects via governments rather than labor protection in the respect of labor practices in developing countries. The ILO was critical of forced labor in the USSR particularly pointing to labor on collective farms where the individual works at the pleasure of the government or the collective farm management and does not have freedom of opportunity in the respect of selling his labor power. It was also made clear that the USSR wanted the World Employment Conference to define employees in such a way as to include the employees in the Soviet Union and this was rejected. Finally, a very considerable point was made by a very strong position by 19 Industrialized Market Economies (IME) countries as a strong democratic element sustaining essentially U.S. positions in respect to the ILO.

The U.S. delegation sought to bring about economies in the ILO, as that is one of the important factors which will be considered in connection with notice of our withdrawal, also that salary increases of the ILO staff should be absorbed by economies in the ILO and this was agreed to.

ILO is the only UN organization which had never elected an Eastern European to lead its executive body. I asked whether ILO members were reconciled to U.S. withdrawal. They responded that Labor Secretary Usery had been advised before the June Conference that a series of events in the next 15 months will probably determine if the U.S. remains in ILO. ILO officials were gratified that payment of U.S. assessment would be made shortly.

I asked further what the connection was between ILO work and the quantum improvement in wage rates throughout the world; they said, however, that they had never considered the connection. They thought unfair international competition was more important than comparative wage rates and said the ILO Convention on equal remuneration had been drafted with this in mind. I commented that working conditions and not wage rates alone were important to the U.S., at least in trade with industrialized countries.

The officials mentioned the voluntary participation of a number of Multinational Enterprises in studies in the MNE by the ILO. They added that ILO work on improving working environment had just begun but was a promising field.

I said that the congressional reaction to this development during this interim period would "make or break" the ILO. Important considerations for Congress would be (1) ILO work which promotes equality of international competition and (2) a reduction of the more nettling political issues in the ILO. The officials said Congress should also consider the active participation by U.S. trade unionists in ILO industrial committee meetings and the possibility that U.S. withdrawal would trigger withdrawals of other countries and lead to the demise of the ILO.

I agreed on the latter point and then drew an analogy with U.S. policy toward NATO. I disagreed with those in the U.S. who believe that U.S. withdrawal of some troops from NATO would prompt the Western Europeans to "buck up" and increase their own forces; on the contrary I said U.S. withdrawal would encourage the Western Europeans to move toward "Finlandization" and great accommodation with the Soviets. The U.S. should stay in ILO because of the "critical importance" of U.S. participation and the long association of the U.S. with ILO. The derelictions of ILO are many but Americans must realize that if the U.S. does not run with ILO, the western democracies may not do it either but may adopt a "partisan" approach.

The officials said that many nations were concerned that U.S. withdrawal could be a step toward return to isolationism by the U.S. and they promised that the Congress would be "properly armed" with information about ILO.

I believe that the operations of the ILO have been affected measurably and favorably by the U.S. notice of intent to withdraw. This improvement if uninterrupted is likely to be sufficient in my judgment to warrant a withdrawal by the United States of its notice of intent to withdraw. But any decision to retract the U.S. notice of intent to withdraw must be based on actual performance by the ILO. The U.S. has been trying for too long to get the changes required in the ILO which alone will warrant continued U.S. participation for us to be satisfied with only cosmetic or atmospheric changes in ILO's modus operandi. In my judgment, this is a situation which looks promising but must be under continuing monitoring.

3. UNITED NATIONS FUND FOR DRUG ABUSE CONTROL (UNFDAC)

The UNFDAC, established in 1971 on United States initiative, has been in operation for around four and one-half years. Its resources stem from voluntary contributions in cash and in kind from Governments and from the private sector. The Fund seeks, in cooperation wtih the traditional UN drug control organs, to contribute to the UN's overall goal of promoting energetic and coordinated international action against the illicit production of and trafficking in drugs and drug abuse, while at the same time ensuring that there are adequate supplies of narcotic raw material for essential medical use. More specifically, its objectives are to finance programs to help countries control drugs more effectively, to promote coordinated international scientific research to facilitate drug control and provide essential medicine, and to strengthen traditional drug control bodies.[1]

The Fund's staff, headed by an Executive Director, consists in addition of six officials.[2] The Executive Director and his staff are responsible for:

Raising funds:

Drawing up the program of activities to be carried out under UNFDAC's auspices;

Deciding which projects are to be financed from the Fund's resources and designating an agent or agents to execute these projects; and,

Evaluating the results achieved.

In carrying out his responsibilities the Executive Director acts within general policy guidelines provided by the Commission on Narcotic Drugs[3] and the Secretary-General.

As of July 10, 1976, contributions in cash and in kind stood at $22,487,975, and the number of Government contributors totalled 60 (see attached list). Over and above these contributions to the general fund, recipient governments contribute substantial counterpart contributions in local currencies toward UNFDAC-assisted projects. It is estimated that these counter-part contributions exceed the total contributions to the general fund.

To date, the United States Government's contributions total $18 million. Jacobus de Beus, UNFDAC's Executive Director, recognizes the need to reduce the disparity between the contributions of the United States and those of other Governments. He is committed to give top priority to fund-raising, and, since assuming his position in the fall of last year, has mounted an active campaign.

The Fund's program consists of projects designed to strengthen control measures, reduce illicit demand, reduce illicit supply, and promote drug control research. Budget allocations projected for 1976 total slightly over $9 million, divided among sectors as follows: control —50.3% demand —10.7%; supply —23%; research —5%. The remaining 11% is allocated for program development and administration.

Agents for projects include traditional UN drug control bodies, UN specialized agencies such as the WHO and private contractors.

UNFDAC's program accents the same drug priority as does the United States domestic and bilateral program, namely, the control of narcotics. The Fund's program also complements our bilateral program and emphasizes assistance to countries whose cooperation in drug control is essential to the achievement of our own goals, but where there are obstacles to bilateral efforts.

UNFDAC's most important contribution to date is its role following Turkey's decision to rescind the ban against poppy cultivation. The Fund recommended, and Turkey agreed, to adopt the "poppy straw" method of cultivation. Under this method, the lancing of poppy capsules and the extraction of opium gum, which prior to the 1972 ban had been diverted to the illicit traffic directed at the United States, is prohibited. Instead, poppy farmers are required to cultivate unlanced poppy capsules exclusively. These constitute a bulky crop which requires industrial processing for extraction of narcotics. Other control measures recommended by UNFDAC and adopted by Turkey include:

Restriction of licenses to cultivate to farmers having no record of narcotics offenses;

Extensive aerial and ground surveillance to guard against incision of poppy capsules and unauthorized cultivation;

Requirement that poppy capsules be sold exclusively to the Government monopoly.

UNFDAC supported the Turkish control program by providing equipment and training for Turkey's control and enforcement agencies. The Fund also established a contingency stand-by fund to guarantee farmers a return for their 1975 crop equal to what they would have received from the sale of licit opium under the old system. However, there has been no need to resort to this stand-by fund which has been terminated.

All evidence supports the view that Turkey's 1975 control system has been effective.

UNFDAC claims that the new Turkish policy is a distinct success. Regarding Turkey, I was told that more than 6,000 tons of opium produced in Turkey had been bought up by the Turkish Government and sold to the U.S. and European pharmaceutical markets, with no leakage. In view of the state of United States/Turkish relations at the time the ban was lifted, UNFDAC's achievements could not have been attained on a bilateral basis.

In our discussion, it was claimed that drug addiction is higher in such countries as Iran and Canada than in the U.S. UNFDAC is studying U.S. Methadone programs and is also looking into U.S. "success stories" of Odyssey House and similar U.S. programs. (Officials added, however, that the drug addiction problems treated by Odyssey House and others come from developed rather than developing countries and have less interest for UNFDAC).

Officials also mentioned that UNFDAC Geneva has trained over 800 foreign police to deal with the drug problem, including providing students with 3 days in Paris at Interpol. UNFDAC, they added, has also assisted these students in setting up drug enforcement programs in their own countries. For example, Lebanon, Turkey, Afghanistan, Burma, and Thailand. There may be a program later in Laos. The organization has also conducted laboratory programs in Geneva for foreign government police officials.

Worthy of special note also is the UNFDAC law enforcement project in Afghanistan, an important source of illicit narcotics. This project, involving the training and equipping of a special narcotics squad, has led to the Afghan's development of a major enforcement effort and substantial seizures of illicit narcotics. This effort could not have been undertaken bilaterally since the Afghan Government as a matter of policy wishes to receive enforcement assistance from the United Nations and not from any major power.

In the field of research an UNFDAC project of interest to the United States involves the coordination and carrying out by the UN Narcotics Laboratory of research designed to increase the alkaloids yield per unit of poppy cultivated area, thus facilitating control by permitting the production of essential narcotic raw material for medicine on minimum acreage. This international research, in which scientists from several countries participate, is showing very promising results. The UNFDAC is also financing international research of interest to the United States and UN's objective of reducing illicit demand for drugs. Research projects in this field involve such areas as epidemiology of drug abuse and treatment methods for drug abusers.

In summary, it is claimed that UNFDAC is directly and effectively supporting United States drug control aims and is playing an essential role in international narcotics control. It is desirable that we should continue to support the Fund; also, that at the same time we should continue to urge the Fund's leadership to leave no stone unturned in its efforts to raise funds and decrease UNFDAC's heavy reliance on a single Government (U.S. 78%—claimed to be justified by benefits from such activity as the Turkish program) for its financial resources which detracts from the Fund's international character; also that we should consider making further efforts on a bilateral basis and at high levels of Governments to support UNFDAC's fund-raising efforts.

The United Nations Fund for Drug Abuse Control represents a good idea. It seeks to deal with the problems of drug abuse on the very first level—production and off-shore distribution. To fulfill its promise this agency must develop and maintain the alertness, agility and capacity to make changes in its activities which will enable it to keep pace with the frequent and rapid shifts in foreign countries of the illicit drug production and traffic.

There are good beginnings here—and some achievements, as in Turkey—but it will take a growing sense of sophistication in the way of outreach and new methods of bringing about even greater willingness to cooperate internationally to make for a major success in this branch of the effort to contain and abate the dread scourge of drug abuse.

UNITED NATIONS FUND FOR DRUG ABUSE CONTROL—STATUS OF CASH CONTRIBUTIONS PLEDGED OR RECEIVED AS OF JULY 10, 1976

	Amount in U.S. dollars	Date	Amount unpaid
Algeria	1,998	7/ 2/74	-------
Do	2,997	23/ 6/76	-------
Argentina	3,000	30/ 1/73	-------
Do	3,000	23/ 8/74	-------
Do	3,000	19/ 6/75	-------
Australia	100,000	28/11/72	-------
Do	100,000	11/ 3/74	-------
Do	100,000	27/ 2/75	-------
Do	44,108	23/ 4/76	-------
Do	4,908	15/ 6/76	-------
Austria	10,000	13/12/73	-------
Do	10,000	8/ 8/75	-------
Bahamas	500	15/ 9/75	-------
Barbados	500	24/ 9/73	-------
Belgium	25,000	5/10/73	-------
Brazil	3,000	11/ 6/74	-------
Do	5,000	3/11/75	5,000
Cameroun	422	8/ 4/76	-------

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[1] UNFDAC finances positions to strengthen the staffs of the International Narcotics Control Board, the UN Division of Narcotic Drugs and the World Health Organization.

[2] Positions and grades (UN scale) are: Executive Director—ASG; Deputy Executive Director—D-1; Financial manager—D-1; Program and evaluation officers—2 P-5, 1 P-4; Public affairs officer—P-3.

[3] The Commission on Narcotic Drugs, a subsidiary body of the Economic and Social Council, consists of representatives of thirty governments including the United States.

	Amount in U.S. dollars	Date	Amount unpaid
Canada	150,000	15/ 2/72	
Do	250,000	12/ 5/72	
Do	203,946	4/ 2/74	
Do	200,000	30/ 1/75	
Do	198,800	30/ 1/76	
Chile	1,000	24/ 3/75	
Cyprus	2,590	20/ 1/72	
Do	2,762	27/ 2/73	2,762
Do	300	4/12/75	
Do	297	8/ 4/76	
Denmark	50,000	16/11/72	
Do	50,000	16/ 8/73	
Do	25,000	10/ 9/74	
Do	25,000	23/ 4/75	
Do	50,000	5/ 1/76	
France	100,000	27/10/71	
Do	100,000	1/ 5/73	
Do	100,794	21/ 5/74	
Do	104,706	20/ 3/75	
Do	100,000	20/ 1/76	
Germany, Federal Republic of	310,481	30/12/71	
Do	188,775	23/ 9/74	
Greece	2,000	10/ 3/72	
Do	2,000	10/10/73	
Do	2,000	18/ 6/74	
Guyana	487	26/ 1/76	
Holy See	1,000	30/ 4/71	
Hong Kong	19,443	27/ 8/75	
Iceland	1,500	9/ 2/73	
Do	1,500	13/ 5/75	
Do	1,000	6/ 2/76	
Iraq	5,066	18/ 2/76	5,066
Do	5,000	18/10/71	
Do	5,000	31/12/73	
Do	5,000	31/ 5/74	
Do	10,000	12/11/75	
Do	10,000	76	
Israel	1,000	11/ 1/74	
Do	500	5/ 8/75	
Do	500	28/ 8/75	
Do	500	20/ 2/76	
Italy	103,200	3/ 3/72	
Do	100,000	19/ 2/75	7,705
Jamaica	1,096	21/ 1/75	
Do	1,095	2/ 2/76	
Japan	200,000	20/ 6/73	
Do	200,000	3/ 9/74	
Do	200,000	19/ 2/75	
Jordan	2,000	15/12/75	2,000
Kenya	3,000	14/ 1/76	
Kuwait	2,000	1/ 2/74	
Libya	6,460	11/ 5/73	
Liechtenstein	1,000	22/ 2/73	
Do	1,000	23/12/75	
Do	1,000	16/ 2/76	1,000
Luxembourg	1,000	28/11/73	
Malta	251	30/ 1/73	
Do	233	25/ 5/76	
Mauritius	500	13/ 2/76	
Morocco	2,068	10/ 1/72	
Do	2,207	14/ 2/73	
Do	2,000	4/ 8/75	
Do	2,000	17/12/75	
Do	2,000	18/ 2/76	2,000
New Zealand	22,277	1/ 9/73	
Do	24,073	1/12/74	
Do	26,345	29/ 7/75	
Nigeria [1]	6,000	19/ 2/75	6,000
Norway	76,365	10/ 3/72	
Do	17,855	17/ 9/73	
Do	18,357	15/ 8/74	
Do	48,715	12/ 2/75	
Philippines	3,000	21/ 5/73	
Do	5,000	14/ 5/75	
Portugal	1,000	9/ 2/73	
Do	1,000	22/ 3/74	
Do	1,000	18/ 3/75	
Do	1,000	15/ 1/76	
Qatar	2,000	5/ 9/73	
Do	10,000	28/ 6/76	10,000
Republic of Vietnam	2,000	9/ 9/71	1,000
San Marino	500	27/10/75	
Saudi Arabia	2,000	29/ 7/71	
Do	5,000	30/ 1/74	
Do	25,000	22/ 7/75	25,000
Singapore	1,000	6/11/75	
South Africa	1,580	9/ 1/74	
Do	1,474	9/ 7/74	
Spain	10,000	12/ 1/73	
Do	10,000	23/ 6/75	
Sweden	63,073	7/ 3/72	
Do	47,393	10/10/73	
Do	44,395	17/ 9/74	
Do	45,766	12/11/75	
Thailand	4,000	19/ 6/76	
Trinidad and Tobago	1,000	28/ 5/75	
Tunisia	2,564	19/ 2/75	
Turkey	5,000	14/ 6/71	
Do	4,781	13/ 2/76	
United Arab Emirates	5,000	29/ 3/75	
Do	2,000	30/ 4/76	
United Kingdom	120,556	24/ 4/72	
Do	119,059	3/ 9/73	
Do	115,839	26/ 9/74	
Do	20,325	19/ 2/76	20,325
United States of America	2,000,000	1/ 4/71	
Do	1,000,000	6/10/72	
Do	1,000,000	20/ 2/73	
Do	4,000,000	13/ 7/73	
Do	2,000,000	28/ 2/74	
Do	4,000,000	17/ 2/75	
Do	1,000,000	28/ 7/75	
Uruguay	1,000	4/ 3/76	
Venezuela	2,000	30/ 7/75	2,000
Do	2,000	22/ 3/76	2,000
Yugoslavia	6,000	22/ 2/74	
Do	5,367	21/ 1/75	
Do	5,921	23/12/75	
Total	22,481,070		85,939
Private contributions	6,905		
Total	22,487,975		

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[1] Contribution pledged during the 26th session of the Commission on Narcotic Drugs.

In addition the following contributions in kind have been received:

	U.S. dollars
Netherlands: Contribution for the publication of a monthly journal (Drug Dependence) by Excerpta Medica Foundation of Amsterdam (4/8/72)	115.625
Poland: Contribution of agricultural machinery and implements for crop substitution projects (3/2/75)	50.000

4. THE WORLD HEALTH ORGANIZATION (WHO)

Since Director-General Mahler and Deputy Director-General Lambo were out of the country, I met on July 5 with the Acting Director-General, Dr. D. Tejada-de-Rivero (in written correspondence he is called Dr. Tejada only). He was assisted by Mr. Warren Furth, Assistant Director-General for Administration, and Dr. Stanislas Flache, Director of WHO's Division of Coordination.

Dr. Tejada is one of the five Assistant Director-Generals of WHO. He is from Peru. His major responsibilities are concerned with the delivery of health systems to the rural poor in the developing countries. Under him fall the Divisions of Strengthening of Health Services and Family Health and Planning.

The first area discussed concerned the modalities for health care in WHO. It was stated that there was no one model and added that the extension of health services to developing countries involves using nontraditional models, above all models involving the community itself.

I inquired about the Primary Health Care Conference in 1978 in the Soviet Union. The Organization will be holding WHO Regional conferences during the coming two years to exchange experience and to firm up the agenda for the PHC Conference. WHO already has the approval of the Executive Board and the World Health Assembly but the main points of discussion and the main input for the conference itself will come from those WHO Regional conferences to take place over the coming two years. The officials concluded that WHO has sufficient time to structure and prepare for the PHC Conference.

In May of this year, the Department of State sent to the U.S. Missions in Geneva and New York some background information on the Department's view of the PHC Conference to be held in USSR. The cable, which was unclassified, points out that at the recent World Health Assembly in May, the U.S. Delegation joined in the consensus approving the holding of this international Conference on Primary Health Care. The U.S. has supported the idea of a conference which could play a useful role in an exchange of information of health delivery services, particularly basic services, to world areas. In fact, as the cable points out, the U.S. has for some time encouraged the holding of just such a conference in some developing country, but none had come forward with an invitation and an offer to pay the costs above those which would be incurred in Geneva. The Soviet Union and Egypt were the only two countries offering to pay these costs. Egypt then withdrew its offer; a WHO *ad hoc* conference was held in early April to decide on the next step, and this *ad hoc* group then accepted the Soviet offer to pay these costs. In the absence of a developing-country offer, the U.S. Delegation agreed. However, the U.S. Delegation to the WHA in May went on record to assure that this conference in '78 would engage in a serious exchange of information on the technical state of the art of health delivery services and in no way be diverted by any public relations demonstration of the Soviet Union's health system or the like.

Since the time of the Assembly, UNICEF has agreed to cosponsor the Conference with WHO, which has been a source of satisfaction both to the U.S. Delegation and to the WHO Secretariat itself.

Another question raised concerned the impact of the recent WHA resolution that by 1980 60% of the budget of WHO would be given over to technical cooperation projects in developing countries. I pointed out that such a resolution would be carefully considered in the U.S.

We considered the question, where does WHO belong in the research picture? Should it be, for example, an international body in research? The group answered that they believed WHO research should be "farmed out" among national governments. The WHO resources are limited.

The group added that more emphasis is now going into the research field and gave as an example the Director-General's new program called "Special Program for Training and Research in Tropical Diseases." This program will be funded from extra-budgetary support, not the regular budget, and will ultimately be a global program to deal with six of the most pernicious tropical diseases. The program is now getting under way and will be focused on the African Continent where the program will deal with malaria, schistosomiasis, filariasts, trypanosomiasis, leishmaniasis, and leprosy. One of its major aims will be not only to seek control of these tropical diseases but to train Africans in dealing with the diseases.

I suggested that I would like to see a similar interest in WHO in the areas of family health and population in African countries and elsewhere.

It was stated that WHO needs extra-budgetary funding for those programs not covered by the regular budget, notably the new Special Program for Research and Training in Tropical Diseases in Africa, and the group hoped for U.S. contributions to extra-budgetary programs at WHO as well as its annual assessment to the regular budget.

I wish to recommend urgently to the U.S. that we hold a regional meeting of the Americas, including Canada, in 1977 in order to prepare for the '78 Primary Health Care conference. In that way we will, if we are fortunate, have a unified position on the part of the Americas and avoid any propaganda effort by the Soviet Union.

As to my conclusions respecting the WHO, in my judgment the WHO is an organization with a tremendous potential for making a significant contribution to world health and to U.S. national objectives respecting world development in that connection. The WHO appears to me to be entering a period of good relations with the nations of the developing world because it has generally furnished to them the kind of assistance programs to meet the needs and desires of these nations. Right now it is giving a new emphasis to a technical assistance program to be completed by 1980 to which it has devoted $12 million of its program funds responding to the requirements of the developing nations as voiced by them at the 29th World Health Assembly.

Many believe that in the U.S. the single most outstanding kind of foreign aid that we ought to render is in the health field, and I have sponsored legislation to achieve this goal. This, it is felt, would be of the most use to the developing nations of the world and we have an extraordinary amount and quality of technical resources and of national interest for the purpose and, in money terms, it will enable resources to be devoted to economic aid through multinational organizations if our own national effort is heavily directed in the health field. So this is a matter very well worth considering on the part of the U.S.

As I see it from the substantive point of view, the WHO is an almost indispensable agency. Its current top leadership strikes me as being of a very high caliber.

5. FOOD AND AGRICULTURAL ORGANIZATION (FAO)

I met with Dr. Edward Saouma, Director-General of the FAO, and Christopher A. Norred, Jr., U.S. Representative to that agency. Dr. Saouma began by referring to his own visit to the United States in September, 1975, before his election. He had assured the U.S. officials that they could safely place confidence in him, that he would fairly and honestly present accurate relevant data. He said the United States had to a large degree been responsible for the establishment of FAO, and that it is of such importance in food and agriculture activities that he knows he cannot really fulfill what he wishes to do without the support of the United States. He said he had had good and useful exchanges with U.S. officials, and believed the relationship was a good one.

Dr. Saouma expressed one concern—that the United States should speak with one voice on policy matters. There are three centers of U.S. policy on FAO—the U.S. Department of Agriculture, Department of State, and AID. He said other governments also had such divisions. In response to a question, he said his own dealings have been mainly with the U.S. Department of Agriculture, but he believes he has recently established a good relationship with the Department of State as well. Later in the conversation, Dr. Saouma said the U.S. spokesman at the FAO Regional Conference in Lima (from the U.S. Department of Agriculture) had spoken in favor of Dr. Saouma's technical cooperations program proposals. Mr. Norred said that the spokesman in Lima had given a sound expression of U.S. Government views, reflecting the communication earlier given Dr. Saouma by the Department of State which in fact was based on careful inter-agency discussions and a definite decision of U.S. policy. Any views to the contrary were not an authorized statement of U.S. Government policy.

Dr. Saouma said he shares U.S. concern about politicization of UN agencies. He referred to the practical difficulties such controversies had created in other UN specialized agencies. He said he made particular effort in the FAO Conference in 1975 to prevent political controversies. He said he views himself as responsible to the whole of the organization, but he does come from a developing country, and may be able to help in quieting political controversies.

On the upcoming FAO Council meeting to consider his proposals for changes in FAO's program, Dr. Saouma said he can easily get a majority support, but he wants a true consensus. He is fully in operational control, exercising it vertically from top to bottom of the Secretariat. He is the only elected official in FAO; all the rest are appointed by him. He is resolved to reorient FAO activity, to shift it to the field, where the action should be. He wants to reduce the 77 percent of the FAO budget assigned to salaries to about 66 percent, and strengthen the country representation at the expense of new posts in headquarters.

He was asked about the desirability of unity of technical assistance programs. Dr. Saouma conceded that there is an economy in unity of programming. He contended, however, that the UN system is basically pluralistic, with each agency exercising responsibility in its own technical field. FAO is the only specialized agency that has no funds for operational activities.

He was questioned as to whether many countries could be affected with the small funds called for. Saouma said he thinks he can have some effect on most of the developed countries, and that it would be seed money, leading to use of other funds from UNDP and from trust funds provided FAO by individual countries.

He was asked about his relations with the United Nations and the World Food Council. Dr. Saouma said that FAO is a member of the UN family, but it has its own constitution and governing body. He pointed out that the International Fund for Agricultural Development will also be a specialized agency. FAO, IFAD, and WFP make a good combination in Rome. The World Food Council is another matter. Relations between FAO and the World Food Council are not what they should be as yet. Its most recent session shows that it is not yet a viable organization. The developing countries look upon it as a place to present a list of demands to the developed countries, and to check on these the next year to see what has or has not been done. The developed countries do not accept this. In varying degrees, the developed countries opposed the creation of the Council. The United States was the exception, playing a part in its creation apparently because Secretary Kissinger had initiated the World Food Conference. He said the essential idea in the formation of the World Food Council was that a high level of political decision was needed; it may be wiser to keep international decisions on food and agriculture problems at a technical level.

In my judgment, the FAO is one of the strongest and most essential of all the United Nations agencies. Its high desirability notwithstanding, the FAO must be run efficiently if it is to live up to its potential and the expectations that it has come to be based upon.

6. WORLD FOOD PROGRAM (WFP)

Participating in the meeting were Thomas C. M. Robinson, Executive Director ad interim, William N. Fraleigh, Assistant to Executive Director, M. Krishan, Acting Director, Project Management Division, Anthony Dawson, Director of Evaluation and Assistant to Executive Director for Planning, Joseph Moscarella, UN Economic Adviser to WFP, L. M. Joshi, Chief of Commodity Programming and Purchasing Section, Victor Skiles, AID Development Officer to American Embassy in Rome and Christopher A. Norred, Jr., U.S. Representative to FAO.

WFP began basically as an initiative by the United States in offering $50 million in food assistance over a three year period 1962–1965, provided it was matched by other countries. The World Food Program was then instituted on a 3-year test basis, under UN and FAO authority, and has continued since then on an expanding scale. The United States has been the largest contributor, mainly in food, over the entire period, providing roughly 30 percent of the resources over the entire period. The U.S. share is now down to about 25 percent, and Canada this year has for the first time displaced the United States as the largest contributor. The Program is not a permanent one, but is to continue so long as member countries support it. Its food materials are provided to specific projects: none are sold on the market. Ten percent is set aside for emergency uses. The other 90 percent is used for economic and social development, with priority given to increasing agricultural production, developing rural infrastructure, and feeding vulnerable groups, such as mothers and pre school-age children.

The officials then discussed restrictions on participation in the program. Projects can be established only in countries that are members of the United Nations or of FAO. At the moment, Angola is a question. The United Nations has directed the Program to assist liberation movements, but Angola has passed beyond that stage to independent government and is not yet a member either of the UN or of FAO. Viet Nam used to be a problem, but the country is now united under a government that will succeed to South Vietnamese membership in FAO. Political restrictions are not highly important now. Israel is a donor, and has never sought a project. Most of the U.S. restrictions on use of its materials for Arab countries have now been removed. It was explained that the United States had not permitted its materials to be used for countries with which it had no diplomatic relations. U.S. relations have been reopened with almost all of the Arab countries, however, and the U.S. restriction now applies mainly to Cuba and North Korea which has never requested a project.

In response to questions, they said that the governing body, now called the Committee on Food Aid Policies and Programs, numbers 36 countries, one-half elected by FAO and the other half by ECOSOC. This committee performs the same functions previously performed by the Intergovernmental Committee of the World Food Program, plus one new function—to assist in coordination of bilateral food aid and formulation of a consensus of the objectives of food aid.

It was noted that the bulk of the resources were in food materials, and that these amount to 77 percent of the total current pledges. The exact current figures are: $460 million in commodities, $40 million in services, and $143 million in cash.

Questions were raised about the Program's controls and evaluations. The reply was that ultimately WFP can cut off assistance if the assistance is not being used properly, and this has been done in a few cases. WFP did check carefully to be sure the resources were not misused, and that the project was fulfilled. They were asked about the means for determining whether the project might not have been fulfilled by local resources if WFP resources had not been available. The WFP officials conceded that this was a hard question to answer definitively, but pointed out that most of their projects involve intensive labor, and are by their nature additive. They do not achieve budgetary savings. Nor are they make-work projects to create employment. The projects are directed toward increasing productivity. It is firm WFP policy never to undertake maintenance projects, for example. They conceded that there had been some failures. The attempt to transplant Bolivians from the altiplano to the lowlands had failed completely because of the lack of infrastructure in the lowlands. WFP had not been lonely in this failure: the Inter-American Development Bank had kept it company. And in the upheaval in Indonesia, substantial WFP resources simply had disappeared and could not be accounted for.

I noted that the program was small, and questioned its capacity to meet the needs. An official said that each program is small in itself. He did point out, however, that WFP had grown from a small program to about $480 million a year, approaching the level of UNDP. One of the WFP officials mentioned the demonstration effect of WFP projects. I asked for examples of demonstration effect. It was stated that WFP's integrated rural development project in Mexico had been taken up by the World Bank.

I also asked about coordination with the World Bank and UNDP. They replied that WFP is unique in that it uses food as a resource. The tie with UNDP is close, in that WFP uses the UNDP UN Resident Representative as its own representative at country level. UNDP is fundamentally in the technical assistance business, and not in investment and UNDP has committed its funds. WFP food resources are a useful supplement. The World Bank, on the other hand, had not been much interested until recently in coordination with WFP, because WFP was too small. With the growth of WFP, however, the World Bank is showing interest. An official said he had just returned from talks with the World Bank, and that World Bank officials would be visiting WFP.

At the close, the figure of 365 was given for the international staff, which has handled a total of 774 projects, of which 375 are still under way. The point was raised that they have extremely low administrative costs, but that too much should not be made of this, because administering shipments of food is less complicated than many other forms of assistance.

The officials asked about possible U.S. Congressional action to loosen the ties on the U.S. contributions. It was explained that the U.S. Office of Management and Budget seeks to apply to the U.S. contributions the same standards that are set for the U.S. PL 480 program. The WFP officials said a few other countries at times put strings on their own contributions, often using the U.S. as an example to justify such action, and this procedure gave WFP some difficulty. A further question was raised about the recent U.S. reduction of its service costs contribution to only one-half of the costs of transporting its food contributions. It was said this had not caused trouble thus far, but might become an issue in the future, and that the argument to justify it is that some countries such as the United States and Canada are best in a position to give food materials, while others such as Saudi Arabia are in a relatively better position to provide monetary contributions.

7. WORLD FOOD COUNCIL (WFC)

Officials participating in the briefing were Harry Walters, Assistant Executive Director of the WFC and Christopher A. Norred, Jr., U.S. Representative to FAO.

It was stated that the World Food Council was the result of a compromise between countries who believed a food and agriculture equivalent to the Security Council was needed to get something done, and those who believed no Council was necessary. There is much resistance to it from the existing agencies, who see in it an implication that they were not meeting the needs. The WFC official said he believes it serves the purpose of keeping the feet to the fire on the problems of food and agriculture which need to be decided upon. Later in the conversation, he said he did not agree with those who allege that the United States was a principal in the foundation of the Council: the U.S. attitude as he perceived it ranged from passive to negative.

The first session of the Council in June, 1975 was highly unsatisfactory. The second, in June, 1976, was better but far from sucessful in meeting the needs. The Council can play an important role, if it can live up to its responsibilities. They need to focus on two or three key problems to try to work out political adjustments. For example, analysis reveals that the giant deficits projected for food in 1985 are essentially problems of somewhat lesser deficits for a few key countries, and that policies need to be formulated to increase production in or otherwise meet the deficits in those particular countries. Also of importance is the need to create income to buy food.

A question was raised about the structure of the World Food Council, and when it was indicated that 22 of its 36 members are LDCs, he commented that this formula is not a good one, and that the CIEC approach may be better. It was conceded that the Council had had great difficulty with FAO's Group–77, which functioned also for the Council. All expressed the views, nonetheless, that the Council could operate effectively.

The prime need, in the WFC view, is to improve the Secretariat. The Council meets only once a year, at ministerial level. If the Secretariat can develop better communications with the member countries, particularly the LDC's, it could help make the ministerial meeting a meaningful one. The Secretariat question will be raised with the UN in the fall. They seek a small but very good staff to support the Council properly. The success of the Preparatory Meeting in 1976 shows that the system can work.

It was also said that it is important for the developed countries to develop their own dialogue with individual LDCs. It was said that there are many who have serious interests in food problems and others who for other reasons do not wish to be held the Group–77.

Based upon my preliminary observations, this organization does not appear to be operating at the level of effectiveness we hoped for, in some cases it appears that similar functions are being better performed in other agencies. The agency needs to be reconsidered and if continued buttressed considerably.

EXHIBIT 2

SENATOR JAVITS' PRESS CONFERENCE, MADRID, JULY 9, 1976

Thank you very much ladies and gentlemen. I am sorry to have delayed you because of the television, but I've come here for the first time I've ever been to Spain because I never would come here while General Franco ruled the country. And so it is with considerable amount of feeling that I arrived here for the first time.

I am a member of the Foreign Relations Committee of the Senate, also a member of other Committees of the Senate. I come here as a member of the Senate Foreign Relations Committee for the purpose of seeing what the prospects are for democracy in Spain, and the frame of reference within which we have just ratified in the Senate, by a very large vote, a Treaty with Spain relating to military bases. This agreement involves a five year commitment and deals with sums of money in excess of a billion dollars.

I have today met with His Majesty the King, and the new President of the Council of Ministers, the Prime Minister, as we call it. I have also met the Ministers of Justice and Foreign Affairs. I have had the opportunity to meet with, and I have an understanding of the views of those who have not chosen to join this new Cabinet—that is the former Ministers of Foreign Affairs, and Interior, and Justice. And, last night I had an opportunity to talk with individuals identified with various political parties and viewpoints in the country. I believe they included a complete range of all the parties, other than the Communist party, which I gather has no status in Spain.

I would prefer to proceed by answering questions, but I would like to make just two points which strike me as an American. One, I believe there is great interest in the United States in supporting Spain in its effort to attain a democratic system and that weighed very importantly in our considerations when we ratified the bases agreement. We were not so much impressed with the details of that agreement because there are questions about some of them and the benefits which the U.S. may derive from them, but in terms of giving strong lateral support to the process of bringing about a democratic system in Spain by expressing the confidence of the United States in its future; that, in my judgment was the dominant reason for the ratification of the Treaty. That was emphasized and underlined by the address of the King to the Joint Session of the Congress which I attended and which made a very good impression exactly along that line. Secondly, I believe it reflects American opinion that whatever time-table is prescribed for the emergence of democratic methods in this country, will be a time-table that is kept and that there will be a fidelity to this assurance which has been given to the people by the King, and by the new President of the Council of Ministers.

I believe it is fair to say also that a rather healthy respect has been established in the United States by the fact that after 40 years of a government which was not representative and not democratic, seven months have now elapsed and an atmosphere of stability and of general feeling of patient anticipation and a certain amount of confidence which appears to us to be reflected from Spain. That, I think, has been quite impressive.

My feeling as I visit Spain and see the different personalities is that there does seem to be so far a balance between impatience and the need for action. And that is why I emphasize so much the time-table aspect and the fact that there should not be disappointments in connection with it. Now I will be glad to answer questions.

Q. What are the prospects for a democratic system in Spain?

A. I believe the prospects are good, based upon what I consider to be the sincerity of the King who is now the basic political factor that has the legitimacy which the King has. And from what I've seen here, as well as my impression of him in the United States, I believe that he has a real sincerity about bringing a democratic system to this country.

Q. Did anybody in the government give you any idea of what the time-table may be?

A. I have the impression of a time-table which will institute a democratic system or at least a democratic opportunity. And I have also the feeling based upon what I feel and hear it is in the order of magnitude of a year. Now that is strictly my impression and I cannot quote anybody or give you any governmental authority for that time frame.

I used the word opportunity. As I see it, that is what is developing here. It will require the cooperation of the people. They really will be required to embrace the opportunity. An estimate was made to me, for example, that 70% of the people of Spain today did not experience the Civil War. Those people, and those who are in authority, so many of whom are of the same generation both have to have a feeling of wanting to embrace the democratic opportunity. But I believe the opportunity will be made available.

Q. There has been some speculation in the last few days here that in case the reform program comes to a standstill with the new government, there might be some specific action taken by Congress related to the Spain-U.S. Treaty or perhaps appropriation of funds. Would you comment on that?

A. It is my belief that when we ratified the Treaty we did not ratify it conditionally. We expressed our confidence in the future of our relations with Spain for a period of five years. Now, if we, in the United States, are unsatisfied with the progress of a democratic system in Spain, I do not believe that the United States will in any way fail to honor the Treaty. In short, the Congress will, in my judgment, appropriate the money and do its part, as it is supposed to do. But, I do not believe that is what the Spanish people really expect of the United States. They expect our friendship, they expect our support, they expect that the Treaty has created a familial relationship between the two peoples. That is the area which will depend upon the progress of democracy here.

In short, I am confident that our country will perform its Treaty obligations, but I believe that my desire, and that of most people of the United States and of the Spanish people, is more than that. And, in my judgment, it's the "more than that" that is very likely to depend upon the progress of the democratic system in Spain. The mutual friendship, support and a general feeling of alliance between the peoples.

Q. In your meeting with the Justice Minister, Senator, did he give you any indication of anything about amnesty?

A. Well, my meeting with the new Justice Minister was strictly introductory. I did not have any substantive discussion or conversation with him. As I understand it, the question of amnesty is a very serious one here. Though the numbers involved, I gather, are rather considerably reduced from what most people thought they were before the information came out. But that's neither here nor there. I cannot really comment except that I know and feel it to be a very important factor in respect of developing a democratic system in Spain.

Q. Don't you think that not the present government, but the other government was too much concerned with offering a very good impression of Spain outside of Spain and not so much internally in Spain but rather was doing things to impress abroad?

A. I cannot comment upon the virtues or deficiencies of any Spanish government. I am not a citizen of Spain, I am a United States Senator. I can only say that as far as our country is concerned, the representative personality here since the death of Franco has been the King. We had no breakthrough of estimation of the King until he came to the United States, and then the impression was, in my judgment, that he sincerely wished to bring a democratic system to Spain and that he would do his best within the limits of his kingship to bring it about.

Q. Do you have the impression from talking to most people in the government and also people in what's usually known here as the opposition, that there is a mutual desire to bridge their differences and come together on a common program?

A. Again, I do not wish to, in any way deal with the internal political situation in Spain. It is my impression that we have to look to the actions of the King and the Council of Ministers and its President whom he has chosen in order to accomplish what we are so anxious to see accomplished.

Q. The opposition here has always insisted that if the King was to carry out this result that you are looking forward to and supporting that is necessary, this is one of the conditions for bringing about this result.

A. I just don't know enough about the internal situation to comment. When I go back and report to the Senate Foreign Relations Committee, I will tell them that we have to depend upon the existing, chosen Cabinet. We cannot depend upon the fact that the government and opposition may get together. Our dependence must be upon the King and the Cabinet he has chosen. Now whether they will deliver the goods or not, I don't know. But I don't believe we ought to be under any illusion that there is going to be some new combination. That's all I am really saying.

Q. You mentioned that you spoke with many members of the opposition, but not with the Communist party. Does that mean that the Senator does not wish the Communist party to be legalized in Spain?

A. The people of Spain will have to decide that for themselves. I don't know what the penal law of Spain is on the subject either. I had no occasion to inquire because they simply were not available as far as I was concerned. I did not try to seek them out.

Q. What would be the psychological effect of amnesty in Spain in the U.S. Senate?

A. I believe that if it were a decision of the people of Spain just like the other gentleman asked me about the legalization of the Communist Party, the American people would respect the fact that the Spanish people have taken their destiny into their own hands. If it is another decision then I do not believe that it will have an effect either way. But if it is a decision of the institutions of democracy, then it will be an important factor in making the people of the United States feel that the Spanish people have taken their destiny into their own hands.

Q. You said you were impressed on the democratic convictions of the King, are you equally impressed with the democratic convictions of the new Premier?

A. I did not know the new Premier. I met him for the first time. We had a conversation of about an hour. He seemed to have the same feelings and views that the King had. He looks like a straightforward man with purpose and capacity. But I certainly cannot say as much about him on such short acquaintance as I could about the King.

Q. If Spain did not develop a democratic system in the coming years, do you think the Treaty would be renewed after the five-year period?

A. I cannot answer that question. Let's go to your second question.

Q. In your talks with the Foreign Minister, was there any indication that this government might recognize Israel and establish diplomatic relations?

A. I had no real discussion with the Foreign Minister. I just met him. But from other sources, I believe that this is a subject which will have urgent consideration by this government. I believe it is very much in their minds and very much a subject of their interest.

Q. Could the Senate Committee help the Spanish Government by releasing the list of the Lockheed scandal and also could that be released under the condition that this list would be published in Spain and would not be kept for the government only?

A. The policy of the United States so far has been to furnish whatever information had to be furnished on a government to government basis and to leave it to the recipient government to decide whether it would not be published. That continues to be the U.S. policy. I do not say it may not be changed, but this is the policy today.

Q. Since you have been talking with some leaders of the opposition, do you see that in a short time there is a possibility of seeing in power members of the moderate opposition?

A. I believe that the dynamics of democratic institutions will determine that. I cannot forecast it. What I see here, it seems to me quite clearly, is that the emphasis will be upon institutions by which the people may express their desires, views and wishes. I understand, for example, that in a public address over the TV the new President of the Council of Ministers spoke of being trustees for the peoples rights. The nature and character of government here will be determined after, rather than before the institutions by which people may express their will. An election by universal suffrage of a parliament or Cortes as you call it, will proceed rather than follow the kinds of regime which the people will have. And that is why I said what I did a minute ago that as far as my country is concerned, I believe we have to look to the present Council of Ministers to install the institutions of freedom, an elected parliament which will determine the nature of the administration of Spain.

Thank you very much, ladies and gentlemen.

CLEAN AIR AMENDMENTS OF 1976

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of S. 3219 which the clerk will state by title.

The legislative clerk read as follows:

A bill (S. 3219) to amend the Clean Air Act, as amended.

The ACTING PRESIDENT pro tempore. The pending question is on the amendment of the Senator from Alabama (Mr. ALLEN) No. 2101, to the amendment of the Senator from West Virginia (Mr. RANDOLPH). Who yields time?

Mr. ALLEN. Mr. President, a parliamentary inquiry.

The ACTING PRESIDENT pro tempore. The Senator will state it.

Mr. ALLEN. Is the time spent in quorum calls counted against the 15 hours of debate?

The ACTING PRESIDENT pro tempore. Unless there is unanimous consent request which is granted, the time will not count. The time would ordinarily count.

Mr. ALLEN. I thank the Chair.

I ask unanimous consent that we have a short quorum call in order that we might get attendance of more Senators.

Mr. MUSKIE. Reserving the right to object, will the Senator repeat his request?

Mr. ALLEN. I ask unanimous consent that there be a short quorum call to see if we can get other Senators into the Chamber while this matter is being discussed.

The ACTING PRESIDENT pro tempore. And it is the understanding of the Chair that the time will not be charged to either side. Is there objection?

Mr. MUSKIE. Provided it is understood that it will not be a live quorum.

Mr. ALLEN. I have no intention of its going live. I would have in mind not over 10 minutes.

The ACTING PRESIDENT pro tempore. Without objection, the unanimous-consent request is agreed to.

Mr. ALLEN. I suggest the absence of a quorum, Mr. President.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ALLEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. Who yields time?

Mr. ALLEN. Mr. President, I yield myself, from the time allotted to me, such time as I may use.

The ACTING PRESIDENT pro tempore. The Senator from Alabama is recognized.

AMENDMENT NO. 2101

Mr. ALLEN. First, Mr. President, I send to the desk a modification of amendment No. 2101, and ask that it be stated.

The ACTING PRESIDENT pro tempore. The Senator may modify his amendment if he chooses.

The modification will be stated.

The legislative clerk read as follows:

Beginning on line 6, after "investigation", strike the comma, insert a period, and strike the remainder of the amendment that follows thereafter.

Mr. ALLEN's amendment No. 2101 (as modified) is as follows:

On page 2, line 11, strike the period and insert a semicolon and add the following: "none of which provisions shall be implemented or enforced until a period of one year shall have elapsed from the date on which the Commission submits the report required of it on the results of its study and investigation.

Mr. ALLEN. Mr. President, originally I submitted two amendments, amendment No. 2092 and amendment No. 2100. I ask unanimous consent that those amendments be printed in the RECORD at this point.

The PRESIDING OFFICER (Mr. CANNON). Without objection, it is so ordered.

There being no objection, the amendments were ordered to be printed in the RECORD, as follows:

AMENDMENT NO. 2092

On page 2, line 11, strike the period and insert a semicolon and add the following: "none of which provisions shall be implemented or enforced until a period of one year shall have elapsed from the date on which the Commission submits the report required of it on the results of its study and investigation.".

AMENDMENT NO. 2100

At the end of line 11, page 2, add the following sentence: "None of the provisions of subsection (g) of section 110 of the Act in contravention of the recommendations of said Commission as contained in said report shall be enforced or implemented.".

Mr. ALLEN. Those amendments, then, were merged, under the amendment offered by the Senator from Alabama now speaking and the distinguished Senator from Florida (Mr. STONE), to become amendment No. 2101.

Rather than offer amendment No. 2092, since much of the discussion has been on amendment No. 2101, I have merely modified it—and I offer this modification on behalf of myself and the distinguished Senator from Florida (Mr. STONE)—by striking out the second aspect, the second division of the amendment. In other words, as it now stands, it is the same as amendment No. 2092.

The status of the parliamentary situation is that the Moss amendment has been defeated. That amendment would have stricken out section 6 of the bill. This is also referred to as subsection (g) of section 110 of the act. They are identical, and are interchangeable terms, as I understand it.

So the Senate has decided that it wishes to leave section 6 in the bill. That is quite obvious, because there was about a 2-to-1 vote, and unquestionably that section will be a part of the bill when it is finally passed on tomorrow.

The first amendment that was offered when this bill was laid before the Senate the Randolph amendment (No. 1798), which in effect would have allowed the enactment of section 6, and at that time would have set up a commission to study the implementation and the factors surrounding the implementation of section 6. In other words, the law would be enacted and we would have an ongoing study by a commission.

But the theory of the Moss amendment was that we should not enact before study, that the study come first and enactment later.

When the Randolph amendment (No. 1798) was offered, the Moss amendment was not in order as to the Randolph amendment. Since the Moss amendment was not in order as to the Randolph amendment, the Senator from Alabama, with the approval of the distinguished Senator from Utah (Mr. Moss), did prepare an amendment (No. 2101) which was a halfway position between the Randolph amendment providing for enactment and a simultaneous study or an ongoing study from the time of the enactment, and the Moss amendment, which would have had the study and then enactment later, at no stated time.

So amendment No. 2101 offered by Mr. STONE and myself in effect provides for the enactment of section 6. There is no doubt about that becoming the law. There is no state of confusion as to when or whether section 6 would be enacted, which is a doubt left by the Moss amendment, but amendment No. 2101 would not leave any doubt about the enactment of section 6. It would go on the statute books under amendment No. 2101. However, the provisions of section 6 would be stayed, held in abeyance for 1 year after the committee made its recommendations. What is the purpose of that? It provides for a reliable study before the going into effect of the provisions of section 6. Why the year? Well, after the committee makes its findings and its recommendations, Congress would have 1 year to make such refinements or such modifications in section 6 as seemed to be indicated by the recommendations of the Commission.

What possible criticism could be offered to that plan? We have got the statute enacted; it is the law of the land, but anticipating that possibly this might not be the best possible remedy or plan for action, as the case might be, why not allow a period of 1 year after the Commission makes its recommendation before the provisions of section 6 would be implemented?

I have heard on the floor here time and time again—and it is a part of the legislative history, Mr. President—that EPA already has the power that is given to it under section 6. In fact, it has been asserted time and time again that section 6 is less restrictive than present EPA powers and regulations.

That being true, Mr. President—and I have no recourse but to accept it, and I am glad it is a part of the legislative history—I state here as a part of the legislative history that the proponents of the bill have stated on the floor, as the RECORD will show, that the purpose of section 6 and the function of section 6 has been to provide less restrictive regulation, to give relief rather than harassment. And it has been pointed out that some of the powers the EPA now has would be transferred over to the States in the implementation of the regulations provided for under section 6. So if we have in the present law for EPA more power already on the statute books than it would have under the Clean Air Act amendments, why not wait the year? We are not depriving EPA of anything during that interim period of 1 year. They have the power, so say the sponsors of the bill.

Why not wait until the Commission makes its report? We are not saying under amendment No. 2101 that section 6 shall not be enacted. The effect of this amendment is, yes, enact section 6. They say it is less restrictive than present law. Fine. The Commission might say that section 6 ought to be strengthened. Who knows?

But before we implement a section that takes power from EPA and makes their regulations less restrictive, let us have the study. The study might show that some of the provisions are unwise. I have pointed out the mandate that the Commission has under the Randolph amendment, and I do not wish to interfere in any way with this mandate, because I think the mandate is excellent. No one objects to the Commission. Everyone is for the Commission I assume everyone is for this mandate because the mandate indicates that we have practically no knowledge whatsoever about what we are legislating about. That is what the mandate indicates.

Look on page 2, subsection (2) starting with section (A) on through (F)—(A), (B), (C), (D), (E), and (F). That is the Commission's mandate. And it indicates that we are legislating not from strength, knowledge, or wisdom, but we are enacting section 6 from a status of lack of knowledge and complete ignorance on the subject.

Is that an incorrect statement?

But will the Commission be mandated to check into something that we already know about? Will the Commission be mandated to check into established facts? Well, hardly. They will not wish to go through a needless exercise. So, we assume, therefore, that the areas in which the Commission is mandated under the Randolph amendment to study represent areas about which we do not have sufficient facts, knowledge, or expertise. These are the very areas covered by section 6.

Let us see what the Commission is called on to study. Among other things, it is to study under (A)—

> . . . whether the provisions relating to the designation of, and protection of air quality in class I regions under this Act are appropriate to protect the air quality over lands of special national significance, including recommendations for, and methods to add to or delete lands from such designation, and to provide appropriate protection of the air quality over such lands; . . .

So apparently we do not know whether the designation and protection of air quality in class I regions under the act are appropriate to protect the air quality over lands of special national significance. We do not know or this Commission will not be charged with the duty of finding out whether the provisions of section 6 are appropriate or not. We do not know that. So we ask the Commission to study it. In the meantime, we enact section 6, while we are having an ongoing study after the enactment of section 6 of whether section 6 is appropriate or not.

Next, we call on the Commission to check and study—

> . . . whether the provisions of subsection (g) of section 110 of this Act—that is sec-

> tion 6—including the 3-hour and 24-hour increments, affect the location and size of major emitting facilities, and whether such effects are in conflict or consonance with other national policies regarding the development of such facilities; . . .

So we do not know that, and that is covered in section 6. We know nothing about it, and we are charging the Commission with the duty of finding out about it by making the study. But in the meantime, we pass the law.

I think this is the most significant area of the study and shows a complete lack of knowledge on the part of those charged with implementing this act.

Let us listen to this. The Commission, after section 6 is enacted, is charged with the duty of studying—

> . . . whether the technology is available to control emissions from the major emitting facilities which are subject to regulation under subsection (g) of section 110 of this Act—and I say parenthetically that is the same as saying section 6—including an analysis of the costs associated with that technology; . . .

So, Mr. President, apparently, we are legislating here—those who are ramming section 6 down the throats of those to be regulated—when they do not even know whether the technology is available to control emissions from the major emitting facilities which are subject to regulation under subsection 6. We pass a law governing emissions from plants, and they do not even know, and they call on the Commission to find out, whether the technology is available even. This technology may be 10 years down the road. But here they are enacting section 6, and it is a foregone conclusion they are going to do it because they voted 2 to 1 on yesterday, in effect, to enact it by killing the Moss amendment which would have stricken it out.

The Senate is enacting in this area, and it does not even know whether the technology is available to comply with this legislation. How anxious can we get? How precipitous can we get? Without even knowing whether the technology is available to comply with section 6, the Senate goes ahead and enacts section 6. That does not make very good sense, it seems to the Senator from Alabama. That is done without even knowing the facts to enact a law under which regulations could be imposed, and we do not even know whether the technology is available to comply with those restrictions.

Why not, Mr. President, follow the route proposed by amendment No. 2101, as modified by the distinguished Senator from Florida (Mr. STONE) and myself. It provides, because that is inevitable, for the enactment of section 6. That seems to be the will of the Senate. I am not disputing that. I am accepting that as an accomplished fact. We are going to enact section 6. I do not favor it, but the Senate has indicated, without doubt, that it will not knock it out. All right.

Let us legislate, then, having in mind that section 6 will be enacted and that a commission will be set up to study the implementation of section 6. But we know very little about the area in which we are legislating, as indicated by the areas that the commission is to investigate. I read only three of the areas. Section (d) is to study whether the exclusion of nonmajor emitting sources from the regulatory framework under this act will affect the protection of air quality in class I and class II regions designated under this act. In other words, it is to check to see whether section 6 is acting properly in excluding nonmajor emitting sources from the regulatory framework. They do not know whether that should be done, and it asks the commission to find out.

So if there is any doubt—as seemed to be indicated when the Moss amendment was turned down—if there is any doubt about section 6 becoming the law, that doubt is removed under the Randolph amendment. It also is removed under amendment No. 2101, because the Randolph amendment—hopefully, as amended by the Stone and Allen amendment—would presuppose and assume the enactment of section 6. But it would stay the enforcement or implementation of section 6 until after the commission had made its study and made its report as directed under the bill.

Then a period of 1 year should elapse, so that corrective or implementing legislation to section 6 could be enacted.

Let us see what the difference is between the pending amendment and the Moss amendment. The Moss amendment would provide for a study, and section 6 would be eliminated from the bill. Then, if the study indicated that a section 6—that is, provisions in line with section 6—should be enacted, we still would have the legislative hurdle of getting Congress to enact a section 6 or provisions similar to section 6.

The argument could be made, I am sure, that under that amendment, one could not be absolutely sure that section 6 would ever come back. Those in the Senate who want it, even though it is not based on the study—it is not based on the knowledge of the facts as indicated by the Randolph amendment—those in the Senate who want to legislate without a study, will get what they want, under the pending amendment. They would get section 6 enacted into law. There would be no doubt about it. It comes into full bloom, unless modified by Congress, 1 year after the commission makes its report.

So, Mr. President, with EPA having more power right now than it will have after section 6 is enacted—and my authority for that is the sponsors of the bill—what is there to lose? What is there to lose in the cause of cleaning up the air? They have more power now than they will have after section 6 is enacted, we are assured by the sponsors of the bill, so what is there to lose? Continue with that added power until the commission makes its report and a period of 1 year has elapsed thereafter, at which time section 6 will come into full force and effect. It does not take another law of Congress. It is just a moratorium of 1 year on its implementation, after the report is filed.

So, in effect, if the sponsors of the bill can be believed as to the accuracy of their statement that section 6 is less restrictive than EPA's present power, why not leave EPA unmolested with this added power for another year, before section 6 comes into full force and effect? I say 1 year. Not a year from now, but a year from the filing of the report by the commission.

So, Mr. President, the pending amendment recognizes and acquiesces in the enactment of section 6.

But since, essentially, we know so little about this area, let us wait a year after the commission makes its report before we implement section 6, give Congress an opportunity to follow the recommendations of the commission. We might find that more restrictive measures are needed. We might find that section 6 is not restrictive enough. We might find it is too restrictive. But in the light of that information, as adduced by the commission set up under the Randolph amendment—this does not change the Randolph amendment one jot or one tittle; it leaves it in full force and effect. So anyone who supports the Randolph amendment—and I think that includes pretty nearly everybody in the Senate, because everyone thinks a study ought to be made. It is a question of whether we study before we enact or whether we study after we enact. That is the only thing there.

I want to assure the distinguished Senator from West Virginia that my amendment does not affect at all the provisions of his amendment.

It just provides that section 6 shall not go into full force and effect until 1 year after the commission set up under the Randolph amendment makes its report.

I am happy to yield to the distinguished Senator from West Virginia.

Mr. RANDOLPH. I appreciate the distinguished Senator from Alabama (Mr. ALLEN) yielding to me. This would not perhaps be a significant point in reference to the purposes of the amendment that I have offered, but the commission would be appointed within 90 days after the enactment of the law. The commission has a 3-year study limitation for reporting; however, the special study of the so-called Randolph amendment would not run for the 3-year period, but rather for 2 years. I simply want to indicate that my amendment zeroes in on this important issue.

Mr. ALLEN. I believe it says not more than 2 years, which could mean as little as 2 or 3 months.

Mr. RANDOLPH. Yes, that is a maximum.

Mr. ALLEN. Yes.

Mr. RANDOLPH. I was only saying that this study is to have the primary focus of the commission for the initial 2 years.

Mr. ALLEN. Yes.

Mr. RANDOLPH. We should remember that in my study amendment we are attempting to act expeditiously in reference to that study and the findings therefrom.

Mr. ALLEN. Yes, and the only objection I have, the Senator understands, is that he is investigating the propriety of section 6 after it has already been enacted, after the horse has gotten out of the stable, so to speak. So the Allen amendment would leave the Randolph commission, I will call it—as it should be called—in full being to perform its duties entirely as provided under the Randolph amendment. It just delays the effective date of section 6 until the lapse of 1 year following the making of the report by the commission.

Mr. RANDOLPH. I am not being facetious, but I think that, actually, the horse is going in and out of the stable, rather than being on the inside of the stable or the outside of the stable. As Senator MUSKIE and others on our committee know, there is constant change. This is the process which we all understand in reference to clean air. I only say this because we are not attempting to lock in anything by adopting the section of the committee bill. Rather, we are establishing a process which will be subject to later modification.

Mr. MUSKIE. Mr. President, will the Senator from Alabama yield for a moment?

Mr. ALLEN. Yes.

Mr. MUSKIE. The Senator has been posing many questions to the proponents of the bill. I assume he includes the Senator from Maine in his references. If the Senator is interested in answers to those questions from the Senator from Maine and is not simply posing rhetorical questions, I should like to tell the Senator that I have to leave the floor for a markup on another piece of legislation at 10 minutes to 10. Thereafter, the floor, will be taken over by the Senator from West Virginia (Mr. RANDOLPH). I simply want to make the point that if the Senator really wishes answers from me, I am available for the next 15 minutes, but not longer.

Mr. ALLEN. In effect, what the Senator is saying is that he would like to have the floor at this time, is that correct?

Mr. MUSKIE. Not unless it serves the purpose of the Senator from Alabama. The reason I put the question is that yesterday, another Senator complained that I was not on the floor to answer the questions that he raised in the time that he occupied the floor. I should not want a similar criticism raised today because of my necessary absence from the floor.

Mr. ALLEN. I am not criticizing the distinguished Senator from Maine. I have great admiration for him.

I assure the Senator that I shall not criticize him now or later.

Mr. MUSKIE. If that serves the Senator's purposes, it is fine with me.

Mr. ALLEN. I commend the Senator for having said, here on the floor, that the amendments contained in section 6 are less restrictive than EPA's present power.

I am delighted to yield the floor to the Senator from Maine to explain.

Mr. MUSKIE. I am happy to comment on that point, Mr. President.

Yesterday, the Senator from Alabama was not persuaded by that argument. Because he was not persuaded by that argument, he supported the Moss amendment, which would have left EPA's present regulations in place.

Mr. ALLEN. That may have been what the Senator from Alabama wanted to do. I do not know why the Senator said that I was not persuaded.

Mr. MUSKIE. The Senator was not persuaded by my argument yesterday that the provisions of this bill on nondegradation are less restrictive than EPA's regulations on those who seek some relaxation of standards. I made the point yesterday that the effect of the Moss amendment was to eliminate the committee provisions and leave in place EPA's regulations, which, in my judgment, were stronger.

The Senator from Alabama was not persuaded by that argument yesterday. His reaction comes 24 hours later. He says he is now persuaded of that fact; therefore, he proposes an amendment that would suspend not only the committee provisions, but the EPA regulations. It is really a little difficult——

Mr. ALLEN. I beg to differ with the Senator.

Mr. MUSKIE. If I might complete my answer to the Senator. The Senator is choosing to use his rhetoric to prove his case and this is as I perceive it. I am not playing games with words.

The effect of his amendment today is stronger than the effect of the Moss amendment for the next year, because it suspends everything.

Mr. ALLEN. That is not correct.

Mr. MUSKIE. It suspends EPA's regulations because the effect of the language of the Senator's amendment is to accept the committee amendment, to make it law, but to suspend its operation for a year. To make the committee's provisions law under the terms of the committee's bill is to replace EPA's regulations. That is what the committee's bill does. The nondegradation provisions of the committee bill replace EPA's regulation and the Senator says that the purpose of his amendment is to enact the provisions of the committee bill into law, but suspend them for a year——

Mr. ALLEN. Leaving EPA's present regulations.

Mr. MUSKIE. Well, it does not. It does not. I read the language of the Senator's amendment and his description of it: "None of which provisions"—that is, the provisions of the committee bill—"shall be implemented or enforced until a period of 1 year shall have elapsed from the date on which the Commission submits the report required of it on the results of its study and investigation." That amends the provision of the bill which makes the nondegradation policy of the bill law. If section 6 becomes law, EPA's regulations are wiped out. There is nothing in the Senator's amendment which preserves the EPA regulations—nothing whatsoever—and there is nothing in the committee bill that preserves EPA's regulations once the committee bill becomes law.

Mr. ALLEN. Will the Senator yield?

Mr. MUSKIE. Yes, I yield for a question.

Mr. ALLEN. Will the Senator then support the amendment if it is amended to provide, as the amendment intends, that the present EPA regulations, as I have stated on the floor, continue their power as far as the legislative history goes? Will he support the amendment?

Mr. MUSKIE. No, I shall not, for other reasons I shall state if I have time.

Mr. ALLEN. I see.

Mr. MUSKIE. Let me make this other point to the Senator. The Senator continually asks a study and offers as justification as a way of assuring the study these amendments which, upon examination, he himself changes.

I ask unanimous consent, Mr. President, for the staff to bring on the floor evidence of the studies that have been taken on this study. I think it will be of interest to the Senators, even though there are not many on the floor.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. MUSKIE. While they proceed, I will continue. Mr. President, yesterday, the distinguished Senator from Alabama and I were engaged in some discussion as to which was stronger, EPA's regulations or the committee bill. I would be the first to concede that judgments can differ on the answer to such a question. Rather than leave it to a matter of judgment, I ask unanimous consent to have printed in the RECORD at this point a memorandum which analyzes that difference and gives Members of the Senate some basis for making the judgment for themselves.

There being no objection, the memorandum was ordered to be printed in the RECORD, as follows:

COMMITTEE ON PUBLIC WORKS,
Washington, D.C., August 2, 1976.

MEMORANDUM

To: Senator EDMUND S. MUSKIE.
From: Leon Billings.
Subject: EPA regulations in the committee bill.

1. EPA's regulations constitute a national land use classification plan. The Committee bill establishes a policy to protect areas of the country with currently clean air from significant deterioration by limiting the amount of change in air quality which can result from new major emitting facilities without a future congressional review of this policy.

2. EPA's system vests with the Administrator of EPA the authority to review and veto any location of any major emitting facility in a state on the basis of the administrative judgment by EPA that increments will be exceeded. Under the Committee bill the Administration would have to carry this burden in a court.

3. EPA's system applies to all areas of the United States unless at a particular site the plies to areas outside the portions of air ambient standards for particulate on SO_2 are being exceeded. The Committee bill only ap- quality control regions which exceed standards. The state decides which portions of those regions should be subject to the nondegradation procedures.

4. Under the EPA regulations the manager of any Federal lands anywhere in the United States could unilaterally decide at any time that those lands regardless of size should be subject to pristine protection and stop projects where site preparation had begun. Under the Committee bill such regions would be known on enactment or could only occur with a joint determination of State and Federal governments.

5. Under the EPA regulations no development could occur near so called Class I regions if the Class I numbers would be exceeded. Under the Committee bill such development could go ahead after the owner showed that construction would not interfere with air quality values.

6. Until the litigation regarding the basis for the current regulations is resolved every facility in the United States will be constructed under a cloud—not just those which emit SO_2 and particulates—but those which emit the four other pollutants which the

environmental suit alleges should be subject to significant deterioration provisions. This includes automobile traffic and other sources that emit auto related pollutants.

7. In the absence of congressional action the court could define an entirely different approach to the Clean Air Act requirement to "protect and enhance" air quality. And the legislative history of the Clean Air Act clearly supports a requirement to prevent significant deterioration.

8. Under EPA regulations all plants will be built under a cloud until a state adopts a nondegradation procedure unless the plant applies for and receives a Federal permit and demonstrates that no Class II increments will be exceeded. The Administrator may unilaterally require the source to also show that Class I increments will not be exceeded because of proximity of Federal land.

9. Under EPA regulations there are three classes of clean air regions on top of two classes of dirty air areas—thus creating a complex land use classification system. Under the Committee bill there are two classes: non attainment areas where standards are being exceeded; and clean air regions. And there is a procedure to protect the air quality values of national parks and wilderness areas.

10. In sum: The difference between the two bills can be summed up this way: uncertainty versus finality; simplicity versus complexity; State versus Federal control. The Moss amendment will leave uncertainty, complexity and Federal control. The Scott amendments would lead to uniform dirty air.

Mr. MUSKIE. I think the words "stronger" or "weaker" are not sufficiently precise to really describe the differences between the two.

Now, there is in front of me, Mr. President, a cart which contains a part of the committee files on the subject of nondegradation, automobile controls, and transportation controls. About half of this material is on the question of nondegradation and it includes several of the studies on this subject that EPA has made over a period of 4 years.

At some point, Mr. President, the process of study has to be resolved by some decisions on policy.

The EPA studies were in connection with its rulemaking powers. So it was a structured study conducted all over the country, in hearings all over the country, in which proponents of nondegradation policy and opponents had equal access to the hearing process.

Those hearings were on the public record, transcripts were kept, all of that study is available and, as a matter of fact, it was in part because the study period took so long, that suit was brought to mandate EPA to institute some nondegradation regulation because the law required it. The court finally mandated it, and it was on the basis of these hearings that EPA's regulations were finally developed.

They, of course, were immediately taken into court by industry, and by environmentalists who wanted stronger regulations.

It was at that point that the Committee on Public Works entered the picture with hearings of its own, extensive hearings.

Our work has taken a process of almost 2 years, and the markup sessions which began in June, a year ago June, and continued for 9 months, resulted in at least seven committee prints on nondegradation, committee prints which were produced and circulated so that they might stimulate comment from opponents, from whatever source.

We published one committee print before the congressional recess of last year in July, knowing that we were going out for a month, and in that month we solicited reactions from those who had any questions at all about that committee print. It was that committee print that reflected EPA's regulations, more than any other print, and that is when we got the buffer zone maps, to which industry then subjected the country, and which produced that map which was on the floor yesterday which was a complete distortion of the provisions of the committee bill.

That is the kind of process through which we have gone. The Senator from Alabama says, "Well, let us have still another study of a year."

I mean, it is a dilatory request. I do not charge the Senator from Alabama with that motivation, but I have dealt too long with those who welcome that kind of an amendment of the committee bill to describe it as anything else. They have dragged their feet, they have delayed this process, they have resisted the Clean Air Act, they have resisted nondegradation, and they have resisted every form of regulation. Now they have made their true purpose clear. They do not want any regulation in the clean air areas of the country, and they intend to prevent it if they can because, they say, national primary and secondary standards are good enough.

Well, Mr. President, this amendment, although it is somewhat different in form from that which the Senate rejected so overwhelmingly yesterday, is in the same direction, and I oppose it for that reason.

Nondegradation policy was first articulated in Federal Water Pollution Control law in 1967 and incorporated in the 1967 Air Quality Act, which stated that a basic purpose of the act was to "protect and enhance the quality of the Nation's air resources." That policy was not altered in the 1970 amendments. Requirements to implement this policy were deleted from EPA's guidelines in 1971. The courts subsequently required EPA to promulgate such requirements, and EPA complied by issuing regulations on December 5, 1974. During hearings in 1973, 1974, and 1975, the committee was urged to resolve this issue through legislation.

As early as July 1973, Carl Bagge, representing the National Coal Association, said:

> This is far too significant an issue to be determined by the judiciary. Its economic and social implications are so broad that it cannot and should not be determined by an independent regulatory agency in a rulemaking proceeding as has been proposed. This is an issue which can only be resolved . . . by the Congress of the United States.

Mr. Bagge also went on to say that ". . . the next move is clearly up to Congress."

The administration also asked Congress to address this issue when it submitted the Clean Air Act Amendments in 1974.

Numerous studies have been conducted on the implications of various nondegradation policies. The committee considered these and fashioned a proposal which encourages the economic growth needed for this Nation while providing environmental protection of air resources needed by the Nation. Only the most valuable Federal assets—national parks and national wilderness areas—have been given a special protected status—called class I.

The concept used to protect clean air while allowing adequate growth is a concept of air quality increments. The increments are amounts of new pollution which may be added by new facilities to existing air quality—they provide a uniform national measure of change in air quality which can be allowed in clean air areas, thus eliminating inequities among States while providing some degree of control over the pace of utilization of limited air resources.

The committee received numerous studies of the nondegradation policies. Those studies were an important element in the committee's decision to make substantial alterations in the subcommittee bill. Those changes include:

First. Reduction of the number of areas given pristine air quality protection—class I—from 360 to 131;

Second. Expansion of the State role in all aspects of nondeterioration policy and implementation with concurrent restriction of the Federal Government's role;

Third. Provision of flexibility in determining whether or not proximity to a class I area would affect construction of a new facility, thus eliminating arbitrary buffer zones.

Much of the criticism of the nondegradation do not take into account these and other significant changes which the full committee made in the bill.

IMPLICATION OF REJECTING THE COMMITTEE PROPOSAL

One of the amendments proposed to the reported bill would strike the committee proposal. Another amendment would add a study of the implications of the amendment. I have no objection to this study. It is a logical mandate to the National Commission on Air Quality.

But the companion amendment to strike the committee proposal is both unwise and ill-conceived. Not only would a reasonable resolution to the nondegradation controversy be discarded but, more importantly, the existing policy and regulation would be left in place. EPA's current regulations are simply not an adequate response to this problem.

The key question is this: What policy will the nation have for the next 2 years—a bureaucratic-judicial policy or a congressional policy?

If a motion to strike the committee's proposal and substitute another study—3 years of studies and thousands of pages of testimony have already been accumulated—the result will be a policy developed and implemented at the Federal level and in the courts with no congressional guidance and no meaningful State participation.

The result will be:

Continuation of the requirement that new facilities in clean air regions obtain Federal permits;

Continuation of the authority of Federal land managers to unilaterally designate any Federal lands as class I without concurrence by States;

Continuation of 60- to 100-mile buffer zones around any such class I areas;

Continuation of Federal authority to reject any State efforts to gain control of this program; and

Continuation of uncertainty caused by lack of congressional policy on this issue.

On the other hand, if the Committee proposal is adopted, the result would be:

State rather than Federal permits for new major facilities and State authority to issue or deny permits for facilities even when such facilities are located on Federal land;

No designation except by statute or any areas as class I without the concurrence of the State;

Elimination of Federal authority to second-guess State efforts to control this program except through judicial proceedings with a Federal burden of proof;

Resolution of the uncertainty of this policy issue by giving clear guidance to all parties, including the courts, as to the basis of nondegradation policy; and

A chance to test policy in actual implementation rather than continuation of hypothetical studies on paper.

THE NEED FOR AIR CLEANER THAN THE NATIONAL STANDARDS

In addition to resolving current confusion, the nondegradation provision provides needed protection which the ambient air quality standards do not provide. If the national secondary ambient air quality standards were revised to protect against these damages, achievement of the secondary standards in dirty air areas would be extremely difficult.

If the secondary standards were the only restraint, visibility which is now 100 miles or more in some areas could deteriorate to 12 miles. If humidity is high, visibility would be reduced even more.

Pollutants increasingly are returning to the ground in the form of acid rain which damages valuable water and soil resources. A conference was held in the summer of 1975 in Columbus, Ohio, where numerous scientists expressed substantial concern over this impact.

Norway has experienced a substantial decline in its fishery resources which have been attributed to acid rain. A 20-year study in Scandanavia indicates that acid rain has killed fish and cost the ecology of the area to change. Forest growth and yield have declined. Fish population have been adversely affected by acid rain in 75 percent of the high elevation lakes of the Adirondack Mountains.

Pollution at less than the concentration allowed by the national standards has been shown to damage vegetation. Acute injury to spruce trees have been reported when average concentrations of sulfur dioxide were only two-thirds the level allowed by the ambient secondary standards.

Studies indicate that other important crops are also damaged at concentrations cleaner than the secondary standards, including wheat, potatoes, spinach, apples, and white pine.

Exposure to low level concentrations of pollutants have health effects. Studies done in Japan since the establishment of the primary standards in the United States indicate that air pollution concentrations lower than the national standards cause increase in reported illnesses. The National Cancer Institute estimates that 60 to 90 percent of cancer is environmentally caused. The secondary standards as presently established make no consideration of this fact.

An increasing number of studies indicate that pollutants are transported for much greater distances than previously thought. This means that emissions from rural areas contribute to urban pollution problems and vice versa. In its report to the Senate Public Works Committee of March 1975, the National Academy of Sciences expressed concern that emissions 300 miles upwind could still contribute to problems in major cities.

Last year, I asked many scientists for comments on the adequacy of existing air standards. The Administrator of the Environmental Protection Agency, Russell Train, provided useful documentation of the limitations of existing standards in his letter of October 10, 1975:

> For particulate matter, an annual mean concentration of 60 ug/m^3 and a mean 24 hour concentration of 150 ug/m^3 have been set as the secondary standard. Suspended particulates are known to have effects on vegetation, visibility, and manmade materials. At concentrations of 150 ug/m^3, visibility may be reduced to as low as five miles.
>
> Plant species vary in their sensitivity to ozone and other oxidants. Toxicity also varies with the composition of the oxidants. Injury has occurred experimentally in the most sensitive species after exposure to 60 ug/m^3 of ozone for 8 hours. Crop losses could occur as the result of planting genetically uniform, susceptible varieties. Therefore, the current standard, 160 ug/m^3 for one hour, may not protect all vegetation. Little is known regarding the tolerance of plants under field conditions. The presence of other pollutants and changes in environmental conditions may affect the tolerance of plants for photochemical oxidants.
>
> Photochemical oxidants' effects on manmade materials center on the effects of ozone on elastomers and textile dyes. Many elastomers, including natural rubber, are chemically prone to oxidation and therefore, to ozone attack. Cracking of rubber has been noted at 40 ug/m^3. Background levels of naturally occurring ozone range up to 100 ug/m^3.
>
> The primary and secondary standards for nitrogen dioxide are identical being an annual concentration not exceeding 100 ug/m^3.
>
> The current standard appears protective of welfare against damage from direct exposure to atmospheric NO_2. NO_2 may also cause indirect damage to the extent that it contributes to the formation of the nitric acid in acid precipitation. Nitric acid constituted 24% of the acid in precipitation during 1972–1973 in the Eastern U.S.
>
> Conclusive data are lacking on synergistic effects of sulfur oxides and other pollutants, but preliminary results of work being conducted at EPA's Corvallis Environmental Research Laboratory indicate that a sound basis for standards based on long term growth and processes effects caused by low concentration mixes of sulfur oxides and ozone may be developed in the future.
>
> The phenomenon of acid rainfall is of concern to this agency. A growing body of evidence suggests that acid rain may be responsible for substantial adverse effects on the public welfare. Such effects may include acidification of lakes, rivers, and groundwaters, with resultant damage to fish and other components of aquatic ecosystems, acidification and demineralization of soils, reduction of forest productivity, and damage to crops. These effects may be subject to cumulative build-up as a result of years of exposure to acidic precipitation, but some may also result from "peak" acidity episodes.

INCREMENTS AS THE NATIONAL MEASURE OF CLEAN AIR MEASURE

The Environmental Protection Agency examined numerous methods to define "significant" deterioration. The examination encompassed methods which would have allowed no change in air quality to methods which would result in deterioration beyond current ambient air quality standards.

The approach selected is referred to as air quality "increments"—a concept which sets forth a precise measure of the change in air quality which any single new facility or combination of new facilities could contribute to the atmosphere in a clean air region.

EPA selected three levels of change or "increments". The first, applicable to areas in which preservation of pristine air quality was determined appropriate are related to limits on the capability of air quality monitoring and modeling. The third would permit pollution up to the levels in dirty air regions.

The second level—class II—were intended to reflect a balance between air quality protection and reasonable economic growth. To establish these numbers, EPA examined the plants being constructed in the industrial categories most likely to have pollution problems and then projected the probable air quality impact of construction of such sources. The Agency concluded in its documents accompanying its regulations in 1974 that—

> Typical coal gasification plants, oil shale processing facilities, and petroleum refineries would not be expected individually to exceed the Class II increments in most areas.

The same statement holds true for the average sized plants in the following categories: Fossil fuel-fired steam electric power units, municipal incinerators, kraft pulp mills, iron and steel mills, coal cleaning plants, sulfur recovery plants, lime plants, Portland Cement plants, phosphate rock processing plants, petroleum refineries, byproduct coke oven batteries, sulfuric acid plants, carbon black plants, primary aluminum plants, primary zinc smelters, primary copper smelters, fuel conversion plants, and primary lead smelters. For many of these sources, the average-sized plant would be substantially lower than the increment allowed.

Studies since that time indicate that the increments allow even more room for facilities than the first EPA studies indicated. Initially, EPA thought that with regard to a 1,000-megawatt plant—much larger than the average plant now in existence—"in a class II area, a similar source could not be located within 25 miles of the first plant."

Analysis in January, 1976 showed that the separation distance had shrunk to 14 miles for high sulfur coal and even less for low sulfur coal—in some cases down to only 1 mile.

Ongoing studies of the Agency indicate that if good pollution control technology is used, "The Senate class II increments will not prevent construction of major, economically sized industrial facilities." In fact, these studies indicate that with such controls, "more than one plant can be constructed at the same site for pulp and paper mills, oil shale plants, refineries and gasification plants."

These same studies indicate that the cost to the electric utility industry will be a 3-percent increase in capital expenditures. The Senate proposal is not expected to have a significant economic impact on other major industrial facilities.

This confirms my earlier statement that each time new studies are completed, they show that more room exists within the class II increments at less cost than previously estimated.

THE NEED FOR CONGRESSIONAL POLICY

The basic policy issues facing the Congress are not ones that will be eased by further study. They are questions that can and should be answered now:

We can and must clarify the role of States;

We can and must define an appropriate relationship between Federal and State Governments relative to these new major facilities;

We can establish now the land areas we value the most and want to protect. We have the knowledge to establish a test to protect those values so long as we maintain a degree of flexibility.

Further study is an important part of the review of any policy as it is implemented. Such study should be, and will be, a companion to the adoption of this legislation. The preferable route will be for Congress to establish the policy, provide the tests contained in the committee bill, and provide the flexibility of State case-by-case judgment in applying the more stringent of these tests. The alternative is to continue a policy that relies heavily on a Federal presence; a clouded policy and a bewildering judicial debate to resolve the issue.

Mr. President, there is something else I would like to include in the Record, but before I ask that it be included I will describe it. This, too, is to go to the point of the Senator's request for a study.

This is a memorandum dated last December. It is on the subject of increments.

Now, the mechanism of this bill is the increment approach. It was developed by EPA, and we adopted it after considering other approaches. This memorandum describes, I think, in sufficient detail to indicate the thoroughness with which the committee considered the concept to be useful to the Senate. So I ask unanimous consent that this memorandum on the subject of increments be printed in the Record.

There being no objection, the memorandum was ordered to be printed in the Record, as follows:

Committtee on Public Works,
Washington, D.C., December 22, 1975.

Memorandum

Subject: Nondegradation—The concept of increments.

INTRODUCTION

This memo attempts to present the arguments in support of the use of increments; these have not been summarized elsewhere, and it was thought that some discussion would be useful. Arguments against increments are summarized concisely in the industry arguments contained in this briefing book.

Increments as a concept exist independent of any nondegradation provision. Without a nondegradation policy as proposed by EPA or the Subcommittee bill, increments would be the gap between present air quality in an area and the secondary standards. That gap amounts to a pollution quota for any new sources moving into the area or expansion of existing sources. Without a specific non-deterioration policy, states are required to examine new sources to determine their impact on primary and secondary standards to assure that they do not use up the available air resources. Increments are a measure of anticipated change in air quality. The argument is *not* whether increments will or won't be used but what the increments will be.

EPA regulations propose the use of three different increments for two pollutants. The smallest increment would be for the highly protected areas (such as national parks). The Subcommittee proposal adopted the first two increments proposed under the EPA scheme. The third category assumedly are those areas in which air quality is already degraded. The areas where development is expected to occur in any substantial degree are to be classified as Class II areas. The increments or pollution quotas for such areas range from ¼ to ½ of the numerical levels established by the secondary standards.

This does not mean that air in such areas will be kept twice as clean as the secondary standard would allow, since the quota, or increment, is to be added to existing air quality. If that existing air quality is already ½ the secondary standard, and the increment allowed under nondeterioration provision is added to that level, than the air quality would be at a level close to the level allowable under the secondary standards.

Industry has argued that secondary standards should govern and all increments be dropped while further study is done. Environmental groups have argued that increments should be established for three more pollutants (nitrogen oxide, carbon monoxide, and hydrocarbons) in addition to two covered by EPA's increments (sulfur oxides and particulates).

OVERALL APPROACH

Increments provide a very useful management tool for allowing the public and governmental units to plan their economic development and the use of their air resources. Without increments these decisions will be made on an ad hoc basis by the industry as they implement development priorities.

The approach provides a basis against which increased pollution from development projects can be measured prior to such emissions actually exceeding secondary standards. Once such standards are exceeded, the planning options of the public become severely restricted.

1. Regional Equity is improved under an approach using increments. In the absence of increments, areas with extremely clean air and flat terrain have a great advantage over areas with moderate levels of pollution or hilly terrain. In the later two cases, the distance between air quality and the secondary standards may already be a rather modest "increment".

If increments are used, most of the country has an equal amount of air resource to use in its development activities.

Without increments, strong incentives will exist for industry to move to flat terrain and clean air zones where modest pollution control will avoid secondary standard problems for the first sources in the area.

2. Stimulates Better Technology. In the final argument, pollution control is improved only as technology improves and proper planning occurs. Increments provide a strong incentive for new large facilities (with adequate resources and high demand for their products) to improve pollution control technology in order to locate such facilities in clean air regions without exceeding the increments allowed. This is particularly true for a number of large energy-related facilities.

If such new plants are allowed to develop in clean air regions with minimal pollution control, there may be inadequate incentive to create better technology. Even the requirement of best available technology is inadequate in cases where the "best" is not very good.

New large sources are the most likely place for substantial efforts in pollution control to occur—they have a large financial base which can absorb pollution control cost efforts. And such facilities are usually the most cost-effective in the industry.

Since many industries want to "cluster", or to establish very large facilities, the increments provide an incentive long before the secondary standards would provide a similar incentive. Given the expected growth of emissions from all sources in the country (a doubling of sulfur oxides emissions is expected in the next 20 years), mechanisms to encourage improved technology will be needed.

3. Minimizes State Competition. Many States feel that high quality air is a valuable resource for their economic development and for the aesthetic enjoyment of their citizens. Such States will always be under substantial pressure to sacrifice this air quality if industry suggests that a neighboring State, with less stringent pollutant standards, would be a more attractive industrial location. While increments do not totally eliminate such competition, they substantially reduce the possibility of significant differences and the inevitable pressures that are attracted to such differences.

4. The Increments are Based on an Extensive Record. The approach identified in the present scheme of increments is the result of one of the longest rulemaking processes in the 5-year history of the Environmental Protection Agency. After the court order was issued requiring such regulations, the Agency proposed four basic choices for public discussion. EPA held numerous regional hearings on these choices, selected increments as the best of these, proposed regulations based on comments received, received further comments, revised the regulations, and promulgated them December 5, 1974.

The plan is superior to any other scheme devised for preventing significant deterioration in clean air areas. The increments were established as a proper balance between the economic development likely to occur and the prevention of significant deterioration of air quality.

5. The Use of Secondary Standards Alone. Such an approach would allow clean air areas to get many times worse before planning and control would occur. By the time this realization occurs, it may be too late. As an area begins to approach the secondary standard, it usually does so because of the momentum of development that is occurring. This momentum will probably carry the area beyond the secondary standards.

The increments provide an early warning system to avoid or reduce this problem.

6. Major Facilities Attract Satellite Growth. Major facilities will be reviewed under the increment approach, but the review of small satellite growth is not required by the provision. The difference between the increment and the secondary standard may well prove to be a "cushion" which can absorb the general area satellite growth without exceeding the secondary standard.

This is less than complete air quality protection, but much better than no control at all until the secondary standard is exceeded. If major facilities are allowed to pollute up to the secondary standard, no such cushion will exist.

7. Modelling is presently done for major new facilities under present State plans to determine whether or not the secondary standards will be exceeded. At present there is no safety margin associated with such modelling. Yet modelling is often in error by a factor of two to three. Modelling therefore is not created by the use of increments, but merely provides an opportunity to apply a safety margin to such modelling. In the event the modelling proves inaccurate, and the increments are exceeded, they will have provided a safety margin which protects the existing secondary and primary standards.

8. The Increments Allow Substantial Development. In many respects the planning aspects of the increment approach preserve the ability to develop. The Class II increments were designed to allow well-controlled sources of the average size now planned for major industrial sources (these averages are much larger than most existing plants). Such planning preserves options and supplements the requirement for best available control technology. Uncontrolled growth and minimal pollution control severely restrict the options of the second, third and fourth facility to choose to develop in an area.

CLASS I INCREMENTS

Class I areas are to be highly protected under the Subcommittee provision. The provision mandates that all international parks, and each national park, wilderness area, and wildlife refuge area over 1000 acres be protected as a Class I area. States and Federal Land Managers may designate additional areas.

1. Class I Intrusion Analysis is Defensible. Sources located outside a Class I area may still have substantial effect upon the air quality over the Class I land. In fact, the maximum impact of a large source is usually a number of miles downwind from the stack. Without this intrusion analysis, a game of pretense would be required—one of pretending that air quality was not worsened when in fact actual air quality readings could deteriorate substantially.

Any proposals to establish an arbitrary buffer zone beyond which no intrusion analysis would be calculated suffer from this difficulty. It would be possible for a large number of sources to feed into the air mass over the Class I area and have a substantial negative impact.

Intrusion analysis actually allows a well-controlled source to benefit from tight control and move closer to a Class I if the source desires to do so and would not exceed the increments.

2. No Adverse Impact. A different approach to a Class I increment would be to require that no facility built within a Class I area be allowed to have any measurable impact on the air quality over that Class I area. Such an impact is impossible to measure and therefore impossible to implement. Monitoring devices are not sensitive to levels below the Class I increments presently established.

If this requirement were coupled with intrusion analysis, it would also make extremely large buffer zones. This could inhibit the designation of additional Class I areas. Pollutants tend to dissipate more rapidly in the first few miles of dispersion; the last amounts of pollution can travel extremely long distances. Mathematical modeling could probably project such an impact, even though actual monitors might not be able to make the measurements required. This would mean the modeling analysis would probably create very large buffer zones.

3. Criteria for Establishing Initial Class I Designations. There are numerous categories of Federal lands which are held as national resources and are of value to all the Nation's citizens, not just the State within which these lands fall. There are basically two ways to protect this Federal interest: (1) Establish in statute some mandatory Class I areas which cannot be reversed by either the Federal Land Manager or the State, but only by subsequent action of Congress (2) designate some areas Class I initially, and require approval by both the State and the Federal Land Manager to reverse this. Presumably the Federal Land Manager would protect the Federal interest.

It is hard to object to the argument that the Grand Canyon should never be allowed to be reclassified by either a State or Federal Land Manager. One system for determining the categories of land that fall within an initial Class I designation (or mandatory designation) is to examine the kind of experience these lands are to provide for citizens who use such areas. Parks come clearly to mind: so do wilderness areas because of the kind of experience present visitors expect to receive and to preserve resources for future generations. National monuments and recreational areas fall in the same categories as parks but indicates a somewhat lesser national importance.

Mr. MUSKIE. The final point I would make before yielding the floor, Mr. President, is this: yesterday I made a statement that was challenged by the sponsor of the Moss amendment when I said that industry, without exception that I could recall, urged Congress to put in place a congressional policy on nondegradation.

I did not say, as was implied, that industry approved the committee bill. I made it very clear that they do not, but they asked for a congressional policy to eliminate the uncertainties of EPA's regulations.

Here is some more material on this showing the extent of the study made by the Public Works Committee on these subjects.

It was asserted that we delegate much of the authority of EPA to the States. Well, we did both of those things in the committee bill. The effect of this amendment in the form in which it has been modified would repeal the EPA regulations, would normally enact the committee regulations into law, but would suspend them for a year. What would we have for a year, Mr. President? Nothing but confusion, chaos and uncertainty. The EPA regulations are in the courts. EPA is in the process of administering, enforcing, establishing guidelines, telling everybody concerned what they can expect.

Then, those are repealed. Some new provisions are enacted into law, but nobody to implement them for a year. They are on the shelf, they are on ice. Those who have been put into motion under EPA's regulations are now suspended—State authorities, local authorities, industries, citizen groups who are interested in what is going to happen, all of this would be put in suspension for a year, and then at the end of the year, if anyone is under the illusion that the committee provisions would quietly go into effect, quietly go into effect without protest or an effort to compromise them or to dilute them or to repeal them or to prevent their administration by EPA in the courts, simply does not understand the nature of the opposition to this legislative goal, to this public interest goal.

They stop at nothing in their efforts and in their ingenuity to stop the clock on this policy.

This amendment simply gives them another opportunity.

I do not question the Senator from Alabama's motivation. I would never do that with respect to any Senator. But this amendment would give them another opportunity to be able to procrastinate, delay, come up with new ideas to drag the matter through the courts. That would be the effect of this amendment.

Frankly, Mr. President, I think this has been studied enough for us to make a decision about a policy. That policy will not be fixed forever in concrete. There is no problem at all if we put some kind of discipline on growth, in removing that discipline later. But if we eliminate all discipline, it is pretty hard to roll back undisciplined growth that takes place in the interim that would not have taken place but for a policy we subsequently adopt. We have learned that.

I brought this map to the chamber yesterday. Those red areas are the national parks, wilderness areas in excess of 5,000 acres. Most, if not all of them, were established because, among other things, they have air quality values that are in the public interest, for example, national parks with scenic views whose beauty is beyond compare in many instances.

The Allen amendment would deprive them of all protection for the next year. All protection for the next year and he says, "Well, what does that matter?"

I say to the Senator from Alabama, I have seen massive projects move pretty rapidly and if even the foundation is laid we hear the argument, "Well, gentleman, the investment we have already made is so enormous, so great, you ought to grandfather us out of any new policy."

I mean, that is what we have been doing.

Most of the objections to the Clean Air Act that have arisen over the years have arisen because of situations that are in place, and people are afraid that factories in place or powerplants in place will be closed down because of the requirements of clean air.

We are not talking about that with respect to nondegradation. We are talking about not putting something in place until we are sure that it will meet the public interest value of healthy air and other air quality values that over the years the public has demonstrated an interest in.

It is for those reasons, Mr. President, that I object to this amendment.

I yield at this time to my good friend from West Virginia, Mr. RANDOLPH.

Mr. RANDOLPH. Is it permissible for me to comment at this time? Is the Senator yielding?

Mr. ALLEN. I have a modification that I wish to put in that will answer the Senator's objections to the doing away with EPA regulations in the interim.

I have stressed very strongly here that it does not do that, but I will offer a modification that will make it absolutely sure.

But the Senator may go ahead.

Mr. RANDOLPH. I thank the able Senator from Alabama.

I spoke earlier of the fact that we were not actually locking ourselves in. We are not closing down after the horse has left the stable.

Colloquially, I said, actually, the horse moving in and out only to indicate that there is constancy of change. The only constant in legislation is the fact of change because it takes place.

A long time ago, in 1824, Thomas Jefferson in reading statements on many subjects said that as new discoveries are made, new truths are discovered, and opinions change with the change of circumstances. Institutions then must advance also and keep pace with the times.

I think that is applicable here.

The National Air Quality Commission would have a mandate, as I understand it, much like that of the National Commission on Water Quality. It would examine the program in this bill and advise us on any modifications that might be needed.

While this study is being completed, the program authorized by section 6 would be enforced to protect the air in what we call clean air areas and permit well-planned development.

The Allen amendment could lead to increased pollution in those areas during this period of study. I think that is something we must concern ourselves with very carefully.

The suspension proposed in the Allen amendment would actually be 1 year longer if we think in terms of a total of at least 2 years before the Congress would address the issue. It would be 3 years before section 6 would become effective if it were not changed at a later date.

I think this is important to have this continuing study. This is true even though we had previous studies which indicated by the volumes which the Senator from Maine (Mr. MUSKIE) has referred to here today.

Under my amendment, I say to the Senator from Alabama, section 6 would be in effect during this period. I know we are both understanding of that fact.

So, there are these changes which would remain in effect and yet the study would be moving forward as has been indicated.

Mr. MUSKIE. Would the Senator yield?

Mr. RANDOLPH. Yes.

Mr. MUSKIE. I have to leave the floor, but I would like to make this point about the Allen amendment.

As I understand the provision, it does not specify the period of the study, but we have assumed on the Randolph amendment it would take 2 years.

Mr. RANDOLPH. Two years.

Mr. MUSKIE. If it takes 2 years, that, in addition, the Allen amendment provides for suspension of a year after the report of the Commission.

Mr. RANDOLPH. That is what I was saying.

Mr. MUSKIE. So if the study takes 2 years, the suspension adds 3 years in which there will be no protection for these areas.

Mr. President, I have to leave the floor, but I delegate control of such time as I may have to the distinguished Senator from West Virginia.

Mr. ALLEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. ALLEN. I hope the Senator will not leave the floor for just another couple of minutes. Perhaps he will stay for another couple of minutes.

The amendment No. 2101 does not change the provisions of the time for the study which says that it should be not more than 2 years. Of course, it would be a much shorter period.

Mr. MUSKIE. On the record of the Water Quality Commission, I would disagree with the Senator.

Mr. ALLEN. That is what it says, not more than 2 years.

Mr. MUSKIE. But that potential for a full 2 years is very real.

Mr. ALLEN. As to the argument, which I feel is fallacious, that during the time of the study EPA's regulations would be suspended, that is not the intent of the amendment.

It has been stated time and time again that all power EPA now has, say, to the Allen amendment, would continue in EPA and that the section 6 would be suspended for a period of 1 year after the Commission makes its report.

To lay to rest any contention that the Senator is making about the powers of EPA during this interim period, I send a modification to the desk and ask that it be stated.

Mr. MUSKIE. Will the Senator yield on that point?

Mr. ALLEN. Yes.

Mr. MUSKIE. First, I am glad of the modification.

The PRESIDING OFFICER. The modification will be stated.

The legislative clerk read as follows:

> In line 6, after the word "investigation," strike the balance through line 9, and insert the following: "and during such study and such one-year period, the present EPA regulations shall remain in effect."

Mr. ALLEN's amendment (No. 2101), as modified, is as follows:

> On page 2, line 11, strike the period and insert a semicolon and add the following: "none of which provisions shall be implemented or enforced until a period of one year shall have elapsed from the date on which the Commission submits the report required of it on the results of its study and investigation, and during such study and such one-year period the present EPA regulations shall remain in effect.

Mr. ALLEN. That would answer the Senator's question.

Mr. MUSKIE. Now what the Senator has done with this proposal is to put into effect two laws, the present law and the regulations under the law, and the law covered by the committee print. Which of these two horses does EPA ride? Is it the one that is now in effect, or the one that will come into effect, at the outside, probably at the end of 3 years? How does the agency devise its regulations to come out at the right place 3 years from now, to determine which of these two laws is the law of the land?

Mr. ALLEN. The Senator should not have any difficulty figuring that out.

Mr. MUSKIE. The Senator does.

Mr. ALLEN. He should not have, if he would read the amendment. I do not know whether he bothered to do that or not. If he would read the amendment, he would see that the provisions of section 6 are stayed for a period of 1 year following the report of the Commission. The amendment says that pending that time, the present EPA regulations would be in full force and effect. So if the Senator would bother to read the amendment, I do not think he would have any difficulty understanding it. Everyone else is able to understand it and I believe he could.

I yield the floor.

Mr. RANDOLPH. I yield such time as he may desire to the able Senator from Idaho (Mr. McCLURE).

Mr. McCLURE. I thank the Senator for yielding at this time. I also thank the Senator from Alabama for the modification of the amendment. I understood yesterday when this amendment was being discussed that it would take the character of the Scott amendment. I would understand now that it takes the character of the Moss Amendment. I hope that is the correct interpretation.

Mr. ALLEN. No; I do not believe the Senator understands the amendment when he describes it in that way. The Moss amendment would not allow the enactment of section 6. The pending amendment does allow the enactment of section 6, but merely holds the operation and effect of that for a period of 1 year following the report of the Commission. So the uncertainty about whether section 6 would be enacted is laid to rest under the pending amendment. It would be enacted but it would not become effective.

Mr. McCLURE. I understand the distinction the Senator from Alabama is making. The Scott amendment had the effect of suspending both section 6 of the bill and the current law. The Moss amendment had the effect of striking section 6 but leaving current law. It is my understanding that the Senator from Alabama wants to leave current law in effect pending the study and the 1-year period following the completion of the study.

Mr. ALLEN. The Senator has stated exactly right. I wish he would pass that information on to the distinguished Senator from Maine (Mr. MUSKIE) who seems to have difficulty understanding it.

Mr. McCLURE. I think the explanation of the Senator from Alabama may be more clear than the language of the amendment. I appreciate the explanation, along with the modification which he has made in the amendment.

I say to the Senator from Alabama, and those who are concerned about the uncertainties in the committee bill, that the committee recognizes there are some uncertainties in the enforcement of the provisions of the bill. That is the reason for the study. I do not think that is any reason to oppose the committee bill. We recognized that we were not able to solve all the problems in this very complex area by the provisions of this bill. But we did solve some of them.

Those who would set aside the committee action and have us go back to the current law ignore the fact that the committee did labor, as has been pointed out here, and did produce something that reduces the areas of uncertainty. It did not solve all of the problems; it only solved some of the problems. Some of the problems remain. That is the purpose of the study, to see how the effects of the committee action really deal with some of those uncertainties that we were unable to solve.

I think the committee would be the first to say that the bill is imperfect; that it is not the final answer; that it does not have every "I" dotted and every "T" crossed; it does not remove all of the possible ambiguities; it does not have all of the answers in this very complex field. But it does provide some answers.

Mr. ALLEN. Will the Senator yield?

Mr. McCLURE. I have very little time. I understand the Senator's desire. If he could yield some of his time, I would be glad to enter into a colloquy, but we have such little time that I hesitate to yield on our time.

Mr. ALLEN. I understood we had 15 hours, but I guess that will be a short time.

Mr. McCLURE. We have 15 hours to encompass a great number of different issues. I understand that. I would like very much to indulge the Senator and engage in a colloquy, if that were possible, because I think the record would be clearer as to what the committee intends.

The committee bill, and the committee in its actions, sought to answer some of the very difficult questions that deal with baseline data; that deal with the kind of modeling as to the buffer zones around the class I areas. EPA regulations can only deal with that peripherally. They are dealing with that, but there is great uncertainty in it. We have removed some of that uncertainty.

Let me reply to one of the things the Senator from Utah raised yesterday in regard to the pink zones on the map, which the Senator used in illustration of his argument.

Those zones are airshed regions, air quality regions. If there is one small zone of pollution within the entire region, it would show on the Senator's map as a shaded region.

We allowed the States, under our bill, to establish areas within the regions where we would deal with that area of pollution without affecting the decisions in the entire air region. That is an improvement. It is a removal of one of the ambiguities and uncertainties.

I cite that as only one example of many in which we sought to confine the uncertainty that now plagues everyone in the country in this field, and confess, in doing that, that we have not been able to solve all of the problems.

The committee was unable to agree on many issues. The bill does not contain all the language that I would have had in it, but it is an improvement over the current status. To suspend the provisions of section 6 and leave in effect the hiatus in which we find ourselves now seems to me not to be a service to anyone, but a disservice to the public interest as well as to the individuals or individual companies that may be affected by the provisions of this legislation.

I must respectfully oppose the Allen amendment because I think it betrays a misunderstanding of the choices that we are confronted with, existing law on the one hand or the improvement which is in the committee bill on the other hand.

We are not offered the choice of the best of all worlds as against the committee bill, as imperfect as it may be.

I thank the Senator for yielding this time.

Mr. STAFFORD. Mr. President, will the Senator from West Virginia yield?

Mr. RANDOLPH. I yield 3 minutes to the distinguished Senator from Vermont.

The PRESIDING OFFICER. The Senator from West Virginia has only 2 minutes remaining.

Mr. STAFFORD. I thank the distinguished Senator from West Virginia, the chairman of the Committee on Public Works, for yielding.

Mr. RANDOLPH. Two minutes is all we have.

Mr. STAFFORD. Mr. President, I shall not burden the Senate with further discussion on the issue of significant deterioration. By heavy majorities, the Senate yesterday twice rejected amendments in intent very close to this one. The Senate has decided the issue of significant deterioration. It has stated in the clearest terms that it believes that we need a national policy to prevent significant deterioration, and it believes that such a policy should be articulated by the Congress, not by the courts and EPA. Our bill does that.

Mr. President, the Senate bill provides a flexible approach, giving considerably more authority to the States. The Allen amendment, I suggest, restores the bureaucratic regulations of EPA several years.

Mr. President, I think the committee's approach is superior, and I respectfully urge the defeat of the Allen amendment.

I yield back such time as I may still have.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Alabama.

Mr. ALLEN. Mr. President, how much time remains to the Senator from Alabama?

The PRESIDING OFFICER. The Senator from Alabama has 50 minutes.

Mr. ALLEN. I yield 5 minutes to the distinguished Senator from Utah. If he needs more time, I will yield that.

Mr. MOSS. I thank the Senator from Alabama for yielding to me, and I do appreciate his courtesy in according me this opportunity to express my approval of the amendment he has now submitted, and which is now under discussion.

The Senator from Alabama was active in the debate when this body considered previous amendments on the nondegradation of air section of the act, and it seems to me he has evolved now an amendment that should be acceptable to the sponsors of the bill as well as others.

The amendment of the Senator from Alabama, as I understand it, provides that section 6, which does set a national policy, as the proponents have constantly said must be done, permits the enactment of section 6, so the statement of policy is clear, but it stays the implementation of that section until such time as the study has been completed that will tell us—all of our people, our industry, everyone—what the effects of that policy are going to be, and then the policy, unless we wanted to amend it at some point, would come into force and effect just as written.

But in the meantime, to get over this argument that there would be a gap or a hiatus, which I heard the Senator from Idaho arguing for as he supported the Scott amendment yesterday, instead of having a hiatus when all regulation is pushed aside, the Senator from Alabama provides that we continue as now under the regulations in effect by EPA, and, of course, court actions that interpret those regulations are the law of the land at this time, so they would remain in effect.

So we would not have any great disruption. We would be going along as we are going now. I would be first to admit it is a little bit uneven, and I wish we could have everything clarified. But the fact that it is uneven and we are having problems indicates that we need the study, and we need the study before we shift over from what the present law is to what would be set out under section 6 of the bill.

The Senator from Maine was arguing that industry has been saying to Congress "Will you eliminate uncertainties?" Well, I think the amendment does eliminate uncertainties. It says—

> Here is the policy that will come into effect after the study is completed. In the meantime, whatever is in effect now remains to govern what is done regarding air purity, and therefore as much certainty as can be provided is provided.

The one key thing is to find out where we are going by the study that is provided for in the amendment. It seems to me that the proponents of the bill have been in a divided position on this matter. They have argued strongly that this section must be put into effect now, and then the Senator from West Virginia has an amendment saying "We will begin the study thereafter, but we have shifted already to section 6." So the study thereafter, if it comes along, and if it finds flaws in section 6, would require us to go back and have hearings, hold legislative hearings as we talked of before.

So it seeems to me, as it did yesterday and before when we talked about the matter, that we again are putting the cart before the horse. We want to fix the policy that is going to be there, and fix the standards which will be enacted, before we know what we are doing.

There has been some discussion about whether there has been enough studying made, and I suppose in this city, where we have lots of commissions and lots of studies that have little effect on legislation, no doubt some feel that we will just have another study thinking of it as a delaying thing.

I can understand, therefore, that the Senator from Alabama puts a limit on the time in which the report must be made. The amendment mandates that the study must be completed in "not to exceed."

So we have a limit.

Under the arguments of the committee and the proponents of the bill, there have been admissions that we are still uncertain, that we still do not know how this is going to work out. It is pleaded that we need to give a little more flexibility to the States, that maybe the States, in their actions, can eliminate some of the inflexibilities that may crop up in this matter, such as the map showing pollution zones that was put up yesterday.

I made it very clear when I put that map up that it is based on data EPA itself publishes, and I made it very clear that at this time it is the only data we have. It is shown by EPA that way. When you plot it on a map, that is the way it looks, which again indicates some of the problems which we are still having.

Again let me say—and I have had my time to make my position clear, I think—that the reason I support the Allen amendment is that I think it will move us toward a policy in regulation of clean air which will enable us to consider other factors, such as employment, growth of industry, management of land—all of the other factors that ought to be considered before we lock in just one particular facet of our environment.

Everybody wants clean air, and we want it as clean as it can be. We want to get it to the highest degree possible.

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mr. MOSS. May I have 2 more minutes?

Mr. ALLEN. Yes.

Mr. MOSS. We want to reach the highest degree of purity in the air. But we cannot look just at that alone. We have to look at what that means in the tradeoffs for other things. That is what the study is supposed to tell us.

It will tell us what this means in various areas of the country—what places would be precluded, for example, from raising pollution by a certain given amount, because they would bump into the standards, then, of the Clean Air Act.

The Senator from Maine made quite a statement about "Well, if these get started, and they are put in place, then you cannot change anything, you have grandfathered them out of regulation."

I do not think it is at all possible that this could happen within a year's time. Second, I would say that in view of the experiences we have had in the western part of the country, the opposite is true.

The holdback in doing these things has been based on the threats of litigation and opposition that have been raised to those who were concerned about the air quality and what might happen if there were any kind of industrial or economic development.

So I support the Allen amendment, and I do hope that my colleagues in the Senate, having looked at this matter and reflected on it, will see that this is the sensible way to go. The issue is not today clean air and dirty air. The issue is whether we are going to have continued balanced thought development in this country as we must have if we are to remain a viable and expanding population in this land.

So I commend the Senator from Alabama, and I am very happy to support his amendment.

Mr. ALLEN. I thank the Senator.

ADDITIONAL STATEMENT

Mr. BAKER. Mr. President, I do not intend to delay the Senate's vote, but I do wish to note that the Senate yesterday twice rejected amendments that were very close to this one in intent. We have resolved the issue of significant deterioration. We voted, in the clearest terms, that we believe that there is a need for a national policy to prevent significant deterioration. We believe such a policy is better when detailed by the Congress, rather than the courts and EPA.

Mr. President, I urge the defeat of the Allen amendment.

The PRESIDING OFFICER (Mr. MORGAN). The Senator's additional 2 minutes have expired.

The Senator from Alabama has the remaining time. Does the Senator wish to use it?

Mr. ALLEN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. ALLEN. The time allotted to me does not necessarily have to be consumed on this amendment. It is time that I may use at any stage of the bill. Is that not correct?

The PRESIDING OFFICER. The Senator is correct.

Does the Senator wish to use any additional time on this amendment?

Mr. ALLEN. I do not care to use any additional time on it.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Alabama. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Kentucky (Mr. FORD), the Senator from Indiana (Mr. HARTKE), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Massachusetts (Mr. KENNEDY), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Minnesota (Mr. MONDALE), and the Senator from Missouri (Mr. SYMINGTON) are necessarily absent.

I further announce that the Senator from Hawaii (Mr. INOUYE) is absent on official business.

I also announce that the Senator from Michigan (Mr. PHILIP A. HART) is absent because of illness.

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from New York (Mr. BUCKLEY), the Senator from New Jersey (Mr. CASE), the Senator from Nebraska (Mr. CURTIS), the Senator from Arizona (Mr. GOLDWATER), the Senator from Maryland (Mr. MATHIAS), the Senator from Pennsylvania (Mr. SCHWEIKER), and the Senator from Virginia (Mr. WILLIAM L. SCOTT) are necessarily absent.

I further announce that the Senator from Maryland (Mr. BEALL) is absent due to a death in the family.

I further announce that, if present and voting, the Senator from Tennessee (Mr. BAKER) and the Senator from New York (Mr. BUCKLEY) would each vote "nay."

The result was announced—yeas 23, nays 59, as follows:

[Rollcall Vote No. 465 Leg.]

YEAS—23

Allen
Bartlett
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Eastland
Fannin
Garn
Griffin
Helms
Hruska
Huddleston
Laxalt
Long
McClellan
Moss
Sparkman
Stennis
Stone
Talmadge
Thurmond
Tower
Young

NAYS—59

Abourezk
Bayh
Bellmon
Bentsen
Biden
Brock
Brooke
Bumpers
Burdick
Chiles
Church
Clark
Cranston
Culver
Dole
Domenici
Durkin
Eagleton
Fong
Glenn
Gravel
Hansen
Hart, Gary
Haskell
Hatfield
Hathaway
Hollings
Humphrey
Jackson
Javits
Leahy
Magnuson
Mansfield
McClure
McGee
McIntyre
Metcalf
Montoya
Morgan
Muskie
Nelson
Nunn
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Scott, Hugh
Stafford
Stevens
Stevenson
Taft
Tunney
Weicker
Williams

NOT VOTING—18

Baker
Beall
Buckley
Case
Curtis
Ford
Goldwater
Hart, Philip A.
Hartke
Inouye
Johnston
Kennedy
Mathias
McGovern
Mondale
Schweiker
Scott, William L.
Symington

So Mr. ALLEN's amendment, as further modified, was rejected.

Mr. RANDOLPH. Mr. President, the prevention of significant deterioration of air quality is an essential part of a comprehensive national air pollution program. The issue of significant deterioration has drawn more public attention than any other single feature of the Clean Air Amendments of 1970 and the pending Clean Air Amendments of 1976. The expressed concern is understandable.

Under the 1970 amendments, major new facilities are required to meet Federal new source performance standards based upon commercially available control technologies. However, the States are authorized to establish more stringent emission limitations. These requirements are imposed on new facilities whether in an urban area or in an undeveloped part of the air quality control region.

In this regard, S. 3219 provides a distinction between the requirements for new facilities in clean areas—where national air quality standards are not being violated—and in dirty areas—where such standards are being violated.

Clean air areas would be subject to

EPA regulations and applicable provisions of the 1976 amendments. The States would be required to establish permit programs for all new major emitting facilities. These facilities would be required to adopt the best available control technology—the maximum pollution determined by the State on a case-by-case basis. This decision would be exclusively that of the State.

In addition, provision is made for evaluation of the impact of such new facilities on critical environmental areas such as international parks, national parks, and national wilderness areas, which exceed 5,000 acres in size.

Acceptable impacts are specified in the bill as increments for the two pollutants sulfur oxides and particulate matter.

The nondeterioration provision has implications for future growth. The amendment of Senator Frank Moss would have deleted this provision from the committee reported bill and authorized a study by the National Air Quality Commission as a basis for future legislation. However, the proposed amendment did not affect the regulations promulgated by the Environmental Protection Agency on nondeterioration. They would remain in effect without a congressional statement of policy.

Mr. President, the study amendment I offer would empower the National Air Quality Commission to study the social, economic, energy, and environmental implications from implementation of the nondeterioration provision of the 1976 amendments. A report to the Congress is required on recommendations for reconciling competing and conflicting national policies.

This charter would reflect concern that in striving to protect the environment we must also insure a healthy economy and improve job opportunities in the years ahead. This concern is reflected in the letters from the U.S. Department of Labor, the Department of Commerce, the Federal Energy Administration, and the Environmental Protection Agency, which I inserted in the Congressional Record on April 1, 1976.

The amendment I have introduced requires that the Commission on Air Quality give priority to a study of the implementation of the nondeterioration provisions. The study must include the impact of the statutory increments and their effect on the location and size of major emitting facilities and whether these effects are consistent with other national policies regarding the development of such facilities.

The purpose of the nondeterioration program is to protect air quality and the study would be incomplete if it did not evaluate the effectiveness of the legislation. I urge that the Senate adopt this amendment.

Mr. STAFFORD. Mr. President, I urge the adoption of this amendment, which will clarify the instructions to the Air Quality Commission regarding its evaluation of significant deterioration.

When the distinguished chairman of the Committee on Public Works initially raised this issue last week, Senator Buckley and Senator Randolph engaged in a colloquy on the intent of this provision. Because of the answers received, indicating that this amendment in no way seeks to delay implementation of a defined congressional policy to prevent significant deterioration, but instead seeks to monitor it, I support fully the adoption of the amendment.

I commend the Senator from West Virginia (Mr. Randolph) on his leadership in developing this amendment, and urge its adoption.

ADDITIONAL STATEMENT SUBMITTED

Mr. PERCY. Mr. President, while I believe that we properly reaffirmed our commitment to improved air quality by clear congressional support for the policy of nondeterioration, I do support the proposals for continuing study of that policy's practical application. The study proposed by Senator Randolph would add significantly to the already enormous body of research available on the effects of nondeterioration, and will help Congress and the people of this country to make an informed and lasting commitment to the preservation of air quality and in the widest sense, to the preservation of life itself. That commitment must be total, and it must be founded upon an accurate understanding of the costs involved and the sacrifices which may be required. I believe that we will pay the costs and make the sacrifices, but I also believe the decisions to do so must be based on real and reliable data demonstrating the effects of the proposed standards on our economy, our energy supply, our employment picture, and our present patterns of wasteful consumption.

Our system of government requires a constant balance of priorities and at times we are faced with extremely difficult choices. At times, choices are presented to us in misleading and inaccurate terms. While I believe that we can find solutions reflecting both economic and environmental goals, the controversy over the Clean Air Amendments of 1976 has too often been described as a choice between cleaner air and economic development. It is unfair to present to the people a biased choice between acceptable air quality and employment, and it is the responsibility of us all to seek ways to provide both.

It is misleading to suggest that economic development must be frozen into existing structures and will be stopped by restrictions on pollution of the environment, when commonsense suggests that the redeeming of our planet is in itself an unlimited growth industry. Too often this legislation has been presented to us in terms of growth versus no-growth. That, too, is misleading. Under this bill, industrial expansion will be permitted nearly everywhere in the United States. We should remember, however, that in business and in government, as in individuals, growth need not always mean physical expansion. Growth means broadened awareness of social responsibility; growth means reaching out to strengthen the bonds that bind us to each other and to the larger community; growth can lead to maturity—not always just to a proliferation of new products, institutions, or activities without regard for other considerations.

Supporters of the industrial status quo underestimate American business, whose continuing record of scientific and technological achievement has been unequaled, and whose response to challenge has exemplified all that is best and soundest in our system of free enterprise, individual initiative and democratic government. I have faith in the ability of American business to interpret national goals in the national interest and to develop and implement technologies which will one day free us from choices which appear to some as choices between a healthy economy and a healthful environment.

Mr. President, the study proposed by Senator Randolph will help us to achieve our economic and environmental goals, and I urge the adoption of the amendment.

Mr. MUSKIE. Mr. President, I would like to take this opportunity to commend the distinguished chairman of the Public Works Committee, Senator Randolph, for his extraordinary leadership throughout the consideration of the clean air amendments.

The chairman has once again displayed his unmatched ability to bring us together under trying circumstances. His sense of fair play always guides his efforts. It is his sense of fair play which has sustained the 13 other members of the committee during the past year of 48 long markup sessions, many of them early in the morning and late in the evening.

In particular, the chairman's nondegradation study amendment No. 1798, is an essential addition to the committee bill. His amendment reflects his constant concern for thorough examination of the implications of the actions of the Committee on Public Works. And, he prejudges no issue. The Randolph study will enable this committee and the Congress to assess the national nondegradation policy with the benefit of information we would not have had otherwise. Senator Randolph has once again insured that we will make the considered judgments for which the Committee on Public Works has been noted under his chairmanship.

Again, I commend the chairman for his untiring efforts throughout the past year and the past 2 weeks, without which the Senate would not be considering the clean air amendments today.

Mr. ROTH. Mr. President, I think most of us recognize the seriousness of this issue and the need for a thorough and independent study to provide us with concrete, factual data on the economic and other impacts of section 110(g). For this reason, I will vote for Senator Randolph's amendment, and I would urge my colleagues to do likewise.

I would like to take this opportunity to commend the Senator from West Virginia for his attention to and work on the issue of nondegradation. During the past several days he has provided us with valuable guidance and counsel, which I greatly appreciate. This amendment reflects the same good judgment. I am happy to support it and express my thanks.

Mr. RANDOLPH. Mr. President, is it

understood that there will now be the rollcall on the amendment offered by the Senator from West Virginia?

The PRESIDING OFFICER. The Senator is correct.

Mr. RANDOLPH. The yeas and nays have been ordered?

The PRESIDING OFFICER. The yeas and nays have been ordered. The clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Kentucky (Mr. FORD), the Senator from Indiana (Mr. HARTKE), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Massachusetts (Mr. KENNEDY), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Minnesota (Mr. MONDALE), and the Senator from Missouri (Mr. SYMINGTON) are necessarily absent.

I further announce that the Senator from Hawaii (Mr. INOUYE) is absent on official business.

I also announce that the Senator from Michigan (Mr. PHILIP A. HART) is absent because of illness.

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from New York (Mr. BUCKLEY), the Senator from New Jersey (Mr. CASE), the Senator from Nebraska (Mr. CURTIS), the Senator from Arizona (Mr. GOLDWATER), and the Senator from Pennsylvania (Mr. SCHWEIKER) are necessarily absent.

I further announce that the Senator from Maryland (Mr. BEALL) is absent due to a death in the family.

I further announce that, if present and voting, the Senator from Tennessee (Mr. BAKER) and the Senator from New York (Mr. BUCKLEY) would each vote "yea."

The result was announced—yeas 83, nays 1, as follows:

[Rollcall Vote No. 466 Leg.]

YEAS—83

Abourezk
Allen
Bartlett
Bayh
Bellmon
Bentsen
Biden
Brock
Brooke
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Chiles
Church
Clark
Cranston
Culver
Dole
Domenici
Durkin
Eagleton
Eastland
Fannin
Fong
Garn
Glenn
Gravel
Griffin
Hansen
Hart, Gary
Haskell
Hatfield
Hathaway
Helms
Hollings
Hruska
Huddleston
Humphrey
Jackson
Javits
Laxalt
Leahy
Long
Magnuson
Mansfield
Mathias
McClellan
McClure
McGee
McIntyre
Metcalf
Montoya
Morgan
Moss
Muskie
Nelson
Nunn
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Scott, Hugh
Scott, William L.
Sparkman
Stafford
Stennis
Stevens
Stevenson
Stone
Taft
Talmadge
Thurmond
Tower
Tunney
Williams
Young

NAYS—1

Weicker

NOT VOTING—16

Baker
Beall
Buckley
Case
Curtis
Ford
Goldwater
Hart, Philip A.
Hartke
Inouye
Johnston
Kennedy
McGovern
Mondale
Schweiker
Symington

So Mr. RANDOLPH's amendment (No. 1798) was agreed to.

Mr. RANDOLPH. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. McCLURE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. RANDOLPH. Mr. President, the Senate has expressed its desire with respect to the issue of significant deterioration by defeating the amendments offered by the Senator from Virginia (Mr. WILLIAM L. SCOTT), the Senator from Utah (Mr. MOSS), and the Senator from Alabama (Mr. ALLEN). It is now clear that the Senate supports the inclusion within the Clean Air Act of the concept of significant deterioration.

I commend the diligent efforts of the Senator from Utah (Mr. Moss). The amendments which he offered focused the attention of this body on an issue of critical concern and helped to create a record reflecting the concerns of the Members of the Senate. The amendment of the Senator from Alabama (Mr. ALLEN) was also beneficial to this discussion. I thank the Senator for his efforts on this issue.

Mr. President, it is my hope that the National Commission on Air Quality study of significant deterioration as modified by my amendment represents the composite thinking of the Members of the Senate. Even though many studies of this issue have been made, the committee does not profess to have all of the answers. The purpose of the Commission is to complete a comprehensive study to provide the Congress with all the facts on which future decisions on significant deterioration can be based.

AMENDMENT NO. 1610

Mr. GARY HART. Mr. President, I call up my amendment No. 1610 to the pending legislation and ask that it be considered.

The PRESIDING OFFICER (Mr. ABOUREZK). The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Colorado (Mr. GARY HART) proposed amendment No. 1610:

On page 79, line 6, after the phrase "major emitting facility" insert "or other source".

Mr. GARY HART. Mr. President, I ask for the yeas and nays on this amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. GARY HART. Mr. President, for the benefit of Senators who are here, this is an amendment on which there is a 1-hour time limitation. The Senator from Colorado does not intend to use his full 30 minutes on this amendment. I do not know what those speaking on the other side will do.

It is also my intention to ask the Senator from Oregon (Mr. HATFIELD) to hold up his amendment regarding national monuments, and following debate on this amendment, and then request a vote on amendment 1610 presently under consideration, and the Hatfield amendment, back to back, and that would occur presumably sometime this afternoon.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. GARY HART. Mr. President, this amendment goes to a portion of the clean air bill known as the nondegradation section. I think it is important to delineate what significant deterioration is with respect to specific pollutants.

To define what significant deterioration is, with respect to specific pollutants, the committee has incorporated in the bill a set of numbers—the so-called "increments"—that specify the allowable change in ambient air quality. These "increments" are technical measures of the amount of total additional pollution that may be added to the ambient air by a single new major facility or series of facilities.

The PRESIDING OFFICER. The Senate Chamber will come to order so that the speaker can be heard.

Mr. GARY HART. I thank the Chair.

Mr. President, these increments I am describing are the same for all nondeterioration areas, thus providing equity for all areas of this country. The increment, of course, is measured from the baseline ambient air quality. The increment would thus be in addition to whatever levels of pollution exist from present sources.

The chief tool to be used in implementing the no significant deterioration requirements is the permit that must be issued by the State for any major emitting facility to be located in any clean-air area. The bill defines major emitting facility for this purpose as any source that falls into one of 28 industrial categories listed in the bill, if the source would also have the potential to emit more than 100 tons of any pollutant per year. If a source falls in a category listed but would be smaller than the 100 tons per year figure, it is not subject to any of the procedures in this act.

The intent of the committee in exempting nonmajor sources from the act was to simplify implementation by limiting regulation to the largest potential polluters. Superficially, at least, this appears to make good sense. Regulations and permits which would cover all emission sources would pose an intolerable regulatory burden, undoubtedly causing more problems than they would solve.

THE COMMITTEE PROPOSAL WILL CREATE A BUREAUCRATIC NIGHTMARE

Mr. President, on the other hand, the carte blanche exemption of nonmajor sources, in my judgment, provided in the committee bill would create a bureaucratic nightmare, for this exemption dictates that the growth "increments" would apply only to new major sources. Pollutants contributed by new nonmajor sources, not defined except by the limit of 100 tons of pollutants per year, would not be included. This means that permit applications for all but the first new major facility in any area would have to include technologically complex "pollutant origin assessments" in order to determine how much of each pollutant growth increment remained available for use in that area.

EXAMPLE OF THE PROBLEM: CREATED UNDER S. 3219'S PROVISIONS

Perhaps an example would best illustrate the problem associated with the proposed procedure. Let us assume that, after enactment, a new primary lead smelter is constructed by the Rolling Stone Manufacturing Corp. near the Mossy National Park, a class I increment area. In addition, let us assume that numerous other small industrial facilities subsequently are attracted to this same area as well as the normal complement of support services including both commercial and residential development.

According to the committee bill, under the circumstances only the large smelter would be subject to the best available technology and emissions permit requirements. The smaller industrial, commercial, and residential facilities which were subsequently added and which individually would emit less than 100 tons of sulfur dioxide per year, would have been exempt from the permit-granting procedure. My amendment would not affect this in any way.

Now let us assume that 10 years later, Rolling Stone Manufacturing decides to construct a large sulfuric acid plant, and considers among other locations, a second site near Mossy National Park. According to the committee bill evaluation of the sulfuric acid plant's emissions permit application would require not only measurement of the sulfur dioxide concentration in Mossy National Park, but in addition, the bill would require determination of how much of this sulfur dioxide is contributed by the smelter versus the contributions to pollution levels from ancillary development and "old"—previously existing—facilities. This complicated pollution origin analysis would be required because the committee bill provides that growth "increments" apply only to pollutants from new major sources, thus requiring any subsequent applications for a permit to be accompanied by an analysis which determines where existing pollution came from.

THE EXEMPTION OF NONMAJORS ALSO IS CONTRARY TO THE INTENT OF THE CLEAN AIR ACT ACT

It seems to me, in addition to the totally unnecessary administrative burden added by this procedure, eliminating consideration of pollutants contributed by nonmajor facilities constructed after enactment is entirely contrary to the intent and purpose of the Clean Air Act itself. Sulfur dioxide is sulfur dioxide—and it does not matter whether it comes from 1 large major source or from 1,000 small nonmajor sources. The effects are still the same. My amendment, No. 1610, would require that pollutants, regardless of source, be considered and counted against the increments.

HOW AMENDMENT NO. 1610 WOULD SOLVE THESE PROBLEMS

This amendment would modify the definition of the increments—to allowed increases in pollution levels—to include pollution from all sources, not just major facilities. Pollution from both major-emitting sources as well as areawide growth, including all growth that occurred, would be counted against the allowed increases in pollution.

This change in the definition of the increments will not extend or expand the permit-granting procedure envisioned in the bill. Only major facilities would be subject to the permit procedure. However, when a major facility is planned in an area, the total increase in pollution levels since the construction of the first major facility in the area must be considered in determining whether pollution from the proposed facility will exceed the allowed levels.

HOW SIGNIFICANT WILL EFFECTS OF AMENDMENT BE?

This is not a theoretical problem of little significance. Depending on the type of growth in any area, the contributions to air pollution can play an important part in air quality.

A report recently prepared for me by the Office of Transportation and Land Use Policy of the Environmental Protection Agency, begins with the following statement:

> Residential, commercial and institutional facilities resulting from general area-wide growth play a significant role in determining overall air quality. Their accompanying fuel needs for space heating and solid waste disposal facilities represent substantial contributions to an area's air pollution.

The report goes on to document this statement. It cites, for example, a location in Ocean County, N.J., where in 1972, ancillary "areawide growth" already accounted for 45 percent of the total estimated that by 1990, in this area, areawide growth in this region will account for 72 percent of the particulate air pollution. In addition, the report indicates that areawide sources now contribute over 68 percent of the particulate air pollution in Denver, Colo. The Environmental Protection Agency concludes that—

> Area-wide growth, accounts for a substantial percentage of total emissions. Projected increases or decreases, of course, depend to a large extent on the air quality maintenance program within a specific region. It is important to realize, however, that facilities resulting from general area-wide growth play a major role in determining overall air quality.

That entire quote is from the EPA study.

THE AMENDMENT IS CONSISTENT WITH THE COMMITTEE'S CONCERN REGARDING ANCILLARY DEVELOPMENT

On page 23 of the report:

> In studying the permit application, the State must examine the growth associated with any proposed facility in terms of other industries that might be attracted to the area and associated with the facility, and its effect on support services, and the residential, commercial, and transportation needs accompanying the facility.

Mr. President, this is not a question that should be left solely to one sentence of legislative intent in a committee report. This is a crucial issue which should be addressed in the language of the bill itself, and that is why I offer this amendment.

It is not enough to say that States must examine the potential effects of future nonmajor growth during review of an application to allow further major growth. The review process must also include a continuing mandate to consider actual levels of existing pollutants—regardless of their original sources.

The following arguments in summary, I think, add up to why I am offering this amendment.

POINTS IN SUPPORT OF SOURCE AMENDMENT

First. It reduces the administrative burden of making pollutant source evaluation and streamlines what would otherwise be a cumbersome evaluation procedure to assess the remaining pollutant increment balance.

Second. It is consistent with the intent and purpose of the Clean Air Act. Since pollution—no matter what its origin—has the same effect on the environment and public health.

Third. The amendment does not extend or expand the permit-granting process to nonmajor sources.

Fourth. The amendment does not extend best-available technology requirement nor any other regulations to nonmajor facilities.

CONCLUDING STATEMENT

It is obvious that nonmajor sources make the substantial contribution to air pollution in most areas. The extensive record made by the Public Works Committee justifies that conclusion. I acknowledge that it would be next to impossible to extend rigid emission control measures to all sources. We must focus our attention on the biggest problems first—and with respect to emission limitations, that means concentrating on major sources.

However, in conjunction with this, we must acknowledge the potential for substantial emissions from new nonmajor sources. This can be done simply and effectively by requiring that the "increments" apply to pollutants regardless of source, as provided by amendment No. 1610.

For these reasons, I urge my colleagues to give this amendment their most careful consideration and support.

Mr. President, I reserve the remainder of my time.

Mr. President, I yield to the Senator from Minnesota.

Mr. HUMPHREY. Mr. President, I ask unanimous consent that Stan Davis of my staff be granted the privileges of the floor during the remainder of the consideration of this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GARY HART. I yield to the Senator from Idaho.

Mr. McCLURE. Mr. President, I must, with reluctance, oppose the amendment offered by the Senator from Colorado (Mr. GARY HART). I know what he is talking about when he says that there is a void in the bill and that this amendment would plug that void, that it would make more precise what has been left somewhat vague by the committee action. But I do not believe this can be achieved with this amendment. It could create major administrative problems in pollutant source evaluation. I believe that it imposes a much more, perhaps infinitely more, difficult burden in evaluating all sources of pollution and in controlling all sources of pollution in the clean air areas.

Throughout the entire deliberation of this bill, we have recognized that in some of these troublesome areas we have allowed the States the latitude to take actions where they feel they can do so.

As was stated during the debate on the Randolph amendment, one of the reasons for the Commission study was the fact that we are not certain that we know how to tie down every loose end in the pollution control field. This is one of those loose ends. I think we must confess that at the outset.

I do not disagree at all with the distinguished Senator from Colorado. But how can a permit program, geared to individual major sources, be meshed with the related growth, such as housing developments, roads, and the supporting facilities associated with that major source? If a permit is granted for a powerplant that uses up the entire particulate increment in an area, does that mean that a new dirt road or a parking lot associated with that powerplant could not be built? Would it mean that a new dirt road associated with a quarry operation in the same area could not be built? Does it mean that a parking lot in conjunction with a new shopping center could not be installed in the same area?

I recognize that inconsistency exists in establishing a permit system for major sources without affecting nonmajor sources. But I believe that this is something that each State should address on its own, without Federal guidance at this time. I am confident that the Air Quality Commission will address this issue in its evaluation of the implementation of nondegradation, to see if there is a reasonable way to handle this question.

There is no question that no mechanism exists to control the emissions of nonmajor emitters. But what is the most effective tool to control nonmajor emitters? It would seem to me that the obvious, most effective tool has to be overall community design.

We must talk about the type of fuels that are used in home heating. I am sure we would eventually become involved in land-use decisions, and tightly administered zoning restrictions in order to achieve control over the nonmajor sources.

Mr. GARY HART. Will the Senator yield?

Mr. McCLURE. I yield.

Mr. GARY HART. I appreciate the Senator from Idaho yielding because I believe there are answers to the questions he raises.

To address the misapprehension or perhaps the misunderstanding of the purpose of this amendment, first of all, it says that for any State issuing a second major polluter permit under the terms of this bill, one air quality measurement be made of not only the effect of the first polluter but the ancillary growth which has occurred with that first major polluter.

It is not a series of individual source measurements; it is just one total measurement for all of the growth, the first major polluter and all that has happened since then, to determine whether the standards for that area have already been exceeded by the major polluter and the collection of individual polluters.

It does not give the EPA or any Federal agency the authority to take measurements on a roadbuilding project or any other individual construction project. It merely says when the time comes to issue a second major polluter permit, the total pollution level in the area from the first major polluter and all ancillary growth be added together. So it is not a scientific nightmare. In fact, it is a very simple project.

Second, it does not tie the States' hands because the States would be doing this. We are merely telling them to do formally in the language of the legislation what the committee's report already exhorts them to do. If the Senator from Idaho would give his attention, I will cite the language in the report.

Mr. McCLURE. I understand——

Mr. GARY HART. If the Senator will give his attention, I will cite the language in the report, at page 23.

> In studying the permit application, the State must examine the growth associated with any proposed facility in terms of other industries that might be attracted to the area and associated with the facility.

Road building, motel building, any other project.

We have already said in the legislative history that the State must do this. All my amendment does is to formalize that exhortation by the committee to the States in the formal language.

Mr. McCLURE. I understand what the Senator is saying. I have a different view of the effect of the amendment. I think it poses an absolutely impossible administrative burden. I do not see anyway that it can be translated into administration. That is one of the problems we confront as we go through all of these complex and interrelated decisions that affect every bit of human activity within any given area. How do we administer something like this? I do not believe we can.

The committee discussed this rather fully as we went through the markup sessions and discussions of this bill. How in the world do we write something that the administrator can go out and administer?

One of the things that we decided in trying to determine our approach to the class I, class II, and class III regulatory approach of EPA was the establishment of two classes, and the elimination of the third. At the same time, we placed some administrative flexibility into the administration so that that the single, class II encompassed within it several shadings.

One of the ways in which the committee resolved the question was to say that increments would be charged only against major emitting sources. That is both a flexibility and a tolerance level which the Senator from Colorado finds to be too great, but the majority of the committee found to be acceptable. That is the reason why it was written in. It was not inadvertent. It was not accidental.

Mr. GARY HART. No, I did not suggest it was accidental, but my recollection of the committee's deliberations was that we did not spend very much time on this; we did not discuss it thoroughly or debate it at great length; we just sort of slid over it, to consider how it could be done.

I think it can be done, by adding three words: "or other sources." It just means they would have to report on all sources of pollution. It is no scientific nightmare.

Mr. McCLURE. It is no scientific nightmare; it is an administrative nightmare.

Mr. GARY HART. Why is that?

Mr. McCLURE. In trying to achieve some of the current goals in some of the dirty air areas, and in trying to achieve some of the last bits of cleanup to achieve primary standards in some areas, EPA promulgated some transportation strategies. We found that they were administratively impossible and publicly unacceptable. And so EPA has had to back off, not because it was not theoretically possible, but because, as a practical matter, they could not do it.

Mr. GARY HART. But my amendment does not require the inspection of transportation or any other strategy. It says that when they measure the quality of the air in giving that second permit, they have to measure all the total growth that has occurred. It is very simple; it just requires that they make a total measurement.

Mr. McCLURE. I am sure the Senator perceives it as such. I do not.

One of the problems in this area that it seems to me must be faced is whether or not we intend, by this amendment or this series of amendments, to get into the question of land-use planning or Federal zoning.

The committee did discuss not only this issue at some length, but also the question of land-use planning and the exercise of what is otherwise reserved for the States under the police powers.

The committee said on numerous occasions, in its deliberations—and I hope made it quite clear in the report—that this is not a back-door approach to land-use planning or a back-door approach to Federal zoning.

Yet when we get into the composite result of all of the human activity in an area that will be measured against the increments in these areas, we get into this very precise area where we said we would not. The amendment of the Senator from Colorado, in my opinion, sets us in the other direction, the direction in which the committee very distinctly, positively, and deliberately said we would not undertake to move at this time.

The subcommittee rejected the idea. It was not done casually. There was a debate about it. The committee rejected the idea of applying increments to mobile source-related pollution.

If transportation controls were unsuccessful in dirty air areas where human health is at stake, where the standards are being violated at this time, how could we expect to get public support in an area where public health is not at stake, where it is only a question of incremental pollution? That is the issue. I think it is important for us to avoid walking into the traps that are sometimes set for the unwary.

I think that the regulatory complexity of the program would increase. The measurement of the ambient air quality is certainly a simple matter. I agree with the Senator from Colorado on that. But it is more than that. It is not simply the measurement of the ambient air quality. It is the measurement of the contributions by individual sources. Inevitably that will happen, not immediately but ultimately. I think the manpower and resource needs of local and State governments would inevitably be increased.

But beyond that, as I said at the beginning, there is some uncertainty as to how far we can go in the nondegradation field at the price of certain flexibility, some cushions, some margins with which we felt we could live. One of the elements in that margin was the way in which we measure the effect in the nondegradation areas of major emitting facilities.

I think when you look at it as a whole, the actions taken by the committee would be negated, in large degree by the amendment of the Senator from Colorado.

For those several reasons, I must oppose the amendment of the Senator from Colorado.

I think we should also recognize, too, that we do not have the necessary base line data. The Senator's amendment applies only to the measurements that occur after we have base line data. But that is simply saying that if there is no major emitting facility seeking to move into one of these areas, the general growth of the area will be treated in one manner, but after a major emitting facility has moved into the area it will be treated in another manner.

I think that illustrates the unevenness with which this would be applied. But it also begins to illustrate some of the incentives for more rapid growth than would otherwise occur. There would be every reason in the world for a major emitting facility to get in and use up the entire increment early. There is every incentive on the part of local governments to make certain they do not use up merely a portion of the increment allowed, but that they use all of it at once, or they will lose it. So I think it may indeed work to thwart what the committee is attempting to do in bringing about an orderly growth process, stimulating more rapid growth in some areas than would otherwise occur.

I yield to the Senator from New Mexico.

Mr. DOMENICI. I thank the Senator from Utah.

Mr. President, I would say to the distinguished Senator from Colorado, who has worked hard on the committee and certainly contributed immensely toward the development of a no significant deterioration policy for the Nation, that, while I oppose the amendment, I certainly commend the Senator for bringing to the Senate one of the real evolving issues as we try and establish a nondegradation policy for this country. Obviously, the Senator has pointed out one of the serious problems we may have in a few years, as we by permit control the location of new polluters.

For two reasons I think the amendment should be defeated. First, it is obvious for all of us that we are undertaking a national policy that is going to be very difficult as we move down the road to administer and to monitor, and I for one certainly think that in 2 or 3 years we are going to be back looking at various changes that might be required. Maybe it will be in the increments, maybe it will be in the modeling, it may be in any number of things. Perhaps it will be another pollutant that should be added to that which we are modeling for.

Given these difficulties, I think we ought to leave in place the policy of the Committee as far as the Federal interest is concerned, and in effect concentrate on major polluters. But I would say to the Senator that consistent with our theory, we are not saying the States cannot do what the Senator is asking, for indeed they can. I think this law is broad enough to permit the States to go beyond the federal requirements and take a look at all the polluters in an area.

Second, it appears to me that the Air Quality Commission we have established will be looking at this. It will be looking at ways and means of doing the entire job of nondegradation better.

I honestly think that we have told the Senate in our efforts here to defeat the Moss amendment, the Allen amendment, and other amendments, that we have a workable reliable game plan, that it incorporates State flexibility, and indeed we are undertaking a national policy which we feel has a chance of working. I think ours will. I think if we impose the Federal mandate on the nonmajor emitters we are going to have a mass of confusion in the early stages of implementation, and I do not think we need it. I do not think we are going to harm our pristine areas if we wait for the evolution of nondegradation to address nonmajor emitters.

But once again I commend the Senator for raising an excellent point. I do believe it might be taken care of in time, but I do not wish to see us get on this particular road now because of the various difficulties that we are going to have in trying to implement the one that we presently have. I think we ought to leave the nonmajor issue to evolution and to our States.

Mr. GARY HART. I thank the Senator from New Mexico for his remarks. I wish he would vote the other way based on his feelings. But I appreciate what he has had to say.

I shall simply take 1 or 2 minutes to respond, then yield back my time, and move on to the amendment of the Senator from Oregon.

First of all, there is nothing in my amendment that requires any Federal land-use planning whatsoever. It would not expand in any way the role of the Federal Government in land-use planning. I wish the record to be very clear, in response to what the Senator from Idaho said, that there is no Federal land-use planning in this bill or in this amendment.

Second, as I stated in my opening remarks, in many areas, including Denver, Colo., and other areas of the country, it is the ancillary growth, the small growth areas, small growth operations, or construction projects which end up being collectively the major polluter. To say we are taking care of the major polluters first and worry about the small polluters next misses the whole point. In many areas it is the collection of small polluters taken together which deteriorate the air worse than the major polluters. To say to the States, "We hope you will take care of this," is, I think, to neglect our responsibility for the public health of the people of this country.

All this amendment does is mandate by law what the committee report says the States ought to do anyway.

Finally, vague general statements were made about the complexity of measurement. It is going to be much more complex to measure the amount of pollution coming from one major polluter as opposed to the collection of minor polluters, which the States are going to have to do without this amendment, than to do it the way my amendment proposes. My amendment simplifies the measurement requirements of this bill and does not make them more complex.

With that I am prepared to yield back the remainder of my time.

Mr. GARY HART. Mr. President, I believe the Senator from Indiana wishes to make a remark.

Mr. BAYH. Mr. President, I ask unanimous consent that the pending business be temporarily set aside for a very short period of time so that the Senator from New Jersey and I can dispose of the Senate-House conference report on the transportation appropriations bill which has just come over from the House of Representatives.

The PRESIDING OFFICER Is there objection?

Mr. HATFIELD. Mr. President, reserving the right to object, there is a unanimous-consent agreement. I thought I was to have the floor next and have my amendment presented so we would have back-to-back amendments.

The PRESIDING OFFICER. The order which has been issued by the Chair is that the Gary Hart amendment is to be laid aside at this time and that the Senator from Oregon is to be recognized for the purpose of calling up his amendment.

Mr. HATFIELD. That is my understanding, Mr. President.

Mr. BAYH. May I say to my friend from Oregon that the last thing I wish to do is interfere with him or the order. I checked this out with the leadership. I understand that conference committee reports are privileged matters and take precedence over other business. The

Senator from New Jersey made a special effort to be here. I do not wish to pursue this unnecessarily. I thought it would take about 5 minutes at the maximum.

Mr. McCLURE. I wonder if he might reserve that until after we have the rollcall votes that have already been ordered? There are two amendments pending under a unanimous-consent agreement.

Mr. HATFIELD. Mr. President, I will only indicate it was originally scheduled that this amendment appear about 10:30 this morning. I patiently waited by for this period of time. I wish to proceed with it, unless the Senator from Indiana feels pressed to make his unanimous-consent agreement at this time.

Mr. BAYH. I understand it does not require unanimous consent, since it is a matter of precedence. But I will yield to what the Senator from New Jersey does because I do not wish to interfere with the Senator. I know he made a special effort to be here.

Mr. CASE. Mr. President, if the indulgence of the colleagues will permit, we shall appreciate it. It will take us about 2 minutes, I think, to dispose of this conference report for all time.

Mr. McCLURE. A parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator will state it.

Mr. McCLURE. There has been an order entered into which would dispose of the Gary Hart amendment and the Hatfield amendment, with back-to-back votes. My question is whether or not the conference report, being a privileged matter, overrides that unanimous-consent agreement or whether it is subject to the unanimous-consent agreement.

Mr. BAYH. Mr. President, I withdraw the request if the request is an unreasonable one. I withdraw it and we will do business later.

Mr. McCLURE. Mr. President, since the request has been withdrawn, I withdraw the parliamentary inquiry and will not ask the Chair to respond.

Mr. GARY HART. Mr. President, for the record, I had no objection at all to the Senator from Indiana going forward.

Mr. McCLURE. Mr. President, very briefly and in conclusion——

The PRESIDING OFFICER. Did the Senator yield back his time? The order now was to recognize the Senator from Oregon.

Mr. McCLURE. The Senator has not yielded back his time on this amendment. The Senator from Colorado did. The Senator from Idaho has not.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

Mr. McCLURE. I thank the Chair.

I shall take this time to set the context of one statement that was made by the Senator from Colorado. I think we need to be very certain that, when we are talking about associated growth of a major emitting facility, the bill and the committee report requires that study of the associated growth be included in the analysis in the permit application. But that associated growth is not included within the increment of pollution, which is allowed in the clean air area under the committee bill. So while it is analyzed and is included in the decisionmaking process, it does not count against that increment of pollution that otherwise would be allowed within that area. I do not want the record to be ambiguous on that point.

So, the remarks that I made earlier with respect to the associated growth of a major emitting facility I believe are still correct and supported by the provisions of the bill. I make reference to those that appear in the bill on the bottom of page 13 at line 22—subsection (c) of section (4)—and on the following page, page 14, line 4—subsection (e).

These are not to be confused with a portion of the pollution that becomes a part of the incremental growth in pollution, which is allowed under the provisions of the bill.

What it boils down to—and the Senator from Colorado has been very candid throughout all the debate in the committee and again now—is that really what he desires is to tighten the increments. The increments are more generous than the Senator from Colorado would have permitted. This amendment has the effect of shrinking the size of the increments, which is not what the committee intended.

Therefore, I oppose the adoption of the amendment.

I yield back the remainder of my time on the amendment.

The PRESIDING OFFICER. If both sides yield back their time, the order is that the Senator from Oregon is to be recognized to call up his amendment. Do both sides yield back their time?

Mr. GARY HART. I am prepared to do so, but I do not want to upset the schedule of the Senator from Oregon.

Mr. BAYH. Mr. President, will the Senator withhold his request? I apologize. I thought we had this all worked out.

I ask unanimous consent, first of all, not to interrupt the matter that is presently being discussed. Second, I ask unanimous consent that immediately following the second rollcall vote, the Senator from Indiana and the Senator from New Jersey be recognized for not to exceed 10 minutes, with the vote to follow immediately thereafter, on the transportation appropriation conference report.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. GARY HART. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. The Senator from Oregon is recognized to call up his amendment.

Mr. HATFIELD. Mr. President, a parliamentary inquiry. What is the time situation?

The PRESIDING OFFICER. There is a maximum of 1 hour on the amendment of the Senator from Oregon, 30 minutes to each side.

Mr. HATFIELD. Mr. President, I would be happy to yield from my time to the Senator from New Jersey and the Senator from Indiana, to make their presentation at this time, and have it appear in the RECORD as they indicated. At this time, I would be happy to yield 5 or 10 minutes of my time.

The PRESIDING OFFICER. The Senator would have to call up his amendment, first.

AMENDMENT NO. 1644

Mr. HATFIELD. Mr. President, I call up my amendment No. 1644.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Oregon (Mr. HATFIELD), for himself, Mr. GARY HART, and Mr. HASKELL, proposes an amendment numbered 1644.

The amendment is as follows:

On page 11, line 25, insert after "of 1976," the following: "and each national monument which exceeds ten thousand acres in size and which was established or is managed to preserve natural areas,".

Mr. HATFIELD. Mr. President, I have been joined in this effort by my colleagues from Colorado, Senators HART and HASKELL, and my colleague from South Dakota, Senator ABOUREZK. The purpose of our amendment is to include national monuments in excess of 10,000 acres, and which are managed by the National Park Service as natural areas, under the class I category contained in section 6 of the committee bill.

As my colleagues know, it is the intent of those of us who support the concept of nondegradation to protect those areas which currently exceed Federal ambient air quality standards. The bill designates these "clean air" areas as either class I, where no significant deterioration of air quality will be allowed, or class II, where some controlled air deterioration will be permitted based on a State-administered permit system. Those areas which this legislation specifically mandates as class I are Federal lands and include all international parks regardless of size and each national park, wilderness area, and memorial park exceeding 5,000 acres. All other class I designations would be left to the discretion of the States with the approval of the Federal land manager. This amendment would extend to certain national monuments, which are every bit as beautiful and worthy of preservation in their natural state as national parks and wilderness areas, the same protection granted to other Federal lands by this bill. Our proposal carries the committee bill to its next logical step.

At this time, I direct the attention of my colleagues to the map on the Senate floor which indicates those national monuments to be included in the class I category by this amendment.

Mr. President, I ask unanimous consent to have printed in the RECORD a list of the monuments.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

National monuments—Over 10,000 acres and managed as natural areas

Alaska:	
Glacier Bay	2,805,269
Katmai	2,792,137
Arizona:	
Chiricahua	10,648
Organ Pipe Cactus	330,690
Saguaro	79,988

National monuments—Over 10,000 acres and managed as natural areas—Continued

California:	
Channel Islands	18, 384
Death Valley (Nevada)	2, 067, 966
Joshua Tree	559, 947
Lava Beds	46, 500
Pinnacles	14, 497
Colorado:	
Black Canyon of the Gunnison	13, 672
Colorado	17, 668
Dinosaur (Utah)	211, 050
Great Sand Dunes	36, 666
Florida:	
Biscayne	103, 701
Idaho:	
Craters of the Moon	53, 545
Nevada:	
Death Valley (California)	2, 067, 966
New Mexico:	
White Sands	145, 334
Oregon:	
John Day Fossil Beds	14, 405
South Dakota:	
Badlands	243, 302
Utah:	
Dinosaur (Colorado)	211, 050

Mr. HATFIELD. Mr. President, on August 25, 1916, the National Park Service was established within the Department of the Interior by act of Congress. The act states, and I quote:

> The service thus established shall promote and regulate the use of the Federal areas known as national parks, monuments and reservations . . . by such means and measures as conform to the fundamental purpose of the said parks, monuments and reservations, which purpose is to conserve the scenery and the natural and historic objects and the wild life therein and to provide for the enjoyment of the same in which manner and by such means as will leave them unimpaired for the enjoyment of future generations.

In their "Index to the National Park System," the National Park Service indicates that a national monument "is intended to preserve at least one nationally significant resource." Natural areas, according to the National Park Service, are those areas "of land or water of such scenic and scientific value and quality as to be worthy of preservation as a national park, national monument, or national preserve." Those monuments included in this amendment, while not having been designated as national parks or wilderness areas by the Congress, as is required by law, are just as worthy of protection against air pollution as any of the other regions protected by the bill itself. As national monuments they are already excluded from any industrial, real estate, or other type of commercial development.

When Congress created such land designations as national parks, wilderness areas, and monuments, as long as 80 years ago, it was with the intent to preserve for later generations the natural beauty and historical or scientific value of these areas. In many cases this was done before the threat of air pollution was a reality. Now that we face the potential of encroachment of the clean skies over these natural areas by air pollution, it would be irresponsible not to protect them in the same way that we have protected the land itself.

The Director of the National Park Service, Mr. Gary Everhardt, indicates his support of the nondegradation concept in the following statement issued as a response to the draft environmental impact statement for the Kaiparowitz power project in Utah:

> Some of these parks were established wholly or partially to preserve in perpetuity the dramatic vistas and scenic landscapes of one of the world's most significant geological areas. Areas within them have been recommended for preservation as wilderness under the Wilderness Act of 1964, or are under study for such designation. Deterioration of the air quality, however minor, impairs the significance of these resources. Projects entailing such deterioration are therefore inimical to the legislative purpose of these parks and to the purpose for which wilderness areas within them are being established.

I would submit to my colleagues that this statement is just as valid for the national monuments included in this amendment.

Mr. President, I ask unanimous consent that an exchange of correspondence between me and the National Park Service concerning nondegradation in general and this amendment in particular, be printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

COMMITTEE ON INTERIOR
AND INSULAR AFFAIRS,
Washington, D.C., May 12, 1976.

Mr. GARY E. EVERHARDT,
Director, National Park Service, U.S. Department of the Interior, Interior Building, Washington, D.C.

DEAR MR. EVERHARDT: As I am sure you are aware, S. 3219, the Clean Air Act Amendments of 1976, has been reported by the Public Works Committee, and is expected to come up on the floor of the Senate soon. As reported by the committee, section 6 of S. 3219 amends section 110 of the Clean Air Act by adding a new subsection (g). The new subsection would require state implementation plans to provide for designation as Class I areas of all international and national parks, national wilderness areas, and national memorials over 5,000 acres. Moreover, national parks and national wilderness areas subsequently established would be Class I areas unless redesignated as Class II by agreement of Federal and state authorities.

I will be introducing an amendment on the floor which would expand the types of land to be accorded such initial Class I protection to include all national monuments in excess of 10,000 acres, and which have been or become classified as natural areas by the National Park Service.

In order to prepare for floor debate on this section and on my amendment, I would appreciate your professional advice concerning the effects of air pollution, including particulates and sulfur oxides as well as other pollutants, on the resources administered by the National Park Service and on the public use and enjoyment of these resources.

I particularly request your opinion as to the desirability of according the Class I level of protection to the specified national lands. Thank you very much for your attention to this matter.

Warmest regards.

Sincerely,

MARK O. HATFIELD,
U.S. Senator.

NATIONAL PARK SERVICE,
Washington, D.C., May 26, 1976.

Hon. MARK O. HATFIELD,
U.S. Senate,
Washington, D.C.

DEAR SENATOR HATFIELD: The National Park Service operates under the principle that units of the National Park System are special, they are unique areas of nationally significant ecological and environmental value. Their unique status is boldly and repeatedly stated in the Acts of Congress and Executive Proclamations which established them. It is plain that the physical environment of these unique areas must be enhanced and preserved. To permit environmental deterioration of these areas would be unconscionable.

There is no question about the fact that any increase in air pollutants would have an adverse effect on the flora, fauna, and historic buildings in the National Park System, as well as detract from the quality of the experience of those who utilize the resources. The following was concluded by the National Park Service after studying the impact of the proposed Kaiparowits coal-fired powerplant in Utah: "Air pollution from the plant will create a significant esthetic intrusion and will substantially reduce visitor appreciation of scenic resources within 60 miles of the plantsite. Visitors to Bryce Canyon National Park and Glen Canyon National Recreation Area, which total in excess of one and a half million annually, will be the most affected units of the National Park System. Air pollution will also cause visual and esthetic impact for a moderate degree for up to 100 miles of the plant and beyond. Air pollution will decrease the overall value of a recreation experience within the affected region and it is quite probable that the growth in recreation use will be adversely affected for the life of the project. It is estimated that up to 3 million recreation use days would be lost, as would an associated $24 million of tourism related expenditures. Tourism related income is extremely important to the economic vitality of the region. An estimated $78 million of recreation value will be lost to those who choose to visit the region regardless of lower air quality."

From a vegetational point of view, most units of the National Park System have the potential for adverse vegetational effects, should man's activities increase in an unchecked manner. To compound this, little information is available at this time on the response of Native vegetation to photochemical oxidants and their interactions with other air pollutants. While some degree of selection pressure is operative on the vegetation, man's unregulated activities and the ensuing increased stress can result in the long term decline of natural vegetation as evidenced by plant species in the San Bernardino National Forest.

Sulphur dioxide is the most important primary air pollutant in the United States. Serious vegetational effects from this pollutant have been observed in many areas, with the most serious effects being found in close proximity to sources. While the advent of stringent regulatory laws has somewhat lessened the pressure since most new installations are meeting the Federal secondary standard (0.5 parts per million average for 3 hours once a year per locality), any increase in sulphur dioxide will certainly result in very serious effects on vegetation.

Ambient air is never composed of a single air pollutant. Vegetation is continuously under the influence of the total stress, with one or more air pollutants causing a greater stress. Furthermore, vegetation under air pollution stress, may become more susceptible to other biological disease causing agents.

We realize that it will be difficult if not impossible to implement Class I restrictions in some of the smaller parks and monuments, particularly those situated in or near urban areas, but the protection afforded the larger units of the National Park System by section 6 of S. 3219 is a positive approach and in the long-term best national interest. I think the vast majority of the American people wish to protect their great national parks from ill planned adverse impacts.

The benefit of section 6 of S. 3219 and your proposed amendment is much more basic. It is founded upon the fundamental concept that the environment must not be spoiled by non-natural means. It is based on the fact that the air itself not be damaged, or, to be precise, not significantly damaged.

I am enclosing a list of the national parks which will receive Class I protection under section 6 of S. 3219 as now written and a list of the national monuments which will receive Class I protection under your amendment.

Sincerely yours,

RICHARD C. CURRY,
Associate Director.

Mr. HATFIELD. Mr. President, to summarize for my colleagues, Mr. Richard C. Curry, Associate Director of the National Park Service, reiterates Mr. Everhardt's position that, in the words of Mr. Curry:

> The National Park Services operates under the principle that units of the National Park System (which include monuments) are special, they are unique areas of nationally significant ecological and environmental value." He goes on to say that, "It is plain that the physical environment of these unique areas must be enhanced and preserved. To permit environmental deterioration of these areas would be unconscionable.

Congress would be mistaken, now that the Senate has endorsed the nondegradation concept, not to treat national monuments with the same concern and care that we will grant to national parks with passage of this legislation. Although national monuments are generally considered to be of lesser beauty and importance than our national parks, this is very often not the case, and certainly is not with most of the monuments included in the amendment.

Legally the only difference between a national park and a national monument is due to the fact that Congress must pass legislation creating a park, while monuments can be established either by action of the Congress or by a Presidential order. National parks such as the Grand Canyon, Olympic, Arches, Capitol Reef, and Zion all started out as national monuments.

While it is often assumed that national monuments are much smaller than national parks, two of the largest areas in the National Park System are monuments—Glacier Bay, 2,805,269 acres; and Katmai, 2,792,137, National Monuments in Alaska. Furthermore it is my understanding that, like many other monuments, they are every bit as spectacular as any national park. Death Valley National Monument in California and Nevada, and Organ Pipe Cactus National Monument in Arizona represent two of this country's best desert landscapes, for example.

Some of our monuments, Joshua Tree and Death Valley for example, are already being damaged by smog originating in the Los Angeles basin. It seems to me that to allow any further deterioration of the visibility in areas such as these not only would further detract from the experience of visiting the monument, but would make its continued preservation almost meaningless.

When all of the land areas managed by the National Park Service as natural areas are lumped together, and these include not only the national parks, wilderness areas, and monuments we are discussing here today, but national seashores and lakeshores, and national preserves as well, we find that they comprise less than 1 percent of the total land area of the United States. In many cases these natural areas offer the best and only opportunity to preserve the variety of ecosystems and scenic views present in this country before the onslaught of the industrial age.

The "Index of the National Park System" lists 81 national monuments. This amendment seeks to protect only 19 of them, covering a total of 9,565,369 acres.

S. 3219, in its present form with national monuments classified as class II will permit deterioration of air quality in these areas. Under the committee proposal these areas can be upgraded to class I only with the approval of both the State and Federal Governments. This places a significant roadblock in the way of any effort to upgrade monuments to class I protection. The State and Federal Governments would hold veto power over the other's efforts to protect these natural areas.

Again referring back to the role of the National Park System as mandated by the Congress in 1916, it has traditionally been the assumption in the past that these national lands were to be preserved in their natural state; and that the natural attractions to be found in these areas, whether they be parks, wilderness areas, or monuments, were to be protected from any immediate damage to the surrounding environment which would have an adverse effect on the experience to be enjoyed by visitors to the area. I submit to my colleagues in the Senate that, given this assumption, should it be determined that it is in the national or local interest to allow a certain area to deteriorate, the burden of proof should be placed on those advocating degradation, and not on those who seek to protect the area. As we have already witnessed in many other areas around the country, once an area has lost its pristine air quality, it is difficult, if not impossible, to restore it to its original state.

Mr. President, at this time I urge my colleagues to give serious consideration to adding national monuments to the list of areas to be preserved as class I from the outset. Let us not lose this opportunity to protect a handful of areas which are so valuable to us in terms of their recreational opportunity, historical significance, and natural beauty. Mr. President, I urge adoption of this amendment.

The PRESIDING OFFICER. Who yields time?

Mr. HATFIELD. Mr. President, I yield 5 minutes to the distinguished Senator from Colorado.

Mr. GARY HART. I thank the Senator from Oregon. As cosponsor of this very important amendment, I wish to say publicly that I add my support to the excellent statement he has made.

Mr. President, the Clean Air Act amendments reported by the Senate Public Works Committee include a no-significant-deterioration proposal which provides a basically sound footing upon which to build an environmental policy to protect areas of the country where air quality currently is better than existing national standards.

In part, the committee proposal would divide clean air regions into two categories, class I or class II, in which certain "increments" of additional sulfur oxide and particulate emissions would be allowed. In conjunction with this, nitrogen oxides, hydrocarbons, and other pollutants would be studied and increment levels will be proposed later by the Environmental Protection Agency. Major new plants which would affect air quality in these clean air regions would have to use best available control technology for limiting emissions.

According to the committee proposal, all international parks, regardless of size, and each national park, wilderness area, and memorial park exceeding 5,000 acres which exist on the date of enactment would be designated as class I areas. Additional pollution increments allowed in these areas would be smaller than in the less restrictive class II regions.

In addition, the committee proposed that those national parks and wilderness areas established after enactment initially be designated class I, but may be redesignated class II with the concurrence of the State and the Federal Land Manager.

Finally, the land classification section of the committee bill also provides that all other lands, including other Federal lands, initially would be designated as class II areas. It is further provided that these "provisional class II areas" may be redesignated class I by the State, with the concurrence of the Federal Land Manager where Federal lands are involved.

Mr. President, I commend the committee for endorsing the principle that air quality should be protected in regions of the country where it is cleaner than required by national standards. However, the committee's provision for protecting air quality over certain Federal lands included in the National Park System should be strengthened.

For this reason, I support the amendment offered by the distinguished Senator from Oregon (Mr. HATFIELD) to modify the proposed classification procedures for certain Federal lands originally set aside to preserve their natural state.

In sum, this amendment provides that national monuments which exceed 10,000 acres in size and which previously have been set aside as natural areas also be designated class I areas. Furthermore, these areas could be reclassified if State and Federal Governments agree to redesignate as class II.

The committee proposal does just the opposite. It designates these areas as class II unless both the State and Federal Governments agree to redesignate them as class I.

Mr. President, this amendment will help preserve a total of 19 national monuments in 11 States. In lieu of reading through the list, I ask unanimous consent that it be printed in the RECORD at this point.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

National monuments over 10,000 acres and managed as natural areas

Alaska:	(*Acreage*)
Glacier Bay	2, 805, 269
Katmai	2, 792, 137
Arizona:	
Chiricahua	10, 648
Organ Pipe Cactus	330, 690
Saguaro	79, 988
California:	
Channel Islands	18, 384
Death Valley (Nevada)	2, 067, 966
Joshua Tree	559, 947
Lava Beds	46, 500
Pinnacles	14, 497
Colorado:	
Black Canyon of the Gunnison	13, 672
Colorado	17, 668
Dinosaur (Utah)	211, 050
Great Sand Dunes	36, 666
Florida: Biscayne	103, 701
Idaho: Craters of the Moon	53, 545
Nevada: Death Valley (California)	2, 067, 966
New Mexico: White Sands	145, 334
Oregon: John Day Fossil Beds	14, 405
South Dakota: Badlands	243, 302
Utah: Dinosaur (Colorado)	211, 050

Mr. GARY HART. Mr. President, many areas of this country previously were set aside as national treasures. National parks, national wilderness areas, national monuments and recreational areas, and wild and scenic rivers are examples of such areas. Their creation evidences a national decision to preserve certain lands in their natural state for all future generations to enjoy.

The National Park System of the United States now includes nearly 300 areas covering some 31 million acres in 49 States, the District of Columbia, Puerto Rico, and the Virgin Islands. The diversity of these areas is reflected in the variety of titles given to them. These include such designations as national park, national preserve, national monument, national memorial, national historic site, national seashore and national battlefield park.

Although some titles are self-explanatory, others have been used in many different ways. For example, the title "national monument" has been given to natural area reservations, historic military fortifications, prehistoric ruins, fossil sites, and to the Statue of Liberty. However, these are all areas of such national significance as to have justified special recognition and protection by various acts of Congress.

A brief historical review will help distinguish between various types of areas now administered by the National Parks Service. On March 1, 1872, Congress established Yellowstone National Park in the territories of Montana and Wyoming "as a public park or pleasuring ground for the benefit and enjoyment of the people" and placed it "under exclusive control of the Secretary of the Interior." The founding of Yellowstone National Park began a worldwide national park movement. Today more than 100 nations contain some 1,200 national parks or equivalent preserves.

In the years following the establishment of Yellowstone, the United States authorized additional national parks and monuments, most of them carved from the Federal lands of the West. But no single agency provided unified management of the varied Federal parklands. The national parks and some national monuments were administered by the Department of the Interior, while other monuments and natural and historical areas were administered as separate units by the War Department and the Forest Service of the Department of Agriculture.

In an act signed on August 25, 1916, Congress established in the Department of the Interior the National Park Service to provide cohesive administration of such areas under the Department's jurisdiction.

The act says:

> The service thus established shall promote and regulate the use of the Federal areas known as national parks, monuments and reservations . . . by such means and measures as conform to the fundamental purpose of the said parks, monuments and reservations, which purpose is to conserve the scenery and the natural and historic objects and the wild life therein and to provide for the enjoyment of the same in such manner and by such means as will leave them unimpaired for the enjoyment of future generations.

A Presidential Executive order in 1933 transferred 63 national monuments and military sites from the Forest Service and the War Department to the National Park Service. This action was a major step in the development of today's truly national system of parks—a system that covers all regions of the Nation and includes areas of historical as well as scenic importance.

In 1964, the areas of the National Park System were classified into natural, historical, and recreational categories for administrative convenience and to clarify park purposes for the public.

Congress declared in the General Authorities Act of 1970 that the National Park System "began with the establishment of Yellowstone National Park in 1872—and that it is the purpose of this act to include all such (natural, historical, and recreational) areas in the system."

Mr. President, with respect to classification as a natural area within the National Park System, a region must be an expanse or feature of land or water of such scenic and scientific value and quality as to be worthy of preservation as a national park, national monument, or national preserve.

Natural areas contain one or more distinctive attributes such as forest, grassland, tundra, desert, estuary, or river systems. They may contain "windows" on the past for a view of geological history, imposing landforms such as mountains, mesas, thermal areas, and caverns, and they may be habitats of abundant or rare wildlife and plantlife.

Generally, a national park covers a large area. It contains a variety of resources and encompasses sufficient land or water to insure adequate protection of the resources. Chosen primarily for scenic and scientific values, all the national parks but one are natural areas. The exception is Mesa Verde National Park in Colorado, which is classified as a historical area.

A national monument is intended to preserve at least one nationally significant resource. It is usually smaller than a national park and lacks its diversity of attractions.

In 1974, Big Cypress and Big Thicket were authorized as the first national preserves. This is a new category of natural areas established primarily for the protection of certain resources. Activities such as hunting and fishing or the extraction of minerals and fuels may be permitted if they do not jeopardize the natural values.

Mr. President, there is no question but that an effective no-significant-deterioration policy should protect areas that have been set aside to preserve their natural state. The committee's procedure for classifying many categories of such Federal lands—national monuments, national recreation areas, wild and scenic rivers, national forests—will allow and encourage deterioration of air quality in these areas and is antithetical to the concept of nondegradation. Under the committee's proposal, all of these lands, regardless of whether they have been set aside to preserve their natural state, are initially designated class II areas, allowing substantial development and deterioration of air quality.

Under the committee's proposal, these areas can be upgraded to class I protection status only if both the State and Federal Government agree on redesignation. By requiring joint agreement for upgrading the protection statutes, the committee places a cumbersome administrative impediment in the way of preservation of these natural values. In effect, the State and Federal Governments each have a veto power over the other's efforts to protect those national areas. This procedure is inconsistent with the basic concept of preventing significant deterioration. The initial presumption in the past has been that natural areas should be preserved. If national and local interest indicate an area should be allowed to deteriorate, the burden should rest on those advocating degradation of air quality, not on those attempting to save natural areas.

Mr. President, in conclusion, the committee's amendments need to be strengthened to provide for increased Federal control of air quality over these areas. This can be done without involving the Federal Government in local land-use decisions on surrounding non-Federal lands.

In addition, our national commitment to preserve certain Federal lands will be better served if those large national monuments which were established or are managed to preserve their natural state are initially given the protection of class I status. Federal and local authorities can then determine if it is in the public interest, both locally and nationally, to reclassify these areas and permit further deterioration of air quality.

For these reasons, I urge my colleagues to give this amendment their most thoughtful consideration and support.

I thank the Senator from Oregon for yielding.

The PRESIDING OFFICER. Who yields time?

Mr. DOMENICI. Mr. President, I call the attention of the Senators to this map so we can get a little perspective. You see this red dot right here in the State of New Mexico; that is 145,000 acres. That is White Sands National Monument. That is the place that has the White Sands missile range, the United States major inland missile range. That is a place that has a monument in the middle that our distinguished President, Theodore Roosevelt, visited. He saw that beautiful white sand out there and came back and, by Executive order, said, "We ought to preserve this."

Mr. President, we are going to preserve that. It is a national monument. The issue is, is it like a wilderness? That is, is it like a national park?

The committee, Mr. President, decided on a very basic and simple premise for this part of the bill. It was twofold: One, that the U.S. Government had a role in mandating class I areas; and two, that the States and the Federal Government ought to cooperate with reference to other lands in this Nation that deserve to be upgraded to class I.

So the committee decided that there were two kinds of land over which the Federal Government had jurisdiction that were substantially homogeneous with reference to their total use. They were the wilderness areas and the national parks.

The reason I point out White Sands, Mr. President, is that the disparity in the kind of thing we are protecting in the national monuments is depicted by the difference between White Sands and some of these other national monuments, the latter being very much like a wilderness or very much like a national park. White Sands is at the other end of the spectrum, yet is a national monument. What we decided in our committee was that we should mandate as class I those two kinds of areas, national parks and wilderness areas, that are similar and that we wanted to dictate the pristine protection of.

I do not want anyone to think that we left all the others out, because, as I heard the good Senator from Oregon observe, they may be upgraded to class I.

We could easily have included in class I a whole range of areas. We did not do that. We said that there are two substantially the same, their purpose, their use and that which is to be protected. Then we said the Federal land manager and the States can get together and put in any other Federal land, and then we said the States can put any additional areas they want in; that is their business.

So I will say right here that I would be surprised if within 2 or 3 years the respective States do not include as class I a State park that is for more pristine and deserving of a class I designation than White Sands Missile Range or, perhaps, some of these national monuments. That will be an affirmative act on their part just as it would be an affirmative act in New Mexico if they wanted to upgrade White Sands into a class I.

I might say the distinguished Senator from Oregon has eliminated one of the concerns we might have because he has indicated that the Federal land manager of these 19 monuments apparently has already given his consent to putting them in class I. So we do not have any of the concern that we had in the committee that maybe the Federal land manager may be a stumbling block to a cooperative approach with the States. Apparently if the States see fit, they have already got the national parks director cooperating to move these areas up into class I.

So, Mr. President, the theory of this bill is that we have set in motion an umbrella approach: A minimal Federal involvement with maximum State flexibility. We have built several ingredients into this act that make this workable, the principal one being State discretion.

In addition, there is the best available technology requirements under the State permit system, and our automatic class I's.

With respect to this portion of the bill, we have set a cooperative measure in motion for the Federal land manager and the States to take any of the lands they think ought to move up from class II into class I. This gives the State the kind of flexibility it needs in working with Federal lands and with their own lands to have an orderly protective mechanism for the truly pristine areas in our Nation.

I do not think it is fair to say if we do not have class I for some of these national monuments that we are going to permit them to be degraded such that their principal purpose will not be served. I do not think that is a proper statement.

Mr. President, I will take just my State, for example. No one can tell me that we must designate as class I White Sands National Monument, 145,000 acres of white sand in the desert, and that unless we make it class I rather than class II that we are going to diminish its beauty and basic qualities as a national monument. If someone finds that it appears so they have a way to move it up to class I in due course.

So, in conclusion, I would ask my fellow Senators to consider two things: One, that we have already told the Members of this body as we proceeded through the debate on this bill to this point what this bill entails. We have given them some idea of the impact of this bill on their States. We told them the basic format for our bill. I do not think it would be right at this point to go in and impose 19 more of these class I areas that the Senator from Oregon would like us to mandate. I think it would be far better to tell them those areas will be protected; they are protected, and if someone wants to move them into class I, that it is not going to be difficult to do.

Secondly, Mr. President, I think our scheme is the more logical. We took those that are most homogeneous, the wildernesses and the national parks, and we said they will be protected if they are over 5,000 acres.

I think all others have such heterogeneous qualities about them that we are trying to protect. It would appear a betrayal of the concept here if we began to add one of a shopping list that might appear very logical in terms of looking at one or two of them. We could as readily add the wild rivers, or we might add State parks of over so many acres. Those are all shopping lists that should be in due course considered on a case by case basis under our bill, and upgraded under the cooperative working arrangement between the Federal Government, the States. And where it is solely State land, on the basis of hearings and input at the State level, the State can unilaterally upgrade its own lands.

Mr. HATFIELD. Mr. President, first of all, how much time do I have?

The PRESIDING OFFICER. Sixteen minutes remain to the Senator from Oregon.

Mr. HATFIELD. Mr. President, I yield myself 5 minutes.

I do not think we should let the White Sands of New Mexico be thrown up here to confuse or to distort the problems we are facing here.

I respect very deeply the commitment of my colleague from New Mexico to protect the missile range activity that is adjacent to the White Sands National Monument, but I would indicate this morning that we ought to keep very clearly in mind just exactly what the national monument is as created by law and administered under this same law by the National Park Service, and that is simply this: The national monument and the national park and the wilderness areas are managed on the same criteria, after all, not only protecting the pristine values, the esthetic values, the land, but the air, and to draw this distinction today is not really being accurate because, let me reiterate the fact, a national park and a national monument may only be differentiated by a technicality or by some accident of history in that a national monument may be a national monument because the political delegation to the Congress did not designate a national park when they introduced the legislation or it was, if enacted, or adopted by Executive order, a national monument because a President cannot by Executive order create a national park.

In other words, when you look at the administrative criteria, the administrative record, the administrative history and the legislative history, you will find that the National Park Service does not make that kind of distinction.

I would like to ask the committee or a member of the committee just exactly what is the definition of "homogeneous." There are no homogeneous criteria in the national park or the national monument or the national wilderness areas. This seems to be a new criteria of what constitutes the basis of protection. It certainly is not in the law nor is it in the administrative history.

I feel, therefore, when we looked at these national monuments, they are not in the kind of distinct category as it relates to these elements I have discussed, history, administrative order and the criteria of organizing them in the first instance.

Mr. President, if the White Sands Monument in New Mexico would present a problem to my distinguished colleague from New Mexico, Senator DOMENICI, I suggest that the same right exists, if you adopt this amendment, and that is the State of New Mexico can seek to downgrade this classification in order to maintain the status quo, if that is what the Senator from New Mexico is concerned about.

I think though, as I indicated earlier, that the burden of action should be place upon those who seek not to protect the ambient air quality that we should have in these areas rather than upon those of us who are attempting to protect them from the beginning.

If the Governor of New Mexico and the government agencies that are responsible in New Mexico to make these judgments wished to have this exempt from the application of this committee bill, under my amendment, if it is adopted, they can seek redress, and with the support of the Federal Government they can seek and acquire this same exemption we are talking about on the converse of having to do it through the impediments and the obstacles that we see of those who would place the criteria of increasing air pollution before we take action.

I think it is very fair to say if we fail to take action today we are subjecting these national monuments to continued deterioration of air, which already exists in the areas of many of these monuments, and I think it is fair criteria we have used of taking the larger ones, the 10,000 acres or above, to exempt from this amendment to the historical national monuments as contrasted to the natural national monuments and, therefore, I would say to the Senator from New Mexico I think his concern is legitimate and I think it could be answered and could be handled very easily even with the adoption of this amendment if he wants to see the White Sands of New Mexico exempted from the class I classification.

Mr. President, I do feel that this Senate has taken the initiative, has shown the courage, the pioneering spirit, to introduce this kind of legislation.

All I am seeking today to do is to make it complete and not to leave the job half done.

In order to do it completely, we must include the national monuments along with the national parks and the wilderness areas because they are all administered under the Park Service, under the basic criteria protecting the land and the air quality.

The PRESIDING OFFICER. Who yields time?

The Senator from Idaho.

Mr. McCLURE. Mr. President, I reluctantly oppose this amendment by my good friend from Oregon. We discussed a very similar amendment in the committee, and it was defeated after a great deal of discussion.

It was felt by the committee that national parks and wilderness areas deserve mandatory class I designation and that the decision on national monuments should be made on a case-by-case basis by the State and the Federal land manager.

I point out to my friend from Oregon that we went one step further than that. We said that in the class I areas, the decision relating to the effects of activities outside those areas should involve a relationship to the air quality-related values for which that area was designated a national park or a national wilderness.

Our colleague from Tennessee has upon a number of occasions pointed out the nature of the Great Smokies. Although they are part of the national park system, by their very name, the elements of smoke in the air would, by itself, be contrary to the very nature of the area when that area was created.

So we recognized that even national parks, in their special designation, have some exceptions to the rule. We wrote in for that very reason that the test had to consider the impact upon the air quality related values for which that area was designated.

Let me say further that some of the monuments listed on the information sheet, which I understand the Senator from Oregon has prepared, are already receiving protection under the bill because they include designated wilderness areas. Under the bill, they receive that protection because they have the wilderness designation.

I would like, for myself at least, to add one other further distinction. While the Park Service may administer on the basis that a monument and a park are exactly the same, as a matter of congressional policy they are not exactly the same.

The mandate for the protection granted any national park is different by statute from that which is granted to a national monument.

The national park is the entire broad range of everything that exists there: The land, the water, the plants, animals, air, all for the use and enjoyment of the public.

A national monument is a more narrowly designated area, for the preservation of a unique feature within that area. It may be geologic, it may be historic, it may be man-made, it may be any one of a variety of different things, but it is a much more narrow designation than that of a national park.

It was not our desire to say as a committee that a national monument should not be protected, that the air over a national monument should not be protected.

Mr. HATFIELD. Will the Senator yield?

Mr. McCLURE. Certainly, I am happy to yield to my friend from Oregon.

Mr. HATFIELD. Would the Senator agree that we are really getting into now some other gray area for the simple reason that a grant like this, a national park, has a fairly unique feature, namely, Crater Lake, that it has a unique feature to be preserved?

Therefore, to try to draw this distinction as between a park and monument leads a little bit into the sticky wicket because, will not the Senator also recognize, some of these national parks today were originally national monuments, and this is, really, almost by legislative or political accident or whim as to whether it is a park or a monument?

Mr. McCLURE. I would not agree with my friend on that at all.

As a matter of fact, the very illustration he has used, I believe, proves my point. The fact that some were monuments and later created parks indicates a desire on the part of Congress to change the designation.

There has to be a reason for that.

Mr. HATFIELD. Yes.

Mr. McCLURE. And the reason is the national park is a much broader mandate for a different kind of management for different purposes than the monument embraces.

Second, the monument can be created by a stroke of an Executive's pen, while the park cannot be. It has to be by statute.

Mr. HATFIELD. If the Senator will yield for a question, also, a national park has higher prestige and it is easier for Chambers of Commerce to promote generally than national monuments.

Mr. McCLURE. I suspect that is true, and that is getting embroiled in the discussion in my State now, whether we want to change a national recreation area to a national park.

There are those who want to promote it or want the change. And there are those who want the promotion and therefore, oppose that designation.

Mr. HATFIELD. The Senator is quite correct, I believe, in saying there is something very unique about a national monument that we want to preserve. But I would also indicate we have a unique character as a criteria of the national park, as well.

Most national parks have some very similarly unique dramatic kind of quality or character that we want to preserve, vis-a-vis Crater Lake, Glacier, Zion, Yosemite. We can go on with the major national parks.

Mr. McCLURE. Certainly, because they have within them a unique feature, does not disqualify them as a park.

Mr. HATFIELD. That is the real reason we set them up as a park.

Mr. McCLURE. They have unique values, but that would be a singular feature. But a unique value that Congress has determined should be protected for the interpretation, use, and enjoyment of the public.

Mr. HATFIELD. And a monument also has a unique value.

Mr. McCLURE. It has a very singular, unique value for which it was created.

We should not attempt now, by indirection, to convert the mandate of the creation of a monument into exactly the same thing as a park.

Mr. DOMENICI. Will the Senator yield?

Mr. HATFIELD. I do not believe we are doing that because we are already administering those areas with similarity of unique characteristics for the public enjoyment.

Mr. McCLURE. There is a question I want to address to the Senator from Oregon about his amendment.

The amendment says at the end:

> Was established or is managed to preserve natural areas.

I assume the Senator means planning pursuant to a congressional directive or a legislative directive. In other words, the administrator of a public land area could not change the management by administrative direction and, therefore, invoke the provisions of this amendment.

(At this point Mr. NELSON assumed the chair.)

Mr. HATFIELD. The idea is not to have new administrative responsibilities indirectly to set up a national park out of a national monument but, rather, to apply the air quality concerned to the national monument as we are doing in the bill for the national park, the wilderness, international parks, parks in the whole administrative machinery.

Mr. McCLURE. I understand that. I am concerned that the language might lead to an administrative change in fundamental purpose.

Mr. HATFIELD. I believe the legislative record here today could very well clarify that question.

Mr. McCLURE. It is not the Senator's intention to allow that to happen. Whatever the management to preserve natural areas might be, that would have to be pursuant to the statute under which they operate?

Mr. HATFIELD. That is correct. All we are seeking to do, I will say to the Senator from Idaho, is to extend this very outstanding piece of legislation, which the Senator has so diligently pursued and brought to the floor today along with his colleagues, to include the national monuments.

Mr. McCLURE. I understand the thrust of the Senator's amendment. As I indicated earlier, we tried to confront that question. We decided the best way to do it was not the blanket approach, which the Senator seeks, but the more restrictive approach which the committee had taken.

I yield to the Senator from New Mexico.

Mr. HATFIELD. I would like to clarify something, if I may. I yield myself a minute or two.

I will say to the Senator we are not seeking to use a blanket approach to this whole question of the national monuments. I believe there is a total of 81 national monuments. They are of two basic categories, historical and natural. We are only seeking to attach the natural, and a limited number of those. In other words, 19. We have set the limitation at 10,000 acres or more which, in itself, is a selective and, I think, a considered approach rather than a blanket, across-the-board approach to the whole issue of national monuments.

There are some in the population centers which would be ridiculous to try to include. That is why we have carefully excluded the historical ones and scientific ones and only included the large natural ones which, today, in all reality, are being administered almost as national parks, because of the unique character of them. They are so similar to the national parks. That is the selectivity we used, rather than the blanket approach.

Mr. McCLURE. I yield to the Senator from New Mexico.

Mr. DOMENICI. I was going to comment on that very approach, but viewing it quite differently than my friend from Oregon.

I will say to my friend from Idaho what the Senator from Oregon has done is he has taken a definition of natural or historic, or at least that is how they are designated, and he has chosen natural because that cuts the number down. It is 19, as he had indicated.

I assume that one might think the word "natural" would mean it ought to be more logical to protect it, like a wilderness or natural park, than one which was historic. Historic might mean any kind of thing, other than natural. It might be the Bandolier Monument in New Mexico, where they are protecting the cliff dwellings, which are historic.

To give the Senator an example of why I think his approach is not correct, and to take these 19 rather than the committee's approach, I would compare Bandolier and White Sands. I did not use White Sands because I want any sympathy here, but I would say, based on the Senator's argument today, he should have had Bandolier National Monument in the State of New Mexico in his amendment instead of White Sands. He did not do that because one is historic and one is natural.

As a matter of fact, I say to my good friend, the historic one, the Bandolier, is historic because of the cliff dwellings and then the land around it is a scenic wonder. It is almost like a wilderness area.

So what we are saying is there is such a difference between these monuments, and that the designation natural or historic does give us an adequate clue as to what ought to be class I, and even within the natural category there is a significant difference. Perhaps the word homogenous is not correct. I submit that by just carving out a few of the natural monuments and saying to us that those 19 deserve it leads one to conclude, why not all of them? Why not some of the historic ones? That leads me to the conclusion that we were right in our analysis that we should look at them separately with the Federal and State lands managers, consistent with the theory of the bill.

Mr. HATFIELD. Mr. President, I yield myself 3 minutes.

I would say to the Senator from New Mexico that we are really getting into semantic gamesmanship. I think it is very clear that a historic natural monument has a distinction to that of a national monument. That has been pretty well followed throughout the history of our National Park Service by the Congress and the President.

To take the two that the Senator illustrates in New Mexico, they had a living society, or they have a distinction there with Bandolier as compared with White Sands.

The national monuments that we include are, again, very similar if not a duplicate of any of the national parks, which are exclusively administered by the Federal Government and under Federal control in such a way that we are not having to accommodate to societies or corporate structures within the monument.

A national monument can include a historic house in the middle of New York City. That is why we did not include historical monuments in this particular amendment. We want to get out to the very areas to which the committee has blazed the trail. Those are the national parks, the wilderness. That is why we have restricted this to those monuments which are most similar to the parks and to the wilderness areas.

If the Senator from New Mexico wishes to have the Bandolier Monument included in class I, his committee proposal is such that it can be raised to that level by the State of New Mexico in conjunction with the Federal agency.

But again I think as conversely we can do the same with the national monuments, let us not put the burden upon those who are going to stand apart from the continued deterioration of that air until it reaches such a level of public outcry or wait until the citizens protest so loudly that the States take action. Let us take action now. Then if the State wants to exclude itself from one of those designations, the committee has provided a procedure by which the State could exclude or except its national monument.

I am ready to yield back the remainder of my time, Mr. President.

The PRESIDING OFFICER. Who yields time?

Mr. McCLURE. Mr. President, I am prepared to yield back the remainder of my time.

Mr. BUCKLEY. Mr. President, I would like to make a couple of comments.

No. 1, I would like to thank my colleagues from New Mexico and Idaho for a very clear statement of the committee position. We have pored over these points and we believe we have a mechanism that will work, that will enable men and women of good will to achieve the necessary state of perfection.

I did want to correct the record on the last statement of the Senator from Oregon.

I believe the protection provided by class II is such that we will not have dirty air, which will create outcries and all the rest, as suggested by the Senator from Oregon. As a matter of fact, we were told yesterday that class II was a no-growth policy and allowed no development whatsoever. So I really believe we are talking about minor losses here and that the approach of the committee is a responsible one. Given all of the work that went into arriving at its terms I, for one, will support the committee position.

Mr. GARY HART. Will the Senator from Oregon yield for a unanimous-consent request?

Mr. HATFIELD. I yield.

Mr. GARY HART. Mr. President, I ask unanimous consent that at 2 o'clock, when the Senate moves from the consideration of S. 3219 to the tax bill, my amendment No. 1608 to S. 3219 be made the pending business and be taken up as the first order of business after morning business tomorrow, and that after debate on amendment 1608, the Senate move to the consideration of my amendment No. 1609, both of which are amendments to the auto emissions section of the bill.

I believe the committee agrees to this procedure.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Colorado? Without objection, it is so ordered.

All remaining time having been yielded back, the question is on agreeing to the amendment.

Mr. HATFIELD. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. McCLURE. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. McCLURE. The unanimous-consent agreement previously entered into called for back-to-back votes on the Hart amendment and then on the Hatfield amendment; is that correct?

The PRESIDING OFFICER. The Senator is correct. The first vote will be on the Hart amendment.

The question is on agreeing to the amendment (No. 1610) of the Senator from Colorado (Mr. Gary Hart). On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk proceeded to call the roll.

The PRESIDING OFFICER. The Senate will be in order. Senators will take their seats until the Senate is in order. The rollcall will not proceed until the Senate is in order. Will those Senators conversing in the aisles return to their seats or retire to the cloakrooms?

Mr. CULVER. Mr. President, may we have order?

The PRESIDING OFFICER. Senators and members of the staff conversing in the aisles will cease conversing and return to their seats. The rollcall will not proceed until the Senate is in order.

Mr. PROXMIRE. Mr. President——

The PRESIDING OFFICER. The Senate is not in order. Senators who are conversing in the aisles will return to their seats or retire to the cloakrooms.

Mr. STENNIS. Mr. President——

The PRESIDING OFFICER. The rollcall will not proceed until there is order in the Senate, in accordance with the Senate rules.

Mr. STEVENS. Mr. President——

The PRESIDING OFFICER. Senators will clear the well. Will Senators conversing in the aisles kindly remove their conversations to the cloakrooms? The Senator from Michigan. The Senator from California.

Mr. STENNIS. Mr. President——

The PRESIDING OFFICER. The Senate is not in order.

The clerk may proceed.

The rollcall was resumed and concluded.

Mr. ROBERT F. BYRD. I announce that the Senator from Indiana (Mr. Hartke), the Senator from South Dakota (Mr. McGovern), the Senator from Missouri (Mr. Symington), and the Senator from Minnesota (Mr. Mondale) are necessarily absent.

I further announce that the Senator from Hawaii (Mr. Inouye) is absent on official business.

I also announce that the Senator from Michigan (Mr. Philip A. Hart) is absent because of illness.

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. Baker) and the Senator from Pennsylvania (Mr. Schweiker) are necessarily absent.

I further announce that the Senator from Maryland (Mr. Beall) is absent due to a death in the family.

I further announce that, if present and voting, the Senator from Tennessee (Mr. Baker) would vote "nay."

The result was announced—yeas 26, nays 65, as follows:

[Rollcall Vote No. 467 Leg.]

YEAS—26

Abourezk
Bayh
Brooke
Bumpers
Case
Clark
Cranston
Culver
Durkin
Gravel
Hart, Gary
Haskell
Hatfield
Humphrey
Kennedy
Mansfield
Mathias
Metcalf
Nelson
Packwood
Pastore
Proxmire
Ribicoff
Scott, Hugh
Tunney
Weicker

NAYS—65

Allen
Bartlett
Bellmon
Bentsen
Biden
Brock
Buckley
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Chiles
Church
Curtis
Dole
Domenici
Eagleton
Eastland
Fannin
Fong
Ford
Garn
Glenn
Goldwater
Griffin
Hansen
Hathaway
Helms
Hollings
Hruska
Huddleston
Jackson
Javits
Johnston
Laxalt
Leahy
Long
Magnuson
McClellan
McClure
McGee
McIntyre
Montoya
Morgan
Moss
Muskie
Nunn
Pearson
Pell
Percy
Randolph
Roth
Scott, William L.
Sparkman
Stafford
Stennis
Stevens
Stevenson
Stone
Taft
Talmadge
Thurmond
Tower
Williams
Young

NOT VOTING—9

Baker
Beall
Hart, Philip A.
Hartke
Inouye
McGovern
Mondale
Schweiker
Symington

So Mr. Gary Hart's amendment (No. 1610) was rejected.

Mr. McCLURE. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. DOMENICI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the previous agreement, the Senate will now proceed to vote on the amendment of the Senator from Oregon (Mr. Hatfield). On this question the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. Hartke), the Senator from South Dakota (Mr. McGovern), the Senator from Minnesota (Mr. Mondale), and the Senator from Missouri (Mr. Symington) are necessarily absent.

I further announce that the Senator from Hawaii (Mr. Inouye) is absent on official business.

I also announce that the Senator from Michigan (Mr. Philip A. Hart) is absent because of illness.

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. Baker) and the Senator from Pennsylvania (Mr. Schweiker) are necessarily absent.

I further announce that the Senator from Maryland (Mr. Beall) is absent due to a death in the family.

I further announce that, if present and voting, the Senator from Tennessee (Mr. Baker) would vote "nay."

The result was announced—yeas 35, nays 56, as follows:

[Rollcall Vote No. 468 Leg.]

YEAS—35

Abourezk
Biden
Brooke
Bumpers
Case
Church
Clark
Cranston
Culver
Durkin
Hart, Gary
Haskell
Hatfield
Humphrey
Jackson
Javits
Kennedy
Leahy
Magnuson
Mansfield
Mathias
McClellan
McIntyre
Metcalf
Nelson
Packwood
Pastore
Pell
Proxmire
Ribicoff
Scott, Hugh
Taft
Tunney
Weicker
Williams

NAYS—56

Allen
Bartlett
Bayh
Bellmon
Bentsen
Brock
Buckley
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Chiles
Curtis
Dole
Domenici
Eagleton
Eastland
Fannin
Fong
Ford
Garn
Glenn
Goldwater
Gravel
Griffin
Hansen
Hathaway
Helms
Hollings
Hruska
Huddleston
Johnston
Laxalt
Long
McClure
McGee
Montoya
Morgan
Moss
Muskie
Nunn
Pearson
Percy
Randolph
Roth
Scott, William L.
Sparkman
Stafford
Stennis
Stevens
Stevenson
Stone
Talmadge
Thurmond
Tower
Young

NOT VOTING—9

Baker
Beall
Hart, Philip A.
Hartke
Inouye
McGovern
Mondale
Schweiker
Symington

So Mr. Hatfield's amendment was rejected.

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS, 1977—CONFERENCE REPORT

The PRESIDING OFFICER. (Mr. Biden). Under the previous unanimous-consent order, we now proceed to the conference report on H.R. 14234 for not to exceed 10 minutes.

The report will be stated by title.

The assistant legislative clerk read as follows:

> The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 14234) making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1977, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the Record of July 22, 1976, beginning at p. 23534.)

Mr. CASE. Mr. President, will the Senator yield for a point of order, that the Senate is not in order.

The PRESIDING OFFICER. The Senator is correct.

Will the Senate please come to order. The Senators will take their conversations to the cloakroom. Will the Senate conference please adjourn to the cloakroom?

The Senator from Indiana may proceed.

Mr. BAYH. Mr. President, the pending conference report recommends $5,311,839,357 in new budget authority for fiscal year 1977. This represents an increase of just over $614 million less than last year's appropriation; an increase of $138,547,000 over the budget requests; an increase of around $16 million over the House bill; and a reduction of $99.3 million below the Senate bill.

Regarding the increase over the budget shown in the conference report of $138,547,000, Mr. President, I want to point out that additional requests were received from the administration just recently totaling $95.6 million for items contained in the Amtrak and Coast Guard portions of the bill. So, actually, the conference agreement is only $42,947,000 over the budget requests, when these items are included.

Mr. President, I feel that the conference agreement that was reached on the bill is a good one and that the Senate should support it. The chairman and the ranking minority members of the House conferees, Mr. JOHN McFALL and Mr. SILVIO CONTE, have served in their respective capacities on the House Transportation Subcommittee for many years and possess great knowledge in all of the various transportation programs covered in the bill. They are served by an excellent professional staff as well.

I think the accommodation represented here shows how the two Houses can work together to resolve differences. I emphasize the important role played by my distinguished colleague, the ranking member of our subcommittee (Mr. CASE) as well as the contribution made by Mr. Jim English and Mr. Wallace Berger, our very talented Senate staff.

Mr. President, the conference report and the statement of the managers were printed in the CONGRESSIONAL RECORD of August 3, 1976, on pages 25308–25325. I do not intend to get into a detailed discussion of all the items that came out of the conference, but I do want to highlight a few matters which I feel are of particular importance to my colleagues.

First, for the Coast Guard, the conference agreement contains $241 million for the acquisition, construction, and improvement activity. Of this amount, $75 million will be used for procurements that should enable the Coast Guard to meet its new responsibilities under the 200-mile limit.

That account also includes a $5 million appropriation for the replenishment of the oil pollution fund. Recent disasters have depleted the fund to a dangerously low level, so that appropriation was necessary.

Second, for the programs of the FAA, the agreement provides funding for the full program levels for the aerosat program, as well as for important safety programs such as wind shear and the microwave landing system. Also, the agreement contains the full $15 million for the airport planning grant program and that amount will become available immediately upon enactment of this bill into law. Senator CANNON, the chairman of the Aviation Subcommittee of the Committee on Commerce, offered the amendment for planning grants during Senate floor action on the bill and I readily agreed to accept it. I am gratified that the House conferees agreed to the full amount for this program. Also, the fully authorized obligation ceiling of $510 million for the airport development aid program is contained in the bill.

Third, for the Federal Highway Administration, the conference agreement sets a level of $150 million for the highway-related safety grant program. This is an increase of $30 million over the budget request for providing Federal assistance to the States for use in carrying out their highway safety programs. I have received indications from all areas of the country that the extra $12 million over the budget which we appropriated for this program last year has produced some very positive results in reducing the injuries and fatalities that occur on our highways. I am pleased that again this year, we have provided enough funding to assure that maximum benefit is received from this program.

The conference agreement places an obligation ceiling on the Federal-aid highway program at the same level as last year, $7.2 billion. Three programs are excluded from this limitation, the special urban high density program, the special bridge replacement program, and the emergency repair program.

The House bill contained a similar provision when it was reported out of the Appropriations Committee, but was removed from the bill on the House floor. The chairman of the House conferees, Mr. McFALL, agreed to take back to the House the Senate provision placing a limit on highway spending contained in amendment 61, but in order to help make the provision more acceptable to the House, he offered an amendment to Senate amendment 61, which reads as follows:

> Provided further, That this limitation shall not become effective if subsequent legislation containing an obligation limitation on the Federal-Aid Highways and Highway Safety Construction Programs for fiscal year 1977 is enacted into law by September 30, 1976.

At the appropriate time during the consideration of the conference agreement, I shall offer a motion that the Senate accept this House amendment to Senate amendment 61.

Fourth, for the programs of the Federal Railroad Administration, we included $75 million for rail continuation subsidies as well as $8 million for the Minority Resource Center, of which $5 million is to be used for the initiation of a venture capital mechanism to assist minority businesses in securing contracts under the Rail Act. I think Secretary Coleman is doing everything he can to see to it that the program envisioned by Congress for the MRC under the RRRR Act is given priority attention. If the Center is to have the kind of impact we expect it to have, we must see that it becomes fully functional as rapidly as possible. The contractors for the various programs covered in the RRRR Act are in the process of being selected. We do not want the Resource Center to be another example of providing too little, too late for minority businessmen.

For Amtrak, the conference agreement provides $420 million for operating deficits outside the Northeast Corridor, $62.6 million for deficits in the Northeast Corridor, and $93.1 million for Amtrak's capital program. We also included language in the conference report similar to the Senate report language directing Amtrak to do a better job of managing their programs than they seem to have done in the past. For the Northeast Corridor Improvement program, we have included $150 million for fiscal 1977. This amount will be coupled with the $50 million provided in an earlier supplemental bill for fiscal 1976 and the transition period and should enable DOT to keep to the projected 5-year schedule to complete this major program of rehabilitation on the mainline tract between Washington, D.C., and New York and between Boston and New York.

For the redeemable preference share program as well as the loan guarantee program authorized under the RRRR Act, the House accepted the Senate allowance of $70 million and $400 million respectively for these programs.

Fifth, for the Urban Mass Transportation Administration, we included a limit in the bill of $2,077,700,000 on UMTA's commitments for fiscal 1977. Included in that total is $61.2 million for research and development, of which $3 million is for the start-up of the downtown people mover demonstration program and $2 million is for the program authorized under section 148 of Public Law 94–280. Also, the House accepted our addition of $125 million over their allowance for a limit on capital grant obligations, up to $1.250 billion for the year, instead of the $1.125 billion level contained in the House bill.

Mr. President, I want to point out that in various programs, throughout the bill that effect transportation safety, be it rail, highway, aviation, water, or transit, we have provided amounts that we feel will enable DOT to carry out a maximum effort to assure that we are doing everything possible to improve transportation safety.

Amendment No. 55 to the bill, contained in section 311, is not intended to affect the promulgation by the Secretary of the Army of regulations governing wage and employment practices in the Canal Zone, the responsibility for which is vested in the President. What amendment No. 55 does affect is the establishment of employment standards, pay levels, and other conditions of employment pursuant to such regulations. At present, certain standards, levels, and conditions are being established by a personnel policy coordinating board, consisting of the designee of the Secretary of the Army, the Governor, and the Commander of SOUTHCOM. This bill, H.R. 14234, would prohibit the use of any funds appropriated or made available by this act for such board to function as the establishing authority, with the intent that the personnel policymaking authority traditionally exercised by the individual agency heads be restored and continued.

The amendment is not intended to impair the functioning of bureaus or offices which coordinate and administer employment services, but which are not responsible for establishment of policy.

As I mentioned earlier, we were not able during the conference to convince the House conferees to allow the Secretary of Transportation to obligate during fiscal year 1977 whatever part of the $437.5 million ADAP airport grant-in-aid authority for fiscal year 1976 and the interim period as was not obligated by September 30. The Senate position was that this highly important program had been delayed a year during the reauthorization process and that it would be most difficult for the FAA to complete a full year's paperwork within the 45 days between enactment of this appropriations Act and the end of the interim period. Thus a carryover of the unobligated balance seemed to us quite reasonable.

I understand that many municipal and other public airport sponsors are concerned with the conference actions both prohibiting a carryover and imposing a fiscal year 1977 limitation on ADAP obligations no higher than was authorized under the recently signed Airport and Airway Development Act Amendments of 1976—Public Law 94-353, July 12—for fiscal year 1977 alone. They reportedly are concerned lest these appropriations limitations in effect negate the provisions of the authorizing act which are designed to help public airport sponsors in accomplishing better, long term financial planning.

For air carrier airports, the new authorization Act apportions two-thirds of the ADAP program to their community sponsors on the basis of numbers of passengers enplaned during the past year, and with some 180 smallest airline airports being annually apportioned a minimum $150,000. Further, under the Airport and Airway Development Act, as amended, each air carrier airport sponsor is authorized to accumulate its annual apportionments for up to 3 years and need not complete a grant agreement in the year of apportionment. Thus, after 3 years, these smallest airports would have $450,000 of accumulated apportionments with which to join their local shares to fashion a larger project than could be undertaken with a single year's apportionment.

The whole idea is to encourage the municipality to plan for a bigger, higher priority project every few years rather than to rush in every year to tie up its Federal apportionment with a smaller, probably lower priority project.

Many of these sponsors are concerned that the ADAP appropriations ceiling in this bill means that they must rush in by September 30 to tie up fiscal year 1976 apportionments on low priority projects or lose, probably forever, their fiscal year 1976 apportionments.

This clearly is not the intent of our subcommittee. While the Senate provision would have provided more assurance that these sponsors can accumulate their apportionments without fear of present or eventual loss of them, I want to make clear that I do not believe the final conference language should or will endanger the right of sponsors to accumulate their enplanement entitlements. Even within the annual ADAP program ceilings, these apportionments must be fully honored for all 3 years by the Secretary of Transportation.

I do not believe the problem is in the language of the legislation we are considering today. The crush will come in either late fiscal year 1977 or fiscal year 1978 when the sponsors request both their prior year accumulations and their current year apportionments. In those periods the ceilings for the ADAP program should be higher than needed just for the current year and I would expect the administration to recommend such a higher ceiling in the budget and the Budget Committee to consider the mechanics of the program and its long-term planning objectives is accepting such a higher ceiling in its budget resolutions. It is similar to the approach we are considering today for the highway programs.

Under this appropriations act, the Secretary of Transportation will be able to obligate $437.5 million for airport grants-in-aid through September 30 and thereafter in fiscal year 1977 can obligate an additional $510 million to get this long-delayed program going again without loss of another construction season. As I said earlier, these ceilings are not intended to reduce the apportionments contained in the new authorization or to limit in any way the right of the sponsor to accumulate each year's apportionments for the full 3 years so as to assure the better, higher priority project and the better local planning. Sponsors, in my view, should count on the administration, and the Appropriations and Budget Committees to set ceilings for this program in future years which will be adequate to cover accumulations and current apportionments.

I believe I have touched on the major items of interest. I want to thank all members of the subcommittee for the cooperation they have given me throughout our deliberations on this bill. I am particularly fortunate to have Senator CASE as the ranking Republican member of the subcommittee and I thank him for his keen interest and participation in subcommittee matters. And, of course, the chairman of the Appropriations Committee (Mr. McCLELLAN) is always a very helpful and understanding leader and I am grateful for his support.

Mr. MUSKIE. Mr. President, will the Senator yield?

Mr. BAYH. Yes, I yield.

Mr. MUSKIE. Mr. President, the Senate has before it the conference report on H.R. 14234, the transportation and related agencies appropriation bill. I intend to vote in favor of the report, but first I would like to express my appreciation to the Senate conferees for the excellent job they did in conference.

As agreed to in conference, the bill provids $5.3 billion in budget authority and $13.8 billion in outlays, including $10 billion in outlays from prior-year authority. This is well within the allocation to the Transportation Subcommittee pursuant to section 302(b) of the Congressional Budget Act, and therefore there should be ample room left for any necessary supplemental appropriations.

Even more significant from a budget perspective is the conference result on the issue of a highway program obligation ceiling. The Senate version of the bill provided a $7.2 billion fiscal 1977 obligation ceiling for the highway program. The House bill did not. In conference the Senate conferees were able to prevail, and the Senate's ceiling provision has been agreed to by the House.

It is vitally important to the successful and complete implementation of the congressional budget process that a ceiling on highway obligations be provided. Had the conference accepted the House position and removed the obligation ceiling, the effect would have been to provide the highway program with a special exemption from the spending discipline of the new budget process. There would have been no protection at all from a sudden and unexpected upsurge in highway obligations that would increase budget outlays and the Federal deficit above the levels provided by the budget resolution. The Congress would have been powerless to prevent that from happening, and would have been faced with the equally undesirable options of accepting the increased outlays and enlarged deficit, or reducing spending on other priorities in order to stay within the budget totals.

Now this cannot happen. It cannot happen because the Senate conferees were successful in protecting the Senate position which provided for a $7.2 billion highway obligation ceiling. Speaking as chairman of the Budget Committee, I want to express my sincere appreciation to Senator BAYH and to the other Senate conferees for their successful efforts to assist the Congress in maintaining good fiscal discipline.

I would like to orally add my appreciation to the Senator from Indiana and the Senator from New Jersey for a point that may or may not have been important to them, but that they were able to succeed in insisting upon, and that is the Senate position which provided for a $7.2 billion highway obligation ceiling. I think that is a very solid contribution to good fiscal discipline, and I would like to express my personal appreciation.

Mr. BAYH. That is very thoughtful of the Senator from Maine. Of course, he knows this was the only matter of disagreement that was taken to the floor for a rollcall vote, and the Senate position was supported by the House. I appreciate the Senator's overall comments insofar as our activities here are concerned.

I yield to the Senator from New Jersey.

Mr. CASE. Mr. President, I first wish to compliment Chairman BAYH for his outstanding work on this bill, a very good compromise. The majority of the amendments proposed by the Senate were substantially accepted.

Mr. President, naturally I am pleased that the conference on H.R. 14234 resulted in the acceptance of the majority of the amendments proposed by the Senate. The bill as reported contains funds for a variety of transportation related items—included administrative expenses for the 14 agencies under our jurisdiction.

Funds will be provided for the development of a national transportation plan and the initial expenses for a National Transportation Policy Study Commission. Both of these efforts are needed if we are to develop a national transportation policy. On September 17, 1975, Secretary Coleman issued "a statement of national transportation policy"—but much work remains to be done.

The bill provides funds for university research and training. This program is used to train students in transportation related topics at the university level, and to conduct original research.

A significant amount of money is provided in the bill for environmental protection. Funds are available for the development of noise abatement procedures and for the detection and removal of water pollutants. Funds for the continuation of the highway beautification program were also provided in the bill.

Social programs for the handicapped, elderly, and transportation dependent are also funded in H.R. 14234. These programs involve research on developing barrier free transportation for the handicapped and elderly and providing urban and rural transportation options for those individuals who do not have access to a private automobile.

As usual, this year's transportation bill contains funds for safety research. These funds will be applied towards pipeline, railroad, airplane, automotive, and boating safety.

Promising projects in rail, highway, air, water, urban areas, and in communications are also funded in this bill. Many of these programs are long-term development and demonstration projects that were funded in prior years.

The bill provides funds for the enforcement of the Fishery Conservation and Management Act of 1976 (Public Law 94-265). With the funds provided, the Coast Guard will begin to acquire the necessary planes and ships to enforce the 200-mile limit.

I might note at this point that today marks the 186th birthday of the U.S. Coast Guard. Since 1790 the Coast Guard has been serving to protect the life, property, and resources of the United States—and this they have done admirably.

The conferees also provided significant funds for the Nation's ailing railroad systems. Subsidies for interstate rail, commuter rail and light density rail lines are included in the bill. The bill contains money to upgrade passenger service in the Northeast corridor and Federal funds to rehabilitate and reorganize railroads nationwide.

The conferees have included a substantial appropriation for the operations of the Minority Resource Center. The center will provide assistance to minority businesses in order to assure that they are afforded an opportunity to participate in the reconstruction of the Northeast railroads.

The conferees have recommended ample funds for construction projects including the construction of interstate and Federal-aid highways, Coast Guard facilities, aviation facilities, and urban mass transit systems.

Mr. President, I compliment the chairman (Mr. BAYH) for his outstanding work on this bill. I believe that the conference agreement represents a good compromise and I urge my colleagues to support it.

My only other comment at this point is that I have noted in these remarks and called to the attention of the Senate that today marks the 186th birthday of the Coast Guard; since 1790 the Coast Guard has been serving to protect the life, the property and resources of the United States. They have done this admirably, Mr. President.

Mr. BAYH. I must point out to my distinguished colleague and friend from New Jersey that this is about a $1 billion birthday present to the Coast Guard to help them operate through their next year.

AIRPORT DEVELOPMENT ASSISTANCE PROGRAM (ADAP)

Mr. PEARSON. Mr. President, Senators are very familiar with the airport development assistance program—ADAP. This program is the backbone of our Federal, State, and local effort to modernize our national system of air carrier and general aviation airports. Under the program, local airport sponsors match Federal funds in approved construction projects to establish new runways, improve existing facilities and modernize the public-use areas of passenger terminals.

The Airport and Airway Development Act Amendments of 1976 authorize some $510 million in new obligational authority for projects approved under the ADAP program during fiscal year 1977. As the ranking minority member of the Aviation Subcommittee and of the full Committee on Commerce, I am particularly gratified that the pending DOT appropriations measure for fiscal year 1977 contains the full $510 million in new obligational authority for ADAP as authorized in the recently enacted 1976 amendments to the 1970 Airport and Airway Development Act.

Mr. President, it is important to stress that the Federal share for approved ADAP projects does not constitute a drain on the general revenues. All Federal funds for ADAP projects are derived from the airport and airway trust fund which is supported entirely by user taxes and fees. In its exhaustive review of the ADAP program, our committee concluded that the dramatic increase in project costs throughout our airport system requires substantial increases in the levels of obligational authority for the ADAP program. Since there is now a substantial surplus in the trust fund, the increases in ADAP funding reflected in the authorization and in the pending fiscal year 1977 appropriations measure will not require any contributions from the general revenues. The users of the airport and airway system in America will continue to bear the cost, through their contributions to the trust fund, of an expanded ADAP program.

Mr. President, the pending appropriations conference report amends the DOT Appropriations Act for fiscal year 1976 and the transition quarter (P.L. 94-134) in one important respect. It provides that all new ADAP obligational authority made available to DOT for fiscal year 1976 and the TQ may be used during the TQ which ends on September 30 of this year. Thus, DOT will soon have the opportunity to apply some $437.5 million in fiscal year 1976 and TQ obligational authority for ADAP to the backlog of project applications that has accumulated over the past 13 months.

However, Mr. President, it is possible that the department may wish to carry over a portion of this authority for use in subsequent years. It is even more likely that some air carrier airport sponsors may wish to carry over their enplanement entitlement for fiscal year 1976 and the TQ for obligation to projects approved in fiscal year 1977 or fiscal year 1978. Under the pending conference report, there is no specific provision for carry over of these funds.

Mr. President, under section 15(a)(5) of the Airport and Airway Development Act of 1970, as amended, each air carrier sponsor is specifically authorized to accumulate his enplanement formula entitlement for 3 successive fiscal years before that entitlement, which is not less than $150,000 for each air carrier airport, reverts to the Secretary's discretionary fund. In order for Congress to fulfill its commitment to the public airport sponsors throughout the Nation, it will be necessary for Congress to rationalize the authorization and appropriations bills that affect the ADAP program. Therefore, in my judgment, Mr. President, it will be prudent for the Congress, in its consideration of the first supplemental appropriation act for fiscal year 1977, to provide specifically that unobligated ADAP authority for fiscal year 1976 and the TQ that was not used during the period ending September 30, 1976, be carried over for use in fiscal year 1977 and beyond without pro rata reduction in the authority for such subsequent years.

Mr. President, in the absence of such a provision in the first supplemental, DOT will have no choice but to reduce the Secretary's discretionary fund for priority projects in order to assure each air carrier airport its full entitlement based upon the enplanement formula for fiscal years 1976, 1977 and the TQ. It would be particularly unwise to force a reduction in the discretionary fund during fiscal year 1977—and subsequent years—in order to meet 1976 commitments to air carrier airports for enplanement entitlement funding.

During debate in the House yesterday on the pending conference report, the distinguished Representative from California (Mr. ANDERSON) posed the following question:

> If the FAA cannot wisely obligate $437.5 million in ADAP funds between the date of enactment of this appropriations act and September 30, a period of not more than 45 days, would your subcommittee be sympathetic to a rollover or carryover of the apportioned but unobligated balance beyond September 30?

The distinguished chairman of the subcommittee (Mr. MCFALL) responded in part as follows:

> If later in the fiscal year there is sufficient room within the (budget) ceilings, and there is a demonstrated need to increase the limitation on airport grants, I personally would be sympathetic to such request. I have told those interested in this very important program that we would give prompt consideration to such a proposal.

Mr. President, the Senate bill provided specifically for carryover of the unobligated fiscal year 1976 and TQ ADAP authority, but this Senate provision was deleted in the conference on the pending measure. I am encouraged by the response of Mr. MCFALL during colloquy with Chairman ANDERSON. Based upon my knowledge of the ADAP program, I believe it will be necessary for a supplemental bill to fulfill the commitment Congress has made to airport sponsors in the 1976 Amendments to the Airport and Airway Development Act.

I would like to ask the views, at this time, of the distinguished Senator from Indiana (Mr. BAYH), on the question of additional authority to carry over that obligational authority that air carrier airport sponsors desire to defer and accumulate under the terms of section 15 of the Airport and Airway Development Act.

Mr. BAYH. Mr. President, I share the concerns expressed by the Senator from Kansas (Mr. PEARSON). Although the conference report on the pending measure does not specifically provide for carry over of these funds, as did the Senate bill, I am gratified that Senator MCFALL has expressed his understanding of the problems faced by airport sponsors in obligating their enplanement entitlements in such a short time. I personally will be sympathetic to a subsequent provision which would rationalize the differences in approach between the authorization for this program and the budget and appropriations process.

If the budget process permits, as I believe it will, I would favor explicit authority for carry over of unobligated entitlements without pro rata reductions in the Secretary's discretionary fund.

Mr. President, if there is no further debate I yield back the remainder of my time.

The PRESIDING OFFICER. Is all time yielded back on the conference report? All time having been yielded back, the question is on agreeing to the conference report.

The conference report was agreed to.

Mr. BAYH. Mr. President, I ask the Chair to lay before the Senate certain amendments that are in disagreement.

The PRESIDING OFFICER. The Clerk will report the amendments in disagreement.

The assistant legislative clerk read as follows:

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 3 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment, insert: "$241,000,000, of which not to exceed $5,000,000 may be transferred to the appropriation 'Pollution Fund'."

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 7 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment, insert: "$355,000,000; and for airport planning grants $15,000,000 to be derived from the airport and airway trust fund and to remain available until expended: *Provided*, That the sum appropriated for airport planning grants shall be available for obligation upon the date of enactment of this Act.".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 12 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: "$1,500,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 26 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment, insert: "Corporation, including $62,600,000 which shall be available for the payment of additional operating expenses of the National Railroad Passenger Corporation, resulting from the operation, maintenance, and ownership or control of the Northeast Corridor pursuant to title VII of the Railroad Revitalization and Regulatory Reform Act of 1976, and not more than $93,100,000 shall be available for capital improvements: *Provided, however*, That none of the funds herein appropriated shall be used for the least or purchase of passenger motor vehicles or for the hire of vehicle operators for any officer or employee, other than the President, of the National Railroad Passenger Corporation, excluding the least of passenger motor vehicles for those officers or employees while in official travel staus.".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 27 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

RAILROAD REHABILITATION AND IMPROVEMENT FINANCING FUNDS

The Secretary of Transportation is hereby authorized to expend proceeds from the sale of Fund anticipation notes to the Secretary of the Treasury and any other monies deposited in the Railroad Rehabilitation and Improvement Fund pursuant to sections 502, 505–507 and 509 of the Railroad Revitalization and Regulatory Reform Act of 1976 (Public Law 94–210) for the uses authorized for the Fund, in amounts not to exceed $70,000,000, to remain available until September 30, 1978. The Secretary of Transportation is also authorized to issue to the Secretary of the Treasury notes or other obligations pursuant to section 512 of the Railroad Revitalization and Regulatory Reform Act of 1976 (Public Law 94–210) in such amounts and at such time as may be necessary to pay any amounts required pursuant to the guarantee not to exceed $400,000,000 principal amount of obligations under sections 511 through 513 of such act, such authority to exist as long as any such guaranteed obligation is outstanding: *Provided*, That the aggregate principal amount of guarantees and commitments to guarantee obligations under section 511 of Public Law 94–210 shall not exceed $400,000,000.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 61 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

SEC. 317. None of the funds provided under or included in this Act shall be available for the planning or execution of programs, the obligations for which are in excess of $7,200,000,000 for "Federal-Aid Highways" and for "Highway Safety Construction Programs" in fiscal year 1977: *Provided*, That this limitation shall not apply to obligations for emergency relief under section 125 of title 23 U.S.C., special urban high density traffic program under section 146 of title 23 U.S.C., and special bridge relacement program under section 144 of title 23, U.S.C.: *Provided, further*, That this limitation shall not become effective if subsequent legislation containing an obligation limitation on the Federal-Aid Highways and Highway Safety Construction Programs for fiscal year 1977 is enacted into law by September 30, 1976.

Mr. BAYH. Mr. President, I ask unanimous consent that the amendments in disagreement be considered en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAYH. Mr. President, I move that the Senate concur in the amendments of the House to the amendments of the Senate numbered 3, 7, 12, 26, 27, and 61.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Indiana.

The motion was agreed to.

Mr. BAYH. I thank the Chair.

CLEAN AIR AMENDMENTS OF 1976

The PRESIDING OFFICER. The Senate will now resume consideration of S. 3219 which the clerk will state by title.

The assistant legislative clerk read as follows:

A bill (S. 3219) to amend the Clean Air Act, as amended.

The Senate resumed consideration of the bill.

UP AMENDMENT NO. 301

Mr. STEVENS. Mr. President, I have an amendment at the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Alaska (Mr. STEVENS), for himself and Mr. GRAVEL, proposes unprinted amendment No. 301.

Mr. STEVENS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 11 delete lines 23 through 25.

On page 12 delete lines 1 through 3.

On page 12, line 4, delete the numeral "iii" and insert in lieu thereof the numeral "ii".

On page 12 insert between lines 8 and 9:

"(B) Each national park and national wilderness area or any part thereof, which exceeds five thousand acres in size, established

after the enactment of the Clean Air Amendments of 1976, shall be classified as either Class I or Class II by the Congress in the designating legislation for such national park or wilderness area."

On page 12, line 9, delete the letter "B" and insert in lieu thereof "C".

Mr. STEVENS. Mr. President, the "significant deterioration" provisions of the proposed clean air amendments could make it extraordinarily difficult if not impossible to develop and transport oil and natural gas and other energy resources from presently untapped and enormous reserves in Alaska. Such projects as the gasline from Alaska's North Slope, irrespective of the route chosen, could be substantially impeded because of support facilities. That is, gravel pits, electrical powerplants, needed to build and maintain life support in Arctic and sub-Arctic conditions for construction workers and their dependents could not be built. I submit an amendment which will correct this situation by allowing Congress to decide whether a new national park or wilderness area or any part thereof should be designated as class I or class II.

The existing national parks and wilderness areas which would be classified as class I at the date of enactment of this legislation should it become law, probably will not substantially hamper oil and natural gas development. However, sometime during the next Congress we will consider the disposition of the so-called d-2 lands in Alaska. As a result of the passage of the Alaska Native Claims Settlement Act, 83 million acres of Alaska's land has been set aside and proposed for inclusion in the four national land systems—the National Park System, the National Forest System, the National Wildlife Refuges, and the National Wild and Scenic River System. The administration has proposed 83 million acres as additions to those systems. Other groups have proposed over 100 million acres for inclusion. Virtually all these lands would be studied for designation as wilderness and many acres would be eminently suitable for wilderness designation. Under the present language of this bill, all those lands would become class I lands.

The effect on the Nation's future would be staggering. Alaska has estimated reserves of 76.1 billion barrels of oil, 439 billion cubic feet of gas, and hundreds of billions of tons of coal.

Under the existing provisions of this act, an unknown but great amount of those resources may be unavailable for national use. Since class I land managers can prohibit activity in the areas outside their boundaries which might degrade the air quality over the Federal area, it may be impossible to construct access roads, mines, generating systems, petrochemical plants, railroads, communities, and the variety of other projects which will be needed to allow America to use the resources of her largest State. In this time of diminishing supplies of energy when we are dangerously dependent on foreign sources, the United States can ill afford such a drastic limitation on the development of its resources. Alaska is the last large Federal land holding that we have and it is from Alaska that most new national parks and wilderness areas will be created. But it is also from Alaska that our energy needs of the future will be met.

Another important factor to be considered is the effect this act could have on the lands the Alaskan Natives are receiving under the Alaska Native Claims Settlement Act. The creation of enormous new parks, wilderness areas, wildlife refuges, and national forests with new land managers having authority as they would under the bill, to control development over vast areas, would severely limit the Natives rights to use their own land. It would be most unfortunate if we left it up to Federal and State land managers to determine what Congress intended when we passed the Claims Act. Congress should have the final say about what lands are in which class to protect the rights of Alaska's Natives as well as to insure the proper balance between environmental protection and resource development.

My amendment would allow Congress to decide whether future parks and wilderness areas or parts thereof should be designated as class I or class II. It should be the responsibility of Congress to balance the national objective of maintaining our beautiful wilderness areas against the pressing need to develop domestic sources of energy. I hope that each Member of the Senate understands that I love the wilderness areas of my State. Alaska's natural beauty is what makes her a great State. However, the pressing need for energy independence must be considered when classifying the 83 million acres in my State which may be withdrawn for parks and wilderness areas. I urge support of this amendment which would place the responsibility of classifying new parks and wilderness areas as either class I or class II upon the Congress.

Briefly, Mr. President, this amendment will provide that Congress, as it creates the new wilderness areas or new national parks, must designate those parks, wilderness areas or portions thereof as class I or class II.

Congress could at this time provide the mechanism which the committee originally intended, namely, that the manager of the Federal area, and the State acting through its designated official, would classify the new park or wilderness area. Under the committee proposal each time we created a new park or a new wilderness area Congress could determine whether the area would be classified as class I or class II or, in fact, declassify it.

In view of the fact we have very large proposals to withdraw very large areas in Alaska, we feel that Congress ought to make the determination as to what part of those areas or the whole area, if it wishes to do so, should be class I or class II.

I have discussed this with the chairman of the committee and the manager of the bill, and our staffs have worked together. I have also discussed it with Senator JACKSON, as the chairman of the Interior and Insular Affairs Committee.

This seems to us to be the best course to pursue in the future, and I would be grateful to the chairman if he would accept this amendment.

Mr. GRAVEL. Mr. President, will the Senator yield? I have joined not only as of record as a cosponsor but because of the fact that it was setting up a new category which was very far-reaching, and the committee chose not to approve this.

The motivation for that effort was the fact that with the selection or setaside to be made by Congress that the impact could be quite horrendous on the State of Alaska, and because it was so important, it should not be left in the hands of lower level bureaucracy. Congress is going to devote a lot of time in the determination in the State of Alaska involving almost 100 million acres, and there is no question in my mind that as the Interior Committee proceeds in determining the use they want to have take place with respect to this land, they will be the most qualified group of individuals, and certainly the highest ranking individuals in our Government to make a determination not only with respect to the land use but with the indirect determinant of land use, that is, the quality of air that the area will have.

So I think this is a very fine compromise, and I am hopeful the committee will accept it. I am hopeful that the people carrying the burden of the bill will accept it because it is a compromise that addresses itself particularly to our unique problem, and it is a problem that is a one-shot type of situation that will occur as Congress adjudicates disposal of these lands in the next 2 years. I think the committee can handle it very adequately.

Mr. MUSKIE. Mr. President, with regard to new national parks and wilderness areas created after enactment, I think the committee expects that many of these areas will be classified as class I or II in the enabling legislation. Senator STEVENS' amendment simply requires that this expectation become a certainty. Congress will decide. The classification will not be left to the State and Federal land manager.

One advantage of this approach is that the opponents of the creation of new parks and wilderness areas will not be able to argue that the park or wilderness should not be created because an automatic class I designation would accompany that creation.

In accepting the amendment, it is the committee's intention that the presumption be that new parks and wilderness areas would be classified as class I areas, and that only under unusual circumstances would Congress designate the area as class II. The committee intends that during the consideration of creation of these areas, the Federal land manager provide Congress with full information regarding the air quality related values associated with the area so that Congress can make its decision with full knowledge.

I am ready to accept this amendment.

Mr. STEVENS. I thank the Senator from Maine.

Mr. BUCKLEY. Mr. President, I also want to express my approval of this amendment. While I believe the bill, in its present state, provides sufficient flexibility to meet the problems addressed by the amendment, I see no reason why the bill should not be amended as suggested by the Senator from Alaska. Certainly he has pointed to some of the special problems to be faced by the State.

Also, I understand that environmental groups believe a case-by-case determination, as foreseen in the Stevens amendment, would probably give us a very reasonable and workable framework within which to act in the future.

The Congress will have the full information with respect to the values to be protected and the areas to be set aside in the future.

By accepting the Stevens amendment, we might avoid some of the impediments that might otherwise exist to preserving land.

So I commend my friend for calling this to our attention.

I urge its adoption.

Mr. McCLURE. If the Senator will yield briefly, I want to support the amendment, also, for a variety of reasons that my colleagues on the committee have already set forth.

This is a matter we discussed in the committee. Without some understanding as to the manner in which they would be handled, the automatic class I designation could be a real impediment in the creation of some of the parks that I am sure we would want to create.

I think the procedure set forth in the Senator's amendment is appropriate and I fully support it.

Mr. STEVENS. Is there any further time we have to yield back?

The PRESIDING OFFICER (Mr. BIDEN). There is 1 hour on each amendment.

Mr. STEVENS. I yield back the remainder of my time.

Mr. MUSKIE. I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from Alaska.

The amendment was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. MANSFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2089

Mr. BUMPERS. Mr. President, I call up my amendment No. 2089 which is at the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Arkansas (Mr. BUMPERS) proposes amendment No. 2089.

Mr. BUMPERS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Delete lines 18, 19, and 20 on page 11 and insert the following: "all international parks, and each national wilderness area, and national memorial park which exceeds five thousand acres in size, and each national park which exceeds six thousand acres in size".

Mr. BUMPERS. Mr. President, I can summarize this in about 60 seconds.

As everybody knows, the Clean Air Act provided that national parks and wilderness areas that have an acreage over 5,000 acres will be considered class I areas.

I have a problem in my home State, which I am sure the committee did not think about at the time, and that is that the city of Hot Springs, the fourth largest city in my State, has a national park.

It presently has 4,500 acres in it and I mistakenly told the Senator from New York a moment ago it was contemplated an additional 1,500 acres would be acquired. That is not the case.

The case is that it now has 4,500 acres, but the authorization is 5,500 acres.

There is an ambiguity in the bill as to whether or not that authorization would bring Hot Springs under the bill.

My amendment simply raises the level from 5,000 acres to 6,000 acres for national parks alone.

The National Park Service tells me that Hot Springs National Park is the only park that would be affected by that amendment.

But to force a city in my State to be a class I area would absolutely prohibit any such further development in the city.

Mr. MUSKIE. Mr. President, the Bumpers amendment only affects one national park; that is, Hot Springs, Ark. It appears that there is no opposition to adoption of this amendment.

Hot Springs is a unique situation. The park is in the middle of the city. That kind of situation is adequately protected by the class II increment, which will still apply to the area after the adoption of the Bumpers amendment.

The growth of the city of Hot Springs around the park creates a situation very different from parks such as the Grand Canyon, Brya Canyon, or Glacier National Park. Had the committee known of this situation, we would have accommodated this concern in the reported bill. For that reason, I am willing to accept this amendment.

Mr. BUCKLEY. Mr. President, I believe the existing committee language could be clarified through legislative history as not applying to Hot Springs, because we are talking about parks at the time of passage that exceed 5,000 acres.

Since nothing will change, in my estimation, I certainly will not object to this amendment.

Mr. BUMPERS. I thank the Senator.

Mr. McCLURE. Mr. President, I will not object to the amendment. I think there is a further protection in the bill. Even though it is in a class I area, the pollution would be considered in relation to the air quality related values for which the park was designated.

There is an administrative means of meeting the problem, but I have no objection to the amendment of the Senator from Arkansas.

Mr. BUMPERS. I thank the Senator.

I might add that the members of the committee present here can feel free to handle that in conference, however they choose. If they want to clean up the language, remove the ambiguity, or accept the amendment, either way. But I do want to alleviate the minds of 40 to 50 thousand people who are concerned about this.

Mr. MUSKIE. I appreciate that.

The PRESIDING OFFICER. Is all time yielded back?

Mr. MUSKIE. I yield back the remainder of my time.

Mr. BUMPERS. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Arkansas.

The amendment was agreed to.

AMENDMENT NO. 2063

Mr. TOWER. Mr. President, I call up my amendment No. 2063 and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Texas (Mr. TOWER) proposes amendment No. 2063.

Mr. TOWER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 71, line 20, strike the period after "section" and insert in lieu thereof a comma and the following: "nor shall any such warranty be invalid on the basis of the installation or use of any air-conditioning system not installed in the factory of the vehicle manufacturer, where the particular vehicle or engine in which such air-conditioning system is installed is certified in accordance with section 206(a)(3) with an allowance for air-conditioning or similar equipment to be subsequently installed.".

On page 70, line 4, insert "(a)" after "SEC. 26.".

On page 70, after line 12, insert the following new subsection:

"(b) Section 206(a) of the Clean Air Act is amended by adding the following new paragraph:

"'(3) Each new motor vehicle or new motor vehicle engine shall be certified to conform to the regulations prescribed under section 202 of this Act for the particular vehicle configuration, anticipated use pattern, and equipment of such vehicle or engine. The Administrator shall certify each vehicle or engine with an allowance to assurance conformity with such regulations for air-conditioning or similar equipment to be subsequently installed. Such vehicle or engine shall be deemed to be covered by a certificate of conformity only if no equipment is added or other modification made which is not within the allowance provided for in this paragraph.'."

Mr. TOWER. Mr. President, the amendment which I have submitted corrects a deficiency in the Clean Air Act which will become apparent once the provisions dealing with performance warranty testing are applied in 1977.

Up to this time the problem has not faced the aftermarket air conditioning industry because these testing provisions of the Clean Air Act have not been applied.

The problem which faces this industry is that because of an ambiguity in the original act, and subsequent regulations promulgated by EPA, there exists the potential for pressure being applied by auto manufacturers on their franchise dealers to purchase and install only those air conditioning units which are manufactured by the automakers.

The law presently seems to allow the voiding of an auto emission warranty by the manufacturer if equipment is added to the car after the car is purchased, if that equipment adversely impacts on the emission control system's efficiency.

In and of itself, this is no cause for concern, and in fact is a highly commendable part of the act.

However, EPA regulations dealing with defects reporting procedures, which were adopted subsequent ot the Clean Air Act, complicate the situation, because among those items of equipment covered under these regulations are air conditioning units.

The manufacturers of these aftermarket air conditioning units are concerned that when section 207 of the act goes into effect, it will be possible for the automakers to exert pressure on their franchise dealers—who now buy some 2 million of these aftermarket units each year—not to purchase and install these units lest they lose the warranty protection on the automobile's emission control system.

The air conditioning market itself is highly competitive, and it is a constant struggle for the aftermarket manufacturers to succeed against the enormous advantages of the automakers, who of course would like to build, sell, and install every air conditioning unit in the country.

I do not believe it is wise to leave the door open on the potential for abusing the law in a way that destroys this competition, particularly since there is no foundation to the argument that an air conditioning unit of any type could in and of itself cause an emission system to fail during performance testing.

After this problem was brought to my attention, I had my staff discuss it with EPA, which reported essentially the following:

First, it would be possible for a representative of an automaker to apply pressure on the dealer not to purchase non-factory built air-conditioners, by misconstruing the regulations covering defects reporting.

Second, there would be no legal basis for such an argument.

And, third, that it would be likely that before a legal test case could be completed, the damage to the aftermarket industry would be irrevocable.

According to EPA, the argument that a performance warranty could be voided by the manufacturer solely for the installation and use of an aftermarket air-conditioner rests on two false assumptions.

One of these assumptions is that aftermarket air-conditioners impact adversely on the emission system, and that factory units do not.

The second fallacy is that the performance test envisioned at this time by EPA would be able to detect the impact of the air-conditioning unit on the emission control system.

The facts, according to EPA, are that the majority of these aftermarket air-conditioning units may possibly be superior to the factory units in terms of the relationship between the operation of the air-conditioner and the operation of the emission control system.

Further, according to EPA, if an engine or automobile is certified and designed for air-conditioning, the impact of the air-conditioning unit has already been calculated and compensated for, whether the unit is built in the factory or not.

I was further advised by EPA that under the performance testing procedures envisioned at this time, which are due to go into effect in 1977, the automobile will be tested without the possibility of detecting the impact of the air-conditioning unit.

The reason, Mr. President, is that there are two ways in which an air-conditioning unit can affect the performance of an emission system. There is a power drain on the engine which accompanies the use of the air-conditioner, and there is the weight factor of the unit itself.

However, neither of these two factors are present, according to EPA, under the performance testing procedures to go into effect next year.

In sum, Mr. President, EPA has assured me that the problem does exist, and that it is inequitable to those who manufacture, sell, and service aftermarket air conditioners.

Although the industry had suggested language which they felt would solve the problem, I asked my staff to request drafting assistance from the Public Works Committee, in order to insure that the language would both solve the problem and at the same time avoid creating another.

This is a highly complex law, and the various provisions are interdependent. I wanted to make sure that the solution truly was a solution.

I want to take this opportunity to thank Leon Billings, Phil Cummings, and Hal Brayman for assisting my staff by drafting appropriate language which would provide relief for the independent air conditioning industry. The amendment, I believe, is consistent with the intent of the Clean Air Act, and enhances the performance testing provisions.

It is my understanding, Mr. President, that the managers of the bill will accept my amendment. I appreciate their consideration, on behalf of the some 15,000 Texans who depend on this aftermarket air conditioning industry for jobs and the millions of consumers who profit by the presence of healthy competition in the industry.

Mr. MUSKIE. Mr. President, I am pleased to accept the amendment of the Senator from Texas (Mr. TOWER).

His amendment allows the installation of air conditioners on automobiles without jeopardizing either the performance or the defects warranty of the existing law, if that model car has previously been certified by EPA with an allowance for the addition of such air-conditioning equipment.

This amendment is an improvement in the EPA certification procedure. Under current practice, air conditioners can be installed after the sale of new automobiles without the addition of such power equipment being taken into account in the certification procedure. The likely result is an increase in the emissions of the car above the levels recorded during the initial testing.

Mr. Tower's amendment would protect the investment of the car owner in emission controls by requiring that the possible installation of air conditioners be taken into account during certification. The emission performance which the consumer paid for will be safeguarded from a loophole in the current law.

The consumer's warranty is also protected from possible claims of auto manufacturers that the installation of air-conditioners invalidates that warranty. Although it is not the intent of current law that the addition of air-conditioners invalidate the warranty, Mr. TOWER's amendment will make this explicit.

Mr. TOWER. The Senator is correct.

Mr. MUSKIE. With that, I am happy to accept the amendment.

Mr. BUCKLEY. Mr. President, I concur with the distinguished chairman of the subcommittee.

It seems to me the amendment that has been submitted is wholly consistent with the one that was submitted last week by the Senator from Tennessee (Mr. BAKER), the Senator from Vermont (Mr. STAFFORD), and myself, and adopted by the Senate.

I believe it clarifies the matter and I urge its acceptance.

Mr. TOWER. I yield back the remainder of my time.

Mr. MUSKIE. I yield back the remainder of my time.

Mr. McCLURE. Will the Senator withhold that?

Mr. MUSKIE. Yes.

Mr. McCLURE. I do not want to belabor the point and I do not object to the amendment. But I would not want the fact that we have accepted the amendment to indicate, by inference, that it was clearly necessary.

I am not certain that it was necessary, because it would not necessarily affect the pollution control equipment, and that is the area toward which this bill is directed.

I have no objection to the amendment. But I do not want to fan the flames of fear that run through a lot of people that have equipment that may be added to an automobile that in no way relates to the air pollution systems.

Mr. MUSKIE. I think that is a very proper cautionary note.

Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from Texas.

The amendment was agreed to.

Mr. TOWER. Mr. President, I move to

reconsider the vote by which the amendment was agreed to.

Mr. MUSKIE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 302

Mr. CANNON. Mr. President, for myself, Senator LAXALT, and Senator FANNIN, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

> The Senator from Nevada (Mr. CANNON), for himself and Mr. LAXALT and Mr. FANNIN, proposes an unprinted amendment No. 302.

Mr. CANNON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> On page 10, between lines 24 and 25, insert the following:
>
> (e) Section 110(a)(2) of the Clean Air Act is further amended by striking out "and" at the end of clause (G), striking out the period at the end of clause (H) and inserting in lieu thereof a semicolon and the word "and", and inserting at the end thereof a new clause as follows:
>
> "(I) it provides for the granting by the State of variances for emission sources: *Provided*, That an application for each such variance is made to the State, and the State determines in accordance with criteria established by the Administrator that—
>
> "(i) such source is a facility for the smelting of nonferrous metals and is in an isolated area, will provide control of emissions with a supplementary control system; and
>
> "(ii) complete compliance would cause severe economic hardship on such source.".
>
> On page 10, line 25, strike out "(e)" and insert in lieu thereof "(f)".
>
> On page 11, line 6, strike out "(f)" and insert in lieu thereof "(g)".

Mr. CANNON. Mr. President, the amendment I have submitted, with Senator LAXALT and Senator FANNIN for the consideration of the Senate provides for the granting of a variance for emission sources in isolated areas and where complete compliance would cause severe economic hardship on such source. The source would have to provide secondary emission controls capable of avoiding any serious impact on the public health or welfare. It provides time and flexibility in those situations which present economic dislocations.

For more than 40 years the copper smelter at McGill, Nev., has been in operation providing a steady supply of copper to the industrial centers of our Nation and contributing in a significant way to the high standard of living we all now enjoy. For 40 years the smelter has provided the sole economic base for most of eastern Nevada, and specifically White Pine County. The fortunes of Ely and McGill, the two principal towns have risen and fallen in step with the fortunes of the copper industry. When in full production the plant produces some 50,000 tons of copper a year.

Never during the time the plant has been in operation has the purity of the air been unduly annoying. No health hazard to the community or to those working in the plant has ever been documented. Neither has the plant contributed to a diminution of air quality in other areas. The smelter is in a very isolated location. The closest large city is Salt Lake City, Utah, which is some 200 miles distant. The map at the rear of the Chamber illustrates the isolated nature of the facility.

If I can draw the attention of my colleague from Maine to the map, I would like to point out the location of Ely and McGill. The closest town is some 77 miles away and is not as big as the town of Ely. The closest town of any size is Salt Lake City, which is over 190 miles away. Las Vegas is some 240 miles away. Reno is 264 miles away. Elko is 187 miles away, and Wells is 137 miles away. So this area is a completely isolated location.

The residents of Ely and McGill deserve better than to be turned into a new Appalachia. That unhappy possibility is now a reality.

Because there is no flexibility in the present law for less than continuous control systems, the company is faced with the prospect of shutting down the smelter. Earlier this year some 500 mine workers were released and the company has announced another 250 smelter workers will be released by the end of next week, ending the operation for the present. Skilled workers are leaving. Most of the community does not have the wherewithal to relocate as their primary assets—the equity in their homes is being destroyed. The immediate effect of a shutdown will be to boost unemployment to at least 35 percent and later throughout the county to 50 percent, or more.

Mr. President, the effort of our Nation to clean and protect the environment is the result of a very real and growing problem. Our high standard of living pales then our air and water is fouled and our countryside littered with the end products of our industrial might. I welcome and have supported clean air, clean water, and solid waste control bills. It would be a mistake to turn back on these efforts. However, flexibility is necessary to deal with the serious problem now threatening the economic base of this community in Nevada and other similarly threatened communities. I believe a flexible approach is certainly justified where such dire economic dislocations could occur.

Although the supplemental control system at McGill meets national primary air standards and the State air quality requirements, the EPA has insisted on ever more costly constant control equipment which will, if enforced, mean the permanent closing of the facility.

I commend the committee for its effort to deal with this problem. The committee has set nonferrous smelter operations in a somewhat different position from other emission sources and provides that supplementary control systems are approvable pollution control systems in appropriate circumstances. However, I am not clear that the committee amendment reaches those very facilities most in need of relief.

The bill itself states that "enforceable supplemental emission reduction strategies for existing nonferrous smelters" may be employed. I am concerned that the committee report language may misinterpret what present law requires and close the door on what the bill itself seems to allow. I quote from the committee report on page 17, "The word 'supplementary' means that continuous control technology must be employed as a precondition to using supplementary systems." The report then goes on to say that for older smelters, present practice is to require acid plants and an additional research and development program. It further cites the Ninth Circuit Court decision in Kennecott Copper Corp. against Russell Train as authority for that position.

The position the EPA has taken and is apparently supported by the committee report is not supported, in my view, by the law or by the court decision. It appears to deny the element of economic feasibility as a determination of an acceptable emission control strategy.

I quote from the Kennecott decision:

> (U)nder EPA's view of section 1857c–5(a)(2)(B), (existing sources) need only reduce emissions to the extent necessary to comply with air quality standards. Moreover, existing sources, as opposed to new sources, need adopt only such systems of emission reduction as are economically feasible, so long as interim compliance with air quality standards may be achieved by "other measures."

Here the court was stating its view of what the EPA itself required under its interpretation of the law. Further on in the opinion, the courts states:

> As EPA has undertaken to assure Kennecott . . . under EPA's interpretation of section 1857c–5(a)(2)(B), EPA could not compel Kennecott to install additional emission reductions at McGill unless it were economically feasible to do so.

The court did, indeed, hold that constant control systems were required by law to the extent they are economically feasible. But it did not establish the requirement that a baseline constant control system was a precondition to a consideration of economic feasibility for relief from further constant control technology. I believe it is imperative that the Senate address the question of the extent to which economic feasibility may be asserted. As I have pointed out, the smelter in McGill is very isolated, it is a marginal operation, and claims it cannot justify even an acid plant but has and will continue to meet all air quality standards through use of a supplemental control system employing dispersion techniques and production cutbacks.

May I ask the distinguished floor manager some questions intended to clarify my understanding of the committee amendment?

Mr. CANNON. The committee bill provides that existing nonferrous smelters may use "enforceable supplemental emission reduction strategies" in addition to any available continuous emission limitations. My first question relates to the procedure by which the decision to permit use of supplemental controls will come about. How would the smelter with which I am concerned obtain permission to use such controls?

Mr. MUSKIE. I would assume that

the smelter in question would petition the State for a revision of the implementation plan applicable to it and, if the State approved, a revised emission limitation would be submitted to EPA for approval.

Mr. CANNON. What if the smelter owners decided that any baseline reduction requirement was not feasible?

Mr. MUSKIE. Under current case law which this bill would not change, the challenge to feasibility would occur at the time the emission limit was imposed—in this instance whenever a case could be made on feasibility during consideration of a new control strategy including use of supplemental controls. It is important to note that this is a very specific exception to provide relief for the kind of facilities with which the Senator is concerned. It is narrow in that it is not available to other kinds of industrial activities and it assumes that the smelter can prove that any combination of supplemental controls and other controls will be enforceable and achieve and maintain air quality protective of health on a constant basis.

Mr. CANNON. What does the word "enforceable" mean in this context?

Mr. MUSKIE. The committee address that question in the report on page 17, as follows:

> The use of the term 'enforceable' restricts the use of supplementary systems to those cases where both the Administrator and the State are satisfied as to the reliability and enforceability of a particular system and where the State (or the Administrator) has the resources to oversee such strategies without sole reliance on the source operator's good faith.

Mr. CANNON. Then I can conclude from what Senator Muskie has said that if a smelter can clearly demonstrate that any continuous controls would cause severe economic hardship—in this case plant closure—and can meet the requirements of the act as regards enforceable supplemental controls—that would be an approvable control strategy under the act?

Mr. MUSKIE. Yes.

Mr. CANNON. I thank the Senator for clarifying this point. I believe it will give us an opportuinty to not have this area become a second Appalachia, and based on that assurance on the Record, Mr. President, I will withdraw my amendment.

Mr. McCLURE. Will the Senator withhold for a moment and yield the floor for a further comment?

Mr. CANNON. I yield.

Mr. McCLURE. I think the point has been very carefully defined, and I have no quarrel with it at all. But I think the further distinction should be made in qualifying this procedure that if a continuous control strategy is used, then intermittent controls would be added to the continuous controls. My understanding is that continuous controls are not applicable in this problem but intermittent control strategies are. That would be the next level of stringency and the next level of exception permitted under this exception of the act.

Mr. CANNON. The reason for the continuous controls to be effective here is initially they had an estimate that an acid plant, for example, of a limited capacity, would cost $23 million. Now the estimate is up over $40 million. The plant is not that economically viable. It is a very low margin of operation. If they have to go to continuous control process, such as a $40 million plant, they cannot afford to operate. They simply have to shut down.

Mr. McCLURE. I wanted to make that further definition simply because plants that do have continuous controls, and add an intermittent control strategy for the period that the continuous controls do not exist, would find it less stringent in application than they would in this particular instance in Ely, Nev.

Mr. CANNON. This plant may have to shut down more than some others, although our weather is so open and clear there that normally we do not have the problem of temperature inversion. We have a low level pollution problem.

Mr. MUSKIE. May I add that this problem has been discussed in committee at considerable length. Some of the reasons which the Senator has stated today have been discussed. I hope this discussion will be further useful.

Mr. CANNON. I thank the Senator very much.

Mr. President, I withdraw my amendment.

ADDITIONAL STATEMENT SUBMITTED

Mr. FANNIN. Mr. President, there is one other copper smelter in this country in the same position as the McGill, Nev., smelter and that is the smelter operated by the Phelps Dodge Corp. at Douglas, Ariz. I am advised that all other copper smelters which process sulfide ore and thus have a sulfur oxide problem are installing or have installed so-called positive emission control equipment.

The Douglas smelter was built in 1902 to process ores from the mines at Bisbee, Ariz. The last of the active mines at Bisbee was shut down by Phelps Dodge in June of 1975. Although the Douglas smelter continues to smelt some concentrates from other Phelps Dodge mines and recycles substantial tonnages of copper scrap, no Phelps Dodge mine depends for its continued existence upon the continued operation of the Douglas smelter. It can, however, serve an important function as a custom smelter for Arizona mines which have no smelting facilities of their own..

I am told that the company has spent some $20 million on air quality control at the Douglas smelter and is currently meeting air quality standards. The economic situation at the Douglas smelter simply will not justify the installation of positive control equipment. It has been estimated that the cost of installing a double contact sulfuric acid plant at the Douglas smelter would be in the neighborhood of $96 million. However, by the operation of an intermittent control system the smelter can meet ambient air quality standards.

If the Douglas smelter is forced to close, over 600 workers would lose their jobs, the economy of the Douglas, Ariz., area would be crippled and the United States would lose between 5 and 10 percent of its total copper smelting capacity.

As in the case with the McGill smelter in Nevada, we are dealing with a very old facility, the rebuilding of which cannot be economically justified.

Mr. LAXALT. Mr. President, this amendment would authorize the States to approve variances for emission sources to utilize supplementary control systems for purposes of meeting ambient air quality standards. But, two conditions would have to be met. The source would have to be in an isolated area where the State could determine that there would be no detrimental impact on public health and a severe, economic hardship must be demonstrated, if continuous controls are required.

Needless to say, I am a strong supporter of this amendment. Not only am I a cosponsor but I have participated actively in many attempts to find remedies for problems caused by EPA's insistence on inflexible emission limitation strategies for stationary sources.

The Kennecott operation in Ely, Nev., is just one example of a source which has been seriously impacted by such inflexible interpretations. As Senator Cannon has noted, the Ely smelter is old, relatively inefficient, and utterly incapable of affording expensive continuous control equipment. I heartedly concur with everything Senator Cannon has already stated on this matter. But let me go into somewhat greater detail as to the nature of the hardship EPA's interpretations have caused the Ely area.

Mr. President, the unemployment rate in White Pine County is now well over 25 percent, placing it first among Nevada counties in this rather dubious category.

What is more, although White Pine is not yet the poorest of Nevada's counties, should the smelter be shut down on a permanent basis, it would soon become so with the result that Ely, in the words of the area manager for the State employment security department, would become "another Nevada ghost town."

Yet, EPA is insisting that continuous controls be applied. Literally thousands of jobs are at stake and owing to the isolation of the area and the ability of the smelter to meet air quality standards through the use of supplementary control systems, there would be no adverse public health impact. But still, EPA insists.

Legislative relief is therefore the only recourse. Accordingly, I am most distressed by the committee argument that emission limitation provisions ought not to be altered. As this argument runs, once the provisions are adjusted, they are subject to continuous erosion. However, in view of the seriousness of the situation in my State and elsewhere, it seems to me that flexibility should actually strengthen the provisions.

Thus, Mr. President, the question is both broad and important. Should the emission limitation provisions of the 1970 Clean Air Act be inflexibly applied regardless of social and economic consequences for a particular area? Or, should the Congress set public policy guidelines sufficiently flexible to prevent the drastically inappropriate application of those provisions with very serious consequences for counties such as White Pine?

I urge the adoption of the amendment.

UP AMENDMENT NO. 303

Mr. BENTSEN. Mr. President, I send to the desk an unprinted amendment and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Texas (Mr. BENTSEN) proposes an unprinted amendment numbered 303:

On page 86, line 8, delete "fifteen" and insert "sixteen".

Mr. BENTSEN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BENTSEN's amendment is as follows:

On page 86, line 8, delete "fifteen" and insert "sixteen".

On page 86, line 13, delete "eleven" and insert "twelve".

On page 86, after line 13, add: "Such Commission shall include four State Governors, who may designate the chief administrative officer of the State's air pollution control agency."

On page 86, after line 7, insert: "(7) the extent to which the reduction of hydrocarbon emissions is an adequate or appropriate method to achieve primary standards for photochemical oxidants. Such study shall include—

"(A) a description and analysis of the various pollutants which are commonly referred to as 'photochemical oxidants' or chemical precursers to photochemical oxidants;

"(B) an analysis of any pollutants or combination of pollutants which need to be reduced to achieve any photochemical oxidant standard, and the amount of such reduction;

"(C) the relationship between the reductions of hydrocarbons, oxides of nitrogen, and any other pollutants and the achievement of applicable standards for photochemical oxidants;

"(D) the degree to which background or natural sources and long-range transportation of pollutants contribute to measured ambient levels of photochemical oxidants;

"(E) any other oxidant-related issues which the Commission determines to be appropriate."

On page 87, after line 7, insert the following new paragraph:

"(2) A report on the results of the study and investigation of the Commission authorized under subsection (a) (7) of this section, together with any appropriate recommendations, shall be submitted not later than two years after the date of enactment of this section. During the preparation of this specific study and report, the Commission shall seek the participation and consultation of the Chairman of the Council on Environmental Quality; the Administrator of the National Oceanic and Atmospheric Administration; the Administrator of the Environmental Protection Agency; and Governors of those States having air quality control regions in which primary ambient air quality standards for photochemical oxidants are exceeded at the time of enactment of these amendments or are projected to be exceeded within the period of the study, or the chief administrative officers of their State air pollution control agencies designated by any State Governor. The Commission may contract with nonprofit technical and scientific organizations, including the National Academy of Sciences, for the purpose of developing necessary technical information for the study authorized by subsection (a) (7) of this section.

Mr. BENTSEN. Mr. President, this is a revision of the amendment I offered Tuesday of last week calling for a study of the strategies proposed for the control of photochemical oxidants.

I had originally intended that this be a highly technical, sharply focused endeavor, and for that reason I had proposed a special body whose sole purpose would have been to undertake it. I have now assigned the effort to the National Air Quality Commission which S. 3219 will establish, though I believe the text of my amendment sufficiently highlights the importance we assign to this study.

Specifically, my amendment calls upon the Commission—

To analyze and describe the various pollutants commonly referred to as "photochemical oxidants;"

To enumerate those which should be regulated and from which the American people should be protected;

To recommend strategies for their attainment;

To determine what effect the control of hydrocarbons will have on oxidant formation and concentrations; and

To clarify the degree to which background levels of oxidants contribute to those concentrations.

This study is to be completed within 2 years.

My amendment will also expand the public membership of the Commission by 1 member, to 12, and assure that at least 4 of those members are Governors, or directors of their State air pollution control agencies. As I have already emphasized in the debate on this bill, I believe that State and local contribution to this study will be invaluable. And, I am pleased that the States will, as a result of this amendment, play a major role in all of the Commission's efforts.

I believe, Mr. President, that the floor manager of the bill, the distinguished Senator from Maine (Mr. MUSKIE), has had a chance to see this amendment, and I think the ranking minority member on the committee has also had a chance to see the amendment. I hope it is acceptable to them.

Mr. MUSKIE. Mr. President, the problem that the Senator's amendment addresses is a very important one, and I think this is a sensible way to approach its study and analysis, and the development of solutions to it. I am happy to accept the amendment. I see no difficulty with it.

I yield to my good friend from New York, the ranking Republican member of the committee.

Mr. BUCKLEY. Mr. President, I, too, am happy to support the amendment that was worked out by the Senator from Texas. Having all of the studies within a single body is important to its effectiveness, and to make sure that we do not have duplications and even contradiction.

I also believe that the specific inclusion of Governors within this body is a very constructive addition to what we had in the committee print.

I would hope that when the President nominates the public members, he would also include professional environmentalists. It seems to me this is also a skilled point of view that ought to be specifically represented on the Commission.

In any event, I am happy to urge the adoption of the amendment.

Mr. McCLURE. Mr. President, will the Senator yield?

Mr. BUCKLEY. I yield.

Mr. McCLURE. I not only support the amendment, I commend the Senator for bringing it in. I think this whole field of photochemical oxidants does need further study, and this amendment strengthens that thrust, as well as, I believe, strengthening the Commission.

I think one of the dilemmas we find in this area is that every time we try to do something, we cause another problem. Getting the lead additives out of gasoline has in some cases required the addition of aromatics to the gasoline. The combination of those aromatics has sometimes resulted in the photochemical reactions toward which the Senator's amendment is directed. Every time we gain a little, we lose elsewhere. We need to know as much as we can about that, so I fully support the Senator's amendment.

Mr. BENTSEN. I thank the Senators who have spoken, and urge the adoption of the amendment.

The PRESIDING OFFICER. Is all remaining time yielded back?

Mr. BENTSEN. I yield back the remainder of my time.

Mr. MUSKIE. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Texas (Mr. BENTSEN).

The amendment was agreed to.

AMENDMENT NO. 2117

Mr. THURMOND. Mr. President, I call up my amendment No. 2117 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 86, strike the period at the end of line 7, insert in lieu thereof a semicolon, and add the following:

(7) alternative strategies for permitting, without impeding the achievement of national ambient air quality standards as expeditiously as possible, the construction of new facilities and the modification of existing facilities in air quality control regions exceeding the national ambient air quality standard for any pollutant regulated under the Act.

Mr. THURMOND. Mr. President, my amendment is a very simple, straightforward one. It would expand the charter of the National Commission on Air Quality, created under section 37 of this bill, to specifically require a study of the most desirable means of permitting continued economic growth—that is, new industry and expansion of existing industry—in air quality control regions where the national ambient air quality standard for any pollutant regulated under the Clean Air Act is being exceeded.

I have discussed this amendment with the managers of the bill and believe they are willing to accept it. However, before I yield back my time, I would like to briefly explain why study of this particular issue, as mandated by my amendment, is needed.

First, under section 110 of the Clean Air Act of 1970, each State is required to adopt a plan which provides for the attainment and maintenance of national ambient air quality standards. This plan must provide adequate authority for a State to prohibit the expansion of any existing facility or the construction of any new plant which might prevent the attainment and/or maintenance of these federally mandated standards.

On its face, this policy may not appear unreasonable, but in the real world, we are rapidly approaching the point where these provisions of current law will amount to a major roadblock to vitally needed economic growth in many parts of the Nation, including urban areas where the problems of unemployment are most severe. Under existing law, if a national ambient air quality standard for any pollutant is being exceeded in an air quality control region after the date by which that standard is to be attained—1977, at the latest—then no further construction or expansion of sources of that pollutant could be permitted in that region.

This literally means, Mr. President, that economic growth—so necessary to provide jobs for our growing population—very soon will come to a standstill in many regions of this Nation, if something is not done to provide some flexibility under the Clean Air Act.

Second, Mr. President, I think the committee has recognized this problem and has, in effect, admitted that we must continue to have a desirable balance between economic growth and environmental cleanup, even in areas which still have major air pollution problems. I have reference to section 11 of the committee bill and that portion of the committee report, which describe the means by which individual industries in regions with air pollution problems can expand, without worsening those air pollution problems.

I commend the committee, and its distinguished chairman, Mr. RANDOLPH, for their initiative in authoring section 11. However, a number of my constituents feel that it does not go far enough in providing the flexibility desired. They have indicated two major criticisms of the committee approach. First, section 11 pertains only to the expansion of facilities already situated in an air quality control region. It does nothing to help new industry—even very clean industry—locate in an area that exceeds the ambient air standards.

A second major deficiency in section 11 is that it apparently favors older, heavier-polluting industry, which has the capability of installing better pollution control technology and reducing the pollution level from existing sources enough to allow plant expansion with no net increase in total emissions. Newly constructed plants, most of which already employ best available control technology—BACT—have no comparable capability for further reducing emissions to make room for plant expansion.

In summary, Mr. President, these are the major issues and problems regarding future economic growth in nonattainment areas, which I would like to see addressed by the National Commission on Air Quality. There are other related concerns, such as the relevance of the present ambient air quality standards to the seriousness of air pollution problems in a given area over a period of time, the precision of present air quality measuring devices, and the contribution of natural background sources to the total pollution level.

However, the heart of the issue is the question of maintaining a proper balance between continued economic growth and protection of public health and welfare from heavily polluted air. Admittedly, this "proper balance" is difficult to achieve, but the public interest demands that we continue to try. I hope that efforts to find the best possible solution to this problem will continue when this bill goes to conference with the House and in future committee deliberations on air pollution problems.

Mr. President, I ask unanimous consent that my more detailed statement on this issue be printed in the RECORD at this point.

There being no objection, the statement, with attachments, was ordered to be printed in the RECORD, as follows:

STATEMENT OF SENATOR THURMOND

I would like to make a few additional comments in regard to Section 11 of S. 3219, which deals with industrial expansion in areas not yet meeting national ambient air quality standards of the 1970 Act. I believe the distinguished Chairman of the Public Works Committee, as well as the other Committee Members, are well aware that the problem of industrial expansion in "non-attainment" areas is a serious one which affects many industries.

In fact, it is my understanding that the non-attainment problem affects well over half of the geographical area of the United States, including most of the urban areas, where the problem of unemployment is especially severe. Under the present law, new facilities cannot be built, nor can existing plants be expanded, in areas where any ambient air quality standard is not being met, if the facilities would emit any pollutant subject to regulation under the Clean Air Act. Thus, unless the law is changed, the economies of these areas may not continue to grow at a healthy rate. At a time when more jobs are greatly needed, such severe limitations on economic growth are unacceptable. I believe it is clear that the Clean Air Act should be amended to ameliorate this unfortunate situation, while continuing to adequately protect public health.

Mr. President, I know that the Public Works Committee has recognized this problem and attempted to deal with it in Section 11 of the bill before us. I appreciate the Committee's efforts and, particularly, the leadership of Senator Randolph in this regard. However, I do not believe Section 11 goes far enough to allow the degree of flexibility needed.

The principal problem with the Committee language is that it permits growth only in situations where plants can be sufficiently "cleaned up" to make room for new facilities, with absolutely no increase in the total emissions from both present and newly-built facilities allowed. This approach assumes that the particular industry which wants to expand: (1) already has facilities in the area, and (2) has the technological ability to sufficiently reduce air pollution from its existing plants to allow installation of new plant capacity without any increase in combined emissions. However, the fact is that many recently constructed industrial plants already employ "Best-Available Control Technology" (BACT) and, unlike industries which have not yet installed the best available pollution control equipment, have nothing to trade off for plant expansion.

For example, a Nationally known firm is now in the process of building a major new facility in the North Charleston area of South Carolina—one of only two areas in my State having air quality maintenance problems. This plant will employ BACT—it will be doing everything possible within the limits of today's state of knowledge of air pollution control to promote clean air—but this company will be precluded, under present law and this bill, from any plant expansion in the future at this site, while less clean plants may have the capacity for further growth.

Mr. President, I think this is an intolerable inequity in the present bill, and I hope the Managers of this bill will explore an improved solution to this problem in Conference with the House. It is my understanding that the present version of the House Clean Air Bill goes a little further to provide flexibility for desirable economic growth. From what I have seen, it does not go as far as it probably should, although efforts may be made on the House floor to further modify this provision in the direction of reasonableness.

I ask that a letter to me from the Governor of South Carolina, the Honorable James B. Edwards, be printed in the RECORD. This letter describes some of the problems with S. 3219 which South Carolina state government officials have foreseen, including the potential adverse impact of Sections 6 and 11. I also ask that a summary of the effects of Section 11 on refinery and other facility expansion in the petroleum industry be included in the RECORD following the aforementioned letter from Governor Edwards.

The letter and summary follows:

STATE OF SOUTH CAROLINA,
Columbia, S.C., June 10, 1976.

Hon. J. STROM THURMOND,
U.S. Senate,
Washington, D.C.

DEAR STROM: Undoubtedly, the various states of the nation will be watching the Senate debate on S.B. 3219 (Amendments to the Clean Air Act of 1970) with a great deal of interest as well as a certain degree of trepidation. South Carolina is no exception. Please permit me to share some of the concerns our State Development Board and this office have about the Clean Air Act as well as the proposed Amendments.

While we applaud the basic intent of Congress, the courts and the Environmental Protection Agency to improve the ambient air quality of the nation as a means of benefiting the health and welfare of the citizenry, we are also alarmed that regulations may be drawn by E.P.A. which provide that air quality be the only determinant in allowing a new or expanded manufacturing plant project. As you are well aware, the economic development needs of South Carolina are still substantial. We would, therefore, hope that the State of South Carolina would have the right under the amended Clean Air Act to determine when an industrial development project would be clearly in the best interest of the State and its people.

It is with these concerns firmly in mind that we make the following recommendations for your consideration and whatever action you deem appropriate during the forthcoming debate:

1. The question of no-significant deterioration should be postponed until enough data to make a reasonable decision on the subject can be obtained. The cost/benefit ratio of this proposal is highly questionable from our perspective. We would, therefore, support the Moss Amendment which would postpone the adoption of the no-significant deterioration policy.

2. Regarding the Clean Air Act Amendments as recommended by the Senate Public Works Committee, we have real concerns about Section 11 of the proposed amendments. In subparagraph (C) (please see attachment), we believe it would be impossible under this regulation for a manufacturing plant to expand its facilities in non-attainment or maintenance areas of the state even though the existing facility was utilizing best available control technology. This would be unfair to both the company and the community as air quality would be the overriding consideration. Many of the newer industries in South Carolina already utilize best available control technology and, therefore, have nothing to trade off in their efforts to expand in the state. These companies would be at a disadvantage to those companies which have yet to install new pollution abatement facilities on their older plants.

3. Subparagraph (D) leaves much to conjecture and should be clarified as to intent. We would, therefore, recommend that it be clarified or deleted.

4. Insofar as we believe that the social, economic and environmental benefits from a particular project which utilizes best available control technology may far outweigh any air quality deterioration which might result, we feel that some mechanism be instituted to provide for this overall assessment. In South Carolina, this could be accomplished with an economic impact analysis of a specific project being provided by the State Development Board to the Department of Health and Environmental Control. Other states could institute similar procedures.

In this context, it would be beneficial if the amendment could carry an additional subparagraph (E) worded along the following lines:

The foregoing regulations will apply in every instance unless in the judgment of responsible state and local government agencies the social, economic and environmental benefits of such proposed facility outweigh any air quality benefits to be derived by preventing such construction or modification, but in no instance shall less than best available control technology be permitted.

It would be extremely detrimental to the future of South Carolina, and indeed to all states, if air quality regulations were to be permitted to override the state's overall economic development needs. Please assist us in this matter.

Sincerely,

JAMES B. EDWARDS,
Governor.

S. 3219 AND H.R. 10498: AN INSUFFICIENT RESPONSE

The Senate Public Works Committee and the House Commerce Committee, to their credit, recognized the need for remedy and attempted to supply it in two bills to amend the Clean Air Act which were reported earlier this year—S. 3219 and H.R. 10498. Unfortunately, neither of the pertinent sections in these two bills, Section 11 of the Senate bill and Section 115 of the House bill, provides the promised relief. Under these sections, regardless of how well it might be controlled, a major new or expanded facility that would emit a pollutant subject to an unattained air quality standard could not be built, unless the owner had facilities in the area that could be cleaned up to more than compensate for the proposed new or expanded facility.

Even assuming that an applicant had other facilities in the area, one consequence of the language in these two bills would be to reward facilities that have made little progress in controlling their emissions and to penalize those that have made substantial progress. A lagging facility in a nonattainment area would be able to modernize throughout, expand, and still meet the requirements of these two bills. A facility that has alreday achieved a high degree of air pollution control, however, would not be able to achieve sufficient additional reduction of emissions to make expansion possible. As for a newcomer wishing to build a facility in a nonattainment area, he would have only one course open to him—namely, to buy an existing facility and simply shut it down to make room for the new one.

SPECIFIC CONSEQUENCES OF PRESENT AND PROPOSED LAW

Every basic industry in the national economy is affected by present and proposed law dealing with expansion in nonattainment areas. Energy facilities, in particular, have already begun to experience the suppressive effects of the existing nonattainment requirements, and the signs for the future are ominous:

Energy Reserves: Amoco and Gulf have interests in a 5,000 acre oil shale tract in Colorado, called the Rio Blanco Oil Shale Project. The first year of ambient air quality monitoring on the undeveloped tract has revealed that national air quality standards were exceeded in more than 60 instances, most probably because of natural emissions, that is, airborne dust and vegetative hydrocarbon emissions. Under present and proposed law, severe restrictions are imposed on new construction and modification in all areas exceeding the national standards, the Rio Blanco Project and other oil shale projects in such areas cannot go forward.

Phillips also holds uranium leases in the northwestern portion of New Mexico and coal leases in the lignite fields that angle from east central Texas up into Arkansas. Wherever these energy reserves are in air quality control regions exceeding present ambient air quality standards, no development can take place.

Pipelining: Sohio is now planning a trans-U.S. pipeline running from Long Beach, California, to Midland, Texas, from which point oil could be transported to practically anywhere in the Midwest and on the East Coast. Several hundred thousand barrels of new storage capacity would have to be built to sustain the pipeline's estimated through-put of 700,000 barrels per day. Even with best available control technology, the company, having no other facilities in that area, would be unable to show reasonable further progress toward attainment of the applicable national ambient air quality standard. Without the tanks, of course, the pipeline cannot be put into operation.

Up the coast from Long Beach, at Estero, California, Socal had planned to build offshore mooring for large seagoing tankers and onshore storage tanks for the incoming crude oil. These facilities would have handled 300,000 barrels per day, with future expansion to 500,000 barrels per day. Environmental considerations changed the economic projections for these facilities, and the plans were shelved. Under present and proposed law, these plans, temporarily shelved, may have to be permanently cancelled.

Refining: The Hampton Roads Energy Company has been planning a 175,000 barrel per day refinery, with a supporting marine terminal, at Portsmouth, Virginia, for almost three years. It is planned for the refinery to make low-sulfur fuels, themselves an environmental plus. During that time, the company secured the necessary approvals of all state agencies, including the State Air Pollution Board, Marine Resources Commission, and State Water Board. It also obtained preliminary approvals from the Environmental Protection Agency. Then on April 19, 1976, a representative of the Regional EPA Office at Philadelphia announced that the proposed refinery would be "environmentally unacceptable," because the surrounding area has not attained the hydrocarbon standards. The refinery, now stalled, may not be built.

Exxon estimates that to date, hundreds of millions of dollars have been spent to install catalytic cracker feed desulfurizers required to reduce sulfur dioxide emisisons from the crackers themselves and to install product desulfurizers for reducing the sulfur content of home heating oils. Had the language of the two bills now pending in Congress been in effect—because major refining centers like Houston, Los Angeles, and Northern New Jersey are already exceeding one or another of the national ambient air quality standards—many, perhaps most of these desulfurizers could not have been put into place.

As for the future, EPA is now conducting sulfate studies. If those studies should lead to the decision that it is necessary to desulfurize gasoline, refineries would not be able to install the needed desulfurization equipment in areas now exceeding hydrocarbon standards, including the Nation's major refining centers, mentioned above. Already, refiners are concerned that they will be unable to build new units needed to comply with EPA's regulations on lead in gasoline without reducing output next summer.

Generally speaking, refining capacity now in existence and now under construction is adequate to accommodate the Nation's immediate energy needs. As the demand for energy grows, however, the need for refinery capacity also will grow. Shell, for example, estimates that in order to meet expected demands in the near and middle future, it will be necessary to expand at some 15 of its refineries and petrochemical plants. To the extent that such expansions are prevented from occurring because of nonattainment restrictions, to the same extent a wide array of products ranging from home heating oils to synthetic rubbers will not materialize.

CONCLUSION

Unless the non-attainment issue is resolved intelligently, before Congress acts on this legislation, the major domestic goals of job creation, economic recovery and greater energy self-sufficiency will be completely undermined.

Senator THURMOND (continuing). I want to emphasize that the unwise constraints of present law and Section 11 will affect *many* basic industries vital to our National economy, including the petroleum industry. However, at a time when we also should be striving for energy independence for the United States; when new refinery capacity must be built to meet required gasoline octane levels without the addition of lead; when it is vitally important to encourage economies of scale and transportation efficiency; I think it is particularly important to allow necessary expansion in the petroleum industry.

Upon becoming aware of the problems of industrial growth in non-attainment areas, I wrote to Mr. Russell Train, Head of the Environmental Protection Agency. I asked for his comments on a particular draft amendment recommended to me by a group of my constituents and also asked for a statement of EPA views on this issue. I ask that Mr. Train's reply to me is printed in the Record at the end of my remarks.

Mr. President, EPA is sympathetic to the need for granting the individual states some flexibility to allow new industry to locate and existing industry to expand in non-attainment areas. Frankly, the "pollution trade-off approach" recommended by Mr. Train has both advantages and disadvantages. However, in discussing this issue with the Managers of the bill, I can understand their desire to not endorse any particular new methods for allowing industrial growth in non-attainment areas without the benefit of detailed public hearings and thorough Committee consideration of the issues and implications involved.

At the same time, I believe this problem needs to be further considered by Congress. Accordingly, I have drafted an amendment to Section 37 of S. 3219. This portion of the bill adds new Section 315 to the Clean Air Act and establishes a National Commission on Air Quality to study various air pollution problems and control strategies.

My amendment would simply add a new paragraph to the charter of this Commission, directing it to specifically study alternative means of allowing economic growth in non-attainment areas without interfering with ongoing efforts to further improve air quality in these regions. I have discussed this proposal with the Managers of the bill and believe it is acceptable to them.

Environmental Protection Agency,
Washington, D.C., July 26, 1976.

Hon. Strom Thurmond,
U.S. Senate,
Washington, D.C.

Dear Senator Thurmond: This letter is in response to your request of July 15, 1976, for the views of the Environmental Protection Agency concerning the subject of growth in air quality control regions currently exceeding the national ambient air quality standards. Specifically, you requested our views on a proposed substitute amendment for section 11 of S. 3219, the Clean Air Act Amendments of 1976.

As you may be aware, the Clean Air Act of 1970 required the Environmental Protection Agency to establish health-related national air pollution standards. The Act mandated that these standards be met within three years after their promulgation with the possibility of a two-year extension. This meant that by 1975 or at the latest 1977, the law required that the Nation's air pollution levels be at or below the national ambient air quality standards.

Although we have made great progress in the attainment of the standards, a substantial percentage of the 247 air quality control regions in the Nation are currently reporting violations. In general, these "non-attainment" areas are the urban population centers throughout the Nation.

In order to attain the national ambient air quality standards and still permit economic growth in our urban areas, the Environmental Protection Agency has adopted the following policy based on its judgment of the legal authority and obligations that it has under the Clean Air Act. The Agency would permit the location of major new and expanded facilities only to the extent that the resulting emissions do not exacerbate current violations of the primary national ambient air quality standards and do not interfere with making reasonable progress toward the timely attainment of these standards.

If our analysis reveals that a source is likely to have an adverse impact on the attainment and maintenance of a primary national ambient air quality standard and the source still desires to locate at the proposed site or the State or local agency decides that alternative sites are not available, a source must meet the following conditions. First, the new facility must apply the best available control technology. Second, all existing sources owned or controlled by the owner or operator of the proposed facility in the same air quality control region must be in compliance with all applicable emission limitations or in compliance with an approved schedule and timetable for compliance under a provision of an applicable implementation plan or an enforcement order issued under section 113. Third, emission limitations are established for existing sources in the area of the proposed source whether or not they are under the same ownership so that the total allowable emissions from the existing and proposed sources is sufficiently less than the total allowable emissions from the existing sources under the applicable implementation plan prior to the request to construct or modify so as to represent reasonable further progress toward attainment of the applicable national ambient air quality standard. Fourth, ambient air quality concentrations cannot increase at any location that presently exceeds the national ambient air quality standard.

This set of conditions is collectively known as the "trade-off policy." In most cases, emission trade-offs would apply to sources located in close geographic proximity relative to the calculated air quality impact of the new source. Only intra-pollutant trade-offs are acceptable, e.g., limited to a single pollutant, such as sulfur dioxide.

We believe that the Agency policy is preferable to your proposed amendment and the current language of section 11 in S. 3219 because it permits economic development while also ensuring that the health-related air pollution standards will be attained and maintained. In terms of your proposed substitute amendment, the Agency policy is more desirable because it would allow the necessary trade-offs to be obtained by either the owner of the proposed source or through a general revision of the State implementation plan initiated by the local community or the State. Regarding the current language of section 11, EPA's policy is preferable from the economic standpoint because it allows new sources to locate in addition to the expansion of existing sources if all the applicable conditions are met.

In conclusion, we believe that the trade-off policy represents the proper balance between the attainment of the national ambient air quality standards and economic growth. Furthermore, we believe that the policy offers an economic rather than a regulatory incentive to industry to further reduce the emission of air pollutants.

Enclosed please find a copy of an amendment to S. 3219 which reflects EPA's policy as described above.

Sincerely yours,
Russell E. Train,
Administrator.

Mr. THURMOND. Mr. President, I know there are other Senators, including the managers of the bill and the distinguished chairman of the Public Works Committee, who are also interested in this matter. I would welcome any comments they might care to make at this time.

Mr. BUCKLEY. Mr. President, I support adoption of the amendment offered by our colleague from South Carolina (Mr. Thurmond). He has focused on an important issue, one that the committee sought to ameliorate by adoption of section 11 of this bill. But I think this amendment will also be helpful.

The Senator from South Carolina was kind enough to share with me a letter from EPA Administrator Train. In the letter, Mr. Train makes this statement:

> The agency would permit the location of major new and expanded facilities only to the extent that the resulting emissions do not exacerbate current violations of the primary national ambient air quality standards and do not interfere with making reasonable progress toward the timely attainment of those standards.

That flexibility is granted under existing law by section 110(a)(4), which prohibits "the construction or modification" of a source if the State determines the existence of the source will "prevent the attainment of maintenance" of an air quality standard.

There has been much discussion of whether the new provision in the bill adding a new subsection (g) to section 113, overrides section 110(a)(4). It is my belief and understanding that the new subsection (g) in no way overturns the latitude available under section 110 (a)(4). It is my understanding that the floor manager (Mr. Muskie) shares my interpretation on this continuing latitude.

That is the present law, and that will continue to be the law under this bill. It is a procedure that eliminates the need for unwise schemes such as the creation of so-called pollution credits that could be bought or sold.

For these reasons, I urge adoption of the Thurmond amendment.

Mr. MUSKIE. Mr. President, I concur in the position taken by my good friend from New York (Mr. Buckley). I think this is a most appropriate subject for study by the Commission. I am happy to support the amendment.

Mr. THURMOND. I thank the Senator very much.

The PRESIDING OFFICER. Is all time yielded back on the amendment?

Mr. MUSKIE. Yes.

The PRESIDING OFFICER. All time is yielded back.

Mr. MORGAN. Mr. President, will the Senator from South Carolina yield for a question or so on this amendment?

Mr. THURMOND. I am pleased to yield.

Mr. MORGAN. I am sorry I was not able to hear all of the explanation. But does the amendment call for a study?

Mr. THURMOND. The purpose of the amendment is to expand the charter of the national Commission on Air Quality created in this bill to specifically require a study of the most desirable means of permitting continued economic growth in air quality control regions where the national ambient air quality standards for any pollutant regulated under the Clean Air Act is being exceeded.

Mr. MORGAN. Mr. President, will the Senator from New York yield for a question on this matter?

Mr. BUCKLEY. I yield.

Mr. MORGAN. Here again I was not able to hear very well. But did I understand that the Senator's comments related to some extent to the question of nonattainment regulated by section 11?

Mr. BUCKLEY. That is correct.

Mr. MORGAN. Will the Senator enlighten me in just a word as to his thought on this particular subject?

Mr. THURMOND. Mr. President, if the Senator will yield, I shall explain it a little more if he wishes me to do it.

Mr. BUCKLEY. I yield.

Mr. THURMOND. In response to the question of the able Senator from North Carolina, I might say I think it is apparent that it is in the public interest to move first to hasten the achievement of a healthful level of air quality as promptly and as reasonably possible, and, second, allow job-creating economic growth to continue at a desirable level which does not undermine the attainment of the objectives of the Clean Air Act. While it is true that these two goals will at some point likely conflict with each other, that does not mean that a desirable balance between them cannot and should not be achieved.

My amendment would direct the National Commission on Air Quality to address this issue in its studies and provide recommendations to Congress for constructively dealing with it.

Mr. MORGAN. Mr. President, I have an amendment at the desk which I propose to call up sometime tomorrow primarily for discussion and for the purpose of carrying on a colloquy with colleagues, and I thought maybe there was some relation between them, and I think perhaps there still is. But as I understand the previous order already entered we go back at the hour of 2 p.m. to the tax reform bill.

The PRESIDING OFFICER. That is correct.

Mr. MORGAN. As I understand it, also, there is no objection by the floor leader to the amendment of the Senator from South Carolina?

Mr. MUSKIE. None whatsoever.

Mr. BUCKLEY. I have none.

Mr. MORGAN. Then I will simply delay calling up my amendment until tomorrow when we shall have more time to talk about the problem in which I am involved.

Mr. MUSKIE. I look forward to that discussion, I say to the Senator.

Mr. BUCKLEY. I think, Mr. President, it will be a useful discussion to further clarify the interrelationship of section 11 of the bill and section 110(a)(4) of the act.

The PRESIDING OFFICER. Do all Senators yield back their time?

Mr. MUSKIE. I yield back my remaining time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

AMENDMENT NO. 2088

Mr. MUSKIE. Mr. President, at the request of my good friend from Hawaii, Senator INOUYE, I call up his amendment No. 2088.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Maine (Mr. MUSKIE), for the Senator from Hawaii (Mr. INOUYE), proposes amendment No. 2088.

The amendment is as follows:

On page 77, line 6, insert "(a)" immediately following "SEC. 33.".

On page 79, after line 13, insert the following new subsection:

"(b) Section 302(d) of the Clean Air Act is amended—

"(1) by striking out the word 'and' immediately preceding 'American Samoa';

"(2) by striking the period immediately following 'American Samoa' and inserting in lieu thereof ', and the Trust Territory of the Pacific Islands.' ".

Mr. MUSKIE. Mr. President, this amendment will add the Trust Territory of the Pacific Islands to the definition of "State" under the Clean Air Act. The effect would be to make that area subject to all the requirements of the Clean Air Act.

I call up the amendment at the request of the Senator from Hawaii, who could not be here, and urge the Senate to approve the amendment.

Mr. BUCKLEY. Mr. President, I have no objection whatever to that proposal. It seems to be a reasonable extension of specific authority.

The PRESIDING OFFICER. Do Senators yield back their time?

Mr. MUSKIE. Yes.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

UP AMENDMENT NO. 304

Mr. MUSKIE. Mr. President, I offer a technical amendment.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Maine (Mr. MUSKIE) proposes a technical amendment, unprinted amendment No. 304.

The amendment is as follows:

At the end thereof, add the following new section:

"SEC. 42. This Act may be cited as the 'Clean Air Amendments of 1976'.".

Mr. MUSKIE. I yield back my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. MANSFIELD. Mr. President, what is the pending question?

The PRESIDING OFFICER. There is no pending amendment now. At 2 p.m. the Senate is to proceed to lay before the Senate an amendment by the Senator from Colorado.

Mr. MANSFIELD. What will be the pending question when the Senate returns to the pending business tomorrow morning?

The PRESIDING OFFICER. Amendment No. 1608, after it is laid before the Senate.

Mr. MANSFIELD. Is that the amendment by Senator GARY HART?

The PRESIDING OFFICER. That is correct.

ORDER THAT PACKWOOD AMENDMENT FOLLOW DISPOSITION OF GARY HART AMENDMENT

Mr. MANSFIELD. Mr. President, I understand the Senator has two amendments. I ask unanimous consent that following the disposal of the Gary Hart amendments the amendment of the distinguished Senator from Oregon be called up and the Senator from Oregon be recognized to explain his amendment.

Mr. PACKWOOD. That is correct.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS SUBMITTED

Mr. HUDDLESTON. Mr. President, some of the provisions in S. 3219 that concern me are those in section 9 relating to delayed compliance orders and penalties. Curiously, there has been little public note or discussion of this section.

To understand this provision, one must go back to the Clean Air Amendments of 1970. While that law generally is regarded as an excellent piece of legislation, inclusion in it of seemingly arbitrary mandated compliance dates has proved to be somewhat of a problem.

In 1972, when the Administrator of the Environmental Protection Agency approved State implementation plans in accordance with the act, he noted that it would be impossible to carry out all the plans within the allotted times. In subsequent enforcement of the plans, EPA and the States, indeed, found it necessary to issue enforcement orders with compliance dates which extend years beyond the date mandated in law for attainment and maintenance of the national ambient air quality standards. It was not, in many cases, a matter of not wanting to comply or not trying to comply. It was simply that many sources physically could not—even assuming unlimited funds—comply with all requirements within the allowed time. It is important to note that compliance with emission limitations is required, even though ambient air quality is such that health and welfare are protected.

The Senate bill before us now includes new deadlines: January 1, 1979, for most sources, including those that already have been issued enforcement orders with later compliance dates; July 1, 1980, for sources ordered by FEA to convert to coal or those switching to coal because of natural gas curtailment; January 1, 1981, for those willing to undertake the expense and risk of experimenting with innovative technology; and for sources subject to newly promulgated plans or revised requirements that are more stringent than originally approved, 3 years after such promulgation or revision.

As I understand it, if compliance is later than those mandatory dates, the source automatically would have to begin paying delayed compliance penalties—unless it can be shown that noncompliance is beyond the owner's control.

An example of the problems caused by the compliance penalties in S. 3219 may prove helpful.

Louisville Gas & Electric Co. in my home State of Kentucky has been praised by EPA as most cooperative and enlightened. They pioneered application of flue-gas desulfurization in this country, and they have signed a consent order calling for installation of scrubbers throughout their system. For some units, however, compliance dates extend as late as 1985. EPA recognizes that it takes time to design, order, fabricate, install, finance, and bring into operation controls for an entire electric utility system without sacrificing integrity and reliability of service, and such considerations undoubtedly went into the Agency's decision regarding practicable compliance dates. Under S. 3219, however, it appears that the company would begin paying automatic penalties of some $3,000,000 per year for those units that are not in operation by January 1, 1979. I cannot believe that the committee intended to declare such a cooperative company in bad faith on that arbitrary date, and to subject it to such penalties.

The committee report says the penalties would be imposed to overcome economic advantage gained by noncomplying sources, and to prod the recalcitrants who find it cheaper to pay attorneys' fees for litigation than to purchase control equipment.

In light of the types of noncomplying sources listed by EPA: Municipal incinerators, public powerplants, schools, Army and Navy installations, two GSA powerplants right here in the shadow of the Capitol, and many similar facilities, this reasoning is not at all clear to me. How do such publicly owned sources, through delaying tactics, gain an economic advantage over similar sources?

These are my concerns regarding section 9 of S. 3219. I hope the conferees in reconciling the differences between this bill and whatever similar legislation might come from the House, will seek to address the issues I have raised.

Mr. STAFFORD. I am pleased that the committee has sought in this bill to find imaginative new means for encouraging the most expeditious abatement of pollution, while minimizing the effects of these measures on the economy and the Nation's supply of energy. In particular, I believe that the delayed compliance penalty provision will provide a significant incentive for compliance, while assuring that noncompliance will not result in unwarranted closing down of energy and other facilities. I think this measure will also go a long way toward assuring fairness to all subject to the Clean Air Act, by guaranteeing to those who have complied with the law that they will not be at an unfair disadvantage in competing with those who have not met their obligations.

I believe this penalty incorporates a sound principle. In passing the 1970 act, we provided that during the formulation of the State implementation plan, the States were required to hold public hearings on the measures they proposed to use to attain the national health protective air quality standards. We expected that those industries who might be affected by the State plans would have an ample opportunity to present their views concerning the cost or feasibility of the measures proposed by the State to meet the standards. The States would then have the best information available to decide what measures for abating pollution were available, and how to meet the standards most economically. It was epected that claims of excess cost or infeasibility would be raised and decided by the States at this point. These claims would then be foreclosed in later enforcement proceedings although they might form the basis for a subsequent revision of a State plan. Dicta to the contrary in the Supreme Court's recent opinion in Union Electric against EPA are, in my opinion, incorrect.

Without this rule, the congressional plan for expeditiously attaining healthful air quality could have been easily frustrated by those who ignored the original planning process, then waited until an enforcement action to raise their objections to the requirements of the plan.

In the pending bill, we have recognized the unfortunate fact that a large number of pollution sources did not meet their timetables for compliance in the State plans. For those who have not yet complied, we have allowed the States to put off the day of reckoning until as late as 1979, or 1981 in some cases. At that time, those who have still not complied will, and should, be subject to the full enforcement of the law, including the delayed compliance penalty.

At that time, the requirements of the State implementation plans will have been in effect for 7 to 9 years. The time for questioning the cost or feasibility of these requirements will be long past. For this reason I wish to be certain that I am correct in my understanding that claims regarding neither the cost nor availability of the technology, systems, or other measures needed to comply can be raised to question or delay the imposition or full effectiveness of the delayed compliance penalty.

I note with approval that the bill does not grant jurisdiction in the courts for reviewing a delayed compliance penalty on the ground that meeting the applicable requirement of the State plan would be costly; and that the committee's report specifically notes the issue of cost may not be the basis for review of a penalty. I wish to be sure, however, that the same applies to a claim that technology is not available to meet the requirement.

Mr. MUSKIE. Your understanding is correct. Since the question of feasibility was to have been addressed in the process of formulating the State implementation plan, the Federal courts would not have jurisdiction to review delayed compliance penalty on the basis of a claim that technology was not available to meet the applicable requirement. The opportunity to present these claims was available when the plan was formulated. It remains available as a grounds for requesting a revision of a general requirement of a State implementation plan. It may not be raised in defense to a delayed compliance penalty or other enforcement action.

Mr. STAFFORD. I note that the bill provides that a penalty could not be applied where compliance with the applicable requirement was impossible owing to reasons "wholly beyond the control" of the source owner. Am I correct, then, in assuming that this exception does not cover a claim that technology is not available?

Mr. MUSKIE. Yes, you are correct. The exceptions for events wholly beyond the control of the source owner is intended to be limited very narrowly, in keeping with the bill's intent that the penalty should provide a strong incentive for compliance and a safeguard against unfairness to those who more expeditiously met the act's cleanup requirements.

It is intended to apply only in cases of natural disaster, fire, embargo, or the like, which interfere with the timely installation of the equipment, systems or techniques, required to meet the State plan's requirements, and then only for a period equal to the duration of the delay-causing event. It might be available where a supplier or contractor was unable to meet a final completion date for emission control equipment, but even in this case, it would not be available if there was evidence suggesting that the delay was in any way caused or encouraged by the source owner himself. For example, if the source owner unduly delayed negotiations for needed equipment in the first instance by demanding unusual guarantees or by making other demands not typical of contract negotiations in its industry for production equipment, the exception would not be available. Likewise, it would not be available where the source owner placed unusual restrictions on the construction work of the supplier, or delayed shakedown testing beyond the normal interval for equipment used in its production process. And in addition to these conditions it would not be available in any case unless the source owner could show, by reference to his own financial and organizational records, that procuring and implementing the needed measures had been given highest priority in the owner's planning and budgeting process.

It was our view that by the time the penalty was imposed, the opportunity for arguing that the necessary pollution control equipment or other systems or measures were not available or technologically feasible had long since lapsed.

Mr. STAFFORD. That was my understanding also, and I am reassured to hear that it was the intent of the committee when it drafted this bill.

LEGISLATIVE HISTORY ON CITIZEN SUITS UNDER SECTION 304 OF THE CLEAN AIR ACT AMENDMENTS

Mr. MUSKIE. Mr. President, sections 6 and 34 of this bill would expand the rights of citizens to bring suits under section 304 of the Clean Air Act by authorizing such suits against any person who proposes to construct or constructs any new major emitting facility in violation of the provisions of section 110(g) which protect against degradation of clean air areas. It is also my understanding that this would in no way diminish the rights of citizens under existing law to sue in the Federal courts for claims arising under the Clean Air Act.

Specifically, general Federal jurisdiction is preserved by this amendment as well as the special grant of jurisdiction under section 304 as it exists prior to these amendments. Moreover, the class of nondiscretionary duties of the Administrator with respect to which section 304 authorizes suits is also broadened to include those duties imposed by section 110 (g) including paragraph (9) thereof.

Where section 304 of these amendments authorizes suits against the construction of facilities "without a permit required under section 110(g)" that it is referring to a permit which is valid and which has been legally issued under paragraphs (4) and (5) of section (g). In other words, if a State permit has been issued in violation of the requirements of section 110 (g), a citizen will have access to Federal court under section 304 to prevent the construction of the permitted facility.

In view of these clarifications and the committee's report, it would seem that a challenge to the legality of a permit which a State has actually issued, or proposed to issue, under section 110(g), may be brought either in Federal district court under section 304(a), if the citizen has first sought administrative remedies under the State permit process, or, alternatively, a citizen may elect to seek review of the legality of the permit in a State court.

Finally, the committee report on page 82 states that—

> The Committee does not intend by these amendments to section 304 to provide another means to a citizen to challenge the legality or validity of a State-granted permit under Sec. 100(g).

That statement refers only to challenges involving Federal lands or Federal officials, alluded to in the preceding sentence with respect to which suits are already authorized under existing law.

In other words, the amendment which adds paragraph (3) to section 304 would alter current rights of judicial review only to the extent of authorizing suits in Federal court to prevent the construction of any new major emitting facility without a valid permit as required under section 110(g) after exhausting any available administrative remedies at the State level.

VAPOR RECOVERY

Mr. EAGLETON. I would like to ask the distinguished floor manager whether the committee considered the problems small gasoline retailers would have in complying with EPA's proposed new vapor recovery standards? Did the committee address this problem and is there anything in the bill before us which would give some relief to those independent small businessmen?

Mr. MUSKIE. The committee spent a considerable time discussing the proposed regulations which would require retail gasoline outlets to equip their pumps with vapor recovery systems. The committee agreed that it was an important initiative to take, but there were questions about the effectiveness of the equipment which was being mandated by the regulations and also concern about the cost of the equipment to small operators. After extensive communication with the agency the committee concluded that EPA was sensitive to these problems and would take due account of them in its final regulations. So the committee decided not to interfer in that process, but rather to trust that the problems would be worked out within the agency and I am confident that will be done.

Mr. EAGLETON. As the Senator knows, I had considered offering an amendment to allow small retail operations a period of 4 years in which to fully comply with the proposed standards. But I appreciate the assurances given by the distinguished chairman that the problems have been brought to the attention of the EPA and the committee has expressed its concern that there be a satisfactory resolution of them. I will not press my amendment for that reason but will accept the committee judgment that this thing will be worked out.

Mr. MUSKIE. I am confident it will be.

Mr. BENTSEN. The 1976 amendments also include a provision which is specifically written to encourage the development and application of innovative emission control technology. Section 9(a) of the bill, adding a new subparagraph 4 to section 113 of the act, will permit a source to seek a compliance date extension up to January 1, 1981, for the application of an innovative production process or control techniques which has the potential for reducing emissions to a greater extent or at a cost far less than existing technologies and which also has the potential for industrywide application.

As one of the authors of this provision, I believe this to be a helpful addition to the law. In writing the 1970 act, the Congress established a mechanism for pollution abatement with both firm deadlines and stringent emission limitations. Both were needed to accomplish the emissions reductions which have already been achieved. They have, moreover, encouraged industry to undertake a major research effort to develop more effective and less costly technologies.

As with any research and development effort, however, progress is not always smooth, uninterrupted, or without setback. Promising leads often have had to be abandoned, and new possibilities pursued. This is the very nature of invention.

In reporting the 1976 Amendments to the Clean Air Act, the Public Works Committee has acknowledged that promising pollution abatement technologies are now being developed which may not be fully applicable by January 1, 1979, the newly authorized deadline. It has, therefore, given State authorities the option of granting an additional extension of up to 2 full years to sources developing such promising new technologies and new production processes which would significantly reduce emissions.

In acting upon a request for additional time under this innovative technology provision, the State authority may grant an extension under either the bonding or delayed compliance penalty provisions specified elsewhere in section 9 of these amendments. A bond would be required of a source which intended to replace its entire production process or facility and which would not comply with the gradual phase-in requirements specified in a routine schedule and timetable for compliance. The delayed compliance penalty mechanism would be applicable to a source which proposed to meet the requisite emission limitation by modifying or replacing pollution abatement equipment or a portion of its production process and which could meet the phase-in requirements of a schedule and timetable for compliance.

Research originally undertaken to improve equipment or techniques utilized solely for emission reduction might well have to be altered with the realization that the greatest abatement can be achieved through the alteration or replacement of one or more of the various phases of the overall production process. The authors of this language do not intend that the replacement of such a subportion of the overall production process necessarliy requires implementation of the bonding provision. In fact, the source should qualify under the delayed compliance penalty mechanism, provided that it can meet the phase-in requirements of a schedule and timetable for compliance.

The committee report refers to a change in production process as one of the defining criteria for an extension granted under the bonding mechanism. The language in the bill specifying the bonding provision indicates that a complete change in the production process; that is, the replacement of the facility itself or the introduction of an entirely new production process, covering all aspects of production is contemplated. Under the innovative technology provision, a bond would also be required of a source which proposed to meet its emission limitation by totally replacing its production process.

The authors of the innovative technology provision certainly do not intend that it be an invitation to further delay in the attainment of the requisite emission limitation. It is to be applicable only to those sources which can demonstrate that they have committed themselves to developing technology which has the potential for emission reductions far greater or at significantly less expense than existing technology and which has the potential for industrywide application.

Mr. DOMENICI. Would the distinguished Senator from Texas yield for a moment? First, I would like to commend my colleague on the Public Works Committee for an excellent opening statement. Second, I would like to amplify on Senator BENTSEN's remarks with respect to the innovation technology section of the bill. Section 9(a) of the committee bill adds a new subparagraph 4 to section 113 of present law which permits a source to seek a compliance date extension until January 1, 1981, for the application of an innovative production process on control technique. Personally, I feel that section 9(a), by encouraging the development and application of innovative technology, is one of the committee's major contributions in this bill. Increasingly, environmental regulations are being subjected to an economic attack that is focusing on potential job losses and economic costs. Innovative technologies that provide more effective and less costly emission reductions offer at least a partial answer to some of the economic objections being raised against environmental regulations.

Mr. BUCKLEY. As one who, along with Senators DOMENICI and BENTSEN, authored this provision, I would like to stress that I see this provision as no more than Congress honoring its commitment to those who have undertaken research efforts as a result of the passage of the 1970 amendments to the Clean Air Act. As with any research effort, progress is not always smooth and uninterrupted. Promising leads have had to be abandoned and new possibilities pursued. This is the very nature of invention. The committee amendments acknowledge the extra time needed to bring some emerging technologies to fruition. Under our amendment, States are given the option of granting an additional 2-year extension to the 1979 deadline for sources developing promising new technologies.

Mr. DOMENICI. Senator BUCKLEY'S points are well taken. I think it should be stressed that a State, when acting upon a request for additional time under this innovative technology provision, may grant an extension under either the bonding or delayed compliance penalty provisions found elsewhere in section 9 of the amendments. A bond would be required where a source intended to replace its entire production process and which could not comply with the gradual phase-in requirements of a schedule for compliance that required specific milestones or increments of improvement at given times. In contrast, where a source could meet the phase-in requirements of a schedule for compliance with well-established milestones, then the delayed compliance penalty should be employed.

Mr. BENTSEN. That is exactly right. I appreciate your use of the imperative "should" with respect to use of the delayed compliance penalty where the requirement of a compliance schedule with milestones of progress can be met. None of us intends that the replacement of a subportion of the overall production process requires use of the bonding provision.

Mr. BUCKLEY. The language of the bill substantiates the point made by the Senator from Texas. Section 9, the amendment to section 113(d)(3) of the act states that the bond is triggered by "a complete change in production process." I read the word "complete" as meaning the replacement of the facility itself or the introduction of an entirely new production process, covering all aspects of production, without defined milestones.

Mr. DOMENICI. That is certainly my view on the matter.

Mr. BENTSEN. I concur.

AUTO EMISSIONS

Mr. GRIFFIN. Mr. President, after years of piling more and more regulations on the auto industry and its workers, the pending legislation represents a belated, but important, recognition of the need to reverse that trend.

Unfortunately, the auto emission standards and deadlines mandated by the Clean Air Act of 1970 have created a constant state of brinkmanship. On three separate occasions—usually at the last hour—Congress or the EPA Administrator has been forced to move back deadlines for compliance to avoid massive economic disruption and hardship for thousands of workers in the auto industry and related industries.

Once again we are faced with the need for prompt action to avoid delay in the introduction of 1979 model cars. Because of congressional inaction with respect to this legislation, the normal date for beginning auto emission certification tests for the 1979 models has already passed.

Apparently, the memory of last year's severe auto slump has dimmed. But, the effect of Government regulation which helped to precipitate that crisis should serve as a reminder that we need to act more responsibly in regulating this vital segment of our economy.

While the pending bill is a step in the right direction, it suffers from the same basic deficiencies that exist in the 1970 act. Namely, too much is required in too short a time frame.

The unreasonably high standards and tight schedule for compliance contained in the Clean Air Act have forced development of costly "makeshift" technology, instead of longer term alternatives that are less polluting and more energy efficient. The use of catalytic converters and other pollution control devices, for example, have added from $200 to $400 to new car prices. And, catalyst technology has created another potential air hazard in the form of sulfuric acid emissions.

Unfortunately, the bill now under consideration is likely to increase fuel consumption, boost new car costs sharply, delay further the introduction of alternative technologies, and result in little additional benefits to public health.

In contrast to the administration's proposal for a 5-year freeze on auto emission standards at 1976 levels, this legislation would extend current standards for hydrocarbons—HC—and carbon monoxide—CO—for only 1 additional year and would extend the deadline for full compliance with a slightly modified nitrogen oxides—NO_x—standard by only 2 years.

From an energy standpoint, the standards in S. 3219 would be particularly harmful—with estimates of fuel economy loss ranging from 10 to 20 percent. The Department of Transportation projects that a fuel economy penalty of 10 to 15 percent could lead to an increase in annual fuel consumption roughly equivalent to about a third of the flow of the Alaskan oil pipeline.

At a time when we should be trying to decrease our reliance on foreign energy sources, this legislation fails to go far enough in correcting errors of the past. And, it also conflicts with Congress more recent action to impose mandatory fuel economy standards by the 1978 model year.

The cost impact of these standards is also a matter of great concern. To meet these requirements, a joint EPA-DOT-FEA study completed earlier this year estimated higher lifetime costs of $300 to $700 for new cars by 1980. Those higher costs could have a profound negative effect on sales and unemployment, as we witnessed during the past recession.

According to a study for the *New York Times* by Wassily Leontief, a Nobel Prize-winning Harvard economist, each drop in car sales of $1 billion—or about 3 percent of gross per year—puts 57,000 Americans out of work. Many of these lost jobs are in nonautomotive industries such as steel, textiles, chemicals, glass, mining, and the service industries. Thus, the entire economy—not just Detroit—would suffer if car sales are artificially depressed.

Furthermore, to the extent that new car sales are reduced, the replacement of older higher polluting cars takes that much longer. Indeed, excessive regulation can be self-defeating.

Another problem with the stringent standards in the bill is the inhibiting effect they may have on efforts to develop alternative technologies, such as the Stirling, lean-burn, stratified charge, and diesel engines. In a statement to the Senate Public Works Committee last October, Dr. Eric Stork, Deputy Assistant EPA Administrator for Mobile Source Air Pollution, indicated that NO_x standards below 2, or at least 1.5, gm/mi means that "no automaker is likely to pursue promising engine or emission control approaches that involved stratified or other lean-burn techniques." Although the NO_x standard in the bill has been reduced, it would still remain at a 1.0 gm/mi level.

Similar conclusions have been reached by the Federal Energy Adminstration and the Energy Resources Council, as well as in a 1974 study sponsored by the National Science Foundation.

More recently, an EPA report entitled "Automobile Emission Control—The Current Status and Development Trends as of March 1976," predicted that NO_x standards similar to those in S. 3219 could be met, but would "entail a high risk effort for manufacturers" even with the use of advanced three-way catalyst systems. The report also suggested that a 1.0 gm/mi standard should be delayed at least until 1981 if manufacturers place greater emphasis on fuel economy than on emissions. Because of Federal fuel economy standards, that situation is quite likely to happen.

Finally, from the important perspective of public health, there is considerable evidence to indicate that the bill's restrictive standards will not improve air quality substantially.

For example, the National Academy of Sciences, in its 1974 report to the Senate Public Works Committee, concluded that both the CO and NO_x standards may be more stringent than necessary to meet Federal ambient air quality standards. The report also noted that a 2.0 gm/mi NO_x standard could achieve much of the estimated benefits "at a relatively low fraction of the cost of obtaining the stricter" statutory standards.

The EPA-DOT-FEA study referred to earlier also shows there is little justification from an air quality standpoint to adopt standards as restrictive as those contained in the pending legislation. In fact, the results of that study indicate that standards and deadlines considerably less stringent than those contained in S. 3219 would have less adverse impact on public health.

It should be pointed out that a great degree of progress has already been achieved in cleaning up auto emissions. Approximately two-thirds of the 90-percent reduction goal mandated by the 1970 act has been accomplished. But, there is considerable doubt that the benefits of fully meeting those original goals outweigh the demonstrated risks and costs involved.

Apart from these major reservations, the bill also includes some other troublesome features, such as the provisions that would: First, virtually eliminate Federal preemption of more stringent State standards; second, require production line tests of every new vehicle produced; and third, mandate percentage reductions in truck emissions equivalent to those for cars. That latter requirement could increase costs by as much as $1,000 per vehicle.

Despite these objections, I am reluctantly refraining from offering any amendments because of the overriding need to expedite congressional consideration of this legislation.

It is essential that the industry know with certainty what will be required of it as soon as possible to prevent economic chaos next year when the 1978 models are scheduled to be introduced. Accordingly, I urge the Senate to act promptly on this measure. However, I am hopeful that some of my concerns expressed above can be resolved in conference.

A BALANCED APPROACH TO CLEAN AIR

Mr. HUMPHREY. Mr. President, I rise to congratulate my distinguished colleague, Senator JENNINGS RANDOLPH, who has worked so tirelessly on efforts to provide a sound, research-based amendment to the nondeterioration section of the Clean Air Act.

Nearly unanimous passage of Senator RANDOLPH's amendment by a vote of 83 to 1 provides ample testimony of the balance and reasonableness of his approach.

Under the proposed Senate bill, S. 3219, the States would designate their "clean air" areas into two classes in which certain increases or "increments" of additional emissions of particulates and sulfur oxide would be allowed. Clean air areas are those areas in which the quality of the air is cleaner than required by existing primary and secondary national ambient air quality standards.

The most protected areas, class I areas, would include international parks, as well as national parks, wilderness areas, and memorial parks of over 5,000 acres. It is important to protect these areas, especially in view of our rapidly expanding population, which is expected to double by the year 2000, and in view of our diminishing number of open spaces. Increased pollution or emissions of particulates and sulfur oxide up to certain incremental units will be allowed in these areas.

The States will have full authority to issue construction permits to all new major pollution sources, called major emitting sources, upon a showing that the incremental limits will not be violated. Moreover, a special exception to the general rule would allow industrial expansion at an existing site under specified conditions. The incremental limits and the site expansion exception represent what are believed to be reasonable compromises between environmental enhancement and industrial growth.

The proposed nonsignificant deterioration standard has generated much emotionalism. Senator RANDOLPH prefers to look at the facts. One cannot ignore the fact that the Senate Public Works Committee, which is comprised of most able and intelligent Senators, reported the bill by an overwhelming vote of 12 to 1. The lone dissenter felt that the bill was not stringent enough. The other 12 Senators believe that the bill gives increased responsibility to the States to develop and implement air quality improvement and maintenance programs and that the bill reasonably balances economic and social necessities with environmental enhancement.

The most significant argument against this proposed standard is that there has not been a more thorough study of its practical applications. On the other hand, the very people making that complaint have failed to produce factual data supporting their views.

Where does all of this leave us? As so often seems to be the case in this suboptimal world, we must make important decisions without a lot of facts we wish we could have. One fact, however, is certain: We must take responsible action since the alternative—no action—is unacceptable. What were our choices?

The choice we made today was the Randolph amendment to approve the bill while also requiring the National Commission on Air Quality to prepare within 2 years a comprehensive study showing the effects of the nondeterioration standard. If unreasonable effects are shown, then prompt action should be taken to amend the statute as appropriate.

Another alternative would have been to delay a vote upon passage of the bill until after receipt and analysis of a more thorough study. Other alternatives would have been to approve or reject the bill now.

Finally, there was always the alternative of debating and debating until it was too late to take any action until the next legislative session.

However, a far sounder resolution has been to approve the bill while requiring the more thorough study designed by Senator RANDOLPH. This realistic approach represents a significant step forward in reconciling some knotty dilemmas while also requiring further thoughtful factual analysis. This approach encourages progress and clear thinking about the significant problems which we, as a society, must resolve. No one seems pleased with the present state of unresolved confusion. Thus, let us go forward with this balanced Randolph approach to the significant deterioration problem with the hope that wisdom will be used to apply it so as to carry out the fundamental purposes underlying the Clean Air Act.

Mr. TUNNEY. Mr. President, millions of Californians suffer from the effects of some of the worst air pollution in the country. Southern California, and particularly the South Coast Air Basin, is in a special situation because of air pollution hazards peculiar to the region. Geographical characteristics and widespread reliance on the private automobile combine to form a major source of this pollution. The problem in California has been developing for years, and lately at an accelerating pace despite efforts to produce nonpolluting and energy-efficient cars and trucks. Clearly we must do all in our power to halt the despoilation of the air we breathe. Health officials inform us that the increasing levels of smog will mean a public health threat because of increased respiratory illnesses. Business leaders say that deteriorating air quality is having a deleterious effect on important segments of the California economy.

In 1970, the Clean Air Act established a national goal "to protect and enhance the quality of the Nation's air resources so as to promote the public health and welfare and the productive capacity of its population." At the time that this national policy was established, the Congress was well aware that an integral element to the realization of this goal was the curbing of automobile emissions. For this reason, the 1970 Clean Air Act articulated stringent auto emission performance standards, and put the auto industry on notice that these standards were to be achieved in accordance with a definite timetable.

The Clean Air Act of 1970 mandated a 90 percent reduction from 1971 emission levels in three pollutants emitted from automobiles, by 1975 for hydrocarbons and carbon monoxide and by 1976 for nitrogen oxides. The resultant standards reflecting those percentage reductions are: 0.41 grams per mile hydrocarons, 3.4 grams per mile carbon monoxide, 0.4 grams per mile nitrogen oxide. As a result of two 1-year postponements by the Administrator of the Environmental Protection Agency and one congressional delay of a year, the deadline is now 1978 for achievement of the original statutory auto emissions standards.

The pending clean air amendments (S. 3219) modify the original 0.4 grams/mile NO_x standard to 1.0 grams/mile which must be met by 1980 on all cars, and by 10 percent of all cars produced in 1979. The 0.4 grams/mile NO_x level becomes a research objective to which auto manufacturers must build demonstration vehicles on an annual basis S. 3219 also provides for an extension of the compliance deadlines for hydrocarbons and carbon monoxide from 1978 to 1979.

Mr. President, I agree with a recent editorial which appeared in a California newspaper. The editorial states that "America is not going to win the war against air pollution if Congress takes the backward step of relaxing automobile emission standards."

We have learned much during the last several years about the adverse effects of pollutants on our society and its economy, and we have made considerable progress in emission control technology, both as to effectivness and as to minimizing costs and unwarranted side effects. Unfortunately, most of this progress has only taken place due to stringent governmental standards imposed over the objections of those having an obvious economic incentive to resist controls and to continue to impose costs of pollution on the general public.

The chairman of the California Air Resources Board has analyzed the auto emission provisions of S. 3219 in order to determine their impact on California. He has brought the following key findings to my attention:

> . . . the schedule proposed for passenger car emission standards is unnecessarily lax considering the progress which has been made in automobile emission control technology and California's experience with more stringent standards. . . . Most of the arguments against tougher emissions standards are based on alleged fuel penalty. Although significant penalties have been observed in past years, this is no longer the case. For example, when we moved to more stringent standards in California in 1975, fuel economy actually improved by an average of about 15 percent. We had further improvements this year. And our tests of prototype 1977 California models, which must meet much tougher emission standards, indicate that fuel economy will improve again—this time about 5 percent—despite the stricter requirements.
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> For the 1976 model year, Californians suffer about a 5 percent fuel penalty when compared to cars sold in other states. This margin will narrow somewhat next year even though we will have the more stringent standards. The message is clear: as the manufacturers have been required to meet more stringent standards in California, marketplace competition has forced the automakers to develop more efficient systems which have little or no fuel penalty.

Mr. President, rather than attempting to maintain strong antismog requirements, S. 3219 proposes to relax the auto emission compliance schedule in order to accommodate Detroit car manufacturers. If the language that is currently in the Public Works Committee bill is approved, it will adversely compromise the achievements that have already been made in California. The argument behind the committee's bill is that industry cannot produce a fuel-efficient car that meets the existing clean air goals. The facts belie this line of reasoning.

As my friend from Colorado, Senator HART, has reported, Volvo has developed a nearly pollution-free car which even gets 10 percent better gas mileage than current models. The Environmental Protection Agency and the California Air Resources Board have both tested and verified these positive results. Volvo will produce these cars for sale in California later this year. The reluctance of U.S. auto manufacturers to achieve similar breakthroughs can be traced to the economics of auto emission pollution.

In the jargon of the economist, air pollution is nothing more than a low-cost—or no-cost—form of waste disposal. However, those who wish to use the air for artificially low-cost waste dumping are, in effect, asking for a subsidy which imposses significant economic and other costs on their fellow citizens and other businesses. Emission controls amount to a requirement that sources begin to internalize the costs of waste disposal, and that those who purchase the goods and services produced pay such costs rather than impose them on the remainder of society. When viewed in this light, those who oppose a strong Clean Air Act on the ground that the issue is the environment against the economy have oversimplified the matter in a way that threatens to dangerously mislead those who must act in the public interest.

Mr. President, S. 3219 would relax 1978 Federal emissions standards in two critical areas: it would delay the compliance deadline for all automobile emission standards, and it would substantially relax the nitrogen oxide standard. Thus, S. 3219 would not require until 1979, hydrocarbon and carbon monoxide emission standards that are being achieved in California today. More importantly, S. 3219 would not require until 1980 a nitrogen oxide emission standard that is six times weaker than levels now being achieved in California. It is absolutely imperative that the committee's proposed rollbacks be rejected if we are truly committed to promoting the production of nonpolluting cars.

Senator HART (of Colorado) has prepared two amendments which will reiterate and reinstate legislative language that expresses the determination of the Senate to foster the production and use of clean automobiles. First, amendment No. 1608 would require manufacturers to comply with automobile emission standards 1 year earlier than set out in S. 3219. Specifically, the amendment moves up the compliance schedule by requiring the proposed 1979 standards be met in 1978, and the proposed 1980 standards be met in 1979.

The second amendment, No. 1609, would require automobiles produced in 1982 and thereafter to meet a nitrogen oxide standard of 0.41 grams per mile. This amendment would keep the NO_x emission control standard as it exists in current law, but delay compliance for 4 years, from 1978 to 1982. This modification will allow automobile manufacturers time to perfect emission control technology without abandoning standards that are necessary for protection of public health.

Mr. President, it is vitally important to California, and the Nation, that my colleagues join me in support of the two amendments offered by Senator HART. The objectives of the Hart auto emission amendments are realistic. I concur with a recent editorial that appeared in the Sacramento Bee:

> The point is that it can be done, it has been done, and there seems little validity to the negative attitude of those automakers who want to hold off meeting the emission standards as long as they possibly can. A Congress that yields to industry pressure will seriously erode the incentive to push ahead with the proven new technology.

TIME-LIMITATION AGREEMENT—STEVER NOMINATION

Mr. MANSFIELD. Mr. President, this has been cleared with the minority side. I ask unanimous consent that when the Stever nomination, for the Office of Science and Technology Policy, is taken up that there be a time limitation of 30 minutes, the time to be equally divided between the majority and minority leaders, or whomever they may designate, under the usual procedure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. MANSFIELD. I yield.

Mr. JAVITS. I am fine as to the time. Does the Senator have any idea as to when it is likely to be brought up?

Mr. MANSFIELD. Not at the moment. I had planned to bring it on Friday very early but one of the interested Senators will not be here at that time. As soon as possible, hopefully later that day.

Mr. JAVITS. Hopefully later Friday.

Mr. MANSFIELD. Hopefully.

Mr. JAVITS. That is fine, yes.

TIME-LIMITATION AGREEMENT—H.R. 3650

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when Calendar 972, H.R. 3650, an act to clarify reemployment of Civil Service annuitants and for debate thereon be limited as follows:

30 minutes on the bill,

30 minutes on any amendment to the bill,

20 minutes on any amendment to an amendment, or on motions or appeals.

The time to be equally divided and controlled in the usual manner and that the consent agreement be in the usual form.

The PRESIDING OFFICER. Without objection, it is so ordered.

The text of the agreement is as follows:

> *Ordered,* That during the consideration of H.R. 3650 (Order No. 972), An act to clarify the application of sec. 8344 of title 5, United States Code, relating to civil service annuities and pay upon reemployment and for other purposes, debate on any amendment in the first degree shall be limited to 30 minutes, to be equally divided and controlled by the mover of such and the manager of the bill, and that debate on any amendment in the second degree, debatable motion, appeal, or point of order which is submitted or on which the Chair entertains debate shall be limited to 20 minutes, to be equally divided and controlled by the mover of such and the manager of the bill: *Provided,* That in the event the manager of the bill is in favor of any such amendment, debatable motion, appeal, or point of order, the time in opposition thereto shall be controlled by the Minority Leader or his designee: *Provided further,* That no amendment that is not germane to the provisions of the said bill shall be received.
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> *Ordered further,* That on the question of the final passage of the said bill, debate shall be limited to 30 minutes, to be equally divided and controlled by the Majority and Minority Leaders, or their designees: *Provided,* That the said Leaders, or either of them, may, from the time under their control on the passage of the said bill, allot additional time to any Senator during the consideration of any amendment, debatable motion, appeal, or point of order.

TIME-LIMITATION AGREEMENT—S. 3037

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when Calendar No. 827, S. 3037, the Federal Water Pollution Act, is brought before the Senate, time for debate thereon be limited as follows:

2 hours on the bill,

1 hour on each amendment to the bill,

20 minutes on each amendment to an amendment or on motions or appeals,

The time to be equally divided and controlled in the usual manner and that the consent agreement be in the usual form.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. I do not know what bill that is.

Mr. MANSFIELD. Water pollution.

Mr. JAVITS. Water pollution.

The text of the agreement is as follows:

Ordered, That during the consideration of S. 3037 (Order No. 827), a bill to extend certain authorizations under the Federal Water Pollution Control Act, as amended, debate on any amendment in the first degree shall be limited to 1 hour, to be equally divided and controlled by the mover of such and the manager of the bill, and that debate on any amendment in the second degree, debatable motion, appeal, or point of order which is submitted or on which the Chair entertains debate shall be limited to 20 minutes, to be equally divided and controlled by the mover of such and the manager of the bill: *Provided,* That in the event the manager of the bill is in favor of any such amendment, debatable motion, appeal, or point of order, the time in opposition thereto shall be controlled by the minority leader or his designee: *Provided further,* That no amendment that is not germane to the provisions of the said bill shall be received.

Ordered further, That on the question of the final passage of the said bill, debate shall be limited to 2 hours, to be equally divided and controlled by the majority and minority leaders, or their designees: *Provided,* That the said leaders, or either of them, may, from the time under their control on the passage of the said bill, allot additional time to any Senator during the consideration of any amendment, debatable motion, appeal, or point of order.

TIME-LIMITATION REQUEST—H.R. 12907

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when Calendar Order No. 839, H.R. 12907, the SEATO authorization, is brought before the Senate, time for debate thereon be limited as follows:

2 hours on the bill,

1 hour on any amendment to the bill,

20 minutes on any amendment to an amendment, motion, or appeal.

The time to be equally divided and controlled in the usual manner and that the consent agreement be in the usual form.

Mr. JAVITS. Mr. President, will the Senate majority leader be kind enough to defer that for about an hour?

Mr. MANSFIELD. Yes.

Mr. JAVITS. I have a minority view, I am told.

Mr. MANSFIELD. I thought it was cleared on the Senator's side.

Mr. JAVITS. I know. I am sorry.

TIME-LIMITATION AGREEMENT—S. 3084

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when Calendar No. 872, S. 3084, the Export Administration Act Extension, is brought before the Senate, time for debate thereon be limited as follows:

3 hours on the bill,

2 hours on the Taft Amendment,

2 hours on the Dole Amendment,

1 hour on any other amendment to the bill,

20 minutes on any amendment to an amendment, or on motions or appeals.

The time to be equally divided and controlled in the usual manner and that the consent agreement be in the usual form.

The PRESIDING OFFICER. Without objection, it is so ordered.

The text of the agreement is as follows:

Ordered, That during the consideration of S. 3084 (Order No. 872), a bill to extend the Export Administration Act of 1969, as amended, debate on any amendment in the first degree (except an amendment to be offered by the Senator from Ohio (Mr. Taft), on which there shall be 2 hours, and an amendment to be offered by the Senator from Kansas (Mr. Dole), on which there shall be 2 hours) shall be limited to 1 hour, to be equally divided and controlled by the mover of such and the manager of the bill, and that debate on any amendment in the second degree, debatable motion, appeal, or point of order which is submitted or on which the Chair entertains debate shall be limited to 20 minutes, to be equally divided and controlled by the mover of such and the manager of the bill: *Provided,* That in the event the manager of the bill is in favor of any such amendment, debatable motion, appeal, or point of order, the time in opposition thereto shall be controlled by the Minority Leader or his designee: *Provided further,* That no amendment that is not germane to the provisions of the said bill shall be received.

Ordered further, That on the question of the final passage of the said bill, debate shall be limited to 3 hours, to be equally divided and controlled by the Majority and Minority Leaders, or other designees: *Provided,* That the said Leaders, or either of them, may, from time under their control on the passage of the said bill, allot additional time to any Senator during the consideration of any amendment, debatable motion, appeal, or point of order.

TIME-LIMITATION AGREEMENT—H.R. 13601

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when calendar No. 895, H.R. 13601—on its counterpart calendar No. 809, S. 3131—the Rail Passenger Service Act authorization, is brought before the Senate, time for debate thereon be limited as follows:

2 hours on the bill,

1 hour on amendments to the bill,

20 minutes on any amendment to an amendment, or on motions or appeals.

The time to be equally divided and controlled in the usual manner and that the consent agreement be in the usual form.

The PRESIDING OFFICER. Without objection, it is so ordered.

The text of the agreement is as follows:

Ordered, That during the consideration of H.R. 13601 (Order No. 895) or S. 3131 (Order No. 809), amending the Rail Passenger Service Act to authorize additional appropriations, and for other purposes, debate on any amendment in the first degree shall be limited to 1 hour, to be equally divided and controlled by the mover of such and the manager of the bill, and that debate on any amendment in the second degree, debatable motion, appeal, or point of order which is submitted or on which the Chair entertains debate shall be limited to 20 minutes, to be equally divided and controlled by the mover of such and the manager of the bill: *Provided,* That in the event the manager of the bill is in favor of any such amendment, debatable motion, appeal, or point of order, the time in opposition thereto shall be controlled by the Minority Leader or his designee: *Provided further,* That no amendment that is not germane to the provisions of the said bill shall be received.

Ordered further, That on the question of the final passage of the said bill, debate shall be limited to 2 hours, to be equally divided and controlled by the Majority and Minority Leaders, or their designees: *Provided,* That the said Leaders, or either of them, may, from the time under their control on the passage of the said bill, allot additional time to any Senator during the consideration of any amendment, debatable motion, appeal, or point of order.

Mr. PACKWOOD. Mr. President, on the amendment that I am bringing up for Senator BUMPERS and myself, did the Senator state a time limit?

Mr. MANSFIELD. I believe the Senator was granted 2 hours, and I believe that is in the unanimous-consent order.

CLEAN AIR AMENDMENTS OF 1976

The Senate continued with the consideration of the bill (S. 3219) to amend the Clean Air Act, as amended.

The PRESIDING OFFICER. The hour of 2 o'clock having arrived, pursuant to the previous order, the Chair lays before the Senate the amendment of the Senator from Colorado, which the clerk will report.

The legislative clerk read as follows:

The Senator from Colorado (Mr. GARY HART) proposes an amendment numbered 1608.

The amendment is as follows:

On page 65, line 11, strike "1979" and insert in lieu thereof "1978".

On page 65, lines 13 and 14, strike "1977, and 1978" and insert in lieu thereof "and 1977".

On page 65, line 23, strike "1978, and 1979" and insert in lieu thereof "and 1978".

On page 66, line 1, strike "model year 1980 and thereafter" and insert in lieu thereof "model year 1979 and thereafter".

On page 66, lines 10, 13, 16, and 19, strike "1979" and insert in lieu thereof "1978".

On page 66, line 12, strike "1980" and insert in lieu thereof "1979".

TAX REFORM ACT OF 1976

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of the unfinished business, H.R. 10612, which the clerk will report.

The legislative clerk read as follows:

A bill (H.R. 10612) to reform the tax laws of the United States.

The Senate proceeded to consider the bill.

Mr. HUMPHREY. Mr. President, I ask unanimous consent that Mr. Robert Hamrin and Mr. George Tyler of the Joint Economic Committee be given the privilege of the floor during the debate on the tax reform bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LONG. Mr. President, it was my understanding that we would proceed to consider the employees stock ownership provision in the bill and that the Senator from New York has an amendment. Am I correct in my understanding?

The PRESIDING OFFICER. Will the Senator repeat his question?

May we have order in the Senate? The Chair cannot hear the Senator from Louisiana.

Mr. LONG. Mr. President, it was my understanding that we would proceed to consider the employee stock ownership provision in the bill, that that would be the first item we would proceed to consider today, and that the Senator from New York would have an amendment to it.

The PRESIDING OFFICER. That is not the amendment of the Senator from Nebraska, is it?

Mr. LONG. No.

Mr. CURTIS. My amendment would follow.

Mr. LONG. The amendment of the Senator from Nebraska would follow this.

Mr. JAVITS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. JAVITS. Is there any unanimous-consent agreement relating to what amendment is to be called up at this time, or any order to that effect?

The PRESIDING OFFICER. Yes, there is. There is an order that the amendment of the Senator from Nebraska will be called up at this time, to be followed by an amendment by the Senator from Massachusetts. Does that answer the Senator from Louisiana's question?

Mr. LONG. Mr. President, I ask unanimous consent that we proceed to consider section 804, which is the employee stock ownership provision in the bill, and then the Senator from New York will have an amendment to offer.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. LONG. Mr. President, if the Senator will offer his amendment, I suggest that we have a time limitation on the amendment.

Mr. JAVITS. Mr. President, I have a good many partners in this matter. I will start, but if the Senator will give me a little while to check with them, I think we can try to agree.

Mr. LONG. I suggest that we limit this to 1 hour, to be equally divided, and perhaps we can shorten it.

Mr. JAVITS. I cannot agree to that.

Mr. LONG. Can we start out with an agreement for 2 hours?

Mr. JAVITS. I cannot agree to anything now, but I assure the Senator that I will talk to those associated with me and we will endeavor to reach an agreement.

In the meantime, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORIZATION FOR COMMITTEE ON LABOR AND PUBLIC WELFARE TO MEET ON AUGUST 5

Mr. MANSFIELD. Mr. President, the Committee on Labor and Public Welfare desires to hold hearings on August 5. The purpose of this hearing is to examine the need for special legislation to permit the swine flu immunization program to proceed and to explore the nature of the recent outbreak in Pennsylvania and the possibility that it may be swine flu.

This hearing is clearly of a critical and emergency nature and satisfies the criteria established by the leadership for exception to the general rule. The leadership agrees, and I ask unanimous consent that the Commitee on Labor and Public Welfare be allowed to meet during the session of the Senate on August 5.

Mr. KENNEDY. Mr. President, reserving the right to object—and I will not object—I want to underline the importance of the majority leader's request.

As chairman of the Health Subcommittee, we worked very closely with the Secretary of HEW. There is a hearing tomorrow. We are hopeful to have that legislation perhaps even out on the floor tomorrow.

We give notice to any of the Members of the Senate that any of those who have a particular interest will contact my office if they have ideas or suggestions and recommendations. I hope that we can receive many of those, because this is a very important and critical health matter.

I also indicate to the leadership that we have come back to the leadership, who were able to expedite the handling of this matter, and we hope to get early floor action on it. We have been working with the administration and the Interstate Commerce Committee of the House. This is of an urgent nature and I hope we can get action on it before the end of the week.

I thank the leadership for making this request and thank the chairman of the committee, the Senator from New Jersey (Mr. WILLIAMS), who has followed this very closely and cooperated in every way possible. He has been working very closely with us in our attempt to reach some kind of legislative solution to this problem.

Mr. MANSFIELD. Mr. President, I appreciate the remarks of the distinguished senior Senator from Massachusetts, who is the chairman of the Subcommittee on Health of the Committee on Labor and Public Welfare. I ask unanimous consent that that subcommittee be allowed to meet during the session of the Senate on August 5.

The PRESIDING OFFICER (Mr. HANSEN). Is there objection?

Without objection, it is so ordered.

TAX REFORM ACT OF 1976

The Senate continued with the consideration of the bill (H.R. 10612) to reform the tax laws of the United States.

Mr. MANSFIELD. I suggest the absence of a quorum.

Mr. JAVITS. Mr. President, if the Senator will withhold that, we have a colloquy we wish to carry on—Senator WILLIAMS, Senator LONG, and myself—which relates generally to the situation of this type of effort which is encompassed within 804. If I may have the attention of Senator WILLIAMS and Senator LONG, we can do that and then I shall reinstate the quorum call.

I yield to Senator LONG.

ESOP'S—PRUDENT MAN RULE AND EXCLUSIVE BENEFIT RULE

Mr. LONG. As the Senators know, under the Internal Revenue Code qualified retirement plans must be for the exclusive benefit of the employees and their beneficiaries. There is speculation by some that because it is recognized that employee stock ownership plans—ESOP's—may also benefit an employer, this "exclusive benefit" rule automatically disqualifies and therefore effectively prohibits the establishment of ESOP's.

Mr. WILLIAMS. Will the Senator yield for a question on that?

Mr. LONG. Yes, I yield.

Mr. WILLIAMS. Has the Internal Revenue Service issued a ruling regarding this issue or indicated that it intends to rule in that way?

Mr. LONG. No. In fact, if the Service follows its own well established policy and practice, it will not rule that ESOP's are automatically disqualified under the "exclusive benefit" rule contained in the code.

Mr. JAVITS. That is correct. As described in the section of the ERISA conference report under the heading "Basic Fiduciary Rules," "Prudent Man Standard," the Service has developed general rules under the "exclusive benefit" requirement that govern the investment of plan assets. The Service will examine a number of factors on a case-by-case basis. Generally, as stated in the report—

> . . . to the extent that a fiduciary meets the prudent man rule of the labor provisions, he will be deemed to meet these aspects of the exclusive benefit requirements under the Internal Revenue Code.

Mr. WILLIAMS. I agree that ESOP's do not necessarily violate the "exclusive benefit" requirement. Language similar to the Internal Revenue Code requirement governs the establishment of jointly administered employee benefit plans in the Taft-Hartley Act. That language has not been interpreted by the courts to prohibit the establishment of a plan which may also benefit an employer or a union. The key is that the plan cannot be established primarily to benefit the employer or the union.

I yield to Senator JAVITS.

Mr. JAVITS. That interpretation is not inconsistent with the manner in which the "exclusive benefit" rule is described in the ERISA conference report in the section headed "Prohibited Transactions," "Exemption for Loans to Employee Stock Ownership Plans," which describes how the exclusive benefit rule can be applied to a particular transaction.

Mr. WILLIAMS. I am also concerned about another problem involving the administration of ERISA. Under ERISA, the IRS and the Treasury and Labor Departments are responsible for the administration and enforcement of the fiduciary rules and prohibited transactions provisions. But these agencies, as we have learned through our oversight efforts, are having difficulty in establishing a mechanism for the efficient consideration and resolution of applications for exemptions to the fiduciary and prohibited transactions provisions of ERISA.

Mr. JAVITS. The system of cooperative administration over the fiduciary and prohibited transactions provisions established in ERISA does present some obvious administrative problems for these agencies. But frankly I am surprised that the agencies have failed to devise a system to cope with these problems.

I yield to Senator Long.

Mr. LONG. I propose that today we make clear to these agencies that we expect them to develop new procedures that will expedite the handling of applications for exemptions. I further propose that the Senate Finance and Labor Committees jointly request these agencies to report to the Joint Pension Task Force about the results of their effort and, if necessary, recommendations for legislative change by the end of this year. Once their report is received by the task force, we can decide upon our future course of action regarding this problem.

Mr. WILLIAMS. I certainly support the statement and the proposals outlined by the chairman of the Senate Committee on Finance.

Mr. JAVITS. I, too, support the chairman's proposals. I think they are excellent ones.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. JAVITS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 305

Mr. LONG. Mr. President, on behalf of the committee, I send to the desk some technical amendments in the nature of a modification of the committee amendment. These were agreed to by the committee.

The PRESIDING OFFICER. The amendments will be stated.

The legislative clerk read as follows:

The Senator from Louisiana (Mr. Long) proposes unprinted amendment No. 305.

On page 293, on line 16, strike out "paragraphs" and insert "paragraph".

Beginning on page 293, strike out line 22 through line 8 on page 294.

On page 294, strike out lines 18 through 21.

On page 294, on line 22, strike out "(6)" and insert "(5)".

On page 308, on line 23, strike out "(6)" and insert "(5)".

Mr. LONG. In the past, the Congress has encouraged employers to adopt employee stockownership plans so that employees can share ownership of the businesses they work for and so that businesses can have the benefit of additional capital. I think the Congress has acted wisely and I think that we have much to be proud of because this legislation has caused a great deal of interest in the advantages of employee stock ownership.

In its oversight role, the Finance Committee has found, however, that many employers who would like to adopt employee stock ownership plans cannot do so because of technical problems with the law and the committee amendment is designed to deal with these problems.

For example, the committee discovered that even though the purpose of an employee stock ownership plan is to directly benefit employees by investing in employer stock and to provide businesses with capital, some employers have been concerned that the benefit to the business causes the plan to be automatically disqualified. The committee dealt with this problem by making clear that an employee stock ownership plan is not to be disqualified just because it invests in employer stock.

In another area, the committee found that if an employee stock ownership plan wants to borrow money in order to buy employer stock, so that employees can get immediate benefits from growth and dividends on the stock without waiting for the employer to contribute it to the plan over a period of years, there are questions over whether the plan trustee can make the loan. The committee amendment also took care of that problem.

After the Finance Committee made these changes, members of the Labor and Public Welfare Committee expressed concern and indicated that they would like time to study the amendments. My amendment removes these new provisions from the tax law in order to give them that time, and I offer that amendment, Mr. President, and I urge its adoption.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Louisiana.

The amendment was agreed to.

Mr. JAVITS. Mr. President, I wanted to state to the Senator that I appreciate the cooperation that has been shown so far in the colloquy and the matters which have been cared for. Although we are sharply differing in this debate, I hope the same spirit will prevail as I conceive of our role as laying a rather complicated set of facts before the Senate. One of the subtleties in my own role is that I will yield to no one, not even Senator Long, in my devotion to stock ownership by workers. I have been working at it most of my adult life, and he has shown an extraordinary feeling and conviction for it.

It would be easy to picture myself and my associates in this impending amendment as being against workers' plans. We simply have to run the risk that people have more sense than that. We are on the same side, Senator Long, I and my associates. We have some very grave differences as to what is the best way to attain that result, but certainly as to motivation and purpose there is no question whatever.

Mr. WILLIAMS. Mr. President, will the Senator yield?

Mr. JAVITS. I yield.

Mr. WILLIAMS. I ask unanimous consent that from the staff of the Labor and Public Welfare Committee, Mr. Don Ellisburg and Mr. Ian Lanoff be permitted the privilege of the floor during the debate on this ESOP question.

Mr. JAVITS. Mr. President, I ask unanimous consent that floor privileges be granted for Don Zimmerman, of the Labor Committee staff.

On behalf of Senator Huddleston I ask that floor privileges be granted to Bill Seale and Roger LeMaster, of his staff.

The PRESIDING OFFICER. Without objection, it is so ordered.

QUORUM CALL

Mr. JAVITS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk called the roll, and the following Senators entered the Chamber and answered to their names:

[Quorum Call No. 30 Leg.]

Allen
Burdick
Byrd,
  Harry F., Jr.
Cranston
Curtis
Fannin
Ford
Garn
Hansen
Hart, Gary
Haskell
Huddleston
Jackson
Javits
Kennedy
Long
Mansfield
McClellan
McGee
McIntyre
Morgan
Sparkman
Stevens
Stone
Tunney
Weicker
Williams

Mr. LONG. Mr. President, I move that the Sergeant at Arms be directed to compel the attendance of absent Senators.

Mr. JACKSON. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Louisiana (Mr. Long) to direct the Sergeant at Arms to compel the attendance of absent Senators. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. Hartke), the Senator from Minnesota (Mr. Humphrey), the Senator from Washington (Mr. Magnuson), the Senator from South Dakota (Mr. McGovern), the Senator from Minnesota (Mr. Mondale), the Senator from Connecticut (Mr. Ribicoff), and the Senator from Missouri (Mr. Symington) are necesarily absent.

I further announce that the Senator from Hawaii (Mr. Inouye) is absent on official business.

I also announce that the Senator from Michigan (Mr. Philip A. Hart) is absent because of illness.

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. Baker), the Senator from New Jersey (Mr. Case), the Senator from Kansas (Mr. Pearson) and the Senator from Pennsylvania (Mr. Schweiker) are necessarily absent.

I further announce that the Senator

from Maryland (Mr. BEALL) is absent due to a death in the family.

The result was announced—yeas 81, nays 5, as follows:

[Rollcall Vote No. 469 Leg.]

YEAS—81

Abourezk
Allen
Bartlett
Bayh
Bellmon
Bentsen
Brock
Brooke
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Chiles
Church
Clark
Cranston
Culver
Curtis
Dole
Domenici
Durkin
Eagleton
Eastland
Fannin
Fong
Ford
Garn
Glenn
Gravel
Griffin
Hansen
Hart, Gary
Haskell
Hatfield
Hathaway
Hollings
Hruska
Huddleston
Jackson
Javits
Johnston
Kennedy
Laxalt
Leahy
Long
Mansfield
Mathias
McClellan
McClure
McGee
McIntyre
Metcalf
Montoya
Morgan
Moss
Muskie
Nelson
Nunn
Packwood
Pastore
Pell
Percy
Proxmire
Randolph
Roth
Scott, Hugh
Scott, William L.
Sparkman
Stafford
Stennis
Stevens
Stevenson
Stone
Taft
Talmadge
Thurmond
Tower
Tunney
Williams
Young

NAYS—5

Biden
Buckley
Goldwater
Helms
Weicker

NOT VOTING—14

Baker
Beall
Case
Hart, Philip A.
Hartke
Humphrey
Inouye
Magnuson
McGovern
Mondale
Pearson
Ribicoff
Schweiker
Symington

So the motion was agreed to.

The PRESIDING OFFICER. With the addition of Senators voting who did not answer the quorum call, a quorum is now present.

TAX REFORM ACT OF 1976

The Senate continued with the consideration of the bill (H.R. 10612) to reform the tax laws of the United States.

AMENDMENT NO. 2118, AS MODIFIED

Mr. JAVITS. Mr. President, I send to the desk an amendment to section 804, amendment No. 2118, as modified.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from New York (Mr. JAVITS) for himself, Mr. HUMPHREY, Mr. KENNEDY, Mr. PERCY, Mr. PROXMIRE, and Mr. MUSKIE, proposes amendment numbered 2118, as modified.

The amendment is as follows:

On page 290, line 18, strike out through line 2 on page 291 and insert in lieu thereof the following:

"(a) TREATMENT OF ADDITIONAL CREDIT AMOUNT FOR RATEMAKING PURPOSES.—Subsection (f) of section 46 (relating to limitation in case of certain regulated companies) is amended by adding at the end thereof the following paragraph:".

On page 295, beginning with line 10, strike out through line 6 on page 297.

On page 297, line 7, strike out "(3)(A)" and insert in lieu thereof "(2)(A)".

On page 297, line 24, strike out "(4)" and insert in lieu thereof "(3)".

On page 298, line 7, strike out "(5)" and insert in lieu thereof "(6)".

On page 299, beginning with line 20, strike out through line 4 on page 300.

On page 300, line 5, strike out "(e)" and insert in lieu thereof "(d)".

On page 302, beginning with line 16, strike out through line 13, page 303.

On page 303, line 14, strike out "(g)" and insert in lieu thereof "(f)".

On page 307, after line 22, insert the following:

"(g) TERMINATION OF 11 PERCENT INVESTMENT CREDIT ELECTION PROVISIONS.—Subparagraph (B) of section 46(a)(1) (relating to 11 percent credit) is amended by adding at the end thereof the following: 'This subparagraph shall not apply for any taxable year beginning after December 31, 1978.'."

On page 308, lines 2 and 3, strike out "(a)(1), (c)(2), and (d)" and insert in lieu thereof "(c)(2), and (d)".

On page 308, line 7, strike out "(b)(5)" and insert in lieu thereof "(b)(4)".

On page 308, line 13, strike out "(2), (3), and (4)" and insert in lieu thereof the following: "(2) and (3)".

On page 308, line 23, strike out "(a)(2)" and insert in lieu thereof "(a)".

Mr. LONG. Mr. President, will the Senator yield?

Mr. JAVITS. I yield.

Mr. LONG. Could we agree to unanimous consent agreement to limit debate on the amendment?

Mr. JAVITS. Will the Senator give me a minute? Senator HUMPHREY still is not here. If in the next 10 minutes he does not arrive I will agree. I am anxious to agree, but this is a courtesy to him.

Mr. LONG. While we have Senators present, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. JAVITS. Mr. President, the reason for asking for a live quorum is that I hope that some Members will be present to hear an explanation of the amendment, and I shall immediately proceed with the highlight of it.

This amendment proposes to change the treatment in the bill afforded to so-called ESOP's, that is employee stock ownership plans, from a 2 percent of the investment tax credit benefit to a 1 percent for 2 years. The bill makes it 2 percent permanently. I propose, and my associates with me, Senators HUMPHREY, KENNEDY, PERCY, PROXMIRE, and MUSKIE, propose that it be 1 percent for 2 years, and the reason for reducing it is the following:

These plans represent a very small minority of the total number of stock ownership plans which are in existence. The comparison is thousands to roughly somewhere between 250 and 300. And the amendment favors this particular type of plan which has certain very serious deficiencies in terms of universal application. Therefore, by giving this benefit, which is a substantial benefit, it amounts to roughly $250 million a year even on the present figures, and Senator MUSKIE will analyze the budget implications.

By giving this benefit to this particular type of plan two things happen. First, an inducement is given to go into a particular type of plan which is a small minority of all stockholding plans for workers. It is a small minority, as I said, something in the area of 250 to 300, compared to the reported number of plans of this kind and profit sharing in excess of 300,000. Second, that particular plan, which is thereby discriminated in favor of has such deficiencies in terms of universal application. It may be OK in terms of universal applications. It has such deficiencies as not to deserve being favored in this discriminatory way. That is the essential point, Mr. President.

There is no one who believes in this particular effort more than I. I have spent a great part of my life working on it. I worked on it long before I became a Senator. In this particular Congress I have collaborated with Senator HUMPHREY to introduce a stock ownership plan by way of a suggestion along the lines that the Senate ought to go.

But, Mr. President, it is my duty, and that is why I made this amendment. There is no interest whatever of mine involved, except my sense of conscience and duty. It is my duty to avoid, if I can, a type of plan which I considered inimical to the interest of most workers—not all, again I repeat—that should be discriminated in favor of and supported with taxpayers' money, when it is by no means the best plan for workers and when there are lots of other tax advantages that the employer gets in stock ownership plans.

I must say I cannot see why we should discriminate in favor of this particular type of plan which has been picked up by a very small minority of employers.

I say I do not see why; but I do see why. The reason is that this particular plan has as its passionate advocate a very influential Senator in the Senate, and that is Senator LONG of Louisiana.

I honor him for his passionate devotion to the fact that workers should own stock. This is where I came in 30 years, or more, ago. So I have no quarrel with that whatever.

But I beg him to consider in the interest which he, I, and many others share, encouraging stockholding by workers. Whether or not he is really right, he has the votes to beat us on this, in my judgment. I can count too, as well as he can. But I do not think that proves anything, because in the years ahead it is going to be necessary for this particular approach to have patronage. Unless it does and for reasons other than the 2 percent free ride, which favors, by the way, only heavily capital impacted industries, it will fail. It does not favor service industries. There are such manifest injustices in this type of plan as to rate from him consideration. He is a man who has a real passion, which I admire, for this particular kind of approach to a people's capitalism which I thoroughly share.

So I hope that the debate, and that is why I hoped to bring Members in the Chamber, may be listened to. In this case it is worthwhile, not only for now but also for the future, whatever we may do upon this particular amendment and in this particular Senate.

Mr. PASTORE. Mr. President, will the Senator yield?

Mr. JAVITS. I yield.

Mr. PASTORE. Does not the Senator from New York believe that this is in the direction of breaking up the lag in productivity, wildcat strikes, and prolonged strikes? The minute we begin to give the worker the incentive of a proprietary right in the establishment, where he works, he becomes a part owner and, therefore, that obivates some of these other situations that have irked the people of this country through prolonged strikes and the lack of productivity. This might be a step in that direction as an incentive. First of all, this cannot be invoked unless there is an expansion or a modernization of equipment.

Mr. JAVITS. May I simply explain to the Senator my position on that? I shall send the Senator a copy of a book I wrote 12 years ago, in 1964, strongly advocating stockholder ownership plans for workers and, as I say, I have been at it most of my adult life. The difficulty with the ESOP is that it contains unnecessarily within itself certain serious deficiencies which make it suitable for a very small part of the working force to attain or move in the direction of what the Senator explains.

As this basic bill which I am seeking to amend reduces a benefit which distorts the judgment as to what is the best kind of stock ownership plan for the worker, it gives a premium to what I consider a plan which is far from the best and in view of the fact that is has been embraced only by a small number of employers. Whereas stock ownership plans generally are embraced by many employees—by no means as many as we should encourage—I feel that to waste this roughly $250 million on this is not fair to other plans and not fair to the total effort to bring stockholding to workers.

I said when I began that this is a subtle argument, but it is our duty, the duty of people like myself, who are deeply involved in a field, to bring it before the Senate, even if it is a subtle argument. The fact is that this is a real and potent argument. The fact is that Senator Long admits the following:

One, he said in a letter to the wives of our Members—by the way, I think it is a very ingenious idea, and I compliment him.

[Laughter.]

He said:

> In my judgment, the most important single feature of the tax reform bill is the fact that it provides for 2 percent investment tax credit for employee stock ownership plans.

That is saying an awful lot, because this is an important and a big bill.

Second, Senator Long's ESOP plan, which he favored before with 1 percent of investment tax credit indulgence, has not attracted many takers. He admits that. He says in a "Dear Colleague" letter, which I also have before me, that he hopes that the 2 percent will stimulate interest in that type of plan.

That is what gets me. We are giving tax indulgence. An employer can deduct up to 15 percent of his payroll to support a plan such as this. Let us at least be evenhanded about it. Give it to all plans. Give the worker an interest in stock. We do not do that, and obviously we cannot, with this 2 percent credit, because it will really run into the hundreds of millions.

So, instead of relying solely upon the merit of the plan based upon the same tax consideration for all plans with the same objective, we are picking out ESOP's as a unique case, and they are not worth it. That is what I am arguing. Do it for everybody, which obviously would cost infinitely too much money, but do not do it for one plan among thousands and do not do it for a plan which, standing on its own, on its merits, has attracted so very little patronage.

Why has it attracted so very little patronage? For one, the stock distribution which this involves is what is called leverage. The whole scheme is really a scheme for employers, because it profits by the fact that money can be borrowed by a trust which is a trust for the workers. Money can be borrowed by that trust, and the payment which the employer makes annually will pay the principal and interest, and that, up to 15 percent of his payroll, is tax deductible. He gets a big benefit from that. The leverage is kind of lifting yourself up by your own bootstraps.

That also assumes that stock will only go up. If stock goes down, the whole leverage idea collapses, because a debt is due, and the value or price of the stock may have receded very materially.

Mr. LONG. Mr. President, will the Senator yield?

Mr. JAVITS. May I finish the description?

Mr. LONG. Mr. President, the Senator said he would be willing to agree to a time limitation in 10 minutes. It has been more than 10 minutes since that time, and I would like to ask the Senator if we can come to an agreement now.

Mr. JAVITS. Will the Senator just let me finish my agrument, so that I can yield to Senator Gravel?

The point is that the ESOP plan discriminates against low rate employees, because it freezes in by law—and that is what the Internal Revenue Act says—the fact that stock distribution under this plan is to be made according to salary level. So that the $100,000 employee gets 10 times as much as the $10,000 employee. That is one of its basic inequities.

One of its basic insecurities is that the funds have to be invested 100 percent in the stock of the employer. Therefore, the entire sum is at hazard, based on the employer's business.

The third difficulty is that it is a ready channel for people who have a closely-held business, which may have no marketability, to put in a plan such as this instead of some form of pension plan, thus putting the worker at the hazard of that particular block of stock and nothing else. Yet, that will be advertised to the worker as a pension plan.

There are unique cases in which this kind of plan may be very suitable, but there are many, many cases in which, for the reasons I have given and others, it is not suitable. Yet, this is the only type of plan which this bill favors. It is a unique, special benefit and discrimination in favor of a given type of plan for employee stock holding which itself has very serious deficiencies.

I yield to the Senator from Alaska.

Mr. GRAVEL. Mr. President, I have some difficulty pinpointing the differences as to why the Senator feels that this is so deficient.

Mr. JAVITS. I do not hear the Senator.

Mr. GRAVEL. I have some difficulty in pinning it down. Perhaps if I make a statement, my colleague can respond to it and go further into the deficiencies he finds in question. I do not really see them.

I do not see a deficiency in the fact that people receive stock to the measure of their salary. If a person is making a big contribution in the company, he gets a big salary. If he makes a humble contribution, he gets a humble salary. I do not know of any criteria to evaluate human effort other than the basis of the salary they securre.

However, I do know that if we, in our largess, are going to give owners of industry a gift, a gratuity, as a device to create employment, we have two facets.

One, our goal is to create some jobs; and in the process of doing that, we give a gratuity. We just take money out of the Treasury, or forgo taking it into the Treasury and leave it in the hands of owners of companies. That they should receive this windfall is totally capricious as an adjunct to the goal in question, which is to secure jobs. If we are going to give them this capricious windfall, then the least we should do is to tie a string to it. We should say, "If you are going to get this gratuity, we are going to require that you transfer the capital gain, because this gratuity is a capital acquisition." We are going to say, "Share 2 percent of that with people who are in your employ, and the criterion you will use is a simple criterion to use in rewarding these individuals in their capacity with your company."

The second criticism that the Senator has is that this should not go beyond the company in question. We are not dealing in idealism. We are dealing in the realities of life. Here is a mechanism. The capricious gain that is going to be enjoyed is going to be enjoyed by the owners of that company. Therefore, in my mind, there seems to be no injustice or impropriety in restricting the same capricious gain not only to that company but also to the workers of that company. We cannot spread it throughout the entire society, so let us at least do it for them.

I say to the Senator from New York, for whom I have great respect in this regard, that he may have been laboring hard in the vineyard for 30 years, but the fact is that today we still have 5 percent of the people owning 90 perecent of the wealth in this country. We have broadened out in numerical terms, but in qualitative terms, ownership is still in the hands of very few. This, in my mind is the first meaningful step to force companies, if they want to get this largess, to expand ownership. I cannot see anything wrong with it.

Maybe we need more plans. I would vote for my colleague adding another 2 percent for other kinds of plans. I do not see where it will cost the Government one sou. We are giving the money away the way it is now.

Mr. JAVITS. If I may reply to the Senator, in terms of other plans, this particular provision discriminates directly against other plans, discourages them, because only this plan gets this benefit. That is why I oppose it.

Mr. GRAVEL. So let us take another 2 percent.

Mr. JAVITS. But if you go into the totality of this proposal, we may really be busting our budget wide open. This really involves an extremely large sum of money.

Mr. GRAVEL. This I do not understand, where the cost to the budget is. Will the Senator please explain that? We are already giving these people an investment tax credit. It could even pull back 2 percent extra and say, 50 percent of the investment tax credit must go into ESOPs. That does not cost the Treasury a sou.

Mr. JAVITS. I am sorry, but it does.

Mr. GRAVEL. How?

Mr. JAVITS. Because we are talking about the amount of the deduction. If it is a 10 percent deduction, it costs X dollars; if it is 12 percent, it costs Y dollars. That is why we are arguing about this.

I do not want to get off on that rabbit track. The fact is I could not agree less with the Senators about the classification of employees and their salaries.

The fact is that executives in most corporations have front office stock sharing plans, whereas workers do not. We are trying to encourage it and develop it in workers. Therefore, we should not fix our benefit on a minuscule number of plans, which is all this is—250 compared to thousands—when, as a practical matter, we try to encourage ownership generally, especially not a plan with this kind of bias, which seeks to cover, in the main, people who are generally well-covered, either by salary or stock investment. Hence, I feel this is going to retard the development of stock ownership plans, trying to slant them into a particular type of plan which has not received very much favor, simply because the proponent of this proposition likes that kind of plan. I do not think that the Senate of the United States ought to be guided by those criteria.

I said originally that I did not see that we are going necessarily to succeed, but I believe that we will succeed because I think the truth will out and that it will be found that this very large sum of money in respect of what the U.S. Treasury loses will be found to be unwarranted—completely unwarranted. It will not produce what it is supposed to produce, and it will cause very great difficulties and deficiencies in respect of setting up employer plans for the purpose of employees investing in stock.

Mr. McINTYRE. Will the Senator yield for a question?

Mr. JAVITS. I yield to the Senator from New Hampshire.

Mr. McINTYRE. The Senator from New York makes a broad complaint of the discriminatory features of this plan which we call ESOP. It would help me if the Senator could explain: Does this plan favor any particular type of business, corporation, any type of industry, as opposed to, say, some other type of industry?

Mr. JAVITS. Yes.

Mr. McINTYRE. Can the Senator elaborate on that?

Mr. JAVITS. Yes. I can. A capital-intensive industry like a telephone company has a huge investment tax credit. In the case of the telephone company, it may go $100 million a year or more. One percent or 2 percent is a very, very large figure. As a matter of fact, we are advised that if this 2 percent permanent passes, A.T. & T. will install an ESOP. They will go for this plan if it means this kind of addition to their investment tax credit.

On the other hand, if you have a service business, which is not a heavily capital-impacted business——

Mr. McINTYRE. Give me an example.

Mr. JAVITS. Take the retail service industry, an insurance company, a bank. They will not have the benefit of this kind of capital investment deduction. Hence, it discriminates against them and in favor of businesses where the capital investment is heavy. That was my point.

Mr. McINTYRE. Would the oil industry be considered in that category?

Mr. JAVITS. I would not say that. In some cases, if it is dealing with oil jobbing, I suppose, or merchandising, then the capital impact might be very small. On the other hand, if it is dealing with drilling and extraction, it might be large. I just do not know enough about the details of the oil business to respond to that.

Mr. McINTYRE. One of the charges of the Senator, as I understand it, would be that the employee working for XYZ Insurance Company would not be anywhere near as likely to benefit from the plan as the employee of the CB Telephone Co.?

Mr. JAVITS. That is correct. That is exactly correct.

Mr. HASKELL. Will the Senator yield?

Mr. JAVITS. I yield.

Mr. HASKELL. I would like to ask the Senator from New York a question, starting from this proposition that we do have the investment credit—some like it, some do not, but we have it and the majority here in the Senate like it. What this proposal is is to allow an addiitonal 2 percent of investment credit, none of which redounds to the benefit of the corporation and its existing stockholders; what it seeks to do is give to the employees an interest in the corporation—resulting, of course, in cash to the corporation, but decreasing stock ownership to the other stockholders.

I can see part of the Senator's argument. I can see that, if I were running a corporation, I might prefer one plan or might prefer another; but I think, I say to the Senator, that I do not quite understand his reluctance, just because we favor capital-intensive industries. That I follow—but we do this in the Senate all the time, unfortunately. I do not follow why this is a bad thing.

I do not follow why it is bad to put substantial stock ownership into employees of corporations. We can always cut this off 3 or 4 years from now; we can study it in the meantime. If the experience of 1 percent has not been enough, we can try 2 percent, and we can come back. I am afraid I would like to have the Senator repeat his argument, because I did not quite follow.

Mr. JAVITS. My argument is that we are following Gresham's law. We are putting our money into less efficient plans, thus bringing people to install those plans; whereas, if we treated all plans evenly, we would give them an opportunity to choose the most efficient plan. That is what I am arguing and that is why I am on my feet.

I repeat, I am an ardent advocate of the workers' participation in stock, but if we are going to discriminate in favor of a particular type of plan, which is a tiny minority plan, we are going to draw away interest in, participation in, and concern with other types of plans, which are much more promising because they are infinitely more numerous. Therefore, I feel that by doing what we are doing, we are misusing our financial power by favoring a particular type of plan which is far from what is best for the worker.

I am not saying that some other plan of my devising may be better for the worker. I just say on that, because there is plenty of tax advantage in the employer's deduction which he has for any workers' stock plan—I say let us be neutral, let us not favor this plan. I point out its deficiencies merely by way of proving that we should be neutral, that we should not discriminate in favor of this particular type of plan, which has had so few takers.

The only argument Senator LONG makes is, "I want more people to take this particular type of plan, not because they select it as the best, but only because they are going to get a 2 percent break on their investment tax credit, and if they are a heavily capital-impacted business, it is a profitable thing to them."

That is my argument.

Mr. HATHAWAY. Will the Senator yield?

Mr. JAVITS. I yield to the Senator from Maine.

Mr. HATHAWAY. Is it not also true that if you have a company with a large preponderance of highly paid employees, they are going to benefit more than the employees of Sears, Roebuck Co. or J. C. Penney, or some other of those with a large number of lower level employees who will get very little?

Also, I think we ought to get straight in our heads that the Federal Government is paying for all of the stock that is going into these ESOP plans. The company that gets the extra 1 percent of investment tax credit has to turn around and buy stock with or issue new stock worth that full amount in the employee stock ownership plan, and that stock is paid for 100 percent with the taxpayers' money. There is no question about that. I cannot see where that is going to stimulate investment any more. It is going to stimulate stock plans but I think we should be cognizant of the fact that we are paying for 100 percent of the stock that goes into those plans.

I do not think that the Senate or the entire Congress should be embarking on a program such as that, at this time, especially in light of the discriminatory nature of these plans that the Senator from New York has already pointed out.

Mr. GRAVEL. Will the Senator yield for me to respond to that point?

Mr. JAVITS. If I may just complete one further thought. The IRS is itself developing real concern about this particular type of plan called ESOP, and is today seeking to promulgate a set of regulations on this particular subject. I am reading from the Wall Street Journal of this past Monday. What they are calling to our attention is the following—this is how they want to tighten up on ESOP, because they realize that it is far from an efficient and good idea in terms of plans generally:

One, they want to provide that an employer loan or loan guarantee to an ESOP will be permitted only if transactions were arranged and approved by an independent third party, acting on behalf of the employee plan; second, they want to provide that an ESOP must be primarily for the benefit of the plan participants and beneficiaries, rather than merely for the benefit of the employer; third, they want to provide that after Sptember 30, employees must be assured of a market for such stock for 2 years after they receive it, usually at retirement; fourth, the proposed regulations would prevent employers from insisting on the right to buy back securities from an ESOP before the securities are offered for sale elsewhere, one of the ways in which this is handled in these particular plans.

Other regulations seek to prevent a company from selling to an ESOP stock that is inferior because of reduced dividend rights or limited voting rights.

All I am pointing out here is that the Service itself has recognized the very serious deficiencies in ESOP and is proposing a series of regulations to try to make it tighter.

I think that is fine. The point is that it picks up what I am arguing, and I think what my colleagues on this side of the issue are arguing, and that is the fact that we are not only discriminating but we are discriminating in favor of a type of plan which is far less efficient and useful for the worker than if left to evenhanded treatment for all types of employee stock ownership plans.

Mr. STEVENS. Mr. President, will my colleague yield for a comment?

Mr. JAVITS. Just one second.

Mr. STEVENS. I understand what my colleague wishes to talk about. I certainly hope my colleague from New York would not leave the impression that the IRS is just coming out in terms of opposition to ESOP. They opposed this in 1974. The Department of Labor and the Department of Treasury tried to stop this in 1974. I am sure the Senator from Louisiana knows that. So this is not anything new.

As a matter of fact, I intend to speak later today about their attempt to frustrate the employee retirement plan and the whole concept of ESOP that is in the 1974 act. They were wrong then and they are still wrong now.

Mr. GRAVEL. Mr. President, will the Senator yield?

Mr. JAVITS. Mr. President, I would like to come to an agreement with Senator Long on time and, therefore, with his permission, I would like to ask Senator HUMPHREY, now that he is here, what time would be agreeable to him. The chairman has suggested 2 hours, I assume equally divided. I have already spoken for half an hour. But I would still like, if it is agreeable to the Senator from Minnesota, to have a 2-hour time.

Mr. HUMPHREY. Two hours from here?

Mr. JAVITS. From here on.

Mr. LONG. Mr. President, the Senator has had—I have been trying to get a vote on this matter since 2 o'clock. It is now 3:35. I have lost all interest in dividing time now. It seems to me that at some point those of us—because we have 12 other things we would like to vote on here today, in fact more than that, we have about 15 things we would like to vote on here today, including an amendment that the Senator from New York (Mr. JAVITS) wants to offer with regard to artists—and if I can I am going to try to bring the matter to a vote. So I just do not see any point in trying to divide time now on a 2-hour basis.

It seems to me as though the Senator and his colleagues can hold the floor as long as they want to, and that when we get our opportunity we will devote whatever time we want to, and I will bring the matter to a vote.

Mr. JAVITS. Mr. President, I yield to the Senator from Minnesota.

Mr. GRAVEL. Mr. President, the Chair recognized me, did he not? The Senator from New York did not have the floor. The Senator from Louisiana had the floor.

Mr. JAVITS. No, Mr. President, I asked the Senator from Louisiana a question and he was kind enough to answer it.

The PRESIDING OFFICER (Mr. HELMS). The Senator from New York is correct. The Senator from New York has the floor.

Mr. JAVITS. Mr. President, I yield to the Senator from Minnesota.

Mr. HUMPHREY. Mr. President, I understand now the chairman of the committee does not want a division of time, and I regret that because I think that would expedite the whole thing, and I appeal to his good nature. I regret that I was not here, but I did have official duties that kept me away from the Senate for better than an hour.

Mr. LONG. Will the Senator yield, Mr. President?

Mr. HUMPHREY. Yes.

Mr. LONG. I am not trying to deny the Senator the floor. Go ahead and talk about it.

Mr. HUMPHREY. I think this tax debate has lingered too much, and what is needed is an agreement on time, and I think if we have an agreement on time we will be able to expedite it.

Mr. LONG. If we want an even division of time, I would start out having an hour and a half on my side, but that would be too long, and I was hoping to vote on 15 other things today, so I will just take my chances, and I do not see any reason for dividing time equally after the other side has had 1½ hours.

Mr. HUMPHREY. The Senator has made his point, and I think it is a most regrettable decision. It is going to plague us for some days to come.

Mr. LONG. I will take my chances.

Mr. HUMPHREY. I think the Senator will.

Mr. JAVITS. Mr. President, I had no idea we had taken—I do not think that is right, and I think it is not fair to say that we have taken—an hour and a half. I began to speak a few minutes after 3. Before then we had a live quorum, a perfectly proper thing, and it was not charged to anybody generally when we began our debate, so I have said I have spoken a half hour, and I was perfectly willing to include that in any time consideration with the Senator from Louisiana.

Mr. LONG. Well, Mr. President, I am not angry at anybody. All I am saying—I am happy so far as I am concerned—is that I would just as soon take my chances. Go ahead and make your speech. Mr. JAVITS made a fine speech. I am happy to sit here and hear my able friend from Minnesota talk. There is just none better. I do not think there is anybody I enjoy hearing more.

Mr. HUMPHREY. I assure the Senator I will try to make it both entertaining and informative.

I understand the Senator from Alaska wanted to ask a question.

Mr. JAVITS. I yield to the Senator from Alaska if he wishes.

Mr. GRAVEL. I just want to bring up a few points that should be made before they are lost, and then I would be very attentive listening to the Senator from Minnesota, and then I shall try to make some points after he has completed his statement.

The point I wanted to make is one specifically raised by the Senator from Maine, and that is the statement that the Government pays 100 percent of the ESOP plan. There is no question about it, the Government pays 100 percent of this ESOP plan because the Government is giving a 100 percent tax break to these industries. That is what is happening. Let me give you an example. If you and I own an industry that is worth $10 million and we are going to get a tax break of 12 percent on some equipment we are going to buy, $1 million worth of equipment, that means we have enriched our ownership, our capital, by $1 million, and our stock is worth $1 million more because of the gift from the Federal Government.

Now, contrary to a statement made by my colleague, this is not a dilution of capital. There is no dilution because it is the Government that puts the money out. It is an addition of capital that goes to the owners.

All we are saying with this ESOP plan is that rather than let you and me own it all, we have 10 employees, and we are saying that of that 12 percent tax credit we are going to get, 2 percent of that 12 percent has to go to the people who work for us. Now, this is not unreasonable, and I do not understand why we feel that there is such an invasion here because we are giving a gift to the owners of industry of this $1 million under this ESOP plan, and we are saying "Take a part of that, 2 percent, and now give it to your employees." To me that is totally equitable.

Now as to the other, with respect to favoring capital-intensive, well, who else is going to take this investment tax credit but those who are going to go out and buy the machines to supposedly "create jobs?" But, in point of fact, they are not going to create jobs in the long run; they are going to cause a diminution of jobs. That is exactly what our whole cybernetic society is moving to.

That is why it is so important, before these people lose their jobs, to try through some device to make them owners, so that when they lose their jobs, at least, they will have the income from their stock.

If there are other plans around, we feel are being discriminated against, understand that the Finance Committee picked 12 percent as an incentive, a tax credit. Had nothing to do with ESOP. If the Senate wants to make it 6 or 10 percent credit, do it. But whatever it is we decide to do, when we give that gift to the owners of industry, give some to the workers who work in industry.

That is all this plan is. So if we are not happy and say that this discriminates, then take 2 percent, put an amendment up.

In other words, all there is is a negative approach here.

Take 2 percent or 5 percent, whatever plan is wanted and all vote for it. Because if I am going to give gifts out, I want to give gifts to as many people as possible.

What we have done through this investment tax credit is have the smallest orifice possible for this great largesse, and that is to the present owners of industry.

So if we do something otherwise, come up with an amendment that puts up 2 percent for plans, or any other plan that is wanted, and we will pass on it today and we will be a lot righter in what we do in diffusing this great capricious gift we are giving industry under the guise of creating jobs.

I think this is the equitable way to do it. I see no soundness to the arguments that have been advanced.

Mr. HATHAWAY. Will the Senator yield?

Mr. JAVITS. Mr. President, I have the floor.

The PRESIDING OFFICER. The Senator from New York.

Mr. JAVITS. Mr. President, I yield to the Senator.

Mr. HATHAWAY. The purpose of the investment tax credit is to get these companies to make investment, and there will be no additional incentive if they have to give this extra money to their employees. They are not going to do it. There is no company incentive to do that.

What I am saying, be honest with ourselves and see what we really have before us is a bill to appropriate so much money to buy stock for improvement of various companies throughout the United States, and it is being done on a very discriminatory basis. If we want a bill to do just that, come up with a bill to make sure all employees throughout the United States have the opportunity to own stock in these various companies.

I am sure, with a lot more hearings, we will be able to come up with such a bill.

But to disguise it here by adding it on to the investment tax credit and making Members believe this will provide future incentives is just not true. It is not going to do it. It is just, pure and simple, buying stock for certain employees, for certain companies, and that is the reason.

Mr. GRAVEL. If I can briefly respond.

Mr. JAVITS. Make it brief.

Mr. GRAVEL. First of all, people do not make investment tax because they want it. They are spending money to buy equipment that they get a credit on, only 12 percent, so if they do not have a market to sell their products and they have very poor machines, they are not going to make that investment.

Their first motivation to make these purchases is not to create jobs. Their motivation is because they wish to increase their productivity and their sales.

What we are saying is, we are giving them a little frosting on the cake to do it, and all I am advocating, and the Senator from Louisiana is advocating, if we give them that frosting, let us give the workers a lick at the spoon.

Mr. JAVITS. I yield to the Senator.

Mr. HUMPHREY. I want to speak in my own right.

Mr. JAVITS. I yield the floor.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. HUMPHREY. Mr. President, the modified amendment that is before us provides, as we know, that the 1 percent so-called ESOP tax credit be continued for 2 years, coterminus with the next Congress.

We feel, those of us that sponsor and support this amendment, that this will facilitate informed business planning and careful study of the ESOP concept for all interested parties.

Mr. President, in this debate we will enter into the RECORD the testimony of the Department of the Treasury. We will also enter into the RECORD, the attitude of Mr. ESOP himself, Louis Kelso, on the so-called investment tax credit. We will also enter the position of the labor movement, that is supposed to be the beneficiary of this proposal. Also, the findings and the recommendations of the staff study that was undertaken at my request, as chairman of the Joint Economic Committee, by the professional staff of the Joint Economic Committee, in cooperation with consultants who understand programs of broadened investment opportunities by the workers.

First of all, Mr. President, I think it should be clear that, speaking for myself, and I know this is the case of the main sponsor, Senator JAVITS, that we speak from, and stand for, a position of full and complete support for the goal of broadening stock ownership in the Nation's enterprises.

Last December, the Joint Economic Committee examined this concept of employee stock ownership plans, and their staff report was made available on June 17 of this year, examining the ownership of new capital through ESOP and other alternatives.

So we are not in the posture here of being opposed to the broadened ownership of new capital.

We had 2 days of hearings before the Joint Economic Committee at which Mr. Louis Kelso was one of our chief witnesses, and we had eight other witnesses that were considered to be experts in the so-called ESOP plans.

The committee continued its efforts in this area by making a very significant recommendation in its 1976 annual report, and I quote:

> To provide a realistic opportunity for more United States citizens to become owners of capital and to provide an expanded source of equitable financing for corporations, it should be made national policy to pursue the goal of broadened capital ownership.

So there is no argument here as to what our goal and our objectives should be. The argument is over the means and also who gets the benefits.

The most recent contribution by the Joint Economic Committee to the debate of whether such a goal should be pursued and, if so, what means should be used, is the study to which I have referred.

This study will show not only the overall context of why such a goal is specified, but it analyzes in considerable detail many of the methods, other than the so-called ESOP, that would broaden capital ownership in the United States.

I raise these points not only to show that the Joint Economic Committee is highly supportive of the goal of broadening ownership of new capital, but, more importantly, to indicate that the debate has just begun over the best means to meet that goal.

That is the point, Mr. President. We are at the early stages of a very important national dialog and debate as to how best we can move toward broadening capital ownership, particularly by workers in industries.

What Congress needs now is the time to conduct a sufficient investigation of the numerous means available to achieve this rather important goal. Particularly, there are plans much more comprehensive than ESOP which should be subject to debate, by Congress and the appropriate executive departments, as they have two, distinct advantages over what we know as ESOP's.

First, they stimulate both the issuance of stock and its distribution to new stockholders, and, secondly, the new stockholders could, if it was desired, consist entirely of low- and middle-income Americans, who currently own a very small share of this country's outstanding stock.

It is my intention that the Joint Economic Committee, along with other committees of Congress, continue their efforts in this area by examining these types of plans over the coming years. I urge other committees to examine the goal of broadening capital ownership and the means to achieve it.

It is likely that the Senate Welfare and Public Welfare Committee will hold hearings either later this year, or surely next year, on the Employee Stock Ownership Fund Act of 1976, of which Senator JAVITS is the main sponsor and which I am privileged to cosponsor along with others. Therefore, there will definitely be further analysis by the committees of Congress over the next year on alternative methods of broadening stock ownership. I am confident that the additional information which will be made available to us 1 year from now or 2 years from now, will enable the Congress to formulate the most rational and effective method for broadening the ownership of new capital in U.S. industry.

Now let us take a look at what the Treasury Department has to say about this. The Treasury Department in response to a letter from Senator JAVITS dated August 2, requesting the Treasury Department's view as to the subject of broadened stock ownership in the United States, made a very extensive response in which it outlined:

> There are many approaches which can foster broadened stock ownership through the tax system.

Then they go on to note that President Ford proposed the adoption of a broadened stock ownership plan; that this plan would have three principal characteristics which the administration deems important to any program designed to encourage broad stock ownership.

First, the plan should be available to all Americans, and I underscore the word all, whether self-employed, employed by a corporation, or employed by the Government, Federal, State or local. Second, participation should be voluntary, but the plan can be established by individuals or by their employers through payroll deductions. Third, participants in a broadened stock ownership plan should have a choice as to their investment in common stocks.

The Treasury Department goes on to say that—

> Any plan which does not include these three critical features would not accomplish the objective of broadened stock ownership in an equitable and sound manner. In this connection, we are heartened by the 1976 Joint Economic Committee report recommendation that it should be made national policy to pursue the goal of broadened capital ownership and by the June 17, 1976, staff study, which concludes that serious consideration should be given to plans that are open to all individuals.

This is signed by Mr. Charles M. Walker, the Assistant Secretary for Tax Policy of the Department of Treasury.

Let me comment a bit on how much the proposal that is in the bill that we seek to amend would be helpful to workers. That is the whole thrust of the argument, that what we are trying to do is to have broadened capital ownership that will be of benefit, No. 1, in providing broadened equity financing for the expansion and development of American industry and, second, that will have material benefits to our workers.

There is much talk about why we should deny a free gift to the workers. What has not been pointed out is that this free Government gift will be denied to tens of millions in our labor force who do not work for companies that take advantage of the investment tax credit.

First, we have the nonwage and salary individuals in such enterprises as the Armed Forces, agriculture, the self-employed, and, of course, the unemployed. That is about 18 million people right there who are not eligible.

We must add to that 15 million who work at various levels of Government.

Finally, let us consider all those who do not work in capital-intensive corporations and thus could not partake of this Government largess. Granted that some companies here may receive some benefits from the investment tax credit, but the benefit is usually a very insignificant amount. I am thinking, for example, of employees of banks, insurance companies, retail and wholesale establishments, and a whole spectrum of service industries. This adds a whopping 36 million employees who will get no advantage at all. When added up, the result is staggering. Sixty-nine million workers of the labor force will not share in any significant manner in this Government tax credit, what we call literally a Government gift.

That is 72 percent of the entire labor force in this country which will receive no benefit.

A further point to consider is that the employees who will be receiving most of the tax dollar benefits are already receiving the highest salaries. Capital-intensive industries are found in mining, contract construction, manufacturing, transportation, and public utilities. The gross average weekly earnings in these four industry categories was $251, $262, $188, and $231, respectively.

Compare these with the average earning levels in the wholesale, service, and retail trades, $128; for finance, insurance, and real estate, $137 per week.

Thus, by tying the ESOP incentive to the investment tax credit, we are having the Government finance gifts of free stock to those who are already receiving salaries that are 20 to 100 percent higher than those who will not be receiving any benefits or insignificant benefits.

In addition, many of these companies in manufacturing already have stock plans for their employees, profit-sharing plans, for example, while those working for small independent businesses have no opportunity to participate in such plans.

Let us consider the facts on first, the great disparity between employees of different companies, citing just a few examples. To me, these are the really telling facts for they clearly display how inequitable this incentive really is.

I ask my colleagues to listen to these facts, if facts have any impression or impact in this body. Sometimes I am afraid that facts come after the commitment has already been made on how Senators are going to vote. But could we just listen to the facts for a while?

The average employee in the following industries would receive the following dollar amount of stock benefits under the proposal that has been advanced by the committee, these figures being based on actual 1973 figures for various industries and, thus, are lower than those that would actually apply for 1977, because we had to pick figures for the calendar year 1973.

In all of manufacturing, the employees under this plan would receive an average of $25; in petroleum or coal, $238; in communications, $184; in electric, gas, and sanitary services, $256.

Let us consider the average benefit to the 17 million employees in the wholesale business and in the retail trades. Just $5. That is what they are going to get. That is the average that they are going to get. For the nearly 15 million workers who work in the service industries, their average benefit would be just about $3. Thus, the average employee in certain industries would receive more than 80 times the amount of this Government gift as the average employee in the service industries.

I point out that it is a gift in the form of a tax credit. I simply cannot see how we can seriously consider enacting into permanent law a provision with such inequitable distribution of benefits when there are other options.

I am not for abandoning what we are trying to do, because this is one of the options. I think this one option should be given the opportunity.

The respective candidates for President have both said they intend to propose tax reforms to the coming Congress. Both have said that. This proposal that we advance as an amendment would continue the 1 percent tax credit for an additional 2 years while there is time to examine a host of other proposals for stock ownership and new capital ownership, which not only takes place here in the United States but all over the whole of Western Europe.

Let us take a look at the other inequities that are heightened even further by the proposal of the bill.

Within companies receiving the benefit, it is the high-salaried executives who will truly benefit, not the worker. Thus, concentration of wealth holdings would not diminish. We must look at how stock is allocated to the employees.

Under the terms of the Tax Reduction Act of 1975, the stock must be allocated to the employees on the basis of employee compensation. Thus, the $10,000 worker receives 2 shares, the $100,000 executive receives 20 shares.

The moral is that significant amounts of stock will be going to those who already own the bulk of the country's stocks.

When I say two shares for the average

worker, this is not in any way an unreasonable figure. The American Telephone & Telegraph Co.—A.T. & T.—has said that if they should establish the investment tax credit ESOP, their lower-salaried employes will receive one share.

One share. What do you think the higher-salaried employees will receive? A considerably larger amount. I would not call that one share, even though it is better than nothing, significant capital ownership. Meanwhile, the numerous middle-level A.T. & T. executives will be receiving about $600 worth of stock.

I hope the Senate will agree with me that it is very unwise to use the general taxpayers' dollars to provide substantial gifts of stock to high-salaried executives which are already considered a part of the business expense of a business enterprise, and therefore a deductible item in the business tax schedule itself.

There is a lot of talk about benefitting the little guy and the average worker. I think the facts speak for themselves. I will sum it up, and leave it up to the chairman or anyone else to debate what I consider the facts.

We sometimes find out in a debate that other people have material that we did not know about, so I shall not try to be dogmatic about it. But several months of study by the Joint Economic Committee staff indicates this is the situation: 69 million workers, members of the labor force, or 72 percent of the entire labor force, will receive no or very insignificant benefits under the additional 2-percent tax credit provided in this bill.

Second, for those companies that are eligible to receive the benefits, the average employee will receive a benefit ranging anywhere from $3 to $256, depending on his compensation and what type of company he works for.

Third, within companies that do benefit, and there are only a limited number of high capital-intensive companies that do, the high-salaried executives will receive, on an average, 10 times the stock benefit of the $10,000 a year worker.

The $10,000 a year worker will get one-tenth the benefit that an executive of the company will get. I submit that this is a highly inequitable way to promote the truly worthy goal of broadened capital stock ownership.

I mention here the position of the A.T. & T. Co., because one of the major points that is being made by the distinguished chairman of the Finance Committee is that this ESOP incentive plan must be permanent, or companies will not be interested. I can understand that there is some merit to that proposition. But in talking with the executives, we find that there is important evidence to the contrary.

We had the privilege of talking with a leading executive representative of the American Telephone & Telegraph Co. on July 27. They made the claim that in A.T. & T.'s examination of whether to go ahead with an ESOP, it is only the technical provisions they are interested in. They said, "We would be just as interested in going ahead if the tax credit were 1 percent or 2 percent, or if the tax credit were permanent, or if it were for 2 years or even 1 year."

This is one of the largest corporations in America, and their representatives tell us that as far as they are concerned, it is some of the technical difficulties they have had with the plan that they are concerned about, that even if the plan received a 1-percent tax credit or a 2-percent tax credit, or permanent or for 1 year or 2 years, that in no way would impede them or even give them an added incentive. They could work it either way.

They also fully supported the idea that other plans should be examined by Congress, as this is a very important goal that should be pursued in the most effective way.

As far as the labor movement is concerned, the AFL–CIO has taken, as I understand, no official position about ESOP, either by their executive committee or at their convention.

Thus they neither actively support nor oppose the ESOP device at this time. And may I say that those of us who are supporting Senator JAVITS in this proposal are not opposing the ESOP. We are simply saying we ought not to write it into permanent law.

Since 1975 we have had a 1-percent tax credit under which there has been some development in broadened capital ownership. I submit we should continue that 1 percent. We are not asking that it be removed. But we surely ought not to make it 2 percent, and we ought to continue it for a period of 2 years, which will give ample time for a reexamination of other possible alternatives, and at the same time give ample time for proposals that may very well come from whoever may be the next President of the United States or the next Secretary of the Treasury.

Those are some of the possibilities I believe are worthy of our consideration.

Mr. PERCY and Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, will the Senator yield for a question?

Mr. HUMPHREY. I yield for a question.

Mr. KENNEDY. I just want to state that I find the arguments that have been presented by the Senator from Minnesota and the Senator from New York, as well as the Senator from Maine, extremely persuasive.

As I understand, one of the prime objections that have been stated by the Senator from Minnesota is that basically this program will treat workers within a particular industry differently, and it will obviously treat workers in other industries differently, and there may be vast numbers of workers who will not participate.

This is a very basic and fundamental flaw in the program. So I understand that the Senator from Minnesota, as well as the Senator from New York and others who support this program, are strongly in support of the basic idea of extending worker participation in terms of the whole corporate structure in American industry in this country, but feel this is really not the best way, means or device for doing that.

I believe I am correct in understanding that this is the position of the Senator from Minnesota.

Mr. HUMPHREY. The Senator is correct.

Mr. KENNEDY. I would also like to mention an area which I think is troublesome.

Mr. LONG. Mr. President, the Senator is not asking a question.

Mr. KENNEDY. I am asking whether that is correct.

Mr. HUMPHREY. And I am answering that the Senator's observation seemed to be correct.

Mr. KENNEDY. I thank the Senator.

Mr. HUMPHREY. A rather long question and a short answer.

Mr. KENNEDY. There are in existence now a number of programs like various profit-sharing programs, stock bonuses, retirement programs, which exist at the present time, in which employees as well as the employers participate, which are considered as deductions, and in which there is approximately a 50-percent, in effect, payment by the Treasury, to the extent that it is a deduction. Under the present tax structure, we have a number of programs that are currently in existence and which the Federal Treasury does help to underwrite, between employers and employees, which have been tried, tested, and generally accepted, and which have been applicable across industry, and reach the capital-intensive industry as well as the labor-intensive industry. So the idea of providing some kind of help and incentive to worker participation is not something that is alien to any of those who are going to support this amendment, because, obviously, many of us have supported those efforts in the past, but again we simply find that this kind of effective discrimination is troublesome and bothersome in this particular program.

Mr. HUMPHREY addressed the Chair.

Mr. KENNEDY. Then I have one further objection.

The PRESIDING OFFICER. Is the Senator still only yielding for a question?

Mr. HUMPHREY. I yield for the purpose of a question.

Mr. KENNEDY. Mr. President, I come from a State that has many smaller industries and many new industries. Is it not also true that those companies which are new or expanding which might be eligible for a tax credit but do not have built up that particular credit in the formative and early period of their own business venture effectively would be denied the opportunity of participating in this program?

So in many instances small industries, smaller businesses, newer businesses, and growth industries would certainly not have the kind of advantage of taking part in this program than some of the older and traditional capital intensive industries which have been identified in the Senator's comments and statement. I wonder if I understand that correctly.

Mr. HUMPHREY. The Senator's understanding is very similar to mine, and I believe from the information that we have he is eminently correct. I do not believe that too many of our colleagues have taken time, found the time, or had the time to read the JEC report that was made after hearings, consultation with tax lawyers, and visitations with business executives, all of which has been prepared in a report of some 54 pages that is before the Senate.

That report points out, for example, that a number of companies have established stock ownership plans for their employees, that vary considerably from what we are talking about here. There are all kinds of these employee capital ownership plans.

Mr. GRAVEL. Mr. President, will the Senator yield for a question on that point right there?

Mr. HUMPHREY. I yield.

Mr. GRAVEL. In these plans about which he speaks is there a situation where people pay in money and get more money out? In other words, if there is an investment plan, I make $50,000 a year with a company, and I pay in $5,000 to this plan; the janitor makes $5,000 a year, and he pays in $100 to that plan. Does the janitor get as much out of that plan as I get out of that plan?

Mr. HUMPHREY. I do not know.

Mr. GRAVEL. That is the fundamental part of the Senator's argument. He is saying we have to devise somewhere in the study sometime in the future a way to figure out how to reward people on a different basis. And as to the pension plans the same thing is true. We talk about the pension plans. As to all the pension plans of which I know, an employee puts his money in and he gets what he puts in.

Mr. HUMPHREY. But there is a great deal of difference between the Government of the United States making a tax gift and the Government of the United States not making a tax gift.

Mr. GRAVEL. But the only difference that the Senator is showing me right now is that he is making a tax gift under his proposal to the people who own the companies, the stockholders.

Mr. HUMPHREY. That is correct.

Mr. GRAVEL. They happen to be the wealthiest people in the country. All we are trying to do is take a few billion dollars that the Senator is going to give to these wealthy people.

Mr. HUMPHREY. No.

Mr. GRAVEL. And spread it out. That is the Senator's argument. It is unequal and unfair in spreading it out. If the Senator can figure out a better way to spread it out, I will buy it, but all I am saying is that we are voting for a process that is going to take a few billion dollars and give it to some people. The Senator says that the A.T. & T. people only get $5; the service people only get $5. OK, that is $5 they are not going to get. At least I am going to give them $5.

Mr. HUMPHREY. I am not willing to have somebody get a cracker while somebody else has vodka and caviar at the expense of the Government.

Mr. GRAVEL. This is not so.

Mr. HUMPHREY. The point is the Senator's rhetoric is better than his logic.

Mr. GRAVEL. Wait a second. If this does not pass, where is that billion dollars going to go? Where is that caviar going to go?

Mr. HUMPHREY. We are not trying to prevent the passage of a 1-percent program, that has been on the books, and we think it ought to be continued for 2 more years because the Senator's questions indicate the complexity of this problem.

Mr. GRAVEL. We are giving $10 billion in this tax credit.

Mr. HUMPHREY. Under the Senator's 2-percent proposal.

Mr. GRAVEL. We are giving it and if one looks behind he will see who the Senator is giving it to. He is giving it to the Rockefellers, DuPonts, name them all. That is who the Senator is going to give it to. We are fighting to give a few bucks to the janitor and the guy who is working in the company.

Mr. HUMPHREY. The Senator is fighting to give a few bucks to the janitor and fighting to give $100 to high salaried executives.

Mr. GRAVEL. Fine. That is exactly what we give in the pension plans.

Mr. HUMPHREY. Fine. Give the same in pension plans.

Mr. GRAVEL. We do not give a pension under the investment tax credit.

Mr. HUMPHREY. Wait a second. The Senator's argument is apples and oranges.

Mr. GRAVEL. I will make one brief point and then sit down.

When we are voting the Senator is saying let us give this money to those people who own American industry. When we are voting, we are saying let us take this measly $2 billion and give it to the workers, the high-paid workers, the low-paid workers. We are giving it to the workers rather than giving it to the stockholders for 2 years. That is the difference.

Mr. HUMPHREY. No.

Mr. HATHAWAY. Will the Senator yield at that point?

Mr. HUMPHREY. I yield to the Senator from Maine.

Mr. HATHAWAY. Will the Senator from Alaska go along with the proposal that we give everyone a 12-percent investment tax credit provided they put 2 percent in a stock plan? In other words, if they do not put it in the stock plan they do not get any investment tax credit?

Mr. HUMPHREY. Does the Senator want to answer that question?

Mr. GRAVEL. I am happy to answer that question as briefly as I can. If the Senator wants to put up an amendment to take 3 percent more of $10 billion and throw it into this plan, I will vote for it.

Mr. HATHAWAY. I say 12 percent. They are not going to get any of it on the 12-percent basis unless they put 2 percent in the stock plan. No one gets an investment tax credit, unless they share.

Mr. GRAVEL. I will buy that right now.

Mr. HUMPHREY. That is one vote for that.

Mr. GRAVEL. Let us propose it, and call it up, and vote on it.

Mr. HUMPHREY. Mr. President, it is not only the fact of stock ownership. It is what the stock ownership provides in terms of control, voting rights, and the use of that ownership that is involved in all of these capital ownership plans.

Without trying to read 54 pages of a report, might I simply suggest that in facing up to these decisions as to what we call broadening the ownership of stock, there were certain observations that possibly could be of some help. For example, many corporations, as this report indicates, such as Sears, Mobil, Ford, United States Steel, and Alcoa, apparently recognized the value of passthrough voting for it is included in their employee benefit plans.

There is a second provision that can help to prevent management's domination of the so-called ESOT plans. At the minimum, an advisory committee elected by the ESOP participants should be established to assist as the ESOP trustee. This committee could direct the trustee on how to vote trust shares not voted by employees under the passthrough voting system.

These are just some of the suggestions in a report made to this Congress.

Another recommendation involves ceilings on contributions. The first would be to remove the limitations on contributions to ESOP's, 15 percent of covered payroll, 25 percent if money purchase plans are included, provided that the ESOP has been established for purposes of corporate expansion. The second is that a ceiling of $500,000 on the amount of stock allocated to an employee's account could be and should be imposed.

There was a final recommendation in this report that ESOP's should be allowed to diversify because, after all, if they do not diversify, if a company's stock goes down, then the so-called ownership in that company, the value of that ownership, drops appreciably. The diversification for the ESOP ownership would be much like a mutual fund. This would be of general benefit, says the report, for the diversification of holdings reduces the risk of particular stock investments and, as indicated earlier, helps to increase productivity throughout the economy by increasing the mobility of capital and labor.

It also would help ameliorate the risk of employees' losing everything if their company goes bankrupt or experiences a serious economic decline.

There are other matters relating to ESOP's which we view as favorable, but would not recommend that they be made part of the permanent law. First, dividends should be passed through to the beneficiaries on an annual basis to the greatest extent possible. Second, vesting schedules should be shortened, with the possibility of immediate vesting being considered for the employees, so that they will be true owners of the corporation in as short a time as possible. Third, consideration should be given to having company goes bankrupt or experiences a their own investments.

Then the committee staff report summarizes these recommendations and I think they are worthwhile.

In order to increase the employees' interest in such plans and to better insure that they will definitely benefit the employees, it is recommended that the following provisions be made part of the law governing ESOP's and the incentives for their adoption:

(1) All stock held by the ESOT—

That is, the trustees for the ESOP plan—

should have voting rights equal to the voting rights of other employer common stock, and for publicly held corporations, these rights should be passed through to the employees; (2) an advisory committee to the ESOP trustees should be established by vote of the employees; (3) the current limitation on annual corporate contributions to the ESOT should be removed, provided that the funds channeled through the ESOT are used for corporate expansion; (4) a ceiling of $500,000 should be imposed on the amount of stock which can be allocated to an employee's account . . .

Then it goes on to point out that the ESOT's should be allowed to trade in the stock of other companies up to a certain percentage maximum—that is, the trustees should be permitted to diversify.

Though not recommended as a part of the law governing ESOP's, the following action should be practiced wherever feasible: (1) Annual distribution of dividends to the employees; (2) shortened vesting schedules; and (3) provision of loans to employees.

Mr. President, we are getting ourselves into a position here which I think would be most unfortunate. I am one who happens to have great interest in Mr. Kelso. I asked that he be brought before our committee, along with Senator JAVITS. We had him before the committee. I was much impressed. I think that if Senators will read the transcript of what took place in those 2 days of hearings, they will see that it was a very sympathetic committee and a very sympathetic hearing. I believe that Mr. Kelso has brought to the American public a method of broadening stock ownership that has considerable merit.

However, I submit to the Senate that it is not the only method. I submit to the Senate that it does have shortcomings which Mr. Kelso, himself recognizes. I submit to the Senate that the benefits of this plan go to a very small proportion of the total work force. I submit that the beneficiaries of the plan, in large measure, are the high-salaried and high-wage earners, but basically the high-salaried individuals.

I also submit that by the fact that there is not diversification in the investment portfolio, there are risks involved in this plan that could be alleviated by some better law. I also submit that we are not asking that we end what we are doing.

We are everlastingly in the debt of the distinguished Senator from Louisiana for this leadership in trying to broaden capital ownership in this country. But there are many ways to broaden capital ownership in this country. Profit sharing is something that the J. C. Penney Co., the Gamble stores; Sears Roebuck, and others have done for years. The West Germans, I believe, have what they call Wage Earners' Investment Funds that are paid to the workers themselves as part of management's wage package to the workers. Those workers also have representatives on the board of directors of the corporation.

Surely, if we are going to have a stock ownership plan, the stocks should have some voting rights. These are features that need to be examined carefully.

I know what the attack is going to be. The attack is going to be that there are those of us here who are speaking up who are against broadened capital ownership. That is not true. There are some of us who have been in business and have had broadened capital ownership plans for employees for years. Some of us have used what we call bonus payments to our employees for years. Our little family business has had it for years. We have share in the stock of a family corporation for years. There is nothing new about this. But there are many different features.

I submit that if you are going to have a plan that benefits employees, it should benefit all employees—self-employed, agricultural employees. It should benefit any kind of employee.

As the Treasury Department said—and I generally find the Treasury Department rather conservative and very pro-private enterprise—whatever plan you have should benefit all Americans, all people. All should be eligible.

The truth is that under the present proposal, all are not eligible. That does not mean that we should abandon it. I have never been an all-or-nothing man. I voted for the proposal which is in the current law—the 1 percent. I think that 1 percent should be sustained. I do not think that we should jettison it. I do not think we should throw it overboard simply because we think we should know a little more about broadened capital ownership proposals. But I do not think we should be charging up at the time we need revenue, at the time there is a revenue shortage, at the time that every effort has been made here to block us as we sought to raise new revenue.

The Senator from Massachusetts, the senior Senator from Maine, the Senator from Wisconsin, the junior Senator from Maine, and others have been bringing up revenue measures that would close what are known as tax loopholes, that would raise additional revenue, because we have a problem here with our budget resolution on the one hand and our revenue-raising capacity on the other.

This is another proposal that will take out a certain amount of revenue. I grant that many people will benefit, and I believe that those who benefit will be exceedingly well pleased; but there are many ways in which we can benefit other people.

The total amount of revenue in this additional 1 percent is——

Mr. MUSKIE. Mr. President, will the Senator yield?

Mr. HUMPHREY. I think it is about $235 million.

Mr. MUSKIE. Mr. President, will the Senator yield?

Mr. HUMPHREY. I yield to the Senator from Maine.

Mr. MUSKIE. First, I make the point that over the next 5 years, this proposal would be the most costly new tax provision in the bill now before the Senate. Over that period, it would reduce revenue collections by more than $3.2 billion. The Joint Committee on Internal Revenue Taxation provided estimates of revenue loss in fiscal 1977 of $385 million. No, the estimate that the committee was working on was $235 million.

Mr. HUMPHREY. $235 million for 1977.

Mr. MUSKIE. I think that is a conservative figure, and I have reason to believe that it is closer to $385 million.

What that does to the current tax bill, if the higher figure is correct, is to reduce the net gain on tax expenditures to $142 million, as compared with $1 million plus that came out of committee. So that we are almost $2 billion away at this point if this provision is approved by the Senate. If this provision is approved by the Senate, we will be almost $2 billion away from our budget resolution target.

Mr. HUMPHREY. The Senator from Maine has given us important information. I add that the proposal in the committee bill makes the 1 percent retroactive to 1975.

Mr. MUSKIE. Precisely.

Mr. HUMPHREY. And that is another loss of revenue. I believe it is about $150 million added on. There is no reason to make it retroactive; that is for sure.

Mr. President, it seems to me that what we need here is to keep in mind that there will be certain advantages to certain companies and certain employees. That is desirable in many ways. But one company, a very fine company—and I make no case against it because it serves the public well—A.T. & T., would benefit by 1977 to the tune of $340 million. That is one company. That is by their own estimate, not by any estimate of any Member who is seeking to support the Javits proposal.

Mr. President, on this, there are arguments to be made in behalf of the broadening of capital formation. I believe there is a great need for expanding capital formation. I know that in order to increase our productivity, our jobs, we are going to have to have more capital. I believe that the broadening of the ownership of capital is a highly desirable goal. I shall vote to continue a 1 percent proposal for an additional 2 years, until we can further examine other alternatives.

I do not ask that we toss overboard the progress that has been made thus far. I just suggest to the Senate that the time is at hand at least to put up the caution sign—not to put up the stop sign, but to have some caution.

Mr. PERCY. Mr. President, will the Senator yield?

Mr. HUMPHREY. I yield to the Senator from Illinois.

Mr. PERCY. I thank my distinguished colleague. I want to ask a question before we hear from Senator LONG, who has spent so much time on this issue.

I do not think there is an issue that has faced the Senate that the Senate wives know more about than this issue.

The Senator from Illinois also commends the Senator from Louisiana for pushing forward his idea. His willingness to test out an idea is well-known to his colleagues.

Mr. President, I have long felt that it is really hypocritical to expect people to believe in capitalism if they have no chance to be capitalists. I felt there was no way to have people feel a part and parcel of the free enterprise system in the private sector unless they really had some private property or unless there was some enterprise in which they owned a stake, particularly in American industry. So I have long associated myself with the objective and purpose of the disinguished manager of this bill in trying to broaden stockownership.

I have had, now, perhaps three decades of experience watching a group of people getting together, a thousand or more, growing to 10,000, every one of whom owned a piece of the corporation with which they were associated. That stockownership has grown through the years, not only in that company but in a cross section of American industry, to where now, 10,000 people own $80 million worth of stock and bonds in industry, as well as Government securities.

Mr. LONG. Mr. President——

Mr. PERCY. Mr. President, who has the floor?

Mr. LONG. The Senator from Minnesota yielded for a question.

Mr. PERCY. If that is correct, I am asking a question. Is that a correct analysis?

Mr. LONG. The Senator from Minnesota said he only wanted to speak for a few minutes.

The PRESIDING OFFICER. The Senator yielded for a question. Does the Senator from Illinois have a question? The Senator from Minnesota yielded the floor for that. His question is about the longest I have heard this afternoon.

Mr. HUMPHREY. I say to the Chair, with my high regard for the distinguished Presiding Officer, a man of great station and one whom I have admired—I want that in the public record. He is a fine gentleman. But he has not heard anything yet when it comes to asking senatorial questions.

The PRESIDING OFFICER. I suspect the Senator is right.

Mr. HUMPHREY. I know the Senator from Louisiana wants the floor and we are not going to monopolize it, but the Senator did not want a limitation on time.

Mr. PERCY. The Senator from Illinois will be very happy to yield the floor to the Senator from Louisiana. I had an appointment at 4 o'clock; I have been waiting since then. I shall go out and keep my appointment in the lobby and come back as quickly as I can and make my remarks at that time. I was hoping to be on the floor when the Senator responded.

Mr. LONG. If the Senator will yield, I have been waiting since 2 o'clock.

Mr. HUMPHREY. Mr. President, why not let the Senator from Illinois make his speech?

Mr. PERCY. I shall finish as quickly as I can and hope to get back to hear the Senator from Louisiana make his reply.

Mr. President, with regard to the investment tax credit and the committee bill increasing it to 2 percent and making it permanent in law, there are simply these questions: The committee provision continues and makes permanent only one kind of employee stock ownership plan. The Senator from Illinois, and I think the sponsors of this amendment, believe in stockownership, but they believe there are a number of different routes they might go. We want to explore as many of these routes as we can and not become locked into one particular form, worthy as it may be. I think we need time to study the impact of this program a little bit longer than the period of time that we have had for testing it.

Mr. HUMPHREY. The Senator states exactly my point of view. It is not that we should remove from this bill the so-called ESOP proposal; not at all. What we are doing is saying, leave it as it is, leave it for an additional 2 years.

There is an election. I do not know who is going to be elected. We do not know who is going to be the new Secretary of the Treasury. We only know that all of the candidates who have talked have said they are going to do something about tax reform. Well, that is not anything new. They have all said something about it, perhaps.

As to the Senator from Illinois, who has been a corporate executive, the company from whence he came and where he was the chief executive officer had a profit-sharing plan, had a proposal of stock ownership. It is one of many.

Mr. PERCY. That is right.

Mr. HUMPHREY. All we are saying is we ought not to fix the tax laws so that they benefit one kind of plan without giving equal interest and equal incentive to another kind of plan. That is all.

We do not need to lock the door and keep out the possibility of the varieties and the alternatives which are there for broadening stockownership. That is the whole argument.

Mr. PERCY. I share with the Senator from Minnesota his great admiration for not only what Senator LONG has contributed in his thinking on this program, but also Lew Kelso, who is a longtime friend, whom I have talked to over a period of years.

The second question I have is whether a tax incentive is really the best way to do this, particularly when it is tied to the investment tax credit. I am not sure that narrow a tying is desirable for something that possibly ought to be opened up to a much broader program.

Mr. HUMPHREY. May I say to the Senator from Illinois that that, again, is the concern that has been expressed here, whether or not this methodology of the investment tax credit plus the additional 2 percent is the way to get at a broader stock ownership program in this country, because it is perfectly obvious that the investment tax credit does not apply universally in terms of its impact. In retailing, for example, and wholesaling, frequently it does not have the same impact that it does in highly capital-intensive industries.

What the Senator from Illinois is saying is it may be that we should have a different type of tax incentive system if we have that system at all, that maybe it should be broader in its implication. I think that is the thrust of the Senator's proposal.

Mr. PERCY. The other point I want to make with my distinguished friend is to ask whether, with his understanding of human nature, he does not feel that we appreciate something more when we have a stake in it ourselves. This is the problem I have with devoting ourselves to one particular approach, as to whether or not a plan will be truly valued when the Government, in a sense, is the only real contributor. The employer does not really make a contribution to the stock ownership and the employee puts not a cent into it. My own experience has been that someone, if they put a part of themselves into it and they make a contribution and they make a decision to do it, will take a far greater interest in it; they will have a sense of proprietary ownership in it that they will not have if they are just given this as a gift and, somehow, it comes to them through the benevolence of the Government.

This is, again, a question that I raise as to whether we should now make permanent a program that has those somewhat limiting features in it.

What other types of employee stock ownership plans should be encouraged? The committee provision applies to only one model and will very likely have the effect of ending the use of other types of employee stock ownership plans, or discouraging them; I would want to encourage other types and at least experiment to see what kinds of incentives might be necessary and desirable.

So, though I agree with the objectives and overall purpose and goals, and I think they are noble and worthy, I simply raise the flag and say, let us not cease and desist, let us continue on, with a good effort, but let us also spend this next year or so looking at other programs, other plans, to see how they can extend and grow.

It is for this reason that I have joined in the pending amendment but, at the same time, and in the same breath, I want to commend the committee and commend the chairman and ranking minority Member for what they have contributed in their pioneering and their imagination in this field. Certainly I support the continuation of the 1 percent.

Mr. HUMPHREY. Well, may I say to the Senator, I join in that, in the commendation of and thanks to the chairman of the Finance Committee. I know of his deep commitment in this matter, and I know he will make a very persuasive argument.

By the way, I think I have a pretty good idea of the way the votes are lined up around here. I want to say this before the Senator gets wound up, because I know how persuasive he is. He may pick up just another half dozen in one fell swoop here.

May I say to the Senator from Louisiana, that he should not consider me impolite or discourteous, but I have to leave the Chamber for one or two calls. I want to listen to his argument because the Senator can convince me of almost anything, and I may have to take back some of the things I have said here.

Mr. LONG. I thank the Senator.

Let me make a few points.

Now, to begin with, I would like to make it clear that I have been somewhat anxious to move on with this business because I am hoping to vote on 12, maybe 15, provisions today, and I hoped we would have voted on this one and been on to the next one sometime ago.

Since 2 o'clock those who do not favor the committee's judgment on employee stockownership have controlled the floor; they have called for a live quorum, and that was difficult to get here, and finally we had to have the yeas and nays to require the absentees to come. That brought people, but it proved what Lyndon Johnson told me a long time ago when I used to want to make Senators come here and to hear my speech. He said:

> I can make somebody come in here and answer to his name, but I cannot make him stay in here and hear your speech.

I can only offer consolation to Senators that the people did not stay to hear their speeches. I have less to say than they did, so that solves that problem.

Now, what is the big advantage of employee stockownership as recommended by the Senate Finance Committee? One big advantage: Substantial participation.

Now, those who are speaking against the committee amendment on employee stockownership say they like other employee stockownership plans.

Well, every other employee stockownership plan I know of is a variation of the so-called thrift plan, which means if an employee is fortunate enough not to have to spend all of his income, if he can save something and put that up, then the employer will sell stock at a favored price or match the employee contribution so that the employee can get in on the act and can buy stock, in effect, at a favored price.

I am not here to knock that, and there is nothing about the recommendation that the committee makes that suggests that the employee should not benefit from the great benevolence of the tax credit as well as the existing shareholders.

There is nothing about our recommendation that would in any way preclude anyone, any company, from having a marriage with their thrift plan and the investment tax credit-employee stockownership plan, so that one could have the benefit of both. He would have the benefit of the investment tax credit for the benefit of employees and also an employer selling him employer stock at a favored price. There is nothing to keep them from doing that, and if they want to do it, fine, more power to them; no complaint whatever.

But here is the problem about the so-called thrift plans, and Congress has given those some favored treatment. It is deductible and that is, after all, worth 50 cents on the dollar or 48 cents Government contribution on the dollar. The fact that the employer contributes to the thrift plan is deductible; that is an employee stockownership plan.

What is the fault of it? The fellow who needs it the most does not get it; he does not get a penny out of it.

I have heard complaints here about the rich man getting more out of the employee stockownership plan than the poor man. Could not Mr. Javits or Mr. Humphrey find one little tear for the poor fellow who cannot afford to save something because the baby needs a pair of shoes and, therefore, cannot get a red copper cent out of it?

Could they not find a tear for him? Unfortunately they did not seem to think about that person.

Now, the idea of an employee stock ownership plan favored by the Government in its tax laws has been recommended by the Finance Committee on at least three different occasions; it has been recognized by the Labor Committee in the pension law, the so-called ERISA law; this concept of employee stock ownership was recommended by the Commerce Committee on the railroad law and passed through the Congress, so we have three or four times passed laws recommending this approach to employee stock ownership for everybody. Everybody gets some, not just the fellow who is able to save something, and is able to have that matched. They all get in on it.

Now, Mr. President, I am dismayed at the distribution of wealth in this country. It has bothered me, it bothered my father, it has bothered a lot of Senators, including some of those who spoke here today. The top 50 percent of the people in this country own 50 percent of the wealth of America, and the bottom 25 percent own zero. They own less than zero. Debts exceed their assets, and that is sort of a sad thing for a Senate Chamber that has heard oratory for the past 100 years of how everybody was going to share better in the fruits of America. Fifty percent of the people have less than a net worth of $3,000, and 25 percent of them have a net worth of less than zero.

Now, the Senate Finance Committee wisely believes we ought to do something about that, and we believe when we pass a law to provide an investment tax credit, which is a fine thing, it will encourage investment, it will provide incentive to put people to work, it will create new industries and new jobs. But while we are doing that, and when we provide a 10-percent tax credit for industry which is going to cost $9 billion and, of course, it is going to generate a lot of jobs and make a lot of money back, I will be the first to assert that it will, but while we are doing that, realizing that that is going to further concentrate the wealth of this country in the hands of the people who already have something, why can we not say in doing so that we will just put up a little 1 percent and then eventually a little 2 percent so that if a company feels in its heart to think of its own workers, that that company can say:

> In addition to the investment tax credit—

Which, on $10 million of purchases would get you $1 million—

> you get $200,000 more if you want to put that into stock for your workers.

I will be the first to agree that the man making $100,000 would get 10 times as much as the man making $10,000. They made that point here five or six times. The Senator from Minnesota made it five times in one speech.

Let me respond to that. You did not hear him say one word about the pension laws where a man can make $250,000 and get 25 times as much as that man making $10,000.

Why does he not mention that? He voted for it. He helped to enact it. He helped to create an inequity two and a half times as bad as the one he was complaining about here. How could he let something like that happen? We do not let it happen in this one. You know why he mentioned $100,000? Because that is the highest it can go. We will not let it be as bad as Mr. Humphrey voted to make it with these pension programs. The most they can go is $100,000 participation in that employee stock ownership plan. We do not let the evil they complain about and put into effect happen with employees stock ownership plan. We agree with them. Shame on them for doing that. They should not have voted for that kind of mischief in the pension plans when they put on the statute books. Shame on them. Maybe they will see the error of their ways and correct it. We do that in the Finance Committee; $100,000 is the top limit.

But if you want the management to put in a plan where 95 percent of the benefit is going to go to the rank and file workers, you had better let management participate in it, otherwise there is not going to be much incentive for management to put the plan into effect.

Everybody knows that a big corporation that can afford to pay $100,000 or $200,000 for its top executives pays 50 or a 100 times as much money to the rank and file average employees as they pay to the fellow on top who is the president of the corporation. We know that.

Suppose you took the same money, the same investment tax credit, the same 12 percent that Mr. Simon, the Secretary of the Treasury recommended and employers generally asked us to provide, and suppose you put that same 12 percent with management? Then the present investors would be getting it all; the chances are that the $100,000 or the $200,000 executives would be getting it not only as a shareholder, they would be getting a great bit of additional benefit in terms of the additional earnings of the corporation. So what are they complaining about?

Now, while they complain that we cannot divide it entirely evenly—let us get to the next point. It is true that when you try to benefit employers and employees by way of an investment tax credit—I would like for the Senator from North Dakota to hear this, Mr. President—when you try to benefit the employers and employees by way of an investment tax credit, it is true that the benefit falls more in the capital-intensive area, like the telephone company or the electric company, than it does in a retail industry. That is true.

(At this point, Mr. Laxalt assumed the chair.)

But is not the same thing true of the investment tax credit? Does that not fall more in the capital intensive area? Of course it does.

All we are really saying here is that if we are going to have this additional tax advantage, why not let the employees participate in it?

Mr. CURTIS. Will the Senator yield?

Mr. LONG. I yield to the distinguished Senator.

Mr. CURTIS. Mr. President, I want to commend the Senator and I also wish to commend the distinguished Senator from Arizona (Mr. FANNIN) for the pioneering work they have done in promoting stockownership for employees.

I have listened, almost with some amusement, at the opposition here. They say, "We are for employee stockownership, but we should only extend it for 2 years."

No company can set up a plan unless it is permanent law that they can rely upon.

It reminds me of the old time country lawyer who was advising a young lawyer who came to town.

He said,

> Now, get into every controversy, but never oppose building a new church, just oppose its location.

They say that they are for stockownership, yet they would terminate it in 2 years.

That is rather insulting to both labor and management, that they could set up a stockownership knowing the law would come to an end in 2 years.

Our committee took the testimony of a corporate employer concerning ESOP in his company.

But he said:

> They are working together better, with a team membership feeling, seemingly for a common goal. One of the indications of this is that our union grievances have declined. There seems to be an attitude of mutual problem solving.

Listen to this:

> Employee turnover has declined 50 percent since 1973 and is below the national average for our type of company. Our absenteeism has declined and is now 25 percent below the national average. Since the ESOP was established, interest and participation in the company suggestion program has improved in that suggestions submitted have increased 140 percent, with a marked increase in suggestions regarding cost and waste reduction and efficiency improvements.

That is something that is needed in world commerce.

> There seems to be more peer group pressure to properly care for machinery, to discourage loafing, to reduce absenteeism, to provide better designs, to reduce operating supply costs and to generally work better together.

Listen to this:

> Since the establishment of the ESOP backlog and new business are up to record levels, sales in 1975 through 9 months are up over 30 percent and profits are up more than 60 percent. Profit margins have improved, annual dividends have increased from $0.80 to $1.00 per share.

That means more revenue for the Treasury.

I know that all these estimates as to cost of provisions are well intended and no one has a desire to deceive. But they are just too complex for somebody to pick a figure out and say, "Here, this will cost so much."

If there is no new equipment purchased, there will not be a dime paid out in investment credit, and if there is nothing paid out, they do not lose anything. If money is paid out, people have to be employed to produce that.

If a new day arrives by reason of employee ownership, the results in more profits, more employment, more competitive and world markets, it will gain funds for the Treasury instead of losing funds.

Again, I want to commend Senator LONG and Senator FANNIN for what they have done here and I support the committee amendment.

Mr. LONG. Mr. President, I want to make this further point.

We have provided deductions to help encourage pension plans. We have provided deductions to help encourage profit-sharing plans. We have provided deductions to help encourage employee stockownership.

Except in this area, we have never sought to help these employee programs with an investment tax credit.

But if we go back, as we do, to help a plant modernize and help provide jobs, if we can provide investment tax credit to help a working man, poor that he may be, to take a job and to make work more attractive than welfare, if we can provide an investment tax credit to help the working mother, as we did, to provide child care for her child, then what is wrong with providing an investment tax credit to encourage a company to have a plan so that all of their employees would be accumulating some stock and equity ownership in America as they go along?

Something was said about the Treasury suggestion. The Treasury favors, body and soul, a proposal known as BSOP, a broader stock ownership plan, a plan that would make it more attractive to buy corporate stock than it is today.

I am not here to criticize the plan. I would just like to make it clear, that it is a program strongly favored by Mr. Seidman at the White House, who is a good certified public accountant himself. A lot of people are strongly in favor of it.

All I am saying is that there is no conflict, no essential problem here, simply say that employees ought to own some stock in the company.

Mr. HUMPHREY's Joint Economic Committee made the point in their own report that one of the reasons companies are not setting up employees' stock ownership plans, although Congress gave a tax credit to bring it about, is because it was only a 2-year program and it would expire.

They did not want to look like Indian givers, start something and have it stop after 2 years. Even further, because it looked like people could not understand why the company stopped doing something that they started doing, that people might feel they had been discriminated against, done an injustice they could not understand.

But even on a 2-year basis, a lot of companies have gone ahead to start the plans, even in spite of that uncertainty.

But obviously, if the uncertainty continues, all the major employers tell me they are reluctant to go into it not knowing whether it might be discontinued next year.

Mr. FANNIN. Will the Senator yield?

Mr. LONG. Yes.

Mr. FANNIN. The Senator from Arizona wishes to commend the distinguished Senator from Louisiana, for his months and months of study of this ESOP plan, as well as other plans. Extensive hearings, and thorough research have taken place in developing the ESOP amendments adopted by the Finance Committee.

I think that the floor debate today points to the general agreement that broader stock ownership is the desired goal.

Mr. President, what has happened in the last few years in the area of capital ownership? The number of shareholders has declined by some 18 percent from 1970 to 1975. Therefore, other plans already in the Internal Revenue Code such as profit sharing have not succeeded in broadening. And expanding the ownership of American barriers.

I feel that the ESOP plan recommended by the Finance Committee will do much more than has been done in the past. I think that is evident.

One serious problem I see is that the young people of our Nation have not been investing in securities. Young people today are not purchasing stocks in volume.

This ESOP provision would encourage young working people to buy more stock. This provision in the bill would diffuse the ownership of capital and provide moderate income individuals an opportunity to participate in our economic system.

The Senator from Louisiana has brought that out so well.

Mr. President, the on-again, off-again approach suggested by some of my colleagues just will not work. It has not worked with the investment tax credit. We have covered this many times. And if certainly will not work here.

It seems to me that what we are talking about, as has been brought out so well by the Senator from Nebraska and the Senator from Louisiana, is that we must remember when this 2 percent is given it is carried right through to the employee. The 12 percent investment tax credit is only earned by providing a tremendous number of jobs for people by encouraging the purchase of new equipment. We are talking about helping the whole economy.

The credit is not available unless purchases are made, and jobs, as I have said, are the result.

It reminds me of the saying that they are buying a "piece of the rock." Well, in this case they have a piece of the stock instead of a piece of the rock, but it is the same idea. They have an incentive, a feeling of security, a feeling of being a partner in the company.

If we do not follow the ESOP plan the distinguished Senator from Louisiana is recommending, we do not have that added strength in the program. Now, under the ESOP plan, the person is a more faithful employee, and, as I say, he probably will invest more money in that company because he gets that taste of ownership. This probable result would be of tremendous advantage to the entire Nation.

We will have more enthusiastic employees, we will have people who want to be a part of our free enterprise program, and we will have an increase in earnings. I certainly agree with the distinguished Senator from Louisiana that this ESOP proposal is a step in the right direction and it should receive the support of the Senate.

Mr. LONG. I thank the Senator, Mr. President.

The Senator from Arizona has been a tireless worker. He was so in this effort to try to help employees own stock in the companies for which they worked, long before the Senator from Louisiana was familiar with it. I am happy to have been an ally of the Senator from Arizona in making this fight for employees to own stock in the companies for which they work.

I want to make one further comment, and then I will yield to the Senator from Colorado.

Unfortunately, those who have spoken against employee stock ownership do not understand what the Senate Finance Committee has in mind.

The committee has in mind this theory, that it would be well if the Government's powers, in terms of money, credit, taxes, should be shaped in such a way that the rank and file of people in this country would become meaningful owners of their share—not necessarily their pro rata or per capita share, but at least a fair share—of the wealth of this great land of ours.

For example, some of us know that during World War II, that great war, and even during the Korean war, the Government made tremendous investments to start new industries. It made Mr. Kaiser a multimillionnaire or perhaps a billionnaire. It made a lot of people millionnaires, with the Government taking all the risks.

I am not against Mr. Kaiser becoming rich. But with the Government taking all of the risks, the Government guaranteeing the loans, seeing the whole thing through—and it winds up with a few people being very rich at the end of the war—think how nice it would have been if we had said, "Since the Government is going to take the risk anyway, let us put the employees in there for a piece of the action. If it is not going to succeed, the employees will not work for it anyhow, so let us put them in for a piece of action."

We on the Finance Committee said in the trade bill if someone is put out of business and the Government is going to establish a new industry in one's community to try to offset the fact that the old industry was put out of business by foreign competition, if the Government is going to lend the money, they have to put the employees in there for 25 percent.

Why did we pick the figure of 25 percent? Because the Senator from Arizona thought that 25 percent would be about an appropriate amount where the workers would not be completely controlling it but where, on the other hand, they would have a sufficiently substantial interest that would be very meaningful to them in helping the enterprise to succeed.

Think how wonderful that would have been in Kaiser Aluminum and all the Kaiser industries that we put in business if we had put the employees that work for them in for a quarter of it.

When we started the new steel companies, think how it would have been if we had put the workers in for 25 percent. We would not see a chart showing 15 percent of the people owning 25 percent of the Nation's wealth and 25 percent owning below zero, if that foresight had existed back at that time. It is too bad somebody did not think about that.

Mr. President, meetings are being held around this country by the people who understand the needs of industry. They point out that the net worth of America today is about $3 trillion. We are going to have to increase our wealth by another $3 trillion, and we need capital.

We can talk about attracting investments, but nobody is going to find any $3 trillion buried in somebody's backyard. Nobody is going to find that hidden under a mattress. Nobody is going to find that in grandma's sock. There is just not that much money to be found.

Where will the $3 trillion come from? It will come out of the banking system. A lot will be generated through the Federal Reserve. And it will come out of the tax laws that we pass which permit people to retain enough earnings to make these investments.

If we want to do so, we can shape the laws so that while we are creating this $3 trillion in additional wealth the rank and file of America will be in on it, or we can shape it so that they will not be.

With all the oratory I have heard, these people are talking about continuing the status quo. They do not have a pension program to offer today. They do not have a profit-sharing plan. They are just talking about continuing the system under which the great majority of Americans get nothing.

Mr. GARY HART. Will the Senator yield?

Mr. LONG. I yield to the Senator from Colorado.

Mr. GARY HART. Will the distinguished committee chairman tell us, under the committee proposals, what the rights of the employees are in any hypothetical company in terms of collecting under the plan? How would the employees go about deciding whether they want a plan or whether they will be in or out of the plan? What are the employees' rights?

Mr. LONG. The stock is vested, by the way. That was one of the points that was made, though the Senator from Minnesota suggested otherwise. In pension plans they do not vest immediately, but in this area the employees do vest immediately.

The employees can vote that stock. There is a 100-percent participation in these plans, which is not the case in any of these other kinds of plans other people have advocated.

Furthermore, Mr. President, wherever there is a labor union, the whole bit, what they are going to do about voting it, what they are going to do with their stock, whether they want to reecive the dividends, what they want to do with them, whether they want to leave them in, let them ride, let them build up, is negotiable between their labor union and management.

Mr. George Meany came to my office somewhat upset about this for fear we might be bypassing the proper function of the labor union. I said,

> We will amend this bill, Mr. Meany, however you think it ought to be amended, so anything that ought to be subjected to collective bargaining is subjected to collective bargaining.

It has been so amended. He left my office and I gained the feeling he was tickled pink about the matter. If he is not, I would like to know about it.

My last information was that we had amended this bill the way labor feels it should be so the whole thing is completely negotiable between labor unions and management where there is a labor union. Where there is not a labor union, the employer would set up a trustee to manage the stock for the employees and it would be subject to all the rules in the pension law.

Mr. President, these fears people are talking about are badly misplaced. When they say that this plan recommended by the Senate Finance Committee does not do everything, I would be the first to agree. No, it does not do everything. And I have not seen anybody's law or anybody's bill yet that will solve everybody's problem. All I will say is it will help. It will point us in the right direction. While we are creating vast additional wealth, which, in large measure, in the overwhelming degree, will be owned by existing owners, let us think in terms of those who have so little and put them in for a piece of it.

It is true that in capital-intensive industries it does more than those that are not capital-intensive. But every labor leader seeing employees accumulate a nice nest egg, a capital estate that they will own, that brings them dividends and income month by month and year by year, will be calling upon those with whom he negotiates to set up a plan for those workers.

In due course they may very well come here and ask us for some tax consideration to be parallel, for their particular industry, to what we do for those who will be participating under this plan. And if they ask it, and it does have the same equity, the same sort of economic justice to recommend it, I for one would vote for it.

But you have to get it started somewhere. Somewhere you have to start moving in terms of getting employee stock ownership going, if you want it to exist in America. And if we get it going, the American Telephone & Telegraph Co. will put it into effect for their company provided it does not have to come out of the equity interest of their existing shareholders. That will stimulate thought and interest by other companies about employee stock ownership. If we pass this amendment, most of the electric companies in America will put employee stockownership plans in. Most of the steel companies will put plans in. The probability is that most automobile companies will put plans in. We will have a great number that will put plans in.

That will cause other companies that are less capital-intensive to be thinking in terms of ways they can participate. The question is, do you want to move ahead with employee stockownership, or do what we have been doing for the last 28 years that I have been here and Senator HUMPHREY has been here, just leave it where it is, where nothing ever seems to happen? Where we have great talk about what we want to do for people, but all we ever do is put up charts showing that one-fourth of our people own less than zero, which is about where it was 20 years ago.

SEVERAL SENATORS. Vote! Vote!

Mr. LONG. Mr. President, Senators want to vote on this matter. I move that the amendment be laid on the table.

Mr. JAVITS. Mr. President, will the Senator withhold that for a moment, so I may have 5 minutes to reply?

Mr. LONG. Mr. President, I ask unanimous consent that the Senator from New York may have 5 minutes before we vote on the motion to lay on the table.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. JAVITS. Mr. President, I have listened to the argument very carefully, and the argument has been made very eloquently and very well for stock ownership plans, and I thoroughly agree with that. The question is, however, shall we spend $3,200,000,000, as Senator MUSKIE has laid it down, or at the very least $250 million, for the purpose of favoring a particular stock ownership plan which we feel is discriminatory against workers and discriminatory against other plans?

Mr. President, we have 250 ESOP plans in existence, according to the records of the Treasury Department, and with respect to other stock ownership plans we have 315,000. That is the one argument Senator LONG has omitted. He says, "Let's get started along a good course."

But this is a good course that blocks out many; and we are not going to contribute any more, in my judgment, than a quarter of a billion dollars a year, running up to over $3 billion in 5 years.

So we are going to help it with public money, in a billion-dollar plan, a plan which the Joint Economic Committee indicates is loaded for employers to get rid of stock, to borrow money, to leverage stock, and to pay back the loans out of their tax deductions, with all of the inequalities of distribution among employees, et cetera.

Senator LONG makes the statement that this unfair plan, used in such a minuscule way, is going to be used to benefit employees. How many employees? There are 400,000 employees, according to the Secretary of the Treasury, under these plans, but there are some 5 million under other plans.

As to his general statement about the pension law, Mr. President, Senator LONG himself was one of the great authors of the pension law, with Senator NELSON, me, and other Senators; so I do not think he will decry that very long. But the 2-year plan allows our experience to date to continue. Anything gotten during that time belongs to the stockholder, but it does give us that experience to give us mature judgment to consider other plans, a wide variety of plans.

That is the point of the pension law. It does not favor a particular type of plan, it favors all plans that meet certain requirements. The deficiency, the cancer in this thing is that it preempts the field for a small number of plans, and cuts off our efforts to help other plans equally beneficial and as good.

I have never heard a word against the Sears, Roebuck plan. It has been in effect for years, and now has resulted in Sears, Roebuck employees owning control of the company.

As I have stated before, people on this side of the argument have a very tough role to play, and Senator LONG has made us swallow the poison to the end. But we will do it, because we know we are right. We want to encourage stock ownership plans, and we think people have enough sense to see that we do, but we do not want to give the law a bias in favor of a particular plan, benefiting a minuscule number of people, even if it suits their needs.

The Humphrey committee seriously challenges that ESOP is a very convenient plan for people who want to get rid of their own stock in a closely held company. If it is going to preempt other plans, which it will if we give it these advantages, and preempt pension plans, which are infinitely more valuable to the individual and to the average worker, the Senate ought not to adopt it.

Mr. LONG. Mr. President, I ask unanimous consent for 2 minutes to respond to the Senator from New York.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LONG. Mr. President, every employee who has participated in any stock ownership plan will be eligible to participate on the same basis in this 2-percent investment tax credit for employees as an add-on to the plan that he has. They will all be eligible to enjoy the benefits of it.

The Senator made some criticism that had to do with the so-called leverage feature, but that is not applicable to the tax credit plan at all.

The one basic difference between my position and the position of the Senator from New York is that we would insist that where the Federal Government provides tax credit, 100 percent of the employees of the company ought to be participating in it. Where they have a minimum number of employees participating, everybody ought to be able to enjoy that part of it.

Mr. CURTIS. Mr. President, I rise in support of the committee amendment. Under this amendment, an employer is entitled to 2 additional percentage points of investment tax credit—12 percent rather than 10 percent—if he contributes employer securities equal in value to the additional credit to an employer stockownership plan—ESOP—which satisfies the Tax Reduction Act of 1975.

The committee has conditioned this tax benefit on the establishment and maintenance of an employee stock ownership plan because it believes that some of these tax benefits should flow directly to the employees and not just to the employer. Also, through their participation in an employee stock ownership plan, employees will be able to share in the ownership of corporate capital and in the growth and profitability of the employer.

In addition, the employee stock ownership plan offers the companies involved a new technique of finance to meet their general financing requirements. The committee believes that through the employee stock ownership plan, many corporate employers will be introduced to a new technique of corporate finance that will enable the company to build its own investment capital while providing equity ownership for their employees, and in this way benefit society as a whole.

Today there is vital need for revitalization of the free enterprise system.

You may be familiar with some of the unhappy statistics:

The fact that more people draw money from the Government for not working today than during the depression.

The fact that General Motors estimates that absenteeism cost the company more than $50 million annually in fringe benefits alone;

Allegations are made that some employee instigated sabotage occurs and that there is a lack of pride in the quality of the product that is turned out.

We obviously have a problem that threatens our national well-being and world trade.

Mr. President, let me briefly quote from the testimony of a corporate employer on how the ESOP of his company is solving the problems that I have enumerated:

> RELATIVE TO THE ESOP'S OPERATION OR PURPOSE
>
> There seems to be better morale and a much more cordial working relationship between supervision and other employees in that they are working together better, with a team membership feeling, seemingly for a common goal. One of the indications of this is that our union grievances have declined. There seems to be an attitude of mutual problem solving rather than certain groups within the company taking adversary roles as has sometimes occurred in the past.
>
> Employee turnover has declined 50% since 1973 and is below the national average for our type of company. Our absenteeism has declined and is now 25% below the national average. Since the ESOP was established, interest and participation in the company suggestion program has improved in that suggestions submitted have increased 140%, with a marked increase in suggestions regarding cost and waste reduction and efficiency improvements. This was against the backdrop of an already active employee suggestion program. Through the communication councils we are seeing more creativeness from our employees in performing their jobs. There seems to be more peer group pressure to properly care for machinery, to discourage loafing, to reduce absenteeism, to provide better designs, to reduce operating supply costs and to generally work better together. Although it is very difficult to determine all of the reasons for these employee

> improvements, we are convinced that the ESOP's providing stock ownership to our employees has increased their interest and incentive to participate and contribute to the company.
>
> As to the company's operating results, since the establishment of the ESOP backlog and new business are up to record levels, sales in 1975 through nine months are up over 30% and profits are up more than 60%. Profit margins have improved, annual dividends have increased from $.80 to $1.00 per share, the price of the company's stock and its price to earnings ratio have increased and as I mentioned our union relations are excellent, our employee turnover is down and our employees seem extremely pleased. Again, this improvement certainly cannot be totally attributable to our ESOP but we feel that it was a significant contributor; however, the real, more significant benefits to the employees and the company are expected to occur over the long-term future of the plan as it gains momentum, because that is the purpose of ESOP.

Mr. President, the benefits of providing every worker a chance to participate in the ownership of capital are enormous:

It spreads the base of capitalism.

It encourages productivity.

It increases income and purchasing power.

It raises the tax base.

And it provides an adequate retirement income.

I believe that the U.S. economy will benefit tremendously over the long-term if this country's workers receive a portion of the dividend income and appreciation benefits of the total equity in the United States. This amendment is a good start in that direction and I commend the chairman for his dedicated efforts.

Mr. MUSKIE. Mr. President, I urge the Senate not to liberalize the employee stock ownership plan provisions in the tax bill. The changes reported by the Finance Committee in section 804 of the bill are too costly and inefficient to be adopted at this time.

Over the next 5 years, section 804 as reported by the Finance Committee would be the most costly new tax provision in the entire bill now before the Senate. According to the initial Joint Committee on Internal Revenue taxation estimates, it would reduce revenue collections during this 5-year period by over $3.2 billion. The joint committee estimates the section 804 revenue loss will grow from $235 million in 1977 to $917 million in 1981. I believe these estimates are quite conservative, and the actual losses may prove to be much greater, especially in 1977 when the impact of the retroactive benefits provided by section 804 would occur.

Section 804 would make a series of major changes to the ESOP provisions first enacted in 1975 that would turn them from being rarely used to provisions used by many major U.S. corporations.

Section 804 would provide an additional 2 percent investment tax credit—12 percent instead of 10 percent—in 1977 and subsequent years for corporations that contribute shares of their own stock equal in value to the additional credit to employee stock option plan trusts—plans popularly known as ESOP's. Section 804 also would make a number of technical changes to insure that corporations incur no costs to themselves or their shareholders for establishing and maintaining these trusts.

Very significantly, section 804 also provides that corporations may claim an additional 1 percent investment credit for 1975 as well as an additional 1 percent for 1976 if they establish ESOP's under these new rules within 90 days of enactment. In effect, the liberalized ESOP rules would be made retroactive.

The tax bill now before us, as it has been amended by recent Senate floor action, would raise only approximately $300 million of revenue from tax reforms. Amendments adopted by the Senate have reduced tax reform revenues almost $700 million below the level of the bill reported by the Finance Committee that would have raised approximately $1 billion in fiscal year 1977.

The bill in its current state obviously falls far short of the $2 billion revenue gain target set by the Congress in the first concurrent resolution.

I urge the Senate to recoup a significant part of these revenue losses by not adopting the substantial retroactive liberalization of the ESOP investment tax credit provisions contained in the Finance Committee amendments.

There has been growing debate in recent years concerning ESOP's. Their general merit relative to other types of employee benefit plans is subject to widely conflicting opinions. The general debate over ESOP involves several sophisticated macroeconomic and corporate financing concepts. However, the effect of section 804 is much easier to understand, and does not directly involve these complexities.

Section 804 simply would result in the Federal Treasury transferring revenues to trusts established for the benefit of employees of those U.S. corporations that utilize the investment tax credit.

The situation that can and will develop from enactment of section 804 would work as follows.

Assume a publicly traded corporation annually has $1 billion of purchases that qualify for the investment tax credit and 100,000 employees. Its annual investment tax credit at the current 10 percent rate therefore is $100 million. An additional 2 percent credit would reduce its tax liability by an additional $20 million annually.

Under section 804, the corporation would be entitled to the additional tax reduction if it transfers its stock in an equal amount—$20 million—to a trust for the benefit of its employees. The corporation would obtain this stock by acquiring its outstanding stock in the public market. Nothing other than the stock reflecting the additional 2 percent investment tax credit would be contributed to the trust. Administrative costs of forming and maintaining the trust would be paid by the trust.

Each year, $20 million of the company's stock would be transferred to the trust. At the end of the seventh year, the value of the stock contributed in the first year would be paid to the employees. Each employee would receive an average of $200 annually—calculated by dividing the $20 million additional tax credit by the 100,000 employees. The $200 additional annual benefit provided under this example would be conservative in many cases. Employees of highly capital intensive companies, in fact, could receive average annual benefits well in excess of $200 each.

The net effect of section 804 in the case I have just described would be to reduce Treasury revenues to the extent of the additional 2 percent credit and to transfer this revenue to the qualifying employees.

One variation to the pattern I have just described would permit companies to issue new common stock to be placed in the ESOP instead of acquiring its outstanding stock in the public market. Corporations greatly in need of the additional cash flow from the 2 percent credit tax savings for further capital investments would choose this issuance of new stock method. However, this method is unlikely to be chosen by a majority of publicly traded companies because it will have the effect of reducing a corporation's earnings per share which the pattern I first described would not do.

It is important to note that the investment tax credit ESOP benefits will generally be in addition to, and not substituted for, employee benefit plans already in effect for tens of millions of employees. Many companies already use stock bonus, profit sharing, and thrift plans to foster employee stock ownership that would not be affected at all by these additional investment tax credit ESOP benefits. ESOP plans would not have to be substituted for these other types of benefit plans.

If adopted, section 804 in its present form would be an inefficient mechanism for fostering increased employee stock ownership. Section 804 does not require a corporation to match the Treasury investment credit tax reductions with any contribution of its own funds to the employee trust. Nor does it require a corporation to invest any more capital to obtain the 2 percent additional credit than the corporation must invest to obtain the 10 percent credit.

To the extent ESOP's would be funded under the more liberal rules of section 804 with an additional 1 percent tax credit for acquisitions made in 1975 and that part of 1976 which has already passed, section 804 would have absolutely no incentive effect at all for the acquisition of assets which have already been purchased. Thus, to the extent the provision is retroactive, it is solely a major windfall for qualifying corporate employees.

In addition to being inefficient, the benefits of section 804 would be distributed on a discriminatory basis. As contrasted to the general individual tax credits which were extended by the Senate last month, a much more limited segment of the U.S. work force would receive the benefits made available under section 804. Beneficiaries must work for profitmaking corporations. Benefits will not be available for Government workers, military personnel, self-employed persons, persons working for nonprofit corporations, persons working for partnerships, or for employees of those corporations that pay no Federal income taxes.

Section 804 benefits would be relatively more valuable for employees of taxpaying companies with the highest ratio of qualifying capital acquisitions to employees. Thus, for example, employees of leasing companies that lease qualified assets but have relatively few employees would benefit substantially, while employees of more labor intensive companies would not.

Within the group of employees of taxpaying corporations, the value of benefits for each employee of the same company increases proportionally with his salary. Higher income level employees will benefit most from enactment of section 804 in its present form.

The usefulness of ESOP's from a public policy standpoint is still very unclear. The ESOP concept clearly needs additional evaluation before massive permanent commitments of additional Federal revenues should be made in the form of section 804 investment credits or any other form. Therefore, I urge the Senate not to liberalize the investment tax credit incentive available to corporations that form ESOP's.

The failure to date of the Senate to meet the 1977 budget resolution target of a $2 billion net revenue gain from closing existing tax preferences makes it all the more important for the Senate not to permanently adopt the extremely costly, inefficient, and discriminatory new ESOP tax expenditure incorporated in the bill reported by the Finance Committee.

The Senate is already far short of its budget resolution revenue target. Adoption of the pending amendment to reduce the revenue losses from the liberalized ESOP rules will bring the Senate significantly closer to that target. Thus, I strongly urge adoption of the pending amendment.

Mr. HATFIELD. Mr. President, today is a very important one for the future of employee stock ownership plans. A year ago, under the Tax Reduction Act of 1975, Congress enacted a special tax provision to provide an incentive for the establishment of ESOP's. We did so because of the many meritorious aspects of such programs.

The incentive we provided, however, has a vital flaw. As the Joint Economic Committee's staff study on "ESOP's and Other Alternatives" points out:

> Companies are reluctant to start a benefit program that will be difficult to discontinue if the Government's 2-year contribution in the form of a 1-percent credit does come to an end.

The staff study also observes that—

> If the 2-year period were extended, many of the large, capital-intensive public companies would definitely be more interested.

The Finance Committee, therefore, has attempted to rectify this problem by replacing the temporary tax credit incentive with a dependable, permanent incentive, thus assuring companies that they can proceed with confidence to establish an ESOP program.

Our Nation has thrived because of the vigor of the American worker. Such vigor is dependent upon a sense of participation in the economic system of our Nation. Yet the ownership of capital, which is the foundation of this system, is concentrated in the hands of a small group of American citizens. By encouraging a program which puts shares of America's productive capital in the hands of workers at every level of the income scale, we are taking a significant step toward changing wealth ownership disparities.

The employee stock ownership plan brings to thousands of men and women their only opportunity to invest in American production. It does so without increasing income disparities and without reducing the purchasing power of the individual.

In addition, employee stock ownership is one method to prevent future deterioration in labor-management relations. It gives employees a stake in a company's investments and policies, and it creates an incentive for increasing company efficiency and productivity. Thus, an ESOP is a beneficial program not only for the worker, but also for the management of our Nation's corporations.

Some of my colleagues argued that ESOP programs suffer from certain limitations. They have mentioned that such programs are more effective in capital-intensive industry than labor-intensive industry. No program, however, is intended to have universal application; the point is that ESOP does have a substantial, beneficial effect in a substantial number of circumstances. It is not correct to hinder this program simply because other needs exist. Furthermore, the ESOP tax credit does not limit in any way the contemplation and creation of other plans to meet various other situations.

The advantages that convinced the Congress to establish a tax incentive for ESOP's in the past are no less persuasive today. ESOP's give many Americans their one chance to participate in the ownership of our Nation's productive capital. A worker should not just be a cog in a corporation; he should own a slice of America's productive capability.

Mr. LONG. Mr. President, I renew my motion.

Mr. JAVITS. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment (No. 2118) of the Senator from New York (Mr. JAVITS). The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

The PRESIDING OFFICER. The clerk will suspend until Senators have taken their seats.

Will Senators take their seats? Will the Senate be in order?

The assistant legislative clerk resumed the call of the roll.

The PRESIDING OFFICER. Will the Senate be in order? Will Senators please take their seats?

The Senate will be in order during this rollcall. Senators will take their seats.

Will Senators who wish to converse retire to the cloakroom? The rollcall will be suspended until Senators have taken their seats.

The rollcall is suspended until Senators have taken their seats or gone to the cloakrooms.

The clerk may proceed.

The assistant legislative clerk resumed the call of the roll.

The PRESIDING OFFICER. The rollcall will be suspended until Senators have taken their seats.

Will the Senate be in order?

The rollcall is suspended until conversations have ceased on the floor.

The clerk may proceed.

The assistant legislative clerk resumed the call of the roll.

The PRESIDING OFFICER. Will the Senate be in order? The rollcall will be suspended until the Senate is in order. Senators who wish to converse retire to the cloakroom.

The assistant legislative clerk resumed and concluded the call of the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. HARTKE), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Minnesota (Mr. MONDALE), the Senator from Missouri (Mr. SYMINGTON), and the Senator from Rhode Island (Mr. PASTORE), are necessarily absent.

I further announce that the Senator from Hawaii (Mr. INOUYE) is absent on official business.

I also announce that the Senator from Michigan (Mr. PHILIP A. HART) is absent because of illness.

I further announce that, if present and voting, the Senator from Rhode Island (Mr. PASTORE) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Tennessee (Mr. BROCK), and the Senator from Pennsylvania (Mr. SCHWEIKER), are necessarily absent.

The result was announced—yeas 62, nays 28, as follows:

[Rollcall Vote No. 470 Leg.]

YEAS—62

Abourezk
Allen
Bartlett
Bayh
Bentsen
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Chiles
Church
Cranston
Curtis
Dole
Domenici
Durkin
Eastland
Fannin
Fong
Ford
Garn
Goldwater
Gravel
Hansen
Hart, Gary
Haskell
Hatfield
Helms
Hollings
Hruska
Huddleston
Jackson
Johnston
Laxalt
Long
Magnuson
Mansfield
McClellan
McClure
McGee
McIntyre
Montoya
Morgan
Nunn
Packwood
Pearson
Randolph
Ribicoff
Roth
Scott, William L.
Sparkman
Stennis
Stevens
Stevenson
Stone
Talmadge
Thurmond
Tower
Tunney
Weicker
Williams
Young

NAYS—28

Beall
Bellmon
Biden
Brooke
Buckley
Bumpers
Case
Clark
Culver
Eagleton
Glenn
Griffin
Hathaway
Humphrey
Javits

Kennedy
Leahy
Mathias
Metcalf
Moss
Muskie
Nelson
Pell
Percy
Proxmire
Scott, Hugh
Stafford
Taft

NOT VOTING—10

Baker
Brock
Hart, Philip A.
Hartke
Inouye
McGovern
Mondale
Pastore
Schweiker
Symington

So the motion to lay on the table was agreed to.

Mr. CURTIS. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. TALMADGE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

TIME-LIMITATION AGREEMENT—H.R. 12987, EMERGENCY JOBS PROGRAMS EXTENSION ACT OF 1976

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when Calendar No. 839, H.R. 12987, the CETA authorization is brought before the Senate, time for debate thereon be limited as follows: 2 hours on the bill, 1 hour on any amendment to the bill, 20 minutes on any amendment to an amendment, motion or appeal; the time to be equally divided and controlled in the usual manner, and the consent agreement to be in the usual form.

Mr. JAVITS. Mr. President, may we know what bill?

Mr. MANSFIELD. That is the one the Senator held up.

Mr. JAVITS. I did not hold it up, Mr. President. I just asked the Senator to allow me to poll the minority, and I would like to know what the bill is. Is it CETA?

Mr. MANSFIELD. Yes.

Mr. JAVITS. May I know what the unanimous consent request is?

Mr. MANSFIELD. The same as given before, and the same as with the others. Two hours on the bill. I thought this had been cleared.

Mr. JAVITS. It has been cleared, Mr. President, but I would like to hear it. I think the Senator is entitled to that.

Mr. MANSFIELD. Then, the Senator had better listen to what I have to say.

Mr. JAVITS. I happen to have been on the phone, Mr. President, I just walked in.

Mr. MANSFIELD. Two hours on the bill, 1 hour on any amendment, 20 minutes on any amendment to an amendment, motion or appeal, the time to be equally divided and controlled in the usual manner and that the consent agreement be in the usual form.

Mr. JAVITS. I thank the Chair.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The text of the agreement is as follows:

Ordered, That during the consideration of H.R. 12987 (Order No. 839), An act to authorize appropriations for fiscal year 1976, and for the period beginning July 1, 1976, and ending September 30, 1976, for carrying out title VI of the Comprehensive Employment and Training Act of 1973, and for other purposes, debate on any amendment in the first degree shall be limited to 1 hour, to be equally divided and controlled by the mover of such and the manager of the bill, and debate on any amendment in the second degree, debatable motion, appeal, or point of order which is submitted or on which the Chair entertains debate shall be limited to 20 minutes, to be equally divided and controlled by the mover of such and the manager of the bill: Provided, That in the event the manager of the bill is in favor of any such amendment, debatable motion, appeal, or point of order, the time in opposition thereto shall be controlled by the Minority Leader or his designee: Provided further, That no amendment that is not germane to the provisions of the said bill shall be received.

Ordered further, That on the question of the final passage of the said bill, debate shall be limited to 2 hours, to be equally divided and controlled by the Majority and Minority Leaders, or their designees: Provided, that the said Leaders, or either of them, may, from the time under their control on the passage of the said bill, allot additional time to any Senator during the consideration of any amendment, debatable motion, appeal, or point of order.

AUTHORIZATION FOR COMMITTEE ON INTERIOR AND INSULAR AFFAIRS TO MEET TOMORROW

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Committee on Interior and Insular Affairs be authorized to meet on August 5 to consider several legislative items.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. HUGH SCOTT. If the majority leader will yield, I rise to ask a question of considerable import. I do not know what relation it has to export.

The PRESIDING OFFICER. If the Senator will suspend, while these discussions are going on, there will be no other discussion on the floor of the Senate.

The Senator from Pennsylvania is recognized.

Mr. HUGH SCOTT. What I have to say at this time is of interest to all the Senators. I inquire of the distinguished majority leader how late he wishes us to proceed tonight. I am not urging any decision on him at all. I shall be here as long as he wishes, but I think there are Senators who would like to know the plans of the majority leader so that we may accord with them.

Mr. MANSFIELD. I am delighted that the Republican leader raised the question. I would say at least until 9 or 10, maybe longer.

Mr. HUGH SCOTT. Will we see the dawn from here or not?

Mr. MANSFIELD. Oh, no; we shall have some sleep.

TAX REFORM ACT OF 1976

The Senate continued with the consideration of the bill (H.R. 10612) to reform the tax laws of the United States.

AMENDMENT NO. 2011 (AS MODIFIED)

Mr. CURTIS. Mr. President, I call up my amendment 2011 as modified.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Nebraska (Mr. CURTIS) proposes amendment No. 2011 as modified.

AMENDMENT NO. 2011 (AS MODIFIED)

On page 333, immediately after line 12 insert the following new section:

SEC. 808. BROADENED STOCK OWNERSHIP PLANS

(a) IN GENERAL.—Subchapter D of chapter 1 of the Internal Revenue Code of 1954 (relating to deferred compensation, etc.) is amended by adding at the end thereof the following new part:

"PART III—BROADENED STOCK OWNERSHIP PLANS

"Sec. 428. Broadened stock ownership plans.

"SEC. 428. BROADENED STOCK OWNERSHIP PLANS.

"(a) BROADENED STOCK OWNERSHIP PLAN.—For purposes of this section, the term 'broadened stock ownership plan' means a trust created or organized in the United States for the exclusive benefit of an individual or his beneficiaries, but only if the written governing instrument creating the trust meets the following requirements:

"(1) Except in the case of a rollover contribution described in subsection (d)(4):

"(A) no contribution will be accepted unless it is in cash;

"(B) contributions will not be accepted for the taxable year in excess of $1,500 on behalf of any individual; and

"(C) contributions will not be accepted on behalf of any individual for the 2 taxable years succeeding the taxable year in which a payment or distribution taxable to the individual under subsection (d)(2) is made.

"(2) The trust is designed to invest solely in common stock of domestic corporations.

"(3) The trustee is a bank (as defined in section 401(d)(1)) or such other person who demonstrates to the satisfaction of the Secretary or his delegate that the manner in which such other person will administer the trust will be consistent with the requirements of this section, provided that an individual for whose benefit the trust is maintained may be granted, under the written governing instrument, the power to control the investment of the trust funds either by directing investments (including reinvestments, disposals, and exchanges) or by disapproving proposed investments (including reinvestments, disposals, or exchanges).

"(4) The assets of the trust will not be commingled with other property except in a common trust fund or common investment fund.

"(5) Contributions received by the trustee during a particular taxable year will be allocated to a separate class year account. Dividends and capital gains and losses received or realized by the trustee during a particular taxable year will be allocated among class year accounts on any reasonable basis. The interest of an individual in each class year account may not be paid or distributed before the end of the 7th taxable year following the taxable year for which such class year account was established, except in the case of death or disability.

"(6) The interest of an individual in the balance in his class year accounts is nonforfeitable.

An individual for whose benefit a class year account is maintained may be granted, under the written governing instrument, the right to direct the trustee as to the manner in which the common stock allocated to such account is to be voted.

"(b) BROADENED STOCK OWNERSHIP ANNUITY.—For purposes of this section, the term 'broadened stock ownership annuity' means a contract for a variable annuity, as determined under regulations prescribed by the Secretary or his delegate (see section 801(g) dealing with contracts with reserves based on segregated asset accounts), issued by an insurance company which meets the following requirements:

"(1) Except in the case of a rollover contribution described in subsection (d)(4):

"(A) no premium will be accepted unless it is in cash;

"(B) the annual premium under the contract will not exceed $1,500 and any refund of premiums will be applied before the close of the calendar year following the year of the refund toward the payment of future premiums; and

"(C) premiums will not be accepted for the 2 taxable years succeeding the taxable year in which a payment or distribution taxable to the individual under subsection (d)(2) is made.

"(2) All assets attributable to premium payments will be invested solely in common stock of domestic corporations.

"(3) Assets attributable to the contract will not be commingled with other property except in a segregated asset account established for such annuity contracts.

"(4) Premiums that are received by the insurance company during a particular taxable year will be allocated to a separate class year account. Dividends and capital gains and losses on stock attributable to the contract that are received or realized by the insurance company during a particular taxable year will be allocated among class year accounts on any reasonable basis. The interest of an owner in each class year account may not be paid or distributed before the end of the 7th taxable year following the taxable year for which such class year account was established, except in the case of death or disability.

"(5) The entire interest of the owner is nonforfeitable.

The owner may be granted, under such an annuity contract, the right to direct the insurance company as to the manner in which the common stock allocated to him is to be voted, and the power to control the investment of assets attributable to premium payments either by directing investments (including reinvestments, disposals, and exchanges) or by disapproving proposed investments (including reinvestments, disposals, or exchanges).

"(c) ACCOUNTS ESTABLISHED BY EMPLOYERS AND CERTAIN ASSOCIATIONS OF EMPLOYEES.—A trust created or organized in the United States by an employer for the exclusive benefit of his employees or their beneficiaries, or by an association of employees (which may include employees within the meaning of section 401(c)(1)) for the exclusive benefit of its members or their beneficiaries, shall be treated as a broadened stock ownership plan (described in subsection (a)), but only if the written governing instrument creating the trust meets the following requirements:

"(1) The trust satisfies the requirements of paragraphs (1) through (6) of subsection (a).

"(2) There is a separate accounting for the interest of each employee or member.

The assets of the trust may be held in a common fund for the account of all individuals who have an interest in the trust.

"(d) TAX TREATMENT OF DISTRIBUTIONS.—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, any amount paid or distributed out of a broadened stock ownership plan or under a broadened stock ownership annuity shall be deemed to have been withdrawn first from contributions accepted for the taxable year in which the payment or distribution is received and then from the earliest class year accounts on a first-in, first-out basis. Amounts deemed to have been withdrawn from a class year account or accounts shall be included in the gross income of the payee, distributee, or individual for whose benefit such plan or annuity was established, as the case may be, for the taxable year in which the payment or distribution is received. The basis of any person in each class year account is zero.

"(2) CAPITAL GAINS TREATMENT.—Any amount deemed to have been withdrawn from a class year account established more than 7 years before the taxable year in which the payment or distribution is received, and any amount paid or distributed on account of the death of the individual for whose benefit the broadened stock ownership plan or broadened stock ownership annuity was established, shall be treated as a gain from the sale or exchange of a capital asset held for more than 6 months.

"(3) PREMATURE DISTRIBUTIONS.—

"(A) IN GENERAL.—If any portion of a payment or distribution from a broadened stock ownership plan or under a broadened stock ownership annuity to or on behalf of the individual for whose benefit such plan or annuity was established is deemed to have been withdrawn from a class year account established during the 7 years before the taxable year in which the payment or distribution is received, then, unless such payment or distribution is made on account of the death of the individual for whose benefit the plan or annuity was established, such individual's tax under this chapter for the taxable year in which such payment or distribution is received shall be increased by an amount equal to 10 percent of such portion of the payment or distribution.

"(B) DISABILITY.—Subparagraph (A) shall not apply if the amount paid or distributed is attributable to the taxpayer becoming disabled within the meaning of section 72(m)(7).

"(4) ROLLOVER CONTRIBUTION.—An amount is described in this paragraph as a rollover contribution if it meets the requirements of subparagraphs (A) and (B).

"(A) IN GENERAL.—Paragraph (1) does not apply to any amount paid or distributed out of a broadened stock ownership plan or under a broadened stock ownership annuity to the individual for whose benefit the plan or annuity was established if the entire amount received (including money and any other property) is paid into a broadened stock ownership plan or a broadened stock ownership annuity for the benefit of such individual not later than the 60th day after the day on which he receives the payment or distribution. Any such amount shall, in the hands of the transferee, be deemed to be held in the same class year account as that from which the payment or distribution was made.

"(B) LIMITATION.—This paragraph does not apply to any amount described in subparagraph (A) received by an individual from a broadened stock ownership plan or under a broadened stock ownership annuity if at any time during the 3-year period ending on the day of such receipt such individual received any other amount described in that subparagraph from a broadened stock ownership plan or under a broadened stock ownership annuity which was not includable in his gross income because of the application of this paragraph.

"(5) EXCESS CONTRIBUTIONS RETURNED BEFORE DUE DATE OF RETURN.—Paragraph (1) does not apply to the distribution of any contribution paid during a taxable year to a broadened stock ownership plan or for a broadened stock ownership annuity to the extent that such contribution exceeds the amount allowable as a deduction under section 222 if—

"(A) such distribution is received on or before the day prescribed by law (including extensions of time) for filing such individual's return for such taxable year,

"(B) no deduction is allowed under section 222 with respect to such excess contributions, and

"(C) such distribution is accompanied by the amount of net income attributable to such excess contribution.

Any net income described in subparagraph (C) shall be included in the gross income of the individual for whose benefit the plan or annuity was established for the taxable year in which received.

"(6) TRANSFER OF PLAN OR ANNUITY INCIDENT TO DIVORCE.—The transfer of an individual's interest in a broadened stock ownership plan or a broadened stock ownership annuity to his former spouse under a divorce decree or under a written instrument incident to such divorce is not to be considered a taxable transfer made by such individual notwithstanding any other provision of this subtitle, and such interest at the time of the transfer is to be treated as a broadened stock ownership plan or a broadened stock ownership annuity of such spouse, and not of such individual. Thereafter such plan or annuity for purposes of this subtitle is to be treated as maintained for the benefit of such spouse.

"(7) EFFECT OF PLEDGING PLAN OR ANNUITY ASSETS AS SECURITY.—If, during any taxable year of the individual for whose benefit a broadened stock ownership plan or a broadened stock ownership annuity is maintained, that individual uses the plan or annuity or any portion thereof as security for a loan, the portion so used shall not be treated as distributed to such individual except to the extent that the lender forecloses upon the security.

"(e) TAX TREATMENT OF BROADENED STOCK OWNERSHIP PLAN.—

"(1) EXEMPTION FROM TAX.—Any broadened stock ownership plan is exempt from taxation under this subtitle unless such plan has ceased to be a broadened stock ownership plan by reason of paragraph (2). Notwithstanding the preceding sentence, any such plan is subject to the taxes imposed by section 511 (relating to imposition of tax on unrelated business income of charitable, etc., organizations).

"(2) LOSS OF EXEMPTION.—

"(A) IN GENERAL.—If, during any taxable year of the individual for whose benefit any broadened stock ownership plan is maintained, the plan engages in any of the disqualifying transactions described in subparagraph (B), the plan will cease to be a broadened stock ownership plan as of the first day of such taxable year. For purposes of this paragraph, the separate account for any individual within a broadened stock ownership plan maintained by an employer or association of employees is treated as a separate broadened stock ownership plan.

"(B) DISQUALIFYING TRANSACTIONS.—For purposes of this paragraph, the term 'disqualifying transaction' means—

"(i) the acquisition of common stock from the individual for whose benefit the plan was established, except in the case of a rollover contribution described in subsection (d)(4);

"(ii) the acquisition of common stock for more than adequate consideration from a 'disqualified person' as defined in section 4975(e), applied as though the provisions thereof related to broadened stock ownership plans;

"(iii) the sale of common stock for less than adequate consideration to a disqualified person as so defined;

"(iv) borrowing to acquire common stock; or

"(v) loaning plan assets to the individual for whose benefit the plan was established without the receipt of adequate security and a reasonable rate of interest.

"(C) PLAN TREATED AS DISTRIBUTING ALL ITS ASSETS.—In any case in which a plan ceases to be a broadened stock ownership plan by reason of subparagraph (A) as of the first day of any taxable year, paragraph (1) of subsection (d) shall apply as if there were a distribution on such first day in an amount equal to the fair market value (on such first day) of all assets in the plan (on such first day).

"(3) Commingling broadened stock ownership plan amounts in certain common trust funds and common investment funds.—Any common trust fund or common investment fund of broadened stock ownership plan assets which is exempt from taxation under this subtitle does not cease to be exempt on account of the participation or inclusion of assets of a trust exempt from taxation under section 501(a) which is described in section 401(a), or of an individual retirement account described in section 408(a).

"(f) Community Property Laws.—This section shall be applied without regard to any community property laws.

"(g) Custodial Accounts.—For purposes of this section, a custodial account shall be treated as a trust if the assets of such account are held by a bank (as defined in section 401(d)(1)) or another person who demonstrates, to the satisfaction of the Secretary or his delegate, that the manner in which he will administer the account will be consistent with the requirements of this section, and if the custodial account would, except for the fact that it is not a trust, constitute a broadened stock ownership plan described in subsection (a). For purposes of this title, in the case of a custodial account treated as a trust by reason of the preceding sentence, the custodian of such account shall be treated as the trustee thereof.

"(h) Reports.—The trustee of a broadened stock ownership plan and the issuer of a broadened stock ownership annuity shall make such reports regarding such plan or annuity to the Secretary or his delegate and to the individuals for whose benefit the plan or annuity is, or is to be, maintained with respect to contributions, distributions, and such other matters as the Secretary or his delegate may require under regulations. The reports required by this subsection shall be filed at such time and in such manner and furnished to such individuals at such time and in such manner as may be required by those regulations.

"(i) Cross Reference.—

"For tax on excess contributions to a broadened stock ownership plan or annuity, see section 4976."

(b) Contributions to Broadened Stock Ownership Plans.—

(1) In general.—Part VII of subchapter B of chapter 1 of the Internal Revenue Code of 1954 (relating to additional itemized deductions for individuals) is amended by redesignating section 222 as 223 and by inserting after section 221 the following new section:

"Sec. 222. Contributions to Broadened Stock Ownership Plans.

"(a) Deduction Allowed.—In the case of an individual, there is allowed as a deduction amounts paid in cash during the taxable year by or on behalf of such individual for his benefit—

"(1) to a broadened stock ownership plan described in section 428(a), or

"(2) to a broadened stock ownership annuity described in section 428(b):

Provided, however, That no deduction shall be allowed for the 2 taxable years succeeding the taxable year in which a payment on distribution taxable to such individual under section 428(d)(2) is made. For purposes of this title, any amount paid by an employer to such a broadened stock ownership plan or for such a broadened stock ownership annuity constitutes payment of compensation to the employee (other than a self-employed individual who is an employee within the meaning of section 401(c)(1) includible in his gross income, whether or not a deduction for such payment is allowable under this section to the employee after the application of subsection (b).

"(b) Limitations and Restrictions.—

"(1) Maximum deduction.—The amount allowable as a deduction under subsection (a) to an individual for any taxable year may not exceed an amount equal to 15 percent of the compensation includible in his gross income for such taxable year, or $1,500 whichever is less, multiplied by a fraction, the denominator of which is $20,000 and the numerator of which is $20,000 minus the lesser of $20,000 or the excess of such compensation (or, if greater, the adjusted gross income of the individual for such taxable year) over $20,000.

"(2) Recontributed amounts.—No deduction is allowed under this section with respect to a rollover contribution described in section 428(d)(4).

"(c) Definitions and Special Rules.—

"(1) Compensation.—For purposes of this section, the term 'compensation' includes earned income as defined in section 401(c)(2).

"(2) Married individuals.—The maximum deduction under subsection (b)(1) shall be computed separately for each individual, and this section shall be applied without regard to any community property laws."

(2) Deduction allowed in arriving at adjusted gross income.—Section 62 (defining adjusted gross income) is amended by inserting after paragraph (15) the following new paragraph:

"(16) Broadened stock ownership plans.—The deduction allowed by section 222 (relating to broadened stock ownership plans)."

(c) Tax on Excess Contributions to Broadened Stock Ownership Plans.—Chapter 43 of the Internal Revenue Code of 1954 (relating to qualified pension, etc., plans) is amended by adding at the end thereof the following new section:

"Sec. 4976. Tax on Excess Contributions to Broadened Stock Ownership Plans.

"(a) Tax Imposed.—In the case of—

"(1) a broadened stock ownership plan (within the meaning of section 428(a)), or

"(2) a broadened stock ownership annuity (within the meaning of section 428(b)),

established for the benefit of any individual, there is imposed for each taxable year a tax in an amount equal to 6 percent of the amount of the excess contributions to such individual's plans or annuities (determined as of the close of the taxable year). The amount of such tax for any taxable year shall not exceed 6 percent of the value of the plan or annuity (determined as of the close of the taxable year). The tax imposed by this subsection shall be paid by such individual.

"(b) Excess Contributions.—For purposes of this section, the term 'excess contributions' means the sum of—

"(1) the excess (if any) of—

"(A) the amount contributed for the taxable year to the plans or annuities (other than a rollover contribution described in section 428(d)(4)), over

"(B) the amount allowable as a deduction under section 222 for such contributions, and

"(2) the amount determined under this subsection for the preceding taxable year, reduced by the excess (if any) of the maximum amount allowable as a deduction under section 222 for the taxable year over the amount contributed to the plans or annuities for the taxable year and reduced by the sum of the distributions out of the plans or annuities (for all prior taxable years) which was included in the gross income of the individual for whose benefit such plan or annuity was established under section 428(d)(1).

For purposes of this subsection, any contribution which is distributed from the plan or annuity in a distribution to which section 428(d)(5) applies shall be treated as an amount not contributed."

(d) Penalty for Failure To Provide Reports on Broadened Stock Ownership Plans.—Subchapter B of chapter 68 (relating to assessable penalties) is amended by adding after section 6690 the following new section:

"Sec. 6691. Failure To Provide Reports on Broadened Stock Ownership Plans.

"(a) In General.—The person required by section 428(h) to file a report regarding a broadened stock ownership plan or a broadened stock ownership annuity at the time and in the manner required by section 428(h) shall pay a penalty of $10 for each failure unless it is shown that such failure is due to reasonable cause.

"(b) Deficiency Procedures Not To Apply.—Subchapter B of chapter 63 (relating to deficiency procedures for income, estate, gift, and certain excise taxes) does not apply to the assessment or collection of any penalty imposed by subsection (a)."

(e) Conforming Amendments.—

(1) The second sentence of section 46(a)(3) of the Internal Revenue Code of 1954 (relating to investment credit) and the second sentence of section 50A(a)(3) of such Code (relating to work incentive credit) are each amended by inserting after "certain retirement accounts)," the following: "section 428(d)(3)(A)(ii) (relating to additional tax on income from certain broadened stock ownership plans),".

(2) Subparagraph (A) of section 56(a)(2) of such Code and paragraph (1) of section 56(c) of such Code (relating to minimum tax for tax preferences) are each amended by striking out section "531" and inserting in lieu thereof "428(d)(3)(A)(ii), 531".

(3) Subparagraph (B) of section 801(g)(1) of such Code (relating to contracts with reserves based on a segregated asset account) is amended by adding at the end thereof the following new sentence: "A broadened stock ownership annuity (as defined in section 428(b)) shall be deemed to meet the requirements of clause (ii)."

(4) Section 801(g)(7) of such Code is amended to read as follows:

"(7) Basis of assets held for qualified pension plan contracts and broadened stock ownership annuity.—In the case of contracts described in subparagraph (A), (B), (C), (D), or (E) of section 805(d)(1), or in section 428(b), the basis of each asset in a segregated asset account shall (in addition to all other adjustments to basis) be—

"(A) increased by the amount of any appreciation in value, and

"(B) decreased by the amount of any depreciation in value,

to the extent that such appreciation and depreciation are from time to time reflected in the increases or decreases in reserves or other items in paragraph (6) with respect to such contracts."

(5) The third sentence of section 901(a) of such Code (relating to foreign tax credit) is amended by inserting after "certain retirement accounts," the following: "against the tax imposed for the taxable year under section 428(d)(3)(A)(ii) (relating to additional tax on income from certain broadened stock ownership plans,".

(6) Section 3401(a)(12) of such Code (relating to exemption from collection of income tax at source on certain wages) is amended by adding at the end thereof the following new subparagraph:

"(E) for a payment described in section 222(a) if, at the time of such payment, it is reasonable to believe that the employee will be entitled to a deduction under such section for such payment; or".

(7) Subsection (d) of section 6047 of such Code (relating to information relating to cer-

tain trusts and annuity and bond purchase plans) is amended to read as follows:

"(d) Other Programs.—

"(1) Individuals Retirement Savings.—To the extent provided by regulations prescribed by the Secretary or his delegate, the provisions of this section apply with respect to any payment described in section 219(a) and to transactions of any trust described in section 408(a) or under an individual retirement annuity described in section 408(b).

"(2) Broadened stock ownership plans.—To the extent provided by regulations prescribed by the Secretary or his delegate, the provisions of this section apply with respect to any payment described in section 222(a) and to transactions of any plan described in section 428(a) or under a broadened stock ownership annuity described in section 428(b)."

(8) Section 4(b) of the Employee Retirement Income Security Act of 1974 is amended—

(A) by striking out "or" at the end of paragraph (4),

(B) by striking out the period at the end of paragraph (5) and by inserting in lieu thereof "; or", and

(C) by adding at the end thereof the following new paragraph:

"(6) such plan is a broadened stock ownership plan (as defined in section 428(a) of the Internal Revenue Code of 1954) or a broadened stock ownership annuity (as defined in section 428(b) of such Code)."

(f) Clerical Amendments.—

(1) The table of sections for part VII of subchapter B of chapter 1 of the Internal Revenue Code of 1954 is amended by striking out the item relating to section 222 and inserting in lieu thereof the following:

"Sec. 222. Contribution to broadened stock ownership plans.

"Sec. 223. Cross references."

(2) The table of parts for subchapter D of chapter 1 of such Code is amended by adding at the end thereof the following:

"Part III. Broadened stock ownership plans."

(3) The table of sections for chapter 3 of such Code is amended by adding at the end thereof the following new item:

"Sec. 4976. Tax on excess contributions to broadened stock ownership plans."

(4) The table of sections for subchapter B of chapter 68 is amended by inserting after the item relating to section 6690 the following new item:

"Sec. 6691. Failure to provide reports on broadened stock ownership plans."

(g) Effective Dates.—

(1) The amendments made by subsections (a) and (b) shall take effect on July 1, 1976, and shall apply to taxable years beginning after December 31, 1975.

(2) The amendments made by subsections (c) through (f) shall take effect on July 1, 1976.

Mr. TALMADGE. Mr. President, will the distinguished Senator from Nebraska agree to a time limit on this amendment?

Mr. CURTIS. Yes, I think we can finish more quickly than we can agree on a time limit. If nobody else wants to speak, I may not take more than 10 minutes.

Mr. TALMADGE. Would 15 minutes to a side be agreeable to the distinguished Senator?

Mr. CURTIS. Yes.

Mr. TALMADGE. Mr. President, I ask unanimous consent that time on this amendment be limited to 30 minutes, to be equally divided between the distinguished Senator from Nebraska and the floor manager of the bill.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from Nebraska is recognized.

Mr. CURTIS. Mr. President, there is on everybody's desk a page and a half explanation of amendment 2011. It has the support of the Treasury Department. It provides for broadened stock ownership and there is no direct payment to promote it in this one.

I supported the chairman's previous amendment, but if I may, I shall go through this with the Senators.

What does amendment 2011 do?

This broadened stock ownership plan will provide an incentive for taxpayers in the modest income brackets to buy and hold common stocks in American industry.

How does it work? A taxpayer may purchase common stocks from earned income and have a deduction for such a purchase up to 15 percent of his earned income or $1,500 whichever is the less. It is so drawn that the maximum allowable deduction of $1,500 would be available for a taxpayer with earned income of $20,000 and thereafter the amount deductible would be phased down to zero at $40,000 income.

Will this provision provide a benefit for taxpayers whose annual income from any source exceeds $40,000? The answer is "No."

This, Mr. President, is an opportunity for the have-nots to become owners of American industry. It is limited to people of modest income, those who have enough money or enough earned income. They are not getting all the fringe benefits, they are not getting food stamps. They spend all their lives working with their hands to provide their daily bread and here is an incentive for them to become owners.

How long must the stocks be held? Seven years.

If the stocks are held for 7 years and then sold, how are the proceeds taxed? As capital gains.

If dividends are received on the stocks, how are they taxed? As ordinary income.

If the taxpayer sells the stocks before 7 years, how are the proceeds taxed? As ordinary income.

What are the arguments in favor of this amendment? What good will it accomplish? It will provide additional needed capital for American industry.

It opens the door to everybody, it does not make any difference where they work. They may be self-employed. They can take 15 percent of their income or $1,500, whichever is less, and buy stock and get a tax deduction for their expenditure. The maximum $1,500 is reached at $20,000 earned income. It phases down to zero at $40,000.

The individual with great property or very much property and income will not get anything in this.

Second. It will provide broadened ownership for American industry. Why not make the American dream available to all? Everyone here has read and heard about individuals who, somehow, bought a few shares of stock every month, kept it up for 30 or 40 years, and they became financially independent. Here is an incentive and an assistance to help people do those things.

Third. It will provide a tax break for low-income taxpayers who depend on their own earnings.

Fourth. It will promote thrift and savings.

Fifth. It will provide an incentive for taxpayers, particularly young taxpayers, to start a stock ownership plan and build an estate, thus contributing to self-reliance and lessening the ultimate need for additional social and welfare benefits.

Mr. President, why do we have budget problems? We have budget problems because everyone turns to the Treasury of the United States to solve all problems. We have a large budget because, for all of the contingencies of life, whether it is age or illness or whatnot, we turn to the Government. This will be of some help in reversing the trend and making it possible for people to take care of themselves.

Why is it that the great rank and file of working citizens must turn to their Congressmen and Senators and say, "Our costs are such that my paycheck is all gone, please vote in a program to take care of us"?

This will reverse that trend. This is the type of thing that will meet our budget problems. It is true, the revenue loss will be there, but it is not great. It depends on how many people take advantage of it. It will take a while to get in motion, and the results, the improvement to our economy, the lessening of the pressure for Government expenditures and programs, will be great.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from Nebraska has 9 minutes remaining.

Mr. MUSKIE. Mr. President, I wonder if I could have 2 minutes?

Mr. CURTIS. I yield 5 minutes to the distinguished Senator from Oregon.

Mr. PACKWOOD. I shall not take 5 minutes, Mr. President.

I rise in support of the amendment. We considered this in committee. I think it is a follow-on to the chairman's proposals on the employee stock option plans.

If we want to bring stability to this country, if we want to give people a piece of the action, I think this is a particularly appropriate program.

I think this country would be better off if everyone who wanted to own a single family home with a piece of ground around it could own one, if everybody in this country could have three or four or five or $6,000 worth of stock in half a dozen companies and have some pride of ownership and some personal satisfaction in receiving the dividend.

I think there is nothing that would do more to encourage the support of our free enterprise capitalist system, and I would defend it very stoutly. Instead of 25 or 26 million stockholders in this country we should have 65 million, 75 million or 85 million stockholders in this country, all with a stake in American business, and all of them receiving some dividends, some payment, some feeling of attachment to that corporation.

I very strongly support the amendment, and I yield back the remainder of my time to the Senator from Nebraska.

Mr. CURTIS. Mr. President, we reserve the remainder of our time.

The PRESIDING OFFICER. Who yields time?

Mr. LONG. I yield 2 minutes to the Senator from Maine unless he wants more time.

Mr. MUSKIE. Mr. President, I listened, of course, to the description of the amendment, and I have read the 1½ page description. I am impressed by the objective. I am impressed by the objective of the committee provision which we acted upon during the last recorded vote.

May I say to my colleagues, it is time we began to look at the price of this bill. I know that is a very unpleasant responsibility, but it is what I have as chairman of the Budget Committee, and I think it is one that we all share. But I think it is particularly appropriate for me, as chairman of the Budget Committee, to make this point at this time: If this amendment is adopted, we will have totally lost everything by way of revenue gainers toward the $2 billion goal that we set for ourselves in the budget resolution that we needed to achieve in order to meet our budget targets this year by way of tax expenditure reform. We have spent it all.

The committee gave us $1 billion of that $2 billion. The House gave us a little more than that. We are down close to zero before we act on this amendment. We are down to $150 million. That is our count. If the Joint Committee has a better count, I would appreciate getting it.

This amendment is estimated by the Joint Committee at $300 million the first year, over $600 million in the fifth year down.

I know the Senator from Nebraska tells us that is not very much money. I find that rhetoric from him rather unusual, but that $300 million in the first year puts us below the zero mark. Then I guess we will begin counting in the other direction.

Frankly, gentlemen, one of the purposes of the Budget Act, you know, was to focus our attention on priorities.

Now we are told this amendment is to take care of the little fellow. Well, I listened to the debate on the last provision we debated. I was told by proponents that that was for the little fellow. I mean, have we done so little for the little fellow up to now in these weeks of debate on the tax bill that at last we have decided we have got to do something for him after having taken care of all the big fellows? I mean, when are we going to begin to exercise a sense of priorities? We have spent $2 billion that the budget resolution said we had to gain on this bill in order to hold the deficit down.

I have listened to this debate, I have listened to these provisions, I have listened to the arguments, persuasive arguments, for all the benefits we are going to hand out, and I just cannot resist telling you at this point what is a fact. We are about to spend the last dime of that $2 billion that we said we were going to save in tax reform.

Now, it is not that I have got anything particularly against this amendment, but I am going to vote "no," and I voted to table the previous one, and I am going to move to table some other ones.

Mr. RIBICOFF. Mr. President, will the Senator yield?

Mr. MUSKIE. Yes, I do yield.

Mr. RIBICOFF. Not only will this lose $300 million the first year, but the revenue loss for the next 5 years will be $2,588 million.

Mr. MUSKIE. The Senator is exactly correct, and I appreciate his reminding me of that figure, $2,588 million. The provision we voted on in the last recorded vote over that 5-year period is $3,200 million cumulatively so that between the two of them that is a 5-year bill of approximately $6 billion.

I yield the floor.

Mr. CURTIS. I yield myself 1 minute.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. CURTIS. Mr. President, we never have a tax reform bill that gains revenue. Any expression of hope that this one was going to reveals a lack of information. The object of tax reform is to do justice, and oftentimes that costs some money.

Now, suppose you got your $2 billion by perpetuating some injustices, how much would that affect the deficit? How much would it affect the deficit running at $50 billion, $60 billion, and more? It would not meet the problem at all. The only way we are going to ever deal with this deficit is to have less government.

Forty cents of every dollar spent go for benefits to individuals; another 15 cents out of every dollar go to States and localities. That is 55 cents. Our national defense costs 26 cents; interest on the national debt is 8 cents, and there you have 89 cents. All the rest of the cost of government is only 11 cents.

We are just making noises around the edges when we pretend that we can deal with the budget problems of this country by a little change here and there in the tax laws.

Mr. MUSKIE. Mr. President, will the Senator yield?

Mr. CURTIS. Yes, I am happy to yield.

Mr. MUSKIE. I am just struck by the fact that the Senator from Nebraska who, for the last couple of minutes, has been using rhetoric that I have heard him condemn when it comes from this side of the aisle over and over again that so many programs, you know, that so many provisions of law, you know, the bleeding hearts, as we are described, are justified in the name of justice.

Justice is a very elastic phrase. But I never expected to hear the Senator from Nebraska using that sort of philosophy in defense of a spending proposal.

Mr. CURTIS. This is not a spending proposal. This is permitting individuals who earn their own money to save some of it.

I reserve the remainder of my time.

Mr. RIBICOFF. Mr. President, may I know how much time remains?

The PRESIDING OFFICER (Mr. GLENN). The Senator has 11 minutes.

Mr. RIBICOFF. I would like to make a few summary points against this amendment. First, it was voted down in the Finance Committee. The provision will cost $300 million the first year, and $2.5 billion over the next 5.5 years.

Second, savings of this type are already available through an IRA account or through an H.R. 10 plan.

Third, it may not result in new savings. Instead it merely shifts savings from one type of an institution to another. It will hurt housing because it will shift the investment of funds from savings banks and Federal savings and loans into the stock market.

All of us know that the stock market is a pretty volatile institution, and it takes a lot of careful planning and thinking, and people with great experience take substantial losses. I feel sorry for bringing the so-called little man into the stock market with these types of incentives because, as has often been proven, he is the first to be fleeced when there is a shakeout in the market.

How much time does the Senator from Colorado want?

Mr. HASKELL. Mr. President, I intend to offer an amendment to this amendment in the nature of a substitute, and I will send the amendment to the desk. I am waiting the arrival of the written-out amendment so I do not need any time now, but I will send the amendment to the desk. I would like to have the amendment before the Senate I will say to the distinguished floor manager of the bill.

Mr. RIBICOFF. I will be more than pleased.

Does anyone else want some time on it? If not, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. HASKELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HASKELL. Mr. President, I have an amendment on the same subject matter, but it will be made to the underlying House bill because it is my understanding that no further amendments can be made to section 804 of the committee amendment.

I further understand that under parliamentary procedure, I will have to wait until immediately prior to the vote on the amendment of the distinguished Senator from Nebraska, or I must get unanimous consent to introduce this now and discuss it.

Therefore, I ask unanimous consent that I be in order to introduce this amendment now. It is an amendment to the House bill.

The PRESIDING OFFICER. Is there objection?

Mr. CURTIS. Reserving the right to object, the junior Senator from Nebraska was not on the floor and I am unaware of what the request is.

Mr. HASKELL. The request is, I have an amendment, I say to the distingished Senator from Nebraska, which is an amendment to the House bill as opposed to the committee amendment of the Senate. I am informed by the Chair that my amendment would be in order only after debate had been completed on the amendment of the distinguished Senator from Nebraska. Then I could introduce it prior to the vote on the Senator's amendment.

Rather than wait for that particular time, I am asking unanimous consent that I introduce the amendment now.

It will be introduced Mr. President. It is just a question of time.

Mr. CURTIS. Mr. President, I suggest the absence of a quorum. I would like to see the amendment.

The PRESIDING OFFICER. The Senator, under the precedents, has no time remaining to suggest the absence of a quorum, without time to suggest the absence of a quorum, he may yield back his time and then suggest the absence of a quorum.

Mr. CURTIS. I yield back my time and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistance legislative clerk proceeded to call the roll.

Mr. RIBICOFF. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RIBICOFF. I wonder if we could agree on the time limitation on the Senator's amendment, and this is an amendment to Senator Curtis' amendment?

Mr. HASKELL. Yes; it is an amendment to the House bill, on the same section the Senator is amending. It is on the same subject matter.

Mr. RIBICOFF. I wonder if there could be an agreement of 10 or 15 minutes to the side.

Mr. CURTIS. Reserving the right to object, since the Senator's amendment is not an amendment to my amendment, I wonder if we can dispose of the amendment the junior Senator from Nebraska has offered.

UP AMENDMENT NO. 306

Mr. HASKELL. I would prefer, Mr. President, to send this amendment to the desk and to discuss it and then have the votes in whatever order required under the parliamentary procedure. I would like to discuss this amendment prior to the vote on the amendment of Senator Curtis.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Colorado (Mr. Haskell) proposes an unprinted amendment No. 306.

Mr. HASKELL. Mr. President, I ask that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

That (a) subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1954 (relating to credits allowable) is amended by inserting after section 44 the following new section:

"Sec. 44A. Individuals' Investment Credit.

"(a) In General.—There is allowed to an individual, as a credit against the tax imposed by this chapter for the taxable year, an amount equal to 10 percent of the net capital formation investment of that individual for the taxable year.

"(b) Limitations.—

"(1) $500.—The amount of the credit allowed under subsection (a) for the taxable year may not exceed $500.

"(2) Married individuals.—In the case of a husband or wife who files a separate return, the amount specified in paragraph (1) shall be $250 in lieu of $500. This paragraph shall not apply if the spouse of the taxpayer has no net capital formation investment for the taxable year of such spouse which ends within or with the taxpayer's taxable year.

"(3) $42,500 adjusted gross income.—No credit shall be allowed under subsection (a) to an individual whose adjusted gross income for the taxable year exceeds $42,500.

"(c) Definitions.—

"(1) Net capital formation investment.—For purposes of this section, the term 'net capital formation investment' means the amount by which the capital formation investment paid by the taxpayer during the taxable year exceeds the capital formation investment by such taxpayer paid during the preceding taxable year.

"(2) Capital formation investment.—

"(A) In general.—For purposes of this section, the term 'capital formation investment' means the amount paid by the taxpayer during the taxable year—

"(i) for stocks, bonds, warrants, or other securities issued by corporations,

"(ii) for bonds issued or guaranteed by the United States or an agency thereof, the government of any State, or by a political subdivision or agency of a State,

"'(iii) for shares in a partnership or as a contribution to the capital of a joint venture,

"(iv) for the purchase of a residence (whether used as a principal residence or not), and

"(v) as demand or time deposits in a bank, savings-and-loan association, credit union, or other financial institution.

"(B) Excluded amounts.—The term 'capital formation investment' does not include any amounts—

"(i) paid by the taxpayer for property which is treated as section 38 property with respect to the taxpayer,

"(ii) paid by or on behalf of the taxpayer under—

"(I) a plan described in section 401(a) which includes a trust exempt from tax under section 501(a),

"(II) an annuity plan described in section 403(a),

"(III) a qualified bond purchase plan described in section 405(a),

"(IV) a plan established for its employees by the United States, by a State or political subdivision thereof, or by an agency or instrumentality of any of the foregoing, or

"(V) into an individual retirement account described in section 408 or for a retirement bond described in section 409, or

"(iii) paid by the taxpayer for which a deduction or credit, in whole or in part, is allowed under this chapter.

"(d) Recapture.—Under regulations prescribed by the Secretary or his delegate, if, during any taxable year, any property the acquisition of which was taken into account under subsection (c)(2)(A) is disposed of before the close of the 24th calendar month beginning after the date on which any payment taken into account for purposes of such paragraph was made, then the tax under this chapter for the taxable year shall increase by an amount equal to the aggregate decrease in the credits allowed under this section for all prior taxable years which results from reducing the capital formation investment of such taxpayer for such taxable years by an amount equal to the sum of the amounts taken into account under this section in such taxable years by the taxpayer with respect to the acquisition of such property.

"(e) Carryover of Unused Credits.—

"(1) Allowable of credit.—If the amount of the credit determined under subsection (a) for any taxable year exceeds the limitation provided in subsection (b)(1) or (b)(2) for such taxable year (hereinafter in this subsection referred to as 'unused credit year'), such excess shall be an investment credit carryover to each of the taxable years following the unused credit year and shall be added to the amount allowable as a credit under subsection (a) for such years. The entire amount of the unused credit for an unused credit year shall be carried to the earliest of the succeeding taxable years and then to each of the succeeding taxable years thereafter to the extent that, because of the limitation contained in subsection (b)(1) or subsection (b)(2), such unused credit may not be added for a prior taxable year to which such unused credit may be carried.

"(2) Limitation.—The amount of the unused credit which may be added under paragraph (1) for any succeeding taxable year shall not exceed the amount by which the limitation provided in subsection (b)(1) or (b)(2) for such taxable year exceeds the sum of—

"(A) the credit allowable under subsection (a) for such taxable year, plus

"(B) the amounts which, by reason of this subsection, are added to the amount allowable for such taxable year and attributable to taxable years preceding the unused credit year.

"(f) Regulations.—The Secretary or his delegate shall prescribe such regulations as may be necessary to carry out the provisions of this section.".

(b)(1) Section 56(a)(2)(A) of such Code (relating to minimum tax for tax preferences) is amended by—

(A) striking out "and" at the end of clause (vi),

(B) striking out the semicolon and "and" at the end of clause (vii) and inserting in lieu thereof a comma and "and", and

(C) adding at the end thereof the following:

"(viii) section 44A (relating to individuals' investment credit; and".

(2) Section 56(c)(1) of such Code (relating to tax carryovers) is amended by—

(A) striking out "and" at the end of subparagraph (F),

(B) striking out "exceed" at the end of subparagraph (G) and inserting in lieu thereof "and", and

(C) adding at the end thereof the following:

"(H) section 44A (relating to individuals' credit), exceed".

(3) Section 6096 (b) of such Code (relating to designation of income tax payments to presidential election campaign fund) is amended by striking out "and 44." and inserting in lieu thereof a comma and "44, and 44A."

(c) The table of sections for subpart A of part IV of subchapter A of chapter 1 of such Code is amended by inserting after the item relating to section 44 the following:

"Sec. 44A. Individuals' investment credit.".

Sec. 2. The amendments made by this Act apply to taxable years beginning after December 31, 1975, with respect to amounts paid after such date.

Mr. RIBICOFF. Will the Senator yield? How much time would the Senator like?

Mr. HASKELL. Fifteen minutes to a side would be very satisfactory.

Mr. RIBICOFF. Mr. President, I ask

unanimous consent that each side be allowed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HASKELL. Mr. President, this is in the area of capital formation, of course. Basically, this would grant any individual taxpayer of the United States a credit of $500 if he does certain things that I will describe.

The credit is refundable; if he does not happen to pay any income tax but he does the things I describe, he will get a check for $500 from the U.S. Treasury.

To qualify for this particular tax credit or refundable credit a taxpayer would have to increase his net worth by at least $500 during the year.

He could increase his net worth by making additional payments on his house and reducing his mortgage. He could increase his net worth by depositing additional funds in a savings account. He could increase his net worth in other ways—by purchasing stocks, as the distinguished Senator from Nebraska says he is doing.

We have heard a great deal in the Congress and in the Nation recently about capital formation. Capital, of course, comes from individuals. It is not grown in the ground. It does not come from the sky. It comes from the pockets of individuals. So if individuals are willing to make additional investments, they, like everybody else, like railroads, public utilities, and the natural resource industry should get a reward from Uncle Sam.

What I am really doing is taking the idea of the distinguished Senator from Nebraska and I am taking it one step further.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. CURTIS. Mr. President, I am in favor of yielding back my time.

Mr. RIBICOFF. Mr. President, I yield myself 2 minutes to ask a few questions.

I wonder if the distinguished Senator from Colorado would enlighten us as to the cost of this amendment.

Mr. HASKELL. I understand that the cost is extremely substantial.

Mr. RIBICOFF. How many billions?

Mr. HASKELL. I believe so.

Mr. RIBICOFF. I know, but how many billions?

Mr. HASKELL. What I am trying to do is to carry the thought the distinguished Senator from Nebraska to what I would consider a logical extension. I think the joint committee staff could enlighten us on the approximate cost.

Mr. RIBICOFF. The staff tells me this amendment would cost between $10 and $15 billion each year.

I would be more than willing to yield back the remainder of my time.

Mr. HASKELL. I thank the Senator. I assume it would be at least in that neighborhood.

I merely offer this amendment—and I intend to withdraw it—to show the kind of thing I believe we are doing. We have granted all sorts of privileges, privileges to all sorts of industries. We have not granted very much to individuals.

The Senator from Nebraska talks in terms of giving individuals who buy stock a tax credit. That is just fine if they have the money to buy the stock. It is just fine if they are making enough money so that they are paying taxes. I believe if we are going to give tax benefits in this country, it should be across the board.

I would far prefer to cut out all the special deductions, all the special privileges, and reduce rates as we can rather than to go in the direction we are going.

Mr. President, I believe I have made a good point. I think it shows how we are giving away the money of the U.S. Treasury during the course of this tax bill. I withdraw my amendment and I would hope, in turn, we can defeat the amendment of the Senator from Nebraska. I yield back the remainder of my time.

Mr. RIBICOFF. Mr. President, I yield back the remainder of my time on the amendment.

Mr. President, the amendment of the Senator from Nebraska is complex. It requires considerable study by both the staff and the Finance Committee. Consequently, I move to table the Curtis amendment.

Mr. CURTIS. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Has all time been yielded back? All time has been yielded back.

The yeas and nays have been ordered and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. HARTKE), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Minnesota (Mr. MONDALE), the Senator from Rhode Island (Mr. PASTORE), the Senator from North Carolina (Mr. MORGAN), and the Senator from Missouri (Mr. SYMINGTON) are necessarily absent.

I further announce that the Senator from Hawaii (Mr. INOUYE) is absent on official business.

I also announce that the Senator from Michigan (Mr. PHILIP A. HART) is absent because of illness.

I further announce that, if present and voting, the Senator from Rhode Island (Mr. PASTORE) and the Senator from North Carolina (Mr. MORGAN) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Tennessee (Mr. BROCK), the Senator from Arizona (Mr. GOLDWATER), and the Senator from Pennsylvania (Mr. SCHWEIKER) are necessarily absent.

The result was announced—yeas 57, nays 31, as follows:

[Rollcall Vote No. 471 Leg.]

YEAS—57

Abourezk
Allen
Bayh
Bellmon
Bentsen
Biden
Brooke
Bumpers
Burdick
Byrd, Robert C.
Cannon
Case
Chiles
Church
Clark
Cranston
Culver
Domenici
Durkin
Eagleton
Ford
Glenn
Gravel
Hart, Gary
Haskell
Hathaway
Hollings
Huddleston
Humphrey
Jackson
Kennedy
Leahy
Magnuson
Mansfield
McClellan
McGee
McIntyre
Metcalf
Montoya
Moss
Muskie
Nelson
Nunn
Pearson
Pell
Proxmire
Ribicoff
Sparkman
Stafford
Stennis
Stevens
Stevenson
Stone
Tunney
Weicker
Williams
Young

NAYS—31

Bartlett
Beall
Buckley
Byrd,
Harry F., Jr.
Curtis
Dole
Eastland
Fannin
Fong
Garn
Griffin
Hansen
Hatfield
Helms
Hruska
Javits
Johnston
Laxalt
Long
Mathias
McClure
Packwood
Percy
Randolph
Roth
Scott, Hugh
Scott,
William L.
Taft
Talmadge
Thurmond
Tower

NOT VOTING—12

Baker
Brock
Goldwater
Hart, Philip A.
Hartke
Inouye
McGovern
Mondale
Morgan
Pastore
Schweiker
Symington

So the motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question is on agreeing to section 804 of the committee amendment.

Section 804 of the committee amendment was agreed to.

The PRESIDING OFFICER. The Senator from Missouri is recognized.

Mr. LONG and Mr. EAGLETON addressed the Chair.

The PRESIDING OFFICER. All Senators are requested to stop conversations or take them to the cloakroom. I believe the Senator from Missouri, after he is recognized, has a statement he wishes to make that I am sure all Senators will wish to hear.

Mr. EAGLETON. Mr. President, I yield 30 seconds to the distinguished chairman of the Committee on Finance.

UNANIMOUS-CONSENT AGREEMENT

Mr. LONG. Mr. President, I shall ask unanimous consent that we then proceed to consider the remainder of title VIII. We still have to vote on the investment credit on movies, the first in, first out inventory method, the extension of expiring credits, and also the Javits amendment regarding artists and art contributions. That leaves us these four amendments. I hope we could agree to limit time to 10 minutes on each side on those amendments so the Senate could vote on them because I do not think prolonged debate is going to change many votes.

The PRESIDING OFFICER. Does the Senator make a unanimous-consent request?

Mr. LONG. I ask unanimous consent that time on those amendments be limited to 10 minutes, the time on each amendment be equally limited, and amendments to those amendments be germane.

The PRESIDING OFFICER. Is there objection?

Mr. KENNEDY. Mr. President, reserving the right to object, and I shall not object, I wish to add one amendment to it, and that is the repeal of the ADR and the investment credit of which I think staff have been aware. Mr. President, if we could have 40 minutes, 20 minutes to either side, that would be satisfactory.

Mr. LONG. Mr. President, will the Senator be willing to settle for 15 minutes on each side?

Mr. KENNEDY. Yes; 15 minutes on each side.

Mr. LONG. I thank the Senator. I so request, Mr. President, that be added to the list.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, I understand we made a previous agreement on the question of time on the movie amendment, though.

Mr. LONG. What did the Senator say?

Mr. KENNEDY. We had a previous time limitation agreement on the movie of an hour. The Senator was not including that.

Mr. LONG. Can we shorten that down to make it a half hour, 15 minutes on each side?

Mr. KENNEDY. It really depends on the wishes of the Senator from California on the movie amendment.

The request is to shorten it from an hour to a half hour.

Mr. TUNNEY. That is fine with me. I think the issue is very clear.

Mr. KENNEDY. I think it is, too. We ought to vote. It is a giveaway.

Mr. LONG. I ask unanimous consent that the time limitation agreement be a half hour, equally divided.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LONG. Mr. President, I send to the desk a modification of the committee amendment by the committee which was agreed to by the committee.

The PRESIDING OFFICER. The amendment will be so modified.

The committee amendment, as modified, is as follows:

On page 290, strike lines 5 through 16, and insert in lieu thereof the following:

(b) EXPIRING FOREIGN TAX CREDITS.—In applying section 904(c) (relating to carryback and carryover of excess tax paid) of the Internal Revenue Code of 1954, if the last taxable year in which any taxes may be treated as deemed paid or accrued under that subsection ends in calendar year 1976, the first sentence of that subsection shall be applied with respect to such taxes by substituting "fifth, sixth, or seventh succeeding taxable years" for "or fifth succeeding taxable years". Any taxes deemed paid or accrued in such sixth or seventh taxable year by reason of this subsection shall be treated as taxes actually paid or accrued for such taxable year in an amount not to exceed the taxes paid or accrued for such taxable year computed without regard to this subsection.

The PRESIDING OFFICER. The Senator from Missouri is recognized. Before he starts we must have silence in the Chamber so we can hear the statement. Conversations will cease in the Chamber and we will not proceed until we have order. Conversations will cease on the floor and in the galleries while the Senator from Missouri speaks.

RESOLUTION RELATIVE TO THE DEATH OF REPRESENTATIVE JERRY LITTON, OF MISSOURI

Mr. EAGLETON. Mr. President, I send to the desk a resolution, on behalf of myself and the senior Senator from Missouri (Mr. SYMINGTON), and ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated.

The legislative clerk read as follows:

S. RES. 509

Resolved, That the Senate has heard with profound sorrow the announcement of the death of the Honorable JERRY L. LITTON, late a Representative from the State of Missouri.

Resolved, That a committee of two Senators be appointed by the Presiding Officer to join the committee appointed on the part of the House of Representatives to attend the funeral of the deceased Representative.

Resolved, That the Secretary communicate these resolutions to the House of Representatives and transmit an enrolled copy thereof to the family of the deceased.

Resolved, That when the Senate adjourns today, it adjourn as a further mark of respect to the memory of the deceased Representative.

Mr. HUGH SCOTT. Mr. President, will the Senator from Missouri yield?

Mr. EAGLETON. I yield to the distinguished minority leader.

Mr. HUGH SCOTT. Mr. President, I appreciate the honor, and I ask unanimous consent to have my name added as a cosponsor of the resolution.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HUGH SCOTT. Mr. President, the hearts of all of us are heavy at this tremendously tragic event, in which victory is thwarted by the Dark Angel.

This sort of thing moves the hearts of people even more than the daily tragedies which afflict humankind.

On behalf of my colleagues on this side of the aisle, I join in expressing our deep sympathy for the relatives, friends, and admirers affected by the tragic death of this family, the pilot, and the pilot's son aboard the plane.

I add my voice to that of the distinguished Senator from Missouri in urging immediate action upon the resolution.

Mr. MANSFIELD. Mr. President, will the Senator yield?

Mr. EAGLETON. I yield to the distinguished majority leader.

Mr. MANSFIELD. Mr. President, I join in the remarks of the distinguished Republican leader. I think he speaks for all of us.

I know that all of us on this side of the aisle join those on the other side in extending to the people of Missouri and to the Litton family—that part which remains—our deepest sympathy and condolences.

Mr. CURTIS. Mr. President, will the Senator yield?

Mr. EAGLETON. I yield to the distinguished Senator from Nebraska.

Mr. CURTIS. Mr. President, as someone who comes from a State adjoining Missouri, I am especially touched by this tragic happening.

Representative LITTON made many outstanding contributions, but I will mention particularly what he meant to the agricultural community of America. He was an outstanding farmer in his own right, and he made many contributions in reference to legislation. He and the junior Senator from Nebraska were active in promoting the interests of the American Agricultural Council.

I extend to his family, those remaining, our deepest sympathy in this tragic happening.

Mr. DOLE. Mr. President, it was with a sense of shock and deep feeling of sadness that I learned of the untimely death of Representative JERRY LITTON and his family. At the age of 39, JERRY LITTON looked forward to an extended career in politics and Government service.

He had an admirable record as a Member of Congress and was known as a hard working and dedicated man of honesty and integrity.

We cannot comprehend the magnitude of the tragedy, but our hearts and prayers go out to the citizens of Missouri and particularly to the families and friends of the Littons and the Rupps.

Mr. EAGLETON. I thank my distinguished colleagues.

Mr. President, I should like to read at this time a brief statement from my senior colleague, the senior Senator from Missouri, Senator STUART SYMINGTON, who phoned this statement to me a few moments ago. He says:

> I am terribly shocked and saddened by the incredible news of the death of JERRY LITTON and his family. He will be remembered forever as an able and courageous public servant with a host of friends.
>
> My relationship with him goes back to 1960 when he and his wife worked their hearts out in my campaign for the Presidential nomination.
>
> To their parents and all of their relatives, one can only express deepest sympathy for the loss of this great Missourian and his family.

Mr. President, I wish to say a few brief words for myself with respect to this very tragic occurrence.

Life has its tragedies and its ironies. At the very time, which was, I suppose, the moment of the greatest joy that JERRY LITTON had ever known, as he was on the verge of a dramatic and sweeping victory of landslide proportions, he and his wife and their two children boarded a plane in Chillicothe, Mo., to fly to a victory celebration in Kansas City. A crash occurred. The entire Litton family—father, mother, and two children—were killed, along with the pilot and his son.

JERRY LITTON was an only child. His parents had great pride in their talented son. As the Senator from Nebraska has pointed out, JERRY LITTON was a self-made success of considerable proportions. He was proud of his heritage as a farmer. He was truly a son of the soil. The Litton farm near Chillicothe was a show place, a show place created with the considerable skills which JERRY LITTON possessed in great abundance.

In 1972 he entered elective politics. He pursued this new career with the same drive, the same energy, the same imaginativeness he had demonstrated in farming. I know of no Member of the House of Representatives who maintained a closer relationship with his constituents. The people of the Sixth Congressional District of Missouri knew that JERRY LITTON was their—and I mean t-h-e-i-r—spokesman.

A year ago or so, JERRY LITTON embarked on a new political journey. Once again, the energy, the drive, the skill he possessed were brought into action. It all culminated into a victory of massive proportions—a victory which in an instant became shrouded in death.

Mr. President, I doubt if mortal man will ever be able to fully comprehend the mysterious workings of our Lord. It is to our Lord that the souls of the four Littons are commended. I am confident that they will receive His tenderest mercies.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 509) was agreed to unanimously.

The PRESIDING OFFICER. The Chair appoints the Senators from Missouri (Mr. Symington and Mr. Eagleton) to represent the Senate to attend the funeral of the deceased Representative.

TAX REFORM ACT OF 1976

The Senate continued with the consideration of the bill (H.R. 10612) to reform the tax laws of the United States.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, will the Senator yield me 1 minute?

Mr. KENNEDY. I yield.

CLEAN AIR AMENDMENTS OF 1976

The Senate continued with the consideration of the bill (S. 3219) to amend the Clean Air Act, as amended.

Mr. MANSFIELD. Mr. President, what time will the Senate convene tomorrow morning?

The PRESIDING OFFICER. The Senate will convene at 8 o'clock tomorrow morning.

Mr. MANSFIELD. And what will be the pending question at that time?

The PRESIDING OFFICER. S. 3219, the Clean Air Act. The pending amendment will be the amendment of the Senator from Colorado, No. 1608.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that it be in order at this time to request the yeas and nays on the Hart amendment or amendments, as the case may be.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. MANSFIELD. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

TAX REFORM ACT OF 1976

The Senate continued with the consideration of the bill (H.R. 10612) to reform the tax laws of the United States.

AMENDMENT NO. 2141

Mr. KENNEDY. Mr. President, I call up my amendment No. 2141, with the correction of a technical error.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Massachusetts (Mr. Kennedy) proposes an amendment numbered 2141:

On page 310, line 5, insert the following after the word "nature": ", or the principal production of which began after December 31, 1976".

Mr. KENNEDY. Mr. President, the correction is the word "nature" in place of the word "native," on line 2.

The PRESIDING OFFICER. The correction has been made.

Mr. KENNEDY. Mr. President, there is a half-hour time limit. I ask unanimous consent that the time consumed by the previous quorum call not be charged against the amendment.

The PRESIDING OFFICER. The time was not charged.

The time on the amendment is 30 minutes, 15 minutes to each side.

Mr. KENNEDY. Mr. President, the amendment would repeal the present rule that motion picture and television films may qualify for the investment tax credit. The amendment would be effective for films produced after December 31, 1976. It would retain the rules in the committee bill allowing the credit for current and past films. The revenue gain would be $30 million in fiscal year 1977, and $40 million in fiscal year 1981.

Prior to 1971, the investment credit was not thought to be available for films, although a California court had allowed the credit. In the Revenue Act of 1971, when the credit was reinstated for industry generally, the legislative history indicated that films would also qualify for the credit. Since 1971, there has been extensive litigation and controversy over the details of the application of the credit, such as the useful life of a film and whether the film has primarily foreign use, for which the current credit is not available.

The committee bill provides reasonable rules to resolve the continuing litigation. My amendment does not upset these rules for the past, but disallows the credit for the future.

The movie industry already gets, and deserves, and will continue to get, the investment credit for capital equipment—projectors, cameras, et cetera. No one is challenging this. But the industry argues that it is also entitled to the investment credit for the full cost of films.

The investment credit is intended to stimulate investment in capital machinery and equipment and other tangible property. It is not intended to cover personal services and intangible property. Since a large part of the costs of motion picture and television films results from personal efforts of actors, directors, and producers, it is inequitable to allow the investment credit for this particular result of personal efforts, when it is not available for other personal efforts such as books, stage plays, paintings, records, or other works of art. General Motors does not get an investment credit for the salary of its president, and it should not be available for the salary of a movie star or director.

If the credit is expanded to cover activities like films, it will lose its effectiveness as a specific stimulus to capital investment. It merely becomes a type of general rate reduction, without any relatively greater stimulative effect for investment in machinery and equipment.

If labor intensive industries like movies are entitled to the credit, it ought to be available also to other labor intensive industries, such as automobiles, shoes, and textiles. But the credit is not available for end-products in other industries, and it should not be available for films, which are a product in the movie industry.

The movie industry also argues that it should get the credit, because the industry helps the balance of payments, it employs many people, and it has a high rate of unemployment. But the same arguments apply to many other service industries hurt by the recent recessions, and no attempt has been made to expand the investment credit into such areas.

Mr. President, Congress would probably not grant a direct subsidy for movies, and it is difficult to believe a tax subsidy has any greater justification.

The investment tax credit program was developed in 1964 as a way of providing a new competitive position for American industry within the United States and in the relationship of the United States to other parts of the world. It was one of the major steps in the 1960's to bring us out of the recession of the late 1950's.

It was enormously successful. It was initially adopted in 1964. Then it was repealed in 1968. At no time during that earlier consideration was there any investment credit on anything about tangible personal property.

Then the credit was reinstituted in 1971. It was clear from the legislative history that it was also to cover movies, and it has been that way ever since.

Also, the Federal courts in California had ruled that the intention of the Congress was to extend the investment tax credit, not just to equipment and machinery, but also to movies. But the courts were only attempting to follow the will of Congress. We made the wrong decision in 1971, and we ought to make the right one now.

There have been complex problems in the fashioning of credit on two important issues; that is, the useful life of films and also the foreign use of films. On those particular provisions, the Senate bill deals with these complex issues and questions. The amendment that I offered does not affect in any way the rules set up by the committee. The amendment is only prospective in nature. It only applies to films that are begun after December 31, 1976.

So far as any of the problems that have existed in the past, any of the matters that have been in question in litigation, any of the issues or questions to be resolved, they would be resolved in the way that the committee is resolving them for the past. My amendment only deals with the issue of whether we are going to provide the investment tax credit for films and movies after December of this year.

Mr. President, I say that there really is no justification for extending this concept beyond tangible personal property. There really is no reason or justification for granting the investment tax credit in terms of salaries for movies or for television, any more than we are going to grant it in the area of the other performing arts, for example, on stage, or for the record companies. Why should there be an investment credit for John Wayne's salary in a movie, but not for John Denver's work when he makes a record? I believe there is no justification for this credit for films, for what are end products. That is what is at issue at this time.

The investment credit has traditionally, historically, and for sound reasons, been targeted on machinery and equipment, in order to increase competition within capital-intensive industries like manufacturing. It was never conceived as a means or a device to apply in the area of personal services. I fail to understand the justification for the extension of this tax credit to movies.

The argument will be made, Mr. President, that we are facing serious problems in the movie industry in terms of employment. But the Senate has not extended the investment tax credit to areas of industry which have even greater problems of unemployment; for example, in the real estate and construction industry. We do not permit an investment tax credit for a new building. We extended the credit only last evening, in a limited way, to business insulation, under a targeted energy conservation program. Under present law, insulation is a structural component of a building, and is not eligible for the credit. Certainly, the problems of unemployment in movies, as compared to other industries, are no greater than they are in real estate and many other industries.

So, Mr. President, I hope that the Senate will recognize that the investment tax credit is an extremely effective tool, but its application to the industry is not justified.

I reserve the remainder of my time.

Mr. LONG. Mr. President, the Senator said that this investment tax credit should be limited to tangible personal property. That is just what the courts have held a motion picture film to be, tangible personal property. That is the definition that was spelled out in the law; that is what the courts, when it was contested, held the basic movie film to be. The courts have held that, as I understand it, the film, representing everything that went into making that film, is tangible personal property and subject to the investment tax credit. That is the way that the Senate has voted on previous occasions with regard to the investment tax credit.

Mr. MANSFIELD. Mr. President, will the Senator yield on that point?

Mr. LONG. Yes.

Mr. MANSFIELD. Has this not been before the ninth circuit court on a number of occasions?

Mr. LONG. Yes, it has been before the courts and the courts have decided for the industry, that in most particulars, film is tangible personal property.

Mr. MANSFIELD. And that has been the case over approximately 9 or 10 years?

Mr. LONG. For many years. I do not know how many, but for many years, the cases have been uniformly decided on that point for the motion picture industry.

Mr. MANSFIELD. That is in not one instance, but many?

Mr. LONG. Several, yes, and none the other way, Mr. President.

That leaves us with the question, are we doing too much to try to help the motion picture industry when we do this? In this amendment we have before us, we limit the investment tax credit to motion picture films made here, in the United States, to help the domestic American industry, which has been suffering and is making fewer and fewer films and needs the benefit of this investment tax credit.

The Senator made the point that we do not do this for the performing arts. I say, what a pity. As a matter of fact, I think I had the occasion to suggest to the Senator's wife sometime ago that we ought to get together and sponsor an amendment to try to help the performing arts, do something for them. The fact that we do not do enough to help the performing arts is no reason why we ought to hurt the motion picture industry. They are having a tough enough time as it is now. I hope, Mr. President, that this amendment will not be agreed to.

This is one, may I say, that has no parochial interest as far as the Senator from Louisiana is concerned. We make very few films in Louisiana. We feel it will help people in the industry not to put people out of work.

I think the Senator from California will agree to that.

Mr. TUNNEY. Will the Senator yield?

Mr. LONG. I yield to the Senator from California.

Mr. TUNNEY. The Senator is absolutely correct as he has presented the issue to the Senate particularly with respect to the question of tangible personal property. The ninth circuit has had several cases before it relating to whether or not the movies are entitled to an investment tax credit and it has ruled several times that movies are entitled to the investment tax credit as tangible personal property.

If it were not for the fact that the U.S. Government was on the opposite side of the case, one ninth circuit court decision would have ended the issue. But because of the fact that the Internal Revenue Service has the benefit of the taxpayers' dollars paying their attorneys, they have been able to take this case to court seven separate times. I have never seen, on any issue, a greater waste of taxpayers' dollars than those which are going into the pockets of the lawyers representing the Government. The Government continued to harass the motion picture industry when the ninth circuit made it very clear, on seven separate occasions, that the movies are entitled to the investment tax credit.

Mr. LONG. Some of the other circuits have held the same thing as well and, furthermore, starting with the 1971 act we made it clear that——

Mr. TUNNEY. That is right.

Mr. LONG. The investment tax credit does apply to movies; the same part the court has said, that it is tangible personal property.

Mr. TUNNEY. And the Supreme Court has denied certiorari.

Mr. LONG. And we fully expected the investment tax credit to apply to it.

Mr. TUNNEY. Just one more point, Mr. President, if the Senator will yield further.

The distinguished chairman brought up a question of the health of the industry. I might point out that this industry last year was responsible for approximately $400 million in favorable balance of trade. We were able to bring into this country $400 million as a result of the showing of American films overseas, and that is an extraordinary benefit to the taxpayers in this country. It is of extraordinary benefit to our balance of payments.

But this is an industry which has approximately 415,000 people in the guilds and the unions, and approximately only 200,000 of them are presently employed, so there is great unemployment in the industry. To take away this investment tax credit could help to further cripple the industry.

I might say that when these people are out of work they do not go easily into other professions. What happens is they draw unemployment insurance or occasionally welfare or food stamps or they receive all the other income-maintenance programs that the Federal Government provides. We all know that these programs are costing the taxpayers billions of dollars and, in the case of the film industry, millions of dollars, because of this unemployment.

The investment tax credit provides an incentive to the industry to continue to bring dollars into the United States from overseas. At the same time, it stimulates employment in the United States because, as the Senator has so ably suggested, the only way to take advantage of this tax credit is to make the motion picture here in the United States.

Moreover, the courts have decided that the master negative which produces motion picture prints is just as much tangible property as the die machines which make parts for automobiles, typewriters, computers, and the like.

I might further say that to some the motion picture industry is a whipping boy, and I am afraid this has frequently been the case here on the floor of the Senate. Some Senators do not recognize that there are thousands of average people employed in the industry. They are average hard working people who provide the services that go into creating entertainment for people in this country and around the world. I do not think there is any doubt that the motion picture industry provides the most important art form, at least the most popular art form, that we have in this country and the world.

I would just suggest to my colleagues that to take away the investment tax credit for motion pictures defies reason. I think it is highly prejudicial against this industry. It is guaranteed to create a lot more unemployment, a lot more welfare, and a lot more unemployment checks.

Mr. ALLEN. Mr. President, will the Senator yield?

Mr. TUNNEY. Yes.

Mr. ALLEN. I am just not quite sure how this will work.

The PRESIDING OFFICER (Mr. HARRY F. BYRD, JR.). The time is under the control of the Senator from Louisiana.

Mr. LONG. I yield the Senator such time as he requires.

Mr. ALLEN. Is it correct that a picture like Jaws that made tens of millions of dollars in profits should cost, say $10 million to produce, that that whole $10 million could be treated as, 7 percent of that be treated as, investment tax credit, and that $700,000 should be stricken from the tax liability; is that correct?

Mr. TUNNEY. It is my understanding that the credit base for motion picture films includes the direct costs which are allocable to production of the film in the United States. Additionally, the credit base would include certain indirect production costs if at least 80 percent of the direct production costs are allowable to U.S. production.

Mr. ALLEN. I do not believe that is quite right, and I want to support the amendment of the Senator from Massachusetts.

Mr. TUNNEY. I might point out to my friend from Alabama that the great majority of films that are made lose money; the great majority lose money. I have heard it said as many as 9 out of 10 movies that are made lose money.

Mr. MANSFIELD. Mr. President, will the Senator yield?

Mr. TUNNEY. Yes.

Mr. MANSFIELD. Is it not true that the motion picture industry faces tremendous handicaps in certain foreign countries, which it has faced not only for years but for decades, so it is all the more remarkable that they do bring back that much in the way of balance of trade despite the inhibitions and handicaps?

Mr. TUNNEY. That is true. Other countries give incredible favoritism to the motion picture companies.

Mr. MANSFIELD. Favoritism? Subsidization.

Mr. TUNNEY. Great subsidization. The United States has never done that. All we have is this investment tax credit and it has had a tremendous impact on the industry. Whereas many films were previously produced overseas, we now find that the great majority of the profitable films are being made in this country. There has been a return to the United States by American film companies, and in very large measure, this investment tax credit is responsible for it.

Mr. CRANSTON addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. CRANSTON. Mr. President, will the Senator yield about 4 minutes?

Mr. LONG. Yes.

Mr. CRANSTON. The appropriate leadership, the chairman of the committee and the majority leader, along with my colleague, JOHN TUNNEY, has very forcefully stated the facts in this matter, and I would like simply to stress that the provisions of section 805 on investment credit for films have been carefully worked out to achieve the best purposes of the investment credit: More jobs for Americans by stimulating more production.

A few brief points:

First. The film credit is limited to films produced only in this country. That is not true for the investment credit generally. This means continued jobs in an industry that traditionally, and right now, has high unemployment.

But the American film industry boasts of the most highly-skilled film technicians in the world. Movies need not only actors and directors, but camera crews, cutting and dubbing technicians, and scores of competent professionals dedicated to their art. The investment credit will assure their continued employment in this country.

Second. The film credit is, of course, of importance not only to California, where so many films are made, but to the entire Nation. It encourages the use of films in earning foreign exchange for the United States—bringing in very sizable sums, as my colleague, Senator TUNNEY, has just pointed out.

Films shown abroad earn foreign exchange credits for the United States without diminishing the availability—and this is an important point—of products and resources for domestic consumers, as in the case of agricultural and timber exports, for example. This is a proper purpose of the investment credit for films.

Third. A film most emphatically does represent a substantial capital investment in property qualified for the credit. This principle has been sustained seven times by the Federal courts—a holding allowed to stand by the Supreme Court. The Finance Committee proposes to end the uncertainty and expense of litigation in a sensible manner.

I urge its support both on grounds of fairness to a uniquely valuable American industry and on grounds of tax equity.

Let me finally make one other point: The House omitted educational films from the investment credit. The Senate Finance Committee has corrected this omission, and, as a result, educational films will be eligible for the investment credit. I heartily approve of this action by the committee.

Mr. KENNEDY. Mr. President, I yield myself 4 minutes.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. I want to say to my friend from Alabama on his question there are limitations in this particular provision. There is a limitation that you can use no more than $1 million of salary as the basis for the investment credit for a performer.

Mr. President, we are basically talking about a $30 million item in this tax bill. If we were to have an appropriation before the Senate this evening that said, "We are going to spend $30 million of American taxpayers' money on movies," I wonder how many votes there would be on the floor of the U.S. Senate for a direct subsidy like that. Yet we are providing the same amount of subsidy through the tax laws.

They talk about the $400 million in favorable balance of payments. But that sounds like a fairly successful industry. This is the issue: Are we prepared to say, if we are trying to use the same kind of judgment on direct expenditures as we are on tax expenditures, that this particular industry warrants a $30 million Federal subsidy? That is the first question that I would hope could be answered.

Second, Mr. President, we are not questioning or arguing that a ninth circuit court, which is primarily a California circuit, has made decisions interpreting the past tax laws in a way favorable to the movie industry. We do not question that in 1971 statute, the legislative history included movies in the credit. The question is, was that really the right policy and was it the right decision?

Primarily, in the cost of movies, we are talking about personal services. How can those who support this amendment say on this particular issue if Laurence Olivier does "Julius Caesar" in a movie an investment tax credit for his salary is available, but if he does it on a Broadway stage, no credit is available? How do you justify an investment credit for the cost of a screen play, when you do not get it for a stage play?

Why should we say creative writers, authors, painters, musicians, and recorders are not going to get it, but those who are involved in personal services in movies get it?

Now, the argument will be made that they are creative, that they are imaginative. So are those in the other fields. We hear they are worth it in terms of this particular industry. Why do we not give the investment tax credit for the salary of chairman of the board of General Motors, who is involved in producing cars? Why not provide it for them?

The question is whether we are going to have rules that are understandable and reasonable. Movies do not qualify for the investment credit under any stretch of the imagination. It is just an outright tax subsidy for a service industry, when many other service industries deserve it, too. But they cannot get it, because the investment credit is supposed to go for equipment and machinery, not personal services.

There is no question about it, we are talking about personal services. We are not talking about tangible property in any meaningful sense. It simply does not fit movies. What is the useful life of "Gone With the Wind"?

We can say what the useful life of a piece of equipment or machinery is, but what is it for "Gone With the Wind," or "Jaws"?

Mr. President, the movie industry gets the credit with regard to cameras, with regard to machinery, with regard to tools, and all the other machinery and equipment necessary for production. They ought to get it for that, and I am all for it. But they should not get it for the personal services of actors, directors, and producers.

What we are basically talking about here is the question of services. I fail to see how those that support this credit can justify it, unless we also apply it to all the other kinds of personal services. And then it loses its character as a capital equipment incentive and becomes just a general tax cut for all businesses.

I think we are getting away, quite clearly, from the sound and valid intention of the investment credit, which was to improve the competitive position in U.S. manufacturing.

I withhold the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. LONG. Mr. President, I yield myself 1 minute.

Mr. President, I know why I voted for the investment credit. One, to create jobs for American workers; two, to make the American industry competitive with the foreign industry.

On both tests, the investment tax credit should be applied to movie business like everybody else.

We do not make them in Louisiana, but those who do are entitled to it like the other industries. They need it to be competitive and provide jobs for unemployed workers.

Mr. TUNNEY. Mr. President, I would like to correct the record on one point.

Mr. President, the Senator from Massachusetts indicated it was going to be $30 million a year. At least, that is what I understood him to say.

The report of the Committee on Finance indicates that section 805 will result in a revenue cost of $55 million a year in fiscal year 1977 and a loss of $5 million a year thereafter.

The PRESIDING OFFICER. All time of the proponents has expired.

The Senator from Massachusetts has——

Mr. TUNNEY. Will the Senator give me 30 seconds?

Mr. KENNEDY. Yes.

Mr. TUNNEY. Why single out the movie industry as the whipping boy?

It is so obvious to me that some people who do not understand this industry believe that all the screen technicians somehow live the life of Riley, sitting around swimming pools drinking martinis all day.

The great bulk of the people who make up the motion picture industry are average hardworking men and women trying to earn a living.

These are hard working, God fearing people, who provide a very valuable service to this country, and also bring in $400 million a year to the United States.

Mr. RIBICOFF. I wonder if I could ask a question of the Senator to clarify a statement?

Mr. KENNEDY. Yes. But before I do, and then I will yield time, I do not know how much time I have remaining.

The PRESIDING OFFICER. The Senator has 3 minutes remaining.

Mr. KENNEDY. I would just respond, the $5 million he is referring to in the committee report is the cost of carrying out the rules to settle the litigation since 1971. The report contains no separate cost for the credit in the future, since it is subsumed in the cost of the 10-percent investment credit for all eligible industries.

The $30 million I quoted is the estimate of the Joint Committee on Taxation for the revenue gain from the amendment which would use the credit for movies.

Mr. RIBICOFF. May I ask the chairman a question? I am somewhat puzzled.

Mr. KENNEDY. Could we ask for 5 more minutes on either side?

The PRESIDING OFFICER. Is there objection?

Mr. LONG. I object, Mr. President.

The PRESIDING OFFICER. Objection is heard.

Mr. LONG. I hope we can get on with it.

Mr. KENNEDY. I would hope he would not object. We have been extremely accommodating. I have not in any of my amendments extended the time.

Mr. LONG. I yield the Senator 3 minutes.

Mr. KENNEDY. I had 2 more minutes.

Mr. RIBICOFF. There is a question, I think the Senator can answer.

The Senator from Massachusetts said that if Laurence Olivier made a picture in Hollywood he would get investment tax credit, but if he appeared on the stage of the Kennedy Center he would not. If a screenwriter had a picture, he would get an investment tax credit, and if a playwright did, he would not.

My understanding is that the screenwriter, the actor, or the cameraman does not get the investment tax credit on his personal services. The credit is given to the producer of the picture.

Am I right or wrong? I think it should be clarified.

Mr. LONG. But that includes those things that go in the salary.

Mr. RIBICOFF. That is right, in the cost, but that is the overall cost of the producer of the film, the company.

That does go in the cost. But the independent performer, John Wayne, or Laurence Olivier, or Elizabeth Taylor, do not get investment tax credit.

Mr. LONG. If John Wayne wants to become a producer, he would get it.

Mr. RIBICOFF. But acting or writing, he does not.

Mr. TUNNEY. It is the master negative that is responsible for including movies as tangible personal property which is entitled to the investment tax credit.

Mr. RIBICOFF. That is right, and the total cost to make the master film goes to the producer of the master film.

Mr. TUNNEY. And the person who puts up the money.

Mr. RIBICOFF. That is right, but the performers or the writers or cameramen or screen cutter, do not get a deduction.

Mr. TUNNEY. They do not get any deduction at all.

Mr. HATHAWAY. I want to point out that this could be the greatest gimmick on Earth.

Mr. KENNEDY. How much time is remaining. I think he gave us 3 more minutes.

I yield 3 minutes to the Senator.

The PRESIDING OFFICER. The Senator from Louisiana has no time to yield.

Mr. KENNEDY. But he asked for 3 more on either side.

The PRESIDING OFFICER. Is there objection?

The Chair hears none.

The Senator from Massachusetts has 4 minutes.

Mr. KENNEDY. I yield.

Mr. HATHAWAY. Mr. President, I think the arguments have been made very well by the Senator from Massachusetts in support of his amendment.

I just want to point out, this could turn out to be the greatest gimmick ever. I presume that any company could just take pitctures of its employees at work and have that qualify as an educational film and then take a tax credit of 7 percent of the salaries he pays employees.

There is nothing in the present provision that would prevent that.

I think that shows the kind of bonanza we are giving the movie industry in this case.

Maybe they need help but a lot of industries need help. I do not think we should extend the investment tax credit, which was designed for hardware, to apply to personal services.

The loss in revenue would not be just $30 million, but closer to $30 billion as the movie industry——

Mr. KENNEDY. Mr. President, I think I have 1 minute left.

The only point I would make in conclusion, Mr. President, is that the investment credit is a tried, true, highly acceptable way of improving the competitive position of the core of the American free enterprise system, our production machinery and equipment.

It has not been extended into personal services except in the movie and television area. We made a mistake in 1971 in that extension. The case is not justified. If it is justified in this case, it is justified to extend it into all the creative arts and all other service industries. Then we are talking about a significantly different concept than the investment credit that was created in 1964. I would hope that the amendment would be accepted. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

SECTION 805—MOTION PICTURE INVESTMENT CREDIT

PART I

Mr. FANNIN. Mr. President, I support passage of section 805 of the bill for the simple reason that it is fair and basically a significant support for an important element of the U.S. economy—the film industry. It is clearly a "buy American" concept which is not a requirement for any other type of tangible property eligible for the credit. There should be no question that this amendment will act as a protection and encouragement for something which Americans have always assumed was an American institution—the production of motion picture films.

We cannot be so relaxed about that point. Our good friends abroad have been offering substantial, direct subsidies to film production if they will move from the United States to foreign locations. In addition, many foreign countries have raised significant nontariff barriers against U.S. films in an effort to make U.S. films less competitive and to some extent they have succeeded.

If the purpose of the credit is to make U.S. industry more competitive in the world market, then passage of section 805 is fully appropriate. The contribution of the U.S. film industry toward a favorable balance of trade more than justifies this. Some $300 to $400 million a year are repatriated by the film industry and, incidentally, that is accomplished without the export of valuable natural resources.

The critics of this amendment have made some basic mistakes with respect to how motion picture films are manufactured and from that misunderstanding they have erroneously concluded that motion picture negatives are in the nature of inventory or are intangible and thus not eligible for the investment tax credit. First, let me say that seven Federal cases have examined this question in immense detail. Reports, depositions, and affidavits of experts have been submitted at trial and all of the Federal judges involved have come to one conclusion. A motion picture negative is analogous to a machine. It is the dye or the hydraulic press of a motion picture studio. It is used to stamp out positive prints and these positive prints are distributed throughout the world. It is clearly tangible and it is clearly used as a productive asset in that taxpayer's trade or business and for decades has been treated as a depreciable asset just like a machine, a desk, a chair and such other items as qualify for the investment tax credit.

The Internal Revenue Service has argued time and time again notwithstanding the facts to the contrary that there is something unusual, mysterious or even suspicious about the manufacture of a motion picture negative. No Federal judge has bought this erroneous argument nor should we today. The amendment clarifies the application of the investment tax credit to films but goes further than that—it restricts it to U.S. production. This gives the Federal Government the best of worlds. It prevents further expensive litigation with a settlement which is in lopsided favor of the Government, and makes the credit an efficient tool for protecting and increasing U.S. employment.

It is estimated that this provision will result in a revenue cost of $60 million which will come entirely as a result of the 40-percent settlement. However, it is important to recognize, as stated before, that all of the cases have been decided in favor of the taxpayers and that these cases have granted to the taxpayers 100 percent of the investment credit.

Thus, if the 40-percent settlement which is in favor of the Government will result in a revenue loss of $75 million, it is clear that the potential liability of the Government in the court case is $150 million. Thus, it is simple mathematics that a 40-percent settlement, rather than costing the Government $75 million, will save the Government $112.5 million.

The PRESIDING OFFICER. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. HELMS (when his name was called). Present.

Mr. ROBERT BYRD. I announce that the Senator from Indiana (Mr. HARTKE), the Senator from South Dakota (Mr. McGOVERN), the Senator from Minnesota (Mr. MONDALE), the Senator from Rhode Island (Mr. PASTORE), the Senator from Missouri (Mr. SYMINGTON), the Senator from Mississippi (Mr. EASTLAND), the Senator from Delaware (Mr. BIDEN), the Senator from South Dakota (Mr. ABOUREZK), the Senator from Minnesota (Mr. HUMPHREY), and the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

I further announce that the Senator from Hawaii (Mr. INOUYE) is absent on official business.

I also announce that the Senator from Michigan (Mr. PHILIP A. HART) is absent because of illness.

I further announce that, if present and voting, the Senator from Rhode Island (Mr. PASTORE) would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Tennessee (Mr. BROCK), the Senator from Arizona (Mr. GOLDWATER), the Senator from Kansas (Mr. PEARSON), and the Senator from Pennsylvania (Mr. SCHWEIKER) are necessarily absent.

The result was announced—yeas 33, nays 49, as follows:

[Rollcall Vote No. 472 Leg.]

YEAS—33

Allen
Bumpers
Burdick
Byrd, Robert C.
Case
Church
Clark
Culver
Durkin
Eagleton
Ford
Glenn
Hathaway
Huddleston
Jackson
Kennedy
Laxalt
Magnuson
McClellan
McClure
McIntyre
Metcalf
Muskie
Nelson
Nunn
Proxmire
Randolph
Sparkman
Stafford
Stevenson
Stone
Taft
Williams

NAYS—49

Bartlett
Bayh
Beall
Bellmon
Bentsen
Brooke
Buckley
Byrd, Harry F., Jr.
Cannon
Chiles
Cranston
Curtis
Dole
Domenici
Fannin
Fong
Garn
Gravel
Griffin
Hansen
Hart, Gary
Haskell
Hatfield
Hollings
Hruska
Javits
Johnston
Leahy
Long
Mansfield
Mathias
McGee
Montoya
Morgan
Moss
Packwood
Pell
Percy
Ribicoff
Roth
Scott, Hugh
Scott, William L.
Stevens
Talmadge
Thurmond
Tower
Tunney
Weicker
Young

ANSWERED "PRESENT"—1

Helms

NOT VOTING—17

Abourezk
Baker
Biden
Brock
Eastland
Goldwater
Hart, Philip A.
Hartke
Humphrey
Inouye
McGovern
Mondale
Pastore
Pearson
Schweiker
Stennis
Symington

So Mr. KENNEDY's amendment (No. 2142), as modified, was rejected.

Mr. TUNNEY. I move to reconsider the vote by which the amendment was rejected.

Mr. LONG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER THAT ROLLCALL VOTES BE LIMITED TO 10 MINUTES

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all rollcall votes from now on tonight be limited to 10 minutes.

The PRESIDING OFFICER (Mr. HATHAWAY). Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT S. 3048

Mr. MANSFIELD. Mr. President, earlier today I made a unanimous-consent request about Calendar No. 872, S. 3048, but I left out an important segment which I shall try to insert at this time.

I ask unanimous consent that the unanimous-consent agreement obtained earlier relating to Calendar No. 872, S. 3048, be modified to provide for an amendment by the Senator from Oklahoma (Mr. BARTLETT) on which there shall be 1½ hours equally divided in the usual manner.

The PRESIDING OFFICER. Without objection, it is so ordered.

TAX REFORM ACT OF 1976

The Senate continued with the consideration of the bill (H.R. 10612) to reform the tax laws of the United States.

AMENDMENT NO. 2140

Mr. KENNEDY. Mr. President, I send to the desk an amendment on behalf of myself and the junior Senator from New York (Mr. BUCKLEY).

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

> The Senator from Massachusetts (Mr. KENNEDY), for himself and Mr. BUCKLEY proposes amendment No. 2140.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> At the end of title VIII, add the following new section:
>
> SEC. . CERTAIN INVESTMENT CREDIT PROVISIONS RELATING TO AIRLINES.
>
> Subsection (a) of section 46 (relating to determination of amount of investment credit), as amended by section 1703 of this Act, is amended by deleting paragraph (8) thereof.

Mr. KENNEDY. Mr. President, if I could have the attention of the chairman of the Committee on Finance, I am glad to get into the time, and we could start now, or have a time agreement, whatever he wishes.

Mr. LONG. I thought there was a standing agreement as to time already.

The PRESIDING OFFICER. The Chair understands there is 10 minutes on each side.

Mr. LONG. Is that all right?

Mr. KENNEDY. Fine.

The PRESIDING OFFICER. The Senate will be in order.

The Senator may proceed.

Mr. KENNEDY. Mr. President, this amendment, which I am offering on behalf of myself and the junior Senator from New York (Mr. BUCKLEY), is to redress the situation that took place last Friday where there was relatively little debate or discussion on expanding the investment credit for a major segment of the industry of the country, and that is the airline industry.

I do not say that with any sense of failure of notification. But I do think that the Senate ought to go on record as to whether we are going to spend Federal dollars in the way that has been outlined in the Curtis amendment, which would amount to about $50 million a year over the next several years.

As I understand it, Mr. President, there is a formula in existing law which provided this expanded credit for public utilities. The Committee on Finance resolved that, because of the particular situation of the railroads, they would use the same formula for the railroads.

I think all of us who have listened to debates and discussion about the plight of the railroads in not only the eastern part of the country but also in most parts of the Nation, recognize the extraordinary need in terms of new capital equipment and the justification for it.

The Treasury Department expressed serious reservation about extending the subsidy to the railroads, because they felt if Congress did it for the railroads, then there would be other industries that would come on in and say, "Well, we are doing it for one, why aren't we doing it for others," without an adequate kind of analysis, study, and hearings about the needs for new capital for investment in each industry. That is why the Treasury Department itself, when this particular provision came up on the railroads, said that if this provision is enacted it will merely serve as an incentive to air lines or other ailing industries to seek parallel tax relief, and this will merely compound the problem.

That is exactly what happened. The amendment is put forward now for the airlines industry.

Mr. President, I think there is a serious question in terms of whether this type of new capital formation is really essential and necessary for the airline industry. A case can be made, and a strong case made, that part of the problem with the airline industry is that we are flying around too many empty seats in too many planes in the United States.

Mr. CHILES. Mr. President, will the Senator yield?

Mr. KENNEDY. And I think all of us who read the stories know about the fact that there are 100 planes mothballed down in the southwestern part of this Nation. I do not question the fact that in regard to certain airline equipment, in terms of attempting to meet pollution controls and pollution standards, there may have to be some type of incentive.

Mr. CHILES. Mr. President, will the Senator yield?

Mr. KENNEDY. But I clearly wonder whether we ought to be offering some $50 million a year to the industry. The benefit is only for those airlines subject to the Civil Aeronautics Board. They do not apply to the smaller airlines which are not governed by the Civil Aeronautics Board in Texas, California, and other parts of the country, or in other States where the airlines are intrastate. They don't benefit—it is only the CAB-regulated airlines.

So it is just those that are actually being governed by the CAB that will actually receive this expanded investment credit.

We need the kind of intensive study of the case for this kind of capital investment for the industry, the kind of detailed work that is done by the Committee on Commerce and the Airline Subcommittee of the Committee on Commerce, with a report about whether this type of aid is warranted or justified.

It seems to me that simply providing it at this time is not wise. It could be counterproductive, and it costs approximately $50 million a year.

Mr. President, I withhold the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. CURTIS. Mr. President, may I inquire who has charge of the time?

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. LONG. How much time does the Senator wish, 5 or 10 minutes?

Mr. CURTIS. Five minutes.

Mr. LONG. I yield the Senator 5 minutes.

The PRESIDING OFFICER. The Senator is recognized for 5 minutes.

Mr. CURTIS. Mr. President, this amendment was adopted last week after full debate, and here we are in these long weeks of trying to get this bill enacted, considering the same proposal over again.

A very basic principle is involved. If one believes in the investment credit, he will wish it to serve those industries that need it the most and not have its practical effect only benefit the most prosperous companies.

What we are doing here for the airlines is exactly what we have done for the utilities in a previous bill and what the pending legislation does for the railroads. The airlines need new equipment. They were in the red last year. Their earnings are so low that even though they expend for capital improvements for new equipment, and there is a serious question whether they can get the credit to do so, they get no investment credit because it must be charged against their income with a 50-percent limit.

We provided in this bill that railroads for the next 2 years could get the credit against all their income. That is the law for utilities. The Senate voted last week to give that to the airlines. Nothing has happened since that to cause the Senate to change its mind.

As a matter of fact, last Sunday's Washington Post had two articles stressing the need for new equipment for our airlines. I hold in my hand a page from the last issue of Newsweek. It is entitled "Our Aging Air Fleets." I will read an excerpt:

> Business is better for the airlines now that the recession is over, but the industry is beginning to be troubled by the same undercapitalization problem that ruined the railroads. Over the next ten years, the airlines badly need to replace their fleet of aging jets, especially the Boeing 707s and Douglas DC–8s that are now too noisy to comply with environmental standards and too thirsty for fuel to fly economically. Both Boeing and McDonnell Douglas have designed the new planes needed for the 1980s, but the airlines cannot afford to buy them. The problem is so serious that Boeing, which has not developed a new type of plane in eight years, has mounted a campaign to persuade the public and government officials that time is fast running out. "The world aircraft and air-travel markets are at stake," says Tom Riedinger, a Boeing marketing manager.
>
> Last year, the eleven major U.S. airlines lost a total of $103 million (chart), and while they expect to return to the black this year, their corporate return on invested capital is projected to be a measly 4 or 5 percent—compared with a high of 11.7 percent in 1966 and well below the 12 percent allowed by the Civil Aeronautics Board.

Are we going to follow a policy that is an inducement to get new equipment? The transportation company which needs it the worst cannot have it. Oh, yes, we voted an investment credit, but it is not a refundable credit. That was denied. They must take the credit against their tax; and if they are in the red or have very little income upon which to pay tax, they cannot use the credit.

We say that for 2 years they can apply the credit against all their income. Then it is tapered down back to the normal rate. We have done that for the railroads in this bill. We did it for the utilities in a previous bill. There is no reason why we should reverse the decision made last week.

Mr. President, our airlines must compete with government-owned airlines the world around.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. CURTIS. Mr. President, I ask for 2 additional minutes.

Mr. LONG. I yield.

Mr. CURTIS. This Congress, by its action, has taken a position that has hampered the U.S. airline industry in leading the world. It is an industry that has been very valuable to our economy. In the past, we have been exporting planes around the world. It has provided thousands of jobs. They need the investment credit. The Senate has voted for it. Today, we are called upon to undo a sound decision made last week.

Mr. CANNON. Mr. President, will the Senator yield?

Mr. CURTIS. I yield.

Mr. CANNON. Mr. President, I completely agree with the Senator from Nebraska.

We find ourselves in a very unusual situation. On the one hand, we had opponents on this floor opposing the SST because of the noise. We have a fleet of 707's and DC–8's that are very near in noise level to the SST, the Concorde. The Secretary of Transportation currently is being pressured to require the air carriers to go ahead with the retrofit, a patchwork—a bandaid program, if you not be agreed to. The Senator does not even propose to treat the utilities this way. He does not propose to treat the railroads this way. It would not be fair to treat the airlines that way. They need the same consideration provided for the utilities and the railroads, and they should have it.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 5 minutes remaining.

Mr. KENNEDY. I yield myself 4 minutes.

Mr. President, I listened to the chairman of the Committee on Finance list the various industries that are going to be able to get this investment credit—the public utilities, the railroads, the airlines. But what about all the other industries? Why do we not say, "Let's make it 100 percent for every industry?"

We do not do it for the farm industry. We do not do it for the tractors that affect the Midwest or far West. We are not doing it for the textile industry or the shoe industry or the fishing industry in our part of the country. Why not for steel or autos? Should there not be some economic justification, and should not that have been advanced by those who support this amendment?

Also, Mr. President, this benefit is only going to go to the wealthiest airlines, the ones which are the most profitable. It is not going to the ones having the most difficult time. It will benefit the wealthier lines, because they are the ones that pay taxes.

I think it would have been of some value if those in support of this amendment, rather than saying that we have given it to public utilities and the railroads and therefore we should give it to the airlines, would give some consideration to whether there is really a need for this program.

We heard the Senator talk about the danger of pollution and noise and all the other factors. The fact is that this credit goes for the entire plane, not just for the new devices that are going to reach the problems of noise or pollution. It goes for the whole plane.

What do we find in terms of the surplus of airline seats or planes? Here is a July 8 analysis.

The Senator from New York is present, so I shall reserve 2½ minutes for him.

What do I have left, Mr. President?

The PRESIDING OFFICER. The Senator has a half minute remaining.

Mr. KENNEDY. Then I shall save him a minute and half.

A July 8 analysis of the airline industry by H. C. Wainwright & Co. of New York, a leading investment analyst, says:

> Next year could see even further profit progress if capacity planning remains conservative. . . .

That means no more incentives of the kind that are provided here.

George James, chief economist for the Air Transport Association, says the same thing, that in the last 2 years, the airlines, because of overinvestment relative to demand, have had to ground about 100 aircraft, lowered previously planned capacity increases, and cut new aircraft orders by a third.

I think that the case has not been made for increased capacity.

I yield the final 1½ minutes to the cosponsor of this amendment.

Mr. BUCKLEY. Mr. President, I thank my friend from Massachusetts. I think he stated the case well. I think that this is legislation that is encouraging capital investment where it is not necessary. I believe that it is discriminatory as between the large airlines and others.

It is a wonderful thing to talk about capital formation, and I am an intense believer in that, but I think we ought to have a clearer idea of our target.

I also very much appreciate the problem of retrofitting and other requirements being imposed on the industry. But I think if we have these requirements imposed on the industry, let us target the appropriate relief. It seems to me, for example, that the airport trust fund is accumulating tens of millions of dollars, and this might be a much more appropriate way in which to put in the environmental improvements that are required.

I hope that my colleagues will vote in favor of this amendment. I think it is appropriate; it is one that is equitable and is in the best interests of the consumers and in the best interests of the airline industry itself. The industry has overinvested in aircraft. Perhaps they ought to decide to utilize the equipment they have rather than have artificial encouragement to move into newer models that cannot be digested.

I thank the Senator from Massachusetts for having taken the initiative with this amendment.

Mr. KENNEDY. I ask for the yeas and nays, Mr. President.

The PRESIDING OFFICER (Mr. BENTSEN). Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Who seeks recognitions?

Mr. LONG. I think the time has expired, Mr. President.

The PRESIDING OFFICER. The Senator from Massachusetts has 1 minute left.

Mr. KENNEDY. Mr. President, just a final point: I think, as the Senator from New York has pointed out, the case has not been made for the kind of step that has been included in the Curtis amendment, providing this major new benefit for the airline industry for new capital investment. The only case that has been made is that the railroads received it, and the public utilities received it; therefore, let the airlines receive it. If we follow that line of reasoning, we would apply it to great numbers of industries. I think that, again, we would see a serious distortion of the investment credit. I do not think it is warranted or justified in the Curtis amendment. I hope the Senate will accept our amendment.

The PRESIDING OFFICER. All time having expired and the yeas and nays having been ordered, the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Mississippi (Mr. EASTLAND), the Senator from Indiana (Mr. HARTKE), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Rhode Island (Mr. PASTORE), the Senator from Mississippi (Mr. STENNIS), the Senator from Missouri (Mr. SYMINGTON), the Senator from Delaware (Mr. BIDEN), the Senator from Montana (Mr. MANSFIELD), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Montana (Mr. METCALF), the Senator from Minnesota (Mr. MONDALE), and the Senator from California (Mr. TUNNEY) are necessarily absent.

I further announce that the Senator from Hawaii (Mr. INOUYE) is absent on official business.

I also announce that the Senator from Michigan (Mr. PHILIP A. HART) is absent because of illness.

I further announce that, if present and voting, the Senator from Rhode Island (Mr. PASTORE) would vote "yea."

Mr. HUGH SCOTT. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Maryland (Mr. BEALL), the Senator from Tennessee (Mr. BROCK), the Senator from Arizona (Mr. GOLDWATER), the Senator from Michigan (Mr. GRIFFIN), the Senator from Kansas (Mr. PEARSON), the Senator from Pennsylvania (Mr. SCHWEIKER), and the Senator from Virginia (Mr. WILLIAM L. SCOTT) are necessarily absent.

The result was announced—yeas 37, nays 40, as follows:

[Rollcall Vote No. 473 Leg.]

YEAS—37

Allen
Bayh
Brooke
Buckley
Bumpers
Byrd,
  Harry F., Jr.
Case
Chiles
Church
Clark
Cranston
Culver
Durkin
Glenn
Hart, Gary
Haskell
Hathaway
Hollings
Huddleston
Humphrey
Javits
Kennedy
Leahy
McIntyre
Moss
Muskie
Nelson
Nunn
Pell
Proxmire
Ribicoff
Roth
Sparkman
Stafford
Stone
Taft
Williams

NAYS—40

Bartlett
Bellmon
Bentsen
Burdick
Byrd, Robert C.
Cannon
Curtis
Dole
Domenici
Eagleton
Fannin
Fong
Ford
Garn
Gravel
Hansen
Hatfield
Helms
Hruska
Jackson
Johnston
Laxalt
Long
Magnuson
Mathias
McClure
McGee
Montoya
Morgan
Packwood
Percy
Randolph
Scott, Hugh
Stevens
Stevenson
Talmadge
Thurmond
Tower
Weicker
Young

NOT VOTING—23

Abourezk
Baker
Beall
Biden
Brock
Eastland
Goldwater
Griffin
Hart, Philip A.
Hartke
Inouye
Mansfield
McClellan
McGovern
Metcalf
Mondale
Pastore
Pearson
Schweiker
Scott,
  William L.
Stennis
Symington
Tunney

So the amendment was rejected.

Mr. CURTIS. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. TALMADGE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

SECTION 2002

Mr. TALMADGE. Mr. President, I move that we lay title VIII aside temporarily and proceed to section 2002.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

UP AMENDMENT NO. 307

Mr. HASKELL. Mr. President, I have an amendment at the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

Mr. TALMADGE. Mr. President, I ask that the time limit on this amendment be limited to 10 minutes to each side.

Mr. HASKELL. I have no objection.

The PRESIDING OFFICER. I did not hear the Senator.

Mr. HASKELL. That is entirely satisfactory with me, I have no objection.

The PRESIDING OFFICER. Ten minutes to a side.

The clerk will state the amendment.

The assistant legislative clerk read as follows:

> The Senator from Colorado (Mr. HASKELL) proposes unprinted amendment No. 307.

Mr. HASKELL. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> On page 1485, after line 18, insert:
>
> (f) TERMINATION.—Notwithstanding any other provision, this section shall not apply to any expenditure paid or incurred after December 31, 1979.

Mr. HASKELL. Mr. President, section 2002 grants investment credit to individual taxpayers who install solar heating or cooling in their homes. It has a refundable feature. The maximum credit that can be obtained is $2,000.

I would move to eliminate the credit because only the people with substantial means can afford to put in the total installation; $2,000 is probably only one-fourth of the total cost.

However, recognizing that solar is in an experimental era, and also recognizing that in the FEA extension bill, HUD has some authority for solar loans and subsidies, my amendment does this: It leaves the credit intact proposed by the committee amendment, but says that it will expire Decembr 31, 1979.

It occurs to me, Mr. President, that we are in an experimental era on solar and other insulation and that type of thing, and I think it is desirable to put a finite end to these various special credits. Certainly 3 years are long enough experience to see whether or not it is advantageous, and I would hope that the distinguishd manager of the bill would see fit to accept this particular amendment.

Mr. FANNIN. Mr. President, was the Senator addressing me?

Mr. HASKELL. I addressed either manager.

Mr. FANNIN. I thank the distinguished manager of the bill.

It is difficult for the Senator from Arizona to understand why this amendment would be offered.

It seems to me that we are in a period where we are trying to give every incentive possible for greater utilization of energy sources other than natural gas and other energy sources in short supply.

But the Sun is not in short supply. If we can utilize it beneficially, we should do so.

To say we cannot go beyond a certain date, I think is wrong.

The committee amendment is very well thought out. It was adopted in markup after considerable debate. As a matter of fact, both the Finance and Interior Committees have held hearings on how best to convert from conventional energy sources to solar and other plentiful supplies.

So it does not seem to me we gain anything by changing the effective dates of this amendment. Doing so would constitute working in the wrong direction.

I certainly do not understand why it is being offered. It seems completely out of line with what the distinguished Senator from Colorado is trying to achieve which is to have a good, clean source of energy available to replace those sources of energy that are not in large supply.

Mr. President, I hope that the Senator will reconsider this particular change. We had hearings. I know the distinguished Senator from Minnesota (Mr. HUMPHREY) was at the Joint Economic Committee hearings. We know that it is going to take time to move American people and businesses to fuller utilization of alternative energy sources.

One thing we have to realize is that the high cost of this equipment at the present time is due to the inadequate scales of production.

We are trying to give incentives to increase production so we have a greater number of units produced at lower cost. As soon as the cost comes down, the public will buy this type of equipment. To cut off this incentive as the Senator from Colorado has suggested would frustrate the stated goal. It would clearly be moving in the wrong direction.

Mr. HASKELL. Mr. President, I merely call the Senate's attention, this is the area of sunsets. All I am trying to do is say at the end of 2 years, let us terminate it. In the third year, obviously, we will assess whether it is good, bad, or indifferent, and we will either renew or let it expire.

Last night, it seems to me the distinguished chairman of the Finance Committee accepted an amendment phasing out this type of installation on commercial establishments in 3 years.

I ask the Senator from Massachusetts, is my recollection correct on that?

Mr. KENNEDY. The Senator is correct.

Mr. HASKELL. I think it is a sensible, prudent thing to do.

I ask for the yeas and nays.

Mr. FANNIN. Mr. President, we are talking about something very badly needed. The Senator realizes what we are up against.

Mr. STEVENS. Will the Senator yield?

Mr. FANNIN. I am pleased to yield to the Senator.

Mr. STEVENS. I would like to ask the Senator from Colorado, if he was getting ready to set up a production line to go into the manufacture of solar equipment, to produce equipment for solar devices for heating, would he do that on the basis of the time limit he proposes?

I see no reason to tell manufacturers of these devices that Congress is unwilling to give this stimulus for such a short period of time.

It will not stimulate mass production of the total experimental period we need. I think the minimum would be 10 years to determine whether this is going to stimulate those people who, as the Senator says, can't afford it, to try to utilize the energy from the Sun.

To go into a shorter period, in view of some of the money we put up from the Interior Committee budget this year, looking forward to long-range experiments at Federal expense, I think is a great error.

Mr. FANNIN. I yield to the Senator from New Hampshire.

Mr. HASKELL. I point out to my friend from Alaska, what we are talking about is a credit the individual householder can take.

I hope this is not built on such a frail thing as the vagaries of the Internal Revenue Code.

Mr. President, I again ask for the yeas and nays.

The PRESIDING OFFICER (Mr. WILLIAMS). Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. TALMADGE. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. There are 10 minutes remaining.

Mr. TALMADGE. I yield some to the distinguished Senator from Arizona.

How much time do I have remaining?

The PRESIDING OFFICER. The Senator has 10 minutes.

Mr. TALMADGE. I have 10 minutes?

The PRESIDING OFFICER. Yes.

Mr. TALMADGE. How much time does the distinguished Senator from New Hampshire need?

Mr. McINTYRE. About 3 or 4 minutes, but do the Senators from New Mexico and Arizona have more time?

Mr. TALMADGE. I yield 3 minutes to the Senator.

Mr. McINTYRE. Mr. President, there are just a few points I want to make on this.

I have discussed the matter with the Senator from Colorado.

The FEA extension authorization bill would take care of solar energy and other alternative sources, but we are not satisfied as the conferences on that particular bill are coming to a close.

The demonstration program in the FEA extension has a maximum authorization of only $200 million. That includes not only solar and geothermal, but energy conservation in the home as well. With such a wide range of projects, this is not very much money.

In order for a homeowner to get any of this money, both Houses must now approve a supplemental appropriation. Then anyone who wants to get money under the demonstration program has to go through HUD redtape.

Believe me, the redtape is enough to bother a New Hampshire Yankee.

The solar tax credit is far simpler.

If a citizen gets a HUD grant, then that citizen is not eligible for a solar tax credit—I stress this. There is no "double dip" allowed.

This is a good opportunity to see which of two Government methods work better, Federal grants or tax credits. We will be able to see which program results in the most benefit at the lower cost to the Government.

I have heard it argued on the floor, the way to take this problem is by the appropriation route.

I think that here about 3 or 4 days ago I agreed this was the more appropriate way to do it and not burden the tax bill with the tax credit. But tonight, I want to resist this amendment offered by my good friend from Colorado because I think we in the Northeast need every bit of help in alternative sources of energy we can get.

We want solar energy given every opportunity to work. This is a chance to see which of the different types, whether it be the appropriation method or the tax credit method, will be the program that will result in the most benefit at the lower cost to the Government.

The demonstration program in the FEA extension is for retrofitting existing buildings only. Regarding complete solar heating systems, the tax credit is most useful for new buildings, not for retrofitting, because the cost of retrofitting a complete solar system can be very high.

I do not want to take any more time, Mr. President, but just simply say that while I understand the reasons and rationale of the distinguished Senator from Colorado in trying to delete this from the bill, I want to say to my good friend from Arizona that I hope the amendment will be defeated.

I thank my friend for yielding.

Mr. TALMADGE. Mr. President, no one objects to the principle of the issue involved here. The Senator from Colorado does not. But we are trying to develop alternative sources of energy.

The particular bill the Senate Finance Committee reported would offer an investment tax credit for the development of solar energy and thermal energy.

We know that the rays of the sun offer unlimited sources of energy. In fact, it has been estimated that enough energy falls on Lake Erie every 24 hours that, if we could harness it, would provide the energy needs of this country for 12 months.

We have a great deal of thermal energy in the West. Much of it has not been developed.

The Committee on Finance thought we ought to offer incentives to develop that energy, because this thing is certain, we cannct continue to import more and more petroleum from the Middle East at blackmail prices.

It is increasing now very rapidly, $25 billion or $26 billion a year. It is going up very fast. Not only that, but we are liable for any boycott they may want to impose at any time.

In my judgment, the No. 1 thing that this country must do is develop alternative sources of energy,

What is the issue here? The Senate Committee on Finance offers an investment credit to develop solar energy and thermal energy to expire in 1980. Our good friend, the Senator from Colorado, offers a Tweedledee and Tweedledum amendment to make it expire in 1979. That is the only issue.

Mr. HASKELL. It was my understand-

Mr. TALMADGE. I yield.

Mr. HASKELL. It was my understanding that this did not expire at all.

Mr. TALMADGE. I was informed by the chief counsel that this expired in 1980.

Mr. HASKELL. If it expires in 1980 I would withdraw my amendment.

Mr. FANNIN. The Senator is correct.

Mr. HASKELL. Which Senator?

Mr. TALMADGE. I am informed by counsel for the committee that it does expire in 1980.

Mr. HASKELL. Mr. President, I apologize to the Senate for taking up its time. It does expire in 1980. I withdraw my amendment.

Mr. TALMADGE. I ask unanimous consent that the amendment may be withdrawn notwithstanding the fact that the yeas and nays have been ordered.

The PRESIDING OFFICER. Is there objection? Without objection, the amendment is withdrawn.

Mr. TALMADGE. Mr. President, will the Chair state the question as to section 2002?

The PRESIDING OFFICER. The question is on agreeing to section 2002.

Section 2002 was agreed to.

Mr. TALMADGE. Mr. President, does the distinguished Senator from Massachusetts want to proceed at this point to item number 9, 2006, the recycling issue? What is the issue?

Mr. KENNEDY. I understood that was going to be called up and I know the Senator from Colorado had an amendment. That was to be disposed of.

Mr. TALMADGE. To what does the Senator desire to proceed?

Mr. KENNEDY. I understood the recycling amendment was to be called up and the Senator from Colorado would offer an amendment. That was to be the order, I believe, if that is agreeable to the chairman or the acting floor manager.

Mr. TALMADGE. Mr. President, I ask unanimous consent at this point that we move to the consideration of item 2006, recycling.

Mr. JAVITS. Mr. President, reserving the right to object, I thought the floor manager had a list. Can he tell me where we stand?

Mr. TALMADGE. We are operating by unanimous consent at the present time. What does the Senator wish to consider?

Mr. JAVITS. I want to consider my amendment, which is item 7 on the list, if that place has been reached. It does not take unanimous consent.

Mr. TALMADGE. We have not reached that point yet, I do not believe.

Mr. KENNEDY. Mr. President, will the Senator yield? I believe section 2006, the credit for the purchases of matter to be recycled, was the item. Maybe the Senator from Colorado can help us.

Mr. GARY HART. My parliamentary situation is this, if the manager will yield.

When we passed the energy title yesterday, we accepted two sections. The understanding of the Senator from Colorado is that now a motion to strike is inappropriate. Therefore, a different procedure will have to be used to challenge the committee amendment. So the committee amendment has to be called up and laid on the desk before we can respond to it.

The PRESIDING OFFICER. The question is the remainder of the committee amendment to title XIII.

Mr. TALMADGE. The question is on the committee amendment?

The PRESIDING OFFICER. That is the question now, the remainder of the committee amendment to title XIII.

Mr. GARY HART. Under that title is section 2006?

The PRESIDING OFFICER. That is under title XX.

Mr. LONG. Mr. President, Senator GRAVEL is the chairman of our Energy Subcommittee. He very much wanted to be here when we considered the recycling. Might I suggest that we take care of the artist amendment and then come back? I know Senator GRAVEL wants to be here.

Mr. KENNEDY. Mr. President, if the Senators wish, I will be glad to call up an amendment on section 2073. It is in behalf of myself and the Senator from Indiana (Mr. BAYH).

Mr. LONG. We were hoping to discuss that matter tomorrow, I believe. I do not have it on the list to vote on tonight. Well, go right ahead.

AMENDMENT NO. 2073

The PRESIDING OFFICER. The clerk will state the amendment.

The assistant legislative clerk read as follows:

The Senator from Massachusetts (Mr. KENNEDY), for himself and Mr. BAYH, proposes an amendment numbered 2073.

Mr. KENNEDY. Mr. President, I ask that further reading be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 333, add the following new section at the end of title VIII:

SEC. 808. 5-PERCENT REFUNDABLE CREDIT FOR NEW INVESTMENT; REPEAL OF ASSET DEPRECIATION RANGE.

(a) ALLOWANCE OF ADDITIONAL 5-PERCENT INVESTMENT CREDIT.—Subparagraphs (A) and (C) of section 46(a)(1) (relating to determination of amount of investment credit) are each amended by inserting before the period at the end thereof the following: ", plus an additional 5 percent of the qualified investment (as so determined) attributable to section 38 property which represents (or, for purposes of applying subsection (d), will represent) a net new investment (as defined in section 48(l))".

(b) DEFINITION OF NET NEW INVESTMENT.—Section 48 (relating to definitions and special rules) is amended by redesignating subsection (l) as subsection (m) and by adding after subsection (k) the following new subsection:

"(1) Net New Investment.—For purposes of this subpart, the term 'net new investment' means, with respect to any taxable year, the amount by which the qualified investment of the taxpayer for such year, determined without regard to investment credit carryovers and carrybacks and without regard to section 46(a)(6), exceeds the average amount of qualified investment of the taxpayer per taxable year, determined on the basis of the 3 most recent previous taxable years and without regard to investment credit carryovers and carrybacks and section 46(a)(6).".

(c) Refundability.—

(1) General rule.—Subsection (b) of section 6401 (relating to excess credits treated as overpayments) is amended by adding at the end thereof the following: "The amount of the excess additional 5-percent investment credit for net new investment shall be considered an overpayment. For purposes of the preceding sentence, the term 'excess additional 5-percent investment credit for net new investment' means the amount by which the additional 5-percent credit for net new investment allowed under subparagraphs (A) and (C) of section 46(a)(1) for a taxable year beginning after December 31, 1977, exceeds the limitation imposed by section 46(b)(2) (determined without regard to any investment credit carryback to that year, and any other investment credit carryover to that year).".

(2) Assessment authority.—Paragraph (4) of section 6201(a) (relating to assessment authority in the case of erroneous credit) is amended—

(A) by striking out "or 44B" in the caption thereof and inserting in lieu thereof the following: "or 44B; erroneous excess investment credit refunded under section 6401", and

(B) by adding at the end thereof the following: "If, on any return or claim for refund of income taxes under subtitle A, there is an overstatement of the amount of the additional 5-percent investment credit for net new investment, as determined under subparagraph (A) or (C) of section 46(a)(1) (relating to amount of section 38 credit allowable), and the amount so overstated is allowed as a refund under section 6401(b), such amount may be assessed by the Secretary in the same manner as in the case of a mathematical error appearing on the return.".

(d) Repeal of Asset Depreciation Range.—Subsection (m)(1) of section 167 (relating to depreciation) is amended by striking out the last sentence.

(e) Effective Dates.—

(1) Subsections (a) and (b).—The amendments made by subsection (b) apply to property the construction of which begins after December 31, 1976, property which is acquired after December 31, 1976, and qualified progress expenditures made after December 31, 1976.

(2) Subsection (d).—The amendment made by subsection (d) applies to the useful life of property placed in service after December 31, 1976.

Mr. KENNEDY. I understand we have a 40-minute limitation on this amendment, 20 minutes to each side. We will try to yield back some of that time.

I would like to suggest the absence of a quorum on my time until I call Senator Bayh.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. JAVITS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 308

Mr. JAVITS. Mr. President, I ask unanimous consent that the amendment proposed by the Senator from Massachusetts may be temporarily set aside and may follow the amendment which I shall propose.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, I have assured the Senator from Massachusetts that mine will be very brief. It has been thoroughly debated. I send the amendment to the desk on behalf of myself, Senator Ribicoff, Senator Pell, Senator Humphrey, Senator Magnuson, Senator Durkin, and Senator Church, and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from New York (Mr. Javits), for himself and others, proposes an unprinted amendment numbered 308.

Mr. JAVITS. Mr. President, I ask that further reading be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 333, after line 12, insert the following new section:

Sec. . Donations of Works of Art by Artists to Charitable Organizations

(a) In General.—Subpart A of part IV of subchapter A of chapter 1 (relating to credits allowable) is amended by inserting immediately before section 45 the following new section:

"Sec. 44E. Certain Contributions of Literary, Musical, or Artistic Compositions.

"(a) General Rule.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 30 percent of the fair market value of a literary, musical, or artistic composition created by the personal efforts of that individual and contributed by that individual to an organization described in section 501(c)(3) which is exempt from tax under section 501(a).

"(b) Limitations.—

"(1) Income from literary, musical, or artistic composition. The amount of the credit allowed by subsection (a) for the taxable year may not exceed the amount of tax under this chapter attributable to the gross income of the individual for the taxable year attributable to the sale of literary, musical, or artistic compositions in that taxable year and in previous taxable years.

"(2) Amount of credit.—The amount of the credit allowed under subsection (a) to the taxpayer for the taxable year, after the application of paragraph (1), shall not exceed the greater of—

"(A) so much of the taxpayer's liability for tax under this chapter for the taxable year as does not exceed $2,500, or

"(B) 50 percent of the taxpayer's liability for tax under this chapter for the taxable year.

(3) Credit denied for certain letters, memoranda, or similar property.—The credit allowed by subsection (a) shall not be allowed for the contribution of a letter, memorandum, or similar property which was written, prepared, or produced by or for the individual while he held an office under the government of the United States or of any State or political subdivision thereof if the writing, preparation, or production of such property was related to, or arose out of, the performance of the duties of such office.

"(4) Limitation on Contributions.—No credit shall be allowed under subsection (a) for any literary, artistic, or musical composition to the extent that the total of such compositions contributed by such individual for the taxable year to organizations described in section 501(c)(3) exceeds $35,000.

"(c) Certification Required.—No credit is allowable under subsection (a) for the contribution of a literary, musical, or artistic composition by the taxpayer unless the taxpayer receives from the donee a written statement that the donated property represents material of artistic, musical, literary, or historical significance and that the use of such property by the donee will be related to the purpose or function constituting the basis for its exemption under section 501 (or, in the case of a governmental unit, to any purpose or function described in section 170(c)(2)(B)).

"(d) Carryover of Excess Credit.—If the amount of the credit determined under subsection (a) for any taxable year exceeds the limitations provided by subsections (b)(2) and (b)(4) for the taxable year, the excess shall be added to the amount allowable as a credit under subsection (a) for the succeeding taxable year.".

(b) Denial of Deduction.—Section 170(e) (relating to certain contributions of ordinary income and capital gain property) is amended by inserting at the end thereof the following—

"(3) Denial of deduction for certain contributions of literary, musical, or artistic compositions.—No deduction shall be allowed under this section for any contribution for which a credit is claimed under section 44E."

(c) Conforming Amendments.—

(1) The table of sections for such subpart A is amended by inserting immediately before the item relating to section 45 the following:

"Sec. 44E. Credit for Donations by Artists of Works of Art to Charitable Organizations."

(2) Section 42(b) (relating to the taxable income credit) is amended by striking out "and" at the end of paragraph (4), by inserting "and" at the end of paragraph (5), and by inserting after paragraph (5) the following new paragraph:

"(6) section 44E (relating to donations by artists of works of art to charitable organizations).".

(3) Section 55(c)(2)(B) (relating to imposition of minimum tax) is amended by striking out "and" at the end of clause (x), by striking out the period at the end of clause (xi) and inserting in lieu thereof a comma and the word "and", and by adding at the end thereof the following new clause:

"(xii) section 44E (relating to credit for donations by artists of works of art to charitable organizations)."

(d) Effective Date.—The amendments made by this section apply to taxable years beginning after December 31, 1976.

Mr. JAVITS. Mr. President, it will be remembered that this amendment was very extensively debated by me, Senator Long, Senator Allen, Senator Haskell, Senator Tower, and other Senators, on July 22. Just so that it may all be together, I ask unanimous consent that the total debate be printed in the Record.

The PRESIDING OFFICER. Without objection, it is so ordered.

The material ordered to be printed in the Record is as follows:

Mr. Javits. Mr. President, this amendment is presented on my behalf and on behalf of Senators Ribicoff, Pell, Humphrey, Magnuson, Durkin, and Church.

Mr. President, there is not a great deal of money involved in this amendment, but it does involve a very important result for the museums, the libraries, and the universities of the United States. That is why I have spent a rather considerable amount of time in developing the factual background.

The amendment seeks to make it possible for artists and others who are responsible for original works in the field of arts and letters, to make gifts of their own work to nonprofit institutions, to wit, museums, libraries, and universities, and to have a tax deduction from income. It is not a question of deducting from taxes paid. An artist could deduct from income the value of their work up to the amount of $25,000 per year, or the gross income to the taxpayer for that year attributable to the sale of his work, but not exceeding $25,000, with a carry forward in the event the work is more valuable.

Mr. President, the basic reason for the amendment is that the universities, libraries, and museums of the country are suffering from an existing provision of law which dates from 1969. Before 1969, the law was indeed just general and broad. If an artist gave his work to a museum, whatever was the value of that work was a gift, just like any other gift.

At that time, the tax code was amended so that the artist was deprived of that opportunity. All a painter could deduct was the cost of his canvas and paint. But the collector was not deprived of that opportunity. If he were a buyer of art and the value appreciated—let us say he bought a painting for $500 and it became worth $50,000—he could give that to a museum and get a full $50,000 charitable deduction, and he can do that today. So the law discriminated as between the man or woman who did the work and the person who acquired such a work, even if he acquired it from that very same artist.

Another anomaly in the law was if that artist died and his estate had to be valued for tax purposes, his estate had to pay an estate tax on the full value, not on the value of the paint and the canvas but on the full value.

These are the anomalies which the 1969 law introduced.

There is not much involved, as I said. The estimate of the Treasury Department on my bill is about $5 million a year. It is an order of magnitude that, obviously, they cannot calculate exactly. It is about $5 million a year. That estimate comes from the Treasury Department experts. But the consequences of this proposal of the American people are very great. Let me just describe to my colleagues what has happened.

The museums have suffered a drastic diminution of gifts from artists, particularly those who have done contemoprary work within this very same period from 1969 until today. I believe most of my colleagues have heard from museums precisely for that reason.

Let me give an example of the New York City Museum of Modern Act, one of the great museums of the country. During the 2-year period, 1968–69, the New York City Museum of Modern Art received 125 donations by artists of their own works. In the 4-year period, 1972–75, the museum received only 28 donations. In the critical and very valuable field of painting and sculpture, the reduction was from 42 works of art received in 1968 and 1969, to only one received in 1972–75.

The artists feel very strongly about this as evidenced from a very interesting point. The National Endowment on the Arts, which we established, and I am very proud to have been one of its initiators, wrote a letter to Senator Long on April 29, 1976, stating these very considerations which I have described, and many others.

I ask unanimous consent that that letter may be printed in the Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

April 29, 1976.

Hon. Russell B. Long,
Chairman, Committee on Finance, U.S. Senate, Washington, D.C.

Dear Mr. Chairman: The National Endowment for the Arts strongly recommends favorable consideration of S. 1435, the bill pending before your Committee which relates to the tax consequences of charitable contributions by creative artists and others of literary, musical, and artistic compositions, and similar property.

The bill under consideration would enable an artist to deduct from his adjusted gross income 75 percent of the fair market value of his works which he contributes to nonprofit institutions. Such legislation would restore part of the deduction available to creative artists prior to passage of the Tax Reform Act of 1969. (Of course, the Endowment would prefer to see the full deduction, i.e., 100 percent of the work's fair market value, restored.) The restoration of this deduction, far from being a windfall to individual artists is, in our view, an essential measure which must be taken in order to rectify the inequities existing under present law.

As you know, certain tax benefits attend the transfer, sale, or contribution of a capital assets. Under the Tax Reform Act of 1969, however, Section 1221 of the Internal Revenue Code of 1954 was amended to exclude from the definition of a capital assets (and therefore from the tax advantages) a copyright, literary, musical or artistic composition, a letter or memorandum, or similar property when any of the above are in the hands of the taxpayer whose personal effects created the property. Thus, in accordance with Section 170(e) of the Internal Revenue Code, when a taxpayer-creator donates one of his works to a non-profit institution, the allowable deduction is computed by reducing the fair market value of the work by the amount of the appreciation of such property. As a result, the artist may deduct from his adjusted gross income only the cost of the materials utilized to create the work. However, in the hands of a collector or one who procures a work of art from the creator the work is characterized as a capital asset and the collector who contributes the same work to a non-profit institution enjoys the benefits of deducting a portion of the fair market value of the work from his adjusted gross income.

The pending legislation, by affording the creative artist the same benefits as the purchaser/collector, would rectify the inequities which exist under the present law. The present distinction in the tax benefits available to donors of creative works based upon the donor's status as either a purchaser and collector on the one hand, or, on the other, a creative artist, is, in our view, contrary to the basic concept of equal treatment under the law. In any case, once the work is received by the donee/non-profit institution it is considered a capital asset regardless of the status of the donor. Therefore, we believe that the law as presently written could be viewed as having an unconstitutional taint in that it creates two classes of donors and applies to each separate and unequal treatment without justification.

The arbitrary treatment of the creative artist continues to affect the artist's estate after his death. Ironically (and unfairly), while he is entitled to deduct only the value of the utilized materials in cases of charitable contributions of his works during his lifetime, all works which become part of a artist's estate are taxed, for estate tax purposes, at 100 percent of their fair market value. As a result, under present law, an artist is faced with the undesirable alternative on the one hand, of selling, donating (without the attendant tax benefits), or otherwise transferring his works during his lifetime, or, on the other, subjecting his family to estate tax liability for the full fair market value of the creative works which become part of his estate.

Further, another adverse consequence of present law is a reported substantial reduction in donations of creative works to nonprofit institutions, such as museums, universities and libraries subsequent to passage of the 1969 Act.

By conferring on creative artists equitable tax treatment with respect to the donation of their works during their lifetime, S. 1435 would help to rectify the above described problems in a manner consistent with the nation's growing support and encouragement of the Arts, as manifested in the National Foundation on the Arts and the Humanities Act of 1965, as amended. Any adverse effect on the Federal Treasury caused by restoration of the deduction previously available to creative artists for the donation of their works would, in our view, be more than compensated for by the salutary benefits to this nation's artistic community, its cultural institutions, and the massive public audience they serve.

For the above stated reasons, the National Endowment for the Arts strongly recommends favorable consideration of the bill now being studied. Such legislation is necessary in order to restore equality of treatment for our nation's artists and authors under our tax laws, and should provide the incentive for the contribution of more of their valuable works of art and literature to our libraries, universities, and museums, thereby enriching to a significant extent the cultural life of the nation.

The Office of Manageemnt and Budget has informed us that there is no objection to the submission of this report, although the Administration has not yet established a position as to the merits of this proposed legislation.

Sincerely,

Nancy Hanks,
Chairman.
Jamie Wyeth.

Mr. Javits. That letter protested very seriously both the diminution of the work moving to artists and the discrimination against artists as compared to collectors or other people who buy art. That letter was signed not only by Nancy Hanks, the chairman, but by a prominent member of the National Council of the Arts, Jamie Wyeth, one of our leading artists. Artists have been here to talk to Members of the Senate respecting the deep feeling which exists concerning this matter.

I do not feel this is the kind of thing that is a matter of deep opposition—and I hope it is not—or anybody getting passionate about it. I hope it will be evaluated in terms of its meaning to the culture of the country.

One of the points which has been made to me relates to the valuation which may be put on a work of art which is, under this amendment if it becomes law, gifted to a museum. Of course, before 1969 we had very serious trouble with the question of valuation. That was one of the reasons for the 1969 law which tightened up on philanthropic and charitable matters all along the line except, I think, in this case. It really was retrogessive; it backtracked on itself.

But valuation was a problem. Now the Department of the Treasury advises me that very material progress has been made in the matter of valuation, and an Art Advisory Panel of a very high order has been developed to advise the IRS commissioner, I have a list of the members, and it is certainly one of the premier lists in this country. The panel meets 3 times a year, and does the evaluation under the general supervision and jurisdiction of a representative of the Treasury Department.

I have before me a charter for the Art Advisory Panel of the Commissioner of Internal Revenue, which lists the work which they do, and which is dated March 3, 1975. Included in the list of those on the art advisory panel, for example, is Adelyn Breeskin, the curator of the National Collection of Fine Arts, and a whole list, from Kansas City, New York, Cleveland, Washington, Boston, Los Angeles, Toledo, Ohio, of curators and directors of the leading museums of art in the United States.

I am assured by the Treasury Department itself that they are perfectly satisfied that the question of valuation is now very tightly handled, and that we need have no worry on that score. To me, this is a very major point advocating my amendment.

One other very interesting point which should especially interest us as Members of Congress is that not only the museums around the country have suffered from this dearth—and as I say, I think probably most Members have heard from museums on this subject—but the Library of Congress has suffered from it, because the Library itself collects literary, artistic, and musical donations in the way of original manuscripts and scores.

I ask unanimous consent that the charter and the membership list for the Art Advisory Panel of the Commissioner of Internal Revenue to which I referred be printed in the Record at this point.

There being no objection, the charter was ordered to be printed in the Record, as follows:

The Art Advisory Panel of the Commissioner of Internal Revenue

This Charter is prepared and filed in accordance with the provisions of the Federal Advisory Committee Act, Public Law 92–463, enacted October 6, 1972.

A. *Official Title*. The Committee's official designation is: The Art Advisory Panel of the Commissioner of Internal Revenue.

B. *Objectives and Scope*. The Committee's objectives and scope of its activity are: to assist the Internal Revenue Service by reviewing and evaluating the acceptability of property appraisals submitted by taxpayers in support of the fair market value claimed on works of art involved in Federal Income, Estate, or Gift taxes in accordance with sections 170, 2031, and 2512 of the Internal Revenue Code of 1954. This activity is based on the authority to administer the Internal Revenue law conferred upon the Secretary of the Treasury by section 7801 of the Code and delegated to the Commissioner of Internal Revenue.

C. *Time Period*. The period of time necessary for the Committee to carry out its purpose is indeterminate as the need recurs regularly during the audit of Federal Income, Estate and Gift tax returns. Two-day Panel meetings have been held three times a year since 1968.

D. *Reporting*. The agency or official to whom the Committee reports is the Commissioner of Internal Revenue.

E. *Support Service*. The agency responsible for providing the necessary support for the Committee is the Internal Revenue Service.

F. *Duties*. A description of the duties, all of which are solely advisory, for which the Committee is responsible follows:

1. Prior to a meeting of the Panel, each panelist independently examines copies of photography of the works of art and reviews the text of appraisal reports secured and submitted by the taxpayer in support of his claimed valuation. The panelists are not told the identity of the taxpayer, or of his appraiser, or the tax consequences of adjusting the valuation up or down.

2. At the Panel meeting each member is invited to express his opinion as to the acceptability of the claimed valuation. In the event a panelist disagrees with the taxpayer's valuation, the panelist may state his estimate of value and his reasoning.

This reasoning may include such matters as, challenging the authenticity of the claimed artistic attribution, citing sales prices of comparable works of art, introducing other expert opinions, and reassessing the work's condition, historic importance, or aesthetic qualities. Sometime experts are identified for needed further studies or for possible use as government witnesses in event of litigation. In some circumstances, a panelist might serve as such a witness. Discussion on each appraised item continues until a consensus of value is reached. The consensus of value is announced as the official advisory conclusion by the chairman of the Panel who moderates the discussions. This full time IRS employee, who specializes in the appraisal of personal property, then so informs the IRS director of the district from which the case was referred.

G. *Annual Operating Costs*. The estimated annual operating cost in dollars and man-years is as follows: Since panelists are not paid for their time or services, the major operating costs consist of reimbursing the panelists for their travel and lodging expenses for three two-day meetings in Washington, D.C. each year. This amounts to approximately $6,000. One man-year of regular employee staffing is required to administer the Panel and to handle the preparation and follow though on the approximately 750 art appraisals reviewed annually by the Panel.

H. *Number and Frequency of Meetings*. The estimated number and frequency of committee meetings are: three two-day meetings each year.

I. *Termination Date*. The services of the Committee are expected to be needed for two year's. Unless formally continued, the termination date will be two years from the filing date.

J. *Filing Date*. The date of filing of this Charter is March 3, 1975.

Art Advisory Panel of the Commissioner of the Internal Revenue

PRESENT MEMBERS—1976

Mrs. Adelyn D. Breeskin, Curator, Twentieth Century Paintings and Sculpture, National Collection of Fine Arts, Smithsonian Institution, Washington, D.C.

Mr. Ralph T. Coe, Assistant Director and Curator of Paintings and Sculpture, William Rockhill Nelson Gallery of Art, Kansas City, Missouri.

Mr. Everett Fahy, Director, Frick Collection, New York, New York.

Mr. Stephen Hahn, Owner, Director, Stephen Hahn Gallery, New York, New York.

Mr. Edward B. Henning, Curator of Contemporary Art, Cleveland Museum of Art, Cleveland, Ohio.

Mr. Sidney Janis, Owner, Sidney Janis Gallery, New York, N.Y.

Mr. James Maroney, Jr., Associate, Hirschl & Adler Galleries, New York, New York.

Mr. Thomas Kesser, Director, Guggenheim Museum, New York, New York.

Dr. John Seymour Thacher, Director (Ret.), The Dumbarton Oaks Research Library and Collection, Washington, D.C.

Mr. Maurice Tuchman, Senior Curator, Los Angeles County Museum of Art, Los Angeles, California.

Mr. Robert C. Vose, Jr., President, Vose Galleries, Boston, Massachusetts.

Mr. Otto Wittman, Director, Toledo Museum of Art, Toledo, Ohio.

Mr. JAVITS. The Manuscript Division of the Library of Congress reports the following. They say:

Prior to the enactment of the Tax Reform Act of 1969, the Manuscript Division received an average of 15 to 20 new manuscript gifts each year from authors and musicial composers. The following table illustrates the gifts to the Library of Congress in this field:

Calendar year 1968	20
Calendar year 1969	17
Calendar year 1975	2
Calendar year 1976 to date	3

This is similar to the comparison I made for the Museum of Modern Art in the city of New York.

I ask unanimous consent that the report be printed in the Record.

There being no objection, the report was ordered to be printed in the Record, as follows:

Donations by artists of their own works of art to the Museum of Modern Art

Year, number of artists, and number of works of art:

PAINTING AND SCULPTURE		
1967	2	10
1968	1	1
1969	17	41
1972	1	1
1973	0	0
1974	0	0
1975	0	0
DRAWINGS		
1968	5	31
1969	8	23
1972	2	4
1973	2	6
1974	2	3
1975	0	0
PRINTS		
1968	7	12
1969	6	17
1972	2	2
1973	5	7
1974	3	5

Mr. JAVITS. This clearly illustrates that the very, very drastic fall off in donations is attributed to this particular change in law made in 1969. Also, the Music Division of the Library of Congress reports as follows:

"It is estimated that some 35 well-known composers have ceased making gifts to the Library of Congress, including Samuel Barbour, Aaron Copland, and Walter Piston."

Likewise, the Prints and Photographs Division of the Library of Congress reports that a number of leading artists have ceased donating their original works to the Library of Congress since 1969. Mr. President, this is simply a way of demonstrating the results since 1969. The facts speak for themselves.

Who will be benefited and who will be hurt if we pass this particular measure? As I said, the order of magnitude is very small: $5 million a year. The National Endowment for the Arts, for example, will give grants to museums for acquisition. That is Federal taxpayers' money. And yet, when it comes to facilitating the giving by the artist of his own work, we seem to be holding back. Would we rather pay for it with taxpayers' money? That is what it comes down to, especially with the very tightened up procedure regarding valuation which I have just described.

The other people who pay for it are students. Students are very much interested, and the letter from the National Endowment on the Arts, which, by the way, is very current—it is dated April 28, 1976—makes that very clear.

Students are apparently very much interested, Mr. President, from what these artists say—and the Endowment experts certainly ought to know what they are talking about—in the sketches and other preliminary works which go into the development of a major work of art. This is the very thing that the artists will not give on the present basis, but would be very much interested in giving on the basis of some ability to at least get the value of the gifts applied on their art-related income.

Again I emphasize that any deduction they receive must be from any income earned from their particular art; otherwise they do not get it, and with the limit that I have described, $25,000 a year.

Mr. Tower. Mr. President, will the Senator yield?

Mr. Javits. I am glad to yield.

Mr. Tower. I think what concerns some is that someone could go out and get a phony appraisal, and get a big tax writeoff. Is there any assurance in the Senator's amendment that it would be an honest, professional appraisal, reflecting the true value?

Mr. Javits. There is no question about it. Not only do we make clear that it is a true value, but the Internal Revenue Service is satisfied, as I stated before the Senator came in, that it has tight procedures for an accurate valuation. The Commissioner of Internal Revenue has a panel which passes on these items in three meetings every year, composed of some of the most distinguished artists and directors of museums in the United States, and gives them an airtight valuation.

Mr. Tower. I might say I think the amendment of the Senator from New York is eminently sensible and reasonable. Based upon the figures he has cited. I hope it will reverse the trend toward the diminution of the donation of these works by their original authors or composers. So I hope the amendment of the Senator from New York will be agreed to.

Mr. Javits. I appreciate that very much, Senator Tower. I think it is great that the distinguished Senator from Texas feels as he does.

Mr. President, the other point that I wish to emphasize on the tax point, which has been made to me and which I think is very important to answer—because, as I say, I have no feeling of strident opposition about this amendment. It is something really in the general public interest. My point is to respond to the charge that the artist has not earned the money he has used to acquire the work of art.

Mr. President, neither has the stock investor who bought stock at $2 a share, if it is worth $50 when he gives it away. He gets the tax benefit in the full $50. He even gets the benefit for donating a property that is fully depreciated. If he gives a property to a museum which is fully depreciated, he gets the full value, whatever it may be, as a charitable donation. And there are many other instances. Do we penalize an American who organizes a little company, puts in a thousand dollars, is able to borrow a million, pays back the million, and then finds his thousand worth a million?

Do we say, "Oh, that is too bad. He didn't actually go out and spend money for it"?

We do no such thing. So I really do not think that argument is a fair one. With the fact that the artist can go out and sell his work, and indeed he goes, but instead of selling it he gives it to a museum, why should he not even have the benefit of a philanthropic deduction like everyone else? The facts are that donations have dried up in a very real way the source of gifts for museums and libraries. As I pointed out a minute ago, it is happening even the Library of Congress, not withstanding the great public spirit which is involved in that particular library.

Mr. President, for the moment I shall yield the floor because I wish very much to hear what the manager of the bill might think about this particular amendment.

Mr. Long. Mr. President, much as I love art, I love the Government more. At least I love the solvency of this Government more.

From a theoretical point of view this is exactly the same loophole that we closed with the Nixon papers problem in the 1969 Tax Reform Act.

Now, it involves a thing of value on which a person has paid no tax. When he gives this thing of value away and takes what we call the charitable deduction for giving away something on which he has paid no tax, as was the case with the Nixon papers, it amounts to what a tax purist would call a double deduction, what he gave away were tax-free earnings of the same value. Suppose we are talking in terms of capital property worth $25,000. If he had earned $25,000 and then he gave the $25,000 to charity, from the tax point of view it would then be a wash; he would owe the money on the $25,000 income, but he would be entitled to a deduction for the $25,000 he gave away, so he would be even.

But if this is an artist with $25,000 or more of income from his paintings, this contribution is something that this artist has painted on which he has paid no tax for the income and will pay no tax under the amendment, then when he proceeds to give it away he gets a $25,000 deduction against his painting income. For that person or one of those very fortunate people who finds himself in the 70-percent tax bracket, that would then cost the Government $17,500 for this person to give away something that is worth $25,000.

Suppose the Government, on the other hand, thought the painting was worth the Government buying it, and the Government just bought it from him for what it is worth, the same $25,000. He would then pay the Government $17,500 in taxes, and the Government would be $10,000 better off to buy it and give it to the museum than for him to give it himself. So, really, if one wanted to save the Government money, one would say:

"Rather than give the thing to a museum, how about letting Uncle Sam buy the thing from you, set yourself a price and we will buy it; we shall donate it for you."

The Government would make a fortune that way compared to what it would cost to do it this way.

There was a time when these charitable gifts amounted to a double deduction. A person could make a lot of money by giving something of value away. He could make more money giving some thing of value away than he could by keeping it. He could make more money by giving something of value away than by selling and taking a capital gain out of it. That was because there were circumstances in the law where he could find a way to deduct it twice. Obviously, one cannot give something away even against a 70-percent tax bracket. One cannot make money by giving it away if he only is deducting it one time because if it is worth $10 and he gives it away against a 70-percent bracket he has saved $7 but it has cost him a net of $3. But if he can deduct it two times he can make money. And that is what made some people so very charitable back in the days when they could have the double deduction. One would say, "Why do these rich men give all the stuff away?" Because they could deduct it twice.

When we first went to work in the Tax Reform Act of 1969 to try to close out loopholes, the biggest loophole we had to close was what is known as a charitable deduction. Twenty-three percent of people who reported gross adjusted income of $5 million or more paid no income tax because of the charitable deduction. And one would say, "Why are those men so charitable?" It was not because they were getting a deduction; it was because a lot of them were getting a double deduction. They were making a profit by giving money away or giving away things of value.

So when we permit one to give away something which is his but on which he has paid no tax and will pay no tax, under those circumstances it amounts to a double deduction.

That was the problem pertaining to the Nixon papers, and as everyone knows we passed a law to say that a Member of Congress cannot do that, a President cannot do that, nobody can do that; and President Nixon, as we know, suffered from that.

This, Mr. President, simply opens up that same problem all over again which was the biggest fiasco that ever occurred in the tax law. Some of the history of this thing absolutely would make one wonder how do these people in Congress do these things. And it is just exactly the opposite problem from that which was criticized by the Senator from Massachusetts where we drafted an amendment narrowly.

Where we drafted one broadly, there was one fine lady, a member of the Driscoll family who lived in Philadelphia. She joined a Catholic order as a nun. She had a lot of income coming to her. So some Member of Congress said it was not fair to make that lady pay taxes on income when she had taken a vow of poverty and dedicated everything she had to the Lord. So we then had a dedicated Member of Congress fight for a bill to relieve the burden of his constituent, who had taken this vow of poverty, and say she would not have to pay a tax on that income which she had dedicated to our Merciful Maker.

Then we go down the road a few years and then we find that 23 percent of the millionaires are paying no tax. They are taking advantage of a law that we passed for that nun who had dedicated everything she had to charity.

So, Mr. President, here we get started with the same kind of thing all over again, not in the name of religion this time, but in the name of art where they take a double deduction. The tax purists will just go up in smoke when they see an amendment of this sort offered by Members. From their point of view, here we go with double deductions again. And from my point of view, Mr. President, it does not upset me all that much, but it is something that those who served and worked with the Treasury and with the tax law down through the years, trying to fix it so everyone will pay some modicum of taxes of a reasonable nature, find themselves completely frustrated in having worked in that vineyard so long to see an amendment like this come in. Having closed an area of potential tax avoidance, they see it opened again.

Mr. Allen. Mr. President, will the Senator yield?

Mr. Long. I yield to the Senator from Alabama.

Mr. Allen. The Senator from New York justified, I believe, this amendment by saying that this deduction is open to the collector in whose hands the object may have appreciated greatly in value. I do not feel the answer would be to create another loophole just because there is a loophole there.

I wonder if the chairman, in view of the remarks of the distinguished Senator from New York, might not have the committee consider the advisability of closing the loophole where the collector is able to claim a deduction through appreciated value. I wonder if that could not be done possibly from the floor?

Mr. Kennedy. Mr. President, will the Senator yield?

Mr. Allen. I am asking the Senator from Louisiana, who has the floor.

Mr. Long. I would be happy to look into it, but of course I think that is a capital gains situation.

Mr. ALLEN. This art problem, is not a big avoidance area, I understand.

Mr. KENNEDY. If the Senator will yield, we tried to add that to the minimum tax in 1969. I offered such an amendment simply to include it in the minimum tax, and I think we get 14 votes for it.

Mr. ALLEN. To eliminate the collectors windfall?

Mr. KENNEDY. No; to include that part of appreciation as an inclusion in the provisions that would be included in the minimum tax.

Mr. ALLEN. The Senator may have had too many other provisions in there. If this would be offered separately, I think it would get a whole lot more votes.

Mr. KENNEDY. We offered it both as an inclusion in the minimum tax and separately. We did not get over 20 votes in either one. It does not mean it was not meritorious.

Mr. ALLEN. The Senator can offer it again.

Mr. LONG. In that case, one would owe a capital gains tax if he sold it. In this case, he would owe ordinary income. In one case, the difference would be a maximum of 35 percent tax that one would avoid paying, and in the other case it would be a difference of 70 percent.

One other thing is involved in this. The Treasury has tried to find some way of preventing even what is not a matter of double deduction but just a matter of preventing someone from taking advantage of the tax collector in this art field, and that involves this amendment. For example, someone buys a painting. About 5 or 10 years later, he gives it away. When he gives it away, he puts a value on it of about 10 times what he paid for it. He may give it to a museum or a hospital. Some people have run out of a market in muséums to give some of these things, and they give them to hospitals nowadays.

The interest of the receiver and the interest of the giver are not like the interests of the parties in the ordinary buying and selling situation. In the ordinary situation, the buyer is interested in making the price higher and the seller is interested in making the price lower. In this case, at least the receiver has no interest in keeping the value down. In the hope of getting a valuable gift, he is glad to go along with the idea of making it as valuable as possible.

So the Treasury sets up a committee to look at those art contributions and try to hold the value to what they think would be appropriate under the circumstances.

If you give something to a museum or a library and you are in the 70-percent bracket, you only save 70 cents on the dollar. But if you can give it away at an appraisal that is twice what the thing is worth, you would make a big profit on that out of Uncle Sam. So the Treasury has tightened up in this area.

That problem exists even with a hometown artist who gives something to the local museum. That also has the complication of a double deduction tied to it. You have the potential of the evaluation being high on one hand, and a double deduction on the other, and that gets down to a lovely tax gimmick. So for those in a high tax bracket, it could amount to a great degree of tax avoidance.

This opens up the potential of people who are gifted—and who undoubtedly will make a fine contribution to society—being among those taxpayers who pay no income tax. I, for one, having been on the committee for a while, feel somewhat sensitive about picking out one person who made a great deal of money and who pays no income tax. We open that potential with this amendment.

Mr. ALLEN. Mr. President, will the Senator yield?

Mr. LONG. I yield.

Mr. ALLEN. It seems that, under this proposal, a painter, toward the end of the year, might find that he had earned about $25,000 in selling paintings; and on the last day of the year he might paint something and give it away, with a $25,000 valuation, and offset his income.

Mr. LONG. That is exactly the point.

Mr. ALLEN. If he were a musician, he might have a song, a piece of sheet music, that perhaps had not been too much of a hit, and he might give that away and wipe out his tax liability. It would seem that a fellow might go on for years and years and never pay any taxes, or just pay it in script, more or less.

Mr. LONG. Yes, this also would apply to musical compositions.

It should be kept in mind that this was an area of tax abuse before the 1969 act because of the appreciation of value problems, even for one who sought it and then gave it.

Incidentally, that is still an area—the matter of buying and giving works of art—of tax avoidance. It is not the lush thing it was once was. If you take an area that is still a good tax avoidance area to begin with, a good tax shelter area, and then make it twice as sweet, one can see how that then opens the potential for all the painters and composers and artists and writers to come in a few years down the road. Then we are going to pull the tax returns and talk about how hard we work to see that somebody who makes a great deal of money pays some tax. Then here are 500 people who made more than $200,000 and paid no taxes. We are going to help these people donate a picture to a museum.

That is the sort of thing Congress thought it was doing for the Philadelphia nun. They started out thinking that she was not going to have to pay taxes on what she gave to the church, and it works out that it is the largest area of tax avoidance. That sets us out in the same area with a double deduction for those people. Technically, it is not a double deduction, but it works out the same way.

Mr. ALLEN. I believe the Senator pointed out that it would be cheaper for the Government to make grants under the Arts and Humanities Commission and have the artists pay their regular taxes, just as everybody else does. The Government would make money that way.

Mr. LONG. The Senator is correct.

As I said, applied to a painting valued at $25,000, if this amendment were adopted, the Government would save $10,000 by just buying it for what it is worth and hanging it in the Library of Congress or the Capitol.

The Government has no interest in paying more than the price—that is, more than anybody else would pay for it. If the museum wants it, it is not going to cost them a nickle to get it. They have every incentive to go along with fixing a high price. Then all they have to contend with is some artist who was appointed by the Government but who is sympathetic to the art fraternity and would like to see these paintings hanging in the museums around the country and in the hospitals and in the libraries.

If it is only worth half that much, half of what the Government or anyody else would have paid—and, therefore, what the Government theoretically would have paid—then it is an even more lush proposition; because if it is worth only $12,500, then it has cost the Government $17,500. If the fellow can get away with an appraisal at twice what anybody would pay for it, since he is giving it away, anyway, then it has cost the Government $17,500, and he has given away something that is worth $12,500.

Mr. ALLEN. I may have misunderstood the Senator from New York. I understood him to say that this deduction could carry on over into succeeding years. Is that correct?

Mr. LONG. The excess could carry over.

Mr. ALLEN. A fellow might make some contributions, and he would be getting the benefit of that for years to come, and it would help to wipe out his tax liabilities.

Mr. LONG. That is the case. There is a carryover in this.

From my point of view, I like to encourage art; I like to encourage the arts. It seems to me that perhaps we should do more than we are doing now. But I am sure that this would be overdoing it. At least, that is how I feel about it.

Mr. ALLEN. I thank the Senator.

Mr. JAVITS. Mr. President, this is an amazing place. We really stand the world on its head. We deal with a billion dollars, $2 billion, $3 billion, $50 billion, and it is all OK. Suddenly, we get very moral because it is artists and it involves $5 million. It is a big precedent and it is stirring up a witches' brew. Lord knows what it is going to do to this country. Even the chairman would have us believe that if the United States bought an art work, that would be cheaper than the tax deduction. For the life of me, I cannot understand how you figure that kind of mathematics. And the Treasury now certifies that it has an accurate and exact valuation procedure. Are they crooks, too? Someone thinks they are, because the whole argument is premised on the fact that they are going to get away with something—somebody is cheating, or somebody has been stubborned, or somebody has friends.

Mr. President, there are some arguments that cannot be answered except by an appeal to the normal commonsense of people. That is what this amendment is all about. The museums are starved for these works. There is a way to solve the problem. It is a reasonable way. It does not involve a great deal of money. That is why I proposed it.

I must say that to build upon that, this monstrous structure of cupidity and venality and fraud, getting away with things, is really pushing the thing way beyond any kind of reason.

Second, Mr. President, the argument about the Nixon papers is completely invalid here—nothing but a red herring across this legislation—because the amendment expressly states that anybody who is employed by the United States or any State or political subdivision cannot have the benefit of this particular section for anything that they have done or written in that employ.

Mr. President, really, I do not know that all this deserves quite the amount of heart which seemingly has to be put into anything that touches some peculiar and particular sensibility. Finally, Mr. President, if this same artist died and the work of art which we are talking about his giving were a part of his estate, his estate would be taxed to the full value, exactly what we are talking about in terms of a deduction.

As to the loopholes which were closed in 1969. I voted for them and I advocated them with the greatest of devotion. Sometimes, we go too far. In this particular case, we did. Experience indicated that we went far beyond where we should have gone.

All I am asking the Senate is, let us pull back a little bit in order to help our museums, our libraries, and our universities, period. That is what it is all about.

It is no big precedent, no big deal. It does not involve any great amount of money. We give this to any Member on the floor, in any appropriation bill, without blinking an eye, if he really asks for it. It is a very, very, helpful thing to highly desirable cultural institutions in the United States. That is the way I hope, very much, that the Senate will look at it.

Mr. LONG. Let me urge the Senator to take a pencil and write down these figures which I am going to give him. He may not realize their importance. Let us assume that there is no gimmick whatever in the appraisal. Let us assume that the appraisal is precisely correct. Let us assume that the man gives a picture worth $10,000 that he has painted. Let us assume that he has income from his painting of $10,000 or more, and that he has outside income from other sources, which puts him in a 70-percent bracket.

Mr. JAVITS. If the Senator will yield, we are not talking about a deduction from income from outside sources. This says only art-related income, nothing else, only what he earned out of that particular profession by selling works of art.

Mr. LONG. But if a person is in the business of painting, if painting is his business, then if you count his income from all sources, he could be in a 70-percent tax bracket. So, then let us assume that he gives a $10,000 picture and he is in a 70-percent bracket. That is an extreme case, but let us assume that for a moment.

Mr. PELL. If the Senator will yield for a question, how could a man be in a 70-percent bracket from earnings when 50 percent is the top bracket? He can only be in a 70-percent bracket from investment income.

Mr. LONG. If he has investment income as well as earnings, if he is in the painting business, he could be deducting this against a 70-percent tax bracket. So we assume that the appraiser is completely correct. This could presumably be worth a 70-percent deduction against a $10,000 item. That would be $7,000. Now, he would have saved $7,000 on taxes. If the Government bought the picture from him, he would owe the Government the $7,000 in taxes and he would have to pay it. The Government, having paid $10,000 to him and having possession of the picture, and having collected $7,000 in taxes from him, would find that the net cost to the Government of acquiring the picture was only $3,000. So here is something that this man can give and the cost to the Government, if he gives it to some museum or library, would be $7,000. It would only cost the Government a net of $3,000 to buy it and give it itself or, for that matter, buy it and keep it.

The Government could buy it and give it and it would only cost the Government $3,000. So the tax advantage would be so great that this man could make a very substantial saving, over and above what it would cost the Government. The saving to him would be more than twice what it would cost the Government for the Government to buy it and give it away or buy it and keep it. So this does open up the potential of a double deduction—that is, a transaction which works out the same as a double deduction, although not technically a double deduction, because he has achieved a deduction with regard to income on which no tax has yet been paid and will not be paid. By doing so, it amounts to a very substantial subsidy, far beyond that which the Government would be willing to do on any basis of outright expenditure. Therefore, Mr. President, I feel that the amendment should not be agreed to.

I ask for the yeas and nays on the amendment, Mr. President.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. PELL. Mr. President, I rise in support and to compliment the Senator from New York on his leadership on this amendment, the leadership he has shown in so many fields related to the arts and education.

I think what we should look at are the basic facts of the case as they are today. For example, if Renaissance Italy had a tax system like ours, it would have meant that Michelangelo could only have deducted the cement and the cost of the paint for the Sistine Chapel or the marble that went into the "Pieta" in St. Peter's Basilica; or Leonardo da Vinci could have deducted only the paint and the plaster that went into the "Last Supper," or Donatello the bronze in his magnificent equestrian statutes. Obviously, that would be ridiculous.

We come to more recent times and we see why it is ridiculous. It means that an artist who is dead or an artist whose works have been bought by somebody else can have his works deducted, but an artist who is alive and producing cannot deduct for his own works if he chooses to do so. With Picasso dead, his pictures will fetch whatever deduction is agreed to. But if Picassa were alive today and gave a painting to the Museum of Modern Art, he would not be permitted to deduct more than the cost of the canvas and the paint that is on it. By the same token, Jamie Wyeth, if he gave a painting today, could deduct nothing but the canvas and the paint. But if he gave that painting to Mr. Jones or Mr. Smith, then Mr. Jones or Mr. Smith could give it to a museum and deduct it at the full value and give him a gift and pay a gift tax on it. That would obviously be a way of skirting the law as it would stand today.

What we have here is a situation pretty similar to our own papers. We cannot deduct anything but the cost of the paper and the ink when we give our papers. But if we leave them to our estates, our estates can deduct whatever the agreed-on value is.

The possibility that the Treasury Department will be sympathetic toward any such giving is, I think, not justified when we look at the history of the Treasury Department-IRS judgments. Their judgments often seem stringent to the interests of a particular taxpayer. As a rule, the IRS people seem to look at gifts with a sharp, cold-eyed scrutiny, as indeed they should, to look after the interests of the taxpayers as a whole.

I hope that when we see the ridiculous situation that the amendments of 1969 pushed us into in this respect, where an artist can only give away the cost of the canvas and the paint, that we will correct this situation and that we will adopt this amendment. If we find it has been a little bit generous, generous for a good cause, we can tighten it up at another time and, I am sure, the panel the IRS sets up will do its own tightening.

I urge my colleagues to support this amendment.

Mr. RIBICOFF. Mr. President, I rise in support of the amendment that will restore a limited tax deduction to artists for donations of their own work to museums and other public institutions.

Today, an artist is only entitled to a deduction for out-of-pocket expenses when he donates his work to a museum, even though his contribution may be worth thousands of dollars at fair market value. Until 1969, donating artists were allowed a deduction for the full market price of their works.

A survey of 45 museums conducted last year showed that donations of works by living artists totaled $440,000 during the year before the deduction was all but eliminated. Last year, the same museums reported only $130,000 in similar donations.

Present law has denied the public access to contemporary art works of great significance by both well-known artists and new artists whose work the public has not yet had the opportunity to see. Because there are fewer donations of important works by living artists today than there were 5 years ago, our appreciation of the many new trends and directions of contemporary art has been dealt a serious blow. Our access to an important educational and cultural resource has been greatly limited by the cutback of the artist's tax deduction.

Since the change in the artist's tax deduction, the National Endowment for the Arts has tried to compensate for the drop-off in contributions by increasing grants to museums for contemporary art.

If the artist's tax deduction is reinstated, it is likely that these grants would taper off to the level of several years ago, when the deduction for fair market value was allowed.

So any revenue impact estimate should take into account not only the cost of the deduction itself, but also corresponding fluctuations in the level of grants for contemporary art provided by the National Endowment for the Arts.

By limiting the amount of the maximum deduction that an artist can claim for these donations to $25,000 of income earned on the sale of other works by the artist, it will again be customary for well-known artists to contribute major works to museums. To lesser known artists, availability of this tax deduction will provide an even greater incentive to contribute their works to museums.

Consequently, adoption and enactment of this amendment will lead to increased public access to major works of well-known artists and to greater public appreciation of talented new artists.

Mr. JAVITS. Mr. President, I believe we have very thoroughly explored this matter, probably more than really is required, and I am prepared to vote on it.

Mr. ALLEN. Mr. President, I am in the process of preparing an amendment to the amendment, and while it is being prepared I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. TOWER). The Clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. JAVITS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 236

Mr. ALLEN. Mr. President, I have an amendment at the desk and I ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

"The Senator from Alabama (Mr. ALLEN) proposes an unprinted amendment No. 236:

"On page 3 after line 13 add the following:

"'(7) No deduction shall be allowed under this section for the unrealized appreciation in literary, musical, or artistic compositions.'"

The PRESIDING OFFICER (Mr. THURMOND). The Senator from Alabama.

Mr. ALLEN. Mr. President, the amendment offered by the distinguished Senator from New York would create another loophole, or another tax expenditure, in the tax laws at a time when we are seeking to close loopholes, rather than open up new loopholes.

The distinguished Senator from New York, in offering his amendment, pointed out that when this loophole, which he is seeking to create again, was closed in 1969, it did not cover the situation where a collector or other owner of art, sculpture, or musical composition gives that to a charitable institution. He is able to count as a charitable gift not the cost to him of that item, but the supposed value of it at the time of the gift.

He pointed out that while that loophole was left, the loophole was closed as to the original artist making a contribution of a work of art, that he would not be allowed to claim the then valuation of his contribution.

So the amendment is offered to allow the original artist, musician, or sculptor, or any other type of artistry, to give his original production and to claim, as a charitable contribution, the value of that work of art. That valuation would be set and he would get credit for that even though he paid no tax on the unrealized appreciation in the value. It is limited to $25,000 in any 1 year, except that any unused portion of the contribution could be carried over for a 5-year period.

It would seem to me that this would open up a tremendous loophole and would enable some artists to avoid taxes ad infinitum, just to pay off in musical compositions, paints, etchings, or what have you.

The limit is $25,000 or the income from his own works created that year or in previous years, whichever should be less.

The amendment at the desk takes note of the distinguished Senator's argument that the collector or the secondary owner of a work of art is able to make a gift, claim the then value and get credit for the appreciated value without paying any tax. So the purpose of this amendment is to seek to close the loophole that now exists, and, at the same time, to prevent the creation of still another loophole by this amendment. In other words, it operates on the amendment of the Senator from New York and, at the same time, operates against the secondary owner in that he would not be able to claim any unrealized appreciation in the value of the gift.

Mr. President, the valuation that is sometimes put on a work of art does not necessarily bear too much resemblance to the market value. One can come a whole lot nearer getting an inflated appraisal for gift purposes than to go to a purchaser of that object and sell such object for cash.

This amendment would say that no deduction shall be allowed under this section for the unrealized appreciation in literary, musical, or artistic composition. That would diminish greatly the amount that the original owner could claim as the value of the gift and, at the same time, would prevent someone from buying a painting for $500 and some years later claiming it is worth $2,500. This does not allow any appreciation.

Mr. HASKELL. Will the Senator yield for a question?

Mr. ALLEN. Let me cover one more point. Well, I will yield.

Mr. HASKELL. First, I want to congratulate the Senator on his amendment. I want to ask a question merely to emphasize something the Senator said.

If I have a work of art, which I do not have, if there is not a ready applicant for that work of art and if I am going to give it to a museum or a museum wants it—I think the distinguished Senator from Louisiana mentioned this—there is really no reason for them to keep the value down. Would the Senator say that would be correct?

Mr. ALLEN. I certainly would.

Mr. HASKELL. For that reason, they would probably accommodate me and put the value almost wherever I wanted it. This, of course, would result in Uncle Sam, in effect, underwriting my tax liability.

Mr. ALLEN. I think that would certainly be a fair assumption from the facts.

Mr. HASKELL. I thank the Senator.

Mr. ALLEN. I am sure that 90 percent or more of the Senators from time to time as they have conducted their campaigns for office have pledged they are going to seek to close loopholes in the tax law. I would say at least 90 percent if not 95 percent have made that pledge. I think the Republican Party is going to say it is going to close loopholes; the Democratic Party in its platform I am sure—I have not bothered to read it, and I do not suppose anybody here in the Chamber has bothered—will say it favors closing tax loopholes. The amendment of the Senator from New York creates another loophole.

The amendment of the Senator from Alabama closes an existing loophole and, at the same time, will prevent the creation of still another loophole.

The amendment was prepared by the staff of the committee at my request. I can vouch for the expertise of the staff of the committee, expertise that we all recognize. This was not after consulting with the chairman but we all have access to the staff of the committee. The amendment was drawn at my suggestion to accomplish this purpose. I am assured by Dr. Woodworth that it will accomplish the purpose I have outlined.

Mr. PELL. Will the Senator yield for a question?

Mr. ALLEN. Yes.

Mr. PELL. Under the same logic of the Senator from Alabama, why should the loophole elimination be restricted excusively to unrealized appreciation in literary, musical or artistic composition? Why, under that same logic, should it not also include unrealized appreciation in securities and real estate?

Mr. ALLEN. I think it should. I think it would be well to have the Senator offer an amendment to that effect.

Mr. PELL. I have no intention of offering such an amendment.

Mr. ALLEN. The reason I did it was because I saw it in the language of the original amendment. I was trying to follow the language of the original amendment. That is the reason.

Mr. PELL. Since I intend to vote against the amendment, I would not seek to enlarge it at this time, but under that logic I would think the Senator from Alabama would have included them all.

Mr. ALLEN. I merely followed the language of the amendment itself, so it would not be too great a departure from the language of the original amendment.

The PRESIDING OFFICER. The Senator from Alabama will suspend.

The PRESIDING OFFICER. The pending question is the amendment of the Senator from New York. The Chair would observe that the amendment of the Senator from Alabama being in the third degree is therefore not in order.

Mr. JAVITS. Mr. President, may we have order?

I am prepared to vote, Mr. President.

The PRESIDING OFFICER. The yeas and nays have been ordered.

Mr. ALLEN. Mr. President, if the Chair will obtain order in the Senate——

The PRESIDING OFFICER. The Senate will be in order.

Mr. ALLEN. Mr. President, when the hour of 3 o'clock arrived, the Senator from Alabama had the floor, but under the previous order the veto message of the President on the military construction bill was to be considered, and the Senator from Alabama temporarily lost the floor.

At that time, there was pending the committee amendment to the tax bill, the Javits amendment, and then the amendment of the Senator from Alabama.

The Chair has correctly ruled that the amendment of the Senator from Alabama is not in order, which would leave us, then, discussing the Javits amendment.

I am glad we have a larger attendance than we had at 3 o'clock, because this is an important matter, and a matter that I would like to discuss.

The PRESIDING OFFICER. The Senate is not in order. The Senator from Alabama is entitled to be heard. The Chair solicits the cooperation of Senators.

The Senator may proceed.

Mr. ALLEN. Mr. President, the Javits amendment creates a loophole that was closed by the Senate in 1969. It reopens that loophole. It provides that an original artist of a musical, literary, or artistic composition can make a donation of that artistic work to a charitable organization and claim the appraised value of that composition as a charitable deduction, thus creating a loophole that was closed in 1969. Its limit would be $25,000, which could be carried over for a period of 5 years, or the limitation of the income of such artist on similar artistic compositions earned during that year, or whichever should be less; but if less, if he does not use up the entire contribution, then it could be carried over for 5 years.

The argument was made that the second owner of such a composition was not deprived of later making a charitable contribution and claiming the appreciated value of the artistic composition on his income tax returns as a charitable deduction, and the point was apparently made that since the secondary owner could do this, why not the original artist?

The Senator from Alabama offered an amendment that would prevent creating this loophole that was closed in 1969, and would also close the loophole having to do with the secondary owner, the collector, the purchaser from the original artist, as well as applying that same rule to the original artist. That was to be accomplished by seeking to add an amendment that "No deduction shall be allowed under this section"—which includes the new amendment and the old loophole—"for the unrealized appreciation in literary, musical, or artistic compositions"—the very thing that the Javits amendment refers to.

This amendment was drawn at my request by Larry Woodworth, the distinguished staff member for the Finance Committee, to accomplish this purpose.

The amendment which the Senator from Alabama has offered would prevent the creation of another loophole, and at the same time close an existing loophole, so it is a double-barreled amendment to prevent the creation of loopholes and closing an additional loophole.

Mr. President, inasmuch as the amendment of the Senator from Alabama has been held not to be in order, the same result could be accomplished if the amendment of the Senator from New York could be tabled, under a promise to reintroduce, then, the Javits amendment with the added amendment of the Senator from Alabama, which would prevent one loophole and close another. At the proper time, after the distinguished Senator from New York has had an opportunity to speak, the Senator from Alabama will follow that course, moving to lay on the table the Javits amendment, under a promise to reintroduce the Javits amendment as modified by the amendment that has been held now to be in the third degree.

That is what the Senator from Alabama will plan to do.

Mr. GOLDWATER. Mr. President, I have listened with a great deal of interest to the argument, particularly the viewpoint expressed by the Senator from Alabama.

This has always been a subject that has interested me. It is not generally known, but I engage in art and sell a little of my own once in a while.

I have never been able to understand why an artist, starting from scratch, has not been allowed to deduct a reasonable amount from his income tax for the appreciation of his art. Usually you have to wait 150 to 200 years to realize the full value of the art. But an artist creates a painting, a sculpture, a photograph, or anything of artistic value; he does it with his hands, he does it with his own initiative, on his own time. I will have to admit that the basic initial expenses are not high, but this art can appreciate, and it can appreciate very rapidly and to a very high value. Yet the artist is not allowed to have the benefits of the Internal Revenue Service, where they would apply to any other sale.

I am thinking, for example, if any one of us this afternoon bought a work of art, regardless of what we paid for it, within 5 years it might appreciate, say, 500 percent.

The artist gets no benefit from that at all, although it is accurately possible to tell what an artist's work is going to be worth in a year, 5 years, or 10 or 15 years under today's conditions. There are many people engaged in this field, appraisers, who can tell you the value of the art today, tomorrow, or 10 years or 15 years from now.

If we bought a piece of land at the same time this afternoon, and it appreciated 500 percent in 5 years, we could sell that land and take our tax benefits from it. So I am not able to understand this argument opposing the artist's benefiting from the Internal Revenue law.

I have called the attention of my colleagues to an unusual thing that happened just about 2 weeks ago, or it might have been 3. One of America's most talented artists, a boy of Mexican extraction named Ted DeGrazia—he and I went to school together, and he has become one of the most popular artists in the West.

When he found that he could not take any benefits from taxation at all by deduction of expenses, and so forth, he took about 200 of his paintings out in the desert, piled them up, and burned them.

Nobody knows which paintings he burned. But we had an estimate on those 200 paintings of well over $30,000. Since that time to prevent him from doing this again, because he is that kind of a man, a foundation has been set up that will enable him to benefit during his life from his work, not create a work of art from nothing at practically no expense, sell it at $5,000 to $15,000 and have to pay the full tax on it and not benefit at all where others in other businesses would benefit.

Talking to the Senator from Alabama, who speaks about people who give art and make deductions, I might say if it were not for this source, we would not have many art galleries in America.

Mr. **Ribicoff**. Mr. President, will the Senator yield at that point?

Mr. **Goldwater**. I yield.

Mr. **Ribicoff**. I commend the Senator from Arizona for his comments.

Is it not true that if we look at the entire history of civilization, cultures and people are judged by the universality of their art?

Mr. **Goldwater**. That is correct.

Mr. **Ribicoff**. That is true, whether it is music, sculpture, or painting. And the value of these paintings, a symbolism of how a nation progresses, is symbolized by the art.

Some people think that art museums of all kinds are only found in major cities. I know in my own State of Connecticut, whether it be Hartford, Bridgeport, New Haven, or New Britain, practically every town of any size has an art museum, and children go there to learn and understand the cultures of other civilizations and their own.

I am sure that in the State of Arizona, in Tucson and Phoenix, there are art museums where thousands and thousands of people go.

I cannot understand why, if an artist creates a painting worth $5,000, and sells that painting to Mr. Jones, and Mr. Jones contributes that painting to an art museum, he can take a charitable deduction, but on the same day if that same artist gives that painting worth $5,000 to the same art museum, he cannot take an art deduction.

This is something of value. This is a great talent, and we should nurture this talent. Are we not in the position, by denying these artists of the opportunity to give these paintings, of beggaring thousands of people and hundreds of museums in every one of our States?

Out of curiosity to try to determine that, I found in 1969 before the deduction went out a survey was made of 45 museums of this country and they received donations of works by living artists totaling $440,000. Last year the same museums reported only $130,000 in similar donations. This is ironic.

The National Endowment for Arts which has been founded by this Congress and for which we make appropriations, in fiscal 1970 contributed $100,000 to museums to compensate them for the drop off of works being contributed by artists. In 1976, the National Endowment of Arts made grants of $560,000.

Would it not be better, instead of us appropriating money to allow the purchase of these paintings, if we allowed those artists to make those contributions?

I think this is one of the great problems we have. It is not only a question of the great artists of antiquity, the great artists of 100 years ago, 20 years ago, or 50 years ago. Should we not be encouraging contemporary artists? Should we not be encouraging the young men and women with talent, the men and women who are on their way up in painting, sculpture, or music, to assure them that we want their works exhibited, to let them know that we appreciate their talents, that we want art museums?

I understand there are some 2,000 museums in the United States. So, this is not only major cities. Here we are taking such a short-sighted point of view, when we are are not talking about huge sums of money, but what we are trying to do is say we are going to encourage the advancement of art.

I saw, I think, on the 60 Minutes show the situation of that Arizona Mexican artists burning those paintings. I saw the frustration of the man the Senator was talking about, when he considered the lack of appreciation by this Nation of his creativity. I thought as I saw those paintings go up in smoke how poorer we are in this Nation that we do not have the talent and the art of this man displayed in museums of our country.

I hope that we do not take a narrow point of view, but that we realize where a nation's wealth is really centered. It is not only in machinery. It is not only in crops. It is not only in goods. But it is in the artistic talents of our people. I would hope that the time never comes that we shunt aside and say that America disowns the talent of its people.

I commend the Senator from Arizona for the point of view he is making.

Mr. **Goldwater**. I thank my friend from Connecticut. I point out that because of the great interest of a large number of people in buying works of art and providing these works for museums and for universities—I might say, it would be interesting to know what the total value of the art in the University of Alabama is that has been given to the University of Alabama.

In fact, that would go for every university represented in this Chamber. But the fact that we have been doing this on an increased scale since World War II has caused many young artists to, in effect, blossom out. I know Western art is becoming very popular, very valuable, probably in some cases overvalued. But it has created a whole new school of young men and young women who are able to sit down and paint or sculpt and know that they can get at least their time back where the artist of old could not do that.

Mr. **Ribicoff**. What is interesting is that we are depriving the public domain in the increased value of this art.

I read with great interest this latest book on the Rockefeller family. It was pointing out how the brother who was president of the Chase Manhattan Bank started to buy modern work of art to display in the bank, and many of the directors complained that he was wasting the bank's money on the art. He stated that probably the future would show that the best investments the Chase Manhattan Bank had ever made were the paintings that he purchased, and the author started to point out the increase in value of these paintings.

I have noticed with great interest now when I go through the major corporations of America, my own insurance companies in Hartford, and other corporations that I have been through, I see the works of art on the walls. And in talking to these hardheaded tough bankers, insurance executives, and businessmen they laugh, they appreciate the art, but they point out the increase in the value of the art over a short span of years from the time they purchased it.

So if an artist gives a painting to the University of Alabama museum, the University of Connecticut museum or the University of Arizona museum and takes a tax deduction of $5,000—if he had sold this to John Jones for $5,000 and in 5 years it would increase to $25,000, that value would be to the individual—the museums at the University of Connecticut, the University of Arizona, or the University of Alabama would be the beneficiary of this incretion. I think it is so short-sighted for us to try to cut off this practice that we did cut out in 1969, and now we are triying to say that we want to encourage our artists. It is really so short-sighted and we are short-changing thousands of museums throughout our Nation and depriving millions and millions of Americans in every town in this Nation from the opportunity to be encouraged and nurtured by art.

Mr. **Goldwater**. I reiterate the point that the Senator made earlier, and that is the perpetuation of culture. It is the perpetuation of civilization. It is the perpetuation of man's ideas.

We in Arizona have had our lives influenced more by the Indian and the Spaniard and the Mexican than by any other source.

Second, we look upon collections from those sources as being of extreme value. We do not want our young people to grow up thinking that all that beauty we have inherited from these different peoples just happened to be there.

I can say this, inasmuch as I have been associated intimately with museums all my life: If we did not have the people of wealth and the companies of wealth to buy good paintings and good works of art to give, the young children would never know what a work of art resembled; or, even more important, they would not be able to understand, say, the Renaissance period, which is most difficult for a person born in Arizona to understand. They can understand the Alamo and Davey Crockett a lot better. But the chance that our young people have to benefit because of the generosity of people in the Rockefeller class or below the Rockefeller class cannot be added up.

The Senator spoke about a big bank. Our two biggest banks in Arizona have the two biggest private art collections in the State, and they make no bones about it. That is the most valuable thing they own.

Mr. **Ribicoff**. With respect to the Renaissance, what is ironic is that the great princes and kings and queens subsidized the great artists of the time. They were court artists. Whether they were musicians or sculptors or painters, they lived at the court, and they were subsidized. The great art that they created was part of the great value and asset of these countries. But we do not subsidize artists here. We do not put them on the payroll. We have a democracy, so we do not have a king who subsidizes artists out of the exchequer.

What we are saying is that, for the small amount of a tax deduction, we should treat the artist the way we would treat anybody else who gives a work of art. We are making it possible to encourage the talent we have in America. We, as a Nation, cannot afford to throw away or neglect or deride this talent.

I hope we will look at this matter in a broad-gaged way, because man, indeed, does not live by bread alone, and I think the Senate understands that. I do not want to see the Senate take the position that we are a body of know-nothings, with no appreciation for other things in life which the artist has to give to American society.

Mr. GOLDWATER. I thank the Senator for what he has said.

I merely want to repeat that I rose to support the amendment of my friend from New York. We might not agree on every little thing, but in this field I think we generally agree.

I would hate to see the Senate take the shortsighted position that has been offered by the Senator from Alabama, in which we say, in effect, "Let us go backward." I know that the great items of art I have seen in this wonderful State are things that his people cherish, just as my people cherish the wonderful things we have.

Mr. HUMPHREY. Mr. President, will the Senator yield?

Mr. LONG. I yield.

Mr. HUMPHREY. Mr. President, I commend the Senator from Arizona and the Senator from Connecticut for the very fine argument they have presented here today against the amendment that has been proposed, which would deny any deductions for the unrealized appreciation of literary, musical, and artistic compositions. I think the case has been well made.

I thought, with what was said here, that an entrepreneur purchases a piece of art from an artist and holds that piece of art and gives it as a gift, it is a deductible item. But if the artist who creates the piece of art, whether it is music, literature, sculpture, or a painting, where a value is placed upon it, makes the contribution himself, it is not deductible. I do not think it makes any sense from an economic point of view.

On both counts, I think it is bad policy.

We need to be using the tax laws of this country to give some respect and recognition to the people in the fields of art.

The Senator from Arizona said it well: Civilizations will be judged not so much by their machines as they will by their culture and basically by their arts.

Mr. ALLEN. Mr. President, will the Senator yield?

Mr. HUMPHREY. I yield.

Mr. ALLEN. My amendment takes care of the very situation about which the Senator is talking. It does prevent the unrealized appreciation of value of the secondary holder the Senator is talking about from having a deduction. We are not only trying to prevent the opening of this loophole which was closed back in 1969, but also, we are seeking to close the loophole that presently exists for the secondary owner the Senator is talking about. We have covered that situation.

We have made some progress in this country, and we continue to make it, and it need not be just in the great metropolitan centers, as has been indicated by this discussion. Universities, colleges, and small museums spread across this land could benefit greatly if there were in the tax laws some regard for the contribution and the talent of our artists.

I hope and pray that the position which has been held by the Senator from Arizona will be sustained here. I hope that in our desire for what we call a short run, plugging a so-called loophole, we do not actually destroy what has started in this country—namely, some very commendable progress in the arts field. We have made great strides. Thank goodness for the Arts Council for the Humanities. Thank goodness for what we have done for many of our great cities by private philanthropy. This is a way we can help more of our communities than have been helped thus far.

I thank the Senator from Arizona for his statesmanlike presentation. He has done a great service for the people in America who have never had a chance to be recognized by their Government and by the policies of this Government in their contributions as artists in the American society.

Mr. GOLDWATER. I thank my friend.

Mr. LONG. Mr. President, what I object to about the Javits amendment is that a person, by giving a work of art which he painted, if he is in a high tax bracket, makes twice as much as he does by selling it. I object to seeing Uncle Sam being taken for a ride on a double deduction.

We had a lot of conversation about people giving, and what we discovered down through the years was that people were able to deduct it twice. And we closed that loophole in this charitable contribution area.

I always thought that when someone gave something, there should be a little of himself in what he gave.

Incidentally, this was the No. 1 reason why millionaires were not paying income tax. They would give something of appreciated value, and they would not pay the tax on the appreciation. When they gave something that appreciated in value, in view of the fact that the appreciation had not been taxed to begin with and they were able to deduct the present day value, that amounted to a double deduction.

One can understand that if you are just deducting twice, even if you are in a 70 percent bracket, you are still giving the other 30 percent. So one would worship at the shrine of this fine, lovely man: "Look at what he did for charity. Look at what he did for the church. He gave this million-dollar object, even though it only cost him 30 percent." But if he can deduct twice, we can look at this wonderful citizen and say, "He gave us a million dollars, and he only made a $400,000 profit out of it."

We closed that loophole, which is being reopened here. It reminds me, Mr. President, of that story they told back in World War II when they had cost-plus contracts and they had a 90-percent tax rate. Three men sat down for a few rounds of cocktails down at the Mayflower Lounge. When the tab came around, one of them said, "Let me have it, I am a 90-percent tax bracket. It won't cost anything but 10 percent.

The second man said, "No, let me have it." He said, "I am on an expense account. It won't cost me nothing."

And the other man said, "No, let me have it." He said, "I am on a cost-plus contract, I will make a 10-percent profit out of this."

So as long as you have a 70-percent tax bracket to contend with and double deduction, a person can make a 20-percent profit by giving something away.

In this case, let us take the minimum it would provide on a maximum tax rate. You start out with a man with a 70-percent tax rate. He gives his own work of art, worth $25,000. Let us assume the appraisal is exactly right, not one penny missing on the appraisal.

Mr. JAVITS. Will the Senator yield for a factual correction?

Mr. LONG. Yes, I yield.

Mr. JAVITS. He has been using the 70-percent figure constantly. Is it not a fact that the deduction can only be at a 50-percent rate at the most, because this is earned income by the artist from his own artwork?

Mr. LONG. No, because he can have other investment income and wind up under a 70-percent tax bracket.

Mr. JAVITS. He cannot under the terms of this amendment.

Mr. LONG. Yes, he can, because there is nothing that can keep him from having other investment income. They way it works out——

Mr. JAVITS. He cannot deduct it from investment income, only art-earned income.

Mr. LONG. He can deduct it from earned income. All he has to have is $25,000 of earned income.

Mr. JAVITS. That is simply, flatly untrue. The amendment says the earned income from his art work.

Mr. LONG. I say to the Senator, I know it says that and that is all I am saying. If he has $25,000 of earned income from the art work, if that is all the income he had, then he would be at a tax bracket of 50 percent. I understand that. But if he has other investment income, he can very well be running his income up above $100,000. If he is single, he can well be in a 70-percent tax bracket.

So let's look at the top bracket, at a 70-percent rate. Then, if he gives this away, in view of the fact that this is what would otherwise be income and he had paid no tax on it, that is, he pays no tax on the income he would have made on it. He has had a $17,500 tax saving at the expense of Uncle Sam.

Suppose he sold it to somebody for $25,000. After taxes, he would have $7,500 left. But by giving it to somebody, he has a tax saving against other taxes he would pay of $17,500.

Mr. HUMPHREY. Will the Senator yield?

Mr. LONG. So he winds up two and a half times better off, at the expense of Uncle Sam, than he would have been if he had sold it to somebody.

Mr. HUMPHREY. Will the Senator yield?

Mr. LONG. Yes.

Mr. HUMPHREY. Will the Senator mind telling us how many artists he has in mind that have all this unearned income? Most artists I have met are poorer than church mice and wander around in sandals, not because of a life style but because they have not much more. I would be interested in knowing who these people all are. Rembrandt is dead. Picasso is gone. The folks that I know out my way who are artists are poorer than some of the folks who are trying to farm on dry land. I just do not know where they got all that other income.

Mr. HASKELL. Will the Senator yield?

Mr. LONG. Those of them who are not very successful would not care, because it would not make much difference if they were in a 14-percent tax bracket. It would not mean anything. They would not be giving it away, they would be selling it to make the money. It is only those in a substantial tax bracket who are interested in it.

Mr. HUMPHREY. Not always. I say to the Senator. I think that is true—

Mr. LONG. Only 99 percent of us.

Mr. HUMPHREY. There may be need of some safeguards, but it is my judgment—I am not one of the arty types. I do not know all about all this. But I have been around the Minnesota Institute of Fine Arts. I have been over to the Walker Art Gallery. I ran the art program for the Government back in the WPA days. I was manager of the music projects and of the arts project. May I say they did a lot of good for this country, the best thing that ever happened for this country, and the Government of the United States paid for it.

Mr. LONG. Does the Senator want to make this such a lush loophole that for a person in the top tax bracket, it would be twice as cheap for the Government to buy the thing as it would to let the man give it away? As it is right now, the Government would be twice as well off. It would cost the Government $17,500 for the man to use this gimmick who is in the top bracket—those are the people who want this. If he is in the top bracket, it would cost the Government $17,500 for him to give it away. If the Government bought the picture, it would not cost the Government but $7,500. It would cost the Government twice to give it away what it would to buy the picture.

Mr. HASKELL. Will the Senator yield?

Mr. LONG. I yield.

Mr. HASKELL. I say to the Senator from Louisiana that this has been portrayed as in aid of the arts. I find that very difficult to follow, because assuming a work of art is, in fact, worth what the appraisal says, quite obviously, the individual could sell it. I fail to see how this will cause more pictures to be painted, more songs to be written, or more plays or novels to be written because, if they are worth what they are going to be given away at, they can be sold.

This has been portrayed here as helping the arts. I submit that all it is going to do is help that very tiny fraction of the artists who are, in fact, very wealthy people. The Senator from Louisiana has demonstrated how, under the amendment of the Senator from New York, an individual can make more money by giving it away than by selling it. But that does not mean he is going to paint more pictures.

Mr. LONG. That is right.

The mathematics are this: Assuming the appraisal is honest and exactly correct, which is not a safe assumption at all, because it might be twice what it should be, but assuming it is correct, that it is exactly right, then, if the artist is in a 50-percent bracket or less—if his tax bracket is less than 50 percent, he is better off selling it, and that is what he is going to do. If he is in a tax bracket above 50 percent, he makes money giving it away rather than selling it.

Mr. HASKELL. So I would think that this cannot possibly help create works of art. It is not a cultural benefit; it is merely a benefit to a very few who are in a very high tax bracket to get more take-home pay.

Mr. LONG. That is about the size of it, and frankly, let me say, gentlemen, this thing of giving away works of art and this thing of giving away paintings, giving away various things, has become such an expanded loophole, just on the appreciated value alone, not to mention what the Senator from Alabama is talking about—just the area on appreciation of value is becoming such a gimmick already that they are running out of museums to give the stuff to and they are looking for hospitals. Next they will be looking for motels to put the stuff on display so as to claim the benefit of this.

This type of thing is such that if we want to help the budding artist, the guy who is trying to make it and work his way up, it would be a lot cheaper for the Government just to buy the stuff. That way the little fellow who is trying to make it can be helped. The fellow in the 50 percent bracket is not likely to quit anyhow.

Mr. MAGNUSON. Will the Senator yield?

Mr. LONG. Yes.

Mr. MAGNUSON. The Senator keeps talking about the Government buying paintings.

Mr. LONG. It would be cheaper.

Mr. MAGNUSON. But who is going to distribute them? Where are they going to go?

Mr. LONG. Embassies abroad.

Mr. MAGNUSON. There is not a good restaurant in New Orleans that has not some fine art, and it is up there for sale. The Senator talks a great deal about people in the 50- and 70-percent bracket. I will guarantee that of the thousands of artists in the United States, there would not be 2 percent that are in the 50-percent tax bracket.

Mr. LONG. Assuming that the appraisal is correct, this thing will not help any artist unless he is in a 50-percent tax bracket or better.

So we have got to have at least a 50-percent tax benefit if he is to benefit from it, unless he is chiseling on the appraisal, which is a distinct possibility.

Mr. MAGNUSON. He could be in a lower bracket, and it would be helpful.

Mr. LONG. Assuming the price is right, if he is in a lower bracket, he would be better off selling it; he would be better off after taxes selling it.

Mr. MAGNUSON. That is the Senator's figure. That is not correct, I think.

Mr. LONG. That is not my figure but a figure worked out by the joint committee and everybody else.

I would challenge the Senator to show where a man in a bracket below 50 percent would be better off by giving it away than selling it.

This brings us to the old problem we had many years ago where these rich people would give this stuff away and talk about what a wonderful thing they were doing, that the Pearly Gates would open up wide when they show up there.

We showed that it did not cost them anything to give it away. They made a 40-percent profit.

Mr. MAGNUSON. Mr. President, will the Senator yield further for one question?

Mr. LONG. Yes.

Mr. MAGNUSON. I understand the amendment of the Senator from New York, and those who spoke for it, is to help the original painter. I have no objection, none of us have, if some very wealthy person, and those are the people who sell to museums, they are the ones, and if they are abusing some sort of a loophole, to close it. But what we are talking about moneywise here in the Treausry is a comparatively very small amount.

I am thinking about the person who paints, who himself paints. I am tempted to vote "present" on this amendment. I do not know whether I am the only one in the Senate, but I have several good paintings, and I do not know just what to do with them now. After listening to the Senator from Louisiana, I do not know whether to burn them up. I do not think that the cultural world will be more deficient if I do it, but there are a lot of young artists, and they grow, and they do not have much income, they never do, and I think we are discouraging them.

Suppose we do subsidize these people a little taxwise. Every great form of art in the world, all the great pictures, the great sculptures, the great plays have all been subsidized by whatever government there was, whether it be a monarchy or whether it be a form of republic, and they still do. They subsidize them.

Mr. LONG. When you make the Government, in effect, enter into an arrangement without the Government's consent where, in effect, after taxes the Government has paid the man $2\frac{1}{2}$ times what he could sell it for to NELSON ROCKEFELLER. That is really taking the Government into pretty different situations.

Mr. MAGNUSON. I cannot imagine a situation as the Senator says there.

Mr. LONG. Let us just compare it to a simple case of earned income. Suppose a man is in the 70-percent tax bracket.

Mr. MAGNUSON. But they do not have any earned income.

Mr. LONG. Then they would not benefit. All right.

Mr. MAGNUSON. That is right. Then they would not benefit.

Mr. LONG. If a person has income, if a person finds himself in a 70-percent tax bracket, and that person finds $100,000 of additional income, now, if he pays the tax on the income, which would be $70,000, and then he gives it away, he gets a deduction worth $70,000, and that is how it is supposed to be.

But if he makes $100,000, and before he pays any tax he gives it away, and he gets a $70,000 savings against taxes by Uncle Sam, then his after-tax figure is $70,000 made on Uncle Sam by way of taxes. If he had gone ahead and kept the income and paid the tax he would have $30,000 after taxes. So he is $1\frac{1}{3}$ times better off by virtue of giving away something of value which would otherwise be income than he would be by paying the tax on the income and then giving it away.

So when one gets the benefit of the deduction on something where he has not paid the tax to begin with, that is what they call a double deduction, and by doing it that way, he is twice as well off, if he is in a high tax bracket, than he would be if he had sold the thing and paid the tax.

Mr. JAVITS. Mr. President, I shall just take 2 minutes because really I am deeply disheartened by this debate. We are talking at the outside, by the Treasury's own estimate, of $5 million a year, their very outside estimate.

Senator Ribicoff just gave some very interesting figures showing that the total gifts to the museums, which are the principal beneficiaries, are estimated to be approximately $500,000.

So we are not dealing with any very material proposition. It is easy enough to try to damn something with the word "loophole." But, my friends, does the word "loophole" fit in our mouths when we look at oil and gas and 1 million other things in these tax laws, including charitable deductions as a whole? Why are they not loopholes? Everything described here applies to all sorts of charitable deductions. They are a loophole, too. If a man buys a share of stock and it costs him $10, and 10 years later it is worth $20,000, and he makes a gift to a hospital, he gets a $20,000 deduction.

Let us look at what the present parliamentary situation is. Senator Allen wishes to table this amendment. Whether he tables it or not, he is going to give us an amendment which will really sink every art institution in the country, to wit, not only will the artist not be able to contribute his original work bu the people who normally contribute the great works to museums—and now you are talking about tens of millions of dollars, you are not talking about the $550,000—they too are going to be wiped out by this amendment.

So, as I say, that is pretty disheartening when you balloon something into that size.

The factual situation is uncontroverted. Museums did get important gifts from artists themselves. Those gifts have dried up, and an effort is being made to revive the practice because it is considered to be highly useful in the public interest. The artists themselves want it this way. They think this will be a real inducement for what they wish to do. You have the best evidence of that, which is the letter of the National Endowment of the Arts signed by most of the members of its council, the leading name being Jamie Wyeth, who is himself one of the leading artists in the country. Artists have been lobbying down here, as Members know. This is because they feel this will produce a flow of art to the museums.

Finally, we are asked to pass the amendment here. The principal conferee in respect of the Senate is going to be Senator Long himself. My colleagues, I know Senator Long very well. I have served with him a long time. I can guarantee you that whether his figures are right or wrong, when, as and if this amendment comes back to the Senate, no artist will be able to collect more for making the gift than for selling this art.

The last point, and then I am really through, is that when artists give, they give young, when art is new and, therefore, when prices are low, the appraisal will be low. There is no challenge here to the fact that the IRS now has been thoroughly and effectively equipped for honest appraisals. They have an arts panel of leading museum directors of the country—and they themselves say that, it is not anything that I have invented—which is an established unit of business, which meets three times a year for 2 days, and appraises everything. So there is no getting away with valuations.

The encouragement is to an artist to give early rather than to sell or hold until such time as his art does appreciate into astronomical figures. That is the kind of thing we want to encourage.

Other than those factors, I think my colleagues from Connecticut, Minnesota, and

Washington, and certainly Senator Goldwater, have made the whole argument.

Mr. LONG. Mr. President, will the Senator yield?

Mr. JAVITS. Yes.

Mr. LONG. The Senator says he is confident that if it went to conference and the Senator from Louisiana was one of the conferees that he was sure it would not come back in such a fashion that a person would make more money by giving it away than by selling it.

If the Senator will find a way to modify that amendment—or I will be glad to work with him, if I can—if we can find a way to modify that amendment to where he will make the same thing by giving it away than he would by selling it, so far as I am concerned, I would take the amendment by looking at it. But that is not what the amendment will do, and that is why I oppose it.

Mr. JAVITS. I will rely on the Senator from Louisiana in conference because the Senator knows, as I do, having been around here a long time, if we pull this thing up now we are going to have the same go-around.

So, I am ready to accept——

Mr. LONG. If the Senator would modify that amendment, or change it so it works as he just described it, as far as I am concerned I would be happy to go along with the amendment, but not as he has it now.

Mr. JAVITS. Mr. President, as I say, the Senator and I both have been around for a long time.

The Senator from Alabama intends to move to table. As far as I am concerned——

Mr. RIBICOFF. If the Senator will yield, I would not reject the generous offer of the chairman of the Finance Committee. I would rather take my chances on his accepting the amendment than in fighting the Senator's amendment.

I suggest, since this tax bill is going to be around for another 2 or 3 weeks, that with his offer, this amendment be temporarily laid aside, that those of us who are interested call upon the same able counsel, as a member of the Finance Committee I guess I am entitled to use this, as the distinguished Senator from Louisiana, and see if we cannot come up with an amendment to achieve what the Senator from Louisiana suggests, because it is not my intention that someone makes money on the gift.

Mr. JAVITS. Nor mine.

Mr. RIBICOFF. The artist that makes his contribution, as indicated by the distinguished Senator from Washington, is usually in his young years. These gifts of his paintings are not just being made for money. It is being made for recognition and pride.

Many of these artists would take pride in their paintings hanging in their home town museums, for children and people, their townspeople, to view them.

As the Senator says, they are generally given at a younger year. Their appraisals at that time are relatively low, as to what they will be at a later date.

These curators of museums all over the country are knowledgeable and sophisticated. They are not going to downgrade the quality of their museum by taking unworthy works of art. If this is not a worthy work of art, they will not accept it. They will only accept it if it is worthy to hang in that museum.

I think I understand what the Senator, the chairman, is talking about. He wants to make sure somebody in the 70 percent bracket does not make money.

I think language can be drawn to assure that he does not make an undue profit.

Mr. JAVITS. If the Senator will yield to me, I like his suggestion but for one deficiency.

Our chairman is quite a passionate man and he has argued very deeply against the basic principle of this amendment.

He is a gentleman, and I have kept my word with him. I am sure he will keep his with me. If he tells me that, OK that is over, he will accept the basic principle of trying to encourage the artist through some form of reasonable deduction, then I am willing to take the proposition the Senator from Connecticut mentions.

Mr. RIBICOFF. I say, the Senator may know the Senator from Louisiana well; I think I know him better, serving with him on the Finance Committee, and the one thing I know, the Senator from Louisiana does not harbor any grudge and he knows there are differences of opinion. We all have our points of view. He has made a proposition. Knowing the distinguished chairman of the Finance Committee, when he makes an offer, he will comply with it. He will live up to it.

I am willing to accept what he has proffered and I believe that we might have an opportunity to do so.

Now, the Senator from Alabama may not accept it. But when it comes to these matters, in all due respect to the Senator from Alabama, I will take the Senator from Louisiana on my side.

Mr. HUMPHREY. If the Senator will yield, I just urge that the proposition that has been proposed here by the distinguished Senator from Louisiana be accepted.

This amendment, as he explains it, does leave us with many difficulties. I do not think any of us should permit the factual presentation here to go unheeded.

The Senator from Louisiana said he wanted to work out something that was reasonable, that would not permit what we might call a ripoff in terms of tax deductions, and I believe in him. I believe he will do it.

I suggest to the able Senator from New York that he follow the suggestion of the Senator from Connecticut.

Mr. JAVITS. May I say to the Senator from Louisiana, if he adopts the formula Senator HUMPHREY just made, then if he does, I am willing.

Mr. ALLEN. Reserving the right to object, I would like to suggest that we are only covering one aspect of the question. The Senator from New York pointed out there is a big loophole here that allows the second owner to make a contribution and obtain the benefit of the unrealized appreciation in value. The amendment of the Senator from Alabama not only would prevent the opening of another loophole, it would at least partially close another loophole.

I would like the distinguished chairman of the committee to also consider the possibility of at least partly closing this other loophole on the secondary owner.

Mr. LONG. I do not know whether we can move in both directions. One amendment moves in one direction and the other moves in the other direction. I do not know that it is possible to move in two directions at the same time.

I understand the problem the Senator is talking about and it may very well be that something ought to be done about it.

As the Senator from Massachusetts suggested, such an amendment was proposed. It might have been a broader amendment than we have now, but it failed to carry.

I was disposed to vote for the Senator's amendment, especially suggested as a substitute to that of the Senator from New York, as I told the Senator. But I just do not know how I can move in both directions—one to encourage people in that area, and the other to discourage people in the other area.

I understand there are two different situations. One is that a person buys a painting, and the other is that a person paints a painting. But I am afraid that I would risk winding up being what most politicians are regarded as—and I may be myself, for that matter—a hypocrite if I proceeded to commit myself in both directions at the same time.

Just because I would like to be able to remain true to the commitments I make, I do not think I am able to make them in both directions at the same time.

But it is perfectly all right with me for the Senator to offer an amendment and we will dispose of it on its merits, once we dispose of this one.

Mr. JAVITS addressed the Chair.

Mr. LONG. But please understand, as far as I am concerned, what we are talking about is to modify this amendment so that a person would be no better off by donating his work of art than he would by selling it; I would be willing to go along with that.

That is all right with me. That is perfectly fine. But now, to go beyond that point, I would have some doubts.

Not to go very far beyond, but to go a long distance beyond, that I would have doubts about.

With regard to the other matter, that matter has been raised before and the Senate did not buy it—I think that was during the 1969 Tax Act. I find a lot of sympathy for the argument made by the Senator from Alabama, and I would like to reserve rights on that right now.

When this one has been disposed of, I think we could vote on that.

Mr. JAVITS. Mr. President, I ask unanimous consent to withdraw my amendment.

The PRESIDING OFFICER. Is there objection?

Mr. ALLEN. Reserving the right to object, I did not hear the request.

Mr. JAVITS. I asked unanimous consent to withdraw my amendment as the yeas and nays have been ordered and I need unanimous consent.

The PRESIDING OFFICER. Is there objection? The Chair hears none.

Without objection, it is so ordered.

Mr. JAVITS. At the end of that debate, Mr. President, I withdrew the amendment based upon the following statement by the manager of the bill:

> If the Senator will find a way to modify that amendment—or I will be glad to work with him, if I can—if we can find a way to modify that amendment to where he will make the same thing by giving it away that he would by selling it, so far as I am concerned, I would take the amendment by looking at it. But that is not what the amendment will do, and that is why I oppose it.

He then went on to say, just a line or two later:

> If the Senator would modify that amendment or change it so it works as he just described it, as far as I am concerned I would be happy to go along with the amendment, but not as he has it now.

Mr. President, the amendment at the desk, I believe, is now satisfactory to the manager of the bill. We worked it out after discussing it with the staff. It does the following:

It gives 30 percent of the fair market value deduction for artistic work against tax, as a credit against tax, not as a deduction from income. However, this credit is limited as follows: It is a credit against tax paid on an artist's income from his art work, nothing else.

Second, it cannot wipe out the taxpayer's liability if his tax is in excess of $2,500, since if his tax is in excess of $2,500, the credit may not exceed 50 percent of his tax liability.

Last, the aggregate of such gifts eligible for the credit in any year may not be more than $35,000.

It has a carry-forward provision, and I told the Senator from Alabama who raised the issue in respect to the carryforward, that I would be willing to limit that to 5 years. It is not actually in the amendment I have sent to the desk, because I wanted to hear from the Senator from Alabama.

Mr. ALLEN. I think the 5-year limitation feature would be desirable, because the amendment at the desk would let it go on ad infinitum, indefinitely. This limit of the 5-year carryover would improve the amendment. There are some questions, though, I would like to ask about it. Suppose we handle the modification at this time.

Mr. JAVITS. Mr. President, I ask unanimous consent that the name of the Senator from California (Mr. Cranston) be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, I send a modified version of the amendment to the desk, in accordance with the statement I have just made.

The PRESIDING OFFICER. The amendment will be so modified.

UP AMENDMENT NO. 309

Mr. Javits' amendment (UP 308, as modified) is as follows:

On page 333, after line 12, insert the following new section:

Sec. . Donations of Works of Art by Artists to Charitable Organizations.

(a) In General.—Subpart A of part IV of subchapter A of chapter 1 (relating to credits allowable) is amended by inserting immediately before section 45 the following new section:

"Sec. 44E. Certain Contributions of Literary, Musical, or Artistic Compositions.

"(a) General Rule.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 30 percent of the fair market value of a literary, musical, or artistic composition created by the personal efforts of that individual and contributed by that individual to an organization described in section 501(c)(3) which is exempt from tax under section 501(a).

"(b) Limitations.—

"(1) Income from literary, musical, or artistic composition.—The amount of the credit allowed by subsection (a) for the taxable year may not exceed the amount of tax under this chapter attributable to the gross income of the individual for the taxable year attributable to the sale of literary, musical, or artistic compositions in that taxable year and in previous taxable years.

"(2) Amount of credit.—The amount of the credit allowed under subsection (a) to the taxpayer for the taxable year, after the application of paragraph (1), shall not exceed the greater of—

"(A) so much of the taxpayer's liability for tax under this chapter for the taxable year as does not exceed $2,500, or

"(B) 50 percent of the taxpayer's liability for tax under this chapter for the taxable year.

"(3) Credit denied for certain letters, memoranda, or similar property.—The credit allowed by subsection (a) shall not be allowed for the contribution of a letter, memorandum, or similar property which was written, prepared, or produced by or for the individual while he held an office under the government of the United States or of any State or political subdivision therof if the writing, preparation, or production of such property was related to, or arose out of, the performance of the duties of such office.

"(4) Limitation of contributions.—No credit shall be allowed under subsection (a) for any literary, artistic, or musical composition to the extent that the total of such compositions contributed by such individual for the taxable year to organizations described in section 501(c)(3) exceeds $35,000.

"(c) Certification Required.—No credit is allowable under subsection (a) for the contribution of a literary, musical, or artistic composition by the taxpayer unless the taxpayer receives from the donee a written statement that the donated property represents material of artistic, musical, literary, or historical significance and that the use of such property by the donee will be related to the purpose or function constituting the basis for its exemption under section 501 (or, in the case of a governmental unit, to any purpose or function described in section 170(c)(2)(B)).

"(d) Carryover of Excess Credit.—If the amount of the credit determined under subsection (a) for any taxable year exceeds the limitations provided by subsections (b)(2) and (b)(4) for the taxable year, the excess shall be added to the amount allowable as a credit under subsection (a) for the next five succeeding taxable years to the extent it may be used in those years.".

(b) Denial of Deduction.—Section 170(e) (relating to certain contributions of ordinary income and capital gain property) is amended by inserting at the end thereof the following—

"(3) Denial of deduction for certain contributions of literary, musical, or artistic compositions.—No deduction shall be allowed under this section for any contribution for which a credit is claimed under section 44E."

(c) Conforming Amendments.—

(1) The table of sections for such subpart A is amended by inserting immediately before the item relating to section 45 the following:

"Sec. 44E. Credit for Donations by Artists of Works of Art to Charitable Organizations."

(2) Section 42(b) (relating to the taxable income credit) is amended by striking out "and" at the end of paragraph (4), by inserting "and" at the end of paragraph (5), and by inserting after paragraph (5) the following new paragraph:

"(6) section 44E (relating to donations by artists of works of art to charitable organizations),".

(3) Section 55(c)(2)(B) (relating to imposition of minimum tax) is amended by striking out "and" at the end of clause (x), by striking out the period at the end of clause (xi) and inserting in lieu thereof a comma and the word "and", and by adding at the end thereof the following new clause:

"(xii) section 44E (relating to credit for donations by artists of works of art to charitable organizations)."

(d) Effective Date.—The amendments made by this section apply to taxable years beginning after December 31, 1976.

Mr. ALLEN. Mr. President, I commend the distinguished Senator from New York on the change that he has made in the amendment, which does place certain very desirable limitations on the amount of the credit that can be allowed.

I would like to ask this question: This limitation applies only in the area of the original artist's contribution, is that correct?

Mr. JAVITS. That is exactly right. His own work.

Mr. ALLEN. It does not apply the same limitations to the second owner or the collector's contribution, is that correct?

Mr. JAVITS. It does not. In other words, a museum, if it then disposed of the work, would do so without the limitation.

Mr. ALLEN. Yes, but not only a museum; a wealthy collector or a purchaser from the artist would not be limited, is that correct?

Mr. JAVITS. The gift may not be made to other than a tax-free entity. Therefore, no collector could be the recipient of a gift.

Mr. ALLEN. I am not talking about the collectors being recipients. I am talking about the collector, on making the gift, being the recipient of the tax break.

Mr. JAVITS. No, that is not correct. The amendment will stand on its own as to the artist only.

Mr. ALLEN. The Senator will recall that the distinguished Senator from Colorado and I had an amendment that would apply also to the second owner, the purchaser from the artist or the musician or whatever. The amendment that we had at that time applied the same rule, which was that there would be no appreciation allowed either to the original artist or the purchaser from the artist. But this amendment does not seem to take that into account.

Mr. JAVITS. It does not deal with that subject at all. It will be recalled that the Record showed that Senator Long addressed himself to that, and felt that in all fairness, what we were doing here was seeking to stimulate gifts to museums, and that the problem of the collector was a subject that he was sympathetic to and would like to take up separately.

Mr. ALLEN. The $35,000 limitation would be the limitation on the gift that could be taken into account, but there is only a 30 percent tax credit of the $35,000, is that correct?

Mr. JAVITS. A maximum tax credit of $10,500 a year.

Mr. ALLEN. And the credit could not be in excess of 50 percent of the tax liability?

Mr. JAVITS. Exactly right.

Mr. ALLEN. In other words, he would have to pay half of his tax liabilities with hard cash and not scrip, is that right?

Mr. JAVITS. That is exactly correct.

Mr. ALLEN. Mr. President, I think that is a considerable improvement over the last amendment the Senator had. I think actually the same rule ought to be applied to the second owner that is applied to the original artist, but the Senator has improved his amendment so much I feel that it has become almost realistic, and I am going to offer no amendment about the applicability to the second owner.

Mr. JAVITS. I thank my colleague.

Mr. ALLEN. I do believe that the amendment has been improved a great deal, and I have no objection to it.

The PRESIDING OFFICER. The question is on agreeing to the amendment, as modified.

Mr. JAVITS. Mr. President, unless the Senator from Louisiana (Mr. Long) has some comment, I am ready for the question.

Mr. LONG. Mr. President, I think this is, as I have said for the record, a useful achievement. As far as I am concerned, the amendment achieves its purpose, and I am prepared to vote for it.

The PRESIDING OFFICER. Is all remaining time yielded back?

Mr. JAVITS. I yield back the remainder of my time.

Mr. LONG. I yield back the remainder of my time.

The PRESIDING OFFICER. All remaining time having been yielded back, the question is on agreeing to the amendment of the Senator from New York (Mr. JAVITS), as modified.

The amendment, as modified, was agreed to.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question now is on agreeing to the amendment of the Senator from Massachusetts (Mr. KENNEDY), with 20 minutes allotted to each side. Who yields time?

Mr. KENNEDY. Mr. President, I suggest the absence of a quorum, on my time.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, I understand that the measure which is before us is the amendment 2073 which is on behalf of myself and the Senator from Indiana, Senator BAYH. Is that correct?

The PRESIDING OFFICER. That is correct.

Mr. KENNEDY. And we had a 40-minute time limitation, is that correct, evenly divided? And how much time just remains by my part?

The PRESIDING OFFICER. Eleven minutes remains to the Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I will ask that there be a division of the amendment at the time of the expiration. I yield myself 4 minutes.

Very briefly, this amendment has three different elements to it.

The amendment would increase the 10 percent investment credit to 15 percent for a taxpayer's "net new investment." Net new investment is defined as the amount of investment that exceeds the taxpayer's average investment over the 3 preceding years. The 5 percent incremental credit would also be refundable—that is, taxpayers who qualify for the credit but who have little or no tax liability will be able to obtain a refund from the Treasury for the credit. The amendment provides revenues to pay for the incremental and refundable credit by repealing the asset depreciation range—ADR—system. It has virtually no revenue effect in 1977, loses revenues in 1978, and begins to gain revenues in 1979.

The 5 percent incremental credit and the repeal of ADR are effective in 1977; the 5 percent incremental credit is made refundable in 1978.

The purpose of the amendment is to provide an additional antirecession and anti-inflation incentive to businesses by rewarding firms that continue to grow. Under the amendment, a 5-percent bonus on the investment tax credit would be available to firms that exceed their prior growth record. The amendment will thereby help to prevent recessions by encouraging economic growth; it will also help to prevent inflation by encouraging the development of long-run capacity to reduce the bottlenecks and supply shortages that have plagued the economy in recent years and that have been a key factor in the recent double-digit inflation.

The major drawback of the current investment credit in the House and Senate bills is that it is no incentive at all for many firms. It is simply a tax windfall that rewards them for an investment they would be making anyway. By contrast, the advantage of an incremental credit is that it encourages firms to engage in greater growth.

The incremental credit is of special benefit to new businesses, small businesses, and growing businesses. By making the credit refundable, the incentive will be available to such businesses when it can do the most good—in their early years of growth, when lower initial expenses and early operating losses may result in little or no tax liability to be offset by the current credit. The refundable feature means that such businesses will be eligible for the credit immediately, without having to wait for future profits before they qualify for the tax incentives. In addition, the refundable feature will be of benefit to hospitals, colleges, universities, and other tax-exempt organizations, which often have large capital needs, but cannot use the credit because they have no tax liability under current law.

The Senate Finance Committee bill contains an amendment to DISC, already accepted by the Senate, that puts DISC on an incremental basis. An incremental investment credit would follow this precedent.

ADR, which would be repealed, permits a 20-percent reduction in the useful life of property, thereby allowing greater depreciation deductions based on the shorter useful life. ADR is unrelated to the various forms of accelerated depreciation, which allow deductions greater than straight line depreciation. Accelerated depreciation would not be affected by the amendment.

ADR was originally adopted in 1971 in controversial Treasury Department regulations. Later that year, by the narrow margin of two voters, ADR was approved by the Senate as part of the Revenue Act of 1971.

Economists generally agree that ADR is one of the most wasteful and inefficient methods for stimulating capital investment and capital formation, and that a properly structured investment credit can be significantly more efficient. A recent Library of Congress study found the following comparative effects of four different capital formation proposals. Each proposal involves an estimated revenue loss of $11 billion over the period of 1977–81. Per dollar of revenue loss, the incremental refundable credit is over three times more efficient than ADR in stimulating investment.

Proposal	Increased investment 1977–81 (billions)	Increased investment per dollar of revenue loss
1. Replace the current credit with an 18 percent incremental credit	$25.8	$2.30
2. Continue the current 10 percent credit, add a 5 percent incremental credit, make the credit refundable, and repeal ADR (proposed amendment)	13.4	1.20
3. Continue the current 10 percent credit	5.5	.49
4. Expand ADR to shorten the average useful life from the current 11.1 yr to 8.9 yr	3.9	.35

REVENUE EFFECTS OF AMENDMENTS

	1977	1978	1979	1980	1981
Incremental credit	−161	−968	−1,126	−1,204	−1,290
Repeal ADR	+189	+740	+3,359	+1,816	+2,160
Total	+28	−228	+233	+612	+870

Mr. President, in instance after instance we find examples where new firms are unable to take advantage of the investment tax credit, and this will permit either new firms, growing firms, small firms, or firms that had losses in an economic recession to take advantage of the investment tax credit because they otherwise would not be able to do so because they do not have a tax liability. Obviously if they do not have the tax liability, they would not be eligible to take advantage of the investment tax credit to reduce their taxes.

So, that is the thrust of that aspect of the amendment.

In order to pay for that particular proposal, Mr. President, we provide for repeal of ADR, the asset depreciation range. Therefore, there is no net cost of this amendment. As a matter of fact, over the future in the 3- to 4-year period of time it will be a revenue increase.

The most effective way of increasing capital investment is to replace current credit with pure incremental credit, which would have a very dramatic increase on investment.

The PRESIDING OFFICER (Mr. STONE). The time of the Senator has expired.

Mr. KENNEDY. I yield myself 2 additional minutes. But that would be a dramatic change in the whole approach to the investment credit.

Therefore, in the amendment which Senator BAYH and I support, we are providing for an increase of 5 percent in the credit for investment above the previous 3-year average. We are also making that 5 percent refundable, and we are paying for it with the repeal of ADR.

If Senators look at the chart as to the ADR, they will see, according to the Library of Congress, that this is by far the most inefficient way to raise new capital.

We think this amendment is a careful balance to encourage new, expanding, and competitive industries in this country; and it does so in a way which, over a period of years, will provide additional revenues to the Internal Revenue Code.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 5 minutes remaining.

Mr. KENNEDY. I should like to withhold it until we hear from the committee, and then I will yield it all to the Senator from Indiana.

Mr. LONG. Mr. President, the Senator's amendment would make very drastic changes in our system of taxation of income.

We have a whole structure of depreciation schedules and a variation of 20 percent allowed under those structures, which is accepted. It is the way business is done in the country. The business community understands it, and they have been doing business that way for a number of years. The Senator would repeal all that, and then we would substitute a refundable tax credit on an incremental basis.

Mr. President, we on the committee had considered suggesting that a tax credit be refundable when the 7-year period had expired. The Senator spoke against that proposition in such unfavorable and unkind tones that we decided to leave it out and settle for a first in, first out arrangement on tax credits. The Senator now comes in with his investment tax credit on a different basis.

I do not have any doubt that when we proceed to shift the taxes around so that one set of taxpayers pays a lot more taxes and somebody else pays a lot less taxes, the people who benefit from it do not remember it very long. They tend to feel that it should have been that way all the time, and the people who are paying the additional taxes resent it very bitterly.

This tax increase, by repealing the ADR, should not be voted at this time, 9 o'clock on a Wednesday night, without anyone being on notice, particularly in the business world, that anything of this sort was being considered by Congress.

Also, Mr. President, this refundable investment tax credit on an incremental basis creates further problems that nobody really expects at this time. The overall impact of the amendment would be to have a revenue cost of $133 million in 1977. In the long run, it would have a further adverse impact in 1978; and by 1979, it projects an increase in revenues, which would increase in years thereafter. But if we want to repeal the ADR, that is a matter that the business community should know about in advance, and they should know it is being considered seriously. They should be offered an opportunity to testify on that.

Mr. President, the Senator has asked for a division of his amendment. May I ask what part of it we would vote on first?

Mr. KENNEDY. The incremental credit first and the ADR second.

Mr. LONG. If the first part should be voted, we would then lose $322 million; and if the second part should not be voted, we would then, instead of losing $133 million, lose $322 million.

Mr. KENNEDY. The Senator can see from the revenue effects on the sheet what the losses and gains would be.

Quite clearly, it is the intention of the Senator from Indiana and myself that these be considered together, and I urge favorable consideration of both, but we are leaving that to the Senate.

The committee's refundable credit was refundable after 7 years. It seems to me that if you want it to help newer industries, smaller industries, growing industries, they need the money when thy are getting started, not 7 years down the road. That was basically the reason for my objection to the proposal made by the Finance Committee.

Mr. LONG. It seems to me that if we are going to vote on this amendment, we should vote on the repeal of ADR first, to see if we are going to pick up $189 million.

I ask unanimous consent that we vote on the ADR part of it first.

Mr. KENNEDY. I object, Mr. President.

The PRESIDING OFFICER. Objection is heard.

Mr. LONG. Mr. President, is it in order to move to table the amendment?

The PRESIDING OFFICER. As soon as all time is used up or yielded back, it would be in order. Is all time yielded back?

Mr. KENNEDY. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. KENNEDY. Would it be appropriate to table just the division or the whole amendment?

The PRESIDING OFFICER. The amendment has not yet been divided, so the motion to table the entire amendment would be in order.

Mr. KENNEDY. I think I asked in my opening remarks——

The PRESIDING OFFICER. The Senator said he intended to, but the Senator has not yet actually asked for a division.

Mr. KENNEDY. Mr. President, I yield time to the Senator from Indiana.

Mr. BAYH. Mr. President, the Senator from Indiana will not take the Senate's time at this hour to reiterate what my distinguished colleague from Massachusetts already has enunciated.

We need to look very quickly at the history of ADR—the first time in history we had a major multibillion dollar tax benefit given to a selected group of taxpayers, not by an Act of Congress, but by an Executive fiat approved by Richard Nixon. He did not come to Congress. He did not ask the legislative branch to weigh this. He just signed it into law through an abuse of the administrative process.

I had the good fortune to offer an amendment, back in 1971, to a tax law very similar to this and came within two votes of repealing ADR. At that time the distinguished chairman of the Finance Committee supported that amendment. I do not want to put words in his mouth, but I think he saw the injustice of the President ramming something like this down the throats of the average taxpayers and giving a particular write-off to a small, selected group of large businesses.

I have no objection to using the Tax Code to try to accomplish certain basic social purposes. I think that one of those purposes is a tax incentive to create modernization of industry, to stimulate the economy; but it seems to me that if we are going to create a tax incentive to benefit one group, we should get the maximum return on the investment for those who are not getting the benefit. Without going into great detail, I believe the Senator from Massachusetts pointed out that ADR does not get the maximum economic stimulus for each dollar given to those who benefit.

Mr. KENNEDY. Will the Senator yield for just a second?

Mr. BAYH. I am glad to yield.

Mr. KENNEDY. Will the Senator allow me to make the request for the division?

I ask for a division on the amendment.

The PRESIDING OFFICER. Does the Senator wish to specify the way in which the Senator wishes the amendment to be divided?

Mr. KENNEDY. The division is at the desk, Mr. President.

The PRESIDING OFFICER. In two parts?

Mr. KENNEDY. Yes; the Chair is correct.

I thank the Senator from Indiana.

Mr. BAYH. History will show, from a study prepared by the Brookings Institution, that when tax benefits are given through ADR, a greater percentage of those go to stockholder dividends than by the normal investment tax credit. The tax expenditure is not well directed. Investment tax credit, on the other hand, cannot be claimed unless they make new investment. For that reason, there is a much greater economic stimulus.

Of course, what we are doing in this amendment, which I find particularly novel, is saying, "We are going to give you 5 percent additional investment tax credit if you invest more next year and the year after than has been the case." And we are saying to those new businesses that are just getting started that, for this extra investment that they are making, we are going to give them a premium.

It seems to me, we accomplish two things here, Mr. President, in addition to providing tax equity. First of all, we create economic stimulus in a period where I think we are going to see the recovery tailing off, and provide jobs, not by creating public service jobs, but by giving a stimulus and incentive to the private sector to go out and make new capital expenditures and put people to work in the process.

Second, I think we are dealing with inflation. We are increasing production, modernizing our industry, increasing industrial capacity, making it more efficient, not only at home for what that means, but in competition abroad. I think the two are very compelling. That is why I am glad to support the Senator from Massachusetts in his amendment. I think it accomplishes a great deal.

Mr. KENNEDY. Mr. President, how much time remains?

The PRESIDING OFFICER. Less than a minute.

Mr. KENNEDY. Mr. President, the final point I make is that what we are attempting to do with this amendment is substitute an efficient way of stimulating new capital, as demonstrated very clearly in the Library of Congress study, for what is basically understood and conceded to be a most inefficient way; to do this not just for one industry, one particular segment of the economy, but to make it universal in terms of its application to every aspect of our own free, open, competitive system. That is what will be achieved with the acceptance of the Kennedy-Bayh amendment.

Mr. LONG. Mr. President, if this amendment is agreed to, by the year 1981—that is only 5 years from now—this will amount to an $870 million tax increase on business in this country—$870 million in net tax increases by the year 1981. It phases up to that point. So while it starts out as a net revenue reduction on business, by the time we move forward to the year 1981, it works out to an $870 million tax increase on business.

The Senator would have most Senators vote, coming out of the blue here at 9:15 at night, without any indication that we are going to vote this on business, for a billion dollars in additional tax.

In the first year, he would lose the Treasury $133 million. Mr. President, the Senator has voted for amendments to make certain benefits in the bill all take place immediately, out of retirement income and other things; he has added in amendments with regard to child care to further increase the cost of the bill; the Senator has helped to continue the $35 tax deduction without any phasing down and, coming along with this amendment, just about completely wipes out all the revenues we managed to pick up by voting to put more taxes on people in the Committee on Finance, which pretty well proves it is a frustrating job to try to put some taxes on people to balance the budget; the Senate will not sustain them, anyhow.

If we should pick up, if it should be the judgment of the Senate to repeal the ADR perhaps that is what we should do, repeal ADR, not just put in things to lose more. We have a 10 percent investment tax credit in business, with an additional 2 percent if they want to have an employee stock plan. We also have various other considerations for business in general. They asked to have them considered, and where they made a good case, they were considered.

This is not regarded as an antibusiness bill. As it stands now, we do not need to sweeten this bill further for business and as the Senate would do, with a $323 million refundable tax credit, which is a whole new principle, as far as the people benefiting from it would be concerned. We have a refundable tax credit for the poor, but this is a refundable tax credit for those who are not poor. The Senator talks down the idea, then he comes up with it.

Mr. President, I submit that this new tax increase is not a good idea to vote at this time. We certainly cannot stand another $323 million of revenue loss, so I think the amendment should be voted down in both parts.

Mr. KENNEDY. Will the Senator yield for a question or a comment?

Mr. LONG. Yes.

Mr. KENNEDY. If we adopt the incremental credit—it will cost a billion dollars in 1981 in business tax cuts. We are going to find that is by far the most creative way to build new capital. I would be glad to have the Senator take it to conference. We are going to have a lot of other matters in conference as well. We have a lot of billion dollar revenue losers in 1981 in this bill, but I think the incremental credit would be one of the best, if not the very best.

The repeal of ADR was an attempt to balance matters on the revenue side. We can deal with the issue in the conference, whether or not ADR is repealed. The Senator has never had any reluctance to try to work those matters out.

In terms of the total loss, what we are interested in is substituting the most efficient for the most wasteful without a dollar loss. We have tried to do that.

The PRESIDING OFFICER. The Senator from Louisiana has time; the Senator from Massachusetts has none.

Mr. LONG. Mr. President, if the Senate is to vote an $870 million additional tax increase on the business community of this country, it ought to be done after hearings and after people had some notice about it. The Senator wanted to criticize the Committee on Finance for midnight loopholes because we voted at 6 o'clock in the evening, between 9 a.m. and 6 o'clock in the evening, on amendments the final day that the Committee on Finance met. That was 6 o'clock in the evening. Now here comes his midnight tax, offered at 9:15 in the evening, to proceed to put a billion dollar tax increase on the business community of this country. That is what the additional tax burden would be in 1981.

Mr. President, that is not the kind of thing we should do on short notice. It is the kind of thing that ought to be a lot more carefully considered. We are not talking here about trying to catch some tax cheater. We are talking about a whole new system of taxation which the Senator would put into effect, which in 1981, would be an $870 million tax increase on the business people of this country. If that is to be done, it ought to be done after we have had a chance to consider it, study it, and give those affected an opportunity to come in and be heard.

Mr. BAYH. Mr. President, will the Senator from Louisiana permit me 30 seconds for a unanimous-consent request?

Mr. LONG. Yes. If I am the only one who has any time left, I will.

The PRESIDING OFFICER. He is.

Mr. BAYH. I appreciate very much the courtesy of the Senator from Louisiana. I ask unanimous consent that Mr. Howard Paster be permitted the privilege of the floor during debate and votes on the remaining provisions of the tax bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CRANSTON. Mr. President, I wish to commend the Senator from Massachusetts for his proposal for an environmental 5 percent investment tax credit and to repeal the asset depreciation range system. These proposals have merit, but require further study. In particular I would want to know the reactions of the business community to the repeal of ADR. Therefore, I will vote against both proposals by the Senator at this time.

Mr. LONG. Have the yeas and nays been ordered?

The PRESIDING OFFICER. They have not been.

Mr. LONG. I ask for the yeas and nays.

The PRESIDING OFFICER. This is on division 1. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Does the Senator yield back his time?

Mr. LONG. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to division 1 of the amendment of the Senator from Massachusetts. The clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Mississippi (Mr. EASTLAND), the Senator from Indiana (Mr. HARTKE), the Senator from South Dakota (Mr. McGOVERN), the Senator from Rhode Island (Mr. PASTORE), the Senator from Mississippi (Mr. STENNIS), the Senator from Missouri (Mr. SYMINGTON), the Senator from Delaware (Mr. BIDEN), the Senator from Montana (Mr. MANSFIELD), the Senator from Arkansas (Mr. McCLELLAN), the Senator from Montana (Mr. METCALF), the Senator from Minnesota (Mr. MONDALE), and the Senator from California (Mr. TUNNEY) are necessarily absent.

I further announce that the Senator from Hawaii (Mr. INOUYE) is absent on official business.

I also announce that the Senator from Michigan (Mr. PHILIP A. HART) is absent because of illness.

I further announce that if present and voting, the Senator from Rhode Island (Mr. PASTORE) would vote "nay."

Mr. TOWER. I announce that the Senator from Maryland (Mr. BEALL), the Senator from Tennessee (Mr. BROCK), the Senator from New York(Mr. BUCKLEY), the Senator from New Jersey (Mr. CASE), the Senator from Arizona (Mr. GOLDWATER), the Senator from Michigan (Mr. GRIFFIN), the Senator from Oregon (Mr. HATFIELD), the Senator from Kansas (Mr. PEARSON), the Senator from Pennsylvania (Mr. SCHWEIKER), the Senator from Pennsylvania (Mr. HUGH SCOTT), the Senator from Virginia (Mr. WILLIAM L. SCOTT), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

The result was announced—yeas 11, nays 62, as follows:

[Rollcall Vote No. 474 Leg.]

YEAS—11

Bayh
Clark
Culver
Hathaway
Hollings
Jackson
Kennedy
McIntyre
Nelson
Pell
Proxmire

NAYS—62

Allen
Baker
Bartlett
Bellmon
Bentsen
Brooke
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Chiles
Church
Cranston
Curtis
Dole
Domenici
Durkin
Eagleton
Fannin
Fong
Ford
Garn
Glenn
Gravel
Hansen
Hart, Gary
Haskell
Helms
Hruska
Huddleston
Humphrey
Javits
Johnston
Laxalt
Leahy
Long
Magnuson
Mathias
McClure
McGee
Montoya
Morgan
Moss
Muskie
Nunn
Packwood
Percy
Randolph
Ribicoff
Roth
Sparkman
Stafford
Stevens
Stevenson
Stone
Taft
Talmadge
Thurmond
Tower
Weicker
Williams

NOT VOTING—27

Abourezk
Beall
Biden
Brock
Buckley
Case
Eastland
Goldwater
Griffin
Hart, Philip A.
Hartke
Hatfield
Inouye
Mansfield
McClellan
McGovern
Metcalf
Mondale
Pastore
Pearson
Schweiker
Scott, Hugh
Scott, William L.
Stennis
Symington
Tunney
Young

So division 1 of Mr. KENNEDY's amendment was rejected.

The PRESIDING OFFICER. The question recurs on division 2.

Mr. KENNEDY. I ask for the yeas and nays on the second.

The PRESIDING OFFICER. They have not yet been asked.

Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. KENNEDY. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. KENNEDY. This is the part of the amendment which repeals the ADR, is that correct?

The PRESIDING OFFICER. The Senator is correct.

The question is on agreeing to division 2 of the Kennedy amendment No. 2073.

The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Delaware (Mr. BIDEN), the Senator from Mississippi (Mr. EASTLAND), the Senator from Indiana (Mr. HARTKE), the Senator from Montana (Mr. MANSFIELD), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Montana (Mr. METCALF), the Senator from Minnesota (Mr. MONDALE), the Senator from Rhode Island (Mr. PASTORE), the Senator from Mississippi (Mr. STENNIS), the Senator from Missouri (Mr. SYMINGTON), and the Senator from California (Mr. TUNNEY) are necessarily absent.

I further announce that the Senator from Hawaii (Mr. INOUYE) is absent on official business.

I also announce that the Senator from Michigan (Mr. PHILIP A. HART) is absent because of illness.

I further announce that, if present and voting, the Senator from Rhode Island (Mr. PASTORE) would vote "nay."

Mr. TOWER. I announce that the Senator from Maryland (Mr. BEALL), the Senator from Tennessee (Mr. BROCK), the Senator from New York (Mr. BUCKLEY), the Senator from Arizona (Mr. GOLDWATER), the Senator from Michigan (Mr. GRIFFIN), the Senator from Oregon (Mr. HATFIELD), the Senator from Kansas (Mr. PEARSON), the Senator from Pennsylvania (Mr. SCHWEIKER), the Senator from Pennsylvania (Mr. HUGH SCOTT), the Senator from Virginia (Mr. WILLIAM L. SCOTT), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

The result was announced—yeas 16, nays 58, as follows:

[Rollcall Vote No. 475 Leg.]

YEAS—16

Bayh
Chiles
Clark
Culver
Eagleton
Hart, Gary
Haskell
Hathaway
Hollings
Kennedy
Leahy
McIntyre
Nelson
Pell
Proxmire
Stone

NAYS—58

Allen
Baker
Bartlett
Bellmon
Bentsen
Brooke
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Church
Cranston
Curtis
Dole
Domenici
Durkin
Fannin
Fong
Ford
Garn
Glenn
Gravel
Hansen
Helms
Hruska
Huddleston
Humphrey
Jackson
Javits
Johnston
Laxalt
Long
Magnuson
Mathias
McClure
McGee
Montoya
Morgan
Moss
Muskie
Nunn
Packwood
Percy
Randolph
Ribicoff
Roth
Sparkman
Stafford
Stevens
Stevenson
Taft
Talmadge
Thurmond
Tower
Weicker
Williams

NOT VOTING—26

Abourezk
Beall
Biden
Brock
Buckley
Eastland
Goldwater
Griffin
Hart, Philip A.
Hartke
Hatfield
Inouye
Mansfield
McClellan
McGovern
Metcalf
Mondale
Pastore
Pearson
Schweiker
Scott, Hugh
Scott, William L.
Stennis
Symington
Tunney
Young

So division 2 of the Kennedy amendment No. 2073 was rejected.

AMENDMENT NO. 2139, AS MODIFIED

Mr. KENNEDY. Mr. President, I have an amendment No. 2139, which I call up. I send a modification to the desk.

I have had a chance to talk to the chairman of the Finance Committee about this, and I believe it will be acceptable by the Finance Committee.

The PRESIDING OFFICER. The amendment, as modified, will be stated.

The second assistant legislative clerk read as follows:

The Senator from Massachusetts (Mr. KENNEDY), proposes an amendment No. 2139, as modified.

On page 290, beginning with line 5, delete all through line 16.

Mr. KENNEDY. Mr. President, under the foreign tax credit, there is now a 2-year carryback and a 5-year carryforward. Section 803 added 2 more years for those credits which expired in 1976. It seemed to me there were many industries and businesses that complied with the current law. They understood what could be carried forward and what could be carried back. I think it is wise not to change or alter that at this time unless there are overwhelming and convincing reasons, which I do not detect.

All this amendment would do is retain the present law with regard to the foreign tax credit. It would not decrease it, increase it, vary it, or change it to any extent. I would hope the amendment as modified, would be accepted by the Finance Committee.

Mr. LONG. Mr. President, in the bill the committee suggested that the expiring credits should be extended for 2 years so that those who were not able to earn enough to owe enough taxes would be able to use their tax credits, would have a chance to use them, in spite of the recession that we have just had.

The Senator's amendment would cause the foreign tax credit to expire but it would not affect the credits of those investments earned domestically, within the country. As far as I am concerned, Mr. President, I would be willing to accept the amendment.

The PRESIDING OFFICER. Do the Senators yield back their time?

Mr. LONG. Yes.

Mr. KENNEDY. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment, as modified.

The amendment, as modified, was agreed to.

Mr. LONG. Mr. President, we have now voted on everything in title VIII, unless there are other amendments. I would like to ask for the yeas and nays on title VIII.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Are there further amendments? If there are no further amendments, the question is on agreeing to the committee amendment on title VIII, as amended.

The clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Delaware (Mr. BIDEN), the Senator from Mississippi (Mr. EASTLAND), the Senator from Indiana (Mr. HARTKE), the Senator from Colorado (Mr. HASKELL), the Senator from Montana (Mr. MANSFIELD), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Wyoming (Mr. MCGEE), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Montana (Mr. METCALF), the Senator from Minnesota (Mr. MONDALE), the Senator from Rhode Island (Mr. PASTORE), the Senator from Mississippi (Mr. STENNIS), the Senator from Missouri (Mr. SYMINGTON), the Senator from Georgia (Mr. TALMADGE), and the Senator from California (Mr. TUNNEY) are necessarily absent.

I further announce that the Senator from Hawaii (Mr. INOUYE) is absent on official business.

I also announce that the Senator from Michigan (Mr. PHILIP A. HART) is absent because of illness.

I further announce that, if present and voting, the Senator from Rhode Island (Mr. Pastore) would vote "yea."

Mr. TOWER. I announce that the Senator from Maryland (Mr. Beall), the Senator from Tennessee (Mr. Brock), the Senator from New York (Mr. Buckley), the Senator from New Jersey (Mr. Case), the Senator from New Mexico (Mr. Domenici), the Senator from Arizona (Mr. Goldwater), the Senator from Michigan (Mr. Griffin), the Senator from Oregon (Mr. Hatfield), the Senator from Kansas (Mr. Pearson), the Senator from Pennsylvania (Mr. Schweiker), the Senator from Pennsylvania (Mr. Hugh Scott), the Senator from Virginia (Mr. William L. Scott), and the Senator from North Dakota (Mr. Young) are necessarily absent.

The result was announced—yeas 67, nays 2, as follows:

[Rollcall Vote No. 476 Leg.]

YEAS—67

Allen
Baker
Bartlett
Bayh
Bellmon
Bentsen
Brooke
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Church
Clark
Cranston
Culver
Curtis
Dole
Durkin
Eagleton
Fannin
Fong
Ford
Garn
Glenn
Gravel
Hansen
Hart, Gary
Hathaway
Helms
Hollings
Hruska
Huddleston
Humphrey
Jackson
Javits
Johnston
Kennedy
Laxalt
Leahy
Long
Magnuson
Mathias
McIntyre
Montoya
Morgan
Moss
Muskie
Nelson
Nunn
Packwood
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Sparkman
Stafford
Stevens
Stevenson
Stone
Taft
Thurmond
Tower
Weicker
Williams

NAYS—2

Chiles
McClure

NOT VOTING—31

Abourezk
Beall
Biden
Brock
Buckley
Case
Domenici
Eastland
Goldwater
Griffin
Hart, Philip A.
Hartke
Haskell
Hatfield
Inouye
Mansfield
McClellan
McGee
McGovern
Metcalf
Mondale
Pastore
Pearson
Schweiker
Scott, Hugh
Scott, William L.
Stennis
Symington
Talmadge
Tunney
Young

So the committee amendment on title VIII, as amended, was agreed to.

Mr. GRAVEL. Mr. President, I ask unanimous consent that the Senate now proceed to section 2006, the recycling section.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRAVEL. I yield to the Senator from Colorado.

Mr. GARY HART addressed the Chair.

Mr. GRAVEL. Will the Senator from Colorado yield for a moment?

Mr. GARY HART. I yield particularly if the Senator from Alaska wishes to clarify the time situation.

Mr. GRAVEL. That is what I am going to do.

I ask unanimous consent that there be 15 minutes on each side, for proponents and opponents—10 minutes on each side if it is agreeable to the Senator from Colorado.

Mr. GARY HART. I prefer that the Senator from Alabama dispose of the matter that he has and then we start on the time. I prefer 15 minutes on the time.

AMENDMENT NO. 1995

Mr. ALLEN. Mr. President, I call up amendment No. 1995 and ask it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Alabama (Mr. Allen) proposes amendment No. 1995.

On page 1505 strike all of lines 8, 9, and 10, and insert in lieu thereof the following:

"(B) in the case of textile and paper waste, and in the case of glass and plastics, 10 percent.".

Mr. GRAVEL. Mr. President, will the Senator from Alabama be willing to agree to 10 minutes per side?

Mr. ALLEN. There is no need doing that. I will explain it. I understand that the chairman is willing to take the amendment.

Mr. GRAVEL. Very good.

Mr. ALLEN. All the amendment does is to move glass and plastics up to the 10-percent credit level along with paper and textile wastes. I have talked to the distinguished chairman of the committee and he is willing to recommend acceptance of the amendment.

Mr. GRAVEL. This is on par with what is already in the bill.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. GRAVEL. Will the Senator from Colorado agree to a 15-minute time limit on each side?

Mr. TAFT. Mr. President, will the Senator use his microphone? I cannot hear what he is saying.

The PRESIDING OFFICER. The Senator has requested 15 minutes time limit to a side on the Hart amendment which is about to be called up.

Mr. GRAVEL. And on any other amendment, if there is no objection.

Mr. TAFT. I cannot hear the Senator.

Mr. GRAVEL. I am sorry. I am requesting a 15-minute time limit on any other amendment if that would be satisfactory to the Senator from Ohio.

Mr. TAFT. No. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. GRAVEL. Leaving out any other, only for the Senator from Colorado.

The PRESIDING OFFICER. Is there objection to the request for 15 minutes?

Mr. TAFT addressed the Chair.

The PRESIDING OFFICER. The Chair states this one request. Is there objection to the request of 15 minutes to each side for the Hart amendment to be proposed?

Mr. TAFT. Reserving the right to object, I inquire of the Senator from Colorado whether I might have 5 minutes on his amendment. If more than 15 minutes is required I shall object in order to accomplish that.

TIME LIMITATION AGREEMENT

Mr. GRAVEL. Why do we not agree on this, Mr. President? I ask unanimous consent that we agree to 15 minutes for the Senator from Colorado, 15 minutes for the Senator from Alaska, and 15 minutes to the Senator from Ohio.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 310

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Colorado (Mr. Gary Hart), for himself and Mr. Durkin, proposes an amendment in the nature of a substitute to section 2006.

Mr. GARY HART. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In lieu of the matter proposed to be inserted on page 1503 beginning with line 16, insert the following:

Sec. 2006. Study of Recycling Incentives.

The Secretary of the Treasury, in cooperation with the Administrator of the Environmental Protection Agency shall make a thorough and complete study and investigation of all matters relating to the proper role of the Government in encouraging the recycling of solid waste materials, including but not limited to, a study of the feasibility of providing incentives and disincentives through the Internal Revenue laws for the recycling of such solid waste materials. The Secretary shall report his findings, together with such recommendations for legislation as he deems advisable, with respect to the study and investigation under this section to the President and the Congress at the earliest practicable date, but not later than 18 months after the date of enactment of this Act.

Mr. GARY HART. Mr. President, I have been concerned for a long time about the recycling problems we have in this country. We are a terribly wasteful nation, and I am concerned about what our future will be like if we continue our "no deposit, no return" way of life. The cost to local governments for simply collecting and disposing of municipal solid waste runs into the billions of dollars a year.

Some Senators may ask, then, why I am offering the substitute amendment to the tax credit for recycling amendment that has been proposed by the Committee on Finance.

Mr. President, if I had seen any evidence to suggest that this tax credit proposal would significantly increase recycling, I would be among the first to join my colleague from Alaska in urging Senate approval of this section of the tax bill.

But I have seen no such evidence. It simply does not exist. The information available in the record on the credit tells me two things:

First, that the revenue loss will be well over $200 million a year after this credit is fully phased in at the end of the 3-year period.

And second, that much of this revenue loss will accrue in the form of a windfall to those who continue to use the same amount of secondary materials as they currently use.

Mr. President, this is not the first time a favorable tax treatment for recycling has been considered by Congress. The most recent example was the similar credit proposed by the House Ways and Means Committee in H.R. 6860. This provision was deleted on the House floor, however, by a large margin when opponents pointed out that the credit would do little to increase recycling while costing the Treasury $1 billion over a 5-year period.

The arguments made against a recycling tax credit on the House floor are the same arguments I offer on the Senate floor tonight. These arguments are still valid.

For instance, the Department of the Treasury has studied this proposal and has concluded that paper recycling will increase by only three-fourths of 1 percent as a result of this proposal.

Scrap iron recycling will increase by only one-half of 1 percent.

Copper recycling will increase by less than one-fifth of 1 percent

And the increase in aluminum recycling will be just over 1 percent.

Mr. President, the cost to the taxpayer for each additional ton of recycling that results from this credit will be between 2 times and 20 times the current market price for these materials, depending on which commodity we are talking about.

These facts are the basis for the administration's opposition to this tax credit. I know that there are Senators who do not always follow the suggestions of the administration. There are those who do not always agree with the environmental organizations, most of whom also oppose the credit as proposed.

I do not wish to suggest that any of us always agree with the AFL-CIO or the United Auto Workers, but these two labor organizations also oppose this provision.

Mr. President, I cannot think of many times that the administration, labor, and environmental organizations have agreed on anything. But, they have come together in their opposition to this tax credit proposal for recycling for one reason: It is nothing but a tax windfall and will increase recycling only slightly at a tremendous cost to the American taxpayer.

Mr. President, if this tax credit proposal will not increase recycling, I think that we owe the taxpayer an explanation of what it will do.

The credit will provide a windfall to those who already recycle for maintaining their current levels of recycling. For example, a hypothetical manufacturer who uses 100 tons of recyclable materials in each year of the base period in this proposal and continues to use that same amount year after year when the credit is fully phased in, will receive a tax credit annually on the purchase of 25 percent of this amount.

But has any new recycling been stimulated? No. The only result is a reduced tax on this manufacturer. The Association of Brass and Bronze Ingot Manufacturers estimates that the tax credit accruing to its members for recycling copper base scrap alone will be $27 million a year after the credit is fully phased in.

And this estimate assumes no increase in the recycling of copper base scrap above current levels.

In addition, the committee's definition of what materials qualify for the credit includes fabricating scrap which is already recycled at a rate of 80 to 90 percent. This scrap needs little sorting or decontamination and is highly substitutable for virgin materials. But, while most of this scrap is already being recycled, the Committee on Finance would extend the credit to those who already use this scrap, although clearly, no incentive is necessary.

Mr. President, our recycling problem is not a simple one. The Committee on Public Works has worked hard on this problem for a number of years under the able leadership of the distinguished Senator from West Virginia, Senator RANDOLPH. This committee recently reported a bill which the Senate passed by a vote of 89 to 3 just a month and a half ago. One section of this bill requires that the EPA and other agencies study and report back to Congress in 2 years what effect different types of incentives and disincentives will have on recycling.

Why did the Committee on Publiic Works ask for this study? So that Congress might have more information available when a decision is made on which approach to recycling will in fact have some positive effect.

Mr. President, I am ready to take whatever action is necessary to improve the recycling rate in this country. This is one of the most pressing problems we face in America today. But I am not ready to bleed the U.S. Treasury in the name of resource conservation with no tangible result. I urge our colleagues here to support the amendment which I have sent to the desk and which is now before us and which I am offering along with my friend from New Hampshire (Mr. DURKIN). I ask our colleagues to defer consideration on this tax credit approval until we have the information that is necessary and the alternatives that are available have been investigated and compared.

In conclusion, Mr. President, I reiterate once more the administration opposes this, almost all environmental organizations oppose this, and labor organizations oppose this. If there ever were a clearcut instance of an unnecessary subsidy, this is one. I think there is no question but that this substitute amendment, which I have offered, should be accepted by the Senate.

Mr. HUMPHREY. Mr. President, will the Senator yield?

Mr. GARY HART. I yield to the Senator from Minnesota.

Mr. HUMPHREY. Is the Senator speaking about the section 2006 of the bill?

Mr. GARY HART. I am.

Mr. HUMPHREY. Is that the section that establishes the tax credit to a recycler for purchases of recyclable solid waste materials that exceed 75 percent of the base period amount?

Mr. GARY HART. The Senator is correct.

Mr. HUMPHREY. In other words, by actually purchasing less than the base period amount he still qualifies for the tax credit?

Mr. GARY HART. The Senator is correct.

Mr. HUMPHREY. So even though the Senator in his comment has indicated there might possibly be some improvement in recycling, it is still possible, is it not, under the provision in the bill with 25 percent less than the base period, in other words, 75 percent of the base period, which would be less than one would have had before he could get a tax credit which is better then he had before? Is that correct?

Mr. GRAVEL. Mr. President, will the Senator yield on that point?

Mr. GARY HART. The Senator is almost correct but I yield to the Senator from Alaska.

Mr. GRAVEL. I believe not. If the producer goes down to his 75-percent level he receives no credit at all. He has to be above that 75-percent level.

Mr. HUMPHREY. But have the base period where the recycler, so to speak, has established his baseline of the recycling material.

Mr. GRAVEL. Yes, if he goes below that base line he does not get any credit.

Mr. HUMPHREY. If he goes above the baseline.

Mr. GRAVEL. Seventy-five percent.

Mr. HUMPHREY. Below 75 percent.

Mr. GRAVEL. So suppose he goes down to 80 percent.

Mr. HUMPHREY. It means he does not even have to recycle as much as he used to in order to still get the credit.

Mr. GARY HART. The Senator is correct.

Mr. GRAVEL. He does not get much.

Mr. HUMPHREY. He may not get much. I think we want to get an incentive.

Mr. GRAVEL. I will address myself to that problem. If the gentleman stops recycling and goes down to 80 percent, he is only going to get a credit on 5 percent of his volume.

Mr. HUMPHREY. But what kind of incentive is that?

Mr. GARY HART. Mr. President, who has the floor?

The PRESIDING OFFICER. The Senator from Colorado has the floor.

Mr. GARY HART. The answer to the question of the Senator from Minnesota is that one would receive a subsidy for recycling less under this proposal.

Mr. HUMPHREY. That is what I understand.

Mr. GARY HART. Mr. President, I reserve the remainder of my time.

Mr. STAFFORD. Mr. President, I support the amendment offered by the Senator from Colorado (Mr. GARY HART) to strike section 2006, which provides a tax credit for the recycling of solid wastes.

Stated most simply, the proposal of the Finance Committee would provide a new windfall, at taxpayer expense, to those who are already using recycled materials, but it would do little, if anything, to promote any new recycling of solid wastes.

It is not surprising then, as we have already heard, that this tax credit provision is opposed by the Treasury Department; by a broad and representative collection of environmental groups; by tax reform organizations, and by organizations that represent companies in the recycling business.

Thus, the testimony of organizations most closely associated with recycling of solid wastes, including environmental organizations who have a long history of support for the concept of recycling, provides us with these conclusions:

First. The tax credit proposal offered by the Finance Committee is poorly designed and will be ineffective in advancing the cause of recycling of solid wastes.

Second. The Federal Treasury will eventually lose as much as $345 million a year in tax revenues that will have to be made up by American taxpayers.

Third. That loss in revenues will go into the pockets of those who already use recycled material in the form of windfall profits.

Fourth. And, passage of the Finance Committee proposal could effectively preempt the field, and thus block or discourage a thorough evaluation of more promising alternative measures.

The Panel on Materials Policy of the Public Works Committee has heard considerable testimony on the subject of solid waste management and recycling.

That testimony was helpful to me and to other members of the panel and of the full committee when we reported to the Senate S. 3622, the Solid Waste Utilization Act.

One provision of that bill, which was approved by a vote of 89 to 3 by the Senate, calls on the Environmental Protection Agency to coordinate a comprehensive study of the effects of existing tax policies on recycling, including the possible effects of both tax incentives and tax disincentives.

Surely, in view of the almost unanimous opposition of environmental groups who have long supported the concept of recycling, and of other organizations closely associated with this effort, it would be wise for the Senate to await the development of more conclusive data before approving a tax subsidy for recycling.

Mr. President, I urge approval of the pending amendment.

Mr. GRAVEL. Mr. President, this recycling amendment will have several benefits.

The people who oppose it cannot have it both ways. If they say that it is going to cost a lot of money, it means there will be a lot of recycling going on in this country. But if it does not cost money, it means there is no recycling. So if one says it is going to cost money, fine. That means we are successful; we have brought some increase in recycling.

This is not a new subject. We can talk about studying it, but it was fought in the House before. We fought it in committee 2 years ago, and now it was passed by the committee.

The benefits are simple. One, we are going to begin, for the first time in this country, to reorient the country so that we save the stuff that we have been burying. We talk about subsidies. Who pays the cost of burying all this stuff? The taxpayer does, when he pays his municipal bills. The municipality picks this all up and then pays for the cost of burying it.

What we are trying to do here is to change the economy so there is no cost to the municipality.

Why is it that U.S. Conference of Mayors is for this? Why is it that all Governors are for this? Because they have to build these recycling plants and make them work. They cannot work and they will not work until we alter the economics.

We provide an incentive for virgin materials. We give them an edge. All we are saying is, give this same edge to the recycling industry. They have been operating behind the power curve.

Let us look at the testimony we had from the environmental community. The Washington Environmental Action Group is against it, but the New York Environmental Action Coalition is for it. They have the sludge that they have to look at, and they are concerned about it. So the environmental community is not unified on this at all.

The statement I have is from a Mr. Blakely Early, of the Washington Environmental Action Group. This is what he says:

> Although we recognize that current tax policy encourages the excessive use of virgin materials and energy, there are several approaches to correcting such inequities and providing an incentive for increased recycling:

Let me enumerate what he suggests we do.

First, tax credits for users of recyclable material. That is what we have done in the Finance Committee.

Second, a tax credit for suppliers. In some aspects, it is also that.

Third, severance taxes on virgin materials extractors. The Senate has tried that before, and it failed overwhelmingly.

Fourth, disposal charge on producers of consumer products which do not contain recycled material. That essentially was the Hatfield amendment that lost by more than 20 votes in this body.

Fifth, the removal of existing tax benefits to virgin materials. The Senate Committee on Finance had a vote on that, and it failed overwhelmingly.

So it is said that since we cannot do one of these others, we do not want to do anything. We want to hold hostage the improvement in clean water and clean air, because when you recycle material and use less water, you contaminate the air less, and you save energy.

Alaska, which is the fourth largest energy State in the Nation, presently produces about 500,000 barrels of oil a day—until the pipeline is completed. The passage of this measure will bring about the discovery of the equivalent of what Alaska, the fourth largest producing oil State in the Union, has. This measure will save 500,000 barrels of oil a day.

Consider the example of aluminum. If you use recycled aluminum as opposed to virgin aluminum, you save 80 percent energy. You save 70 percent of the water you normally use. These are the benefits.

So what these purists are saying—and it is a purist approach—is, "If we cannot do away with the existing loophole which is there on depletion, then we do not want to do anything. We want to hold hostage the entire recycling potentiality that all municipalities are currently undertaking."

I say fine; it is OK to be purist. But that is not going to cut it. It is important to begin to vector this Nation on a course that will bring about the use of valuable trash which is being recycled.

Mr. HUMPHREY. The Senator makes a very persuasive argument, and I am sure most of us will try to find a way to utilize recycled materials. I think he is correct in what he said about the aluminum, and the energy savings are tremendous there, and there is quite a recycling program for aluminum.

I am just interested in this, with no expertise in the matter at all. It seems to me that if the provision were to establish a tax credit to a recycler for purchases of recyclable solid waste materials that exceed 100 percent of the base amount, we would have something.

Mr. GRAVEL. The Senator means that those who presently recycle would get the credit? It is the other way around. Nobody who is presently recycling would get the credit. Therefore, with respect to someone who is working his heart out and is adversely affected because the virgin materials have an advantage—he has worked 20 years to build this plant—all of a sudden we say, "You're not competitive like Alcoa because they will get a tax advantage, and because you have a plant that is obsolete, you don't get the same advantage." That is the height of inequity.

Mr. HUMPHREY. Perhaps we are not communicating. I am going to let some of the experts get at this. It seems to me that what we have, unless the language I read can be construed in another fashion, is that actually we have less recycled materials and we will be paying a subsidy for less. Perhaps I am wrong, and I hope I am.

Mr. GRAVEL. I think the Senator is wrong, because in view of the evidence we have, which is simply, when iron ore gets a 14-percent depletion allowance, I do not think anybody can stand here and tell me that the recycling guys are getting the same break.

All we are saying is that the recycling will get 7½ percent credit, which is equal to a 14-percent depletion allowance.

All the old guys can get is 25 percent. It can be said that they are going to go down and they are going to recycle less and get a windfall. We are talking about the first year; $9 million is what this costs the first year.

If we can revector the Nation in that direction, we have done something.

We recycle only 1 percent of aluminum and 16 percent of paper. That is a crime. A hundred years from now, we are going to mine all those municipal buried pits. How ridiculous it is that we do not structure the economy so that this would work.

All we are trying to do is to restructure the economy.

Let me read a letter——

Mr. GARY HART. Will the Senator yield?

Mr. GRAVEL. I shall not yield. The Senator from Colorado had some time and he wanted to reserve his time. I want to reserve my time.

Mr. GARY HART. I just wanted to ask what the source is of the figures the Senator from Alaska presented earlier.

Mr. GRAVEL. The recycling industry, EPA. I shall put them all in the RECORD.

Let me read a letter from EPA, then. I have a letter from Russel Train. It is a 3-page letter, I cannot read it all. I shall just extract some sentences.

> It is doubtful that this will improve without some kind of market incentive.

He is talking about recycling.

I go on:

> First, it is generally recognized that virgin materials are directly subsidized under current Federal tax laws. This is the problem addressed by your proposed legislation, and which I discuss at length below. However, in addition to this direct Federal tax subsidy effect, virgin material use is also subsidized indirectly. Current market prices of raw materials or products do not reflect the costs of the collection and disposal of such materials when they are eventually discarded as solid waste. In effect, the collection and disposal of solid waste by municipal agencies, and payment of solid waste management costs through general taxes, or flat-rate charges, results in an indirect subsidy for virgin material use.

In other words, you produce paper, you recycle them, you have to pay taxes to the municipality to pick it up. The same thing with aluminum. That is a subsidy.

Mr. HUMPHREY. How does Mr. Train stand on the Senator's proposal?

Mr. GRAVEL. He says:

> The market is biased against the use of recovered materials—both as materials and as energy.

Again, I continue:

> If Congress feels that it is inappropriate to remove current virgin materials subsidies, then some form of tax equalization measure—such as the Recycling Tax Credit proposal that your Committee is considering—would offer an alternative approach. Such an approach, in principle, is an offsetting subsidy for recycled materials.

That is Mr. Train's approach. Let me state very briefly—let me reserve the balance of my time, because I see the Senator from New Hampshire wants to speak.

The PRESIDING OFFICER. Who yields time?

Mr. GARY HART. I yield 3 minutes to the Senator from New Hampshire.

Mr. DURKIN. I thank the Senator.

Mr. President, I would like just to explain what the amendment is going to do. It provides that the Secretary of the Treasury, in cooperation with the Administrator of the Environmental Protection Agency shall make a thorough and complete study and investigation of all matters relating to the proper role of the Government in encouraging the recycling of solid waste materials, including but not limited to, a study of the feasibility of providing incentives and disincentives through the internal revenue laws for the recycling of such solid waste materials.

I ask the proponent of this section, is there any evidence, absolutely any evidence, other than that produced by purchase, unadulterated speculation, that there has been any increase in postconsumer scrap? Ninety percent of the scrap, the scrap that is generated prior to that postconsumer phase, is recycled out, 90 percent of the aluminum, 90 percent of the copper.

I point out that the Aluminum Recyclers Association, which represents 83 percent of the aluminum recyclers in this country, says:

> The recycling tax credit is an unwarranted drain upon the United States Treasury without commensurate benefits and an unwanted windfall to our industry.

This is the industry, the aluminum recycling industry, that is blushing, they do not want this raid on the Treasury. They are asking us not to foist it on them at the taxpayers' expense.

The aluminum recycling industry further points out that recycled secondary aluminum alloy is not interchangeable with primary. The industry produces as much recycled aluminum as is required for the demand of its industry.

The tax credit would not increase the recycling of aluminum and there is absolutely no evidence that it would increase the recycling of postconsumer scrap.

I point out also, I have only been here 9 months, but this is the first time I have seen the Secretary of the Treasury, the EPA, the environmental groups, and organized labor completely in agreement in opposing an amendment. I think this is quite eloquent testimony.

The PRESIDING OFFICER. Who yields time?

Mr. TAFT. Mr. President, I do not know how many of the Senators who are not on the committee understand the problem here. I think I understand it, or at least some of it. There are a couple of things I think the Senate will understand if I say it, and that is if this amendment fails—I think this amendment is a very good amendment. If the amendment fails, I have two other amendments on this subject that I shall feel compelled to bring out, one that may or may not pass and a second one after that if the first one fails to pass. I think the Senate will be able to understand that quite well.

The other thing that I think we can understand here is that we really do not know what we are doing and I do not think the Committee on Finance knows what it is doing with regard to the savings or otherwise which will or will not occur. Our conversation with the EPA indicated that they feel that very little, if any, actual increased recycling will occur as a result of this amendment or as a result of this provision in the bill at the current time. The Treasury is very much opposed to it.

It is not a great deal of money. The Senator from Minnesota was almost on target—he was just a little bit off target—in bringing up the question of discrimination. There is a great deal of discrimination between those already in the business and those who will be tempted into this business by this provision in the bill if it is not changed by the Hart amendment. I have all kinds of complaints from the copper industry and also from the aluminum industry, those who are in this business already, who have gone into it, taken the risk, put in their money, put in their capital, and are now going to be faced with a credit given to somebody else that they are going to get little, if any, of. It is going to be very discriminatory to them.

I found that, as far as I could see in the recycling business, the industries I have talked to, they are like the quarterback who had a very fast halfback and the team was taking a terrible beating in this game. The crowd kept yelling about this fast halfback, kept saying, "Give Leroy the ball." Finally, the quarterback lifted up his head from the huddle and yelled back, "Leroy said he doesn't want the ball."

That is what this industry, in effect, has been saying to me ever since this amendment came up.

Let me give a few technical aspects of it to the extent that we have time here tonight. I shall try not to belabor it.

By giving a certain percent tax credit for the purchase of solid waste materials for recycling, the Senate Finance Committee has lowered the marginal cost curves of the firms engaged in recycling, from that point in their output at which their added output becomes eligible for the credit. All firms will have their marginal cost curves lowered equally from such points. However, because some new firms will be getting the credit on most of their output, while other firms will be getting the credit only on a fraction of their output, the average cost curve of these firms will be lowered by different amounts. The recycler whose output consists primarily of new output will find his average cost curve, and hence his average unit cost, lowered by more than that of a firm which has only a small fraction of its output eligible for the credit. This could lead to the undercutting of the old, pioneering recycling firms by new firms set up by major corporations which are capable of entering the industry on a large scale.

There were two ways of avoiding this problem with the average cost curves, The first method is to grant the tax credit to all output of all recyclers. Each recycler would have had his entire marginal cost curve, hence his entire average cost curve, lowered by the same percent. The committee felt that this was too expensive, and, indeed, it certainly is. It would be a windfall to those already in the business, as well. The alternative method of avoiding this problem is to constrain the percentage of output of new and rapidly expanding firms which is eligible for the tax credit. The Senate Finance Committee adopted neither method. Their formula is flawed, and will cause chaos.

Mr. President, I think we need to study this credit, not enact it. The Treasury predicts that we will get a meager 1 percent increase in recycling for our efforts, precisely because of this problem of inelastic supply.

I warn the Senate that this credit will not cause the replacement of virgin ore with recycled ore. Both of these are substitutes for imports only, not for each other.

One of the major arguments is the recycling tax credit is that we discriminate against recycled materials by giving virgin ores a depletion allowance.

The recycling tax credit will not be a net cost, because it will offset part of the money paid out for depletion allowances.

This argument is utterly false. Anyone with an elementary undergraduate course in international trade theory should be able to spot the flaws. Depletion does not lower the price of virgin ore, because this is a traded good and sells for the world price. The recycler faces the same price for his output with or without depletion on virgin ore. Depletion does nothing to hurt recycling, or vice versa. Both ore substitutes for imports. We do not save a penny on depletion to offset this credit.

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

The Senator from Alaska.

Mr. GRAVEL. What is the time limit?

The PRESIDING OFFICER. The Senator from Alaska has 5 minutes and the Senator from Colorado has 2 minutes. The Senator from Alaska.

Mr. GRAVEL. Let me be very brief and state that endorsement for this proposal comes from the National League of Cities, the U.S. Conference of Mayors, the Institute of Scrap Iron and Steel People, the Cast Metal Federation, the American Paper Institute, the National Association of Recycling Industries.

Let me again state that there are 32 recycling plants that are going into 32 communities in this country. Whether or not they will be economically viable or will be a burden on the taxpayers of those communities will depend upon this particular piece of legislation.

We are presently recycling 16.5 percent of paper, 1.6 percent of metals, 2.1 percent of glass, zero percent of plastics, and zero percent of textiles.

Remember when we were kids we used to pick up rags and sell them? We do not do that any more because it is not economical. What we are trying to do is to make it economical for the Boy Scouts to be able to sell paper and for kids to sell rags again like we used to do.

The amount of tons buried and paid for—you pay to bury this wealth—is 44 million tons of paper, 12 million tons of metal, 13 million tons of glass, 5 million tons of plastics, and 2 million tons of textiles.

Do you know how much the virgin people are getting now? The amount of $1.3 billion. If all of that presently used virgin material were replaced by recyclable materials there would not be one single sou lost to Treasury. It is already lost. Whatever we replace with recycling is not a cost to us. That is the fallacy of it all. Here are the estimated costs. In the first year it is $9 million, and the second year it is $39 million. Here are the benefits we gain to conserve our natural resources. We take the pressure off the forests and the lands we mine. It saves 500,000 barrels a day of oil. The balance of payments will improve; the energy saved on aluminum is 95 percent, on wood 66 percent, copper 65 percent, iron 55 percent; the figures are almost as high and higher in some cases for the amount of water that we do not defile, and the amount, of course, of air that we do not defile.

I hope that the Senate will see the opportunity we have here for the first time in our history to direct this Nation on to a course of recycling our wastes. If it does not work, 2 years from now you can stand on this floor and offer an amendment, to delete the credit and I will vote for it.

We are not going to find out if it works by a $10 billion study. The only way we are going to find out is by giving the same treatment to recycled materials that we presently give to virgin materials.

If you want to try to wipe out the virgin materials do that, but do not hold hostage this important improvement in our society. Do not hold this hostage simply because you cannot get a tax on bottles, on throwaway bottles or throwaway beer cans.

We have not chosen to adopt that course; we have not voiced a desire to wipe out depletion. Since we cannot do that, let us do the most intelligent thing we can do.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. GARY HART. Mr. President, there is no connection whatever in connection with this subsidy and increased recycling in this country. None whatsoever. There were only perfunctory hearings about a year ago on this matter.

Mr. GRAVEL. Mr. President, will the Senator yield on that statement? There were extensive hearings.

Mr. GARY HART. In these hearings, perfunctory written evidence was presented. The committee amendment was adopted perfunctorily subsequently.

The administration and the Department of Treasury oppose this tax credit proposal. Almost all environmental groups oppose it.

It will not accomplish the results which are proposed, and I think the Senate ought to adopt the amendment which will send this to the Treasury Department to tell us exactly what effect a subsidy like this will have.

I move the adoption of the amendment, and I yield back the remainder of my time.

Mr. DOLE. Mr. President, the OPEC oil embargo and our ever-increasing imports of petroleum have served at least one beneficial purpose. They have forced us to focus national attention on conservation of natural resources and methods to reduce wasteful consumption.

Naturally, the more we are able to reuse and recycle virgin materials, the less we will deplete our limited supplies of natural resources. And, even more importantly, by recycling and reusing these metals and minerals, we can reduce our reliance on foreign suppliers of these often-strategic natural resources.

OPPOSE RECYCLING CREDIT

Obviously, recycling should be encouraged as a matter of national policy. But we cannot and we should not pass every piece of well-intentioned legislation which purports to encourage recycling. After studying the recycling tax credit in section 2006 of the Finance Committee bill, I have concluded that it will not substantially encourage recycling of materials, foster conservation of natural resources, reduce energy consumption, or markedly diminish environmental litter. For that reason, I support the amendment of the Senator from Colorado (Mr. GARY HART), and oppose the motion to table offered by the Senator from Louisiana (Mr. LONG).

Although the committee has made a commendable effort to eliminate financial windfalls to recyclers through establishment of a base period, I believe many recyclers will still be benefited substantially for doing precisely what they would have done in the absence of such a tax credit. More importantly, proponents of section 2006 have not presented any conclusive evidence that the tax credit will be effective in increasing the use of recyclable materials. We have received persuasive testimony that the 10 percent tax credit proposed by the Finance Committee will be insufficient to overcome technological barriers to recycling of some materials since the needs are different for each material proposed to be eligible for the credit. Studies of the technological problems with respect to recycling and the ineffectiveness of financial subsidies prepared by the Environmental Protection Agency and the Midwest Research Institute in Kansas City argue strongly against adoption of the recycling tax credit at this time.

The Department of the Treasury points out that the tax credit would be extremely costly in terms of lost revenue—over $340 million per year when it is fully effective. I believe Treasury frames the issue perfectly when it states:

> The question is not whether it is desirable to make careful and efficient use of our natural resources and to reduce waste and pollution; rather, it is whether this tax credit will significantly increase the amount of materials recycled. The administration has studied this question and has found that most scrap or waste that can be economically used is already collected. The cost of substantially expanding collection is prohibitive. Therefore, an increase in recycling is not prevented by any tax incentive induced to reduction in the sales price of competitive virgin materials, but by the costs of collection. No credit would be large enough to overcome that barrier to a substantial increase in recycling. The credit would only have the effect of driving up the price of the amount of scrap being used now and would therefore result in a windfall for present collectors.

POSSIBILITY FOR THE FUTURE

Mr. President, I would not hesitate to vote for this recycling tax credit if I thought it would accomplish its purpose. Unlike some of my colleagues with whom I join in opposing this particular tax credit, I will not, in the name of tax purity, oppose a well-conceived credit, deduction, or exemption which effectively accomplishes a valid national purpose. I do not believe the recycling tax credit in section 2006 of the Finance Committee bill measures up to this test. Thus, I oppose the motion to table the amendment of the Senator from Colorado (Mr. GARY HART).

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Colorado.

Mr. LONG. Mr. President, I would like to make a unanimous-consent request that when we come in tomorrow and take this bill up, I presume at 2 o'clock, that we vote immediately on the pending amendment. If that amendment fails that we then proceed to vote on the Taft amendment. If that amendment fails that we then vote on the committee amendment without further debate.

Mr. TAFT addressed the Chair.

Mr. GARY HART. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. LONG. I move to table the amendment.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment of the Senator from Colorado.

Mr. HATHAWAY. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Delaware (Mr. BIDEN), the Senator from Mississippi (Mr. EASTLAND), the Senator from Indiana (Mr. HARTKE), the Senator from Colorado (Mr. HASKELL), the Senator from Montana (Mr. MANSFIELD), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Wyoming (Mr. MCGEE), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Montana (Mr. METCALF), the Senator from Minnesota (Mr. MONDALE), the Senator from Rhode Island (Mr. PASTORE), the Senator from Mississippi (Mr. STENNIS), the Senator from Missouri (Mr. SYMINGTON), the Senator from Georgia (Mr. TALMADGE), and the Senator from California (Mr. TUNNEY) are necessarily absent.

I further announce that the Senator from Hawaii (Mr. INOUYE) is absent on official business.

I also announce that the Senator from Michigan (Mr. PHILIP A. HART) is absent because of illness.

I further announce that, if present and voting, the Senator from Rhode Island (Mr. PASTORE) would vote "nay."

Mr. TOWER. I announce that the Senator from Tennessee (Mr. BROCK), the Senator from New York (Mr. BUCKLEY), the Senator from New Jersey (Mr. CASE), the Senator from Arizona (Mr. GOLDWATER), the Senator from Michigan (Mr. GRIFFIN), the Senator from Oregon (Mr. HATFIELD), the Senator from Kansas (Mr. PEARSON), the Senator from Pennsylvania (Mr. SCHWEIKER), the Senator from Pennsylvania (Mr. HUGH SCOTT), the Senator from Virginia (Mr. WILLIAM L. SCOTT), the Senator from Connecticut (Mr. WEICKER), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

The result was announced—yeas 34, nays 36, as follows:

[Rollcall Vote No. 477 Leg.]

YEAS—34

Baker
Bartlett
Bayh
Beall
Bellmon
Bentsen
Byrd,
  Harry F., Jr.
Chiles
Cranston
Curtis
Fannin
Fong
Ford
Garn
Gravel
Hansen
Helms
Hollings
Hruska
Huddleston
Johnston
Laxalt
Long
Magnuson
Morgan
Moss
Muskie
Nelson
Randolph
Roth
Sparkman
Stevens
Thurmond
Tower

NAYS—36

Allen
Brooke
Bumpers
Burdick
Byrd, Robert C.
Cannon
Church
Clark
Culver
Dole
Domenici
Durkin
Eagleton
Glenn
Hart, Gary
Hathaway
Humphrey
Jackson
Javits
Kennedy
Leahy
Mathias
McClure
McIntyre
Montoya
Nunn
Packwood
Pell
Percy
Proxmire
Ribicoff
Stafford
Stevenson
Stone
Taft
Williams

NOT VOTING—30

Abourezk
Biden
Brock
Buckley
Case
Eastland
Goldwater
Griffin
Hart, Philip A.
Hartke
Haskell
Hatfield
Inouye
Mansfield
McClellan
McGee
McGovern
Metcalf
Mondale
Pastore
Pearson
Schweiker
Scott, Hugh
Scott,
  William L.
Stennis
Symington
Talmadge
Tunney
Weicker
Young

So the motion to lay on the table was rejected.

Mr. GRAVEL addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. GRAVEL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. A quorum is in progress.

Mr. KENNEDY. On whose time, Mr. President?

The PRESIDING OFFICER. No time is being charged.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

ORDER REDUCING TIME ON CLEAN AIR ACT TOMORROW AND FOR CONVENING OF SENATE AT 9 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, on another matter, I ask unanimous consent that the time on the amendment by Mr. GARY HART to the Clean Air Act tomorrow, which presently is limited to 2 hours, be reduced to 1½ hours, and that the time on the amendment by Mr. PACKWOOD and Mr. BUMPERS, which presently is limited to 2 hours, be reduced to 1½ hours, thus saving 1 hour.

If the order is consented to, I then ask unanimous consent that the Senate not come in until 9 o'clock tomorrow morning rather than 8 o'clock tomorrow morning.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

TAX REFORM ACT OF 1976

The Senate continued with the consideration of the bill (H.R. 10612) to reform the tax laws of the United States.

Mr. ROBERT C. BYRD. I thank the Chair and I thank all Senators.

Mr. President, I renew the order for a quorum.

Mr. KENNEDY. Regular order, Mr. President. There is obviously a quorum present.

Mr. LONG. I suggest the absence of a quorum.

Mr. KENNEDY. I ask for regular order, Mr. President.

The PRESIDING OFFICER. Does the Senator make a point of order?

Mr. KENNEDY. Yes, make the point of order, there is obviously a quorum present.

Mr. LONG. Mr. President, I suggest the absence of a quorum.

Mr. KENNEDY. Regular order, Mr. President.

Mr. LONG. I suggest the absence of a quorum, Mr. President.

The PRESIDING OFFICER. The quorum call is now in order because business has intervened since the rollcall which showed a quorum was present. So the clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. GRAVEL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRAVEL. Mr. President, may I explain something to the Senate? We had a vote this evening and there were 70 Senators voting, 30 Senators absent. All the Members here, including myself, have played the absentee game before. Obviously——

The PRESIDING OFFICER. The time has expired for debate.

Mr. GRAVEL. I ask unanimous consent to make a 1-minute statement.

Mr. TAFT. Regular order, Mr. President.

The PRESIDING OFFICER. Regular order is called for. The question is on agreeing to the amendment of the Senator from Colorado.

Mr. TOWER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The amendment is agreed to.

Mr. GRAVEL. Regular order, Mr. President.

The PRESIDING OFFICER. The time of the chairman——

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Chair begs the pardon of the Senator from Texas. The Senator from Texas had called for a quorum. Does the Senator still call for a quorum?

Mr. TOWER. I called for a quorum before the result was announced.

Mr. HUMPHREY. A point of order, Mr. President. What is the business which has transpired since the last quorum? What is the business this Senate has completed since the last quorum?

The PRESIDING OFFICER. The last quorum was called off.

Mr. HUMPHREY. It may have been called off by unanimous consent only on the assumption that there was a quorum. The point of order is what is the business?

The PRESIDING OFFICER. The business is the quorum call.

Mr. HUMPHREY. Mr. President, we have had two quorum calls——

The PRESIDING OFFICER. Calling off the quorum by unanimous consent is business.

Mr. HUMPHREY. Mr. President, a point of order. I say this is dilatory. We have had two quorum calls. We have had one bit of transaction of business, which is nothing more or less than a unanimous-consent request. Now we have another quorum call with no business having been transacted.

The PRESIDING OFFICER. The point of order is not relevant because we are not under cloture, at which point such a point of order might be in order.

Mr. ROBERT C. BYRD. Mr. President, the hour is 10:55 p.m. I suggest we have a vote on the amendment by the Senator from Colorado.

Several Senators addressed the Chair.

Mr. ROBERT C. BYRD. I thought the Chair had not announced the result of the vote before the quorum call was requested.

The PRESIDING OFFICER. That is correct.

Mr. ROBERT C. BYRD. Then let us have a vote and go home.

Mr. GRAVEL. We had a vote.

Mr. TOWER. Mr. President, I suggested the absence of a quorum before the result was announced.

The PRESIDING OFFICER. Does the Senator renew that request?

Mr. TOWER. I renew that request.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. GARY HART. I object.

The PRESIDING OFFICER. Objection is heard.

The second assistant legislative clerk resumed the call of the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. TAFT. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

The second assistant legislative clerk resumed and concluded the call of the roll, and the following Senators answered to their names:

Allen
Baker
Bartlett
Beall
Bellmon
Bentsen
Brooke
Bumpers
Burdick
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Cannon
Church
Clark
Cranston
Culver
Curtis
Domenici
Fannin
Ford
Glenn
Gravel
Hansen
Hart, Gary
Hathaway
Helms
Hruska
Huddleston
Humphrey
Jackson
Javits
Johnston
Kennedy
Laxalt
Leahy
Long
McClure
McIntyre
Montoya
Moss
Muskie
Nelson
Packwood
Pell
Percy
Proxmire
Ribicoff
Roth
Sparkman
Stafford
Stevens
Stevenson
Stone
Taft
Tower

The PRESIDING OFFICER. A quorum is present.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. TAFT. Mr. President, I object.

Mr. ROBERT C. BYRD. Mr. President, will the Senator withhold that for a moment?

The PRESIDING OFFICER. A quorum is present.

Mr. TAFT. I reserve the right to object.

Mr. ROBERT C. BYRD. Yes, if the Senator will reserve the right to object, let us try to work this out.

The PRESIDING OFFICER. A quorum is present.

Mr. HUMPHREY. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HUMPHREY. Mr. President, is a quorum present?

The PRESIDING OFFICER. A quorum is present.

Mr. GRAVEL. Mr. President.

Mr. TAFT. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. TAFT. What is the order of business before the Senate?

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Colorado (Mr. Gary Hart).

Mr. TAFT. Regular order, Mr. President.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. GARY HART. I move to reconsider the vote by which the amendment was agreed to.

Mr. GRAVEL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LONG. Mr. President, I send to the desk a modification of title XXVI.

The PRESIDING OFFICER. The modification will be stated.

The legislative clerk read as follows:

The Senator from Louisiana (Mr. Long) proposes a modification to title XXVI.

The modification is as follows:

At the end of the bill, insert the following new title:

TITLE XXVI—OTHER MISCELLANEOUS AMENDMENTS

Sec. 2601. Credit for Certain Expenses Incurred in Providing Education.

(a) Subpart A of part IV subchapter A of chapter 1 (relating to credits allowable) is amended by inserting before section 45 the following new section:

"Sec. 44d. Expenses of Higher Education.

"(a) General Rule.—There shall be allowed to an individual, as a credit against the tax imposed by this chapter for the taxable year, an amount, determined under subsection (b), of the educational expenses paid by him during the taxable year to one or more eligible educational institutions for himself, his spouse, or any of his dependents (as defined in section 152).

"(b) Limitations.—

(1) Amount per individual.—The credit under subsection (a) for educational expenses of any individual shall be an amount equal to—

"(A) so much of such expenses paid in taxable years beginning after December 31, 1976, but before January 1, 1978, as does not exceed $100,

"(B) so much of such expenses paid in taxable years beginning after December 31, 1977, but before January 1, 1979, as does not exceed $150,

"(C) so much of such expenses paid in taxable years beginning after December 31, 1978, but before January 1, 1980, as does not exceed $200, and

"(D) so much of such expenses paid in taxable years beginning after December 31, 1979, as does not exceed $250.

"(2) Proration of credit where more than one taxpayer pays expenses.—If educational expenses of an individual are paid by more than one taxpayer during the taxable year, the credit allowable to each such taxpayer under subsection (a) shall be the same portion of the credit determined under paragraph (1) which the amount of educational expenses of such individual paid by the taxpayer during the taxable year is of the total amount of educational expenses of such individual paid by all taxpayers during the taxable year.

"(c) Definitions.—For purposes of this section—

"(1) Educational expenses.—The term 'educational expenses' means—

"(A) tuition and fees required for the enrollment or attendance of a student at an eligible educational institution, and

"(B) fees, books, supplies, and equipment required for courses of instruction at an eligible educational institution.

Such term does not include any amount paid, directly or indirectly, for meals, lodging, or similar personal, living, or family expenses. In the event an amount paid for tuition or fees includes an amount for meals, lodging, or similar expenses which is not separately stated, the portion of such amount which is attributable to meals, lodging, or similar expenses shall be determined under regulations prescribed by the Secretary.

"(2) Eligible educational institution.—The term 'eligible educational institution' means—

"(A) an institution of higher education; or

"(B) a vocational school.

"(3) Institution of higher education.—The term 'institution of higher education' means the institutions described in section 1202(a) or 491(b) of the Higher Education Act of 1965.

"(4) Vocational school.—The term 'vocational school' means an area vocational education school as defined in section 108(2) of the Vocational Education Act of 1963.

"(d) Special Rules.—

"(1) Adjustment for certain scholarships and veterans benefits.—The amounts otherwise taken into account under subsection (a) as educational expenses of any individual during any period shall be reduced (before the application of subsection (b)) by any amounts received by such individual during such period as—

"(A) a scholarship or fellowship grant (within the meaning of section 117(a)(1)) which under section 117 is not includable in gross income, and

"(B) an educational assistance allowance under chapter 35 of title 38 of the United States Code or education and training allowance under chapter 33 of title 38 of the United States Code.

"(2) Graduate, noncredit, and recreational, etc., courses.—Amounts paid for educational expenses of any individual shall be taken into account under subsection (a) only to the extent such expenses are attributable to courses of instruction for which credit is allowed toward a baccalaureate degree by an institution of higher education or toward a certificate of required course work at a vocational school and are not attributable to any graduate program of such individual.

"(3) Application with other credits.—The credit allowed by subsection (a) to the taxpayer shall not exceed the amount of the tax imposed on the taxable year by this chapter, reduced by the sum of the credits allowable under this subpart (other than under this section, section 31, and section 39).

"(4) Full-time student.—No credit shall be allowed under subsection (a) for amounts paid during the taxable year for educational expenses with respect to any individual unless that individual, during any 4 calendar months during the calendar year in which the taxable year of the taxpayer begins, is a full-time student above the secondary level at an eligible educational institution.

"(5) Spouse.—No credit shall be allowed under subsection (a) for amounts paid during the taxable year for educational expenses for the spouse of the taxpayer unless—

"(A) the taxpayer is entitled to an exemption for his spouse under section 151(b) for the taxable year, or

"(B) the taxpayer files a joint return with his spouse under section 6013 for the taxable year.

"(e) Disallowance of Expenses as Deduction.—No deduction shall be allowed under section 162 (relating to trade or business expenses) for any educational expense which (after the application of subsection (b)) is taken into account in determining the amount of any credit allowed under subsection (a). The preceding sentence shall not apply to the educational expenses of any taxpayer who, under regulations prescribed by the Secretary, elects not to apply the provisions of this section with respect to such expenses for the taxable year.

"(f) Regulations.—The Secretary shall prescribe such regulations as may be necessary to carry out the provisions of this section.".

(b) Conforming Amendment.—

(1) The table of sections for such subpart A is amended by inserting immediately before the item relating to section 45 the following:

"Sec. 44D. Expenses of higher education.".

(2) Section 55(c)(2)(B) (relating to imposition of minimum tax) is amended by striking out "and" at the end of clause (ix), by striking out the period at the end of clause (x) and inserting in lieu thereof a comma and the word "and", and by adding at the end thereof the following new clause:

"(xi) section 44D (relating to credit for expenses for higher education)."

(c) Effective Date.—The amendments made by this section shall apply to educational expenses paid after June 30, 1977, in taxable years beginning after December 31, 1976, for courses of instruction commencing after June 30, 1977.

Sec. 2602. Interest on Certain Governmental Obligations for Hospital Construction.

(a) Special Rule for Hospital Construction.—Paragraph (6) of section 103(c) (relating to exemption for certain small issues) is amended by adding at the end thereof the following subparagraph:

"(I) $20,000,000 limit in certain cases.—At the election of the issuer, made at such time and in such manner as the Secretary shall by regulations prescribe, with respect to any issue substantially all of the proceeds of which are to be used to provide hospitals which are certified as necessary by the appropriate State agency, subparagraph (D) of this paragraph shall be applied by substituting '$20,000,000' for '$5,000,000' each place it appears therein."

(b) Effective Date.— The amendments made by this section apply to taxable years beginning after December 31, 1976, with respect to obligations issued after such date.

Sec. 2603. Prepaid Legal Expenses.

(a) Exclusion.—Part III of subchapter B of chapter 1 is amended by inserting after section 119 the following new section:

"Sec. 120. Amounts Received Under Qualified Group Legal Services Plans

"(a) Exclusion by Employee for Contributions and Legal Services Provided by Employer.—Gross income of an employee, his spouse, or his dependents, does not include—

"(1) amounts contributed by an employer on behalf of an employee, his spouse, or his dependents under a qualified group legal services plan (as defined in subsection (b)); or

"(2) the value of legal services provided, or amounts paid for legal services, under a qualified group legal services plan (as defined in subsection (b)) to, or with respect to, an employee, his spouse, or his dependents.

"(b) Qualified Group Legal Services Plan.—For purposes of this section, a qualified group legal services plan is a separate written plan of an employer for the exclusive benefit of his employees or their spouses or dependents to provide such employees, spouses, or dependents with specified benefits consisting of personal legal services through prepayment of, or provision in advance for, legal fees in whole or in part by the employer, if the plan meets the requirements of subsection (c).

"(c) Requirements.—

"(1) Discrimination.—The contributions or benefits provided under the plan shall not discriminate in favor of employees who are officers, shareholders, self-employed individuals, or highly compensated.

"(2) Eligibility.—The plan shall benefit employees who qualify under a classification set up by the employer and found by the Secretary not to be discriminatory in favor cf employees who are described in paragraph (1). For purposes of this paragraph, there shall be excluded from consideration employees not included in the plan who are included in a unit of employees covered by an agreement which the Secretary of Labor finds to be a collective bargaining agreement between employee representatives and one or more employers, if there is evidence that group legal services plan benefits were the subject of good faith bargaining between such employee representatives and such employer or employers.

"(3) Contribution limitation.—Not more than 25 percent of the amounts contributed under the plan during the year may be provided for the class of individuals who are shareholders or owners (or their spouses or dependents), each of whom (on any day of the year) owns more than 5 percent of the stock or of the capital or profits interest in the employer.

"(4) Notification.—The plan shall give notice to the Secretary, in such manner as the Secretary may by regulations prescribe, that it is applying for recognition of the status of a qualified group legal services plan.

"(5) Contributions.—Amounts contributed under the plan shall be paid only (A) to insurance companies, (B) to trust described in section 501(c)(20), (C) as prepayments to providers of legal services under the plan, or (D) a combination of the foregoing.

"(d) Other Definitions and Special Rules.—For purposes of this section—

"(1) Self-employed individual; employee.—The term 'self-employed individual' means, and the term 'employee' includes, for any year, an individual who is an employee within the meaning of section 401(c)(1) (relating to self-employed individuals).

"(2) Employer.—An individual who owns the entire interest in an unincorporated trade or business shall be treated as his own employer. A partnership shall be treated as the employer of each partner who is an employee within the meaning of paragraph 1).

"(3) Allocations.—Allocations of amounts contributed under the plan shall be made in accordance with regulations prescribed by the Secretary and shall take into account the expected relative utilization of benefits to be provided from such contributions or plan assets and the manner in which any premium or other charge was developed.

"(4) Dependent.—The term 'dependent' has the meaning given to it by section 152.

"(5) Attribution rules.—For purposes of this section—

"(A) ownership of stock in a corporation shall be determined in accordance with the rules provided under subsections (d) and (e) of section 1563 (without regard to section 1563(e)(3)(C)), and

"(B) the interest of an employee in a trade or business which is not incorporated shall be determined in accordance with regulations prescribed by the Secretary, which shall be based on principles similar to the principles which apply in the case of subparagraph A).

"(6) Time of notice to secretary.—A plan shall not be a qualified group legal services plan for any period prior to notification of the Secretary in accordance with subsection (c)(4), if such notice is given after the time prescribed by the Secretary by regulations for giving such notice.".

(b) Exempt Status.—Section 501(c) (relating to exempt organizations) is amended by adding at the end thereof the following new paragraph:

"(20) A trust created or organized in the United States, the exclusive function of which is to form part of a qualified group legal services plan, within the meaning of section 120.".

(c) Technical Amendment.—The table of sections for part III of subchapter B of chapter 1 is amended by inserting after the item relating to section 119 the following new item:

"Sec. 120. Amounts received under qualified group legal service plans.".

(d) Effective Dates.—

(1) In general.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 1973.

(2) Notice requirement.—For purposes of section 120(d)(6) of the Internal Revenue Code of 1954, the time prescribed by the Secretary of the Treasury by regulations for giving the notice required by section 120 (c)(4) of such Code shall not expire before the 90th day after the day on which regulations first prescribed under such section 120 (c)(4) become final.

(3) Existing plans.—

(A) For purposes of section 120 of the Internal Revenue Code of 1954, a written group legal services plan which was in existence on January 1, 1976, shall be considered as satisfying the requirements of subsections (b) and (c) of the Internal Revenue Code of 1954 for the period ending with the compliance date (determined under subparagraph (B)).

(B) Compliance date.—For purposes of this paragraph, the term "compliance date" means—

(i) the date occurring 180 days after the date of the enactment of this Act, or

(ii) if later, in the case of a plan which is maintained pursuant to one or more agreements which the Secretary of Labor finds to be collective bargaining agreements, the earlier of December 31, 1981, or the date on which the last of the collective bargaining agreements relating to plan terminates (determined without regard to any extension thereof agreed to after the date of the enactment of this Act).

SEC. 1604. CERTAIN HOSPITAL SERVICES.

(a) IN GENERAL.—Section 513 (relating to unrelated trade or business) is amended by adding at the end thereof the following new subsection:

"(e) CERTAIN HOSPITAL SERVICES.—In the case of a hospital described in section 501(c) (3), the term 'unrelated trade or business' does not include the furnishing of one or more of the services described in section 501 (e) (1) (A) to one or more hospitals described in section 501(c) (3) if—

"(1) such services are furnished solely to such hospitals which have facilities to serve not more than 100 inpatients; and

"(2) such services, if performed on its own behalf by the recipient hospital, would constitute activities in exercising or performing the purpose or function constituting the basis for its exemption.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to all taxable years to which the Internal Revenue Code of 1954 applies.

SEC. 2605. LAUNDRY AND CLINICAL SERVICES OF COOPERATIVE HOSPITALS.

(a) IN GENERAL.—Section 501(e) (1) (A) (relating to cooperative hospital srevice organizations) is amended by inserting "laundry, clinical, after "food,".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years ending after December 31, 1976.

SEC. 2606. SPECIAL RULE FOR CERTAIN CHARITABLE CONTRIBUTIONS OF INVENTORY AND OTHER PROPERTY.

(a) IN GENERAL.—Section 170(e) (relating to certain contributions of ordinary income and capital gain property) is amended by adding at the end thereof the following new paragraph:

"(3) SPECIAL RULE FOR CERTAIN CONTRIBUTIONS OF INVENTORY AND OTHER PROPERTY.—

"(A) QUALIFIED CONTRIBUTIONS.—For purposes of this paragraph, a qualified contribution shall mean a charitable contribution of property described in paragraph (1) or (2) of section 1221, by a corporation (other than a corporation which is an electing small business corporation within the meaning of section 1371(b)) to an organization which is described in section 501(c) (3) and is exempt under section 501(a) (other than a private foundation, as defined in section 509(a), which is not an operating foundation, as defined in section 4942(j) (3)), but only if—

"(i) the use of the property by the donee is related to the purpose or function constituting the basis for its exemption under section 501 and the property is to be used by the donee solely for the care of the ill, the needy, or infants;

"(ii) the property is not transferred by the donee in exchange for money, other property, or services; and

"(iii) the taxpayer receives from the donee a written statement representing that its use and disposition of the property will be in accordance with the provisions of clauses (i) and (ii).

"(B) AMOUNT OF REDUCTION.—The reduction under paragraph (1) (A) for any qualified contribution (as defined in subparagraph (A)) shall be no greater than the sum of—

"(i) one-half of the amount computed under paragraph (1) (A) (computed without regard to this paragraph), and

"(ii) the amount (if any) by which the charitable contribution deduction under this section for any qualified contribution (computed by taking into account the amount determined in clause (i), but without regard to this clause) exceeds twice the basis of such property.

"(C) This paragraph shall not apply to so much of the amount of the gain described in paragraph (1) (A) which would be long-term capital gain but for the application of section 617, 1245, 1250, 1251, or 1252.".

(b) EFFECTIVE DATE.—The amendment made by this section applies to charitable contributions made after the date of enactment of this Act, in taxable years ending after such date.

Mr. LONG. Mr. President, I would hope we can have some unanimous-consent agreements now, so Senators will know when we will vote tomorrow on these matters.

Mr. KENNEDY. Will the Senator use his microphone?

Mr. CULVER. The Senate is not in order.

The PRESIDING OFFICER. The Senate will be in order.

Mr. LONG. I ask unanimous consent that there be a division of time of 10 minutes on each side on the Roth amendment, which is a tuition credit, 20 minutes to be equally divided between the Senator from Delaware (Mr. ROTH) and the opponents of the amendment. That will be one amendment, and I would ask that there be 10 minutes on both sides on the Roth amendment.

Mr. TOWER. Mr. President, I cannot hear the Senator.

Mr. LONG. There will be an amendment to the tuition credit amendment. I ask unanimous consent that there be 10 minutes on each side on the amendment to the amendment, and then 10 minutes on each side on the tuition credit amendment.

Mr. ALLEN. Mr. President, reserving the right to object, and I shall not object——

Mr. LONG. I ask unanimous consent that there be 15 minutes on each side on the tuition credit amendment, and 10 minutes on the amendment to the amendment.

Mr. ALLEN. Will the Senator also make the request that the amendment to the amendment be germane?

Mr. LONG. Yes; I also ask unanimous consent that amendments to the amendment be germane.

Mr. CURTIS. Mr. President, reserving the right to object, and I shall not object, but I need clarification. Is this the title where we have the language in reference to the cooperatives for hospitals?

SEVERAL SENATORS. Yes.

Mr. LONG. That comes farther on down the list. The present unanimous-consent request does not relate to that. It is in the title, yes.

Mr. CURTIS. But the present unanimous-consent request does not relate to it?

Mr. LONG. Not at the moment, no.

Mr. CURTIS. The junior Senator from Nebraska will perhaps have an amendment related to the Roth amendment.

Mr. LONG. Does the Senator from Maine wish time?

Mr. MUSKIE. Yes. Reserving the right to object, I want to be sure that I have at least 2 minutes from whoever is in control of the time in opposition to the Roth amendment.

Mr. LONG. Mr. President, I ask unanimous consent that I might have 20 minutes on the bill to take care of requests of that sort.

Mr. MUSKIE. I appreciate it.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. LONG. Then, Mr. President, we will have an amendment with regard to bonds for hospital construction, and I ask unanimous consent that we have a limitation of 10 minutes on both sides on that amendment, 10 minutes to be controlled by the manager of the bill or Mr. BENTSEN, and the other 10 minutes to be controlled by those opposing the amendment.

The PRESIDING OFFICER. Is there objection?

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. LONG. Yes.

Mr. JAVITS. I hope the Senator will allow something for amendments to amendments.

Mr. LONG. Yes; that there be 10 minutes on amendments to amendments, 10 minutes on each side, and that the amendments be germane.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. LONG. Then I ask unanimous consent, Mr. President, that there be the same amendment with regard to the group legal services amendment, with the time in favor of the amendment being controlled by the Senator from Oregon (Mr. PACKWOOD) and the time against to be controlled by the opponents. They can decide among themselves, or the Chair can designate the one to control the time.

The PRESIDING OFFICER. Does the Chair correctly understand the request is for 10 minutes to a side, and 10 minutes for amendments to the amendment, and that the amendments be germane?

Mr. LONG. Yes.

Mr. PACKWOOD. I object.

The PRESIDING OFFICER. Is there objection?

Mr. PACKWOOD. I object, Mr. President.

Mr. LONG. How much time does the Senator want?

Mr. PACKWOOD. I may want—I do not know where the votes lie on this; I may want one vote to find out, and some more time after that.

Mr. LONG. Well, we will play it by ear when we get to that. That will take care of that title.

I send to the desk two more titles, as amended, Mr. President, and ask unanimous consent that they be printed. That is title II, dealing with estate and gift taxes, and title XXVII dealing with capital gains.

The PRESIDING OFFICER. Are these committee amendments?

Mr. LONG. Yes, these are committee amendments.

The PRESIDING OFFICER. Authorized by the committee?

Mr. KENNEDY. Is the Senator making a request on items 11 and 12, the estate and capital gains?

Mr. LONG. I am not asking for a time limit at this time.

Mr. KENNEDY. I would be glad to see a time limit, but I think it should be a good deal longer.

Mr. LONG. Yes. When we are able to take care of the first two, then we will undertake to obtain agreements on the remainder, and in the meantime we hope we can proceed with the amendment in chief tomorrow, and then we can go to amendments to it.

The PRESIDING OFFICER. Were

these amendments sent to the desk for printing, or for modification, or amendments authorized by the committee?

Mr. LONG. These are committee modifications to the bill offered as committee amendments.

The PRESIDING OFFICER. Authorized by the committee?

Mr. LONG. Authorized by the committee, that is right.

The PRESIDING OFFICER. And these are new amendments which have not yet been agreed to?

Mr. LONG. They have not yet been agreed to.

The PRESIDING OFFICER. The amendments will be so modified. The committee has the right to make those modifications.

The modifications are as follows:

At the end of title XXI, insert the following new title:

TITLE XXII—ESTATE AND GIFT TAXES

Sec. 2201. Revision of estate and gift tax provisions.

(a) Allowance of Credit Against Estate Tax.—

(1) Part II of subchapter A of chapter 11 (relating to credits against tax) is amended by inserting before section 2011 the following new section:

"Sec. 2010. Credit against estate tax.

"(a) General Rule.—A credit of $50,000 shall be allowed against the tax imposed by section 2001 with respect to the estate of every decedent.

"(b) Transitional Rule.—In the case of decedents dying before January 1, 1981, there shall be substituted for the $50,000 amount set forth in subsection (a) an amount determined under the following table:

"If the decedent dies in—	The amount of the credit is—
1977	$30,000
1978	35,000
1979	40,000
1980	45,000".

(2) Repeal of specific exemption.—Section 2052 (relating to specific exemption for purposes of the estate tax) is hereby repealed.

(3) Technical, clerical, and conforming changes.—

(A) Credit for state death taxes.—Section 2011 (relating to credit for State death taxes) is amended—

(i) by striking out "taxable estate" each place it appears in subsection (b) (including the heading to the table) and inserting in lieu thereof "adjusted taxable estate";

(ii) by adding at the end of subsection (b) the following new sentence:

"For purposes of this section, the term 'adjusted taxable estate' means the taxable estate reduced by $60,000."; and

(iii) by striking out "taxable estate" each place it appears in subsection (e) and inserting in lieu thereof "adjusted taxable estate".

(B) Credit for gift tax.—Subsection (a) of section 2012 (relating to credit for gift tax) is amended by striking out "provided by section 2011" and inserting in lieu thereof "provided by section 2011 and the credit provided by section 2010".

(B) Credit for gift tax.—Subsection (a)

(i) The first sentence of section 2013(b) is amended by striking out "and increased by the exemption provided for by section 2052 or section 2106(a)(3), or the corresponding provisions of prior laws, in determining the taxable estate of the transferor for purposes of the estate tax".

(ii) Subparagraph (A) of section 2013(c)(1) is amended to read as follows:

"(A) the estate tax imposed by section 2001 or section 2101 (after deducting the credits provided for in sections 2010, 2011, 2012, and 2014) computed without regard to this section, exceeds".

(D) Credit in case of estates of nonresidents not citizens.—Section 2102 (relating to credits against tax in case of estates of nonresidents not citizens) is amended by adding at the end thereof the following new subsection:

"(c) Credit Against Estate Tax.—

"(1) In general.—A credit of $5,000 shall be allowed against the tax imposed by section 2101.

"(2) Transitional rule.—In the case of decedents who are neither residents nor citizens of the United States dying before January 1, 1981, there shall be substituted for the $5,000 amount set forth in paragraphs (1) and (3)(A) an amount determined under the following table:

"If the decedent dies in—	The amount of the credit is—
1977	$3,000
1978	3,500
1979	4,000
1980	4,500

"(3) Residents of possessions of the United States.—In the case of a decedent who is considered to be a nonresident not a citizen of the United States under section 2209, the credit under this subsection shall be the greater of—

"(A) $5,000, or

"(B) that proportion of $14,767 (or in the case of a decedent dying in a calendar year before January 1, 1982, the amount applicable to such year as determined under section 2010(b)) which the value of that part of the decedent's gross estate which at the time of his death is situated in the United States bears to the value of his entire gross estate wherever situated.

"(4) Application of other credits.—For purposes of subsection (a), sections 2011 to 2013, inclusive, shall be applied as if the credit allowed under this subsection were allowed under section 2010.".

(E) Repeal of specific exemption.—Paragraph (3) of section 2106(a) (relating to specific exemption in case of decedents nonresidents not citizens) is hereby repealed.

(F) Credit for foreign death taxes.—Paragraph (2) of section 2014(b) (relating to limitations on credit) is amended by striking out "sections 2011 and 2012" and inserting in lieu thereof "sections 2010, 2011, and 2012".

(G) Liability of life insurance beneficiaries.—The first sentence of section 2206 (relating to liability of life insurance beneficiaries) is amended by striking out "the sum of the taxable estate and the amount of the exemption allowed in computing the taxable estate, determined under section 2051" and inserting in lieu thereof "the taxable estate".

(H) Liability of recipients of certain property.—The first sentence of section 2207 (relating to liability of recipient of property over which decedent had power of appointment) is amended by striking out "the sum of the taxable estate and the amount of the exemption allowed in computing the taxable estate, determined under section 2052, or section 2106(a), as the case may be" and inserting in lieu thereof "the taxable estate".

(I) Return by executor.—Subsection (a) of section 6018 (relating to estate tax returns by executor) is amended to read as follows:

"(a) Returns by Executor.—

"(1) Citizens or residents.—In all cases where the gross estate at the death of a citizen or resident exceeds—

"(A) $60,000, in the case of a death before January 1, 1977,

"(B) $130,000, in the case of a death during 1977,

"(C) $147,000, in the case of a death during 1978,

"(D) $164,000, in the case of a death during 1979,

"(E) $181,000, in the case of a death during 1980, and

"(F) $197,000, in the case of a death after December 31, 1980,

the executor shall make a return with respect to the estate tax imposed by subtitle B.

"(2) Nonresidents not citizens of the United States.—In the case of the estate of every nonresident not a citizen of the United States, if that part of the gross estate which is situated in the United States exceeds—

"(A) $30,000, in the case of a death before January 1, 1977,

"(B) $60,000, in the case of a death during 1977,

"(C) $70,000, in the case of a death during 1978,

"(D) $80,000, in the case of a death during 1979,

"(E) $90,000, in the case of a death during 1980,

"(F) $100,000, in the case of a death after December 31, 1980,

the executor shall make a return with respect to the estate tax imposed by subtitle B.".

(J) Clerical Amendments.—

(i) The table of sections for part II of subchapter A of chapter 11 is amended by inserting before the item relating to section 2011 the following new item:

"Sec. 2010. Credit against estate tax.".

(ii) The table of sections for part IV of subchapter A of chapter 11 is amended by striking out the item relating to section 2052.

(4) Effective date.—The amendments made by this subsection shall apply to the estates of decedents dying after December 31, 1976.

(b) Increase in Limitation on Estate Tax Marital Deduction.—

(1) In general.—Paragraph (1) of section 2056(c) (relating to limitation on marital deduction) is amended to read as follows:

"(1) Limitation.—

"(A) In general.—The aggregate amount of the deductions allowed under this section (computed without regard to this subsection) shall not exceed the greater of—

"(i) $250,000, or

"(ii) 50 percent of the value of the adjusted gross estate (as defined in paragraph (2)).

"(B) Community property adjustment.—The $250,000 amount set forth in subparagraph (A)(i) shall be reduced by the excess (if any) of—

"(i) the amount of the subtraction determined under clauses (i), (ii), and (iii) of paragraph (2)(B), over

"(ii) the excess of the aggregate of the deductions allowed under sections 2053 and 2054 over the amount taken into account with respect to such deductions under clause (iv) of paragraph (2)(B).".

(2) Effective date.—The amendment made by paragraph (1) shall apply to the estates of decedents dying after December 31, 1976.

(c) Valuation for Purposes of the Federal Estate Tax of Certain Real Property Devoted to Farming, Woodlands, Scenic Open Spaces, and Historic Sites.—

(1) General rule.—Part III of subchapter A of chapter 11 (relating to gross estate) is amended by inserting after section 2032 the following new section:

"Sec. 2032A. Valuation of certain farm, etc., real property.

"(a) Value Based on Use on Basis of Which Property Qualifies.—

"(1) General rule.—If—

"(A) the decedent was (at the time of his death) a citizen or resident of the United States, and

"(B) the executor elects the application of this section and files the agreement referred to in subsection (d)(2),

then, for purposes of this chapter, the value of qualified real property shall be its value for the use of the basis of which it qualifies, under subsection (b), as qualified real property.

"(2) LIMITATION.—The aggregate decrease in the value of qualified real property taken into account for purposes of this chapter which results from the application of paragraph (1) with respect to any decedent shall not exceed $1,000,000.

"(b) QUALIFIED REAL PROPERTY.—

"(1) IN GENERAL.—For purposes of this section, the term 'qualified real property' means real property located in the United States which, on the date of the decedent's death, was being used for a qualified use, but only if—

"(A) 50 percent or more of the adjusted value of the gross estate consists of the adjusted value of real or personal property which—

"(i) on the date of the decedent's death, was being used for a qualified use, and

"(ii) was acquired from or passed from the decedent to a qualified heir of the decedent,

"(B) 25 percent or more of the adjusted value of the gross estate consists of the adjusted value of real property which meets the requirements of subparagraphs (A)(ii) and (C),

"(C) during the 8-year period ending on the date of the decedent's death there have been periods aggregating 5 years or more during which such real property was—

"(i) owned by the decedent, and

"(ii) used for a qualified use, and

"(D) such property is designated in the agreement referred to in subsection (d)(2).

"(2) QUALIFIED USE.—For purposes of this section, the term 'qualified use' means the devotion of the property to any of the following:

"(A) farming (including the production of agricultural commodities and the raising of livestock),

"(B) woodland (including land used for the commercial production of trees and land publicly used for undeveloped scenic or outdoor recreational purposes),

"(C) open pastoral space, or

"(D) maintenance of historic values but only if such property is listed in the National Register of Historic Places, either separately or as part of a district so listed.

"(3) ADJUSTED VALUE.—For purposes of paragraph (1), the term 'adjusted value' means—

"(A) in the case of the gross estate, the value of the gross estate for purposes of this chapter (determined without regard to this section), reduced by any amounts allowable as a deduction under paragraph (4) of section 2053(a), or

"(B) in the case of any real or personal property, the value of such property for purposes of this chapter (determined without regard to this section), reduced by any amounts allowable as a deduction in respect of such property under paragraph (4) of section 2053(a).

"(c) TAX TREATMENT OF DISPOSITIONS AND CONVERSIONS TO NONQUALIFIED USES.—

"(1) IMPOSITION OF ADDITIONAL ESTATE TAX.—If, within 10 years after the decedent's death and before the death of the qualified heir—

"(A) the qualified heir disposes of any interest in qualified real property (other than by a disposition to a member of his family), or

"(B) the qualified real property is converted to a nonqualified use (within the meaning of paragraph (7)),

then there is hereby imposed an additional estate tax.

"(2) AMOUNT OF ADDITIONAL TAX.—

"(A) IN GENERAL.—The amount of the additional tax imposed by paragraph (1) with respect to any interest shall be the amount equal to the lesser of—

"(i) the adjusted tax difference attributable to such interest, or

"(ii) the excess of the amount realized with respect to the interest (or, in any case other than a sale or exchange at arm's length, the fair market value of the interest) over the value of the interest determined under subsection (a).

"(B) ADJUSTED TAX DIFFERENCE ATTRIBUTABLE TO INTEREST.—For purposes of subparagraph (A), the adjusted tax difference attributable to an interest is the amount which bears the same ratio to the adjusted tax difference for the estate (determined under subparagraph (C)) as—

"(i) the excess of the value of such interest for purposes of this chapter (determined without regard to subsection (a)) over the value of such interest determined under subsection (a), bears to

"(ii) a similar excess determined for all qualified real property.

"(C) ADJUSTED TAX DIFFERENCE WITH RESPECT TO THE ESTATE.—For purposes of subparagraph (B), the term 'adjusted tax difference with respect to the estate' means the excess of what would have been the estate tax liability but for subsection (a) over the estate tax liability. For purposes of this subparagraph, the term 'estate tax liability' means the tax imposed by section 2001 reduced by the credits allowable against such tax.

"(D) PARTIAL DISPOSITIONS.—For purposes of this paragraph, where the qualified heir disposes of a portion of the interest acquired by (or passing to) such heir (or a predecessor qualified heir) or there is a conversion to a nonqualified use of such a portion—

"(i) then the value determined under subsection (a) taken into account under subparagraph (A)(ii) with respect to such portion shall be its pro rata share of such value of such interest, and

"(ii) the adjusted tax difference attributable to the interest taken into account with respect to the transaction involving the second or any succeeding portion shall be reduced by the amount of the tax imposed by this subsection with respect to all prior transactions involving portions of such interest.

"(3) PHASEOUT OF ADDITIONAL TAX AFTER 24 MONTHS.—If the date of the disposition or conversion referred to in paragraph (1) occurs more than 24 months and less than 120 months after the date of the death of the decedent, the amount of the tax imposed by this subsection shall be reduced (but not below zero) by 20 percent plus an amount determined by multiplying 80 percent of the amount of such tax (determined without regard to this paragraph) by a fraction—

"(A) the numerator of which is the number of full months after such death in excess of 24, and

"(B) the denominator of which is 96.

"(4) ONLY 1 ADDITIONAL TAX IMPOSED WITH RESPECT TO ANY 1 PORTION.—In the case of an interest acquired from (or passing from) any decedent—

"(A) if subparagraph (A) of paragraph (1) applies to any portion of an interest, subparagraph (B) of such paragraph shall not apply with respect to such interest, and

"(B) if subparagraph (B) of paragraph (1) applies to any portion of an interest, subparagraph (A) of such paragraph shall not apply with respect to such interest.

"(5) DUE DATE.—The additional tax imposed by this subsection shall become due and payable on the day which is 6 months after the date of the disposition of conversion referred to in paragraph (1).

"(6) LIABILITY FOR TAX.—The qualified heir shall be personally liable for the additional tax imposed by this subsection with respect to his interest.

"(7) CONVERSION TO NONQUALIFIED USE.—For purposes of paragraph (1)(B), real property is converted to a nonqualified use on the first occurrence of any of—

"(A) the conversion of the real property with respect to which the election provided in this section was made, or any portion thereof, to a use other than one or more of the qualified uses described in subsection (b)(2); or

"(B) the rezoning of such property to permit a use other than one or more of the qualified uses described in subsection (b)(2), if such rezoning occurs at the request of the owner; or

"(C) if such property qualified for the election only pursuant to subsection (b)(2)(D), removal of such property from the National Register of Historic Places, or discontinuance of maintenance of the historic values.

"(d) ELECTION; AGREEMENT.—

"(1) ELECTION.—The election under this section shall be made no later than the time prescribed under section 6075(a) for filing the return of tax under section 2001 (including extensions thereof), and shall be made in such manner as the Secretary shall by regulations prescribe.

"(2) AGREEMENT.—The agreement referred to in this paragraph is a written agreement signed by each person in being who has an interest (whether or not in possession) in any property designated in such agreement consenting to the application of subsection (c) with respect to such property.

"(e) DEFINITIONS; SPECIAL RULES.—For purposes of this section—

"(1) QUALIFIED HEIR.—The term 'qualified heir' means, with respect to any property, a member of the decedent's family who acquired such property (or to whom such property passed) from the decedent. If a qualified heir disposes of any interest in qualified farm real property to any member of his family, such member shall thereafter be treated as the qualified heir with respect to such interest.

"(2) MEMBER OF FAMILY.—The term 'member of the family' means, with respect to any individual, only such individual's ancestor or lineal descendant, a lineal descendant of a grandparent of such individual, the spouse of such individual, or the spouse of any such descendant. For purposes of the preceding sentence, a legally adopted child of an individual shall be treated as a child of such individual by blood.

"(3) CERTAIN REAL PROPERTY INCLUDED.—Residential buildings and related improvements occupied on a regular basis by the owner or lessee of the real property or by persons employed by such owner or lessee for the purpose of operating or maintaining the real property and improvements described in subsection (b)(1), and roads, buildings, and other structures and improvements functionally related to the qualified use shall be treated as real property devoted to the qualified use.

"(f) STATUTE OF LIMITATIONS.—If qualified real property is disposed of or is converted to a nonqualified use, then—

"(1) the statutory period for the assessment of any additional tax under subsection (c) attributable to such disposition or conversion shall not expire before the expiration of 3 years from the date the Secretary is notified (in such manner as the Secretary may by regulations prescribe) of such disposition or conversion, and

"(2) such additional tax may be assessed before the expiration of such 3-year period notwithstanding the provisions of any other law or rule of law which would otherwise prevent such assessment.

"(g) APPLICATION OF THIS SECTION AND SECTION 6324B TO INTERESTS IN PARTNERSHIPS, CORPORATIONS, AND TRUSTS.—The Secretary shall prescribe regulations setting forth the application of this section and section 6324B in the case of an interest in a partnership, corporation, or trust which, with respect to the decedent, is an interest in a closely held business (within the meaning of section 6166 (b)).".

(2) Special lien.—Subchapter C of chapter 64 (relating to lien for taxes) is amended by inserting after section 6324A the following new section:

"Sec. 6324B. Special lien for additional estate tax attributable to farm, etc., valuation.

"(a) General Rule.—In the case of any interest in qualified real property (within the meaning of section 2032A(b)), an amount equal to the adjusted tax difference attributable to such interest (within the meaning of section 2032A(c)(2)(B)), shall be a lien in favor of the United States on the property in which such interest exists.

"(b) Period of Lien.—The lien imposed by this section shall arise at the time an election is filed under section 2032A and shall continue with respect to any interest in the qualified real property—

"(1) until the liability for tax under subsection (c) of section 2032A with respect to such interest has been satisfied or has become unenforceable by reason of lapse of time, or

"(2) until it is established to the satisfaction of the Secretary that no further tax liability may arise under section 2032A(c) with respect to such interest.

"(c) Certain Rules Made Applicable.—The rules set forth in paragraphs (1), (3), and (4) of section 6324A(d) shall apply with respect to the lien imposed by this section as if it were a lien imposed by section 6324A.

"(d) Substitution of Security for Lien.—To the extent provided in regulations prescribed by the Secretary, the furnishing of security may be substituted for the lien imposed by this section.".

(3) Credit for tax on prior transfers.—Section 2013 (relating to credit for tax on prior transfers) is amended by adding at the end thereof the following new subsection:

"(f) Treatment of Additional Tax Imposed Under Section 2032A.—If section 2032A applies to any property included in the gross estate of the transferor and an additional tax is imposed with respect to such property under section 2032A(c) before the date which is 2 years after the date of the decedent's death, for purposes of this section—

"(1) the additional tax imposed by section 2032A(c) shall be treated as a Federal estate tax payable with respect to the estate of the transferor; and

"(2) the value of such property and the amount of the taxable estate of the transferor shall be determined as if section 2032A did not apply with respect to such property.".

(4) Clerical amendments.—

(A) The table of sections for part III of subchapter A of chapter 11 is amended by inserting after the item relating to section 2032 the following new item:

"Sec. 2032A. Valuation of certain farm, etc., real property.".

(B) The table of sections for subchapter C of chapter 64 is amended by inserting after the item relating to section 6324A the following new item:

"Sec. 6324B. Special lien for additional estate tax attributable to farm, etc., valuation.".

(5) Effective date.—The amendments made by this subsection shall apply to the estates of decedents dying after December 31, 1976.

(d) Extensions of Time for Payment of Estate Tax.—

(1) Reasonable cause substituted for undue hardship in determining eligibility for extensions of time for payment of estate tax.—

(A) Paragraph (2) of section 6161(a) (relating to extension of time for paying estate tax) is amended to read as follows:

"(2) Estate tax.—The Secretary may, for reasonable cause, extend the time for payment of—

"(A) any part of the amount determined by the executor as the tax imposed by chapter 11, or

"(B) any part of any installment under section 6166 (including any part of a deficiency prorated to any installment under section 6166),

for a reasonable period not in excess of 10 years from the date prescribed by section 6151(a) for payment of the tax (or, in the case of an amount referred to in subparagraph (B), if later, not beyond the date which is 12 months after the due date for the last installment)."

(B) Subsection (b) of section 6161 (relating to extension of time for payment of certain deficiencies) is amended to read as follows:

"(b) Amount Determined as Deficiency.—

"(1) Income, gift, and certain other taxes.—Under regulations prescribed by the Secretary, the Secretary may extend the time for the payment of the amount determined as a deficiency of a tax imposed by chapter 1, 12, 42, or 43 for a period not to exceed 18 months from the date fixed for the payment of the deficiency, and in exceptional cases, for a further period not to exceed 12 months. An extension under this paragraph may be granted only where it is shown to the satisfaction of the Secretary that payment of a deficiency upon the date fixed for the payment thereof will result in undue hardship to the taxpayer in the case of a tax imposed by chapter 1, 42, or 43, or to the donor in the case of a tax imposed by chapter 12.

"(2) Estate tax.—Under regulations prescribed by the Secretary, the Secretary may, for reasonable cause, extend the time for the payment of any deficiency of a tax imposed by chapter 11 for a reasonable period not to exceed 4 years from the date otherwise fixed for the payment of the deficiency.

"(3) No extension for certain deficiencies.—No extension shall be granted under this subsection for any deficiency if the deficiency is due to negligence, to the intentional disregard of rules and regulations, or to fraud with intent to evade tax.".

(C) Subsection (b) of section 6163 (relating to extension to prevent undue hardship in case of reversionary or remainder interest) is amended to read as follows:

"(b) Extension for Reasonable Cause.—At the expiration of the period of postponement provided for in subsection (a), the Secretary may, for reasonable cause, extend the time for payment for a reasonable period or periods not in excess of 3 years from the expiration of the period of postponement provided in subsection (a).".

(D) Subsection (d) of section 6503 (relating to extensions of time for payment of estate tax) is amended by striking out "section 6166" and inserting in lieu thereof "section 6163 or 6166".

(2) Extension of time for payment of estate tax where estate consists of interest in closely held business.—

(A) 3-year deferral; 12-year installment payment.—

(i) Subsection (a) of section 6166 (relating to extension of time for payment of estate tax where estate consists of interest in closely held business) is amended by striking out "but not exceeding 10" and inserting in lieu thereof "but not exceeding 12".

(ii) Subsection (e) of section 6166 (relating to date for payment of installments) is amended to read as follows:

"(e) Date for Payment of Installments.—If an election is made under subsection (a), the first installment shall be paid on or before the date selected by the executor which is not more than 3 years after the date prescribed by section 6151(a) for payment of the tax, and each succeeding installment shall be paid on or before the date which is 1 year after the date prescribed by this subsection for payment of the preceding installment.".

(iii) Subsection (g) of section 6166 (relating to time for payment of interest) is amended to read as follows:

"(g) Time for Payment of Interest.—If the time for payment of any amount of tax has been extended under this section—

"(1) Interest for first 3 years.—Interest payable under section 6601 on any unpaid portion of such amount attributable to the first 3 years after the date prescribed by section 6151(a) for payment of the tax shall be paid annually.

"(2) Interest for periods after first 3 years.—Interest payable under section 6601 on any unpaid portion of such amount attributable to any period after the 3-year period referred to in paragraph (1) shall be paid annually at the same time as, and as a part of, each installment payment of the tax.

"(3) Interest in the case of certain deficiencies.—In the case of a deficiency to which subsection (f) applies which is assessed after the close of the 3-year period referred to in paragraph (1), interest attributable to such 3-year period, and interest assigned under paragraph (2) to any installment the date for payment of which has arrived on or before the date of the assessment of the deficiency, shall be paid upon notice and demand from the Secretary.

"(4) Selection of shorter period.—If the executor has selected a period shorter than 3 years under subsection (c), such shorter period shall be substituted for 3 years in paragraphs (1), (2), and (3) of this subsection.".

(iv) Subsection (i) of section 6166 (relating to transitional rules) is amended to read as follows:

"(i) Election in Case of Certain Deficiencies.—

"(1) In general.—If—

"(A) a deficiency in the tax imposed by section 2001 is assessed.

"(B) the estate qualifies under subsection (a), and

"(C) the executor has not made an election under subsection (a).

the executor may elect to pay the deficiency in installments. This subsection shall not apply if the deficiency is due to negligence, to the intentional disregard of rules and regulations, or to fraud with intent to evade tax.

"(2) Time of election.—An election under this subsection shall be made not later than 60 days after issuance of notice and demand by the Secretary for the payment of the deficiency, and shall be made in such manner as the Secretary shall by regulations prescribe.

"(3) Effect of election on payment.—If an election is made under this subsection, the deficiency shall (subject to the limitation provided by subsection (b)) be prorated to the installments which would have been due if an election had been timely made under subsection (a) at the time the estate tax return was filed. The part of the deficiency so prorated to any installment the date of payment of which would have arrived shall be paid at the time of the making of the election under this subsection. The portion of the deficiency so prorated to installments the date for payment of which would not have so arrived shall be paid at the time such installments would have been due if such an election had been made.".

(B) 6-percent interest rate.—Section 6601 (relating to interest on underpayment, nonpayment, or extension of time for payment, of tax) is amended by redesignating subsection (j) as subsection (k) and by inserting after subsection (i) the following new subsection:

"(j) 6-Percent Rate on Certain Portion of Estate Tax Extended Under Section 6166.—

"(1) In general.— If the time for payment of an amount of tax imposed by chapter 11 is extended as provided in section 6166 and the annual rate provided by subsection (a) exceeds 6 percent, interest on the 6-percent portion of such amount shall (in lieu of such annual rate) be paid at the rate of 6 percent. For purposes of this subsection, the amount of any deficiency which is prorated to installments payable under section 6166 shall be treated as an amount of tax payable in installments under such section.

"(2) 6-percent portion.—For purposes of this subsection, the term '6-percent portion' means the lesser of—

"(A) an amount equal to—

"(i) $295,700, in the case of decedents dying in 1977,

"(ii) $290,700 in the case of decedents dying in 1978,

"(iii) $285,700, in the case of decedents dying in 1979,

"(iv) $280,700, in the case of decedents dying in 1980, or

"(v) $275,700, in the case of decedents dying after December 31, 1980, or

"(B) the amount of the tax imposed by chapter 11 which is extended as provided in section 6166.

"(3) Treatment of payments.—If the amount of tax imposed by chapter 11 which is extended as provided in section 6166 exceeds the 6-percent portion, any payment of a portion of such amount shall, for purposes of computing interest for periods after such payment, be treated as reducing the 6-percent portion by an amount which bears the same ratio to the amount of such payment as the amount of the 6-percent portion (determined without regard to this paragraph) bears to the amount of the tax which is extended as provided in section 6166.".

(3) Special lien for estate tax deferred under section 6166; discharge of executor from personal liability.—

(A) In general.—Subchapter C of chapter 64 (relating to lien for taxes) is amended by inserting after section 6324 the following new section:

"Sec. 6324A. Special lien for estate tax deferred under section 6166.

"(a) General Rule.—In the case of any estate with respect to which an election has been made under section 6166, if the executor makes an election under this section (at such time and in such manner as the Secretary shall by regulations prescribe) and files the agreement referred to in subsection (c), the deferred amount (plus any interest, additional amount, addition to tax, assessable penalty, and costs attributable to the deferred amount) shall be a lien in favor of the United States on the section 6166 lien property.

"(b) Section 6166 Lien Property.—

"(1) In general.—For purposes of this section, the term 'section 6166 lien property' means interests in real and other property to the extent such interests—

"(A) can be expected to survive the deferral period, and

"(B) are designated in the agreement referred to in subsection (c).

"(2) Maximum value of required property.—The maximum value of the property which the Secretary may require as section 6166 lien property with respect to any estate shall be a value which is not greater than the sum of—

"(A) the deferred amount, and

"(B) the aggregate interest amount.

For purposes of the preceding sentence, the value of any property shall be determined as of the date prescribed by section 6151(a) for payment of the tax imposed by chapter 11 and shall be determined by taking into account any encumbrance such as a lien under section 6324B.

"(3) Partial substitution of bond for lien.—If the value required as section 6166 lien property pursuant to paragraph (2) exceeds the value of the interest in property covered by the agreement referred to in subsection (c), the Secretary may accept a bond in an amount equal to such excess conditioned on the payment of the amount extended in accordance with the terms of such extension.

"(c) Agreement.—The agreement referred to in this subsection is a written agreement signed by each person in being who has an interest (whether or not in possession) in any property designated in such agreement—

"(1) consenting to the creation of the lien under this section with respect to such property, and

"(2) designating a responsible person who shall be the agent for the beneficiaries of the estate and for the persons who have consented to the creation of the lien in dealings with the Secretary on matters arising under section 6166 or this section.

"(d) Special Rules.—

"(1) Requirement that lien be filed.—The lien imposed by this section shall not be valid as against any purchaser, holder of a security interest, mechanic's lienor, or judgment lien creditor until notice thereof which meets the requirements of section 6323(f) has been filed by the Secretary. Such notice shall not be required to be refiled.

"(2) Period of lien.—The lien imposed by this section shall arise at the time the executor is discharged from liability under section 2204 (or, if earlier, at the time notice is filed pursuant to paragraph (1)) and shall continue until the liability for the deferred amount is satisfied or becomes unenforceable by reason of lapse of time.

"(3) Priorities.—Even though notice of a lien imposed by this section has been filed as provided in paragraph (1), such lien shall not be valid—

"(A) Real property tax and special assessment liens.—To the extent provided in section 6323(b)(6).

"(B) Real property subject to a mechanic's lien for repairs and improvements.—In the case of any real property subject to a lien for repair or improvement, as against a mechanic's lienor.

"(C) Real property construction or improvement financing agreement.—As against any security interest set forth in paragraph (3) of section 6323(c) (whether such security interest came into existence before or after tax lien filing).

Subparagraphs (B) and (C) shall not apply to any security interest which came into existence after the date on which the Secretary filed notice (in a manner similar to notice filed under section 6323(f)) that payment of the deferred amount has been accelerated under section 6166(h).

"(4) Lien to be in lieu of section 6324 lien.—If there is a lien under this section on any property with respect to any estate, there shall not be any lien under section 6324 on such property with respect to the same estate.

"(5) Additional lien property required in certain cases.—If at any time the value of the property covered by the agreement is less than the unpaid portion of the deferred amount and the aggregate interest amount, the Secretary may require the addition of property to the agreement (but he may not require under this paragraph that the value of the property covered by the agreement exceed such unpaid portion). If property having the required value is not added to the property covered by the agreement (or if other security equal to the required value is not furnished within 90 days after notice and demand therefor by the Secretary, the failure to comply with the preceding sentence shall be treated as an act accelerating payment of the installments under section 6166(h).

"(6) Lien to be in lieu of bond.—The Secretary may not require under section 6165 the furnishing of any bond for the payment of any tax to which an agreement which meets the requirements of subsection (c) applies.

"(e) Definitions.—For purposes of this section—

"(1) Deferred amount.—The term 'deferred amount' means the aggregate amount deferred under section 6166 (determined as of the date prescribed by section 6151(a) for payment of the tax imposed by chapter 11).

"(2) Aggregate interest amount.—The term 'aggregate interest amount' means the aggregate amount of interest which will be payable over the deferral period with respect to the deferred amount (determined as of the date prescribed by section 6151(a) for payment of the tax imposed by chapter 11).

"(3) Deferral period.—The term 'deferral period' means the period for which the payment of tax is deferred pursuant to the election under section 6166.

"(4) Application of definitions in case of deficiencies.—In the case of a deficiency, a separate deferred amount, aggregate interest amount, and deferral period shall be determined as of the due date of the first installment after the deficiency is prorated to installments under section 6166.".

(B) Discharge of executor from personal liability.—Section 2204 (relating to discharge of fiduciary from personal liability) is amended by adding at the end thereof the following new subsection:

"(c) Special Lien Under Section 6324A.—For purposes of the second sentence of subsection (a) and the last sentence of subsection (b), an agreement which meets the requirements of section 6324A (relating to special lien for estate tax deferred under section 6166) shall be treated as the furnishing of a bond with respect to the amount for which the time for payment has been extended under section 6166.".

(C) Clerical amendment.—The table of sections for subchapter C of chapter 64 is amended by inserting after the item relating to section 6324 the following new item:

"Sec. 6324A. Special lien for estate tax deferred under section 6166.".

(4) Effective date.—The amendments made by this subsection shall apply to the estates of decedents dying after December 31, 1976.

Sec. 2202. Certain generation-skipping transfers.

(a) Imposition of Tax.—Subtitle B (relating to estate and gift taxes) is amended by adding at the end thereof the following new chapter:

"CHAPTER 13—TAX ON CERTAIN GENERATION-SKIPPING TRANSFERS

"Subchapter A. Tax imposed.
"Subchapter B. Definitions and special rules.
"Subchapter C. Administration.

"Subchapter A—Tax Imposed

"Sec. 2601. Tax imposed.
"Sec. 2602. Amount of tax.
"Sec. 2603. Liability for tax.

"Sec. 2601. Tax imposed.

"A tax is hereby imposed on every generation-skipping transfer in the amount determined under section 2602.

"Sec. 2602. Amount of tax.

"(a) General Rule.—The amount of the tax imposed by section 2601 with respect to any transfer shall be the excess of—

"(1) a tentative tax computed in accordance with the applicable rate schedule (as in effect on the date of transfer) on the sum of—

"(A) the fair market value of the property transferred (determined as of the date of transfer),

"(B) the aggregate fair market value (determined for purposes of this chapter) of all prior transfers of the deemed transferor to which this chapter applied, and

"(C) the amount of—

"(i) the taxable gifts (within the meaning of section 2503) made by the deemed transferor before this transfer if the deemed transferor is alive at the time of the transfer, or

"(ii) the taxable estate of the deemed transferor if the deemed transferor has died before this transfer, over

"(2) a tentative tax (similarly computed) on the sum of the amounts determined under subparagraphs (B) and (C) of paragraph (1).

For purposes of the preceding sentence, the term 'applicable rate schedule' means the rate schedule set forth in section 2501(a) if the deemed transferor is alive at the time of the transfer or the rate schedule set forth in section 2001 if the deemed transferor has died before the transfer.

"(b) Multiple Simultaneous Transfer.—If two or more transfers which are taxable under section 2601 and which have the same deemed transferor occur at the same time, the tax imposed by section 2601 on each such transfer shall be the amount which bears the same ratio to—

"(1) the amount of the tax which would be imposed by section 2601 if the aggregate of such transfers were a single transfer, as

"(2) the fair market value of the property transferred in such transfer bears to the aggregate fair market value of all property transferred in such transfers.

"(c) Denial of Deductions, Credits, Etc.—

"(1) In general.—Except as provided in paragraphs (2), (3), (4), and (5), no deduction, exclusion, exemption, or credit shall be allowed against the tax imposed by section 2601.

"(2) Exception for unused portion of estate tax credit.—The portion of the credit under section 2010 (relating to estate tax credit) which exceeds the sum of—

"(A) the tax imposed by section 2001, and

"(B) the taxes previously imposed by section 2601 with respect to this deemed transferor,

shall be allowed as a credit against the tax imposed by section 2601. The amount of the credit allowed by the preceding sentence shall not exceed the amount of the tax imposed by section 2601.

"(3) Exception for credit for tax on prior transfers.—The credit under section 2013 (relating to credit for tax on prior transfers) shall be allowed against the tax imposed by section 2601.

"(4) Exception for charitable deduction.—The deduction under section 2055, 2106(a)(2), or 2522, whichever is appropriate, shall be allowed in determining the tax imposed by section 2601.

"(5) Marital deduction.—For purposes of section 2056 (relating to bequests, etc., to surviving spouse), if the generation-skipping transfer occurs at the death of the deemed transferor or within 3 years and 9 months thereafter, the value of the gross estate of the deemed transferor shall be deemed to be increased by the amount of such transfer.

"Sec. 2603. Liability for tax.

"(a) Personal Liability.—

"(1) In general.—If the tax imposed by section 2601 is not paid when due then—

"(A) except to the extent provided in paragraph (2), the trustee shall be personally liable for any portion of such tax which is attributable to a taxable termination, and

"(B) the distributee of the property shall be personally liable for such tax to the extent provided in paragraph (3).

"(2) Limitation on personal liability of trustee.—The trustee shall not be personally liable for any increase in the tax imposed by section 2601 which is attributable to the application to the transfer of rates of tax which exceed the rates of tax furnished by the Secretary to the trustee as being the rates at which the transfer may reasonably be expected to be taxed.

"(3) Limitation of personal liability of distributee.—The distributee of the property shall be personally liable for the tax imposed by section 2601 only to the extent of an amount equal to the fair market value (determined as of the time of the distribution) of the property received by the distributee in the distribution.

"(b) Lien.—The tax imposed by section 2601 on any transfer shall be a lien on the property transferred until the tax is paid in full or becomes unenforceable by reason of lapse of time.

"Subchapter B—Definitions and Special Rules

"Sec. 2611. General-skipping transfer.
"Sec. 2612. Deemed transferor.
"Sec. 2613. Other definitions.
"Sec. 2614. Special rules.

"Sec. 2611. Generation-skipping transfer.

"(a) Generation-Skipping Transfer Defined.—For purposes of this chapter, the terms 'generation-skipping transfer' and 'transfer' mean any taxable distribution or taxable termination with respect to a generation-skipping trust or trust equivalent.

"(b) Generation-Skipping Trust.—For purposes of this chapter, the term 'generation-skipping trust' means any trust having younger generation beneficiaries (within the meaning of section 2613(c)(1)) who are assigned to more than one generation.

"(c) Ascertainment of Generation.—For purposes of this chapter, the generation to which any person (other than the grantor) belongs shall be determined in accordance with the following rules:

"(1) an individual who is a lineal descendant of a grandparent of the grantor shall be assigned to that generation which results from comparing the number of generations between the grandparent and such individual with the number of generations between the grandparent and the grantor,

"(2) an individual who has been at any time married to a person described in paragraph (1) shall be assigned to the generation of the person so described,

"(3) a relationship by the half blood shall be treated as a relationship by the whole blood,

"(4) a relationship by legal adoption shall be treated as a relationship by blood,

"(5) an individual who is not assigned to a generation by reason of the foregoing paragraphs shall be assigned to a generation on the basis of the date of such individual's birth, with—

"(A) an individual born not more than 12½ years after the date of the birth of the grantor assigned to the grantor's generation,

"(B) an individual born more than 12½ years but not more than 37½ years after the date of the birth of the grantor assigned to the first generation younger than the grantor, and

"(C) similar rules for a new generation every 25 years,

"(6) an individual who, but for this paragraph, would be assigned to more than one generation shall be assigned to the youngest such generation, and

"(7) if any beneficiary of the trust is an estate or a trust, partnership, corporation, or other entity (other than an organization described in section 511(a)(2) and other than a charitable trust described in section 511(b)(2)), each individual having a beneficial interest in such entity shall be treated as a beneficiary of the trust and shall be assigned to a generation under the foregoing provisions of this subsection.

"(d) Generation-Skipping Trust Equivalent.—

"(1) In general.—For purposes of this chapter, the term 'generation-skipping trust equivalent' means any arrangement which, although not a trust, has substantially the same effect as a generation-skipping trust.

"(2) Examples of arrangements to which subsection relates.—Arrangements to be taken into account for purposes of determining whether or not paragraph (1) applies include (but are not limited to) arrangements involving life estates and remainders, estates for years, insurance and annuities, and split interests.

"(3) References to trusts include references to trust equivalents.—Any reference in this chapter in respect of a generation-skipping trust shall include the appropriate reference in respect of a generation-skipping trust equivalent.

"Sec. 2612. Deemed transferor.

"(a) General Rule.—For purposes of this chapter, the deemed transferor with respect to a transfer is—

"(1) except as provided in paragraph (2), the parent of the transferee of the property who is more closely related to the grantor of the trust than the other parent of such transferee (or if neither parent is related to such grantor, the parent having a closer affinity to the grantor), or

"(2) if the parent described in paragraph (1) is not a younger generation beneficiary of the trust but 1 or more ancestors of the transferee is a younger generation beneficiary related by blood or adoption to the grantor of the trust, the youngest of such ancestors.

"(b) Determination of Relationship.—For purposes of subsection (a), a parent related to the grantor of the trust by blood or adoption is more closely related than a parent related to such grantor by marriage.

"Sec. 2613. Other definitions.

"(a) Taxable Distribution.—For purposes of this chapter—

"(1) In general.—The term 'taxable distribution' means any distribution which is not out of the income of the trust (within the meaning of section 643(b)) from a generation-skipping trust to any younger generation beneficiary who is assigned to a generation younger than the generation assignment of any other person who is a younger generation beneficiary.

"(2) Source of distributions.—If, during the taxable year of the trust, there are distributions out of such income of the trust and out of corpus, for purposes of paragraph (1) the distributions of such income shall be deemed to have been made to the beneficiaries (to the extent of the aggregate distributions made to each such beneficiary during such year) in descending order of generations, beginning with the beneficiaries assigned to the oldest generation.

"(3) Payment of tax.—If any portion of the tax imposed by this chapter with respect to any transfer is paid out of the income or corpus of the trust, an amount equal to the portion so paid shall be deemed to be a generation-skipping transfer.

"(4) Distributions subject to gift or estate tax excluded.—The term 'taxable distribution' does not include any transfer to the extent such transfer is subject to a tax imposed by chapter 11 or 12.

"(b) Taxable Termination.—For purposes of this chapter—

"(1) In General.—The term 'taxable termination' means the termination (by death, lapse of time, exercise or nonexercise, or otherwise) of the interest or power in a generation-skipping trust of any younger generation beneficiary who is assigned to any generation older than the generation assignment of any other person who is a younger generation beneficiary of that trust.

"(2) Time certain terminations deemed to occur.—

"(A) Where 2 or more beneficiaries are assigned to same generation.—In any case where 2 or more younger generation beneficiaries of a trust are assigned to the same generation, except to the extent provided in regulations prescribed by the Secretary, the transfer constituting the termination with respect to each such beneficiary shall be treated as occurring at the time when the last such termination occurs.

"(B) Same beneficiary has more than 1 interest or power.—In any case where a younger generation beneficiary of a trust has both an interest and a power, or more than 1 interest or power, in the trust, except to the extent provided in regulations prescribed by the Secretary, the termination with respect to each such interest or power shall be treated as occurring at the time when the last such termination occurs.

"(3) Deemed recipients of certain terminations.—Where, at the time of any termination, it is not clear who will be the transferee of any portion of the property transferred, such portion shall be deemed transferred pro rata to all beneficiaries of the trust in accordance with the amount which each of them would receive under a maximum exercise of discretion on their behalf. For purposes of the preceding sentence, where it is not clear whether discretion will be exercised per stirpes or per capita, it shall be presumed that the discretion will be exercised per stirpes.

"(4) Termination of power.—In the case of the termination of any power, the property transferred shall be deemed to be the property subject to the power immediately before the termination (determined without the application of paragraph (2)).

"(5) Terminations subject to gift or estate tax excluded.—The term 'taxable termination' does not include any transfer to the extent such transfer is subject to a tax imposed by chapter 11 or 12.

"(6) Coordination with subsection (a).—

"(A) Terminations take precedence over distributions.—If—

"(i) the death of an individual or any other occurrence is a taxable termination with respect to any property, and

"(ii) such occurence also requires the distribution of part or all of such property in a distribution which would (but for this subparagraph) be a taxable distribution,
then a taxable distribution shall be deemed not to have occurred with respect to the portion described in clause (i).

"(B) Certain prior transfers.—To the extent that—

"(i) the deemed transferor in any prior transfer of the property of the trust being transferred in this transfer was assigned to the same generation as (or a lower generation than) the generation assignment of the deemed transferor in this transfer, and

"(ii) the transferee in such prior transfer was assigned to the same generation as (or a higher generation than) the generation assignment of the transferee in this transfer,
the terms 'taxable termination' and 'taxable distribution' do not include this later transfer.

"(c) Younger Generation Beneficiary; Beneficiary.—For purposes of this chapter—

"(1) Younger generation beneficiary.—The term 'younger generation beneficiary' means any beneficiary who is assigned to a generation younger than the grantor's generation.

"(2) Beneficiary.—The term 'beneficiary' means any person who has an interest or power in the trust.

"(d) Interest or Power.—For purposes of this chapter—

"(1) Interest.—The term 'interest' means a right to receive income or corpus from the trust.

"(2) Power.—The term 'power' means any power to establish or alter beneficial enjoyment of the corpus or income of the trust.

"(e) Limited Power To Appoint Among Lineal Descendants of Grantor Not Taken Into Account in Certain Cases.— For purposes of this chapter, if any individual—

"(1) does not have any interest in the trust, and

"(2) does not have any power in the trust other than a power to dispose of the corpus of the trust or the income therefrom to a beneficiary or a class of beneficiaries who are lineal descendants of the grantor assigned to a generation younger than the generation assignment of such individual, then such individual shall be treated as not having any power in the trust.

"Sec. 2614. Special rules.

"(a) Disclaimers.—If any beneficiary of a trust—

"(1) disclaims any interest or power in such trust on or before the day which is 9 months after the date the trust becomes irrevocable,

"(2) after such disclaimer, such interest or power does not exist, and

"(3) there has been no distribution from the trust with respect to such interest, or no exercise of such power, as the case may be, then this chapter shall apply to such trust as if such interest or power had never come into being.

"(b) Allowance of Deduction Against Income Tax.—If any amount distributed out of a generation-skipping trust or trust equivalent is included in the gross income of the transferee, there shall be allowed as a deduction in computing against the tax imposed by chapter 1 an amount equal to the tax imposed by this chapter on such amount, reduced by any credit allowable with respect to the tax imposed by this chapter on the amount distributed.

"(c) Nonresidents Not Citizens of the United States.—If the deemed transferor of any transfer is, at the time of the transfer, a nonresident not a citizen of the United States—

"(1) if the deemed transferor is alive at the time of the transfer, there shall be taken into account only property which would be taken into account for purposes of chapter 12, or

"(2) if the deemed transferor has died before the transfer, there shall be taken into account only property which would be taken into account for purposes of chapter 11.

"Subchapter C—Administration

"Sec. 2621. Administration.
"Sec. 2622. Regulations.

"Sec. 2621. Administration.

"(a) General Rule.—Insofar as applicable and not inconsistent with the provisions of this chapter—

"(1) if the deemed transferor is not alive at the time of the transfer, all provisions of law (including penalties) applicable to chapter 11 or section 2001 are hereby made applicable in respect of this chapter or section 2601, as the case may be, and

"(2) if the deemed transferor is alive at the time of the transfer, all provisions of law (including penalties) applicable to chapter 12 or section 2501 are hereby made applicable in respect of this chapter or section 2601, as the case may be.

"(b) Certain Provisions Made Inapplicable.—For purposes of this chapter, the following provisions shall not apply:

"(1) section 6166 (relating to extensions of time for payment of estate tax where estate consists largely of interest in closely held business), and

"(2) section 2032A (relating to valuation of certain real property).

"Sec. 2622. Regulations.

"The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this chapter, including regulations providing the extent to which substantially separate and independent shares of different beneficiaries in the trust shall be treated as separate trusts.".

(b) Technical, Clerical, and Conforming Changes.—

(1) Clerical changes.—The table of chapters for subtitle B is amended by adding at the end thereof the following new item:

"Chapter 13. Tax on certain generation-skipping transfers.".

(2) Credit for tax on prior transfers.—Section 2013 (relating to credit for tax on prior transfers) is amended by adding at the end thereof the following new subsection:

"(g) Treatment of Tax Imposed on Certain Generation-Skipping Transfer.—If any property was transferred to the decedent in a transfer which is taxable under section 2601 (relating to tax imposed on generation-skipping transfers) and if the deemed transferor (as defined in section 2612) is not alive at the time of such transfer, for purposes of this section—

"(1) such property shall be deemed to have passed to the decedent from the deemed transferor;

"(2) the tax payable under section 2601 on such transfer shall be treated as a Federal estate tax payable with respect to the estate of the deemed transferor; and

"(3) the amount of the taxable estate of the deemed transferor shall be increased by the value of such property as determined for purposes of the tax imposed by section 2601 on the transfer.".

(c) Effective Dates.—

(1) In general.—Except as provided in paragraphs (2) and (3), the amendments made by this section shall apply to any generation-skipping transfer (within the meaning of section 2611(a) of the Internal Revenue Code of 1954) made after April 30, 1977.

(2) Exceptions.—The amendments made by this section shall not apply to any generation-skipping transfer before May 1, 1987—

(A) under an irrevocable inter vivos trust created before May 1, 1977, but only to the extent that the transfer is not made out of corpus added to the trust after April 30, 1977, or

(B) in the case of a decedent dying before January 1, 1978, pursuant to a will (or revocable trust) which was in existence on May 1, 1977, and was not amended or revoked at any time after that date.

(3) Relinquishments before 1987.—In the case of a trust with respect to which the amendments made by this section do not apply to any generation-skipping transfer before January 1, 1987, by reason of the application of paragraph (2), if any beneficiary of the trust—

(A) relinquishes any interest or power in such trust before January 1, 1987, and

(B) after such relinquishment, such interest or power does not exist,
then such relinquishment shall not be treated as the making of a gift for purposes of chapter 12 of the Internal Revenue Code of 1954, and chapter 13 of such Code shall apply to such trust as if such interest or power had never come into being.

(4) Generation-skipping trust equivalent.—For purposes of this subsection, in the case of a generation-skipping trust equivalent (within the meaning of subsection (d) of section 2611 of the Internal Revenue Code of 1954), the provisions of such subsection (d) shall apply.

Sec. 2203. Gift tax treatment of community property.

(a) In General.—Section 2517(b) (relating to certain annuities under qualified plans) is amended by adding at the end thereof the following new subsection:

"(d) Exemption of Certain Annuity Interests Created by Community Property

LAWS.—Notwithstanding any other provision of law, in the case of an employee on whose behalf contributions or payments are made by his employer or former employer under a trust or plan described in subsection (a) (1) or (2), or toward the purchase of a contract described in subsection (a)(3), which under subsection (b) are not considered as contributed by the employee, benefits attributable to such contributions or payments shall, for purposes of this chapter, not be considered as a transfer by the spouse of the employee to the extent that the value of any interest of such spouse in such contributions or payments or in such trust or plan or such contract—

"(1) is attributable to such contribution or payments, and

"(2) arises solely by reason of such spouse's interest in community income under the community property laws of the State.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to calendar quarters ending after December 31, 1976.

Intended to be proposed by Mr. LONG (on behalf of the Committee on Finance) to H.R. 10612, an Act to reform the tax laws of the United States, viz: at the end of the bill, insert the following:

TITLE XXVII—ADDITIONAL CAPITAL GAIN DEDUCTION FOR CERTAIN INVESTMENT ASSETS

Sec. 2701. Increase in amount of capital gain deduction for certain assets held for long periods; repeal of alternative tax for individuals.

(a) INCREASE IN DEDUCTION.—Section 1202 (relating to deduction for capital gains) is amended to read as follows:

"Sec. 1202. Deduction for capital gains.

"(a) ALLOWANCE OF DEDUCTION.—If for any taxable year a taxpayer other than a corporation has a net capital gain, there shall be allowed as a deduction from gross income—

"(1) an amount equal to 50 percent of the net capital gain, plus

"(2) an amount equal to the additional capital gain deduction for the taxable year (determined under subsection (b)).

The deduction allowed under this subsection shall not exceed 75 percent of the net capital gain.

"(b) DETERMINATION OF ADDITIONAL CAPITAL GAIN DEDUCTION.—For purposes of the section—

"(1) ADDITIONAL CAPITAL GAIN DEDUCTION.—The additional capital gain deduction for the taxable year is the sum of the amounts determined under this subsection with respect to each qualified asset sold or exchanged during the taxable year at a gain.

"(2) AMOUNT FOR EACH ASSET.—The amount determined under this subsection with respect to any qualified asset shall be an amount equal to the product of the gain on the sale or exchange of such asset and the percentage arrived at by taking 1 percentage point for each full year (in excess of 5 full years but not in excess of 25 full years) the taxpayer held the asset.

"(3) QUALIFIED ASSET DEFINED.—The term 'qualified asset' means—

"(A) a security (as defined in section 165 (g)),

"(B) real property (other than section 165 property),

"(C) a partner's interest in a partnership, and

"(D) in the case of a proprietorship, good will.

Under regulations prescribed by the Secretary, the amount taken into account under subparagraph (D) shall not exceed the basis of such good will in the hands of the person acquiring it from the taxpayer.

"(4) HOLDING PERIOD.—In determining the number, of full years the taxpayer held the asset—

"(A) IN GENERAL.—Except in the case of property described in subparagraph (B), section 1223 (relating to holding period of property) shall apply, and

"(B) REAL PROPERTY.—In the case of real property, section 1250(e) (relating to holding period for purposes of section 1250) shall apply. For purposes of the preceding sentence, paragraph (2) of section 1250(e) shall be treated as also including a reference to paragraph (4) of section 1250(d).

"(5) SUBSTANTIAL ADDITIONS TO BASIS.—

"(A) STOCK.—In the case of a series of contributions to the capital of a corporation within any 36-month period which exceed 5 percent of the fair market value of the stock of such corporation at the beginning of the period, the portion of the stock allocable to such contributions shall be treated as a separate asset with its own holding period beginning on the last day during such period on which there was such a contribution to capital.

"(B) REAL PROPERTY.—In the case of real property, any separate improvement (within the meaning of section 1250(f)(4)) shall be treated as a separate asset with its own holding period beginning on the first day of the month in which the improvement is placed in service.

"(c) SPECIAL RULE FOR ESTATES AND TRUSTS.—In the case of an estate or trust, the deduction allowable under this section shall be determined by excluding the portion (if any) of the gains for the taxable year from sales or exchanges of capital assets which, under sections 652 and 662 (relating to inclusions of amounts in gross income of beneficiaries of trusts), is includible by the income beneficiaries as gain derived from the sale or exchange of capital assets.

"(d) OTHER PASS-THROUGH ENTITIES.—For purposes of this section, where a qualified asset is sold or exchanged at a gain by—

"(1) a partnership,

"(2) a regulated investment company,

"(3) a real estate investment trust,

"(4) a common trust fund (within the meaning of section 584(a)), or

"(5) an electing small business corporation (within the meaning of section 1371(b)),

any share of such gain includable in the gross income of a partner, shareholder, beneficiary, or participant shall be deemed to be gain realized by him from the sale or exchange of an asset held by him for the period such asset was held by the entity.".

(b) REPEAL OF ALTERNATIVE TAX FOR INDIVIDUALS.—

(1) So much of section 1201 (relating to the alternative tax) as precedes subsection (e) thereof is amended to read as follows:

"Sec. 1201. Alternative tax for corporations.

"(a) CORPORATIONS.—If for any taxable year a corporation has a net capital gain, then, in lieu of the tax imposed by sections 11, 511, 821 (a) or (c), and 831(a), there is hereby imposed a tax (if such tax is less than the tax imposed by such sections) which shall consist of the sum of a tax computed on the taxable income reduced by the amount of the net capital gain, at the rates and in the manner as if this section had not been enacted, plus a tax of 30 percent of the net capital gain.".

(2) Subsection (e) of section 1201 (relating to cross references) is redesignated as subsection (b).

(c) EFFECTIVE DATE.—The amendments made by this section apply to sales and exchanges of assets after December 31, 1977, in taxable years beginning after such date.

Mr. TOWER. Mr. President, will the Senator yield?

Mr. LONG. I yield.

Mr. TOWER. Does the Senator from Louisiana anticipate any more record votes tonight, or the promulgation of any more unanimous-consent requests?

Mr. LONG. Nothing of that sort.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Heiting, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

APPROVAL OF BILL

A message from the President of the United States announced that on August 3, 1976, he approved and signed the bill (S. 3295) to amend and extend laws relating to housing and community development.

MESSAGES FROM THE HOUSE ENROLLED BILLS SIGNED

At 11:01 a.m., a message from the House of Representatives delivered by Mr. Berry, one of its clerks, announced that the Speaker has signed the following enrolled bills:

S. 537. An act to improve judicial machinery by amending the requirement for a three-judge court in certain cases and for other purposes; and

S. 1526. An act to make additional funds available for purposes of certain public lands in northern Minnesota, and for other purposes.

The enrolled bills were subsequently signed by the President pro tempore.

At 12:21 p.m., a message from the House of Representatives delivered by Mr. Berry announced that the House has passed the bill (S. 2981) to authorize appropriations for the Indian Claims Commission for fiscal year 1977, and for other purposes, with an amendment in which it requests the concurrence of the Senate.

The message also announced that the House has passed the following bills in which it requests the concurrence of the Senate:

H.R. 7624. An act for the relief of Jacinto Vazquez Camacho;

H.R. 11199. An act for the relief of Hollis Anthony Millet;

H.R. 11890. An act for the relief of Bernard Julian Phillips; and

H.R. 12944. An act to extend the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, for six months.

The message further announced that the House insists upon its amendment to the bill (S. 5) to provide that meetings of Government agencies shall be open to the public, and for other purposes, disagreed to by the Senate; agrees to the conference requested by the Senate on the disagreeing votes of the two Houses thereon; and that Mr. Brooks, Mr. Moss, Mr. Fascell, Mr. Conyers, Ms. Abzug, Mr. Flowers, Mr. Danielson, Ms. Jordan, Mr. Mazzoli, Mr. Pattison of New York, Mr. Horton, Mr. McCloskey, Mr. Moorhead of California, and Mr. Kindness were appointed managers of the conference on the part of the House.

At 6:01 p.m., a message from the House of Representatives delivered by Mr. Hackney, one of its clerks, announced that, on reconsideration by the House and two-thirds of the Members present voting in the affirmative, the bill (S. 391) to amend the Mineral Leasing Act of 1920, and for other purposes, was passed, the objections of the President notwithstanding.

The message also announced that the House has agreed to the resolution (H. Res. 1461) relating to the death of Hon. Jerry Litton, a Representative from the State of Missouri.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The PRESIDING OFFICER laid before the Senate the following letters, which were referred as indicated:

Upstream Water Protection Projects

A letter from the Acting Director of the Office of Management and Budget transmitting, pursuant to law, seven work plans for upstream watershed protection projects none of which involves more than 4,000 acre-feet of total storage capacity (with accompanying papers); to the Committee on Agriculture and Forestry.

Proposed Legislation by the Secretary of Commerce

A letter from the Secretary of Commerce transmitting a draft of proposed legislation entitled "Foreign Payments Disclosure Act" (with accompanying papers); to the Committee on Commerce.

Proposed Legislation by the Federal Communications Commission

A letter from the Chairman of the Federal Communications Commission transmitting a draft of proposed legislation to amend the Communications Act of 1934, as amended (with accompanying papers); to the Committee on Commerce.

Report of the Secretary of Transportation

A letter from the Secretary of Transportation transmitting, pursuant to law, a report entitled "Preliminary Standards, Classification, and Designation of Lines of Class I Railroads in the United States" (with an accompanying report); to the Committee on Commerce.

Proposed Legislation by the Secretary of the Treasury

A letter from the Secretary of the Treasury transmitting a draft of proposed legislation to amend the Tariff Act of 1930, as amended (with accompanying papers); to the Committee on Finance.

Upstream Watershed Protection Projects

A letter from the Acting Director of the Office of Management and Budget transmitting, pursuant to law, five work plans for upstream watershed protection projects each involving in excess of 4,000 acre-feet of total storage capacity (with accompanying papers); to the Committee on Public Works.

Reports of the National Railroad Passenger Corporation

Two letters from the Vice President for Government Affairs of the National Railroad Passenger Corporation transmitting, pursuant to law, two reports of the operations of Amtrak for the months of April and June 1976 (with accompanying reports); to the Committee on Commerce.

Report of the Comptroller General

A letter from the Comptroller General transmitting, pursuant to law, a report entitled "Use of Jeopardy and Termination of Assessments by the Internal Revenue Service" (with an accompanying report); to the Committee on Government Operations.

PETITIONS

The PRESIDING OFFICER laid before the Senate the following petitions, which were referred as indicated:

A petition from the Pan Laconian Federation of United States and Canada, Inc., urging assistance to the Greek people of Cyprus; to the Committee on Foreign Relations.

Senate Concurrent Resolution No. 6 adopted by the Legislature of the State of Louisiana; to the Committee on Agriculture and Forestry:

"Senate Concurrent Resolution No. 6

"A concurrent resolution to memorialize the President and the Congress of the United States of America to reevaluate the food stamp program

"Whereas, the Congress of the United States of America has enacted a comprehensive food welfare program known as the food stamp program; and

"Whereas, the cost of printing, transporting, and protecting these food stamps exceeds thirty-five million dollars annually; and

"Whereas, the administrative expense of this program that is paid by the United States government exceeds three hundred eleven million dollars annually and is increasing each year; and

"Whereas, the free value to participants of the program throughout the United States exceeds four billion three hundred eighty-one million dollars annually; and

"Whereas, the administrative costs to certify households as eligible for food stamps in Louisiana above exceeds twelve million dollars annually, and more than fifteen hundred persons are employed by the state and local government in Louisiana alone for the program, at a personnel cost exceeding eleven million dollars annually, while the free value to participants in this one state is in excess of one hundred forty-eight million dollars annually; and

"Whereas, the illegal usage of food stamps and the counterfeiting of food stamps occurs at an alarming rate, and many people who are presently eligible for and receiving food stamps are capable of providing food for themselves without government assistance.

"Therefore, be it resolved by the Senate of the Legislature of Louisiana, the House of Representatives thereof concurring, that the President and the Congress of the United States of America are hereby memorialized to take such action as is necessary to reevaluate the existing unsatisfactory food stamp program.

"Be it further resolved that copies of this Concurrent Resolution shall be transmitted without delay to the President of the United States, to the presiding officers of each house of the Congress and to each member of the Louisiana Delegation in Congress."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. CANNON, from the Committee on Rules and Administration, without amendment:

S. Res. 492. A resolution authorizing the printing of the committee print entitled "Corporate Ownership and Control" as a Senate document (Rept. No. 94–1062).

S. Res. 493. A resolution authorizing the printing of the committee print entitled "Institutional Investors' Common Stock" as a Senate document (Rept. No. 94–1063).

S. Res. 496. A resolution authorizing the printing of additional copies of the committee print entitled "Congressional Budget Reform" (Rept. No. 94–1064).

S. Res. 505. An original resolution to pay a gratuity to Janet S. Stowell and Carol R. Pickens.

S. Res. 506. An original resolution to pay a gratuity to Mary M. Selby.

S. Res. 507. An original resolution to pay a gratuity to Mildred W. Brumfield.

S. Res. 508. An original resolution to pay a gratuity to Dorothy C. Barthelmes.

By Mr. EASTLAND, from the Committee on the Judiciary, without amendment:

S. 3702. A bill for the relief of Vojislav S. Bozic, Constantin A. Krylov, Abdurachman G. Kunta, Fatima S. Kunta, Nikolai I. Ozolins, Eugen E. Posdeeff, and Tatiana M. Wassiliew (Rept. No. 94–1071).

S. 3683. A bill for the relief of Doctor Juan Bautista Lopez Ruiz (Rept. No. 94–1070).

S. 3682. A bill for the relief of Doctor Oscar J. Briseno (Rept. No. 94–1069).

S. 3445. A bill for the relief of Doctor Laurence T. Gayao, his wife, Edith Gayao, and their child, Lorraine Gayao (Rept. No. 94–1067).

S. 3485. A bill for the relief of Orlando Garzon (Rept. No. 94–1068).

S. 2959. A bill for the relief of Kelvin Siu-Min Chen (Rept. No. 94–1066).

H.R. 1394. An act for the relief of Suk Chin and Hae Suk Chin (Rept. No. 94–1083).

H.R. 1395. An act for the relief of Mee Kyung Cho and Hee Kyung Cho (Rept. No. 94–1084).

H.R. 1396. An act for the relief of Sang Kook Chung and Hwa Soon Chung (Rept. No. 94–1085).

H.R. 1397. An act for the relief of Ae Sook Song and Mi Yun Lee (Rept. No. 94–1086).

H.R. 1507. An act for the relief of Marisa Marzano (Rept. No. 94–1088).

H.R. 1425. An act for the relief of Juliet Elizabeth Tozzi (Rept. No. 94–1087).

H.R. 2118. An act for the relief of Cheryl Lynn V. Camacho (Rept. No. 94–1089).

H.R. 1645. An act for the relief of Kevin Patrick Saunders (Rept. No. 94–1090).

H.R. 2278. An act for the relief of Mrs. Mary Saxton (Mary Nuku) (Rept. No. 94–1091).

H.R. 2399. An act for the relief of Leonard Alfred Brownrigg (Rept. No. 94–1092).

H.R. 2411. An act for the relief of Alinor Anvari Adams (Rept. No. 94–1093).

H.R. 2495. An act for the relief of Miss Malgorzata Kuzniarek (Rept. No. 94–1094).

H.R. 2502. An act for the relief of Peter Olav Mesikepp (Rept. No. 94–1095).

H.R. 2565. An act for the relief of Luisa Marillac Hughes, Marco Antonio Hughes, Maria del Cisne Hughes, Marie Augusta Hughes, Miguel Vicente Hughes, Veronica del Rocio Hughes, and Ivan Hughes (Rept. No. 94–1096).

H.R. 2940. An act for the relief of Maria Sylvia Macias Elliott (Rept. No. 94–1097).

H.R. 2941. An act for the relief of Susan Rosemary Harwood (Rept. No. 94–1098).

H.R. 3372. An act for the relief of Tze Tsun Li (Rept. No. 94–1099).

H.R. 4053. An act for the relief of Roderic Patrick Stafford (Rept. No. 94–1100).

H.R. 5052. An act for the relief of Yolanda E. Vez (Rept. No. 94–1101).

H.R. 5500. An act for the relief of Rafael Strochlitz Wurzel (Rept. No. 94–1102).

H.R. 5648. An act for the relief of Violetta Cebreros (Rept. No. 94–1103).

H.R. 6093. An act for the relief of Maria D'Arpino (Rept. No. 94–1104).

H.R. 6392. An act for the relief of Koviljka C. Clendenen (Rept. No. 94–1105).

H.R. 6687. An act for the relief of Doo Hoon Park (Rept. No. 94–1106).

H.R. 7404. An act for the relief of Christine Donnelly (Rept. No. 94–1107).

H.R. 7494. An act for the relief of Luigi Santaniello (Rept. No. 94–1108).

H.R. 7882. An act for the relief of Miss Leonor Young (Rept. No. 94–1109).

H.R. 7908. An act for the relief of Edward Drag (Rept. No. 94–1110).

H.R. 8557. An act for the relief of Carmen Thomas (Rept. No. 94–1111).

H.R. 8695. An act for the relief of Eugene Homsy Phillips (Rept. No. 94–1112).

H.R. 10076. An act for the relief of Mrs. Kazuko Scillion (Rept. No. 94–1113).

H.R. 11076. An act for the relief of Ok Ja Choi (Rept. No. 94–1114).

By Mr. EASTLAND, from the Committee on the Judiciary, with an amendment:

S. 2956. A bill for the relief of Teresa Marie Salman (Rept. No. 94–1077).

S. 2942. A bill for the relief of Kenrick Withington Brookes (also known as Kenrick Withington Clifton) (Rept. No. 94–1076).

S. 2605. A bill for the relief of Si Kon Won, his wife, Wha Jo Won, and their children, Myung Kun Won and Myung Ae Won (Rept. No. 94–1075).

S. 2481. A bill for the relief of Oscar Rene Hernandez Rustrian (Rept. No. 94–1074).

S. 1690. A bill for the relief of Celedonio M. Gapasin and his wife, Dely P. Gapasin (Rept. No. 94–1073).

S. 1848. A bill for the relief of Brigitte Marie Harwood (Rept. No. 94–1072).

S. 3040. A bill for the relief of Dr. Lesley B. Tiogko Serrano and her son, Kenneth Neil Serrano (title amended) (Rept No. 94–1080).

S. 2734. A bill for the relief of Kendrick Gordon A. Bascem (title amended) (Rept. No. 94–1079).

S. 1802. A bill for the releif of Ashok Raine (title amended) (Rept. No. 94–1078).

H.R. 5503. An act for the relief of Divina Mamuad (Rept. No. 94–1115).

H.R. 7832. An act for the relief of Mrs. Jeanette Flores Byrne (title amended) (Rept. No. 94–1116).

H.R. 10434. An act for the relief of Carlos Montenegro Gorbitz, doctor of medicine, Mrs. Gorbitz, and their 2-year-old son (title amended) (Rept. No. 94–1117).

H.R. 10793. An act for the relief of Mrs. Afaf Kanafani Yassine, Najla Yassine, Walid Yassine, Mona Yassine, and Maher Yassine (title amended) (Rept. No. 94–1118).

By Mr. EASTLAND, from the Committee on the Judiciary, with amendments:

S. 2786. A bill for the relief of Kim Yon Jin (title amended) (Rept. No. 94–1082).

S. 2674. A bill for the relief of Patricia Aries Garcia (title amended) (Rept. No. 94–1081).

JUVENILE DELINQUENCY — REPORTS OF THE COMMITTEE ON THE JUDICIARY (S. REPT. 94–1060 AND S. REPT. 94–1061)

Mr. BAYH, from the Committee on the Judiciary, submitted two reports prepared by the Subcommittee To Investigate Juvenile Delinquency entitled "Juvenile Delinquency Annual Report 1974" (Rept. No. 94–1060) and "Juvenile Delinquency Annual Report 1975" (Rept. No. 94–1061), which were ordered to be printed.

PROTECTION OF LIVESTOCK PRODUCERS, H.R. 8410—CONFERENCE REPORT (REPT. NO. 94–1065)

Mr. HUDDLESTON submitted a report from the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 8410) to amend the Packers and Stockyards Act of 1921, as amended, and for other purposes, which was ordered to be printed.

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that today, August 4, 1976, he presented to the President of the United States the following enrolled bills:

S. 537. An act to improve judicial machinery by amending the requirement for a three-judge court in certain cases and for other purposes; and

S. 1526. An act to make additional funds available for purposes of certain public lands in northern Minnesota, and for other purposes.

HOUSE BILLS REFERRED

The following bills were read twice by their titles and referred as indicated:

H.R. 7624. An act for the relief of Jacinto Vazquez Comacho; to the Committee on the Judiciary;

H.R. 11199. An act for the relief of Hollis Anthony Millet; to the Committee on the Judiciary; and

H.R. 11890. An act for the relief of Bernard Julian Phillips; to the Committee on the Judiciary.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. STENNIS (for himself and Mr. EASTLAND):

S. 3724. A bill to authorize the Secretary of the Army to undertake the phase I design memorandum stage of advanced engineering and design of the project element involving the lowermost 10.1 mile-long segment of channel modification of Sowashee Creek at Meridian, Mississippi. Referred to the Committee on Public Works.

By Mr. DOMENICI:

S. 3725. A bill to provide increased flood protection in the vicinity of Santa Fe, New Mexico. Referred to the Committee on Public Works.

By Mr. CHURCH (for himself and Mr. MCCLURE):

S. 3726. A bill to authorize additional appropriations for the acquisition of lands and interests in lands within the Sawtooth National Recreation Area in Idaho. Referred to the Committee on Interior and Insular Affairs.

By Mr. CRANSTON (for himself and Mr. TUNNEY):

S. 3727. A bill to authorize the Secretary of the Interior to construct, operate, and maintain the Allen Camp unit, Pit River division, Central Valley project, California, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DOMENICI:

S. 3725. A bill to provide increased flood protection in the vicinity of Santa Fe, N. Mex. Referred to the Committee on Public Works.

Mr. DOMENICI. Mr. President, I am introducing a bill that will modify a proposed project before the Public Works Committee for inclusion in this year's Water Resources Omnibus bill. The project is a flood control project for Santa Fe, N. Mex., that has several components: First, improvement of the Arroyo Mascaras; second, raising of bridges over the Santa Fe; and third, a dam at Granite Point, east of the city and the existing Nichols Dam.

The first two elements of the project have received strong local support. The dam at Granite Point, however, has been the focal point for broadbased local opposition. This opposition has noted that the proposed dam threatens the designation of a wilderness area, and that its construction could have undesirable environmental consequences. Moreover, the opposition has pointed out that the Nichols Dam already in the area has the potential for expansion.

Because local cooperation is a condition of the project, and such consent will be withheld if the Granite Point Dam is authorized, this bill precludes the construction of the Granite Point Dam while allowing the rest of the project to move forward. The bill retains the option of expansion at Nichols Dam if, as part of the preconstruction review process, the corps and the local citizens agree that such an expansion is needed. Moreover, the bill in no way precludes the examination of alternatives to the concrete channelization of the Arroyo Mascaras. Mr. President, I ask unanimous consent to have printed in the RECORD the bill, and a resolution passed by the Santa Fe City Council indicating their opposition to the construction of the Granite Point Dam.

There being no objection, the bill and resolution were ordered to be printed in the RECORD, as follows:

S. 3725

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Army, acting through the Chief of Engineers, is authorized to construct a project for local flood protection pursuant to the Report on Review Survey for flood control and allied purposes, Santa Fe River and Arroyo Mascaras at and in the vicinity of Santa Fe, New Mexico, dated January, 1973, at an estimated cost of $3,890,000, *Provided,* That the project shall not include construction of any impoundments east of the existing Nichols Dam, and *Provided further,* That in any earth moving operations in connection with the construction of such project, the sources of material and the routes for transporting such materials to the construction site shall be selected in a way that minimizes any adverse effect on normal transportation movements within the city of Santa Fe.

RESOLUTION 1976–19—

RESOLUTION CONCERNING CITY OF SANTA FE RESOLUTION 1972–80; AND FLOOD CONTROL FOR THE CITY OF SANTA FE; AND UNITED STATES SENATE BILL 2396, A BILL TO AUTHORIZE THE SANTA FE LOCAL PROTECTION PROJECT IN THE STATE OF NEW MEXICO, INTRODUCED SEPTEMBER 23, 1975

Whereas:

1. The City of Santa Fe adopted Resolution 1972–80 on December 13, 1972.

2. There has arisen some confusion as to the interpretation of Resolution 1972–80 between the City of Santa Fe, New Mexico and the United States Army, Corps of Engineers, Albuquerque District.

3. Since Resolution 1972-80 was enacted a bill has been introduced in the United States Senate entitled and numbered Senate Bill 2396, a Bill to authorize the Santa Fe local Protection Project in the State of New Mexico. Said bill was introduced in the United States Senate on September 23, 1975.

4. The City of Santa Fe desires that its position concerning Resolution 1972-80 and Senate Bill 2396 be clarified.

Now, therefore, be it resolved by the governing body of the City of Santa Fe, New Mexico that:

1. The City of Santa Fe, New Mexico, supports United States Senate Bill 2396 which provides for flood control protection for Santa Fe, New Mexico.

2. The City of Santa Fe, New Mexico, rejects the concept of Granite Point Dam as presently included in Senate Bill 2396 as a means of an alternative to effective flood control for Santa Fe, New Mexico.

3. The New Mexico congressional delegation, by this Resolution, be requested to amend present U.S. Senate Bill 2396 with language to the effect that the Corps of Engineers be required to explore and define all other reasonable alternatives for effective flood control for the City of Santa Fe, New Mexico, excluding from such exploration and definition the Granite Point Dam.

4. It is the intent of the City of Santa Fe, New Mexico, by this Resolution, not to exclude the use of a dam or dams in the Santa Fe Canyon as a means of effective flood control, but it is the intent to reject the use of Granite Point Dam as a means of obtaining effective flood control.

5. The Corps of Engineers be required to further examine the increase of water storage capacity in the Nichols Reservoir as an alternative for effective flood control.

6. The City of Santa Fe, New Mexico, rejects as a reasonable alternative to effective flood control the full channelization of the Santa Fe River to carry the complete flood without a combination of upstream storage on the Santa Fe River. The City further rejects as a reasonable alternative to effective flood control any dam or method of flood control that would damage or injure the Randall Davey residence located in the Santa Fe Canyon.

7. The Corps of Engineers be required to examine design alternatives for the Arroyo Mascaras flood control portion of Senate Bill 2396 other than concrete channelization of said arroyo.

8. The Corps of Engineers be required to hold a public hearing in Santa Fe, New Mexico, as soon as possible concerning present Senate Bill 2396, or as amended with proposed alternatives for effective flood control for the City of Santa Fe, New Mexico, to include adequate notice to the public and the City of Santa Fe, New Mexico.

9. A copy of this Resolution be forwarded forthwith to the New Mexico congressional delegation, the Corps of Engineers, District Office, Albuquerque, New Mexico, and to the members of the United States Senate Committee on Public Works.

Passed, approved and adopted, this June 30, 1976.

Attest:

Bonnie Lopez,
Clerk-Treasurer.

(seal)

Joseph E. Valdes,
Mayor.

By Mr. CHURCH (for himself and Mr. McClure):

S. 3726. A bill to authorize additional appropriations for the acquisition of lands and interests in lands within the Sawtooth National Recreation Area in Idaho. Referred to the Committee on Interior and Insular Affairs.

SAWTOOTH NATIONAL RECREATIONAL AREA

Mr. CHURCH. Mr. President, I am introducing legislation today along with Senator McClure to increase the authorization ceiling for land acquisition within the Sawtooth National Recreation Area in Idaho.

This legislation, in the form of an amendment to the original act which created the Sawtooth NRA, would increase the ceiling for the acquisition of lands and interests in lands to $42,802,000. The original act had a land acquisition ceiling of $19,802,000.

This increase is necessary to fulfill the purposes for which the Sawtooth National Recreation Area was created. Money from the land and water conservation fund will thus be available for the acquisition of land and water, and interests in land and water within the NRA.

The Forest Service has advised Senator McClure and me that this increase in the dollar figure represents the necessary cost of preserving the scenic and historic values present in this area of Idaho.

By Mr. CRANSTON (for himself and Mr. Tunney):

S. 3727. A bill to authorize the Secretary of the Interior to construct, operate, and maintain the Allen Camp Unit, Pit River Division, Central Valley project, California, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

Mr. CRANSTON. Mr. President, I introduce for appropriate reference a bill to authorize the construction of the Allen Camp Unit, Pit River Division, of the Central Valley project in the State of California. The bill is similar to H.R. 6668 introduced in the House of Representatives by Congressman Harold T. Johnson. I am pleased Senator Tunney joins me as a cosponsor of the bill.

In 1966, Congress authorized a feasibility study of the Allen Camp Unit as a possible solution to the water supply and flood problems of Lassen and Modoc Counties, Calif. The feasibility report was prepared in 1967 and released for public review.

In March of this year, the Bureau of Reclamation finally issued its special report on the Allen Camp Unit presenting the results of the appraisal, modification, and the plan of development for the unit as described in the feasibility report.

The Bureau of Reclamation has recommended the construction of an earth and rockfill dam and a 74,000-acre foot reservoir on the Pit River to provide a firm irrigation water supply for 11,300 acres of land, flood protection for the Big Valley, recreation opportunities, and fishery and wildlife enhancement. The Bureau proposes to create a 10,000-acre national wildlife refuge to mitigate wildlife losses. The proposed project would also include pumping plants, stream channelization, distribution canals, and a drainage system.

The bill I am introducing today authorizes the construction of all these features at a cost of $64,220,000.

To date, no environmental impact statement has been prepared for the Allen Camp Unit. I understand the Bureau will make an environmental assessment if the unit is authorized. While I do not expect the study to reveal environmental problems, I will want to review the EIS when completed and condition my continued support of the Allen Camp Unit upon its acceptance.

Mr. President, I ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 3727

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of providing irrigation water supplies, controlling floods, conserving and developing fish and wildlife resources, enhancing outdoor recreation opportunities, and for other related purposes, the Secretary of the Interior, acting pursuant to the Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388 and Acts amendatory thereof or supplementary thereto), is authorized to construct, operate, and maintain the Allen Camp unit, Pit River division, as an addition to, and an integral part of, the Central Valley project, California. The principal works of the unit shall consist of Allen Camp Dam and Reservoir and necessary water diversion, conveyance, distribution, and drainage facilities, and other appurtenant works for the delivery of water to the unit, a wildlife refuge, channel rectification works and levees, and recreation facilities.

Sec. 2. Subject to the provisions of this Act, the operation of the Allen Camp unit shall be integrated and coordinated, from both a financial and an operational standpoint, with the operation of other features of the Central Valley project in such manner as will effectuate the fullest, most beneficial, and most economic utilization of the water resources hereby made available.

Sec. 3. The costs of the Allen Camp unit allocated to flood control, conservation and development of fish and wildlife resources, and the enhancement of recreation opportunities shall be nonreimbursable.

Sec. 4. The Secretary is hereby authorized to replace those roads and bridges now under the jurisdiction of the Secretary of Agriculture which will be inundated or otherwise rendered unusable by construction and operation of the unit. Said replacements are to be to the standards (including provisions for the future) which would be used by the Secretary of Agriculture in constructing similar roads to provide similar services.

Sec. 5. For a period of ten years from the date of enactment of this Act, no water from the unit authorized by this Act shall be delivered to any water user for the production of newly irrigated lands of any basic agricultural commodity, as defined in the Agricultural Act of 1949 (63 Stat. 1051: 7 USC 1421), or any amendment thereof, if the total supply of such commodity for the marketing year in which the bulk of the crop would normally be marketed is in excess of the normal supply as defined in section 301 (b) (10) of the Agricultural Adjustment Act of 1938 (62 Stat. 1251), as amended, unless the Secretary of Agriculture calls for an increase in production of such commodity in the interest of national security.

Sec. 6. There is hereby authorized to be appropriated $64,220,000 (January 1976 price levels) for the construction of the Allen Camp unit, plus or minus such amounts as are justified by reason of ordinary fluctuations in construction costs as indicated by engineering cost indices applicable to the construction of works related to the Allen

Camp unit. There are also authorized to be appropriated such sums as may be required to operate and maintain said unit and associated facilities.

ADDITIONAL COSPONSORS

S. 3182

At the request of Mr. Taft, the Senator from New Hampshire (Mr. McIntyre) was added as a cosponsor of S. 3182, to amend the Occupational Safety and Health Act of 1970.

WITHDRAWAL

At the request of Mr. Taft, the Senator from Montana (Mr. Metcalf) was withdrawn as a cosponsor of S. 3182, supra.

AMENDMENT NO. 2034

At the request of Mr. Dole, the Senator from Pennsylvania (Mr. Hugh Scott) was added as a cosponsor of amendment No. 2034, intended to be proposed to the bill (H.R. 8603, the Postal Reform and Reorganization Act.

SENATE RESOLUTION 505, SENATE RESOLUTION 506, SENATE RESOLUTION 507, AND SENATE RESOLUTION 508—ORIGINAL RESOLUTIONS REPORTED TO PAY GRATUITIES

(Placed on the calendar)

Mr. CANNON from the Committee on Rules and Administration, reported the following resolutions:

S. Res. 505

Resolved, That the Secretary of the Senate hereby is authorized and directed to pay, from the contingent fund of the Senate, to Janet S. Stowell and Carol R. Pickens, daughters of Eugenia S. Reed, an employee of the Senate at the time of her death, a sum to each equal to six months' compensation at the rate she was receiving by law at the time of her death, said sum to be considered inclusive of funeral expenses and all other allowances.

S. Res. 506

Resolved, That the Secretary of the Senate hereby is authorized and directed to pay, from the contingent fund of the Senate, to Mary M. Selby, widow of Alfred H. Selby. an employee of the Senate at the time of his death, a sum equal to one years' compensation at the rate he was receiving by law at the time of his death, said sum to be considered inclusive of funeral expenses and all other allowances.

S. Res. 507

Resolved, That the Secretary of the Senate hereby is authorized and directed to pay, from the contingent fund of the Senate, to Mildred W. Brumfield, widow of James C. Brumfield, Sr., an employee of the Architect of the Capitol assigned to duty in the Senate Office Buildings at the time of his death, a sum equal to six months' compensation at the rate he was receiving by law at the time of his death, said sum to be considered inclusive of funeral expenses and all other allowances.

S. Res. 508

Resolved, That the Secretary of the Senate hereby is authorized and directed to pay, from the contingent fund of the Senate, to Dorothy C. Barthelmes, widow of A. Wesley Barthelmes, Jr., an employee of the Senate at the time of his death, a sum equal to one years' compensation at the rate he was receiving by law at the time of his death, said sum to be considered inclusive of funeral expenses and all other allowances.

AMENDMENTS SUBMITTED FOR PRINTING

EDUCATION AMENDMENTS OF 1976—S. 2657

AMENDMENT NO. 2155

(Ordered to be printed and to lie on the table.)

Mr. FANNIN (for himself, Mr. Dole, Mr. Hansen, Mr. Young, Mr. McClure, Mr. Gravel, Mr. Eastland, Mr. Tower, Mr. Garn, Mr. Hatfield, Mr. Chiles, Mr. Fong, Mr. Ford, Mr. Domenici, Mr. Thurmond, and Mr. Goldwater) submitted an amendment intended to be proposed by them jointly to the bill (S. 2657) to extend the Higher Education Act of 1965, to extend and revise the Vocational Education Act of 1963, and for other purposes.

TAX REFORM ACT OF 1976—H.R. 10612

AMENDMENT NO. 2156

(Ordered to be printed and to lie on the table.)

Mr. BAYH. Mr. President, in 1954, in enacting the Internal Revenue Code, the Congress wisely decided to exclude from an individual's taxable income a portion of sick pay or disability pay received while a taxpayer was unable to work. This provision of the code, commonly referred to as the sick pay exclusion, appears in section 105.

The action taken in 1954 was consistent with tax policy and a number of earlier court decisions on the question of whether sick pay was to be considered taxable income.

For example, in 1952 the U.S. Court of Appeals for the Seventh Circuit upheld the exclusion of sick leave payments and observed that such an exclusion was:

> Intended to relieve a taxpayer who has the misfortune to become ill or injured, of the necessity of paying income tax upon insurance benefits received to combat the ravage of disease or illness. (*Epmeier* v. *U.S.* 199 F.2d 508.)

Five years later in a separate case the Supreme Court upheld the tax exclusion for sickness disability benefits. In its opinion the Court observed—

> For reasons deemed satisfactory, Congress, since 1918, has chosen not to tax receipts for health and accident insurance. (*Haynes* v. *U.S.* 353 U.S. 81.)

Clearly, Mr. President, there is a historic and compassionate basis for providing taxpayers who are unable to work because of illness with the opportunity to exclude a portion of their sick pay from their taxable income.

In addition, there is a sound economic basis for the long-standing policy decision that a portion of sick pay be excluded from taxable income. Almost invariably an individual who is ill enough to qualify for the sick pay exclusion incurs expenses associated with that illness. And while the Finance Committee suggests that the deduction available on schedule A under medical expenses would cover those extraordinary expenses associated with illness, the fact is that large numbers of taxpayers in the low and lower-middle income ranges do not itemize their deductions. The remedy suggested by the Finance Committee for accommodating the extraordinary expenses of illness therefore is not available to taxpayers who use the standard deduction—the very taxpayers most in need of the sick pay exclusion.

Unfortunately, despite the substantial arguments in favor of the sick pay exclusion, the Finance Committee has proposed the repeal of this provision of the tax code with a very limited exception for employees who are permanently and totally disabled. While maintaining the exclusion for such disabled taxpayers is entirely reasonable, it is also reasonable to maintain the exclusion on a parallel basis for ill workers.

The Finance Committee predicates its repeal of the sick pay exclusion largely on the basis of the fact that the present law is regressive, providing greater savings for higher income taxpayers. And the committee is correct in pointing to this weakness in the present law.

But the proper response is not to do away with the sick pay exclusion. Rather it should be put on a progressive basis, and made available only to those taxpayers whose income makes it justified. This, not incidentaly, is precisely what the Finance Committee proposes to do in the case of the exclusion maintained for the totally and permanently disabled taxpayer.

To assure that the sick pay exclusion is maintained for those who need it, and to prevent its use by higher income taxpayers, I am proposing an amendment to provide all workers with a sick pay exclusion on the same basis as the Finance Committee provides the limited exclusion for disabled individuals.

Specifically, this means the existing sick pay exclusion of no more than $100 a week would be available for taxpayers whose adjusted gross income is $15,000 a year or less. For those taxpayers whose income is greater than $15,000 the available sick pay exclusion would be reduced by $1 for every dollar the taxpayer's adjusted gross income exceeds $15,000. This phase out would effectively deny any sick pay exclusion to taxpayers whose adjusted gross income exceeds $20,000 a year.

This effective repeal of benefits for taxpayers whose adjusted gross income exceeds $20,000—both in the Finance Committee treatment of disability income and my amendment on sick pay—is quite important since the Finance Committee report on the tax bill states during a discussion of the existing law on sick pay:

> More than 60 percent of the benefits from this provision currently goes to taxpayers with adjusted gross incomes (including sick pay) over $20,000.

I agree that this is inappropriate and further agree with the conclusion of the committee that—

> The exclusion allowed under Section 105 should not have a regressive effect and that the provision should be amended to direct a fairer share of its tax benefits to low- and middle-income taxpayers.

However, this is not what the committee has done. Rather, the committee has effectively repealed the sick pay exclusion for all workers, preserving a very limited exception for the permanently and totally disabled. My amendment, while paralleling the committee treatment of the disability exclusion to assure proper distribution of the tax benefits, does amend the existing law so that low- and lower-middle income taxpayers can have the full benefit of the existing and limited sick pay exclusion.

It should be noted, Mr. President, that my proposal would preserve the present limitation of $100 a week on the sick pay exclusion. That figure was established in 1954 and its effect has been significantly eroded by inflation in the last 22 years. Indeed, the National Association of Retired Federal Employees has actually testified in favor of increasing the $100 weekly limit on the exclusion. While I am not prepared to recommend such a course of action, it is relevant to bear in mind as we seek to preserve the sick pay exclusion for the low- and middle-income taxpayers that the real benefit of the exclusion is significantly less than it was when it was enacted.

It is also important to bear in mind that collective bargaining agreements affecting millions of workers in many of our largest industries provide sick pay benefits at levels which take into account the existing sick pay exclusion. Repeal of the exclusion will, by making those sick pay benefits fully subject to taxation, have the direct effect of forcing real reductions in those benefits. In the short term this will mean a net cost to ill workers; in the long term it will likely mean negotiations leading to increases in sick pay benefits with the resulting impact on employer costs which will, in turn, be reflected in higher consumer prices.

Mr. President, I am convinced that repeal of the sick pay exclusion is an improper response to the regressive nature of the present law. I believe strongly that my amendment extending the full exclusion for taxpayers which adjusted gross income of $15,000 a year and less, and a phase out of the exclusion for taxpayers whose adjusted gross income is between $15,000 and $20,000 a year is fair to needy taxpayers and responsive to the weaknesses in the present law. I urge its adoption.

Finally, Mr. President, I ask unanimous consent to have printed in the RECORD a factsheet which I have prepared on the amendment.

There being no objection, the factsheet was ordered to be printed in the RECORD, as follows:

FACTSHEET ON BAYH AMENDMENT TO TAX BILL ON SICK PAY EXCLUSION

Purpose—To preserve sick pay exclusion in present tax code for individuals with adjusted gross income under $15,000 a year, to phase out sick pay exclusion for individuals with annual adjusted gross income between $15,000 and $20,000 and to repeal sick pay exclusion for individuals whose adjusted gross income exceeds $20,000 a year. This is the same way in which the Finance Committee treats disability income.

Finance Committee Action—The Finance Committee proposes the complete repeal of the sick pay exclusion, an existing provision of the tax code that permits individuals to exclude from taxable income a maximum $100 a week in sick pay. The rationale for the action is the complexity of the existing law and the fact that "more than 60 percent of the benefits from this provision currently goes to taxpayers with adjusted gross incomes (including sick pay) over $20,000." (Page 136 of Committee report.) Under the Bayh amendment *none* of the benefits of the sick pay exclusion would go to taxpayers with adjusted gross incomes greater than $20,000.

PROVISIONS OF BAYH AMENDMENT

(1) Preserves maximum sick pay exclusion of $100 a week for individuals with adjusted gross income of $15,000 a year or less.

(2) To assure progressivity:

(a) Begins phase-out of sick pay exclusion, on a dollar for dollar basis, for individuals whose adjusted gross income exceeds $15,000 a year. This means that for every dollar the adjusted gross income exceeds $15,000 the available sick pay exclusion is reduced by one dollar.

(b) Repeal sick pay exclusion benefits for individuals whose adjusted gross income exceeds $20,000. This is done by the dollar for dollar phase out beginning at $15,000 adjusted gross income. Even if an individual had the maximum available sick pay exclusion the benefit would be entirely removed by the time the adjusted gross income reached $20,000.

(3) The Bayh amendment treats the sick pay exclusion in a manner identical to the way in which the Finance Committee provides an exclusion from taxable income for disability income.

WHY THE BAYH AMENDMENT?

(1) The historical precedent for providing non-taxable income for ill workers, just as it is provided by the Committee for disabled workers, is still valid. Illness, like disability, most often requires the taxpayer to incur extraordinary expenses which are not deductible for individuals who take the standard deduction (generally low and lower-middle income taxpayers).

(2) The Finance Committee is correct in pointing to the regressive nature of the present law, but to respond by repealing the sick pay exclusion is unnecessary. The Bayh amendment preserves the principle of the sick pay exclusion for needy taxpayers and puts the benefits on a largely progressive basis.

(3) A substantial number of major collective bargaining agreements, including many major industries and millions of workers, provide for sick pay benefits that are based on the existence of the sick pay exclusion. Repeal of the exclusion could mean the renegotiation of existing contracts and consideration in new contracts of increased sick pay benefits to help cover the beneficiary's tax liability. This, in turn, would increase costs to businessmen, prices to consumers and have an undesirable inflationary effect.

AMENDMENT NO. 2157

(Ordered to be printed and to lie on the table.)

Mr. NELSON (for himself, Mr. MUSKIE and Mr. BELLMON) submitted an amendment intended to be proposed by them jointly to the bill (H.R. 10612), to reform the tax laws of the United States.

AMENDMENT NO. 2159

(Ordered to be printed and to lie on the table.)

Mr. HELMS submitted an amendment intended to be proposed by him to the bill (H.R. 10612), supra.

AMENDMENT NO. 2161

(Ordered to be printed and to lie on the table.)

Mr. STEVENS. Mr. President, the Internal Revenue Service of the Department of Treasury—Federal Register, volume 41, No. 148, Friday, July 30, 1976, pages 31828 to 31842—and the Office of Employee Benefits Security of the Department of Labor—Federal Register, volume 41, No. 148, Friday, July 30, 1976, pages 31870 to 31878—have both issued proposed regulations which clearly frustrate and defeat the intent of Congress set forth in ERISA and in three other pieces of legislation that employee stock ownership plans—ESOP's—shall be available to U.S. corporations and their employees both to finance normal corporate activities and to effectively build ownership of the employer's stock into employees, without requiring investment of employee savings or pay reductions from employees.

I believe it is imperative that Congress make clear its intent that there shall be no such bureaucratic frustration of its will and that the use and purpose of ESOP's shall not be so impaired or frustrated.

I will ask the approval of the Senate of an amendment to the Tax Reform Act of 1976, to the effect of which is that these frustrating and congressional intent defeating provisions of the proposed regulations will be prohibited from being put into effect retroactively.

Without attempting to identify each of the anti-ESOP provisions in these regulations, let me mention the following:

The use of debt financing by ESOP's to buy employer stock, either from the employer or from others, at no more than fair value, with or without the guarantee of repayment of such financing by the employer, or by a party in interest, or by any third person, shall not be prohibited or impaired.

The use of ESOP's by corporations as financing vehicles for the mutual benefit of the corporation and its employees shall not be prohibited or impaired.

ESOP loan transactions shall not be subject to the prohibitions against fiduciary self-dealing in section 4975(c)(1)(E) as presently provided by Code section 4975(d)(3).

Employer corporations, persons in interest, or any other person may guarantee repayment of loans made to ESOP's to enable them to purchase employer stock.

Corporations and/or their executives, counsel, investment bankers or other representatives may negotiate, arrange, or contract for loans to ESOP's in which employees of the corporation are participants, and no requirement that such financing shall be arranged by an "independent party" shall be imposed.

Neither a corporation which establishes an ESOP for the mutual benefit of the corporation and its employees nor its ESOP, shall be required by governmental regulation to buy back such stock once distributed to an employee from his account in the ESOP, whether or not such stock is publicly traded, or listed on a national securities exchange, nor shall any such corporation or its ESOP be prohibited from repurchasing such stock at any time from any such stockholder who may wish to sell it. Any such repurchase of stock distributed from an ESOP may be made for cash, or in installment payments negotiated between buyer and seller, or for such other consideration as buyer and seller may agree, so long as the value at which such repurchase is made is not less than fair value.

Neither a corporation which establishes an ESOP for the mutual benefit of the corporation and its employees, nor its ESOP, shall be prohibited from granting a "put" to ESOP participants which contractually commits either such corporation or such ESOP to repurchase such stock at not less than fair value.

No governmental regulation shall be adopted or made effective which prohibits stock distributed from an ESOP or the distributee of such stock, from being contractually subjected to a right of first refusal of the opportunity to purchase such stock as the stockholder may wish to sell to either the corporation or the ESOP, or both, so long as the purchase price set forth in such contractual right is not less than fair value to the seller, whether such stock is publicly traded or not, and whether such stock is listed on any registered securities exchange or not.

No governmental regulation shall be adopted or made effective which limits the employer stock which may be purchased by an ESOP or contributed to an ESOP to dividend-paying stock.

No governmental regulation shall be adopted or made effective which prohibits the methods heretofore customarily used in allocating stock within an ESOP as loan financing is paid off, nor which requires equal annual allocations of stock purchased by an ESOP through loan financing, nor which requires the establishment of a "suspense account" for such stock within an ESOP, so long as the method of allocating such shares within the ESOP is fair, just, and equitable on the basis of standards and procedures heretofore approved by the Internal Revenue Service.

No governmental regulations shall be adopted or made effective which require that dividends on stock within ESOP's be retained in the ESOP, or which prohibits dividends on stock held in the account of a participant in an ESOP from being paid to such participant from time to time in accordance with nondiscriminatory provisions of the plan.

No governmental regulations shall be adopted or made effective which require that voting rights on stock held by an ESOP shall either be given to the participants, or given to the ESOP committee, or that impairs the rights of employee ESOP participants to collectively bargain as to the method of voting such stock.

No governmental regulation shall be adopted or made effective which causes the proceeds of sale of stock by any stockholder, whether a controlling stockholder or not, for Federal income tax purposes to be treated as a dividend rather than as a sale of stock to an independent third party, nor which treats any such sale of stock to an ESOP for Federal income tax purposes as a redemption of such shares by the employer corporation.

I ask unanimous consent that a critique of the proposed regulations, an article from the Wall Street Journal, and my amendment be printed in the RECORD at this point.

There being no objection, the amendment and material were ordered to be printed in the RECORD, as follows:

At the appropriate place, insert the following:

AMENDMENT NO. 2161

SEC. EMPLOYEE STOCK OWNERSHIP PLAN REGULATIONS.

No regulations relating primarily to employee stock ownership plans prescribed by the Secretary of the Treasury and the Secretary of Labor under the Internal Revenue Code of 1954, section 301(d) of the Tax Reduction Act of 1975, title I of the Employee Retirement Income Security Act of 1974, or this Act, may be put into effect retroactively.

GENERAL CRITICISM OF PROPOSED TREASURY ESOP REGULATIONS

The proposed ESOP regulations published by the Internal Revenue Service on July 30, 1976, will substantially override the availability of ESOP financing provided under ERISA. The position of the IRS is directed at imposing restrictions which apply to ESOPs where debt financing is used to acquire stock for employees. The restrictions do not generally apply to stock bonus plans or profit sharing plans invested primarily in employer securities.

In the discussions of ERISA in 1974, the IRS strongly opposed the provisions for ESOP financing. Congress, however, did not accept the position of the IRS and clearly established that debt financing the acquisition of stock for employees is appropriate for an ESOP. As a practical matter, the proposed regulations would make the ESOP provisions in ERISA (and also the Trade Act of 1974) unavailable to corporations.

IRS has clearly distinguished "leveraged" ESOPs from other plans which acquire stock for employees. There is no valid reason for making this distinction. Debt financing through an ESOP merely results in non-recourse credit of the corporation being extended for the benefit of employees, in order to accelerate the building of employee ownership, without any risk to the employees. The ESOP provisions in ERISA result in a firm commitment by the employer to its employees to repay the ESOP loan. The proposed regulations will destroy the uses of an ESOP for this purpose and will result in conventional plans being the only available vehicles for providing employee stock ownership. The uses of ESOP as a financing vehicle for the benefit of employees will be ended if the proposed regulations are finalized. There is no valid basis in the legislative history of ERISA which should permit IRS to reverse the favorable decisions regarding ESOPs which have been made by Congress.

The following specific problem areas will indicate the extent to which the proposed regulations discriminate against, and ultimately destroy, the use of the ESOP vehicle:

SELF-DEALING BY FIDUCIARIES

No. 54.4975–7(b) (1) (i) of the proposed regulations provides that the ESOP loan exemption in Code Section 4975(d) (3) does not exempt an ESOP financing transaction from the general prohibition against fiduciary self-dealing in Section 4975(c) (1) (E). This interpretation cannot be supported by the statutory provisions for the ESOP loan exemption in Section 4975(d) (3), which is applicable by its terms to all the prohibited transactions specified in Code Section 4975(c) (1).

The proposed regulations indicate that an employer which is an ESOP fiduciary may not guarantee a loan to the ESOP, unless that loan is arranged by a fiduciary who is independent of the employer. As it is the guarantee by the employer which provides the primary security for most ESOP loans, it would be impossible for the loan to be arranged by anyone other than representatives of the employer. No independent party can be placed in a position of arranging a financing transaction which is primarily dependent upon the ability and willingness of the employer to extend its credit to the ESOP for the purpose of financing the acquisition of stock for the benefit of employees. Generally an ESOP has no independent ability to borrow funds, but is solely dependent upon the financial condition of the employer and its commitment to make payments to the ESOP sufficient for the ESOP to repay its debt. No corporation would be willing to grant authority for an independent party to negotiate terms of an ESOP loan for which its guarantee is necessary. To do so would be a breach of the management's responsibility to the shareholders of the corporation.

REQUIREMENTS FOR DEBT-FINANCED EMPLOYER SECURITIES

§ 54.4975–7(b) (2) (i) (B) of the proposed regulations imposes strict limitations upon the employer securities acquired with ESOP loan proceeds. The effect of these limitations is to make ESOP financing extremely difficult, especially in the case of unlisted employer securities.

A mandatory put option is required with respect to employer stock not listed on a national securities exchange. The put must be exercisable for a two-year period following distribution from the ESOP to a participant (or beneficiary). The put must be to the employer corporation at current fair market value, payable in cash.

Such a provision would impose a tremendous burden upon any corporation. It would prevent the accurate forecasting of liquidity needs for the repurchase of stock distributed by the ESOP. In addition, payment in cash may be impossible and provisions for an installment purchase are not permitted. The result of this mandatory put option may very well be that the corporation's financial condition is endangered, thereby jeopardizing the value of employer stock held in the ESOP for the benefit of remaining employees. Further, there are many corporations which would be precluded from issuing such put options. For example, banks generally are not permitted to purchase shares of their own capital stock. In addition, a corporation with insufficient surplus is limited by many state corporation laws from purchasing its own stock. Finally, many corporations are restricted by present financing arrangements from purchasing their own stock.

No other options are permitted with respect to stock acquired by an ESOP through loan proceeds. It is common for a put option to the ESOP to be granted, but such a put is prohibited by the proposed regulations. In addition, rights of first refusal with respect to stock distributed by an ESOP have in the past been found acceptable by the IRS. If a participant holding stock distributed by an ESOP wishes to dispose of his shares, why should a right of first refusal, at the price a willing buyer will pay, be objectionable now? In addition, a corporation whose stock is listed on a national securities exchange would be precluded from issuing put options or imposing any restrictions with respect to stock distributed by its ESOP, thereby requiring registration of the shares with the S.E.C., at a time when registration may be costly or impossible. The result of these limitations may very well adversely affect the value of stock held by the ESOP, by imposing expensive burdens upon the corporation.

With minor exceptions, the proposed regulations require that stock acquired with the proceeds of an ESOP loan be voting common stock with unrestricted dividend rights. This appears to be a limitation far beyond the intent of Congress in stating that an ESOP is designed to invest primarily in "qualifying employer securities." The requirement is far more restricted than the special ESOP provisions under the Trade Act of 1974 and the Tax Reduction Act of 1975, and severely limits the flexibility which corporations have in financing capital requirements with an ESOP. The requirements for unrestricted dividend rights precludes any restriction which may be imposed by current financing agreements of the corporation, and may even prevent the obtaining of the loan to be extended to the ESOP.

ALLOCATIONS AND COLLATERAL RELEASE

The provisions required for allocating employer stock to ESOP participants, in No. 54.4975–7(b)(2)(iii)–(iv) and 11(c), are confusing and not in accordance with generally used allocation methods for ESOPs. The provisions for a suspense account are required to be incorporated into the loan agreement, whether or not the loan is secured by a pledge of the stock. This makes no sense, as the lender is concerned about the repayment of its loan, not the method of allocating stock under the ESOP. The provisions for allocating require equal annual releases of shares, notwithstanding the fact that the loan may be repayable on a different basis. The method for allocations specified by Congress in ESOP provisions under Section 273(f)(4) of the Trade Act of 1974 may very well violate the allocation method required by the proposed regulations. In addition, any stock pledged as collateral for an ESOP loan is normally released as loan principal is repaid under the borrowing arrangement; but the proposed regulations require release on the same basis as allocations are made. The IRS simply does not understand this aspect of ESOP operations and has prescribed requirements which are nearly impossible to comply with and still provide equitable treatment for ESOP participants.

DIVIDENDS ON EMPLOYER STOCK

It appears that the proposed regulations require dividends to be accumulated in the ESOP or to be used to repay ESOP debt, but do not permit dividends to be currently distributed to participants in cash. This requirement would deny participants the dividend income which Congress has recognized as an important feature and benefit under an ESOP, and is not supported by law or common practice.

VOTING RIGHTS

§ 54.4975–11(d)(2) of the proposed regulations requires that employer stock allocated to participants' accounts under an ESOP be voted as directed by the participants. Such a provision may result in undue burdens and expenses, especially to unlisted corporations, in providing necessary proxy materials to employees. This added expense simply is not justified when there may be no real benefit to employees by allowing their direction of voting. In fact, the added expense may result in lower contributions to the ESOP by the employer, thereby actually diminishing the benefits provided to employees. In addition, the proposals require a thirty-day advance submission of proxy materials to participants, while provisions under most state laws do not require such notice so far in advance.

In light of the ESOP provisions in the Trade Act of 1974, and the Tax Reduction Act of 1975, the required voting pass-through does not appear to be appropriate. Under those Acts, Congress provided special incentives for ESOPs, not available to regular ESOPs, and required that voting rights be passed through to employees. In light of the specific requirement established by Congress for voting rights in those situations, it is clear that Congress did not intend this requirement to be applicable to all ESOPs. Requiring a pass-through of voting rights presents a major obstacle for many corporations in considering adoption of an ESOP.

DIVIDEND TREATMENT ON SALE OF STOCK TO ESOP

The proposals issued by IRS include an addition to § 1.301–1(1) of the regulations relating to corporate distributions to shareholders. The addition takes the position that the sale of stock by a shareholder to an ESOP may be a distribution by the corporation taxable as a dividend, rather than as a sale of stock. This position ignores the fact that such a transaction constitutes a bona fide transfer of stock to employees by the selling shareholder, rather than a redemption of the shares by the corporation. If the proposed regulation were adopted, the use of an ESOP as a vehicle for transferring ownership of stock to employees would be severely hampered in situations where the conditions of Code Section 302(b) are not satisfied. The position of the IRS in this proposal is contrary to Code Section 317(b), which provides that a redemption of stock by a corporation results when the corporation (not an independent ESOP) acquires the stock.

DEPARTMENT OF THE TREASURY

INTERNAL REVENUE SERVICE

[26 CFR Part 1]

Income Taxes

Requirements for Taxpayers Electing 11-Percent Investment Credit

Notice is hereby given that the regulation set forth in tentative form in the attached appendix below are proposed to be prescribed by Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury or his delegate. Prior to the final adoption of such regulations, consideration will be given to any comments pertaining thereto which are submitted in writing (preferably six copies) to the Commissioner of Internal Revenue. Attention: CC:LR:T, Washington, D.C. 20224, by September 30, 1976. Pursuant to 26 CFR 601.601(b), designations of material as confidential or not to be disclosed, contained in such comments, will not be accepted. Thus, persons submitting written comments should not include therein material that they consider to be confidential or inappropriate for disclosure to the public. It will be presumed by the Internal Revenue Service that every written comment submitted to it in response to this notice of proposed rule making is intended by the person submitting it to be subject in its entirety to public inspection and copying in accordance with the procedures of 26 CFR 601.702(d)(9). Any person submitting written comments who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit a request, in writing, to the Commissioner by September 30, 1976. In such case, a public hearing will be held, and notice of the time, place, and date will be published in a subsequent issue of the FEDERAL REGISTER, unless the person or persons who have requested a hearing withdraw their requests for a hearing before notice of the hearing has been filed with the Office of the Federal Register. The proposed regulations are to be issued under the authority contained in section 301(d) of the Tax Reduction Act of 1975 (Pub. L. 94–12, 89 Stat. 38) and section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

ANITA F. ALPERN,
Acting Commissioner of Internal Revenue.

PREAMBLE

This document contains proposed amendments to the Income Tax Regulations (26 CFR Part 1) under section 301(d) of the Tax Reduction Act of 1975 (Pub. L. 94–12, 89 Stat. 38) to provide rules for taxpayers electing an 11-percent investment credit under section 46(a)(1)(B) of the Internal Revenue Code of 1954.

Section 1.46–7 of the proposed regulations contains the statutory provisions of section 301(d) of the Tax Reduction Act of 1975. Section 1.46–8 contains requirements for taxpayers electing an 11-percent investment credit.

Section 1.46–8(a) of the proposed regulations state the general rule that a corporation may elect to be entitled to an additional 1-percent investment credit if it establishes or maintains an employee stock ownership plan ("TRASOP") funded by transfers of employer securities.

In the definition of "employer securities" under § 1.46–8(b)(1) there are tests for determining whether or not certain common stock issued by the employer and transferred to the TRASOP has voting power and dividend rights no less favorable than the voting power and dividend rights of other common stock issued by the employer. The definition also excludes any stock or security which is subject to a call or right of first refusal.

Because questions and answers published in Announcement 75–130 (1975–50 I.R.B. 16), relating to employee stock ownership plans in general, permitted employer securities to be subject to a right of first refusal to the employer, the proposed regulations permit plans to continue holding such securities acquired before September 30, 1976.

Special attention is called to the prohibition of rights of first refusal, and the Internal Revenue Service particularly invites comments and suggestions with respect to this provision.

The definition of employer securities also requires that they be subject to a put to the employer exercisable by a participant for two years after the distribution of such securities. Since Announcement 75–130 specifically prohibits any such put, this requirement applies prospectively.

As a condition for receiving an 11-percent investment credit, § 1.46–8(c)(1) provides that an employer in claiming such credit must agree to transfer employer securities (or cash for the purpose of purchasing employer securities) to the TRASOP in an amount equal to 1 percent of the amount of qualified investment of the employer for the taxable year under section 46 of the Code with respect to the taxable year in which the credit is earned.

Requirements relating to the exercise of rights associated with employer securities appear in § 1.46–8(d)(7). Under these provisions a TRASOP must permit participants to direct the exercise of voting rights and rights other than voting rights by a designated fiduciary with respect to such securities allocated to their accounts. Duties are imposed upon the designated fiduciary with respect to the notification of participants of the opportunity to exercise such voting and other rights. Rights with respect to unallocated shares are to be exercised as determined under the plan.

There is no requirement under the proposed regulations that a TRASOP be a qualified plan under section 401(a) of the Code. However, a TRASOP that does not meet the requirements of section 401(a) must nonetheless comply with the provisions of § 1.46–8(e)(2) relating to taxability, amounts allocated to participants' accounts, participation and contributions .

PROPOSED AMENDMENTS TO THE REGULATIONS

In order to prescribe regulations relating to requirements for taxpayers electing the 11-percent investment credit under section 46(a)(1)(B) of the Internal Revenue Code of 1954 and section 301(d) of the Tax Reduction Act of 1975, the Income Tax Regulations (26 CFR Part 1) are amended as follows:

Immediately after § 1.46–6 there are added:

§ 1.46–7 Statutory provisions; plan requirements for taxpayers electing 11-percent investment credit.

Section 301(d) of the Tax Reduction Act of 1975 (89 Stat. 38) provides as follows:

SEC. 301.—Increase in investment credit. * * *

(d) Plan requirements for taxpayers electing 11-percent credit.—In order to meet the requirements of this section—

(1) A corporation (hereinafter in this subsection referred to as the "employer") must establish an employee stock ownership plan (described in paragraph (2)) which is funded by transfers of employer securities in accordance with the provisions of paragraph (6) and which meets all other requirements of this subsection.

(2) The plan referred to in paragraph (1) must be a defined contribution plan established in writing which—

(A) Is a stock bonus plan, a stock bonus and money purchase pension plan, or a profit-sharing plan,

(B) Is designed to invest primarily in employer securities, and

(C) Meets such other requirements (similar to requirements applicable to employee stock ownership plans as refined in section 1975(e)(7) of the Internal Revenue Code of 1954) as the Secretary of the Treasury or his delegate may prescribe.

(3) The plan must provide for the allocation of all employer securities transferred to it or purchased by it (because of the requirements of section 46(a)(1)(B) of the Internal Revenue Code of 1954) to the account of each participant (who was a participant at any time during the plan year, whether or not he is a participant at the close of the plan year) as of the close of each plan year in an amount which bears substantially the same proportion to the amount of all such securities allocated to all participants in the plan for that plan year as the amount of compensation paid to such participant (disregarding any compensation in excess of the first $100,000 per year) bears to the compensation paid to all such participants during that year (disregarding any compensation in excess of the first $100,000 with respect to any participant). Notwithstanding the first sentence of this paragraph, the allocation to participants' accounts may be extended over whatever period may be necessary to comply with the requirements of section 415 of the Internal Revenue Code of 1954.

(4) The plan must provide that each participant has a nonforfeitable right to any stock allocated to his account under paragraph (3), and that no stock allocated to a participant's account may be distributed from that account before the end of the eighty-fourth month beginning after the month in which the stock is allocated to the account except in the case of separation from service, death, or disability.

(5) The plan must provide that each participant is entitled to direct the plan as to the manner in which any employer securities allocated to the account of the participant are to be voted.

(6) On making a claim for credit, adjustment, or refund under section 38 of the Internal Revenue Code of 1954, the employer states in such claim that it agrees, as a condition of receiving any such credit, adjustment, or refund, to transfer employer securities forthwith to the plan having an aggregate value at the time of the claim of 1 percent of the amount of the qualified investment (as determined under section 46 (c) and (d) of such Code) of the taxpayer for the taxable year. For purposes of meeting the requirements of this paragraph, a transfer of cash shall be treated as a transfer of employer securities if the cash is, under the plan, used to purchase employer securities.

(7) Notwithstanding any other provision of law to the contrary, if the plan does not meet the requirements of section 401 of the Internal Revenue Code of 1954—

(A) Stock transferred under paragraph (6) and allocated to the account of any participant under paragraph (3) and dividends thereon shall not be considered income of the participant or his beneficiary under the Internal Revenue Code of 1954 until actually distributed or made available to the participant or his beneficiary and, at such time, shall be taxable under section 72 of such Code (treating the participant or his beneficiary as having a basis of zero in the contract).

(B) No amount shall be allocated to any participant in excess of the amount which might be allocated if the plan met the requirements of section 401 of such Code, and

(C) The plan must meet the requirements of section 410 and 415 of such Code.

(8) If the amount of the credit determined under section 46(a)(1)(B) of the Internal Revenue Code of 1954, is recaptured in accordance with the provisions of such Code, the amounts transferred to the plan under this subsection and allocated under the plan shall remain in the plan or in participant accounts, as the case may be and continue to be allocated in accordance with the original plan agreement.

(9) For purposes of this subsection, the term—

(A) "Employer securities" means common stock issued by the employer or a corporation which is in control of the employer (within the meaning of section 368(c) of the Internal Revenue Code of 1954) with voting power and dividend rights no less favorable than the voting power and dividend rights of other common stock issued by the employer or such controlling corporation, or securities issued by the employer or such controlling corporation, convertible into such stock, and

(B) "Value" means the average of closing prices of the employer's securities, as reported by a national exchange on which securities are listed, for the 20 consecutive trading days immediately preceding the date of transfer or allocation of such securities or, in the case of securities not listed on a national exchange, the fair market value as determined in good faith and in accordance with regulations issued by the Secretary of the Treasury or his delegate.

(10) The Secretary of the Treasury or his delegate shall prescribe such regulations and require such reports as may be necessary to carry out the provisions of this subsection.

(11) If the employer fails to meet any requirement imposed under this subsection or under any obligation undertaken to comply with the requirement of this subsection, he is liable to the United States for a civil penalty of an amount equal to the amount involved in such failure. The preceding sentence shall not apply if the taxpayer corrects such failure (as determined by the Secretary of the Treasury or his delegate) within 90 days after notice thereof. For purposes of this paragraph, the term "amount involved" means an amount determined by the Secretary or his delegate, but not in excess of 1 percent of the qualified investment of the taxpayer for the taxable year under section 46(a)(1)(B) and not less than the product of one-half of one percent of such amount multiplied by the number of months (or parts thereof) during which such failure continues. The amount of such penalty may be collected by the Secretary of the Treasury in the same manner in which a deficiency in the payment of Federal income tax may be collected.

(12) Notwithstanding any provision of the Internal Revenue Code of 1954 to the contrary, no deductions shall be allowed under section 162, 212, or 404 of such Code for amounts transferred to an employee stock ownership plan and taken into account under this subsection.

§ 1.46–8 Requirements for taxpayers electing 11-percent investment credit.

(a) *General rules*—(1) *Introduction.*—For a taxable year ending after January 21, 1975, a corporation (other than an electing small business corporation within the meaning of section 1371(b) of the Code) may elect under section 46(a)(1)(B) of the Code, in the time and manner prescribed in paragraph (c)(1) of this section, to claim a credit equal to 11 percent of the qualified investment properly attributable to property and qualified progress expenditures described in section 46 (c) and (d) of the Code (an "11-percent credit") to which section 46(a)(1)(B) applies by reason of section 46(a)(1)(D) if the requirements of section 301(d) of the Tax Reduction Act of 1975 (the "1975 TRA") and this section are met. To satisfy such requirements, a corporation which is an employer within the meaning of paragraph (b)(3) of this section must establish or maintain an employee stock ownership plan (a "TRASOP") meeting the general plan requirements of paragraph (d) of this section and must transfer employer securities (as defined in paragraph (b)(1) of this section) to the TRASOP in accordance with the provisions of paragraph (c)(2) of this section. The value of employer securities for purposes of determining the amount to be transferred under paragraph (c) of this section must be calculated under paragraph (b)(2) of this section. A plan which otherwise meets the requirements of this section but which is not a qualified plan under section 401(a) of the Code will nevertheless meet the requirements of the 1975 TRA and this section if such plan satisfies the requirements of paragraph (e)(2) of this section.

(2) *No deduction.*—Notwithstanding any provisions of the Code to the contrary, no deduction shall be allowed under section 162, 212, or 404 of the Code for employer securities or cash transferred to a TRASOP if such amount is taken into account under this section. However, section 404 will apply to any amount transferred to the TRASOP which is not taken into account under this section. An amount is taken into account under this section if such amount is necessary in order that a credit under section 33 be allowed.

(3) *New plan not required.*—A new plan need not be established if an existing plan meets the requirements of this section and section 301(d) of the 1975 TRA or is amended to meet these requirements.

(b) *Definitions*—(*1*) *Employer securities*—(*j*) *In general.*—For purposes of section 301(d) of the 1975 TRA and this section, the term "employer securities" means common stock issued by the employer that meets the requirements of paragraph (b)(1)(ii) of this section and convertible securities that meet the requirements of paragraph (b)(1)(iii) of this section. No employer security may be subject to a call or right of first refusal, except that an employer security subject to a right of first refusal to the employer while held by a TRASOP before September 30, 1976, may continue to be subject to such right of first refusal. All unlisted common stock or convertible securities transferred to a TRASOP after September 30, 1976, must be subject to a mandatory put to the employer that meets the requirements of paragraph (b)(1)(iv) of this section. Stock rights, warrants and options do not constitute employer securities.

(ii) *Common stock.*—To be taken into account under this section, common stock must have voting power and unrestricted dividend rights within the meaning of paragraph (b)(4) of this section. Voting power and dividend rights must be no less favorable than the voting power and dividend rights of any other common stock issued by the employer. Common stock within the meaning of this (ii) must meet one of the following tests:

(A) The stock is part of, or identical to, a class of stock of which (prior to the transfer to the TRASOP) at least 50 percent is owned by shareholders no one of whom owns more than 10 percent of the shares in such class of stock.

(B) If there is only one class of stock, the stock issued to the TRASOP is part of, or identical to, shares in such class of stock, or if there is more than one class of stock, then shares with respect to each class must be transferred to the TRASOP, so that each class of stock transferred to the TRASOP, as compared to all classes of stock transferred to the TRASOP, is substantially in the proportion the fair market value of the total outstanding shares of the particular class bears to the aggregate fair market value of all outstanding classes of stock (both values excluding shares owned by the TRASOP). This result will be obtained if the number of shares of stock in a particular class is in proportion to the number of shares of each and every other class of stock. For example, if there are two classes of stock, Class A and Class B, and if the fair market values of the outstanding shares of Class A stock and Class B stock are $100,000 and $200,000, respectively, and prior to the acquisition the ESOP has no interest in such stock, then such stock will meet the requirements of this (B) if the fair market value of the Class B stock it acquires is twice that of the Class A stock it acquires.

(C) The stock is part of, or identical to, that existing class of stock having the greatest number of votes per unit of fair market value. For example, if there are two classes of stock, Class A and Class B, with a fair market value per share of $1 and $.50, respectively, and if the owner of each share of each class is entitled to one vote per share, then a share of Class B stock has the greatest number of votes per dollar of value (2 votes per $1 as compared to 1 vote per $1) and stock will meet the requirements of this (C) if it is part of, or identical to, a share of Class B.

(iii) *Convertible securities.*—To be taken into account under this section, securities must be qualifying employer securities under section 4975(e)(8) of the Code that are immediately convertible, at a reasonable conversion ratio, into common stock (which meets the requirements of paragraphs (b)(1) (i) and (iv) of this section) by the holder of such securities after distribution and, while held by the TRASOP, at the direction of the participant to whose account the securities have been allocated.

(iv) *Mandatory put.*—In the case of common stock or convertible securities not listed on a national exchange, in order to meet the requirements of paragraph (b)(1)(i) of this section, each share of common stock and each convertible security transferred to a TRASOP after September 30, 1976, must be subject to a put to the employer that meets the requirements of this (iv). Such put must be exercisable during a two-year period which begins on the date the employer securities are distributed to a participant. If securities described in paragraph (b)(1)(iii) of this section are transferred to a participant, which are convertible into common stock which meets the requirements of paragraph (b)(1)(i) of this section, the period during which such put may be exercised expires two years after the date the convertible securities are distributed to the participant. The price at which a put meeting the requirements of this (iv) is exercisable is the fair market value of the common stock as of the date of exercise determined in accordance with paragraph (b)(2) of this section, and shall be paid in cash within a reasonable time from exercise. Such puts shall be exercisable by participants or their beneficiaries or by persons to whom such common stock or convertible securities are transferred by gift from participants or their beneficiaries or by reason of the death of such participants and beneficiaries.

(2) *Value.*—Under section 301(d) of the 1975 TRA and for purposes of paragraph (c) of this section, the term "value" means in the case of securities listed on a national exchange, the average of closing prices of the employer's securities, as reported by such exchange for the 20 consecutive trading days immediately preceding the date of the election under paragraph (c) of this section. In the case of securities not listed on a national exchange, a good faith determination of value shall be made on the basis of all relevant factors for determining fair market value. With respect to such unlisted securities, a determination of fair market value based on two or more appraisals independently arrived at by organizations that customarily make such appraisals, all of which organizations are independent of the employer, shall in all such cases be a good faith determination of value. If the employer has knowledge of the disreputability of any appraiser making such determination, good faith will be lacking. A certificate of value with respect to unlisted securities taken into account under this section after September 30, 1976, shall be filed by the employer with the TRASOP when a determination of value has been made for purposes of paragraph (c) of this section and on an annual basis thereafter. Each participant receiving a distribution of employer securities under the plan shall also receive at the time of such distribution a copy of the most recent certificate and a copy of each annual certificate thereafter until the put described in paragraph (b)(1)(iv) of this section has expired with respect to employer securities received in such distribution.

(3) *Employer.*—For purposes of this section the term "employer" means the employer or a corporation which is in control of the employer within the meaning of section 368(c).

(4) *Unrestricted dividend rights.* For purposes of section 301(d) of the 1975 TRA and this section, dividend rights mean rights to receive dividends as defined by the governing law of the state of incorporation of the corporation. Such rights are unrestricted if they are limited in no way other than as positively prescribed by statute in the state of incorporation.

(c) *Election of 11-percent credit*—(1) *Time and manner of election.* (i) An election under section 46(a)(1)(B) to claim an 11-percent credit for a taxable year shall be made on or before the due date (including extensions of time) for filing the corporation's income tax return for the year in which the credit is earned or, if later, December 31, 1975.

(ii) The election shall be made by attaching a statement to the corporation's return for the taxable year in which the credit is earned, or in the case of a return filed prior to December 31, 1975, by attaching a statement to an amended return filed on or before December 31, 1975. The statement shall indicate that an election is being made under section 46(a)(1)(B) of the Code and that the employer agrees as a condition for receiving the 11-percent credit to transfer employer securities forthwith to a TRASOP in the manner described in paragraph (c)(2) of this section.

(iii) An election to claim the 11-percent credit for a taxable year shall apply to the total qualified investment property to such taxable year properly attributable to property and qualified progress expenditures described in section 46 (c) and (d) of the Code to which section 46(a)(1)(B) applies by reason of section 46(a)(1)(D). Thus, an electing employer may not elect the 11-percent credit for one portion of such qualified investment and a 10-percent credit under section 46(a)(1)(A) of the Code for another portion.

(iv) If an election for a taxable year is not made within the time and in the manner described in paragraph (c)(1) of this section, no election may be made for such taxable year (by the filing of an amended return or otherwise).

(v) An election under section 46(a)(1)(B) for a taxable year may not be revoked without the consent of the Commissioner after the time prescribed in paragraph (c)(1) of this section for making the election has expired.

(2) *Establishment of TRASOP and transfer of employer securities.* (i) To meet the requirements of section 301(d) of the 1975 TRA, a TRASOP with accompanying trust must be in existence on or before the last day for making an election under paragraph (c)(1) of this section. For purposes of this section a TRASOP will be considered in existence whether or not, the TRASOP has been funded on such date.

(ii) The aggregate of value of employer securities to be transferred under this section must at the time of the election be an amount equal to one percent of the qualified investment of the employer for the taxable year under section 46 (c) and (d) of the Code to which section 46(a)(1)(B) applies by reason of section 46(a)(1)(D).

(iii) The transfer of all of the employer securities described in paragraph (c)(2)(ii) of this section must be made on or before the 30th day following the last day for making an election under paragraph (c)(1) of this section.

(iv) To meet the requirements of paragraph (c)(2) of this section, a transfer of cash in an amount equal to one percent of the qualified investment shall be treated as a transfer of employer securities if under the TRASOP the cash is used to purchase employer securities on or before the 30th day following the last day for making an election under paragraph (c)(1) of this section.

(v) The requirements of section 301(d)(6) of the 1975 TRA and paragraph (c)(2) of this section will not be satisfied merely by establishing and crediting a separate TRASOP account on the employer's books.

(vi) If a plan provides for regular contributions in addition to the contributions required under section 301(d)(6) of the 1975 TRA and paragraph (c)(2) of this section, the latter contributions must be accounted for separately from the regular contributions to the plan.

(d) *General plan requirements.*—(1) *General rule.* A TRASOP must be a defined contribution plan established in writing which—

(i) Is a stock bonus plan, a stock bonus plan and a money purchase pension plan, or a profit-sharing plan (as described in § 1.401–1(b)(1)) and

(ii) Is designed to invest primarily in employer securities as provided in paragraph (d)(2) of this section.

(2) *Designed to invest primarily in employer securities.* A plan constitutes a TRASOP only if the plan specifically states that it is designed to invest primarily in employer securities.

(3) *Employee contributions.* The receipt of benefits attributable to transfers required by the provisions of paragraph (c)(2) of this section may not be dependent upon contributions by the participants. If the employer has a plan in existence which requires employee contributions, such plan may be used to meet the requirements of this section if no employee contributions are required with respect to amounts transferred under the provisions of paragraph (c)(2) of

this section, and participation in the plan with respect to these amounts is not dependent upon employee contributions.

(4) *Expenses and debts of the TRASOP.* Amounts taken into account under this section cannot be used to pay the administrative expenses of the TRASOP or to satisfy a previous loan made to the TRASOP or be used as collateral for a loan to the TRASOP.

(5) *Allocation of amounts taken into account under this section.* (i) The plan must provide for the allocation of all amounts taken into account under this section. Such amounts must be allocated to the account of each participant who was a participant at any time during the plan year, whether or not he is a participant at the close of the plan year, as of a date prior to the close of each plan year. The allocation to each participant shall be in an amount which bears substantially the same proportion to the amount of all such amounts allocated to all participants in the plan for that plan year as the amount of the total annual compensation (as defined in paragraph (e) (1) (v) of this section) paid to the participant during the plan year, disregarding any compensation for such plan year in excess of a stated amount not greater than $100,000, bears to the compensation paid to all such participants during the plan year, disregarding any compensation in excess of such stated amount paid with respect to any participant. Substantial proportionality is satisfied if the participant's total annual compensation is expressed in terms of whole dollars.

(ii) If the contributions in any one year to a participant's account would exceed the limits of section 415 of the Code, the contributions shall be reallocated proportionately under paragraph (d) (5) (i) of this section to the accounts of other participants until the additions to the account of each participant reach the limits of section 415.

(iii) If, after the reallocations described in paragraph (d) (5) (ii) of this section, the amounts taken into account under this section are greater than otherwise allowed by the limits of section 415 of the Code, the portion exceeding the section 415 limits will not cause the plan to be disqualified under section 401(a) of the Code or to violate the requirements of section 301(d) of the 1975 TRA if such amount is held in an unallocated account in the TRASOP or in an escrow account and in later years such amount is allocated to the participants' accounts proportionately under paragraph (d) (5) (i) of this section with regard to the annual compensation for such later year. The beneficiary of the escrow account is to be the TRASOP. The employer may establish such an escrow account and contribute stock or cash to it. In such a case the escrow agent must transfer assets to the plan each year to the maximum extent possible without violating the limitations of section 415. Similar procedures shall apply if an unallocated account is used.

(iv) The allocation and distribution of amounts taken into account under this section may not be integrated, directly or indirectly, with contributions or benefits under Title II of the Social Security Act (42 U.S.C. 401).

(v) For purposes of this section, the term "compensation" shall have the same meaning as the term "participant's compensation" has under section 415(c) (3) and the regulations thereunder.

(vi) Participants are to be allocated fractional shares or fractional rights to shares and other employer securities.

(6) *Nonforfeitability.* The plan must provide that each participant has a nonforfeitable right to any amount taken into account under this section. For purposes of this section, forfeitures described in section 411 (a) (3) of the Code are not permitted.

(7) *Exercise of rights*—(i) *Voting rights.* **(A)** The plan must provide that each participant is entitled to direct a designated fiduciary as to the manner in which any employer securities allocated to the account of the participant are to be voted. The designated fiduciary shall notify participants of each occasion for the exercise of voting rights within a reasonable time (not less than 30 days) before such rights are to be exercised. This notification shall include all the information that the corporation distributes to shareholders regarding the exercise of such rights.

(B) The participants are to be allowed to vote fractional shares (or fractional rights to shares). This requirement is satisfied if the designated fiduciary votes the combined fractional shares or rights to shares to the extent possible to reflect the direction of the participants holding fractional shares or rights to shares.

(C) If a participant does not direct the designated fiduciary in whole or in part with respect to the exercise of voting rights arising under employer securities allocated to his account, such voting rights shall be exercised only to the extent directed by such participant.

(D) The plan need not permit employees to direct the voting of unallocated employer securities held by the trust.

(ii) *Rights other than voting rights.* The plan shall provide that each participant is entitled to direct the exercise of rights other than voting rights (such as, for example, a conversion privilege) in the manner prescribed under paragraph (d) (7) (i) of this section.

(8) *Distributions.* The plan must provide that no employer securities which have been allocated to a participant's account in accordance with section 301(d) (3) of the 1975 TRA and paragraph (d) (5) of this section may be distributed from that account before the end of the 84th month beginning after the month in which the stock is allocated to the participant's account except in the case of separation from service, death, or disability. However, a qualified money purchase pension plan can make a distribution only in the case of separation from service, death, or disability. All TRASOP's, including qualified stock bonus TRASOP's, can distribute cash instead of fractional shares.

(9) *Controlled group of corporations, etc.* All employees who by reason of section 414 (b) and (c) of the Code are treated as employees of the electing employer shall be treated as employed by such electing employer in determining whether the participation requirements of section 410 of the Code (and section 301(d) (7) (C) of the 1975 TRA, relating to plans not meeting the requirements of section 401 of the Code) are satisfied.

(10) *Recapture of investment credit*—(i) *In general.* If the amount of the investment credit determined under section 46(a) (1) (B) of the Code is recaptured in accordance with the provisions of section 47 of the Code, the amount taken into account under this section shall remain in the plan or in the participants' accounts, as the case may be, and continue to be allocated in accordance with the original plan. If all or a portion of the credit attributable to the TRASOP contribution is recaptured, a deduction under section 404 of the Code, relating to deductions for contributions to an employees' trust or plan, may be allowable.

(ii) *Example.* The provisions of this paragraph may be illustrated by the following example:

Example. On February 1, 1975, Corporation X, which is on a calendar year basis, makes a qualified investment with a basis of $1,000,000 and a useful life of eight years. After having claimed an investment credit of $107,600 ($100,000 (10% of $1,000,000)) under section 46(a) (1) (A) of the Code plus $7,600 of the additional $10,000 credit (1% of $1,000,000) permitted under section 46(a) (1) (B) of the Code) the corporation disposes of the qualified investment at the end of 1980. Corporation A contributes the full $10,000 to a TRASOP in order to qualify for the additional credit. Under section 47 of the Code, $26,900 of the qualified investment (¼th of $100,000 ($25,000) plus ¼th of $7,600 ($1,900)) must be recaptured because the section 38 property was disposed of two years before the close of its useful life. The amount recaptured with respect to the additional 1% credit ($1,900) plus $2,400 ($10,000–$7,600), the amount remaining in the plan for which no credit has been or will be allowed because of the recapture, may be deductible under section 404 of the Code. Therefore, a total of $4,300 ($1,900+$2,400) may be deductible because of the recapture with respect to the amount taken into account under this section.

(e) *Qualified and non-qualified TRASOP's*—(1) *General rule.* A TRASOP may, but need not, meet the requirements of section 401(a) of the Code. See Title I of the Employee Retirement Income Security Act of 1974 ("ERISA") for additional provisions applicable to an employee pension benefit plan (whether or not qualified under section 401(a) of the Code), within the meaning of section 3(2) of ERISA.

(2) *Non-qualified TRASOPs.* Notwithstanding any other provision of law to the contrary, if the TRASOP does not meet the requirements of section 401(a) of the Code, under section 301(d) (7) of the 1975 TRA the following rules shall nevertheless apply with respect to amounts taken into account under this section:

(i) *Participation.* The plan must meet the requirements of section 410 of the Code. See paragraph (d) (9) of this section with regard to the application of sections 414(b) and (c) of the Code.

(ii) *Contributions.* The plan must meet the requirements of section 415 of the Code. However, plans qualifying under section 401 (a) of the Code and plans described in section 415(e) (5) shall not be aggregated with a TRASOP in applying subsections (e), (f), and (g) of section 415 for years beginning before January 1, 1976.

(iii) *Allocation.* No amount shall be allocated to any participant in excess of the amount which might be allocated if the plan met the requirements of section 401(a) of the Code.

(iv) *Taxability.* An amount taken into account under this section and dividends thereon shall not be considered income of the participant or his beneficiary until it is actually distributed or made available to the participant or his beneficiary. These amounts shall not be considered "wages" or "compensation" for purposes of Subtitle C of the Code (relating to employment taxes). The treatment of the distribution shall be determined under section 72 of the Code. For purposes of applying section 72, the investment in the contract of the participant or his beneficiary shall be treated as zero. If the TRASOP does not meet the requirements of section 301(d) of the 1975 TRA, see section 402 of the Code, relating to taxability of beneficiary of employee's trust.

(3) *Qualified TRASOP's*—(i) *Introduction.* To constitute a qualified plan, a TRASOP must meet the requirements of section 401 (a) of the Code and paragraph (3) (ii) of this section. Such a qualified TRASOP is subject to the prohibited transaction rules of section 4975 of the Code and paragraph (e) (3) (iii) of this section.

(ii) *Permanence.* A TRASOP must be a permanent plan, as defined in § 1.401–1(b) (2), in order to satisfy the requirements of section 401(a) of the Code. A TRASOP will not fail to be a permanent plan merely because employer contributions are not made for a year for which the 11-percent credit is not available. However, the preceding sentence will not apply if the employer fails to make contributions necessary to obtain an additional investment credit which otherwise would be available or fails to do so because such employer elected only the 10-percent credit for such year. In addition, the preceding two sentences shall not apply to any contributions to a plan not made for the express purpose of obtaining an additional investment credit. If a plan that meets the requirements of section 401(a) acquires securities under section 301(d) (6) of the 1975 TRA and paragraph (c) (2) of this section in addition to the plan's regular rate of contributions and the regular contributions continue on a permanent basis, the plan's qualification under section 401(a) will not be adversely affected merely because contributions under section 301(d) (6) of the 1975 TRA and paragraph (c) (2) of this section cease to be required, and such plan will not be considered partially terminated merely because the rate of contribution to the plan after the employer has made the contributions required under section 301(d) (6) of the 1975 TRA equals only the rate of the regular contributions provided under such plan.

(iii) *Prohibited transactions*—(A) *In general.* Because a plan that meets the requirements of section 401(a) of the Code is subject to the prohibited transaction provisions of section 4975 of the Code, a qualified TRASOP cannot engage in certain transactions under section 4975(c) (1) unless an exemption under section 4975 (c) (2) or (d) is applicable. Among such exempted transactions are certain loans under section 4975(d) (3) and the acquisition or holding of certain employer securities (otherwise limited under section 406 and 407 of ERISA) under section 4975(d) (13). Paragraph (e) (3) (iii) (B) of this section sets out a requirement for a loan to a TRASOP to qualify for the exemption under section 4975(d) (3), and paragraph (e) (3) (iii) (C) of this section allows certain TRASOP's to qualify for the exemption under section 4975(d) (13).

(B) *Certain loans to TRASOP's.* For a loan to a TRASOP to meet the requirements of section 4975(d) (3) of the Code and the regulations thereunder, the TRASOP must be an employee stock ownership plan within the meaning of section 4975(e) (7) and regulations prescribed thereunder.

(C) *Acquisition or holding of certain employer securities.* Under section 4975(d) (13) of the Code, any transaction with a plan that is exempt from section 406 of ERISA by reason of section 408(e) of such Act (or which would be exempt if such section applied to the transaction) is exempt from the prohibitions of section 4975(c) (1). For the transaction to be exempt under section 408(e) (3) (A) of ERISA, the plan must be an eligible individual account plan for purposes of section 408(e) (3) (A) (as defined in section 407 (d) (3)) of ERISA. If part of a TRASOP is a qualified money purchase plan and such TRASOP is an employee stock ownership plan under section 4975(e) (7) of the Code, such plan is an eligible individual account plan even though the money purchase plan was not in existence on September 2, 1974.

(f) *Reports.* The returns required by section 6058(a) of the Code shall be filed on behalf of the TRASOP whether or not such plan is qualified under section 401(a).

(g) *Correction of errors*—(1) *Availability of 11-percent credit.* (i) An employer who fails to meet the requirements of section 301(d) of the 1975 TRA and this section will still be entitled to the 11-percent credit if such employer has made a good faith effort to comply with such requirements and corrects any error within 90 days after notification by the district director of such error. The employer has the burden of establishing that a good faith effort has been made. For example, if the employer can show that he made a good faith effort to establish the fair market value of the employer securities that were transferred to the TRASOP, the employer is entitled to the 11-percent credit event if, on later examination of the return, it is determined that more stock should have been transferred. The employer must make up the deficiency within 90 days after notification of the error by contributing additional shares of stock (based on the value at the time the transfer originally was to have been made) plus the dividends paid between the time that the transfer should have been made and the actual time of the transfer.

(ii) If the employer cannot establish that an error was committed in a good faith attempt to comply with the requirements of section 301(d) of the 1975 TRA and this section, the employer will not be entitled to any fraction of the 11-percent investment credit under section 46(a) (1) (B) of the Code. No attempt to comply will be treated as in good faith under this paragraph if such error is not corrected within the period stated in this paragraph.

(2) *Civil penalty*—(i) *General rule.* In addition to any other sanctions that may be applicable, if the employer fails to meet any requirement imposed under this section or under any obligation undertaken to comply with the requirements of this section, the employer is liable to the United States for a civil penalty of an amount equal to the amount involved in such failure. However, if the employer corrects such failure as determined by the district director within 90 days after the district director notifies the employer of such failure, the employer is not liable for the civil penalty.

(ii) *Amount involved.* For purposes of this paragraph, the term "amount involved" means the amount required to place the plan in the position in which it should have been if no failure had occurred. This amount shall not exceed 1 percent of the qualified investment of the employer for the taxable year under section 46(a) (1) (B) of the Code and shall not be less than the product of ½ percent of such 1 percent of the qualified investment multiplied by the number of months or parts of months, during which the failure continues.

(iii) *Assessment and collection.* The amount of such penalty shall be assessed and collected in the same manner in which a deficiency in the payment of Federal income tax may be assessed and collected.

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Internal Revenue Service

[26 CFR Part 1 and 54]

INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Employee Stock Ownership Plans

Notice is hereby given that the regulations set forth in tentative form in the attached appendix are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury or his delegate. Prior to the final adoption of such regulations, consideration will be given to any comments pertaining thereto which are submitted in writing (preferably six copies) to the Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224, by September 30, 1976. Pursuant to 26 CFR 601.601(b), designations of material as confidential or not to be disclosed, contained in such comments, will not be accepted. Thus, persons submitting written comments should not include therein material that they consider to be confidential or inappropriate for disclosure to the public. It will be presumed by the Internal Revenue Service that every written comment submitted to it in response to this notice of proposed rule making is intended by the persons submitting it to be subject in its entirety to public inspection and copying in accordance with the procedures of 26 CFR 601.702(d) (9). Any person submitting written comments who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit a request, in writing, to the Commissioner by September 30, 1976. In such case, a public hearing will be held, and notice of the time, place, and date will be published in a subsequent issue of the Federal Register, unless the person or persons who have requested a hearing withdraw their requests for a hearing before notice of the hearing has been filed with the Office of the Federal Register. The proposed regulations are to be issued under the authority contained in sections 4975(e) (7) and 7805 of the Internal Revenue Code of 1954 (88 Stat. 976, 68A Stat. 917; 26 U.S.C. 4975(e), 7805).

ANITA F. ALPERN,
Acting Commissioner of Internal Revenue.

PREAMBLE

This document contains proposed amendments to conform the regulations relating to Excise Taxes imposed with respect to Retirement Income Plans (26 CFR Part 54) with section 4975 (d) (3), (e) (7), and (e) (8) of the Internal Revenue Code of 1954, as added by section 2003(a) of the Employee Retirement Income Security Act of 1974 (the "Act") (88 Stat. 971). It also contains an addition to § 1.301—1(1) of the Income Tax Regulations (26 CFR Part 1).

By notice appearing in this issue of the Federal Register, the Department of Labor has announced that it has under consideration a proposal to adopt similar regulations under parallel provisions of the Act.

Section 54.4975-7(b) of the proposed regulations provides requirements that must be met if a loan to an employee stock ownership plan ("ESOP") by a disqualified person is to be exempt under section 4975(d) (3) of the Code. The scope of the exemption extends to transactions described in section 4975(c) (1) (A) through (D). Although the exemption does not apply to acts of self-dealing by fiduciaries under section 4975(c) (1) (E), certain transactions involving loans or guarantees by fiduciaries will not constitute self-dealing under section 4975(c) (1) (E) if the transaction is arranged and approved by an independent fiduciary. The exemption also does not apply to transactions within the meaning of section 4975(c) (1) (F) relating to "kickbacks" to fiduciaries and similar transactions.

In general, the proceeds of any such loan must be used to purchase qualifying employer securities (within the meaning of section 4975(c) (8) and § 54.4975-12). Under § 54.4975-7(b) (2) (i) (B) (*1*) the proceeds of such a loan may not be used to purchase any such securities that are subject to a call or right of first refusal but must provide a put to the employer.

Because questions and answers published in Announcement 75-130 (1975-50 I.R.B. 16), relating to employee stock ownership plans in general, permitted employer securities to be subject to a right of first refusal to the employer, the proposed regulations permit plans to continue holding such securities acquired before September 30, 1976. Since the questions and answers specifically prohibit any employer security from being subject to a put, the mandatory provision of the proposed regulations with respect to a put would have prospective applicability.

Special attention is called to the prohibition of rights of first refusal, and the Internal Revenue Service specifically invites comments and suggestions with respect to this provision.

Section 4975(e) (7) of the Code defines an ESOP and § 54.4975-11 contains requirements that a plan must meet under section 4975(e) (7).

Section 4975(e) (7) (A) of the Code requires that an ESOP must be a plan designed to invest primarily in qualifying employer securities. Section 54.4975–11(b) provides that a plan is designed to invest in employer securities if it states that it is so designed.

Section 54.4975–11(c) of the proposed regulations contains provisions relating to the allocation of ESOP assets to the accounts of participants. Under § 54.4975–11(c)(2) securities acquired with the proceeds of loans under the exemption of section 4975(d)(3) of the Code must be placed in a suspense account in accordance with § 54.4975–11(h) and allocated as they are released from the suspense account. Section 54.4975–11(c)(3) provides that dividends and other income from qualifying employer securities allocated to a participant's account must also be allocated to such participant's account.

Under § 54.4975–11(d) voting rights and rights other than voting rights associated with allocated securities pass through to participants. However, such rights with respect to unallocated securities are to be exercised as determined by the ESOP.

Special requirements must be met under § 54.4975–11(h) relating to the treatment of qualifying employer securities acquired with the proceeds of an exempt loan under section 4975(d)(3) of the Code. A suspense account is to be created under § 54.4975–11(h) to hold such securities under § 54.4975–7(b)(2)(iii) until they are released from such account to be allocated under § 54.4975–11(c). Any such securities pledged as collateral for an exempt loan must comply with the provision of § 54.4975–7(b)(2)(iv).

Section 54.4975–12 defines the term "qualifying employer security."

Proposed Amendments to the Regulations

In order to amend the Income Tax Regulations (26 CFR Part 1) under section 301 of the Internal Revenue Code of 1954 and to conform the regulations relating to Excise Taxes imposed with respect to Retirement Income Plans (26 CFR Part 54) to sections 4975 (d)(3), (e)(7) and (e)(8) of the Internal Revenue Code of 1954 as added by section 2003 of the Employee Retirement Income Security Act of 1974 (Public Law 93–406, 88 Stat. 971), such regulations are amended as follows:

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Paragraph 1. There is added after the final sentence in § 1.301–1(1) the following new sentences:

§ 1.301–1 Rules applicable with respect to distributions of money and other property.

* * * * *

(1) * * * Similarly, a distribution to shareholders with respect to their stock may be within the terms of section 301 although it takes the form of a payment by an employee stock ownership plan in exchange for stock of a corporation which makes available to the plan, or guarantees the repayment of, funds used by such plan for the payment to the shareholder. For example, if an employee stock ownership plan borrows funds which are guaranteed by an employer corporation under a program by which the corporation will make contributions in repayment of the loan, and if the proceeds of the loan are used to acquire stock from a shareholder, such use may constitute an indirect distribution of property by the corporation to the shareholder to which section 301 applies, even though the plan is independent of the corporation.

PART 54—PENSION EXCISE TAXES

Par. 2. There is inserted in the appropriate place the following new section:

§ 54.4975–7 Other statutory exemptions.

(a) [Reserved]

(b) *Loans to employee stock ownership plans*—(1) *Introduction*—(i) *Scope*. Section 4975(d)(3) provides an exemption from the excise tax imposed under section 4975 (a) and (b) by reason of section 4975(c)(1) (A) through (D) for loans described in this paragraph to an employee stock ownership plan which are made by a disqualified person (within the meaning of section 4975(c)(2)) and for loans described in this paragraph to such plan which are guaranteed by a disqualified person. Section 4975(d)(3) does not provide an exemption for transactions under section 4975(c)(1)(E) (relating to fiduciaries dealing with the income or assets of plans in their own interest or for their own account) or under section 4975(c)(1)(F) (relating to fiduciaries receiving consideration for their own personal account from any party dealing with a plan in connection with a transaction involving the income or assets of the plan). Such fiduciary self-dealing would be a separate transaction not described in the statutory exemption. Thus, for example, a loan to an employee stock ownership plan by the trustee with respect to a plan is not within the scope of the exemption of section 4975(d)(3).

However, such loan would not be a prohibited transaction under section 4975(c)(1)(E) if such loan is arranged and approved on behalf of the plan by a fiduciary who is independent of and unrelated to the pending trustee, who is not a party to the loan transaction, and who has no other interest with respect to the transaction that may affect the exercise of such fiduciary's best judgment as a fiduciary. Similarly, a loan to an employee stock ownership plan which is guaranteed by the employer of employees covered by the plan who under the particular facts and circumstances is a fiduciary with respect to the plan is not within the scope of the exemption under section 4975(d)(3). However, such guarantee would not be a prohibited transaction under section 4975(c)(1)(E) if such transaction is arranged and approved on behalf of the plan of by a fiduciary who is independent of and unrelated to both the lender and the employer, who is not a party to the transaction, and who has no other interest with respect to the transaction that may affect the exercise of such fiduciary's best judgment as a fiduciary.

(ii) *In general*. For purposes of this paragraph, the term "ESOP" refers to an employee stock ownership plan which meets the requirements of section 4975(e)(7) and § 54.4975–11. A loan to a plan is described in this paragraph only if such loan is described in paragraph (b) (3) and (4) of this section. In addition, a loan described in paragraph (b)(4) of this section and the guarantee by a disqualified person of a loan described in paragraph (b)(3) of this section must be made during a plan year for which such plan is an ESOP and at the time such plan is an ESOP within the meaning of section 4975(c)(7) and § 54.4975–11. A loan is not described in this paragraph if it is made to a plan which is subsequently amended to become an ESOP unless such amendment is solely for the purpose of complying with section 401(a). The fact that a loan to a plan which is either made or guaranteed by a disqualified person is not a loan described in this paragraph shall not affect the status of such plan as an ESOP if the requirements of section 4975(e)(7) and § 54.4975–11 are otherwise satisfied by such plan.

(2) *Requirements applicable to all loans*—(*i*) *Primary benefit*—(A) *In general*. Any loan described in this paragraph must be primarily for the benefit of the participants of the ESOP to which the loan is made and their beneficiaries. All the surrounding facts and circumstances will be considered in determining whether such loan is primarily for the benefit of the participants and beneficiaries of such ESOP. However, no loan will be determined to be primarily for the benefit of the participants and their beneficiaries unless the requirements of paragraph (b)(2)(i) (B), (C) and (D) of this section are met.

(B) *Use of loan proceeds*—(*1*) *In general*. Any proceeds of a loan described in this paragraph must within a reasonable time be used by the borrowing ESOP solely—

(*i*) To acquire qualifying employer securities (either equity or debt, including stocks, bonds, debentures, notes, or certificates or other evidences of indebtedness) within the meaning of section 4975(e)(8) and § 54.4975–12, or

(*ii*) To repay such loan. Any equity security so acquired must satisfy the requirements of paragraph (b)(2)(i)(B) (2) or (3) of this section. In addition, in the case of unlisted securities acquired after September 30, 1976, such securities must be subject to a put option to the employer in accordance with paragraph (b)(2)(i)(B)(*6*) of this section. However, except as provided in paragraph (b)(2)(i)(B)(*6*) of this section, no security so acquired may be subject to any other put, call, or other option, or buy-sell or similar arrangement, or in the case of securities acquired after September 30, 1976, rights of first refusal.

(2) *Voting common stock*. Except as provided in paragraph (b)(2)(i)(B)(*3*) of this section, all common stock acquired with the proceeds of a loan described in this paragraph must be voting stock with unrestricted dividend rights (within the meaning of paragraph (b)(2)(i)(B)(*4*) of this section). Such stock must meet one of the following tests:

(*i*) The stock is part of, or identical to, a class of stock of which (prior to the transfer to the ESOP) at least 50 percent is owned by shareholders no one of whom owns more than 10 percent of the shares in such class of stock.

(*ii*) If there is only one class of stock, the stock acquired by the ESOP is part of or identical to shares in such class of stock or if there is more than one class of stock, then shares must be transferred to the ESOP, so that each class of stock transferred to the ESOP, as compared to all classes of stock transferred to the ESOP, is substantially in the proportion the fair market value of the total outstanding shares of the particular class bears to the aggregate fair market value of all outstanding classes of stock (both values excluding shares owned by the ESOP). This result will be obtained if the number of shares of stock in a particular class is in proportion to the number of shares of each and every other class of stock. For example, if there are two classes of stock, Class A and Class B, and if the fair market value of the outstanding shares of Class A and Class B stock are $100.000 and $200,000 respectively, and prior to the acquisition the ESOP has no interest in such stock, then such stock will meet the requirements of this (B) if the fair market value of the Class B stock it acquires is twice that of the Class A stock it acquires.

(iii) The stock is part of, or identical to that existing class of stock having the greatest number of votes per unit of fair market value. For example, if there are two classes of stock, Class A and Class B, with a fair market value per share of $1 and $.50, respectively, and if the owner of each share of each class is entitled to one vote per share, than a share of Class B stock has the greatest number of votes per dollar of value (2 votes per $1 as compared to 1 vote per $1) and stock will meet the requirements of this (B) if it is part of, or identical to, a share in Class B.

(*3*) *Nonvoting common stock, preferred stock, and other equity securities*. An ESOP may acquire nonvoting common stock, preferred stock, or other equity securities not described in paragraph (b)(2)(i)(B)(2) of this section with the proceeds of a loan described in this paragraph if immediately following the purchase not more than 25 percent of the aggregate amount of securities issued in such issue and outstanding at the time of purchase by the ESOP is held by the ESOP and if at least 50 percent of such aggregate amount is held by persons independent of the issuer. The requirements of this (3) are similar to the requirements of section 503(e) (2) which are among the requirements made applicable by section 4975 (e) (8) (B) in order for certain bonds, debentures, notes, or certificates or other evidences of indebtedness to be qualifying employer securities under section 4975(e) (8) and paragraph (b) (2) (i) (B) (1) of this section.

(4) *Unrestricted dividend rights.* For purposes of paragraph (b) (2) (i) of this section, the term "dividend rights" means rights to receive dividends as defined by the governing law of the State of incorporation of the corporation. Such rights are unrestricted if they are limited in no way other than as positively prescribed by statute in the State of incorporation.

(5) *Overall limitation on employer securities (other than certain common stock or convertible securities) acquired with loan proceeds.*—Immediately following the acquisition of a security with loan proceeds described in paragraph (b) (2) (i) (B) (1) of this section (other than common stock under paragraph (b) (2) (i) (B) (2) of this section or qualifying employer securities immediately convertible by, or by the direction of, the employee, at a reasonable conversion ratio into such common stock), not more than 25 percent of the ESOP assets can be invested in employer securities other than common stock under paragraph (b) (2) (i) (B) (2) or such convertible qualifying employer securities.

(6) *Put option.*—In the case of a security not listed on a national securities exchange, which is acquired after September 30, 1976, with the proceeds of a loan described in this paragraph, such security must be subject to a put to the employer that meets the requirements of this *(6)*.

Such puts shall be exercisable only by participants or their beneficiaries or by persons to whom such securities are transferred by gift from participants or their beneficaries or by reason of the death of such participants or beneficiaries. Also, such puts must be exercisable during a two-year period which begins on the date the employer securities are distributed to the participant or beneficiary. The price at which a put meeting the requirements of this *(6)* is exercisable is the fair market value of the security as of the date of exercise determined in accordance with paragraph (c) (5) of § 54.4975-11, and shall be paid in cash within a reasonable time from exercise.

(C) Liability of ESOP for loan.—A loan described in this paragraph must be without recourse against the ESOP. To the extent that such loan is secured by collateral of the ESOP, only qualifying employer securities purchased with the proceeds of such loan may be used as collateral. The terms of the loan must provide that neither the lender nor any other person entitled to any payment under the loan shall have any right to assets of the ESOP other than the collateral for the loan, contributions (other than contributions of employer securities) from the employer maintaining the ESOP which are made under a plan to make such contributions sufficient to meet the obligations of the ESOP under the loan, and earnings attributable to the investment of such contributions. The terms of such loan must also provide that payment of any amount with respect to such loan during a plan year shall be made by the ESOP only to the extent that the ESOP has received, during such plan year and prior to the time such payment is made, earnings described in this *(C)* and any contribution made by the employer maintaining the ESOP. Such contributions and earnings must be accounted for separately by the ESOP until the loan is repaid.

(D) *Default.* The terms of a loan described in this paragraph for which qualifying employer securities are used as collateral shall provide that, in the event of default upon such loan, the amount of such securities transferred to the lender in satisfaction of such loan shall not exceed the amount of such default. To the extent the transfer of such securities by a plan to a lender as a result of default on a loan described in this paragraph does not exceed the amount of the default, such transfer shall not be deemed to be a diversion prohibited by section 401 (a) (2) and § 1.401-2.

(ii) *Reasonable rate of interest.*—Any loan described in this paragraph must be at not in excess of a reasonable rate of interest. All relevant factors shall be considered in determining a reasonable rate of interest, including the amount and duration of the loan, the security and guarantee (if any) involved, the credit standing of the ESOP and the guarantor (if any), and the interest rate prevailing for comparable loans.

(iii) *Deposit in suspense account*—(A) *General rule.*—The terms of a loan described in this paragraph shall provide that qualifying employer securities purchased with the proceeds of such loan be held in a suspense account by the ESOP until such securities are released from such suspense account as prescribed under paragraph (b) (2) (iii) (C) of this section and are allocated to the accounts of participants under § 54.4975-11(v).

(B) *Status of securities in suspense account.*—Except as otherwise provided in this paragraph and § 54.4975-11, qualifying employer securities purchased with the proceeds of a loan described in this paragraph shall be treated as assets of the ESOP for all purposes other than the determination of accrued benefits (within the meaning of section 411(a) (7) and the regulations thereunder) of employees under such plan and income from such securities must be either allocated to the accounts of participants, or if the plan so provides, used to repay the loan. Thus, for example, dividends and other income from such securities constitute income of the plan. As a further example, such securities are subject to the requirement of section 401(a) (2) and § 1.401-2 of this chapter that it be impossible, at any time prior to the satisfaction of all liabilities with respect to employees and their beneficiaries under a trust, for any part of the corpus or income to be (within the taxable year or thereafter) used for, or diverted to, purposes other than for the exclusive benefit of employees and their beneficiaries.

(C) *Release of securities from suspense account.*—The terms of a loan described in this paragraph shall provide that, if an amount of qualifying employer-securities is placed in a suspense account under this (iii), such securities shall be released from the suspense account in equal annual amounts (not later than as of the end of each plan year) over the original duration of the loan, except that if at the end of a particular year the aggregate amount of securities that would be released based upon loan payments to date exceeds the aggregate amount of securities actually released for prior years plus the amount of securities that would be released on an equal annual basis for such year, then in addition to the equal annual amount released for such year, such excess shall also be released for such year. Notwithstanding, the application of the preceding sentence to a prior year, the amount of securities to be released from the suspense account on an equal annual basis shall not be reduced by the application of the preceding sentence, unless all of the securities have been released from the account. A release based upon loan payments is based upon the ratio of payments of principal, fees and interest over the years since the making of the loan (including the present year) to total payments originally projected; over the duration of the loan.

(iv) *Collateral for loan*—(A) *General rule.*—If a loan described in this paragraph is secured by assets of an ESOP, in order to meet the requirements of this paragraph the only assets which may be used as collateral for the loan must be all or part of the qualifying employer securities acquired with the proceeds from the loan. The use of qualifying employer securities as collateral for a loan described in this paragraph shall not be deemed to be a diversion prohibited by section 401(a) (2) and § 1.401-2 of this chapter.

(B) *Release of collateral.*—The terms of a loan described in this paragraph shall provide that plan assets be released from their status as collateral as necessary to permit the release of plan assets from the suspense account under paragraph (b) (2) (iii) (C) of this section for allocation to the accounts of participants under § 54.4975-11(c). The annual amount of collateral released under this (B) shall bear the same proportion to the total annual amount of assets released from the suspense account under paragraph (b) (2) (iii) (C) of this section as the original amount of plan assets pledged as security for the loan bears to the total amount of the loan. Thus, for example, if 40 percent of the assets acquired with the proceeds of a loan are pledged as collateral, as of the end of each year 40 percent of the assets released from the suspense account shall be released from collateral.

(v) *Other terms of loan.*—A loan described in this paragraph must be for a specific term. Such loan may not be payable on demand of the lender or any other person except in the case of default in the payment of principal and interest. The terms of the loan must permit the ESOP to prepay all or any part of the loan at any time without penalty.

(3) *Guarantee by disqualified person.*—A loan to an ESOP may be a loan described in this paragraph if such loan is guaranteed by a disqualified person. For purposes of this paragraph, the use of assets by a disqualified person as collateral for a loan is deemed to be a guarantee of such loan by such person.

(4) *Loan by disqualified person.*—A loan to an ESOP may be a loan described in this paragraph if such loan is made by a disqualified person. Such loan may be a direct loan of cash to be used by the ESOP to purchase qualifying employer securities or may be indirect, such as by means of the transfer of qualifying employer securities to the ESOP in exchange for notes payable by such ESOP. A loan under this paragraph also includes an assumption of the obligations of an ESOP under a loan by a disqualified person with respect to such ESOP.

(5) *Transitional rules.*—In the case of a loan to an ESOP which is made prior to and which is not a loan described in this paragraph, such loan shall be treated as a loan described in this paragraph for the entire period such loan is outstanding if the terms of such loan are amended prior to such date to conform such loan to the requirements of this paragraph as of such date. Any amendment of the terms of such loan for the purpose of meeting the requirements of this paragraph shall not be treated as a refinancing of such loan or the making of a second loan for purposes of § 54.4975-11.

Par. 3. There are inserted in the appropriate place the following new sections:

§ 54.4975-11 Definition of the term "employee stock ownership plan".

(a) *In general*—(1) *Definition.*—The term "employee stock ownership plan", as defined in section 4975(e)(7) and this section, means a defined contribution plan which is—

(i) A qualified stock bonus plan (as defined in § 1.401–1(b)(1)(iii) of this chapter), or

(ii) A qualified stock bonus plan and a qualified money purchase pension plan (within the meaning of § 1.401–1(b)(1)(i) of this chapter), which is designated by formal action of the employer maintaining such plan as an employee stock ownership plan consisting of the plan or plans described in paragraph (a)(1) (i) or (ii) of this section, which is designed to invest primarily under paragraph (b) of this section in qualifying employer securities (as defined in § 54.4975–12), and which meets all other requirements of this section. The term "ESOP" as used in this section refers to an employee stock ownership plan, as defined in section 4975(e)(7) and paragraph (a)(1) of this section. A plan does not constitute an ESOP if such plan is established and maintained by any employer which is not a corporation. An ESOP described in paragraph (a)(1)(ii) of this section may consist of one or more qualified stock bonus plans and one or more qualified money purchase pension plans. All stock bonus plans and money purchase pension plans designated by an employer as part of an ESOP shall have the same plan year.

(2) *Addition to other plan.*—An ESOP may form a portion of a plan the balance of which includes a qualified pension, profit-sharing, or stock bonus plan (as defined in § 1.401–1(a)(2) of this chapter) which is not an ESOP.

(3) *Conversion of existing plan to an ESOP.*—An existing pension, profit-sharing, or stock bonus plan may be converted into an ESOP. If such conversion occurs prior to the end of the plan year, the plan will be treated as an ESOP for the entire plan year solely for tax qualification purposes. For all other purposes, the plan will be treated as an ESOP on or after the date of such conversion and not as of a retroactive date. Whether a conversion constitutes a termination of an existing plan shall be determined under § 1.401–6 of this chapter.

(4) *Certain arrangements adversely affecting status of plan as an ESOP*—(i) *In general.*—Because an ESOP must be a qualified plan, it must at all times satisfy the requirements of section 401(a) of the Code, including the requirement that the plan must be for the exclusive benefit of the employees and their beneficiaries. (See section 401(a)(2) and the regulations thereunder.) A plan is not an ESOP unless, in addition to meeting the requirements prescribed elsewhere in this section, it also complies with paragraph (a)(4)(ii) of this section.

(ii) *Options to sell securities to ESOP.*—A plan is not an ESOP if it issues puts or otherwise obligates itself to acquire securities at an indefinite time determined upon the happening of an event such as the death of the holder of the securities.

(b) *Plan designed to invest primarily in qualifying employer securities*—(1) *In general.*—A plan constitutes an ESOP for a plan year only if the plan specifically states that it is designed to invest primarily in qualifying employer securities. Except as provided in paragraph (b)(2) of this section, the portion of an ESOP consisting of a stock bonus plan or a money purchase pension plan shall be treated the same as other stock bonus plans or money purchase pension plans qualified under section 401(a) with respect to the types of assets other than qualifying employer securities which may be held by such plans.

(2) *Investment in life insurance*—(i) *Policies having an ESOP designated as beneficiary.*—A plan that permits the purchase of life insurance policies having the plan designated as beneficiary (for example, key man insurance) shall not constitute an ESOP for a plan year if the face amount of such insurance so purchased by the plan exceeds the dollar value of qualifying employer securities held by the plan at the time of such purchase, if the plan fails to require the allocation of the proceeds of such insurance to the accounts of participants under paragraph (c)(4) of this section, or if the plan fails to prohibit the use of such proceeds for the purchase of employer securities or for the payment of a loan described in § 54.4975–7(b).

(ii) *Policies without an ESOP as designated beneficiary.*—An ESOP may provide for the purchase of incidental life insurance with proceeds payable to beneficiaries of employees participating in the ESOP if the aggregate of the life insurance premiums paid since the insurance was first provided for each participant does not exceed 25 percent of the dollar value of the participant's ESOP account at any particular time. This 25 percent limit applies to all types of insurance (whether term, ordinary life, or any other type).

(c) *Allocations to accounts of participants*—(1) *Contributions*—(i) *In general.*—Amounts contributed to an ESOP by a participant shall be allocated to the account of such participant as of the date of receipt by the trust through which the ESOP is funded. Amounts contributed to an ESOP by an employer for a plan year and forfeitures for such plan year shall be allocated to the account of each participant as of a date not later than the close of the plan year. Except as provided in paragraph (c)(2) of this section (relating to securities acquired with the proceeds of certain loans), all unallocated qualifying employer securities held by an ESOP as of the end of a plan year shall be allocated as of such time to the accounts of participants. Qualifying employer securities received by an ESOP during a plan year with respect to a contribution by an employer for the preceding year shall be allocated to the accounts of participants as of the end of such preceding plan year. Except to the extent that a disproportionate allocation is required by the exercise of elections by participants as to the manner of investment of assets allocated to their accounts, there shall be allocated to the account of each participant entitled to share in allocations as of an allocation date the portion of each class of qualifying employer securities to be allocated as of such date which the amount to be allocated to the account of such participant bears to the total amount to be allocated to the accounts of all participants entitled to share in such allocation. Allocations of all assets other than qualifying employer securities shall be made on the basis of, and expressed in terms of, dollar value. Allocation of qualifying employer securities to the account of a participant shall include fractional rights to shares of stock or other applicable units of measure of other equity securities and, in the case of such securities other than stock or other equity securities, fractional interests in such qualifying employer securities.

(ii) *Allocation of qualifying employer securities on basis of dollar value.*—Except as provided in paragraph (c)(1)(iii) of this section, allocations of qualifying employer securities made under this paragraph shall be on the basis of dollar value but shall be expressed in terms of both dollar value and the number of shares of stock or other applicable units of measure of other equity securities, or the face amount of other qualifying employer securities, represented by such dollar value.

(iii) *Allocation of qualifying employer securities on basis other than dollar value.*—Allocations of qualifying employer securities made under this paragraph may be made on the basis of shares of stock if the ESOP provides that—

(A) Investments of the assets of such ESOP shall be only in shares of a single class of stock constituting qualifying employer securities.

(B) Each participant's account is credited with the number of full and fractional shares (or fractional rights to shares) of such stock purchased on his behalf, and

(C) Distributions received by the plan with respect to such stock held for each participant are reinvested for such participant in shares of such stock, or on such other basis as may be found by the Commissioner or his delegate to be a reasonable method of allocating qualifying employer securities. In the case of a state allocation system permitted under (c)(1)(iii), allocations of qualifying employer securities are not required to be expressed in terms of dollar value.

(iv) *Section 415 limitations.*—See section 415 and the regulations thereunder with respect to limitations on contribution to defined contribution plans, including ESOP's.

(2) *Securities acquired with proceeds of certain loans.*—Qualifying employer securities acquired with the proceeds of a loan described in § 54.4975–7(b) (3) and (4) shall be allocated when released from the suspense account as prescribed under § 54.4975(b)(2)(iii)(C). In the case of stock or other equity securities, the amount of such qualifying employer securities allocable for a plan year is measured in shares or other applicable units of measure. In the case of other qualifying employer securities, the amount of such qualifying employer securities allocable for a plan year is measured on the basis of the dollar value of such securities as of the date of receipt or acquisition thereof by the ESOP. Qualifying employer securities allocated under paragraph (c)(2) of this section shall be allocated to the accounts of participants in the same manner as the ESOP allocates qualifying employer securities under paragraph (c)(1) (ii) or (iii) of this section.

(3) *Income.* Dividends and other income from qualifying employer securities allocated to a participant's account shall be allocated to such participant's account. Except where allocations are made under paragraph (c)(1)(iii) of this section (on a basis other than dollar value), the account of each participant shall be adjusted as of a date not later than the end of each plan year to reflect separately the dollar value of qualifying employer securities specifically allocated to such account and the dollar value of such participants share of all other assets of the ESOP (other than qualifying employer securities held in a suspense account under paragraph (h) of this section) not specifically allocated to the accounts of participants.

(4) *Proceeds of life insurance.* The proceeds of life insurance contracts held by an ESOP shall be allocated as of the date of receipt by the trust through which such ESOP is funded as prescribed under paragraph (c)(1) of this section.

(5) *Valuation.* For purposes of § 54.4975–7(b)(2)(B)(*6*) and this section, assets shall be valued on the basis of all relevant factors for determining fair market value. With respect to qualifying employer securities not listed on a national securities exchange that are acquired after September 30, 1976, an employer shall furnish an annual certificate of value to the ESOP. Each participant or beneficiary receiving a distribution of qualifying employer securities under the ESOP shall also receive at the time of such distribution a copy of the most recent annual certificate and a copy of each annual certificate thereafter until the put option described in § 54.4975–7(b)(2)(i)(B)(*6*), relating to the use of the proceeds of a loan under section 4975(b)(3), has expired with respect to qualifying employer securities received in such distribution.

(d) *Exercise of rights*—(1) *General rules*—(i) *Direction by participants.* A plan shall not constitute an ESOP unless all the requirements of this paragraph are satisfied. The exercise of rights by a designated fiduciary at the direction of a participant (or the failure to exercise such rights in the absence of direction by a participant) shall not be deemed to be other than for the exclusive benefit of employees and their beneficiaries. The requirements of this paragraph shall not be met if the designated fiduciary makes any recommendation regarding the manner of exercising any rights, including whether or not such rights should be exercised.

(ii) *Definition of "designated fiduciary".* For purposes of this paragraph, the term "designated fiduciary" means the person designated by a plan to exercise rights with respect to qualifying employer securities held by the plan. Such person may be the trustee, the plan administrator, or other person designated for such purpose.

(2) *Voting rights.* (i) In order to meet the requirements of this paragraph, the plan must provide that each participant is entitled to direct a designated fiduciary as to the manner in which any employer security allocated to the account of such participant is to be voted. The designated fiduciary shall notify participants of each occasion for the exercise of voting rights within a reasonable time (not less than 30 days) before such rights are to be exercised. This notification shall include all information distributed to shareholders by the corporation regarding the exercise of such rights.

(ii) Participants must be permitted to vote fractional shares (or fractional rights to shares). This requirement is satisfied if the designated fiduciary votes the combined fractional shares (or fractional rights to shares) to the extent possible to reflect the direction of the participants holding fractional shares (or fractional rights to shares).

(iii) If a participant does not direct the designated fiduciary in whole or in part with respect to the exercise of voting rights arising under employer securities allocated to his account, such voting rights shall be exercised only to the extent directed by participants.

(iv) The plan need not permit employees to direct the voting of unallocated securities held by the trust.

(3) *Rights other than voting rights.* The plan shall provide that each participant is entitled to direct the exercise of rights other than voting rights in the manner prescribed with respect to voting rights under paragraph (d)(2) of this section.

(e) *Multiple plans.* Notwithstanding the provisions of § 1.410(b)-1(d)(3)(i) of this chapter [as proposed], a plan designated as constituting an ESOP or part of an ESOP shall not be designated as one of two or more plans (including any other plan designated as constituting part of the same ESOP) constituting a single plan which is intended to qualify for purposes of section 410(b)(1) and § 1.410(b)-1 of this chapter.

(f) *Distributions.* Benefits distributable from the portion of an ESOP consisting of a stock bonus plan are distributable in stock of the employer. See § 1.410-1 (a)(2)(iii) and (b)(1)(iii) of this chapter. All qualifying employer securities allocated to the account of a participant under an ESOP (including such securities allocated to such account under a qualifying money purchase pension plan forming a portion of such ESOP) shall be distributed to such participant prior to the distribution of other qualifying employer securities to such participant. Except as required by the preceding sentence, benefits distributable from the portion of an ESOP consisting of a qualified money purchase pension plan may be, but are not required to be, distributable in qualifying employer securities. A portion of an ESOP consisting of a stock bonus or money purchase pension plan shall not be distinguished from other stock bonus or money purchase pension plans qualified under section 401(a) with respect to distributions to participants prior to death, separation from service, or termination of such ESOP.

(g) *Forfeitures.* (1) In the event that any portion of the account of a participant under an ESOP is forfeited, the participant shall be treated as forfeiting qualifying employer securities only to the extent that the amount forfeited exceeds the value of the participant's share of assets of the ESOP other than qualifying employer securities.

(2) If a participant is treated as forfeiting any amount of qualifying employer securities allocated to his account and if more than one class of such securities is allocated to his account, he shall be treated as forfeiting the same portion of each such class of securities.

(h) *Qualifying employer securities acquired with the proceeds of certain loans*—(1) *In general.* Under section 4975(d)(3) and § 54.4975-7(b), a disqualified person, under certain circumstances, may make a loan to a plan which constitutes an ESOP for the plan year in which loan is made or may guarantee a loan made to a plan if the plan is an ESOP for the plan year in which such guarantee is made. A plan shall constitute an ESOP for such plan year only if the plan meets the requirements of paragraph (h)(2), (3) and (4) of this section.

(2) *Creation of suspense account.* To be an ESOP, a plan must provide that qualifying employer securities purchased with the proceeds of a loan described in § 54.4975-7(b) shall be held in a suspense account by the ESOP as provided under § 54.4975-7(b)(2)(iii)(C) and are allocated to the accounts of participants, under paragraph (c) of this section.

(3) *Collateral for certain loans.* To be an ESOP, a plan must provide that qualifying employer securities may be pledged as collateral for a loan described in § 54.4975-7(b) only if the requirements of § 54.4975-7(b)(2)(iv) are met.

(4) *Default.* To be an ESOP, a plan must provide that in the case of default with respect to a loan described in § 54.4975-7(b) the requirements of § 54.4975-7(b)(2)(i)(D) must be met.

§ 54.4975-2 Definition of the term "qualifying employer security".

(a) *In general.* For purposes of section 4975(e)(8) and this section, the term "qualifying employer security" means an employer security which is—

(1) Stock or otherwise an equity security, or

(2) A bond, debenture, note, or certificate or other evidence of indebtedness, which is described in paragraphs (1), (2), and (3) of section 503(e).

(b) *Special rule.* In determining whether a bond, debenture, note, or certificate or other evidence of indebtedness is described in paragraphs (1), (2), and (3) of section 503(e), any organization described in section 401(a) shall be treated as an organization subject to the provisions of section 503.

[FR Doc.76-22080 Filed 7-27-76;10:31 am]

[26 CFR Part 54]

EXCISE TAX

Exemptions for Provision of Services and Office Space to Employee Benefit Plans, Investment of Plan Assets in Bank Deposits, and Provision of Bank Ancillary Services to Plans, and Transitional Rule for Provision of Services to Plans

Notice is hereby given that the regulations set forth in tentative form in the attached appendix are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury or his delegate. Prior to the final adoption of such regulations, consideration will be given to any comments pertaining thereto which are submitted in writing (preferably six copies) to the Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224, by September 23, 1976.

Pursuant to 26 CFR 601.601(b), designations of materials as confidential or not to be disclosed contained in such comments, will not be accepted. Thus, persons submitting written comments should not include therein material that they consider to be confidential or inappropriate for disclosure to the public. It will be presumed by the Internal Revenue Service that every written comment submitted to it in response to this notice of proposed rulemaking is intended by the person submitting it to be subject in its entirety to public inspection and copying in accordance with the procedures of 26 CFR 601.702(d)(9). Any person submitting written comments who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit a request, in writing, to the Commissioner by September 23, 1976. In such case, a public hearing will be held, and notice of the time, place, and date will be published in a subsequent issue of the FEDERAL REGISTER, unless the person or persons who have requested a hearing withdraw their requests for a hearing before notice of the hearing has been filed with the Office of the Federal Register. Such a public hearing would be held jointly with the Department of Labor. The proposed regulations are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

DONALD C. ALEXANDER,
Commissioner of Internal Revenue.

PREAMBLE

Sections 4975 (a) and (b) of the Internal Revenue Code of 1954 (the Code) impose excise taxes on disqualified persons who engage in transactions with employee benefit plans which constitute "prohibited transactions" as defined in section 4975(c)(1). Section 4975(d) contains exemptions from that definition, and section 2003(c)(2) of the Employee Retirement Income Security Act of 1974 (the Act) contains transitional rules which delay the effective date of section 4975 for certain transactions. These proposed regulations explain certain of the exemptions and transitional rules which relate to the provision of services and office space to plans by disqualified persons, to the investment of plan assets in deposits of a bank or similar financial institution which is a disqualified person, and to the provision of ancillary services to a plan by a bank or similar financial institution which is a fiduciary with respect to the plan. By notice appearing in this issue of the FEDERAL REGISTER, the Department of Labor has announced that it has under consideration a proposal to adopt similar regulations.

Attention is called to § 54.4975(d)(6), dealing with the exemption provided by Code section 4975(d)(6) for the provision to a plan of ancillary services by a bank or similar financial institution which is a fiduciary with respect to the plan. Paragraph (d)(3) of that section, dealing with requirements for specific guidelines, is reserved. It is expected that specific guidelines will be issued by the fiduciary institution, binding on it, and with which the provision of ancillary services must comply, that will prevent the fiduciary institution "from providing ancillary services in an unreasonable or excessive manner or in a manner that would be inconsistent with the best interests of the plan's participants and beneficiaries." See H.R. Rep. No. 93-1280, 93d Cong., 2d Sess., (1974) (Conference Report), at p. 315. The Internal Revenue Service would appreciate any comments and suggestions with respect to the content of such guidelines during the period for comment to this notice of proposed rulemaking. Such comments and suggestions will be considered in the preparation of a separate notice of proposed rulemaking setting forth proposed § 54.4975-6(d)(3) at a future date.

Attention is also called to § 54.4975-15(d), dealing with the transitional rule for the provision of services to plans until June 30, 1977, provided by Act section 2003(c)(2)(D). One of the requirements of the transitional rule is that the provision of services "* * * remains at least as favorable to the plan as an arm's-length transaction with an unrelated party would be * * *." This phrase is virtually identical with a phrase in section 101(l)(2)(C) of the Tax Reform Act of 1969, relating to the transitional rule delaying the effective date of the self-dealing rules of Code section 4941 for leases and loans between private foundations and disqualified persons. Act sections 2003(c)(2)(A) and (B) also contain the phrase. In § 53.4941(d)-4(c), the Internal Revenue Service interpreted this language to mean that, in general, a lease or loan must be renegotiated by the parties if failure to do so would result in the plan receiving less (or paying more) than it would have under a similar contract negotiated currently, even though the terms of the pre-existing contract do not permit either party to insist upon an adjustment of the contract terms. These proposed regulations set forth the same interpretation in § 54.4975-15(d) that is contained in § 53.4941(d)-4(c).

In this regard, it should be noted that the Department of Labor, in proposed 29 CFR 2550.414c-4 published in this issue of the FEDERAL REGISTER, interprets the same language (which also appears in Act section 414(c)(4) as part of transitional rules for prohibited transactions under sections 406 and 407 of the Act) to mean that a binding contract (or renewal thereof) for the provision of services to a plan by a party in interest (disqualified person) must be on terms at least as favorable to the plan as an arm's-length transaction with an unrelated party would be as determined on the date of execution of the contract or renewal. Such a binding contract need not thereafter (until renewal) be renegotiated by the parties to reflect later developments (e.g., charging market prices), unless the plan, as if it were an unrelated party in a normal commercial setting, could be expected to insist upon a renegotiation or termination of a binding contract.

Because parallel provisions appear in both Act section 2003(c)(2)(D) (which is under the jurisdiction of the Internal Revenue Service) and Act section 414(c)(4) (which is under the jurisdiction of the Department of Labor), the two agencies will review public comments on these provisions and consult with each other before promulgating final regulations on this matter to the end of adopting a uniform rule, as they do with respect to all matters involving parallel statutory provisions.

With respect to the provision of services and office space to plans, the Internal Revenue Service has previously issued a Technical Information Release (TIR-1396, issued July 24, 1975) concerning certain aspects of section 4975(d)(10) (relating to compensation for fiduciaries), and two Technical Information Releases (TIR-1329, issued December 31, 1974, and TIR-1399, issued August 18, 1975) to explain the scope of the transitional rule of section 2003(c)(2)(D) of the Act for the provision of services to plans by disqualified persons. In addition, pursuant to the authority set forth in section 408(a) of the Act and section 2003(c)(2) of the Code, the Department of Labor and the Internal Revenue Service have jointly granted administrative exemptions (1) respecting certain classes of transactions involving employee benefit plans and certain broker-dealers, reporting dealers and banks (Prohibited Transaction Exemption 75-1, 40 FR 50845, October 31, 1975), including, among others, transactions involving the provision of certain services, and (2) respecting certain transactions in which multiemployer and multiple employer plans are involved, including, among others, the furnishing of administrative services, office space and goods by such plans to disqualified persons (Prohibited Transaction Exemption 76-1, 41 FR 12740, March 26, 1976).

The agencies are also currently considering applications which have been filed for class exemptions which would permit, under certain limitations and conditions, persons who might be in a fiduciary status with respect to plans, to receive insurance commissions from insurance companies on sales of insurance to plans.

PROPOSED AMENDMENTS TO THE REGULATIONS

Accordingly, it is proposed to amend Part 54 of Title 26 of the Code of Federal Regulations as set forth below:

PARAGRAPH 1. Section 54.4975-6 is inserted in the appropriate place to read as set forth below:

§ 54.4975-6 Statutory exemptions for services and office space and certain transactions involving financial institutions.

(a) *In general.* Sections 4975(c)(1) (A), (C) and (D) provide that the term "prohibited transaction" means, among other things, any direct or indirect leasing of property between a plan and a disqualified person, any direct or indirect furnishing of goods, services, or facilities between a plan and a disqualified person, or any direct or indirect transfer to, or use by or for the benefit of, a disqualified person of the income or assets of a plan. Section 4975(c)(1)(E) provides that fiduciaries shall not deal with the income or assets of a plan in their own interest or for their own account, and section 4975(c)(1)(F) provides that fiduciaries shall not receive any consideration for their own personal account from any party dealing with a plan in connection with a transaction involving the income or assets of the plan. Section 4975(e)(2)(A) provides that a fiduciary is a disqualified person. Section 4975(e)(2)(B) provides that a person providing services to a plan is a disqualified person. Sections 4975(d) (2) and (10) provide conditions under which disqualified persons may furnish services or office space to plans and receive reasonable compensation therefor. In addition, sections 2003(c)(2) (B) and (D) of the Employee Retirement Income Security Act of 1974 (88 Stat. 978) (the Act) provide that section 4975 shall not apply to certain leases and provisions of services to plans during transitional periods which were established by Congress to allow plans and disqualified persons time to make new arrangements or to seek administrative exemptions under section 4975(c)(2). This section and §§ 54.4975-3 and 54.4975-15 (b) and (d) clarify the interrelationship of these provisions.

(b) *Exemption for office space or services*—(1) *In general.* Subject to the conditions set forth in the flush language at the end of section 4975(d) (relating to transactions with owner-employees and related persons), section 4975(d)(2) allows any disqualified person, including a fiduciary, to provide a plan office space or services, including legal services, accounting services, or other services: *Provided,* That (i) such office space or services are necessary for the establishment or operation of the plan, (ii) such office space or services are furnished under a contract or arrangement which is reasonable, and (iii) no more than reasonable compensation is paid for the furnishing of the office space or services. Section 4975(d)(2) provides an exemption only for the provision of services or office space which are prohibited transactions under section 4975(c)(1) (A), (C), or (D). It does not provide an exemption from section 4975(c)(1)(E) (relating to fiduciaries dealing with the income or assets of plans in their own interest or for their own account) or from section 4975(c)(1)(F) (relating to fiduciaries receiving consideration for their own personal account from any party dealing with a plan in connection with a transaction involving the income or assets of the plan). Such fiduciary self-dealing would be a separate transaction not described in the statutory exemption.

Thus, a person who is a fiduciary with respect to a plan may not provide additional services to the plan and receive any compensation or other consideration in connection therewith, unless such provision of services is arranged and approved on behalf of the plan by a fiduciary who is independent of and unrelated to the fiduciary providing such services, who is not a party to such arrangement for the provision of services, who does not receive any compensation or other consideration with respect to such provision of services, and who has no other interest with respect to the transaction that might affect the exercise of such fiduciary's best judgment as a fiduciary. In addition, a fiduciary with respect to a plan may provide additional services to the plan without the arrangement and approval of an independent, unrelated fiduciary if the fiduciary providing such services receives no compensation or other consideration in connection with such provision of services (other than for reimbursement of expenses properly and actually incurred in the performance of such services). Generally, the provision of additional services to a plan by a fiduciary without the receipt of compensation or other consideration (other than reimbursement of expenses properly and actually incurred in the performance of such services) does not, in and of itself, constitute fiduciary self-dealing prohibited under section 4975(c)(1)(E).

(2) *Necessary service.* A service is necessary for the establishment or operation of a plan within the meaning of section 4975(d)(2) and paragraph (b)(1) of this section if it is of a type which is customarily furnished to plans of the kind in question in the ordinary course of their being established or operated. The term "necessary service" includes goods which are necessary for the establishment or operation of a plan and which are furnished to plans by service providers in the course of, and incidental to, their furnishing of services to plans.

(3) *Reasonable contract or arrangement.* For purposes of section 4975(d)(2) and paragraph (b)(1) of this section, no contract or arrangement is reasonable unless it permits the plan to terminate it without penalty to the plan on reasonably short notice under the circumstances so that the plan will not become locked into an arrangement that may become disadvantageous. For example, if a plan leases office space from a disqualified person under a long-term lease, the lease will generally not be an unreasonable arrangement merely because of its long term if it provides that the plan may terminate it without penalty to the plan on reasonably short notice under the circumstances notwithstanding the termination date set forth in the lease. Among the circumstances that would be considered in determining whether there is a reasonably short notice period for the termination of such a lease is the length of the notice period as compared to the length of the lease. For example, a one-year notice period would not be considered unreasonable for terminating a 20-year lease.

(4) *Reasonable compensation.* Section 4975 (d)(2) and paragraph (b)(1) of this

section permit a plan to pay a disqualified person reasonable compensation for the provision of services or office space described in such section to the plan. Paragraph (f) of this section contains regulations relating to what constitutes reasonable compensation for the provision of services for purposes of this section.

(c) *Exemption for bank deposits.*—(1) *In general.* Subject to the conditions set forth in the flush language at the end of section 4975(d) (relating to transactions with owner-employees and related persons), section 4975 (d)(4) exempts from the excise taxes imposed under section 4975, investment of all or a part of a plan's assets in deposits bearing a reasonable rate of interest with a bank or similar financial institution supervised by the United States or a State even though such bank or other institution is a fiduciary or other disqualified person with respect to the plan, if one of the conditions of this paragraph is met. Section 4975(d)(4) provides an exemption only for deposits in a bank or similar financial institution which are prohibited transactions under section 4975(c)(1) (A) through (E), because, by its terms, section 4975(d)(4) contemplates a bank or similar financial institution which is a fiduciary with respect to a plan investing plan assets in its own deposits under certain circumstances without the approval of an independent, unrelated fiduciary, if the conditions of section 4975(d)(4) are met. It does not provide an exemption for the receipt by fiduciaries of any consideration for their own personal account from any party dealing with a plan in connection with a transaction involving the income or assets of the plan under section 4975(c)(1)(F). The receipt of such consideration would be a separate transaction not described in the statutory exemption.

(2) *Conditions.* (i) The plan is one which covers only the employees of the bank or other institution, the employees of any of its affiliates, or the employees of both,

(ii) The investment is expressly authorized by a provision of the plan, or

(iii) The investment is expressly authorized by a fiduciary of the plan (other than the bank or other institution or any of its affiliates) who is expressly empowered by the plan to so instruct the trustee with respect to such investment and who has no interest with respect to the transaction which might affect the exercise of such person's best judgment as a fiduciary.

(3) *Definitions.* (i) The term "bank or similar financial institution" includes a bank (as defined in section 581), a domestic building and loan association (as defined in section 7701(a)(19)), and a credit union (as defined in section 101(6) of the Federal Credit Union Act).

(ii) A person is an affiliate of a bank or other institution if such person and such bank or other institution would be treated as members of the same controlled group of corporations or as members of two or more trades or businesses under common control within the meaning of section 414 (b) or (c) and the regulations thereunder.

(iii) The term "deposits" includes a certificate of deposit issued by a bank or similar financial institution.

(4) *Other restrictions.* Even though the making of such investments is permitted under this paragraph, the general fiduciary duties of prudence and diversification of investments are still applicable. See section 404 of the Employee Retirement Income Security Act of 1974 (88 Stat. 978).

(d) *Exemption for ancillary bank services.*—(1) *In general. Section* 4975(d)(2) and § 54.4975-6(b) (relating to an exemption for provision of office space or services), do not provide an exemption for an act described in section 4975(c)(1)(E) (relating to fiduciaries dealing with plan assets in their own interest or for their own account) or section 4975(c)(1)(F) (relating to the receipt of consideration by fiduciaries for their own personal account from any party dealing with a plan in connection with a transaction involving the income or assets of the plan). However, subject to the conditions set forth in the flush language at the end of section 4975(d) (relating to transactions with owner-employees and related persons), section 4975(d)(6) exempts from the excise taxes imposed under section 4975 the provision of certain ancillary services by a bank or similar financial institution (as defined in paragraph (c)(3)(i) of this section) supervised by the United States or a State to a plan for which it acts as a fiduciary, provided certain conditions in paragraph (d)(2) of this section are met, even though the provision of such services might otherwise constitute an act described in section 4975(c)(1)(E) (relating to fiduciaries dealing with plan assets in their own interest or for their own account) because, by its terms, section 4975(d)(6) contemplates a bank or similar financial institution which is a fiduciary with respect to a plan providing such services to the plan without the approval of an independent, unrelated fiduciary, if the conditions of section 4975(d) (6) are met. Thus, for example, plan assets held by a fiduciary bank which are reasonably expected to be needed to satisfy current plan expenses may be placed by the bank in a non-interest bearing checking account in the bank if the conditions of paragraph (d)(2) of this section are met, notwithstanding the provisions of section 4975(d)(4) (relating to investments in bank deposits). Section 4975(d)(6) does not, however, provide an exemption for the receipt by fiduciaries of any consideration for their own personal account from any party dealing with a plan in connection with a transaction involving the income or assets of the plan under section 4975(c)(1)(F). The receipt of such consideration would be a separate transaction not described in the statutory exemption.

(2) *Conditions.* Such service must be provided—

(i) At not more than reasonable compensation,

(ii) Under adequate internal safeguards which assure that the provision of such service is consistent with sound banking and financial practice, as determined by Federal or State supervisory authority,

(iii) Only to the extent that such services are subject to specific guidelines issued by the bank or other institution which meet the requirements of paragraph (d)(3), and

(iv) Under an agreement which binds the bank or similar financial institution to comply with such guidelines.

(3) *Specific guidelines.* [Reserved]

(e) *Exemption for service as a fiduciary.* [Reserved]

(f) *Exemption for compensation for services*—(1) *In general.* Subject to the conditions set forth in the flush language at the end of section 4975(d) (relating to trusts benefiting certain owner-employees), section 4975(d)(10) allows a plan to pay a disqualified person reasonable compensation for services rendered to a plan. Section 4975 (d)(10) and paragraph (f)(2) of this section clarify what constitutes reasonable compensation for such services.

(2) *Reasonable compensation*—(i) *In general.* Whether compensation is "reasonable" for purposes of this section and section 4975 (d) (2) and (10) depends on the particular facts and circumstances of each case.

(ii) *Payments to certain fiduciaries.* For purposes of this section and sections 4975 (d) (2) and (10) depends on the particular compensation" does not include any compensation to a fiduciary who is already receiving full-time pay from an employer or association of employers (any of whose employees are participants in the plan) or from an employee organization (any of whose members are participants in the plan), except for the reimbursement of expenses properly and actually incurred and not otherwise reimbursed. The restriction contained in this paragraph (b)(4)(ii) does not apply to a disqualified person who is not a fiduciary.

(iii) *Expense advances.* For purposes of this section and sections 4975(d) (2) and (10), the term "reasonable compensation", as applied to a fiduciary or an employee of a plan, includes an advance to such a fiduciary or employee by the plan to cover expenses to be properly and actually incurred by such person in the performance of such person's duties with the plan if—

(A) The amount of such advance is reasonable with respect to the amount of the expense which is likely to be properly and actually incurred in the immediate future (such as during the next month), and

(B) The fiduciary or employee accounts to the plan at the end of the period covered by the advance for the expenses actually incurred.

(iv) *Excessive compensation.* For purposes of this section and sections 4975(d) (2) and (10), any compensation which would be considered excessive under § 1.162-7 of this chapter (Income Tax Regulations relating to compensation for personal services which constitutes ordinary and necessary trade or business expenses) will not be "reasonable compensation". Depending upon the facts and circumstances of the particular situation, compensation which is not excessive under § 1.162-7 may, nevertheless, not be "reasonable compensation" within the meaning of this section and sections 4975(d) (2) and (10).

PAR. 2. Section 54.4975-15 is inserted in the appropriate place to read as follows:

§ 54.4975-15 Other transitional rules.

(a) [Reserved]
(b) [Reserved]
(c) [Reserved]

(d) *Provision of certain services until June 30, 1977*—(1) *In general.* Section 2003 (c)(2)(D) of the Employee Retirement Income Security Act of 1974 (88 Stat. 987) (the Act) provides that section 4975 shall not apply to the provision of services before June 30, 1977, between a plan and a disqualified person if the three requirements contained in section 2003(c)(2)(D) of the Act are met. The first requirement is that such services must be provided either (i) under a binding contract in effect on July 1, 1974 (or pursuant to a renewal or modification of such contract), or (ii) by a disqualified person who ordinarily and customarily furnished such services on June 30, 1974. The second requirement is that the services be provided on terms that remain at least as favorable to the plan as a current arm's-length transaction with an unrelated party would be. The third requirement is that the provision of services must not be or have been, at the time of such provision, a prohibited transaction within the meaning of section 503(b) or the corresponding provisions of prior law. If these three requirements are met, section 4975 will apply neither to services provided before June 30, 1977, (both to customers to whom such services were being provided on June 30, 1974, and to new customers) nor to the receipt of compensation therefor.

Thus, if these three requirements are met, section 4975 will not apply until June 30, 1977, to the provision of services to a plan by a disqualified person (including a fiduciary) even if such services could not be furnished pursuant to the exemption provisions of sections 4975(d) (2) or (6) and § 54.4975-6. For example, if the three requirements of section 2003(c) (2) (D) of the Act are met, a person serving as fiduciary to a plan who already receives full-time pay from an employer or an association of employers, whose employees are participants in such plan, or from an employee organization whose members are participants in such plan, may continue to receive reasonable compensation from the plan for services rendered to the plan before June 30, 1977. Similarly, until June 30, 1977, a plan consultant who may be a fiduciary because of the nature of the consultative and administrative services being provided, may, if these three requirements are met, continue to cause the sale of insurance to the plan and continue to receive commissions for such sales from the insurance company writing the policy.

(2) *Renewals or modifications of existing contracts*. A renewal or a modification of an existing contract is referred to in paragraph (d) (1) of this section only if any modifications of the terms of such contract are not substantial and the relative advantages of the modified contract, compared with contracts entered into at arm's-length with an unrelated person at the time of the renewal or modification, are at least as favorable to the plan as the relative advantages of the original contract, compared with contracts entered into at arm's-length with an unrelated person at the time of execution of the original contract. Such renewal or modification need not be provided for in the original contract; it may take place before or after the expiration of the original contract and at any time before June 30, 1977. Where, in a normal commercial setting, an unrelated party in the position of the plan could be expected to insist upon a renegotiation or termination of a binding contract, the plan must so act. Thus, for example, if a disqualified person provides services to a plan on a month-to-month basis, and a party in the position of the plan could be expected to renegotiate the price paid under such contract because of a decline in the fair market value of such services, the plan must so act in order to avoid participation in a prohibited transaction. In addition, where the plan has no right to insist upon renegotiation, a prohibited transaction shall occur if the terms of the contract become less favorable to the plan than an arm's-length contract negotiated currently, unless—

(i) The variation from current fair market value is de minimis, or

(ii) The contract is renegotiated by the plan and the disqualified person so that the plan will pay no more than fair market value.

For purposes of paragraph (d) (2) (i), de minimis ordinarily shall be no more than 10 percent of the value of the services provided.

(3) *Persons deemed to be June 30, 1974, service providers*. A disqualified person with respect to a plan which did not, on June 30, 1974, ordinarily and customarily furnish a particular service, will nevertheless be considered to have ordinarily and customarily furnished such service on June 30, 1974, for purposes of this section and sections 2003 (c) (2) (D) of the Act, if either of the following conditions are met:

(i) At least 50 percent of the outstanding beneficial interests of such disqualified person are owned directly or through one or more intermediaries by the same person or persons who owned, directly or through one or more intermediaries, at least 50 percent of the outstanding beneficial interests of a person who ordinarily and customarily furnished such service on June 30, 1974; or

(ii) Control or the power to exercise a controlling influence over the management and policies of such disqualified person is possessed, directly or through one or more intermediaries, by the same person or persons who possessed, directly or through one or more intermediaries, control or the power to exercise a controlling influence over the management and policies of a person who ordinarily and customarily furnished such service on June 30, 1974.

For the purposes of this paragraph (d) (3), a person shall be deemed to be an "intermediary" of another person if at least 50 percent of the outstanding beneficial interests of such person are owned by such other person, directly or indirectly, or if such other person controls or has the power to exercise a controlling influence over the management and policies of such person.

(4) *Examples*. The following examples apply the principles enunciated in paragraph (d) (3) this section.

Example (1). A owns 50 percent of the outstanding beneficial interests of ABC Partnership which ordinarily and customarily furnished certain services on June 30, 1974. On July 2, 1974, ABC Partnership was incorporated into ABC Corporation with one class of stock outstanding. A owns 50 percent of the shares of such stock. ABC Corporation furnishes the same services that were furnished by ABC Partnership on June 30, 1974. ABC Corporation will be deemed to have ordinarily and customarily furnished such services on June 30, 1974, for purposes of section 2003(c) (2) (D) of the Act.

Example (2). A and B together own 100 percent of the beneficial interests of AB Partnership, which ordinarily and customarily furnished certain services on June 30, 1974. On September 1, 1974, AB Partnership was incorporated into AB Corporation with one class of stock outstanding. A and B each own 20 percent of such outstanding class of stock and together have control over the management and policies of AB Corporation. AB Corporation furnishes the same services that were furnished by AB Partnership on June 30, 1974. AB Corporation will be deemed to have ordinarily and customarily furnished such services on June 30, 1974, for purposes of section 2003(c) (2) (D) of the Act.

Example (3). On June 30, 1974, M Corporation was ordinarily and customarily furnishing certain services. On that date, X, Y and Z together owned 50 percent of all classes of the outstanding shares of M Corporation. On January 28, 1975, all of the shareholders of M Corporation exchanged their shares in M Corporation for shares of a new N Corporation. As a result of that exchange, X, Y and Z together own 50 percent of the common stock of N Corporation, the only class of N Corporation stock outstanding after the exchange. N Corporation furnishes the services formerly furnished by M Corporation. N Corporation will be deemed to have ordinarily and customarily furnished such services on June 30, 1974, for purposes of section 2003(c) (2) (D) of the Act.

Example (4). I Corporation ordinarily and customarily furnished certain services on June 30, 1974. On November 3, 1975, I Corporation organizes a wholly owned subsidiary, S Corporation, which furnishes the same services ordinarily and customarily furnished by I Corporation on June 30, 1974. S Corporation will be deemed to have ordinarily and customarily furnished such services on June 30, 1974, for purposes of section 2003(c) (2) (D) of the Act.

Example (5). X Corporation, wholly-owned and controlled by A, ordinarily and customarily furnished certain services on June 30, 1974. Y Corporation did not perform such services on that date. On January 2, 1976, X Corporation is merged into Y Corporation and although A received less than 50 percent of the total outstanding shares of Y Corporation, after such merger A has control over the management and policies of Y Corporation. Y Corporation furnishes the same services that were formerly furnished by X Corporation. Y Corporation will be deemed to have ordinarily and customarily furnished such services on June 30, 1974, for purposes of section 2003(c) (2) (D) of the Act.

[FR Doc. 76-22801 Filed 7-27-76;10:31 am]

[Department of Defense, Office of the Secretary—32 CFR Part 253]

DEVELOPMENT AND USE OF NON-GOVERNMENT STANDARDS

PROPOSED RULEMAKING

The Department of Defense publishes this proposed regulation under the authority of 5 U.S.C. 301 and 10 U.S.C. 2451 through 2456.

The Department of Defense proposes to establish formal procedures to integrate, on a voluntary basis, the rosters and lists of technical committees engaged in the development of voluntary specifications and standards. The purpose of the rosters and lists is to give visibility to the work and to provide a rational basis for individuals and organizations to determine their interest and need for participating in the standards groups, thereby encouraging participation commensurate with expected benefits.

The Department of Defense invites comments from federal, state, and local government agencies and from individuals as well as from industry associations, professional societies and organizations engaged in the development and promulgation of consensus product specifications and standards. Comments should include recommended textual substitutions as well as the basis for the recommended changes. All comments received on or before August 30, 1976, will be considered in the final rules. Submissions should be addressed to the Director, Defense Materiel Specifications and Standards Office (DMSSO), Cameron Station, Alexandria, Virginia, 22314.

All comments in response to this proposal will be available for public inspection during normal business hours at the foregoing address.

The proposed Part 253 reads as follows:

PART 253—DEVELOPMENT AND USE OF NON-GOVERNMENT STANDARDS

Sec.
253.1 Purpose.
253.2 Applicability and scope.
253.3 Definitions.
253.4 General.
253.5 Policy and guidance.
253.6 Responsibilities.
253.7 Effective date and implementation.

AUTHORITY: 5 U.S.C. 301 and 10 U.S.C. 2451 through 2456.

§ 253.1 Purpose.

This part: (a) Amplifies the policies of DoD Directive 4120.3, "Department of Defense Standardization Program," June 6, 1973, governing the development and use of specifications and standards; (b) Places emphasis on the Department of Defense participation in the development of specifications and standards by the non-government associations, institutes and professional societies; and (c) Provides guidance for the use of Federal and Military specifications and standards for commercial products where acceptable non-government documents do not exist.

§ 253.2 Applicability and scope

This Part applies to the Military Departments and Defense Agencies (hereinafter referred to as "DoD Components") which develop specifications, standards and purchase descriptions under the provisions of DoD Directive 4120.3[1] and Defense Standardization Manual 4120.3-M. "Standardization Policies, Procedures and Instructions." January 1972, and to personnel who participate in the activities of non-government bodies as defined by DoD Directive 5500.2. "Policies Governing Participation of Department of Defense Components and Personnel in Activities of Private Associations," August 4, 1972 (37 FR 16674, August 18, 1972), as "private associations."

§ 253.3 Definitions.

As used in this part, non-government specifications and standards are those developed by nationally recognized industry associations, non-government standard organizations and professional technical societies using the consensus method and whose technical committees are appropriately balanced (permitting participation by public interest groups, local/state/federal government, private persons).

§ 253.4 General.

The Department of Defense is placing increased emphasis on the use of commercial products and the use of common commercial items in the manufacture of military materiel. One method for achieving this objective is to facilitate the use of specifications and standards developed by nationally organized non-government standards bodies which mainly serve the private sector. Closer coordination and cooperation between the DoD and the non-government groups will enhance the availability and applicability of non-government standards to DoD use. Also, a major objective is to reduce overlapping, duplicative and conflicting documents generated separately by the DoD and industry groups. In the broad picture the concept is a move toward a national voluntary standards program.

§ 253.5 Policy and guidance.

(a) In accordance with DoD Directive 4120.3,[2] it is desired that existing non-government specifications and standards be adopted and used in lieu of the development and promulgation of a new document when there is no substantial or demonstrable advantage to the DoD in the development of a new document. The advantage shall be determined by comparison in terms of costs, logistic support, performance requirements, quality control and usable life of the item under existing specifications versus the proposed new military specification or purchase description. Duplications in the military series and non-government standards are to be avoided.

(b) Adopted non-government specifications or standards shall be used in the design and the development of materiel and referenced in the preparation of military specifications or standards for materiel to the maximum extent practicable.

* * * * *

U.S. AGENCIES PROPOSE RULES TO PREVENT ABUSES IN EMPLOYEE STOCK OWNERSHIP PLANS

WASHINGTON.—The government moved to prevent potential abuses of a popular new investment device, the employe stock ownership plan.

Congress encouraged such plans, called ESOPs, in 1974 by exempting them from certain prohibitions in the new federal pension law if they meet certain conditions. Sen. Russell Long (D., La.), chairman of the Senate Finance Committee and a long-time champion of the plans, also has encouraged them through amendments to other federal legislation.

Some companies find the plans attractive because they generate tax advantages in arranging corporate financing and increase employe ownership in company stock. However, the Labor Department and the Internal Revenue Service have been concerned that, instead of providing retirement benefits, some ESOPs may expose workers to unnecessary risks by investing in companies with uncertain futures. They also worry that some owners may design ESOPs mainly to benefit themselves rather than employes.

To cope with such problems, the two agencies Friday published in the Federal Register proposed regulations setting limits on ESOP investments and operations. They asked for public comment by Sept. 30.

SENSITIVE TRANSACTIONS

ESOP transactions are particularly sensitive because they involve dealings in which both employer and employes have a special interest. For example, an ESOP might invest in the employer's securities with proceeds from a loan guaranteed by the employer. Or an employer might sell securities to an ESOP, instead of making a public offering, and achieve considerable tax savings. The pension law prohibits most pension plans from entering into such transactions, but specifically authorizes the ESOPs to do so.

The proposed regulations seek to assure that employe interests will be protected in such intimate dealings with employers. For example, employer loans, or loan guarantees, to an ESOP would be permitted only if the transactions were arranged and approved by an independent third party acting on behalf of the employe plan.

The regulations also require that any loan made to an ESOP must be primarily for the benefit of the plan participants and beneficiaries rather than merely for the benefit of the employer.

Some ESOP critics have been concerned that retired employes wouldn't find a market for closely held stock they had received during their working years. Therefore, the new regulations propose that after Sept. 30 employes must be assured of a market for such stock for two years after they receive it, usually at retirement. The provision requires that the option to sell provide at least the "fair market value" of the securities.

BUYING BACK SECURITIES

In addition, the proposed regulations would prevent employers from insisting on the right to buy back securities from an ESOP before the securities are offered for sale elsewhere.

Both the two-year sell option and the ban on right-of-first-refusal would reverse interpretation of the 1974 pension law issued last fall by the Labor Department and the IRS.

The agencies also proposed to limit ESOP transactions involving life-insurance proceeds. The regulations would prohibit a company's owner from arranging for an ESOP to purchase life insurance on the owner's life with the proceeds at death to be used to buy the owner's stock.

Other regulations seek to prevent a company from selling to an ESOP stock that is inferior because of reduced dividend rights or limited voting rights.

AMENDMENT NO. 2166

(Ordered to be printed and to lie on the table.)

Mr. PERCY submitted an amendment intended to be proposed by him to the bill (H.R. 10612), supra.

AMENDMENT NOS. 2167 AND 2168

(Ordered to be printed and to lie on the table.)

Mr. KENNEDY submitted two amendments intended to be proposed by him to the bill (H.R. 10612), supra.

CLEAN AIR ACT AMENDMENTS OF 1976—S. 3219

AMENDMENT NO. 2158

(Ordered to be printed and to lie on the table.)

Mr. MORGAN submitted an amendment intended to be proposed by him to the bill (S. 3219) to amend the Clean Air Act, as amended.

NUCLEAR FUEL ASSISTANCE ACT OF 1976—S. 2035

AMENDMENT NO. 2160

(Ordered to be printed and to lie on the table.)

Mr. GLENN submitted an amendment intended to be proposed by him to the bill (S. 2035) to authorize cooperative arrangements with private enterprise for the provision of facilities for the production and enrichment of uranium enriched in the isotope-235, to provide for authorization of contract authority therefore, and for other purposes.

PUBLIC PARTICIPATION IN FEDERAL PROCEEDINGS—S. 2715

AMENDMENTS NOS. 2162 THROUGH 2165

(Ordered to be printed and to lie on the table.)

Mr. HELMS submitted four amendments intended to be proposed by him to the bill (S. 2715) to amend the Administrative Procedure Act to permit awards of reasonable attorney fees and other expenses for participation in proceedings before Federal regulatory agencies, and for other purposes.

NOTICE CONCERNING NOMINATION BEFORE THE COMMITTEE ON THE JUDICIARY

Mr. EASTLAND. Mr. President, the following nomination has been referred to and is now pending before the Committee on the Judiciary: William C. Smitherman, of Arizona, to be U.S. attorney for the district of Arizona for the term of 4 years (reappointment).

On behalf of the Committee on the Judiciary, notice is hereby given to all persons interested in this nomination to file with the commission, in writing, on or before Wednesday, August 11, 1976, any representations or objections they may wish to present concerning the above nomination with a further statement whether it is their intention to appear at any hearing which may be scheduled.

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[1] Filed as part of original. Extra copies available from the Naval Publications and Forms Center, 5801 Tabor Avenue, Philadelphia, PA. 19120. Attn: Code 300.

[2] Filed as part of original.

ADDITIONAL STATEMENTS

TRIBUTE TO REPRESENTATIVE JERRY LITTON

Mr. WEICKER. Mr. President, early this morning I heard the news of the tragic death of Representative Jerry Litton, who was killed last evening in an airplane accident, as he left to celebrate the greatest political victory of his impressive career.

My association with Representative Litton began more than 2 years ago, when we joined forces in an effort to pass legislation to protect the confidentiality of tax returns. Through his untiring efforts, more than half of the membership of the House of Representatives cosponsored our legislation. During this time, I was enormously impressed with his perseverance on behalf of the principles and ideals upon which our Nation was founded and prospers.

I am deeply saddened by the passing of this dedicated public servant. I extend my heartfelt sympathy to the relatives and friends he leaves behind.

COUNCIL ON HEMISPHERIC AFFAIRS FORMED

Mr. ABOUREZK. Mr. President, recently a new organization, the Council on Hemispheric Affairs, was formed. Its sole concern will be the issues in Latin America, and how these issues affect and concern us in the United States. Recently, the council held a press conference to explain its goals and policies. I believe that the statements made by various members of the board of trustees of the council will be of interest to the Congress and the public.

Therefore, I ask unanimous consent that the text of these statements be printed in the Record.

There being no objection, the statements were ordered to be printed in the Record, as follows:

Statement of Laurence R. Birns, Director, Council on Hemispheric Affairs, June 15, 1976

This morning we announce the formation of a new organization—the Council on Hemispheric Affairs—which will work in the area of U.S.-Latin American relations. It is hoped that the founding of the Council will mark the first time in American history that an organization based on a broad constituency of organizations and individuals effectively interested in contemporary events of a political and economic nature in the inter-American region will successfully exist.

The Council is a tax-exempt and nonpartisan organization which will engage in education, information and research activities on social, political, and economic questions which are of pressing concern to American public opinion. It will make the results of its efforts available to interested parties in the executive and legislative branches as well as to the media and to other organizations and institutions. From time to time its board will issue statements on matters of regional concern which represents a consensus of all or part of its thinking.

Among the Council's first activities will be the creation of three separate panels of inquiry. The first of these will be made up of deans of schools of foreign service, retired foreign service officers and others, and will investigate the establishment of laws and procedures which will make foreign service officers legally accountable for any illegal act that they perform on station. This panel will also look into the effectiveness of the confirmation and oversight function of the Senate Foreign Relations Committee. The importance of this panel is self-evident in light of the charge that the Committee has become little more than a pro-forma step for confirmation and poses few constraints on the conduct of State Department officials. Regrettably, a chronology of events associated with the nomination of Harry Shlaudeman to be Assistant Secretary of State for Inter-American Affairs incontrovertibly indicates that even though Mr. Shlaudeman deceived the Committee and other legislative bodies with disingenuous testimony, its members acceded to his nomination. The fact that members of the Committee submitted to strong pressure from Secretary of State Kissinger that the nomination must be passed, indicates that the public cannot automatically depend upon the Committee to act upon such nominations with a sense of honor and responsibility.

The second panel will study the possibility of removing "disc" tax incentives from new investments made by U.S. corporations in Latin American nations which have been certified as having massively violated the human rights of their populations.

The third panel will address itself to the special problems produced by the patent fact that the inter-American community of today is not a sisterhood of representative governments but rather a situation where the vast majority of nations that make up the Organization of American States are repressive, rightwing military regimes which were elected by nobody but by their gun barrels. Given this condition, this panel will look for ways by which the populations of the region would be provided with economic assistance, but at the same time oppressive governments would be cut off from U.S. support.

Another important function of the Council will be to create an information bank on background material pertinent to a broad range of issues, including human rights. This information will not only be available to the media, but positive efforts will be made to single out reporters to receive the material who will then decide whether to make use of it.

One of the primary concerns of the Council will be the state of human rights in the region. As an example of one of its activities in this area, it has retained the services of Sandford Katz, a prominent New York civil liberties lawyer, and we are sending him to Buenos Aires tomorrow where he will try to establish what happened to Raymundo Gleyzer, an international prominent film maker, who was forcibly abducted from his apartment several weeks ago in Buenos Aires, and has not been seen again.

The Council intends to expand its board to the point that by this time next year 100 additional national organizations will be cooperating in its work. As for this work, one of its purposes is to widen the base of the setting in which U.S. Latin American policy is made until it includes many more elements than just the corporate community and the Washington bureaucracy.

A consensus of our board feels that there have been few periods in the recent past when the situation has been more dreary in Latin America than at the present time. Representative government in the region has become an endangered species, and if it has been the policy of the present Secretary of State to replicate our own form of government in Latin America, then absymally it has failed. Argentina has just joined the staggeringly large list of military dictatorships in Latin America, and Colombia today is in a very perilous condition. It is not that the Administration hasn't been active; it may be that it has been active in the wrong direction. It has supported a domino theory in reverse where military overthrows of constitutional governments have been rewarded with record amounts of economic and military assistance, while legal governments, like the pre-coup one in Chile, were the focus of economic warfare by this nation's policymakers.

We feel that you cannot say one thing and do another. If you believe that democratic governments in the region should be given favored treatment, then you don't announce a special relationship with Brazil, but rather with Mexico, Venezuela and the English-speaking Caribbean nations. If you say that human rights will be accorded a high priority status, then you don't give Chile, Uruguay, Bolivia, and Argentina economic assistance. If you say that pluralism can exist in the region, then you see to it that Cuba participates in regional affairs. If you say that social justice is important, then you don't send Secretary of the Treasury Simon to Santiago to carry out a strategy which ensures that the Chilean military junta will continue to be granted protege status.

We commend past efforts made by several administrations to move along a revision of the Panama Canal treaty. By the provisional terms of this treaty, the United States is being asked to give up far less than the British, French, Dutch, Portuguese, and Belgium did in dismembering their empires. The British investment in India was far greater than that of the U.S. in the Canal zone, but that nation had the civic rectitude to do what had to be done. There simply cannot be a coherent inter-American relationship without a resolution of the Canal problem. It will roil the region's waters until it is solved.

Panamanians look upon the American presence in the same way that we looked upon British control 200 years ago. We should understand this. We must push jingoism aside, discipline our political passions and do what's right in redressing a treaty which was signed under duress and as the result of Watergates of its time.

The Council, under special foundation grants, hopes to establish a series of fellowships in Washington which will enable researchers to become public-sector experts on the various, almost invisible instrumentalities in which U.S. regional policy is carried out. We know all too little about these agencies beyond their press releases, but we hope that by turning our attention to the shifting political standards of the Exim Bank, the Inter-American Development Bank, OPIC, the World Bank and other agencies, we will be performing a useful function. Upon solicitation, these findings will be made available to legislative committees and to the media.

The Council will be maintaining offices in Washington and New York.

Council on Hemispheric Affairs,
New York City, N.Y.

Statement of Robert G. Lewis, National Secretary of the Farmers Union

Latin America is a rural continent of subsistence farmers which is quickly becoming urbanized. North American farmers have substantial interests in the character and the goals of this "revolution"—this economic and social transition from subsistence agriculture to the urbanization of the main population and the modernization of agriculture in Latin America.

Most immediate, of course, is our fraternal interest in the welfare of our fellow-farmers and their families south of our border.

One of the central issues in the economic and social transition now underway in Latin America is control of the land. In rural societies, control of the land is the central issue affecting the welfare of the people.

At the very heart of the ominous tendency toward police and political repression and violence in much of Latin America today is the ambition of some who are rich and powerful to dispossess the people of their land.

The dispossession of the poor farmers is abetted by the economic suppression of all the poorer people, and calamitous rates of population growth. The lack of opportunity for jobs, coupled with explosive population growth, creates the force which dispossess the rural people from their opportunity to subsist either on small farms or in other vocations. Repressive military and political regimes block the efforts of the people to govern themselves and to improve their condition. The result is the transformation of rural subsistence farming societies into powerless, property-less, and poverty-ridden urban multitudes. This is a process that closely resembles the transformation of, since World War II, many of our own black small farmers, tenants and share-croppers, and agricultural workers into a poverty ghetto population of jobless urban slumdwellers.

The Farmers Union objects to such a future for hundreds of millions of poor farmers and their families. We favor for them what we seek for ourselves—a future secure on the land, with the chance to educate their children for opportunities in farming or in other vocations if they chose, in prospering, democratic societies.

North American farmers have economic reasons also for favoring a decent future for the poor farmers of the Hemisphere. When subsistence farmers are dispossessed, their land and the other natural and industrial resources of their countries pass to the control of the wealthy few. Capital-intensive agriculture in parts of Latin America, which produces cheap farm commodities for export, is beginning to encroach upon and burden the world markets for grains and soybeans. This is a form of development which leaves more and more of the local populations poor and hungry, while adding to instability and undependability of prices and supplies in the world food economy.

STATEMENT BY ESTEBAN E. TORRES, ASSISTANT DIRECTOR, UAW INTERNATIONAL AFFAIRS DEPARTMENT

The rapid increase of military dictatorships in Latin America coupled with their rule by edict and without debate causes us serious concern. Dictatorship and brutality also go hand in hand, as we witness the growing levels of suppression of elementary civil rights, the purging of legitimate trade unions and the jailing and torture of their leaders, including murder as a method of silencing opposition.

We cannot, and will not stand idly by and allow the continued debasement of liberty and democracy of working people.

For too long, U.S. policy remains anchored in the need to retain the area as our sphere of influence, which for the most part means protection of U.S. investments, a market for U.S. goods and a source of raw materials at the expense of slave labor.

The dictatorships of Latin America should now realize that we will vehemently protest to our Congress to reverse these policies. We must press for cutting off economic aid to those governments that continue to repress human, political and trade union rights.

We of organized labor will cooperate with The Council on Hemispheric Affairs in pressing for greater public awareness that will result in new solutions and policies leading to decent hemispheric standards of living, democratization, and a larger degree of understanding between our many Republics.

FRASER CITES DUPLICITY ON U.S.-CHILEAN POLICY

I am pleased to have the opportunity to speak with you about U.S.-Latin American relations on the occasion of the founding of the Council on Hemispheric Affairs. The Council will serve a useful purpose in creating a more enlightened and better-informed public opinion within the United States concerning Latin America. Today, I would like to comment on two issues which concern U.S.-Latin American relations.

Many of us were pleased with the forthright statement by Secretary Kissinger in Santiago concerning human rights. His support for the Inter-American Commission on Human Rights is indeed praiseworthy, and I hope the recommendations for strengthening the Commission are favorably considered by the General Assembly.

What bothers me is the apparent duplicity of the State Department concerning its position on Chile. Secretary Kissinger stated in Santiago that the human rights conditions in Chile have "impaired our relationship with Chile and will continue to do so." Have relations with Chile really been impaired? The figures indicate Chile has received preferential treatment compared to other Latin American countries. Bilateral economic assistance for Chile for fiscal years 1975 and 1976 have totaled 169 million and 123 million respectively. Chile received more than 80% of Title I PL 480 funds which went to Latin America during those two years. Compared to other Latin American countries in 1975 Chile received the 4th highest amount per capita in economic assistance. These extraordinary levels of assistance were provided despite congressional ceilings on economic aid to Chile. The only significant impairment in U.S.-Chilean relations was in the military assistance field. Here, Congress had imposed a total prohibition of military assistance and sales.

Secretary Kissinger stated in Santiago that as long as human rights conditions in Chile remain the same, U.S.-Chilean relations will continue to be impaired. At the same time he made this statement, officials of the State and Treasury Departments were lobbying the Senate urging that it increase the ceiling which the House had placed on economic assistance for Chile in fiscal year 1977. This kind of duplicity on the part of the Secretary and the Department of State raises serious questions concerning the genuineness of the Department's concern about human rights in Chile.

The problem is one of consistency between rhetoric and the reality of action. Actions do indeed speak louder than words, and if we applaud forthright statements in defense of human rights we have a right to expect that they will be reflected in policy. If the administration says one thing and then does something else, the harmful effect is compounded by this apparent duplicity. We can see this happening not only in Latin America but in Africa as well, where Secretary Kissinger's praiseworthy speech in Lusaka has not yet been backed up by action by the administration. He made a major commitment that the administration would urge Congress to repeal the Byrd Amendment on Rhodesian chrome this year, but so far we have no evidence of the active White House support that is necessary to achieve that objective. I am still hopeful that such support will be forthcoming, and that the Executive Branch will take other action consistent with the Secretary's Lusaka speech which will contribute to the goal of self-determination and majority rule in Southern Africa with a minimum of violence.

If rhetoric is not followed up with supporting action, there will be little left of U.S. credibility in Latin America and Southern Africa and accordingly, little opportunity for the United States to exert a constructive influence.

Another matter of urgent concern is the plight of refugees in Argentina. You are all aware of the desperate situation these refugees are facing. It is deeply disturbing that the Argentine Government is either unwilling or unable to prevent the violence and arrest those responsible. This Thursday my Subcommittee on International Organizations will be hearing testimony on this situation. Former Senator Wilson Ferreira Aldunate of Uruguay, who until recently lived in Buenos Aires, will testify on the human rights situations in Uruguay and the problems facing refugees in Argentina. I am also introducing, with Congressman Ed Koch of New York and others, a concurrent resolution urging the Department of State to establish a parole refugee program for refugees in Argentina.

THE FOUNDING OF THE COUNCIL ON HEMISPHERIC AFFAIRS

For the 15 to 16 million U.S. citizens of Hispanic heritage, today marks a day of some importance. Our joining with other groups and individuals to form the Council on Hemispheric Affairs should signalize to the executive and legislative branches that Hispanic Americans will no longer be content to be a passive and ignored factor when it comes to formulating and executing policy for the Latin American region.

From this moment on, from the local constituency to the White House, we will be asking our public and elected officials what they have done to advance the cause of representative government in the region and what they have done to improve the circumstances of the miserable lives now being lived by the bulk of the more than 300 million people who make up Latin America's population.

We also will be saying to our government leaders, if you cannot help the people of the region, then at least have the decency to not overthrow their constitutionally-elected governments, don't plan the assassination of their leaders, don't cut off economic aid to them just because their ideologies differ from our own, and don't patronize them by sending unqualified foreign service officers and political appointees to staff our embassies throughout the region.

Furthermore, we ask, and we ask this firmly, that when the next time comes, and we hope that it is soon, for a president to appoint a new assistant-secretary of state for inter-American Affairs, let him not downgrade the region, but let him select a person who doesn't lie to our legislative bodies and who represents something more than negativism and scorn for local institutions. And also, we hope that next time around, the Senate Foreign Relations Committee, in contrast to its recent performance, will vigorously examine the candidate for the assistant-secretary's position, and not cave in to pressure from the Secretary of State.

We expect great things from the Council . . . El Consejo. We expect it to provide the Hispanic community with analyses of policies, information, and guidance. At this point, the National Congress of Hispanic American Citizens, representing 126 participating national, state and local Spanish-

speaking organizations around the country, will go to work to disseminate the findings in our newspapers and bulletins, and in meetings though this nation. Something new has happened. We at last have a national, broadly-constituted organization which cares about Latin America. We can only wish it well.

THE B-1: A WELL-TESTED AIRCRAFT

Mr. GOLDWATER. Mr. President, one of the arguments used by the proponents of the postponement of the day of decision of the B-1 is that it has not been adequately tested. The B-1 has probably, within the short span of its life, been the most thoroughly tested aircraft in the Air Force's inventory. Some of the major components have received as much as four lifetime tests, but I know that those who use testing as an argument are not concerned with detailed testing but rather overall. Let me remind my colleagues who use this argument that no aircraft ever built ever ended its period of testing. The reliable old B-52, over 20 years old, is constantly being tested as new modifications are made or other adjustments or experiments are made to the airframe, avionics, or engines. Modern techniques used in testing have so vastly increased the knowledge to be gained from each flight that comparing flight testing today to 20 years ago is impossible. In fact, flight testing 20 years or more ago could never reveal some of the information now available through telemetry and other modern approaches. With that short statement, let me continue to list some of the achievements in testing of the B-1 which have been recorded so far.

The Air Force has stated and DOD has confirmed to Congress that it will complete by November 1976 the testing to prove that the B-1 as currently designed, will perform the strategic mission assigned to it.

To this goal, the B-1 has had more preproduction testing than any previous military aircraft.

In the 6 years since commencement of the formal development program, much of the testing required to affirm the B-1 design has already been accomplished.

Extensive testing during development establishes that the design will meet the stringent requirements established for the aircraft and will uncover any faults which cannot be found either analytically or in the laboratory.

The B-1 is presently demonstrating its readiness for production in the crucial areas of mission accomplishment:

Over 22,000 wind tunnel hours have contributed to designing, refining, verifying, and validating the B-1 airframe and engine configurations.

Structural integrity—extensive static and fatigue tests have proven the structural integrity of the aircraft and no major structural problems exist.

Engine development—over 11,000 hours of operation to date since engine testing began in 1971.

Offensive avionics—integration of modified, proven, off-the-shelf equipment is proceeding and performing well.

Flying qualities—the flight characteristics have proven to be sound.

Some minor problems have been uncovered during the test program, but none will keep the aircraft from performing its strategic mission and all are solvable within the state of the art.

Department of Defense Program Review of B-1 conducted in February 1976 indicated high confidence in the B-1 readiness for production.

Overall, in the 6-year B-1 test program scores of ground and airborne tests have been conducted on components, subsystems, structural components, and the complete aircraft to insure its operational effectivity and readiness to enter production in November 1976.

The B-1 program stands on its merits today. A most extensive and successful test program attests to this. Should future administrations wish to cancel the program they can do so with far less of an impact at that time.

No useful purpose is served by deferring the decision until the President recertifies facts already known.

The Air Force believes that the manned penetrating bomber is absolutely required for the strategic defense of this Nation in the 1980's and beyond.

B-1 has been proven to be the most cost-effective alternative to provide bomber force modernization.

B-1 testing has shown that the aircraft will meet its requirements.

The most cost-effective program is to begin production in November 1976.

ON THE OCCASION OF PRESIDENT BOURGUIBA'S BIRTHDAY

Mr. HUMPHREY. Mr. President, yesterday the Senate adopted a resolution submitted by my distinguished friend from Illinois, Senator PERCY, relating to the birthday of President Bourguiba of Tunisia. I was a cosponsor of that resolution, and today I want to comment on its significance.

The Senate adopted this resolution honoring this fine leader because it recognized that President Bourguiba has been a force for moderation in North Africa. He has been a stabilizing force in the region and a good friend of the United States. Senator PERCY and I wanted to note publicly that, despite pressure on Tunisia from its neighbors, it has chosen a path of self-development and political moderation. Much of Tunisia's success is a result of the foresight and courage of the man who has led that nation since its independence in 1956.

Tunisia is planning its fifth economic plan for the years 1977 to 1981. It is an ambitious effort aimed at increasing the prosperity of the Tunisian people through industrial and agricultural development. The economic progress envisioned by this development plan is vital to Tunisia's ability to play a leadership role in North Africa and the Mediterranean area. The United States will, of course, play a role in helping Tunisia improve the well-being of its citizens.

Mr. President, I want to personally salute my friend, President Bourguiba, on the occasion of his birthday. I had the honor of visiting with him as Vice President. Since serving in that office, I have been following the progress his nation has been making. The resolution which the Senate adopted yesterday is a personal tribute to a world leader who continues to guide his nation wisely and courageously. I firmly believe that the continuation of Tunisian-American friendship is important to the security and prosperity of both peoples.

NEIGHBORHOOD REVITALIZATION—NO PIE-IN-THE-SKY

Mr. PERCY. Mr. President, at a time when many people in this country have written off any hope for urban revitalization and have given our cities up for dead, it is heartening to know that there are those who will not capitulate to the prophets of doom.

Recently in Chicago, a neighborhood group known as the Woodlawn Organization—TWO—unveiled a creative, 20-year plan to make the Woodlawn neighborhood once more a vital, vibrant and economically stable part of the city of Chicago. In the words of TWO president, Leon Finney, Jr., "this is no pie-in-the-sky plan." It is portrayed as a realistic plan whose first phase has already begun.

The emphasis of the plan is on housing, real help for lower income people without resorting to traditional public housing projects which, in the past, often became high-rise slums contributing further to the decline of our urban centers.

Mr. President, I would like to share with my colleagues some information on this plan that appeared in the Chicago Tribune. It may be of particular interest to the distinguished members of the Banking Committee who have just reported out a bill to establish a National Commission on Neighborhoods. This Commission will study and make recommendations about the factors which impede, and those which promote, neighborhood revitalization. I would like to mention at this point, also, the creation of the President's Committee on Urban Development and Neighborhood Revitalization, chaired by the very able Secretary of Housing and Urban Development, Carla Hills—a major administration program to focus the efforts of all Federal agencies on neighborhood problems. Both of these bodies, the Commission and the President's committee, would do well to observe the activities of those who are going ahead with initiatives to restore their neighborhoods to their former vitality.

The Woodlawn plan proves that, with enlightened leadership in the community and a sense of unity and purpose among the people, the trend of deterioration in many urban neighborhoods can be reversed and the promise of our cities as havens of hope and opportunity can be met.

Mr. President, I ask unanimous consent that a Chicago Tribune article of July 21, 1976, and a Tribune editorial of the 22d, both relating to the Woodlawn plan, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Chicago Tribune, July 21, 1976]

TWO UNVEILS 20-YEAR PLAN TO REVITALIZE WOODLAWN AREA

A 20-year, $220-million plan for turning the South Side Woodlawn neighborhood into a stable, racially integrated community was announced Tuesday.

It was created by the Woodlawn Organization [TWO], and its subsidiary groups including the Woodlawn Community Development Corp. [WCDC].

"This is no pie-in-the-sky plan," Leon Finney Jr., TWO president, said. "The first phase is already under way."

Public and private funds will be needed to achieve the four-phase program between now and 1968, Finney said.

The plan calls for these expenditures:

$100 million for new construction, principally housing.

$35 million for rehabilitation of existing housing.

$25 million for commercial building, including shopping facilities.

$20 million for institutional construction covering new police and fire stations, a library, boys club, health center, a new school, and an office building for public and private service providers.

$40 million for street improvements, utilities, and other public works.

The Chicago Transit Authority elevated tracks over 63d Street would be removed from their present terminus at Stony Island Avenue to the point where they turn north near King Drive.

TWO planners view the tracks as a blighting influence. They believe beefedup bus service—or possible new rapid transit service along the Illinois Central Gulf Railroad right of way—can replace the east-west leg of the elevated.

Street parking, and traffic signal improvements would be made to expedite the flow of autos through Woodlawn. Some streets would be closed or terminated in cul de sacs.

TWO decided a big, new suburban-style shopping center would blemish the neighborhood's residential character. Instead, the plan calls for a clustering of stores along 63rd Street, with Cottage Grove Avenue as an intersectional focal point.

Recreational facilities in Jackson and Washington parks would be upgraded.

The principal emphasis of the land use plan, however, is on housing.

The first TWO–WCDC housing creation was Woodlawn Gardens, a 504-unit development built along Cottage Grove Avenue between 60th and 63d Streets under the old federal 221-D-3 program in 1968. It has been problem plagued for many reasons, but is gradually moving from failure to success, Finney said.

Built, marketed, and managed by far more sophisticated means is the new Jackson Park Terrace, a 322-unit high-rise and townhouse complex at Stony Island Avenue and 60th Street. Its 15 percent white occupancy is an important first step toward TWO's integration goal, Finney said.

Construction is expected to begin next year on Park Shore East, a 1,200-unit high-rise, townhouse, and commercial complex just south of Jackson Park Terrace.

The Illinois Housing Development Authority, the federal Department of Housing and Urban Development, and private interests will participate in Park Shore East.

The rehabilitation of existing housing is another key element of the plan. WCDC is renovating 612 units of multifamily housing and is to begin work on 181 more next year. Plans are under way for rehabilitating the old Southmoor Hotel at 63d Street and Stony Island Avenue and converting it to housing for the elderly.

Scott School at 64th Street and Blackstone Avenue would be demolished and a new school would be built on the site under the TWO plan. A task force of educators would seek ways to upgrade programs and teaching methods in all Woodlawn schools.

Woodlawn was long blighted by many abandoned, burned-out, or otherwise unused structures. Finney said about 20 remain to be razed.

Long stretches of some thoroughfares, including once-thriving 63d Street, today are rubble-topped prairies.

"I'm confident our plan has real grass-roots support in Woodlawn," Finney said.

"We're against having any public housing in our community," he added. "Instead, we simply want housing in which poor people can live. But we must not make Woodlawn a reservation for the poor, either.

"We must have a mix, and that means whites as well as blacks. I'm convinced we can attract middle-class families with the right kind of housing and other amenities."

Finney sees the success or failure of the TWO plan as a kind of bellwether for the whole Chicago area.

"What we do here can give other troubled communities in Chicago a sense of hope and well-being for the future," he said.

"Unless you redevelop areas like Woodlawn and integrate them with whites, I don't see how [the city] can make it over the long pull."

He foresees Woodlawn's ultimate residential breakdown as 20 per cent "poor" and 80 per cent "moderate to middle income."

The racial breakdown, he believes, will be roughly 25 to 35 per cent white, 55 to 65 per cent black, and 5 to 10 per cent other minorities.

The 1970 census showed that Woodlawn lost 24,000 residents in the single decade of the 1960s and that 94 per cent of those remaining were black. More than 28 per cent of Woodlawn families were receiving public assistance, compared with an average of 7.4 per cent for the entire city.

Founded in 1960, TWO became nationally known as a tough, pragmatic organization which dealt from a base of block-by-block grass-roots power. Its tactics were shaped by the late Saul Alinsky, a white who headed the Industrial Areas Foundation and helped organize other communities in Chicago and elsewhere.

[From the Chicago Tribune, June 10, 1976]

REHABILITATING WOODLAWN

The Woodlawn Organization has proposed extensive rehabilitation of its blighted South Side neighborhood over a period of 20 years. "This is no pie-in-the-sky plan," says Leon Finney Jr., president of TWO. "T.W.O. for Two Decades," the full statement of the plan, concludes: "The plan is not based on grandiose schemes calling for millions of dollars with little chance of success, but upon the proven ability of the Woodlawn Community Development Corporation [a TWO subsidiary], in conjunction with public and private agencies, to effect meaningful change in the living conditions of the Woodlawn community."

Woodlawn is bounded by 71st and 67th Streets and Stony Island and Cottage Grove Avenues. It has many specific advantages. It adjoins the University of Chicago to the north, Jackson Park and Lake Michigan to the east, and Oakwood Cemetery to the south. It is served by a commuter railroad and a rapid transit line. It contains one hospital and is close to several others. It is not far from the Central City. Despite these advantages, it has become one of the most thoroughly blighted neighborhoods in Chicago.

Woodlawn lost 24,000 residents in the 1960s. Its white former residents have nearly all fled. Its proportion of welfare recipients is almost four times the average rate for Chicago. Its public high school, Hyde Park, has lost its former high academic tone. Such neighborhood institutions as Mt. Carmel High School and First Presbyterian Church were created by people whose direct cultural heirs no longer live in Woodlawn in large numbers.

TWO has made its plans with care and hard work. It has conducted an "exterior survey" of all 1,336 residential buildings in Woodlawn. It classifies only 223 of these as in "poor" condition. Only in the northeast quadrant does TWO find more than 14 per cent of existing residential buildings in poor shape.

Therefore TWO strongly emphasizes rehabilitation. The Woodlawn Home Improvement Loan Program, involving TWO and several Chicago banks, is organizing low-interest loans to homeowners. The initial pilot tract will be six blocks within the area bounded by 65th and 67th Streets and Maryland and Woodlawn Avenues. It is hoped that gradually most of the neighborhood housing units fit for rehabilitation will receive attention.

TWO also has new construction in mind. It and a subsidiary have already built Woodlawn Gardens and Jackson Park Terrace [together, 836 units]. There are plans for 1,200 more apartments in Park Shore East, just south of Jackson Park Terrace. TWO's land use map proposes further extensive new residential construction, eventually, east of the Illinois Central Gulf railroad tracks and in northeastern Woodlawn.

Between rehabilitation and new construction, TWO hopes to see Woodlawn attract middle-class residents, white as well as black. These hopes are widely shared, for turning around blighted urban neighborhoods is a national as well as a local assignment.

Success in Woodlawn would not necessarily mean that the same program could succeed in other run-down areas without its inherent advantages. But it would nonetheless set a valuable and encouraging example. Failure would imply loss of heavy stakes, held far beyond the neighborhoods immediately in question.

Undertakings in housing and urban development of course have a federal dimension through the executive department of that name. There are other channels for the input of government expertise and resources. But essentially plans such at TWO's depend on the private efforts of many individuals.

Government appropriations cannot buy rehabilitated neighborhoods. Private money and private ingenuity must do most of the work. Every aware citizen of this city and state must wish TWO well in its 20-year undertaking in Woodlawn.

GRAIN PROBE

Mr. ABOUREZK. Mr. President, the Washington Post and the New York Times, in their August 4 editions, carry what I think are very revealing news stories concerning the grain inspection scandal.

My distinguished colleague, Senator DICK CLARK, of Iowa, has shown admirable leadershp in his efforts to expose the grain inspection scandal and to produce legislation to correct a problem that has hurt both farmers and consumers as well as our country's image as a food exporter.

I ask unanimous consent that both of these news stories be printed in the RECORD.

There being no objection, the stories were ordered to be printed in the RECORD, as follows:

[From the Washington Post, Aug. 4, 1976]

GRAIN PROBE IS WIDENED

Federal investigators have found evidence of gratuities to government-licensed grain inspectors in seven states and possible new cases of shortweight grain shipments in nine states, sources said yesterday.

A Justice Department official, in a letter to Sen. Dick Clark (D-Iowa), reported that "documentary evidence of gratuities to (licensed) inspectors has been developed" involving "hundreds of gratuities . . . amounting to thousands of dollars."

Clark did not release the letter, but a copy obtained by United Press International said the cases were found in Albany, N.Y.; West Sacramento and San Francisco, Calif.; Seattle and Longview, Wash.; Portland, Ore.; Brownsville, Houston and Beaumont, Tex.; Baton Rouge, La. and St. Joseph, Mo.

Clark said in a statement the new information from Justice, as well as a report from the Agriculture Department, showed "considerable evidence of wrongdoing at ports on all four of our nation's coasts and at a great number of interior markets."

More than 60 previous indictments have been confined to Gulf of Mexico port areas. The new information also disclosed that investigations are under way involving state inspection agencies.

The letter said each case "has been thoroughly investigated by the FBI and has been, or will be, presented to the U.S. attorney within the jurisdiction covered."

Clark and Sen. Hubert H. Humphrey (D-Minn.) released the Agriculture Department report on continuing probes of the system, in which private and state agencies inspect grain shipments under department supervision.

The department said it found "unexplained overages" in grain stock records at the headquarters of unnamed exporting companies in California, Illinois, Minnesota, New York, Oregon, Texas, Virginia, Washington and Wisconsin.

The "overages," amounting to about 8 million bushels, could indicate that elevators built up excess stocks by shortweighting some outgoing shipments, the report said.

[From the New York Times, Aug. 4, 1976]

INQUIRIES INTO GRAIN FIND NEW DATA ON GRATUITIES

(By William Robbins)

WASHINGTON, August 3.—Federal investigators, pressing their inquiries into corruption in the grain industry on all coasts and in many inland areas, have found new evidence of illegal payments to inspectors and possible shortweighting of shipments, according to separate statements by the Agriculture and Justice Departments.

"Documentary evidence of gratuities" to Government-licensed grain inspectors has been found in 11 cities, including Albany, according to a letter from a Justice Department official to two members of the Senate Agriculture Committee.

"Hundreds of gratuities have been documented amounting to thousands of dollars," said the letter from Assistant Attorney General Richard L. Thornburgh to Senators Dick Clark of Iowa and Hubert H. Humphrey of Minnesota, both Democrats.

Meanwhile, Secretary of Agriculture Earl L. Butz told the same two Senators that his department had 49 grain investigations under way in 15 states.

He provided a statement prepared by his department's office of investigation saying that unexplained overages, or surplusses, totaling eight million bushels had been found in records of grain-company elevators.

"The investigative significance" of the overages "lies in their reflection of possible shortweighting" of shipments, the statement said.

The spreading investigation grew out of corruption exposed in the Port of New Orleans, where more than 65 indictments, including charges against six large grain companies, have been returned.

Charges there have included conspiracy in thefts of grain through shortweighting, misgrading and bribery.

Federal investigators had been known to be pursuing the inquiries elsewhere, but today's reports were the first to give in detail the scope and the nature of the findings.

The report from Secretary Butz was released by the Senators today ahead of a planned news conference after a copy had been obtained and its contents disclosed by The Sioux City Journal.

The Journal had also obtained a copy of Mr. Thornburgh's letter, but at his request, the two Senators refused today to make its contents public. A copy was obtained by The New York Times from another source.

Senator Humphrey is chairman and Senator Clark a member of the Agriculture Committee on Foreign Agricultural Policy. They are also the principal authors of a Senate bill designed to reform the national grain inspection system, which has been widely criticized as a result of the Federal investigations.

The Senate and the House have passed differing reform legislation, and their conferees have been deadlocked for several months in attempts to compromise the differences.

The principal difference is in the agencies that would be responsible for grain inspection under the two bills.

The Senate bill would require Federal inspectors to perform the work at all export grain elevators and at principal inland terminals. The House bill would allow the Agriculture Department to assign inspection responsibilities to state agencies in the ports and allow continued inspection by private agencies inland.

The senators had asked for details on the scope and nature of investigative findings in an attempt to get House conferees to yield and accept some features of the more stringent Senate bill.

SENATOR IS HOPEFUL

"I am hopeful that this new information will lead to a reassessment of the position of the House conferees on the grain inspection reform legislation, so that the present deadlock can be broken," Senator Clark said today in releasing Mr. Butz's statement.

At the same time, the two Senators released supplemental information from the General Accounting Office, an investigative arm of Congress, providing the names of a long list of ports and inland points where irregularities mentioned in an earlier report had occurred.

According to Mr. Thornburgh's letter, cities besides Albany where illegal gratuities have been documented are West Sacramento and San Francisco, Calif.; Seattle and Longview, Wash.; Portland, Ore.; Brownsville, Houston and Beaumont, Tex.; Baton Rouge, La. and St. Joseph, Mo.

The Agriculture Department's statements gave the following list of states where investigations were "ongoing"; California, Illinois, Iowa, Kansas, Louisiana, Minnesota, Mississippi, Nebraska, New York, Ohio, Oregon, Pennsylvania, Texas, Virginia and Wisconsin.

AN OLYMPIC LESSON FOR DRINKING DRIVERS

Mr. PELL. Mr. President, over the past 2 weeks we have viewed the tremendous accomplishments of our U.S. Olympic team in the games of the 21st Olympiad in Montreal. Regardless of the political turmoil and public controversy surrounding the games, the individual achievements of American athletes cannot be denied.

How much more impressive the American team might have been had its great long-distance runner, Steve Prefontaine, been there. He was not, because on May 30, 1975, his life was taken in an early morning automobile accident. As Belle Canon writes in a recent Washington Post piece, the accident occurred, sadly, when this talented runner was driving under the influence of alcohol.

Two months ago I introduced S. 3519, the Alcohol-Impaired Driver Act of 1976. This act would require States to enact strict drunk driving laws in order to insure receipt of Federal highway safety funds. As I stated then, drunk driving costs us dearly. Two members of my own staff, Stephen Wexler and Elizabeth Powell, slaughtered in separate accidents within the past 2 years—through no fault of their own—because of the actions of drunk drivers.

Mr. President, there is clearly a need for Federal legislation on this subject. What I propose in S. 3519 are strict criminal sanctions to insure deterrence, combined with needed flexibility to make the criminal justice system work. Many times States have enacted mandatory jail sentences or other stiff penalties for those convicted of driving while intoxicated, only to have juries, prosecutors and judges circumvent legislative intent. The result has been an undesirable weakening of such statutes by the States. Under my bill, the likelihood of such circumvention occurring would be greatly reduced.

According to S. 3519, to insure receipt of Federal highway safety funds, a State would have to: enact a criminal statute providing for 10 days in jail or for an equivalent period of acceptable alternative service for those convicted of driving while intoxicated; and as well to provide for adequate alcohol safety programs for those referred by a court of competent authority.

In her article on Steve Prefontaine, Ms. Canon points out the irony of his dying after attending a party honoring visiting Finnish track stars. For in Finland the laws on drunk driving are harsh and the public is attuned to the idea that driving and drinking do not mix. When visiting Finland I saw one of the work camps outside of Helsinki where dignified city fathers who had imbibed more than their share engaged in physical labor because they were convicted of driving while intoxicated. Punishment there is universally applied. Ms. Canon summarizes the point cogently:

Had the law been precise and the penalties certain and irrevocable, it is more than probable that he would have called a cab or found a non-drinking friend to drive him home, just as his Finnish competitors do at home.

Some might object to S. 3519 because it imposes Federal standards on the States. I believe such Federal guidelines should only be imposed when absolutely necessary. But as Ms. Canon states:

> Neither Federal nor State governments have effectively persuaded the driving public that responsible driving after drinking is not possible.

I believe that S. 3519 is an important part of that persuasion process and I hope that my colleagues will join me in the effort to combat this national crisis.

I ask unanimous consent that the article by Belle Canon, entitled "An Olympic Lesson for Drinking Drivers," from the Washington Post of Saturday, July 31, 1976, be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

An Olympic Lesson for Drinking Driver

(By Belle Canon)

Portland, Ore.—Just after midnight, his MGB roadster headed into a gentle curve. The street was a quiet residential one. Only a light touch on the steering wheel would guide the open car around the bend. Instead, the car crossed the road, jumped the curb, crashed into a stone embankment and flipped over. Then all was silent.

Another ordinary car accident. But pinned beneath the shattered steel was no ordinary young man. Dead at 24 was Steve Prefontaine, who held almost every long-distance track record. He was the shining hope of the U.S. Olympic Track and Field Team to take a gold medal at the '76 Olympics.

He has been missed at Montreal.

Though his death certificate noted "traumatic asphyxiation" as the cause of death, the National Safety Council will list that fatality of May 30, 1975, as having been caused by "driving while under the influence of liquor." The Eugene, Ore., police reluctantly revealed to the press that Prefontaine's blood alcohol level (BAL) at the time of the accident was .16 per cent, far exceeding the level allowed by Oregon law for the safe operation of a motor vehicle.

If Prefontaine was no average American, so far superior to most of us in talent, physical fitness and drive for perfection, his reaction on that day of stress was unfortunately typical. To relax, to celebrate a track meet with Finnish track stars, he drank and then, making a fatal error, decided to drive home.

For part of the evening he was with one of his closest friends and fellow runner, Frank Shorter. Interviewed by reporters after the accident, Shorter refused to estimate how much Prefontaine had drunk that night, saying only "But it was enough to affect his driving."

Methods for making such estimates have been devised by the Alcohol Safety Action Project. A person of Prefontaine's slight build would have his "driving impaired" if his BAL was in the range of .05 to .07 per cent. He would have reached that low level of intoxication by drinking either three shots of liquor or three glasses of beer within a 2-hour period. But to reach his blood alcohol level of .16 per cent he would have had to drink about 3 times more than that.

The tragic loss of one Prefontaine may point up more glaringly than the tens of thousands of others who will be killed again this year, the failure of our society to squarely face the problem. Neither federal nor state governments have effectively persuaded the driving public that responsible driving after drinking is not possible.

Other countries, with far fewer resources than the United States, have acknowledged and attacked the problem and then eliminated it. The law and the strict enforcement of it have been their tools.

In most Scandinavian countries, the law states simply that it is a crime to drive a car with a blood alcohol level of .05 per cent or more. Violation of that law and conviction of that crime is dealt with swiftly and surely with automatic jail sentences.

In Finland, any one caught driving with "any detectable trace" of alcohol in his blood would go to jail. Even without accident involvement, the convicted faces up to five months in prison. If the drinking driver injures or kills an innocent victim, the sentences can be up to 10 years in jail with hard labor part of the punishment.

In Norway, the penalty for anyone driving with a blood alcohol level of .05 per cent or more is three weeks in jail. In Sweden, it is one month.

The law, making no distinction between politician, mother or royalty, is enforced every time. A recent Swedish poll found that 63 per cent of the population strongly supported mandatory prison penalties and an additional 27 per cent felt the sentences should be more severe.

While the legal profession and social workers in this country are still debating the issue "Does jail rehabilitate?," other countries have proven that the mere threat of jail deters drinkers from driving. Their laws have not resulted in filling the jails. Their laws have simply convinced the public that the risk of driving after drinking is too great.

A few limited trial projects in the U.S. have met with startling success.

Here in Prefontaine's home state, one county launched an all-out effort to get drunks off the road. Washington County, under the direction of Sheriff Warren Barnes, set up a pilot project called "Reduction in Deaths Through Enforcement" (RIDE). The coordinator, Lt. William Probstfield, enlisted the cooperative efforts of all the county's police agencies, district attorneys and judges to test the effectiveness of using maximum penalties allowed by law, rather than the minimum, for driving under the influence of liquor.

To aid jury convictions, Gil Bellamy, Oregon Traffic Safety Commissioner, supplied every county patrol car with a breathalyzer to measure alcohol levels and with video tape equipment to record the driver's words and actions. When juries were exposed to the evidence of actually seeing the defendant staggering and hearing his slurred, fuzzy speech at the time of his arrest, the conviction rate jumped to 80 per cent. Elsewhere in the state, it was often less than 50 per cent.

Those convicted in Washington County under the RIDE program were sentenced to six days in jail, had their licenses suspended for 60 days and were placed on probation for six months to one year. As a result of the program, in 1973 and 1974, Washington County's per capita death rate was reduced to 16.6 percent—less than half the death rate in the rest of the state.

Yet, despite overwhelming evidence that heavy sentencing of all drinking drivers does, in fact, change their behavior and keep them from getting behind the wheel after drinking, state legislatures steadfastly refuse to consider laws with automatic jail penalities. Even in Oregon, where the RIDE program proved what might be achieved, the last legislative session reduced the first offense of drunk driving from a crime down to a traffic infraction. Under the new law, the RIDE project would have been illegal.

Nationwide, judges generally have the last word. Given that choice by law they still prefer to levy fines and suspend licenses even when the law provides them with the option of jail. Attorneys specialize in convincing the court of their drunk clients' special circumstances that should excuse them of fault.

With sush permissiveness, drivers continue to believe themselves capable of driving after four or more drinks within an hour. They have been proven wrong by countless studies as well as the silent testimony of over a million victims.

Steve Prefontaine was no alcoholic. He could not have maintained the physical stamina to win at long-distance running if he had been. He was unusually bright, and the evidence suggests that he was a law-abiding citizen. Had the law been precise and the penalties certain and irrevocable, it is more than probable that he would have called a cab or found a non-drinking friend to drive him home, just as his Finnish competitors do at home.

If he had, today he might be in Montreal, holding that elusive gold.

CAPITAL FORMATION

Mr. THURMOND. Mr. President, the most desirable method by which the United States is to provide for capital investment in the future is a question which has been debated recently in many circles. The debate has centered around whether the needs for investment capital will be met by private or Government means; that is, by voluntary savings and investment or by coercive taxation of the general public. In a recent speech, Mr. Reginald H. Jones, chairman and chief executive officer of the General Electric Co. addressed this point.

Mr. President, in order that my colleagues and other readers of the Record may have the benefit of Mr. Jones' speech, "Capital Formation: The Problem Remains," I ask unanimous consent that it be printed in the Record.

There being no objection, the speech was ordered to be printed in the Record, as follows:

Capital Formation: The Problem Remains

(By Reginald H. Jones)

One of the things you learn in life is that yesterday's crisis is today's bore. This is especially true in our media-oriented society, where the public perpetually demands some new problem to sensationalize. Never mind if the problem is solved; if it is discovered, dramatized, and reduced to a conflict of interesting personalities, that is enough. Then, when the novelty is gone, the issue is relegated to the back pages and the Sunday discussion panels, and finally disappears as the media go on to other issues, other personalities.

THE "CAPITAL FORMATION" DEBATE

The issue of capital formation never was one that excited much public interest, and probably never will unless we can more dramatically relate it to jobs and pocketbooks. But at least for a year or two the press and the politicians found that these two strange words—most of them had never even heard of "capital formation" before—had in them the power to provoke strong feelings among thoughtful people, especially businessmen, economists, and tax experts. There even seemed to be a certain recognition that our very painful problems of double-digit inflation, recession, and unemployment were in some way related to the failure of this country to plow back enough of its output into the modernization and expansion of its productive capacity. And so for a while, we had a fairly lively debate in the financial media and even had a few editorials on the subject.

To be completely fair about it, both the

Administration and the Congress have taken the matter fairly seriously. With the help of organized labor we did see an increase in the investment tax credit from 7% to 10%, and started discussion of other measures.

But in our grand tradition of assuming that problems which have been discussed have, ergo, been solved, we are now beginning to see—even in respectable bank letters and financial magazines — headlines saying, "Whatever Happened to the Capital Shortage?"

I would like to address that question today.

Has the capital formation problem disappeared?

The short answer, for those who have to hurry back to the office, is: *Yes* and *No*.

Yes for the short run, perhaps the next 12 to 18 months. And *No* for the long run. The capital formation problem has *always been* a long-term problem that is bound to appear and disappear with the dips and rises of the economic cycle. And in typical American fashion we say, "Why fix the roof when it isn't raining?"

SHORT-TERM OUTLOOK

For 1976 and much of 1977, it appears that business will have enough capital for its current operations and investments. The surge in profits in late 1975 and early 1976 produced more income at a time when net investment was actually negative: business was reducing inventory and holding the line on capacity. This of course produced a welcome improvement in most all of our balance sheets. Moreover, the decline in the rate of inflation greatly improved the quality of earnings; those phantom profits based on inventory inflation and inadequate depreciation were, to a somewhat greater degree, squeezed out as 1975 wore on. At the same time, interest rates have declined from their double-digit levels, the stock market has made a comeback, and funds are again available for those who survived the recession.

This is undeniably good news. We do not see any capital problem this year or next unless the early surge of profits, which is normal in a recovery period, is aborted by controls or that innocent-appearing variation of controls, an "incomes policy." Its interesting to remember that the surge of profits in the 1971–72 recovery *was* aborted by the imposition of controls, and look what happened. Among other things, industry was pushed close to bankruptcy in the ensuing recession, and many smaller companies went over the brink, because of this unwise policy of capital starvation in the early stage of the recovery.

But assuming that we are wise enough to avoid economic controls or incomes policies, business will have the funds it needs to operate this year and next.

The time to watch—and the time to prepare for—is the mature phase of the recovery, say 1978 to 1980, when profits level off or even fall, and capital spending on new equipment continues under prior commitments. Then, unless the tax laws have been changed in the interim to provide the needed flow of funds, we can expect a revival of the same financial problems that ruined our balance sheets and aggravated both inflation and unemployment in the painful years just past.

Perhaps our more optimistic economists will say that doesn't matter; this cyclical pinch in corporate funds is the way we cut off excessive expansion and keep the economy healthy.

I wish that were all there is to it. But my concern is that we are dealing with something more than a cyclical swing; we are dealing with a long-run problem of underinvestment, a long-term deterioration of capacity to compete in world markets, and a long-term decline in our incentives to take risks, innovate, and create new jobs for an expanding labor force.

Let's examine some of the relevant data.

CAPITAL NEEDS

Many studies have been made in the past few years on the capital needs of business in the coming decade. The results vary according to the assumptions and the politics of the people who made or sponsored the studies. But they all agree that the capital needs of business will be considerably larger in the decade ahead—roughly tripled in terms of current dollars. And the reasons are not hard to find.

Our industrial machine is aging and obsolescent compared with our competitors in Europe and Japan. We must not only modernize, but expand the capacity of basic industries where shortages are expected to appear. Over and above these basic needs, there is the extra capital required to meet governmentally mandated standards of pollution control, health, and safety. There's the capital required to develop our indigenous energy sources of coal, oil, gas, and uranium, along with the equipment to process and transport it. And the need for working capital increases with inflation. How much money are we talking about?

The President's Council of Economic Advisers says that real business fixed investment—excluding the need for working capital—will have to rise to 12% or more of GNP in 1975 through 1980, as compared with the 10.4% averaged over the decade 1965 through 1974, in order to reduce the unemployment rate to 5% by 1980. And since real business fixed investment actually declined during the recession years 1974 and 1975, we have some catching up to do. Business will have to invest 13% a year in 1977 through 1980 in order to provide the jobs needed to soak up unemployment.

Our GE economists say that under the present tax laws we will be lucky to reach 10% of GNP in this period, because of inadequate funds and incentives to invest.

DECLINING PROFITABILITY

The profit figures for 1976 look mighty encouraging compared with the depths of the recession, but there has been a basic, long-term decline in corporate profitability. Reported profits before taxes fell from 10.9% of GNP in 1965 to 8.0% in 1975. But look what happens when you adjust for inflation. Removing phantom inventory profits and underdepreciation, we see that profits have actually dropped from 11.2% of GNP in 1965 to 6.8% in 1975.

Pre-tax operating profits expressed as a percentage of the replacement cost of the stock of plant, equipment, and inventories have plummeted from 14.7% in 1965 to 8.2% in 1975.

Underdepreciation has also been a major depressant on the funds available for investment. Because capital recovery allowances are based on historic original costs rather than the inflated cost of replacing obsolete plant and equipment, the Commerce Department conservatively estimates that industry was short-changed by about $11 billion at the end of 1975.

With internally generated funds declining, industry has turned to outside sources for capital funds. There, the choice is either to issue new equity shares or go into debt.

GOING INTO DEBT

Over the past twenty years, new equity shares have provided only 3.5% of the total new funds raised by nonfinancial corporations as shown on chart 3. New debt, on the other hand, has been used to meet a growing share of corporate financial needs, averaging close to 40% during the past five years, compared with 30% during the first half of the 1960's. Why the preference for debt?

For one thing, with profit margins and return on investment declining, savers prefer to lend their money instead of risking it in equities that offer a small and uncertan return. But there is also a strong bias in the tax structure. Interest and dividends are both costs of capital—fees paid to people for the use of their savings. But interest is tax-deductible, and dividends are not. Hence the tax structure is pushing corporations into debt.

Chart 4 shows the impact on corporate financial structures. We use a rolling five-year average to smooth out the year-to-year swings. During the past five years, corporations floated $3.20 in new debt for every $1.00 of new equity (which includes retained earnings as well as new share issues). This contrasts sharply with the ratio of $1.42 to $1.00 during the first half of the 1960's. It also contrasts with the long-term trends of 1.26 to 1 from 1955 to 1967, when the plunge into debt really began.

As a result of the excessive debt and the drying up of internally generated funds, corporate balance sheets place greater restraints on corporate investment. Chart 5 shows that in 1955, the liquid financial assets of the non-financial corporations were 62.4% of their current liabilities. By 1965 that ratio had fallen to 40.7%, and by 1975 it was down to 33.7%. Lower capital spending and higher profits in 1976 and '77 are going to improve that picture temporarily. But in 1978 to '80, as profits level off and capital needs increase, we can expect the long-term decline to reassert itself.

Corporations in these circumstances are just not going to be able to make the long-term capital investments required in the late 1970's, nor in the years beyond. What must be done to assure an adequate level of capital formation and job formation?

TAX PROPOSALS

We would certainly support the extension of the incentives enacted in 1975, making the 10% investment tax credit permanent and also making permanent the tax cut on the first $50,000 of corporate income to help the struggling small businessman. But two other areas of tax policy must be changed over a period of years, starting immediately.

The Congress should legislate a capital cost recovery system which will allow producers to adjust their depreciation or capital allowances to compensate for the ravages of inflation. A number of methods are available, and it is possible to phase these adjustments in over a period of years to minimize the revenue impact. The important thing is to get started.

The other area requiring attention is integration of corporate and individual income taxes to eliminate the bias in favor of debt rather than new equity. Again—there are several ways to get this done, and for revenue reasons it will have to be phased in, but the important thing is to select a method and get going.

In both these areas of taxation—capital cost recovery and the integration of corporate and individual taxes—our principal foreign competitors are well ahead of us. There seems to be little recognition in the Congress of the importance of tax policy in keeping American industry competitive in the battle for exports and the related jobs here in the United States.

For example, we must stop the drive of the so-called "reformers" in Congress to tax foreign-source income *before* it is received in the United States. No other industrialized nation would even think of such unfair anticipatory taxation on income not yet received, and France and the Netherlands do not even tax foreign-source income at all.

THOSE OVERSEAS INVESTMENTS

Much of the pressure to pile more taxes on the multinational corporations derives from the allegations that our overseas investments export jobs and capital from the United States. Precisely the opposite is true.

The foreign affiliates of American companies account for about 50% of all U.S. exports of manufactured products—either directly or through on-the-spot business contacts. This was demonstrated in a major survey last year by the NAM and the Business Roundtable. While the unions have focused much attention on jobs lost through imports, much less attention has been directed to the much larger number of jobs created by exports—in which our overseas affiliates play a major role.

Using governmental statistics, our GE economists have computed the net effect of foreign transactions on U.S. manufacturing jobs in 1974. Exports created 8,500,000 jobs in the U.S., while 2,800,000 jobs were lost due to imports. Thus we had a net employment gain of 5,700,000 jobs due to foreign transactions.

As to the effect on capital funds—investments overseas are *not* a diversion of scarce capital from the U.S. After the initial investment, these foreign affiliates are financed largely by foreign funds. Funds from the U.S. have amounted only to 13% for all industry, and 9% for manufacturing affiliates. The rest come from *foreign* external and internal sources.

Thus, our foreign investments are leveraged by foreign funds, and the returns from these leveraged investments, as they flow back to the United States, add more to our capital store than we paid out—a net inflow of $6.7 billion in 1975. It would surely be folly for the U.S. government to place its multinational companies at a further tax disadvantage in international competition for the sake of shortrun revenue advantages that would disappear as the golden goose dies.

Likewise the effort to repeal the DISC incentives for exports is very short-sighted. In all the arguments about the DISC *referral* of taxes on part of the profits on exports, there is no recognition of the importance of these DISC funds as necessary working capital to stay in the export business. General Electric's experience is that it takes about twice as many dollars of working capital for export business as it does for an equivalent amount of domestic business because of the high receivables and the long-term credit arrangements necessitated by foreign competition. We have used our DISC funds to expand and finance our export business. For the government to welsh on that understanding by demanding that we now pay these deferred taxes and eliminating deferral on future orders would be a big blow to our ability to finance further export business. Somehow, we must get across the fact that the DISC tax deferral is an important part of the capital supply picture, affecting our ability to compete for exports and jobs.

THE FUNDAMENTAL QUESTION

Getting back to the basic subject of capital formation: the fundamental question is how we in the United States want to meet our needs for investment capital—by private or governmental means? By voluntary savings and investment, or by coercive taxation of the general public?

Voluntary private investment, under a profit-and-loss discipline, has been the traditional and eminently successful approach in the United States. Government cooperation has often been required and forthcoming; certainly the railroads, which soaked up 10% of our GNP plus a lot of foreign capital as we spanned the continent, could not have been built without generous government land grants and a favorable political climate. And like the railroads, some technologies important to the national interest in the future will involve such huge risks and long-time payouts—if ever—that they may be beyond the capacity of private investment alone.

But aside from these necessary partnerships between government and business, it is important that we preserve the voluntary, private enterprise approach to the generation and allocation of capital. Having seen what happens to economic progress and human liberty wherever socialism has been tried, I think most Americans would heartily agree.

PRELIMINARY NOTIFICATION PROPOSED ARMS SALES

Mr. **HUMPHREY**. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive advance notification of proposed arms sales under that Act in excess of $25 million or, in the case of major defense equipment as defined in the act, those in excess of $7 million. Upon receipt of such notification, the Congress has 30 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulates that, in the Senate, the notification of proposed sale shall be sent to the chairman of the Foreign Relations Committee.

Pursuant to an informal understanding, the Department of Defense has agreed to provide the Committee with a preliminary notification 20 days before transmittal of the official notification. The official notification will be printed in the record in accordance with previous practice.

I wish to inform Members of the Senate that such a notification was received on July 30, 1976.

Interested Senators may inquire as to the details of this preliminary notification at the offices of the Committee on Foreign Relations, room S-116 in the Capitol.

GEORGE W. LEE

Mr. **BAKER**. Mr. President, today I will be necessarily absent to attend George Lee's funeral in Memphis.

I rise now to express my regret at his passing. Lt. George W. Lee, of Memphis, was for many decades a leader of black Republicans in Tennessee and throughout the Nation.

Lieutenant Lee was a delegate to every Republican National Convention from 1940 until 1964, and made a seconding speech for Senator Robert A. Taft at the 1952 convention. In 1956, President Dwight David Eisenhower honored Lieutenant Lee at a ceremony opening the George W. Lee Post Office Building in Memphis.

Lieutenant Lee, who served with the U.S. Army in World War I, also was an author, who wrote "Beale Street, Where the Blues Began," in addition to other books. At his death this past Sunday, Lieutenant Lee was culminating a successful business career as a vice president of the Atlanta Life Insurance Co.; and he had been honored by the placing of his portrait in the Tennessee State Capitol in Nashville.

I personally knew Lieutenant George Lee and of his commitment to black Americans, the Republican Party, and his country. It was a great honor to have known him, and I respectfully extend my sympathy and deep regret to his family and friends.

EMPLOYMENT TAX CREDITS AS A FISCAL POLICY TOOL

Mr. **BENTSEN**. Mr. President, one of the major problems we faced during the recession of 1973–75 was how to create the millions of jobs needed by our Nation's unemployed workers without stimulating new inflation or spending billions of taxpayers' dollars on expensive job-creation programs.

In the midst of our running battle with the Ford administration over anti-recession measures—the income tax cut, public works and public service employment bills, and monetary policy—I think we overlooked a new and inexpensive fiscal policy measure that can be used to both create jobs and reduce inflation—an employment tax credit.

Last week, the Economic Growth Subcommittee of the Joint Economic Committee released a study entitled "Employment Tax Credits as a Fiscal Policy Tool," which was prepared by Gary C. Fethke and Samuel H. Williamson, associate professors of business administration and economics, respectively, at the University of Iowa.

Last November, I and six of my colleagues introduced S. 2629, "The Employment Tax Credit Act of 1976." Although the tax bill is too far along for enactment of an employment tax credit this year, after reading the Fethke-Williamson study, I am even more convinced that a well-designed employment tax credit would be a promising way to both increase the number of jobs and hold down prices during any future recession, with a minimum of government interference in the economy.

Our recent experience with rapidly rising prices combined with high rates of unemployment indicates that we need to look for new long-term approaches to keeping our economy out of recessions and avoid the kinds of crash programs that hurt the private sector and just threaten to send us into new spurts of inflation.

I am very impressed by the potential of using an employment tax credit to accomplish this goal.

Until the 1973–75 recession, most economists were confident that an economic downturn could be cured by an intelligent combination of expansionary fiscal and monetary measures. An economic recession was viewed as the result of a reduction in the demand for the Nation's output of goods and services—a slowdown in business investment, an easing of consumer demand, a reduced growth in government spending.

Such a decline in demand would reduce production which, in turn, would lead to fewer jobs and higher unemployment.

The recommended cure was to restimulate demand. Reducing taxes would stimulate consumer spending; increasing government spending for public works or public service employment would create new jobs; and expanding the money supply more rapidly would lower interest rates and speed up business investment and homebuilding.

The result would be a rebound in demand, followed by increased production, more jobs and lower unemployment.

Or so it would seem.

In 1973–75, however, our deep recession—the worst since the Great Depression—was accompanied by a vigorous inflation in consumer prices.

During previous recessions, the excess supply of goods and labor acted to temper inflation—and, on occasion, even to reduce prices—so that expansionary monetary and fiscal measures could be actively employed to restimulate the economy without generating inflation.

But not during this recession. The almost unbelievable economic mismanagement of our economy that occurred under the Nixon and Ford Administrations since 1969 yielded an inflation rate of 8.8 percent in 1973 and 12.2 percent in 1974. As a result, the Administration refused to cooperate with Congress in developing measures to keep unemployment from rising to the 9 percent level recorded early in 1975 or to reduce it rapidly to a more acceptable level. The Administration argued that—because of their own misguided policies—too much concentration on reducing unemployment would only have stimulated permanently high rates of inflation.

What was needed was a fiscal policy measure that could be used to stimulate employment without creating new inflationary pressures.

Professors Fethke and Williamson argue that a variable-base employment tax credit would do just that.

The plan proposed by Fethke and Williamson would grant all employers a tax credit for all workers on the payroll above a base employment level. The base employment level would be adjusted to reflect economic conditions in the Nation. For example, during an economic downturn the base employment level for each firm could be set fairly low, to about 75 percent of the firm's full employment level.

Then each worker hired, or kept on the payroll, above the firm's new base employment would earn the firm a tax credit.

This measure would give all firms in our economy an incentive to retain workers during a downturn, thus minimizing unemployment, since each worker laid off would reduce the firm's tax credit.

Conversely, an employment tax credit would give firms an incentive to speed hiring during a recovery, since each new worker would increase the tax credit.

During the boom period, the base employment level could be adjusted back upward, or the credit could be eliminated entirely, thus reducing the incentive to hire new workers at just at the time when tight labor markets would normally lead to inflationary wage and price increases.

The credit would be phased in during period of rising unemployment and phased out during periods of full employment—thus providing a far more stable employment climate in the private sector. This would reduce the need for higher cost public service jobs and prevent the loss of pension benefits and seniority caused by the present fluctuations in employment levels.

This would not be an expensive program. During a recession, the new employees hired as a result of the tax credit would no longer require unemployment compensation; rather they would be paying income taxes, supporting the government instead of being supported by it.

These new employees would see their spending power increased and therefore could buy additional goods and services, which would in turn bring employment to even more workers, and further increase Government revenues.

And you will be surprised to learn that so powerful a tool for creating jobs during a recession could also work to reduce prices.

Even though the take-home pay of workers would not be affected by a variable employment tax credit, the cost to the employer of hiring new employees would be reduced by the amount of the tax credit earned. This would reduce the average cost of producing goods and services, thus encouraging business firms to hold prices level or even to reduce prices.

This is a contrast with more traditional antirecession measures. On the one hand, an employment tax credit would stimulate demand in the economy, just as any expansionary fiscal policy measure would, by reducing taxes. On the other hand, labor costs would be reduced, thus encouraging firms to keep up production without raising prices.

Aggregate supply would be expanded as well as aggregate demand, jobs would be created, prices would be held down, and there would be a minimum of new Government programs and Government interference in the economy.

To test just how much difference a variable employment tax credit would make in the performance of our economy, Professors Fethke and Williamson took a standard model of the American economy—like that used by Data Resources or Chase Econometrics—and used a computer to estimate what would have happened to unemployment and prices in 1975 if we had allowed firms to take a tax credit equal to 1 percent of the wages they paid to all workers above the base employment level.

They found that with a 70-percent base employment level, unemployment in 1975 would have been 1 percentage point lower than it actually was—7.5 percent instead of 8.5 percent—and inflation would have been 0.4 percent lower—6.6 percent instead of 7 percent.

A larger credit, say 5 percent of the wages of qualifying workers, would have reduced unemployment and inflation even more.

Although a full understanding of how an employment tax credit works would require a careful reading of the study by Fethke and Williamson, they have summarized a number of their conclusions in the study's last chapter, and I ask unanimous consent that this summary be printed in the Record.

There being no objection, the summary was ordered to be printed in the Record, as follows:

4. Summary and Conclusion

The purpose of this paper has been to examine policy implications of a universally applied employment tax credit. The program is intended to be a short-term supplement to existing fiscal and monetary policy tools. The basic rationale of the program is to reduce the cost of labor to business firms and thereby initiate an increase in the utilization of labor. Presumably, the credit will be instituted during periods of declining business activity, and during periods when actual employment is below potential employment. The major conclusions in this investigation are:

(1) In the context of a standard multi-equation macroeconomic framework, our analysis and numerical calculations indicate that a variable base employment tax credit will increase employment and real output without necessarily increasing the aggregate level of prices.

(2) In contrast to reductions in personal and corporate income taxes, which act to expand aggregate demand and thereby aggregate prices, a universal employment credit will increase both aggregate demand and aggregate supply. Thus, under a variety of financing strategies, the employment tax credit will have a dual impact on employment and output, expanding both supply and demand. This dual impact will typically help to mitigate price rises usually associated with an expansionary fiscal program.

(3) Much of the criticism of employment tax credit policy is predicated on the assertion that short-run labor demand relationships are not responsive to the price of labor services. We offer the following response to this argument. There is not a body of empirical evidence which points to zero price elasticities of demand for labor in the short run. Even in the more capital intensive sectors of the economy such as manufacturing, empirical evidence indicates that while price elasticities of demand for labor are low, they are not zero (Coen and Hickman, Rosen and Nadiri, Timsley and Berndt, Kesselman and Williamson). Also, given the general pattern of rising wages and employment experienced in the United States during the postwar period, it is unlikely that price elasticities of demand can even be identified statistically. Further, there are no reasons to believe, either conceptually or empirically, that demand for labor is not responsive to changes in price in the more labor intensive sectors of the economy where over half the U.S. work force is employed.

(4) Another criticism of employment tax credit policy is that it will provide windfall profits to business firms, particularly during the expansion phase of business activity when firms are intending to increase their utilization and hiring rates anyway. There are three responses to this criticism. First, a variable base program calls for adjustment of the credit base to accommodate changing business conditions. The base can be decreased during declining periods of business activity, and can be sharply increased during expanding phases. Adjustment of the base requires careful administration, but will reduce the likelihood of windfall profits. Second, the full effect on profits is a macroeconomic as well as a microeconomic phenomenon. In all numerical calculations on the macroeconomic model, labor income always increases in response to the credit; profits increase only when the credit base is quite low, and only then under the more expansionary forms of government financing strategies. Finally, base adjustment of the program appears to be an easy, immediate, and effective method of changing the level of aggregate demand in the economy. The program deserves consideration on this basis alone.

(5) Both employment and investment tax credits are intended to encourage intertemporal substitution of inputs rather than permanent substitution of one input for the other, that is, the credits are intended to encourage firms to increase current levels of employment and investment. There is considerable empirical evidence, however, that

employment tax credits will be more effective in this regard than investment tax credits. In particular, employment adjusts to changes in prices at a much faster rate than capital, and this characteristic of employment will improve the performance of the employment tax credit as a short-run policy measure. Also, employment credits may stimulate employment of low income, marginally skilled workers who make up a disproportionate share of the unemployed. It will also stimulate employment in many areas of the economy where investment tax credits have little direct impact.

(6) The cost to the Government of an employment tax credit will depend on labor market characteristics, the credit base, and the method selected to finance the credit. A number of our calculations, which use current U.S. tax parameters, reveals declines in the Government deficit in response to a ceteris paribus increase in the credit, that is, the credit-induced expansion of tax receipts and contraction of unemployment benefits more than offset the loss in tax revenue attributed to the program.

PUTTING WOMEN IN FOXHOLES WILL WEAKEN ARMED FORCES

Mr. GOLDWATER. Mr. President, Hanson Baldwin, who is the retired military editor of the New York Times, occasionally writes and he has recently put on paper what he thinks about women attending the military academies. As my colleagues know, I was violently opposed to this and particularly was I opposed to the way it was handled; namely, no debate and no rollcall vote. In my opinion, this is going to come back to haunt every Member of the Congress who allowed it to happen because women, while they certainly can and should serve in the military, should never be in a position to be called for combat duty. I suggest that my colleagues read the comments of Mr. Baldwin. They are most cogent on this subject. I ask unanimous consent that this article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Waterbury Sunday Republican, Mar. 28, 1976]

PUTTING WOMEN IN FOXHOLES WILL WEAKEN ARMED FORCES

(By Hanson W. Baldwin)

Next summer, the sexual revolution breaches the walls of the service academies.

In the "most significant change in their history"—a change with portentous implications for the future of the armed forces and perhaps for the country—the U.S. Military Academy at West Point, the U.S. Naval Academy at Annapolis, and the U.S. Air Force Academy at Colorado Springs—are going co-ed.

An amendment to the Defense Appropriation bill, approved by Congress last year on a voice vote (despite the unanimous objections of the services) requires the admission and training of women on the same basis as men "except for those minimum essential adjustments" necessary "because of physiological differences."

Make no mistake about it, this vote-getting ploy may well mark a watershed in U.S. history.

It is my belief that this change is destructive—not constructive—to the military and to our past way of life. If it is fortified and perpetuated by the passage of the Equal Rights Amendment, the internal problems the services face—already greater than in any prior era—will be tremendously magnified, and the nation's family structure—the basis of any stable society—will inevitably be weakened.

Let us look, first, at the military, and specifically, the service academies.

NO TRADE SCHOOLS

The academies have as their only raison d'etre the production of professional officers for the combat forces. They are neither trade schools nor liberal arts colleges; their fundamental purpose is to produce the hard core of the nation's trained and dedicated fighting men to preserve the best traditions and experience of the past while developing the leaders of the future. If the academies deviate from this fundamental purpose, they are not worth their cost; Yale, Harvard, MIT, UConn are better suited for the scholar of tradition than West Point, Annapolis or Colorado Springs.

The maintenance of this fundamental purpose is the first problem the academies face in carrying out the co-ed law. For, on the books is another law—still unrepealed—which makes a built-in conflict inescapable. The service schools exist to produce professional combat officers, yet an existing law prohibits women from serving on combat ships or flying aircraft in combat. There is no law prohibiting women in foxholes, and the legislation that precludes women from serving aboard combat ships or planes can be repealed or nullified by passage of the Equal Rights Amendment. (Either alternative will introduce other and more serious problems to the services.)

But, as things now stand, women are to be forced against the services' wishes into combat schools for professionals, but then after expensive training, winnowed out and assigned to non-combat duties—a waste of time and money.

This is one problem. A second, which the new law dismisses in a phrase, is simply but significantly attributable to the difference in genders.

COSTLY TO TAXPAYERS

The "minimum essential adjustments" due to "physiological differences" which the co-ed law permits will cost the taxpayers hundreds of thousands—probably several millions—of dollars for separate rooms (in the same dormitories), new uniforms, separate washroom and toilet facilities, beauty parlors, etc.—all intended to buy the votes of Women's Libbers. More important, the "minmum . . . adjustments" mean an inevitable reduction in standards.

Physical aptitude tests for admission to the service academies already have been altered to meet one physiological difference between male and female in arm, chest and shoulder muscles. Few women, for instance, can do pull-ups. Instead of this requirement for male candidates, women will do a new test, specially tailored for them, called "flexed arm-hangs." Nor is there any minimum requirement—other than general good health—in these tests; norms for females—quite different from and lower than, norms for males—will gradually have to be developed.

The new law will not mean—indeed, cannot mean—equality of the sexes, for there is no such thing; men and women are different, and personally, I say, with the French, Vive la difference. But it will mean—inevitably, it must mean—separate and preferential treatment for the women in the program at the expense of the men, and more important, at the expense of the overall quality of the officer corps.

A kind of unavowed but tacit quota system—as un-American when applied to the sexes as it is to races—will be developed. In fact, already each of the academies has set its tentative quota of female cadets at (variously) 80 to 150, and if anything like this number is actually admitted it will be at the expense of stronger (physically) and perhaps better fitted (mentally and academically) male candidates. And women in the academies will add a divisive minority; they will not promote esprit or enhance cohesiveness.

The Navy, at least, already has a touchstone by which to gauge some of the effects of the new law. A recent article in the U.S. Naval Institute Proceedings (September, 1975) by Lt. Richard P. Shipman, USN, entitled "The Female Naval Aviator: A Free Ride?" outlined some of the problems which the politically motivated effort to put women into the same military billets as men have produced. Last year, under pressure from the politicians, the Navy opened the doors to women aviation cadets, to be assigned—when they had won their wings—to non-combat aircraft, i.e. transports, etc.

PREFERENTIAL TREATMENT

Lt. Shipman points out that the women receive "equal pay and opportunity but are not statutorially and physically able to produce the equal qualification and performance." He reveals that none of the eight women accepted for pilot training were able to meet the minimum physical training standards at the Pensacola pre-flight school, yet all the male candidates were required to meet the normal standards. Even more important, the women were not needed; their admission was purely politically motivated; there are plenty of male candidates for Navy wings. These women—now flying, but limited to shore duties—occupy desirable billets, much sought after by male aviators after long absences from their families in protracted periods of sea duty.

There is thus little room for doubt that women candidates for the service academies, like women aviators will—indeed, MUST—receive preferential treatment if they are to be included among the hitherto all-male ranks. Different and separate standards for male and female must be established; the immutable law of nature simply has made man different from woman, and the military tasks women fill should be carefully selected for, and even tailored to, their capabilities.

Unquestionably, those capabilities are many, and there is no doubt but that women can fill many military occupational specialities.

Spurred in part by the feminists and the prods of ambitious congressmen, and, in part, by the services' frantic search for "bodies" to replace draftees and to fill the ranks of the all-volunteer forces, the armed forces already count almost 100,000 females in uniform, almost five per cent of their total strength—a number expected to increase to 130,000 in 1978, some 6.2 per cent of the total. These women are filling all sorts of non-combat jobs as air traffic controllers, mechanics, parachute riggers and so on, in addition to more traditional roles in administration and supply, and as nurses, doctors, lab assistants. Many of them are filling these jobs with great ability—in some cases better than their male peers—and are freeing men for combat duties.

But it is nevertheless clear that women in the armed services in large numbers already pose problems which may—and sometimes do—loom larger than the ones they have been enlisted to help solve.

And one thing the services can do without today is more problems. Probably never in their history have they faced such severe threats to their internal morale and discipline and effectiveness. The thin line that distinguishes elite military forces from an armed mob can be easily over-stepped, particularly in an over-permissive society and an over-liberal democracy.

The old will 'o the wisp of a "democratic army" is a contradiction in terms; there CAN be an army of a democracy, but a "democratic army" is a uniformed armed mob.

Yet many of the trends and events, much of the atmosphere, of the recent past have been pushing the services across this thin line. The "fragging" of officers and non-coms and the refusal of duty by army units in Vietnam, the race riots and fights between men in uniform in this country and the extensive mutinies in the Navy were so wide-spread a few years ago they almost reached a point-of-no-return.

The reductions in standards for recruiting—specifically the enlistment (in attempts to meet the needs of the all-volunteer services) of low mental category minority groups—led to some of the worst moments in the history of the armed forces. Sabotage, once a virtually unheard of crime in the services, was rampant. The Senate Internal Security subcommittee recently reported that in the decade 1965–75 there were 5,256 sabotage incidents in the Navy alone.

Things are better today, though by no means good. Two dangerous trends still persist—to politicalize the armed services and to use them to force social reforms. (The co-ed law for the service academies is part of both.) The chimera of egalitarianism in uniform is still the goal of some of the liberal vote-scrambling politicians who support them. Radical civilian groups are still doing their best to "democratize" the Army.

Public service unions have announced their intention of trying to unionize the armed forces—first the Reserves, then, perhaps, the regulars—a project that, if carried out, would reduce to absurdity the very idea of any armed forces (which is perhaps what its sponsors hope to do).

As the co-ed law goes into effect, racial tensions and drugs are still the prime problems in the services. Polarization of the races in uniform, though slightly eased, has continued (most marked in the Army in Germany, and aboard some of the Navy's largest ships), and the use of drugs—on and off duty—is widespread, with "pushers" in uniform actively promoting drug sales to soldiers, sailors, airmen, and Marines.

WOMEN WORSEN PROBLEMS

The "band of brothers" ideal, which kept our services high-stepping, proud outfits for years, has gone irretrievably; discipline is still in many units too permissive; the chain of command has been impaired and the non-com and petty officer, the backbone of any military organization, is too often frustrated, disgusted or inexperienced.

Women in the services in large numbers simply worsen—they do not improve—these problems. Sexual frictions create jealousies and divisions (often of the worst kind); they exacerbate and do not ease, racial tensions. And, to other indiscipline, one must add, the threat of sexual promiscuity.

If women join the combat arms there is not much doubt that combat effectiveness will be reduced. Can one seriously anticipate that the cutting edge of the sword will be keen and bright in an infantry platoon, which includes a sizable group of women? And how would you like to command a fighting ship, with perhaps five to six per cent of its crew women?

As Americans usually do when the pendulum swings we are attempting to push the revolution in values—which has brought much good as well as considerable harm to our generation—to extremism.

No other armed services in the world assign women to combat roles in peacetime; none, except Russia, and the Montagnards and some Viet Cong and South Vietnamese units (who kept their families with them in the field), used women in combat during war. Britain employed thousands of women in uniform in many capacities in World War II; their combat duties, however, were largely limited to helping man antiaircraft guns in Hyde Park and around London, and in service during the blitz, on the Home Front.

Even beleaguered Israel—certainly in more need for soldiers than nearly any other nation—does not use them in frontline combat. It drafts a few women, but uses them only in supportive administrative, supply, technical, medical and similar roles, which require very little training. Contrary to popular impression, the use of women in the Israeli armed forces is far more restricted and far greater attention is paid to the fundamental differences between the sexes than is true in the U.S. armed forces today.

POLITICAL MOTIVATIONS INVOLVED

Yet the forced, politically-motivated admission of women to the combat schools of the armed forces—the service academies—is surely leading to, and is plainly intended as, a means of opening any and every job in uniform to women. And, if the Equal Rights Amendment is ratified, or the law prohibiting women in combat ships and planes is repealed, the floodgates are opened and, I believe the military effectiveness of the armed services, even now, too low, will be seriously degraded.

The credibility of deterrence is an issue; are we really in earnest about maintaining high-spirited, well-disciplined, combat-effective armed forces? I do not believe it can be done with the battle of the sexes superimposed upon the battle of the races and all the other tensions and troubles that have been plaguing our armed forces.

Women in combat jobs would have an ancillary but definite effect upon our already strained and fractionalized American society.

Phyllis Schlafly and others who have helped to lead the recent successful counter-attack against the strident Women Libbers believe that the co-ed law for the service academies must be viewed as part of the attempt to force passage of the mis-named Equal Rights Amendment. Certainly if the amendment is passed, there is general agreement among both legislators and lawyers that women WILL serve in combat jobs, and—according to both congressional studies and to Selective Service Headquarters judgments, they would clearly be liable to the draft if it should be re-instituted at some future time.

I happen to believe that the ERA is counter-constructive. It could well lead to a flood of litigation; it might well tear down the fabric of legislation painfully erected over many decades to protect, rather than exploit, women, and it will, if endorsed, insure a very troublesome period for our whole society.

Women in combat, a concept that would be nourished by ERA, is retrogression, not progression; it is a reversion to a primitive society, not a step towards an advanced one. And it would surely help to undermine still further what is anathema to the feminists—the distinct roles of the sexes in our society. For Man and Woman—both, I think, glorious and complementary genders—we would substitute the neuter, Person. Midship-Persons, Cadet-Persons, Soldier-Persons would be the stalwart defenders of our liberties.

It just won't wash. The family, since the caveman—and particularly since the influence of church and state endorsed the concept—has been the basic building block of stability. Yet, if the traditional male role of the father, as principal bread-winner, protector and fighter, is smudged or obliterated; if the female tends to fill this role, family stability, already imperiled in too many American homes, will be further eroded. Women in combat and passage of ERA would probably represent an additional step towards family disintegration.

The marked erosion in the ties of black families—noted by Daniel P. Moynihan—would be unquestionably extended to the whites. Fathers might well tend to drift away; equal rights, to far too many women, would mean, ultimately unequal obligations.

I am, like my father before me, an "Old Fashioned Fellow," and rather proud of it. I do not want to see, if we should have—as we shall—more Korea-Vietnams, a long-list of female casualties. (Sixteen U.S. nurses died in World War II, four American women in Korea, nine in Vietnam.) For women have provided in the past the yeast of our society; they have given American civilization its polish and its gleam. I do not want to see this tarnished.

I happen to believe that the past does have pertinence to the present, and that some of the idealistic, indeed, chivalrous, notions of yesterday should be perpetuated in the future. That old familiar saying—common to most of the nations of the West and expressed in our unwritten law of the sea, "Women and children first"—has to me a peculiar appropriateness. It distinguishes our society from the brutes.

I would like to see it continued as a symbol of our nation tomorrow.

I do NOT want my wife or daughters drafted.

The co-ed amendment and ERA are signposts to a road of danger. Let us look and weigh and measure before we pass the point-of-no-return.

THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, it has now been a quarter century since the General Assembly of the United Nations adopted the text of the Genocide Convention. On December 9, 1948, the United States voted for the adoption of this significant landmark in the development of international law.

It was my privilege in January 1975, to lead in helping to draft this convention and we are among the first to sign it. Today, over 70 nations have ratified this treaty. We have not.

Mr. President, millions of Americans will feel that a historic achievement has been registered if this convention at long last becomes an accepted part of the law of nations. I am convinced that the time is right and that the Senate must not delay any longer.

It seems to me that the United States should take every opportunity to champion the rule of law in the conduct of nations. It is imperative that we now give fresh vitality to our leadership in the struggle for human rights.

A PROUD RECORD ESTABLISHED BY THE JOINT ECONOMIC COMMITTEE DURING THE 94TH CONGRESS

Mr. HUMPHREY. Mr. President, in March 1976, the Joint Economic Committee commemorated the 30th Anniversary of its founding. Section 5(a), Public Law 304, 79th Congress, directs the Joint Economic Committee to make a "continuing study" of the economy and to report to the Congress each spring on the main recommendations of the President's Economic Report. The work of the committee is intended to serve as a guide to committees of Congress and to tell all of its members dealing with legislation relating to economic issues.

It was the United States which took to assume chairmanship of this prestigious committee, an assignment which has given me considerable satisfaction, despite the complexity of public policy and the troubled state of the Nation's and the world's economy. The impressive record of the JEC could not have been compiled without the dedication and excellence of the staff.

I would like to present for the record a review of the accomplishments of the Joint Economic Committee during the 94th Congress. I believe every Member will agree that economic questions affect the greater part of our legislative work here in Congress, and a review of the committee's work will make available a listing of publications as well as a preview of future work anticipated by the committee during the remainder of the 94th Congress.

The committee's major function under the Employment Act of 1946 is to report to the Congress on the main recommendations of the President's Economic Report. Such hearings were held at the beginning of each session of the 94th. In addition, full committee and subcommittee hearings were held on a broad range of subjects including energy, both foreign and domestic; agriculture; monetary policy; economic planning; housing; credit availability; financial problems of municipalities; urban problems; jobs and prices; economic growth; technology; capital formation; employment and unemployment; defense procurement; foreign investment; the international monetary situation; revenue sharing; problems of women, minorities, and youth; abuses of corporate power; and income transfer programs. Special studies were released dealing with, among other subjects, price stability, food prices, credit flows and interest costs, oil prices and profits, Chinese and Russian economic policies, and capital ownership.

The committee was given substantial new responsibility under the Congressional Budget Act of 1974 and works closely with the two budget committees in the review and evaluation of the administration's budget submissions and long-term projections, as well as making recommendations to the budget committees as to the appropriate fiscal policy to be followed in making decisions on revenues and spending.

A weekly news summary consisting of excerpts of items of economic importance from leading news media publications is distributed to Members of Congress. The Congress and a large number of public officials are also provided periodically with a news letter summarizing the major elements in testimony received by the committee and presented in the committee's reports and recommendations. These summaries are prepared without editorial comment and present widely divergent views on major economic issues.

Following is a list of the major publications released during the 94th Congress and presently available from the committee. Additional studies in the areas of employment, prices, economic growth, and the economic contribution of research and development will be forthcoming in the next few months.

I ask unanimous consent that the list of publications I have referred to be printed in the RECORD.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

JOINT ECONOMIC COMMITTEE PUBLICATIONS
94TH CONGRESS—1975–1976

HEARINGS

Review of the Economic Situation—January 1975.

The 1975 Economic Report of the President—January, February, March 1975.

Employment — Unemployment — Monthly 1975 and 1976.

Adequacy of U.S. Oil and Gas Reserves—February 1975.

Reappraisal of Project Independence Blueprint—March 1975.

The International Monetary Situation and the Administration Oil Floor Price Proposal—March and April 1975.

The Unemployment Problem—March 1975.

Five-Year Budget Projections—April 1975.

The Agricultural Situation—April 1975.

Defense Procurement in Relationships Between Government and Its Contractors—April 1975 .

Fast Breeder Reactor Program—April and May 1975.

Labor Market Policies for Full Employment—May and June 1975.

Monetary Policy and the Economic Outlook—May and June 1975.

Financial Aspects of the Budget Deficit—April 1975.

The Economic Situation—May 1975.

Allocation of Resources in the Soviet Union and China—June and July 1975.

General Revenue Sharing Program—June 1975.

Current Economic Situation and Outlook for the Housing Industry—June 1975.

State and Local Government Credit Problems—June 1975.

Mid-year and Long-term Budget Projections—June 1975.

National Economic Planning, Balanced Growth, and Full Employment—June 1975.

Employment Problems of Women, Minorities, and Youth—July 1975.

International Monetary Reform and Exchange Rate Management—July 1975.

Private Sector Credit Availability—July 1975.

The Economic Impact of Forthcoming OPEC Price Rise and "Old" Oil Decontrol—July 1975.

Mid-year Review of the Economic Situation and Outlook—July 1975.

Housing Outlook for 1975—July 1975.

Impact of Federal Estate and Gift Taxes on Small Businessmen and Farmers—August 1975—Joint Hearing with Select Committee on Small Business.

Technology and Economic Growth—July 1975.

U.S. Foreign Energy Policy—September 1975.

New York City's Economic Crisis—September and October 1975.

The IMF Gold Agreement—October 1975.

The President's Proposed Tax Cut and Budget Ceiling—October and November 1975.

Minnesota's Energy Outlook—October 1975.

Long-Range Economic Growth—October 1975.

Jobs and Prices in Chicago—October 1975.

Pollsters Report on American Consumers and Businessmen—October 1975.

The Role of Small Business in the Economy—Tax and Financial Problems—November 1975—Joint Hearing with Select Committee on Small Business.

Impact of New York City's Economic Crisis on the National Economy—November 1975.

National Economic Planning, Balanced Growth, and Full Employment—Part 2—November 1975.

Energy Conservation in Massachusetts—November 1975.

A Congressional Conference on "A Full Employment Policy: An Examination of Its Implications—December 1975.

Employee Stock Ownership Plans (ESOPs)—December 1975.

Control of Energy Resources—November and December 1975.

Current Services Budget—December 1975.

Jobs and Prices in Atlanta—December 1975.

Canadian Foreign Investment Screening Procedures and the Role of Foreign Investment in the Canadian Economy—December 1975 and January 1976.

Mississippi Economic Growth Programs—January 1976.

Jobs and Prices in the West Coast Region—January 1976.

Abuses of Corporate Power—January and March 1976.

The Future of State and Local Government Finances—January 1976.

The 1976 Economic Report of the President—January, February, March 1976.

Energy Conservation—February and April 1976.

Jobs and Prices in Fall River, Massachusetts—February 1976.

Jobs and Prices in Boston—February 1976.

Thirtieth Anniversary of the Employment Act of 1946—A National Conference on Full Employment—March 1976.

The Economics of Solar Energy—April 1976.

Public Service Employment Programs Financed Under the Comprehensive Employment and Training Act (CETA)—May 1976.

The Social Security System—May 1976.

Multinational Oil Companies and OPEC: Implications for U.S. Policy—June 1976.

Long-Term Economic and Budgetary Consequences of Current Defense Procurement Policies—June 1976.

Capital Formation—June 1976.

Mid-year Review of the Economic Situation and Outlook—June 1976.

U.S. Economic Relations with Latin America—June and July 1976.

REPORTS

The 1975 Joint Economic Report—March 1975.

Exchange Rate Policy and International Monetary Reform—August 1975.

The State Department's Oil Floor Price Proposal: Should Congress Endorse It?—June 1975.

Technology, Economic Growth, and International Competitiveness—July 1975.

Toward a National Growth Policy; Federal and State Developments in 1974—September 1975.

The 1975 Midyear Review of the Economy—October 1975.

The Proposed IMF Agreement on Gold—December 1975.

An Economic Evaluation of the Current Services Budget—Fiscal Year 1977—December 1975.

The 1976 Joint Economic Report—March 1976.

STUDIES

Credit Flows and Interest Costs—March 1975.

The Equal Opportunity Program for Federal Nonconstruction Contractors Can Be Improved—May 1975.

Studies in Price Stability and Economic Growth:

Paper No. 1—Inflation and the Consumer—February 1975.

Paper No. 2—Economic Policy and Inflation in the U.S.—April 1975.

Papers No. 3 and 4—International Aspects of Recent Inflation—August 1975.

Paper No. 5—Food Prices in 1975—July 1975.

Papers No. 6 and 7—The Impact of Inflation on the Full Employment Budget—June 1975.

Impact of Russian Grain Purchases on Retail Food and Farm Prices and Farm Income in the 1975 Crop Year—September 1975.

Achieving the Goals of the Employment Act of 1946—Thirtieth Anniversary Review:

Volume 1—Employment—Paper 1—On Giving a Job: The Implementation and Allocation of Public Service Employment—August 1975.

Volume 1—Employment—Paper 2—The Canadian Job Creation Model and Its Applicability to the United States—January 1976.

Volume 2—Energy—Paper 1—Oil Profits, Prices, and Capital Requirements—September 1975.

New York City's Financial Crisis—November 1975.

The Current Fiscal Position of State and Local Governments—December 1975.

Economic Growth and Total Capital Formation—February 1976.

The Fast Breeder Reactor Decision: An Analysis of Limits and the Limit of Analysis—April 1976.

Changing Conditions in the Market for State and Local Government Debt—April 1976.

A Review and Update of the Cost-Benefit Analysis for the Liquid Metal Fast Breeder Reactor (LMFBR)—May 1976.

Broadening the Ownership of New Capital: ESOPs and Other Alternatives—June 1976.

The Effect of Inflation on Federal Expenditures—June 1976.

Employment Tax Credits as a Fiscal Policy Tool—July 1976.

COMPENDIUM

China: A Reassessment of the Economy—July 1975.

AFL-CIO REBUTS CRITICISM OF HUMPHREY-HAWKINS BILL

Mr. HUMPHREY. Mr. President, the AFL-CIO Executive Council at its recent meeting issued a statement responding to the Ford administration's allegations that the Humphrey-Hawkins bill is inflationary and would put all unemployed workers on the Federal payroll.

The Council points out that full employment means higher production, higher productivity and lower unit costs, and therefore logically will result in a proper noninflationary balance between supply and demand. It concludes that there is no longer, if there ever was, a "trade-off" between unemployment and inflation, and that our country possesses vast unused and underused human and material resources. The council also notes that the bill provides for any necessary anti-inflation actions.

The council adds that the claim that Humphrey-Hawkins would lead to a vast increase in public sector employment at the expense of the private sector ignores specific provisions in the bill limiting access to "last resort" jobs.

I ask unanimous consent that the text of the AFL-CIO statement be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT BY THE AFL-CIO EXECUTIVE COUNCIL ON THE HUMPHREY-HAWKINS FULL EMPLOYMENT BILL, JULY 19, 1976, WASHINGTON, D.C.

The AFL-CIO strongly supports the Humphrey-Hawkins full employment bill as reasonable, realistic and achievable legislation. We believe it can be enacted into law this year.

But now the bill is under massive attack. The charges are that the measure is inflationary and that all unemployed workers would be put on the federal payroll. Neither charge is true.

Full employment is not inflationary.

First, full employment means higher production, higher productivity and lower unit costs. So a proper non-inflationary balance between supply and demand is a logical result of full employment and balanced economic growth.

Second, there is no longer, if there ever was, a "trade-off" between unemployment and inflation. Every time the U.S. economy has approached full employment in the past 25 years, inflation has been far lower than it is today. In recent years, unemployment and inflation have risen simultaneously.

Third, there are vast unused and underused human and material resources in this nation. If idle industrial capacity were fully used, full employment production would drive down overhead costs per unit of output.

Fourth, the Humphrey-Hawkins bill provides for anti-inflation action when needed and the President must call for anti-inflation policies if and when needed.

The charge that all unemployed workers would be put on the federal payroll is equally false. So also is the charge that workers could quit lower-pay, private-sector jobs to take higher-pay "last resort" jobs. These charges ignore specific provisions in the bill to limit access to "last resort" jobs. They ignore the power of the Secretary of Labor to set eligibility criteria and to disqualify people who quit a private-sector job and try to get on the "last resort" payroll.

The goal of full employment and balanced economic growth should have universal and enthusiastic agreement and support. To achieve this goal, rational and cooperative planning—with major reliance on private-sector job-creation—should likewise command enthusiastic agreement and support.

The AFL-CIO insists that full employment must be given first priority in national planning. We oppose any amendments which would undermine the goal of full employment. Full employment and full production would bring America balanced economic growth, which this nation badly needs.

We are convinced these false attacks will fail and that our goal of full employment in America will be realized.

INTERVIEWS ON THE CONCORDE

Mr. GOLDWATER. Mr. President, much of the opposition by Americans to the Concorde has been based upon emotionalism—the raw appeal to basic fears about something new and unknown. As I have previously stated on many occasions, the campaign against the Concorde in the United States is one of the worst examples I have ever seen of misinformation and downright falsehood being used to prevent the technological advancement of mankind.

One of the most frequent tactics used by the opposition is their effort to arouse the feelings of residents who live in communities near the Concorde's flight path. They are led to expect a total disruption of their normal living habits and the likely destruction of their property values. Well, I have just received a report which completely shatters this myth.

The report was prepared by my staff counsel and legislative assistant, Mr. Terry Emerson, who recently made a study of the Concorde in Europe. Although he is not a pilot, nor a flight engineer, Mr. Emerson did conduct a thorough investigation into the human aspects of the Concorde issue. He did this by holding numerous personal interviews with local people in France and Britain, who have lived near the airports where test operations of the Concorde have taken place. In not one case did he find that these individuals, who are supposed to be the ones most affected, were bothered by the aircraft.

Mr. President, I believe the report offers much information that is new to the subject, at least in this country, and I ask unanimous consent that it be printed in the RECORD.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

THE CONCORDE—IN HARMONY WITH THE WORLD

(By J. Terry Emerson)

INTRODUCTION

Flights of the Concorde supersonic transport plane will have no more impact upon residential communities than flights of American-made subsonic jets. People in large and small cities of Europe who have lived with many thousands of landings and take-offs of the Concorde for several years cannot understand why there has been such strong opposition to supersonic air service in the United States. These are the basic conclusions I made after a twelve day investigation of the Concorde in Luxembourg, France and Britain from June 27 to July 8.

American critics of the French-British built Concorde have charged that the aircraft will create noise and vibrations so severe that serious human and structural injury will occur. These opponents make it appear virtually certain that persons living in the flight path of the Concorde will suffer a major disruption of their normal life style. Historic structures do not stand a chance of remaining intact once the Concorde begins operations nearby—so say its foes.

The Concorde's opponents do not even want to give the plane a chance to prove itself. They want to prevent any operations of the aircraft, even on a limited trial basis. At this moment, they are still being successful in blocking flights of the Concorde into and out of New York City.

What is the actual impact of the Concorde? What has happened to people or buildings located in cities where it has already flown? Have tragic disasters already befallen the residents of communities around which Concorde test flights occurred prior to its entry into commercial service? Has the Concorde left behind it a trail of irreplaceable damage to cultural treasures in areas over which it has had repeated flights? If the theories of the American opposition to the Concorde are correct, tangible evidence of such effects would surely exist in those localities of France and Britain where the Concorde has undergone long testing over many years.

In order to check firsthand for evidence as to what effects the Concorde may have caused during its extensive testing period, I travelled to Europe recently to inspect the factories where the aircraft is built, visit localities surrounding airports which the Concorde has used and talk face-to-face with residents of these localities. For the record, I travelled to and from Europe in economy class by subsonic aircraft and paid the normal excursion fare for my ticket.

EUROCONTROL CONFIRMS AIR TRAFFIC SAFETY

My first visit was not to Britain, nor France, but to Luxembourg which is the home of Eurocontrol's Institute of Air Navigation Services. Eurocontrol is the European Organization for the Safety of Air Navigation. It was established by treaty among several European nations in 1963. Although Eurocontrol serves member states, it is independent of control by the governments of those states.

Eurocontrol is devoted to air traffic control and safety in Europe. The decision to establish an Institute at Luxembourg was made in December of 1967. The Institute provides basic and advance training for air traffic services personnel, notably air traffic controllers, computer programmers and maintenance engineers and technicians. Its reputation and influence stretch far beyond its members states.

In fact, 31 nations have sent trainees to the Institute between 1970 and 1974. This brief background is given because it demonstrates the expertise and personal objectivity of the Institute's administrators and instructors.

I met with Mr. G. E. Krug, Director of the Institute, and with several of his colleagues. There was universal agreement at the Institute that the Concorde is entirely safe from the air safety standpoint. No special problems arise from its flight characteristics or speed. The existing air traffic system in Europe can handle the Concorde, even at supersonic speeds, without any trouble.

In fact, it is because of its exceptional handling and its ability to fly at unusually high altitudes that I was assured the Concorde can be mixed safely with all types of aircraft now flying in the heavily traveled airlanes of Europe.

An important development I learned about is that the Institute has made extensive, computerized studies of all kinds of flights by the Concorde which prove conclusively that supersonic commercial service, even if over land, poses no problem to safe air traffic control. A direct link has been made between a computer at the Institute and one at Toulouse, France, which allowed the Institute to examine realistic data reflecting actual flights of the Concorde. The conclusions of safety regarding the Concorde is the actual computer results, not an opinion.

TOULOUSE—"VILLE D'ART"

Next, I traveled to Toulouse, which is the fourth largest city in France. It is an ancient university town which possesses many remarkable structures dating back 500 to 1000 years. For example, the Basilica of St. Sernin was started in 1080. It is the largest Romanesque church in the west. Toulouse can also boast one of Europe's greatest examples of Gothic architecture, the cathedral of St. Etienne. Indeed, numerous magnificent churches, abounding with wall and ceiling paintings, fragile windows and art ornaments of all types, grace the city. It is understandable why Toulouse is known by the name, "Ville d'art," or City of Art.

Today, Toulouse can boast of a new wonder, a technological creation which represents the state of the art for commercial passenger aircraft. It was my purpose to find out whether this modern day invention, which has been condemned by so many in America, has been compatible with the vast cultural heritage that has given a name and brought honors to an important French city.

A WORTHWHILE INVESTMENT

My first visits at Toulouse were with representatives of the French aircraft manufacturing company, Aerospatiale. We spoke of many matters, including the commercial viability of the Concorde to the airlines which acquire it, as well as to the nations which have invested some three billion dollars in developing the aircraft.

We also discussed the dooms-day stories about skin cancer and other frightful things which the Concorde's critics theorize about.

It is clear from initial data of the Concorde's commercial operations from Paris and London to Washington, D.C. and from Paris to Rio de Janeiro, that the plane is gaining more passengers than expected. Even with the imposition of a premium fare on SST passengers (first class plus 20%), the record of paying passengers to date proves that the market for air travel on supersonic aircraft is greater than originally projected. Air France has filled an average of 71 seats on its Paris-Washington run and an average of 69 seats on its Rio operations. British Airways flys an average of 68 passengers on its London-Washington service. Each of these three results is well above the break-even point. If this unexpected gain of passengers, including many repeat passengers, continues, then the airlines which bought the Concorde will apparently be making considerable money when the costs are amortized.

As to the question of whether or not the *governments* which invested in the Concorde will find the aircraft worth the price, this would seem to be a matter for the sole discretion of the British and French publics and not something that should enter into America's decision on entry of the aircraft. Those countries made the investment, not the United States.

Actually, these countries may find it to be a worthwhile investment. Already spin off-technology from development of the Concorde is being applied to purposes of great benefit to the general public. For example, a family of new and improved radio-altimeters, with exceptionally high standards of accuracy at speeds of more than Mach II and at all altitudes, was pioneered as a result of meeting requirements of the Concorde. These instruments are now being used in subsonic airliners, military aircraft, helicopters and missiles.

The potential of the technological advances developed for the Concorde is not, however, limited to aerospace applications. With small modification, its radio altimeters have been applied to marine use. One application is measurement of hydrofoil hull height above the surface of the sea. A second marine application is development of a range-meter, which is mounted on the wharf and measures the distance between dock and ship to within a few centimeters. This is important because of the growth in size and tonnage of oil tankers and the need for a means of accurately monitoring closing speeds and distances when these huge vessels are brought alongside docks or loading jetties.

Still another application of Concorde technology is development of equipment for use in the steel industry. There long has been need for a more reliable system of measuring the level of the molten metal in blast furnaces. Equipment is available to do this now thanks to an extension of new technology acquired by investment in the Concorde. Like the American space program, spin off benefits of this type will undoubtedly yield dividends over the future far in excess of the money that went into the original program.

MORE THAN 3,000 TEST FLIGHTS WITHOUT HARMFUL EFFECTS

To me, the most interesting news that I learned at Toulouse is the fact that there have been so many take-offs and landings of the Concorde near this large and historic city and in other settled communities of France and Britain. As of June 20, 1976, there were a total of 2,641 test flights by both manufacturers of the Concorde. The two air lines that have purchased the plane, Air France and British Airways, have conducted an additional 551 test flights of their own. Since a test flight typically includes at least one "touch and go" maneuver, the actual number of landings and take-offs during each of these flights are at least *double* the total number of flights.

Therefore, the 3,192 test flights of the Concorde translate into more than 6,400 landings and take-offs. Some 3,400 of these landings and take-offs were by the French, with over 2,000 occurring at Toulouse, and the remaining 3,000 by the British.

Of the basic number of 3,192 test flights, over 1,600, more than half, have been at supersonic speeds. If detectable harm would be caused to the environment or to humans by the SST, then surely these 1,600 supersonic flights and 6,400 landings and take-offs would have shown it. It might be noted that the load of test equipment on these flights was equivalent to the weight of passengers during normal commercial operations. And, since most of the flights lasted approximately three hours, the fuel weight was also roughly comparable to regular operations. Of course, by their very nature, test flights are supposed to have a normal configuration. Yet, there is no substantiated evidence of any damage of any kind from all these flights.

CLINIQUE DES CEDRES—NO PROTESTS ON ACCOUNT OF THE CONCORDE

One of the strongest possible verifications of the lack of any significant impact upon people near airports where the Concorde operates was given to me by Mrs. Desbordes, the founder and presently the director of the Clinique des Cedres. The clinic is a large, 500-bed institution, which treats people with neurological conditions. Also, it provides intensive care for cardiac patients. It s located less than two mles from the runways of the Toulouse Airport.

The clinic is privately run and is independent of the French government. It is not tied in any way to Aerospatiale, the manufacturing corporation.

Mrs. Desbordes states without qualification that she has never had to make a protest on account of the Concorde. Nor has she ever received a protest about the Concorde from any of the doctors or patients at the clinic. The noise of the Concorde has not disturbed doctors or surgeons, even during operations in neurosurgery.

She insists that she certainly would complain if the functions of the clinic were interrupted in any way by the Concorde. The only reason she has not complained is that she and the clinic have never been annoyed by the Concorde.

This is remarkable testimony from an objective witness which totally clears the Concorde of accusations that it will disturb living conditons. The clinic treats people who are under serious nervous strain and who require a quiet atmosphere. But its location within one or two miles of the runways from which more than 2,000 of the Concorde's test flights have taken place did not disrupt the clinic.

It is interesting that Mrs. Desbordes believes the noise comparison between the Concorde and existing subsonic jets is the same. I asked what she meant and she explained that Air France conducts training flights for new teams of its pilots regularly at the Toulouse Airport. These pilots learn to handle aircraft such as the American-built 707's and DC-8's. Also, there are many daily scheduled jet flights into and out of the same Airport which the Concorde has used. The noise of the Concorde is no more disturbing, states Mrs. Desbordes, than that of these other planes.

Here is factual testimony that the judgment of the human ear disagrees with measured noise levels from which critics argue that the Concorde is twice as loud as existing jets. While on a strictly logarithmic scale, a mere 3 dB difference will show up as a doubling of sound energy, in normal conditions it will not be discernable by the human ear. So much for the propagation of half-truths! (I might add at this point that the Concorde's manufacturers believe they have demonstrated with actual flights that it can conform to noise levels which will be closely comparable with those of the present 707's and DC-8's.)

It must be understood that the Clinique des Cedres is an exceptionally large institution of its kind in Europe. The Clinique admits and treats some 10,000 different patients every year. Its location near runways used by the Concorde has not damaged its reputation at all. Remember, these are patients who choose to enter a private clinic, rather than being assigned to a government-operated institution.

The clinic was opened with 125 beds before the Concorde flight program began. It is significant that expansion has not stopped. In fact, the clinic has gone through two expansions after the Concorde started flying.

As background, Mrs. Desbourdes indicated that the clinic must fulfill standards concerning the environment in order to obtain authorization for each expansion. There are two levels of authorization. First, the application is reviewed by a medical panel at the regional level. Here an objective panel of medical specialists considers what is in the best interests of the patients. One can be assured that political considerations do not enter into their decision. Such a panel has approved two expansions of the clinic—to 300 beds and up to 500 beds—since the Concorde's arrival on the scene.

The second level of authorization is by the Minister of Health. Even if it should be presumed for the sake of argument that this official would allow his decisions on medical matters to be influenced by national political policy, the initial, independent clearance by a purely medical group guarantees that objective determinations have been made.

CORNEBARRIEU—LIVING WITH THE CONCORDE

Adding to the impressive testimony I received from Mrs. Desbourdes was an interview I had with Mr. Gilles De Faletans, the Mayor of Cornebarrieu, a village bordering the airport at Toulouse. The Mayor's statements are consistent with what I learned at the Clinique des Cedres.

He and the residents of his small town cannot make out the difference between that of other jets and that of the Concorde. Although some hundred homes are disturbed by aircraft flights from a new runway just built at the Toulouse airport, their complaints are directed to all kinds of aircraft and in no way single out the Concorde. Most impressive is the fact that even these citizens wish to continue to live in Cornebarrieu. They merely want to move away from the very end of the new runway. If the residents had any complaints about operations of the Concorde itself, obviously they would not want to resettle within a mile or so of their present site.

Mr. De Faletans lives on and works a farm directly under the Concorde's flight path. He talked about any effects he may have observed there. He stated that he has found nothing that has destroyed the natural condition of things at his farm, whether it be an effect upon wildlife or argricultural conditions. Nor have any members of his farmer's union.

The Mayor of Cornebarrieu expressed wonderment at the position of United States opponents of the Concorde. Since he and the citizens of his town have been living with the Concorde every day, they simply do not see why so much emotional concern about it has been displayed in the United States.

As a comparison, the Mayor mentioned that when America sent its first rocket into the sky and later landed a man on the Moon, people could have been more disturbed than with the Concorde. But when the first American set foot on the Moon, the French people did not think of the possibility that we were polluting an untarnished environment. Instead, they shared enthusiasm with us in a technological advance for all mankind. The French people now ask themselves why we do not display an equal sense of shared accomplishment now that the French and British have made great technological progress with the Concorde.

When I asked the question of what retaliation, if any, the French government might consider invoking should the Concorde be ultimately banned from admission into the United States, Mr. De Faletans said he feels that the French people as a whole would resent such a prohibition as a personal offense. This, he believes, could cause a moral break—a mental blockade against the United States—even though no official retaliation may occur.

Mayor De Faletans struck me as an honorable and straight-forward person, who was speaking from the heart. After visiting with him, it was easier for me to comprehend the widespread feeling among the French that the United States would be discriminating against a foreign product, simply because it is foreign-made, if we should deny the Concorde access to our airports.

TOULOUSE—THE CONCORDE DOES NOT DISCOURAGE DEVELOPMENT

My understanding of the European feeling was strengthened after my meeting with Mr. Pierre Baudis, the Mayor of Toulouse. Mr. Baudis pointed out that the Toulouse area has 520,000 residents and is the fourth largest city in France. The airport is strikingly close to the heart of town. In fact, City Hall is only 3 miles in a straight line from the airport. Since 1970, numerous Concorde test flights have taken place from this airport. This did not discourage development of the city, even though the plane's flight path passes nearly over the center of town.

Mayor Baudis illustrated his statement by revealing that only two years ago an option was presented to local residents of starting an alternative airport distant from the city's downtown area. This was not proposed because of any complaints about operations from the existing airport, but was considered as one of the alternatives simply because new capacity had to be added. In the end, the local people and the city governments decided to enlarge the existing airport, rather than to build a new one further away.

This decision, coming only two years ago, was made with full knowledge of the presence of the Concorde. Local citizens were directly consulted about it. A general proposition was placed before the public both in newspapers and on radio broadcasts. This is a requirement of law in France in all cases of new governmental construction, such as highway projects or airport development. The results were brought before the City Government and they showed that the people had strongly endorsed enlargement of the existing airport, rather than moving further out. Now, if the Concorde was a menace to public peace and property, would the people have taken this position?

Rather than making any notice of the Concorde, Mayor Baudis disclosed that citizens have complained to him about the noise of garbage collection trucks or street automobile traffic. Frankly, he stated, people working or residing in the city can not pick out the noise of the Concorde from other aircraft.

When I asked how he might assure Americans that the feelings of Toulouse residents were not influenced by the jobs which the Concorde creates, he put this consideration in correct perspective. He explained that it is not only the Concorde which produces employment. Both the French-built airbus and helicopters create more employment than Concorde. True, Toulouse has an important aeronautics industry, but of 8,000 employees in the factories, only 1,000 work on the Concorde project. Therefore, at least 7 out of 8 aviation workers will keep their jobs regardless of what happens to the Concorde.

More importantly, the aviation industry is not the only significant, nor even the most important, industry in Toulouse. There are far more people working in the city government alone than in the entire air industry. There are 15,000 employees of the city, and, as stated, only 1,000 employees involved with the Concorde.

No, the Mayor assured me, the attachment of the citizens in Toulouse to the Concorde is not due to employment opportunities. Toulouse has many other interests and values. Toulouse is proud of its rich heritage of art treasures, none of which have been damaged by noise, vibrations or other effects of the Concorde. (The first full-month report by the FAA on the monitoring of Concorde operations into and out of Dulles International Airport is consistent with the experience in France. The FAA report for June shows that 45 Concorde flights at Dulles caused no damage at the nearby historic Sully Plantation and, in fact, resulted in less structural vibration than vacuum cleaners and tour groups.)

In fact, the Mayor informed me, Toulouse has been recognized in Europe as a city which makes special efforts in the field of the environment. It was selected as the site of the first French National Congress of the Environment, which was held in Toulouse in October of 1975. Again, in December of this year, another national conference on the quality of life will be held in Toulouse.

In confirmation of the views of the citizens of Toulouse, Mayor Baudis raised the examples of Lille and Montpellier, two French towns which do not have anything to do with the Concorde and whose residents do not benefit from jobs relating to the Concorde. Air France has conducted at least 550 landings and take-offs of the Concorde at Montpellier and another 135 lands and take-offs at Lille. These communities made no complaints at all.

This universal experience of the French people in living with the Concorde without being bothered makes the French wonder what America's true motivation can be in raising such a howl over it. For this reason, when I asked about possible retaliation, Mayor Baudis offered his personal opinion that the French people, if not the French government, could take steps which would be embarrassing to French-United States relations, should the Concorde be barred from America. The powerful French unions could take action completely independent of the government, such as boycotting United States airlines.

Next, I visited Paris for several more meetings relative to the Concorde. One of the most informative discussions was with Mr. Claude Abraham, who is Director General of Civil Aviation for France. His office holds the combined functions of our Chairman of the CAB and Administrator of the FAA. I also talked with Mr. Jacques Villiers, the French Regional Director of Civil Aviation in Northern France. These discussions confirmed information I had acquired at Toulouse and solidified my impression that the Concorde has become one of the foremost issues affecting relations between France and the United States.

Moreover, I also met with a leading columnist of the major French weekly magazine, *L'Express*, which had conducted a vigorous campaign in the past to halt government 'expenditures on the Concorde. The magazine had taken the position that the French government would lose enormous sums of money on the project.

If I understood correctly, the editorial position of the magazine today still is skeptical that the government will get a return of all the investment it has made. But, its original objection did not stem from environmental concerns. The emotional alarm raised in America over the Concorde appears to be just as bewildering to French opponents of the Concorde as it does to the French people generally. Scare stories eminating from America about the theoretical dangers of the Concorde are rejected as groundless.

BRITAIN

The final days of my studies were spent in England, where I visited with officials of the British Foreign Office in London and with representatives of the British Aircraft Corporation at Bristol. Again, the information I received was consistent with what I had learned at Toulouse. One difference in the British situation is the fact that there have been 30 personal injury claims made in Britain allegedly arising out of operations of the Concorde. But not one of the persons submitting such a claim has agreed to allow an independent medical inspection to verify the injuries, let alone the possible cause. Thus, there are no verified cases of injury from the Concorde either in Britain or France.

While at Bristol, I was told that the Concorde's test flights in England had taken place very close to a school and a historic church. In neither case has there been any complaints of annoyance because of the Concorde; nor have there been any reports of injury or damage.

CONCLUSION

In summary, the Concorde has been flown for seven years out of airports immediately adjacent to both large and small communities in France and Britain without causing any substantiated injury or damage to physical well-being, neighborhood quality of life, or otherwise. Nor, during all these years and throughout these many thousands of flights, landings and take-offs, did the Concorde cause any unusual citizen reaction or loss in property values.

From the actual experience of hundreds of thousands of people who have lived with the Concorde over a period of several years, it can be determined with certainty that Concorde service will not bother the people of communities who reside near airports which admit it. These real-life experiences destroy the speculative claims by American critics of the Concorde as to the annoyance that they say they think will occur from flights of the Concorde. In fact, the fright stories used by American opponents of the Concorde seem so unbelievable to Europeans that United States' relations with France and Britain will suffer at least on a personal, if not on a governmental basis, should the Concorde ultimately be denied admission into the United States.

VERMONT HIGHLY ENDORSES REQUEST FOR AGPLANE IMPROVEMENT

Mr. MOSS. Mr. President, in the Record for August 3—pages S13268–S13296—I outlined the emerging need for a program for increased R. & D. for agricultural aircraft—or agplane—technology, and described my request to NASA to develop a comprehensive plan for such a program. Having received a favorable reply from NASA, I wrote a letter to the 50 Governors soliciting their views toward this proposed program. One of my first replies came from the Honorable Robert J. Branon, commissioner of agriculture of the State of Vermont.

Mr. Branon states:

> We highly endorse the request by the Senate Committee on Aeronautical and Space Sciences for the development of improved agricultural aircraft.

As Mr. Branon further points out, Vermont producers are dependent upon current aircraft and will buy better ones when they become available.

Mr. President, I ask unanimous consent that Commissioner Branon's letter be printed in the Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

State of Vermont,
Department of Agriculture,
Montpelier, Vt., July 10, 1976.

Hon. Frank E. Moss,
U.S. Senate,
Washington, D.C.

Dear Senator Moss: Your letter of June 4 addressed to Governor Thomas P. Salmon has been referred to this office for reply.

We highly endorse the request by the Senate Committee on Aeronautical and Space Sciences for the development of improved agricultural aircraft.

Vermont producers of food and fiber are dependent upon aerial application of materials for the efficient production of products. The latest aircraft are currently being used. Better equipment would be acquired if it became available.

Sincerely,

Robert J. Branon,
Commissioner of Agriculture.

POSTAL REORGANIZATION ACT AMENDMENTS OF 1975

Mr. HUGH SCOTT. Mr. President, today I have cosponsored an amendment proposed by Senator Dole to H.R. 8603, the Postal Reorganization Act Amendments of 1975. This amendment would provide for a representative from the public at large to be placed on the Postal Study Commission. This Commission will be given the responsibility of identifying and studying the public service functions of the U.S. Postal Service, and I feel strongly that the "individual noncommercial users of first-class mail" should have a voice.

The average American has borne the brunt of the first-class postage increases. The senior citizen has been hit the hardest when he or she must dig deeper into the pocketbook in order to mail a letter to the family or pay the bills. The consumer should not be left out at this critical point. The recommendations made by the Postal Study Commission could effect postal service for years to come. Those who would be most affected should be given a chance to be heard.

I urge my colleagues to approve this amendment.

IMPLEMENTATION OF THE WORLD FOOD CONFERENCE RESOLUTIONS

Mr. HUMPHREY. Mr. President, I would like to call the attention of my colleagues to an excellent series of articles written by Steve Hannah of the Milwaukee Journal on the implementation of the 1974 World Food Conference resolutions.

I have long been concerned about the world food situation and have proposed many legislative initiatives to decrease malnutrition and increase agricultural production both here and abroad. After participating in the World Food Conference, I have played a major role in overseeing the U.S. follow-up to the Conference. I would recommend Mr. Hannah's series as providing a valuable insight into this process.

The most recent World Food Council assessment of the world food situation claims that it has not significantly altered during the past 2 years. The demands of constant population increases and rising affluence press farmers to double and even triple their output.

During the World Food Conference, Secretary of State Kissinger pledged, and the other delegates agreed, that within a decade, no person should go to bed hungry. Many methods were agreed to for accomplishing this.

Twenty months after that pledge was made, hundreds of millions remain hungry. At least half a billion people continue to be malnourished. And more and more people are dependent on favorable weather and the continued abundance of the North American breadbasket for their sustainance.

The articles examine just how much we have done to make the promises of that conference a reality. While the United States posseses abundant technical and financial capabilities, implementation has been most difficult.

Initiatives such as a system of world food reserves and the creation of the World Food Council, agreed to at the Conference, have not been supported forcefully by the administration.

The articles outline the promises held out and the limited results to date. Interagency bickering also has hindered implementing the World Food Conference resolutions. Clearly, we can and must do a better job than has been done to date.

Mr. President, I ask unanimous consent that this series of articles be printed in the Record.

There being no objection, the articles were ordered to be printed in the Record, as follows:

[From the Milwaukee Journal, June 20, 1976]

Words Served to the Starving

(Ey Steve Hannah)

Washington, D.C.—The world's malnourished masses, begging for the fruits of America's breadbasket, were fed an ounce of hope on Nov. 16, 1974.

On that day in Rome, 133 nations jointly endorsed the resolutions of the World Food Conference. Developed and developing nations, perched precariously on the edge of global grain reserves that could feed the hungry for just 33 days, launched a concerted attack on starvation.

"Every man, woman and child has the inalienable right to be free from hunger and malnutrition," the conference declared in the final debate of the 11 day assembly.

Those 133 nations were drawn together in 1974 by a series of sudden, yet not altogether unexpected, developments that first surfaced in 1972. That year the world's total food output declined for the first time in two decades. Production of grain, the staple of most of the world's diet, plummeted 33 million tons below the 1971 world harvest.

It was a staggering decline in view of the fact that a conservatively estimated 460 million people in the developing world, concentrated in South Asia, Africa and Latin America, were characterized by the United Nations as "bordering on starvation."

It was alarming, too, because food and

population analysts calculated that grain production in the world had to expand by 25 million tons annually to meet demands made by population and rising affluence.

Worldwide production turned upward in 1973. Then, just as abruptly, weather wrecked havoc upon crops in 1974. In South Asia, particularly India and Bangladesh (a country the size of Wisconsin but with a population of 75 million) starvation was widespread.

GLOBAL INSECURITY

An unpredictable flood-frost cycle in the US that year added to the globe's insecurity, and the nation that produces two-thirds of the grain that moves through the world suffered acute crop shortfalls.

One more factor adding to the world's instability was the playing of a trump card in the game of food production: Some 50 million acres of idled US land was put back into production in 1973, yet worldwide stocks continued to dwindle.

The US government had been paying farmers for years to idle their land in order to support prices. Now, the renewed use of that American farmland meant that US agriculture was operating at full capacity without appreciable results.

IMMEDIACY STRESSED

So the statesmen and scientists of the food importing and exporting world convened in Rome to "immediately"—for that was the word that cropped up time and again in the resolutions—mount a campaign to eradicate hunger.

Spelled out among the resolutions were multilateral programs for food aid, nutrition, fertilizer, pesticides, a worldwide fund to underwrite agricultural development and a global network of nationally held grain reserves to provide a measure of food stability for the world.

The World Food Council was established to oversee the programs the conference designed, and elaborate institutional machinery was created.

31 DAY RESERVE

The conference vowed that by 1985 the ghost of famine would be brought to its knees. In that year, according to projections, the developing world would need to import an incredible 85 million tons of grain, compared with 16 million in 1974 and 19 million in 1976.

Today, almost two years after the delegations disbanded in Rome, the world's food situation is essentially unchanged. Despite excellent crops in North America in 1975–'76 and record harvests in India and other developing nations, shortfalls in the Soviet Union and Europe have reduced current world grain reserves to 31 days.

News of the "food crisis" has been relegated to the back pages. Potbellied children no longer are standard fare on the nightly news. But the world is eating from hand to mouth. Each harvest becomes crucial.

Global food production, according to the US Department of Agriculture, increased by 2% last year, just barely keeping pace with the 75 million new bodies the world adds to its breadline each year.

If all that food production needed to do was stay abreast of population growth, the picture would appear less bleak. But rising affluence in the world, creating a lopsided demand for food by the rich, has become a fatal factor in the hunger equation.

The questions logically arise: What has become of the World Food Conference's well mapped strategy? What has been done thus far to implement those lofty resolutions?

And what has the US—the driving force behind the conference and unquestionably the most food powerful producer in the world—done to follow the mandate of Rome?

CRITICS DISAGREE

There are people in and out of government here who insist it is premature to assess implementation of the World Food Conference resolutions after a mere 20 months.

Others say North America has experienced two good growing years and another is forecast. Hence, the threat of a world food crisis, despite statistics to the contrary, just isn't evident.

Some argue that the US alone no longer can feed the hungry millions and that new food donors, specifically the oil rich OPEC (Organization of Petroleum Exporting Countries) states, must pick up their share of the global food tab.

PROGRESS IS SLOW

And, some insist the 1974 conference should be considered a success simply because it focused publicity in dramatic fashion on world hunger. Implementing those grand resolutions, they say, is really of secondary importance.

In part, all of those arguments have some merit. But, if the 1985 calculations were meant to be taken seriously, then 20% of the time the conference allotted itself has elapsed and progress has been pain stakingly slow.

And the US, the pre-eminent food power in the world and the only nation capable of providing sustained international initiative, has not taken command.

COMMITMENTS DOUBLED

That is not to imply there has been no action on the international food front since November, 1974, or that US bilateral food efforts have diminished.

On the contrary, Ambassador Edwin Martin, deputy chief of the US delegation to the Rome conference, estimates that worldwide commitments to food and agriculture have just about doubled in the past 20 months. Part of that gain can be ascribed to the impetus created by the conference, he says.

Global food aid totaled about 8.6 million tons in 1974–'75, well above the 5.4 million tons of food that circulated in 1973–'74, Martin says. The food aid figure this year is expected to reach 9.2 million tons.

SHORT OF GOAL

Despite the substantial increase, however, the world's donors have failed to reach an "immediate" 10 million ton goal pinpointed in the Rome resolutions.

A spokesman for the US Agency for International Development (AID), an appendage of the State Department, pointed out that AID's food and nutrition efforts in the developing world have grown from about $274 million in 1974 to about $582 million in 1976.

The total US bilateral budget for developing countries, including AID's economic assistance programs and various other government projects, has risen from $2.7 billion in 1974 to $3.8 billion in fiscal year 1976.

But, the US bilateral commitments do not seem to be in question. It is the alleged failure by the administration to take a leadership role on food policy in the international forum that arouses criticism.

The fate of two resolutions that grew out of Secretary of State Henry Kissinger's keynote address to the Rome conference—an assembly the press referred to as Kissinger's "pet project"—exemplified the post-Rome international agricultural efforts.

Kissinger had called for the nations of the world to accelerate investment in agriculture in the developing countries, a suggestion Kissinger specifically addressed to the oil exporting world.

The Arab OPEC countries accepted the challenge, sponsoring a resolution to create the International Fund for Agricultural Development (IFAD).

Although the specifics of the fund were not outlined in the conference resolution, OPEC reportedly agreed to bankroll—"on a rough parity basis," according to John E. Murphy, deputy administrator of AID—half of a $1 billion fund. The other half would come from traditional donors.

The US endorsed the resolution and expeditiously engineered a $200 million IFAD contribution through Congress.

Now, however, almost two years later, IFAD is not yet functioning. OPEC has not produced the $500 million the US anticipated, the fund has come up $60 million short of the original proposal and the $200 million pledge by the US stands to be reduced if the $1 billion figure cannot be reached.

In a sense, as one member of the Senate Agriculture Committee phrased it, negotiating the fund has become a "sort of a who will blink first international rug trading affair." And while the trading continues, the hungry who hope to benefit from it beg shoulder to shoulder in Bangladesh and wander aimlessly across the arid sub-Saharan plains.

Many observers consider a resolution to create an international network of national grain reserves—another proposal pushed by Kissinger in his opening remarks in Rome—to be the most substantive the delegates produced.

The reserves, it was reasoned, would accomplish two things: Stabilize prices in international grain trading, thus eliminating the wild, speculative gyrations that so often price the poor out of the market, and provide emergency buffer stocks to counter another 1972-like shortfall in the world.

Today, almost two years after the resolution's adoption, there is no such system of international grain reserves. And on this issue, the cries of the US food policy critics are most strident.

The lack of movement on the reserve issue, to a large extent, can be traced to a fundamental philosophical difference between the US State Department and Department of Agriculture.

In brief, the State Department views international reserves as a powerful diplomatic resource with which to feed hungry friends in the interest of foreign policy.

The USDA, which claims to represent farmers and publicly has opposed the system all along, has no such foreign constituency. The concept of reserves overhanging the market and depressing grain prices is anathema to farmers.

POWER PULL CITED

Conventional wisdom in Washington ascribes the US failure to offer a single solution to the problem of grain reserves to a general tension between Kissinger and Agriculture Secretary Earl Butz.

Basically, insiders say, the dispute centers around just who will dominate the administration's foreign food policy—the USDA and the producers or the state department and politicians.

In an interview last week, Sen. George McGovern (D-S.D.) described it as "tremendous bureaucratic jealousy that has been going on for years between the two departments."

RUSSIA'S ROLE

Compounding this domestic dispute is the avowed unwillingness of the Soviet Union, the single most volatile factor in the international grain market, to participate in any scheme of reserves.

A new five year grain deal between the US and Russia, guaranteeing Russia a minimum 8 million tons annually, might preclude sending emergency grain to the developing world.

The complexities and complications are virtually unlimited, and the backdrop for this scene of international dickering about IFAD and internal bickering about grain reserves is a world of 4 billion people.

Approximately a half billion of them are straddling the edge of starvation and the world might well double its population by the year 2000.

OUNCE OF HOPE

It is a world where, according to UN statistics, the growth rate of food production in the developing nations today has slipped to

1.7% annually from 2.7% in the 1960s. Population analysts warned delegates at the World Food Conference that a 3.6% yearly rise would be necessray to meet the developing world's demand for grain.

It is a world where grain exports from North America have nearly doubled, from 56 million tons to almost 100 million tons, between 1970 and 1976. It is a world of famished importers.

In retrospect, the ounce of hope spoonfed to the starving on Nov. 16, 1974, was easier to offer than to digest.

This series will attempt to assess the international and domestic politics of hunger, the stumbling blocks that have stymied operation of the international fund for agricultural development and creation of a world grain reserve system, and the critical race involving food production, population and affluence.

Next: The obstacles to creating an international grain reserve system.

[From the Milwaukee Journal, June 21, 1976]

STAPLE NOW A LUXURY FOR POOR

(By Steve Hannah)

WASHINGTON, D.C.—The staple food that sustains most of mankind, certainly the 460 million malnourished people in South Asia, Africa and Latin America, is grain.

And the starving multitude is at stake in the international politics of hunger.

Twenty months ago, the nations of the globe made their way to the World Food Conference in Rome to devise a plan that would ensure a steady supply of grain for the world.

Twice in the first four years of the 1970s, Mother Nature ruined harvests around the world, and, in both instances, the Soviet Union suffered crop shortages.

Grain a Luxury

To offset its losses, Russia rushed into the world grain exchange—"not like a bull in a china shop, but more like an elephant," according to John Mellor, of the US agency for International Development—and made massive purchases of North American stocks.

It was a sellers' market, and because the Soviets had cash and led the bidding they were able to survive.

For the poorest nations whose bankrolls were not as fat, grain became a luxury they could ill afford and the option for most of the poorest of the world's poor was starvation.

So, at Rome, urged on by the grain powerful US, the importers and exporters of the globe designed an insurance policy for the starving. It was called an international coordinated system of national grain reserves. It would provide for grain banks around the world that not only would counter the vagaries of weather but stabilize the price of grain to keep it within reach of the needy.

Although the weather is no more predictable today than in the disastrous years of 1972 and 1974, that network of grain reserves still does not exist.

The talks continue here in Washington and in London, but the world has been unable to reach an agreement on the details of the system.

There still is agreement in principle on the grain bank proposal, but, as Agriculture Secretary Earl Butz is fond of saying, principles don't feed people; grain does.

Lester Brown, a former USDA adviser and president of the Worldwatch Institute here, views the food crisis of the 1970s in military terms.

"We are in a situation very much like that of a military commander who has seen the tide of battle going against him and decides to turn the situation around by throwing in his reserves." Brown said "Well, we have thrown in the reserves and having done so, we have not been able to turn the battle around."

ENTER: POLITICS

In large part U.S. domestic efforts to establish an international network of national reserves have been hampered by a fundamental difference of opinion between the USDA and the State Department.

This is not surprising since Kissinger's call for a global reserve system was made without support from agriculture, according to USDA officials.

Basically the State Department views the notion of international reserves as a valuable foreign policy tool. Grain reserves and the stability they contribute to the world order help the US maintain the political status quo internationally.

OPPOSED BY FARMERS?

The USDA has made no attempt to disguise its distaste for any nationally held reserve system. The free market philosophy espoused by Butz and shared by the conservative farm sector is that government grain reserves would be a price depressing mechnism and would further involve the federal government in farming.

Farmers are inherently fearful of reserves, said Richard Bell, assistant secretary of agriculture, and "the USDA represents farmers."

Former Ambassador Edwin Martin, deputy chief of the US delegation to the World Food Conference, believes the USDA ought to persuade farmers that reserves are in their own self-interest.

"I don't believe all American farmers are opposed to reserves," Martin said "I tell farmers that maintaining those vital export markets means guaranteeing supply Reserves are a way of both guaranteeing supply and providing a measure of world security. I tell farmers that if foreign countries aren't sure we have what they want, they'll seek other markets."

Brown, who worked at USDA in the 1960s as an adviser to Agriculture Secretary Orville Freeman, suspects that the USDA has other motives for not promoting the international reserve system.

"The USDA, despite its occasional public pledge of love for the farmers, is largely controlled by the big agribusiness concerns," Brown maintains.

"The kind of market stability that reserves foster is definitely not in the interest of the large grain traders," he says. "Grain traders are not interested in stability. It is a speculative business that thrives in periods of instability and converts wildly fluctuating prices into enormous profits."

Observers around the Senate Agriculture Committee seem to think the opposition to reserves is just another example of internal political wrangling between the USDA and the State Department.

At one time food was largely the domain of the USDA, and the agriculture secretary dominated food policy. Nowadays, since food has become a critical ingredient in detente, international balance of payments and inflation, the State Department has entered the food policy picture.

Sen. George McGovern (D.-S.D.), an outspoken member of the U.S. delegation to Rome, couches his assessment of the State-USDA battle in less diplomatic terms.

"There's a long history of enormous bureaucratic jealousy over who's going to make the decision on what happens with American grain," McGovern said.

"USDA sees grain purely in terms of domestic politics, and State as part of the greater international conflict. Substantively there needn't be a conflict here, but bureaucratically there's one hell of a clash between the two departments. And it's getting worse under Butz."

NOTHING HAPPENS

The lingering effects of that interdepartmental dispute are plain to see. Although the USDA insists that its opposition to nationally held reserves stems from its instincts to protect American farmers, the fact that the call for the reserves in Rome was a State Department initiative has not helped matters.

The World Food Council was created in Rome in 1974 to oversee the myriad organizations charged with implementing conference resolutions. The USDA did not enthusiastically support its creation.

"A lot of those groups can trace their origin to the U.S. and somebody making a speech, setting up new initiatives, and nothing ever happening," according to Bell. "And those speeches are being made by the State Department. This outpouring of new international organizations only hinders the work of existing groups.

NOBODY WITH CLOUT

"Furthermore, these groups should be run by people who know how to grow food and not by a bunch of politicians. The World Food Council, the umbrella group that would oversee this international grain reserve proposition, is run by a bunch of politicians."

The World Food Council convened in Rome last week and the topic of international grain pointed out two weeks ago that the USDA reserves was prominent on the agenda. Bell would send supporting staff members to the session, but nobody with any political clout in agriculture.

NO CROP REPORTS

Probably the major international hurdle is the reluctance of the Soviet Union to participate in any reserve scheme. Over the past decade, according to Martin, Russia's erratic entries in the marketplace have "accounted for something like 80% of the fluctuation in grain trade."

Add that to the fact the Soviets apparently are not equipped with an adequate crop reporting apparatus—"and a devotion to secrecy that considers any sharing of crop statistics impolitic," adds Martin—and what's left is a very dim prospect for world food security.

A massive five year grain deal entered into with Russia last October, providing a minimum 8 million tons annually, is seen by Bell as an effort to minimize Russia's disruptive forays into the world market and at the same time "cement international relations."

Others like Larry Milnear consultant on world hunger to the Church World Service, believes that new bilateral grain agreements between developed countries pose a problem.

Updating the world food situation prior to last week's World Food Council session in Rome, Milnear wrote:

"The US has now such arrangements in place with countries such as Poland, Russia and Japan for this and future years, covering between 25 and 29 million tons annually. While such arrangements may help stabilize world prices, in the event of a large crop shortfall, they could commit supplies badly needed by vulnerable developing countries."

John Mellor, an agricultural economist on loan from Cornell University to the US Agency for International Development, has a global view of the US role in an international grain reserve program. He believes the need for some sort of global stockpile is critical but, without US leadership, it won't come into being.

"But this is not just a problem for the US government, it is a problem for all America," said Mellor.

"Americans have difficulty treating the least developed countries of the world on a peer basis. America has trouble realizing that countries that have not been powerful in the past—the Chinas, Indonesias and Indias—are going to be powerful in the future," he said.

"I used to think that day was just 20 or 30 years away," he said. "Now I speak in terms of 10 or 15 years. But when you say to the average American farmer that, some day, India may represent a commercial market for 10 or 15 or 20 million tons of grain, people think you're nuts.

"We (the US) are a tremendously powerful element. And we have got to provide leadership and pull the Europeans along with us. Food is going to play a very important role in the total world picture in the years ahead.

"And how we view that picture as a country is vitally important. I am very worried about this as an American."

Next: What has become of the resolution to create an International Fund for Agricultural Development?

[From the Milwaukee Journal, June 22, 1976]

A Parable of Rich and Poor

(By Steve Hannah)

Washington, D.C.—When the rich man arrived at the market and found the cost of survival had quadrupled, he grumbled a bit, paid the price and drove home.

When the poor man arrived at the same market and found the same prices, he hung his head and, walked home hungry.

So it was when the oil rich countries of the Mideast began to radically raise the price of petroleum in 1972. Americans were aghast at the price of heating oil and gasoline. Nonetheless, they paid the price. But the subsistence farmer in India, who desperately needed petroleum base fertilizer and the extra ounce of food it might squeeze from his half acre, could not pay the price. So he did without.

It was not surprising, then, that at the World Food Conference in 1974, pressure was applied to the oil giants to invest some of their profits in the developing world's most desperate need: food production.

TRANSFER OF WEALTH

"Many of the oil producing countries have income far in excess of that needed to balance their payments or finance their economic development," U.S. Secretary of State Henry Kissinger said in Rome.

"The continuing mass transfer of wealth and the resutling inflation have shattered the ability of the developing countries to produce food," he said.

The Arab states in the powerful Organization of Petroleum Exporting Countries (OPEC) responded to Kissinger's challenge. They proposed formation of a $1.2 billion International Fund for Agricultural Development (IFAD).

The fund would channel its cash to projects designed to increase food production in the poorest nations of the world and would concentrate on the problems of the rural farmer.

It would be financed on a "rough parity" basis, so the understanding went, drawn from OPEC's Special Fund and the bank accounts of the industrialized world.

The delegates to the conference agreed that, if food production over the next decade was to keep pace with the demands of population and affluence, the fund should be created "immediately."

Almost two years after that resolution was resoundingly endorsed, IFAD has yet to make its first investment. There have been problems:

Somehow, the $1.2 billion fund—and no one seems to remember when or why—suddenly became a $1 billion fund. The resolution had made no specific reference to a dollar figure. The terms of the fund and its contributions apparently were wrapped up in a general, oral agreement.

The donations of the industrialized world were fast approaching $500 million—of that sum, the US had ramrodded its own $200 million offering through Congress—when OPEC announced a $400 million contribution this spring. Oil exporters said they fully expected the West to provide not $500 million but $600 million.

Rumors have been running rampant, according to one US diplomat, that some European pledges are really money diverted from bilateral assistance programs. That does not look like the "new money" the conference had expected in IFAD's coffers.

The US role in this international drama has been played by the Agency for International Development (AID), a branch of the State Department. John Murphy, deputy administrator of AID, has been in the thick of the proceedings for the past 20 months.

"OPEC stunned us with their Paris announcement that they would put up $400 million if the West could come up with $600 million," said Murphy. "That is not the way we understood 'rough parity' and that is certainly not the way we sold the proposition on Capitol Hill."

$60 MILLION SHORT

Murphy said the legislation carrying the US contribution through Congress had one very important qualification: If the international fund did not total $1 billion, the US share would be reduced accordingly.

With the $400 million pledge from OPEC and about $500 million from the industrialized nations, IFAD, with a $1 billion goal, still is about $60 million and many suspicions short of operation today.

"You know, it's my judgment, and I could be wrong about this, that OPEC is reluctant in the first place to establish a precedent, sharing the burden of financing agriculture in the developing world 50-50 with the West," Murphy said.

There are other complications. Ambassador Edwin Martin, deputy chief of the US delegation to the World Food Conference, said there was some question as to whether the OPEC special fund really was the new money it was advertised as.

Martin said a multi-million-dollar "special fund," created by an additional 10 cent tax on each barrel of exported OPEC oil, was designed to aid countries strapped by high oil prices to pay their bills.

There were rumblings in some Western quarters, Martin added, that the oil giants were really just cutting that original fund in half to finance their contribution to IFAD.

WHO'S PAYING?

"And if you want to be extreme," AID's Murphy said, "you could say that the dime a barrel tax that makes up the special fund is financed by Western and developing nations who are buying OPEC oil.

"Maybe they're (OPEC) not really financing anything. The consumer—whether from the U.S., Chad or the Phillippines—is, in effect, paying for this thing."

There also might be further complications domestically. At a recent international meeting of the United Nations Conference on Trade and Development, Martin pointed out, a Kissinger proposal to create a fund to finance exploration of mineral deposits in developing countries was rejected.

VOTE DENOUNCED

"About two-thirds of the developing countries either abstained or did not attend the meeting," Martin said. "Couple days later Treasury Secretary William Simon and Kissinger issued a joint press release denouncing the vote. This may raise some question, now, as to how aggressive the U.S. will be on this IFAD issue."

The original IFAD outline in Rome called for $1 billion per year. Now, both Martin and Murphy agree, the plan seems to be to stretch that $1 billion over three years. That would channel approximately $300,000 annually into projects in developing countries.

Murphy said that formula was not disturbing. "As a practical man," he said, he could not conceive of IFAD dispersing $1 billion a year in projects.

REACTIONS VARY

Martin disagreed. "In relation to total, global agricultural commitments of about $5 billion in 1974," he said, "IFAD seems willing to contribute, at the most, an additional 5% or 10%. This is useful, of course, but it is not really the major thing we were all excited about in Rome.

"I certainly wouldn't want to turn it down at this point," Martin said. "But to say this is going to make the difference between starving and not starving, well, it's just not that major.

International Fund for Agricultural Development (IFAD)—Pledges to date:

[In millions]

Australia	$10.0
Austria	4.2
Belgium	12.0
Canada	30.0
Denmark	5.0
France	25.0
Germany	50.0
Ireland	1.0
Japan	50.0
Italy	25.0
Luxembourg	0.325
Netherlands	40.0
New Zealand	2.0
Norway	12.0
OPEC	400.0
Spain	2.0
Sweden	25.0
Switzerland	8.0
United Kingdom	30.0
United States	200.0
Total	933,525

Source: Food and Agricultural Organization of the United Nations.

"The failure of the OPEC nations to come up with $500 million (instead of $400 million) is a problem, though, and one that, if they stick by their position, could spell the end of the deal," he said.

NO FORMAL SIGNING

Still, Martin was optimistic. "I think if the West makes it crystal clear that they will not accept this 60-40 thing, OPEC will come up with something better."

At IFAD's latest meeting in Rome 10 days ago, according to a spokesman for the Food and Agriculture Organization of the United Nations, the Articles of Agreement were initialed but not formally signed.

He said IFAD was still looking for funds to reach the $1 billion goal and a cable from Rome indicated that, if the figure was not reached by fall, interested countries would hold another meeting next January.

By that time, 160 million new mouths that were not in need of feeding back in November of 1974 will be wide open.

Next: How population growth and affluence affects feeding the malnourished millions.

[From the Milwaukee Journal, June 23, 1976]

A Tale of Feast and Famine

(By Steve Hannah)

Washington, D.C.—The world's four billion humans sit down to supper June 23, 1976.

At the west end of the global banquet table sit those of the developed world. They are a plump and cheerful bunch, full of conversation and fun, and not overawed by the cuisine. They are accustomed to the platters of thick red meats, mounds of vegetables, pies and pastries they see before them.

At the west end of the table, there is plenty for everybody.

At the east end of the table, off in the distance, sit those of the developing world. They are sick, thin and a gloomy lot, sad faced and tight lipped. They, too, are quite accustomed to the fare before them, modest bowls of wheat, rice and coarse grain.

At the east end of the table, there is a pound of grain for each person, and no more.

NOT ENOUGH FOOD

Lester Brown, president of the World Watch Institute, an independent think tank here, is worried about that sort of gathering. He is concerned that, by the year 2000, the table might have to be twice as large to accommodate all of the guests. And there might not be enough food to go around.

In his book, "By Bread Alone," Brown wrote: "The arithmetic on population growth is familiar to many. The current world population rate of nearly 2% annually—which brings a doubling every 35 years—is unprecedented.

"It took 2 million years for man's numbers to reach one billion, but the second billion came in only 100 years and successive billions are coming even faster.

"At the present rate of increase, the sixth billion will require less than a decade. If the present growth rates were to be maintained for a century, it would take only a year to add one billion to the population and only three years to add a number equal to the entire population of the world today."

ONSLAUGHT FEARED

Brown, a former adviser to the U.S. Department of Agriculture and one of the founders of the prestigious Overseas Development Council, is a soft spoken, intense internationalist.

He does not share the commonly held belief that the world will double its population between now and the end of the century. He doesn't believe agricultural production and the ecological system of the earth could sustain that onslaught.

"As an exercise," he suggested in an interview here, "you might make a list of countries in the world and identify the ones you think can sustain a doubling of population. You'll probably come up with a fairly short list."

CANNOT KEEP PACE

For purposes of discussion, Brown likes to use the UN projection of 6.5 billion people populating the world in the year 2000.

He suggested that if each person consumed about a thousand pounds of grain per year—the annual intake of Western Europe—the world would need to produce three billion tons of grain. That is roughly two and a half times the current world output.

And in a world where food production has barely been able to keep pace with the 70 to 75 million new humans that appear on the earth each year, the prospect of producing two and a half times as much food in the next 25 years is an alarming one.

AFFLUENCE FACTOR

Brown said there was another critical factor that must be included in this equation of food production and population. That is affluence. The global growth in demand for food in recent years has been intensified by consumption habits of the world's wealthy.

"Prior to the World Food Conference in Rome," said Brown, "I figured that in the early '70s the world's demand for grain was increasing at about 30 million tons per year. I estimated that 22 million tons was due to population growth and 8 million tons to rising affluence.

"That means the annual increase in the world's demand for food, generated by rising affluence, is well over one-third of what's needed to take care of population growth."

The inequitable distribution of food within the world is very visible. Brown said that between 1964 and 1974 food production in developed and developing countries rose by about 30%.

In the developed world, that growth translated into a 50% increase in per capita food production. But in the developing world—places like India, Bangladesh and the sub-Saharan regions of Africa—the growth in food production was almost totally absorbed by the growth of population.

"The result," he said, "is virtually no improvement in per capita food production."

There are more meaningful statistics to illustrate the stress that affluence places on global demand for food.

In Asia, Africa and Latin America, the average person consumes 400 pounds of grain per year. In North America, the average person's grain intake is about 2,000 pounds per year.

Most of that is consumed indirectly in meat, milk and eggs, Brown pointed out, and about 200 pounds of that is eaten in the form of bread, pastries and breakfast cereals. About 35 pounds of the average American's annual grain quota is imbibed in bourbon and beer.

Brown said the conclusion was all too obvious: The average North American needs five times the agricultural resources of his counterpart in India, Nigeria or Colombia.

Brown also is disturbed by the world's evergrowing dependence on one continent—North America—for its food. Since the continent is susceptible to pretty much the same climatic conditions, poor weather that ruins a U.S. harvesst is likely to do comparable damage in Canada.

In the year ending this June, the U.S. and Canada exported about 94 million tons of grain. Brown says that was close to one-third of the total harvest of the two countries, and enough to feed approximately 560 million Indians.

"These statistics are disturbing because over the past 25 years there have been literally scores of new countries to emerge as food importers," Brown noted.

ONE-WAY STREET

But, he said, "one can now count on one hand the significant exporters that remain—the U.S., Canada, Australia, Argentina and France. There have been no new exporting countries to emerge. From export to import status, it has been an entirely one-way street on the food balance ledger.

"If North America was to have a bad crop year, we would almost certainly see a return to double digit inflation around the world. Prices would jump to new highs and go well beyond anything we have experienced to date.

"The logical result of this would be that nutritional stress would increase among the low income groups in low income countries. Death rates would raise measurably."

The global landscape Lester Brown paints from his perch on Massachusetts Ave. here is not an encouraging one.

Yet, even with the rapid growth of population along the world's poorest frontiers and the dependency of so many nations on North America's breadbasket, he sees the world's problems as soluble.

The solution might be reached through international efforts to further slow population growth in the world and increase agricultural production so that the hungry would be able to feed themselves.

NO U.S. LEADERSHIP

Brown maintained, and he is joined by a host of Washington internationalists on this score, that the U.S. must provide leadership if the world is to feed its hungry by the turn of the century.

"The U.S., because it is the world's largest producer of food, will have to play a central role in shaping the world's population and food strategy for the next 25 years," Brown reasoned.

"One of the things we most certainly have to do as a government is to point out that the growing dependence of the world on the U.S. for food cannot continue indefinitely," he said.

In his estimation, that leadership role in the international forum has not been assumed by the U.S.

"I don't think we have in Washington anything that deserves to be called an international food policy in the short term, much less in the long term," he said.

"At the World Food Conference in 1974, Secretary of State Henry Kissinger said no man, woman or child should go to bed hungry in 1985, and that was a noble sentiment. But if you were to go to the State Department now and ask for the game plan that proposal was based on, I don't think you'd get very much," he said.

"In fact, I think you'd get an embarrassed silence."

STATISTICAL VOTING TRENDS

Mr. GOLDWATER. Mr. President, the Republican Policy Committee of the Senate has compiled some very interesting statistics on voting trends of this body. Some of the material is graphic and, therefore, cannot be reprinted in the RECORD, but I ask unanimous consent that those parts that can be carried be printed in the RECORD.

There being no objection, the statistics were ordered to be printed in the RECORD, as follows:

STATISTICAL VOTING TRENDS

Year	Senate days in session	Total roll call votes	Average record votes per day	Study hours available to each Senator per vote [1]
Matrix:				
1969	176	245	1.39	7.4
1970	208	422	2.02	4.2
1971	186	423	2.27	3.9
1972	162	532	3.28	2.7
1973	184	594	3.23	3.0
1974	168	544	3.24	3.1
1975	178	611	3.43	2.7
1976 [2]	105	424	[2] 4.04	2.3
For comparison's sake, representative past years show:				
1955	103	85	.82	12.0
1960	140	215	1.53	5.5
1965	177	259	1.46	5.7

[1] Assuming no other activity whatsoever. Available hours calculated empirically using 8-hr day and number of days in standard work year, minus those before convening in January and after adjournment sine die (July 27, in case of 1976).

[2] To July 27, 1976.

ORGANIZED LABOR CONTRIBUTIONS

Mr. GOLDWATER. Mr. President, it is so, so easy to read in the newspapers that we receive in Washington about the contributions made to candidates for the House and Senate by companies or individuals, but it is not easy to be able to find out just what labor unions have given so far for these campaigns. I think it is most interesting to look at some of the moneys that have been distributed to Members of the Senate running for reelection or candidates running for the first time. I ask unanimous consent that a compilation of these total amounts plus the unions making these contributions be printed in the RECORD.

There being no objection, the compilation was ordered to be printed in the RECORD, as follows:

ORGANIZED LABOR CONTRIBUTIONS TO DEMOCRAT SENATE CANDIDATES (INCLUDES ALL CONTRIBUTIONS TOWARDS 1976 CAMPAIGNS)

	Indiana—Senator Hartke (Democrat) versus Lugar (Republican)	New Jersey—Senator Williams (Democrat) versus Norcross (Republican)	California—Senator Tunney (Democrat) versus Hayakawa (Republican)	Utah—Senator Moss (Democrat)	Massachusetts—Senator Kennedy (Democrat)	Michigan—O'Hara (Democrat)	Wyoming—Senator McGee (Democrat)	Texas—Senator Bentsen (Democrat) versus Steelman (Republican)	Pennsylvania—Green (Democrat) versus Heinz (Republican)	Minnesota—Senator Humphrey (Democrat)	New Mexico—Senator Montoya (Democrat) versus Schmitt (Republican)	Maryland—Sarbanes (Democrat) versus Senator Beall (Republican)	Virginia—Zumwalt (Democrat) versus Senator Byrd (Independent)	Montana—Melcher (Democrat) versus Burger (Republican)
Active Ballot Club (retail clerks)	$4,050	$7,000	$4,950	$5,000		$5,250		$2,000	$5,000	$5,000		$2,150		
AFL-CIO COPE	5,000	5,000	5,000	5,000	$5,000	1,200	$6,000	5,000			$10,000	5,000	$5,000	$5,000
AFT (American Federation of Teachers, COPE)	525	2,250				400			100	200				
Amalgamated PEC (clothing workers) and affiliates	1,000	2,500	500		1,000	500			500	1,200		4,000		
AMCOPE (meat cutters)	500	500	1,000									2,000		
American Postal Workers	500	500	100	200	200	200	1,300		100	300	200	100		100
ATU-COPE (transit)	3,500	500		500	500	300						500		
Boilermakers P.L					1,000	100								
Bricklayers PEL	25				500	500				300		200		
Building and Construction Trades Department		2,000				500	19,375			600				100
Carpenters LIC	500	2,500	2,000	1,000	500	2,088	1,600		500	1,250	1,000	750	1,000	300
Coal Miners PAC		500												
Comm. on Federal Employees	600	650		400	1,500	200	2,600	50	200	350	200			
Comm. on Letter Carriers				200		200								
CWA-COPE (communications workers) and affiliates	2,600	1,500	3,070		1,000			500	1,100	1,350	500	3,120		
DRIVE (teamsters)	2,000	1,000	11,200	1,500		2,215			250	1,600	1,000	1,100		
Engineers PEC	3,000	4,650	859,317		500	1,000		250	500	2,500	2,500		2,000	400
Firefighters COPE (F.I.R.E.-P.A.C.)	50	500	200	200	500	100	300		100	100		2,500	100	100
Firemen—Oilers P.L	200				200	100			100	175				
Fur, Leather and Machine Workers														
Glass Blowers P.L														
Graphic Arts PCC		500			500	200			300	500				
H. & R.E. & B.I.U.—T.I.P. (hotel employees)	700	5,000	1,250	1,000	1,000			1,000		5,000				
IBEW—COPE (electrical workers)	1,000	2,625	1,250	500	1,000	1,175	800		1,000	600	500	1,000	500	250
ILGWU (garment workers)	2,800	2,750	4,200	1,000	5,500	1,000	600	275	2,500	3,850	1,100	2,500	2,000	100
Industrial Union Department	1,000	1,000	1,000	2,000		2,000			1,000	1,000			1,000	
Ironworkers PEL			200			595				625		300	100	
IUE—COPE (electrical, radio, and machine workers)	300		100		1,000									
Laborers P.L	2,000	4,500	3,000	3,000	2,000	2,000	3,000	1,000	2,000	3,000	3,000		1,000	300
LIVE (chemical workers)	100	250				200								
Locomotive Engineers	200													
Longshoremen		3,500			200	200								
Machinists NPPL	5,000	800	5,400	400		3,975	2,400	1,000	7,000	1,650	200	5,000	2,000	200
Maintenance of Way P.L	500	500	6,300	300		1,000								
Marine Cooks and Stewards			1,000	600						1,000				
Marine Firemens Union			500											
Masters, Mates, and Pilots														
MEBA-PAF (marine engineers)	6,000	6,000	3,000	5,000	5,000	5,000	5,000	5,000	5,000	7,850	2,500	5,100	10,000	2,500
Molders and Allied Trades					200									
NEA-PAF (teachers)	200	1,125	4,850	300		250	700	1,275	500	300	500			200
State affiliates		250	500	3,250		445	500			2,000				
OCAW (oil, chemical workers)	25	250			1,000									
National Maritime Union—PLOW		250												
Painters and Allied Trades	250	500	200	200	1,000	450			100	1,550			100	
PEOPLE (AFSCME)	1,200	3,000		500	1,000	300	900	1,000	2,200	2,900	100	500		100
Railway Clerks P.L	12,250	10,500	3,500	1,000	5,000	5,000	1,500	3,000	1,000	5,000	2,000	1,500		500
Railway Labor Executives Association	1,000	1,500		300		300	500			600	3,000			300
Seafarers SPAD	5,000	2,500	6,000	2,000	1,000	1,000	500	4,375	2,000			1,500	5,000	500
SEIU-COPE (service employees)		1,000			500	1,350	700					200	500	
Sheetmetal Workers	1,000	400	1,000	1,000	500	300			1,025		300	300	5,500	400
Signalmens P.L	200	800								150				
Transport Workers	1,400	1,250				1,000								
Transportation PEL	7,950	5,850	4,500	2,250	1,000	2,000	2,500	2,550	1,000	5,025	1,000	500	500	500
TWUA (textile workers)									250					
UA-PAL (plumbers)			2,000		1,000									
UAW Voluntary CAP (auto workers)	5,200	5,950	5,100	5,100	5,050	760	300	2,500	5,000	2,000		5,000		100
United Rubber Workers	350				200	200		1,000		200				
United Steelworkers	5,400	5,000	5,000	7,500	5,000	1,215	5,000	2,400	2,000	5,000	5,000	5,000	5,000	
Miscellaneous	600	950	1,200	1,000	1,000	150	1,100	800	650	800	100	100		
United Paperworkers					1,000									
TEMPO (United Federation of Musicians)					1,000									
Letter Carriers Political League		250		200	300	400	2,600		100	300				
PATCO (air traffic controllers)			4,000				1,200		200				500	
United Plant Guards						1,415						125		
Total	85,675	100,800	102,133	50,700	54,550	49,533	41,793	34,970	43,275	65,525	34,700	50,045	41,800	11,950

WORLD FOOD SITUATION

Mr. HUGH SCOTT. Mr. President, with the current world food situation in such a precarious state, and many of our resources at significantly low levels we must pay special attention to food production, nutrition, and the importance of a proper diet. Our health is directly related to the foods we eat and it is important that we become better educated in this area.

I urge the Senate to act on S. 1309, to amend the National School Lunch Act. This bill, which I am cosponsoring, would restore to the Secretary of Agriculture the authority to regulate the sale of competitive foods in participating schools and institutions. The Secretary would be directed to make cash grants to State education departments or comparable agencies, for programs to increase the students' knowledge of the nutritional value of foods and the relationship of nutrition to human health. It is important that we all know more about nutrition and how it relates directly to our health.

Another important matter which stands before us concerning nutrition is that of food supplements. S. 548, which I am also cosponsoring, would amend the Food, Drug, and Cosmetic Act to include a definition of food supplements. This bill defines the meaning of "special dietary uses" as particular uses of food for man, which meet specified requirements. The recent "vitamin" controversy is due to a group of FDA regulations, limiting areas such as potency of vitamins, number, et cetera, which have been deemed by many drug manufacturers as unnecessary and unfair. S. 548 would provide that the Secretary of HEW shall not limit the potency, number, combination, amount, or variety of any synthetic or natural vitamin, mineral, or other nutritional component of any food if the amount recommended to be consumed does not ordinarily render it injurious to health. If we are to impose regulations, they must be necessary and purposeful. This legislation would require that these regulations be formulated out of substantial necessity. I urge the Senate to act on S. 548 without delay.

I should like to address myself to a matter which is of international significance; that is the current world food situation. We are indeed making steps in the direction of overcoming world hunger. In December 1975, a major bill, H.R. 9005, was signed into law establishing the International Fund for Agricultural Development. The United States supplied $200 million while other industrialized countries supplied an additional $400 million. The purpose of the IFAD is to increase food production in the developing nations and thereby improve the global supply and distribution of food. The United States is rapidly increasing its food reserves. The U.S. Department of Agriculture anticipates the largest buildup of grain reserves in 5 years. In the current 1975–76 crop year, the United States will supply about 25 percent of all the wheat and coarse grains consumed in the world. We will do this with but about 12 percent of the world's harvested acreage of these crops, but with yields per acre more than twice the world average.

Although the world food situation has improved since 1972–73, the estimates of available world food supplies and their distribution, and projected grain stocks indicate that the world situation is still precarious. The world carryover of food stocks is currently estimated at 100 million tons, with the United States holding approximately one-third of the total. The Food and Agriculture Organization of the United Nations estimates that there are nearly 500 million people in the world who are poorly fed. The lives of many of these people are dependent on our future policies for food aid, food reserves, and improved agricultural production.

According to several prominent climatologists, world weather patterns are very likely to become more unstable in the near future. That is, there will be greater variability, and conditions will be less favorable for agriculture. We do not know to what extent this will be true, yet we must take this advice into consideration while looking toward the future.

I cannot stress too strongly the importance of continuing our efforts toward improving the world food situation. I encourage legislation in this area and urge that the Senate recognize and give funding to such projects, provided of course that they are feasible and worthwhile and cause no hardship on our own country. We must plan now for our own future and for the future of the world.

THE STRATEGIC ARMS LIMITATION TALKS, AUGUST 1976

Mr. THURMOND. Mr. President, Dr. William R. Van Cleave, associate professor and director of defense and strategic studies, School of International Relations, University of Southern California, authored an article entitled "Salt on the Eagle's Tail," which was published in the spring issue of Strategic Review, a publication sponsored by the American Security Council. This article, which reflects extensive research, is an excellent analysis of the ambiguities, loopholes, and Soviet violations of the Strategic Arms Limitations Talks—SALT.

In view of the unprecedented expansion of the Soviet's strategic and conventional forces since the beginning of détente and SALT, which are supposedly designed to put a cap on the arms race, the American people, the Congress and the administration should take a real hard look at the facts before making any further unilateral concessions to the Soviet Union. The facts will reveal that the Soviet Union has violated the arms agreements and taken full advantage of the ambiguities and loopholes in the SALT documents.

During the last few months, Dr. Van Cleave and many other experts on strategic balance have presented a clear explanation of the advantages gained by the U.S.S.R. since SALT I. I commend the article by Dr. Van Cleave to my distinguished colleagues in the interest of our national security and especially in considering the defense budget.

Mr. President, I ask unanimous consent for the article by Dr. William R. Van Cleave, published in the 1976 spring issue of Strategic Review, to be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD. as follows:

SALT ON THE EAGLE'S TAIL

(By William R. Van Cleave) *

* The author: Dr. Van Cleave is Associate Professor and Director of Defense and Strategic Studies, School of International Relations, University of Southern California. He received a B.A. degree, summa cum laude, in Political Science at California State University, Long Beach, and M.A. and Ph.D. degrees in Government and International Relations from Claremont Graduate School. From 1969 to 1971 Dr. Van Cleave was a Special Assistant in the Office of the Secretary of Defense and a member of the U.S. Delegation to the Strategic Arms Limitation Talks. He served four years in the U.S. Marine Corps followed by three years on the Professional Staff, Strategic Studies Center, Stanford Research Institute.

IN BRIEF

The scope and scale of Soviet strategic programs are unprecedented in magnitude, and are, in fact, even more vigorous since the SALT agreements were heralded as arresting that momentum. U.S. SALT objectives have, as a consequence, been lowered. The Administration seems far more keen for SALT agreements than does the American public, whose growing reservations seem to be ignored. The question of violations hinges on the ambiguities of the agreements themselves and on what really has been agreed, as opposed to what the Administration originally claimed was agreed. If one takes as the SALT I agreement that which was described to Congress by the Administration, the Soviets have violated the agreements approved by Congress, as Congress was led to understand them. Other Soviet activities have been reported which, if true, clearly constitute violations of the agreements in a legal sense. If in every instance of alleged Soviet noncompliance with the agreements; it is not strictly a violation, the cumulative record of Soviet behavior should be a lesson that will guide any further expectations concerning arms agreements with the USSR. U.S. officials might well be faulted for allowing such large loopholes and for expecting the Soviet Union to abide by the "spirit of the agreements as we see it. On the other hand, it is clear that the Soviet Union does not intend to let itself be bound very stringently by arms limitations agreements but intends to forge ahead ruthlessly in its military build-up. We have reached a crucial point in the timing of an American response to Soviet strategic programs, a point when, if there is to be an adequate response, sufficient to dissuade the Soviets from their belief in a strategic war-winning capability and in the inexorability of the changing correlation of forces, it must now be taken. The mere fact of continuing arms limitation talks and promise of additional (although essentially meaningless) agreements may serve to hamper that response and render it too little, and too late.

Every schoolchild knows the way to catch a bird is to salt its tail. The hidden catch, of course, is that the bird must first be seized and restrained while the salt is sprinkled. There is an analogy here for SALT and the American eagle. Simply put, the American eagle was caught and fitted with rose-colored glasses by arms control and "detente" enthusiasts, restrained by Dr. Kissinger (aided by a benighted Congress), and SALTed by the Soviet Union.

SALT EXPECTATIONS

The Soviets knew all along what they wanted from SALT and how it fit into their strategy of detente: pursuing competitive and adversary objectives by means short of armed conflict, while completing the military component of the shift in the correlation of forces that Soviet leaders seem convinced is irretrievably set in motion. The corollary of that strategy is that the U.S. acceptance of and approach to detente—expressed by Dr. Kissinger as the alternative to nuclear war—confirms that the United States, to avoid war, will not use military means as a counterweight to that historic shift in the correlation of forces.

In the beginning, the U.S. thought that it knew what it wanted from SALT. But rather than standing firm and negotiating only for clear-cut and equitable constraints, the U.S.

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opted for an agreement built upon disadvantages that it thought were to be only temporary, provisions that were vague in the extreme, and a large dollop of faith that the Soviets were sufficiently satisfied with the strategic status quo and persuaded by the logic of mutual deterrence to help us make it all work.

Since the SALT I agreements were consummated in the spring of 1972, the Soviets have demonstrated that they have had no intention of perpetuating the status quo, much less helping the U.S. ease the problems set by its own approach to SALT. To the contrary, the Soviets have continued to use the talks and the promise of forthcoming, more "equitable" limitations to blur Western perceptions of the frenetic Soviet build-up of a strategic warfighting capability, and they have used the ambiguities of the SALT I agreements both to promote that capability and to test U.S. pliability. As will be discussed later, Soviet "violations" of the SALT I agreements, however clear or unclear, should be taken very seriously in the political context of making future agreements with the Soviet Union. The violations are also of concern to the U.S. in the contribution of these specific activities to Soviet strategic force capabilities. In addition, they show a certain disdain toward U.S. SALT expectations and constitute probes to see what the United States will accept and where it will attempt to stand firm. In all of those respects, Soviet violations of the SALT I agreements should not be belittled. Focusing on those acts alone, however, may draw attention from the central fact of the enormous effort the Soviet Union continues to put into minacious strategic force developments, even within SALT limitations, and the utter inability of SALT to restrain these developments.

The record, after all, speaks for itself, and comparing the hyperbole that has always accompanied Dr. Kissinger's statements on detente and SALT with the actual results, more people will be moved to the question put by a prominent Senator during Congressional hearings last year on U.S. SALT dealings:

Senator HUMPHREY. "One of the things that worries me, even though I am an arms control man, is the advantage the Soviets are getting on the underwater missile. That really bothers me. . . . Are we tied down specifically now to the limits on submarine missiles?"

Secretary SCHLESINGER: "In the interim Agreement?"

Senator HUMPHREY. "Yes."

Secretary SCHLESINGER: "We cannot go beyond 710."

Senator HUMPHREY: "And the Soviets can go to how many?"

Secretary SCHLESINGER: "950."

Senator HUMPHREY. "950?"

Secretary SCHLESINGER: "Yes, Sir."

Senator HUMPHREY: "Why did we do that?"[1]

The Senator went on to confess that this had been bothering his conscience, "as to how we did that and how I, as a Senator, kind of condoned it." Leaving aside the Senator's startling lack of knowledge of the terms of an agreement that he had championed, the exchange serves to underscore the increasing questioning of SALT. "Why did we do that?" applies to the still unraveling fabric of negotiations and agreements spearheaded by Dr. Kissinger, including the loopholes and ambiguities in the initial agreements and the provisions yet to emerge from the Vladivostok and Moscow understandings. Ominously underlying it all is the scope and scale of Soviet strategic programs, which are unprecedented in magnitude and, in fact, are even more vigorous since the SALT I agreements were heralded as arresting that momentum.

As a consequence, U.S. SALT objectives have been lowered whilly-nilly. In fact, one could say that the history of SALT is a history of ever-diminishing strategic arms limitation expectations, from initially seeking an agreement that might indeed ease prospective strategic problems, to weighing limitations in terms of which alternatives might hurt us less than other alternatives—all within the wide range of limitations that the Secretary of State seems willing to accept to keep SALT alive in pursuit of his own grand design of "detente."[2] Even so, we have reached a crucial point in the timing of an American response to Soviet strategic programs, a point when, if there is to be an adequate response, sufficient to dissuade the Soviets from their belief in a strategic warwinning capability and in the inexorability of the changing correlation of forces, that response must now be made. And the mere fact of continuing arms limitation talks and the promise of additional (although essentially meaningless) agreements may serve to hamper that response and render it too little, and too late.

This view was most forcefully put by Paul Nitze in a recent article, which cast serious doubt on both strategic stability and the wisdom of further pursuit of negotiations, given the approach to both that has been taken by the United States:

". . . there is every prospect that under the terms of the SALT agreements the Soviet Union will continue to pursue a nuclear superiority that is not merely quantitative but designed to produce a theoretical warwinning capability. . . . If, and only if, the United States now takes action to redress the impending strategic imbalance, can the Soviet Union be persuaded to abandon its quest for superiority and to resume the path of meaningful limitations and reductions through negotiation".[3]

CONFLICTING U.S. RECIPES FOR SALT

The sudden dismissal of the Secretary of Defense, following sharp disagreements with Kissinger's SALT propensities and tendency to soft-pedal Soviet arms activities, must have been related to these factors. It is no secret the Schlesinger was more concerned about Soviet strategic developments, more skeptical and cautious in his approach to arms limitations agreements with the Soviet Union, and worried about the specific provisions of a SALT II agreement. It is also no secret that Kissinger regards the political fact of an agreement as far more important than the terms of an agreement and their strategic consequences, believing the strategic balance to be inherently stable and believing there to be no political disadvantages from strategic imbalance in any case. These basically different approaches were at the root of unresolved issues about how to react to evidence of Soviet SALT transgressions, both in terms of the existing agreements and the ongoing negotiations.

In a sense, while the foregoing is true, it is also somewhat misleading to draw a contrast between the two Secretaries in terms of a pessimistic Secretary of Defense and an optimistic Secretary of State. In one respect, Secretary Schlesinger was the optimist. He believed that it is still possible in timely fashion to correct both the actual trends toward strategic instability and the Soviet perception of a politico-military correlation of forces changing in their favor. This could be done through a combination of: a) a much firmer negotiating stance, holding out for limitations that might promote stability and equivalence rather than accepting piecemeal limitations that did neither, but created the delusion of progress; b) a substantially increased Defense budget over the next five years, particularly in strategic programs, designed to negate the growing Soviet advantage, to arrest the shift toward Soviet superiority in military forces and to increase pressure on the USSR in SALT, toward the desired types of agreements; and c) a determined program of informing and educating Congress.

Secretary Kissinger, on the other hand, seems somewhat less an optimist concerning Soviet objectives and behavior than a fatalist in that he apparently accepts the Soviet view of the changing correlation of forces and the lack of American will to reverse it. Kissinger is also somewhat of an egoist in his belief that he, personally, through enlightened statesmanship, can ease the transition and produce a new world order in cooperation with the USSR. In that view, the Soivets are "in the driver's seat" in the strategic balance and SALT, and there is little that we can do about it, but—so the rationalization goes—there is no significance to the strategic nuclear balance anyway, once one has a minimum "assured" retaliatory capability. This view illustrates another major difference between the two Secretaries.

With the firing of Secretary of Defense Schlesinger, controversies over SALT that have lain politically dormant, including serious ones hidden within the Administration, may emerge as important issues in American politics—controversies over the purpose of SALT at this time (does the U.S. any longer have any realistic and meaningful SALT objectives?), its consequences, the agreements now being forged in the aftermath of the Vladivostok and recent Moscow understandings, and Soviet compliance with existing agreements. The fact of major differences between U.S. and Soviet SALT objectives and of major differences on SALT within the U.S. government has been widely reported in the press despite Administration attempts (most particularly by Dr. Kissinger) to disparage and hide the differences. Kissinger, for his part, has regarded Pentagon attempts to formulate and insist upon more equitable and precise limitations as "obstructionism," as well as a challenge to his personal control of the negotiations. Kissinger had already insisted to Congress that the Soviets would negotiate arms limitations only at the highest level—with himself—and not with the SALT team or the "bureaucracy." Holding the eagle was to remain a solo performance.

The high-level shifts in the Administration appear to have been a clear-cut victory for Secretary Kissinger and his approach to the Soviet Union and strategic arms limitations, both directly and indirectly in what they signify for U.S. strategic program budgets, which Secretary Schlesinger wanted to increase over the next few years in response to Soviet programs. (The FY 1977 Defense budget, released on January 27, 1976, falls short of the budgets projected last year by Dr. Schlesinger.) Whatever one may think of Kissinger's approach, the change is regrettable, for it removes from the President's highest council an articulate and sometimes effective counter to Kissinger's dominance of SALT-related matters.

Under Kissinger's guidance, the Administration continues to press for limitations that are, at most, cosmetic, that merely perpetuate the process without easing the problems. On this score, the Administration seems far more keen for such agreements than is the American public, whose growing reservations seem to be ignored. The Wall Street Journal, prior to Kissinger's recent Moscow trip, presciently observed that despite SALT being in "deep trouble" Secretary Kissinger had his agreement firmly in view and "is now turning to selling it to the Americans." This, of course, is an encore of his SALT I performance. The Journal, however, counseled caution: "There is no urgent reason to accept such an agreement, no reason not simply to wait until the Soviets are willing to strike a more even bar-

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Footnotes at end of article.

gain."[5] Judging from other commentary around the country, including that from sources formerly enthusiastic about SALT, there is much evidence of growing dissatisfaction with the SALTing of the eagle's tail. As American hopes for detente and for meaningful strategic arms limitations crumble and the situation with the Soviet Union becomes clearer. Dr. Kissinger may become a political liability to the Administration.

Curiously, this may come about less from a true appreciation of the significance of Soviet strategic programs and objectives and the need for an effective timely American response, than from public irritation over apparent Soviet transgressions against the existing agreements, which tend to force two alternatives on the Administration: either to react sharply (which it has not done), or to admit that the agreements were both oversold and misrepresented (which it does, in effect, by belittling these Soviet acts as being of no significance). Either strategic arms limitations and Soviet behavior concerning them are a meaningful litmus test of Dr. Kissinger's detente policy, or they are not. The Secretary cannot have it both ways. Confirmed reports that Dr. Kissinger has routinely withheld U.S. intelligence reports of suspected Soviet violations from Congress. U.S. SALT negotiators and even high Administration officials; that he engaged in a "continuing effort to make less severe the intelligence description of what the cheating involved"; and that he attempted to prohibit or suppress intelligence and Joint Chiefs of Staff written reports on possible violations, all indicate that the litmus test is decidedly negative, but that Dr. Kissinger is attempting to conceal this fact from the public.[6]

THE VIOLATIONS QUESTION

Public attention has been caught by frequent reports that the Soviets have been ignoring provisions of the ABM Treaty and Interim Agreement on Offensive Arms, or at least have been taking advantage of loopholes in the agreements, against the intent or "spirit" of the agreements. These reports, emanating unofficially from official sources, initially appeared in the peridocial Aviation Week & Space Technology. The specific Soviet activities in question were validated by leaks of secret Congressional testimony by the now dismissed Secretary of Defense and Director of the CIA, and by highly specific accounts by former Defense Secretary Laird, former Chief of Naval Operations Admiral Zumwalt, and Senators Buckley and Jackson. Most recently, they were the subject of open testimony before the (Pike) House Select Committee on Intelligence by Admiral Zumwalt. Yet, President Ford and Secretary Kissinger continue to deny that anything questionable is going on. How is this possible?

The problem is a political one as well as a strategic one. It hinges on the ambiguity of the agreements themselves and on what really has been agreed, as opposed to what the Administration originally claimed was agreed. And it also hinges on a reluctance to admit that SALT did not, and cannot, accomplish anything close to the billing given it, either in the specific terms of arms control or the more vague terms of detente.

That is to say, even with better preparation and more adroit negotiation, it was never likely that limitations very meaningful in terms of easing strategic problems, reducing the threat, or achieving major arms control objectives could have come from SALT. That has not been the way the Soviet Union has approached SALT; nor has there been sufficient compatibility between U.S. and Soviet objectives and concepts to permit arms agreements except within very narrow limits. Despite our hopes and continued endeavors, at no time in SALT has any arrangement been negotiable that could have significantly eased the strain on U.S. forces, or reduced specific major problems such as force vulnerabilities.

On the other hand, it is possible that poor agreements could have been avoided, that agreed limitations could have been more equitable and slightly more meaningful, that provisions of the agreements could have been more precise and less loosely drawn, and that the public could have been treated more openely and frankly. It would seem needless even to note such obvious minimal expectations, except that they, too, are absent from the SALT record.

As to Soviet violations of the 1972 agreements, the Soviets have certainly "violated" at least the U.S. understanding of the provisions of the agreements as described by the Administration. Politically important within the United States, if one takes as the SALT I agreement that which was described to Congress by the Administration, the Soviets have violated the agreements approved by Congress as Congress was led to understand them. Whether the Soviets have violated the literally imposed limitations of the mutually accepted agreements is another matter.

The very confusion over this suggests violations beyond whatever the Soviets are doing: violations by the Administration, led by Kissinger, of fundamental rules of sound negotiating and sound agreements; violations also of responsibility and trust in misleading the American people as to what was agreed and what could be expected of the Soviets. Congress (with only a few exceptions) shares in these violations in its eagerness to grasp the agreements and its failure, therefore, to pin down what precisely was agreed.

This point must be carefully made. It was cogently argued by Admiral Zumwalt in his Pike Committee testimony, although his points seem to have been widely misunderstood (or perhaps deliberately distorted) by the media, which accused Zumwalt of sensationalism and even fabrication. For example, the Los Angeles Times published an editorial entitled, "Damn the Facts! Full Speed Ahead!", which castigated the Admiral for asserting without support that 'massive Soviet violations' of the strategic arms limitation agreement" had taken place.[7] What Admiral Zumwalt said, however, was that "the Administration has elected not to inform the Congress of massive violations of the deal as it was explained to the Congress." That point is beyond reproach. There are also activities reported, which, if true, clearly constitute violations of the agreements in a legal sense, but there are "massive" violations of the agreements in the sense stipulated by Zumwalt.

The violations furor reflects as much the naiveté of American SALT enthusiasts as it does Soviet behavior in the face of arms agreements. It again demonstrates that the two sides had very different objectives in SALT, and have differing views as to what has been agreed. When the Los Angeles Times, for example, editorializes that "Even by generous interpretation, it is clear that the Russians are violating the spirit of the open sky provisions of the SALT I agreement," it is correct, but it is referring to the American "spirit" of the agreement. The Soviets do not recognize spiritual aspects of agreements. SALT to them is a political instrument, not an exercise in ecumenism.

Of course the Soviets are pushing strategic force programs to their utmost capacity and in doing so are also pressing to the stress point the agreements of 1972. Why would anyone expect anything else? Why should the Soviets feel bound by American interpretations of what has been agreed simply because they have been set forth by the U.S.? Especially when the probable reason that such interpretations did not find their way into precisely worded limitations was that the Russians wanted to avoid them! As Dr. Colin S. Gray, formerly of London's International Institute for Strategic Studies, explained in an excellent recent article that detailed the technicalities of the questioned violations.

The Soviets did not sign a piece of paper that specified the improvement of ABM defenses and the vast enhancement of hard-target counterforce capability as being incompatible with the "spirit" of SALT I. Such a "spirit" is solely a Western invention.[8]

This is more important to understand than the quasi-legal questions surrounding the subject of violations. While the question of Soviet compliance with international agreements is a basic one, transcending it in strategic importance is the vigor of the Soviet strategic arms program since the signing of the SALT I accords. On the other hand, the question of Soviet activities related to the framework of the negotiated agreements goes beyond the legalities of these activities. If in every instance of alleged Soviet noncompliance with the agreements it is not strictly a violation, the cumulative record of Soviet behavior should be a lesson that will guide any future expectations concerning arms agreements with the USSR. The Soviet activities in question, if not illegal, certainly demonstrate to the point of disdain an insensitivity to oft expressed American concerns.

In addressing violations it is necessary to determine what exactly was agreed. That is not an easy task. The form of the agreements and their wording leave substantial ambiguities. It is also true that the Administration, led by Kissinger, described and explained the agreements by going beyond their strict limitations. Indeed, President Nixon and Dr. Kissinger apparently even misled members of their own Executive branch team, including the Joint Chiefs of Staff, as to what was agreed. Admiral Zumwalt, Chief of Naval Operations at the time, has subsequently reported that Department of Defense concern over the loopholes and inadequacies of the SALT I agreements was allayed by "the strongest kind of assurances" from Nixon and Kissinger that there would be meticulous Soviet observance of the full body of the agreements, including the appended interpretations."[9]

One could even say that there are two sets of "limitations": 1) those explicitly agreed mutually, signed by the President and the General Secretary and therefore having whatever force of law such international agreements may have; and 2) those limitations represented to Congress and the public, which purfle the basic agreements with a host of adventitious appendages, putative understandings, and American unilateral declarations. At most, then, there is a narrow legal agreement and a broader political one.

To add to the confusion, those who are emphasizing possible violations are doing so with reference to the broader version, as originally described by the Administration, while those Administration spokesmen denying or de-emphasizing possible violations are doing so with reference only to the narrower legal agreements, ignoring what the Administration earlier insisted were agreed terms.

The "Agreement" submitted to Congress and the public, consists of the following:

(1) The ABM Treaty and the Interim Agreement on Strategic Offensive Arms along with its Protocol on submarines, which were signed by President Nixon and Secretary Brezhnev;

(2) A list of "Agreed Interpretations." A through L, which was not signed by the President and the Secretary but was initialed by the respective Heads of the Delegations (Ambassador Smith and Minister Semenov) on May 26, 1972;

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(3) A list of "Common Understandings," A through F, which was signed or initialed by no one, but which was appended to the agreements submitted to Congress and represented (by the U.S.) as understandings reached during the negotiations. These commonly took the form of U.S. Delegation statements of clarification to which the Head of the Soviet Delegation either indicated agreement or at least did not object. Given the fact that the Soviet Delegation was both constant and explicit in its insistence that it negotiated *ad referendum* to higher authority, these would not appear to be binding and are very questionable agreements.

(4) Finally, a list of U.S. Unilateral Statements, A through G (plus one Unilateral Statement by the Soviet side), which commonly were of the nature of the U.S. expressing regret that something in particular was not agreed but wishing to record its position anyway. Obviously, these statements are not only without any legal force, they are also nugatory.

Even though the legal force of these provisions obviously differ, Kissinger, Nixon and subsequently Ford spoke as if the Common Understandings and Unilateral Statements were every bit as much of what was agreed as the basic documents, and further spoke as if the Soviets would not take advantage of the many ambiguities and loopholes that exist throughout. The U.S. could put itself on record as to its own understandings and definitions, and as to the actions that it would consider contrary to the "intent" of the agreements, but unless the U.S. government was willing to treat noncompliance with *those* terms, effectively, as true violations, its action was worse than meaningless. It was—as it has become—a source of embarrassment. Unable now to do anything about Soviet disregard of such terms, but wishing to avoid making a major issue of it for fear of upsetting SALT II, the Administration is left with feeble denials of Soviet violations (or at least of "substantial violations") by reversing its earlier positions on what was agreed and referring now only to the narrower limitations.

We turn now to the questionable Soviet activities. In only general terms, these are:

(1) Developing, testing and possibly preparing to deploy a *mobile ICBM* (the SS-16);

(2) Converting "light ICBMs" into "heavy ICBMs," i.e., deploying new, heavy ICBMs (SS-17, SS-19) in silos originally housing the lighter SS-11 ICBM. (The SS-11 has a volume less than 70 cubic meters and a throw-weight or payload capacity of around 2,000 pounds, while the SS-19, for example, is said to have a volume of some 100 cubic meters and a throw-weight better than three times that of the SS-11. Such conversions are obviously ways to increase one's ICBM capability without increasing the number of launchers. Because of the importance of this, the U.S. has in the past attempted to distinguish between a "light" and a "heavy" ICBM by making a dividing line at 70 cubic meters, which would include the U.S. Minuteman and the Soviet SS-11.);

(3) Building new ICBM silos beyond the number permitted: reportedly over 150 new so-called III-X silos, capable of housing heavy ICBMs, have been detected;

(4) Violating the ABM Treaty in various ways, including:

(a) testing surface-to-air missiles (SAMs) designed for aircraft defense "in an ABM mode," which—if successful—could upgrade them to an ABM capability far surpassing the limits of the Treaty. This has included testing them at altitudes beyond those for air defense purposes but consistent with ballistic missile defense, and testing them against actual or simulated ballistic missile re-entry vehicles;

(b) likewise testing SAM radars "in an ABM mode";

(c) developing and testing mobile or at least transportable (e.g., in vans) ABM radars, including ones with power beyond the limits defined by the Treaty;

(d) building a new—and prohibited—ABM radar at Kamchatka.

(5) Systematically canceling strategic force activities by interfering with U.S. technical means of verification. This could turn out to be the most serious of all since, as Admiral Zumwalt testified, "the Soviets in their interference with our national means of detection have produced a serious reduction in our ability to check against Soviet cheating." [10]

Of these activities, the first, however strategically significant, cannot be regarded as a violation. The basic agreement on offensive forces specifically limits ICBMs only in terms of fixed ICBM launchers, the Soviets having refused categorically to limit mobile ICBMs. In fact, in a Unilateral Statement the U.S. explicitly withdrew its proposal to limit such missiles. The confusion arises because in the same Unilateral Statement the U.S. saw fit to warn the USSR that it "would consider the deployment of operational land-mobile ICBM launchers . . . as inconsistent with the objectives of the Agreement." This is more of the spiritual.

Number (2), above, converting "light" into "heavy" ICBMs, provides a good example of the overall confusion and loopholes in the SALT I agreements. The Soviet Union is now clearly deploying a new family of ICBMs, considerably larger than those they are replacing and those we class as light ICBMs. One of the major U.S. concerns, perhaps the major single one during SALT I, was over such giant ICBMs, and every effort was made to establish low limits on such missiles. The Agreement on offensive forces was repeatedly characterized as having done that. Kissinger, in particular, voiced that assurance many times.

But are such missiles limited by the terms of the agreement? The basic Interim Agreement says nothing about such limitations, and in fact does not even define the two types of missiles. It does say that the parties undertake not to convert land-based *launchers* for light ICBMs into launchers for heavy ICBMs. The "Agreed Interpretations," referring again only to launchers, say that it is understood that "the dimensions of land-based ICBM silo launchers will not be significantly increased" (whatever that means). So, we turn to the unsigned and uninitiated "Common Understandings." Here, again, no mention of the missiles. Rather, we find that Ambassador Smith said that the term "significantly increased" meant "not greater than 10–15 per cent of the present dimensions of land-based ICBM silo launchers." But what dimensions? One dimension? All dimensions? The answer might mean a *50 per cent* allowable increase in the volume of the silo, even were the Soviets to abide by this provision.

Finally, we turn to the Unilateral Statements and here—as if in recognition that nothing had been agreed—we find only a statement that "The U.S. Delegation regrets that the Soviet Delegation has not been willing to agree on a common definition of a heavy missile." The United States, however, would consider "any ICBM having a volume significantly greater than that of the largest light ICBM now operational on either side to be a heavy ICBM."

Were the Soviets bound by the last, they would certainly be violating the agreement, assuming that we could establish the meaning of such a vague phrase as "significantly greater." As to the previous provisions, it turns out that the Soviets can fit their new missiles, despite their greater size and throw-weight, into existing silos rather easily.

The last three activities listed above, however, are far more difficult to deny as violations, even given the ambiguities of the agreements. Additional new ICBM silo launchers are clearly prohibited, and just as clearly are being built. Although the Soviets refused to stipulate the numbers of their launchers, the basic agreement does obligate the parties "not to start construction of additional fixed land-based intercontinental ballistic missile launchers after July 1, 1972." The Soviets, however, insist that these silos are not for ICBMs, but for command centers—even though they have all of the characteristics of a silo launcher, including even the rapidly removable door at the top for missile launch.

In a careful testimony that acknowledged but generally played down Soviet violations, Schlesinger, as Secretary of Defense, summarized: "Though the intelligence community believes that the intended purpose of these new silo-type facilities is for launch control, the United States is concerned that these silos may have the capability to launch ICBMs" [11]

The ABM Treaty does prohibit the developing, testing or deploying of a mobile ABM system, or even the components of one. It also obligates the parties not to give non-ABM missiles, launchers or radars an ABM capability, and not to test them "in an ABM mode." Those provisions, however, are not further elucidated in the body of the Treaty. That there was some confusion or disagreement on what constitutes a mobile ABM (as opposed to a movable or transportable one, perhaps) is indicated by a U.S. Delegation statement under "Common Understandings" that the mobile ABM limitation pertains to ABMs that are "not permanent fixed types." The Soviet Delegation replied that there is a "general common understanding on this matter." Nowhere, however, is there an agreed definition of what constitutes testing "in an ABM mode." Again the U.S. resorted to the Unilateral Statement technique to list several characteristics of such testing that it considers testing in an ABM mode, including practices in which the Soviet Union is now said to be engaged. These practices could be for the development of new, maybe dual, SAM-ABM systems, or for the "upgrading" of SAMs to achieve significant ABM capabilities. Upgrading SAM systems to enhance their ABM capability, or producing new generation "SAMs" with significant ABM capabilities, would of course be very serious strategically, given that the USSR has 10,000 to 12,000 SAM launchers deployed. All together, with the rigorous "non-limited" ABM-related testing being conducted, principally at Sary Shagan, and such developments as the new ABM radar at Kamchatka, it is possible that the Soviets are developing a very rapidly deployable ABM for the contingency of a voided ABM Treaty.

Finally, an extremely serious infringement, in view of its concealment potential, is Soviet interference with U.S. technical means of verifying compliance with the provisions of the Agreement (or, in general, keeping up-to-date on Soviet strategic force developments). Both the ABM Treaty and the Interim Agreement recognize the use of national technical means of verification, although ambiguity is added by the qualification, "in a manner consistent with generally recognized principles of international law." Both documents explicitly prohibit interference with national technical means of verification (so long as they are operating in accordance with that qualification), including any "deliberate concealment measures," with only the provision that these rules do not require "charges in current construction, assembly, conversion, or overhaul practices."

The Soviet Union however, is said to have been actively interfering in various ways with U.S. electronic and photographic means of verification, concealing ballistic missile submarine and possible mobile ICBM activities with enormous canvas coverings, en-

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coding and encapsulating telemetry signals in new ways to deny the U.S. information on missile testing, including MIRV, and otherwise disguising certain strategic force programs. (For that matter, they may have all along concealed operational ICBM launchers, which would mean that our intelligence is incomplete, but—if a pre-agreement practice—would not necessarily constitute a violation.)

The extent of such activities, especially when taken with the full scope of Soviet military programs, should be a matter of the most serious concern and political debate in the U.S., whether or not one regards the above activities as arms agreement violations. U.S. officials might well be faulted for allowing such large loopholes and for expecting the Soviet Union to abide by the "spirit" of the agreements as we see it. On the other hand, it is clear that the Soviet Union does not intend to let itself be bound very stringently by arms limitations agreements but intends to forge ahead ruthlessly in its military build-up. The report of a recent conference of "American long timers in Moscow," which included former Ambassadors such as Foy Kohler and George Kennan, concluded that the Soviet rulers "seek maximum military power" and "will continue their efforts to achieve it indefinitely." In addressing how much is enough military power, the conclusion was that "the Russians will never feel that they have enough." [12] SALT, to date, has done nothing to arrest or slow that process or the trends of change that began to be so clear at the beginning of SALT.

THE SALT RECORD TO DATE

In testifying on the SALT I agreements before the Senate Armed Services Committee in 1972, I observed that the terms of the agreements were "a light year removed" from the outcomes contemplated in 1969; that one way of describing SALT then was that in two and one-half years "the United States managed to trade away Safeguard [ABM System] . . . for a doubling of the threat," and that the agreements would in no way arrest the momentum of Soviet stategic arms programs. The Administration, itself, was apparently not all that happy with the *terms* of the agreements either, since prior to signing the agreements, it instructed the U.S. SALT Delegation formally to inform Moscow that if these agreements were not followed by "an agreement providing for more complete strategic offensive arms limitations" within five years, then "U.S. supreme interests could be jeopardized." (One might wonder why we would sign agreements that had to be substantially changed within five years to prevent the jeopardization of U.S. *supreme interests*.)

As to the unequal terms, the Administration said, in effect, that the agreements accomplished two objectives that surpassed trivial considerations of such inequities: 1) they halted the momentum of Soviet strategic force development; and 2) they constituted the necessary first step that would lead to more equitable and meaningful arms limitations. Let us examine what has happened in these respects since 1972.

Soviet strategic force momentum development has increased, not decreased. Since 1972, the Soviets have most thoroughly tested four new types of ICBMs, improved technologically on a par with U.S. systems, three MIRVed and one probably mobile, each with greater throw-weight or payload than those they are replacing, and three of these are now deployed. A new mobile, MIRVed intermediate range ballistic missile (SS-20) has been developed. Two new ballistic missile nuclear submarines have been deployed, with two new types of SLBMs (one with intercontinental range). Serial production of the Backfire, which, whatever its intended role, is a new strategic intercontinental supersonic bomber, is underway. The quality of their systems has correspondingly been improved, in efficiency, reliability and accuracy, so that the stereotype of quantitative Soviet brute strength versus superior American technology is no longer a comfortable one, if it is appropriate at all. Stellar inertial guidance has been adapted to new submarine-launched ballistic missiles to improve accuracy; modern and accurate MIRV techniques have been mastered; two of the new ICBMs are capable of being "cold launched" from silos so that the silos can be readily reloaded (which tends to render meaningless limitations based on silo launchers); and new ABM missiles and radars reflect a strong drive to overtake the previous U.S. lead in ABM technology.

The Director of Defense Research and Engineering reported a year or so ago that "The Soviet weapons development efforts are innovative, massive, sweeping, and relentless." [13] and during the intervening year, according to the Chairman, Joint Chiefs of Staff, "the extent and diversity of the qualitative improvements have been somewhat greater than anticipated," the Soviet program has proceeded over the past year faster than had been forecast only a year ago.[14]

In the face of this, the only agreements that have followed the "first step" promissory SALT I agreements are those of Vladivostok in November 1974, and Moscow in January 1976. While the terms have been publicly revealed only generally and incompletely, there is no indication whatsoever that they will have the slightest arresting impact on these Soviet developments, ease U.S. strategic problems wrought by those developments, or contribute of themselves to strategic stability or equivalency. The Vladivostok agreements did not approach the throw-weight limitations, reduction or true equivalency U.S. negotiators aimed for. The "virtue" of the Vladivostok agreements seemed to be that they corrected the numerical inequalities of the 1972 agreements by establishing common ceilings for strategic nuclear delivery vehicles and numbers of MIRVed missiles, and they did not restrain the U.S. from taking the measures it deemed necessary to ease its own problems. But the respective ceilings—2,400 and 1,320—were set at *Soviet levels* and *beyond* programed U.S. force levels. Their apparent equality is cosmetic, but was accepted to disarm, not the Soviets, but the Congressional critics of SALT I who demanded equality of numbers in any follow-on SALT agreements. To approach equal levels, the U.S. would be required to increase its forces or to include types of forces that the Soviets would be allowed to exclude (in this case, strategic bombers and possibly cruise missiles, depending upon how the agreements are worked out).

The U.S. has less than 2,100 operational ICBMs, SLBMs and B–52 bombers. The Soviet Union has a strategic intercontinental ballistic missile launcher force alone (ICBMs and modern SLBMs) of some 2,358, permitted by the SALT I agreements. If the Soviets are not required to count their new "Backfire" intercontinental strategic bomber in the 2,400 level, merely by phasing out only 140 aged Bison and Bear bombers, the Soviet Union could have a 2,400 unit force entirely of ballistic missile launchers (and with reloadable launchers, an unknown number of strategic ballistic missiles), with substantially greater throw-weight than comparable U.S. forces, and a "free" modern strategic bomber force (perhaps more capable when compared with the absence of U.S. air defenses than the B–52 compared with the richness of Soviet air defenses).

The Backfire issue, the question of what constitutes a MIRVed vehicle and the insistence of the Soviets that the limitations covered cruise missiles unless their range was limited, delayed further developments after Vladivostok until this January, when Dr. Kissinger brought "significant advances" back from Moscow. According to published reports,[15] the Soviets offered a (trivial) reduction in the level of limited forces—2,400 to 2,200—in return for an American agreement not to count the Backfire in the reduced ceiling and to accept a range limitation on submarine- and air-launched cruise missiles. Moreover, aircraft carrying cruise missiles within limitations allowed would be counted as a "MIRVed" system! Reportedly, the Soviets also indicated that they might be willing to define a heavy ICBM—but not at the 70 cubic meters wanted by the U.S.; rather, at around the 100 cubic meters that would accommodate the SS–17 and SS–19.

The Soviet Moscow proposal, therefore, while giving the appearance of reducing strategic offensive forces and promoting equivalence, does neither. It requires the U.S. not to recognize Backfire as a strategic bomber within the common ceiling, which gives the USSR that "free" strategic force; and it requires cruise missile range limitations that would asymmetrically limit U.S. target coverage with those systems, compared with comparable Soviet systems (due to geography and urban/industrial distribution). Because of this and because range limitations on Soviet air- and sea-launched cruise missiles cannot be effectively established or verified, this could give the Soviets yet another "free" strategic system.

These issues, however important individually, are still marginal when compared with the overall ceilings allowed, the lack of restrictions on Soviet throw-weight, and the continuing relative emphasis given to strategic force programs in the U.S. and the USSR. The major issue is whether the agreement is worth anything at all, or is simply more SALTing of the eagle's tail. In establishing such high numbers, rather than reducing forces; in not limiting the tremendous Soviet throw-weight advantage; in not restraining in any way the continued development of the Soviet threat, the issue is: what good does it do? The agreement is acceptable to the Soviet Union not only because it does nothing to reduce its advantage or restrain the programs it has under development, but because it also might restrain—by its very existence—U.S. competition in those areas.

In selling the agreements to Congress, the Administration will be very hard put to describe their advantages. Rhetoric about "capping the arms race" should be acceptable to no one. It will undoubtedly be argued that the Soviets made "concessions" equal to our own—and the Soviets certainly appreciate the importance in the U.S. of that image; hence, their practice of insisting on something unbelievable in its audacity (e.g., inclusion of short-range forward-based U.S. systems in the totals, or their withdrawal and the liquidation of their associated bases) and then "giving in" on it. The major argument for the agreements will undoubtedly be that their terms are not *dis*advantageous. This is certainly arguable, but it does reflect a dramatic change in U.S. arms limitations objectives. U.S. arms limitation enthusiasts formerly insisted that such agreements would almost inherently do something very meaningful in terms of arms control and strategic objectives. Those now concerned over what has occurred instead, rightly insist that agreements *must* promote those objectives or they will be worse than meaningless—they will quite possibly be harmful and destabilizing. None of the proposed limitations constrain the developing Soviet threat to the stability of the strategic balance. They do not, however, markedly restrain our own ability to counter it, should we suddenly produce the determination to do so. Unfortu-

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Footnotes at end of article.

nately, they may—if represented by the Administration as a cosmetic achievement of "equivalence," and an arms limitation "breakthrough"—weaken that determination further and thereby promote the continuance of the trend toward instability and what Paul Nitze termed "not merely quantitative" Soviet superiority, but also a "theoretical war-winning capability."

Why the U.S. should press so hard for such agreements that the Secretary of State would engage in what the former Secretary of Defense termed "a strategy of pre-emptive concession" is very unclear. Why we should wish for them with such intensity that the President could fire his Secretary of Defense in large part because of differences he had with the Secretary of State's approach is even more unclear. What is clear is that if there is *any* chance in the future for equitable and meaningful arms agreements with the Soviets, it will require the demonstration by the U.S. through revitalized strategic programs that we are capable of dealing with the Soviet thrust and a much firmer approach in SALT than that espoused and represented by the Secretary of State to date. Otherwise, it would be far better to throw SALT over our shoulder.

FOOTNOTES

[1] *U.S.-U.S.S.R. Strategic Policies*. Hearing before the Subcommittee on Arms Control, International Law and Organization of the Committee on Foreign Relations, U.S. Senate, 93rd Congress, 2nd Session, March 4, 1974, p. 48.

[2] Two perceptive analyses of Dr. Kissinger's "grand design" have recently appeared; *vide*: G. Warren Nutter, *Kissinger's Grand Design* (with a foreward by Melvin Laird), American Enterprise Institute, Washington, D.C., 1975; and James E. Dornan, Jr., "Kissinger's Foreign Policy: Grand Design or Grand Delusion?," *Washington Report*, Special Issue, 75–12, December 1975.

[3] Paul H. Nitze, "Assuring Strategic Stability in an Era of Detente," *Foreign Affairs*, January 1976. pp. 207–208.

[4] While a modest increase over last year's spending is requested, there is a drop of $4 billion from the outlay budget for FY 1977 projected last year by Schlesinger, and an overall reduction through FY 1981 of over $40 billion from that projected last year. Secretary of Defense Donald H. Rumsfeld, *Annual Defense Department Report*. FY 1977, January 27, 1976. For analyses of the budget, see *Soviet Aerospace*, January 26, 1976, pp. 25–27, and "Budget of DOD Called Short of Projected Need" *Aviation Week & Space Technology*, February 2, 1976, pp. 16–17.

[5] "Review and Outlook: SALT in Your Eye," *Wall Street Journal*, October 16, 1975, p. 20. On February 4, 1976, this was echoed by Rep. George Mahon (D-Tex.), Chairman of the House Defense Appropriations Subcommittee when he pointed to a general public concern that the Administration "is a little over anxious" on SALT II. *Soviet Aerospace*, February 9, 1976, p. 45.

[6] This has been brought out in open testimony before the (Pike) House Select Committee on Intelligence, particularly in *Testimony of Admiral Elmo R. Zumwalt, USN (Ret.)*. December 2, 1975 (transcript), corroborated by other official witnesses: See December news coverage; e.g., from *Los Angeles Times*. "CIA Fears on SALT Data Told," December 17, 1975, and "Panel Told U.S. Arms Negotiator Heard of Alleged Soviet Violations from Russ," December 18, 1975. To underscore this (and to add to the insolence) a key Kissinger aide testified that he saw nothing wrong with this practice, that in fact there was "no particular need" for the head of the U.S. SALT Delegation or even the Secretary of State (prior to Kissinger) to be informed of Soviet violations. *Los Angeles Times*, December 18, 1975.

[7] *Los Angeles Times*, December 15, 1975, p. II–6. This writer, in a letter to the *Times* editor of the same date, pointed out the distortion, quoted what the Admiral had actually said, and explained the difference. It was not printed, nor was there any retraction or clarification of the editorial, even though news stories elsewhere in the paper on subsequent dates, reporting on Pike Committee testimony, corroborated the Admiral's charges.

[8] "SALT I Aftermath: Have the Soviets Been Cheating?" *Air Force Magazine*, November 1975, p. 20.

[9] Elmo R. Zumwalt, Jr., and Worth Bagley, "Soviets Cheat. And We Turn Our Backs." *The Washington Star*, August 10, 1975, C–1.

[10] Pike Committee Testimony. Op. cit.

[11] *Soviet Compliance with Certain Provisions of the 1972 SALT I Agreements*, Hearing, Subcommittee on Arms Control of the Committee on Armed Services, U.S. Senate, 94th Congress, 1st Session, March 6, 1975; p. 3.

[12] *The Soviet Union: Yesterday, Today, Tomorrow: A Colloquy of American Long Timers in Moscow*, ed. by Foy D. Kohler and Mose L. Harvey. Center for Advanced International Studies, University of Miami, 1975.

[13] Dr. Malcolm Currie, Address at SAC Bombing and Navigation Competition Banquet, November 13, 1974, (mimeo; also in Air Force Policy Letter, November 1974).

[14] Testimony to House Armed Services Committee. January 27, 1976, quoted in *Soviet Aerospace*, February 2, 1976, p. 33.

[15] This information is drawn from "New SALT Proposals Face Test," *Washington Post*, January 25, 1976, p. 1, and "Soviets Make New SALT Bid," *Aviation Week & Space Technology*, February 2, 1976, pp. 12–15.

XXI OLYMPIAD

Mr. HUGH SCOTT. Mr. President, with great relief the XXI Olympiad held in Montreal ended last Sunday without a serious violent act and the wounded Olympic spirit from Munich was given a chance to heal. Although we have read much about the prevalence of distrust and animosity in Montreal, a member of my staff attended the games and brought back with him many experiences of international good will and friendship.

I am told that at nearly every event if a competitor finished well behind the leaders he or she would receive a good round of applause of encouragement. After all, to finish last among the best is no mean feat. Also, on the track and field practice area near the Olympic Stadium, athletes from nations of different cultures and ideologies would warm up together, give each other advice, and converse with fans from the large crowd that always assembled. The spirit of international brotherhood was in Montreal and do not let anyone say it was not.

I have heard suggestions from several quarters that the Olympic games should be ended, that nothing is accomplished and much is lost. Certainly there are many problems the Olympics must overcome, but the benefits reaped are well worth the effort.

I hope the Olympics continue. All the athletes who participated should be congratulated for the spirit and the keen competition they brought to Montreal.

ILLEGAL USE OF NARCOTICS

Mr. HUGH SCOTT. Mr. President, there is no doubt that the illegal use of narcotics is a continuing threat to American society. At least 5,000 deaths per year can be attributed to the misuse of illegal drugs, and various other crimes such as robberies, muggings, and burglaries can also be attributed to narcotics. We must improve our ability to enforce the law against illegal trafficking in drugs to reduce this threat. S. 3411, the President's Narcotics Sentencing and Seizure Act of 1976, will help in the law enforcement effort. I have written to Chairman BAYH of the Subcommitee on Juvenile Delinquency urging favorable action on this legislation.

The bill proposes specific steps to strengthen the existing laws and enforcement procedures in dealing with the trafficking of illegal drugs. First, it provides for mandatory minimum prison sentences. Statistically it has been shown that one out of every four persons convicted of trafficking in heroin receives no prison sentence. Often those who do receive prison sentences serve only 1 or 2 years. Second, it would toughen bail requirements for repeat offenders. A 1974 Department of Justice study showed that one out of every two individuals arrested for trafficking in narcotics was arrested again on drug charges while out on bail. This legislation would allow the judge to deny bail if a defendant is suspected of trafficking in heroin or dangerous drugs if previously convicted of a drug-related felony. While I would expect that this provision must be very carefully drafted to avoid constitutional pitfalls, if we can do so without impinging on the constitutional rights of our citizens it would surely be a step in the right direction.

Not only will S. 3411 have beneficial effects in this country by tightening existing laws on prison sentences of narcotic offenders, but it will also deter the international trafficking in hard drugs. The bill underscores our determination to deal effectively with drug trafficking. Most narcotics are produced in other countries before being smuggled into the United States. We have to deter both domestic and international traffickers, dealers, and distributors of hard drugs in order to stem the flow of drugs coming into this country and those already in this country. S. 3411 will give the U.S. Customs Service the authority to search persons suspected of smuggling money out of the United States as part of an illegal drug transaction. Second, the provisions of the law relating to small, privately-owned vessels reporting to U.S. Customs after their arrival would be tightened by requiring them to report immediately upon arrival instead of within 24 hours. This provision would make more difficult the unloading of drugs in the country.

Mr. President, President Ford's proposal goes a long way toward correcting the deficiencies in our present enforcement mechanisms. I cannot emphasize enough the need for a comprehensive resolution of this continuing threat to our nation. This bill will help us stem the drug epidemic that is sweeping our country. I urge all my colleagues to support this measure.

METRO FINANCING

Mr. MATHIAS. Mr. President, the long-range financial problems confronting the Washington Metro System have been highlighted by several recent news reports. As projections of Metro construction costs and potential operating losses continue to increase, some of the partners in the WMATA compact are reconsidering their ability to support a rapid rail transit system. Local governments already under tremendous financial pressure certainly face some difficult decisions in attempting to balance their budgets and shoulder the burden of an efficient mass transit system.

Lawrence M. Lesser, who teaches transportation at the University of Maryland and serves as vice chairman of the WMATA Regional Advisory Committee, has written a very perceptive commentary on the Metro financing problem. In an article that appeared in the Washington Post, Mr. Lesser emphasizes the need to face the difficult choice of simply attempting to minimize operating costs or going ahead with a commitment to an efficient mass transit system. I think that our colleagues will find Mr. Lesser's suggestions about a permanent Metro financing mechanism at the regional level of great interest, and I ask unanimous consent that the text of Mr. Lesser's article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

FINDING FUNDS FOR METRO

(By Lawrence M. Lesser)

To date, some two billion dollars has been spent on Metrorail construction with at least another $2.6 billion needed to complete the full 100-mile system. However, if inflationary pressures continue, total construction costs may well exceed the $4.6 billion current estimate. In fact, the General Accounting Office, in a recent report to Congress, estimated that the system will cost nearly $6.1 billion to complete—or $1.5 billion more than anticipated.

In addition to the problem of construction cost overruns, our new Metrorail system also will be faced with mounting operating losses. From day one, this little 4.6-mile five-station electric train has been losing more than $76,000 a day. As new sections of the system are opened to the public and service expands, the operating losses will grow. In short, the more service offered, the greater the losses—regardless of how many people ride the trains and how high the fares are. There is just no way that Metrorail can pay for itself out of the fare-box, much less break even . . .

The 55 cent rush hour fare to ride just 4.5 miles or less is without question the most expensive four and a half mile subway ride in the world.

By way of comparison, both New York City and Montreal charge 50 cents; Chicago, charges 45 cents; Toronto 40 cents; Cleveland and Philadelphia 35 cents; and Boston 25 cents. BART fares range from 25 cents to $1.45, depending on distance. The lowest subway fares in the world are found in the Soviet Union, where it costs only five kopecs the equivalent of six cents to ride the Metro.

If our Metro's 55 cent rush hour fare and 40 cents off-peak hour fare are compared with current taxi fares of $1.60 for one zone and $2.15 for a two-zone trip during rush hour or $1.10 and $1.65 during non-rush hour periods, the fare does appear to be a bargain—assuming taxi riders ride trains. It is likely, however, that most patrons will be former bus riders.

I believe that a fundamental policy decision has yet to be made with respect to Metro; Namely, should Metro's primary goal be to get people out of their automobiles and into public transit or should it be to hold down operating expenses?

In the absence of a policy, we appear to be drifting in the latter direction, where the political pressures of the moment are greatest. I submit that we should be moving the other way—to attract as many riders as possible. However, until we formulate a cohesive set of goals with respect to what we want our rapid transit system to achieve, and set policies to implement those goals. Metro neither will convince large numbers of people to give up their love affair with their automobiles nor keep operating losses from rising.

In order for us to be in a position to take the steps required to increase ridership, we first must accept the fact that Metro never will break even or pay for itself out of the fare box. If we can agree on this premise, and not all the experts are willing to concede this point, then we can begin to research for ways to raise the needed funds. . . .

The real initiative toward developing a permanent funding mechanism for Metro, it seems to me, must come at the local and regional level, perhaps through the Washington Metropolitan Council of Governments (COG). I would propose that COG, in conjunction with Metro and all area jurisdictions, take whatever authorizing actions are necessary to establish an areawide Metro trust fund. This fund would be financed through local new gas taxes and would serve as the primary local source of funds to keep Metro running. Then, federal matching funds could be added to cover most if not all of the remaining deficit.

In my opinion, this proposal has a number of merits. First, it would ease Metro's financial problems and enable officials to concentrate on increasing ridership and providing quality service. Second, if more people left their cars at home, traffic congestion as well as noise and air pollution in the area would be eased. Third, the proposed gas tax would increase the cost of using the automobile and increase the disparity between the cost of operating an automobile versus riding public transit, thereby providing a disincentive to use the car. Fourth, a gas tax would reduce fuel consumption in the Washington Metropolitan area and thereby enable Washingtonians to do their part to help save lives, since fewer cars on the road would mean fewer accidents.

U.S. COAST GUARD CELEBRATES 186TH BIRTHDAY

Mr. MAGNUSON. Mr. President, today the U.S. Coast Guard celebrates its 186th birthday. I wish to offer my sincere congratulations to past and present members of one of the Nation's finest services. The importance of the Coast Guard has grown. From Treasury Secretary Alexander Hamilton's Revenue Marine, the Coast Guard has developed into a multimission agency with worldwide responsibilities.

In 1790, Secretary Hamilton fashioned the revenue service to enforce revenue and customs laws and to prevent piracy for a new nation. This new service was also responsible for the collection of tariff fees, hence the location in the Department of the Treasury. The revenue service also came to be used for coastal defense during time of war. Formally recognized as an armed force by act of Congress in 1949, the Coast Guard still is responsible for different roles in wartime and peacetime.

The 38,000 men and women of the Coast Guard are of the highest quality in any of our armed services. Their skills and resources give the Coast Guard the ability to carry out a wide range of sophisticated missions: Fishery law enforcement, marine environment protection, port safety, vessel inspection and regulation, international negotiations, whether patrol, icebreaking, drug interdiction, oceanographic research, licensing of deepwater ports, and a wide range of other activities. As a uniformed service, it must deal daily with civilian missions which require sensitivity and competence.

On the whole, the Coast Guard is admired and respected by those who come into contact with it. It is an efficient agency with the desire to do the best job possible. And the Coast Guard is emulated by similar agencies in other countries.

Recently, Coast Guard duties have expanded considerably, particularly as this Nation's concern for the environment has also grown. The Federal Water Pollution Control Act, the Ports and Waterways Safety Act, the Ocean Dumping Act, and several other new antipollution laws give front-line enforcement responsibilities to the Coast Guard. The Fishery Conservation and Management Act of 1976, the so-called 200-mile fishing limit law, has just extended fishery law enforcement duties to an unprecedented extent. Effective enforcement of this important new law requires new equipment, vessels, and aircraft to be added to the Coast Guard inventory. Furthermore, as this Nation undertakes to do more and more in the ocean, as I believe we will in the next decade, the Coast Guard will be called upon to lead the way in many respects.

So today the Coast Guard celebrates its 186th birthday. It has grown and expanded as the Nation has done the same. It faces new challenges in the future. I am sure that the men and women of the Coast Guard will be equal to any task given them.

Mr. President, I ask unanimous consent that an article, authored by Adm. Owen Siler and which recently appeared in a special edition of the "Proceedings of the U.S. Naval Institute," be printed in the RECORD for the benefit of my colleagues.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

TRADITION OF EXCELLENCE, TIME OF CHANGE

(By Admiral Owen W. Siler, Commandant, U.S. Coast Guard) *

The Coast Guard is today undergoing rapid and profound change. While change is not new to us, the present rate of change is unprecedented.

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*Admiral Siler earned his bachelor's degree in engineering from the Coast Guard Academy in 1943 and began a long association with the U.S. Navy that includes serving two tours in combat on board assault troop transports, naval flight training in 1948, advanced naval flight training in 1952, and graduation from the National War College in 1967. The personification of a Coast Guard "generalist" office, his 35-year career includes service in personnel management, navigation, communications, command of an air station, chief of a search and rescue branch, and numerous tours as a Coast Guard aviation officer prior to assuming the flag rank duties that culminated in his appointment as Commandant of the Coast Guard in June 1974.

We are heavily involved in a new and expanding level of functions that reflects growing worldwide concern for the marine environment and its resources. Port safety functions have taken on new importance, and the nature of these functions is also rapidly evolving. Fisheries law enforcement and drug interdiction are more recently acquired (and burgeoning) aspects of our traditional law enforcement role. Deepwater ports licensing procedures, construction standards, and operational supervision have been assigned to us. These are a few examples of the many changes in the last ten years.

Recently, the Coast Guard celebrated its 185th birthday, the anniversary of the day the U.S. Congress authorized the construction of ten cutters for the enforcement of customs laws. In tackling today's challenges, we do not let our institutional age act as an impediment. Rather, we find strength in our ability to link new missions and functions with those from our history.

The pattern of the Coast Guard's historical development into the cohesive and versatile organization it is today must not be marred through haphazard change which would make it something it cannot or should not be. We are challenged to keep pace on the one hand, but on the other, each proposed function or mutation must be scrutinized carefully and deliberately. Does or should our role, for example, as protector of life, property, and resources in our marine environment, properly extend to the siting of liquefied natural gas plants? What should the Coast Guard's role be with respect to the outer continental shelf? These are matters under careful scrutiny.

Underlying such questions is an internal debate over the operational versus regulatory roles of the Coast Guard. There is a certain assumption that a dichotomy exists which must be explained, justified, or rationalized. The premise is that there are two poles. Unless we are careful, we may be pulled too much toward the regulatory pole and away from the operational.

Generally, questioning the nature of our existence is a healthy exercise, for in defining who we are, we also help define what it is we do, and how we should best proceed. However, as we philosophize, we need to keep in mind that no view can be so dogmatic that we come to accept it as representing the whole truth about our existence. The popularity of the regulatory versus operational theory tends to overshadow other views of the Coast Guard that can also contribute to a better understanding of our nature. The regulatory/operational dichotomy needs to be challenged to determine whether it is more myth than fact. I see the Coast Guard's nature as that of a law enforcement agency; in this context we are all operational with a central fundamental purpose.

The regulatory/operational view implies that there are at least two rather distinct parts of the body Coast Guard so much so that they are, or would be, easily divisible. The view holds that we must constantly justify keeping these parts together. On the other hand, the view of the Coast Guard as an operational law enforcement agency is one where the total Coast Guard across the spectrum of its activities is a logical, practical, and totally unified entity with but a single purpose: to preserve and protect our citizenry with respect to the marine environment. This view admits of no natural divisions, no apposition, no crack in the structure which would make it easy to lop off this or that function. This view holds that any division of functions would weaken the entire structure. Management techniques such as program planning superimpose artificial structures that cannot be permitted to obscure the fact that our operations are so integrated, so interwoven, so interrelated as to be inseparable.

Historically, the Coast Guard came into being and grew as a result of the amalgamation of various governmental agencies of related character. Whether or not this arrangement is or ever was ideal may be debatable. Moreover, who can say that it is the best organizational structure for the years to come? Government bureaucracy is not static; the healthy organizations are constantly reviewing, reshaping, and restructuring for the general welfare of all.

While these are valid and intriguing questions, there is no doubt that the Coast Guard today is a unified, completely integrated entity. Our historical development implies neither disparity of functions nor multiplicity of purpose. The history of the Coast Guard over its 185 years of existence is representative of the growth and maturation of our nation. A raw, young, loosely knit federation of rural maritime colonies grew into a vast and complex urban nation. The Coast Guard evolved as a part of this national development as successive generations strove to provide for the shifting and emerging needs of Americans.

A characteristic of our federal system is the ability to bring together in the government establishment many functions that serve the same essential purpose. The Coast Guard through amalgamation, is a prime example of this. The collective wisdom of two centuries of government has produced the modern Coast Guard, which is today's optimum structure for the preservation and protection of life, property, and resources in the marine environment.

The foregoing denies neither the pain of past growth nor the possibility of future change. What it does deny is that the evolutionary process through which the modern Coast Guard has emerged implies any disparity of purpose. To mistake flexibility and diversity of services for a lack of organizational integrity and commonality of purpose would discount progress and knock at the door to regression.

Our close and continuing relationship with the Navy is a factor which affects many key decisions in the evolution of our missions and hardware. An armed force at all times, we serve in peacetime in the Department of Transportation, while in wartime or national emergency we serve as a separate service in the Department of the Navy. When called upon to do so and most recently during the Vietnam conflict, we deploy forces to serve with the Navy even while the Coast Guard continues fully to perform its peacetime functions. Thus, in our peacetime planning, training, and organization, we must always be conscious of our naval missions. This is aptly illustrated by our plans for a new class of cutter.

We maintain current a cutter plan which reflects our needs for ships over a ten-year period. Today the cutter plan sets out the need to acquire 27 new medium endurance cutters. The wartime missions of our major cutters are antisubmarine warfare and coastal surveilance, coupled with self-defense, antisurface, and antiair warfare capabilities. The proposed cutter will be 270 feet long and displace 1,730 tons. She will operate LAMPS III helicopters, a tactical towed array sonar, and will be armed with a 76-mm. gun.

These military features and others are compatible with peacetime requirements for the ships. For example, in place of LAMPS, the cutters will embark Coast Guard search and rescue helicopters. The automated command and control system, designed to meet wartime requirements, will be of great value in execution of peacetime law enforcement tasks and will allow operation with a smaller crew than would otherwise be required. Active fin stabilization and a recovery assist system will allow operation of helicopters in sea states which presently preclude launch and recovery.

The central theme underlying all these features is versatility and optimization—satisfaction of both wartime and peacetime operational demands with one ship. This is, perhaps, another manifestation of the "multimission unit" concept which so dominates Coast Guard operational practices. In this instance, the application of the concept epitomizes the dual role our service plays, the ability of one ship to carry out both wartime and peacetime roles and to carry them out well.

Two issues have a dominant influence on the Coast Guard today and will continue to dominate for the foreseeable future: the nation's economy and the marine environment

Offsetting the effect of inflation on our mission performance is a critical problem. We must seek optimum efficiency in our resources, a constructive goal under the best circumstances but one which leaves no fallback margin for contingencies when it becomes critical merely to stay abreast of current requirements. Getting the most out of existing resources has not, by itself, been enough. Despite our best efforts to pare away any excess, to defer expenditures, to live with manpower shortages, and otherwise to cut costs, we have been forced to seek supplemental appropriations. Just to maintain the status quo, we must make significant investments to renew our aging capital plant. We need replacement aircraft. We need new cutters. And we need to renew many shore facilities.

Beyond maintenance of the status quo are the increasing requirements involved in existing services and new requirements involved in existing services and new requirements for additional services. The real world of 1976 places many demands on the Coast Guard. The economic advantages of water transportation, the impact of energy shortages, and increasing movement of dangerous bulk cargoes by water are among factors dictating increased needs for Coast Guard services.

Protection of the marine environment from pollution and protection of natural resources vital to our national interests are functions already upon us. The prospects for the next few years are that these responsibilities will demand increasing investments of Coast Guard resources.

Whatever our success in the competition for resources, I am confident that we will continue to serve the nation, and mankind in general, with our traditional standards of excellence. My confidence is not based on inventories of ships and aircraft or a laundry list of innovations, but on our people.

I have said in the past that concern for the human factor would be a hallmark of my tenure as Commandant. Our people—regulars, reservists, and members of the Auxiliary—make the Coast Guard the successful organization it is today. Coast Guardsmen are the Coast Guard. Ships, planes, boats, and shore stations are merely our tools. The dedication of Coast Guard people impresses and refreshes me today, as it has through many years in widely varied assignments. This special dedication probably is due to the comparatively small size of the service, its humanitarian missions, its proud history, its reputation for making a little go a long way, or a combination of all these factors and more. We are determined to be responsive to changing demands, match our efforts to the requirements imposed upon us, and, throughout the process, to maintain our maritime orientation and our military character.

Our small organization functions effectively because it has always operated on a multi-mission concept. While we have many professional specialties, we are essentially generalists, trained in many skills and ready to serve in many roles. We see "Semper Paratus" as more than a motto it constitutes a way of life.

BALTIMORE, MD., PROMOTING NEIGHBORHOOD PRESERVATION

Mr. MATHIAS. Mr. President, as our national housing policies have evolved, we have learned from our mistakes. The old urban renewal program, which focused on "removing blight" through large-scale demolition of inner city areas, has been replaced by a more tempered and mature policy of neighborhood conservation and rejuvenation.

One of the leading cities in promoting neighborhood preservation by both public and private tools is in my home State of Maryland.

Baltimore is a great city of active neighborhoods. Baltimoreans identify themselves in many cases by the neighborhood from which they come.

The Baltimore Department of Housing and Community Development is recognized as one of the most innovative "big city" departments in promoting neighborhood revitalization through the REAL loan program, urban homesteading, HUD section 312 homeowner loans, and other tools.

In the private sector, a coalition of 19 savings and loan associations, together with the Urban Reinvestment Task Force, the city, and the South East Community Organization joined together to help spark the rejuvenation of an East Baltimore neighborhood. Known as Neighborhood Housing Services, the group promotes homeownership using a pooled fund of available mortgage money amounting to over $1 million.

In another West Baltimore neighborhood, a private organization, the St. Ambrose Housing Aid Center, is doing its part to promote homeownership and counselling for both present and prospective homeowners. A recent article in the Washington Post tells the story of the St. Ambrose Center and its director, Father Vincent Quayle.

I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

HIS MISSION IN BALTIMORE IS HOUSING

(By Sarah K. Crim)

BALTIMORE.—Father Vincent Quayle, Jesuit priest and licensed real estate broker, drove slowly through the streets of West Baltimore's working class sections.

"That's a tough neighborhood," he said often as he pointed out the distinctions of the row houses and small corner stores. One block was all renters, he said; another was "white during the day and black at night;" another block's residents were natives of Appalachia.

He is able to single out the owner-occupied houses on each block; he points to them with pride.

Home ownership—and the stabilization it brings to moderate-income neighborhoods—is "Vinnie" Quayle's mission. As director of the St. Ambrose Housing Aid Center, an organization he started six years ago in the North Charles Street area above central Baltimore, he and his staff—including another Jesuit and two former seminarians—counsel working class families who want to buy homes in Baltimore City, help them buy houses, find mortgages and stay out of default after the houses are purchased.

One of the first to challenge the lending practices of Baltimore City's savings and loan industry, Quayle organized innercity residents in demonstrations in the early 1970s, has lobbied for legislative change and is credited with helping initiate recent change in Baltimore's lending patterns.

Today, Quayle no longer needs to picket; he is more likely to use an S&L's annual meeting a forum to talk about "'creative" ways of lending money that will encourage innercity revitalization and about moving blacks into jobs in finanical institutions.

Quayle has been able to convince lenders "that they have a moral responsibility" to make mortgage loans in working class neighborhoods, says Albert DeSalvo, director of Baltimore's Citizens Planning and Housing Association, another housing reform group. St. Ambrose's crusade for neighborhood preservation has "helped significantly," DeSalvo said, in creating homeowners out of marginal candidates.

A rosy-cheeked, curly-haired Irishman from Long Island who looks at home in his jeans and plaid shirt, Quayle took time out from his studies at the Jesuit Seminary in Woodstock, Md., in 1968 to study organizing techniques in Chicago under the late Saul Alinsky.

The young seminarian tried out his new knowledge in a racially changing neighborhood of Boston and then in Waverly, a west Baltimore neighborhood largely populated by emigres from Appalachia.

A black church there, St. Stephen's Church of God of the Apostolic Faith, had been vandalized, and Quayle organized neighborhood residents to fix-up the building.

About that time, he learned that a neighborhood adjacent to Waverly had gone from 100 per cent white in 1964 to 90 per cent black in 1968. Searching through real estate records, he found that many of houses there—owned by elderly whites—had been bought at very low prices by speculators who turned around and sold the houses at a large profit. The buyers often were black families willing to pay inflated prices to live in a "nice neighborhood," Quayle said.

In some instances, the prices doubled in six months.

After he graduated from the seminary in 1970, Quayle and several others set up the housing center. Initially it served residents of north and west Baltimore, but now works with people throughout the city.

That same year, Quayle got special permission from Rome to get a real estate sales license. He worked as an agent for three years under the sponsorship of Baltimore realtor Daniel Dregier, and then got his broker's license. Three of St. Ambrose's other six employees are also licensed to sell real estate, though Quayle says they spend only a small part of their time at it.

The 7 per cent commission they earn goes toward center expenses and a general assistance fund for homebuyers. The center is also funded by Catholic Charities.

Quayle is fascinated with the multi-ethnic character of Baltimore, which he describes as a "city of neighborhoods." To the east, Poles and Lithuanians settled in long ago, organizing savings and loan associations to help each other buy homes.

Parts of black-populated west and south Baltimore, in contrast, have been "raped" by speculators, in part because blacks have not had the same access to mortgage loans, Quayle contends. There are only two small black S&Ls in the city, he points out.

But Baltimore is still a city where home ownership is within reach of many people with modest incomes, he said. Solid row houses are available for under $30,000 and several years ago, many could be had in the low to mid-teens. Some are still selling for those kinds of prices, he said, but the number is diminishing.

Three out of four of St. Ambrose's clients are black. Quayle maintains that many are willing to pay too much for their homes, partly because working class blacks as a class have not been able to buy homes in the past.

One of the center's current goals is to try to drum up pride in black neighborhoods by organizing families into block groups. Quayle is aiming for the kind of solidarity that exists in Baltimore's white ethnic neighborhoods and wants to help black residents become more sophisticated homeowners.

Quayle said he thinks quick, speculative property-buying has slowed in Baltimore City—the result of better center-city lending policies by S&Ls and banks as well as publicity, more sensitivity to borrower needs on the part of the FHA and greater awareness on the part of black homebuyers. But where speculation is going on, "it's going on in the black neighborhoods," he said.

To help stem the tide, St. Ambrose is buying rental houses in its own neighborhood for prices as low as $4,000 to $5,000, fixing them up and selling them to the tenant at cost, Quayle said.

"We're going door-to-door in lower Charles Village, where blacks are going to be forced out of the neighborhood by the white influx," he said. We're telling them that unless they buy their own homes, five years from now they won't be able to live here."

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HUDDLESTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senate will be in order.

PROTECTION OF LIVESTOCK PRODUCERS—CONFERENCE REPORT

Mr. HUDDLESTON. Mr. President, I submit a report of the committee of conference on H.R. 8410, and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. STONE). The report will be stated by title.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 8410) to amend the Packers and Stockyards Act of 1921, as amended, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of today's RECORD).

Mr. HUDDLESTON. Mr. President, H.R. 8410 will restore equity to the basic relationship between livestock producers and purchasers. It is needed legislation that will help assure the American public of a readily available source of meat and meat food products. Livestock producers will not continue to raise livestock if they do not have assurance that they are going to be paid for their efforts.

This legislation is a direct result of the numerous packer bankruptcies of recent years.

The situation gained national attention when 1 of the 10 largest meat packers in the country, American Beef Packers, declared bankruptcy. Producers in the States of Iowa, Nebraska, Texas, Colorado, Oklahoma, Kansas, South Dakota, Missouri, Wyoming, Minnesota, New Mexico, Indiana, and California were left unpaid for over $20 million worth of livestock.

The tragedy, as far as livestock producers and feeders are concerned, is that money generated through their labors—in the form of inventory, accounts receivable, and proceeds—was distributed to the company's secured creditors and not to the unpaid producers and feeders.

This situation must be corrected. The risk livestock sellers now face in dealing with packers must be substantially reduced. No single provision of law can attain these objectives. However, the combination of provisions agreed to by the conferees on H.R. 8410 is our best assurance that the past losses suffered by producers because of packer bankruptcies will not continue in the future.

Mr. President, I ask unanimous consent there be inserted in the RECORD at this point a summary of the major provisions of H.R. 8410, as agreed to by the conference committee.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUMMARY OF MAJOR PROVISIONS OF H.R. 8410, AS AGREED TO BY THE CONFERENCE COMMITTEE

H.R. 8410, as agreed to by the conferees, makes major changes in the Packers and Stockyards Act and the Act of July 12, 1943, designed to assure livestock producers they will receive payment for the animals they send to packing plants. The principal provisions of the bill would—

(1) Authorize the Secertary of Agriculture to require any packer with average annual purchases of over $500,000 to be bonded.

(2) Require any packer with average annual purchases of over $500,000 to hold all livestock, meats, receivables and proceeds therefrom in trust until all producers who have sold livestock to the packer on a cash basis have received payment for such livestock.

(3) Clearly bring wholesale brokers, dealers, and distributors marketing meats, meat food products or livestock products under regulation as packers under title II of the Act; and bring under the jurisdiction of the Secretary of Agriculture all transactions of packers which operate in commerce—not merely those transactions which are themselves in commerce.

(4) Give the Secretary of Agriculture authority to order packers to cease and desist from operating while insolvent except under such conditions as he may prescribe. The bill also gives the Secretary specific authority to request the Attorney General to seek a temporary injunction in Federal district court, pending administrative action, to prevent irreparable injury to producers or members of the industry which would result if persons subject to the Act were permitted to operate while insolvent or otherwise in violation of the Act.

(5) Give the Secretary of Agriculture authority, after notice and hearing, to impose a civil penalty of not more than $10,000 against any packer, stockyard owner, market agency, or dealer for each violation of the Act.

(6) Give the Secretary specific authority to request the Attorney General to seek a temporary injunction or restraining order in Federal district court, pending administrative action, to prevent irreparable injury to producers or members of the industry which would result if persons subject to the Packers and Stockyards Act were permitted to operate while insolvent or otherwise in violation of the Act.

(7) Authorize the filing in court of a private cause of action seeking damages against any person subject to the Packers and Stockyards Act arising out of a violation of any provision of the Act, or of any order of the Secretary under the Act, relating to purchase, sale or handling of livestock.

(8) Require packers, market agencies, and dealers purchasing livestock to deliver to the seller or his agent at the point of transfer of possession of the animals (by check or wire transfer of funds to the seller's account) the full amount of the purchase price before the close of the next business day, unless otherwise agreed in writing. However, if the seller or his duly authorized agent is not present to receive payment at the point of transfer of possession, the packer, market agency, or dealer will wire transfer or place a check in the United States mail for the full amount of the purchase price, by the close of the next business day. Any delay or attempt to delay payment would constitute an unfair practice in violation of the Packers and Stockyards Act.

(9) Provide that the packer bonding and prompt payment provisions would preempt State laws on the same subject. However, State would not be preempted from enforcing its prompt payment requirement applicable to packers purchasing livestock at a stockyard, if the State requirement is not in conflict with the applicable Act or regulations.

Mr. HUDDLESTON. Mr. President, the conferees for both Houses were unanimous in their agreement to the conference report, and I move that it be accepted.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The report was agreed to.

VETERANS AND SURVIVORS PENSION ADJUSTMENT ACT OF 1976

Mr. HANSEN. Mr. President, Senators may recall that as we were nearly to close last night the Senator from Indiana (Mr. HARTKE), having earlier cleared an amendment to H.R. 14298 on both sides, asked for its immediate consideration. The Senator from Arizona (Mr. FANNIN), not being aware that the bill had been cleared on both sides, raised an objection.

Mr. President, I ask unanimous consent that the Senate proceed to the consideration of H.R. 14298.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 14298) to amend title 38 of the United States Code to increase the rates of disability and death pension and to increase the rates of dependency and indemnity compensation for parents, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT

Mr. HANSEN. I send to the desk an amendment in the nature of a substitute.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Wyoming (Mr. HANSEN) proposes unprinted amendment No. 312.

The amendment is as follows:

Strike out all after the enacting clause and insert:

That this Act may be cited as the "Veterans and Survivors Pension Reform Act".

TITLE I—REFORM OF THE NON-SERVICE-CONNECTED PENSION PROGRAM FOR VETERANS AND THEIR SURVIVORS

SEC. 101. Section 503 of title 38, United States Code, is amended to read as follows:

"§ 503. Determination with respect to annual income

"(a) In determining annual income under this chapter, all payments of any kind or from any source (including salary, retirement or annuity payments, or similar income, which has been waived, irrespective of whether the waiver was made pursuant to statute, contract, or otherwise) shall be included except—

"(1) payments under this chapter and chapters 11 and 13 (except section 412(a)) of this title;

"(2) donations from public or private relief or welfare organizations;

"(3) amounts equal to amounts paid by a spouse for the expenses of a veteran's last illness, and by a surviving spouse or child of a deceased veteran for—

"(A) the veteran's just debts,

"(B) the expenses of the veteran's last illness, and

"(C) the expenses of the veteran's burial to the extent that such expenses are not reimbursed under chapter 23 of this title;

"(4) amounts equal to amounts paid—

"(A) by a veteran for the last illness and burial of the veteran's deceased spouse or child, or

"(B) by a spouse of a living veteran or the surviving spouse of a deceased veteran for the last illness and burial of a child of such a veteran;

"(5) proceeds of fire insurance policies;

"(6) profit realized from the disposition of real or personal property other than in the course of a business;

"(7) amounts in joint accounts in banks and similar institutions acquired by reason of death of the other joint owner;

"(8) $780 of any earned income not otherwise excluded by this section;

"(9) one-half of the earned income over $780 of a spouse of a veteran who is in need of aid and attendance or is permanently housebound; and

"(10) amounts equal to amounts paid by a veteran, spouse, or child for unreimbursed medical expenses which exceed 5 per centum of such person's income (determined without regard to exclusions provided by this subsection) received during the year.

"(b) Where a fraction of a dollar is involved, annual income shall be fixed at the next lower dollar.".

SEC. 102. Section 521 of title 38, United States Code, is amended—

(1) by amending subsections (b), (c), (d), and (e) to read as follows:

"(b) If the veteran is unmarried (or married but not living with or not reasonably contributing to the support of such veteran's spouse) and has no child to whose support the veteran is reasonably contributing, pension shall be paid monthly at the annual rate of $2,700, unless the veteran is entitled to pension at the rate provided by paragraph (1) of subsection (d) or by subsection (e) of this section, reduced by the amount of the veteran's annual income.

"(c) If the veteran is married and living with or reasonably contributing to the support of such veteran's spouse, or has a child to whose support the veteran is reasonably contributing, pension shall be paid monthly at the annual rate of $3,900, unless the veteran is entitled to pension at the rate provided by paragraph (2) of subsection (d) or by subsection (e) of this section. If the veteran has two or more such dependents, the rate shall be increased by $360 for each such dependent in excess of one. The rate payable shall be reduced by the amount of the annual income of the veteran and, subject to clause (1) of subsection (f) of this section, the income of such dependent or dependents.

"(d)(1) If the veteran is in need of regular aid and attendance, the pension payable to the veteran under subsection (b) of this section shall be $4,296, reduced by the amount of the veteran's annual income.

"(2) If the veteran is in need of regular aid and attendance, the pension payable to the veteran under subsection (c) of this section shall be $5,496, plus allowances for additional dependents, reduced by the amount of the annual income of the veteran and, subject to clause (1) of subsection (f) of this section, the income of such dependent or dependents.

"(e) If the veteran has a disability rated as permanent and total, and (1) has additional disability or disabilities independently ratable at 60 per centum or more, or (2) by reason of a disability or disabilities, is permanently housebound but does not qualify for the aid and attendance rate under subsection (d) of this section, the pension payable to the veteran under subsection (b) of this section shall be $3,336, reduced by the veteran's annual income, and the pension payable to the veteran under subsection (c) of this section shall be $4,536, plus allowances for additional dependents, reduced by the amount of the annual income of the veteran and, subject to clause (1) of subsection (f) of this section, the income of such dependent or dependents.";

(2) by amending clause (1) of subsection (f) to read as follows:

"(1) in determining annual income, where a veteran is living with or reasonably contributing to such veteran's spouse or dependent, the income of the spouse and dependent which is reasonably available to or for the veteran shall be considered as the income of the veteran;"; and

(3) by adding at the end thereof the following new subsection:

"(h) Benefits under this section may be paid less frequently than monthly where the amount of the monthly benefit would be less than $10.".

Sec. 103. Section 522 of title 38, United States Code is amended to read as follows:

"§ 522. Net worth limitation

"(a) The Administrator shall deny or discontinue payment of pension under subsection (b) of section 521 of this title when the corpus of the estate of the veteran is such that under all the circumstances, including the consideration of veteran's income, it is reasonable that some part of the corpus be consumed for the veteran's maintenance.

"(b) The Administrator shall deny or discontinue payment of pension under subsection (c), (d), or (e) of section 521 of this title when the corpus of the estates of the veteran, spouse, and children is such that under all the circumstances, including the consideration of the veteran's, spouse's, and children's income, it is reasonable that some part of the corpus be consumed for the maintenance of the veteran and such dependents."

Sec. 104. (a) Section 541 of title 38, United States Code, is amended by amending subsections (b), (c), and (d) to read as follows:

"(b) If there is no child, or if no child is in custody of the surviving spouse, pension shall be paid monthly at the annual rate of $2,700, reduced by the amount of the surviving spouse's annual income.

"(c) If there is a surviving spouse and one child in such surviving spouse's custody, pension shall be paid monthly at the annual rate of $3,900. If the surviving spouse has two or more children in such surviving spouse's custody, the rate shall be increased by $360 for each child in excess of one. The rate payable shall be reduced by the amount of the annual income of the surviving spouse and, subject to subsection (e) of this section, the income of any child or children, in the surviving spouse's custody.

"(d) Benefits under this section may be paid less frequently than monthly where the amount of the monthly benefit would be less than $10.".

(b) Section 541 of such title is further amended by redesignating subsections (e) and (f) as subsections (f) and (g), respectively, and by adding after subsection (d) a new subsection (e) as follows:

"(e) In determining annual income, where a surviving spouse has custody of a child or children, the income of the child or children which is reasonably available to or for the spouse shall be considered as the income of the spouse.".

Sec. 105. Section 542 of title 38, United States Code, is amended—

(1) by amending subsection (a) to read as follows:

"(a) The Administrator shall pay to the child or children (not in the custody of a surviving spouse having basic eligibility for pension under section 541 of this title) of each veteran of the Mexican border period, World War I, World War II, the Korean conflict, or the Vietnam era, who met the service requirements of section 521 of this title, or who at the time of death was receiving (or entitled to receive) compensation or retirement pay for a service-connected disability, monthly pension at the annual rate of $1,200 for one child, plus $360 for each additional child, reduced by the amount of each child's annual income."; and

(2) by repealing subsection (c).

Sec. 106. Section 543 of title 38, United States Code, is amended to read as follows:

"§ 543. Net worth limitation

"(a) The Administrator shall deny or discontinue payment of pension under subsection (b) of section 541 of this title when the corpus of the estate of the surviving spouse is such that under all the circumstances, including consideration of the surviving spouse's income, it is reasonable that some part of the corpus be consumed for the surviving spouse's maintenance.

"(b) The Administrator shall deny or discontinue payment of pension under section (c) of section 541 of this title when the corpus of the estate of the surviving spouse and the estates of children in such surviving spouse's custody is such that under all the circumstances, including consideration of income of the surviving spouse and the income of children in such surviving spouse's custody, it is reasonable that some part of the corpus be consumed for the maintenance of the surviving spouse and children in such surviving spouse's custody.

"(c) The Administrator shall deny or discontinue payment of pension under section 542 of this title to any child when the corpus of the estate of the child is such that under all the circumstances, including consideration of income of the child, it is reasonable that some part of the corpus be consumed for the child's maintenance.".

Sec. 107. Section 544 of title 38, United States Code, is amended to read as follows:

"§ 544. Aid and attendance allowance

"(a) If the surviving spouse is in need of regular aid and attendance, the pension payable to the surviving spouse under subsection (b) of section 541 shall be $4,296, reduced by the amount of the surviving spouse's annual income.

"(b) If the surviving spouse is in need of regular aid and attendance, the pension payable to the surviving spouse under subsection (c) of section 541 shall be $5,496, plus allowances for additional dependents, reduced by the amount of the annual income of the surviving spouse and child or children in such surviving spouse's custody.".

Sec. 108. (a) Chapter 53 of title 38, United States Code, is amended by adding at the end thereof the following new section:

"§ 3112. Annual adjustment of certain benefit rates

"Whenever benefit amounts payable under title II of the Social Security Act are increased effective with a month in any calendar year after 1975 as a result of a determination made under section 215(i) of such Act, the Administrator shall, effective January 1 of the following calendar year, increase the rates of pension payable under sections 521, 541, 542, and 544 of this title or pursuant to such sections as in effect on September 30, 1976, and rates of dependency and indemnity compensation for parents payable under section 415 of this title or pursuant to such sections as in effect on September 30, 1976, as such rates were in effect immediately prior to such January 1, by a percentage which is the same as the percentage by which such benefits payable under title II of the Social Security Act are increased (except that such rates, as so increased, may be rounded in such manner as the Administrator considers appropriate for case of administration).".

(b) The table of sections at the beginning of such chapter 53 is amended by adding at the end thereof the following:

"31212. Annual adjustment of certain benefit rates.".

Sec. 109. (a) Any case in which—

(1) a claim for pension is pending in the Veterans' Administration on September 30, 1976,

(2) a claim for pension is filed by a veteran after September 30, 1976, and within one year after the date on which such veteran became totally and permanently disabled, if he became totally and permanently disabled prior to October 1, 1976, or

(3) a claim for death pension is filed after September 30, 1976, and within one year after the date of death of the veteran through whose relationship the claim is made, if the death of such veteran occurred prior to October 1, 1976,

shall be adjudicated under title 38, United States Code, as in effect on September 30, 1976, with respect to any period prior to October 1, 1976, and, except as provided in subsection (c), shall be adjudicated under such title as amended by title I of this Act for any period on or after October 1, 1976.

(b) Nothing in this Act shall affect the eligibility of any person receiving pension under chapter 15 of title 38, United States Code, or under section 9(b) of the Veterans' Pension Act of 1959, on September 30, 1976, for pension under all applicable provisions of that chapter or for pension under all provisions of law applicable to pension paid pursuant to such section 9(b), as the case may be in effect on that date or such period or periods after September 30, 1976, with respect to which such person can qualify under such provisions. This subsection shall not apply in any case for any period after pension is granted, pursuant to application under title 38, United States Code, as amended by this title.

(c) Subsection (b) shall apply to those

claims within the purview of subsection (a) in which it is determined that pension is payable for September 30, 1976.

Sec. 110. Any child eligible for pension under section 533, 535, or 537 of title 38, United States Code, may elect to be paid pension at the rates prescribed by section 542 of such title. The Administrator shall pay pension pursuant to such election at the rates prescribed by such section 542 and under the conditions (other than the service requirments) applicable to pensions paid under that section to children of veterans of World War I. If pension is paid pursuant to such an election, the election shall be irrevocable.

TITLE II—ADJUSTMENTS IN CURRENT STATUTORY PENSION PROVISIONS

Sec. 201. Effective January 1, 1976, title 38, United States Code, is amended as follows:

(1) chapter 1 of title 38, United States Code, is amended—

(A) by striking out in paragraph (3) of section 101 "widow", "woman", "wife", "his", "him", "man", and "herself" each time they appear and inserting in lieu thereof "surviving spouse", "Person", "spouse", "the veteran's" "the veteran", "person", and "himself or herself", respectively;

(B) by striking out in the second sentence of paragraph (4) of section 101 "his support" and "his spouse" and inserting in lieu thereof "the person's support" and "the veteran's spouse", respectively;

(C) by striking out in paragraph (5) of section 101 "his" and inserting in lieu thereof "the veteran's";

(D) by striking out in paragraph (13) of section 101 "widow" and inserting in lieu thereof "surviving spouse";

(E) by striking out in paragraph (14) of section 101 "widow" each time it appears and inserting in lieu thereof "surviving spouse";

(F) by striking out in paragraph (15) of section 101 "widow" and inserting in lieu thereof "surviving spouse"; and

(G) by adding at the end of section 101 the following new paragraph:

"(31) The term 'spouse' means wife or husband and the term 'surviving spouse' means widow or widower."; and

(2) chapter 15 of title 38, United States Code, is amended—

(A) by inserting in subsection (a) of section 503 "and" after the semicolon at the end of clause (16) of such subsection;

(B) by striking out in subsection (a) of section 541 "widow" and inserting in lieu thereof "surviving spouse" and by striking out "his" preceding the word "death";

(C) by striking out in subsection (e) of section 541 the language preceding clause (1) of such subsection and inserting in lieu thereof "No pension shall be paid to a surviving spouse of a veteran under this section unless the spouse was married to the veteran—" and by amending subclause (D) of clause (1) of such subsection, to read as follows: "(D) May 8, 1985, in the case of a surviving spouse of a Vietnam era veteran; or";

(D) by striking out in section 542 "widow" and inserting in lieu thereof "surviving spouse" and by striking out "his" preceding the word "death";

(E) by striking out in section 543 "widow" and inserting in lieu thereof "surviving spouse";

(F) by repealing sections 510 and 531;

(G) by striking out in the heading of subchapter III "Widows" and inserting in lieu thereof "Surviving Spouses";

(H) by striking out in the catchline of section 541 "Widows" and inserting in lieu thereof "Surviving Spouses";

(I) by striking out in the subheading of subchapter III immediately following section 543 "WIDOWS" and inserting in lieu thereof "SURVIVING SPOUSES"; and

(J) by amending **the table of sections at** the beginning of such chapter 15—

(i) by striking out

"510. Confederate forces veterans.";

(ii) by striking out

"SUBCHAPTER III—PENSIONS TO WIDOWS AND CHILDREN"

and inserting in lieu thereof

"SUBCHAPTER III—PENSIONS TO SURVIVING SPOUSES AND CHILDREN";

(iii) by striking out

"531. Widows of Mexican War veterans.";

(iv) by striking out

"541. Widows of Mexican border period, World War I, World War II, Korean conflict, or Vietnam era veterans."

and inserting in lieu thereof

"541. Surviving spouses of Mexican border period, World War I, World War II, Korean conflict, or Vietnam era veterans."; and

(v) by striking out

"Widows of Veterans of All Periods of War"

and inserting in lieu thereof

"Surviving Spouses of Veterans of All Periods of War".

Sec. 202. Effective for the period beginning January 1, 1976, and ending September 30, 1976, section 521 of title 38, United States Code, is amended—

(1) by amending subsections (b) and (c) to read as follows:

"(b)(1) If the veteran is unmarried (or married but not living with and not reasonably contributing to the support of such veteran's spouse) and has no child, pension shall be paid to the veteran according to the following formula:

"The monthly rate of pension shall be $173 reduced by—	For each $1 of annual income	
	Which is more than—	But not more than—
$0.00	0	$300
.03	$300	500
.04	500	700
.05	700	1,200
.06	1,200	1,700
.07	1,700	2,000
.08	2,000	3,300

"(2) In no case may the amount of pension payable to any veteran under this subsection be less than $5 monthly.

"(3) In no case may pension be paid under this subsection to any veteran if the annual income of such veteran exceeds $3,300.

"(c)(1) If the veteran is married and living with or reasonably contributing to the support of such veteran's spouse, or has a child or children, pension shall be paid to the veteran according to the following formula:

"The monthly rate of pension for a veteran shall be— $186 if such veteran has one such dependent: $191 if such veteran has two such dependents; and $196 if such veteran has three or more such dependents; reduced by—	For each $1 of annual income	
	Which is more than—	But not more than—
$0.00	0	$500
.02	$500	700
.03	700	1,300
.04	1,300	2,800
.05	2,800	3,200
.06	3,200	3,800
.08	3,800	4,500

"(2) In no case may the amount of pension payable to any veteran under this subsection be less than $5 monthly.

"(3) In no case may pension be paid under this subsection to any veteran if the annual income of such veteran exceeds $4,500.";

(2) by striking out in subsection (d) "him" and "$123" and inserting in lieu thereof "such veteran" and "$133", respectively;

(3) by striking out in subsection (e) "his", "him", and "$49" and inserting in lieu thereof "such veteran's", "such veteran", and "$53", respectively; and

(4) by amending clause (1) of subsection (f) to read as follows:

"(1) in determining annual income, where a veteran is living with such veterans' spouse, all income of the spouse which is reasonably available to or for the veteran in excess of whichever is the greater, $1,200 or the earned annual income of the spouse or not more than $7,000, shall be considered as the income of the veteran, unless in the judgment of the Administrator to do so would work a hardship upon the veteran;".

Sec. 203. Effective for the period beginning January 1, 1976, and ending September 30, 1976, section 541 of title 38, United States Code, is amended—

(1) by amending subsections (b) and (c) to read as follows:

"(b)(1) If there is no child, pension shall be paid to the surviving spouse according to the following formula:

"The monthly rate of pension shall be $117 reduced by—	For each $1 of annual income	
	Which is more than—	But not more than—
$0.00	0	$300
.01	$300	600
.03	600	900
.04	900	1,500
.05	1,500	2,700
.06	2,700	3,300

"(2) In no case may the amount of pension payable to any surviving spouse under this subsection be less than $5 monthly.

"(3) In no case may pension be paid under this subsection to any surviving spouse if the annual income of such surviving spouse exceeds $3,300.

"(c)(1) If there is a surviving spouse and one child, pension shall be paid to the surviving spouse according to the following formula:

"The monthly rate of pension shall be $139 reduced by—	For each $1 of annual income	
	Which is more than—	But not more than—
$0.00	0	$700
.01	$700	1,100
.02	1,100	1,800
.03	1,800	2,700
.04	2,700	3,500
.05	3,500	4,500

"(2) In no case may pension be paid under this subsection to any surviving spouse if the annual income of such surviving spouse exceeds $4,500.

"(3) Whenever the monthly rate payable to any surviving spouse under paragraph (1) of this subsection is less than the amount which would be payable for one child under section 542 of this title if the surviving spouse were not entitled, the surviving spouse shall be paid at the child's rate."; and

(2) by striking out in subsection (d) "widow" and "$20" and inserting in lieu thereof "surviving spouse" and "$22", respectively.

Sec. 204. Effective for the period beginning January 1, 1976, and ending September 30, 1976, section 542 of title 38, United States Code, is amended—

(1) by striking out in subsection (a) "$49"

and "$20" and inserting in lieu thereof "$53" and "$22", respectively; and

(2) by striking out in subsection (c) "$2,400" and inserting in lieu thereof "$2,700".

SEC. 205. Effective for the period beginning January 1, 1976, and ending September 30, 1976, section 544 of title 38, United States Code, is amended to read as follows:

"§ 544. Aid and attendance allowance

"If any surviving spouse is entitled to pension under this subchapter and is in need of regular aid and attendance, the monthly rate of pension payable to the surviving spouse shall be increased by $69.".

SEC. 206. Effective January 1, 1976, chapter 15 of title 38, United States Code, is amended—

(1) by striking out in section 501(2) "him" and inserting in lieu thereof "such veteran";

(2) by striking out in subsections (a), (b), and (c) of section 502 "he" and "his" each time they appear and inserting in lieu thereof "such person" and "such veteran's", respectively;

(3) by striking out in section 503(a)(7) "wife", "his", and "'widow" and inserting in lieu thereof "spouse", "such veteran's", and surviving spouse", respectively;

(4) by striking out in subclauses (A), (B), and (C) of section 503(a)(7) "his" each time it appears and inserting in lieu thereof "such veteran's";

(5) by striking out in subclauses (A) and (B) of section 503(a)(9) "his", "widow", and "wife" each time they appear and inserting in lieu thereof "such veteran's" "surviving spouse", and "spouse", respectively;

(6) by striking out in section 503(a)(14) "his widow" and inserting in lieu thereof "such veteran's surviving spouse";

(7) by striking out in section 503(a)(16) "his" and inserting in lieu thereof "such employee's";

(8) by striking out in section 503(c) "widow" and inserting in lieu thereof "surviving spouse";

(9) by striking out in section 505(a) "his" each time it appears and inserting in lieu thereof "such individual's";

(10) by striking out in section 505(b) "his wife" and inserting in lieu thereof "such veteran's spouse";

(11) by striking out in section 505(c), including clauses (1) and (2), "widow" each time it appears and inserting in lieu thereof "surviving spouse";

(12) by striking out in section 506(a)(1) "he" and inserting in lieu thereof "the Administrator";

(13) by striking out in section 506(a)(2) "him"; "he", and "his" each time they appear and inserting in lieu thereof "the Administrator", "such person", and "such person's", respectively;

(14) by striking out in section 506(a)(3) "his" each time it appears and inserting in lieu thereof "such person's";

(15) by striking out in section 507 ", in his discretion,"; by striking out in such section "his wife" and inserting in lieu thereof "such veteran's spouse"; and by striking out in such section "wife" the second time it appears and inserting in lieu thereof "spouse";

(16) by striking out in subsections (b) and (c) of section 511 "he" each time it appears and inserting in lieu thereof "such veteran";

(17) by striking out in subsections (a) and (b) of section 512 "he" each time it appears and inserting in lieu thereof "such veteran";

(18) by striking out in section 521(g) "he" and inserting in lieu thereof "such veteran";

(19) by striking out in section 523(b) "him" and inserting in lieu thereof "such veteran";

(20) by striking out in section 532(a) "widow", "she", "wife", and "his" each time they appear and inserting in lieu thereof "surviving spouse", "such surviving spouse", "spouse", and "such veteran's", respectively;

(21) by striking out in subsections (b) and (c) of section 532 "widow" and "he" each time they appear and inserting in lieu thereof "surviving spouse" and "such veteran", respectively;

(22) by striking out in section 532(d) "widow", "she", and "him" and inserting in lieu thereof "surviving spouse", "such surviving spouse", and "such veteran", respectively;

(23) by striking out in the catchline of section 532 "Widows" and inserting in lieu thereof "Surviving spouses";

(24) by striking out in the table of sections at the beginning of such chapter 15

"532. Widows of Civil War veterans."

and inserting in lieu thereof

"532. Surviving spouses of Civil War veterans.";

(25) by striking out in section 533 "widow" and inserting in lieu thereof "surviving spouse";

(26) by striking out in section 534(a) "widow", "she", "wife", and "his" each time they appear and inserting in lieu thereof "surviving spouse", "such surviving spouse", "spouse", and "such veteran's", respectively;

(27) by striking out in section 534(b) "widow" and inserting in lieu thereof "surviving spouse";

(28) by striking out in section 534(c) "widow", "she", and "him" and inserting in lieu thereof "surviving spouse", "such surviving spouse", and "such veteran", respectively;

(29) by striking out in the catchline of section 534 "Widows" and inserting in lieu thereof "Surviving spouses";

(30) by striking out in the table of sections at the beginning of such chapter 15

"534. Widows of Indian War veterans."

and inserting in lieu thereof

"534. Surviving spouses of Indian War veterans.";

(31) by striking out in section 535 "widow" and inserting in lieu thereof "surviving spouse";

(32) by striking out in section 536(a) "widow", "she", "wife", and "his", and inserting in lieu thereof "surviving spouse", "such surviving spouse", "spouse", and "such veteran's", respectively;

(33) by striking out in subsections (b) and (c) of section 536 "widow", "she", and "him" each time they appear and inserting in lieu thereof "surviving spouse", "such surviving spouse", and "such veteran", respectively;

(34) by striking out in section 536(d)(1) "widow", "she", and "widows" and inserting in lieu thereof "surviving spouse", "such surviving spouse", and "surviving spouses", respectively;

(35) by striking out in section 536(d)(2) "widow" and inserting in lieu thereof "surviving spouse";

(36) by striking out in clauses (A) and (B) of section 536(d)(2) "her" and "widow" each time they appear and inserting in lieu thereof "such surviving spouse" and "surviving spouse", respectively;

(37) by striking out in the catchline of section 536 "Widows" and inserting in lieu thereof "Surviving spouses";

(38) by striking out in the table of sections at the beginning of such chapter 15

"536. Widows of Spanish-American War veterans."

and inserting in lieu thereof

"536. Surviving spouses of Spanish-American War veterans.";

(39) by striking out in section 537 "widow" and inserting in lieu thereof "surviving spouse";

(40) by striking out in subclauses (A), (B), and (C) of section 541(e)(1) "widow" each time it appears and inserting in lieu thereof "surviving spouse";

(41) by striking out in section 560(b) "himself" and "his" and inserting in lieu thereof "such person" and "such person's, respectively;

(42) by striking out in subsections (a) and (b) of section 561 "his", "him", and "he" each time they appear and inserting in lieu thereof "such person's", "such person", and "such person", respectively;

(43) by striking out in section 561(c) "by him";

(44) by striking out in section 562(a) "him" and inserting in lieu thereof "the Administrator"; and

(45) by striking out in subsections (b) and (d) of section 562 "he" each time it appears and inserting in lieu thereof "such person".

TITLE III—REFORM OF DEPENDENCY AND INDEMNITY COMPENSATION FOR PARENTS

SEC. 301. Section 415 of title 38, United States Code, is amended—

(1) by amending paragraph (1) of subsection (b) to read as follows:

"(b)(1) Except as provided in paragraph (2) of this subsection, if there is only one parent, dependency and indemnity compensation shall be paid monthly at the annual rate of $2,700, reduced by the amount of the parent's annual income.";

(2) by amending paragraph (2) of subsection (b) by striking out "he", "him", and "his" each time they appear and inserting in lieu thereof "such parent", "such parent", and "such parent's", respectively;

(3) by amending subsections (c) and (d) to read as follows:

"(c) Except as provided in subsection (d) of this section, if there are two parents, but they are not living together, dependency and indemnity compensation shall be paid monthly to each such parent at the annual rate of $2,700, reduced in the case of each such parent by the amount of such parent's annual income.

"(d)(1) If there are two parents who are living together, dependency and indemnity compensation shall be paid monthly to such parents at the annual rate of $3,900 reduced by the amount of their annual income.

"(2) If there are two parents and both have remarried and are living with their respective spouses, dependency and indemnity compensation shall be paid monthly to each such parent at the annual rate of $3,900, reduced by the amount of the annual income of each such couple, respectively.

"(3) If there are two parents and one has remarried and is living with such parent's spouse and the other parent is not remarried, or, if remarried, is not living with such parent's spouse, dependency and indemnity compensation shall be paid monthly to the remarried parent who is living with such parent's spouse at an annual rate of $3,900, reduced by the amount of the annual income of such remarried parent and such parent's spouse, and dependency and indemnity compensation shall be paid monthly to the other parent at the annual rate of $2,700, reduced by the amount of the annual income of such other parent.";

(4) by amending paragraph (1) of subsection (g) to read as follows:

"(g)(1) In determining income under this section, all payments of any kind or from any source shall be included, except—

"(A) payments under this chapter (except subsection 412(a)) and chapters 11 and 15 of this title and the first sentence of section 9(b) of the Veterans' Pension Act of 1959;

"(B) donations from public or private relief or welfare organizations;

"(C) amounts equal to amounts paid by a parent of a deceased veteran for—

"(i) a deceased spouse's just debts,

"(ii) the expenses of the spouse's last illness to the extent that such expenses are not reimbursed under chapter 51 of this title, and

"(iii) the expenses of the spouse's burial to the extent that such expenses are not reimbursed under chapter 23 of this title;

"(D) amounts equal to amounts paid by a parent of a deceased veteran for—

"(i) the expenses of the veteran's last illness, and

"(ii) the expenses of the veteran's burial to the extent that such expenses are not reimbursed under chapter 23 of this title;

"(E) proceeds of fire insurance policies;

"(F) profit realized from the disposition of real or personal property other than in the course of a business;

"(G) amounts in joint accounts in banks and similar institutions acquired by reason of death of the other joint owner;

"(H) $780 of earned income; and

"(I) amounts equal to amounts paid by a parent for unreimbursed medical expenses which exceed 5 per centum of such parent's income (determined without regard to exclusions provided by this subsection) received during the year."; and

(5) by amending subsection (h) to read as follows:

"(h)(1) If the parent is in need of regular aid and attendance, the dependency and indemnity compensation payable under subsection (b) or (c) shall be $4,296, reduced by the amount of the parent's annual income.

"(2) If the parent is in need of regular aid and attendance, the dependency and indemnity compensation payable under subsection (d) shall be $5,496, reduced by the amount of the couple's annual income, except for a parent who is not remarried, or, if remarried, is not living with such parent's spouse, in which case the amount shall be $4,296, reduced by the amount of the parent's income.".

SEC. 302. (a) Any case in which—

(1) a claim for dependency and indemnity compensation for a parent is pending in the Veterans' Administration on September 30, 1976, or

(2) a claim for dependency and indemnity compensation is filed by a parent after September 30, 1976, and within one year after the date of death of the veteran through whose relationship the claim in made, if the death of such veteran occurred prior to October 1, 1976,

shall be adjudicated under title 38, United States Code, as in effect on September 30, 1976, with respect to any period prior to October 1, 1976, and, except as provided in subsection (c), shall be adjudicated under such title as amended by this title for any period on or after October 1, 1976.

(b) Nothing in this Act shall affect the eligfbility of any person receiving dependency and indemnity compensation for parents under chapter 13 or death compensation under chapter 11 of title 38, United States Code, on September 30, 1976, for dependency and indemnity compensation for parents or death compensation under all applicable provisions of those chapters, in effect on that date for such period or periods after September 30, 1976, with respect to which the parent can qualify under such provisions. This subsection shall not apply in any case for any period after dependency and indemnity compensation for parents is granted, pursuant to application, under title 38, United States Code, as amended by this title.

(c) Subsection (b) shall apply to those claims within the purview of subsection (a) in which it is determined that dependency and indemnity compensation is payable for September 30, 1976.

TITLE IV—ADJUSTMENTS IN CURRENT STATUTORY PROVISIONS RELATING TO DEPENDENCY AND INDEMNITY COMPENSATION FOR PARENTS

SEC. 401. Effective for the period beginning January 1, 1976, and ending September 30, 1976, section 415 of title 38, United States Code, is amended—

(1) by redesignating paragraph (2) of subsection (b) as paragraph (4) of subsection (b) and by striking out in the redesignated paragraph (4) of subsection (b) "he", "him", and "his" each time they appear and inserting in lieu thereof "such parent", "such parent", and "such parent's", respectively;

(2) by amending paragraph (1) of subsection (b) to read as follows:

"(b)(1) Except as provided in paragraph (4) of this subsection, if there is only one parent, dependency and indemnity compensation shall be paid to the parent according to the following formula:

"The monthly rate of dependency and indemnity compensation shall be $133 reduced by—	For each $1 of annual income	
	Which is more than—	But not more than—
$0.00	0	$800
.03	$800	1,000
.04	1,000	1,200
.05	1,200	1,500
.06	1,500	1,700
.08	1,700	3,300

"(2) In no case may the amount of dependency and indemnity compensation payable to any parent under this subsection be less than $5 monthly.

"(3) In no case may dependency and indemnity compensation be paid under paragraph (1) of this subsection to any parent if the annual income of such parent exceeds $3,300.";

(3) by amending subsections (c) and (d) to read as follows:

"(c)(1) Except as provided in subsection (d) of this section, if there are two parents, but they are not living together, dependency and indemnity compensation shall be paid to each parent according to the following formula:

"The monthly rate of dependency and indemnity compensation shall be $133 reduced by—	For each $1 of annual income of such parent	
	Which is more than—	But not more than—
$0.00	0	$800
.02	$800	1,100
.04	1,100	1,600
.05	1,600	2,400
.06	2,400	3,300

"(2) In no case may the amount of dependency and indemnity compensation payable to any parent under this subsection be less than $5 monthly.

"(3) In no case may dependency and indemnity compensation be paid under paragraph (1) of this subsection to any parent if the annual income of such parent exceeds $3,300.

"(d)(1) If there are two parents who are living together, or if a parent has remarried and is living with such parent's spouse, dependency and indemnity compensation shall be paid to each such parent according to the following formula:

"The monthly rate of dependency and indemnity compensation shall be $93 reduced by—	For each $1 of the total combined annual income	
	Which is more than—	But not more than—
$0.00	0	$1,000
.02	$1,000	2,300
.03	2,300	3,300
.04	3,300	4,500

"(2) In no case may the amount of dependency and indemnity compensation payable to any parent under the subsection be less than $5 monthly.

"(3) In no case may dependency and indemnity compensation be paid under this subsection to a parent if the total combined annual income of the parent and such parent's spouse exceeds $4,500.";

(4) by striking out in subsection (e) "him" each time it appears and inserting in lieu thereof "the Administrator";

(5) by striking out in subsection (f) "he" and inserting in lieu thereof "the Administrator";

(6) by striking out in subsection (g)(1)(J)(ii) "his" and inserting in lieu thereof "such veteran's"; and

(7) by striking out in subsection (h) "$64" and inserting in lieu thereof "$69".

TITLE V—MISCELLANEOUS AND EFFECTIVE DATE PROVISIONS

SEC. 501. Effective January 1, 1976, section 4 of Public Law 90–275 (82 Stat. 68) is amended to read as follows:

"SEC. 4. (a) The annual income limitations governing payment of pension under the first sentence of section 9(b) of the Veterans' Pension Act of 1959 hereafter shall be $2,900 and $4,200, instead of $2,600 and $3,900, respectively.

"(b) Whenever benefit amounts payable under title II of the Social Security Act are increased effective with a month in any calendar year after 1975 as a result of a determination made under section 215(i) of such Act, the Administrator shall, effective January 1 of the following calendar year, increase the income limitations applicable to persons receiving pensions under section 9(b) of the Veterans' Pension Act of 1959 as such income limitations were in effect immediately prior to such January 1, by a percentage which is the same as the percentage by which such benefits payable under title II of the Social Security Act are increased (except that such income limitations, as so increased, may be rounded in such manner as the Administrator considers appropriate for ease of administration).".

SEC. 502. Whenever benefit amounts payable under title II of the Social Security Act are increased effective with a month in any calendar year after 1975 as a result of a determination made under section 215(i) of such Act, the Administrator shall, effective January 1 of the following calendar year, adjust components of the statutory formulas relating to determination of rates of—

(1) pension for a person receiving pension for a period after September 30, 1976, pursuant to provisions of chapter 15 of title 38, United States Code, in effect on September 30, 1976, and

(2) dependency and indemnity compensation to parents for a person receiving dependency and indemnity compensation for a period after September 30, 1976, pursuant to provisions of section 415 of title 38, United States Code, in effect on September 30, 1976,

to provide increases in rates and income limitations as such rates and income limitations were in effect immediately prior to such January 1, by a percentage which is the same as the percentage by which such benefits payable under title II of the Social Security Act are increased (except that such rates and income limitations, as so increased may be rounded in such manner as the Administrator considers appropriate for ease of administration).

Sec. 503. Except as provided in sections 201, 202, 203, 204, 205, 206, 401, and 501, this Act shall become effective on October 1. 1976.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. HANSEN. Mr. President, the chairman of the Committee on Veterans' Affairs, Senator Vance Hartke, attempted to introduce an amendment to H.R. 14298 in the nature of a substitute yesterday, but was unable to do so.

Today I offer the amendment for the chairman of the Veterans' Affairs Committee who has commitments that make it impossible for him to be here.

This amendment strikes the present language of H.R. 14298 and substitutes the language of S. 2635 as it passed the Senate last December.

S. 2635, the Veterans' and Survivors Pension Reform Act, restructures the need-based program in order to resolve the many inequities which exist within the current pension structure.

The House of Representatives has passed its version of the pension bill, and in order to have one pension bill before the Congress and permit a Senate-House conference.

Mr. President, I ask unanimous consent to have printed in the Record a statement of the distinguished Senator from Indiana (Mr. Hartke).

The PRESIDING OFFICER. Without objection, it is so ordered.

Statement of Senator Hartke

Today I offer an amendment to H.R. 14298 in the nature of a substitute.

On December 15, 1975, as my colleagues are aware, the Senate, after two years of intensive study, passed S. 2635, the Veterans and Survivors Pension Reform Act. Cosponsored by 40 members, the bill is intended to resolve the many inequities which pervade the current pension structure.

My colleagues are also aware that last December Congress also enacted the Veterans and Survivors Interim Adjustment Act (P.L. 94–169). That interim measure provided temporary increases of 8 percent in rates and $300 in annual income limitations. This measure was passed in order to provide sufficient opportunity for the House Veterans' Affairs Committee to act on S. 2635.

Public Law 94–169 is due to expire on the last day of the transition quarter, September 30, 1976. Such expiration would result in a reduction in pension for all pensioners and a loss of pension for many. The House has recently passed a pension bill making these interim increases permanent and increasing rates and income limitations by 7 percent, effective January 1, 1976. Similar provisions are contained in S. 2635. The House passed measure does not address itself to the issues of reform contained in S. 2635. Normally we would be proceeding to conference on our differences. Unfortunately, by apparent inadvertence and contrary to a longstanding tradition, the House Committee failed to subsitute the provisions of their pension measure—H.R. 14298 for S. 2635. As a result, at the present time, there is no bill in actual controversy and a conference cannot be held on this pressing issue.

My colleagues are aware that S. 2635 would establish a new single variable pension system. An important feature of the bill is that no pension recipient, under the new system, would ever suffer a loss of pension solely as a result of a Social Security cost-of-living increase. I know that my colleagues have been concerned with this continuing problem. I know that all of you recall the large number of letters each of us received last winter when many pensioners had their pensions reduced despite passage of P.L. 94–169.

Unfortunately, such reductions are inherent in a double variable system such as we currently have and a reduction in pension, as a result of Social Security cost-of-living increases, could be expected to occur for many pensioners once again this winter unless S. 2635 is adopted.

S. 2635 would make permanent the increase provided in Public Law 94–169. Further, the bill would provide automatic cost-of-living increases each year to assure that pension benefits do not lose purchasing power. These automatic increases would apply not only to the reform system, but also to the existing pension programs which will remain in effect for all the veterans and widows who elect to remain under it. By making these cost-of-living increases automatic, each pensioner will receive an increase which reflects the actual cost-of-living experienced. The House passed bill, H.R. 14298, estimates that the cost-of-living increase for the January 1, 1976–December 31, 1976 time period will be 7 percent. At this time, we are unable to say for sure what the actual cost-of-living will be. However, Congress, as in H.R. 14298, is forced to guess what the cost-of-living increase will be. Recent speculation indicates that the Consumer Price Index will increase more during 1976 than was previously contemplated.

Thus, it is entirely possible that the 7 percent increase will be inadequate. In addition, S. 2635 would assure that for all those pensioners who elect to remain under the current pension system, automatic cost-of-living increases would occur each year in order to protect them from erosion of their pension purchasing power.

Another feature of S. 2635, which I believe merits the Senate's attention at this time, is the provision which assures that all veterans and their widows would be assured an income above the poverty level. The Committee on Veterans' Affairs discovered in the course of examining the pension system that close to half of veterans' widows in receipt of pension and over one third of veterans in receipt of pension had incomes—even counting their pension—which left them below the poverty level. Unfortunately, the House passed version, even if enacted, would bring very few, if any, of these veterans above the poverty level. Nor does the House passed version pension bill equalize the rates for widows to that of the veteran. Currently, a widow receives only ⅔ the pension for which a similarly-situated veteran would be eligible. To correct this obvious inequity, S. 2635 would, as recommended by the Administration, equalize the rates payable to widows with those paid similarly-situated veterans.

To bring one pension bill into controversy and permit a Senate-House conference, I ask unanimous consent that the Senate strike the present language of H.R. 14298 and amend in the nature of a substitute with the language of S. 2635 as it passed the Senate in December. I assure my colleagues that the Committee fully expects that this matter will be resolved prior to the end of September and that passage of S. 2635 will assure that no person will suffer a reduction in pension due to the expiration of P.L. 94–169.

I also wish to inform my colleagues that in negotiating with the House in this matter, we are paying close attention to assuring that there are sufficient monies to accommodate the cost of pension reform and the cost of other major veterans legislation within the levels of spending established by the First Concurrent Resolution for function 700, Veterans Benefits and Services. I direct my colleagues attention to the report of the Committee on the Budget to accompany S. Con. Res. 109, wherein the Budget Committee stated that "the Committee considered the fact that Congress is considering legislation both for needed reforms and long-term savings in pension and readjustment benefit programs. It is the Committee's view that funding for such initiatives can be accommodated within the current policy totals." I know that my colleagues are aware that the Committee on Veterans' Affairs has found the level of spending set by the First Concurrent Resolution to be restrictive. However, it is not mandatory that the new program authorized in S. 2635 have an effective date of October 1, 1976. It may be necessary or desirable to delay the effective date of the new program to late in the fiscal year. This delay would not only grant the VA greater time to implement the new program, but would also assure that budget allocation totals were not exceeded.

There is one provision in the House passed bill which requires some comment. That provision would provide an additional monthly allowance determined as a percentage of the basic pension award for those veterans who have reached age 80. This add-on is quite similar, though restricted to a smaller group, to S. 3070, the World War I Pension Act, which was reported from our Committee in 1972 and unanimously passed by the Senate. That legislation (S. Rep. 92–1283) would have provided an additional monthly allowance award determined as a percentage of their basic award for all World War I veterans and their survivors. I am pleased that the House has at last embraced a proposal advanced and passed by the Senate over 4 years ago. I believed this approach had merit then and I believe it has merit now. Consequently, I want my colleagues to know that I am favorably disposed to providing an appropriate additional award for older World War I veterans and their survivors in any negotiations with the House on this matter. In such compromise, I would hope that it would be amended to cover all World War I veterans and widows as was the case in the Senate passed provision of 4 years ago.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and the third reading of the bill.

The amendment is ordered to be engrossed and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

The bill (H.R. 14298), as amended, was passed.

ORDER FOR RESUMPTION OF H.R. 10612

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on the disposition tomorrow of S. 3219, the Clean Air Act, the Senate resume consideration of the unfinished business, the tax reform bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RESUMPTION OF CONSIDERATION OF S. 3219

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow immediately after the prayer, the

Senate resume consideration of the Clean Air Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will convene at 9 o'clock tomorrow morning. Immediately after the prayer the Senate will resume consideration of S. 3219, at which time the pending question will be on the adoption of the amendment by Mr. HART of Colorado, amendment No. 1608. There is a time limitation debate on that amendment. I believe that is the amendment on which there is an hour and a half limitation. Upon the disposition of that amendment No. 1608, and that disposition will be by rollcall vote, the yeas and nays having already been ordered thereon, the Senate will proceed to the consideration of the amendment by Mr. HART of Colorado, amendment No. 1609. There is a 1-hour time limitation on that amendment. Upon the disposition of that amendment, the Senate will take up the amendment by Mr. PACKWOOD and Mr. BUMPERS on which there is a one and a half hour time limitation.

At no later than 1:45 p.m. tomorrow the Senate will vote on final passage of S. 3219, the Clean Air Act. Upon the disposition of the Clean Air Act, the Senate will resume consideration of the tax reform bill, and there will be votes throughout the afternoon and evening on amendments and motions in relation to the same.

It is anticipated, and I think I ought to emphasize this, that the Senate will go very late tomorrow evening again on the tax reform bill in an effort to act finally on the bill on Friday.

Mr. TOWER. Mr. President, will the Senator yield for a question?

Mr. ROBERT C. BYRD. I yield.

Mr. TOWER. The program recited by the distinguished Senator from West Virginia has already been agreed to in consent request; is that correct?

Mr. ROBERT C. BYRD. Yes, the Senator is correct.

ORDER TO HOLD H.R. 12944 AT DESK

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that H.R. 12944, to extend the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, for 6 months, be held at the desk pending further disposition.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADJOURNMENT UNTIL 9 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, and pursuant to Senate Resolution 509, as a further mark of respect to the memory of the deceased Representative from Missouri, that the Senate stand in adjournment until 9 a.m. tomorrow.

The motion was agreed to; and, at 11:15 p.m., the Senate adjourned until Thursday, August 5, 1976, at 9 a.m.

NOMINATIONS

Executive nominations received by the Senate August 4, 1976:

IN THE JUDICIARY

John H. Moore II, of Florida, to be U.S. district judge for the southern district of Florida, vice Peter T. Fay, elevated.

Sidney M. Aronovitz, of Florida, to be U.S. district judge for the southern district of Florida, vice William O. Mehrtens, retired.

Harry W. Wellford, of Tennessee, to be U.S. circuit judge for the sixth circuit, vice William E. Miller, deceased.

IN THE NAVY

Vice Adm. Denis-James J. Downey, U.S. Navy, for appointment to the grade of vice admiral on the retired list pursuant to the provisions of title 10, United States Code, section 5233.

Rear Adm. Clarence R. Bryan, U.S. Navy, having been designated for commands and other duties of great importance and responsibility commensurate with the grade of vice admiral within the contemplation of title 10, United States Code, section 5231, for appointment to the grade of vice admiral while so serving.

Rear Adm. Samuel L. Gravely, Jr., U.S. Navy, having been designated for commands and other duties determined by the President to be within the contemplation of title 10, United States Code, section 5231, for appointment to the grade of vice admiral while so serving.

CONFIRMATIONS

Executive nominations confirmed by the Senate August 4, 1976:

DEPARTMENT OF STATE

Stephen Low, of Ohio, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Zambia.

Nancy V. Rawls, of Georgia, a Foreign Service officer of class 1, to be the Alternate Representative of the United States of America for Special Political Affairs in the United Nations, with the rank of Ambassador.

Ignacio E. Lozano, Jr., of California, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to El Salvador.

U.S. POSTAL SERVICE

Hung Wai Ching, of Hawaii, to be a Governor of the U.S. Postal Service for the remainder of the term expiring December 8, 1981.

Robert L. Hardesty, of Texas, to be a Governor of the U.S. Postal Service for the term expiring December 8, 1983.

NATIONAL LABOR RELATIONS BOARD

John A. Penello, of Maryland, to be a member of the National Labor Relations Board for the term of 5 years expiring August 27, 1981.

The above nominations were approved subject to the nominees' commitments to respond to requests to appear and testify before any duly constituted committee of the Senate.

EXTENSIONS OF REMARKS

THE DINGELL-BROYHILL (TRAIN) AUTO EMISSION CONTROL AMENDMENT: A RESPONSE TO REPRESENTATIVE PAUL ROGERS

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 3, 1976

Mr. DINGELL. Mr. Speaker, the whip notice for legislative work on the House floor this week, August 2 through August 6, notes the long delayed Clean Air Act amendments, H.R. 10498, scheduled for debate to begin Wednesday, August 4. The Rules Committee appropriately adopted a rule for 3 hours of debate with an open rule for amendments on this controversial legislation.

I am pleased this bill finally is moving as the House Interstate and Foreign Commerce Committee "ordered the bill reported" as far back as March 18, 1976.

Congressman JIM BROYHILL and I are offering an amendment on the automobile emission section, title II, section 203. Our emission control amendment contains standards recommended to Congress by Administrator Train of the U.S. Environmental Protection Agency. It has his full support and that of his agency which is charged with administration of pollution controls. We have published and circulated evidence to our colleagues which calls for adoption of the Train recommendations. Our amendment provides for the best possible balance of cleaner air, automobile fuel conservation, and major consumer purchase and maintenance savings. It is the most sensible approach demanding enactment. It carries economic protections for the Nation.

However, Representative PAUL ROGERS, who last year steered the original bill to the Commerce Committee, attacked the Dingell-Broyhill (Train) emission control standards in the CONGRESSIONAL RECORD, July 26, 1976, on three principal, but misleading grounds:

1. "The Dingell amendment unreasonably exaggerates the fuel economy impacts and costs of the emission standards contained in the committee bill.

2. "The Dingell amendment is based on a misleading analysis of the health effects of auto emissions. And,

3. "The Dingell amendment would give the auto companies a new chance to lobby against the standards in 1979. It would remove all incentive for continued research, development, and procurement of new emission systems."

Representative ROGERS then submitted his "proof" for each of those three statements. This paper I am inserting today is the response to those assertions presented by him. First. Strongely, Representative ROGERS complains about the advantageous fuel savings of the Dingell-Broyhill (Train) amendment compared to the grave fuel penalties that would occur under the committee bill standards. In referring to the joint interagency Department of Transportation, Environmental Protection Agency, and Federal Energy Administration report of April

1976 on auto emission schedules then published, including our amendment, Rogers states that I have identified only the "worst case," that the worst case is unrealistically pessimistic, and that the DOT–EPA–FEA study admits that the low range estimate is an unrealistic worst cast.

Rebuttal: In fact, the DOT–EPA–FEA study did not call the low range an "unrealistic worst case." It reflected the present bounds of current technology without estimating the potential of unproved systems that "may be made and used in later years." Such technology would be used (1) if it was available, (2) if it was proven by field tests, and (3) if it was affordable. It does not seem "selective" to use such estimates to gage near term effects on fuel economy, costs, and other economic effects. At least such estimates contain more known factors than speculative estimates based upon unestablished emission control technologies.

We must not forget that just last year, we passed a law that requires the auto companies to improve the fuel economy of their cars by substantial margins in a very short time. It is not enough, therefore, for auto companies to hold their own in fuel economy while they reach for more and more stringent emission standards. That seems to be what Representative Rogers suggests when he argues that automakers could minimize the fuel economy loss if they adopt the best technology for controlling emission standards. Rather, they must improve the average fuel economy by almost 100 percent.

Second. Mr. Rogers also discusses this fuel economy argument with the conclusion that the automakers can meet the committee bill standards in 1980 if they are willing to use the best technology available for 1980.

Rebuttal: This "selectively" misquotes the EPA letter referred to in the previous paragraph, which reads potentially available. Again, the potential availability includes field test and cost consideration. Mr. Rogers bridges a long chasm by the thinnest of ropes when he changes technology "potentially available" to "best available."

The Dingell-Broyhill (Train) amendment would not remove the incentive for automakers to adopt the best available technology for controlling emissions. In fact, they would continue to have every bit as much incentive for introducing new and improved technology under the Dingell-Broyhill (Train) proposal as they would under any proposal under consideration. Furthermore, our amendment would not rule out the diesel and CVCC alternative engines as would the standards favored by Representative Rogers. What our proposal does is recognize the fuel economy standards which Congress adopted last year and attempt to responsibly match the emission standards to that schedule for fuel economy improvements, clean air improvements, and consumer savings.

Third. In his fuel economy argument and elsewhere throughout the text, Representative Rogers misrepresents the Volvo test. He states that—

> The 1977 California Volvo cars have shown that the 0.4 NO_x standard could be met in 1977 while achieving a 10% fuel economy improvement.

Rebuttal: In fact, the Volvo test cars in question in California have not yet been certified by EPA. And if they are, they will be certified to only 1977 California standards (.4/9/1.5), not to statutory standards. Volvo has stated that the durability vehicle failed to meet Federal statutory standard requirements for either the CO or NO_x. Further, the fuel economy gain is certainly exaggerated in its inference. The gain was actually in comparison to a 1976 Volvo, which did not have good fuel economy in comparison to competitive vehicles. The addition of an oxygen catalyst in 1975 and 1976 brought even more dramatic fuel economies to domestic cars. Thus, any effort to assert a similar fuel economy gain to other models already using catalysts is inappropriate.

Additionally, Representative Rogers' claim that the three-way catalyst system used on one model of Volvo sold in California would "prove" that technology is available to meet statutory auto emission standards without fuel economy penalties, is simply not so. As I further indicated in my letter of July 23 to all Members of the House, the fuel economy of the Volvo equipped with the three-way catalyst is inferior to that of a number of domestic cars of comparable size and weight. In his reference to Volvo, Representative Rogers has relied on the misleading data and opinions supplied by the California Air Resources Board, which even Volvo admits is grossly in error.

Fourth. Also in his fuel economy argument, Representative Rogers infers that the committee's bill suspension process would take care of any problems that might arise with respect to fuel penalties related to NO_x standards.

Rebuttal: We must take issue with this argument on several grounds. First, the suspension process is a costly and even counterproductive measure. At best it will keep everyone in business while negotiations for a reprieve are undertaken. It does not allow sufficient leadtime, particularly as the manufacturers attempt to meet the substantial fuel economy requirements enacted last year. Manufacturers will be unlikely to try new technology that might be obsolete within a year or two, depending on suspension decisions. And, suspension or not, the 0.4 NO_x remains in the committee bill as a requirement for model year 1985, which automatically precludes some promising fuel efficient alternate engine technologies, such as CVCC, diesel and lean-burn. I will discuss alternate engine technologies in more detail at another point in this paper.

Fifth. Finally, with respect to the fuel economy argument we must take issue, if not offense, at Representative Rogers' claim that the committee bill "requires the automakers to show that the standards need to be relaxed to save fuel" while the Dingell amendment "would relax the standards without requiring the automakers to back up their claims."

Rebuttal: Representative Rogers argues inconsistently. He claims large health benefits would be derived from the committee version, as opposed to the Dingell-Broyhill (Train) amendment, but then extols his bill for permitting those health benefits to be laid aside if there is a 10 percent fuel economy penalty associated with the 0.4 NO_x standard. The Dingell-Broyhill amendment would not relax the NO_x standard but instead leave the decision on the final NO_x level to the EPA, the government research and enforcement agency with the most expertise in the field of auto emission control standards and clean air health requirements. If the health benefits are substantial between 1982 and 1985, the Dingell-Broyhill amendment does not make the enjoyment of them contingent on fuel economy.

As I will again note later, there is serious reason to doubt whether the 0.4 NO_x level is necessary in any time frame. Surely we are not prepared to cross off technology options, run the consumer's cost up millions of dollars, and waste energy without further study of whether this level is needed and practicable.

Sixth. Representative Rogers' next accusation of misrepresentation is based on the premise that 0.4 NO_x is now feasible.

Rebuttal: The arguments Representative Rogers uses to back up technological feasibility are themselves a series of misrepresentations. First, he states that Volvo "proved that its 3-way catalyst equipped 1977 California 3,500-pound car could meet all three statutory emission standards, including the NO_x standard for 50,000 miles * * *" As we stated before, this simply is not true. Second, he mentions that a Honda CVCC is able to achieve statutory standards. There have been no published reports of this. Certainly, it cannot achieve these standards under certification procedures. Indeed, in the Honda status report to EPA in December 1975, they indicated they would not know the potential for 0.4 NO_x until the end of 1976. Furthermore, they indicated their projection that a 0.4 NO_x could be achieved only by ignoring fuel economy and driveability considerations. Third, he indicates that the Ford Stirling can meet all three standards. Ultimately this may prove to be an accurate forecast, but at this time the Stirling is a promising concept still in the development stage. Application—if proven to be mass produceable—will occur only in a time frame well past that of the committee bill. A study by the Jet Propulsion Laboratory supports this statement.

To comment further and to emphasize: It is misleading to conclude, as Representative Rogers has done, that the CVCC engine, the Stirling engine, or "other technologies" are available to meet the statutory standards. In fact, continued insistence on the statutory standards—particularly the NO_x standard which Representative Rogers singles out for special attention—discourages investment in—and could very well rule out—both the CVCC engine and the diesel.

We do know that diesel engines that can be put into production in the near future offer substantial fuel economy advantages but they would be ruled out by the 0.4 NO_x standard favored by Representative ROGERS.

Seventh. In continuing the technological feasibility argument, Representative ROGERS quotes analyses by the Dean of the University of Michigan's School of Engineering indicating that the committee's bill's emission standards are "feasible from an engineering standpoint in the time frame specified."

Rebuttal: I cannot believe that the distinguished dean means to include 0.4 NO_x in this statement. Based partly on his counsel the UAW originally called for a 5-year pause at interim emission levels and recently opposed Senator HART's amendment on the Senate side, which seeks to reestablish the 0.4 NO_x level in the Senate bill. If he was referring to the timing of the other standards, we have not argued that they are not feasible from an engineering standpoint given sufficient time, but rather that the accelerated schedule of the committee bill will lock in certain technologies and cost the consumer in lost fuel economy and unnecessarily increased costs of crash programs.

Eighth. The comment that "if the foreign manufacturers can meet the standards, why cannot the giant domestic auto companies with all their resources do so?" cannot go uncontested.

Rebuttal: No manufacturer, domestic or foreign, has certified a vehicle at statutory standards. Volvo came close to meeting those standards on one small, 4-cylinder engine but has stated it is not optimistic for its V–6. I assume Congress is not yet ready to restrict the American public to only that sized vehicle even if it is eventually able to meet such levels.

Ninth. With further respect to technological feasibility, Representative ROGERS quotes the California ARB as estimating "that by 1981 all cars could use the 3-way system to meet 0.4 gpm NO_x * * *".

Rebuttal: Again, I repeat that the technological feasibility of 0.4 NO_x has not been demonstrated. Further, evidently ARB is willing for the Congress to take on itself the uncertainties of this technology, but we are not. The applicability of 3-way technology to larger engines has not been demonstrated, nor has the 3-way catalyst had any demonstration of its practicality in field use.

Tenth. Representative ROGERS calls the Dingell analysis of the costs of the committee bill mistaken.

Rebuttal: The two premises that he uses to support his arguments we have already countered: First, that the fuel penalty is overstated, and second, the criticism of using the low-range (proven technology) estimate. In addition, we can only point out that to require across the board and prematurely a technology that has not yet been proven incurs a substantial risk of sizable increased operating and initial costs for the consumer.

Eleventh. Representative ROGERS' statements on health take the arbitrary stand that cleaner is better."

Rebuttal: Representative ROGERS cites a number of preliminary studies and tentative conclusions, some of which are viewed as "red herrings" by the scientific community. We counter by citing some crudite studies on the other side of the fence.

There have been some serious questions raised concerning the need for the statutory NO_x standard. In fact, the U.S. Senator who is most often credited with authorizing the statutory standards has acknowledged that the "technical data supported a relaxation of the standard for oxides of nitrogen from 0.4 gpm to 1 gpm. The auto emission standards were set in 1970 on the basis of information then available on the relationship between auto emissions and air quality. Since that time, new information has come to light that casts doubt on the need for such stringent standards. First, the NO_2 ambient measurement techniques were found to be in error, and instead of 43 regions being in violation of the NO_2 ambient standards, less than 10 were found to be a problem. Second, a study by a panel of the Committee on Motor Vehicles of the National Academy of Sciences concluded, "present Federal emission requirements for .41 gm/mi (HC) and .4 gm/mi (NO_x) seem more restrictive than need be by a factor of about three. Based on the state of knowledge now available, the California 1975–76 standards * * * seem more nearly what is required." Third, a 1975 Yale Medical School study concluded that the CO and NO_x standards were too stringent by a factor of four. Fourth, a study undertaken by Columbia University, MIT, and Harvard for the National Science Foundation concluded that, "Recent corrections to measurements of ambient NO_2 levels indicate that the statutory NO_x emission standard may be more stringent than is necessary to achieve NO_2 ambient air quality standards nationwide in 1985."

Further, in his health arguments Representative ROGERS justifies the 0.4 NO_x based on a 1 hour NO_x standard. The committee bill requires EPA to promulgate a 1 hour NO_x standard unless they find it is not needed for health reasons. Representative ROGERS assumes that EPA will determine such a standard is needed and then goes on to postulate—without evidence—that a 0.4 NO_x automotive standard will be needed to meet this standard.

Also, it is noteworthy that the DOT-EPA-FEA study found virtually no differences, insofar as health effects are concerned, between the emission control schedule in the committee bill and the schedule that would be established by our amendment. Furthermore, the degree of uncertainty as to health effects is so great, and the health effect differences between the Dingell-Broyhill (Train) amendment and the committee bill are so small that it can only be concluded that there are no health effects differences. (CONGRESSIONAL RECORD, April 27, 1976 pages 11430–36.)

The interagency study discusses the uncertainty associated with health effects projections:

> . . . There is a high degree of uncertainty in making both air quality and health impact projections. The data base is limited and in some cases still subject to scientific debate, and the methodologies are subject to additional development. As a result, the estimates below may well be too high or too low, and they may vary relative to each other.
>
> The National Academy of Sciences, which also studied the question of the adequacy of the automotive standards, confirmed that: "the uncertainty of the estimate is large and nothing is to be gained by pretending to a spacious accuracy not based on real knowledge." NAS further conceded that the "greatest uncertainties attached to emissions that are predominantly produced by the automobile."

Twelfth. Representative ROGERS states that the Dingell-Broyhill (Train) amendment "simply provides relaxation of the auto NO_x standard regardless of what happens to stationary source controls or the public health."

Rebuttal: Obviously, the Dingell-Broyhill amendment is to title II. It does not disturb the provision made by the committee in title I for stationary sources. Automobiles are already controlled to a greater degree than are other contributors, especially stationary sources. Further, Dingell-Broyhill does not relax NO_x standards, but instead provides for phasing in more stringent standards on a realistic timetable.

Thirteenth. The closing statement of Representative ROGERS talks about the hidden significance" of the Dingell amendment.

Rebuttal: To Representative ROGER's concern about eliminating 0.4 NO_x as a "research target", I would counter that it is a research target that the economy and the consumers may not be able to afford, that will detract from fuel economy efforts, that may preclude technologies, and that may not be necessary for public health.

Representative ROGERS' concern about striking "good faith" is unfounded. This principle is only needed when there is an application from the Clean Air Act to suspend the statutory standard—a part of the committee bill which I consider expensive and possibly counterproductive. Obviously no option of meeting 1.0 NO_x at 100,000 miles was included because the Dingell-Broyhill amendment leaves the final NO_x standard to the decision of the Administrator of EPA under the prevailing procedures which call for emission control systems which are effective over the useful life of the vehicle.

In summary, the Dingell-Broyhill (Train) amendment has been offered as part of a reasoned and balanced program to achieve a number of goals simultaneously. It would:

> Provide for accelerated but orderly progress in cleaning up automotive emissions to the atmosphere. There would be virtually no difference between the Dingell-Broyhill (Train) amendment and the Committee bill insofar as health effects are concerned.
>
> Recognize the consensus of the scientific community and the EPA that the automotive standard for control of NO_x is more stringent than required for health protection and was established in error. It puts determination of the final level of NO_x control in the hands of the EPA experts.
>
> Encourage domestic auto manufacturers to go forward with their plans to introduce alternative engines, particularly diesel engines which offer fuel economy savings of upwards of 25 percent.
>
> Save enormous quantities of fuel—as much as 9.27 billion gallons between 1977 and 1985, compared to the standards in the Committee bill. (This is according to the April 1976 DOT–EPA–FEA auto emission analysis.)

Save consumers billions of dollars in added cost for fuel, emission control equipment and maintenance. Between 1977 and 1985 the Committee bill would cost consumers as much as $22.3 billion more than the Dingell-Broyhill (Train) standards. (This is according to the April 1976 DOT-EPA-FEA auto emission analysis.)

Provide auto manufacturers an opportunity to meet the fuel economy standards that Congress mandated last year and thus fit with the energy conservation goals enacted by Congress.

I share with Representative ROGERS a strong desire to clean up the air of the Nation. But Members of Congress must not consider auto emission control in isolation from considerations of fuel economy, consumer cost and the health of the Nation's economy. The Dingell-Broyhill (Train) amendment has been carefully drafted to achieve continued progress in auto emission control while also balancing those other important factors.

While my distinguished colleague has referred to some of my statements as exaggerated, selective, and misleading, I am afraid I would instead apply some of these adjectives to his attack on the Dingell-Broyhill (Train) amendment. In my opinion, the Dingell-Broyhill (Train) amendment presents the best deal for the consumer and the economy, and I believe the facts support this opinion. I urge every Member of Congress to support the Dingell-Broyhill (Train) amendment.

OLYMPIC CONGRATULATIONS EXTENDED

HON. W. G. (BILL) HEFNER

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 4, 1976

Mr. HEFNER. Mr. Speaker, now that the XXI Olympic games are over, I would like to congratulate all of the athletes, coaches, trainers, and others who assisted in representing the United States so well over the past 2 years.

In particular, I would like to express my great appreciation to Mr. Dean Smith, who coached the U.S. basketball team to an Olympic gold medal. As a longtime follower of Atlantic Coast Conference basketball, I have always admired Coach Smith's poise and creativity in leading the University of North Carolina Tar Heels to success. He has continually brought national recognition to the University of North Carolina's basketball program and to the State of North Carolina itself.

In his tenure as head basketball coach at Carolina, Coach Smith has maintained one of the highest winning percentages of any coach in the Nation. Having worked with numerous All-Americans at the University of North Carolina, Coach Smith was well equipped to coordinate the Nation's best basketball talent in the Olympic games.

I am glad that we in North Carolina have had the opportunity to share Coach Smith's knowledge and expertise with the entire country, and gain the gold medal which goes with the title of the greatest amateur basketball team in the world.

Once again, I would like to extend my heartiest congratulations to Dean Smith for the excellent job he has done and the gentlemanly style he has displayed in his profession.

FOURTH OF JULY BICENTENNIAL MESSAGE OF THE PRESIDENT

HON. JOHN J. RHODES

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 4, 1976

Mr. RHODES. Mr. Speaker, our Nation celebrated a gala Fourth of July weekend which gave appropriate recognition to the momentous milestone of 200 years as a free Republic.

President Ford presented a thoughtful Bicentennial message on July 3 in the Cabinet room, in which he summed up the essence of our greatness as a nation as being the dedication to individual rights. As many of my colleagues were out of town, I herewith ask permission to insert the President's inspiring remarks in the RECORD. Text of the message is as follows:

[Office of the White House Press Secretary]

FOURTH OF JULY BICENTENNIAL MESSAGE OF THE PRESIDENT

Two hundred years ago we, the people of the United States of America, began a great adventure which stirred the imagination and quickened the hopes of men and women throughout the world. The date was July 4, 1776. The occasion, the signing of our Declaration of Independence.

No other nation in history has ever dedicated itself more specifically nor devoted itself more completely to the proposition that all men are created equal, that they are endowed by their creator with such unalienable rights of life, liberty and the pursuit of happiness.

Two centuries later, as we celebrate our Bicentennial year of Independence, the great American adventure continues. The hallmark of that adventure has always been an eagerness to explore the unknown, whether it lay across an ocean or a continent, across the vastness of space or the frontiers of human knowledge. Because we have always been ready to try new and untested enterprises in government, in commerce, in the arts and sciences and in human relations, we have made unprecedented progress in all of these fields.

While reaching for the unknown, Americans have also kept their faith in this wisdom and experience of the past. Colonists and immigrants brought with them cherished values and ideals in religion and in culture, in law and learning which, mixed with the native American ways, gave us our rich American heritage.

The unique American union of the known and the unknown, the tried and the untried has been the foundation for our liberty and the secret of our great success. In this country individuals can be the masters rather than the helpless victims of their destiny. We can make our own opportunities and make the most of them.

In the space of two centuries we have not been able to right every wrong, to correct every injustice, to reach every worthy goal, but for 200 years we have tried and we will continue to strive to make the lives of individual men and women in this country and on this earth better lives—more hopeful and happy, more prosperous and peaceful, more fulfilling and more free. This is our common dedication and it will be our common glory as we enter the third century of the American adventure.

UNITED STATES MUST SUPPORT SOUTH KOREA

HON. WILLIAM L. DICKINSON

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 4, 1976

Mr. DICKINSON. Mr. Speaker, in the Monday, July 26, edition of the Birmingham News there appeared an editorial entitled "The Repression Gambit." In detail this editorial outlines the reasons why we must not let South Korea down, and examines the repression ploy the liberals are using against South Korea. Because I feel this is one of the most intelligent, convincing, well-written and relevant discussions of United States-South Korea relations, I am happy to insert that editorial at this point in the RECORD:

THE REPRESSION GAMBIT

One way or another the charge of "repression" or "authoritarianism" or "corruption" has been used against every government opposed by Communists in the history of the Red movement.

The charge was used against Chiang Kai-shek's Chinese government; it was used against successive Vietnamese leaders; it was used against Cambodia's Lon Nol; it was used against Franco; and it is being used against Chile, the Philippines and South Korea.

It may be that a measure of truth adds credibility to each charge. But there are degrees of repression, authoritarianism, etc., and the ultimate loss of freedom is under the alternative of Communism.

South Korea, specifically, is under attack now. Some members of Congress want to cut off military assistance to the government of President Park Chung Hee. The House on June 2 reversed an earlier vote by the International Relations Committee which had favored cutting aid to South Korea. Undoubtedly the issue will arise again.

Eventually the South Koreans will be self-sufficient militarily. Until then, assistance by the U.S. helps deter Communist aggression. If this country doesn't prematurely sink that country, eventually it will be able to swim by itself.

It is easy for people in this country to be critical of the government of South Korea. But if we were separated only by a demilitarized border from a hostile enemy—say the Soviet Union—which continually made threats, constantly sent agents into our country to spy and subvert our citizens, and which vowed the ultimate destruction of our way of life, we might not be as open as we are or as tolerant of dissent of our government.

To a nation, the first order of priority is survival. It is not difficult to understand why in South Korea all the trappings of democracy might be an unaffordable luxury.

And if we establish rules of the game which rule out tough internal security measures, we force South Korea to open itself to the enemy.

It should be kept in mind also that it is pressure from the Communists which makes the security measures necessary—and that the Communists are the first to charge their targets of aggression with "repression" if their subversion is checked.

Even though President Park has taken unto himself vast emergency powers, his people have much more freedom than they would have under communism; and the consensus in South Korea is solidly against communism. We would be doing no one in South Korea a favor if we limited or cut off aid.

CAPTAIN RUSSO RETIRES FROM UTICA POLICE DEPARTMENT AFTER 27 YEARS

HON. DONALD J. MITCHELL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 4, 1976

Mr. MITCHELL of New York. Mr. Speaker, I want to join with the many friends and neighbors of Capt. Nicholas D. Russo in congratulating him on his retirement from the Utica Police Department after 27 years of dedicated service.

Captain Russo's devotion and hard work have earned him the respect and admiration of the people of Utica. He has dedicated a productive professional career to enforcing the law and protecting the people.

Captain Russo began his career with the Utica Police Department as a patrolman in 1948. His abilities and dedication were apparent from the beginning and so it was natural that they be properly recognized. Promotions came—first to detective rank, then lieutenant, and finally captain.

In addition to being noted as an outstanding law enforcement official, Captain Russo is also well known throughout the community for his contributions to various civic and religious organizations. His kindness, compassion, and leadership are highly commendable. We owe a great deal of thanks to a man who has given so much of his time to serving others. That is part of the greatness of America—people giving of themselves to others.

As if that were not enough, Captain Russo is a member of the Knights of Columbus, the Blessed Sacrament Church, and the Blessed Sacrament Men's Club.

He is a member of the Police Benevolent Holy Name Society and is a board member of the City of Utica Youth Bureau. He serves as chairman of the board of directors of the John E. Creedon Police Benevolent Association, is vice commander of the John Phelen Police and Fire Veterans Organization and is vice president of the Columbia Association of Italian Descent. He is chairman of the local Association for Retarded Children and coaches the St. Anthony semipro football team.

Captain Russo is the founder and president of the St. Anthony's Athletic Youth Organization and is vice commander of Stars and Stripes Chapter 82, Disabled American Veterans.

The kind of energy, compassion and devotion which Captain Russo has repeatedly exhibited over the past years is certainly worthy of our heartiest thanks. He is a man of character whose contributions to his community and his country deserve our deepest gratitude.

REGIONALISM

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 4, 1976

Mr. HAMILTON. Mr. Speaker, for some time Hoosiers have been concerned about the flow of Federal dollars from Indiana to other States. Two examples confirm these concerns:

Federal spending nationwide is $1,412 per person, but it is only $1,027 in Indiana for each Hoosier; and

For each tax dollar sent to Washington, Hoosiers received only 73 cents in return.

Midwesterners have become painfully aware that Federal tax and spending policies are causing a massive flow of dollars from the Midwest and the Northeast to the South and to the West. Indiana is among the States that are hurt the most by this outflow. This heavy flow of Federal dollars is away from the States of the Nation under the most severe economic strains, where population is stagnant, unemployment and taxes are high, and personal income is falling. For example, Federal nonmilitary payrolls are often three to four times higher in booming States like Arizona, New Mexico, and Colorado than in stable or declining States like New York, Ohio, and Illinois.

Indiana is not at the bottom on the list ranking the States according to the amount of money received for each tax dollar sent to Washington, but it is not too far from it, ranking fifth from the bottom after Michigan, Ohio, Illinois, and Iowa. Indiana lags behind the national average per capita Federal spending on defense contracts and salaries, retirement and welfare payments, but runs about even on highway and sewer programs. When compared to other States in the Great Lakes region, Indiana does fairly well in getting its share of Federal spending, except for welfare payments where it ranks third from the bottom in the Nation.

The political ramifications of this outflow of Federal dollars from Indiana, the Midwest, and the Northeast are significant, and may even be explosive. Already some national commentators are talking about a "second war between the States." There is trouble in the making if some regions flourish while others stagnate. No one argues that Federal policies have caused the economic boom in the South and the West and the decline in the Northeast, but Federal spending patterns are more and more frequently mentioned as one important reason for the economic problems of these regions. Obviously other reasons for the shift are important, ranging from population trends, lower wages and taxes, to cheaper energy, and land. But whatever the reasons the rise of the South and the West is apparent. In each recession since the 1960's unemployment for the Northeast and the Great Lakes region has risen more precipitously and dropped more slowly than in other regions of the country.

The impact of these trends is beginning to register in the Congress. Congressmen from the Northeast and the Midwest are seeking changes in Federal policies that operate at the expense of their regions. The New England States are probably better organized in the Congress to counter these trends than other deficit regions, including the Midwest. It may be that eventually a loose coalition of States from Wisconsin to Maine will have to be formed to protect the interest of these States in securing Federal money.

Federal policies must begin to take into account the vast differences in the economic health of the varying regions of the Nation, and the impact of Federal economic policies on regional economies. Those policies cannot completely offset the effects of economic decline in any one region, but flexible Federal policies could help arrest the downward spiral in the declining regions' economies. Federal tax, expenditure, credit, and employment policies can be influential factors affecting the health of local economies.

Today neither the overall fiscal and monetary policies of the Nation nor specific programs of the Federal Government are designed to respond to the widely varying economic conditions of separate regions of the country. While the Northeast and the Midwest have experienced significant declines in relative economic growth, Federal programs have been heavily weighted toward the South and the West, the regions to which the jobs and wealth have shifted.

To achieve the goal of a balanced economy, we must become aware that a problem of regionalism exists and that regional Federal policies can be devised to alleviate it. In areas of chronic unemployment, efforts to concentrate Federal contracts, payroll expenditures, public works and jobs, and to spur private investment can create jobs, and halt the deterioration of public services. Regional development banks can make low interest loans to businesses in chronically depressed areas and Federal grant formulas can be changed.

The solution to regional imbalances will not come quickly, but many things can be done with good management and without expansion of present programs. My judgment is that in the years immediately ahead great efforts will go into improving our information on regional economies and discussing methods of attacking these problems, and it is abundantly clear that Hoosiers have a great deal to gain from such efforts.

TELEPHONE TERMINAL AND STATION EQUIPMENT

HON. ANDREW JACOBS, JR.

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 4, 1976

Mr. JACOBS. Mr. Speaker, in my opinion the individual States should have jurisdiction over telephone terminal and station equipment matters, including the right to determine the nature and extent to which customer-provided equipment is to be interconnected with the telephone system.

I have this day introduced legislation to assure that the States have such jurisdiction.

State regulatory commissions, in my judgment, are in a better position to determine the extent to which interconnect equipment might interfere with efficient telephone service and efficient rates.

In the case of intercity and interstate telecommunication, I tend toward the view that the traditional service of telephone companies in transmitting voices could be regulated in the traditional way, namely the certificate of public convenience and necessity in the form of regulated monopoly.

In the case of interstate teletransmission of data, I am more inclined to believe that since this has not been a traditional activity of the telephone companies, other organizations, under sensible rules of operation, might well serve the general public along with the telephone company efficiently.

CONGRATULATIONS TO GOLD MEDAL WINNER HOWARD DAVIS JR.

HON. JEROME A. AMBRO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 4, 1976

Mr. AMBRO. Mr. Speaker, I am proud that one of the many young athletes to bring honor to self, community, and Nation by winning a gold medal in the recently completed Montreal Olympics was a constituent of mine, Howard Davis Jr. of Glen Cove, Long Island. This amazing 20-year-old boxer won the Olympic championship in the lightweight division despite a deep personal tragedy that would have overcome a less determined man.

Howard Davis, however, is no ordinary individual. Often compared to world heavyweight champion Muhammad Ali, Howard is an awesomely talented young boxer. He is tremendously versatile in the ring, having the ability to dance and jab his way to victory yet having the power necessary to knock out one opponent and score a technical knockout over another. Rollie Schwartz, U.S. boxing team manager, said of him:

> He has the fastest hands of any amateur I've ever seen . . . He's a beautiful boxer.

For Howard, the gold medal victory over Simian Cutov of Romania was the climax of an extremely successful amateur career which included three Golden Glove titles and the world championship in the 125-pound division. We wish Howard the best of luck in the future and hope that he never again has to face the kind of tragedy that darkened his hour of triumph in Montreal.

Mr. Speaker, everybody on Long Island and, indeed, everybody in the country, must be very proud of this young champion. A credit to the Nation, Howard Davis Jr. stands as still another example of the tremendous drive for achievement that characterizes the United States of America.

FREE CHOICE OF HEALTH CARE IS BEST

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 4, 1976

Mr. CRANE. Mr. Speaker, our private, free-choice system of health care, which over the last 200 years has made our system the finest in the world, provides most Americans with high quality care at the lowest possible cost. In contrast with socialized health care systems in countries such as Great Britain and Sweden, our private system has fostered constant innovation and improvement without serious shortages of hospital beds, waiting lists, or emigration of skilled physicians.

However, our health care system is now approaching a crisis due to rising costs not, as some suggest, because of the lack of Government planning or intervention, but rather because of the sheer weight of Government programs, regulations, and the paperwork they entail. Instead of schemes such as comprehensive national health insurance, which would lead to a disastrous socialized system of health care, we need to relieve our private providers of the inhibitive controls imposed on them by the Congress and the Federal bureaucracy.

To alleviate many of the detrimental side effects of Federal intervention under which our health care system has suffered, I am introducing a bill today that will guarantee the right of all Americans to quality medical care by providing congressional oversight of proposed regulations, eliminating utilization review and PSRO procedures, and insuring patients who are not receiving Federal assistance for health care that their medical records will not be surveyed by the prying eyes of a Federal bureaucrat.

All too often Federal departments and agencies have adopted regulations contrary to the intent of Congress as set forth in the relevant legislation. The Congress only recourse, heretofore, has been to adopt legislation specifically repealing such regulations. This bill would provide a congressional review period of 90 legislative days before proposed Federal rules in the health care field would go into effect, giving us the opportunity to examine all their ramifications, both good and bad.

Regulations in the utilization review organizations in the medicare, medicaid and child health programs and the professional standard review organizations—PSRO—as presently constituted, invite malpractice suits and threaten the confidentiality of patient medical records. By establishing rigid "norms" for medical care, these regulations will discourage individualized and innovative treatment and the development of new medical techniques. Rather than saving money, they are likely to cost more in the long run as manpower is diverted from providing care to completing paperwork, to the detriment of doctors, patients, and the American taxpayer. These review organizations would be repealed under the provisions of this bill.

With a growing awareness of the right to privacy, the lack of protection of the confidentiality of patient medical records is also of great concern today. Some Government agencies now have the authority to inspect the records of all patients, not just those receiving Federal aid—a practice required by employees of PSRO in order to set up their standards or norms for medical care. This bill forbids, under penalty of law, the acquisition or inspection of records of those not receiving Federal medical assistance without the patient's express written authorization.

While the passage of this legislation is not the total answer to the problem of Government intervention in the health care field, it would resolve a number of problems. First of all, it would discourage malpractice suits due to perceived deviation from arbitrary "norms." Second, it would encourage innovation on the part of doctors in medical treatment and insure many patients that the nature of their treatment would be kept confidential. Third, it would promote the efficient utilization of manpower by lifting the paperwork burden. Fourth, it would maintain freedom of choice in the acquisition of medical care and finally, it would hold down the spiral in medical costs due to factors other than inflation.

For the benefit of my colleagues I include the text of my bill at the conclusion of my remarks:

H.R. 15043

Mr. Crane (for himself and Mr. Stephens, Mr. Kemp, Mr. Kindness, Mr. Brinkley, Mr. Derwinski, Mr. Whitehurst, Mr. Ketchum, Mr. Lagomarsino, Mr. Davis, Mr. Rose, Mr. Paul, Mr. Conlan, Mr. Symms, Mr. Rousselot, Mr. Archer, Mr. Miller of Ohio, Mr. Collins of Texas, Mr. Robinson, and Mr. Mathis.)

A bill to guarantee the right of all Americans to quality medical care, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Comprehensive Right-to-Quality Medical Care Act of 1976".

CONGRESSIONAL REVIEW OF PROPOSED HEALTH CARE REGULATIONS

SEC. 2. (a) Whenever any officer or agency in the executive branch of the Federal Government (including any independent establishment of the United States) proposes to prescribe any health care regulation, he shall submit such regulation to each House of Congress together with a report containing a full explanation thereof.

(b) (1) Except as provided in paragraphs (2) and (3), a proposed health care regulation shall become effective 90 legislative days after the date of its submission to the Congress as provided in subsection (a), or at such later time as may be required by law or specified in such regulation.

(2) No proposed health care regulation shall become effective if, before the expiration of the period of 90 legislative days beginning on the date of submission to Congress of such regulation under subsection

(a), either House of Congress (in accordance with subsection (3)) adopts a resolution the substance of which disapproves such regulation because it contains provisions which are contrary to law or inconsistent with the intent of the Congress, or because it goes beyond the mandate of the legislation which it is designed to implement or in the administration of which it is designed to be used.

(3) Upon the adoption by Congress of a concurrent resolution during the period of 90 legislative days beginning on the date of submission to Congress of a proposed health care regulation under subsection (a), such regulation may become effective either immediately or as soon thereafter as is permitted by law, in accordance with such resolution.

(4) As used in this subsection:

(A) The term "legislative days" does not include any calendar day on which both Houses of Congress are not in session.

(B) The term "health care regulation" means any rule or regulation, or change thereof, to be used in the administration or implementation of any law of the United States pertaining to health care.

(c)(1) Any resolution introduced under subsection (b)(1) shall be referred to a committee by the Speaker of the House or by the President of the Senate, as the case may be.

(2) If and when the committee has reported the resolution, it shall at any time thereafter be in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. Such motion is highly privileged and is not debatable. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(3) No amendment to, or motion to recommit, the resolution shall be in order, and it shall not be in order to move to reconsider the vote by which the resolution is agreed to or disagreed to.

(4)(A) Motions to postpone, made with respect to the consideration of the resolution, and motions to proceed to the consideration of the resolution, and motions to proceed to the consideration of other business, shall be decided without debate.

(B) Appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to the resolution shall be decided without debate.

(C) Except to the extent specifically otherwise provided in the proceeding provisions of this section, consideration of any resolution with respect to a proposed rule, regulation, or change in either House of Congress shall be governed by the Rules of that House which are applicable to other resolutions in similar circumstances.

(d) Subsection (c) is enacted by the Congress—

(1) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such it shall be considered as part of the rules of each House, respectively, and such rules shall supersede other rules only to the extent that they are inconsistent therewith; and

(2) with full recognition of the constitutional right of either House to change such rules (as far as relating to the procedures of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House.

(e) This section shall not apply with respect to a proposed health care regulation which (but for this section) becomes effective before the first day of the first month which begins after the date of enactment of this Act.

REPORTING OF CERTAIN REGULATIONS TO CONGRESS

SEC. 3. (a) At least 60 days before the initial publication by an agency or department of the Federal Government of any health cost regulation, the head of such department or agency shall submit notice of intended publication of such regulation and the text of such regulation to the appropriate committees of the House of Representatives and the Senate.

(b) For the purpose of subsection (a), the term "health cost regulation" means every rule, instruction, or statement of policy (or interpretation thereof) of general application and future effect, including the amendment or repeal thereof, designed to implement or make specific any provision of Federal law relating to (1) costs or expenditures of, or reimbursements to, individuals or providers of health care, or (2) the fixing of any rate or charge, but does not include such regulations, instructions, or statements of policy or interpretations thereof concerning only the internal management of such department or agency and not affecting directly the rights of or procedures available to individuals or providers of health care.

REPEAL OF MEDICARE UTILIZATION REVIEW PROVISIONS

SEC. 4. (a) Section 1861(k) of the Social Security Act is repealed.

(b)(1) Section 1814(a) of such Act is amended—

(A) by striking out "paragraphs (6) and (9)" in clause (2)(C) and inserting in lieu thereof "paragraph (9)";

(B) by striking out "paragraphs (6) and (9)" in clause (2)(D) and inserting in lieu thereof "paragraph (9)";

(C) by inserting "and" immediately after the semicolon at the end of clause (4);

(D) by striking out the semicolon at the end of clause (5) and inserting in lieu thereof a period; and

(E) by striking out clauses (6) and (7).

(2) Clause (2) of section 1842(a) of such Act is amended—

(A) by striking out "(2)(A)" and all that follows down through "(B) assist providers" and inserting in lieu thereof "(2) assist providers"; and

(B) by striking out ", and provide procedures" and all that follows through "to make reviews of utilization".

(3) Section 1861(e) of such Act is amended by striking out clause (6).

(4) Section 1861(j) of such Act is amended by striking out clause (8).

(5) Section 1861(r)(3) of such Act is amended by striking out "(k),".

(6)(A) The first sentence of section 1865 (a) of such Act is amended by striking out "; except—" and all that follows through "such Commission." and inserting in lieu thereof "; except any standard, promulgated by the Secretary pursuant to paragraph (9) thereof, which is higher than the requirements prescribed for such accreditation by such Commission.".

(B) The second sentence of section 1865(a) of such Act is amended to read as follows: "If such Commission, as a condition for accreditation of a hospital, imposes a standard which the Secretary determines is at least equivalent to the standard promulgated by the Secretary as described in the matter following clause (2) of the preceding sentence, the Secretary is authorized to find that all institutions so accredited by such Commission also comply with the standard so promulgated.".

(7) Section 1866 of such Act is amended—

(A) by striking out subsection (d), and

(B) by redesignating subsection (e) as subsection (d). Repeal of Utilization Review Provisions of Medicaid and

MATERNAL AND CHILD HEALTH PROGRAMS

SEC. 5. (a) Section 1903(i) of the Social Security Act is amended—

(1) by striking out "; or" at the end of clause (3) and inserting in lieu thereof a period; and

(2) by striking out clause (4).

(b) Section 506(f) of such Act is amended—

(1) by striking out "; or" at the end of clause (3) and inserting in lieu thereof a period; and

(2) by striking out clause (4).

REPEAL OF PROFESSIONAL STANDARDS REVIEW PROVISIONS

SEC. 6. (a) Part B of title XI of the Social Security Act is repealed.

(b) Section 506(f) of such Act is amended—

(1) by striking out "AND PROFESSIONAL STANDARDS REVIEW" in the heading; and

(2) by striking out "Part A—General Provisions" immediately before section 1101.

GUARANTEE OF CONFIDENTIALITY OF MEDICAL RECORDS

SEC. 7. (a) No officer, employee, or agent of the United States, or any agency or department thereof, may inspect, acquire, or otherwise require for any reason whatever, any part of medical or dental records of patients whose medical or dental care was not, or will not be, paid by the Federal Government, or was not, or will not be, paid for (in whole or in part) under a Federal program or any other programs receiving Federal financial assistance, unless such patient has authorized such disclosure in accordance with subsection (b).

(b) A patient may authorize disclosure under subsection ( ) if he furnishes a signed and dated statement in which he—

(1) authorizes such disclosure for a specific period;

(2) identifies the patient records which are auhorized to be disclosed; and

(3) specifies the purposes for which, and the agencies to which, such records may be disclosed.

(c) Any person who violates subsection (a) shall be fined not more than $10,000 or imprisoned for not more than 5 years, or both.

(d) In addition to any other remedy contained in this section or otherwise available, injunctive relief shall be available to any person aggrieved by a violation or threatened violations of this section.

(e) Should any other law of the United States grant, or appear to grant, power or authority to any person to violate subsection (a), the provisions thereof shall supersede and pro tanto override and annul such law, except those statutes hereinafter enacted which specifically refer to this section.

(f) The provisions of this section shall become effective upon the expiration of the period of 90 days immediately following the date of enactment of this Act.

COMMENDATION FOR ISRAEL

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 4, 1976

Mr. PAUL. Mr. Speaker, I have cosponsored a resolution commending the State of Israel for its brave and swift action against the terrorists that hijacked the Air France jetliner on June 27.

Our own Nation once would have dared to rescue its citizens from international thugs, but now our Government seems to have lost the will to resist aggression.

The action of Israel in rescuing the innocent victims of hijacking was and is a moral victory. The free world—or what is euphemistically now called the free world—has had very few moral victories recently, and this one ought not to be soon forgotten. It certainly ought not to be misrepresented as aggression on the part of Israel nor a violation of the national sovereignty of Uganda. On the individual level, one has no right to commit crimes in the privacy of his own home, and then claim invasion of privacy when the government seeks to apprehend and punish the criminal. And on the national level, no nation has the right to commit crimes within its borders or to offer sanctuary to criminals, and then claim that its national sovereignty has been violated when efforts to stop the crimes and rescue the victims are made by other nations.

The action of Israel is both commendable and exemplary. The fact that Israel's action has been decried and Israel reviled is simply another indication of the moral enervation of the West.

DEPOLITICIZING HEALTH CARE

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 4, 1976

Mr. McDONALD. Mr. Speaker, Dr. RON PAUL and myself today are introducing a bill to repeal titles XV and XVI of the Public Health Service Act, which were created by Public Law 93-641, the "National Health Planning and Resources Development Act of 1974."

The consequences of Federal health planning will be disastrous and thus Public Law 93-641 should be repealed immediately, for the following reasons:

First, the law provides both the mechanism and the means for total, centralized control of health care by the Federal Government. Title XV establishes the mechanism by, first, directing the Secretary of the Department of Health, Education, and Welfare to issue guidelines concerning national health planning policy; second, setting "national health priorities"; and third, creating a nationwide network of "health systems agencies," "health service areas," and "State health planning and development agencies."

Title XVI provides the means by authorizing Federal aid for developing "health resources"—essentially building new medical facilities or modernizing old ones—and Federal funding for the health systems agencies established in title XV. Acceptance of these funds brings a medical facility under Federal control, if indeed it is not already taking orders from HEW through prior acceptance of funds from Federal programs such as medicare, medicaid, Hill-Burton, et cetera.

Obviously, this is a major step toward complete nationalization of the health care professions, as was made clear by its proponents:

> The important concept embodied in this legislation, that health financing should be closely related to health planning, has subsequently been reflected in almost all major proposals for national health insurance through a series of devices intended to assure that national health insurance does not pay for costly services which the planning process determines are unneeded. (House Report 93-1382, to accompany H.R. 16804, p. 8.)

Aside from the intentions of its sponsors, however, Federal health planning by its very nature will lead to total Federal control of health care. One of the law's alleged purposes is to control the cost of health care, which has been rising at a rate higher than that of inflation for the past several years. But it attempts to do this by treating the effect, the rising prices, not the cause, which is the Government programs that socialize health care. When payments of medical services are collectivized, as under medicare and medicaid, the individual pays the same amount regardless of the cost and frequency of his own treatments. If health care is "free" on demand, demand soars and prices rise.

The health planners propose to stop this by ordering prices to hold still. They propose maximum allowable cost for drugs, and professional standards review for the elderly and indigent under medicare and medicaid, to make sure the Government pays for no unnecessary services. The Professional Standards Review Organizations, already established by another law, have the authority to control doctors' fees, to review confidential medical records in order to standardize allowable medical services, and to review hospital admissions.

Thus free medicine for the elderly and indigent is leading directly to Government rationing of health care services to these citizens. And now the health planners are talking about a series of devices to insure that the Government does not pay for costly services which the planning process determines are unneeded, thereby extending Government rationing of health care to everyone.

Such controls, however, will not work unless they are total. Prices will continue to rise so long as the Government continues its involvement in health care, leading the planners to lobby for complete nationalization. There are only two ways to deal with the consequences of the insatiable demand induced by Government health care programs. One is to eliminate the Government programs and allow the market to bring supply and demand back into balance. The other is to give the Government total control over supply.

The health planners leave no doubt which option they choose, and are already claiming Public Law 93-641 to be inadequate. For example, Dr. Charles C. Edwards, former commissioner of the Food and Drug Administration and former assistant secretary for health at HEW, renewed his call for a National Health Authority to regulate medicine as a public utility in a keynote address before a meeting of the American Association for Comprehensive Health Planning last month, American Medical News, July 26, 1976. Dr. Edwards said:

> I am suggesting that health planning be merged with health cost regulation. Because without such a merger—without effective cost-containment—health planning, even under the best of circumstances, will remain an exercise in frustration and a bitter disappointment.

Dr. Edwards continued by endorsing regional rate-setting agencies operating under Federal guidelines.

In other words, health planning will not work unless the Government has total control over the supply of health services, without which those who wish to determine how much, if any, health care each individual American citizen will be allowed, will be frustrated and disappointed.

Second, Federal health planning is politicizing the entire field of health care. Instead of market demand determining and directing the supply of medical facilities and services, these decisions increasingly are being made by Government and quasi-government officials. The decision to build a new hospital is not being determined by the demand for medical services by the people in a given area, but by officials of a health systems agency who, in conjunction with officials of the State health planning and development agency and officials of HEW's appropriate regional planning center, attempt to determine if their health plans are in accord with the national health priorities set by Congress and the national guidelines for health planning issued by the Secretary of HEW. Thus decisions affecting the health of millions of people must go through layer after layer of health planners before anything can be done. And since the decision is political, not economic, those with political pull will get the new hospital, if anyone does, not necessarily those who need it most.

Such a system is designed not to provide health services, but to prevent them from being provided.

Third, this law undoubtedly will distort and disrupt the delivery of health services to rural and nonrural areas. Not only do such areas lack the political pull to compete with the more densely populated urban areas, but the national health priorities established by Congress discriminate against less populated regions. These priorities, as mandated by section 1502 of title XV, include:

> (1) The provision of primary care services for medically underserved populations, especially those which are located in rural or economically depressed areas.
>
> (2) The development of multi-institutional systems for coordination or consolidation of institutional health services (including obstetric, pediatric, emergency medical, intensive and coronary care, and radiation therapy services).
>
> (3) The development by health service institutions of the capacity to provide various levels of care (including intensive care, acute general care, and extended care) on a geographically integrated basis.

Apparently, primary care services are to be provided in rural areas, but other levels of care only on a geographically integrated basis. What about a rural hospital which provides intensive care? Must its patients be transferred to urban hospitals? Or what about a rural hospital which wants to add facilities for intensive care? Must it wait until the population in its vicinity reaches some figure arbitrarily determined by a bureaucrat in a regional health planning agency?

Fourth, Public Law 93-641 is unconstitutional, probably on many grounds. At the very least it is a violation of the 10th amendment. In fact, the State of North Carolina has already filed suit charging that the law is an illegal intrusion on the State's rights.

If we continue down the road being paved by Federal health planners, the American people will be denied the right to control their own health. Government planners not only will be setting doctor and hospital fees, but rationing medical care as well. Whether or not someone should have an operation no longer will be a medical decision arrived at by the individual and his doctor, but a political decision derived at by government health planners. In Great Britain, where health planners have been in control for many years under the National Health Service, patients are waiting in line for up to a year for a hospital bed to have a needed operation.

This is what Government health planning will lead to in our country if we do not change our course and begin systematically eliminating Government control of health care.

Repealing Public Law 93-641 would be an excellent first step toward depoliticizing the field of medicine.

GENERIC DRUG LABELING

HON. BENJAMIN S. ROSENTHAL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 4, 1976

Mr. ROSENTHAL. Mr. Speaker, the Supreme Court recently handed down a landmark decision declaring States may not prohibit prescription drug price advertising. This has been a goal of mine for several years and the object of legislation introduced in the past several congresses, including the present H.R. 996, which is cosponsored by 45 of our colleagues.

I applaud the Supreme Court's action that, for the first time, extends first amendment protection to advertising. It is also a victory for the free enterprise system, for it opens the door to price competition in this area for the first time.

This was the subject of a comprehensive consumer study I released 3 years ago entitled "Rx: Retail Drug Price Competition." I wish to speak today about two other issues raised by that study and the subject of companion legislation. They are the Prescription Drug Labeling Act and the Prescription Drug Freshness Act.

H.R. 998, the Prescription Drug Labeling Act, would require the use of a drug's established or generic name whenever its brand-name appears. It would also permit pharmacists, regardless of State or local laws, to substitute the lowest-cost equivalent drug for the one prescribed, unless the physician states otherwise. This would effectively repeal anti-substitution laws in about 35 States. To prevent possible abuses, the bill would require pharmacists to dispense the lowest-price equivalent drug available.

Before discussing this subject in greater detail, I would first like to turn briefly to H.R. 1001, the Prescription Drug Freshness Act.

Since this bill was introduced, I am pleased to report the Food and Drug Administration has made some progress in implementing its goals.

My bill would require all drugs whose effectiveness or potency, as determined by FDA, becomes diminished after storage to note on the label the date beyond which they should not be used. Present regulations require that only those drugs with stability problems show expiration dates.

Fortunately, the agency has at last proposed regulations which would accomplish much of what my bill proposes. But these proposals do not diminish the need for congressional action. Too often FDA regulations get watered down between the proposed-rule stage and promulgation—if they are ever promulgated at all. Moreover, regulations, unlike laws, are too easily changed.

Much of the opposition to open dating comes from those who fear a loss of repeat sales. The most common argument of opponents is that open dating will lead to self-diagnosis and self-prescribing. No one has ever presented any reliable evidence to support this questionable hypothesis. A person inclined to use a left-over drug for a recurrent or new illness would probably not be at all influenced by the presence of an expiration date.

Open dating—which is available from all manufacturers to all pharmacists—makes good health sense as well as good economic sense. It protects the consumer from being sold out-of-date medicine, it encourages the pharmacist to keep a closer eye on and circulate his inventory, and it discourages consumers from keeping old, ineffective and possibly dangerous drugs in their homes. Of course, if a physician were to prescribe a drug already on hand and not out of date, there would be no need to pay for a second prescription.

Generic prescribing by physicians can save American consumers hundreds of millions of dollars annually. Sponsors of the recently enacted Florida law permitting generic substitution estimate that patients in their State will save $40 million a year as a result; even opponents of substitution concede some $5 million in annual savings.

A recent study by two pharmacology Ph. D.'s, published in the American Journal of Public Health, concluded:

> Prescriptions written and dispensed generically are cheaper to the patient than those written and dispensed for brand-name products of the same drug.

The investigators noted that pharmacist frequently dispense brand-name drugs on generically written prescriptions in order to maximize profits. They foresaw a decline in consumer drug costs as generic prescribing expands. Of course, cost is also a function of services offered by the pharmacist, but the APHA article concluded that it is far less significant than the cost of the drug itself.

Repeal of anti-substitution laws will permit pharmacists to exercise their professional judgment in dispensing the lowest priced equivalent drug. Pharmacists already have the right to dispense any equivalent drug they choose if the prescription is written generically, that is, does not specify any brand-name. My bill would make two significant changes in the present system: First, it would permit substitutions regardless of whether the prescription uses a brand-name, unless the prescribing physician specifically states otherwise, and second, only the lowest price equivalent drug available could be substituted.

The use of generic in addition to brand names will facilitate consumer price comparisons. By introducing an element of consistency, generic labeling also will make drug-price posting and advertising, now permitted under a recent Supreme Court decision, more meaningful. Competition, a crucial element in our economy but one too long absent from retail prescription pharmacy, will be enhanced as consumers become able to shop for the best buy.

Repeated surveys by government agencies at all levels, by public-interest organizations, by academicians and others, and by my own office, have consistently demonstrated that a wide disparity exists between prices of generic and brand-name drugs.

Opponents of generic dispensing—primarily the brand name manufacturers whose philosophy is "big makes best"—argue that distinct manufacturing processes may produce therapeutic differences in equivalent drugs made by different companies.

The assertion that repeal of antisubstitution laws will result in a deluge of inferior, foreign-make drugs into the U.S. market is typical of the hysterical, misleading and inaccurate scare tactics employed by opponents. Obviously, the high U.S. standards will remain in effect. In fact, the FDA has reported that there is no evidence that brand name drugs are more effective or safer than non-brand. And it is unfair of manufacturers to imply that pharmacists are not professional or responsible enough to dispense only those drugs in which they have faith.

In fact, some of the big brand name products may actually have been produced by one of the small drug firms. It is not unusual for big and small drug companies alike to buy bulk from the same manufacturer and package the product under their own names, some generic and some trademarked.

Even the American Pharmaceutical Association admits it is unlikely that a drug "meeting established standards under Federal drug laws will not perform clinically as expected," according to the testimony of its executive director, William Apple, before the Senate Finance Committee.

The National Academy of Sciences' Drug Research Board last year unanimously called for repeal of antisubstitution laws. It concluded that "in the absence of data to the contrary, there is no inherent reason for choosing the more expensive drug product simply because of the familiarity of the physician or pharmacist with a brand name."

This was a reversal of a previous position and was prompted, the Board reported, by the realization that repeal of antisubstitution laws would not prohibit a doctor from specifying a particular brand name drug for his patient. Another factor influencing the decision was the positive result of repeal in Florida and Michigan.

According to the Congressional Research Service, 15 States now permit drug substitution, the most recent being Colorado, Delaware, Virginia, and Wisconsin. The Connecticut and Iowa Legislatures have approved substitution, and South Carolina is expected to follow suit. Those States which already permit substitution are Arkansas, California, Florida, Kentucky, Maine, Maryland, Michigan, Minnesota, New Hampshire, Oklahoma, and Oregon.

The Federal Government's third-party reimbursement programs also stress generic prescribing. HEW's MAC—maximum allowable cost—program, which is scheduled to go into effect next month, sets a reimbursement limit on equivalent-drug products by different manufacturers at the price of the lowest cost generic version available. FDA is developing a list of interchangeable drugs to be used in this program, which covers medicare, medicaid and other HEW-administered health care efforts.

Resistance to drug substitution comes not only from brand name manufacturers who stand to lose money as a result of increased competition, but also from many doctors. Their concern is more a matter of professional pride than of economics, although their professional organizations have pocketbook motivation.

I want to stress that this bill would in no way permit a pharmacist or anyone else to overrule a physician's decision. The basic daignosis and the judgment for treatment remain with the physician, as they must. If he wishes a particular drug to be dispensed, his decision must and will be followed. All he needs to do is mark the prescription "no substitution" or "dispense this brand only."

Where bioequivalence problems exist, both the doctor and the pharmacist should be aware of them. The doctor always has the option to bar substitution and the pharmacist should dispense only equivalent drugs. Only 20 to 25 drug entities on the market today, however, have, according to FDA, had "documented bioequivalence problems" and therefore may not be interchangeable.

But in lieu of physician prohibitions, the pharmacist—a trained professional and a member of the health care team—will be free to exercise his best judgment and to dispense a lower price equivalent drug.

This practice will assist the harried physician who does not always have the time or the opportunity to keep fully informed of all drug names and prices. They often have difficulty assessing the quality of available drugs because experience with a given substance is frequently limited. Too often, they are aware only of the manufacturer—perhaps for reasons entirely unrelated to the quality of the drug.

Doctors are the principal target of the nearly $1 billion spent by the drug industry annually on advertising and promotion of their products—this, incidentally, is 50 percent more than they spend on research and quality control. This billion-dollar expenditure has nothing to do with the patient's health, but is used to beguile him and his doctor and to combat his attempts to get a better drug buy. It tends to monopolize doctor's sources of information and keep many from adopting critical and scientific attitudes toward drugs.

This influence on doctors begins early—in fact, even before they become doctors. It starts with gifts while they are students—a black bag, a stethoscope, some textbooks. It continues with visits from salesmen, invitations to industry-financed conferences, gifts, and a massive effort at postgraduate indoctrination by those who profit from brand-name prescribing, overprescribing and misprescribing.

The doctor's primary source of information about available drugs is the Physicians Desk Reference—PDR—a catalog which illustrates prescription drugs and explains their usage. It is filled with advertising by major drug manufacturers, distributed free of charge to most doctors, and is found in every hospital. Contrary to its implied universality, PDR is incomplete—it mentions only a few generic names for widely consumed, basic drugs. The widespread use of this volume actually serves to conceal from doctors the existence of other manufacturers who can often supply the same drugs at lower cost. The higher price of these drugs is passed on to the patient, who is caught unaware in this web of economic gain. Only in the United States is this type of compendium produced by private industry, most other nations, recognizing the importance of such a listing and its need for universality—publish it themselves.

The American Medical Association and other influential health organizations are largely dependent on the drug industry for financial support. Lucrative advertising sales to the drug makers support their medical publications, raising the possibility of a conflict of interest. The Washington Post recently reported that the AMA Journal avoids reporting unfavorable findings on some drugs for fear of losing advertising. I am pleased to note that the FDA is finally investigating this problem.

Unfortunately, doctors are often poorly informed about drug prices. Too many seem concerned solely with their patient's physical health and ignore their economic health. Perhaps it is because someone making over $100,000 a year cannot empathize with the problems of someone earning less than $10,000.

Since the physician does not pay for the drugs he prescribes, he is usually unaware of and unconcerned about their cost. This insensitivity, combined with the doctor's lack of information about the multiple sources of equivalent drugs, contributes to the high inflation in health care costs, and especially to the high cost of drugs.

In the overall system, the consumer has little power. As Senator Estes Kefauver observed several years ago:

> He who orders does not buy and he who buys does not order.

This situation is, I believe, unique to prescription medicine.

Generic substitution can help remedy the problem. Although doctors will still retain sole discretion to "order," the consumer, with the help of his neighborhood pharmacist, can have more to say about the price he pays.

Substitution is already a common practice. It is not unusual for a pharmacist, unable to fill a prescription, to call a physician and either ask for a substitution or request that he be allowed to use a drug already on hand. Of course, if the original prescription was written generically, the pharmacist is free to dispense any equivalent drug available. Although this offers the consumer an opportunity to save money, surveys have shown it also offers a potential for abuse. Some pharmacists apparently view substitution, as presently practiced, as an opportunity to unload some high-priced, slow-moving inventory. This legislation, as I have noted, would specifically prohibit price-gouging by requiring the pharmacist to dispense the lowest-priced equivalent drug.

Substitution would benefit pharmacists economically as well as professionally. It would permit them to carry smaller inventories without fear of losing sales, thus reducing overhead and acquisition costs. Hopefully, pharmacists would share these savings with the consumer.

The drug industry will not change overnight if we permit substitution. Most drugs on the market today still are single-source and patent-protected. But the number of multiple-source drugs is increasing, and even the name-brand manufacturers are marketing some so-called "generic lines" to capitalize on growing public awareness. According to one recent report, there are approximately 700 basic drug formulations sold under 20,000 different brand names.

Nevertheless, significant improvements would result from the proposal. The first group to benefit would be the elderly. Although senior citizens comprise only about 10 percent of the population, they account for 25 percent of drug purchases—over $1.25 billion. They spend three times the per capita amount on medicine of those under 65.

These bills—H.R. 998 and H.R. 1001—if adopted, would mark a major advance in combating inflationary health costs, while contributing to the health and safety of consumers.

Lower prices through increased competition will inevitably benefit the American people. They pose a threat only to the bloated profits of a number of large corporations which claim that pharmacists cannot make the basic decisions for which they have been trained.

Open dating will protect the health of patients and help make certain consumers are sold safe and effective drugs.

Neither of these bills will cost the American taxpayer a single cent—in fact, they will contribute to significant savings for millions of Americans.

PROHIBIT UNIONIZATION OF THE MILITARY

HON. JOHN H. ROUSSELOT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 4, 1976

Mr. ROUSSELOT. Mr. Speaker, today I am introducing legislation which will prohibit members of the Armed Forces from joining a labor organization. As the power of labor unions in this country continues to grow, and organizing of public employees into unions becomes more widespread, it is essential that safeguards be enacted which will protect the viability and effectiveness of our Armed Forces and the security of our Nation against the politicalization of the military.

In the private sector, unions have provided a means for workers to voice their grievances, demand higher wages and better working conditions, but there can be no argument as to the ill effects that the tools of unionism—strikes and collective bargaining—would have on the defense capability of our Nation.

In a recent statement on this subject, Senator JOHN TOWER, of Texas, made the following observations:

> AFGE (The American Federation of Government Employees Union) is carefully laying plans to organize the Army, the Navy, the Air Force, and the Marine Corps. The long term implications of the union plan are horrifying . . . In this time of international tension, could America entrust its safety to armed forces directed more by union bosses than by generals? I hope we never have to find out.

The incredible, but all-too-likely ramifications of a unionized military are many: Unions refusing to let soldiers make all-night marches because conditions are too harsh. Marines and Army recruits out of shape simply because their "shop steward" insists that the physical training is too strenuous. Jet fighters and bombers grounded until new contracts are negotiated by union bosses. The list could go on and on.

The justification for unions is that they provide a balance to management, and a check against possible exploitation of workers in the name of profit. Yet, the military is not operated for profit. The military has made great strides in improving the important civil rights of its workers. Its sole mission is the defense of the country—something which cannot be jeopardized by an arbitrary union strike or work stoppage.

The legislation I am introducing today will prevent members of the Armed Forces from joining a labor organization. Solicitation of Armed Forces personnel by labor unions will also be protested. The sanctions of this law would not apply, however, where the labor union in question has purposes which are unrelated to the individual's membership in the Armed Forces.

Let me encourage my colleagues to review this bill which follows:

H.R. 15061

A bill To amend chapter 49 of title 10, United States Code, to prohibit union organization in the armed forces, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) chapter 49 of title 10, United States Code, is amended by adding at the end thereof a new section as follows:

"§ 975. Union organizing and membership prohibited

"(a) As used in this section—

"(1) 'Member of the armed forces,' means a member of the armed forces who is (A) serving on active duty, (B) a member of a Reserve component, or (C) in a retired status.

"(2) 'Labor organization' means any organization of any kind, or any agency or employee (including any member of the armed forces) representation committee or plan, in which employees (including members of the armed forces) participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievance, labor disputes, wages, rates of pay, hours of employment, or conditions of work.

"(3) 'Employer' includes the United States Government.

"(b) It shall be unlawful for any individual, group, association, organization, or other entity to enroll any member of the armed forces in, or to solicit or otherwise encourage any member of the armed forces to join, any labor organization.

"(c) It shall be unlawful for any member of the armed forces to join or to solicit or otherwise encourage any other members of the armed forces to join any labor organization.

"(d) The provisions of subsections (b) and (c) shall not apply in any case in which any individual, group, association, organization, or other entity enrolls any member of the armed forces in, or solicits or otherwise encourages any member of the armed forces to join, any labor organization, or in any case in which a member of the armed forces joins a labor organization or solicits or otherwise encourages another member of the armed forces to join a labor organization if the activity, purpose, or function of the labor organization with which the member is concerned is unrelated to his membership in the armed forces.

"(e)(1) Any individual violating subsection (b) or (c) shall be punished by imprisonment of not more than five years.

"(2) Any labor organization guilty of violating subsection (b) shall be punished by a fine of not less than $25,000 or more than $50,000.".

(b) The table of sections at the beginning of chapter 49 of title 10, United States Code, is amended by adding at the end thereof the following:

"975. Union organizing and membership prohibited.".

HONORING OLYMPIC CHAMPION MICHAEL PLUMB

HON. JEROME A. AMBRO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 4, 1976

Mr. AMBRO. Mr. Speaker, I would like to take this opportunity to congratulate one of my consistituents, Michael Plumb of Oyster Bay Cove, Long Island, for his tremendous success in the equestrian events of the recently completed Montreal Olympics. Michael, an Olympic veteran, won his fourth silver medal in the individual competition, finishing behind teammate Tad Coffin of Brookville, Long Island. He was also an integral part of the American team that brought the team gold medal to the United States for the first time since 1948.

Michael's success is truly admirable in view of the extreme difficulty of the grueling equestrian event. After the dressage, the first phase of the 3-day event, each rider must face the dangerous cross-country phase which was made especially treacherous by an early morning downpour. Of the 28 riders that began this phase of the equestrian competition, only 14 crossed the finish line. Michael was one of those 14, finishing only seconds behind Tad, the winner of that phase.

Both Michael Plumb and Tad Coffin are a part of Long Island's continuing tradition of excellence in equestrianism. Indeed, Michael has followed in the illustrious footsteps of his father, Charlie Plumb, who was a national 3-day event champion.

We are all proud of Michael Plumb. His triumph has brought honor to him, to Oyster Bay Cove, and to the entire Nation.

AMERICAN BUSINESS FIGHTS BACK

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 4, 1976

Mr. CRANE. Mr. Speaker, at the present time, American business is under serious attack from many quarters.

We often forget that our system of free enterprise has made us the most prosperous nation in the world, with wealth more widely distributed than in any other place.

The reason free enterprise is vital to our society, however, is not primarily economic. It is, instead, social and political. Capitalism is, we must never forget, only freedom and democracy applied to the marketplace. If it is destroyed there, it will inevitably die in other sectors of our society as well.

One of the attacks upon business at the present time takes the form of urging "divestiture" of the oil companies. This means, quite simply, that each oil company would be permitted only a single function. The end result would not be to stimulate competition, but to restrict it. The effect would not be to lower prices to consumers, but to raise them.

In this regard, Prof. Neil H. Jacoby of the graduate school of management at the University of California at Los Angeles states that, "Forced vertical disintegration of large U.S. oil companies would lead to higher priced petroleum products, would increase dependence upon foreign energy, would strengthen and prolong the effectiveness of the OPEC cartel, and paradoxically, would probably make for a less competitive structure of the industry."

Finally, U.S. business is beginning to fight back—and to respond to the false allegations of its critics. It is high time that this was done. Frank Ikard, president of the American Petroleum Institute, for example, declares that, "If a punitive course is adopted against the oil companies that are owned by 14 million of our citizens—if monkey wrenches are thrown into the works by capricious administrative decisions—it would be tantamount to taking away the private property of these people just as surely as if their houses were stolen."

In its radio commentary for July 11, 1976, America's Future, a nonprofit foundation supporting the free enterprise system, presents an important discussion of the current attack upon American business—and its response.

This commentary concludes that, "It is clear that oil is far too precious a commodity for the socialist-minded utopians to tinker with. By 1980, our need for oil will double. It is the source of such vital products as plastics, synthetic fabrics, heating fuel, fertilizers. And today, every day, U.S. motorists purchase 277 million gallons of gasoline—more than a gallon a day for each man, woman, and child in the Nation. Without oil, whole economies and societies would collapse overnight—possibly ours as well, at least until and unless alternative sources of energy can be developed free of foreign control and safe from seizure at the well or on the high seas."

I wish to share with my colleagues the commentary of America's Future as it was heard on the Mutual Radio Network on July 11, 1976, and insert the text of that commentary into the RECORD at this time:

BATTLE OVER BUSINESS

It is ironic! Just as the economy shows signs of recovering from the recession, critics of the American business establishment threaten to toss more monkey wrenches into the works.

The oil companies are too big, they argue. So let's break 'em up! Rising costs drive up steel prices. So the enemies of "big steel" demand quick government action to force a roll-back. There are loud cheers from the far left when anti-trust suits are brought against the telephone industry, or the foremost computer firm, or against other large and successful corporations.

The assault on business is nothing new. It dates back to the "trust-busters" of the early 1900's and to the New Deal "tinkerers" of the 1930's. It finds expression today in self-styled economic "revolutionaries" who would wipe out the free enterprise system, do away with private ownership and replace them with a Marxist society.

And how the extremists rush to exploit the headlined misdeeds, real or imagined, of a few corporations and executives! Their propaganda pitch would have the American people believe that all major companies and their officials are guilty of graft, corruption and other such crimes.

No one claims the business community is without fault. There are unethical practitioners in every segment of society. But few elements of American life are so zealously supervised, regulated and taxed by the government as are the corporations, companies, and other commercial and industrial entrepreneurs. Through the years, a vast bureaucratic machinery has emerged whose sole function is to control business. And sniping away from the sidelines are private "action groups" who believe "big is bad" and profits are "obscene."

Despite such obstacles, the American business community as a whole has continued to provide American consumers with the best, least expensive and most plentiful supplies of products and services of any nation in the world. Compare the lavish shopping centers and supermarkets of America with the endless lines of hungry consumers in communist countries waiting for the meager rations doled out by the state.

Or consider the example of Great Britain whose labor government is appealing to private enterprise to rescue the British economy from the crisis brought on by 30 years of socialist mismanagement and excesses. Certainly no thoughtful American would knowingly exchange our free, competitive economy based on private incentive for a state-run regime of planned austerity and perennial shortages. What the American people need are the facts. What the U.S. economy does not need is another heavy dose of bureaucratic patent medicine!

BUSINESS FIGHTS BACK

It seems strange that amid all the talk of an energy crisis there should arise new demands to break up the dozen-and-a-half largest oil companies.

The critics of "big oil" contend that by dismembering the companies prices somehow will go down and supplies will increase. By forcing the companies to "divest" themselves of all but one primary functions, it is argued, competition will thrive. Thus, an oil company which now researches for and produces oil and natural gas, makes and transports petroleum products and then retails them around the country would be allowed to engage in only one of these operations.

Supporters of "divestitute," as the scheme is called, overlook some basic facts. As economic experts have testified, dismantling the large, long-established oil companies would create confusion and chaos throughout the industry. Aside from causing internal disruption, the complex process of buying crude oil from the producing countries, now grouped together in a powerful cartel known as OPEC, would be thrown into disarray. Obviously a few strong, established companies can deal more effectively with OPEC than could dozens of smaller, newer ones.

According to Professor Neil H. Jacoby, of the Graduate School of Management of the University of California, Los Angeles, "such radical surgery on the corpus of the U.S. economy, whose petroleum industry produces around 7% of the nation's GNP—gross national product—would have incalculable consequences." Warns this instructor in business economics and policy: "Forced vertical disintegration of large U.S. oil companies would lead to higher-priced petroleum products, would increase dependence upon foreign energy, would strengthen and prolong the effectiveness of the OPEC cartel, and paradoxically, would probably make for a less competitive structure of the industry.

The U.S. Treasury Department, with uncharacteristic bluntness, warns that "destroying corporate organizations for the sake of 'smallness' can be terribly expensive to our society. It will be expensive in terms of less efficient energy production and will result in unnecessarily high capital costs for all firms, and ultimately higher costs to the consumers. This is a very expensive price for our economy to pay. . . ."

As for complaints alleging the oil industry is monopolistic, the facts show the contrary to be true. In addition to 20 companies generally classified as "majors," the industry consists of 131 companies operating 261 refineries in the U.S., more than 15,000 wholesalers and more than 300,000 gasoline retailers. The oil business actually is one of the most competitive industries in the country.

There are other important arguments against breaking up the oil companies. Only because of their efficiency and strength can the integrated oil companies generate and attract the enormous capital funds needed in oil operations. To operate a drilling rig in the North Sea, for example can cost as much as $50,000 a day. One major company, Texaco, alone spends more than one-and-a-quarter billion dollars a year on exploration and producing operations in 45 countries around the world.

The U.S. petroleum industry is the envy of all nations. American petroleum engineers and scientists, using American technology, have developed most of the world's major oil fields. These include the immensely productive fields of the Middle East and South America as well as newly developed deposits in Alaska and in the North Sea—the latter promising soon to make Great Britain and Norway self-sufficient in energy. The U.S. petroleum industry also has developed the skills and experience needed to transport oil over some of the most hostile terrain on earth, and to refine it under the most stringent environmental regulations yet known. And all of this is done at costs lower than in any other major country. Indeed, despite claims to the contrary, oil company profits rate lower than the average of U.S. industry as a whole.

FACTS AND FIGURES

There is yet another argument in favor of preserving the present structure of the oil industry. The six largest companies are 90% owned, directly or indirectly, by 14 million Americans. Many shares are also held by 91 colleges and universities, by 200 mutual insurance companies, and by some 1,000 charitable and educational foundations. Clearly if the integrated oil companies were to be broken up, the investments of all 14 million American shareholders and of the many institutional stockowners would be jeopardized.

Among the U.S. business leaders who believe it's time to fight back with the facts is Frank N. Ikard, President of the American Petroleum Institute. Says Ikard: "If a punitive course is adopted against the oil companies that are owned by 14 million of our citizens . . . if monkey wrenches are thrown into the works by capricious administrative decisions . . . it would be tantamount to taking away the private property of these people just as surely as if their houses were stolen."

It is clear that oil is far too precious a commodity for the socialist-minded utopians to tinker with. By 1980, our need for oil will double. It is the source of such vital products as plastics, synthetic fabrics, heating fuel, fertilizers. And today, every day, U.S. motorists purchase 277 million gallons of gasoline—more than a gallon a day for each man, woman and child in the nation. Without oil, whole economics and societies would collapse overnight—possibly ours as well, at least until and unless alternative sources of energy can be developed free of foreign control and safe from seizure at the well or on the high seas.

(NOTE.—Foregoing items covered in AF's Mutual Network Broadcast, July 11, 1976.)

NOT PRESENT TO VOTE

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 4, 1976

Mr. MAZZOLI. Mr. Speaker, due to responsibilities in my district I was not present to vote on certain matters coming before this body on Friday, July 30, 1976. Had I been present I would have voted as follows:

Rollcall 576: An amendment to H.R.

8401, Nuclear Fuel Assurance Act of 1976, striking those sections of the bill providing for Government-private industry uranium enrichment contracts, yea.

Rollcall 577: Adoption of House Resolution 1267, the rule providing for the consideration of H.R. 2525, Indian Health Care Improvement Act, yea.

Rollcall 578: Final passage of H.R. 2525, yea.

ONCE YOU GIVE UP LIVING YOU'RE THROUGH; THERE'S NOTHING LEFT

HON. DEL CLAWSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 4, 1976

Mr. DEL CLAWSON. Mr. Speaker, normally we preface material inserted in the RECORD with an introductory statement. On rare occasions the material speaks for itself so eloquently that our comments would be superfluous. At this point in the RECORD it is my privilege to call attention to an article appearing in the Daily News of Whittier, Calif. on July 28.

The article follows:

ONCE YOU GIVE UP LIVING YOU'RE THROUGH; THERE'S NOTHING LEFT

(By Richard Singer)

His need to reach out and touch someone is great. From his deprivation, from his isolation, he reaches out to the world.

And yet he does so anonymously.

"I'd rather you didn't use my name," he said "or tell people where I am. My name isn't important, really. They don't need to know who I am."

He's right, probably. His name isn't important.

His story is.

He tells it in his own words, lying on his stomach in his specially-built bed—a bed he hasn't left in 11 years.

He tells a story of a world without movement. Except for one finger on his right hand, he is paralyzed.

He tells a story of a world without sight. He is also blind.

He tells of a world of few people with whom to communicate; a world with human contacts that become fewer and fewer as the years go by.

And he tells it very well.

"I am a male with a 33-year history of rheumatoid spondylitis. The condition had deformed me over the years to such an extent that spinal surgery was required in order to enable me to be in a straight supine position and a prone position.

"While I am on my back I am completely helpless, even to the point of being unable to scratch my nose or an itch. In the prone position I am a bit more functional in that with the use of one finger I can turn my transistor radio on and off, operate a special telephone using a toggle switch, and drink my food through a straw.

"I am relating these thoughts in order that in some way I may touch another person who may face a difficult situation in which they find life unbearable or not worth living. If I can accomplish this to some degree, then I too, have fulfilled a goal in my life."

He has dictated his thoughts at the urging of Ira Lee Zummerman, a Whittier psychologist, who, at his request, recently administered to him a battery of intelligence and personality tests, "in order to determine my intelligence level and any personality changes which have occurred," as the result of his 11-year isolation. She found no mental deterioration and little personality change.

"He revealed well above average ability and normal personality structure," she reported.

"I was reared in a home in which my mother was a very religious and God-loving woman. My father's religious views were never clearly defined, although he did go to church on occasion. I was baptized and confirmed a Methodist.

"The religious foundation which I had acquired in my early years of church attendance possibly gave me the foundation to enable me to reach the goal I've reached today. I was never a complete believer in that I could not accept a blind belief in a religious philosophy without question. This in a sense made me more realistic of my acceptance of life's problems and the daily course of living.

"I was afflicted with the arthritic condition at the very early age of 20. It's progression forced me to consult medical help. The medical help for arthritis years ago was taking pills in order to relieve the pain and control the condition, which didn't work for me. Together with the pills and the desperation of having to maintain a living standard, I drifted back to my religious background seeking help through spiritual means.

"In attending church, I never seemed to feel the uplifting spiritual strength that I was seeking in order to cope with the physical destruction.

"Once placed in this bed I began to have many reflections regarding religion, especially regarding the healing aspects of religion. Despite the adverse condition I fould myself in, I still couldn't find the spiritual strength I needed through organized religion. I spoke to many ministers regarding my feelings and each time seemed to be left with an unfilled feeling, a sort of emptiness. There came a time, one Sunday afternoon, after a year on this bed, in which I felt that I had reached the end of the rope.

"I had a talk with myself and God. I expressed my feelings, asking that I either not wake up to see another day or, if I should, that I wake up sane, and not as a babbling idiot.

"Upon awakening the following morning . . . there was no great spiritual awakening, nor did I feel any strong religious conviction. The mental phenomenon seemed to awaken me to a realization of the adjustments that would be necessary for me to carry on.

"From then on life—mentally and physically—became more tolerable for me to cope with."

Despite his pain, despite his isolation, he has apparently not lost his sense of humor. He can laugh at himself a little, and in that humor, find awareness, find understanding—find some peace.

* * * * *

"There is an incident that I would like to relate which was humorous to an extent and yet made me realize how much we base many of our difficult situations on false hopes. A student nurse who was taking a two-week training course in this rehabilitation section was assigned to me.

"She asked if I thought I would walk again, and of course I answered, 'yes'.

" 'How do you intend to do that?' she asked. My response was that I would be turned to an upright position on the bed, and with the help of an aide, step off the platform, which was about eight inches from the floor. This of course was unreal since I couldn't bend my knees. She then asked, 'once you get on the floor what do you intend to do'?

"Then I will probably walk as far as the kitchen. Then she asked, 'What do you intend to do when you get to the kitchen?' My answer was that I would sit on a special chair, since my hips could only be moved about 20 degrees.

" 'Then what would you do?'

"I would get up and walk to the back of the house.

" 'And then what?'

"And I responded that by this time I would be tired enough to have to get back on the bed which would have required someone lifting me back up on the platform and rotating the bed backward to the level position.

"The way she questioned me, in her kind and sweet manner, made me realize how hopeless and unreal the situation really was. By human nature, I believe, we all tend to cling to that glimmer of hope and disregard the truth.

"The doctor, on making his routine rounds one morning, made me aware of the fact that no more could be done and that I had a brain, which I had better start using, because that was all I really had left. His statement came as a shock, but to some degree, having seen the physical destruction which had taken place and having adjusted to the changes, I believe I was fully aware that this was coming.

"Each of us, at some time in our lives, must face what is real and adjust our lives accordingly.

"I offer no answers to what has sustained me for I don't believe there are any pat answers to anything in life. We gain our strength from many sources. Possibly through deep religious convictions or possibly through an inner strength which we are unaware of.

"In contemplating my life over the many years in which I have had the time to think, I have found that I was never able to gain much from any outside source. It is like walking down a rocky road in which we keep stumbling and each time having to pick ourselves up and keep going.

"Nobody can make a pattern for you and say, "This is your life; follow these paths and you will have no problems.' You can be sure of one thing. You aren't going to die by praying for it to happen when everything else seems lost.

"We open our eyes each morning to face a new day. What we do with this day is up to us. We can make it a fruitful day, in which we find comfort and interest in others, or we may lie in a bed full of self pity. Each of us must look within ourselves in order to find out who, and what, we are.

"There is nobody who is going to take your hand and lead the way. We must each face our own problems and solve them to the best of our own ability."

He tells of his life in the convalescent hospital—of his life of near isolation. He tells of friends who no longer call; of being cut off from activity and social stimulation.

He calls it "being buried alive."

"Once you are out of society it doesn't take long for you to lose much of what you may have gained during your period of living an active life. Many people, I have found, feel a little squeemish about visiting a person in a hospital. To some degree it has always puzzled me, but I guess much of it is due to the fear that many people have that they themselves may someday find themselves in the same condition.

"Eighty-and-a-half years of my total confinement of 11 years on this bed have been spent in a convalescent hospital. Much of what I have experienced, regarding the loss of visitors, has taken place during the convalescent hospital confinement.

"The feeling of being buried alive stems from the awareness of the many acquaintances in the fraternal organization of which I was one of the founders. Now I find myself still very much mentally a part of the organization, but completely without reciprocal friendship. It appears as though I am now more a memory than at one time an active participant.

"A note, a phone call to the hospital, or a call to me personally, since I do have a phone, would be much appreciated.

"At first this was very distressing to me, but now, as I lie here contemplating life and it's many ramifications, I have to a great extent been able to accept this, for I realize that once you are no longer an active participant in society you are also no longer a part of their lives.

"I have found it necessary to divert my thoughts and interests in other directions.

"Life continues to go on despite it's many obstacles."

His isolation is not complete. His wife, whom he calls "devoted and loving," visits him daily to eat dinner with him. He has two good friends who phone or visit from time to time and has people come in and read to him.

His telephone has become a life-line to the outside world. His telephone contacts with the Intercommunity Blind Center in Whittier have been mutually beneficial.

It helps, he says, to maintain his sanity.

"The physical, emotional and mental deterioration begins after a relatively short period of time in a convalescent hospital. The physical deterioration begins more rapidly because of the inactivity. The total incapacitation—and the lack of exercise which would stimulate bodily functions—and the emotional and apparent mental deterioration, or what may appear as a deterioration, occurs more slowly.

"Much of this is due to the anxieties, fears and frustrations which you find yourself constantly experiencing in dealing with the different personalities you are involved with. Also, in getting things accomplished which are necessary to you but not to those involved. Being an independent person by nature, and one who has always been mentally active, I could never bury my head in the sand and allow my mental interests to slide away.

"For several years I maintained a relatively stable mental attitude by taking an interest in my home, and the frequent visits by my wife. Maintaining a social association with her—the social being that of having dinner with her—as well as the enjoyment of being together with her, helped relieve that which was lost as far as mental activity. Her change in working hours and job transfers now made it more difficult for us to continue on this basis.

"There are three fellows whom I contact now and still keep in touch with. To keep myself informed and mentally active I listen to the news, news commentaries, talk shows and cassette tapes. Much of my information and opinions are taken from these sources and in the end I arrive at my own analysis of today's economic and social problems. There are days when you don't mentally function as well as you would like. The thoughts just race through your mind and you never take hold of any one. On these days I enjoy listening to music, allowing myself to mentally stray and reflect on the many pleasant memories my wife and I have shared over the years.

"The mental stimulation is still a very, very important part of my life. I don't want to fall into lengthy periods of fantasy.

"Should this occur I would be in real trouble.

". . . I would be in real trouble."

As if he hasn't trouble enough.

These thoughts, these words, were dictated in a series of articles by the anonymous man; dictated to his wife and given, through confacts with Dr. Zimmerman, to The Daily News. She said that he was interested in having his articles published. "However, I think it might be equally useful for society to know that there are people like him, 'buried alive,' whether through his own words or those of others."

His own words are good enough.

"There are many worries, fears and anxieties which I am still experiencing and always will, as long as I live this type of life. The project of writing these articles has been, to some extent, a trying experience for me. I have opened many wounds which I had closed. This is one thing I have always wanted to do. As long as I am still physically able, and there is a breath still left in me, I will continue to fight.

"For life offers many experiences and we must take out of it that which suits our needs.

"Once you give up living you are through and there is nothing left."

THE AIR BAG ISSUE: SAFETY VERSUS FREEDOM

HON. BUD SHUSTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 4, 1976

Mr. SHUSTER. Mr. Speaker, Secretary of Transportation, William Coleman is to be complimented for his judicious approach to resolving the "air bag" issue.

As the ranking minority member of the Surface Transportation Subcommittee, I am painfully aware of the indisputable fact that the use of automobile restraints, such as seat belts and air bags, can save lives. It is dumb not to wear a seat belt, however, in a free society people have a right to do dumb things. While I strongly advocate the use of seat belts, I stop short of mandating them.

I hope the distinguished Secretary of Transportation will give sufficient weight to the argument for individual freedom as he considers the "air bag" question.

Following is an article by James J. Kilpatrick which focuses on this issue. I commend it to my colleagues.

[From the Washington Star, Aug. 3, 1976]

WHEN IT'S BIG BROTHER WHO BUCKLES YOU IN

In holding fresh hearings on the efficacy of air bags, Transportation Secretary William Coleman this week reopens an old question. As Coleman himself recognizes, the issue goes beyond air bags to the nature of government in a free society.

What is the role of the state? What is the responsibility of the individual? Where is the line to be drawn that separates compulsion from freedom?

The immediate question is what the secretary should do, if anything, about requiring additional safety measures for the design and operation of automobiles. Coleman could leave matters as they are; he could ask for additional testing of protective devices; he could require auto manufacturers to offer air bags to those who want them; he could order the states, under pain of losing certain federal aid, to enact laws compelling the use of seatbelts; or he could require the manufacturers to equip every new car with air bags a couple of years down the road.

To some of us, only one of these five options is consistent with the principles of a free society: doing nothing.

Further testing of air bags is unlikely to produce significant new data. Air bags have been tested for five years, both in controlled experiments and in "real world" situations. In frontal collisions, they seem to work well; the bags inflate upon sufficient impact, and they appear to save lives. In sideswipes and rollovers, they offer virtually no protection. Experts generally agree that shoulder and lap belts—if only drivers and passengers would use them!—offer superior protection.

The other three options smack of coercion. Compelling the state legislatures to enact mandatory seatbelt laws is an odious idea. We went through this same arrogant imposition in the matter of compulsory helmets for motorcycle riders. It took an act of Congress to restore the states' freedom to legislate in this field.

Neither does it make sense—not in a free society—to coerce the manufacturers into offering a particular piece of safety equipment. General Motors, trying to be cooperative, offered air bags as an option on its Oldsmobiles, Buicks and Cadillacs in the 1974, '75 and '76 model years. The company advertised heavily. It hoped to sell 100,000 air-bagged cars in each of the years. In the three model years combined, only 10,000 customers turned up.

The final option, for mandatory installation of air bags in every new car, has been kicked around since 1971 without getting any better. GM estimates the cost of manufacture and installation at roughly $500 per car. The company actually charged the 10,000 customers $315. In volume production, the cost might drop to, say, $250. No one knows, but no one doubts that a mandatory air bag requirement would add significantly to the already high price of a new automobile.

And for what? The requirement would add some measure of lifesaving protection in some accidents. Is the high cost worth the contingent benefit? It seems doubtful. And an intangible price must add to the cost in dollars in furthering the concept that the federal government is the benevolent shepherd, protecting his dumb sheep from their folly.

That concept ought to be resisted whenever it is advanced. The government is not our master, not our mama, not the one great nanny of us all. In a free society, the people must be left free to make their own decisions of this kind. The government's obligation is to make the highways generally safe. When that is done, and the laws against reckless driving are enforced, the government should let the people alone.

LIMIT CONGRESSIONAL TERMS

HON. BILL FRENZEL

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 4, 1976

Mr. FRENZEL. Mr. Speaker, in its July 1976 Mandate Poll of its nearly one-half million members, the National Federation of Independent Business included a question which asked the respondent's opinion as to whether Members of Congress should have a limited term.

Nationwide, 58 percent of the respondents selected a 12-year limit on terms. 16 percent chose 24 years, 23 percent chose unlimited, 3 percent were undecided.

It has been my experience that the independent small businessmen who belong to the NFIB and who customarily respond to its poll have a good grasp of current affairs and are particularly perceptive about political matters. More than 80 percent of them believe that a Member of Congress should serve for a limited term. Nearly 3 out of 5 say that limit should be 12 years.

I think this poll ought to be food for thought for all Federal elected officials.

PORTRAIT OF TONY ZALE—A GREAT CHAMPION

HON. JOHN G. FARY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 4, 1976

Mr. FARY. Mr. Speaker, I recently had the pleasant surprise of a visit from two very close and dear friends from Chicago, Mr. and Mrs. Tony Zale, who had stopped by my Washington office returning from a convention in Trenton, N.J., where Tony had been chosen to head the Association of American Boxing Champions. This organization is dedicated to the helping of mentally retarded children. Tony's leadership and guidance will make a tremendous contribution as 26 years of his life have been spent with youngsters, instilling within them confidence, pride, to gain a purpose in life, and to be worthwhile citizens.

It was a pleasure when having breakfast in the House dining room with Tony and his lovely wife Philomena to see so many Members of the House and House employees receive the "Champ" with such enthusiasm after the passing of so many years.

I am certain many will agree that Tony is one of the all-time great champions of the boxing world. Having been former middleweight champion, coach, and director of the Chicago park district boxing program he is the idol of hundreds of Americans.

As our country has thrilled to the victories of the American Olympic boxers in Montreal, this year, so it thrilled back in 1928, to the performance of our Olympic boxers in Amsterdam. Tony Zale was a schoolboy of 15 at the time, in Gary, Ind., with a hankering for the Golden Gloves competition, hoping to make it to the 1932 Olympics. With that in mind, he entered the amateur ranks in 1930, as a welterweight, and fought his way almost to the top, placing second in the Olympic trials. Two years later he was declared Golden Gloves champion of the middleweight division.

Deserting the amateurs, Tony turned professional in 1935 and was at once engaged against boxers of experience and ability. The going was tough and he lost a few in those early days, but by 1938 he was well on the way. In that year there were two official middleweight champions of the world—Fred Apostoli, recognized by the New York Boxing Commission, and Al Hastak, recognized by the National Boxing Association. Tony Zale was to beat them both, and in 1940 was acclaimed the NBA champion. In 1942 he became sole claimant to both branches of the title and was to hold that distinction for the next 5 years.

With the coming of World War II Tony Zale joined the Navy and served from 1942 to 1945 as a chief specialist at several naval training centers. Upon returning to the ring, in July 1946 he was confronted by the outstanding challenger of the moment, Rocky Graziano, with whom he engaged in one of the three greatest battles of the century, or so we are advised by many experts in the field. The other two greatest battles, the same experts declare, involved these same two fighters—Zale and Graziano—in 1947 and 1948.

The first time out, Tony was the winner, after one of the most furious contests ever witnessed anywhere. Rocky fought with all his usual courage and wild abandon, and gave as much as he got until Tony connected solidly in the sixth round, and Rocky went down for the count. A year later, in June 1947, it was almost a carbon copy of the previous match except that this time it was Rocky who won, with a knockout in the sixth. Then, in 1948, came the rubber match, in which Tony settled the question of who was best, once and for all, flattening Rocky for the full count in the third round.

Those fight fans who were fortunate enough to see any of these matches are inclined to rate them as the best in memory, and the man who came out on top was Tony Zale, the toughest of them all.

And when the end came to his sterling professional boxing career, Tony Zale revealed another aspect of the spirit that had carried him to the top of his chosen profession. As patriots, none can be said to exceed the Zale family whose male members have served the colors at every opportunity. From 1953 to 1956 Tony Zale returned to military service as a boxing coach and master sergeant in the U.S. Army. This, added to his wartime naval experience, gave him 6½ years' service in the National behalf.

As a civic leader Tony is equally active and equally important, to the distinct advantage of the Chicago community where he now resides. He was for 9 years head boxing coach of the Catholic Youth Organization, founded by Bishop Shiel, preceding appointment to his current post as coach of the Chicago Park District boxing program. From 1968 to 1970 he made frequent appearances at Madison Square Garden and elsewhere for church organizations, clubs, and charitable organizations. He takes special pride in his good works undertaken in behalf of mentally retarded children.

During the past 2 years alone Tony Zale has appeared and participated in performances sponsored by the following civil organizations of importance: United States Steel Youth Organization, Boys' Club of America, Mentally Retarded Olympics, Cerebral Palsy Telethon, Veterans' Hospital on Veterans' Day, Mayor Daley Youth Center, Cook County Jail Athletic Program.

In addition, Tony Zale has appeared at many dedication ceremonies and on many radio and television programs, honoring causes of the finest kind, as well as luncheons, smokers, and dinners sponsored by groups of such nature as the Rotary, Lions, Elks, Eagles, Optimists, Shriners, Boosters, and Holy Name.

Tony Zale is presently cochairman of the Fellowship of Champions of the Ezzard Charles Montessori School, a member of the board of directors of the same school, a member of the Citizens Committee on Smoking and Disease, and a member of the board of directors of the Second Federal Savings & Loan Association. He is a member of the American Legion, the Veterans of Foreign Wars, Veterans Boxers Association, Knights of Columbus, Polish National Alliance, Polish Roman Catholic Union, the Gary Old Timers, and the Elks. He was recently chosen to head the association of former boxing champions, succeeding Jack Dempsey former heavyweight champion of the world.

The trophies and plaques Tony Zale has received for his contributions to the welfare and well being of American youth include those donated by the Catholic Athletic Association of Kalamazoo, the VFW, the Young Democrats of Chicago, the Citizens of Mishawaka and Penn Township, Ind., the St. Rita Dads' Club of Harahan, La., Golden Gloves, Inc., of Duluth, Minn., the Polish Professional Men's Association of Lake County, Ind., and the USA-CIO of Colorado.

The list of honors and awards from organizations, religious groups, and communities throughout the United States are numerous. The award Tony treasures most, however, was the Notre Dame Annual Bengal Bouts which he received in March 1948 as the man in boxing who contributed the most to the youth of America by his example of high ideals and competitive spirit.

A story told here for the first time was mentioned by Tony's wife, Philomena, who was a former great athlete and star pitcher in the late 1930 with the P. K. Wrigley baseball team in the All-American Girls Professional Baseball League in Grand Rapids, Mich. where she played the home games at South Field High School where President Ford played football.

To Tony's credit, one of the youngsters he inspired, guided, and educated and who proudly refers to him as "Father" is now a member of the faculty of Georgetown University in Washington, D.C.

I am exceedingly proud to know this compassionate man, and will cherish this memorable visit with Tony, his love Philomena, and their son.

If I could leave a legacy to the youngsters today it would be to emulate Tony Zale for his morality and dedication.

PERSONAL EXPLANATION OF MISSED VOTES

HON. PIERRE S. (PETE) du PONT

OF DELAWARE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 4, 1976

Mr. DU PONT. Mr. Speaker, on July 29, I was in Delaware and missed several recorded votes in the House. Had I been present, I would have voted in the following manner:

Rollcall No. 571, "no."
Rollcall No. 568, "no."
Rollcall No. 569, "aye."
Rollcall No. 570, "no."
Rollcall No. 571, "no."
Rollcall No. 573, "aye."

On August 2, I was in Delaware. Had I been present for the House votes, I would have voted in the following manner:

Rollcall No. 581, "aye."
Rollcall No. 582, "aye."
Rollcall No. 583, "aye."
Rollcall No. 584, "aye."
Rollcall No. 585, "aye."
Rollcall No. 586, "aye."
Rollcall No. 587, "no."
Rollcall No. 588, "aye."
Rollcall No. 589, "aye."

ARMS OUT OF CONTROL

HON. ROBERT F. DRINAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 4, 1976

Mr. DRINAN. Mr. Speaker, the indiscriminate sale of massive quantities of highly sophisticated American weapons to the most volatile areas of the world continues to draw sharp criticism from the Congress and the American people. An editorial in the August 3, 1976, Christian Science Monitor pointed out the dangers inherent in the administration's policy of selling as many arms as it can, regardless of the potential consequences.

The editorial calls upon Congress to exercise its oversight responsibility and bring some direction to a situation which is truly out of control. In the past week alone, we have learned from the Senate Foreign Relations Committee that the United States has supplied Iran with far more weapons than it can possibly use, necessitating the very dangerous presence of large numbers of American technicians, and from the administration that it intends to repeat this error by selling thousands of sophisticated missiles to Saudi Arabia, which has already purchased over $6 billion worth of weapons from the United States in the past fiscal year.

Until such time as a coherent arms sales policy is articulated, the Congress must exercise its authority under the terms of the Foreign Military Sales Act to prevent such dangerous transactions as the proposed sale of missiles to Saudi Arabia.

The Christian Science Monitor editorial follows:

ARMS OUT OF CONTROL

It is encouraging that public attention has begun to focus on the spiraling of American arms sales abroad. Congress, for one, is watching this development like a hawk. But the fact remains that there is yet no serious effort within the government to look at what is being sold all over the world and to evolve a sensible policy for bringing arms sales under control. The new administration will have to give this matter the highest priority.

It should be no source of pride to the United States that it has become the largest arms seller in the world. Government-to-government exports totaled about $1.5 billion annually a decade ago; the level is now a staggering $9 billion to $10 billion a year. Moreover, the U.S. is no longer peddling hand-me-downs but the newest and highly advanced weapon systems, such as supersonic planes, submarines, and antiship missiles.

Ironically, the United States may be defeating its own goal of enhancing security throughout the world. Not only does this massive outpouring of arms fuel possibilities for regional conflict. As military and diplomatic experts are beginning to realize, and with some alarm, it will become increasingly difficult for the U.S.—or the Soviet Union—to play the role of peacemaker. The ability of the superpowers to maintain world stability is thus being eroded.

Iran is an illustration of the dangers of unrestrained arms selling. A just-released study by the Senate Foreign Relations Committee notes that the Iranians do not even have the skills to operate the sophisticated U.S. weaponry they now have and would be totally dependent on U.S. personnel if they decided to go to war. By 1980, the report estimates, there could be as many as 50,000 Americans in Iran involved mostly in arms programs.

It is doubly disturbing that there has been no close scrutiny of this program because of a secret decision by President Nixon in 1972 to sell Iran all the modern conventional arms it wanted. When one considers the volatility of the Middle East and the potential for wars and oil embargoes in the region, it is astonishing the U.S. has such an open-ended commitment.

Other arms program are equally questionable. The Saudi Arabians are asking for as many as 2,000 Sidewinder interceptor missiles for their F-5s, when experts agree such a number is excessive for the country's defense. Fortunately, as a result of public outcry, the administration will probably scale down its arms request to Congress.

Nor is the Persian Gulf the only turbulent area where arms are accumulating at fast rate. An arms race is under way in black Africa, where the United States is eager to bolster its allies and counter the Soviet arms buildup in Somalia, Uganda, and Angola. And many "third-world" countries are acquiring submarines and missile-armed patrol boats that could be used to impede shipping.

This is not to suggest a criticism of legitimate arms programs. It makes sense for the U.S. to help friendly countries build up their forces so they can defend themselves. There is merit in fostering regional defense systems. Arms agreements often serve valid security objectives—perhaps they do in most cases.

But to accept the present government view of "the more the better" (and the Pentagon, especially, argues that arms sales help the balance of trade and keep unit costs down) is to head down a potentially dangerous path. Some hard thought ought to be given to the nature of the weapons supplied. Are the most lethal arms going to unreliable clients? To what extent are they truly defensive? If they can be used as offensive weapons, what quantity can be justified as needed?

Arms are like shiny toys these days. Everyone wants them. But, as the major supplier in the world, the United States ought to take the lead in showing that it does not intend to turn the world into an arsenal of weapons that could have disastrous consequences.

THANKS TO THE PEOPLE OF MONTROSE, COLO.

HON. FRANK E. EVANS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 4, 1976

Mr. EVANS of Colorado. Mr. Speaker, I wish to include portions of a letter from an Indiana man bestowing kind words on the city of Montrose, Colo. The letter was forwarded to me by U.S. Representative J. EDWARD ROUSH of Indiana.

DEAR CONGRESSMAN ROUSH: Three weeks ago today, I received a phone call from the head nurse of the Montrose, Colorado Memorial Hospital stating that my 7-year-old daughter had been killed, and my mother critically injured in an auto accident . . . Needless to say, this has been a terrible tragedy for all our family.

My mother, who is 94, is still critical with six fractures in each leg and six cracked ribs . . . in the special care unit of Montrose Memorial Hospital. My wife and I are in Montrose waiting until such time as we can move my mother back to Indiana by air ambulance.

The reason for my letter is not to inform you of the tragedy, but to ask you . . . to find out who is the congressman who represents this congressional district and see that he is given our thanks and gratitude for the way we Indiana people have been treated while in his congressional district. It is hard to single out any one person or group—the doctors, the hospital staff, the sheriff's department and many, many others have and are making our stay here as easy as possible. There are few words to express my thanks for all the help we have been given.

Sincerely,

TOM HISSEM, *Avilla, Ind.*

JIM WRIGHT ON AVIATION

HON. JAMES J. HOWARD

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 4, 1976

Mr. HOWARD. Mr. Speaker, my colleague in the House and on the Public Works and Transportation Committee, JIM WRIGHT, has become one of our congressional experts in the field of aviation. Since 1975, when our committee was given responsibility for civil aviation, JIM WRIGHT has made significant contributions in suggesting legislative solutions to aviation problems. As chairman of the Investigations and Review Subcommittee, he held hearings this spring on aviation economics in order that other Members of the House could be apprised of the financial condition of the airlines.

I submit for the RECORD, Mr. Speaker, the text of an article written by JIM WRIGHT for the Local Air Transport Yearbook. I think the article offers an excellent accounting of the major issues facing the airline industry:

THE LEGISLATIVE SCENE—A FRESH APPROACH

(By Congressman JIM WRIGHT)

First, let me salute those of you who contribute so much to local and commuter air service in America. No facet of aviation is more vital to "hometown U.S.A.," and few other groups have so much at stake in helping Congress act wisely in the face of demands for new or revised federal air regulations.

The job of the lawmaking branch would be easy if there were a solid consensus on what steps would best serve the long-term interests of the nation at large and your industry in particular. There are, unfortunately, wide areas of disagreement. We in the Congress have no alternative but to weigh all the facts carefully and thoroughly before acting. This we are earnestly attempting to do. We have asked many questions; we have heard weeks of testimony; now, with your continued patience and assistance, we can pursue some answers.

In the reorganization of the House of Representatives last year, responsibility for all U.S. civil aviation was transferred to the Committee on Public Works and Transportation. This committee, on which I serve as Chairman of the Investigations and Review Subcommittee, in previous years has dealt with such enormous federal programs as water pollution control, river and harbor improvements, highways, public buildings and economic development.

We are justifiably proud of many accomplishments in these diverse fields. We hope now to make a significant contribution toward solving problems of aviation. Fortunately, our committee members are no strangers to the business of flying. In last year's FLIGHT YEARBOOK, my friend and colleague, Glenn Anderson, Chairman of the Aviation Subcommittee, outlined plans for considering legislation in this vital field. He listed the many members of our panel who either are active pilots or who possess other important experience in aviation. The committee also is supported by energetic and experienced staff.

Our Subcommittee on Investigations has some overlapping membership with Glenn's group. While he deals with new legislation such as the ADAP bill, the investigations group looks at present laws to insure that they are working properly, and to see if they can be improved. Our two subcommittees held joint hearings on aviation economics this spring to learn where the airlines stand financially and if help is needed.

HUNDREDS OF BILLS

A measure of the intense Congressional interest in aviation is reflected in the fact that approximately 800 bills affecting this dynamic industry are now pending before us. The bills range from minor amendments dealing with daylight saving time to a proposal for the complete scrapping of the present U.S. aviation regulatory system.

This flood of ideas made it plain that we could not deal with bits and pieces. We knew we'd have to examine the whole broad mosaic of commercial aviation. We began with a staff study of all pertinent economic aviation statistics. We questioned the best-informed public officials and industry men day by day for several weeks. We invited airline presidents to testify, since we were not content merely to let trade associations tell us in cautious terms what they thought their members wanted or needed. We called only the chief executive officers—men responsible for the future of their companies, with their own careers on the line. They were, I believe, candid in their comments. They gave us a virtually unvarnished look at American aviation today as seen by the people who really run it. We accumulated hundreds of pages of testimony. We will distribute the transcript to policy-makers in Congress, to the Administration, and to the industry as a data bank of information, in the belief that it will be useful to them for years to come.

NO "FLYING PENN-CENTRALS"

Conscious of what happened to the railroads, we decided to try to learn in advance if the country and the Congress were about to be confronted by one or more "flying Penn-Centrals." On the basis of our findings, this seems unlikely—at least for now.

True, the airlines have had tough going. Costs have increased prodigiously. Jet fuel, available at 10 cents a gallon before the Arab embargo, now runs as high as 45 or 50 cents . . . and even more.

The pay of employees, roughly half of airline expenses, has soared. Yet aerospace employees have not benefited particularly, because of the erosion of real wages through inflation. Debt service is a special burden due to the buying, perhaps prematurely, of so many big new planes—and to the almost extortionate interest rates currently demanded by lenders. Primary debt of the trunks alone is over $7 billion, at interest of 11 percent or more!

Smaller items all add up. Since the airlines compete little in price, they vie for passengers with such things as food, drinks, stereos, movies, and extra flight attendants. Such frills may not seem large compared with the cost of equipment—say $6 million for a DC–9 on local service—but the total for non-operating expenses is amazingly high.

Beyond all that, last year's recession cut load factors. The lines were flying many empty seats they had expected to sell. Hard pressed for capital, they found it necessary to cut service and pare expenses drastically.

Traffic gains so far this year, as the economy has experienced a modest revival, have trimmed losses and even brought some modest profits. This means we may not need emergency action. But we must not lapse into complacency.

URGENT TO REMOVE UNCERTAINTY

During the economic oversight hearings, we heard from American, Braniff, Eastern, Pan American, Trans World, United, Air New England, Allegheny, Texas International, Federal Express, Golden West, Flying Tigers, and Pacific Southwest Airlines.

Though these trunks, local, commuter and all-cargo carriers all have separate problems, all are interdependent parts of the air transport system. Out of a diversity of facts and ideas, one common theme was a desire to remove uncertainty and to get on solid ground to plan and build for the years ahead.

The Administration's proposal to uproot the present system of airline regulation has been unsettling not only to future plans but to current financing. Metropolitan Life and Citibank of New York informed the committee that they have traditionally lent capital to the carriers in the belief that route and rate systems would remain secure. All this talk of sweeping deregulation is freezing the airlines out of sources of new capital.

Pending a decision, it will be hard to finance new equipment, to the detriment of the entire industry. In the meantime, seat mile yields continue to deteriorate.

I personally anticipate no major changes in the regulatory system in this present session of Congress. Hearings have been and continue to be held on deregulation proposals, but the issues are much too complex and controversial to be resolved casually or rapidly.

In the meantime, we hope to add a modicum of stability by avoiding precipitant or ill-considered demolition of a regulatory structure that has nurtured the finest system of air transportation anywhere in the world.

SPEEDING UP PROCEDURES

We are concerned, however, by the time it takes to decide cases in the slow-grinding processes of CAB and other government agencies. Route awards at the CAB, for instance, may drag on for a decade or more while the public waits for service. Equally indefensible delays occur in the rule-making and adjudicatory processes at FAA. On the latter point, a good example has been the protracted controversy over noise abatement and who is to pay the cost of retrofit—or even if retrofit is practical and economically sound.

Out of all this, some near-term answers seem to be in improved scheduling to reduce empty seats; reducing some frills; allowing airlines some flexibility in setting fares; and somehow helping the airlines to manage their debt service.

I do not favor bailing out the airlines with tax money, but perhaps something like the old Reconstruction Finance Corporation could be used to help make their debts more manageable, rendering assistance to air carriers as well as to other transportation modes.

The commuter airlines, vigorously growing with a minimum of restraints, need some clear policy as to where they fit in the air transport system. Congress should help define their role just as it did for the local service airlines after World War II.

We in Congress would be derelict if we did not work as diligently as we can on these problems, but we are very much aware that there are no instant or easy solutions.

ANOTHER VOICE OF REASON ON DIVESTITURE

HON. RONALD A. SARASIN

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 4, 1976

Mr. SARASIN. Mr. Speaker, in spite of the growing chorus of voices speaking out on the undesirable economic and practical consequences of breaking up the oil industry, there are still those who seek to obtain political mileage from the public suspicion of "big oil."

These calls for divestiture are not based on reasoned analysis of the nature or the operation of the petroleum industry, but on demagogic appeals to emotions. They represent an unworthy effort by some to find a scapegoat for a situation that is in part the fault of this very Congress. The heart of the problem is not the size of the oil companies, but the failure of Congress to adopt a strong and effective energy policy.

Fortunately, there is increasing evidence that the media and the general public realize this fact. I know in my Connecticut district this is true and more and more voices of reason are being heard throughout the country.

I would like to share with you a particularly cogent and articulate statement of the issue as stated in the Hartford Courant of August 1, which I hope each of my colleagues will take the time to read:

NO MODE FOR OIL CLAMPS

Breaking up the nation's 18 largest oil companies into separate units for production, marketing, refining and transportation is a topic that has been vigorously mulled and debated for months. Literally hundreds of thousands of words and arresting claims have been marshalled in support of and in opposition to the proposal, and the end is nowhere in sight. Basically, it is a matter of attitudes toward bigness—is bigness in and of itself benign or baneful?

As is often the case with efforts to reduce complexities to basics, oversimplification results. Expert proponents and opponents obviously are not concerned only with the enormity of certain oil companies. Their arguments are fraught with economic pluses and minuses which may or may not relate to size. Still, we repeat, it all comes down to the question whether its size makes Big Oil good or bad. We see its positive side.

Admittedly it is difficult to view the question dispassionately, wrapped up as it is with economic interpretations and human applications. In the insecurity of our relatively small individualism, we have built-in urges to cut large forces and shapes outside our sphere down to size. Big Government, Big Labor, Big Oil; they all cast fearsome shadows. So also do many other shapes whose substance often proves less terrifying than the image projected. It's a matter of light, angle and perspective.

Again basically and simplistically, Senate

Bill 2387 which got through the Judiciary Committee by an 8-to-7 vote, is intended to increase competition in the oil industry and thus increase exploration and production and bring down prices. This in an industry where 10,000 companies are seeking, finding and producing oil and gas, where 131 companies operate 284 oil refiners, where the top eight claim only half of the market, an industry which supports 15,000 wholesale distributors and 18,000 suppliers, as well as 190,000 retailers, of whom 95 per cent are independents.

In any consideration of size, let us first consider performance and efficiency. Giants may well move mountains faster and better than ants. Last September, the average cost of gasoline in the United States was 58 cents. At the same time, Australians were paying 84 cents, Belgians $1.48, Britons $1.40, Frenchmen $1.22, Swedes $1.24, Italians $1.72 and Japanese $1.55. If competition is stifled by Exxon, Texaco and the likes of Ashland, then how did Amerada Hess, started after World War II, get into the act and the top 18?

So it's Big Oil. It's fatally possible that it's still not big enough for our 105 million automobiles, our annual demand for 73,121 trillion Btu's of energy, or to provide $100 million ocean tankers, $400 million drilling rigs, $7 billion pipe lines and so on. Chase Manhattan Bank estimates that in the next ten years, the world's petroleum industry will need to invest at least $480 billion to find and develop petroleum, and another $475 billion to transport, process and market it. Hardly a task for Little Oil.

A more technical exposition of the problem would necessarily deal with terms such as vertical divestiture, in essence, as previously stated, the creation of separate entities for the process of getting oil and gas from the ground to the consumer. Also requiring mention would be horizontal divestiture which would prohibit oil and gas companies from owning interests in alternative energy sources such as coal, oil shale, uranium, nuclear reactors, geothermal steam or solar energy. In other words, if not tie the hands of our giants, sap their strength.

This is no time to experiment, legislatively or corporately, on such a vast and critical scale. The oil industry, for all that is known about it, can measure up to the challenge of future needs. What is unknown about it cannot be used to denigrate or undermine it. We cannot risk collapsing this vital process and supplier simply because its bigness awes some, frightens others and annoys a few.

The divestiture bill awaits Senate action late this summer, but with a national election looming in November, it is Congress' turn to see its own fearsome shadows and few expect immediate definitive action on S. 2387. Meanwhile, we have time further to ponder the extravagant rate at which we are wasting oil resources and the energy so produced, to wonder what new ploys OPEC has in mind for our edification and to cap it all, to remind ourselves that Canada, our chief source of imported oil, has lately served notice it intends to close down the valve we cavalierly came to regard as our own.

Big oil, yes. Let's keep it that way. We sure need it to support our own Big Habit—willful use and wanton waste.

FINANCIAL REFORM

HON. TIMOTHY E. WIRTH

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 4, 1976

Mr. WIRTH. Mr. Speaker, I would like to call the attention of my colleagues to the great interest shown by citizens of Colorado's Second District in the provisions of the Credit Union Financial Institutions Act, incorporated in the Financial Reform Act now under consideration in committee.

Over 750 credit union members in my district have signed petitions requesting Congress:

> To permit Federal credit unions to offer millions of members long-term real estate loans, revolving lines of credit, extended repayment periods on consumer, mobile home and home improvement loans, third party payments, and other contemporary financial services.

I understand that the Financial Reform Act is a very complicated and controversial bill. A great deal is at stake; possible repercussions among the various types of financial institutions might result in an unfair competitive advantage by some institutions in the money market. However, I think that some reforms are in order, and on behalf of my constituents, I urge my colleagues on the Committee on Banking, Currency and Housing to move in that direction.

H.R. 9719

HON. JIM SANTINI

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 4, 1976

Mr. SANTINI. Mr. Speaker, on Thursday, August 5, the House of Representatives will be examining a most important nonpartisan and far-reaching piece of legislation. The impact of H.R. 9719, a bill which deals with the Federal tax-exempt lands, can readily be seen when you consider the fact that one-third of the entire country is federally owned. We have 1,000 counties located in nearly every State that are impacted by federally owned, tax-exempt lands.

Federal ownership of lands compels every local government affected to assume an inequitable burden in attempting to provide basic public services. When land is removed from the tax base because of Federal ownership, local communities are denied tax revenues that they would normally receive under private ownership. As a result, a disproportionate burden is placed upon those local taxpayers who occupy the private property within that county. This manifest inequity should be remedied. In 1970, the Public Land Law Review Commission recommended that:

> The Federal Government should make payments to compensate state and local governments for the tax immunity of Federal Lands.

To better assess the impact of the Federal Government's vast land holdings, hearings on H.R. 9719 were held in Washington, D.C., as well as in Nevada—87 percent Federal land holdings—and Utah—67 percent Federal land holdings.

These hearings developed graphic case examples of why H.R. 9719 is needed to relieve the economic inequities created by the Federal land holdings within a county or local jurisdiction. Basic human-need services are under continued economic strain or curtailment. The heaviest burden must be carried, in many instances, by those rural counties that can least afford it. Each year, in many of those counties, there are thousands more visitors than residents, placing demands upon that county's human and fiscal resources. Health care services in many of our large Federal land holding small populated counties is severely impacted by the necessity of providing emergency medical care to transient indigents in need of help.

For example, one hospital located in Humboldt County, Nev., has provided medical assistance to many of the counties transient visitors, but is totally supported by local residents. A county ambulance may have to travel 147 miles to pick up a Federal highway accident victim. If that victim is indigent, local government must absorb the entire cost. General health care service for the local residents is proportionately diminished because there is not enough health care money to do both. With no private land tax base, there is no hope of raising medical money. Local governments must assume almost all of that burden. Because of serious economic constraints created by the absence of 90 to 99 percent of the counties tax base, most rural law enforcement agencies are seriously understaffed and by way of national comparison they are on the lowest end of the law enforcement pay scale.

The counties and municipalities impacted are severely impaired in providing all basic human services. Open dumps cannot be replaced in many small populated counties because there is insufficient budget base upon which to finance installation of a sanitary landfill. There is no money to build expanded sewage facilities. Many so-called county roads are located on the vast Federal land holdings, but the counties simply do not have the economic resources to improve or maintain those roads. Yet there is a constant community and visitor clamor to improve those roads.

Education is suffering in many Federal land dominated counties. Several Nevada counties have been forced because of rising costs and static income to close or contemplate closing rural schools. We have a very unique forced busing problem in our rural communities. White Pine County, Nev., with over 5 million acres, receives only a $30,000 annual land payment from the Federal Government, despite the fact that the Federal Government owns 97 percent of the county. Consequently, county residents rely heavily upon mining industry to maintain any degree of fiscal stability. However, the irregularity of these revenues—a drop from $546,760 in 1974 to nothing in 1976—has forced the school board to begin making preparations to close down schools, as all other channels of revenue have been exhausted.

Humboldt County, Nev., with 5 million acres of unpopulated and nontax producing Federal lands involves an almost unbelievable situation for many students living in Virgin Valley. In order for these students to attend high school, they must travel 40 miles just to catch the bus, which in turn travels 140 miles over chiefly gravel roads on Federal lands to a high school in Oregon. The students then board the entire week in Oregon, and reverse the process the following Friday. Some elementary school children in this county travel over 120 miles each day—much on gravel roads—to receive their education. I speak in all sincerity when I say that these young people must have the 19th century dedication of Abraham Lincoln to endure what they must for a 20th century education.

It should be emphasized that the county employees who are providing most of the services are averaging less than $600 a month and they are utilizing facilities, that in some instances, their grandparents used. For example, the grade school in White Pine County was built in 1907, and its high school is sixty-six years old. The frustrated Mayor of the county seat of Humboldt County wryly observed that the county jail—

> Is so old and rickety that we are thinking of asking the inmates to sign a promise that if they escape, they will restack the bricks.

He adds that a "good portion of the inmates are not locals."

You should remember when the county is 97 percent to 99 percent Federal land, then there is no real possibility of expanding the revenue potentials for that county. There are a multitude of additional problems and restrictions imposed upon agriculture, mining, commercial enterprise growth, community growth, and public access, by the dominance of Federal ownership of nontaxable lands. The Federal Government has forced the counties to walk a worn and frazzled fiscal tightrope, and action must be taken before these counties are completely devastated.

The situation is similar in hundreds of counties across the entire country. The Federal Government simply does not pay what would be required if the land were on the tax rolls; nor does it adequately compensate counties for all the burdens imposed upon them.

It is critical now that we work to overcome these shortcomings and eliminate Federal freeloading at the expense of our local and county taxpayers. I join the committee in declaring that H.R. 9719:

> Is a positive and long overdue step toward solving a problem that is seriously straining the fiscal health of this country's county and local governments.

NAVY SHIPS

HON. CHARLES E. BENNETT

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 4, 1976

Mr. BENNETT. Mr. Speaker, as chairman of the Seapower Subcommittee of the House Armed Services Committee, I would like to discuss briefly certain matters concerning our naval posture.

Just before the July recess the House and the Senate agreed on the conference report of the Department of Defense Appropriation Authorization Act, 1977. That bill provided $6.6 billion for shipbuilding, including the construction of 17 new naval vessels, 2 conversions, and long leadtime items for a new nuclear powered aircraft carrier.

The ships which were approved for construction were:

One Trident submarine; four nuclear powered attack submarines, eight patrol frigates; one destroyer tender; one submarine tender, and two oilers.

The two conversions were for the *Long Beach*, a nuclear powered cruiser commissioned in 1961 which now has an antiquated weapons system, to become a prototype for the nuclear powered strike cruiser with Aegis antiair war system; and for the *Belknap* which was damaged in the collision with the *Kennedy*. In addition, the conferees approved over $500 million for cost growth, including $320 million for claims, and about $1.1 billion for escalation on prior years programs.

What we omitted from this bill included the nuclear powered strike cruiser and the Aegis destroyer. The 8 patrol frigates were a compromise with the President's supplemental request for 12 of these ships. If you will recall, the House had originally included only four patrol frigates in its bill. On the floor an effort was made to add four more frigates and another effort was made to delete all of the frigates. Both efforts failed—largely on the proposition that we should be building the large complex ships during peacetime as had been suggested by Admiral Moorer. It had also been suggested that the United States should concentrate on the larger more powerful, more complex ships, leaving the smaller and cheaper ships to be built by our allies.

On July 14, when the President signed the authorization bill into law, he issued a statement saying he would resubmit legislation for the nuclear powered strike cruiser and for the Aegis destroyer, as well as for the additional four patrol frigates which had been requested in the fiscal year 1977 supplemental.

I am very pleased that the President has said that he would re-request the nuclear powered strike cruiser. This 17,000-ton ship has the most modern weaponry that the Navy can put on it. In addition to the Aegis antiair war system, it will carry Harpoon antiship and the SM–2 antiair missiles and will be able to carry the sea launched cruise missile—Tomahawk—when it is developed. It will carry two helicopters or one VSTOL plane and will have one eight-inch gun instead of the five-inch. It will have armor to protect all of its vital areas and will be the least vulnerable of any surface ship except the attack aircraft carriers. With its nuclear power, it will be able to get to an area of concern, take care of the situation, and return without having to worry about the logistics of fuel oil.

The Senate had been opposed to the nuclear powered strike cruiser because of its expense. However, the main asset that the United States has is its technology, and all of that technology is on board the cruiser—well protected. The Chief of Naval Operations, in a letter to me, sums up the requirement for the cruiser:

> As the most modern and capable surface ship afloat, the strike cruiser is capable of engaging and destroying hostile threats to our continued free use of the seas—either as a major component of the most powerful naval tactical units ever assembled, the all-nuclear powered task force, or operating independently in the remote areas of the world's oceans.

The House had been opposed to the construction of the Aegis destroyer, especially before there was a firm construction line for the cruiser. The Aegis destroyer utilized the hull of the 7,400-ton DD 963 and "shoe-horned" the Aegis system into it, making it a 9,200-ton ship. In this addition, the hull lost 1 foot of freeboard. Instead of being below decks, the computer center and the combat intelligence center were above deck, with only thin aluminum around them. This has led to the conclusion of some Navy studies that the Aegis destroyer is very vulnerable to any enemy fire. In addition, there is not enough extra electrical power available to install the more powerful 8-inch gun in place of the 5-inch gun.

For these reasons the House was cool to the Aegis destroyer. We might yield reluctantly and agree to the construction of this ship if we could be firmly assured that the much more effective cruiser would be built. The cruiser can only have long leadtime items purchased this year—with the balance of the ship being financed next year. The systems analysts in the Government have been throwing obstacles into the path of the cruiser. If they are able to point to the construction of one Aegis destroyer, vulnerable as it may be to enemy fire, they are sure to use that destroyer as a further reason why the cruiser should not be built. As I said before, however, I would be willing to recommend permitting the construction of this destroyer if we are given reliable assurances that the cruiser will be built—and in the numbers required for our Navy.

The House had also been hesitant about voting for more patrol frigates. These ships are designed for convoy duty in the low threat area—defending other ships mainly against submarines. Yet the patrol frigate has been given a rather sophisticated antiair warfare capability and very limited antisubmarine capability. Its hull mounted sonar—which has failed operational evaluation—will be able to detect submarines only out to a distance of 5 or 6 miles when working properly. Its towed sonar is still in research and development. Its helicopter antisubmarine defense can be utilized only if some other source has detected the submarine. We thought the ship to be a prime example of what happens under the design-to-cost principle. Military capability has been sacrificed to financial requirements. Since the Navy says that it needs numbers of ships, the committee will be glad to reconsider the matter upon presentation of proper information from the Navy.

There is no question but that the Navy needs a lot of new ships. The committee has long been trying to get these ships. I hope that the Congress in both Houses will take a further good long look at the very capable invulnerable nuclear powered strike cruiser and approve it. The committee could also then reconsider the Aegis destroyer and the patrol frigate, especially if their capabilities are improved. The committee wants to give the President every possible support in his effort to rebuild the Navy.

COAL LEASING GOES WITH STRIP MINING CONTROL

HON. SHIRLEY N. PETTIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 4, 1976

Mrs. PETTIS. Mr. Speaker, today the House reconsiders a very significant and long-term piece of energy legislation—S. 391, the Federal Coal Leasing Amendments Act of 1976.

While there is no doubt that this legislation is necessary to stimulate the development of our Nation's coal resources, and certainly represents Congress' first successful attempt in 56 years to up-date a coal leasing policy, it fails on one very critical point by not including Federal surface mining regulations.

In good conscience, Mr. Speaker, I cannot vote to override the President's veto of this bill; not because I necessarily agree with all of his arguments against this legislation, but because it seems only logical to me that the issues of coal leasing and strip mining control and reclamation must be considered together. For too long Congress has pursued a "fragmented" approach to the many problems which face our Nation. This bill, while containing many needed provisions, once again demonstrates Congress' reluctance to deal with an issue in a logical and uncomplicated manner and should be defeated.

Mr. Speaker, we are in the final stretch of a very exhausting and challenging 94th Congress. To base one's vote today, in the hope that this Congress will pass a strip mining bill in the remaining days of the session, leaves too much to chance. For this reason, I will vote to sustain the veto, and I urge those of my colleagues who favor a logical and comprehensive approach to this issue, to do the same.

At this time, I would like to bring to my colleagues' attention an excellent article which appeared in the August 3 Washington Post, outlining the need for sustension.

LEASING THE WEST'S UNPROTECTED LAND

Last week in Denver, a group of citizens spoke out against what it saw as the raw and relentless power of the federal government to open Western coalfields to energy companies. The Western Coalition, a group of 85 agricultural, environmental and public interest organizations concerned about strip mining and coal development in the eight Rocky Mountain and Northern Plains states, was protesting the Interior Department's June 1 call for nominations for tracts to be considered for new federal coal leasing. It argued, among other points, that the 16 billion tons of western coal already leased to the companies could satisfy national needs for many years. It said also that although the Interior Department did well to ask for the view of citizens, it was impossible for the citizens even to think of participating. Why? "We have 60 days to analyze 92 million acres of federal coal lands and make our nominations for off-limit areas," the coalition explained. "That's one and one half million acres per day. The department requires us, with our meager resources, to provide exhaustive information on why these lands should be protected—the type of information the department has never collected in its decades of existence and billion dollar budgets."

The coalition's outcry is another voicing of a fear, long expressed, that nothing can stop the energy companies, as they roll westward, from repeating the assaults they gave to Appalachia's land and citizens. This fear has a bearing on a related coal issue now before Congress, as it is scheduled to vote (today in the Senate, Wednesday in the House) on whether to override President Ford's veto of the Federal Coal Leasing bill. The legislation establishes a system of deferred bonus payments which allows smaller companies to compete for federal coal leases. At the moment, with the 16 billion tons already leased, the bill's sponsors see their effort as an overhaul of the current system that encourages, among other things, more speculation than production.

In the context of this one vote, strong arguments exist for overriding the veto; as I see it, the Ford administration has allowed itself to be overly influenced by the wishes of the coal lobby, and it is the responsibility of Congress to move, if the President won't. But the choice for Congress is subtler and more complex than a for-or-against-the-President vote on leasing rules. This is because the leasing bill comes only as part of the problem created by the sweep of strip mining across the West. The major fear of agricultural and environmental groups is that Congress may pass the coal leasing bill (if the veto is overridden) and end this session without passing a law providing strip mine controls.

The groups agree that money coming to the Western states under the leasing bill would be needed. The effects of the coal boom have already been seen; they are described by Rep. Teno Roncalio (D-Wyo.): "Many small towns in the Rocky Mountain West are suffering severe impact. Wyoming has skyrocketing rates of divorce. We lead in syphilis and gonorrhea per capita. Alcoholism is rampant. Child abuse is a national disgrace in our Western states. Suicide and mental illness are the impacts we suffer in our boomtown growth."

The coal leasing bill would bring money into the Western states, and the politicians who worked hard to override the veto would be hailed for profitably corralling and lassoing a President. But the fear is that once the leasing bill is passed, many of the same politicians will no longer be as enthusiastic as they once were for a strip mine bill. "The timing is wrong," says Carolyn Johnson, the coalition's coordinator. "We need the revenues of the coal leasing bill, but the timing makes me uneasy. We still don't have a strip mine bill. We are so vulnerable out here—ranchers and farmers—to political and economic pressures. If the coal leasing bill is passed, will that take away support for the strip mine bill? I'm leery."

When Johnson and others talk of the states' needing the money, they talk also of needing other things. They have in mind several provisions in the strip mine bill that are not in the one on coal leasing. No protection exists in the leasing bill for example, for surface owners whose properties lie over federal coal, nor are there mining or reclamation standards to protect land and water resources. The leasing bill is silent on these matters because when being drafted it was known or assumed that they would be covered in the strip mine bill. When it became clear that the strip mine bill was in trouble, the effort was made by Rep. John Melcher (D-Mont.) to combine the bills into the National Coal Production, Leasing and Mine Reclamation Act. It was a sensible idea but was defeated late last year in the House Interior committee 21 to 20. At the moment, a revised strip mine bill is again before the Interior Committee, (cosponsored by more than half its members) but it is separate from the coal leasing bill being voted on this week.

The separation has forced many of those in the coalition into not working to override the veto, even though they still support the bill. This puts them close to an alliance with forces they have bitterly opposed all along: the coal lobby and the Ford administration. Are their fears justified, that if the coal leasing bill is passed and the money flows into the states (however modest those amounts would be) then support for a strip mine bill will fade? Another reason put forward for not supporting the override is that without a leasing bill Congress would bestir itself to go back and pass both the leasing and the strip mine, as John Melcher once tried to do. But little time remains for that.

The angles to these speculations can form any number of political views. Two congressmen who have been involved in the debate all along dismiss the coalition's fears as groundless. Support for the strip mine bill will remain, both insisted. They agree that the strip mine bill should have passed first, but that that failure is no reason to back away from the coal leasing bill.

What is suggested by this debate, and the new positions that some groups have been forced into, is that Congress is again displaying its talent for complicating the simple: that the need for coal can be balanced with the need to protect the land and those living off of it. The tragedies of Appalachia are properly assigned to the coal industry, but it now appears that if similar destruction is moving West, its travel agent may be Congress.

STRAINED RELATIONS BETWEEN THE UNITED STATES AND CANADA

HON. GILLIS W. LONG

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 4, 1976

Mr. LONG of Louisiana. Mr. Speaker, Canada's recent decision to bar athletes from the Republic of China from participating in the Montreal Olympic Games, and the objections voiced by officials of the U.S. Olympic Committee to that move, underscore a disturbing trend in the relations between our two great countries.

It is of vital importance to both our nations that we make every effort to reverse this trend which seems to indicate a more confrontive tone in our mutual dealings.

An excellent editorial in a recent issue of the Baton Rouge Morning Advocate details the incidents which have given rise to my concern over the seeming erosion of goodwill between the United States and her northern neighbor. I would like to insert the editorial into the RECORD for the benefit of my colleagues as I know they share my concern about shoring up this widening rift.

RIFT BETWEEN THE UNITED STATES AND CANADA DEEPENING

Back in November, 1974, when Canadian Prime Minister Pierre Elliott Trudeau announced that exports of oil to the United States would be reduced, some observers felt that this was just the tip of the iceberg of chilled relatons between the two countries.

More and more evidence is mounting now to prove that it was.

The latest incident, of course, is the U.S.-Canadian dispute over Taiwan's participation in the Olympic games. That has been settled more or less, but an unpleasant aftertaste remains.

American took the attitude that Canada was bullying a small country for political reasons. Canadians felt they were being bullied by the United States in return. "Our position is a reflection of foreign policy, and I believe it ought to be respected as such," the Canadian secretary of state for external affairs said.

Earlier, last Dec. 15, Trudeau had chastened U.S. Ambassador William J. Porter for having overstepped the bounds of diplomatic propriety by criticizing Canadian policies before news reporters.

Porter, whose assignment in Canada was ending, contended that strains in bilateral relations were arising from Canada's next tax legislation affecting American magazines, from the forced deletion of U.S. commercials from television broadcasts, and plans to nationalize American-owned potash mines in Saskatchewan. He also was critical of Canadian export and pricing policies on gas and oil.

Admittedly, Canada does have a problem in protecting its economic and cultural identity. The great majority of Canada's 22.8 million people live in a narrow strip along the U.S. border. They are, of course, influenced by radio and television stations in Buffalo, Cleveland, Detroit, Seattle and other American cities on the border or close to it.

Moreover, American interests own or have an interest in much of Canada's industry.

In addition to all of these frictions, there is a serious dispute between the two countries over American exploitation of Canadian natural resources. The United States, for example, would like to divert waters from Canada's Arctic rivers to arid areas of the American West. And the U.S. is proposing that the two countries jointly develop and share North America's remaining energy reserves.

Canada has been cold toward both ideas.

As is usual in disputes between neighbors, there appears to be some wrong on both sides. Canada long has been a good friend and a valuable ally and it is discouraging to see the rift in good relations widening incident by incident.

It would be wise to begin mending these broken relations now, before the break becomes irreparable.

MESSAGE TO AMERICA FROM THE TANZANIAN PRESIDENT

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 4, 1976

Mr. RANGEL. Mr. Speaker, it is clear that the continent of Africa has come to the forefront of American foreign policy considerations. Secretary of State Kissinger has recently visited there and on August 2 made the affairs of that continent the topic of his speech to the National Urban League. In light of this concern it seems logical that we in the Congress, as well as administration officials, should be interested in the sentiments expressed by African leaders.

Below is a thought-provoking statement from the July 26 edition of Time magazine, by Tanzania's President, Julius K. Nyerere. His words strike at the heart of the contradictions inherent in our facile Bicentennial verbiage when applied to our heretofore practiced policies toward Africa.

I recommend the following to my fellow Members' attention:

MESSAGE TO AMERICA FROM TANZANIA'S PRESIDENT JULIUS K. NYERERE

America is a society whose faults are the more glaring because of its admirable openness, because of the principles on which the nation was founded and because of the power which comes from its wealth and its size. It is an inspiration, and a warning, to the world. Poor nations aspire to emulate it, or else they fear it—and sometimes both.

For America is judged by the standards set out in imperishable language in the Declaration of Independence of 1776—which is one of the greatest documents of all time. And America now has a degree of wealth and power which could enable the ideals of its founding fathers to be translated into reality. It should now be possible for all Americans to live in dignity in a society which gives to all its citizens equal freedom and security and equal rights and responsibilities. Certainly, it should now be possible for America to "observe good faith and justice toward all nations" without having to fear for its own independence.

The continual struggle of Americans for the implementation of these principles within America, regardless of race or economic status, is a matter of history and contemporary politics. Much progress has been made over the past 200 years. In particular the Federal Government is now committed to fighting racial discrimination within the U.S. by laws, administrative acts and education. This we recognize; it is vital to the respect accorded to America.

But the gap between the principles and the potential on the one hand and the reality on the other is still frighteningly wide, even within America. Americans of non-European descent are still having to struggle to achieve for themselves their full rights as American citizens, equal with all others. Extreme poverty, and even hunger, exist among a sizable minority of American people. There appears to be almost a breakdown of many of the public and communal services which are vital to civilized life and in respect of which we would expect America to be an example to the rest of struggling humanity.

So countries like mine look at America in its Bicentennial year with admiration and respect, yet a feeling of disappointment for opportunities lost. But we also look at America with fear because of the use to which America's great power is often put, and the extent to which American principles have been flouted in the international exercise of American power.

Americans fought a war for their independence. They fought a civil war to maintain their unity despite the diverse social and cultural origins of Americans. The poor and oppressed of the world therefore expect Americans to understand and support the struggles of other peoples to be free and united, even if freedom and unity cannot be won peacefully. We expect that America will be the last nation, not the first, to try to thwart, pervert or destroy the real independence of other nations.

Instead, during the 15 years of our own national existence, we in Tanzania have witnessed American military power being used in an attempt to crush the national liberation struggles of Viet Nam and Cambodia. In some Latin American countries we have seen American economic power being used to frustrate the democratic will of the people about their own form of government. We have felt the effects of America's direct and indirect, but very powerful, support for the racist and colonialist forces of southern Africa. And we have seen American power time and again being used to fight freedom on the plea that it is fighting Communism.

Further, as poor nations like Tanzania struggle for those structure changes in the world economic system which are essential if our own efforts for development are not to be nullified, we find that American economic might is ranged on the other side—that is, on the side of our continued exploitation. Only minor reforms, or economic aid, are offered; sometimes even these are made conditional upon what America regards as our good political behavior in the United Nations and elsewhere. So the poor nations fear America and we struggle against America, even while we admire the great principles of America and her people's achievements. We watch with respect, sympathy and anxiety—and sometimes almost with despair—as Americans endeavor to cope with the political and moral results of their own wealth-creating economic system, and to give international meaning to the principles laid down by the founding fathers of their nation.

For it is this one thing, above all, that really gives hope to the world. There are Americans of all colors and creeds who continue to struggle for equality and justice within America for all its peoples. There were Americans who used the time given by the dogged resistance of the Indochinese peoples in order to reassert the principles of democracy and equality and to oppose American imperialism in Southeast Asia. It was Americans who revealed, and who opposed, what was being done by their nation in Chile. And Americans are now working to get American support ranged on the side of national freedom and human equality in southern Africa.

Americans have created a power which is frequently abused internally and externally. But Americans continue to struggle against these abuses and for the survival of the universal principles enunciated in 1776. There is therefore still hope that America's great power will be used for human beings everywhere, rather than simply for the preservation and creation of American national wealth.

From Tanzania we salute America on its 200th anniversary. We send our good wishes for a future of American cooperation with the rest of the world on the basis of freedom, equality and justice, for all men and all nations.

VOTING RECORD

HON. CLARENCE J. BROWN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 4, 1976

Mr. BROWN of Ohio. Mr. Speaker, in a continuing attempt to provide my complete voting record for the first session of the 94th Congress for the benefit of anyone who would like to examine that record, I would like to have printed here my votes on bills ranging from Appropriations Rescissions for Fiscal Year 1975 to bills pertaining to the District of Columbia.

H.R. 3260—APPROPRIATIONS RESCISSIONS FOR FISCAL YEAR 1975

Substitute amendment approving $664,723,840 in appropriating rescissions requested by the President and rejecting one for $284,-

719,332 for Hill-Burton Hospital Construction Program, rejected 127-268, *aye;* Amendment to approve rescission request of $122,900,000 appropriation for 12 F-111 fighter bombers, adopted 230-164, *aye.*

Final passage, a bill to rescind $222,550,000 in FY 1975 appropriations and to limit spending by GSA by $20,022,900, passed 389-3, *yea;* 2-25-75.

Conference report to rescind a total of $243,359,370 in FY 1975 appropriations from several Federal Departments and agencies, adopted 346-59, *yea;* 3-25-75.

H.R. 4075—APPROPRIATIONS RESCISSIONS FOR FISCAL YEAR 1975

Amendment to approve rescission for HEW, $259,380,000 for FY 1975, rejected 132-252, *aye.*

Final passage, a bill to rescind $16,454,704 in appropriations from Federal Departments and agencies for FY 1975, passed 371-17, *yea;* 3-10-75.

H.R. 6573—APPROPRIATIONS RESCISSIONS FOR FISCAL YEAR 1975

Final passage, a bill to rescind $17,873,000 in appropriations from three health programs for FY 1975, passed 379-1, *yea;* 5-12-75.

H. CON. RES. 218—FIRST CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEAR 1976

Amendment to provide for a 9.8% reduction of the deficit and a 2% reduction of outlays, adopted 227-128, *aye;* Amendment to a substitute amendment to raise revenue target by $3 billion by closing tax "loopholes," adopted 277-128, *no;* Amendment to substitute amendment to balance outlays and revenues for FY 1976 at $299.5 billion and limit budget authority to $300 billion, rejected 94-311, *aye;* Substitute to an amendment to reduce budget deficit to $54.1 billion, rejected 159-248, *aye;* Amendment to place House on record as favoring lifting cost-of-living increase limits on Social Security benefits and other income support programs, adopted 234-171, *no.*

Final Passage, a resolution to set overall targets for FY 1976 budget at $368.2 billion in outlays and $298.1 billion in revenues with a resulting deficit of $70 billion, adopted 200-196, *nay;* 5-1-75.

Conference Report on FY 1976 budget setting fiscal targets: $367 billion in outlays, $395.8 billion in budget authority, $298.2 billion in revenues, and a deficit of $68.8 billion, with a public debt level of $617.6 billion, adopted 230-193, *nay;* 5-14-75.

H. CON. RES. 466—SECOND CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEAR 1976

Substitute to an amendment to lower the budget authority in FY 1976 by $71.9 billion and lower outlays by $71.9 billion, thereby eliminating the deficit and creating a balanced budget and, thus, lowering the public debt by $72 billion, rejected 127-283, *aye;* Amendment to increase the new budget authority by $7.5 billion, and increase outlays, the deficit and the public debt by $1 billion, adopted 213-203, *no;* Substitute to an amendment to lower new budget authority by $12.5 billion, and lower the budget outlays, the deficit and the public debt by $4.7 billion, rejected 159-257, *aye.*

Final Passage, a resolution to set ceilings of $374.9 billion on FY 1976 outlays and $409 billion on budget authority; set a floor of $301.8 billion on revenues; set $73.1 billion as the budget deficit and $620.5 billion as the public debt, adopted 225-191, *no;* 11-12-75.

Conference Report on FY 1976 Congressional Budget Resolution to set ceilings for FY 1976 of $374.9 billion for outlays and $408 billion for budget authority; set $74.1 billion as the federal deficit, with a $300.8 billion revenue floor and $622.6 billion public debt; set separate targets for the July-September 1976 transition period, adopted 189-187, *nay;* 12-12-75.

H.R. 8578—INCREASE IN FEDERAL FINANCIAL ASSISTANCE TO COMMUNITY ACTION PROGRAMS

Final Passage, a bill to increase the Federal share of funding for community action programs serving the poor to 80% through FY 1977, passed 244-172, *nay;* 11-19-75.

S. 555—CONSOLIDATED FARM AND RURAL DEVELOPMENT ACT AMENDMENTS

Final Passage, a bill to extend coverage of the emergency loan program for farmers, ranchers and certain other victims of natural disasters and to modify Farmers Home Administration procedures for dealing with natural disasters, passed 403-0, *yea;* 7-9-75.

Conference Report adopted 398-0, *yea;* 7-25-75.

H.R. 9509—CONSTRUCTION INDUSTRY COLLECTIVE BARGAINING ACT OF 1975

Final Passage, a bill to establish within the Department of Labor a committee composed of labor and contractor representatives to assist in negotiating new contracts to stabilize the collective bargaining process within the construction industry, passed 302-95, *nay;* 10-7-75.

H.R. 6971—CONSUMER GOODS PRICING ACT OF 1975

Motion to suspend the rules and pass the bill to repeal Federal antitrust exemptions for state "fair trade" laws that allowed manufacturers to set the retail prices of their products, agreed to 380-11, *yea;* 7-21-75.

H.R. 6844—CONSUMER PRODUCT SAFETY ACT AMENDMENTS

Amendment to allow the Consumer Product Safety Commission to regulate defective firearms and ammunition and labeling on firearms and ammunition, rejected 80-339, *no;* Amendment to prohibit the Commission from including product sampling plans as part of mandatory product safety standards, except in the case of glass bottles or products subject to flammability standards, adopted 200-193, *no;* Motion that the Committee of the Whole rise, agreed to 240-133, *no;* Amendment to delete a provision of the bill that would permit the Commission to choose, on a case-by-case basis, which of the four major laws it administered to use in regulating a product, rejected 204-205, *aye;* Amendment to allow the House or Senate to disapprove within thirty legislative days standards, rules and regulations proposed by the Commission, adopted 224-180, *not voting;* Amendment to authorize private parties to bring civil suit against the Commission during a two-year experimental period, rejected 166-230, *aye;* Amendment to delete a provision of the bill authorizing the Commission to conduct its own civil litigation independently of the Justice Department, adopted 209-195, *yea;* Motion to recommit the bill to the Interstate and Foreign Commerce Committee with specific instructions to report it back with an amendment to delete a provision that would permit the Commission to choose which of the four laws it administered to use in regulating a product, agreed to 204-198, *yea.*

Final Passage, a bill to authorize $193 million for the Consumer Product Safety Commission in FY 1976-78 and amend the Consumer Product Safety Act, passed 313-86, *yea;* 10-22-75.

H.R. 7575—CONSUMER PROTECTION ACT OF 1975

Amendment to exempt businesses that have less than $1 million in net assets or 25 or fewer full-time employees from the requirement to answer interrogatories issued by the Consumer Protection Agency, adopted 401-6, *aye;* Amendment to require that all Federal agency consumer functions similar to those in the proposed agency be transferred to the new agency, adopted 379-27, *no;* Amendment to delete a provision that would prevent the proposed agency from intervening in labor-management disputes or negotiations in which the Federal government was involved, rejected 175-233, *aye.*

Final Passage, a bill to create an independent Agency for Consumer Protection to coordinate Federal consumer protection activities and represent consumer interests before other Federal agencies and the courts, passed 208-199, *nay;* 11-6-75.

H.R. 8835—TRUTH IN LENDING ACT

Final Passage, a bill to require companies leasing consumer goods to disclose fully the terms and costs of the lease, passed 339-41, *not voting;* 10-28-75.

H.J. RES. 219—FURTHER CONTINUING APPROPRIATIONS FOR FISCAL YEAR 1975

Final Passage, a resolution to provide continuing appropriations for Foreign Aid programs until 3-31-75 and for HEW programs and Community Service Administration until 6-30-75, agreed to 308-75, *nay;* 2-25-75.

H.J. RES. 449—CONTINUING APPROPRIATIONS FOR FISCAL YEAR 1976

Final Passage, a resolution making continuing appropriations through the *sine die* adjournment of the 1st Session of the 94th Congress for Federal agencies and departments whose regular fiscal 1976 appropriations had not yet been enacted, passed 400-16, *yea;* 6-17-75.

H.R. 6676—CREDIT USES REPORTING

Final Passage, a bill to require the Federal Reserve Board to obtain reports from the nation's 200 largest Federally insured commercial banks on the amount of loans they were making in certain categories, rejected 183-205, *nay;* 6-23-75.

H.R. 6799—AMENDMENTS TO FEDERAL RULES OF CRIMINAL PROCEDURE

Amendment to let the prosecutor rather than a judicial officer determine whether a warrant or a summons should be issued, adopted 216-201, *aye;* Amendment to delete the proposal that would permit defendants to obtain the names, addresses and criminal records of all government witnesses scheduled to testify against them, rejected 199-216, *aye.*

Final Passage, a bill to revise the rules governing Federal criminal cases, including pre-trial and post-trial procedures, passed 372-1, *yea;* 6-23-75.

H.R. 2634—TEMPORARY INCREASE IN THE PUBLIC DEBT LIMIT

Final Passage, a bill to temporarily increase the public debt limit by $131 billion until June 30, 1975, passed 248-170, *yea;* 2-5-75.

H.R. 7545—TEMPORARY INCREASE IN THE PUBLIC DEBT LIMIT

Amendment to end the distinction between the permanent and temporary debt ceilings, rejected 79-315, *aye;* Substitute to an amendment to reduce to $199,990,000,000 from $216.1 billion the temporary debt limit provided through June 30, 1976, and set the overall debt ceiling at $599.99 billion, adopted 314-83, *aye.*

Final Passage, a bill to increase the federal debt limit to $599.99 billion through June 30, 1976, rejected 175-225, *yea;* 6-16-75.

H.R. 8030—TEMPORARY INCREASE IN THE PUBLIC DEBT LIMIT

Final passage, a bill to increase the temporary federal debt ceiling to $577 billion and to extend it to November 15, 1975, passed 223-196, *yea;* 6-24-75.

H.R. 10049—TEMPORARY INCREASE IN THE PUBLIC DEBT LIMIT

Final passage, a bill to extend the temporary federal debt ceiling through March 31, 1976, and raise the limit to $597 billion from $577 billion, rejected 178-217, *not voting;* 10-29-75.

H.R. 10585—TEMPORARY INCREASE IN THE PUBLIC DEBT LIMIT

Final passage, a bill to increase the temporary federal debt limit to $595 billion and extend it through March 15, 1976, adopted 213–198, *nay;* 11–12–75.

H.R. 6674—DEFENSE AUTHORIZATION FOR FISCAL YEAR 1976/197T

Amendment to delete $260.25 million for AWACS Command Control Systems, rejected 136–260, *no;* amendment to delete $22 million for the conversion of civil reserve air fleet, rejected 100–293, *no;* Amendment to delete $77 million for procurement of B–1 bomber, rejected 164–227, *no;* Amendment to prohibit flight testing on the maneuverable re-entry vehicle (MARV) on the ballistic missile system, rejected 124–276, *no;* Amendment to reduce U.S. forces stationed overseas by 70,000 by September 30, 1976, rejected 95–311, *no;* Amendment to provide 5,000 additional civilian personnel for the Department of Defense, rejected 96–300, *no;* Amendment to an amendment to direct the Secretary of Defense to study the feasibility of establishing a separate academy to train women for careers in the armed forces, rejected 113–284, *no;* Amendment to permit women to enroll in the U.S. Military, Naval and Air Force academies on the same basis as men, adopted 303–96, *aye;* Amendment to reduce the Armed Services Committee-approved authorization for procurement and development of new weapons systems to $24.65 billion from $26.54 billion, rejected 183–216, *no;* Amendment to direct the Secretary of Defense to report to Congress every 30 days on contracts, subcontracts and grants entered into by the Department of Defense, rejected 51–345, *no.*

Final passage, a bill to authorize $26,545,023,000 in FY 1976 appropriations for Defense Department weapons procurement, research and development programs and $5,479,017,000 for the budget transition period, and setting active duty strength at 2,100,000 men, passed 332–64, *aye;* 5–20–75.

Conference report on the bill to authorize $31,120,000,000 for military procurement in FY 1976 and the three-month transition period, adopted 348–60, *yea;* 7–30–75.

H.R. 9861—DEFENSE APPROPRIATIONS FOR FISCAL YEAR 1976/197T

Amendment to add $5 million to the bill for Army recruiting counseling services, rejected 112–296, *no;* Substitute amendment to an amendment restoring $15.6 million cut by the Appropriations Committee for Army recruiting activities, rejected 177–228, *no;* Amendment to require disclosure of the funds appropriated for the CIA contained in an Air Force account in the bill, rejected 147–267, *no;* Amendment to delete $58.3 million recommended for research and development of the F–18 Navy combat fighter aircraft, rejected 173–243, *no;* Amendment to prohibit use of funds in the bill for relocation of the National Oceanographic headquarters from Suitland, Maryland to Bay St. Louis, Mississippi, adopted 219–193, *no;* Amendment to prohibit use of any funds in the bill to close any military installations designated in the amendment, rejected 130–274, *no;* Amendment to forbid funds for the relocation of the National Oceanographic Office headquarters of the Navy from Washington, D.C., suburbs to Bay St. Louis, Mississippi, rejected 190–220, *nay.*

Final passage, a bill appropriating $90,219,045,000 for the Department of Defense for FY 1976 and $21,674,571,000 for the budget transition period (July–Sept.) 1976, passed 353–61, *yea;* 10–2–75.

Conference report on the bill to appropriate $90,466,961,000 for Defense Department programs in FY 1976 and $21,860,723,000 for the budget transition period, adopted 314–57, *yea;* 12–12–75.

H.R. 10031—DEFENSE PRODUCTION ACT AMENDMENTS OF 1975

Final Passage, a bill to extend through 1976 the Defense Production Act, which provides the President with the authority to stimulate industrial production and to assure priority use of vital supplies of any goods during national emergencies, passed 318–1, *yea;* 11–14–75.

Conference report on the bill to extend the Defense Production Act through fiscal 1977, to amend its antitrust immunity provisions, and to require cost-benefit assessments of standards proposed by the Cost Accounting Standards Board, adopted 404–4, *yea;* 12–3–75.

H.R. 10024—DEPOSITORY INSTITUTIONS AMENDMENTS OF 1975

Amendment to delete provisions of the bill that would allow financial institutions to offer their customers "negotiable orders of withdrawal (NOW)" accounts, adopted 218–134, *not voting paired for;* Amendment to delete provisions of the bill that would require lenders in metropolitan areas to disclose the amount of mortgage money they lend for a tract or zip code area in a city, rejected 152–191, *not voting;* Amendment to limit disclosure of mortgage lending data for city neighborhoods to lenders in twenty metropolitan areas selected by the Federal Reserve Board for a three-year study, rejected 165–167, *not voting.*

Final Passage, a bill to extend the authority of federal bank regulatory agencies to set ceilings on the amount of interest paid on savings accounts by financial institutions to December 31, 1977, from December 31, 1975, and to require lenders in metropolitan areas to disclose the amount of mortgage money they lend for a four-year period after enactment within each census tract or zip code area in a city, passed 177–147, *not voting;* 10–31–75.

H.R. 4005—DEVELOPMENTAL DISABILITIES AMENDMENTS OF 1975

Final Passage, a bill to authorize $188.75 million in FY 1975–77 for Federal programs to aid those with developmental disabilities such as mental retardation and cerebral palsy, passed 398–5, *yea;* 4–10–75.

H.R. 10035—DISTRICT OF COLUMBIA JUDICIAL CONFERENCE

Final Passage, a bill to establish an annual conference of judges, private practitioners and law professors from the District of Columbia, passed 337–0, *yea;* 11–10–75.

H.R. 4287—TO PROVIDE ADDITIONAL LAW CLERKS FOR THE DISTRICT OF COLUMBIA COURT OF APPEALS

Final passage, a bill to authorize $150,000 annually for nine additional law clerks for the judges of the District of Columbia Court of Appeals, passed 310–21, *yea;* 11–10–75.

H.R. 10041—REPEAL OF NATIONAL CAPITAL SERVICE AREA ACT

Final passage, an amendment, in the nature of a substitute for the bill, to retain federal control over certain areas of D.C. where Federal offices were located and to delegate to the President authority to appoint an official within the Federal government to serve as director of the National Capital Service Area, which had authority over the Federal enclave, adopted 201–150, *yea;* 11–10–75.

H.R. 9958—TRANSFER OF CERTAIN U.S. PROPERTY TO THE REDEVELOPMENT LAND AGENCY

Final passage, a bill to transfer certain federal property in the District of Columbia to the District of Columbia Redevelopment Land Agency, passed 341–0, *yea;* 11–10–75.

FINANCIAL DISCLOSURE STATEMENT OF EDWIN B. FORSYTHE

HON. EDWIN B. FORSYTHE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 4, 1976

Mr. FORSYTHE. Mr. Speaker, I have long supported the concept of full financial disclosure by public officials and introduced legislation both in the first session of the 93d Congress and again in this 94th Congress specifically requiring all Congressmen to issue public personal financial statements.

This requirement, administered on an equitable across-the-board basis, would be a substantial step toward helping to establish a more open relationship between officeholder and constituent. It would help to reduce, I am convinced, some of the skepticism that now exists.

Members of Congress, especially in what appears to be an "anti-Washington" election year, have an opportunity, and a responsibility, to help dispel distrust and to encourage a renewed faith in our system of government and those who participate in it.

Accordingly, while full public financial disclosure by Members of Congress is not currently required by law, in recognition of the public confidence entrusted to me by my constituents, I am submitting for publication the following data concerning my personal assets for 1975. I hope that all congressional candidates in New Jersey will issue similar public financial reports.

FINANCIAL STATEMENT

SUMMARY

My Net Worth, based on holdings of both Congressman and Mrs. Edwin B. Forsythe during 1975, was $225,911.

I paid $9,541 in income tax in 1975, on a gross income of $46,454. Of this amount, $42,850 was salary, and I received $3,604 in interest, dividends, fees and honorariums.

LISTING OF ASSETS

Cash on hand and in bank accounts	$34,875
Cash surrender value of life insurance	30,000
U.S. Government retirement account program	17,292
Securities of publicly held corporations	28,100
Other securities	64,244
Real estate (residence)	32,400
Home furnishings	12,500
Personal automobiles	3,000
Office equipment	3,000
Total assets	225,911

LISTING OF SECURITIES HELD IN PUBLICLY HELD CORPORATIONS

Securities and number of shares

Amtek	22
A T & T	6
American Express	90
Arizona Public Service	26
Atlantic City Electric	119
Bank of America	24
Chessie System	10
Columbia Broadcasting System	10
Continental Can Company	44
Exxon Corporation	10
Investment Trust Boston	1183.934
Massachusetts Investment Trust	39.078

Midlantic Bank Inc	41
Philadelphia Electric	10
Public Service Electric and Gas	27
Strawbridge and Clothier	11
Utah Power and Light	18
Warner Co	33
Wellington Fund	187.045
Miscellaneous Stocks	30
Total value	$28,100
OTHER INVESTMENTS	
D.G. Brown Inc. (dairy store)	$1,200
Locust Lane Farm Dairy, Inc	53,600
Locust Lane Farm Dairy (partnership)	9,244
George D. Wetherill	200
Total	64,244

HAMILTON SUPPORTS VETERANS LEGISLATION

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 4, 1976

Mr. HAMILTON. Mr. Speaker, the 94th Congress has taken several steps toward improving the services and assistance available to eligible veterans, all of which I have supported.

Several bills have already become law. First, a bill providing an 8 percent cost-of-living adjustment and an increase of $300 in the level of income allowed before decreasing the amount of the veteran's pension payment was signed into law last year. It raised the income limitation for a veteran with dependents to $4,500. This bill provided an interim response to the need for new pension legislation, giving veterans relief until September 1976, when present provisions expire.

Second, a bill increasing by 10 to 12 percent the disability compensation to veterans suffering service-related disabilities was passed into law. Survivors of disabled veterans received a 12 percent increase under the bill, and clothing allowances were adjusted upward.

Third, in an attempt to enhance recruitment and retention of qualified doctors and dentists in VA institutions, special pay rates were authorized

Fourth, the Veterans' Home Loan Amendments of 1976 recently became law, making important changes in the veterans' housing program. The maximum direct home loan was increased from $21,000 to $33,000 and the maximum guarantee of mobile home loans raised from 30 percent to 50 percent. The amendments also liberalized eligibility and made other needed changes.

Several bills have passed the House and await further action in the Senate. These include:

First, a bill to increase by 8 percent the disability compensation paid to veterans, their widows, and survivors. The bill also provides for additional compensation to the disabled veteran whose spouse is in a nursing home or requires regular aid and attendance.

Second, a bill to increase the amount payable to States as reimbursement for money spent on medical care and treatment for veterans in hospitals, nursing homes, and home care. The bill also would expand eligibility for such payments.

Third, a bill to provide medical care to survivors of totally disabled veterans even after a non-service-related death.

Fourth, a bill to extend educational benefits to eligible veterans from 36 to 45 months.

Fifth, a bill requiring an annual investigation by the VA of travel costs to veterans, to more equitably calculate the appropriate reimbursement rates for those traveling to VA institutions for assistance.

Of great importance in the next weeks is the formulation of new pension program guidelines, to replace those provisions which are scheduled to expire in September. The House and the Senate have each passed a bill dealing with reforms in this program, and differences between the two bills must now be reconciled.

The legislation already enacted, and that which awaits further action with a good chance of passage, constitute a package of improvements that illustrates that veterans have not been forgotten by the 94th Congress.

WORKERS NEED PROTECTION FROM HAZARDS OF THE WORK PLACE

HON. BOB ECKHARDT

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 4, 1976

Mr. ECKHARDT. Mr. Speaker, I am inserting the transcript of the July 27, 1976, radio program, the Labor News Conference, in which the participants discuss the danger to hundreds of workers from dangerous chemical substances in the workplace. This program is particularly timely since the House will vote on the Toxic Substances Control Act, H.R. 13042, next week.

Transcript

Mutual Announcer. The following time is presented as a public service by this station and the Mutual Broadcasting System.

Harden. Labor News Conference. Welcome to another edition of Labor News Conference, a public affairs program brought to you by the AFL–CIO. Labor News Conference brings together leading AFL–CIO representatives and ranking members of the press. Today's guests are Dr. Thomas F. Mancuso, medical consultant to the International Association of Machinists and Aerospace Workers, AFL–CIO, and Sheldon Samuels, director of health, safety and environment for the AFL–CIO Industrial Union Department.

Millions of union members work in job-environments where chemicals used in work processes can and do disable and kill. Dr. Mancuso, medical consultant to the Machinists Union, is the author of a new book, "Help for the Working Wounded"—a question and answer guide to help workers recognize, evaluate and control occupational diseases and hazardous work. Here to question him and Mr. Samuels about that book, how it came into being and how it is intended to be used, are Sandra Dagler, managing editor of Occupational Safety and Health Report, a publication of the Bureau of National Affairs, and Jerome Brazda, editor of Washington Report on Medicine and Health. Your moderator, Frank Harden.

And now, Mr. Brazda, I believe you have the first question?

Brazda. Dr. Mancuso, your book reads like a collection of horror stories. Society now is becoming more aware of the unhealthful conditions in the working places, yet the hazards seem to be increasing with increasing technology. Who is winning?

Mancuso. No one is winning—I think everybody is losing—the industrial population is losing and, I think, the society is losing.

We have had a tremendous onslaught on the work environment of many thousands of industrial chemicals, whose toxic and cancer-causing effects have not been established. The difficulty lies with the fact there never was any legal requirement to pretest the chemicals before they were introduced into the work environment.

Brazda. You are talking about chemicals—does your book deal with chemicals or with hazards, like falling logs, and machinery and so forth?

Mancuso. It's primarily concerned with toxic dust, fumes, vapors, mists, gases and noise—the impact of the micro-chemical environment, the chemical environment, in distinction from the accent in the past on accidents.

What we want to emphasize, really, is that in the past, the primary emphasis has been on the traumatic injury, what has occurred, what you can see on the job, the immediate cause and effect relationship. What I'm concerned about, what the workers are concerned about, and what society is concerned about are the health effects—which may or may not be immediate—chemical effects can be immediate—but also the delayed effect that may occur 10, 20, 30 years from now.

I'm concerned about the fact that the industrial population is becoming seeded with the chemicals, and that the delayed effects on the kidneys, lungs, liver, and so on and so forth, will occur years later and the basic problem is, who is going to recognize them?

Dagler. It seems that we've known about the hazards of asbestos for a good many years, even prior to the passage of the Occupational Safety and Health Act. Yet workers presently still don't feel that they are protected. What comes after the awareness?

Mancuso. Well, awareness must be developed, and this is what we are trying to accomplish with the book really—to develop an awareness among the workers of the toxic nature of the various chemicals to which they are exposed.

Once the awareness has developed, motivation follows. And what we are doing, in effect, is informing the worker and his family, particularly his wife. I was very pleased to see the tremendous response that we are getting from the wives of the workers who read the columns in the Machinist paper, and whose interest is, of course, in protecting their families.

So we feel the motivating force will be generated by the industrial population itself, by the unions, to bring about the control measures which are not instituted at the present time.

Brazda. Let me ask you a question, Mr. Samuels—the Occupational Safety and Health Act was generally regarded as a leading answer of this great problem. Is the law inadequate—do we have a long way to go?

Samuels. It isn't that the law is inadequate, but, as Dr. Mancuso pointed out, awareness alone is not the answer.

The fact that there is a segment of society—a vocal segment of society—that actually expects workers to die for the right to work. This resulted in political impediments to the exercise of rights—not only the right to know, but also of other OSHA rights.

For example, the White House has taken over key decisions in the implementation of the Act by taking over key segments of the Occupational Safety and Health Administration. For example, the White House has approved a re-organization of the Occupational Safety and Health Review Commission that permits the chairman to stifle the dissent of the labor members.

And if you ask yourself where these political impediments come from, we have to go back to that segment of society which is represented, for example, by the American Conservative Union. The ACU has a new project called "Stop OSHA," they say it's the first time they have had a project like this, but actually, it is similar to a project run by the John Birch Society, when the Act first went, into effect, called "Nix on OSHA."

BRAZDA. That was an unfortunate selection of terms, wasn't it?

SAMUELS. Yes, it was—it was symbolic of the times.

MANCUSO. And apropos of what you are discussing, and this evidently has been going on for decades, what must be developed is the right of the worker on the job to know what chemicals he or she is being exposed to and how to protect themselves and their families. This is a basic right.

DAGLER. Dr. Mancuso, do the workers, right now, exercise this right? The Occupational Safety and Health Act, when it was enacted, said that there would be regulations telling workers what they were exposed to.

MANCUSO. The problem, unfortunately, is that the worker is not being informed by the company as to the toxic chemicals to which he's being exposed.

In other words, the law is not being complied with.

It is one thing to have a law, but if you can't implement it, or if the roadblocks are set in such a way that the regulations are not carried out, the law has no meaning. The point is, workers themselves must therefore bring about implementation. And the only way they can do that is to become sufficiently informed themselves, so they will know the difference on the job and can demand or request that the information to which they are entitled be provided to them.

BRAZDA. Dr. Mancuso, have you found that in some cases workers resist complying with the laws, or resist following safety practices? Maybe they find mouthpieces uncomfortable or helmets ungainly to wear.

MANCUSO. I have not really found that at all—I've heard that story used several times, particularly by industry—for example, that they see a particular problem and they want respirators used, and then they use the excuse that the workers don't want to use the respirators.

But that isn't the point. The point is, they should control the environment so that respirators are not necessary—in other words, there are industrial ventilation control procedures, there are manufacturing processes, that will control the problem. The idea of relying upon the respirator as a control measure is false.

DAGLER. Mr. Samuels, one of the current concerns now is women in the workplace—concern for the unborn child. Dr. Mancuso, in his book, recommends pre-employment physical examination. How does the labor movement feel about pre-employment examinations and about women in the workplace, as far as equal employment opportunities go?

SAMUELS. Well, it is very important that we always determine the workers' ability to perform a task, so pre-employment examinations are important.

However, there are other rights of workers which simultaneously need to be protected—the right of a woman to have a workplace in which she and her unborn baby are safe—and, I might say, the right of a man not to have his basic genetic makeup changed so that it would affect his children. There are rights which we can not permit to be violated.

If you have adequate standards, you protect not only the women in the workplace, but also the men.

MANCUSO. I'd like to add to that particular point, because what it emphasizes is the tremendous range of the scientific unknowns, relative to the industrial chemical environment.

There never have been the thousands of studies necessary to determine what has happened to the workers and what will happen to them.

This particular area that you are discussing is extremely important, but has been totally neglected.

The animal experimental work that has been done in the past has not been effective, has been found not to be sensitive enough to detect the harmful effects. As a result, we're basing our present operation on inadequate, crude, experimental evidence of the past.

What needs to be done is a tremendous effort to identify and study industrial chemicals, not only individually, but in combination.

Another point relative to this—recently, some experimental work was done in which they took industrial material of a fire-retardant polyurethane material and subjected it to heat. They found out it liberated a highly toxic chemical that was six times more toxic than the chemical warfare agent and more toxic parathion, which is a toxic insecticide. The point is, it is not only the thousands of industrial chemicals that are being introduced into the work environment, but also the thousands of industrial chemicals that are being liberated when these materials are subjected to heat or other processes which, in turn, have not been tested for their toxicity or carcinogenic effects. So in effect, the industrial population of society as a whole, which has to pay this price, is subjected to a tremendous number of scientific unknowns.

BRAZDA. Well, Dr. Mancuso, what does the worker do? He is working in a plant where there may be a toxic substance present—it may be odorless—it may be a dust that is virtually invisible. Does he become suspicious at all times? What does he look for? And, having found something that he may find suspicious, how does he detect this? And then, what does he do with the information?

MANCUSO. Well, first what we are trying to do with this book, "Help for the Working Wounded", is the first approach in developing a means of recognition among the industrial population as to what's happening to him and his fellow workers.

There are other stages of development relative to this recognition that we can foresee. I would recommend that in each plant they develop a toxic materials manual, in which, at each plant, there would be recorded all of the chemicals being used at that particular plant, all the chemical components of those trade-name products, the toxicity, the symptoms, and the preventive and control measures. This manual would be available to the worker and to his health and safety representatives—and, of course, to his doctors—so that the worker then has access to what is really being used in his plant and the best methods to control it.

DAGLER. Dr. Mancuso, do you feel the plant physicians and the plant nurses are sharing the information on worker exposure? I know that a number of years ago, the American Medical Association was trying to do some research on various chemicals and it got no response from plant physicians—or very little response. Is this a concern—because the physician is paid by the company—or what is the problem?

MANCUSO. There are several problems in your question. One, of course, is that the person—the key person—who is in a position to recognize the occupational disease in the plant is the industrial nurse. But unless the industrial nurse is trained in occupational diseases, she is not going to recognize this.

Secondly, the physician in the plant, who is really recruited from general practice to provide the industrial medical service—unless he is trained in occupational diseases and the recognition of occupational diseases—is not going to recognize them either.

So basically, we must recognize the fact that a system must be developed—that there be an on-going program for the training of industrial nurses and the training of physicians in the plants. That's the first step.

The second thing is, there must be developed a recognition of responsibility to the workers—the patients of that doctor and of that nurse. They are not the patients of the company. In other words, the professional relationship must exist between the doctor and the nurse, and the worker, just as it is in private practice.

BRAZDA. What about in a very small plant, in a small town, which may have no doctor? What do the workers do under those conditions?

MANCUSO. Well, he's really in a very, very difficult spot—he's worse off than anybody—because he has to go to his general practioner, his private physician, who, in turn, may not know anything at all about industrial diseases.

Doctors have never been trained in the concept of industrial diseases; doctors have been trained in the concept of infectious diseases—micro-biological concept of disease, the concept that bacteria and viruses cause disease, and the short latent period—the short incubation period—in which a disease can develop.

But this contrasts with chemicals—chemicals may cause death within minutes, too, but usually, they take a long period of time. Doctors are not trained in this.

What we need, really, is an organized effort by the medical societies, and all of the medical profession, and the medical schools, and the government, to develop an on-going program of in-service training for the physicians in practice, so that they will be able to identify the hazards.

We are trying, in this book—this "Help for the Working Wounded"—to actually bring the work environment to the doctor. We are trying to train the worker to recognize what factors and what information he must bring to the doctor, so that he brings his work environment to his doctor—so the doctor can make a better judgment and evaluation of his illness.

DAGLER. Mr. Samuels, Dr. Mancuso has talked about the problems of toxic substances and chemicals. Isn't legislation now pending in Congress to provide some kind of pre-market testing for toxic chemicals?

SAMUELS. For five years the labor movement has been a primary supporter of a pre-market testing bill—the Toxic Substances Bill—which is before the Congress at this time.

But that segment of society that expects workers to die for the right to work has been very successfully opposing passage of that bill.

I'd like to add one comment to what Dr. Mancuso was talking about.

It is true that we need exactly the kinds of tools that Dr. Mancuso is talking about, in terms of listing and describing the exposures of workers. When Dr. Mancuso talks about a family physician making a diagnosis based on a physical examination and some knowledge of what the worker is exposed to, this assumes that the worker has the right to have this information.

The fact is, the right to know what the

worker is exposed to, in the law, is embodied in the standard. And as you know, Sandy, there have been only three new standards promulgated in the five years that the Act has been in effect.

That means for hundreds—perhaps thousands of chemicals—no information of consequence is available to the worker.

It also means that the medical records the family physician needs—that the company may generate—these, also, are not available to the worker and to his physician.

Brazda. Dr. Mancuso, it sounds like a fine book—it is a fine book—I've looked at it—and it could be very helpful. How does an interested person go about obtaining it?

Mancuso. Copies of "Help for the Working Wounded" can be ordered from the IAM Public Relations Department, 909 Machinists Building, Washington, D.C. 20036.

The single copy cost is $1.00, which only covers the cost of printing and handling. For bulk orders, $75 for 100 copies.

Brazda. Will there be regular distribution throughout the labor movement?

Mancuso. Yes, this will be distributed to all of the international unions throughout the United States, and to all of the local unions of the International Association of Machinists.

We're hopeful, also, that every worker will take a copy of "Help for the Working Wounded" to his doctor—company doctor, family doctor.

Harden. Thank you. Today's Labor News Conference guests were Sheldon Samuels, director of health, safety and environment for the AFL–CIO Industrial Union Department, and Dr. Thomas F. Mancuso, medical consultant to the International Association of Machinists and Aerospace Workers, AFL–CIO. Representing the press were James Brazda of Washington Report on Medicine and Health and Sandra Dagler of Occupational Safety and Health Report. This is Frank Harden, inviting you to listen again next week. Labor News Conference is a public affairs production of the AFL–CIO, produced in cooperation with the Mutual Broadcasting System.

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REMARKS BY CONGRESSMAN PHIL CRANE

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 4, 1976

Mr. PAUL. Mr. Speaker, over the last decade we have seen Federal outlays for education about double, while the accompanying maze of Federal rules and regulations seems to have increased by geometric proportion. Federal money represents only about 7 percent of the total spent on education, yet the amount of control exerted by Government bureaucrats is far greater than this figure would indicate.

Recent controversies over busing and textbooks are merely symptoms of a growing concern over control of the decisionmaking processes in education. We need to reverse the flow of power to Washington and restore it to those best able to make decisions regarding the education of our children—those, at the State and local levels.

With regard to this issue, I call to your attention an address delivered by our colleague, Congressman Phil Crane, at the first annual educators conference at Hoffman Estates, Ill., on July 24. As a former educator and school administrator, he is well qualified to speak on the subject of the Federal role in education, and I commend his remarks to you:

CONGRESSMAN CRANE'S REMARKS, FIRST ANNUAL EDUCATORS CONFERENCE, HOFFMAN ESTATES, ILL., JULY 24, 1976

Thank you, Mr. Chairman, it is a pleasure to be here in Hoffman Estates today, and I want to express my thanks to all those who have helped make this conference possible. A special debt of gratitude is due the representatives of the office of education and the Federal Mediation Service for joining us today and to those of you working with education here in Cook and Lake Counties for taking part of your weekend to meet with them. Hopefully, the effort will be beneficial to all concerned, ultimately rebounding to the benefit of those who have the most at stake—the children attending area schools.

In a way, being here also represents a homecoming of sorts for me. While it seems like only yesterday, I am reminded that I was in this very auditorium three years ago, again with Bob Creek, to help dedicate this school. One can only hope that what is being inaugurated today will fare as well as Hoffman Estates High School has since it inauguration.

However, I would be kidding myself, and deceiving you, if I did not point out that there is a fundamental difference between the two events. In a very real sense they are symbolic of the old and the new in American education. On the one hand, a high school dedication represents a fulfillment of the traditional American concept of public education locally controlled. On the other hand, the need for an education conference with Federal, State and local officials points up the relatively new but rapidly growing role of the Federal Government in our Educational process. Quite Frankly, while I heartily approve of dialogue to help in the transition process, I question the wisdom of the transition in the first place. History has shown that the people closest to a given situation know how to solve it best and education is no exception to that general rule. In fact, the academic achievements of our people, educated as most of us were in locally controlled public school systems, speak eloquently in support of that rule.

Be that as it may, the increasing Federal role in the field of education is a fact of life. On the heels of Federal money has come a welter of rules and regulations, some confusing, some annoying, and many contrary to the desires of a vast majority of Americans. The question becomes not just a matter of how to reverse the trend, but how to maintain quality education in the meantime. Unfortunately, it appears neither will be easy.

Ironically, the amount of Federal control over education far exceeds the amount of Federal aid to it. Recent estimates indicate that, on average only 7 percent of the money spent on education comes from the Federal Government and, in this school district, (school district 211), I am told that the percentage is far smaller than that. Making matters even worse, many States, including Illinois, pay in far more in taxes for education than they ever get back in aid to education. In fiscal 1974, for instance, Illnoisans paid approximately $20 billion in Federal taxes, approximately $440 million of which should have gone for education based on the fact that 2.2 percent of the budget for that year went to education. However, when the final figures were in, it turned out that Illinois got back only $227 million in moneys that could be used for education—or 52 cents on the dollar. In short, Federal aid is not the gift that some people think it is even if one discounts the busing, the affirmative action programs, the title IX requirements, and the paperwork that so often accompanies it. Sons and daughters of Illinois taxpayers are thus cheated out of the precious education dollars that are rightfully theirs, and harassed on top of it.

However many dark clouds there may be, and as a former teacher and school administrator I know there are many, I am not persuaded that this is an irreversible situation. Discontent over increasing Federal control coupled with concern over a decline in educational standards that has taken place in many areas of the country has prompted the administration to propose, for the third time in the last three Congresses, legislation that would continue Federal aid while reducing Federal strings. While far from perfect, the very existence of such legislation is an encouraging sign. It is an acknowledgement—from at least one quarter in Washington—that the people at home know more about their problems than do the elitist minded meddlers on the banks of the Potomac.

At present, Federal aid to education is dispensed through more than 100 categorical grant programs. As most of you are only too aware, applying for money under these programs not only involves compliance with requirements reflecting national norms rather than local circumstances but requires a tremendous amount of time-consuming paper work. What the administration proposal would do would be to consolidate 24 of these categorical grant programs into a single block grant proposal providing $3.3 billion in fiscal 1977 and increasing by an increment of $200 million for each of the three years following. While this would not end the "ripoff" of taking two education tax dollars out of Illinois for every one we get back, still no State would lose money under this proposal and Illinois would be the biggest gainer dollar wise. A recent Library of Congress study indicates that Illinois would get almost $3.5 mililon more under this plan in fiscal 1977 than it did under the existing system in fiscal 1976.

There are arguments for and against this approach, arguments that underscore the differences betwen the bloc grant and the categorical grant programs. Without doubt, consolidation of categorical grants into bloc grants would save money. Inasmuch as the latter are akin to revenue sharing programs, administrative costs would be far less for the Federal Government. As HEW Secretary David Mathews pointed out not too long ago, it costs about one-half of 1 percent to administer Federal revenue sharing but usually above 10 percent to run these categorical grant programs. Moreover, allowing States to decide how the money will be spent could mean greater flexibility in the implementation of education programs.

On the other hand, switching from categorical grants to bloc grants only gives greater flexibility as to how the money will be spent, not more local control over whether the programs in question are going to be adopted in the first place, how much money will be raised, or how much of it will be needed. Furthermore, this particular proposal has enough Federal Guidelines in it that it is questionable (1) how much additional flexibility in decision making will be achieved and (2) if the administrative savings to the Federal Government will not be offset by added administrative costs to the State governments. Unless some of these guidelines and strings are removed, perhaps the most that could be said for this proposal is that from the standpoint of local school systems, it would mean one less master to answer to in some instances.

At present, the administration proposal is in the House Education and Labor Committee, two days of hearings have been held on it, but at this point there seems little prospect that anything further will happen on it until next year. I should also point out that, while this proposal strongly resembles the education revenue sharing proposals introduced in the 92d and 93d Congress, it has some differences. For one thing, it consolidates fewer categorical grant programs; for another, it does not get into this business of impact aid as the 1973 proposals (known as the Better Schools Act) did.

Before leaving the subject of categorical grants, bloc grants and revenue sharing, I should additionally note that the general revenue sharing bill, which passed the House June 10 and is now pending in the Senate, dropped the existing prohibition against local governments using their share of general revenue sharing moneys for education. While the lack of accountability inherent in revenue sharing concerns me, as does the fact that there are no surplus revenues to share—only deficits—I do feel this is a step in the right direction. If a local government wants to spend its revenue sharing money on schools it ought to be able to.

Shortly after the House acted on general revenue sharing, the Supreme Court handed down a decision that should not only affect the future of that legislation but also the drive toward collective bargaining rights for public employees—such as teachers. By ruling, as the court did in National League of Cities v. Usery, that the Federal Government could not dictate wages and working conditions for employees of state and local governments. The court seems to be suggesting that the Federal Government could not apply the provisions of the National Labor Relations Act, which provides for collective bargaining (among other things) to State and local employees. If so, and the fact that these points were raised during consideration of the case would suggest it is so, then the danger that the Congress would pass bills like H.R. 77 or H.R. 1488 is certainly reduced. Of course, State law may still be changed to provide for collective bargaining for its own employees, but it is less likely than ever that H.R. 77 or H.R. 1488 will come out of committee in the near future.

On another matter that I know is of concern to you, particularly to those of you in school districts facing a reduction in personnel due to declining enrollments, the House passed without my support an unemployment compensation revision bill just last Tuesday. Under terms of the bill, which now goes to the Senate, unemployment compensation coverage would be extended to approximately 7.7 million local government employees. About the only redeeming feature of this is that the bill at least prohibits the payment of unemployment compensation benefits to permanently employed teachers during times when school is not in session and it allows states to deny benefits to nonprofessional school employee during those periods.

Obviously, if this bill is enacted it will cost local governments millions of dollars. In introducing an amendment to remove coverage employees of State and local governments from the bill, my good friend and colleague Bill Ketchum estimated that cost at $1.2 to $2 billion a year and noted that many local governments would not be able to afford this cost. Unfortunately, the Ketchum amendment was defeated (212 to 186) but, it still seems to me that whether or not public employees are covered by unemployment compensation should, on both practical and constitutional grounds, be a matter for the local governments themselves to decide.

Significantly, the Supreme Court decision I mentioned a few moments ago, National League of Cities v. Usery, tends to support that view. Although the argument is not as strong as it is in the instance of applying collective bargaining provisions to employees of State and local governments, it can be argued that it is just as much a violation of States rights to dictate to State and local governments the type of fringe benefits they must pay their people as it is for the Federal Government to dictate wage scales and working conditions for State and local employees. I wouldn't be a bit surprised if there weren't a test case on this some where down the line.

Moving on to some other legislative items that I know are of interest to you, both the vocational education and the higher education authorization bill have passed the House and are pending in the Labor and Public Welfare Committee of the Senate. The former calls for $780.2 million for vocational education and $100 million for the National Institute for Education for fiscal 1977. In the case of higher education bill, it provides for $7.14 billion in funds for fiscal 1977, over $1 billion of which will go for basic educational opportunity grants.

About the only other education bill likely to be acted upon anytime soon by the House is the guaranteed student loan bill. However, with the job market today putting more and more emphasis on vocational and technical skills rather than on a college degree, one must wonder whether these loans are all that necessary or if, indeed, we aren't encouraging too many people to go on to college. I need hardly remind you that a good carpenter, plumber or auto mechanic makes far more than a Ph.D. in most universities—or most college graduates for that matter.

Before closing, I would like to mention one other legislative proposal that is in the works on a subject of keen interest to many of you—impact aid of all Federal aid to education programs. I have long felt that impact aid was the most justified. It is hardly fair to expect a local subdivision having a military base within its jurisdiction to educate the children of personnel living on the base when it cannot levy property taxes to compensate. The local government loses two ways; there are more children to educate and a smaller tax base to draw from. Certainly, the citizens of the community should not have to absorb that loss when it is not of their own making.

Less conclusive, however, is the argument that school districts should be compensated for category B children, those whose parents work at a Federal installation but live in the community and therefore pay property taxes to it. At present, the school districts get 40 to 50 percent of the cost of those pupils reimbursed by the Federal Government. But, to my way of thinking, a better way of handling this impact aid business might be to base reimbursements on the assessed value of the Federal property rather than on the number of children attending local schools. Congressman Ketchum will be introducing a bill along those lines in the next week or two and I want to look at it carefully. On the surface, it would seem that such a solution would not only be simpler, but would be fairer and less controversial. However, I would like your opinions on this before I proceed as I know that impact aid is extremely important to a number of school boards in this area.

The aforementioned impact aid proposal also highlights the fact that impact aid is a tax matter more than an education matter. At the root of the problem is the loss of tax revenue to local communities so, at the very least, I think impact aid should be transferred to the jurisdiction of the Ways and Means Committee on which I serve. An effort has already been made along these lines and I plan to make another one shortly.

One could go on almost indefinitely about Federal aid to education programs so numerous have they become but, instead, I thought I would close with a quote by Justice Louis Brandeis who once said "experience should teach us to be most on guard to protect liberty when the Government's purposes are beneficent. Men born to freedom are naturally alert to repel invasion of their liberty by evil-minded rulers. The greatest dangers to liberty lurks in insidious encroachment by men of zeal, well meaning but without understanding."

BORN FREE

HON. JAMES P. (JIM) JOHNSON

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 4, 1976

Mr. JOHNSON of Colorado. Mr. Speaker, on Sunday, July 4, 1976, I attended church services at the First United Presbyterian Church at Fort Collins, Colo. I was fortunate enough, on that great day of celebration for our Nation, to have the opportunity to hear the sermon of the Reverend James William Baird, an outstanding religious leader and a close friend. During services, I was very moved by Dr. Baird's words and found them highly appropriate for this most important time in our Nation's history. I wish my colleagues to have the opportunity of reading the very special thoughts Dr. Baird brought to us on our Bicentennial, and the text of his sermon, based on Acts 22: 27–28, follows:

BORN FREE

(By Dr. James William Baird)

"Then the chief captain came, and said unto him, Tell me, art thou a Roman? He said, Yea.

"And the chief captain answered, With a great sum obtained I this freedom. And Paul said, But I was free born."

May I change just one word in two verses of our scripture? I think this change will bring it right down to the moment. I want to change Roman to American. " 'Is it lawful for you to scourge a man who is an American, and uncondemned?' When the centurion heard that, he went and told the chief captain, saying 'Take heed what thou doest, for this man is an American.' The captain came and said to him, 'Art thou really an American?' And he said, 'Yes.' The captain said, 'With a great sum of money obtained I this citizenship.' But Paul said, 'I was born a citizen.' "

"I Was born free." With what pride Paul made that statement. What a tremendous thing it was to be a citizen of the Roman Empire. Many advantages, many privileges went with citizenship in that empire. Most of the people in the empire were slaves, serving the citizens of Rome. But a citizen could not be a slave. There were many who, like the Roman centurion, had purchased citizenship with great sums of money in order to enjoy the privileges and benefits of that citizenship. It was a very rare and wonderful thing when one could say, as Paul did that day, "I was born a citizen of Rome." And so he was. Born and reared in the city of Tarsus. Son of a freed man. His father was a merchant in the city of Tarsus, a man of affairs. Paul had grown up without ever knowing the day that he was not a citizen of Rome. "I was born a citizen," Paul said.

One has but to travel abroad to sense something of the pride with which Paul made that statement. I think it is a high moment when an American overseas comes to the border gates of one nation, preparing to cross into another, and holds up his passport, which says, "I am an American citizen." Immediately gates are opened, doors are unlocked, opportunities are extended and courtesies offered. The traveler abroad realizes that it is a high and holy privilege to be an American citizen.

There are, however, certain hazards in this business of being born free, of having received this inheritance of citizenship by virtue of the place of one's birth. That hazard is that we take it for granted, that we assume that all men around the world are as free as we are. We tend to think that freedom is something automatic rather than something which must be fed, nurtured and protected. We who were born free assume that freedom is our right rather than a gift which has been purchased for us at great sacrifice. To understand this, one has but to talk to people in various parts of the world and hear the longing in their voice as they speak of the rights which you and I inherited and experience each day of our lives. The great hazard is that we shall become indifferent to the rarity of our freedom and of our citizenship.

We Americans need to rediscover that the roots of this freedom which we enjoy lie not just in a declaration of independence on the part of thirteen colonies, but in what lies behind that declaration: the longing and the hope of multitudes in England and Scotland, and on the continent of Europe, enslaved by tradition and culture and custom. We need to remember that ours was a bold experiment and to realize again that behind that experiment was the spiritual revolution of the Protestant Reformation which spilled out across Europe and the Atlantic, into the colonies, and planted a dream of freedom in terms of certain God-given, inalienable rights.

One needs to remember that America's freedom emerged from such things as the spiritual and intellectual renaissance of western Europe. To appreciate the freedom that we have, one needs to stand in an ancient cemetery of Europe or Great Britain, and read the inscriptions on the tombstones much of the lettering almost washed away by time—the names and the message of the martyrs who died for the day when such a nation as ours might be born. Those who died for religious freedom. Those who died for human dignity. On one tombstone in the city of Edinburgh there is a mass grave on whose stone is written these words: "Beneath this stone lie the bodies of some of the 18,000 people who died in Edinburgh rather than give up their faith in Jesus Christ."

We need to hear again the words of warning to the Western world that have come to us from Alexander Solzhenitsyn, when not many months ago he said to the people of Great Britain: "How is it that people who have been crushed by sheer weight of slavery and cast to the bottom of the pit, can, nevertheless, find strength in themselves to rise up and free themselves; first in spirit and then in body; while those who soar unhampered over the peaks of freedom, suddenly lose the taste of freedom, lose the will to defend it, and, hopelessly confused and lost, almost begin to crave slavery?"

We need to remember the words of Jesus Christ: If you continue in my Word, then are you my disciples; and you shall know the truth and the truth shall set you free."

To be free is much more than merely to be rid of restraint. True freedom is the opportunity to choose that upon which one wills to be dependent. Freedom is actually the opportunity to choose one's restraint. Fragile man cannot stand alone by virtue of his own strength and ability. He needs something that is larger than himself, that is higher than himself, upon which he may lean, to which he may cling. Thus, freedom becomes our right to choose that upon which we shall lean and to which we shall cling. And it is the right to change our minds if we so choose.

Walter Lippman has written, "We are free if we have the faculty of knowing what we ought to do, and then have the will to do it." Freedom lies not necessarily in each man's doing his own thing in isolation. It is rather in the recognition that together we need to seek that which is the highest and best upon which to rest our lies, our future and our hope. The poet has expressed it beautifully when he wrote: Make me a captive, Lord, and then I shall be free. Force me to render up my sword, And I shall conqueror be.

Thus, freedom is the recognition that ultimately God is in control. The framers of our Declaration of Independence and Constitution recognized that at the heart of human freedom lies the reality of the truth of God, Who alone sets men free when they surrender themselves and their destiny into His hands.

Abraham Lincoln, in the time of the Civil War, said one day to his newspaper friend, Noah Brooks: "I've been driven many times upon my knees from the overwhelming conviction that I had nowhere else to go."

Thus freedom carries no compass of its own. Its only north star is Truth. As Jesus said, "I am the way the truth and the life. You shall know the truth and the truth shall make you free." Herein therefore lies our freedom: in the quality of our faith; in the dedication of our lives to the pursuit of truth, behind which is the reality of God. Only when we, as a people, by virtue of our lives, continues to seek that truth that He reveals, shall we continue to be free.

To freedom there is another side which we must note this morning. That is its price. Freedom is the floor of morality and of discipline. We need to remember that this freedom which you and I enjoy has been purchased at a fantastic price. I wish every American could stand in the American National Cemetery in Northern Italy, as I have done. There the hillsides and the quiet valley are literally filled with thousands upon thousands of the white markers that declare the last resting place of American men and women who died in the cause of freedom.

This is not an isolated situation. Here and there across the surface of this globe, similar holy shrines exist. We are reminded again that freedom survives only to the extent that there are those who continue to believe that there are values worth dying for. The spiritual qualities of the human heart are the dynamics of human freedom.

Freedom is the crisis of faith. It is not legislated. It is not dictated. It cannot be bought or sold. It is in that area of what people believe. It is rooted in that concept of human faith in the highest and the best. Thus freedom is not discarded inhibitions. It is the crisis of faith. Democracy is a political organization based on faith. Faith in God and in one another. Faith in the ultimate worth of all human beings. Faith in the moral low. Faith in the possibilities of redemption and the power of love. Faith in the belief that righteousness overcomes evil.

During these past few weeks, I have stood in the midst of the ruins of greatness—of castles and of government halls, of places of ancient justice—realizing again how futile is the greatness of man as it is spelled out in things material. But the faith and the honor of mankind live on in the flower of nations such as our own, and of persons who continue to uphold that faith in the quality of their lives. Freedom is indeed the crisis of human faith.

As we celebrate our nation's birthday today, we recognize again that the ultimate freedom for which, by which and within this nation was founded is that which God alone can give, through Jesus Christ. It is Citizenship in an everlasting Kingdom of God. Herein lies our final commitment.

Perhaps the ultimate in freedom is illustrated in the fact that I, the descendant of simple Scots who were unlearned and poverty-stricken, could return and stand in the ruins of ancient greatness, in judgment upon the sins of those who ruled over them. It is a freedom purchased by the longing and the sacrifice of human heart, rooted in the bloodstream by the spirit of God as He calls men to fulfill His purpose.

Thus our nation was given its birth. Though in many, many ways she has not fulfilled her dream, she continues to believe in it and to struggle on to its final fulfillment. Changing the human heart and human society are not separate tasks. They are as interconnecting as the beams of the cross. Jesus was a revolutionary who offered no ideology. He offered Himself. And in Him we are set free, first, from sin and death; and second, from the chains of man's inhumanity to man. We stand with Paul, and say with pride, "I was born free."

REVIEW OF AVIATION LEGISLATION ACTIONS 1975–76

HON. JAMES ABDNOR

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 4, 1976

Mr. ABDNOR. Mr. Speaker, although we have a number of weeks remaining in the current session of the Congress, with the onrush of closing activity closer at hand than we might realize, we are at time for assessment of the actions which have been taken as well as those not taken in this Congress.

It has been my privilege and pleasure to serve on the Aviation Subcommittee of the House Public Works Committee. Our subcommittee has enjoyed a busy and productive schedule, dealing with a variety of matters of significance not only to those involved in aviation but to the Nation as a whole.

It is not possible to touch on every single item which our subcommittee considered, but I would like to take this time to provide a brief review of our activities.

This report, I should note, has been developed through the capable cooperation of the subcommittee staff which has demonstrated its responsibility and dedication to the advancement of aviation as an integral part of our progress and development as a Nation.

AIRPORT AND AIRWAY DEVELOPMENT ACT AMENDMENTS OF 1976, H.R. 9771, PUBLIC LAW 94-353

The Congress completed action on H.R. 9771 June 30, 1976, and the bill was signed into law July 12. Legislation modifies and extends (fiscal years 1976 through 1980) authorizations for several programs administered by Federal Aviation Administration (FAA) and funded from Airport and Airway Trust Fund, including following:

Airport Development Air Program (ADAP): Authorizes Federal grants for airport development upon application by local communities. About 86 percent of program is for air carrier airport development; about 14 percent for general aviation airport development. Distribution of air carrier portion based on enplanement formula; distribution of general aviation portion based on relative State area/population ratio. $15 million set aside for commuter service airports; $15 million set aside for reliever airports. Total of $2.735 billion authorized for ADAP during five-year period.

Facilities and Equipment (F&E): Authorizes expenditures for capital costs of acquiring airway system facilities and equipment. Total of $1.250 billion authorized for F&E during five-year period.

Maintenance of Airway Facilities: Authorizes expenditures for certain costs of maintaining airway system facilities and equipment. Total of $1.150 billion authorized for Maintenance during five-year period.

Public Law 94–353 places greater emphasis on development of smaller air carrier airports, as well as commuter service and reliever airports; mandates improved National Airport System Plan, limited terminal development at air carrier airports, and increased State role in general aviation airport development.

EMERGENCY LOCATOR TRANSMITTERS—ELT'S—H.R. 8228

House passed H.R. 8228 February 17, 1976, but Senate has not yet acted. Bill would retain statutory requirement for ELT's and categories of aircraft exempted, but requires FAA to issue regulations to permit operation of ELT-equipped aircraft when ELT has been removed for inspection, repair, modification, or replacement. H.R. 8228 is intended to provide needed flexibility in such circumstances without derogating safety.

WAR RISK INSURANCE PROGRAM

(1) H.R. 8564 (Public Law 94–90): Congress completed action on H.R. 8564 July 31, 1975, and bill signed into law by President August 9, 1975. Legislation extended War Risk Insurance Program, in effect since 1951, until May 1976. Under program, FAA insures civil aircraft against war risks when (a) President determines commercial operations into war zones are necessary and (d) commercial coverage is not available. Public Law 94–90 also mandated Administration study to determine if program should be expanded to include coverage for other risks, such as highjacking, riots, and vandalism not arising out of war situation. Administration report recommends authorization be granted to provide such additional coverage.

(2) H.R. 13308: Congress completed action on H.R. 13308 July 20, 1976, and bill now awaiting action by President. Legislation would extend War Risk Insurance Program as is for one year to provide time to study Administration recommendations for extending coverage to other risks.

PUBLIC NOTICE OF AIR FARE CHANGES, H.R. 7017

House passed H.R. 7017 February 17, 1976, but Senate has not yet acted. Bill would require Civil Aeronautics Board (CAB) to decide no later than 15 days prior to effective date whether to allow proposed passenger fare and freight rate changes to go into effect. Thus, public would receive 15 days notice of CAB denial of such proposed changes. At present, CAB decision may be made any time prior to effective date—thereby precluding advance notice of denials.

RELEASE OF RESTRICTIONS ON USE OF SIX AIRPORTS

On March 11, 1976, Congress completed action on six bills[1] to authorize release of certain Federal restrictions on use of six public airports formerly owned by Federal government, and all six bills were signed into law by President on or before March 24, 1976. All six airports were conveyed to respective local jurisdictions under Federal Airport Act which precluded use of properties for other than airport purposes. All six bills authorize release of restrictions to permit affected jurisdictions to sell or lease portions not needed for airport purposes for industrial and other compatible uses at fair market value.

NATIONAL TRANSPORTATION SAFETY BOARD AUTHORIZATION, H.R. 12118

House passed H.R. 12118 on May 17, 1976; Senate Commerce Committee reported similar bill, S. 2661, on May 14, 1976, but full Senate has not yet acted. Primary function of National Transportation Safety Board (NTSB), an independent agency, is to investigate major transportation accidents, notably aviation accidents, and to recommend improved safety measures on basis of findings. H.R. 12118 would establish NTSB funding authorization levels at $3.8 million for the transition quarter ending September 30, 1976, $15.2 million for fiscal year 1977, and $16.4 million for fiscal year 1978. Heretofore, major activity of NTSB has been investigation of aircraft accidents, but H.R. 12118 mandates greater emphasis on investigation of highway accidents.

AVIATION HEARINGS, 1975–76

AIRLINE DEREGULATION, H.R. 10261

Aviation Subcommittee conducted lengthy hearings on Administration proposal (H.R. 10261) to reduce Federal role in regulation of airline routes and fares. Administration testified increased competition would strengthen industry, improve service, and reduce fares; airlines view proposal as disruptive and likely to damage air transportation system. Aviation Subcommittee may act on airline deregulation legislation during 94th Congress, but any bill reported expected to be far less comprehensive than H.R. 10261.

AIRCRAFT NOISE

Aviation Subcommittee thoroughly examined Federal role in reducing aircraft noise, technical feasibility of reducing aircraft source noise, and means of achieving meaningful aircraft noise level reductions within foreseeable future. Airlines opposed retrofit of existing aircraft as excessively costly and ineffective, but other witnesses urged prompt adoption of remedial measures to alleviate problem. Numerous bills to require action pending. Administration recommendations for retrofit/replacement program awaited. Not yet determined whether Aviation Subcommittee will proceed with legislation during 94th Congress.

AIRLINE MUTUAL AID PACT

Mutual Aid Pact is agreement among several large and small airlines under which struck carriers receive payments from participating carriers to compensate for lost revenue during strikes. Airlines testified agreement is strike insurance; opponents view agreement as unfair bargaining tool. Several bills to abolish or modify agreement pending. Not yet determined whether Aviation Subcommittee will proceed with legislation during 94th Congress.

INTERLINE SERVICE FOR INTRASTATE AIRLINES, H.R. 10560

At present, intrastate airlines (serving points within single States) are not permitted to provide through ticketing, connecting, and baggage service for interstate passengers aboard interstate airlines. H.R. 10560 would enable intrastate airlines to provide such services through Federal certification, and they testified bill would benefit public; interstate airlines stated proposal would permit unfair competition. Not yet determined whether Aviation Subcommittee will proceed with legislation during 94th Congress.

AIRLINE ECONOMICS

Investigations and Review Subcommittee and Aviation Subcommittee conducted joint hearings to receive testimony from presidents of most major airlines on current economic problems confronting industry. Witnesses focused on inadequate fare levels and rising costs—notably 300 percent fuel price increase since 1974. They cited resultant inability of industry to generate profits—thereby precluding purchase of new aircraft within foreseeable future to improve operational efficiency and reduce aircraft noise. No legislation expected to result.

REPORT OF SPECIAL AIR SAFETY ADVISORY GROUP—SASAG

At request of FAA, SASAG, a group of six retired airline captains, prepared report citing various aviation safety problems—notably in air traffic control. Testimony by SASAG group expanded on contents of report. FAA officials provided FAA views—some positive; others negative—on SASAG recommendations. No legislation expected to result, but Aviation Subcommittee intends to monitor problems SASAG group identified.

VIKING MISSION—A SEARCH FOR LIFE

HON. J. EDWARD ROUSH

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 4, 1976

Mr. ROUSH. The Viking mission to Mars is not only man's first serious search for the existence of extraterrestial life, but is a search to retrace our beginning and to predict our destiny.

Viking I was launched approximately 1 year ago and has traveled over 400 million miles to rendezvous with Mars at a current distance of 220 million miles from Earth. It seems such a brief moment ago that we were watching astronaut Neil Armstrong make the first human imprint of a planet when he stepped on the Moon surface on July 20, 1969. It is difficult to imagine that the distance to Mars is 900 times the distance between the Moon and the Earth. This distance is so great that it requires 19 minutes for a light or radio wave, which is the fastest motion known, to be transmitted between the two planets. The quality of the photographs we are receiving and the sophistication of the experiments being conducted on the Martian surface have required the dedication of thousands of our most prominent technicians and scientists. We salute these Americans and share their anticipation toward the receipt and analysis of data which has been specifically designed to search for traces of life on Mars. Within the scientific community, there is a great deal of excitement and controversy over the possibility of life in our galaxy. Cornell University astronomy professors Carl Sagan and Frank Drake stated in the May 1975 issue of Scientific American:

> Our best guess is that there are a million civilizations in our galaxy at or beyond the earth's present level of technological development. If they are distributed randomly through space, the distance between us and the nearest civilization should be about 300 light years. Hence any information conveyed between the nearest civilization and our own will take a minimum of 300 years for a one-way trip and 600 years for a question and response.

Dr. Sagan, who appeared in July of 1968 before a special symposium I chaired on unidentified flying objects for the House Science Astronautics Committee—now the Science and Technology Committee—is one of the few scientists who anticipates seeing macrobes on Mars. Macrobes are forms of life that are visible to the unaided eye.

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[1] H.R. 1313 Rolla, Missouri; H.R. 2575 Algona, Iowa; S. 270 (H.R. 2740) Elkhart, Kansas; H.R. 3440 Grand Junction, Colorado; H.R. 8508 Camden, Arkansas; and H.R. 9617 Alva, Oklahoma.

The search for life is the most exciting adventure ever undertaken by man. Even if we do not find a trace of life during this mission, the scientific and technological experience we have gained is immeasurable. The questions we could ask, and should ask, are limited only by our own imagination. The expansion of the American frontier, indeed of man's frontier, has just begun. I am thrilled that I have been a part of this great adventure since 1959 as I was a charter member of the House Science Astronautics Committee, and after an involuntary 2-year sabbatical, I now serve on the House Appropriations Committee which oversees funding for our space program. The American Bicentennial finds us celebrating not only the prodigious accomplishments we have achieved in our brief 200-year history, but finds us marveling at the American genius which has placed our country as the world's leader in the search for life.

Viking II will be landing on Mars later this month and will join Viking I in gathering data. Whatever the biological results of this mission, we have learned one important lesson—we have the expertise to continue to search the heavens for the answer to the most basic questions man has asked himself since life began on our planet—where is my past, and where lies my future? The answers to these questions may be only an incredibly brief space trip away.

REPUBLICAN PRESIDENTIAL NOMINATION

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 4, 1976

Mr. DERWINSKI. Mr. Speaker, as a longtime, impartial observer of the national political scene, I am somewhat dismayed by the lack of attention being accorded to a slowly but steadily escalating saga which would add a fascinating chapter to our political history.

In the past, I have had little difficulty in recognizing the value of priorities involved in gathering and disseminating the news. Now, however, I am somewhat puzzled by the news media's dilemma in trying, on an almost around-the-clock basis, to unravel and interpret the pre-convention vote strength of the two reputed principal contenders for the Republican Presidential nomination.

Evidently, the news media knows there is nationwide interest in whether the convention delegate from West Worthington Falls is tilting to President Ford or Ronald Reagan. For me, it conjures up memories of the old Abbott and Costello routine of "Who's on First."

In moving delegates into and out of the Ford and Reagan columns, the news media still must tell us what effect Senator RICHARD SCHWEIKER will have on Reagan's chances for the nomination. Who will Ford tap to be his running mate? In alphabetical order it could be Ambassador Anne Armstrong, Senator HOWARD BAKER, John Connally, Nelson Rockefeller, or some political unknown.

In its scrambling to keep us posted on these monumental developments, I think the news media may be missing a genuinely significant happening. The carefully scripted scenario for that event reads like this:

With Ford and Reagan on the edge of exhaustion in their titanic struggle for the Presidential nomination, there will be no first-ballot decision at Kansas City. A deadlock will ensue, but when the smoke clears, there, standing in the convention spotlight, will be Harold E. Stassen. He knows he is a winner because the people immediately recognize his experience in both domestic and foreign policy and that he has been right on the great issues confronting our Nation. I know this is fact because Stassen told me so in a recent letter explaining how he could unite our party and the majority of the American people.

With Stassen as the Republican standardbearer, the list of issues for reportorial exploitation almost boggles the mind. How, for instance, could Jimmy Carter be considered the only bona fide "mystery candidate" if forced to compete with a man who would be making the quantum jump from a footnote in history to center stage? Then there are the public pollsters. They would have to take new public opinion samples, and personnel in foreign embassies would have to work overtime in researching and explaining Stassen's 1948 speeches to their respective governments.

As you can see, Stassen's candidacy has all the ingredients for the "big" political news story of 1976. Be that as it may, I must acknowledge I am still vigorously supporting President Ford.

Now, let me see. The last count I had was.

The letter follows:

HAROLD E. STASSEN,
Philadelphia, Pa., July 19, 1976.

Congressman EDWARD J. DERWINSKI,
Longworth House Office Building,
Washington, D.C.

DEAR CONGRESSMAN DERWINSKI: Now that all of the Republican delegates have been elected, and it appears that neither of the two campaigners have a majority of the delegates, may I respectfully write to you personally to invite your consideration; if you are uncommitteed, of a vote for me on the first ballot; and if you are committeed, of a vote for me on later ballots if your first ballot candidate does not succeed.

I am confident that if the admitted near-miracle occurs and I am nominated, I can unite our Republican party and unite the majority of the American people in November for an election victory.

But more important, I am confident that I could lift and lead our country to full employment without inflation, and to reestablish American leadership in the United Nations and in the world for peace, with developing justice and expanding freedom.

Informal samples of opinion taken with the enclosed ballot indicate that fourteen percent of the voters, who are independents and democrats, would swing from Carter to me, and this makes the crucial difference for victory.

It appears that notwithstanding the lack of a campaign, and notwithstanding the humor and ridicule from some of the media, the people do recognize:

My extensive successful experience in both domestic and foreign policy;

The fact that I am and have been right on the great issues of our nation;

The unblemished record not only personally but also for the major administrations which I have conducted and have been responsible for, in peace and in war; and

The continuing commitment of fairness to all and favoritism to none.

The policies and programs which I would follow would be new and up-to-date and forward-looking; but they would all be based on sound, tried, and tested principles and broad experience. Some of my Minnesota friends will be sending you a copy of my address to the Minnesota Republican Convention in June 1976, which gives some concrete details.

May I add that I have not at any time personally attacked either President Ford or Governor Reagan, and I will not do so.

You may easily check on the sentiments of the independents and democrats in your community by making copies of the enclosed ballot and by having someone take an informal ballot box sample.

I will look forward to seeing you at Kansas City.

With personal best wishes, as ever,
Sincerely,

HAROLD E. STASSEN.

CUBA AND THE PANAMA CANAL

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 4, 1976

Mr. McDONALD. Mr. Speaker, the U.S. Government faces many problems with some of the major ones in the field of foreign policy. Because of the cloak of secrecy surrounding the operations of our foreign policymakers, it is often a difficult task for Members of Congress to inform the people of the United States as to what is actually transpiring.

A highly illuminating story about this aspect of American politics is a recent book by Gary Allen entitled "Kissinger: The Secret Side of the Secretary of State." Replete with facts, it is an exposé of the House of Rockefeller and the drive to bring about the merging of the United States into the so-called New World Order. As such, the book, published by the '76 Press, Post Office Box 2686, Seal Beach, Calif., 90740, should be read by every American, especially Members of the Congress.

Chapter 7 of the book entitled, "Betraying Freedom in Latin America" is most timely in presenting the two key problems of the Western Hemisphere: Cuba and the Panama Canal.

The indicated chapter follows as part of my remarks:

BETRAYING FREEDOM IN LATIN AMERICA

The Nixon campaign rhetoric in 1968 promised a hard line against Communist excursions in the Western Hemisphere. But as in so many cases in the Nixon Era, while the conservatives got the rhetoric, the Liberals got all of the action. When Rockefeller agent Henry Kissinger was installed as adviser on national security affairs, it became apparent that "holding firm" meant giving the Communists almost everything they wanted, just as quickly as public opinion would allow.

The Rockefeller-Kissinger team immediately began promoting a Latin American foreign policy which was the very antithesis of the policy Americans *thought* they were getting when they elected Richard Nixon. It consisted of two main reversals of earlier promises. The first was a growing recognition of the Communist conquest of Cuba. Accepting this fact was to be sold to the American people as hemispherically inevitable, necessary for peace, and besides, it made good business sense.

The second key part of the Kissinger policy was even more ticklish, and it ran into stiff opposition from the start. That was Henry the K's repeated efforts to surrender U.S. sovereignty over the Panama Canal. The giveaway of this strategic waterway was being sold to the public as vital to improve our poor relations with much of Latin America.

But most Americans were too mesmerized by the three-ring foreign-policy circus overseas—the "opening" to Red China, the "peace" in Vietnam, the incessant war in the Middle East—to pay too much attention to what was going on in nearby Latin America.

Soon after Nixon took office in 1969, conservative columnist Paul Scott reported that although "the President pledged to tighten the U.S. economic-political quarantine of Cuba if elected, Kissinger is working quietly within the Nixon Administration for just the opposite." It became known that Kissinger had asked the Rand Corporation to make a study on the feasibility of restoring political, economic, and cultural relations with Cuba. In fact, Henry the K had even asked the Rand Corporation to study the circumstances under which the anti-Communist government of Brazil might be overthrown.*

While all this was going on, any efforts with the Nixon Administration to move against Communism in this hemisphere—and there *were* anti-Communists around Nixon as well as within State and the CIA—were blocked by Kissinger.

The stage was set for U.S. trade with the Cuban tyranny and eventual U.S. recognition through one of Henry's usual tactics—secret U.S. maneuvering. The plan called for the Organization of American States to soften its stand against Cuba. Then the United States would reluctantly bow to "the will of the Americas" and grant recognition to the Castro regime. The whole affair was about as spontaneous as the Rose Parade.

The North American Newspaper Alliance reported in October 1974 that an agreement "in principle" for U.S. recognition of Cuba had already been reached and that "the current script calls for the United States to appear as if it were forced to acquiesce to the views of the other American states." NANA's Ernest Cuneo added: "In clinging to the ridiculous fiction that his State Department officials know nothing of the negotiations, Kissinger is morally lying to the American people—again."

By May 1975, *The Review of the News* could report that "through the covert efforts of Secretary of State Henry Kissinger, governments of Latin American countries are being told that the U.S. looks with favor on the lifting of sanctions against Communist Cuba by the Organization of American States."

By June, Fidel Castro was so confident that the United States would restore diplomatic relations with Cuba that he predicted, in Madrid's *Arriba* magazine, that recognition would occur, that Latin American countries would grow stronger while the United States grew weaker, and that Cuba was not planning to budge one inch on its declared aim of seizing our Guantanamo Naval base. "Some day they will leave Guantanamo just as they left Vietnam in the war that cost them $150 billion," the bearded one gloated.

Another part of Kissinger's propaganda effort on behalf of Castro was granting permission for "friendly" U.S. congressmen to junket to Cuba. The most enraptured visitor was former presidential candidate George McGovern, the muddled Leftist who made Richard Nixon look so good by comparison in 1972. McGovern's trip to Cuba resulted in a saccharin outpouring of eulogies for Castro and demands for an end to our economic embargo. Kissinger, who arranged McGovern's private flight to Cuba from a U.S. airbase in Florida, got exactly what he wanted.

So in August 1975, the Organization of America States, meeting in Costa Rica, voted 16 to 3 with two abstentions to lift its sanctions against the Communist dictatorship ninety miles from our shores. The U.S. Ambassador to the OAS, Rockefeller man William S. Mailliard, did not make even a token resistance to this carefully staged repudiation of Washington's policy for the past eleven years.

Incredibly, the vote whitewashing Cuba did not set *any* conditions or make *any* demands of the Red dictatorship. The United States delegates did not even mention the 2,000 Americans still confined on the island, the $2 *billion* indebtedness to Americans for property confiscated by Cuban authorities, the thousands of political prisoners languishing in Cuban dungeons, the 33,000 Cubans slain by the Communists to establish a Soviet power base on the island. All this was to be forgiven, forgotten, and ignored.

While Kissinger is cuddling up to Cuba, the island has become virtually a Russian military outpost. There are at least 25,000 Russian soldiers operating military bases at Mariel, Nipe, Cienfuegos, Cayo Largo, Playa Giron, and the Isle of Pines. Some 8,000 Russian technicians run most of Cuba's vital industries. There are frequent Soviet spy flights and reconnaissance sailings from points within Cuba.

For the past seventeen years, Communist Cuba has also been exporting its revolution in every way that it can. Airplane hijackings, for example, increased some four-hundred percent in the late 1960s—just after a school for hijackers was organized on the island. The evidence is indisputable that Havana has become a key base for the smuggling of opium and other hard narcotics from Communist supply sources in the Far East into the United States and Latin America.

Fidel Castro has openly gloated, of course, that he expects to take over the U.S. Naval Base on Guantanamo—the multi-billion-dollar American outpost which is a vital link for American defense forces in the Western Hemisphere. Should Henry Kissinger present this gift-wrapped to the Communists (and in Washington there are rumors such a secret deal has already been made), the Communists would threaten *all* shipping through the Panama Canal.

While Fidel's effort to supply the leadership to Communist revolts in other Latin and South American countries may have faltered in recent years, the presence of Cuban troops in Africa more than makes up for any failures closer to home. Any conceivable *detente* with Cuba became even harder to swallow in late 1975 and 1976 as it became clear that the Soviet Union was using Cuba as its major base for the armed takeover of Angola, the former Portuguese territory on Africa's west coast. The 15,000 Cuban troops inside Angola may well have made the difference for the Soviet victory in the war there.

According to Paul Scott, thousands of Cuban troops, military advisers, and espionage agents, financed and directed by the Russians, are deployed in at least fifteen countries on three continents. In the meantime, Cuba's 150,000-man army remains the largest in the Western Hemisphere, other than our own.

As the Angola involvement developed day by day in late 1975 and early 1976, Kissinger *sounded* good. He talked tough about the Cubans sending soldiers to Africa, about the Soviet Union being in Africa, about the "extra-continental intervention" into Angolan affairs. But as expected, the Administration *did* nothing to thwart the Communists. In fact, since much of the $81 million in the U.S. grants, loans, and credits for neighboring Zaire, run by the Marxist "President for Life" Sese Seko Kuku Ngbendu Wa Za Banga, were funneled into Angola, it meant the United States was in the unique position of helping Red China fund one of the "anti-Soviet" factions in the weird Angola war.

So while Kissinger publicly warned Castro about Cuban intervention in Angola, at the same time Henry K told the U.S. representative to the Organization of American States to vote for dismantling the OAS special commission which had kept tabs on Communist activities in the Western Hemisphere. Kissinger was about as sincere as W. C. Fields offering to lead a temperance crusade against Demon Rum.

Why is Henry Kissinger so determined to have the United States embrace Communist Cuba? Part of the reason, no doubt, is the whole do-anything-to-please-the-Communists mentality which plays such an important part in *detente*. And there is ample evidence that the Soviets would like to see the American taxpayers underwrite the cost of the glorious socialist experiment on the island. Although Cuba had been one of the wealthiest nations in the Americas before the advent of Communism, presently it is a $1.5 million *per day* liability for Moscow. Much better that the burden be shifted to U.S. taxpayers.

In fact, the Union Defensora de la Democracia, an anti-Communist group in Mexico, reported in mid-1975 that the stage has already been set for the Rockefellers' Chase Manhattan Bank to loan Cuba all the money it needs to cut its $8-million-per-week umbilical cord with Moscow. The loans, of course, will never be repaid; the money will be loaned by the Rockefellers, but *guaranteed by the U.S. government*. When Castro defaults, the U.S. government will pay off the Rockefellers.*

The London *Sunday Telegraph* on August 31, 1975, however, provided an even more intriguing explanation for the Rockefeller-Kissinger embrace of Castro:

"This year's most surprising *détente*—the resumption of relations of a sort between President Ford's U.S.A. and Fidel Castro's Communist Cuba—owes a good deal more to hard heads than to soft hearts. The motive behind it can be summed up in one word—oil. . . . Recent seismological tests by the Russians in Cuban waters have apparently revealed the likelihood of several large oil structures which form the immensely rich Gulf of Mexico oil fields. But Castro knows

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*** This second study was not triggered by a great Kissinger concern over Brazil shifting to the Left. It seems that some Brazilian government officials had discussed the possibility of expropriating the holdings of International Petroleum Company, a subsidiary of the Rockefellers' Standard Oil of New Jersey.**

*** It would hardly be the first time that American taxpayers have rescued Rockefeller operations in other countries. A huge number of U.S. loans for "less developed countries" have a strange way of ending up in the pockets of the Rockefellers. Foreign aid programs, for example, apparently insure Rockefeller gaming lodges in Kenya, Rockefeller agricultural and marketing businesses in Iran, a Rockefeller ceramic tile and bath accessory plant in Korea, Rockefeller firms in the Dominican Republic, and House of Rockefeller enterprises in India, Guyana, Brazil, Pakistan, the Philippines, and dozens, perhaps scores, of other countries.**

only too well that to develop such fields he will need American finance."

Kissinger's kiss-and-make-up approach to Communist Cuba (at U.S. taxpayer expense, of course) is bad enough for America. But actually his policies regarding Cuba seem like hard-nosed anti-Communism when compared to his incredible actions aimed at surrendering U.S. sovereignty over the Panama Canal.

If American sentiment and official Congressional action count for anything, the chances that the federal government will give away the Panama Canal are zero. On June 24, 1975, the House of Representatives voted 246 to 164 to prohibit any State Department funds from being used to negotiate the surrender of any U.S. rights in the Panama Canal Zone. Public surveys taken about the same time showed that five Americans out of six wanted the U.S. to retain ownership of the Canal. And a group of 38 Senators—four more than needed to block ratification of any giveaway treaty—was on record opposing any surrender of U.S. rights in the Canal Zone.

But popular sentiment and even Congressional action were not enough to thwart a Kissinger who had already chosen a different direction, Following the House vote, he sent the following message to General Omar Torrijos, the pro-Soviet dictator of Panama:

"I want you to know that in spite of these things, I am still engaged in the search for a final and just solution to this problem and the establishment of a new and more modern relationship between the two countries."

In other words, Henry the K was apologizing to Comrade Torrijos because the representatives of the American people refused to go along with Kissinger's surrender scheme!

Despite the propaganda line being developed to "legitimize" the surrender of our sovereignty over the Panama Canal, the facts are as follows:

The Panama Canal belongs to the United States. The Canal Zone was *sold* to this country on November 18, 1903, by the new Republic of Panama. The agrement gave the United States total and compelte ownership "in perpetuity." The treaty was ironclad—it stated that U.S. sovereignty would be "to the entire exclusion of the exercise by the Republic of Panama of any such sovereign rights, power or authority."

Despite what some American negotiators, such as Ellsworth Bunker and William D. Rogers, have suggested, it seems absurd to think that the U.S. could be stampeded into signing away the Panama Canal because of sword-rattling by a tiny Latin American country. "If Panama does not recover the Canal Zone, no one can prevent the Panamanians from destroying, making inoperative, or paralyzing the canal," said one foreign policy adviser. Panama "has reached the limit of its patience" in negotiations with the U.S. for a new treaty, warned Dictator Torrijos in early 1975. The United States has 11,000 troops stationed along the Canal—twice the number of soldiers that Torrijos commands. But Bunker and Rogers act as if they were truly worried about what this tinhorn dictator might do.

Ellsworth Bunker, moreover, seems to have made a career out of surrendering gracefully to the Communists. He was the main negotiator of the team that turned over control of West New Guinea to Communist Achmed Sukarno in 1965, in exchange for a worthless promise of free elections. Bunker later was appointed U.S. Ambassador to South Vietnam, where he continually lectured American military officials on the need to exercise "the patience and restraint to fight a limited war with limited means for limited objectives." Ellsworth Bunker is, in short, a giveaway artist and a capitulation expert. He is just the kind of fellow Kissinger would select for negotiations on giving away the Panama Canal.

Incredibly enough, Bunker has claimed that giving the Panama Canal to the Communists will somehow be good for us. "In our negotiations we are atempting to lay the foundations for a new—a more modern—relationship which will enlist Panamanian cooperation and *better protect our interests*," he has said. That groaning sound you hear is Teddy Roosevelt turning over in his grave.*

The United States does not "rent" the Canal Zone. This country paid for and has clear title to it. Giving away the clear title we have to the Panama Canal is exactly the same as giving Alaska back to Russia, returning the Louisiana Purchase to France, or surrendering Texas and California to Mexico and Spain.

It will not surprise you to learn that an early architect of the Panama giveaway scheme was a Rockefeller man, Robert B. Anderson of the CFR. He was President Johnson's chief negotiator in 1967, subsequently kept on by Richard Nixon. (The *first* U.S. official to propose that the Canal be internationalized was the very respected CFR man in the State Department, Alger Hiss!)

But it was that other, much better known Rockefeller agent, Henry Kissinger, who took up the cudgels from Anderson, Herr Henry signed a "statement of principles" with Dictator Torrijos in February 1974, promising that the U.S. would renounce sovereignty over the Canal and hand it over to Panama. When Nixon resigned and Ford assumed what used to be the highest office in the land, Kissinger was quick to inform Panama that "the change in the U.S. presidency will not affect the negotiations for a new Panama Canal treaty."

Perhaps alarmed by the growing opposition within the United States to Kissinger's surrender schemes in the Caribbean, a new Rockefeller pressure group, "The Commission on U.S.-Latin American Relations" was launched in mid-1974 (a few months after Secretary Kissinger signed the "statement of principles" with Panama's Marxist dictator), to marshal public support for our planned retreat. The commission is financed by grants from—would you believe?—the Rockefeller Brothers Fund, the Ford Foundation, the Clark Foundation, and David Rockefeller's Center for Inter-American Affairs.

The Commission promptly unveiled its own program for peace in Central America. The major plank, of course, was a call for a new treaty with Panama in which the United States would cancel all claims to ownership of the Canal.

When this Rockefeller-Kissinger giveaway scheme encountered heavy opposition in 1975, not only from the public but also from Congress, the Rockefeller Commission came up with a new wrinkle to the basic surrender plan the Shadow Government had been following. The new scheme, which was designed to sidestep opposition from the Congress, called for the United States to continue to use the land and facilities in Panama, and pay for them, but to transfer jurisdiction to Panama. Since the deal would not involve any sale or transfer of U.S. property, Congress would be left out of the negotiation—and the U.S. would retain an empty title. This Rockefeller-designed gambit is probably behind Kissinger's convoluted explanation of our new policy regarding Panama:

"The U.S. is seeking to establish a new and mutually acceptable relationship between our two countries whereby the U.S. can continue operating and defending the canal for a reasonably extended period of time. A new treaty would enable the U.S. to devote its energies to the efficient operation and control of the waterway and would leave other matters to the Panamanians."

Translate that to read: We'll arrange it so that Uncle Sap—I mean, Sam—will continue to pay all the bills. But we'll make sure that when the chips are down, it will be our Comrades in Panama—and Moscow—who will determine which ships pass through and which ones don't.

What would the loss of American jurisdiction over the Panama Canal mean? First would be the devastating diplomatic consequences of yet another collapse of American power and authority. But there is a far more serious aspect of Henry K's two-pronged campaign to legitimize Communism in Cuba and to surrender our sovereignty over the Panama Canal.

As we reported earlier, the Soviet Navy now surpasses the U.S. Navy. It virtually controls the Mediterranean and Indian Oceans, and, through the Soviet conquests in Africa, is becoming dominant in the Atlantic. Should part of the price for Kissinger's *detente* mean the loss of both the Panama Canal and the U.S. base on Guantanamo, the stage would be set for the Communists to sever the connecting link between the U.S. Pacific fleet and our Atlantic forces. In effect, Kissinger's planned retreat in the Caribbean would extend the Soviet spheres of naval dominance from the Black Sea across the Atlantic to our very shores. It would leave all of Latin and South America unprotected and indefensible.

As Representative Daniel Flood has stated: "I do not see how the Kremlin itself could have prepared a more effective plan for causing confusion and chaos on the Isthmus than has been done by our treaty negotiators—a plan that is designed to assure the ultimate extinction of all United States authority with respect to any canal on the Isthmus."

Or to put it another way, Moscow's most important man in Latin America is not Fidel Castro; it's Henry Kissinger.

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*Teddy Roosevelt, who maneuvered to get the canal built, later said: "The canal must not be internationalized. It is our canal; we built it; we fortified it, and we will not permit our enemies to use it in war. In times of peace, all nations shall use it alike, but in time of war our interest becomes dominant."

186TH ANNIVERSARY OF THE U.S. COAST GUARD

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 4, 1976

Mr. CONTE. Mr. Speaker, it gives me great pleasure to bring to the attention of my colleagues the fact that today is the 186th anniversary of the U.S. Coast Guard. As a strong supporter of the Coast Guard, the smallest and in many respects the most dynamic of our Armed Forces, I am pleased to take this opportunity to salute the Coast Guard and trace some of the more important events in its 186-year history.

The Revenue Marine, the forerunner of the modern Coast Guard, was created in 1790 at the recommendation of Alexander Hamilton, first Secretary of the Treasury. Originally charged with stamping out smuggling and piracy along the coasts of the United States, the Revenue Marine served as the Nation's only naval force until 1798. The service saw its first wartime activity from 1797 to 1800, when it cooperated with the Navy in fighting French privateers. The Revenue Marine also fought during the War of 1812. In 1831, the service began its first winter cruising to aid seafarers and ships in distress. The name of the service was changed to the Revenue Cutter Service in 1863.

For many years, private organizations such as the Massachusetts Humane Society operated the only lifesaving services on the Atlantic coast. In 1937, Congress authorized the use of public vessels to cruise the coast in rough weather and help navigators in distress. The Government took over all privately operated lifesaving stations in 1871 and established the Lifesaving Service, operated by the Revenue Cutter Service. In 1878, the lifesaving service became an independent bureau of the Department of the Treasury. The Revenue Cutter and Lifesaving Services were combined as the U.S. Coast Guard in 1915.

In addition to its valuable humanitarian search and rescue mission, the Coast Guard also functions as part of the Armed Forces. In 1861, the cutter *Harriet Lane* fired the first shot from any vessel in the Civil War. The coastal patrols of this service contributed immeasurably to the Union victory in the Civil War.

In the two World Wars and the Korean and Vietnamese conflicts, the Coast Guard served valuable functions in coastal patrol, convoy duty, and amphibious operations.

The varied operations of the modern Coast Guard are exemplified in such enterprises as the operation of large icebreakers in the polar regions, the establishment of the distant early warning—DEW—radar line across that region, and enforcement of the 200-mile fishing limit under the Fish Management Act. All this in addition to the historical functions of coastal law enforcement in preventing drug traffic and smuggling.

Mr. Speaker, I could not help but mention that this year is the centennial celebration of the U.S. Coast Guard Academy, a federally controlled professional institution for the training of young men—and as of this year, women—as career officers in the U.S. Coast Guard. The Academy offers a fine academic program including professional training in all phases of seamanship, gunnery, communications, engineering, and shipboard routine, and produces outstanding leaders to carry out the multitudinous duties of the modern Coast Guard.

Mr. Speaker, as ranking minority member of the Transportation Appropriations Subcommittee, which oversees the budget of the Coast Guard, I have been acutely aware of the valuable service which the Coast Guard provides to our Nation.

I know that my colleagues join me in taking this opportunity to wish the Coast Guard and the Coast Guard Academy well, to congratulate and commend them on their 186th and 100th anniversaries respectively, and to wish them many returns of years of continued dedicated service to this country.

Thank you, Mr. Speaker.

ONE MAN'S BATTLE AGAINST OSHA

HON. JOHN H. ROUSSELOT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 4, 1976

Mr. ROUSSELOT. Mr. Speaker, the problem with Government bureaucrats is that they do not understand the real life problem of running a business, the necessity of producing viable products and services—and ultimately to providing employment.

OSHA bureaucrats have become especially notorious for their insensitivity to the situation of the small businessman by inundating him with mountains of useless and sometimes punitive requirements.

Almost daily we hear about bizarre incidents where unknowing Government employees harass businessmen so that they either comply with inane regulations, or are forced to close their doors. Not all are able financially to fight the system as the Maine manufacturer reported in last January's issue of Government Executive magazine.

I would urge all of my colleagues to consider the following courageous account of a small businessman who knew his rights and stood up for them.

The article follows:

ONE MAN'S BATTLE AGAINST OSHA

(By Raymond J. Larson)

Basically, Howard Dearborn wants to be left alone. He does not want the government coming around telling him what to do (he calls it "damn government meddling"); he does not care at all for the increasing regulation Uncle Sam exerts over the operation of his precision machine shop in rural Fryeburg, Maine.

He has, you might say, a healthy mistrust of big government, and he cannot resist taking a potshot at it now and then. For example, when Warner & Swasey, Cleveland, ran an advertisement recently, entitled "Memo to Washington: You'd Be Surprised What Most of Us Do Without—You Ought to Try It Sometime," he sent the president of W&S a letter which said:

"I sincerely agree that the relationship between the number of productive people in the United States and the number of unproductive people in government employed to regulate and harrass the productive few is to the point of alarm. The productive few are paying the unproductive many to regulate and harass them. Yet the government cannot seem to understand why we have inflation."

With such an attitude, when the U.S. Occupational Safety and Health Administration (OSHA) announced that it was going to visit Dearborn's 18,000-sq. ft. plant last year, a collision was inevitable.

The fact that the collision took place on schedule is hardly news in itself. But its repercussions are still being felt, both by Dearborn and the federal government; and before everything is sifted out and settled, some hard questions about OSHA operations and its regulations will have to be answered.

Dearborn built the company that bears his name by designing and building special machinery for precision boring, honing and drilling of such difficult materials as beryllium, zirconium, titanium and stainless steel. His customers, most of them in the nuclear reactor field, send parts to his shop from all over the U.S.—sometimes reluctantly.

"If there were any place else for some of them to go other than way up here," he says, "they would. But there is no other place; we're it."

Because of his unique niche in metalworking, Dearborn has been free until now to turn his attention to those things that interest him most, such as the recent development of a new generation of machinery for making uniform-walled tubing.

But Robert McNeally's visit to Dearborn's plant June 24, 1974, changed all that. McNeally is a compliance officer of OSHA.

McNeally liked most of what he saw. He would later testify before the Occupational Safety and Health Review Commission that "the plant is in good physical condition. The housekeeping is fine. There were a few violations noted of the code, but I believe the company is very safety conscious and is doing its best to comply."

But because of one of those "few violations"—"nonserious" is how McNeally himself characterized it in his citation—the OSHA compliance officer decided that Dearborn, Inc. was liable for a fine of $25. And on July 5, the U.S. Labor Dept. sent Dearborn a Notification of Proposed Penalty in which he was informed that Howard Dearborn, Inc. was liable for a $25 fine because it had "failed to replace welding electrode cable which has damaged insulation and exposed bare conductors."

Howard Dearborn wouldn't pay. Instead, he hired Attorney Thomas D. Shaffner, who on Aug. 20, 1974, filed a response with the Review Commission. It said, in part:

"At the outset it should be made abundantly clear that the respondent is as interested as OSHA in providing a safe and healthy environment for its employees. In fact, a great deal of time, energy and money is expended in this regard. A penalty is only useful as a deterrent to future conduct of the type for which the penalty was levied. Since the respondent is desirous of preventing any reoccurrence of the alleged unsafe condition, it wants the penalty to be levied against the person who created it and/or permitted it to exist. Thus the penalty must necessarily be levied against either the employee(s) actually using the welder or the foreman to whom the welders report or the superintendent of the plant.

"During the course of discussion of the alleged OSHA violation with the above described employees, however, it was learned that none of them knew of the subject OSHA regulation. If they had known of it, steps would have been taken to correct any deviation therefrom. To penalize a person for not knowing of a regulation of the U.S. government, without first advising such person, amounts to a violation of due process."

To make it clear that the violation itself was not the issue, Shaffner that same day notified T. R. Amirault, area director of the U.S. Dept. of Labor in Concord, N.H., that the "welding cable was actually replaced to alleviate any and all disputes with respect to the safety of its repaired condition."

On Oct. 29, 1974, a hearing was held in Portland, Me., before David J. Knight, administrative law judge for the Review Commission, and on June 26, 1975, Judge Knight issued his opinion. Knight found that the Dearborn plant "is in good physical condition, is safety conscious, and the compliance officer believes it does its best to comply with the regulations." But he went on to order that the $25 fine be enforced, saying that Dearborn, Inc., "was under obligation to advise its employees of the safe operations of the arc welding machinery" but failed to do so.

Dearborn still won't pay. "The first time I ever had anything to do with OSHA was the time the inspector came here," he says. "We never saw any book of rules and regulations or anything else. We got fined for not knowing, even though they never told us in the first place. There are so many people passing laws these days you couldn't read them all in one lifetime.

"We got the impression that the fine might have been partly to help pay for sending the inspector here. So we offered to pay an inspection fee; we offered to pay OSHA $100 to come up here and inspect the place and find everything that's wrong. But as for this fine, I won't pay the damn thing. Paying it would make me a criminal and I'm no criminal. I'm a businessman trying to run an honest business."

Because he felt so strongly about it, Dearborn instructed Shaffner to file an appeal, even though it already had cost him more than $3,000 in legal fees.

Notes Shaffner, "We went to court, we lost and we've appealed. Don't get me wrong, I don't really think we're going to win. But even after we've exhausted all of our avenues of apepal, the government still has to collect the $25. And that isn't going to be easy."

Shaffner says the government will have to put a lien on Dearborn's plant here and even sell it if it is serious about collecting the fine. "It isn't the money," he says, "it's the principle."

Will it really come to that?

"I won't pay it," insists Dearborn. "Someone has to change the system, and I guess that means us."

ARMS OUT OF CONTROL

HON. BENJAMIN S. ROSENTHAL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 4, 1976

Mr. ROSENTHAL. Mr. Speaker, in recent weeks, nearly every major newspaper in the country has taken note of the burgeoning American arms sales throughout the world, and particularly, to the Persian Gulf. The American people have begun to realize that these sales too often promote instability, not security, or peace. Nevertheless, the administration and its sophisticated sales forces at the State Department and the Pentagon continue to promote excessive weapons transactions.

The figures, Mr. Speaker, indicate that military sales have gone berserk. In 1974, nearly 60 percent of all U.S. foreign military sales—$6.4 billion worth—were to Persian Gulf states. In 1975, Persian Gulf FMS amounted to $4.5 billion—half of our total sales. In the last 5 years, Saudi Arabia alone has spent $9 billion on American military purchases, and Iran has spent $10.4 billion.

The recent Senate Foreign Relations Committee study on American arms sales to Iran has demonstrated that these sales threaten to involve the United States directly in Iranian conflicts. It should, by now, be clear that such massive military support does not end with delivery of the hardware or construction of the facilities. Our repeated military sales threaten to create de facto commitments which the Congress has not approved and the people do not support.

Despite growing concern over its insatiable quest for arms sales, the administration is negotiating additional—and even more dangerous—transactions. An unprecedented $13 billion sale of destroyers and supersonic fighters to Iran is reportedly in the final stages. The administration is, at the same time, attempting to sell 2,000 Sidewinder air-to-air missiles to Saudi Arabia, along with an as yet undertermined number of Maverick air-to-surface missiles, TOW wire-guided missiles, and laser-guilded bombs. These are not outmoded weapons which the Pentagon needs to dump; these are among the newest and most sophisticated equipment in the U.S. arsenal. It seems that each arms sale to an oil-rich sheikdom is followed by more sales to others on the grounds that a strategic balance must be maintained. The administration seems unable to say "no."

Mr. Speaker, our foreign military sales policy will become a matter of much debate in the House in the coming months. A perceptive editorial on the gulf arms race appeared in yesterday's Christian Science Monitor, and I encourage my colleagues to consider it.

The editorial follows:

ARMS OUT OF CONTROL

It is encouraging that public attention has begun to focus on the spiraling of American arms sales abroad. Congress, for one, is watching this development like a hawk. But the fact remains that there is yet no serious effort within the government to look at what is being sold all over the world and to evolve a sensible policy for bringing arms sales under control. The new administration will have to give this matter the highest priority.

It should be no source of pride to the United States that it has become the largest arms seller in the world. Government-to-government exports totaled about $1.5 billion annually a decade ago; the level is now a staggering $9 billion to $10 billion a year. Moreover, the U.S. is no longer peddling hand-me-downs but the newest and highly advanced weapon systems, such as supersonic planes, submarines, and antiship missiles.

Ironically, the United States may be defeating its own goal of enhancing security throughout the world. Not only does this massive out-pouring of arms fuel possibilities for regional conflict. As military and diplomatic experts are beginning to realize, and with some alarm, it will become increasingly difficult for the U.S.—or the Soviet Union—to play the role of peacemaker. The ability of the superpowers to maintain world stability is thus being eroded.

Iran is an illustration of the dangers of unrestrained arms selling. A just-released study by the Senate Foreign Relations Committee notes that the Iranians do not even have the skills to operate the sophisticated U.S. weaponry they now have and would be totally dependent on U.S. personnel if they decided to go to war. By 1980, the report estimates, there could be as many as 50,000 Americans in Iran involved mostly in arms programs.

It is doubly disturbing that there has been no close scrutiny of this program because of a secret decision by President Nixon in 1972 to sell Iran all the modern conventional arms it wanted. When one considers the volatility of the Middle East and the potential for wars and oil embargoes in the region, it is astonishing the U.S. has such an open-ended commitment.

Other arms programs are equally questionable. The Saudi Arabians are asking for as many as 2,000 Sidewinder interceptor missiles for the F–5s, when experts agree such a number is excessive for the country's defense. Fortunately, as a result of public outcry, the administration will probably scale down its arms request to Congress.

Nor is the Persian Gulf the only turbulent area where arms are accumulating at fast rate. An arms race is under way in black Africa, where the United States is eager to bolster its allies and counter the Soviet arms buildup in Somalia, Uganda, and Angola. And many "third-world" countries are acquiring submarines and missile-armed patrol boats that could be used to impede shipping.

This is not to suggest a criticism of legitimate arms programs. It makes sense for the U.S. to help friendly countries build up their forces so they can defend themselves. There is merit in fostering regional defense systems. Arms agreements often serve valid security objectives—perhaps they do in most cases.

But to accept the present government view of "the more the better" (and the Pentagon, especially, argues that arms sales help the balance of trade and keep unit costs down) is to head down a potentially dangerous path. Some hard thought ought to be given to the nature of the weapons supplied. Are the most lethal arms going to unreliable clients? To what extent are they truly defensive? If they can be used as offensive weapons, what quantity can be justified as needed?

Arms are like shiny toys these days. Everyone wants them. But, as the major supplier in the world, the United States ought to take the lead in showing that it does not intend to turn the world into an arsenal of weapons that could have disastrous consequences.

HOUSE OF REPRESENTATIVES—*Thursday, August 5, 1976*

The House met at 10 o'clock a.m.

The Chaplain, Rev. Edward G. Latch, D. D., offered the following prayer:

Be not deceived; God is not mocked: for whatsoever a man soweth, that shall he also reap.—Galatians 6: 7.

O God of light and life as we bow at this noontide altar make us conscious of Thy presence and may we hear Thy still, small voice speaking to our waiting hearts. Amid all the changes and the confusion of these demanding days give us the faith to feel that Thou art with us all the way.

Keep us discontented with things as they are and help us to be a part of the change for good in our Nation and in our world. May we see the glory of the coming of the Lord as we struggle for brotherhood, for justice, for peace, and for good will among all people.

Help us to be true to the highest we know and responsive to the challenge to be our best and to do our best for our country and for Thee.

"I would live ever in the light.
I would work ever for the right.
I would serve Thee with all my might,
therefore, to Thee I come."

Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment bills of the House of the following titles:

H.R. 12944. An act to extend the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, for 6 months; and

H.R. 13121. An act to direct the Law Revision Counsel to prepare and publish the District of Columbia Code through publication of supplement V to the 1973 edition, with the Council of the District of Columbia to be responsible for preparation and publication of such Code thereafter.

The message also announced that the Senate had passed a resolution of the following title:

S. Res. 509

Resolved, That the Senate has heard with profound sorrow the announcement of the death of the Honorable Jerry L. Litton, late a Representative from the State of Missouri.

Resolved, That a committee of two Senators be appointed by the Presiding Officer to join the committee appointed on the part of the House of Representatives to attend the funeral of the deceased Representative.

Resolved, That the Secretary communicate these resolutions to the House of Representatives and transmit an enrolled copy thereof to the family of the deceased.

Resolved, That when the Senate adjourns today, it adjourn as a further mark of respect to the memory of the deceased Representative.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 8410) entitled "An act to amend the Packers and Stockyards Act of 1921, as amended, and for other purposes."

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 2069. An act to regulate commerce by establishing national goals for the effective, fair, inexpensive, and expeditious resolution of controversies involving consumers, and for other purposes.

CALL OF THE HOUSE

Mr. ROUSSELOT. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Without objection, a call of the House is ordered.

There was no objection.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 607]

Addabbo
Allen
Ambro
Anderson, Ill.
Andrews, N.C.
Archer
Badillo
Bowen
Brown, Calif.
Burton, John
Conable
Conlan
Conyers
Coughlin
D'Amours
Dent
Dickinson
Diggs
Drinan
du Pont
Edwards, Ala.
Esch
Eshleman
Evins, Tenn.
Findley
Flynt
Ford, Tenn.
Forsythe
Fountain
Harris
Harsha
Hayes, Ind.
Hays, Ohio
Hébert
Heckler, Mass.
Hinshaw
Howe
Jarman
Jones, Tenn.
Karth
Kastenmeier
LaFalce
Leggett
Long, Md.
McDade
McDonald
McKinney
Matsunaga
Melcher
Michel
Mink
Montgomery
O'Hara
Passman
Peyser
Rees
Rhodes
Rinaldo
Risenhoover
Roe
Roncalio
Rose
Runnels
Ruppe
Scheuer
Shipley
Steed
Steelman
Steiger, Ariz.
Stuckey
Sullivan
Symington
Teague
Thornton
Udall
Vander Jagt
Wiggins
Wilson, Tex.
Wylie
Young, Alaska

The SPEAKER. On this rollcall 351 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

REQUEST FOR PERMISSION FOR SUBCOMMITTEE ON CONSUMER PROTECTION AND FINANCE OF COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE TO SIT AT 2 O'CLOCK P.M. THIS AFTERNOON

Mr. MURPHY of New York. Mr. Speaker, I ask unanimous consent that the Subcommittee on Consumer Protection and Finance of the Committee on Interstate and Foreign Commerce be permitted to sit at 2 o'clock p.m. this afternoon.

The SPEAKER. Is there objection to the request of the gentleman from New York?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, I am constrained to object because several prominent members of the gentleman's subcommittee wish to object.

Therefore, Mr. Speaker, I object.

The SPEAKER. Objection is heard.

PAYMENTS IN LIEU OF TAXES ACT

Mr. PEPPER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1254 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 1254

Resolved, That upon the adoption of this resolution it shall be in order to move, clause 2(1)(5)(B) of rule XI to the contrary notwithstanding, that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 9719) to provide for certain payments to be made to State or local governments by the Secretary of the Interior based upon the amount of certain public lands within the boundaries of such State or locality. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the Chairman and ranking minority member of the Committee on Interior and Insular Affairs, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Interior and Insular Affairs now printed in the bill as an original bill for the purpose of amendment under the five-minute rule. At the conclusion of such consideration, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER. The gentleman from Florida (Mr. PEPPER) is recognized for 1 hour.

Mr. PEPPER. Mr. Speaker, I yield 30 minutes to the able gentleman from Tennessee (Mr. QUILLEN) for the minority, pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 1254 is a 1-hour open rule providing for the consideration of H.R. 9719, the Payment in Lieu of Taxes Act. The rule provides that the committee amendment in the nature of a substitute now printed in the bill shall be considered as an original bill for the purpose of amendment. The rule also waives points of order under clause 2(1)(5)(B) of rule XI, which requires that when a committee report contains a cost estimate from the Congressional Budget Office, the cover of the report must contain a statement reciting the fact that the cost estimate is included.

H.R. 9719 provides for payments in lieu of property taxes to partially compensate counties, cities, and townships for the tax immunity of federally owned natural resource lands. The Federal Government owns over 760 million acres of the 2.2 billion acres within the United States, and in several States more than 50 percent of the land is federally owned. The Public Land Law Review Commission in its report to the President and the Congress in 1970 stated that if it is in the national interest to retain certain lands in Federal ownership, then the burden should be spread equally among all citizens and not be borne by the localities in which the lands are located. The report recommends a system of payments in lieu of taxes.

Specifically, H.R. 9719 directs the Secretary of the Interior, beginning on October 1, 1976, to make payments on a fiscal year basis to each unit of local government in which entitlement lands are located. Entitlement lands include the national park system, national forest lands, wilderness areas under the jurisdiction of the Forest Service, Bureau of Land Management lands, and water resources development projects under the Army Corps of Engineers or Bureau of Reclamation.

Payments to local governments are to be made on the basis of a formula whereby the Secretary of the Interior would pay the greater amount of: First, 75 cents per acre less current public land payments received by the local government; or second, 10 cents per acre in addition to any current payments. Both alternatives are subject to a ceiling based on population and in no event can a payment to a local government exceed $1 million.

The bill also provides for an additional payment of 1 percent of the fair market value of lands added to the national park and wilderness system after December 31, 1970. This payment would only be made for the first 5 years after acquisition of the lands and is intended to offset the sudden loss of revenues to localities.

Mr. Speaker, I urge my colleagues to adopt House Resolution 1254 so that we may proceed to the consideration of H.R. 9719.

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the rule which has been described by my friend, the distinguished gentleman from Florida, Mr. PEPPER. This is a 1-hour open rule making in order the consideration of H.R. 9719, the Payments in Lieu of Taxes Act. I am a strong supporter of the compensation principle embodied in H.R. 9719, having introduced similar legislation in the 93d Congress and again at the beginning of this Congress in January of 1975.

The Payments in Lieu of Taxes Act provides much needed and legitimate tax relief for the taxpayers in over 1,000 counties in the United States whose jurisdictions contain tax-exempt Federal lands. Such tax relief is long overdue, and I urge my colleagues to support this bill in the interest of equity and fair play.

H.R. 9719 contains a formula of payments in lieu of taxes to these counties to partially compensate them for the tax immunity of Federal lands within their boundaries.

The Federal Government owns over 760 million acres of the 2.2 billion acres in the United States. These Federal holdings amount to approximately one-third of all our land, and are contained in over 1,000 counties, the majority of which are located in the Eastern United States. This fact should be noted because some have claimed that H.R. 9719 benefits only the States of the Far West. This is not so. In fact, counties containing tax-exempt Federal lands exist in 48 of the 50 States.

Tennessee's First Congressional District, which I represent, for example, has a large amount of Federal land. This is mostly land within the Cherokee National Forest and the Great Smoky Mountains National Park, and these Federal lands severely reduce the local tax base in 8 of the 13 counties in my district. Passage of H.R. 9719 will keep these counties to improve their local services, and will be a great benefit to the people living in these counties.

The tax immunity of these Federal lands substantially reduces the tax base of these counties, and other affected counties throughout the country, and places an unfair tax burden on the local taxpayers. Over the years, the Congress has established various programs to partially compensate States and local governments for the tax loss impact of Federal land ownership within their boundaries.

But the revenues they receive do not approach what would be received from property taxes if these lands could be taxed as is the non-Federal land. Moreover, there are currently no payments to States and local governments for the 24.8 million acres in the national park system, or for the 9.6 million acres in the national wilderness system.

The present system of payments, most of which go to the State governments, bears no relationship to the direct and indirect financial burdens placed on the local governments by the presence of these Federal lands. The local governments must provide the full range of community services including road maintenance, law enforcement, court systems, fire protection, rescue operations, health, welfare, and other necessary services—despite the fact that large areas of these counties are Federal land and are therefore removed from the local tax rolls.

While these Federal lands produce no tax revenue for the local governments, they do provide more than $750 million in receipts annually to the Federal Treasury. H.R. 9719 provides that a small portion of this $750 million—about $120 million—be returned to the local governments for the purpose of tax relief to the citizens of the affected counties. This $120 million is considerably less than the property tax equivalency if the lands were not exempt from local taxation.

Local governments with small tax bases are hard pressed to fund necessary community services, particularly with the inflation this country has experienced over recent years. Most of the present compensation statutes were enacted with little if any regard to local government tax structures and do not reflect current actual revenue needs or the lost tax revenues that Federal lands represent. H.R. 9719 provides a means whereby the Congress can partially alleviate this situation which has steadily deteriorated over the years.

The Payments in Lieu of Taxes Act is not a new concept. I sponsored such legislation 2 years ago. Furthermore, the Public Land Law Review Commission recommended such compensation to local governments in its 1970 report to the President and to the Congress.

The Commission recommended that if Federal lands were to be removed forever from the local tax rolls, then a system of payments in lieu of taxes should be established by the Congress. The Commission rightly reasoned that if public lands were to be retained for all of the American people, then the expense of retaining them ought to be borne by all of the citizens, rather than disproportionally by those citizens who happen to live within the counties where these public lands lie. The Commission surely reasoned correctly, and the solution they suggested, which is embodied in the provisions of H.R. 9719, is surely far and equitable. What then, are the provisions of H.R. 9719.

The Payments in Lieu of Taxes Act provides a compensation formula of 75 cents per acre, deducting from this figure the existing payments actually received by the local government under other statutes, and based also on the county population. Because receipts vary widely and fluctuate from year to year, often depending on mineral and timber productivity, H.R. 9719 will provide a predictable level of payments which does not now exist for these counties.

H.R. 9719 provides for a maximum ceiling of $1 million for any one unit of local government. These would be counties with extremely large Federal land holdings and populations of 50,000 persons or more—there are a handful of these counties in the Far West. Actually, the average new payment to counties under the provisions of H.R. 9719 will be 32 cents per acre.

Entitlement lands include land administered by the Bureau of Land Management, national park system, national forest system, national forests wilderness areas, and lands utilized as reservoirs as a part of water development projects under the Bureau of Reclamation and the Army Corps of Engineers. Land administered by the Tennessee Valley Authority is not included in this bill.

H.R. 9719 provides that the payments shall go directly to the units of local government. The funds are not earmarked for specific purposes such as roads or schools. Rather, the local governments are given the discretion to use these moneys as they determine, which is as it should be. In almost every case, the recipient government unit will be the counties, but where entitlement land is located within two jurisdictions—a township and a county, for example—the payments will go to the government entity with taxing and spending authority.

Mr. Speaker, this legislation is long overdue. It is fair, and it provides the Congress with an excellent opportunity to extend tax relief to the citizens of over 1,000 counties in 48 States who reside in communities which contain tax-exempt Federal lands.

I want to commend my colleagues on both sides of the aisle who have worked to bring this bill to the floor today. The compensation formula is equitable. The Federal lands produce revenues in excess of $750 million to the U.S. Treasury, and H.R. 9719 returns only about $120 million of this amount to the counties.

Mr. Speaker, I urge adoption of the rule and passage of the bill.

Mr. PEPPER. Mr. Speaker, I have no requests for time.

Mr. QUILLEN. Mr. Speaker, I yield 15 minutes to the gentleman from Kansas (Mr. SKUBITZ).

Mr. SKUBITZ. Mr. Speaker, the Federal Government is by far the Nation's largest landowner: More than 760 million acres—about one-third of the total U.S. land area—are held by various Government agencies.

These federally owned lands are, of course, tax exempt, and in some instances the resulting burden on the local governments is obvious.

Hence, for many years we have struggled with the problem of how to deal with State and counties in which large chunks of land are federally owned.

It is reasonable that the Federal Government should meet its responsibilities as a landowner just as any other landowner is expected to do.

Hence, in 1964, Congress created a blue ribbon panel to make a thorough study of the public lands. In June 1970 it issued a report entitled "One-Third of the Nation's Land."

The principle of payments in lieu of

taxes could have no finer endorsement than that of the Public Land Law Review Commission. Its blue ribbon panel of six Representatives, six Senators, and six Presidential appointees concluded:

> This Commission is convinced that the United States must make some payments to compensate State and local governments which have burdens imposed on them because of Federal ownership of public lands within their borders even though it is recognized that Federal expenditures must be held to the minimum necessary to provide essential Federal programs. The Federal Government as a landowner must pay its way, whatever the costs fairness and equity demand, that such payments be made.

I was then, and am now, in full agreement with the Commission report.

I hasten to point out, however, that the Commission did not recommend payments for all federally owned lands, but only those which impose "burdens" on State and local governments.

The impact of large Federal enclaves lies almost exclusively in 11 Far Western States and the State of Alaska. These 12 States contain 93.5 percent of all federally owned land.

The bill—initially introduced by Mr. Evans of Colorado, H.R. 9719, and sponsored by Mr. Santini, Mr. Weaver, Mr. Don H. Clausen, Mr. Howe, and Mr. Melcher—served as an excellent vehicle and met the basic problems of the States. It was one that I could support with adjustments in the payment procedure.

Let me read to you from the statement of Congressman Evans of Colorado to the subcommittee when H.R. 9719 was being considered. Mr. Evans of Colorado said:

> I would like to point out the major provisions of this bill and the inherent issues concerning this bill. The major provisions are as follows:
>
> (1) Establishment of a system for payment in lieu of taxes but only for Federal lands administered for natural resources purposes.
>
> (2) It would not apply to other Federal properties such as DOD installations or GSA property.
>
> (3) It would also exclude the Outer Continental Shelf, Indian trust lands, O&C lands, national parks, and monuments.
>
> (4) In short, it would cover only those land now covered under existing law specified in this bill.

Now that was the real intent of the Land Law Review Commission. It makes sense. It is something which this committee could in good conscience support.

Unfortunately the committee, in its desire to garner support for the bill, added amendments adding acreage and making payments which were never intended by the Land Law Review Commission. And if enacted as it is presented today will become a pork barrel and destroy the whole concept of national parks.

This bill is not limited as Mr. Evans of Colorado recommended, no payments in lieu of taxes only for Federal lands administered for natural resource purposes—but national parks.

Not just the big national parks themselves, but includes all park system lands: Memorial parks, battlefields, cemeteries, scientific reserves and scenic trails, historical sites, seashores, lakeshores, all 300 units of the system.

We would even owe the District of Columbia annual payments of $13.50 for the White House, $79.50 for the Washington Monument, $13.50 for the Jefferson Memorial, $23 for the Lincoln Memorial, $109.50 for the Mall, and 15 cents for the Ford Theater.

Anyone here feel that Uncle Sam should pay taxes up to 75 cents an acre for the land in Death Valley, the Grand Canyon, or Volcano Park?

My objections to including units of the national park system in H.R. 9719 are rooted in the corollary to the Public Land Law Review Commission's conclusion.

Quite simply, Federal lands which are not a burden, which in fact are an asset to a local government, should not be taxed or subject to payments in lieu of a tax.

Payments for units of the National Park Service are particularly hard to reconcile when local governments have cajoled, coerced, coaxed, pleaded, and persuaded the Congress to establish the park unit in the first place.

In my 14 years on the National Parks Subcommittee, I have listened to hundreds of witnesses testify in favor of park units in their areas as an economic boon, recreation opportunities, and tourism business

The selling of a national park by local officials has brought near unanimous agreement that the community would prosper, that the property values would, in fact, go up. I cite just one recent example: in 1974, the Congress passed a bill establishing the Cuyahoga Valley National Historical Park and Recreation Area. During the hearings, Congressman John Seiberling had this to say about Cuyahoga's effect on the local economy:

> The actual experience, as I understand it, has been that the tax situation of local areas in the end has always been enhanced by the creation of new parks. I am sure that would be the case here.

Dozens upon dozens of times I have heard the great chairman of our Committee on Parks relate how his State has given, yes, given, thousands of acres to the National Government to own or operate as a national park, and the great monetary benefits that North Carolina has derived.

Do you think Congress would have bought Big Cypress, Big Thicket, Cuyahoga, or any of the others if it thought for a moment we would not buy the land but would make an annual payment of 1 percent of the total value for 5 years and up to 75 cents an acre in perpetuity.

We have just begun this new idea of urban parks. If Akron or the New York City landmasses can have one, what's the position going to be in the future with regard to every other city—small, middle-sized, or large? Do we buy the land and provide payments in lieu of taxes where in the world will it end?

Lands acquired after January 1, 1971 by the Federal Government for parks and wilderness areas would receive an annual payment for 5 years. This involves a relatively insignificant amount of acreage acquired for wilderness areas. As each new park is added we buy more land, pay 1 percent of the total value for 5 years, then an acreage tax on property.

In the case of the Chattahoochee River National Recreation Area now just passed by the subcommittee, H.R. 9719 would add an annual Federal payment of $3,375 to the city of Atlanta or other unit of local government as an additional cost of creating the park. This payment is in perpetuity for as long as the Federal Government owns the land.

But that is not all. H.R. 9719 provides for a "double dip" for parks like Chattahoochee which will give years under the guise of a "payment in lieu of taxes." Where will it end? If parks, why not military installations?

If the Congress is persuaded to make payments in lieu of taxes for units of the national park system, how soon will it be argued that the same principle be extended to U.S. lands used for military installations? Surely these lands are far more of a burden to the local governments than the revenue-producing national park areas.

There are 4,105 military installations in the 50 States, including recruiting stations.

Mr. Speaker, I believe that assistance should be given these States in the West where 50 percent or more of the land is owned by the Federal Government.

But in helping these States, I plead with you do not destroy the concept of national parks.

Do not burden this Government with the obligation of buying the land for a park, operating it, and then allow an additional bonus of 1 percent payment for 5 years of the total value of the payment, and then a payment in lieu of taxes in perpetuity.

Do this, and you open the door for payments in lieu of taxes for every military reservation, Federal building, and what have you.

I will offer two amendments which will strike these ripoffs from the bill, accept them and we will have gone a long way in helping the Western States.

Certainly this body demonstrated its generosity only yesterday when it passed the mine leasing bill with the added bonus for the Western States. This bill in its present form could kill the goose that laid the golden egg.

Mr. QUILLEN. Mr. Speaker, will the gentleman yield?

Mr. SKUBITZ. I yield to the gentleman from Tennessee.

Mr. QUILLEN. I thank the gentleman for yielding.

Mr. Speaker, let me ask the gentleman from Kansas (Mr. Skubitz) whether the gentleman is in favor of the rule.

Mr. SKUBITZ. Mr. Speaker, I support the rule.

Mr. QUILLEN. If the gentleman will yield further, as I recall, when the gentleman came before our committee, he supported the rule. But the gentleman has some amendments which he would like to offer?

Mr. SKUBITZ. I have.

Mr. QUILLEN. And that is the case the gentleman was making?

Mr. SKUBITZ. That is the very point

I am making. I am for the rule. I am for doing what the Public Land Law Review Commission suggested and what the gentleman from Colorado (Mr. EVANS) suggested in his bill, and that is that the States are entitled to help. But what I am opposed to is giving payment in lieu of taxes to national parks which have always been thought of as an asset to the community, moneywise and otherwise, not only to those who established this, but for any we establish in the future.

Mr. QUILLEN. Mr. Speaker, I yield 4 minutes to the gentleman from Ohio (Mr. LATTA).

Mr. LATTA. Mr. Speaker, I hope the Members know what they are about to act on here today. I listened to this matter very intently in the Committee on Rules, and let me say that I do not believe there has ever been a bill before the Committee on Rules which would be a bigger rip-off to the taxpayers than this bill.

What are they proposing to do here, as indicated by the gentleman who just preceded me, the gentleman from Kansas (Mr. SKUBITZ)? To make payments in lieu of taxes on Federal lands.

Let us examine it. We had a proposal before this Congress several months back to create a national park in Ohio, my home State. One of the arguments given for taking taxpayers' money to create this national park was that it would bring in new revenues, it would bring in tourists, it would bring in this and bring in that, in short, it would help the economy of the area as well as afford recreation. I just want to read one of the statements made concerning this particular park.

> . . . the actual experience, as I understand it, has been that the tax situation of local areas in the end has always been enhanced by the creation of new parks. I am sure that would be the case here.

What did the Congress do? We went forward and appropriated the money to create this park. Today, the same individual who said the tax situation would be enhanced by the new park is now supporting this legislation, maintaining the taxpayers should appropriate money in lieu of taxes to be lost by the creation of this national park.

Mr. SEIBERLING. Mr. Speaker, will the gentleman yield, since he quoted my remarks?

Mr. LATTA. Mr. Speaker, I would be happy to yield to the gentleman if he wants to justify his position.

Mr. SEIBERLING. Mr. Speaker, one of the phrases in the quotation the gentleman used was where I said that in the end it will produce more revenue for the local government. But in the short run, I have discovered specific facts—which I will not take up the gentleman's time to recite—as to the potential tax loss, in the short run, to local school districts and local governments. I think we ought to be doing something to tide them over the transition phase.

Mr. LATTA. Mr. Speaker, let me say that I have never heard a more inconsistent statement or position in my life. The gentleman cannot have it both ways. We either come in here and we ask the taxpayers to appropriate money for a national park, take the benefits that go with it, and give up those few dollars of taxes, or we do not. We cannot come in here one day and say we want a national park to enhance the tax situation locally and the next day come in here and say we want payments in lieu of the taxes to be lost locally. Such a position is absolutely wrong and unjustifiable.

Mr. Speaker, I support the position of the gentleman from Kansas (Mr. SKUBITZ).

However, let me say that I go one step further. The gentleman from Kansas left out a big part of the bill; I do not leave any part out of it.

Are we going to establish a position here in this Congress different from all the other Congresses and say that we are going to make payments in lieu of taxes for all Federal lands?

I see that the gentleman from Idaho (Mr. SYMMS) is already on his feet. As soon as I speak about the West, the gentleman gets on his feet because it touches home. We are all very conservative until some bill comes along which may bring new moneys to our particular areas. If we get something for back home, then we are not quite so concerned about the deficit.

The SPEAKER. The time of the gentleman from Ohio (Mr. LATTA) has expired.

Mr. PEPPER. Mr. Speaker, I yield 2 additional minutes to the gentleman from Ohio (Mr. LATTA).

Mr. SYMMS. Mr. Speaker, will the gentleman yield?

Mr. LATTA. I yield to the gentleman from Idaho.

Mr. SYMMS. Mr. Speaker, when my State was granted statehood, there was included in the statehood charter the provision that the Federal lands would be returned to the State of Idaho. There are 37 million acres in my State that belong to the Federal Government. We have counties that are 90 to 95 percent owned by the Federal Government.

We have to go to the White House to get permission to cut a tree; we even have to go to the Secretary of the Interior to get permission to graze a sheep on this ground.

I think there is another side to the coin concerning this problem the gentleman from Ohio (Mr. LATTA) is bringing up. If they would give up the land, we could make use of it.

Mr. LATTA. Mr. Speaker, let me ask the gentleman, do they get revenue sharing out in his State, just as all other States do?

Mr. SYMMS. That is true, but where the gentleman missed the point is that the Federal lands are not being managed as well as they could be managed and are not paying taxes. If they are getting the benefits from the land, perhaps the Federal Government should have an obligation to manage the land and the resources properly and make payments to support local governments if they are going to tie up all these multiple-use resources, all the timber permits, and all the mineral resources. All these things are tied up in the bureaucracy. There is no revenue coming to the counties. These people in my State have to make their livelihoods from the land, and they do not have control of it.

Mr. LATTA. Mr. Speaker, if the gentleman is going to make that argument, I will point out that argument should have been made 200 years ago. If he is going to complain about the nontaxation of Federal property, he is a little late. Considering the type of deficit the gentleman knows we face in this country, I would say that now is not the time to go forward with such a new proposal.

It took us 180 years to get to a $100 billion budget, as the gentleman knows. It took us 9 more years to add another $100 billion, it took us only 4 more years to add another $100 billion and only 2 years to add still another $100 billion. This rate of spending cannot continue. The fiscal year has just ended with the Government being $65 billion in the red.

Mr. Speaker, we cannot have it both ways. We cannot come in here today and be for this type legislation and at the same time vote for a balanced budget. I will wager that my good friend, the gentleman from Idaho (Mr. SYMMS) voted with me for a balanced budget. Hopefully, we can vote together today to keep us from going yet further in the opposite direction.

Mr. QUILLEN. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from California (Mr. DON H. CLAUSEN).

Mr. DON H. CLAUSEN. Mr. Speaker, the issue before us now is whether or not we are in support of the rule. We are debating the issues, and I am hopeful that the Members will remain on the floor as we debate this issue in depth.

There are many Members in this room who have worked for a number of years to establish the principle of payments-in-lieu-of-taxes. It really boils down to whether or not the lands in a Member's area are a part of the tax base of the local political subdivision. However, if a Member is from the East where they have all their tax bases established, then, of course, there is not the degree of sensitivity that is expressed by some other of the Western Members.

Mr. Speaker, this will all be debated as we move in the direction of the adoption of this rule, and I hope the Members will support the rule.

Mr. QUILLEN. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Colorado (Mr. JOHNSON).

Mr. JOHNSON of Colorado. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I rise in support of this rule. I know that we all have recognition of the feeling that anything that goes outside our own districts is foreign aid, and I urge the Members of the body whose districts do not receive funds under the provisions of this bill to stay and listen to the debate. I believe we can justify the provisions of this bill.

I believe this is a worthwhile bill. I do not believe it is a boondoggle, and I do not believe it is ripping off the taxpayers.

Mr. Speaker, I urge the Members of the body to stay after the rule is adopted and listen to the justifications that will be made for the bill.

I suppose any time that funding is

going outside of a person's district, he can stand up and say, "We are going to protect the taxpayers here and prevent the taxpayers from some other district from ripping us off."

There is an awful lot of that talk going on so far.

Frankly, I am surprised to hear it. This bill is one which has been justified. It has been urged a long time.

Mr. Speaker, I urge Members to listen to the debate and see whether we cannot justify passage of this much-needed bill.

Mr. QUILLEN. Mr. Speaker, I have no further requests for time, but I would urge the Members of this body to adopt the rule and the bill.

We hear the cries of some who might not be affected by this measure, but I would remind my colleagues that 48 of the 50 States are affected; and when the Federal Government comes in and continues to buy up land against the wishes of the people in a county, then I think the people of that county should be reimbursed for taxes.

Therefore, Mr. Speaker, I urge the adoption of the rule.

Mr. PEPPER. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio (Mr. SEIBERLING).

Mr. SEIBERLING. Mr. Speaker, I support the rule.

Since the gentleman from Ohio (Mr. LATTA) has said that my position on this is inconsistent with my support of national park legislation, let me say, first of all, that there is no more apt time to quote Emerson's famous phrase:

> A foolish consistency is the hobgoblin of little minds.

However, Mr. Speaker, I do not think that there is an inconsistency. It is clear from our experience in creating national parks, or even local parks, that in almost every case the value of the land surrounding the park goes up. In the long run, the total tax revenue in the area is increased. However, people also have to live in the short run.

Mr. Speaker, after we created the Cuyahoga Valley National Recreation Area—and I am sorry that some of it is not in the district of the gentleman from Ohio (Mr. LATTA), in which case he might have a slightly different feeling about the matter—some calculations were made. We found, for example, that one small township would have a major part of its land taken for the park, which would cause a loss of over 10 percent in its rather small budget. We found that one single rural school district would lose over $176,000 a year in the first years of acquisition.

What this bill tries to do, Mr. Speaker, is to tide over local governments in such situations for a period of 5 years, until the revenues from the surrounding area make up for the immediate loss of revenue.

I do not consider that inconsistent, and I consider that Members of Congress, when they find that the people they represent have a problem that has been created by the Federal Government, have an obligation to try to resolve that problem for their constituents.

Mr. PEPPER. Mr. Speaker, I have no further requests for time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER. The question is on the resolution.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. FRENZEL. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 382, nays 10, not voting 39, as follows:

[Roll No. 608]

YEAS—382

Abdnor
Abzug
Adams
Alexander
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N. Dak.
Annunzio
Archer
Armstrong
Ashbrook
Ashley
Aspin
AuCoin
Bafalis
Baldus
Baucus
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Bell
Bennett
Bergland
Bevill
Biaggi
Biester
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonker
Bowen
Brademas
Breaux
Breckinridge
Brinkley
Brodhead
Brooks
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burlison, Mo.
Burton, John
Burton, Phillip
Butler
Byron
Carney
Carr
Carter
Cederberg
Chappell
Chisholm
Clancy
Clausen, Don H.
Clawson, Del
Clay
Cleveland
Cohen
Collins, Ill.
Conable
Conte
Conyers
Corman
Cornell
Cotter
Coughlin
Crane
D'Amours
Daniel, Dan
Daniel, R. W.
Daniels, N.J.
Danielson
Davis
de la Garza
Delaney
Dellums
Derrick
Derwinski
Devine
Dickinson
Diggs
Dingell
Dodd
Downey, N.Y.
Downing, Va.
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Eilberg
Emery
English
Erlenborn
Eshleman
Evans, Colo.
Evans, Ind.
Fary
Fascell
Fenwick
Fish
Fisher
Fithian
Flood
Florio
Flowers
Foley
Ford, Mich.
Forsythe
Fraser
Frenzel
Frey
Fuqua
Gaydos
Giaimo
Gibbons
Gilman
Ginn
Goldwater
Gonzalez
Goodling
Gradison
Grassley
Green
Gude
Guyer
Hagedorn
Haley
Hall, Ill.
Hall, Tex.
Hamilton
Hammerschmidt
Hanley
Hannaford
Hansen
Harkin
Harrington
Harris
Harsha
Hawkins
Hechler, W. Va.
Heckler, Mass.
Hefner
Heinz
Helstoski
Henderson
Hicks
Hightower
Hillis
Holland
Holt
Holtzman
Horton
Howard
Hubbard
Hughes
Hungate
Hyde
Ichord
Jacobs
Jarman
Jeffords
Jenrette
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Jordan
Karth
Kasten
Kastenmeier
Kazen
Kelly
Kemp
Ketchum
Keys
Koch
Krebs
Krueger
LaFalce
Lagomarsino
Landrum
Leggett
Lehman
Lent
Levitas
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lujan
Lundine
McCloskey
McCollister
McCormack
McDade
McEwen
McFall
McHugh
McKay
McKinney
Madden
Madigan
Maguire
Mahon
Mann
Martin
Mathis
Mazzoli
Meeds
Melcher
Metcalfe
Meyner
Mezvinsky
Michel
Mikva
Milford
Miller, Calif.
Miller, Ohio
Mills
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Moore
Moorhead, Calif.
Moorhead, Pa.
Morgan
Mosher
Moss
Mottl
Murphy, Ill.
Murphy, N.Y.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Nedzi
Nichols
Nix
Nolan
Nowak
Oberstar
Obey
O'Brien
O'Neill
Ottinger
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Pepper
Perkins
Pettis
Pickle
Pike
Pressler
Preyer
Price
Pritchard
Quie
Quillen
Railsback
Randall
Rangel
Rees
Regula
Reuss
Rhodes
Richmond
Riegle
Rinaldo
Roberts
Robinson
Rodino
Roe
Rogers
Rooney
Rose
Rosenthal
Rostenkowski
Roush
Rousselot
Roybal
Runnels
Ruppe
Russo
Ryan
St Germain
Santini
Sarasin
Sarbanes
Satterfield
Scheuer
Schroeder
Schulze
Sebelius
Seiberling
Sharp
Shriver
Shuster
Simon
Sisk
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Spellman
Spence
Staggers
Stanton, J. William
Stanton, James V.
Stark
Steed
Steiger, Wis.
Stephens
Stokes
Stratton
Studds
Symms
Talcott
Taylor, Mo.
Taylor, N.C.
Teague
Thompson
Thone
Traxler
Treen
Tsongas
Udall
Ullman
Van Deerlin
Vander Jagt
Vander Veen
Vanik
Vigorito
Waggonner
Walsh
Wampler
Waxman
Weaver
Whalen
White
Whitehurst
Whitten
Wiggins
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wolff
Wright
Wydler
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Ga.
Young, Tex.
Zablocki
Zeferetti

NAYS—10

Broomfield
Burleson, Tex.
Collins, Tex.
Hutchinson
Kindness
Latta
McClory
Paul
Poage
Schneebeli

NOT VOTING—39

Addabbo
Allen
Andrews, N.C.
Badillo
Cochran
Conlan
Dent
du Pont
Esch
Evins, Tenn.
Findley
Flynt
Ford, Tenn.
Fountain
Hayes, Ind.
Hays, Ohio
Hébert
Hinshaw
Howe
Jones, Tenn.
McDonald
Matsunaga
Mink
Montgomery
Neal
O'Hara
Passman
Peyser
Risenhoover
Roncalio
Shipley
Sikes
Steelman
Steiger, Ariz.
Stuckey
Sullivan
Symington
Thornton
Wylie

The Clerk announced the following pairs:

Mr. Addabbo with Mr. Allen.

Mr. Jones of Tennessee with Mr. Esch.

Mr. Thornton with Mr. Cochran.

Mr. Montgomery with Mr. Evins of Tennessee.

Mr. Hays of Ohio with Mr. Findley.

Mr. Ford of Tennessee with Mr. Andrews of North Carolina.

Mr. Badillo with Mr. Hayes of Indiana.

Mr. Dent with Mr. du Pont.

Mr. Flynt with Mr. McDonald.

Mr. Fountain with Mr. Conlan.

Mr. Passman with Mrs. Mink.

Mr. Roncalio with Mr. O'Hara

Mr. Shipley with Mr. Peyser.

Mr. Sikes with Mr. Steelman.

Mr. Hébert with Mrs. Sullivan.

Mr. Matsunaga with Mr. Steiger of Arizona.

Mr. Neal with Mr. Wylie.

Mr. Stuckey with Mr. Symington.

Mr. Howe with Mr. Risenhoover.

Mr. JONES of Alabama changed his vote from "present" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid upon the table.

Mr. WEAVER. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 9719) to provide for certain payments to be made to State or local governments by the Secretary of the Interior based upon the amount of certain public lands within the boundaries of such State or locality.

The SPEAKER. The question is on the motion offered by the gentleman from Oregon (Mr. WEAVER).

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. SHUSTER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 381, nays 1, not voting 49, as follows:

[Roll No. 609]

YEAS—381

Abdnor
Abzug
Adams
Alexander
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N. Dak.
Annunzio
Archer
Armstrong
Ashbrook
Ashley
Aspin
AuCoin
Bafalis
Baldus
Baucus
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Bell
Bennett
Bergland
Bevill
Biaggi
Biester
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonker
Bowen
Brademas
Breaux
Breckinridge
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton, John
Burton, Phillip
Butler
Byron
Carney
Carr
Carter
Chappell
Chisholm
Clancy
Clausen, Don H.
Clawson, Del
Clay
Cleveland
Cochran
Cohen
Collins, Ill.
Collins, Tex.
Conable
Conte
Conyers
Corman
Cornell
Cotter
Crane
D'Amours
Daniel, Dan
Daniel, R. W.
Daniels, N.J.
Danielson
de la Garza
Delaney
Dellums
Derrick
Derwinski
Devine
Dickinson
Diggs
Dingell
Dodd
Downey, N.Y.
Downing, Va.
Drinan
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Eilberg
Emery
English
Erlenborn
Eshleman
Evans, Colo.
Evans, Ind.
Fary
Fascell
Fenwick
Fish
Fisher
Fithian
Flood
Florio
Flowers
Foley
Ford, Mich.
Forsythe
Fraser
Frenzel
Frey
Fuqua
Giaimo
Gibbons
Gilman
Ginn
Goldwater
Gonzalez
Goodling
Gradison
Grassley
Green
Gude
Guyer
Hagedorn
Haley
Hall, Ill.
Hall, Tex.
Hamilton
Hammerschmidt
Hanley
Hannaford
Hansen
Harkin
Harrington
Harris
Harsha
Hawkins
Hechler, W. Va.
Heckler, Mass.
Heinz
Helstoski
Henderson
Hicks
Hightower
Hillis
Holland
Holt
Holtzman
Horton
Howard
Hubbard
Hughes
Hungate
Hutchinson
Hyde
Ichord
Jacobs
Jarman
Jeffords
Jenrette
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Jordan
Karth
Kasten
Kastenmeier
Kazen
Kelly
Kemp
Ketchum
Keys
Kindness
Koch
Krebs
Krueger
LaFalce
Lagomarsino
Landrum
Latta
Leggett
Lehman
Lent
Levitas
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lujan
Lundine
McClory
McCloskey
McCollister
McCormack
McDade
McEwen
McFall
McHugh
McKay
McKinney
Madden
Madigan
Maguire
Mahon
Mann
Martin
Mathis
Mazzoli
Meeds
Melcher
Metcalfe
Mezvinsky
Michel
Mikva
Milford
Miller, Calif.
Miller, Ohio
Mills
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Moore
Moorhead, Calif.
Moorhead, Pa.
Morgan
Mosher
Moss
Mottl
Murphy, Ill.
Murphy, N.Y.
Murtha
Myers, Ind.
Natcher
Neal
Nedzi
Nichols
Nowak
Oberstar
Obey
O'Brien
O'Hara
Ottinger
Patten, N.J.
Pattison, N.Y.
Paul
Pepper
Perkins
Pettis
Pickle
Pike
Poage
Pressler
Preyer
Price
Pritchard
Quie
Quillen
Railsback
Randall
Rees
Regula
Reuss
Rhodes
Richmond
Riegle
Rinaldo
Roberts
Robinson
Rodino
Roe
Rogers
Rooney
Rose
Rosenthal
Rostenkowski
Roush
Rousselot
Roybal
Runnels
Ruppe
Russo
Ryan
St Germain
Santini
Sarasin
Sarbanes
Satterfield
Scheuer
Schneebeli
Schroeder
Schulze
Sebelius
Seiberling
Sharp
Shriver
Shuster
Simon
Sisk
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Spellman
Spence
Staggers
Stanton, J. William
Stanton, James V.
Stark
Steed
Steiger, Wis.
Stephens
Stokes
Stratton
Studds
Symms
Talcott
Taylor, Mo.
Taylor, N.C.
Teague
Thompson
Thone
Traxler
Treen
Tsongas
Udall
Ullman
Van Deerlin
Vander Jagt
Vander Veen
Vigorito
Waggonner
Walsh
Wampler
Waxman
Weaver
Whalen
White
Whitehurst
Whitten
Wiggins
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wolff
Wright
Wydler
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Ga.
Young, Tex.
Zablocki
Zeferetti

NAYS—1

Myers, Pa.

NOT VOTING—49

Addabbo
Allen
Andrews, N.C.
Badillo
Cederberg
Conlan
Coughlin
Davis
Dent
Duncan, Oreg.
du Pont
Esch
Evins, Tenn.
Findley
Flynt
Ford, Tenn.
Fountain
Gaydos
Hayes, Ind.
Hays, Ohio
Hébert
Hefner
Hinshaw
Howe
Jones, Tenn.
McDonald
Matsunaga
Meyner
Mink
Montgomery
Nix
Nolan
O'Neill
Passman
Patterson, Calif.
Peyser
Rangel
Risenhoover
Roncalio
Shipley
Sikes
Steelman
Steiger, Ariz.
Stuckey
Sullivan
Symington
Thornton
Vanik
Wylie

So the motion was agreed to.

The result of the vote was announced as above recorded.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 9719, with Mr. DANIELSON in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from Oregon (Mr. WEAVER) will be recognized for 30 minutes, and the gentleman from Kansas (Mr. SKUBITZ) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Oregon (Mr. WEAVER).

Mr. WEAVER. Mr. Chairman, I yield myself such time as I may consume.

Mr. YATES. Mr. Chairman, will the gentleman yield for a question before he starts?

Mr. WEAVER. I yield to the gentleman from Illinois.

Mr. YATES. Mr. Chairman, with respect to the creation of new national parks hereafter, if this bill goes through, will not the Congress have to pay for the appraised value of the land that is being taken or being acquired by the National Government, and governmental costs as well, so that the costs to the txapayers in the future for any new national parks or national recreational areas will be not only the cost of the land but the cost of the additional governmental services?

Mr. WEAVER. In response to the inquiry of the gentleman from Illinois, let me state that the bill would require that a payment in lieu of property taxes be made for acquiring lands to the counties and districts within which the park lands reside.

Mr. DON H. CLAUSEN. Mr. Chairman, if the gentleman will yield, in partial response to the gentleman's question, the acreage at 75 cents an acre would apply in the case of national parks and it would be only an incremental adjustment payment for the 5-year period which would self-destruct after this payment was made.

Mr. YATES. I thank the gentleman.

Mr. WEAVER. Mr. Chairman, because of the sovereignty of the United States, federally owned lands cannot be taxed by local governments. This legislation, H.R. 9719 would provide for a system of payments in lieu of taxes to local governments to partially compensate them for the tax immunity of the national resource lands within their boundaries.

The Federal Government holds approximately one-third of the Nation's land, or 760 million acres. These holdings are located in more than 1,000 counties and 48 States. Many counties have more than 80 to 90 percent of their land in Federal ownership. The fact that this land is secure from taxation from State and local governments has only placed an increasingly inequitable burden on the taxpayers within the States and counties where these lands are located.

Let us examine the philosophy of the property tax. The property tax was instituted not only to raise revenue, of course, but to pay for benefits to property. The question is, is the Federal land residing within counties a burden? That is, does it require services from local governments? If the Federal lands did not require services, then they would be neutral, paying no property taxes and not receiving services. But this is simply not the case. These Federal lands do require services and as increasing numbers of people go on to the Federal lands as tourists and in other capacities, these services are increasing and have increased intensively over the past few years. Such things as law enforcement, rescue teams, sanitation, hospitals, these are services provided by the county to the Federal lands.

All we ask in this bill, Mr. Chairman, is that those public lands help pay their way.

Over the years Congress has established a number of programs which partially compensate for the impact of Federal ownership by paying a percentage of the revenue derived from the public lands but these forest receipts, grazing fees, and other revenues, are considerably less than the revenues these lands would provide to the counties if on the tax rolls.

I point out here, Mr. Chairman, that under this bill these receipts are deducted from the payments in lieu of taxes this bill would provide. There is not a double payment.

Of the more than $750 million in receipts annually from these lands—and I point out these lands now give to the Federal Government $750 million annually in various production receipts—they return only $115 million to the local governments in these sharing formulas. These are earmarked for roads and schools, not to the counties directly. These payments do not bear any relationship to the direct and indirect burdens imposed on local governments to provide a host of governmental services to these lands, such as the ones I have mentioned including fire protection, sewage treatment, the pickup of litter, courts, health, search and rescue, and law enforcement, to name a few. The existing system is extremely inequitable, and the revenue fluctuates from year to year depending entirely on production. H.R. 9719 would provide a predictable level of payments which does not now exist that the counties could rely on.

This legislation is the result of studies conducted by the Public Land Law Review Commission. In 1970 the Commission issued its report and recommendations concerning the public lands. One of the important conclusions reached by the Commission was that for the most part the public lands should be retained in Federal ownership for the benefit of all the people of this Nation, and that the expense of this policy should be borne equally by all. The Commission recommended establishing a system whereby the Federal Government would make payments in lieu of taxes to compensate State and local governments for lost revenues from these lands. The bill the committee has reported seeks to translate the Public Land Law Review Commission's recommendations into law. It is a sensible and fiscally responsible approach to a problem which continues to increase in severity and which threatens the very survival of entities of local government in many places.

H.R. 9719 establishes a formula based on a payment of 75 cents per acre to units of local government for entitlement lands. It deducts from this figure existing payments now received by local governments under the various other public land statutes. It also includes a population factor which will limit payments to sparsely populated counties and sets an overall limit of $1 million to any unit of local government regardless of total population.

The bill identifies as eligible for payments national forest lands, national park lands, lands under the jurisdiction of the Bureau of Land Management, national forest wilderness areas, and lands that are utilized as reservoirs as part of the water development projects of the United States. The committee believes that these are the lands which have the greatest impact on the fiscal health of local governments and create the vast majority of problems relating to tax immunity. In other words, the bill provides for payments by the Federal Government to acquire parklands for new additions to the parks and wilderness system.

Mr. KAZEN. Mr. Chairman, will the gentleman yield at that point?

Mr. WEAVER. I yield to the gentleman from Texas.

Mr. KAZEN. I thank the gentleman for yielding.

I am having difficulty, I will tell the gentleman, in going along with the provisions of this bill simply because I feel that in the future we are going to restrict the amount of acreage that we are going to get into the public domain simply because of this bill.

Mr. WEAVER. I yield to the gentleman for a question, not for a speech. I must go on.

Mr. KAZEN. I want the gentleman to clarify the doubts that I have because of what he is saying.

Mr. WEAVER. I certainly will deal with that for the gentleman.

The opposite in my estimation is true, that the burdens that national parks impose on county governments now recompensed by this bill will allow far greater credit of proposed parklands.

I will go on with my speech.

This provision was added to ease the impact of Federal acquisitions which suddenly remove property from the tax rolls. It provides for a payment based on 1 percent of the fair market value of the acquired lands for 5 years. However, this payment cannot be greater than the actual property tax levied in the past by the local government units. While this would only add approximately $5 million to the cost per year based on current acquisition schedules, it will certainly reduce the immediate and direct financial impact on these affected areas where parks are established from private lands.

The gentleman from Kansas has agreed to the fundamentals of this bill and I appreciate his support for this bill. The gentleman considers only parks and the gentleman considers that parks and says that parks are assets to their localities.

May I point out to the Members of the Committee that privately held assets that create burdens for the local governments pay property taxes. Publicly held assets do not. This is an inequity that we need to point out and remedy in this bill. Over the years there have been many proposals suggested to deal with this problem, including establishing a system of "in lieu" payments based on the actual assessed value of the Federal lands which would replace all existing public land revenue sharing programs.

I would like to point out that in my own district if our forests were privately held, I have studies to show that the property taxes under a reduced Senate system would quadruple the payments to my counties; if these were private timberlands, they would quadruple.

The committee did not go with the new system and it adopted a formula that allowed 75 cents per acre. To do this eliminates the need—and I want to stress this—by going to the 75 cents an acre, we eliminated the need for any new bureaucracy for the complex system of administration that would arise under the assessed valuation formula.

We estimate that this will take an accountant several weeks a year to simply gather the data on the counties, on the Federal lands, on the populations, and prorate the payments.

I would like to point out at this time an interesting fact: that is, that over 30 percent of the money goes to the Eastern States. This is not a western bill in entirety at all. As a matter of fact, the Western States get an average of 20 cents per acre, while the Eastern States get 69 cents per acre. The reason for this is that per capita limit I mentioned earlier, which reduces payments to sparsely populated counties.

Mr. SEIBERLING. Mr. Chairman, will the gentleman yield?

Mr. WEAVER. I yield to the gentleman from Ohio.

Mr. SEIBERLING. Mr. Chairman, the 30 percent that would go to Eastern States would be drastically reduced if the national park system and the wilderness system were removed from the scope of this bill.

Mr. WEAVER. Most assuredly, there are forests purchased under the Weeks Act that do receive payments under this bill; but the national parks constitute an important revenue sharing device of eastern lands in lieu of the property tax formula by the Eastern States.

While the 75-cents-per-acre formula is certainly not a total solution, and I point out it is not, 75 cents per acre for present lands, that is just the assessment; in most cases it will not provide payments equivalent to property taxes, yet it will be far more equitable than the existing situation and the total cost of this bill is around $115 million a year.

Mr. Chairman, I want to point out that because of the built-in limitations, there is no serious chance that this bill will take off in the future. We limit the payments. The only things that could be affected arising out of this are increases in population.

Mr. ULLMAN. Mr. Chairman, will the gentleman yield?

Mr. WEAVER. I yield to the gentleman from Oregon.

Mr. ULLMAN. Mr. Chairman, I want

to commend my colleague, the gentleman from Oregon, for the long dedication he has given in the Committee on the Interior to this effort and I want to commend the subcommittee and the full Committee on the Interior for their diligence.

I remember 16 years ago when I was in the Committee on the Interior, we were looking into this matter. It has been something that has needed resolution for many, many years. There is no easy answer. Like other legislative efforts, it is a very complicated posture of Federal involvement in ownership; but the thrust of the bill, it seems to me, is as fair and as equitable as we could possibly achieve. The areas of controversy have been resolved, not to everybody's satisfaction, but I think as well as we can resolve them under the rule of reason.

So, Mr. Chairman, I fully support the bill from the Committee on the Interior. I am going to stay with the committee on the amendments and I am most hopeful that the bill stays intact and is passed in its present form.

Mr. Chairman, H.R. 9719 addresses a serious problem that exists, not only in the Western States, but in all States where our public lands are located. Certainly the Western States, where the vast majority of Federal lands are located, have the most serious problems and will receive a significant percentage of payments under this act. But, there are over a thousand counties in the country affected by the burden of tax immunity. Many of these are in the South, the East, and the Midwest, and are facing serious crises; part of which can be attributed to the tax immunity of these lands and the increasing level of services.

Large population growth related to development of energy resources on Federal lands, along with greatly increased recreational use—and I emphasize recreational use—has created increased burdens on county governments which are going to increase dramatically. This use has created and will continue to create overwhelming demands on local governments to provide services. Since these lands are a national resource, there is a Federal responsibility to minimize the financial burden placed upon those jurisdictions on which public lands are located. This is a national problem, Mr. Chairman, which the Congress should not put off any longer.

Mr. SKUBITZ. Mr. Chairman, I yield such time as he may consume to the gentleman from Vermont (Mr. Jeffords).

Mr. JEFFORDS. Mr. Chairman, I would like to take this opportunity to register my support for H.R. 9719, the Payments in Lieu of Taxes Act. This bill addresses a problem that has plagued substantial portions of almost all our States—that of the inadequate compensation local units of government receive for certain Federal lands located within their boundaries. Tax-exempt tracts managed by the Forest Service, Bureau of Land Management, and National Park Service have long placed severe strains on the property tax base of many counties and towns.

As a Vermonter, I have firsthand knowledge of the burdens associated with localities containing large amounts of Federal forestland. Almost half of our counties include substantial Forest Service holdings. In some towns 80 to 90 percent of the land area is federally controlled. Vermont is unusual in that these numerous small towns have the responsibility of providing the services normally associated with larger municipalities. The increasing demand for and cost of schools, law enforcement programs, road maintenance, fire protection, and the rest have caused the expenditure levels of these towns to rise dramatically. Where do these towns go to provide the income necessary to meet these demands? They have to rely on their remaining property tax base. Tax-immune Federal lands severely cut into their revenue producing capability.

In an attempt to give Vermont towns some return from these Federal holdings, the Forest Service has used a payment schedule based on the sale of timber cut within the national forest. A percentage of the returns is paid directly to the towns each year. As the cost of providing municipal services has kept skyrocketing, the profits from the timber sales have been plunging downward. After hitting a record high in fiscal year 1967, the bottom of the Vermont timber market has fallen out. Forest Service payments to Vermont towns has dropped from $172,000 to $48,000 in the last few years. As one town manager lamented, "We are getting almost nil as far as money from the Government." Looking into the timber market's crystal ball, an upswing cannot be expected to be forthcoming.

The effect of these companion trends of increasing expenditures and decreasing income is to create a vise that is slowly crushing many Vermont towns. With the virtual absence of Forest Service lands from the property tax base, towns are having to tax private holdings at an unbearable rate. Last year one Vermont town, containing a one-third proportion of federally controlled lands, was forced to tax private landowners at a rate of over $3 per acre. The return from the Federal lands within its boundaries was 19 cents per acre—a difference of 1,500 percent. Severe property tax rates on private holdings within these towns is forcing many of the older farmers to sell their lands and move out of the area. Without a more equitable method of compensating towns for the loss to their tax base, the situation can only continue to deteriorate.

I feel that H.R. 9719 represents a significant move toward providing equitable levels of payment to local governments strapped by the tax-exempt status of Federal lands within their boundaries. Instead of basing Federal payments on the vagaries of the timber market, it establishes a uniform pricing mechanism providing a stable and adequate level of return. The bill provides these moneys and, at the same time, keeps a lid on total payments to prevent unnecessary windfall profits in large uninhabited areas. I commend the gentleman from Colorado for taking the initiative in this matter and for designing a mechanism that effectively offsets the burdens associated with localities containing a part of the vast Federal holdings in our country.

Mr. SKUBITZ. Mr. Chairman, I yield 6 minutes to the gentleman from California (Mr. Don H. Clausen).

Mr. DON H. CLAUSEN. Mr. Chairman, as a cosponsor of the payments-in-lieu-of-taxes bill, I rise in strong support of it.

The legislation before us is a very meaningful piece of legislation to those areas of the country that are directly affected by the legislation.

Today is a landmark day in legislative history as this is the first time that a payments-in-lieu-of-taxes bill has reached the floor of the House. The legislation is long overdue.

The purpose of this vital important, bipartisan measure is to recognize the severe burden imposed on our local governments by the tax immunity of Federal lands.

We have tried to put together a bipartisan coalition to recognize what we see to be a problem that requires attention. Fairness, equity, and principle are involved.

Our bill was approved unanimously by the House Interior and Insular Affairs Committee of which I am a member and I would like to take this opportunity to express my deep appreciation to the chairman of the committee, the distinguished gentleman from Florida (Mr. Haley) for his willingness to advance this legislation as well as the astute gentleman from Arizona (Mr. Udall), chairman of the Subcommittee on Energy and the Environment and the ranking minority member (Mr. Steelman).

Field hearings were held in Salt Lake City, Utah and Reno, Nev., which I was able to attend. These hearings helped lay the groundwork for the later sessions held here in Washington.

The bill has a long history of support and dedicated effort on the part of many of us to bring it to the floor of the House today. In previous Congresses our bills relating to the principle of payments in lieu of taxes were referred to the Government Operations Committee or the Ways and Means Committee neither of which was willing to conduct hearings on the bills or take any action to move the legislation.

Early in this session of Congress, we organized a bipartisan coalition which was successful in having the bill referred to the Interior Committee. I am relating this information to my colleagues in order to emphasize the work that has gone into developing a bill which will best address the inequities to our local units of government as a result of the large holdings of federally owned tax exempt lands.

Originally, federally owned land was only a temporary condition and most land passed into private ownership and became subject to taxation. With the enactment in 1891 of legislation authorizing the President to set aside forest reservations this tradition ended. Later legislation did contain revenue sharing formulas for timber, minerals and grazing fees in recognition of the need for compensation for the fact that the lands could no longer be taxed.

These formulas do not reflect, however, the actual revenue needs or tax losses. The costs of providing municipal services such as for road maintenance, fire protection, law enforcement, courts, health, and rescue operations have increased tremendously as more and more people visit these lands. Increased mobility and leisure time will cause this trend to continue.

Federal ownership does not mean that the Federal Government has assumed the responsibility and burden of these services and all other aspects of administering these lands. The Federal Government, in my opinion, is a landowner and, as such, must pay its way.

Again, the purpose of the bill is to recognize the burden imposed on our local governments by the tax immunity of Federal lands. I want to emphasize this point, because reference has been made to revenue sharing.

The current revenue sharing formulas do not reflect the actual revenue needs for tax losses. For those of you who have very minimal public land ownership in your respective districts or States, you cannot really appreciate the sensitivity we have because you have a tax base that, on an ad valorem basis reflects the full value of the land and the return to local government is commensurate with the costs required to govern the lands.

If the Federal Government is to hold ownership of these lands for the benefit of all the people of the United States, the local political subdivisions should not have to bear the burden of responsibility for those cost factors related to that ownership.

This bill is particularly important to the Western States because the percentage of acreage owned by the Federal Government is so high. I wish to emphasize again that if these lands were not owned by the Federal Government and were a part of the tax base of the State, cities, and counties we would not be asking for this kind of legislation.

I served on the board of supervisors of Del Norte County in which 70 percent of the land in the entire county is owned by the Federal Government. The remaining 30 percent constituted our ad valorem tax base.

California is 45 percent owned by the Federal Government. We have other counties in my congressional district where 40 to 50 percent of the land is owned by the Federal Government.

In addition, we found that Alaska, Hawaii, Nevada, Oregon, and Utah are all over 50 percent federally owned.

The gentleman from Oregon (Mr. WEAVER) has presented the details of the bill, and I want to commend him for his presentation. It is also important to understand the history of the concept.

When I served on the board of supervisors of my county, I recommended the Federal payment in lieu of taxes principle. I saw firsthand the financial burden imposed on us, and the inequities in it.

Since that time, I have continued to press for the adoption of this idea. I have worked very closely with the historic group that the Members all know and remember as the Public Land Law Review Commission, which was established by this Congress about 10 years ago to address these issues.

Over a 6-year period, this Commission spent several millions of dollars inventorying the public lands, trying to classify the problem and getting advice and input in studies from a whole range of universities and outside groups.

In 1970, the Commission filed its historic report called "One-Third of the Nation's Land." The Commission recommended that a Federal payment system be established that would not be tied to varying levels of revenues from Federal lands.

The key passage from the 1970 report reads as follows:

> If the national interest dictates that lands should be retained in Federal ownership, it is the obligation of the United States to make certain that the burden of that policy is spread among all the people of the United States and is not borne only by those States and governments in whose area the lands are located.
>
> Therefore, the Federal Government should make payments to compensate State and local governments for the tax immunity of Federal lands.

More than 1,000 counties across the Nation in 48 States are impacted in this way by large holdings of Federal lands. It is important to point out that considerable amounts of Federal lands, including the 23 million acres in the national park system, are not included within existing revenue-sharing programs.

This problem is particularly acute in the Western States because the percentage of acreage owned by the Federal Government is so high. I wish to emphasize that if these lands were not owned by the Federal Government and were a part of the tax base of the State, cities and counties, we would not be asking for this kind of legislation.

I say this in redundancy because it is a most significant point.

Two-thirds of the population of the country is east of the Mississippi River, and subsequently two-thirds of the House of Representatives represents districts also east of the Mississippi River. We in the Western States need your support.

The Eastern States are fortunate, in that they have most of their land still in private ownership and it is a part of the tax base.

Our bill is supported by State and local governments, environmental and industry groups and citizen and taxpayer groups. My local county governments, the County Supervisors Association of California and the National Association of Counties all strongly support this legislation.

I urge my colleagues to join us in voting for the bill.

Mr. WEAVER. Mr. Chairman, I yield 2 minutes to the gentleman from Nevada (Mr. SANTINI).

Mr. EVANS of Colorado. Mr. Chairman, will the gentleman yield?

Mr. SANTINI. I yield to the gentleman from Colorado (Mr. EVANS).

Mr. EVANS of Colorado. Mr. Chairman, before you today is bipartisan legislation that provides a solution to a problem that county and local governments have been facing for many years.

This legislation, H.R. 9719, would provide for a system of payments in lieu of taxes to counties and local governments to partially compensate them for the tax immunity of natural resource lands within their boundaries. those lands listed as entitlement lands under this legislation include: National Forest Service, national parks, wilderness areas, BLM lands, and water resource lands such as the Army Corps of Engineers and the Bureau of Reclamation Projects.

As you know, the Federal Government owns 760 million acres of the 2.2 billion acres within the United States—approximately one-third of all land in this country. These tax exempt lands are located in more than 1,000 counties in 48 States. Many counties have more than 80–90 percent of their land in Federal ownership. The current Public land sharing formulas for timber, minerals, grazing leases, et cetera, do not provide sufficient funds to local governments.

The local governments have to provide services such as road maintenance, fire protection, law enforcement, waste disposal, health and rescue operations, courts, et cetera, for the public lands and activities on the lands, thereby placing an unfair burden on the taxpayers of the counties in which these lands are held. Of more than $750 million in receipts annually from these lands only about $110 million is returned to local governments which is principally earmarked for roads and schools. Additionally, the overall revenues acquired from the lands used to support these services have been diminishing due to the slow or irregular growth in total payments from mineral leases, timber sales, and grazing fees. Also, there is an increasing burden from funding federally mandated programs and meeting various Federal standards; this has only exacerbated the financial problem of local governments who service federally owned lands.

Perhaps most alarming is the large amount of tax revenues lost to local governments by not being able to tax federally owned lands. For example, in fiscal year 1975, the major public lands acts returned to either the State of Colorado or its counties approximately $2.6 million in payments. However, applying the 1974 average county mill levy to the appropriate valuation for Federal holdings in Colorado for the same year would have provided local governments with over $50 million in revenues.

It is crucial to underscore that such problems are not limited to Western States. There are 21 States east of the Mississippi River which have national forest lands, 24 States have Corps of Engineers projects, and 21 have national parks.

The cost estimate of $110 million annually for this legislation falls well within the overall funds collected by the Treasury from these natural resource lands. The cost is also considerably less than property tax equivalency if the lands were not tax exempt. These payments have not kept pace with inflation and the growing demand for Government services in public land areas.

Payment-in-lieu legislation was also recommended by the Public Land Law Review Commission which said:

> If the national interest dictates that lands should be retained in Federal ownership, it is the obligation of the United States to make certain that the burden of that policy is spread among all the people of the United States and is not borne only by those States and governments in whose area the lands are located. Therefore, the Federal Government should make payments to compensate State and local governments for the tax immunity of Federal lands.

Under H.R. 9719, a local government would receive the greater amount of either: First, 75 cents per acre of entitlement lands; or second, 10 cents per acre in addition to current payments. These payments would be limited to $50 per capita for counties under 5,000 population with a sliding scale to $20 per capita at 50,000 population or above. The payments can be used for any local government purpose—not restricted to roads and schools. This legislation would result in payments to more than 1,000 local governments in 48 States and would be based on the amount of acreage within a local government limited by a per capita population factor in order to prevent "windfall" moneys to local governments.

In addition, the bill would provide annual payments of 1 percent of the fair market value of lands acquired after December 31, 1970, for wilderness areas and new units of the national park system. These payments would be made annually for 5 years following acquisition of the land by the Federal Government, and are intended to cushion local governments against sudden drops in local tax revenues resulting from such acquisitions. The total estimated cost of this provision is $48 million over this 5-year period.

In hearings held this session and last session, payments-in-lieu legislation has been supported by representatives of State and local governments, environmental and industry groups and citizen and taxpayer groups. The Federation of Governors of the Rocky Mountain States and the National Association of Counties support this approach as an equitable and easily administered system that is long overdue.

I stand before you today to state that it is absolutely essential that we have legislation which provides for appropriate payments to be sent directly to municipalities in which federally owned lands exist. We need to lighten the burden of supporting Federal lands that are exempt from regular land taxes.

Mr. JOHNSON of California. Mr. Chairman, will the gentleman yield?

Mr. SANTINI. I yield to the gentleman from California (Mr. JOHNSON).

Mr. JOHNSON of California. Mr. Chairman, it has been my privilege for nearly 18 years to represent one of the most beautiful areas of California. The First Congressional District has within its boundaries all or part of 11 national forests, a national park, and a national monument. In addition, the Bureau of Land Management has extensive land holdings within this area, as do the U.S. Army Corps of Engineers and the Bureau of Reclamation.

California, the Golden State, is one of the largest States in our Nation. A full 46 percent of the land in our State is owned by the Federal Government. In the First Congressional District, many of the 14 counties have over 75 percent of their land owned by the Federal Government.

Obviously, the property tax base in these counties is extremely low. It is, therefore, necessary for these counties to receive from the Federal Government some form of offsetting payment. Without it, county governments would be unable to provide even the most basic services to their citizens. The tax burden would be unbearable and would fall on an unfortunate few.

The solution to this problem in the past has been the adoption of programs of payments in lieu of taxes. While this approach has been of significant help to the counties, there has been no uniformity to the payments by the various Federal agencies. There are currently payments from timber receipts, from grazing receipts, from mineral receipts, from Federal power receipts, and from materials sold from the public lands. This has resulted in serious inequalities.

The legislation which is before us today provides a uniform program of payments which will assure counties of equal treatment for equal Federal holdings while at the same time protecting counties from any reduction in current payments. This approach has met with wide acceptance by local government officials across the Nation.

The bill would establish two formulas for determining the payment to each local government unit. The basic formula would be 75 cents per eligible acre, less existing payments which the local government unit is now receiving under other statutes. The alternative formula would be a 10 cents-per-acre payment not reduced by present payments. Both formulas are subject to a payment ceiling based on the population of the government units. The amount of compensation due the local government would be calculated by both formulas with the local government receiving whichever amount is greater.

I take this opportunity to salute the authors of this legislation and the members of the Interior Committee who prepared this legislation. I feel that it is a very fine bill and a most equitable solution to a serious and delicate problem. I would urge each of my colleagues to give serious consideration to the equities of this legislation and to cast their vote in support of it.

Mr. BAUCUS. Mr. Chairman, will the gentleman yield?

Mr. SANTINI. I yield to the gentleman from Montana (Mr. BAUCUS).

Mr. BAUCUS. Mr. Chairman, the need for the payment-in-lieu-of-taxes bill is most compelling. There are approximately 1,000 counties in over 40 States which hold tax-exempt lands. This federally owned land contributes to operating costs for local governments. Adequate police and fire protection, medical care, ambulance service and road maintenance must be provided by the counties for people using these public lands. Yet, these counties cannot increase taxes on these lands to provide these services because these lands are tax exempt.

The current formula payments from public lands do not accomplish tax equity. Current payments are restricted to roads and schools only and current payments are based entirely on the amount of production of the public lands. Therefore, many public land based counties receive virtually no payments.

H.R. 9719 provides that counties can receive the greater of either $0.75 per acre minus any direct payments for entitlement lands or $0.10 per acre plus any direct payments for entitlement lands.

The estimated cost of this legislation is $120 million annually. But this is not a giveaway program. Indeed, more than $750 million per year in Federal revenues are generated by leases on Federal lands.

Almost one-third of Montana's 94 million acres of surface land is federally owned. Under this bill, Montana counties will receive over $9 million in royalties from the Department of the Interior, which is more than a $4 million increase over their current payments.

Included below is a breakdown, compiled by the National Association of Counties, of how much money each county in my district will receive under this bill:

TABLE I—*Additional annual payments to counties*

	A	B
Beaverhead	$225,200	-------
Broadwater	116,800	-------
Deer Lodge	114,406	-------
Flathead	378,450	-------
Gallatin	487,177	-------
Glacier	298,660	-------
Granite	-------	$70,841
Jefferson	222,140	-------
Lake	76,150	-------
Lewis & Clark	722,790	-------
Liberty	24,581	-------
Lincoln	-------	176,340
Madison	212,660	-------
Meagher	95,420	-------
Mineral	-------	64,690
Missoula	732,410	-------
Park	348,020	-------
Pondera	78,966	-------
Powell	158,300	-------
Ravalli	360,900	-------
Sanders	-------	91,230
Silver Bow	167,361	-------
Toole	31,409	-------

Section 2 (Alt. A at 75 cents per acre) (Alt. B at 10 cents per acre).

This bill treats all counties fairly. The payment formula is simple and easy to understand. It does not change existing law in any way. It does not jeopardize any Federal payments now received by counties. And payments can be used by counties for any public purpose.

The unequal and unfair payment to counties for nontaxable Federal lands has been a major reason why rural areas have suffered in past years. The counties in my district cannot provide the needed services to their people. I think that the approach to the problem taken by H.R. 9719 is equitable, easily understandable, and fiscally sound. I urge my colleagues to support this bill.

Mr. SANTINI. Mr. Chairman, today the House of Representatives is examining a most important nonpartisan and far-reaching piece of legislation. The impact of H.R. 9719, a bill which deals with the Federal tax-exempt lands, can readily be seen when you consider the fact that one-third of the entire country is federally owned. We have 1,000 counties located in nearly every State that are impacted by federally owned, tax-exempt lands.

Federal ownership of lands compels every local government affected to assume an inequitable burden in attempting to provide basic public services. When land is removed from the tax base because of Federal ownership, local communities are denied tax revenues that they would normally receive under private ownership. As a result, the disproportionate burden is placed upon those local taxpayers who occupy the private property within that county. This manifest inequity should be remedied. In 1970, the Public Land Law Review Commission recommended that—

> The Federal Government should make payments to compensate state and local governments for the tax immunity of Federal lands.

To better assess the impact of the Federal Government's vast landholdings, hearings on H.R. 9719 were held in Washington, D.C., as well as in Nevada—87 percent Federal landholdings—and Utah—67 percent Federal landholdings.

These hearings developed graphic case examples of why H.R. 9719 is needed to relieve the economic inequities created by the Federal landholdings within a county or local jurisdiction. Basic human-need services are under continued economic strain or curtailment. The heaviest burden must be carried, in many instances, by those rural counties that can least afford it. Each year, in many of those counties, there are thousands more visitors than residents, placing demands upon that county's human and fiscal resources. Health care services in many of our large Federal landholding small populated counties is severely impacted by the necessity of providing emergency medical care to transient indigents in need of help. For example, one hospital located in Humboldt County, Nev., has provided medical assistance to many of the counties transient visitors, but is totally supported by local residents. A county ambulance may have to travel 147 miles to pick up a Federal highway accident victim. If that victim is indigent, local Government must absorb the entire cost. General health care service for the local residents is proportionately diminished because there is not enough health care money to do both. With no private land tax base, there is no hope of raising medical money. Local governments must assume almost all of that burden. Because of serious economic constraints created by the absence of 90 to 99 percent of the counties tax base, most rural law enforcement agencies are seriously understaffed and by way of national comparison they are on the lowest end of the law enforcement pay scale.

The counties and municipalities impacted are severely impaired in providing all basic human services. Open dumps cannot be replaced in many small populated counties because there is insufficent budget base upon which to finance installation of a sanitary landfill. There is no money to build expanded sewage facilities. Many so-called county roads are located on the vast Federal landholdings, but the counties simply do not have the economic resources to improve or maintain those roads. Yet there is a constant community and visitor clamor to improve those roads.

Education is suffering in many Federal land dominated counties. Several Nevada counties have been forced because of rising costs and static income to close or contemplate closing rural schools. We have a very unique forced busing problem in our rural communities. White Pine County, Nev., with over 5 million acres, receives only a $30,000 annual land payment from the Federal Government, despite the fact that the Federal Government owns 97 percent of the county. Consequently, county residents rely heavily upon mining industry to maintain any degree of fiscal stability. However, the irregularity of these revenues—a drop from $546,760 in 1974 to nothing in 1976—has forced the school board to begin making preparations to close down schools, as all other channels of revenue have been exhausted.

Humboldt County, Nev., with 5 million acres of unpopulated and nontax-producing Federal lands involves an almost unbelievable situation for many students living in Virgin Valley. In order for these students to attend high school, they must travel 40 miles just to catch the bus, which in turn travels 140 miles over chiefly gravel roads on Federal lands to a high school in Oregon. The students then board the entire week in Oregon, and reverse the process the following Friday. Some elementary school children in this county travel over 120 miles each day—much on gravel roads—to receive their education. I speak in all sincerity when I say that these young people must have the 19th century dedication of Abraham Lincoln to endure what they must for a 20th century education.

It should be emphasized that the county employees who are providing most of the services are averaging less than $600 a month and they are utilizing facilities, that in some instances, their grandparents used. For example, the grade school in White Pine County was built in 1907, and its high school is 66 years old. The frustrated mayor of the county seat of Humboldt County wryly observed that the county jail "is so old and rickety that we are thinking of asking the inmates to sign a promise that if they escape, they will restack the bricks." He adds that a "good portion of the inmates are not locals."

You should remember when the county is 97 to 99 percent Federal land, then there is no real possibility of expanding the revenue potentials for that county. There are a multitude of additional problems and restrictions imposed upon agriculture, mining, commercial enterprise growth, community growth, and public access, by the dominance of Federal ownership of nontaxable lands. The Federal Government has forced the counties to walk a worn and frazzled fiscal tightrope, and action must be taken before these counties are completely devastated.

The situation is similar in hundreds of counties across the entire country. The Federal Government simply does not pay what would be required if the land were on the tax rolls; nor does it adequately compensate counties for all the burdens imposed upon them.

It is critical now that we work to overcome these shortcomings and eliminate Federal freeloading at the expense of our local and county taxpayers. I join the committee in declaring that H.R. 9719 "is a positive and long overdue step toward solving a problem that is seriously straining the fiscal health of this country's county and local governments."

Mr. DICKINSON. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

QUORUM CALL VACATED

The CHAIRMAN. One hundred and one Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to clause 2, rule XXIII, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

The Chair recognizes the gentleman from Kansas (Mr. SKUBITZ).

Mr. SKUBITZ. Mr. Chairman, I yield such time as he may consume to the gentleman from South Dakota (Mr. ABDNOR).

Mr. ABDNOR. Mr. Chairman, I was pleased to join in cosponsoring this legislation directed to remedy the present situation in which inadequate Federal payment in lieu of taxes is provided for Federal lands located in some 695 counties in the country.

The arguments for this legislation are familiar to all of you. Rather than belabor my colleagues with redundant recitation of the problems that counties suffer under existing provisions, I would, however, like to present a few examples from my district in South Dakota indicative of the problems that give a sense of dimension to this issue.

In one instance near Lake Andes, S. Dak., well demonstrates the problem. There has been indication of a proposed Federal agency purchase of some 9,000 acres for a wetland preserve. Should this occur, it will substantially reduce the tax base of this county. In testimony before the House Committee on Interior and Insular Affairs Subcommittee on Energy and the Environment last fall, I submitted specific information to indicate the dimension of this problem for six counties most directly affected in my district.

The problem which this legislation

addresses is not the result of previous perverse action by the Federal Government. It is not the result of Federal Government hegemony over State and county governments. It is the result of inexorable changes over the past 67 years which have made existing provisions burdensome. It is a clear example of the need to revise outdated provisions in the law.

The Federal Government acted to preserve the natural resources of this country. The continuing need to do so is unquestioned. Yet, this action should not be structured in such a way as to adversely affect the lives of those who live on and near those lands.

This legislation constructively addresses these two problems. It continues to respect the integrity of the land which is held by the Federal Government in trust for the American people. It also removes the burdens which time and economic developments have created as a result of these outdated provisions.

Through enactment of this legislation, Federal lands will cease to be a burden for local residents. Through enactment of this legislation, the Federal Government will remove much of the burden upon county and local governments in their efforts to educate our children. Through enactment of this legislation, we remove the incentive to exploit the resources of Federal lands to compensate for inadequate provisions to reimburse the "federally impacted" counties.

I urge my colleagues to render affirmative support for this needed legislation. The need is obvious. The solution is available. The problem is urgent.

Mr. SKUBITZ. Mr. Chairman, I yield 3 minutes to the gentleman from California (Mr. LAGOMARSINO).

Mr. LAGOMARSINO. Mr. Chairman, I want to express my support for this bill, H.R. 9719, and urge my colleagues to do likewise. This bill will finally implement a major recommendation made 16 years ago by the Public Land Law Review Commission.

This Commission, set up by the Congress for the express purpose of reviewing the myriad laws and situations related to our public lands, suggested in its June 1960 report that—

> If the national interest dictates that lands should be retained in Federal ownership, it is the obligation of the United States to make certain that the burden of that policy is spread among all the people of the United States and is not borne only by those states and governments in whose area the lands are located.
>
> Therefore, the Federal government should make payments to compensate state and local governments for the tax immunity of Federal lands.

This bill is designed to fulfill that recommendation.

Mr. Chairman, like many of the States, particularly in the West where the majority of our publicly owned land is located, California—even as our most populous State—has 45 percent of its land in Federal ownership. In one way we are very fortunate, in that this has allowed our people to have a significant amount of open space for recreation and other purposes at their very doorstep.

In another way, however, much of this public land has created a severe financial burden on local communities and governments. This Federal land is not on the tax rolls, and many counties, for example, are burdened with substantial governmental operation costs which draw little or no income from a great amount of these lands over which they must provide some services.

My own congressional district is heavily dominated with public lands, and represents a microcosm of the larger State and national problem.

Acording to figures I have obtained from the National Association of Counties, the following benefits will derive for counties in my congressional district under terms of H.R. 9719:

County	Current average annual income from Federal lands	Expected average annual income from Federal lands under H.R. 9719
Ventura	$12,000	$417,000
Santa Barbara	13,000	477,000
San Luis Obispo	3,900	228,000

This bill also brings various positive fringe benefits. For example, from my work on the Subcommittee on National Parks and Recreation, I am very aware that often one of the strongest resistances of local people to the creation of new national parks system areas in their localities is that more land would be taken off the tax roles. This bill will amply destroy that argument in the future, and should help pave the way for greater ease in the establishment of greater numbers of Federal parks—an action which is very much needed.

Mr. Chairman, I think that rectification of this lack of proper Federal compensation to local governments is long overdue, and I am pleased to finally see this bill before us. It is the product of a lot of work and refinement by members of the Interior Committee. I urge my colleagues to vote in favor of this bill, as it will provide many benefits for a great number of our citizens.

Mr. WEAVER. Mr. Chairman, I yield 1 minute to the gentleman from Arkansas (Mr. ALEXANDER).

Mr. ALEXANDER. Mr. Chairman, as a sponsor of H.R. 9719, I rise in support of the Payment In Lieu of Taxes Act, a bill which I believe will give rightful compensation to those counties in this Nation that suffer from a loss of revenues due to federally owned, and therefore nontaxable, lands within their boundaries.

Over the years, the Congress has established programs to partially compensate States and local governments for the impacts of Federal ownership, but in most cases the revenues that they receive do not even approach what would be received from property taxes if these lands were privately owned. The flaws in the current compensation programs are many. Most of the present payments bear no relationship to the direct and indirect burdens placed on local governments by the presence and use of these Federal lands. Nor are the revenues that a local unit of government receives directly related to the total number of acres of Federal land. And, probably most importantly to the people who reside within these local jurisdictions, these public land payments have not kept pace with the demand for Government services.

While there are programs for partial compensation to State and local governments for these lands, there are currently no payments to States and local governments for the 24.8 million acres in the national park system or the 9.6 million acre national wilderness system. These lands attract scores of visitors, but the economic benefits to the local economy rarely accrue to the local taxing authority. Income and sales taxes accrue to the State coffers, yet it is the local unit of government that must provide law enforcement, road maintenance, health and other services.

This bill is particularly beneficial to Arkansas, where a significant portion of the 3,292,998 acres of federally owned land—9.5 percent of State size in acres—is national forest or wilderness. Thirty-two counties in Arkansas would most likely be compensated by the passage in Arkansas of H.R. 9719, including Lee, Phillips, Stone, Van Buren, Independence, and Mississippi Counties in the First Congressional District.

This is not just another bill. This bill is a matter of life or death for the public school in the town of Fifty-Six, Stone County, Ark. Fifty-Six is an Ozark Mountain community that is nestled in the midst of the magnificent Ozark National Forest.

The Ozark Mountain people of Fifty-Six have fought against the tide of a national momentum of "bigism" that threatens their survival.

Fifty-Six wants to save its school because a school is vital to the life of an isolated community.

Most of the land in this school district is exempt from local taxation since it is located within the Ozark National Forest, land owned by the Federal Government and therefore nontaxable. The determined and dedicated citizens of Fifty-Six, Ark., recently passed a bond issue to build a new school which required a tax increase of more than 21 mills, all the law allows. This was still not enough, and local volunteer labor is being utilized to construct the building because of a lack of adequate funds. If the Fifty-Six school district is compensated for the federally owned lands within its boundaries, then the people of Fifty-Six would be permitted to continue their public school.

The people of Fifty-Six have not asked the Federal Government to subsidize their school system. They have done all they can under the law. They merely ask equity. They ask for the survival of Fifty-Six, Ark.

The CHAIRMAN. The time of the gentleman has expired.

Mr. SKUBITZ. Mr. Chairman, I yield 3 minutes to the gentleman from Colorado (Mr. JOHNSON).

Mr. JOHNSON of Colorado. Mr. Chairman, there have been some allegations during the debate on the rule that this bill constitutes a ripoff of the taxpayers, and that is generally coming from those Members who do not understand the problem and who do not receive any funds for their counties. I understand that. As I said before, we all regard foreign aid as anything that goes outside of our own district, but those of us who are familiar with this problem in the West know that this is not an undeserved bounty going to the Federal-land States, and I urge the Members to look at the formula which has been drawn. The formula, I think, is a very sound one. It is a complicated formula. We do not have time to go into it here, but the formula takes into account the other payments that the counties might receive from other statutes, and takes into account the population of these various counties. As I look down the list of the funds that go under this bill to the counties in Colorado, I find that those who are the most needy benefit the most per capita. There are counties that have a lot of Federal lands that also have large populations. They do not receive as much per capita as the other counties. Those people who are familiar with the Federal lands in Colorado generally, I think, are concerned about Aspen and Vail.

Those are very rich communities. The formula works a reasonable solution I think. The counties that really need the funding are counties that have a lack of sewer facilities, water facilities; they have high road expenses during the winter and during the summer time when they have a high number of tourists, and we seem to be getting more tourists all the time.

In Estes Park alone, where we had the flood that we are all familiar with, we have 3 million people go through that place every summer during about a 90-day period.

This is a bill that will provide some help and some compensation for the inevitable expense that arises out of trying to maintain that population that keeps coming through in these concentrated periods of time. It is something which is justified. Those of us from that part of the country that would benefit from this bill are not trying to get into the pockets of the taxpayers of the United States. This is something that I feel is justified, long overdue and needed.

Mr. SKUBITZ. Mr. Chairman, I yield 2 minutes to the gentleman from Mississippi (Mr. LOTT).

Mr. LOTT. Mr. Chairman, I agree that this legislation is long overdue in recognizing the inequities and burdens of large holdings of federally owned tax exempt lands. Many local governments whose boundaries contain these Federal lands are essentially deprived of taxes. This measure will simply try to relieve some of that burden.

Mr. Chairman, as it has already been pointed out, this is not legislation to benefit only Western States. It affects the whole Nation; in fact 48 States in all. It is important in the South because of the large amount of land included in national forests as well as other federally owned lands.

Let me give just a couple of examples of what it can mean to a local area. These counties still must finance full local government services countywide, such as law enforcement, road maintenance, and health, despite a restricted tax base. In Wayne County, Miss., there has been an effort for years to get assistance from the Forest Service to maintain vital roads, one in particular which goes through the national forest, to no avail. These hard pressed local governments simply do not have the funds to undertake the maintenance of such roads. This bill would provide some minimal relief for such situations.

We are not talking about a lot of money here. For instance, one of the highest payments to a county in Mississippi would be $16,074 to Wayne County. But to the county officials of that area, it would be of tremendous help.

Now the other example is the national park areas. Yes, it is granted that eventually there will be benefits from such parks to the local economy. However, there is usually a long waiting period before sufficient developments are made to attract the people. The record will show that there is 5 to 10 years lag time before these parks really start developing. This bill would address this problem by payment of 1 percent of market value for 5 years for parks and wilderness purchased by the Federal Government and taken off the tax rolls since 1971.

I feel that this legislation is badly needed and urge its passage.

Mr. SKUBITZ. Mr. Chairman. I yield 1 minute to the gentleman from New Mexico (Mr. LUJAN).

Mr. BAFALIS. Mr. Chairman, will the gentleman yield?

Mr. LUJAN. I yield to the gentleman from Florida (Mr. BAFALIS).

Mr. BAFALIS. Mr. Chairman, I rise in support of H.R. 9719, which provides for a payment in lieu of taxes to local communities for lands in their jurisdiction which are under the ownership of the Federal Government.

In representing Florida's 10th District, the problem of payment in lieu has been of special concern to me. I would like to outline for you the situation now developing in Collier County. I think it highlights the need for legislation of this nature.

The 93d Congress adopted legislation to establish the Big Cypress Fresh Water Reserve in Florida. The bill authorized the purchase of over 550,000 acres to establish this preserve for the protection of the Everglades National Park. This is the largest single purchase of land ever authorized under the Land and Fresh Water Conservation Fund.

The massive process of acquiring this land has now begun and it is creating problems for southwest Florida.

Collier County is particularly hard-hit. Of the 550,000 acres that are involved in the purchase of the Big Cypress Swamp, 75 percent of them are located within the boundaries of Collier County. In fact, by the time the purchase has been completed, 395,520 acres of the county will be owned by the Federal Government.

On top of this, 35,000 acres of land within the county is now within the confines of the Everglades National Park.

Therefore, of the 1.4 million acres in Collier County, a total of 440,520 acres—or approximately 30 percent—of Collier County will move from private ownership to the Federal Government.

According to the Collier County Property Appraiser, Mr. Sam Colding, the loss of the land involved in the Big Cypress purchase will decrease Collier County's annual property tax revenues by approximately $1 million. This is quite a large sum of money for a county with a population of 50,000, according to the official estimates of the U.S. Bureau of the Census for 1974.

In order to remedy this problem, I introduced legislation outlining a 5-year payment program for Collier County from the Federal Government. During hearings on payments in lieu before the Interior Committee, I testified in support of my proposal, again highlighting the negative impact this purchase was going to have on the tax base for Collier County.

While the purchase in Collier County stands alone in its size and impact on the community, I am sure this general problem is shared by many communities across the Nation. Therefore, I am pleased to offer my support of H.R. 9719 which also provides for a 5-year payment program for local communities by the Federal Government. These dollars will enable the communities to make the adjustments necessary when these lands are removed from their tax rolls.

I urge all my colleagues to join with me in supporting this legislation.

Thank you for this time, Mr. Chairman.

Mr. LUJAN. Mr. Chairman, I rise in support of this legislation. There are 374 million acres that are affected in the States; 374 million acres of Federal land.

I could take anyone through my entire district and, in fact, through the entire State of New Mexico, Mr. Chairman, and point out and show to the Members the difficulties that many of these counties are having in keeping up with the expenses, because of the large amounts of Federal lands.

I look at the report and I note that New Mexico is second only to Colorado in the amount of funds that this bill would provide.

So, Mr. Chairman, I think this legislation is long overdue and urge the adoption of H.R. 9719.

Mr. WEAVER. Mr. Chairman, I yield 1 minute to the gentleman from Washington (Mr. McCORMACK).

Mr. McCORMACK. Mr. Chairman, I rise in enthusiastic support for this Payments-In-Lieu of Taxes Act, H.R. 9719.

This legislation is of great importance to the people and counties I represent in the Fourth District of Washington State. All 10 of the counties that comprise that district are impacted by the presence of Federal, tax-exempt lands—most of it national forests. Recently the Congress voted to establish a new Alpine Lakes Wilderness Area, withdrawing thousands of additional acres from private ownership and off the tax rolls of Chelan and Kittitas Counties in eastern Wastington.

The North Cascades National Park

and Glacier Peak Wilderness Area impact further in Chelan County, while severe effects of tax-exempt Forest Service land are felt in Skamania and Yakima Counties. Yakima also shares some of the Goat Rocks Wilderness Area and the Mount Adams Wilderness Area. The entire western border of the Fourth District runs through the Gifford National Forest, the Snoqualmie National Forest, the Wenatchee National Forest and the Okanogan National Forest. These recreation and wilderness areas were created by Federal statute—for the benefit of all the people of this Nation, but at the expense of the local government and people.

There are many acres held by the Bureau of Land Management in Grant, Yakima, Klickitat, Benton, and Douglas Counties.

It is estimated that under the Payments-In-Lieu of Taxes Act, counties of the Fourth District will receive payments of about $2 million to compensate these local governments for tax revenues lost because of Federal preemption of productive land. This legislation equalizes the general tax burden with the benefits of Federal lands across the country.

The amount of funding that is required under this bill is estimated to fall well within the overall funds that derive from the Federal leases on natural resource lands—leases for timber, grazing, minerals. Many counties now obtain some returns from these leases, based on a percentage of production, for expenditure on schools and roads. The Payments-in-Lieu of Taxes Act will now assure the counties a definite amount that will not fluctuate with lease production abilities and will not be specifically earmarked for schools and roads but can be expended on the basis of priority need so that each county can now budget accurately, and the citizens of the county need not bear a disproportionate share of the tax burden for land intended for the use and enjoyment by all Americans.

Mr. Chairman, these lakes and wilderness areas are created by Federal statute for the benefit of the people of this Nation at the expense of the local governments and their people. This legislation is of vital importance.

On behalf of my constituents and the county commissioners of the Fourth Congressional District, I encourage the Members to pass this bill without amendment.

Mr. Chairman, the list of counties in my district follows:

Washington State—Fourth Congressional District Payments in Lieu of Taxes

[In thousands of dollars]

Benton	10,861
Chelan	801,302
Clark	161
Douglas	29,654
Grant	200,717
Kittitas	95,616
Klickitat	2,349
Okanogan	670,800
Skamania	81,130
Yakima	54,641

Mr. SKUBITZ. Mr. Chairman, I yield 2 minutes to the gentleman from Michigan (Mr. RUPPE).

Mr. RUPPE. Mr. Chairman, I rise in very strong support of H.R. 9719, and would like to congratulate the Members of this Committee and the Congress for what I believe will be passage of this well-deserved legislation today. This legislation is very similar to bills which I have introduced in previous Congresses covering a period of some 8 years.

Mr. Chairman, I would like to say that this legislation has very direct and significant applicability to my own district. In the Upper Peninsula alone, there are some 2 million acres out of 10 million acres owned by the Federal Government in the Ottawa and Hiawatha National Forests. Below the Mackinac Bridge, is located the Huron National Forest which encompasses well over a quarter of a million acres. The communities that abut these particular national forests have had for years a very difficult time making ends meet financially.

The total return from the Federal forests to the local unit of government in my district comes to no more than 11 cents per acre. This is not even one-tenth of the rate private property owners would pay in taxes to local government. The end result has been that local governments have been strapped for cash; they have not had the financial wherewithal, because of the large Federal presence, to undertake and maintain the very necessary services that citizens expect and certainly have every right to demand from local government.

The payment, if this legislation is passed, of 75 cents per acre to local units of government in my district will mean that these local units of government and the elective officials responsible for the administration thereof will have some of the cash funding available to meet the necessary expenses involved in actually operating these communities.

Mr. Chairman, I urge passage of this bill.

Mr. WEAVER. Mr. Chairman, I yield 2 minutes to the gentleman from Illinois (Mr. SIMON).

Mr. SIMON. Mr. Chairman and my colleagues, let me tell the Members about one of nine counties in my district which benefit, Pope County. Pope County is literally bankrupt, even though legally a county cannot go bankrupt. There are 88,000 acres of National Forest in Pope County. If that land were privately assessed, the county would receive $409,000.

As it is, the county itself receives not a penny, but the schools and roads receive $7,900 instead of $409,000. Under this bill, the county would receive a maximum of $55,000, so the schools and roads would get $7,900 and the county would get the balance; $55,000 is not a lot in a Federal budget, but for that county it is vital. We talk about antipoverty programs. Pope County has the lowest family income of any county in the State of Illinois. Its average family income is $6,024 below the statewide average.

I say with considerable pride that I have helped and voted for and worked for problems in New York City and Chicago and urban areas. Here we are talking about a problem to meet rural poverty, and I hope this House acts responsibly.

Mr. EVANS of Colorado. Mr. Chairman, will the gentleman yield?

Mr. SIMON. I yield to the gentleman from Colorado (Mr. EVANS).

Mr. EVANS of Colorado. I thank the gentleman for yielding.

Mr. Chairman, I want to take this opportunity to inform the members of the Committee of my great respect for the gentleman from Illinois (Mr. SIMON). I know the work he has put into this bill. I know the legislation he has introduced. Thanks to the efforts of Members such as the gentleman from Illinois (Mr. SIMON) I think we have a chance of successfully passing this legislation.

Mr. SIMON. Mr. Chairman, if I may reciprocate, I would like to commend the gentleman from Colorado (Mr. EVANS), who has provided tremendous leadership on this. Some day we are going to have a banquet for the gentleman in Pope County, Ill.

Mr. SKUBITZ. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, let me again repeat that I am for these payments where the natural resources are boxed up, as provided in the bill that was introduced by the gentleman from Colorado (Mr. EVANS). But I think it would be one of the biggest blunders this House can ever make when it begins including national parks. I object with every fiber in my body to the payments in lieu of taxes for parklands. These areas are gold mines to the areas that have them. If this statement is in error, that they are not goldmines, I have been misled by the distinguished chairman of the subcommittee for years, who has always pointed out the vast amount of land that the State of North Carolina has always given to the Federal Government for parks and, how great benefits were returned from the creation of national parks.

To make payments in lieu of taxes for all parks to be created in the future can only encourage the average city, small, medium, and large, to come forth and say, "We, too, want an urban park; we, too, want a place where our children can play; we, too, want them, and we want you, Uncle Sam, to not only buy the land, but to also pay the taxes on them for 5 years and then pay an acreage tax to eternity."

How much is it going to cost the first year? Let me quote the words of the gentleman from Oregon (Mr. WEAVER), on page 15 of the hearings of March 16:

> These are the breakdowns of $125 million a year payments made under this bill on the acres that are going in under the formula: the Bureau of Land Management, $75 million; National Parks, $18.5 million; Wilderness, $9 million; Corps of Engineers, $5.7 million.

I again state that I am not opposed to any of those payments. I think these areas are entitled to them, except the $18.5 million that we are talking about for national parks, not because of the amount of money, but because of the precedent this body will be setting. Two amendments will be presented here today which will include Corps of Engineers dredging projects and an Indian reservation. Why? Because we are opening the door. Military bases will follow. I have a colleague who tells me now he has a military base that he wants payments for. Anybody who has one is certainly not being fair to his community if he lets this go by and does not talk for his piece of pie.

Mr. Chairman, as I said, I am for these payments for resource lands that are boxed up. The amendment I will offer will strike the national parks as entitlement.

Mr. BURLISON of Missouri. Mr. Chairman, will my friend, the gentleman from Kansas, yield?

Mr. SKUBITZ. I yield to the gentleman from Missouri.

Mr. BURLISON of Missouri. Mr. Chairman, the gentleman from Kansas (Mr. SKUBITZ) has spoken of his favor for programs for property that is "boxed in." I believe that was his terminology.

Mr. SKUBITZ. Natural resources that are boxed in.

Mr. BURLISON of Missouri. Yes; or property that carries a real "burden."

Mr. Chairman, my question to the gentleman is this: How does he define that? How do we decide what properties fall in this category?

Mr. SKUBITZ. It is defined as Bureau of Land Management land, as forest land, and as wilderness land. Those are the areas that are included, and I can assure the gentleman that the big base comprising the Army installation in Missouri is included.

Mr. BURLISON of Missouri. Mr. Chairman, I will say to the gentleman that I have no military installations in my district, so I am not interested from that parochial point of view, and I am not being critical of the gentleman. I am just curious as to how we would define it. It is a difficult area, I believe.

Mr. Chairman, I thank my friend, the gentleman from Kansas, for yielding.

Mr. WEAVER. Mr. Chairman, I yield 2 minutes to the gentleman from California (Mr. KREBS).

Mr. KREBS. Mr. Chairman, there is really relatively little that I can add to what has been articulated already by the proponents of this bill, those who have cosponsored it and others who have spoken in favor of this particular piece of legislation from both sides of the aisle.

Let me just point out, if I may, that my district is composed of three counties, and in two of these counties the Federal Government is the largest landowner. As a result of the Federal ownership of this land, one county, which happens to be Tulare County, loses the tidy sum of $7 million in taxes, and Fresno County loses $9 million in taxes. Those are taxes that these counties would otherwise realize if these Federal lands were not tax exempt.

I believe this situation is quite similar, of course, to that in many other parts of the country, and while perhaps the size of the Federal holdings in my district is larger, in principle nevertheless the situation is the same.

The point I would like to leave with the Members is that while there has been considerable discussion about the very serious fiscal situation local governments find themselves in in many parts of this country in which the Federal Government owns substantial amounts of land, we are not here asking for these funds because of need; we are asking for these funds because of sheer equity.

In those two counties in my congressional district that I mentioned, we are losing a total of $16 million in taxes alone, without any consideration of all the other expenses we have in conjunction with the presence of these Federal lands in our district. Even with the passage of this legislation, the loss would only be cut from about $16 million to roughly $15 million, and even then we would still be on the short end of the stick.

So, Mr. Chairman, I urge the Members of the Committee to pass this legislation.

Mr. SKUBITZ. Mr. Chairman, I yield 2 minutes to the gentleman from California (Mr. TALCOTT).

Mrs. HOLT. Mr. Chairman, will the gentleman yield?

Mr. TALCOTT. I yield to the gentlewoman from Maryland.

Mrs. HOLT. Mr. Chairman, one of the enduring problems that confronts the Congress and local governments every year is the issue of impact aid, a Federal program designed to compensate local school districts which are burdened by large concentrations of Federal employees.

Every year, the administration tries to knock impact aid out of the Federal budget, and every year Congress restores it to the budget after considerable controversy. Also, the formula for distribution of the funds is subject to annual change.

As a consequence of this annual exercise, school districts which depend on impact aid have a serious problem with fiscal planning. It is a shaky source of revenue, the amount to be obtained from it is subject to annual change, and neither the Federal nor local governments are happy with it, although the local jurisdictions certainly need the funds.

There is a better way, Mr. Chairman. The Federal Government should pay an amount equivalent to the property taxes that would normally be paid on real property occupied by the Federal Government.

H.R. 9719 is only a small step in this direction, but I join many other Members of Congress in regarding it as an important precedent. We look forward to enactment of legislation to compensate local governments for tax losses from land occupied by military bases.

In my own congressional district, more than 20,000 acres have been removed from the property tax rolls because of ownership by Federal military installations. In all of Maryland, which is a small State, Federal military installations occupy some 50,000 acres.

It should be noted that these military bases do not occupy worthless land. They occupy valuable property eminently suitable for development by private interests, which would substantially improve the local tax base. We do not object to these military installations, Mr. Chairman. They have been good neighbors, and their personnel are good citizens who contribute much to their communities.

However, simple justices demands that the local governments be compensated for the losses of tax base caused by Federal ownership of extensive tracts of real property.

Here we have H.R. 9719, which provides for Federal payment of up to 75 cents an acre in lieu of property taxes for public lands in Redwood National Park, the National Park System, or the National Wilderness Preservation System.

In the committee report on this legislation, the ranking minority member, the gentleman from Kansas, offered separate comments which are certainly worth reading. He said:

> If the Congress is persuaded to make payments in lieu of taxes for units of the National Park System, then I would fail to see why the principle is not fairly extended to U.S. lands used for military installations. Surely these lands are far more of a burden to the local governments than the revenue-producing National Park areas.

I would also refer the House to the June 1970 report of the Public Land Law Review Commission created by Congress in 1964. This report states:

> This Commission is convinced that the United States must make some payments to compensate state and local governments which have burdens imposed on them because of federal ownership of public lands within their borders. Even though it is recognized that federal expenditures must be held to the minimum necessary to provide essential federal programs, the Federal Government, as a landowner, must pay its way. Whatever the costs, fairness and equity demand that such payments be made.

Mr. TALCOTT. Mr. Chairman, I thank the gentleman from Kansas (Mr. SKUBITZ) for yielding me this time, especially since I am constrained to take an opposite position.

Mr. Chairman, I support H.R. 9719 and urge every Member to do so.

I do not intend to make or reiterate the arguments that have been made by the floor managers, members of the committee, and others. I believe their arguments are sound in spite of the additional burden on the Federal taxpayer.

The cost to the Federal taxpayer is an important consideration but so is the burden upon the local taxpayer, particularly the local property taxpayer who is also a Federal taxpayer. The total tax bite is important.

Publicly owned lands are immune from local property tax.

Publicly owned lands are an additional burden on the adjoining local and State governments and the local taxpayer.

Public lands invite and entice visitors. That is what they are for. Visitors in our area come from every State in our Union. More people from outside our area use the public lands than the local people.

Local governments must provide services for these out-of-State visitors. And the burden is increasing for police, health and safety services, rescue, roads to and from the Federal lands, service to visitors approaching and leaving.

The tax immunity is not fair. The proposed in lieu payments are minimal. They will not fully compensate the local governments for the service rendered to out-of-district visitors. It will only help a little—but it may improve the services the local governments which adjoin your public lands provide for your constituents while they visit your public Federal facilities in our areas.

Taxation must be fair. So I appeal to your fairness. The basic function of the Congress is to collect money from one group of citizens or residents and pay it to another group or segment. This transfer ought to be fair as well as compassionate. I believe this transfer is fair and equitable for your constituents.

Our local governments are providing needed and desired services for your constituents, no matter what States or district you represent; our local governments are deprived of taxing Federal lands in their jurisdictions. The Federal facilities are your facilities, not just ours.

Mr. WEAVER. Mr. Chairman, I yield such time as he may consume to the gentleman from California (Mr. McFALL).

Mr. McFALL. Mr. Chairman, I rise in support of this legislation. I think it is badly needed.

Mr. Chairman, I rise today in support of H.R. 9719, providing for certain payments to be made to State or local governments by the Secretary of the Interior based upon the amount of certain public lands within the boundaries of such State or locality.

I would, at this time, like to express my appreciation to and acknowledge the hard work of our colleagues, FRANK EVANS of Colorado, who originally introduced this bill, JAMES WEAVER of Oregon and the Interior Subcommittee on Energy and the Environment on which he sits, and Chairman JAMES A. HALEY of Florida and his full committee for bringing this bill to the floor today. Too, a considerable amount of work, I know, has been done on this legislation by my colleague from Nevada, JIM SANTINI, and his dedicated staff.

Why do we need this legislation, Mr. Chairman?

The answer, to me, seems readily clear. The Federal Government owns approximately 800 million acres of the land in our Nation—approximately one-third of the total area of the United States. These lands, because of the sovereignty of the Federal Government, are exempt from State and local taxes.

Although the Congress has enacted various laws providing for some compensation to State and local governments for these lands, there remains a burden upon local governments to provide services—especially in recreational areas—for the millions of people who flock there.

Because local governments cannot levy property taxes on these lands, and because these lands in some cases amount to a high percentage of the land within individual counties, the local property tax base is narrowed considerably.

Clearly, local governments—especially rural counties are caught in a financial web for which they are not responsible.

They must—because of these Federal lands—provide extra services—and have a decreased ability to raise funds. Even for meeting local needs, the tax exempt status of Federal lands adds to these counties' critical problems of raising local funds.

In 1970, the Public Land Law Review Commission recognized this situation in its report, "One Third of the Nation's Land." That report, as submitted to the President and Congress, states in part:

> If the national interest dictates that lands should be retained in Federal ownership, it is the obligation of the United States to make certain that the burden of that policy is spread among all the people of the United States and is not borne only by those states and governments in whose area the lands are located. Therefore, the Federal government should make payments to compensate state and local governments for the tax immunity of Federal lands.

I am privileged, Mr. Chairman, as the Representative of the 14th District of California, to represent six counties which have great tracts of Federal lands within their boundaries. My district includes parts of such national treasures as Lake Tahoe, Yosemite National Park, five national forests, tracts of Bureau of Land Management, BLM, lands, and other Federal lands.

For example, Alpine County has 393,827 acres of Forest Service land and 20,389 acres of BLM land. Amador County includes 77,901 acres of Forest Service land and 6,845 acres of BLM land. Calaveras County includes 84,990 acres of Forest Service land and 31,586 acres of BLM land. El Dorado County includes 488,511 acres of Forest Service land and 14,777 acres of BLM land. Mono County accounts for 1,153,204 acres of Forest Service land and 303,288 acres of BLM land. Tuolumne County includes 607,848 acres of Forest Service land and 33,404 acres of BLM land. Tuolumne County also has a large part of Yosemite National Park and other Federal lands for which it is not able to levy property taxes.

In line with the recommendation of the Public Land Law Review Commission, a new organization of 21 California counties—The Regional Council of Rural Counties—recently approved a resolution which expressed in part the plight of counties having large amounts of tax-exempt lands within their boundaries. That resolution stated in part that among "the most acute problems" facing its member counties include:

The very low tax base partially because much of the land is in Government ownership. A number of our counties are owned over 80 percent by the U.S. Forest Service, Bureau of Land Management, Corps of Engineers, Bureau of Reclamation, and various State and national parks. Coupled with California's Williamson Act, which places agricultural land in a lower tax bracket, some of our mountain counties have a mere 5 percent of the total land taxed at full rates.

Some money is returned to the counties from sales of timber in national forests. However, this return is based on net receipts and severe fluctuations in the net make sound county budgeting almost impossible. (Net receipts are limited for school and road budgets under a 50-50 split formula.)

The mountain counties are also unique in that we, with a relatively small population and minimal tax base, must play host to hundreds of thousands of visitors who come to the mountains to enjoy the national forests, the State and national parks, as well as the many reservoirs and streams. As host counties for this vast playground, we are increasingly burdened with policing costs as crime and vandalism spreads. We are also burdened with the costs of handling garbage and litter for visitors as well as our own citizens in compliance with State and Federal mandates at great costs to our taxpayers.

I believe, Mr. Chairman, that this resolution which has been adopted too, by individual counties, complements and further illustrates the financial plight of rural counties having vast Federal real estate holdings within their boundaries.

H.R. 9719 will help to meet the burden these local governments bear for having these large tracts of Federal lands, and better enable them to meet their general government needs as well as those generated by the millions of people who come to these areas each year for recreation.

I believe that the cost of this legislation, estimated at $125 million per year, or less than one-half of 1 percent of present Federal expenditures, is a responsible price for the Federal Government to pay for meeting a long-standing responsibility to these local governments. In this respect, I would like to cite the Interior Committee's report on this legislation which states in part that—

> Since the payments will be so widely dispersed there will be no measureable inflationary impact on the national economy nor any local economy.

I would, at this time urge my colleagues to join with me in support of this legislation.

Mr. WEAVER. Mr. Chairman, I yield such time as he may consume to the gentleman from Minnesota (Mr. OBERSTAR).

Mr. OBERSTAR. Mr. Chairman, payment in lieu of taxes is an idea whose time has come. In fact, it is an idea whose coming is long overdue.

The concept this legislation embodies is basic and simple justice. It offers financial relief to the citizens of counties in which the Federal Government is a landlord.

The Federal Government has had this wisdom to set aside substantial amounts of unique lands for the recreational use and enjoyment of posterity, protected from commercial development. It should also have the generosity to assure that the people living in or near these lands will not have to bear the full financial burden of those lands held in public trust.

All Americans benefit from our national storehouse of publicly held national resource treasures of national parks, forests, monuments, wilderness, recreational areas and other Federal lands.

Just as they benefit, all Americans should also share in the burden and help ease those burdens by providing financial relief to the local citizens on whom the cost of that public trust hangs heavy.

The people living in or near our national forests, for example, must provide, through their local governments, all the services available to people in developed areas—law enforcement, hospital and medical care, fire protection, air and water pollution control, highway and other transportation needs—yet, because they cannot develop the nearby public lands, they do not have a sufficient tax base from which to draw the funds that provide those services.

Just because those public services are being offered in somewhat remote areas does not mean that they come at bargain basement rates. County and other local governments in public lands areas are victims of the same inflationary pressures, the same recessionary pressures as the Nation's metropolitan areas.

There is a difference, though. The urbanized areas of the country can develop their land for industrial, commercial, and residential purposes and establish a tax base from which they can pay for public services people need and rely upon. The rural areas cannot develop their adjacent lands. The effect on taxpayers can be staggering.

Let me give you a classic example of what I am talking about: Itasca County, Minn., in my congressional district. Half of the Chippewa National Forest, 300,000 acres, is located there and accounts for nearly one-third of the county's total land. Itasca County now receives about $27,000 a year, or 9 cents an acre, under the present Federal payments formula.

Let us compare. Compensable private-owned forest land pays the county $2.35 an acre. That is a gap of $2.26 between the financial yield of public and private lands.

The legislation we are considering today will help close that gap—not all the way, not as far as it should go, or as far I would like to see it go: full comparability with private land, but at least it is a giant step in the right direction.

Let me give you another example: Cook County, in the northeastern corner of Minnesota—also in my district—principal city, Grand Marais, Cook County has 936,000 acres of land, 92 percent of which is in public ownership, most of it Federal: the Superior National Forest, the Boundary Water Canoe Area, and the Grand Portage National Monument. Just offshore, though not in Minnesota, is Isle Royale National Park.

These public lands are great tourist attractions; Cook County's population swells from 3,400 year-round residents to upward of 15,000 people in the summer; a million visitors are recorded during the year.

People get lost snowmobiling, hurt canoeing, injured in traffic accidents. They need a sheriff to find and rescue them, a policeman to unsnarl their traffic, a hospital to care for them, a sewage plant and a landfill to handle their wastes. The cost of those public services runs into big money. The wilderness does not pay for them, nor does the National Forest, the National Monument, or the National Park—nor do the visitors.

Those costs are shouldered by the genial hosts, the year-round residents of Cook County. For its troubles, the county received $25,000 last year from the Federal Government for its 400,000 acres, a payment of about 6 cents an acre. Hardly enough to make a down payment on the county's public service costs—a pittance, in fact.

How much longer can we ask local taxpayers to continue shouldering the burden themselves? Today, with this legislation, we can say—no longer. With this legislation we can reform an archaic system which time has passed by.

The virtual explosion in visitor use at public recreation areas is testimony in itself to the need for reform. In 1974, there were 193 million visits to all units of the national forest system, and that figure is expected to increase by 50 percent this year alone.

Today the House can do justice to the taxpayers living near or in Federal lands, by giving them the financial means to do their job of providing public service, without feeling that they have to do it alone. This is one of the most equitable measures the House will consider this year. I say to my colleagues, if you truly value our natural resources, then have the same concern for the people who are their custodians, and vote to approve this bill.

Mr. WEAVER. Mr. Chairman, I yield such time as he may consume to the gentleman from Utah (Mr. McKay).

Mr. McKAY. Mr. Chairman, I speak in support payment-in-lieu-of-taxes legislation.

For all too long local governments in Utah have borne a disproportionate share of the burden of providing services to Federal lands within the State without adequate compensation from the Federal Government. Since approximately 70 percent of Utah is owned by the Federal Government, it is clear that that burden is been a heavy one.

The legislation which is presently before us, the so-called payment-in-lieu-of-taxes bill will do much to ease the current economic strain on our county and local governments. H.R. 9719 provides formulas which will more fairly distribute the burden to the rest of the Nation for whose benefit these lands were originally set aside.

In 1964, Congress established the Land Law Review Commission for the express purpose of reviewing this country's land laws. In 1970, pursuant to its authority, the Commission made a number of recommendations to the President and the Congress. One of the recommendations stressed the importance of payment-in-lieu as follows:

> If the national interests dictates that lands should be retained in Federal ownership, it is the obligation of the United States to make certain that the burden of that policy is spread among all the people of the United States and is not borne only by those states and governments in whose area the lands are located.

Therefore the Federal Government should make payments to compensate state and local governments to the tax immunity of Federal lands.

Enactment of this legislation is vitally important to the State of Utah. It is estimated that Utah would receive over $7 million annually as a result of payment-in-lieu formulas. These much needed benefits would greatly offset the current inability of Utah to benefit fully from such revenue raising devices as royalties and depletion allowances enjoyed by other States.

I believe fairness requires the enactment of this legislation. After all, the constitutional immunity of the Federal Government from State taxation was aimed at preserving the supremacy of the Federal Government, not penalizing those communities located adjacent to Federal lands.

Mr. BAUMAN. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

QUORUM CALL VACATED

The CHAIRMAN. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to the provisions of clause 2, rule XXIII, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

Mr. SKUBITZ. Mr. Chairman, I reserve the remainder of my time.

Mr. WEAVER. Mr. Chairman, I yield such time as he may consume to the gentleman from Ohio (Mr. Seiberling).

Mr. SEIBERLING. Mr. Chairman, I do not wish to prolong the debate. I think we have had adequate discussion in general debate. I support the bill.

Mr. Chairman, this bill would provide an equitable and easily administered means of partially compensating counties and local governments for the tax immunity of federally owned natural resource lands within their boundaries.

In particular, I support the two provisions of the bill, which I authored, concerning parks and wilderness areas:

The bill would provide temporary payments for new lands removed from local taxes by being added to national parks and wilderness areas after January 1, 1971, amounting to 1 percent of the fair market value of the newly acquired lands for each of the 5 years following acquisition.

The bill would include national parks and wilderness areas under the definition of "entitlement lands," making the counties that contain them eligible for annual payments of up to 75 cents an acre—subject, of course, to the same population cap that applies to the other entitlement lands.

TEMPORARY PAYMENTS FOR NEW PARKS

Studies by the National Park Service have found that the average of tax losses sustained by communities because of new park acquisition was 1 percent of the fair market value of the acquired lands. Based on past experience, the Park Service has found that such tax losses are generally temporary, as land values outside the parks gradually increase and businesses generate new revenues from park visitors.

An example from my own experience is the Cuyahoga Valley National Recreation Area, a 30,000-acre park between Akron and Cleveland, Ohio, enacted in December 1974. As one of the principal authors of the legislation, I took great pains to assure that the Federal Government received the best value for its acquisition dollar. I also tried to assure the least adverse impact on the residents and local governments. Scenic easements are to be used liberally to preserve the character of the valley, while fee simple title will be used mainly for public use and access. The effect will be to minimize reductions in property taxes to local governments, while preserving intact a lovely, natural area.

Despite these precautions, some short-term economic impacts cannot be entirely avoided. In a recent study by the Summit County Planning Department, Ohio, it was revealed that one local government in the park, Boston Township, could lose up to 10 percent of its general operating budget as a result of the loss of property taxes from the land acquisition for the park. Other communities will lose smaller but not insignificant percentages of their tax base.

In addition, the Woodridge School District would lose up to $176,000 per year, over 4 percent of its property tax revenues. As the author of section 3 of the bill, it was my intention that school districts which suffer such losses would qualify for payments along with other units of local government. However, it has come to my attention that, because of the way the provision was drafted, it might be argued that a school district is not a unit of local government.

In order to eliminate any doubt about it, at the appropriate time I intend to offer a technical amendment to H.R. 9719, to expressly include school districts as qualifying for payments under section 3. The amendment would not add one cent to the cost of the provision, since the total amount would remain the same—1 percent of the fair market value of the acquired land for 5 years. The payments would still go to the counties or other comparable taxing unit, for distribution on a proportional basis to the affected local unit of governments and school districts.

The "proportional basis" would be determined by dividing the amount received under section 3 of the bill, with respect to each given parcel of land, among the various local governments—including the counties themselves, where applicable—and school districts in the same proportion as their share of the total tax revenues derived from that parcel immediately prior to acquisition of the land, or interest therein, for the park or wilderness area.

Section 3 of the bill was carefully drafted to prevent windfall payments to local governments. The payments would not continue indefinitely, but would be limited to a period of 5 years after the acquisition for the park. Since park acquisition itself does not occur all at once, the payments would be phased in and phased out, in gradual increments. Section 3 provides, moreover, that if the local governments rezone the value of the lands and increase the cost of acquisition after the park is enacted, the fair market value for the purposes of payments will be computed as if the land had not been rezoned. Nor could the amount of the payment exceed the amount of the real property taxes assessed and levied on the property the year prior to its acquisition.

This would also cover those cases, as in the Cuyahoga Valley, where the State of Ohio purchased privately owned land for the park and, thereafter, donated it to the National Park Service—the payment under section 3 could not exceed the amount of the real property taxes assessed and levied on the property before acquisition by the State, if State ownership removed the property from taxation, in whole or in part.

The fair market value of the property for purposes of section 3 would be its value on the date the property was acquired by the National Park Service, whether the acquisition was by purchase, donation, exchange, or otherwise. Where a parcel of land or interest therein was acquired for the park or wilderness area several years before the enactment of this bill into law, the local governments would be entitled to a payment in fiscal year 1977 covering each such year up to a total of 5 years.

PARKS AS ENTITLEMENT LANDS

While the purpose of section 3 is to cushion the effect on communities of sudden tax losses, it must be recognized that some added expenses for localities do continue indefinitely—and usually increase with increased tourism. The local governments must maintain their roads to carry increased traffic going to and from the parks. They must also provide for added law enforcement, hospitals, and other services which are related, directly or indirectly, to activity in the parks.

Furthermore, while local businesses may indeed gain added income from tourists, often the local governments do not gain greatly increased revenues from sales and income taxes which go to the treasuries of the States.

Parks and wilderness areas are Federal lands, no less than BLM, national forest, or water reclamation lands. They do impose burdens on local governments, from increased services that must be provided, to the loss of local property tax revenues. Unlike lands managed under principles of multiple use, national parks and wilderness areas do not produce mineral, grazing, or timber revenues. To provide payments in lieu of taxes for other natural resource lands, but not for parks would, in fact, create a further disincentive for communities to support new national park proposals or additions to existing parks.

The cost of including national parks and wilderness areas in the bill—both for the 75-cents-an-acre payment and the temporary 1-percent payments for new areas—is small in terms of the total bill, apprxoimately $20 million out of $125 million annually.

In weighing the "value" of parks, however, I think we must all remember that national parks are not created to enhance the economies of the local governments, and that is not the intention of this bill. In most cases, particularly in and near urban areas, the park lands would be more valuable as developed, taxable property. National parks are created because of a national need, for outdoor recreation and for preserving our Nation's major natural and historical resources. It is for this reason that they should be included in H.R. 9719, and their inclusion is the major reason why I support this legislation.

Mr. WEAVER. Mr. Chairman, I yield such time as he may consume to the gentleman from Missouri (Mr. BURLISON).

Mr. BURLISON of Missouri. Mr. Chairman, most of the Members are aware that over the years I have introduced and cosponored legislation in this general area, that is, compensating local areas that are burdened by the loss of the local tax base. There are a couple of questions with respect to the specific details of this bill that I would like to direct to the manager of the bill, the gentleman from Oregon.

It is my understanding that in the counties that are presently receiving revenues through the national forest, for instance, will continue to be guaranteed, as a minimum, the income that they have been receiving in the past; is that a true statement?

Mr. WEAVER. Mr. Chairman, if the gentleman will yield, this bill does not touch the present revenue formula.

Mr. BURLISON of Missouri. Well, in Missouri, for instance, this income goes to the local school system and to the bridge funds.

Now, it is my understanding that this legislation, if a county selects an option which permits it to get additional funds above what it has been getting, those funds will go to the local governmental administrative unit to distribute those funds in local general government operations.

Mr. WEAVER. Mr. Chairman, if the gentleman will yield further, the money goes directly to the county for any purpose whatsoever.

Mr. BURLISON of Missouri. It is also my understanding that national forests and national parks are included.

Mr. WEAVER. Yes. The gentleman is correct.

Mr. BURLISON of Missouri. Are Corps of Engineer projects included?

Mr. WEAVER. They are in the bill; the reservoirs of the corps are in the bill.

Mr. BURLISON of Missouri. Are wilderness areas in the bill?

Mr. WEAVER. Wilderness areas are in the bill.

Mr. BURLISON of Missouri. This is irrespective of whether a wilderness is in a national forest or in a wildlife refuge?

Mr. WEAVER. At the present, that is true. The gentleman from Oregon tends to delete the wildlife refuges from the wilderness.

Mr. BURLISON of Missouri. Will the gentleman provide a rationale for not having the wildlife refuges included in the legislation, if in fact the national forests and the Corps of Engineers projects are included in the bill?

Mr. WEAVER. Mr. Chairman, if the gentleman will yield further, there is a committee jurisdictional dispute on that.

Mr. BURLISON of Missouri. A jurisdictional problem?

Mr. WEAVER. Yes.

Mr. BURLISON of Missouri. Mr. Chairman, I thank my friend, the gentleman from Oregon (Mr. WEAVER), for yielding this time.

Mr. MATSUNAGA. Mr. Chairman, I rise in full support of H.R. 9719, the bill presently before the House, which proposes a system of "payments in lieu of taxes" to units of local governments in compensation for tax revenues which they cannot collect on certain tax-immune Federal lands within their jurisdictions. As a cosignator along with over 80 of my colleagues of a letter to all Members of the House urging support for this bill, I commend the gentleman from Florida (Mr. HALEY), the chairman of the House Interior and Insular Affairs Committee, for bringing this most equitable and much-needed proposal to the attention of the full House.

Mr. Chairman, as others before me have pointed out, nearly one-third of the land area of our country is owned by the Federal Government. This land cannot be taxed by the local jurisdictions in which it is located, whether such land represents 5 or 95 percent of the total land area of such units. Because of this tax-immune status, the jurisdictions in which the Federal lands are situated suffer the loss of valuable revenues with which to provide adequate government services to their populace, necessities such as road maintenance, fire protection, law enforcement, courts, road operations, and schools. This is the case even though such services must be provided to public and nonpublic lands, and their residents, alike.

Such a situation clearly places an unfair burden on the taxpayers within these jurisdictions, the weight of which is obviously proportional to the percentage of Federal lands within each unit of government. As my colleagues know, this weight is quite overwhelming in certain localities throughout the country, especially in many of our rural areas which are most in need of an adequate, steadying tax base. While not to the same degree as in certain other jurisdictions, this certainly applies to the counties in my own State in which the Hawaii Volcanoes and the Haleakala National Parks are located.

Such a situation is contrary to the fundamental principle which has always guided our use of those Federal lands to which the bill is directed, those being our national parks, wildlife and wilderness areas, and other similar lands. That principle is that such lands are retained in public ownership for the enjoyment of all citizens, not just those who live in or near the areas in which they are located. Therefore, the burden of retaining those lands should not be unequally distributed, but should be shared by all.

Mr. Chairman, the system of compensation to units of local government containing such Federal lands which is proposed in H.R. 9719 would effect an equitable distribution of that burden. Not only is it a fair bill in this respect, but by correcting the present system which in effect penalizes such localites for retaining federally owned lands within their boundaries, I believe that it will provide an invaluable incentive for the continued maintenance of significant amounts of our country in their natural state for the enjoyment of present and future generations of Americans. I therefore urge the expeditious passage of H.R. 9719 by the House.

Mr. FISHER. Mr. Chairman, the purpose of the payments in lieu of taxes bill H.R. 9719, is to help compensate local governments for the immunity of certain Federal lands within their boundaries from local property taxes. The beneficiaries of this bill will be local governments adjacent to park and recreation and other land primarily under the jurisdiction of the Departments of the Interior and Agriculture. These governments do incur costs in conjunction with the Federal property and I think that it is fair that a compensation system be established to cover the costs and to replace lost property tax revenues.

In addition to the lands covered under this bill, there is another category of Federal property which makes a significant impact on local governments. Federally owned buildings and facilities are exempt from local property taxes. The ubiquitous local U.S. Post Office has negligible effect on the costs of local government, but a large Federal office building or a cluster of Federal facilities can have a very noticeable effect on the costs and revenue of the host jurisdiction. This effect is particularly heavy in the area surrounding the National Capital. In my own home county of Arlington, Va., 18 percent of the land is federally owned. The value of real property owned by the Federal Government in Arlington is estimated at up to $1 billion, or 25 percent of the county total. The unrealized property taxes range between $13 million and $22 million a year, depending on the estimates.

While it may not be feasible to provide the same system of in lieu taxes for large collections of Federal facilities in urban areas as is provided for Federal lands in H.R. 9719, I think that principle involved in both situations is the same. Property belonging to the Federal Government costs the local government lost property taxes and the direct and indirect expenses for public facilities and services such as roads, water and sewer, air pollution control, and so on.

The principle that the Federal Government should make a payment to local government for costs associated with Federal facilities has long been recognized in the Federal payment to the District of Columbia. With H.R. 9719, the principle is being extended to areas with various kinds of public lands. I hope that in the near future the urban areas with concentrations of Federal facilities will also be recognized for in lieu of taxes payments.

To that end, I will be working with other Members from the metropolitan Washington area to offer a proposal for a careful study of this issue. Before we recommend legislation to deal with the urban concentration of Federal facilities, we need to know with some precision the magnitude of the problem and the amount of money that may be involved. I hope that we can get a study proposal accepted very soon and that my colleagues will understand the need for the extension of the in lieu of taxes principle to heavily impacted urban areas.

Mr. CLEVELAND. Mr. Chairman, H.R. 9719 takes a terribly important step toward correcting an inequity which has long existed in relations between the Federal and local governments. That inequity involves the tax-exempt status of natural resource lands owned by the Federal Government, lands which cover fully one-third of the land area of the United States.

Despite the fact that the local government units within whose boundaries these lands lie have been obligated to provide such services as road maintenance, police and fire protection, courts, and health services, the lands by their tax-exempt status have thereby imposed a heavy burden on the taxpayers living in these communities, a burden which I and many of my colleagues consider unfair.

Although there are several statutes on the books which provide for reimbursement to States and local governments for certain revenues such as timber and mining receipts, these revenues are far out of proportion to inflationary increases in the costs of providing the services I have just mentioned.

H.R. 9719 compensates local units of government for part of the tax immunity of natural resource lands by providing additional payments of 75 cents per acre, minus any revenues now received, or a flat 10 cents per acre, whichever is greater. To avoid the possibility of windfalls accruing, there is a limit to what a locality can receive, based on population.

Mr. Chairman, this legislation is extremely important to my State of New Hampshire, which contains the largest percentage—12.3 percent—of tax-exempt public land of any State in the Eastern United States, a fact which has had serious revenue consequences for the State and its local governments. I have long been an advocate of a system of Federal reimbursement to compensate for tax-exempt lands, and last year I was a cosponsor of H.R. 6908, with Congressman UDALL and several others, which provided a mechanism for States and localities to receive payments from the Federal Government equivalent to the property taxes otherwise obtainable if the lands were privately owned. I was also a cosponsor of H.R. 10008, a bill very much similar to the one we are considering today, which provided for payments of either 75 cents per acre or present revenues, depending on the choice of the locality.

Mr. Chairman, the legislation under consideration today does not go quite as far as either of the two bills I cosponsored last year, but it is a very welcome and long-needed measure of relief for local communities now trying to provide necessary public services on lands which are exempt from taxation and which in many cases comprise most of their land area.

If I may cite an example or two from my own State, New Hampshire contains some 700,000 acres of tax-exempt lands in the White Mountain National Forest. A check by my staff with the National Forest Service office in New Hampshire disclosed that under present timber harvest laws, which return 25 percent of the revenue to local communities, the towns in New Hampshire are averaging about 20 cents per acre in receipts. Under this bill, though, these towns would receive the additional sum of about 55 cents per acre, up to the limit of $50 per capita, which is a significant increase.

The town of Shelburne, for example, in Coos County, has a population of 199 and contains 13,046 acres of national forest land. Under present timber revenues, at the average of 20 cents per acre, Shelburne is receiving about $2,681 in revenue. Under the terms of H.R. 9719, Shelburne would receive 75 cents per acre minus the amount now received in timber revenues, or a total of about $7,373. This would, I hasten to point out, be on top of the timber revenues now received by Shelburne.

As another example, the town of Benton, in Grafton County, has a population of 194 and contains 23,826 acres of national forest land. Because of its small population in proportion to acreage of public land, Benton would be subject to the population limit of $50 per capita, and its yield under H.R. 9719 would be $9,700, beyond the timber revenues now realized.

Statewide, Mr. Chairman, New Hampshire would receive nearly $400,000 in additional revenues under the terms of this bill, money which is sorely needed by the small towns and the counties of the State in order to maintain the services they are providing on national forest lands. These services would have to be provided whether the lands were public or private, and thus it is only fair that the Federal Government recognize its responsibility to assume some of the cost of these services. Over $750 million is collected annually from natural resource lands across the country, yet only about $115 million is returned to local governments. The projected cost of H.R. 9719 of $110 million per year is well within this margin, and is likewise considerably less than the equivalent in property taxes if the lands were not exempt.

This legislation was recommended by the Public Land Law Review Commission, which stated that the policy of Federal ownership of land should be shared by all Americans, and not borne exclusively by those States and localities in which the lands are located. I agree wholeheartedly with this recommendation and urge the passage of H.R. 9719 as a matter of high priority. As one who looks forward to the day when local communities will receive some payment in lieu of taxes for most real estate, whether Federal or State, within their jurisdictions, I regard this legislation as real progress toward that goal.

Mr. FUQUA. Mr. Chairman, today the House of Representatives is considering legislation of vital importance to many localities throughout this Nation. H.R. 9719, the payment in lieu of taxes bill, will provide much needed tax relief to areas now suffering a great inequity in their tax base.

A system already exists to make payments to local areas to compensate them for military and other Federal installations. However, there is presently no method of reimbursement to communities for wilderness areas and other nonrevenue-producing lands that can, and sometimes do, take quite a chunk out of a local tax base.

Sometimes up to 50 percent of a locality's property tax is occupied by Federal lands that do not directly return any benefit to the community. These lands are considered a great national resource and belong to all the people, to be used by all the people. This can place a great burden on a local or county government which is trying to come up with the tax revenues to run local programs and perhaps provide additional services in support of the Federal lands.

The bill we are considering today will provide for direct payments to these governments in recognition of the Federal obligation to them. The moneys are most definitely not handouts but, rather, precisely what the title of the bill explains: Payments made to the government in lieu of the tax revenue the community could receive did not the Federal Government own the land in question.

I have recognized this tax inequity for a long time and am pleased to see this matter coming to the House floor for a vote. I urge all my colleagues to give H.R. 9719 their support.

Mr. FITHIAN. Mr. Chairman, I am proud to be the sponsor of H.R. 14991, payment in lieu of taxes, which is identical to H.R. 9719. I rise in strong support of the bill before us. This bill will compensate county and local governments for property tax losses due to the presence of Federal park lands in their taxing jurisdictions. It should help alleviate the problem that has been worrying local officials in several counties in my district: a shrinking tax base due to Federal park expansion, and the accompanying influx of people to the area, requiring an increase in expenditures.

The Second District of Indiana includes the Indiana Dunes National Lakeshore Park, which contains a unique combination of geographical and botanical features, a diverse wildlife, natural beauty, and a unique ecological history and means of outdoor recreation. It is an area which is truly irreplaceable. The Indiana Dunes National Lakeshore Park is also uniquely located in a large metropolitan area. There are now almost 10 million people living within a 100-mile radius of the Lakeshore Park.

I favor expansion of this park, but I have also been concerned about the problems it might cause the local governments and taxpayers. This bill authorizes the Secretary of the Interior to compensate localities for land in their tax jurisdictions included in national parks. If two taxing jurisdictions overlap, the smaller unit of government would receive the funds. Funds may be used for any governmental purpose, without qualification.

This legislation is especially beneficial to Porter County, LaPorte County, and, if my Indiana Dunes National Lakeshore Park expansion bill passes the Senate, to Lake County, the counties in which the Indiana Dunes National Lakeshore is located. Such payments will help these counties and communities solve such diverse problems as law enforcement and community services.

Let me explain the specifics, Mr. Chairman, as a case in point. Porter and LaPorte Counties would benefit from this bill immediately. One formula in the bill provides for payment on land acquired after December 31, 1970. The payments would be equivalent to the property tax collected on the land in the year preceding Federal purchase or equivalent to 1 percent of the fair market value of the land, whichever payment would be smaller.

This means LaPorte County would share with local governments involved either $392 or the amount of the property tax previously collected on the land—whichever is the smaller amount. Porter County would share with local governments involved either $24,300 or the amount of the property tax previously collected on the land—whichever is the smaller amount. These payments would continue for 5 fiscal years, giving the growing tourist business time to be reflected in the property tax revenues. At the end of 5 fiscal years, these payments would be terminated.

Porter County qualifies for an additional payment which would be made on a yearly basis indefinitely. The payments would be determined by multiplying the number of acres of the Indiana Dunes National Lakeshore Park located in the county by 75 cents. Under this formula, Porter County could expect to share with the local governments involved an additional $2,975.

Under existing law, the Park Service is to acquire additional land for the park. This land will be purchased in the near future. When these lands are acquired, additional revenues would be forthcoming to the local counties and communities. LaPorte would be sharing with local governments either the amount of the property tax previously collected on the land, or $2,000, whichever is the least amount. Porter would be sharing with local governments an additional $50,738, or the amount of the property tax previously collected on the land, whichever is smaller. These payments would terminate after 5 fiscal years. Porter would also be receiving, indefinitely, payments under the formula of 75 cents an acre, which results in a sum of $990.

I am proud to be the sponsor of a bill to expand the Indiana Dunes National Lakeshore Park, H.R. 11455. Under the Indiana Dunes National Lakeshore Park expansion bill as it has passed the House of Representatives, the counties would receive additional payments as well. If H.R. 11455 passes the Senate and is identical to the House version, the counties would receive the following amounts:

Porter would receive, with involved

local governments, a total of $449,771, or the amount of the property taxes collected previously on the land—whichever is lower. LaPorte County would receive, with involved local governments, a total of $22,670, or the amount of property taxes previously collected on the land—whichever is lower. Lake County would also receive money with involved local governments, the amount totaling $62,443, or the amount of property taxes collected on the land the year before it was bought by the Federal Government—whichever is lower. These payments would terminate after 5 years.

Each county would also receive the following payments under the formula of 75 cents per acre in the park located in its tax jurisdiction: Porter, $2,089; LaPorte, $135; Lake, $1,031. These payments would continue indefinitely.

I am pleased to sponsor this bill, for I feel its results are long overdue. Too long have counties and localities suffered because of the national park land within their tax jurisdictions. Millions of Americans enjoy our national parks, while the people in the tax jurisdictions have borne overly heavy tax burdens. This bill is a step toward eliminating this injustice.

Mr. HAMILTON. Mr. Chairman, I rise in support of H.R. 9717, a bill to provide for payments to compensate county governments for the tax immunity of Federal lands within their boundaries. I am pleased that the House is today considering this measure, which I am cosponsoring, and I urge its prompt enactment.

H.R. 9717 establishes a payment formula which provides for a maximum payment of 75 cents per acre of entitlement land to units of local government. Entitlement lands include lands under the jurisdiction of the Bureau of Land Management and the National Forest Service, lands within the National Park System and the National Wilderness Preservation System, and lands which are utilized as reservoirs as a part of water development projects under the Bureau of Reclamation and the Army Corps of Engineers.

The payments authorized by this legislation are subject to a ceiling based on population and are reduced by the amount of revenue from public lands that the local government currently receives under the statutes which are set forth in the act.

The bill further provides that if existing payments to the unit of local government exceed what the government would receive under the 75 cents per acre formula, the government would then be reimbursed at a rate of 10 cents per acre of entitlement land, also subject to the population limitation.

The need for this legislation is apparent. The system of payments which has been developed by the Congress over the years to reimburse local jurisdictions for the tax immunity of Federal lands is inadequate and inequitable. For the 695 counties in the United States containing national forest land, for example, the average Federal payment in fiscal year 1975 was 48 cents per acre. However, since this reimbursement is based on the revenue derived from the national forest land within their boundaries, many countries receive far less than the average. Three of these 695 counties are located in my district, Indiana's Ninth. Brown, Jackson, and Monroe Counties, which contain more than 55,000 acres of Hoosier National Forest land, fared much worse than the average, receiving only about 15 cents per acre in fiscal 1975 for the land within their boundaries. Should this bill become law, the three counties would receive $33,325 in the first fiscal year after enactment as opposed to the $8,300 they received in fiscal 1975.

Further, these Federal payments for timber, grazing and mineral leases fluctuate from year to year, often preventing predictable budgeting at the local level.

The present system also provides that the use of the payments by the counties be restricted for certain purposes, for example, the construction and maintenance of schools and roads. In many counties this bears no relationship to the needs which exist.

The problems which result from this low level of Federal reimbursement are exacerbated by the increasing demands for services placed on local governments, either by local residents or by tourists who come to use and enjoy these Federal lands. The revenue needs of local governments have grown rapidly in the past 30 years—total expenditures have increased from $9.3 billion in 1940 to $183 billion in 1974. Counties with large areas of public lands are, of course, at a serious financial disadvantage in attempting to meet the rising costs of the services their residents need and want.

H.R. 9717 resolves these problems by providing a floor and a ceiling on the rate of Federal reimbursement for public lands. Local governments will be more fully compensated for the burdens imposed upon them by the presence of Federal lands and they will be able to more easily meet their financial obligations. The legislation will provide a predictable level of payments for the affected counties, which will no longer be earmarked for particular purposes.

A provision of the bill which I would like to mention, and which I am particularly pleased has been included, is that the definition of entitlement lands includes those utilized as reservoirs of the Army Corps of Engineers and the Bureau of Reclamation. As my colleagues who have reservoirs in their districts are undoubtedly aware, these projects, while providing much in the way of flood control benefits and recreational opportunities, place a heavy financial burden on local governments, which are called upon to provide many services required by the heavy influx of visitors to these reservoirs. The necessity for additional law enforcement personnel and more extensive emergency medical services are but two examples.

Mr. Chairman, most Americans agree that the establishment of national parks, national forests, and national wilderness areas is a desirable national policy and is in the national interest. Because the entire Nation benefits from this ownership, I believe it is the obligation of the United States to insure that the burden of this policy is not borne solely by the States and local governments in whose area the land is located, but is spread among all the people of the United States.

If this bill becomes law, it will encourage local jurisdictions to view natural resource land as an asset rather than a financial liability. I urge its prompt enactment.

Mr. ICHORD. Mr. Chairman, it has been over 6 years now since the Public Land Law Review Commission completed its work and offered as one of its principal recommendations that "the United States should make payments in lieu of taxes for the burdens imposed upon State and local governments by reason of Federal ownership of public lands without regard to the revenues generated therefrom."

Until 1891 relatively little land was held in Federal ownership, but the Creative Act of March 3, 1891, enacted by Executive action, marked the beginning of the establishment and consolidation of a national forest system. Since that time, Federal ownership of land has burgeoned to the point that today the Federal Government owns one-third of all the land in this country, or over 760 million acres of the 2.2 billion acres of land within the United States.

The loss of these lands to the tax base formed an early concern and in 1908 (amended March 1, 1911, 16 U.S.C. 500) Congress authorized that 25 percent of all moneys collected by the Forest Service from receipts from grazing, recreation—including admission and user fees—power, minerals and timber sales during any fiscal year shall be paid to the States for transfer to the affected counties for the benefit of public schools and roads. The remaining moneys were allocated 10 percent for use by the Forest Service for construction of roads and trails and 65 percent, with some exceptions, to be transferred into the general fund of the U.S. Treasury.

Since the enactment of the payments system and June 30, 1973, payments of more than $1 billion have been made to non-Federal jurisdictions, with the Forest Service taking in an excess of $4 billion in user receipts. In Missouri, Forest Service payments to counties have increased from $259 in 1939 to $1,737,592 in fiscal year 1975.

While these figures appear adequate on the surface, they only represent a fraction of what these counties would have received had these lands remained on the private land tax rolls and been developed. Additionally, the figures do not take into account the dramatic increase in State and local government revenue needs over the past decades. According to chapter 14 of the Public Land Law Review Commission's report—page 236:

> In 1940, prior to World War II, the combined spending of State and local governments was approximately $9.3 billion. Ten years later, in 1950, it had risen to approximately $22.8 billion. In 1969, the figure exceeded $100 billion.

Also the figures do not show the great expansion of Federal ownership of land which has occurred concomitantly with the increased revenue needs of our Nation's counties.

Given the growing financial burdens of these counties, it has come time for the Federal Government to reappraise its relationship to those jurisdictions within whose borders federally owned lands are located.

The Public Land Law Review Commission made a most reasonable statement in this regard, and I would commend it to my colleagues:

> If the national interest dictates that lands should be retained in Federal ownership, it is the obligation of the United States to make certain that the burden of that policy is spread among all the people of the United States and is not borne only by those states and governments in whose area the lands are located. (Recommendation 101)

Mr. Chairman, I am a strong supporter of our national forest system, our national parks, our wildlife refuge system, our BLM lands, and other reasonable forms of Federal conservation and protection of our Nation's lands. But I support these programs only within certain bounds, not the least of which is that the Federal Government has the responsibility to adequately compensate State and local governments for the tax immunity of Federal lands.

We have before us today a bill, H.R. 9719, which represents a firm step toward correcting the inequities which exist in the current reimbursement program for federally owned lands.

In calculating the impact of H.R. 9719 and using data provided by the U.S. Forest Service, every county in Missouri receiving Forest Service reimbursements would benefit by increased reimbursements under H.R. 9719. While H.R. 9719 does not correct all the inequities of the Federal land reimbursement system, it does mark significant reform in this area and deserves the full support of this House.

I hope my colleagues will join me in voting for this vitally needed reform and provide greater equity to an area that has been too long ignored.

Mr. ROBINSON. Mr. Chairman, I rise in support of the bill, as it expands in a desirable way on a concept of improved equity which I sought to support when I joined in introduction of the bill, H.R. 10552, which was intended to liberalize, in favor of the States and localities, the formula for apportionment of revenues from Federal forest lands.

The bill before us, H.R. 9719, would apply a somewhat different formula not only to national forest lands but also to the lands of the National Park System, the National Wilderness System, areas administered by the Bureau of Land Management of the Department of the Interior, and lands related to Federal water resource development projects.

I think it particularly desirable that this bill emphasizes payments to units of local governments, because it is their revenue base which is affected most directly, and adversely, by the exemption of the Federal lands from real property taxes.

It may well be that the form of computation estabished by this bill could result in some unforeseen inequities in specific circumstances, but, overall, it represents, in my view, a far closer approach to equity than exists in present Federal law.

Mrs. PETTIS. Mr. Chairman, I rise in strong support of H.R. 9719, legislation which would authorize payments to State or local governments for the loss of taxes they have experienced due to public lands located within their boundaries.

Mr. Chairman, the House Interior Committee, Subcommittee on Energy and the Environment held 4 days of public hearings on this proposal in order to establish a solid record for the need of such payments. These hearings confirmed the findings of the Public Land Law Review Commission—which in 1970, after completion of over 6 years of study on the problem, issued its historic report entitled "One-Third of the Nation's Land." This report included the recommendations of the Commission, one of which was that a Federal payment system be established and that "the United States make payments in lieu of taxes for the burdens imposed upon State and local governments by reason of the Federal ownership of public lands."

Mr. Chairman, there is no doubt in my mind that such payments are indeed necessary, however, there are those in this Chamber who have stated that this is another Government "rip-off" and a waste of the taxpayers' money. I think those Members should take the time to review the subcommittee's hearings and take into account certain facts.

Facts such as these:

(1) Approximately one-third of the Nation is federally owned and that as a result of the landmark Supreme Court decision of McCulloch vs. Maryland, taxation by the States, or a subdivision thereof, is an interference with the Federal sovereignty.

(2) In the past, the Congress has established programs in order to compensate local governments somewhat for Federal impact, but, in general, the revenues that result do not amount to what would be received from property taxes.

(3) In some cases, the counties are restricted to the use of payments to specific purposes, which from the standpoint of effective county management is restrictive.

(4) In many cases the payments are received by the state and is not passed down to the county or local government where the real burden of Federal land exists.

(5) The total revenue which either the state or county government may receive is not necessarily influenced by the total number of acres of Federal land that may exist within its boundaries.

(6) Existing revenue sharing programs that have been enacted in piecemeal fashion over the years are inadequate in most instances and have not kept pace with increasing financial needs in these jurisdictions.

(7) The revenues produced from Federal lands do not always bear any relationship to the actual market value of the land from which revenue is derived.

(8) The present statutes have many "illogical" restrictions:

(a) counties restricted to the use of payments for specific purposes; i.e. roads, schools.

(b) payments are either made to the county or the state and are sometimes mandated that they be passed to the county.

(c) the formula for the payments varies from statute to statute, often being favorable to some counties and not to others.

Mr. Chairman, these are but a few of the facts that the subcommittee brought to light. However, these facts represent a real problem that must be dealt with by the local governments where the Federal property exists. The two counties I represent have some 10,179,531 acres of Federal land under the Interior and Agriculture Departments' jurisdiction alone and have experienced many of these problems.

Mr. Chairman, H.R. 9719 has as its building block experiences of two extensive studies, countless numbers of congressional hearings—both this Congress and the 93d Congress—and hundreds of hours of research and investigation by the various Federal agencies and Departments. H.R. 9719 represents the best possible compromise and I urge my colleagues to support its passage and put an end to this inexcusable burden.

Thank you.

The CHAIRMAN. All time has expired.

Mr. SKUBITZ. Mr. Chairman, I have no further requests for time. I yield back my time, if the gentleman is ready to yield his time back.

Mr. WEAVER. Yes; I yield back my time.

Mr. SKUBITZ. Mr. Chairman, I yield back my time.

The CHAIRMAN. Pursuant to the rule, the Clerk will now read the committee amendment in the nature of a substitute recommended by the Committee on Interior and Insular Affairs now printed in the bill as an original bill for the purpose of amendment.

The Clerk read as follows:

> *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That effective for fiscal years beginning on and after October 1, 1976, the Secretary is authorized and directed to make payments on a fiscal year basis to each unit of local government in which entitlement lands (as defined in section 6) are located. Such payments may be used by such unit for any governmental purpose. The amount of such payments shall be computed as provided in section 2.

Mr. WEAVER (during the reading). Mr. Chairman, I ask unanimous consent that section 1 be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Oregon?

There was no objection.

The CHAIRMAN. Are there amendments to section 1?

Mr. SHUSTER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I take this time to engage in a colloquy with the majority and minority.

It is my understanding, I am informed by both the majority counsel and the minority counsel, that property included in Federal dams and lakes are included within this bill; specifically I am referring to the Raystown Dam and Lake in Huntingdon County, Pa., where approximately 30,000 acres were secured by the Corps of Engineers to build a dam and lake and surrounding recreational areas. Having been advised that, notwithstanding on page 27 of part II of the committee report under Pennsylvania and Huntingdon County, it does not show any funds which would become available under this legislation.

I am informed by the majority and the minority counsels that that is not correct and that is simply because the Corps of Engineers did not submit their numbers in time.

Mr. Chairman, I am engaging in this colloquy to ask for confirmation of my understanding, that, indeed, Huntingdon County, Pa., would qualify and be eligible for its funding, as I have just stated.

Mr. WEAVER. Mr. Chairman, will the gentleman yield?

Mr. SHUSTER. I yield to the gentleman from Oregon.

Mr. WEAVER. Mr. Chairman, the gentleman is correct as the gentleman has stated the situation.

Mr. SKUBITZ. Mr. Chairman, if the gentleman will yield further, it is my understanding that every Corps project has been approved.

I thank the gentleman.

The CHAIRMAN. Are there amendments to section 1? There being none, the Clerk will read section 2.

The Clerk read as follows:

SEC. 2. (a) The amount of any payment made for any fiscal year to a unit of local government under section 1 shall be equal to the greater of the following amounts—

(1) 75 cents for each acre of entitlement land located within the boundaries of such unit of local government (but not in excess of the population limitation determined under subsection (b)), reduced (but not below 0) by the aggregate amount of payments, if any, received by such unit of local government during the preceding fiscal year under all of the provisions specified in section 4, or

(2) 10 cents for each acre of entitlement land located within the boundaries of such unit of local government (but not in excess of the population limitation determined under subsection (b)).

In the case of any payment under a provision specified in section 4 which is received by a State, the Governor (or his delegate) shall submit to the Secretary a statement respecting the amount of such payment which is transferred to each unit of local government within the State.

(b)(1) In the case of any unit of local government having a population of less than five thousand, the population limitation applicable to such unit of local government shall not exceed an amount equal to $50 multiplied by the population within the jurisdiction of such unit of local government.

(2) In the case of any unit of local government having a population of five thousand or more, the population limitation applicable to such unit of local government shall not exceed the amount computed under the following table (using a population figure rounded off to the nearest thousand):

If population equals—	Payment shall not exceed the amount computed by multiplying such population by—
5,000	$50.00
6,000	47.00
7,000	44.00
8,000	41.00
9,000	38.00
10,000	35.00
11,000	34.00
12,000	33.00
13,000	32.00
14,000	31.00
15,000	30.00
16,000	29.50
17,000	29.00
18,000	28.50
19,000	28.00
20,000	27.50
21,000	27.20
22,000	26.90
23,000	26.60
24,000	26.30
25,000	26.00
26,000	25.80
27,000	25.60
28,000	25.40
29,000	25.20
30,000	25.00
31,000	24.75
32,000	24.50
33,000	24.25
34,000	24.00
35,000	23.75
36,000	23.50
37,000	23.25
38,000	23.00
39,000	22.75
40,000	22.50
41,000	22.25
42,000	22.00
43,000	21.75
44,000	21.50
45,000	21.25
46,000	21.00
47,000	20.75
48,000	20.50
49,000	20.25
50,000	20.00

For the purpose of this computation no unit of local government shall be credited with a population greater than fifty thousand.

(c) For purposes of this section, "population" shall be determined on the same basis as resident population is determined by the Bureau of the Census for general statistical purposes.

(d) In the case of a smaller unit of local government all or part of which is located within another unit of local government, entitlement lands which are within the jurisdiction of both such units shall be treated for purposes of this section as only within the jurisdiction of such smaller unit.

Mr. WEAVER (during the reading). Mr. Chairman, I ask unanimous consent that section 2 be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Oregon?

There was no objection.

The CHAIRMAN. Are there any amendments to section 2? There being none, the Clerk will read section 3.

The Clerk read as follows:

SEC. 3. (a) In the case of any land or interest therein, acquired by the United States (i) for the Redwood National Park pursuant to the Act of October 2, 1968 (82 Stat. 931) or (ii) acquired for addition to the National Park System or National Wilderness Preservation System after December 31, 1970, which was subject to local real property taxes within the five years preceding such acquisition, the Secretary is authorized and directed to make payments to counties within the jurisdiction of which such lands or interests therein are located, in addition to payments under section 1. The counties, under guidelines established by the Secretary, shall distribut the payments on a proportional basis to those units of local government which have incurred losses of real property taxes due to the acquisition of lands or interests therein for addition to either such system. In those cases in which another unit of local government other than the county acts as the collecting and distributing agency for real property taxes, the payments shall be made to such unit of local government, which shall distribute such payments as provided in this subsection. The Secretary may prescribe regulations under which payments may be made to units of local government in any case in which the preceding provisions will not carry out the purposes of this subsection.

(b) Payments authorized under this section shall be made on a fiscal year basis beginning with the later of—

(1) the fiscal year beginning October 1, 1976, or

(2) the first full fiscal year beginning after the fiscal year in which such lands or interests therein are acquired by the United States.

Such payments may be used by the unit or other affected local governmental unit for any governmental purpose.

(c)(1) The amount of any payment made for any fiscal year to any unit of local government under subsection (a) shall be an amount equal to 1 per centum of the fair market value of such lands and interests therein on the date on which acquired by the United States. If, after the authorization of any unit of either system under subsection (a), rezoning increases the value of the land or any interest therein, the fair market value for the purpose of such payments shall be computed as if such land had not been rezoned.

(2) Notwithstanding paragraph (1), the payment made for any fiscal year to a unit of local government under subsection (a) shall not exceed the amount of real property taxes assessed and levied on such property during the last full fiscal year before the fiscal year in which such land or interest was acquired for addition to the National Park System or National Wilderness Preservation System.

(d) No payment shall be made under this section with respect to any land or interest therein after the fifth full fiscal year beginning after the first fiscal year in which such a payment was made with respect to such land or interest therein.

Mr. WEAVER (during the reading). Mr. Chairman, I ask unanimous consent that section 3 be considered as read, printed in the RECORD and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Oregon?

There was no objection.

AMENDMENT OFFERED BY MR. WEAVER

Mr. WEAVER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WEAVER: In section 3(a), page 7, line 17; strike out the words "National Wilderness Preservation System" and insert in lieu thereof "National Forest Wilderness Areas".

In section 3(c)(2), page 9, lines 8 and 9; strike out the words "National Wilderness Preservation System" and insert in lieu thereof "National Forest Wilderness Areas".

Mr. WEAVER. Mr. Chairman, this amendment simply clarifies the committee's intent that this act cover only those wilderness areas under the purview of the National Park Service and U.S. Park Service, and not those wilderness areas administered by the U.S. Fish and Wildlife Service.

Mr. STEIGER of Wisconsin. Mr. Chairman, will the gentleman yield?

Mr. WEAVER. I yield to the gentleman from Wisconsin.

Mr. STEIGER of Wisconsin. Mr. Chairman, I appreciate the gentleman yielding to me.

I am mindful of the problem whch the gentleman from Oregon has presented to me and others, including the distinguished gentleman from Georgia (Mr. GINN). Am I correct in my understanding that the amendment the gentleman is offering comes solely because of the problem posed by the Committee on Merchant Marine and Fisheries, rather than what the equity of the situation might be? Is that a fair analysis?

Mr. WEAVER. The gentleman from Wisconsin is correct as he stated the position of the gentleman from Oregon.

Mr. STEIGER of Wisconsin. I appreciate the gentleman's comment. I must say that I regret this is the case, because I really do think the bill as reported by the committee is a better bill. To exclude this particular area because of that one issue of jurisdiction just does not make any sense to me.

Mr. LEGGETT. Mr. Chairman, will the gentleman yield?

Mr. WEAVER. I yield to the gentleman from California.

Mr. LEGGETT. Mr. Chairman, as I understand it, as the gentleman from Oregon has specified in the bill, the intent of the legislation is to provide these payments, but to exclude from the coverage of the legislation certain areas such as military reservations, GAO property, and particularly refuges. The gentleman particularly set that forth in the report on the bill.

Mr. WEAVER. That is correct.

Mr. LEGGETT. So, we are excluding some 31 million acres under the Fish and Wildlife Service from the coverage of this bill. I think this information appears on page 11 of the report.

Is it not a fact that the way the bill is written, there are about 1 million acres that creep into the definition of a national wilderness preservation area, and it is the gentleman's intent to exclude those 1 million acres which were really included inadvertently under the original definition?

Mr. WEAVER. The gentleman is correct. The amendment before us now will do what he suggests.

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. WEAVER. I yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Chairman, I endorse the amendment offered by the gentleman from Oregon, and I point out that the question of payments in lieu of taxes with regard to refuges has already been handled. The law is on the books and was enacted to the full satisfaction of the National Association of Counties a number of years ago.

I join in urging the House to adopt the amendment.

Mr. BURLISON of Missouri. Mr. Chairman, will the gentleman yield?

Mr. WEAVER. I yield to the gentleman from Missouri.

Mr. BURLISON of Missouri. Mr. Chairman, may I ask the gentleman from Michigan a question? He says that with respect to refuges it has already been taken care of. Do they presently get payments in lieu of taxes?

Mr. DINGELL. The answer to the question is yes, by a separate statute.

Mr. BURLISON of Missouri. May I ask the gentleman how the amount of income under that statute compares with the income that will be derived under the legislation now being considered?

Mr. LEGGETT. Mr. Chairman, if the gentleman will yield, I will respond to that.

I am not acquainted with the dollar value. As the gentleman knows, we have a formula which pays on an acreage basis under the bill before us. The legislation that our colleague, the gentleman from Michigan, referred to is the law today, which payments, I might say, would continue whether or not this bill passes because this law is not excepted from the pending bill before the committee. The law provides for the payment of 25 percent of all of the receipts from refuge lands to the counties in which such refuges are located. This has been law, as has been indicated, since 1935.

Mr. BURLISON of Missouri. That is true under the national forest, under the present law.

Mr. WEAVER. Mr. Chairman, in response to the statement of the gentleman from Missouri, there is $4 million now paid to units of local government. Wildlife refuges in this bill will likely be something like $20 million or more.

The CHAIRMAN. The time of the gentleman from Oregon has expired.

(On request of Mr. BURLISON of Missouri and by unanimous consent, Mr. WEAVER was allowed to proceed for 2 additional minutes.)

Mr. BURLISON of Missouri. Mr. Chairman, will the gentleman yield?

Mr. WEAVER. I yield to the gentleman from Missouri.

Mr. BURLISON of Missouri. Mr. Chairman, let me say to the gentleman that I would hope that the appropriate committee, the Committee on Merchant Marine and Fisheries, or other committees which have jurisdiction over this matter, would look at it carefully, to see that the result of the amendment offered by the gentleman from Oregon would not discriminate against wildlife areas while taking care of wilderness areas in the national forests.

Mr. WEAVER. Mr. Chairman, I share the concern of the gentleman from Missouri.

Mr. LEGGETT. If the gentleman will yield, we have before the Subcommittee on Fisheries and Wildlife H.R. 14861, by our colleagues, the gentleman from Georgia (Mr. GINN) and the gentleman from Wisconsin (Mr. STEIGER), and we do intend to schedule hearings on this legislation just as soon as we can get to it.

The CHAIRMAN. The time of the gentleman from Oregon has expired.

(On request of Mr. SKUBITZ, and by unanimous consent, Mr. WEAVER was allowed to proceed for 1 additional minute.)

Mr. SKUBITZ. Mr. Chairman, will the gentleman yield?

Mr. WEAVER. I yield to the gentleman from Kansas.

Mr. SKUBITZ. Mr. Chairman, my understanding is that the receipts that are going to the fisheries and wildlife come from the receipts that are paid. It does not come from tax money. This bill calls for tax money.

Mr. LEGGETT. If the gentleman will yield, the gentleman is correct.

Mr. Chairman, the amendment offered by the gentleman from Oregon is in essence the same amendment he considered before the Committee on Interior and Insular Affairs when that committee had H.R. 9719 under consideration.

The amendment would make it clear that wildlife refuges that contain lands designated as wilderness would not be included in the coverage of the legislation. The amendment would have the effect of exempting all wildlife refuges from its coverage, since wildlife refuges without such overlays were not covered anyway.

Mr. Chairman, I would like to point out that the rules of the House clearly provide that the Committee on Merchant Marine and Fisheries has jurisdiction over wildlife refuges. When the chairman of our committee, Mrs. SULLIVAN, learned of the defeat of the Weaver amendment in committee, she immediately wrote Chairman HALEY asking him to take the necessary steps before the bill was reported to see that all wildlife refuges were excluded from the coverage of the bill, otherwise she would have to ask the Speaker to sequentially refer the bill to the Committee on Merchant Marine and Fisheries for consideration.

Subsequently, Chairman SULLIVAN wrote the Speaker making such a request; however, the legislation was not sequentially referred.

Mr. Chairman, the reason for my concern over this legislation stems not only from this jurisdictional problem, but also from the fact that in 1964—12 years ago—my subcommittee faced up to the matter this legislation is designed to cover, that is, payments to counties in lieu of taxes, and reported legislation that revised the payment schedule as it relates to wildlife refuges that had been established in 1935.

Mr. Chairman, that legislation became Public Law 88-523, and it is section 715s of title 16, United States Code. Under that law, the Secretary of the Interior is required to pay: First, to each county, in which reserved public lands in the National Wildlife Refuge System are situated, and amount equal to 25 percent of the net receipts from such lands, and second, each county, in which acquired lands in the National Wildlife Refuge System are located, either ¾ of 1 percent of the cost of the refuge lands, exclusive of any improvements subject to the cost being adjusted to represent current values, as determined by the Secretary at 5-year intervals; or 25 percent of the net receipts collected from such acquired lands, whichever is greater.

These funds are paid to the counties, in lieu of taxes, since these lands are not subject to taxation. The monies can be used by the counties only for the benefit of public schools and roads.

Mr. Chairman, the amendment should be adopted because it would exempt all wildlife refuges from the coverage of the bill; thereby making the bill consistent with the language contained in the committee report on H.R. 9719, which reads as follows:

> The Committee concluded, however, that the scope of the legislation should be limited to the above described lands and not include military reservations, GSA property, fish and game ranges, or Indian lands.

Also, I would like to point out that the payment method specified in H.R. 9719 would create an administrative nightmare. Under the present method, in general, 25 percent of the net receipts from refuges are paid to the counties in lieu of taxes. All receipts from each refuge are kept separately, but there is no separation of receipts from a refuge in which a portion of the refuge has been designated as wilderness.

I further support the amendment because it will eliminate duplicate and, in some cases, triplicate payments since the counties would still receive payment under the public law that came out of the Merchant Marine and Fisheries Committee, as well as under section 2 of the bill. And if the refuge lands were acquired after December 31, 1970, and are subject to local real property taxes within 5 years preceding such acquisition, then an additional 1 percent of the fair market value of such lands would be paid to the county.

Finally, Mr. Chairman, it appears that the legislation as it relates to wildlife refuges has not been adequately considered. It so happens that since this bill was reported, Mr. STEIGER of Wisconsin and Mr. GINN have introduced legislation in the form H.R. 14861. This legislation has been jointly referred to the Committee on Merchant Marine and Fisheries and the Committee on Interior and Insular Affairs for consideration. The legislation uses the same formulas included in the legislation under consideration today, however, that legislation only relates to wildlife refuge lands.

Mr. Chairman, it has now been 12 years since the formula under the current law was developed for sharing refuge receipts with the counties, and it is time for this formula to be looked into and updated and, in view of the legislation introduced by the gentlemen from Wisconsin and Georgia, I can promise at this time that my subcommittee will hold hearings on this matter at an appropriate time. If time permits, the hearings will be held this year; otherwise, they will be held early in the next session of the Congress.

Mr. Chairman, I wholeheartedly support the amendment and I ask my colleagues to support it also.

Mr. KOCH. Mr. Chairman, I move to strike the last word.

Mr. Chairman, under the provisions of this bill, New York receives practically nothing. But the bill is an important bill, and Members from the State of New York have looked at it. We have had some experience with financial problems. Because we have had this experience, I would like to ask the chairman managing the bill some questions.

Has the chairman considered, in lieu of this legislation, asking for a direct loan from the Federal Government?

Mr. WEAVER. If the gentleman will yield, the answer is "no."

Mr. KOCH. And when I thought about direct loans, I thought about direct Federal loans at 7 percent interest, which is what New York City is now paying for moneys that the Federal Government is lending to us.

The gentleman does not think that is an appropriate answer for a legitimate financial problem of a local government.

Mr. WEAVER. If the gentleman will yield, it did not occur to the committee to explore that avenue.

Mr. KOCH. In the city of New York, because we understand the financial problems that different regions of the country have, we wonder whether those who have other problems than we, that arise because the Federal Government owns property on which it is not paying taxes—and we have different problems which we have asked this Congress to consider, one huge one being that people come to the city of New York from all across the country and some go on our welfare rolls at a cost to us of nearly $2 billion—we wonder whether one of the measures which might be considered by the committee is to have the Secretary of the Treasury have a board which exercises some controls on how various counties shall spend their moneys. A role the Secretary of the Treasury has been given by the Congress with respect to New York City because of the loans furnished to the city?

Does the gentleman think that that is an appropriate way for the Federal Government to come in and help a locality, to have Federal control, with the Secretary of the Treasury exercising jurisdiction?

Mr. WEAVER. Mr. Chairman, if the gentleman will yield, since the gentleman from New York continues to impale the gentleman from Oregon on a skyscraper, the answer is: I do not.

Mr. KOCH. Mr. Chairman, just to conclude, I would like to say this: that Members of the New York Democratic delegation met yesterday and agreed overwhelmingly upon our position on this bill. We made a determination, and that was that we believe that the States represented by Members supporting this bill have a legitimate problem. While the response to that legitimate problem does not help us with respect to our legitimate problems, we will support this legislation overwhelmingly, and we look upon our support of you in your needs as bread upon the waters.

Mr. WEAVER. Mr. Chairman, I thank the gentleman from New York (Mr. KOCH).

Mr. SEIBERLING. Mr. Chairman, will the gentleman yield?

Mr. KOCH. I yield to the gentleman from Ohio.

Mr. SEIBERLING. Mr. Chairman, I think the point of the gentleman from New York (Mr. KOCH) is very well taken, and I think that all Members should take a look at the additional views of the gentleman from New York (JONATHAN BINGHAM) that appear in the committee report. In those views he makes in substance the same point.

I think since New York annually pays out over $7 billion more in tax revenues than it takes in from Federal benefits and since the whole Northeastern area and the Middle Western area, especially the Great Lakes States, do likewise, only in much larger total amounts, that we have a legitimate claim to have the Congress give greater attention to the problems we are now facing because we are an older urban area.

Mr. Chairman, I also look upon this as bread upon the waters, and I intend to support it in that light.

Mr. KOCH. Mr. Chairman, I thank the gentleman for his comments.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Oregon (Mr. WEAVER).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. SKUBITZ

Mr. SKUBITZ. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SKUBITZ: On page 7, line 16, strike the words "National Park System or".

On page 8, line 2, strike the word "either".

On page 8, line 24, strike the word "either" and insert in lieu thereof the word "the".

On page 9, line 8, strike the words "National Park System or".

Mr. SKUBITZ. Mr. Chairman, section 3 of H.R. 9719 provides for an additional payment of 1 percent of the fair market value of land added to the National Park System and the National Wilderness Preservation System. Those lands acquired after December 31, 1970, would be eligible for such payments.

I want to stress that this amendment does not affect the National Wilderness System in any way. It is quite obvious that this section was added to the bill as a sweetener in an effort to attract votes from Congressmen in the Eastern States who do not have any BLM land in their districts.

Mr. Chairman, we have added a lot of land to the National Park System in the last 5 years. Many of the additional acres involve thousands of acres and even tens of thousands of acres in the case of Big Cypress and Big Thicket. According to the National Park Service, the total projected cost for the new land acquisitions since December 31, 1970, is almost $1 billion. There is no reason to believe that this pattern will not continue.

Right now we have pending either in the committee or in the House legislation enlarging and creating new units of the park system in the Congaree Swamp, Indiana Dunes, New River, Manassas Battlefield, and dozens of others. The acquisition of land these days is expensive, and it is getting more expensive.

Unfortunately, we now seem to be getting into the business of creating urban parks around every city. If this trend continues, urban land acquisition costs will be astronomical, and the 1 percent annual payment will cost more and more.

As I say, if we give 1 percent for national parks, there is not any reason that all of the Army bases and reservations should not come in and ask for the same thing.

I mentioned in my opening statement that the Public Land Law Review Commission reported that the Federal Government should pay its fair share when public lands are a burden to local governments.

National park lands are obviously not such a burden. They are an asset to any community that gets them. Everyone who ever testified in the committee has agreed on that point.

Mr. Chairman, I ask that my amendment be adopted.

Mr. YOUNG of Alaska. Mr. Chairman, will the gentleman yield?

Mr. SKUBITZ. I yield to the gentleman from Alaska.

Mr. YOUNG of Alaska. Mr. Chairman, I commend the gentleman for his amendment, although I have reservations about a part of it as it was reported in committee, as the gentleman well knows.

Every park proposal that we have worked on in that committee has been as a result of a request by those Members of the area which they represent.

However, I am in the unique situation where we have Members outside of the areas that they represent and also some of the agencies, such as the Department of the Interior, asking for 123 million acres of land to be put into parks and refuges.

Although some may think that this may not be a burden on the State, if that is agreed to, it will deprive the State of a certain amount of royalty moneys granted under the Mineral Leasing Act.

Mr. Chairman, I think we should take into consideration this constant grab of land for acreage. I think that certainly should be considered by this Congress.

However, I would like to commend the gentleman from Kansas (Mr. SKUBITZ) for his statement and his proposal.

I do believe that he has a good point with respect to the smaller parks.

Let us keep in mind that the Park Service wants to grab off 123 million acres, and those are in my State. That would create a burden on my State of Alaska.

Mr. SKUBITZ. Mr. Chairman, I understand the gentleman's special problem in Alaska.

Mr. SEIBERLING. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I am the author of this section of the bill; and I am grateful to note that the other gentleman from Kansas (Mr. SEBELIUS) states, in his separate views in the committee report, that he believes it represents an equitable solution of the very problem the bill purports to resolve.

Mr. Chairman, I am not going to belabor the point; but if we are going to create a new national park by taking private land, as has been the case in some instances, including the act that I was the author of to create the Cuyahoga Valley National Recreation Area, we are going to have to recognize, and I have had to recognize, that in some cases local governments are put in a short-term revenue squeeze.

For example, I have here a list of the various units of local government in the Cuyahoga Valley National Recreation Area. One of them will lose over 10 percent of its tax base. A rural school district will lose over $176,000 of tax revenue.

Eventually this will be made up, but in the short run, it will not be if land is removed from the tax rolls. Mr. Chairman, section 3 is an effort to remedy this inequity.

Furthermore, we are not talking about any huge amount of money. The Congressional Budget Office estimated that the annual payment would be $4.2 million in fiscal year 1977 and would rise to $7.2 million by fiscal year 1981; and the total cost for all authorized parks would be $48,538,000 over a 5-year period. Therefore, we have a bill here on which the price tag would be $118 million for 1 fiscal year, and this is $4 million of the $118 million. Furthermore, we know it will do equity. This is an effort to compensate for taxes that we know will be lost and only for a 5-year period.

So, therefore, Mr. Chairman, I think it is a very reasonable section of the bill and I strongly urge defeat of the amendment. I would say this, that if it is adopted, a great deal of the support for this bill will evaporate.

Mr. SKUBITZ. Mr. Chairman, if the gentleman will yield, I note that when the bill was before the House in 1974 that the gentleman from Ohio testified before our committee and said then that:

> The actual experience, as I understand it, has been that the tax situation of the local areas in the end has always been enhanced by the creation of new parks. I am sure that would be the case here.

That is the very argument I have attempted to present. I see no reason for establishing this precedent of giving a 1-percent payment on the fair market value of the acquired parks. Every State in the Union and every community is going to request a park, and help, if Uncle Sam will buy, maintain, and operate the park for them and then pay taxes. What a bonanza.

We start out with only a few million but, Mr. Chairman, this will grow and grow. Remember that this body will have before it very soon the land conservation bill that has gone from $300 million to $800 million.

Mr. SEIBERLING. Mr. Chairman, I stand by the statement that the gentleman from Kansas quoted. I would emphasize that it says that our experience has been that in the end the tax situation of the local governments has been enhanced by national parks. But if we don't get through the short run, we will never reach the long run.

It seems to me this is a very, very small part of the total price tag of this bill and one which is never going to cost a great deal of money.

Mr. DON H. CLAUSEN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman. I rise in opposition to the amendment offered by the gentleman from Kansas (Mr. SKUBITZ). I will not take the full 5 minutes, but I just wish to say that this amendment if adopted would cause destruction of the working relationship we have established in this package. I join with the other members of the committee who are in opposition to the amendment.

Mr. WEAVER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Kansas (Mr. SKUBITZ).

Mr. Chairman, no lands are more deserving of being included in this bill than are the national parks. The fundamental philosophy of this bill is that Federal lands can create a burden on the local communities by requiring services to be rendered by the county governments, and is to help them pay their own way. In this particular situation the 1 percent is to be used for a 5-year period only in order to get the counties over the shock—and this is on acquired lands only—to get them over the impact and the shock produced by taking these lands off the property tax rolls so as to help these county governments.

For these reasons, Mr. Chairman, I urge the defeat of the amendment.

Mr. LOTT. Mr. Chairman, will the gentleman yield?

Mr. WEAVER. I yield to the gentleman from Mississippi.

Mr. LOTT. Mr. Chairman, I would like to address a few questions to the gentleman from Oregon.

Mr. Chairman, if I understand this section correctly, it would provide an additional payment of 1 percent of the market value for 5 years for parks and wilderness property acquired by the Federal Government, taken off the tax rolls since 1971. Is that correct?

Mr. WEAVER. That is correct, except that in no event shall it be greater than the property tax levied originally by the local government on the property.

Mr. LOTT. We are talking only about a 5-year period and not a permanent situation?

Mr. WEAVER. Five years only so as to get the local governments over the impact and the shock of the property being taken off of the tax rolls.

Mr. LOTT. Mr. Chairman, I would like to take this opportunity to say that I oppose the amendment because, as I mentioned earlier, I have had a personal experience with this situation where an area is designated as a national park and then this means that 4 or 5 years will pass before the land is purchased. Then in addition, there is further time before the work commences in those areas as far as the actual construction and development of the park so as to be in a position to attract people to the area. As a result, the tax base has had a sudden shock. It would seem to me that this is a legitimate effort to help these areas who have lost land to the national parks; to help them during that interim period until people are coming into the area to use these facilities.

Mr. WEAVER. Mr. Chairman, I thank the gentleman from Mississippi for his excellent statement.

Mr. KETCHUM. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

The gentleman who offered it made a slight misstatement during debate on the rule. During debate on the rule he said in general why should we pay for lands in Death Valley?

Let me point out to the body that this bill does not even affect Death Valley because it was taken off the tax rolls quite some time ago. But it is kind of interesting to me that the gentleman would make a comment like that when he is in the process of voting for a bill to close down mining in Death Valley, taking 197 jobs out of that county. Eighty-six percent of the land in that county is owned by the Federal Government. The Federal Government sends one requirement after another requirement to those counties and to those States that are largely in ownership by the Federal Government. We ask them to put in sewers; we ask them to do this; we ask them to do that, with no relief to those counties. If there was ever a bill before this House that really deserved support, this is that bill. I ask the Members' opposition to the amendment offered by the gentleman from Kansas.

Mr. SKUBITZ. Mr. Chairman, will the gentleman yield?

Mr. KETCHUM. I am sorry. I would normally yield to the gentleman from Kansas, but he refused to yield to me, so I shall not yield at this time.

Mr. JOHNSON of Colorado. Mr. Chairman, will the gentleman yield?

Mr. KETCHUM. I yield to the gentleman from Colorado.

Mr. JOHNSON of Colorado. I thank the gentleman from yielding.

Mr. Chairman, I want to support the gentleman's position. The Rocky Mountain National Park is the only park in my district, but it is one, as I mentioned earlier, that has about 3 million people going through there in a 90-day period of time. The amounts of money that go to the counties involved there are really minimal, and it does not compensate for the public services which have to be provided every summer. During the rest of the year the activity in those counties practically die down to nothing.

I do not know how this affects other parks, but as far as the Rocky Mountain National Park is concerned, this amendment would be very, very damaging. I do not think we could justify supporting it.

Mr. KETCHUM. I would certainly agree with the gentleman, because the same occurs in many of those areas which are largely owned by the Federal Government. The counties have to render services. Certainly the gentleman from Colorado is more than aware of that expense at this very moment in his district, having just suffered one of the greatest disasters. I am sure that his county is bearing a great deal of that cost, along with the Federal Government.

Mr. JOHNSON of Colorado. Yes, and if the gentleman will yield further, of course the amount of money that is going to be paid by the Government for the disaster program will not actually be paid to the county for the expenditures that they have to necessarily incur. Nobody expects that the Federal Government should. But this is just one example of how frequently those public land counties that are impacted with tourists need to have some kind of Federal aid, and this bill seems to provide it.

I think that the amendment offered by the gentleman from Kansas would damage it severely.

Mr. KETCHUM. I thank the gentleman from Colorado for his comments.

Mr. Chairman, I ask that the amendment offered by the gentleman from Kansas be defeated. I yield back the remainder of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Kansas (Mr. SKUBITZ).

The question was taken; and the Chair announced that the noes appeared to have it.

RECORDED VOTE

Mr. SKUBITZ. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 109, noes 286, not voting 36, as follows:

[Roll No. 610]

AYES—109

Anderson, Ill.
Andrews, N.C.
Ashbrook
Bauman
Bedell
Bennett
Bevill
Biaggi
Boland
Brinkley
Brooks
Broomfield
Broyhill
Burleson, Tex.
Burlison, Mo.
Butler
Clancy
Cleveland
Collins, Tex.
Conable
Conte
Cotter
Coughlin
Daniel, Dan
Daniel, R. W.
Danielson
Derwinski
Devine
Dickinson
Dodd
Downing, Va.
Drinan
Edwards, Ala.
Eilberg
Erlenborn
Evans, Ind.
Fenwick
Flowers
Giaimo
Gonzalez
Gradison
Green
Haley
Hall, Tex.
Hefner
Henderson
Holt
Horton
Hutchinson
Hyde
Jarman
Jones, Okla.
Jordan
Kelly
Keys
Kindness
Latta
Lent
Levitas
Long, La.
Long, Md.
Lujan
McClory
McCollister
McDonald
McEwen
Madigan
Mann
Martin
Michel
Milford
Miller, Ohio
Minish
Mitchell, N.Y.
Moffett
Moore
Moorhead, Pa.
Myers, Ind.
Myers, Pa.
Nedzi
Nichols
O'Hara
Pattison, N.Y.
Paul
Pickle
Poage
Preyer
Quie
Rostenkowski
Ruppe
Russo
St Germain
Sarasin
Satterfield
Schneebeli
Sebelius
Shriver
Skubitz
Stratton
Taylor, N.C.
Teague
Treen
Vigorito
Waggonner
Walsh
Wright
Wydler
Yates
Young, Fla.

NOES—286

Abdnor
Abzug
Adams
Ambro
Anderson, Calif.
Andrews, N. Dak.
Annunzio
Archer
Armstrong
Aspin
AuCoin
Bafalis
Baldus
Baucus
Beard, R.I.
Beard, Tenn.
Bell
Bergland
Biester
Bingham
Blanchard
Blouin
Boggs
Bolling
Bonker
Bowen
Brademas
Breckinridge
Brodhead
Brown, Calif.
Brown, Mich.
Brown, Ohio
Buchanan
Burgener
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burton, John
Burton, Phillip
Byron
Carney
Carr
Carter
Cederberg
Chappell
Chisholm
Clausen, Don H.
Clawson, Del
Clay
Cochran
Cohen
Collins, Ill.
Conyers
Corman
Cornell
Crane
D'Amours
Daniels, N.J.
Davis
de la Garza
Delaney
Dellums
Derrick
Diggs
Dingell
Downey, N.Y.
Duncan, Oreg.
Duncan, Tenn.
du Pont
Early
Eckhardt
Edgar
Edwards, Calif.
Emery
English
Eshleman
Evans, Colo.
Fary
Fascell
Fish
Fisher
Fithian
Flood
Florio
Foley
Ford, Mich.
Forsythe
Fraser
Frenzel
Frey
Fuqua
Gaydos
Gibbons
Gilman
Ginn
Goldwater
Goodling
Grassley
Gude
Guyer
Hagedorn
Hall, Ill.
Hamilton
Hammerschmidt
Hanley
Hannaford
Hansen
Harkin
Harrington
Harris
Harsha
Hawkins
Hayes, Ind.
Hechler, W. Va.
Heckler, Mass.
Heinz
Helstoski
Hicks
Hightower
Hillis
Holland
Holtzman
Howard
Hubbard
Hughes
Hungate
Ichord
Jacobs
Jeffords
Jenrette
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Karth
Kasten
Kastenmeier
Kazen
Kemp
Ketchum
Koch
Krebs
Krueger
LaFalce
Lagomarsino
Landrum
Leggett
Lehman
Lloyd, Calif.
Lloyd, Tenn.
Lott
Lundine
McCloskey
McCormack
McDade
McFall
McHugh
McKay
McKinney
Maguire
Mahon
Mathis
Matsunaga
Mazzoli
Meeds
Melcher
Metcalfe
Meyner
Mezvinsky
Mikva
Miller, Calif.
Mills
Mineta
Mitchell, Md.
Moakley
Mollohan
Moorhead, Calif.
Morgan
Mosher
Moss
Mottl
Murphy, Ill.
Murphy, N.Y.
Murtha
Natcher
Neal
Nix
Nolan
Nowak
Oberstar
Obey
O'Brien
O'Neill
Ottinger
Patten, N.J.
Patterson, Calif.
Pepper
Perkins
Pettis
Pike
Pressler
Price
Pritchard
Quillen
Railsback
Randall
Rangel
Regula
Reuss
Rhodes
Richmond
Riegle
Rinaldo
Roberts
Robinson
Rodino
Roe
Rogers
Rooney
Rose
Rosenthal
Roush
Rousselot
Roybal
Runnels
Ryan
Santini
Sarbanes
Scheuer
Schroeder
Seiberling
Sharp
Shuster
Sikes
Simon
Sisk
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Spellman
Spence
Staggers
Stanton, J. William
Stanton, James V.
Stark
Steed
Steiger, Wis.
Stephens
Stokes
Stuckey
Studds
Symms
Talcott
Taylor, Mo.
Thompson
Thone
Traxler
Tsongas
Udall
Ullman
Van Deerlin
Vander Jagt
Vander Veen
Vanik
Wampler
Waxman
Weaver
Whalen
White
Whitehurst
Whitten
Wiggins
Wilson, Bob
Wilson, Tex.
Winn
Wirth
Wolff
Yatron
Young, Alaska
Young, Ga.
Young, Tex.
Zablocki
Zeferetti

NOT VOTING—36

Addabbo
Alexander
Allen
Ashley
Badillo
Breaux
Conlan
Dent
Esch
Evins, Tenn.
Findley
Flynt
Ford, Tenn.
Fountain
Hays, Ohio
Hébert
Hinshaw
Howe
Jones, Tenn.
Madden
Mink
Montgomery
Passman
Peyser
Rees
Risenhoover
Roncalio
Schulze
Shipley
Steelman
Steiger, Ariz.
Sullivan
Symington
Thornton
Wilson, C. H.
Wylie

The Clerk announced the following pairs:

On this vote:

Mr. Hébert for, with Mr. Addabbo against.

Messrs. ANDREWS of North Carolina, O'HARA, PATTISON of New York, and PICKLE, Mrs. KEYS, Mr. WALSH, and Mr. DEVINE changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. SEIBERLING

Mr. SEIBERLING. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Seiberling: section 3(a), on page 7, line 25, after the word "government" insert "and affected school districts".

Section 3(b) page 8, line 20, after the word "government" insert "and affected school districts".

Mr. SEIBERLING. Mr. Chairman, this is a clarifying amendment. It is offered to make it clear that when a school district has lost tax revenue from an acquisition of previously taxed land by the National Park Service, the school system would qualify as a unit of local government the same as any other unit for distribution of the payments that would be received. This amendment would add nothing to the cost of the bill.

Mr. SKUBITZ. Mr. Chairman, will the gentleman yield?

Mr. SEIBERLING. I yield to the gentleman from Kansas.

Mr. SKUBITZ. Mr. Chairman, I have read the amendment and we on this side are glad to accept it.

Mr. WEAVER. Mr. Chairman, will the gentleman yield?

Mr. SEIBERLING. I yield to the gentleman from Oregon.

Mr. WEAVER. Mr. Chairman, I have no objection to the amendment. I think it is a very helpful amendment and I believe it improves the bill.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. Seiberling).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. SEIBERLING

Mr. SEIBERLING. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Seiberling: Section 3(b) page 8. line 17, delete "unit or other".

Section 3(c) page 8, lines 23 and 24, delete "authorization of any unit of either system" and insert in lieu "date of enactment of legislation authorizing any unit of the National Park System or National Forest Wilderness areas as to which a payment is authorized".

Mr. SEIBERLING. Mr. Chairman, these are two technical amendments which simply clarify the meaning of the language. I do not think there is any question about them.

Mr. SKUBITZ. Mr. Chairman, will the gentleman yield?

Mr. SEIBERLING. I yield to the gentleman from Kansas.

Mr. SKUBITZ. Mr. Chairman, I have read the amendment, and this side has no objection.

Mr. WEAVER. Mr. Chairman, will the gentleman yield?

Mr. SEIBERLING. I yield to the gentleman from Oregon.

Mr. WEAVER. Mr. Chairman, we accept the technical amendments on this side.

Mr. SEIBERLING. I thank the gentleman, Mr. Chairman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. Seiberling).

The amendment was agreed to.

Mr. JOHN L. BURTON. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I wonder whether, for the purposes of legislative history, the gentleman from Oregon (Mr. Weaver) would care to respond to a question.

Having read the commitee report, I see no mention of the county of Marin, Calif. That is the home of the Golden Gate National Recreation Area and the Point Reyes National Seashore which definitely, under the definitions in this bill, would qualify for payments. I wonder whether the fact that the county was not mentioned in the report was merely an oversight.

Mr. WEAVER. Mr. Chairman, if the gentleman will yield, this was an inadvertent omission. The report and legislative history notwithstanding, the lands do qualify under this bill.

Mr. JOHN L. BURTON. Therefore, it is clear that in the county of Marin where there are national parks and national recreation areas, such parks and recreational areas would qualify for reimbursement under the purposes of this bill; is that correct?

Mr. WEAVER. That is correct; they do.

Mr. JOHN L. BURTON. Mr. Chairman, I thank the gentleman.

Mr. ROUSH. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to be recognized for just a moment.

I have a question which pertains to subsection (2)(d) of the bill, and more particularly, I refer to page 13 of the report, the next to the last paragraph. The paragraph reads:

> Subsection (2)(d) addresses those situations where entitlement land is located within concurrent units of local governments. For example, in some cases National Park or other Federal land is located in both a county and a township. The smaller unit, the township is the unit of local government immediately burdened by the tax immunity of these lands. This provision insures that payments under the Act will go to the smaller unit of government when the entitlement lands are located within more than one unit concurrently.

Mr. Chairman, in Indiana the fact is that it would be the county, although it is not the smallest unit of government, which would bear the burden of the tax loss. It would be the county which would provide the police protection or any additional security that may be needed because of the existence of a recreation area within, say, the reservoir land.

Mr. Chairman, it occurs to me that in that instance the payment should go to the county and not to the township.

I am wondering whether this language is so restrictive as to prohibit the payment to the county rather than to the township.

Mr. WEAVER. Mr. Chairman, will the gentleman yield?

Mr. ROUSH. I yield to the gentleman from Oregon.

Mr. WEAVER. Mr. Chairman, in section 6(c) it states: " 'Unit of local government' means the county, parish," et cetera, as determined by the Secretary. The Secretary will then determine which government shall receive the payment by using the criterion as to which has the tax disadvantage and which is the main taxing body of that area.

Mr. ROUSH. Mr. Chairman, I thank the gentleman for his answer.

I think that the Secretary would be very conscious of the problem which would exist in Indiana, wherein the county bears the burden of providing most services rather than the smallest unit of government, the township.

The CHAIRMAN. If there are no further amendments to section 3, the Clerk will read section 4.

The Clerk read as follows:

Sec. 4. The provisions of law referred to in section 2 are as follows:

(1) the Act of May 23, 1908, entitled "An Act making appropriations for the Department of Agriculture for the fiscal year ending June thirtieth, nineteen hundred and nine" (35 Stat. 251; 16 U.S.C. 500);

(2) the Act of June 20, 1910, entitled "An Act to enable the people of New Mexico to form a constitution and State government and be admitted into the Union on an equal footing with the original States, and to enable the people of Arizona to form a constitution and State government and be admitted into the Union on an equal footing with the original States" (36 Stat. 557);

(3) section 35 of the Act of February 25, 1920, entitled "An Act to prouote the mining of coal, phosphate, oil, oil shale, gas, and sodium on the public domain", commonly known as the "Mineral Lands Leasing Act" (41 Stat. 450; 30 U.S.C. 191);

(4) section 17 of the Federal Power Act (41 Stat. 1072; 16 U.S.C. 810);

(5) section 10 of the Taylor Grazing Act (48 Stat. 1273; 43 U.S.C. 315i);

(6) section 33 of the Bankhead-Jones Farm Tenant Act (50 Stat. 526; 7 U.S.C. 1012);

(7) section 5 of the Act entitled "To safeguard and consolidate certain areas of exceptional public value within the Superior National Forest, State of Minnesota, and for other purposes", approved June 22, 1948 (62 Stat. 570; 16 U.S.C. 577g);

(8) section 5 of the Act entitled "An Act to amend the Act of June 22, 1948 (62 Stat. 568) and for other purposes" approved June 22, 1956 (70 Stat. 366; 16 U.S.C. 577g–1);

(9) section 6 of the Mineral Leasing Act for Acquired Lands (61 Stat. 915; 30 U.S.C. 355); and

(10) section 3 of the Materials Disposal Act (61 Stat. 681; 30 U.S.C. 603).

Mr. WEAVER (during the reading). Mr. Chairman, I ask unanimous consent that section 4 be considered as read, printed in the Record, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Oregon?

There was no objection.

AMENDMENTS OFFERED BY MR. STEIGER OF WISCONSIN

Mr. STEIGER of Wisconsin. Mr. Chairman, I offer amendments.

The Clerk read as follows:

Amendments offered by Mr. Steiger of Wisconsin:

Page 10, line 24, strike out "and".

Page 11, line 2, strike out the period at the end thereof and insert "; and".

Page 11, after line 2, insert:

(11) section 401(c) of the Act entitled "An Act to amend the Migratory Bird Hunting Stamp Act of March 16, 1934, and certain other Acts relating to game and other wildlife, administered by the Department of Agriculture, and for other purposes", as amended (78 Stat. 701; 16 U.S.C. 715s(c)).

Page 11, line 18, after "Wilderness Preservation Systems,", insert "the National Wildlife Refuge System,".

Mr. STEIGER of Wisconsin. Mr.

Chairman, I ask unanimous consent that the amendments may be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. STEIGER of Wisconsin. Mr. Chairman, this amendment has one purpose; it assures that units of local government containing portions of the National Wildlife Refuge System will receive treatment equal to that granted by the committee's bill to similar local governments containing similar Federal lands.

There is a problem, Mr. Chairman, and I will not kid the members of this committee. The problem is that there is a jurisdictional dispute going on between the Committee on Merchant Marine and Fisheries and the Committee on Interior and Insular Affairs. I think the Members ought to be aware of the fact of what happens if we do not do this. In essence, what we will have done is to establish a new concept of payment in lieu of taxes—which I support—for Corps of Engineers land, national forests, national parks, for Bankhead-Jones Act areas and for a whole host of things, but we will exclude specifically those areas that are wildlife refuge areas.

If the Members will look at the list of the States they will find, for example, if they look in the committee report in terms of Wisconsin, that those areas in the Seventh District represented by the gentleman from Wisconsin (Mr. Obey) will receive a substantial amount of money, because they have national forest areas or national park areas, while the area represented by myself, or the Second District represented by the gentleman from Wisconsin (Mr. Kastenmeier) will be excluded, because we have the Horicon Wildlife Refuge and the Necedah Wildlife Refuge.

This bill seeks to compensate units of local government for the property taxes they lose because lands within their boundaries are owned by the Federal Government. These lands are immune from property taxes. This puts a double strain on the affected local governments; revenues fall, and the presence of Federal lands often leads to increased demand for local government services.

H.R. 9719 provides for payments to local governments containing entitlement lands. These lands include the National Park System, the National Forest System, the National Wilderness Preservation System, lands administered by the Bureau of Land Management, and lands dedicated to water resource development projects of the United States. The bill omits the National Wildlife Refuge System, and this amendment would include it. At stake here are payments corresponding to roughly 32 million acres, distributed across every state in the country except West Virginia.

There is no justification for this discrimination against the excluded local governments. A county containing a national wildlife refuge feels the same double-strain that a county containing a national wilderness area or a national park experiences. Clearly, removing land from the property tax rolls creates the same drop in revenue in each instance. It makes no difference to a county now unable to provide needed services into which classification of Interior Department lands the Federal areas fall.

Equally important, local governments containing wildlife refuges also feel the second strain, that of increased demand for local government services. To illustrate this I can quote from a pamphlet prepared by the U.S. Fish and Wildlife Service and the Wisconsin Department of Natural Resources:

> Thousands of people travel to east-central Wisconsin every fall to witness marshlands teeming with Canada geese. This annual tradition at Horicon Refuge is vivid testimoney of the public's interest in the Canada goose . . .
>
> The success story is not without problems. The tidal wave of humanity sweeping over east-central Wisconsin has created adverse road and traffic problems. Thousands of people gather to hear what Aldo Leopold called "goose music" in the wilds.

I find it indefensible to use Federal revenues to assist the counties covered by the committee's bill while ignoring those containing wildlife refuges. This amendment assures these latter counties—and other local governments—support at least equal to the base level provided for all entitlement lands under the committee bill. It makes this a bill which deals with the whole problem, rather than one which capriciously ignores an important facet of the situation.

The amendment is simple. It merely will bring into the bill wildlife refuges. The cost is estimated at $20 million. This is not a small sum of money but I think it is only fair and right.

I hope the amendment will be adopted.

Mr. BURLISON of Missouri. Mr. Chairman, will the gentleman yield?

Mr. STEIGER of Wisconsin. I yield to the gentleman from Missouri.

Mr. BURLISON of Missouri. Mr. Chairman, I would like to commend the gentleman from Wisconsin upon the amendment he has offered and the statement the gentleman has made. It seems highly discriminatory to this member to select one category of Government property similar to that included in the bill and say it is not entitled to the benefits while all others are. I think there is a great deal of merit in the gentleman's amendment and I expect to support the amendment.

Mr. STEIGER of Wisconsin. I thank the gentleman from Missouri for his support.

Mr. BAUMAN. Mr. Chairman, will the gentleman yield?

Mr. STEIGER of Wisconsin. I will be glad to yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Chairman, I would like to express my support for the amendment offered by the gentleman from Wisconsin (Mr. Steiger). It seems to me that this amendment would remedy a totally artificial distinction that should not be in the bill.

I believe that any payment in lieu of taxes ought to apply across the board to all similar types of Federal Government-owned land. I think the gentleman from Wisconsin has done a service to the Members in offering this amendment.

Mr. NOLAN. Mr. Chairman, will the gentleman yield?

Mr. STEIGER of Wisconsin. I yield to the gentleman from Minnesota.

Mr. NOLAN. Mr. Chairman, I rise in support of the amendment offered by Mr. Steiger. The legislation before us corrects a long-standing inequity which has placed a severe strain on the tax base of many local governments. By increasing the payments available to local governments and by consolidating a number of payment programs, this bill will restore some of the revenues lost through the maintenance of our Federal lands system.

However, while the bill assures equitable treatment for certain Federal lands, it merely increases the inequity for others. The legislation as written excludes entirely compensation for the national wildlife refuge system. This system includes 32 million acres of land throughout the United States. In my own district, for example, there are nine counties which would be denied compensation under this bill even though they contain land that is, for tax purposes, identical to that covered by the legislation.

We in Minnesota are proud of our wildlife refuge system. Our wetland areas provide protection for waterfowl and other wildlife and have contributed substantially to the preservation of our natural environment. But the maintenance of these areas should not fall solely on the shoulders of local communities. It is a system from which we all benefit and system which we should all support.

The bill offers us the opportunity to correct an inequity in the treatment of local governments. The amendment offers us the opportunity to correct an inequity in the bill. I strongly urge you to support the amendment and when that amendment has passed, to support the bill.

Mr. STEIGER of Wisconsin. I thank the gentleman from Minnesota very much for his support.

Mr. HUGHES. Mr. Chairman, will the gentleman yield?

Mr. STEIGER of Wisconsin. I yield to the gentleman from New Jersey.

Mr. HUGHES. Mr. Chairman, I commend my colleague, the gentleman from Wisconsin for offering his amendment and rise in strong support of the amendment.

This amendment would bring wildlife refuges under the purview of the legislation. There is no reasonable basis to exclude such refuges from payments in lieu of taxes and I urge my colleagues to support the amendment.

I thank the gentleman for yielding.

Mr. FRENZEL. Mr. Chairman, will the gentleman yield?

Mr. STEIGER of Wisconsin. I yield to the gentleman from Minnesota.

Mr. FRENZEL. I thank the gentleman for yielding.

It does seem to me that only by the adoption of the Steiger amendment can we avoid a double standard in payments to areas that may be equally deserving.

I think to eliminate these refuges would be a serious mistake.

I thank the gentleman for his contribution in offering this amendment.

Mr. STEIGER of Wisconsin. I thank the gentleman from Minnesota for his contribution and support.

Mr. Chairman, the gentleman from Georgia (Mr. GINN) and I undertook this effort. We have, as perhaps has been earlier discussed, introduced a bill which has been jointly referred to the Committee on Merchant Marine and Fisheries and the Committee on Interior and Insular Affairs. I think this would solve the problem in a fair and equitable fashion. On behalf of the gentleman from Georgia and myself, I hope the committee will accept this amendment.

Mr. Chairman, I yield back the remainder of my time.

Mr. WEAVER. Mr. Chairman, I rise in opposition to the amendments.

Mr. Chairman, the committee considered the wildlife refuges and felt it was not appropriate in this bill at this time. I would make the point that the gentleman from Wisconsin (Mr. STEIGER) has introduced such a bill, H.R. 14861, identical to this amendment. It has been jointly referred to the Committee on Merchant Marine and Fisheries and the Committee on Interior and Insular Affairs. I believe those two committees should consider it and report their findings to the House.

At this time, Mr. Chairman, I would oppose inclusion of this wildlife refuge amendment in the bill.

Mr. LEGGETT. Mr. Chairman, will the gentleman yield?

Mr. WEAVER. I yield to the gentleman from California.

Mr. LEGGETT. I thank the gentleman for yielding.

I, too, must rise in opposition to this amendment. Of course, we have to keep in mind that as we pass this, we are increasing the price of this bill, as I understand it, by about 50 percent. As I understand, it is about a $30 million bill at the present time over and above what the counties are getting, and the representation has been made that this will give the counties an additional $15 million over what they are getting.

We have looked at this in the committee. We intend to hold hearings on the gentleman from Wisconsin's bill. It is extremely complex because we are dealing with a cookie jar. We now use the funds that come in from refuge resources, and we earmark 25 percent of thosee for counties in adjacent areas. It is a provision that gives counties more under some circumstances than the present bill. Obviously, under some circumstances it gives less.

I agree with the gentleman who offered the amendment that we should have a system which has reasonable parity. On the other hand, we have got an extremely complex situation with respect to refuges, a system that has been operative since 1935, and a bill that has been amended, I think, some 10 different times. We should not summarily sweep this away unless we know exactly where we are going.

As I have indicated before, our committee is preparing to hold hearings on the subject matter the gentleman raises, but I just do not think we should add it to this bill as an addendum.

Mr. WEAVER. Mr. Chairman, I yield back the remainder of my time.

Mr. DINGELL. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendments.

Mr. Chairman, with all respect to the author of the amendment, it should be pointed out that for about 6 or 7 years we have had legislation on the books which funded in lieu of tax payments to the counties of the United States in which there are fish and wildlife refuges payments. The formula in that proposal was that which was selected and which was agreed upon by the National Association of Counties and by the counties. They have been very happily receiving payments under that law, which has been on the books for about 6 or 7 years now.

The gentleman from Wisconsin has introduced legislation which would forward additional payments to them or which would change the formula structure. I do not know whether it has merit or not. The committee which has jurisdiction over it, the Committee on Interior and Insular Affairs which now is handling the legislation, opposes it.

The other committee having jurisdiction, the Committee on Merchant Marine and Fisheries and the chairman of the subcommittee sharing jurisdiction, the gentleman from California (Mr. LEGGETT) opposes that legislation at this time.

I point out it ought not to be included in the bill.

Now, probably this amendment is subject to a point of order. In any event, it is not one which has been properly considered. It is very generous with the taxpayers' money. I cannot tell any of my colleagues whether it benefits their district or whether it hurts their district and I do not believe anybody else here present can.

Now, we have a committee system to properly consider these matters. The committee having jurisdiction over the legislation now on the floor opposes the amendment and suggests that it is a matter that should have hearings. I think that is a sensible approach.

We have already excluded from the legislation before us fish and wildlife refuges, both because it was the intent of the committee originally that they be so excluded, and the amendment simply amplifies an agreed position of the committee, which is set out in the reports of the committee and in the remarks of the chairman of the committee.

Now, for us to proceed to overrule the earlier judgments, the pronouncements of the committee, the statements of the chairman of the committee that he thinks he will go into the matter, the chairman of the other committee, would be extremely wrong.

Mr. BURLISON of Missouri. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman from Missouri.

Mr. BURLISON of Missouri. Mr. Chairman, I appreciate my friend yielding.

In response to a question from the gentleman from Missouri, the chairman of the subcommittee, the manager of the bill, earlier had said that his amendment to delete the wildlife refuges was because of a jurisdictional problem with the Committee on Merchant Marine and Fisheries.

Mr. DINGELL. Mr. Chairman, I am prepared to let the remarks of the gentleman from Oregon stand on their own. The gentleman has said he does not want this amendment.

I point out, it is probably nongermane. It probably creates jurisdictional questions and the cost consequences to the taxpayers are not clearly known. I think this is a matter that should be heard and reported on by the committees in proper jurisdiction before we go ahead with something like this on the House floor.

Mr. KAZEN. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman from Texas .

Mr. KAZEN. Mr. Chairman, the gentleman made a remark that this bill would add payments in lieu of taxes in addition to that which they already receive under other laws.

Mr. DINGELL. I did not make that statement on the floor, but I understand that it is so and I will make it now.

Mr. KAZEN. Mr. Chairman, if the gentleman will yield further, my understanding of the bill is that the payments made under this bill will be subtracted from whatever other income comes from these lands.

Mr. DINGELL. The gentleman and I have a different opinion on that. I would suspect that is all the more reason why in the light of that, as other ambiguities, the committee should reject this amendment until it has been properly studied by the committees of proper jurisdiction and properly reported to the House.

Mr. GINN. Mr. Chairman, I move to strike the requisite number of words.

I rise in support of the amendment.

Mr. Chairman, I personally want to thank the gentleman from Wisconsin (Mr. STEIGER) for offering this amendment. because in my judgment and in the judgment of all these Members here today who have wildlife refuges in their districts, it rectifies the inconsistency and inequity that should be cleared up, in that it excludes wildlife refugees from Federal payments.

The gentleman from California (Mr. LEGGETT) referred to "reasonable parity." I would say to the gentleman from California, that is exactly what we are seeking—reasonable parity.

Mr. Chairman, I must strongly disagree with the Committee's conclusion that the Federal lands indexed in the bill include all of those which have the greatest fiscal burden on the local governments in whose jurisdiction they are located.

In the First District of Georgia which I represent, there is a significant amount of acreage which is dedicated and operated as wildlife refuge. In one county alone, nearly one-third of the land area, over 170,000 acres, is a wildlife refuge and thus excluded from the provisions of this bill. All of the refuges in my district are on or near the Atlantic coast, and the counties in which they are located have made great economic sacrifice to see that these refuges are retained.

Let me give you an example which I believe proves my case. Camden County, Ga., includes the barrier island of Cumberland Island, which is the county's greatest natural resource. Cumberland is a national seashore, and as such the county would receive some payments through this bill. In addition, the county will receive the benefits of tourism from the visitors to the island.

In McIntosh County, some 20 miles away, the county's greatest ocean resource is Blackbeard Island. Because Blackbeard is a wildlife refuge, it is not covered by the pending legislation.

And because it is not an island which is accessible to visitors, the county receives a double blow because it enjoys no benefits from tourism.

This is not an exceptional case. The general pattern throughout the country is that a wildlife refuge is vastly more restricted to visitation than a national park. Wildlife refuges are, therefore, even more meritorious candidates for the compensation called for in the pending legislation.

Simply because the wildlife refuges are administered by the U.S. Fish and Wildlife Service, and not the National Park Service or the Bureau of Land Management is no justification for the Federal Government to deny refuges inclusion in the bill.

In my district, our local citizens are mindful of the financial sacrifices they endure with the presence of wildlife refuges in their communities. But they willingly answer to the higher need to preserve and protect our delicate natural resources. In fact, they have supported wilderness designation for these areas.

In light of these sacrifices, Mr. Chairman, I do not see how I am going to be able to go home and explain to those communities why this great body would seek to reward them for their stewardship of the lands by denying them some token compensation for the losses they suffer every day. I urge the adoption of the amendment.

Mr. BURLISON of Missouri. Mr. Chairman, will the gentleman yield?

Mr. GINN. I yield to the gentleman from Missouri.

Mr. BURLISON of Missouri. Mr. Chairman, objection to wildlife refuges has been raised on the basis of jurisdiction. Is it not true that the Corps of Engineers is not within the jurisdiction of the committee but is under the Public Works Committee?

Is it not true that the National Forests are not within the jurisdiction of the Interior Committee but that of the Agriculture Committee, and only within the Interior Committee so far as appropriations or funding is concerned?

So, I want to commend the gentleman for cosponsoring this amendment, and I want to emphasize that this argument about the jurisdictional distinction for wildlife refuges just does not hold up when we look at what else is in the bill.

Mr. GINN. I thank the gentleman for his comments. I think he is eminently correct.

Mr. TAYLOR of North Carolina. Mr. Chairman, will the gentleman yield?

Mr. GINN. I yield to the gentleman from North Carolina.

Mr. TAYLOR of North Carolina. The national parks are within the jurisdiction of the Interior Committee insofar as recreation is concerned.

Mr. GINN. Mr. Chairman, in concluding, let me say that we are seeking reasonable parity, and I urge adoption of this amendment.

Mr. McKINNEY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, this amendment is a bad amendment, and it comes as close as possible to proving that the rest of the bill is one of the worst pieces of legislation I have had the misfortune of seeing in my 6 years in the Congress of the United States—and that is a pretty high order.

We have sat here for a long time talking about the priorities of this Nation: Discussing impact aid, discussing aid to New York City, discussing aid to the city of Washington, discussing the problems of the country, including aid for the Pennsylvania Railroad, for Lockheed Aircraft and other companies and industries. Now, suddenly it is a top priority to accept payment of 75 cents per acre for a wasteland in the middle of the desert as opposed to a park in the middle of an industrial section, as opposed to the seashore of Cape Cod, as opposed to the welfare of the people.

If we have any serious intent of addressing the needs of the people of this country, I suggest that we start to do it considering the priority needs of the people rather than the priority need of a trade-off.

Mr. WEAVER. Mr. Chairman, will the gentleman yield?

Mr. McKINNEY. I yield to the gentleman from Oregon.

Mr. WEAVER. Does the gentleman not think that law enforcement, hospitalization, rescue, are not needs of the people? Because, the counties with large areas of Federal land simply do not have the tax base to provide those services for their own people and the people coming from the East who visit those lands.

Mr. McKINNEY. I would suggest to the gentleman that a payment in lieu of service would be a very good idea, and I would suggest to the gentleman that, for instance Cape Cod National Seashore which I do not represent is a great national resource which most of us supported, and some compensation is due.

Mr. WEAVER. Mr. Chairman, if the gentleman will yield further, that was precisely the reason for this bill.

Mr. McKINNEY. Mr. Chairman, I will not yield further.

What I am simply saying is that we are drawing a marginal line across the national problem of need, whether the need be in the city, whether the need be in the county, whether the need be in the State. I would suggest that what we are doing here is making a rather vicious trade off, a trade off that is going to be made whereby it is said:

> We will support the urban problems of the United States if you will support our problems in other areas.

Mr. Chairman, I will support correction of those problems at any time in lieu of service, in lieu of need. I will not support them when we are paying the same price for desert land as we are paying for the rest of the impacted areas we are talking about, the Yellowstone National Park, and others.

But when I hear a statement made by one of my colleagues that this is a bad bill but he will vote for it in order to get support for the cities of this country, I cannot go along with it.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Wisconsin (Mr. STEIGER).

The question was taken; and on a division (demanded by Mr. FRENZEL) there were—ayes 24, noes 42.

So the amendments were rejected.

The CHAIRMAN. Are there further amendments to section 4?

There being none, the Clerk will read section 5.

The Clerk read as follows:

> SEC. 5. (a) No suit of local government which receives any payment with respect to any land under the Act of August 28, 1937 (50 Stat. 875), or the Act of May 24, 1939 (53 Stat. 753), during any fiscal year shall be eligible to receive any payment under this Act for such fiscal year with respect to such land. Nothing in this Act shall be construed to apply to the Act of August 28, 1937 (50 Stat. 875), or the Act of May 24, 1939 (53 Stat. 753).
>
> (b) If the total payment by the Secretary to any county or unit of local government under this Act would be less than $100, such payment shall not be made.

Mr. WEAVER (during the reading). Mr. Chairman, I ask unanimous consent that section 5 be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Oregon?

There was no objection.

Mr. YATES. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I take this time to ask some questions of the distinguished gentleman from Oregon (Mr. WEAVER), who manages this bill.

Mr. Chairman, can the gentleman tell me whether or not any county which receives a payment under this bill can use those funds for Government services and cut existing property taxes?

Mr. WEAVER. If the gentleman will yield, they can use it for any purpose.

Mr. YATES. They can use it for any purpose. So that the money that would be received from the Federal Government, which goes into the local treasuries, may be used to pay for governmental services and thereby used to lower taxes?

Mr. WEAVER. If the gentleman will yield, that is a possibility, but counties which are unable to provide basic fundamental services because of nonpayment of taxes by Federal lands need the payment under this bill desperately to provide those services. So that it is unlikely that this would occur.

Mr. YATES. May I ask the gentleman why, in the reduction of the amounts which counties may receive and States may receive, there was no recognition given to the special Federal contribution under the highway program?

As an example, the State of Alaska, rather than being under the 70 to 30 sharing for the construction of highways, received a 95-percent Federal contribution.

Mr. WEAVER. If the gentleman will yield, this is true; and, therefore, we made a special case of the State of Alaska and restricted them drastically to only the five boroughs that existed the date of the enactment of this act.

Mr. YATES. Did the committee do the same for the State of Arizona?

Mr. WEAVER. No, we did not. The Federal highway program was not involved at this point.

Mr. YATES. Mr. Chairman, I call the gentleman's attention to the fact that in the State of Arizona the contribution is 85.77 percent by the Federal Government rather than the 70 percent which is given to other States, in the State of California the Federal contribution is 75.8 percent, and in the State of Colorado the Federal contribution is 70.22 percent.

Mr. WEAVER. Mr. Chairman, if the gentleman will yield further, the testimony we had on this subject stated that this still did not make up enough money to build the roads on these millions and millions and millions of Federal acres that require roads, and that a substantial burden is still imposed on the counties for roadbuilding.

Mr. YATES. But if the committee thought it wise to deduct the amounts received from other Federal programs, why did it not include this as well?

Mr. WEAVER. Because it was an indeterminate amount.

I am sure the gentleman will accept that statement.

Mr. YATES. Is it capable of being determined?

Mr. WEAVER. It is possible, I would assume, but it would fluctuate greatly.

Mr. YATES. But the committee decided not to do it?

Mr. WEAVER. The gentleman is correct.

The CHAIRMAN. Are there further amendments to section 5?

There being none, the Clerk will read section 6.

The Clerk read as follows:

SEC. 6. As used in this Act, the term—

(a) "entitlement lands" means lands owned by the United States that are—

(1) within the National Park System, the National Wilderness Preservation System, or the National Forest System, or any combination thereof, including, but not limited to, lands described in section 2 of the Act referred to in paragraph (7) of section 4 of this Act (16 U.S.C. 577d) and the first section of the Act referred to in paragraph (8) of this Act (16 U.S.C. 577d-1);

(2) administered by the Secretary of the Interior through the Bureau of Land Management, or

(3) dedicated to the use of water resource development projects of the United State;

(b) "Secretary" means the Secretary of the Interior; and

(c) "unit of local government" means a county, parish, township, municipality, borough existing in the State of Alaska on the date of enactment of this Act, or other unit of government below the State which is a unit of general government as determined by the Secretary (on the basis of the same principles as are used by the Bureau of the Census for general statistical purposes). Such term also includes the Commonwealth of Puerto Rico, Guam, and the Virgin Islands.

Mr. WEAVER (during the reading). Mr. Chairman, I ask unanimous consent that section 6 be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Oregon?

There was no objection.

AMENDMENT OFFERED BY MR. WEAVER

Mr. WEAVER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WEAVER:

In section 6(a)(1), page 11, line 17; strike out the words "the National Wilderness Preservation System, or" and at line 19 after "System," insert "including Wilderness Areas within each,".

Mr. WEAVER. Mr. Chairman, the committee has earlier agreed not to include at this time wilderness refuges, and the bill as reported to the committee did not include wilderness refuges. However, there are a few wilderness refuges remaining under this bill. We struck out wildlife refuges administered by the U.S. Fish and Wildlife Service" earlier in this bill. This is simply a conforming amendment to section 3, and it is offered to conform with action the committee has already taken.

Mr. SKUBITZ. Mr. Chairman, if the gentleman will yield, we are willing to accept the gentleman's amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Oregon (Mr. WEAVER).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. SKUBITZ

Mr. SKUBITZ. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SKUBITZ: On page 11, line 17 strike the words "the National Park System,"

Mr. SKUBITZ. Mr. Chairman, this amendment strikes lands with the National Park System as entitlement lands for the 75 cents per acre payment. It does not affect the wilderness system in any way.

If this provision remains in the bill, we will find ourselves authorizing payments in lieu of taxes for almost 25 million acres in more than 300 units of the National Park System. This is not just the national parks themselves, but includes all Park System lands—memorial parks, battlefields, cemeteries, scientific reserves, scenic trails, historical sites, seashores, lakeshores—you name it. Units of the System eligible for payment will range in size from the one-tenth of an acre John F. Kennedy National Historical Site in Norfolk, Mass., to the 2,805,072 acres of Glacier Bay National Monument in Alaska. We would even owe the District of Columbia annual payments of $13.50 for the White House, $79.50 for the Washington Monument, $13.50 for the Jefferson Memorial, $132.00 for the Lincoln Memorial, $109.50 for the Mall, and 15 cents for the Ford Theatre.

I hope my colleagues will not get the idea from these figures that this is not an expensive provision of the bill. The Everglades would cost over $1 million annually; Mount McKinley $975,000; Olympic over $600,000; Yosemite more than $550,000. The National Park Service estimates that it would cost the Government approximately $15 million and, of course, this figure would rise as more land is added to the park system.

Time after time, we take these lands off the hands of the local governments and the States—at their request. Only now, we are being told that, by so doing, we have created a burden. It does not make much sense.

Since future parks qualify for payments in lieu of taxes under H.R. 9719, I, for one, will want to consider more critically the cost of future units of the National Park System if this bill is in present form should pass.

For example, we have a bill in the Interior Committee to establish the Chattahoochee River National Recreation Area. The authorization for land acquisition is $69.7 million. The 1-percent payment for 5 years would add another $3,485,000. The 75 cents per acre increases the cost $4,725 multiplied by the number of years the Federal Government owns the land.

Another recently acquired area, Big Cypress, will cost an estimated $71,000 per year. Should not we take these annual payments multiplied by X years to get a more realistic cost when considering the initial legislation.

I urge my colleagues to help clean up this bill by supporting my amendment.

Mr. DON H. CLAUSEN. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Kansas (Mr. SKUBITZ).

I feel quite strongly that national park lands should be included in the bill for payments to compensate our local governments for the loss of tax revenues as a result of the Federal ownership of these lands.

The designation of lands as national parks precludes any mineral, grazing or timber revenues, yet the tax immunity of these lands is no less of a burden for local jurisdictions than the other lands covered by the legislation.

It is true that in some cases national parks are a "gold mine" to the surrounding communities. However, in many cases the opposite is true.

Visitors and tourists provide some benefits but they are indirect and may vary from year to year. For example, increased income from tourist-related businesses may result in added tax revenue to the State in the form of sales tax and income tax revenues but does not compensate our local jurisdictions for the loss of property taxes.

At the same time, the administration of the parks require that our local communities provide services such as police and fire protection, search and rescue service, medical and hospital facilities. The same is true of potential court costs associated with visitors to the public lands who get into trouble. The cost of providing these services is a tremendous burden on our local areas and they receive nothing in the way of compensation from the Federal Government. Our bill will correct this inequity by including parks among those lands to be considered for payment-in-lieu-of-taxes.

This amendment, if adopted, would cause the destruction of the working relationship we have established in this legislative package. I urge my colleagues to vote against the amendment.

AMENDMENT OFFERED BY MR. KAZEN AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. SKUBITZ

Mr. KAZEN. Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. KAZEN as a substitute for the amendment offered by Mr. SKUBITZ: Page 11, strike out line 15 and all down through and including line 5 on page 12 and insert in lieu thereof the following:

"(a) 'entitlement lands' means all lands owned by the United States, except those lands owned in trust for the benefit of Indians."

Mr. EVANS of Colorado. Mr. Chairman, I reserve a point of order against the amendment.

The CHAIRMAN. The gentleman from Colorado (Mr. EVANS) reserves a point of order against the amendment.

Mr. KAZEN. Mr. Chairman, probably the point of order is good because this may not fall within the purposes of the act.

However, I want to take this time to let this committee know what is going to happen in future Congresses. We cannot, as has already been debated here on the floor, separate the kinds of Federal lands that exist in this country. If they are Federal lands for one purpose, they are Federal lands for all purposes.

Before we know it, Mr. Chairman, there are going to be people in here looking at the wetlands, looking at the preserves, looking at the GSA buildings right in the heart of town. They are going to be looking at the bill that has already been introduced. They are going to be looking at the military installations.

Mr. Chairman, let us not have anybody tell us that military installations are getting inlieu payments now because of the fact that they qualify for impacted aid. I call the attention of the Members to the fact that most of those installations are located out in counties and in rural areas so that those workers with children who qualify for impacted school aid are going to the cities. Therefore, the county is not getting that benefit.

This is what I am trying to convey, Mr. Chairman, to my colleagues, that when we pass this bill, we are going to open the door to all of these other exemptions that will be coming down the pike, and with justifiable reason.

Mr. SKUBITZ. Mr. Chairman, will the gentleman yield?

Mr. KAZEN. I yield to the gentleman from Kansas.

Mr. SKUBITZ. Is it not a fact that a community that has a military installation on it has far more problems with regard to water, sewerage, police, and everything else than any of the national parks?

Mr. KAZEN. My colleague is absolutely correct.

Mr. ST GERMAIN. Mr. Chairman, will the gentleman yield?

Mr. KAZEN. I yield to the gentleman from Rhode Island.

Mr. ST GERMAIN. Mr. Chairman, I wish to say this, that I agree with the gentleman from Texas. Let me add that in Newport, R.I., we lost 14,500 personnel. They were moved out. They took the ships out. Very frankly, we in Newport, R.I., do not care about payments in lieu, we would like to have those people back because they contribute to the economy. We have had an untold number of businesses go out of business because of that pullout. It is nice to have a big military base because it contributes to the economy and does not cost money, it makes money for the people in the area.

Mr. KAZEN. Mr. Chairman, I thoroughly agree with my colleague, the gentleman from Rhode Island.

Mr. Chairman, the other point I wanted to make is this: I am a great believer in our national park system and our wilderness areas. I am looking toward preserving those parcels of land within our country in the future that local units of our Government cannot maintain and cannot preserve. They will be coming in here to tell us in the future that they want the Federal Government to take them over in order to preserve them.

Right now in our Committee on Interior and Insular Affairs we have a whole bunch of bills waiting to have hearings and to get markups where the State and local units are telling us, "Take this land. This is partly State-owned land, but we do have some inholdings in private property, and so on. We cannot afford to keep this land and maintain it and preserve it, but the Federal Government does have the resources."

Then we up here say that it is a shame to let that land go down the drain, so we will take it and maintain it. In the meantime the value of that land has risen. The Members know what inflation has done. We try to get these national parks close to the urban areas. They are costing us more and more money. In addition to buying them and taking them off of the hands of the State and local governments and preserving those lands for all the people of this country, they are going to come in and say, "Hey, we forgot to tell you that you will have to pay taxes on the land that we begged you to take over from us."

Mr. YATES. Mr. Chairman, will the genlteman yield?

Mr. KAZEN. I yield to the gentleman from Illinois.

Mr. YATES. The gentleman is exactly right. I know of a couple of instances of national parks that were recently created that came for funding before my committee where the States were anxious to dispose of the land to the Federal Government and now, under this bill, the Federal Government will have to pay money to the States for the very land the States conveyed to the Federal Government.

The CHAIRMAN. The time of the gentleman has expired.

Mr. KAZEN. Mr. Chairman, I ask unanimous consent that I may be permitted to withdraw my amendment offered as a substitute for the amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Kansas (Mr. SKUBITZ).

The question was taken; and the Chairman announced that the noes appear to have it.

RECORDED VOTE

Mr. SKUBITZ. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 96, noes 302, not voting 33, as follows:

[Roll No. 611]

AYES—96

Anderson, Ill.
Ashbrook
Ashley
Beard, Tenn.
Bedell
Bennett
Bevill
Biaggi
Boland
Brinkley
Brooks
Burleson, Tex.
Butler
Clancy
Cleveland
Collins, Tex.
Conable
Conte
Cotter
Coughlin
Crane
Daniel, Dan
Daniel, R. W.
Danielson
Derwinski
Devine
Dickinson
Dodd
Drinan
Duncan, Oreg.
Edwards, Ala.
Erlenborn
Evans, Ind.
Fary
Fenwick
Flowers
Giaimo
Gibbons
Gonzalez
Gradison
Green
Henderson
Horton
Hutchinson
Hyde
Jarman
Jones, Okla.
Jordan
Kelly
Keys
Kindness
Latta
Lent
Levitas
Lujan
McClory
McCollister
McDonald
McEwen
McKinney
Madigan
Mann
Michel
Milford
Miller, Ohio
Minish
Mitchell, N.Y.
Moore
Moorhead, Pa.
Murphy, Ill.
Myers, Ind.
Myers, Pa.
Nedzi
Nichols
O'Hara
Pattison, N.Y.
Paul
Poage
Rostenkowski
Russo
St Germain
Sarasin
Satterfield
Schneebeli
Sebelius
Shriver
Skubitz
Smith, Iowa
Stratton
Treen
Vigorito
Waggonner
Winn
Wydler
Yates
Young, Fla.

NOES—302

Abdnor
Abzug
Adams
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Archer
Armstrong
Aspin
AuCoin
Bafalis
Baldus
Baucus
Bauman
Beard, R.I.
Bell
Bergland
Biester
Bingham
Blanchard
Blouin
Boggs
Bolling
Bonker
Bowen
Brademas
Breaux
Breckinridge
Brodhead
Broomfield
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burlison, Mo.
Burton, John
Burton, Phillip
Byron
Carney
Carr
Carter

Cederberg
Chappell
Chisholm
Clausen, Don H.
Clawson, Del
Clay
Cochran
Cohen
Collins, Ill.
Conyers
Corman
Cornell
D'Amours
Daniels, N.J.
Davis
de la Garza
Delaney
Dellums
Derrick
Diggs
Dingell
Downey, N.Y.
Downing, Va.
Duncan, Tenn.
du Pont
Early
Eckhardt
Edgar
Edwards, Calif.
Eilberg
Emery
English
Eshleman
Evans, Colo.
Fascell
Fish
Fisher
Fithian
Flood
Florio
Foley
Ford, Mich.
Forsythe
Fraser
Frenzel
Frey
Fuqua
Gaydos
Gilman
Ginn
Goldwater
Goodling
Grassley
Gude
Guyer
Hagedorn
Haley
Hall, Ill.
Hall, Tex.
Hamilton
Hammerschmidt
Hanley
Hannaford
Hansen
Harkin
Harrington
Harris
Harsha
Hawkins
Hayes, Ind.
Hechler, W. Va.
Heckler, Mass.
Hefner
Heinz
Helstoski
Hicks
Hightower
Hillis
Holland
Holt
Holtzman
Howard
Hubbard
Hughes
Hungate

Ichord
Jacobs
Jeffords
Jenrette
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Karth
Kasten
Kastenmeier
Kazen
Ketchum
Koch
Krebs
Krueger
LaFalce
Lagomarsino
Landrum
Leggett
Lehman
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lundine
McCloskey
McCormack
McDade
McFall
McHugh
McKay
Madden
Maguire
Mahon
Martin
Mathis
Matsunaga
Mazzoli
Meeds
Melcher
Metcalfe
Meyner
Mezvinsky
Mikva
Miller, Calif.
Mills
Mineta
Mitchell, Md.
Moakley
Moffett
Mollohan
Moorhead, Calif.
Morgan
Mosher
Moss
Mottl
Murphy, N.Y.
Murtha
Natcher
Neal
Nix
Nolan
Nowak
Oberstar
Obey
O'Brien
O'Neill
Ottinger
Patten, N.J.
Patterson, Calif.
Pepper
Perkins
Pettis
Pickle
Pike
Pressler
Preyer
Price
Pritchard
Quie
Railsback
Randall

Rangel
Rees
Regula
Reuss
Rhodes
Richmond
Rinaldo
Roberts
Robinson
Rodino
Roe
Rogers
Rooney
Rose
Rosenthal
Roush
Rousselot
Roybal
Runnels
Ruppe
Ryan
Santini
Sarbanes
Scheuer
Schroeder
Seiberling
Sharp
Shuster
Sikes
Simon
Sisk
Slack
Smith, Nebr.
Snyder
Solarz
Spellman
Spence
Staggers
Stanton, J. William
Stanton, James V.
Stark
Steed
Steiger, Wis.
Stephens
Stokes
Stuckey
Studds
Symms
Talcott
Taylor, Mo.
Taylor, N.C.
Teague
Thompson
Thone
Traxler
Tsongas
Udall
Ullman
Van Deerlin
Vander Jagt
Vander Veen
Vanik
Walsh
Wampler
Waxman
Weaver
Whalen
White
Whitehurst
Whitten
Wiggins
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Wirth
Wolff
Wright
Yatron
Young, Alaska
Young, Ga.
Young, Tex.
Zablocki
Zeferetti

NOT VOTING—33

Addabbo
Allen
Badillo
Conlan
Dent
Esch
Evins, Tenn.
Findley
Flynt
Ford, Tenn.
Fountain

Hays, Ohio
Hébert
Hinshaw
Howe
Jones, Tenn.
Kemp
Mink
Montgomery
Passman
Peyser
Quillen

Riegle
Risenhoover
Roncalio
Schulze
Shipley
Steelman
Steiger, Ariz.
Sullivan
Symington
Thornton
Wylie

The Clerk announced the following pairs:

On this vote:

Mr. Hébert for, with Mr. Addabbo against.

Mrs. HECKLER of Massachusetts, Mr. MURPHY of New York, and Mr. STARK changed their vote from "aye" to "no".

Mr. BEARD of Tennessee changed his vote from "no" to "aye".

So the amendment was rejected.

The result of the vote was announced as above recorded.

Mr. WEAVER. Mr. Chairman, I move that the Committee do now rise.

The motion was rejected.

AMENDMENT OFFERED BY MR. KAZEN

Mr. KAZEN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. KAZEN: On page 12, after line 5, insert the following new subsection (4):

"(4) Nothing in this section shall authorize any payments to any unit of local government for any lands otherwise entitled to receive payments pursuant to subsection (a) of this section if such lands were owned and/or administered by a State or local unit of government and exempt from the payment of real estate taxes at the time title to such lands is conveyed to the United States."

Mr. SKUBITZ. Mr. Chairman, will the gentleman yield?

Mr. KAZEN. I yield to the gentleman from Kansas very briefly.

Mr. SKUBITZ. Mr. Chairman, I have examined the amendment and I think it is a good amendment. I will accept it.

Mr. KAZEN. I thank the gentleman.

Mr. SEIBERLING. Mr. Chairman, will the gentleman yield?

Mr. KAZEN. I yield to the gentleman from Ohio.

Mr. SEIBERLING. Mr. Chairman, as I understand the amendment, it only relates to land covered in sections 1 and 2 and not lands covered by section 3.

Mr. KAZEN. These are subsection (a) lands owned and/or administered by State or local units of government and exempt from the payment of real estate taxes, not the increases or income from the land, but from the real estate taxes. In other words, if the State owned the land that the Federal Government takes over, and they were not collecting taxes on it, why should the Federal Government pay taxes on it when the Government takes it over? In other words, this bill will make whole the local units of government, or the State, for whatever loss of real estate revenue they incur. But if they lose no revenue, if this was not taxable land when they owned it, why should it become tax-producing land when the Federal Government takes it over? That is all this amendment is about.

Mr. SEIBERLING. If the gentleman will yield further, there are two phases to this bill. One relates to payments on a per-acre basis with respect to land owned by the Federal Government. If this amendment only affects that, I have no problem with it. If it affects section 3, which covers the payment for 5 years of 1 percent of the value of land taken, even though the State may have acquired it in contemplation of turning it over to the Federal Government, then I have severe problems with the amendment.

Mr. KAZEN. I will tell my colleague, the gentleman from Ohio (Mr. SEIBERLING), that if this amendment is not drawn properly it is my fault; but what I intended to do was to cover all State-owned, tax-exempt lands that the Federal Government takes over because the State or the local unit of government did not lose any income when the Federal Government took it over.

If they did lose taxable income, real estate taxes, then, of course, we ought to pay them under the provisions of the law.

Mr. SEIBERLING. If the gentleman will yield further, with that understanding, I would not object in principle to the amendment, though I would like to have the opportunity of clarifying its effect so that it clearly does not apply to land that had recently been producing tax revenue for local governments before it was turned over to the Federal Government.

Mr. HUGHES. Mr. Chairman, will the gentleman yield?

Mr. KAZEN. I yield to the gentleman from New Jersey (Mr. HUGHES).

Mr. HUGHES. I thank the gentleman for yielding.

Mr. Chairman, the gentleman said "State owned land."

How about municipal owned land, as a result of tax foreclosures, where the municipality is endeavoring to sell the land and in the meantime the Federal Government comes in and takes it over? Are not they in effect still taking that property away from the tax rolls? Does the amendment cover that situation?

Mr. KAZEN. I cannot picture the situation of the State having taken it over. The moment the State owns it, all taxes to the State and local units cease.

Mr. HUGHES. If the gentleman will yield further, when the gentleman says "State," is the gentleman referring also to municipalities?

Mr. KAZEN. Yes; the amendment includes State or local units of government, as defined in this bill.

Mr. HUGHES. If the gentleman will yield further, quite often a municipality has to acquire by tax foreclosure lands, not because they want the lands but because they are forced to take them.

Mr. KAZEN. I would say to my colleague when that happens, then the local unit of government has on its hands nontaxable property, and then subsequent to that, if they turn that property over to the Federal Government for park purposes or wilderness purposes, for whatever purpose, then why should the Federal Government more than make whole the local unit of government?

Mr. WEAVER. Mr. Chairman, will the gentleman yield?

Mr. KAZEN. I yield to the gentleman from Oregon.

Mr. WEAVER. Mr. Chairman, I accept the amendment offered by the gentleman from Texas (Mr. KAZEN).

Mr. RUPPE. Mr. Chairman, will the gentleman yield?

Mr. KAZEN. I yield to the gentleman from Michigan.

Mr. RUPPE. I thank the gentleman for yielding.

Mr. Chairman, I will ask the gentleman this question: What would be the situation where a local unit of government or the State acquired the land at a tax sale and then at a later date swapped that land for Federal lands elsewhere? Would that land then not be subject to this bill?

Mr. KAZEN. No, they certainly should not get paid once they are going to get taxes on the land they swapped it for.

Mr. McCORMACK. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I oppose the amendment on the following basis: This amendment clearly, as I read it, does not cover State-owned land in cases where there is a severance tax on the removal of timber or minerals. If it is State-owned land on which there is no property tax paid but the State sells timber on a stumpage basis or sells minerals on a severance-tax basis, that revenue would be lost to the State under this amendment.

The bill allowed for compensation, but the amendment takes it away. That is a very significant source of revenue. I am not totally certain of the legal status that this amendment creates, but I am certain it creates enough of a doubt that I must oppose the amendment.

Mr. MATSUNAGA. Mr. Chairman, will the gentleman yield?

Mr. McCORMACK. I will be glad to yield to the gentleman from Hawaii.

Mr. MATSUNAGA. Mr. Chairman, at first glance the amendment appears to be harmless and acceptable, but upon careful examination we will find that in a case as in Hawaii where all lands were ceded to the Federal Government and where the Federal requirements would provide a use for such land, if the Federal Government had not taken over such land, the State could have sold the land to private owners and then realized taxes. However, because the Federal Government took over such lands, by this amendment, Hawaii, for example, would not realize any return on such land.

Mr. Chairman, I will ask the gentleman from Texas (Mr. KAZEN) whether my interpretation of the amendment is correct.

Mr. KAZEN. Mr. Chairman, will the gentleman from Washington (Mr. McCORMACK) yield?

Mr. McCORMACK. I will be glad to yield to the gentleman from Texas.

Mr. KAZEN. Mr. Chairman, I will say to the gentleman that the way he puts it, the Federal Government is taking this land from the State. I am talking about cases where the State comes forward and says, "We can no longer preserve this land. We want the Federal Government to preserve it." Then they make us come in and take over the land and preserve it and pay all the expenses on it, and then on top of that they want us to pay taxes.

Mr. MATSUNAGA. If I understand the gentleman's explanation, then, this applies only in cases where the State voluntarily turns over the land for the sake of safekeeping or maintaining.

Mr. RUPPE. Mr. Chairman, will the gentleman yield?

Mr. McCORMACK. I yield to the gentleman from Michigan.

Mr. RUPPE. Mr. Chairman, there are a number of instances where the Federal Government exchanges land with a State. Would this amendment not suggest that whenever the State exchanges land with the Federal Government, that land that goes over to the Forest Service as a Federal entity would not be subject to this bill?

That would seem to be a very unwise position, because it would then tend to put a damper on such exchanges and suggest the States would confiscate land that is swapped. However, actually most of the time the land swaps are for the benefit of the Federal and the State Government.

If this amendment to the bill is agreed to, whenever there is a land swap, with State land going over to Federal ownership, that land would not be subject to this bill and the per acre provisions would not apply.

Mr. McCORMACK. Mr. Chairman, I think the gentleman's point is well taken, and I believe he is completely right. It may be that all State land transfers to the Federal Government under the wilderness area provision would be lost. The wilderness would be lost under this amendment.

Mr. RUPPE. As I see it, then, the amendment is a disaster up to that point.

Mr. McCORMACK. I agree. I believe it would be a disaster.

Mr. DON H. CLAUSEN. Mr. Chairman, will the gentleman yield?

Mr. McCORMACK. I yield to the gentleman from California.

Mr. DON H. CLAUSEN. Mr. Chairman, the point made by the gentleman from Michigan (Mr. RUPPE) and by the gentleman from Washington (Mr. McCORMACK) suggests that this is a very complicated amendment, and I must oppose it because we do not know what the implications and the ramifications will be.

Mr. McCORMACK. Mr. Chairman, I agree with the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. KAZEN).

RECORDED VOTE

Mr. BAUMAN. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 211, noes 182, not voting 38, as follows:

[Roll No. 612]

AYES—211

Abdnor
Ambro
Andrews, N.C.
Archer
Ashley
Beard, R.I.
Beard, Tenn.
Bedell
Bennett
Bevill
Biaggi
Blanchard
Blouin
Boland
Breckinridge
Brinkley
Brooks
Broomfield
Brown, Ohio
Burke, Fla.
Burleson, Tex.
Butler
Byron
Carney
Chappell
Clancy
Cleveland
Collins, Ill.
Collins, Tex.
Conable
Conte
Cotter
Coughlin
Crane
Daniel, Dan
Daniel, R. W.
Daniels, N.J.
Danielson
de la Garza
Delaney
Derrick
Derwinski
Dickinson
Dingell
Dodd
Downey, N.Y.
Downing, Va.
Drinan
du Pont
Early
Eckhardt
Eilberg
Emery
Erlenborn
Eshleman
Evans, Ind.
Fary
Fascell
Fenwick
Fish
Flood
Florio
Flowers
Forsythe
Frenzel
Fuqua
Giaimo
Gibbons
Ginn
Gonzalez
Goodling
Gradison
Grassley
Green
Guyer
Hagedorn
Haley
Hall, Tex.
Hamilton
Harkin
Harrington
Hechler, W. Va.
Heckler, Mass.
Hefner
Henderson
Hightower
Hillis
Holland
Horton
Hubbard
Hungate
Hutchinson
Ichord
Jacobs
Jarman
Jeffords
Johnson, Pa.
Jones, Okla.
Jordan
Kazen
Kelly
Keys
Krueger
LaFalce
Landrum
Latta
Leggett
Lehman
Lent
Levitas
Long, Md.
Lujan
McClory
McCloskey
McCollister
McDade
McDonald
McHugh
McKinney
Madigan
Maguire
Mahon
Mann
Martin
Mezvinsky
Mikva
Milford
Mills
Minish
Moakley
Moffett
Moore
Moorhead, Pa.
Morgan
Murphy, Ill.
Murphy, N.Y.
Myers, Ind.
Myers, Pa.
Neal
Nedzi
Nichols
Nowak
O'Hara
O'Neill
Ottinger
Patten, N.J.
Pattison, N.Y.
Paul
Pickle
Pike
Poage
Pressler
Preyer
Quie
Railsback
Rangel
Rees
Regula
Rinaldo
Roberts
Robinson
Rodino
Rogers
Rooney
Rose
Rostenkowski
Roush
Roybal
Russo
St Germain
Sarasin
Satterfield
Schneebeli
Sebelius
Sharp
Shriver
Shuster
Skubitz
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Spence
Stanton, J. William
Stanton, James V.
Steed
Stephens
Stratton
Stuckey
Taylor, N.C.
Teague
Thompson
Thone
Treen
Tsongas
Vigorito
Waggonner
Wampler
White
Whitehurst
Whitten
Wilson, Tex.
Wolff
Wright
Wydler
Yates
Yatron
Young, Fla.
Young, Tex.
Zablocki
Zeferetti

NOES—182

Abzug
Adams
Alexander
Anderson, Calif.
Anderson, Ill.
Andrews, N. Dak.
Annunzio
Armstrong
Ashbrook
Aspin
AuCoin
Bafalis
Baldus
Baucus
Bauman
Bell
Bergland
Biester
Bingham
Boggs
Bolling
Bonker
Bowen
Brademas
Breaux
Brodhead
Brown, Calif.
Brown, Mich.
Broyhill
Buchanan
Burgener
Burke, Calif.
Burke, Mass.
Burlison, Mo.
Burton, John
Burton, Phillip
Carr
Carter
Cederberg
Chisholm
Clausen, Don H.
Clawson, Del
Clay
Cochran
Cohen
Conyers
Corman
Cornell
D'Amours
Davis
Dellums
Diggs
Duncan, Oreg.
Duncan, Tenn.
Edgar
Edwards, Ala.
Edwards, Calif.
English
Evans, Colo.
Fisher
Fithian
Foley
Ford, Mich.
Fraser
Frey
Gaydos
Gilman
Goldwater
Gude
Hall, Ill.
Hammerschmidt
Hanley
Hannaford
Hansen
Harris
Harsha
Hawkins
Hayes, Ind.
Heinz
Helstoski
Hicks
Holt
Holtzman
Howard
Hughes
Hyde
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, Ala.
Jones, N.C.
Kasten
Kastenmeier
Ketchum
Kindness
Koch
Krebs
Lagomarsino
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Lott
Lundine
McCormack
McEwen
McFall
McKay
Madden
Mathis
Matsunaga
Mazzoli
Meeds
Melcher
Metcalfe
Meyner
Miller, Calif.
Miller, Ohio
Mineta
Mitchell, Md.
Mitchell, N.Y.
Mollohan
Moorhead, Calif.
Mosher
Moss
Mottl
Murtha
Natcher
Nix
Nolan
Oberstar
Obey
O'Brien
Patterson, Calif.
Pepper
Perkins
Pettis
Price
Pritchard
Randall
Reuss
Rhodes
Richmond
Roe
Rosenthal
Rousselot
Runnels
Ruppe
Ryan
Santini
Sarbanes
Scheuer
Schroeder
Seiberling
Sikes
Simon
Sisk
Slack
Spellman
Staggers
Stark
Steiger, Wis.
Stokes
Studds
Symms
Talcott
Traxler
Udall
Ullman
Van Deerlin
Vander Jagt
Vander Veen
Vanik
Walsh
Waxman
Weaver
Whalen
Wiggins
Wilson, Bob
Winn
Wirth
Young, Alaska
Young, Ga.

NOT VOTING—38

Addabbo
Allen
Badillo
Conlan
Dent
Devine
Esch
Evins, Tenn.
Findley
Flynt
Ford, Tenn.
Fountain
Hays, Ohio
Hébert
Hinshaw
Howe
Jones, Tenn.
Karth
Kemp
Michel
Mink
Montgomery
Passman
Peyser
Quillen
Riegle
Risenhoover
Roncalio
Schulze
Shipley
Steelman
Steiger, Ariz.
Sullivan
Symington
Taylor, Mo.
Thornton
Wilson, C. H.
Wylie

Messrs. LUJAN, BROWN of Ohio, and MARTIN changed their vote from "no" to "aye."

Mr. KOCH and Mr. DIGGS changed their vote from "aye" to "no."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. HUGHES

Mr. HUGHES. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HUGHES: On page 12, strike the word "or" on line 3; insert the word "or" after the semicolon on line 5; and insert the following new paragraph immediately after line 5:

"(4) dredge disposal areas owned by the United States under the jurisdiction of the Army Corps of Engineers."

Mr. HUGHES (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

Mr. ROUSSELOT. Mr. Chairman, reserving the right to object, will the gentleman from New Jersey explain the amendment?

Mr. HUGHES. If the gentleman will yield, I will be glad to.

Mr. ROUSSELOT. Mr. Chairman, further reserving the right to object, does the gentleman from New Jersey object to having the amendment read?

Mr. HUGHES. I am going to explain the amendment.

Mr. ROUSSELOT. After that last amendment, some of us are concerned.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

Mr. ROUSSELOT. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard. The Clerk will reread the amendment.

The Clerk reread the amendment.

The CHAIRMAN. The gentleman from New Jersey (Mr. HUGHES) is recognized for 5 minutes in support of his amendment.

Mr. SKUBITZ. Mr. Chairman, will the gentleman yield?

Mr. HUGHES. I yield to the gentleman from Kansas.

Mr. SKUBITZ. Mr. Chairman, I have heard the amendment and I accept it on this side of the aisle.

Mr. WEAVER. Mr. Chairman, will the gentleman yield?

Mr. HUGHES. I yield to the gentleman from Oregon.

Mr. WEAVER. Mr. Chairman, I accept the amendment.

Mr. HUGHES. Mr. Chairman, I thank the gentlemen.

PARLIAMENTARY INQUIRY

Mr. KAZEN. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. KAZEN. Mr. Chairman, as I understand this amendment, it goes after line 5 and includes a new subsection.

My amendment that was just adopted included a new section right after line 5. I would raise a point of order against this amendment, Mr. Chairman.

Mr. ALBERT. Mr. Chairman, will the gentleman yield?

Mr. KAZEN. I yield to the Speaker.

Mr. ALBERT. Mr. Chairman, I ask unanimous consent that any grammatical or verbal or clerical changes necessary may be made at this point in the RECORD to accommodate both amendments.

Mr. ROUSSELOT. Mr. Chairman, does that not have to be done in the House?

Mr. ALBERT. Those corrections can be made by amendment.

The CHAIRMAN. The request of the Speaker can be taken care of in the House, where the Clerk can be authorized to make the necessary corrections. In no way does the amendment invalidate the action of the committee on the amendment offered by the gentleman from Texas (Mr. KAZEN).

Mr. HUGHES. Mr. Chairman, the amendment I offer to the payments in lieu of taxes legislation will go a long way to eliminate an inequity experienced by a small number of communities in America as a consequence of the Federal acquisition of dredge disposal sites.

As you know, Mr. Chairman, most disposal sites are granted to the Army Corps of Engineers as easements by local communities. But in some instances for such federally maintained projects as the dredging of the Delaware River off of my congressional district the corps acquires its own land for disposal sites. In these instances, the local community is a loser twice over—it does not receive any direct benefit from the work underway and it loses taxes which would have been imposed on those acres federally acquired.

In some instances, as occurred in the Upper Penns Neck Disposal Area in Salem County, N.J., a local businesssman can set up a gravel pit operation within the disposal site, go in competition with like businesses in the area and enjoy an enormous advantage—no taxation whatever. This is precisely what happened in Upper Penns Neck.

The Corps leased land within the disposal site to the operator with the revenues going to the U.S. Treasury. But the local government was called upon to provide police and fire protection, road paving, and other governmental services.

You might ask what effect nationwide this amendment might have and question whether I am looking at this a bit too parochially.

I can say, Mr. Chairman, that it would have an almost negligible effect and not much impact nationally. That is not my assessment but one given to me by the Office of the Counsel, Chief of the Army Corps of Engineers.

Inclusion of federally owned dredge disposal areas would have a significant effect, however, on a few communities which have suffered from loss of tax and development revenue across the Nation.

In the Philadelphia District which includes the more than one-quarter land area of New Jersey that it is my privilege to represent, there are only six sites that would be affected. Three of them are in Salem County in my congressional district.

The Salem County sites are: The Pedricktown Disposal Area; the Penns Neck Disposal Area; and acreage adjacent to the nuclear powerplant sited in Alloways Township.

Total acreage at these three sites is approximately 3,000.

The other three sites are in northern New Jersey, Delaware, and Pennsylvania.

Again, let me emphasize, that the Army Corps estimates that the total effect nationwide would be "negligible," to quote the Counsel's Office.

But it would be the fair and just thing to do and provide tax relief to those few communities which have been adversely affected as a result of Federal acquisition of dredge disposal sites.

Finally, the legislation already covers dams and other water resources held by the U.S. Government and which are under the control of the Army Corps of Engineers. It does not make sense to exclude from this legislation spoil sites that suffer the very same consequences. That is just inequitable.

I urge my colleagues to support this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New Jersey (Mr. HUGHES).

The amendment was agreed to.

The CHAIRMAN. Are there further amendments to section 6? If not, the Clerk will read section 7.

The Clerk read as follows:

SEC. 7. There are authorized to be appropriated for carrying out the provisions of this Act such sums as may be necessary: *Provided*, That, notwithstanding any other provision of this Act no funds may be made available except to the extent provided in advance in appropriation Acts.

Mr. WEAVER (during the reading). Mr. Chairman, I ask unanimous consent that section 7 be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Oregon?

There was no objection.

The CHAIRMAN. Are there amendments to section 7? If not, the question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. DANIELSON, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee having had under consideration the bill (H.R. 9719) to provide for certain payments to be made to State or local governments by the Secretary of the Interior based upon the amount of certain public lands within the boundaries of such State or locality, pursuant to House Resolution 1254, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the bill.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. DON H. CLAUSEN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 270, nays 125, not voting 36, as follows:

[Roll No. 613]

YEAS—270

Abdnor
Abzug
Adams
Alexander
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Armstrong
Aspin
AuCoin
Bafalis
Baldus
Baucus
Bauman
Beard, Tenn.
Bell
Bergland
Bevill
Biaggi
Biester
Bingham
Boggs
Bolling
Bonker
Bowen
Brademas
Breaux
Breckinridge
Brinkley
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Calif.
Burke, Fla.
Burlison, Mo.
Burton, John
Burton, Phillip
Butler
Byron
Carr
Carter
Cederberg
Chappell
Chisholm
Clausen, Don H.
Clawson, Del
Clay
Cleveland
Cochran
Cohen
Collins, Ill.
Conyers
Corman
Cornell
Crane
D'Amours
Daniel, Dan
Davis
de la Garza
Delaney
Dellums
Derrick
Dickinson
Dingell
Downey, N.Y.
Downing, Va.
Duncan, Oreg.
Duncan, Tenn.
du Pont
Eckhardt
Edwards, Ala.
Edwards, Calif.
Emery
English
Eshleman
Evans, Colo.
Fascell
Fish
Fisher
Fithian
Flood
Florio
Flowers
Foley
Forsythe
Fraser
Frey
Fuqua
Gaydos
Gilman
Ginn
Goldwater
Gonzalez
Goodling
Gude
Hall, Ill.
Hall, Tex.
Hamilton
Hammerschmidt
Hanley
Hannaford
Hansen
Harrington
Harris
Harsha
Hawkins
Hayes, Ind.
Hechler, W. Va.
Hefner
Heinz
Hicks
Hightower
Holland
Holt
Holtzman
Howard
Hubbard
Hughes
Ichord
Jeffords
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Kasten
Kastenmeier
Kazen
Ketchum
Keys
Koch
Krebs
LaFalce
Lagomarsino
Landrum
Leggett
Lehman
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lujan
McCloskey
McCormack
McDade
McFall
McHugh
McKay
Madden
Maguire
Mathis
Matsunaga
Mazzoli
Meeds
Melcher
Metcalfe
Meyner
Mezvinsky
Miller, Calif.
Miller, Ohio
Mills
Mineta
Mitchell, Md.
Mitchell, N.Y.
Moore
Moorhead, Calif.
Morgan
Mosher
Mottl
Murphy, N.Y.
Murtha
Natcher
Neal
Nichols
Nix
Nolan
Nowak
Oberstar
Obey
Ottinger
Patterson, Calif.
Pattison, N.Y.
Pepper
Perkins
Pettis
Pickle
Pressler
Preyer
Price
Pritchard
Railsback
Randall
Rangel
Rees
Reuss
Rhodes
Richmond
Rinaldo
Robinson
Rodino
Roe
Rogers
Rooney
Rose
Rosenthal
Roush
Rousselot
Roybal
Runnels
Ruppe
Ryan
Santini
Sarbanes
Scheuer
Schroeder
Seiberling
Shuster
Sikes
Simon
Sisk
Snyder
Solarz
Spellman
Spence
Staggers
Stark
Steiger, Wis.
Stephens
Stokes
Stuckey
Studds
Symms
Talcott
Taylor, Mo.
Taylor, N.C.
Thompson
Traxler
Treen
Tsongas
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vigorito
Waggonner
Walsh
Wampler
Waxman
Weaver
White
Whitehurst
Whitten
Wiggins
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Wirth
Wolff
Wright
Yatron
Young, Alaska
Young, Tex.
Zablocki
Zeferetti

NAYS—125

Ambro
Annunzio
Archer
Ashbrook
Ashley
Beard, R.I.
Bedell
Bennett
Blanchard
Blouin
Boland
Brodhead
Brooks
Broomfield
Burke, Mass.
Burleson, Tex.
Carney
Clancy
Collins, Tex.
Conable
Conte
Cotter
Coughlin
Daniel, R. W.
Daniels, N.J.
Danielson
Derwinski
Diggs
Dodd
Drinan
Early
Edgar
Eilberg
Erlenborn
Evans, Ind.
Fary
Fenwick
Ford, Mich.
Frenzel
Giaimo
Gibbons
Gradison
Grassley
Green
Guyer
Hagedorn
Haley
Harkin
Heckler, Mass.
Helstoski
Henderson
Hillis
Horton
Hungate
Hutchinson
Hyde
Jacobs
Jarman
Jenrette
Jones, Okla.
Jordan
Kelly
Kindness
Krueger
Latta
Lent
Levitas
Lundine
McClory
McCollister
McDonald
McEwen
McKinney
Madigan
Mahon
Mann
Martin
Michel
Mikva
Milford
Minish
Moakley
Moffett
Mollohan
Moorhead, Pa.
Moss
Murphy, Ill.
Myers, Ind.
Myers, Pa.
Nedzi
O'Brien
O'Hara
O'Neill
Patten, N.J.
Paul
Pike
Poage
Quie
Regula
Roberts
Rostenkowski
Russo
St Germain
Sarasin
Satterfield
Schneebeli
Sebelius
Sharp
Shriver
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Stanton, J. William
Stanton, James V.
Steed
Stratton
Teague
Thone
Vander Veen
Whalen
Winn
Wydler
Yates
Young, Fla.

NOT VOTING—36

Addabbo
Allen
Badillo
Conlan
Dent
Devine
Esch
Evins, Tenn.
Findley
Flynt
Ford, Tenn.
Fountain
Hays, Ohio
Hébert
Hinshaw
Howe
Jones, Tenn.
Karth
Kemp
Mink
Montgomery
Passman
Peyser
Quillen
Riegle
Risenhoover
Roncalio
Schulze
Shipley
Steelman
Steiger, Ariz.
Sullivan
Symington
Thornton
Wylie
Young, Ga.

The Clerk announced the following pairs:

Mr. Addabbo with Mr. Hébert.
Mr. Dent with Mrs. Mink.
Mr. Fountain with Mr. Passman.
Mr. Montgomery with Mr. Allen.
Mr. Roncalio with Mr. Risenhoover.
Mr. Jones of Tennessee with Mr. Esch.
Mr. Howe with Mr. Peyser.
Mr. Badillo with Mr. Riegle.
Mr. Flynt with Mr. Kemp.
Mr. Hays of Ohio with Mrs. Sullivan.
Mr. Ford of Tennessee with Mr. Findley.
Mr. Shipley with Mr. Steelman.
Mr. Thornton with Mr. Wylie.
Mr. Young of Georgia with Mr. Symington.
Mr. Devine with Mr. Evins of Tennessee.
Mr. Quillen with Mr. Schulze.

Mr. HELSTOSKI changed his vote from "yea" to "nay."

Mr. EDWARDS of Alabama changed his vote from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

The title was amended so as to read: "A bill to provide for certain payments to be made to local governments by the Secretary of the Interior based upon the amount of certain public lands within the boundaries of such locality.".

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. WEAVER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous matter on H.R. 9719, the bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from Oregon?

There was no objection.

PAYMENTS IN LIEU OF TAXES

Mr. GREEN. Mr. Speaker, I want to make absolutely clear why I voted against the Payments in Lieu of Taxes Act, and express my disappointment that a majority of my colleagues approved the bill.

I studied the committee's report carefully. It estimates that 14 counties in Pennsylvania will receive a total of about $64,000, with each of those counties receiving an average payment of $4,500. I am well aware of the serious financial problems confronting many of the local governments in my State. I know that the needs are great, and even the smallest payment would help.

However, the program this bill establishes will give pennies to Pennsylvania, while the sunbelt States and others will take home literally millions of dollars. Twelve States will get 76 percent of the $117 million this bill will cost the first year alone. Pennsylvania's share is a minuscule one-twentieth of 1 percent.

Right now, Pennsylvania is getting back only 61 cents for every dollar it contributes in Federal taxes. Obviously, we have a balance-of-payments problem already. But the Payments in Lieu of Taxes Act will call for Pennsylvania to get back only one-twentieth of a penny for every dollar spent. In fact, that $64,000 Pennsylvania will receive is probably far less than the tax dollars Pennsylvanians will contribute to finance the $117 million program. The bottom line is that my State will see a net loss, and nothing even faintly resembling a fair share.

At a time when the people of Pennsylvania are already facing hard economic times, I cannot support a bill that will only worsen my State's balance of payments.

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF H.R. 9719

Mr. WEAVER. Mr. Speaker, I ask unanimous consent that in the engrossment of the bill H.R. 9719, the Clerk of the House be authorized to correct punctuation, spelling, cross references, and designation of titles, sections, and subordinate provisions, to reflect the actions of the House in amending the bill H.R. 9719.

The SPEAKER. Is there objection to the request of the gentleman from Oregon?

There was no objection.

APPOINTMENT OF CONFEREES ON S. 507, NATIONAL RESOURCE LANDS MANAGEMENT ACT

Mr. HALEY. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 507) to provide for the management, protection, and development of the national resource lands, and for other purposes, with the House amendment thereto, insist on the House amendment, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from Florida? The Chair hears none, and appoints the following conferees: Messrs. MELCHER, JOHNSON of California, UDALL, PHILLIP BURTON, SEIBERLING, SANTINI, WEAVER, STEIGER of Arizona, DON H. CLAUSEN, and YOUNG of Alaska.

LEGISLATIVE PROGRAM

(Mr. RHODES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RHODES. Mr. Speaker, I have asked for this time to inquire of the distinguised majority leader if he is in a position to inform the House as to the program for the rest of the day.

Mr. O'NEILL. Mr. Speaker, will the gentleman yield?

Mr. RHODES. I will be glad to yield to the majority leader.

Mr. O'NEILL. Mr. Speaker, the program for the remainder of the day is that we will take up the rule on the Voter Registration Act, and then we will follow with general debate.

That will be the program for the remainder of today. We will adjourn then until noontime on Monday.

Mr. RHODES. Mr. Speaker, I thank the gentleman from Massachusetts (Mr. O'NEILL).

As I understood it, the gentleman was saying that there will be no amendments offered to this bill tonight; is that correct?

Mr. O'NEILL. There will be no amendments offered. We will just have general debate.

Mr. RHODES. Mr. Speaker, I thank the gentleman.

VOTER REGISTRATION ACT

Mr. MOAKLEY. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1444 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

> *Resolved*, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 11552) to establish a Voter Registration Administration within the Federal Election Commission for the purpose of administering a voter registration program through the Postal Service, and for other purposes. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on House Administration, the bill shall be considered as having been read and open at any point for amendment under the five-minute rule. It shall be in order to consider en bloc the amendments printed on page 24222 of the Congressional Record of July 28, 1976, by Representative Thompson, and said amendments shall not be subject to a demand for a division of the question in the Committee of the Whole or in the House. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER. The gentleman from Massachusetts (Mr. MOAKLEY) is recognized for 1 hour.

Mr. MOAKLEY. Mr. Speaker, I yield 30 minutes to the gentleman from Ohio (Mr. LATTA) for the minority, pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 1444 provides for the consideration of the Voter Registration Act (H.R. 11552). It is a 1-hour open rule. At the conclusion of general debate, the rule provides that the bill will be considered as having been read and open to amendment at any point.

The rule makes in order en bloc consideration of a group of amendments to be offered by the gentleman from New Jersey (Mr. THOMPSON), the distinguished chairman of the Committee on House Administration. The Thompson amendment, under the rule, would not be subject to demand for a division.

The bill (H.R. 11552) would create a Voter Registration Administration within the Federal Election Commission. This Administration would implement a system of post card voter registration for Federal elections.

The Administration would be charged with the collection and publication of information concerning elections, preparing registration materials and arranging with the Postal Service for their distribution.

It would provide technical and financial assistance to States for the operation of the system at the local level and generally oversee the operation of the post card registration system.

The bill provides strong protections against fraud and sets stiff penalties for abuse of the post card registration system.

The Thompson amendment is intended to bring the bill into compliance with the Supreme Court decision on the FEC—Buckley against Valeo—by changing the confirmation and regulation approval procedures. The amendment also would make the FEC responsible for administering the act until the confirmation of the Administrator.

Mr. Speaker, this is an important bill. The rule provides a fair procedure for its orderly consideration and I urge its adoption.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield?

Mr. MOAKLEY. I yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Speaker, I thank the gentleman for yielding. The gentleman from Massachusetts has referred to the provision in the rule which I find somewhat unusual, which would permit the gentleman from New Jersey (Mr. THOMPSON) to offer en bloc a series of amendments which substantially change the nature of the legislation. No division of the question would be allowed. It also appears to me, from reading the amendments, that they change the bill from what was essentially an entitlement of funding to an authorization of funding.

Mr. Speaker, it is my humble opinion, having read the Budget Act, that if the rule were not written in this unusual way the amendments would be subject to point of order under the terms of the Budget Act.

I am wondering why the Committee on Rules saw fit not to deal with the various amendments to be offered by the gentleman from New Jersey (Mr. THOMPSON) one by one instead of bunching them together. Was the reason for this circumventing the Budget Act?

Mr. MOAKLEY. The answer is that the gentleman from New Jersey (Mr. THOMPSON) requested the rule and we gave him the exact rule that he was requesting.

Mr. THOMPSON. Mr. Speaker, will the gentleman yield?

Mr. MOAKLEY. I yield to the gentleman from New Jersey.

Mr. THOMPSON. Mr. Speaker, the purpose of taking the so-called Thompson amendments en bloc is relatively simple. They do substantively change the bill, as the gentleman from Maryland (Mr. BAUMAN) has indicated, from an entitlement to an authorization. The rule was requested in order that the amendments, which have been published for some time, may be more easily handled.

I might assure the gentleman from Maryland that there are no Budget Act problems involved in this bill or in any of the amendments as offered en bloc.

Mr. LATTA. Mr. Speaker, will the gentleman yield?

Mr. MOAKLEY. I yield to the gentleman from Ohio.

Mr. LATTA. Mr. Speaker, I think we ought to clarify this matter. The reason the rule is written as it is, is as the gentleman from Maryland indicated, to get around the Budget Act. There is not any question about it. If it had been done otherwise, they could not have done what they are attempting to do.

So this rule must be adopted in order to get around the Budget Act.

Mr. THOMPSON. Mr. Speaker, will the gentleman yield.

Mr. MOAKLEY. I yield to the gentleman from New Jersey.

Mr. THOMPSON. Mr. Speaker, I might say to my distinguished friend, the gentleman from Ohio (LATTA), that in fact and in truth the en bloc amendments were not put together in such a manner as to in any way avoid the Budget Act.

Mr. LATTA. Mr. Speaker, will the gentleman yield further?

Mr. MOAKLEY. I yield to the gentleman from Ohio.

Mr. LATTA. I thank the gentleman for yielding.

Let me say to my friend, the gentleman from New Jersey, is that not the net effect of what the rule does? Without that, a point of order would lie against one of these amendments. So the gentleman had to follow this procedure or a point of order would be upheld.

Mr. THOMPSON. If the gentleman would yield further, the sum effect, may I say to the gentleman from Ohio, does not violate the Budget Act—not in any way.

Mr. LATTA. If the gentleman will yield further, if this rule is adopted, it will not violate the Budget Act, correct?

Mr. THOMPSON. Yes, that is correct. But the amendments that eliminates the entitlement nature of the bill would not themselves violate the Budget Act.

Mr. LATTA. What the gentleman says is true. But other amendments, standing alone would violate the Budget Act.

Mr. Speaker, this legislation has been kicked around the Congress for several years, and as many Members know, I have advocated for several years that we do away with the system of naming bills, giving them titles. Why not just have a number? That has been my position because in many cases sponsors attempt to sell legislation on the basis of a title and not what is contained in the bill. But since we still persist in naming bills, I think if this bill were properly named, it would be called. "The Invitation for Fraud in Federal Elections Bill," because that is exactly what it is. This bill is an outright invitation for fraud in Federal elections. I do not care whether the Democratic candidate for President is for it or whether he is not. He does not take out of this bill, if it is passed and becomes law, that invitation to fraud.

How easy it would be for unscrupulous individuals to obtain these cards and go out to those tombstones and write down those names—if they want to go to that—and send them in. And, as raised in the Committee on Rules by the gentleman from Alabama, the opposite could be true. They could disenfranchise an individual voter by sending in a card saying he has moved. They could take his name from the rolls. I do not think that this is what we want.

Another thing about this bill that disturbs me is this: We will have a dual system. For example, the State of Ohio will not have post card registration. The Secretary of State is very much opposed to it. As a matter of fact, the Association of Secretaries of State is on record as being opposed to this type of legislation. What do we have if this becomes law? We have one system for Federal elections and we have another system for State and local elections. The only people who are going to get hurt, outside of damage to our system in trying to have elections that people believe in, are the taxpayers who will be sharing the bill for two separate systems in elections.

I might say that we can get by without this type of legislation. We have enough cynicism, enough criticism directed at our elections and our election results across this country without passing this type of legislation. It is an invitation for fraud in our elections, that we want to keep clean.

Some of these groups that have gone out for this legislation say this is what we need to do to get more people to the polls. A few States tried this. I am advised they have tried it down in Texas and in Minnesota. Texas in 1972 had one of the lowest turnouts in the Nation. It was 44th among the 50 States. Minnesota's post card registration resulted in an actual decrease in the percentage of voter participation. Is this what we want? I think not.

The other day one of the local newspapers, the Washington Star, carried an editorial. I guess the contention of this editorial has not been disputed. It says: "A phone call from Jimmy"—and everybody knows who Jimmy is. It reads like this:

A PHONE CALL FROM JIMMY

What's the big rush on postcard voter registration?

All of a sudden the House Rules Committee has cleared a registration-by-mail bill that has been lying around for months.

And Frank Thompson Jr., the new head of the Administration Committee, which did the original work on the bill, is carrying around a batch of amendments aimed at putting the postcard registration plan into effect for the fall presidential election.

The bill is expected to go to the floor of the House this week. If it wins approval there, no doubt the sponsors will then put on a strong push to get immediate action in the Senate. The Senate approved the legislation in 1973 but it has to go through the process again since the House didn't act during that session of Congress.

The present flurry of activity apparently flows from a telephone call Gov. Jimmy Carter made last week to House Speaker Carl Albert. The Democratic presidential nominee is reported to have said he hoped the bill could be passed now. Mr. Albert called Rules Committee Chairman Ray Madden and, lo and behold, the postcard registration bill miraculously came unstuck.

It is pretty obvious that Mr. Carter sees some benefit to his campaign if postcard registration goes into effect before the November election. Why else would he be in such a hurry with the "universal voter registration" that he promised in his convention acceptance speech?

If the Postal Service, which already has enough problems getting the regular mail delivered, couldn't inundate the nation with postcards, the labor unions backing Mr. Carter undoubtedly would send their troops into the breech, putting a postcard registration form into every hand that might be expected to pull the Democratic lever in November.

Perhaps some cool heads on Capitol Hill will slow things down. The need for postcard registration is questionable, to say the least.

Whatever Mr. Carter may think of it, this is not "universal voter registration." It is, as one opponent put it, "universal postcard distribution." The only way to achieve universal registration is to declare by law that anyone who shows up at the polls can vote.

A few states have postcard registration, but surveys have shown that it has not added significantly to the voter turnout. There is no reason to believe that a federal program would produce any better results.

The possibility of fraud probably would be increased under postcard registration. Officials could be kept hopping trying to chase down registrants using fictitious names or borrowing the names of others.

What's wrong with an applicant being required to show up in person to register to vote? Anyone who won't make that minimum effort is hardly a concerned citizen.

Perhaps the worst feature of this registration-by-mail scheme is federal intrusion into state prerogatives. The federal bill would deal only with registration for federal elections. But states and localities undoubtedly would feel pressured to make their registration laws conform to the federal program. It could be expected that before long federal bureaucrats would have taken over registration for all elections, or at least be dictating how it should be done.

No one seems to know exactly how much the federal postcard registration plan would cost the taxpayers. Estimates range from $30 million to $500 million. The legislation provides for creation of a National Voter Registration Administration. Given the enormous administrative problems that would arise, NVRA would soon require several layers of bureaucratic chieftains and Indians.

Even if the program were necessary and desirable—and we don't think it is—it is not something that can be put into effect overnight. The confusion and chaos that would result in trying to ram it into operation in time for the November election can hardly be imagined.

The chairman of the House Republican Conference, Rep. John Anderson, said the other day that "it's rather presumptuous of the Democratic presidential nominee to be sending legislative messages to the Hill." We agree that it's a little premature of Mr. Carter to be muscling the House; it will be time enough after November, if he's elected, to send a "universal voter registration" proposal to the Hill.

If Congress does rush the bill through at Mr. Carter's urging, we would suggest that the present President—Mr. Ford—veto it.

Mr. Speaker, I do not believe that is the way to legislate. I do not think anybody ought to be able to call up the Speaker of the House and demand action and get it such as happened in this case.

The chairman of the Rules Committee called us into session based on that call when that bill had been up there for a long time—a long time.

I do not happen to be one of those hoops. It does not matter to me whether it is the President of the United States or the Speaker or the minority leader or whoever, I do not jump through those hoops if I do not believe in the legislation.

I am glad my friends on the right know my position.

Mr. THOMPSON. Mr. Speaker, will the gentleman yield?

Mr. LATTA. I yield to the gentleman from New Jersey.

Mr. THOMPSON. Mr. Speaker, I would like the record to show this.

Mr. LATTA. That the gentleman agrees with me.

Mr. THOMPSON. I would like the Record to show that as much as I admire the gentleman, I cannot help but take exception to the accusation that I am to his right.

Mr. LATTA. I think my friend has every right to take exception to that, and let the Record show that as I look out on my right are my Democratic friends and on my left are my Republican friends. It should be the other way around but apparently from the place where I stand today that is the way it is.

But Mr. Speaker, I believe this legislation should be deferred. We should not pass this rule. We should not be debating it today. It is not going to give us clean elections, and everybody in the House wants clean elections. Let us kill this legislation and go on with the important business of the House.

The SPEAKER. The gentleman from Ohio has consumed 8 minutes.

Mr. LATTA. Mr. Speaker, I yield 1 minute to the gentleman from Alabama (Mr. Dickinson).

Mr. DICKINSON. Mr. Speaker, I would just like to direct an inquiry to the gentleman from Ohio now handling this.

I, too, am puzzled at the urgency that seems to be connected with the passage of this bill. I understand from the accounts in the paper, and we have read part of that and the editorial alluded to this, that the object is out to get this passed before the November election.

I do not know how in any legislative process we can get this done, unless something very exceptional happens. Does the gentleman have a judgment as to how long under an orderly process, if it passes, it would take to be enacted into law?

It is my understanding it has to come back for a separate appropriation bill; is that correct?

Mr. LATTA. Mr. Speaker, I would think it has to come back for appropriations, because this will cost several millions of dollars.

Mr. DICKINSON. Mr. Speaker, if the gentleman will yield further, it is $50 million, as I recall. That means if this bill passes in the House, it will have to go to the Senate in due course.

The SPEAKER. The time of the gentleman from Alabama has expired.

Mr. LATTA. Mr. Speaker, I yield 1 additional minute to the gentleman from Alabama.

Mr. DICKINSON. Mr. Speaker, if it goes to conference and we have to approve the conference report and then if the President signs it, the bill will be on the books; but then we have to go through the same process before the Committee on Appropriations here and the Committee on Appropriations in the Senate. Then after that is done, there must be the mechanics set up to have the forms printed, then go out to the various registrars and then go out to the general electorate. Would the gentleman agree with that? It would be impossible to implement before November 5?

Mr. LATTA. Mr. Speaker, I agree with that.

Mr. DICKINSON. Mr. Speaker, I thank the gentleman from Ohio.

Mr. LATTA. Mr. Speaker, I yield 5 minutes to the gentleman from Illinois (Mr. Anderson).

Mr. ANDERSON of Illinois. Mr. Speaker, I rise in opposition to House Resolution 1444 that would provide for the consideration of the so-called Voter Registration Act. This rule was adopted in the Committee on Rules on a straight party-line vote, after two motions by the minority were defeated.

The first motion would have made in order under the rule the so-called Frenzel substitute. That would make $35 million available to the States to improve their voter registration systems as they see fit.

The second motion would have knocked out the en bloc consideration of the 15 amendments to be offered by the gentleman from New Jersey (Mr. Thompson).

I think the rejection of these two eminently reasonable requests on the part of the minority indicate the kind of partisan steamroller approach to this legislation that has been taken.

Indeed, as my friend from Ohio has said, this legislation, this bill is before us only because of a phone call from "Jimmy."

Mr. Speaker, back on the 22d of July, a few days ago, the President of the United States sent a message to the Congress in which he expressed great concern over the activities of the 2d session of the 94th Congress. At that time he said he was putting in a special request for action on 74 proposals that are still awaiting action by this Congress. He said also he did not think the Nation would be well served if partisanship was put ahead of public service during the rest of this legislative schedule.

Then he went on to list in the message which we received on that date the kind of priorities that he had for the public good: Tax reductions, coupled with spending restraints; crime control, restoring the integrity of the social security system, catastrophic health care protection for those covered by medicare, revenue sharing and block grants, regulatory reform, energy legislation, and indemnification of swine flu manufacturers, legislation which is still tied up in the House Committee on Interstate and Foreign Commerce.

Mr. Speaker, those are the real priorities of the Nation. Instead, late on a Thursday afternoon, we are considering a bill which was turned down, the rule was turned down by a vote of 197 to 204 when we acted on it more than 2 years ago on May 7, 1974.

Mr. Speaker, if that is an indication of the kind of legislative priorities of the Democratic nominee for the Presidency, it is well, perhaps, that the American people should know in advance where he attaches his importance.

Mr. KETCHUM. Mr. Speaker, will the gentleman yield?

Mr. ANDERSON of Illinois. I yield to the gentleman from California.

Mr. KETCHUM. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I know of the gentleman's long service in the Committee on Rules and also of the gentleman's great speech on the floor last year relative to "King Caucus."

It seems curious to me, and perhaps the gentleman can respond to this question; there is a bill before the Congress, one in which the Committee on Ways and Means has spent many months perfecting, one which is nonpartisan in nature, one in which every farmer and every small businessman in America is interested and I ask why that is not before us?

POINT OF ORDER

Mr. FORD of Michigan. Mr. Speaker, a point of order.

The SPEAKER. The gentleman will state the point of order.

Mr. FORD of Michigan. Mr. Speaker, I object. The gentleman from California is not speaking on the bill.

Mr. KETCHUM. Mr. Speaker, I would like to know from the gentleman why it is not before us?

Mr. FORD of Michigan. Regular order, Mr. Speaker.

Mr. KETCHUM. I would like to know from the gentleman why there is not before us——

Mr. FORD of Michigan. Regular order, Mr. Speaker.

QUORUM CALL

Mr. BAUMAN. Mr. Speaker, I make the point of order that a quorum is not present.

I will withdraw my point of order if the gentleman from Michigan will withdraw his.

The SPEAKER. Of course, the Chair cannot control points of order.

Mr. BAUMAN. Then I insist on my point of order.

The SPEAKER. The Chair has announced, or has had the majority leader announce, that the sooner we get through, the sooner we can go home. The Chair can stay here until tomorrow night if everybody else can.

Will the gentleman withdraw his point of order?

Mr. BAUMAN. The gentleman will withdraw it.

The SPEAKER. I thank the gentleman.

Mr. BAUMAN. I thank the Chair.

The SPEAKER. The gentleman will proceed in order.

Mr. ANDERSON of Illinois. I yield to the gentleman from California.

Mr. KETCHUM. I am simply laying the groundwork for my question, Mr. Speaker.

My question to the gentleman from Illinois, who is in the well, is: Why is it that this bill which I have referred to has not come prior to the post card registration bill, when it is so much more important to the people of America?

Mr. ANDERSON of Illinois. I think the only answer I can give in response to the gentleman's question is that it goes back to the point I was making. This gives us some indication of the kind of priorities the majority party of this House has. They would rather play politics with the electoral system, the registration system, more than they would to act on an important matter such as tax reform. I challenge the gentleman from New Jersey to point out to me how we can possibly, even if we enacted this bill today, comply with section 7(c) of this legislation, which provides that not later than 60 days before the close of registration in a State, these forms are to be mailed out. Those forms should have been in the mail this past weekend—this past weekend.

The SPEAKER. The time of the gentleman from Illinois has expired.

Mr. LATTA. Mr. Speaker, I yield 2 additional minutes to the gentleman from Illinois.

Mr. THOMPSON. Mr. Speaker, will the gentleman yield?

Mr. ANDERSON of Illinois. Let me finish my statement. They should have been in the mail last weekend since most States close their registration rolls 1 month before the election. The gentleman is going to try to tell me that his amendments will provide for immediate implementation. I would assume that is going to be the gentleman's statement.

Mr. THOMPSON. The gentleman is answering his own challenge correctly.

Mr. ANDERSON of Illinois. I yield to the gentleman from New Jersey.

Mr. THOMPSON. The gentleman is answering his own challenge correctly. Section 7(c) does provide that the forms be distributed every 2 years not earlier than 120 nor later than 60 days. In this case, however, the implementation schedule, as is devised and will be discussed in the general debate in full, is worked out to the very day, so I would like to reassure my friend from Illinois that it is entirely possible under this legislation.

Mr. ANDERSON of Illinois. Let me say to my friend from New Jersey that I intend to remain for the general debate if the rule is adopted, and I hope it is not. And, I am not reassured. I am convinced that all the gentleman is interested in is section 7(b) of this bill, which allows any individual or group or organization requesting these forms for the purpose of conducting or participating in a voter registration program to carry out this function. In other words, the gentleman is going to turn over to special interest groups in this country the job of passing out these registration forms in the hopes, as was reported in the press, that 75 percent of the people who will thus register are going to vote Democratic in November.

I repeat the charge that I made earlier; that is, playing politics with the voter registration system. That is dealing rather harshly with the hopes of the country that in the Presidential nominee of the gentleman's party, they have a man who is above playing to the special interest groups of this country.

I think it is rather presumptuous of Governor Carter to be pushing his peanuts before they are picked by sending legislative messages to the Hill. But it is even more ludicrous for us to be taken in by this obvious shell game called "universal voter registration."

Mr. Speaker, let us make one thing clear from the very outset. This legislation is not universal voter registration. If adequate time were given to implement this bill, it might be fairly called, "universal voter registration application distribution," since the Postal Service would presumably mail out voter registration application forms to all households containing prospective voters. But even that type of distribution will not be possible under this bill in time for this fall's elections. Under section 7(c) of the bill, the Postal Service would mail out this form at least once every 2 years, but not later than 60 days before the close of registration in a State. If the Postal Service were to comply with that provision in time for this fall's election, those forms should have been in the mail last weekend, since most States close their registration rolls 1 month prior to the election.

So, what are we left with in terms of this fall's elections. Even assuming, under Mr. THOMPSON's amendments to make this effective on the date of enactment by giving the responsibilities to the Federal Election Commission until the proposed Voter Registration Administration is established within that Commission—even assuming as Mr. THOMPSON has testified that all the rules and regulations and agreements and printing and mailing of forms could be accomplished within 3 weeks of enactment, the only legal means of distributing these forms by the Postal Service would be to any individual, group or organization requesting them for the purpose of conducting or participating in a voter registration program. That is section 7(b) of the bill and that is apparently all Governor Carter and the Democrats are interested in at this time—not universal voter registration, but rather selective voter registration by special interest groups. So let us not kid ourselves for a moment that we are talking here about universal voter registration. This is nothing more nor less than a Federal subsidy for special interest group registration drives—a new device to circumvent the recent limitations imposed on such groups by the Federal Election Act Amendments of 1976.

Mr. Speaker, since the other body has not even begun to consider this legislation, and since we have a 1½-week break coming up, let us look at where this will put the Thompson timetable on this voter registration scheme. Let us just assume for a moment that this legislation could be signed into law by September 1. If, as Mr. THOMPSON has testified, this whole new system could be implemented in 3 short weeks, that would put us at the last week in September when these forms would be available for distribution. And yet, under section 5(a) of this bill, the forms must be returned by Sunday, October 3, that is, 30 days prior to the November 2 election. In other words, even under the most optimistic and favorable projections and conditions, only about 1 week would be available for the purpose of distributing these forms by special interest groups. These optimistic projections do not take into account the fact that section 11 of the bill, under the amendment proposed by Mr. THOMPSON, would require a 30-day wait period—that is 30 legislative days or approximately 6 calendar weeks—for any rules or regulations proposed by the Federal Election Commission to take effect. Those rules and regulations could not take effect if both Houses disapproved them. But in any event, we are talking about an additional 6 weeks here if the FEC should decide that it might be wise to have a few regulations to implement this complex system.

Mr. Speaker, if we should just forget about this 6-week wait for regulations to take effect, and accept Chairman THOMPSON's optimistic projections, we are talking about flooding local election registrars with these forms during the first week in October. They would then have less than a month to verify the names and mail back the registration notification forms.

In conclusion, Mr. Speaker, there is no way this bill even begins to approach "universal voter registration" and there is no way our local election officials would be able to process and verify the flood of forms likely during the early part of October. This bill is a fraud on its face and an invitation to fraud, confusion, and chaos on its underside. I am amazed that a Presidential candidate who avowedly claims to favor universal voter registration and decries special interest groups, would favor this legislation which would provide for selective registration by those very special interest groups. I am amazed that a Presidential candidate who himself was a victim of ballotbox stuffing in his State senate race would now support this bill which is a clear invitation to mailbox stuffing and vote fraud.

Mr. Speaker, we should not waste our time or the time of the American people on even considering this shabby legislation. We should instead do what we did in the last Congress and defeat this rule.

Mr. LATTA. Mr. Speaker, I yield 7 minutes to the gentleman from Minnesota (Mr. FRENZEL).

Mr. FRENZEL. Mr. Speaker, I oppose the rule under which this bill will be considered. I urge that the rule be defeated. Two years ago the Rules Committee granted a 2-hour open rule that allowed my substitute to be made in order for consideration by the full House. This year's rule, in addition to presenting an unneeded bill in an untimely fashion, does not make my substitute in order, and it provides for a needless restriction on the consideration of the group of amendments to be presented by the gentleman from New Jersey (Mr. THOMPSON).

The Rules Committee did not allow for the consideration of my original substitute this year. Apparently the reason was that the Democrat Presidential nominee was in such a hurry to have an obedient Congress pass this bill that he did not want to offer the House a choice.

Although I believe I have been able to redraft my substitute in good form, the rule was obviously designed to prevent us from having a chance to vote for a responsible alternative to this bill.

Why all this sudden and urgent interest in post card registration? Surely the bill's managers are not unaware that this bill will create a brand new bureaucracy within the Federal Election Commission. I have the idea that another new bureaucracy is not exactly what our constituents want or expect from us. At least my constituents tell me that we have too many bureaucrats and too many Federal rules now.

Among some of the problems encountered in creating a new executive agency within another executive agency is that we have thoughtfully placed the Voter Registration Administration's employees under Civil Service, working along side the FEC employees which we specifically placed in excepted service under title V of the United States Code. That will certainly create some splendid conflicts.

If we accept the committee amendments, the FEC itself will start out administering the bill until the VRA administrators are appointed and confirmed. Normally that might be all right, but I should not have to remind my colleagues that we laid some heavy new responsibilities on the FEC with the Federal Election Campaign Act Amendment of 1976. The FEC did not ask for it. Neither did GAO or Census. While they are struggling to meet those requirements at the height of the campaign season, the Democratic nominee has demanded that they tackle this turkey, too. For someone who talks of reducing the bureaucracy, he certainly has an unusual way of acting.

There is a great rush to make this bill effective for this year's elections. Since that cannot be done, this rule is irresponsible, because it is based on false promise. H.R. 11552 is a poorly drafted vehicle for post card voter registration. Actually it is a mess. Even under the best of circumstances the FEC or the VRA would have trouble making sense out of this nonsense, but a full year before a general election would be needed. But to demand it be made effective after the time limit imposed by the bill itself has run out, we will make the VRA look foolish and Congress even more foolish. The bill obviously is not going anyplace.

This bill says that post cards will be mailed no later than 60 days prior to the close of registration. For 20 States that date was yesterday. For Georgia that date occurred the middle of last month.

Let us talk about the timing. H.R. 11552 provides that the VRA will have to be both appointed and confirmed, but in the interim the FEC will have to drop everything else and administer this bill. The VRA/FEC, or both, first will have to review all State laws and enter into negotiations with the States to determine what will be on the respective post cards. The post cards cannot all be the same, because State election laws are different. In addition, the VRA will have to consider the language requirements of the Voting Rights Act which will make the approval of forms far more difficult. If the VRA makes a superhuman effort, it might complete this work in a month.

The FEC will have to send regulations to Congress for approval. These have to be drafted, published in the Federal Register, be subjected to critical comment, forwarded to the Congress and lie for 30 days without congressional veto before they are effective. Remember, the FEC has not yet sent up the regulations for our recent elections bill. That has been 3 months. Remember, too, that the House and Senate have not approved any regulations that have been sent up before anyway. But let us make the unreasonable assumption that Congress is cooperative and the FEC is subhuman so that we have some regulations in place within 2 weeks.

Remember, we are also assuming that the FEC has nothing to do but worry about post cards, but for sake of a good story, we will pretend that they have already printed the post cards before the regulations are approved and that they are miraculously in accordance with the State laws and the Voting Rights Act. The 200 million post cards have been stored at the Kennedy Stadium. At this point the FEC must make a contract with the post office for free delivery of the post cards to every eligible voter in the United States. Unfortunately, the post office will have problems.

When that contract has been completed, the FEC gives the post cards to the Postal Service which delivers 140 million post cards or more to all of the postal addresses in the United States. Nobody knows how long it will take the Postal Service to deliver these cards. Nobody knows how many people will return post cards, although experience tells us it will be about one in a hundred. Nobody knows whether the cards will be legible or whether any of the cards returned will be voters who are now registered. The only thing we can be sure of is that it will be well past election day, and we will have gone through this emergency nonsense for nothing. We do not even have to add the time for the clerks to sort out the duplicates, complete the information and forward the registration information to the voting precincts. We do not have to do this, because it is nearly Christmas already.

This is a bad rule for a bad bill. It is presented to us for a bad reason. We can save each other some terrible embarrassment and save one Presidential candidate some embarrassment by defeating the rule.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield?

Mr. FRENZEL. I yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Speaker, I do not think we should be entirely too hard on the President-presumptive from Georgia. At last he has taken a stand on something. My suggestion would be that if he is going to follow the practice of sending legislative requests up from Plains to the Congress, he should present his State of the Union address now instead of waiting, so that we will know before the election where he stands on other issues. I am confident that were he to do so, if this bill is an example of his policies, he will never deliver a State of the Union address.

Mr. FRENZEL. Mr. Speaker, let me ask the gentleman from Maryland, is he aware whether the Governor of Georgia has recommended the passage of any post-card legislation for that great State?

Mr. BAUMAN. I doubt that he has.

Mr. MOAKLEY. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER. The question is on the resolution.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. LATTA. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 245, nays 132, not voting 54, as follows:

[Roll No. 614]

YEAS—245

Abzug
Adams
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Ashley
Aspin
AuCoin
Baldus
Baucus
Beard, R.I.
Bedell
Bennett
Bergland
Bevill
Biaggi
Biester
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonker
Bowen
Brademas
Breaux
Breckinridge
Brinkley
Brodhead
Brooks
Brown, Calif.
Buchanan
Burke, Calif.
Burke, Mass.
Burlison, Mo.
Burton, John
Burton, Phillip
Byron
Carney
Carr
Chisholm
Clay
Collins, Ill.
Conte
Conyers
Corman
Cornell
Cotter
D'Amours
Daniel, Dan
Daniels, N.J.
Danielson
Davis
de la Garza
Delaney
Dellums
Derrick
Derwinski
Diggs
Dingell
Dodd
Downey, N.Y.
Drinan
Duncan, Oreg.
Early
Eckhardt
Edgar
Edwards, Calif.
Eilberg
Evans, Colo.
Evans, Ind.
Fary
Fascell
Fenwick
Fisher
Flood
Florio
Flowers
Foley
Ford, Mich.
Fraser
Fuqua
Gaydos
Giaimo
Gilman
Ginn
Gonzalez
Green
Hall, Ill.
Hall, Tex.
Hamilton
Hanley
Hannaford
Harkin
Harrington
Harris
Hayes, Ind.
Hechler, W. Va.
Hefner
Heinz
Helstoski
Henderson
Hicks
Hightower
Holland
Holtzman
Howard
Hubbard
Hughes
Hungate
Ichord
Jacobs
Jenrette
Johnson, Calif.
Jordan
Kastenmeier
Kazen
Keys
Koch
Krebs
Krueger
LaFalce
Leggett
Lehman
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lundine
McFall
McHugh
McKay
Madden
Maguire
Mahon
Mann
Matsunaga
Mazzoli
Meeds
Metcalfe
Meyner
Mezvinsky
Mikva
Milford
Miller, Calif.
Mills
Mineta
Minish
Mitchell, Md.
Moakley
Moffett
Mollohan
Moorhead, Pa.
Moss
Mottl
Murphy, Ill.
Murphy, N..Y
Murtha
Natcher
Neal
Nedzi
Nichols
Nix
Nolan
Nowak
Oberstar
Obey
O'Hara
O'Neill
Ottinger
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Pepper
Perkins
Pickle
Pike
Pressler
Preyer
Price
Randall
Rangel
Rees
Reuss
Richmond
Rinaldo
Roberts
Rodino
Roe
Rogers
Rooney
Rose
Rosenthal
Rostenkowski
Roush
Roybal
Russo
Ryan
St Germain
Santini
Sarbanes
Scheuer
Schroeder
Seiberling
Sharp
Sikes
Simon
Sisk
Slack
Smith, Iowa
Solarz
Spellman
Staggers
Stark
Stokes
Stratton
Studds
Taylor, N.C.
Teague
Thompson
Traxler
Tsongas
Udall
Ullman
Van Deerlin
Vander Veen
Vanik
Vigorito
Waxman
Weaver

Whalen
White
Wilson, Tex.
Wirth
Wolff
Wright
Yates
Yatron
Young, Alaska
Young, Tex.
Zablocki

NAYS—132

Abdnor
Anderson, Ill.
Archer
Armstrong
Ashbrook
Bauman
Beard, Tenn.
Bell
Brown, Mich.
Brown, Ohio
Broyhill
Burgener
Burke, Fla.
Burleson, Tex.
Butler
Carter
Cederberg
Chappell
Clancy
Clausen, Don H.
Clawson, Del
Cleveland
Cochran
Cohen
Collins, Tex.
Conable
Coughlin
Crane
Daniel, R. W.
Devine
Dickinson
Downing, Va.
Duncan, Tenn.
du Pont
Edwards, Ala.
Emery
English
Erlenborn
Fish
Forsythe
Frenzel
Frey
Goldwater
Goodling
Gradison
Grassley
Guyer
Hagedorn
Haley
Hammerschmidt
Hansen
Harsha
Heckler, Mass.
Hillis
Holt
Horton
Hutchinson
Hyde
Jarman
Jeffords
Johnson, Colo.
Johnson, Pa.
Jones, N.C.
Jones, Okla.
Kasten
Kelly
Kemp
Ketchum
Kindness
Lagomarsino
Landrum
Latta
Lent
Levitas
Lott
Lujan
McClory
McCloskey
McCollister
McDade
McDonald
McEwen
McKinney
Madigan
Martin
Mathis
Michel
Miller, Ohio
Moore
Moorhead, Calif.
Mosher
Myers, Ind.
Myers, Pa.
O'Brien
Paul
Pettis
Poage
Pritchard
Quie
Railsback
Regula
Robinson
Rousselot
Ruppe
Sarasin
Satterfield
Schneebeli
Sebelius
Shriver
Shuster
Skubitz
Smith, Nebr.
Snyder
Spence
Stanton, J. William
Steed
Steiger, Wis.
Symms
Talcott
Taylor, Mo.
Thone
Treen
Vander Jagt
Waggonner
Whitehurst
Whitten
Wiggins
Wilson, Bob
Wilson, C. H.
Winn
Wydler
Young, Fla.

NOT VOTING—54

Addabbo
Allen
Badillo
Bafalis
Broomfield
Conlan
Dent
Esch
Eshleman
Evins, Tenn.
Findley
Fithian
Flynt
Ford, Tenn.
Fountain
Gibbons
Gude
Hawkins
Hays, Ohio
Hébert
Hinshaw
Howe
Jones, Ala.
Jones, Tenn.
Karth
McCormack
Melcher
Mink
Mitchell, N.Y.
Montgomery
Morgan
Passman
Peyser
Quillen
Rhodes
Riegle
Risenhoover
Roncalio
Runnels
Schulze
Shipley
Stanton, James V.
Steelman
Steiger, Ariz.
Stephens
Stuckey
Sullivan
Symington
Thornton
Walsh
Wampler
Wylie
Young, Ga.
Zeferetti

The Clerk announced the following pairs:

On this vote:

Mr. Addabbo for, with Mr. Hébert against.

Mr. Dent for, with Mr. Passman against.

Mr. Zeferetti for, with Mr. Montgomery against.

Until further notice:

Mr. Jones of Tennessee with Mr. Esch.

Mr. Badillo with Mr. Allen.

Mr. Fithian with Mr. Findley.

Mr. Flynt with Mr. Bafalis.

Mr. Ford of Tennessee with Mr. Eshleman.

Mr. Howe with Mr. Gude.

Mr. Shipley with Mr. Broomfield.

Mr. Thornton with Mr. Jones of Alabama.

Mr. Hays of Ohio with Mr. Karth.

Mr. McCormack with Mr. Steelman.

Mr. Roncalio with Mr. James V. Stanton.

Mr. Fountain with Mr. Wampler.

Mr. Gibbons with Mr. Mitchell of New York.

Mr. Hawkins with Mr. Morgan.

Mrs. Mink with Mr. Quillen.

Mr. Runnels with Mr. Wylie.

Mr. Risenhoover with Mr. Schulze.

Mr. Young of Georgia with Mr. Peyser.

Mr. Riegle with Mr. Walsh.

Mr. Evins of Tennessee with Mr. Steiger of Arizona.

Mr. Stuckey with Mr. Stephens.

Mrs. Sullivan with Mr. Symington.

Mr. Melcher with Mr. Conlan.

Mr. JOHNSON of Colorado and Mr. SKUBITZ changed their votes from "yea" to "nay."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MOAKLEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on House Resolution 1444, the resolution just agreed to.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

Mr. THOMPSON. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 11552) to establish a Voter Registration Administration within the Federal Election Commission for the purpose of administering a voter registration program through the Postal Service, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from New Jersey (Mr. THOMPSON).

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. SYMMS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. The Chair will count. Two hundred twenty-one Members are present, a quorum.

So the motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 11552, with Mr. NATCHER in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from New Jersey (Mr. THOMPSON) will be recognized for 30 minutes and the gentleman from Minnesota (Mr. FRENZEL) will be recognized for 30 minutes.

The Chair recognizes the gentleman from New Jersey (Mr. THOMPSON).

Mr. THOMPSON. Mr. Chairman, I yield myself 10 minutes.

Mr. Chairman, the debate on the rule was relatively brief and interesting but I think it deserves a little bit of history.

The gentleman from Ohio, my very good friend (Mr. LATTA), talked about and read an editorial which I believe to have been printed in the Evening Star the other day, the essence of which is: What is the rush about this legislation?

Mr. Chairman, in answer to that, let me point out that there has been no rush; that on the 1st of January 1973, the gentleman from Pennsylvania (Mr. GREEN) introduced H.R. 580, containing essentially the same concept.

On March 28, 1973, in the 93d Congress I introduced H.R. 6278, almost identical to H.R. 11552.

The distinguished chairman of the Elections Subcommittee (Mr. DENT) who is not here today, but who would otherwise be assisting me in handling this legislation, along with the gentleman from California (Mr. BURTON), the gentleman from Pennsylvania (Mr. GAYDOS), the gentleman from Pennsylvania (Mr. MORGAN), the gentleman from Michigan (Mr. O'HARA), introduced H.R. 8053 in June of 1973 in the 93d Congress.

In the 94th Congress, bills were introduced within the first few months by the gentleman from Massachusetts (Mr. CONTE), the gentleman from Ohio (Mr. HAYS), the gentleman from Pennsylvania (Mr. GAYDOS), again the gentleman from Pennsylvania (Mr. DENT), and the gentleman from Pennsylvania (Mr. MORGAN), the gentleman from Michigan (Mr. O'HARA), myself, with the gentleman from New Jersey (Mr. MINISH) and others. So, we see there has been no rush. As a matter of fact, this is a subject which should have been disposed of many years ago.

The distinguished gentleman from Ohio (Mr. LATTA) is worried about fraud in elections and registering from tombstones. That is rather peculiar, coming from the gentleman from a State in which in many counties, one need not even have a tombstone to be registered, because no registration is required. Surely, one of the minimum requirements for post card registration will be a social security number, and as my friend from Ohio knows there are no social security numbers on tombstones—even in the great State of Ohio.

Mr. Chairman, an extensive Ford Foundation study in Maryland and one other State indicates a total absence of fraud. Each State under this legislation must as you know is the case, verify the application of each registrant. When we get to the amending process, that will be tightened further by an amendment to be offered by the gentleman from Massachusetts (Mr. MOAKLEY), which we have every intent of accepting.

This legislaton is and has been for a long time supported by a great many groups, characterized during the debate as "special interest groups."

Mr. Chairman, I hardly think that the League of Women Voters of the United States is a special interest group. They are in support of this legislation. Common Cause and Public Citizens, Inc., who represent all Americans, also support this bill.

H.R. 11552, as reported by the Committee on House Administration, creates a Voter Registration Administration within the Federal Elections Commission. The initial legislation responsible for implementing it provides for post card registration in all Federal elections. Incidentally, it will not adversely affect any State's system. The administration will be required to collect, correlate and publish information concerning Federal elections and provide such information on a nonpartisan basis to the appropriate State officials.

Under the provisions of the bill, an individual will be qualified to vote in Federal elections within a State if he fulfills the registration requirements of that State and applies for registration not later than 30 days prior to the next Federal election. In preparing registration forms, the administration is required to include all information necessary to qualify one as a voter under State law and such other information as is deemed appropriate by the administration to establish the positive identification of the voter. The administration is authorized to enter into agreements with the Postal Service for the distribution of registration forms, but no reimbursement for the distribution of said registration forms is to be required.

Here the distinguished chairman of the Post Office and Civil Service Committee, the gentleman from North Carolina (Mr. HENDERSON), will have an amendment specifically relating to reimbursement of the Postal Service, which it is our intention to accept. The administration may also enter into agreements with Federal agencies and with State officials regarding the distribution of registration forms. The effect of this, incidentally, is that in States having postcard registration systems—now 15 States and the District of Columbia—the costs to the States of administering the systems should be reimbursed by the Federal Government from appropriated funds.

After an individual has submitted the required information on the appropriate form, it will be the responsibility of the State or local election official to verify the returned form. This is another safeguard.

No provision in the bill is intended to eliminate any State or local provision requiring party affiliation, or a declaration of party affiliation, in order to obtain primary ballots designed to prevent cross-party voting in primaries.

Fair and reasonable processing costs will be determined by the Voter Registration Administration, and payments to the States will be made to cover such fair and reasonable processing costs. To encourage States to adopt this simplified form of registration, the Voter Registration Administration is authorized to pay any State a bonus of up to 30 percent for conformance with the provisions of the act. The Voter Registration Administration may also promulgate regulations to implement the provisions of the bill. Such regulations must be submitted to the Congress for review, and they become effective unless disapproved within 30 legislative days.

To minimize abuse of the registration system, the bill provides that the voter Registration Administration shall, at the request of a State official, provide assistance to such official to prevent fraudulent registration or voting within the State. The bill provides for a fine and imprisonment for the commission of various offenses relating to fraudulent registration or voting.

Last, the bill authorizes an amount not to exceed $50 million to carry out the provisions of the legislation.

I inserted in the RECORD on July 28, 1976, on page 24222, a package of amendments which will be considered en bloc under the rule. The first amendment will eliminate the House of Representatives from the approval mechanism for the administrators. This is required in order to satisfy the Constitutional standards laid down by the Supreme Court in the recent case of Buckley against Valeo. It would also provide for a single deputy administrator rather than two, and would provide for immediate implementation of the provisions of the act under the Federal Elections Commission until such time as the administrators are nominated by the President and confirmed by the Senate.

The other amendments are the reimbursement amendments, and an additional one to conform the disapproval mechanism for any regulations issued by the VRA with the disapproval mechanism for regulations issued by the FEC.

The CHAIRMAN. The time of the gentleman from New Jersey has expired.

Mr. THOMPSON. Mr. Chairman, I yield myself 2 additional minutes.

Mr. Chairman, the next amendment is technical in nature and would correct a statutory reference. The last amendment is a conforming amendment. And all of these will, in fact, satisfy the Supreme Court's criteria as set down in the Buckley against Valeo case.

Now, we are going to hear a lot, I suppose, about the prospective cost. The estimated costs are as follows: if two-thirds of all of the millions of eligible unregistered voters were to take advantage of this act, the total expenditure would be $45,625,000. If one-third take advantage, it would be $29,425,000.

The Director of the Congressional Budget Office, Dr. Alice Rivlin, in a letter addressed to the Senator from Wyoming on March 6, 1976, relating to this act, estimates a total Federal elections year cost of $25.7 million.

The gentleman from Illinois (Mr. ANDERSON) pointed out in the debate on the rule—after listing a number of Presidential priorities which I felt at that particular moment were not necessarily relevant to the rule—the number of millions of unregistered Americans.

The CHAIRMAN. The time of the gentleman from New Jersey has expired.

Mr. THOMPSON. Mr. Chairman, I yield myself 3 additional minutes.

By the device of being able to register those millions of unregistered Americans, we have the only means by which they can express themselves with respect to the priorities to which my friend, the gentleman from Illinois (Mr. ANDERSON), referred.

Mr. Chairman, this is in point of fact a splendid piece of legislation, and I certainly hope that the Members will approve it.

Mr. ANDERSON of Illinois. Mr. Chairman, will the gentleman yield?

Mr. THOMPSON. I yield to the gentleman from Illinois.

Mr. ANDERSON of Illinois. I appreciate the gentleman's yielding.

Mr. Chairman, I wonder if the gentleman would agree that under probably the most optimistic timetable that one could foresee, granting the fact that we will recess at the close of business on Tuesday of next week, granting that the other body has not even begun consideration of this legislation, is it not a correct assumption that probably this legislation would not be signed into law much before the 1st of September? And if, as I believe the gentleman testified to the Committee on Rules, that legislation then could be implemented in 3 short weeks—and I find some difficulty in seeing how all of the regulations could be issued, the forms devised, and so on, to accomplish that—still, under the timetable, as I see it, that would put us in the last week in September at which time these forms can become available for distribution.

As I read section 5(a) of the bill, the forms then would have to be returned by Sunday, October 3, which would be 30 days prior to the November 2 election, and it just seems to me that to give that short a time period before the election for the officials to get used to this system, these new forms, is putting an impossible burden on the registration officials throughout this country.

Mr. THOMPSON. May I respond to the gentleman?

I respectfully disagree. But in answer to the gentleman's question, and assuming, of course, that this passes in the other body and is signed by the President, which is in the best interests of the Nation, the forms will be mailed out no later than the week of September 17. The national average for closing the registration is 30 days before the election. It varies, but the national average is October 4. So that there would be plenty of time for millions of people to register to vote.

Mr. ROUSSELOT. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. The chair will count. Thirty-eight Members are present, not a quorum. The call will be taken by electronic device.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 615]

Addabbo
Allen
Andrews, N.C.
Andrews, N. Dak.
Archer
Badillo
Bafalis
Beard, R.I.
Beard, Tenn.
Bell
Boland
Broomfield
Brown, Calif.
Buchanan
Burton, Phillip
Cederberg
Chisholm
Clay
Cleveland
Cochran
Conlan
Conyers
Cotter
Davis
Delaney
Dent
Diggs
Downey, N.Y.
Drinan
Duncan, Oreg.
Esch
Eshleman
Evins, Tenn.
Findley
Fish
Fithian
Flynt
Ford, Tenn.
Forsythe
Fountain
Fuqua
Giaimo
Gibbons
Haley
Hall, Tex.
Hannaford
Harrington
Harsha
Hawkins
Hays, Ohio
Hébert
Hightower
Hillis
Hinshaw
Holtzman
Howe
Jacobs
Jarman
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Karth
Kemp
Koch
LaFalce
Landrum
Latta
Lehman
Lloyd, Calif.
McCormack
McKinney
Madden
Maguire
Mathis
Mazzoli
Meeds
Melcher
Mills
Minish
Mink
Mitchell, N.Y.
Moffett

Mollohan
Montgomery
Moorhead, Calif.
Morgan
Moss
Mottl
Murphy, N.Y.
Neal
Nix
Nolan
Passman
Patten, N.J.
Paul
Pepper
Peyser
Pickle
Pressler
Quillen
Railsback
Rangel
Rhodes
Riegle
Risenhoover
Rodino
Roe
Roncalio
Runnels
Russo
St Germain
Scheuer
Schneebeli
Schulze
Shipley
Shuster
Sikes
Skubitz
Spellman
Stanton, James V.
Stark
Steelman
Steiger, Ariz.
Steiger, Wis.
Stephens
Stokes
Stuckey
Sullivan
Symington
Teague
Thornton
Traxler
Ullman
Van Deerlin
Vander Veen
Walsh
Wampler
Waxman
Whalen
Whitehurst
Wilson, C. H.
Winn
Wright
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Ga.
Zeferetti

Accordingly the Committee rose; and the Speaker having resumed the chair (Mr. NATCHER) Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill H.R. 11552, and finding itself without a quorum, he had directed the Members to record their presence by electronic device, whereupon 280 Members recorded their presence, a quorum, and he submitted herewith the names of the absentees to be spread upon the Journal.

The Committee resumed its sitting.

Mr. FRENZEL. Mr. Chairman, I yield such time as he may consume to the gentleman from Alabama (Mr. DICKINSON), the distinguished ranking minority member.

Mr. DICKINSON. I thank the gentleman for yielding.

Mr. Chairman, I would like to emphasize the opposition to this legislation that has been expressed by local election officials throughout the country. In 1975, the Committee on House Administration held extensive hearings on this measure. We received testimony from local election officials, members of boards of registrars, and secretaries of State. The vast majority of all of these officials expressed vehement opposition to this bill. A poll of the secretaries of State revealed that only 3 were in favor of the bill, while 30 opposed it.

These officials, who are involved in the actual day-to-day workings of the election process, I submit, presented to us the most compelling evidence against this bill. They recognize the administrative problems from firsthand knowledge. Some of the problems frequently testified to by those witnesses are as follows:

First, illegibility. There will be many illegible and incomplete postcards. Previous experience with postcard registration in the cities of Los Angeles and Philadelphia, and the States of Washington, Hawaii, and Montana, indicate that from one-tenth to one-third of the postcards returned will either be illegible or incomplete, resulting in mass confusion on the part of the electorate and officials alike on election day as to who are qualified voters.

Second, dual registration. Almost every State and local official that testified before the Subcommitee on Elections stated that postcard registration would result in dual registration systems. As a result, two sets of records would have to be maintained, with separate ballots and voting machines for Federal elections and for State and local elections. That would mean more clerks and more room for expansion of registration books. This would entail an expense of many millions of dollars.

Third, duplicate registration. People do not always follow instructions, sometimes signing their names in full and sometimes using names by which they are usually called or initials. What happens when an individual is registered in a precinct as Robert L. Jones and the clerk receives a postcard from the same address with R. L. Jones, R. Lawrence Jones or Bob Jones. If two similar names turn up from the same address, is it father and son, a relative residing at the same address or the same person? State and local registration officials will have to check out every apparent duplication. This process will be further complicated in some localities where there are thousands of Jones and hundreds of Robert and R. L. Jones. Furthermore, some apartment buildings which carry a single street address may have many residents with the same name.

Fourth, inadequacy of mail addresses. There is no way to identify by the post office address of the registrant, what voting precinct or even what town he lives in. In parts of most States, a ZIP code and address might include four to five towns and villages, and a greater number of precincts. Rural delivery route addresses which are designated by route numbers also include large numbers of voting precincts. Registration by postcard would provide no method of determining what precinct these people should vote in.

I would submit that the last thing this country needs is a law which would facilitate the registration of persons not qualified to vote and who may not even exist. That is exactly what this bill does. There is an urgent need to establish public confidence and trust in the electoral process. We will not move in that direction by enacting this bill.

Mr. FRENZEL. Mr. Chairman, I yield such time as he may consume to the gentleman from California, Mr. KETCHUM.

Mr. KETCHUM. Mr. Chairman, once again the House is considering another piece of unnecessary and expensive legislation, namely H.R. 11552, the Postcard Registration Act. This bill, based on a faulty premise, usurps the traditional authority of the individual States, and, bearing a $50 million price tag, will add to the already overloaded burdens of the American taxpayer. H.R. 11552 deserves rejection and I hope my colleagues will render it its appropriate fate.

H.R. 11552 was conceived in the fallacious belief that difficulty in registering to vote is the key reason for poor voter turnout. I have always felt that apathy and political alienation contribute more to low registration than so-called administrative obstacles or inconvenient registration procedures at the local level. My belief has been borne out by the experience of several States which have simplified their voter registration procedures. It should be noted that each of four States—Maryland, Minnesota, New Jersey and Texas—which has implemented some sort of a postcard registration system in 1974 suffered a decline in voter participation in that year compared to the 1972 elections. Collectively, the four States' voter turnout averaged 7.6 percent below the national average in 1974, while only averaging 2.8 percent below in 1972. While these results do not necessarily indicate that postcard registration will lower voter turnout, they do not inspire much confidence that postcard registration will achieve improved voter turnout.

Another interesting example is the State of North Dakota which has no preregistration requirement at all. All a citizen has to do is show up at the polls and register and vote on the same day. Yet in 1972, nearly one-third of those eligible to vote in North Dakota did not. Surely complicated registration procedures cannot be blamed for poor turnout in this case. I would also like to point out the results of a 1972 Census Bureau study. The Bureau asked voters why they did not register. Fifty-three and three-tenths percent cited lack of interest or dislike of politics while only 13.4 percent said they were unable to register.

In light of these far from encouraging statistics, I do not see why it is necessary for the Federal Government to encroach upon an area traditionally reserved for the States. Some 15 States already have postcard registration laws and to enact a national system would duplicate the efforts of individual States. Voter registration has traditionally been a matter over which each State has jurisdiction and, bearing in mind the dubious benefits to be achieved, I firmly believe it should continue to remain a State prerogative.

This totally unnecessary piece of legislation authorizes appropriations of $50 million and predicts an estimated cost over the next 5 fiscal years of approximately $128.6 million. It is my contention that this is a burden the American taxpayer can illafford. At a time when deficit spending has reached outrageous proportions, we should be looking for ways to reduce Federal expenditures, not instituting new spending programs.

In addition, there are hidden costs in this legislation which I find most ominous. H.R. 11552 provides that voter registration forms be mailed to eligible voters and that the Voter Registration Administration may enter into agreements with the Postal Service to distribute the registration forms. However, the committee report clearly states:

> The Administration is not required to reimburse the Postal Service for any distribution of such registration forms.

Someone has to pay for the delivery of the post cards and that someone is the American taxpayer. Increased costs to the Postal Service will add to its deficit, requiring even larger subsidies by Congress, and perhaps even trigger another increase in postal rates. So, in addition to the costs which the legislation takes into account, we have the undetermined additional costs to be borne by the Postal

Service, and ultimately, the American people.

We also have the track record of the U.S. Postal Service to consider. I do not find it hard to envision cards which never reach voters, cards filled out by voters which never reach the appropriate election officials, cards delayed in transit which arrive past the deadline. All of this, I believe, will serve to alienate voters, not increase their participation in the electoral process.

There is one further point which disturbs me and that is the incidence of election fraud which enactment of this legislation would portend. There is simply no way that every card can be checked for its accuracy, thus enabling unscrupulous individuals to register more than once using phony names and addresses. Since there are no safeguards in the distribution of the post card registration forms and possession of one is to be considered evidence of the holder's right to vote, illegal aliens would have little difficulty in fraudulently voting and in the process, find it easier to establish claims to legal residence.

It seems to me there are many reasons not to pass this legislation and very few favoring enactment. I hope my colleagues will concur and join me in sending this bill to defeat.

Mr. FRENZEL. Mr. Chairman, I yield such time as he may consume to the gentleman from Ohio (Mr. ASHBROOK).

Mr. ASHBROOK. Mr. Chairman, I rise in strong opposition to H.R. 11552, the postcard voter registration bill. This legislation constitutes another new and costly Federal intrusion into local affairs.

If enacted, the bill would establish a new Federal bureaucracy—the Voter Registration Administration—to implement a system of postcard voter registration for Federal elections. Working in conjunction with the Postal Service, the administration would be responsible for distributing the voter registration forms throughout the country.

The potential cost of such a program is staggering. The annual cost could range anywhere from $15 to $500 million. If cards are mailed to every household, the higher estimate is certainly justified. H.R. 11552 itself authorizes $50 million.

Creation of another costly Federal bureaucracy is not the only problem with the bill. H.R. 11552 would also be an open invitation to voter fraud.

Under this system a person could register by mail and vote by absentee ballot. The person—or fictitious person—would never have to appear or be seen by anybody. The receipt of a postcard by a board of elections would be considered enough evidence to register a person without any visual identification.

The fact that postcards would be available in bulk makes the situation even worse. Postcards are required to be available to all organizations in any quantity they may request for registration drives. The opportunities for multiple registration and multiple voting would be greatly expanded.

In addition, citizens already registered to vote could be fraudulently disenfranchised. People could take the forms and either as a joke or as a political maneuver invalidate the registration by making a change in names, addresses or party affiliation. The invalidation probably would not be discovered until the person went to the polls—too late to reenfranchise the voter.

And this scenario is more than sheer speculation. In the late 1930's and early 1940's Philadelphia political party workers actually engaged in such disenfranchising practices.

There already is too much cynicism about our political process. This bill, which would greatly increase the potential for voter fraud and voter disenfranchisement, would lead to further citizen disillusionment. Let's keep the election process fair and honest. H.R. 11552 is an antireform bill and it should be defeated.

This bill would also be an administrative nightmare for State and local officials. It would necessitate establishing a dual registration system—one for Federal elections and one for State and local elections. This would be costly and confusing. More registration personnel would have to be hired at the expense of the taxpayers.

In addition, the postcard bill fails to recognize the good job that most local boards of elections are already accomplishing. In our own congressional district boards of elections get out to register voters. Not only do they go to the towns to register voters but they also can be found at county fairs and other events. Virtually every board of elections in our own 17th District, no matter which party controls it, has gone on record against this proposal.

Let us face the facts. Our system of government places some basic responsibilities in the hands of its citizens. One of the most important of these is the right and responsibility to register and to vote. I do not believe this is too heavy a burden. Americans do not have to be spoon fed.

Mr. Chairman, we do not need another new and costly Federal bureaucracy. Voter registration is being handled competently by local officials. H.R. 11552 should be rejected.

Mr. FRENZEL. Mr. Chairman, I yield such time as he may consume to the gentleman from Nevada (Mr. SANTINI).

Mr. SANTINI. Mr. Chairman, the purpose of my remarks is to seek specific answers to some specific inquiries that I have concerning the post card registration legislation, H.R. 11552. The legislation offers a most laudable objective—increased voter registration. I share and endorse that goal.

I am very mindful of the fact that both my party's nominee for President and our dedicated leadership in the House have joined in urging the adoption of H.R. 11552. I would like to join this distinguished company in their advocacy of the registration proposal. But I cannot adopt a supportive posture until reasonable and responsive answers are established to the following queries:

First, How much will the bill cost?

This is a rudimentary consideration for most legislative proposals. Yet, to date, the only information I have received places the expenditures somewhere in the realm of $50 million to $300 million. Such ball park estimates cannot justify rushing to legislative judgment on this issue.

Second. Has this legislative concept been proven successful?

We are proposing to bite off a sizeable legislative mouthful. It would seem reasonable to inquire if such a full scale registration effort has proven successful in other comparable situations. In my preliminary review of those "pilot States" that have adopted this post card registration program, it appears that most of these States are making major modifications to the basic format that Congress is now considering. More disturbing is the fact that some of these States—as I am informed, Maryland and New Jersey—have no conclusive factual validation that their post card system has attained the desired and declared objective of increasing voter participation in the process. Why then must we leap to major legislative resolve?

Third. Will a "dual" registration system produce more voter confusion and less voter participation?

The envisioned legislation applies only to the Federal elections. Those States that do not have a post card system will then have a "dual" registration system to enforce. Will it be, as one of my State's registrars projected, a "nightmare to implement and administer"? Before we bulldoze through a Federal legislative dictate on our local election procedures—either get in line or administer the dual system—we should have substantial evidence of proven election merit. How else can we justify the inevitable internal administrative chaos that we may be concocting with the purest of legislative intent?

Fourth. Are we going to lose more registrants than we gain because of those post card registrants who mistakenly believe that they are registered in both elections and then discover the post card applies only to Federal elections?

This could certainly produce more turned-off voters. No amount of instruction will eliminate the problem. It has been proven time and again that a significant percentage of people simply do not carefully read or simply cannot read detailed instructions.

Thus, by legislative misdirection we may ultimately disenfranchise more voters than we add to the registration rolls.

Fifth. Who is going to pay for the increased costs that are going to be imposed upon our local governments?

More people are going to be required to implement and administer the post card system. This problem will be particularly acute in our rural voter areas where county budgets are already strained, in many instances, to the "go-bust" point. There are not any extra dollars sitting there waiting to be spent. In many small population districts there are only one or two registrars for the entire system.

Sixth. What is the fraud potential?

Opponents have vociferously decried the potential for fraud. Supporters have generally "ho-hummed" this issue with sweeping assertions that can be summarized as "So what, nothing's perfect." To my mind, this contention should not be ignored. What kind of election abuses are we inviting with the post card system? The advocates must address this issue. Are we proposing to inject a perverse and pervading standing invitation to all those who would manipulate the system? The potential for such contrivance and perversion is there, particularly if we attempt implementation on a nation-wide scale. We do have some poignant examples of existing abuse and manipulation of well-intentioned Federal programs. We need only review the highlights and lowlights of our welfare, food stamp, and unemployment programs to realize that we should be most circumspect and considered before launching a well-intentioned ship that could sink this nation's voter registration process in a sea of election abuse and fraudulent manipulation.

How can this Federal program be policed? Perhaps supplemental legislation creating the "Investigator of Elections" will be a future legislative necessity? Local registrars do not have the existing facilities or the future potential to cope with this very real problem.

Seventh. Have we really exhausted all other possible avenues of stimulating and encouraging voter participation?

Before undertaking this sweeping legislative leap would we not be better advised to consider some of the following:

Would not such efforts as removing jury panel selection from voter registration lists, or providing franking privileges for mailed voter materials, or controlling the questionable uses of voter registration files, be less expensive and yet positive steps to increased voted involvement? Incentives for mobile registration units, weekend and evening registrations, and permanent deputy-registrars in rural areas might be provided at a State level.

Eighth. Can we attain desirable social goals by expansive legislative mandates?

Perhaps this query is too rhetorical but the question does pose a basic philosophical concern that should be considered. Do we truly know where we are going and where we will end up when this legislative mandate has been adopted? Are we attempting by legislative fiat to dictate participation in our political process? Is this a realistic or rational approach?

The proponents of legislative change have the burden of proof to demonstrate that: one, a problem of national dimension exists; two, that a Federal legislative remedy is called for; and three, this remedy will solve the problem.

I believe that most would agree that voter non-participation is a nationwide problem. Many would seriously dispute whether a Federal solution is the answer. There are rational arguments on both sides of this issue. But I believe the post card advocates' weakest position is that by passing H.R. 11552 we will now provide a meaningful solution to the low registration problem. Hope and aspiration can be eloquently offered but factual validation seems in very short supply. Perhaps the factual responses to the above questions can fill this factual void. I hope so. I would like very much to increase voter participation in their Government but I am not settled in my mind that the post card legislation will attain the desired objective.

Mr. FRENZEL. Mr. Chairman, I yield such time as he may consume to the gentleman from Connecticut (Mr. SARASIN).

Mr. SARASIN. Mr. Chairman, the arguments in favor of establishing a voter registration system are very persuasive and, on the surface, would broaden the democratic process whereby we select our elected officials. However, a look beneath the surface and reason and commonsense dictate that this measure not be enacted into law.

I support the goal of increased voter participation in the electoral process. Since passage of civil rights legislation in the early 1960's, many of the restrictive administrative and legal procedures for registering and voting have been removed, yet we still experience low voter turnout at the polls. I feel that this apathy will not be removed by changing registration procedures.

What is becoming clear is not that voter participation is directly linked to voter registration but rather that political factors play a much more determining role. Public apathy cannot be combated by electoral reforms alone. Rather, measures to instill confidence in the people and to arouse concern over the way the Government is being run will ultimately induce potential voters to participate in the electoral process.

Increasingly Congress has expressed its concern over the growing sprawl of the Federal bureaucracy. Yet through universal postcard registration we are adding yet another agency to this already burgeoning bureaucracy. State and local governments already have the mechanism for administering elections. National registration would merely overburden and duplicate existing State and local administrative registration procedures. And we still have no assurance that the result would be increased voter participation. Implementing a national postcard registration system would not cut costs. On the contrary, another Federal bureaucracy would have to be created to handle the administration of such a program. In other words, more tax dollars.

The proposed postcard registration system would be directed at registering voters for Federal elections. As a result, separate lists would have to be kept for local and Federal elections. This would create work, not eliminate it. It is conceivable that voters might even have to register twice, once for Federal elections and once for local elections.

Another argument is that tremendous administrative problems would confront the effective implementation of such a program. For instance, a good deal of money would be wasted by sending mail registration to people who have already registered. In addition, opportunities for fraud would become evident.

Efforts to increase voter participation in all elections are to be encouraged. However, this bill is not the vehicle in which to do this, and if anything, might result in a lower, not higher, voter registration.

Mr. FRENZEL. Mr. Chairman, I yield such time as he may consume to the gentleman from California (Mr. LAGOMARSINO).

Mr. LAGOMARSINO. Mr. Chairman, I rise in opposition to H.R. 11552, Federal post card registration. Other Members have already spoken of the tremendous, unknown cost of this proposal, the disputed basis for the conclusion that people do not vote because they do not know how or find it difficult to register, and the enormous potential for fraud and vote stealing inherent in this bill. However, I would like to address, if I may, one more aspect of this bill—the practical effect which it will have on the voters, on local election officials, and even, perhaps, the Members here today who vote for the bill.

Prior to today's debate, I phoned each of the three county clerks in my district. The county clerk, under the laws of the State of California, is the local official charged with conducting elections in each county. In California, as in most of the States, Federal elections are consolidated with State and local elections for the convenience of the voters and the sake of economy. Registration is likewise consolidated, and when a person registers in the county, he is registered for all elections in his district—local, State, and Federal.

Now we have this bill which proposes to set up a Voter Registration Administration. This Administration, a new Washington bureaucracy, would be empowered to mail out 100 million or so post cards before every Federal election in an effort to register voters.

To find out what effect such an action would have on elections in California, I phoned, as I said, the county clerks in my district, who are probably the most expert people around on the mechanics of elections. Their opinion was unanimous: If this bill is enacted in its present form, chaos will reign in California on election day.

Mr. Chairman, the right to vote is probably the most precious right of any American citizen. And the sanctity of the ballot box is fundamental to our concept of democracy. The protections that have evolved over the years to insure that every citizen's vote counts, are not something to be likely discarded or hastily altered. Yet here is a bill which sets up an entirely new system of voter registration, on a nationwide basis, and the majority says it wants to have it done in the next few months. Actually, it was not specifically the majority who said it. It was somebody not even in the Congress who is trying to call the shots. But I would not go into that.

The fact remains we are, in this bill, setting up an untried, unproved system of voter registration which will duplicate our existing consolidation system of voter registration.

As one of our county clerks asks, what do you do with the voter who registers under one system but not under the other? Does he get half a ballot? Or do we have to have separate ballots to eliminate the problem? And what does that do to the voter who arrives at the polls expecting to receive a full ballot? He gets mad, that's what. And when the clerk explains to him that it is due to this act of Congress—you guessed it. He votes to throw the rascal out. The rascal, in this case dear colleagues, is us. You and me, if we vote for this bill.

Last year, we adopted amendments to the Voter Rights Act which have raised a hornet's nest of protest throughout the country. We—or at least those who voted for the bill—required that sample ballots be mailed out in two languages to every voter in certain jurisdictions. One of the county clerks in my district, after a few experiences with this law, decided it was ridiculous. He would mail out 12,000 or 20,000 sample ballots in two languages, and get back requests for 7 or 12 ballots in the second language. So at the last election he simply sent out bilingual notices advising voters that ballots and other material in the second language were available upon request through the mail and at the polls. It worked beautifully—except for one problem. He was visited after the election by the FBI. I guess he was guilty of using commonsense in applying the law.

I submit, ladies and gentlemen, that we are asking for the same kind of problems with this bill. Only in this case it is not going to be 12,000 or 20,000 voters who get duplicate mailings. It is going to be 100 million Americans. And they are going to wonder what the heck is going on. Does this notice mean, they will wonder, that their other registration is no good? And how much did this cost? So they mail the cards back—and some of them get lost in the mail. Does that mean they are not registered? Ladies and gentlemen, think for a minute. This bill means that we are going to entrust the serious and exacting duty of registering voters for Federal elections to the U.S. Postal Service.

Can you imagine what the voters' reaction is going to be when they find out? You can bet those post cards are going to stimulate a lot of return mail to Washington. And deservedly so. Mr. Chairman, if this Congress is foolish enough to adopt this bill and send 100 million reminders of it to the voters just before the election, I predict many of us are going to find ourselves out of a job in January. Mr. Chairman, this is a bad bill.

We should listen to the people whose job it is to administer elections, and reject this bill. I urge a no vote.

Mr. FRENZEL. Mr. Chairman, I yield 1 minute to the gentleman from Florida (Mr. YOUNG).

Mr. YOUNG of Florida. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, many steps have been taken toward a better electoral system. The bill we consider today, the Post Card Voter Registration Act, is not one of them however. The 19th amendment guaranteeing women the right to vote, the 24th amendment abolishing the poll tax, the civil rights laws and court decisions eliminating race as a criterion, the one man-one vote decision and the 26th amendment lowering the voting age have all been positive actions toward a better and more representative electoral system. Compare these past changes in our electoral system with the proposal before us today and we can get a better perspective on the post card registration proposal and see the proposal for what it really is: a gimmick. I would refer to it as a cheap gimmick but the fact is that it will cost at least $50 million and maybe much, much more.

The real danger in this act is the great opportunities it presents for widespread voter fraud. Even with the strong checks and safeguards we have now there have been far too many cases of vote fraud in our recent history. H.R. 11552 provides for the general availability of literally millions of voter registration forms. Hundreds or thousands could easily and legally be picked up from a post office by a political faction or special interest group, used for large scale fraudulent registration which could then be voted by absentee ballot on election day.

With post card registration, an individual, real or fictitious, eligible or not, could register by mail and vote by absentee ballot never once being seen by any election official. Post card registration in combination with absentee balloting presents unparalleled opportunities for fraud.

The effects of such voting fraud could go far beyond the distortion of election results. More fundamentally, for each fraudulent vote that might be cast, a genuine vote is cancelled out and an honest citizen is effectively disenfranchised. The bill's antifraud provisions demonstrate that even its sponsors understand its open invitation to foul play.

This bill could bring back the days when well-oiled political machines brought the art of vote fraud to perfection. During those times, dead men voted and many vacant lots were claimed as residences of nonexistent voters. These practices, of course, were against the law and a not-so-attractive part of our political history. The bill runs counter to those reforms which appear to be bringing political accountability to our system.

The Congress in recent years has spent more and more and has created dollars out of nothing but paper and ink. The result—inflation. Dollars meant less as more were introduced without anything to back them up. I am afraid that the Congress is now about to do to the vote what has been done to the dollar. Through fraud, more votes can be introduced to the system with no people to back them up. This, of course, makes each real person's vote worth less. This is nothing more than vote inflation. More votes with less meaning.

This proposal is an expensive one, not so much for the actual cost of putting the concept into operation but for cheapening one of the most precious things Americans have going for them. Is this the first step toward creation of a system of voting by mail? If so, in view of present postal difficulties, how long would it take to conduct an election? Congress should send this measure back to the political dead letter office where it belongs.

Changing election laws in the middle of ongoing elections is irresponsible and inexcusable.

Mr. FRENZEL. Mr. Chairman, I yield such time as he may consume to the gentleman from Virginia (Mr. BUTLER).

Mr. BUTLER. Mr. Chairman, the Voter Registration Act significantly increases the potential for crime through fraudulent postcard registration.

Traditionally, State and local officials charged with the responsibility for election registration have required the appearance of the person registering so that pertinent questions regarding qualification can be asked. At the very least, this requirement assures that an actual person is registering. H.R. 11552 eliminates this customary and useful procedure by providing for the mass-mailing of post cards soliciting qualified persons to register to vote in Federal elections. This ill-conceived concept contains numerous flaws which enhance the potential for fraud.

First, the availability of registration post cards would make it easy for an unscrupulous individual to register innumerable times by using fictitious names. If undetected, this person could present himself to various election boards and vote more than once. Not only could registration post cards be subject to theft and sale for fraudulent purposes, but the undoubtedly complex nature of mass-mailings would present the problem of an overabundance of post cards traveling through the postal system. The fear is made real by the disclosure that election officials of the District of Columbia, which has a modified postcard registration system, recently mailed 64,000 post cards more than the total number of qualified voters in the District.

Second, the administrative problems associated with the need for election officials to check the veracity of signatures prior to election day is unthinkable. States which have no signature law, such as Virginia, it will be virtually impossible to ascertain the accuracy of the signature of the applicant. The necessity to check the veracity of the applicant will increase the time and cost factors—factors which are not readily abundant in the important business of voter registration.

Finally, it is conceivable that postcard registration will result in the fraudulent disenfranchisement of many honest citizens. Corrupt party officials could obtain simply hundreds of blank registration post cards and simply by changing the address could invalidate the registration of voters of the opposite party without their knowledge. This was the experience in Philadelphia between 1937 and 1943. There should be no desire to extend nationwide the potential of this unfortunate and illegal practice.

Past experience with absentee ballots should provide warning for the increased potential for fraud by the implimentation of this bill. The American Civil Liberties Union and many State and local election officials have expressed the fear of fraudulent postcard registration made possible by H.R. 11552. It is a fear that can be avoided by the defeat of this bill.

Mr. FRENZEL. Mr. Chairman, I yield

5 minutes to the gentleman from Louisiana (Mr. MOORE), a member of the committee.

Mr. MOORE. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I am very strongly opposed to this bill for several reasons.

First, there has been no evidence—which will be discussed at length by the gentleman from Minnesota (Mr. FRENZEL)—in the many hearings on this bill that it will improve voter participation. That is the only possible excuse one can give for going to all this trouble and expense. There is no evidence it will help.

In addition, I would like to point out two very real practical problems this bill creates in addition to the expense and the failure to increase voter participation.

The secretaries of state of the various States in this country once took a poll among themselves to see what they thought about this type of bill. The overwhelming majority opposed it and wanted to see the existing systems be maintained. Only three secretaries of state in the entire country favored this kind of bill. There were only three. The overwhelming majority want to see the law kept as it is.

In addition, the secretary of state of the State of Louisiana, Wade O. Martin, Jr., who was also chairman of the regular and special elections committee of the National Association of the Secretaries of State, pointed out to our committee that what we are doing with a bill like this is forcing the States to either scrap their existing systems, which they are proud of and have worked hard on to develop and perfect, or to maintain a dual system, the one they have now and the one this bill requires to be set up.

If they go to the one this bill requires to be set up, we have the problem of whether or not voters are going to reregister with these cards, whether the voters are going to reregister every time the card is mailed in, or whether they will simply think it is too much trouble and will not register at all, in which case the bill will not have helped but will only have discouraged voter participation.

There is also the fraud problem of having cards sent in by fraudulent people, by people that have no intention to vote. What is going to happen is that most secretaries of state are going to maintain two systems, the one they have now and the one called for in this bill. There is no sense in that. There is no need for a different registration system for State and local elections and one for Federal elections. Mr. Martin very strongly opposed this bill.

As I pointed out, the overwhelming majority of secretaries of state in this country oppose this bill.

Third, we have had only one political scientist testify before our committee, Mr. Richard Smolka. He actually studied the bill and existing systems closely. He was the only academic expert to testify. He found nothing but problems with it and is opposed to the bill. One problem he pointed out was the fraud which becomes possible with the issuance of a voter registration card or identification card as this bill requires has existed in other States that have a similar program right now. Maryland and New Jersey were studied and found to have numerous examples of problems in using this type of card. For instance, they found in New Jersey that people actually apply and register to vote to get this card for identification purposes to cash social security checks they steal. People in banks and other places accept that card as something very authoritative, something hard to get, something that identifies this person as a first-class citizen, when as a matter of fact, it is too easy to get it under the mail system.

In Dade County, Fla., they found that prostitutes register in every district, in every county, for one of these cards, because in Florida they can get out of jail with $1 with these cards. They have no intention to vote. They use them for fraud for bail purposes.

Similar cases are found in Maryland. The point is that he is an expert in the field and the only expert we had and he states that this bill creates numerous problems and solves none.

Mr. BREAUX. Mr. Chairman, will the gentleman yield?

Mr. MOORE. I yield to the gentleman from Louisiana.

Mr. BREAUX. Mr. Chairman, the last time we considered this, we had gotten a great deal of letters from secretaries of state in the country showing the various local and county parish registrars opposing the bill. There was a lot of talk about the additional workload. I can see their point about that; but I was wondering what the attitude of my good friend was and if there was any testimony in the committee about the problems of people trying to register who are working during the day and whether these offices are open.

The CHAIRMAN. The time of the gentleman from Louisiana has expired.

Mr. FRENZEL. Mr. Chairman, I yield 2 additional minutes to the gentleman from Louisiana (Mr. MOORE).

Mr. BREAUX. Mr. Chairman, will the gentleman yield further?

Mr. MOORE. I yield to the gentleman.

Mr. BREAUX. Mr. Chairman, I would like to ask the gentleman, was there any testimony presented by people trying to register that were not able to do so because the registrar's office may not be open from 9 o'clock to 5 o'clock? I am really concerned about that.

I might say that I have not made up my mind how to vote on the bill.

Mr. MOORE. In the State of Louisiana many registrars keep their offices open special hours and on special days for those reasons. There are a number of registrars in Louisiana who utilize mobile registration offices; indeed, the parish that I am from has one. In fact, talking to the registrars from several of my parishes, I learned they will come down late in the evening or over a weekend and register people who cannot register on normal work days. Many Louisiana registrars have written me, as well as the former secretary of state of Louisiana, that they do not see any need for this legislation at all.

Mr. LOTT. Mr. Chairman, will the gentleman yield?

Mr. MOORE. I yield to the gentleman from Mississippi.

Mr. LOTT. Mr. Chairman, the gentleman mentioned the secretary of state. When I was in the Rules Committee, I left the meeting to make a call to the secretary of state of Mississippi. He has been the secretary of state in our State longer than any other secretary of any State in the Nation. He described this as absolutely unworkable and went into great detail about the possibilities of fraud. Here is a leader and one of the better secretaries of state in the Nation and he feels very strongly about the possibility of fraud and the unworkable nature of this legislation.

Mr. MOORE. Mr. Chairman, I think the gentleman from Mississippi has pointed out very well that the secretaries of state in the country are overwhelmingly opposed to this. They see no good coming from it. The same is true at the sublevels of the registrars that work under the secretary of state. They are telling us that the bill is totally unworkable and has many problems.

Mr. Chairman, I urge we defeat this unwise legislation.

Mr. FRENZEL. Mr. Chairman, I yield 5 minutes to the distinguished gentleman from California (Mr. WIGGINS), the ranking minority member of the Subcommittee on Elections.

Mr. WIGGINS. Mr. Chairman, members of the committee, I do not support the legislation. There are so many problems with this, one hardly knows how to begin. Let me begin with this proposition: All Americans qualified to vote should be encouraged to do so in our State and national elections. I believe that deeply. If this legislation is a step in that direction, it ought to be supported. But, if it is not—if indeed, it may be counterproductive to that great goal—then it ought to be resisted.

We can ill-afford to spend $50 million foolishly, and that is the price tag for this legislation if passed.

Now, here are some facts that cause me to have pause as to whether or not this money will be spent foolishly: Postcard registration is implemented in many of the States of the Union. Their voter statistics are not significantly better, and in some cases worse, than those States which have not implemented postcard registration. Now, that is a fact.

Another fact: The bill, unless it is amended, cannot apply to this election. We know that. The bill, unless it is amended, requires that the postcards be mailed not later than 60 days before the close of registration. We now are 89 days from the next election. The close of registration, on the average in most of the jurisdictions, is 40 days prior to the election. In other words, the postcards must have been mailed earlier than today in order to comply with the time limits established in the bill, accordingly, the bill must be amended to apply to the current election. It is my belief that an amendment will be offered to exempt the time limits in the bill with respect to the election in 1976. Now, in waiving this requirement, members of the committee, we are waiving a rule that has a reason behind it. The critical factor is not the mailing of the postcards. A person is not registered simply because he receives a postcard. Registration is accomplished after the postcard has been completed and returned to the registrar.

The reason we have a time delay between the receipt of that card and the election is to give the registrar the opportunities to determine whether or not there is fraud. Time is necessary to do that.

Now, assuming prompt action by the House, prompt action sometime after the recess by the Senate, the anticipated Presidential veto, and a congressional override of the veto, this bill cannot become law until mid-September. Six weeks before an election is insufficient to print registration forms, to circulate them around the country in all of the various languages which may be required by the Voting Rights Act, to have them received by the prospective voters, completed by them and returned to a registrar, if the registrar is to be concerned with possible voter fraud.

There will be time, however, to spend an awful lot of money without producing the end result which we seek to achieve. If there is any merit to this scheme at all, it ought to go forward in accordance with the careful time limits prescribed in the legislation which would make it applicable, of course, to the elections in 1978 rather than in 1976.

Mr. DELLUMS. Mr. Chairman, will the gentleman yield?

Mr. WIGGINS. I yield to the gentleman from California.

Mr. DELLUMS. I thank the gentleman for yielding.

May I ask my colleague this question: Is the test of the effectiveness of this legislation the number of new registrants, or whether or not within the framework of a democratic society we make every effort to remove any obstacle or any barrier to a person's ability to exercise his franchise of voting?

In other words, in a democratic society, one defines freedom as the ability to choose among the alternatives.

So is it an accurate criticism of this legislation that it may not produce new registrants, or is it a favorable statement to the legislation that what we here in the Congress are attempting to do is to provide another mechanism by which people can reach out to use the franchise that is so extraordinarily important within the framework of a Democratic society?

Mr. WIGGINS. I will answer the gentleman's question, which is a fair one, this way: The test of this legislation is whether or not more Americans exercise their franchise. That is the big plan here. We are not going through this expensive exercise only to purchase, print, and distribute postcards. The theory is that the bill will ease the registration process. But the fact is, in those jurisdictions that have adopted this process, no more people vote in those jurisdictions than in the gentleman's jurisdiction or in mine.

The only thing that this bill is going to do for sure is to cost no less than $50 million, and perhaps one-half billion dollars. People will benefit, but certainly not the voters. It will be the printers of bilingual, trilingual, and quadralingual post cards.

Mr. Chairman, I urge the Members to vote "no" on this bill. In my opinion, it would be the better part of wisdom to do so.

Mr. THOMPSON. Mr. Chairman, I yield 3 minutes to the gentleman from California (Mr. DELLUMS).

(Mr. DELLUMS asked and was given permission to revise and extend his remarks.)

Mr. DELLUMS. I thank my distinguished colleague for yielding.

Mr. Chairman, I would like to engage the distinguished chairman of this committee in a brief colloquy.

According to a telegram I have received from the California secretary of state regarding the legislation before us, she states, and I quote:

> If enacted in its present form (it would) jeopardize and delay the mail registration system which is now getting underway in California.

If that statement is indeed correct—and I hope the chairman can provide some verification or clarification of the statement's claim—I have this question: Was it the intent of the committee to supersede current statewide systems through this legislation, or can States, such as California, receive some sort of waiver if the State plan meets the minimum requirements of the proposed Federal program?

Mr. THOMPSON. If the gentleman will yield, I will say that the gentleman from California in effect has asked two questions. I can assure the gentleman that the act will not jeopardize the operation of the California postcard registration system or the registration-by-mail system of any other jurisdiction. The act simply requires that an application received in the mail and verified by the appropriate State authority shall constitute a valid application to register to vote. No provisions of State law relating to the qualifications of electors will be affected.

The answer to the second question is that the concern of the gentleman can be handled by administrative regulation which would be reviewed by the House.

Further, I might point out to my friend, the gentleman from California (Mr. DELLUMS), that should his State or any other State be exempted from the act, then the State would stand to lose substantial amounts of money in the form of the 30-percent bonus, and other assistance, which the Federal Government would assure the State for the exercise of its responsibility.

Mr. DELLUMS. Mr. Chairman, I thank my distinguished colleague for his response to my question.

The CHAIRMAN. The gentleman from New Jersey (Mr. THOMPSON) has 12 minutes remaining, and the gentleman from Minnesota (Mr. FRENZEL) has 11 minutes remaining.

Mr. THOMPSON. Mr. Speaker, I yield 3 minutes to my colleague, the gentleman from Washington (Mr. BONKER).

Mr. BONKER. Mr. Chairman, I thank the chairman of the Committee on House Administration for this time.

The committee chairman has fallen heir to this legislation which I believe has many imperfections. I rise not to oppose the postcard registration bill but to speak in favor of improvements to a bill that is badly drafted. I do so reluctantly because I know many of my colleagues in the House believe this to be a good bill, because it is strongly backed by labor, and because our party's nominee believes this to be an important issue in this election year.

I share their concerns about an election system that does more to frustrate and inhibit the voter than to encourage him on election day, about the startling statistics of low voter participation in this country which averages 25 percent under the voting percentages of European countries, and about the dangers to a democratic system if people are not encouraged to participate actively in the election process.

However, as a former county supervisor of elections, I am concerned that we develop a program to achieve greater voter participation without disrupting State and local election procedures. While I feel strongly that we need renewed efforts to get people registered and to the polls, we should not hastily enact a bill that would be counterproductive, as I believe H.R. 11552 would be.

First, let me distinguish between postcard registration and the mass mailing feature that is incorporated in this particular bill. Eighteen States today have adopted some form of postcard registration. It is simply a method whereby the registration form is simplified and is prepared in a postcard format so it can be distributed to the various organizations and groups and so that precinct workers can deliver the postcards to their precincts and people can merely fill out the postcard and mail it back in to the elections office.

As I mentioned, 18 States have adopted this form. It has not proved to be difficult to administer. There have been no problems with fraud, and presently 48 percent of our voting population in this country are making themselves available to voting under this particular system.

Mr. Chairman, the mass mailing feature that is contained in this particular bill is entirely different. This mass mailing feature calls for the Federal Government to mail out to every household in this country every 2 years a post card form. What it means is that a person who receives this card will have to fill it out or will be invited to fill it out, and he will then return it to the local elections office. If that person is previously registered, there will be a duplication, and he will be so notified. If he has not been registered, he will then become registered, but not to vote in all elections. In this way we create a problem of dual registration.

What that means, very simply, is that we will have two registration lists, one for Federal electors and another for Federal, State, and local electors. If States do not move quickly to comply with the Federal program, they will be faced with that dual registration system. What it means is that if a person registers only on the Federal form and he arrives at the polling place on election day, he will be advised that he is eligible to vote in Federal elections only;

he will be ineligible to vote on State and local offices and issues.

I think it is going to be greatly disappointing to that voter. It is going to bring administrative chaos to the election system, and there is going to be overall voter confusion on the part of everyone who participates in the election system.

Mr. Chairman, I do not buy the argument that there is fraud in this bill. I believe that there are more protections if we send out an election notice which is returned and verified in terms of where that person lives than is the case under the system we presently have.

Mr. Chairman, I will offer on Monday, when we resume consideration of this measure, three amendments to correct these deficiencies in the bill and to make it more workable. They will help avoid administrative chaos and voter confusion at the polls.

Mr. Chairman, in closing, I join many of my colleagues who feel it is time for Government, and specifically the Congress, to shed its passive role in getting people to the ballot box. We can no longer sit back and accept declining voter participation in our elections of the kind we have experienced in this country over the last two decades.

Mr. FRENZEL. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, about 38 million Americans were unregistered in 1972. Many people, including the sponsors of this bill, believe that a substantial proportion of those who were unregistered, really wanted to vote, but found registration procedures too difficult. Most of our witnesses did not agree.

History and experience are usually the best teachers, but, in this field, their lessons are obscure. Voter participation peaked in the Presidential election of 1960 and has decreased since then in spite of the Voting Rights Act of 1965, a number of court decisions, and improved registration systems in many States. As registration has become easier, the percentage of voter participation has become less. It is small comfort to know that the parliamentary democracies of Western Europe are experiencing the same trend.

Obviously, it takes more than registration to attain high voter participation. It takes good candidates, good races, good voter information programs, and a general feeling that everyone's vote counts.

There is, or ought to be, a congressional mandate to try to register every person who wants to vote. There is, or ought to be, also a mandate to use the most effective system to achieve high registration and high voter turnout. Unfortunately, H.R. 11552 does not meet the mandate.

H.R. 11552, however nobly motivated, or however conceptually appealing, simply will not do the job claimed for it and it will especially not do the job if hastily implemented. Instead it will be counterproductive, and may actually reduce voter participation. Certainly it will raise havoc with existing registration systems. Surely it will foul up registration administration. It may increase voter alienation, disenfranchise otherwise qualified viters. Finally, it will be an scandalous waste of the taxpayers' money.

During the past 2 years, my staff and I have done considerable research on the problem of voter registration and voter turnout. Today, I hope to share with you a few of our findings and to clarify some of the misinformation and misstatements made by both proponents and opponents of this proposal.

POST CARD REGISTRATION AND VOTER PARTICIPATION

Do postcard registration systems actually increase voter participation? This is the paramount question raised by the Federal post card registration proposal. Unfortunately, the majority of the evidence presently available indicates that Federal post card registration will not significantly increase either voter registration or voter turnout. In fact, when implemented, it may actually be counterproductive, disenfranchising many citizens who would normally be eligible to vote.

To date, proponents have not offered any firm proof that post card registration will increase either voter registration or voter turnout.

Testimony before the subcommittee also showed that the mailing of post cards would be especially ineffective for poor people, many of whom do not have regular mailing addresses, avoid official mail, and do not understand complicated forms. Since the present House bill does not contain a provision for foreign language cards, it surely would not help those who do not understand English.

It will, however, be just wonderful for the mobile, affluent, typically suburban population which would have registered anyway. These people will have a much easier time.

Recent experiences in New Jersey and Maryland tend to verify these assertions. In Essex and Hudson counties, two of the poorest in New Jersey, new registrations under the State's post card registration system totaled only 2 percent of all registrations. The poor, illiterate, disadvantaged and alienated did not seem to use the post card system.

Analysis of the New Jersey and Maryland experiences indicates that post card registration did not increase registration figures for the Democratic party. The poor, disadvantaged and alienated, those most likely to register Democratic, did not register by post cards in large numbers. Meanwhile, despite the influx of young voters and the fallout caused by Watergate, Republican registration figures—those voters who are generally more affluent and mobile—did not decrease in these areas, with one exception. The decline in this one area might be accounted for by the failure of the local post card to include a warning that voters who registered as Independents could not vote in the primaries. Previous face-to-face registration methods contained such a warning. Republican voters, perhaps disappointed because of Watergate, may have registered as Independents, not realizing that such an action would disqualify them from voting in the primary.

Proponents of post card registration have been made several questionable assertions in support of the belief that post card registration will increase turnout, including:

First. Registration in Minneapolis is alleged to have increased in 1974 by about 10 percent over comparable previous election years.

Fact: Voter turnout in Minnesota declined from 61 percent in 1970 to 49 percent in 1974, a drop of about 20 percent. A study by my staff based on preliminary figures from 1973 found that the Minneapolis system was ineffective, because it eliminated other, more effective modes of registration. It concluded:

> If Congress wishes to increase the number of registered voters, the Minneapolis experience suggests that postcards are not the best way to do it. Not only did postcards apparently register fewer people than were registered under the previous system, it registered only about about half as many people as would have been registered, at the same expense, if a door-to-door canvassing system had been implemented.

Further, the registration figures in Minneapolis are not at all comparable. The last comparable year was 1970 when 18-year-olds were ineligible to vote and the city's population was smaller. In addition, Minneapolis now has election day registration, where unregistered eligible voters can simply show up on election day and register and vote. Well over half of the new registrants were registered by this procedure and not by the post card method.

Second, in New Jersey, in the first 6 weeks of implementing its post card voter registration in 1974, a threefold increase in the number of registrations compared to 1970, the last comparable offyear is supposed to have occurred. About 135,000 new people were registered. About 80,000 new people were registered between the primary and the general election in 1974 versus only 5,000 in 1970.

Fact: Voter turnout in New Jersey declined from 49 percent in 1970 to 43 percent in 1974. Registration in 1974 was about 39,000 less than in 1973. The figures cited by proponents are much higher, because many State and local officials included as new registrations all address changes and duplicate registrations. These registrations were included in the total figures, because local officials were paid 62 cents for each new registration—50 cents for the new registration, and 12 cents postage. Thus, there was a huge incentive for them to include address changes and duplicates, even though they were not new registrations.

Finally, under the New Jersey post card registration system, resources were concentrated more evenly throughout the 2-year election cycle. As a result, early registrations ran far ahead of previous figures. Thus, during the first 6 weeks of implementation, there was a threefold increase. Later on in the 2-year cycle, however, registrations by post card were less than normal, thereby counterbalancing the early surge. As was previously noted, registration in 1974 actually ended up being 39,000 less than in 1973.

Third, in Maryland, we are told that implementation of post card voter registration in Baltimore and Montgomery County increased registration five times.

Fact. Turnout in Maryland declined

from 42 percent in 1970 to 34 percent in 1974. Turnout in Montgomery County declined by about 10 percent. There was actually no increase in registration figures in Montgomery County and Baltimore City, a decline in absolute numbers of registrants in Prince Georges, and an actual increase in the fast growing counties of Howard and Harford.

Once again, early registration figures were much higher than under previous systems, but this sudden surge was completely negated by the dropoff in normal registration rates later in the 2-year or 1-year cycle.

Fourth. Texas is said to have successfully implemented a system similar to post card registration—coupon registration—without any fraud or serious administrative problems.

Fact. Texas had the lowest turnout in the country in 1974—20.5 percent.

In 1974, the four States with post card registration or a variation thereof actually had a turnout 20 percent below the rest of the Nation, as the following chart demonstrates:

[In percent]

	1970 turn-out	*1972 turn-out*	*1974 turn-out*
Maryland	41.7	50.4	34.1
Minnesota	61.2	68.0	49.2
New Jersey	49.1	59.6	43.3
Texas	33.9	45.2	20.5
Total (4 States)	43.3	53.2	32.9
Rest of Nation	48.2	56.0	40.5
Difference	4.9	2.8	7.6

Mr. OBERSTAR. Mr. Chairman, will the gentleman yield?

Mr. FRENZEL. I yield to my colleague, the gentleman from Minnesota.

Mr. OBERSTAR. Mr. Chairman, would the gentleman also acknowledge for our colleagues that in 1972 Minnesota had the largest voter turnout in the Nation?

Mr. FRENZEL. The home State of the gentleman from Minnesota (Mr. OBERSTAR) is invariably a leader and we always do very well. I thank the gentleman for his contribution.

Mr. OBERSTAR. I thank the gentleman for yielding.

The CHAIRMAN. The time of the gentleman from Minnesota (Mr. FRENZEL) has expired.

Mr. FRENZEL. Mr. Chairman, I yield myself 4 additional minutes.

Mr. Chairman, other factors were undoubtedly at work to hold down turnout in these States. The main point, however, is that post card registration did not prove to be a good means of increasing voter turnout in these States, perhaps even being counterproductive.

If post card registration is to be implemented at the Federal level, then proponents will have to produce considerable authoritative, hard evidence showing that their proposal will actually increase registration and turnout figures. Absent such evidence, the above figures alone represent a devastating case against the proposal to warrant suspension of serious consideration at the Federal level.

THE POST CARD REGISTRATION MYTH

Proponents of this legislation have been able to create and perpetuate the myth that post card registration will somehow magically alleviate the problem of low voter turnout.

The post card registration myth is based on at least five fallacious assumptions:

First. Registration obstacles are the major obstacles to greater voter participation. Actually, registration requirements are only one of many factors that contribute to low voter turnout. Education level, cultural background, the quality of the candidates, motivation, alienation, lopsided elections, apathy, lack of trust in Government, low social mobility and other variables are important causes of low turnout. This assertion is supported by the following:

North Dakota has no registration. South Dakota has the old traditional system of prior registration. Yet, South Dakota had a slightly higher voter turnout in 1972. In 1974, it had a 60.1 percent turnout versus 56.2 percent for North Dakota.

With only two exceptions, recent studies indicate that voter apathy and alienation are far more important factors in low voter turnout. For example, the Census Bureau study of the 1972 elections found that 11 percent of those not registered did not register because they were aliens, approximately 6 percent did not register because of residence requirements, 43 percent indicated that they were not interested, approximately 8 percent indicated they disliked politics in general, 13 percent indicated they were unable to register and 15 percent gave a miscellany of reasons which were categorized as other.

The decade of the 1960's and early 1970's were times in which technical barriers to registration and voting fell one after the other. The poll tax was outlawed. Literacy tests were abandoned. State residency requirements were relaxed. Residency requirements for presidential elections were reduced to 30 days. A voter not meeting the residency requirements for presidential elections was allowed to vote by absentee ballot in his last State of residence. Absentee balloting was allowed in all presidential elections. In States such as Texas and Virginia, the long period between the closing of registration and election day was abandoned. Election officials made increasing efforts to register prospective voters. Precinct registration became more common. Yet, despite all of these efforts and the relaxation of requirements, voting turnout declined during the period 1960–72 at a rate more rapid than ever before.

The 10 worst States, those with 4 or 5 of the 7 most serious registration obstacles, had average voter turnouts in 1968 and 1972 of 63.3 percent and 56.1 percent respectively, while the Nation as a whole recorded turnouts of 60.6 percent and 55.6 percent. There was no significant difference between voter participation in States where a large number of obstacles could be found and in the Nation as a whole.

Proponents have frequently cited a public opinion poll that indicates a large majority of Americans who do not vote would do so if they could get registered and that a significant proportion of these unregistered persons would register, if they had the opportunity, by postcard—that is, the Yankelovich poll.

There are at least 10 other studies that have come to opposite or different conclusions. These studies were conducted by a wide variety of groups: the Census Bureau, the Gallup polling organization, the University of Michigan, the secretary of state of Florida, the American Enterprise Institute, the League of Women Voters and the National Municipal League. Over an extended period of time, for example, the Census Bureau has had remarkably similar and consistent results, all contrary to the Yankelovich study. Further, it is possible that lazy and apathetic voters would rather blame registration difficulties than admit to their civic dereliction.

Second. Ninety percent of those people who are registered vote. Once the large masses of unregistered people are registered, they will vote.

The above figure is inaccurate. Only about 75 percent of those people who are registered vote in a Presidential election year. An individual who is registered is not necessarily going to vote. Presently, the most highly motivated people are registered. A person who does not have the ambition to go to a county clerk or registrar to register on any one of a hundred or more days is probably not going to be able to get to the polls on election day. Furthermore, many of these people stay home because of apathy and hostility toward politics. Simply filling out a post card will not change these ingrained behavioral patterns.

For example, in the election following Texas' massive 1972 registration drive—which registered over one-third of the voting age population then unenrolled—turnout dropped by over six points because well over two-thirds of the newly enrolled voters stayed home. In 1974, Texas' turnout plummeted until it was the lowest in the Nation.

Third. Voter turnout in other Western democracies is far higher than in the United States.

In fact, when comparable situations are analyzed, turnout in the United States is remarkably similar to that in other Western democracies. Complex and significant differences between political systems and methods of computing voter turnout account for many of the apparent disparities between the United States and other countries.

Specifically, unlike the United States, some European countries exclude those legally and mentally unable to vote from their computations on total voting age population, thus boosting their participation percentage in relation to the United States. Also, in a few countries, voting is compulsory; and in some cases, the figures given are simply inaccurate. For example, the Australian Embassy has stated that their turnout figure is significantly lower than the quoted 97 percent.

In the British parliamentary election of 1970, 71 percent of all eligible voted, 11 percent more than in the United States. However, turnout in Britain's poor urban areas was 45–52 percent, the same as it is in the United States. Suburban London turnout was 65–75 percent, roughly equivalent to the average U.S. suburban turnout. High turnout, which raised the total percentage, occurred in areas with unique political conditions uncommon in America. For example, in Cornish, Welsh, Scottish, and Northern Irish districts, three- and four-way races accounted for a higher than average turnout of 75–90 percent. Likewise, top turnout of 90–92 percent was observed in Northern Irish districts where internal strife replaced politics as usual.

During very recent years, turnout in both Canada and Great Britain has dropped about 5–7 percent, a figure quite similar to the drop in the United States.

Fourth. Voting turnout is abysmally low in the United States—only 55 percent in 1972.

This figure is inaccurate. When aliens, the mentally ill, prisoners, ex felons, invalid ballots, those disqualified by residency requirements, those who are ill on election day, those who do not vote for President, et cetera, are properly accounted for, turnout is actually somewhat higher.

Fifth. When registration was initiated in the United States, turnout dropped precipitously.

The original and primary goal of registration was and is to prevent fraud. Turnout figures prior to the institution of registration are misleading, because they included many fraudulent votes. For example, in South Carolina 101 percent of the voting age population voted in 1876. While this example is somewhat of an anomaly, there were sufficient abnormalities during this era to render early turnout figures unreliable, if not meaningless. Registration may have been a barrier for some people, but it was also a major obstacle for those who attempted to steal elections.

ADMINISTRATIVE OBSTACLES

Proponents of post card registration do not seem to be fully aware of the administrative and logistical problems involved in the implementation of a national post card registration system. The post office would have to mail out and State and local officials would have to process the equivalent of 500 stacks of post cards equal to the height of the Washington Monument. The Voter Registration Administration would not only have to deal with 50 State agencies, but would also need to exercise some degree of control over the more than 7,000 cities, counties and other units of local government, 173,000 precincts and 1,000,000 State and local election officials.

This legislation also assumes a commonality of the voter registration function among the 7,000 election and registration boards that does not exist. Levels of sophistication between these boards vary from the very simple and labor intensive to the extremely complicated and computer intensive. It will be nearly impossible to adopt Federal post card registration to these diverse types of registration systems.

A present post card proposal would, for all practical purposes, create an army of untrained registrars capable of causing disruption to State and local registration systems. Most of the existing State systems require registrars to be trained by registration experts. Montgomery County, Md., for example, requires each person interested in registering other people by post cards to take an hour and a half course. Not surprisingly, the Montgomery County system works rather well—it has the additional advantage of having a well-educated, affluent population which can easily fill out the cards properly.

The proposed Federal registration system does not contain any training requirement. The question arises that if such training sessions are necessary in affluent counties like Montgomery, are not they even more necessary in less affluent and educated areas? If they are not necessary, why does Montgomery county continue to require them? Such training may make all the difference in the world. Without it, some of the following problems will surely occur:

Illegibility. Without tight control as is the case under present State laws, there may be many illegible and incomplete post cards. Previous experiences with post card registration and address changes in Los Angeles, Philadelphia, and the States of Washington, Hawaii, and Montana indicate that up to from one-tenth to one-third of the post cards returned to State and local officials may be returned either incomplete or illegible.

Experience has also shown that registration forms are not easily filled out no matter how simple they appear to be. For example, the better election officers who train registrars to fill out forms accurately and completely still have a percentage of error.

In order to process the illegible and incomplete post cards, an interchange of correspondence will sometimes be necessary, a costly and time-consuming process. Even then, State and local officials may accumulate thousands of post cards that will be completely unsuitable for processing because of illegible handwriting or insufficient information. These applicants will be surprised and dismayed on election day when they find out they are not registered to vote.

Dual registration. Most State and local officials have stated that Federal post card registration would result in dual registration systems. As a result, two sets of records would have to be maintained or distinguishing marks would have to be made to separate the various classes of voters. In some instances, it would be necessary to have separate ballots and voting machines: one set for Federal elections and one set for State and local elections. There would be additional costs, additional clerks needed, as well as increased expertise. This could entail an expense of many millions of dollars.

Presently, there are over 521,000 elected public officials in the United States of whom 535 are voting Members of Congress. Approximately 999 out of every thousand elected officials are State and local officials. Under a dual registration system, citizens who register by post card will only be able to vote in Federal elections. These people will be disappointed or irate when they find out that they cannot vote for State and local offices.

Duplicate registration. Duplicate registrations are another problem. If registration post cards are distributed to every household, persons already on the registry lists will reregister, thus requiring a crash program of checking thousands of registrations in order to sort out the duplications.

Duplicate registrations have not been a major problem in most States that now have post card registration. However, these systems are not comparable to the proposed Federal system. Under these State systems, post cards are not distributed to every household. Hence, people who are already registered would be unlikely to register again. Also, some of these systems are based on the use of trained registrars. When these people attempt to register someone, they will be able to check whether or not that person is registered already. With an army of untrained registrars—as will be the case under the proposed Federal system—many people will simply register again because they will not be queried as to whether they are already registered.

Duplicate registrations are already a problem in the States that have less control over the post cards. With an uncontrolled system of distribution, duplicates could become a major problem.

People do not always follow instructions, sometimes signing their names in full and sometimes using names by which they are usually called or initials. What happens when an individual is registered in a precinct as William E. Smith and the clerk receives a post card from the same address with W. E. Smith, W. Eldridge Smith, or Bill Smith? If two similar names turn up at the same address, is it father and son, a relative residing at the same address, or the same person? State and local registration officials will have to check out every apparent duplication. This process will be further complicated in some localities where there are thousands of Smiths and hundreds of William and W. E. Smith. Furthermore, some apartment buildings which carry a single street address may have many people with the same name in them. For instance, the Hennepin County auditor says that there are some high rise apartment buildings with literally dozens of Carl Andersons in them in the city of Minneapolis.

Inadequacy of mail addresses. In some areas there will be no way to identify by the post office address of the registrant what voting precinct or even what town he lives in. In parts of most States a zip code and city address might include four to five towns and villages, and a greater number of precincts. Rural delivery route addresses which are disignated by route numbers also include large numbers of voting precincts. Registration by post card would provide no method of determining what precinct these people vote in.

It may be possible, in some cases, to use a street address directly or an address locator to remedy this problem. However, many rural areas—the place where this problem is most acute—do not have these directories or locators.

Dirty tricks. Under post card registration, pranksters and other malicious individuals could obtain thousands of post cards and raise havoc with the registration system by filling out these post cards with fictitious names and addrssses. Clerks would be forced to spend days and weeks sorting out the genuine applications from the fake ones. Up until now, the States with post card registration have not had this problem, because their method of distribution is much more controlled.

Ascertaining where to send the post card. As the bill is now written, the Voter Registration Administration will probably be required to determine what State or local official each and every post card must be returned to. In States with centralized registration systems, this would be relatively simple. However, in States with localized reigstration, the Administration would have to determine the appropriate official in each locality to have the cards sent to. Furthermore, the Administration would have to print different post cards for each and every local registration jurisdiction. If the Administration also must make up forms for every State in a number of different languages, the total number of forms could total in the thousands.

It will be very difficult for the Federal Government to send out forms with an accurate return address on them. Madison County, Ala., for example, has 14 county and 5 State offices having definite duties in connection with Federal elections. Which of these boards would be the proper authority to return the forms to?

Size of the post card. Although it is frequently assumed that the post card application will be the size of a post card, the amount of information which must be written legibly upon the form requires that in all but a very few situations the form may be more nearly the size of a legal-size page. For example, the post card in Howard County, Md., was 15 inches by 8½ inches. On each card there must be some explanation of basic election information such as: a statement of the penalties provided by law, a note that failure to register by party affiliation may result in disenfranchisement for a closed party election, a notice that those already registered need not register again, instructions telling the citizen that his registration is not complete until he receives notification by mail, et cetera.

Election day difficulties. Few people are aware of the intricacies and complexities of the election administration processes. Hundreds of small but separate tasks must be performed correctly and in sequence in order to conduct a proper election. Each of these tasks, if neglected or if improperly performed as scheduled, may lead to a serious election day disorder.

Under post card registration, if only 1 percent of the voters need election day clarification, thousands of telephone calls would come into State and local election offices. As telephone lines become tied up and officials and voters are unable to get through to determine registration status, the breakdown begins. Long waiting lines develop, harassed precinct officials begin to lose their customary good nature, voters grow impatient, and hundreds, perhaps thousands, of people are disenfranchised.

Election day "snafus" may result in contests that are not decided until long after the election is over. The specter of five or six Wyman-Durkin-type elections awaiting resolution by Congress only further crystallizes the arguments against post card registration.

Opinion of State officials. With all of these potential hassles and "snafus," it is not surprising that a sizable majority of State and local officials oppose post card registration. In a 1973 poll of the secretaries of state, only three felt that a system of Federal post card registration would be a better alternative than their current State system while 30 preferred their current system to a post card registration system. In addition, eight secretaries felt that at a given cost other alternatives may be better than the post card system.

FRAUD

Proponents claim that because each postcard registrant will receive a return notification by nonforwardable mail, there will actually be less opportunity for fraud under a post card system.

To the contrary, postcard registration may increase the potential of and offer unparalleled opportunity for fraud.

On the floor of the Senate during the last Congress, the distinguished Senator from North Carolina, Mr. Ervin called post card registration:

> A bill to encourage and proliferate fraud and steal elections throughout the United States . . . I cannot imagine a proposal that provides for a more efficacious way to practice fraud and steal elections than this bill. There is not a single protection in the bill against fraudulent voting, when we get down to the final analysis.

The American Civil Liberties Union and many State and local officials also believe that post card registration will increase the opportunities and possibilities for fraud.

As a means of fraud prevention, it is customary to require a person who desires to register to vote to appear in person before the registrar, so that he can be asked questions pertinent to his qualifications. At the very least, this establishes that there is an actual person registering who can offer identification—not a fictitious name sent in by mail which, particularly in populous areas, will not be checked for veracity before the election. Post card registration would do away with this precaution.

The availability of registration forms would make it easy for a single individual to register an innumerable number of times with little chance of detection, simply by making multiple applications to various election boards.

Under the present post card systems, State and local officials have found it extremely difficult to prevent persons under the age of 18 from registering. Youngsters then use the registration notification form as proof of age for being admitted to local bars and restaurants.

In Maryland, nonforwardable registrations were mailed, containing false or fraudulent information. About 10 percent of these cards were not returned, indicating that there is definite potential for fraud.

Some proponents claim that the bill preserves the most effective fraud prevention device that is widely used today—the ability to compare the signature of the voter at the polling place with the signature in the official files. However, States such as Virginia have no signature law. In these States, there will be no signature to compare with the signature on the post card. This will, of course, open up avenues of fraud.

Under section 405(c) of the bill, possession of a registration notification form would be prima facie evidence that the individual is qualified to vote. This section would allow any individual to vote if he presents a notification of registration when he goes to the polls. However, this provision does not stipulate that the individual must vote in a particular precinct or polling place. Can a person simply go to the polling place of his choice and vote? If so, this section could open a Pandora's box of fraudulent voting practices.

With post card registration, an individual could register by mail and vote by absentee ballot. Absentee ballots are already a major source of fraud. Post card registration coupled with absentee balloting would open up obvious possibilities for fraud.

Proponents claim that adequate fraud checks are contained in the bill to prevent such practices. They further state that similar systems have already been implemented in several States with no reports of fraud. Yet, closer analysis reveals that these States conducted almost no indepth investigations of whether or not there was actually any fraud. Even the most minimal fraud checks were not followed. For example, New Jersey requires that each registration by post card must contain a countersignature of a witness to that registration. State and local officials, however, have not checked the accuracy or authenticity of such signatures. Because State and local officials have not adhered to the fraud safeguards provided for under existing systems, proponents cannot claim that these systems are fraud-free. Further investigations are needed before such an assessment can be made.

What is even more alarming than any of the above fraudulent practices is the possibility that many honest, innocent citizens could be fraudulently disenfranchised. Pranksters or corrupt State and local election officials could obtain stacks of these post cards and invalidate the registration of many innocent citizens without their knowledge. This could be easily accomplished by filling out a post card form which would have the effect of changing an innocent citizen's name, place of residence or party affiliation. It is likely that the citizen would become aware of this fact only when he went to the polls to vote, at which point nothing could be done to reenfranchise him.

This possibility is not simply idle conjecture or theoretical guesswork. Between 1937 and 1943, political party workers in Philadelphia illegally filled out post card address change forms for members of the opposite party, thereby in effect disenfranchising them and insuring their own party victory at the polls. This practice became so widespread that it was a factor in the eventual demise and abolition of this system.

By greatly increasing the potential for fraud and administrative chaos, post card registration may cause many State and local officials to throw up their arms in resignation and switch to a system of no registration in Federal elections.

COST

Post card registration will set up a new Federal bureaucracy with almost unlimited authority to spend huge sums of the taxpayers' money.

The estimates of the annual cost of a national post card registration system run all the way from $15 to $500 million. Most estimates fall into the $30 and $125 million range.

Even proponents admit that it will be costly. One friendly witness testified that it would be "scandalously wasteful" to make a mass mailing of the post cards to every postal address. Another witness cited figures between $320 and $500 million as the actual cost if the cards are mailed to every postal address.

Some of these estimates may overlook hidden costs. For example, section 403 provides that the Administration shall provide assistance to State and local officials concerning election problems generally. Apparently, this section would cover far more than just post card registration. Does it mean that State and local officials can request assistance with the conduct of a municipal election, a school board election, as well as any subject matter pertaining to elections in general if such elections are being conducted in connection with a Federal election? This openended provision could result in Federal takeover of the cost of conducting State and local elections. The cost of this provision could run into the tens of millions of dollars.

The bill would also force the Department of Justice to increase its staff considerably to handle the many lawsuits filed against State and local officials as a result of post card registration. The Department would have to provide assistance to thousands of local jurisdictions at a cost of several million dollars.

Take any of these estimates that you like. Whatever number you take will likely be far more than the Appropriations Committee will provide.

Proponents have claimed sharp reductions in costs for registration in areas where post cards have been implemented. Yet, in most of these areas, State and local officials eliminated other, more effective means of registration. In some cases, the previous methods were needlessly expensive and cost prohibitive. If our goal is to reduce the cost of registration regardless of whether more people actually register, then a system of post cards is the way to go. On the other hand, if our goal is to increase registration, then post cards are one of the most ineffective and inefficient systems.

IMPACT ON THE FEDERAL SYSTEM

Post card registration could profoundly alter the Federal structure in the area of election administration by taking the time-honored responsibility of voter registration from the States and, in effect, giving it to the Federal Government.

Voter registration qualifications and procedures have traditionally been left up to the States. Up to now, Congress has legislated in the field of registration only when it believed that voting rights were being violated by noncompliance with the due process of equal protection clauses of the Constitution.

The Federal Government might want to set guidelines of minimum standards, but it should not dictate foolish processes. Post card registration would overturn the long-standing practice of leaving to the States the registration of voters.

Post card registration would set up another Federal bureaucracy with possible "Big Brother overtones. The Voter Registration Administration might become a partisan agency, giving aid to its political allies while refusing to give aid and advice to its enemies. More likely, the administration would simply become another moribund bureaucracy which would slow the registration efforts of the individual States by accident rather than by design.

Section 409(a) of the bill states that States and local officials will process the registration forms, but that the Voter Registration Administration will determine the cost of the processing. What if there is disagreement? What if the costs of processing the cards exceed the administration's estimates? Will State and and local governments be forced to make up the difference?

Section 407 of the bill requires that State and local election officials as defined by the act may request Federal intervention in the registration process if they have reason to believe that individuals who are not qualified electors are attempting to register. Any one of these State and local officials could use this provision to block the registration of students, blacks, and other minorities. This provision would severely cripple the Voting Rights Act of 1965 and the Voting Rights Act Amendments of 1970. By the time the Voter Registration Administration could fully investigate and check the validity of the State or local official's complaint, registration would probably be closed and election day may have passed. Post card registration could make it even more difficult for students, blacks, and other minorities to gain full access to the ballot.

EFFECT ON THE POLITICAL PARTIES

Section 404(a) provides that an individual who is eligible to vote under State law shall be entitled to vote in Federal elections in that State. Section 405 states that the possession of a registration notification form indicating that an individual is entitled to vote in an election shall be prima facie evidence that the individual is a qualified and registered elector entitled to vote in any such election.

This language seems to have two effects. First, it would allow all persons registered to vote under the provisions of this law to participate in party primaries and party caucuses, regardless of State and local party regulations. Second, it may preempt party practices and regulations, including those that allow young people under the age of 18 who are ineligible to register under State law to participate in party caucuses and similar activities.

PUBLIC CONFIDENCE

At a time when the general public is increasingly suspicious of the political process and there is an almost uniform distrust of Government, Congress would be ill-advised to pass a system that may further exacerbate this situation. If post card registration results in widespread fraud, some of the public's worse suspicions about politicians will be confirmed. If an individual goes to the polls and finds that his name is not on the registration lists, he will only become more distrustful of the Government and more alienated from the political process.

Without honest, well run elections, the civil rights of qualified voters are violated and public trust in the electoral process is impaired. When that happens, one of the primary missions of the election, that of legitimizing the Government, is defeated.

Proponents claim that there is widespread support for this form of registration, but the State of Washington rejected a similar provision in the 1972 election by 71 percent. The question was whether Republican and Democrat officials should be allowed to register voters. The people rejected selected untrained registrars. Post card registration asks for any old untrained registrars.

CONCLUSION

There is, or ought to be, a congressional mandate to try to register every person who wants to vote. There is, or ought to be, a mandate to use the most effective system to achieve high registration and high voter turnout. Unfortunately, post card registration does not meet that mandate.

If passed and implemented:

First. Post card registration will do nothing to significantly increase either voter registration or voter turnout and may actually be counterproductive, disenfranchising many citizens who would normally be able to vote.

Second. It will be an administrative nightmare for State and local officials, creating chaos in voter registration processes and wreaking havoc with election day procedures.

Third. It may increase the potential for and offer unparalleled opportunity for fraud.

Fourth. It will set up a new Federal bureaucracy with almost unlimited authority to spend huge sums of the taxpayers' money.

Fifth. It would take the time-honored responsibility for voter registration from the States and, in effect, give it to the Federal Government.

Sixth. It could drastically change the structure of political parties and allow the Federal Government to dictate internal party regulations.

Post card registration is a bill which should be soundly defeated.

Mr. Chairman, I would like to comment on the suggestions of the distinguished gentleman from Washington (Mr. BONKER). His amendments are, indeed, thoughtful. I think that they would take a good deal of the sting out of the bill. I intend to support them.

The CHAIRMAN. The time of the gentleman from Minnesota (Mr. Frenzel) has expired.

Mr. FRENZEL. Mr. Chairman, I yield myself 1 additional minute.

I do intend to support most of the amendments to be offered by the gentleman from Washington. Principally I would invite the attention of this committee to the amendment that takes out of the present bill the ridiculous feature of mailing 150 million postcards all over the United States to people who do not need them. The city of Washington, D.C., has just mailed almost 600,000 post cards to all of its voters. A thousand came back. We do not know if any of them were not registered before, but I think when we get done analyzing them, we will probably find out that one in a 1,000 that is, returned actually turns out to be one in 10,000. The cost of the effort could be enormous.

Mr. Chairman, I think the bill should be defeated.

I reserve the remainder of my time.

Mr. BADILLO. Mr. Chairman, I want to express my strong support for H.R. 11522, designed to create a Voter Registration Administration within the Federal Election Commission. The function of this new entity will be the implementation of a post card registration system for Federal elections. In addition, it will also collect, correlate, and publish information concerning elections and assist State and local officials with mail registration and other election problems.

Mr. Chairman, mail registration for voters is badly needed in our country. Participation in our election has been dropping sharply in recent years and statistics show that restrictive and inconvenient registration and voting requirements have contributed considerably to the drop-off. For instance, a 1972 comparison of voting participation in States with restrictive and liberal voting residence requirements revealed that in Georgia, which has restrictive requirements, only 37.8 percent of voters turned out for the Presidential elections, while in Utah, where the requirements are more liberal, 69.4 percent of the voters participated in the elections.

Moreover, restrictive voting requirements fall with special harshness on the poor and minorities—terms which are too often synonymous—since they frequently have lower educational levels, less free time to fulfill registration requirements, and restricted freedom of movement due to lack of transportation facilities. For decades the right to vote has only been a theoretical right as far as such persons were concerned, and it is past time that we act to remove undue restrictions imposed on them at least as far as Federal elections are concerned.

Unfortunately, the measure is far from perfect. One of its most glaring deficiencies is its failure to conform to the bilingual requirements of the Voting Rights Act passed by Congress almost a year ago. That legislation retained amendments which I introduced in the Judiciary Committee to protect the rights of language minorities by requiring jurisdictions in which there are concentrations of persons of Spanish heritage, Asian Americans, American Indians, and Alaskan Natives to publish voting materials in the languages used by these groups.

H.R. 11522, the Voter Registration Act, makes no similar provisions. It neither authorizes nor requires the preparation of bilingual registration forms and other voting material. Nor does it make provisions for Federal financial contributions to States who, by law, must prepare and utilize such forms.

The gentleman from California (Mr. Hawkins) will offer amendments to rectify this situation and assure that bilingual mail registration forms will be available where required and that the States do not bear the cost of their printing and distribution alone. I urge my colleagues to support Congressman Hawkins' effort.

Mr. LEHMAN. Mr. Chairman, it is a sad commentary on American democracy when we acknowledge the fact that participation in American elections has been steadily declining. The percentage of the voting age population particpating in Presidential elections has dropped from 64 percent in 1960 to 55 percent in 1972. In 1972, approximately one-third of those eligible to vote actually did so.

There are several theories as to why voter participation in elections is declining. Certainly, the theory that people are becoming increasingly apathetic is one explanation. However, a greater share of the responsibility lies with the restrictive legal and administrative procedures that are used in the registration process. This was recognized as early as 1963, by President Kennedy's Commission on Registration and Voter Participation. The Commission found that "restrictive legal and administrative procedures for registration and voting are a major reason for low participation."

A crucial question I feel must be asked is how credible is our democracy when its system of voter registration discourages people to register and vote?

Today, the House is considering H.R. 11552, the Voter Registration Act. This bill will provide us with a unique opportunity to rectify this situation and encourage more of our citizens to register and participate in the electoral process.

Essentially, this legislation would establish a Voter Registration Administration within the Federal Election Commission. The Voter Registration Administration would be required to provide a simple means of registering people to vote by mail. The appropriate State officials would then be notified and these officials in turn would notify the voter as to where he is qualified to register.

An important, as well as controversial aspect of this legislation concerns the provisions dealing with prevention of fraudulent registration. I believe the provision dealing with fraud is adequate. The most serious cases of fraud in elections occurs at the ballot box, not in the registration process. This bill provides the necessary means to effectively handle cases of fraud.

Mr. Chairman, many who oppose this bill argue that this legislation will not solve the problem of declining participation in elections. To those who argue this point I say that this legislation is designed to eliminate the procedural and administrative obstacles that discourage many citizens from voting. This bill will not in and of itself reverse the trend of low voter participation.

Clearly, this legislation is not a panacea to the problems of the electoral process. It is just the first step, in what will become a long process of encouraging people to register and participate in our electoral system.

I urge my colleagues to consider this legislation as I do; a beginning of the end of alienation of the American people from our electoral system and from our Government. I urge my colleagues to vote yes on H.R. 11552.

Mr. THONE. Mr. Chairman, we have now observed what motivates the grin from Georgia. What is the first legislative concern of Presidential nominee Jimmy Carter? Is it an appeal to pass a tax reform bill? No. Is it support for legislation to relieve taxpayer burdens? No. Is it a cry for passage of a bill to lift some of the bureaucratic instrusion from small business and our individual lives? No. His first concern is for passage of a bill that will guarantee massive voter fraud.

H.R. 11552 was bad as reported by the House Administration Committee on January 29, 1976. Today, we are going to vote on the Jimmy Carter amendments to make a bad bill much, much more irresponsible.

As passed by the House Administration Committee, this bill would become effective 60 days after the President had appointed and the Congress confirmed administrators to carry out the legislation. Now, we are going to vote on a Jimmy Carter amendment to make the bill effective the instant it becomes law. We are also going to vote on a Jimmy Carter amendment to thrust this post card registration responsibility upon the Federal Election Commission. That is the same FEC that is already struggling to carry out present duties because the majority party in Congress did not act in a timely fashion to correct the deficiencies that the Supreme Court found in that legislation.

Less than 3 months from today, a Presidential election will be held. It is idiotic to presume that we can create a new system of voter registration between now and then. If we have a new system, it will create widespread confusion and chaos. If we have a new system, it will surely result in the greatest fraudulent voting scandal America has ever known.

What do we need to improve our representative form of government? We need to stimulate greater concern and interest in government on the part of our citizens. Citizenship is an exercise in responsibility. We would not increase responsible exercise of voters' rights by post card registration any more than we would increase highway safety by a postal patron mailing of drivers' licenses to every address in America.

The Honorable Allen Beermann, secretary of state of Nebraska, is also president of the National Association of Secretaries of State. These are the people responsible within the 50 States for voter registration. At the last meeting of their association, all but two of the secretaries of state attending opposed H.R. 11552.

This proposed legislation would require a dual system of voter registration in every State. The post card registration under this bill would make those who signed a card eligible to vote for candidates for Federal office. It would not make these people eligible to vote for local, county, and State candidates.

It would be almost impossible to call special sessions of the legislatures of all 50 States and scrap existing State laws in order to toe the line to make all State laws conform with this Federal proposal.

In my State of Nebraska, the counties have the responsibility for registration. The Federal registrations by postcard would come back to the Secretary of State. In Nebraska, he would have to apportion them to 93 counties. The county officials would have to determine whether registrations were valid.

In each county, there would have to be a dual system of registration—one for Federal elections—and one for State and local elections. A postcard registration would give no information as to what legislative district, natural resource district, weed abatement district, or university board of regents district that a registered voter lived in.

In sending voter registration blanks by post office address, we would be inviting residents of one State to register in another. Many people who live close to a State border have a post office address to correspond to the closest town. I do not think that the Federal Government ought to be inviting residents of Nebraska to vote in its neighboring States, no more than I would appreciate residents of Iowa, Missouri, Kansas, Colorado, Wyoming, or South Dakota registering to vote in Nebraska.

Nebraska Secretary of State Beermann, the president of the National Association of Secretaries of State said:

> This bill was designed for fraud.

Mr. Chairman, I call my colleagues' attention again to the August 2, 1976, editorial in the Washington Star, which said, in part:

> Whatever Mr. Carter may think of it, this is not "universal voter registration." It is, as one opponent put it, "universal postcard distribution." The only way to achieve universal registration is to declare by law that anyone who shows up at the polls can vote.
>
> A few states have postcard registration, but surveys have shown that it has not added significantly to the voter turnout. There is no reason to believe that a federal program would produce any better results.
>
> The possibility of fraud probably would be increased under postcard registration. Officials could be kept hopping trying to chase down registrants using ficticious names or borrowing the names of others.

Mr. Chairman, too often before this body has acted in haste and retracted its action after damage had been done. I urge all Members of the House to vote against an attempt to change the manner of voting in America with less than 90 days before an election.

Mr. McCOLLISTER. Mr. Chairman, I will vote against the Postcard Voter Registration Act, H.R. 11552.

Just 2 years ago the House blocked consideration of a bill that was virtually the same as the one before the House now. The proposal still contains the same faults it had 2 years ago.

The arguments against post-card registration are extensive. For example, a Federal registration program will create dual registration within the States at great cost to both the State and Federal Governments. Registration by mail provides an open door for fraudulent registration practices. Our already overburdened Postal Service will be flooded with millions of cards. And we have not yet solved the problem of illegible cards or incomplete addresses.

We should be able to learn from the States that have already adopted postcard registration programs. These States have discovered that there are large numbers of illegible and incomplete cards returned. Such cards raise the costs of post-card program through the necessity of additional time-consuming correspondence. In four States with postcard programs in 1974, there was an average voter turnout of 7.4 percent below the Nation's average turnout. Fifty-five percent of those eligible to register and vote in Texas in 1972 did not bother, even though post-card registration was permitted.

A 1973 survey showed that 26 percent of those not registered simply did not want to vote. And of those who do register, only 75 percent end up at the polls.

People give up the opportunity to vote because they feel alienated from our political system. Hostility toward politics, not difficulty in registering, keeps them away. Our goal should not be to find new ways to register these voters. We must instead find new ways to stimulate them so they will vote.

Mr. CLEVELAND. Mr. Chairman, before discussing the flaws of this legislation, a word is in order regarding the manner in which H.R. 11552 has been resurrected from the dead by the majority party. The legislative concept of postcard registration was first introduced in the Senate in 1971. That bill passed the Senate by a vote of 57 to 37 on May 7, 1973. A similar bill was introduced in the House and referred to the Committee on Home Administration on May 22, 1973. The committee reported that legislation on February 5, 1974, by a vote of 15 to 10. A rule to consider that legislation was defeated in the House by a vote of 204 to 197 on May 8, 1975. On November 7, 1975, the Committee on House Administration reported the H.R. 1686, a bill identical to the one now under consideration, by a vote of 17 to 6. H.R. 1686 was recommitted to the committee on December 10, 1975. The committee again reported the bill redesignated H.R. 11552, on January 29, 1976, by a vote of 16 to 8. The Committee on Rules failed to act on that bill until the request of the Democratic Presidential candidate, Jimmy Carter, the leadership of the majority party has demanded quick action by the Committee on Rules, and scheduled it for immediate House action. It is clear, therefore, that this history reflects poorly not only on the merits of practical registration, but also on the motivation of those promoting this legislation.

Proponents of the Voter Registration Act, H.R. 11552, claim that the bill will increase voter participation in the electoral process by facilitating the process of voter registration. On the contrary, a close analysis of this bill reveals that it will create a new Federal administration enormously costly to the taxpayer, increase Federal intrusion upon the traditional prerogative of the States to administer voter registration, enhance the possibility for administrative havoc with election procedures, increase the potential for fraud and duplicity, and decrease, rather than increase, the number of persons eligible to vote in Federal elections. For these reasons, I continue to oppose the passage of H.R. 11552.

POSTCARD REGISTRATION AND VOTER PARTICIPATION

It is common knowledge that voter participation in Federal elections is embarrassingly low. In 1972, for example, the President was elected by only one-third of the voting age population. Proponents of postcard registration allege that current registration procedures are a major factor in low voter participation. There is simply no support for this contention. No witness has been able to conclusively demonstrate that registration by mail will increase either voter registration or voter participation. The Elections System Project for the National Municipal League, for example, has pointed out the problem by stating:

> We feel that the primary benefit of a mail system will accrue to the mobile and educated sectors of our society who have social skills necessary to make full use of mail registration opportunities. We doubt that a significant proportion of the presently unregistered population—the poor, minority groups and those with limited education backgrounds—will benefit from the system.

Other witnesses representing State and local agencies, including Dr. Richard Smolka, Director of the Institute of Election Administration, expressed the opinion that this bill will reduce voter participation.

In fact, if implemented, H.R. 11553 could actually disenfranchise many persons otherwise eligible to vote. Experience with mass mail registration indicates that almost one-third of the returned post cards will be either illegible or incomplete. This problem is particularly prevalent with the persons who are the claimed beneficiaries of this legislation—the poor and less educated members of the voting population. These persons, believing that by simply returning the post card they are registered to vote, will discover otherwise on election day when they go to the polls.

Furthermore, postcard registration is necessarily dependent on the U.S. mail system. It is estimated that over 150 million pieces of mail will flow through the postal system every 2 years under this bill. We are all familiar with the occasional unreliable and inefficient nature of the postal service. It is likely that considerable loss and confusion will exist, particularly in the low registration pockets of poor and lower middle-class neighborhoods. This loss and confusion will result in the disenfranchisement of otherwise eligible voters.

ADMINISTRATIVE PROBLEMS

The Voter Registration Act will create the Voter Registration Administration within the Federal Election Commission to administer postcard registration through the Postal Service. The administration will deal with 50 State agencies, 7,000 units of local government, and over 1,000,000 State and local election officials. It is estimated that these State and local officials would have to process the equivalent of 500 stacks of postcards equal to the height of the Washington Monument. Clearly, the potential for administrative problems for the adminstration and State and local officials is present.

As previously mentioned, those States with postcard registration experience a problem with illegible or incomplete returned postcards. Successful registration of those persons who return illegible or incomplete postcards will entail considerable time and increased interchange of correspondence through the postal system. Some level of disenfranchisement is inevitable.

Virtually every State and local official who testified was of the opinion that postcard registration would result in dual State and Federal registration systems. This would result in the expense of millions of dollars above the already high estimated cost of $30 to $125 million for the maintenance of duplicate records, separate ballots and voting machines, additional clerks and expanded storage facilities. These additional costs are clearly unjustified when only one out of every thousand elected public officials is elected to Federal office. This absurd ratio of benefit to cost is totally indefensible.

Not only will this bill result in dual registration systems, but will cause unnecessary duplication. H.R. 11552 calls for registration post cards to be mailed to every qualified voter every 2 years. Confusion among voters will certainly occur as a result of this federally required paperwork, and many voters will undoubtedly be disenfranchised by not returning a postcard registration on the assumption that they had registered 2 years before the receipt of the postcard.

Another administrative problem which might result from this proposed legislation is the requirement under the Voting Rights Act of 1965 and subsequent amendments that Federal election literature must be in language of those minority groups which voted greater than 5 percent of the number of eligible voters in a previous Federal election. As a result, postcards, would pe printed in designated areas in English and the language of the principal minority groups, including Spanish, Italian, Japanese, and interestingly, Aleutian, which has no written language. State and local election administration officials are more qualified than the Federal Government to decide the method and manner of registration of localized minority groups.

FRAUD

Most State and local election officials, the American Civil Liberties Union, and most election administration experts who testified claim that postcard registration will increase the potential for fraud. A reading of this bill reveals that no other conclusion can be drawn.

Personal appearance, proper identification, and on-the-spot registration form completion are the most successful means of fraud prevention. At the least these procedures insure that an actual person is registering. Postcard registration would enhance the potential for fraud by permitting an unscrupulous person to use a fictitious name, to state an incorrect age, or forge a signature. It would be virtually impossible for officials to check the veracity of post card information before registration deadlines expire. This would particularly be the case in densely populated locations, where registration verification would be more time-consuming and complicated. This fact is emphasized by the disclosure that officials in the District of Columbia, where there is a system of postcard registration, recently mailed out 64,000 more post cards than there are qualified voters.

FEDERAL INTRUSION UPON THE STATES

The Voter Registration Act represents an unwarranted and unfortunate intrusion by the Federal Government upon the States which would profoundly alter the Federal structure of election administration. For the first time in our history there would be a central bureaucracy to distribute and analyze election information.

It is no wonder that State and local election officials resist this expansion of Federal power. Presently, only 15 States and the District of Columbia have post card voter registration systems. The National Association of Secretaries of State is on record in opposition to H.R. 11552. The National Municipal League testified that the bill would be counterproductive. Voters of the State of Washington rejected a similar proposal in 1973 by a 71-percent vote. Yet, despite widespread opposition to H.R. 11552, proponents continue to claim that the bill has broad support. The testimony suggest otherwise.

CONCLUSION

Proponents of the Voter Registration Act have failed to demonstrate its necessity or utility. Most witnesses who have testified on postcard registration are opposed to the concepts and procedures outlined in H.R. 11552. Certainly, at a time when the general public is sceptical of big spending Federal programs which are claimed to cure most of our imperfections, this costly and ill-conceived system of Federal administration of election registration should not be added to the list. Congress would be ill-advised to pass this legislation which tampers with the election system—the very heart of a free democratic society.

Mr. THOMPSON. Mr. Chairman, I have no further requests for time and I yield back the remainder of my time.

Mr. FRENZEL. Mr. Chairman, I have no further requests for time.

Mr. THOMPSON. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. NATCHER, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee having had under consideration the bill (H.R. 11552) to establish a Voter Registration Administration within the Federal Election Commission for the purpose of administering a voter registration program through the Postal Service, and for other purposes, had come to no resolution thereon.

GENERAL LEAVE

Mr. THOMPSON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill under consideration, H.R. 11552.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

APPOINTMENT AS MEMBERS OF NATIONAL TRANSPORTATION POLICY STUDY COMMISSION

The SPEAKER. Pursuant to the provisions of section 154(b)(B), Public Law 94-280, the Chair appoints as members of the National Transportation Policy Study Commission the following Members on the part of the House: the gentleman from Texas, Mr. WRIGHT; the gentleman from Washington, Mr. ADAMS; the gentleman from New Jersey, Mr. HOWARD; the gentleman from California, Mr. ANDERSON; the gentleman from Kentucky, Mr. SNYDER, and the gentleman from Pennsylvania, Mr. SHUSTER.

LEGISLATIVE PROGRAM

(Mr. JEFFORDS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. JEFFORDS. Mr. Speaker, I wonder if the majority whip would inform us as to what the program is for the coming week.

Mr. McFALL. Mr. Speaker, will the gentleman yield?

Mr. JEFFORDS. I yield to the gentleman from California.

Mr. McFALL. I thank the gentleman for yielding.

I will be glad to discuss the program for next week. The program for the House of Representatives for the week of August 9, 1976, is as follows:

Monday, the House meets at noon.

Monday is District Day and there are no District bills.

The bills to be considered are:

H.R. 11552, postcard registration, votes on amendments and the bill.

H.R. 13372, Wild and Scenic Rivers Act amendments (New River), under an open rule, with 2 hours of debate.

H.R. 14232, Labor-HEW appropriations, fiscal year 1977, a conference report.

Then there are nine unanimous-consent bills from the Committee on Ways and Means, as follows:

1. H.R. 1142: Tax Treatment of Cemetery Perpetual Care Fund Trusts;

2. H.R. 1144: Tax Treatment of Social Clubs and Other Membership Organizations;

3. H.R. 2474: Refunds in the Case of Certain Uses of Tread Rubber and Tires;

4. H.R. 6521: Exemption from Tax for Farm Trailers and Horse or Livestock Trailers;

5. H.R. 7929: Interest on Corporate Debt to Acquire Another Corporation;

6. H.R. 8046: Exclusion of Rental Value of Parsonage Furnished to Surviving Spouse of Minister;

7. H.R. 10155: Tax Treatment of Certain Income of Political Organizations;

8. H.R. 10902: Tax Treatment of Securities Acquired for Business Reasons; and

9. H.R. 10936: Tax Treatment Upon Disposition of Property for Which a Business Deduction was Allowed.

PERMISSION TO MEET AT 11 O'CLOCK A.M. ON TUESDAY, AUGUST 10, 1976

Mr. McFALL. Mr. Speaker, I ask unanimous consent that when the House adjourns on Monday, it adjourn to meet at 11 o'clock a.m. on Tuesday.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

On Tuesday the House meets at 11 o'clock. We will have:

H.R. 12169, Federal Energy Administration, a conference report;

H.R. 14070, guaranteed student loan amendments, under an open rule, 1 hour of debate;

H.R. 14032, toxic substances control, under an open rule, with 1 hour of debate; and

H.R. 10498, Clean Air Act amendments, vote on amendments and bill.

We have the usual provision that conference reports may be brought up at any time, and any further program will be announced later.

The House will recess from close of business on Tuesday, August 10, until Monday, August 23.

ADJOURNMENT TO MONDAY, AUGUST 9, 1976

Mr. McFALL. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet on Monday next.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. McFALL. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday of next week, when we will not meet.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

PERMISSION TO CONSIDER SUSPENSIONS ON TUESDAY, AUGUST 24

Mr. McFALL. Mr. Speaker, I ask unanimous consent that it be in order to consider suspensions on Tuesday, August 24.

The SPEAKER. Is there objection to the request of the gentleman from California (Mr. McFALL)?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, and I will not object, my understanding is there is only one bill potentially scheduled for the Suspension Calendar on that Tuesday. Is that correct?

Mr. McFALL. At this time, if the gentleman will yield, the only bill we have for consideration on that day under suspension would be the military construction authorization bill, which was vetoed, and it would be the same bill except for the portion on the closing of the bases.

However, there could be other bills that the committees might bring up. However, since we would be having it on Tuesday rather than Monday, I think everyone would be able to get notice of that, and of course as the gentleman knows the Speaker is very conscious of this calendar and makes certain no controversial legislation gets on the calendar, and I do not believe there will be much more than this military construction.

Mr. ROUSSELOT. Mr. Speaker, further reserving the right to object, the gentleman from California can pretty much assure us it is highly unlikely there would be too many bills other than the other one on the Suspension Calendar?

Mr. McFALL. I cannot speak for what the Speaker might do 2 weeks from now but I am informed very likely there will not be much more than that legislation and I am sure that the Speaker is likely to use the kind of discretion that will meet with the approval of the gentleman from California.

Mr. ROUSSELOT. Mr. Speaker, I thank the gentleman.

Mr. Speaker, I withdraw my reservation of objection.

Mr. JEFFORDS. Mr. Speaker, reserving the right to object, can the gentleman tell us when Tuesday next arrives what time it is anticipated the House will recess?

Mr. McFALL. If the gentleman will yield, we have discussed that. The Speaker has said we really ought to be prepared to work a little later than 4 o'clock or 4:30 because of the fact that we are not having any session on Wednesday, but I would not be able to anticipate at this time what time we would be finished. I hope we would be finished earlier than we are this evening, but I think that would be open, and we will not have any definite cutoff time on Tuesday next.

Mr. JEFFORDS. I thank the gentleman.

Mr. Speaker, I withdraw my reservation of objection.

Mr. MICHEL. Mr. Speaker, reserving the right to object, I note that the Labor-HEW conference report is scheduled for Monday, but there are two controversial things that will take up an awful lot of time. Is it the gentleman's opinion that under no circumstance would that Labor-HEW bill go over to Tuesday, or would we stay here until we finish that Monday?

Mr. McFALL. Mr. Speaker, if the gentleman will yield, I would hope we would be able to proceed in some expeditious manner on Monday. We had a long day today because of some reluctance on the part of some of our Members to come to grips with the postcard bill.

I would hope that since we are going to have to do the postcard bill that we do it quickly. Perhaps if my friend, the gentleman from Illinois, would discuss this with some of the opponents of the bill on his side, we might get done with it very quickly.

The same thing is true about the wild and scenic rivers bill. It is controversial, but I think if we can debate the issues and get right to it, we can do everything on that calendar and get out of here.

Mr. MICHEL. Mr. Speaker, I just say to the gentleman from California, I would much prefer to have the appropriations conference report come up. We could do that with a degree of certainty. We could complete it with a specified amount of time and then let Members talk as much as they want and take as much time on the controversial bills to be amended.

Mr. McFALL. Mr. Speaker, if the gentleman will yield further, that is the ideal situation. That was what was originally contemplated in the tentative-one schedule, and this is now the tentative-five schedule that I hold in my hand; but due to our experience with the many rollcalls we had today, it was felt the better thing to do was to go ahead with the postcard registration bill out of the way first and then if there was any temptation on the part of anyone to filibuster, we would have it right there at that time.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman from Vermont yield?

Mr. JEFFORDS. I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Speaker, I wonder if my colleague, the gentleman from California, would take into consideration the possibility that the Committee on Appropriations usually does try to move with some dispatch and maybe that could be taken up under a time frame, so that it could be completed within 2 hours and we could move on to the other bill.

Mr. McFALL. Mr. Speaker, if the gentleman will yield further, I would say to the gentleman that there are some controversial issues in the conference report which would lend themselves to rollcalls and so forth. We could spend a lot of time on that conference report with votes on many matters. Since it would be easier for us to expeditiously take care of the postcard bill and then do the wild and scenic rivers bill and then expeditiously do the Labor-HEW conference report, it was felt this order would probably lend itself to that procedure more than going to the conference report.

Mr. ROUSSELOT. Mr. Speaker, if the gentleman from Vermont will yield further, my understanding is that there are a substantial number of amendments to the postcard bill, whereas there will only be a couple of amendments to the conference report on HEW. In fact, my colleague, the gentleman from Illinois, says there will be only one on the conference report.

At any rate, I appreciate the distinguished leader and the distinguished Speaker making sure that we were heard today on these issues. Maybe they could take that into consideration.

Mr. McFALL. Mr. Speaker, if the gentleman will yield further, I am sure the gentleman understands our reasoning on the calendar and why the scheduling was done.

Mr. Speaker, I thank the gentleman from Vermont for yielding.

Mr. JEFFORDS. Mr. Speaker, I yield back the balance of my time.

"THE FTC'S HEAVY HAND—AGAIN"

(Mr. DAN DANIEL asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. DAN DANIEL. Mr. Speaker, the extent to which the Federal Government is harassing the tobacco industry is almost unbelievable to those who have not been monitoring the situation closely. Studies have been made by the Public Health Service and other arms of HEW, and the Federal Trade Commission continues to inject itself into the daily operations of tobacco companies.

The latest effort by the FTC is one of those blanket threats that bureaucrats seem to delight in but usually deny as being destructive. The Commission, troubled by growing cigarette sales, in spite of the Government's printed warning on each pack, now contends that the printing is too small to be effective. Thus, it has gone to court in an effort to impose its will on the public. Not satisfied with the congressional mandate, the bureaucracy is seeking to go beyond.

This state of affairs is addressed in a timely editorial in the August 1 edition of the Register, of Danville, Va., which sets forth in cogent terms the position which many Americans take. Not only is the Government seeking, in this instance, to go beyond congressional intent, but the taxpayers must also pay the staggering cost of such unwarranted intrusion.

I wish to include the editorial, entitled "The FTC's Heavy Hand—Again," with my remarks and commend this to the reading of the Members of the House.

The editorial follows:

The FTC's Heavy Hand—Again

A teetotaler's dream coalition between the W.C.T.U. and Alcoholics Anonymous could not do the number on alcohol that the Federal Trade Commission is attempting to do on cigarettes.

As if the FTC had not harrassed tobacco companies enough, the regulatory agency last week added amendments to a suit it has brought against six major cigarette companies alleging advertising violations that could make the firms liable for multi-million-dollar fines.

Why? Because the cigarette companies are pushing their products in the maternity wards? No. Because these companies are involved in nefarious schemes to bilk the federal government of its just tax take? No.

The FTC is amending and expanding its year-old suit against the tobacco companies because it claims those health warnings which cigarette advertisements are supposed to carry are appearing in type too small for the public to grasp at first glance.

Contending since 1972 that this practice and other advertising which do not play by FTC rules is illegal, the FTC claims tobacco companies are liable to penalties of up to $10,000 per day for each offense. Theoretically, every single copy of a newspaper or magazine that carries "deficient" advertising would constitute a separate offense. All because the FTC's rulers are aimed at reducing tobacco manufacture and sales in this country.

How large must "Warning: The Surgeon General Has Determined That Cigarette Smoking Is Dangerous to Your Health" be for FTC officials to see the slogan? Everybody else knows the message by now: Big Brother Government is watching over our health and helping us decide how to conduct our lives. But, because cigarette sales continue to rise, the FTC must figure that the surgeon general's message isn't getting across.

Rubbish and stalk ends. The message is there for anyone who wants to heed it. The fact is many people believe it's no more dangerous to smoke than to walk across a thoroughfare of a large city during rush hour traffic.

Odds aside, the point is that the government should not exercise undue control over the vices a man chooses. Prohibition proved that does not work.

This continued harrassment of tobacco manufacturers has moved far beyond what is necessary for "public safety." To smoke or to abstain is a matter of legal choice in this country, and the FTC should recognize that before it throttles an industry which provides vast economic benefits not only to Southside Virginia but to the nation as a whole.

CONGRESSIONAL VIGIL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. BROOMFIELD) is recognized for 10 minutes.

Mr. BROOMFIELD. Mr. Speaker, in this Bicentennial Year, we have heard many speeches extolling the principles of liberty and democracy upon which our Nation was founded. It is appropriate that we celebrate this special occasion and rededicate ourselves to these principles. Only through continued vigilence will we assure their continuance.

However, we should also stand back and reflect upon the fate of millions of people who must live their lives under the yoke of tyranny.

The Soviet Union, in not living up to its pledge in the Helsinki Final Act to do everything possible to reunite families separated by political boundaries, tragically continues their oppression.

I am pleased, therefore, to join many of my colleagues in conducting a vigil on behalf on the families which remain separated by this tyranny. I wish to call my colleagues' attention to the case of one family which exemplifies the tragedy these people must endure.

In June 1972, Dr. Isaac Poltinnikov, a noted opthalmologist; his wife, Irma, a cardiologist; and his daughters, Victoria, a radiologist, and Eleanora applied for exit visas from the Soviet Union to go to Israel.

In November of that year, the youngest daughter, Eleanora, and her grandfather were allowed to emigrate with the assurance that the rest of the family would join them in 10 days. That was 4 years ago and the family has not been together since.

In preparation for their emigration, Dr. Poltinnikov retired in December 1972, as a colonel from the Soviet army after 30 years of service as an army doctor. Yet even with this long period of service, he has been deprived of his well-earned pension and he has been denied the right to practice his profession elsewhere. Upon his retirement, his wife and daughter were also fired from their positions and they, too, have been prevented from practicing their profession.

The Poltinnikovs reapplied for exit visas for the 10th time in October of 1973, but as before, they were refused.

In the meantime, all telephone and mail contact with them has ceased. The last receipt for a parcel of food was signed by Mrs. Poltinnikov in December 1974 and carried the following plea under her signature:

> Entreat somebody of friends to come to us. Situation is undesirable. Grateful for everything wholeheartedly.

Mr. Speaker, I have attempted to help this family since 1974. I have written the Soviet Ambassador on numerous occasions and have received no reply. After contacting the Department of State, I was informed that they have made known the views of the United States on this matter and have expressed their interest in the plight of the Poltinnikov family. Yet even with these efforts, the Poltinnikov family remains separated.

All three of the Poltinnikovs are seriously ill but they fear going to a hospital for treatment because they are afraid of being poisoned. They live behind barricaded doors, afraid of friend and foe alike, for they have been driven to paranoia by 4 continuous years of persecution and harassment.

Mr. Speaker, as we celebrate the 200th birthday of our Nation, as we rejoice in the principles of liberty and democracy which guide our country, we cannot help but feel sorrow for the many, like the Poltinnikovs, who do not share in our blessings. I look forward to the day when the Soviet Union, sharing our belief in human dignity, grants its people the right to live where they choose.

NEED FOR BRICKER AMENDMENT CITED

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. ASHBROOK) is recognized for 5 minutes.

Mr. ASHBROOK. Mr. Speaker, I recently gave the following testimony on my bill, House Joint Resolution 105 before the Subcommittee on International Security and Scientific Affairs of the Foreign Affairs Committee. My bill is modeled along the lines of the old Bricker amendment. Many of us often reflect on how much better off this country would be in 1976 if the Bricker amendment had not been defeated in 1954. The testimony is as follows:

Testimony Before the Subcommittee on International Security and Scientific Affairs

I am pleased to have this opportunity to testify on behalf of my bill H.J. Res. 105.

This bill is modeled along the lines of the Bricker Amendment, named after its original sponsor, former U.S. Senator John Bricker of Ohio.

On February 26, 1954 the Bricker Amendment to the Constitution fell one vote short of achieving the two-thirds majority needed for Senate passage. The failure of this amendment has had tragic consequences for our nation. Every President since then has used treaty law for all sorts of actions, including dispatching troops throughout the world and committing us to monetary agreements.

How does this process work? The Executive Branch sends some people to negotiate an agreement with another nation. The agreement is signed and then it is said the United States is bound by that agreement. The agreement becomes the basis for actions of questionable constitutional validity. If we would limit the Presidency, if we would go back to the vision that John Bricker had in 1954, when he tried to prevent treaties and executive agreements from taking precedence over our Constitution and stop delegating authority to the President that he should not have, we could put this constitutional republic back in proper balance.

Such action is as important today as it was in 1954. The use of executive agreements to conduct foreign policy has become widespread. According to an article by radio commentator and nationally syndicated columnist M. Stanton Evans in the November 3, 1973 issue of Human Events, "At the time of Bricker's original motion, it was estimated some 1,500 executive agreements had been put into effect. In the intervening two decades, the growth rate has been truly exponential. As of Jan. 1, 1973, there were 4,589 such agreements on the books, compared to 910 treaties. Some 846 of these executive agreements had been put into effect by President Nixon, compared to 65 treaties—a ratio of 13 to 1."

That is why I have introduced H.J. Res. 105. It would put constitutional safeguards on the use of executive agreements in conducting foreign policy. It would prevent treaties and executive agreements from overriding the freedoms and safeguards found in the Constitution.

This is necessary because of Article VI of the Constitution and two major Supreme Court decisions. Article VI, clause 2 provides that:

> This Constitution, and the laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.

Therefore all treaties which meet the formal procedural requirements for enactment are the supreme law of the land, whereas acts of Congress are supreme only if they are in accord with the substantive provisions of the Constitution. Since treaties stand above the Constitution, the constitutionality of treaty provisions cannot be tested in the courts. The protection of life, liberty and property found in the Constitution is rendered useless. This is contrary to any view of limited government.

The Supreme Court has broadly interpreted the treaty-making authority under Article VI. It has ruled that powers not originally granted to the federal government by the Constitution may be created by a treaty. In *Missouri* v. *Holland*, 252 U.S. 416 (1920), the Supreme Court held that Congress could exercise legislative power under a treaty which it could not otherwise exercise under the Constitution. This means that a treaty can empower Congress to pass legislation which, without the treaty, would be constitutionally reserved to the exclusive power of the States.

The Supreme Court has also given an equivalent status to executive agreements. In *United States* v. *Pink*, 315 U.S. 203 (1942), the Supreme Court held that an executive agreement between President Roosevelt and the Soviet Union had the same force and effect as a treaty and that the agreement nullified a New York State law forbidding confiscation of private property. This means that the President can override State law by executive agreements with other nations without even consulting the Senate.

H.J. Res. 105 will prevent unnecessary delegation of power by Congress to the President. Congressional abdication of responsibility helped lead to Vietnam. This constitutional amendment, like the war powers bill, will help restore a proper Congressional role in foreign affairs.

H.J. Res. 105 also will clearly establish that treaties and executive agreements shall not take precedence over the Constitution of the United States. Considering all the treaties to which the United States is a party and the trend toward greater use of executive agreements in conducting foreign policy, it is time that Congress moved to reassert the supremacy of the Constitution.

HOUSE RESOLUTION 1427, A RESOLUTION OF INQUIRY DIRECTING THE PRESIDENT TO PROVIDE TO THE HOUSE OF REPRESENTATIVES CERTAIN INFORMATION WITH RESPECT TO ANY PAYMENT MADE BY THE UNITED STATES TO INFLUENCE ITALIAN POLITICS AND WITH RESPECT TO A CERTAIN AGREEMENT MADE BY THE UNITED STATES REGARDING LOANS TO ITALY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. MORGAN) is recognized for 5 minutes.

Mr. MORGAN. Mr. Speaker, on August 4, 1976, the Committee on International Relations met in open session to consider House Resolution 1427, a resolution of inquiry directing the President to provide to the House of Representatives certain information with respect to any payment made by the United States to influence Italian politics and with respect to a certain agreement made by the United States regarding loans to Italy.

By a voice vote, the committee adopted a motion to lay the resolution on the table.

Prior to the motion to lay the resolution on the table, a motion was made by the principal sponsor of the resolution, the Honorable MICHAEL HARRINGTON, who is a member of the committee, that, due to the sensitive nature of the resolution, the committee go into executive session. The motion was adopted by a recorded vote of 20 to 0.

House Resolution 1427 was introduced on July 27, 1976, by Mr. HARRINGTON and six cosponsors, and referred to the Committee on International Relations.

On July 28, I wrote the President requesting his comments on the resolution. The executive branch reply was received on August 3.

On August 4, the committee met to consider the resolution.

The executive branch reply was read to the committee in open session. Subsequently, in executive session, the committee reviewed the executive branch reply and discussed the issues raised in the resolution. At the close of the discussion, a motion to lay the resolution on the table was adopted by voice vote without objection.

Mr. Speaker, I am making this statement to apprise the House of the action taken by the Committee on International Relations on August 4 with respect to House Resolution 1427.

At this point, I include in the RECORD the text of the resolution and the exchange of correspondence with the executive branch:

H. RES. 1427

Resolved, That not later than ten days after the date of adoption of this resolution, the President shall furnish to the House of Representatives the following information if such information is known by him or within his possession:

(1) Within one year preceding the date on which information is furnished pursuant to this resolution, has any person (including any civilian employee, member of the Armed Forces, or person under contract) acting under the direction of the United States Government or any agency or other instrumentality of the United States Government paid or offered to pay any funds, directly or indirectly—

(A) to the Italian Christian Democratic party, to any other political party in Italy, to any member of any such parties, to any affiliate of any such parties, or to any government official or any candidate for any local or national political office in Italy; or

(B) to any newspaper, radio, television, advertising, or other company engaged in any form of print media or telecommunications (or any employee or agent thereof) which distributes or broadcasts to any part of Italy?

If so, for each such instance, furnish the following information: the amount of funds involved; the date on which payment of such funds was offered and, if such funds were paid, the date on which such payment was made; the recipient of such payment; and the instrumentality of the United States Government responsible for such payment.

(2) Did any individuals (A) assigned or otherwise attached to any United States embassy or other diplomatic mission, or (B) employed by any United States or multinational corporation, participate in any way in any payment or offer described in paragraph (1) of this resolution? In addition, were any funds which were involved in any such payment illegally exchanged for foreign currency either before or after any payment of such funds?

(3) What facts made expedient the decision of the United States to enter into agreement with France, West Germany, and Great Britain in refusing to loan money to Italy if any Communist is admitted to the cabinet of the Italian Government?

COMMITTEE ON
INTERNATIONAL RELATIONS,
July 28, 1976.

Hon. GERALD R. FORD,
President of the United States, The White House, Washington, D.C.

DEAR MR. PRESIDENT: I am writing to request your comments on a resolution of inquiry which was introduced in the House on Tuesday, July 27, 1976, and referred to the Committee on International Relations.

Enclosed are two copies of the resolution, H. Res. 1427, directing the President to provide the House of Representatives certain information with respect to any payment made by the United States to influence Italian politics and with respect to a certain agreement made by the United States regarding loans to Italy.

As you know, the Committee must act on this resolution within 7 legislative days beginning today. We will appreciate receiving your comments as soon as possible but not later than Tuesday, August 3.

Sincerely yours,

———— ————,
Chairman.

THE WHITE HOUSE,
Washington, August 3, 1976.

Hon. THOMAS MORGAN,
Chairman, Committee on International Relations, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This letter is in response to your request for comments on H. Res. 1427.

Paragraphs 1 and 2 of H. Res. 1427 are similar to an earlier resolution of inquiry (H. Res. 1295) introduced by Congressman Harrington on the same subject. As you know, we commented on this earlier resolution by my letter to you of June 16, 1976. The views expressed at that time are applicable to the current resolution, and I enclose a copy of my previous letter for your reference.

With regard to paragraph 3 of H. Res. 1427, contrary to the impression conveyed in some press reports, there was no agreement entered into by the United States with France, West Germany, and Great Britain, or any other country on the question of assistance to Italy if the Communists entered the Italian Government, although the general issue was discussed at the economic summit meeting in Puerto Rico in June. Accordingly, a privileged resolution on this subject appears unnecessary.

Based on the above considerations, it is our belief that approval of H. Res. 1427 by the Committee on International Relations and the House of Representatives would serve no useful purpose and would be incompatible with the public interest.

BRENT SCOWCROFT.

THE WHITE HOUSE,
Washington, June 16, 1976.

Hon. THOMAS MORGAN,
House of Representatives,
Washington, D.C.

DEAR MR. CHAIRMAN: This letter is in response to your request for comments on H. Res. 1295.

It is our view that this resolution is an inappropriate instrument for considering the kinds of activities set forth in H. Res. 1295. We believe that, regardless of the country involved, information on any activities such as those mentioned in H. Res. 1295 should be dealt with only by the appropriate committees of Congress with due consideration for protecting against public disclosure of information which could be harmful to the nation's foreign policy and national security. In addition, the adoption of H. Res. 1295 would be wholly inconsistent with the purpose of Section 662 of the Foreign Assistance Act of 1961, as amended. That provision, which resulted from the work of your Committee, was enacted specifically to keep Congress advised of any information such as that sought in the resolution of inquiry. If the resolution is now adopted, it would vitiate the procedures set up for this very purpose.

Based on the above consideration, it is our belief that approval of the H. Res. 1295 by the Committee on International Relations and the House of Representatives would be incompatible with the public interest.

BRENT SCOWCROFT.

THE NUCLEAR FUEL ASSURANCE ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Connecticut (Mr. DODD) is recognized for 5 minutes.

Mr. DODD. Mr. Speaker, I rise to express my deep regret that the House yesterday narrowly defeated the Bingham amendment to H.R. 8401, the Nuclear Fuel Assurance Act, and voted for passage of this untimely and unnecessary legislation.

After our lengthy and thorough debate on this bill, I am convinced that it does little to serve the interests of the majority of our people, and, in fact, will damage the welfare of our Nation rather than enhance it.

While it is too late for me to try to convince any of my colleagues of either the obvious or the hidden pitfalls contained in this legislation, I do feel very strongly that this Congress has erred. There are many ways to explain and forgive this error, but unfortunately, the long-term consequences of this action will not be easily reversed.

Without debating some of the more complex economic issues, such as the need for such large quantities of enriched uranium, and the use of a soon to be outdated enrichment technology, there are two fundamental problems with this bill: These are its domestic and foreign implications.

First of all, while the merits of the privatization of the enrichment process are debatable, the terms of this particular arrangement set a very unhappy precedent.

These terms, which offer unequaled guarantees and assurances to the private companies involved—at the taxpayers' expenses—clearly violate the rules and principles of free enterprise. Can it be fair for the private sector to reap the profits, if and when they are made, and yet to bear no losses, if and when they occur?

This program, in the event of its failing, represents a potential $8 billion loss to the American taxpayer. I do not honestly think that we can assess these terms as equitable ones; indeed, in my mind, they are both inequitable and fiscally irresponsible.

Second, and ultimately more important, the dangers of nuclear proliferation are becoming increasingly real, and this bill makes them even more so.

It saddens me to think that this House cast a vote which is tantamount to sanctioning the availability of enriched uranium to volatile and unstable third world nations.

We have vociferously criticized both the irresponsible policies of the executive branch with respect to the diffusion of nuclear technology, as well as our own limited input into the foreign policy decisionmaking process. And yet we had, as we rarely have before, an opportunity to turn the tide around. We could have said no.

Just a few days ago, we all read in the newspapers the disturbing evidence of the growing volume of "unaccounted for" radioactive materials in our own federally regulated nuclear programs.

When it is a serious possibility that these materials are being diverted by still unknown sources within the context of the most sophisticated system of controls existent in the world, it seems reckless to agree to the sale of these same materials to countries far less capable than we are of regulating their use.

Until such countries, who are so eagerly seeking supplies of enriched uranium, can demonstrate not only the capacity to contain it properly, but also the willingness to do so, I cannot endorse this opening of the door.

And so, while new bills and new issues are already on all of our minds, I urge my colleagues to continue their scrutiny of this legislation.

While I am disappointed by the outcome of yesterday's vote, I know that we have the ability and the desire to correct our mistakes, and that we will become wiser for them.

If we can all succeed in looking at the NFAA from a nonpartisan and objective standpoint, with the long-term interests of our constituents on our conscience and in our minds, I am confident that this bill in its present form will not become law.

AMERICA'S ELDERLY ON THE MOVE: IMPROVING SENIOR TRANSPORTATION SERVICES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Hawaii (Mr. MATSUNAGA) is recognized for 15 minutes.

Mr. MATSUNAGA. Mr. Speaker, I am introducing today, along with my colleague from California (Mr. BOB WILSON) and other members of the House Select Committee on Aging, three bills to help improve transportation services to the elderly.

As many Members of the House know, the Committee on Aging's Subcommittee on Federal, State and Community Services, which I chair, recently completed a major review of transportation difficulties faced by older Americans. We issued a report on the subject, entitled "Senior Transportation: Ticket to Dignity."

That report made a number of recommendations about changes that need to be made in regulatory practices and statutes. The bills we introduce today embody three of the recommendations that require changes in existing law. They are—

First. A bill giving the Civil Aeronautics Board clear authority to approve reduced-rate, space-available air fares for the elderly.

Second. A bill to make the income tax deduction for mileage traveled for a charitable purpose the same as that permitted for a business purpose.

Third. A bill to clarify the Federal excise tax exemption for schoolbuses and similar vehicles to assure that all legitimate nonprofit agencies, public and private, may benefit from it.

I am pleased to note, Mr. Speaker, that action on one of the proposals, that to permit reduced air fares for the elderly, will be the subject of hearings next week before the House Public Works and Transportation Subcommittee on Aviation. I congratulate the chairman of that subcommittee, my good friend the gentleman from California, Mr. GLENN ANDERSON, for displaying this high degree of interest in the welfare of older Americans.

Finally, Mr. Speaker, I wish to note that these three bills being introduced today represent only one phase of the implementation of the recommendations contained in my subcommittee's report. Some recommendations require executive action, and I have already begun working with the appropriate agencies to bring about the needed changes. Several studies that we recommended be undertaken have already been begun. Some other recommendations for legislative action were centered on bills already in existence, and I am pleased to note that some of those bills have already been approved by the appropriate subcommittees.

I look forward to a continuation of the fine relationship between the Select Committee on Aging and the committees with related legislative jurisdiction, in solving the transportation problems, among others, confronting older Americans.

EXTENSION OF TIME FOR FILING TRAVEL VOUCHERS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. THOMPSON) is recognized for 5 minutes.

Mr. THOMPSON. Mr. Speaker, last Friday, July 30, 1976, was the closing date for Members to file for reimbursement for travel that they performed during the previous calendar quarter. This cut-off date was established by unanimous vote of the Committee on House Administration on May 5, 1976, and all Members were informed by letter on May 6, 1976.

It has now come to my attention that several Members failed to meet the July 30 cutoff date. Therefore, due to the fact that this is the first time Members have had to meet a cutoff date, an extension until August 10, 1976, is granted. All claims must be in the Finance Office by close of business that day. In the future, the established 30-day cutoff date will be strictly adhered to and no extension periods will be granted.

HOW DARK IS THE DARK CONTINENT?

(Mr. SIKES asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. SIKES. Mr. Speaker, the longstanding support given to national security and to sound government by the Daughters of the American Revolution is a matter of record; a record which merits the appreciation of the American people. This organization has been unwavering in their support for those sound principles on which our Nation's greatness is founded. One of the distinguished leaders in the DAR is Mrs. Margaret M. Andrus of Pensacola, Fla. She is national chairman of the National Defense Committee of the DAR, one of many positions of importance she has filled in this organization in a long and illustrious career. A recent issue of the DAR magazine contained an excellent commentary on African problems by Mrs. Andrus. It is entitled "How Dark Is The Dark Continent?" and I submit it for reprinting in the RECORD:

HOW DARK IS THE DARK CONTINENT?

(By Margaret M. Andrus, national chairman, Nation Defense Committee)

In modern times, Africa has been called the dark continent, the great undeveloped land. Yet once the greatest of the ancient civilizations flourished in the Nile Valley. Tourists marvel at the ruins of the pyramids; engineers speculate on the methods used to construct them. No one is sure exactly how these massive stones were set into place except the science fiction writers who have found in ancient Egypt inspiration for dozens of stories. They imagine that this wonderful civilization was the last survivor of Atlantis, and that the inhabitants of that mythical (or was it?) country reconstructed in Egypt all that could be saved when Atlantis disappeared in a nuclear explosion.

A more prosaic explanation advanced by anthropologists and archaeologists is that the Egyptian civilization developed over a period of thousands of years. Evidences of human habitation back to 10,000 B.C. have been found in the Nile Valley. Nomadic tribes wandered from place to place hunting and fishing until they discovered the advantages of an agricultural community life. They raised wheat, barley, and millet and domesticated animals. The next step was pottery and weapons. At this point, most of Africa ceased to develop. In the interior areas, the native population still lives in this primitive existence.

The Nile Valley offered greater opportunities for the advancement of civilization because climate and geography favored it. A feudal government with a king, nobility, and priests evolved and with it the amenities of culture. In spite of wars and reversals, Egypt remained a center of trade and learning. Alexander the Great conquered but did not destroy it. The Romans made it part of their empire. Finally, with the fall of Rome in 476 A.D., Egypt, too, fell into a decline from which it has never recovered.

Although Egypt was the center of African civilization, the northern coast of Africa developed as an expansion of Egypt, the peoples in the Fertile Crescent at the eastern end of the Mediterranean, and later Rome. Consequently, Mediterranean North Africa has always been separate from Africa south of the Sahara. Racially and politically, it belongs to the Arab world.

The Mediterranean people and Western Europe had little interest in what might lie south of the settled strip of North Africa. Probably the ancient Phoenicians had explored both the Atlantic and the Indian Ocean coasts of Africa, but they left no permanent settlements. Africa slumbered, waiting for the economic drive that motivated exploration to develop. When it did, 15th Century Portuguese navigators first sailed around the Cape of Good Hope and discovered the enormous size of Africa.

Africa is the second largest continent of the world. Measured in degrees of latitude, the Equator divides it almost equally, but in area two-thirds of the land is north of the Equator and four-fifths of it is in the tropics The extreme north-south distance is about 5,000 miles. The total length is traversable only by air. Neither roads nor railroads run continuously either up and down Africa or from east to west. The longest east-west distance is about 4,000 miles.

Geologically, Africa is a plateau with narrow coastal plains. The plateau moderates the tropical climate, making it much more endurable. A few deep bays penetrate inland; the large rivers afford limited access to the interior before they are blocked by waterfalls and rapids. In the East African highlands, the spectacularly beautiful mountains are taller than the Alps in Europe. Mount Kilimanjaro, 19,340 feet, famous for its snows, is the highest. Two great north-south fractures in the earth's surface, called rift valleys, run parallel to each other. The valleys, 30 to 50 miles wide, trap water from the surrounding highlands to form a chain of lakes. In this part of Africa, adequate rainfall makes farming possible.

Much of the life in Africa is conditioned by the seasonal rainfall. After a rainy season comes a dry season when land and water holes dry up and crops wither. Then the rain returns in damaging floods which destroy any surviving vegetation and wreak havoc on roads and bridges. Consequently, in spite of the vast expanse of land, farming in Africa is generally neither scientific nor conducted on a wide scale. Instead, the small tribal farmers raise crops for their own needs as long as the soil produces, and when it is worn out, they move on to another place. Migratory farming is the rule, not the exception, in Africa. The same practice holds true for the tribes which raise cattle or sheep. They move about in the savannah (the grassy plains) as the pasture is exhausted.

These migratory habits of the people have created problems for the emerging new states of Africa. In a tribal situation, boundaries are fluid. The nomads, who have always been free to wander as the need arose, find it difficult to accept lines that limit their movements. Their wandering habits also make it nearly impossible to conduct an accurate census. Even assiduous United Nations enumerators have been forced to give population estimates: Of one fact they are positive: "The population of Africa is increasing in direct proportion to improvements in the health and living conditions of the people. Marginal starvation is still a part of their lives, but decreasingly so.

The great mass of the black Africans produces little and consumes little. The most pressing problem in the "emerging nations" is money. Until some means of generating more cash is found, the new countries will be limited in their development.

White-owned plantations have provided most of the income for the African countries in the coastal regions of West Africa and in the eastern highlands, including Kenya and Rhodesia. These plantations produced crops for export—coffee, cocoa, rubber, cotton, ground nuts (peanuts, which were introduced into Africa from the United States), palm oil, sisal, tobacco, coconuts, sugar cane, and copra. Africans have replaced most of the white owners. They are neither rotating their crops nor protecting the soil. Unless this is soon done, the new nations will be in even greater economic difficulties as exportable crops decline and domestic demand increases.

Some of the new nations possess substantial mineral resources if they can be mined and shipped. Transportation presents more obstacles than mining. Inland countries must have a way to transport their heavy products to the coastal ports. In the struggle for power now taking place in Africa, control of the means of transportation can dictate the politics of a country.

Zaïre and Zambia, both rich in copper, are two examples. Zaïre depends on the railroad across Angola to carry its ore to the coast for shipment. Angola is now in the communist orbit. What accommodations will Zaïre be forced to make in order to continue to ship her copper on the Angolan railroad? And what will happen in a communist-controlled seaport? Zaïre has only a 23-mile strip of coastline at the mouth of the Congo River. This lies between Angola proper and the province of Cabinda, controlled by Angola. It is questionable how long Zaïre can hold this strip of coast. Even if she can, the Congo River is navigable for only a short distance upstream. Zaïre is clearly in an unenviable position. Russia has been looking longingly at Zaïre's copper for many years. Now there is an opportunity, hard to resist, to gain control of it.

Zambia, to the south of Zaïre, is completely landlocked. She has been able to ship her products across Angola to the Atlantic and across Mozambique to the Indian Ocean. When Mozambique received her independence from Portugal in June, 1975, she immediately established the People's Republic of Mozambique and announced her acceptance of communistic principles. Zambia, also, is now shut in by two communist states.

Rhodesia, which the entire world seems to oppose, is dependent on other countries to move her products. As soon as the new Mozambique government was in operation, it closed its railroads to Rhodesian shipping. Great Britain, determined to crush Rhodesia, pays Mozambique a subsidy to cover the loss of revenue from Rhodesian traffic. Rhodesia has a fine network of highways within its borders, but with access to the Indian Ocean blocked through Mozambique, her roads do little good. She has built them up to the border with South Africa, but a bridge, which South Africa has failed to build, interrupts the highway traffic there.

In spite of the efforts of the British government to cause trouble for Rhodesia, despite United Nations sanctions, despite lukewarm cooperation from South Africa, Rhodesians have maintained their faith in the future until recent events in Mozambique and Angola have sobered them. The difference is apparent in two letters, written by Rhodesians to a friend in the United States. On October 29, 1975, from Bulawayo, Rhodesia, came these words: "We still think there is no place on earth like Rhodesia and are so happy here. I'm sure our politics will eventually sort themselves out and soon Rhodesia will be well on its feet. We have a really good Government and a lot of strong-willed people who refuse to move from here. Things have quieted down quite a bit lately and I think we have eventually got the better of everyone. Just wish the rest of the world would accept us." In January, 1976, after Angola received its independence, from Victoria Falls, Rhodesia, came a different opinion: ". . . I don't know what your wretched political boys are up to, but we have the Russians on our doorstep and they will not take long to control Southern Africa and the whole Southern Atlantic unless the U.S. stops being so b***** liberal and stupid and calls the d***** Russians' bluff. I am afraid there is no one else who can do it these days."

A news dispatch from Salisbury, Rhodesia, dated February 22, 1976, says:

"Black and white Rhodesian troops are combing the . . . eastern highlands for gangs of Soviet-armed insurgents who have opened a new guerrilla front there. . . .

"Like farmers in northeastern Rhodesia where the guerrillas had been confined until recently, the Rhodesian highlanders are encircling their homes with steel fencing—a safeguard against possible rockets, bazookas and rifle-detonated grenades."

The report identifies the insurgents as coming from camps in neighboring Mozambique. It speculates that they are making caches for their AK47 rifles, rockets, boxes of ammunition and landmines. It is estimated that another 500 men have been added to the guerrilla forces, with more to be expected from Cuba. But the Rhodesians will fight back. Said an army general: "We will not be pushed around or surrender to any Marxist-inspired land grab. What we have, we hold."

The article concludes:

"But if the Soviet Union did decide to repeat its Angola adventure in Rhodesia, this country's air force with British aircraft of 1950s vintage and its small anti-guerrilla army would be scarcely a match for 9,000 battle-seasoned troops, MIG19 jet fighters, 122mm rockets and tanks."

Prime Minister Ian Smith in Rhodesia has been trying to work out some peaceful means of transferring power to the African majority. If violence developed, the 240,000 white Rhodesians would have little hope of survival against the six million black Rhodesians who have been for a long time the target of radical black nationalist propaganda. Since the Russian intervention in Angola, these leaders now feel assured of support from Moscow in their drive to overturn the white government in Rhodesia. Not only are the Russians supplying arms, but the Chinese are training Rhodesian guerrillas in Tanzania as well as in Mozambique. Latest estimates (March 1, 1976) place the number in training at 12,000 men. The United Nations Commissioner of Nambia predicted an early invasion of Rhodesia, and the president of Zambia, who is a moderate supporting peaceful settlements, agreed that bloody fighting was inevitable.

South Africa is in none too comfortable a situation as a result of the changing circumstances resulting from open Russian intervention in Angola. Like Rhodesia, part of South Africa borders on Mozambique, making it vulnerable at that point. The South African prime minister has been called South Africa's Henry Kissinger as he has bustled about seeking some kind of détente with his African neighbors. Just as his efforts seemed to be successful, the radical nationalist victory in Angola ruined any chance of peaceful settlement.

South Africa is in the best position of any African country to defend itself. Although 75% of the South Africans are black, they have not, for the most part, been militant. South Africa has strong military defenses, an active regular army of over 50,000 and active reservists and commandos experienced in border patrols and internal security. The attack against South Africa is not likely to be a military one.

What concerns the South Africans is the future. Angola shocked them. The sudden open activity on the part of Russia, China's role in the background, Cubans coming into Africa, the United States remaining aloof—all these cause the South Africans to wonder in exactly what direction their future does lie. The statement of Soviet Communist leader Brezhnev at the opening meeting of the 25th Soviet Communist Party Congress in Moscow on February 24, 1976, does nothing to relieve South African worries. Said Brezhnev:

"The foreign policy of the Soviet Union has the respect and support of many millions of the masses throughout the world and we will continue this policy with redoubled energy to reach a lessening of the forces of war and strengthening of overall peace and to secure the people's rights of freedom, independence, and social progress."

The long, narrow country of Mozambique is strategically located on the south-east coast of Africa. Mozambique as a Portuguese colony and Mozambique as a People's Republic are two entirely different states. The new government faces serious problems. The transition from colony to free state was not without violence. In this country of more than nine million, over 80% of the people are illiterate. Only 600,000 are in schools, mostly mission schools. Most of the trained doctors were Portuguese. They have left. There are now fewer than 50 certified physicians to care for the entire population. The skilled labor, which was mostly white, has fled. Their skills are not quickly replaced. The East Indians who had businesses salvaged what they could and departed. The new government inherited a 400,000 pound sterling debt. Foreign currency is short. The gold reserves belonged to the Portuguese government. There is ill feeling in the north, where both lands and people suffered great destruction. To add to the political troubles, flooding destroyed many crops.

Mozambique expects to succeed. The government has popular support and leadership. The long war for liberation has unified the people, supplanting tribal loyalties. There is great potential for agricultural development. The mining wealth of the north and the natural gas in the south give grounds for hope, especially since the profits from the exports which formerly went to Portugal will remain in Mozambique. If the colonial contract with South Africa to furnish 130,000 mine workers is continued, the government will profit handsomely, for South Afirca pays in gold to the government, and the government pays the workers in local currency. Mozambique needs the income from this arrangement with South Africa and from the railroad revenues from the Transvaal coal shipped through the port of Lourenço Marques. This high-quality, expensive coal is very important to the United States, since it meets the EPA standards for use in the manufacture of electricity. Interruption in the supply would eventually be felt in many American homes and businesses, both in cost and amount of electricity.

The Mozambique president, Samora Machel, made his policies clear in his first proclamation as president on June 25, 1975.

"The People's Republic of Mozambique is deeply committed to solidarity with movements of national liberation and makes militant internationalism a fundamental constant of its national and international policy."

The People's Republic of Mozambique has expressed its adherence to the guiding principles of the Charters of the United Nations Organization and of the Organization of African Unity (OAU). President Machel has announced that he will support the black liberation movements in Rhodesia and South Africa, and will engage in the struggle to transform the Indian Ocean into a "zone of peace."

The Indian Ocean as a "zone of peace" is open to question. Across the Mozambique Channel lies the long island of Madagascar, formerly a French colony, now the independent and leftist Malagasy Republic. The revolutionary council of the Malagasy government has evicted the French from their base at Diego Suarez, the second deepest harbor in the world. It is now available to the Russians. The French presence at Diego Suarez has been considered a deterrent to further Russian expansion in the Indian Ocean. Shipping going around South Africa customarily goes through the Mozambique Channel, hence the relations of the governments of Mozambique and Malagasy with Russia are of prime importance for free world shipping.

As another step in a clear objective to control transportation in the Indian Ocean, the Russians have established themselves on the northeast coast of Africa. In Somalia, they have constructed an air and naval installation at Berbera, near the point where the Red Sea joins the Gulf of Aden. From here, they are in an excellent position to monitor all Suez Canal, Indian Ocean, and Persian Gulf traffic.

The United States was repeatedly warned that the Russians were building a base at Berbera, but the Somali president insisted that such was not the case. In the summer of 1975, two separate Congressional delegations visited Berbera at the invitation of the president of Somalia. The congressmen found already completed an airfield, an oil depot, a communications center, and facilities to store and service a wide range of naval missiles, including ship-to-ship Styx. This is a surface missile about 15 feet long with a range of up to 26 miles. Another similar Russian missile has a range of up to 50 miles. Further construction is under way. Rep. Samuel Stratton (N.Y.), one of the visitors, commented: "When finally completed, the Berbera complex will represent the most comprehensive naval support facility available to the Soviets anywhere outside the Soviet homeland, including Cuba."

Somalia is a country apart in Africa. Its inhabitants are black Moslems, but neither the other black countries nor the Arabs claim them. Somalia is dry and poor. Its one advantage is its geographical location.

Western nations refused when Somalia asked for weapons for its 17,000-man army. Russia supplied them. Now, too late, the West has discovered that the Russians are entrenched at this strategic location from which the waterways of the Indian Ocean can be controlled. The Somalis may discover, also too late, that in accepting Russian aid and presence in their country, they have lost the power to act as a free nation. President Mohamed Siad Barre says: "My country is neutral and I will do everything possible to maintain an equal distance between the two blocs. . . . I have suffered under colonialism, and I don't want to go back to it. Freedom is my dearest value."

Since the European powers began the end of colonial rule in Africa, it has become a continent of new countries, some large, some tiny. Each one, as it has become independent, has been welcomed into the United Nations until they now constitute a strong voting bloc, often anti-western.

An Organization of African Unity was set up by member states in 1963 to coordinate and to harmonize their general policies in order to promote unity and progress in Africa, to defend their independence, to eradicate colonialism from Africa, and to promote international cooperation. The Organization, which consists of both black and Arab states, has failed to achieve unity. At its meeting in August 1975 five heads of state left hurriedly when news of turmoil in their countries reached them. Two black leaders failed to appear at all. Discussion of African problems led to no solution.

The OAU currently has 46 members. The president is the volatile exprizefighter Idi Amin, president of the small state of Uganda. Amin has accomplished something rare among black African states. He has managed to alienate both Washington and Moscow. It was Amin who called for the formation of a black liberation army to invade Rhodesia and South Africa and for the "extinction of Israel as a state." For this remark, Amin was denounced by Daniel P. Moynihan, U.S. Ambassador to the United Nations, as a "racist murderer." Amin has been similarly accused in Africa. He deposed Uganda's president and shot his way to power by a military coup d'état estimated to have killed at least 50,000 people.

Under Amin's leadership, an OAU meeting to consider action to end the war in Angola failed to come to an agreement. 22 voted to support the Popular Movement for the Liberation of Angola (which the Soviets supported), 22 supported negotiations among the three rival independence movements, and the decisions of the remaining two were unannounced, all of which gives an indication of the relative strength of the communist ideology.

The president of Zambia, Kenneth Kaunda, analyzed the failure of the OAU to bring about peace in Angola as recognition that "the OAU has no power to shape the destiny of Africa. Power is in the hands of the superpowers." For a continent just emerging from colonialism, this is a bleak picture.

In his 1976 New Year's message, the South African prime minister warned: "If Africa and the free world allow one African country, and a country of such strategic importance [as Angola], to be hounded into the Communist fold at the point of the bayonet or be ruthlessly liquidated, Africa will pay the price of enslavement far worse than that of the 18th and 19th centuries. . . . The choice before Africa and the non-communist world is plain—submit and pay the price, or resist."

The choice may be sooner than Prime Minister Vorster expected. With Russia and China both intent on extending their influence in Africa, with Cuban troops victorious in Angola and representing the Soviet and their own interests in seven other African countries, with the United States Congress terrified of foreign intervention any place, with the State Department committed to détente, with the U.S. president concerned with reelection, only one thing is certain: There will be changes in Africa, and what happens there will have repercussions all over the world.

TYPICAL VIEWPOINT

(Mr. SIKES asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. SIKES. Mr. Speaker, among hundreds of others, I have a letter from a very good friend, Don Evans of Shalimar, Fla., which I find of particular interest. He is a reputable and respected real estate developer and builder. He is very highly regarded in his field and for his civic viewpoints. His letter spells out the attitude of a great many people who have sent me letters or telegrams or who have talked with me personally about the recommendations of the Committee on Standards of Official Conduct and the action of the House on those recommendations. I take the liberty of submitting this additional viewpoint which I think is typical of the people of my district:

JULY 27, 1976.

Congressman ROBERT L. F. SIKES,
Rayburn Office Building,
Washington, D.C.

DEAR CONGRESSMAN: I have just read in a newspaper that, on Thursday, the House of Representatives will sit in judgment of the charges against you made by the House Ethics Committee.

Every article pertaining to the development of Holiday Isle, that I have seen in the past year, and there have been many, I have read. In addition the development of Holiday Isle is very familiar to me as I have watched its development since 1961. Nothing that I have read or nothing that I have seen, has indicated anything on your part that I consider improper.

So that my opinion can be considered unbiased and sincere, let me say that I am the Republican State Committeeman for Okaloosa County and I am writing this letter because of my belief in right and wrong, because of my belief in the right of any citizen to work, save, invest, take a financial risk, and to receive the rewards from having done any or all of the above. This right I consider to be the basis of our success as a country and as a governmental system. This right takes higher priority than political parties. This right should be available to all citizens, be they political office holder, minister, teacher, laborer, craftsman, businessman or any and all citizens. I speak not as an elected state committeeman but as a private citizen. However because of my position, no one can consider what I say to be that of a defensive political associate or "crony."

In all that I have read, certain aspects of the story have been continually omitted, and I will list them now.

No. 1. For years, and long before Holiday Isle was conceived, you have been encouraging the citizens of Okaloosa County to develop some new industries to widen the economic base. You have strongly encouraged our development of the tourist industry.

No. 2. Your willingness to invest your personal assets in Holiday Isle to this end, was the catalyst for the development of tourism at Destin, Florida.

No. 3. A substantial investment was made by you and your associates, whether it was cash or your good faith and credit at the bank, or a combination of both. Obviously, the initial costs were in terms of hundreds of thousands of dollars. I know because I am a professional land developer and I know what it costs to dredge canals, install water systems, pave roads, not to mention marketing expenses, advertising, commissions, attorney fees, and financing costs.

No. 4. The risk was high as is evidenced by the fact that after all this money was spent and the risk taken, the lots did not sell. At this point you did not hide behind the protection of the corporation and bankrupt it.

Instead, you stuck with it. Finally several years (and interest payments later) you started a sales campaign to sell these beautiful waterfront lots for $2,250.00 each. But that is not the whole story. In order to find buyers you had to offer these lots on terms: $22.50 down payment and $22.50 per month. With this they sold rapidly. Speculating buyers bought lots like "hot cakes".

If some of your land was not sold as lots and ten years later you sold the remaining land for a fair market price, you deserved to. It helped to make up for the fact that you had to give away several hundred lots to get the project going.

No. 5. No one seems to be objecting to the people who bought these waterfront lots for $2250.00 with $22.50 down and $22.50 per month. Many of them sold four to five years later for $20,000 to $25,000. And rightly so; these people took their risk and took their profit. Yours was a small profit, theirs was large. Neither you nor they, should be subject to criticism.

No. 6. The legislation referred to, which was guided through Congress by you, had to be reviewed and approved by two Florida Senators and by the President of the United States, You have no vote in the Senate, and no veto power or control over a Presidential veto.

No. 7. A much larger geographical area, Okaloosa Island authority land, required the legislation and that body had requested your help because hundreds of lease holders needed help from this legislation in order to obtain financing for motels, homes, apartments & businesses. The tourist industry in Okaloosa County, and the growth of that industry, has saved our county from serious economic recession in the past 10 years. Without your efforts for the referenced legislation many people would have been seriously hurt financially because of the lack of jobs. The tourist industry in its present successful form would not exist today.

I cannot and will not believe that in this great country of ours, it is a sin to invest, take a risk, and expect to receive a profit, or suffer the loss. Every one has this right, Congressmen included. If a Congressman squanders his entire income, does not invest in his community, and his country, then he cannot know the problems of the people who must do so to make this country grow. People who do not contribute to the growth and improvement of their community and their country are living off the efforts of others who are producing. I'm proud that my Congressman is a producer as well an elected official and that he understands what makes our country great & productive.

You have my permission to use this statement in whole or in part, in any way that will contribute to your defense in this matter.

With kindest personal regards & good luck.

DONALD W. EVANS.

CUBA, TOO, IS A TOTALITARIAN STATE AND IS GUILTY OF SYSTEMATIC VIOLATIONS OF HUMAN RIGHTS

(Mr. KOCH asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. KOCH. Mr. Speaker, I have been speaking out against the deepening repression in Latin America. As a member of the Foreign Operations Subcommittee of the Appropriations Committee, I have concentrated on those repressive countries which are receiving military assistance from the United States. Almost without exception these governments are rightwing military dictatorships. My actions in this regard may cause some to conclude that I am only concerned with rightwing repression. That assessment could not be further from the truth. By its nature, a totalitarian system, whether it be right- or left-wing, prohibits those vital institutions—a free press, free labor association, due process of law, and a degree of representation by the governed—that best protect human rights. I consider, for example, the Soviet Union to rival Nazi Germany as among the most repressive governments in the history of mankind.

In a discussion of repression in Latin America, therefore, Cuba should be condemned for its total disregard for basic human rights. I have read the OAS Human Rights Commission's report on Cuba. It documents a story of torture, arbitrary and ruthless "revolutionary" justice, and extreme cruelty in the treatment of prisoners. It is regrettable that this report was not given as much attention as was given the report on Chile. For this reason, I wish to append excerpts of the OAS report on Cuba to give my colleagues a chance to read it. What is most disturbing to me is that Cuba will not even respond to the allegations posed by the inter-American community.

What then should be our policy toward Cuba? First, I think it only common sense to extend diplomatic relations to Cuba, as I believe recognition should be given to every country. We should also initiate efforts to bring Cuba into the OAS. I wholeheartedly support the efforts by Secretary of State Henry Kissinger to engage the Inter-American community in strengthening the human rights commission. If indeed the human rights movement should be an international one, we must bring all nations into the OAS. We have been successful in having Chile at least respond to the charges made by the OAS. I would think that one way to have Cuba respond is to initiate a dialog in the OAS. We should make it clear to Castro that we hold all nations, ally and adversary alike, to a basic standard of human rights as set forth in the U.N. Declaration of the Rights of Man.

Admittedly, it is not a pleasant task for the State Department to condemn repression by governments which are friendly with us as is the case of Uruguay. But if we have the courage to do so, it will make our condemnation of Cuba carry the weight of moral authority. That condemnation of Cuba is well deserved.

Excerpts of the OAS report on Cuba follow:

EXCERPTS OF OAS REPORT ON CUBA

INTRODUCTION

Since it was set up in October 1960, the Inter-American Commission on Human Rights has received numerous communications or complaints on the status of human rights in the Republic of Cuba. Pursuant to its mandate, the Commission has published the following reports.

(a) Report on the Status of Human Rights in Cuba (OEA/Ser. L/VII. 4, doc. 30, May 1, 1962);

(b) Report on the Status of Political Prisoners and their Families in Cuba (OEA/Ser. L/V/II. 7, doc. 4 May 17, 1963);

(c) Report on the Status of Human Rights in Cuba (OEA/Ser. L/V/II. 17, doc. 4, rev., April 27, 1967); and

(d) The Second Report on the Status of Political Prisoners and their Families in Cuba (OEA/Ser. L/V/II. 23, doc. 6, rev. 1 May 7, 1970).

After publication of the last of the above documents, the Commission has continued to receive communications from persons and agencies complaining of numerous specific cases of violation of the rights set forth in the American Declaration of the Rights and Duties of Man (Bogotá 1948). In addition, it has received other reports, which, together with the extensive documentation in the Commission's files, support the assumption that, in the last five years, such violations are far from decreasing, and arbitrary and excessively strict procedures continue, particularly in the treatment of political prisoners, with complete disregard for the dignity of human beings.

Pursuant to a decision taken in its thirty-fourth session (October 1974), the Commission has drawn up this report covering the period since the previous report of May 7, 1970.

In this new report, specific cases of violation of the human rights set forth in the articles of the above-mentioned Declaration are grouped in Chapter I under the following headings.

A. Right to Life (Art. I). Reports have been received on the status of numerous political prisoners who have arbitrarily been killed or have died because of torture or lack of medical care.

B. *Right to a Fair Trial and Right to Protection from Arbitrary Arrest* (Arts. XVIII and XXV). The Commission has received complaints about the following:

i. Numerous persons have been arbitrarily arrested for political reasons.

ii. There are no simple and speedy procedures under which the system of justice protects persons against violations by the authorities of any of the basic rights set forth in the American Declaration of the Rights and Duties of Man and the basic laws of Cuba.

iii. Political prisoners have been the victims of inhuman treatment, particularly the following:

(a) Lack of medical care.

(b) Lack of adequate diet.

(c) Physical and/or psychological mistreatment, which in certain cases has been characterized by extreme cruelty.

(d) Degrading conditions inconsistent with the inherent dignity of human beings.

(e) Denial of the right to visitation or the establishment of an arbitrary or irregular system for visits, and preventing the receipts or sending of mail.

(f) Forced labor.

(g) Solitary confinement for long periods under unhealthful conditions.

(h) Being required to wear the same uniform as prisoners sentenced for common crimes, and being confined in the same facilities and being mingled together with such prisoners, in order to conceal or distort their status as "political prisoners."

(i) Threats and other means of pressure to force them to receive political indoctrination and accept what is known as the "Rehabilitation Plan."

C. *Right to Due Process of Law* (Art. XXVI). Communications received by the Commission have denounced acts or situations violating the principles of the right to due process of law and have reported that numerous persons have been sentenced to prison in trials in which the following irregularities have occurred:

(a) The accused were neither formerly notified of the charges against them nor given time or adequate means for their defense.

(b) They were not accorded an impartial and public hearing.

(c) They were sentenced for acts or situations that were not defined, as crimes in laws in force prior to the trial, expressly setting forth the crimes and the penalties, nor were such trials based on the legal precept that the accused is presumed innocent until proven guilty under the law.

(d) Punishments imposed are obviously disproportionate to the crime.

(e) The persons involved were not permitted to appeal their sentences to a superior court or judge.

(f) After serving their terms, a number of prisoners received new sentences for the same acts or under other pretexts in order to prolong their detention arbitrarily.

D. Right to Residence and Movement (Art. VIII). The Commission has received complaints that the Government of Cuba:

(a) Has taken coercive measures against Cuban citizens who wish to leave their country temporarily or permanently, by depriving them of the means to work, facilities for obtaining food, and other conditions or circumstances that are essential to enable them and their families to survive.

(b) Compelled such persons to perform forced labor while awaiting their exit permit, which takes months and even years.

(c) Prevented or delayed for long periods of time the departure of foreign citizens residing in that country, particularly U.S. citizens wishing to return to their country.

Chapter II contains complaints on the

status of a number of women political prisoners who continue to be subjected to cruel, inhuman and degrading treatment and who are the victims of a prison regime that is incompatible with their sex, age, state of health, marital status, and pre- or post-natal conditions.

In addition, the mingling of political and common prisoners in Cuba, with political prisoners being subject to harsh labor and treatment and to the same rules as those applied to common prisoners has been reported in numerous claims examined by the Commission, although the basic laws of Cuba specifically provide (Art. XXVI) that ". . . political detainees or prisoners shall be housed in separate facilities from common criminals and shall not be forced to work or be subject to the penal rules applying to common prisoners."

Pursuant to its regulations, the Commission took appropriate action on the petition received and after passage of a considerable time beyond the deadlines for receiving information from the Government of Cuba on the denunciations received, the Commission, based on Article 51 of its regulations, has presumed these claims to be true.

Despite the fact that, because of the Cuban Government's silence on the numerous requests for information that have been submitted to it, making the recommendation authorized in Articles 9, and 9 bis (b) of its Statutes, has been considered to be of little practical effect, the Commission has felt that it is obliged, under the mandate given to it, to make another effort to try to convince the Cuban Government of the need to respect the essential rights of human beings. To that end, it has decided to send that Government a copy of this report, indicating the need to take appropriate measures to reestablish respect for such rights and to immediately take the following measures:

(a) Give the necessary orders to ensure complete separation of political and common prisoners.

(b) Radically suppress the use of cruel, inhuman and degrading treatment of persons deprived of liberty.

(c) Establish a system of surveillance for facilities housing prisoners, so as to prevent mistreatment and punish abuses committed by the various authorities involved.

(d) Ensure the right to due process of law for all detained persons.

(e) Respect the right to residence and movement of persons so that they and their families can live their lives.

METHODS OF TORTURE BY CUBAN GOVERNMENT

(a) The political prisoner is put completely stripped into a freezing cold room;

(b) The political prisoner, again stripped, is put into a room with a very high temperature;

(c) The political prisoner is placed in a room just large enough to hold one person standing. He is kept there for a time calculated to cause terrible pain in his legs, which are supporting all his body weight. Often, the veins in the prisoner's legs rupture with all the dreadful consequences this brings on.

(d) The confinement of the political prisoner in hermatically-sealed rooms with the lights turned on for 24 hours—I repeat,—24 hours a day, so that the prisoner's mind is disturbed, he loses his sense of time and his sleep-cycle is upset, because he is hardly able to sleep on account of the brightness of the lights in the room.

(e) Continuous solitary confinement, which is also intended to break the political prisoner's spirit, so that he prefers to admit to any charge rather than continue to live under such conditions.

(f) The introduction of political police agents in prison cells for weeks and sometimes for months at a time, in order to spy on political prisoners, and, by pretending to be concerned about the accusations hanging over them, induce the prisoners to admit to the monstrous accusations of the State Political Police, and attempt to obtain confessions from the prisoners.

(g) The taking of political prisoners to places far from the detention centers, where death by firing squad is simulated with blank cartridges, or tracer bullets.

(h) The taking of political prisoners out to sea, in ships belonging to the Political Police, and placing around the prisoner's neck a thick rope with a slip knot, to the end of which is attached an anchor or concrete block, and threatening them with being thrown into the sea if they do not quickly confess that certain allegations made against them are true.

(i) Political prisoners are sometimes interrogated continuously, without rest, by successive teams of inquisitors, in order to break them down. When the political prisoner begs to be allowed to sleep, he is told that he may not sleep until he confesses.

(j) Political prisoners are sometimes subject to the application of the Russian symphony, which consists in strapping them to a chair, and then cracking a whip with great violence, producing a shattering, deafening noise which damages the ear-drum.

(k) As regards physical tortures, a frequent method is to take the political prisoner by the feet and submerge his head in a pool of water, so that he gradually suffers the symptoms of asphyxiation by drowning.

(l) Political prisoners are sometimes forced to remain standing, without being allowed to lean on anything, a procedure which disturbs the circulation of the blood.

(ll) Political prisoners are ordered to remain standing, with their legs apart, and are then beaten on the genitals with steel bands. This produces extreme pain, in view of the effects of these blows on such a delicate part of the human body.

(m) "Las tapiadas." This name has been given to female political prisoners in Cuba incarcerated in cells where they are isolated for violations of the iron discipline of the prison. In these cells there is no light and almost no water. The prisoners are kept naked in a very confined space. Their food is served to them at different times of day, so that they lose all notion of time. They may not receive visits or letters. They remain there, in a state of confusion, for weeks at a time.

(n) When the political prisoner is a person of some importance, he is kept locked up in a room, totally isolated from the outside world. He is not allowed to sleep. The temperature of the room is kept high, and electric light-bulbs burn constantly. He is constantly sweating, but is not allowed to take a bath, nor to clean himself in any way. As a result of this treatment, he develops a skin-rash. This eventually develops into open wounds, which cause the political prisoner terrible pain.

NASW ANALYSIS-MAJOR NATIONAL HEALTH INSURANCE PROPOSALS

(Mr. YOUNG of Georgia asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. YOUNG of Georgia. Mr. Speaker, I feel strongly that there is a definite need for a new national health-care policy in the United States. The emphasis must be on enhancing health through preventive services, health maintenance, and education for community and personal health as well as through diagnosis and treatment of illness.

A health-care delivery system should be designed to implement the principle that health care is a right to which every person is entitled. Accordingly, health care as a right can be a reality only when there are coordinated structures of delivery that provide essential health care to all the people in every region, State, area and community.

Mr. Speaker, I submit the following analysis by the NASW in order that my colleagues may become acquainted with major proposals for the implementation of a national health-care delivery system:

NASW ANALYSIS—MAJOR NATIONAL HEALTH INSURANCE PROPOSALS*

I. GENERAL APPROACH

S. 3 Health Security (H.R. 22, Rep. Corman)
(S. 3 Sen. Kennedy)

Truly comprehensive, single-track health care system, financed/administered by social security to guarantee every American nearly entire range of health services as a right. Working partnership, public and private elements. Goal to eliminate financial/geographic barriers: no co-insurance, no deductions, no costly degrading means test. Built-in health resources development, quality assurance and cost containment. Catastrophic coverage explicit. New feature: grants for home care of chronically ill.

Young: Health Care (H.R. 6283, Rep. Young)

A truly comprehensive, single-track health care system, financed/administered by an independent Social Security Administration (SSA) to assure every American nearly entire range of health services as a right. Current employer plans unaffected first 10 years. No financial barriers: no co-insurance, no deductibles, no means test, few limitations. Provision for health resources development, quality assurance and cost-containment. Progressive** financing. Medical services for chronically ill covered.

AHA—American Hospital Association (H.R. 1, Rep. Ullman)

Four different plans: for (1) employees and their dependents; (2) aged/low-income/"medically indigent"; (3) unemployed; and (4) self-employed. All plans by private insurance, have identical benefits, phased in over 5 years. Administered by private carriers under state supervision within Federally approved state plans. Federal role limited to (1) subsidizing private carriers/insurees without commensurate voice in cost controls, quality/availability of services; (2) paying for high risks groups; and (3) enacting legislation.

AMA—American Medical Association (H.R. 6222, Rep. Fulton)

Four different plans, with identical benefits "available to", not mandatory for (1) employees; (2) nonemployed** and self-employed; (3) some unemployed; (4) aged. Medicare unchanged; otherwise all financing and care via Federally subsidized private policy or plan. Federal role limited to: (1) subsidizing private insurance with no voice in cost containment, quality/availability of services; (2) paying for high-risk groups; recommending state standards; (4) enacting legislation. No change in delivery system.

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* Prepared by: Tom Fulton, Professor, Social Policy and Practice, University of Missouri School of Social Work.

** Refers to glossary of terms not printed.

HIAA—Health Insurance Association of America (H.R. 5990, Rep. Burleson) (S. 1438, Sen. McIntyre)

"Carrot without stick" approach: Federal across-the-board subsidies to private HI without any voice re: quality/availability of services, cost containment. Three separate plans (each wholly voluntary); provide same benefits administered by private HI carriers under state oversight; with pervasive copayments and deductibles: (1) employer plans (EP); (2) state plan (SP) for "needy" up to $10,000 income, including AFDC/SSI beneficiaries and "previously uninsurable groups; and (3) individual plan (IP) for anyone not covered by EP or SP.

II. COVERAGE (PEOPLE COVERED, BENEFITS COVERED, BENEFIT PACKAGE, CATASTROPHIC EXPENSE, PREVENTIVE MENTAL HEALTH, SOCIAL WORK SERVICES)

S. 3 Health Security (H.R. 22, Rep. Corman) (S. 3, Sen. Kennedy)

People covered. All U.S. residents, without regard to employment or means test. One objective: make available to aged and poor same quality care available to every other American. Benefits covered: Nearly entire range personal health services, including preventive care and health maintenance; services are covered in full, and fully prepaid, and most are provided as needed without limit. Included: Hospital, physician services, psychiatric care, skilled nursing services, home health services; prescription/life saving drugs, blood; prosthetic devices, including eyeglasses, hearing aids; X-ray laboratory, dialysis and other medically-required services. Limitations: Dental care to age 15, all over 15 phased in later; nursing home care, 120 days per benefit period (BP), psychiatric care, 20 physician visits, 60 days day care, 45 days hospitalization per BP unless provided by HMO or CMHC; prescribed drugs, by institutional providers and for chronic illnesses or costly drug therapies, from HEW list assuring safety, efficacy and generic name. Exclusions: cosmetic surgery, orthodontics. Social Work services: specifically provided as part of comprehensive health care when furnished on behalf of an institutional provider and compensated on salary, stipend or capitation basis.

Young: Health Care (H.R. 6283, Rep. Young)

People covered. All residents of U.S. eligible, including Federal/state/local and RR employees. Persons covered by existing employer/employee plans may continue up to 10 yrs. Excluded: overseas uniformed services. Benefits: Excepting long term skilled nursing facility services (SNF) **, nearly the entire range of personal care services. Without limit: inpatient hospital care (including TB hospital) all services ordinarily furnished—nursing, social work, drugs, facilities, supplies; all physician services; outpatient drugs and biologicals; dental services, all ages; eye examinations, eyeglasses. With limits (per calendar year): psychiatric care—inpatient 45 days, partial hospitalization 90 days, outpatient (CMHC) ** equivalent to cost of 50 private visits; posthospital skilled nursing services (SNF) ** 180 days; home health services 180 visits; preventive services, physical examinations, hearing aids—limits by regulation. Medical social services; included with inpatient hospital services (general, TB, and psychiatric); in SNF extended care; and "under direction of a physician" in home health services. Access: no financial barriers: no cost sharing, few noncovered services.

AHA American Hospital Association (H.R. 1, Rep. Ullman)

People covered: Every U.S. resident (except Federal employees) "eligible to participate" but not necessarily covered. Coverage is optional for self-employed, persons not under social security. Groups phased in over 5 years. Benefits covered: Initially, benefits similar to Medicare, plus catastrophic. At maturity (5 yrs) "comprehensive" benefits include preventive, ameliorative, catastrophic coverage, but access limited by benefit limits and pervasive copayments: e.g., cost sharing for 90 days hospital care would be $450, compared to $92 for 90 days under Medicare. Outpatient services: screening tests, immunizations, well-baby care; dental and vision services to age 12; physician, 10-visit per year; home health care, 200-day limit per BP. Inpatient services: hospital and nursing home care each 90 days; posthospital extended care 30 days per BP. Catastrophic coverage: same benefit package, but copayments and most limits cease after expenditures reach levels specified by income and family size, e.g., $750, family of four, income $9,000–$10,500; for family of four above $10,500, 10% of income—a progressive feature. Mental illness (and alcoholism, drug abuse, physical disability): institutional outpatient care, 3 days in lieu of one day of inpatient hospital care. Social work services: "as are ordinarily furnished by the hospital" for inpatients. Also, in extended care services, in home health care services, and in HCCs. (See V below) "to the extent practicable."

AMA American Medical Association (H.R. 6222, Rep. Fulton)

People covered: Benefits "available" to nearly all U.S. residents on voluntary basis. Covered, with dependents, at individual option: (1) all full-time employees, including all governmental; (2) some part-time employees; (3) self-employed and nonemployed **; and (4) aged, to supplement Medicare. Benefits. Over a 12-month period: "customarily furnished" inpatient services in general, psychiatric or TB hospital, 365 days; "customarily furnished" skilled nursing home services, 100 days; "customarily provided" outpatient or emergency services; and physician care (including diagnostic, therapeutic and preventive services) regardless of place; full dental services for children aged 2–6 (up to 18 phased in over 12 years); emergency dental care for everyone. Psychiatric care (institutional and outpatient) well-baby care, immunizations, physical examinations, x-ray, lab, and anestesiology services, included. Not covered: eyeglasses, hearing aids, custodial care, cosmetic surgery, personal comfort items, private room, WC ** services. All coverage, 80%; other 20% paid as coinsurance by consumer, excepting (1) those with no income tax liability (est. income up to $4600, family of four) and (2) catastrophic expense benefits, based on sliding scale related to income and size of family (e.g., for family of four, when coinsurance paid equals 10% of the excess income over $4200.) Social work services nowhere mentioned in HR 6222, but possibly may be compensable for institutional services within the phrase ". . . including (but not limited to) -" the listed services.

HIAA, Health Insurance Association of America (H.R. 5990, Rep. Burleson) (S. 1438, Sen. McIntyre)

People covered: Benefits "available" to all, but coverage wholly voluntary. Any U.S. citizen could obtain an "approved" policy under one of 3 plans, with same benefits but differing costs. [Voluntary factor, plus substantial copayments and deductions, could reduce coverage considerably.] Benefits. Identical "minimum standard" benefits in all 3 plans. Phase 1, 1977. (1) Without limit: hospital inpatient/outpatient care; all physician Dx/treatment of injuries/illnesses; Rx drugs/contraceptive devices; radium, oxygen, anesthetics, prostheses, equipment; X-ray, lab tests; well child care/immunizations to age 5. With limitations: outpatient mental health visits, 20; skilled nursing services, 180 days; home health care, 270 days; dental care and eye refraction, to age 13, one visit per year; PAP smear, every 2 years. Phase II, 1985. In addition to above: adult dental care; physical therapy; speech therapy; eye refraction and glasses, every 3 years (under 19, one per year); hearing examination, 1 per 3 yrs.; hearing aids, one per lifetime (under 19, one per 3 yrs.). Catastrophic coverage. After $1,000 total family costs for deductibles and co-payments (EP and IP), no further cost-sharing. For needy individuals/families (SP), deductibles/co-payments and total on graduated scale. Social work. Not mentioned in the bill, but hospital, SNF and home health agency are defined as in medicare, would include medical social services [to the extent usually provided.]

III. FINANCIING (SOURCES, COLLECTION, FEDERAL COST, "COST-SHARING," COST TO FAMILY; MEANS TEST?; PROGRESSIVITY?)

S. 3 Health Security (H.R. 22, Rep. Corman) (S. 3, Sen. Kennedy)

Financed 50% by Federal general revenues and 50% by contributions (taxes) on payrolls, self-employment, and unearned income. Employers pay 3.5% on payroll; employees (and other individuals) pay 1%, and self-employed 2½%, on first $20,000 wages and/or unearned income. All funds deposited in Health Security Trust Fund; Medicare-A tax and Medicare-B premiums abolished. Cost to family: Contributions prepay in full all covered costs. No deductions, no copayments. No means test for anyone. Some progressivity assured by 50% funding from general taxation. For persons over 60, the first $3000 in nonearned income would be exempt from 1% tax. Total of taxes and government matching would be total available for personal health services in each fiscal year.

Young: Health care (H.R. 6283, Rep. Young)

Social security financing and tax on unearned income. Payroll taxes: employer 6%, employee 2% on entire wage/salary (no tax-base limit). 5% tax on unearned income and self-employment. AFDC and SSI beneficiaries to pay "unearned income" tax, from extra amount included in grants. Present Medicare tax repealed. Impact of taxes on low bracket incomes moderated by a 50% Federal tax credit with ceilings; impact reduced somewhat in all tax brackets. Progressivity: because of payroll tax on entire wage, plus tax on unearned incomes plus tax credit ceilings financing would be truly progressive; and regressivity of present payroll taxes largely counteracted. Cost to family: wholly prepaid. Means test: none; all families would have same rights. Trust Fund for this program, along with social security trust funds, would be separated from general Federal budget.

AHA, American Hospital Association (H.R. 1, Rep. Ullman)

Major Sources: (1) Medicare payroll taxes; (2) Federal subsidies greatly increased; (3) substantial copayments, for most services by most beneficiaries. Federal subsidies for private health insurance: (1) tax deductions for premiums; (2) tax credits to self-employed, to employers of 10 or less, to individuals not under employer or government plans; (3) a 10% premium subsidy to all individuals who join a HCC (See V, below); (4) full payment for the very poor; (5) partial subsidies for the "medically indigent"; (6) grants and contracts for planning/development, state health commissions, HCCs, home health services. Only very-poor exempt from cost sharing; "medically indigent" not exempt but have reduced premiums. Additional costs for physician visits beyond 10 per cent. Catastrophic Threshold: for medically indigent, $250–750; above $10,500, 10% of adjusted gross income (AGI), a unique progressive feature. Means test: by AGI

AMA, American Medical Association (H.R. 6222, Rep. Fulton)

Sources. (1) Medicare payroll taxes continues; (2) Premiums: employer at least 65%, employee (optional) remainder. (3) Federal subsidies to private HI:** tax credit to employers for increased costs; tax deductions for premiums paid by employers, self-employed; tax credits or "certificates of entitlement" as Federal payment in whole or in part for aged (supplementary benefits) and nonemployed; and (4) consumers pay Federal taxes, premiums, copayments, not-covered items. Cost to family: (1) very poor, no cost; (2) families near poverty line, 20% co-payments, est. $200–500 premiums; (3) other aged, nonemployed, self-employed—1% to 90% premium cost and 20% co-payments. Means test for poor, aged, nonemployed and self-employed: by Federal income tax liability (modified). Progressivity:** Excepting very poor, proposal is regressive. Optional-coverage feature would permit HI industry to "skim"—a regressive device.

HIAA, Health Insurance Association of America (H.R. 5990, Rep. Burleson) (S. 1438, Sen. McIntyre)

Sources: (1) Federal subsidies via tax deductions for 100% cost of private HI premiums; (2) State payments (Federally reimbursed 70–90% for purchase, in whole or in part, of private HI premiums for (SP) "needy"; (3) Premiums, copayments and deductibles paid by enrollees, all 3 plans. Cost to family. (1) EP/AP premium costs, set by individual carriers; deductibles ($100 yr. per person) and 20% copayments (2 items, 50%) up to max. $1,000 family/yr. All indexed to CPI. (2) SP: "Federal cash recipients" (AFDC/SSI) pay nothing. "Needy" others pay premiums/deductibles on graduated scale. (3) Federal income taxes to cover subsidies: nearly all families. Progressivity. HIAA proposal is sharply regressive due to extensive voluntary coverage permitting carriers to skim off higher-income, best risks at bargain rates. Means tests: (1) for AFDC/SSI beneficiaries, as at present; (2) for "needy" others under $10,000 adjusted gross income (AGI), by income tax AGI.

IV. ADMINISTRATION (IN GENERAL; FEDERAL, STATE ROLES; PRIVATE HI INDUSTRY ROLE; ACCOUNTABILITY FOR PUBLIC FUNDS; PAYMENT TO PROVIDERS; PAYMENT TO SOCIAL WORKERS; CONSUMER PARTICIPATION; COST OF ADMINISTRATION)

S. 43 Health security (H.R. 22, Rep. Corman) (S. 3, Sen. Kennedy)

Overall policy by bipartisan National Health Security Board in USDHEW; responsible for expenditures, allocations, national standards, coordination, and studies—with advice of National Advisory Council. Ten regional and about 100 health service areas would administer program at respective levels. Local health security offices would assist providers and consumers, serve ombudsman function. Built-in consumer participation in policy/administration at all levels, including majority on all advisory councils. Grievances: hearings, appeals, judicial review. States participate in planning, training for manpower, quality controls, health education, utilization reviews, provider inspections. Payments to providers. Annual national health budget (limited to receipts from health taxes and general revenues) allocated board-to-regions-to-areas on per capita basis plus incentives. All providers compensated directly from Health Security Fund. Patient not to be charged more. Institutional providers paid from prospective budgets at reasonable cost. Independent practitioners: wide range of options. GPA/IPA: * * by capitation plus incentives. Social Workers: by salary, capitation, or stipend basis via institutional providers.

Young: Health Care (H.R. 6283, Rep. Young)

Stated goal: Nonpolitical, objective skilled administration. Federally administered under independent Social Security Administration (SSA) by full-time SSA Board, with Advisory Council. For institutional** services, SSA would use intermediaries.** For physician services: (1) employers of 1000+ could nominate private carriers to administer benefits; (2) for other insurees, SSA would award 2-year carrier contracts on competitive basis in each service area. (In 10 years, private-carrier administration would end.) All providers have option to deal directly with SSA. Area Health Care Services Boards (5 providers, 10 consumers) to consult with SSA (see V below). Each individual to have health benefits card; administration by SSA or carrier consortium. Payment standards, about the same as current Medicare. Payment to providers: (1) institutional providers: on prospective basis, with incentives, by choice of methods specified by SSA after consultation with area boards, plus fair hearings; (2) participating physicians, by fee schedule; other services/items, at lowest prevailing costs. Non-participating providers could charge more, collect from patient. Social work services: via institutional providers.

AHA, American Hospital Association (H.R. 1, Rep. Ullman)

Very complex. State and private carriers have central roles. Minimal Federal involvement, minimal state accountability for Federal funds. Private carriers and HCC (See V below) offer approved policies, collect premiums/copayments, maintain individual health card accounts, administer payments. New State Health Commissions (SHC) submit state plan; designate health service areas; stimulate, evaluate, approve one or more HCC in each area; regulate all carriers and providers; approve premium rates, provider charges, new facilities. Federal: New Department of Health has limited responsibilities for HR-1; with advice from council (providers and consumers), to approve state plans; review SHC activities; prescribe standards "for consideration by" SHCs, for accounting, setting provider charges, and quality/safety of facilities/services; provide coverage for the aged, poor and "medically-indigent" by contract with private carriers. Payment to providers by fee-for-service or capitation; charges fixed in advance by provider with SHC approval (or, for aged, poor, "medically indigent" by Federal contract). Social Work services paid by institutional providers.

AMA, American Medical Association (H.R. 6222, Rep. Fulton)

In general, little change from current absence of national, coordinated system. Federal role extremely limited; state roles expressed in vague terms; actual administration of benefits by subsidized private carriers. The 4-track plan unnecessarily complex/costly in that people do not remain categorized, must change tracks with changes in status: viz., age, income, family size, employment, unemployment, self-employment, nonemployment. Federal role (1) to pay subsidies to private HI with no control of costs, quality, distribution of health care, and without accountability for funds; (2) through physician-majority Advisory Board, to make "necessary" regulations; set Federal standards "for use by" state insurance departments; "review effectiveness" of this act. State: appropriate state agency(ies) to approve "qualified carriers", determine payment for hospitals. Private carriers: administer benefits; provide open enrollment; assist applicants for "certificates of entitlement." Payment to providers: Physicians, "usual" or "customary and reasonable" charges; hospitals, "under acceptable methods," including appropriate prospective rate determination systems; other costs, on reasonable cost basis. Consumers to be consulted.

HIAA, Health Insurance Association of America, (H.R. 5990, Rep. Burleson) (S. 1438, Sen. McIntyre)

In general, administration by private HI carriers under limited supervision by state insurance entities. Carriers decide eligibility, collect premiums, process benefits. Administrative complexity multiplied by 3 separate plans. States would: (1) qualify HI policies; (2) monitor carrier financial operations; (3) set up state LI pool for SP (carrier to administer it); (4) set up underwriting/reinsurance facility for HI to individuals (IP), other "previously uninsurable" groups; (5) set payment rates for SP institutional providers. Federal role limited to enacting legislation, subsidizing private industry, "guidelines" and "recommendations" re: organizing, delivery, quality of health care. Treasury to rule on tax status of plans; HEW can review state payment rates for institutional providers. Payments to providers: status quo for EP/IP. For SP, professional charges to be "reasonable" (75th percentile actual charges); SP institutional charges set by new State Cost Commissions. Consumer participation: Almost non-existent: [2 consumers on State cost council; consumers may be consulted by Federal board as it "deems necessary"].

V. EFFECTS ON HEALTH DELIVERY SYSTEM (RESOURCES DEVELOPMENT; ALTERNATE FORMS OF DELIVERY; QUALITY ASSURANCE; COST CONTAINMENT; EFFECTS ON PRIVATE CARRIERS AND PROVIDERS)

S. 3 Health Security (H.R. 22, Rep. Corman) (S. 3, Sen. Kennedy)

Legal structure, financing and administration designed to restructure service delivery using financial/professional incentives and sanctions built into: a national health budget; quality assurance; cost containment; health planning; resources development; training, continuing education, national licensure, and effective utilization of personnel; and full use of existing or new PSROs**. A health resources development account, maturing at 5% of annual Trust Fund receipts would alleviate shortages/maldistribution of personnel/facilities; increase supply of services; improve organization, coordination, linkages and continuity of care; afforded priorities to ambulatory care, medically deprived areas, and alternate forms of service, especially group practice. Board and existing Commission on the Quality of Health Care charged with responsibility for "highest practicable quality of care attainable in substantially all parts of U.S." Commission can appeal to HEW Secretary. Cost controls: via prospective budgeting for regions, areas, institutional providers, GPA/IPA**. No private carriers. Private providers would enjoy stabilization, growth, prosperity.

Young: Health Care (H.R. 6283, Rep. Young)

Stated goal: to effect changes in organization/methods of delivery which will increase availability/continuity of health care, enhance quality, emphasize prevention and health maintenance, improve utilization, and restrain mounting costs. Resources development: annual grants for new facilities to extant Health Resources Planning board, beginning at 2% of total trust fund, continuing after 3rd year at 1% (est. $4–7 B). Quality assurance/cost containment: State health agencies or area boards may, by agreement with SSA, recommend certification of institutional providers as meeting conditions for participation. Area boards (see IV above) established to consult with SSA on (1) prospective payment methods and incentive payment awards; (2) determining provider compliance with requirements and establishing prospective fee schedules for physicians other health professionals. Participating providers agree not to charge more. PSRO** expanded to cover all participating providers. Private carriers phased out 10 years; private providers continue indefinitely in public-private partnership.

AHA, American Hospital Association (H.R. 1, Rep. Ullman)

U.S. Secretary of Health would set quality standards for providers at least equal to Medicare standards; would make continuing study of health delivery. Federal grants/loans to develop SHCs, HCCs, outpatient facilities, home health care, paramedical personnel. States. SHCs responsible for health planning, licensure, approval of providers and new resources. Health Care Corporations would be state-incorporated, locally established/operated nonprofit private or governmental corporations (HCCs)—not mandated, but encouraged by Federal subsidies and SHCs. Only definite requirement: that one of more HCCs in each area assure approved benefits to residents. Nonmandated functions: to provide services itself or through other providers; to emphasize health maintenance, continuity of care; to develop outpatient centers with "medical social services", to assume responsibility for quality, effectiveness, and utilization of own and affiliated providers' services via peer review; to offer capitation payment as alternative. Access: all services to be as available "as is practicable."

AMA, American Medical Association (H.R. 6222, Rep. Fulton)

Generally, no change in present system. Among congressional findings in bill's preface, there is none suggesting need for modification of current health care delivery. Re: payments to providers and requirements for approval of "qualified carriers." There is no reference to quality assurance, cost containment, new resources, distribution of facilities. Nor in the definition of "qualified health insurance." There is provision for an Office of Rural Health to award grants, contracts, loans for rural health projects.

Comment—Introducing H.R. 6222, Rep. Fulton of Tennessee said: This is not simply a tinkered-with version of medicredit . . . It represents the evolution of the doctors' thinking, and demonstrates that the continuing process of discussion and debate has influenced the doctors as, indeed, it has influenced the thinking of Congress.

HIAA, Health Insurance Association of America (H.R. 5990, Rep. Burleson) (S. 1438, Sen. McIntyre)

Health resources development. Annual Health Report to Congress by President with assistance of new Health Policy Board which would study trends, recommend policy goals for "organizing, financing, delivery, and quality of health care services". Federal grants/loans to increase/improve distribution of health care personnel; new money to ambulatory care team training. Provisions to strengthen health planning, [increased funds/authority for state/local planning boards]. Quality assurance/cost containment. Generally, no provision. Exceptions, for SP: (1) State cost Commissions to set institutional rates; (2) physician charges to conform with "utilization guidelines". Alternative delivery forms: Only that: (1) SP enrollees must be given option for HMO**, if available; and (2) HMO is one acceptable "plan of employee health care benefits" (EP). Effects on private carriers/providers. Would increase business markedly and would consolidate power of industry to influence delivery system and prices.

VI. EFFECTS ON OTHER GOVERNMENT PROGRAMS

S. 3 Health Security (H.R. 22, Rep. Corman) (S. 3, Sen. Kennedy)

Medicare: supplanted. Medicaid would remain only to supplement Health Security and, at State option, provide long-term nursing home care, certain drugs, and adult dental care. Similarly, CHAMPUS, "OEO" medical services, VR, MCH, CrCh** would remain to provide special health services not covered by Health Security. Unaffected: Veterans Administration, military health services. Workmen's Compensation.

Young: Health Care (H.R. 6283, Rep. Young)

Medicare and medicaid repealed/absorbed. CHAMPUS minimized. Armed services and VA medical benefits not changed.

Comment: It is expected that H.R. 6283 will be amended to transfer from U.S. general revenues to the Health Care Trust Fund, all tax monies levied on tobacco, alcohol and firearms (est. total $6B) in recognition of linkages between these products and health needs.

AHA, American Hospital Association (H.R. 1, Rep. Ullman)

Medicare A and BB** would be merged, continued separate from H.R. 1, financed by present payroll taxes plus general revenues. Medicaid, largely supplanted. Employee Health programs for employees of Federal government and its instrumentalities unchanged.

AMA, American Medical Association (H.R. 6222, Rep. Fulton)

Other government programs. Health programs for Federal, state, local government employees would be supplanted, absorbed into employer-plan private insurance. Medicare would continue as is, with supplemental benefits to equalize benefits with all others.

HIAA, Health Insurance Association of America (H.R. 5990, Rep. Burleson) (S. 1438, Sen. McIntyre)

Medicare continued, with supplementation for Part B. Medicaid largely absorbed; would continue, provide services not covered by this bill.

Comment: Senator McIntyre, when introducing this bill April 15, 1975, said to Congress that if the voluntary approach were found not to be sufficient, "then I would certainly consider making that program mandatory."

"THE SPIRIT OF AMERICA IS IN HER"

(Mr. PRICE asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. PRICE. Mr. Speaker, I was delighted to learn Sunday that Miss Joyce M. Anders of East Alton, Ill., had been named the grand prize winner in Family Weekly's Bicentennial Essay Contest.

The title of Miss Anders' essay is "The Spirit of America Is in Her" and she wrote about "The Greatest Unsung American"—her mother.

After reading Miss Anders' thoughts about her mother, I came to the conclusion that "The Spirit of America" is, in fact, in both of these remarkable women.

I would like to commend Joyce Anders for her outstanding, award winning essay and congratulate her mother for being so deserving of her daughter's words.

I would like to take this opportunity to share Miss Anders' essay with my colleagues:

THE SPIRIT OF AMERICA IS IN HER

(By Joyce M. Anders, East Alton, Ill.)

Having been reared on a farm, one of six motherless children, earning her bread by the sweat of her brow was a way of life for this American. Getting an education wasn't exactly a piece of cake either, for she walked three miles to a one-room schoolhouse each day for the first eight years. I must admit I envy her youth when I hear the tales of skinny-dipping in the creek or jumping on the old horse bareback, heading higgledy-piggledy down the hill. I've accompanied her on many walks through woods and fields and learned far more about our native plants and animals from her than from any text. All the things I feel to be the spirit of America, I've seen in her—the opportunity and obligation of work, a love and reverence for a beautiful and productive land, and a sense of independence which isn't afraid to cultivate freedom of thought in others. I can think of no other "Unsung American than this woman—my *mother*.

THE NATIONAL PARKS

(Mr. GUDE asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. GUDE. Mr. Speaker, I would like to bring to the attention of my colleagues an editorial that appeared in the Washington Post on Saturday, July 31.

During the debate on the Interior appropriations bill in the House, the chairman of the Subcommittee on National Parks and Recreation, Mr. Taylor, the ranking member, Mr. Sebelius, as well as the chairman of the Subcommittee on Interior Appropriations, Mr. Yates. and I engaged in a colloquy in which we pointed out the years of neglect of our national park system, both as to personnel and maintenance.

As the editorial points out, this year's appropriation hopefully marks a new direction toward adequate staffing and maintenance; also, hopefully, in the months and years ahead both the Congress and the OMB will give the Park Service the support it needs and deserves.

The price is modest, and as the Post's editorial so well states, the Park Service, of all governmental endeavors, is among the best as far as giving the taxpayer his money's worth.

[From the Washington Post, July 31, 1976]

THE NATIONAL PARKS

This is the season when the national parks are put to their annual test and the reports on their condition begin to filter back to Washington. In recent years, those reports have not been good. There have been too many tales of deteriorated structures, unmaintained trails and closed facilities. No doubt there will be similar stories this summer, for the parks have been neglected in recent years. But Congress has at last realized the folly of penny-pinching. There is reason to hope that the Office of Management and Budget has also seen the light. If so, the quality of the parks ought to improve substantially in the next few years.

The appropriations bill that cleared Congress late last week provides the Park Service with 11 per cent more money than it had in fiscal 1976 and 36 per cent more than it had two years earlier. And the Congress has also indicated clearly that it wants much of that money spent on fulltime personnel. The Park Service, at least up until last December, had been suffering from severe restrictions imposed by OMB on the number of fulltime employees it could have. Although 32 new park areas had been authorized by Congress since 1972, the Park Service had been able to add only 200 new employees. That meant personnel were withdrawn from older park areas to staff the new ones. Last year, for example, Glacier Park had 56 permanent employees and 273 seasonal ones to handle about 1.5 million visitors; a dozen years earlier it had had 72 permanent employees and 291 seasonals to handle 800,000 visitors.

Protests about this situation and others like it began to sink into Congress a year ago when it appeared to have authorized the Park Service to add 533 new employees. OMB ruled, however, that no new employees were to be added, and the Park Service got 400 new jobs only after Secretary of Interior Thomas S. Kleppe appealed OMB's decision to President Ford. OMB's position, as we understand it from hearings this spring on Capitol Hill, is that the Park Service has enough money and people if only it will manage its operations better.

Now this is something that can safely be said about almost any government activity—and most private activities as well. But our strong impression over the years has been that, whatever room there may be for improvement in the management of the Park Service, the taxpayers come remarkably close to getting their money's worth out of the national park system. It is worth noting that the entire Park Service budget is less than the annual subsidy to Amtrak and only 15 per cent more than the budget of the federal prison system. There are, for that matter, fewer fulltime Park Service employees than there are staff aides to the 435 members of the House of Representatives.

A recent report of the House Committee on Government Operations—entitled, appropriately enough, "The Degradation of Our National Parks"—concedes that both Congress and the Executive Branch have neglected the system in recent years. It recommended that Congress provide more money and that OMB stop putting arbitrary ceilings on Park Service employment and try to develop better ways of analyzing Park Service budget requests. If both sides take those recommendations to heart, perhaps by 1978 there will be more to crow about—and less to grouse about—in the annual end-of-summer reports on the parks.

AUGUST 1—FIRST ANNIVERSARY OF SIGNING OF THE HELSINKI AGREEMENT

(Mr. ALBERT asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. ALBERT. Mr. Speaker, on August 1 we mark the first anniversary of the signing of the Helsinki agreement. The final act of the 35 nation European Security Conference was signed in a spirit of cooperation and good will. The chief aim of the agreement was the establishment of a more stable and secure future for the peoples of Europe. Representatives at the conference—from both East and West—hailed it as an important step in the relaxation of international tensions and as a new and much needed vehicle for the continued development of international peace and security.

After a year's time, the burst of optimism which marked the signing of the Helsinki agreement has been tempered by the realities of its implementation. As we mark the first anniversary of the signing of the Helsinki agreement we must bear in mind that the agreement is unquestionably a positive step in the furtherance of security in Europe and as a result bolsters international détente. Its value, however, would be further enhanced if all the signatory nations reaffirmed their commitment to the principles embodied in it and made a genuine effort to implement these principles fully and in the spirit which they were intended.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows to:

Mr. Addabbo (at the request of Mr. O'Neill), for today, on account of illness in the family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Jeffords) to revise and extend their remarks and include extraneous material:)

Mr. Broomfield, for 10 minutes, today.

Mr. Ashbrook, for 5 minutes, today.

(The following Members (at the request of Mr. Oberstar) to revise and extend their remarks and include extraneous material:)

Mr. Annunzio, for 5 minutes, today.

Mr. Gonzalez, for 5 minutes, today.

Mr. Morgan, for 5 minutes, today.

Mr. Dodd, for 5 minutes, today.

Mr. Matsunaga, for 15 minutes, today.

Mr. Thompson, for 5 minutes, today.

Mr. Brademas, for 5 minutes, today.

Mr. Ashley, for 15 minutes, August 9, 1976.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. Broomfield to extend his remarks during general debate on the Clean Air bill today.

Mr. Zablocki in three instances.

Mr. Young of Georgia and to include extraneous matter, notwithstanding the fact that it exceeds two pages of the Congressional Record and is estimated by the Public Printer to cost $858.

Mr. Koch to include extraneous material during general debate on H.R. 9719.

Mr. Green, to revise and extend immediately following rollcall 613 today.

Mr. Albert (at the request of Mr. Oberstar) to extend remarks in body of the Record and include extraneous material.

(The following Members (at the request of Mr. Jeffords) and to include extraneous matter:)

Mr. Gilman.

Mr. Paul.

Mr. Symms.

Mr. Bob Wilson.

Mr. Whitehurst.

Mr. du Pont.

Mr. Ketchum.

Mr. Biester.

Mr. Wiggins.

Mr. Edwards of Alabama.

Mrs. Pettis.

Mr. Derwinski.

Mr. J. William Stanton.

Mr. Ashbrook in three instances.

Mr. Cleveland.

Mr. Kasten.

Mr. Rhodes.

(The following Members (at the request of Mr. Oberstar) and to include extraneous material:)

Mr. Anderson of California in three instances.

Mr. Gonzalez in three instances.

Mr. Van Deerlin.

Mr. Simon in two instances.

Mr. Stark.

Mr. Waxman.

Mr. Dodd.

Mr. Bolling.

Mr. Corman in five instances.

Mrs. Keys.

Mr. Roe in two instances.

Mr. Young of Georgia in two instances.

Mr. Mikva.

Mr. Breckinridge.

Mr. McDonald in three instances.

Mr. Green.

Mr. Wirth.

Mr. Fithian.

Mr. Rosenthal in six instances.

Mr. Fraser in five instances.

Mr. Duncan of Oregon.

Mr. Carney.

Mr. Pattison of New York in two instances.

Mr. Hannaford.

Mr. Rangel.

Mr. Fisher.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 2069. An act to regulate commerce by establishing national goals for the effective, fair, inexpensive, and expeditious resolution of controversies involving consumers, and for other purposes; to the Committee on Interstate and Foreign Commerce.

ENROLLED BILL SIGNED

Mr. THOMPSON, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 14234. An act making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1977, and for other purposes.

ADJOURNMENT

Mr. OBERSTAR. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 11 minutes p.m.), under its previous order, the House adjourned until Monday, August 9, 1976, at 12 o'clock noon.

COMMITTEE EMPLOYEES

COMMITTEE ON AGRICULTURE

June 30, 1976.

To the Clerk of the House:

The Committee on Agriculture pursuant to section 6(j) of Rule XI, Rules of the House of Representatives, submits the following report for the 6 month period from Jan. 1, to June 30, 1976, inclusive:

1. Name, profession, and total salary of each person employed (see attached schedules A and B)
2. Total funds available during this period----- $1,152,028.40
3. Amount expended during this period------- 846,789.75

THOMAS S. FOLEY, Chairman.

SCHEDULE A—STANDING COMMITTEE PAYROLL

Name of employee	Profession	Total gross salary during 6-mo period
Thomas E. Adams	Staff consultant (P)	$11,550.00
James N. Ashmore	Staff assistant (P)	12,499.98
Margaret L. Bauer	Staff assistant (C)	5,250.00
Susan Bell	Staff assistant (P)	8,733.32
Robert M. Bor	Counsel (P)	18,900.00
Anita R. Brown	Staff assistant (C) (through Apr. 4, 1976); staff assistant (P) (effective Apr. 5, 1976).	10,106.25
Alison B. Cerri	Staff assistant (C)	10,762.50
Carol A. Dubard	do	7,087.50
Louis T. Easley	Press assistant (P)	15,845.16
John E. Hogan	Associate counsel (P)	18,637.50
William A. Imhof	do	18,000.00
Mary Claiborne Jarratt	Staff assistant (P)	9,309.99
Diane M. Keyser	Staff assistant (C)	6,272.26
Julia W. Kogut	do	10,762.50
Angelina Roumel Koliopoulos.	Staff assistant (C) (effective Apr. 5, 1976).	3,875.97
John M. Lindley III	Staff assistant (P)	16,500.00
Teresa D. McLaughlin	Staff assistant (C)	7,695.82
Eugene Moos	Staff analyst (P)	18,900.00
Hyde H. Murray	Counsel (P)	18,900.00
Loretta A. Owens	Staff assistant (C)	9,499.98
Peggy L. Pecore	Staff assistant (P)	12,075.00
Stephen J. Pringle	Staff assistant (P) (through Apr. 4, 1976).	4,700.00
Jean C. Ringer	Staff assistant (C)	12,662.49
Mary L. Ross	Printing editor (P)	11,550.00
Mary P. Shaw	Staff assistant (C)	9,091.68
James E. Springfield	Food programs specialist and budget officer (P).	18,900.00
Glenda Louise Temple	Staff assistant (C)	10,762.50
Fowler C. West	Staff director (P)	18,900.00
Wanda Marie Worsham	Staff assistant (C)	8,820.00
Howard Yourman	Staff assistant (P) (effective Feb. 1, 1976).	7,916.65
Total		354,467.05

SCHEDULE B—INVESTIGATIVE STAFF PAYROLL

Name of employee	Profession	Total gross salary during 6-mo period
Christine D. Abram	Staff assistant (effective Apr. 6, 1976).	$2,715.27
Sharon Ann Armann	Staff assistant	7,805.01
John Baize	Subcommittee staff consultant.	9,975.00
Weldon Barton	do	13,702.50
Steven K. Berry	Staff assistant (effective May 10, 1976).	1,020.00
Roxana D. Burris	Subcommittee staff consultant.	9,450.00
Jane Cleveland	Staff assistant	6,250.02
Ann Cole	do	6,825.00
Constance A. Corbett	Staff assistant (effective May 7, 1976).	1,800.00
James A. Culver	Subcommittee staff consultant.	14,175.00
George M. Dunsmore	Subcommittee staff consultant (effective Apr. 1, 1976).	5,499.99
Charlotte Holmes Farwell.	Subcommittee staff consultant.	9,975.00
Mary Ann Fronce	Staff assistant	7,245.00
L. Leon Geyer	Subcommittee staff consultant.	13,702.50
Alan M. Gray	do	8,925.00
Robert John Gray	Subcommittee staff consultant (through Mar. 31, 1976).	6,587.49
Esther S. Hickey	Staff assistant	8,426.70
Celia Parry Hicks	Subcommittee staff consultant (effective May 10, 1976).	1,190.00
Steven J. Hoffman	Staff assistant (through May 31, 1976).	$3,300.00
Jacqueline Lane Jennings.	Staff assistant	7,779.18
Gerald R. Jorgensen	Subcommittee staff consultant.	14,175.00
Laurence M. Kamer	Staff assistant (effective June 23, 1976)	133.33
Angelina Roumel Koliopoulos.	Staff assistant (through Apr. 4, 1976).	4,069.86
John R. Kramer	Special counsel	9,450.00
Leighton W. Lang	Subcommittee staff consultant.	12,600.00
Scott D. McAdoo	Staff assistant	3,246.66
Tara E. Potter	Staff assistant (effective June 1, 1976).	383.33
Wendell E. Primus	Staff assistant	9,417.50
Carlisle Ford Runge	Staff assistant (effective June 28, 1976).	58.33
Jeffrey Austin Sovern	Staff assistant (effective June 2, 1976).	483.33
Lydia Vacin	Staff assistant	1,280.82
David L. Wright	do	15,225.00
Total		216,871.82

COMMITTEE ON APPROPRIATIONS (STANDING COMMITTEE)

July 15, 1976.

To the Clerk of the House:

The Committee on Appropriations (Standing Committee) pursuant to section 6 (j) of Rule XI, Rules of the House of Representatives, submits the following report for the 6 month period from Jan. 1, to June 30, 1976, inclusive:

1. Name, profession, and total salary of each person employed (see attached schedules A and B)----------
2. Total funds available during this period---- $1,368,511.45
3. Amount expended during this period------- 1,368,511.45

GEORGE H. MAHON, Chairman.

STANDING COMMITTEE PAYROLL

Name of employee	Profession	Total gross salary during 6-mo period
Keith F. Mainland	Clerk and staff director	$18,900.00
G. Homer Skarin	Staff assistant	18,900.00
Samuel R. Preston	do	18,900.00
Hunter L. Spillan	do	18,900.00
Henry A. Neil	do	18,900.00
Aubrey A. Gunnels	do	18,900.00
Earl C. Silsby	do	18,900.00
Peter J. Murphy	do	18,900.00
Frederick G. Mohrman	do	18,900.00
Edward E. Lombard	do	18,900.00
Nicholas G. Cavarocchi	do	18,900.00
Derek J. Vander Schaaf	do	18,900.00
Frederick F. Pfluger	do	18,900.00
John M. Garrity	do	17,917.62
Robert B. Foster	do	18,234.06
Thomas J. Kingfield	do	16,841.16
Donald E. Richbourg	do	17,703.66
Robert C. Nicholas	do	15,459.78
George A. Urian	do	14,328.54
Dempsey B. Mizelle	do	17,679.24
Charles W. Snodgrass	do	16,072.38
John G. Plashal	do	11,494.14
Byron S. Nielson	do	12,506.16
J. David Willson	do	15,965.58
Americo S. Miconi	do	14,294.64
Robert L. Knisely	do	11,465.28
Richard N. Malow	do	16,235.34
John G. Osthaus	do	14,422.08
Paul E. Thomson	do	11,321.58
Charles G. Hardin	do	11,434.08
Edwin F. Powers	do	15,682.92
Gordon E. Casey	do	14,791.26
C. William Smith	do	14,976.48
Michael S. Weinberger	do	14,175.00
William A. Marinelli	do	15,750.00
Donald P. Smith	do	13,650.00
David R. Olson	do	8,925.00
Donald L. Denton	Staff assistant (from Feb. 1).	7,416.65
Lawrence C. Miller	Editor	17,441.04
Paul V. Farmer	Assistant editor	13,672.38
Gerard J. Chouinard	Administrative assistant.	12,168.84
Austin G. Smith	Clerical assistant	10,553.28
Gemma M. Weiblinger	Administrative assistant, Labor-HEW Subcommittee.	7,350.00
Dale M. Shulaw	Clerical assistant	9,373.24
Marcia L. Matts	do	7,473.96
Sandra A. Gilbert	do	8,388.18
Patricia A. Kemp	Clerical assistant	$7,090.92
Betty Lou Taylor	do	7,201.74
Christine Stockman	do	7,223.76
Toni M.Perla	do	6,300.00
Anna L. Manning	do	6,825.00
Robin A. Harold	do	6,300.00
Ellen C. Zacofsky	do	5,625.00
Michael S. Slevin	Clerical assistant (to June 13).	5,942.71
Kitty L. Ray	Clerical assistant (from May 15).	1,533.33
Randolph Thomas	Office assistant	7,918.56
F. Michael Hugo	Minority clerk	18,375.00
B. Enid Morrison	Minority staff assistant.	16,999.98
Beverly B. Thierwechter	do	10,000.02
Henry W. Moore, Jr	do	14,500.02
Donna M. Brother	Staff assistant	8,749.98
Margaret J. Hansen	Staff assistant (from May 26).	1,069.45
Susan A. Weaver	Clerical assistant	6,499.98
Valrie Lake	do	5,500.02
Margaret K. Harding	Associate staff member (majority).	13,500.00
Samuel A. Mabry	do	14,175.00
Douglas E. Bobbitt	do	7,743.78
George F. Allen	do	11,025.00
Diane Rihely	do	6,583.32
Maxey H. Irwin	do	12,075.00
Fisher Muldrow	do	10,500.00
Lawrence E. Siegel	do	12,837.48
Daniel P. Beard	do	14,175.00
Richard Altman	do	14,175.00
Charles Cannon	do	10,000.02
Edward N. Stout	do	14,175.00
Scott Lilly	do	12,300.00
Charles H. Dolan, Jr	do	6,166.65
Gary R. Bachula	do	14,175.00
Kathleen Smiley	do	12,075.00
Eugene T. Austin	do	14,175.00
Daniel Oran	do	14,175.00
Quentin L. Burgess	do	9,499.98
Michael J. O'Neil	do	14,175.00
Dorothy L. Thomas	do	12,600.00
Leo P. Gaten	do	10,800.00
Carmen Scialabba	do	13,500.00
William Little	do	7,500.00
Grant W. Anderson	do	10,333.34
Daniel C. Maldonado	do	13,500.00
Robert F. Dobek	do	9,975.00
Sean McCarthy	do	11,500.00
Henry S. Barbour	do	10,666.68
Freda J. Sheppard	do	14,175.00
Brian E. Kehoe	Associate staff member (majority) (to Jan. 22).	1,219.17
Pleasant L. Murphy	Associate staff member (majority) (from Feb. 5).	8,516.67
William L. Killgore	Associate staff member (majority) (from Mar. 22).	7,796.25
Karen J. Lieberman	Associate staff member (majority) (from June 1).	1,333.33
Charles H. Murphy	Associate staff member (minority).	11,550.00
Karen S. Vagley	do	11,812.50
William R. Sessoms	do	10,000.02
Robert F. Dugan	do	10,387.15
David D. Clement	do	13,388.76
Jimmy R. Fairchild	do	13,256.25
Matthew Scocozza	do	12,862.50
Charlotte Casey	do	6,499.98
Jack Ford	do	9,025.00
Marcia G. Madsen	do	11,812.50
Paul C. Roberts	do	13,500.00
David K. Kehl	do	13,500.00
Betsy Ann Dixon	do	6,499.98
Eugene G. Kirueshkin	do	8,375.02
Robert Potts	Associate staff member (minority) (from Feb. 12).	8,494.43
Donald G. Jacob	Associate staff member (minority) (from June 1).	1,916.67

COMMITTEE ON APPROPRIATIONS (INVESTIGATIONS STAFF)

July 15, 1976.

To the Clerk of the House:

The Committee on Appropriations (Investigations Staff) pursuant to section 6 (j) of Rule XI, Rules of the House of Representatives, submits the following report for the 6-month period from Jan. 1 to June 30, 1976, inclusive:

1. Name, profession, and total salary of each person employed (see attached schedules A and B)----------
2. Total funds available during this period (July 1, 1975 to June 30, 1976)---------- $2,274,000.00
3. Amount expended during this period (Jan. 1 to June 30, 1976)---------- 1,178,251.48

GEORGE H. MAHON, Chairman.

SCHEDULE B—INVESTIGATIVE STAFF PAYROLL

Name of employee	Profession	Total gross salary during 6-mo period
Cornelius R. Anderson	Chief	$18,900.00
David A. Schmidt	Director	18,900.00
Marion S. Ramey	1st assistant director	18,900.00
James B. Hyland	2d assistant director	18,900.00
Genevieve A. Mealy	Administrative assistant.	8,449.98
Frances May	Secretary	8,509.14
Ann M. Stull	do	6,150.00
Contract employees:		
Carl L. Bennett	Investigator	14,950.00
Carl Bolz	do	12,900.00
W. Dana Carson	do	10,400.00
Dorland J. Davis	do	10,000.00
Robert M. Franklin	do	13,000.00
Charles G. Haynes	do	14,950.00
Maurice A. Herron	do	10,400.00
Richard F. McEliece	do	15,600.00
Joseph E. Michalski	do	13,000.00
Ross P. Pope	Consultant	5,000.00
Bernard C. Rachner	Investigator	4,025.00
Mary Alice Sauer	Secretary	5,462.50
Leon F. Schwartz	Investigator	13,200.00
Andrew J. Shannon	do	18,200.00
William B. Soyars, Jr	do	10,400.00
Leonard M. Walters	do	15,600.00
H. Branch Wood	do	15,600.00
Department of Agriculture:		
Joseph Logan	do	14,626.74
John F. Robison	do	17,613.15
U.S. Army Audit Agency:		
Conrad L. Janus	do	11,937.13
Department of Commerce:		
John Hamilton	Clerical assistant	3,659.00
General Services Administration:		
Williston B. Cofer, Jr	Investigator	16,457.66
Kevin Flanagan	do	12,634.55
Francis J. King, Jr	do	14,760.66
Leonard Sileo	do	23,986.22
George Wakefield	do	16,360.69
Department of Health, Education, and Welfare:		
Michael O. Glynn	do	16,716.56
Frank T. Lyons	do	11,596.65
James J. O'Kane	do	24,205.00
Michael A. Stephens	Clerical assistant	4,877.70
Department of Housing and Urban Development:		
Frank Coveleski	Investigator	11,289.33
Interstate Commerce Commission:		
Ronald C. Allen	do	12,609.50
Robert A. Ferguson	do	8,060.97
Naval Facilities Engineering Command:		
George H. Pearsall	do	12,170.04
Naval Material Command Supply Agency:		
Bernard Bodner	do	16,008.80
Department of Treasury:		
Jimmie Osburn	Computer specialist	14,454.00
Federal Bureau of Investigation:		
Dan L. Anderson	Investigator	14,445.60
Stuart W. Angevine	do	16,359.20
George C. Baird	do	11,541.12
Willis Bennett, Jr	do	7,004.16
Donald A. Brummitt	do	15,974.40
Ronald B. Carpenter	do	16,359.20
Gerard C. Carroll	do	16,359.20
Bernard E. Currigan	do	13,301.60
James B. Denny	do	14,353.44
Louis E. Eisenwine	do	14,587.68
Donald J. Fitzgerald	do	15,215.20
David R. Gallagher	do	16,359.20
John G. Goedtel	do	16,359.20
Eugene C. Gies	do	15,974.40
David W. Johnson, Jr	do	12,188.80
Russell N. Kamin	do	12,681.44
Edwin J. Kelly	do	15,600.00
John C. Layton	do	10,795.20
James P. Mansfield	do	16,359.20
Earle J. Morris	do	15,974.40
James K. Murphy	do	6,246.88
John J. Radican	do	15,974.40
Robert J. Reitwienser	do	10,795.20
Thomas C. Renaghan, Jr.	do	14,071.20
Barbara L. Rufener	Secretary	3,712.75
Rebecca F. Singleton	do	1,355.68
Charles E. Szoka	Investigator	16,359.20
Raymond E. Talley	do	15,215.20
Robert E. Torrence	do	16,744.00
Robert H. Twigg	do	11,376.32
R. W. Vandergrift, Jr	do	12,188.80
James S. Van Wagenen	do	11,501.12
FICA		217.19
Health benefits		8,673.37
Life insurance		2,120.37
Retirement		31,464.91
Travel expenses		126,645.69
Miscellaneous expenses		20,375.59

COMMITTEE ON ARMED SERVICES

July 13, 1976.

To the Clerk of the House:

The Committee on Armed Services pursuant to section 6(j) of Rule XI, Rules of the House of Representatives, submits the following report for the 6-month period from Jan. 3, to June 30, 1976, inclusive:

1. Name, profession, and total salary of each person employed (see attached schedules A and B)	
2. Total funds available during this period	$1,045,423.02
3. Amount expended during this period	414,045.94

MELVIN PRICE, Chairman.

SCHEDULE A—STANDING COMMITTEE PAYROLL

Name of employee	Profession	Total gross salary during 6-mo period
Frank M. Slatinshek	Chief counsel	$4,298.00
Ralph Marshall	Professional staff member.	18,499.98
John J. Ford	do	18,825.00
George Norris	Counsel	17,850.00
James F. Shumate, Jr	do	18,499.98
John F. Lally	do	18,499.98
William H. Hogan, Jr	do	15,750.00
Anthony R. Battista	Professional staff member.	17,850.00
G. Kim Wincup	Counsel	11,270.83
William D. Price	Professional staff member.	13,125.00
Richard T. Lunger, Jr	Professional staff member (through June 30).	9,106.94
Paul L. Tsompanas	Professional staff member.	18,499.98
Herbert Roback	Professional staff member (through Mar. 31).	1,797.00
Adam J. Klein	Counsel	12,749.10
Louis Kriser	Professional staff member.	12,600.00
Thomas S. Hahn	do	12,750.00
Michael A. West	Executive secretary	8,925.00
Berniece Kalinowski	Secretary	11,749.38
L. Louise Ellis	do	11,749.38
Ann R. Willett	do	7,339.32
Rose C. Beck	Secretary (from Mar. 1, 1976).	5,684.04
Emma M. Brown	Secretary	7,875.00
Joyce C. Bova	Secretary (from Mar. 1, 1976).	4,469.12
Nancy S. Jones	Secretary	7,339.32
Rita D. Argenta	do	6,647.76
Ilene B. Katz	do	6,300.00
Diane W. Bowman	Secretary (through Feb. 27, 1976).	2,100.00
William B. Short, Jr	Clerical staff assistant	9,657.00
James A. Deakins	do	8,884.44
Issiah Hardy	do	6,731.47
Total		327,423.02

SCHEDULE B—INVESTIGATIVE STAFF PAYROLL

Name of employee	Profession	Total gross salary during 6-mo period
Gary A. Holcomb	Professional staff member.	$10,500.00
Justus P. White, Jr	do	12,499.98
LeRoy J. Spence	Counsel (from Jan. 19, 1976).	6,687.20
Rose C. Beck	Secretary (through Feb. 29, 1976).	2,940.02
Joyce C. Bova	do	2,234.56
S. Janice Coil	Secretary	6,300.00
Marcia A. Lawrence	do	5,812.50
Marion H. Wills	do	5,812.50
Alice M. Sledge	do	6,300.00
Beatrice R. Vasvary	do	5,775.00
Marcia L. Fromm	do	6,000.00
Mary J. Costello	Secretary (from Feb. 18 to May 13).	2,627.78
Georgia C. Osterman	Secretary (from Mar. 8, 1976).	3,609.71
Craig H. O'Brien	Clerical staff assistant (from June 1, 1976).	500.00
Maurita L. Crowell	Secretary (from June 14, 1976).	483.33
Total		78,082.58

COMMITTEE ON BANKING, CURRENCY AND HOUSING

July 15, 1976.

To the Clerk of the House:

The Committee on Banking, Currency and Housing pursuant to section 6(j) of Rule XI, Rules of the House of Representatives, submits the following report for the 6-month period from Jan. 1, 1976 to June 30, 1976, inclusive:

1. Name, profession, and total salary of each person employed (see attached schedules A and B)	
2. Total funds available during this period	$2,356,635.66
3. Amount expended during this period	1,180,846.40

HENRY S. REUSS, Chairman.

SCHEDULE A—STANDING COMMITTEE PAYROLL

Name of employee	Profession	Total gross salary during 6-mo period
Deborah A. Alt	Secretary	$1,225.00
Richard F. America	Professional staff member.	3,150.00
Sallie Anne Bobo	Secretary	1,183.33
Grasty Crews II	Counsel	18,900.00
Jane D'Arista	Professional staff member.	11,970.84
William P. Dixon	General counsel	18,900.00
Theodore A. Doremus, Jr.	Minority counsel	16,166.66
Orman S. Fink	Minority staff director	1,605.60
Michael P. Flaherty	Counsel	16,800.00
James K. Galbraith	Economist	11,666.65
Mary Ann Graves	Staff economist	18,900.00
Joseph J. Jasinski	Professional staff member.	12,573.12
Marcello A. Juarez	Executive assistant	1,081.94
Monroe W. Karmin	Staff assistant, urban affairs.	17,850.00
Richard M. Kay	Assistant clerk	1,085.42
Mary L. Kelly	Staff assistant	1,416.67
Mary W. Layton	Secretary to minority	8,631.58
Joseph C. Lewis	Professional staff member.	3,150.00
Paul Nelson	Clerk and staff director	18,900.00
Graham T. Northup	Minority deputy staff director.	18,900.00
Eliza M. Paul	Research assistant	1,575.00
Curtis A. Prins	Subcommittee staff director.	18,900.00
Margaret L. Rayhawk	Research associate	2,012.50
Kathy L. Rohrig	Staff assistant	8,927.28
David W. Secrest	Director, public affairs	18,900.00
Donald G. Vaughn	Administrative assistant.	12,234.42
Ruth M. Wallick	Legal assistant	10,916.65
Total		277,522.66

SCHEDULE B—INVESTIGATIVE STAFF PAYROLL

Name of employee	Profession	Total gross salary during 6-mo period
Deborah A. Alt	Secretary	$6,125.00
Joann Azarkhish	Subcommittee clerk	9,487.38
Carolyn E. Blaydes	Special assistant	5,500.02
Sallie Anne Bobo	Secretary	5,733.33
Garvill L. Booker	Staff member	2,500.00
Pamela G. Bond	Secretary	1,986.12
Jeffrey A. Booth	Professional staff member.	6,477.77
Stefanie J. Boss	Secretary	6,562.50
Annette M. Bouchard	do	7,500.00
Virginia S. Brown	Assistant clerk	5,625.00
James P. Caldwell	Professional staff member.	13,929.72
Christopher Chamberlain.	Research assistant	1,252.78
L. Marie Chaillet	Minority secretary	9,800.00
Frances C. Clements	Secretary	6,150.00
Lyra M. Cobb	do	3,422.24
Davis O'C Couch	Investigative counsel	16,012.50
Diane L. Coutu	Special assistant	833.33
Ben W. Crain	Staff economist	6,561.12
Jamee A. Decio	Researcher	5,500.02
David I. Fand	Professional staff member.	4,700.00
Robert S Feinberg	Staff assistant, minority.	11,700.00
Lawrence I. Feldman	do	11,550.00
Ralph D. Fertig	Professional staff member.	315.00
Mark A. Fiorentino	Staff assistant	600.00
Mary Ann Freer	Secretary	6,294.99
James K. Galbraith	Economist	2,100.00
Louis C. Gasper	Minority staff economist.	14,175.00
Janice H. Gilmore	Professional staff member.	5,985.00
Thomas K. Goines	do	100.00
Janet R. Hangin	Secretary	6,300.00
Cynthia G. Hare	Staff assistant	600.00
Lois Hart	Secretary	2,216.57
Helen Hitz	Administrative assistant.	13,968.78
Lorraine G. Inman	Secretary	8,173.98
Joseph J. Jasinski	Professional staff member.	6,176.71
Norman H. Jones, Jr	Senior economist	1,644.44
Richard M. Kay	Assistant clerk	4,593.75
Mary L. Kelly	Staff assistant	6,300.01
Mary E. Kirk	Assistant clerk	2,683.34
James A. Kutcher	Subcommittee counsel.	10,924.98
Sally A. LaHue	Minority secretary	1,038.89
Jackson O. Lamb	Professional staff member.	13,125.00
Ellen M. Larkin	Assistant subcommittee staff director.	9,975.00
Joseph C. Lewis	Professional staff member.	15,750.00
Robert E. Loftus	Subcommittee staff director.	13,724.34

SCHEDULE B—INVESTIGATIVE STAFF PAYROLL—Continued

Name of employee	Profession	Total gross salary during 6-mo period
Linda L. Lord	Secretary	$8,400.00
Patricia A. Lord	do	6,291.65
Margaret F. McCarthy	do	7,350.00
Margaret E. McCloskey	do	4,524.16
James B. McMahon	Staff assistant, minority.	13,200.00
William F. McQuillen	Professional staff member.	12,300.00
Janet Maus	Staff assistant, minority.	12,600.00
Kelsay R. Meek	Professional staff member.	18,835.32
Barbara R. Miller	Clerk	491.11
Carl A. Mintz, Jr	Research statistician	11,550.00
Ronald A. Mis	Assistant clerk	2,480.00
Clark Ray Mollenhoff, Jr.	Investigator-researcher.	7,033.34
Susan P. Ness	Assistant counsel	9,250.02
Kathleen O'Malley	Secretary	6,000.00
James C. Orr	Professional staff member.	10,374.99
Eliza M. Paul	Research assistant	7,875.00
Jeffrey K. Perry	Assistant clerk	300.00
Miriam W. Rakow	Secretary	9,948.78
Michael A. Rattigan	Professional staff member.	942.50
Margaret L. Rayhawk	Research associate	4,025.00
Mary Anne Reilly	Minority secretary	4,812.50
William J. Roche, Jr	Research assistant	821.33
James C. Rogers, Jr	Professional staff member.	486.11
Roy A. Schotland	do	6,352.50
Brenda C. Shelton	Secretary	833.33
Elaine C. Shephard	Assistant clerk	5,031.25
Ethan H. Siegal	Research assistant	5,250.00
James C. Sivon	Minority staff assistant	8,749.98
Katherine D. Slatter	Special assistant	479.17
Peter H. Smith	Professional staff member.	9,975.00
Merril Stevenson	Special assistant	9,600.00
Richard L. Still	Subcommittee staff director.	18,881.58
Phyllis Stone	Secretary	340.20
Donald J. Stratton	Special assistant	3,208.32
Stephen J. Verdier	Assistant counsel	2,337.50
Constance A. Vettel	Secretary to minority	4,999.98
Lorna Watson	Professional staff member.	6,458.35
Edwin W. Webber	Subcommittee staff director.	3,150.00
David I. Weil	Professional staff member.	10,845.83
Robert Weintraub	Subcommittee staff director.	5,670.00
Robert L. Wills	Research assistant	1,750.00
John P. Wynn	Staff assistant, minority.	6,262.50
John R. Youngken	Research assistant	7,262.50
Jack Zackin	Assistant counsel	8,400.00
Marilyn Donahue	Minority secretary	7,612.50
John M. Frantz	Professional staff member.	1,375.00
Debra A. Geis	Assistant clerk	245.56
David Glick	Counsel	18,900.00
Willis Goldbeck	Professional staff assistant.	123.33
Emily Hightower	Executive secretary	12,016.68
Mercer L. Jackson, Jr	Minority staff member	18,900.00
Raymond K. James	Counsel	18,900.00
Sylvan J. Kamm	Professional staff member.	13,016.68
Bonnie V. Lockett	Secretary	7,123.60
Diane D. Lohman	Legal intern	2,150.00
Benjamin B. McKeever	Counsel	18,900.00
Gerald R. McMurray	Staff director	18,900.00
Wanda Jean Raupach	Secretary	10,398.24
Ann L. Roll	do	6,258.32
Catherine M. Smith	Minority secretary	7,612.50
Mary E. Sullivan	Assistant clerk	7,500.00
Regina Ann Sullivan	do	977.78
Anthony Valanzano	Minority counsel	18,900.00
Total		772,114.60

COMMITTEE ON THE BUDGET

July 1, 1976.

To the Clerk of the House:

The Committee on the Budget pursuant to section 6(j) of Rule XI, Rules of the House of Representatives, submits the following report for the 6-month period from Jan. 1, to June 30, 1976, inclusive:

1. Name, profession, and total salary of each person employed (see attached schedules A and B).
2. Total funds available during this period $1,124,877.00
3. Amount expended during this period 934,909.00

BROCK ADAMS, Chairman.

SCHEDULE A—STANDING COMMITTEE PAYROLL

Name of employee	Profession	Total gross salary during 6-mo period
George Gross	Executive director	$18,900.00
Shirley Ruhe	Special assistant	9,836.14
Susan Walter	Secretary	7,810.98
Linda Kamm	General counsel	18,900.00
Wendell Belew	Attorney	9,459.54
Nancy Teeters	Assistant director, economic analysis.	18,900.00
James Lyday	Economist	18,900.00
Harry Boissevain	do	17,345.84
Nancy Wilson	do	10,815.63
Joanne Brasco	do	7,992.05
M. Bruce Meredith	Assistant director, budget priorities.	18,900.00
Denis Kedzior	Senior analyst	12,925.02
Kathleen Naill	Special assistant	8,460.84
Benson Simon	Senior analyst	18,900.00
John Cove	do	18,900.00
Alair Townsend Harris	do	18,480.00
Charles Wiecking	do	18,900.00
Charles Thomas	do	16,898.16
Raphael Thelwell	do	18,900.00
William Cleary	Analyst	18,900.00
Russell D. Hale	do	14,973.51
Peter M. Storm	do	18,837.27
Carlene Crumpton-Bawden.	do	15,654.48
Judith Kammins	Analyst (Jan. 1 through Mar. 19).	4,772.25
Joseph Manes	Analyst	18,900.00
James A. Rotherham	do	18,463.71
David Garrison	do	14,973.51
Mortimer L. Downey	do	18,463.51
Allen C. Grommet	do	11,588.84
Michael L. Telson	do	14,542.98
Robert J. Leonard	do	6,825.00
Eleanor Senf	Research assistant	7,179.50
David Jewell	Public Information Committee.	16,916.67
Helen Burnett	Writer/editor	4,166.67
John J. King	Administrator	13,830.00
Jane I. Parker	Office manager	8,327.52
Paul Nelson	Clerk/messenger	5,941.58
Sylvia DeBaun	Librarian	6,381.36
Grace Aldridge	Secretary	7,329.48
Vergie Colby	do	7,621.50
Carolyn Culbreath	do	6,925.80
Bertha Datcher	do	6,992.46
Laura Elder	do	7,229.49
Martha Grundmann	Research assistant	7,661.44
Susan Kuykendall	Secretary	6,314.70
Camille Pecorak	do	4,973.34
Cathy Phillips	do	5,818.33
Lois Ross	do	7,025.80
Grace Royal	do	5,707.26
Deborah Sheehan	do	7,329.48
Nancy Stiner	do	7,744.74
Leta Swartz	Secretary (Jan. 1 through June 7).	4,738.93
Patricia Tusaie	Secretary	4,926.33
Beatrice Wood	do	7,577.74
Belva Atchison	Word processor (Jan. 1, through Apr. 25).	3,528.58
Nicholas Master	Majority professional consultant.	15,173.52
Linda L. Smith	do	14,277.84
Edward Starr	do	13,258.24
Timothy W. Glidden	do	14,906.84
David W. Allen	do	14,773.50
Josephine McAllister	Research secretary	7,279.50
Diane Crandall	do	7,129.50
Alda Douglas	do	7,129.50
Melvin Miller	Minority staff director	18,900.00
Philip Lyons	Minority staff consultant.	10,566.67
Elizabeth Botts	Research secretary	6,662.49
William Robertson	Writer/editor (Jan. 1 through Jan. 19).	1,611.70
Total		770,877.2

COMMITTEE ON THE DISTRICT OF COLUMBIA

July 23, 1976.

To the Clerk of the House:

The Committee on the District of Columbia pursuant to section 6 (j) of Rule XI, Rules of the House of Representatives, submits the following report for the 6 month period from Jan. 1, to June 30, 1976, inclusive:

1. Name, profession, and total salary of each person employed (see attached schedules A and B).
2. Total funds available during this period $407.800.00
3. Amount expended during this period 183,599.31

CHARLES C. DIGGS, Jr. Chairman.

SCHEDULE A—STANDING COMMITTEE PAYROLL

Name of employee	Profession	Total gross salary during 6-mo period
Edward C. Sylvester, Jr	Staff director	$18,900.00
Ruby G. Martin	General counsel	18,891.48
James T. Clark	Legislative counsel	18,874.78
Dale MacIver	Staff counsel	16,986.65
Daniel Martin Freeman	do	14,549.38
Jacqueline E. Wells	Staff assistant	13,948.17
Dietra L. Gerald	do	12,916.66
Edward L. Cleveland	do	12,075.00
Nelson F. Rimensnyder	do	12,229.17
Maria L. Otero	Office administrator	11,271.20
Wilbur G. Hughes	Staff assistant	9,698.70
Dorothy M. Anderson	do	8,404.01
Leslie Yates	Staff assistant (from Jan. 1–Mar. 31, 1976).	3,937.50
Donovan Gay	Staff assistant	10,025.00
Gerald M. Wallette	Staff assistant (from Jan. 1–Feb. 29, 1976.)	4,583.34
Inez B. Roundtree	Staff assistant (from Feb. 1–Mar. 31, 1976).	1,877.77
Gwendolyn L. Kimbrough	Staff assistant	11,833.33
Richard Levy	Staff assistant (from Apr. 1–May 31, 1976.)	3,850.00
David Brinston	Clerk (from Mar. 1–31, 1976).	383.33
La Vonne M. Manley	Secretary to the staff director.	9,179.01
Grace DeMaio	Secretary (from Jan. 1–Mar 31, 1976.)	3,524.52
Dolores C. Floyd	Senior secretary (from Jan. 1–Mar. 31, 1976).	3,399.99
Marguerite E. Gras	Secretary (from Jan. 1–Mar. 31, 1976).	3,334.24
Marcia A. Mills	Secretary (from Jan. 1–Mar. 31, 1976).	2,887.50
Louise H. Winston	Information assistant/receptionist (from Jan. 1–Mar. 31, 1976).	3,399.99
Theodore Richardson	Bill clerk (from Jan. 1–Mar. 31, 1976.)	3,047.69
Jòan T. Willoughby	Staff assistant (from Apr. 1–June 30, 1976).	4,820.84
Martha M. Marble	Subcommittee staff assistant (from Apr. 1–June 30, 1976).	7,087.50
H. Christopher Nolde	Subcommittee staff counsel (from Apr. 1–June 30, 1976).	7,087.50
Robert B. Brauer	Subcommittee staff assistant (from Apr. 1–June 30, 1976).	7,087.50
Lawrence C. Smith	Subcommittee staff counsel (from Apr. 1, to June 30, 1976).	6,037.50
Hugh B. Calkin	Subcommittee staff assistant (from Apr. 1 to June 30, 1976).	5,499.99
Michael Nevens	Subcommittee staff assistant (from June 1, to June 30, 1976).	1,925.00
Mark Mathis	Minority counsel	17,999.99
James M. Christian	Deputy minority counsel.	16,416.68
Janice Lookner	Minority legislative staff assistant (from Jan. 1, to May 30, 1976).	7,656.25
J. Dent Farr III	Minority legislative staff assistant.	8,400.00
Carol B. Thompson	do	8,000.00
Susan T. McCormack	Minority secretary (from Jan. 1, to Mar. 31, 1976).	2,777.08
William J. Chandler	Minority legislative staff assistant (from Mar. 1, to June 30, 1976).	6,329.17
Alfred S. Frank, Jr	Subcommittee minority staff counsel (from Mar. 1, to June 30, 1976).	7,087.50

SCHEDULE A—STANDING COMMITTEE PAYROLL—Con.

Name of employee	Profession	Total gross salary during 6-mo period
Barbara Norris Chaves	Minority subcommittee legislative staff assistant (from Mar. 1, to June 30, 1976).	$5,118.75
Total		353,339.02

SCHEDULE B—INVESTIGATIVE STAFF PAYROLL

Name of employee	Profession	Total gross salary during 6-mo period
Joan T. Willoughby	Staff assistant (from Jan. 1–Mar. 31, 1976).	$4,462.50
Kerry G. Holman	Staff assistant	7,525.00
Joyce A. Miles	Secretary	5,779.17
Beverly Nickens	do	5,597.92
Christine Rhodes	Secretary (from Jan. 5–Jan. 7, 1976).	3,728.96
Barbara R. Jackson	Staff assistant	4,950.00
Margi Mosbaek	do	7,875.00
Lorraine McDaniels	Secretary	8,124.12
Alice Sutton	do	5,775.00
Leslie Yates	Staff assistant (from Apr. 1–June 30, 1976).	3,937.50
Inez Roundtree	do	3,249.99
Louise Winston	Information assistant /receptionist (from Apr. 1–June 30, 1976).	3,399.99
William J. Chandler	Minority legislative assistant (from Jan. 1–Mar. 31, 1976).	6,125.01
David C. Patch	Minority legislative staff assistant.	6,562.50
Marilou E. Colunga	Minority secretary (from Mar. 1–June 30, 1976).	3,500.00
Susan T. McCormack	Minority secretary (from Apr. 1–June 30, 1976).	2,956.26
Barbara C. Jackson	Secretary	2,100.00
Catherine B. Floyd	Secretary (from May 10–June 30, 1976).	1,561.88
Martha M. Marble	Subcommittee staff assistant (from Jan. 1–Mar. 31, 1976).	7,087.50
Lawrence C. Smith	Subcommittee staff counsel (from Jan. 1–Mar. 31, 1976).	6,037.50
Alfred S. Frank, Jr	do	7,087.50
Robert B. Brauer	Subcommittee staff, assistant (from Jan. 1–Mar. 31, 1976).	7,087.50
T. Michael Nevens	Subcommittee staff assistant (from Jan. 1–May 31, 1976).	9,625.00
Barbara C. Norris Chaves.	Minority subcommittee legislative assistant (from Jan. 1–Mar. 31, 1976).	5,118.75
H. Christopher Nolde	Subcommittee staff counsel (from Jan. 1–Mar. 31, 1976).	7,087.50
Stuart K. Jones	Minority subcommittee staff counsel.	8,670.00
Hugh B. Calkin	Subcommittee staff assistant (from Jan. 1–Mar. 31, 1976).	5,499.99
David M. Foster	Minority subcommittee legislative staff assistant (from Jan. 1–Mar. 31, 1976).	637.50
Grace M. DeMaio	Secretary (from Apr. 1–June 30, 1976).	3,525.00
Dolores C. Floyd	Senior secretary (from Apr. 1–June 30, 1976).	3,499.99
Marguerite Gras	Secretary (from Apr. 1–June 30, 1976).	3,335.01
Theodore Richardson	Bill clerk (from Apr. 1–June 30, 1976).	3,200.01
Marcia A. Mills	Secretary (from Apr. 1–June 30, 1976).	2,970.84
David A. Brinston	Clerk (from Apr. 1–June 30, 1976).	1,500.00
Thomas Glasper	Clerk (from Apr. 1–June 22, 1976).	1,366.67
Jeffrey K. Smith	Clerk (from Apr. 1–June 15, 1976).	1,250.00
Charles D. Brown	Staff assistant (from Apr. 1–June 30, 1976).	$2,633.33
Chase Libbey	Minority intern (from Apr. 1–June 30, 1976).	333.33
Total		174,763.72

COMMITTEE ON EDUCATION AND LABOR (STANDING COMMITTEE)

July 15, 1976.

To the Clerk of the House:

The Committee on Education and Labor (Full Committee, Standing, Majority and Minority) pursuant to section 6(j) of Rule XI, Rules of the House of Representatives, submits the following report for the 6 month period from Jan. 1 to June 30, 1976, inclusive:

1. Name, profession, and total salary of each person employed (see attached schedules A and B)
2. Total funds available during this period $389,375.32
3. Amount expended during this period 389,375.32

CARL D. PERKINS, Chairman.

SCHEDULE A—STANDING COMMITTEE PAYROLL

Name of employee	Profession	Total gross salary during 6-mo period
Majority:		
Donald M. Baker	Chief clerk and associate counsel (Jan. 1–June 30, 1976).	$18,900.00
Donald F. Berens	Administrative assistant (Jan. 1–June 30, 1976).	16,367.40
Patricia R. Bowley	do	9,750.06
William H. Cable	Counsel (Jan. 1–June 22, 1976).	18,060.00
Katherine Kennedy Clark.	Research assistant (Jan. 1–June 30, 1976).	11,814.18
Elizabeth A. Cornett	Administrative assistant (Jan. 1–June 30, 1976).	11,811.12
Lelia T. Cornwell	do	11,811.12
Louise Maxienne Dargans.	Research director (Jan. 1–June 30, 1976).	18,900.00
William F. Gaul	Associate general counsel (Jan. 1–June 30, 1976).	18,900.00
Hamish L. Murray	Budget specialist (Jan. 1–June 30, 1976).	15,750.00
Daniel H. Pollitt	Special counsel (Jan. 1–June 30, 1976).	18,900.00
Hartwell D. Reed, Jr	General counsel (Jan. 1–June 30, 1976).	18,900.00
Benjamin F. Reeves	Assistant to chairman and assistant chief clerk (Jan. 1–June 30, 1976).	18,900.00
Mary L. Shuler	Secretary (Jan. 1–June 30, 1976).	9,153.60
Austin P. Sullivan	Legislative director (Jan. 1–June 30, 1976).	18,900.00
Jeanne E. Thomson	Legislative assistant (Jan. 1–June 30, 1976).	12,293.40
Louise M. Wright	Administrative assistant (Jan. 1–June 30, 1976).	17,205.60
Marian R. Wyman	Special assistant to chairman (Jan. 1–June 30, 1976).	18,900.00
Minority:		
Robert C. Andringa	Minority staff director (Jan. 1–June 30, 1976).	18,900.00
Edith Carter Baum	Minority counsel for Labor (Jan. 1–June 30, 1976).	18,900.00
Christopher T. Cross	Minority legislative associate (Jan. 1–June 30, 1976).	18,900.00
Charles W. Radcliffe	Minority counsel (Jan. 1–June 30, 1976).	18,900.00
Silvia J. Rodriguez	Minority secretary (Jan. 1–June 30, 1976).	7,218.78
Kim Allinger Schouten	do	6,825.00
Dorothy L. Strunk	Minority legislative clerk (Jan. 1–June 30, 1976).	9,450.00
Patricia Ann Sullivan	Minority secretary (Jan. 1–June 30, 1976).	5,065.00
Total		389,375.32

COMMITTEE ON EDUCATION AND LABOR (FULL COMMITTEE)

U.S. House of Representatives

July 15, 1976.

To the Clerk of the House:

The Committee on Education and Labor (Full Committee Investigating Staff (Majority and Minority) (H. Res. 975) pursuant to section 6(j) of Rule XI, Rules of the House of Representatives, submits the following report for the 6-month period from Jan. 1 to June 30, 1976, inclusive:

1. Name, profession, and total salary of each person employed (See attached schedules A and B)
2. Total funds available during this period (Jan. 3 to June 30, 1976) $1,160,000.00
3. Amount expended during this period (Jan. 3 to June 30, 1976) 236,153.09
4 Amount expended for salaries (Jan. 1 and 2, 1976) (Paid out of 1975 appropriation) 2,139.05

CARL D. PERKINS, Chairman.

SCHEDULE B—INVESTIGATIVE STAFF PAYROLL

Name of employee	Profession	Total gross salary during 6-mo period
Majority:		
Carole J. Ansheles	Secretary (Jan. 1–June 30, 1976).	$7,737.72
Goldie A. Baldwin	Legislative assistant (Jan. 1–June 30, 1976).	7,536.52
Portia Battle	Assistant clerk (temporary) (Jan. 20–June 30, 1976).	2,490.83
Mary Fran Breathitt	Research assistant (Jan. 1–June 30, 1976).	5,581.25
Layne M. Carlough	Assistant clerk (temporary) (summer) (June 1–30, 1976).	565.00
Jeff T. Chanin	Assistant clerk (temporary) (summer) (June 14–30, 1976).	320.17
Beatrice R. Clay	Secretary (Feb. 1–29, 1976).	1,208.33
Jeffrey C. Crigler	Assistant clerk (temporary) (summer) (June 1–30, 1976).	565.00
Vincent DeMarco	Assistant clerk (temporary) (summer) (June 15–30, 1976).	211.20
Stephen C. Fotis	Assistant clerk (temporary) (Mar. 22–June 30, 1976).	1,830.00
Mark N. Griffith	Assistant clerk (temporary) (May 10–June 30, 1976).	960.50
Marilyn S. Hall	Research assistant (Jan. 1–June 30, 1976).	6,000.00
Kyle L. Jones	Assistant clerk (temporary) (Jan. 1–June 30, 1976).	765.00
Susan G. Jordan	Assistant clerk (temporary) (summer) (June 24–30, 1976).	131.83
Nancy L. Kober	Staff assistant (Jan. 1–June 30, 1976).	5,150.00
Alan R. Lovesee	Counsel (Apr. 26–June 30, 1976).	4,152.78
S. Jefferson McFarland	Research assistant (Jan. 1–June 30, 1976).	5,250.00
Barbara E. Morrison	Secretary (Jan. 1–June 30, 1976).	8,437.50
Michael Lee Moye	Assistant clerk (Jan. 1–June 30, 1976).	2,375.67
Kathleen A. O'Hara	Secretary (Jan. 1–June 22, 1976).	8,600.00
David E. Pinkard	Assistant clerk (Jan. 22–June 30, 1976).	2,021.00
David S. Putnam	Staff assistant (Jan. 1–June 30, 1976).	6,253.86
Anthony D. Shapiro	Assistant clerk (temporary) (summer) (May 24–June 30, 1976).	696.83
Thomas A. Stevenson	Assistant clerk (temporary) (summer) (May 14–June 30, 1976).	885.17
Peter Schott	Staff assistant (Jan. 1–June 30, 1976).	6,394.32
Mildred L. Watson	Assistant to budget specialist (Jan. 1–June 30, 1976).	7,440.00
Total, majority		93,560.48

SCHEDULE B—INVESTIGATIVE STAFF PAYROLL—Continued

Name of employee	Profession	Total gross salary during 6-mo period
Minority:		
Mary A. Anders	Minority secretary (June 3–June 30, 1976).	$991.67
Susan C. DeMarr	Minority secretary (Jan. 1–June 30, 1976).	6,562.50
William M. Diefenderfer.	Minority staff attorney (Jan. 1–Apr. 11, 1976).	7,815.28
Rebecca J. Kite	Minority secretary (Jan. 1–Mar. 14, 1976).	2,261.12
Susan C. Koller	Minority secretary (Mar. 22–June 30, 1976).	2,956.24
Martin L. LaVor	Senior minority legislative associate (Jan. 1–June 30, 1976).	17,872.34
Richard H. Mosse	Assistant minority Counsel (Jan. 1–June 30, 1976).	16,143.78
Nathaniel M. Semple	Minority legislative associate (Jan. 1–June 30, 1976).	14,175.00
J. Charles Sheerin	Minority counsel for labor (Jan. 1–June 30, 1976).	18,900.00
Yvonne Franklin Smith.	Minority staff investigator (Jan. 1–June 30, 1976).	13,335.65
Suzanne G. Treacy	Minority secretary (Jan. 1–June 30, 1976).	6,600.00
Jennifer D. Wysong	Minority research assistant (Jan. 1–June 30, 1976).	5,499.99
Total, minority		113,113.57

SUBCOMMITTEES OF THE COMMITTEE ON EDUCATION AND LABOR

July 15, 1976.

To the Clerk of the House:

The Committee on Education and Labor (8 Standing Subcommittees—Investigating Staff) (H. Res. 975) pursuant to section 6(j) of Rule XI, Rules of the House of Representatives, submits the following report for the 6 month period from Jan. 1, to June 30, 1976, inclusive:

1. Name, profession, and total salary of each person employed (see attached schedules A and B)	------------
2. Total funds available during this period (Jan. 3 to June 30, 1976)	$1,160,000.00
3. Amount expended during this period (Jan. 3 to June 30, 1976)	453,183.28
4. Amount expended for salaries (Jan. 1 and 2, 1976) (paid out of 1975 appropriation)	4,380.62

CARL D. PERKINS, Chairman.

SUBCOMMITTEE ON ELEMENTARY, SECONDARY AND VOCATIONAL EDUCATION

(Representative Carl D. Perkins, Chairman)

SCHEDULE B—INVESTIGATIVE STAFF PAYROLL

Name of employee	Profession	Total gross salary during 6-mo period
Beatrice R. Clay	Secretary (Jan. 1–June 30, 1976).	$5,241.65
John F. Jennings	Counsel (Jan. 1–June 30, 1976).	18,900.00
Shirley R. Mills	Secretary (Jan. 1–June 30, 1976).	9,497.50
Patrick J. Murphy	Assistant clerk (June 1–30, 1976).	650.00
Toni E. Painter	Secretary (Jan. 1–June 30, 1976).	8,125.44
Dean V. Shahinian	Assistant clerk (June 21–30, 1976).	216.67
Ivan Swift	Legislative assistant (Jan. 1–June 30, 1976).	6,565.80
Total		49,197.06

SUBCOMMITTEE ON LABOR-MANAGEMENT RELATIONS

(Representative Frank Thompson, Jr., Chairman)

SCHEDULE B—INVESTIGATIVE STAFF PAYROLL

Name of employee	Profession	Total gross salary during 6-mo period
Jeunesse M. Beaumont	Clerk (Jan. 1–June 30, 1976).	$11,175.00
David Dickson	Research assistant (Jan. 1–June 30, 1976).	725.00
Dale Leonard DiDonato	Assistant clerk (Jan. 1–June 30, 1976).	3,600.00
George A. Franklin	Research assistant (Jan. 1–May 31, 1976).	4,466.65
Rose M. Hamlin	Secretary (Jan. 24–June 30, 1976).	4,677.77
Donald J. Kaniewski	Research assistant (Jan. 1–June 30, 1976).	7,000.02
Richard A. Millner	Assistant clerk (Mar. 1–Apr. 30, 1976).	300.00
Thomas Wolanin	Staff director (Jan. 1–June 30, 1976).	16,283.32
Richard Shaffer	Research assistant (June 1–30, 1976).	800.00
Total		49,027.76

SUBCOMMITTEE ON LABOR STANDARDS

(Representative John H. Dent, Chairman)

SCHEDULE B—INVESTIGATIVE STAFF PAYROLL

Name of employee	Profession	Total gross salary during 6-mo period
Julie Domenick	Research assistant (Jan. 1–June 30, 1976).	$9,495.82
Adrienne Fields	Clerk and administrative assistant (Jan. 1–June 30, 1976).	12,550.02
Cynthia L. Fox	Secretary (Jan. 1–June 30, 1976).	5,500.02
David L. Mallino	Research assistant (Mar. 1–June 30, 1976).	5,000.00
Annette Mollick	Assistant clerk (June 1–30, 1976).	500.00
Robert E. Vagley	Director (Jan. 1–June 30, 1976).	18,900.00
Total		51,945.86

Representative Dominick V. Daniels, Chairman

SCHEDULE B—INVESTIGATIVE STAFF PAYROLL

SUBCOMMITTEE ON MANPOWER, COMPENSATION, AND HEALTH AND SAFETY

Name of employee	Profession	Total gross salary during 6-mo period
David P. Cybuliski	Assistant clerk (June 1–June 30, 1976).	$500.00
Susan F. Drogin	Assistant clerk (June 2–June 30, 1976).	483.33
Hugh G. Duffy	Counsel (June 7–June 30, 1976).	2,266.67
Daniel H. Krivit	Counsel (Jan. 1–June 30, 1976).	18,900.00
Mary Beth Lawler	Staff assistant (May 19–June 30, 1976).	1,633.34
Denniese L. Medlin	Clerk (Jan. 1–June 30, 1976).	7,374.98
Marcia Sue Nelson	Legislative associate (Jan. 1–June 30, 1976).	11,200.00
Saralee Schwartz	Research assistant (Jan. 1–June 30, 1976).	5,833.32
Total		48,191.64

SUBCOMMITTEE ON SELECT EDUCATION

(Representative John Brademas, Chairman)

SCHEDULE B—INVESTIGATIVE STAFF PAYROLL

Name of employee	Profession	Total gross salary during 6-mo period
Thomas L. Birch	Legislative assistant (Jan. 1–June 30, 1976).	$9,000.00
Ronald J. Caridi	do	10,999.98
Michael G. Cohan	Research assistant (Jan. 1–June 30, 1976).	5,916.66
Jack G. Duncan	Counsel (Jan. 1–June 30, 1976).	18,900.00
Joan M. Godley	Executive secretary (Jan. 1–June 30, 1976).	6,583.34
Grace S. Goekjian	Legislative assistant (Jan. 1–31, 1976).	1,459.42
Patricia A. Watts	Executive secretary (Jan. 1–June 30, 1976).	6,505.00
Total		59,364.40

SUBCOMMITTEE ON POSTSECONDARY EDUCATION

(Representative James G. O'Hara, Chairman)

SCHEDULE B—INVESTIGATIVE STAFF PAYROLL

Name of employee	Profession	Total gross salary during 6-mo period
Webster Buell	Counsel (Jan. 1–June 30, 1976).	$12,187.56
Barbara Frush	Assistant clerk (Jan. 1–May 31, 1976).	2,500.00
Matthew S. Gamser	Assistant clerk (June 30, 1976).	400.00
James B. Harrison	Staff director (Jan. 1–June 30, 1976).	17,147.70
Jeffrey W. Kampelman	Assistant clerk (May 24–June 30, 1976).	616.67
Faye Marie Martin	Assistant clerk (Jan. 1–June 30, 1976).	2,021.25
William G. Phillips	Legislative associate (Apr. 1–30, 1976).	3,150.00
Karen Lee Prince	Assistant clerk (Jan. 1–June 30, 1976).	4,200.00
Peter O. Shinevar	Research assistant (May 10–June 30, 1976).	1,452.16
George S. Skinner	Associate counsel (Apr. 1–June 30, 1976).	1,191.00
Elnora H. Teets	Clerk (Jan. 1–June 30, 1976).	7,689.00
Eugene C. Zack	Legislative associate (May 1–June 30, 1976).	6,225.62
Total		58,780.96

SUBCOMMITTEE ON EQUAL OPPORTUNITIES

(Representative Augustus F. Hawkins, Chairman)

SCHEDULE B—INVESTIGATIVE STAFF PAYROLL

Name of employee	Profession	Total gross salary during 6-mo period
Susan Durkee Grayson	Staff director (Jan. 1–June 30, 1976).	$13,931.25
Bertram M. Gross	Staff assistant (Jan. 1–June 30, 1976).	1,800.00
Frances A. Hardin	do	5,999.98
William L. Higgs	Special assistant (Jan. 1–June 30, 1976).	11,649.99
Leon H. Keyserling	Staff assistant (Mar. 1–June 30, 1976).	2,000.00
Amy Libenson	Research assistant (June 1–30, 1976).	400.00
Thomas H. Newton	Research aide (Mar. 8–Apr. 30, 1976).	552.08

SUBCOMMITTEE ON EQUAL OPPORTUNITIES—Continued

(Representative Augustus F. Hawkins, Chairman)—Con.

SCHEDULE B—INVESTIGATIVE STAFF PAYROLL—Continued

Name of employee	Profession	Total gross salary during 6-mo period
David C. Ruffin, III	Legislative assistant (Jan. 1–June 30, 1976).	$8,925.00
Carole M. Schanzer	Clerk (Jan. 1–June 30, 1976).	8,649.99
Mary L. Whitsett	Assistant clerk (Jan. 1–June 30, 1976).	6,175.56
Total		60,083.85

SUBCOMMITTEE ON AGRICULTURAL LABOR

Representative William D. Ford, Chairman

SCHEDULE B—INVESTIGATIVE STAFF PAYROLL

Name of employee	Profession	Total gross salary during 6-mo period
Roger D. Brunner	Research aide (May 1–June 30, 1976).	$1,200.00
Martin Lee DeWitt	Research assistant (June 1–30, 1976).	800.00
Eugene I. Gessow	Staff assistant (Feb. 1–Mar. 31, 1976).	2,755.58
Nancy M. Gillen	Typist (June 14–30, 1976).	283.33
Toni Jean Grant	Research assistant (Jan. 1–Feb. 29, 1976).	1,925.00
Thomas R. Jolly	Counsel (Jan. 1–June 30, 1976).	18,900.00
Charles J. Kalil	Research assistant (Jan. 1–Mar. 12, 1976).	1,152.29
Thomas M. Lopez	Research aide (Jan. 5–June 30, 1976).	4,013.33
William S. Margetich	Research assistant (Jan. 1–31, 1976).	250.00
Patricia R. Morse	Clerk (Jan. 1–June 30, 1976).	9,426.00
Nancy E. Nelson	Research assistant (Mar. 22–May 31, 1976).	1,840.00
Mary R. Paul	Secretary (Jan. 1–June 30, 1976).	5,463.35
Scott W. Spaulding	Research assistant (Mar. 8–June 30, 1976).	1,379.29
Dinah F. Verby	Staff assistant (May 15–June 30, 1976).	1,226.67
Total		50,614.84

COMMITTEE ON EDUCATION AND LABOR (TASK FORCE ON WELFARE) AND PENSION PLAN

July 15, 1976.

To the Clerk of the House:

The Committee on Education and Labor (Task Force on Welfare and Pension Plan—Investigating Staff) (H. Res. 257) pursuant to section 6(j) of Rule XI, Rules of the House of Representatives, submits the following report for the 6 month period from Jan. 1 to June 30, 1976, inclusive:

1. Name, profession, and total salary of each person employed (see attached schedules A and B)
2. Total funds available during this period $172,759.54
3. Amount expended during this period 69,474.85

CARL D. PERKINS, Chairman.

SUBCOMMITTEE ON LABOR STANDARDS (TASK FORCE ON WELFARE AND PENSION PLAN)

(Representative John H. Dent, Chairman)

SCHEDULE B—INVESTIGATIVE STAFF PAYROLL

Name of employee	Profession	Total gross salary during 6-mo period
Vance J. Anderson	Counsel (Jan. 1–June 30, 1976).	$18,900.00
Kathleen Berish	Stenographer (Jan. 1–June 30, 1976).	5,500.02
Michelle E. Coster	Assistant clerk (June 21–30, 1976).	166.67
Holly Hasley	Assistant clerk June 1–30, 1976).	500.00
Suzanne Hays	Staff assistant (Jan. 1–(June 30, 1976).	6,615.00
S. Howard Kline	Assistant clerk (Jan. 1–June 30, 1976).	6,499.98
Ralph Lattanzio	Assistant clerk (June 1–30, 1976).	$500.00
Robin Reid	Secretary (Jan. 1–June 30, 1976).	7,087.50
Minority:		
Russell J. Mueller	Actuary and minority legislative associate (Jan. 1–June 30, 1976).	18,900.00
Total		64,669.17

COMMITTEE ON GOVERNMENT OPERATIONS

To the Clerk of the House:

The Committee on Government Operations pursuant to section 6(j) of Rule XI, Rules of the House of Representatives, submits the following report for the 6-months period from Jan. 1 to June 30, 1976, inclusive:

1. Name, profession, and total salary of each person employed (See attached schedules A and B)
2. Total funds available during this period $1,817,155.09
3. Amount expended during this period 873,360.72

JACK BROOKS, Chairman.

SCHEDULE A—STANDING COMMITTEE PAYROLL

Name of employee	Profession	Total gross salary during 6-mo period
William M. Jones	General counsel	$18,900.00
John E. Moore	Staff administrator	18,900.00
Elmer W. Henderson	Counsel	18,900.00
William H. Copenhaver	Associate counsel	18,375.00
John W. Beckler	Professional staff member.	12,924.99
C. Don Stephens	do	14,175.00
Lynne Higginbotham	Staff member	10,605.00
Catherine S. Cash	do	10,605.00
Ralph T. Doty	do	6,405.00
Marilyn F. Jarvis	do	9,692.64
Lilian M. Phillips	do	8,910.12
John Philip Carlson	Minority counsel	18,900.00
Richard L. Thompson	Minority professional staff member.	13,708.95
Stephen M. Daniels	do	13,571.45
James L. McInerney	do	12,408.50
Clara Katherine Armstrong.	Minority research assistant.	10,644.52
Susan M. Cohen	Minority secretary (from Feb. 9, 1976).	4,401.41
Catherine L. Koeberlein	Staff member (through Mar. 21, 1976).	4,861.19
Lawrence T. Graham	Minority professional staff member (through Jan. 18, 1976).	1,266.32
Total		228,155.09

SCHEDULE B—INVESTIGATIVE STAFF PAYROLL

Name of employee	Profession	Total gross salary during 6-mo period
Standing Committee, Hon. Jack Brooks, chairman:		
Expenses		$10,471.43
Special investigative staff, Hon. Jack Brooks, chairman:		
Thomas J. Payne	Professional staff member.	10,637.20
Emory H. Smith	do	11,025.00
Joy S. Chambers	do	10,749.99
Lawrence A. Russell	Professional staff member (from Apr. 1, 1976).	3,249.99
Diane M. Nuckolls	Staff member	4,366.66
Elizabeth H. Hanthorn	Staff member (from May 1, 1976).	1,500.00
Judge N. Williams	Staff member	4,357.50
Irene Till	Professional staff member (through June 11, 1976).	6,107.97
Jill C. Kirwin	Staff member (through June 30, 1976).	4,912.50
Theodore J. Jacobs	Professional staff member (through Mar. 31, 1976).	7,500.00
Thomas K. Sullivan	Minority professional staff member.	12,666.67
Richard M. Tempero	do	14,175.00
Jordan Clark	do	11,208.75
John M. Duncan	do	11,968.75
Henry S. Ruempler	Minority professional staff member (from Feb. 9, 1976).	10,004.35
Barbara Jean Kerns	Minority secretary (from Feb. 1, 1976).	$3,958.35
Susan M. Cohen	Minority secretary (through Feb. 8, 1976).	1,161.12
Sheila G. Nathanson	Minority secretary (through Jan. 11, 1976).	401.33
Total		129,951.13
Legislation and National Security Subcommittee, Hon. Jack Brooks, chairman:		
Richard C. Barnes	Professional staff member.	13,125.00
David E. Holt	do	12,600.00
Guadalupe R. Flores	do	7,000.02
Dorothy A. McGee	Secretary	5,451.24
Patricia M. Joyce	Secretary (from June 14, 1976).	554.86
Jane L. Jachimczyk	Professional staff member (through Apr. 22, 1976).	4,976.39
Expenses		790.32
Total		44,497.83
Intergovernmental Relations and Human Resources Subcommittee, Hon. L. H. Fountain, chairman:		
James R. Naughton	Counsel	18,900.00
Delphis C. Goldberg	Professional staff member.	18,900.00
Gilbert S. Goldhammer	Consultant	10,996.90
William S. McLeod	Professional staff member.	8,400.08
Pamela H. Welch	Clerk-stenographer	6,719.01
Margaret M. Goldhammer.	Secretary	5,403.46
Maxine A. Weinstein	Computer programer (from Jan. 30, through May 31, 1976).	5,713.90
Expenses		13,938.69
Total		88,972.34
Government Activities And Transportation Subcommittee, Hon. Wm. J. Randall, chairman:		
William G. Lawrence	Subcommittee staff director.	13,562.49
John F. Tischler	Special assistant to subcommittee chairman (from Apr. 1, 1976).	6,249.99
Miles Q. Romney	Subcommittee counsel	4,859.70
Bruce R. Butterworth	Research assistant	6,300.00
Marjorie A. Eagle	Secretary (from Apr. 1, 1976).	3,150.00
Susan E. Rollman	do	3,263.40
Expenses		3,136.44
Total		40,522.02
Commerce, Consumer, and Monetary Affairs Subcommittee, Hon. Benjamin S. Rosenthal, chairman:		
Peter S. Barash	Subcommittee staff director.	18,900.00
Herschel F. Clesner	Subcommittee counsel	18,499.98
Ronald A. Klempner	Professional staff member.	13,999.98
Robert H. Dugger	do	12,750.00
Jean S. Perwin	do	7,600.00
D. Faye Taylor	Clerk	7,049.64
Eleanor M. Vanyo	Secretary	6,690.36
Expenses		6,285.86
Total		91,775.82
Manpower and Housing Subcommittee, Hon. Floyd V. Hicks, chairman:		
Joseph C. Luman	Subcommittee staff director.	18,637.50
James L. Gyory	Investigator	11,550.00
Richard E. Grawey	Associate counsel	9,450.00
Peter H. Hanley	Professional staff member.	8,400.00
Geraldine A. Fitzgerald	Clerk	6,300.00
Louise Chubb	do	6,481.56
Expenses		6,012.31
Total		66,831.37

SCHEDULE B—INVESTIGATIVE STAFF PAYROLL—Continued

Name of employee	Profession	Total gross salary during 6-mo period
Government Information and Individual Rights Subcommittee, Hon. Bella S. Abzug, chairman:		
Timothy H. Ingram	Subcommittee staff director.	$18, 375. 00
Eric Hirschhorn	Subcommittee counsel	16, 500. 00
Theodore J. Jacobs	Professional staff member (from Apr. 1, 1976).	7, 500. 00
Robert S. Fink	Professional staff member.	13, 125. 00
Anita W. Wiesman	Clerk	6, 924. 99
Maura J. Flaherty	Secretary (from June 14, 1976).	590. 28
William G. Florence	Professional staff member (through May 31, 1976).	4, 358. 00
Ruth H. Matthews	Clerical staff (caseworker) (through May 31, 1976).	5, 208. 35
Eleanor Pollock Hughes	Editor (from Jan. 5–Mar. 31, 1976).	4, 300. 00
Expenses		3, 657. 86
Total		80, 539. 48
Conservation, Energy, and Natural Resources Subcommittee, Hon. Leo J. Ryan, Chairman		
Norman G. Cornish	Subcommittee staff director.	18, 637. 50
David A. Schuenke	Counsel	17, 850. 00
Robert K. Lane	Assistant for Environment.	13, 650. 00
Ronald J. Tipton	Assistant counsel	9, 450. 00
Eileen W. Theim	Secretary	7, 627. 98
Martha M. Doty	Clerk (through June 30, 1976).	7, 665. 00
Edwin W. Webber	Assistant for Energy (through May 31, 1976).	14, 358. 34
Expenses		2, 405. 39
Total		91, 644. 21
Grand total		645, 205. 63

COMMITTEE ON HOUSE ADMINISTRATION

Aug. 3, 1976.

To the Clerk of the House:

The Committee on House Administration pursuant to section 6(j) of Rule XI, Rules of the House of Representatives, submits the following report for the 6 month period from Jan. 1, to June 30, 1976, inclusive:

1. Name, profession, and total salary of each person employed (see attached schedules A and B)
2. Total funds available during this period $984, 830. 68
3. Amount expended during this period 558, 004. 71

FRANK THOMPSON, Jr., Chairman.

SCHEDULE A—STANDING COMMITTEE PAYROLL

Name of employee	Profession	Total gross salary during 6-mo period
Don Gosney	Assistant clerk (off May 31, 1976).	4, 375. 00
Sebastian Tom	Clerk (Electrical and echanical Subcommittee).	12, 229. 98
Heyward Hane, Jr	Clerk (Oversight Subcommittee).	12, 600. 00
Gurney Jaynes	Assistant clerk	11, 500. 02
John McGarry	Special counsel	18, 900. 00
Chellis Gregory, Jr	Clerk (Computer Subcommittee).	15, 750. 00
Joseph Ventura	Clerk (Personnel and Police Subcommittee).	13, 458. 34
Paula Peak	Deputy staff director (off Mar. 31, 1976).	6, 562. 50
Mary Stolle	Assistant clerk (off Feb. 28, 1976).	3, 231. 56
Evelyn Wilson	Staff assistant	10, 150. 00
Paul Wohl	do	18, 900. 00
Cynthia Cortese	Assistant clerk	7, 087. 50
Frank Ryan	Director of information system.	18, 900. 00
Thomas Cooper	Assistant minority counsel.	10, 000. 02
Johanna Lucas	Restaurant coordinator	11, 325. 00
Linda Nave	Assistant clerk (minority).	9, 694. 68
Brenda O'Lenick	Assistant clerk	9, 187. 50
Louis Ingram, Jr	Minority counsel (off Apr. 30, 1976).	10, 500. 00
Paul Dwyer	Counsel (Contracts Subcommittee).	$13, 125. 00
William Baranowski	Assistant clerk	6, 562. 50
Martha Ford	do	7, 078. 50
Sharon Kite	do	7, 999. 98
Noreen Aden	Assistant clerk (minority).	6, 300. 00
E. Douglas Frost	Staff assistant	16, 000. 00
Ray Murdock	Clerk (Paper Conservation Subcommittee).	13, 125. 00
Carol Clawson	Staff assistant	14, 437. 50
Robert McGuire	Assistant auditor	13, 125. 00
Elsie Taylor	Assistant clerk (Electrical and Mechanical Subcommittee).	7, 500. 00
Alice Mayer	Secretary to chief counsel (on Mar. 13, 1976).	4, 799. 99
T. Edward Strinko	Assistant to staff director (on Mar. 1, 1976).	8, 000. 00
Nancy Crookston	Assistant clerk (on June 24, 1976).	291. 67
Robert Moss	General counsel (on June 23, 1976).	840. 00
William Cable	Staff director and associate counsel (on June 23, 1976).	840. 00
Kathleen O'Hara	Assistant to staff director (on June 23, 1976).	444. 44
Total		324, 830. 68

SCHEDULE B—INVESTIGATIVE STAFF PAYROLL

Name of employee	Profession	Total gross salary during 6-mo period
Judith Simmons	Assistant clerk (Accounts Subcommittee).	$6, 143. 34
Bernard Mandella	Staff assistant (Contracts Subcommittee).	4, 725. 00
Phyllis Jones	Assistant clerk (Contracts Subcommittee).	3, 150. 00
Vivienne Hannum	Clerk (Parking Subcommittee).	7, 294. 86
Dixie Spencer	Clerk (Restaurant Subcommittee).	7, 900. 00
Alice Jackson	Secretary (Printing committee).	7, 431. 66
Barbara Giaimo	Assistant clerk (Elections Subcommittee).	8, 374. 98
Elizabeth Ray	Secretary (Oversight Subcommittee) (off May 21, 1976).	5, 483. 35
Ollievia Frasier	Assistant clerk	6, 562. 50
Richard Oleszewski	Clerk (Elections Subcommittee).	8, 374. 98
George Yatron	Assistant clerk (off May 31, 1976).	2, 625. 00
Patricia Rones	Assistant clerk (Oversight Subcommittee).	6, 000. 00
Grace Cohilas	Assistant clerk (Personnel and Policy Subcommittee).	5, 485. 88
Candis Whitley	Assistant clerk	4, 568. 58
Barbara Pogue	Secretary (Contracts Subcommittee).	5, 250. 00
Barbara Dumont	Assistant clerk (off Mar. 11, 1976).	2, 485. 00
Carol Forbes	Assistant clerk (Computer Subcommittee).	15, 000. 00
Susan Miller	Assistant clerk (off Jan. 31, 1976).	962. 50
Charles Howell	Counsel (Accounts Subcommittee).	12, 075. 00
William Canfield	Clerk (Library and Memorials Subcommittee).	9, 437. 49
Margaret Steele	Assistant clerk (Paper Conservation Subcommittee).	5, 040. 00
James Abernathy	Assistant clerk (Parking Subcommittee) (off May 31, 1976).	4, 375. 00
Omega Clay	Assistant clerk	3, 766. 66
Betsy Colombo	do	1, 926. 67
James Hart	do	5, 583. 34
Randy Camp	Assistant clerk (Parking Subcommittee) (off May 31, 1976).	5, 250. 00
John Dean	Assistant clerk (off May 14, 1976; on June 1, 1976).	4, 783. 33
Paul Panzarella	Assistant clerk (off June 9, 1976).	4, 637. 50
Jana Lincoln	Assistant clerk (Oversight Subcommittee).	1, 999. 98
Edward Davey, Jr	Counsel (Printing Subcommittee).	$9, 500. 01
Lem Clark, Jr	Clerk (Restaurant Subcommittee) (off May 31, 1976).	8, 333. 35
Timonthy Reese	Assistant clerk, (off Jan. 9, 1976).	250. 00
Paul Browning	Assistant clerk (on Jan. 29, 1976).	3, 040. 00
K. David Clawson	Assistant clerk (on Jan. 26, 1976; off June 4, 1976).	2, 580. 00
Patricia Perry	Assistant clerk (Parking subcommittee) (on Apr. 1, 1976).	3, 546. 00
Craig Colley	Assistant clerk, (on May 17, 1976).	880. 00
Geoffrey Cooper	Assistant clerk (on May 24, 1976).	740. 00
Mary Ann Denning	do	740. 00
Kylene Koch	Assistant clerk (Elections Subcommittee) (on May 17, 1976.)	733. 33
J. Stephen Mikita	Assistant clerk (on May 24, 1976).	740. 00
Debra Munjas	do	740. 00
Kelly Burke	Assistant clerk (on June 9, 1976).	440. 00
Peter Congleton	Assistant clerk (on June 7, 1976).	480. 00
Caroline Oakes	do	480. 00
David Spence	Assistant clerk (on June 14, 1976).	340. 00
Sandra White	Assistant clerk (on June 7, 1976).	480. 00
Robert Zeller	Assistant clerk (on June 15, 1976).	320. 00
William Causey	Assistant clerk—Minority (Contracts Subcommittee) (on June 7, 1976).	1, 266. 67
Total		202, 321. 96

COMMITTEE ON HOUSE ADMINISTRATION (HOUSE INFORMATION SYSTEMS)

Aug. 3, 1976.

To the Clerk of the House:

The Committee on House Administration—House Information Systems pursuant to section 6(j) of Rule XI, Rules of the House of Representatives, submits the following report for the 6-month period from January 1, to June 30, 1976. inclusive:

1. Name, profession, and total salary of each person employed (see attached schedules A and B)
2. Total funds available during this period $6, 626, 000. 00
3. Amount expended during this period 2, 013, 697. 37

FRANK THOMPSON, Jr., Chairman.

SCHEDULE B—INVESTIGATIVE STAFF PAYROLL

Name of employee	Profession	Total gross salary during 6-mo period
Rosa E. Allen	Junior supply control clerk (on June 6, 1976).	$595. 00
Luis J. Amigo	Senior programer analyst.	9, 065. 70
Neil R. Armann	Technical assistant	13, 877. 88
Denise L. Asparagus	Junior administrative control coordinator.	4, 972. 98
Belva R. Atchison	Text processing specialist (on Apr. 26, 1976).	2, 206. 75
Ronald A. Aufiero	Junior programer	5, 064. 65
Joel I. Babchak	Senior computer systems specialist.	13, 361. 76
Robert W. Barber	System factors specialist.	7, 411. 98
Jack B. Belcher	Programer	6, 741. 00
Alexander J. Ben	Junior production control coordinator	4, 957. 50
Linda K. Berdine	Junior secretary	4, 462. 50
Phillip E. Bescher	Senior programer analyst.	10, 015. 98
Delci Blair	Senior production control specialist (on May 3, 1976).	1, 725. 98
Geoffrey B. Blood	Programer analyst (on May 17, 1976).	2, 185. 45
David L. Brazeal	Senior computer systems analyst.	11, 057. 34
Mark D. Brickman	Junior communications terminal operator (on Apr. 26, 1976).	1, 440. 12
Cynthia Y. Brown	Senior typist (on Feb. 17, 1976).	3, 432. 99
Thomas C. Brown Jr	Junior section manager	11, 057. 43
Franklin A. Bueno	Senior production control specialist (on Apr. 9, 1976).	2, 185. 30

SCHEDULE B—INVESTIGATIVE STAFF PAYROLL—Continued

Name of employee	Profession	Total gross salary during 6-mo period
Barbara A. Burda	Production control coordinator.	$5,803.02
Earl W. Burdette	Section manager	13,014.48
Sandra R. Burke	Technical writer	7,411.98
Katherine J. Bye	Technical specialist	6,853.28
Frank W. Byrd	Data processing coordinator.	7,946.25
Benjamin R. Candler	Senior programer analyst.	10,015.98
Richard M. Carfagno	Acting junior programer (on June 7, 1976).	663.07
Jonathan P. Carter	Courier (on May 24, 1976).	778.64
Wayne Carter	Junior computer operator (on June 21, 1976).	276.28
John Timothy Cavanaugh	Senior programer analyst (on May 24, 1976).	2,125.24
Henry F. Collins, Jr	Senior section manager.	13,877.88
Fauntly E. Comer	Programer	6,741.54
Teddy R. Compton	Senior systems programer (on Feb. 17, 1976).	9,379.24
Brian M. Connolly	Systems programer	10,339.02
Janet Louise Conrad	Communications terminal operator.	4,611.48
James C. Daley	Senior computer systems analyst.	10,710.34
George E. Delcastillo	Senior systems programer.	12,216.78
William R. Delmore	Senior systems programer (on Feb. 23, 1976).	8,144.34
Darlene Devin	Junior administrative specialist (on May 3, 1976).	2,172.10
Joel A. DiBona	Information systems specialist.	8,910.27
Michael S. Dougherty	Senior information systems specialist.	12,823.65
Patricia R. Dowling	Programer analyst	9,211.50
JoJean L. Earley	Senior computer systems analyst.	12,216.78
Michele Eastridge	Secretary (acting)	4,972.98
Dorothy Ellis	Senior data preparation specialist.	5,346.00
Marilyn Epstein	Programer analyst	8,127.54
Ed Fairleigh	Senior computer operator (off June 17, 1976).	5,124.12
Richard H. Fields	Manager	14,766.18
Bruce W. Fink	Systems factors analyst.	9,693.06
Sarah A. Fisher	Junior programer	5,523.00
Marion M. Flohr	Senior typist	4,313.58
Lea Fowlie	Senior communications terminal operator.	4,972.98
Michael K. Frazier	Programer analyst	8,579.12
William E. Freeman, Jr	Section manager	13,205.31
Robert W. Garrett	Section manager	13,811.49
David Thomas Gaydos	Senior information systems specialist.	11,409.78
Deloris Gilliam	Computer operator	4,973.34
Jackie J. Gilliland	Junior programer	5,523.00
Gary Grasmick	Production control coordinator.	5,346.00
Aaron Greenberg	Senior system factors analyst.	11,126.55
Gertrude P. Grieb	Computer systems specialist.	10,383.84
Gail A. Grieder	Communications terminal operator.	4,146.18
Sheldon Grosberg	Administrative assistant.	14,773.02
Richard W. Guenot	Junior programer	5,523.00
Catherine M. Gvozd	Communications terminal operator.	4,432.74
James B. Haga	Senior information systems specialist.	11,453.40
Walter E. Haggerty	Section manager	14,226.00
Lindal Hall	Secretary	4,972.98
Cletis G. Harper	Section manager	11,454.66
Thomas J. Hawk	Junior data processing coordinator.	7,189.98
Delores Herald	Junior data preparation specialist (on Apr. 9, 1976).	1,725.64
William R. Hill	Section manager	13,014.75
Amos Hilton, Jr	Production control specialist.	4,887.99
Kathy Sue Hockenberry	Typist	4,386.36
Ralph W. Hofmann	Senior programer (on June 14, 1976).	700.02
Suzanne L. Holton	Senior typist (on May 3, 1976).	1,533.94
James P. Howell	Text processing specialist.	6,103.05
William L. Huddleston	Junior communications terminal operator (on June 7, 1976).	531.73
William H. Hunter	Programmer analyst	7,531.23
Mary Margaret Hyland	Senior secretary	5,891.58
Curtis Edward James	Programer	6,741.00
C. Wesley Jenkins	Senior computer systems specialist.	$12,217.02
Louis E. Johannes	Technical research assistant.	5,523.00
Robert Katsuda	Computer systems specialist.	9,693.00
Susay Marie Kenny	Junior communications terminal operator (on June 14, 1976).	376.64
Jean E. Keppler	Communications terminal operator.	4,462.50
Janet Key	Data preparation specialist.	3,987.90
Robert S. Kidwell	Section manager	13,619.88
Peter C. Kim	Senior production control specialist.	4,372.00
Gregory J. Knott	Text processing specialist.	6,111.00
Marilyn J. Knox	Senior typist	4,067.00
John F. Kurpiel	Senior communications terminal operator.	5,139.00
R. A. Kurzberg	Junior programer (on May 17, 1976).	1,350.07
Claire L. Lagakis	Junior text processing specialist.	5,523.00
Thomas C. Leonardo	Senior computer systems specialist.	11,835.00
Stephen F. Levitas	Programer analyst	8,940.24
Paula W. Macomber	Senior secretary	5,506.08
Roma Malkani	Senior computer systems analyst (on May 17, 1976).	2,893.00
John Mang, Jr	Senior programer analyst.	10,984.56
Michael B. Marcus	Programer analyst (on June 28, 1976).	135.46
Kenneth M. Marx	Senior information systems specialist.	10,734.48
Richard C. Maynard	do	13,744.98
Charles R. McCall, Jr	Courier (on Jan. 5, 1976).	3,703.80
Debora Jean McDonald	Typist	3,987.90
H. Gerald McGuire	Group manager	15,214.83
Curtis L. Merrick	Section manager	14,325.48
Edmond S. Mesko	Senior computer systems specialist.	12,280.48
Susan Bailey Miller	Senior system factors analyst.	11,835.06
Ronald V. Moretti	Programer (on Feb. 10, 1976).	6,193.05
Donald Charles Morris	Manager	14,990.07
Gerald C. Morrone	Computer systems analyst.	10,661.70
Helmut J. Mueller	Programer analyst (on June 1, 1976).	1,399.75
Sushma Mukerji	Senior programer analyst (on June 7, 1976).	1,378.53
Roberts Mumma	Data processing coordinator.	7,689.99
Gerald M. Murphy	Section manager	13,429.05
Steven B. Newman	Communications control coordinator.	5,707.26
Joseph A. O'Brien	Senior information systems specialist.	13,619.88
Thomas A. Odt	Junior programer (on June 7, 1976).	814.80
Robert B. Ogden	Senior programer	7,411.44
John H. Patterson	Programer analyst (on May 3, 1976).	2,618.86
Merrit Steven Phillips	Junior computer operator.	4,547.58
Thomas E. Pickenpaugh	Computer operator	4,987.00
Jo Ann Pometto	Secretary	4,972.98
Flora A. Posey	Data preparation specialist.	3,988.02
Hettie K. Prater	Technical aide	8,152.92
Carol A. Preshlock	Junior systems factors specialist.	6,965.52
Linda M. Preshlock	Junior programer (on May 3, 1976).	1,602.41
Heather C. Pritchard	Senior programer analyst (on May 3, 1976).	3,435.53
Martha H. Prout	Junior programer (on June 28, 1976).	92.05
Alfred C. Quenneville	Junior computer systems analyst.	8,127.54
Robert J. Reardon	Senior systems programer.	12,598.44
John T. Reed	Senior computer systems analyst.	12,980.10
Julie Collins Reynolds	Communications terminal operator.	4,146.18
Carole E. Roberts	Junior information systems specialist.	9,211.14
Janice K. Robertson	Computer systems analyst.	10,338.84
Elizabeth A. Robinette	Senior data preparation specialist.	4,792.02
Samuel M. Rogers	Data processing coordinator.	7,607.55
Yara N. Romani	Junior systems factors specialist.	6,741.00
Doris R. Ross	Secretary (on Mar. 8, 1976).	3,434.56
Linda Russell	Data preparation specialist.	4,287.18
Massimo Salino	Programer	$6,741.00
Shirley M. Samuels	Senior communications terminal operator.	4,632.66
Paul R. Savercool	Production control specialist.	3,954.18
Carl F. Schmidt	Systems programer	10,338.84
Janet P. Schultz	Junior program librarian.	4,632.66
Julette A. Sealey	Typist (off June 2, 1976).	3,894.14
Memory F. Sherard	Production control coordinator (on May 17, 1976).	1,306.80
James B. Short	Senior programer analyst.	9,181.26
Mark L. Shriver	Computer operator	6,008.28
Cheryl T. Smith	Systems factors specialist.	7,659.00
Emma Elvira Smith	Senior computer operator.	6,868.47
Steven M. Smith	Junior system factors specialist.	8,127.48
Warren G. Sproul	Programer analyst	8,127.48
Stephen J. Stofko, Jr	Group manager	15,922.83
Candace E. Stubbs	Communications control coordinator.	5,523.00
Hillel H. Sukenik	Computer systems analyst.	10,015.98
Barbara E. Swart	Programer	6,741.54
Laura Tovar	Senior clerk-typist	3,988.02
Robert M. Towers	Junior systems programer.	8,127.48
Jackson Tsai	Senior communications control coordinator on Apr. 19, 1976).	2,969.30
Meridel E. Turch	Senior clerk-typist	4,462.50
Brenda W. Turrentine	Communication terminal operator (on Apr. 9, 1976).	2,032.92
Howard G. Ulep	Technical support group manager.	14,990.07
Patricia A. Ulep	Junior systems factors specialist.	6,741.54
David P. Underwood	Section manager	13,205.31
Thomas A. Vann	Senior production control specialist.	4,611.06
Jasper T. Wagliardo	Section manager	12,980.10
Michael G. Walker	Senior computer systems specialist.	12,216.78
Sylestene T. Walker	Communications terminal operator.	4,611.48
Charles T. Walsh	System factors analyst (on Apr. 5, 1976).	4,939.75
Vernon J. Walters	Computer systems analyst.	10,015.98
Laurice Walton	Programer analyst	8,669.34
Berthine Washington	Data preparation specialist.	4,573.02
Gloria J. Washington	do	4,287.18
Elmer M. Whiting	Senior computer operator.	6,868.23
Anne W. Wightman	Programer analyst	8,669.34
Susan E. Willett	Administrative clerk	4,784.65
Linda C. Williams	Junior typist (on June 21, 1976).	197.28
Marie V. V. Williams	Senior information systems specialist.	11,835.06
Scott R. Williams	Junior communications terminal operator (on Apr. 26, 1976).	1,440.12
Norman E. Wilson	Senior computer systems analyst.	11,453.40
Gary A. Winters	Programer (on Jan. 26, 1976).	5,804.75
Douglas K. Wright	Junior computer operator (on May 3, 1976).	1,634.48
Noah M. St. Clair	Senior systems programer (off May 5, 1976).	8,749.29
Antoinette P. Gauthier	Communication control coordinator (off Apr. 30, 1976).	4,050.56
Francine Cromwell	Senior executive secretary (off Feb. 26, 1976).	2,167.27
Katherine P. Diamond	Data preparation coordinator (off Feb. 29, 1976).	1,586.56
Ruth Ann Wauters	Systems programer (off Apr. 5, 1976).	5,456.61
Susan Rudd	Programer analyst (off May 4, 1976).	5,972.34
Karen Burzinski	Production control specialist (off Apr. 19, 1976).	2,414.90
Joan M. Frazier	Senior information systems specialist (off Feb. 29, 1976).	4,199.48
Lewis Leathersich	Communications terminal operator (off Apr. 30, 1976).	2,975.00
Beverly Briggs	Communications terminal operator (off Feb. 20, 1976).	1,239.58

SCHEDULE B—INVESTIGATIVE STAFF PAYROLL—Continued

Name of employee	Profession	Total gross salary during 6-mo period
Kuiper D. Clements	Communications terminal operator (off May 17, 1976).	$3,159.16
Paul S. Arthur	Programer analyst (off Feb. 29, 1976).	2,980.16
Michael Porter	Junior communications terminal operator (on Apr. 9, 1976; off May 28, 1976).	1,152.09
Total		1,323,807.59

COMMITTEE ON INTERIOR AND INSULAR AFFAIRS

July 1, 1976.

To the Clerk of the House:

The Committee on Interior and Insular Affairs, pursuant to section 6(j) of Rule XI, Rules of the House of Representatives, submits the following report for the 6-month period from Jan. 1, to June 30, 1976, inclusive:

1. Name, profession, and total salary of each person employed (see attached schedules A and B)
2. Total funds available during this period $1,339,558.13
3. Amount expended during this period 653,539.29

JAMES A. HALEY, Chairman.

SCHEDULE A—STANDING COMMITTEE PAYROLL

Name of employee	Profession	Total gross salary during 6-mo period
Charles Conklin	Staff director	$18,900.00
Lee McElvain	General counsel	18,900.00
William Shafer	Consultant on mines, minerals, and public lands.	18,900.00
Adrian Winkel	Consultant on territorial and insular affairs.	18,900.00
Henry Myers	Special consultant on nuclear energy matters.	16,500.00
Roy Jones, Jr	Assistant counsel on oversight matters.	13,125.00
William Anderson III	Budget analyst	13,125.00
Eni Hunkin, Jr	Assistant counsel	13,125.00
Patricia Murray	Full committee clerk	13,849.50
Miriam Waddell	Secretary-clerk	9,583.86
Sandra Metcalf	do	9,251.46
James Henson, Jr	Finance clerk	7,350.00
Michael Marden	Minority counsel	16,999.98
Janet Niebel	Administrative assistant—minority.	7,500.00
Harold Hatfield	Legislative assistant—minority, as of Feb. 1.	9,166.65
Thomas Dunmire	Minority consultant on territorial and insular affairs.	11,681.34
Clay Peters	Minority consultant on national parks and recreation.	13,000.02
Jack Daum	Minority consultant on water and power resources.	13,750.02
Robert Terrell	Minority consultant on public lands.	13,000.02
Michael Jackson	Minority consultant on Indian affairs.	10,500.00
Michael Metz	Minority consultant on energy and the environment.	11,250.00
Dale Nicholls	Minority consultant on mines and mining.	10,999.98
Sonya Cockrell	Secretary to minority counsel, to invest., Feb. 1.	1,208.33
Cleveland Pinnix	Consultant, Subcommittee on National Parks and Recreation.	14,791.66
Betty Nevitt	Clerk, Subcommittee on National Parks and Recreation.	8,341.66
Carla Kish	Consultant, Subcommittee on Energy and the Environment, as of Feb. 1.	7,291.65
Maurice Shean	Consultant, Subcommittee on Territorial and Insular Affairs.	18,670.20
C. Stanley Sloss	Counsel, Subcommittee on Mines and Mining.	11,500.02
Franklin Ducheneaux	Counsel, Subcommittee on Indian Affairs.	15,587.28
Roy Folsom	Staff assistant, Subcommittee on Indian Affairs.	9,187.50
Thomas Cavanaugh	Special counsel on public lands.	17,325.00
Total		393,261.13

SCHEDULE B—INVESTIGATIVE STAFF PAYROLL

Name of employee	Profession	Total gross salary during 6-mo period
Bertha Drotos	Calendar clerk	$9,251.46
Kathy Loeffler	Receptionist	7,087.50
Marston Becker	Printing clerk, terminated Feb. 29.	4,062.52
Edward Gaddis	Staff assistant	7,350.00
John Peterson	Staff assistant	4,305.00
Christine Allwine	Secretary to minority consultants.	5,749.98
Gail Kelly	do	6,000.00
Frances Diehl	do	6,499.98
Cheryl Gordon	Clerk—Minority, as of Mar. 16.	2,187.50
Steve Steinbach	Staff assistant (intern), minority, as of June 1.	500.00
Cynthia Engquist	do	500.00
Evelyn Bertorello	Clerk, Subcommittee on National Parks and Recreation.	7,991.66
Dumont Clarke IV	Staff assistant (intern), Subcommittee on National Parks and Recreation, as of June 1.	500.00
Jim Casey	Consultant, Subcommittee on Water and Power Resources.	18,900.00
Mary Lee Gennari	Clerk, Subcommittee on Water and Power Resources.	7,755.72
Stanley Scoville	Counsel, Subcommittee on Energy and the Environment.	13,500.00
Dale Pontius	do	12,707.10
David Nix	Staff assistant, Subcommittee on Energy and the Environment.	8,660.06
Janet Sue Fore	Clerk, Subcommittee on Energy and the Environment.	5,512.50
Holly Saunders	Secretary, Subcommittee on Energy and the Environment.	4,205.01
Ann Mattheis	Secretary, Subcommittee on Energy and the Environment, terminated May 31.	3,750.00
Nancy Drake	Clerk, Subcommittee on Territorial and Insular Affairs.	10,266.67
Andrew Wiessner	Staff assistant, Subcommittee on Mines and Mining.	7,500.00
Karen Lau	Clerk, Subcommittee on Mines and Mining.	6,000.00
Jan Taniguchi	Staff assistant (intern), Subcommittee on Mines and Mining, as of June 1.	500.00
Rebecca Shapiro	Clerk, Subcommittee on Indian Affairs.	7,073.88
Gunilla Foster	Staff assistant, Subcommittee on Indian Affairs.	2,145.00
Joyce Palmer	Staff assistant, Subcommittee on Indian Affairs, terminated Mar. 31.	3,937.50
Phebe Morgan	Clerk, Subcommittee on Indian Affairs, as of May 9.	1,733.33
Harry Crandell	Consultant, Subcommittee on Public Lands.	15,750.00
Sharon CocKayne	Clerk, Subcommittee on Public Lands.	7,835.64
John Holden	Secretary, Subcommittee on Public Lands, terminated Mar. 15.	2,515.63
Sue Ungar	Secretary, Subcommittee on Public Lands, from May 20–26.	200.00
L. D. Hyde	Staff assistant, Subcommittee on National Parks and Recreation, terminated May 31.	2,300.00
Sonya Cockrell	Secretary to minority counsel, from stand. Feb. 1 and terminated Feb. 29.	1,208.33
Irving Senzel	Consultant under contract.	8,000.00
Lewis Sigler	do	2,000.00
Frank von Hippel	do	2,075.00
Total		218,061.97

COMMITTEE ON INTERNATIONAL RELATIONS

July 7, 1976.

To the Clerk of the House:

The Committee on International Relations pursuant to section 6(j) of Rule XI, Rules of the House of Representatives, submits the following report for the 6 month period from Jan. 1 to June 30, 1976, inclusive:

1. Name, profession, and total salary of each person employed (see attached schedules A and B)
2. Total funds available during this period $1,374,967.43
3. Amount expended during this period 630,803.49

THOMAS E. MORGAN, Chairman.

SCHEDULE A—STANDING COMMITTEE PAYROLL

Name of employee	Profession	Total gross salary during 6-mo period
Marian A. Czarnecki	Chief of staff	$18,900.00
John J. Brady, Jr	Senior staff consultant	17,817.78
John H. Sullivan	do	17,817.78
John Chapman Chester	Staff Consultant	17,263.80
Robert Kent Boyer	do	15,410.10
Peter A. Abbruzzese	do	15,976.20
Lewis Gulick	do	16,749.90
Charles Paolillo	do	18,170.52
George M. Ingram IV	do	14,013.51
James T. Schollaert	do	14,874.51
Ray Sparks	Editor	13,724.49
Everett E. Bierman	Minority staff director	18,229.02
Stephen E. Ward	Minority staff consultant.	14,700.00
Donald Robert Fortier	Minority subcommittee staff consultant.	13,000.02
James Edward Fox	do	9,499.98
Thomas R. Smeeton	do	13,000.02
Alison L. Brenner	do	9,499.98
Jon D. Holstine	do	13,000.02
Thomas E. Popovich	do	9,499.98
Jeanne M. Salvia	Staff assistant	7,091.46
Arlene M. Atwater	do	7,702.86
Donna Gail Wynn	do	6,647.46
Martha H. Crouse	do	6,973.32
Diane Lyn Stoner	do	5,985.48
Lillian L. Smith	Minority staff assistant	8,250.00
Total		323,798.19

SCHEDULE B—INVESTIGATIVE STAFF PAYROLL

Name of employee	Profession	Total gross salary during 6-mo period
Gerald Emile Pitchford	Subcommittee staff consultant.	$12,600.00
George R. Berdes	do	16,095.00
Robert Michael Finley	do	16,085.10
Herschelle Challenor	do	17,325.00
Thomas R. Kennedy	do	16,065.36
Robert B. Boettcher	do	16,095.00
Michael H. Van Dusen	do	16,095.00
Andrew Donald Duskie	do	11,812.50
Ralph Roger Majak	do	15,750.00
Paula L. Peak	Subcommittee staff consultant (appointed Mar. 1, 1976).	10,000.00
Helen C. Mattas	Staff consultant (terminated Jan. 31, 1976).	1,462.00
Clifford P. Hackett	Special consultant	16,095.00
John P. Salzberg	do	12,654.60
Leslie Ann Yates	Research assistant	3,675.00
Joyce L. Shub	do	8,505.00
Richard Mauzy	do	6,416.67
Victor C. Johnson	do	5,499.98
Philip Scott Yocum	Research assistant (terminated, Mar. 31, 1976).	3,000.00
Ronald L. Soriano	Research assistant (appointed, Apr. 1, 1976).	3,000.00
Paul Vance Hyndman	Research assistant (appointed, June 1, 1976).	1,250.00
Fred A. Frameli	Research assistant (appointed, June 7, 1976).	1,000.00
Robert A. Stoner	Publications assistant	6,368.25
Josephine Weber	Staff assistant (terminated, May 7, 1976).	4,607.39
Joan C. Sullivan	Staff assistant (terminated Jan. 16, 1976; appointed Apr. 5, 1976, terminated May 31).	2,758.32
Nancy M. Carman	Staff assistant	6,046.32
Shelly Ann Shelton	do	6,017.37
Joyce Raupe	do	6,024.99
Susan Gustafson	do	5,368.77
Mary H. Clifton	do	3,975.00
Melinda Ann Murphy	do	6,175.02
Rory Wilcox	do	4,712.49
Nancy Lynn Shuba	do	4,187.49

SCHEDULE B—INVESTIGATIVE STAFF PAYROLL—Continued

Name of employee	Profession	Total gross salary during 6-mo period
Mary Ellen Candage	Self assistant	$4,858.34
Carol Ann Barry	do	6,024.99
Sandra P. Reinhardt	do	6,549.99
Elizabeth Marie Meade	do	4,125.00
Mary Jane Arison	Staff assistant (terminated May 31, 1976).	3,875.00
Alicia M. P. McFall	Staff assistant	4,312.48
Theana Y. Kastens	Staff assistant (appointed May 13, 1976).	1,280.00
Andrew Bury, Jr	Staff assistant (appointed May 19, 1976).	1,260.00
John G. Kerr	Staff assistant (appointed May 24, 1976).	822.23
Elizabeth Mary Daoust	Staff assistant (appointed June 21, 1976).	430.56
Mary Roxanne Perugino	Staff assistant (appointed June 24, 1976).	223.61
Andrew B. Vanyo	Clerical assistant	6,180.48
Lawrence A. Ceisler	Clerical assistant (appointed June 14, 1976).	340.00
Total		307,005.30

COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE

July 19, 1976.

To the Clerk of the House:

The Committee on Interstate and Foreign Commerce pursuant to section 6(j) of Rule XI, Rules of the House of Representatives, submits the following report for the 6-month period from Jan. 1, to June 30, 1976, inclusive:

1. Name, profession, and total salary of each person employed (see attached schedules A and B)
2. Total funds available during this period $3,576,549.56
3. Amount expended during this period 1,432.024.44

HARLEY O. STAGGERS, Chairman

SCHEDULE A—STANDING COMMITTEE PAYROLL

Name of employee	Profession	Total gross salary during 6-mo period
W. E. Williamson	Chief clerk	$8,762.00
Kenneth J. Painter	First assistant clerk	18,900.00
Eleanor A. Dinkins	Assistant clerk	11,432.49
Frank W. Mahon	Printing editor	13,266.78
Jean McLean	Clerical assistant	7,337.49
Joanne E. Bell	Clerical-stenographic	7,424.58
Mary Ryan	Clerical assistant (to Apr. 30, 1976).	7,105.00
Edwin Earl Thomas	Staff assistant	9,513.00
Russell D. Mosher	Documents clerk	6,745.56
Charles B. Curtis	Professional staff member.	18,900.00
Lee Sanford Hyde	do	18,900.00
Elizabeth Harrison	do	18,900.00
Jeffrey H. Schwartz	do	18,900.00
James M. Menger, Jr	Professional staff member (to Mar. 31, 1976).	2,691.00
William P. Adams	Professional staff member.	18,900.00
Robert R. Nordhaus	do	18,900.00
Brian R. Moir	do	13,437.50
Karen Nelson	do	17,325.00
William C. Phillips	Professional staff member (to Mar. 31, 1976).	9,450.00
Margaret Dinneen	Professional staff member.	9,000.00
Lewis Berry	Minority counsel	6,630.00
Henry T. Green	Professional staff member (minority).	18,900.00
Jan Benes Vlcek	do	18,900.00
Barbara Bullard	Administrative assistant (minority).	10,362.51
Darlene McMullen	Legislative assistant (minority).	8,525.01
Mollie M. Brown	Clerical assistant (minority).	7,074.99
Johnnie L. Gallemore, Jr.	Associate minority counsel (to June 10, 1976).	14,000.00
J. Paul Molloy	Associate minority counsel.	16,791.65
Joseph Kelley	Clerical assistant (minority).	6,300.00
Ronald D. Coleman	Professional staff member (minority).	16,275.00
Total		379,549.56

SCHEDULE B—INVESTIGATIVE STAFF PAYROLL

Name of employee	Profession	Total gross salary during 6-mo period
Violet M. McCarthy	Clerical assistant (to Feb. 28, 1976).	$3,023.12
Anne P. Jordan	Clerical assistant (to June 30, 1976).	7,337.49
Barboura C. Flues	Clerical assistant	8,374.68
Susan Tomasky	do	4,882.50
James R. Connor	Staff assistant	16,822.92
Mary Jane Dox	Clerical assistant (to Feb. 5, 1976).	1,225.00
Sharon E. Davis	Clerical assistant	6,037.50
Selene M. Byrd	do	6,000.00
Jan Higgins	Clerical assistant (minority).	5,250.00
June L. Cassidy	do	6,000.00
Charlotte E. Carr	Clerical assistant (from Mar. 1, 1976).	4,533.32
Rose M. Balitis	Clerical assistant (from Apr. 8, 1976).	2,881.95
Veronica Amick	Clerical assistant (from May 1, 1976).	2,083.34
Subcommittee on Oversight and Investigations:		
Michael R. Lemov	Chief counsel	18,900.00
Benjamin J. Smethurst.	Special assistant	18,142.86
Elizabeth A. Eastman	Office manager	8,683.26
James Thomas Greene.	Counsel to the subcommittee chairman.	14,175.00
Richard W. C. Falknor.	Special assistant (to Mar. 31, 1976).	7,875.00
Bernard J. Wunder, Jr.	Minority counsel	14,175.00
Lisa C. Wiles	Secretary to chief counsel.	7,475.01
Kirk C. Smith	Special assistant	8,662.50
Shirley A. Fulp	Staff assistant (to Apr. 9, 1976).	3,465.00
Elliot A. Segal	Special assistant	17,085.51
John Galloway	do	16,017.75
Carolyn Ann Emigh	do	12,814.26
Eather H. Higginbotham.	Staff assistant	6,674.01
Lester Brown	Research assistant	6,131.25
Carol Forti	Special assistant	11,629.17
Mark L. Rosenberg	Counsel	8,508.34
Patrick M. McLain	do	7,187.49
Janice E. Daniels	Staff assistant	5,512.50
Rita A. Nickens	Clerical assistant	2,799.99
Martha R. Gorham	Staff assistant (to June 4, 1976).	5,561.09
James L. Nelligan	Special assistant	18,786.48
Lowell Dodge	Special counsel	13,999.98
William D. Braun	Counsel	14,175.00
Jean M. Davies	Staff assistant (to Feb. 6, 1976).	1,102.50
Robert Clarke Brown	Counsel	8,137.50
Oscar Strongin	Special consultant	18,499.98
Stephen F. Sims	Special assistant (from Apr. 3, 1976).	5,866.67
Richard A. Heller	Counsel	6,463.87
Katherine C. Meyers	Staff assistant (from Feb. 25, 1976).	3,675.00
Frances L. White	Deputy chief counsel (from Mar. 15, 1976).	10,305.57
John McE. Atkisson	Special counsel (from Mar. 12, 1976).	8,477.77
Ellen A. Foley	Staff assistant (from Apr. 5, 1976).	2,448.62
Yvonne P. Knight	Staff assistant (from Apr. 17, 1976).	2,312.50
Darcy E. Bradbury	Research assistant (from June 14, 1976).	283.33
Laurie E. Londoner	Research assistant (from June 1, 1976).	500.00
Frederick L. Klein	do	500.00
Pamela R. Morrissette.	Staff assistant (from June 1, 1976).	1,041.67
Subcommittee on Energy and Power:		
Frank Potter	Counsel	18,900.00
Robert M. Howard	Research assistant	14,175.00
Valerie P. Duval	Administrative assistant.	10,249.98
Barbara H. Witmeyer	Staff assistant	5,749.98
Carolyn C. Hanks	do	7,249.98
Danielle M. Beauchamps	Research assistant	7,500.00
Patricia C. Leahy	Staff assistant	7,000.02
Peter D. H. Stockton	Research assistant	11,825.00
Peter S. Hunt	Research analyst	16,500.00
Bruce R. Henke	Staff assistant	7,875.00
Walter W. Schroeder, III.	Research analyst	14,166.66
Michael Barrett, Jr	Counsel	17,500.02
James G. Phillips	Research analyst	14,166.66
Randall E. Davis	Staff assistant (minority).	7,875.00
Catherine Vaughan	Clerk (from May 1, 1976).	1,300.00
Carolyn G. Speir	Staff assistant	4,999.98
Richar Geider	Clerical assistant	801.67
William F. Demarest, Jr.	Counsel	14,749.98
Maryann Belardo	Clerical assistant (from May 24, 1976).	$788.33
David Schooler	Clerical assistant (from June 7, 1976).	381.60
Kenneth M. Elder	Clerical assistant (from June 9, 1976) (minority).	366.67
Thomas C. McConnell	Clerical assistant (from June 21, 1976).	216.67
Subcommittee on Health and the Environment:		
Stephan E. Lawton	Counsel	18,900.00
Jo Anne Glisson	Research assistant	10,966.67
Patricia T. Gomer	Office manager (to Feb. 11, 1976).	1,567.71
Donald W. Dalrymple	Assistant counsel	10,966.67
Stephen J. Connolly	Staff assistant	13,513.90
Frances Lee dePeyster.	Minority staff assistant	10,500.00
Linda M. Anzalone	Secretary	5,250.00
Rosalyn Davidson	Clerical assistant	5,333.34
Deborah M. Prout	Staff assistant	4,750.02
Rebecca B. Walker	Administrative assistant (from Apr. 1, 1976).	3,375.00
Michelle Darcey	Clerical assistant (from May 24, 1976).	616.67
Paul W. Rankin	Clerical assistant (from June 17, 1976).	233.33
Subcommittee on Communications:		
Harry M. Shooshan, III.	Staff director/counsel	18,748.88
Karen Anne Allen	Office manager/secretary.	7,311.12
Teresa L. Enfield	Secretary	6,311.10
Leena S. Johnson	Legislative assistant (to May 31, 1976).	7,405.55
Karen Possner	Staff assistant	7,466.67
George H. Harder, III	Associate minority counsel.	12,183.34
Andrew J. Margeson	Economist	12,122.21
Alan Pearch	do	17,500.02
Mary Jane Dox	Secretary (from Mar. 1, 1976).	4,333.32
Cynthia A. Sheppard	Staff assistant (from June 1, 1976).	330.56
William J. Wilson	Staff assistant (from June 1, 1976).	708.33
Subcommittee on Transportation and Commerce:		
William Kovacs	Counsel	18,900.00
LeRoy Charles Corcoran.	do	18,900.00
Lisa M. Spang	Office manager (to Feb. 29, 1976).	1,662.50
Wendy J. Gell	Executive assistant	8,137.50
William T. Druhan	Staff director	12,462.00
Cheryl E. Sparks	Secretary	5,449.98
Joseph J. Martyak	Legislative assistant	8,925.00
John F. Klucsik	Staff assistant	7,350.00
Barbara Jarvis	Secretary (from Mar. 1, 1976).	3,000.00
Ernest A. Trakas	Law clerk (from Apr. 1, 1976).	2,124.99
Harry L. Shoemaker, III.	Counsel (from Apr. 1, 1976).	5,000.01
Mary E. Prendergast	Clerical assistant (from May 24, 1976).	740.00
Marcie Weintraub	Clerical assistant (from June 1, 1976.)	500.00
Kirk D. Weinert	Clerical assistant (from June 1, 1976).	500.00
Committee on Consumer Protection and Finance:		
Siegmund W. Smith	Staff administrator	18,900.00
Janie A. Kinney	Counsel	16,372.24
Peter Kinzler	do	16,372.24
Nancy Ann Nord	Counsel (minority)	14,175.00
Judity A. Quinn	Secretary	7,136.09
Dale C. Bechtel	do	6,937.76
Marion S. Ryan	Clerical assistant	7,136.06
Mary T. Foldes	Counsel	13,160.00
John P. McLaughlin	Staff assistant (from Feb. 2, 1976).	2,152.20
		230,988.84
Christopher Schwartz	Research assistant (from Mar. 9, 1976).	3,602.77
Franz F. Opper	Counsel (from Apr. 1, 1976).	7,500.00
Raymond C. Cole, Jr	Staff assistant (from May 1, 1976).	3,000.00
Total		967,333.03

COMMITTEE ON THE JUDICIARY

July 12, 1976.

To the Clerk of the House:

The Committee on the Judiciary, pursuant to section 6(j) of Rule XI, Rules of the House of Representatives, submits the following report for the 6-month period from Jan. 1, to June 30, 1976, inclusive:

1. Name, profession, and total salary of each person employed (see attached schedules A and B)
2. Total funds available during this period $1,576,022.92
3. Amount expended during this period 882,443.48

PETER W. RODINO, Jr., Chairman.

SCHEDULE A—STANDING COMMITTEE PAYROLL

Name of employee	Profession	Total gross salary during 6-mo period
Earl C. Dudley, Jr	General counsel	$18,900.00
Garner J. Cline	Staff director	18,900.00
Herbert Fuchs	Counsel	18,900.00
William Shattuck	do	18,900.00
Franklin G. Polk	Associate counsel	18,900.00
Alan A. Parker	Counsel	18,900.00
Thomas E. Mooney	Associate counsel, counsel (Jan. 1–June 20, 1976).	17,062.50
James F. Falco	Counsel (Jan. 1–June 20, 1976) (June 21–30, 1976, leave without pay).	14,875.00
Alexander B. Cook	Associate counsel	15,487.50
Arthur P. Endres, Jr	Counsel	14,962.50
Frances Christy	Legislative analyst	14,175.00
Alan Coffey, Jr	Associate counsel	13,125.00
Constantine J. Gekas	do	13,125.00
Mary G. Sourwine	Clerical	13,125.00
Pearl L. Chellman	do	8,925.00
Alma B. Haardt	do	8,925.00
Florence T. McGrady	do	8,925.00
Alice Smith	do	8,400.00
Annelie Weber	do	6,825.00
Sara Shafer	do	6,370.86
Marguerite Klein	do	6,037.50
Raymond Smietanka	Associate counsel	10,000.02
Total		293,745.88

SCHEDULE B—INVESTIGATIVE STAFF PAYROLL

Name of employee	Profession	Total gross salary during 6-mo period
Lynn Alcock	Clerk	$8,557.50
Lorraine Ambrose	do	5,775.00
Veronica Amick	Clerk (from Jan. 1–Apr. 30, 1976).	3,850.00
Maurice A. Barboza	Counsel	14,175.00
Rita Bartlett	Clerk	6,562.50
Robert S. Bates	Messenger	4,410.00
Martin H. Belsky	Counsel	14,700.00
Robert S. Blaker	Legal clerk (from Jan. 14–Apr. 30, 1976).	1,426.67
Timothy A. Boggs	Legislative assistant	7,674.99
Sharon A. Brandes	Clerk	5,250.00
Thomas P. Breen	Counsel	14,437.50
Martha K. Brown	Clerk	5,775.00
Julia Busalacchi	Clerk (from Apr. 12, 1976).	2,633.33
Anne B. Butler	Clerk	6,300.00
Dinah Clare	do	4,999.98
Daniel L. Cohen	Counsel	13,912.50
Lizzie M. Daniels	Clerk	5,880.00
Eva J. Denev	do	9,499.98
Maureen Doherty	do	6,825.00
James B. Farr	Publications clerk	7,162.50
Maura Flaherty	Clerk (from Jan. 1–June 9, 1976).	5,520.85
Leslie Freed	Counsel (from Jan. 5, 1976).	10,755.54
Theresa M. Gallo	Clerk	7,612.50
Eugene W. Gleason	Research assistant	12,600.00
Leo Gordon	Clerk (from June 17, 1976).	280.00
Joan Gregory	Clerk	8,137.50
Timothy J. Hart	Assistant counsel	9,549.99
Bruce Henderson	Clerk-messenger (from June 14, 1976).	262.67
Gail P. Higgins	Counsel	12,600.00
Thomas W. Hutchison	do	14,587.50
Kenneth Klee	Associate counsel	11,025.00
Judy Knott	Clerk	4,987.50
Toni Lawson	Assistant counsel	9,000.00
Bruce Lehman	Counsel	13,050.00
Robert Lembo	Counsel (from Jan. 5, 1976).	8,800.00
Catherine LeRoy	Assistant counsel	9,750.00
Richard B. Levin	do	8,825.01
Sheila M. Lieber	Legal clerk (from Jan. 1–Feb. 16, 1976).	239.44
Robert E. McCarthy	Legal clerk (from Jan. 1–Apr. 30, 1976).	1,200.00
Janet McNair	Assistant counsel	11,550.00
Bernadette Maguire	Clerk	6,562.50
Mary E. Manners	Clerk (from Jan. 1–June 15, 1976).	$4,331.25
Audrey Marcus	Clerk	6,275.01
Michael Murphy	Clerk (from June 4, 1976).	637.50
Rosalind A. Oleson	Clerk (from Mar. 4, 1976).	2,762.49
Alan A. Ransom	Counsel	13,650.00
Sally Regal	Clerk (from June 1, 1976).	750.00
Cheri Robinson	Clerk	4,725.00
Tom S. Runge	Counsel	10,750.02
Dawn M. Ruuspakka	Clerk (from Jan. 1–Mar. 14, 1976).	2,374.17
Kathleen L. Ryan	Clerk	4,750.02
Leonard Shambon	Counsel	11,812.50
Judith Shellenberger	Clerk	6,825.00
Sandra Sincavitz	do	8,137.50
William L. Sippel	Assistant counsel	9,337.50
Roscoe B. Starek	Associate counsel (from Mar. 2, 1976).	7,933.33
Kenneth G. Starling	Associate counsel	11,453.40
Joyce M. Straube	Clerk	6,300.00
Gail Sullivan	do	7,087.50
Lawrence Taylor	Editor	10,583.34
Jay T. Turnipseed	Counsel	11,025.00
Louis S. Vance	Messenger	6,431.28
Barry Vann	Economist (from Jan. 1–Apr. 16, 1976) (from June 1, 1976).	6,247.52
Patricia Villareal	Staff analyst	9,187.50
Dorothy C. Wadley	Clerk	7,612.50
Gary Weaver	do	4,750.02
Marice C. Werth	do	5,250.00
Elizabeth Windsor	Clerk (on June 14, 1976).	377.78
Janice A. Zarro	Assistant counsel	9,975.00
Total		507,999.58
Former Committee on Internal Security—H. Res. 5:		
Daniel Butler	Documents clerk	6,738.84
Anniel Cunningham	Clerk	10,121.00
Florence B. Doyle	do	6,165.30
Mildred V. James	do	4,982.28
Alfred M. Nittle	Counsel	18,900.00
Alma T. Pfaff	Research analyst	8,309.70
Barbara C. Sweeny	Clerk	6,647.60
Mary Myers Valente	do	11,761.20
Total		73,625.92

COMMITTEE ON MERCHANT MARINE AND FISHERIES

June 30, 1976.

To the Clerk of the House:

The Committee on Merchant Marine and Fisheries pursuant to section 6(j) of Rule XI, Rules of the House of Representatives, submits the following report for the 6 month period from Jan. 1 to June 30, 1976, inclusive:

1. Name, profession, and total salary of each person employed (see attached schedules A and B)
2. Total funds available during this period ...... [1] $617,830.43
3. Amount expended during this period ...... [2] 369,861.04

LEONOR K. SULLIVAN, Chairman.

[1] See below:

Authorization pursuant to H. Res. 1016	$353,000.00
Salaries Standing Committee staff, Jan. 1 to June 30, 1976	264,830.43
Total funds available during period	617,830.43

[2] See below:

Expenditures pursuant to H. Res. 1016, Jan. 1 to June 30, 1976	$105,030.61
Salaries Standing Committee staff, Jan. 1 to June 30, 1976	264,830.43
Total expenditures during period	369,861.04

SCHEDULE A—STANDING COMMITTEE PAYROLL

Name of employee	Profession	Total gross salary during 6-mo period
Majority:		
Ernest J. Corrado	Chief counsel	$18,900.00
Ned P. Everett	Counsel	18,900.00
Leonard L. Sutter	do	17,325.00
Francis D. Heyward	do	14,175.00
Mary C. McDonnell	do	14,175.00
James W. Spensley	Counsel (transferred from investigative staff Apr. 1, 1976).	7,312.50
Carl L. Perian	Professional staff member	16,476.42
Terrance W. Modglin	do	9,687.48
Donald A. Watt	Editor	12,503.94
Frances P. Still	Chief clerk	6,300.00
W. Bernard Winfield	Clerk	15,009.24
Ruth I. Hoffman	Assistant clerk	8,543.34
Jacquelyn M. Westcott	Research assistant	9,437.49
Vera A. Barker	Secretary	$12,075.00
Eleanor P. Mohler	do	7,937.49
Mabel Duran	do	7,654.08
Marvadell C. Zeeb	do	7,287.51
Minority:		
William Patrick Morris.	Chief minority counsel (appt. Apr. 4, 1976).	8,893.34
Charles A. Bedell	Deputy minority counsel.	12,450.06
Jack E. Sands	do	12,075.00
John H. Bruce	Professional staff assistant.	11,307.00
Gwendolyn H. Lockhart.	Minority clerk	9,245.84
Barbara Ann Wyman	Assistant minority clerk (appt. Jan. 26, 1976).	6,243.04
Phyllis Ann Kline	Minority secretary-clerk (transferred from investigative staff June 1, 1976).	916.66
Total		264,830.43

SCHEDULE B—INVESTIGATIVE STAFF PAYROLL

Name of employee	Profession	Total gross salary during 6-mo period
Majority:		
James W. Spensley	Counsel (transferred to Standing Committee staff Apr. 1, 1976).	$6,562.50
Julia P. Perian	Professional staff member.	10,500.00
Michael S. Sawyer	Clerk	5,874.99
Carolyn W. Robinson	Stenographer	6,150.00
Judy A. Townsend	Professional staff assistant (appointed May 7, 1976).	3,000.00
Cornelia Hughes Dayton.	Summer intern (appointed June 14, 1976).	283.33
Richard N. Sharood	Special counsel (terminated Feb. 29, 1976).	6,125.00
Minority:		
George J. Mannina, Jr.	Professional staff assistant.	12,575.00
Austin P. Olney	do	12,600.00
Grant Wayne Smith	do	12,600.00
Ronald K. Losch	do	10,000.02
Nicholas T. Nonnenmacher.	Professional staff assistant (appointed Apr. 1, 1976).	5,000.01
Phyllis Ann Kline	Minority secretary-clerk (appointed May 12, 1976—transferred to Standing staff June 1, 1976).	580.56
Total		91,851.41

COMMITTEE ON POST OFFICE AND CIVIL SERVICE

July 17, 1976.

To the Clerk of the House:

The Post Office and Civil Service Committee pursuant to section 6(j) of Rule XI, Rules of the House of Representatives, submits the following report for the 6 month period from Jan. 1, to June 30, 1976, inclusive:

1. Name, profession, and total salary of each person employed (see attached schedules A and B).
2. Total funds available during this period $1,099,910.23
3. Amount expended during this period 568,397.20

DAVID N. HENDERSON, Chairman.

SCHEDULE B—STANDING COMMITTEE PAYROLL

Name of employee	Profession	Total gross salary during 6-mo period
John H. Martiny	Chief counsel	$2,946.00
Victor C. Smiroldo	Staff director and counsel.	18,900.00
Robert E. Lockhart	Counsel	18,427.50
David Minton	Associate counsel	18,427.50
J. Pierce Myers	Assistant counsel	14,025.00
John Gabusi (as of June 11, 1976).	Staff assistant	1,466.67
Edward T. Hugler	Investigator	16,537.50
Alton Howard	Printing editor	12,967.50
Maria Pendleton	Administrative clerk	11,100.00
Dorothy Peters	Executive secretary	10,399.98
Margaret Napier	Document clerk	8,449.98
Paul Newton	Subcommittee staff director.	15,718.75
Richard A. Barton	do	16,012.50
George B. Gould	do	16,012.50
Lloyd A. Johnson	do	16,012.50

SCHEDULE B—STANDING COMMITTEE PAYROLL—Con.

Name of employee	Profession	Total gross salary during 6-mo period
Donald Terry	Assistant counsel, Subcommittee.	$14, 175.00
Ronald McCluskey	Assistant counsel and director, subcommittee staff.	11, 406.25
Theodore J. Kazy	Associate staff director.	18, 900.00
Joseph A. Fisher	Senior staff assistant	17, 299.98
Anthony J. Raymond	Staff assistant	14, 726.28
William Manoogian	Assistant counsel	9, 725.01
J. Warren Geurin	Investigator	10, 200.00
Jean Gilligan	Staff assistant	4, 854.01
Ray Coultrap	do	9, 187.50
Kathryn Reynolds	Secretary	7, 612.50
Margaret Barry	do	7, 612.50
Nancy Ewing (as of Jan. 26, 1976).	do	4, 090.30
Total		327, 193.21

SCHEDULE B—INVESTIGATIVE STAFF PAYROLL

Name of employee	Profession	Total gross salary during 6-mo period
Investigative staff—Majority:		
JoAnn Ciaravella	Staff assistant	$7, 875.00
Patricia Perdue	Secretary	5, 875.02
Kandy Kovaleski	do	5, 850.00
Marian Goodman	do	5, 200.02
Molly Lyons	Assistant document clerk.	5, 880.00
Gordon Freedman	Assistant staff investigator.	8, 075.00
Janet Higgins (as of Mar. 1, 1976).	Staff assistant	3, 877.68
Nancy Desrochers	Secretary	5, 749.98
Edward M. Sibble, Jr. (Mar. 19–May 16, 1976).	Research assistant	966.67
Patricia Marines (through Feb. 29, 1976).	Staff assistant	2, 366.67
Robert Hertzberg (as of June 10, 1976).	Intern	350.00
Frank Zappala (as of June 14, 1976).	do	283.33
Investigative staff—Minority:		
Robert E. Branand	Staff assistant	9, 725.01
E. Jane Dodds	do	9, 725.01
Judith Ann Haugh (through May 10, 1976).	do	5, 687.50
John Breitenberg	do	8, 500.02
Murray Barr (as of June 1, 1976).	Intern	500.00
Bob Bartelsmeyer (as of June 7, 1976).	do	400.00
Manpower and Civil Service Subcommittee:		
George Pierce III	Staff assistant	12, 337.50
Patricia Pankonin	Secretary	6, 693.78
Evelena Carroll	do	4, 877.50
Mary G. Boney (as of June 1, 1976).	Intern	500.00
Andree Reeves (as of June 1, 1976).	do	500.00
Kevin Johnson (Jan. 12–Feb. 12, 1976).	do	516.67
Postal Service Subcommittee:		
Rosemary Storey	Staff assistant	7, 875.00
Lydia Fox	Secretary	6, 128.76
Victor Bieganowski (as of June 1, 1976).	Intern	500.00
Stephen Christakos	do	500.00
Postal Facilities, Mail and Labor Management Subcommittee:		
Michael Cavanagh	Staff assistant	8, 199.99
Paula Hemphill	Secretary	6, 562.50
Stacy Jones	Clerk-typist	1, 323.00
Sarah McFall (as of June 1, 1976).	Intern	500.00
Retirement and Employee Benefits Subcommittee:		
Stephen Camp (Jan. 1–Mar. 1, 1976, and May 1, 1976).	Staff assistant	2, 826.66
John Langenegger (Mar. 1–Apr. 30, 1976).	Clerk-typist	1, 200.00
Bettie J. LaMotte	Secretary	6, 825.00
Carol Harris (June 1–June 30, 1976).	Intern	500.00
Employee Political Rights and Intergovernmental Programs:		
Gail Weiss	Staff assistant	9, 975.00
Janet Wilkov	Secretary	5, 100.00
Raphael Sampson (as of June 15, 1976).	Intern	$266.67
Census and Population Subcommittee:		
Carol Lumb	Staff assistant	7, 875.00
Bertha Ramlow	Secretary	5, 250.00
Betty Wheeler (Apr. 1–May 31, 1976).	Intern	1, 000.00
Nancy Greenebaum (as of June 14, 1976).	do	283.33
Total		185, 003.27

COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION

July 15, 1976.

To the Clerk of the House:

The Committee on Public Works and Transportation pursuant to section 6 (j) of Rules of the House of Representatives, submits the following report for the 6 month period from Jan. 1, to June 30, 1976, inclusive:

1. Name, profession, and total salary of each person employed (see attached schedules A and B).
2. Total funds available during this period $2, 564, 879.86
3. Amount expended during this period 1, 106, 825.39

ROBERT S. JONES, Chairman.

SCHEDULE A—STANDING COMMITTEE PAYROLL

Name of employee	Profession	Total gross salary during 6-mo period
Richard J. Sullivan	Chief counsel	$18, 480.00
Lloyd A. Rivard	Chief engineer	18, 900.00
Lester Edelmen	Counsel	18, 900.00
Clifton W. Enfield	Minority counsel	7, 524.00
Dorothy A. Beam	Executive staff assistant.	14, 625.06
Sterlyn B. Carroll	Staff assistant	12, 020.79
Ruth Costello	Staff assistant	11, 770.80
Erla S. Youmans	Minority executive staff assistant.	12, 741.54
Larry Reida	Associate minority counsel.	18, 900.00
Robert K. Dawson	Administrator	17, 727.36
Robert F. Loftus	Staff assistant	16, 887.96
Douglas M. Copley	Minority professional staff member, aviation.	18, 558.78
David A. Heymsfeld	Assistant counsel, aviation.	18, 637.50
David L. Mahan	do	18, 217.50
Erroll L. Tyler	Associate counsel	17, 412.12
John F. Fryer	Assistant counsel, surface transportation regulations.	17, 562.24
Marie M. Lynch	Clerk, Subcommittee on Water Resources.	9, 712.5
Joseph A. Italiano	Editor	13, 786.26
Clyde E. Woodle	Transportation engineer.	13, 333.34
Marvin R. Evans	Staff assistant	10, 749.99
Elizabeth F. Loughlin	Minority librarian	9, 450.00
Catherine A. Evans	Calendar clerk	8, 124.99
James E. Scott, Jr	Professional staff member, budget.	18, 900.00
Mary T. Coman	Staff assistant committee transfered to investigator, Feb. 1, 1976).	1, 006.25
Carl H. Schwartz, Jr	Professional staff member, (appointed Jan. 21, 1976).	2, 068.00
Karen D. Larison	Minority staff assistant.	6, 750.00
Robert S. Prolman	Professional staff member, (appointed Feb. 1, 1976; transferred to subcommittee on investigations and Review Mar. 9, 1976).	2, 638.88
Total		355, 455.86

SCHEDULE B—INVESTIGATIVE STAFF PAYROLL

Name of employee	Profession	Total gross salary during 6-mo period
Edythe M. Edwards	Minority staff assistant, Subcommittee on Economic Development.	$9, 450.00
Salvatore J. D'Amico	Counsel	18, 900.00
Carl Lorenz, Jr	Counsel, Subcommittee on Economic Development.	18, 900.00
Robert F. Spence	Staff assistant	11, 111.22
Ronald K. Ence	Minority professional staff member, Subcommittee on Surface Transportation.	$10, 920.00
Sheldon S. Gilbert	Assistant minority counsel.	18, 900.00
Carol D. Granville	Staff assistant	9, 286.50
Herbert C. Madison	Professional staff assistant, aviation.	15, 279.16
Thomas J. Campbell	Staff assistant (terminated Apr. 30, 1976).	8, 333.32
Nancy Vitali	Subcommittee clerk, public buildings and grounds.	10, 119.48
Patricia A. Hill	Staff assistant	9, 282.20
Richard C. Barnett	Minority staff assistant.	11, 025.00
Gordon E. Wood	Assistant minority counsel.	18, 900.00
Toby J. Stein	Staff assistant	6, 146.43
Mary K. Trich	Staff assistant, Subcommittee on Economic Development.	4, 708.86
Patricia H. Stone	Minority staff assistant.	10, 578.78
Machele J. Irby	Staff assistant	6, 917.49
Jeffrey S O'Neill	Minority staff assistant.	15, 478.65
Roger Furey	Clerk (terminated May 31, 1976).	3, 404.25
Olga Wynnyk	Staff assistant	3, 307.50
Cheryl A. Meyers	Minority staff assistant.	6, 562.50
Anne L. Howard	Staff assistant, Subcommittee on Economic Development.	7, 350.00
Robert M. Paul	Professional staff member, environment and economic development.	18, 900.00
Ann D. Clineburg	Staff assistant, Subcommittee on Economic Development.	7, 245.00
Elizabeth A. Larson	Staff assistant (terminated Apr. 10, 1976).	3, 135.43
Joan M. Kovalic	Staff assistant	11, 025.00
Nancy Denholm	Staff assistant (terminated Apr. 12, 1976).	2, 668.35
Walter L. Mazan	Staff assistant	16, 554.48
Nicholas E. Scholz	Staff assistant (appointed Jan. 9, 1976).	5, 627.79
Cyrus T. Anderson	Staff assistant	8, 082.50
Patricia Bethune	Staff assistant	8, 187.49
Barbara Bannister	Minority staff assistant.	7, 674.99
Janet Lee Hoobler	Staff assistant	5, 370.85
Annandele Raszick	Minority staff assistant.	5, 775.00
Henry S. Pflanz	Minority professional staff member, aviation.	13, 979.13
Ira N. Forman	Staff assistant (termination Jan. 1, 1976).	315.49
Michael J. Toohey	Minority professional staff assistant, Subcommittee on Water Resources.	9, 849.99
Bonnie E. Barnett	Staff assistant	5, 416.66
Marjorie M. Dowling	do	5, 985.00
Deborah J. Folk	do	2, 792.50
Alise P. Peyton	Minority staff assistant.	7, 035.00
Robert C. McKay	Professional staff member (appointment Jan. 5, 1976).	7, 188.89
M. Linda Cox	Staff assistant (appointment Feb. 2, 1976).	3, 931.96
Mary T. Coman	Staff assistant (transferred from standing committee, Feb. 1, 1976).	5, 387.50
William M. Corcoran	Professional staff member (appointment Mar. 9, 1976).	7, 515.56
Pamela Jane Richards	Minority staff assistant (appointment Mar. 9, 1976).	6, 688.90
Charles C. Ziegler	Minority professional staff assistant (appointment Mar. 13, 1976).	6, 599.99
Larry L. Miller	Staff assistant (appointment Mar. 9, 1976, termination Mar. 31, 1976).	2, 000.00
S. Denise Valentine	Staff assistant (appointment Mar. 28, 1976).	2, 841.68

SCHEDULE B—INVESTIGATIVE STAFF PAYROLL—Continued

Name of employee	Profession	Total gross salary during 6-mo period
Clara S. Milstead	Staff assistant (appointment Apr. 17, 1976.)	$4,111.12
Darrell Netherton	Staff assistant (appointment May 10, 1976).	1,841.66
Sharon K. Krevor	do	1,133.34
Holly Cannon	Staff assistant (appointment May 17, 1976.)	977.78
Patricia R. Donovan	Staff assistant (appointment May 24, 1976).	822.23
Cynthia Muse Collin	do	822.23
Christina A. Bacus	Staff assistant (appointment June 14, 1976).	377.78
Susan L. Edwards	Staff assistant (appointment June 7, 1976).	533.33
Charles Ehrlich	Staff assistant (appointment June 1, 1976).	666.67
John F. Hannaway	Staff assistant (appointment June 2, 1976).	644.44
Alice C. Hill	Staff assistant (appointment June 14, 1976).	377.78
Total		434,924.83

SUBCOMMITTEE ON INVESTIGATIONS AND REVIEW

Name of employee	Profession	Total gross salary during 6-mo period
William O. Nolen	Investigator	$14,957.46
Betty Hay Wright	Administrative assistant.	11,594.52
Martha E. Downie	Minority clerk	10,500.00
Agnes M. Ganun	Staff assistant	8,335.68
Kathryn M. Keeney	Chief clerk	12,204.78
Shirley K. Novotny	Staff assistant	8,047.50
George M. Kopecky	Chief investigator	7,448.00
Robert G. Lawrence	Associate counsel	5,152.00
Walter R. May	Chief counsel	5,754.00
John P. O'Hara	Associate counsel	18,900.00
Paul R. S. Yates	Minority counsel	18,900.00
George P. Karseboom	Professional staff member.	17,382.60
Charles A. Krouse	do	17,382.60
Virginia A. Middledorf	Staff assistant	8,309.70
Craig Raupe	Professional staff member.	17,354.10
Charles W. Prisk	Staff engineer	3,796.00
Curtis E. Whalen	Minority counsel (terminated Feb. 9, 1976).	2,047.50
John A. Knapp	Staff assistant (terminated Mar. 31, 1976).	997.17
Susan M. Lucey	Minority staff assistant.	7,228.14
John N. Stratton	Minority investigator	8,500.02
Edwin L. Hall	Professional staff member (appointed Mar. 15, 1976).	7,361.10
Robert S. Prolman	Professional staff member (transferred from Standing Committee Mar. 9, 1976).	7,777.76
Jack L. Schenendorf	Minority professional staff member (appointed Mar. 14, 1976).	6,984.71
Marvin B. Simpson III	Professional staff member (appointed Apr. 1, 1976).	6,249.99
Total		233,165.33

COMMITTEE ON RULES

July 26, 1976.

To the Clerk of the House:

The Committee on Rules pursuant to section 6(j) of Rule XI, Rules of the House of Representatives, submits the following report for the 6 month period from Jan. 1, to June 30, 1976 inclusive:

1. Name, profession, and total salary of each person employed (see attached schedule A)	
2. Total funds available during this period	$306,537.43
3. Amount expended during this period	273,048.21

RAY J. MADDEN, Chairman.

SCHEDULE A—STANDING COMMITTEE PAYROLL

Name of employee	Profession	Total gross salary during 6-mo period
Dorothy Ballenger	Staff assistant	$10,500.00
Richard M. Bates	do	9,660.00
Cynthia Leigh Battle	do	750.00
Laurie C. Battle	Chief counsel and staff director.	6,300.00
Margaret E. Broadway	Research assistant	9,000.00
Margaret A. Bundick	Staff assistant	4,305.00
William D. Crosby, Jr	Minority counsel	16,619.40
Jonna Lynne Cullen	Assistant minority counsel.	12,915.00
Trevia A. Dean	Research assistant	11,550.00
John J. Dooling	do	10,500.00
Shryl Anne Epps	Staff assistant	4,583.33
Patricia S. Fleming	Research assistant	11,812.50
Donna Siss Gleason	do	9,975.00
Elma C. Henderson	do	9,300.00
Michael H. Hynes	Minority staff assistant	9,750.00
Helen Jernigan	Staff assistant	6,666.65
Amelia T. Lasser	Research assistant	9,929.17
Patricia Eve Martel	Staff assistant	9,199.98
Berlon Michael Mauldin	Research assistant	10,000.02
Claudia G. Moore	Staff assistant	11,500.00
Donald Gregory Nicosia	Chief counsel	18,519.90
Helen Carol Ortega	Minority staff assistant	7,481.25
Robert Scott Pastrick	Staff assistant	925.00
Alan H. Richardson	Majority counsel	10,125.00
Michael H. Wainwright	Research assistant	9,375.00
Winifred L. Watts	Staff director	17,107.73
Linda L. Weaver	Minority staff assistant	8,137.50
Donald Wolfensberger		12,300.00
Total		268,787.43

COMMITTEE ON SCIENCE AND TECHNOLOGY

July 15, 1976.

To the Clerk of the House:

The Committee on Science and Technology pursuant to section 6(j) of Rule XI, Rules of the House of Representatives, submits the following report for the 6 month period from Jan. 1, to June 30, 1976, inclusive:

1. Name, profession, and total salary of each person employed (see attached schedules A and B)	
2. Total funds available during this period	$1,120,349.18
3. Amount expended during this period	637,492.90

OLIN E. TEAGUE, Chairman.

SCHEDULE A—STANDING COMMITTEE PAYROLL

Name of employee	Profession	Total gross salary during 6-mo period
Mary S. Bly	Secretary	$7,862.50
Radford Byerly, Jr	Science consultant	17,220.00
William Garrett Carter	Publications clerk	6,676.00
Regina A. Davis	Chief clerk	8,500.00
John V. Dugan, Jr	Science consultant	17,062.50
David B. Finnegan	Counsel	18,000.00
Helen Lee Fletcher	Secretary	8,871.53
Suzanne M. Gibson	do	6,016.66
Harold A. Gould	Deputy director	18,650.00
Frank R. Hammill	Counsel	18,600.00
Kay S. Henry	Secretary	6,481.25
John D. Holmfeld	Science consultant	16,537.50
Robert C. Ketcham	Counsel	18,533.32
J. Thomas Ratchford	Science consultant	18,533.32
Ralph N. Read	Technical consultant	18,533.32
Carol F. Rodgers	Secretary	9,197.99
Patricia J. Schwartz	do	7,350.00
Willis D. Smith	Science consultant	13,702.50
Donna Lee Sokolowski	Secretary	4,999.16
Michael A. Superata	Minority counsel	13,075.00
John L. Swigert, Jr	Executive director	18,900.00
Thomas N. Tate	Counsel	16,456.07
Charles A. Trabandt	Minority counsel	13,250.00
Lillian McBee Trippett	Minority secretary	4,641.66
Barbara Weinblatt	Secretary	5,375.00
William G. Wells, Jr	Technical consultant	18,366.66
Rebecca S. Wheeler	Assistant chief clerk	7,491.10
James E. Wilson, Jr	Technical consultant	18,600.00
Philip B. Yeager	Counsel	18,600.00
Total		376,083.04

SCHEDULE B—INVESTIGATIVE STAFF PAYROLL

Name of employee	Profession	Total gross salary during 6-mo period
April V. Applegate	Secretary	$5,132.50
Sara B. Bogle (appointed Jan. 29, 1976).	Receptionist	3,613.33
Ellen M. Barney (terminated Apr. 16, 1976).	Secretary	$2,782.50
Terese M. Boswell	do	4,433.34
Darcia D. Bracken	Science consultant	9,962.50
Darrell R. Branscome	Technical consultant	11,800.00
Lisa Wade Cannon	Secretary	2,611.10
Josephine F. Cox (terminated Jan. 12, 1976).	do	385.00
Robert B. Dillaway (appointed Jan. 16, 1976).	Science consultant	16,950.00
Patricia J. Donohue (appointed Feb. 2, 1976; terminated June 15, 1976).	Secretary	4,652.79
Nancy Eubank (terminated Mar. 31, 1976).	do	2,499.99
Richard J. Feeney (appointed Jan. 5, 1976; terminated Apr. 30, 1976).	Technical consultant	5,075.00
George W. Fisher	Special assistant to chairman.	4,248.00
Geraldine L. Fisher	Secretary	4,601.66
James L. Gallagher	Technical consultant	13,125.00
Patricia Gail Garfinkel (appointed June 1, 1976).	Writer/editor	1,100.00
Carole Austen Hackes	Clerk, research	3,971.66
Lloyd V. Hinton (appointed Apr. 1, 1976).	Technical consultant	6,249.99
Mary Beverley Howard	Finance clerk	5,583.34
Thomas R. Kramer	Science consultant	12,200.00
Leslie Loflin (appointed June 28, 1976).	Secretary	71.67
Martha W. Maxfield	do	4,466.66
Gail W. Pesyna	Science consultant	8,816.66
Sherman E. Roodzant (appointed May 17, 1976).	Technical consultant	3,055.55
Gerald H. Staub	Counsel	9,050.00
Thomas H. Tackaberry	Technical consultant	5,562.50
Anthony C. Taylor	do	11,812.50
Paula M. Teeples	Receptionist	4,466.66
A. Lee Wallace III	Minority counsel	10,225.00
R. E. Williams (appointed Feb. 9, 1976).	Technical consultant	11,044.43
Total		189,549.33

COMMITTEE ON SMALL BUSINESS

July 12, 1976.

To the Clerk of the House:

The Committee on Small Business, pursuant to section 6(j) of Rule XI, Rules of the House of Representatives, submits the following report for the 6-month period from Jan. 1, to June 30, 1976, inclusive:

1. Name, profession, and total salary of each person employed (see attached schedules A and B)	
2. Total funds available during this period	$649,231.26
3. Amount expended during this period	323,23[illegible].90

JOE L. EVINS, Chairman.

SCHEDULE A—STANDING COMMITTEE PAYROLL

Name of employee	Profession	Total gross salary during 6-mo period
Bernard Layne	Staff director	$15,670.83
Myrtle Ruth Foutch	Clerk	16,766.66
Justinus Gould	Deputy general counsel.	18,900.00
Henry A. Robinson	General counsel (terminated Mar. 31, 1976).	9,450.00
Donna M. Watson	Secretary	7,350.00
Willa C. Rawls	Secretary, minority	6,825.00
James R. Phalen	Minority counsel	18,000.00
Paul E. Kritzer	Assistant minority counsel.	13,912.50
William H. Hawks	Staff assistant (terminated Mar. 30, 1976.)	2,750.00
Kenneth H. Davidson	Staff assistant	5,775.00
Irene L. Liberty	Printing editor	10,500.00
Lynn L. Graham	Secretary (terminated Mar. 15, 1976).	2,406.25
Eileen A. Buffalini	Secretary	5,500.02
Total		133,806.26

SCHEDULE B—INVESTIGATIVE STAFF PAYROLL

Name of employee	Profession	Total gross salary during 6-mo period
Douglas L. Francisco	Minority staff member.	$13,125.00
Emilia E. Parrish	Secretary	7,350.00
Mary Lou Liggon	Secretary (terminated Feb. 14, 1976).	1,540.00
Lucille C. Hicks	Secretary	7,612.50
Robert Michael Walker	Staff assistant (terminated Jan. 31, 1976).	1,181.25
Anthony J. DiStefano	Subcommittee staff member.	13,624.98
Mary Eileen Hohman	Clerk-typist	5,375.01
Thomas A. Trimboli	Subcommittee counsel	13,825.00
Thomas G. Powers	Counsel	14,175.00
Elmira R. Stewart	Secretary, minority	5,631.24
Jerrold S. Jensen	Subcommittee counsel, minority.	8,400.00
Michael J. Ward	Subcommittee counsel.	10,833.32
Stephen P. Lynch	Professional staff member.	9,000.00
Sherryl D. Wilson	Secretary (terminated May 31, 1976).	4,958.35
Marvin W. Topping	Minority staff member.	9,975.00
George E. Moll	Subcommittee staff member.	14,175.00
Lesley Ann Dawson	Staff assistant, minority.	4,500.00
Raymond S. Wittig	Subcommittee counsel, minority.	11,550.00
Janet Mary Olchowski	Secretary, minority	4,200.00
Patricia J. Shannon	Secretary	5,250.00
Susan D. (Morgan) Duncan.	do	4,999.98
Jeanne M. Frederick	Secretary (terminated May 31, 1976).	3,004.17
Adrienne M. Gantt	Staff assistant (terminated June 30, 1976).	500.00
Jennifer M. Miles	Secretary	833.33
Linda Parker	do	444.44
Total		176,063.57

COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT

July 6, 1976.

To the Clerk of the House:

The Committee on Standards of Official Conduct pursuant to section 6(j) of Rule XI, Rules of the House of Representatives, submits the following report for the 6-month period from Jan. 1, to June 30, 1976, inclusive:

1. Name, profession, and total salary of each person employed (see attached schedule A)	
2. Total funds available during this period	$270,301.20
3. Amount expended during this period	170,947.22

JOHN J. FLYNT, Jr., Chairman.

SCHEDULE A—STANDING COMMITTEE PAYROLL

Name of employee	Profession	Total gross salary during 6-mo period
John M. Swanner	Staff director	$18,900.00
William F. Arbogast	Assistant staff director	16,619.40
Mariann R. MacKenzie	Secretary	13,929.72
Jay M. Jaffe	Assistant to staff director (appointed Mar. 1, 1976).	9,166.68
Pamela R. Gray	Assistant clerk (terminated Apr. 15, 1976).	2,954.56
Peggy Murphy	Secretary (appointed Mar. 15, 1976).	4,416.67
Nancy W. Otis	Assistant clerk (appointed Mar. 2, 1976).	2,926.67
Carolyn J. Cusin	Stenographer (appointed Mar. 11, 1976).	3,666.67
L. Rebecca Loadholt	Assistant clerk (appointed Mar. 22, 1976; terminated May 13, 1976).	1,725.00
Betty W. Devine	Stenographer (appointed Mar. 11, 1976).	3,666.67
Irene Butcher	Research and records analyst (appointed Mar. 11, 1976).	4,583.33
Sandra D. Hanbury	Secretary (appointed June 14, 1976).	897.22
Jan Loughry	Secretary (appointed June 15, 1976).	844.44
Wm. J. Schewe, Jr	Clerk (appointed June 14, 1976).	354.17
Andrew J. Whalen III	Professional staff member (appointed June 18, 1976).	650.00
Total		85,301.20

COMMITTEE ON VETERANS' AFFAIRS

July 8, 1976.

To the Clerk of the House:

The Committee on Veterans' Affairs pursuant to section 6(j) of Rule XI, Rules of the House of Representatives, submits the following report for the 6-month period from Jan. 1 to June 30, 1976, inclusive:

1. Name, profession, and total salary of each person employed (see attached schedules A and B)	
2. Total funds available during this period	$354,762.72
3. Amount expended during this period	55,488.39

RAY ROBERTS, Chairman

SCHEDULE A—STANDING COMMITTEE PAYROLL

Name of employee	Profession	Total gross salary during 6-mo period
Audrey Arlene Burnett	Clerk-stenographer	$7,612.50
Jill T. Cochran	do	6,405.00
Barbara Price Daniel	do	7,980.00
Patricia J. Donohue	do	625.00
Mack G. Fleming	Counsel	18,900.00
Alberta Sue Forrest	Clerk-stenographer	7,350.00
Arthur M. Gottschalk	Professional aide	15,750.00
Candis Lee Graves	Clerk-stenographer	6,750.00
John R. Holden	Minority staff director	18,900.00
Philip Eugene Howard	Professional aide	18,900.00
Margaret J. Hulehan	Clerk-stenographer	2,437.50
Marjorie J. Kidd	do	8,955.49
Billy E. Kirby	Professional aide	18,900.00
Helen W. Kirkman	Clerical aide	12,500.00
Rebecca J. Kite	Clerk-stenographer (March 13–May 31, 1976).	2,665.00
Oliver E. Meadows	Staff director	18,900.00
Rhonda Kay Miles	Clerk-stenographer	5,250.00
Deborah A. Knorr	do	5,000.00
Gloria L. Royce	do	6,168.75
Robert R. Siegrist	Professional aide	15,000.00
Francis W. Stover	Assistant counsel	18,900.00
Louis A. Townsend	Professional aide	3,762.00
A. M. Willis, Jr	Professional staff member.	9,000.00
Helen A. Biondi	Chief clerk	9,936.00
Total		246,547.24

SCHEDULE B—INVESTIGATIVE STAFF PAYROLL

Name of employee	Profession	Total gross salary during 6-mo period
David L. Aasen	Legal Research Assistant.	$2,250.00
James A. Arnold	Investigator	7,875.00
Vance Lee Gilliam	Records clerk	5,858.90
Karen R. Ibrahim	Minority counsel, Subcommittee on Education and Training.	10,999.98
Rebecca J. Kite	Clerk-stenographer	1,025.00
Elizabeth D. Lunsford	Counsel, Subcommittee on Housing.	10,500.00
Alice V. Matthews	Clerk-stenographer	4,062.84
Michael M. Sample	Minority Counsel, Subcommittee on Housing.	1,000.00
Elizabeth Ann Stevens	Clerk-stenographer	500.00
Richard James Stone	Clerk	916.67
Michael W. Vehle	Minority Counsel, Subcommittee on Housing.	10,500.00
Total		55,488.39

COMMITTEE ON WAYS AND MEANS

July 9, 1976.

To the Clerk of the House:

The Committee on Ways and Means pursuant to section 6 (j) of Rule XI, Rules of the House of Representatives, submits the following report for the 6 month period from Jan. 1, to June 30, 1976, inclusive:

1. Name, profession, and total salary of each person employed (see attached schedules A and B)	
2. Total funds available during this period	$2,525,239.77
3. Amount expended during this period	976,976.13

AL ULLMAN, Chairman.

SCHEDULE A—STANDING COMMITTEE PAYROLL

Name of employee	Profession	Total gross salary during 6-mo period
John M. Martin, Jr	Chief counsel	$18,900.00
John K. Meagher	Minority counsel	18,900.00
John Patrick Baker	Assistant chief counsel	18,637.50
Frederick B. Arner	Professional assistant	$18,637.50
Thelma Askey	Staff assistant	7,087.50
Paul M. Auster	Professional assistant, from Feb. 9.	14,702.92
M. Kenneth Bowler	Professional assistant, from Mar. 1.	11,000.00
Florence Burkett	Staff assistant	11,881.26
Cynthia Carpenter	do	6,537.48
Louise Chrissos	do	8,925.00
Loren C. Cox	Professional assistant	17,049.99
Barbara Fry	Staff assistant	6,589.98
William Fullerton	Professional assistant, to Mar. 29.	6,212.50
Hughlon Greene	Staff assistant	13,295.52
Robert Hill	Professional assistant	17,173.38
Allen C. Jensen	Professional assistant, from Mar. 1.	11,000.00
Grace G. Kagan	Staff assistant	13,849.50
James W. Kelley	Professional assistant	18,637.50
Walter Laessig	Assistant minority counsel.	18,637.50
Harold T. Lamar	Professional assistant	18,637.50
Robert Leonard	do	13,650.00
Walter B. Little	Staff assistant	13,295.52
Carole V. McGettrick	do	9,473.04
Eugene J. Malone	Assistant minority counsel.	17,062.50
Norah H. Moseley	Staff assistant, to Mar. 29.	1,916.66
Harvey Pies	Staff assistant	14,700.00
Vivian Jean Ratliff	do	8,309.70
Paul C. Rettig	Professional assistant, from Mar. 1.	12,425.00
Gloria Shaver	Staff assistant	12,741.54
John Sherman	Professional assistant, from Mar. 1.	12,149.99
A. L. Singleton	Deputy minority counsel.	18,223.29
Total		410,239.77

SCHEDULE B—INVESTIGATIVE STAFF PAYROLL

Name of employee	Profession	Total gross salary during 6-mo period
Jeanne Archibald	Staff assistant	$2,347.92
Mable Collier Baker	do	8,662.50
Elizabeth Bargielski	do	6,687.51
Ann E. Baxter	do	6,825.00
Kenneth H. Bernstein	Professional assistant	9,250.02
Suzanne Blouin	do	9,884.70
Gloria Bloyer	Staff assistant	6,250.02
Milly S. Blumel	Staff assistant, from Feb. 1.	4,791.65
M. Kenneth Bowler	Professional assistant, to Feb. 29.	5,250.00
Emily Brisendine	Staff assistant	4,749.98
Madeline Bryan	do	7,391.66
Paula Cottrell	do	5,250.00
Catherine M. Davis	do	4,999.98
Joan Eisner	do	4,500.00
Connie S. Faulkner	do	6,562.50
Virginia Fletcher	do	13,650.00
Linda Grey Freeman	do	8,400.00
Margaret Rose Gifford	Staff assistant, from June 14.	255.00
Alice B. Gordon	Staff assistant, from Apr. 1.	2,499.99
Julian Granger	Professional assistant	15,487.50
Joseph W. Hall, Jr	Staff assistant, from Mar. 1.	6,500.00
Julie E. Hamos	Staff assistant	7,050.00
Gloria Harrison	do	4,999.98
Charles E. Hawkins	Professional assistant	10,439.50
Jonathan Hawley	Professional assistant, from Mar. 1.	12,425.00
James C. Healey	Professional assistant, from Apr. 1.	7,087.50
Thomas Hendershot	Professional assistant	14,175.00
Sharon Lynn Hughes	Staff assistant	7,087.50
Erwin Hytner	Professional assistant	18,637.50
Allen Jensen	Professional assistant, to Feb. 29.	5,425.00
Douglas Lapin	Staff assistant, to June 7.	3,706.93
Harriett Ann Lawler	Staff assistant	6,108.32
Mary Nell Lehnhard	Professional assistant	10,500.00
Mary Pat Lennon	Staff assistant, from February 16.	3,418.74
Myra Jo McQuinn	Professional assistant, from January 26.	7,750.00
Suzann Matthews	Staff assistant, from March 29.	3,066.67
Janice Mays	Professional assistant	9,250.02
Norah H. Moseley	Staff assistant, from March 1.	3,833.32
Mary O'Connor	Staff assistant	4,249.98
Marsha Powell	do	6,370.80
Florence Prioleau	Staff assistant, from April 1.	3,500.01
Robert Reese	Professional assistant, from January 5.	5,723.87
Paul C. Rettig	Professional assistant, to February 29.	6,212.50

SCHEDULE B—INVESTIGATIVE STAFF PAYROLL—Continued

Name of employee	Profession	Total gross salary during 6-mo period
Robert Rich	Staff assistant, from June 7.	$400.00
Judith Rochlin	Professional assistant, to April 15.	6,125.00
David Rohr	Professional assistant	18,281.34
Susan Romatowski	Staff assistant	5,880.00
Lawrence Ross	Professional assistant	18,637.50
Alan Rothenberg	do	18,637.50
Lou Ann Rowe	Staff assistant	7,362.50
John J. Salmon	Professional assistant	14,175.00
John Sherman	Professional assistant, to February 29.	5,950.00
Janet Stanzione	Staff assistant	5,749.98
Arthur Stein III	Professional assistant	7,800.00
Oliver P. Stufflebeam	do	15,487.50
Anne E. Sullivan	do	8,137.50
Daniel Summers	Staff assistant, from June 14.	283.33
William K. Vaughan, Jr	Professional assistant	18,637.50
Robert Vonick, Jr	Staff assistant	4,200.00
Stuart S. Wegener	Staff assistant, from June 25.	133.33
Lucille Whieldon	Staff assistant, to February 13.	877.92
Mary Jane Wignot	Professional assistant	16,875.00
B. H. Wilkins	do	16,800.00
Maureen Wright	Staff assistant, from March 1.	5,250.00
Total		496,894.97

SELECT COMMITTEE ON AGING

July 10, 1976.

To the Clerk of the House:

The Select Committee on Aging pursuant to section 6(j) of Rule XI, Rules of the House of Representatives, submits the following report for the 6 month period from Jan. 3, to June 30, 1976, inclusive:

1. Name, profession, and total salary of each person employed (See attached schedules A and B)
2. Total funds available during this period (Jan. 3, 1976) $580,000.00
3. Amount expended during this period (June 30, 1976) 213,632.71

WM J. RANDALL, Chairman.

SCHEDULE B—INVESTIGATIVE STAFF PAYROLL

Name of employee	Profession	Total gross salary during 6-mo period
Annemarie Blaney	Clerical	$2,000.00
Robetta Ann Bretsch	Minority staff director, Subcommittee No. 4.	14,017.50 00
Earl J. Cantos	Research assistant (summer help, appointed June 1, 1976).	400. 67
Dolores A. Davis	Gerontologist (resigned Jan. 31, 1976).	2,041.
Hazel K. Edwards	Secretary	5,404.44
Jose S. Garza	Staff director, Subcommittee No. 3.	12,021.67
Linda Gogo	Research assistant (summer help, appointed June 14, 1976).	226.67
Nancy Ellen Hobbs	Minority staff director, Subcommittee No. 1.	7,800.00
Mary E. Holman	Secretary	5,340.00
Robert M. Horner	Staff director, Full Committee.	2,984.27
Edward F. Howard	Staff counsel, Subcommittee No. 4.	14,014.50
V. Bernice King	Financial secretary	11,884.94
Fumiko Kuwayama	Secretary (resigned Jan. 31, 1976).	1,143.33
Karen Y. Lauglaug	Research assistant (appointed Apr. 1, 1976).	3,000.00
Patricia C. Lawrence	Minority staff director Subcommittee No. 3 (appointed June 28, 1976).	133.33
Lyle McClain	Counsel	15,575.00
Martha Jane Maloney	Professional staff assistant.	9,888.91
Marc S. Moskowitz	Research assistant (summer help, appointed June 21, 1976).	133.33
Michael W. Murray	Professional staff assistant.	11,627.77
James H. Petersen	Minority staff director, Subcommittee No. 3 (resigned Mar. 18, 1976).	4,300.00
Milessa F. Pollak	Secretary	4,655.99
Audrey L. Rollins	do	7,787.50
Lorren W. Roth	Clerk-typist	5,970.42
Jose I. Sandoval	Research assistant (summer help, appointed June 21, 1976).	$133.33
Rita A. Sheffey	Research assistant (summer help, appointed June 14, 1976).	226.67
Albert H. Solomon, Jr	Professional staff assistant.	7,760.49
Chris J. Stergiou	Research assistant (summer help, appointed June 1, 1976).	400.00
Elliot J. Stern	Minority staff director, Subcommittee No. 2.	14,017.50
Rita Stewart	Secretary (appointed Jan. 19, 1976).	5,076.66
Marian M. Takita	Research assistant (appointed Feb. 1, 1976, resigned Feb. 29, 1976).	1,225.00
Robert F. Thompson	Clerk-typist	5,191.67
Robert S. Weiner	Staff director, Subcommittee No. 2.	14,017.50
Total		190,403.06

SELECT COMMITTEE ON MISSING PERSONS IN SOUTHEAST ASIA

July 15, 1976.

To the Clerk of the House:

The Select Committee on Missing Persons in Southeast Asia pursuant to section 6 (j) of Rule XI, Rules of the House of Representatives, submits the following report for the 6-month period from January 1, 1976 to June 30, 1976, inclusive:

1. Name, profession, and total salary of each person employed (see attached schedules A and B)
2. Total funds available during this period $329,255.18
3. Amount expended during this period 77,242.62

GILLESPIE V. MONTGOMERY, Chairman.

SCHEDULE B—INVESTIGATIVE STAFF PAYROLL

Name of employee	Profession	Total gross salary during 6-mo period
J. Angus MacDonald	Staff director	$14,333.33
Henry J. Kenny	Professional staff assistant.	14,166.68
Job L. Dittberner	do	10,999.98
John D. Burke	Professional staff assistant (effective Mar. 1, 1976).	3,333.32
Thelma H. Shirkey	Administrative assistant.	7,750.00
Jennifer M. Miles	Staff assistant (to May 31, 1976).	3,754.17
Charlene S. Dunlap	Staff assistant	7,300.02
Shirley A. Fulp	Staff assistant (effective Apr. 10, 1976).	3,037.50
Michael P. Madden	Clerical assistant (to Jan. 31, 1976).	500.00
Richard E. Simpson	Clerical assistant (from June 1, 1976).	500.00
Total		65,675.00

AD HOC SELECT COMMITTEE ON OUTER CONTINTENTAL SHELF

July 15, 1976.

To the Clerk of the House:

The Ad Hoc Select Committee on Outer Contintental Shelf pursuant to section 6(j) of Rule XI, Rules of the House of Representatives, submits the following report for the 6 month period from Jan. 1, to June 30, 1976, inclusive:

1. Name, profession, and total salary of each person employed (see attached schedules A and B)
2. Total funds available during this period $150,000.00
3. Amount expended during this period 114,532.76

JOHN M. MURPHY, Chairman.

SCHEDULE A—STANDING COMMITTEE PAYROLL

Name of employee	Profession	Total gross salary during 6-mo period
Terri Allen	Secretary (effective Mar. 8, 1976).	$3,833.32
Clem Anthony	Secretary	5,325.00
Susan Baffa	Chief clerk (effective Feb. 1, 1976).	4,166.65
Boyd Bashore	Editor (through Feb. 1, 1976).	1,750.00
Charles Bedell	Minority counsel	3,075.00
Martin Belsky	Majority counsel	2,287.50
Tina Bowen	Secretary	4,792.22
David Cahn	Professional staff	11,250.00
Ulalane Carter	Research assistant (effective Mar. 1–Apr. 30, 1976).	$2,166.67
Ed Curry	Professional staff (effective Feb. 1, 1976).	8,333.35
Michael Dickinson	Research assistant	5,475.00
Mary Fusco	Secretary	6,000.00
Darius Gaskins	Economic counsel (through Apr. 31, 1976).	6,000.00
Mark Greenspan	Research assistant	5,025.00
Ark Kosatka	Professional staff	9,000.00
Pam LoRusso	Chief clerk (through Feb. 15, 1976).	1,312.50
Taddy McAllister	Clerk (effective Mar. 9 through June 30, 1976).	4,355.57
Michael Morgan	Clerk (effective Mar. 9 through Apr. 8, 1976).	600.00
Lawrence O'Brien	Professional staff (through Mar. 1, 1976).	2,833.34
Karen O'Keefe	Clerk (effective Mar. 9, 1976).	1,643.33
Carl Perian	Staff director	2,201.10
Julia Perian	Administrative assistant.	3,375.00
Daniel Ross	Research assistant (through June 30, 1976).	5,622.21
Bruce Terris	Special counsel (through Mar. 1, 1976).	2,345.84
Donald Watt	Editor	2,402.16
Total		105,170.76

JOINT COMMITTEE ON CONGRESSIONAL OPERATIONS

June 19, 1976.

To the Clerk of the House:

The Joint Committee on Congressional Operations pursuant to section 6(j) of Rule XI, Rules of the House of Representatives, submits the following report for the 6 month period from Jan. 1, to June 30, 1976, inclusive:

1. Name, profession, and total salary of each person employed (see attached schedules A) and B)
2. Total funds available during this period $384,747.16
3. Amount expended during this period 353,056.34

JACK BROOKS, Chairman.

SCHEDULE A—STANDING COMMITTEE PAYROLL

Name of employee	Profession	Total gross salary during 6-mo period
Eugene F. Peters	Executive director	$18,900.00
Francis J. Keenan	Director of projects	18,669.12
Cynthia K. Watkins	Staff administrator	11,499.99
John C. Ahlers	Staff assistant	7,875.00
Bryce H. Pettey	do	7,250.01
Wilson R. Abney	do	9,000.00
Mark A. Eller	do	12,075.00
Robert J. Kelley	do	13,749.99
James F. McAllister	Administrative officer	16,275.00
Grace Seckler	Placement assistant	5,375.01
Gerald P. McCartin	do	66.67
John W. Molloy	do	6,000.00
Earl Francis Rieger	Staff counsel	13,500.00
Samuel Merrick	Staff assistant	7,875.00
Gayle D. Fralin	Placement assistant	6,375.00
Linda Jo Shelton	Staff assistant	6,375.00
David Robert Solomon	do	5,499.99
James Joseph Abrams	do	6,250.02
Karen Anne Glenn	do	6,000.00
Janet E. Moore	Placement assistant	4,875.00
English Bradshaw	Staff assistant	9,450.00
David Wesley Jones	Placement assistant	3,255.00
Mary W. Kopenski	Clerk typist	2,500.02
Ellen L. Jones	Staff assistant	8,700.00
Sandra H. Padilla	Administrative officer	8,749.98
Michael L. Norris	Placement assistant	5,500.02
Donald H. Radler	Researcher/writer	15,000.00
Fred A. Caccavale	Staff assistant	4,999.98
Rana A. Shames	Typist/receptionist	3,984.74
Beverly R. Blood	Placement assistant	3,351.40
Dawn L. Thomas	do	4,200.00
Susan L. Sadtler	do	4,750.02
K. Constantine	Typist	676.00
Sara Meyerdierks Ross	Clerk typist	1,800.00
Michael A. Coppola	Placement assistant	4,499.98
Carolyn P. Gibson	Clerk typist	4,280.55
Anne Paul Wilander	Placement assistant	3,747.24
William F. Raines III	Temporary assistant	330.56
Michael L. Silk	do	330.56
Christopher S. Taylor	do	583.33
Carol J. Capalbi	Clerk typist	700.00
Peter B. Crouch	Placement assistant	472.22
Mary C. Dwyer	do	566.67
Terrance John McCartin	Temporary assistant	330.56
Brian McMenamin	do	583.33
Total		276,827.96

JOINT COMMITTEE ON DEFENSE PRODUCTION

July 14, 1976.

To the Clerk of the House:

The Joint Committee on Defense Production pursuant to section 6(j) of Rule XI, Rules of the House of Representatives, submits the following report for the 6 month period from Jan. 1, to June 30, 1976, inclusive:

1. Name, profession, and total salary of each person employed (see attached schedules A and B)
2. Total funds available during this period [1] 85,401.56
3. Amount expended during this period 81,284.92

LEONOR K. SULLIVAN, Chairman.

[1] Includes supplemental appropriation for October 1975, 5 percent cost-of-living pay raise.

SCHEDULE A—STANDING COMMITTEE PAYROLL

Name of employee	Profession	Total gross salary during 6-mo period
William H. Kincade	Staff director	$15,999.99
Cary Copeland	Assistant staff director (to May 31).	10,500.00
J. Michael Hemphill	Minority professional staff (to May 10).	10,046.57
Rhett B. Dawson	Minority counsel (from May 11).	3,888.89
Leon Reed	Professional staff	9,162.51
Robert Terzian	Counsel (from Mar. 1)	6,541.68
Martha Braddock	Chief clerk/editor	7,668.75
Robert Gray	Professional staff (from Feb. 16).	6,062.49
Robert Riggs	Professional staff (to Jan. 23).	1,341.67
Margaret Rayhawk	Research associate (to Mar. 31).	6,037.50
Georgia Crump	Staff assistant (from June 1).	583.33
Richard Cudahy	Intern (from June 23)	80.00
Total		77,913.38

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3765. A letter from the Director of Selective Service, transmitting his semiannual report for the period July 1 through December 31, 1975, pursuant to section 10(g) of the Military Selective Service Act; to the Committee on Armed Services.

3766. A letter from the Acting Director, Office of Regulatory Review, Department of Health, Education, and Welfare, transmitting proposed final regulations governing administration of the Special Projects Act, pursuant to section 431(d)(1) of the General Education Provisions Act, as amended; to the Committee on Education and Labor.

3767. A letter from the Acting Director, Office of Regulatory Review, Department of Health, Education, and Welfare, transmitting a proposed amendment to the regulations governing the guaranteed student loan program, pursuant to section 431(d)(1) of the General Education Provisions Act, as amended; to the Committee on Education and Labor.

3768. A letter from the Chairman, Federal Election Commission, transmitting an amendment to the Commission Disclosure Regulation to govern the allocation of polling expenses, pursuant to section 316(c) of the Federal Election Campaign Act, as amended (2 U.S.C. 438) (H. Doc. 94–575); to the Committee on House Administration and ordered to be printed.

3769. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a copy of Presidential Determination No. 76–19, finding that it is important to the security of the United States to authorize the use of military assistance funds for Spain without regard to the provisions of section 620(m) of the Foreign Assistance Act of 1961, as amended; to the Committee on International Relations.

3770. A letter from the Secretary of Transportation, transmitting a report on the advisability of regulating electric vehicles for energy conservation, pursuant to section 512(b) of the Motor Vehicle Information and Cost Savings Act, as amended by Public Law 94–163; to the Committee on Interstate and Foreign Commerce.

3771. A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting reports concerning visa petitions approved according certain beneficiaries third and sixth preference classification, pursuant to section 204(d) of the Immigration and Nationality Act, as amended (8 U.S.C. 1154(d)); to the Committee on the Judiciary.

3772. A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting copies of orders entered in cases in which the authority contained in section 212(d)(3) of the Immigration and Nationality Act was exercised in behalf of certain aliens, pursuant to section 212(d)(6) of the act (8 U.S.C. 1182 (d)(6)); to the Committee on the Judiciary.

3773. A letter from the Assistant Secretary of the Army (Civil Works), transmitting a letter from the Chief of Engineers, Department of the Army, submitting a report on the Upper Guyandotte River Basin, W. Va. (H. Doc. No. 94–576); to the Committee on Public Works and Transportation and ordered to be printed with illustrations.

3774. A letter from the Assistant Secretary of the Army (Civil Works), transmitting a letter from the Chief of Engineers, Department of the Army, submitting a report on Lock Haven, Clinton County, Pa. (H. Doc. No. 94–577); to the Committee on Public Works and Transportation and ordered to be printed with illustrations.

3775. A letter from the Administrator, Environmental Protection Agency, transmitting a draft of proposed legislation to amend the Federal Water Pollution Control Act; to the Committee on Public Works and Transportation.

RECEIVED FROM THE COMPTROLLER GENERAL

3764. A letter from the Comptroller General of the United States, transmitting a report on a study of the Department of Defense's research and development of high-energy lasers and their use for developing weapon systems; jointly, to the Committees on Government Operations and Armed Services.

3776. A letter from the Comptroller General of the United States, transmitting a report on hazardous working conditions in seven Federal agencies; jointly, to the Committee on Government Operations and Education and Labor.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. FASCELL: Committee on International Relations. H.R. 14940. A bill to authorize the obligation and expenditure of funds to implement for fiscal year 1977 the provisions of the Treaty of Friendship and Cooperation between the United States and Spain, signed at Madrid on January 24, 1976, and for other purposes (Rept. No. 94–1393). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. DRINAN:

H.R. 15064. A bill to amend the Wagner-Peyser Act to provide more effective job placement services, improved administration and management planning, review of policy alternatives, innovative employment services, and for other purposes; to the Committee on Education and Labor.

By Mr. EILBERG (for himself, Mr. Fish, Mr. Hyde, Mr. Ottinger, Mr. Lehman, Mr. Dan Daniel, Mr. Nix, Mr. Andrews of North Dakota, Mr. Roe, Mr. Badillo, Mr. Mineta, Mr. Hannaford, Mr. Harris, Mr. Downey of New York, Mr. Harrington, and Mr. Helstoski):

H.R. 15065. A bill to amend the Internal Revenue Code of 1954 to provide a tax credit of $250 to an individual for expenditures for health insurance premiums; to the Committee on Ways and Means.

By Mr. GREEN:

H.R. 15066. A bill to provide a special program for financial assistance to opportunities industrialization centers in order to provide new skills training opportunities, and to other national community-based organizations to provide comprehensive employment services to create 1 million new training and job opportunities; to the Committee on Education and Labor.

By Mr. KASTENMEIER (for himself, Mr. Steelman, and Mr. Ford of Tennessee):

H.R. 15067. A bill to require candidates for Federal office, Members of the Congress, and officers and employees of the United States to file statements with the Comptroller General with respect to their income and financial transactions; jointly to the Committees on the Judiciary, and Standards of Official Conduct.

By Mr. MATHIS:

H.R. 15068. A bill to provide for emergency allotment lease and transfer of tobacco allotments or quotas for 1976 in certain disaster areas in South Carolina; to the Committee on Agriculture.

By Mr. MELCHER (for himself, Mr. Bowen, Mr. Breaux, Mr. Johnson of Colorado, Mr. Johnson of California, Mr. Jones of Tennessee, Mr. Kelly, Mr. Krebs, Mr. Mathis, Mr. Sisk, Mr. Symms, Mr. Vigorito, Mr. Jones of North Carolina, Mr. Sebelius, Mr. Madigan, Mr. Lott, Mr. Ullman, Mr. Duncan of Oregon, and Mr. Wampler):

H.R. 15069. A bill to amend the Forest and Rangeland Renewable Resources Planning Act of 1974, and for other purposes; to the Committee on Agriculture.

By Mr. MOTTL (for himself, Mr. Teague, Mr. Roberts, Mr. Holland, Mr. Walsh, and Mr. Hannaford):

H.R. 15070. A bill to amend title 38 of the United States Code, in order to increase the rates of allowances for vocational rehabilitation, educational assistance, and special training, to improve the administration of the vocational rehabilitation and educational assistance programs; and for other purposes; to the Committee on Veterans' Affairs.

By Mr. MURPHY of New York:

H.R. 15071. A bill to amend the Federal Trade Commission Act, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. PICKLE (for himself, Mr. Hannaford, Mrs. Spellman, Mr. Aspin, and Mr. Santini):

H.R. 15072. A bill to amend part B of title XI of the Social Security Act to assure appropriate participation by optometrists in the peer review and related activities authorized under such part; jointly to the Committees on Ways and Means and Interstate and Foreign Commerce.

By Mr. ROSENTHAL:

H.R. 15073. A bill to amend title 39, United States Code, to provide for the mailing of correspondence to Members of Congress free of postage, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. SISK (for himself and Mr. Krebs):

H.R. 15074. A bill to promote the development of family-sized farms on Federal reclamation projects through a program which includes acquiring land by the United States, selling family-sized units of such land to family farmers, providing financial and extension assistance to purchasers of such units, and discouraging speculation in the buying and selling of such units; and to establish priority in the sale of excess acreages on Federal reclamation projects; jointly, to the Committees on Interior and Insular Affairs and Agriculture.

By Mr. THONE (for himself, Mr. Archer, Mr. Baldus, Mr. Brown of Ohio, Mr. Broyhill, Mrs. Burke of California, Mr. du Pont, Mr. Guyer, Mr. Jenrette, Mr. Ketchum, Mr. Kindness, Mr. Mathis, Mr. Miller of Ohio, Mr. Mollohan, Mr. Quie, Mr. Roe, Mr. Sebelius, Mr. Simon, and Mrs. Smith of Nebraska):

H.R. 15075. A bill to amend section 618 of title 38, United States Code, in order to authorize the Administrator to expand the current program providing therapeutic and rehabilitation activities for certain veterans, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. WHITEHURST (for himself and Mr. Howe):

H.R. 15076. A bill to amend the Internal Revenue Code of 1954 to provide for individual supplemental retirement savings; to the Committee on Ways and Means.

By Mr. WIRTH (for himself and Mr. Nolan):

H.R. 15077. A bill to provide for limited public financing of congressional general election campaigns through the matching of private contributions, and for other purposes; to the Committee on House Administration.

By Mr. WIRTH (for himself, Mr. Blouin, Mr. Bowen, Mr. Brown of California, Mr. Downey of New York, Mr. Edwards of California, Mr. Ford of Michigan, Mr. Hughes, Mr. LaFalce, Mr. Long of Maryland, Mr. Mineta, Mr. Mosher, Mr. Murphy of New York, Mr. Ottinger, Mr. Roybal, Mr. Seiberling, Mr. Thompson, Mr. Waxman, Mr. Weaver, and Mr. Young of Georgia):

H.R. 15078. A bill to provide for judicial review of administrative determinations made by the Administrator of the Veterans' Administration; to the Committee on Veterans' Affairs.

By Mr. WIRTH (for himself, Ms. Abzug, Mr. Drinan, Mr. Gilman, Mr. Howe, Mr. Russo, and Mrs. Spellman):

H.R. 15079. A bill to provide for judicial review of administrative determinations made by the Administrator of the Veterans' Administration; to the Committee on Veterans' Affairs.

By Mr. ULLMAN (for himself and Mr. Corman):

H.R. 15080. A bill to amend title XVI of the Social Security Act to make needed improvements in the program of supplemental security income benefits; to the Committee on Ways and Means.

By Mr. BENNETT:

H.R. 15081. A bill to authorize the disposal of various materials from the national stockpile and the supplemental stockpile, and for other purposes; to the Committee on Armed Services.

By Mr. BROYHILL (for himself, Mr. McCollister, and Mr. Johnson of Pennsylvania):

H.R. 15082. A bill to suspend, pending review, the effect of the Federal Trade Commission's rule concerning limitation of the use of holder-in-due-course defenses in connection with the sale or lease of goods or services to consumers; to require the General Accounting Office to conduct a study of the effect of this rule on the consumer market; and to require formal rulemaking by the Commission respecting this rule; to the Committee on Interstate and Foreign Commerce.

By Mr. CORMAN (for himself and Mrs. Burke of California):

H.R. 15083. A bill to amend the Internal Revenue Code of 1954 to deny certain benefits to taxpayers who participate in or cooperate with the boycott of Israel; to the Committee on Ways and Means.

By Mr. CORMAN (for himself, Mr. Cleveland, Mr. D'Amours, Mr. Ford of Michigan, Mr. Mitchell of Maryland, Mr. Moffett, and Mr. Van Deerlin):

H.R. 15084. A bill to amend title XVIII of the Social Security Act to authorize payment under the supplementary medical insurance program for optometric and medical vision care; to the Committee on Ways and Means.

By Mr. DODD:

H.R. 15085. A bill to amend the Soldiers' and Sailors' Civil Relief Act of 1940 to place certain limitations on the exemption of a member of the Armed Forces from the personal property taxes of the jurisdiction in which the member is stationed; to the Committee on Veterans' Affairs.

By Mr. KASTEN:

H.R. 15086. A bill to amend the Controlled Substances Act and the Controlled Substances Import and Export Act to provide for mandatory minimum sentences for persons convicted of certain offenses involving narcotics drugs, for postconviction release of such persons under certain conditions, for forfeiture of moneys used for trafficking in narcotic drugs, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. KEMP:

H.R. 15087. A bill to amend title IV of the Social Security Act to improve and make more realistic various provisions relating to eligibility for aid to families with dependent children and the administration of the aid to families with dependent children program, and for other purposes; to the Committee on Ways and Means.

By Mr. La FALCE (for himself, Mr. Hanley, Ms. Abzug, Mr. Addabbo, Mr. Ambro, Mr. Badillo, Mr. Bingham, Ms. Chisholm, Mr. Downey of New York, Mr. Fish, Mr. Lent, Mr. McHugh, Mr. Nowak, Mr. Ottinger, Mr. Pike, Mr. Richmond, Mr. Rosenthal, Mr. Scheuer, Mr. Wolff, Mr. Wydler, and Mr. Zeferetti):

H.R. 15088. A bill to permit federally chartered savings and loan associations located in New York to offer checking accounts to the extent that similar State chartered institutions in New York are permitted to do so; to the Committee on Banking, Currency and Housing.

By Mr. La FALCE (for himself, Mr. Rodino, Mr. Young of Georgia, Mr. Nowak, Mr. Downey of New York, Mr. Richmond, Mr. Badillo, Mr. Scheuer, Ms. Abzug, Mr. Beard of Rhode Island, Mr. Eilberg, Mr. Haley, Mr. Helstoski, and Mr. Charles Wilson of Texas):

H.R. 15089. A bill to establish a commission to investigate the factors contributing to the decline of urban neighborhoods and the factors necessary to neighborhood survival and revitalization, and for other purposes; to the Committee on Banking, Currency, and Housing.

By Mr. McDONALD:

H.R. 15090. A bill to amend title XX of the Social Security Act so as to eliminate certain restrictions therein pertaining to the use, in the financing of State social services programs, of goods and services provided in kind by a private entity and of donated private funds; to the Committee on Ways and Means.

By Mr. MATSUNAGA (for himself, Mr. Bob Wilson, Mr. Beard of Rhode Island, Mr. Blouin, Mr. Cohen, Mr. Downey of New York, Mr. Ford of Tennessee, Mr. Florio, Mr. Grassley, Mr. Gude, Mr. Hughes, Mr. Heinz, Ms. Lloyd of Tennessee, Mr. Pepper, Mr. Randall, Mr. Roybal, Mr. Santini, Mr. Walsh, and Mr. Wampler):

H.R. 15091. A bill to amend the Federal Aviation Act of 1958 to authorize reduced-rate transportation for certain additional persons on a space-available basis; to the Committee on Public Works and Transportation.

By Mr. MATSUNAGA (for himself, Mr. Bob Wilson, Mr. Beard of Rhode Island, Mr. Blouin, Mr. Bonker, Mr. Cohen, Mr. Downey of New York, Mr. Ford of Tennessee, Mr. Grassley, Mr. Gude, Mr. Heinz, Mr. Hughes, Ms. Lloyd of Tennessee, Mr. Pepper, Mr. Randall, Mr. Roybal, Mr. Santini, Mr. Sarasin, Mr. Walsh, Mr. Florio, and Mr. Wampler):

H.R. 15092. A bill to amend the Internal Revenue Code of 1954 to exempt from excise tax certain buses purchased by nonprofit organizations or by other persons for exclusive use in furnishing transportation for State or local governments or nonprofit organizations; to the Committee on Ways and Means.

By Mr. MATSUNAGA (for himself, Mr. Bob Wilson, Mr. Beard of Rhode Island, Mr. Blouin, Mr. Downey of New York, Mr. Florio, Mr. Grassley, Mr. Gude, Mr. Hammerschmidt, Mr. Heinz, Mr. Hughes, Ms. Lloyd of Tennessee, Mr. Pepper, Mr. Randall, Mr. Roybal, Mr. Santini, Mr. Sarasin, Mr. Walsh, and Mr. Wampler):

H.R. 15093. A bill to amend the Internal Revenue Code of 1954 to provide that the amount of the charitable deduction allowable for expenses incurred in the operation of a highway vehicle will be determined in the same manner as the business deduction for such expenses; to the Committee on Ways and Means.

By Mrs. SCHROEDER:

H.R. 15094. A bill to amend title 5, United States Code, to increase the uniform allowances available to Federal firefighters; to the Committee on Post Office and Civil Service.

By Mr. TRAXLER (for himself, Mr. Cornell, Mr. Hughes, Mr. Conte, Mr. Lehman, Mr. Jenrette, Mr. Simon, Mr. Bowen, Ms. Collins of Illinois, Mr. Badillo, Mr. Mineta, Mr. Baucus, Mr. D'Amours, Mr. Koch, Mr. Harrington, and Ms. Chisholm):

H.R. 15095. A bill to provide for the monthly publication of a Consumer Price Index for the Aged and Other Social Security Beneficiaries, which shall be used in the provision of the cost-of-living benefit increase authorized by title II of the Social Security Act; to the Committee on Ways and Means.

By Mr. TRAXLER (for himself, Mr. Cornell, Mr. Hughes, Mr. Conte, Mr. Lehman, Mr. Rodino, Ms. Meyner, Mr. Jenrette, Mr. Simon, Mr. Bowen, Ms. Collins of Illinois, Mr. Badillo, Mr. Mineta, Mr. Baucus, Mr. D'Amours, Mr. Koch, Mr. Harrington, and Ms. Chisholm):

H.R. 15096. A bill to amend title II of the Social Security Act to provide that the automatic cost-of-living increases in benefits which are authorized thereunder may be made on a semiannual basis (rather than only on an annual basis as at present); to the Committee on Ways and Means.

By Mr. HUGHES (for himself, Mr. Burgener, Ms. Chisholm, Mr. Cornell, Mr. Edgar, Mr. Mazzoli, Mr. Mitchell of Maryland, and Mr. Richmond):

H.J. Res. 1046. Joint resolution proposing an amendment to the Constitution of the United States to provide that Members of the House of Representatives shall serve for terms of 4 years and that such Members may not serve more than three consecutive terms; to the Committee on the Judiciary.

By Mr. ROSTENKOWSKI:

H.J. Res. 1047. Joint resolution relating to the publication of economic and social statistics for Americans of Slavic origin or descent; jointly to the Committees on Education and Labor, and Post Office and Civil Service.

By Mrs. BOGGS:

H. Con. Res. 704. Concurrent resolution authorizing the Joint Committee on Arrangements for Commemoration of the Bicentennial to use the U.S. Capitol Building for a Bicentennial reception for Members of Congress, other Government officials, the diplomatic corps, and members of the public; to the Committee on Public Works and Transportation.

By Mr. KOCH (for himself, Mr. Phillip Burton, Mr. Conte, Mr. Drinan, Mr. Flood, Mr. Fraser, Mr. Helstoski, Mr. Krebs, Mr. LaFalce, Mr. Lagomarsino, Mr. McHugh, Mr. Maguire, Ms. Meyner, Mr. Moakley, Mr. Ottinger, Mr. Solarz, Mr. Charles Wilson of Texas, and Mr. Zeferetti):

H. Con. Res. 705. Concurrent resolution expressing the sense of Congress that the Attorney General, in accordance with existing law and U.S. humanitarian tradition, should parole into the United States those civilian Lebanese aliens not participating in the fighting in the civil war in Lebanon who are in danger of losing their lives as a result of such civil war; to the Committee on the Judiciary.

By Mr. WALSH (for himself, Mr. McHugh, Ms. Keys, Mr. Kemp, Mr. Miller of California, and Mr. Hannaford):

H. Con. Res. 706. Concurrent resolution expressing the sense of Congress that the Constitution does not grant immunity from arrest to a Member of Congress and for other purposes; to the Committee on the Judiciary.

By Mr. ANDERSON of Illinois (for himself, Mr. John L. Burton, Mr. Anderson of California, Mr. AuCoin, Mr. D'Amours, Mrs. Lloyd of Tennessee, Mr. Mezvinsky, Mr. Mitchell of Maryland, and Mr. Moakley):

H. Res. 1464. Resolution to amend rule XXXII of the Rules of the House of Representatives to specify conditions for the admission of ex-Members and certain other persons to the Hall of the House and rooms leading thereto; to the Committee on Rules.

By Mr. ROE:

H. Res. 1465. Resolution to amend the Rules of the House of Representatives to create a standing committee to be known as the Committee on Health; to the Committee on Rules.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. BOB WILSON introduced a bill (H.R. 15097) for the relief of Syed Muhammad Ali Naqvi, which was referred to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause 1 of rule XXII,

544. Mr. OTTINGER presented a petition of members of the Auto Workers of North Tarrytown Federal Credit Union, North Tarrytown, N.Y., relative to the proposed Financial Institutions Act of 1975, which was referred to the Committee on Banking, Currency and Housing.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 8911

By Mr. OTTINGER:

Strike the penultimate word.

Strike the last word.

Strike the requisite number of words.

H.R. 14070

By Mr. DODD:

Page 87, line 3, insert a close quotation mark and a period after the period and strike lines 4 through 18.

FACTUAL DESCRIPTIONS OF BILLS AND RESOLUTIONS INTRODUCED

Prepared by the Congressional Research Service pursuant to clause 5(d) of House rule X. Previous listing appeared in the Congressional Record of August 4, 1976, page 25521.

HOUSE BILLS

H.R. 14761. July 20, 1976. Government Operations. Establishes within the Department of Health, Education, and Welfare the Office of Inspector General. States that the Office shall promote the economy and efficiency and detect fraud and abuse of the programs and operations of the Department.

Requires the Office to report its findings and activities to the Secretary and Congress at least quarterly.

H.R. 14762. July 20, 1976. Government Operations. Establishes within the Department of Health, Education, and Welfare the Office of Inspector General. States that the Office shall promote the economy and efficiency and detect fraud and abuse of the programs and operations of the Department.

Requires the Office to report its findings and activities to the Secretary and Congress at least quarterly.

H.R. 14763. July 20, 1976. Judiciary. Grants Federal district courts jurisdiction, concurrent with State courts, of civil actions brought by a citizen of another State to order a citizen of the State in which the Federal court is located to make support payments in accordance with the applicable law in petitioners State.

Makes it a crime to travel or move in interstate or foreign commerce to avoid compliance with a support order.

H.R. 14764. July 20, 1976. Ways and Means. Authorizes the State of California to elect not to implement the food stamp program for beneficiaries of the Supplemental Security Income program of the Social Security Act but to provide instead for a higher level of State supplementary benefits under such Act.

H.R. 14765. July 20, 1976. Ways and Means. Allows an individual to take a tax credit, under the Internal Revenue Code, for a percentage of the qualified solar heating and cooling equipment expenditures incurred with respect to the taxpayers principal residence. Allows a tax credit for that portion of the qualified State or local real property taxes attributable to such solar heating and cooling expenditures.

Authorizes an individual to take a tax deduction for a part of the acquisition costs of any qualified solar heating and cooling equipment for any residence.

H.R. 14766. July 20, 1976. Rules. Establishes a Congressional Select Joint Committee on the Olympics to examine the role of the United States in the Olympics and recommended methods by which changes in the format of the Olympic games can reduce nationalistic rivalry and promote individual competition.

H.R. 14767. July 20, 1976. Education and Labor. Amends the Equal Educational Opportunities Act of 1974 to prohibit any agency of the Federal Government from requiring schools or educational institutions, as a prerequisite to receiving Federal funds, to produce or provide access to such agency information which concerns race, religion, sex or national origin and which relates to: (1) enrollments or school assignments; (2) the employment or assignment of personnel; or (3) disciplinary actions or procedures.

H.R. 14768. July 20, 1976. Judiciary. Repeals the Gun Control Act of 1968.

H.R. 14769. July 20, 1976. Post Office and Civil Service. Repeals restrictions on, and requirements for, the private carriage of letters. Eliminates criminal penalties for such carriage.

H.R. 14770. July 20, 1976. Ways and Means. Declares all income tax returns to be confidential and prohibits the disclosure or inspection of such returns unless specifically authorized by this Act.

Increases the criminal penalties for unauthorized disclosure of the information contained in tax returns.

H.R. 14771. July 20, 1976. Education and Labor. Establishes regional employment councils to administer a program for individuals aged 40 or over who are unemployed or underemployed. Directs the Secretary of Labor to undertake a program of grants and contracts for research to develop data which will assist such individuals to enter, remain in, or advance in the labor force.

H.R. 14772. July 20, 1976. Armed Services. States that a medical officer of the Armed Forces who participated in the Berry Plan and who is serving an initial active duty of two years shall be paid a specified amount for each year of his remaining active-duty obligation if he executes a written active-duty agreement to remain on active duty for a certain period of time.

H.R. 14773. July 20, 1976. Armed Services. Authorizes cost of living increases for annuities payable under the Retired Serviceman's Family Protection Plan whenever retired or retainer pay for members of the Armed Forces is increased due to changes in the Consumer Price Index.

Reduces the duration of marriage eligibility requirement under the Survivor Benefit Plan. Authorizes members of such plan to elect to provide an annuity for dependent children but not a spouse. Makes retired pay deduction provisions under such plan inapplicable during any month in which there is no eligible spouse beneficiary.

H.R. 14774. July 20, 1976. Interior and Insular Affairs. Designates specified lands in the following national forests as components of the National Wilderness Preservation System: (1) Umatilla National Forest, Washington and Oregon; (2) Inyo and Sequoia National Forests, California; (3) Coronado National Forest, Arizona; (4) Tongass National Forest, New Mexico; (5) Wasatch and Uinta National Forests, Utah; (6) Cibola National Forest, New Mexico; (7) Los Padres National Forest, California; (8) Mendocina National Forest, California; (9) Angeles and San Bernardino National Forests, California; and (10) Willamette National Forest, Oregon.

Directs the Secretary of Agriculture to review the suitability of designating as wilderness other specified National Forest System lands.

H.R. 14775. July 20, 1976. Public Works and Transportation. Authorizes the Administrator of the Environmental Protection Agency to make grants and provide technical assistance to eligible States, municipalities, or municipal or interstate agencies for the construction or acquisition of facilities for the use or land disposal of sewage sludge.

H.R. 14776. July 20, 1976. Judiciary. Declares a certain individual to have satisfied certain requirements for naturalization with respect to periods of residence and physical presence in the United States under the Immigration and Nationality Act.

H.R. 14777. July 20, 1976. Judiciary. Declares a certain individual to be deemed to have retired from the civil service on a specified date for the purpose of determining the eligibility of a certain individual to a survivor's annuity.

H.R. 14778. July 20, 1976. Judiciary. Authorizes the admission of a certain individual to the United States for permanent residence.

H.R. 14779. July 21, 1976. Interior and Insular Affairs. Designates specified lands in the Big Lake National Wildlife Refuge, Arkansas, as wilderness.

H.R. 14780. July 21, 1976. Judiciary. Conditions United States membership in the International Criminal Police Organization upon agreement by such organization to comply with provisions of Federal law relating to the protection of individual privacy from misuse of government records.

H.R. 14781. July 21, 1976. Judiciary. Incorporates the Gold Star Wives of America.

H.R. 14782. July 21, 1976. Education and Labor. Directs the Secretary of Health, Education, and Welfare to establish a Multiservice program in obtaining employment and educational opportunities.

Authorizes a study of existing Federal programs to determine the feasibility of participation by disclosed homemakers.

H.R. 14783. July 21, 1976. Education and Labor. Amends the Employee Retirement Income Security Act of 1974 to require the Pension Benefit Guarantee Corporation to guarantee the payment of specified benefits which provide for the payment of benefits before the normal retirement age while the beneficiary is unemployed and not eligible for benefits under the Social Security Act.

H.R. 14784. July 21, 1976. Judiciary; Standards of Official Conduct. Requires candidates for Federal office, Members of the Congress, and certain officers and employees of the United States to file statements with the Comptroller General with respect to their income and financial transactions.

H.R. 14785. July 21, 1976. Interior and Insular Affairs. Directs the Secretary of Health, Education, and Welfare to convey specified lands in California to D–Q University.

H.R. 14786. July 21, 1976. Judiciary. Incorporates the American Blood Commission.

H.R. 14787. July 21, 1976. Post Office and Civil Service. Specifies the pay rate for deputy United States marshals, as defined by this Act, at designated Federal general schedule pay levels. Grants, promotions to deputy marshals who are at specified pay levels on the date on which this Act becomes effective.

H.R. 14788. July 21, 1976. International Relations. Limits United States contributions to the United Nations to an amount bearing the same ratio to the total budget of the United Nations and its affiliated agencies as the vote of the United States in the United Nations General Assembly bears to the total number of member states in the United Nations General Assembly.

H.R. 14789. July 21, 1976. Ways and Means. Amends the Internal Revenue Code to extend from one to two years the maximum period which may elapse between the sale of a residence and the purchase of another in order that gain from such sale will not be recognized for Federal income tax purposes.

H.R. 14790. July 21, 1976. Ways and Means. Interstate and Foreign Commerce. Amends the Social Security Act to repeal the Professional Standards Review program.

SENATE—*Thursday, August 5, 1976*

The Senate met at 9 a.m. and was called to order by Hon. JAMES B. ALLEN, a Senator from the State of Alabama.

The PRESIDING OFFICER (Mr. ALLEN). We are pleased and honored to have as guest chaplain for today my good friend from Alabama, the Reverend C. Otis Brooks, pastor of the Vestavia Hills Baptist Church in Vestavia, Ala. He is also a very good friend of our chaplain, Dr. Elson.

Reverend Brooks, please.

PRAYER

The Reverend C. Otis Brooks, pastor, Vestavia Hills Baptist Church, Birmingham, Ala., thereupon offered the following prayer:

Eternal God, our Father, we praise Thee for the glory and majesty of Thy presence. Wherever we are, Thou art near. Our daily bread is a gift from Thee. Thanks be to Thee, Lord God, for those mercies that are from everlasting to everlasting, and for Thy steadfast love which endures forever.

We give thanks for this good land, for the blessings of freedom, for the right to govern ourselves. Help us to live in obedience to Thy law that these blessings shall remain.

We pray for all those who serve in public office and especially for these who are gathered here. Give them wisdom for their task. May their judgments be made with purity of heart. Help them to act with honor, persevering until the truth stands clearly visible to all.

The burden of office is especially heavy in these days. Grant, Lord, the courage to do right, the prudence to resist temptation, the grace to remain faithful. May the peace be ours which comes when we have done justly, and loved mercy, and walked humbly before Thee.

We commit this day unto Thee. When it is done, let us be able to stand before Thee unashamed and unafraid.

Through Jesus Christ our Lord. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., August 5, 1976.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. JAMES B. ALLEN, a Senator from the State of Alabama, to perform the duties of the Chair during my absence.

JAMES O. EASTLAND,
President pro tempore.

Mr. ALLEN thereupon took the chair as Acting President pro tempore.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of Proceedings of Wednesday, August 4, 1976, be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

EXTENSION OF FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT

Mr. MANSFIELD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 12944.

The ACTING PRESIDENT pro tempore laid before the Senate H.R. 12944, an act to extend the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, for 6 months.

The ACTING PRESIDENT pro tempore. Without objection, the bill will be considered as having been read twice by its title, and the Senate will proceed to its consideration.

The bill was considered, ordered to a third reading, read the third time, and passed.

CONSIDERATION OF CERTAIN MEASURES ON THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of measures on the calendar beginning with Calendar No. 992, up to and including Calendar No. 999.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

DISTRICT OF COLUMBIA CODE

The bill (H.R. 13121) to direct the Law Revision Counsel to prepare and publish the District of Columbia Code through publication of supplement V to the 1973 edition, with the Council of the District of Columbia to be responsible for preparation and publication of such Code thereafter, was considered, ordered to a third reading, read the third time, and passed.

CORPORATE OWNERSHIP AND CONTROL

The resolution (S. Res. 492) authorizing the printing of the committee print entitled "Corporate Ownership and Control" as a Senate document, was considered and agreed to, as follows:

Resolved, That the committee print of the Committee on Government Operations entitled "Corporate Ownership and Control" be printed as a Senate document, and that there be printed nine hundred additional copies of such document for the use of that committee.

INSTITUTIONAL INVESTORS, COMMON STOCK

The resolution (S. Res. 493) authorizing the printing of the committee print entitled "Institutional Investors, Common Stock" as a Senate document, was considered and agreed to, as follows:

Resolved, That the committee print of the Committee on Government Operations entitled "Institutional Investors' Common Stock" be printed as a Senate document, and that there be printed nine hundred additional copies of such document for the use of that committee.

CONGRESSIONAL BUDGET REFORM

The resolution (S. Res. 496) authorizing the printing of additional copies of the committee print entitled "Congressional Budget Reform," was considered and agreed to, as follows:

Resolved, That there be printed for the use of the Committee on the Budget three thousand five hundred additional copies of its committee print of the current Congress entitled "Congressional Budget Reform".

JANET S. STOWELL AND CAROL R. PICKENS

The resolution (S. Res. 505) to pay a gratuity to Janet S. Stowell and Carol R. Pickens, was considered and agreed to, as follows:

Resolved, That the Secretary of the Senate is hereby authorized and directed to pay, from the contingent fund of the Senate, to Janet S. Stowell and Carol R. Pickens, daughters of Eugenia S. Reed, an employee of the Senate at the time of her death, a sum to each equal to six months' compensation at the rate she was receiving by law at the time of her death, said sum to be considered inclusive of funeral expenses and all other allowances.

MARY M. SELBY

The resolution (S. Res. 506) to pay a gratuity to Mary M. Selby, was considered and agreed to, as follows:

Resolved, That the Secretary of the Senate hereby is authorized and directed to pay, from the contingent fund of the Senate, to Mary M. Selby, widow of Alfred H. Selby, an employee of the Senate at the time of his death, a sum equal to one year's compensation at the rate he was receiving by law at the time of his death, said sum to be considered inclusive of funeral expenses and all other allowances.

MILDRED W. BRUMFIELD

The resolution (S. Res. 507) to pay a gratuity to Mildred M. Brumfield, was considered and agreed to, as follows:

Resolved, That the Secretary of the Senate hereby is authorized and directed to pay, from the contingent fund of the Senate, to Mildred W. Brumfield, widow of James C. Brumfield, Senior, an employee of the Architect of the Capitol assigned to duty in the Senate Office Buildings at the time of his death, a sum equal to six months' compensation at the rate he was receiving by law at the time of his death, said sum to be considered inclusive of funeral expenses and all other allowances.

DOROTHY C. BARTHELMES

The resolution (S. Res. 508) to pay a gratuity to Dorothy C. Barthelmes, was considered and agreed to, as follows:

Resolved, That the Secretary of the Senate hereby is authorized and directed to pay, from the contingent fund of the Senate, to Dorothy C. Barthelmes, widow of A. Wesley Barthelmes, Junior, an employee of the Senate at the time of his death, a sum equal to one year's compensation at the rate he was receiving by law at the time of his death, said sum to be considered inclusive of funeral expenses and all other allowances.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Does the distinguished acting minority leader desire recognition at this time?

Mr. BUCKLEY. No.

CLEAN AIR AMENDMENTS OF 1976

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume the consideration of the unfinished business, S. 3219, which the clerk will state.

The assistant legislative clerk read as follows:

A bill (S. 3219) to amend the Clean Air Act, as amended.

The Senate resumed the consideration of the bill.

Mr. RANDOLPH. Mr. President, I wish to make an inquiry.

The ACTING PRESIDENT pro tempore. The Senator will state his inquiry.

Mr. RANDOLPH. Last night at a late hour, there was an agreement entered into as to time, but it might be well for the Senator from Colorado (Mr. GARY HART) to simply make a restatement of the time situation.

Mr. GARY HART. Mr. President, I appreciate the Senator from West Virginia, the distinguished chairman of the committee, yielding on that point, because I think the order that was put in does not accurately reflect the understanding.

The understanding of the Senator from Colorado is that we would take up my amendment No. 1608 at this time, upon which there is a 1-hour time limitation to be equally divided, and then, according to the original unanimous-consent agreement, we would then go to my amendment No. 1609, which originally had a 2-hour limitation but was altered last night to an hour and a half, equally divided. And then, at the end of debate on both these amendments, we would have back-to-back rollcall votes.

I am interested in ascertaining if that meets the understanding of the Senator from New Mexico.

Mr. RANDOLPH. The able Senator from Colorado has correctly stated the situation with reference to both of his amendments and the time allotted according to my understanding of the agreement last night. If other Senators on our committee wish to make comments, certainly we would want that done.

I simply wish to make sure of what was done last night. Certainly it was done in the best interests of the operation of the Senate.

The ACTING PRESIDENT pro tempore. The RECORD shows that there is to be 1 hour on each amendment.

If the Senate by unanimous consent wishes to change that that is up to the Senate.

Mr. GARY HART. Mr. President, a parliamentary inquiry.

The ACTING PRESIDENT pro tempore. The Senator will state it.

Mr. GARY HART. I recall the assistant majority leader on amendment No. 1609 reduced the time from 2 hours to an hour and a half.

Mr. RANDOLPH. That is correct. It was an hour and a half. I do recall that was the statement made. I believe I am correct.

The ACTING PRESIDENT pro tempore. What is the pleasure of the Senate, then?

AMENDMENT NO. 1608

Mr. GARY HART. Mr. President, I ask unanimous consent that we proceed immediately to the consideration of my amendment No. 1608 on which there shall be a 1-hour time limitation equally divided; and that we then proceed, at the conclusion of that hour or the yielding back of the time on that amendment, to my amendment No. 1609, on which there be a 1½-hour time limitation, equally divided.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. DOMENICI. Mr. President, reserving the right to object, I ask this of the distinguished Senator from Colorado: It was my understanding last night, as it is his, that on his second amendment, we agreed to reduce the time from 2 hours to 1½ hours. But I also remember that we then also agreed to reduce the time on the Packwood-Bumpers ozone amendment from 2 hours to 1½ hours; and it was my understanding that it was to follow immediately after the 1½-hour amendment of the Senator from Colorado.

Is that the understanding of the Senator from Colorado?

Mr. GARY HART. Immediately after the vote on 1608 and 1609. That is correct.

Mr. DOMENICI. Mr. President, I suggest that the Senator consider adding to his unanimous-consent request that immediately following the two agreed-upon amendments, the Packwood-Bumpers amendment then become the order of business before the Senate and that there be a time limitation of 1½ hours, equally divided, on that amendment.

Mr. GARY HART. I add that to my unanimous-consent request.

I add one other consideration, and that is a unanimous-consent request that 10 minutes of the hour and a half on my amendment 1609 be reserved between the votes on 1608 and 1609, so that the proponent of the amendment and the opponent may summarize their arguments between the votes on 1608 and 1609. In other words, my request is that a 10-minute period be reserved from the hour and a half on 1609, to be set aside for the period between the vote on 1608 and the vote on 1609.

The ACTING PRESIDENT pro tempore. Is there objection to the combined requests? The Chair hears none, and it is so ordered.

AMENDMENT NO. 1608

The ACTING PRESIDENT pro tempore. The pending question is on agreeing to the amendment by the Senator from Colorado (No. 1608), which will be stated.

The assistant legislative clerk read as follows:

> The Senator from Colorado (Mr. GARY HART) proposes an amendment numbered 1608.

The amendment is as follows:

> On page 65, line 11, strike "1979" and insert in lieu thereof "1978".
>
> On page 65, lines 13 and 14, strike "1977, and 1978" and insert in lieu thereof "and 1977".
>
> On page 65, line 23, strike "1978, and 1979" and insert in lieu thereof "and 1978".
>
> On page 66, line 1, strike "model year 1980 and thereafter" and insert in lieu thereof "model year 1979 and thereafter".
>
> On page 66, lines 10, 13, 16, and 19, strike "1979" and insert in lieu thereof "1978".
>
> On page 66, line 12, strike "1980" and insert in lieu thereof "1979".

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. GARY HART. Mr. President, the first amendment, No. 1608, would require manufacturers of automobiles to comply with automobile emission standards 1 year earlier than set out in S. 3219. Specifically, the amendment moves up the compliance schedule by requiring that the proposed 1979 standards be met in 1978 and that the proposed 1980 standards be met in 1979. The automobile manufacturers already have demonstrated that they can meet these emission standards, and in my judgment, the additional year delays proposed in S. 3219 are unwarranted.

Mr. President, what are the standards, and when would various approaches require them to be met?

First of all, there are three pollutants which the law contemplates reducing. Those are hydrocarbons, carbon monoxide, and nitrogen oxide. Under present law, in 1976 the standards for hydrocarbons are 1.5 grams per mile; carbon monoxide, 15 grams per mile; nitrogen oxide, 3.1 grams per mile. In 1977, that standard remains the same, except that nitrogen oxides are reduced to 2 grams per mile. In 1978, hydrocarbons would be reduced to 0.41 gram per mile; carbon monoxide, 3.4 grams per mile; nitrogen oxide, 0.4 gram per mile.

Those standards remain the same for all following years, under current law. S. 3219 provides the following standards: hydrocarbons, 1.4 grams per mile in 1976; carbon monoxide, 15 grams per mile; nitrogen oxide, 3.1 grams per mile. In 1977 the standards would stay the same for hydrocarbons and carbon monoxide. The nitrogen oxide standard would go to 2 grams per mile.

That standard would be kept until 1979, at which time hydrocarbons would be reduced to 0.41 gram per mile; carbon monoxide to 3.4 grams per mile. Ninety percent of the cars sold in the United States would be required to achieve a nitrogen oxide level of 2 grams per mile, and 10 percent of those cars sold in the United States would have to achieve 1 gram per mile of nitrogen oxide.

That standard of 0.41 for hydrocarbons, 3.4 for carbon monoxide and 1 for nitrogen oxide, would remain the standard for all following years under the committee bill.

Mr. President, the amendment I offer, No. 1608, would provide the following change in the committee bill:

The standards would remain the same for 1976 and 1977.

In 1978, my amendment would require 90 percent of the cars in the United States to achieve a 0.41 gram per mile standard for hydrocarbons, a 3.4 grams per mile standard for carbon monoxide, and a 2 grams per mile standard for nitrogen oxide. Ten percent of the cars sold in this country in 1978 would have to meet the same standard for hydrocarbons and carbon monoxide of 0.41 gram per mile and 3.4 grams per mile, however these cars would be required to reach a standard of 1 gram per mile for nitrogen oxide, the same as the committee proposal for 1979. That is to say, the committee standards would have to be met 1 year earlier.

Under my amendment, in 1979 all cars in the United States would have to meet a standard of 0.4 gram per mile for hydrocarbons, 3.4 grams per mile for carbon monoxide, and 1 gram per mile for nitrogen oxide. That would remain the same for 1979, 1980, and 1981, the same as the committee bill.

However, the significant difference in 1982 is that my amendment No. 1609, which we will discuss later, would mandate the following standards for all automobiles sold in the United States: 0.4 gram per mile for hydrocarbons, 3.4 grams per mile for carbon monoxide, and 0.4 grams per mile for nitrogen oxide, or the same standards proposed under current law. We will come later to the difference of 0.4 gram per mile for the nitrogen oxide standard in amendment 1609, so I will not discuss that during this period. What I will discuss is the justification for moving the compliance dates 1 year earlier than the committee proposes for all auto emissions—hydrocarbons, carbon monoxide, and nitrogen oxide.

Mr. President, this entire argument gets down to one simple phrase, and that is "technology feasibility." Can the automobile manufacturers achieve the standards which we set forward, and on which I agree with the committee; but can they achieve them 1 year earlier and thus save substantial public health damage in this country, according to the technology capabilities they presently have?

The National Academy of Sciences, in a report dated June 5, 1975, lists four technologies which could be employed to meet the 0.4 NO_x standard and the other standards which the committee proposes, and to meet those in the model years and in the calendar years I have suggested.

What are those four technologies? First of all, there is the so-called three-way catalyst technology, similar to the one used by Volvo for their 1977 California cars. That is the device which I have on my desk. This technology costs between $25 and $50. It meets not only the standards set forward by the State of California but also the standards set forward in my two amendments taken together, and can meet them today; not 4 years from now, not 6 years from now, not 8 years from now.

The second technology which is available, according to the National Academy of Sciences, is the CVCC technology, a prechamber, dual-carburetor stratified charged engine oxidation catalyst, which the National Academy of Sciences says also can meet these standards and meet them in the calendar years proposed in my amendment.

The third technology available is the so-called CCS, a direct fuel injected, stratified charged engine with an oxidation catalyst.

The fourth technology is the so-called dual catalyst, using a standard engine with oxidizing and reducing catalysts.

In the report dated June 5, 1975, by the National Academy of Sciences, there is the following statement:

> Emission standards for hydrocarbons and carbon monoxide—

Namely, 0.41 gram per mile and 4 grams per mile.

> for 1978 and subsequent model year light-duty vehicles should be maintained at the current statutory levels.

Namely, what was in the law at that time and what I am proposing.

> Attaining those levels by 1978 is both feasible and worthwhile. It is probably feasible with catalyst technology to achieve the statutory emission standards for NOx or nitrogen oxide.

That is, the 0.4 gram per mile in 1978.

> There would be less uncertainty today if there had not been a slackening of effort in pursuing this goal.

That is from a National Academy of Sciences report of the Conference on Air Quality and Automobile Emission of June 5, 1975, page 1.

In a March 1975 statement by EPA Administrator Russell Train, and according to his 1975 decision on the 1977 suspension of new motor vehicle standards, Mr. Train made the same finding with regard to meeting the hydrocarbon and carbon monoxide standards in 1977. He said as follows, in a report of the National Academy of Science:

> Giving a fair reading indicates that the technology to meet the statutory standards is available. My own staff reaches the same result. I thus find that catalyst technology exists and could be applied to meet the statutory hydrocarbon and carbon monoxide emission levels on a very large proportion of automobiles by 1977.

That is a quotation from a decision of the Administrator of the EPA, March 5, 1975, page 8.

The California Institute of Technology Jet Propulsion Laboratory conducted a $500,000 study entitled, "Should We Have a New Engine?" That was funded by the Ford Motor Co. This study stated, at page 82:

> The conventional auto or present engine can be improved to meet those statutory emission standards—

The ones we are debating here—

> and even with a small gain of 10 percent in fuel economy over present levels, without considering non-engine changes to improve fuel economy—

That is an independent study conducted on behalf of the Ford Motor Co.

Mr. President, it has been stated that these standards cannot be met with present technology except on fairly exotic automobiles. The actual experience in California—which has been, as all members of the Committee on Public Works and most Members of the Senate know, attempting to deal with severe problems of auto emissions for many years—shows that cars in all weight classes on the road in California today are already achieving emission levels at or very near the standards which I am proposing be met in the model years contained in my amendment despite their requirement to meet higher standards than those contained in these amendments. Nevertheless, the committee bill presently before the Senate would not require that those standards be met until 1980, even though the State of California and a wide variety of models on the road today in California are meeting higher standards.

What are some of those models and what can they achieve? These are American models available at any automobile dealer in this country. The GM Chevette, which is a four-cylinder engine, with a road weight of 2,250 pounds, is meeting the following standards in California: 0.47 gram per mile hydrocarbons, 5.84 grams per mile carbon monoxide, 0.81 gram per mile nitrogen oxide.

Ford Pinto, 1975, four-cyclinder engine, 3,000-pound road weight: 0.2 gram hydrocarbons; 2.8 grams carbon monoxide; 0.9 gram nitrogen oxide standards.

Ford Comet, V–8 engine, road weight 3,500 pounds, which is about the average weight of most American automobiles: 0.64 gram per mile hydrocarbon; 5.08 grams per mile carbon monoxide; 0.91 gram nitrogen oxide standards.

Mr. President, the list grows. On GM Buick Skylark, 3,500 pounds road weight; 0.59 gram per mile hydrocarbons; 5.12 grams per mile carbon monoxide; 1.2 grams per mile nitrogen oxide.

Ford Ranchero, which, it is my understanding, is a small or medium-sized station wagon model, V–8 engine, road weight of 4,500 pounds: 0.35 gram per mile hydrocarbons; 3.69 grams per mile carbon monoxide; 0.97 gram per mile nitrogen oxide.

General Motors Chevelle Malibu, V–8 engine; AMC Matador, V–8 engine; Chrysler V–8 engine, road weight of 5,500 pounds; General Motors Cadillac, a 500-horsepower V–8 engine automobile, also weighing 5,500 pounds, all of which either obtain or closely approximate the standards which we are proposing for the model years of 1979 and 1980

I think it is significant that the above results which I have introduced into the RECORD and results which were described by the California Air Resources Board were achieved without employing any advance control systems, including the dual catalyst and three-way catalyst which were recommended by the National Academy of Sciences and other organizations as the most effective and efficient means of meeting the statutory standards.

In an automotive news article on the Wankel rotary engine breakthrough technology that was achieved in 1975, that engine is described as follows in that article:

> The rotary engine can achieve the .4 grams per mile nitrogen oxide standard while maintaining fuel economy.

That article also said:

> Automakers now have the capability to produce this engine and could employ the low NO_x design by 1978 and 1979. They also said that limited production may be possible by mid-1977 for California.

Mr. President, the argument has been made that even if these standards could be met, even if present technology of the sort which I have outlined could be achieved by domestic automotive manufacturers, we cannot force them to do this because it is going to result in fuel inefficiency at a time when we have shortages of energy in this country. Mr. President, the facts are otherwise. As the data provided by the State of California with regard to its certification of the Volvo engine clearly show, these standards can be met with the technology that I have here in my hand today, without sacrifice of fuel efficiency.

The testing done by the State of California——.

Mr. RANDOLPH. Mr. President, will my colleague yield at that point for just a question?

Mr. GARY HART. If I could just complete my sentence, then I will yield.

The data provided by the State of California in its tests of the Volvo engine certified for the coming model year shows those standards which I am proposing be met, according to the timetable in my amendment 1608, can be met with a net fuel gain of 10 percent.

I quote from a letter which I have provided my colleagues addressed to me dated May 26, 1976, from Mr. Tom Quinn, chairman of the Air Resources Board of the State of California. He says:

> Besides comfortably meeting the 90% reduction standards of the Clean Air Act Amendments of 1970, the new Volvo system also results in a 10% fuel economy *improvement* over the 1976 Volvo models sold in both California and other States.

I yield to the Senator from West Virginia.

Mr. RANDOLPH. I have listened with intense interest to my colleague on this matter. It was of concern within the committee, as the Senator well knows, when we considered this bill.

For the record I would like to have the Senator tell the Senate if the Volvo is now manufactured in the United States.

Mr. GARY HART. The automobile itself is manufactured abroad. The converter system which I have here is manufactured in New Jersey.

Mr. RANDOLPH. There is no assembly within this country of the Volvo; is that correct?

Mr. GARY HART. I have no information to that effect. But, of course, there is assembly of this device, which is what we have under consideration here.

Mr. RANDOLPH. The reason for this inquiry is that I have read in recent days of their opening of a plant in this country. I just wondered if there was any information the Senator had on that issue.

I think constantly of these matters that come before us with regard to foreign manufactured cars. There is a tendency to bring the cars of these companies into the United States for manufacture. This is a rather significant situation since many of them are beginning to think in terms of plants for manufacture in the United States.

Mr. GARY HART. I think the Senator from West Virginia, the distinguished chairman of our committee, is exactly correct. But, of course, that, in my judgment, does not relate to the question of whether the device is available on those cars which could also be put on American-manufactured cars actually built in this country.

In fact, the Ford Automobile Co. has announced plans to use a similar control device, based upon the three-way catalytic converter which I have here, on its 1978 Pintos which will be sold in the State of California. So apparently this device has some attraction for domestic automobile manufacturers in this country.

The key component of the Volvo system that we are discussing here, as I have indicated, is this new catalytic converter developed by Engelhard Industries of Edison, N.J.

This catalyst simultaneously reduces hydrocarbons, carbon monoxide, and the nitrogen oxide emissions, while the engine is tuned for nearly optimum fuel economy and driveability.

Mr. President, it has been alleged that this will only work on a fuel injection system. The Senator from Colorado understands that the same technology can be readily adapted to a conventional kind of carburetor used in most American automobiles. This fact has been attested to by the California Air Resources Board.

Volvo currently uses this Engelhard catalyst in conjunction with a fuel injection system.

However, according to Chairman Tom Quinn of the Air Resources Board in California, the system can also be used on conventional carburetor systems, and it is my understanding that that effort is underway at the present time.

I would like to quote from a letter from the Governor of California, addressed to all Members of the Senate, July 6, 1976. That is just less than a month ago. In that letter, which urges support for my amendments, both 1608 and 1609, for achieving these standards earlier, in the case of the cancer-producing nitrogen oxide emission, Governor Brown makes the following statements:

> The steps taken by the House version of the Clean Air Act and the Senate versions are being proposed because of arguments that the automobile industry cannot produce a fuel-efficient car that meets the current clear air goals.

Governor Brown says the following:

> That argument is not true. One manufacturer, Volvo, has already developed a nearly pollution-free automobile with a 10 percent fuel economy improvement over current models.

Governor Brown continues:

> The Detroit auto makers have made only one argument against the three-way catalyst system—

Namely, this device—

> . . . alleging that an adequate supply of the catalysts will not be available.

And that argument has been made to our committee, that there are not enough of these to go around.

> Our State Air Resource Board has investigated that claim and has concluded that an adequate supply can be manufactured.

And he concludes by saying:

> I urge you to support the amendments being offered by Senator Hart and Members of the House. These amendments will provide the industry with additional lead time to meet the statutory standards, while minimizing the damage caused by postponement by imposing interim levels which have already been proven feasible in California.

Mr. President, to sum up the arguments made by the automobile industry—they have said that the device I hold in my hand does not work. They have testified before the Senate Public Works Committee that what is being done in the State of California cannot be done in this country. Well, I think this device proves that testimony false.

What we really have to decide in the Senate today is whether the Congress of the United States is going to make a commitment to the American people to clean up the pollution in the air produced by automobiles in this country. That is what the argument is all about.

We can postpone, we can accept arguments that we cannot tighten up air quality standards because of economy and energy, and all the rest of it; but those arguments are false. The standards can be met, and they can be met in the years proposed in my amendments, and it is just a question of will, a question of will on the part of the U.S. Senate and the House of Representatives, to stand behind the American people and reach some reasonable public health standards in this country.

I urge the Members of the Senate to support this amendment, and I reserve the remainder of my time.

Mr. RANDOLPH. Mr. President, I yield 5 minutes, if agreeable at this time, to the Senator from New York.

Mr. DOMENICI. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. RANDOLPH. Yes, I yield.

Mr. DOMENICI. Mr. President, I ask unanimous consent that Mr. Orin Howell of Senator GRIFFIN's staff be granted floor privileges during this debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RANDOLPH. If the Senator from New York needs more time, why, of course, we would want to share it.

Mr. BUCKLEY. I thank the distinguished chairman for the time. I doubt that I will really need 5 minutes.

I believe that Senator HART, as he did during the committee considerations, has outlined effectively the arguments for advancing by 1 year the schedules for compliance that we have in our bill. Given the fact that we are talking about a 1-year acceleration of the same standards, I think that it can hardly be argued that the committee bill is anything other than a commitment to clean air.

We heard the arguments thoroughly in committee. We discussed them over an extended period of time. Mr. President, I believe that every member of the Committee on Public Works has demonstrated that he is committed to effective pollution control; and I believe that is what this bill accomplishes.

But we must recognize that certain mechanical factors inhibit what can be accomplished in a realistic way by as cumbersome an industry as the automotive industry.

I believe we have reached a reasonable accommodation of all the important factors, and one that will move us on a steadfast course to the point that in 1980 the automobile will have been eliminated as a significant source of pollution in this country.

I must, therefore, oppose this amendment. I believe that the timetable in the bill is the most expeditious and practical one for phasing in the clean-air standards.

We must recognize that the industry is now entering the certification stage for the 1978 model cars. That means that the industry is close to locking in its designs and models that will go on sale in the fall of 1977. I do not think it is practical to expect the industry to achieve in the 1978 cars full statutory compliance in control of hydrocarbons and carbon monoxide and control of 10 percent of the cars at a level of 1.0 NO_x. Time just does not exist for the necessary tooling, I believe.

I am convinced that the industry can reasonably achieve these levels of control for the 1979 model year and it was for that reason that I sponsored an amendment to require full statutory control on hydrocarbons and carbon monoxide in model year 1979. I intend to do what I can to assure that such a level of control is achieved.

The unanimity or near unanimity of action within the committee on this existing timetable is proof enough that the fears, expressed by environmentalists, that somehow or other we will later make an indefinitely postponement of the goals delineated in this legislation, simply have no validity.

Mr. President, I yield the remainder of my time to the Senator from West Virginia (Mr. RANDOLPH).

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. RANDOLPH. I yield such time as the Senator from New Mexico may desire.

Mr. DOMENICI. Mr. President, I yield myself 5 minutes.

Let me commend the Senator from Colorado. We happen to disagree on this particular occasion, but merely as to the timing and how fast we should push the technology. I think his conduct in the committee and his effort here on the floor is evidence of the entire committee's desire that we push standards that force new technology. That is what we are talking about here today. Our disagreement is over how fast can we expect that push on accelerated technology to appear in the American automobile fleet.

How quickly can we expect it to be there in a workmanlike manner and in a manner that will continue to supply reliable automobiles and energy-efficient automobiles?

Let me make two comments with reference to the Senator from Colorado's statement.

First of all, he properly quoted from a letter dated May 26 directed to the Senator from Colorado from Tom Quinn. He properly quoted Mr. Quinn in saying that the new three-way catalyst will, indeed, be an energy saver. That is correct. But the important part of this letter is the conclusion that Mr. Quinn arrives at in the last paragraph.

In that, he recommends the schedule that he would impose based upon this new technology, and I believe that the Senate should know that he is not recommending, that we use the schedule recommended by Senator HART's amendment.

To the contrary, he recommends that in 1978 it be 2 grams of NO_x, in 1979 1.5 NO_x, and in 1980 that it be 1.5 NO_x.

So the expert who is being quoted here, who has the experience in California and who says that the new three-way catalyst might be a technological breakthrough for the entire fleet, is recommending in 1980 an NO_x level of 1.5.

The committee in its bill is recommending 1.0 NO_x in 1980 and is insisting that our automobile manufacturers in 1979 produce 10 percent of the fleet at 1.0 NO_x. The technology is there. We can get to 1.0 NO_x in 1980.

Likewise, I would like to correct any misunderstanding as to the position of EPA. My good friend from Colorado quoted from them. I would like to quote them from a more current communication, March 6, 1976—not 1975, but 1976.

They stated that the standards of 0.41, 3.4, and 1.0 NO_x could only be met in model year 1979 on a limited number of vehicles. But even this would entail a high-risk effort for the manufacturers since this is not enough time to run one development fleet.

Mr. President, I want to make these few comments for my fellow Senators. I hope they understand what Senator BUCKLEY said. The committee is not recommending we get off the automobile manufacturers' backs.

The committee is recommending a persistent, constant push for new technology and, as a matter of fact, we have pushed well beyond that which the automobile maunfacturers tell us they can do. But we feel they can do it. We will have them down to 1.0 NO_x in 1980 under our schedule, and that is well beyond what they want to do.

For 1979 and 1980, the 2.0 with 10 percent at 1.0, and all of them at 1.0 in 1980, will provide for 1979 and 1980 a cleaner fleet than that recommended by the head of the Air Control Commission of California, since he is recommending 1.5 for both years.

So I do not want any Senators to think the committee in its schedule is not pushing, and insisting that NO_x is one of those pollutants we want to clean up.

We are not satisfied with existing catalysts and technology. As a matter of fact, we are pushing them to new thresholds. We will get there in 1980, and I believe that this schedule is realistic.

I have some written comments of why the Volvo technology, which is the heart of the Hart amendment, cannot be assumed to be available in 1979 for the entire American fleet. Rather than repeat it, I think it speaks for itself.

The basic technology has only been tried on the Volvo. We cannot expect 7 million to 10 million American automobiles—not even any assembly here of that product—to instantly go to it 1 year hence.

Yet we are going to push them to have 10 percent on it the year after next, and perhaps all of them using some new technology in 1980.

So, Mr. President, I speak in opposition to Senator HART's amendment 1608. Basically, Senator HART's amendment would accelerate the committee bill's automobile emission timetable by 1 year. The linchpin of Senator HART's argument for such an acceleration lies in the performance of an isolated number of cars in the California certification test. First, there were a handful of cars that approached the present Senate standards during the 1976 California certification. Then, more recently, during the 1977 California certification, a Volvo met all the present statutory standards, including 0.4 NO$_x$.

Senator HART and I have been conducting a continuing dialog almost from the outset of the Public Works Committee's deliberations on this issue. After many months, our principal point of contention remains the same. Specifically, we disagree over how rapidly one should take an emerging technology and apply it to the total U.S. car production.

Let me take the Volvo case as an example. On the basis of the Volvo results, Senator HART is willing to require that the entire U.S. car fleet attempt to meet in 1979 standards the committee believes more appropriate for 1980. Prior to listing my concerns with such an accelerated pace, I think it important to note that Mr. Quinn, chairman of the California Air Resources Board, has also counseled a more cautious approach. In fact, for 1980, he recommends national standards less stringent than the Senate standards. I feel Mr. Quinn's concerns closely parallel my own. In the press release on the Volvo test results, Mr. Quinn was cited as being concerned with the time lag needed by the manufacturers to adapt the three-way catalyst to the complete automobile fleet. Rather than nitpick at this amendment, I would just like to briefly list those reasons that lead me to adopt a similarly cautious view with respect to the Volvo results:

First. The Volvo certified only a four cylinder car. They have not officially tried a six cylinder. This would lead one to reasonably surmise that on a vehicle with a dual exhaust manifold, such as six and eight cylinder cars, additional difficulties may be encountered.

Second. The Volvo employed fuel injection. This is presently a rarity among U.S. cars. It also involves considerable expense.

Third. California test procedures are not comparable with Federal test procedures. California test procedures allow violations of the standards during durability runs: Federal procedures do not. Accordingly, the Volvo and other spectacular results during California certification may not be possible under Federal test procedures.

In citing the above difficulties, I do not want to take anything away from Volvo's and Englehard's achievements. They have clearly vindicated Senator MUSKIE's faith in the possibility of technological innovation. They have also vindicated his tenacity. For that, the Nation owes him a permanent debt. Nevertheless, I must disagree with those who feel that caution can be flung to the winds; that the Volvo experience has provided us with a final answer.

In the final analysis, I am just incapable of the leap of faith implicit in Senator HART's amendment. On the basis of one four cylinder, fuel injection automobile tested under nonconforming test procedures, I am not willing to commit the entire U.S. auto industry to an accelerated time frame.

Mr. BUCKLEY. Mr. President, I yield 5 minutes to the Senator from Idaho.

Mr. McCLURE. I thank the Senator for yielding me the time.

Mr. President, I voted in the committee to leave the ultimate standards at the strict levels that have already been established because I believe that ultimately we can attain those very strict standards. We should, therefore, maintain them as goals.

I did, however, vote in the committee for a slower schedule for achieving those standards in the interim years, to allow us the opportunity to perceive alternative technological strategies, believing, as I do, it will result in a greater variety of approaches toward the ultimate progress we seek.

The question of whether or not the Volvo has, indeed, achieved the ultimate, final goal, I think, is the only new element that can be injected into the debate.

It has been suggested that Volvo has achieved this breakthrough. But it is interesting to know that Volvo does not claim that. It is only those who claim it for Volvo who are saying that this new technology not only is proven, but is available and can be applied.

Volvo cautioned, according to the information that has come to me, the chairman of the air board in California not to issue the press release, which he did issue, because they could not sustain it and he could not sustain it.

But despite that caution, and for reasons which I best leave to be conjecture of someone else, Mr. Quinn issued the press release and said that the Volvo did achieve what Volvo itself will not claim.

I think one of the shortcomings of this entire question is that we translate what a prototype looks like into the assurance that a production run will achieve the things claimed and hoped for the prototype.

One of the issues that must be discussed is cost. Volvo's own figures show that this will add another $272 per unit for the cost of basic fuel injection. If we are going to tell the people of this country that this is what we are going to do, we ought to tell them what the cost is going to be for the automobile they purchase.

The sensor system itself must be replaced every 15,000 miles. That is another charge of about $15. The catalyst probably would have a life expectancy of 50,000 miles. Probably, I say, because no one knows. It has been stated that there are no adverse effects from the catalyst. Let me remind the Members of the Senate that there were a number of people, including myself, who said that the current catalyst was going to cause some sulfate emission problems. That caution that was given over 2 years ago was pooh-poohed by many. But, as a matter of fact, it does have that problem. We are moving to solve it, but it does have that problem.

Let me then raise, in that context, the caution that has been suggested with respect to the three-way catalyst.

I do not know whether it is true, but let me just report to the Senate, so we at least have some of the facts on the other side before us as we make the decision.

There are detectable amounts of ammonia produced by the three-way catalyst. As the catalyst life nears its end, the quantity of ammonia emissions increase to rather significantly larger quantities than when the catalyst is new.

There are detectable quantities of hydrogen cyanide produced from the three-way catalyst. As if we do not have enough problems, this is the large HC, not the small hc. This "hydrogen cyanide" should not be confused with "hydrocarbon."

So there are some problems associated with the three-way catalyst that we need to solve. I am not suggesting that it is not a promising technology or that we should not pursue it.

Let me also mention the fact of the limitations on the supply of rhodium. There is only a very small amount—0.016 ounces—per catalyst. But there are only 130,000 ounces of rhodium produced worldwide. If we are going to get into the production of 10 million units, just for the first year of production, and then repeat them on an annual basis, it is obvious to see what will happen to the world's supply of rhodium. I will point to Greens commodity market comments, volume 11, No. 15, issued July 28, 1976, in which they point to the tremendous price volatility in rhodium already, with increases on the price of rhodium from $220 per ounce to $425 per ounce, even in advance of any tremendous consumption of rhodium. I think it is easily predictable that the price of rhodium will go clear out of sight. If that does happen, we can see what that will do not only to availability but also to the price of the commodity, and the price of the finished product, although, again, there is only 0.016 ounces per catalyst.

The price of rhodium is not a very large measure of the cost per unit. It does have something to do with our balance of payments, however, as we seek to get the rhodium supplies, most of which come from outside the United States and which will continue to come from outside the United States. So it will have another adverse impact.

Again, this is not to suggest this is not a promising technology; I think it is. But let us not oversell it. Let us not overlook the fact that the oxygen-sensing system works well on a straight in-line four-cylinder engine. But Volvo itself says they have problems if they try to apply it to a Vee configuration. If we are going to do this, we will move immediately to scrap all of the Vee engines and move to a straight in-line engine. The production capacity in the domestic car market is simply not there to move that rapidly on the 1978 models.

Remembering the time lag that we have in the production of automobiles, they are moving now into prototype testing. They will have to deliver the prototype to EPA for the EPA tests almost immediately on the 1978 models. There simply is not time to do what the Senator from Colorado suggests, as desirable as it may be, and even if we overlook a number of the other problems associated with this development.

I think it is time to put it into context because the publicity is far greater than the real opportunities for progress that can be proved and sustained in this field.

The PRESIDING OFFICER. Who yields time?

Mr. GARY HART. Mr. President, how much time remains?

The PRESIDING OFFICER. Five minutes.

Mr. GARY HART. Mr. President, each of the allegations made by the Senator from Idaho can be and have been responded to, I believe, technically and in every way possible by the California Resources Board. I ask unanimous consent, rather than to go into the details, to have those responses to the statements made by the Senator from Idaho printed in the RECORD at this point.

There being no objection, the information was ordered to be printed in the RECORD, as follows:

CALIFORNIA AIR RESOURCES BOARD COMMENTS IN RESPONSE TO CRITICISMS OF THE THREE-WAY CATALYST SYSTEM

1. It has been stated that ". . . EPA disqualifies a car exceeding federal standards at any point of the 50,000 mile run" and that the California Air Resources Board (ARB) requires only that average emission levels over 50,000 miles meet the standards. Both of these statements are incorrect. Both EPA and ARB require that the emission levels of the 4,000 mile "data cars" meet the standards at 50,000 miles when multiplied by the deterioration factor established by the "durability cars" which must run 50,000 miles.

A major difference between the durability cars and the data cars is that the durability cars have the basic system to be sold but the data cars are required to be more similar to the actual production vehicles from the standpoint of test, weight, calibration, etc. Compliance is based on the emission levels of the data cars adjusted by the deterioration shown with the durability cars. The only difference between the way ARB and EPA evaluate a system's performance is that EPA requires that a straight line fit through the durability car data points (by the method of least squares) never exceed the standards while ARB allows the line to exceed the standards if the calibrations to be used in production produce low enough emission levels so that the cars are projected to meet the standards throughout 50,000 miles of use. EPA does not disqualify a vehicle for exceeding the standards once during the durability test as has been claimed.

Using full EPA procedures, the Volvos would have certified at the statutory levels of 0.41 gpm hydrocarbon and 0.4 gpm NO_x. The statutory CO standard of 3.4 gpm would have been exceeded by .4 gpm. It is clear from the performance of the data cars, however, that rerunning a durability car using the same calibrations used with the data cars would allow the 3.4 gpm CO level to also be met.

2. On the issue of adaptability of 3-way catalyst systems to Vee type engines, there is no reason to anticipate any significant engineering problems in this area. Volvo has, in fact, confirmed in writing (letter attached) to the ARB that they intend to certify a Vee configuration engine for 1978. At worst we expect the Vee configuration to require one additional oxygen sensor (about $5 cost to the manufacturer) and minor electronic circuitry changes.

3. Regarding the availability of noble metals for 3-way catalysts, the ARB has investigated this situation with both catalyst manufacturers and the suppliers of the raw materials. Rustenburg Mines has informed us (letter attached) that their own reserves are sufficient to supply the anticipated 1980 world useage rate for 50 years. Rustenburg would prefer to supply platinum (Pt) and rhodium (Rh) in the ratio of 1 to .055, which is the naturally occurring ratio. Both Engelhard and Matthey-Bishop have related data which indicate acceptable 3-way catalyst performance is possible with no more than this 5½% Rh content.

Concern has also been expressed over problems with Ruthenium (Ru) availability for 3-way catalysts. Many 3-way catalysts use none. Ruthenium naturally occurs at about 9% of the Platinum level and no good 3-way catalyst that the ARB has heard about uses this much.

While Rustenburg's deposits are substantial there are other sources of noble metals as well. International Nickel Company processes noble metal as a by-product of their nickel mining in Canada and the Soviet Union also processes noble metals from the same source. The most encouraging information to date, however, is that Johns-Manville has discovered a prospect in Montana. Several years' effort already expended to locate the richest deposits in the area may result in mining operations within one year according to a representative of Johns-Manville.

4. On the issue of oxygen sensor life, Volvo has recommended 15,000 mile change intervals but the same sensor is now being certification tested with 30,000 mile change intervals. Since the sensor is easily changed, intervals of this length may be acceptable but longer service intervals may be possible in the near future.

5. "Unregulated pollutants" from 3-way catalyst systems has also been discussed as a possible cause for concern. All tests indicate, however, that the 3-way system may have fewer unregulated pollutants than current vehicles or uncontrolled engines. The sulfuric acid emission levels associated with conventional oxidation catalysts are not a problem with 3-way. EPA has measured 3-way catalysts for unregulated pollutants like hydrogen cyanide and found that even when the fuel system is adjusted to fail in the "rich" mode the levels produced are not harmful. If an oxygen sensor fails or is removed from the system the fuel system becomes lean in actual use. In this case only NO_x control is lost and no unregulated pollutants present a problem.

6. The cost of the 3-way approach will probably only exceed the cost of current control systems significantly if fuel injection is required in which case the EPA has estimated[1] a cost of $190.00 would be typical. The use of carburetors, however, appears feasible based on preliminary tests reported by Engelhard. With the use of carburetors some cars may actually realize a cost reduction.

Mr. GARY HART. Mr. President, is there any doubt in the mind of any Senator, or any person in this country, that we would have made any improvement whatsoever in the quality of the air in this country if we had left the automobile manufacturers to their own devices to voluntarily clean up air quality and achieve air quality? I think the answer any reasonable person would give is "No." The automobile manufacturers have responded to one thing and one thing only: that is pressure from the American people through their elected officials in the Congress. That is why we are here today.

The question which the opponents of this amendment have not answered is: Why should we delay if the capability exists? What are the reasons?

There have been some rather limp suggestions, I may say, that this is difficult for the automobile manufacturers.

Well, my heart bleeds for them. One of the major manufacturers reported net profits in the last quarter of some $900 million. That is really difficult, for them to have to live with that situation.

They can hire the best scientists in the world. They can achieve anything that is technologically feasible. If nothing else, this demonstrates that it is technologically feasible. There is only one thing missing. That is the pressure of the law. Only the pressure of the law is going to require automobile manufacturers to make the improvements that the American people want. That is the issue.

There has been the suggestion about the committee reaching reasonable accommodation and achieving what is expeditious and practical.

I think the American people are fed up with that kind of talk. They want action. They want results. They are tired of breathing dirty air. That is what this amendment is all about.

We can sit around here in the Senate and talk about reasonable accommodations with each other while the people of this country choke to death. We are talking about serious public health problems. It is not some fringe environmental movement. Issues of the appearance of the air in the 1960's have become serious issues of public health in the 1970's.

What is wrong with the Congress that we will not move, that we will not respond to the pressure of the people we represent? It is because the people who show up in the committee hearings to testify are the automobile manufacturers who are making literally billions of dollars every quarter in profits. Representatives of the labor movement are afraid they might lose some jobs if they have to install this device on cars. They are the people who want delay, and who stall.

I think the American people have had enough of that. The question is, are the automobile manufacturers dragging their feet or are they not?

To quote the National Academy of Science:

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[1] Automobile Emission Control—The Technical Status and Outlook as of December 1974, Emission Control Technology Division, U.S. EPA, January, 1975. (A $250 fuel injection system cost plus a $20 oxygen sensor cost plus a $20 catalyst premium is offset by a $40 cost reduction for deletion of EGR, a $40 cost for deletion of air injection, a $15 cost for deletion of quick heat manifolding, a $5 cost for deletion of spark retard control.)

There has been an apparent reluctance on the part of the manufacturers to assemble in a demonstration vehicle the component emissions control technologies which the manufacturers have in hand. In this way, they can maintain with some consistency that the required technology "has not been demonstrated."

Of course, it has not been demonstrated if they will not try it.

Mr. President, the Administrator of the EPA, Mr. Train, said the following:

> I have heard that the mere fact that I wrote a letter to the Congress suggesting that a lower standard of certain emission controls be met has the result of killing off research and development by the automobile manufacturers on how to meet higher, tighter standards. I would suspect it is probably true because the deadlines in the statutory standards are in there for the purpose of forcing technology.

That is the Administrator of the EPA. That is what this issue is all about.

He says further:

> I am reasonably sure that given the competitive reason and other reasons, the automobile industry is not going to be doing things that it does not have to do in terms of meeting regulatory standards.

That is what the issue is all about.

I urge the Members of the Senate to support this amendment and support public health in this country.

The PRESIDING OFFICER. The time of the Senator from Colorado has expired.

Who yields time?

Mr. BUCKLEY. Mr. President, we are prepared to yield back the remainder of our time.

Mr. GARY HART. Mr. President, I ask for the yeas and nays on amendment 1608.

The PRESIDING OFFICER. They have already been ordered.

Mr. MUSKIE. Mr. President, I ask unanimous consent to have printed in the RECORD certain material relating to the amendment of the Senator from Colorado (Mr. GARY HART).

There being no objection, the material was ordered to be printed in the RECORD, as follows:

MATERIAL RELATING TO AMENDMENT 1608

The Committee's decision to provide the industry with more time did not rest principally on technical feasibility, but rather on the question of economic recovery, fuel economy and sulfates.

ECONOMIC CONDITION OF THE AUTOMOBILE INDUSTRY

On this first point, it is fair to say that the auto industry is well on the road to recovery. Dark projections of permanent industry depression were vastly overstated. Suggestions that the domestic auto industry would suffer permanent retrenchment have been replaced by new statistics indicating that an upturn has occurred. These suggest that the industry will once again have a good sales year this year (better than 10 million car sales), and that new sales records will be set by 1980. The upward trend is evident already.

Industry sales as of December 1975 were up 30 percent over those of a year earlier. According to the Journal of Commerce, retail sales are expected to exceed the 1973 record of over 11 million units by 1977 or 1978, and should rise to over 13 million units before the end of this decade. In fact, Elliott M. Estes, President of General Motors, predicts that in 1980, "the auto industry can reasonably look forward to the sale of 16 million new cars and trucks."

The dire statistics presented by industry spokesmen as a basis for relaxing emission requirements have also undergone a metamorphosis. Long-term layoffs of auto workers were down to about 65,000 industry wide in January, 1976, compared to 275,000 in February, 1975, as reported in the January 26 New York Times. According to the April 19 edition of the New York Times, "Industry analysts believe that—barring a strike by the United Automobile Workers next fall—1976 will surely become the third biggest sales year in automobile history." That same story went on to quote GM's chief economist as stating "We could even begin to approach the second best year."

I submit that these facts and projections are evidence that the cleanup of dirty cars to protect our citizens' health need not be foregone in the interest of jobs and the economy.

FUEL ECONOMY

Since the energy crisis there has been a great deal of discussion of the need for fuel economy in automobiles and the relation between fuel economy and emission standards. Last year, the Congress passed a bill mandating a 43 percent improvement in fuel economy by 1980, with further gains to be achieved thereafter. Meanwhile, in response to the call from President Ford for a 40 percent improvement in fuel economy, the automobile manufacturers have called for a five-year freeze of 1975 emission standards, in order to make it easier to reach the fuel economy goal.

The automobile manufacturers have projected figures for various emission requirements which suggest a loss of fuel economy of 15 percent or more if they must meet the 1980 standards adopted by the Committee.

However, EPA has stated on several occasions that "there is no inherent relationship between exhaust emission standards and fuel economy." In numerous mark-up sessions dating from nearly a year ago, the Subcommittee on Environmental Pollution and the Committee on Public Works have attempted to resolve these conflicting views.

The Senate Commerce Committee, in preparing the fuel economy bill last year, also was concerned whether their new fuel economy standards would take away the possibility of meeting emission standards. Although the Commerce Committee included a provision in the bill for fuel economy standards to be relaxed if necessary in order to maintain the momentum toward clean air, their basic assessment was that both goals can be reached, as stated in their report:

"The essential point is, given an adequate commitment on the part of the automobile industry, the 21 mile per gallon industry-wide average set as a goal for model year 1980 (50 percent improvement over 1974) can be achieved with any of the hydrocarbon and carbon monoxide emission standards currently under discussion, and at most, with only slight relaxation of the statutory (0.4 g/mi) nitrogen oxide standards."

The Commerce Committee went on to comment that it was far from clear whether any relaxation is necessary, and cited a study prepared by the Federal Energy Administration which showed that, even with the present sales mix of vehicle size, up to 21 miles per gallon could be achieved as a new car fuel economy average in 1980 under the assumption that full statutory standards would be implemented in 1978, including the 0.4 gram nitrogen oxide standard (which this bill proposed to relax to 1.0 grams/mile).

The fact is that the actual fuel economy depends on the choice of technology. It is hard to say this any better than EPA did in their 1975 Technology Report:

"With a fixed emission control system fuel economy is a function of the degree of emission control required. . . . With a fixed level of fuel economy, the degree of emission control achievable depends on the type of control technology used."

We have recently had an example of this. The tightening of the emission standards in 1975 had a favorable impact on fuel economy, which improved 14 percent over 1974. Now the 1976 model cars obtain 26 percent better gas mileage than the 1974 models, while continuing to meet more stringent emission standards.

In assessing claims and counter-claims about fuel economy, the Committee felt the need for information from an objective source outside the automobile industry. The National Academy of Sciences Committee on Motor Vehicle Emissions is such a source, and has studied this issue carefully. The Academy has estimated that present statutory standards, even including the 0.4 grams per mile nitrogen oxide standard—which has been made a research objective by this bill—could be met with catalyst technology with a fuel penalty of 2 percent less. Even that small penalty would be lessened with the relaxed 1.0 gram of NO_x standard in this bill.

The Academy reaffirmed this assessment in their June 5, 1975 report, which stated that "emission standards for HC and CO (.41 and 3.4 grams per mile) for the 1978 and subsequent year light duty vehicles should be maintained at the current statutory levels. Attaining these levels by 1978 is both feasible and worthwhile. These levels can be achieved while steps are taken to insure against excessive emissions of sulfuric acid and acid sulfates." The Academy said that "these goals could, and should, be achieved while improving fuel economy."

The Academy participants in the June 1975 report were not of one mind as to whether the marginal benefits of achieving the statutory emission standard of .4 NO_x in 1978 exceeded the marginal cost. They did, however, state that "it is probably feasible with catalyst technology to achieve . . . 4 grams per mile NO_x in 1978."

That same report comments that as the technology is developed further, the use of exhaust gas recirculation may not be required and even the estimated 2 percent loss in fuel economy could probably be removed.

A study performed by the Jet Propulsion Laboratory at California Institute of Technology for the Ford Motor Company and released last August concluded that goals for emission reduction and energy conservation for the automobile over the next five to ten years could be met with improvement in the conventional engine and to the vehicle.

Thus, the Committee was left with the task of devising a set of standards that would meet the clean air goals and that would result in forcing, insofar as possible, the industry to adopt fuel-efficient technology.

The Committee discussed establishing a 1.5 NO_x standard as the statutory standard. This was rejected as not adequate to protect public health and not likely to lead to the introduction of new, improved technology. The report discusses the basis for this decision on page 60. The new 1.0 gram per mile NO_x standard is expected to require an improved level of technological development with fuel economy benefits.

To a certain extent, fuel economy is red herring in this debate. One cannot help but wonder what excuse the industry would have used in order to request further delays if it had not been provided with a conveniently available energy crisis.

It is quite clear that vehicle weight and engine displacement, not emission standards, are the most important factors in determining fuel economy. Well over half the gasoline used by automobiles is used by large and specialty cars, cars which almost always have more weight than is necessary to carry out their task. The report by the Department of Transportation and the Environmental

Protection Agency entitled "Potential for Motor Vehicle Fuel Economy Improvement—Report to Congress" and dated October 24, 1974, identified methods for improving fuel economy by over 40% with no change in engine design concepts or emission controls whatsoever.

Another opportunity for fuel economy improvement that is often discussed is the diesel engine. The 1.0 gram NO_x standard proposed in this bill can be met by the diesel if the industry wishes to do so. A Peugot diesel has already achieved an average of 1.07 grams per mile of nitrogen oxide in five tests with 25 miles per gallon. The National Academy's June 1975 report concluded that the diesel is one example of an engine that offers substantial fuel economy benefits at standards down to 1.0 grams per mile. An EPA study of the diesel as a light duty power plant concluded that the diesel could meet a 1 gram per mile standard for nitrogen oxides.

The most recent automobile emission control status report released by EPA in April, 1976 confirms the Committee's judgment that statutory emission standards can be met with good fuel economy. According to this report, the single most important problem in meeting low emissions with good fuel economy is hydrocarbon emissions—not NO_x as has been alleged by the industry for five years. The report specifically identified two of the many systems using combinations of available technology such as improved catalyst, start catalyst, port liners, and sonic exhaust gas recirculation which "could be considered to make the good fuel economy engine calibrations achieve hydrocarbon levels low enough to have a high confidence of certifying at a 0.41 hydrocarbon standard."

In considering the two goals of fuel economy and improved air quality, we must remember that fuel economy is salable. The individual customer will demand it, and the industry will deliver it, especially since passage of the fuel economy bill last year. Emission control, which has a significant value to the general public, has less value to the individual user. It is not a sales item which the customer will demand, so public policy must require it or it will not be provided. The evidence the Committee has gathered indicates that it needs to be done, that it can be done, and that it can be done without sacrificing fuel economy goals. The bill as reported is designed to do just that.

AUTOMOTIVE SULFATES

As I said earlier, the Committee considered and rejected, as a basis for a moratorium on auto emission standards, the potential harm of sulfate emissions from catalyst-equipped automobiles. After three years of concentrated study of various aspects of the issue by the government, industrial, and academic communities, there remains a great deal of uncertainty and disagreement as to the potential scope of the automotive sulfate problem.

Concerned by the possibility that excess oxygen from air pumps increases the conversion of fuel sulfur into sulfate within the oxidation catalyst system, the Committee extended the 1977 interim standards of 1.5 HC, 15 CO, and 2.0 NO_x through 1978, rather than mandating the current (1975–76) California standards of .9 HC, 9.0 CO, 2.0 NO_x which are currently being met with wide use of air pumps and oxidation catalysts. The likelihood that no new technology would be employed at those levels nationally was one reason for going directly to the .41 HC, 3.4 CO standards in 1979 to encourage the use of technology which would not exacerbate the sulfate problem.

The bill also authorizes a one-year study on the measurement of sulfur emissions from mobile sources, the health impacts of such emissions, and the control options available. It is important to note that under section 211 of existing law, the Administrator can require the desulfurization of fuel should data on these unknowns indicate an immediate need for control of sulfate emissions prior to the implementation of a sulfate emission standard. This was precisely the strategy proposed by Administrator Train in November, 1973, when he determined that the sulfate controversy did not warrant deferral of the auto clean-up schedule or prohibition of the use of catalyst.

Also, it is important to note that the Administrator has determined tentatively that the sulfate emissions from non-catalyst cars and non-air pump catalyst cars are similarly low. This modifies his March, 1975 position that even without an air pump, catalyst cars appeared to emit substantially more sulfate than non-catalyst cars. The high estimates of sulfate emissions from air pump catalyst cars remain unchanged.

In fact, according to the most recent data from EPA, non-catalyst vehicles, catalyst vehicles without air pumps, and 3-way catalyst equipped vehicles have similar sulfate emissions.

1. While the position taken in this amendment was credible almost a year ago, the auto industry has done very little in the meantime. According to the most recent EPA technical report on automobile emission control, dated April, 1977, "Development of emission control technology has slowed down from last years pace." Regardless of who gets the blame for the slowdown, this means that precious lead time has been lost. 1977 cars are now being certified, and tooling is already being ordered for the 1978 models. By the time this bill becomes law, it would be practically impossible to change 1978 production plans without a major disruption of the industry.

2. That study concludes that the 1979 standards of S. 3219 (.41 HC, 3.4 CO, 2.0 NO_x could be met on 47 percent to 80 percent of the population without catalyst change and 64 percent to 100 percent within the 1978–79 time frame. Thus, we are pushing the technology to get 100 percent compliance in 1979, and 1978 would be unrealistic.

3. The EPA technical report does not support implementing stringent standards on all production before 1980, or on major portion of production before 1979. The statutory 1980 standards of S. 3219 (.41 HC, 3.4 CO, 1.0 NO_x) could "only be met in model year 1979 on a limited number of vehicles" according to EPA. But even this would entail a high risk effort for the manufacturers since there is now only time to run one development fleet. Under S. 3219, we are asking them to take that risk in 1979 on 10 percent of production. The Hart amendment would require taking the risk on 100 percent, which is excessive.

4. The EPA study also indicates that even meeting tight standards on part of production in 1979 and all of production in 1980 will require manufacturers development efforts to be increased over what is being done now. This does not leave much hope for speeding up the time schedule. Hart amendment would do.

AMENDMENT NO. 1609

Under the previous order the Senate will now proceed to the consideration of amendment No. 1609 which the clerk will state.

The assistant legislative clerk read as follows:

The Senator from Colorado (Mr. HART) proposes amendment No. 1609.

On page 66, line 1, strike "and", and line 4, strike the period after "mile" and insert in lieu thereof the following: ", and model 1982 and thereafter shall contain standards which provide that such emissions from such vehicles and engines may not exceed 0.4 gram per mile.".

Mr. GARY HART. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. GARY HART. To clarify the time situation, my understanding is we now have an hour and a half on this amendment, equally divided, but that 10 minutes of that hour and a half will be reserved for debate to take place between the vote on amendment No. 1608 and the vote on amendment No. 1609. Is that correct?

The PRESIDING OFFICER. That is correct. It will be an hour and 20 minutes at this time and 10 minutes between the votes.

Mr. GARY HART. An hour and 20 minutes available, equally divided.

The PRESIDING OFFICER. That is correct.

Mr. GARY HART. I thank the Chair.

Mr. President, amendment 1609 is directly related to the previous amendment. Amendment 1609 very simply states that the standard for nitrogen oxide should be reduced to 0.4 gram per mile and that that standard should be met by 1982. This is the standard presently in the current law. S. 3219 raises that standard from 0.4 gram per mile to 1 gram per mile. Why is this important?

Why is nitrogen oxide important?

Mr. President, it gets down to a very simple point and it is a point—public health.

The National Academy of Sciences has found that relaxation of this 0.4 nitrogen oxide standard could preclude some large cities and locations downwind from those cities from meeting the ambient oxidant standards.

One of the most preeminent scientists, Dr. Auckenschmitt, who discovered that auto exhaust causes the smog which results in much of the public health problem that we have in many of our cities, announced at the National Academy of Sciences in May 5, 1975, conference on auto emissions, that the strategy of only reducing hydrocarbons to control the oxidant levels is wrong and that smog-filled air is not going to get clean unless we control oxides of nitrogen.

That is exactly what this amendment is all about.

That same expert went on to state that the necessary control of nitrogen oxide would require a motor vehicle emission standard of no higher than the 0.4 to 0.6 gram per mile.

That, in a nutshell, is the essence of my amendment.

The stringent control of any nitrogen oxide emissions will also probably be needed to attain and maintain the 1-hour ambient standard recommended by the National Academy of Sciences.

In March 1976, the Department of Transportation released a five-agency panel report on air quality which projected the health impact of the various auto standards over the period 1980 to the year 2000.

Significant differences exist over the period 1980 to 2000 for respiratory attacks in children. Projected by continuing with the current 3.1 grams per mile nitrogen oxide emission standard versus implementing either a 2 grams per mile standard for the statutory 0.4 gram per mile standard. For the total health impact between the 1980 and year 2000 period, a 37-percent improvement is projected for the 2 grams per mile standard. That is to say, if we go from the present 3.1 standard down to the 2.1 grams per mile standard we will improve the rate of the respiratory attacks on children in that 20-year period by 37 percent.

The statutory standard of 0.4 gram per mile is projected to provide a 53-percent improvement in respiratory attacks in children during that 20-year period.

That is what this amendment is all about.

The benefits of implementing the 0.4 gram per mile standard are significant. As a 69-percent reduction in those respiratory attacks is projected when the 0.4 gram per mile standard is compared with the present nitrogen oxide emission standard.

Mr. President, those statements are documented in the five agency report by the Federal Government in March 1976.

After conducting a year-long study by Congress on air quality and automobile emission controls, the National Academy of Sciences concluded in September 1974:

> Automobile emissions may account for as much as one-quarter of one percent of the total urban health hazard, for the whole U.S. urban population. Effects of this magnitude might represent as many as 4,000 deaths and 4 million illness-restricted days per year. 4,000 deaths is about one-eighth of the deaths from bronchitis, emphysema, and asthma combined, or one-twelfth of the deaths from automobile accidents. 4 million days of illness is nearly equivalent to one-tenth of the total number of days lost from work each year because of respiratory illness.

Taking into consideration both property damage and health cost, the National Academy went on to point out that annual benefits between 2.5 billion and 10 billion dollars in 1973 dollars could be attained by reducing automobile emissions to the statutory levels required to attain ambient air quality standards for the automotive pollutants.

Mr. President, regardless of the improvement in the cost element of achieving these standards, what we are talking about here are human lives, and although it is important to consider the cost of installing devices such as this on automobiles to achieve these standards, how can we judge the cost of a $25 or $50 instrument such as this on automobiles against the loss of human lives and the loss of human productivity? Particularly, how can you judge that cost against the damage done to the lungs of the children of this country? That is what this issue is all about.

Control of NO_x auto emissions to 90 percent will help minimize the health threat of more dangerous derivative pollutants, nitrosamines.

Recently, researchers have found the highly carcinogenic dimethyl nitrosamine present in the ambient air of Baltimore, Philadelphia and Belle, W. Va. German researchers have found the nitrosamines to be formed from secondary amines and NO_2 in the ambient air, with the nitrosamine concentration depending up the ambient NO_2 levels and not the amine levels. Then, in July 1974, NPA found, "As a family of carcinogens, the nitrosamines have no equals"—Environmental Protection Agency, "Summary Report on Atmospheric Nitrates" 9, 91 (1974). EPA stated that there is substantial evidence that cancer occurs more frequently in urban areas than in nonurban areas, and that this may be due to air pollution. EPA stated that "a possible role for nitrosamines—in the increased cancer rates—should be investigated when and if they are detected in the atmosphere"—the same at 91.

What that means, in plain, ordinary English, is that what we are putting in the tanks of our automobiles in this country produces cancer more readily than almost any other element in our environment. That is what this issue is all about.

I could go on and on with the studies that have been conducted across this country in city after city. They are documented in the RECORD. They are replete in the record of the Committee on Public Works. What they add up to is one thing: By not controlling the amount of nitrogen oxides in the air which are produced by the automobile engine, we are producing cancer in the lungs and in the bodies of American citizens. That is what this issue is all about.

We can talk about accommodation. We can talk about working things out with the automobile industry. We can talk about reasonable efforts. We can talk about methodical performance and getting there on some sort of timetable that accommodates all interests—the labor unions and the automobile manufacturers. But what does that mean to the American citizen whose lungs are being contaminated and who is getting cancer from this? That is what this issue is all about.

We can achieve the 0.4 NO_x standard. There is no doubt in the public record or in my mind. The question is, Will we? That is the issue before the Senate.

Mr. President, I yield to the Senator from Connecticut.

Mr. WEICKER. Mr. President, I support the amendment of the distinguished junior Senator from Colorado (Mr. GARY HART). I think he is performing a great service, not only to this body but also to the country as a whole in raising this all-important issue.

Before I get to the comments I have prepared for delivery this morning, I would like to lay before my colleagues the following propositions as they relate to energy:

The fact is that rather than face up responsibly to the unresolved energy crisis in this country, both the politicians on the one hand and American business on the other have demagoged this issue to the point where the crisis is unresolved, and the Nation is in a perilous condition relative to energy. I will give two clear-cut examples.

On the one hand, we have groups around here who are saying, "We are going to resolve the energy crisis by making the oil companies divest themselves of their various interests." That is very easy. It does not require any sacrifice on the part of anybody in this country. Pointing the finger at the oil companies resolves everything. Politically, it is wise, because you do not ask the American people to make the hard decisions that have to be made. But it is also true that that is not going to lessen energy use by one iota, and it is not going to discover any more oil or any more gas. But it is very effective in the sense of words, and in the sense that it does not demand sacrifice from the American people as a whole. So much for my political friends, whoever they might be, of both parties.

On the other hand, we have an industry rising to one of its lowest moments when, in effect, what it says is, "We can get more energy if only you will free us from the pollution standards which have been set in order to achieve clean air in this country." First crack out of the box, American industry wants to go running back to the past, to the pollution that existed.

In effect, what they are saying is that no sacrifice is demanded of the American people. "If we can only convince them to accept the lower pollution standards, then you will get more energy." But, of course, the bottom line of that is that you will get more energy in return for lives. You are going to make a swap. That is a fine point for this country to arrive at. All of us do not have to change our lifestyles. We do not have to make sacrifices. We are going to have a few older Americans, a few infirm Americans, go by the boards. That is exactly what the swap is. The reason why it is proposed is that it does not affect us. No sacrifice is being demanded.

Mr. President, if we are going to get out of this crisis, two things must be done. No. 1, we have to use less energy. That means every one of us, as an American, not the old, not the infirm; every one of us has to change our lifestyle and use less.

It used to be, when we confronted a national crisis, that every one of us would take the burden on our shoulders in this country; and the better off you were, the more of the burden you took. Apparently, that is not the answer any longer. We turn now to the poor, we turn to the elderly, we turn to those on fixed income, and say, "You can serve," or in the case of air pollution, "You die or get injured," so that the rest of us can do our thing unchanged.

As the greatest nation in the world, I suggest that we each start to behave like the greatest individual in the world, and that is when the tough ones go ahead and charge into it. We do not buck off the problem on somebody else, and we do not close our eyes. That is why I am supporting the distinguished Senator from Colorado. What I am saying and what he is saying is that if you want more energy, find other ways to achieve it. Do not sacrifice lives.

I am glad that the fight is being led by the distinguished Senator from Colorado. He has a lot of clean air in his State. I do not have much in mine. It is not a matter of self-interest. It might be logical for a Senator from New York or from New Jersey or from Connecticut to propose this amendment, but it was proposed by a Senator who comes from a State where there is plenty of clean air compared to what we have in the Northeast.

Going back a short span of time, certainly within the last decade, nobody ever heard of a pollution alert in the Northeast; nobody ever heard of a heat inversion. Yet, I believe that every year in the last 10 years we can track more heat inversions and more pollution alerts. That is not just something we hear on the radio. If those alerts take place, people are going to die and be injured.

When Congress passed the original Clean Air Act in 1970, 6 years ago, specific emission limits for three auto tailpipe pollutants were to be achieved in 1975 and 1976. In the following 6 years, Congress has delayed those emission standards three times. Consequently, we are discussing today the fourth retrenchment from statutory auto emission standards in 6 years. We are debating whether the original standards set for 1975 on carbon monoxide and hydrocarbons will be met in 1979, and whether the original nitrogen oxide emission standards will be loosened considerably and even those new standards not be met until 1980.

Meanwhile, clean air will remain a hope for the future; once again, Congress will reward Detroit for its negligence. And negligence is the word. Volvo is manufacturing cars that meet not only our national clean air standards, but also the State standards in California which are six times stronger. Moreover, gas mileage is better. The results are in: clean air and good mileage can be a reality for 1978 automobiles.

Mr. President, when Congress enacted the Clean Air Act in 1970, it recognized a national health hazard. Since that time, numerous studies have confirmed the strong relationship between auto emissions and respiratory illness and death.

In its September 1974 report to Congress, the National Academy of Sciences stated:

> Automobile emissions may account for as much as one quarter of one percent of the total urban health hazard. For the whole U.S. urban population, effects of this magnitude might represent as many as 4,000 deaths and 4 million illness-restricted days per year. Four thousand deaths is about one eighth of the deaths from bronchitis, emphysema, and asthma combined, or one twelfth of the deaths from automobile accidents. Four million days of illness is nearly equivalent to one tenth the total number of days lost from work each year because of respiratory illness.

Mr. President, in Connecticut, clean air means life versus death for more than a few citizens. It means activity rather than confinement for thousands more. Yet, even in light of that harsh truth, the Hart amendments would simply require auto manufacturers to comply with automobile emission standards 1 year earlier than set out in S. 3219 and require that the current nitric oxide standard be met by 1982.

Mr. President, the time to stop the environmental backslide is now. Passage of the Hart amendments will demonstrate to the Nation Congress continued resolve for a clean environment.

Let no one be fooled: The achievement of the goals set forth by Congress in 1970 will be difficult and sacrifice will be required. Yet, failure to adopt the Hart amendments will have its price. Considering both property damage and health cost, the National Academy of Science estimated that $3 to $12 billion could be solved if statutory auto emission standards are attained.

Today, the principle of clean air and water is under attack on all fronts. We must stand and fight, or we will equivocate into the muck and stench of yesteryear.

I strongly back this effort to maintain a national drive to clean our air. This proposal will measure the quality of this Nation, whether we have any mettle up our backbones or not. I have heard it said, "Well, we can delay a little bit," or "A little bit more pollution is not going to hurt." The job, as we all well know, is not to do a little bit more; it is to clean up what we have.

I remember in one of the debates, I guess it was on the Concorde that I stood here and debated with the distinguished Senator from Nevada. He said allowing limited flights of the Concorde, although it violated U.S. environmental standards, is no more than throwing one box of detergent in the Mississippi River.

We made a decision long ago that we are not going to throw one more box in the Mississippi River; we were going to clean it up. Now, with regard to the air, it is more than just a case of a little bit more pollution in the air. It is a question of life or death for many Americans.

As far as Detroit is concerned—oh, brother. With all the millions—I saw the quarterly profits of General Motors—$900 million on profits. That is great. I am for the free enterprise system. I have tried to defend it many times and save it from the attacks it is under today. But when they generate those kinds of profits, to sit here and whine when it comes to maintaining clean air and acting in an enlightened way on behalf of their fellow citizens, they do not seem to hack it very well. I think they are a disgrace.

I do not care about the designs or how flashy cars look or whether everybody is supposed to feel like Richard Petty or Gordon Johncock when they climb in their automobiles in the morning. I care about living, and my children and my parents. If they are going to live, that is going to be far more important than any hunk of metal Detroit sells. I think it is time we got our eye on the ball in this country, not only in this Chamber, but in the Nation.

We are going to have to make sacrifices, indeed, if we are going to be for life for our fellow citizens.

I commend my distinguished colleague from Colorado for once again getting this issue out here, not only on this specific bill, but putting the question before the American people—are we willing to sacrifice, are we willing to hitch in our belt, or are we going to postpone and make our parents pay, and our children, just so we, for a few years, can enjoy anything that meets our fancy?

Mr. President, I support the amendment 100 percent and hope it passes.

Mr. GARY HART. I thank the Senator from Connecticut. I only want to say that I think the statement he made is not exactly right: The reason I am offering this amendment is a very selfish one. I wish the air in my own State were clean, as the Senator from Connecticut said about his State. But in Denver through September 1974, nitrogen oxide 1-hour levels exceeded those recommended 1-hour standards 56 times. During January 1974 alone, recommended 2-hour levels were exceeded 218 times in Denver, Colo. So I am as selfish about the air quality in the State of Colorado as the Senator from Connecticut is about his own State.

Mr. HASKELL. I wonder if my distinguished colleague will yield for a couple of questions.

Mr. GARY HART. I yield to my colleague.

Mr. HASKELL. Mr. President, first, I would like, unfortunately, to verify what my distinguished colleague has said about the air in Denver, Colo. We do have pollution alerts. We do have times when people may not exercise very vigorously because it is dangerous to health; of course, this is true across the Nation, particularly here in the District of Columbia. I hope, when people come to vote on this amendment, that they will bear in mind the things that the Senator from Connecticut (Mr. WEICKER) just said.

Air pollution is not only unsightly, but it is a killer. In fact, it kills people. This is something that I think is overlooked. In addition to that, air pollution causes an extreme amount of damage, physical damage. So it costs money as well as lives.

I have a couple of questions for my distinguished colleague on his amendment. He asked that automobile emissions be controlled quicker, I believe, than the committee asks. We all know that the automobile is the prime polluter of our atmosphere. As I understand it, I say to my friend from Colorado, the technology to meet the standards set forth in amendments Nos. 1608 and 1609 exists and is in place. Am I correct in that?

Mr. GARY HART. The Senator is exactly correct. This information became available to Congress and the American people after completion of the work on the Senate bill that we presently have before us. It essentially is in the form of the object I hold in my hand, which is the device, the so-called three-way catalytic converter, used on the Volvo automobile certified by the State of California to meet standards we have set here for the next model year. That information came to us because the State of California only released it within the last 30 to 60 days. I think it substantially alters the basis for the committee's position. Detroit says there is no such object as the one that I hold in my hand, but here it is.

Mr. HASKELL. If I may ask one more question, I think that is extremely interesting. As I understand it, the Senator has said that the Volvo exceeds the standards that the Senator would mandate in his amendment. I wonder if that device put on the Volvo is some esoteric device made in some far distant country under a patent, where it would not be available to our manufacturers—General Motors, Chrysler, and the like. Could the Senator enlighten me as to where that converter is made?

Mr. GARY HART. The patent stamp on this device, which is attributed to Engelhard Industries and called an exhaust gas purifier, shows that this is made in Newark, N.J.

The Senator was not on the floor when I made the statement, but the argument has been made that even if such a device as this existed, it does not exist in sufficient quantities for American consumption, that we just produce too many automobiles, and that industry could not make enough of these to put on American cars. I have introduced statements in the RECORD to the contrary—that, in fact, we could produce enough of these in the country to meet American needs.

Mr. HASKELL. The device is not very large, nor would it appear to me to be a very complex manufacturing job once they have the molds. I assume that Engelhard has the molds or they would not be making them for Volvo. Would the Senator make the same statement?

Mr. GARY HART. I think the Senator is absolutely correct. There is also the question about price. People say, "Well, American people will not pay that much to put this on their cars, and they are not that interested in their health." As a matter of fact, this technology is available for between $25 and $50. I think the people we represent from the State of Colorado are perfectly willing to pay this minimal amount to protect their lungs.

Mr. HASKELL. I would certainly agree with my colleague that the citizens of our State and the citizens throughout the Nation would certainly do that to protect their health and the health of their friends and family, and also to prevent the very significant property damage that occurs by virtue of pollutants in the air.

I have one more question: A great many people who oppose controlling automobile emissions say that anytime you put some kind of a catalytic converter on a machine, you cause the automobile to get many fewer miles per gallon.

I wondered if my colleague had any information as to the mileage performance of Volvo with this catalytic converter on it.

Mr. GARY HART. Senator, that information was also introduced earlier, but I will repeat it in documents provided by the State of California.

First, from the chairman of the California Air Resources Board, Mr. Quinn, in a letter to me dated May 26, 1976, he says test standards can be met:

> The new Volvo system also results in a 10 percent fuel economy improvement over the 1976 Volvo models sold in both California and other States.

The Governor of California, in a letter to all Senators dated July 6, 1976, says the same thing, that these pollution control levels are reached, and that it, Volvo, has already developed a nearly pollution-free automobile with a 10-percent fuel economy improvement over current models.

The Senator also asked whether the standards we are debating here were met by this system. Mr. Quinn, in the letter I mentioned before, of May 26, 1976, provides the following data: automatic transmission car, 3,000 pound test weight, achieves standards of 0.22 hydrocarbons, 2.9 carbon monoxide, and 0.08 nitrogen oxide. That is better by a factor, 5, than the standard proposed by the Senator from Colorado.

People say, "Well, what about a bigger car?"

On an automatic transmission car weighing 3,500 pounds, which is about the average American automobile, the levels achieved by this system are 0.17 grams per mile hydrocarbons; 2.4 grams per mile carbon monoxide; and 0.17 grams per mile nitrogen oxide. That is better by almost a factor of 3—than the standards proposed by the Senator from Colorado for 1982—not for next year, but for 1982.

Mr. HASKELL. Mr. President, in closing, I congratulate my distinguished colleague for bringing these two amendments to the floor, and I certainly hope they will be adopted.

I really hope that there will be some support from the committee. As I see it, the following are the facts: the Volvo now exceeds cars for sale in California, exceeds the standards proposed by my distinguished colleague. That is No. 1.

No. 2, the device that permits them to exceed the standards is available by a very major American corporation located in Newark, N.J., so it is not difficult to come by the technology.

Then, third, by the use of this particular device, available in Newark, N.J., there is a saving in mileage per gallon.

So, all in all, Mr. President, I would certainly hope that the Senate will see fit overwhelmingly to adopt these amendments.

I again congratulate my colleague.

Mr. GARY HART. I thank my colleague from Colorado, and I think his summary statement is correct.

Mr. President, I ask unanimous consent to add as a cosponsor to my amendments 1608 and 1609 the Senator from New Hampshire (Mr. DURKIN).

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. GARY HART. Mr. President, I ask for the yeas and nays on amendment 1609.

The ACTING PRESIDENT pro tempore. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. CRANSTON. Mr. President, will the Senator yield?

Mr. GARY HART. I yield to the Senator from California.

Mr. CRANSTON. Mr. President, I rise to testify as a Senator from California that what has been said in the course of debate as to what has been accomplished in California is absolutely accurate and, for that reason, among others, I strongly support the amendments offered by the Senator from Colorado.

I will speak very, very briefly, but I do want to indicate that I support both amendments 1608 and 1609.

Amendment 1609 retains the "statutory" nitrogen oxide the NO_x—standard of 0.4 gram per mile established in the 1970 Clean Air Act, but delays implementation from 1978 to 1982. The committee bill, which I am otherwise supporting, unfortunately provides for a permanent relaxation of the NO_x standard from 0.4 to 1 gram per mile. I think that is a very, very unwise provision.

This relaxation of the tougher NO_x standard is being proposed because of arguments advanced by the automobile manufacturers that a NO_x standard below the current 1.5 grams per mile level cannot be achieved without incurring major penalties in fuel economy and driveability.

We now know this to be a false argument. During May 1976, Volvo completed certification testing requirements on a new "3-way" catalyst system, developed in cooperation with Englehard Industries of Edison, N.J. This new 3-way catalyst system provides for the first time the catalytic control of nitrogen oxides while at the same time meeting the 90-percent reduction requirements of the 1970 act and achieving a 10-percent improvement in fuel economy.

Volvo has thus provided us with concrete proof that the toughest emission standards ever established by the Congress can be achieved by a conventional automobile that is comfortable, roomy, and driveable—and this can be done while still achieving a substantial improvement in fuel economy. Even the station wagon version of the 1977 Volvo exceeded the 20-mile-per-gallon standard which the Congress has established for 1980.

Mr. President, I also wish to indicate my support for amendment No. 1608, which requires the auto manufacturers to meet emission standards for carbon monoxide, nitrogen oxides, and hydrocarbons 1 year earlier than proposed in the committee bill. I also want to commend my colleague from Colorado for raising this issue and for his effective leadership in support of tough—but achieveable—clean air standards.

The standards proposed under this amendment for 1978 have already been achieved on 1976 cars being sold in California. And the 1977 Volvos—certified for sale in California—have achieved a substantially lower level of pollution than the levels proposed in the committee bill.

And again—and I want to emphasize this—these tough emission standards have been achieved with a 10-percent gain in fuel economy.

Mr. President, my good friend, the Governor of California—the Honorable Edmund G. Brown, Jr.—has written to me urging support for the Hart amendments in the Senate and the Waxman-Maguire amendments in the House.

I ask unanimous consent that Governor Brown's letter to me dated July 6, 1976, be printed in the RECORD at the conclusion of my remarks together with a factsheet on the 1977 Volvo 3-way catalyst system prepared by the California Air Resources Board.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(See exhibit 1.)

Mr. CRANSTON. Mr. President, given the obvious fact that economical technology exists to meet the more stringent standards proposed in the Hart amendments, there is simply no justification for delaying our efforts to improve air quality. This is not without major consequences—for the sooner we impose tough standards, the sooner we will achieve our national goal of clean and healthful air for our Nation.

EXHIBIT 1

STATE OF CALIFORNIA,
GOVERNOR'S OFFICE,
Sacramento, July 6, 1976.
Hon. ALAN CRANSTON,
Member of the Senate,
Senate Office Building,
Washington, D.C.

DEAR ALAN: The Congress will soon be taking up the Clean Air Act Amendments of 1976. A major provision of both the Senate and House versions of the bill is a relaxation of the automobile emission standards. I am writing to ask your assistance in maintaining stringent automotive anti-smog requirements.

As you probably know, the current House version of the bill would delay full compliance with the "statutory" standards until 1985, and the Senate version would entirely remove the requirement for full control of oxides of nitrogen (NO_x). These steps are being proposed because of arguments that the automobile industry cannot produce a fuel-efficient car that meets the current clean air goals. That argument is not true. One manufacturer, Volvo, has already developed a nearly pollution-free automobile with a 10 percent fuel economy improvement over current models. For your information, I am enclosing a brief fact sheet on the new Volvo. This car, designed to meet California's 1977 vehicle standards, has been fully tested by both the California Air Resources Board and the U.S. Environmental Protection Agency, and it will go on sale in California later this year. We have also been informed that Ford intends to use a similar emissions control system, based on a "three-way" catalytic converter, on the 1978 Pinto models manufactured for California.

The Detroit automakers have made only one argument against the "three-way" catalyst system—alleging that an adequate supply of the catalysts will not be available. Our state Air Resources Board has investigated that claim and concluded that an adequate supply can be manufactured.

In view of the clear need for further auto emissions controls if our clean air standards are ever to be met and the demonstrated capability to manufacture a car meeting the current statutory requirements, I urge you to support the amendments being offered by Congressmen Waxman and Maguire and Senator Hart. These amendments will provide the industry with additional lead time to meet the statutory standards, while minimizing the damage caused by postponement by imposing interim levels which have already proven feasible in California.

Sincerely,
EDMUND G. BROWN, Jr.,
Governor.

CALIFORNIA AIR RESOURCES BOARD FACT SHEET, 1977 VOLVO THREE-WAY CATALYST AUTOMOBILES

During May of 1976, Volvo completed certification testing requirements on a new "3-way" catalyst system, developed in cooperation with Engelhard Industries of Edison, New Jersey. The new system, which has been developed for all of Volvo's four cylinder models, will be the first ever to catalytically control nitrogen oxides (NO_x) emissions from production cars. Not only did the 3-way system meet California's stringent 1977 emission standards, it also comfortably met the 90% reduction statutory standards established by the Clean Air Act Amendments of 1970 while achieving higher fuel economy than the 1976 "49-state" Volvos, which emit far more pollution.

The tests performed on the Volvos by the U.S. Environmental Protection Agency are conclusive proof that the toughest emission goals ever established by Congress can now be met by a roomy automobile with a conventional engine and excellent fuel economy. Even the station wagon version of the Volvo exceeded the 20 mile per gallon fuel economy standard which the Congress has established for 1980.

Until now catalytic converters have been used only to control hydrocarbon (HC) and carbon monoxide (CO) exhaust emission. Without catalytic control of NO_x available, automobile manufacturers have claimed that NO_x emission standards below the 1.5 gram per mile (gpm) level established by the California Air Resources Board (ARB) for 1977 models would be impossible to achieve without major penalties in fuel economy and driveability. Volvo, in fact, believed that the use of a catalyst that could control NO_x as well as HC and CO would allow improved fuel economy at the 1.5 gpm NO_x standard established by the ARB. Other manufacturers did not attempt to certify a 3-way catalyst system for 1977 because previous experience with 3-way catalysts had shown them to deteriorate rapidly in only a few thousand miles. Engelhard Industries has, however, now discovered new methods of catalyst formulation and fuel metering which eliminate that problem.

The HC and CO emission levels from the Volvo system were actually lower after 50,000 miles of durability testing than at 4,000 miles. NO_x emissions were only 14% higher at 50,000 miles than at 4,000 miles. The table below summarizes the emissions and fuel economy performance of the new system.

	Exhaust emissions (grams/mile)			Fuel economy (miles/gallon)		
	HC	CO	NO_x	City	Highway	Combined
Average of 4 Volvo test cars, including 50,000 mile deterioration factor	0.20	2.8	0.17	18.2	28.1	21.6
Clean Air Act goals	.41	3.4	.40			
1977 California standards	.41	9.0	1.50			
Current (1976) Federal standards	1.50	15.0	3.10			

The 3-way catalyst system is nearly indistinguishable from the oxidation catalyst system used on current automobiles. The catalyst construction is the same as current catalysts with only the chemical composition being modified sligthly. In addition to the tiny amounts of platinum used in current catalysts, 3-way catalysts often contain rhodium in trace quantities. A key system difference from current oxidation catalyst systems is the use of an exhaust composition sensor which signals the fuel-metering system to change slightly should the exhaust become too rich or too lean for optimum catalyst efficiency. The system can be made to work with either fuel injection or carburetors. Recent discoveries in the area of the catalyst's fuel-metering requirements make it likely that the more precise control offered by fuel injection will be unnecessary. The anticipated cost increase for the 3-way catalyst and the exhaust sensor is $25–$50.

Three-way catalysts have already undergone extensive tests for "unregulated" pollutants. Auto exhaust contains literally hundreds of harmful compounds, only some of which are regulated. Many of these compounds are unregulated because their concentration is insignificant from a health-effects viewpoint. These compounds include aldehydes, sulfuric acid, hydrogen cyanide, particulate matter, etc. Of all systems tested to date, the 3-way catalyst system may be the lowest in unregulated pollutants. The system reduces many of the unregulated compounds. Higher sulfuric acid levels, which have been a concern with oxidation catalysts, are not a problem with 3-way catalysts. All other compounds remain at safe levels even under "failure modes" of system operation.

Volvo has reported to the ARB that it may extend the use of the 3-way system to its entire model line for 1978 even though the system provides far more emissions control than is required by state or federal law. The ARB has estimated that by 1981 all cars could use the 3-way system to meet the 0.4 gpm NO_x standard if the Congress recommits the Nation to the goal of producing clean cars.

To permit an orderly phase-in of the technology now available to meet the Clean Air Act's goals, the ARB is recommending the following schedule be adopted by the Congress:

Model year	HC	CO	NO_x
1978	0.9	9.0	2.0
1979–80	.41	9.0	1.5
1981	.41	3.4	.4

Cars sold in California have met the standards recommended nationally for 1978 since 1975, and 1977 California cars will all meet the standards recommended nationally for 1979–80.

Since the initial release of the Volvo test results by the ARB, there have been statements made by certain automobile manufacturers that 3-way catalyst systems may not be practical for most manufacturers because of claimed cost problems with accurate fuel-metering equipment and availability problems with materials for 3-way catalysts. ARB is aware of considerable work currently underway by auto manufacturers and carburetor manufacturers on feedback-controlled carburetors which have high potential for providing sufficiently accurate fuel control without the use of more expensive fuel injection systems. AC Division of General Motors is one of the leaders in the development of low cost exhaust oxygen sensors which can be used to control a relatively inexpensive carburetor. It does not seem reasonable at this time to assume expensive hardware will be required to make 3-way catalyst systems work.

On the issue of catalyst availability, the ARB has corresponded with both catalyst manufacturers and suppliers of the raw materials used to manufacture the catalyst. ARB has concluded that efficient 3-way catalysts can be manufactured using the noble metals platinum and rhodium in relatively small amounts and in the ratio that the various metals naturally occur. One supplier contacted by ARB estimated that they alone had sufficient reserves of noble metals to satisfy both the automotive industry and all other users for 50 years without recycling. Since non-noble metals can also function as catalysts with somewhat lower activity, it is possible that less expensive materials will be replacing noble metals in the future if catalysts remain in the principle emission control technique.

Mr. GARY HART. I thank the Senator from California for his support, and I reserve the remainder of my time.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. MUSKIE. Mr. President, I yield myself 10 minutes to begin with.

First of all, let me make it clear that I have listened to the statements of my good friends, the Senator from Colorado, the Senator from California, and the Senator from Connecticut, and I could identify no philosophical differences between their position and mine and the committee's position. Indeed, I look forward to using their arguments in the conference with the House because the House version of these two policy matters is much more conservative than that of the Senate bill. So the sponsor of this amendment, Senator HART, and his colleagues are performing a service for the committee in providing with great articulateness the underlying philosophy which defines our joint commitment to clean air and the control of automobile emissions.

So it is not a philosophical distinction that separates the sponsors and supporters of the Hart amendment and the members of this committee.

What is it that is different?

I think it might be demonstrated in part by the very automobile which was the subject of the colloquy between Senator HART and Senator HASKELL, the Volvo.

Let me make two point with respect to that car.

It is one car, with a four-cylinder engine. It is one production line, one model. That means, therefore, that the technology exists and it has been demonstrated in that limited fashion.

But the problem that confronted the committee was whether that technology was sufficiently advanced, the timeframe sufficiently flexible, so that that technology could be transferred to all models, all makes of cars, with sufficient safeguards that they would work, because we have to protect the consumer, when the cars are finally put in the salesrooms of the country's automobile dealers.

It is that pragmatic question which troubled the committee.

The second point I would make with respect to the Volvo is that that Volvo car was developed in response to the California standard, which is 1.5 NO_x. In other words, under the pressure of the 1.5 standard, compared to the current national 3.1 NO_x standard Volvo was able to develop a car that did much better than the standard required.

It is our hope and I think the belief of the committee that a 1 standard, as contained in the committee bill, would be as effective in forcing development of new technology as the 1.5 standard embraced in the California current policy.

I think those two points with respect to the Volvo illustrate the committee's thinking which prompted it to adopt the policy which is found in the committee bill.

Mr. WILLIAM L. SCOTT. Reserving the right to object, and of course I shall not object, but I am just wondering when I might offer my amendment.

As the distinguished Senator knows, I have 1 hour reserved. I do not intend to take but a very few minutes. But I do not want it to be pushed aside to the end of the bill. I will be most cooperative and only speak 5 or 6 minutes, something of that nature, of the hour, if I can have a reasonable time to present my amendment.

Otherwise, I will take the whole hour, even if it is just with a quorum call.

Mr. MUSKIE. May I say to the Senator that it is my wholehearted desire to accommodate the Senator.

With respect to the timeframe that we have got to operate in, as the Senator knows, under the current order we are scheduled to vote at 1:45 on final passage, provided there have been 15 hours of debate at that point, and that Senator ALLEN has had the time that was allocated to him under the order.

I do not know whether the expiration of the 15 hours at this point coincides with the 1:45 time or not.

May I ask the Chair?

The ACTING PRESIDENT pro tempore (Mr. ALLEN). By 1:45, more than 15 hours of pendency of the bill before the Senate will have been attained.

Mr. WILLIAM L. SCOTT. Mr. President, I withdraw my reservation and suggest the absence of a quorum.

UNANIMOUS-CONSENT AGREEMENT

Mr. BUCKLEY. Mr. President, would the Senator withhold that?

I would like to offer a unanimous-consent agreement that I believe will accommodate the Senator from Virginia.

I ask unanimous consent that his amendment be scheduled to come up immediately following the vote on the Packwood amendment, I believe that would be around 1 o'clock or earlier.

Mr. WILLIAM L. SCOTT. That is all right.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. WILLIAM L. SCOTT. Mr. President, I ask unanimous consent that it be in order to ask for a rollcall vote on my amendment at this time.

The PRESIDING OFFICER. Is there objection to the request?

Without objection, it is so ordered.

Mr. WILLIAM L. SCOTT. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The yeas and nays have been ordered on the amendment to be offered by the Senator from Virginia (Mr. WILLIAM L. SCOTT).

Mr. MUSKIE. I express my appreciation to the Senator from Virginia for his willingness to accommodate the time.

Mr. WILLIAM L. SCOTT. I appreciate the courtesies of the distinguished Senator. I just did not want to be foreclosed.

Mr. MUSKIE. I do not blame the Senator for taking his rights. We have to do it around here.

I think I had completed asking unanimous consent to have a statement printed in the RECORD.

Mr. President, may I in discussing the second Hart amendment address myself to two charts in the back of the room?

It is not possible to reproduce in the RECORD the pictorial portions of those charts, so we have prepared other charts that make the same points in the graphic form. I ask unanimous consent that those two charts be printed in the RECORD at this point.

There being no objection, the charts were ordered to be printed in the RECORD, as follows:

TABLE A2.—ADDED EMISSIONS OVER 1975 (NO_x)

Scenario	Nitrogen oxides: Millions of tons per year added emissions (1975 national emissions 24,000,000 tons)		
	1980	1985	1990
Base	7	18	25
No. 1	7	15	22
No. 2	7	12	18
No. 3	7	11	16
No. 4[1]	5	7	9
No. 5	4	6	7

ASSUMPTIONS (NO)

Scenario	Light-duty vehicles (grams per mile)	Heavy-duty vehicles (percent emission reduction)	Stationary sources
Base	3.1	Present standards	Existing NSPS and SIP.
No. 1	2.0	EPA 1978 plans	Do.
No. 2	1.0	75 percent	Do.
No. 3	.4	90 percent	Do.
No. 4[1]	1.0	75 percent	Accelerated NSPS.
No. 5	.4	90 percent	Do.

[1] Most like Senate bill.

Note: NSPS=New source performance standards. SIP=State implementation plan. Growth assumed at 3 percent p.a. for mobile and 3 to 6 percent p.a. for stationary sources.

ATTACHMENT D

TABLE D1.—TOTAL ANNUAL AUTO EMISSIONS

[Million metric tons per year]

Scenario	Carbon monoxide (CO) (million metric tons per year)				
	1970	1972	1975	1980	1985
Freeze at present standard (15g/mi)	55	46	32	20	17
Public health based standard in 1977 (3.4g/mi)	55	46	32	13	4.5

TABLE D2.—TOTAL ANNUAL AUTO EMISSIONS

Scenario	Nitrogen oxides (NO_x) (million metric tons per year)				
	1970	1972	1975	1980	1985
Freeze at present standard (3.1g/mi)	3.8	4.2	3.8	3.5	3.6
Freeze at 1977 interim standard (2g/mi)	3.8	4.2	3.8	2.8	2.4
Similar to Senate bill (1g/mi)	3.8	4.2	3.8	2.3	1.4
Implement present Clean Air Act (0.4g/mi)	3.8	4.2	3.8	2.1	.9

Source: Adapted from "Air Quality and Automobile Emission Control", vol. 4, The Costs and Benefits of Automobile Emission Control, pp. 82–83. A report by the National Academy of Sciences for the Senate Public Works Committee. Committee Print, 1974.

The ACTING PRESIDENT pro tempore. The Senator's 10 minutes have expired.

Mr. MUSKIE. Time passes. I will take another 5 minutes.

The ACTING PRESIDENT pro tempore. The Senator is recognized.

Mr. MUSKIE. May I call the attention of the Senator from Colorado to two points with respect to this chart?

On this chart, to the right we have carbon monoxide and nitrogen oxides depicted.

The lowest curve on both charts indicates the movement of the progress of control over those two automobile related pollutants, through 1985 under the committee bill.

In connection with the oxides of nitrogen it shows the improvement that would take place under the committee bill and the Hart amendment.

On the carbon monoxide side, it is clear that the curve shows there will be steady improvement from 1975 to 1985, under the committee bill.

With respect to oxides of nitrogen, there is steady improvement under both the committee bill, which is the second curve from the bottom, and the Hart amendment, which is the bottom curve. The space between the two reflects the difference in the rate of improvement under the two amendments, if it is possible to achieve both.

This is not an assumption on the availability or the effectiveness of the technology; it is simply a depiction of what would be the relative progress under each if it is possible to get the technology and to install it on all automobiles in accordance with the time schedules of either the committee bill or the Hart amendment.

Mr. GARY HART. Will the Senator yield for a question?

Mr. MUSKIE. Yes.

Mr. GARY HART. The Senator from Maine will agree that on the chart to the left——

Mr. MUSKIE. I would like to get to that later.

Mr. GARY HART. Then on the chart to the right, there is, between the committee proposal and the Hart amendment on the oxides of nitrogen standard, by 1985, about a 40 to 50 percent difference in the total amount of emissions, between 1.4 million tons per year and 0.9 million tons per year?

Mr. MUSKIE. I would like to make the point, may I say to the Senate, that under the current standard the emissions are 3.6 million tons. Under the committee bill the result in 1985 is roughly one-third of that. Under the Hart amendment the result would be roughly one-fourth of that. It all depends upon what the perspective is.

We were looking at dealing with the current problem—and I will get into the other factors that entered into our consideration—and the Senator is right, that if we focus at the points he indicated, there is that difference. If we focus on where we are, both of them represent substantial progress.

May I say to the Senator, if he focuses on the 1.4 million tons of NO_x emitted in 1985 relative to the 3.6 million tons emitted in 1985 with the current 3.1 grams standard the automobile industry will say the improvement from 0.9 to 1.4 is so fractional as compared to the total problem represented by the 3.6 million tons that it should not be required. I do not share that point of view.

Figures, of course, can be used in many ways.

Before I get to the second chart, let me make this point: Nitrogen oxides are emitted by stationary sources as well as mobile sources. There has been very little focus on the stationary source NO_x problem and very little done about it. Even with respect to the nondegradation policy which occupied so much of the time of the Senate over recent days, that policy applies only to sulfur oxides and particulates and not to NO_x. Yet NO_x is a serious stationary source problem.

For example, in Denver, in the Senator's own State, in 1985, given present projections, mobile sources of NO_x will be 18 percent of the problem, and stationary will be 64 percent.

The ACTING PRESIDENT pro tempore. The Senator's 5 minutes have expired.

Mr. MUSKIE. I yield myself another 5 minutes.

If we adopt the Hart amendment and are dealing with the stationary sources of NO_x effectively, the Hart amendment would do very little with respect to the total NO_x problem.

Mr. GARY HART. Will the Senator yield?

Mr. MUSKIE. Yes.

Mr. GARY HART. If the Senator will acknowledge as he did throughout, and as all committee members did, there is overall pollution and peak rush hour drive time pollution. The problem in Denver, which the Senator refers to, is the drive time early morning and late afternoon hours when the NO_x levels reach very dangerous proportions. That is true in many other cities. It is not the total amount of pollution and how much is contributed by mobile sources or automobiles; it is the fact that during certain periods of the day when people are in their cars and driving is when the danger occurs. That is when people are driving their automobiles.

Mr. MUSKIE. First of all, the health problem comes from the moving automobile and from NO_x partially from stationary sources.

Mr. GARY HART. Partially.

Mr. MUSKIE. Partially. And, second, under both the committee bill and the Hart amendment susbtantial progress is going to be made between now and 1985 on that vehicle side NO_x problem.

The Senator makes the argument, and I have heard him make it in committee, as though the committee's standard would not deal with automobile-generated NO_x, whereas, according to this chart, the committee bill clearly will reduce it by two-thirds from the present problem.

There is a legitimate argument between the Senator and the committee on the gap at the bottom, but the Senator ought not to ignore the progress that is represented by the other gap, which is also reflected in the first chart.

The big potential improvement from the base line, which is this year, down to the two bottom lines has to come from stationary sources. The red line is the committee amendment and the bottom line is the Hart amendment. That part of the problem as compared to the other part of the problem is an entirely different order of magnitude. The Senate ought to understand that as we get into the discussion of this amendment.

I repeat, the differences between the Senator and myself and the Senator and members of the committee are not philosophical; they are pragmatic.

Mr. McINTYRE. Will the Senator yield?

Mr. MUSKIE. Yes.

Mr. McINTYRE. I ask unanimous consent that Edward Dooley, of my staff, be granted the privilege of the floor during the consideration of the pending bill.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. MUSKIE. Mr. President, with that background, may I make the case for the committee amendment?

The primary point to be made is that the committee bill is a preferable way to achieve additional control on automobiles in the foreseeable future. By setting a statutory level of 1.0 grams per mile of NO_x, the committee bill has selected a level which will force introduction of new technology but which cannot be stonewalled by the industry in the way the .4 NO_x standard has been.

In its study on the good faith efforts of the automobile industry in this connection, EPA concluded that a maximum effort was not made by the automobile industry to meet the 1978 emission standards, including 0.4 NO_x. As a result, the industry can now claim that technology is not available to meet that standard.

The points that the Environmental Protection Agency made are these:

First, in 1972, EPA disclosed an error in the Federal reference measure of ambient NO_x which formed the basis for the 0.4 grams NO_x standard.

Second, EPA suggested to Congress in the letter to Senator Randolph, dated November 11, 1973, that the timetable for reaching statutory NO_x be stretched, with 2.0 NO_x standard in 1977, 1.0 in 1982, and 0.4 not required until 1990.

Third, Congress has been discussing the ultimate NO_x standard, for a long time and has delayed the implementation of the O.4 gram per mile standard by 1 year, but has not yet made a conclusive determination whether the 0.4 NO_x standard is required to protect human health.

Thus, the 0.4 NO_x is mainly a shibboleth at this point, used by the automobile manufacturers as an arguing point to debate and delay every standard they must deal with.

The committee bill takes away that argument from them by establishing a clearly legitimate standard of 1.0 gram per mile in the near future—1979–80. Implementation of that standard will set the stage for further tightening if that should be indicated by additional information that will be available at that time.

How do we know that information will be available? The Air Quality Commission is required to study and make a report and recommendation on the auto emission standard for NO_x by March 1977. That will be sufficient time for the Congress to enact a different standard for 1982. And the committee bill establishes a research objective to build cars that can meet a 0.4-gram-per-mile NO_x standard so the necessary technical information will be generated.

May I add here, Mr. President, that I would not be surprised, given the experience with Volvo, under the 1.5 California standard, that the 1.0 national standard will force technology that will produce a better result than 1.0 NO_x and conceivably 0.4 NO_x, so that we will be in a learning process both in the efforts of the industry to meet this legitimate standard, under the study provisions of the act, and the mandate of a research objective to move toward the 0.4 NO_x standard if evolving infromation and understanding demonstrates that that is essential to the public interests.

I offered the 1.0 gram/mile NO_x standard in the subcommittee and the full committee and opposed 0.4 gram/mile for these reason:

First. The health effects basis for 0.4 gram/mile is uncertain. The NAS stated:

> It appears that the Federal emission standard of .4 grams per mile for NO_x may be somewhat more stringent than is needed to achieve the ambient air quality standards for NO_2 by itself. However, this finding too much be carefully qualified since the existing analyses relating NO_x emissions to subsequent oxidant formation are considered inadequate.

So the state of our information is incomplete, it is inadequate, and it is the intention of the committee bill to force the development of more information and more understanding as we operate under the 1.0 standard which has a 1980 deadline.

Second. Choice of 1.0 grams per mile NO_x standard will make it easier to improve fuel economy with catalyst technology and conventional engines.

Third. The 1.0 grams per mile NO_x standard is technically achievable for the dual catalyst, three-way catalyst and alternative engines such as stratified charge, and the diesel; while with respect to the 0.4 NO_x the final judgment as to diesels is not yet clear, according to the National Academy of Sciences.

So. Mr. President, to summarize, the reason we adopted 1.0 is to insure that we move in a steady line of improvement on NO_x, which all information indicates will be the case.

Second, 1.0 will reduce the present load of nitrogen oxide emissions by two-thirds by 1985.

Third, in the process, the automobile industry will be forced to develop new technology which conceivably could achieve an even better performance than 1.0 NO_x, and by that time we will also know whether something better is necessary for the public health.

Finally, Mr. President, going to 1.0 will eliminate this argument that the automobile industry has used for years to slow down their efforts to develop technology not only with respect to NO_x but also with respect to these other pollutants as well. They have constantly argued that technological options for dealing with hydrocarbons and carbon monoxides are limited because they have to point toward a 0.4 NO_x standard. That argument has been, I think, overmade but nevertheless they have used it and as a result have dragged their feet not only with resepct to NO_x but also with respect to these other two pollutants which may be the more lethal really in terms of present knowledge of the three automobile pollutants.

Mr. President, I am prepared to reserve the remainder of my time.

(Mr. McINTYRE assumed the chair.)

Mr. ALLEN. Mr. President, will the Senator yield me 1 minute to make a unanimous-consent request?

Mr. MUSKIE. I am happy to yield.

Mr. ALLEN. Mr. President, I ask unanimous consent that following disposition of the Scott amendment I be recognized for 15 minutes to carry on what I feel is important colloquy with the distinguished Senator from Maine and the distinguished Senator from New York.

The PRESIDING OFFICER. Is there objection?

Mr. MUSKIE. Mr. President, reserving the right to object, will this time come out of the Senator's time?

Mr. ALLEN. It will come out of the time allotted to me, yes.

Mr. MUSKIE. At what time will that occur?

Mr. ALLEN. Following disposition of the Scott amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MUSKIE. Mr. President, I yield to my good friend from New York.

The PRESIDING OFFICER. On whose time?

Mr. MUSKIE. How much time do I have remaining?

The PRESIDING OFFICER. The Senator from Maine has 13 minutes remaining.

Mr. MUSKIE. Thirteen minutes.

Mr. BUCKLEY. Mr. President, I shall use very few of those minutes. I thank my friend from Maine. I believe he has covered the ground, as he always does, completely and effectively. But I shall have to take exception with one statement of his: That was the one when he said that the House bill was more "conservative" than ours.

I wish to think that I am a conservative whose credentials are not questioned. It has long been my position and belief that a truly conservative position, based on an understanding of our environment, would indicate that conservatives ought to be very cautious about doing anything that interferes with systems that have served us. That is true whether we are talking about political systems, social systems, or environmental systems.

Mr. MUSKIE. Mr. President, will the Senator yield?

Mr. BUCKLEY. I yield.

Mr. MUSKIE. I confess I was mentally searching for a better word and could not come up with one so I ended up with "conservative." I do not object to the Senator's conservatism.

Mr. BUCKLEY. I have been trying to preach the gospel among our colleagues for some time, to point out that those institutions that are hesitant about radical change ought to be applied to the radical changes that modern technology has imposed upon our ecosystems, the ability of our air and water to absorb pollution.

Turning directly to this amendment, Mr. President, I must express my opposition to the Hart amendment. I compliment him for focusing on the issues that are important, issues that were thrashed out to a very great extent in committee among people who are searching for the same objectives.

But I believe that the decision we have reached in committee on the program of auto standards is a reasonable one and I therefore intend to stick by it.

In part, it is reasonable because it provides us with assurance of permanent controls, without forcing the industry into a single control technology. This amendment to restore the permanent 0.4 NO_x standard would appear to lock out forever options such as the diesel engine, the stratified charge engine, and the lean-burn system.

By setting the standard at 1.0 NO_x there is every indication that we have created flexibility where it does not now exist, a flexibility that in the longer run will serve our environmental as well as our energy and economic needs.

We have heard a great deal of discussion of the need for increased automotive NO_x controls. While not seeking to minimize the needs for such controls—obviously, the increment of pollution is an important matter of concern—I must point out the need, as has the Senator from Maine, for increased attention to the control of NO_x from stationary sources.

To clarify and illustrate this point, I ask unanimous consent that a chart prepared by the National Academy of Sciences showing projected NO_x levels, together with their sources, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NATIONWIDE NO_x EMISSIONS PROJECTED TO 1990 ASSUMING THE PRESENT STATUTORY PROGRAM

Source category	NO_x emissions (10^6 tons per year)			
	1972	1980	1985	1990
Stationary fuel combustion	12.27	15.96	16.82	18.46
Electric generation	5.94	8.16	8.20	8.88
Industrial	5.39	6.73	7.46	8.31
Commercial-institutional	.65	.76	.84	.93
Residential	.29	.31	.32	.34
Industrial process losses	2.88	3.91	4.72	5.71
Solid waste disposal	.18	.22	.25	.28
Transportation [1]	8.45	8.47	7.49	7.60
Road vehicles	7.48	7.14	5.89	5.68
Gasoline	6.59	5.97	4.30	3.95
Diesel	.89	1.17	1.59	1.73
Other	.97	1.33	1.60	1.92
Miscellaneous [2]	.59	.74	.87	1.02
Total	[3] 24.37	29.30	30.15	33.07

[1] Assumes a 4 percent annual VMT growth rate.

[2] Includes New York City point sources assumed to grow at 4 percent per year.

[3] 1972 total emissions are 270,000 tons lower than those summarized in table 2.2 due to the use of new road vehicle emission factors.

Mr. BUCKLEY. It is my belief, Mr. President, that we must do far more to control stationary sources of NO_x, rather than attempt to achieve the total national improvement from mobile sources. Many types of stationary sources are now free of NO_x controls. It was with that thought in mind that I sponsored a provision in this bill that directs the EPA to study and recommend a system of penalties on the emission of NO_x from stationary sources to provide economic incentives for the development of technology for their control.

I must also point out that the committee bill retains the 0.4 NO_x level as a research objective, so that we can move to it at a later date if this proves wise and necessary in the interests of public health.

The Baker Commission that is established in this bill to review the entire area of air pollution control is also directed to examine this specific issue during the initial period of its existence.

Therefore, there will be ample time and opportunity for the committee to make such adjustments as this study indicates desirable, and long before we reach the 1980's.

In summary, Mr. President, I believe that it would be unwise to adopt the Hart amendment, and I urge its defeat.

Mr. MUSKIE. Mr. President, I yield 2½ minutes each to the Senator from Iowa (Mr. McClure) and the Senator from New Mexico (Mr. Domenici).

Mr. McCLURE. I thank the Senator for yielding this time.

Mr. President, in the very brief time I have, it is difficult to discuss the total issue, but I cannot help making two observations.

One, the Senator from Connecticut made some comments a moment ago about whether or not we had enough steel in our spine. I am much more concerned about whether we have too much bone between our ears.

The question is whether or not we have the ability to look at the facts and analyze them and then act intelligently, with regard to those facts.

The second point is whether or not, as has been suggested, we are moving too slowly, that we have made so little progress. We have had national standards in this field for only 8 years, and we have made tremendous progress in the 8 years.

I share with the Senator from Colorado the desire to look at that 0.4 NO_x, the desire to use that as the ultimate attainment goal. But how fast can we move?

If we have not achieved everything that we hope to achieve in this short period of 8 or 10 years, in which we have been struggling with specific standards, either on a State or a national basis, and we have not achieved nirvana as yet, I remind Senators that it was 4,000 years ago that Moses came off the mountain with the tablets of stone, and we have not yet achieved those standards, either.

Perhaps there are human frailties involved in moving as rapidly as people would like. But we have made significant and real progress in the last 8 or 10 years. We are continuing to make progress. Under the committee bill, we will continue to make progress.

I hope the Senate will support the committee on both amendments 1608 and 1609, and reject each of them.

Mr. DOMENICI. Mr. President, I just wish to make a couple of general comments about the committee's schedule and its arrival at a 1.0 NO_x standard.

I repeat what I said earlier this morning: We are not here, as I see it, talking about a committee that is going to make it easy for the automobile companies. We are not here talking about a committee recommendation, either in the schedule or in the 1.0 NO_x, that has succumbed to industry pressure. Quite to the contrary, we have come forth here with a set of standards that is far stricter than that which Mr. Russell Train recommends.

I am reminded that the Senator from Colorado, in urging that we move ahead as rapidly as possible because there is new technology either in place or on the horizon, quoted the distinguished Mr. Train in support of his case. I remind the Senator that that is so; that was a correct quotation from Mr. Train. But when we get down to the practical application, what did he recommend?

I remind the Senate that in our schedule for 1978, 1979, and 1980 and in our 1.0 NO_x, we have far exceeded what that distinguished environmentalist, quoted extensively here this morning as to what we should be doing. Mr. Train's eloquent words about being the cutting edge for cleaning up this mobility by forcing technology are reflected in the committee bill, both with reference to 1608, the first amendment, and with reference to 1.0 NO_x. This bill is stricter than Mr. Train's recommendation.

I also wish to make one comment about the California data. The eloquent Mr. Quinn, the expert Mr. Quinn, also urges that we push ahead. But I remind the Senate that with reference to amendment 1608, the first amendment of Senator Hart, he recommends that we go slower than we are going. Yet, he is the one with the field experience with the Volvo in California.

In conclusion, there is no doubt in my mind that California led the way to new technology in NO_x. They led it with the 1.5 standard. They measure differently from the national certification whether or not you are certified. They permit you to exceed the limitation. We do not do that in our national certification. So if a 1.5 standard gets a .4 result under their system, a 1 with our national certification will force technology, also.

Mr. MUSKIE. Mr. President, I yielded 5 minutes.

The PRESIDING OFFICER. Two minutes remain.

Mr. DOMENICI. I thank the distinguished chairman.

Mr. MUSKIE. Mr. President, I yield 1 minute to the Senator from Michigan.

Mr. GRIFFIN. Mr. President, it is no secret that I am not satisfied with the reported bill as it relates to auto emission standards. The pending amendment would make the bill even worse by tightening the nitrogen oxide—NO_x—emissions standard to 0.4 gram mile for cars built after 1981. That was the standard originally mandated by Congress in the Clean Air Act of 1970.

In deciding to recommend that the current statutory NO_x standard should be relaxed to a level of 1.0 gram mile, the Senate Public Works Committee recognized that the added costs of meeting the 0.4 gram mile standard were not justified by public health consideration. Regrettably, the committee did not go far enough in modifying this overly restrictive standard.

For example, a study by a panel of the Committee on Motor Vehicles of the National Academy of Sciences concluded that the NO_x standard "seems more restrictive than need be by a factor of about three" and that a 1.5 grams per mile standard seemed "more nearly what is required." Additional justification for a more reasonable NO_x standard is provided by a 1975 Yale Medical School study, which concluded that the existing statutory standard of 0.4 gram per mile was too stringent by a factor of four.

Furthermore, as the Public Works Committee report points out:

> (i)t is difficult to justify stringent nitrogen oxide controls on moving sources, when more than half of the nitrogen oxides come from stationary sources and these sources remain relatively uncontrolled.

Indeed, in most major cities today stationary sources contribute more NO_x to the atmosphere than do autos. And, NO_x control of stationary sources has been shown to be far more cost effective than imposing still more stringent NO_x control on autos.

Much attention has been given to the recent announcement by the California Air Resources Board that tests of a 1977 four-cylinder Volvo resulted in emissions lower than those allowed by the existing Federal standards. A 10-percent improvement in fuel economy was also claimed. It has been argued that these test results militate against any change in the NO_x standard or any further delay in the deadlines for meeting the statutory standards.

Several important clarifications are necessary, however, to set the record straight on this matter. First, the cars would not have complied with Federal test requirements, which are more rigid than the California test standards.

Second, these results were achieved only on a four-cylinder Volvo equipped with fuel injection and a three-way catalyst. The added cost of this system is nearly $300.

Third, the fuel economy gain was based on a comparison with a 1976 Volvo without a catalyst. Even larger gains have been made by catalyst-equipped American cars, and a number of domestic-built cars get better fuel economy than the 21.6 mpg average of this foreign car.

Fourth, the three-way catalyst is the only technology that has shown any real potential to meet a 0.4 NO_x standard in the near future. As studies by EPA, the National Academy of Sciences, and the National Science Foundation have suggested, development of more promising technology would be precluded if the current NO_x standard is retained.

Fifth, the three-way catalyst installed in the test Volvo requires heavy use of the scarce metal rhodium. Indeed, rhodium producers have expressed concern about the availability of supply if this precious metal is used in the quantities required by this type of catalyst system.

Finally, Volvo itself believes that it would be "unrealistic to conclude that the three-way catalyst technology can be immediately applied to all engine configuration or that in doing so, the very low emissions levels specified in the Clean Air Act could be met." In fact, the company has recommended a moratorium on emissions standards at levels that are less stringent than those contained in the pending bill.

At a time when the economic and energy effects of clean air regulations need to be given far greater weight, this amendment points exactly in the wrong direction. It would create a technological straitjacket and lead to substantially higher fuel consumption and consumer costs.

I urge my colleagues to reject this amendment.

Mr. MUSKIE. Mr. President, I reserve the remainder of my time, or I am prepared to yield it back. I understand that the Senator from Colorado would like to speak.

Mr. GARY HART. I will summarize my agruments.

Mr. President, Congress was right in 1970 when it enacted into law a statutory 0.4 NO_x standard to be applicable for 1975. Since 1970, when Congress enacted this, nothing has changed.

The arguments made before the Committee on Public Works to change this standard upward from 0.4 to 1 were two: First, the state of the economy and, second, the state of our energy situation. Both arguments are phony. No one is going to lose his or her job as a result of putting this catalyst converter on an automobile. In fact, it can create jobs.

No. 2, it is not going to destroy our energy situation.

The California standards and the California experience, which we have introduced into the RECORD and argued here this morning, show that you can have clean air and fuel efficiency. So nothing is changed.

All the testimony we heard in that committee about how we have to relax standards to protect our economy and protect our energy situation just do not hold water. The history of auto pollution controls in this country, in spite of the valiant efforts of people like the Senator from Maine, has been delayed. In April 1973, the EPA delayed the 1975 standards for 1 year. In July 1973, EPA postponed 1976 standards for 1 year. In June of 1974, Congress postponed standards for yet another year in response to the energy crisis. On March 5, 1975, EPA again delayed the standards for another year.

That is the record. The Senator from Maine says, and I believe I quote him accurately:

> In the good-faith study that EPA conducted, the maximum effort was not being made by the automobile industry to meet the 1978 emission standards, including .4 NO_x. As a result, the industry can now claim that technology is not available to meet that standard.

That is precisely the argument that I made here earlier: Because Detroit does not move on this and does not attempt to meet these standards, they can later argue that technology does not exist.

The Senator from Maine says something to the effect that 0.4 NO_x is mainly a shibboleth at this point, used by the automobile manufacturers as an arguing point to debate and delay every standard they must deal with.

Mr. President, I bow to no one in my respect for the record that the Senator from Maine has made on this issue. He is a pioneer and he is courageous. I think that now, to change that standard upward from 0.4, which was right when it as put in and is right today, to 1.0 as a means of getting the automobile industry off this point, to get them to meet the other standards, is the wrong approach. I think what we need now is not more delay but more pressure. That is why I offer this amendment. That is why I hope the Senate will accept it.

I yield back the remainder of my time.

Mr. MUSKIE. Mr. President, I shall take just a few seconds. First of all, the concerns which moved me to present the 1.0 for the standard were not energy and the economy of the automobile industry, as I think my comments this morning disclosed. I simply refer to them.

Second, the 0.4 controversy has, without question, even according to the Senator from Colorado, been responsible for foot dragging and delay by the automobile industry in moving toward the solution of all of the automobile pollutant problems; 1.0 eliminates that argument. It is a legitimate target. It presses technology. It moves us forward. So I think it would be a more effective way of prodding the industry and it moves us toward progress. It enables us to move toward 0.4 sometime, if we need it.

I ask unanimous consent that the second vote be a 10-minute vote so we can save some of the precious time allotted to this.

The PRESIDING OFFICER. A 10-minute interval between——

Mr. MUSKIE. No, that the second rollcall vote be a 10-minute rollcall vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

Is all time yielded back? Has the Senator from Colorado yielded back his time?

Mr. GARY HART. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Colorado No. 1608. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. HARTKE), the Senator from South Dakota (Mr. McGOVERN), the Senator from California (Mr. TUNNEY), and the Senator from Minnesota (Mr. MONDALE) are necessarily absent.

I also announce that the Senator from Michigan (Mr. PHILIP A. HART), and the Senator from Delaware (Mr. BIDEN) are absent because of illness.

I further announce that, if present and voting, the Senator from California (Mr. TUNNEY) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BROCK), the Senator from Nevada (Mr. LAXALT), and the Senator from Pennsylvania (Mr. SCHWEIKER) are necessarily absent.

The result was announced—yeas 30, nays 61, as follows:

[Rollcall Vote No. 478 Leg.]

YEAS—30

Abourezk
Bayh
Brooke
Bumpers
Case
Church
Clark
Cranston
Culver
Durkin
Hart, Gary
Haskell
Hatfield
Humphrey
Jackson
Kennedy
Leahy
Magnuson
Mansfield
Mathias
Metcalf
Nelson
Packwood
Pastore
Pell
Proxmire
Ribicoff
Stone
Weicker
Williams

NAYS—61

Allen
Baker
Bartlett
Beall
Bellmon
Bentsen
Buckley
Burdick
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Cannon
Chiles
Curtis
Dole
Domenici
Eagleton
Eastland
Fannin
Fong
Ford
Garn
Glenn
Goldwater
Gravel
Griffin
Hansen
Hathaway
Helms
Hollings
Hruska
Huddleston
Inouye
Javits
Johnston
Long
McClellan
McClure
McGee
McIntyre
Montoya
Morgan
Moss
Muskie
Nunn
Pearson
Percy
Randolph
Roth
Scott, Hugh
Scott,
  William L.
Sparkman
Stafford
Stennis
Stevens
Stevenson
Symington
Taft
Talmadge
Thurmond
Tower
Young

NOT VOTING—9

Biden
Brock
Hart, Philip A.
Hartke
Laxalt
McGovern
Mondale
Schweiker
Tunney

So Mr. GARY HART's amendment was rejected.

Mr. MUSKIE addressed the Chair.

The PRESIDING OFFICER. The Senator from Maine.

Mr. MUSKIE. May I say to Senators that there will be another 10-minute rollcall vote in 10 minutes.

At this point, I yield 30 seconds to my good friend from Wyoming.

The PRESIDING OFFICER. Under the previous order, there will now be 10 minutes of debate, equally divided between the Senator from Colorado (Mr. GARY HART) and the Senator from Maine (Mr. MUSKIE), to be followed by a 10-minute rollcall vote on amendment 1609.

Now, the Senate will be in order to hear the debate on 1609. Those Senators running around the aisles will take their seats, others will leave the Chamber.

Will the Senate be in order?

The Senator from Wyoming.

Mr. McGEE. Mr. President, I thank the Chair for getting attention.

Mr. BUMPERS. Mr. President, the Senate still is not in order.

The PRESIDING OFFICER. The Senate will be in order.

FEDERAL EMPLOYMENT PREFERENCE

Mr. McGEE. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 5465.

The PRESIDING OFFICER. (Mr. McINTYRE) laid before the Senate a message from the House of Representatives announcing its disagreement to the amendments of the Senate to the bill (H.R. 5465) to allow Federal employment preference to certain employees of the Bureau of Indian Affairs, and to certain employees of the Indian Health Service who are not entitled to the benefits of or who have been adversely affected by the application of, certain Federal laws allowing employment preference in Indians, and for other purposes, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. McGEE. I move that the Senate insist upon its amendments and agree to the request of the House for a conference, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. McGee, Mr. Burdick, and Mr. Stevens conferees on the part of the Senate.

CLEAN AIR AMENDMENTS OF 1976

The Senate continued with the consideration of the bill (S. 3219) to amend the Clean Air Act, as amended.

Mr. MUSKIE. Mr. President, I yield 10 seconds to the Senator from Washington.

Mr. JACKSON. Mr. President, I ask unanimous consent that Joel Merkel and Wendy Davis be granted privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MUSKIE. Mr. President, I understand the Senator from Colorado would like to begin his summary at this point.

The PRESIDING OFFICER. Will the Senator suspend? We will try to have some order in the Senate. This is on 1609, and we would like to hear it.

The Senator from Colorado.

Mr. GARY HART. Mr. President, the dispute before the Senate on amendment No. 1609 is between 1 gram per mile versus my amendment which provides 0.4 gram per mile nitrogen oxide pollutants; 0.4 is the current law established by Congress in 1970. All my amendment does is keep the current law what it has been for the last 6 years.

What are the practical effects and the differences between 1 gram per mile and 0.4?

First of all, the National Academy says that difference may be the difference between meeting ambient air standards in various parts of this country.

Second, as these charts show, those on the left and right, there is a difference by the mid-1980's of about half a million tons a year of nitrogen oxides in the air.

That is important for only one reason. That is, that nitrogen oxides produce cancer. They produce cancer in the lungs of the people of this country. That is a very practical difference.

Third, there is an argument as to whether this standard can be met by automobile engines in this country and still maintain fuel efficiency.

The device I have in my hand, representatives of Detroit say does not work. That is a catalytic converter which not only achieves standards I am proposing, but does so with a 10-percent fuel efficiency increase.

Mr. President, if there is one thing clear to the Congress of the United States, that is improvements in the area of clean air will not occur voluntarily. The improvements we have achieved in automobile emission standards have been because of the will of the Congress reflecting the will of the people of the United States.

If we leave to the automobile industry to do voluntarily, it will not happen.

The one question that the committee members have not answered is, why delay if the capability presently exists?

The capability presently exists. The current law is right. Retreat from the 0.4 standard established in 1970 is a retreat by the Congress of the United States from the standard established to protect the public health and environment of the United States of America.

That is not a question merely of people's jobs. It is not a question really of energy, both of which I think are irrelevant and immaterial and unsubstantiated.

It is a question of life and death.

Nitrogen oxides cause cancer. Four thousand people will lose their lives in this country next year as a result of the quality of the air they breathe. Four million work days will be lost because of respiratory diseases.

It is undisputed that the hazards to the lungs of the children of this country, of this generation and future generations, is being jeopardized by the quality of the air coming out of our automobiles.

We can change that. We can change it by a "yea" vote on this amendment.

The technology exists. It can be achieved. The one thing lacking is the will and determination of the Congress of the United States.

That is what this amendment is all about.

Several Senators addressed the Chair.

Mr. CRANSTON. I would like to just testify as a Californian that in California the standards that the Senator from Colorado requires in his amendment are now being met.

They are being met by Volvo. But it is not only a foreign car that can meet those standards. We have been absolutely assured that Ford will market a 1978 Pinto that will meet the standard the Senator from Colorado would hold us to.

Why should we retreat, therefore? It is false that American industry cannot meet these standards.

Another point, the standards are being met in a way that provides a 10-percent gain in fuel, in miles per gallon.

So there is absolutely no reason, based upon experience in my State, not to go along with the Senator from Colorado.

Mr. HUMPHREY. If the Senator will yield, just to make the record clear, because I strongly support the Senator's amendment.

The Senator has a device on his desk——

The PRESIDING OFFICER. The time of the Senator from Colorado has expired.

Mr. GARY HART. A three-way catalytic converter.

Mr. HUMPHREY. Made in the United States?

Mr. GARY HART. Yes.

It costs less than $50.

Mr. MUSKIE. I like the arguments of the Senator from Colorado and I am going to use them in conference with the House to defend either the committee position or the Hart position, whichever the Senate approves, because they are applicable to both, as this chart shows.

This chart shows that with respect to auto emissions of nitrogen oxides, the total emissions at the present time are 3.6 million tons per year. The committee bill would take that down to 1.4 million tons per year in 1985, a reduction of two-thirds.

The Hart amendment would take it down to 0.9 million tons the same year.

So the difference between the two is that.

Second, turning attention to the second chart, the top line shows that the present level of nitrogen oxide emissions in the country are 24 million tons per year. The big part of the movement down is stationary sources of nitrogen oxide.

The committee bill will take that line down to the bottom red line by 1990, reducing the 24 million tons to 9 million tons.

The Hart amendment will take it down to the bottom line, No. 5. So the big problem is not the nitrogen oxide in automobiles, but that from stationary sources.

Why, then, did we take the committee position? Take the Volvo automobile. It was developed under a 1.5 NO_x standard in California. A 1.5 was sufficiently tough to force the technology so that Volvo did better than 1.5. It did .4. The committee's 1.0 can do the same thing. Why, then, do we not go to 0.4? Because 0.4 has been a controversy ever since 1970. The automobile industry has used it to drag its feet, to delay movement on the other automobile pollutants. So we undertook to establish a legitimate target, 1.0, which will enable us to develop that Volvo technology, which is a four-cylinder engine, one car, one model; to transfer that to all cars, all models and all engine sizes by 1980 is a problem, about which the automobile industry has persuaded enough people in the last 6 years so that we made less progress than we should have on carbon monoxide, on hydrocarbons, and other automobile pollutants.

Mr. PASTORE. Will the Senator yield?

Mr. MUSKIE. I yield.

Mr. PASTORE. Does the Senator maintain that his bill is stronger than the House bill? For the conference, would we be in a better bargaining position to accept the Hart amendment and come back to where the Senator stands?

Mr. MUSKIE. My problem is not only to deal with the House but to deal with the Senate. The only way I have been able to do it in the past is to take a position which I can defend. It is for this reason that I can defend this position. I do not suggest that Senator Hart not get votes, because that will help, as long as he does not get too many.

[Laughter.]

Mr. GARY HART. The Senator said my amendment would go into effect in 1980. It would not go into effect until 1982. It is 6 years away.

Mr. MUSKIE. I apologize.

Mr. GARY HART. It is not that we are demanding the automobile industry to meet this standard tomorrow. It is 1982.

Mr. MUSKIE. May I add another correction? The choice is not between 0.4 NO_x and 1.0. The bill sets up 0.4 NO_x as a research objective and requires the National Air Quality Commission to report by 1977 on 0.4 NO_x.

There is still some doubt as to the contribution that a 0.4 NO_x automobile makes to the degradation of public health. We need to answer that question in order to take the argument away from the automobile companies, and we need to give a little more time to force the technology. The committee bill will do that and the Hart amendment will, too.

I think the automobile industry has

demonstrated a capability of persuading people to go along with its foot dragging on this technology because they were able to persuade them that 0.4 was unreasonable; that it was based upon an error in the statistical information which produced the standard in the act, and, as a result, they have that argument; 0.4 is a legitimate research objective.

The PRESIDING OFFICER. All time has expired.

Mr. BUMPERS. Mr. President, I ask unanimous consent to extend the time for 4 minutes, with 2 minutes on each side.

The PRESIDING OFFICER. Is there objection? The Chair hears none. Without objection, it is so ordered.

Mr. BUMPERS. This Senator is slightly confused between what the Senator from Maine has just said about the Volvo automobile and what the Senator from California said a moment ago about the Pinto and the Volvo. Does the Pinto meet California standards? Is that essentially the same standards that the Volvo four-cylinder automobile has now met?

Mr. MUSKIE. The California standard is 1.5.

Mr. GARY HART. Ford Motor Co. has announced that they intend to meet the California standards using this technology in its 1978 Pintos.

Mr. RIBICOFF. Mr. President, I rise in support of Senator GARY HART's amendments. A significant deficiency of S. 3219 is the substantial relaxation of the automobile emission standards required for cars produced in 1978 and afterward. This provision of the bill seems to me to signal a retreat from the commitment to cleanse the environment. This relaxation in emission standards will have a disastrous effect on the air we breathe and on public health in general.

I am especially troubled, Mr. President, as the State of Connecticut reportedly has the second most severe problem in the country for photochemical oxidents, which are primarily caused by motor vehicles. At times this form of pollution exceeds Federal standards established to guard the public health throughout Connecticut. Clearly, some meaningful action must be taken to resolve the situation.

One Hart amendment simply requires manufacturers to comply with auto emission standards 1 year earlier than required by S. 3219. I believe we would be committing a grave mistake by postponing the imposition of strict standards for hydrocarbons and carbon monoxide for 1 year, from 1978 to 1979, and to delay until 1980 a nitrogen oxide emission standard which is six times weaker than levels now being achieved in California under a more stringent law.

The other Hart amendment requires more stringent nitrogen oxide standards, clearly a national necessity.

Mr. KENNEDY. Mr. President, I rise to support the amendments of the able Senator from Colorado, Mr. GARY HART. The first of these, amendment number 1608, would require automobile manufacturers to comply with emission standards 1 year earlier than is required under the bill of the Committee on Public Works. Once the Senate has disposed of this measure, we will move immediately to a vote on the second Hart amendment which mandates an emission standard for nitrogen oxides of 0.4 gram per mile by 1982. So the questions before the Senate are these: Can the standards set by S. 3219 for the year 1979 reasonably be met by 1978, can those for 1980 be met by 1979, and can a 0.4 NO_x standard be met by 1982? I believe the answer to each of these questions is "Yes."

Mr. President, even if we adopt both Hart amendments, the legislation we are considering will represent a weakening of the laws that are now on the books. The bill proposed by the Committee on Public Works goes very far in meeting the demands of the automotive industry. It gives the car manufacturers another year's delay in the imposition of the standards that are mandated by statutes presently in force for hydrocarbon and carbon monoxide emissions, and it raises substantially the allowable emissions of nitrogen oxides. The amendments before us would eliminate that 1 year delay, and would do no more than delay the nitrogen oxide emissions standard which the Congress imposed in the Clean Air Act of 1970.

Now, Mr. President these standards are not new. They did not just rise up suddenly out of the mist to smite the automobile companies and drive them out of business. No, Mr. President, these standards have been well known to the industry for 6 long years. And they would not go into effect under the amendment we are considering until 1978, and in the case of nitrogen oxide standards, 1982. So the manufacturers have certainly had adequate warning of what standards they are being asked to meet. We are not sneaking up on them. These standards were mandated 6 years ago and then only after the most careful consultation with representatives from industry and the scientific community. And I would remind my colleagues that the legislation before us constitutes a significant weakening of the original statute.

To those who argue that the pollution emission levels we are talking about are not technologically attainable, I say that we have the best proof possible that they are. They have already been met. The Volvo Co., among others, has succeeded in equaling or bettering the standards with their 1977 model, and they have achieved this without sacrificing fuel economy. In fact the cars equipped with Volvo's new catalyst system get 10 percent better mileage than those without it.

This technological accomplishment ought to prove to the satisfaction of the most doubtful that the schedule mandated by the Hart amendment can be met. But what are the dangers if we fail to pass this amendment?

The danger is that by allowing the unnecessary delay in implementation of the pollution standards mandated by the committee bill, and by rescinding forever the statutory limits on nitrogen oxide emissions, we will be sending a loud and clear message to the auto manufacturers. We would be saying to them that they stand to gain more by playing politics than by doing research. That they are better off lobbying against clean air legislation than developing a cleaner automobile. That it is far easier to manipulate the Congress of the United States than to tinker with the internal combustion engine. Mr. President, the automobile industry is no different from any other industry—it will take the path of least resistance and of greatest profit. There is nothing wrong with this—it is the basis of the free enterprise system. But it is incumbent on us in the Congress to insure that the path of least resistance is also the path of greatest value to the society. That is why we must have tough but reasonable regulation, and that is why I urge the support of my colleagues for the Hart amendments.

The PRESIDING OFFICER. Who yields time?

Mr. MUSKIE. May I say the Pinto meets the present California standards but not the statutory standard, which is 0.4 NO_x.

I yield back the remainder of my time.

Mr. GARY HART. I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment of the Senator from California, amendment No. 1609. This is a 10-minute rollcall. The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. HARTKE), the Senator from South Dakota (Mr. MCGOVERN), the Senator California (Mr. TUNNEY), the Senator Minnesota (Mr. MONDALE), and the Senator from Missouri (Mr. SYMINGTON) are necessarily absent.

I also announce that the Senator from Michigan (Mr. PHILIP A. HART) and the Senator from Delaware (Mr. BIDEN) are absent because of illness.

I further announce that, if present and voting, the Senator from California (Mr. TUNNEY) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BROCK) and the Senator from Pennsylvania (Mr. SCHWEIKER) are necessarily absent.

The result was announced—yeas 33, nays 58, as follows:

[Rollcall Vote No. 479 Leg.]

YEAS—33

Abourezk
Bayh
Brooke
Bumpers
Byrd, Robert C.
Case
Clark
Cranston
Culver
Durkin
Hart, Gary
Haskell
Hatfield
Huddleston
Humphrey
Jackson
Javits
Kennedy
Leahy
Magnuson
Mansfield
Mathias
Metcalf
Moss
Nelson
Packwood
Pastore
Pell
Proxmire
Ribicoff
Stone
Weicker
Williams

NAYS—58

Allen
Baker
Bartlett
Beall
Bellmon
Bentsen
Buckley
Burdick
Byrd,
  Harry F., Jr.
Cannon
Chiles
Church
Curtis
Dole
Domenici
Eagleton
Eastland
Fannin
Fong
Ford
Garn
Glenn
Goldwater
Gravel
Griffin
Hansen
Hathaway
Helms
Hollings
Hruska
Inouye
Johnston
Laxalt
Long
McClellan
McClure
McGee
McIntyre
Montoya
Morgan
Muskie
Nunn
Pearson
Percy
Randolph
Roth
Scott, Hugh
Scott,
  William L.
Sparkman
Stafford
Stennis
Stevens
Stevenson
Taft
Talmadge
Thurmond
Tower
Young

NOT VOTING—9

Biden
Brock
Hart, Philip A.
Hartke
McGovern
Mondale
Schweiker
Symington
Tunney

So Mr. GARY HART's amendment (No. 1609) was rejected.

ORDER LIMITING ROLLCALL VOTES TO 10 MINUTES

Mr. MANSFIELD. Mr. President, I ask unanimous consent that there be a 10-minute time limitation on all rollcall votes from now on. We are running short of time.

The PRESIDING OFFICER (Mr. FORD). Is there objection?

Mr. McCLURE. Mr. President, reserving the right to object, and I shall not object, is that on this bill?

Mr. MANSFIELD. This bill only.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NELSON. I ask unanimous consent that Judith Robinson of my staff be permitted the privilege of the floor during the further consideration of the pending legislation and rollcall.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MORGAN. Mr. President, my understanding is that the Senator from Oregon will be recognized next, the Senator from Virginia (Mr. WILLIAM L. SCOTT) next, and the Senator from Alabama (Mr. ALLEN) for 15 minutes after that.

The PRESIDING OFFICER. The Senator is apparently correct.

Mr. MORGAN. Mr. President, I have an amendment on the table on which I will not ask for a vote but which I do think is important that the chairman and I carry on a colloquy for the RECORD, so I ask unanimous consent that I be recognized after Mr. ALLEN.

Mr. WILLIAM L. SCOTT. Mr. President, reserving the right to object, could the Senator clarify his request? Under the present orders, I am to follow Senator PACKWOOD, and I wish to continue to do that. Will the Senator's request in any way change that order?

Mr. MORGAN. No.

The PRESIDING OFFICER. The request of the Senator from North Carolina is the Senator from Alabama follows the Senator from Virginia.

Mr. WILLIAM L. SCOTT. I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BUMPERS. Mr. President, reserving the right to object, when was such a unanimous-consent agreement about the sequence of speeches on this amendment entered into?

The PRESIDING OFFICER. It has been added by unanimous consent this morning.

Mr. BUMPERS. Was the Senator from Oregon present at the time?

Mr. PACKWOOD. I was not. I could not hear what was said. I was present when they asked for 10-minute rollcalls.

The PRESIDING OFFICER. The Senator from Oregon is to be recognized now. If Senators will allow the Chair we will move to that.

Mr. WILLIAM L. SCOTT. Mr. President, if the Senator will yield very briefly——

The PRESIDING OFFICER. The Senator from Oregon does not have the floor.

Mr. BUMPERS. The Senator from Arkansas still has the floor, does he not?

The PRESIDING OFFICER. The Senator from Arkansas has the floor, under a reservation of objection.

Mr. BUMPERS. Will the Senator from North Carolina please state again his understanding of the sequence of speakers?

The PRESIDING OFFICER. The sequence of speakers, according to the understanding of the Chair, is the Senator from Virginia (Mr. WILLIAM L. SCOTT), the Senator from Alabama (Mr. ALLEN), and the Senator from North Carolina (Mr. MORGAN), in that order.

Mr. BUMPERS. And how much time is allocated to each speaker?

The PRESIDING OFFICER. The total allocation for the amendment is limited to 1½ hours, in the usual form.

Mr. PACKWOOD. Wait a minute; I may object, in that case.

Several Senators addressed the Chair.

Mr. BUMPERS. Mr. President, the Senator from Arkansas still has the floor.

Mr. MUSKIE. Will the Senator yield?

The PRESIDING OFFICER. Let the Chair clarify that. The time for debate on the amendment of the Senator from Oregon is 1½ hours, and when that is finished, we go to the amendment of the Senator from Virginia, on which there is a 1-hour time limitation. Then the Senator from Alabama has 15 minutes. For the Senator from North Carolina, no time is specified in the agreement.

Mr. BUMPERS. For clarification——

The PRESIDING OFFICER. Is there objection?

Mr. BUMPERS. Further reserving the right to object, I want to be sure. I think I misunderstood in the beginning. The recognition of the Senator from Virginia and those who follow him, the Senator from Alabama and the following, was to be after the 1½ hours of time allocated on the Packwood-Bumpers amendment?

The PRESIDING OFFICER. The Senator is correct.

Mr. BUMPERS. I have no objection.

AMENDMENT NO. 1577

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of the amendment (No. 1577) of the Senator from Oregon (Mr. PACKWOOD), which the clerk will state.

The assistant legislative clerk read as follows:

The Senator from Oregon (Mr. PACKWOOD), for himself and others, proposes an amendment numbered 1577.

Mr. PACKWOOD's amendment (No. 1577) is as follows:

"SEC. 153. (a) On and after January 1, 1978, except as provided in subsection (b), it shall be unlawful for any person to manufacture, produce, import, or export from the United States, aerosol containers containing halocarbons.

"(b) The Administrator shall consider the available reports, consult with appropriate Federal agencies and scientific entities, and afford the opportunity for public hearing, and if he then—

"(1) finds that no significant risk to the public health, safety, or welfare is, or may be posed by the discharge of halocarbons into the ambient air from aerosol containers, then he may, by rule, modify or rescind the prohibition in section 153(a) in whole or in part consistent with that finding, or

"(2) determines that a particular use of halocarbons in aerosol containers is essential for the public health or welfare and an adequate substitute for halocarbons is not available, he may grant specific exemptions from the prohibitions of this section to allow the use of small quantities in such situations.

"(c) From time to time the Administrator may revise any of the regulations issued pursuant to this section in the light of new evidence as to the need for such regulations.

"(d) Nothing in this section shall limit, restrict, or otherwise detract from the authority provided in section 154 of this Act, or any authority under the Consumer Produce Safety Act.

The PRESIDING OFFICER. The time for debate on this amendment is limited to 1½ hours.

The Senator from Oregon may proceed.

Mr. PACKWOOD. Mr. President, this amendment is clear and very simple. What it does is ban the use of a group of chemicals generally called fluorocarbons after January 1, 1978, unless the administrator finds that the use of fluorocarbons causes no significant risk to health and public welfare. Exception is made for some unique necessary uses, such as medication in the treatment, for example, of asthma, and those uses will not be affected by this particular ban.

The argument about fluorocarbons in the atmosphere started about 2½ years ago, when it was discovered that the gases, that is, the spray emitted with hair sprays, deodorants, and antiperspirants drifts upward into the atmosphere and begins to destroy what is known as the ozone level in the atmosphere.

Ozone is a chemical that filters out the Sun's ultraviolet rays. A very slight change in the thickness of the ozone level will let through substantially more ultraviolet rays, and it can have and will have an adverse effect on the Earth, an adverse effect on the climate, an adverse effect on agriculture, and, without a doubt, an adverse effect on the incidence of skin cancer.

There is very little argument as to whether or not fluorocarbons are dangerous. Even the committee bill comes to that conclusion. There is at the moment a split in the scientific evidence, but the split really falls into these two camps: One, that it is absolutely dangerous, it is dangerous now, and, as it takes 10 years from the time any of this fluorocarbon is emitted on Earth until it drifts up to where it affects the ozone level, we do not know what damage we have done during the last 10 years, but we cannot stop it, and therefore we should have a ban immediately; while other scientific evidence says, well, there is no doubt it is harmful, but we are not quite sure how harmful it may be, and we can afford to wait a year or two until we do some further testing.

Mr. President, there is, I repeat, no evidence that the fluorocarbons are not harmful. We can forget that. The question is, do we ban them now, or wait a few years until the danger is imminent, and then do it?

If there was a reason for fear that by banning fluorocarbons we would adversely affect our national defense posture, or do some other significantly adverse thing to this country, then we could balance it. We could say, do we want to ban the fluorocarbons or keep them because of some other countervailing necessity?

In this case, there is no countervailing necessity. First, fluorocarbons are not necessary for all of these hair sprays, antiperspirants, and deodorants we use. All of us have seen advertisements recently for different products—I have a number on my desk—where they are going back to the simple old Windex pump: you press down and out comes the spray. They do not need any fluorocarbon at all.

Second, 75 percent of the fluorocarbons used are used in three categories: hair sprays, antiperspirants, and deodorants. Those are hardly the critical stuff by which civilization is kept together. If we have to go back to the inconvenience of pressing a button and forcing a spray with the physical pressure of our finger, I do not think, somehow, that civilization is going to decline. If we are not willing to trade off the known risk of fluorocarbons so that we can have the convenience of a fluorocarbon propelled spray deodorant or hair set, then I seriously question the values of this society.

Is it going to cause a dislocation to business? No, it is not. One of the biggest manufacturers in this country of products of this nature, the Johnson Wax Co., a year ago ceased using fluorocarbons in any of its products. Let me give you a list of some of the products they manufacture. They are well known to all of us:

> Pledge furniture polishes, Raid insecticides, Johnson Wax automotive products, Jubilee kitchen wax, Favor furniture polish, Glade air fresheners, Edge protective shave, Crew bathroom cleaner, Off insect repellants, Big Wally foam cleaner, Klean 'N Shine multi-surface cleaner, Glory rug cleaner, and Shout pre-spotter.

All from one company, which has totally quit using fluorocarbons, and announced in a public advertisement a year ago that the risk is such that they could not in good conscience keep using it.

Now, if Johnson Wax can cease using fluorocarbons and can find a variety of devices like this to use, there is no reason why other companies cannot do the same. The real objection to the amendment comes, not really from companies like Johnson Wax or others that make the products; it comes from two or three chemical companies that make the fluorocarbon propellant, who do not want to miss their piece of the pie.

I would simply say in conclusion, and I shall reserve the rest of our time, that if for the sake of two or three chemical companies we are going to endanger our climate and endanger our health, when there is an adequate susbstitute for the propellant that is manufactured, and when 75 percent of the propellants manufactured is used for three items, hair spray, deodorants, and antiperspirants, if we are not willing to make that small sacrifice, then I think we have our values badly askew in this country.

I reserve the remainder of my time.

Mr. NELSON. Mr. President, will the Senator yield?

Mr. PACKWOOD. I did not give up my time; I reserved the remainder of my time. But I had promised the Senator from New Hampshire I would yield to him next.

The PRESIDING OFFICER. The Senator from New Hampshire has no time.

Mr. PACKWOOD. No, I have control of my time. I will yield later to the Senator from Wisconsin, but I had indicated that I would yield first to the Senator from New Hampshire.

Mr. McINTYRE. Will the Senator from Oregon yield to the Senator from New Hampshire 10 minutes?

Mr. PACKWOOD. Yes.

The PRESIDING OFFICER. The Senator from New Hampshire is recognized for 10 minutes.

Mr. McINTYRE. I yield to the Senator from Wisconsin.

Mr. NELSON. Will the Chair advise the Senator from Wisconsin how much time the Senator from Oregon has?

The PRESIDING OFFICER. The Senator from Oregon has 36 minutes remaining.

Mr. NELSON. Will the Senator from New Hampshire allow me to propound a question or two to the Senator from Oregon on the Senator's time?

Mr. PACKWOOD. I shall accept briefly. I want to make sure that there is time for the Senator from Arkansas.

Mr. NELSON. I shall withhold until the Senator from New Hampshire has finished.

Mr. McINTYRE. Mr. President, I take this opportunity to commend my distinguished colleagues, Senator GARY HART and Senator PETE DOMENICI for the many long hours they contributed as members of the Public Works Committee toward passage of an ozone protection section in the Clean Air Act amendments.

In conjunction with that effort, the distinguished Senator from Oregon (Mr. PACKWOOD) and the distinguished Senator from Arkansas (Mr. BUMPERS) while not members of the committee, also have worked very hard to focus the attention of Congress and the Nation on this problem which poses dire consequences for the future.

Others, too, have sponsored legislation and expressed real concern about the ozone problem. While I will not take the Senate's time to mention them all, I do want to salute my good friend, Senator CASE of New Jersey, with whom I joined more than 16 months ago in cosponsoring an early version of today's ozone section.

I also commend the distinguished floor manager (Mr. MUSKIE), along with Senators BURDICK, CULVER, and BENTSEN for supporting Senator GARY HART's amendment in committee which is now before us in substantially the same form as the Packwood amendment.

For all of us, the problem in understanding the ozone depletion theory has been the same: We have been forced to rely on the experts because of the complex nature of the scientific evidence.

Consequently, many thousands of pages of testimony were compiled by a special Senate subcommittee under leadership of Senator BUMPERS and Senator DOMENICI. Additional hours of testimony were taken by House subcommittees. A Federal task force has issued its report and there are many other scientific papers readily available.

I make no claim of special scientific expertise in understanding the mysteries of ozone depletion, and my first reaction to this whole thing was one of healthy skepticism.

Who among us wants to believe that a bug spray or underarm aerosol used in 1960 is today a contributing cause of chlorine in the stratosphere which threatens to increase ultraviolet radiation on Earth, resulting in thousands of new cases of skin cancer?

Before any of my colleagues rise to claim that this whole matter is just a theory or only some kind of Buck Rogers vintage scare talk by headline seekers, let me make a few observations to provide some perspective.

First, the scientific warnings are fact, not fiction. Prestigious scientists have nothing to gain from exposing themselves to possible ridicule.

It took real courage on the part of the scientists who expressed concern, including Dr. F. Sherwood Rowland of the University of California and Dr. Ralph Cicerone of the University of Michigan.

As bearers of stranger-than-fiction scientific warnings, they have been subjected to ridicule and scorn, but they stand firm in their claim that aerosols containing fluorocarbons should be banned.

Since aerosols account for an estimated 62 percent of the fluorocarbons released into the atmosphere, a ban on the use of the chemical as a propellant in sprays would significantly reduce the fluorocarbon impact on the ozone layer.

Second, the warnings about the effect of fluorocarbons on the Earth's protective ozone shield have been scrutinized very carefully by industry, by other university researchers, even by a Federal task force comprised of 14 Government agencies.

That task force issued a long and detailed analysis of the ozone depletion problem in June of 1975. Known publicly as the IMOS report, it made a number of recommendations and concluded that the so-called theory of ozone depletion is "legitimate cause for concern."

That task force report was a real shocker for industry users and producers of fluorocarbons.

It said that unless new scientific evidence is found to remove the cause for concern, fluorocarbons should be restricted after January 1, 1978, to replacement fluids in existing refrigeration and air conditioning equipment and to closed recycled systems or other uses not involving release to the atmosphere.

In short the IMOS report recommended a ban on use of fluorocarbon propellants in aerosol sprays beginning January 1, 1978, unless new scientific evidence is found to refute the scientific warnings about continued use of fluorocarbons.

That, Mr. President, is the purpose of the Packwood amendment. And for those who continue to claim that the Packwood amendment moves too fast let me ask them to consider this timeframe:

The warning about fluorocarbon destruction of ozone are now at least 26 months old. The first congressional hearing was held in December of 1974. The IMOS report has been gathering dust for more than a year. And the Packwood amendment asks no action for still another 1½ years to give ample time for completion of a series of studies aimed at eliminating any doubt about the validity of fluorocarbon-caused ozone destruction.

At the beginning of my remarks, Mr. President, I commended the junior Senator from New Mexico, Mr. DOMENICI, for his strong support in the Public Works Committee for helping win approval for the 14-page ozone protection section.

I wish to do so again, and to state that without his support and counsel the ozone protection section would not be at all inclusive as it is now. It provides a reasonable timetable to study and restudy the scientific data about fluorocarbons and to determine if no significant risk exists. This timetable fits perfectly the purposes of the Packwood amendment. It provides that the Administrator of the Environment Protection Agency would waive restrictions on use of fluorocarbons if no significant risk exists. On the other hand, a decision that restrictions are necessary would constitute a finding— after exhaustive study— that a significant risk does exist.

Such a finding would constitute a need for a ban on fluorocarbons in aerosols and those restrictions, under our amendment, would go into effect on January 1, 1978, although they would be subject to modification by the EPA Administrator to accommodate any new evidence or provide for essential uses to benefit public health or welfare.

Now, despite our agreement on the need for additional studies, the Senator from New Mexico differs with this Senator, Senator BUMPERS, and Senator PACKWOOD on a deadline for action. I greatly respect Senator DOMENICI's judgment and contention that there would be no significant ozone reduction during the 3-month difference between the effective date in the Packwood amendment and the effective date, if it is met, in the committee's bill.

I would not want to quibble over 3 months when it has taken nearly 20 years to dump 15 or 20 billion pounds of fluorocarbons into the atmosphere. But I am concerned that we could be legislating possible additional delay.

For example, under the provision supported by Senator DOMENICI, the EPA Administrator, not later than April 1, 1978, is supposed to promulgate and transmit to Congress final regulations dealing with possible restrictions or a ban on fluorocarbons in aerosols.

But before issuing those final regulations, he is also required to hold public hearings, and those hearings could take many months, delaying submission of the final regulations despite the deadline. In addition, there is a 90-day period after submission of the final regulations, during which either the House or Senate could disapprove of the regulations.

So it seems to me we are talking about a provision in the committee bill which would delay restrictions on fluorocarbons—even if they are needed—until at least the middle of 1978 and perhaps for many more additional months.

Now I know the committee worked hard to also provide authority under the expedited regulation section to anticipate a possible need for speedier action.

In fact, Section 154 states that the Administrator at any time prior to January 1, 1978 shall promptly promulgate restrictions or a ban on the sale or manufacture of aerosols discharging fluorocarbons if necessary to protect the public health from significant risk.

The point I really want to make is that the expedited regulation section also provides for public hearings. I do not quarrel with that provision because the section is intended to speed up the normal regulatory process. However, the legislative history should also be clear that the hearing process is not intended—and I think the Senator from New Mexico will agree with me—to produce delay, and should be completed within 60 days.

Does the Senator from New Mexico agree with that statement?

Mr. DOMENICI. If the Senator will yield, indeed, as the principal author of this section of the Clean Air Act, I concur that the expedited section is to take care of the very problem that we are here on the floor discussing. In the event that the Administrator finds that there is serious harm, then he can act within a very short period of time. He does not even have to wait until 1978. Those 60 days are intended to be just that, the absolute maximum, if he chooses to use the expedited sections.

I thank the Senator for raising that issue.

Mr. McINTYRE. I am pleased to hear the Senator from New Mexico make the statement, with which I agree entirely, and I am sure the Senator from Oregon, does, too.

I urge my colleague to support the Packwood amendment.

Finally, the expedited regulation section provides the EPA administrator with authority to act promptly only until January 1, 1978. This is all the more reason to adopt the Packwood amendment, which restores to the committee bill a January 1, 1978 deadline for action which is consistent with the provisions for studies of the scientific evidence.

In conclusion, Mr. President, I urge my colleague to support the Packwood amendment.

It is a rational and reasoned approach to a difficult and complex scientific dilemma.

It is responsive to the people's need for timely action by Congress.

It is a clear signal to State legislatures and local municipalities considering a ban on aerosols that action is forthcoming.

And most important, passage of the Packwood amendment would be a unique opportunity to prove to future generations that we do care about what is happening to our world.

I thank my good friend from Oregon for yielding me time.

The PRESIDING OFFICER. Who yields time?

Mr. BUMPERS. Mr. President, would the Senator like to allow the other side to speak? I shall be happy to use some time right now.

The PRESIDING OFFICER. Does the Senator from Arkansas control the time? It is the understanding of the Presiding Officer that the Senator from Maine (Mr. MUSKIE) would be controlling the time.

Mr. DOMENICI. Mr. President, it was understood in the committee that the Senator from New Mexico would control the time in opposition to the Packwood amendment.

Mr. PACKWOOD. I yield some time to the Senator from Arkansas.

The PRESIDING OFFICER. How much time?

Mr. BUMPERS. Will the Senator consent to a little extra time if I need it?

Mr. PACKWOOD. Yes.

Mr. President, I yield 7 minutes to the Senator from Arkansas.

Mr. BUMPERS. Mr. President, I think it is most regrettable, as it always is, that there are not more Senators here to hear what I consider to be one of the most significant issues this body will face this year. It goes to the very heart of our continuing civilization as we know it, if the theory is correct, and we do nothing. Last September 1, Senator DOMENICI, my distinguished colleague from New Mexico, and I , as an ad hoc committee of the Committee on Aeronautical and Space, began hearings on what we called, in a nice bureaucratic phrase, "inadvertent modification of the stratosphere."

We had 9 long days of hearings during which time we heard from many renowned and reputable atmospheric scientists in the United States. We heard from industry. We heard from everybody we thought could shed any light on this. We heard from the people who composed the IMOS report, the CIAP report, and so on.

Now, here it is. Here are the hearings, 1,500 pages. This is available for any Member of this body who cares to look at it or have a staff member look at it.

While I am reluctant to use such terms, I defy any reasonable man in this body or in this country to read very carefully the 1,500 pages that were developed at that hearing and vote against this amendment.

The principle of this amendment is analogous to that of the Gary Hart amendment which we just voted on concerning the delay of auto emission standards.

I would say that if there ever was an opportunity or if there ever was a valid reason for this body to make a mistake and to err, we should now err on the side of caution.

This amendment is not saying that you cannot use fluorocarbons in your air conditioners and refrigerators. Two billion pounds of fluorocarbons are manufactured in the world each year, of which the United States manufactures half or 1 billion pounds. This amendment says that of the 1 billion pounds we manufacture, the half that goes into aerosols that are absolutely nonessential will be banned on January 1, 1978. I am talking about the underarm deodorants and the hair sprays.

As peripheral as I feel such uses to be, it might be argued that there might not be suitable substitutes. But we had one or two people testify that the consumer would get a break out of this legislation because the roll-on deodorants and the pump hair sprays are much, much cheaper than the aerosols, and they are just as effective.

The industry told us there are 12,000 people and $2 billion involved in this amendment. But you consider 12,000 jobs against the testimony of one of the most renowned dermatologists in the United States, Dr. Fitzpatrick, head of the Department of Dermatology at Harvard. In testimony before our subcommittee he said:

> Malignant melanoma skin cancer is not known definitely to be related to sunlight exposure, but more and more evidence points to a direct relation between melanoma and sunlight exposure:
>
> The incidence and death rate of malignant melanoma are rapidly rising in all countries at a rate of about 3 to 9 percent per year, so that the death rates have doubled in the last 15 years.

At the time of our hearings it was believed that a 1-percent decrease in ozone produced a 2-percent increase in nonmelanoma skin cancer. Since then, a report prepared for the National Cancer Institute shows that such a decrease in ozone will produce a 5-percent increase in skin cancer.

If you take the Rowland-Molina theory, which says that in the upper regions there is a 13-percent depletion of the ozone, and if you reduce that to 4 percent, you are talking about a 40-percent increase in nonmalignant skin cancer. Why do we stand here debating such a thing?

Then, for those of you who raise soybeans and cotton in your own States, or if you are worried about the ultimate supply of food in this country, Mr. Krizek, of the Department of Agriculture, said this in his testimony:

> Certain plants, such as peanut, wheat, milo and fescue, were found to be resistant to increased UV-B radiation, while others, such as pea, tomato, cotton, radish, and coleus, were found to be sensitive to increased UV-B exposure.
>
> These studies indicated that the extent of UV-B damage depended greatly on the size and anatomical composition of the plant, the amount of available visible light, and other environmental factors.
>
> In general, seedlings were much more sensitive to UV exposure than mature plants and reproductive organs were more sensitive than vegetative parts of the plant.

I say we are flirting with disaster.

Dr. Caldwell, a plant biologist with the University of Colorado, said, in response to this question:

> *Question.* As has been pointed out, stratospheric ozone may be depleted by a variety of man-made agents and there may be an increase in UV-B.
>
> The Congress must legislate in the interests of human health and welfare. Biological effects of increased UV radiation appear to be such that we must regulate, or even ban, some things that might cause a decrease in the ozone layer.
>
> In your educated opinion is there some level of UV-B increase that may be acceptable?
>
> If so, how would you approach the determination of such an acceptable level?
>
> Answer. At the present time it is very difficult to provide even a reasonable guess as to a tolerable level of ultraviolet radiation increase. As I outlined in my testimony there is some reasonable experimental basis to be concerned about even small increases of a few percent. Nevertheless, this need not forecast dire consequences should an increase of a few percent take place. I am afraid that our ability to assess a tolerable level at the present time is beyond our capability.

Opponents of this amendment say that the theory of ozone depletion is not proven. Dr. Friend of the National Academy of Sciences Committee dealing with this issue had this to say.

> Senator BUMPERS. What you are saying is that you can determine whether the theory is correct or not, but you can't assess the amount of damage that is being done without those measurements, can you?
>
> Dr. FRIEND. Well, we will provide estimates based on calculations of the amount of ozone change or the effects of these materials present in the stratosphere. We will provide estimates of that without having direct measurements.

In addition, there are the comments of Dr. McElroy, of Harvard University, who was voted one of the 10 outstanding people in the United States last year, and who is one of the leading atmospheric scientists in the world. I visited with Dr. McElroy at length in my office, and he testified at our hearings. Here is what he said:

> I think, first of all, it is very difficult for those of us who are, you know, very closely and personally, intimately involved in research to be—it is very difficult to be totally objective. One has a certain involvement, emotional involvement in the work which makes it very difficult to really take a broader view.
>
> I think in some sense you are better capable of judging what should be done than I am. I think also I am aware that the National Academy of Sciences has a panel of distinguished scientists working on this problem. They don't have this emotional bias that I may have, and I would rather that they should make recommendations than I.
>
> So, I would rather decline to make any recommendations. I think it is—my advice to you on that issue isn't worth any more than the advice of any informed layman on the subject, I think. It is my role, as I see it, to try to define the scientific issue. I think that there is little doubt in my mind scientifically that the fluorocarbons will make their way to the stratosphere, that they will release chlorine atoms and chlorine will react with the ozone and there will be a drop in the level of the atmospheric ozone, and that will cause environmental effects, but somebody else should make the total assessment of what should be done. I don't think it is my position to do so.

Here is a very objective scientist saying, "I can tell you this is going to happen." You have other scientists saying, "If it does, here are the disastrous consequences." He is saying to the Congress, "It is up to you. You are reasonable men."

Mr. President, yesterday afternoon I asked the Senator from Oregon to cut the hour-and-a-half debate to an hour. I am sorry now we did not extend it. But, after all, we are sort of talking to each other. Everybody here in the Chamber who is listening has already made up his mind as to how he is going to vote. But I just want to point out that aerosol sprays are not something that is vital to our standard of living or the quality of life we have all come to know and enjoy. We are talking about banning a bunch of nonsense that can, in the long range, have an absolutely devastating effect on the health of this country, the future of civilization.

You have got a time bomb ticking off up there, and you are not going to know for certain until after 10 to 12 years whether you made a mistake or not. I say we cannot afford to wait. Let us err on the side of caution and adopt this amendment.

The PRESIDING OFFICER. The Senator's time has expired. Who yields time?

Mr. NELSON. Mr. President, will the Senator from Oregon yield 2 minutes?

Mr. PACKWOOD. I yield.

Mr. NELSON. Mr. President, I endorse the amendment offered by the Senator from Oregon. I have an amendment which seeks to accomplish a similar purpose with somewhat different standards.

I think the Senator from Oregon, the Senator from Arkansas and the Senator from New Hampshire have very cogently summed up what the problem is, and I do not wish to repeat the evidence that has been introduced into the RECORD, and the magnificent evidence accumulated in the hearings conducted by the Senator from Arkansas (Mr. BUMPERS).

I think the basic question is simply this: When you look at the issue of introducing something into the environment, some synthetic into the environment, you must raise the cost-benefit ratio question or the risk-to-benefit ratio question.

The benefit of the use of 80 or more percent of fluorocarbons amounts to practically nothing, and would be measured only in terms of a slight personal convenience.

On the other hand, distinguished scientists worldwide are raising alarms about the potential risk.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. NELSON. Will the Senator yield me 1 more minute?

Mr. PACKWOOD. Yes.

The PRESIDING OFFICER. The Senator has 1 additional minute.

Mr. NELSON. The benefits are slight personal convenience. The risk is a potential worldwide disaster of immeasurable proportions.

It is absolutely preposterous on that risk-to-benefit ratio to permit the aerosols to be on the marketplace another 24 hours.

There is no benefit that is worth that risk, including the possibility of not only health hazard, but worldwide modification of the weather with a worldwide disaster.

I hope we vote for the sensible, modest proposal of the Senator from Oregon.

We can no longer wait to take action to effectively reduce the threat to the environment and human health posed by continued emission of these fluorocarbon propellants. The evidence indicates that we must act promptly to protect the public health.

Some 55 studies have been, or are being conducted, which indicate that specific fluorocarbons deplete the ozone layer in the upper stratosphere, thereby reducing the protection to the Earth from dangerous ultraviolet radiation.

The National Academy of Sciences Committee on the Impact of Stratospheric Change, which has been studying the subject for several years, has prepared a report, recommending that nonessential uses of fluorocarbons in aerosol spray cans be eliminated, according to a panel member as reported in the Philadelphia Inquirer, March 19, 1976, and Business Week, April 5, 1976. The NAS study, due this month, involves participation by four agencies: SNF, EPA, NOAA, and NASA.

Here are the facts, as scientists have concluded:

Erosion of the ozone layer can cause increases in the incidence of skin cancer and mutation of plant life.

A petition filed by 10 States, the Natural Resources Defense Council, Inc., and Environmental Defense Fund, Inc., seeks to have the Consumer Product Safety Commission declare that pressurized consumer products containing certain fluorocarbon propellants be banned as hazardous. The States participating in the petition are: Minnesota, New York, Michigan, Oregon, Wisconsin, New Hampshire, Colorado, Florida, Vermont, and Massachusetts.

The petition cites the following dangers:

A report of the Federal Task Force on Inadvertent Modification of the Stratosphere: Fluorocarbons and the environment, June 1975—IMOS report—says that current estimates indicate that even without further growth in fluorocarbon use above the 1972 level the eventual, equilibrium reduction of ozone would be about 7 percent. If the use of fluorocarbons continues to grow at the rate at which it grew during the 1960's, a reduction of between 10 and 15 percent will occur early in the next century.

A 7-percent reduction in the ozone content of the stratosphere will cause an additional 42,000 to 140,000 cases of skin cancer each year in the United States, and an additional 126,000 to 420,000 cases worldwide. A 15-percent reduction will cause an additional 90,000 to 300,000 cases of skin cancer each year in the United States and an additional 270,000 to 900,000 cases worldwide, the petition contends, based on the IMOS study.

Even if no additional fluorocarbons are released, further reduction in the average concentrations of ozone would continue, reaching a maximum in about a decade. The naturally occurring ozone formation necessary to counter this decrease would take at least a century or more, the IMOS report concludes.

New laboratory and atmospheric measurements of the key chemical reactions and their rates have led to refinements and downward revisions of the expected amounts of ozone reduction, the petition notes. However, the petition points out that other new measurements have led to upward revisions of the estimates. "The net result of the new information, taken as a whole, is that the overall estimates of ozone reduction are approximately the same as those of more than a year ago," the petition states—page 27. "At the same time, the new estimates are fortified by stronger experimental data than were available for the earlier estimates," it concludes—pages 27–29.

Climatic changes may result from fluorocarbon influence on the Earth's temperature.

According to information in the petition—pages 36–37—studies by Dr. V. Ramanathan of the Langley Research Center of the National Aeronautical and Space Administration—NASA—indicate that in the cool temperatures in the lower atmosphere, fluorocarbon molecules absorb heat radiation from the Earth's surface and trap a substantial portion of it. This results in a "greenhouse effect" that may warm the Earth enough to cause significant climatic changes with respect to rainfall ice-cover and a partial melting of the polar ice caps.

Approximately 50 percent of all world use of pressurized products containing these ozone-depleting fluorocarbons and similar compounds as propellants is by U.S. consumers.

A recent Arthur D. Little study, contracted by the Environmental Protection Agency—EPA—says that aerosols account for about 62 percent of the fluorocarbons released into the atmosphere, with refrigerants—enclosed uses—leaking about 25 percent. The remaining 13 percent of fluorocarbons are used in both enclosed and nonenclosed ways, such as in solvents and as foam-blowing agents to make plastic products.

Alternatives to aerosols and alternative propellants that are not know to harm the ozone layer exist, and new ones are being developed by the aerosol industry. In fact, many manufacturers of consumer products that have been using aerosol sprays now are advertising and promoting nonaerosol containers. S. C. Johnson & Son of Racine, Wis., manufacturers of wax products, have ended the use of fluorocarbon propellants in production of its broad line of consumer products.

The EPA has recommended that pesticides be packed in nonaerosol containers.

FDA Commissioner Alexander M. Schmidt, M.D., in an interview with U.S. News & World Report, Inc., February 23, 1976—pages 52–55—cited "fluorocarbons as a spray propellant" as an example of products that need to be removed from the market because of "a very strong suspicion rather than absolute proof" of risk to humans. He states:

> We already have banned use of vinyl chloride in aerosols because of the cancer risk. Now there is a theory that fluorocarbons may destroy the ozone layer in our atmosphere that filters out ultraviolet light. The fear is that the result may be an increase in skin cancer.
>
> There are quite a bit of data that show this thesis is correct. I don't think we can afford to wait a decade or two decades for incontrovertible proof that the ozone is disappearing. The National Academy of Sciences is studying the available evidence now. We will have their report within the next year, and will then make a decision.

Finally, retail prices of nonaerosols are less costly to consumers. An article by Sidney Margolius in the Washington Star, February 14, 1976, notes the comparative lesser costs of nonaerosol consumer products.

Mr. President, I believe this a rational approach to address this important environmental problem.

Mr. DOMENICI. Mr. President, how much time does Senator PACKWOOD have remaining?

The PRESIDING OFFICER. The Senator has 13 minutes remaining.

Mr. DOMENICI. I thank the Chair.

I yield myself 15 minutes.

Mr. NELSON. Will the Senator yield for a question?

Mr. DOMENICI. I am delighted to yield for a question.

Mr. NELSON. My inquiry is, how much time does the opposition to the amendment have?

Mr. DOMENICI. The committee has 45 minutes.

The PRESIDING OFFICER. The total is 45 minutes remaining.

Mr. BUMPERS. Mr. President, how much time does the Senator from Oregon have.

The PRESIDING OFFICER. Thirteen minutes.

Mr. DOMENICI. Mr. President, I yield myself 15 minutes.

Mr. President, let me first open with a few remarks of commendation.

The distinguished junior Senator from Arkansas (Mr. BUMPERS) raised here for the Senate to see the volumes that are the result of the hearings he and I undertook as a subcommittee of the Space and Astronautics Committee of the U.S. Senate.

The reason I want to commend him is that, Mr. President, on an issue as serious as this one, the impact on the ozone layer by activities on this earth of human beings, it was only at that hearing, which was not an accident, but the result of effort of the junior Senator from Arkansas, for the first time did anybody in the Senate actually bring before it experts to talk about this very important layer, the ozone layer which shields us from excessive rays of the sun.

For the first time, a comprehensive evaluation of what this Nation, the greatest scientific Nation in the world, was doing to try to evaluate not only the impact of fluorocarbon ions from aerosols, but other impacts on the ozone from all of man's activities.

I commend him for that. I regret to say I read those volumes, I was present, and I do not agree with the Senator.

My differences are one of degree and it is only a slight degree, for I share his concerns and the concerns of Senator PACKWOOD about the impact of what we are doing here on Earth by sending upwards into that ozone substances that will impact on it. I just fail to agree in what we ought to do about it.

Let me dispel any notions about the Public Works Committee, taking the evidence that we gathered there, as brought to that committee by myself as a Member of that committee. We took the matter seriously.

We are not here saying that we are not going to do anything about the impact of aerosols on the ozone layer. Quite to the contrary, the Senate should understand that for the first time in this bill, because of action of the Public Works Committee, jurisdiction is now vested in one agency, one administrator, to begin the process of evaluating our knowledge, gathering scientific information, and beginning to gather up facts on the impact of aerosol sprays and other substances on the layer.

As a matter of fact, EPA has the regulatory authority, under the committee bill as alluded to by my good friend Senator MCINTYRE, at any time from now until January 1 of 1978, if Mr. Train in his capacity, or his successor, find there is a serious health hazard. They can conduct expeditious 60-day hearings and ban aerosols in whole or in part.

So the committee has put in place a strong regulatory process. Its final element is January 1, 1978, at which time that agency must decide whether or not they are going to ban in whole or in part, but, regardless, they must come up with a regulatory scheme based upon the information they gather.

Mr. President, I say now that there are many scientists in this country talking about what is happening to our ozone.

My good friend from Arkansas would probably say that there is no more distiguished scientist on this issue than the very distinguished professor from Harvard, Dr. McElroy.

Might I ask my good friend, does he agree he is an eminent scholar and authority on this subject?

I was sure he would agree.

Mr. President, let me state some things he has to say. I will first state them as I remember them.

We are talking here today about a theory that one of the fluorine ions that come off aerosol because it has certain characteristics will do some displacing in the ozone layer and diminish O_3, one of the ozone components, heavy oxygen.

Let me state what else he says, Mr. President.

He says that probably—probably on paper—we ought to stop producing nitrogen fertilizer in the world.

Mr. President, he has on paper a theory that is exactly akin to the theory before us that says, as we produce nitrogen fertilizer to feed mankind, that we are sending up an equally destructive ion. He even concludes that, theoretically, it is probably worse than the ion that comes off the aerosol spray.

So my good friend from Arkansas would agree with me that we know that it is dangerous. We know there is very much left to be learned.

Let me state what Dr. McElroy says about whether or not we should regulate a ban on ozone at this point.

I will quote from his statement, Mr. President, but before I do that, I yield myself an additional 5 minutes.

The PRESIDING OFFICER. The Senator has an additional 5 minutes.

Mr. DOMENICI. I am quoting:

> The system is still in a state of great flux. It is too early to make legislative changes that would restrict the substances.

This is Dr. McElroy, not the committee:

> At the moment, half-baked ideas are being produced at a ferocious rate. That's all right when you're only talking to your friends. But it's most regrettable that scientists are telling politicians that they must regulate, as if the evidence was hard.

That is a quote from that eminent scientist on the 24th day of June 1976.

Mr. BUMPERS. Will the Senator yield for a moment? Where was the statement made?

Mr. DOMENICI. It is the magazine the New Scientist, June 24, 1976, at page 685.

Mr. President, let me just go back over the concern the committee has.

The committee in this bill, evidencing a genuine concern for an appropriate regulatory system in this area, has set into motion for the first time, No. 1, a vesting of regulatory jurisdiction with EPA; and No. 2, mandating that they accumulate the information that is being gathered by a number of studies, which are identified, which are ongoing. NASA has some. Various agencies of the Federal Government have them. EPA must gather them up and evaluate them in an ongoing manner.

By January 1, 1978, whether or not it is all together, they must begin hearings and decide within 90 days whether or not aerosol is to be banned.

Mr. President, those are not the actions of a committee which is taking this matter casually. That is not the action of a committee which disagrees with the facts stated here.

It is just that this committee has concluded that we need to let the National Academy of Sciences complete its report. It has not brought forth its report following the IMOS study. That is not ready yet, and NASA is not finished with their study. We say we ought to let those take their course. If they prove out what is being said on the floor by the proponents, EPA will certainly ban this product.

Mr. President, the reverse is expected by this Senate under the Packwood amendment. They would like us to ban, as of January 1, 1978, and then say, "However, if this theory can be disproved, then the ban would not be effective."

Mr. President, if that negative burden of proof is an appropriate regulatory process, then I submit that we ought to ban it today. We ought not wait until January 1, 1978. We ought not appoint a regulator to gather the evidence. We ought not continue on with these studies that we have. No one will ever disprove the negative of this situation.

Mr. PACKWOOD. Will the Senator yield for a question?

Mr. DOMENICI. Let me complete one more item.

I would also suggest that if we have the conclusive evidence that is talked about here, we ought to ban also the fluorocarbons that appear in our refrigeration system, for they are a major contributor. It is just that they have some very serious economic impacts. But if we are ready and we know it all, and it is as serious as everyone says, we ought to amend the Packwood amendment and ban it today. We ought to ban refrigeration also because that is a substantial portion of aerosol being emitted into the ozone layer. I yield.

Mr. PACKWOOD. The Senator made reference to the negative burden of proof. Do we use that in the other administrative procedures whereby we prohibit the use of things?

Mr. DOMENICI. I would say we have done it. We did it on cyclamates. I might mention to my good friend, and it took a long, long time. The negative was finally proven, that we were wrong in banning originally.

Mr. PACKWOOD. As a matter of fact, we use it in quite a few Federal acts, do we not?

Mr. DOMENICI. To my knowledge, I cannot say that we do or do not. I can only say, and I say this in all honesty to my good friend, that the very nature of the scientific problem will make it impossible to prove the negative. On the other hand, with the kind of research we are doing, we can prove the positive. That will be forthcoming.

Mr. PACKWOOD. Just within this year under the Toxic Substance Act on polyvinyl chlorine the Senate adopted a negative burden of proof unanimously on the floor. Is that something new for the Senate to do?

Mr. DOMENICI. I acknowledge that. That is not the law of the land yet, nonetheless. But those substances are subject to very precise scientific measurement, I would say to my good friend.

Mr. PACKWOOD. What about in the Marine Mammal Act where we prohibit the taking of marine mammals unless the applicant who wants to take them can prove he can meet the purpose of the act? We do not know how many accurate counts there are, but we are putting the burden of proof on the applicant. He cannot do anything unless he can prove the negative.

Mr. DOMENICI. I do not see any comparison between that particular example and the negative burden of proof in this particular instance for two reasons: We are never going to be able to prove the negative so we might as well have a ban. Second, we are involved in some extremely comprehensive—and I say belatedly but finally—studies. Some very significant scientific investments are now in research projects in NASA, EPA, and others. They will come up with some modeling techniques that are going to show us by January 1, 1978, or earlier, whether or not the theory of the good professor from California, upon which this entire episode is based, is for real or not.

Mr. PACKWOOD. Is the Senator agreeing with the statement I made in my opening statement?

Mr. DOMENICI. Let me say I do not think I can yield on my time to my good friend. The Senator from New York and others would like to speak. If he wants me to answer on his time, I would be delighted.

Mr. PACKWOOD. I will wait.

Mr. DOMENICI. I yield to the Senator from New York whatever time he desires.

The PRESIDING OFFICER. The Senator has used approximately 15 minutes of his time.

Mr. BUCKLEY. I thank my friend from New Mexico. I am very conscious of the fact, Mr. President, that we are operating under a tight time schedule. Other matters remain to be discussed.

Mr. President, I would like to address myself to the Packwood amendment imposing a negative burden of proof on those who manufacture and utilize fluorocarbons.

For more than a year, I have tried to keep abreast of the growing debate and literature over the impact of flourocarbons on the ozone layer. On the basis of the studies I have seen, it is impossible, I believe, to make any final judgment as to the long-term impact of flourocarbons released from aerosols and refrigeration systems on the ozone shield. I feel, however, that four basic and important conclusions can be made at this time:

First. Because of its importance to the environment and human life, we cannot allow any activities that would result in a significant depletion of the ozone layer.

Second. Current scientific knowledge about the stratosphere and the mechanics of ozone depletion is insufficient for judging the validity of the flourocarbon-ozone depletion theory.

Third. Because there is time to accumulate the necessary information without danger to human health or the environment, precipitous action having a large-scale, adverse impact on employment and convenience is not called for at this moment.

Fourth. The required information is now being accumulated and will be available, within the time frame set out in the committee bill, for the formulation of such regulatory action as may be required for the timely protection of the public health and welfare.

There has been little disagreement that if any necessary regulations are in effect by 1978, we can prevent irreparable harm to the environment. I am satisfied that this is so, and I consider any attempt to supplant the committee approach with that of the Packwood amendment as precipitous and imprudent.

The bill now before us would allow us to take full advantage of the intervening years without requiring us to make a judgment on the basis of as yet unproven theory. It would direct the Environmental Protection Agency to coordinate and contribute to two series of reports from NAS, NASA, NOAA, NSF, and the Departments of Agriculture, HEW, and Labor.

The first series, due this October, would be an accumulation of the knowledge we presently have on the long- and short-range effects upon health, climate, and so forth, of manmade impacts on the stratosphere. The second, due October 1, 1977, would report the results of investigations now being conducted by all of these agencies that relate to the problem of stratospheric pollution, its causes and costs, and the costs of corrective measures.

The expedited regulation section of the bill would allow the Administrator of EPA to propose regulations at any time restricting or prohibiting the manufacture, sale, import, export, or use of aerosols containing halocarbons, if he found significant danger to human health or welfare, even if proof of such harm was not completely conclusive. This, it seems to me, is adequate protection against the possibility that we have underestimated the imminence of a crisis. Otherwise, he would propose any necessary regulations on aerosols by January 1, 1978, and any necessary regulations on sources of fluorocarbons other than aerosols by April 1, 1978. The regulations would become effective unless a majority of either House opposed them within 90 days.

I am satisfied that this reasoned approach poses no risk to the public health or welfare. By 1978, we should have sufficient information in hand to verify the degree to which the theory of ozone depletion is accurate, and to allow us to make a responsible, informed judgment on the matter.

I am equally satisfied that the alternative of a statutory ban against the future manufacture and distribution of products containing fluorocarbons as of a date certain, sets a dangerous precedent. To accept at this time the imposition of a negative burden of proof to affect a total ban is to give a currently viable American industry only one opportunity for survival, that being to prove the negative of an unproven hypothesis. We need to be more sure of our ground before imposing such an impossible burden in averting what would appear to be something other than an immediate risk. In so doing, we abdicate our own responsibility to make an important judgment based on a more substantial understanding of the facts than is now available to us.

We are weighing grave considerations. We know that if the theory were completely true, and that is a matter of great scientific controversy, it could mean an increase in melanoma and non-melanoman skin cancer in humans from 2,100 to 15,000 for each 1 percent reduction in the ozone shield, with still further carcinogenic effects upon livestock. A significant depletion of the shield could result in fundamental changes in the growth characteristics of certain plant and animal species, disturbances in aquatic and terrestrial ecosystems, and a lessening of the stability and effectiveness of agricultural chemicals with a resultant reduction in the yield of agricultural crops.

The consequences of the elimination or curtailment of the fluorocarbon industry are also extremely serious. Despite the fact that we are dealing with a global problem where our six primary U.S. manufacturers account for slightly less than 50 percent of the world's fluorocarbon production, let us examine the consequences in the United States alone.

The production value of the six primary U.S. manfacturers of fluorocarbons is in excess of $500 million. In 1974, the jobs of more than half a million persons were directly dependent upon fluorocarbon production, and the wages and salaries of these half million persons accounted for approximately 1 percent of the total United States figure.

Aerosol propellants were an end use of only 49 percent of all fluorocarbons, yet discounting any personal income taxes paid, the aerosol-related manufacturers contributed approximately $252.7 million in direct tax payments in 1974.

These are economic statistics; what of the uses of fluorocarbons? Fluorocarbon end usage breaks down as follows: aerosol propellants—49 percent, exports—4 percent, refrigerants—28 percent, foamed plastics—7 percent, solvents—5 percent, fluoroplastic mateerials—4 percent, and other uses—3 percent. They are used by the food, drug, electronics, machine tools, plastics and textile industries, and by hospitals as well. In some cases, we have adequate substitutes; in others, we have none or those that we have are less energy-efficient, less safe, or more expensive for the American consumer. In any case, replacement cost for chemical raw mateials and intermediate equipment would be between $655 and $735 million; $400 million for fluorocarbon manufacturing equipment; and $7.5 billion for replacement of refrigeration and air conditioning equipment.

Perhaps it is necessary for us to sacrifice a major U.S. industry, to find alternative employment for 1.5 million American workers, and to take the leading role in solving a global problem for which we can be no more than 50 percent of the solution, but scientists have informed us that if any necessary regulations are in effect by 1978 we can prevent irreparable harm to the environment. The dates for regulation under the committee provisions as opposed to the negative ban amendments are so close as to be negligible, and the effects of waiting for verifiable scientific data to support our decision are minimal. For these reasons, I urge the Senate to join me in supporting the committee approach.

In saying this, I would like to make one observation about the legislation now before us.

The committee bill permits the States to impose limitations on the use of aerosols and fluorocarbons that are more stringent than those that may be imposed by EPA and the Congress under the provisions of the bill. This has been our usual approach to the control of pollution, and it is one that I have always supported.

On reflection, however, I now question whether the rationale for State discretion in such areas as air and water pollution are applicable to the particular problem of ozone depletion. Air and water pollution have a direct impact on local values. They affect the immediate environment within which the inhabitants of our villages and cities and States must live. The hazard we are guarding against here, however, does not have any visible localized impact. Rather, it involves the potential pollution of an invisable global shield many miles above the surface of the Earth.

In other words, when we speak of the potential pollution of the stratosphere by fluorocarbons released from the ground, we are speaking of a phenomenon without the localized impact that justifies the exercise of local discretion even when such discretion imposes significant burdens on a national industry that must then try to accommodate a dozen or more different standards.

I therefore recommend both to the Committee on Public Works and to the Senate as a whole that if and when the time comes to impose national regulations on the fluorocarbon industry, we at the same time consider the advisability of a national preemption of such regulatory authority so as to enable a highly important industry to operate within whatever national limitations are believed essential and prudent in the light of the information now being assembled and analyzed.

I might note, finally, that if these studies do indicate the need to restrict or curtail the manner in which fluorocarbons are used, then we will face an important international challenge, and a vital test of the mechanism for international cooperation on environmental pollution that was created as a result of the Stockholm Conference on the Environment in 1972, for we will be dealing with a danger that is global in nature, one that can only be addressed through global understanding and cooperation.

Mr. President, I would like to make a couple of general observations.

First of all, I was present during the presentation in the committee by the Senator from New Mexico of the risks and the hazards. I am persuaded, as he has stated, that there is, within the mechanism established by the committee, every safeguard we can reasonably require.

If the EPA, as it monitors the ongoing studies, should find that there is a hazard more immediate than we have reason to conclude, as a result of everything we have heard, then the EPA has the authority to impose the ban, subject only to a review by the Congress. It seems to me that this is the kind of protection we are requiring.

In the meantime, let us not lose sight of the fact that we are dealing with a rather large industry, which has a lot of employees. Yes, a lot of what they contribute can be called personal convenience. That is not necessarily sinful. But a lot of the other things that fluorocarbons contribute have to do with refrigeration, which is a pretty essential commodity in the modern world. I believe we have a prudent bill. I believe we have one that faces the contingencies. I believe it is one in which the Congress and the Senate can place its confidence.

I would make only one observation about the overall framework of this committee bill. At such time that as its regulations are imposed, whether immediately as a result of an EPA finding or 2 years hence as a result of studies, I believe the problem of preemption ought to be reviewed on the basis that we are dealing not with localized hazards but global hazards. Whatever prudence dictates as a result of the assessment, as a result of these studies, should be applied uniformally, across the country. Then we will have a job persuading the rest of the world to come along and to cut back on the other half of the fluorocarbon production produced elsewhere.

I commend our colleague from New Mexico for his leadership in this question within the committee. As I said before, I personally will not take more of the Senate's time as I am conscious of the desire of other Senators, such as Senator SCOTT from Virginia, to have their say.

The PRESIDING OFFICER. Who yields time?

Mr. BUMPERS. Mr. President, will the Senator from Oregon yield me about 2 minutes?

Mr. PACKWOOD. I yield 2 minutes.

The PRESIDING OFFICER. The Senator from Arkansas has 2 minutes.

Mr. BUMPERS. Mr. President, I have some additional scientific data or information from various scientists that I wish to get in the RECORD for the benefit of our colleagues. One item relates to an April 27, 1976, meeting that was held in Colorado involving many of the atmospheric scientists of the United States who have provided information to the National Academy of Sciences. Here is a report from Dr. Cicerone, an atmospheric scientist at the University of Michigan to the IMOS committee.

He says:

> Thus, our present projections for the global loss of stratospheric ozone follow continued usage of fluorocarbons-11 and -12 at 1974 output rates are 8 to 16 percent, including $ClNO_3$.

An 8 to 16 percent depletion of the ozone. He goes on to say:

> I feel confident that if you would contact Dr. Crutzen, Dr. Chang, Rowland, Dr. Molina, Dr. Stolarski of NASA, Drs. McElroy and Wofsy or other experts you will obtain a similar update.

I have ticked off and cataloged the most eminent atmospheric scientists in the United States, including Dr. McElroy, as being in agreement with that statement.

Dr. Donahue, of the University of Michigan, said on February 25, 1976:

> The measurements of Anderson confirm our predictions, so some urgency is returning to the CFM (fluorocarbon) matter.
>
> Waiting until 1978 to institute controls may be a luxury we can't afford.

Dr. McElroy's testimony before our committee, 3 months after the testimony that the Senator from New Mexico just read stated:

> You have heard about the immediate threat to the stratosphere due to fluorocarbons. I need not repeat the warning. The potential threat is serious and the experimental data acquired during the past several years have strengthened our conviction that this should be the case.

Mr. President, the Packwood amendment says that if there is a rebuttable presumption that we are flirting with disaster, the administrator should be called upon to rebut that presumption, and that is all we are asking him to do. If he cannot do it, they can continue to manufacture. If he can, the manufacture of fluorocarbons will be banned. If he cannot say that there is no risk involved, the use of fluorocarbons in aerosols will be banned.

And the Lord only knows they ought to be.

I thank the Senator from Oregon.

The PRESIDING OFFICER. Who yields time?

Mr. DOMENICI. Mr. President, will the Senator yield 1 minute to me on my time?

Mr. PACKWOOD. Yes.

Mr. DOMENICI. Mr. President, I wish to explain and use my time on this as to why I would not yield additional time to the Senator in questioning me.

We are trying very hard, I say to Senator PACKWOOD, to accommodate those who follow us. We obtained these unanimous-consent agreements with some of the Senators not being here, and we think we can fit them in and have all their debate and their votes under the previous time limitation agreement as to when we would vote on this bill. I shall try not to use all my time on that account.

The PRESIDING OFFICER. Who yields time?

Mr. PACKWOOD. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has about 11 minutes remaining.

Mr. PACKWOOD. Mr. President, the principal argument raised by the Senator from New Mexico dealt with negative burden of proof. It varied between I think a statement that it was unfair and certainly unwise.

Yet frequently in this Senate we have used the negative burden of proof where a negative burden of proof required an applicant who wanted to do something to be able to prove what he was going to do was safe before we would allow it.

I mention the Marine Mammal Act where we were worried about the pollution of certain types of mammals. Before an applicant can take any of these mammals he has to prove what he is going to do would not be adverse to the intention of the act.

The Federal Food and Drug Act requires consistently that before a drug can be put on the market it must go through all kinds of tests, all reasonable tests that could be considered, and only if the administrator is satisfied that every precaution has been taken is the drug put on the market. It is a negative burden of proof.

In the Radiation Control Act of 1968, we put in a very specific burden of proof. We said that before a manufacturer can put certain products on the market he had to meet:

> The burden of proof being on the manufacturer, if after such presentation the Secretary is satisfied that such defect or failure to comply is not such as to create a significant risk of injury . . .

And so on.

In the Toxic Substance Act, passed by the Senate this year, and it is not law, but it passed this body, and the Senator from New Jersey supported it, we said the polyvinyl chloride is such a danger.

Mr. DOMENICI. Which did I support?

Mr. PACKWOOD. It passed by unanimous consent. The Toxic Substance Control Act has the negative burden of proof on polyvinyl chloride.

Mr. DOMENICI. I thought it was a record vote.

Mr. PACKWOOD. The Nelson amendment was not passed unanimously.

Mr. DOMENICI. Is that part of the new Toxic Substance Act?

Mr. PACKWOOD. Yes, it is.

Mr. DOMENICI. For what it is worth, I did vote against that bill. I did not do it because of the negative burdens. I do not want the record to be wrong.

Mr. PACKWOOD. I did not mean to indicate Senators voted on the act. I was talking about the amendment that the Senate considered.

In all these cases where we thought there was a danger to the public, and sometimes we were not sure exactly what the danger was, we thought there was enough of a danger that we did not want to run the risk. So what we did was say we are not going to allow these products on the market unless those who wish to put them on the market can prove there is no significant risk. In each of those cases we had some weighty problems to consider on the other side, certainly in anything that emits radiation. We know they are used in medical practices, in X-rays, in our national defense.

But I come back again to the issue of fluorocarbons and what they are used for. They are not used to propel missiles. They are used to propel underarm deodorant.

Not a single thing is going to happen to this Nation, we are not going to be endangered, we are not going to have an economic downturn, if instead of fluorocarbons we simply used these things that you push your finger on and mist comes out of it.

The Senator from New York indicated that there might be some adverse economic effects.

UP AMENDMENT NO. 313

Mr. President, I send to the desk two amendments and ask that they be immediately considered.

The PRESIDING OFFICER. Is there objection?

Without objection——

Mr. PACKWOOD. These two amendments—

The PRESIDING OFFICER. The Senator will suspend until the clerk states the amendments.

The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Oregon (Mr. PACKWOOD) proposes unprinted en bloc amendment numbered 313.

The amendment is as follows:

On page 1, line 9, strike through line 5 on page 2 and insert in lieu thereof:

"(1) finds that (A) no significant risk to the public health, safety, or welfare is, or may be posed by the discharge of halocarbons into the ambient air from aerosol containers, or (B) the products expected by the Administrator to be available as substitutes for aerosols discharging halocarbons are likely to cause, or contribute to a greater significant risk to the public health or welfare, then he may, by rule, modify or rescind the prohibition in section 153(a) in whole or in part consistent with that finding, or"

Strike subsection "(c)" in its entirety and renumber subsection "(d)" as "(c)".

On page 2, between lines 11 and 12, insert:

"(3) Finds that a delay of the effective date of the prohibition in section (a) is necessary to avoid unreasonably adverse effects on employment he may, by rule, delay such date to not later than January 1, 1979."

Strike subsection "(c)" in its entirety.

Renumber subsection "(d)" as "(c)".

Mr. WILLIAM L. SCOTT. Mr. President, reserving the right to object, will these amendments extend the time?

The PRESIDING OFFICER. The time to object is over. The Chair asked if there were objection.

Mr. PACKWOOD. Yes, they will.

Mr. SCOTT. Mr. President, I feel that in fairness, with time having been allotted to other Senators and the unanimous consent having been already granted for my amendment to follow the Packwood amendment, I raise the question of whether it is in order and ask a ruling from the Chair.

There has been an order entered that my amendment would follow the Packwood amendment.

The PRESIDING OFFICER. The Chair informs the Senator that the Senator from Oregon offered his modification and amendment, and the Chair asked if there were objection, the Chair heard none, and he authorized the clerk to read the amendment.

Mr. WILLIAM L. SCOTT. Mr. President, that would not set aside a unanimous-consent order of the Senate.

The PRESIDING OFFICER. We had two unanimous-consent agreements. The Senator from Oregon asked for unanimous-consent that his amendment be considered, and I asked if there were objection, and there was no objection.

Mr. DOMENICI. Mr. President, a point of order.

The PRESIDING OFFICER. The Senator will state it.

Mr. DOMENICI. I believe the RECORD will reflect that the Senator from Oregon did not seek unanimous consent. He sent amendments to the desk and asked that they be considered. The Chair asked whether there was objection. There is no objection to their consideration. But there is objection based upon a point of order that they are not germane at this point and violate the unanimous-consent agreement previously entered, and I raise that objection at this time.

Mr. PACKWOOD. If the objection is to germaneness, I ask for a ruling of the Chair as to whether they are germane.

The PRESIDING OFFICER. Senators will give the Chair a moment.

The Chair asks the official reporter to read back the request or colloquy of the Senator from Oregon and the Chair.

The official reporter, Mr. Frank A. Smonskey, read as follows:

Mr. President, I send to the desk two amendments and ask that they be immediately considered.

The PRESIDING OFFICER. Is there objection?

Without objection——

Mr. DOMENICI. Mr. President, I maintain the point that I raised is still appropriate. It would be out of order, under the unanimous-consent agreement entered into, for the Senator to modify his amendment, and he did not obtain unanimous consent for such modification.

The PRESIDING OFFICER. The Chair will rule in this case that the Senator from Oregon is perfectly within his right to modify his amendment. The Chair asked if there was objection; there was no objection, and he authorized the clerk to read the amendment. Therefore, the Chair will stand on its original position.

Mr. WILLIAM L. SCOTT. Mr. President, a further parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. WILLIAM L. SCOTT. A unanimous-consent order having been entered granting to the Senator from Virginia the right to follow the original Packwood amendment, I would submit that offering these two amendments would not extend the time of the Senator from Oregon, and ask the Chair to rule on the point.

The PRESIDING OFFICER. There is no implication in the Senator's modification of the amendment that it would extend the time.

Mr. WILLIAM L. SCOTT. Then does the Chair rule that it would not extend the time of the Senator from Oregon?

The PRESIDING OFFICER. The Chair would rule that once the Senator did get his amendments before the Senate, the previous unanimous-consent agreement of 30 minutes to a side would apply.

Mr. DOMENICI. For each amendment?

Mr. WILLIAM L. SCOTT. For the new amendments?

The PRESIDING OFFICER. For the amendments en bloc.

Mr. PACKWOOD. Mr. President, I can assure both Senators, who have taken more time than I would have taken on these simple amendments, that I will be happy to waive any additional time.

These two amendments are very simple. One would say that in considering whether or not there is a significant risk in banning the use of fluorocarbons, the Administrator of the EPA is supposed to consider what the alternative risk is if some other procedure is followed.

I offer this amendment because there was a criticism that if we simply asked the Administrator to weigh whether or not there is a significant risk in banning fluorocarbons, and not to consider any alternative, he might not consider the alternative risks.

The other amendment says that if the Administrator finds that a delay of the effective date of the prohibition in section (a) is necessary to avoid unreasonably adverse effects on employment he may, by rule, delay such date to not later than January 1, 1979.

Mr. President, that will give a year, 1 year, to accommodate any adverse employment effects that might result from this ban. I hope that will relieve the fears anyone might have of massive unemployment caused by this type of a ban.

What we have now is a year's extension of employment on anything that had been manufactured before the date of the ban; it still goes on the shelves, and can still be marketed because of the theory that once it is manufactured, something like the fluorocarbons will eventually escape into the atmosphere anyway.

I hope this will allay the fears some have expressed, and I reserve the remainder of my time.

Mr. MANSFIELD. Mr. President, will the Senator yield?

Mr. PACKWOOD. I yield.

Mr. MANSFIELD. Mr. President, due to the fact that we are running short of time, and due to the further fact of the comments made by the Senator from Virginia, I ask unanimous consent that when the hour of 1:45 arrives, if he has not been recognized, he be allowed 10 minutes on his amendment, the time to be equally divided.

The PRESIDING OFFICER (Mr. HARRY F. BYRD, JR.). Is there objection? The Chair hears none, and it is so ordered.

Who yields time?

Mr. DOMENICI. Mr. President, I yield myself 5 minutes.

On behalf of the committee, we are willing to accept the amendments that the distinguished junior Senator from Oregon has presented to the Senate.

The PRESIDING OFFICER. Is all remaining time yielded back?

Mr. DOMENICI. We yield back our time on those amendments.

Mr. PACKWOOD. I yield back the remainder of my time.

Mr. MOSS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. MOSS. By amendments, does the Senator mean the modifications?

The PRESIDING OFFICER. Modifications to his amendments.

Mr. MOSS. I see. I have no objection.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Oregon (Mr. PACKWOOD), in the nature of a modification of amendment No. 1577.

The amendment (UP amendment No. 313) was agreed to.

Mr. DOMENICI. Now, Mr. President, how much time do the opponents have remaining?

The PRESIDING OFFICER. The opponents have 25 minutes.

Mr. DOMENICI. Does the Senator from Utah wish to speak in opposition to the amendment?

Mr. MOSS. Yes; I wish to speak in opposition to the amendment. I can confine myself somewhat.

Mr. DOMENICI. How much time does the Senator wish?

Mr. MOSS. Five minutes?

Mr. DOMENICI. I yield the Senator 5 minutes.

The PRESIDING OFFICER. The Senate will be in order.

The Senator from Utah may proceed.

Mr. President, I rise in support of section 16 of S. 3219 as reported by the Public Works Committee. This section deals with protection of the ozone layer in the stratosphere and it does so in an appropriate and proper manner. In particular, I urge the defeat of the proposed amendment by the distinguished Senator from Oregon (Mr. PACKWOOD). That amendment would have the Congress impose regulation on the use of halocarbons and specifically the chlorofluorocarbons—a group of extraordinarily useful chemicals—prior to the development of the scientific information needed to make the judgments necessary for proper regulation.

The issue of chlorofluorocarbons being released into the atmosphere from aerosol spray containers, refrigeration and air conditioning systems, and other sources, has been one of considerable concern among our Nation's scientists, the public and the media. People are concerned because of a hypothesis that the released chlorofluorocarbons cause a reduction in stratospheric ozone—a trace gas in the stratosphere present in less than eight parts per million. However, stratospheric ozone shields the Earth's surface from certain of the Sun's rays believed inimical to life. Therefore, if the hypothesis is correct, then chlorofluorocarbons released into the atmosphere are injurious to the health and welfare of the world's people.

The underlying cause of this concern is the chlorine atoms in the chlorofluorocarbons. The Committee on Aeronautical and Space Sciences first began an inquiry into the effects of chlorine on the upper atmosphere in early 1974. Later in 1974, I ordered the committee staff to look specifically into the effects of the chlorofluorocarbons on the upper atmosphere and held a hearing on this matter in January 1975. Since that time, the committee's Subcommittee on the Upper Atmosphere, chaired by the very able Senator from Arkansas (Mr. BUMPERS), with the equally able ranking minority member, the Senator from New Mexico (Mr. DOMENICI), has conducted extensive hearings into this matter.

Mr. President, the chlorofluorocarbons are extraordinarily useful chemicals. In fact, our entire refrigeration and air-conditioning industry is dependent on them. This means, in turn, that food processing, building, and many other industries, are dependent on the chlorofluorocarbons. In fact, many of the things we take for granted are possible only because of these chemicals.

The chlorofluorocarbons are so useful because of their unique physical properties and because they are essentially chemically and biologically inert and nontoxic. The concern about some of the chlorofluorocarbon chemicals is that because of their extreme inertness they remain in the atmosphere for a very long time and therefore become thoroughly mixed worldwide in the atmosphere, slowly diffusing upward and eventually entering the stratosphere. This mixing process carrying chlorofluorocarbon molecules into the stratosphere, according to the theory, takes at least 10 years.

The stratosphere is a region of the upper atmosphere, above our weather, where the temperature remains constant or increases with altitude. It begins at anywhere from 5 to 11 miles depending on latitude and time of year and extends up to about 30 miles. On reaching the upper part of the stratosphere, the chlorofluorocarbon molecule is acted upon by solar ultraviolet radiation. This splits the molecule apart, releasing a chlorine atom that quickly reacts with a molecule of stratospheric ozone to form chlorine oxide. This in turn reacts with other trace constituents of the stratosphere to again release the chlorine atom. So, according to the theory, the reaction is cyclical until the chlorine atom eventually collides with a hydrogen atom to form a molecule of hydrogen chloride which might diffuse downward and be washed out of the lower atmosphere. That is the theory—that is the hypothesis which scientists are striving to show is correct or incorrect.

It is clear to me from the hearing record of the committee and subcommittee that what we need is a properly coordinated and funded research effort aimed at developing the much-needed information on the numerous—at least 100—processes and reactions that occur in the upper atmosphere.

No one is against establishing a clearly defined jurisdiction to handle the regulatory aspect of this matter and section 16 of the bill reported by the Public Works Committee does that. The committee language provides that the Administrator of the Environmental Protection Agency must issue regulations by January 1, 1978, if he finds that halocarbon emissions from aerosol containers may reasonably be anticipated to cause or contribute to the endangerment of the public health or welfare in any way.

Furthermore, no one argues against the need for establishing clearly defined authority to proceed with the research and technology to obtain the necessary information and to assure that the resources of the Government are brought to bear on the scientific and technological aspects of this question as early as possible. Last year the Committee on Aeronautical and Space Sciences recognized the need for an intensified research effort on the upper atmosphere, particularly as concerns the impact of chlorofluorocarbons and other chemicals on the ozone layer.

Consequently, the committee amended and reported and the Congress enacted Public Law 94-39. The committee's amendment, section 8 of this law, directs the National Aeronautics and Space Administration to carry out a program of research, technology, and monitoring that will provide for understanding the physics and chemistry of the Earth's upper atmosphere. As a consequence, NASA has established such a program and has prepared an appropriate plan to carry out the direction of the Congress. The committee has reviewed the NASA program and the plan for future activity; we have reviewed the activity of other Federal agencies; and we have found that the research effort is well planned and is proceeding according to the advice of the best scientific experts.

In a relatively short period of time, specific research objectives have been defined and assigned to the various appropriate agencies. Coordinating groups have been established and meet regularly to foster interaction and cooperation and to minimize overlap. Industry itself has mounted a sizable research effort that costs several million dollars a year and it is coordinated with Government effort.

The recommendations of the Federal Task Force on the Inadvertent Modification of the Stratosphere—IMOS—

established an ambitious timetable last June. The IMOS report recommends that the scientific data needed to guide the regulatory agencies be provided by January 1, 1978. And, there is every reason to believe that an enormous amount of new information will be available before that time. The bill recommended by the Public Works Committee adheres to this timetable and further strengthens the research and monitoring effort. In fact, the committee bill places additional responsibility on a number of Federal agencies and the National Academy of Sciences.

In this connection, I would like to note that under the committee bill, the National Aeronautics and Space Administration would be:

First, required to continue its programs of research, technology, and monitoring of the stratosphere and coordinate the programs of all Federal agencies relating to research, technology, and monitoring of the upper atmosphere;

Second, required to transmit certain reports by October 1, 1976, by October 1, 1977, and from time to time thereafter but at least once each Congress;

Third, permitted to delegate operational monitoring of the stratosphere to another appropriate Federal agency; and

Fourth, authorized additional funds for fiscal year 1976, the transition quarter, and fiscal year 1977.

These matters of course are within the jurisdiction of the Committee on Aeronautical and Space Sciences. So I would like to state for the record that the chairman of the Public Works Committee (Mr. RANDOLPH) asked for the views of the Committee on Aeronautical and Space Sciences on these matters. Based on my understanding of the Space Committee's views, I replied to the chairman of the Public Works Committee making a number of suggestions that have been incorporated into the bill reported by the committee.

With respect to the reports required of the National Aeronautics and Space Administration by S. 3219, I want to establish a legislative history on this bill that such reports after October 1, 1977, need not be separate reports to the Congress and the Administrator of the Environmental Protection Agency but can be included as part of the annual report submitted by the President to the Congress on the Nation's aeronautical and space programs. I say this because in the past the Congress has made it clear that it does not want the officials of the National Aeronautics and Space Administration spending their time preparing innumerable reports, which are seldom read.

Some years ago the Congress took action to eliminate the many routine reports required of NASA and consolidated them into the annual report of the President to the Congress. So I want to state for the RECORD, as part of the legislative history on this bill, that the report required of the National Aeronautics and Space Administration by section 16 of the bill that would become section 152 (c)(1)(C) of title I, part B, of the Clean Air Act will be satisfied after October 1, 1977, by including such report as a separate section in the annual Aeronautics and Space Report of the President to the Congress.

Mr. President, getting back to the main issue of this debate, what it boils down to is whether the release of chlorofluorocarbons into the atmosphere is safe.

What do we mean by safe?

Something is safe if its risks are judged to be acceptable.

Nothing is absolutely free of risk, and consequently nothing can be said to be absolutely safe. There are degrees of risk, and consequently there are degrees of safety. This implies that two different activities are required for determining how safe things are—measuring the risk and judging the acceptability of that risk. Measuring the risk is an objective matter generally involving probability and statistics. It is something that scientists can do. However, judging the acceptability of that risk is a subjective matter. It is a matter of a personal value judgment—it is a value judgment that should be made after the risk is understood.

Before the value judgment is made with respect to the halocarbons in general and to the chlorofluorocarbons specifically, we should understand the risk. To acquire that understanding, research is needed. Currently, there is in progress a variety of research programs to provide the necessary information. Both the committee bill and the amendment by the distinguished Senator from Oregon provide for regulatory action by January 1, 1978. The difference is that the committee's bill provides a procedure for implementing regulation as judged from the results of the scientific research program. The amendment proposed by the distinguished Senator from Oregon provides that it shall be unlawful to manufacture, produce, import or export from the United States aerosol containers containing halocarbons after December 31, 1977. Thus, the Packwood amendment would have the Senate make its value judgment without benefit of the information from the research program.

But, Mr. President, the testimony shows a strong consensus of opinion that by January 1978, the data needed to refine the uncertainties that currently surround the ozone depletion question will be developed. And, Mr. President, that information is needed to make the best judgmental decision regarding the regulation of a major industry.

Moreover, Mr. President, the legislation as recommended by the Senate Public Works Committee would give the Administrator of the Environmental Protection Agency the authority to regulate at any time should the ozone depletion question become clarified to the point where the Administrator believes that there is significant risk to the public health and welfare from halocarbon emissions from aerosol containers.

Mr. President, as I mentioned earlier, the provisions of the committee bill regarding research complement the research efforts initiated under Public Law 94-39. This research now underway will provide important information by January 1, 1978. I believe that an informed regulatory decision should be based on good scientific data and not a mere speculation. The amendment offered by the distinguished Senator from Oregon prejudges the result of that research and its usefulness to a proper regulatory procedure. Therefore, Mr. President, I urge the defeat of the amendment offered by the Senator from Oregon and adoption of the language recommended by the committee.

I thank the Senator for yielding.

Mr. DOMENICI. Mr. President, I yield myself an additional 5 minutes.

I have a rather detailed list of the current and scheduled research programs that will impact upon our ability to determine, by January 1, 1978, as provided in the committee bill, the effect of aerosols on the ozone layer. I ask unanimous consent that that, together with testimony as to skin cancer from Dr. Frederick Urbach of March 1, 1976, be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CURRENT AND SCHEDULED RESEARCH PROGRAMS

The hypothesis has been advanced that fluorocarbons when released into the ambient air rises into the stratosphere and react chemically to reduce the ozone layer. The bill as reported by the Committee recognizes the need for research to determine (1) if there are fluorocarbons in the stratosphere, (2) if there are, whether they indeed react to reduce the ozone layer, (3) if so, the extent of that reduction, and (4) if there is reduction, to what extent, if any, that will affect human health and the environment.

Answers to questions one, two, and three are actively being sought by government- and industry-sponsored research and it is acknowledged that work needs to be undertaken on item (4).

While a variety of government agencies are conducting research (*e.g.* NOAA—see "Effects of Ozone Depletion on Weather and Climate") NASA and IMOS, through EPA, have outlined and are conducting focused research programs.

A. NASA

The NASA Authorization Act of fiscal year 1976 provides for NASA to develop and carry out a comprehensive program of research, technology, and monitoring of the upper atmospheric phenomena.

Accordingly, the NASA Upper Atmospheric Research Program has been created and is being carried out in two subprograms: (1) the short-term or Assessment Subprogram, and (2) the long-term or Basic Science Subprogram.

ASSESSMENT SUBPROGRAM

Objective: To address current problems which have been identified as having the potential to cause harmful effects in the stratosphere in the following areas:

1. Space Shuttle Operations
2. Fluorocarbons
3. Aircraft Operations
4. Other Chemicals, *e.g.,* bromine

Time Frame:

1. Entire Program—3-5 years.

2. First preliminary assessment of fluorocarbon effects—July 1976.

3. Complete assessment and Final Report on fluorocarbon effects—September 1977.

Specific Studies for Assessment of Fluorocarbon Effects:

1. Determine, through measurements of fluorocarbon vertical profile, the extent to which fluorocarbons reach the stratosphere.

2. Determine the vertical concentration profiles of fluorocarbons.

3. Determine whether fluorocarbons are being dissociated in the stratosphere by differentiating between the vertical profiles of F–11 and F–12.

4. Determine whether the released chlorine is reacting with ozone by measuring the Cl: ClO ratio with spectroscopic techniques.

5. Distinguish between the atomic chlorine from fluorocarbons and that from other chlorine compounds in the stratosphere.

6. Identify the sources and sinks for fluorocarbons and other chlorine compounds in the stratosphere or troposphere.

Other studies to be conducted

1. Determining the effect of HCl on stratospheric ozone.

2. Determine, through theoretical studies and laboratory experiments, the potential threats posed by discharge of other chemical substances into the upper atmosphere.

Basic science subprogram

Objective: "To develop an organized solid body of knowledge regarding the physics, chemistry, and transport processes occurring in the stratosphere and other regions of the upper atmosphere."

Time Frame: 5–10 years.

Studies to be conducted at centers for atmospheric research

1. Theoretical Study Phase
2. Field Measurement Phase
3. Laboratory Experiments

B. IMOS PROGRAM CONDUCTED BY EPA

In late November, 1975, the IMOS Subcommittee on Biological and Climatic Effects Research was formed for the purpose of developing a plan for an integrated Federal stratospheric effects research program.

The Subcommittee's draft report, A Proposed Federal Research Program to Determine the Biological and Climatic Effects of Stratospheric Ozone Reduction calls for the research agenda to be divided into (1) a short-term program aimed at producing "policy-relevant" results within the next two years, and (2) a long-term program addressing basic research questions.

EPA has been designated lead agency to coordinate the research efforts.

The short-term, high priority areas are as follows:

1. Instrumentation Development
2. Human Health Effects, especially epidemiological studies on non-melanoma skin cancer
3. Molecular and Cellular Effects, especially damage and repair mechanisms.
4. Effects on Plants at the Organism Level

The long-term program, scheduled to begin in fiscal 1978, will continue study of the short-term priority areas plus the following areas:

1. Direct effects of increased UV radiation on ecosystems
2. Direct effects of climate changes
3. Indirect effects of any climatic changes on ecosystems

C. INDUSTRY RESEARCH

During the past year the fluorocarbon-ozone problem has been investigated by a variety of governmental agencies and recommendations have been made for additional study.

In May the Interdepartmental Committee for Atmospheric Sciences (ICAS) recommended 12 research and monitoring programs to assess possible halocarbon impact.

In July the Panel on Atmospheric Chemistry of the National Academy of Sciences (NAS) identified 19 areas in which relevant data is either non-existent, fragmentary or insufficient.

The ICAS and NAS recommendations now provide a framework for evaluating current research programs and planning new ones.

Table 1 compares recommendations of ICAS with those of NAS and shows industry-sponsored projects under the administration of the Manufacturing Chemists Association (MCA) currently underway seeking the required data. The only major area recommended by ICAS not covered in the MCA program is ozone monitoring. This can better be accomplished by government agencies which have at their command the appropriate instrumentation or the capability to develop it.

Table 2 details industry-funded research since 1973.

Funding through 1975 was in excess of $1.5 million and more than $5 million will be spent through 1977.

FLUOROCARBON/OZONE ISSUE: NEEDS AND PROGRAMS

TABLE 1.—*Recommended studies*

ICAS RECOMMENDATIONS, MAY 1975[a]	NAS RECOMMENDATIONS, JULY 1975[b]	MCA SUPPORTED WORK (DETAILS TABLE 2)
Major		
Measurements of chlorine and ClO concentrations in the stratosphere	Measurements of Cl and ClO upper atmosphere concentration profiles	Ekstrom—Battelle Northwest Davis—U. of Maryland Nicholls—York U. Stedman—U. of Michigan Young—Xonics, Inc. Howard—NOAA
Measurements of F–11, F–12, CCl_4, OH, HO_2, and other gases at 25–40 km	Measurements of CH, HCl, HF, NO upper atmosphere concentration profiles	Lovelock—Reading U. Murcray—U. of Denver Rasmussen—Washington State U. Taylor—U. of California (Riverside)
	Measurements of F–11, F–12, CCl_4, CH_3Cl concentration profiles 0–40 km	
Systematic search for other chlorine-bearing gases in the stratosphere	Determine total chlorine in the atmosphere and compare with sum of all identified compounds	Lovelock—Reading U. Rasmussen—Washington State U.
Investigate promising research to determine sinks for chlorine in the stratosphere	Seek out and characterize other possible sinks for removal of chlorofluorocarbons	Campbell—Washington State U. Pitts—U. of California (Riverside) Mohnen—State U. of NY (Albany)
	Determine source and further reactions of chlorine in stratospheric particulates	
Accelerate program for monitoring of ozone on a global basis		
Confirm and improve certain reaction rate measurements crucial to ozone destruction	Measure rate constants for ClO+NO, ClO+O, $Cl+HO_2$, $Cl+CH_4$	Birks—U. of Illinois Howard—NOAA Thrush—Cambridge II
	Measure rate constants for $OH+HO_2$; H, O, NO, O_3+HO_2; $O(^1D)+H_2O$, CH_4, N_2, O_2	
	Measure rate constants for $OH+CHFCl_3$, CHF_2Cl, CH_3Cl	
	Measurements of solar flux and scattering parameters for the stratosphere	
	Photolysis parameters for chlorohydrocarbons and chlorofluorocarbons	Sandorfy—U. of Montreal
	Laboratory studies of the photolysis of ClO	Davis—U. of Maryland
	Measure atmospheric abundance of decomposition products such as COF, $COCl_3$, COFCl and determine whether COFCl releases additional Cl	
Other		
Obtain a full record of past and present halocarbon production and release	Obtain accurate data on production and uses of each halocarbon manufactured worldwide	Manufacturers. Via MCA
Expand monitoring of F–11, F–12, CCl_4 in the troposphere and develop standards for their measurement		
	Sample at low altitude to find additional possible natural and anthropogenic halogen-containing compounds	

FLUOROCARBON/OZONE ISSUE: NEEDS AND PROGRAMS—Continued

ICAS RECOMMENDATIONS, MAY 1975[a]	NAS RECOMMENDATIONS, JULY 1975[b]	MCA SUPPORTED WORK (DETAILS TABLE 2)
Study the lifetimes of halocarbons, HCl, and phosgene in the troposphere		
Expand the stratospheric modeling studies of ozone formation and destruction	Develop better atmospheric models Measure global distribution of certain trace gases to improve models	Chang—ERT, Inc., and Consultants Cunnold—MIT
Expand the general circulation modeling of the effects of reduced stratospheric ozone on climate Continue study of the effects of reduced stratospheric ozone on humans and the biosphere.		
	Accurate baseline monitoring of ground level composition and absorption spectrum of "clean air" including measurements of HCl, HF, N_2O, NO, NO_2; monitoring of column-densities of HCl, HF, ClO, OH, NO_2 from ground-level and satellite stations Obtain kinetic data for all important reactions of bromine, BR + O_3; BrO + O, NO, O_3; Br + HO_2; CH_3Br + OH	Ekstrom—Battelle Northwest (ClO)

A. "The Possible Impact of Fluorocarbons and Halocarbons on Ozone," ICAS 18a-FY 75, May 1975, pp. —.

B. "Interim Report of the Panel on Atmospheric Chemistry, Climatic Impact Committee, Assembly of Mathematical and Physical Sciences, National Research Council," NAS, July 1975, pp. 3–8.

TABLE 2.—INDUSTRY FUNDED RESEARCH AND PROJECT DESCRIPTIONS

INVESTIGATOR (LISTED ALPHABETICALLY)	UNIVERSITY/INSTITUTION	PROJECT DESCRIPTION
Dr. John W. Birks	University of Illinois	Measurement of reaction rate constants at various temperatures to determine activation energies. Method used is a discharge flow technique with molecular beam mass spectrometry for detection purposes. Several reactions are to be measured involving chlorine atoms, ClO radicals, and hydrogen chloride.
Dr. Malcolm J. Campbell and Dr. R. A. Rasmussen	Washington State University	Destruction rates of fluorocarbons by natural ionization processes (ion-molecule reactions). Fluorocarbon and chlorocarbon measurements in the northwestern U.S., over the Pacific Ocean, and Antarctica—including measurements in the ice cap. Analysis of halocarbons in "antique" air (samples trapped for many years.)
Dr. David T. Chang	Environmental Research & Technology	Modeling and sensitivity analyses related to the fluorocarbon/ozone question.
Dr. Derek M. Cunnold	Massachusetts Institute of Technology	A critique of models used to estimate chlorofluorocarbon effects on ozone.
Dr. Douglas D. Davis	University of Maryland	*Completed:* An evaluation of laser induced fluorescence as a potential method for measurement of ClO radical concentrations in the stratosphere. The evaluation showed that this does not represent a practical method of measurement. *Continuing:* Measurement of absorption cross-section of the ClO radical.
Dr. Phillip A. Ekstrom	Battelle Memorial Institute—Pacific Northwest Laboratories	Evaluation and demonstration of ground-based millimeter wavelength (93 GHz) observations of stratospheric chlorine oxide radical.
Dr. Carlton J. Howard	National Oceanic and Atmospheric Administration (NOAA)	Laser magnetic resonance for ClO radical. Development and demonstration of laser magnetic resonance for ClO radical in the far infra-red region. ClO chemistry.
Dr. James E. Lovelock	University of Reading (U.K.)	*Completed:* A study of the atmospheric concentrations of halocarbons over Western Europe and over the Atlantic Ocean. *Continuing:* Monitoring activities extending to halocarbons such as methyl halides.
Dr. Volker Mohnen	State University of New York (Albany)	Investigation of ion-molecule reactions involving chlorine compounds in the troposphere and stratosphere.
Dr. David G. Murcray	University of Denver	High resolution infra-red measurement of the stratospheric distribution of fluorocarbons, chlorocarbons, halogen compounds, and reactive intermediates. Measurements made in September on the STRATCOM flight are being analyzed (preliminary results were reported at American Geophysical Union meeting, December 12). Two additional flights made December 1975. Further flights planned.

TABLE 2.—INDUSTRY FUNDED RESEARCH AND PROJECT DESCRIPTIONS—Continued

INVESTIGATOR (LISTED ALPHABETICALLY)	UNIVERSITY/INSTITUTION	PROJECT DESCRIPTION
Dr. Ralph W. Nicholls	York University (Canada)	Laboratory studies of the infra-red vibration-rotation spectrum of the ClO radical. Ground-based high resolution atmospheric observations of the electronic spectrum of the ClO radical.
Dr. James N. Pitts and Dr. O. C. Taylor	University of California (Riverside)	*Completed:* Measurements of atmospheric concentrations of fluorocarbons over southern California and in the lower stratosphere; reaction rates of fluorocarbons with $O(^1D)$ atoms and OH radicals; and stability of fluorocarbons under photochemical smog conditions. *Continuing:* Currently adapting an experimental chamber capable of simulating stratospheric conditions which will be used to observe the reaction between chlorine and ozone. Of particular emphasis is actual measurement of the catalytic chain length of the reaction, a key quantity in the models in terms of interpreting the significance of reactions between chlorine and ozone.
Dr. R. A. Rasmussen	Washington State University	See Dr. M. J. Campbell *above*.
Dr. C. Sandorfy	University of Montreal (Canada)	*Completed:* Photoelectron and ultraviolet absorption spectra of fluorocarbons with relationship to high altitude photodissociation.
Dr. Donald H. Stedman	University of Michigan	*Completed:* Laboratory studies have demonstrated the feasibility for detecting stratospheric chlorine oxide radicals by chemical conversion to chlorine atoms (by reactions with nitric oxide) accompanied by vacuum ultraviolet resonance fluorescence. *Future:* In-flight use of this technique may be supported by NASA.
Dr. O. Clifton Taylor	University of California (Riverside)	See Dr. J. N. Pitts *above*.
Dr. Brian A. Thrush	Cambridge University (U.K.)	Use of laser magnetic resonance to study reactions of the HO_2 radical at concentrations in the stratosphere of importance to the chlorine/ozone reaction. For example, a chain termination process is: $Cl+HO_2\rightarrow HCl+O_2$
Dr. Robert A. Young	Xonics, Inc.	Measurement of total stratospheric chlorine by resonance fluorescence. The preliminary experiment was flown on the September STRATCOM balloon. Measurements of important chlorine species are to be made using resonance scattering and photo fragmentation apparatus. NASA is funding Xonics, Inc., to construct a stratospheric simulator and to develop a titration instrument (c. f. Stedman) for chlorine oxide capable of being flown on a U-2 aircraft.

SKIN CANCER

Source: Testimony of Dr. Frederick Urbach, Chairman, Department of Dermatology, Skin and Cancer Hospital, Temple University Medical School, before Bumpers Subcommittee, March 1, 1976.

OZONE REDUCTION AND SKIN CANCER

It is difficult to determine the relationship between ozone reduction and incidence of skin cancer because:

Ozone levels are not constant and vary according to season, longitude, latitude, and altitude;

The amount of ultraviolet radiation which actually reaches the body varies depending upon—

1. weather conditions
2. cloud cover
3. pollution
4. life style
   a. type of clothing worn
   b. how much time spent outdoors
   c. what time of day spent outdoors
5. skin type—fair skinned people are more susceptible to radiation

Statistics on skin cancer are unreliable

1. Cases frequently are not reported because they can be treated in the physician's office.
2. Adequate studies have not been done at a variety of latitudes.
3. It is not possible to tell whether reports of deaths involving skin cancer were reports of people dying from or with skin cancer.

(See attached quote.)

INCIDENCE OF SKIN CANCER

1. Non-melanoma

300,000 new cases per year in U.S. (165/100,000 population)

95+% cure rate

(i) easily detected

(ii) slow to develop

35,000 reported deaths from 1950–1969

2. Melanoma

8,000 new cases per year (2–10/100,000 population)

40% death rate

42,000 reported deaths from 1950–1969

relationship to ultraviolet radiation not as clear as for non-melanoma skin cancer.

POSSIBLE INCREASE IN SKIN CANCER INCIDENCE DUE TO OZONE REDUCTION

A 1% decrease in ozone could lead to a 2% increase in skin cancer.

A 0.04% decrease in ozone over two years of continued U.S. use of aerosols could lead to a 0.08% increase in skin cancer, but studies have not been made to assess the effect of these minimal changes in ultraviolet radiation.

Increased exposure to ultraviolet radiation is comparable to moving south 70 miles per 1% ozone reduction. This means that an 0.04% ozone reduction would be the equivalent of moving south about 2.8 miles.

RESEARCH RECOMMENDATIONS

I. Field measurements and instrumentation

A. More accurate data on present ozone levels near sites where epidemiological data have been or will be collected.

B. Measurement of ultraviolet radiation reaching Earth.

C. Development and use of personal ultraviolet radiation monitors.

D. Improvement of high intensity ultraviolet radiation sources with narrow (monochromatic) and wide (solar simulator) spectra.

II. Epidemiology of skin cancer in man

A. A program is needed to gather epidemiologic data on prevalence of non-melanoma skin cancer over a wide span of latitudes.

B. Identification of the population at greatest risk.

C. Epidemiologic studies of malignant melanoma.

III. Animal experiments needed to study the relationship of ultraviolet radiation to the development of skin cancer

"Dr. Urbach. That is the figure given. However, when one goes back to find out whether those 5,000 died because of the skin cancer or died having a skin cancer, the number that truly died because the skin cancer invaded some vital organ is probably much smaller than that.

"There was a study done in Australia look-

> ing at all the death records saying this patient died of skin cancer, going back to the hospital record, and they found they died by getting run over by a truck or had a heart disease or something else and happened to have skin cancer.
>
> "So that, the true death rate is probably much smaller than that."—(Testimony of Dr. Frederick Urbach, March 1, 1976)

Mr. DOMENICI. Mr. President, I have no objection to the amendment of my good friend the Senator from Oregon (Mr. PACKWOOD).

Mr. President, that makes the bill worse, even from their side, because the way our bill is drawn, come January 1, 1978, the Administrator must conduct hearings and make findings with reference to whether or not he is going to regulate in whole or in part, ban in whole or in part, aerosol sprays or any part thereof. After the 90 days, Mr. President, the Congress is then given the determination by the Administrator and we have 30 days to approve or disapprove. So, Mr. President, after that 90 days of hearings, if the Administrator decides to ban, Congress can decide that we do not want to ban, or probably, more appropriately, we would support it and say he is right.

On the other hand, if he decides not to ban, we have a 30-day period of time to disapprove and make our own—not recommendation, but our own finding and to make a mandatory determination. So we have a better and far quicker approach without the imposition of an additional year and without the use of a negative burden approach in this very complicated areas.

I am going to close, Mr. President, by saying that I have not discussed economics here today. I have not entered this quagmire of whether or not we are putting people out of jobs or getting them jobs with a new can that will take the place of this one. Nor have I talked about whether this is a trivial use by Americans or a serious one, because I do not think that would be the least bit relevant, if, as a matter of fact, I thought we should ban this. If I thought we should ban this or if I thought I knew enough today to say we ought to ban it on January 1, 1978, then the economics would be irrelevant, because, in fact, there is no question that it should be banned.

I am not asking anyone to support the committee based upon the trivial use of frivolous products by Americans. I do not want that. I am not asking that they preserve jobs; I am not asking for that. I merely say that this bill provides a rather good—in fact, excellent—regulatory mechanism, a fact-finding mechanism, and promotes the serious investigation of what the true facts are, and we shall know by January 1, 1978.

One final, concluding remark: Mr. President, nobody discusses this issue without referring to the IMOS report. That report was an interagency study and it came up with the conclusion that there was cause for concern and, if the preliminary facts that they found could be verified, there should be a ban. This administration and Congress have gone along with a National Academy of Sciences study to fill in that next step required by those findings of the IMOS report team.

If nothing else, Mr. President, we ought to let the National Academy of Sciences report. They will not report for 2 or 3 more months. I submit that if they report that aerosols ought to be banned, then the 60-day provision for accelerated hearings and a ban will come into effect under the committee bill and we shall not need the negative ban. If they do not, or if they are still inconclusive, I think we have provided a rather superb mechanism, Mr. President, for carrying on the research up to January 1, 1978, and then doing something about it.

I reserve the remainder of my time.

Mr. RANDOLPH. Mr. President, when the committee considered the provisions of this bill dealing with ozone protection, we had before us a proposal to ban aerosol uses of fluorocarbons after January 1, 1978, unless the Environmental Protection Agency found no environmental risk in the continued use of such fluorocarbons. We felt that the record then available was not sufficiently clear to support either a statutory ban on fluorocarbon aerosols or imposing the burden of proof for avoiding such a ban on the manufacturer. In the opinion of the committee, substantial questions remained as to the contribution of fluorocarbons from aerosol cans to ozone depletion and on the degree of environmental risk associated with depletion of ozone from the upper atmosphere. Since the legislation proposed extensive further study of these issues, Committee members felt it was appropriate to make any regulatory decision on a possible ban on fluorocarbon aerosol wait until the studies had been completed.

None of the information which has become available since our consideration of these provisions would justify changing the committee's recommendation. New measurements and new interpretations of data have been presented on both sides of the question. Further scientific study is necessary before a decision can be made to impose controls on aerosol uses of fluorocarbons. I oppose any amendment to section 153 as it was recommended by the Committee.

Mr. President, I commend the Senator from New Mexico (Mr. DOMENICI) for his attention to this subject. His interest in this important subject has been further evidenced during the debate on this amendment.

The PRESIDING OFFICER (Mr. NUNN). Who yields time?

Mr. MAGNUSON. Mr. President, will the Senator yield?

Mr. PACKWOOD. I yield.

Mr. MAGNUSON. Mr. President, I would like to take this opportunity to congratulate the Committee on Public Works, specifically its distinguished chairman, the Senate from West Virginia, and the distinguished chairman of the subcommittee, the Senator from Maine, for their efforts in bringing these amendments to the Clean Air Act to the floor of the Senate. The committee has worked long and hard on a series of very difficult problems, and the results of their labors are more than evident in the product now before us.

The Committee on Commerce and the Committee on Public Works have a long history of working together to help solve the pollution problems of this country. While the Committee on Public Works has concentrated its work in protecting against air and water pollution through the regulation of emissions and effluents, the Committee on Commerce has concentrated its work in the control of the products which are responsible for the pollution. The Committee on Commerce has worked long and hard to enact a Toxic Substances Control Act which will provide this kind of product control. Hopefully, that bill will become law this year, the Senate having passed its version in March, and the House about to take the bill up within the next week or two.

Of particular interest to the Committee on Commerce is section 16 of the committee bill before us which contains authority to protect the ozone layer of our atmosphere from destruction by halocarbons. Sections 153 and 154 of the new part B authorize the regulation of aerosol containers, and section 155 authorizes the regulation of halocarbons released from sources other than aerosol containers.

While the Toxic Substances Control Act is designed to deal with precisely these kinds of problems, the provision contained in the amendments now before us should aid in that task, and I urge my colleagues on the Committee on Commerce and in the Senate to support it.

Nonetheless, through long-standing precedent, the regulation of aerosol products and most chemicals falls within the jurisdiction of the Committee on Commerce. The Consumer Product Safety Act, the Flammable Fabrics Act, the Hazardous Substances Act, and the Toy Safety Act, in addition to our activity concerning the Toxic Substances Control Act, are but a few examples of the committee's continuing interest in the control of products or their effects on consumers and the environment.

While section 16 of the bill before us warrants our support, it is appropriate to point out that legislation generally dealing with the regulation of chemicals like halocarbons falls within the jurisdiction of the Committee on Commerce, notwithstanding the inclusion of this authority in the Clean Air Act. The Committee on Commerce has exercised jurisdiction over these issues in the past and intends to do so in the future.

Mr. PACKWOOD. Mr. President, I do not want to take any more time. I think we have used about all the time.

I do have in this bag eight other antiperspirants that would be banned by this bill that are not necessary. I am just convinced that we are, for no particular reason, saying that we will put a positive burden of proof, rather than a negative burden of proof, in this situation when all scientists agree that there is either imminent danger or possible danger.

There is not anybody who says there is no danger. We are not trading off something for nothing of value. We are trading off fluorocarbon propelled hair spray, deodorant, antiperspirant, for pushbutton, finger-powered, muscle-moved convenience products. Why anybody would object to that kind of trade in the name of safety escapes me.

ADDITIONAL STATEMENTS SUBMITTED

Mr. DOMENICI. Mr. President, it has been pointed out that there are certain medical products, for which there is no substitute, which use halocarbon aerosols.

It is not the intent of this bill that all such products must be banned if any aerosol products are banned. Under section 153, EPA is required to prohibit or restrict the manufacture, sale, import, export, or use of halocarbon aerosol containers only to the extent necessary to avoid endangerment of public health and welfare.

I would like the record to reflect, therefore, that this provision in the committee bill has sufficient latitude to permit the Administrator to exempt essential medical products—which represent a very small percentage of total halocarbon use—from any restriction or prohibition which may be applied to halocarbon aerosols if he determines that such an exemption would not be inconsistent with the purposes of this provision.

Mr. MUSKIE. I agree with the Senator that the committee provision would allow this kind of discretion.

Mr. RANDOLPH. If I could address the manager for the ozone protection portion of the bill, the knowledgeable Senator DOMENICI, I inquire if my understanding of the development and inclusion of section 158 is correct. I am impressed that this legislation, like all legislation, is less than perfect. It is, as I recall, the product of numerous compromises and lengthy negotiations in which there was a great deal of give and take in an earnest effort to move forward with responsible legislation to address a possible national problem.

It seems to me that this provision, section 158, deserve special comment so that our colleagues in the State legislatures will be better able to appreciate the concerns and considerations that led to inclusion of section 158 of part B. Would the manager of the bill address himself to that subject?

Mr. DOMENICI. I would be pleased to address the subject raised by my distinguished friend from West Virginia. By inclusion of section 158, we have specifically authorized States to adopt regulations and standards controlling the manufacture, sale and use of halocarbons which are more stringent that Federal regulations and standards.

We did this out of concern for comity and State rights and to maintain consistency with the basic Clean Air Act we were amending. But we also did it with the realization that many people may suffer a loss of property, income and jobs if precipitous action is taken at the State and local levels without due consideration of the State of scientific knowledge and the other factors which prompted us to establish the national regulatory framework contained in the committee bill. While this section specifically permits more stringent State and local regulation, it is not intended to encourage such action. With the definitive and comprehensive Federal regulatory process now being put in place by this bill, States and local governments should feel less pressure to pursue their own standards until the studies are completed, the facts are in, and Federal regulations devised.

It is my own hope that those in industry and labor who would be directly affected by State and local regulation of fluorocarbons will, in the spirit of the American democratic system, seek to present their case to the various State and local legislative bodies. In doing so, I invite them to bring these comments to the attention of our colleagues at the State and local level so that they might consider these points as they pursue their important responsibilities to the people they represent.

Mr. RANDOLPH. I thank the Senator for his response. Once again, he shows his thorough knowledge of this important subject.

Mr. BROOKE. Mr. President, my colleagues and fellow cosponsors of this amendment have laid out the scientific evidence on both sides of this issue at some length. I am a cosponsor of this amendment because I believe there is an important principle of law at stake. Indeed, it is the same one the Senate affirmed when it passed the toxic substances control legislation. Simply put, it is that the burden of proof that a chemical is safe ought to come from its distributor and come prior to its distribution. A chemical should be safe beyond any reasonable doubt before it is commercialized.

The fact that we are dealing with a substance now in distribution about which reasonable doubts regarding its safety have been lately raised does not mean that we should neglect the principle. To continue in its commercial distribution, the chemical should not be dangerous to persons or their natural environment. The amendment allows a generous time for reconsideration of all the scientific evidence to see if safety can be demonstrated. But if it cannot, fluorocarbon propellants must go as should any other substance about which there is uncertainty. I am deeply convinced that this is a perfect example of the kind of issue on which we must always be conservative in favor of the environment. We may not ever get a second chance.

OZONE PROTECTION

Mr. GARY HART. Mr. President, included in the Clean Air Amendments of 1976 (S. 3219) as reported by the Senate Public Works Committee is a provision designed to insure protection of the ozone layer in the stratosphere.

In brief, the committee proposal provides for studies by the National Academy of Sciences and appropriate research agencies to obtain a more thorough understanding of both the effects of human activities on the ozone layer and the effects of ozone depletion on human health and welfare.

In addition, the committee proposal directs the Administrator of the Environmental Protection Agency to issue regulations restricting or banning the use of halocarbons as aerosol propellants if the Administrator determines that these chemicals "may reasonably be anticipated to cause or contribute to the endangerment of public health or welfare." This determination is to be made by January 1, 1978, with final regulations effective by April 1, 1978, unless disapproved by either House of Congress.

The committee bill also provides that the Administrator can issue regulations prior to January 1, 1978, if he determines that halocarbon emissions from aerosol containers post a "significant risk" to the public health or welfare.

Finally, the committee proposal provides for regulation of halocarbon emissions from sources other than aerosol containers if these emissions "may reasonably be anticipated to cause or contribute to the endangerment of the public health or welfare."

Mr. President, I commend the Public Works Committee for recognizing the unique air pollution problems posed by the release of halocarbons. The extent of concern expressed by the committee is perhaps best stated on page 51 of the majority report, which reads:

> This Committee believes, since depletion of the ozone layer is of such great potential harmful consequence, it is wise to exercise caution and ensure protection of the public health and welfare.

Mr. President, I fully share these concerns regarding halocarbons and depletion of the fragile stratospheric ozone layer that protects the Earth from solar ultraviolet radiation. For precisely this reason, I am pleased to join with Senators PACKWOOD, BUMPERS, McINTYRE, and others in a bipartisan effort to strengthen the ozone protection provision of the committee bill.

In brief, the amendment which we have introduced provides for a qualified ban, effective January 1, 1978, on aerosol dispensers containing halocarbon propellants. The amendment also provides that the Administrator of the Environmental Protection Agency may waive or modify this ban prior to the above date in the event that he determines that halocarbon emissions pose no significant threat to the public health, safety, or welfare.

For the benefit of my colleagues, I ask unanimous consent that the complete text of the amendment be printed at this point in the RECORD.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT NO. 1577

On page 58–59, strike section 153 and insert in lieu thereof the following:

"SEC. 153. (a) On and after January 1, 1978, except as provided in subsection (b), it shall be unlawful for any person to manufacture, produce, import or export from the United States, aerosol containers containing halocarbons.

"(b) The Administrator shall consider the available reports, consult with appropriate Federal agencies and scientific entities, and afford the opportunity for public hearings, and if he then, "(1) finds that no significant risk to the public health, safety, or welfare is, or may be posed by the discharge of halocarbons into the ambient air from aerosol containers, then he may, by rule modify or rescind the prohibition in Sec. 153(a) in whole or in part consistent with that finding or

"(2) determines that a particular use of halocarbons in aerosol containers is essential for the public health or welfare and an adequate substitute for halocarbons is not available he may grant specific exemptions from the prohibitions of this Section to allow the use of small quantities in such situations.

"(c) From time to time the Administrator may revise any of the regulations issued pursuant to this Section in the light of new evidence as to the need for such regulations.

"(d) Nothing in this section shall limit, restrict, or otherwise detract from the authority provided in Section 154 of this Act, or any authority under the Consumer Product Safety Act.

Mr. GARY HART. Mr. President, as I originally indicated to the Senate Public Works Committee several months ago, the evidence is now compelling that certain halocarbons used in many aerosol spray cans and in the refrigeration industry may cause significant changes in the Earth's upper atmosphere. These changes, in turn, cause increases in human skin cancer and other forms of mutation and may significantly affect agricultural food production, climate, and most forms of animal and plant life on the Earth's surface. Since in virtually all cases, harmless or alternative dispensing techniques are already available, most aerosol uses of fluorocarbons are nonessential.

Mr. President, in light of the magnitude of the threat and the weight of current evidence, Congress should establish a limitation on these nonessential uses of halocarbons and give the EPA Administrator the authority to modify that limitation if, at some future date, he determines there is no significant risk to public health and welfare.

In sum, the committee's proposals for ozone protection place the administrative burden on the wrong party. For nonessential uses of halocarbons, doubts clearly must be resolved in favor of the protection of public health. The burden of proof must lie with the manufacturers to prove there is no serious danger. As the committee report states, depletion of the ozone layer is a danger of such magnitude that it is wise to err on the side of caution to insure the protection of public health and welfare.

It is, therefore, imperative that Congress take strong steps at this time to eliminate the use of halocarbons in nonessential aerosols to reduce a growing danger to human health, agriculture and our natural environment.

We now have every scientific reason to believe that halocarbons do deplete the ozone layer. This ozone depletion will result in more solar ultraviolet radiation reaching the Earth's surface, which will have extensive adverse effects on public health and environmental quality.

The risks in this case are of such magnitude that they far outweigh the trivial benefits derived from continued indiscriminate nonessential release of halocarbons.

It is the enormous magnitude of the danger presented by ozone depletion that distinguishes the halocarbon-ozone depletion problem from the other problems treated by the clean air amendments.

Mr. President, scientists have been studying the ozone layer intensively ever since questions regarding pollution of the stratosphere first arose in conjunction with the SST controversy. In addition, the relationship between halocarbons and ozone depletion has now been subject to 2 full years of related investigation.

In lieu of making extensive remarks regarding the results of this research, I will simply summarize the conclusions and ask unanimous consent that a brief list of recent reports and studies of this issue be printed at this point in the RECORD.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

RECENT REPORTS AND STUDIES OF HALOCARBONS AND OZONE DEPLETION ISSUE

February 1973—The National Academy of Sciences report: "The Biological Impacts of Increased Intensities of Solar Ultraviolet Radiation."

December 1974—Department of Transportation report on the Climatic Impact Assessment Program, entitled "The Effects of Stratospheric Pollution by Aircraft."

April 1975—The National Academy of Sciences report: "Environmental Impact of Stratospheric Flight."

May 1975—Federal Council for Science and Technology report: "The Possible Impact of Fluorocarbons and Halocarbons on Ozone."

June 1975—Report of the Federal Task Force on Inadvertent Modification of the Stratosphere (the IMOS report): "Fluorocarbons and the Environment."

June 1975—National Bureau of Standards report entitled "Chemical Kinetic and Photochemical Data for Modelling Atmospheric Chemistry."

July 1975—Interim report on the National Academy of Sciences Panel on "Atmospheric Chemistry."

September 1975—Environmental Protection Agency report: "Preliminary Economic Impact Assessment of Possible Regulatory Action to Control Atmospheric Emissions of Selected Halocarbons."

September 1975—Seven days of Hearings by the Senate Aeronautical and Space Sciences Ad Hoc Subcommittee on the Upper Atmosphere.

November 1975—State Department report: "The International Aspects of Halocarbon Regulation."

November 1975—National Aeronautics and Space Administration: "The NASA Plan for Research in the Upper Atmosphere."

December 1975—National Cancer Institute report: "Measurements of Ultraviolet Radiation in the United States and Comparisons with Skin Cancer Data."

December 1975—Environmental Protection Agency: "Report on the Problem of Halogenated Air Pollutants and Stratospheric Ozone."

February 1976—Two days of hearings by the Senate Aeronautical and Space Sciences Ad Hoc Subcommittee on the Upper Atmosphere.

February 1976—National Science Foundation: "Report of the IMOS Subcommittee on Biological and Climatic Research."

Mr. GARY HART. Mr. President, as documented by recent studies, there is growing awareness that skin cancers are one of the major dangers of ozone depletion. A 1-percent decrease in ozone results in approximately a 2-percent increase in the incidence of skin cancer, or about 30,000 additional cases per year worldwide. Some recent estimates predict an even greater number of cases.

It has been suggested that we simply freeze halocarbon production at current levels and devote further study to the problem. Were we to do this, the ozone shield eventually would be depleted by about 10 percent. Conservative estimates predict that this would result in approximately 500,000 additional cases of skin cancer per year, $250 million in additional medical treatment costs per year, and 7,500 additional deaths per year due to skin cancers alone. These are costs that we cannot afford to pay.

However, the most significant threat posed by continued ozone depletion lies not in the direct effect on human skin of increased ultraviolet radiation, but rather in its effect on the rest of animal and plant life. If necessary, people could wear additional protective clothing and spend less time outdoors to avoid increased exposure to ultraviolet radiation. But cattle, for example, which get "pink eye" and "cancer eye" from exposure to ultraviolet radiation, do not have the same alternatives as those available to man.

Plants are also threatened because some can barely tolerate the relatively small amount of ultraviolet radiation which normally manages to filter through the ozone shield. Others, including important agricultural crops such as cotton, peas, and soybeans, have been found to be particularly sensitive to ultraviolet damage.

However, the potential adverse effects on agriculture of increased ultraviolet radiation go far beyond this. Recent experiments suggest, for example, that both the stability and effectiveness of many agricultural chemicals are decreased by ultraviolet radiation. Similarly, the behavior patterns of many insects, including those beneficial to agriculture, are highly dependent on ultraviolet radiation, for unlike humans, insects see in the ultraviolet spectrum. Although the precise nature of such behavioral changes has not been thoroughly explored, there is every reason to believe that the net effects would be both significant and detrimental.

Of even greater concern is the possibility that halocarbons in the atmosphere might indirectly precipitate significant climatic changes, including changes in temperature, wind patterns, precipitation, and other weather elements. Again, the nature and extent of these changes cannot be predicted with total certainty on the basis of present knowledge, but we do know enough to realize that the potential for significant climatic effects does exist.

Mr. President, the possible, and in many cases probable, effects of increased ultraviolet radiation span virtually the entire range of aquatic and terrestrial ecosystems, from microscopic bacteria to man. Scientists have not yet specifically identified every last possibility, but the general picture they paint is clear. Their concern is reflected in the fact that most of the atmospheric scientists testifying before the Senate Subcommittee on the Upper Atmosphere have asked for an immediate ban on nonessential aerosol uses.

What we have to weigh in reaching a decision regarding the regulation of halocarbons is the potential magnitude of the dangers on the one hand, and the benefits derived from or associated with halocarbon emissions on the other. Approximately one-half of the halocarbons produced are used as propellants in aerosol containers for dispensing personal care products, especially hairsprays, deodorants, and antiperspirants. For most of these uses, alternative propellants or mechanisms can be employed. But in any event, convenient hairsprays and deodorants just are not worth taking the risks associated with high levels of ultraviolet radiation.

Mr. President, as I have indicated, the evidence against halocarbons is now compelling and the predicted effects represent nothing less than a whole series of potential dangers for both man and the human and natural environment.

A major problem has been clearly identified. We should read the handwriting on the wall and ban the nonessential uses of halocarbons before this problem becomes a crisis.

I therefore urge my colleagues to give amendment No. 1577 this most careful consideration and support.

Mr. DOLE. Mr. President, major concern was first expressed in 1974 about the possible effects of aerosol sprays and other fluorocarbon products on the stratosphere, which surrounds the Earth. A layer of ozone gas within that stratosphere protects human beings from harmful ultraviolet radiation from the Sun. There is speculation among some scientists that fluorocarbons may react with the ozone layer in such a way to gradually destroy it, allowing ultraviolet radiation to reach the Earth's surface in harmful quantities.

In response to that speculation, a number of major research projects were begun, and are still underway, to determine more precisely whether or not such a danger actually exists. In the meantime, Congress is faced with the decision of how best to protect the public's health and safety in the event that continued research should prove the risk factor associated with aerosol sprays and similar products.

S. 3219, as reported by the Senate Public Works Committee, would direct the Environmental Protection Agency to regulate fluorocarbon emission sources if future studies indicate that the emissions may "reasonably" be expected to endanger the public health and safety. A report is to be issued, and any necessary regulations proposed, by January 1, 1978. I feel this is a reasonable and responsible procedure for dealing with this crucial issue. The provision does, in effect, require that hard, concrete evidence be presented before we enact Federal controls to limit or ban the manufacture and use of fluorocarbon products.

EVIDENCE NOT NOW AVAILABLE

Testimony presented during committee hearings indicated no immediate danger to public health. In fact, it is my understanding that there is at this time no experimental evidence that the ozone layer is actually damaged by fluorocarbons, and this lack of evidence was the basis for earlier decisions by the U.S. Consumer Products Safety Commission to reject petitions for banning or restricting certain uses of fluorocarbons. Before such concrete evidence is available, Congress would be ill-advised to disrupt what has become a major industry in this country, purely on the basis of an unproved hypothesis. There are about 25 fluorocarbon producers worldwide, 6 of which are in the United States, with 14 plants in 9 States. One of these, located in my own State of Kansas, manufactures three common fluorocarbons which are marketed as refrigerants, aerosol propellants, and blowing agents. Some 4,000 people in the United States are employed in fluorocarbon manufacture, sales, and research. More than a million additional jobs in this country are dependent on fluorocarbon use. Commonsense would indicate that no hasty or irreversible decisions should be made which would deal a deathblow to this legitimate enterprise.

In the meantime, major research proceeds on relevant aspects of the matter. Our understanding of the causes of ozone changes is incomplete, both in terms of its causes and its effects. Fluorocarbon producers are supporting this scientific research, providing some $5 million in research aid over a 3-year period. Further studies by the National Academy of Sciences are required by the pending bill, and several Federal agencies are being directed to study the potential effects of human activities on the ozone layer. Within 2 years, based on these intensive and extensive studies, the Environmental Protection Agency must prepare a summary report for the Congress covering all scientific knowledge about the ozone depletion problem along with recommendations for longer term research efforts. If EPA determines at that time that regulation of fluorocarbons is needed to avoid danger to public health and welfare, it must immediately issue regulations to restrict or prohibit the manufacture, sale, import, export, or use of aerosol containers. I believe that this approach, based as it is upon a substantive finding of reasonable danger, is a practical approach for protecting the interests of both public health and industry. I support the recommendations to this effect contained within the committee's version of this bill.

Mr. McINTYRE. Mr. President, I support the modifications of my colleague, Mr. Packwood.

If a ban or other restrictions are necessary to control the use of fluorocarbons in aerosols containing fluorocarbons, the impact of such restrictions would be softened.

The modified amendment would still give the EPA Administrator up to January 1, 1979, to delay the effective date of his prohibitions to avoid unreasonably adverse effects on employment.

Manufacturers of the chemicals used to make fluorocarbons and the makers of fluorocarbons as well as aerosol packagers would have additional time to phase out use of fluorocarbons.

As a result, aerosol packagers could switch to alternatives like finger pump bottles of acceptable propellants in a timely way, reducing the prospect of unemployment caused by a ban on fluorocarbons.

At the same time, the amendment preserves the principle under which the EPA Administrator will decide by January 1, 1978, whether to waive a ban on nonessential uses of aerosols containing fluorocarbons.

Mr. President, I urge my colleagues to vote for this amendment.

Mr. PACKWOOD. Mr. President, I am prepared to yield back my time and am prepared to vote.

The PRESIDING OFFICER. Is all time yielded back?

Mr. BUCKLEY. We yield back our time.

Mr. PACKWOOD. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. Hartke), the Senator from South Dakota (Mr. McGovern), the Senator from Minnesota (Mr. Mondale), and the Senator from California (Mr. Tunney) are necessarily absent.

I also announce that the Senator from Michigan (Mr. Philip A. Hart) and the Senator from Delaware (Mr. Biden) are absent because of illness.

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. Brock), and the Senator from Pennsylvania (Mr. Schweiker) are necessarily absent.

The result was announced—yeas 28, nays 64, as follows:

[Rollcall Vote No. 480 Leg.]

YEAS—28

Abourezk
Bayh
Brooke
Bumpers
Case
Church
Clark
Cranston
Culver
Durkin
Eastland
Hart, Gary
Haskell
Hatfield
Hathaway
Humphrey
Kennedy
Leahy
Mansfield
Mathias
McIntyre
Metcalf
Nelson
Packwood
Proxmire
Scott, Hugh
Stafford
Stevens

NAYS—64

Allen
Baker
Bartlett
Beall
Bellmon
Bentsen
Buckley
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Chiles
Curtis
Dole
Domenici
Eagleton
Fannin
Fong
Ford
Garn
Glenn
Goldwater
Gravel
Griffin
Hansen
Helms
Hollings
Hruska
Huddleston
Inouye
Jackson
Javits
Johnston
Laxalt
Long
Magnuson
McClellan
McClure
McGee
Montoya
Morgan
Moss
Muskie
Nunn
Pastore
Pearson
Pell
Percy
Randolph
Ribicoff
Roth
Scott, William L.
Sparkman
Stennis
Stevenson
Stone
Symington
Taft
Talmadge
Thurmond
Tower
Weicker
Williams
Young

NOT VOTING—8

Biden
Brock
Hart, Philip A.
Hartke
McGovern
Mondale
Schweiker
Tunney

So Mr. PACKWOOD's amendment was rejected.

Mr. BUCKLEY. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. DOMENICI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER (Mr. NUNN). The Senator from Virginia (Mr. WILLIAM L. SCOTT) is recognized for 10 minutes under the previous order.

Mr. MANSFIELD addressed the Chair.

Mr. WILLIAM L. SCOTT. I will be glad to yield.

Mr. MANSFIELD. Mr. President, I believe it was agreed that the Senator from Alabama (Mr. ALLEN) would precede Mr. WILLIAM L. SCOTT, who has a time limitation of 10 minutes. So I ask unanimous consent that Mr. ALLEN be recognized for 15 minutes, to be followed by the consideration of the Scott amendment on which there will be a vote, and following that vote there will be final passage. That will take us a little bit beyond the scheduled time for final decision, but we cannot avoid it.

Mr. ALLEN. Mr. President, reserving the right to object, and I shall not object, I would like to state to the distinguished majority leader that Mr. MUSKIE, Mr. BUCKLEY, and I have reached an understanding on the handling of the colloquy, and it will be handled by an insertion in the RECORD agreed to by us, so there will be no need for this time. But I do appreciate the distinguished majority leader's raising it.

Mr. MANSFIELD. I appreciate what the Senator from Alabama has just done. So it will be a question of the Senator from Virginia being allowed a full 10 minutes if he so desires—I mean all together. Then it will be followed by a vote on the William L. Scott amendment, to be followed by final passage.

As far as the Democratic conference for this afternoon, which was set for 2:15, we will have it at the end of the final vote on the pending bill.

I thank everyone.

The PRESIDING OFFICER (Mr. NUNN). The Senator from Virginia.

Mr. WILLIAM L. SCOTT. Mr. President, I appreciate the courtesy of the distinguished majority leader, the chairman of the Committee on Public Works, and others, in seeing that I have this limited amount of time to offer my amendment.

AMENDMENT NO. 2115

Mr. WILLIAM L. SCOTT. Mr. President, I call up my amendment No. 2115 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Virginia (Mr. WILLIAM L. SCOTT), for himself, Mr. BARTLETT, Mr. CURTIS, Mr. EASTLAND, Mr. FANNIN, Mr. GARN, Mr. GOLDWATER, Mr. HELMS, and Mr. THURMOND, proposes an amendment numbered 2115.

Mr. WILLIAM L. SCOTT. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 1, after line 2, insert the following:

"SECTION 1. Section 101(b)(1) of the Clean Air Act is amended to read as follows:

"(1) to protect and enhance the quality of the Nation's air resources by establishing, achieving, and maintaining national ambient air quality standards, standards of performance for new stationary sources, and national emission standards for hazardous air pollutants so as to promote the public health and welfare and the productive capacity of the Nation, but nothing in this Act is intended to require or provide for the establishment of Federal standards more stringent than primary and secondary ambient air quality standards;".

On page 1, line 3, strike out "SECTION 1" and insert "SEC. 2".

On page 2, line 18, strike out "2" and insert "3".

On page 2, line 21, strike out ", prevention of significant deterioration,".

On page 4, line 20, strike out "3" and insert "4".

On page 5, line 1, strike out "4" and insert "5".

On page 9, beginning with line 8, strike out all through "(b)" in line 19 and insert in lieu thereof "SEC. 6. (a)".

On page 10, line 9, strike out "(c)" and insert in lieu thereof "(b)".

On page 10, beginning with line 17, strike out all through "(iii)" in line 18 and insert in lieu thereof "and (ii)".

On page 10, line 19, strike out "(d)" and insert in lieu thereof "(c)".

On page 10, line 21, strike out all following the quotation marks through the semicolon in line 22.

On page 10, line 25, strike out "(c)" and insert in lieu thereof "(d)".

On page 11, line 3, strike out all after "section 111" to the comma in line 5.

On page 11, beginning with line 6, strike out all through line 21 on page 20.

On page 20, line 24, strike out "(h)" and insert in lieu thereof "(g)".

The PRESIDING OFFICER. The Senate will be in order. The Senator is entitled to be heard. Senators will please take their seats and remove all conversations to the cloakroom.

Mr. WILLIAM L. SCOTT. Mr. President, this amendment is cosponsored by Senators BARTLETT, CURTIS, EASTLAND, FANNIN, GARN, GOLDWATER, HELMS, and THURMOND.

A number of us have made somewhat lengthy talks on one or more occasions within the past week in opposition to the provisions of this bill and Federal regulations that deny any significant deterioration of air quality in clean or clean air areas when the air quality would still be substantially above that determined by the Administrator of the Environmental Protection Agency, pursuant to statutory authority, as necessary for the protection of the health and welfare of citizens.

As we know, the Administrator has general authority under the 1970 Clean Air Act to establish nationwide primary standards high enough to protect the health of the people of the country and secondary standards high enough to protect their welfare. The act specifically defines welfare in section 302(h) as including but not limited to "effects on soils, water, crops, vegetation, manmade materials, animals, wildlife, weather, visibility, and climate, damage to and deterioration of property, and hazards to transportation, as well as effects on economic values and on personal comfort and well-being." This statutory authority is nationwide in scope. However, section 6 of the committee bill and regulations of the Environmental Protection Agency would prohibit significant deterioration of air in local areas where the air is cleaner or of higher quality than the national ambient air quality standards. In my opinion, the Congress never intended by the 1970 act to prevent economic growth, development of industry and jobs in parts of the country where air quality is well above national limits designed to protect public health and welfare. In my opinion also. it would be unwise for the Congress now through this bill, in effect, to provide statutory authority where none now exists to prohibit significant deterioration of air quality in rural areas with no health problem.

The amendment has substantially the same effect as the one I previously offered to the Moss amendment on Tuesday of this week but this one today is of the first degree and offered directly to the bill. In my opinion, the nondegradation policy now being followed by the Environmental Protection Agency is against the best interests of the country. It would appear to strike a balance between a clean wholesome environment and retention of the right of our economy to grow, plants to be constructed, and our standard of living retained or enhanced.

An editorial of July 22, 1976, in the Journal Messenger, a newspaper published in Manassas, Va., concludes with this paragraph:

> Senator Scott's amendment strikes a fair balance between the need to protect the environment and the need to permit a reasonable solution to the Nation's economic problems. The amendment permits the States or a combination of States to adopt more stringent standards than those presently required under existing Federal law, if desired, in order to protect certain lands from pollution. This is as it should be, for who are better qualified to make decisions concerning the need for protecting certain lands than those who live on them or near them. Delegating to a Federal agency, sweeping powers, which negate the rights of States and local governments to control their own land use or zoning, challenges the liberties for which the American Revolution was fought. In 1776 it was the government of George III; in 1976 it is the petty bureaucrats of the EPA. Senator Scott's amendment would restore sanity to what is becoming an insane situation in dealing with the protection of our environment. If it is not incorporated into the law both the environment and basic American liberty will suffer.

Mr. President, this editorial is entitled, "How Tough Is Enough," and I ask unanimous consent that it be printed in its entirety at this point in the RECORD, as well as a column by syndicated columnist John Chamberlain, both in support of my amendment.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Manassas (Va.) Journal Messenger, July 22, 1976]

How Tough Is Enough

The time has come to put to the test the concepts of freedom to which we have rendered so much lip service during this Bicentennial year. Must the high-sounding phrases of the Declaration of Independence be just high-sounding phrases while we concentrate more and more power in the hands of zealous bureaucrats who claim to know what is best for us and who have flown in the face of all constitutional safeguards of our basic rights? There are many instances of such high-handed arrogance on the part of federal bureaucrats, but one of the most flagrant exhibitions is that of the Environmental Protection Agency in its implementation of the Clean Air Act of 1970. Those of us who are affected by the decisions of this agency relating to one relatively small project, the Upper Occoquan Sewage Authority, are well aware of the hardships which can be created by this group of superbureaucrats who are not certain of their own regulations. The type of bungling which the EPA has managed regarding this one sewage treatment program could well be magnified many times if that agency is permitted continued carte blanche in dealing with the problems of air pollution.

There is a movement afoot in the Congress to establish by law a national nondeterioration policy which would go beyond the present national standards for air quality by making it possible for a separate set of more stringent regulations to be applied to so-called pristine clean air regions giving to the EPA Administrator the final determination as to which areas and regions would be affected. In practice this would give to the federal government a right constitutionally reserved to the states and local governments—the right to determine land use and zoning. This would in effect place the people residing in these local areas at the mercy of a faceless bureaucracy whose past performance has left a lot to be desired in its approach to problems in which the individual citizens have a lot at stake but are relatively powerless in the face of decisions made in Washington or in some remote regional office.

What is needed is a reasonable balance between the need to assure a wholesome environment and pure air on the one hand and the need for reasonable economic growth on the other. How will we be served if unreasonably stringent regulations to assure clean air will so affect the economy that the enterprises which pay for the operation of the system and provide sustenance to large segments of our citizenry will be scuttled without reason? A more reasonable approach to the problem is contained in an amendment by Virginia Sen. William L. Scott to the Clean Air Act which proposes "To protect and enhance the quality of the nation's air resources by establishing, achieving and maintaining national ambient air quality standards, standards of performance for new stationary sources, and national emission standards for more hazardous air pollutants so as to promote the public health and welfare and the productive capacity of the nation, but nothing in this act is intended to require or provide for the establishment of standards more stringent than primary or secondary ambient air quality standards."

Senator Scott's amendment strikes a fair balance between the need to protect the environment and the need to permit a reasonable solution to the nation's economic problems. The amendment permits the states or a combination of states to adopt more stringent standards than those presently required under existing federal law, if desired, in order to protect certain lands from pollution. This is as it should be, for who are better qualified to make decisions concerning the need for protecting certain lands than those who live on them or near them. Delegating to a federal agency sweeping powers, which negate the rights of states and local governments to control their own land use or zoning, challenges the liberties for which the American Revolution was fought. In 1776 it was the government of George III; in 1976 it is the petty bureaucrats of the EPA. Senator Scott's amendment would restore sanity to what is becoming an insane situation in dealing with the protection of our environment. If it is not incorporated into the law, both the environment and basic American liberty will suffer.

Using "Clean Air" To Promote "No Growth"

(By John Chamberlain)

What I liked about the older America is that people went ahead and did creative things without worrying too much about all those remote danger possibilities that torture our modern breed of environmentalists. This was not as short-sighted as our Naderites might suppose. If collisions threatened on the railroads, a Westinghouse would come along to invent the air brake. If men got run over trying to start cars with a hand crank, a Henry Leland of Cadillac would hire a "Boss" Kettering to develop an electric self-starter.

The result, on balance, of this "do-it-now-make-it-safe-later" attitude was a soaring economy that allowed more and more people to lead more and more satisfactory lives. The needed safety engineering came along as an inevitable corollary, and everything worked out comparatively well.

The new way, however, is to stop things before they get started. Atomic energy, for example, can't get off the ground because our Naderites distrust the ability of our safety engineers to come up with ways of storing nuclear waste or, indeed, of utilizing that waste in new medical or industrial processes.

The reductio ad absurdum of the whole "make-it-100-percent-safe" attitude has come to the surface in recent court interpretations of our Clean Air legislation. Congress, in passing the original Clean Air Act of 1970, established a national air quality standard that provided for reasonable health safeguards. There was no apparent intent on the part of the national legislators to tell the individual states what to do about protecting their air provided the national safety minimums were observed. But the courts, which seem to be making most of our law these days, added a ruling that "no significant deterioration of air quality" could be permitted in states that were already well within the national minimums.

What the judicial ruling means is that if you build factories in a state that has no present smoke-emitting industry, you are violating the law if a 100-percent pure atmosphere is "degraded into a 99$\frac{1}{10}$-percent environment.

This is "no growth" with a vengeance. If the law, as interpreted, is not changed in accordance with some amendment qualifications offered by Senator William Scott of Virginia, it will effectively put states such as Wyoming or Utah, where the air is pure beyond any reasonable health requirements, out of bounds for any important industrial development. Industry will be compelled to remain in the smoggier areas of the country.

For some strange reason, probably connected with the fact that 1976 is an election year, Senator Edmund Muskie of Maine, the author of the original Clean Air Act, is all for letting the courts put a Federal "land use" gloss on a law that was not intended to tell Montana or Wyoming or Alaska what to do with their land when industrial developers came knocking at local intrastate doors.

New Clean Air legislation is now before the Senate, and will shortly be before the House of Representatives. If Muskie, with the Naderites in his train, has his way, "clean air" will become a totally federalized matter. The newer and comparatively empty states won't be permitted to offer attractions to any industry that depends on smokestacks, even though the resulting deterioration of present air quality would be well within the parameters permitted by Federal law in the older and more congested areas of the nation.

NO CLEAN AIR ENEMY

Senator William Scott is no enemy to clean air. He believes in maintaining the reasonable health minimums that were established by the original law. But, once basic guidelines have been set up to prevent one state from poisoning the air that drifts over its neighbor states, and when a national minimum has been accepted, that should be an end of the matter insofar as the Federal government is concerned. If Wyoming or Colorado wish to make a reasonable trade-off between industrial development and ecological purity, the Tenth Amendment should be allowed to cover the individual state's decision within a commonly acceptable limit.

We're going to have clean air in the future no matter what our Congress may decide. But the question is: Are we going to have a law that permits economic progress while our safety engineers are busy developing "scrubbers" and other poison-elimination methods? A healthy economy will find ways of paying for anti-pollution inventions just as the auto industry found a way of paying for the invention of the electric self-starter. A static economy, on the other hand, will starve people of opportunities in the name of environmental protection. What, in the name of Heaven, can be healthy about that?

Mr. **WILLIAM L. SCOTT.** Mr. President, under a special order I was allocated 1 hour for the presentation of this amendment but time having almost run out I have some 10 minutes to make my remarks. In view of the results of the vote on Tuesday, offering the amendment could well be futile.

Nevertheless, I consider it to be a good amendment and a rollcall vote has already been ordered.

Mr. President, I would like for us to be able to look back over the years while we are still trying to live by "clean air alone" and understand the reasons—and I hope this does not happen—for problems in obtaining sufficient energy, food, clothing, automobiles, and adequate employment for the people of this country.

I might add that John Chamberlain in his syndicated column says that clean air legislation is necessary, but it should not be allowed to work to the detriment of industrial development.

Let me conclude by saying that over and above the primary and secondary nationwide standards under existing law, the States and localities can require still higher air quality standards to meet special situations within their areas if they choose to do so, similar to the police power to regulate health and morals reserved to the States and the people under the 10th amendment to the Constitution. The more I have studied air quality control, the more I have become convinced that our insistence upon the pristine air concept in Federal legislation, is leading to economic stagnation. I urge the adoption of the amendment.

Mr. **BUCKLEY.** Mr. President, this amendment offers the Senate a clear choice—do we want a policy of protecting clean air areas or do we not? Do we want to rely on the existing ambient standards, or do we want to create a margin of safety for future generations.

We have heard all the arguments, so I will not repeat them. I believe that the reasonable nondegradation policy in this bill is wise public policy for the future.

Passage of this amendment would encourage uncontrolled pollution up to the ambient standard, driving industry and jobs away from the cities and into remote rural areas where lax pollution control would be encouraged.

I certainly respect the position of the Senator from Virginia, but I must disagree and urge that the Senate defeat this amendment.

Mr. WILLIAM L. SCOTT. I yield back the remainder of my time.

Mr. MUSKIE. Mr. President, just a word.

The substance of this amendment has, I think, effectively been discussed thoroughly in the debate on the other nondegradation amendments.

For the reasons the committee opposed those amendments, it opposes this amendment.

With that, I am happy to yield back whatever time I have on the amendment.

The PRESIDING OFFICER. Does the Senator from Virginia yield back all time?

Mr. WILLIAM L. SCOTT. Yes, Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from Virginia.

The yeas and nays have been ordered and the clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. GOLDWATER. Regular order, Mr. President.

The PRESIDING OFFICER. Regular order is called for.

The legislative clerk resumed and concluded the call of the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. HARTKE), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Louisiana (Mr. LONG), the Senator from South Dakota (Mr. McGOVERN), the Senator from Montana (Mr. METCALF), and the Senator from California (Mr. TUNNEY) are necessarily absent.

I also announce that the Senator from Michigan (Mr. PHILIP A. HART) and the Senator from Delaware (Mr. BIDEN) are absent because of illness.

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BROCK) and the Senator from Pennsylvania (Mr. SCHWEIKER) are necessarily absent.

The result was announced—yeas 20, nays 70, as follows:

[Rollcall Vote No. 481 Leg.]

YEAS—20

Allen
Bartlett
Bellmon
Curtis
Eastland
Fannin
Garn
Goldwater
Griffin
Hansen
Helms
Hruska
Laxalt
McClellan
McClure
Scott, William L.
Stennis
Thurmond
Tower
Young

NAYS—70

Abourezk
Baker
Bayh
Beall
Bentsen
Brooke
Buckley
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Chiles
Church
Clark
Cranston
Culver
Dole
Domenici
Durkin
Eagleton
Fong
Ford
Glenn
Gravel
Hart, Gary
Haskell
Hatfield
Hathaway
Hollings
Huddleston
Humphrey
Inouye
Jackson
Javits
Johnston
Leahy
Magnuson
Mansfield
Mathias
McGee
McIntyre
Mondale
Montoya
Morgan
Moss
Muskie
Nelson
Nunn
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Scott, Hugh
Sparkman
Stafford
Stevens
Stevenson
Stone
Symington
Taft
Talmadge
Weicker
Williams

NOT VOTING—10

Biden
Brock
Hart, Philip A.
Hartke
Kennedy
Long
McGovern
Metcalf
Schweiker
Tunney

So Mr. WILLIAM L. SCOTT's amendment (No. 2115) was rejected.

The PRESIDING OFFICER. The question is on engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, and was read the third time.

Mr. ALLEN. Will the manager of the bill yield for a colloquy?

Mr. MUSKIE. Yes, I will yield.

Mr. ALLEN. In what areas does the bill give the States new flexibility they do not now enjoy under current regulations?

Mr. MUSKIE. The States would issue permits to new sources. At present permits are issued totally at the discretion of EPA and by EPA.

The States gain a veto over action by the Federal Government to reclassify Federal lands as class I areas. Presently other Federal agencies are to consult States but can with EPA approved unilaterally make the reclassification.

The bill allows the State to decide to issue a permit to a source even if it fails to pass the stringent class I increments. This occurs after the Federal Land Manager presents the case for such issuance based on air quality values. The decision is then left to the State.

Presently under EPA regulations no source, under any conditions, may receive a permit if it fails to pass the test of the class I increment.

States, now under EPA regulations, must devise some way of controlling small sources, nonmajor emitters, or else they may use up the increments and leave no room for further growth. The committee bill does not count such sources against the increments, thereby leaving more room for major emitters. The States thereby have greater flexibility in reviewing and authorizing various mixes of major and nonmajor emitters.

Present law requires that if States ever take over the program, EPA can still second guess all actions. Under the bill, EPA may only go to court to stop a permit and then EPA has the burden to show that the State permit violates the requirements of the statute as to best available technology, increments, et cetera.

Mr. ALLEN. Is it the intent of the committee that EPA have veto power over actions the States may take in granting permits or classifying areas?

Mr. MUSKIE. EPA goes to court if it finds a State permit to be invalid under the committee bill.

EPA has no approval power in States reclassifying land. The Federal Land Manager has veto power if Federal lands are involved. Any State decision on State lands is solely a State decision.

Mr. ALLEN. Is it not true the committee intends the State to have maximum flexibility in determining what constitutes "best available control technology"?

Mr. MUSKIE. States have full flexibility to weigh factors. This includes insuring long-term growth by leaving room for future sources by requiring improved technology on the first sources who apply. The State cannot require less than the Federal new source performance standards.

Beyond that, the State has full flexibility, with guidance that it should maximize emission reductions that are achievable.

Mr. ALLEN. Is it not the intent of the committee that the Land Manager should only attempt to intervene in the granting of a permit by the State where it is clear that the siting of a proposed facility will have a definite adverse impact on the air quality of the class I area?

Mr. MUSKIE. In response to this question the Federal Land Manager is to intervene whenever he has a reasonable concern. Intervention merely begins the process. It is the trigger. It does not decide the outcome. This intervention creates the analysis. His judgment must then be based on that analysis. He has a positive mandate to protect the air quality values of the Federal areas affected.

Mr. ALLEN. If it should be determined that the allowable increments in classified areas are in fact too small and will restrict necessary and desirable development, is it not the intent of the committee that the increments will be reviewed and possibly adjusted for class II areas so long as the national health and welfare standards are not violated?

Mr. MUSKIE. The committee intends for the increments to be studied. The results could go either way. Class II may be too lenient, or too strict. Any possible adjustment at a later date will take into account the Commission's report. The increments have already been subjected to 3–4 years of analysis, but we expect to learn more through further studies during implementation.

Mr. BUCKLEY. I concur in the interpretation offered by the Senator from Maine (Mr. MUSKIE).

Mr. ALLEN. I would like to ask the distinguished Senator from New York (Mr. BUCKLEY) and the distinguished committee chairman (Mr. RANDOLPH) and the distinguished Senator from Tennessee (Mr. BAKER) if they agree with the distinguished Senator from Maine in his responses to my inquiries as being the intent of the Senate in the enactment of S. 3219.

Mr. RANDOLPH. I agree that Mr. Muskie's responses correctly respond to Mr. Allen's questions and reflect the committees views on the Senate's intent.

Mr. BUCKLEY. I agree.

Mr. BAKER. The Senator's answers reflect my view of congressional intent of the legislation.

ADDITIONAL STATEMENTS SUBMITTED

EPA LAWYERS TO REPRESENT THEMSELVES IN CIVIL LITIGATION

Mr. JAVITS. Mr. President, the amendment I intend to offer would allow EPA to represent itself in all civil litigation cases except for enforcement cases where the Justice Department would still represent EPA unless Justice gives no indication that it will handle the case after a reasonable time period.

Present law does not allow EPA to represent itself in cases under the Clean Air Act and this has caused significant problems in the administration of the act. First, the issues that are litigated are quite complex and technical and the EPA lawyers who deal with the problem on a regular basis are usually better equipped to participate in such cases dealing with EPA's regulations. In a number of instances there have been conflicts between Justice Department lawyers and EPA lawyers over the handling of issues which have made it more difficult to successfully prosecute cases under the Clean Air Act. Apparently the problems between the EPA attorneys and Justice Department attorneys have not been resolved despite formal complaints from EPA and discussions on the subject.

Additionally, there is a duplication of effort in having the EPA attorneys and the Justice Department attorneys both working on the same case when it is always necessary for the EPA attorneys to be working on that case from its initial stages. Finally there is extensive precedent for an agency such as EPA representing itself in civil litigation as similar grants of authority have been given to the Federal Trade Commission, National Labor Relations Board, Securities and Exchange Commission, Federal Communications Commission, Federal Maritime Commission, Nuclear Regulatory Commission, Interstate Commerce Commission, the Secretary of Agriculture, and the Secretary of Labor. This is only a partial list of the various agencies and departments which are able to represent themselves in some type of litigation.

The House was very concerned about this problem and put a provision in this bill which would allow EPA to represent itself in all types of civil litigation. The Justice Department could intervene with the permission of the court in any case in which the Administrator was a party. The concern of the House Committee on this subject was expressed in the Committee report on pages 272–277. I ask unanimous consent that these pages from the House committee report be placed in the Record at this point.

There being no objection, the excerpt was ordered to be printed in the Record, as follows:

SECTION 311—CIVIL LITIGATION

BACKGROUND

Section 305 of the present Clean Air Act provides that [t]he Administrator shall request the Attorney General to appear and represent him in any civil action instituted under this Act to which the Administrator is a party. Unless the Attorney General notifies the Administrator that he will appear in such action, within a reasonable time, attorneys appointed by the Administrator shall appear and represent him."

Under this language, the Justice Department has represented the Administrator in almost all the civil litigation under the Act. Occasionally, attorneys appointed by the Administrator have been permitted to participate in oral arguments. However, this has been the rare exception rather than the rule.

While the final briefs are submitted by the Justice Department or the U.S. Attorney's office and oral argument is conducted by these attorneys, the basic preparation for the case is done by the attorneys appointed by the Administrator. This basic preparation involves summarizing the facts in any case, preparing a draft brief or motions, marshalling evidence in case of enforcement actions, and explaining the technical issues underlying any rule which may be under challenge. Through this process it was hoped that the courts would have the benefit of the arguments and facts which would most illuminate the issues before them. It was also hoped that the Agency's position would have complete and effective representation in civil litigation.

Unfortunately, these hopes have not been fully realized. In fact, these hopes appear in too many cases to have been altogether illusory.

There have been several fundamental and serious problems which have become apparent in the representation of the Agency by the Justice Department. Among these are the following:

A. The issues which the Administrator is required to litigate are often complex, highly technical issues which require special expertise and backgrounds in fields such as meteorology, topography, health effects, research photochemistry, and detailed familiarity with environmental legislation. The Administrator's attorneys have this special background; in general, Justice Department attorneys do not.

The technicality and complexity of the issues in litigation under this Act is evident from the opinions in cases such as *Ethyl Corp* v. *EPA*, F. 2d (D.C. Cir. 1976); *Amoco Oil Co.* v. *EPA*, (D.C. Cir 1975); *Texas* v. *EPA*, F. 2d (5th Cir. 19). Attorneys for the Justice Department, and particularly the local U.S. attorneys, lack the necessary specialized familiarity with these matters and disciplines. They become aware of an issue only when a case is filed challenging a rule of the Administrator. On the other hand, the attorneys appointed by the Administrator have been actively involved in advising the air pollution control program in the development, proposal, and promulgation of the rule under challenge and have such a specialized background.

Several illustrative instances of this problem are presented here. In one case a Justice Department attorney was unable to answer the Court's questions as to whether a city which is "clean" for one pollutant might be "dirty" for another one. In another case, a local U.S. attorney who had requested participation in oral argument by one of the Administrator's attorneys on a technical issue, was prohibited from doing so by the Justice Department in Washington.

B. In some instances, the Justice Department has failed to consult the Agency adequately, with resulting harm to proper judicial administration and effective representation.

There have been numerous instances of inadequate (and sometimes nearly complete lack of) consultation by the Justice Department. In one instance, EPA attorneys prepared a brief for the Justice Department addressing all major issues in litigation. The Justice Department attorney chose to omit one of EPA's arguments entirely. The Court subsequently remanded the case, relying heavily on the Administrator's failure to respond to this particular issue.[1] In another case, without knowledge or consent of the Administrator or his attorneys, the Justice Department presented the Court with an extremely restrictive interpretation of the emergency powers provision. If this view had been accepted by the Court, it would have made future use of that provision nearly impossible.[2] In still a third case (Montgomery Environmental Coalition v. Washington Suburban Sanitary Commission) the court specifically asked for EPA to file a brief setting forth the Agency's views. The brief was prepared by EPA, responding to all issues which the court had raised. However, the Department of Justice cut the draft brief prepared by the Agency to five pages, eliminating virtually all substantive discussion and filed this truncated version without any consultation with the Agency. At oral argument, one of the judges complained about the failure of the Agency to respond adequately in the brief to the court's request.

C. In some cases the proper administration of the Clean Air Act has been adversely affected by Justice Department representation.

Here again, illustrative examples will indicate the nature of the problem. In one case, the Justice Department sought to defend EPA's rule by arguing that the case was not ripe until specific enforcement actions were brought. That approach, if adopted, would have greatly delayed any judicial resolution of the issue and left the Agency and the contesting State in a situation of uncertainty, harmful to progressing with cleaning up the air. Under strong EPA pressure, Justice Department reversed its stand at the last minute. In a footnote to the final opinion the Court states that the issue in question was "clearly ripe for adjudication."[3] In other cases, despite legislative language, clear history, and court decisions to the contrary and despite repeated EPA opposition, the Justice Department persists in defending citizen suits to compel EPA to issue regulations by arguing that section 304 authorizes suits to compel enforcement, but not to compel issuance of regulations.[4]

Furthermore, several enforcement cases have languished at the Justice Department for over 16 months after the cases were referred from EPA to the Justice Department before the suits were filed. This hinders enforcement efforts and allows evidence to grow stale and perhaps unusable.

D. In some instances, the Justice Department finds itself in a conflict of interest when it tries to represent both the Administrator and other Federal agencies at various times.

Thus, for example in suits brought by States to compel Federal facilities to comply with State pollution control plans mandated by Federal law, Justice Department attorneys have defended the Federal facilities by arguing that they are immune from State legal requirements.[5] Clearly, the Clean Air Act's section 118 provides to the contrary.

This problem was highlighted even more clearly in the case of *S.C.R.A.P.* v. *Interstate Commerce Commission*. In that case, the

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Footnotes at end of article.

Agency sought permission of the Solicitor General to submit a friend of the court brief presenting EPA's views. Permission was denied.

E. Despite complaints expressed by EPA attorneys and General Counsel, these problems have not been corrected.

On at least two occasions formal letters of complaint regarding these and other issues have been transmitted from EPA to the Justice Department.[6] Despite these and informal expressions of concern, the aforementioned problems remain largely unabated.

F. Present practice results in wasteful, time consuming, and expensive "double staffing" which can and should be eliminated.

By having Justice Department attorneys and attorneys for the Administrator both preparing for litigation in which the Administrator is a party, the current law results in wasteful duplication of efforts. This is an expensive and needless result. Assigning the Administrator the authority to be represented by his own attorneys would eliminate this waste. It would not result in any additional expense, since the Administrator's attorneys already work on preparation of litigation in which he is involved (only to have these efforts duplicated at the Justice Department).

Precedent.—It was with these difficulties in mind that the Committee turned its attention to the issue of representation in civil litigation. In doing so, the Committee examined the precedents for self-representation in other laws.

Precedents for self-representation in civil litigation are abundant and apply both to independent regulatory agencies and to executive agencies. The agencies and Commissions which are authorized to represent themselves in civil litigation include (or have included) the following:

(1) Federal Trade Commission (15 U.S.C. § 56).

(2) National Labor Relations Board (29 U.S.C. 154(a)).

(3) Equal Employment Opportunity Commission (42 U.S.C. 2000e–4(b)(2)).

(4) Securities and Exchange Commission (15 U.S.C. §§ 77–8)

(5) Secretary of Transportation (authority to seek injunction against transportation of material that presents an imminent hazard (49 U.S.C. § 1810(b) (Feb. 1975 Supp)).

(6) Consumer Product Safety Commission (authority to represent itself in action to seize imminently hazardous product, 15 U.S.C § 2061(a)(f)); see also CPSC bill reported by Commerce Committee this year).

(7) Federal Communications Commission; Federal Maritime Commission, Nuclear Regulatory Commission, Secretary of Agriculture (28 U.S.C. 2348)

(8) Interstate Commerce Commission (28 U.S.C. 2323, 2348);

(9) Secretary of Labor (29 U.S.C. 308)

Most recently, the House of Representatives approved the Conference Report on the "Consumer Product Safety Commission Improvement Act of 1976" which in section 11 conferred upon the Commission the right of self-representatioin in criminal as well as civil litigation.

Concern of the Justice Department.—In the Justice Department's letter of March 5, 1976, to the Committee, the following basic concerns were expressed: (1) that Justice Department representation is necessary in order "to assert uniform position and present consistent arguments"; (2) that Justice Department representation is "the natural vehicle for mediating differences within the Government" when agencies' policies conflict and that such mediation is preferable to airing "unseemly conflicts" in court; (3) that the Solicitor General's role in screening agency appeals to the Courts should not be abrogated; and (4) that because of EPA's regional structure, "there is a substantial prospect that EPA enforcement of pollution control laws could be uneven and develop regional peculiarities.

The Committee reviewed these concerns but did not find them persuasive.

In response to the first point, the very technical nature of most of the issues in the Clean Air Act litigation—e.g. the extent of health risks associated with a certain pollutant or the technological capability of some pollution control equipment—is such that there is no need for a Government-wide uniform legal position. The Committee also felt that under section 311 the Justice Department could intervene with the court's permission on any issue on which that Department concludes requires uniformity of interpretation in the national interest.

On the second point, the Committee's concern about actual or apparent conflict of interest was felt to outweigh the Justice Department's concern about the unseemliness of governmental agencies disagreeing in public. Furthermore, the Committee was concerned that "mediation" might result in substitution of the views of the Administration for those of the Administrator of the Agency chosen by Congress to execute and administer the Act. The Courts might thus be deprived of the views of the Agency with special knowledge and expertise.

With respect to the third point, the Committee agrees that the Supreme Court's ability to place reliance upon the Solicitor General in submitting cases for its consideration is valuable to the functioning of the Court and should be preserved. However, it would not demean that special relationship to provide by this amendment that EPA may brief and argue its own cases once the Solicitor General had approved a petition for certiorari and the Court had approved it. Moreover, section 311 of the bill does not preclude the Solicitor General from advising the Court against accepting a case which the Administrator seeks to appeal to the Supreme Court. The bill merely prevents the Attorney General from setting up a barrier to an appeal by the Administrator which the Court may wish to hear.

Finally, in response to the fourth point, the Committee concluded that EPA is no more regionally structured than the Justice Department, where individual U.S. Attorneys operate with very substantial autonomy. In fact, there is probably greater central control within EPA, where all significant enforcement action is submitted to Washington for review in furtherance of national enforcement policies.

COMMITTEE PROPOSAL

Section 311 of the Committee bill, like a comparable provision in the Federal Trade Commission Act, authorizes attorneys appointed by the Administrator to represent the Agency in civil litigation under this Act. This authority would not, however, permit the Administrator's attorneys to appear in criminal cases.

The purpose of this provision is to resolve the problems referred to in the background discussion. In no event would this provision preclude the Justice Department from intervening with the court's permission in a civil case under the Act to which the Administrator was a party. Nor would it preclude the Solicitor General from recommending against a grant of certiorari by the Supreme Court in a case which the Administrator seeks to appeal. The provision would permit the Attorney General to represent the Administrator in the U.S. Supreme Court in lieu of the Administrator's attorneys if the Attorney General wished to do so.

The Committee bill also contains express authority for the courts to award attorneys fees and expert witness fees in two situations.[7] The first situation is when the Administrator initiates an enforcement action under section 113 of the Act, which the court finds was unreasonable. The second situation is in judicial review proceedings under section 307 of the Act when the court determines such award is appropriate.

The purposes of these provisions are several. In the case of enforcement actions by the Administrator, the purpose of the provision is to provide protection for parties against wholly unwarranted enforcement actions by the Administrator and to restrain the Administrator from over-zealous enforcement.[8]

In the case of the section 307 judicial review litigation, the purposes of the authority to award fees are, as in the former situation, not only to discourage frivolous litigation, but also to encourage litigation which will assure proper implementation and administration of the Act or otherwise serve the public interest. The Committee did not intend that the court's discretion to award fees under this provision should be restricted to cases in which the party seeking fees was the "prevailing party". In fact, such an amendment was expressly rejected by the Committee, largely on the grounds set forth in *NRDC* v. *EPA*, 484 F.2d 1331, 1338 (1st Cir. 1973).

In adopting these two provisions concerning fees, the Committee intended to meet the requirement for specific authorization imposed by 28 U.S.C. sec. 2412 and by the Supreme Court's ruling in *Alyeska Pipeline Service Co.* v. *Wilderness Society*, 421 U.S. 240 (1975).

FOOTNOTES

[1] *Portland Cement Assn.* v. *Ruckelshaus*, 513 F. 2d 506 (D.C. Cir. 1975).

[2] *California Lung Association* v. *Train* No. 75–1044—WPG (C.D. Cal., 1975).

[3] *Pennsylvania* v. *EPA*, F. 2d 500 F. 2d 246 (3d Cir., 1974).

[4] *Metropolitan Washington Coalition for Clean Air* v. *District of Columbia*, 511 F. 2d 809 (D.C. Cir. 1975).

[5] See section 113 of this report, supra.

[6] See e.g. Letter from Alan G. Kirk, EPA General Counsel, to Wallace Johnson, Assistant Attorney General, "Re: *NRDC* v. *Train*", December 16, 1974.

[7] Such fees are already authorized to be awarded in suits brought under section 304 of the Act.

[8] Of course, by using the term "unreasonable," the Committee did not intend to cover every enforcement action in which the defendant prevails. Nor is this amendment intended to permit the court to substitute its judgment for that of the Agency as to the propriety of filing suit. Only if the bringing of the action is arbitrary, capricious, frivolous, harassing, or wholly without basis in fact or law should the courts consider such an action "unreasonable".

Mr. JAVITS. I understand that the managers of the bill are reluctant to accept amendments to the bill at this point and possibly with appropriate assurances from the committee there would be no need to press my amendment at this time. Since there is a provision in the House bill I would hope that the conferees would give favorable consideration to resolving the issue in a way which will allow EPA to represent itself in most cases. I believe that this will lead to more effective administration of the Clean Air Act and will not do violence to the general administrative law scheme.

Mr. MUSKIE. This is an issue which has not received extensive consideration by the committee and we appreciate the Senator from New York's efforts to resolve the matter short of offering an amendment. The committee is aware of the problem and I myself believe that it would make for more effective administration of the law if EPA had the ability to represent itself in litigation on its regulations. I can say to the Senator from New York that we will look at the House provision and the Senator's amendment very closely.

Mr. JAVITS. I thank my colleague very much. And based on his assurances of objectivity I feel there is no need to proceed with the amendment, and I shall not call up the amendment. But I ask unanimous consent that it be printed in the RECORD.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

At the appropriate place in the bill add a new section as follows:

SEC. . Section 305 of the Clean Air Act is amended to read as follows:

APPEARANCE

SEC. 305. (a) For any enforcement litigation which the Administrator desires to initiate under this Act, the Administrator shall request the Attorney General to appear and represent him. Unless the Attorney General notifies the Administrator that he will appear in such action, within a reasonable time, attorneys appointed by the Administrator shall appear and represent him.

(b) Except as otherwise provided in subsections (a) and (c), in any civil action under this Act, the Administrator shall have exclusive authority to commence or defend,. and supervise the litigation of, such action and any appeal of such action in his own name by any attorney of the Environmental Protection Agency designated by him for such purpose, unless the Administrator authorizes the Attorney General to do so. The Administrator shall inform the Attorney General of the exercise of such authority and such exercise shall not preclude the Attorney General from intervening under any other authority of law on behalf of the United States in such action and any appeal of such action.

(c) Subsection (b) shall not apply with respect to representation of the Environmental Protection Agency before the Supreme Court.

Mr. MUSKIE. Mr. President, I take this opportunity to commend the members of the Committee on Public Works who have worked tirelessly for a year and a half on this bill, and I thank them individually:

Senators MONTOYA, GRAVEL, BENTSEN, BURDICK, CULVER, MORGAN, GARY HART, BUCKLEY, STAFFORD, MCCLURE, and DOMENICI, as well as Senator RANDOLPH, the chairman, and Senator BAKER who was ranking minority member during the committee deliberations.

I also thank each staff member of the committee, for without their efforts the development of this bill would not have been possible. The staff members are or were during most of our proceedings:

M. Barry Meyer, Bailey Guard, Leon G. Billings, Richard D. Grundy, John W. Yago, Jr., Philip T. Cummings, Harold H. Brayman, Karl R. Braithwaite, Paul Chimes, Trenton Crow, Paul F. Ebeltoft, Jr., Richard M. Harris, Richard E. Herod, James D. Range, W. Lee Rawls, Charlene A. Sturbitts, and Haven Whiteside.

Mr. GARY HART. Mr. President, I believe very strongly in the intent of this legislation, particularly section 6 of the bill which will protect air quality values of our national parks and wilderness areas and other Federal lands which at future times may be designated class I. The committee report elaborates on what is meant by air quality values, stating that such values must include the purposes for which such parks and wilderness areas were established and are maintained. Such purposes for national park lands include conserving "the scenery and the natural and historic objects and wildlife therein and to provide for the enjoyment of some in such manner and by such means as will leave them unimpaired for future generations."

I would like to elaborate on the definition of air quality values. For example, one of the prime assets of our national parks is the magnificent scenery. At certain parks, such as Rocky Mountain National Park in my own State of Colorado, a visitor can see more than 100 miles. These magnificent vistas are an integral part of many of our parks and wilderness areas. Haze from stationary sources can impair the views for visitors and alter an otherwise pristine sight. Such an experience lowers the quality of the experience of visiting a park and diminishes the recreational, aesthetic, and restorative value of experiencing these wild expanses. Such occurrences adversely affect air quality values as prominent sights are seen with less clairty and visitors cannot see as far.

The visitors' view may also be obscured by the intrusion of plumes which can result in large unattractive streaks or layers of pollution across an otherwise pristine sight.

Haze created by emissions can seriously interfere with visibility in areas where the air quality is quite clear. Odor from air pollution is another potential impact that ought to be avoided through the requirements of this provision.

Another desirable benefit of this policy is to ensure the protection of national parks and wilderness areas from any harmful side effects of low level long-term concentrations of air pollutants of which we may be unable to accurately predict or quantify in a precise fashion.

I offer these comments to give those seeking to implement this legislation some guidance in enumerating the air quality values which the manager has an affirmative duty to protect.

Protecting these values seems to me to be a part of fulfilling the Federal land managers' duties as mandated by the establishment by Congress of these parks and wilderness areas.

AMENDMENT NO. 2129

Mr. McINTYRE. Mr. President, I propose to call up my amendment No. 2129 to S. 3219, the Clean Air Act amendments, and I ask unanimous consent that it be printed in the RECORD at this point.

The PRESIDING OFFICER. Without objection, it is so ordered.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT NO. 2129

On page 73, line 21, after "SEC. 31." insert "(a)".

On page 74, between lines 10 and 11, insert the following:

"(b) Notwithstand any other provision of law, the Administrator of the Federal Energy Administration shall not exercise any authority to terminate allocation or price controls on gasoline until at least thirty days after the Administrator of the Environmental Protection Agency has submitted to Congress a study of the effects on the supply of all grades and types of gasoline sold to the public in all areas of the country resulting from all regulations prescribed by the Administrator of the Environmental Protection Agency with respect to the lead content of gasoline.".

Mr. McINTYRE. The purpose of this amendment is to forbid the Federal Energy Administration from ending price or allocation controls on gasoline until the Environmental Protection Agency has fully studied the effects of its regulations regarding lead in gasoline on the supply of gasoline available to the public.

The EPA has two sets of regulations regarding lead content in gasoline. One set of regulations requires that cars from the model year 1975 on must use unleaded gasoline to protect their catalytic converters, which help to clean up automobile exhaust emissions.

The other set of regulations is a gradual phasedown of the lead content in gasoline. The purpose of these regulations, which will phase in between October 1, 1976 and January 1, 1979, is to protect the public from the potential hazards of lead emissions into the atmosphere.

I am not here to criticize these EPA actions to protect the health of our citizens.

I have proposed this amendment because there are indications that the oil industry has not sufficiently prepared itself to supply enough gasoline to the public as this second set of EPA regulations phases in over the next two years. We have already seen evidence of spot shortages and high prices of unleaded gasoline over the July 4 weekend. And I ask unanimous consent to include in the RECORD at this point an article from the July 26, 1976 issue of the Oil and Gas Journal, titled, "Lead Stepdown Threatens '77 U.S. gasoline crunch."

There being no objection, the article was ordered to be printed in the RECORD, as follows:

LEAD STEPDOWN THREATENS 1977 U.S. GASOLINE CRUNCH

(By Leo R. Aalund)

All the ingredients for a U.S. gasoline shortage next summer could be at hand if the Environmental Protection Agency sticks to its present lead-phasedown schedule.

Such a rapid and stringent cutback in the amount of octane-boosting lead permitted in U.S. gasoline would reduce industry's total gasoline-making capability. This, coupled with strong growth in unleaded-gasoline consumption as more new cars hit the road plus heavy demand for lower-lead regular and premium, could spell trouble.

Enforcement would drive numerous small refiners out of the gasoline business and cut gasoline output of other small firms and many larger refiners. And it would force diversion into gasoline of much of the high-octane aromatics now going into petrochemicals production.

The lead phasedown was originally slated to begin Jan. 1, 1975. The basis of this rule is the EPA's contention that lead use as an octane booster in gasoline poses a health hazard. The health/lead issue is not related to unleaded gasoline, which is required to protect catalytic converters on 1975 and later autos.

Court battles on the health issue prompted EPA to suspend enforcement of the phasedown regulation until earlier this month (OGJ, July 12, p. 20), after the U.S. Supreme Court in effect agreed that EPA has the authority to order lead removal to eliminate a possible threat to health (OGJ, June 21, p. 80).

The EPA now says it will enforce the lead-phasedown schedule and restrict the amount of lead a refiner may use in its total gasoline pool to 1.4 g/gal. during the last quarter of this year. This level is due to drop to 1 g/gal. on Jan. 1, 1977, to 0.8 g/gal. on Jan. 1, 1978, then to 0.5 g/gal. in 1979.

However, EPA hinted in its enforcement announcement that it recognizes that lead phasedown now could cause serious disruption in the industry. The real world existing now is vastly different from when the regulation was promulgated in late 1973.

Bad timing. It is ironic EPA got its final green light for lead phasedown in the summer of 1976. In 1974 and the greater part of 1975, slumping gasoline demand and prospects that America was entering a new era of energy conservation that would include small cars, better fuel economy, and plateauing of gasoline demand dulled the razor edge of the phasedown threat.

But the summer of 1976, almost 3 years after the embargo, is testing some of these assumptions.

Gasoline consumption is running at an all-time peak, well over 7 million b/d. Demand for the first 6 months averaged 6,885,000 b/d—5.1 percent above first-half 1975 and 4.6 percent over the previous record for the period in 1973.

The week ended July 2 racked up the greatest demand ever for a single week at 7,686,000 b/d. And consumption the rest of the year is expected to continue heavy—enough so to pull average demand for the full year to 7,020,000 b/d. That's up 5.2 percent from 1975 and about the same over the 1973 rate.

Meanwhile, Detroit is selling autos at a clip 40 percent over the 1975 rate. And Americans, who have access to some of the cheapest gasoline in the world, are buying more large and medium-sized cars.

Each new car going on the road now requires unleaded gasoline. This already is putting a strain on the nation's octane pool even without the burden of less lead in regular and premium gasoline.

Unleaded gasoline, it's estimated, will account for 20 percent of gasoline sales this year, compared to 13 percent last year. During May unleaded snared 19.4 percent of the market.

Analysts expect unleaded gasoline to increase its market share at the rate of 6½ percentage points/year. On the other hand, the stunning decline in premium sales, which freed octanes for the unleaded pool, is slowing. From a high of 43 percent in 1970, premium dropped to 19 percent last year. This year it is expected to account for about 16–17 percent. It will now lose, analysts think, about 3 percentage points/year until it reaches about 10 percent of the market. It would stabilize there for several years.

Leaded regular had 68 percent of the market last year and is expected to drop to 64.5 percent this year.

The lead picture. Fig. 1 reveals two significant turning points in the octane/lead picture. In 1970 the national gasoline pool contained about 2.4 g/gal lead. As Detroit introduced low-compression engines requiring lower-octane gasoline, the lead level declined. The dive became steeper in 1974 with the advent of unleaded gasoline.

Late last week, EPA officials were still studying lead-usage reports for the second quarter of this year and expected to have some preliminary analysis this week. The reports were required to be postmarked by July 15 but were still drifting in slowly, officials said.

However, lead content this summer is estimated to be running at the 1.9 g/gal level, an indication that refiners are striving to keep pace with rising demand and sales of unleaded. Unleaded sucks clear octanes from the leaded gasolines, thus requiring more lead in the latter. Lead levels would show a more-pronounced drop should phasedown be enforced.

EPA is well aware increasing the clear octane of the nation's gasoline pool, which would be necessary with lead phasedown, decreases gasoline yields if everything else is held equal.

Therefore, the agency is collecting data to see if, when, and how fast it wants to enforce lead phasedown. There is a good chance the information will show EPA it should go slow on its enforcement schedule or grant numerous exemptions.

To collect the complex information it wants by July 31, EPA is using a carrot-and-stick approach. If a refiner doesn't supply the information, EPA won't consider any request from him for relief from phasedown regulations.

The agency's demand for information has refiners scrambling. Among other things, EPA wants to know a history of lead levels, sales, exchanges, details on reformer operations, octanes, and octane-improving facilities.

The National Petroleum Refiners Association asked EPA Administrator Russell Train to provide an additional 30 days for refiners to complete a second part of the current information gathering program by the agency. EPA in announcing it would enforce the 1.4-g/gal. limit as of Oct. 1 said any exemptions would have to be based on detailed information to be supplied by July 31.

NPRA noted that the official notice asking for the additional information wasn't published officially until July 9, and said the time period is insufficient for many refiners.

EPA indicated, however, it would probably reject the request because refiners would not lose any legal rights by late submission, and the agency says any information would be considered, even if beyond the deadline, as long as it is received before any further decisions on the lead phasedown are made—probably in mid-September.

Once this mass of material is boiled down, it's probable it will show that the phasedown will cut deeply into U.S. gasoline production.

Impact. One refiner's study concludes a lead restriction of 1.4 g/gal. would cut the country's gasoline "producibility" by 800,000 b/d. This compares to an estimated maximum summertime availability of about 7.7 million b/d. Availability is refinery output, imports, and inventory drawdown.

The 7.7-million-b/d availability figure, which should hold for at least the next two summers, assumes no lead-phasedown restrictions, no change in gasoline quality, and no increase in the use of manganese as an octane improver.

A drop to 1 g/gal would cut gasoline productibility another 800,000 b/d or a total of 1.6 million b/d, this refiner estimates.

Such an analysis can be significantly modified by a host of variables. Nevertheless the direction is toward decreased gasoline yields.

Figs. 2 and 3 reveal some of the chemistry of gasoline production and its impact on gasoline yields.

Fig. 2 is based on a model of the U.S. refining industry that includes all the processes contributing octanes to gasoline.

This model is more flexible than any single U.S. refiner. Also, without research the curve can't be used to determine yield loss, due to lead phasedown in October or later periods. The reason is the U.S. industry is already up on the curve, and individual refiners are scattered along the curve.

What Fig. 2 does highlight is that yield losses are stiffer as octane increases are made in the upper range. For example, going from 0 to 11 causes a 0.4 percent yield loss while going from 6 to 7 gives a 2.1 percent loss.

Fig. 3 focuses on the catalytic reformer, the most important octane-upgrading unit in a refinery. This typical yield/octane curve shows that modern units (200 psig) have increased the yields of high-octane gasoline components (C_5+). However, even the modern units display yield declines as octane or severity is increased. Quality of reformer feed also influences these yields.

And the Journal's most-recent refining survey shows some 32 percent of the country's 3.6 million b/d or reforming capacity is in older units that suffer the greatest yield losses with increased severity.

The refiners. National models and typical relationships, of course, don't reflect any individual refiner's plight.

One manager with a fairly typical refinery in the 100,000-b/d range reports dropping the lead level to 1 g/gal in 1977 would force him to increase the severity of his reformer operation from 89 to about 95 RON, resulting in over a 6 percent loss in reformate yield.

A spokesman for Ashland Oil Inc. says the 1.4 g/gal limit would, in effect, trim 30,000 b/d from its refining capacity and cut its gasoline production by 17,000 b/d or about 10 percent.

A further drop to 1 g/gal would cause another decline in output and remove all toluene and xylenes from petrochemical operations.

The phasedown also would mean more frequent shutdown of Ashland's reforming units which would have to operate at higher severity.

All this, Ashland says, comes atop a situation wherein the company is forced to charge to its refineries steadily more Persian Gulf crude oil, a poor gasoline crude.

The company is urging EPA to delay start of the phasedown until Jan. 1, 1977, and to begin it with a lead reduction to 1.7 g/gal rather than 1.4.

Tenneco Oil Co., which produces some 52,000 b/d of gasoline, is in the midst of a detailed study of the phasedown impact. Its preliminary data indicate it would be stiff. The company's present gasoline-production mix is 60 percent premium and unleaded and 40 percnt leaded regular. The stepdown to 1.4 g/gal of lead would reverse the ratio to 40 percent premium and unleaded and 60 percent leaded regular. The further cut to 1 g/gal Jan. 1 would chop its premium and unleaded output to only 20 percent of total gasoline production, with 80 percent leaded regular, the company says. That would amount to a total cut in unleaded and premium output from 41,600 b/d to only 10,400 b/d.

There's nothing the company could do short term to change this ratio, a Tenneco spokesman says, "We're boxed in with an older reforming unit which at maximum efficiency can yield only 93 octane."

The company's only possible option, he says, would be product trading—leaded regular for unleaded or premium. But Tenneco anticipates many other refiners would be doing the same thing. The demand, the spokesman says, almost certainly would be "ferocious."

Long term, he says, Tenneco could build new reforming or C_5–C_6 isomerization facilities to improve its octane position. But Tenneco Oil would have to compete with the other nonoil affiliates of the parent company for the budget. And the big capital investment required with prospects for little or no return would make its chances for approval uncertain.

Several majors contacted by the Journal say they have task forces at work compiling the information EPA wants, but because of the complexity of their operations they are not yet in a position to assess the effect of phasedown.

Gulf Oil says phasedown would cut down on its gasoline availability and that it would be expensive. But the company said it would not affect its abilify to meet customer demands.

Small refiners. On the other hand, several small refiners insist phasedown, to them, literally means getting out of the gasoline business.

Frank Wood, chairman of the American Petroleum Refiners Association, whose membership includes 96 refiners with capacity of less than 50,000 b/d, says his group is conducting a survey of its membership to determine its gasoline output. These refiners account for 746,000 b/d of the country's some 15.1 million b/d of refining capacity.

At press time, APRA had replies from 35 of these refiners operating 43 refineries with crude capacity totaling 528,840/bd. The plants were operating at an average rate of 82 percent of capacity and an average 22 percent of their production was gasoline during the April 1976 survey period. Gasoline production, thus, totaled about 95,000 b/d for this group.

The survey shows a lead limit of 1.5 g/gal (the EPA phasedown order wasn't yet issued when the questionnaires were sent out) would cut gasoline production by these refiners to an average 5.07 percent of runs—or to some 21,900b/d.

With no lead at all, gasoline production would be cut to 1.9 percent of runs—or to only 8,200 b/d at the April percent-of-capacity rate.

Of the 43 reporting refineries, 18 produced no gasoline at all, 18 produced 25 percent of runs or more, and 7 produced from 0–25 percent of runs.

Five of the 43 refineries have catalytic crackers, 15 of them have cat reformers, and four alkylation units—making up 8.1 percent, 8.5 perecent, and 2 percent of crude capacity, respectively.

Only one or two of the 35 reporting firms, Wood says, have firm plans to improve their gasoline-producing capability. A total of eight are studying the possibility.

Generally, these refiners are oriented either toward military jet fuel and fuel oil or to motor gasoline. Those in jet fuel and without reformers often trade naphtha for gasoline components and are active in local markets selling leaded regular and premium.

Wood says lead phasedown would make it difficult to find gasoline components, since octanes would be at a premium. He says phasedown would probably take his company, Pride Refining, out of the gasoline business. Pride makes about 3,000 b/d of gasoline.

But even a small refiner with some reforming capacity would have a tough row to hoe.

One in the Southwest with three refineries and total capacity of 17,500 b/d says lead phasedown will mean a cutback in crude runs at its largest refinery from 9,000 to 7,000 b/d. That's because he would have to increase the severity of his 1,500-b/d reformer.

He is planning on buying another small reformer on which there will be no return on investment.

"It will just keep us in the gasoline market," he says.

The EPA originally exempted refiners with 30,000 b/d or less capacity from the first two steps of lead phasedown. However, those have already passed if the EPA goes back on schedule.

After analyzing the mass of data it gets from the country's refiners, large and small, EPA should be able to assess the effect of phasedown on U.S. gasoline production.

Early indications are that it would be heavy—and would come at a time when gasoline demand in the U.S. is again setting new all-time records.

Mr. JACKSON. Will the Senator from New Hampshire yield for a question?

Mr. McINTYRE. Yes, I yield for a question from my respected colleague from the State of Washington.

Mr. JACKSON. Is the Senator's main concern that if FEA price and allocation controls are ended too suddenly and too soon, that there might be shortages and much higher prices, perhaps by December or by next summer, forcing the FEA to reimpose controls?

Mr. McINTYRE. Yes, that is my main concern.

Mr. JACKSON. This issue of the possible shortage of gasoline resulting from refiners being ill-prepared for the EPA lead phasedown has already been brought to the attention of the Senate Interior Committee. I want to assure the Senator that it is my intention to request that both the FEA and the EPA submit to the committee reports analyzing the impact of the lead phasedown on gasoline supplies and prices. If, in addition, the President submits a proposal to the Congress to decontrol gasoline under the procedures of the Energy Policy and Conservation Act, the committee will immediately schedule hearings on the issue. As the Senator knows, under the EPCA one House of Congress could disapprove any decontrol proposal. I would expect that the FEA and EPA analyses of the lead phasedown issue would be highly relevant to these hearings.

It would be my view as well that, with respect to the impact of lead phasedown on gasoline supply and price, the burden of proof of the likelihood of shortages, price increases or both ought to be borne by the refinery sector of the oil industry. In any event, I agree with the Senator from New Hampshire that the issue deserves careful study.

Mr. McINTYRE. I understand my respected colleague from the State of Washington to say that he will consider these issues, and will press for disapproval of any FEA action to decontrol gasoline if a shortage appears likely?

Mr. JACKSON. That is so.

Mr. McINTYRE. I thank the Senator.

Mr. MORGAN. Mr. President, I have an amendment at the desk which would amend section 11 of the Clean Air Act Amendments of 1976. I do not intend to call up that amendment for a vote, and, due to the lack of time, it looks as though I may not be able to engage in a colloquy on this language with the distinguished floor manager and other Senators.

Mr. President, my objective in offering this amendment was to have it serve as a catalyst for discussion centering on section 11 of the amendments. It was never considered by the committee, and I do not mean to say that it is an answer to the problems which arise in section 11 of the committee bill. I do want to see that some record is built on the issue of "nonattainment" so that when the Senate and the House meet in conference the concern expressed by this body and the ideas aired here can add to the discussion of "nonattainment" and help the two Houses to come to a well-developed decision on this matter.

Mr. President, I also offer a paper written by representatives of Exxon Corp. which points up the problems which they find with section 11 of the committee bill, which I ask unanimous consent to have printed in the Record.

There being no objection, the paper was ordered to be printed in the Record, as follows:

The Potential Impact of Section 11 of S. 3219 (Clean Air Act Amendments)

Section 11 of S. 3219 (Sec. 115 of H.R. 10498) deals with economic expansion in geographical areas presently exceeding the national ambient air quality standards. The Clean Air Act, as amended in 1974, prohibits new or expanded industrial facilities in such areas if they would prevent or delay, however slightly, attainment of the standards. Section 11, while ostensibly designed to permit expansion of existing facilities in nonattainment areas under certain conditions, does not solve the problem, since those conditions cannot be met by industries that have already done a good job of pollution control. Furthermore, Section 11 does not permit new industry to move into nonattainment areas.

Enactment of Section 11, as written, would not alter the fact that the present Clean Air Act precludes energy development in much of the United States. No major facility, no matter how well controlled, that would emit a pollutant subject to an unattained air quality standard could be built, unless the owner had facilities in the area that could be cleaned up to more than compensate for the new facility.

Section 11 also would mean no growth in many undeveloped areas. In much of the undeveloped West, recent data show that nature itself (for example, airborne dust and vegetative hydrocarbons) exceeds the national ambient air quality standards. In such "non-complinace" areas, the same rules apply as in areas polluted by man's activities—that is, no new sources may be built.

If Congress, in its current consideration of Clean Air Act Amendments, fails to remedy this situation, the results could be disastrous. Already industry is being prohibited from expanding in many areas, as the U.S. Environmental Protection Agency implements the no-growth requirement in nonattainment areas. Some specific examples follow:

Energy Reserves. Amoco and Gulf have interests in a 5,000 acre oil shale tract in Colorado, called the Rio Blanco Oil Shale Project. The first year of ambient air quality monitoring on the undeveloped tract has revealed that national air quality standards were exceeded in more than 60 instances, most probably because of natural emissions—that is, airborne dust and vegetative hydrocarbon emissions. Under Section 11—which imposes severe restrictions on new construction and modification in areas exceeding the national standards, for whatever reason—the Rio Blanco Project and other oil shale projects in such areas could not go forward.

Phillips also holds uranium leases in the northwestern portion of New Mexico and coal leases in the lignite fields that angle from east central Texas up into Arkansas. Under existing Section 11 language, wherever these energy reserves are in air quality control regions exceeding present ambient air quality standards, no development could take place.

Pipelining. Sohio is now planning a trans-U.S. pipeline running from Long Beach, California, to Midland, Texas, from which point oil could be transported to practically anywhere in the Midwest and on the East Coast. Several hundred thousand barrels of new storage capacity would have to be built to sustain the pipeline's estimated throughput of 700,000 barrels per day. Under existing Section 11 language the storage tanks could not be built. Even with best available control technology, the company, having no other facilities in that area, would be unable to show "reasonable further progress toward attainment of the applicable national ambient air quality standard." Without the tanks, of course, the pipeline would not be put into operation.

Up the coast from Long Beach, at Estero, California, Socal had planned to build offshore mooring for VLCC's and onshore storage tanks for the incoming crude oil. These facilities would have handled 300,000 barrels per day, with future expansion to 500,000 barrels per day. Environmental considerations changed the economic projections for these facilities, and the plans were shelved. Under Section 11, these plans, temporarily shelved, would have to be permanently cancelled.

Refining. The Hampton Roads Energy Company has been planning a 175,000 barrel per day refinery, with a supporting marine terminal, at Portsmouth, Virginia, for almost three years. It is planned for the refinery to make low-sulfur fuels. During that time, the company secured the approval of all necessary state agencies, including the State Air Pollution Board, Marine Resources Commission, and State Water Board. It also obtained preliminary approvals from EPA. Then on April 19, 1976, a representative of the Regional EPA Office at Philadelphia announced that the proposed refinery would be "environmentally unacceptable," because the surrounding area is out of compliance with the hydrocarbon standards. The refinery now may not be built under present law. It would never be built if Section 11 were to be enacted.

Exxon estimates that to date, hundreds of millions of dollars have been spent to install catalytic cracker feed desulfurizers required to reduce sulfur dioxide emissions from the crackers themselves and to install product desulfurizers for reducing the sulfur content of home heating oils. Had current Section 11 language been in effect—because major refining centers like Houston, Los Angeles, and Northern New Jersey are already exceeding one or another of the national ambient air quality standards—many, perhaps most of these desulfurizers could not have been put into place.

As for the future, EPA is now conducting sulfate studies. If those studies should lead to the decision that it is necessary to desulfurize gasoline, Section 11 would prohibit refiners from installing the needed desulfurization equipment in areas now exceeding hydrocarbon standards, including the nation's major refining centers, mentioned above.

Generally speaking, refining capacity now in existence and now under construction is adequate to accommodate the nation's immediate energy needs. As the demand for energy grows, however, the need for refinery capacity also will grow. Shell, for example, estimates that in the near and middle future, it will be necessary to expand at some 15 of its refineries and petrochemical plants. To the extent that such expansions are prevented from occurring because of Section 11 restrictions, to the same extent a wide array of products ranging from home heating oil to synthetic rubbers will not materialize.

Mr. MORGAN. Mr. President, I wish to call this body's particular attention to section 11 of S. 3219. Section 11, dealing with industrial expansion in areas now exceeding the national ambient air quality standards, is intended to address a serious problem embodied in section 110 of the present Clean Air Act, as amended in 1970 and again in 1974. The present law effectively prohibits new or expanded facilities in nonattainment areas, if emissions from such facilities would prevent or delay, however slightly, attainment of the ambient air quality standards.

Therein lies the problem, because there are many such areas. Despite our impressive progress toward the Nation's air quality goals during the last 5 years, we have not been able, everywhere, to comply with all of the deadlines for all of the pollutants established by the 1970 statute. Some time ago, for example, EPA Administrator Train, announced that of 247 air quality control regions, 60 would not meet the statutory deadlines for the particulate standards, 42 for sulfur oxides, and 74 for photochemical oxidants.

When we consider these and the other regulated pollutants, we arrive at an inevitable and alarming conclusion: The present Clean Air Act threatens to put a large percentage of the total land area in the United States off limits to new and expanded industrial facilities. It is my understanding, moreover, that because some of these pollutants originate in nature itself—for example, airborne dust and hydrocarbons from vegetation—many such areas never will attain the national standards. It follows, under present law, that they never will be able to offer sites for major industrial growth.

The committee, greatly to its credit, recognized the need for remedy and attempted to supply it with section 11 of S. 3219. As presently written, however, section 11 would not permit new industry to move into nonattainment areas, nor could most existing plants in such areas expand. No matter how well controlled, a major new or expanded facility that would emit a pollutant subject to an unattained air quality standard could not be built unless the owner had facilities in the area that could be cleaned up to more than compensate for the new facility. Only in this way would he be able to meet the "at no time increase" and "reasonable further progress" requirements of section 11.

I was concerned with this problem during the Committee's consideration of the bill and at that time expressed my concern that the language contained in section 11 would penalize a facility that has done a good job, as opposed to a different facility that has not done well. The latter can tighten his controls and expand his plant, the former may not.

Neither the present act nor section 11 of S. 3219, therefore, provides the needed remedy—namely, resolution of the dilemma posed by the legal requirement to achieve this or that pollutant reduction by a date certain on the one hand and the social imperative to provide for reasonable economic growth on the other.

Take the case of a company which wants to locate a major new energy facility of vital importance to the country in or near an urban center which has a high unemployment rate. Assume also that this proposed facility is in an area of the country where the company does not presently have an existing facility. The area now exceeds national ambient air standards and cannot comply with the mandated schedule, due to the major social dislocations involved in meeting the standards, unusual geographic or meteorological conditions which make the meeting of the standards unrealistic, or nature's own contributions exceeding the standards. There are many such areas in the country, and some of them will never be in a position to reach compliance. Under the Clean Air Act amendments of 1970 and S. 3219, the proposed new facility could not be built in the future.

Take the case of a refinery which wants to construct a major desulfurization unit for the manufacture of low-sulfur fuels in the same area as the first example. Assume that the existing facility already utilizes a high degree of emission control technology and that further reductions in the emission from the existing equipment are not realistic. Both of these assumptions are very plausible. Again, under both the present act and S. 3219, this desulfurization unit could not be built even using the best available control technology.

Take the case of a major deposit of a natural resource which can be developed only in the area where it exists. A few examples are oil, natural gas, and oil shale and coal deposits in the West, many of which lie in areas which will always exceed existing particulate and oxidant standards because of natural dust and vegetative hydrocarbons. It is unclear that these resources could be developed now under the present act or in the future under S. 3219, because of the natural background.

To summarize the situation, Mr. President, under existing law, new facilities cannot be built in areas where any ambient air quality standard is not being attained, except possibly under very limited circumstances. Under the law is changed, the economies of these areas will stagnate. At a time when it is generally recognized that we need more jobs, not less jobs, this is an unbelievable situation.

The principal problem with the existing language of section 11 is that it is limited to situations in which there is already an existing plant which is being modernized or expanded, and even in those situations it is unduly restrictive.

The amendment I am offering today authorizes the State to grant a variance allowing the construction of new industrial plants in areas in which a national ambient air quality standard is being exceeded if:

First. The owner of the proposed new source demonstrates that all of his stationary sources in the State are in compliance or on compliance schedules;

Second. The proposed facility will employ the best available control technology;

Third. The State implementation plan takes into account or is revised to take into account the emissions from the new facility, so as to insure that those emissions will not significantly delay the attainment of, or prevent the maintenance of, any national ambient air quality standards; and

Fourth. The social, economic, or environmental benefits of the new facility outweigh any benefits of preventing its construction.

Mr. President, this amendment places these important decisions in the hands of State officials where they belong. It requires the use of the best pollution control technology on new emission sources. To insure that new emission sources do not result in unreasonable additional delay in attainment of air quality standards, the amendment provides for making appropriate revisions in the State implementation plan, if the original plan did not adequately allow for anticipated growth. If the plan already takes growth into account or if the new source will not affect portions of the region where violations are occurring, revision of the plan may be unnecessary. On the other hand, if additional controls on existing sources are needed to accommodate a new source, the State can require such controls and permit the new source. Thus, the amendment eliminates the ceiling on economic growth contained in the present act and gives the States the flexibility to consider the overall social and economic welfare of their people in deciding whether and where to permit growth.

Mr. MUSKIE. Mr. President, concern has been expressed with the fact that the Clean Air Act does not permit new sources of pollutants to locate in areas where ambient standards for those pollutants are presently exceeded. They understand that the section would provide a narrow exception from that requirement for expansion of existing sources in a region but it does not permit broad new sources to come into such areas.

The committee position is—and the Clean Air Act supports the argument—that so long as a new source will not "prevent attainment or maintenance of standards," it can be located in a dirty air region. But, if the Administrator or a State determines that a new source will prevent or interfere with attainment or maintenance of ambient standards, he cannot permit it.

The committee loophole was intended to provide some flexibility for growth in dirty air areas especially for those kinds of facilities which had heavy capital investment and which could not move or for which economic expansion at another unrelated site was prohibitively expensive. It carries the added benefit of forcing both best available technology on the sources and assured compliance with applicable emission limits. The alternative was delay and decline of existing urban industrial centers even though there was a willingness to invest in the best available technology and continue to make progress to meet ambient standards—the tests of the bill.

At the same time, the committee recognized that new growth associated with new sources not related to existing facilities could only occur where that new source was able to meet the test of the current law—not to prevent or interfere.

To carve out a loophole broad enough to accommodate the desire to locate new refineries and tank farms in regions where the oxidant standard is violated on a regular basis would be to abandon the health basis for regulation. This would be a back door way to void the idea of health standards by a date certain. And there are no control or compliance benefits because new sources have nothing to offer but more air pollution. It would make available the 10-year extension for communities with transportation control problems—community retrofit problems—to new refineries.

If this amendment were to be adopted—or if the record were to admit to any flexibility beyond section 11 or the current requirement not to prevent or interfere—the basic health protection purpose of the law would be null and void.

Mr. ALLEN. Mr. President, I wish to call the Senate's attention to section 11 of S. 3219 dealing with industrial expansion in areas now exceeding the national ambient air quality standards. The section is intended to address a serious problem embodied in section 110 of the present Clean Air Act as amended in 1970 and 1974. The present law effectively prohibits new or expanded facilities in nonattainment areas, if emissions from such facilities would prevent or delay, however slightly, attainment of the ambient air quality standards.

And therein lies the problem because there are many such areas throughout the United States. Despite our impressive progress toward the Nation's air quality goals during the last 5 years, we have not been able, everywhere, to comply with all of the deadlines for all of the pollutants established by the 1970 statute. Some time ago, for example, EPA Administrator Train announced that of 247 air quality control regions, 60 would not meet the statutory deadlines for the particulate standards, 42 would not meet the deadlines for sulfur oxides, and 74 regions would not come up to snuff for photochemical oxidants.

When we consider these and the other regulated pollutants, we arrive at an inevitable and alarming conclusion: The present Clean Air Act threatens to put a large percentage of the total land area in the United States off limits to new and expanded industrial facilities. It is my understanding, moreover, that because some of these pollutants originate in nature itself—for example, airborne dust and hydrocarbons from vegetation—many such areas never will attain the national standards. It follows, under present law, that they never will be able to offer sites for major industrial growth.

The Senate Committee on Public Works, under the able and distinguished leadership of the Senator from West Virginia, Mr. RANDOLPH, recognized the need for a remedy for this problem and attempted to supply it with the addition of section 11 of S. 3219. As presently written, however, the section would not permit new industry to move into nonattainment areas, nor could most existing plants in such areas expand. No matter how well controlled, a major new or expanded facility that would emit a pollutant subject to an unattained air quality standard could not be built unless the owner had facilities in the area that could be cleaned up to more than compensate for the new facility. Only in this way would the owner of such a facility be able to meet the "at no time increase" and "reasonable further progress" requirements of section 11.

Neither the present act nor section 11 of S. 3219, therefore, provides the needed remedy; namely, resolution of the dilemma posed by the legal requirement to achieve this or that pollutant reduction by a date certain on the one hand, and the social imperative to provide for reasonable economic growth on the other.

Take the case of a company which wants to locate a major new energy facility of vital importance to the country in or near an urban center which has a high unemployment rate; assume also that this proposed facility is in an area of the country where the company does not presently have an existing facility. The area now exceeds national ambient air standards and cannot comply with the mandated schedule, due to the major social dislocations involved in meeting the standards, unusual geographic or meteorological conditions which make the meeting of the standards unrealistic, or nature's own contributions exceeding the standards. There are many such areas in the country and some of them will never be in a position to reach compliance. Under the Clean Air Act Amendments of 1970 and S. 3219, the proposed new facility could not be built in the future.

One could take the case of a refinery that wants to construct a major desulfurization unit for the manufacture of low-sulfur fuels in the same areas as the first example. Assume that the existing facility already utilizes a high degree of emission control technology and that further reductions in the emission from the existing equipment are not realistic. Both of these assumptions are very plausible. Again, under both the present act and S. 3219, this desulfurization unit could not be built even using the best available control technology.

Take the case of a major deposit of a natural resource which can be developed only in the area where it exists. A few examples are oil, natural gas, and oil shale and coal deposits in the West, many of which lie in areas which will always exceed existing particulate and oxidant standards because of natural dust and vegetative hydrocarbons. It is unclear that these resources could be developed now under the present act or in the future under S. 3219, because of the natural background.

To summarize the situation, Mr. President, under existing law, new facilities cannot be built in areas where any ambient air quality standard is not being attained, except possibly under very limited circumstances. Unless the law is changed, it seems to me that the economies of these areas will stagnate. At a time when it is generally recognized that we need more jobs, not less jobs, this appears an unbelievable situation to be facing, especially when we have it in our power, during consideration of the pending legislation, the means of rectifying the situation.

I am sure that members of the committee have considered this problem, but as I see it, the principal objection to the existing language of section 11 is that it is limited to situations in which there is already an existing plant which is being modernized or expanded, and even in those situations, the language appears unduly restrictive.

I would hope, Mr. President, that the committee would consider looking into this particular problem and the specific section of S. 3219 and consider amending the language. Not being a member of the committee and not having had the benefit of the hearings and all the considerations of this matter, I can only suggest language for such an amendment.

I believe that such an amendment would authorize the State or States to grant a variance allowing the construction of new industrial plants in areas in which a national ambient air quality standard is being exceeded if:

First. The owner of the proposed new source demonstrates that all of his stationary sources in the State are in compliance or on compliance schedules;

Second. The proposed facility will employ the best available pollution abatement and control technology;

Third. The State implementation plan takes into account or is revised to take into account the emissions from the new facility, so as to insure that those emissions will not result in delay in the attainment of, or prevent the maintenance of, any national ambient air quality standards; and

Fourth. The social, economic, or environmental benefits of the new facility outweigh any benefits of preventing its construction.

Mr. President, such an amendment would place these important decisions in the hands of State officials where they belong. It would require the use of the best pollution control technology on new emission sources. And, to insure that new emission sources do not result in unreasonable additional delay in attainment of air quality standards, such an amendment might provide for making appropriate revisions in the State implementation plan, if the original plan did not adequately allow for anticipated growth.

If the plan already takes growth into account or if the new source will not affect portions of the region where violations are occurring, revision of the plan may be unnecessary. On the other hand, if additional controls on existing sources are needed to accommodate a new source, the State can require such controls and permit the new source.

Thus, it appears to me, that such an amendment to the current legislative proposal would eliminate the ceiling on economic growth contained in the present act and would give the States the flexibility to consider the overall social and economic welfare of their people in deciding whether and where to permit growth.

I ask unanimous consent that my amendment No. 2149 be inserted at this point in the Record as my idea of a provision which will meet the goals which I have set forth in my remarks.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

Sec. 11. Section 110 of the Clean Air Act is amended by adding the following new subsection:

"(g) (1) Nothing in section 110(a) shall be construed to provide that an applicable implementation plan must prohibit the construction or modification (within the meaning of section 111(a)(4)) of any new stationary source of any air pollutant in any air quality control region in which a national ambient air quality standard is being exceeded for such pollutant if a variance is issued under paragraph (2).

"(2) A variance for purposes of paragraph (1) may be granted under this subsection for a proposed new stationary source or for a proposed modification of a stationary source by the State (or by the Administrator with the consent of the Governor of the State in which such source is to be located) if, after notice and opportunity for public hearing—

"(A) the owner or operator of the proposed new or modified stationary source demonstrates that—

"(i) all existing major stationary sources owned or operated in the same State (or, in the case of an interstate air quality control region, States) by the person proposing such construction or modification are—

"(I) in compliance with all requirement under this Act, including provisions of applicable implementation plans, or

"(II) in compliance with approved schedules and timetables for compliance under applicable implementation plans, under compliance orders issued under section 113 before enactment of this section, or under compliance date extensions issued under this Act; and

"(ii) the proposed new or modified stationary source will comply with emission limitations requiring use of the best available control technology, as defined by the States in which the proposed source is to be located, which emission limitations shall be at least as stringent as the new source standards of performance which would be applicable to such category of sources under section 111 of this Act, and

"(B) the State (or the Administrator, as the case may be) determines, after such notice and such opportunity for public hearing, that—

"(i) the applicable implementation plan takes into account (or if necessary will be revised to take into account) emissions of any such pollutant from such proposed new source or modification and provides that the emissions from such proposed new source or modification will not result in delay in the attainment of, or prevent the maintenance of, any national ambient air quality standard for such pollutant beyond the date such attainment would have occurred under the applicable implementation plan (as modified by any compliance order issued pursuant to section 113 prior to date of enactment of this section and by any compliance date extension variance, or exemption under this Act); and

"(ii) the social, economic, or environmental benefits of such proposed new source or modification outweigh any benefits of preventing its construction.

"(3) Not later than one year after date of receipt of a complete application (as determined in accordance with regulations of the Administrator) for a variance under paragraph (2), the State (or the Administrator as the case may be) shall act to grant or deny any such application.

"(4) For the purpose of this section, the term 'major stationary source' has the same meaning as provided by section 121(2)(3).".

Mr. **RANDOLPH**. Mr. President, section 11 was adopted in the commitee at my urging. I offered the amendment because I felt it was important to provide some means to allow industrial expansion in areas where ambient air quality standards have not yet been attained. I recognize that section 11 provides only very limited opportunities for growth in these so-called nonattainment areas. It does not cover completely new facilities, only expansions. It may not offer much to the company whose existing facilities have already been cleaned up with the best available technology, or are inherently clean. And the tests of section 11 requiring improvements in emission reductions, and further progress toward attainment of the ambient standards, may be hard to meet in a region where natural background levels of pollutants contribute significantly to the nonattainment of the ambient standards.

These potential obstacles to growth in nonattainment areas concern me. I am not certain, however, at this time, what the best approach may be to deal with those concerns. I know that the House clean air bill is somewhat more generous than section 11. Therefore, I intend to pursue the problem of industrial growth in nonattainment areas, in the House-Senate conference on this legislation. I believe we will be able to find a solution to the problem of background contributions, and that faced by the company whose existing facilities are clean.

Mr. **DOMENICI**. Mr. President, I would like to add one thought to Senator Randolph's remarks. The problem with the present legal mechanism for handling the nonattainment issue is that it is based on a prohibition. As noted on page 42 of the Senate report:

> The Clean Air Act prohibits the addition of any emissions of an air pollutant in any air quality control region or portion thereof where an ambient air quality standard for that pollutant has not been attained.

It is worth noting that the other prohibition we employed in the act, gas rationing, was an unmitigated political and social disaster. In fact, gas rationing for mobile sources is analogous to the prohibition on new stationary sources in air quality maintenance areas. As with gas rationing, I believe we need another strategy for air quality maintenance areas. I recently wrote Mr. Train expressing my dissatisfaction with the solutions the committee has reached on this issue and requesting his assistance. I ask unanimous consent that a copy of my letter be put in the Record at the conclusion of these remarks.

I do not pretend to have any magic answers to the problem. I do, however, believe that environmental regulations are most effective and gain wider support when they are framed as constraints rather than prohibitions. A strategy based on constraints allows economic growth as long as it meets certain environmental conditions. In contrast, prohibitions ban growth. Personally, I believe a strategy based on constraints serves as a spur to creativity on the part of industry. Prohibitions are an invitation to disaster.

July 20, 1976.

Hon. Russell Train,
Administrator,
Environmental Protection Agency,
Washington, D.C.

Dear Russ: I am writing to express my concern over what I see as an emerging problem of critical dimensions to the future of the Clean Air Act. This is the question of economic growth in air quality regions that already, or soon will, violate the national ambient air quality standards.

This issue, known as the air quality maintenance issue, is partially treated in section 11 of the present Senate bill, S. 3219. However, the relief offered by S. 3219 is available only to existing facilities under conditions that only a limited portion of American industry can meet. Ironically, these conditions reward industries that have lagged in their pollution control efforts.

Regrettably, I do not consider the present section 11 amendment a sound basis on which to fashion a national policy. It ignores too much of the problem. First, the present amendment ignores the possibility of natural violations of the national standards by either windblown dust or naturally occurring oxidents. This problem also encompasses windblown particulates from unpaved roads, or farm lands which, although technically manmade, are for all practical purposes uncontrollable.

Second, section 11 overlooks the problem caused by the movement of pollution, particularly oxidents, over great areas. This raises the dilemma of a community being classified as a maintenance area because of the influx of pollution from outside its borders.

Third, section 11 fails to address the problem of new sources entering a maintenance area. In addition, section 11 offers no assistance to an existing source that wishes to expand but is already using best available control technology.

What I find especially troubling about the above three objections is that their aggregate effect is to make the maintenance issue a far more pervasive issue than that posed by the nondegradation amendments found in the Senate bill. Because of the first two problems, air quality maintenance has become a rural, as well as urban problem. And because of the third objection, the ability of our urban centers to attract desperately needed new industry is placed in doubt. However, while the nondegradation issue has at least undergone several years of intense scrutiny, the maintenance issue has received little attention.

Ideally, the proposed National Air Quality Commission, working in concert with your agency, would be the proper organizational vehicle for addressing this problem, However, I am concerned that waiting for the Commission's report may prove to be a legislative luxury. Accordingly, I would appreciate your views on the following:

(1) An assessment of the scope of the air quality maintenance problem;

(2) A statement of existing legislative and administrative tools available to address the problem; and,

(3) If possible, any additional legislation that would be of assistance.

I recognize that the third request may be an impossible undertaking during this session of Congress. However, I would appreciate any guidance you can offer.

Kindest regards and best wishes.

Very truly yours,

Pete V. Domenici,
U.S. Senator.

OPACITY

Mr. RANDOLPH. Mr. President, the abatement of air pollution requires the enforcement of appropriate air pollution controls. The type of control requirement selected by air pollution agencies to effect reductions of air pollution should relate to the form and extent of a source's impact on the environment.

This is particularly true for the regulations of the various States dealing with opacity—the visible particulate emissions that traditionally have suggested pollution in the air. This type of requirement is essentially dependent on the subjective judgment of air quality inspectors and variable factors such as the intensity of sunlight and the time of day when such visual measurements are made.

In the early days of efforts to bring industrial pollution under control, opacity tests were adopted as one of the first means of detecting the presence of emissions and determining when they have been eliminated. This procedure was adopted prior to the development of the more sophisticated detection and monitoring systems which are now available and should be applied.

The Ringelmann chart originated in 1890 as a means to regulate black smoke plumes. More than a half century later in 1947 the Los Angeles Air Pollution Control District adopted the equivalent opacity concept. This enforcement tool extended the Ringelmann chart to visible plumes of any color which obscure the vision of an observer to the same degree as black smoke.

Following recognition of this concept in 1948 by the California Health and Safety Code, equivalent opacity tests for visible emissions were adopted by major urban areas throughout our Nation. While the legality of this concept has received frequent challenge, the legality of this surveillance technique has been upheld in the courts.

Opacity regulations, while useful for the surveillance of the aesthetic effects of stationary source emissions, do not serve as an effective surveillance tool to determine the impact of a facility on ambient concentrations of air pollutants.

Despite the usefulness of such regulations for the surveillance of large numbers of non-major emitting facilities, three major technical questions have arisen concerning the validity of "equivalent opacity" regulations, especially for major emitting sources. These limitations are—

First, the visibility of a plume, and so-called "fugitive" emissions, is largely determined by the size of particulate emissions, rather than the quantity of pollutants. This is of particular concern since the opacity of emissions can be reduced by simple dilution, although the amount of pollution remains the same.

Second, for the purposes of enforcement, questions arise concerning the reproducibility of "opacity" readings of emission plumes and, in particular, "fugitive" emissions. This surveillance technique is perhaps the least precise, yet we now rely on it as the basis for regulating the air pollution impact of major emitting sources.

Third, serious questions surround the means for complying with such regulations, since opacity of an emission also varies with the position of the observer relative to the sun, atmospheric lighting, and background.

The environmental impact of a source is determined by the amount of pollutants discharged into the atmosphere. For this reason, "process-weight" standards were developed as a replacement for opacity regulations and Ringelmann standards for particulate emissions. As such "process-weight" standards control the principal impact of major emitting sources on environmental quality.

Mr. President, I ask unanimous consent that an article appearing in the June, 1976 issue of Environmental Science and Technology be printed in the Record at this point.

There being no objection, the material was ordered to be printed in the Record, as follows:

FACTORS INFLUENCING PLUME OPACITY

(Previously unrecognized uncontrollable variables such as the angle of the sun, the time of day and the geographic location of the power plant greatly influence smoke plume opacity.)

(By Alexander Weir, Jr., Dale G. Jones, and Lawrence T. Papay, Southern California Edison Co., and Seymour Calvert and Shiu Chow Yung, Air Pollution Technology, Inc.)

Numerous experiments on the removal of particulate matter with electrostatic precipitators and wet scrubbers have been conducted at the 1580 MW coal-fired Mohave Generating Station at South Point, Nev. It was established that opacity is not a function of particulate grain loading alone, but is influenced by a number of other independent variables, some of which are beyond the control of the operator of the stationary source. Thus, mass emissions cannot be determined by opacity measurements alone.

The experimental data, including plume opacity observations by trained smoke observers, were obtained in conjunction with 11-ft and 32.5-ft diameter stacks and fly ash particles of similar shape having 0.95 and 2.5 μ mean diameters. Mass emissions of particulate matter ranged from 0.004–0.40 gr/scf. The data indicate that it is possible for opacity to vary from 14–87% with a 32.5-ft diameter stack at a constant mean particle diameter of 2.5 μ and a constant mass emission rate of 0.05 gr/scf.

This paper presents the quantitative effect of a number of independent variables on opacity. It also shows that the use of opacity measurements by regulatory agencies to determine the degree of particulate emissions is contrary to the laws of nature, regardless of the laws of man.

VARIABLES AFFECTING OPACITY

There are a number of variables that affect opacity other than the mass emissions of particulate matter. These variables can be divided into two categories: Those variables that are a function of the control equipment and can be "controlled" by the operator or the designer; and those variables beyond the control of the operator (see box).

Control equipment could be installed to influence plume opacity as a result of controllable variables, but opacity standards would still reflect the influence of five other "controllable" variables in addition to mass emissions.

Light-scattering theory (see Reference 1 Additional reading) predicts opacity values within a reasonable degree of accuracy over a range of mass emissions (from 0.004–0.4 gr/scf) and large variations in mean particle sizes compared with the observations of trained observers.

In this paper the theory is used to quantitatively determine the effects of changes in a single parameter on opacity, while all other factors are held constant. Several arbitrarily selected conditions were used as a basis for conducting this parametric study. In the figures that follow, the opacity that corresponds to this nominal set of conditions is indicated as a black dot on a curve generated by variations in a single parameter. By using the Halow-Zeek equation and making certain assumptions, the opacity corresponding to the arbitrarily selected conditions (see Table 2 for "black dot" values) is 85%.

CONTROLLABLE VARIABLES

Mass concentration of particulate emissions was the first parameter considered. A Functional Opacity-Mass Relationship for an Asphalt Concrete Plant was recently reported by the EPA in the *Federal Register*. These EPA data have been replotted in Figure 1, which also shows the predicted opacity-mass relationship beginning with the "black dot" conditions typically at the Mohave Generating Station. Note that for the coal-fired power plant, as the grain loading approaches a large value, the opacity asymptotically approaches 100%. Conversely, as the grain loading approaches zero, the opacity asymptotically approaches zero. In coal-fired power plants, opacity is thus not a simple linear function of mass emissions as EPA published for asphalt-concrete plants.

Figure 1 indicates that at a grain loading of 0.05 gr/scf, the EPA data suggest an opacity of 6%, while at the same grain loading the opacity at the coal-fired power plant would be 85%, as indicated by the black dot. This large difference is accounted for by the influence of variables other than the concentration of mass emissions.

One important independent variable is the diameter of the stack, which fixes the path length that light traverses during penetration of a smoke plume. The larger the diameter, the greater the path length over which light is scattered by smoke particles, and the greater the apparent plume opacity.

The size of the particulate matter in the smoke plume is another variable that has a pronounced effect on opacity. If 50% of the particles by weight are larger than a given size (and the remaining 50% by weight smaller than a given size), then the characteristic size is called the mean particle size. At a given grain loading, the smaller the mean particle size, the greater the number of particles in a given volume of gas and the greater the degree of light scattering and resultant opacity.

Deviation from the mean size is another important variable. Particle size distribution can be measured with a sampling device called a cascade impactor that separates the particles into different sizes. By weighing the amount of particles collected for each size range the weight fraction of particles can be determined as a function of particle size. Most particle size distributions for coal-fired power plants can be plotted as a straight line on log probability paper, corresponding to a gaussian distribution of the ratio of particle diameter to the mean particle diameter. Thus, the geometric standard deviation from the mean particle size can be defined as the ratio of the particle size at 84 wt % to the mean size, or also the ratio of the mean size to the particle sixe at 16 wt %. If all the particles are the same size, the geometric standard deviation is one, but increases as more particles are found in size categories different from the mean size.

For mean particle diameters of 2.5 μ and larger, the smoke plume opacity is minimum at a geometric standard deviation of one, and increases as the deviation increases. This is because a larger percentage of small particles falls between 0.2–2.0 μ (the most effective size range for light scattering). For a mean particle diameter of about one micron, the converse is true. The opacity is a maximum at a geometric standard deviation of one since all the particles are within the optimum light-scattering size range. As the deviation increases, an increasing fraction of particles fall outside the optimum light-scattering size range, and the opacity decreases. Therefore, for the small particles (0.95 μ) opacity *decreases* as the deviation from the mean particle size is *increased*, while for large particles (2.6 μ) the converse is true.

Stack gas temperature is also an important factor. One convenient measure for mass emissions of particulate matter, which is reported in the literature and frequently used for comparisons between different coal-fired power plants, is grain loading, or grains of particulate matter per standard cubic foot. If such a measure is used, the variations in the temperature of the stack gas will influence the relationship between standard cubic feet and actual cubic feet of stack gas. The higher the stack gas temperature, the higher the ratio of actual to standard cubic feet, and the lower the particle concentration per cubic foot, thus decreasing the opacity.

UNCONTROLLABLE VARIABLES

One of the important variables that is determined by the characteristics of the fuel and not controllable by a power plant operator is the density of the particles emitted. The less dense the particulate matter, the greater the number of particles at a specified grain loading and the greater the opacity. Variations in particle density between 2.0–4.0 G/cm^3 can occur for coal-fired power plants because of the different chemical nature of the ash, which varies with the geologic location where the coal is mined. It is important to point out that standard techniques of measuring particle density by displacement may not be valid for many types of fly ash particles because of surface inclusions and/or formation of hollow ash spheroids during the combustion of coal. Variations in opacity from 60–90%, owing to normal variations in particle density alone, would not be considered unusual.

Still another uncontrollable particle property that influences opacity at a given mass emission rate is the particle index of refraction. Typical power plant fly ash particles have an index of refraction of about 1.5 Mohave fly ash particles have an index of refraction of 1.6 (measured by microscopic examination with selected immersion oils). A range in refractive index from 1.4–1.6 corresponds to a difference in opacity from 77–95%.

The color of the plume and the color contrast ratio between the plume and the sky is another uncontrollable variable related to the type of fuel burned. Even if all factors such as mass emissions and particle size are the same, the opacity of a "black" plume against an overcast background will be different from the opacity of a "white" plume against an overcast background. If the overcast is white, the "black" plume will have a higher apparent opacity than the "white" plume. If the overcast is black or dark gray, the opposite situation will prevail.

TABLE 1.—EFFECTS OF GEOGRAPHIC LOCATION AND CALENDAR DATE ON OPACITY

	Kauna Point, Hawaii	Key West, Fla.	Grantley Harbor, Alaska
Latitude	19°2'N	24°33'N	65°16'N
Angle of Sun at time of maximum opacity:			
June 21	85.5°	89.0°	48.0°
December 21	47.5°	42.0°	1.0°
Percent opacity under "black dot": conditions at maximum opacity:			
June 21	86.4	86.8	68.5
December 21	67.5	64.5	14.5

Note: The opacity at sunrise or sunset is 14 percent at all 3 locations.

Plume color is caused by the nature of the particulate matter in the plume. Silica or glass-like particles produce "white" plumes while carbon or light-absorbing particles produce "black" plumes. Because of combustion temperatures achieved in coal-fired power plant boilers, the particles in the plume are generally glass-like in nature, and the plume is generally "white" in color.

Data have been obtained for a white plume viewed against a blue sky background. If the sky were a white overcast color, a white plume would tend to disappear and could only be seen by a brightness difference between the plume and the overcast. There are no data upon which to base a prediction of the opacity of a white plume on an overcast day. Similarly, a white plume on a clear day viewed against a dark background (such as a forest-covered mountain) will produce a different opacity than the same white plume viewed against a blue sky. The color of the background thus has a significant effect on the opacity of a white plume.

Seasonal variations in ambient airborne particulate matter (caused by wind or other factors) tend to change the color of the sky. Daily variations in sky color resulting from sunrise/sunset effects, photochemical smog or changes in weather conditions all influence the opacity of a white plume without any change in the mass emissions of the plume itself. Such factors are difficult to quantify since no data for white plumes are available for correlating Ringelmann number to color contrast ratio as a function of background color.

Another uncontrollable factor related to the type of fuel burned is the water vapor content of the flue gas. While it is generally recognized that water is one of the products of combustion emitted by oil-fired power plants, it is not always recognized that large quantities of water also result from the combusion of coal. Specifically, the combustion of a coal contining 10% ash would result in over five times (by weight) as much water as ash being formed. If a wet scrubber were used to remove the ash, additional water would be introduced in the gas so that the gas would be saturated with water vapor at 120–130° F leaving the scrubber. While not adding water, an electrostatic precipitator will not remove any water vapor from the gas.

Ambient temperature and humidity conditions can result in the condensation of some of this water vapor and there are no presently available scientific methods with which an observer can distinguish between the degree of opacity caused by the presence of the condensed water vapor and the opacity caused by the presence of fly ash. This factor is interrelated with the variables of wind direction, velocity, and turbulence and no attempt has been made to quantify it in this report.

VARIABLES INFLUENCING PLUME OPACITY

Controllable factors

Mass emission of particulate matter.
Mean particle size.

Deviation from the mean size.
Stack diameter.
Stack gas temperature.
Stack velocity and other factors influencing plume dispersion.

Uncontrollable factors

(Related to type of fuel burned or process involved):
Particle density.
Particle index of refraction.
Water vapor.
"Color" of the plume.

(Related to human observer, ambient weather conditions and movement of earth about the sun):
Wind speed.
Wind direction.
Wind turbulence.
Ambient air temperature and humidity.
"Color" of the sky.
Distance of observer from stack.
Non-level terrain.
Observer offset angle.
Time of day.
Day of year.
Longitude of stack.
Latitude of stack.
"EPA allowable" human error.
Sun angle.

Unlike previously discussed variables that were quantitatively related to opacity, variables such as stack and wind velocity are more difficult to quantify. Although it is not difficult to measure either stack or wind velocity or wind direction, plume opacity is measured by a human observer, and the appearance of the plume in the atmosphere is subject to atmosphere conditions such as turbulence and velocity. Haythorne and Rankin, describing the effects of these variables, said: "The velocity of the exhaust gas and the external wind conditions also will have obvious effects. In a still atmosphere the particulates may build up increasing opacity. In a high wind particles may be dispersed so that there may be no opacity at all even though the same volume of particulates is emitted." It is also obvious that the wind direction will have an influence on the opacity with observations parallel with the flow of the plume giving higher values than observations made perpendicular to the flow. This "path length effect" is similar to the effect of stack diameter presented previously.

Because of the many combinations of stack velocity, wind velocity, wind direction, and atmospheric turbulence that exist, no attempt has been made to quantify these interrelated variables.

THE POSITION OF THE SUN

An important category of uncontrollable factors that influences plume opacity is the position of the sun and the observer with respect to the plume.

The degree of plume opacity seen by an observer depends critically on the scattering angle through which incident light is reflected and refracted the particles in the smoke plume. This "scattering angle" and other geometric relationships are presented in Figure 2. The maximum opacity would be seen when looking at the sun through the plume and the minimum opacity would be seen when the plume is observed with the sun directly behind the observer. The closer to the stack that the observer stands, the more he must tilt his head upward toward the sky and the greater the opacity (because of the decreased light-scattering angle). A remote observation, on the other hand, gives a low reading and is another reason why an opacity measurement is not a reliable indicator of mass emissions.

Another variable affecting plume opacity is non-level terrain. Occasionally, the sun is in such a position relative to the stack that power plant equipment obscures a view of the plume at a distance of two stack heights from the base of the stack. Alternatively, coal-fired power plants are sometimes located near the edge of a cliff or near elevated terrain. In these cases, an observer must usually make an observation at a location elevated or depressed with respect to the base of the stack. This influence on the light-scattering angle has been calculated for an observer at two stack heights from the base of the stack.

The variation in opacity with changes in elevation of the observer are more pronounced at low sun angles in the winter than at high sun angles in the summer. Also, the opacity increases as the observer position is depressed with respect to the base of the stack. Depending on sun angle, aircraft observations would normally indicate a lower opacity than would be seen on the ground. The effects of distance from the stack would be a severe problem, however, in making airborne observations.

If opacity changes when an observer moves closer to the stack at a fixed sun angle, then the opacity obviously must also change when the sun angle changes as the sun moves across the sky relative to a fixed observer position. If all opacity readings are made with the sun directly behind an observer who is two stack heights from the stack, then on June 21st at latitude 35° the sun angle varies between 0° at sunrise or sunset and 79° at the time of maximum opacity. The opacity correspondingly varies between 18% at sunrise or sunset and 85% at the maximum sun angle when all other variables are held constant.

This sun angle effect is illustrated in greater detail in Figure 3, where the variation in opacity, as seen by a perfect observer, is plotted as a function of the time of day. Figure 3 is computed from data presented in the Nautical Almanac and Sight Reduction Tables for Air Navigation to obtain the angle of the sun as a function of the time of day. Knowledge of the latitude, longitude, and time zone in which the power plant is located was also required to obtain the sun angle data. Figure 3 is plotted for the location of the Mohave Generating Station at South Point, Nev.

Since a perfect observer always has the sun directly behind him, he would thus begin the day east of the stack and traverse a circular path at two stack heights from the stack before ending his day west of the stack. Note that this assumes no obstructions within the circular path around the stack, which probably never occurs at an actual power plant.

If the perfect observer returned to the Mohave site every day of the year, and only made an observation at the time of maximum opacity (the highest sun angle), and if all other variables were held constant for the entire year, the records of the perfect observer would be such that the opacity would vary between 54% on December 21st and 85% on June 21st. Naturally, the daily variations in opacity between sunrise and sunset would occur throughout the year, with the opacity at sunrise/sunset being 14%. The wintertime daily variation in opacity would be less than the summertime daily variation.

Obstructions between the observer and the stack (for example, the power plant boilers) might require that observations be made when the sun is not directly behind the observer (see Figure 2). By using solid geometry to calculate the scattering angle when the sun angle and observer offset angles are known, the effects of making an observation when the sun is not directly behind the observer can be calculated.

The lower the sun angle, the more pronounced the effects of observer offset angle. If an observer looks at the smoke plume when he is in the wrong position with respect to the stack and the sun, the impression received would always indicate an opacity that is greater than the correct value. This is especially pronounced when the sun angle is low and is more likely to occur in the winter than in the summer.

It was previously indicated that observations should be made with the wind at right angles to the direction of observation, since the EPA has established that the observation point should be "perpendicular to the plume." However, it also should be noted that this set of circumstances—wind at right angles, sun at observer's back—will only occur under certain specific conditions.

A smoke inspector who wished to make visual measurements when the opacity of the plume was at its maximum value would choose the time when the angle of the sun was at its maximum value for that day. This time occurs when the sun crosses the meridian of longitude of the observer and is referred to as "Local Apparent Noon" by navigators and astronomers. However, the time of "Local Apparent Noon" seldom coincides with twelve o'clock on the observer's watch. For an observer who is located in the exact center of the time zone, this coincidence only occurs four times a year (on April 15, June 15, September 1, and Christmas Day). On the other 361 days of the year, maximum opacity occurs either before or after twelve noon "Local Standard Time" on the observer's watch.

This irregular variation of the time of occurrence of maximum opacity throughout the year at any given location is caused by differences in the speed of rotation of the earth around the sun, tidal action and other factors. However, the time of maximum opacity occurrence can be calculated for any given day by use of information presented in the Nautical Almanac and knowledge of the local longitude.

THE EFFECTS OF LATITUDE

The angle of the sun at the time of maximum opacity is a function of the latitude of the power plant or other source of smoke plume, with greater angles (and greater opacity) occuring at the lower latitudes.

If a power plant is located at different areas within the continental U.S.—all other factors remaining constant—the opacity values for a power plant in the south will always be higher than those seen by the same observer under identical conditions and at an identical power plant in the north. This effect is the result of higher sun angles in the southern latitudes. If national opacity standards were applicable, a power plant in Alaska would obviously have less difficulty meeting the regulations than an identical power plant in Florida.

Figure 4 indicates quite clearly that visual opacity is not an indication of the amount of pollutants being emitted from a stationary source. With all other variables being constant (grain loading, particle size and density, and stack diameter) opacity can vary from 14–87% depending on the geographic location and time of day. If power plants located in Hawaii and Alaska are considered, these effects are even greater.

Table I presents the opacities that would exist if power plants were located at Kauna Point, Hawaii, Key West, Fla.; and Grantley Harbor, Alaska. The opacity at the time of maximum opacity on June 21st in Alaska is almost the same as the opacity on December 21st in Hawaii (68.5% vs. 67.5%) However, the opacity in Hawaii increases to a maximum of 86.4% in the summer, while in Alaska the opacity decreases to 14.5% in the winter. The winter opacity in Alaska, even the maximum daily opacity, is just slightly greater (14.5% to 14.0%) than the opacity at sunrise or sunset.

The opacity in summer at Key West would be slightly greater (86.8–86.4%) than in Hawaii even though the latitude is greater. This is because the maximum sun angle in summertime occurs when the latitude is equal to the declination of the sun (23° 26.5′N in 1975). The latitude of Key West (24° 33′N) is closer to this value than the latitude of Kauna Point (19° 02′N).

TABLE 2.—RELATIVE EFFECTS OF VARIABLES ON OPACITY

Independent variable	Black dot value	Typical range of variation	Resultant change in opacity with all other variables held constant (percent)
Particulate grain loading	0.05 gr/scf	0.01–0.20 gr/scf	25–98
Stack diameter	32.5 ft	10–35 ft	37–87
Mean particle size	2.6 μ	0.9–10 μ	96–34
Deviation from the mean size	3.0	1.5–5.0	70–80
Particle index of refraction	1.5	1.4–1.6	77–95
Particle density	2.2 g/cc	1.5–5.0 g/cc	93–51
Stack gas temperature	270° F	130°–350° F	91–82
Stack velocity	90 ft/s	70–130 ft/s	
Water vapor content of stack gas	10 percent	6–14 percent	
Color of the plume	White	White to black	
Wind speed	Zero	Zero to 70 mph	
Wind direction	Perpendicular to observation direction	± 180°	
Wind turbulance	Zero	Zero to ±30 percent	
Ambient air temperature and humidity	70° F, 15 percent R.H	−10° F to 130° F, 0–100 percent R.H	
Color of the sky	Blue	Blue to overcast	
Distance of observer from stack	2 H_s	0.5–50 H_s	92–74
Effect of nonlevel terrain	Level	±20 percent H_s	84–86
Sun angle	79°	0–90°	18–87
Time of day	11:30 a.m. (PST)	4 a.m. to 7 p.m	18–85
Day of year	June 21 at maximum sun angle	Jan. 1 to Dec. 1 at maximum sun angle	55–85
Geographic location—longitude	114° W. Long. time of max. sun angle	±15° of lat. time of maximum sun angle	83–85
Observer offset angle	0°	0–60°	85–88
Geographic location—latitude	35° N. Lat. at max. sun angle	25° N. Lat. to 48 percent N. Lat. max. sun angle	79–88
Allowable human error	Zero	Zero to ± 15 percent opacity	70–100

SUMMING UP

The prediction of plume opacity by using light-scattering theory and measurements in the stack gas at Mohave were in agreement with the observations made by trained observers. A parametric study of the effects of independent variables on plume opacity by using the same light-scattering theory has shown that plume opacity can vary from 14–87% depending only on the geographic location of the source and the time of day, with all other factors such as particulate matter emissions remaining the same. This implies that the EPA New Source Performance Standard for plume opacity (20%) is not consistent with the particulate matter emissions standard (0.1 lb/10^6 Btu) for all power plant locations or times of day and days of the year.

The relative effects of the 24 variables are tabulated in Table 2. As can be seen, there is an extremely wide variation in possible values of opacity, even when the mass emission of particulate matter remains unchanged. It is concluded that opacity measurements are not indicative of the mass emissions of particulate matter, and that mass emissions cannot be accurately determined from opacity observations. The use of an opacity standard to enforce a mass emission limitation is therefore difficult to justify on a technical basis.

ADDITIONAL READING

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The Nautical Almanac for the Year 1975, Washington: Issued by the Nautical Almanac Office United States Naval Observatory under the authority of the Secretary of the Navy, London: Issued by Her Majesty's Nautical Almanac Office by the order of the Secretary of State for Defense.

Pub. No. 249, Vol. II "Sight Reduction Tables for Air Navigation Latitudes 0–40 degrees, Declinations 0–29 degrees, U.S. Naval Oceanographic Office."

40 Federal Register 17, 778, Standards of Performance for New Stationary Sources of Air Pollution (4–22–75).

Mr. RANDOLPH. What is at issue here is a matter of priorities. A principle feature of the clean air amendments is the responsibility it gives to States to develop and enforce air pollution control programs. This is a proper approach, one that was carefully developed by the committee during its deliberations on this legislation.

The problem with which we are faced today stems from the fact that visible emissions, which are a symptom of air pollution, are assumed to represent noncompliance. In some instances, EPA enforcement occurs where the State believes that such enforcement is not desirable. Certainly, if the States are to have basic responsibility for air pollution control, the Federal Government should not take enforcement based on opacity when more effective means are available. The result of such actions by the EPA creates conflict between State and Federal agencies. It also inhibits proper functioning of the program and creates great uncertainty for the industries which are being regulated.

There is at least one instance in which this situation is preventing the completion of a major pollution control program at a large industrial source. The operator of the plant is caught between conflicting Federal and State requirements. It thus is unable to proceed with an abatement program involving the expenditure of several million dollars.

An example of this conflict is the EPA application of opacity requirements to the infrequent puffs of particulates from such process activities as coal handling, roof monitors, monetary emissions during raw material charging or tapping metallurgical furnaces, foundries and smelters. Such emissions often occur intermittently for only a few minutes out of any 24-hour day, and have little, if any, effect on ambient air quality.

Mr. President, the enforcement of opacity regulations against such sources causes greatest difficulty to the operators of coke plants, primarily by the steel industry. Coke is a vital ingredient in the manufacture of steel and coke ovens are very difficult to control to the extent that visible emissions are totally eliminated. Such emissions may occur even though a facility is not contributing to any deterioration in air quality and all standards other than opacity are being met.

Senator MUSKIE. Mr. President, there are many reasons to oppose efforts to remove the use of opacity tests and tests of visible emissions from Federal enforcement. A number are of such significance as to require the special attention of this body.

First. If the Environmental Protection Agency is barred from requiring control of pollution emissions on the basis of a visibility test, then EPA would be barred from enforcing emission controls for some of the Nation's most significant polluters. Pollution sources and pollution control agencies have relied on visible emissions as a basis for determining the proper functioning of combustion units and pollution control equipment since the beginning of the effort to control air pollution. Today, an essential element of control strategy is television monitors on stacks so that pollution control engineers can judge, on the basis of visible emissions alone, whether or not their equipment is performing properly. Does the Senate want to deprive the Environmental Protection Agency from using the same tools that are available to the pollution source as a means of determining whether or not emission control equipment is functioning properly or at all? No.

Some sources of pollution are controlled through operating procedures rather than pollution control equipment. The test of effectiveness of those operating procedures is visible emissions. Plant operators make the judgment on that basis and so do pollution control officials. Again, should EPA be denied the ability to enforce against inadequate operating procedures where those procedures are the control requirement? No.

Second. The State implementation plans which EPA has approved establish emission limitations and enforcement techniques. In many cases, for a variety of reasons, emission limitations are articulated in the form of opacity regulations. EPA is authorized to enforce emission limitations in State implementation plans whether established in precise numbers or in terms of opacity. Most States have relied on the opacity limits in the absence of a fully evolved, precise ability to limit, by actual numbers, the quantity and quality of plant emissions. It would be improper if EPA were barred from enforcing that basic element of State implementation plans. EPA would then be required to void all current State implementation plans based on opacity limitations and be required to either promulgate precise numerical emission limitations for each plant or require the State to carry out that function. This would set back the effort to control air pollution at least 5 years. It would be a needless and extremely costly Government expense. It would cast doubt on both the wisdom and the effectiveness of Federal law.

Third. The alternative to enforcing emission controls on the basis of opacity is, as I have indicated, to establish precise numerical limits. This would be a difficult and time-consuming process in most cases. But more important, as relates to coke batteries, various other elements of steel operations, and other open industrial processes, it would hardly be relevant. And, in virtually all cases, it would require the installation of stack and nonstack emissions monitoring equipment, the cost of which would be immense, and, in some cases, prohibitive. We know for example that most in-stack monitoring equipment which measures, on a constant basis, the precise emissions from a facility must be replaced frequently because of deterioration. We know monitoring the precise emissions from a coke battery would probably either require the full enclosure of that coke battery and the release of the emissions through a single stack or precisely monitoring each of the doors and the charging areas of each coke battery, either of which would be prohibitively expensive. It is clear that the Senate does not want to remove a useful and cost-effective means of pollution control and substitute in its stead a prohibitively expensive, barely feasible control and monitoring approach.

Fourth. Mr. President, visible emissions enforcement is the only immediately available technique for enforcing controls on emissions from those sources of pollution which do not release their pollutants through stacks. I have mentioned coke batteries. There are numerous industrial activities, including windblown dust from coal and ore piles, and fugitive emissions from mining operations or blast furnace gases from steelmaking operations which not only do not lend themselves to easy collection and treatment, but also result in significant exposure to workers who breathe the air on the grounds of the plant. The ability of Federal pollution control officers to enforce the visible emissions is essential to protecting the health of these workers. This is one of many areas where air pollution and occupational health efforts meet. An essential element of that protection of the health of workers from ambient air pollution exposure is the capability to enforce on the basis of visible emissions.

A number of arguments have been raised against the validity of these enforcement techniques. I include at this point in my statement a discussion of those arguments:

DISCUSSION OF ARGUMENTS

1. Opacity regulations are not an effective tool in determining the impact of a facility on ambient air.

Rebuttal: These regulations are in many ways the *most* effective tool. They are quick and easy to use—an essential element in air pollution enforcement. Moreover, for many of the sources Senator Randolph admits he is interested in protecting (particularly coke plants) these are the only techniques available to control emissions.

2. "Process weight" standards should be used instead of opacity.

Rebuttal: At a coke battery, the weight of the coke going into the process is known, but it is not possible to "weigh" the fugitive emissions that come from the coke battery process.

3. Visibility is determined by the size of the particulate, not the quantity, and therefore doesn't relate to air quality.

Rebuttal: This is not correct. There is adequate, though not perfect correspondence between opacity readings and the quantity of pollutants emitted. In addition, this argument calls for using additional techniques, not throwing out the leading technique now being used.

4. Opacity readings are not reproduceable.

Rebuttal: The question again is acceptable reproduceability, not total reproduceability. The courts have determined that opacity readings are adequately reproduceable. "Process weight" requirements should be used where they can be applied, but that does not argue for removing additional control techniques such as opacity readings. In many cases, they are the only technique available.

5. Opacity readings are vulnerable to the positioning of the observer relative to the sun and other atmospheric lighting.

Rebuttal: Observers are trained to take readings with consistent positioning relative to the sun. Simple training on the use of this technique is part of all air pollution control officials' training.

6. EPA is enforcing these requirements where air quality is not at stake.

Rebuttal: This is not true. The biggest conflicts regarding this have occurred at steel plants—in regions where air quality is two or three times *worse* than the existing primary standards. In addition, this argument misunderstands the fact that the Clean Air Act is not based on ambient air quality enforcement. It is based on the enforcement of specific emission limitations. If this argument is adopted, then it begins to erode the whole concept of enforcing emission limitations rather than ambient air quality.

7. States have complained about EPA creating conflicts in enforcement.

Rebuttal: This is true in some areas, but not true on the issues raised in this amendment. States have not complained about the enforcement of visible emissions and opacity. The States were the ones that put opacity readings and visible emission requirements in State plans in the beginning. These were not EPA requirements.

Mr. RANDOLPH. As the Senator from Maine knows, I have an amendment which would limit the power of the Environmental Protection Administrator to enforce State emission limits which are defined in terms of "opacity" or "visible emissions." Under my amendment the Administrator could not act unless he received a specific request from a State or local air pollution control agency. I shall not press this proposal but I discuss it with the Senator. I am concerned that, today, with all of our advances in air pollution control and monitoring technology there is still an excessive reliance on the human eye as a basic measure of violation of law. This seem to be an unusually subjective method of determining compliance or noncompliance especially when the statute will specify costly civil and criminal penalties for failure to comply with these limits.

Mr. MUSKIE. I agree with the Senator and I understand his concern. We have set in motion a sophisticated law with sophisticated penalties. In many cases highly innovative control techniques will be used and the most modern monitoring methods will be used. But we are also in a transition period. Some manufacturing techniques are as obsolete as the measurement methods to which the Senator refers. Some manufacturing techniques do not lend themselves to stack type emission controls. Their emissions must be limited by operating techniques and improved processes. These kinds of manufacturing operations may only be subject to subjective enforcement techniques such as "opacity" or visible emission judgments.

Mr. RANDOLPH. I thank the Senator for his understanding, and would he agree that there should be an effort to move away from these judgmental enforcement techniques whenever possible as quickly as possible?

Mr. MUSKIE. I would agree that we ought to have both stack gas controls and stack gas monitoring. We have modern technology and we ought to be applying it. Where it is appropriate to the source the States ought to be revising implementation plans to replace "opacity" and "visible emission" tests with continuous monitoring requirements. I would also suggest that enforcement based on such tests should be disallowed as soon as the source has installed effective continuous monitoring equipment.

Mr. RANDOLPH. It would be mighty useful to ask Administrator Train to review State plans to determine whether or not these kinds of tests can be replaced with more modern techniques. The cooperation of the chairman of our subcommittee in addressing this problem will be of great aid.

Mr. MUSKIE. I would join in that request. I think we should also have the Administrator determine what kinds of sources do and do not lend themselves to continuous monitoring and thus more sophisticated enforcement techniques. Perhaps as a result of such an inquiry we could lay the basis for either future administrative or legislative action.

Mr. RANDOLPH. I appreciate the support of the Senator. Hopefully with this kind of review we can determine the fairness and appropriateness of current enforcement techniques and assess the cost effectiveness of alternative methods to achieve the same result—that is air quality which protects the public health and welfare.

Mr. DOMENICI. Mr. President, in the closing hours of the debate on the Clean

Air Act, I would like to break the pattern of the discussion and offer several tangential remarks to an issue that arose earlier. This is the impact of the nondegradation amendments on the copper industry.

In the opening days of debate on the Senate floor on the Clean Air Act, my distinguished colleague from Nevada, Mr. CANNON, cited a Department of Commerce study entitled "An Analysis of the Impact of Alternative Approaches to Significant Deterioration in the Non-Ferrous Metals Industry." The conclusion of the report that the construction of "new copper and lead smelters would probably be substantially constrained" should not go unexamined.

Several questions arise from a reading of the Commerce report. First, the report uses as its analytic base an early draft of the committee bill, rather than the finished product. This causes it to discount the flexibility around class I areas present in the final committee bill. Second, the report fails to employ realistic growth projections for the industry. The assumption of a 100-percent increase in growth is, as far as I know, unsupported by the economic literature.

In raising these points, I do not wish to downplay the concerns raised by the Commerce Department. I do, however, believe, as I have noted in my statements on the Moss amendment, that only real world experience will determine whether such concerns are justified. As a counterweight to the Commerce study, I believe EPA's conclusions merit attention:

> The Senate significant deterioration proposal will not prevent the construction of major, economically sized industrial facilities. Rather, some sources may have to employ different air pollution control strategies such as further control of sulfur dioxide emissions, relocation at an alternative site, construction of taller stacks, or smaller plants, etc.

The importance of this quote lies in the second sentence. After meeting the bill's BACT requirements, industry has a choice of options, including relocation and taller stacks, to meet the class I and class II increments. In originally proposing and subsequently supporting nondegradation in the committee, I have consistently relied on EPA analyses that stress the flexibility that relocation and taller stacks give to industry. Such flexibility, after the BACT requirements are met, is essential to the sound implementation of a national nondegradation policy. Accordingly, Mr. President, until we have some data on industry's experience under the provision, it is premature to write off nondegradation as unworkable for the copper, or any other industry.

Mr. GRAVEL. Would the distinguished floor manager of the bill (Mr. MUSKIE) yield for a question?

Mr. MUSKIE. Yes.

Mr. GRAVEL. An important body—the National Commission on Air Quality—is created and charged in the committee bill with far-reaching and important duties, among which include a study of the significant deterioration provision. With regard to the issue of significant deterioration, I would ask the floor manager if the study is to consider the increments for sulfur dioxide and total suspended particulate matter established by the measure currently under consideration.

Mr. MUSKIE. Yes. The National Commission on Air Quality is directed by the committee bill as amended by the amendment of the chairman of the Public Works Committee (Mr. RANDOLPH) to study all issues—economic, environmental and social—raised by the significant deterioration provision.

Mr. GRAVEL. I thank the Senator for his response. Let me say that I am concerned about problems surrounding the current method of using total suspended particulate matter in determining air quality. Present use makes little distinction between the size of particles, the composition and nature of those particles, or the origin of the particulate matter.

Many areas of this country periodically exceed the increments established for particulate matter due to dust which originates from natural sources. In Alaska this is a matter of great concern since many uninhabited areas of the State exceed patriculate standards due to dust generated from glacial outwash areas, dry riverbeds and other such areas. Other Western States have similar problems. I am concerned that the Commission should give close attention to the question of natural background levels of pollutants most especially in the Western States.

Mr. MUSKIE. The Senator from New Mexico (Mr. DOMENICI) had a similar concern, which we discussed extensively last week on the floor. That discussion emphasized the need for the Commission study, and appeared in the RECORD on July 27, from pages S12552 through S12554. So the Senator's concerns are shared by the rest of the committee.

Mr. GRAVEL. Mr. President, I thank the Senator from Maine (Mr. MUSKIE) for this helpful discussion. I believe that it is paramount that the Congress have an impartial study of this important subject. The report of the National Commission of Air Quality established by S. 3219 will provide impartiality.

Mr. BUCKLEY. Mr. President, I wish to state my support for the committee position, which establishes a realistic timetable for phasing in new levels of auto-emissions controls.

The elimination of the automobile as a major source of pollution is now within the capability of the automobile industry. As important, it is within the industry's capability without imposing an unreasonable cost on the public, either in terms of dollars or fuel efficiency.

The administration this spring released a study that was put together by the Federal Energy Administration, the Department of Transportation, and the Environmental Protection Agency. That study is remarkably supportive of the positions taken in the committee bill. It shows that the fuel and dollar costs for the committee proposed standard of 0.4/3.4/1.0 will be relatively minor during the changeover year of 1980, compared to other levels of control, and that these costs and penalties will vanish soon thereafter.

What about fuel economy, which is a major national and individual concern? During the actual transition year to the new statutory level, the committee's timetable produces a 3-percent fuel penalty, compared with the timetable supported by the administration and apparently favored by the industry, the amendment sponsored in the other body by Congressman DINGELL. By 1983, the difference in fuel economy will have vanished entirely, based on the use of technological improvements by industry. Even with this minor and temporary penalty—relative to the administration's schedule—the cars that would be built to meet the Senate numbers will continue to achieve better fuel economy each and every year, even the year when the new standards are imposed.

According to this administration study, present auto mileage averages 17.6 miles per gallon. Assuming that the industry makes improvements in technology, the car built to the 1980 committee proposed standard would that year achieve 22.4 miles to the gallon, an increase of 4.8 mpg over present cars, and a fraction of a gallon less than with a perpetual extension of the 1976 standards—1.5/15/3.1. By the early 1980's, the car built to the Senate numbers will get the same mileage as the dirtier cars built to the administration's numbers. Even if there were no technological improvements in control technology—and I cannot believe there will be none—the 1980 car built to the Senate standard would achieve 20.2 mpg, far better than present cars.

In this process, the attainment of the Senate numbers would essentially eliminate the automobile as a significant source of air pollution. The administration's approach would arrive at controls less rapidly and less completely. A perpetual freeze at 1976 levels, of course, would never foster improved air quality.

What about the other major concern, the dollar cost? The administration report also estimates that in the transition year of 1980, the "worst" year under the Senate bill, the "life-time" cost of a new car would be increased $266, in comparison with the administration's level of controls. That assumes that technology improvements are available under either standards. That sounds like a lot of cash. It is. But that $266 is based on what the administration study estimates is an average life-time cost of $16,700 for a car. Thus, effective pollution controls will add, under the administration's calculation, 1.6 percent to the cost of owning and operating a 1980 model car during its 100,000-mile lifetime. Even when assuming no technological improvements, and limiting the calculation to the single, worst year, the increase in lifetime cost is just 3.2 percent. Both discrepancies in cost tail off sharply in subsequent model years to the point that there is virtually no cost differential a few years hence.

Thus, I believe it is fair to say that this administration study refutes the horror stories about fuel and costs that have been circulated. For example this is what the administration study says about a 0.4 NO_x standard:

> Fuel economy penalities of up to 10 percent may be expected in the first year of application and catalyst change would be required. However, with maturity (3-5 years) these systems are expected to achieve optimum fuel economy.

That is for a standard of 0.4 grams per mile for nitrogen oxides. The new Volvo car meets the 0.4 number with fuel economy gains.

Nevertheless, the committee bill backs away from that existing statutory standard for a variety of reasons, including the desire to broaden the technological options for meeting the eventual standard.

The administration study fails to include any relative benefits for increased use of diesel-powered vehicles, which obtain sharply higher fuel economy in comparison with gasoline engines. If diesel cars are built—and I believe we can anticipate significant diesel development only under the standards in the committee's bill, not the administration's numbers—then average fuel economy under S. 3219 could actually turn out to be far better by 1982 than it would ever be under the administration's numbers.

Mr. President, I urge the Senate to support the provisions of S. 3219 on auto standards.

Mr. GRAVEL. Mr. President, if the Senate will indulge me, I wish to return to the subject of an earlier discussion between the distinguished senior Senator from Tennessee (Mr. BAKER) and my good colleague the junior Senator from New Mexico (Mr. DOMENICI). As a member of the Senate Public Works Committee that carefully studied this legislation, I want to add my voice to theirs in urging our legislative colleagues in the States to carefully consider the consequences of legislating stricter standards for fluorocarbons than those contained in this legislation.

After careful consideration, we in the committee did not feel that the Congress had sufficient information to rationally legislate a prohibition on the use of fluorocarbons at this time. That is why we called for the extensive and detailed Federal study of the ozone layer. We were and still are faced with contradictory and conflicting claims supported by partial facts which may or may not be accurate. Under these conditions we felt it ill advised to enact a broad prohibition that would cost thousands of employees their jobs and livelihood and millions of investors their property. Too much stood to be lost if we were wrong for the little time we would have gained, particularly since we included a provision for emergency regulation if the evidence warranted.

Because we did not want to break with precedent we left the States free to legislate a higher standard, should they choose. We did this because we have always permitted the States to act to set higher State standards with regard to similar legislation. In this case, however, I urge the States to heed the call of Senators BAKER and DOMENICI to refrain from legislation until sufficient information is available from the Federal studies to form a rational and reasoned judgment. To legislate now, without sufficient scientific information, would be arbitrary and capricious. Awaiting the necessary scientific and factual information is the path we in the committee and the Congress have chosen. I highly recommend a similar course of action to others who face a like decision.

DELAYED COMPLIANCE ORDERS

Mr. RANDOLPH. Mr. President, progress has been made in bringing major emitting sources into compliance with the requirements of the Clean Air Act. Nevertheless a substantial number of major emitting facilities remain out of compliance with emission limitations contained in State implementation plans.

For this reason the committee, in section 9 of S. 3219, provided for delayed compliance orders and penalties. Such orders could be issued by a State, and after 30 days notice, by the Environmental Protection Agency to such sources requiring compliance as expeditiously as practicable, but in no event later than January 1, 1979.

The potential candidates for such enforcement orders number roughly 3,500, out of approximately 22,000 major emitting sources. These installations include about one-third of our large coal fired electric powerplants, many refinery complexes, and other industrial installations as well as a substantial number of smaller facilities. As of March 1975 when the committee began consideration of facilities the Environmental Protection Agency estimated that 150 to 200, out of 480, coal fired electric powerplants were not in compliance with the requirements of State implementation plans, 125 to 150 out of 200 iron and steel mills, 19 out of 28 nonferrous smelters, 100 to 130 out of 250 refineries, 100 to 130 out of 259 pulp mills, and 800 to 1,200 out of 3,500 industrial and commercial boilers.

Mr. President, some of these sources of air pollution may have obtained a competitive advantage from noncompliance. In addition, as stated in the committee report—

> Many sources continue to find the fees paid to attorneys to resist the requirements of law less expensive than pollution control equipment.

Without question there are such recalcitrants in our society; however, it is unrealistic to assume that America's corporate and utility management, which owns or operates nearly one-sixth of these sources, is so irresponsible to blatantly defy the requirements of the Clean Air Act and risk the fines and imprisonment that are authorized therein. For this reason additional time is provided for under enforcement orders in S. 3219, the Clean Air Amendments of 1976. While this represents the best judgment of the committee, at this time, on the additional time that would in general be required for these major industrial sources to achieve compliance with the requirements of the Clean Air Act several questions still arise regarding individual case situations that I would like to review for the record.

At the onset, Mr. President, the deadlines established in the Clean Air Amendments of 1970 were arbitrary. The committee intended to evaluate in 1973 the statutory 1975 deadline for achievement of the primary—or health—ambient air quality standard; however, due to other legislative priorities that evaluation is now reflected in the Clean Air Amendments of 1976.

Therefore, I briefly review the implementation of the Clean Air Amendments of 1970 with regard to the actions taken by the States. When the then Administrator of the Environmental Protection Agency, William Ruckelshaus, approved the State implementation plans in 1972, he concluded in the Federal Register on May 31, that—

> It is clear that achieving these rigorous State standards in the time prescribed would significantly enhance air quality in many areas of the Nation, as contemplated by the Clean Air Act. However, in addition to reviewing the effectiveness of each State implementation plan, this Agency and the Federal Government have an obligation to assess the impact of the various plans in the aggregate. From this standpoint, *there is strong evidence that the complete implementation of the plans as submitted may not be attainable in the time prescribed.*
>
> Because of physical limitations on our ability to clean the emissions of high sulfur fuels on a large scale in the time permitted by the statute, achievement of the particulars of the State plans would require the availability of large additional supplies of 'clean' fuels—natural gas and low sulfur coal and oil. Since fuel desulfurization facilities are unlikely to be built on the scale which would be required to fully implement all State plans by 1975, it appears that all State plans can be completely implemented by 1975 only with a major short term shift to naturally clean fuels. Unfortunately, these naturally clean fuels are not likely to be available in quantities necessary to meet the projected demand . . .
>
> Preliminary analysis by EPA indicates the real possibility that . . . *all aspects of the State plans in the aggregate cannot be achieved despite the best efforts of both government and the private sector*. (Emphasis added)

Mr. President, what was most disturbing at the time, and is today, is that the Environmental Protection Agency admitted that all aspects of the State implementation plans, in their aggregate, could not be achieved by 1975, despite the best efforts of government and industry. In summary the compliance date extensions being provided for in the Clean Air Amendments of 1976 were inevitable for many major emitting facilities despite the good faith efforts of industry to comply. The failure of the EPA Administrator in 1972 to adjust the State implementation plans to reflect national capabilities for implementation rendered implementation of the State implementation plans impracticable, if not impossible, to execute due to real-world constraints; thus accommodations were necessary from the start.

Addressing this situation on April 12, 1972, I urged realism in the quest for environmental quality. In remarks to the first Government Affairs Seminar by the Air Pollution Control Association I stated:

> I have long endorsed the statutory policy that protection of public health should not

be subordinated to economic feasibility. This was the underlying premise of the Air Quality Act of 1967. And, I would not want in any way to jeopardize the long-term success of overall Federal environmental policies. But it is obvious to me that short-term environmental concerns have dominated EPA's implementation of the Clean Air Amendments of 1970 so dramatically that our country's energy requirements cannot be met until unrealistic environmental constraints, predicated upon protection of public welfare, are slowed down to "reasonable" time schedules. Only that for which there is technology available can be accomplished.

Commenting further on the need for realism in our country's implementation of environmental policies I observed that—

> We surely can see our recent failures to make reasonable attempts to implement soundly the Federal and State environmental policies. We have not done well in finding a suitable, or equitable, balance between energy and the environment. . . . Rather, it seems that we have adopted a national posture of environment versus energy, to the very substantial disadvantage of domestic energy supplies. The consequence has been an exacerbation of an already difficult energy supply problem.

Mr. President, this polarization was recognized, in part, by the Environmental Protection Agency in November 1972 when it published its clean fuels policy. At the time the EPA acknowledged the need for changes in overzealous State implementation plans. However, few States initiated actions to revise plans more stringent than required to attain and maintain national ambient air quality standards.

Subsequently, the Congress authorized such revisions in the Energy Supply and Environmental Coordination Act of 1974. Nevertheless, as anticipated by the Environmental Protection Agency, a large number of major emitting sources could not meet the statutory deadlines. Some of these stationary sources chose to ignore the other deadlines, others chose to seek delayed compliance schedules.

On the basis of the available evidence compliance date extensions were granted by Federal, State, and local air pollution control agencies for a number of installations. Such extensions were granted reluctantly on the basis of information as to the practical constraints to compliance to the earlier deadlines set forth in the 1970 amendments. In short there was no alternative for many sources making an apparent good-faith attempt to comply with the statutory deadlines.

This action was taken by many States although inconsistent with the attainment and maintenance deadlines specified in the 1970 amendments. As a consequence the stationary sources receiving such compliance date extensions are subject to potential citizen scrutiny and to inconsistent enforcement actions taken by the EPA Administrator.

In order to correct this situation section 9 of the bill provides for enforcement orders with compliance required no later than January 1, 1979. As appropriate such extensions are to be permitted only where necessary, and are to require conformance with applicable environmental requirements as soon as practicable.

Throughout the committee's deliberations concern was voiced that an effort should be made to create equity and guarantee a reasonable national effort. Nevertheless the date of January 1, 1979, was an arbitrary date for compliance. This action was taken with recognition that it would declare void any previously issued enforcement orders by State air pollution control agencies, with EPA approval, that extend beyond January 1, 1979. This action would be taken to void compliance schedules for major emitting sources that had committed themselves to meeting the emissions requirements of State implementation plans. Moreover, this action by the committee would void the orders no matter how justified such orders are, how carefully they were drawn, and on what practical considerations they were based. Affected will be some 84 industrial operations at 29 major industrial installations in 14 States.

Mr. President, I ask unanimous consent that a list of these sources supplied by the Environmental Protection Agency be reprinted in the RECORD at this point in my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SUMMARY OF FINAL COMPLIANCE DATES FOR STATIONARY SOURCES BEYOND JAN. 1, 1979

STATIONARY SOURCES—FEDERAL ORDERS POST, JAN. 1, 1979

Name and location	Nature of operation	Pollutant	Final compliance date	Comments
Region I—None.				
Region II—None.				
Region III:				
Jones & Laughlin: Pittsburgh, Pa	Coke oven combustion stacks.	Particulate matter	If rehabilitate, Mar. 1, 1980; if must install control equipment, 2 yr later. (Last battery.)	Stacks: In the negotiated settlement, FPA didn't want more than 1 battery down for rehab at a time. (Emissions to the stack are controlled by coke oven battery rehabilitation.) If the rehab isn't successful, the installation of control equipment is a plus in so far as they are one of the few companies which have agreed to control equipment installation. These rehabs are sequential. Doors: Related to battery rehabilitation pushing; control will be accomplished by installation of a yet unproven technology in 1 of the 5 batteries. J & L then is given time to eavluate the system and control the remaining 4 batteries. Scarfer: Construction will be complete Jan. 1, 1979. Remaining months are for debugging. Open hearths: Sequential phasedown—shutdown of all hearths to correspond with opening of new BOF which will comply with NSPS and SIP.
	Coke oven doors	do	Mar. 1, 1980 (Last battery)	
	Coke oven pushing	do	Dec. 1, 1980 (Last battery.	
	Scarfer	do	Apr. 1, 1979.	
	Open hearths	do	Nov. 1, 1979 (Last open hearth).	
Philadelphia School District: Philadelphia, Pa.	Boilers	Sulfur dioxide	Oct. 31, 1983 (last boiler)	Phased program to bring many school boilers into compliance. Compliance of all boilers at the same time would be economically infeasible.
Arco Polymers: Potter, Pa	Boiler		June 30, 1979	Order tracks state order; using technology which was new and being evaluated at another company's facility.
Region IV:				
Gulf Power Co.:				
Panama City, Fla	Boilers unit 1	Sulfur dioxide	Nov. 1, 1979	The Gulf Power & Tampa Elec. schedules were ordered to achieve compliance with the overly stringent Florida regulation (1.5 lb/million Btu's). The State has proposed revisions for the Gulf Power & Tampa Elec. facilities of 6.17 lb and 6.00 lb respectively. The region preliminary evaluation shows these emission limitations are stringent enough to attain the standard. These schedules have been stayed pending the final disposition of Florida revision.
	Boilers unit 2	do	Mar. 1, 1980	
Pensacola, Fla	Boilers unit 4	do	Jan. 1, 1979	
	Boilers unit 5	do	Mar. 1, 1979	
	Boilers unit 6	do	June 1, 1980	
	Boilers unit 7		Dec. 1, 1980	
Tampa Electric Co.: Tampa, Fla	Boilers unit 1	Sulfur dioxide	Oct. 1, 1979	See listing under Gulf Power Co.
	Boilers unit 2	do	Apr. 1, 1979	
Louisville Gas & Elec.: Louisville, Ky	Boilers unit 1	do	July 1, 1979	These are emergency units run at about 10 percent capacity only if specified emergency condition exist.
Paddys Run	Boilers unit 2	do	do	
	Boilers unit 3	do	July 1, 1981	
	Boilers unit 4	do	do	
	Boilers unit 5	do	July 1, 1983	
Cain Run: Louisville, Ky	Unit 1	do	Jan. 1, 1985	These are small peak load units to be shut down in 1985. Interim emission limitations were ordered to protect primary standard.
	Unit 2	do	do	
	Unit 3	do	do	

SUMMARY OF FINAL COMPLIANCE DATES FOR STATIONARY SOURCES BEYOND JAN. 1, 1979—Continued

STATIONARY SOURCES—FEDERAL ORDERS POST, JAN. 1, 1979—Continued

Name and location	Nature of operation	Pollutant	Final compliance date	Comments
Region V:				
Central Ill. Light Co.:				
East Peoria, Ill	Powerplant	Particulate matter	June 30, 1970	Phase out of all uncontrolled units (rather than control) due to old age.
Bartonsville, Ill	do	Sulfur dioxide	Dec. 31, 1979	Installation of FGD in module approach; therefore expeditious.
Jones & Laughlin Steel: Cleveland, Ohio.	Sintering plant	Particulate matter	Dec. 31, 1981	Installation of control equipment (as part of overall plan control schedule, therefore later than if dealing with sinter plant alone).
Region VI—None				
Region VII:				
Empire District Elec.: Riverton, Kans	Boilers	Sulfur dioxide	Dec 31, 1985	The source is situated in priority II AQCR and the schedule therefore has no impact on attainment or maintenance of NAAQS
Springfield Utilities: Springfield, Mo	do	Particulart matter	June 1, 1979	
Region VIII—None				
Region IX—None				
Region X—None				

TABLE 5(B).—STATIONERY SOURCES—STATE ORDERS PAST, JAN. 1, 1979

Name and location	Nature of operation	Pollutant	Final compliance
Region I—none.			
Region II—none.			
Region III:			
Bethlehem Steel Corp.: Sparrows Point, Md	Coke battery 3—Pushing	Visible emissions	Jan. 31, 1979.
	Coke battery 4—Pushing	do	Do.
	Coke battery 11—Pushing	do	Feb. 13, 1979.
	Coke battery 5—Pushing	do	Dec. 31, 1979.
	Coke battery 7—Pushing	do	Do.
	Coke battery 8—Pushing	do	Do.
	Coke battery 12—Pushing	do	Do.
Delmarva Power & Light Co.: Delaware City, Del	Boiler	Particulate	June 1, 1980.
	do	Sulfur dioxide	Do.
	do	Visible emissions	Do.
Cooper Bessemer Co.: Grove City, Pa	Cupola	Particulate	June 30, 1979.
General Electric Co.: Erie, Pa	Boiler facilities	Sulfur dioxide	June 1, 1980.
Pennsylvania Power & Light Co.: York Haven, Pa	Unit 1	Particulate	Dec. 31, 1980.
	do	Visible emissions	Do.
	Unit 3	Particulate	June 30, 1981.
	do	Visible emissions	Do.
Pennsylvania Power & Light Co.: Washingtonville, Pa	Coke-fired boiler 1	Particulate	Do.
	do	Visible emissions	Do.
	Coal-fired boiler 2	Particulate	Dec. 31, 1980.
	do	Visible emissions	Do.
Virginia Solite Corp.: Cascade, Va	Kiln 1	Particulate	Oct. 31, 1979.
	Kiln 5	do	July 1, 1979.
Weirton Steel Div.: Weirton, W. Va	Coke battery 8—Pushing	Visible emissions	June 30, 1979.
	Coke battery 5—Pushing	do	Do.
	Coke battery 6—Pushing	do	Do.
	Coke battery 5, 6, 8—Quenching 2	do	Do.
James J. Lacy Co.: Baltimore, Md	Gray Iron Cupola	Particulate	Dec. 31, 1980.
	do	Visible emissions	Do.
Region IV:			
OLIN Corp.: Brandenburg, Ky		Sulfur dioxide	June 1, 1979.
Gulf Power Co.: Pensacola, Fla	Steamplant unit 7	do	Dec. 1, 1980.
Region V—None.			
Region VI—None.			
Region VII:			
Department of the Army: Burlington, Iowa	Waste incinerators	Particulate	Aug. 1, 1980.
Kansas Army Ammunition Plant: Parsons, Kans	Open burning	do	Jan. 1, 1979.
Springfield Utilities: Springfield, Mo	Boilers 1 and 2	do	Do.
Region VIII—None.			
Region IX—None.			
Region X:			
Golden Valley Elec.: Fairbanks, Alaska	Coal boiler	do	Oct. 30, 1980.
Puget Sound Naval Shipyard: Bremerton, Wash	Industrial blast material	do	June 1, 1980.

Mr. RANDOLPH. Mr. President, as expected, this list includes such sources as steel mills, such as the coke battery at the Wierton Steel Division in Wierton, W. Va., and the coke battery at Sparrows Point, Md. In addition, the list includes chemical plants, investor-owned power generators and foundries. The list also includes facilities owned by the Philadelphia School District, the U.S. Army and Navy, municipal power companies, and rural cooperatives.

Among the stationary sources with compliance dates beyond January 1, 1979, under existing enforcement orders are eight boilers of the Louisville Gas & Electric Co. This company has been cited in reports by the Senate Committee on Public Works and by the Environmental Protection Agency as one of the most cooperative and progressive electric companies in the United States, because of their pioneering efforts to install sulfur oxide scrubber systems. However, certain of the compliance dates for facilities of the Louisville Gas & Electric Co., are later than January 1, 1979. These dates were formulated for the company as a system to reflect consideration by the EPA of the company's financial ability and the time necessary to design, construct and install control equipment on the various units on the whole system, without disrupting reliability of the service.

Mr. President, this situation was called to my attention after the committee reported this measure. I am concerned that after praising this company for its good-faith efforts and cooperative attitude in complying with the 1970 Clean Air Amendments that we are now proposing to void the enforcement order under which these facilities are being brought into compliance for the entire system of Louisville Gas & Electric Co.

Mr. President, my remarks have been addressed to those installations that are operating under enforcement orders. In addition there is an increasing body of evidence that suggests that it would be physically impossible for all the electric power in the United States to be brought into compliance by January 1, 1979, because of anticipated shortages of complying fuels or appropriate emission control systems.

By the selection of January 1, 1979, for compliance with applicable emission requirements regardless of the commitment of the source, we are legislatively mandating a finding of bad faith in all cases where compliance will not be accomplished by that date. Based on such a presumption tremendous "delayed compliance penalties" are to be levied automatically by the State or the EPA. Such penalties would be levied in addition to the other enforcement actions, sanctions, and penalties authorized in the act.

Moreover these penalties will be passed on to the consumer.

Mr. President, the penalties in the Clean Air Amendments of 1976 are intended to be action forcing for those installations that are resisting compliance with air pollution requirements. For this purpose the January 1, 1979, deadline is appropriate. However, I am not convinced that adequate consideration has been given to those instances where a good-faith attempt is being made to comply but additional time is required. The penalties are of little value for the improvement of air quality if the means are not available to expedite compliance. This has been recognized by the States and Federal regulatory agencies in issuing existing enforcement orders. Further consideration must be given to this situation when the House and Senate conferees address this matter.

INNOVATIVE CONTROL TECHNIQUES

Mr. RANDOLPH. Mr. President, I wish to address the provision of the amendments concerned with delayed compliance orders for innovative control techniques. I refer to paragraph (4) of subsection 113(d) which allows a source to request an additional 2-year period beyond January 1, 1979, until January 1, 1981, where such source intends to comply with requirements of the Clean Air Act through the use of innovative technologies.

Mr. President, I ask unanimous consent that an extract from the committee report on this provision be reprinted in the RECORD at this point in my remarks.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

EXTRACT

As used here, "change in production process" contemplates only a fundamentally different method of production rather than a modification to a process which essentially remains the same. If such a fundamental change may involve different changes in different parts of the process or in identifiable segments, the bond or surety shall be reduced as those various parts of that process are converted to the new production process.

The other alternative involves a request by a source that it be allowed to comply through the use of an innovative production process or a control technique that has the potential for emission reduction significantly greater than those required by the applicable emission limitation, or at a cost for control that is significantly less and would also offer the potential for industry-wide application. In these cases, the source is given until January 1, 1981, to achieve compliance.

This provision is intended to serve as an incentive to industry to adopt innovations that will have wide application. The States and the Administrator are expected to extend this two-year grace period only in cases that offer this broad potential for national benefits.

Any such allowable delay in compliance relating to the use of innovative technologies has the effect of delaying until 1981 the dates when the bonding requirement or the delayed compliance penalty will be imposed. It does not remove the applicable requirement.

If the recipient of the technological waiver plans to replace its production capacity with an entirely new process or facility, the Administrator is expected to require that the applicant post a bond or other surety to assure that the existing equipment or capacity will be taken out of service by January 1, 1981, as promised. If the waiver is based on use of a new technique on existing equipment or process, the State and the Administrator are expected to set a 1981 delayed compliance penalty for that source, just as they will for any normal source that must meet the 1979 deadlines. The penalty will be based on capital costs, interest cost, operating costs, and the economic value gained by delay, and it will be determined like any similar penalty or a facility that did not receive a technology extension.

Mr. RANDOLPH. Mr. President, I repeat the language of the committee report that states that:

> This provision is intended to serve as an incentive to industry to adopt innovatives that will have wide application. The States and the Administrator are expected to extend this two-year grace period only in cases that offer this broad potential for national benefits.

The potential spoken of is, and I quote, "the potential for emission reduction significantly greater than those required by the applicable emission limitation, or at a cost for control that is significantly less and would also offer the potential for industry-wide application," end quote.

Mr. President, this provision is intended to stimulate the implementation of more cost-effective solutions to air pollution control.

For example, we are all familiar with the large volumes of sludge that are generated by presently available sulfur oxide scrubbers. Besides the cost of the control systems, there are substantial costs associated with the environmentally sound disposal of the resultant sludge. In considering any alternative control systems this sludge disposal cost also must be considered.

More innovative techniques presently under development include fuel cleaning technologies and coal gasification and liquefaction as well as advanced designs for sulfur oxide scrubbers that produce usable byproducts such as elemental sulfur or sulfuric acid.

I ask the distinguished Senator from Maine (Mr. MUSKIE), am I correct in my interpretation of the committee's action on innovative control technologies? Was it not the intention of the committee that technologies under development on coal cleaning and for coal gasification and liquefaction would be considered innovative control technologies for the purposes of this section? Likewise, would not second and third generation sulfur oxide scrubbers be considered innovative control techniques, provided that applicable emission limitations are met on a more cost-effective basis.

Mr. MUSKIE. This provision will be the most productive if it is used on a limited basis by existing sources to achieve compliance. It should be used to encourage commercial demonstration of new techniques. Therefore, enough such sample cases should be allowed in order to test the systems under various conditions. If, on the other hand, it is used broadly to apply to large numbers of sources who adopt these technologies, then either: First, it will encourage the adoption of those techniques before they are proven and enhance the likelihood that a great number of sources may adopt a technique that ends up not working; or second, the technique is ready now for adoption industry wide and does not need to be proven or encouraged by the use of this incentive. In this case, the incentive merely becomes a large loophole to give a lot of sources an additional 2 years to do things that have been proven. The demonstration is no longer a demonstration if it is adopted on a massive basis.

The new subsection 113(d)(3) would be greatly misconstrued if it were made available to attempts to commercialize new energy technologies and production processes. If this were allowed, then it is possible that these new technologies could come on line and sources would be allowed to avoid meeting emission standards for 2 years. This would be an unacceptable erosion of the concept of new source performance standards. New sources are to meet the performance standards at the time of start-up, not after a 2-year compliance date extension. If a plant needs to pollute for 2 years, that indicates that something is basically wrong with its design, and it should not be allowed to operate until corrections are made.

The new subsection 113(d)(4) is available on a limited basis for existing sources employing new production processes, but only when those new processes are replacing existing sources at the site of the old facilities.

Let me mention briefly the specific technologies you have discussed.

COAL CLEANING TECHNIQUES

While truly innovative coal cleaning techniques would be eligible, this would only be for a limited number of cases in order to encourage the development of the technology. Once that technology is proven, then it must be adopted routinely. Otherwise, the development of the new technology, after its development is proven, would provide an automatic 2-year extension for the entire industry, if that technology is adopted throughout the industry.

COAL GASIFICATION AND LIQUEFACTION

These are not relevant to the provision. These are new sources. This provision is not applicable to new sources. These are not new control techniques as much as they are entire new production processes. They are not applied at existing plants, and therefore a cleanup schedule is not even relevant.

The only relevant standard here is the new source performance standard. New sources do not get "compliance orders," but rather do not gain approval for their permit unless they have complied with the new source performance standard. Since compliance orders are not given the concept of a delay compliance order makes no sense.

There is only one condition where a new process, such as coal gasification for industrial processes, could be considered an innovative control technique. That would be where an existing source determined that in order to comply with the applicable State implementation plans, it would construct such a plant as an integrated part of its facility for the purpose of supplying clean fuel in order to meet the emission limitation established for the source. The source would have chosen this approach in preference to adopting retrofit cleanup technology that cleans stack gases after combustion. The new process, of course, would have to be innovative and either have the potential of industrywide application at significantly lower costs or be likely to reduce emissions significantly below the level required by the State implementation plan. It could not be a fuel supplied by a third party.

SECOND- AND THIRD-GENERATION SULFUR SCRUBBERS

A limited number of these should be eligible as innovative control techniques, just the same as coal cleaning.

Mr. BUCKLEY. Mr. President, I wish to express my thanks to the Members of the Senate for their patience during the lengthy consideration of S. 3219. While it may have consumed much of our energy, I believe the effort has been most valuable. I certainly commend the Senator from Maine (Mr. MUSKIE) and the Senator from West Virginia (Mr. RANDOLPH) for their diligent work in winning passage of the committee provisions. And I cannot fail to compliment my Republican colleagues on the committee, Messrs. BAKER, STAFFORD, MCCLURE, and DOMENICI. Each worked hard in pressing our committee views. The reason that we have prevailed is that we have stood together, not always happy with every single provision in the bill, but content with a bill that is fair, equitable, and good for this country. I express my gratitude to each of them.

The legislation on which we will soon vote on final passage is truly landmark in scope as well as the attention it has received. The intense debate we have had on this bill is salutory. It has received as careful attention as any environmental legislation I know of. It is not legislation that was "slipped through with no one watching," as some have said of other pollution bills.

I can recall no more intense debate than the one preceding the Moss amendment. I am very gratified that the Senate supported the committee position, writing into law a procedure enabling the States to adequately protect the clean air values of our Nation. This will benefit industry with certainty as it benefits the public with cleaner air.

I was pleased by the Senate's adoption of our provision to assure consumers that they have the right to have their car maintained at any dealer or service station they wish, without infringing their rights under the clean-car warranty. There has been a lot of concern that the 50,000-mile clean-car warranty will force the carowner to use his dealer for all maintenance. Our amendment assures the right of every consumer to have his car fixed wherever he chooses, while protecting his rights under the warranty to have pollution failures fixed for free by the manufacturer.

While the issue did not receive broad attention on the floor, I believe we have made the correct decision in voting today to set model year 1980 as the date for final compliance with clean-car standards, with some cars required to be built to those standards in model year 1979. I am convinced we can achieve our necessary clean-car goals without significant fuel penalty or cost.

Mr. President, I would like now to reiterate a few points on specific provisions in this bill that may merit attention. We have not had as much discussion as I anticipated on the Senate's requirement for the use of best available control technology. This is a vital provision to the long-term good of the Nation.

I think we all recognize that great inertia exists against improving pollution control technology. Money on better controls simply does not show up favorably on corporate balance sheets.

But, if we are going to make room for the kind of industrial expansion we will need to carry us into the 21st century, we are going to need to augment vastly our pollution control techniques.

We must create ways to evolve better pollution control. This bill does that. It does it by allowing each State the flexibility to set best available control technology at the level it seems best, by granting time delays for innovative technology, and by other methods. We need to make these technological gains.

Let me turn now to the specter of land-use planning, which we have avoided in this bill. The Clean Air Act mandates the attainment of clean air. But within that single constraint, the States are given broad flexibility. This bill is not a Trojan horse, allowing the Federal Government to sneak into a State to impose draconian land-use restrictions. Land use is properly a decision for the States, not the Federal Government.

Another key question centers on the problem of preventing significant deterioration and the setting of the baseline from which to measure the increment. The evaluation of this baseline is entirely prospective. No studies of the baseline, from which the increment is calculated, are made for an area until a proposed major source files a permit application with the State. No baselines exist today. It has been a failure to grasp this fact that has produced some of the confusion in the debates of recent days. None will exist until an applicant makes a site-location request. Once the baseline is set, it is then up to the State to judge how wide an area is covered by that baseline: whether it covers a county or some other area of land that is smaller or larger.

Mr. President, there is one particular provision on which little has been said, but from which much can be expected. It is the so-called deep-pocketing provision—section 35—which requires that the Federal Government reimburse private parties for their costs of litigation if the private party is successful in the lawsuit under this act that involves the Federal Government as plaintiff or defendant. This recovery includes actions when the private party is defending his rights or when the private party is the plaintiff in a suit forcing the Federal Government to take actions that it may be required to take. This provision is designed to provide balance for the public against harassment by overzealous Federal prosecutors.

I think we must recognize that the public often enters the courtroom at a distinct disadvantage in litigation with the Federal Government. The funds of a private citizen are limited, while those of the Federal Government are virtually endless. There is no way to completely eliminate such an imbalance. But I believe we must do all that we can to provide at least a measure of protection for the private citizen who may otherwise face harassment by the bureaucracy.

Mr. President, this is a sound and reasonable bill. It relaxes controls where that is prudent, it maintains restrictions where they are necessary. I urge that the Senate vote in favor of passage of S. 3219.

Mr. KENNEDY. Mr. President, I think the Senate can take legitimate pride in the legislation embodied in S. 3219, the Clean Air Act amendments. Although the bill we have just passed may not go far enough for some in protecting the quality of our air, it is equally true that some Members of the Senate felt that in certain respects it went too far. Thus, it is in the best tradition of compromise, and it is a great tribute to the leadership and bipartisan spirit of the members of the Public Works Committee that we were able to vote out a meaningful bill in a controversial area with a minimum of acrimony and delay.

For let no one doubt it—this is a meaningful bill. Although it is clearly the result of many compromises, large and small, between Members of widely differing views, the final product is, in my opinion, a remarkably effective measure.

The most important and far-reaching provisions of the bill are surely the ones relating to the so-called no significant deterioration doctrine. The bill extends the authority of the Environmental Protection Agency, in cooperation with the individual States, to protect areas of the country where air quality is presently cleaner than the existing national air quality standards for sulfur oxides and particulates. This section of the bill was the one that caused the most controversy and it was the one most hotly debated on the floor.

And I would venture to say, Mr. President, that most of the Senators who participated found that debate a useful one, that they learned from it, and that through this process their opinions began to coalesce around the position taken by the Public Works Committee. And when the amendment came up to strike the nondegradation section from the bill, the vote was almost 2 to 1 in favor of the committee's position.

But the bill does many other important things which may tend to be overlooked because of a single controversial provision.

It sets up a National Commission on Air Quality, composed of congressional and public members, and State Governors, and gives it specific tasks with respect to studying the effects of air pollution on public health and well being.

It extends the present deadline for cleaning up hydrocarbon and carbon monoxide automobile emissions by 1 year, and raises the allowable level for emission of nitrogen oxides from .4 to 1 gram per mile.

It authorizes the Administrator of the Environmental Protection Agency to ban the use of Freon as an aerosol propellant upon a finding that such continued use would reduce the stratospheric ozone concentration and thereby endanger human health or welfare.

In conclusion, I think that in this bill we have seen the political process at its best. We have seen Senators of different parties and widely differing political outlooks, come together and work constructively on a complex and controversial piece of legislation, compromising where compromise was necessary, but never losing sight of the ultimate objectives, and never letting political expediency stand in the way of wise and effective legislative action. For this, the lion's share of the credit goes to the Senator from Maine (Mr. MUSKIE) and the Senator from New York (Mr. BUCKLEY) respectively the chairman and ranking minority member of the Subcommittee on Environmental Pollution of the Committee on Public Works, and to the Senator from West Virginia (Mr. RANDOLPH), the chairman of the full committee. They have worked very hard on this legislation, and have steered it in floor action with dispatch coupled with courtesy. And they have produced a product for which I am happy to cast my vote.

Mr. HANSEN. Mr. President, I support the passage of S. 3219, the Clean Air Act Amendments. It is time for Congress to codify this Nation's objectives regarding air quality. For too long, the protection and enhancement of our air quality has been left to a plethora of administrative agencies and to the courts. The result has been much as one might expect. We have ridden off in too many directions. It is time for this Congress—not the executive branch or the courts—to spell out exactly what our goals should be.

We must concern ourselves with two national goals—the protection and enhancement of our air quality, and progress in our objective of becoming energy self-sufficient.

A vital concern all of us should have about legislation of this kind is its effect on our ability to obtain the energy resources needed to keep this country running. I say this because of our increasing dependence on foreign oil and the substantial decline this year in domestic oil and gas production.

The Washington Post today carried an editorial from the Houston Chronicle which aptly expressed the frustration of many of us over the failure of Congress to enact a realistic and comprehensive energy policy.

The editor said that in dealing with oil and gas matters, Congress has a nearly unblemished record of making things more of a mess than they were before.

The editorial said:

> It defies any attempt at rational understanding; how Congress, beset by a national security problem in the shortage of domestic energy, has nevertheless determined that the way to get more is to make it more difficult to get more.

The editor concluded:

> We are saying that Congress is actively and intentionally discouraging the energy industry from trying to solve the problem—taking the diametrically opposite course from the proven method of achieving national goals. And it is a national disgrace.

I must reluctantly agree with him. Although some of my colleagues may grow weary of my repeated warnings, I will say again that the Congress has gambled dangerously with our national security in the counter-productive energy legislation that has been passed in recent years. Even after the Arab oil embargo of 1973 and 1974, which proved how vulnerable we are to foreign producers, Congress has continued to pass one bill after another that slows down oil and gas production and further increases imports which are now well over 40 percent of total domestic supply. Another embargo would so cripple this country economically that there would probably be an outcry for armed intervention in the countries withholding supplies.

We have got to find ways to function as a sovereign nation, independent of the threat of an oil embargo. We have got to end our dependence on foreign sources for the lifeblood of our economy. We cannot do this unless we encourage the production of sufficient domestic sources of energy to become independent. By far our most extensive untapped domestic fuel resource is Western coal. At the present time, and for the immediate future, the only technological capability we have for greater utilization of coal is by burning it in electric generating plants and using it in experimental synthetic fuel plants. These activities unavoidably will result in a measure of air pollution.

We cannot produce sufficient energy at home to meet our needs if we pass legislation that inhibits that production.

I do not believe this bill is the kind of legislation that will inhibit our search for energy independence, but I have discussed this aspect at such length because of my strong belief that Congress has done a poor job of relating the effect of many bills which are considered to our energy situation. We had better start looking more carefully at the effects of what we do on our energy status, and on our national security, which is very much tied to our ability to secure sufficient energy.

We also owe a commitment to the people to protect and enhance the quality of the Nation's air resources so as to promote the public health and welfare and the productive capacity of our population.

In Wyoming and the West, we have clean air. We are proud of it and we want to keep it that way. The benefits of our clean air are shared by millions of Americans who visit our parks and recreation areas every year. I support the premise in the bill that air in and over our national parks should remain as pure as possible. I believe the States should have a say in the siting of plants, as the bill provides, but airsheds cross State lines, and the national interest emerges.

In Wyoming, the issue crystalizes and comes into sharp focus. Two national parks, Yellowstone and Grand Teton, where my family has lived for decades, are within a few hundred miles of the Nation's largest undeveloped coal deposits.

I have concerns that the Clean Air Act amendments set up criteria which leave to technical analysis the determination as to whether new coal-fired facilities, as well as other industrial developments, can be sited in much of the area of the western States which contain the coal we have to develop. The technical determinations which will be so influential in these decisions will be based on speculative mathematical models of regional airsheds. I agree with the premise that it is difficult to remedy or clean the air after a facility is built and operating, but I caution that time's awasting. Delay is acceptable only if we are certain of our measuring capabilities. Let us get our meteorological measuring act together and in place.

I am convinced, Mr. President, that this legislation will not unduly restrict our ability to grow and produce energy. I believe it will protect air quality in those areas that we, as a Nation, have determined are special to us.

I think the amendments to the Clean Air Act set reasonable standards for auto emissions and are, in fact, a good compromise from the regulations, as promulgated by the Environmental Protection Agency.

Mr. BENTSEN. Mr. President, I had originally intended to offer an amendment to insure that adequate funding would be provided for two relatively unheralded but nevertheless extremely important programs authorized by the 1970 Clean Air Act. These programs, which help to fund State air research and training efforts, have been of great assistance to a number of State air pollution control agencies during the past 5 years, and I believe a continued commitment of Federal assistance for them is fully warranted.

In 1970, Congress assigned primary responsibility for enforcing the act to the States. They were to devise their own implementation plans for attaining the national air quality standards, and following EPA's approval, they were to enforce them. This year's amendments both clarify and expand those enforcement responsibilities.

As the States have prepared and begun implementation of these plans, may have also initiated research programs into the causes, effects, and possible control of air pollutants. These programs have addressed a variety of problems experienced to date and have advanced the frontiers of knowledge in this area of critical environmental importance. The air control board of my own State of Texas has, for example, initiated pioneering studies on photochemical oxidants.

I remain convinced that we still have a great deal to learn about the causes, effects, and possible controls of air-borne pollutants. State research projects are often geared to problems encountered in local enforcement efforts, and the contribution to our understanding from this State-conducted research is already great. I would hope the Congress would insist that Federal assistance to these State programs be continued.

The amount of Federal money actually provided for the State air research programs of section 103(b)(3) is difficult to determine because it is included within the Agency's overall research program. Apparently, the Agency plans to make approximately $3,960,000 available for State research programs in each of fiscal years 1976 and 1977. I would hope that the Agency and the Congress make sure that continued funding at least of that magnitude is made available for this important State-directed research.

A second concern of mine is with the training programs authorized by section 103(b)(5) of the act. As the States expand their efforts to bring polluting sources into compliance with the requirements of the law, ever growing amounts of air quality data will have to be gathered and evaluated. While perhaps appearing to be the more routine, day-to-day function of State air control authorities, it is nonetheless absolutely essential to an effective abatement program. Without this work, the enforcement authority would have no accurate means for determining whether a source is actually attaining the requisite emission limitation, nor would it have a sufficient factual base to take a violating source to court.

The personnel who actually collect the air samples, analyze them, and report their findings thus play a crucial role in any enforcement program. The work they do must be performed with care and precision, and they must get their start with adequate training.

Currently, EPA conducts periodic training seminars, and some States have also initiated their own programs. As we increase the enforcement responsibilities of the States, I believe we should also assist them in developing the capabilities to meet them.

Unfortunately, the administration during the past several years has not seen fit to assign much importance to this direct training program. Apparently at OMB's insistence, the President's request for training grant money was reduced by more than half between fiscal years 1973 and 1976. This year, not a cent was requested.

We are not discussing vast sums for these programs, as the data in the table appearing at the conclusion of my remarks attests. Fortunately, the Appropriations Committees have each of the past 2 years called a halt to this erosion of administration support of the training effort. This year, both Houses have included $1 million in training grant money.

Mr. President, I had seriously considered proposing an amendment to insure minimum funding for both the State research and training programs. I have decided not to offer it at this time primarily because of the continuing support given them by the Appropriations Committees. I would hope and urge that OMB and the Agency, under the current or any new administration, will more favorably view the importance of these two programs. In any case, I know that their merits will be fully reviewed during the annual appropriations process, and I shall be pleased to work with the committees in trying to obtain adequate funding for them.

I ask unanimous consent that a table showing air training grants be printed in the Record.

There being no objection, the table was ordered to be printed in the Record, as follows:

Air training grants, authorized by section 103(b)(5) of the Clean Air Act

Fiscal year:	*President's request*	*Actual Appropriation*
1977		$1,000,000
1976	$1,100,000	1,900,000
1975	1,700,000	1,700,000
1974	2,100,000	2,100,000
1973	2,563,000	3,600,000

Mr. RANDOLPH. Mr. President, I would like to commend the members of the Committee on Public Works, Senator Edmund Muskie, chairman of the Subcommittee on Environmental Pollution; Senator Joseph Montoya; Senator Mike Gravel, Senator Lloyd Bentsen, Senator Quentin Burdick, Senator John Culver, Senator Robert Morgan, Senator Gary Hart, Senator James Buckley, Senator Howard Baker, ranking minority member of the committee during much of the consideration of this bill; Senator Robert Stafford, Senator James McClure, and Senator Pete Domenici for their outstanding work on this legislation. I have great admiration for the Members who worked side by side for a constructive bill.

I would also take this opportunity to thank the staff of the Public Works Committee for their diligent work on this important measure. I commend the efforts of John Yago, Bailey Guard, Leon Billings, Hal Brayman, Phil Cummings, Karl Braithwaite, Richard Harris, Richard Herod, James Range, Charlene Sturbetts, Lee Rawls, Paul Chimes, Mike Hathaway, Haven Whiteside, and Barry Meyer, the former Chief Counsel and Chief Clerk of the committee.

Mr. ROBERT C. BYRD. Mr. President, I ask for the yeas and nays on passage.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass? On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. Hartke), the Senator from South Dakota (Mr. McGovern), the Senator from Montana (Mr. Metcalf), the Senator from Mississippi (Mr. Stennis), and the Senator from California (Mr. Tunney) are necessarily absent.

I also announce that the Senator from Michigan (Mr. Philip A. Hart) and the Senator from Delaware (Mr. Biden) are absent because of illness.

I further announce that, if present and voting, the Senator from California (Mr. Tunney) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. Brock) and the Senator from Pennsylvania (Mr. Schweiker) are necessarily absent.

The result was announced—yeas 78, nays 13, as follows:

[Rollcall Vote No. 482 Leg.]

YEAS—78

Abourezk
Baker
Bayh
Beall
Bellmon
Bentsen
Brooke
Buckley
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Chiles
Church
Clark
Cranston
Culver
Dole
Domenici
Durkin
Eagleton
Eastland
Fong
Ford
Glenn
Gravel
Griffin
Hansen
Hart, Gary
Haskell
Hatfield
Hathaway
Hollings
Hruska
Huddleston
Humphrey
Inouye
Jackson
Javits
Johnston
Kennedy
Leahy
Long
Magnuson
Mansfield
Mathias
McClure
McGee
McIntyre
Mondale
Montoya
Morgan
Muskie
Nelson
Nunn
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Scott, Hugh
Sparkman
Stafford
Stevens
Stevenson
Stone
Symington
Taft
Talmadge
Weicker
Williams
Young

NAYS—13

Allen
Bartlett
Curtis
Fannin
Garn
Goldwater
Helms
Laxalt
McClellan
Moss
Scott, William L.
Thurmond
Tower

NOT VOTING—9

Biden
Brock
Hart, Philip A.
Hartke
McGovern
Metcalf
Schweiker
Stennis
Tunney

So the bill (S. 3219) was passed, as follows:

S. 3219

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Section 1. (a) The third sentence of subsection (b) of section 105 of the Clean Air Act is amended to read as follows: "No agency shall receive any grant under this section during any fiscal year when its expenditures of non-Federal funds for other than nonrecurrent expenditures for air pollution control programs will be less than its expenditures were for such programs during the preceding fiscal year, unless the Administrator determines that a reduction in expenditures is attributable to a nonselective reduction in expenditures in the programs of all executive branch agencies of the applicable unit of government; and no agency shall receive any grant under this section with respect to the maintenance of a program for the prevention and control of air pollution unless the Administrator is satisfied that such grant will be so used to supplement and, to the extent practicable, increase the level of State, local, or other non-Federal funds that would in the absence of such grant be made available for the maintenance of such program, and will in no event supplant such State, local, or other non-Federal funds.".

(b) Subsection (c) of section 105 of the Clean Air Act is amended by adding the following: "In fiscal year 1977 and subsequent fiscal years, subject to the provisions of subsection (b) of this section, no State shall receive less than one-half of 1 per centum of the annual appropriation for grants under this section for grants to agencies within such State.".

Sec. 2. Section 107 of the Clean Air Act is amended by adding a new subsection as follows:

"(d)(1) For the purpose of transportation control planning, prevention of significant deterioration, and for other purposes, each State, within one hundred and twenty days after the date of enactment of the Clean Air Amendments of 1976, shall submit to the Administrator a list, together with a summary of the available information, identifying those air quality control regions, or portions thereof, established pursuant to this section in such State which on the date of enactment of the Clean Air Amendments of 1976—

"(A) do not meet a national primary ambient air quality standard for any mobile source related air pollutant;

"(B) do not meet, or in the judgment of the State may not in the time period required by an applicable implementation plan attain or maintain, any national primary ambient air quality standard for any pollutants other than those listed in subparagraph (A) of this paragraph through the proved or promulgated pursuant to section 110 of this Act;

"(C) do not meet a national secondary ambient air quality standard;

"(D) cannot be classified under subparagraph (B) or (C) of this paragraph on the basis of available information, for ambient air quality levels for sulfur oxides or particulate matter; or

"(E) have ambient air quality levels better than any national primary or secondary air quality standard other than for sulfur oxides or particulate matter, or for which there is not sufficient data to be classified under subparagraph (A) of this paragraph.

"(2) Not later than sixty days after submittal of the list under paragraph (1) of this subsection the Administrator shall promulgate each such list with such modifications as he deems necessary. Whenever the Administrator proposes to modify a list submitted by a State, he shall notify the State and request all available data relating to such region or portion, and provide such State with an opportunity to demonstrate why any proposed modification is inappropriate.

"(3) Any region or portion thereof which is not classified under subparagraph (B) or (C) of paragraph (1) of this subsection for sulfur oxides or particulate matter within one hundred and eighty days after enactment of the Clean Air Amendments of 1976 shall be deemed to be a region classified under subparagraph (D) of paragraph (1) of this subsection.

"(4) A State may from time to time review, and as appropriate revise and resubmit, the list required under this subsection. The Administrator shall consider and promulgate such revised list in accordance with this subsection.".

Sec. 3. The first sentence of section 108 (b)(1) of the Clean Air Act is amended by striking the words "technology and costs of emission control" and inserting in lieu thereof the words "cost of installation and operation, energy requirements, air quality benefits, and environmental impact of the emission control technology.".

Sec. 4. Section 108 of the Clean Air Act is amended by adding new subsections as follows:

"(e) The Administrator shall, after consultation with the Secretary of Transportation and the Secretary of Housing and Urban Development and State and local officials and within one hundred and eighty days after the enactment of this subsection, and from time to time thereafter, publish guidelines on the basic program elements for the transportation planning process assisted under subsection (h) of section 110 of this Act. Such guidelines shall include information on—

"(1) methods to identify and evaluate alternative planning and control activities;

"(2) methods of reviewing plans on a regular basis as conditions change or new information is presented;

"(3) identification of funds and other resources necessary to implement the plan, including interagency agreements on providing such funds and resources;

"(4) methods to assure participation by the public in all phases of the planning process; and

"(5) such other methods as the Administrator determines necessary to carry out a continuous planning process.

"(f)(1) The Administrator shall publish and make available to appropriate Federal agencies, States, and air pollution control agencies, including agencies assisted under subsection (h) of section 110 of this Act, within six months after enactment of this subsection for clauses (i), (ii), (iii), and (iv) of subparagraph (A) and within one year after the enactment of this subsection for the balance of this subsection (and from time to time thereafter), (A) information, prepared, as appropriate, in cooperation with the Secretary of Transportation, regarding processes, procedures, and methods to reduce or control each such pollutant, including but not limited to—

"(i) motor vehicle emission inspection and maintenance programs;

"(ii) programs to control vapor emissions from fuel transfer and storage operations and operations using solvents;

"(iii) programs for improved public transit;

"(iv) programs to establish exclusive bus and carpool lanes and areawide carpool programs;

"(v) programs to limit portions of road surfaces or certain sections of the metropolitan areas to the use of common carriers, both as to time and place;

"(vi) programs for long-range transit improvements involving new transportation policies and transportation facilities or major changes in existing facilities;

"(vii) programs to control on-street parking and new offstreet parking facilities;

"(viii) programs to construct new parking facilities and operate existing parking facilities for the purpose of park and ride lots and fringe parking;

"(ix) programs to limit portions of road surfaces or certain sections of the metropolitan area to the use of nonmotorized vehicles or pedestrian use, both as to time and place;

"(x) provisions for employer participation in programs to encourage carpooling, vanpooling, mass transit, bicycling, and walking;

"(xi) programs for secure bicycle storage facilities and other facilities, including bicycle lanes, for the convenience and protection of bicyclists, in both public and priate areas;

"(xii) programs of staggered hours of work;

"(xiii) programs to institute road user charges, tolls, or differential rates to discourage single occupancy automobile trips;

"(xiv) programs to control extended idling of vehicles;

"(xv) programs to reduce emissions by improvements in traffic flow;

"(xvi) programs for the conversion of fleet vehicles to cleaner engines or fuels, or to otherwise control fleet vehicle operations;

"(xvii) programs for retrofit of emission devices or controls on vehicles and engines, other than light duty vehicles, not subject to regulations under section 202 of title II of this Act; and

"(xviii) programs to reduce motor vehicle emissions which are caused by extreme cold start conditions;

(B) information on additional methods or strategies that will contribute to the reduction of mobile source related pollutants during periods in which any primary ambiet air quality standard will be exceeded during any extension under subsection (h) of section 110 of this Act and during episodes for which an air pollution alert or emergency has been declared; (C) information on other measures which may be employed to reduce the impact on public health or protect the health of sensitive or susceptible individuals or groups; and (D) information on the extent to which any process, procedure, or method to reduce cr control such air pollutant may cause an increase in the emissions or formation of any other pollutant.

"(2) In publishing such information the Administrator shall describe (A) the effectiveness of such processes, procedures, and methods; (B) factors related to the costs and benefits of such processes, procedures, and methods, in different situations; (C) transportation factors related to such processes, procedures, and methods; (D) the environmental, energy, and economic impact of such processes, procedures, and methods; and (E) his assessment of whether each such process, procedure, or method is reasonable for application to attain a primary ambient air quality standard.".

Sec. 5. (a) Section 110 of the Clean Air Act is amended by adding a new sentence at the end of paragraph (1) of subsection (a) as follows: "Each State shall adopt and submit to the Administrator within eight months after the date of enactment of the Clean Air Amendments of 1976, a revision of its implementation plan which provides for implementation, maintenance and enforcement of the provisions of subsection (g) of this section for the prevention of significant deterioration in each appropriate air quality control region (or portion thereof) within such State.".

(b) Section 110(a)(2)(B) of the Clean Air Act is amended to read as follows:

"(B) it includes emission limitations, schedules, and timetables for compliance with such limitations, and, in addition, as may be necessary, (i) to assure attainment and maintenance of such primary or secondary standard, such other measures, including, but not limited to, transportation controls, and enforceable supplemental emission reduction strategies for existing nonferrous smelters, and (ii) land-use controls for the purpose of maintenance of, or to prevent further deterioration from, any primary ambient air quality standard: *Provided, however*, That land-use controls shall be included in an implementation plan only after consideration of the energy, environmental, and economic impacts of such controls;".

(c) Section 110(a)(2)(D) of the Clean Air Act is amended by inserting after "(D) it includes" and before "a procedure" the following: "a program to provide for the enforcement of emission limitations and regulation of the modification, construction, and operation of any stationary source, including a permit or equivalent program for any major emitting facility, within such region to assure (i) that national ambient air quality standards are achieved and maintained, (ii) that the requirements of subsection (g) of this section are met, and (iii)".

(d) Section 110(a)(2)(H) of the Clean Air Act is amended by striking "or" before "(ii)" and by striking the period and adding at the end thereof: ", or to incorporate the requirements of subsection (g) of this section; or (iii) to incorporate any additional requirements established under the Clean Air Amendments of 1976.".

(e) Section 110(a)(4) of the Clean Air Act is amended by inserting after "primary or secondary standard" the following: "or which will not comply with a standard of performance under section 111, or which does not conform to the requirements of subsection (g) of this section,".

(f) Section 110(d) of the Clean Air Act is amended by striking the period and inserting at the end thereof "and the requirements of subsection (g) of this section.".

Sec. 6. Section 110 of the Clean Air Act is amended by adding a new subsection as follows:

"(g)(1) Each implementation plan shall include requirements applicable to each region identified in the list promulgated pursuant to paragraph (1)(D) of subsection (d) of section 107 of this Act, which shall, in addition to the requirements of paragraphs (2), (3), (4), (5), and (6) of this subsection, provide:

"(A) for designation as class I areas or—

"(i) all international parks, and each national wilderness area, and national memorial park which exceeds five thousand acres in size, and each national park which exceeds six thousand acres in size;

"(ii) such other areas as the State (and, if appropriate, after notice and consultation with adjacent States) may designate, except that Federal lands may be so designated only with the concurrence of the Federal Land Manager;

"(B) each national park and national wilderness area or any part thereof, which exceeds five thousand acres in size, established after the enactment of the Clean Air Amendments of 1976, shall be classified as either class I or class II by the Congress in the designating legislation for such national park or wilderness area.

"(C) that all remaining areas in such State identified under section 107(d) (1) (D) of this Act and not designated class I pursuant to subparagraph (A) of this paragraph shall be designated as class II areas.

"(2) As it relates to the pollutants particulate matter and sulfur dioxide, the cumulative change in the air quality in any area designated under paragraph (1) of this subsection resulting from the construction and operation of any new major emitting facility or facilities shall be limited to the following projected increases in pollutant concentrations over the baseline air quality concentration:

"Pollutant	(In micrograms per cubic meter)
Particulate matter:	
Annual geometric mean	10
Twenty-four-hour maximum	30
Sulfur dioxide:	
Annual arithmetic mean	15
Twenty-four-hour maximum	100
Three-hour maximum	700

"(3) Requirements applicable to an area designated as class I or class II shall include a management program to assure that, in the event of the proposed construction of any major emitting facility in any such area, the construction of such facility shall be preceded by an analysis of the ambient air quality, climate and meteorology, soils and vegetation, and visibility at the site of the proposed facility and in the area potentially affected by the emissions from the proposed facility for each pollutant regulated under this Act which will be emitted from, or which results from the construction or operation of, such facility. Such analysis shall be included in any permit application required.

"(4) No major emitting facility on which construction is commenced after June 1, 1975, may be constructed in any area designated under this subsection—

"(A) unless a permit has been issued for such proposed facility in accordance with this section, setting forth emission limitations for such facility which conform to the requirements of this subsection.

"(B) unless the proposed facility is subject to the best available control technology for each pollutant subject to regulation under this Act emitted from, or which results from such facility,

"(C) unless the owner or operator of such facility demonstrates that emissions of particulate matter and sulfur oxides will not contribute to a cumulative change in the air quality in excess of that allowed in paragraph (2) of this subsection.

"(D) unless the provisions of paragraph (5) of this subsection with respect to protection of class I areas have been complied with for such facility,

"(E) unless there has been an analysis of any air quality impacts projected for the area as a result of growth associated with such facility, and

"(F) unless there has been opportunity for a public hearing conducted by a State on any proposed permit for such facility, with an opportunity for interested parties, including representatives of the Administrator, to appear and provide testimony on such facility, including alternatives thereto, and control technology requirements.

"(5) (A) The State shall provide notice of any permit application to the Administrator and the Administrator shall provide notice of the permit application to the Federal Land Manager and the Federal official charged with direct responsibility for management of any lands within a class I area which may be affected by emissions from the proposed facility.

"(B) The Federal Land Manager and the Federal Official charged with direct responsibility for management of such lands shall have an affirmative responsibility to protect the air quality related values of any such lands within a class I area and to consider, in consultation with the Administrator, whether a proposed major emitting facility will have an adverse impact on such values.

"(C) In any case where the Federal official charged with direct responsibility for management of any lands within a class I area or the Federal Land Manager of such lands, or the Administrator, or the Governor of an adjacent State containing such a class I area files a notice alleging that emissions from a proposed major emitting facility may cause or contribute to a change in the air quality in such area and identifying the potential adverse impact of such change, a permit shall not be issued unless the owner or operator of such facility demonstrates that emissions of particulate matter and sulfur dioxide will not contribute to a cumulative change in air quality in excess of the following projected increases in pollutant concentrations over the baseline air quality concentration:

Pollutant	(in micrograms per cubic meter)
Particulate matter:	
Annual geometric mean	5
24-hour maximum	10
Sulfur dioxide:	
Annual arithmetic mean	2
24-hour maximum	2
3-hour maximum	25

Provided, That (i) in any case where the Federal Land Manager demonstrates to the satisfaction of the State that the emissions from such facility will have an adverse impact on the air quality-related values of such lands, notwithstanding the fact that the change in air quality resulting from emissions from such facility will not exceed for such lands the limitations on projected increases established in this subparagraph, a permit shall not be issued, and (ii) in any case where the owner or operator of such facility demonstrates to the satisfaction of the Federal Land Manager, and the Federal Land Manager so certifies, that the emissions from such facility will have no adverse impact on the air quality related values of such lands, notwithstanding the fact that the change in air quality resulting from emissions from such facility will exceed for such lands the limitations on projected increases established in this subparagraph, the State may issue a permit.

"(6) For purposes of this subsection—

"(A) the term 'best available control technology' means an emission limitation based on the maximum degree of reduction of each pollutant subject to regulation under this Act emitted from or which results from any major emitting facility, which the permitting authority, on a case-by-case basis, taking into account energy, environmental, and economic impacts and other costs, determines is achievable for such facility through application of production processes and available methods, systems, and techniques, including fuel cleaning or treatment, for control of each such pollutant. In no event shall application of 'best available control technology' resut in emissions of any pollutants which will exceed the emissions allowed by any applicable standard established pursuant to section 111 or 112 of this Act;

"(B) the term 'Federal Land Manager' means (i) the Secretary of the department with authority over any lands of the United States, and (ii) Indian tribes which have legal jurisdiction over tribal lands; and

"(C) the term 'commenced' as applied to construction of a major emitting facility means that the owner or operator has obtained all necessary preconstruction approvals or permits required by Federal, State, or local laws or regulations and either has (i) begun, or caused to begin, a continuous program of physical on-site construction of the facility or (ii) entered into binding agreements or contractual obligations, which cannot be canceled or modified without substantial loss to the owner or operator, to undertake a program of construction of the facility to be completed within a reasonable time: *Provided,* That in the case of a facility on which construction was commenced in accordance with this definition after June 1, 1975, and prior to the enactment of the Clean Air Amendments of 1976, the review and permitting of such facility shall be in accordance with the regulations for the prevention of significant deterioration in effect prior to the enactment of the Clean Air Amendments of 1976.

"(7) (A) Until a revision of the implementation plan in accordance with this subsection is submitted and approved, significant deterioration for those pollutants covered by such regulations shall be regulated pursuant to applicable regulations and procedures for prevention of significant deterioration established under authority of the Clean Air Act in effect prior to the enactment of the Clean Air Amendments of 1976, except as those regulations provide for designations of nondeterioration areas which allow increases in emissions of air pollutants or any reduction in air quality inconsistent with paragraphs (1) and (2) of this subsection, or do not require the degree of control required by paragraph (6) (A) of this subsection, or are otherwise inconsistent with the requirements of this subsection.

"(B) For the purpose of this section any State may submit the revision to its implementation plan relating to the prevention of significant deterioration which has been adopted for such State as of the date of enactment of the Clean Air Amendments of 1976. Such requirements shall be the requirements applicable to such State under this section unless the Administrator finds that such requirements or a portion thereof are inconsistent with the requirements of this subsection and notifies the State of such inconsistency.

"(8) The Administrator shall study strategies to control pollutants not covered by paragraph (2) of this subsection in order to prevent significant deterioration of air quality for such pollutants and shall report to the Congress within one year after the date of enactment of the Clean Air Amendments of 1976 recommending control strategies for such pollutants. Such report shall recommend increments, as appropriate, for class I and class II areas applicable to the emissions from stationary sources of nitrogen oxides, hydrocarbons, and such other pollutants and control strategies as the Administrator determines to be appropriate.

"(9) The Administrator shall, and a Governor may, take such measures under section 113 or 304 of this Act, including seeking injunctive relief, as necessary to prevent the issuance of a permit under this subsection or the construction of a major emitting facility which does not conform to the requirements of paragraphs (4) and (5) of this subsection.

"(10) In the event any State adjacent to a State subject to the requirements of this subsection disagrees with the designation of any class I area in the State subject to the requirements, or if a permit is proposed to be issued for any new major emitting facility proposed for construction in an adjoining State which the Governor of the affected State determines will cause or contribute to a cumulative change in air quality in excess of that allowed in this subsection in any class I or class II area within the affected State, the Governor may request the Administrator to enter into negotiations with the States involved to resolve such dispute. If requested by any State involved, the Administrator shall make a recommendation to resolve the dispute and protect the air quality related values of the lands in such State. If the States involved do not reach agreement, the Administrator shall resolve the dispute and his determination, or the results of agreements reached through other means, shall become part of the applicable plan and shall be enforceable as part of such plan.

"(11) Notwithstanding paragraphs (2), (4), and (5) of this subsection, in no instance shall the Administrator approve any requirements or revision of any implementation plan, nor shall any permitting authority issue a permit under this subsection for a new major emiting facility, which would allow for the deterioration of air quality to a level that would exceed any national ambient air quality standard.

"(12) Nothing in this subsection shall alter or affect section 116 of this Act.".

SEC. 7. (a) Section 110 of the Clean Air Act is amended by adding subsection (h) as follows:

"(h)(1) Upon application by the Governor of a State on or after June 1, 1976, the Administrator may extend for not more than five years the deadline for attainment of national primary ambient air quality standards required under this section where transportation control measures are necessary for the attainment of such standards and where the implementation of such control measures by the date established in existing implementation plans would have serious adverse social or economic effects.

"(2) The Administrator may consider extension applications for only those air quality control regions in which the State has:

"(A) implemented or will have implemented by June 1, 1977, (i) the requirements of the applicable implementation plan with respect to stationary source emissions of transportation-related pollutants, and (ii) implemented or will have begun implementing by June 1, 1977, all reasonably available measures of the applicable transportation control plan which do not have serious adverse social or economic effects; and

"(B) completed, or agreed to complete by June 1, 1978, a detailed planning study that evidences public and local governmental involvement in accordance with paragraph (7) of this subsection and includes (i) examination of alternative measures and combinations of measures to attain and maintain the standards after June 1, 1977, (ii) a description of projects to be undertaken together with timetables and resource requirements, and (iii) identification and analysis of social, economic, and environmental effects including public health and energy conservation effects of such measures and projects.

"(3) Each extension application shall be accompanied by adequate documentation of compliance with the requirements of paragraph (2) above, and shall include a description of the process for the development of an implementation plan for the extension period requested. Such plan shall be submitted no later than June 1, 1978. The plan shall at a minimum:

"(A) identify the remaining emission reductions necessary for attainment of the national primary ambient air quality standards and the additional reasonably available measures to be implemented to accomplish these reductions;

"(B) provide for the implementation of all reasonably available control measures as expeditiously as practicable;

"(C) identify the financial and manpower resources to be committed to carrying out the plan;

"(D) include written evidence that the State, the general purpose local government or governments, or a regional agency designated by general purpose local governments for such purpose, have adopted by statute, regulation, ordinance, or other legally enforceable document, the necessary requirements and schedules and timetables for compliance, and are committed to implement and enforce the appropriate elements of the plan;

"(E) demonstrate (i) attainment of the national primary ambient air quality standards as expeditiously as practicable, but no later than May 31, 1982, or (ii) that such attainment is not possible wtihin the extension period prior to May 31, 1982, despite implementation of all reasonably available control measures.

"(4)(A) Within one hundred and twenty days following the submission of an application and all supporting materials, and after providing an opportunity for public hearing, the Administrator shall grant an extension, unless he determines that the requirements of this subsection have not been met.

"(B) If the Administrator determines that the requirements of this subsection have not been met, including findings relating to the impacts of the transportation control measures upon the social, economic, energy conservation, and environmental welfare of the air quality control region, he shall notify the Governor of deficiencies in the application, including his judgment as to acceptable dates for implementing measures included in the plan and as to the appropriate duration of an extension. The notification shall also specify a date for the submission of a revised application.

"(5) Where the Administrator grants an extension based on an application meeting the requirements of paragraph (3)(E)(ii) of this subsection, the Governor of the State may, on or after June 1, 1981, apply for a further extension in accordance with and subject to the requirements of this subsection. No extension under this paragraph or other portion of this Act may extend beyond May 31, 1987.

"(6)(A) Where the Administrator denies an extension application or where the Governor of a State in which the national primary ambient air quality standards are not being met does not submit an application or revised application under this subsection, the Administrator shall, after consultation with appropriate State and local elected officials and after opportunity for public hearing in the affected State if no such hearing has been previously held, propose and promulgate an implementation plan (or portion thereof) meeting the requirements of this subsection. In proposing and promulgating such plan, the Administrator shall comply with the time requirement and schedules of this subsection. The United States court of appeals for the appropriate circuit may grant a stay of any provision of such plan upon application by a State pursuant to section 307 of this Act.

"(B) The Administrator may delegate the implementation or enforcement of any portion of a promulgated plan to one or more general purpose local governments or a State.

"(7)(A) The implementation plan required by paragraph (3) of this subsection shall be prepared by an organization of elected officials of local governments designated by agreement of the local governments in an affected area, and recognized by the State for this purpose. Where such an organization has not been designated by agreement within six months after the enactment of the Clean Air Amendments of 1976, the Governor (or, in the case of an interstate area, Governors), after consultation with elected officials of local governments, shall designate an organization of elected officials of local governments in the affected area to prepare such plan. Where feasible, such organization shall be the metropolitan planning organization designated to conduct the continuing, cooperative and comprehensive transportation planning process for the area under section 134 of title 23, United States Code, or the organization responsible for the air quality maintenance planning process under regulations implementing this section, or the organization with both responsibilities.

"(B) The preparation of the implementation plan required by paragraph (3) of this subsection shall be coordinated with the continuing, cooperative, and comprehensive transportation planning process required under section 134 of title 23, United States Code, and the air quality maintenance planning process required under this section, and such planning processes shall take into account the requirements of this subsection.

"(8)(A) The Administrator shall make grants to any organization of local elected officials with transportation or air quality maintenance planning responsibilities recognized by the State under paragraph (7) of this subsection for payment of the reasonable costs of developing an air quality transportation control plan under this section.

"(B) The amount granted to any organization under subparagraph (A) of this paragraph shall be 100 per centum of any additional costs of developing an air quality transportation control plan under this section for the first two fiscal years following receipt of the grant under this paragraph, and shall supplement any funds available under Federal law to such organization for transportation or air quality maintenance planning. Grants under this paragraph shall not be used for construction.

"(9)(A) The Administrator shall not approve any projects or award any grants authorized by this Act or any other authority of the Administrator after June 1, 1977, in any State in which any primary ambient air quality standard has not been attained, where transportation control measures are necessary for the attainment of such standard and the Governor has not applied for an extension in accordance with this subsection, or where the Governor has not submitted an implementation plan by June 1, 1978.

"(B) In any area in which the State or, as the case may be, the general purpose local government or governments or any regional agency designated by such general purpose local governments for such purpose, is not implementing any requirement of an approved or promulgated plan under this section, including any condition of the extension under paragraph (2) of this subsection, the Administrator shall decrease funds or grants for any projects authorized by any authority of the Administrator by fifteen per centum for each year during the period any such requirement is not being implemented.

"(10)(A) No department, agency, or instrumentality of the Federal Government shall (i) engage in, (ii) support in any way or provide financial assistance for, (iii) license or permit, or (iv) approve, any activity which does not conform to a plan after it has been approved or promulgated under this section. No metropolitan planning organization designated under section 134 of title 23, United States Code, shall give its approval to any project, program, or plan which does not conform to a plan approved or promulgated under this section. The assurance of conformity to such a plan shall be an affirmative responsibility of the head of such department, agency, or instrumentality.

"(B) Each department, agency, or instrumentality of the Federal Government having authority to conduct or support any program with air-quality related transportation consequences shall give priority in the exercise of such authority, consistent with statutory requirements for allocation among States or other jurisdictions, to the implementation of those portions of plans prepared under this section to achieve and maintain the national primary ambient air-quality standard. This paragraph extends to, but is not limited to, authority exercised under the Urban Mass Transportation Act, as amended, title 23 of the United States Code, and the Housing and Urban Development Act, as amended.".

(b) Section 110 of the Clean Air Act is amended by adding a new subsection as follows:

"(1) In carrying out the requirements of subsections (a)(2)(B) (i) and (ii), (g), and (h) of this section and subsections (d) and (g) of section 113, the State shall provide a satisfactory process of consultation with general purpose local governments and designated organizations of elected officials of local governments, in accordance with adequate consultation. Such regulations shall be promulgated after notice and opportunity for public hearing and not later than four months after the date of enactment of the Clean Air Amendments of 1976. The Administrator may disapprove any portion of a plan relating to any measure described in the first sentence of this subsection or to the consultation process required under this subsection if he determines that such plan does not meet the requirements of this subsection. Only a general purpose unit of local government, regional agency, or council of governments adversely affected by action of the Administrator approving any portion of a plan referred to in this subsection may petition for review of such action on the basis of a violation of the requirements of this subsection.".

SEC. 8. The Clean Air Act is amended by adding a new subsection (e) to section 112 as follows:

"(e) For purposes of this section the Administrator may promulgate a hazardous emission standard in terms of a design, equipment, or operational standard if he determines that such standard is necessary to control emissions of a hazardous pollutant or pollutants because, in the judgment of the Administrator, they cannot or should not be emitted through a conveyance designed and constructed to emit or capture such pollutants.".

SEC. 9. (a) Section 113 of the Clean Air Act is amended by adding the following new subsection:

"(d)(1) A State (or, after thirty days notice to the State, the Administrator) may issue an enforcement order for any stationary source which specifies a date for final compliance with an applicable emission limitation later than the date for attainment of any national ambient air quality standard specified in the applicable implementation plan: *Provided*, That (A) such order is issued after notice to the public (and, as appropriate, to the Administrator) containing the content of the proposed order and opportunity for public hearing; (B) the order contains a schedule and timetable for compliance; (C) the order contains any interim control measures the State (or the Administrator) deems to be reasonable, and the order requires the emission monitoring and reporting by the source authorized to be required under sections 110(a)(2)(F) and 114(a)(1); (D) the order provides for final compliance with the emission limitation in the applicable implementation plan as expeditiously as practicable, but in no event later than January 1, 1979; and (E) in the case of a major emitting facility, the order provides that it will be amended no later than January 1, 1978, to contain a provision requiring the source to pay monthly a delayed compliance penalty, in an amount equal to that sum established by the Administrator pursuant to section 120 of this Act, in the event such major emitting facility fails to comply by January 1, 1979.

"(2) An enforcement order proposed by a State shall issue under this subsection unless the Administrator, within ninety days of receipt of any proposed order, objects in writing to the issuance of such order as not consistent with the requirements of paragraph (1) of this subsection. If the Administrator so objects, he shall simultaneously proceed to issue an enforcement order in accordance with this subsection. Nothing in this section shall be construed as limiting the authority of a State or political subdivision to adopt and enforce a more stringent emission limitation or more expeditious schedule or timetable for compliance than that contained in an order by the Administrator.

"(3) If any source not in compliance with an emission limitation in an applicable implementation plan gives written notification to the State (or the Administrator) that such source intends to comply by means of replacement of the facility, a complete change in production process, or a termination of operation, the State (or the Administrator) may issue an order under paragraph (1) of this subsection permitting the source to operate until January 1, 1979, without any interim schedule of compliance: *Provided*, That as a condition of such issuance, the owner or operator of such source shall post a bond or other surety in an amount equal to the cost of actual compliance by such facility and any economic value which may accrue to the owner or operator of such source by reason of the failure to comply. If a source for which the bond or other surety required by this paragraph has been posted fails to replace the facility, change the production process, or terminate the operations as specified in the order by the required date, the owner or operator shall immediately forfeit on the bond or other surety and the State (or the Administrator) shall have no discretion to modify the order under this paragraph or to compromise the bond or other surety.

"(4) In the case of a major emitting facility which proposes to comply with an applicable emission limitation through replacing existing production capacity with an innovative production process which will result in an emission reduction significantly greater than required by the emission limitation applicable to such facility, or with the installation of an innovative control technique that has a substantial likelihood for enabling the source to comply with the applicable emission limitation by achieving a significantly greater emission reduction than that required by the applicable emission limitation, or by achieving the required reduction with an innovative system that will have potential for industry-wide application at a significantly lower cost than the systems which have been determined by the Administrator to be adequately demonstrated, the date required for compliance applicable to such facility under paragraphs (1) and (3) of this subsection and section 120 of this Act shall be January 1, 1981.

"(5)(A) In the case of a major emitting facility which—

"(i) is ordered to convert to coal under an order pursuant to section 2(a) of the Energy Supply and Environmental Coordination Act of 1974, or

"(ii) within one year after enactment of the Clean Air Amendments of 1976 gives notice of intent to convert to coal as its primary energy source because of actual or anticipated curtailment of natural gas supplies under any curtailment plan or schedule approved by the Federal Power Commission (or, in the case of intrastate natural gas supplies, approved by the appropriate State regulatory commission),

and which thereby would no longer be in compliance with an applicable emission limitation under an implementation plan, an enforcement order may be issued under paragraph (1) of this subsection for such facility which specifies a date for final compliance with the applicable emission limitation later than the date for attainment of any national ambient air quality standard specified in the applicable implementation plan: *Provided*, That the order provides for final compliance with the emission limitation in the applicable implementation plan as expeditiously as practicable, but in no event later than three years after the date of an order under section 2(a) of the Energy Supply and Environmental Coordination Act of 1974 or three years after giving notice under clause (ii) of this subparagraph, which date shall be the date required for compliance applicable to such facility under paragraphs (1) and (3) of this subsection and section 120 of this Act and in no event shall be later than July 1, 1980.

"(B) In issuing an order under this paragraph, the State shall prescribe (and may from time to time modify) emission limitations, requirements respecting pollution characteristics of coal, or other enforceable measures for control of emissions for each facility to which such an order applies. Such limitations, requirements, and measures shall be those which the State determines must be complied with by the facility in order to assure (throughout the period before the date for final compliance established in the order) that the burning of coal by such source will not result in emissions which cause or contribute to concentrations of any air pollutant in excess of any national primary ambient air quality standard for such pollutant.

"(C) The Administrator of the Federal Energy Administration may, by regulation, establish priorities under which manufacturers of continuous emission reduction systems necessary to carry out this paragraph shall provide such systems to users thereof, if he finds, after consultation with the States and the Administrator, that priorities must be imposed in order to assure that such systems are first provided to sources subject to orders under this paragraph in air quality standards have not been achieved. No regulation under this subparagraph may impair the obligation of any contract entered into before the date of enactment of the Clean Air Amendments of 1976.

"(6) For the purposes of sections 110, 304, and 307 of this Act, any order issued or approved by the State (or the Administrator) pursuant to this subsection shall become part of the applicable implementation plan.

"(7)(A) During the period of the enforcement order issued under this subsection and where the owner or operator is in compliance with the terms of such enforcement order, no other enforcement action pursuant to this section or section 304 of this Act shall be pursued against such owner or operator based upon noncompliance during the period the order is in effect with the emission limitation for the source covered by such order.

"(B) The failure of any source subject to an enforcement order under this subsection to adhere to the schedule and timetable of compliance established under this subsection during the period of the order, shall make such source subject to the provisions of subsections (a), (b), and (c) of this section.

"(8) No extension, postponement, waiver, or delay of any requirement of an implementation plan applicable to a major emitting facility shall be granted except in accordance with this subsection or section 110(f) of this Act: *Provided, however,* That neither this subsection nor section 120 of this Act shall be construed as limiting the authority of any State to revise any deadline for attainment of a national secondary ambient air quality standard.

"(9) Any actions of the Administrator pursuant to this subsection, including any objection under paragraph (2) of this subsection, shall be considered a final action for purposes of section 307 of this Act.

"(10) Any enforcement order issued under subsection (a) of this section or any consent decree in an enforcement action which is in effect on the day of enactment of the Clean Air Amendments of 1976 shall remain in effect to the extent that such order or consent decree is not inconsistent with the requirements of this subsection and section 120 of this Act. Any such enforcement order issued under subsection (a) of this section or consent decree which provides for an extension beyond January 1, 1979, is void unless modified to comply with the requirements of this subsection.".

(b) The Clean Air Act is amended by adding a new section 120 as follows:

"DELAYED COMPLIANCE PENALTY

"SEC. 120. (a) Prior to January 1, 1978, any enforcement order issued under subsection (d) of section 113 of this Act shall be amended to include a delayed compliance penalty established pursuant to this section which shall be imposed automatically and payable monthly for any major emitting facility which for any reason not entirely beyond the control of the owner or operator is not in compliance with an applicable emission limitation on January 1, 1979.

"(b) As an enforceable interim step under any enforcement order issued under section 113(d) of this Act, the owner or operator of any major emitting facility not in compliance with an applicable emission limitation, for which such order specifies a date for compliance after January 1, 1978, shall, prior to January 1, 1977, furnish to the State (with a copy to the Administrator) information containing a detailed description of the control technology or system proposed to achieve compliance with the applicable emission limitation and the estimated cost of compliance, including capital costs, debt service costs, the estimated schedule of expenditures to comply with such limitation or requirement by January 1, 1979, and the estimated annual costs of operation and maintenance of any technology or system required in order to maintain such compliance, together with such information as the State (or the Administrator) may require on the economic value which a delay in compliance beyond January 1, 1979, may have for the owner or operator of such facility.

"(c) (1) A notice of receipt of information pursuant to subsection (b) of this section shall be published in the newspapers in general circulation in such State, and such notice shall set forth where copies of the information are available for inspection and, for a reasonable charge, copying.

"(2) (A) Within sixty days following the date of publication of the notice issued under paragraph (1) of this subsection there shall be published in the newspapers in general circulation in such State (and, as appropriate, the Federal Register or any publication required as part of any rulemaking activity in such State) the proposed delayed compliance penalty applicable to the major emitting facility, with an announcement of an opportunity for a public hearing on such action.

"(B) Such proposed delayed compliance penalty under subparagraph (A) of this paragraph, determined in accordance with guidelines published by the Administrator, shall be a monthly payment in an amount no less than the monthly equivalent of the capital costs of compliance and debt service over a normal amortization period, not to exceed ten years, operation and maintenance costs foregone as a result of noncompliance, and the economic value which a delay in compliance beyond January 1, 1979, may have for the owner or operator of such major emitting facility.

"(C) The State shall take final action establishing such delayed compliance penalty within sixty days after the date of publication of the proposed penalty under subparagraph (A) of this paragraph.

"(d) (1) A delayed compliance penalty established by a State under this section shall apply unless the Administrator, within ninety days after the date of publication of the proposed penalty under subsection (c) (2) (A) of this section, objects in writing to the amount of the penalty as less than would be required to comply with guidelines established by the Administrator.

"(2) If the Administrator objects under this subsection, he shall immediately establish a substitute delayed compliance penalty applicable to such facility.

"(e) (1) In the event an owner or operator contests the delayed compliance penalty established under this section the owner or operator may within sixty days seek review of such penalty in the appropriate United States district court.

"(2) (A) Except as provided in subparagraph (B) of this paragraph, in no event shall any challenge or review taken under this subsection operate to stay or otherwise delay the obligation of a facility not in compliance with an applicable emission limitation to commence monthly payment of the delayed compliance penalty as determined by the State (or the Administrator) on January 1, 1979, pending the outcome of any such review.

"(B) In any challenge of the imposition of the penalty based on an allegation that the failure to comply by January 1, 1979, was due to reasons entirely beyond the control of the owner or operator, the obligation to commence monthly payment of the delayed compliance penalty may be stayed pending the outcome of such challenge: *Provided,* That as a condition of such stay, the owner or operator of such source shall post a bond or other surety in an amount equal to the potential liability for such penalty during the period of the stay.

"(3) If an owner or operator is successful in any challenge or review proceedings under this subsection, the court may award such relief as necessary, including cancellation of the bond, rebate of any payments, or adjustment of the amount of payments required by the order.

"(f) In any case where a State does not have sufficient authority to issue a delayed compliance penalty, the Administrator after thirty days notice to the State shall establish, implement, and enforce such penalty.

"(g) Failure to make any payment required by an order under this section and section 113(d) of this Act or to submit information required under this section shall, in addition to liability for such payments, subject the owner or operator of a major emitting facility operating pursuant to an enforcement order issued under section 113(d) of this Act to a penalty under subsection (e) of section 113 of this Act.

"(h) Any actions pursuant to this section, including any objection of the Administrator under subsection (d) (1) of this section, shall be considered a final action for purposes of section 307 of this Act.

"(i) Any enforcement orders, payments, sanctions, or other requirements under this section shall be in addition to any other permits, orders, payments, sanctions, or other requirements established under this Act, and shall in no way effect any civil or criminal enforcement proceedings brought under any provision of this Act or State or local law.

"(j) In the case of an emission limitation approved or promulgated by the Administrator after the enactment of the Clean Air Amendments of 1976 which is more stringent than the emission limitation for the source under the applicable implementation plan in effect prior to such approval or promulgation, if any, or where there was no emission limitation approved or promulgated before enactment of the Clean Air Amendments of 1976, the date for imposition of the delayed compliance penalty under subsection (a) of this section, and for purposes of subsections (b), (c) (2) (B), and (e) of this section, shall be either January 1, 1979, or the date on which the source is required to be in full compliance with the emission limitation, whichever is later, but in no event later than three years after the approval or promulgation of such emission limitation.".

SEC. 10. The Clean Air Act is amended:

(a) By amending subsection (b) of section 113 to read as follows:

"(b) The Administrator shall commence a civil action for appropriate relief, including a permanent or temporary injunction, or to assess and recover a civil penalty of not more than $10,000 per day of violation or both, whenever any person—

"(1) violates or fails or refuses to comply with any order issued under subsection (a) or (d) of this section; or

"(2) violates any requirement of an applicable implementation plan (A) during any period of federally assumed enforcement, or (B) more than thirty days after having been notified by the Administrator under subsection (a) (1) of a finding that such person is violating such requirement; or

"(3) violates section 111(e), 112(c), 119(g), 120(b), or 120(g); or

"(4) fails or refuses to comply with any requirement of section 114.

Any action under this subsection shall be brought in the district court of the United States for the district in which the defendant is located or resides or is doing business, and such court shall have jurisdiction to restrain such violation, to require compliance, and assess such penalty. Notice of the commencement of such action shall be given to the appropriate State air pollution control agency.".

(b) By amending subsection (c) of section 113—

(1) to amend paragraph (1) (B) to read as follows:

"(B) violates or fails or refuses to comply with any order under subsection (a) or (d) of this section, or"; and

(2) to add a new paragraph (3) as follows:

"(3) For the purpose of this subsection, the term 'person' shall mean, in addition to the definition contained in section 302(e) of this Act, any responsible corporate officer.".

(c) By adding the following new subsections to section 113:

"(e) In any case where a person is in knowing violation of a provision of an implementation plan applicable to a stationary source, where there has been no request for an enforcement order extending the date of compliance concerning such source filed pursuant to subsection (d) of this section within one hundred and eighty days after enactment of the Clean Air Amendments of 1976 (unless such an order has been issued under this section without any such request), or where a person is in violation of the requirements of subsection (b) or (g) of section 120 of this Act, such person shall be punished by a fine of not more than $25,000 per day of violation.

"(f) If it is alleged that interference with the achievement or maintenance of any national primary or secondary ambient air quality standard will result from any major emitting facility in any region of a State other than the State in which the facility is or may be located, the Administrator, at the request of the Governor of such other State, shall review the operation or proposed operation of such facility and, if necessary to prevent interference with the achievement or maintenance of any national primary or secondary ambient air quality standard in such other State, he shall take such measures, including seeking injunctive relief, as necessary to prevent such interference.".

SEC. 11. Section 113 of the Clean Air Act is amended by adding the following new subsection:

"(g)(1) No major emitting facility shall be constructed or modified in any air quality control region or portion thereof in which any national ambient air quality standard is exceeded, if such facility will emit air pollutants subject to such standard so as to prevent the attainment or maintenance of such standard, except that a facility proposed for construction or modification at an existing site or plant owned or controlled by the owner or operator of such facility may be constructed or modified in such region if the owner or operator demonstrates to the satisfaction of the State that (A) the proposed facility will comply with the best available control technology (as defined in section 110(g)(6)(A) of this Act) applicable to such proposed facility before the proposed facility begins operation, (B) all existing sources owned or controlled by the owner or operator of the proposed facility in the same air quality control region as the proposed facility either are in compliance with all applicable emission limitations or are in compliance with an approved schedule and timetable for compliance under a provision of an applicable implementation plan under section 110 of this Act or an enforcement order issued under section 113(d) of this Act, (C) the total cumulative emissions from the existing sources at the proposed facility location and the proposed facilities will at no time increase, (D) the total allowable emissions from all existing and proposed sources at the proposed facility location will be sufficiently less than the total allowable emissions from the existing sources under the implementation plan or an approved schedule and timetable for compliance applicable prior to the request to construct or modify so as to represent reasonable further progress toward attainment of the applicable national ambient air quality standard, taking into account progress already made.

"(2) After January 1, 1979, only a proposed facility where all existing sources owned or controlled by the owner or operator of the proposed facility in the same air quality control region as the proposed facility are in compliance with all emission limitations under an applicable implementation plan under section 110 of this Act shall be eigible for an exception under paragraph (1) of this subsection.

"(3) The provisions of this subsection shall not be available where a State has not made any appropriate revision in the applicable implementation plan to include the emission limitations established for sources at the proposed facility location under paragraph (1)(D) of this subsection.".

SEC. 12. Section 115 of the Clean Air Act is amended to read as follows:

"SEC. 115. (a) Whenever the Administrator, upon receipt of requests, reports, surveys, or studies from any duly constituted international agency, has reason to believe that any air pollutant or pollutants emitted in the United States endanger the health or welfare of persons in a foreign country, or whenever the Secretary of State requests him to do so with respect to such pollutant or pollutants which the Secretary of State alleges is of such a nature, the Administrator shall give formal notification thereof to such Governor of the State in which such emissions originate.

"(b) The notice of the Administrator shall operate as finding under clause (ii) of subparagraph (H) of subsection (a)(2) of section 110 of this Act and any foreign country adversely affected by the emission of pollutant or pollutants shall be invited to appear at any public hearing associated with any revision of the appropriate portion of the applicable implementation plan.

"(c) This section shall apply only to a foreign country which the Administrator determines has given the United States essentially the same rights with respect to the prevention or control of air pollution occurring in that country as is given that country by this section.

"(d) Recommendations issued following any abatement conference conducted prior to the enactment of the Clean Air Amendments of 1976 shall remain in effect with respect to any pollutant for which no national ambient air quality standard has been established under section 109 of this Act. However, the Administrator, after consultation with all agencies which were party to the conference may rescind any such recommendation on ground of obsolescence.".

SEC. 13. Section 117 of the Clean Air Act is amended—

(1) to strike subsections (a) through (c);

(2) to renumber subsections (d) and (e) as subsections (a) and (b), respectively; and

(3) to amend redesignated subsection (b)—

(A) by striking the words "the Board and" the first time the word "Board" appears and inserting in lieu thereof the word "any"; and

(B) by striking the words "of the Board" the second time the word "Board" appears.

SEC. 14. Section 118 of the Clean Air Act is amended by striking in the first sentence thereof the words "comply with Federal, State, interstate, and local requirements respecting control and abatement of air pollution to the same extent that any person is subject to such requirements," and inserting in lieu thereof the words "be subject to, and comply with, all Federal, State, interstate, and local requirements, both substantive and procedural (including any requirement for permits or reporting or any provisions for injunctive relief and such sanctions as may be imposed by a court to enforce such relief), respecting control and abatement of air pollution in the same manner, and to the same extent, as any person is subject to such requirements, including the payment of reasonable service charges. Neither the United States nor any agent, employee, nor officer thereof shall be immune or exempt from any process or sanction of any State or Federal court with respect to the enforcement of any such injunctive relief.".

SEC. 15. (a)(1) Section 119 of the Clean Air Act, as amended, is hereby repealed. All references to section 119 or subsections thereof in section 2 of the Energy Supply and Environmental Coordination Act of 1974 (Public Law 93–319) shall be construed to refer to section 113(d) of the Clean Air Act and to paragraph (5) thereof in particular. Any certification or notification required to be given by the Administrator of the Environmental Protection Agency under section 2 of the Energy Supply and Environmental Coordination Act of 1974 shall be given instead by the appropriate State.

(2) In the case of any major emitting facility to which any requirement is applicable under section 113(d)(5)(B) of the Clean Air Act and for which certification is required under section 2 of the Energy Supply and Environmental Coordination Act of 1974, the State shall certify the date which it determines is the earliest date that such facility will be able to comply with all such requirements. In the case of any plant or installation which the State determines (after consultation with the Administrator of the Environmental Protection Agency) will not be subject to an order under section 113(d) of the Clean Air Act and for which certification is required under section 2 of the Energy Supply and Environmental Coordination Act of 1974, the State shall certify the date which it determines is the earliest date that such plant or installation will be able to burn coal in compliance with all applicable emission limitations under the implementation plan.

(3) Any certification required under section 2 of the Energy Supply and Environmental Coordination Act of 1974 or under this subsection may be provided in an enforcement order under section 113(d) of the Clean Air Act.

(b) Section 111(a) of the Clean Air Act, as amended, is amended by adding the following new paragraph:

"(7) A conversion to coal (A) by reason of an order under section 2(a) of the Energy Supply and Environmental Coordination Act of 1974, or (B) which qualifies under section 113(d)(5)(A)(ii) of this Act, shall not be deemed to be a modification for purposes of paragraphs (2) and (4) of this subsection.".

SEC. 16. (a) Title I of the Clean Air Act is amended by adding at the end thereof the following new part:

"PART B—OZONE PROTECTION

"PURPOSES

"SEC. 150. The purposes of this part are (1) to provide for a better understanding of the effects of human actions on the ozone in the stratosphere, (2) to provide for a better understanding of the effects of changes in the ozone in the stratosphere on the public health and welfare, and (3) to authorize the regulation of activities which affect the ozone in the stratosphere in such a way as to cause or contribute to endangerment of the public health or welfare.

"FINDINGS AND DEFINITIONS

"SEC. 151. (a) The Congress finds, on the basis of presently available information, that—

"(1) halocarbon compounds introduced into the environment potentially threaten to reduce the concentration of ozone in the stratosphere;

"(2) ozone reduction will lead to increased incidence of solar ultraviolet radiation at the surface of the Earth;

"(3) increased incidence of solar ultraviolet radiation is likely to cause increased rates of disease in humans (including increased rates of skin cancer), threaten food crops, and otherwise damage the natural environment; and

"(4) other substances, practices, processes, and activities may affect the ozone in the stratosphere, and should be investigated to give early warning of any potential problem and to develop the basis for possible future regulatory action.

"(b) For the purpose of this part—

"(1) the term 'halocarbon' means the chemical compounds $CFCI_2$ and CF_2CI_2, other chlorofluoromethanes, and such other halogenated compounds as the Administrator determines may threaten to contribute to reductions in the concentration of the ozone in the stratosphere;

"(2) the term 'stratosphere' means that part of the atmosphere above the tropopause; and

"(3) the term 'aerosol containers' means pressurized dispensing containers.

"STUDIES AND REPORTS

"SEC. 152. (a) The Administrator shall undertake to contract with the National Academy of Sciences to—

"(1) continue the study begun prior to enactment of this part and report to the Administrator and the Congress not later than July 1, 1976, concerning the nature and likelihood of potential direct and indirect effects on the public health and welfare from the release of halocarbons into the atmosphere; and

"(2) perform further studies and report to the Administrator and the Congress not later than October 1, 1977, on—

"(A) the nature and likelihood of potential direct and indirect effects on the ozone in the stratosphere from the release of halocarbons into the atmosphere;

"(B) the nature and likelihood of potential direct and indirect effects on the ozone in the stratosphere from other substances, practices, processes, or activities;

"(C) the nature and likelihood of potential direct and indirect effects on public health or welfare from changes in the ozone in the stratosphere; and

"(D) methods to control or replace halocarbons or other substances, practices, processes, or activities which may affect the ozone in the stratosphere.

"(b) The Secretary of Labor shall study and transmit reports to the Administrator and the Congress (1) not later than October 1, 1976, with respect to the losses and gains to industry and employment which could result from the elimination of the use of halocarbons in aerosol containers and recommended means of alleviating unemployment or other undesirable economic impact, if any, resulting therefrom; and (2) not later than October 1, 1977, with respect to the losses and gains to industry and employment which could result from the control of uses of halocarbon compounds other than in aerosol containers, and recommended means of alleviating unemployment or other undesirable economic impact, if any, resulting therefrom.

"(c)(1) The National Aeronautics and Space Administration shall—

"(A) pursuant to its authority under title IV of the National Aeronautics and Space Act of 1958, as amended by Public Law 94-39, continue programs of research, technology, and monitoring of the stratosphere for the purpose of understanding the physics and chemistry of the stratosphere and for the early detection of potentially harmful changes in the ozone in the stratosphere;

"(B) in implementing this subsection, coordinate the programs of all Federal agencies relating to the research, technology, and monitoring of the phenomena of the upper atmosphere, including the stratosphere;

"(C) transmit reports by October 1, 1976, by October 1, 1977, and from time to time thereafter, but at least once each Congress, to the Administrator and the Congress on the results of the programs authorized in this subsection, together with any appropriate recommendations for Federal action, including regulations.

"(2) Nothing in title IV of the National Aeronautics and Space Act of 1958, as amended, or this Act shall prevent the National Aeronautics and Space Administration from delegating operational monitoring of the stratosphere to another appropriate Federal agency.

"(d) The Administrator of the National Oceanic and Atmospheric Administration shall continue programs of research and monitoring of the atmosphere for the purpose of early detection of potentially harmful changes in the ozone in the stratosphere and the climatic effects of reduction of ozone in the stratsphere and transmit reports by October 1, 1976, by October 1, 1977, and from time to time thereafter, but at least once each Congress, to the Administrator, the National Aeronautics and Space Administration, and the Congress on the results of such programs, together with any appropriate recommendations for Federal action, including regulations.

"(e) The Director of the National Science Foundation shall encourage and support ongoing stratospheric research programs and continuing research programs that will increase scientific knowledge of the effects of changes in the ozone layer in the stratosphere upon living organisms and ecosystems; and transmit reports by October 1, 1976, by October 1, 1977, and from time to time thereafter but at least once each Congress, to the Administrator, the National Aeronautics and Space Administration and the Congress on the results of such programs, together with any appropriate recommendations for Federal action, including regulations.

"(f) The Secretary of Agriculture shall encourage and support continuing research programs that will increase scientific knowledge of the effects of changes in the ozone in the stratosphere upon animals, crops, and other plant life; and shall transmit reports by October 1, 1976, by October 1, 1977, and from time to time thereafter but at least once each Congress, to the Administrator and the Congress on the results of such programs together with any appropriate recommendations for Federal action, including regulations.

"(g) The Secretary of Health, Education, and Welfare shall—

"(1) encourage and support continuing research programs that will increase scientific knowledge of the effects of changes in the ozone in the stratosphere upon human health; and shall transmit reports by October 1, 1976, by October 1, 1977, and from time to time thereafter, but at least once each Congress, to the Administrator and the Congress on the results of such programs, together with any appropriate recommendations for Federal action, including regulations.

"(2) In carrying out the programs authorized by this subsection, utilize the National Institute of Environmental Health Science to coordinate the programs of all Federal agencies relating to research into the effects upon human health of changes in the ozone layer in the stratosphere.

"(h) The Food and Drug Administration, in cooperation with the Consumer Product Safety Commission, shall consider proposed substitutes for halocarbons in aerosol containers and other uses and shall propose regulations to assure that such substitutes do not adversely affect human health, directly or indirectly.

"(i) The Administrator shall—

"(1) encourage and support continuing research programs that will increase scientific knowledge of the effects on public health and welfare of changes in the ozone layer in the stratosphere. Such research shall be coordinated with other Federal agencies identified in this section. He shall report to the Congress on the findings of such research by October 1, 1976, by October 1, 1977, and from time to time thereafter, but at least once each Congress.

"(2) not later than two years after the date of the enactment of the Clean Air Amendments of 1976, submit to the Congress a summary report of the results of the studies and research conducted under this section by the Environmental Protection Agency and other Federal agencies. The Administrator shall include in the report a summary of his actions regulating sources of halocarbons and his recommendations for control of substances, practices, processes, and activities other than those involving halocarbons, which are found to affect the ozone in the stratosphere and which may cause or contribute to harmful effects on public health or welfare.

"(j) In carrying out the programs provided for in subsections (b) through (i) of this section, the agencies responsible shall enlist and encourage assistance from the Nation's institutions of higher education and private organizations, including industrial, labor, consumer, environmental and other organizations, coordinate such activity with the other appropriate agencies, and solicit and consider the views of the Administrator with regard to plans for the research technology and monitoring involved so that such research technology and monitoring will help provide the information base for the Administrator to decide whether regulatory action is necessary and to take such action if it is necessary.

"(k) The Administrator shall convene a Management Council to facilitate coordination of the programs authorized under this part, which Council shall (A) be comprised of the officials responsible for the research efforts of the agencies required to perform research under this part, and of such other agencies as the Administrator may designate; (B) review plans and funding for pertinent research and studies in order to provide the information base for the Administrator to decide what regulatory action, if any, is necessary, and (C) coordinate the preparation of reports authorized or required under this part to minimize duplication and insure that the necessary reports are made available in a timely fashion.

"REGULATION

"SEC. 153. (a) Not later than January 1, 1978, the Administrator, after considering available reports under section 152, and other available information, and after consulting appropriate agencies and scientific entities, if he then finds that halocarbon emissions from aerosol containers may reasonably be anticipated to cause or contribute to the endangerment of public health or welfare, shall publish proposed regulations which prohibit or restrict the manufacture, sale, import, export, or use of aerosol containers which result in discharge of halocarbons into the atmosphere to the extent necessary to avoid any such endangerment of public health or welfare. Not later than April 1, 1978, and after public hearings, the Administrator shall promulgate and transmit to the Congress final regulations, which shall take effect if not disapproved pursuant to subsection (b) of this section.

"(b) Regulations promulgated under subsection (a) of this section and any amendment or revision thereof shall be transmitted to the Congress. A regulation transmitted under this subsection shall take effect at the end of the first period of ninety calendar days of continuous session of Congress after the date on which the regulation is transmitted to it unless, between the date of transmittal and the end of the ninety-day period, either House passes a resolution disapproving such regulation.

"(c) From time to time after April 1, 1978, the Administrator may revise, promulgate, and submit to the Congress, in accordance with subsection (b) of this section any of the regulations promulgated pursuant to this section in the light of new evidence.

"EXPEDITED REGULATION

"SEC. 154. (a) If the Administrator at any time prior to January 1, 1978, finds it necessary to protect the public health or welfare from significant risk of harmful effects which may reasonably be anticipated to arise in whole or in part from halocarbon emissions from aerosol containers, he shall promptly, after public hearings, promulgate regulations which prohibit or restrict the manufacture, production, sale, import, export, or use of aerosol containers discharging halocarbons into the atmosphere. In promulgating such regulations the Administrator shall take into account the public need for such aerosol containers, the costs and feasibility of such action, and all other costs related to depletion of stratospheric ozone.

"(b) To the extent determined essential to protect the public health and welfare pursuant to this section, the Administrator may in the promulgation of regulations pursuant to subsection (a) proceed without regard to such provisions of title 5 of the United States Code, relating to administrative procedure, as he determines necessary.

"(c) From time to time the Administrator may revise any of the regulations issued pursuant to this section in the light of new evidence.

"ADDITIONAL REGULATION

"SEC. 155. The Administrator shall—

"(a) consult with appropriate Federal agencies and scientific entities;

"(b) afford an opportunity for public hearing; and

"(c) if he then finds that halocarbons released from sources other than aerosol containers may reasonably be anticipated to cause or contribute to the endangerment of the public health or welfare, publish not later than April 1, 1978, proposed regulations for the control of these emissions. Such regulations shall restrict the manufacture, sale, import, export, or use of such sources to the extent necessary to avoid such endangerment of public health or welfare, and shall include limitations on emissions from such sources to the maximum extent feasible, taking into account the cost of achieving such limitations and all other costs related to the depletion of stratospheric ozone. The Administrator shall take into consideration the findings of other Federal agencies conducting research on stratospheric ozone pertaining to the public health and welfare, and available reports prepared pursuant to section 152. Regulations proposed under this section shall be promulgated in final form within ninety days. From time to time the Administrator may revise any of the regulations issued under this section in the light of new evidence.

"PENALTIES

"SEC. 156. (a) It shall be unlawful for any person to violate any provision of regulations pursuant to section 153, 154, or 155 of this Act.

"(b) (1) The Administrator shall commence a civil action in the United States district court in the judicial district in which the person alleged to be engaged in conduct prohibited by regulations under section 153, 154, or 155 of this Act is located or conducts business, for appropriate relief, including a temporary restraining order or a preliminary or permanent injunction to restrain any such conduct.

"(2) Any person engaged in conduct prohibited by regulations under section 153, 154, or 155 of this Act, other than use of aerosol containers by an ultimate consumer, shall be subject to a civil penalty of not more than $10,000 per day of violation.

"INTERNATIONAL COOPERATION

"SEC. 157. The President shall undertake to enter into international agreements to foster cooperative research which complements studies and research authorized by this part, and to develop standards and regulations which protect the stratosphere consistent wtih regulations under sections 153, 154, and 155 of this Act. For these purposes the President through the Secretary of State and the Assistant Secretary of State for Oceans and International Environmental and Scientific Affairs, shall negotiate multilateral treaties, conventions, resolutions, or other agreements, and formulate, present, or support proposals at the United Nations and other appropriate international forums and shall report to the Congress periodically on efforts to arrive at such agreements. Research agreements shall be developed in accordance with section 8 of Public Law 94–39, and other existing legislation.

"STATE AUTHORITY

"SEC. 158. Nothing in this part shall preclude or deny the right of any State or political subdivision thereof to adopt or enforce any regulation controlling the manufacture, sale, or use of halocarbons except that if any regulation is in effect under this part such State or political subdivision may not adopt or enforce any regulation which is less stringent than the regulation under this part.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 159. For the purpose of carrying out the provisions of this part, there are authorized to be appropriated—

"(i) to the National Aeronautics and Space Administration, the National Science Foundation, and the Department of State, such sums as may be necessary for the fiscal year ending June 30, 1976, the transition quarter ending September 30, 1976, and the fiscal year ending September 30, 1977; and

"(ii) to all other agencies such sums as may be necessary.".

(b) Title I of the Clean Air Act is amended by inserting immediately before section 101 the following:

"PART A—AIR QUALITY AND EMISSION LIMITATIONS".

SEC. 17. (a) Section 202(a) of the Clean Air Act is amended by adding a new paragraph (3) as follows:

"(3) The regulations under paragraph (1) of this subsection applicable to emissions of carbon monoxide, hydrocarbons, particulates, and oxides of nitrogen from heavy duty trucks, buses, and motorcycles and engines thereof manufactured in model years (A) 1979 and 1980 (and, if appropriate in the judgment of the Administrator, 1978) shall contain standards which require a reduction of emissions of such pollutants established by the application of the best available control technology, taking into account the cost of compliance, as determined by the Administrator, and (B) 1981 and thereafter shall contain standards requiring a reduction of emissions of such pollutants equivalent to the levels required by the standards established under subsection (b) of this section, except that for heavy duty motor vehicles over 10,000 pounds and engines thereof such standards shall constitute a reduction from uncontrolled levels of emissions of carbon monoxide, hydrocarbons, and oxides of nitrogen as actually measured from gasoline powered heavy duty motor vehicles over 10,000 pounds and engines thereof equivalent to the percentage reduction required for light duty motor vehicles in model year 1980 compared to the appropriate model year 1970 base or, for oxides of nitrogen, model year 1971 base (unless the Administrator finds and reports to the Congress that the control technology is not available or has not been available for a sufficient period of time to achieve compliance on any class of heavy duty vehicle or engine thereof and establishes standards which are based on the best available control technology and which constitute a reduction from any standards which apply in model years 1978 through 1980). The Administrator may, where appropriate, divide vehicles and engines thereof regulated under this paragraph into classes by size, weight, horsepower, and use patterns.".

(b) Section 206(a) (1) of the Clean Air Act is amended by inserting "(A)" after "(1)" and by adding at the end thereof the following:

"(B) In the case of heavy-duty motor vehicles, the Administrator may perform, or require to be performed, the tests provided under subparagraph (A) of this paragraph on heavy-duty motor vehicle engines for application in a range of vehicle configuration and use patterns.".

SEC. 18. Subparagraph (A) of paragraph (1) of section 202(b) of the Clean Air Act is amended by striking the term "1977", and inserting in lieu thereof "1979"; by striking the phrase "and 1976" after the term "1975" where it first appears, and inserting in lieu thereof "1976, 1977, and 1978".

SEC. 19. Subparagraph (B) of paragraph (1) of section 202(b) of the Clean Air Act is amended to read as follows:

"(B) The regulations under subsection (a) applicable to emissions of oxides of nitrogen from light duty vehicles and engines manufactured during (i) model year 1976 shall contain standards which provide that such emissions from such vehicles and engines may not exceed 3.1 grams per vehicle mile, (ii) (subject to the provisions of paragraph (5) of this subsection) model years 1977, 1978, and 1979 shall contain standards which provide that such emissions from such vehicles and engines may not exceed 2.0 grams per vehicle mile, and (iii) model year 1980 and thereafter shall contain standards which provide that such emissions from such vehicles and engines may not exceed 1.0 gram per vehicle mile.".

SEC. 20. Section 202(b) (5) of the Clean Air Act is amended to read as follows:

"(5) The Administrator shall promulgate regulations requiring each manufacturer whose sales represent more than 3 per centum of total light duty motor vehicle unit sales in the world to comply during model year 1979 with the emission standards required under paragraph (1) of this subsection for model year 1980 on 10 per centum of the manufacturer's projected total sales in model year 1979, as determined by the Administrator. Such regulations shall provide that no more than 90 per centum of such manufacturer's projected total sales of light duty motor vehicles in model year 1979 may be sold in compliance with the emission standards otherwise required under paragraph (1) of this subsection for model year 1979.".

SEC. 21. Section 202(b) of the Clean Air Act is amended by adding a new paragraph (6) as follows:

"(6) The Congress hereby declares and establishes as a research objective, the development of propulsion systems and emission control technology to achieve standards which represent a reduction of at least 90 per centum from the average emissions of oxides of nitrogen actually measured from light duty motor vehicles manufactured in model year 1971 not subject to any Federal or State emission standard for oxides of nitrogen. The Administrator shall, by regulations promulgated within one hundred and eighty days after enactment of the Clean Air Amendments of 1976, require each manufacturer whose sales represent at least 0.5 per centum of light duty motor vehicle sales in the United States, to build and, on a regular basis, demonstrate the operation of light duty motor vehicles that meet this research objective, in addition to any other applicable standards or requirements for other pollutants under this Act. Such demonstration vehicles shall be submitted to the Administrator no later than model year 1978 and in each model year thereafter. Such demonstration shall, in accordance with applicable regulations, to the greatest extent possible, (A) be designed to encourage the development of new powerplant and emission control technologies that are fuel efficient, (B) assure that the demonstration vehicles are or could reasonably be expected to be within the productive capability of the manufacturers, and (C) assure the utilization of optimum engine, fuel, and emission control systems.".

SEC. 22. Section 202(c) (1) of the Clean Air Act is amended to read as follows:

"(c) (1) The Administrator shall undertake to enter into appropriate arrangements with the National Academy of Sciences to conduct continuing comprehensive studies and investigations of the effects on public health and welfare of emissions subject to subsection (a) of this section (including sulfur compounds) and the technological feasibility of meeting emission standards required to be prescribed by the Administrator by subsection (b) of this section. The Administrator shall report to the Congress within six months of the date of enactment of this paragraph and each year thereafter regarding the status of the contractual arrangements and conditions necessary to implement this paragraph.".

SEC. 23. Section 202(d) of the Clean Air Act is amended by amending paragraph (2) to read as follows:

"(2) in the case of any motorcycle or any other motor vehicle or motor vehicle engine not included in paragraph (1), be a period of use the Administrator shall determine.".

SEC. 24. (a) Section 203(a) of the Clean Air Act is amended by inserting "(A)" after "(3)" and by adding a new subparagraph (B) at the end of paragraph (3) as follows:

"(B) for any person engaged in the business of repairing, servicing, selling, leasing, or trading motor vehicles or motor vehicle engines, or who operates a fleet of motor vehicles, knowingly to remove or render inoperative any device or element of design installed on or in a motor vehicle or motor vehicle engine in compliance with regulations under this title following its sale and delivery to the ultimate purchaser, or".

(b) Section 205 of the Clean Air Act is amended to read as follows:

"SEC. 205. Any person who violates paragraph (1), (2), or (4) of section 203(a) or any manufacturer who violates paragraph (3) of section 203(a) shall be subject to a civil penalty of not more than $10,000. Any person who violates paragraph (3) of section 203(a) shall be subject to a civil penalty of not more than $2,500. Any such violation with respect to paragraph (1), (2), (3), or (4) of section 203(a) shall constitute a separate offense with respect to each motor vehicle or motor vehicle engine.".

SEC. 25. Section 203(a)(4) of the Clean Air Act is amended by striking "or" at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting ", or" in lieu thereof, and by adding a new subparagraph (C) as follows:

"(C) except as provided in subsection (c) (3) of section 207, to provide directly or indirectly in any communication to the ultimate purchaser or any subsequent purchaser that the coverage of any warranty under this Act is conditioned upon use of any part, component, or system manufactured by such manufacturer or any person acting for such manufacturer or under his control, or conditioned upon service performed by any such person.".

SEC. 26. (a) Section 206(b)(1) of the Clean Air Act is amended by inserting "(A)" after "(b)(1)" and adding a new subparagraph (B) at the end of such subparagraph as follows:

"(B) The Administrator shall within six months of the date of enactment of this subparagraph establish a test procedure to implement, beginning no later than model year 1977, the authority of subparagraph (A) of this paragraph.".

(b) Section 206(a) of the Clean Air Act is amended by adding the following new paragraph:

"(3) Each new motor vehicle or new motor vehicle engine shall be certified to conform to the regulations prescribed under section 202 of this Act for the particular vehicle configuration, anticipated use pattern, and equipment of such vehicle or engine. The Administrator shall certify each vehicle or engine with an allowance to assure conformity with such regulations for air-conditioning or similar equipment to be subsequently installed. Such vehicle or engine shall be deemed to be covered by a certificate of conformity only if no equipment is added or other modification made which is not within the allowance provided for in this paragraph.".

SEC. 27. Section 207(a)(1) of the Clean Air Act is amended by adding the following new sentences at the end thereof: "The cost of any part, device, or component of any light-duty vehicle that is designed for emission control and which in the instructions issued pursuant to subsection (c)(3) of this section is scheduled for placement during the useful life of the vehicle in order to maintain compliance with regulations under section 202 of this Act, the failure of which shall not interfere with the normal performance of the vehicle, and the expected retail price of which, including installation costs, is greater than 2 per centum of the suggested retail price of such vehicle, shall be borne or reimbursed at the time of replacement by the vehicle manufacturer and shall be provided without cost to the ultimate purchaser, subsequent purchaser, or dealer. The term 'designed for emission control' as used herein means a catalytic converter, thermal reactor, or other component installed on or in a vehicle for the sole or primary purpose of reducing vehicle emissions. It is not intended to include those vehicle components which were in general use prior to model year 1968 and the primary function of which is not related to emission control".

SEC. 28. (a) Section 207(a) of the Clean Air Act is amended by inserting "(1)" after "(a)" and by adding the following new paragraph at the end thereof:

"(2) In the case of a motor vehicle part or motor vehicle engine part, the manufacturer of such part may certify that use of such part will not result in a failure of the vehicle or engine to comply with emission standards promulgated under section 202 of this Act. Such certification shall be made only under such regulations as may be promulgated by the Administrator to carry out the purposes of subsection (b). The Administrator shall promulgate such regulations no later than one year after the date of the enactment of this paragraph. Before the effective date of such regulations all parts shall be deemed to have such certification.".

(b) Section 207(b)(2) of such Act is amended by adding the following at the end thereof: "No such warranty shall be invalid on the basis of any part used in the maintenance or repair of a vehicle or engine if such part was certified as provided under subsection (a)(2) of this section, shall any such warranty be invalid on the basis of the installation or use of any air-conditioning system not installed in the factory of the vehicle manufacturer, where the particular vehicle or engine in which such air-conditioning system is installed is certified in accordance with section 206(a)(3) with an allowance for air-conditioning or similar equipment to be subsequently installed.".

SEC. 29. Paragraph (3) of subsection (c) of section 207 of the Clean Air Act is amended to read as follows:

"(3)(A) The manufacturer shall furnish with each new motor vehicle or motor vehicle engine written instructions for the proper maintenance and use of the vehicle or engine by the ultimate purchaser and such instructions shall correspond to regulations which the Administrator shall promulgate.

"(B) The instruction under subparagraph (A) of this paragraph shall not include any condition on the ultimate purchaser's using, in connection with such vehicle or engine, any component or service (other than a component or service provided without charge under the terms of the purchase agreement) which is identified by brand, trade, or corporate name; or directly or indirectly distinguishing between service performed by the franchised dealers of such manufacturer or any other service establishments with which such manufacturer has a commercial relationship, and service performed by independent automotive repair facilities with which such manufacturer has no commercial relationship; except that the prohibition of this subsection may be waived by the Administrator if—

"(i) the manufacturer satisfies the Administrator that the vehicle or engine will function properly only if the component or service so identified is used in connection with such vehicle or engine, and

"(ii) the Administrator finds that such a waiver is in the public interest.

"(C) In addition, the manufacturer shall indicate by means of a label or tag permanently affixed to such vehicle or engine that such vehicle or engine is covered by a certificate of conformity issued for the purpose of assuring achievement of emissions standards prescribed under section 202 of this Act. Such label or tag shall contain such other information relating to control of motor vehicle emissions as the Administrator shall prescribe by regulation.".

"SEC. 30. Section 207 of the Clean Air Act is amended by adding the following new subsection:

"(g) For the purposes of this section, the owner of any motor vehicle or motor vehicle engine warranted under this section is responsible in the proper maintenance of such vehicle or engine to replace and to maintain, at his expense at any service establishment or facility of his choosing, such items as spark plugs, points, condensers, and any other part, item, or device related to emission control (but not designed for emission control under the terms of the last three sentences of section 207(a)(1)) that has a design life of less than the useful life of such vehicle or engine, unless such part, item, or device is covered by any warranty not mandated by this Act or unless such part fails prior to its design life.".

SEC. 31. Section 209 of the Clean Air Act is amended by adding the following new subsection:

"(d) Notwithstanding subsection (a) of this section, any State in which a region or portion thereof has been identified pursuant to section 107(d)(1)(A) of this Act may adopt and enforce for model year 1979 the emission standards for light duty motor vehicles required for model year 1980 under section 202(b)(1) of this Act: *Provided*, That the State shows to the satisfaction of the Administrator that the adoption of the standard in 1979 is required to achieve any ambient air quality standard by 1982 and maintain thereafter. Light duty motor vehicles offered for sale within such State shall be certified to comply with such standards in accordance with the procedures established under section 206 of this Act.".

SEC. 32. Section 211 of the Clean Air Act is amended by adding a new subsection (e) as follows:

"(e) The Administrator shall conduct a study and report to Congress by July 1, 1977, on the emission of sulfur-bearing compounds from motor vehicles and motor vehicle engines and aircraft engines. Such study and report shall include but not be limited to a review of the effects of such emissions on public health and welfare and an analysis of the costs and benefits of alternatives to reduce or eliminate such emissions (including desulfurization of fuel, short-term allocation of low sulfur crude oil, technological devices used in conjunction with current engine technologies, alternative engine technologies, and other methods) as may be required to achieve any proposed or promulgated emission standards for sulfur compounds.".

SEC. 33. (a) Title II of the Clean Air Act is amended by adding at the end thereof the following new part:

"PART C—RAILROAD LOCOMOTIVE EMISSION STANDARDS

"SEC. 235. (a)(1) Within ninety days after the date of enactment of the Clean Air Amendments of 1976, the Administrator shall commence a study and investigation of emissions of air pollutants from railroad locomotives, locomotive engines, and secondary power sources on railroad rolling stock, in order to determine—

"(A) the extent to which such emissions affect air quality in air quality control regions throughout the United States, and

"(B) the technological feasibility of controlling such emissions.

"(2) (A) Within one hundred and eighty days after commencing such study and investigation, the Administrator shall publish a report of such study and investigation and shall publish proposed emission regulations applicable to emissions of any air pollutant from any class or classes of locomotives, locomotive engines and secondary power sources on railroad rolling stock, which in his judgment cause or contribute to or are likely to cause or contribute to air pollution which endangers the public health or welfare.

"(B) Such proposed regulations shall include emission standards setting limits on air pollutant emissions which reflect the degree of emission reduction achievable through the application of the best available technology, taking into account the cost of compliance, as determined by the Administrator. Such regulations may identify the type of technology available to achieve such reduction.

"(3) The Administrator shall hold public hearings with respect to such proposed regulations. Within ninety days after the issuance of such proposed regulations, he shall issue such regulations with such modifications as he deems appropriate. Such regulations may be revised from time to time.

"(b) Any regulation prescribed under this section (and any revision thereof) shall take effect after such period as the Administrator finds necessary (after consultation with the Secretary of Transportation) to permit the development and application of the requisite technology, giving appropriate consideration to the cost of compliance within such period.

"(c) Any regulations under this section, or amendments thereto, with respect to locomotives, locomotive engines, and secondary power sources on railroad rolling stock, shall be prescribed only after consultation with the Secretary of Transportation in order to assure appropriate consideration for safety.

"Sec. 236. The Secretary of Transportation, after consultation with the Administrator, shall prescribe regulations to insure compliance with all standards prescribed under section 235 by the Administrator. Such Secretary shall insure that all necessary inspections are accomplished and may execute any power or duty vested in him by any other provision of law in the execution of all powers and duties vested in him under this section.

"Sec. 237. After the effective date of regulation under section 235 of this Act no State or political subdivision thereof may adopt or enforce any standard respecting emissions of any air pollutant from any railroad locomotives, locomotive engines, or secondary power sources on railroad rolling stock, unless such standard is identical to a standard applicable to emissions prescribed by any regulation under this part.".

(b) Section 116 of the Clean Air Act is amended by striking out "and 233" and inserting in lieu thereof "233 and 237".

Sec. 34. (a) Section 302 of the Clean Air Act is amended by adding five new subsections as follows:

"(i) The term 'emission limitation' means a requirement established by a State or the Administrator which limits the quantity, rate, or concentration of emissions of air pollutants on a continuous basis, including a detailed schedule and timetable of compliance.

"(j) The term 'schedule and timetable of compliance' means a schedule of remedial measures including an enforceable sequence of actions or operations leading to compliance with an emission limitation, other limitation, prohibition, or standard.

"(k) The term 'major emitting facility' means any stationary source of air pollutants which emits, or has the potential to emit, 100 tons per year or more of any air pollutant, except that for the purposes of section 110(g) of this Act, the term is limited to the following types of such stationary sources: fossil-fuel fired steam electric plants of more than 250 million British thermal units per hour heat input, coal cleaning plants (thermal dryers), kraft pulp mills, Portland Cement plants, primary zinc smelters, iron and steel mill plants, primary aluminum ore reduction plants, primary copper smelters, municipal incinerators capable of charging more than 250 tons of refuse per day, hydrofluoric, sulfuric, and nitric acid plants, petroleum refineries, lime plants, phosphate rock processing plants, coke oven batteries, sulfur recovery plants, carbon black plants (furnace process), primary lead smelters, fuel conversion plants, sintering plants, secondary metal production facilities, chemical process plants, fossil-fuel boilers of more than 250 million British thermal units per hour heat input, petroleum storage and transfer facilities with a capacity exceeding 300,000 barrels, taconite ore processing facilities, glass fiber processing plants, charcoal production facilities, and such other major emitting facilities as the Administrator determines to be significant potential sources of air pollutants.

"(l) The term 'baseline air quality concentration' refers to the ambient concentration levels which exist at the time of the first application for a permit in an area under section 110(g) of this Act, based on air quality data available in the Environmental Protection Agency or an air pollution control agency and such monitoring data as the permitting authority may require the permit applicant to submit. Such ambient concentration levels shall take into account all projected emissions in, or which may affect, such area from any major emitting facility on which construction commenced prior to January 6, 1975, but which has not begun operation by the date of the baseline air quality concentration determination. Emissions of sulfur oxides and particulate matter from any major emitting facility on which construction commenced after January 6, 1975, shall be accounted against the limitations on projected increases in pollutant concentrations established in paragraphs (2) and (5) of section 110(g) of this Act.

"(m) The term 'stationary source' shall have the same meaning as such term has under section 111(a)(3) of this Act.".

(b) Section 302(d) of the Clean Air Act is amended—

(1) by striking out the word "and" immediately preceding "American Samoa";

(2) by striking the period immediately following "American Samoa" and inserting in lieu thereof ", and the Trust Territory of the Pacific Islands.".

Sec. 35. (a) Section 304(a) of the Clean Air Act is amended—

(1) by striking out the period at the end of paragraph (2) and inserting in lieu thereof ", or"; and

(2) by inserting immediately after paragraph (2) the following new paragraph:

"(3) against any person who proposes to construct or constructs any new major emitting facility without a permit required under section 110(g) of this Act or who is alleged to be in violation of any condition of such permit.".

(b) Section 304(f) of the Clean Air Act is amended by inserting "requirement," after "a" in paragraph (1).

Sec. 36. Section 307 of the Clean Air Act is amended by adding a new subsection as follows:

"(d) In any judicial proceeding under this Act in which the United States or an officer or employee thereof is a party (other than as an intervenor), any party other than the United States which prevails in such action shall recover from the United States the reasonable costs for such party's participation in such proceeding, including reasonable attorney's fees, expert witness fees, and the costs of any studies, analyses, tests, or engineering reports that the court finds were necessary to litigate such action. In any case in which such party prevails in part, the court shall have discretion to award such reasonable costs.".

Sec. 37. (a) The Clean Air Act is amended by inserting a new section 314 as follows after section 313 and renumbering succeeding sections accordingly:

"EMPLOYEE PROTECTION

"Sec. 314. (a) No person shall fire, or in any other way discriminate against, or cause to be fired or discriminated against any employee or any authorized representative of employees by reason of the fact that such employee or representative has filed, instituted, or caused to be filed or instituted any proceeding under this Act or under any applicable implementation plan, or has testified or is about to testify in any proceeding resulting from the administration or enforcement of the provisions of this Act or of any applicable implementation plan.

"(b) Any employee or a representative of employees who believes that he has been fired or otherwise discriminated against by any person in violation of subsection (a) of this section may, within thirty days after such alleged violation occurs, apply to the Secretary of Labor for a review of such firing or alleged discrimination. A copy of the application shall be sent to such person who shall be the respondent. Upon receipt of such application, the Secretary of Labor shall cause such investigation to be made as he deems appropriate. Such investigation shall provide an opportunity for a public hearing at the request of any party to such review to enable the parties to present information relating to such alleged violation. The parties shall be given written notice of the time and place of the hearing at least five days prior to the hearing. Any such hearing shall be of record and shall be subject to section 554 of title 5 of the United States Code. Upon receiving the report of such investigation, the Secretary of Labor shall make findings of fact. If he finds that such violation did occur, he shall issue a decision, incorporating an order therein and his findings, requiring the party committing such violation to take such affirmative action to abate the violation as the Secretary of Labor deems appropriate, including, but not limited to, the rehiring or reinstatement of the employee or representative of employees to his former position with compensation. If he finds that there was no such violation, he shall issue an order denying the application. Such order issued by the Secretary of Labor under this subparagraph shall be subject to judicial review in the same manner as orders and decisions of the Administrator are subject to judicial review under this Act.

"(c) Whenever an order is issued under this section to abate such violation, at the request of the applicant, a sum equal to the aggregate amount of all costs and expenses (including the attorney's fees) as determined by the Secretary of Labor, to have been reasonably incurred by the applicant for, or in connection with, the institution and prosecution of such proceedings, shall be assessed against the person committing such violation.

"(d) This section shall have no application to any employee who, acting without direction from his employer (or his agent) deliberately violates any requirement of an applicable implemenation plan approved or promulgated under section 110 of this Act, a new source performance standard under section 111 of this Act, a standard for hazardous emissions under section 112 of this Act, any requirement relating to inspections under section 114 of this Act, or any other prohibition or limitation established under this Act.

"(e) The Administrator shall conduct continuing evaluations of potential loss or shifts of employment which may result from the administration or enforcement of the provision of this Act and applicable implementation plans, including where appropriate, investigating threatened plant closures or reductions in employment allegedly resulting from such administration or enforcement. Any employee who is discharged, or laid off, threatened with discharge or layoff, or otherwise discriminated against by any person because of the alleged results of such administration or enforcement, or any representative of such employee, may request the Administrator to conduct a full investigation of the matter. The Administrator shall thereupon investigate the matter and, at the request of any party, shall hold public hearings on not less than five days' notice, and shall at such hearings require the parties, including the employer involved, to present information relating to the actual or potential effect of such administration or enforcement on employment and on any alleged discharge, layoff, or other discrimination and the detailed reasons or justification therefor. Any such hearing shall be of record and shall be subject to section 554 of title 5 of the United States Code. Upon receiving the report of such investigation, the Administrator shall make findings of fact as to the effect of such administration or enforcement on employment and on the alleged discharge, layoff, or discrimination and shall make such recommendations as he deems appropriate. Such report, findings, and recommendations shall be available to the public. Nothing in this subsection shall be construed to require or authorize the Administrator or any State to modify or withdraw any standard, limitation, or any other requirement of this Act or any applicable implementation plan.".

(b) Section 114 of the Clean Air Act is amended:

(1) To amend paragraph (iii) of subsection 114(a) to read as follows:

"(iii) carrying out section 119, 303, or 314.".

(2) To amend paragraph (2) of subsection 114(a) to strike the "and" at the end of section 114(a)(2)(A); to change the period at the end of section 114(a)(2)(B) to a comma; and inserting the following:

"and (C) may at reasonable times have access to and copy any employer's records relating to matters being investigated pursuant to section 314.".

SEC. 38. The Clean Air Act is amended by inserting a new section 315 as follows after new section 314 and renumbering succeeding sections accordingly:

"NATIONAL COMMISSION ON AIR QUALITY

"SEC. 315. (a) There is established a National Commission on Air Quality which shall study and report to the Congress on—

"(1) the economic, technological, and environmental consequences of achieving or not achieving the purposes of this Act and programs authorized by it;

"(2) available alternatives, including enforcement mechanisms to protect and enhance the quality of the Nation's air resources so as to promote the public health and welfare and to achieve the other purposes of the Act, including achievement and maintenance of national ambient air quality standards and in accordance with subsection (i) of this section the prevention of significant deterioration of air quality;

"(3) the technological capability of achieving and the economic, energy, and environmental impacts of achieving or not achieving required emission control levels for mobile sources of oxides of nitrogen (including the research objective of 0.4 gram per vehicle mile) in relation to and independent of regulation of emissions of oxides of nitrogen from stationary sources;

"(4) air pollutants not presently regulated, which pose or may in the future pose a threat to public health or public welfare and options available to regulate emissions of such pollutants;

"(5) the adequacy of research, development, and demonstrations being carried out by Federal, State, local, and nongovernmental entities to protect and enhance air quality;

"(6) the ability of (including financial resources, manpower, and statutory authority) Federal, State, and local institutions to implement the purposes of the Act;

"(7) the extent to which the reduction of hydrocarbon emissions is an adequate or appropriate method to achieve primary standards for photochemical oxidants. Such study shall include—

"(A) a description and analysis of the various pollutants which are commonly referred to as 'photochemical oxidants' or chemical precursers to photochemical oxidants;

"(B) an analysis of any pollutants or combination of pollutants which need to be reduced to achieve any photochemical oxidant standard, and the amount of such reduction;

"(C) the relationship between the reductions of hydrocarbons, oxides of nitrogen, and any other pollutants and the achievement of applicable standards for photochemical oxidants;

"(D) the degree to which background or natural sources and long-range transportation of pollutants contribute to measured ambient levels of photochemical oxidants;

"(E) any other oxidant-related issues which the Commission determines to be appropriate;

"(8) alternative strategies for permitting, without impeding the achievement of national ambient air quality standards as expeditiously as possible, the construction of new facilities and the modification of existing facilities in air quality control regions exceeding the national ambient air quality standard for any pollutant regulated under the Act.

"(b) Such Commission shall be appointed within sixty days after enactment of this section and shall be composed of sixteen members, including the chairman and the ranking minority Member of the Senate Committee on Public Works and the House Committee on Interstate and Foreign Commerce, who shall serve on such Commission ex officio and without vote, and twelve members of the public appointed by the President. Such Commission shall include four State Governors, who may designate the chief administrative officer of the State's air pollution control agency. The Chairman of such Commission shall be elected from among its members.

"(c) The heads of the departments, agencies, and instrumentalities of the executive branch of the Federal Government shall cooperate with the Commission in carrying out the requirements of this section, and shall furnish to the Commission such information as the Commission deems necessary to carry out this section.

"(d) A report, together with any appropriate recommendations, shall be submitted to the Congress on the results of the investigation and study concerning section (a)(3) of this section no later than March 1, 1977, in order that Congress may have this information in a timely fashion if it deems further changes are needed in the requirements for control of emissions of oxides of nitrogen under this Act.

"(e)(1) Except as provided in paragraph (2) of this subsection, a report shall be submitted with regard to all other Commission studies and investigations, together with any appropriate recommendations, not later than three years after the date of enactment of this section.

"(2) A report on the results of the study and investigation of the Commission authorized under subsection (i) of this section, together with any appropriate recommendations, shall be submitted not later than two years after the date of enactment of this section.

"(3) A report on the results of the study and investigation of the Commission authorized under subsection (a)(7) of this section, together with any appropriate recommendations, shall be submitted not later than two years after the date of enactment of this section. During the preparation of this specific study and report, the Commission shall seek the participation and consultation of the Chairman of the Council on Environmental Quality; the Administrator of the National Oceanic and Atmospheric Administration; the Administrator of the Environmental Protection Agency; and Governors of those States having air quality control regions in which primary ambient air quality standards for photochemical oxidants are exceeded at the time of enactment of these amendments or are projected to be exceeded within the period of the study, or the chief administrative officers of their State air pollution control agencies designated by any State Governor. The Commission may contract with nonprofit technical and scientific organizations, including the National Academy of Sciences, for the purpose of developing necessary technical information for the study authorized by subsection (a)(7) of this section.

"(f) The members of the Commission who are not officers or employees of the United States, while attending conferences or meetings of the Commission or while otherwise serving at the request of the Chairman shall be entitled to receive compensation at a rate not in excess of the maximum rate of pay for grade GS-18, as provided in the General Schedule under section 5332 of title V of the United States Code, including traveltime and while away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence as authorized by law (5 U.S.C. 73b-2) for persons in the Government service employed intermittently.

"(g) There is authorized to be appropriated, for use in carrying out this section, not to exceed $17,000,000.

"(h) In the conduct of the study, the Commission is authorized to contract with nongovernmental entities that are competent to perform research or investigations in areas within the Commission's mandate, and to hold public hearings, forums, and workshops to enable full public participation.

"(i)(1) The Commission shall, in carrying out the study authorized under this section, give priority to a study of the implementation of the provisions of subsection (g) of section 110 of this Act.

"(2) In carrying out the authority of this subsection the Commission shall study, among others, the following:

"(A) whether the provisions relating to the designation of, and protection of air quality in class I regions under this Act are appropriate to protect the air quality over lands of special national significance, including recommendations for, and methods to (i) add to or delete lands from such designation, and (ii) provide appropriate protection of the air quality over such lands;

"(B) whether the provisions of subsection (g) of section 110 of this Act, including the three-hour and twenty-four-hour increments, (i) affect the location and size of major emitting facilities, and (ii) whether such effects are in conflict or consonance with other national policies regarding the development of such facilities;

"(C) whether the technology is available to control emissions from the major emitting facilities which are subject to regulation under subsection (g) of section 110 of this Act, including an analysis of the cost associated with that technology;

"(D) whether the exclusion of nonmajor emitting sources from the regulatory framework under this Act will affect the protection of air quality in class I and class II regions designated under this Act;

"(E) whether the increments of change of air quality under this Act are appropriate to prevent significant deterioration of air quality in class I and class II regions designated under this Act; and

"(F) whether the choice of predictive air quality models and the assumptions of those models are appropriate to protect air quality in the class I and class II regions designated under this Act for the pollutants subject to regulation under subsection (g) of section 110 of this Act.

"(3) For the study authorized under this subsection there shall be made available by contract to the Commission from the appropriation to the Environmental Protection Agency for fiscal year 1977 the sum of $1,000,000.".

Such study shall be undertaken primarily by the Bureau of Competition in consultation with the Bureau of Consumer Affairs, the Department of Justice, and the Environmental Protection Agency. The report of such study shall be submitted to the Committee on Public Works of the Senate and the Committee on Interstate and Foreign Commerce of the House of Representatives no later than eighteen months after the enactment of the Clean Air Amendments of 1976.

SEC. 41. The Congress finds that emissions of oxides of nitrogen are projected to increase dramatically in coming years and that inadequate controls are currently projected for stationary sources of oxides of nitrogen, and directs the Administrator to study and report to the Congress within one year on the possible creation of a system of penalties on emissions of oxides of nitrogen. Such penalties shall be designed for new major emitting facilities, or existing major emitting facilities, or both, to encourage the development of more effective systems and technologies for control of emissions of oxides of nitrogen. Any proposed penalty system recommended by the Administrator should be planned to terminate, for each category of facilities, at such time as the Administrator is satisfied that adequate technology exists and is available to control oxides of nitrogen to the greatest extent practicable for that category of facilities, and that such controls are being, or will be, installed on all such facilities. As a part of such report, the Administrator shall also recommend a system by which major emitting facilities would be required to compile records to determine any such emission penalty that would be due.

SEC. 42. (a) No suit, action, or other proceeding lawfully commenced by or against the Administrator or any other officer or employee of the United States in his official capacity or in relation to the discharge of his official duties under the Clean Air Act, as amended, as in effect immediately prior to the date of enactment of this Act shall abate by reason of the taking effect of the amendments made by this Act. The court may, on its own motion or that of any party made at any time within twelve months after such taking effect, allow the same to be maintained by or against the Administrator or such officer or employee.

(b) All rules, regulations, orders, determinations, contracts, certifications, authorizations, delegations, or other actions duly issued, made, or taken by or pursuant to the Clean Air Act, as amended, as in effect immediately prior to the date of enactment of this Act, and pertaining to any functions, powers, requirements, and duties under the Clean Air Act, as amended, as in effect immediately prior to the date of enactment of this Act, and not suspended by the Administrator or the courts, shall continue in full force and effect after the date of enactment of this Act until modified or rescinded in accordance with the Clean Air Act as amended by this Act.

(c) Nothing in this Act nor any action taken pursuant to this Act shall in any way affect any requirement of an approved implementation plan in effect under section 110 of this Act or any other provision of the Act in effect under the Clean Air Act before the date of enactment of this section until modified or rescinded in accordance with the Clean Air Act as amended by this Act.

SEC. 43. This Act may be cited as the "Clean Air Amendments of 1976".

Mr. MUSKIE. Mr. President, I move to reconsider the vote by which the bill passed.

Mr. GRAVEL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MUSKIE. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make technical and clerical corrections in the engrossment of the Senate amendments.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MUSKIE. I ask unanimous consent that 800 copies of the bill, as passed by the Senate, be printed for use of the Committee on Public Works.

The PRESIDING OFFICER. Without objection, it is so ordered.

TAX REFORM ACT OF 1976

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of the unfinished business, H.R. 10612, which the clerk will state.

The legislative clerk read as follows:

A bill (H.R. 10612) to reform the tax laws of the United States.

Mr. GRAVEL. Mr. President, I ask unanimous consent to take up section 1205, dealing with administrative summonses.

Mr. HASKELL. Reserving the right to object, Mr. President.

The PRESIDING OFFICER. The Chair did not hear the Senator's request.

Mr. GRAVEL. I ask unanimous consent that we move to section 1205, administrative summonses.

Mr. HASKELL. Objection.

The PRESIDING OFFICER. Objection is heard.

Mr. GRAVEL. I am happy to yield to the Senator from Connecticut.

ENERGY CONSERVATION AND PRODUCTION ACT—CONFERENCE REPORT

Mr. RIBICOFF. Mr. President, I submit a report of the committee of conference on H.R. 12169 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated by title.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 12169) to amend the Federal Energy Administration Act of 1974 to provide for authorizations of appropriations to the Federal Energy Administration, to extend the duration of authorities under such Act, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the RECORD of August 4, 1976, beginning at page 25489.)

Mr. RIBICOFF. Mr. President, I would like to take this opportunity to summarize the content of the conference report on H.R. 12169—the Energy Conservation and Production Act.

The conference substitute which the conferees present today represents many long hours of work and compromise on the part of the Senate and House conferees. What began as a routinely simple extension and authorization of appropriations for the Federal Energy Administration has become a package of new energy conservation programs of great merit, of amendments to the Federal Energy Administration Act of 1974 to effect an agency more responsive to public needs, and of amendments to oil pricing policy to provide incentives for domestic oil production.

Let me summarize what the conference reported and what the conference achieved. First, the conference substitute provides a broad range of energy conservation measures designed to take advantage of opportunities for reducing the Nation's increasing dependence on foreign sources by reducing wasteful consumption. The energy needs of the United States have been growing to the point that, at present growth rates, there is little hope that our needs can be satisfied without increasing energy imports, even if the most optimistic domestic energy production forecasts are realized. The conferees were concerned that adequate emphasis has not been placed on energy conservation and, therefore, the energy conservation programs included in the conference substitute are intended to place the much needed emphasis in this area.

The conference substitute contains: Federal energy conservation performance standards for new residential and commercial buildings; a $200 million grant program to permit low-income persons to weatherize existing homes; a program at the State level designed to provide homeowners and owners of public and commercial buildings with reliable information regarding the costs, savings, and benefits of energy conservation related investments; a $2 billion loan guarantee program to encourage energy conservation related investments in public and commercial buildings; and a $200 million demonstration program to identify incentives which encourage homeowners to make energy conservation related investments in home improvements.

It is estimated that the Federal energy conservation performance standards for new residential and commercial buildings, if fully implemented, will alone account for energy conservation savings of 6 billion barrels per day by 1990. Similarly, it is estimated that the several programs designed to encourage investments in energy conservation improvements in existing buildings will reduce energy consumption by 500,000 barrels per day by 1980.

The conference substitute for H.R. 12169 provides for amendments to the Federal Energy Administration Act of 1974. The conference substitute provides for an 18-month extension of the FEA which the conferees believe will be an adequate time period to develop a permanent agency for the Federal Government's responsibilities for energy matters. Further, these amendments provide for improvement in FEA procedures with respect to: the standards of hardship applicable to exceptions and exemption requests; appeals from adverse decisions on exception and exemption requests; holding of local hearings where the effects of a rule or regulation are essentially local in character; public access to the Project Independence Evaluation System model; and the gathering of energy information from small businesses so as to alleviate unnecessary reporting burdens.

The conference substitute establishes certain limitations on the Administrator's discretion, including: restraints on retroactive application of rules and regulations under specified circumstances and upon the submission, in a single energy action, of a proposal to exempt oil, refined petroleum product, or refined product category from both the price and the allocation provisions of the regulations under the Emergency Petroleum Allocation Act of 1973. In order to increase congressional oversight of the Agency's operations and to assure that appropriated funds are utilized consistently with congressional intent, authorizations of appropriations are provided on a functional basis.

Finally, as a part of the FEA Act amendments, an improved system for coordinating the gathering of energy information and energy data analysis is established within the FEA under a newly created Office of Energy Information and Analysis. The purpose of these latter amendments is to insulate the energy data gathering and analysis functions of the FEA from the energy policy responsibilities of the agency.

In keeping with the need to encourage expanded domestic energy production, as well as reduction in energy consumption through increased energy conservation efforts, the conference substitute amends the crude oil pricing policy established in the Energy Policy and Conservation Act—EPCA.

Consistent with the concerns which led to enactment of EPCA, the majority of the conferees believe that it is appropriate to assess the crude oil pricing policy which the Act established in light of present-day economic circumstances. Therefore, the conferees agreed to permit price increases in excess of those initially permitted by EPCA. Accordingly, the conferees removed the price ceilings for stripper wells while continuing to calculate actual stripper well volumes at an imputed price within the average composite price. The conferees give to the President the discretion to remove the 3-percent limitation contained in the EPCA with respect to the incentive adjustments. The effect of the conference substitute would be to permit the President to raise the domestic average composite price by up to 10 percent per year, irrespective of the value of inflation. The conferees intend that ths flexibility be used to encourage production from expensive recovery technologies, those not economical under the present pricing scheme, and to reconcile the problem of gravity differential oil pricing which presently varies regionally.

Mr. President, as chairman of the Senate conferees, I am pleased with the conference substitute. It represents new directions in our desire to develop programs and policies to make for more effective energy planning for this Nation's future.

Mr. PEARSON. Mr. President, the Senate will soon take up for consideration the conference report on H.R. 12169, the Energy Conservation and Production Act. Included in this multititle bill is a provision which authorizes the Administrator of the Federal Energy Administration to provide financial assistance in the form of loan guarantees to qualifying borrowers who undertake energy conservation measures. Under this loan guarantee program, which provides for up to $2 billion in loan guarantees, the FEA Administrator is directed to consult with the Small Business Administration in order to formulate procedures which would assist small business concerns in obtaining energy conservation loan guarantees.

It is encouraging to see the inclusion of small businesses as participants in this broad energy conservation program. On March 9, 1976, I introduced S. 3094, the Small Business Concern Energy Conservation Act of 1976. This legislation would have provided front-end loans to small businesses who wished to implement energy conservation measures. The concepts outlined in S. 3094 were adopted by the Senate in June during debate on the legislation which is currently before us in the form of a conference report. The participation of small businesses in the conference report's loan guarantee program is a direct outgrowth of the provisions of S. 3094.

Small business requires access to front-end capital to implement energy-saving programs. Permanent capital improvements, such as insulation, storm windows, solar energy equipment, revamped ventilation systems, heat pumps, and heat exchangers can result in immediate energy savings. Energy conservation is vital to American independence from foreign energy sources. It is imperative that all sectors of our economy, small businesses, homeowners, industries, and the like devote themselves to energy conservation efforts. The energy conservation incentives contained in the conference report of H.R. 12169 provide a positive step in that direction.

Mr. PERCY. Mr. President, I am pleased to support the conference report and statement on the bill to extend the Federal Energy Administration. This bill started out as a simple extension of FEA, but has ended up as a major piece of energy legislation.

While this legislation does not contain everything that I hoped it would, I am delighted that the conferees saw fit to include most of the Senate energy conservation provisions.

Conservation must become the keystone of our national energy policy, and this bill goes a long way to achieve that goal.

There are three other parts of the bill to which I want to draw the attention of my colleagues.

First. The conferees decided to extend the life of the Federal Energy Administration until December 31, 1977. I want to emphasize that I believe this extension provides sufficient time for the careful planning and implementation of an energy reorganization plan. But it will not be easy. We are going to have to work hard to overcome both bureaucratic inertia and vested interests.

Second. Oil from marginal or stripper wells has been exempted from price controls. This is a move that will encourage further production from these wells, thus decreasing our dependence on imported oil.

Third. The conferees adopted an amendment which I originally sponsored that directs FEA to analyze the utility and relative benefits of employing a Btu tax to encourage energy conservation.

The language of the conference report spells out the intent of the conferees and I ask unanimous consent to have that language printed in the RECORD at this point.

There being no objection, the language was ordered to be printed in the RECORD, as follows:

It is the intent of the conferees that FEA study and report to Congress on the use of a Btu tax and other energy taxes to ensure the attainment of an acceptably low level of energy imports by 1985.

The following elements are to be included in the analysis: (1) Energy taxes based on (a) an across-the-board tax on the use of non-renewable forms of energy, to be levied at the minemouth, wellhead, or port-of-entry; and (b) taxes designed to correct existing price distortions arising from uninternalized social costs, including, for example, costs of reliance upon insecure foreign sources of supply, and costs of adverse environmental impacts; and distortions arising from regulation of prices. "Price distortions" are defined herein to mean the departure of prices for energy from the full marginal social costs of energy production, transportation, conversion, distribution, and use. (2) Refund of taxes on the basis of uniform payments to each adult.

The analysis will evaluate the impacts of such taxes on (1) the economy, including the general price level and energy prices, employment, government revenue, and distribution of income and relative purchasing power; (2) the supply of and demand for energy; (3) the degree of reliance on insecure foreign sources of supply; (4) reduction of adverse social costs, including environmental, health and safety costs; and (5) the degree to which the need for FEA regulatory programs would be diminished or eliminated.

Mr. PERCY. Mr. President, a thorough and competent analysis of a Btu tax, associated with a rebate scheme, is sorely needed. The energy situation in this country is worsening. We are currently importing much more oil than prior to the Arab embargo.

It could well be that if things go on as they are, Congress may be forced to consider higher energy prices in order to bring about conservation. If Congress is placed in that position, we will need to know the costs, benefits, and myriad ramifications of such a policy. Such a comprehensive study of the effects and implications of a Btu tax has never been done.

Let me emphasize, Mr. President, that I am only talking about raising energy prices so that they reflect the actual cost of energy. The aim of oil and gas decontrol is identical. In the latter case, the revenues would go to oil and gas companies. In the case of a Btu tax, the money would be either rebated, or used to reduce the budget deficit.

Energy should be priced on the basis of its cost to discourage wasteful use. Only in this way will a decision to consume a unit of energy be equivalent to a decision to pay the costs of producing a substitute unit. FEA reports that its energy outlook model projects a 50-percent reduction in energy demand growth rates assuming the price of energy increases to reflect production costs.

I am pleased to note that Roger Sant, ex-Assistant Administrator for Conservation at FEA, supports the concept of a Btu tax. He recently wrote me a letter which said in part:

> I'm particularly pleased that you continue to be interested in an energy tax and noted with pleasure your language in the FEA Extension Act requiring a study of the Btu tax.

In conclusion, Mr. President, may I say again how pleased I am to support this very important energy bill.

Mr. JACKSON. Mr. President, Senator RIBICOFF, the chairman of the Government Operations Committee and chairman of the Senate conferees on H.R. 12169, deserves the thanks of the Senate and a tremendous amount of credit for his work on this measure under an extremely difficult set of circumstances. The Federal Energy Administration and a bewildering and often contradictory collection of other political influences made this conference almost impossible to manage. In spite of this situation, and in spite of the burden of several unwise and unworkable amendments added on the floor in both Houses, Senator RIBICOFF was able to extract from the conference a bill which is far less onerous and damaging to the consumer than might have otherwise resulted.

Unfortunately, the final bill is still unacceptable from my point of view, and I am, therefore, not among the signers of the conference report.

Mr. President, I oppose adoption of the conference report on H.R. 12169 because its positive features are few, and the damage it does is great—damage to the consumer and to the oil pricing policy principles forged over 2 years of intense effort by the Congress.

Mr. President, this conference report falls short because in return for the extension of a bureaucracy it imposes unjustifiable increased costs on the consumer. This conference report raises oil prices—and pretends that these price increases are justified as an "incentive" to production.

The price of domestic oil is already far higher than it was in 1973. In the case of so-called upper-tier oil current prices under the Energy Policy and Conservation Act, EPCA, are already three times what they were before the embargo of 1973. Yet, domestic production continues to decline.

The price increases embodied in this bill only throw more money at an oil industry which is already highly profitable. The profits of the top 21 oil companies rose by 24 percent in the first half of 1976 over the already generous levels of 1975.

There have been many, many statements in this Senate about the foolishness of throwing money at social problems. Apparently this principle does not apply in the case of the oil companies.

Without some assurance of production increases, raising oil prices is simply another direct contribution to inflation and higher profits. Some people seem to think that our problems with inflation are over. I for one do not. I have no intention of supporting a proposal to raise prices which has been given no justification whatever.

Congress is taking the initiative in raising prices in this bill. Congress will get—and, in my view, deserve—the blame.

What do we get from this bill.

An extension of the FEA, an agency which is among the most political of the bureaucracies in the executive branch;

An energy information amendment which has been compromised by deletion of any requirement that the FEA gather data on the economics of energy—costs, profits, investments—these data, of course, are at the heart of the real energy issues facing the country; and

An energy conservation provision which has been repeatedly compromised in the face of administration attacks and threats and which cannot begin to recoup for consumers the impact of rising energy costs.

What have we given up?

By its acceptance of the crude oil pricing policy of this bill the Congress ignores and repudiates the procedures agreed to in the Energy Policy and Conservation Act.

A 10-percent increase in the price of domestic oil is guaranteed under H.R. 12169, rather than tying price increases to the rate of inflation.

Stripper well prices—already the highest in the domestic average composite price—are further increased. Yet stripper well production is nearly insensitive to price at these levels. The consumer will pay hundreds of dollars for each additional barrel of stripper oil produced as a result of this exemption; and

The oil industry, an industry which can never get enough, will continue taking the consumer on a bit-by-bit basis: crude oil prices one day, natural gas prices the next.

Mr. President. I submit that a cost-benefit study of this bill would turn up a negative result for anyone except an oil company. It is clear where the Ford administration would stand in a situation like this. I know where I stand, too.

Mr. RANDOLPH. Mr. President, will the able Senator giving the conference report yield to me?

Mr. RIBICOFF. I am pleased to yield to the Senator from West Virginia.

Mr. RANDOLPH. I notice with satisfaction the basic agreement, which is the stripper well provision, which gives an exemption, which is very necessary for the smaller producers in a State like West Virginia and, of course, other States.

I did not, however, hear the Senator list what I think is a very important agreement within the conference. That has to do with an amendment that I had offered, and that was the loan guarantee for the expansion of underground coal mines and, of course, that has to do with my coal producers. That, as the Senator will recall, was a reinstatement of the provision of last year's conference agreement which was deleted by the House through the Energy Policy and Conservation Act.

Mr. RIBICOFF. May I respond that that provision of the Senator from West Virginia we were able to retain intact. Because of the limitation of time I did not read every proposal. May I read from the conference report:

> DEVELOPMENT OF UNDERGROUND COAL MINES
>
> SEC. 164. Section 102 of the Energy Policy and Conservation Act is amended by adding at the end of subsection (c) the following new paragraph:
>
> "(4) the term 'developing new underground coal mine' includes expansion of any existing underground coal mine in a manner designed to increase the rate of production of such mine, and the reopening of any underground coal mines which had previously been closed.".

The Senator's proposal remained intact in the conference report.

Mr. RANDOLPH. I appreciate the response of the able Senator, and I congratulate him on keeping this provision in the conference report. It is a vital matter in connection with the production of needed energy in the future so that we will attempt, at least hopefully, to counteract the continued increase, let us say, of exports of energy products from overseas.

Mr. RIBICOFF. I thank the Senator. I yield to the distinguished Senator from Oklahoma.

Mr. BARTLETT. I thank the distinguished Senator from Connecticut. I want to commend and congratulate him for the manner in which he chaired this very difficult series of meetings. On a personal note, I want to thank him for his courtesy to the Senator from Oklahoma which he accorded him on several occasions, and giving him the chance to present his views on the stripper well amendment. I recognize the fact that I was not a conferee.

I do want to point out that I have some concern with the separate pricing, the separation of pricing from allocation in any decontrol proposal.

I advocate the interest in conservation but feel that the first step in that is a decontrol of prices. I also feel that the presence of the agency tends to hide the root of our energy problems which, I believe, stems from our energy pricing policies.

But I certainly congratulate the chairman on some favorable aspects of the bill: additional regulations for the handling of hardship cases and inequities resulting because of the regulation of the petroleum industry; also the stripper well provisions, the changes in the EPCA which would permit an increase in the annual rate of increase in the composite price of crude oil.

There are also advantages to the bill. But mainly I am rising to thank and to congratulate the Senator from Connecticut.

Mr. HOLLINGS. Mr. President, the Congress has taken another important step toward making energy conservation a principal component of our national energy policy. Titles III and IV of the conference report on the Energy Conservation and Production Act, filed today establishes major programs to implement energy conservation in new and existing buildings. The programs agreed upon include the following:

First. The promulgation of energy conservation performance standards for new residential and commercial buildings throughout the Nation, that, if carefully drawn and fully implemented, could save an estimated 6 million barrels of oil equivalent per day by 1990;

Second. A 3-year, $200 million grant program to make it possible for low-income persons to weatherize their homes and reduce their residential fuel requirements;

Third. Financial assistance for State programs which provide homeowners and owners of public and commercial buildings with reliable information on the energy and cost savings possible through investments in energy conservation;

Fourth. A $200 million program for homeowners to demonstrate incentives for encouraging energy conservation, investments; and

Fifth. A $2 billion loan guarantee program to encourage energy conservation investments in public and commercial buildings.

This legislation, if signed into law by the President, will add important elements to the energy conservation programs begun under the Energy Policy and Conservation Act which was signed into law by the President this past December. Title III of the Energy Policy and Conservation Act was Congress first real attempt to come to grips with the critical need for national energy conservation. It provided incentives for increased attention to conservation by manufacturers of major household appliances, by major industrial energy users, and by State governments.

Most importantly, it also established minimum fuel economy performance standards for new automobiles manufactured in every model year after 1977. I am proud to have been the principal Senate sponsor of this fuel economy legislation and to have chaired the hearings in the Commerce Committee that documented the need for requiring Detroit to begin building fuel economy into the automobile, which accounts for a very significant fraction of our national energy consumption. By combining title III of EPCA with the provisions of titles III and IV of the Energy Conservation and Production Act, this country will have a solid foundation for further national efforts in conservation.

The energy conservation program for new and old buildings in titles III and IV is comprehensive in scope, but it is a very much reduced version of the bills reported by the Commerce Committee or the bill passed by the Senate. We were forced to accept reductions in the loan guarantee program from $10 billion down to $2 billion. And the funding for the housing program was also materially reduced. These reductions were necessary to reach agreement with the House. I regret these reductions because energy conservation is our most neglected option. Perhaps more important than the funding levels, however, is the fact that the foundation for a comprehensive program has been established. Additional authorizations can and should be considered in the next Congress.

The fact that this conference report is currently before the Senate for its consideration, and will be before the House of Representatives in the next few days for its consideration, illustrates this Congress ability to respond to our energy needs. Conservation is our most important short range energy option. With respect to new buildings, this bill establishes performance standards for new buildings, discouraging building designs which waste energy. This is a critical element of our national energy conservation program.

The bill also contains the principal elements of the Energy Policy and Conservation Act of 1976, first introduced on February 5 by Senator KENNEDY, with myself and several other Senators as cosponsors. These provisions are a significant step toward increased conservation in our stock of existing buildings.

Obviously the current legislation by itself cannot tap the full potential for conservation in buildings, but it does provide a tangible framework for doing so. The American Institute of Achitects has estimated that an all-out national effort to conserve energy in new buildings could save 6.7 million barrels of oil equivalent per day by 1990, an amount approximately equal to our current level of imports. This saving potential represents as much energy as the projected 1990 production capacity of nuclear power. The total saving potential in old and new buildings is over 12 million barrels per day.

With these actions the Congress has further indicated its recognition of the need for rapid action to put energy conservation programs in place. We hope that the executive branch will act just as quickly to implement this legislation and bring the benefits of conservation to the citizens of this Nation. The success of our efforts to reduce reliance on OPEC oil requires their speedy implementation and we will be anxiously monitoring their efforts in this regard.

In carrying out this legislation, the administration should be sensitive to the following points:

First. Part C of title IV, which establishes a national energy conservation and renewable-resource demonstration program for existing housing, requires the Secretary of Housing and Urban Development to report back to the Congress within 2 years with a final report containing recommendations on a more extensive program to stimulate residential conservation efforts. The Secretary is encouraged to submit these recommendations as soon as feasible within the 2-year period, so that if a more extensive program is justified, the Congress can move quickly to put such a program in place.

Second. Part D of title IV, which establishes a Federal loan guarantee program to encourage energy conservation investments in public and commercial buildings, extends eligibility for a loan guarantee to a broad spectrum of public and private persons. Among those eligible for a loan guarantee are firms which intend to lease energy conservation measures to schools, hospitals, industrial concerns, and others.

Obligations issued by units of State and local government are also eligible for guarantees with the exception of obligations which are a general obligation of a State. It is anticipated that the Administrator of the Federal Energy Administration will not guarantee obligations which pay interest which is tax-free during the next few months when an effort will be made to enact legislation to make the interest on such guaranteed obligations subject to Federal income tax. However, if such effort is not successful within this time period, the Administrator should guarantee such obligations in the interest of increased conservation. The time period required for such legislation should, of course, not be a long duration so as to eliminate important categories of beneficiaries of the loan guarantee program.

The conservation measures in titles III and IV mesh well with the energy conservation tax credits in the tax bill now before the Senate. The tax credits for homeowners to insulate their homes complement both the information program by the States to provide homeowners with reliable knowledge of the costs and benefits of conservation measures and the demonstration program to encourage homeowner conservation.

The efforts of this Congress to make conservation a cornerstone of our energy policy are clear. Today's actions provide the Nation with a solid program to save energy in existing and new buildings. EPCA contained automobile fuel economy, appliance labeling and State conservation program provisions. Further, recognizing that conservation must be an important objective of ERDA's research and development effort, we have encouraged a higher level of effort in that regard during the review of this year's budget. We have more to do, for example a better transportation system, new initiatives to encourage conservation by industry, utility rate design, recycling wastes and using them as a source of energy, using waste heat from powerplants.

This legislation is solid progress in our efforts to implement a realistic energy policy. I hope the administration shares our concerns and moves quickly to implement these programs.

Mr. BROOKE. Mr. President, passage of this final committee of conference report on legislation providing for energy conservation programs and the extension of the Federal Energy Administration contains vitally important provisions. Many times over the past months I have spoken here on the Senate floor regarding the urgency I feel about the need for a concentrated national energy conservation effort. I have proposed a number of measures over the past 2 years, and several are finally being voted into law in this energy package before us today.

For example, the energy performance standards for new construction were debated and acted on by the Senate Banking, Housing and Urban Affairs Committee this winter. I strongly supported this measure and managed its progress on the Senate floor because I am convinced that making new buildings energy-efficient will give us the greatest possible leverage over future energy demands.

Buildings use nearly a third of all the energy we use. Studies of the construction industry confirm that between 1975 and 1985, the stock of residential and commercial buildings will increase by over 40 percent. This new construction could be built to be so energy-efficient that new structures would consume 50 to 80 percent less energy in day-to-day operations than existing buildings now use. Such large savings would depend on the full utilization of advanced energy technologies in new construction together with adequate insulation. And even the simple expedients of marginally upgrading the existing designs for heating and cooling systems and adding insulation to conventional new buildings plans could save at least 30 percent of current operating expenses.

But the private market has not, by itself, generated sufficient incentives for builders to add the front-end costs required to make buildings economical users of energy in the long run. Responsible analysts, including the Arthur D. Little Co., of Cambridge, Mass., have found that increasing insulation and energy saving equipment expenditures will lead to savings on other materials even before the building begins to operate. But the industry is often conservative, and there are insufficient incentives to innovate designs in this increasingly competitive market.

For many years, the commercial and residential building markets have been so structured that there is a premium on the quickest, least expensive construction, even when it entails high long-run management costs. And the price for this short-sighted policy has been tragically paid by low- and moderate-income families, who since 1973, have faced either staggering utility bills or rapid rent increases attributable to fuel bills.

Where residential rents are controlled and cannot cover high energy costs, as is the case in subsidized developments, the result has been foreclosure and real personal tragedy. Small businesses, too, have buckled to high operating costs for utilities and fuel in the past 2 years. But concern for the first victims of the energy crisis is not the only reason for supporting this tough conservation program. The entire Nation needs these scarce fuels to assure our continued growth and security.

My colleagues will remember that the issue of establishing sanctions to be used against jurisdictions that did not adopt energy performance codes was most controversial. I felt the sanctions to be essential because local governments simply could not afford to adopt the new standards unless they could be sure the local jurisdictions competing with them for new development would do the same. Furthermore, there needs to be a mass market for the new, energy-efficient technologies before they are inexpensive enough for the average builder. I believe the compromise embodied in this measure, which allows congressional review of the new standard and the need for sanctions, is a fair one. And I am delighted we can at least get moving toward creation of a model of any energy conservation performance building code.

Another part of this bill is the provision for winterizing the homes of the low-income families. Such a program has been operating under the Community Services Administration for over 2 years, and we cannot keep up with the demand. Because the poor, who can least afford to waste money on expensive heating fuel costs, often have the oldest and most dilapidated housing, it is they who have been paying more than most families for energy and getting fewer Btu's for their buck.

This program of insulation has been very useful to over 60,000 low-income families to date. And this year 16.5 million barrels of oil will be saved as a result. But we clearly need vastly increased resources to take care of the 4 million homes that potentially need this assistance. And, while I welcome the generous authorization in this bill, I will be watching its utilization with special concern and attention to insure that introducing the FEA into this program does not interfere with its current smooth functioning. Although the priority given to community action agencies in this measure is a welcome one, I would personally have preferred to see the CSA, which has the experience and jurisdiction needed, have far greater control over these funds. As a member of the Senate Committee on Appropriations, I shall be following the allocation of these funds with particular concern. We must get the materials to the homes of the poor as expeditiously and effectively as possible. These families must not be forced to keep spending their meager resources on wasted energy.

Furthermore, we must not forget that our lowest income families are probably going to need additional help in bearing the special burden that rising energy costs place on those least able to bear it. At my request, the Senate Committee on Appropriations has requested a study of the needs of low-income households with regard to meeting energy costs. And I am working on new legislation to support energy conservation technologies that are especially cost-effective for low- and moderate-income households.

The FEA extension bill also contains important provisions to strengthen the energy conservation commitment the Congress made last December. We have, for instance, improved the provisions for support of State energy conservation programs, like the innovative effort underway in my own State of Massachusetts. More important, we have at last set up the Office of Energy Information and Analysis which will let the public have a much better idea of what is going on in our major energy industries. And the multi-million-dollar demonstration program for new conservation technologies will surely add to our arsenal of equipment for saving energy. Finally, the provisions for addressing the all-important problems of utility rate reform are especially close to my heart. To be frank, I think we need direct action rather than more study, which is why I proposed the Electric Utility Rate Reform Act in mid-1975. But this indication of congressional concern is welcome and foretells, I hope, more forceful action next year. Surely, for example, we need more than the token effort at consumer representation embodies in these provisions.

Mr. President, these conservation measures are not all encompassing, but taken together with other recent congressional actions, they do herald the long awaited day when the Nation takes energy conservation seriously. For instance, the Senate just this week voted for direct assistance to the average homeowner. We passed the tax credits for insulation and energy conserving heating equipment which I introduced last December. We also acted on tax credits for solar and wind power equipment for homes, as well as for installation of heat pumps where these would save the homeowner in fuel costs.

Last month, we passed an appropriation for the Energy Research and Development Administration which included $100.8 million for developing technologies to improve end-use conservation in homes, industry, and transportation. This represents a quadrupling of the previous year's effort.

Mr. President, this is only the beginning of a long process to end the waste of energy in our country. We need to continue the search for new hardware, for waste energy recovery technologies, for more energy efficient commercial and industrial processes. And we need to change major social habits like the use of gas guzzling automobiles. My own proposal was to put a refundable tax on gasoline, the fuel we waste most profligately. The steps we took this winter to increase the fuel efficiency of new cars were vital steps. But I would have preferred stricter sanctions against auto manufacturers who did not comply. Finally, as I keep saying because I believe it so deeply, we must restructure our electric utility rates to encourage conservation and simultaneously cut electricity costs.

However, we are at last launched on a serious and potentially effective conservation effort. It will take time to achieve the potential 50 percent energy savings that are possible. But I am vastly encouraged that we are truly going to tap our Nation's most neglected yet most obvious source of new energy—the energy we have historically wasted.

Mr. KENNEDY. Mr. President, the conferees on H.R. 12169, the Federal Energy Administration Extension Act, have agreed on a number of highly significant measures to promote energy conservation as part of this country's national energy program. Taken together, these measures constitute an ambitious and long-overdue program for making our homes, commercial buildings, small businesses, and industrial plants more energy efficient. The omnibus energy conservation program—titles 3 and 4 of 12169—is comprised of the following:

First, Federal energy conservation performance standards for new residential and commercial buildings. It is estimated that implementation of this program alone will save 6 million barrels of oil equivalent per day by 1990.

Second, a program of $200 million in grants to low-income persons over the next 3 years to weatherize existing homes and reduce fuel requirements.

Third, a program to provide homeowners and owners of public and commercial buildings with reliable information on the costs and benefits of investments in energy conservation. State governments will be the principal administrative agents in carrying out this program of information and public education.

Fourth, a $2 billion program of Federal loan guarantees to encourage energy conservation investments in public and commercial buildings and in industrial plants.

Fifth, a $200 million program for homeowners and tenants to demonstrate various financial incentives that encourage energy conservation investments in existing homes, including such items as home insulation, storm windows, clock thermostats, heat pumps, and upgrading of heating systems. This program will also provide financial incentives for the installation of solar energy equipment and other devices that rely on renewable energy sources.

In addition to these specific programs, the conferees' decisions pertaining to energy conservation contain two messages of great importance.

The first message arises from the explicit acknowledgment by Congress that our national energy program must include substantial public and private investments to make energy efficiency a reality in the United States. Until now, Members of Congress have talked a great deal about the importance of energy conservation. Some important regulations to promote greater energy efficiency in automobiles and home appliances were included in the Energy Policy and Conservation Act of 1975. But this is the first time that significant amounts of Federal resources have been committed in the name of energy conservation.

Passage of this legislation also signifies that Congress understands the absolute necessity of balancing our national energy investments between those designed to expand domestic production of energy and those designed to control the amounts of energy that are needlessly wasted. All our efforts to bring energy supply and demand into balance at prices that do not disrupt our economy, together with our efforts to hold the volume of imported oil to minimum levels, depend upon eliminating the sizeable portion of our energy budget that is now allocated to waste. The action of the conference committee on H.R. 12169 is dramatic evidence that Congress, at long last, not only understands this fact but has decided to do something about it.

Residential and commercial buildings consume about one-third of the Nation's energy requirements. A major effort to eliminate energy waste in these buildings and industrial processes could save approximately 2 million barrels per day by 1980, equal to the projected capacity of the Alaska pipeline. And the American Institute of Architects has estimated that an all-out effort can save as much as 12 million barrels per day, more than our total oil production today.

The provisions of this legislation offer a comprehensive approach to eliminating the waste of energy in heating and cooling homes, apartments, commercial buildings, and factories. The program combines standards that require the construction of energy efficient buildings in the future with reliable information and financial incentives to encourage energy conservation investments in existing buildings. The program also encourages the conversion from scarce fossil fuels to nondepletable sources of energy, such as solar and wind energy. Funding levels in the pending measure are sufficient to realize short-run savings of about 500,000 barrels of oil equivalent per day.

The action of the conferees on energy conservation contains another important, if little known, message. It is that individual American citizens, regardless of their economic or social position, can still have a personal impact on the policies and programs of their Government.

From time to time during the course of the Senate's consideration of the energy conservation provisions, I have mentioned the role that Mrs. Florence Leyland of Waltham, Mass., has played in demonstrating the need for the kind of national energy conservation program contained in H.R. 12169. The story is sufficiently interesting to warrant repeating as the Senate considers this conference report.

Last November, during a field hearing of the Subcommittee on Energy of the Joint Economic Committee, Mrs. Leyland testified on the near catastrophic impact of energy price increases on her monthly budget. Home heating oil that had sold for about 17 cents per gallon in 1973 had risen to 42 cents per gallon in 1975. Her annual heating bill of $280 in 1970 had risen to $550 in 1975. A widow living on social security, Mrs. Leyland was forced to cut back drastically on her food budget and she had lowered the temperature of her home to the point where she was experiencing considerable personal discomfort. She described her financial predicament, one directly related to the rise in fuel oil prices, as a "nightmare."

I asked Mrs. Leyland if her house was insulated and she replied that it was not. Nor did she have access to the extra money to purchase the insulation and storm windows that would cut her fuel consumption by 20 to 30 percent. No doubt this story could be repeated by millions of other Americans but Mrs. Leyland spoke to the subcommittee with a directness and simple eloquence that dramatized for me the urgent need for the kind of energy conservation program contained in this conference report.

Many Senators, House Members, and legislative staff members have made major contributions to the conference report we consider today. But I will always feel it is more accurate simply to describe it "Mrs. Leyland's bill."

In this time of popular cynicism and doubt about government's concern for the problems of average people, or about the ability of people to affect the course of their government, it is worth noting the role that Mrs. Florence Leyland of Waltham, Mass., has played in committing the United States to a serious national program of energy conservation.

At the conclusion of the hearing last November in Waltham, I summed up the questions that had been dramatized by the testimony of Mrs. Leyland and the 12 other witnesses who appeared that day. Mr. President, I ask unanimous consent that a portion of my concluding remarks at the November 17 hearing of the Subcommittee on Energy be printed at this point in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

EXCERPT FROM THE HEARING "ENERGY CONSERVATION IN MASSACHUSETTS" SUBCOMMITTEE ON ENERGY, JOINT ECONOMIC COMMITTEE, NOVEMBER 17, 1975

Chairman Kennedy. I want to thank this panel for their statements and their comments this morning. What we have really been attempting to point out here during the course of this hearing is what conservation can really mean in terms of our national energy policy. There have been great efforts and focus and attention on the development of alternative sources of energy and a great deal of attention on the whole kind of pricing mechanisms which are enormously important in terms of the development of a national energy program. But nonetheless, we probably have done woefully little in the area of trying to provide help and assistance to the small homeowner, the typical family homeowner, in the areas of conservation.

What can we do in the Congress? What can the energy agency ERDA do to try and help the small family homeowners to conserve energy?

What kind of assistance, either in terms of direct grants, or some kinds of tax incentives so that they can save in terms of their own energy bill and also carry forward a national energy program in the areas of energy conservation?

What can be done for the small businessman to provide incentive to those individuals, small companies and corporations which are so many in our own State of Massachusetts, to help them play a role in the area of conservation?

What can be done in terms of some of the other companies and corporations? And we have heard important testimony this morning about what is being done by Honeywell Corp. and others in Massachusetts.

I mentioned during the course of the hearings we saw how the Congress responded incredibly to the Alaskan pipeline situation which was going to increase our energy by approximately 5 percent. But here we have heard convincing testimony that we can increase our energy by approximately 35 percent by conservation efforts.

And for some reason or another, this hasn't got the kind of national priority or national sense of urgency that the development of new sources of energy have gotten. But I think it is a matter of enormous importance and consequence.

We have heard some important testimony here today in Waltham. We are going to take this testimony back and focus on these areas and find ways that we can carry what Mrs. Leyland and the others have mentioned to us to try in the area of conservation to develop a more meaningful national policy.

The subcommittee is adjourned.

[Whereupon, at 12:15 p.m., the subcommittee adjourned, subject to the call of the Chair.]

Mr. KENNEDY. Those who like to criticize Congress on energy matters should consider the record in light of these questions that I raised in Waltham last November and the provisions this legislation that we are considering today.

Each of the major categories that I identified there as focal points for congressional action is covered by a major energy conservation initiative in H.R. 12169. The initial legislation (S. 2932) was proposed in early February. By mid-May the Senate Committee on Commerce had reported out a clean bill (S. 3424) and by mid-June the full Senate had adopted the legislation as an amendment to the FEA extension legislation. Along the way the Senate Commerce, Banking, and Interior Committees had conducted public hearings. The Energy Subcommittee of the Joint Economic Committee also conducted 5 days of hearings on the potential of energy conservation in a balanced national energy policy.

In mid-July the House Interstate and Foreign Commerce Committee and the Subcommittee on Banking, Currency and Housing held further hearings on the Senate-passed energy conservation provisions. During this period, the House and Senate conferees worked diligently to develop the substitute provisions that were adopted by the conference and that we consider today.

In addition to working out compromise legislation dealing with direct grants to homeowners for energy conservation, loan guarantees, and State energy conservation implementation programs, the conference was able to perfect and adopt the provisions covering energy performance standards for new housing and the weatherization program for low-income families. These matters had previously passed both the Senate and the House as H.R. 8650 but were also included in the package of energy conservation amendments to the FEA extension bill.

Taken together, these various energy conservation provisions comprise a package that covers all aspects of the problem: New housing, existing housing, commercial buildings, low-income families, State information programs, small business and industry. And I must point out again that Congress initiated, considered, perfected, and passed these provisions in a period of 6 months. We have kept faith with Mrs. Leyland.

Without repeating the specific details contained in the statement of managers accompanying this conference report, I would like to comment on several aspects of the conference substitute dealing with energy conservation.

First, and of most importance, is the fact that these programs represent solid beginnings. They will help the Nation take the vital first steps toward the creation of an energy-efficient nation. It is my expectation, and I am confident this expectation is shared by the conferees, that Congress will agree to enlarge these programs if they prove to be successful over the next 2 years.

This is especially true in regard to the national energy conservation demonstration program for homeowners and the Federal loan guarantee program. In both cases the conference committee approved reduced funding levels from what the Senate had provided. The $500 million program for direct financial assistance for homeowners approved by the Senate was recast into a national demonstration program to be conducted by the Secretary of HUD.

It is essential that the Secretary carry out this demonstration program with imagination, enthusiasm, and dispatch. It is my strong hope that the Secretary will forward recommendations for a permanent program to Congress far in advance of the 2-year deadline contained in the legislation. This Senator, for one, intends to follow closely the way in which the Secretary of HUD exercises this responsibility.

Second, the Administrator of FEA has an equal obligation to carry out the loan guarantee program in a way that fully tests its potential for promoting energy conservation loans by small and large businesses, localities, colleges, and universities, and nonprofit groups. The limit of $2 billion adopted by the conference committee necessarily imposes constraints on the number and type of energy conservation loans that can qualify for Federal guarantees. If Congress is to make an informed judgment on the utility of expanding this program in future years, it is essential that this limited guarantee authority be applied to a wide variety of energy conservation projects, under the terms and conditions set forth in the statute.

Third, it is also essential that the Secretary of HUD seek out the best available advice and expertise in promulgating energy performance standards for new buildings. Before these standards can be enforced, Congress must indicate its approval of them by concurrent resolution. The exercise of care and commonsense in promulgating the standards in the first place will be a major factor in determining whether Congress will agree to trigger the enforcement mechanism.

Finally, as principal sponsor of the initial legislation that provided the basis for much of the energy conservation program adopted by the conference, I wish to express my deep personal appreciation to the conferees, particularly the distinguished Senator from Connecticut (Mr. RIBICOFF), chairman for the Senate, and the distinguished gentleman from West Virginia (Mr. STAGGERS), chairman for the House. Without their patience and perseverance in working out this conference substitute, Congress would not be in a position to approve this major omnibus energy bill.

My good friend, the distinguished Senator from South Carolina (Mr. HOLLINGS), was instrumental in guiding the legislation through the Commerce Committee and the full Senate and presenting the Senate bill to the conferees. The distinguished Senator from Ohio (Mr. GLENN) took the lead in chairing hearings before the Interior Committee and the distinguished chairman of the Banking Committee (Mr. PROXMIRE) did the same in considering the loan guarantee provisions before his committee. The distinguished Senator from Illinois (Mr. PERCY) was an eloquent and persistent advocate in behalf of this legislation.

On the House side, the distinguished gentleman from Michigan (Mr. DINGELL), chairman of the Energy and Power Subcommittee, and the distinguished gentleman from Ohio (Mr. ASHLEY), chairman of the Housing Subcommittee, and the distinguished gentleman from Pennsylvania (Mr. MOORHEAD), chairman of the Subcommittee on Emergency Preparedness, were instrumental in working out an acceptable substitute. I also wish to emphasize the very constructive contribution of the distinguished chairman of the House Banking Committee (Mr. REUSS).

Finally, the distinguished majority leader of the House (Mr. O'NEILL) introduced an omnibus energy conservation bill that contains most of the provisions adopted by the conferees. His steady leadership and encouragement in behalf of energy conservation must be counted as a major reason why Congress has acted on this legislation with promptness and determination. I applaud the efforts of my good friend, TIP O'NEILL.

It is my strong hope and expectation that this conference report will be accepted by both Houses of Congress. In so doing, we will take a long overdue step toward providing this country with the balanced energy policy that is essential to a secure and productive future.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. JOHNSTON. Mr. President, will the Senator from Alaska yield me 1 minute?

The PRESIDING OFFICER. The Senator from Connecticut has the floor.

Mr. GRAVEL. I yield to the distinguished Senator from Louisiana.

Mr. RIBICOFF. I would be pleased to yield without losing my right to the floor.

PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION

Mr. JOHNSTON. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 1689.

The PRESIDING OFFICER laid before the Senate the amendment of the House of Representatives to the bill (S. 1689) to amend the Pennsylvania Avenue Development Corporation Act of 1972 (Public Law 92-578), as amended.

(The amendment of the House is printed in the RECORD of July 26, 1976, beginning at page 23724.)

Mr. JOHNSTON. Mr. President, this matter has come over from the House of Representatives. It provides funding for the operational expenses of the Pennsylvania Avenue Development Corporation through fiscal 1978.

It also provides $38 million to commence implementation of the development plan for the Pennsylvania Avenue Corporation.

The Senate passed a bill providing for $130 million for development of Pennsylvania Avenue, which is the figure which the Senate thought, we thought on the Interior Committee, and I firmly believe, ought to be fully funded.

However, because of the great difficulties in the House, the distinguished chairman and ranking minority member of the Interior Committee in the House were able to get only this $38 million, considered to be a great victory. It represents only a first step, and I believe the Senate should concur with the amendment and, therefore, I move that the Senate concur in the House amendment to S. 1689.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Louisiana.

The motion was agreed to.

TAX REFORM ACT OF 1976

The Senate continued with the consideration of the bill (H.R. 10612) to reform the tax laws of the United States.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

TITLE XXVI

Mr. GRAVEL. Mr. President, I ask unanimous consent that we proceed to title XXVI.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

UNANIMOUS CONSENT TO PROCEED TO SECTION 1205 AT 4 P.M.

Mr. GRAVEL. Mr. President, I would also like to ask unanimous consent that at the hour of 4 o'clock this afternoon we then move, regardless of whether title XXVI is completed, to section 1205, administrative summonses, and complete that section, and then revert back to title XXVI.

Mr. ALLEN. Reserving the right to object, Senator HASKELL interposed an objection. I have no objection.

Mr. GRAVEL. This is at his request I am making this unanimous consent.

The PRESIDING OFFICER. Is there objection? Without objection it is so ordered.

Mr. GRAVEL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll. The second assistant legislative clerk proceeded to call the roll.

Mr. GRAVEL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRAVEL. I yield the floor.

AMENDMENT NO. 1993

Mr. BUCKLEY. Mr. President, I call up my amendment No. 1993.

The PRESIDING OFFICER. The clerk will report the amendment.

The second assistant legislative clerk read as follows:

The Senator from New York (Mr. BUCKLEY) proposes an amendment No. 1993.

The amendment is as follows:

In title XXVI, substitute for section 2601 the following:

(a) Part VII of subchapter B of chapter 1 of the Internal Revenue Code of 1954 (relating to additional itemized deductions for individuals) is amended by redesignating section 220 as section 221 and by inserting after section 219 the following new section:

"SEC. 220. TUITION.

"(a) ALLOWANCE OF DEDUCTION.—In the case of an individual, there shall be allowed as a deduction the sum of the amounts paid by the taxpayer during the taxable year to an eligible educational institution for tuition for the attendance of a dependent (as defined in section 152) at such institution.

"(b) LIMITATION.—No deduction shall be allowed under subsection (a) for amounts paid during the taxable year for tuition with respect to any individual to the extent that the sum of such amounts exceeds—

"(1) $1,000 in the case of an individual enrolled in an institution of higher education, or a postsecondary vocational school (as defined by regulations to be promulgated by the Secretary);

"(2) $500 in the case of an individual enrolled in a secondary school, or a vocational school (other than one designated a 'postsecondary vocational school' under regulations to be promulgated by the Secretary); or

"(3) $250 in the case of an individual enrolled in an elementary school.

In the case of an individual subject to more than one paragraph in the subsection, the deduction shall be limited to the highest applicable amount.

"(c) DEFINITIONS.—For purposes of this section—

"(1) ELIGIBLE EDUCATIONAL INSTITUTION.—The term 'eligible educational institution' means—

"(A) an institution of higher education;

"(B) a vocational school;

"(C) a secondary school; or

"(D) an elementary school.

"(2) INSTITUTION OF HIGHER EDUCATION.—The term 'institution of higher education' means the institutions described in sections 1201(a) and 491(b) of the Higher Education Act of 1965 and includes such similar institutions for graduate study as are certified by the Commissioner of Education for purposes of this section to the Secretary or his delegate.

"(3) VOCATIONAL SCHOOL.—The term 'vocational school' means an area vocational education school as defined in section 108(2) of the Vocational Education Act of 1963.

"(4) SECONDARY SCHOOL.—The term 'secondary school' means a day or residential school which provides secondary education, as determined under State law, except that it does not include any education provided beyond grade 12.

"(5) ELEMENTARY SCHOOL.—The term 'elementary school' means a day or residential school which provides elementary education, as determined under State law.

"(d) EXCLUSION.—Subsection (a) shall not apply to any amount paid by the taxpayer during the taxable year which is allowable as a deduction under section 162 (relating to trade or business expenses)."

(b) Section 62 of the Internal Revenue Code of 1954 is amended by adding after paragraph (9) the following new paragraph:

"(10) TUITION EXPENSE DEDUCTION.—The deduction allowed by section 220."

(c) The table of sections for such part VII is amended by striking out the item relating to section 220 and inserting in lieu thereof the following new items:

"Sec. 220. Tuition.

"Sec. 221. Cross references.".

(d) The amendments made by this Act apply to taxable years beginning after December 31, 1976.

Mr. BUCKLEY. Mr. President, I offer this amendment on behalf of myself, the Senator from Ohio (Mr. TAFT) and the Senator from New Hampshire (Mr. DURKIN).

The amendment is simple and self-explanatory. It is self-evident. It is clear in its purpose and scope. It has to do with allowing people who pay tuitions to either private or public institutions of learning, whether they be at a college or university level or the primary or secondary level to have a deduction.

We have in this amendment three gradations of deductions that are permitted: $1,000 per tuition paid in the case of individuals enrolled in an institution of higher education; $500 in the case of an individual enrolled in a secondary school or a vocational school; and $250 in the case of an individual enrolled in an elementary school.

Mr. President, I think everyone in this room is aware of the growing crisis that is taking place in the financing of private education of every kind in this country. We know that costs have been going up, and they have certainly been accelerating in the academic community, both in terms of teachers, equipment and everything else. But as those costs have been going up so have governments at all levels been siphoning off increasing amounts of the earnings of individuals.

It used to be 20 years ago that Government accounted for 25 percent of all earnings. That figure is now in excess of 40 percent. If we continue at our current rate it will soon be over 60 percent.

The effect of these processes has been that not only are the private institutions finding it harder and harder to perform their unique function in providing diversity in American education but, by the same token, individuals who would like to exercise that option that we pride ourselves on having every parent be able to exercise, namely, the option to direct and control the education of his child, this option is becoming beyond the financial reach of too many Americans. Too many Americans simply cannot any longer afford to send their children to private schools.

Many of them are even finding it difficult to pay the costs, the tuition, the smaller tuition, imposed by public universities and colleges. The result is that although we pride ourselves on this diversity of choice in our society, the fact is that the economic imperatives are denying parents the ability to exercise that choice.

What makes this particularly difficult, Mr. President, is the fact that every individual in this country who owns property or pays taxes to the Federal Government and to State governments is, in fact, helping pay the costs of an educational system, whether or not that taxpayer's child goes to the school supported at public expense.

The PRESIDING OFFICER (Mr. BARTLETT). Who yields time?

Mr. ROTH. Mr. President, I yield myself such time as I take.

Mr. President, I share the Senator's concern and desire to provide tax relief for all phases of education, but I am forced to oppose this.

The PRESIDING OFFICER. Who

yields time to the Senator from Delaware?

Mr. GRAVEL. I yield time.

The PRESIDING OFFICER. The Senator from Alaska yields time.

The Senator from Delaware is recognized.

Mr. ROTH. Mr. President, I share the Senator's concern, but I am forced to oppose the Senator's amendment for a number of reasons. First, the tax deductions provided by his amendment extend tax relief only to those taxpayers who itemize their deductions.

My amendment provides relief to all taxpayers with children in college.

More importantly, I am concerned that we would be jeopardizing the chances for the enactment of the college tax credit by expanding it to include elementary and secondary schools.

The college tax credit was structured so as not to have any impact on the budget in fiscal year 1977. It is phased in over a 4-year period. However, the Buckley amendment would cost $1.8 billion in fiscal 1977.

In addition, it would cost $9 billion over the next 5 years, whereas the phased-in college tax credit would have only a $3.2 billion impact on the budget over the next 5 years.

Although I sympathize with the Senator's intent, I believe that his amendment budget impact would jeopardize this provision in conference. The increasing costs of providing college education is creating a serious problem for millions of families.

I think it is important we take action now to provide some form of tax relief.

I do share the Senator's concern for the parents of elementary and secondary schoolchildren and I look forward to working with him for relief in this area in the future.

I think the college tax credit provision is an important first step to provide tax relief for educational expenses, and I am hopeful Congress will first enact this legislation and return next year to consider tax relief measures for elementary and secondary schools.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. GRAVEL. Has the Senator from New York's time expired?

I have nothing.

Mr. BUCKLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from New York has 7 minutes.

Mr. BUCKLEY. Mr. President, I would like to answer a couple of points raised by my friend from Delaware.

First of all, the estimated cost of my proposal would for fiscal 1977 be $1.7 billion.

I believe this is not too high a figure to pay: for equity; or to save a number of schools that will otherwise go down the drain and disappear and impoverish the educational stock in this country.

Then he speaks of my system of tax deductions versus tax credits as somehow antipoor.

On the contrary, I suggest that his proposal which is limited to college level and provides credit, yes, is, in effect, antipoor because the poor are disproportionately not represented in our universities and colleges.

Furthermore, the opportunities that many poor people have, certainly in my city and State, the people searching for this diversity of education, are precisely middle-income and lower middle-income people who cannot cut it.

The very poor usually have scholarship programs available to them. The very rich have no worries. But I think we need to concentrate not only on the needs of the lower- to middle-income groups, but also on the whole spectrum of education.

I believe it is every bit as important to preserve diversity in our grade schools and high schools as it is at our college level.

Therefore, Mr. President, I suggest that this is an important bill, one that ought to be taken to conference. If it is killed in the House, let the House take the blame for it, but the Senate will be on record, recognizing the need, that there is equity to be done, and recognizing that the only way the Federal Government can move in and help out is a real problem and to do so in a way that preserves this for the people.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. GRAVEL. Mr. President, I regret opposing this amendment. I think, in handling the leadership's role, I must say that the cost, as we project them, would be $210 million in 1977 for the Buckley amendment, and that the cost would rise in 1978 to $1,390 million, and from 1978 forward it would be $1.4 billion per year, which is quite a sum of money, as opposed to the Roth amendment which would have a zero effect in 1977 and an escalating effect from $467 million to $1.1 billion in 1981.

I share, in my personal capacity as a Senator, both the views of the Senator from New York and the Senator from Delaware as to the priority of education in our communities.

In my capacity as holding the floor for the leadership on the bill, I am forced to go through a mechanical function which I have no heart in doing. My inclination in fulfilling that obligation would be to table the Senator's amendment. I hope he will not view that as a personal affront.

Mr. BUCKLEY. Mr. President, before the Senator from Alaska proceeds on that basis, I recognize his personal problem.

I really believe this is an issue of sufficient importance for an up-and-down vote. I hope he will accord me the courtesy of that. If he feels he has to vote against it, I understand because, as a member of the committee, we all have to.

Mr. GRAVEL. I am happy to accommodate my colleague on that. I merely thought the tabling would be the best.

Mr. BUCKLEY. I appreciate that.

Mr. GRAVEL. But since our time is about to run out, I am happy to yield some of my time.

Mr. BUCKLEY. Mr. President, there are a number of questions that have been asked about this proposal. I have a series of questions and answers on paper that I ask unanimous consent be printed in the RECORD for the benefit of those who will be analyzing this particular proposal.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

QUESTIONS AND ANSWERS

DO WE NEED A TAX CREDIT, RATHER THAN A DEDUCTION, TO HELP THE POOR?

No. It seems peculiar, to say the least, that those who are insisting upon a credit—supposedly to help the poor—want to limit that credit to college expenses. Since when do the poor constitute a majority of college students? In the name of the poor, this proposal for tax credits will concentrate benefits on the well-to-do. It is a rich man's tax break. It only reinforces the freedom of educational choice already exercised by affluent families. I cannot believe that the proponents of this proposal seriously think it will come as a boon to those millions of American children of low-income families, whose parents desperately want them to have a good education where it will most count, on the elementary and secondary level. This amendment says to those Americans, "If your children can make it to college, if they can persevere through a second-rate education in public schools riddled by drugs and violence, if they can successfully compete with prep-school graduates for a seat in college, then and only then will the Congress of the United States give them some tax break."

I have nothing against tax credits. I believe they are constitutional. But I doubt that the Congress will approve tuition tax credits for everyone. That would be too costly. The only equitable thing to do, therefore, is to provide tax deductions across the board, from first grade to graduate school. Let's put the financial assistance where it is most needed. And let no one tell us with a straight face that it is most needed at the college level.

IS THE BUCKLEY TUITION TAX DEDUCTION AMENDMENT TOO COSTLY?

Not in the light of what the Finance Committee has already approved.

The Roth proposal for tax credits for college expenses alone will cost $1.1 billion by 1980. In the process, it will give utterly nothing to the millions of families who pay tuition for elementary and secondary schooling. My amendment will cost approximately $1.7 billion in calendar year 1977, and its cost is not apt to increase significantly (in terms of constant dollars) thereafter. So we are talking about a difference of $600 million—not a large price to pay for fairness and the reputation of the Senate. I ask my colleagues to consider how readily this body allots $600 million many times over with each year's Appropriations Bill for the Department of Health, Education and Welfare. I am proposing that we leave a fraction of that amount in the hands of American parents and students.

IS YOUR PROPOSAL UNCONSTITUTIONAL?

No, and in fairness to my distinguished colleague from Delaware, Senator Roth, I do not believe that his proposal for tax credits is unconstitutional either. But in the past, tuition tax credits have raised constitutional objections in the House. They are suspect, albeit unfairly so.

If we are really interested in providing a measure of tax relief to the parents and students of this country, we would do well to avoid altogether that constitutional controversy.

The Supreme Court has never questioned the constitutionality of tax deductions even for specifically religious purposes—contributions to churches, for example, or to missionary activity. It is inconceivable that the Court could find fault with tuition tax deductions even if some of the parents and students claiming those deductions exercise their constitutional right to attend church-related schools.

WILL THE BUCKLEY TUITION AMENDMENT BE APPROVED BY THE HOUSE?

A more important question is: Will the Roth Amendment be approved by the House? The members of the Finance Committee and most members of the Senate surely are aware of the tremendous interest aroused by the original Buckley bill and its counterpart, the Delaney bill in the House. The public support for that legislation came primarily from parents of elementary and secondary school students. I assure my colleagues that, if the interests of those parents are dismissed by this body, they will express their anger to their representatives in the House. To put this bluntly, the Roth amendment has not a ghost of a chance of surviving in the House. If anything is going to make it over there, it will be an amendment providing deductions for all students.

WILL THE BUCKLEY AMENDMENT FOSTER RACIAL SEGREGATION IN THE SCHOOLS?

Quite the contrary. My understanding is that the tax benefits it provides would not be available for tuition paid to segregated institutions, just as tax exempt status is not now available to those institutions. To the best of my knowledge, all the organizations which have endorsed this proposal have also been ardent opponents of racial discrimination. The National Association of Independent Schools, for example, joined in a recent Supreme Court case which led to the Court's decision against the constitutionality of segregated private schools.

This is emphatically not a segregationists' amendment. In fact, its probable effect will be to increase racial integration in America's schools by making it more feasible for families of moderate means, whatever their race, to send their children to the schools of their choice. That is another reason why it is so important to extend this tax break to the parents of students in elementary and secondary schools. I believe that it will put into the hands of millions of parents, including black parents, a power they do not now have: the power to choose what kind of education their children will have.

Mr. BUCKLEY. At this point, Mr. President, I yield for a moment to the Senator from Oklahoma without losing my right to the floor.

Mr. BARTLETT. I thank the distinguished Senator from New York.

Mr. President, I ask unanimous consent that Chere Sublett of my staff be granted privilege of the floor during the consideration and votes on this bill.

The PRESIDING OFFICER (Mr. DOMENICI). Without objection, it is so ordered.

Mr. BARTLETT. I believe that the amendment that the Senators from Ohio and New Hampshire and I offer is one that not only serves an extremely pressing need, but it is one that equity demands.

It is also an essential step toward making it possible for a vigorous system of diverse study, diverse educational opportunities, to continue to survive in this country.

I think the issues are sufficiently well known, for me to withhold further comments at this time.

Mr. BUCKLEY. Mr. President, I am glad to yield back the remainder of my time

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. GRAVEL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. GRAVEL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRAVEL. Mr. President, I ask unanimous consent that for a few moments we jump out of order and recognize the Senator from Oregon to handle an amendment which will take a few moments. We can continue our discussions on this other matter while he is on that subject.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

UP AMENDMENT NO. 314

Mr. PACKWOOD. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Oregon (Mr. PACKWOOD), proposes an unprinted amendment No. 314.

The amendment is as follows:

Strike section 2603 and insert the following in lieu thereof:

SEC. 2603. PREPAID LEGAL EXPENSES.

(a) EXCLUSION.—Part III of subchapter B of chapter 1 is amended by inserting after section 119 the following new section:

"SEC. 120. AMOUNTS RECEIVED UNDER QUALIFIELD GROUP LEGAL SERVICES PLANS.

"(a) EXCLUSION BY EMPLOYEE FOR CONTRIBUTIONS AND LEGAL SERVICES PROVIDED BY EMPLOYER.—Gross income of an employee, his spouse, or his dependents, does not include—

"(1) amounts contributed by an employer on behalf of an employee, his spouse, or his dependents under a qualified group legal services plan (as defined in subsection (b)); or

"(2) the value of legal services provided, or amounts paid for legal services, under a qualified group legal services plan (as defined in subsection (b)) to, or with respect to, an employee, his spouse, or his dependents.

"(b) QUALIFIED GROUP LEGAL SERVICES PLAN.—For purposes of this section, a qualified group legal services plan is a separate written plan of an employer for the exclusive benefit of his employees or their spouses or dependents to provide such employees, spouses, or dependents with specified benefits consisting of personal legal services through prepayment of, or provision in advance for, legal fees in whole or in part by the employer, if the plan meets the requirements of subsection (c).

"(c) REQUIREMENTS.—

"(1) DISCRIMINATION.—The contributions or benefits provided under the plan shall not discriminate in favor of employees who are officers, shareholders, self-employed individuals, or highly compensated.

"(2) ELIGIBILITY.—The plan shall benefit employees who qualify under a classification set up by the employer and found by the Secretary not to be discriminatory in favor of employees who are described in paragraph (1). For purposes of this paragraph, there shall be excluded from consideration employees not included in the plan who are included in a unit of employees covered by an agreement which the Secretary of Labor finds to be a collective bargaining agreement between employee representatives and one or more employers, if there is evidence that group legal services plan benefits were the subject of good faith bargaining between such employee representatives and such employer or employers.

"(3) CONTRIBUTION LIMITATION.—Not more than 25 percent of the amounts contributed under the plan during the year may be provided for the class of individuals who are shareholders or owners (or their spouses or dependents), each of whom (on any day of the year) owns more than 5 percent of the stock or of the capital or profits interest in the employer.

"(4) NOTIFICATION.—The plan shall give notice to the Secretary, in such manner as the Secretary may by regulations prescribed, that it is applying for recognition of the status of a qualified group legal services plan.

"(5) CONTRIBUTIONS.—Amounts contributed under the plan shall be paid only (A) to insurance companies, or to organizations or persons that provide personal legal services, or indemnification against the cost of personal legal services, in exchange for a prepayment or payment of a premium, (B) to organizations or trusts described in section 501(c)(20), (C), to organizations described in section 501(c) which are permitted by that section to receive payments from an employer for support of one or more qualified group legal services plan or plans, provided that such organizations pay or credit the contribution to an organization or trust described in section 501(c)(20), (D) as prepayments to providers of legal services under the plan, or (E) a combination of the foregoing.

"(d) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) SELF-EMPLOYED INDIVIDUAL; EMPLOYEE.—The term 'self-employed individual' means, and the term 'employee' includes, for any year, an individual who is an employee within the meaning of section 401(c)(1) (relating to self-employed individuals).

"(2) EMPLOYER.—An individual who owns the entire interest in an unincorporated trade or business shall be treated as his own employer. A partnership shall be treated as the employer of each partner who is an employee within the meaning of paragraph (1).

"(3) ALLOCATIONS.—Allocations of amounts contributed under the plan shall be made in accordance with regulations prescribed by the Secretary and shall take into account the expected relative utilization of benefits to be provided from such contributions or plan assets and the manner in which any premium or other charge was developed.

"(4) DEPENDENT.—The term 'dependent' has the meaning given to it by section 152.

"(5) EXCLUSIVE BENEFIT.—In determining whether a qualified group legal services plan of an employer is for the exclusive benefit of his employees and their beneficiaries, all plan participants shall be considered to be his employees.

"(6) ATTRIBUTION RULES.—For purposes of this section—

"(A) ownership of stock in a corporation shall be determined in accordance with the rules provided under subsections (d) and (e) of section 1563 (without regard to section 1563(e)(3)(C)), and

"(B) the interest of an employee in a trade or business which is not incorporated shall be determined in accordance with regulations prescribed by the Secretary, which shall be based on principles similar to the principles which apply in the case of subparagraph (A).

"(7) TIME OF NOTICE TO SECRETARY.—A plan shall not be a qualified group legal services plan for any period prior to the time notification was provided to the Secretary in accordance with subsection (c)(4), if such notice is given after the time prescribed by the Secretary by regulations for giving such notice.".

(b) EXEMPT STATUS.—Section 501(c) (relating to exempt organizations) is amended by adding at the end thereof the following new paragraph:

"(20) An organization or trust created or organized in the United States, the exclusive function of which is to form part of a qualified group legal services plan or plans, within the meaning of section 120. An organization or trust which receives contributions because of section 120(c)(5)(C) shall not be prevented from qualifying as an organization described in section 501(c)(20) merely because it provides legal services or indemnification against the cost of legal services unassociated with a qualified group legal services plan.

(c) TECHNICAL AMENDMENT.—The table of sections for part III of subchapter B of chapter 1 is amended by inserting after the item relating to section 119 the following new item:

"Sec. 120. Amounts received under qualified group legal service plans.".

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 1973.

(2) NOTICE REQUIREMENT.—For purposes of section 120(d)(6) of the Internal Revenue Code of 1954, the time prescribed by the Secretary of the Treasury by regulations for giving the notice required by section 120(c)(4) of such Code shall not expire before the 90th day after the day on which regulations first prescribed under such section 120(c)(4) become final.

(3) EXISTING PLANS.—

(A) For purposes of section 120 of the Internal Revenue Code of 1954, a written group legal services plan which was in existence on June 4, 1976, shall be considered as satisfying the requirements of subsections (b) and (c) of section 120 for the period ending with the compliance date (determined under subparagraph (B)).

(B) COMPLIANCE DATE.—For purposes of this paragraph, the term "compliance date" means—

(i) the date occurring 180 days after the date of the enactment of this Act, or

(ii) if later, in the case of a plan which is maintained pursuant to one or more agreements which the Secretary of Labor finds to be collective bargaining agreements, the earlier of December 31, 1981, or the date on which the last of the collective bargaining agreements relating to plan terminates (determined without regard to any extension thereof agreed to after the date of the enactment of this Act).

Mr. PACKWOOD. I would like to clarify two things. First, it is my understanding that the amendment dealing with group prepaid legal services plans, which creates a new exempt organization or trust, is not intended to create any inference with regard to whether other types of organizations belonging to another category of exempt organizations under section 501C are permitted to fund or provide group prepaid legal services plans.

I ask the chairman, is my understanding correct that no inference is to be drawn with regard to other organizations from the creation of this new category of exempt organizations?

Mr. LONG. The Senator is correct. The amendment avoids taking any position with regard to what are proper activities for any type of exempt organization, whether it be a charitable institution, a union, a professional association, or a social club. Any question about whether exempt organizations, other than the new type created in section 501(C)(20), are allowed to be involved with group prepaid legal services plans is not affected by this legislation. If there is a dispute about this question, it should be resolved by the ordinary administrative and judicial procedures available to both taxpayers and the Internal Revenue Service.

Mr. PACKWOOD. Therefore, if I understand the chairman, the creation of section 501(C)(20) should not be interpreted as either supporting or denying the claim of certain bar associations or certain social welfare funds that they may fund or provide tax-exempt group legal services benefits. Rather, whether or not such organizations are permitted to be involved with group prepaid legal services plans should be determined under existing law.

Mr. LONG. The Senator from Oregon is correct.

Mr. PACKWOOD. Second, my understanding is that the requirement that benefits provided under qualified group legal services plan be "specified" is intended to be construed liberally and with flexibility.

Mr. LONG. That is how I understand it.

Mr. PACKWOOD. As I understand this, it would be consistent with our intent to say that the specification of benefits can be quite general and brief. For example, it would be consistent with the requirement that benefits be specified to simply say that all benefits are to be provided, and to specify exceptions. As another example, if a plan wished to provide all personal legal services, no further specification would be required. Does the chairman believe I am correctly stating our intent?

Mr. LONG. The Senator is correct.

Mr. PACKWOOD. Mr. President, my amendment is a substitute for the so-called prepaid legal services section. The substitute for the committee language has been agreed to on all sides. There is still an argument about the whole substance of the issue, but the substitute has been agreed to. I would ask unanimous consent, therefore, that this amendment be substituted for section 2603 of the committee language.

The PRESIDING OFFICER. Is there objection? Without objection, the amendment is agreed to.

Mr. PACKWOOD. Now, Mr. President, I am going to ask for a rollcall vote on this because I want to have the size of the vote before we go to conference. I will explain it momentarily.

Mr. GRAVEL. Will the Senator yield there?

Mr. PACKWOOD. Yes.

Mr. GRAVEL. If he is going to call for a rollcall, I would like to have both votes back to back.

Mr. PACKWOOD. That is fine with me. I will withhold calling for it until the Senator is ready to call for it.

Mr. GRAVEL. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. The Senator from Oregon has the floor.

Mr. PACKWOOD. Mr. President, I ask for a division of section 2603 and the entire title so I might have a vote on section 2603.

The PRESIDING OFFICER. The title will be so divided.

Mr. GRAVEL. Will the Senator yield?

Mr. PACKWOOD. Yes.

Mr. GRAVEL. Mr. President, I ask unanimous consent that these two matters follow the vote on the Buckley amendment which is about to take place.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. GRAVEL. Mr. President, I yield the floor to Senator ROTH.

Mr. ROTH. Mr. President, as stated earlier, I have great sympathy with what the Senator from New York is attempting to do to expand this amendment to give assistance to children in elementary and secondary schools as well as students in college. But as I stated, because of the heavy impact it will have on our budget, I know full well it will never survive in conference. It is my firm hope that for the first time we will be able to prevail in conference and extend tax credits to college students. For that reason, Mr. President, I move to table the Buckley amendment.

Mr. BUCKLEY. A point of order, Mr. President.

Mr. GRAVEL. Will the Senator withhold his motion for a moment?

Mr. ROTH. I withhold my motion.

Mr. GRAVEL. I had propounded a unanimous consent request to have two rollcall votes take place on the division stated by the Senator from Oregon. I want to know if that is what his desires are.

Mr. PACKWOOD. So there will be no question as to what I intended. I do not want to divide section 2603. That is prepaid legal services. I want a division of all of section 2603 from the rest of the title so there is a separate vote on the prepaid legal services.

Mr. GRAVEL. That would be one vote.

Mr. PACKWOOD. On that issue.

Mr. GRAVEL. That would follow the vote on the Buckley amendment.

Mr. PACKWOOD. That is correct.

Mr. GRAVEL. I ask for the yeas on both, the Buckley amendment and the amendment of the Senator from Oregon.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered on section 2603.

The PRESIDING OFFICER. Is the request to include the Buckley amendment?

Mr. GRAVEL. No.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. ROTH. Mr. President, I now make my motion to table the Buckley amendment.

Mr. BUCKLEY. Mr. President, a point of order.

Prior to the most recent unanimous-consent request agreement dealing with the proposal submitted by the Senator from Oregon, there was a unanimous-consent agreement calling for a vote on the Buckley amendment as well as on the Packwood amendment. I assume the most recent unanimous-consent agreement did not affect that earlier one as it affected mine. I ask whether or not it is in order to move to table.

The PRESIDING OFFICER. The Senator's point of order is well taken. The motion to table is not in order.

Mr. BUCKLEY. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on the amendment of the Senator from New York. The yeas and nays have been ordered——

Mr. PACKWOOD. Mr. President, a point of order. I am curious. I still want some time to speak on my amendment. Have we agreed to a unanimous consent that these votes be back to back?

The PRESIDING OFFICER. We have. The unanimous-consent request was so stated. There was no objection.

Mr. GRAVEL. I will withdraw it if the Senator has problems with it.

The PRESIDING OFFICER. It would take unanimous consent.

Mr. PACKWOOD. I ask unanimous consent to withdraw the immediate back-to-back votes. I would be happy to speak now, if I could have 3 minutes and then have the votes back to back, so I can explain what the amendment is.

Mr. GRAVEL. I ask unanimous consent that the Senator be granted 3 minutes to explain the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PACKWOOD. This is changed only technically by the amendment I have offered. It is a prepaid legal services amendment, under which if an employer provides a legal services plan for the employer's employees, the cost of the premiums to purchase that prepaid legal insurance, or the cost of the legal insurance itself, will not be chargeable as income to the employee. This is identically the way we treat medical group plans, employer-employee plans, now. There is no additional benefit to the employer under this provision because the employer is already allowed to deduct the cost of prepaid legal premiums as a cost of doing business. Nor does this amendment authorize any prepaid legal plans that already are not authorized. That is to say that the cost of the premiums will not be charged as income to those employees who are covered.

Mr. TAFT. Will the Senator yield for a question?

Mr. PACKWOOD. Yes.

Mr. TAFT. I was one of the authors——

The PRESIDING OFFICER. Will the Senator suspend?

May we have order?

The Senator may proceed.

Mr. TAFT. I was one of the authors of the provision to bring the legal services trust funds under the National Labor Relations Act. I think the Senator's amendment is very much in order.

To point out another thing, since we passed that bill we have also passed the Legal Services Corporation Act, to make legal services available, presumably without any income effect, across the board to those who qualify from the point of view of income. So we have an offset where we might well be picking up quite a batch of legal services in this plan if we make it not income that otherwise would have to be taken care of by the Legal Services Corporation.

Mr. PACKWOOD. That is correct. I appreciate the comments of the Senator. I am prepared to yield back the remainder of my time.

Mr. PASTORE. Vote.

The PRESIDING OFFICER. All time having been yielded back——

Mr. ROBERT C. BYRD. Mr. President, there will be two votes. I ask unanimous consent that on the second vote of the back-to-back votes it be limited to 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The first vote will occur on the amendment of the Senator from New York (Mr. BUCKLEY). The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. HARTKE), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Montana (Mr. METCALF), the Senator from Minnesota (Mr. MONDALE), and the Senator from California (Mr. TUNNEY) are necessarily absent.

I also announce that the Senator from Michigan (Mr. PHILIP A. HART), and the Senator from Delaware (Mr. BIDEN) are absent because of illness.

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BROCK), the Senator from Arizona (Mr. GOLDWATER), the Senator from Pennsylvania (Mr. SCHWEIKER), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

The result was announced—yeas 37, nays 52, as follows:

[Rollcall Vote No. 483 Leg.]

YEAS—37

Allen
Baker
Beall
Buckley
Burdick
Byrd, Robert C.
Case
Curtis
Dole
Domenici
Durkin
Eagleton
Eastland
Garn
Helms
Humphrey
Jackson
Johnston
Laxalt
Magnuson
Mathias
McClellan
Montoya
Pastore
Proxmire
Ribicoff
Scott, Hugh
Sparkman
Stafford
Stennis
Stevens
Stone
Taft
Thurmond
Tower
Weicker
Williams

NAYS—52

Abourezk
Bartlett
Bayh
Bellmon
Bentsen
Brooke
Bumpers
Byrd, Harry F., Jr.
Cannon
Chiles
Church
Clark
Cranston
Culver
Fannin
Fong
Ford
Glenn
Gravel
Griffin
Hansen
Hart, Gary
Haskell
Hatfield
Hathaway
Hollings
Hruska
Huddleston
Inouye
Javits
Kennedy
Leahy
Long
Mansfield
McClure
McGee
McIntyre
Morgan
Moss
Muskie
Nelson
Nunn
Packwood
Pearson
Pell
Percy
Randolph
Roth
Scott, William L.
Stevenson
Symington
Talmadge

NOT VOTING—11

Biden
Brock
Goldwater
Hart, Philip A.
Hartke
McGovern
Metcalf
Mondale
Schweiker
Tunney
Young

So Mr. BUCKLEY's amendment (No. 1993), as modified, was rejected.

The PRESIDING OFFICER. Under the previous order, by unanimous consent, the yeas and nays are called for on section 2603, as amended.

Mr. LONG. Mr. President, parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. LONG. Is this the section dealing with the deduction for group legal services?

The PRESIDING OFFICER. The Senator is correct.

Mr. LONG. So an aye vote is a vote for a deduction for group legal services. A no vote is a vote for no deduction for group legal services.

The PRESIDING OFFICER. The Chair cannot interpret amendments.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. HARTKE), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Montana (Mr. METCALF), the Senator from Minnesota (Mr. MONDALE), and the Senator from California (Mr. TUNNEY) are necessarily absent.

I also announce that the Senator from Michigan (Mr. PHILIP A. HART), and the Senator from Delaware (Mr. BIDEN) are absent because of illness.

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BROCK), the Senator from Arizona (Mr. GOLDWATER), the Senator from Pennsylvania (Mr. SCHWEIKER), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

The result was announced—yeas 69, nays 20, as follows:

[Rollcall Vote No. 484 Leg.]

YEAS—69

Abourezk
Baker
Bartlett
Bayh
Bentsen
Brooke
Buckley
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Chiles
Church
Cranston
Curtis
Dole
Domenici
Durkin
Fannin
Fong
Ford
Garn
Glenn
Gravel
Griffin
Hart, Gary
Hatfield
Helms
Hollings
Hruska
Huddleston
Humphrey
Inouye
Jackson
Javits
Johnston
Laxalt
Leahy
Magnuson
Mansfield
Mathias
McClellan
McClure
McGee
McIntyre
Montoya
Moss
Nelson
Packwood
Pastore
Pearson
Pell
Percy
Randolph
Ribicoff
Roth
Scott, Hugh
Stafford
Stevens
Stevenson
Stone
Symington
Taft
Thurmond
Tower
Weicker
Williams

NAYS—20

Allen
Beall
Bellmon
Clark
Culver
Eagleton
Eastland
Hansen
Haskell
Hathaway
Kennedy
Long
Morgan
Muskie
Nunn
Proxmire
Scott, William L.
Sparkman
Stennis
Talmadge

NOT VOTING—11

Biden
Brock
Goldwater
Hart, Philip A.
Hartke
McGovern
Metcalf
Mondale
Schweiker
Tunney
Young

So the amendment was agreed to.

UP AMENDMENT 315

Mr. FORD. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk proceeded to read the amendment.

Mr. FORD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In section 2605 of title 26 delete the following:

On page 116, line 1, the words "Laundry and"

On page 116, line 4, the word "laundry."

Mr. FORD. Mr. President, my amendment simply deletes the word "laundry" from the list of exempted services that may be performed by hospital cooperatives. The amendment proposed by the committee had as an objective, the control of the spiraling hospital costs.

I share that concern and commend the members for their effort. I believe that the inclusion of laundry services may have the opposite effect. With the high construction costs, co-op laundries may have a beneficial value over their life cycle. But, initially the cost of providing service may be higher than could be purchased from commercial business.

We must find a solution to rising costs, but the effectiveness of intrusion into the private sector is questionable. We should undertake the expansion in those areas in which services cannot be obtained at comparable costs from the private sector. However, we should assure that real savings will result.

We surely should not approve an action that might increase hospital costs, even next year. Thus, I feel that the investments required by the cooperatives and those that have been incurred by private business, dictate that this service be deleted.

I urge its acceptance.

Mr. President, I yield back the remainder of my time and I ask for a vote.

Mr. CURTIS. Mr. President, will the Senator yield me 1 minute?

Mr. LONG. Yes.

Mr. CURTIS. Mr. President, I believe this is a good amendment and I commend the Senator for offering it, and I hope it will be adopted.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Kentucky.

The amendment was agreed to.

SECTION 2601

Mr. LONG. Mr. President, I ask unanimous consent that the Senator from Maine be permitted to make a motion to strike or to indefinitely postpone, whichever he proposes to do, the item involving the credit for tuition for people going to college so that we can have a rollcall vote on that.

I hope we would settle for one rollcall vote rather than two. There is no reason for proceeding on the motion to strike first and then on the amendment itself. If the motion to strike fails, I think it is reasonabe to think that all those voting for it would be in favor of the amendment.

So, Mr. President, on the time yielded to me on the bill I yield 2 minutes to the Senator from Maine.

I first ask unanimous consent that it might be in order to consider separately the section dealing with the college tuition credit.

The PRESIDING OFFICER. Would the Senator state the number of the section?

Mr. LONG. It is 2601.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. LONG. Mr. President, I ask unanimous consent that it might be in order for the Senator from Maine to make a motion to strike or indefinitely postpone, whichever he prefers, and that the time be limited—I yield the Senator 2 minutes for that purpose.

The PRESIDING OFFICER. Is there objection?

Mr. PACKWOOD. Reserving the right to object, what was the request?

Mr. LONG. That the Senator from Maine have an opportunity to make his motion. He wants to move to strike or postpone that section.

Mr. PACKWOOD. The whole section?

Mr. LONG. Just the part dealing with tuition credit, 2601.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. MUSKIE. Mr. President, I do move to postpone indefinitely further consideration of section 2601, which is the college tuition credit.

Mr. President, I am not sure the subject can be covered in 2 minutes, but let me try.

The Senators, I hope, will be interested in the present budgetary impact of what we have done on this bill to date. When this bill came to the Senate floor the committee had provided $980 million, call it $1 billion, of the $2 billion revenue gain from tax expenditures that had been projected by the budget resolution.

As of this moment we have lost all but $150 million of that $1 billion. Now, those are our figures. The Joint Committee on Internal Revenue Taxation may have a better figure than that, but that is the figure I am operating on.

Now, with respect to what we have done already outside of the bill that was reported to the Senate, as I listened to the vote we have just taken on a prepaid legal services program, which we are told would cost $5 million the first year, $33 million in the fifth year, I would like to remind the Senate that the prepaid medical services program costs us several hundred million dollars in revenue at the present time, and there is no way of being sure what the outyear costs of that program may be.

I am tempted to think that Senators who would like to spend more money for education or health or other worthwhile purposes ought to move their programs from the budget to the Internal Revenue Code. I find Senators this afternoon voting to spend money through the Internal Revenue Code for social purposes that they would never support if the same amount of money were involved in additions to the budget.

A perfect demonstration of that is these three items: First, estate and gift tax changes incorporated in the bill. The cumulative 5-year impact is $6.1 billion. That is a revenue loss that has no impact in fiscal 1977, but the budget process is still going to be around 5 years from now, and the Congress is still going to have to fund the Federal spending as well as tax expenditures. And here is an outyear cost that is easy to buy because it does not have an effect on the 1977 budget, 5-year cumulative impact of $6.1 billion.

There is a sliding scale capital gains $2.4 billion, cumulative 5-year impact.

College tuition credit, $3.2 billion.

Those three put together, almost $12 billion.

If I, or any other Senator, were to propose that kind of increase in budgetary spending for these kinds of purposes, I suspect I would be laughed off the floor of the Senate.

The PRESIDING OFFICER (Mr. TAFT). The Senator's time has expired.

Mr. MUSKIE. May I have 2 more minutes?

Mr. LONG. One more?

Mr. MUSKIE. When it is done under the aegis of the Internal Revenue Code, apparently, all restraint vanishes.

I simply cannot, as chairman of the Budget Committee, just silently let this process continue as it has according to the figures I have given.

I would like to make some arguments on the merits of the Roth proposal, which is what I have asked we vote on, but I do not have the time.

So I will limit myself to a brief statement of the budgetary impact.

I am interested to know whether the Senate means what it said in the Budget Reform Act. Are we going to exercise restraint under the Internal Revenue Code as well as the budget, or is it just a one-track proposition?

Are we going to restrain spending and open the door through the Internal Revenue Code?

That is the question. That is why I have chosen this one of those three proposals to test the question.

I understand the appeal of this amendment and, incidentally, the Buckley amendment which was broader.

The PRESIDING OFFICER. The Senator's additional minute has expired.

Mr. MUSKIE. Would have cost $5.8.

Mr. KENNEDY. Mr. President, I ask unanimous consent for another 10 minutes.

Mr. LONG. I object.

Mr. KENNEDY. I say, we have worked out consent agreements and we will keep that in mind for the rest of the afternoon when we are talking about some other matters.

Mr. LONG. I will yield an additional minute to the Senator.

Mr. MUSKIE. How much?

Mr. KENNEDY. Ten more, Mr. President.

Mr. LONG. I object.

Mr. KENNEDY addressed the Chair.

Mr. MUSKIE. Mr. President, may I suggest to the Senator, if there is a discussion on the merits now——

Mr. LONG. Does the Senator want 2 minutes?

Mr. MUSKIE. I do not want more now, but I would like to put this proposition.

If there is a discussion on the merits following my proposal here, then I would appreciate the courtesy of being able to reply at that time.

But at this point, I have said enough, I think, to sustain the motion to indefinitely postpone.

I yield the floor.

Mr. LONG. I suggest if the Senator wants 5 minutes, he take 5 minutes. I want to get to a vote. He asked for 2, I will yield 5 more.

Mr. MUSKIE. I appreciate the Senator's courtesy. He gave me what I asked for.

All I am doing is suggesting that if there is an argument on the merits, I would like to have a little time to answer that. But if there is not, then I intend to vote on it.

Mr. LONG. The Senator from Delaware is entitled to have 1 minute. Perhaps he is entitled to 2, under the circumstances, but I will yield to the Senator from Delaware.

Mr. ROTH. Mr. President, I would like to emphasize what the senior Senator from Maine (Mr. MUSKIE) admitted, and that is that the Finance Committee amendment which I have sponsored will have no effect on revenue in fiscal year 1977 and does not violate that budget target.

What my amendment provides is that there will be a $100 tax credit per student beginning in June, 1977, and going up to $250 by 1980.

In my opinion, it makes no sense that this Nation can spend billions of dollars in countercyclical funds to bail out cities, billions of dollars for foreign assistance, billions of dollars for Government travel, but it cannot commit $1 to help the children of middle America attend college.

It is readily admitted that the fastest rising cost is in education. It seems to me it is about time we give recognition to middle working Americans and help them send their children to college.

If we favor providing a tax credit, I then urge we vote "No" on the Muskie motion.

I yield back the remainder of my time.

Mr. MUSKIE. Mr. President, the Senator from Delaware did not extensively discuss the merits, but one point I must emphasize.

The Senator was a member of the Government Operations Committee which wrote the Budget Reform Act. His argument this afternoon is because this has no impact in fiscal 1977, we ought not worry about it.

The Senator knows that one of the most difficult challenges facing this budget process is the uncontrollable nature of permanent authorizations of indefinite commitments made in 1 budget year casually, through the foot-in-the-door technique, that rise up to impose heavy burdens on the budget down here.

Here we are talking about almost $12 billion 5 years after the end of the fiscal year 1977, and the Senator says that is of no consequence, no consequence from a budgetary point of view.

Mr. President, we must begin to look at 5-year consequences which the Budget Reform Act requires us to do, the Reform Act requires us to look at 5-year costs, and that is what this is, 5-year costs.

I ask the Senate to tell the chairman of the Senate Budget Committee and the members of the Budget Committee whether that means anything.

I ask for the yeas and nays on the motion.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. RIBICOFF. Mr. President, I commend the Senator from Delaware for his efforts on behalf of families who are struggling to meet the ever rising costs of educating their children and I am pleased to be a cosponsor of his amendment.

I first introduced similar legislation over 12 years ago. On three separate occasions the Senate has voted for a tuition tax credit. Unfortunately, the House of Reprsentatives has failed to follow our lead.

The impact of rising education costs hits middle income families the hardest. Generally, their children are ineligible to receive financial aid provided by State and Federal governments. These programs are, correctly I believe, targeted at the lower income students who until recently have been denied access to higher education.

Senator ROTH's tax credit amendment will provide some assistance to these middle income taxpayers who are paying the heavy costs of educating their children. This is sound tax policy and public policy. We are investing in our country's future by allowing this tax credit, just as we invest in our future when we allow industry an investment tax credit.

It provides, once fully phased in, a $250 tax credit for each eligible fulltime student in a vocational education institution as well as in an institution of higher learning. Because it applies to educational expenses incurred after June 30, 1977, it will have no revenue impact in fiscal year 1977. It will cost tax revenues in future years—$467 million in fiscal year 1978; $1.1 billion in fiscal year 1981. But this is a cost which I believe we should bear.

I urge the adoption of section 2306.

COLLEGE TUITION TAX CREDIT

Mr. MUSKIE. The Roth tuition tax credit would provide a credit against taxes paid equal to 100 percent of the first $100 in tuition and fees paid for higher education in the last 6 months of 1977, rising to $150 for these types of expenses paid in 1978, $200 in 1979, and $250 in 1980 and subsequent years. The person for whom the credit is claimed must be a full-time student in college or vocational school.

The revenue loss resulting from enactment of this provision will be in millions of dollars:

Fiscal year 1977	—0
Fiscal year 1978	—467
Fiscal year 1979	—711
Fiscal year 1980	—926
Fiscal year 1981	—1,103

This is a 5-year total of $3.2 billion.

First. The credit is likely to be largely or entirely reflected in increased tuition costs. Educational institutions, knowing this gift is being provided to virtually all their students, are likely to increase their tuition costs. When this occurs, no benefits at all will accrue to the taxpayers from enactment of this provision.

Second. Many students attend land grant colleges whose tuitions are extremely low as a result of direct subsidization. These persons would receive the full benefits of the credit, even though their college costs are already heavily subsidized.

Third. On the other hand, since the credit constitutes a relatively small fraction of full-time private college costs, it will provide relatively little relief to parents whose children attend private colleges.

Fourth. The relative low level of benefits also indicates the strong likelihood that this level of benefits will be subject to future pressure to be raised substantially with concurrent large increases in the revenue loss associated with the provision.

Fifth. Because the credit is so broadly based, it will provide unnecessary relief to the very wealthy as well as those lower income taxpaying individuals whose dependents receive federally funded or other partial scholarships. Thus, the credit benefits are not efficiently targeted to the middle income class the proponents of the amendment seek to assist.

Sixth. The tuition credit was not the subject of Finance Committee or any other recent congressional hearings. The likely effects of the credit, including all the foregoing problems, have not been closely analyzed.

Seventh. In order to avoid any revenue impact on the fiscal year 1977 budget, this massive credit was formulated to take effect July 1, 1977, almost a year from now. Implementation of this costly credit easily could be fully considered before that time.

Eighth. The pending amendment to enact the credit now should be tabled.

Mr. BUCKLEY. Mr. President, I deplore the action of the Senate in disregarding the interests—indeed more than the interests—the rights of millions of American schoolchildren and their parents. The exclusion of tuition for elementary and secondary school pupils from the Roth amendment makes it impossible for me to vote for it.

I will, therefore, cast my vote as a sympathetic protest against the Congress continuing discrimination against those millions of our countrymen who are struggling to support alternatives to the public education monopoly. Enough is enough. They have waited for too long.

Indeed, they have waited for generations to be given a fair break. And the clear message of the Roth amendment is that they have waited in vain.

There is much to be said in favor of the amendment proposed by our distinguished colleague and my good friend from the State of Delaware, and I commend him for his laudable efforts to secure some consideration for those who pay tuition for themselves or for members of their families. In fact, I hope the Senate will recognize the significant merit in his proposal as a possible first step toward a more equitable distribution of tax relief. And so, I find myself in the unusual position of recommending the Roth amendment to the favorable consideration of this body while, at the same time, I feel a solemn obligation to those many organizations and to millions of individuals who have seen in my amendment—and in the Buckley-Delaney bills on which it was based—the long-postponed measure of fairness for which they have waited so patiently.

As the Senate proceeds to its vote on the Roth amendment, as it attempts to leave behind yet for another year this issue of equity, I want to solemnly assure my colleagues that they will again be hearing from those Americans who today will receive from the Congress the back of its hand.

Mr. MATHIAS. Mr. President, it is with great pleasure—and a sense of long-delayed satisfaction—that I give my support to the provision for a tax credit for tuition paid for higher education. Sixteen years ago, as a first-term Member of the House of Representatives, I introduced my first piece of legislation. Its purpose was the same as that of this amendment.

Tuition costs for postsecondary education today reach into the thousands of dollars for each year of study. Only the wealthy can afford to send their children through college without imposing a great financial strain on the entire family. Lower- and middle-income families and individuals must rely on student financial aid, bank loans, and work-study programs. The record demonstrates that these are not sufficient to meet the costs of higher education. As a result, families are thrown into debt, or a student graduates from college with a financial burden that must be carried for years.

For many people, college or vocational education is essential to achieve their career goals—and to lead a full and satisfying life. The strength of our democratic system of government depends, in large measure on an educated citizenry. In our society, postsecondary education cannot be a privilege for just the wealthy; it should be an opportunity for all.

I believe that this committee amendment will help to make college a reality instead of a dream for many families. Adoption of this amendment will give a small benefit to a very large group of taxpayers who will be footing the bill for so many of the tax breaks the Senate has seen fit to give to business and high income individuals. Low and middle income citizens also deserve the favorable consideration of the Senate, and I join the Senator from Delaware in urging the Senate to reject the motion to delete this provision.

The PRESIDING OFFICER. The question is on agreeing to the motion to indefinitely postpone section 2601. The yeas and nays have been ordered and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Colorado (Mr. GARY HART), the Senator from Indiana (Mr. HARTKE), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Montana (Mr. METCALF), the Senator from Minnestota (Mr. MONDALE), and the Senator from California (Mr. TUNNEY), are necessarily absent.

I also announce that the Senator from Michigan (Mr. PHILIP A. HART), and the Senator from Delaware (Mr. BIDEN), are absent because of illness.

I further announce that, if present and voting, the Senator from Delaware (Mr. BIDEN), would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BROCK), the Senator from Arizona (Mr. GOLDWATER), the Senator from Pennsylvania (Mr. SCHWEIKER), and the Senator from North Dakota (Mr. YOUNG), are necessarily absent.

The result was announced—yeas 20, nays 68, as follows:

[Rollcall Vote No. 485 Leg.]

YEAS—20

Abourezk
Bellmon
Buckley
Bumpers
Chiles
Clark
Cranston
Culver
Javits
Kennedy
McClure
Morgan
Moss
Muskie
Nelson
Nunn
Pell
Percy
Randolph
Talmadge

NAYS—68

Allen
Baker
Bartlett
Bayh
Beall
Bentsen
Brooke
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Church
Curtis
Dole
Domenici
Durkin
Eagleton
Eastland
Fannin
Fong
Ford
Garn
Glenn
Gravel
Griffin
Hansen
Haskell
Hatfield
Hathaway
Helms
Hollings
Hruska
Huddleston
Humphrey
Inouye
Jackson
Johnston
Laxalt
Leahy
Long
Magnuson
Mansfield
Mathias
McClellan
McGee
McIntyre
Montoya
Packwood
Pastore
Pearson
Proxmire
Ribicoff
Roth
Scott, Hugh
Scott, William L.
Sparkman
Stafford
Stennis
Stevens
Stevenson
Stone
Symington
Taft
Thurmond
Tower
Weicker
Williams

NOT VOTING—12

Biden
Brock
Goldwater
Hart, Gary
Hart, Philip A.
Hartke
McGovern
Metcalf
Mondale
Schweiker
Tunney
Young

So the motion to indefinitely postpone was rejected.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

COMMITTEE MEETINGS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Committee on Labor and Public Welfare be authorized to meet on August 10 and 11, to consider mine safety bills.

The PRESIDING OFFICER. Without objection, it is so ordered.

TAX REFORM ACT OF 1976

The Senate continued with the consideration of the bill (H.R. 10612) to reform the tax laws of the United States.

Several Senators addressed the Chair.

Mr. ROTH. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. BROOKE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER (Mr. GARN). The hour of 4 o'clock having arrived, the Senate will now proceed to the consideration of the committee amendment on section 1205.

The Senator from Connecticut is recognized. The Senate will be in order, so that the Senator can be heard.

Mr. WEICKER. Mr. President, I move to recommit H.R. 10612, the Tax Reform Act of 1976, with instructions that the committee report back forthwith with an amendment in the nature of a substitute which contains only the provisions extending individual income tax reductions and the $35 credit through calendar year 1977.

Mr. LONG. A point of order, Mr. President.

The PRESIDING OFFICER. The Senator will state his point of order.

Mr. LONG. Under the unanimous-consent agreement, at this time we are to be considering the administrative summons, section 1205 of the bill.

The PRESIDING OFFICER. That is the committee amendment which is before the Senate. Under the rules of the Senate, a motion to recommit takes precedence over an amendment; so the point of order fails.

Mr. LONG. Mr. President, is that motion debatable?

The PRESIDING OFFICER. The motion is debatable.

Mr. LONG. Mr. President, there are at least 11 titles in this bill that have been agreed to by unanimous vote of the Senate. Everything in the bill that we have voted on has been agreed to by a majority vote of the Senate. I do not think the Senate wants to vote down and fail to act on measures that it has agreed to by unanimous vote or by overwhelming vote.

I do not agree with everything that is in this bill. It is such a big bill, with so many issues, I do not suppose anyone agrees with everything in it. But the fact remains that a majority vote on everything that is in it means it is there because a majority of the Senate thinks it ought to be there. I believe it would be very foolish for the Senate to attempt to bypass all the hard work that has been done, to put $2 billion of taxes on people who are not paying their fair share of taxes and try to provide justice and equity to taxpayers who are today paying too much in taxes.

Therefore, I believe it would be a bad mistake for the Senate to undertake to limit its activities to a simple extension of the tax cut that was passed last year. I personally would feel that I would have to resist efforts to do business on that basis, and I urge the Senate to vote against the motion.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut still has the floor. Does he wish to yield further?

Mr. WEICKER. I yield to the Senator from Maine.

Mr. MUSKIE. I appreciate the Senator's fairness. I sought recognition before the Senator from Connecticut, but he must have been reading my mind.

Mr. President, I watched the last vote with interest. It is quite clear to me that as far as the Internal Revenue Code is concerned, the Senate has indicated the budget process is meaningless. The Senate has demonstrated over the last year or more that it is willing to accept restraint with respect to direct spending under the budget, but has said over the last 4 weeks that it will not accept restraint on spending under the tax code.

In connection with the recent motion, I gave the Senate figures which document what I have just said. I have listened to Senators expressing their approval of the spending of billions of tax dollars that they would resist with every ounce of their strength if it were presented to them in direct budgetary spending, as though there were no difference, as though $12 billion lost under the tax code is not the same as $12 billion lost by direct spending.

I find that incredible. What was the last vote, may I ask the Chair?

The PRESIDING OFFICER. The amendment failed, 20 to 68.

Mr. MUSKIE. Twenty to sixty-eight; 20 Senators voted for restraint in spending dollars under the tax code; 68 said, "No, this is too sexy a proposal; I cannot say no to it."

I simply wanted recognition for this simple purpose. I do not care what any other Senator does. I tried from the time that this tax bill hit the floor to try to connect it to the budget process, and a majority of Senators have consistently said to me, "MUSKIE, you do not know what you are talking about."

That is what they have said with their votes, if not their words. "MUSKIE, this is not your territory; it is out of your jurisdiction; it is out of your responsibility."

May I say to my colleagues, you kicked the biggest hole in the budget process that you could conceivably kick.

Mr. NELSON. Mr. President, will the Senator yield?

Mr. MUSKIE. What I was going to say before I heard the motion of the Senator from Connecticut was, if this trend continues, to me it is an unstoppable one, I for one will vote against the tax bill, if and when we get to that point, on budgetary grounds. And there are a lot of provisions in there that I like and there are an awful lot I do not like. But my responsibility is to try to present to the Senate the consequences of its spending decisions.

And you have been spending money as though it was going out of style in this bill, for purposes that are always good. But do you not think there are sexy purposes in the budget? How many of those did I have to say no to in the markup on the budget resolution, and some of you are standing now and will say I did not say no to enough of them, that I should have said no to more of them, that I should have said no to enough of them to eliminate the deficit of $50 billion. That $50 billion was too big a deficit. What in heaven's name do you think this $2 billion loss does to the deficit? It raises it by $2 billion. But you will not say "no." Only I am supposed to say "no" with respect to direct spending but on tax expenditures, oh, nobody is going to say "no." That is the picture, as I see it, and I am sorry to have taken so much time of the Senate to say it.

Several Senators addressed the Chair.

Mr. HASKELL. Will the Senator yield?

Mr. NELSON. Will the Senator yield for a request?

Mr. MUSKIE. I am going to sit down. I am tired of wasting my voice.

The PRESIDING OFFICER. The Senator from Connecticut has the floor.

Several Senators addressed the Chair.

Mr. WEICKER. I yield to the Senator from Colorado.

Mr. HASKELL. I shall be brief. The Senator from Connecticut anticipated me by about 24 or 48 hours.

I shall point out a few things this tax bill does. I have in front of me a summary prepared by the staff of the Joint Committee on Internal Revenue Taxation, dated August 5, 1976.

If I interpret this spread sheet correctly, and I ask the attention of the Senator from Maine, the tax bill, as amended by floor action through August 3, plus the anticipated amendments, will result in the year 1981 of an additional $5.5 billion of tax expenditures.

One of my reasons for supporting the distinguished Senator from Connecticut is that this bill, as drafted, does not lose much revenue in the coming year except through extension of the tax cuts.

The tax cuts, however, sharply reduce in 1978, even more sharply in 1979, and by——

Mr. LONG. Point of order, Mr. President; point of order.

Mr. HASKELL (continuing). 1981 we are $5.5 billion down.

The PRESIDING OFFICER. The Senator from Connecticut has the floor.

Mr. LONG. I make the point of order that the Senator has yielded the floor. He can only yield for a question. The Senator has yielded the floor.

Mr. HASKELL. I intend, Mr. President, to ask a question.

The PRESIDING OFFICER. The Senator from Connecticut cannot yield for more than a question, and the Senator from Connecticut has the floor.

Mr. WEICKER. Mr. President, I am delighted to yield the floor for a question to the Senator from Colorado. That is what I assume he is asking.

Mr. LONG. I make the point of order that is not a question and, therefore, the Senator has yielded the floor.

Mr. HASKELL. I have a right to ask a question.

Mr. LONG. There is no question.

The PRESIDING OFFICER. State the point of order.

Mr. LONG. Mr. President, I ask to be recognized.

The PRESIDING OFFICER. The Senator from Connecticut still has the floor.

Mr. LONG. He can only yield for a question, and he yielded for a speech.

Mr. HASKELL. Mr. President, I intend to ask a question.

Mr. LONG. I make a point of order. The Senator can only yield for a question. He cannot yield for a speech. He has yielded the floor.

The PRESIDING OFFICER. The Senator from Connecticut has been warned and still holds the floor. He can ask for a vote on the point of order of the Chair.

Mr. HASKELL. Mr. President, I ask the Senator from Connecticut a question.

Does the Senator from Connecticut feel that a bill that was designed to lose relatively little revenue except by a tax cut to ordinary people in 1977 but was designed to lose $5.5 billion in additional tax expenditures in 1981, does the Senator from Connecticut believe that a bill which increases and goes to the 1920 economic philosophy of help the rich by giving further investment tax credits, does the Senator from Connecticut feel that a bill that increases the complexities of the Internal Revenue Code by adding 1,500 pages, does the Senator from Connecticut believe that this is tax reform and in the best interest of the people of the United States?

Mr. WEICKER. In response to the Senator from Colorado, this legislation, as it now sits before us, flies right in the face of the budgetary process which we created. It flies right in the face of the credibility which we are trying to establish between this body and the people of the United States. It flies right in the face of what is commonly conceived as tax reform. Indeed, none of us are doing right either by ourselves or by the process.

Mr. President, I have no intention of holding the floor or trying to engage in any sort of filibuster because I think that what I am proposing here is on the minds of many of us in this Chamber. We have gone a long way down the road which is beginning to look increasingly unattractive, and regardless of whether we agree with certain portions of the bill or disagree, it is the total concept that comes across to the American people that is at issue.

I confess that when we created this budgetary process I believed that for the first time we were going to bring logic into the authorization, the appropriation, the revenue-raising processes of Congress. I think that the statement by the distinguished Senator from Maine was a dramatic and a very true statement as to how we are totally rejecting our previous actions and our previous commitments.

The bill we have now before us just totally defies human understanding, never mind senatorial understanding. And this is not to say that I have not myself voted for certain provisions of this bill. I have. I do not think, however, we know the total impact of our individual actions. That is the problem and that is exactly why we have that Budget Committee. We sit here morning after morning, afternoon after afternoon, evening after evening. But we do not know the total impact of what we are doing? We are not just gutting our own process; we are gutting the fiscal stability of this Nation.

I have been as much a part of that as anyone here. But I am not going to continue to walk in the dark not knowing what I am doing. It is just not right.

So I am not pointing the finger at anyone but myself and, yes, as it now stands, I would have to vote "no" on the bill because I am concerned with fiscal impact of this legislation.

But what is the total impact? Right now it is not so much the substance of this legislation that is important, but how do we get this bill passed in the fastest possible way.

It is not right.

It is not right as I said either on budgetary grounds or credibility grounds. But regardless of whether I voted for a portion or not, I will not be a party to it any longer.

With that, Mr. President, I yield the floor.

Mr. **LONG** and Mr. **CURTIS** addressed the Chair.

The **PRESIDING OFFICER**. The Senator from Louisiana.

Mr. **LONG**. Mr. President, we are proceeding about the same way that we did before we ever had any Budget Committee. How did we do business then? We fellows on the tax-writing committee, generally regarded as being more conservative than gentlemen in the Senate, for the simple reason we had to try to raise the money to pay for everyone else's spending in addition to our own spending, would report tax bills, and the Senate would vote additional tax cuts.

In fact, the Senate would historically try to put programs like veterans' programs in the Finance Committee to keep from trying to bankrupt the country because they felt that if there were any committee likely to restrain itself in spending proclivities, it would probably be the Finance Committee that had to raise the taxes to pay for all that.

So, year by year, we would bring in revenue. If at any time we brought a tax cut or so-called tax cut reform bill out here, the Senate would load that bill down with all kinds of tax cuts and goodies that we could not afford to the point of absolute ridiculousness. So sometimes this Senator would be almost ashamed to walk into the room of that Ways and Means Committee, which had the benefit of a closed rule over there. Because of the closed rule, they could bring their bill out as a responsible bill, and limit what men could vote on to just a vote for the bill or against the bill or a motion to recommit and, therefore, thanks to that closed rule in the House of Representatives, they could pass the bill the way the most senior and the most fiscally responsible people in that body would recommend.

But we could not do that here.

The Senate would just load that bill down, and sometimes I would have some of the most conservative fiscally responsible men of this Senate vote for some of the most irresponsible budget-busting amendments and tell me confidentially and say, "Look, incidentally, we do not expect you to keep this thing in conference, but it is easier for some of us to vote for it than explaining why we did not."

So we would go to conference. Then by the time we got through, sometimes we would come home with a bill that would spend less money in terms of tax expenditures or in terms of other expenditures, however you want to figure it, that would go below the figure of the House bill or the Senate bill, even though the Senate had had a spending orgy and tax cut orgy that would have bankrupted America.

When we get a bill like this to conference, we get the benefit of some of those who are going to be pressed and who understand the problem about fiscal stability, and we have seen these bills come back which although they appear to be enormous spending bills, by the time the conference got through with them they were below what the Senate and the House both had suggested.

Now, here is an amendment I had in mind offering at the end of this bill:

"It is the sense of Congress regarding revenue reduction from this bill that the conferees on this bill should make every effort to decrease the revenue reduction caused by this bill in fiscal year 1977 to as near the $15.3 billion figure as possible."

And that is why I had thought what the conferees should be instructed by the Senate to work toward, and I was going to offer that amendment. That is how we balanced tax bills in the past.

It seemed like when we created this Budget Committee that if perhaps the Budget Committee would support the Committee on Finance in areas of either tax increases, where we thought necessary, or resisting excessive tax cuts, that we could make it stick. Well, it did not work out that way.

The chairman of the Budget Committee himself wanted to prove his point by offering the budget busting amendment in here.

What is the most expensive thing beyond what the Committee on Finance did? The most expensive amendment is the tax cut amendment of the Senator from Maine.

Now, most of us here have voted for more tax cuts than are in this bill. But this is a problem that could be handled under the old system, and we could have handled it without any Budget Committee, and we can handle it now. It is just a matter of looking at how much revenue we raise, looking at how much we have to work with, and trim the cloth to fit the pattern. That is all there is to that. It has been done time and time again.

I am looking at some of the Senators who have helped us do that down through the years, who have been very responsible in looking at what should be done and should not be done.

We have raised in this bill more than $2 billion of additional taxes in spite of the Senate knocking out for us some of the things that we thought we should have had. We thought it was tax reform to stop deducting State and local gasoline taxes. The Treasury has recommended it again and again, but we could not get the Senate to sustain us on it. Well, that was too bad. But we still have $2 billion of revenue that we raised by taxing people we think are getting altogether too much the best of it. We have that $2 billion to work with in conference.

Now, Mr. President, I regret to say that the budget process is not proving itself to be anything but a budget-busting process on this bill, when the chairman of the Committee on Budget leads the charge to bust the budget and himself offers the budget-busting amendment that makes the breakthrough. I always thought the Committee on the Budget was supposed to be supporting us in that.

Well, so much for that. You have heard their side and you have heard our side. They take some great pride in themselves and I know the Washington Post very much supports their view. I understand how that comes about.

At the same time, Mr. President, there are those of us who feel that there is no problem. If people want to hold this bill within a budget target, to stay within that budget target, all we have to do is look at all these goodies that the Senate voted for and say, how much can we afford, and look at whatever goodies the House voted for and ask how much they can afford and how much revenue we have raised.

We have done that time and time again in the past, and we have done that without having to crawl between the Budget Committee and the Finance Committee. We have just looked and said, responsibly, how much of this do we think we can afford?

Having tried to do that, we have then proceeded to tailor whatever we had to work with to provide whatever benefits we thought we could afford.

Mr. President, I want to move to table that motion so we can get on with this business. We have other things we want to vote on here. I would be willing to agree, if we could have a limitation, that we would have an additional one-half hour, to be equally divided between the proponents and the opponents of that motion, at which time we vote on a motion to table.

I move, Mr. President, to lay the pending motion on the table. I ask unanimous consent that there might be an additional half-hour allowed, 15 minutes on each side, for the proponents and the opponents.

The PRESIDING OFFICER. Is there objection?

Mr. PACKWOOD. Objection.

Mr. WEICKER. Reserving the right to object.

The PRESIDING OFFICER. Objection is heard.

Mr. LONG. Then I ask for the yeas and nays on the motion.

Mr. MUSKIE. Will the Senator withhold?

The PRESIDING OFFICER. The question is on a motion to lay on the table. It is not debatable.

Mr. LONG. I ask for the yeas and nays.

The PRESIDING OFFICER. The yeas and nays have been called for. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the motion to recommit. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. HARTKE), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Montana (Mr. METCALF), the Senator from Minnesota (Mr. MONDALE), and the Senator from California (Mr. TUNNEY) are absent on official business.

I also announce that the Senator from Delaware (Mr. BIDEN), and the Senator from Michigan (Mr. PHILIP A. HART) are absent because of illness.

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BROCK), the Senator from Arizona (Mr. GOLDWATER), and the Senator from Pennsylvania (Mr. SCHWEIKER) are necessarily absent.

The result was announced—yeas 48, nays 42, as follows:

[Rollcall Vote No. 486 Leg.]

YEAS—48

Allen
Bartlett
Bayh
Beall
Bentsen
Buckley
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Cranston
Curtis
Dole
Eastland
Fannin
Fong
Ford
Gravel
Griffin
Hansen
Hathaway
Hruska
Huddleston
Inouye
Jackson
Johnston
Long
Magnuson
McClellan
McGee
McIntyre
Montoya
Morgan
Packwood
Pastore
Percy
Randolph
Ribicoff
Roth
Scott, William L.
Sparkman
Stafford
Stennis
Stevens
Stone
Talmadge
Thurmond
Young

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Abourezk
Baker
Bellmon
Brooke
Bumpers
Case
Chiles
Church
Clark
Culver
Domenici
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Eagleton
Garn
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Hart, Gary
Haskell
Hatfield
Helms
Hollings
Humphrey
Javits
Kennedy
Laxalt
Leahy
Mansfield
Mathias
McClure
Moss
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Nunn
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Tower
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Brock
Goldwater
Hart, Philip A.
Hartke
McGovern
Metcalf
Mondale
Schweiker
Tunney

So the motion to lay on the table the motion to recommit was agreed to.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The question now recurs on agreeing to section 1205.

The Senator from Nebraska.

Mr. ROBERT C. BYRD. Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. Senators will clear the well and the aisles so that the Senator from Nebraska can be heard. The Senator will withhold until the aisles and the well are cleared.

The Senator from Nebraska.

AMENDMENT NO. 2154

Mr. HRUSKA. Mr. President, I call up my amendment No. 2154.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Nebraska (Mr. HRUSKA) proposes an amendment numbered 2154.

Mr. HRUSKA. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 760, between lines 20 and 21, insert the following:

"(3) LIMITATION ON NOTICE.—The notice requirement under paragraph (1) shall not apply with respect to any summons involving records concerning any person for any year if such person has received notice under paragraph (1) of any other summons which relates to records involving that year.".

On page 760, line 21, strike out "(3)" and insert in lieu thereof "(4)".

On page 761, line 5, strike out "(4)" and insert in lieu thereof "(5)".

On page 761, beginning with line 20, strike out all through page 762, line 7, and insert in lieu thereof the following:

"(2) RIGHT TO STAY COMPLIANCE.—Notwithstanding any other provision of law, any person who is entitled to notice of a summons under subsection (a) may stay compliance of such summons if, not later than the 14th day after the day such notice is given in the manner provided in subsection (a) (2), such person—

"(A) files a petition with a court of competent jurisdiction requesting a hearing to determine whether or not such summons should be enforced,

"(B) gives notice in writing to the person summoned of the filing of such petition and instructions not to comply with the summons, and

"(C) a copy of the notice under clause (ii) is mailed by registered or certified mail to such person and to such office as the Secretary may direct in the notice referred to in subsection (a) (1).".

On page 763, strike out lines 8 through 19, and insert in lieu thereof the following:

"(d) RESTRICTION ON EXAMINATION OF RECORDS.—No examination of any records required to be produced under a summons described in subsection (a) (1) (whether or not notice is required under subsection (a) with respect to such summons) may be made—

"(1) before the expiration of the 14-day period allowed for the filing of a petition to stay compliance under subsection (b) (2), or

"(2) when the requirements of subsection (b) (2) have been met, only if an order allowing the enforcement of the summons with respect to which the petition was filed has been issued by a court of competent jurisdiction or the person consents to such examination.".

On page 763, line 23, insert after "issued" the following: "(or his nominee or agent)".

On page 765, line 12, strike out "subsections (f)" and insert in lieu thereof "subsection (b) (2), (f),".

Mr. HRUSKA. Mr. President, this is a section out of title XII which was reserved for action at a later time when title XII was approved in its entirety, with this exception. Section 1205 deals with administrative summons which are used by taxing authorities when a taxpayer fails or refuses to disclose or supply certain records or information which the taxing authorities consider necessary for the purpose of ascertaining either criminal tax or tax avoidance liability.

Mr. President, there are over 100 million tax returns filed each year. For the most part, and with the exception of a small percentage, the taxpayers cooperate with the authorities by supplying the requested information.

Only about 8,000 of the over 100 million tax returns are subjected by the Internal Revenue Service to investigation in depth. Out of those 8,000, the Internal Revenue Service transmits to the Department of Justice about 2,000 each year with the recommendation that criminal prosecution be instituted and prosecuted.

Mr. President, when the condition of a refusal or failure to supply requested information occurs, the Internal Revenue Service or the Department of Justice issues an administrative summons to third parties, either a bank, a trust company, a stockbroker, in possession of records or information which the taxing authorities deem necessary for their purposes.

Mr. President, section 1205 would create a new legal right. At the present time, there is no legal right vested in the taxpayer to challenge in court the administrative——

Mr. CURTIS. Mr. President, may we have order?

The PRESIDING OFFICER. Conversations will cease so that the Senator from Nebraska can be heard. There is plenty of space in the cloakrooms for those who desire to talk.

The Senator from Nebraska.

Mr. HRUSKA. Mr. President, under the present law, the taxpayer has no legal standing in court to challenge the administrative summons which is issued to and upon a third party.

That is the result of a Supreme Court ruling in United States against Donaldson which says, in effect, that the taxpayer has no protectable interest in the records sought by the administrative summons. In that case, the summons was directed against a third party.

There are other reasons for it, Mr. President.

One is that the matter at that time is in the investigative stage, and for a taxpayer to be allowed to interfere through court action with an investigative proceeding would be a strange concept indeed.

There is a third reason why the person has no standing to challenge the summons. It is because in due time, if and when a civil or criminal suit is pressed against him, he may then, at that time, object to any evidence which he believes was obtained illegally or improperly.

Section 1205, as we find it in the bill, creates an entirely new legal right. That right would give to the taxpayer in the circumstances I have described the standing in court necessary to challenge each and every one of these administrative summonses.

If that standing is given to the taxpayer, he will have the means whereby he can cause intermidable delay and even cause the prevention of a complete investigation by reason of his ability to challenge in court each and every administrative summons that is issued.

The number of these summonses in any given case, Mr. President, can reach into the scores. In complex cases it can go into the hundreds. Each of these cases, from the time it begins until it is terminated, would take a minimum of 18 to 24 months.

Mr. BUMPERS. Will the Senator yield for a question?

Mr. HRUSKA. With the necessity of a complete and exhaustive investigation which is visited upon the taxing authority required by the Supreme Court decision in the Reisman case, the number of these summonses is tremendously great. They are filed and issued successively, sometimes weeks apart and months apart.

To give the taxpayer the right to appeal each and every one of these, with the virtual predestined judgment of no relief being granted, would mean the delays would amount to 6, 8, 10 or 12 years, and that, of course, would increase the opportunities for the disappearance of witnesses, the disappearance of records, and the utter frustration of the investigative process.

Mr. BUMPERS. Will the Senator yield for a question at that point?

Mr. HRUSKA. I will be happy to yield for a question.

Mr. BUMPERS. The Senator's amendment goes pretty close to a thing which has concerned me. That is the fact that the IRS has the right under present law to go to a third party and request records, for example a bank to request the records of taxpayers. Sometimes these records can be very voluminous. At present, the cost of that is borne by the taxpayer. There is no test of reasonableness. There is no test of any kind. I happen to know of one case that I consider a fairly outrageous one where the taxpayer was subjected to thousands of dollars in expenses for copying the figures acquired from third parties for the IRS. Does the Senator feel that is fair?

Mr. HRUSKA. Leaving aside the issue of fairness, it is the law already in other cases and it is the law in any case when the Government calls upon any third party for evidence or for testimony.

Not long ago in this Chamber we passed an antitrust revision bill in which the investigators for the Department of Justice could call upon any individual, not for records alone, not for information of a documentary nature, but also even oral testimony under oath. That would be at the expense and at the burden that is cast upon the individual witness.

Aside from fairness, that is the law and that is the way it is. If we want to correct that situation, we ought to pass a statute saying that in such event such witnesses will be given a proper witness fee and such costs of producing those records, or reproducing them, as might be entailed.

Mr. BUMPERS. I believe the Senator is correct. I think it is a matter that should be addressed. I am not sure which committee ought to concern itself with it.

At that particular point, when the IRS comes in and wants to audit a taxpayer's return, I would say that 95 percent of the taxpayers hand over any records they have and cooperate fully. Some audits, of course, are more extensive and require a lot of information that the taxpayer might not even have at his disposal. They can go to any third party to acquire it.

The point is, at that time there is certainly a presumption of innocence in favor of the taxpayer. The Senator has already clearly stated that 2,000 or less of the tax returns subjected to audit each year and sent to the Department of Justice for prosecution. We are talking about less than 1 percent of the tax returns being audited.

I am just saying that a taxpayer should not be put to an arbitrary or capricious expenditure for an audit which will not result in a prosecution. Even in the case where he is subjected to prosecution at the point where he is required to make the payment and bear the expense he is still presumed to be innocent. I am deeply concerned about that.

The reason I raise the question is because taxpayers may very well have the right, and I think they probably ought to have the right, to challenge some of those summons that are issued where the taxpayer knows that the issuance of that summons is going to cost him some amount of money, which is not known to him, which cannot be reasonably anticipated by him at the time.

Mr. HRUSKA. Of course, the issue of expense of the third party witness is one thing. That is one issue which is not involved in this present situation.

Mr. BUMPERS. I recognize that.

Mr. HRUSKA. As to the availability of those records in the bank to the taxpayer himself, I cite the Donaldson case which held in that kind of a situation there is no protectable interest. There is no protectable interest which would serve as a basis for giving the taxpayer standing in court to challenge. The time for him to assert an objection to that kind of testimony and that type of record is if, and when a lawsuit is filed against the taxpayer, then he can raise any issue of illegality or impropriety of the evidence that is in issue.

Mr. PASTORE. Will the Senator yield?

Mr. HRUSKA. I will be happy to yield.

Mr. PASTORE. Do I understand the Senator's amendment correctly, that the taxpayer will be notified that he is being investigated, is that correct?

Mr. HRUSKA. The amendment which I propose to replace the present section 1205 would provide for such a notice.

Mr. PASTORE. All right. Therefore, the taxpayer is notified that he is being investigated. Would he also be notified that third parties are going to be looked into?

Mr. HRUSKA. As a matter of fact——

Mr. PASTORE. The only thing that the Senator stops is his right to interfere and intervene on that administrative summons?

Mr. HRUSKA. I do not even go that far, Mr. President.

In the amendment I propose, when a third party summons is issued to a bank, the Internal Revenue Service must give notice to the taxpayer who is involved and attach to that notice a copy of the summons that goes to the bank. At that point, the taxpayer may resist enforcement of the summons, either through the bank itself or on his own motion.

Mr. PASTORE. A motion before whom?

Mr. HRUSKA. Before the court. He can resist the enforcement of that summons. But when that case is disposed of in its final stage, that will bar him from renewing a similar request as to a subsequent summons that might be issued to other third parties.

Mr. PASTORE. In other words, it gives him one bite?

Mr. HRUSKA. It gives him one bite, as our eminent authority on this legislation for the Finance Committee has noted.

Mr. PASTORE. And therefore if he does not succeed in that, he cannot intervene in the other?

Mr. HRUSKA. That is right. The objection is sometimes raised, "But the second summons will be directed against his lawyer." The lawyer is bound by his ethics, and I do not know but that he might be bound by law, in some cases, to assert a privilege of immunity.

Mr. PASTORE. Does the Senator have any figures on how many new cases would be brought before our Federal courts, which already have crowded dockets, if a taxpayer were allowed to intervene in every particular issuance of a summons?

Mr. HRUSKA. There is testimony in the record, and I have a detailed itemization, of the numbers of that type of case. The estimate of the Administrative Office of the United States Courts was that an estimated 38,000 summonses and enforcement proceedings a year would be imposed upon the Federal court system in this country if the bill is passed with the present section 1205 in it. That is over and apart from the burden cast upon the tax law enforcement authorities.

Mr. PASTORE. Therefore, what the Senator is actually saying, as a practical matter, is that if the taxpayer does not prevail on his first questioning of the summons to a third party, that thereafter any further intervention would only be dilatory and nothing more?

Mr. HRUSKA. He could not assert any opposition to it, as to that calendar year's taxes, to which that first summons applied. The next year, if he had another one, he gets a fresh bite at it.

Mr. DOLE. Mr. President, will the Senator from Nebraska yield?

Mr. HRUSKA. Very happily.

Mr. DOLE. I listened very carefully to the Senator. I think the Justice Department is worried about the operation of organized crime, if the bill were enacted as provided in the committee amendment, but on the other hand we are concerned about the rights of taxpayers. It is a very difficult question for some of us to resolve. It seems to me there might be some abuse by IRS if they had 7 or 8 years where they wanted to issue administrative summonses, if they picked out one year where they felt the taxpayer would not resist, and then they issued the other 4 or 5, and he had no notice or no knowledge. How do we protect the taxpayer as opposed to those who might be engaged in fraud, evasion, or organized crime?

Mr. HRUSKA. Well, after all, we have to weigh the alternatives; either you are going to leave the door open for successive contests of this type of summons, and engage in interminable delays, or say, "We will give the man one chance as to any kind of summons as it comes along," and then, as to anything else pertaining to that tax year, the time for him to speak to any evidence that may be secured by following summonses will have to be when the lawsuit is brought against that taxpayer.

Mind you, when these summonses are served, there is not any charge made, there is not any suit pending, there is no indictment. It is an investigation.

This section as written, Mr. President, means that we would, by act of Congress, be equipping a prospective or potential defendant in a criminal case with a means of stultifying the investigation that is necessary in order to get an indictment and try the man. It is an unheard of concept, and I do not know how we could apply it to other cases where the law enforcement would be so obstructed that the whole system would break down.

Mr. DOLE. At one point there was some effort to compromise differences by having several different classes, and giving a taxpayer the right as to each class.

Mr. HRUSKA. That is right.

Mr. DOLE. Has that been dismissed?

Mr. HRUSKA. That is right, and there are six classes in the amendment that I presume will be offered in due time, an amendment to my amendment by the Senator from Colorado.

But here is what that means: It means the possibility of six lawsuits stretched out.

Let me give an example. The first classification of those six classes is records of a bank. That will be subject to a taxpayer's attack. It will take 2 years to litigate. In many jurisdictions it takes more than that, but let us assume 2 years.

At the end of the 2 years, the court dismisses the case, and says "You have no right to stultify this investigation."

So the Government will go in during the first 6 months of the third year, and then they will come across evidence in the bank records that there are certain credit transactions based upon the bank deposits, and they will issue a summons in the second class, and call upon the credit transaction company for records pertaining to that.

There will ensue 2 more years of litigation, and that will be 4½ years. The court will then hold that the credit transactions must be disclosed, and then, in going further into the bank records or the credit transactions of that person, then, there would be some evidence that there were heavy transactions with a stock or a brokerage house.

Mr. DOLE. When would the statute of limitations run? Would that be stayed?

Mr. HRUSKA. That is one of the problems. If the statute continues running, then, of course, by that time the cause will not be any good; the claim will not lie.

In my amendment there is a saving clause to the effect that the bringing of even the first opposition to the first summons will immediately suspend the statute of limitations.

Now, then, continuing the saga of the 4½ years that I have referred to previously. In the fifth year the records indicate transactions with a stockbroker, so a third summons will go out calling on the stockbroker for records, and that will be contested by this citizen who is given standing in court, and he will litigate that for 2 more years.

That makes 6½ years. And then, further on in the records of stocks and securities, there is a record of some kind in another class, he receives another summons; and, Mr. President, this could go on for 2, 4, 6, 8, or 10 years, and where are the witnesses in the meantime, and where is the justice, Mr. President?

We speak of the right of privacy and the rights of the taxpayer; what about the 100 million taxpayers or more who make full disclosure out of obligation to the voluntary self-assessing income-tax system of America? They are being shortchanged. They have complied with the law.

And I call attention to the fact that most of these summonses will go to the 8,000 cases of investigations in depth, or 2,000, that are actually accused of crime. And who are they? They are the white collar criminals, the organized crime criminals, the hardcore tax evaders; and they always take advantage, because they are resisting the law, and in many cases will be able to frustrate the collection of taxes.

And who pays the bill? Not only does the taxpayer who pays his taxes honestly pay that bill, but he pays the bill for the purpose of dealing with the 38,000 summons enforcement proceedings that will be unloaded on the Federal court system.

So when you balance all this out, a theoretical assertion of a right of privacy, which has been voluntarily relinquished by the 100 million taxpayers, is going to frustrate the collection of taxes against these tax evaders.

That is the issue we are trying to balance.

Mr. DOLE. I thank the distinguished Senator from Nebraska.

I assume that implicit in the proposal is the notion that the issues and defenses which would be relevant to one proceeding would apply to all.

Mr. HRUSKA. That is right.

Mr. DOLE. And maybe res judicata would preserve the rights of taxpayers in some future court proceeding.

Mr. HRUSKA. There has to be a line drawn some place if we expect to complete an investigation and go into court and say, "Mister citizen, you violated the law and here is the evidence to prove it," and then if some of that evidence has been improperly procured the defendant can raise the point.

Mr. DOLE. It seems to the Senator from Kansas there is one final concern expressed by some that without total protection the result may be harassment or a witch hunt by the IRS. I do not suggest they do that, but there are some who may feel they do.

Mr. HRUSKA. I suppose in Government we constantly meet this element of discretion. We constantly meet the possibility of abuse. But if we are going to proceed on the basis that when we grant power—and we grant power by the ton in this Chamber and in the other Chamber of Congress—if we are going to proceed on the presumption that that power is going to be abused or that it will be improperly and unreasonably applied, in that event, we would not be able to pass any laws of any kind whatsoever. The presumption is that it will be administered reasonably and well. And if it is abused we have courts to resort to for that purpose.

I yield the floor to the Senator from Arkansas.

Mr. McCLELLAN. Mr. President, I wish to associate myself with the remarks of the distinguished senior Senator from Nebraska (Mr. HRUSKA) with respect to the pending amendment and to urge my colleagues to accept this compromise.

Section 1205 of H.R. 10612 deals with the issuance of a third party summons under the Internal Revenue Code for production of records of business transactions or affairs of other persons made by third parties whose business consists in any way of making or keeping records of the business transactions or affairs of other persons.

This section, as now drafted, would require notice of the summons to be given to persons identified in the description of the records contained in the summons and would give such persons an absolute right to prevent voluntary compliance with the summons and a right to intervene in judicial proceedings instituted by the Government to enforce compliance. Such an absolute right has been denied by the Supreme Court on the ground that "to hold otherwise * * * would unwarrantedly cast doubt upon and stultify the Service's every investigatory move." *Donaldson* v. *United States*, 400 U.S. 517, 531 (1971).

This warning should cause us to pause and reexamine the course of this present measure. Unwarranted and fruitless litigation that interrupts the investigation phase should be avoided. These cases involve mostly those persons described by the distinguished Senator as "hardcore tax cheats, organized crime figures, and white-collar criminals" who are motivated to and who can afford to plunge the Government into investigation blocking endless rounds of litigation over every summons issued in the case.

Frankly, Mr. President, the Supreme Court's solution to the problem probably is the best. Although the Court in Donaldson did not recognize an absolute right of intervention, it did recognize a power in the courts to permit intervention where the intervenor had a "significant protectable interest," for example, where the records involved the attorney-client or some other privilege. Even this type of interest does not create an absolute right to intervene. The courts, recognizing that the taxpayer may assert any significant interest in due course at its proper place in any subsequent trial, should balance the equities between the taxpayer's interest in immediate litigation of his objections and the Government's need for unimpeded investigations.

Mr. President, intervention takes on particular significance because district court compliance orders are subject to appeal and may drag on for years, as the distinguished Senator has pointed out.

As I have stated, the present bill as drafted would overrule Donaldson and grant intervention to a taxpayer as a matter of right with respect to every third party summons relating to his business transactions without regard to the significance or presence of a protectable interest and thereby permit intolerable interruption and delay in the investigative process.

Mr. President, amendment No. 2154 offered by the senior Senator from Nebraska (Mr. HRUSKA) is a compromise falling between the rule presently applied by the courts and the absolute right of intervention created by this bill. It requires that the Government serve the taxpayer with notice of the initial third party summons and gives him standing in court to challenge only that first summons. This provides the taxpayer with a day in court at the early investigative stages with respect to the Government's effort without creating a scheme for long, drawn out litigation of innumerable challenges to successive summonses. Issues relating to subsequent summonses would be resolved under the rules now applied by the courts.

Mr. President, I would prefer to keep in toto the rule developed by the Supreme Court. It has the flexibility to permit the courts in proper instances to protect the taxpayer's real interests but requires an equitable balancing of the attendant disruption of the investigation in the light of the taxpayer's right to assert his interest in due course in any subsequent trial.

Mr. President, I realize that a very delicate issue is involved here. In most instances where cases will arise in the administration of the tax laws they will involve people who are definitely trying to cheat and defraud the Government. But there will no doubt be other instances where the taxpayer is being absolutely honest and fair in his dealings with the Government and where the investigation will so reveal.

If we are to be able to reach the real tax cheat and the real organized crime offender, though, the Government must have the power to reach his records—those records that are held by banks or by other agencies. There must be that power. If the tax cheat is given the power and the ability, through court procedures, to indefinitely postpone every summons that may be issued in an investigation, the investigative processes will be substantially crippled and the ability of the Government to proceed to enforce the tax law against those who are purposely and willfully trying to cheat—trying to evade their taxes and committing a crime in doing so—the Government will be tremendously handicapped. Yes; it is a delicate thing. There is the risk that, occasionally, someone innocent may suffer by reason of not being able to immediately contest a Government summons. But the other situation, with the other consequences to which I have referred, will occur far, far more often and be so much more damaging as to substantially outweigh that risk.

I therefore support the amendment.

Mr. HRUSKA. Mr. President, will the Senator yield for a question?

Mr. McCLELLAN. I yield.

Mr. HRUSKA. Considering that there are 100 million tax returns filed every year and that the Internal Revenue Service investigates in depth only 8,000 of those, is not that statistic one of the finest tributes to the good citizenship and effort of America at large in trying to make its self-assessment, voluntary system of income tax actually work?

Mr. McCLELLAN. I think that is true. I may say, I have no special affinity for the IRS. I know what it is to be investigated. But I should be investigated if they think I am refusing or failing to pay my taxes. There should be the power of Government to protect the innocent taxpayers and also to compel those who are cheating to pay the taxes they properly owe. There should be reposed in government the ability to prevent premeditated cheating.

Mr. MONTOYA. Will the Senator yield?

Mr. HRUSKA. I am happy to yield.

Mr. MONTOYA. Supposing that an administrative summons has been issued to a party by the Internal Revenue Service for, say, to check records of a bank of a certain taxpayer. The taxpayer has been notified under this procedure and he has not contested it. Or assume that he has contested and has been overruled. Am I to understand that, under the Senator's amendment, another administrative summons can be issued and that would be exempt from the notice requirements and contest requirements in the law?

Mr. HRUSKA. No, not from the contest requirements. It would be as to any subsequent administrative summons that is issued. That taxpayer would not have standing in court to challenge that subsequent summons, with the exception of those rules of court which are presently in existence and which would still be available to him. But he would not have, by virtue of this statute, a standing in court per se. He would have to go into court and prove that that summons is contrary to the rules of the court and that, therefore, he should be entitled to relief.

Mr. MONTOYA. What would be those rules of the court?

Mr. HRUSKA. Rule 24(a) is an example. There are a number of other rules; 24(a) is the one which controls in situations of this kind. Rule 24(a) speaks in general terms of an interest related to the property or the transaction which is the subject of the action.

Of course, bank records—a taxpayer has no protectable interest in bank records. They are not his records; they are the bank's records.

The same thing is true of most of these areas in which administrative summonses are issued.

Mr. MONTOYA. But suppose that the Internal Revenue Service issues an administrative subpena for the bank records of a certain taxpayer. The Senator says they belong to the bank. I grant that. But subsequently, the Internal Revenue Service finds it necessary to issue an administrative subpena for the records that are in an attorney's office with respect to that taxpayer. Can that be done?

Mr. HRUSKA. It can issue, but, in that event, there are two answers. The one answer is that the attorney himself will assert the privilege.

Second, the rules of court would take into consideration that the taxpayer would have to make a showing that would qualify for that type of case under the rules. Certainly, if he has papers in the possession of the lawyer that are his, he has a protectable interest.

Mr. MONTOYA. Then suppose that there is a need for a further administrative summons to obtain the records from his accountant.

Mr. HRUSKA. That is covered also, and under the same set of conditions.

Mr. MONTOYA. What about his accounts receivable?

Mr. HRUSKA. His accounts receivable——

Mr. MONTOYA. And to go into the businessman's place to try to subpena that man's books which indicate how much is owed by this taxpayer.

Mr. HRUSKA. No, that would be fully covered by this. In that event, the taxpayer would be the recipient of the summons, and the recipient of the summons always has standing in court to resist.

Mr. MONTOYA. By virtue of the same analogy that was enunciated by the court, would it not lie that the businessman's account or transactions with this particular taxpayer were possessions of that particular business and not the taxpayer?

Mr. HRUSKA. No, because—in the Senator's hypothetical case, would the summons be issued upon the businessman that did business with the taxpayer? In that event, very likely, yes.

Mr. MONTOYA. And the taxpayer would have no recourse to the court, because he would be covered under the umbrella of the first summons in the first notice.

Mr. HRUSKA. If he has no protectable interest in the property, he cannot resist the summons; that is right.

If it is a stockbroker, the same thing is true.

Mr. MONTOYA. Is the Senator not opening a big Pandora's box here?

Mr. HRUSKA. We are trying to close that box. The Pandora's box consists of giving, by this section 1205, yearly, 8,000 people who have resisted summons during investigation by the IRS, a method of evading the tax laws. The Pandora's box would be to loose upon this country not only 8,000 but, the following year, perhaps 16,000 taxpayers who would say, "I am home safe; I can delay these proceedings for 10 or 12 or 14 years, so I am just going to thumb my nose with impunity at the tax-collecting authorities." That is what is contained in the Pandora's box.

Mr. MONTOYA. I say to my friend from Nebraska that I held hearings all over this country and I ascertained—and it is a matter of record in those hearings—that the Department of Justice obtained 28,900 income tax returns of taxpayers during 1975 in nontax-related cases; that over 1 million returns were audited by the Internal Revenue Service in the last year; furthermore, that there was an assessment pursuant to audit by the Internal Revenue Service of $5,600 million.

Now, $2.3 million of that was not contested. The taxpayer signed on the dotted line and said to the Internal Revenue Service, "How much do I owe you? I want to pay you, I want to get out of here, I want to end this trouble and this harassment"—for many of those reasons applied to that situation.

The balance, which was $3.3 million, was contested, either through channels within the Internal Revenue Service or through a docketed appeal in court, or through the tax court.

What was the rate of sustention of these challenged balances? The Internal Revenue was sustained 42 percent of that amount.

What does that indicate? To me, it indicates that there is gross error in audits conducted by the Internal Revenue Service, because when they are contested, they are only sustained on 42 percent of the amount.

I am afraid that this opens up a Pandora's box and this is done at the expense of many taxpayers in this country. I think what we ought to be concerned about here is to be more definitive as to what the Internal Revenue Service can do properly to collect its tax, but not give it blanket authority to go in under one subterfuge and open a big door so that it can go into other areas without any administrative subpena that can be challenged.

That is my concern, may I say to my good friend from Nebraska. I know that he is concerned about the taxpayers, too. I congratulate the Finance Committee for being concerned about these things, and they have been concerned throughout the years, and little by little they are closing in on this vast authority that the Internal Revenue has.

I say this authority is fine if the Internal Revenue Service would not abuse it. But I say the Internal Revenue Service has abused this authority.

I have exhorted, and I have asked the Internal Revenue Service:

> Why have you permitted the Department of Justice to obtain without any challenge 28,000 returns of taxpayers in this country? Why?

I do not think the law intended such blanket authority be given to the Department of Justice. If the Department of Justice can prove to the Internal Revenue Service's satisfaction that it has a basis for asking for that kind of a return, fine. But I have examined into the reasons assigned for obtaining these tax returns, and I could not get any answers in my hearings, may I say to my good friend from Nebraska.

It is about time that we in Congress look over the Internal Revenue Service and its authority and the way they abuse some of the taxpayers.

I want to say that overall the Internal Revenue Service personnel are fine public servants, they are fine civil servants, and they do their duty. I want to say that within the appellate procedure within the Internal Revenue Service great justice is done for many taxpayers. But there are a few in the Department of Justice who request these returns and they are not challenged, and they just pry into the privacy of many taxpayers in this country. That is what this is all about.

So I am concerned that this amendment will open up a Pandora's box, and I am asking the Senator from Nebraska if he can lend anything by way of legislative history to constrict the application of his amendment.

Mr. HRUSKA. Well, the Senator and I serve in common on several committees. I know of his knowledge, his ability, and his expertise in dealing with difficult and very perplexing problems.

Many of the problems he raises here, and he handles them well, ably, and eloquently; but many of the problems he raises here by way of referring to abuses of the Internal Revenue Service or the obtaining of returns or what-have-you do not pertain to the question at hand here.

The question at hand here is: Are we going to say to the Internal Revenue Service, "You must go into the situation of each tax return, you must thoroughly canvass it, and once you start an investigation, and especially in net worth cases, you must make a thorough examination and cover all the transactions that are available, because it is your job, Mr. Internal Revenue Service, to enforce the tax laws?"

That is what the law tells them. So we set them up in an investigation and then we say by this amendment, "Yes, but you cannot investigate the people who refuse to give the proper and necessary information with which we can determine whether there is criminal tax liability."

It is one thing to release income tax returns illegally. It is another thing to impose upon people. It is still another thing to arm the Internal Revenue Service with the power to investigate so that they can either decide not to bring a case or decide to get an indictment and prosecute the man. When he gets into court, if there are any abuses, we have a judicial system to correct any abuses.

But I do not think we can solve the problem of the Internal Revenue Service, difficult as it is. Tax collectors since Biblical times have had a tough job. But we should not tie their hands and say "We charge you with the duty and obligation of enforcing the tax laws but we are not going to give you the powers of investigation which you must have in order to do it."

That is what is involved in this segment of section 1205, title XII.

I urge the adoption of the amendment so that we can keep faith with the people who actually cooperate with the Government.

When they are called upon for their records they supply them, and they give the information. If they are going to be betrayed, the net effect of it is, and will be, that they will be betrayed by an amendment which says "Here are 8,000 or 10,000 people who are not subject to it. They do not have to do it, and they can refuse to do it with impunity."

Mr. HASKELL. Mr. President, I would like to first describe, if I may, what section 1205 of the committee amendment does.

The matter before us is under what circumstances the Internal Revenue Service can get access to my bank records or your bank records, to my doctor's records or your doctor's records, and the like, whether it be brokerage accounts or what.

The issue really is: Are your brokerage transactions or your checking records basically in the same category as the check stubs that come back to you? Are they your records or are they bank records?

When the Supreme Court came out with a decision that the Senator from Nebraska discussed, there were many letters-to-the-editor across the country indicating that in their view bank records and checks were their records. They should have the same treatment in the hands of the bank that they would have in the hands of the taxpayer as an individual.

Let us just see what the committee amendment, section 1205, does. First I note the committee amendment was very carefully worked out with the Internal Revenue Service. They did not like it in its entirety, but the committee did not like it in its entirety, so a compromise was struck in arriving at section 1205.

I would also like to say that the American Bankers Association is in support of section 1205 and so is the ACLU which, I think, is an interesting combination.

All the committee does in 1205 is require the Internal Revenue Service in examination of your—consider it yourself, do not consider some impersonal object, consider it yourself—if the Internal Revenue Service wants to look at your bank records or your brokerage records they notify your bank or they notify your brokerage house and, at the same time, they notify you.

If you do nothing for a 14-day period then the IRS is perfectly free to go into the bank or into the brokerage house and look at your records. If, on the other hand, you notify your bank or your brokerage house that you do not want the IRS to look at those records on the ground that they are yours, then under the committee amendment it has to do exactly what it would have to do if you refused to allow them to look at the canceled checks that you keep in your desk at home or at the office. That is all the committee amendment does.

It contains one more very significant exception, and this was a matter I personally agreed to very reluctantly. If the IRS fears a destruction of records—they are able to go ex parte into court and get an order. They do not have to give a taxpayer notice at all. They just go in and get the records. That is an extraordinary remedy to provide for extraordinary circumstances, and one that, hopefully, the IRS would use with discretion.

The rare situation where they need speed to get records without notification is covered.

In other respects the third party records are treated as though they were in our desk at home.

I think the majority of citizens feel that privacy attaches to their bank account, whether it be the checkbook in their desk or the photostats of checks made by the bank, the doctor or the brokerage house.

I will at some appropriate time, and I do not want to cut off debate of the distinguished Senator from Nebraska, make a motion to table his amendment, but I will not do so until the Senator from Nebraska has concluded his discussion.

Mr. HRUSKA. The Senator is very generous, as is his usual proclivity. He demonstrates it again.

I would like to comment only in two respects on the suggestion he made, the proposition he made about the banker's position in this litigation.

After all, the bankers have their own interests to look after. They do not like to be bothered when they do not want to be bothered.

But in juxtaposition to the wishes of the bankers, Mr. President, we have the testimony of Attorney General Levi, a legal scholar of renown. He has said that the adoption and enactment of section 1205 as it is found in the bill could well mean the end of net worth proceedings in prosecutions on income tax.

That is the principal machine by which the tax law has been enforced.

Forty years ago, Al Capone went to jail under that method. Frank Costello went to jail under that method. There have been innumerable cases since that time.

This section would spell an end to that. It would spell an end to the second major category of enforcement instruments in tax law—that is, the bank deposits method of evidence gathering. It would spell an end to it because they could never get at it.

That disposes, it seems to me, of the argument of the banks, because the banks are pretty good citizens, and if they saw this larger picture and would see a potential and incipient breakdown of the voluntary system of income tax in America, I think they would back away from their position.

A reference has been made to ACLU. They are a fine organization. We hear from them frequently on another committee on which I serve. But I suggest that one of their patron saints has been Supreme Court Justice Douglas. Justice Douglas concurred in the opinion in the Donaldson case. Here is what he said, Mr. President, and I paraphrase:

> It is true a man who is summoned may object that the production of records or testifying would violate his rights under the Constitution. And a taxpayer would clearly have standing to raise a claim of violation of his constitutional rights if a third party were ordered to produce records belonging to the taxpayer.

Those things are understandable, but then Justice Douglas goes on to say:

> But it is difficult to see how the summoning of a third party, and the records of a third party, can violate the rights of the taxpayer, even if a criminal prosecution is contemplated or in progress. There is no right to be free from incrimination by the records or the testimony of others.

Perfectly simple, Mr. President. ACLU can come in and remonstrate, if they wish. They would have to repudiate the wisdom in this field that Justice Douglas acquired during his lifetime on the bench and they would have to find good reasons to overcome his clear logic.

The answer is, Mr. President, that if this amendment is adopted, it will mean that the machinery to enforce the tax laws against people who try to evade and who are hardcore will be greatly dissipated and probably reduced to a stultifying process.

As a matter of fact, that is exactly what the Supreme Court said in the Donaldson case. It said:

> We therefore hold that the taxpayer's interest is not enough and is not of sufficient magnitude for us to conclude that he is to be allowed to intervene.

Then the punchline comes:

> Were we to hold otherwise, as he would have us do, we would unwarrantedly cast doubt upon and stultify the Service's every investigatory move.

No investigation, no prosecution, and the conscienceless taxpayer, or rather, the conscienceless nontaxpayer, would get away with not paying taxes.

Mr. President, I ask unanimous consent that a summary of the points in support of my amendment be printed in the RECORD at this point.

The PRESIDING OFFICER. Without objection, it is so ordered.

SECTION 1205 OF TAX BILL SHOULD BE REVISED

(It deals with administrative summonses in tax enforcement cases)

A taxpayer's failure or refusal to supply requested information forces the Government to issue a summons on third parties (banks, trust companies, stock brokers, etc.) who have pertinent records. This is used especially in net worth and bank deposit methods of ascertaining tax or criminal liability.

Section 1205 seeks to create a new right. That is, a standing in court to the taxpayers to challenge such third party summonses. They do not have such a standing now, and for sound reasons should not.

Numerous such summonses are issued in any one case. One source of records leads to another. Issuance is sometimes weeks and even many months apart. To enable a noncooperative taxpayer to litigate each and every one would result in years of delay. Each such case takes from 18 months to two years and more. With the same result: no relief granted, but delay is achieved.

Who would be "protected" by such provision?

Over 100 million tax returns are filed yearly. With small exception they cooperate with tax authorities by supplying information to justify returns. It is this compliance with the law that makes our voluntary, self-assessment tax law work.

But 8,000 or so returns are investigated in depth by IRS each year. They transmit about 2,000 to the Department of Justice with recommendation for criminal prosecution. Most of these are hard core tax violators. Many engaged in white collar and organized crime. Many engaged in illegal, illegitimate businesses.

Attorney General Levi testified that Section 1205 could well mean the end of net worth and bank deposit methods of enforcing tax laws. This because it creates the means of delay, obstruction, and even prevention of completing investigation. And if effort were made to proceed under the section, there would be thrown into federal courts an estimated 38,000 summons enforcement proceedings every year!

PROPOSED AMENDMENT NUMBER 2154

This compromise positions itself between (1) those who want no standing in court in such cases for the taxpayer, and (2) those who would give him unlimited standing.

The compromise would give the taxpayer standing in court to challenge the first of a series of summonses only. He would have his day in court to show violation of any basic rights.

From there on in, tax authorities would seek to vindicate the 100 million taxpayers who comply with the law and cooperate to make the self-assessment tax law successful. They would do it by enforcing the tax law uniformly, applicable to all.

Mr. HRUSKA. It is my hope that the motion to table will be rejected and that we will proceed on its merits to consummate and approve it.

Mr. HASKELL. Mr. President, I would merely like to state and reiterate what I said before, that in the committee amendment, assuming there is this Internal Revenue fear of destruction of records, fears of any kind of interference with their rights, they have the right to go to court ex parte without notice to anybody and get access to bank accounts.

I do not see how this could possibly interfere with the development of a net worth case, but I guess that is what makes horseraces.

Unless the Senator from Nebraska has something further he would like to say, I will move to table the amendment.

Mr. LONG. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. BUCKLEY. Mr. President, I find myself increasingly unhappy over a growing tendency to move to table amendments that ought to be voted upon on their merits. I oppose the Hruska amendment, but I shall vote against tabling it. I make this statement because I do not want future archivists to assume that my votes on tabling motions reflect my views on the merits of the amendments in question.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the amendment of the Senator from Nebraska. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, may we have order in the Chamber?

The PRESIDING OFFICER. Will Senators please clear the well?

The clerk will suspend.

The Senate will be in order.

Will the Senators kindly cease having conversations so we can complete the vote?

The clerk will proceed.

Mr. ROBERT C. BYRD. Mr. President, I ask that there be order in the Senate.

The PRESIDING OFFICER. The Senators will kindly clear the well.

The assistant legislative clerk resumed and concluded the call of the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. HARTKE), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Montana (Mr. METCALF), the Senator from Minnesota (Mr. MONDALE), the Senator from Missouri (Mr. SYMINGTON) and the Senator from California (Mr. TUNNEY), are necessarily absent.

I also announce that the Senator from Delaware (Mr. BIDEN), and the Senator from Michigan (Mr. PHILIP A. HART), are absent because of illness.

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BROCK), the Senator from Arizona (Mr. GOLDWATER), and the Senator from Pennsylvania (Mr. SCHWEIKER) are necessarily absent.

The result was announced—yeas 47, nays 42, as follows:

[Rollcall Vote No. 487 Leg.]

YEAS—47

Abourezk
Bayh
Brooke
Bumpers
Byrd, Robert C.
Cannon
Case
Church
Clark
Cranston
Culver
Durkin
Eagleton
Fong
Glenn
Hart, Gary
Haskell
Hathaway
Hollings
Huddleston
Humphrey
Jackson
Javits
Johnston
Kennedy
Leahy
Magnuson
Mansfield
Mathias
McIntyre
Montoya
Morgan
Moss
Muskie
Nelson
Proxmire
Randolph
Ribicoff
Roth
Scott, Hugh
Sparkman
Stafford
Stevenson
Stone
Taft
Weicker
Williams

NAYS—42

Allen
Baker
Bartlett
Beall
Bellmon
Bentsen
Buckley
Burdick
Byrd, Harry F., Jr.
Chiles
Curtis
Dole
Domenici
Eastland
Fannin
Ford
Garn
Gravel
Griffin
Hansen
Hatfield
Helms
Hruska
Inouye
Laxalt
Long
McClellan
McClure
McGee
Nunn
Packwood
Pastore
Pearson
Pell
Percy
Scott, William L.
Stennis
Stevens
Talmadge
Thurmond
Tower
Young

NOT VOTING—11

Biden
Brock
Goldwater
Hart, Philip A.
Hartke
McGovern
Metcalf
Mondale
Schweiker
Symington
Tunney

So the motion to lay on the table was agreed to.

AMENDMENT NO. 2138, AS MODIFIED

Mr. KENNEDY. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated. The legislative clerk read as follows:

The Senator from Massachusetts (Mr. KENNEDY) proposes an amendment numbered 2138, as modified:

Strike section 2602.

Mr. KENNEDY. Mr. President, I ask unanimous consent that Brian Biles and Art Silversteen of the staff of the Health Subcommittee be permitted access to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. I understand there is a 20-minute time limitation on this amendment; is that correct?

The PRESIDING OFFICER. There is no general agreement.

Mr. LONG. Mr. President, a point of order.

The PRESIDING OFFICER. The Senator will state it.

Mr. LONG. I thought we were going to act on the administrative summons.

Mr. KENNEDY. I thought that had been concluded.

Mr. HASKELL. Mr. President, I assume it has been. The motion to lay on the table having been agreed to, the committee amendment stands, and nothing further has to be done.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senate will be in order.

Mr. LONG. I would ask, Mr. President, that we simply vote on the provision; a voice vote is all right as far as I am concerned, but we should conclude action on the provision before we go on.

Mr. HASKELL. I move the adoption of the committeee amendment on section 1205.

The PRESIDING OFFICER. It would require unanimous consent to revert to that question.

Mr. LONG. I ask unanimous consent that we return to section 1205 and vote on that section.

The PRESIDING OFFICER. Is the request to temporarily lay aside the pending amendment?

Mr. LONG. Yes.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Louisiana? Without objection, it is so ordered.

COMMITTEE AMENDMENT ON SECTION 1205

The PRESIDING OFFICER. The question is on agreeing to the committee amendment on section 1205.

The amendment was agreed to.

AMENDMENT NO. 2138, AS MODIFIED

The PRESIDING OFFICER. The question recurs on agreeing to the amendment, as modified, of the Senator from Massachusetts.

Mr. LONG. Mr. President, it is my understanding that we had a time limitation on this amendment of one-half hour, to be equally divided.

Mr. KENNEDY. I think one-half hour.

Mr. LONG. Well, 15 minutes to a side. I ask unanimous consent that it be 15 minutes to a side.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. The Senator from Massachusetts is recognized.

Will the Senate kindly come to order, and staff members and Senators who are conversing kindly withdraw, so that we may have order in the Senate?

Mr. KENNEDY. Mr. President, there is a rather basic and fundamental issue which is involved in the amendment, which I hope will be accepted. The situation is as follows, Mr. President——

Mr. PASTORE. Mr. President, may we have order so that we can hear the speaker?

The PRESIDING OFFICER. The Senate is not yet in order. Will Senators conversing kindly withdraw, so that the Senate can be in order and hear the debate? Will staff members conversing kindly cease their conversations or withdraw from the Chamber, so that the Senator from Massachusetts can be heard?

The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I think all of us are familiar with the situation that was taking place——

Mr. NELSON. Mr. President, the Senate is not in order. There are staff members conversing on the floor. I cannot hear what the Senator has to say. Will the Chair please maintain order?

The PRESIDING OFFICER. The Senator's point is well taken.

The Chair requests the staff members conversing with Senators to cease conversations and withdraw from the Chamber.

The Senate is now in order.

The Senator from Massachusetts.

Mr. PASTORE. Thank God.

Mr. KENNEDY. Mr. President, I think the Members are familiar with the situation that was taking place in many different communities all over this country prior to 1969. Industrial bonds were being floated by local communities in order to attract various industries. In 1969 the law was changed to limit that extension of credit to some $5 million. This limit has lasted up to this present time.

The amendment which I offer would strike the provision which was put into the Finance Committee bill to permit an increase from the $5 million to $20 million for one purpose and for one purpose only, for profit hospitals. This is not for the nonprofit hospitals where it is now unlimited, but only for profit hospitals.

It is interesting, on the one hand, that the Finance Committee in the acceptance of this amendment is providing additional tax incentives for the municipal bonds for the establishment of for-profit hospitals. At the same time the Senate, in its action on the Hill-Burton act, has been scaling down the amount of money for the construction of hospitals. This is for a very basic and fundamental reason, that is that we have too many hospital beds in this country at this time today. The best estimates, from the interstudy group, show that we are expending about $2 billion a year to keep hospital beds open which should be closed. This is one of the features that has added to the health care cost in the country today.

So, Mr. President, if we are talking about trying to do something to build additional hospital beds, which is what this amendment does, we have to recognize that we really do not need additional hospital beds in this country today.

Some can say, "Well, there are certain specific areas of the country that need a hospital." This may be in particular rural areas or rural communities. During the course of the discussion I shall refer to some of those on the basis of a report from the Hill-Burton agency in HEW. The fact of the matter is one cannot find a health economist who believes that we ought to build a hospital of more than 150 beds in a rural area; $20 million provides for 350 beds. If we are only looking for hospitals in rural areas, we only ought to be increasing the liability up to $10 million under any basis.

If one can make the case that there is sufficient justification and need for building for-profit hospitals in this country today, if we accept the concept increasing the bonds for for-profit hospitals, then why does it not make sense to increase them as well for for-profit nursing homes, doctors' offices, or for other useful, worthwhile, or valuable for-profit purposes?

Senators know what happens if we start to go down the road. What happens if we do it for for-profit institutions? We lessen the competitive situation that municipal bonds have for all the other useful purposes that are generally supported by the Members of this body, the House of Representatives, and the American people.

When we make more bonds competitive with the traditional kinds of bonds issued by local communities for local kinds of functions, which are generally understandable and supported by the American people, when we permit this to be done for-profit anything, then we are going to make the bond market more and more competitive. We are going to find that the interest rates, even in those other kinds of municipal bonds, are going to go on up. And that means it is going to be the local taxpayers, who will pay for those interest rates in local communities, who are going to have to pay more.

So for that reason, Congress has been extremely chary in extending the concept of increasing the bond market for for-profit purposes.

So, Mr. President, this does not make sense, I say, from a health point of view. Since 1974 the Hill-Burton program has only spent $5 million for hospital construction. There have been some moneys for ambulatory care and for some modernization but not for new beds. That has been because in every study that has been done by the HEW and House committee and Senate committee it was found that new beds are not needed. We do need services, rural clinics, and neighborhood health centers and health facilities—in rural America as well as in the inner cities. But we do not need the establishment of additional hospital beds. So this amendment does not make sense for what it will mean in terms of increasing hospital beds, for-profit hospital beds in this country.

It does not make sense from a tax point of view. It is going to cost up to $14 million a year by 1981. It does not make sense from the bond point of view where it is going to mean that there is going to be additional competition between the municipal bonds and these that we are going to permit for profit purposes.

The effect of my amendment will be to retain what was accepted in 1969, and that is a $5 million limitation. I think that limit should be retained.

Mr. NELSON. Mr. President, will the Senator yield for a question?

Mr. KENNEDY. I yield.

Mr. NELSON. I cannot remember the figure, but I wonder if the Senator from Massachusetts has it. We already have a substantial excess of hospital beds in the country.

Mr. KENNEDY. A total of 100,000.

Mr. NELSON. A total of 100,000 excess hospital beds?

Mr. KENNEDY. The Senator is correct.

Mr. NELSON. I thank the Senator.

Mr. BENTSEN. I yield 5 minutes to myself.

Mr. BUMPERS. Mr. President, will the Senator yield for an additional question?

Mr. KENNEDY. Yes.

The PRESIDING OFFICER. The Senator from Massachusetts still has the floor and he is yielding to the Senator from Arkansas for the moment.

Mr. KENNEDY. Yes.

Mr. BUMPERS. Has the Senator from Massachusetts printed this little tally sheet on the number of for-profit hospital beds in the country for the RECORD?

Mr. KENNEDY. No, I have not.

Mr. BUMPERS. Will the Senator object to me doing so? I think it is a good piece of information.

Mr. KENNEDY. I think it is. I appreciate it.

Mr. BUMPERS. I ask unanimous consent that this tally sheet be printed in the RECORD.

There being no objection, the tally sheet was ordered to be printed in the RECORD, as follows:

KENNEDY AMENDMENT NO. 2138

Repeal Sec. 2308—Tax exempt financing for profit-making hospitals; States with large numbers of profit-making hospitals:

State	Number of chain for-profit hospitals	Percent of total beds which are for-profit chain
California	104	11
Texas	72	11
Florida	35	6
Virginia	21	9
Tennessee	31	11
Louisiana	15	7
Alabama	14	9
Kentucky	7	8
West Virginia	6	6

All other States have fewer than 5 chain for-profit hospitals—90 percent of total for-profit beds are in the 9 States listed above.

SOURCE.—Federation of American Hospitals Directory.

Mr. KENNEDY. I withhold the remainder of my time.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. BENTSEN. Mr. President, I yield myself 5 minutes.

Mr. President, if hospital construction, modernization and renovation is not needed in any of the rural or innercity areas of our Nation, then not $1 of taxpayers' money will be expended for this purpose under this provision of the Finance Committee bill.

Before a revenue bond for hospitals can be issued under this provision, there must be compliance with the law sponsored by the Senator from Massachusetts, the comprehensive health planning law. Permission of the State planning authority under the comprehensive health planning law is required.

But, in fact, we do have innercity and rural areas where shortages of hospital facilities exist or outmoded facilities exist.

When the Senator states that the $5 million industrial development bond limit was put on, that is quite correct, but what he does not tell us is that under existing tax law we have seven exceptions to that $5 million limit.

We have an exception, for example, for sports stadiums and convention sites. Local authorities vote for these bonds and the bonds cannot be sold unless these authorities think it is going to work and that the project is feasible. Then the city leases it to private management to operate it because the city thinks they can do a more efficient job. I frankly think that a hospital is more important than a sports stadium or a convention site.

When we talk about municipal bonds, one of the reasons for putting limitations on municipal bonds is that we do not want someone from one State to compete and draw industry away from another State. However, now we are talking about building and modernizing hospitals in local areas where there is a demonstrated need.

There has been talk about revenue loss. We are talking about a revenue loss of only $1 million in 1977 and $3 million in 1978 under the Finance Committee provision.

If the Senator is right, that they are not going to build any of these, we are not going to have any revenue loss. I think they will be built in areas where they have been so designated under the Senator's own act, the Comprehensive Health Planning Act which requires State approval and input from local officials.

Mr. President, I strongly support the Finance Committee's action in raising the $5 million limit to $20 million, but only where local and State authorities grant approval. This provision of the bill was approved by the committee to recognize the soaring costs in building hospitals. In recent years, we have seen an incredible increase in the cost of a hospital bed. Historically, investor-operated hospitals are often located in rural areas without adequate health care, and that is the only way we can get the hospital built in many of those areas. Some of these local areas have too few hospital beds or no hospital at all. Some depend exclusively on proprietary hospitals for health care.

I will give an example. We have the investor-operated Alice Physicians and Surgeons Hospital in Alice, Tex. That is the only hospital in the entire county of Jim Wells.

Under present law, nonprofit hospitals finance much of their capital needs through municipal bonds. But there is a $5 million limit on the tax free development bonds that can be issued for investor-operated hospitals.

We have discussed some of the other categories, where you do not have that kind of limitation, where you can build a $50 million sports stadium and lease it for 20 years to private enterprise to run.

I think one of the most important reasons warranting the liberalized use of revenue bonds for hospitals is the development of effective, areawide planning authorities, largely through the passage of Public Law 93-641, the comprehensive health planning law, which requires that States certify the need before it is done.

Bond underwriters are not novices. They are sophisticated financial men, and they are going to make their surveys, too, to be sure that there is an actual need for the hospital in that area and that the community is not making a financial mistake.

To the extent that there are excessive beds in a geographic area, unneeded facilities will not be constructed because the planning authorities will not give the permit for that purpose.

Mr. President, I urge my colleagues to support the Finance Committee's action.

I reserve the remainder of my time.

Mr. RIBICOFF. Mr. President, will the Senator yield for a question?

Mr. BENTSEN. I yield.

Mr. RIBICOFF. It may be answered by the Senator from Massachusetts or the Senator from Texas.

Could we be enlightened as to the rates that are charged patients by these profit-making hospitals and non-profit-making hospitals? Do we know? Is there a rate differential in both institutions?

Mr. BENTSEN. In Jim Wells County the investor-operated Alice Physicians and Surgeons Hospital is the only hospital in the county. The residents of this part of Texas might have no hospital without this one.

Mr. KENNEDY. It is my understanding that they are as high, if not higher, because they have greater amenities.

Mr. PASTORE. It is my understanding that some of our best hospitals, wherever they may be, are nonprofit hospitals. They are in the State of Massachusetts and we have them in the State of Rhode Island.

I assume that it would not be profitable for profitmaking hospitals to apply for the establishment of a hospital, even though there may be a subsidy, if there were a nonprofit hospital that had the vacant beds that the Senator speaks of. So my conclusion would be that it is an economic question, that these profitmaking hospitals exist only where there is not a non-profit-making hospital.

I cannot see it any other way, because our best doctors in Rhode Island and the best doctors in Massachusetts go either to the Peter Brent Brigham or to Massachusetts General or to St. Elizabeth's or to New England Baptist. Those are nonprofit hospitals.

So I would not see any advantage to a profitmaking hospital being established in Massachusetts if there were vacancies in these other hospitals.

Mr. KENNEDY. Mr. President, will the Senator yield?

Mr. PASTORE. I yield.

Mr. KENNEDY. Then, why not just let the law be the way it was before the Senator's amendment? Why should they be underwritten by tax-free bonds?

Mr. PASTORE. Because it helps them to establish these hospitals in places where a nonprofit hospital cannot move in, as I understand the story.

Mr. BENTSEN. That is correct.

What has happened is that there has been an incredible escalation in the cost per hospital bed since the $5 million limit was put in. We are trying to help compensate for that.

I yield to the distinguished Senator from Kentucky (Mr. HUDDLESTON).

Mr. HUDDLESTON. I thank the distinguished Senator from Texas.

Mr. President, it is with some reluctance that I challenge the statement by the distinguished Senator from Massachusetts relative to the need for hospital beds.

I feel somewhat like the situation in a cartoon that Bill Mauldin drew about World War II. Bill had his two dogfaces, Willie and Joe, standing before their company commander. Willie had three fingers through his helmet as he stood before the company commander, and the company commander was saying to Willie, "Willie, for the third time, I tell you there's no enemy machinegun on that hill, and stop wiggling your fingers at me through that helmet."

The figures may show that we do not need any hospital beds. I can assure the Senator from Massachusetts that in Kentucky, and I am sure in other States, there are areas where hospital beds are desperately needed, and there are areas where the only hope they have had of securing those beds has been through the private, profitmaking hospitals.

They have filled a worthwhile need. Not only have they been able to provide new hospital facilities where no others have existed, but also, in some cases, they have been able to rescue public hospitals that simply have not been able to function, have not been able to live, and have been able to continue hospital service for the residents in the area.

We do, of course, have the certificate-of-need law. They cannot indiscriminately build a hospital anywhere they please without regard to the need. They have to be certified as to need for a bed there. I think that fact, plus the fact that the very reason they are profitmaking institutions or hope to be tends to make it unlikely that there is going to be a great proliferation of them where they are not needed. That fact, plus, as the Senator from Texas has indicated, since 1969, we have had the $5 million limit, inflation, and growth changes in certain areas dictate that if you are going to have the same level of program that you had then, certainly, the limits have to be increased. I do not think that the $20 million limit is out of line. I think it will be helpful in providing needed hospital services to many areas in the country that otherwise could not obtain them. I hope that the Senate will reject the amendment and approve the position taken by the Committee on Finance.

Mr. BENTSEN. I thank the Senator.

Mr. President, how much time do I have left?

The PRESIDING OFFICER. The Senator has 3 minutes remaining.

Mr. BENTSEN. I reserve the remainder of my time.

How much time does the Senator from Massachusetts have left?

The PRESIDING OFFICER. The Senator from Massachusetts has 7 minutes remaining.

Mr. KENNEDY. Mr. President, we are getting, really, into a factual issue, whether there is a deficiency of hospital beds or whether there is not. I have the printouts from the Hill-Burton agency in the Department of Health, Education, and Welfare. Of 2,100 Hill-Burton hospital districts in this country, 1,900 of them show a surplus. For example, in Kentucky, of the 125 hospitals they have, there are only 4 hospitals that have 90 percent occupancy or more. Most of them are significantly less than that figure.

That Hill-Burton study——

Mr. FORD. Will the Senator give me the date of the 90 percent? Was it 1974-75——

Mr. KENNEDY. It is last year's figures; 1975 figures.

Mr. FORD. I want to challenge those, but I am sure the Senator has them right. There is a certificate-of-need procedure in Kentucky——

Mr. KENNEDY. These are Hill-Burton figures, I say to the Senator. I submit them for whatever value they ought to be considered to have. They were supplied by HEW.

Mr. HUDDLESTON. The point is that where those exist, that is probably where a hospital has been established and the rate has been dropping with regard to utilization. They are not going to build any new hospitals. They are not going to get certified to build any new hospitals.

Mr. KENNEDY. The point I want to make here is that there is nothing in this amendment that gives any assurance whatsoever that these are going to be built out in the rural areas. There is absolutely none.

I dare say if we look for where the for-profit hospitals are being built, they are being built in the urban, the suburban, the richer areas. That happens to be the trap of this amendment.

The largest number of these hospitals are out in urban California. We have not really debated or talked about quality here today. But there has been a serious indictment of the quality of services provided by the for-profit hospitals in California.

There is nothing in this amendment that is going to give any assurance whatsoever that any of these are going to be built in the rural areas. To the contrary, the larger amount, the $20 million, is going to mean that larger hospitals are going to be built where there is, predictably, an economic payoff. Those are going to be built in the more affluent communities.

Mr. RIBICOFF. Is it the Senator's contention that some of these hospitals will do harm to or hurt presently existing hospitals?

Mr. KENNEDY. That it will do what?

Mr. RIBICOFF. Harm presently existing hospitals?

Mr. KENNEDY. I gave three reasons: First of all, I do not feel this increase is justified from a hospital construction point of view. Second, we are establishing additional competition with generally accepted useful and valuable, worthwhile purposes, for which the municipal bond market was developed; that is, for schools and other kinds of recreational facilities. If you can make the case for for-profit hospitals, I think you can make it for nursing homes and a whole lot of other different kinds of health services which I think are also justified and worthwhile. That is generally going to bid up the whole bond market area.

Third, I think there is the tax loss. I listened to the Senator saying that no one is going to end up paying for it. There is a tax loss from the Federal Treasury.

I do respect the fact that the Senator from Texas supports this amendment so strenuously. But I understand that Texas has a constitutional prohibition against using any of these bonds for profit purposes in the first place. This is from an assistant attorney general for the State of Texas. I do feel, Mr. President, that this is an unwise policy decision. It is certainly not justified from any evidence that has come before the Senate Health Subcommittee on the whole question of hospitalization.

You can ask the Committee on Appropriations. The Hill-Burton formula was primarily targeted into rural communities. That is where it was targeted. That case was not made before the Committee on Appropriations, those voices were not raised on the floor of the U.S. Senate, for adding a little more money in the Appropriations bills over the recent past, because it is not justified.

There are needs in the rural areas, as there are in inner cities for neighborhood health centers and clinics, child and maternal health care centers.

But this provision is going, I think, to result in increased hospital capacity, which we do not need at this particular time. And it is costly, to the tune of up to $14 million a year by 1981.

Mr. President, I reserve the remainder of my time.

Mr. FORD. One quick question. I think there is some need here to defend the certificate-of-need programs. Is the Senator saying that if this money is made available, the certificate-of-need programs will allow them to build hospitals in the areas where they are not needed?

Mr. KENNEDY. I say to the Senator that I am a strong supporter of the certificate-of-need. That was in the bill which I floor managed and introduced. We weakened that proposal. It is still a good proposal. But I can tell the Senator that, from the health point of view, if we provide moneys out there, then the incentive to go up and knock on that door and get that certificate-of-need is relentless. In institution after institution—I have seen it in my own State, where we have too many hospital beds, I can give chapter and verse on it.

It seems to me that we need the certificate-of-need—I strongly support it. But if we are offering the money out there, I cannot help but believe that we are going to be creating pressures for approval of any construction, which is not justified.

Mr. FORD. I can only talk about the rural State of Kentucky. We have been very stringent in our releasing of hospital beds under the certificate-of-need program. We are diluting the downtown hospitals that have beds and we are beginning to put them out where the people are. I woud be very hopeful that the Senator would not say that if we give some money to encourage rural hospital development, it would not go to the rural areas, that it would actually go into the core or in the affluent area because the certificate-of-need program is not working. I think I want to defend Kentucky's certificate-of-need, anyhow.

Mr. KENNEDY. I could not agree more. Kentucky was one of the first States to have the certificate of need. I admire it, I respect it. They are doing a great job.

My only point is that I do not think the case has been made across this country for the increased hospital capacity. I challenge the support for this amendment, that anybody thinks that this is going to create additional kinds of services into rural communities.

Mr. FORD. It is a possibility, though.

Mr. KENNEDY. I say to the Senator, the record is quite clear that most of the for-profits hospitals are not in Kentucky. They are not in the inner cities or the poor areas of the country. They are where the people can afford it.

The PRESIDING OFFICER. The time of the Senator from Massachusetts has expired.

Mr. BENTSEN. If I may make a couple of comments, when the Senator from Massachusetts says they do not go into the rural areas of Kentucky, I am not familiar with Kentucky to that extent, but I can assure the Senator that they do go into rural areas of Texas. We do have investor-operated hospitals in Texas.

When he says it is not allowed under the Texas laws, I have been advised that the Texas Legislature will soon have a proposal before it to make the necessary changes.

There is one point that should be emphasized. This proposal is not limited to new construction of hospitals. It is also for modernizing hospitals which are outmoded and need to be brought up to modern standards.

Again, I cite the Senator's own act, the Comprehensive Health Planning Act, to say there will be a certificate of need before any of these are built, be it in the rural area or the inner city.

Mr. RIBICOFF. The Senator comes from the State of Texas where there are many great universities and religious and charitable hospitals. Will the Senator cite to us an example of the type of community, the population, where it is located, where you have a nonprofit hospital, and why was a nonprofit hospital built?

Mr. BENTSEN. I did cite one investor-operated hospital. I cited one in Alice, Tex.

Mr. RIBICOFF. What is the size of it?

Mr. BENTSEN. Frankly I do not recall the population.

Mr. RIBICOFF. In that area there are no universities, religious or charitable hospitals?

Mr. BENTSEN. Not to my knowledge.

Mr. RIBICOFF. If it were not for this they would not be with a hospital?

Mr. BENTSEN. Correct. This is an investor-operated hospital. It is an example of how investor-operated hospitals are required in some of these places. They cannot do it otherwise, and this provision of the bill would make it easier for them to do it.

Again, they cannot build unless they get a certificate of need, unless they prove they have a need, unless the bond underwriters think it is a good idea and it is going to be utilized by the people in that particular area.

Mr. President, the Senate Committee on Finance provision raises the ceiling on the issuance of industrial development bonds for the construction of private hospitals from $5 million to $20 million.

This provision simply recognizes the soaring rise in hospital construction costs that has occurred in recent years and the provision will help assure an adequate supply of health services for rural and innercity sections of the United States. Historically, investor-owned hospitals are often located in rural areas with inadequate health facilities. There are some rural areas in our Nation today with too few hospital beds, or in some cases no hospitals at all. Some rural areas depend exclusively on proprietary hospitals for health care.

Under present law, nonprofit hospitals finance much of their capital needs through the use of tax exempt municipal bonds but only $5 million of tax free development bonds can be issued for investor-operated hospitals. However, present law also includes seven categories of activities which are not subject to this $5 million industrial development bond limit. These include residential real property, sports facilities, convention sites, airports, sewage facilities, pollution control facilities, and water projects. Hospitals serve a vital public need and there is simply no justification for this provision of our tax law to give priority to convention halls and sports facilities, for example, as compared to health facilities.

The issuance of development bonds—with accompanying lower interest rates—helps local communities raise the capital needed for the construction of new hospitals or the expansion and modernization of existing ones. This method of financing is a desirable alternative to direct Federal subsidies which often involve endless delay, unnecessary paperwork, and excessive redtape. This method gives municipalities flexibility in providing health services through both nonprofit and investor-operated hospitals. There is a shortage of funds for hospital capital improvements in many areas. A large number of facilities in rural areas are in need of extensive modernization to provide adequate health care. In addition, an expansion of the tax exempt industrial bond financing mechanism would help lower hospital costs. If the construction of private hospitals is financed through tax exempt industrial revenue bonds—at least up to the proposed $20 million ceiling—it is estimated that the savings in annual interest costs could reach approximately 30 percent. These savings would be passed along to patients in terms of better and lower hospital costs.

One of the most important reasons warranting the liberalized use of revenue bonds for hospitals is the development of effective areawide planning authorities, largely through the passage of Public Law 93-641, the comprehensive health planning law. This law, which requires State certificate of need programs as a condition for receiving Federal planning funds, effectively limits future construction of hospital projects to those which serve a demonstrated and proven need in the community. As a matter of course, bond underwriters normally require an extensive feasibility study to document the community needs before considering marketing the proposed bonds. Thus, to the extent that there are excessive beds in a geographic area, the expansion of industrial revenue bond financing will not result in the creation of additional beds. Unneeded facilities simply will not be constructed due to the planning authorities.

Mr. President, I urge my colleagues to support this proposal which will promote better health care throughout our Nation, particularly in rural and innercity areas.

Mr. KENNEDY. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. KENNEDY. Mr. President, I ask unanimous consent that this be a 10-minute rollcall.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the amendment of the Senator from Massachusetts. The clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. Hartke), the Senator from South Dakota (Mr. McGovern), the Senator from Minnesota (Mr. Mondale), the Senator from Missouri (Mr. Symington), the Senator from California (Mr. Tunney), and the Senator from Mississippi (Mr. Stennis) are necessarily absent.

I also announce that the Senator from Delaware (Mr. Biden), and the Senator from Michigan (Mr. Philip A. Hart) are absent because of illness.

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. Brock), the Senator from Arizona (Mr. Goldwater), and the Senator from Pennsylvania (Mr. Schweiker) are necessarily absent.

The result was announced—yeas 39, nays 50, as follows:

[Rollcall Vote No. 488 Leg.]

YEAS—39

Abourezk
Brooke
Bumpers
Burdick
Byrd,
Harry F., Jr.
Cannon
Case
Chiles
Clark
Cranston
Culver
Dole
Durkin
Glenn
Hart, Gary
Haskell
Hathaway
Hollings
Humphrey
Jackson
Javits
Kennedy
Leahy
Magnuson
Mansfield
Mathias
McIntyre
Metcalf
Moss
Muskie
Nelson
Pell
Percy
Proxmire
Roth
Stafford
Stevenson
Stone
Taft

NAYS—50

Allen
Baker
Bartlett
Bayh
Beall
Bellmon
Bentsen
Buckley
Byrd, Robert C.
Church
Curtis
Domenici
Eagleton
Eastland
Fannin
Fong
Ford
Garn
Gravel
Griffin
Hansen
Hatfield
Helms
Hruska
Huddleston
Inouye
Johnston
Laxalt
Long
McClellan
McClure
McGee
Montoya
Morgan
Nunn
Packwood
Pastore
Pearson
Randolph
Ribicoff
Scott, Hugh
Scott,
William L.
Sparkman
Stevens
Talmadge
Thurmond
Tower
Weicker
Williams
Young

NOT VOTING—11

Biden
Brock
Goldwater
Hart, Philip A.
Hartke
McGovern
Mondale
Schweiker
Stennis
Symington
Tunney

So Mr. Kennedy's amendment (No. 2138) was rejected.

Mr. LONG addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. BENTSEN. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. LONG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LONG addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana.

UNANIMOUS-CONSENT REQUEST

Mr. LONG. Mr. President, I wish to make a unanimous-consent request. I know Senators are tired.

The PRESIDING OFFICER. Would the Senator withhold just momentarily and the Chair will get a little order.

Senators will kindly take their seats. Staff members will kindly take their seats.

The Senator from Louisiana.

Mr. LONG. Mr. President, I wish to make a unanimous-consent request. I know Senators are tired. They have worked long and hard, just as the committee worked long on this bill, and they want to vote on the bill and conclude consideration of this measure.

In view of that fact, Mr. President, I ask unanimous consent that there be a 1-hour time limit on the 2 remaining committee amendments, to be equally divided between the sponsors and the opponents, that there be a 1-hour limit on all remaining amendments, and that the Senate proceed to vote on final passage of this bill at 3 o'clock tomorrow afternoon.

Mr. HASKELL. I object.

Several Senators addressed the Chair.

The PRESIDING OFFICER. Objection is heard.

Mr. LONG. Then, Mr. President, I ask unanimous consent that there be a 1-hour limitation on the two remaining amendments, and a limitation of 20 minutes on each amendment, to be equally divided between the sponsor of the amendment and the manager of the bill.

Mr. HASKELL. Reserving the right to object——

The PRESIDING OFFICER. The Senator from Colorado has the floor reserving the right to object.

Mr. HASKELL. I wonder if the Chair would inform the Senate what the two remaining committee amendments are?

Mr. BENTSEN. Will the Senator use his microphone?

The PRESIDING OFFICER. The Senator is inquiring of the Senator from Louisiana what the two remaining committee amendments are.

Mr. LONG. The two I have in mind, the estate and gift taxes and the sliding scale on capital gains.

Mr. HASKELL. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. LONG. Then, Mr. President, I ask unanimous consent that we have a 1-hour limitation on the estate and gift taxes, and that we have a 20-minute limitation to be equally divided on the amendment on estate and gift tax.

Mr. HASKELL. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. NELSON. Reserving the right to object, may I inquire of the Senator, the Finance Committee amendment, estate and gift tax amendment, is here on the floor.

Senator BROCK and Senator PACKWOOD and I have an amendment which was offered in committee, which is a major amendment to the amendment as it came out of committee.

Is the Senator suggesting we combine that debate to 20 minutes on that issue?

Mr. LONG. The Senator could take the time in opposition to the amendment and use that. It is all right with me, if he does, and use the time in opposition to discuss his substitute he would like to offer.

Mr. NELSON. I cannot speak for the other authors, but 10 minutes to a side would be a little short.

Mr. LONG. How much would the Senator want on the amendment?

I know it is a good amendment. How much time does the Senator want on his amendment?

Mr. NELSON. I do not want to speak for Senator PACKWOOD, and Senator BROCK is not here. I think an hour might be all right, but I do not know how much time the Senator from Oregon wants.

Mr. PACKWOOD. Every time I get into one of these limitations, it is short.

I think I will object for the moment until we start into it; and I might yet, once I see how it goes.

Mr. NELSON. This may not take more than an hour.

Mr. LONG. Then I would suggest we have a 1-hour limitation on the estate and gift taxes on the committee amendment and that there be a 1-hour limitation on the Nelson amendment to be divided between the sponsor——

Mr. NELSON. The Senator from Oregon already objected.

Mr. PACKWOOD. I have no objection to the capital gains, but I do want to object to the time limit.

Mr. PASTORE. Reserving the right to object, do we want a tax reduction or do we not want a tax reduction?

I am beginning to wonder after 4 weeks whether we want anything at all.

This bill has been loaded with a lot of amendments that will not last in conference for 5 minutes, and everybody in this room knows it. Everybody in this Chamber knows that most of the amendments that we have adopted, when we go to conference will not last for 5 minutes.

The big question here is, are we going to give the taxpayer a break by reducing the taxes?

If an hour is not long enough, then ask for 2 hours. If 2 hours is not long enough, then ask for 3 hours.

But where I come from, if one cannot state their case in 15 minutes, they do not have a case.

So I say, let us be a little reasonable about this. Last night we stayed here almost until midnight. Tonight we have been told we are going to be here again until midnight. I do not care if we stay here all night, but for goodness gracious, will we pass a bill? The way it looks now, we are not going to.

Next week, we recess until the 23d of August. There will be the Republican Convention. We have already had a statement from Mr. Carter that he is going to take a good look at these tax loopholes and he is going to make his recommendations.

I say, can we culminate this? Can we reach an agreement as to when we are finally going to pass a tax bill to give the taxpayer a break?

I say very frankly, Senators stand up here and talk for hours and I pick up the newspapers back home and there is not a line in the newspapers about what was said. [Laughter.] There is not a line about what was said.

I sit here hour after hour after hour just listening to a lot of rhetoric. Finally, when it comes to a showdown, we know we will have to listen to the conferees of the House. They will have something to say.

I say to Senators, why not get on the ball? Why not act reasonably, reach an agreement, and see if we can culminate this bill by the end of this week. Every time someone makes a motion to limit debate, someone gets up and says, "Reserving the right to object," and, "I have a case to make." Senators have been making a case for a whole month. I say very frankly, we have not convinced anybody, including ourselves. That is the shame of it all.

I would hope we would get ourselves down to cases and do something about it. I would hope we could reach an agreement for a final vote tomorrow at 3 o'clock, 4 o'clock, 5 o'clock, 6 o'clock, even up to midnight, but let us have a final say on this bill.

I say frankly, this is getting to be frustrating, disgusting, and not in keeping with the decorum of the Senate. I thank Senators for listening.

Mr. LONG. I completely agree with the Senator. The Senator knows as well as I do when we debated an issue yesterday, one side took 2½ hours and our side took a half hour. We did not have to take a half hour because nobody was here to listen. Most had their minds made up to begin with. Most Senators have talked about this issue. When the bell rings they will come in and talk to somebody in whom they have confidence, who usually sees these things the same way they do. They ask, "What do you think about this matter?"

They will make up their mind in 30 seconds. Meanwhile, somebody has been standing for a solid hour, beating their breast to an empty Chamber and empty press gallery.

It is like Lyndon Johnson told me. I said, "I want to have the Senators come and hear this speech."

He said, "I can have these men come in and answer to their names, but I do not have the power to make these men come here and listen to your speech."

Senators know how they want to vote on every one of these issues. At least, if they do not know, they have someone in whom they have confidence and they will ask how he is going to vote. Meanwhile, they will vacate the Chamber while the long-winded speeches are being made.

I hope we can get unanimous consent. I will ask again that we limit ourselves to 1 hour on the estate and gift taxes and an hour and a half on the Nelson amendment to be equally divided.

Mr. HASKELL. Reserving the right to object, Mr. President, the senior Senator from Ohio said most of the special interest provisions will not survive conference but there is always the danger they will. Under those circumstances, since the estate and gift tax involves in the neighborhood of $1.5 billion of revenue, and the capital gains is of that magnitude, I would have to object to a time limitation.

The PRESIDING OFFICER. Objection is heard.

Mr. MUSKIE. Mr. President, given the discussion which has taken place in the last few minutes, and the desires of the Senator from Rhode Island, with which I thoroughly concur, I think at this point it would be a good time to move to recommit the bill, with instructions that the committee report back forthwith with an amendment in the nature of a substitute which only contains provisions extending individual income tax reductions and the $35 tax credit through calendar year 1977.

Mr. PASTORE. Will the Senator yield?

Mr. MUSKIE. Yes.

Mr. PASTORE. I approve of that completely. I would hope it would receive the approval of this body. After all, we started out to give the taxpayer a break. Let us give him a break and let us wait and see what we are going to do about all of these other matters. I hope this motion will be adopted.

Mr. ALLEN. A parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator will state it.

Mr. ALLEN. Mr. President, if a motion is made to recommit the bill with instructions to report back, would not the parliamentary situation be that every amendment that had been offered heretofore and acted upon in the Senate in the last 4 weeks be in order on the substitute?

The PRESIDING OFFICER. The Senator is correct. When the bill was reported back under those circumstances, it would then be open for further amendment.

Mr. ALLEN. How would we accomplish anything? It would wipe out 4-weeks' work.

Mr. PASTORE. If the Senator will yield, if he wants to be that mean, that is all right. If this is an assembly of meanness, that is one thing; if it is an assembly of reasonableness, that is another thing.

The PRESIDING OFFICER. The Senator from Maine has the floor.

Mr. MUSKIE. Mr. President, I do not intend to belabor this point. I appreciate the point of the Senator from Rhode Island. It is perfectly possible, of course, that if this were to be done the exercise would start all over again. If that is the way the Senate wants to present itself to the country, that is certainly the prerogative of the Senate. But I have offered this amendment not for the purpose of creating an opportunity to play those kinds of games. I offer it for a serious purpose.

Mr. President, I indicated earlier this afternoon before the Senator from Connecticut offered a motion to recommit, that I was going to vote against this bill because I conceived it to be my duty to do so as chairman of the Senate Budget Committee. Our clear duty is to present to the Senate the budgetary consequences of the actions which it takes. I am quite aware that there are a number of Senators who obviously believe I am trespassing into territory that is not in the Budget Committee's jurisdiction. Well, I happen to believe it is.

In any case, at the very least, we have that responsibility.

It is clear from the statistics presented to the Senate earlier that the budgetary consequences of what we have done up to this point are simply unacceptable. We ought to send the bill to the committee to have them clean it up, to extend the tax cut, and defer whatever action we are going to take on tax reforms until next year.

Mr. CURTIS. Will the Senator yield?

Mr. MUSKIE. I have made all the statements this afternoon I need to make my point. I see no reason to belabor the Senate.

Mr. CURTIS. Will the Senator yield for a question?

Mr. MUSKIE. I will be happy to yield.

The PRESIDING OFFICER. Will the Senator withhold momentarily?

Will the Senator send his motion to the desk?

The Senator from Nebraska may proceed.

Mr. CURTIS. Is it our understanding that the Senator would recommit the bill with instructions to report back on the expiring tax cuts plus the one amendment offered by the distinguished Senator from Maine (Mr. MUSKIE)?

Mr. MUSKIE. That is correct.

Mr. CURTIS. And the Senator would resist other amendments in which other Senators are interested?

Mr. MUSKIE. The Senator put the question. Let me answer it completely. I know the Senator and I disagree on this point. I happen to believe that the budget resolution adopted this year mandated something more than spending targets in the budget. I happen to believe, as one who helped to write the budget reform act, and as one who has presided over its implementation for almost 2 years, that we also have the responsibility to consider the impact of revenues and revenue changes upon the budget of the United States. We did so in the Budget Committee.

I happen to believe also, as chairman of the Budget Committee, that we are required by the Budget Reform Act to establish an economic policy.

Now, this motion that I have offered implements that, because that budget resolution, which undertook to do those things, was adopted by the whole Congress before this tax bill came to the floor of the Senate. So the extension of the tax cut through fiscal 1977, modified by the Allen amendment to go through the calendar year 1977, is not the result of an amendment of the Senator from Maine to this tax bill, Senator; it is an implementation of an economic policy and a tax policy mandated by this Congress in the first budget resolution.

You can put it any way you choose, but my job on this floor—and this whole Senate has charged me with it—is to try to enforce the congressional budget resolution to the best of my ability, by my best lights.

And I am not playing games. I am doing my best to put that budget resolution to a meaningful test in the Senate, because if the revenue side of the budget is not a part of the budget process, I want to know it. I would have real doubts about the vitality of a budget process half of which is a gaping hole, on the revenue side; and the actions of the Senate for the last 4 weeks indicate that it is a gaping hole.

I have heard the Senator from Nebraska voting to spend hundreds of millions of dollars that he would fight to his last breath if it were included in the direct spending budget. If that is the way the Senate wants it, the Senator from Maine want to know.

Mr. CURTIS. Mr. President, will the Senator yield on that point?

Mr. MUSKIE. May I finish? I have the floor. The Senator put a question to me, and it takes me a little longer than the Senator from Rhode Island to make my case. I have been trying for 4 weeks and have not succeeded.

But if there is that gaping hole in the budget process, I think it is time for the Senate to say so, and I know of no better way to ask the Senate to say so.

Whatever the Senate says, I will accept. Whatever the Senate says I will accept.

Mr. CURTIS. Now will the Senator yield?

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. CURTIS. Mr. President, this motion to recommit would preserve the tax cuts and one Senator's amendment that costs over a billion dollars.

Here is what it would delete in revenue getters:

Real estate recapture of depreciation, $9 million next year, by 1981, $56 million. The Muskie motion would throw that out.

This is a game to delay the bill, and I want to say to you people on this side, if you want to destroy $2 billion in tax reform, vote with Mr. MUSKIE.

This bill contains farm syndicate tax recovery of $74 million for this fiscal year, and it continues on.

At-risk farming and motion picture applications starts out with a recovery of only $1 million, but it goes up to $17 million.

The capitalization of motion pictures picks up $26 million the first year.

The at-risk equipment leasing is another item. I will not name all the items, but they add up to over $2.4 billion. That is the cash effect.

Oh, how what we have done here has been misrepresented, over and over again.

Mr. LONG. Will the Senator yield on that point?

Mr. CURTIS. I am happy to yield.

Mr. LONG. We have heard oratory over and over and over again about 244 people who paid us no income tax. Is it not true that if this amendment should pass, those 244 people will get by without paying an income tax for 2 more long years?

Mr. CURTIS. That is correct. And the action of the Senate Finance Committee on increased the revenue on the minimum tax by $980 million the first year.

Mr. LONG. Is it not also true that this bill aims $2 billion of taxes, even as it stands now, at these tax cheaters we have been hearing about?

Mr. CURTIS. That is correct. And the biggest tax loophole voted today was the Haskell amendment, that opened it up for all the Al Capones to go scot free.

I appeal to you who have a sense of responsibility to the honest taxpayer to preserve him.

We have heard a lot of talk about tax expenditure. A witness before our committee told us what is was. He said:

> It is nothing new; it used to be called feudalism. It is based on the philosophy that all a man's income belongs to the Government, and if we should vote to let him keep a part of it, it is a tax expenditure.

For instance, the hard-working people of this country worked to educate their children, and we said that if they took that money and paid tuition, they could get a tax credit for $100.

That was their money they spent. They did not come to this Government and ask for a direct subsidy, a loan, or a scholarship. Those young people's parents sent them to college. That was their money. Yet there are people who say that is a tax expenditure.

That is not. That is the people's money.

Mr. LONG. Will the Senator yield further?

Mr. CURTIS. Yes, I am happy to yield.

Mr. LONG. In this bill we have a withholding tax on gamblers of $124 million. Will this not be a happy day for the gamblers? I am told that they will save $124 million this year, and I am sure they could.

Jimmy Carter, having explained at Club 21 what his views are on taxes, explained that if he is elected President, there is enough complexity involved in all this that the Democratic candidate for President, Mr. Carter, would feel it necessary to study the taxes for a year before he will have his tax reform program to submit to us. Would not that be good news for Las Vegas? Would not that be good news, especially for the gamblers, that they have $250 million, $124 million one year and $124 million the next, a $250 million bonanza that these budget people would like to arrange for the gamblers?

Mr. PASTORE. Mr. President, will the Senator yield to me?

Mr. CURTIS. In just a moment. I want to finish.

Do you want to make another annual evening speech about hurrying up the program?

Mr. PASTORE. No; all I want to say is, we can dance around this floor and get all excited, but the only thing I am saying is, all the Senator from Rhode Island is asking, "Let's get on the ball and pass the bill." If we cannot pass the bill, I will go for the suggestion made by the Senator from Maine. But all I am saying is that we are dillydallying. I know there are good features in this bill; I am ready to vote for the bill. But you do not have to talk about Al Capone and all that sort of thing. As a matter of fact, I voted with Mr. HRUSKA.

Mr. CURTIS. I know the Senator did.

Mr. PASTORE. I did not like the Haskell motion at all, so I do not have to be lectured to about Al Capone. I am not for the underworld. I am not for the Mafia. I am for law and order, and I voted that way.

Mr. CURTIS. Great.

Mr. PASTORE. And I do not think we have to kick that all around this Chamber. All I am saying is, rather than waste all this rhetoric and wave our hands and all that sort of thing, and get all excited, why not have a unanimous-consent agreement as to when we can pass this bill? We owe that to the taxpayers.

Mr. CURTIS. Yes. I decline to yield further, because the Senator is filibustering this bill.

Here is the point: The distinguished Senator from Maine gets up with all the aura of purity and tax reform, and wants to recommit this bill without disclosing what he would do. What he would do would take withholding away from the gamblers and keep it on the charwomen. That is what he would do by his motion to recommit and the record shows it.

Mr. MUSKIE. What is it that the record shows? I did not hear. I would like to hear. What is it the record shows that I would gamble?

Mr. CURTIS. The record shows that the Senator has a motion to recommit the provision that would impose withholding on the gambling interests and at the same time the law continues it for every other worker.

Mr. MUSKIE. The Senator believes that is the reason for my motion?

Mr. CURTIS. I do not know.

Mr. MUSKIE. Oh, well.

Mr. CURTIS. I understood that the planter from Plains, Ga., wants this bill defeated.

Mr. MUSKIE. He has a suspicion.

Mr. CURTIS. I understand that the planter from Plains, Ga., wants this bill delayed until next year.

Mr. LONG. If the Senator will yield, that is not my understanding. May I say to the Senator, that it is my understanding that there are certain interests, business interests, gambling interests, and a lot of other interests, particularly those who have been getting by without paying any taxes who want this bill to get defeated, so they can get by for 2 more years without paying any taxes or without paying their fair share.

I will ask the Senator if this is not true: If this bill is defeated all the people as to whom we heard talk about getting away without paying any taxes, they get away with it for 2 more years.

Mr. CURTIS. That is right.

Mr. LONG. It would take that much time. It takes a long time for the House of Representatives to get a bill like this to us and Mr. Carter stated—did the Senator read the newspaper—Mr. Carter said, and I am sure he was sincere about it, at the Club 21, he says, expected it will take a year to study this to make the recommendations he makes.

Mr. PACKWOOD. Was the Senator from Nebraska yielding for a question or a speech?

Mr. CURTIS. I resume the floor myself. I believe that is in accordance with the rules.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. CURTIS. Mr. President, what has happened here. We have a very complex economy with complex taxes. The House of Representatives passed a bill. Some of us thought in a few instances maybe it was an overkill. There were some Senate amendments. Part of the same staff that works over in the House of Representatives works here. This is a big bill. On the second look they have some changes. A number of changes were made by the Committee on Finance.

But we still brought in a bill to bring in $2.4 billion in new revenue. But it was immediately branded that we were perpetuating loopholes because we took the second look at some of these provisions and under the guidance of the staff improved them. And some of the dear friends up in the press have perpetuated that myth, that the Finance Committee has just carved out loopholes. Here is a long list of closing loopholes.

The Finance Committee worked for months on this bill. We brought it to the floor. We have spent 2 or 3 months defending our jurisdiction, preventing the distinguished Senator from Maine from taking over the bill after the distinguished Senator from Louisiana had worked for months on the bill, attended the hearings. Then that ended and a group called themselves the tax reformers want to take over.

There has been a lot of talk here, but those on the Committee on Finance have had to sit here and listen to all of it, and we have not done too much of the talking.

If Senators wish to destroy some sound reasonable tax reform measures, vote with the distinguished Senator from Maine. If Senators wish to perpetuate some abuses that have sprung up, go ahead and recommit the bill.

There are also some things in there that many people feel ought to be done.

The estate tax was enacted years ago to provide a tax on those large estates, that there was too much money to transfer to someone else. The growth of the country plus inflation has brought that tax down to where it reaches a great many people that should not be paying it, and all we have done here is allow for the inflation factor to bring some relief in the field of estate taxes. If Senators do not want any relief in that, Senators can vote to recommit.

Mr. President, I say that the distinguished chairman of the Committee on Finance, Senator LONG, has performed his task faithfully and well. Every group that wanted to be heard before the Committee on Finance was given a courteous hearing. They have tried to meet abuses, to close loopholes, but in so doing not to go beyond what should be done and hurt situations and persons that are not taking any unfair advantage.

Mr. President, I shall oppose the motion of the distinguished Senator from Maine who would wipe out all tax reforms for 2 solid years and deny Congress a chance to recover $2,477,000,000 in new revenue.

Mr. PACKWOOD. Mr. President, what is the pending business?

The PRESIDING OFFICER. The motion of the Senator from Maine to recommit with instructions.

Mr. PACKWOOD. Mr. President, I have listened to the debate between the Senator from Maine and the Senator from Louisiana at some length about the powers of the Budget Committee and the powers of the Committee on Finance. I have listened to the argument that there are unjustifiable tax expenditures in this bill and I think we are confusing two and maybe three things. I think it is worth taking the time when we are new into this budget process to consider which direction this Senate wants to go.

Senators will recall when we started this debate there was an argument about whether or not the Finance Committee had to come up with $2 billion in tax loophole closures.

And frequently there was quoted a colloquy between the Senator from Maine and myself as to whether or not the Finance Committee had the obligation to close those loopholes. This was at the start of this bill. The reason I think the sequence is significant is because we are starting to see, if we go on as we are going on, a shift in emphasis and a shift in the power the different committees in this Congress are going to undertake, and that may be fine. But I think this Senate should know what it is doing when it gets into it.

That colloquy between Senator MUSKIE and myself was quoted and requoted at length. I thought it said that the Finance Committee was not under any obligation to try to come up with $2 billion if it did not want to. The Senator from Maine thought it should.

I want to quote, not from that colloquy, but from another statement from the Senator from Maine April 1, 1976, on pages 900 and 901 of the transcript of the Budget Committee. I emphasize this is unedited transcript from the reporter's notes. Senator Muskie said:

> Just a moment. Let me make the point in light of where the debate has gone now. As far as the first concurrent resolution is concerned, all that we are doing when we act on this is establish the number that goes on the first concurrent resolution with respect to appropriate revenues.
>
> But there is also a provision in the Budget Reform Act that it is the prerogative of the Budget Committee to specify whatever in its judgment it should with respect to tax expenditures.
>
> Now, my own view is that if you really want to influence the Finance Committee and the Congress on the question of tax expenditures or tax spending, which I think is a better way of putting it . . . then I think we have some obligation to take advantage of the report in whatever way the majority of the committee wants to indicate what proportion of that revenue number is expected to be achieved by reform in the tax law, with whatever detail it pleases the committee to include.

Next is the critical sentence.

> If there is nothing in the report with respect to expenditures, or even if there is for that matter, the Finance Committee, of course, has simply the obligation to produce $361.4 billion in revenues and is not bound by whatever is or is not in the report to link that to tax expenditure reforms.

I understand that the Senator from Maine was saying that in April because at that time there was an understandable desire not to want to aggravate any Members of the Senate and to have them think that there would be a possibility that the Budget Committee would be overreaching the authority that we thought we might have given it. So there was a deference to the Members of this body.

Once we got into the debate on the floor, that statement, that the Finance Committee was not bound in any way, shape, or form by the suggestion of $2 billion in closing tax loopholes, was discarded, and we were almost put in a position of seeming to think we had a moral obligation to do it. Put that in the past.

Today, the Senator from Maine argued in opposition to the debate on the Roth amendment, which has no fiscal effect in the next year; that as chairman of the Budget Committee, he had an obligation to oppose the amendment. He accused the Senate of being fiscally irresponsible, of putting into the law——

Mr. MUSKIE. Mr. President, will the Senator yield on that point?

Mr. PACKWOOD. No, I do not think so, yet.

Mr. MUSKIE. That is typical.

Mr. PACKWOOD. Of being fiscally irresponsible, of building in long-term, permanent tax expenditures, without any regard to its fiscal effect. He noted that we had cut this bill down to $150 million from a $2 billion bill.

I ask Senators: Are we going to be faced with a situation, when Senator Roth or anybody else offers an amendment that has no effect on the next fiscal year, which in 1981 will lose $1.1 billion—will we be faced with the argument that we cannot consider that, that we should not consider that, that the Budget Committee has not considered it?

They have not considered the housing programs for 1981 or a lot of other programs for 1981. Does that preclude this body from morally having any right to speak on those subjects? I do not think so.

I do not think we intended to create a Budget Committee which was going to be at the top of the pyramid of all other committees and at the top of the pyramid all over the actions on the Senate floor and say no action can be taken until the Budget Committee has reviewed it and has decided whether or not it is appropriate for their fiscal projects 3, 4, or 5 years hence.

I will conclude with the argument about tax expenditures. Today, the Senator from Maine said, over and over, "I have seen the Senate vote for exceptions in the Internal Revenue Code—and that is spending—when they would not in any way, shape, or form vote if those were direct appropriations for the same amount," as if to say they are one and the same thing. So far as I am concerned, they are not.

I supported the Roth amendment. I think it is a very fair amendment, to try to give to middle income parents in this country a deduction, to try to send their children to college. If it costs $1.1 billion in lost tax revenues in 1981, so be it. That is a world of difference from appropriating $1.1 billion to the Department of Health, Education, and Welfare and telling them to spend it on scholarships or tuition for college students.

Mr. PACKWOOD. I yield.

Mr. LONG. The Senator from Maine offered an amendment that would cost about that much this year, a direct budget buster, busting his own target. The Senator put in the Record his letter explaining that the economy was going to pick up and, therefore, we would have more revenue. That is the attitude the Senator took on his own amendment.

Mr. PACKWOOD. That was for one-quarter, not a year—3 months.

We have heard the expression "tax expenditure." I would much rather encourage people to go to college, to encourage the expansion of business, or encourage the installation of geothermal and insulating materials by a tax incentive, instead of a straight out expenditure.

Perhaps one day we will face up to this in a long debate, in a crowded Chamber, as the best way to encourage people to do things in this country.

We allow people a deduction on the interest when they buy or build a house. That is a tax expenditure. We allow people to take a deduction for interest because we want to encourage homebuilding.

If one wants to close that loophole, if one wants to call that a tax expenditure, fine. I do not agree with it. If the alternative to encouraging homebuilding in this country is for the Government to give a subsidy to everyone who wants to buy or build a house—$2,900, $3,000, $4,000, or $5,000—to give a preference, to allow them to have a deduction on the interest paid, I think it is a sad choice; because what is going to follow soon afterward is that you are building a house where the Government says you have to build it and in the size the Government says, or you will not get the subsidy.

I will tell Senators what many people who are called reformers object to. They object to the individual diversity in this country, because we encourage people to do things through tax credits instead of forming them into a uniform mold, where they have to conform to the same peg and hole in order to get a subsidy from Washington.

I do not think it is fair for the Senate or for the Finance Committee to be accused of being almost immoral if we keep some of these so-called loopholes in the law, where we are trying to encourage private citizens to do things that we regard as socially desirable policy. That is preferable to the Government taking their money away and giving it back to them to do the policies we think they should do.

I do not think the Senate should have to say to itself, that we will approve no amendments—might as well not have any debate—on any issue that the Budget Committee has not considered. If that is the purpose of the Budget Committee, we can expedite the Senate's business very well. We probably can go back to meeting in March, adjourn in June, come back three or four times a year, and ratify what the Budget Committee has done, or turn it down, and we will not have any need for any hearings.

I hope that is not what the Senate intends, and I hope the Senate will not send this bill back to committee after 10 weeks of committee work and 5 weeks of work on the Senate floor, to say that we do not like what we have now fashioned.

Mr. LONG. Mr. President, I was aware of the fact that there was a group organized to undertake to tell us what we should do about our bill before we ever had our executive sessions. We had suggested to us, with some speeches on the floor, the type thing we should do; that if we did not do that, they were going to attempt to write our bill for us on the floor. When we reported our bill, it became clear that they expected to make a big thing out of this, well coordinated with certain press people in town; that they were going to give us a hard time; that they were going to fight us about anything in the bill and quarrel about anything the mind of man could quarrel about; and if they could not get their way, they would try to defeat the bill even though they had voted for practically everything in it.

That is the reason why I ask that we just vote on these titles. We have 11 titles agreed to unanimously, and we agreed to most of the others with only one or two dissenting votes.

Senators may not like everything in here, but it is a good bill as far as it goes, and that is all one can say about any bill. Senators are tired of voting on this measure. They are tired of considering measures and tired of working, and they want to quit and go home. Some want to go to the Republican Convention, and others want to take a rest or do whatever they are committed to do.

It would be all right with me to make a motion to recommit and report back with the bill the way it stands. That would be all right with the Senator—to report back the way the bill stands. At least, we would close these loopholes we have been talking about, and we would carry out what the Senate has voted to do.

I am a respecter of the Senate. I try to recommend what I believe the Senate wants to do. Of course, I have my own convictions and my own conscience to serve and my own duty to my country, as does every other Senator. But I try to keep in mind what the Senate would like to do about this; because, as a committee chairman, I realize that I have a duty to the Senate of the United States to try to bring to the Senate a bill that I think the Senate would be likely to agree to.

I ask this, Mr. President: Is the motion to recommit subject to amendment?

The PRESIDING OFFICER. The instructions on the motion to recommit are subject to amendment.

Mr. LONG. Then, I am going to discuss this matter for a few moments while an amendment is prepared. I am going to see if Senators are tired of working on this matter and do not want to consider any more amendments. If that is what they want to do, then I will offer an amendment to this motion to simply say that we recommit and report back exactly the way the bill stands now. That would deny some Senators the right to offer their amendments. I dislike doing that. But I would much rather do that than have every tax cheater in America or every tax avoider in America get by without doing what he should do. The House worked for a solid 3 years on this bill. They worked in the previous Congress, they worked in both sessions, and they finally got out a version of tax reform that had too much controversy and was too late to be passed that year. What did we do?

In the dying days of the session, we simply stripped from the bill the language in it that would not be controversial and we passed that in the closing days of that session. We took care of that problem.

Then, we proceeded, when they sent us this bill the following year, to take care of the priority matters first, such as the debt limit, and we went to work on this bill.

The distinguished Senator from Massachusetts and his group asked for a meeting. We held a meeting over in the majority leader's office, Mr. MANSFIELD's office. They pressed me hard, saying, "Look, we want this bill out here so we can vote our version of tax reform between now and that Democratic Convention." I suffered a lot of criticism for trying to get this bill out as quickly as I could so the Senate could vote on it. I was trying to do what I committed myself as a gentleman to do, to have that bill out here, hoping that the Senate could pass it before the Democratic Convention.

Those same Senators had every right to offer all their amendments, and they did. That is why it has taken so long out here on the Senate floor, to let them offer amendments and to hear them make their arguments at length. They had a right to do it. I do not criticize them for a moment.

They had their day, and they won on some of them, may I say. I congratulate them on their victory. But they did not win enough to suit their desires.

In view of the fact that they did not have their way altogether, they would just prefer that every tax avoider in America get away with it for the next couple of years, rather than let a bill go through that they have not been able to write completely according to the way they would like to do, even though they have voted for most of what is in this bill.

That would be a sad travesty, Mr. President. Imagine that. All these people, all this conversation. I wish I had a recording to play back all those eloquent speeches that made these rafters ring about those 244 people who paid no income tax. Were they not eloquent? Did they not ring the rafters? Those same Senators would like those same people to get away with that for 2 more years, and maybe even those people who paid a little bit of tax, though not all.

Maybe the Senate is just weary. I have been working a lot, too, but the Senate is just weary of considering this matter and weary of voting. The hour is getting late. Here it is, getting close to 8 o'clock. If the Senate wants to consider no more amendments, but just vote to let the tax avoiders, tax cheaters, and people who have fine lawyers to help them get away with paying no taxes get away with it for 2 more years, then that is all right.

I send to the desk an amendment and ask that it be considered.

The PRESIDING OFFICER. The amendment will be stated.

UP AMENDMENT NO. 316

The assistant legislative clerk read as follows:

> The Senator from Louisiana (Mr. LONG) proposes unprinted amendment No. 316:
>
> Amendment to motion by Mr. MUSKIE:
>
> Strike the last word on line 4 and all the words thereafter through line 6 and insert in lieu thereof the following: "to which the Senate has so far agreed."

Mr. LONG. Mr. President, if this amendment carries, this would deny us the opportunity to consider the proposal with regard to the inheritance tax, but the House is sending us a bill on inheritance taxes, so we shall still have an opportunity to discuss it. If this amendment carries, I promise Senators that I shall do my best to see that on that bill, they will have their chance to offer and have considered the amendments that they would be barred from having considered by virtue of the fact that the Senate has just gotten weary.

Mr. JAVITS. Will the Senator yield?

Mr. LONG. I yield for a question. I do not desire to yield the floor.

Mr. JAVITS. I ask the Senator whether or not he believes that the effect of his amendment will be to deny Members who have amendments to offer the opportunity to offer them when the committee reports the bill back? If so, I shall respectfully suggest a point of order against the amendment.

I know how the Senator feels, but he is tired, too. I hope he will not press forward with this amendment. I think that Senator MUSKIE has offered us a clean, up and down proposition. I intend to vote no. I voted "aye" on Senator WEICKER's motion respecting tabling because I wanted to hear the very debate which is taking place. So I hope, and I just express this as one Senator and a relatively old friend, that we will not complicate it any further. It is a clean-cut proposition—do we want to go ahead or not?

Mr. LONG. Let me make this clear to the Senator. If this amendment that I am making is agreed to, it will deny to other Senators the right to offer their amendments to exactly the same extent as Mr. MUSKIE's motion would deny them the right to offer their amendments. They can offer it, but a motion to recommit and report back, under the traditions of a Senate, is tantamount to a gentlemen's agreement that we are going to pass the bill just as it stands at that point. What that means is that when a motion to recommit and report back has been agreed to, the Senators have agreed among themselves that they are not going to offer any more amendments.

That would not deny the Senator his amendment. That amendment is in the bill. I have another one I would like to offer. They have denied me the chance to offer mine.

Mr. JAVITS. Knowing the Senator as I do, I believe he would be tempted to vote no on his own amendment. Therefore, would it not be wise not to push it?

Mr. LONG. My proposition is this: If the Senate is weary, if the Senate is tired, they want to go home and say, "Well, we did the best we could," as Harry Truman said about that judge out there in Missouri, "I done my damnedest," all right; or, "I have done just about all I can do, and therefore I want to go home"—if they want to do that, they should not junk what they spent a month out here working on and voting for.

Mr. JAVITS. Will not the Senator vote no on his own amendment?

Mr. LONG. I say to the Senator I shall vote for my amendment to the Muskie motion. If that amendment carries and it be the will of the Senate that we ought to persevere for another day or so and pass this bill, that is fine with me.

Mr. PACKWOOD. Will the Senator yield for a question?

Mr. LONG. Yes, for a question.

Mr. PACKWOOD. I believe it was the intention of the Senator from Louisiana in his amendment to the motion to recommit to recommit everything that we have passed, with instructions to report back, and that everything we have passed will be reported back in the bill.

Mr. LONG. That is right.

Mr. PACKWOOD. I do not believe title XXVI has been adopted yet. I want to be sure the Senator's amendment includes either the prepaid legal services or the Roth amendment as passed. If it does not, will the Senator include those two we already acted on today?

Mr. LONG. The section of the Senator has been included.

Mr. PACKWOOD. That would be part of the motion?

Mr. LONG. The Senator's section is in there.

Mr. PACKWOOD. I just want to make sure that on the motion of the Senator from Louisiana with instructions to come back with everything we have passed, it would include the Roth amendment of today and my amendment on legal services.

Mr. LONG. It would not include the Roth amendment, nor would the Muskie motion. If the Muskie motion is agreed to, the Roth amendment goes down with the Muskie motion.

Mr. PACKWOOD. I understand that, but I observe that we voted after a lot of work on the prepaid legal services. I want to make sure that is included.

Mr. LONG. That is definitely in. That is in.

Mr. PACKWOOD. If the Senator's motion carries, that will come back with the bill.

Mr. LONG. That is how it will be.

I yield to the Senator from Kansas for a question.

Mr. DOLE. If the amendment passes, for those of us who have waited day after day and hour after hour, listening to the self-appointed so-called tax reformers, that means we cannot offer our amendments?

Mr. LONG. That is what the effect of it would be.

I put it this way to the Senator: As between two difficult decisions, which would he rather have: The one which he has been able to get agreed to in the committee, and one where all he has been able to get agreed to thus far and voted for goes down the drain and all we get is a simple extension of the tax cut? Between the two now—I am just asking him if he would vote for my amendment rather than the Muskie amendment.

As far as I am concerned, if the Senate wants to do what I would like to do and stick around here for a while and vote the whole thing up or down, that is all right with me, too.

Mr. DOLE. Mr. President, will the Senator yield further? There will be a little meeting in Kansas City next week and probably for the pure politics of it, nothing could suit the Republicans and those listening more than to recommit this bill and not have a tax bill.

The Presidential candidate of the Senator's party, Jimmy Carter, has indicated it is a national disgrace, and I assume if you wanted to play politics Republicans would vote to recommit this bill and go out across the country and help President Ford or whoever the nominee might be, and agree with Jimmy Carter that it is a disgrace that the Democrats cannot do anything about it.

But some of us have spent weeks and weeks and months and months on the tax bill, and it just seems to this Senator that if we now have one or two amendments that we should not be denied the opportunity to present those amendments.

The Senator from Kansas has an amendment to increase the personal exemption from $750 to $1,000. The Senator thinks it is worthwhile. I intend to have a vote on it. Would I be precluded from offering that amendment?

Mr. LONG. I say to the Senator he would not be precluded from offering an amendment, it could still be offered. But I believe the Senator knows what the precedents are. When a motion to recommit and report back is agreed to, while the bill is still subject to amendment, the precedents and traditions of the Senate are that that amounts to a gentlemen's agreement that we will not agree to further amendments.

So the Senator can offer it, but the Senate has, in effect, agreed it is not going to accept more amendments. So the Senator has got a right without a remedy, from a lawyer's point of view, admittedly.

Mr. MUSKIE. Mr. President, will the Senator yield?

Mr. LONG. I yield for a question.

Mr. MUSKIE. I do not really want to ask a question. I want to ask unanimous consent that I can make an observation.

Mr. LONG. I do not want to yield the floor.

Mr. MUSKIE. I want to make a very simple point. It will not take more than 30 seconds.

Mr. LONG. Mr. President, I ask unanimous consent that I might yield 30 seconds to the Senator from Maine without losing the right to the floor.

The PRESIDING OFFICER (Mr. LEAHY). Without objection, it is so ordered.

Mr. MUSKIE. I want to say that whether the Senators vote for or against the Senator's amendment, whether they vote for the Muskie motion or against the Muskie motion, I will get the message. You can fool around with the message as to the budget as much as you want to. I think the clearcut one will be my motion. The Senate will have a chance to send a clear message to me and to you, but I will get the message whichever one it is.

I am not going to try to force Senator DOLE or anybody else to accept my position on this motion. All I want is a signal. It will not take very long to get to vote on it.

Mr. HANSEN. Mr. President, will the Senator yield?

Mr. LONG. Well, Mr. President, I would like to know which way Senators want to go. It may be that Senators prefer to work another day or so and finish action on this bill. If that is what they want to do then I am ready to offer a motion to table the Muskie motion, which would take my amendment with it, and if that motion fails then, Mr. President, I would insist on my amendment because I think my amendment is a better one constructively.

Mr. President, I move to table the Muskie motion.

Mr. CLARK. Mr. President, I support the motion to recommit H.R. 10612, the so-called Tax Reform Act of 1976.

I support this motion not without some reluctance; for there are some provisions contained within this bill that are worthy of Senate action and public support. But these few meritorious aspects in this legislation are mired in a quagmire of provisions that benefit special interest at the expense of the common interest, that provide for the rich at the expense of the poor; that create shelters for those already well-protected while leaving those who need protection exposed. Simple justice will not allow me to support this bill.

The issue before us today is clear. Do we extend the inequities of the present tax structure for yet another year or do we create even greater inequities by the passage of the legislation now before us? After months of debate, after the systematic rejection by the Senate Finance Committee of every effort to bring about serious tax reform, these, sadly, are the only choices left us. For although this bill is called the Tax Reform Act of 1976, there is little reform worthy of the name left within this bill.

It would be redundant to attempt to recount every argument for every reform that was proposed to this body and subsequently rejected. But a brief review of just a few of these proposals—proposals that, I might add, fall far short of the sweeping reforms that are necessary to create real equity within our tax structure—might help put into focus why I and so many of my colleagues now feel we cannot in conscience allow this bill to pass.

We proposed to strengthen the minimum tax provisions to insure that the growing number of Americans who earn more than $200,000 and now pay no taxes at all are forced to accept their responsibilities as citizens and pay taxes like the rest of us. We were rebuffed.

We supported the provision first proposed by William Simon and the Nixon administration in 1973 that would provide for a limitation on artificial losses and thus shut down tax shelters for a number of wealthy Americans who did not either need or deserve them. We were beaten back.

We urged the limitation of the amount of interest payments that could be used as tax deductions thus hopefully curtailing the all too prevalent practice of reinvestment solely for the purpose of avoiding taxation. We lost.

We urged repeal of the tax deferral provisions on foreign investment that have persuaded so many plants to locate overseas at the cost of jobs at home and revenue dollars in the U.S. Treasury. We did not prevail.

We proposed to repeal and then to modify the domestic-international sales corporation, DISC, provisions that were at one time a necessary and useful stimulus to exports in a time of international recession and fixed exchange rates, but which now provide an unnecessary and unfair tax break to exporters whose business is thriving. Our efforts were unsuccessful.

Even on the very limited question of withdrawing DISC assistance to military arms sales—sales that many of us feel are in themselves a danger to international stability and thus should be curtailed entirely—we were beaten.

Our inability to pass these reforms and the failure of other reforms equally meritorious and equally needed to pass would not have—by themselves—driven myself and others to outright opposition to this bill.

We were driven—even propelled you might say into opposition—by the failure of these reforms coupled with two other salient features of this bill: No. 1, the failure of this bill to provide sufficient projected revenues to meet the anticipated fiscal needs for the coming year as projected by our own budget resolution; and No. 2, the inclusion in this bill of numerous new loopholes that provide special benefits for certain individuals, certain corporations, and certain interests without reference to or consideration of the common national interest.

It is a paradox of our time that in a year in which everyone is advocating tax reform, this body puts forward a bill that not only does not provide for any reform, but provides instead a revenue shortfall of $5.5 billion by 1981. It is a paradox of our time that while many candidates for public office are paying lip service to the need for tax reform, the Senate of the United States is considering a bill, which in its very refusal to include reform promises even greater tax shortfalls in the future. It is a paradox of our time that in an era when this Senate preaches the gospel of fiscal responsibility, to a public that would like to see some of that responsibility exercised, when we create within our own body a Budget Committee designed to discipline ourselves to that responsibility, we cannot even pass a tax measure that will provide sufficient revenues to meet our own guidelines.

We are, I believe, also indebted to the distinguished Senator from Wisconsin, Senator PROXMIRE, and the distinguished Senator from Massachusetts, Senator KENNEDY, for spelling out clearly the 73 or more provisions in this bill, which until these last few weeks, were given no hearing and which act solely to benefit a number of privileged individuals and special interests.

The totality of the special interest loopholes provided for in this bill go far beyond the annual Christmas tree of special interest loopholes that have so appalled the American taxpayer for so many years.

We have outdone ourselves. In honor of the Bicentennial, we have created within the framework of this bill a "Bicentennial boondoggle" for every vested interest, giant corporation and privileged segment of our society. And in the process we have created a piece of legislation of which no Senator can be proud.

The central question before us was raised recently in hearing not by an opponent, but by a supporter of this legislation, the distinguished Senator from Nebraska, Senator CURTIS. In response to criticism of the inclusion of 73 special interest loopholes and their insertion by the Finance Committee in closed session without hearing, Senator CURTIS said:

> The issue is not how these provisions got into this bill, but whether the bill itself is equitable, fair and just.

I believe the answer this Senate must give to Senator CURTIS' question is no. This bill is not equitable. This bill is not fair. This bill is not just. This bill is not in the national interest.

This is not to my mind a partisan issue. President Ford has promised more reform than is contained in this bill. Governor Carter has promised more reform than is contained in this bill. The Washington Post thinks this is a bad bill. James J. Kilpatrick thinks this is a bad bill. The only people who think this is a worthy bill are the representatives of special interests.

The American people have lived through a decade of despair and disillusionment. They have come to mistrust what politicians say and dislike what they do. They have heard the words "peace with honor" mean in reality more war. They have had leadership who promised to make everything "perfectly clear" provide continued obfuscation. They have a yearning for leaders who mean what they say and do what they promise.

We will be judged not by our words, but by our deeds. We will be judged not by how loudly we advocate tax reform, but by whether we indeed reform our tax structure.

And it is in this context, I believe that we cannot and must not allow this bill in its present form to become law.

Mr. ROTH. Title 26 of the bill includes the college tax credit amendment approved by the Senate Finance Committee and cosponsored by the distinguished Senator from Connecticut (Mr. RIBICOFF), the distinguished Senator from South Carolina (Mr. HOLLINGS), and the distinguished Senator from Maryland (Mr. BEALL). This amendment provides a tax credit for educational expenses paid by an individual, for himself, his spouse, or his dependents. The amount of the tax credit for each student is to be $100 in 1977 and increased by $50 each year to a limit of $250 in 1980 and thereafter.

The tax credits will apply to tuition, fees, books, supplies, and equipment required to courses of instruction at eligible institutions. To be eligible for the credit, an individual must be a full-time student above the secondary level at an institution of higher education or at a vocational school. This provision will become effective for courses of education beginning after June 30, 1977.

This amendment provides significant tax relief for millions of families struggling to send their children to college. This amendment was carefully structured by the committee so as not to violate the budget restrictions. It will not become effective until 1977, and it will have no revenue impact in fiscal year 1977. The first revenue impact of this provision would not be until fiscal 1978, when the revenue loss is estimated to be $467 million. As the credit is phased in to maximum credit, the revenue loss increases to $711 million in fiscal 1979, $926 million in fiscal 1980, and $1.03 billion in fiscal 1981.

I believe that this revenue impact is a worthwhile and necessary investment in the future of our country. The increasing costs of tuition, fees, and other expenses is making it virtually impossible for more and more families to send their children to college.

In the past few years, the cost of a college education has skyrocketed. According to a Library of Congress survey, the average annual total cost of a public university has increased 40 percent in the past 5 years, from $1,782 to $2,790. For a private university, the average annual total cost has increased 35 percent from $2,973 to $4,568. For many colleges and universities, the total annual costs are as high as $7,000.

The increasing costs are a primary reason that college attendance has declined in the past 5 years. With college costs averaging more than $3,000 a year, most families are finding it extremely difficult, if not impossible, to send their children to college.

In addition, U.S. Census data show that families are especially hard hit right now because many of them have more than one child of college age at one time. These families face the difficult problems of educating two or three children over an 8- to 10-year period.

I believe there is a pressing and vital need for the adoption of this legislation. There is a growing number of qualified students who are prevented from obtaining a higher education because of the increasing costs, and I believe that tax assistance is necessary to assure that all Americans have equal access to higher education.

As a New York Times editorial suggested recently, the difficulty that parents are having in financing the children's higher education suggests outright disaster for the vast majority of American middle-class families in the $12,000 to $20,000 range who are considered too affluent for Federal or State scholarship aid.

The editorial goes on to urge the Government to open its eyes to a clear and present danger—that college gates are being shut to increasing numbers of able, middle-class young people on economic grounds alone. Nothing less is at stake than the future of an open, upward-mobile democratic society.

It makes no sense to me to say that this Nation can spend billions of dollars in countercyclical funds to bail out cities, billions of dollars for foreign assistance, and billions of dollars for Government travel, but it cannot commit $1 to help the children of middle America attend college. This is setting the wrong priorities; this is forgetting the very people who by the sweat of their brow supply the wealth of this Nation; this is short-changing those who pay the bulk of the taxes.

There is a revolt in middle America against Washington. That has been the message of the primaries; that has been the message of the people as I have traveled in the Bicentennial year. The working people are tired of being taxed to finance big government, especially when their high taxes prevent them from sending their children to college; prevents them from buying a home of their choice; and presents a threat to their upward mobility.

There is something wrong in America when the Commissioner of Education resigns because he cannot afford to send his three children to college on a salary of $37,800. All of you have heard the same concerns echoed in the Halls of Congress.

Middle America deserves a tax break. As the people who work and pay the taxes, they are entitled to assurance that their children can secure a higher education. They are not asking for a handout—they are merely asking to be able to retain their own earnings to send their children to school.

Earlier today, the Senate voted 68 to 20 not to delete this college tax credit provision from this section. By that vote, the Senate was voicing its strong support for providing tax relief for college education expenses. I am hopeful—and strongly urge—that the House-Senate conferees will recognize this show of support, and include the college tax credit provision in the final bill.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Louisiana to table the motion of the Senator from Maine.

Mr. JAVITS. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LONG. Mr. President, I ask unanimous consent that this be a 5-minute rollcall.

The PRESIDING OFFICER. A rollcall is in process.

Mr. KENNEDY. Objection.

The PRESIDING OFFICER. No unanimous-consent request is in order.

The legislative clerk continued the call of the roll.

The PRESIDING OFFICER. Can we have order in the Chamber so that the clerk can hear the votes by the Senators? The clerk will suspend until there is order in the Chamber and we have the well cleared and the aisles cleared. The clerk will suspend. When there is order in the Chamber and the galleries the clerk will be able to continue. Until such time the rollcall will stay suspended.

The clerk may continue.

The legislative clerk continued the call of the roll.

The PRESIDING OFFICER. Can we have order in the Chamber? It is extremely difficult to hear the vote. The clerk may continue.

The legislative clerk continued with the call of the roll.

The PRESIDING OFFICER. The clerk will suspend until there is order so that Senators can hear their names. Senators will clear the well and cease their conversations. Senators, staff, and the galleries will be in order. The clerk may continue.

The legislative clerk continued and concluded the call of the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. HARTKE), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Minnesota (Mr. MONDALE), the Senator from Missouri (Mr. SYMINGTON), the Senator from Mississippi (Mr. STENNIS), the Senator from California (Mr. TUNNEY), the Senator from Nevada (Mr. CANNON), and the Senator from North Carolina (Mr. MORGAN) are necessarily absent.

I also announce that the Senator from Delaware (Mr. BIDEN) and the Senator from Michigan (Mr. PHILIP A. HART) are absent because of illness.

I further announce that, if present and voting, the Senator from North Carolina (Mr. MORGAN) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Maryland (Mr. BEALL), the Senator from Tennessee (Mr. BROCK), the Senator from Arizona (Mr. GOLDWATER), and the Senator from Pennsylvania (Mr. SCHWEIKER) are necessarily absent.

The result was announced—yeas 52, nays 34, as follows:

[Rollcall Vote No. 489 Leg.]

YEAS—52

Allen
Baker
Bartlett
Bentsen
Buckley
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Case
Cranston
Curtis
Dole
Eastland
Fannin
Fong
Ford
Garn
Gravel
Griffin
Hansen
Hathaway
Helms
Hruska
Huddleston
Inouye
Jackson
Javits
Johnston
Laxalt
Long
Magnuson
McClellan
McClure
McGee
Montoya
Nunn
Packwood
Pearson
Percy
Randolph
Ribicoff
Roth
Scott, Hugh
Scott, William L.
Sparkman
Stevens
Stone
Talmadge
Thurmond
Tower
Williams
Young

NAYS—34

Abourezk
Bayh
Bellmon
Brooke
Bumpers
Chiles
Church
Clark
Culver
Domenici
Durkin
Eagleton
Glenn
Hart, Gary
Haskell
Hatfield
Hollings
Humphrey
Kennedy
Leahy
Mansfield
Mathias
McIntyre
Metcalf
Moss
Muskie
Nelson
Pastore
Pell
Proxmire
Stafford
Stevenson
Taft
Weicker

NOT VOTING—14

Beall
Biden
Brock
Cannon
Goldwater
Hart, Philip A.
Hartke
McGovern
Mondale
Morgan
Schweiker
Stennis
Symington
Tunney

So the motion to lay on the table Mr. MUSKIE's motion was agreed to.

Mr. LONG addressed the Chair.

The PRESIDING OFFICER (Mr. LEAHY). The Senator from Louisiana.

Mr. LONG. Mr. President, I hope we can proceed to settle title XXVI tonight. If we do, then I believe perhaps we can stay here, that is, those of us who are inclined to stay, and dispose of all amendments that can be disposed of by voice vote.

I believe the chances are very good, and we can come back tomorrow and finish this bill.

I do not believe there are any more than perhaps one amendment that I think I could accept to title——

The PRESIDING OFFICER. There will be order in the Chamber. I believe some Senators are having difficulty hearing.

Mr. LONG. Are there further amendments to title XXVI? If there are, I would be glad to consider them. There may be one more, but that is all I am aware of.

UP AMENDMENT NO. 317

Mr. KENNEDY. I have an amendment, Mr. President. I send it to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Massachusetts (Mr. KENNEDY) proposes an unprinted amendment No. 317.

The amendment is as follows:

On page 118, line 16, strike "and".

On page 118, line 21, strike the period and insert in lieu thereof "; and"

On page 118, between lines 21 and 22, insert the following: "(iv) in the case where the property is subject to regulation under the Federal Food, Drug and Cosmetic Act, as amended, such property must fully satisfy the applicable requirements of such act and regulations promulgated thereunder on the date of transfer and for one-hundred and eighty days prior thereto."

Mr. KENNEDY. Mr. President, this amendment would only affect deductions of charitable contributions of inventory with regard to property subject to regulations under the Food, Drug, and Cosmetic Act. This amendment would permit deductions only if the property met all the applicable FDA requirements.

There are a number of instances where some drug companies are making contributions that do not comply with the FDA and they should not get the benefit of this amendment. Obviously, that is not right. This would correct that particular situation. I have talked to the chairman. I hope he will accept it.

Mr. LONG. Mr. President, as far as I am concerned, this amends a provision suggested by Senator RIBICOFF. If Senator RIBICOFF has no objection to the amendment, I would be pleased to accept the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. LONG. Mr. President, I believe we can vote on title XXVI now.

Mr. HASKELL. Mr. President, could we inquire of the scope of title XXVI?

Mr. LONG. It includes items we voted on: Tuition credit, the matter we voted on with regard to hospitals, the group legal services, the unrelated business income, services from hospitals, the clinical facilities, and the charitable contributions of inventory, as amended by the Senator from Massachusetts.

Mr. HASKELL. And the Senator is now asking for a vote on that title XXVI?

Mr. LONG. That is correct.

Mr. NELSON. Will the Senator yield? I could not hear. I am a little bit confused at the moment. Are we proceeding after this?

Mr. LONG. The estate tax would be next. If the Senators are tired, we can come back and settle the estate tax tomorrow.

Mr. NELSON. That is satisfactory with me.

Mr. LONG. As far as I am concerned, I am willing to accommodate the Senate in that matter.

If we vote on title XXVI, that gets that behind us, and so far as I know it is all agreeable to the Senate.

ADDITIONAL STATEMENTS SUBMITTED

Mr. HUMPHREY. Mr. President, man is a social creature, and as such organizes his existence by rules of conduct and equity which assure survival and justice. We would have it no other way.

In the United States in 1976, Mr. President, those rules have advanced from the rudimental Ten Commandments of the ancestors to a body of law so voluminous, sophisticated, and complex that our best trained minds can only sometimes discern the finer points. Even this level of development and minutiae serve us well.

But it has created one major problem: How is equal opportunity of access to legal counsel guaranteed? Are only the wealthy, corporations, and government entitled to full protection of the Nation's laws, or is there a right we choose to recognize and protect to provide, as the inscription over the Supreme Court Building promises, "Equal Justice Under Law"? Next to one's health, maintenance of legal security is most essential to a fruitful pursuit of life, liberty, and happiness. It is basic.

And the problem is chronic. Theodore J. St. Antoine, dean of the University of Michigan Law School computes that fully 140 million Americans have inadequate access to legal services. Their income is not high enough to readily afford an attorney's time themselves, and not low enough to avail themselves of pro bono assistance from public defenders, legal aid societies, the Federal Government and the like. The result of lacking or sub-representation is injustice; it is as simple as that.

This broad group of middle-wage earners who form the cornerstone of our productive society does have one advantage: Many are unionized. In 1973 a promising new idea sprouted forth with congressional blessing. I refer to the prepaid legal services plan, PLSP, which can now be collectively bargained into a contract like one's health service coverage.

PLSP's now cover 175,000 workers which is not enough. But there is great prospect of prosperous and vital growth, with estimates ranging as high as the whole unionized work force in very few years.

One terrible impediment to PLSP proliferation is our Federal income tax system, which once again is discovered penalizing the average person and inhibiting social progress. Under IRS interpretations, payments to and benefits from PLSP's are considered taxable income. Thus, the AFL–CIO, the ABA, and many consumer groups convincingly argue that the only assurance to recipients of PLSP benefits are risks of large and unpredictable tax bites.

Mr. President, for an initial revenue cost of under $1.5 million, I see no sense in putting the Federal Government in the business of charging for justice where legal insurance programs are progressively intended to avoid such expenses. Thus, I strongly support the Packwood amendment to the Finance Committee version of the Tax Reform Act. It would establish clearly that benefits from and payments to PLSP's are exempt from income taxation.

Commonsense suggests this exemption will be a net revenue gainer. Since more lawyers will be needed, their income will be taxed at their marginal rate, typically higher than that of the average working person.

Chief Justice John Marshall wisely warned many years ago that the power to tax is the power to destroy. How sad that that power and its corollary responsibility have been used to destroy the firm hopes of justice for all embodied in the private sector's first efforts toward legal service plans.

Mr. JACKSON. Mr. President, I am very pleased that the Senate Finance Committee has included in the proposed supplemental amendments to H.R. 10612 a provision clarifying the tax status of contributions to and benefits received under prepaid legal services plans. The proposed amendments will also provide incentives for the further development of these plans.

As the Senate author of S. 2051, a bill which closely parallels the amendment which the Finance Committee has recommended, I am very proud and pleased. The uncertainties surrounding the tax status of prepaid legal services plans are the most important remaining barrier in the Federal law to the rapid development of these plans.

Under current law the value of an employer contribution under a prepaid plan may or may not be taxable to the potential beneficiary as income. If the contribution is not currently taxable the benefits received under a prepaid plan would be taxable to the beneficiary when received. The results of this uncertain tax situation could be harsh. For example, suppose an individual participating in an employer-employee, prepaid plan did not use the plan for 10 years and then became involved in an expensive lawsuit covered under the plan. Under current law it is possible that that person would be taxed for the full value of the services in the year rendered even though the premiums for the program were paid in over a 10-year period.

In order to avoid this harsh result and to encourage the development of prepaid legal services plans the committee amendment would exclude from gross income the value of an employer-paid premium for prepaid legal services and the value of the services when rendered.

Prepaid legal services plans modeled after prepaid health insurance plans have existed for many years. However, rapid development in this field has not occurred until very recently. This amendment would give prepaid legal services plans parallel treatment to that already given to prepaid health plans. Prepaid plans have the potential to make legal services available to the millions of middle-class Americans who need, but cannot afford legal assistance each year. The Congress took one important step toward clearing the path for the development of these plans by passing Public Law 93–95 to permit employer contributions to union operated trust funds established to provide prepaid legal services. These plans are now a subject for collective bargaining under the National Labor Relations Act. In addition, the Congress established a regulatory framework for legal services plans under Public Law 94–406, the Employee Retirement Income Security Act—ERISA.

Adoption of the pending amendment to the Internal Revenue Code will remove the last remaining barrier in Federal law to development of prepaid legal services plans and will encourage a change in the system of delivering legal services sufficient to bring comprehensive legal services within the financial range of the average citizen.

The PRESIDING OFFICER. The question is on agreeing to title XXVI.

Title XXVI was agreed to.

Mr. LONG. I move to reconsider the vote by which title XXVI was agreed to.

Mr. HUDDLESTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LONG. Mr. President, might I suggest that we use the same approach that Senators have used so many times before? We have now reached the part that deals with estate and gift taxes. Might I suggest that Senators make their speeches and explain their views on estate and gift taxes tonight; that we use the procedure Senator Gore used very effectively many times, to make their speeches the night before and come back and then with just a brief explanation proceed to vote on the amendment? In that way, the Senator from Wisconsin will have his position stated and we will all have a change to read it, including those who are not here, though, I will be here to read it. Those who are not here can read it in the Record and their assistants can read it. They can consider it and we can come back and perhaps have an agreement that with a brief explanation we can vote on this amendment tomorrow.

Mr. NELSON. Will the Senator yield?

Mr. LONG. Yes.

Mr. NELSON. May I say Senator Packwood, Senator Brock, Senator Humphrey, and I have offered an amendment here which was originally proposed to the Finance Committee and debated there. The proposal was developed out of hearings of the Small Business Committee. I agree with the chairman, we should expedite things. I do not like to impose on anybody. We did send a rather detailed three or four page explanation of this amendment on the split credit. The Members could take 5 minutes and read it. Today, one page was put on the desk which summarizes our amendment. I have no desire to take up time. If I were certain everybody had read this, I would be willing not to take any time at all. I do think the issue is important and we should have a little bit of time so that Senator Ribicoff can explain his position, and Senator Packwood and Senator Brock explain their positions.

Mr. PACKWOOD. Will the Senator yield?

Mr. LONG. Might I suggest that we debate the estate and gift taxes this evening, and that we vote on those amendments and the amendments to the amendments without further debate tomorrow?

Mr. PACKWOOD. Will the Senator yield?

Mr. LONG. Yes.

Mr. PACKWOOD. Earlier the Senator asked for a unanimous consent for a time limitation, to which I objected. I would be willing to accept it now, with the hour suggested, if the Senate wants to stay that late. If not, I am amenable to the Senator's suggestion.

Mr. LONG. Here is what I think we should do, which I think would accommodate the Senators and be good for their health as well.

Tonight we are going to discuss the estate and gift taxes. Tomorrow we will vote on it and the amendments to it, and vote without further debate. That is not unprecedented. We have done that on occasion when we have fully debated something. Just offer the amendments and explain them.

Mr. NELSON. Will the Senator yield?

Mr. LONG. Might I suggest that on tomorrow each side have 5 minutes to further explain, and that there be 5 minutes on each side on the amendments so that we can vote expeditiously? Tonight everyone can make his position clear.

Mr. NELSON. Will the Senator yield?

Mr. LONG. Yes.

Mr. NELSON. I have never, in the 13 years I have been here, objected to a time limitation on any proposal or bill I ever managed. I will agree anytime to have a reasonable limit. What bothers me is that I have had the question raised with me about this split estate tax credit which lost by one vote in the Ways and Means Committee, 19 to 18. It is a little bit complicated. If we agree that we are going to debate tonight, and vote tomorrow, Senator Packwood and I might as well simply put our statements into to Record, because obviously nobody is going to stay here and listen to the debate.

Mr. LONG. I will.

Mr. NELSON. I would much prefer that I put my statement into the Record tonight, and I assume Senator Packwood, would, but let us have 1 hour tomorrow, 30 minutes on a side. The material will be in the Record. Then those who are interested can at least study the arguments. There will be some questions which I think need some elaboration.

Mr. LONG. Can we agree that we will come in tomorrow, at whatever hour the leadership wants to set, and the first hour we will spend debating the estate and gift taxes? At the end of that time we will proceed to vote without further debate.

Mr. RIBICOFF. Mr. President, I believe it is most unfortunate. This is a very important amendment. It is a question of whether we are going to do something for all the people in the estate tax field or are we going to treat farmers and small businessmen differently than everyone else? We are in a situation where we have 100 Senators. If 10 of those Senators happen to own a farm or a small business, they would get a special break on their estate tax, but the other 90 Senators who do not have a farm or a small business will be excluded. I would say under those circumstances I would guess those 10 Senators who are farmers or have small businesses would be disqualified from even voting.

But there is a question of great importance to the entire Nation: Whether we are going to single out one group or treat every person in America the same, as the Finance Committee did. As far as I am concerned, I would just as soon have a time limitation of 15 minutes to a side and then vote tonight. All Senators are here. I could make my speech in 10 or 12 minutes. That is all I would want.

Mr. LONG. If that is the case, why not proceed to let Mr. Nelson explain his views and I would ask consent that we have 15 minutes——

Mr. NELSON. We will agree to an hour.

Mr. LONG. All right, an hour equally divided.

Mr. HASKELL. Objection, Mr. President.

The PRESIDING OFFICER. Objection is heard.

Mr. LONG. Well, Mr. President, some times—I know of all kinds of reasons why Senators object, and I am not going to quarrel with it. I have done some of that kind of thing myself on occasion.

I would suggest, then, that the Senator simply explain the amendment, and perhaps we can go ahead from there. He can explain some of it, put the rest of it in the Record——

Mr. PASTORE. Mr. President, will the Senator yield?

Mr. LONG. I yield.

Mr. PASTORE. You always have the advantage of a motion to lay on the table, when you get to a point where everyone has stated his position.

Mr. LONG. Why does the Senator not try to make a short speech? I know he is capable of doing it.

UP AMENDMENT NO. 318

Mr. PACKWOOD. Mr. President, I call up the amendment sponsored by Senators Nelson, Humphrey, Brock, Abourezk, and myself. I do not know the number; it is at the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

> The Senator from Oregon (Mr. Packwood), for himself and others, proposes an unprinted amendment numbered 318.

Mr. Packwood's amendment is as follows:

On page 1, beginning with line 3, strike out through line 3 on page 37 and insert in lieu thereof the following:

"Sec. 2201. Revision of Estate Tax Generally.

(a) In General.—Part II of subchapter A of chapter 11 (relating to credits against estate tax) is amended—

(1) by redesignating section 2016 as 2017, and

(2) by inserting after section 2015 the following new section:

"Sec. 2016. General Estate Tax Credit.

"(a) Basic Credit.—There is allowed against the tax imposed by section 2001 a credit of $26,700.

"(b) Additional Credit.—

"(1) In general.—In addition to the credit allowed by subsection (a), if the executor of an estate which qualifies for the additional credit permitted by this subsection so elects, there is allowed against the tax imposed by section 2001 an additional credit of $24,000.

"(2) Qualifying estates.—An estate qualifies for the additional credit allowed by this subsection if—

"(A) The decedent was (at the time of his death) a citizen or resident of the United States.

"(B) The qualifying small business percentage for such estate is 65 percent or more, and

"(C) The executor files the agreement referred to in subsection (b)(7).

"(3) Amount of credit.—For purposes of this chapter, the amount of the closely held business credit is the product of—

"(A) $24,000, multiplied by

"(B) The qualifying small business percentage.

"(4) Definitions.

"(A) For purposes of this section—

"(i) Family farm.—The term 'family farm' means a farm actively engaged in raising agricultural crops or livestock for profit, within the meaning of section 183, if the decedent and his relatives have been actively involved in the operation of the farm for periods aggregating 5 years within the 8 year period ending on the date of the decedent's death.

"(ii) Qualifying small business.—The term 'qualifying small business' means a closely held business (within the meaning of section 6166(c)) if the decedent and his relatives have been actively involved in the operation of the business for periods aggregating 5 years within the 8 year period ending on the date of the decedent's death.

"(iii) Relatives of the decedent.—An individual is a relative of the decedent if he is the spouse, father, mother, son, daughter, grandson, grandfather, brother, sister, uncle, aunt, first cousin, nephew, niece, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, or half sister of the decedent or his spouse.

"(iv) ACTIVE INVOLVEMENT IN OPERATION.—An individual shall be considered to be actively involved in the operation of a farm or a closely held business if such farm or business constitutes his principal employment.

"(v) ADJUSTED GROSS ESTATE.—The term 'adjusted gross estate' means the excess of—

"(a) the value of the gross estate, over

"(b) the sum of the amounts allowable as a deduction under section 2053 or 2054.

"(vi) QUALIFYING SMALL BUSINESS AMOUNT.—The term 'qualifying small business amount' means the aggregate value of the qualified interests in a qualifying small business or businesses.

"(vii) QUALIFYING SMALL BUSINESS PERCENTAGE.—The term 'qualifying small business percentage' means the ratio of the interests in qualifying small business which are included in determining the gross estate of the decedent and which are acquired or pass from the decedent to relatives of the decedent, to the adjusted gross estate.

To the extent provided in regulations prescribed by the Secretary or his delegate, where the form in which a trade or business is conducted changes during the 8-year period ending on the date of the decedent's death, periods during such 8-year period which qualify under one of the preceding subparagraphs may be added to periods during such 8-year period which qualify under one or more of the other such subparagraphs.

"(viii) INDIRECT OWNERSHIP.—Property owned, directly or indirectly, by or for a corporation, partnership, estate, or trust shall be considered as being owned proportionately by or for its shareholders, partners, or beneficiaries. For purposes of the preceding sentence, a person shall be treated as a beneficiary of any trust only if such person has a present interest in the trust.

"(xi) VALUE.—Value shall be the value for purposes of this chapter.

(x) FARMHOUSES AND CERTAIN OTHER STRUCTURES TAKEN INTO ACCOUNT.—An interest in a qualifying small business which is in the business of farming includes an interest in residential buildings and related improvements on the farm which are occupied on a regular basis by the owner or lessee of the farm or by persons employed by such owner or lessee for purposes of operating or maintaining the farm.

"(B) Rules for applying paragraph (3) relating to the amount of the credit.—

For purposes of paragraph (3)—

(i) TIME FOR TESTING.—Determinations shall be made as of the time immediately before the decedent's death.

(ii) CERTAIN INTERESTS HELD BY HUSBAND AND WIFE.—Stock or a partnership interest which—

"(a) is community property of a husband and wife (or the income from which is community income) under the applicable community property law of a State, or

"(b) is held by a husband and wife as joint tenants, tenants by the entirety, or tenants in common,

shall be treated as owned by one shareholder or one partner, as the case may be.

"(5) ELECTION, AGREEMENT.—

"(A) ELECTION.—Any election under subsection (b) shall be made not later than the time prescribed by section 6075(a) for filing the return of tax under section 2001 (including extensions thereof), and shall be made in such manner as the Secretary or his delegate shall by regulations prescribe.

"(B) AGREEMENT.—The agreement referred to in this paragraph is a written agreement signed by each person in being who has an interest (whether or not in possession) in any property which is a qualifying small business with respect to the estate of the decedent consenting to the application of subsection (b)(7) with respect to such interest.

"(c) RECAPTURE WHERE, WITHIN 10 YEARS, INTEREST IS DISPOSED OF OR FUNDS ARE WITHDRAWN.—

"(1) DISPOSITION OF INTEREST; WITHDRAWAL OF FUNDS FROM BUSINESS.—

"(A) IMPOSITION OF TAX.—If, within 10 years after the decedent's death and before the death of the heir—

"(i) one-third or more in value of a family farm or qualifying small business is distributed, sold, exchanged, or otherwise disposed of (other than a disposition by the heir to a relative of the decedent), or

"(ii) aggregate withdrawals of money and other property from the trade or business, an interest in which is a qualified interest in a closely held business, made with respect to such interest equal or exceed one-third of the value of such interest,

then there is hereby imposed an additional estate tax.

"(B) CERTAIN REORGANIZATIONS AND EXCHANGES.—Subparagraph (A)(i) does not apply to an exchange of stock pursuant to a plan of reorganization described in subparagraph (D), (E), or (F) of section 368(a)(1) nor to an exchange to which section 355 (or so much of section 356 as relates to section 355) applies; but any stock received in such an exchange shall be treated for purposes of subparagraph (A)(i) as a qualified interest in a closely held business.

"(C) CERTAIN TRANSFERS NOT TREATED AS DISPOSITIONS.—Subparagraph (A)(i) does not apply to a transfer of property of the decedent to a person entitled by reason of the decedent's death to receive such property under the decedent's will, the applicable law of descent and distribution, or a trust created by the decedent.

"(2) AMOUNT OF ADDITIONAL TAX.—The amount of the additional tax imposed by paragraph (1) with respect to an interest in a family farm or qualifying small business held by any person shall be the amount which bears the same relationship to the tax difference with respect to the estate of the decedent as the value of such interest bore to the total value of all interests in the family farm or qualifying small business of the decedent. For purposes of the preceding sentence, the term 'tax difference' means the excess of what would have been the liability of the estate for tax under this chapter without the additional credit allowed under subsection (b) over the liability of the estate for the tax under this chapter after taking the additional credit into account.

"(3) PHASEOUT OF ADDITIONAL TAX.—The amount of the tax imposed by this subsection shall be reduced by an amount determined by multiplying the amount of such tax (determined without regard to this paragraph) by a fraction—

"(A) the numerator of which is 120 minus the number of full months after such death, and

"(B) the denominator of which is 120.

"(4) DUE DATE.—The additional tax imposed by this subsection shall become due and payable on the day which is 6 months after the date of the transaction resulting in the imposition of tax under this subsection.

"(5) LIABILITY FOR TAX.—The heir shall be personally liable for the additional tax imposed by this subsection with respect to his interest.

"(f) STATUTE OF LIMITATIONS.—If any transaction results in the imposition of an additional tax under subsection (e), then—

"(1) the statutory period for the assessment of such additional tax shall not expire before the expiration of 3 years from the date the Secretary is notified (in such manner as the Secretary may by regulations prescribe) of such transaction, and

"(2) such additional tax may be assessed before the expiration of such 3-year period notwithstanding the provisions of any other law or rule of law which would otherwise prevent such assessment.".

(b) SPECIAL LIEN.—Subchapter C of chapter 64 (relating to lien for taxes) is amended by inserting after section 6324 the following new section:

"SEC. 6324A. SPECIAL LIEN FOR ADDITIONAL ESTATE TAX ATTRIBUTABLE TO RECAPTURE OF FAMILY FARM OR QUALIFYING SMALL BUSINESS CREDIT.

"(a) GENERAL RULE.—In the case of any estate with respect to which an election has been made under section 2016(b), an amount equal to the recapturable credit of any heir shall be a lien in favor of the United States on all property of such heir which is an interest in the family farm or qualifying small business with respect to which such additional credit was claimed.

"(b) PERIOD OF LIEN.—The lien imposed by this section shall arise at the time an election is filed under section 2016(b) and shall continue with respect to any such interest of an heir—

"(1) until the liability (if any) for tax under section 2016(d)(1) with respect to such heir has been satisfied or has become unenforceable by reason of lapse of time, or

"(2) until it is established to the satisfaction of the Secretary that no further tax liability may arise under section 2016(d)(1) with respect to such heir.

"(c) CERTAIN RULES MADE APPLICABLE.—The rules set forth in section 6323(d) shall apply with respect to the lien imposed by this section as if it were a lien imposed by section 6321.

"(d) SUBSTITUTION OF SECURITY FOR LIEN.—To the extent provided in regulations prescribed by the Secretary, the furnishing of security may be substituted for the lien imposed by this section.

"(e) DEFINITIONS.—For purposes of this section—

"(1) RECAPTURABLE CREDIT.—The term 'recapturable credit' means, with respect to any heir, the aggregate amount of the additional tax which may be imposed under section 2016(d)(1) with respect to an interest in a family farm or qualifying small business held by such heir.".

(c) CREDIT FOR TAX ON PRIOR TRANSFERS.—Section 2013 (relating to credit for tax on prior transfers) is amended by adding at the end thereof the following new subsection:

"(f) TREATMENT OF RECAPTURE OF CLOSELY HELD BUSINESS CREDIT.—If an additional tax is imposed under section 2016(d)(1) with respect to any property included in the gross estate of the transferor before the date which is 2 years after the date of the decedent's death, for purposes of this section, such additional tax shall be treated as a Federal estate tax payable with respect to the estate of the transferor.".

(d) TECHNICAL, CLERICAL AND CONFORMING CHANGES.—

(1) CREDIT FOR STATE DEATH TAXES.—Section 2011 (relating to credit for State death taxes) is amended—

(A) by striking out "taxable estate" each place it appears in subsection (b) (including the heading to the table) and inserting in lieu thereof "adjusted taxable estate";

(B) by adding at the end of subsection (b) the following new sentence: "For purposes of this section, the term 'adjusted taxable estate' means the taxable estate reduced by $60,000."; and

(C) by striking out "taxable estate" each place it appears in subsection (e) and inserting in lieu thereof "adjusted taxable estate".

(2) Credit for gift tax.—Subsection (a) of section 2012 (relating to credit for gift) is amended by inserting after "section 2011" the following: "and the credit provided by section 2010".

(3) Credit for tax on prior transfers.—

(A) The first sentence of section 2013(b) (relating to computation of credit) is amended by striking out "and increased by the exemption provided for by section 2052 or section 2106(a)(3), or the corresponding provisions of prior laws, in determining the taxable estate of the transferor for purposes of the estate tax".

(B) Subparagraph (A) of section 2013(c) (1) (relating to general limitation on credit) is amended to read as follows:

"(A) the estate tax imposed by section 2001 or section 2101 (after deducting the credits provided for in sections 2011, 2012, 2014, and 2016) computed without regard to this section, exceeds".

(4) Credit in case of estates of non-residents not citizens.—Section 2102 (relating to credits against tax in the case of estates of non-residents not citizens) is amended by adding at the end thereof the following new subsection:

"(c) Credit Against Estate Tax.—

"(1) In general.—There is allowed against the tax imposed by section 2101 a credit of $2,670.

"(2) Residents of possessions of the United States.—In the case of a decedent who is considered to be a non-resident not a citizen of the United States under section 2209, the credit under this subsection shall be the greater of—

"(A) $2,670, or

"(B) that proportion of $26,700 which the value of that part of the decedent's gross estate which at the time of his death is situated in the United States bears to the value of his entire gross estate wherever situated.

"(3) Application of other credits.—For purposes of subsection (a), sections 2011, 2012, and 2013 shall be applied as if the credit allowed under this subsection were the credit allowed under section 2016.".

(5) Repeal of specific exemption.—Paragraph (3) of section 2106(a) (relating to specific exemption in case of decedents who are non-residents and not citizens) is hereby repealed.

(6) Credit for foreign death taxes.—Paragraph (2) of section 2014(b) (relating to limitations on credit) is amended by striking out "sections 2011 and 2012" and inserting in lieu thereof the following: "sections 2011, 2012, and 2016".

(7) Liability of life insurance beneficiaries.—The first sentence of section 2206 (relating to liability of life insurance beneficiaries) is amended by striking out "the sum of the taxable estate and the amount of the exemption allowed in computing the taxable estate, determined under section 2051" and inserting in lieu thereof "the taxable estate".

(8) Liability of recipients of certain property.—The first sentence of section 2207 (relating to liability of recipient of property over which decedent had power of appointment) is amended by striking out "the sum of the taxable estate in the amount of the exemption allowed in computing the taxable estate, determined under section 2052, or section 2106(a), as the case may be" and inserting in lieu thereof "the taxable estate".

(9) Filing requirements.—

(A) Paragraph (1) of section 6018(a) (relating to estates of citizens or residents) is amended by striking out "$60,000" and inserting in lieu thereof "$120,000".

(B) Paragraph (2) of such section (relating to estates of nonresidents not citizens of the United States) is amended by striking out "$30,000" and inserting in lieu thereof "53,400".

(10) The table of sections for part II of subchapter A of chapter 11 is amended by striking out the last item and inserting in lieu thereof the following:

"Sec. 2016. General estate tax credit.
"Sec. 2017. Recovery of taxes claimed as credit.".

(11) The table of sections for subchapter C of chapter 64 is amended by adding at the end thereof the following:

"Sec. 6324A. Special lien for additional estate tax attributable to recapture of family farm or qualifying small business credit.".

(12) The table of sections for part IV of subchapter A of chapter 11 is amended by striking out the item relating to section 2052.

(g) Effective Date.—The amendments made by this section apply to estates of decedents dying after December 31, 1976.

Mr. PACKWOOD. Mr. President, I think this amendment that Senator Nelson, Senator Humphrey, Senator Brock, and I are sponsoring can be explained relatively easily. It is basically a philosophical amendment.

The Finance Committee, in its proposal, has substantially increased the exemption you are entitled to in an estate. They have changed it to a tax credit rather than a tax deduction. As Senators are all aware, a tax credit favors smaller income owners and the smaller estate more than a deduction, because a deduction applies to any size estate.

But they have applied it uniformally, starting at $30,000, and after 4 years going to $50,000. It loses $2 billion in 1981. As a credit, in 1981, it would be the equivalent of about——

Mr. NELSON. Mr. President, I wonder if, since many Senators are here, that we may have order.

The PRESIDING OFFICER. I think the point of the Senator from Wisconsin is well taken. The Chair would ask for order, and ask Senators to limit their conversations to inaudible ones, or carry them on in other areas.

Mr. NELSON. Mr. President, this amendment is being introduced today, on behalf of myself, Senator Brock, Senator Packwood, and Senator Abourezk as an amendment to the Finance Committee estate and gift tax amendments which are now designated as title XXII of the tax reform bill (H.R. 10612). This amendment endorses the substitution by the Finance Committee of credits for the exemptions now in the estate tax law. It would go on to provide an estate tax credit of $26,700 to every other estate—small businesses which qualify and a credit of $50,700 to family farms and equivalent to $200,000 and $120,000, respectively, in exemptions—in lieu of the $50,000 credit which would ultimately be reached under the Finance Committee bill. By thus focusing the benefit on the areas of greatest need—family farms and small businesses—while providing all other estates a lower but very generous level of relief, the amendment would reduce revenue losses by approximately $1.2 billion annually.

This same proposal was discussed at length in the Finance Committee when the revenue losses of the bill were not as great as they now are, and it was voted down at that time. However, the picture has changed with the approval of the Muskie-Allen amendment extending the individual tax cuts through the remainder of the next year at an additional cost of $3.6 billion. It is conceded that Congress must cover the revenue losses in this bill if it is to be responsible to its budget procedures.

WHAT THESE AMENDMENTS WOULD DO

In my view, this amendment offers an excellent opportunity to balance reform of the estate tax on the basis of need and also help to restore the revenue balance of the overall bill. The amendment would have the following effects:

First. Reduce revenue losses.

The Finance Committee proposal now before the Senate would lose $2 billion in tax revenues annually, beginning in 1981. This amendment is estimated to cost just over $800 million. This would reduce revenue losses relative to the present Finance Committee amendment by $1.1 billion in revenues annually, beginning in 1981.

Second. Preserve the position of family farms and small businesses.

This amendment would recognize that family farms and small commercial enterprises present the greatest difficulties in the estate tax area and would tackle these problems directly. To accomplish this, the level of tax credit adopted by the Finance Committee for these types of estates is $50,700.

Third. Grant generous relief to all other estates.

This amendment gives an across-the-board credit to all other estates, without qualifying property, of $26,700. This credit, in effect, would permit a tax-free transfer of $120,000 of estate property. This would be in addition to, and not in place of, the proposed marital deduction of at least $250,000 which we fully endorse, and any orphan's exclusion such as the House of Representatives is now considering.

The economic evidence is that securities yields have climbed from 2.4 percent in the mid-1940's to 8.8 percent in the mid-1970's. The yield on a $60,000 inheritance in 1975 of $5,280 is 367 percent higher than the $1,440 of income in 1942. Meanwhile, inflation has increased 289 percent. Heirs of liquid assets have outgained inflation even with a $60,000 exemption. A doubling of the level of relief provided by a $26,700 credit—equivalent to $120,000 exemption—would seem to be very adequate and in fact generous for those in the fortunate position of inheriting liquid assets.

That estate tax proposal began with joint hearings of the Small Business, Joint Economic, and Finance Committees on August 26 and September 25 of last year, and extended to taking of additional testimony on the subject in Small Business Committee field hearings in the Northwest, Midwest, and southern border States during the autumn of 1975.

As a result, our committees were able to inform the Senate and a wider public of the magnitude of the problems. The next step was to draft and introduce a series of bills, begining with S. 2394, by Senators from Minnesota (Mr. MONDALE and Mr. HUMPHREY) and myself; S. 2464, by the Senator from Tennessee (Mr. BROCK); S. 2272, by the Senator from Delaware (Mr. ROTH); and finally a thoughtful and far-ranging Small Business Committee estate and gift tax reform bill, S. 2819, offered in mid-December 1975. The longstanding and active interest of the Senators from Nebraska (Mr. CURTIS) and Kansas (Mr. DOLE) in this area are well known.

SENATE READY FOR ACTION IN JANUARY 1976

By the first week in January 1976, we had placed before the Senate an analysis by the Congressional Research Service of all of the various Senate estate tax proposals of 1975. Our studies were well advanced and the Finance Committee was prepared to act in this area.

It was, therefore, gratifying that the administration also recognized the problem, as President Ford on January 5 proposed a 25-year deferral of estate taxes, and on March 5 went further to endorse the concept of increasing the exemption to $150,000.

During this period, our work in the Senate continued, and we developed the concept of a credit as an improvement upon the exemption.[1] Three members who serve on both the Small Business and Finance Committees, the Senator from Colorado (Mr. HASKELL), the Senator from Oregon (Mr. PACKWOOD), and myself placed this recommendation before the Ways and Means Committee in testimony on March 16.

On May 17, the Senate Finance Committee conducted public hearings for the purpose of developing an estate tax proposal under the leadership of its chairman—the Senator from Louisiana—and chairmanship of the Senator from Minnesota (Mr. MONDALE). We also testified on this occasion, summarizing the many months of research in presenting our recommendations for substantial changes to the estate and gift tax structure in this session of Congress.

SUBSTANTIAL PROCESS

All of this activity has resulted in substantial headway. The Senate Finance Committee considered estate taxes in executive session on June 11 and ordered reported the present title XXII committee amendment. If enacted in its present form, it will assure adequate relief and substantial equity for most owners of family farms and small and medium-sized businesses, as well as their wives and families.

The other body has also been holding public hearings and drafting sessions on estate and gift tax legislation since early this year under the leadership of the distinguished chairman of the Ways and Means Committee (Mr. ULLMAN). On July 26, that committee reported "The Estate and Gift Tax Reform Act of 1976" (H.R. 14844). Both the Senate and the House are thus forging ahead.

STRENGTHENING THE SENATE BILL

Then why alter the Finance Committee amendment at this stage? The answer is that there are a few points at which the Senate bill can be materially strengthened. The primary considerations are equity and revenue. Also, if possible, the Senate bill should be brought into closer conformity with sentiment in the House in order to minimize problems in any House-Senate conference.

We feel that slimming down the relief provisions to reduce revenue losses by an additional $1.2 billion in tax revenues, while still providing an adequate level of relief for everyone concerned, would, in our view, improve the bill as a tax reform measure.

ADEQUATE SUPPORT FOR SURVIVING SPOUSE AND CHILDREN

It is important to recognize that title XXII as approved by the Finance Committee raises the marital deductions for the benefit of the surviving spouse at a minimum of $250,000 or 50 percent of the estate if that results in even greater relief. The $250,000 passing tax free under the new marital deduction, plus $120,000 more passing under the credit we propose, would give a total of $370,000 passing tax free. If such an amount were invested in certificates of deposit at only 6 percent, it would yield an income of over $22,000. That should provide an adequate point of departure for the support of any surviving spouse. In addition, there could be social security or other retirement benefits, and such further assets that the decedent will give or previously gave to the surviving wife or husband.

To provide a comparable benefit for surviving children, the bill just reported by the House Ways and Means Committee contains an "orphan's exemption" which has not been in the law before. This would be available to children when the second parent dies and the marital deduction is not therefore available. It would operate to exclude $5,000 of property for each year that the orphan's age is short of 21. For example, if the child were 14 years old, he or she would receive $35,000 worth of property under this exclusion and $120,000 under the general credit for a total of $155,000. This sum would likewise provide a basic income in the neighborhood of $9,000. Similarly, such a child could be a beneficiary of additional property which would descend to him or her, subject, however, to a progressive schedule of Federal taxation. Again, these sums would appear to be adequate as a minimum base of support for most children; and I hope the Senate will approve such a provision.

THIS LEVEL OF RELIEF SUFFICIENT FOR A GREAT MAJORITY OF FARMS AND BUSINESSES

A recent survey of the national small business organization with the largest membership, numbering some 450,000 small firms, found that approximately 90 percent of them would have estates of less than $400,000. Another study was done by the University of Wisconsin that indicates the average dairy farm in my State would be valued at about $185,000. If the farmer's personal property, savings accounts, and insurance and all other assets of the farm family were included, this would bring the total estate of such a farm family up to about $205,000. These statistics indicate that the levels of relief provided by our amendment would be adequate and reasonable for the preservation of most small businesses and family farms.

THE ECONOMIC CONSEQUENCES OF A "TARGETED" CREDIT

This amendment raises squarely the question of whether the Senate wishes to give a windfall to the heirs of already wealthy persons. The statistics available to us indicate that there are about 200,000 millionaire families in the United States and about half of these families got there as a result of inherited wealth. The children of these families already enjoy great advantages during the lives of the parents. In this bill, we are dealing with the fortunes of these children after the parents pass away.

It seems to me there is a basic difference between allowing them to inherit a family farm or active business and permitting them to take, tax free, the inheritance of an equal amount of stocks, bonds, or other forms of what the law calls "passive" investments.

Allowing the survival of a family farm or small business property does not exempt an heir from working for a living. On the contrary, most farmers and small entrepreneurs, and typically their wives and children also, work harder and for longer hours than salaried employees. Our amendment guarantees that if they tried to "cash in" by selling the property, there will be a recapture of any tax savings within a 10-year period.

The families that operate these farms and businesses are not wealthy at all in the sense of disposable income or savings. We have found that the typical Wisconsin dairy farmer with 188 acres and 40 cows may make $12,000 to $15,000 in a good year. Most farmers seem to live poor and only become rich in the eyes of the present estate and inheritance tax laws, because their acreage is valued at about $185,000 on the market.

Likewise, a small merchant with a name on his door or van is probably earning a livelihood which most people would describe as modest.

If I may paraphrase the chairman of the House Ways and Means Committee in introducing his original estate and gift tax reform proposal,[2] Mr. ULLMAN said the estate tax laws which were aimed at the great fortunes of this country are now hitting the average farmer with an old Chevy. I think the Congress can do better than that in designing an equitable estate tax law.

A targeted estate tax credit for family farms and businesses could accomplish a better structured estate tax law which would help to preserve a working entrepreneurial class in order to generate jobs, innovation and progress.

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[1] See S. 3139 and S. 3140, introduced by Senators Nelson and Packwood, Mar. 15, 1976.

[2] H.R. 13966 (May 24, 1976); H.R. 14115 (June 1, 1976) with cosponsors.

PRIVATE ENTERPRISE SYSTEM IMPERILED BY OUTDATED ESTATE TAX

On a strictly economic level, family farms and businesses have proven to be the most efficient producers of food, shelter, and many other basic and convenience goods and services that can be found anywhere in the world.

The great bonus to our society is that what these successful entrepreneurs do for the towns and cities that prospered them.

For 200 years in this country, we have had a system where farms and businesses could be passed along from one generation to another. These enterprises put down roots in their communities. Their owners come to care about their employees, their customers, their churches, schools, and hospitals. They work in the local charities and clubs and are the cement of community life.

Thomas Jefferson perceived this two centuries ago at the time of the Revolution when he wrote about the value of the independent freeholder with a stake in society. In this our Bicentennial Year, death levies are threatening to destroy this system by taxing it out of existence.

A Wall Street Journal editorial recently approved the distinction we are urging, as applied to the administration's estate tax deferral proposal, in the following terms:

> This distinction between family businesses and other assets may not recommend itself to conventional economics, but has considerable social merit.[3]

In my view, there is as much hard economic value as there is social merit in preserving the building blocks of our free enterprise system. Government agencies estimate that small and medium-sized independent businesses and farms account for more than half of all private employment, one-third of the gross national product and half of all industrial inventions and innovations.

There are further benefits to our political democracy in keeping power decentralized among smaller economic units and in bolstering self-reliance and independence among our citizens.

In my view, the preservation of small family enterprises, which embody so many of the basic traditional values of this country, is an adequate reason for distinguishing in the estate tax laws between our most productive citizens and those whom the law might allow, even encourage, to be completely unproductive.

CONSIDERATION OF THESE MATTERS IN THE OTHER BODY

These arguments have been persuasive to many Members of Congress and the House Ways and Means Committee failed to approve a similar provision by a vote of only 19 to 18. There are reports of continuing efforts in the other body to gain acceptance of such an amendment. Thus, if the Senate were to adopt this proposal, there would be substantial support for it in the House.

I believe there is a good case for conforming the Senate bill to the House companion bill insofar as possible. This would minimize the differences in any conference between the Senate and the other body and would improve prospects of passing the bill. I hope the Senate will have the opportunity to consider such amendments.

SUMMARY

I urge that the Senate accept this amendment to title XXII. In my opinion, it is justified on the grounds of revenue, equity and policy. Modifying the bill in this way would, I believe, substantially improve the Finance Committee estate tax amendments and enhance the prospects for their enactment, and the enactment of the overall tax reform bill, H.R. 10612. We hope that can come about in the present Congress so that all taxpayers, and especially hard-pressed owners of family farms and small businesses, can receive meaningful relief in the estate tax field without further delay.

I would like to point out the importance of this amendment. Apart from the argument on the other merits of it, this probably will save more money than any other amendment we have had before us. If adopted, it will save our $1.1 billion a year, as against the amendment that came out of the Finance Committee, when it is fully in effect: $1,126,000,000.

I think the Senate could address itself for an hour seriously to that question here this evening.

Mr. RIBICOFF. Mr. President, will the Senator yield at that point?

Mr. PACKWOOD. I am happy to yield to the Senator from Connecticut.

Mr. RIBICOFF. It is correct that $800 million would go to a minority of farmers and small businessmen, but the rest of the population, overwhelmingly, will be denied the benefit of it.

I am for an estate tax amendment. I am for giving the farmers and the small businessmen the credit asked for by the Senator from Oregon and the Senator from Wisconsin. All I am saying is, what is good enough for the farmers and good enough for the small businessmen is good enough for every other American.

This is the gravamen of this entire debate: Will we do it for the entire population, or just a small segment?

Mr. PACKWOOD. The Senator from Connecticut states the question very well, and the issue I am going to get to. The question is, to whom do you want to target the relief?

Mr. NELSON. Mr. President, will the Senator yield on that point for 1 minute?

Mr. PACKWOOD. Yes.

Mr. NELSON. I do not want the statement made by the Senator from Connecticut to lie unchallenged even for 5 minutes while the Senator talks.

The fact of the matter is, on the split credit, a liquid estate is better off in 1976 than it was in 1942, when we passed the $60,000 exemption. That $60,000, if invested in 1942, would produce the same amount of income in the market place as $48,000 today. So when we are talking about liquid estates, what we are saying is that this $120,000 exemption equivalent or $26,700 credit we are proposing, is equivalent to about twice the benefit that that $60,000 gave back in 1942 in real terms.

The Senator from Connecticut is simply wrong when he takes the position that we are treating the heir of liquid assets unfairly. I would rather receive $120,000 in liquid assets, which produce in the marketplace $10,000 or $11,000 a year, than a $200,000 farm on which, in my State, you can make $8,000 or $9,000 a year if you work 7 days a week and your wife and kids work, too.

Mr. RIBICOFF. If the Senator will yield——

Mr. NELSON. So I think it ought to be understood that this benefit is twice, or more, times what it was in real income in 1942.

Mr. RIBICOFF. If the Senator will yield?

Mr. PACKWOOD. Mr. President, I do not yield any more.

Mr. RIBICOFF. I thought we would want to have this discussion go——

Mr. PACKWOOD. I have yet to say a word effectively, on the amendment, and I decline to yield further.

The PRESIDING OFFICER. The Senator from Oregon has the floor.

Mr. PACKWOOD. Mr. President, all we are trying to do with this amendment is target relief. The Senator from Wisconsin is correct in terms of how much will your money buy today. What kind of a return do you get on stocks? You actually get as much today on $62,000 as you would have gotten on $20,000 or $15,000 25 years ago, because the return was so much lower.

What we are talking about is not the return. We think it should be raised. Our provision in here has a substantial increase. But the question boils down to, do you want to target this relief to what we have been talking about, the family-run business?

I do not want to say this is limited to farms; it is not. And it certainly is not limited to certain kinds of businesses. It is a preference, clearly—a preference to family-run businesses, be they farms, gasoline stations, grocery stores, or anything else. It is a preference.

If you pass on your estate to a member of your family, then, under this provision Senator NELSON and I and others are offering, there is a distinct estate tax advantage, as opposed to those who pass it on to someone outside of the family.

We argued this out in committee. There was a reasonably well-thought-out discussion in committee, and the committee said it would be too hard a proposition, and it was unfair, to sell to the American public, that you would give a preference to family-owned enterprises in the estate law, that you could never explain it to people of an identical situation to that of one who passes it on to someone totally unrelated to him, as compared to the situation of one who passes it on to someone in a family relationship.

That is exactly what we are talking about here tonight. First, can that distinction be explained; second, is it politically feasible; third, is it fair?

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[3] The Wall Street Journal, June 19, 1976.

What I am trying to preserve are family operated—and I emphasize the word "operated"—enterprises. Because under the provisions of this amendment, it is not enough to pass it along to someone in the family in terms of ownership; there are very specific terms about operation of the business. If the heir does not want to operate it, he does not get the credit; or if you were to pass it to someone outside the family, the heir does not get the credit.

I believe this is a question that ought to be debated. It is one the Senate ought to work its will on.

I am in favor of trying to preserve family owned enterprises, and the biggest difficulty we have today in trying to pass on that enterprise is the estate tax, because in most cases the business is not liquid. It consists of land if it is a farm; it consists of good will if it is a stationery store you have run for 20 or 25 years.

It is not a liquid asset that one can easily sell and pass on the remainder to his family heirs.

So he ends up doing one of two things, liquidating the entire business to pay the estate tax and passing on what he can or selling out to a larger enterprise and snuffing out the family enterprise that did exist.

I think, in substance, and I will conclude and take questions, or turn the floor over to anyone else, that is all we are talking about. Do we want to give everyone the same credit at a cost of $2 billion in 1981, or do we want to give a preference to family run enterprises and again family run, not just family owned, but family owned and run enterprises at a cost of about $800 million? That is a decision the Senate will have to make.

Mr. STEVENS. Does it apply to fishing boats?

Mr. PACKWOOD. Yes.

I will yield the floor.

Mr. CURTIS. Mr. President, will the Senator yield?

Mr. PACKWOOD. Yes.

Mr. CURTIS. Will the Senator respond to one question?

Mr. PACKWOOD. Yes.

Mr. CURTIS. Is it not true that the committee amendment to the committee bill will grant just as much relief to the family owned farms and businesses?

Mr. PACKWOOD. The committee bill?

Mr. CURTIS. Yes.

Mr. PACKWOOD. At a substantially increased cost?

Mr. CURTIS. Yes. It will grant just as much.

Mr. PACKWOOD. Let me answer this way: What the Nelson-Packwood-Brock-Humphrey-Abourzek amendment does is say there is a credit of $26,700 for all estates and for a family estate $50,700. What the committee bill does, in essence, is say there is a $50,000 credit for every one. So for all practical purposes indeed the committee bill does grant the same relief that the Nelson-Packwood, et cetera, bill does but at a cost of substantially greater amount of money. I emphasize again this is not just farms. As to someone who owns a fishing boat in the fishing business, this provision would apply and it would apply equally as well to a stationery store or the farm. It is designed for small-family owned and operated enterprises, and that is why we used a credit rather than a deduction approach for small family owned and operated enterprises to be able to be passed on to their heirs.

Mr. RIBICOFF. Mr. President, I have a tight 10-minute statement which explains the entire discriminatory aspect of the Nelson-Packwood proposal.

If it is the will of the Senate to liberalize estate tax provisions, then I believe it should be done in such a way that all estates are treated the same. That, after all, is the essence of our democracy. There should not be special provisions for farmers, small businessmen, or any other group in America.

It has been said that death and taxes are the great equalizers. But if the amendment of the Senator from Wisconsin is agreed to, that truism is going to be changed. Though he has not found a way to beat death, his amendment will make the tax consequences of death less than equal.

The Finance Committee saw clearly the inequality in this proposition. It rejected the Nelson amendment and adopted instead an estate tax credit of $50,000 when fully implemented and a liberalized marital deduction for everyone, farmers, businessmen, lawyers, doctors, dentists, real estate operators, mechanics, artists, architects, engineers, everyone being treated the same.

The amount of the credit will be $30,000 for those dying in 1977, which is the equivalent of an exemption of $131,000. It will increase by $5,000 per year until 1981 when the credit will be $50,000—the equivalent of a $197,000 exemption. Since the present $60,000 exemption has been in effect since 1942, this is an important step in overcoming the effects of inflation. The marital deduction currently enables a decedent to pass one-half of his adjusted gross estate tax free to his surviving spouse. The committee amendment improves this for small and medium sized estates by increasing the deduction to the greater of $250,000 or on one-half the adjusted gross estate.

Combining these two provisions it is possible that a decedent could pass an estate of $447,000 without incurring any Federal state tax liability.

The Nelson proposal makes a distinction between estates with liquid assets and estates with certain nonliquid assets. Those nonliquid assets singled out for the $50,700 credit are family farms and small businesses.

He argues that the yield on liquid assets today versus the yield on these same assets in the 1940's—when the $60,000 exemption was adopted—has increased 367 percent while inflation has increased only 289 percent. A more realistic way to look at yield is to look at the spread. After discounting inflation the liquid asset produces a yield only 78 percent greater today than it did in the mid-1940's.

An even more realistic way to view the Senator's figures is to look at the bottom line. To account for inflation over the same period the $60,000 exemption available in the 1940's would have to be increased almost threefold. In other words, it would cost almost $180,000 to buy today what $60,000 would buy in the mid-1940's.

The Nelson proposal only increases the exemption equivalent twofold for liquid estates. The committee amendment increases the exemption equivalent a bit more than threefold.

Granting for the sake of argument that estate taxes present greater difficulties to nonliquid estates, then the Senator should be championing special treatment for all nonliquid estates. What of the estate that is composed of real property that is not farm land? Or rare coins? Or antiques? Or works of art?

How does anyone know which farm is a liquid asset and which one is a nonliquid asset? We all know there are some farms that make money and some that lose money. There are some businesses that make money and some businesses that lose money.

How can we pass a general rule by saying that every farmer is poor, or every businessman is rich? It is impossible to do so.

The Finance Committee did take into consideration the special problems associated with farm assets. By allowing valuation of farm and certain other lands on the basis of its current use—rather than on the basis of its highest and best use—the committee amendment will enable heirs to carry on the farming business. Without this amendment, the heirs may be forced to sell the land to pay the higher estate tax which the "highest and best use" valuation would produce.

I think that is sufficient recognition of the problems the estate tax currently creates for farm families.

To structure the estate tax itself on a two-tier track is wrong and I urge defeat of the amendment.

Mr. CURTIS. Mr. President, will the Senator yield?

Mr. RIBICOFF. I am pleased to yield.

Mr. CURTIS. I commend the Senator for his position. First, this Senator cannot go home and say to a widowed lady who has a certain estate that we granted estate tax relief for her and across the way is another lady with the same size estate and we say "We give you no relief because your husband had a different occupation."

Our tax law should be even, and I believe that the amendment, well intended, is basically wrong. If we are to give estate tax relief it should be for all.

Mr. RIBICOFF. Let me point out that I want to do everything I can to preserve family farms. I want to do everything I can to preserve family business. The Senator talks about liquidity. Twenty years ago someone bought a building on Main Street any-city USA and he thought he had a great investment with the building on Main Street. And 20 years have gone by and Main Street is deteriorating. He has the building, some tenants, and some income, but boy, he cannot sell that building for love nor money.

Now, the husband dies. He has a wife and two children. What is she going to do to pay the estate taxes? They are going to have to put the building under the hammer and practically give it away to pay the taxes.

I say I want to give that man who owns a building on Main Street exactly the same thing that I want to give the farmer who lives on Maple Street or I want to give the businessman who lives on Oak Street.

Mr. CURTIS. The Senator is absolutely correct.

Mr. RIBICOFF. All we are trying to do is get a sense of equality. That is exactly what we are trying to do.

Mr. LONG. Mr. President, will the Senator yield?

Mr. RIBICOFF. I am pleased to yield.

Mr. LONG. We heard a great deal about loopholes. Goodness knows, some of us have been beneficiary of more of that criticism than others. Is that not what the average man defines as "loophole"—something that benefits the other guy but not him?

Mr. PASTORE. That is right.

Mr. RIBICOFF. It is a question of equality.

Let me point out something else the advocates of this amendment have not said or pointed out. The Finance Committee took into consideration the special problems associated with farm assets, by allowing valuation of farm and certain other lands on the basis of its current use rather than the basis of its highest and best use. The committee amendment will enable heirs to carry out the farming business. Without this amendment the heirs may be forced to sell the land to pay the higher estate tax which the highest and best-use valuation would produce. We know all of this. Whether it is in Connecticut or whether it is in Wisconsin or Oregon, we have a farmer who has a piece of land that is cheek by jowl adjacent to a developing area and, as farmland, is worth $50,000. If it were assessed for real estate development or commercial use, it would be worth $500,000.

I went along with this provision and voted with my friends from the agricultural areas in order to save the family farm. The committee amendment would allow that land to be valued at the $50,000 rate instead of the $500,000 rate. So, with this amendment we went out of our way to give a break for the farmers.

What shocks me is that Senators come to this body and say, "Now give us this special tax break in addition to the new valuation rule but do not do it for anyone else."

Mr. LONG. Mr. President, will the Senator yield at that point?

Mr. RIBICOFF. I am pleased to yield.

TIME-LIMITATION AGREEMENT

Mr. LONG. I am led to believe we can get a unanimous-consent agreement now.

I ask unanimous consent that there be 15 minutes of debate to be equally divided between the proponents and opponents of the amendment.

The PRESIDING OFFICER. Is there objection?

Mr. LONG. Seven and one-half minutes on each side.

Mr. HASKELL. Mr. President, will the Senator from Louisana indicate what other additional matters he wants to take up this evening?

Mr. LONG. I shall then ask that there be perhaps 10 minutes on each side to vote on the amendment as amended or as not amended after we dispose of the amendment.

Mr. HASKELL. That will conclude the program for the evening?

Mr. LONG. That would then conclude the rollcalls for this evening, yes.

Mr. HASKELL. I have no objection.

The PRESIDING OFFICER. Is there objection?

Mr. PACKWOOD. I could not hear. What is it?

Mr. LONG. That we have 15 minutes equally divided, say 16 minutes, 8 on each side; then we have 10 minutes for the amendment as amended or as not amended, depending on how the estate vote goes, on the amendment dealing with estate and gift taxes; so, in other words, if the amendment is agreed to we can still debate whether it is to be added to the bill. If it is not agreed to we can then have another debate on whether the committee amendment should be added to the bill.

Mr. HASKELL. Mr. President, I am informed by a staff member of Senator KENNEDY that he might want to make an amendment to Senator NELSON's amendment. And therefore, could any amendment to Senator NELSON's amendment have 10 minutes equally divided, 5 minutes?

Mr. LONG. Equally divided.

Mr. HASKELL. Equally divided.

Mr. LONG. I so request.

Mr. NELSON addressed the Chair.

The PRESIDING OFFICER. Amendments to Senator Nelson's amendment—could we have order just a moment? Will the Senator suspend?

Mr. NELSON addressed the Chair.

The PRESIDING OFFICER. Amendments to Senator Nelson's amendment are not in order, insofar as they are amendments in the third degree. But amendments to the committee language to be stricken would be in order.

Is that the agreement sought by the Senator from Louisiana?

Mr. LONG. First, I thought we had agreed that on this amendment there would be 8 minutes on each side.

The PRESIDING OFFICER. Is there objection?

Mr. PACKWOOD. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. NELSON. Mr. President, may I repeat a suggestion that was made a few minutes ago by the chairman, the Senator from Louisiana (Mr. LONG)? We have had some discussion here; there has been a good attendance. I would like to make a few remarks and put my statement in the RECORD. If the chairman would renew his request that we set a time to vote tomorrow and allow 15 minutes to a side prior to the vote, that would be agreeable to me, and I would put my remarks in the RECORD.

Mr. RIBICOFF. Mr. President, will the Senator yield?

Mr. LONG. We have discussed it enough that it seems to me we can vote on it tonight.

Mr. RIBICOFF. If we put it over until tomorrow, 15 minutes to a side, there will not be anybody here but Senator Nelson and myself. We have many Senators in the Chamber. Let us take the time. Let us vote on this matter up or down and make a decision now, with all the Senators here. We have stayed late, and we can stay another 20 minutes and be through for the night.

I am willing to agree to yield back the remainder of my time.

Mr. BURDICK. I ask the Senator from Oregon or the Senator from Connecticut this question: What is the legal status of a retired farmer or a retired small businessman?

Mr. RIBICOFF. He is out of luck, under their amendment. Once he no longer has a farm and no longer has a business, he is like anybody else.

Mr. PACKWOOD. Mr. President—

The PRESIDING OFFICER. The Senator will suspend. The Senator from North Dakota has the floor.

Mr. RIBICOFF. I responded. He asked me a question, and I responded.

The question is with respect to an active farm that you can turn over to heirs and they run it as a family farm, or you have an active business and you die, and it goes to your heirs, who run it. But if he no longer has an active farm or an active business, if he is retired and out of it, then he does not get the $50,000 credit.

The whole thing we are trying to point out is a sense of basic equality.

This is strange. I want to give the Senator from Wisconsin and the Senator from Oregon exactly what they are asking for. I approve of this tax credit for estates. All I am saying is that I want to give it to everybody in America who has the same problem. I just do not want to give it to farmers and small businessmen. I want to give it to everybody.

Mr. PACKWOOD. I should like to respond to the Senator from North Dakota. I thought he asked me the question. What the Senator from Connecticut responded was not quite accurate.

Our provision is that you must have managed the estate 5 out of the last 8 years before your death. We have made no change in the gift laws. You can still give it away prior to death, if you wish. If you have stayed retired and have given nothing away and are no longer managing the family enterprise, you would not qualify; but if you have been active in 5 out of 8 years, you would.

I am intrigued with the argument of the Senator from Connecticut that he wants to treat everybody equally. Does that mean he would be in favor of getting rid of the marital deduction because that does not treat everybody equal?

Mr. RIBICOFF. Everybody who is married gets treated exactly the same with the marital deduction. Single people are in a different category.

Mr. PACKWOOD. It treats everybody who is married the same, and if some poor devil's wife dies, he does not have the advantage.

Mr. RIBICOFF. If the Senator offers an amendment, I will vote with him.

The marital deduction is so arranged that every married couple gets treated exactly alike, and that is what I want to do with the estates.

Mr. PACKWOOD. In our amendment, every couple that has children is treated exactly alike.

Mr. RIBICOFF. Not if they have a farm or not if they have a small business. They get the break.

Mr. PACKWOOD. Who gets the break on this? We say a farm or small business. Anybody who has an estate that is family owned gets the break. It is not just small businessmen or farmers; if you have a family stock brokerage business or pharmacy—anything.

The irony is that for years we have had a marital deduction, and in the Nelson amendment we increase it to $250,000 or half the estate, whichever is greater, and we increase the $50,700 deduction right now, not a year off, until 1981, as is done by the committee bill.

The theory of the marital deduction is the preference. We want to encourage people to leave their estate to their spouse. If they do it, we will give them a tax break, which they do not get if they do not leave it to their spouse.

Mr. FORD. Mr. President, will the Senator yield?

Mr. PACKWOOD. I yield.

Mr. LONG. Mr. President, who has the floor?

The PRESIDING OFFICER. The Senator from Oregon has the floor.

Mr. FORD. In the informational sheet, the technical summary that is on the desk, item 6 requires that the decedent, for 5 of the 8 years ending with his death, must be the principal employee on the farm or small business. Let us say the individual was in a nursing home for 10 years. Does that make the farm then his principal employment? I think the Senator is getting so technical here that he is excluding farmers.

Mr. PACKWOOD. I wish to emphasize this. If the Senator will look at "principal employment," he will see that it leaves flexibility, and it provides that if the business is managed by one of your family because you have retired or have been disabled——

Mr. FORD. It reads in No. 7, "passed on to a member of the family."

Mr. PACKWOOD. No. I am talking about qualifying in terms of running it—if it is run by one of the family.

Mr. FORD. The Senator is determining what the regulation is going to be after the bill is passed. I have found that when we pass laws in this Chamber and they get down to the farm or the community, it is not what we passed here.

Mr. NELSON. May I respond?

Mr. PACKWOOD. Yes.

Mr. NELSON. There are many technical questions, as the Senator from Kentucky is well aware, that we can raise about any bill that is passed.

Mr. FORD. The Senator put out the information. That is the Senator's information, is it not?

Mr. NELSON. Yes.

Mr. FORD. I am just reading from the Senator's information.

Mr. NELSON. That is correct. The Finance Committee amendment that is before us is identical with our proposal in every respect other than the so-called split credit. We are not touching the rest of the Finance Committee bill. So, on the question that the Senator from Kentucky has about what constitutes a family farm and about the family business, I believe Senator LONG, Senator RIBICOFF, Senator PACKWOOD, and I are all on the same side. We do not have any disagreement on the definitions.

Mr. FORD. I want to raise a question on all of it. I think the Senator is making a mistake.

Mr. NELSON. That may be. I did not want the Senator to have the impression——

Mr. LONG. Regular order, Mr. President.

Mr. PACKWOOD. I will respond to the Senator from Kentucky.

I read from page 2 of the amendment:

> The term "family farm" means a farm actively engaged in raising agricultural crops or livestock for profit, within the meaning of section 183, if the decedent and his relatives have been actively involved in the operation of the farm . . .

With respect to the small business definition: "if a decedent and his relatives."

If the decedent is in a nursing home and cannot run the business, the estate still qualifies.

I come back to the only philosophical point to which I think this amendment is addressing itself. We have given a preference in the tax laws for years, and I think justifiably, to those who want to leave the estate to their spouse.

I suggest changing that. I think it ought to be expanded. Do we want to expand the law and say we will give a preference to those who leave it to their children who are willing to run the business? That is really all this amendment is concerned with.

Mr. LONG addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. President, I think we understand the issue. The issue is do you want to give it to certain people who would own a farm, however you want to define it, give it to certain people who own a small business, however you want to define it, and other people are left out?

About 2,800 estates would qualify for the special credit for certain farms and closely held businesses out of approximately 157,000 estates that currently file returns each year—all right, so each year you have 157,000 estates filing returns, and 2,800 of them get this additional break. The other 154,000 do not. Mind you, now, for every 1 of them that gets this special tax break, you have 50 of them to explain to why they did not get it.

The thing is so complicated concerning who is a family farm owner and who is not, who is the right kind of small business and who is not, that no one on Earth knows whether she is going to get the tax break until the lawyer tells her, and if she does not get it, she wants to drink your blood, and the chances are 99 out of 100 she does not get it. [Laughter.] Explain to the lady who does not get it why you voted for that. I would rather vote for a lesser amount and have the whole bunch of them get it. Admittedly, if you have only got so much revenue to work with, you might have to spread the joy a little bit thinner.

Mr. PASTORE. Mr. President, will the Senator yield so that I can break the tension? [Laughter.]

Mr. LONG. I yield for a question providing on the observation you can save us a question.

Mr. PASTORE. Does the Senator mean to tell us that it should not be discriminatory?

Mr. LONG. That is the point.

Mr. PASTORE. That it should apply right along the line, as the Senator from Connecticut has suggested?

Mr. LONG. That is right.

Mr. PASTORE. Is that the point? Is that the question here?

Mr. LONG. Exactly.

Mr. PASTORE. Shall we favor a few at the risk of many?

Mr. LONG. Exactly.

Mr. PASTORE. All right.

Mr. LONG. My classic definition of a loophole is a tax advantage that benefits the other guy. If it benefits you that is good, solid, sensible legislation. That is not original with me. The Senator from Nebraska said that long before I did: A tax provision that benefits the other guy is a tax loophole.

So here is a tax loophole from the point of view of 99 percent of the people and good, solid legislation from the point of view of 1 percent who hog up all the benefits.

Mr. President, I move to table the amendment.

Mr. NELSON addressed the Chair.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Louisiana to lay on the table Mr. PACKWOOD's amendment.

Mr. NELSON addressed the Chair.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table. The motion to lay on the table is not debatable.

Mr. LONG. Mr. President, I ask unanimous consent that we have 10 additional minutes to be equally divided between the proponents and the opponents, and I withhold my motion if I can get this unanimous consent. Otherwise, I will have to insist on my motion to table.

Mr. NELSON. Mr. President, may I ask the chairman a question?

The PRESIDING OFFICER. Is there objection?

Mr. NELSON. May I ask the chairman a question?

Mr. LONG. I withhold my request for a moment provided I can retain the floor.

Does the Senator want me to answer a question?

Mr. NELSON. I would like to point out to the chairman that I have spoken, I think, on this issue a total of maybe 4 minutes.

Mr. LONG. Well now——

Mr. NELSON. Just a moment. I have

put more time in on this issue than anybody in this body.

I conducted the hearings in the Small Business Committee. We drafted five bills. This is the fifth bill. I met with tax experts time after time. I spent a year on this bill, a year and a half, and introduced the first one during the autumn of last year, and four since then.

Is the chairman of the committee saying to me that he is going to move to table and allow the Senator who did the most work 4 minutes to talk on it? That is less time than the opposition, who did not do anything on the bill.

Now, you go ahead with that, but under those circumstances I promise you this tax bill will not pass this week, because I will have lots to talk about.

Mr. LONG. I am not going to do that, may I say to the Senator, if I can get an agreement to vote. The Senator is not the one objecting, but his cosponsor objects.

I ask unanimous consent just on any basis that we vote some time on any basis, that we vote on this amendment at some point.

Mr. President, I ask unanimous consent that we have 10 minutes to be equally divided between the proponents and the opponents of the amendment—15, 20 minutes. How much time does the Senator want?

Mr. KENNEDY. Mr. President, reserving the right to object, and I will not, I have just a perfecting amendment which is very similar to the Packwood amendment, and all I want are just about 5 minutes.

Mr. LONG. Fine.

Mr. KENNEDY. That is the only thing——

Mr. LONG. Five minutes to the Senator and 5 minutes to the opposition.

Mr. KENNEDY. Just in my request——

Mr. LONG. How much time does the Senator from Wisconsin desire?

Mr. NELSON. I may not use 15 minutes, but I would like 15, because if there are some questions of me then this could cut down the 15 minutes considerably. But I think after spending a year-and-a-half, 20 minutes would not be too much to ask on a proposal that involves one $1.1 billion.

Mr. LONG. I ask that the Senator be assigned 20 minutes.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request by the Senator from Louisiana?

Mr. PASTORE. Reserving the right to object——

Mr. LONG. I ask unanimous consent that if the Packwood amendment is agreed to, that it remain subject to amendment so that the Senator can offer his amendment.

Mr. KENNEDY. The only thing is mine would be a perfecting amendment. But it reaches the same subject area, and all I hope is that I could have 10 minutes to be able to explain it.

Mr. LONG. I ask unanimous consent that the Senator be given 10 minutes.

Mr. KENNEDY. And we could have actually back-to-back votes on this at a time which is agreeable.

Mr. LONG. I ask unanimous consent that it be in order for the Senator from Massachusetts to offer his amendment to the Packwood amendment.

The PRESIDING OFFICER. It would be in order anyway.

Mr. LONG. And 10 minutes equally divided.

The PRESIDING OFFICER. It would be in order.

Mr. LONG. I ask unanimous consent that it be 10 minutes equally divided between the proponents of the amendment and the opponents.

The PRESIDING OFFICER. Is there objection?

Mr. LONG. And there be 20 minutes—that after the amendment has been voted on there be 20 minutes—assigned to Senator NELSON, and 10 minutes for the opponents.

Mr. NELSON. Let me ask, does the Senator from Oregon want any time?

Mr. PACKWOOD. No. I made all the points I want to make, and it is acceptable to me.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Who yields time?

Mr. NELSON. Mr. President, I yield myself whatever part of the 15 or 20 minutes I may need.

Mr. President, the argument has been made here that the split credit is discriminatory. Now, on its face it may appear to be but it is not.

The whole argument now for many, many years has been that the $60,000 exemption was no longer defensible because of inflation. The objective in changing, restating, the estate tax law was to try to restore people to the position they were back in 1942.

For example, in my State, a dairy State, there was hardly a farm that was worth $60,000. Today the average farm in my State is $185,000. The cost factor is inflation: in productive land, buildings, and equipment.

So, in order to put that farm in the same posture that it was in 1942, you have to get the exemption somewhere about or above $185,000.

In the Finance Committee, we put in a general credit of $50,000, which really amounts to an exemption of $200,000. We recognized the issue of rapidly escalating, inflating costs.

ECONOMIC EVIDENCE

The argument is that we are discriminating against the person who inherits a liquid estate that is not in business or in farming. The fact of the matter is that that provision for a $26,700 credit is more beneficial to those who received a liquid estate than $50,000 credit to those who have a business or farm for a reason that is easy to overlook.

Let me read it to you. Assets in the marketplace, in stocks, have risen faster than the inflation and the income has risen with it.

The farmer's land has risen faster than the inflation, but his income from it has not.

Let me give you the statistic, and that is the whole argument. I would argue that I would rather any time inherit from my dad—if he ever could have accumulated as a country doctor taking care of farmers who did not have money—I would rather inherit from him $120,000 in liquid assets which return 8.8 percent in the marketplace than to inherit a dairy farm for $200,000. My income would be higher every single year without doing any work at all.

Now, what are the figures? The security yields in 1942 averaged 2.4 percent—composite of high grade corporate and Treasury bonds. That was in the mid-forties. In the 1970's they averaged 8.8 percent. The yield on an investment of $60,000 in 1975 was $5,280 against $1,400 on that amount of investment in 1942. Here is the key factor: The yield today is 367 percent higher than it was in 1942. That is an increase much faster than inflation.

That is the reason that what looks like discriminatory treatment is not discriminatory. You are better off with a $25,000 or $26,700 credit on a liquid estate—which is equivalent to $120,000 deduction—than you are on a $200,000 deduction on a family enterprise.

All the statistics we have checked with several distinguished economists, so, despite what has been said by the opposition, a "split credit" is not discriminatory. If we were going to make heirs of liquid assets whole, if we were going to make them equal to 1942, do you know what we would have to do?

We would have to reduce the exemption on liquid estates from $60,000 to $48,000, because the dramatic statistic is that $48,000 invested in the marketplace today at 8.8 percent produces the same real income, for example, purchasing power, that $60,000 did in 1942.

So the fact of the matter is that this bill as now written discriminates in favor of the liquid estate, because we are giving them twice or more the real dollar benefit that they had out of the $60,000 in 1962. How much more are we going to add to that?

VALUE OF SMALL BUSINESS

On the social aspect of the question, there are 13 million—over 13 million—small businesses and farms, which are also small businesses, in this country. They employ 52 percent of all the people in private employment. They produce half of the inventions, and innovations. They are what has made this country work, the building blocks of the free enterprise system. Small business really means the opportunity for any individual to go out on his own and make it, or go broke.

That is what makes this country great. That is where the big businesses came from; that is where they started. It is the viability of this system that we want to preserve. Every Member of this body has said that all over his State when he campaigned. Every editorial writer endorses it. Thomas Jefferson stated it the best.

For Heaven's sake, let us preserve that viability by drafting an exemption that places a farm and a business estate and the liquid estate alike in a position equal to 1942, but let us not increase what liquid estate gets by more than twofold.

CONCLUSION

In the Finance Committee we discriminated, and I shall conclude, in favor of the liquid estate because $48,000 today produces a real purchasing power equal to $60,000 of investments in 1942. Why in Heaven's name should we push it up even to a $120,000 exemption? We barely covered the farmer and the businessman on inflation. We covered the liquid estate more than twice over.

Is that logical or sensible?

How much money should somebody get who is performing no social function? How much should he get? Is it not enough that a child receives $120,000 of property tax free; producing an income of $10,000 or more a year? He can live off that without turning a hand if he wants to. After the $120,000, he might have to pay some taxes on additional property he receives above that? What is wrong with that? Do we want to go to $200,000 so that they can have $22,000 of income a year and never lift a finger? Meanwhile that farmer out there, on his $185,000 farm, is making $8,000 or $9,000 or $10,000.

I say to you who are not farmers or do not know what farming is all about, our farmers average slightly above the minimum wage—and the wife works and the kids work and it is 7 days a week if you are milking cows; 365 days a year.

SUMMARY

The enactment of an overall tax reform bill, and estate and gift tax reform in particular, is long overdue. We hope that can come about in the present Congress so that all taxpayers, and especially hard-pressed owners of family farms and small businesses, can receive meaningful relief in the estate tax field without further delay.

Our amendment is an equitable proposal. It is fairer to the liquid estate than it is to the farmer and the businessman. It saves $1,100 million. For Heaven's sake, let us pass it.

Mr. President, I ask unanimous consent that a summary of the technical provisions of the bill be printed following my remarks.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

TECHNICAL SUMMARY OF NELSON-BROCK-PACKWOOD SPLIT CREDIT PROPOSAL

1. Amount of credit proposed and comparisions with Finance Committee and present law:

	Amendment		Finance Committee		Present law	
	Credit	Eq. exemption	Credit	Eq. exemption	Credit	Exemption
Family farms and small business	$50,000	$200,000	$50,000	$198,000		$60,000
All other property	26,700	120,000	50,000	198,000		60,000

2. What property would qualify for the additional credit: Property must be "an interest in a qualifying small business" and also be at least 65% of the adjusted gross estate of the decedent. This is a higher standard than existing law for deferrals (Sec. 6166) which is 50% of taxable estate or one-third of gross estate.

3. Computation of additional credit: Would be pro-rated in proportion to the percentage which the small business or farm is of the entire estate, e.g., the additional credit would apply only to small business property and not extend to non-qualified general assets.

4. Definition of small business: "Small business" is defined by Section 6166(c), already in the Code, which generally is limited to a sole proprietorship or a partnership or corporation with less than 10 owners.

5. Definition of family farm: A family farm must be operated by a family, and would further be required under existing law (Sec. 183) to make a profit 2 out of 5 years.

6. Requirements of active conduct of the business: Passive investors would be disqualified because the Amendment requires that the business or farm be the principal employment of the decedent for 5 of the 8 years ending with his death.

"Principal employment" leaves flexibility for further definition by regulation as to possible criteria—receipts, time spent, etc.

7. Taker must be qualified heir: The Amendment requires that the small business or farm must be passed on to a member of the family in order to qualify for the extra credit.

8. Farm houses: Farm houses are eligible for the additional credit if occupied on a regular basis by a qualified decedent.

9. Recapture: The tax relieved by the additional credit is recapturable if the heirs dispose of one-third of the business or farm assets.

The recapture is phased out over 10 years, e.g., after 5 years, one-half the additional tax would be due.

There must be a formal agreement to this by the heirs, and a special lien to cover the interests of IRS.

10. Technical amendments: There are numerous conforming amendments, such as adjusting the filing requirement to $120,000, covering non-residents, etc.

11. No phase-out of additional credit: The farm or small business credit does not phase out above $1 million (as in Chairman Ullman's original bill) or $300,000 of taxable estate (as in the Nelson-Packwood bill, S. 3139).

The credit itself contains an inherent phase-out of effect because the credit proposed by the Amendment covers a fixed dollar amount of tax which becomes a smaller and smaller fraction of the tax due from larger estates.

REVENUE COMPARISONS

[In millions of dollars]

	1977	1978	1979	1980	1981
Finance Committee		−1,042	−1,367	−1,688	−2,006
House bill	−15	−615	−803	−982	917
This amendment:[1]					
Cost of split credit only		−803	−803	−803	−803
Total cost of Finance committee bill including split credit		−880	−880	−880	−880

[1] Assuming full effect felt in 1978, 12 months after executive date.

Mr. RIBICOFF. Mr. President, I think this is a very simple issue: We want to treat everybody the same. The Committee on Finance is more than willing to give this estate tax credit to the farmers and small businessmen. All we are saying is, treat everyone in America the same way. Last year, there were 157,000 estates that filed estate tax returns. The amendment offered by the Senator from Wisconsin would benefit 2,800 out of that 157,000. The other 154,200 estates would be excluded. We can quote any economist who gets a model, an example, and extrapolates from there. But that is why this country is in so much trouble, because economists are so consistently wrong.

We are here as legislators. We are here to do equity. We represent all people—not only farmers and small businessmen. We represent all our constituents. And for the life of me, I do not know how we can go home to our respective States and say, yes, we are willing to give a tax break on estate taxes to farmers and small businessmen. We want to do the same for every other American family. Certainly, the farmer and the businessman is not going to get mad at us because we are taking care of his neighbor across the street who is not a farmer and small businessman. But woe befall all of us if we get into a situation where we go home and say, we are only taking care of 2,800 families out of 157,000.

It is a question of fairness; it is a question of equity; it is a question of democracy. That is what the issue is here today, to take care of all people with an estate the same size and not just a small percentage of the American people.

Mr. CURTIS. Mr. President, will the Senator give me 2 minutes?

Mr. RIBICOFF. I am pleased to do that.

Mr. CURTIS. Mr. President, I rise to support the position stated by the distinguished Senator from Connecticut. That is the position of the Committee on Finance. In considering estate taxes, we cannot discriminate between occupations. It is true that in the speeches, we have talked about farms a great deal, because inflation has been so dramatic there. But there are many people faced with a serious problem, people of modest means. Someone may live in a city and think their house is worth $30,000, but with inflation, it may be worth $80,000. If they have $100,000 in life insurance and the cash value of their retirement program for estate purposes is $20,000, and they have $50,000 in other property of all kinds which they die and leave a spouse, they would owe almost $11,000 in estate tax.

It was never intended to reach such people. The estate tax was enacted more or less for social purposes, among other things, the tax on the large estates.

Inflation and added prices, the growth of the enocomy, has put everybody in that.

The Congress should grant some relief. We should not confine it to farmers and small businessmen.

In the first place, it is full of mischief. Someone may retire and on a technicality they are out, and their neighbor is in.

No one can decide when he is going to die, or the condition of his estate.

One estate might have a situation where the property was sold, the money was in the bank. Their neighbor has another property that was not sold and still qualifies as a farm. Yet the two widows would be called upon to pay a different tax.

The questions that were raised about whether someone was retired, or being in a nursing home, are all pertinent because they are situations that could arise. They could even take the benefits away for people that were not farming.

So the answer is to do what ought to be done. Grant some estate tax relief for everybody. It is long overdue.

Incidentally, it is not a tax expenditure.

The PRESIDING OFFICER. The Senator's 2 minutes have expired.

Mr. CURTIS. These people worked for this property. It is theirs. It is for us to decide how much we should tax as a fair contribution to the cost of government.

The PRESIDING OFFICER (Mr. STONE). Who yields time?

Mr. NELSON. Mr. President, I am prepared——

Mr. KENNEDY. Mr. President, the Senator, as I understand it, has some remaining time.

Mr. NELSON. How much time do I have left?

The PRESIDING OFFICER. The Senator has 9 minutes remaining.

Mr. NELSON. I yield whatever time the Senator desires.

Mr. KENNEDY. I think I had 5 minutes. But I want to have it in my own right.

Mr. President, I yield myself 3 minutes on this.

I have sent an amendment to the desk. It is a perfecting amendment. As I understand the parliamentary situation it will be considered prior to the Nelson amendment, am I correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. KENNEDY. Fine.

Mr. President, I agree completely with much of what Senator NELSON has said and I support the extraordinary work that he has done in this particular area, changing the deduction to a credit and expanding the credit and extending the credit for farms and small businesses.

But, what he has done in this amendment, in effect, is double the credit for all people and triple the credit for the farmers and the small businessmen.

The only difference between my amendment and the Nelson amendment is that I limit the increases strictly to the farmers and the small businessmen. That is the only difference between my amendment and the amendment of the Senator from Wisconsin (Mr. NELSON). Otherwise, it is exactly the same in terms of numbers and in terms of figures.

We have listened here during the discussion and debate today to what is equitable and what is fair and how we ought to have a uniform standard that should be applied to all.

If there has even been a case during a discussion and debate on this whole bill where it is the tail wagging the dog, it is on this particular amendment, because under all three proposals, Nelson amendment, my amendment, and the committee amendment, the same relief goes to the farmer and small businessman, and it costs $121 million under all three proposals. The difference is in who else benefits. Under my amendment, no one else benefits. The Nelson amendment gives away $1 billion in relief to others who are not farmers or small businessmen, and the committee amendment gives away $2 billion. The only reason we are debating any estate tax relief at all is the need to help small business and farmers. But farmers and small business have become the excuse for huge giveaways of Treasury dollars to those who do not need them or deserve them.

The rest of this goes to the top 7 percent of the wealthiest estates in this country. Only $121 million goes to the farmer and the small businessman. But billions go to other wealthy estates.

I am for relief for farmers and small business. I think that case has been made, and it has been well stated by the Senator from Wisconsin, with whom I agree 100 percent.

But I fail to see why, just because a case is made for $121 million in tax relief for farmers and small business, we have to give away billions to those for whom no case has been made. This relief is for the wealthiest 7 percent of estates in America.

We have to ask ourselves, is that how we want to give away the difference in funds between the Nelson amendment and my amendment, the difference between $1 billion and $100 million?

We can think of a number of other taxes which exist at the present time, like the social security tax, which has increased even more than the estate tax over the past few years. We could say as a matter of fairness and equity we ought to try to give some tax relief to those who pay the social security tax, the millions of low and middle income workers of America.

The PRESIDING OFFICER. The Senator's 3 minutes have expired.

Mr. KENNEDY. I yield myself 2 more minutes.

Mr. President, the chart on display makes the case which I was attempting to state.

Under the present $60,000 exemption, fully 93 percent of all estates are already exempt from the estate tax.

Under the $150,000 exemption, which was the original Ford administration proposal, 98 percent of the estates will be exempt. Only 7 percent of estates pay any estate tax now, and only 2 percent will pay it if a $150,000 exemption is adopted.

But the Finance Committee goes the Ford administration one better. Under the committee bill, the exemption has been increased to $200,000.

So probably only 1 percent or 1.5 percent of the richest and wealthiest Americans will be paying any estate tax at all. I differ with those who say, "Let's set one standard fairly, one standard equitably, and let's just have one level." The case has not been made for this massive tax relief. It has been made for the farmer and the small businessman, but not for the rest.

A final point, Mr. President. There has been a very interesting study by the Filer Commission, which has done detailed work on the incentives for people to make significant charitable contributions as a part of estate planning and as part of estate gifts.

The Commission raises significant questions. If we provide this dramatic increase in the exemption, it may have serious implications for charitable contributions and donations in this country. Since many wealthy persons will be exempted from the estate tax, they will be less likely to give to charity. I think that is not an insignificant factor since so many of the great churches, universities, and other institutions depend upon charitable bequests. They may well get less resources.

Mr. RIBICOFF. Mr. President, I yield myself 2 minutes.

The Kennedy amendment is even worse than the Nelson amendment. Much worse. At least the Senator from Wisconsin would allow nonfarmers and nonsmall businessmen a credit of $26,700, the equivalent of a $120,000 exemption.

But the Kennedy amendment, while granting farmers and small businessmen the equivalent of $197,000 exemption, would keep everyone else at the $60,000 exemption.

Talk about unfairness. Talk about discrimination. Talk about sheer nonsense. That is the Kennedy amendment.

Mr. HARRY F. BYRD, JR. Will the Chair state how the time situation is on each of the amendments?

The PRESIDING OFFICER. On the Nelson amendment, the Senator from Wisconsin has 9 minutes remaining, and the opponents of the Nelson amendment have 4 minutes remaining.

Mr. HARRY F. BYRD, JR. And on the Kennedy amendment, all the time has been utilized or yielded back, is that correct?

The PRESIDING OFFICER. On the Kennedy amendment, the opponents have 5 minutes, the proponents have no further time.

Mr. RIBICOFF. Mr. President, I will be pleased to yield back the remainder of my time. I am ready to vote.

Mr. CURTIS. May I have a minute?

Mr. NELSON. Would the Senator from Connecticut yield me 1 minute?

Mr. RIBICOFF. Certainly. And 1 minute to the Senator from Nebraska.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. NELSON. The Senator from Massachusetts makes very compellingly exactly the argument I made.

In this proposal that we drafted and put together to say that we discriminate in favor of the liquid estate, there is no doubt about it, that the discrimination is not to the farmer but to the liquid estate. There is no way to get this passed, in my judgment, without this kind of package. In the House Ways and Means Committee it was lost 19 to 18.

Philosophically, it does not bother me too much for a parent to leave $120,000 tax free, but beyond that I, at least philosophically, would not want to go. Though I agree with the arguments that have been made, I am going to vote against it anyway.

Mr. CURTIS. Mr. President, Senators should be aware that the Kennedy proposal would have a mixture of a credit and exemption, which will be very complex, and certainly tax simplification in the reverse. It will narrow decision as to value or narrow decision as to occupation. Again I say we should support the position of the distinguished Senator from Connecticut, which is also the committee bill, because that is where everyone will need to make no apology to the people back home.

Mr. RIBICOFF. Mr. President, I yield back the reminder of my time and ask for the yeas and nays on the Kennedy amendment——

Mr. HUMPHREY. Before we go to the vote on both of these amendments, Mr. President, I want to have a word.

Mr. NELSON. I have 9 minutes left. Do we want to vote on the Kennedy amendment?

Mr. HUMPHREY. I would like to have about 2 minutes.

Mr. RIBICOFF. Let us give him the 2 minutes.

Mr. HUMPHREY. I will take the 2 minutes.

Mr. NELSON. I will yield from my 9 minutes whatever time the Senator wants.

The PRESIDING OFFICER. Does the Senator from Connecticut ask for the yeas and nays?

Mr. RIBICOFF. Yes.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that it be in order to ask for the yeas and nays on both amendments with one show of hands.

The PRESIDING OFFICER. Is there objection? Without objection it is so ordered.

Mr. RIBICOFF. Mr. President, I ask for the yeas and nays on both amendments.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. RIBICOFF. And I ask for a 10-minute time limitation on both votes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senate is not in order.

The Senator from Minnesota.

Mr. HUMPHREY. Mr. President, I rise primarily for one purpose. My esteemed colleague, the Senator from Minnesota (Mr. MONDALE) is very active in the matter of improving and increasing the exemption on what we call estate taxes. We held hearings in the State of Minnesota on this very subject. We took extended testimony from farmers from several States and independent businessmen. The body of the recommendations of those hearings is in the Nelson amendment. The Nelson amendment gets at the problem that faces the economy today on estate taxes.

I have heard the argument here that it ought to be uniform. Mr. President, if there is any one thing that this tax debate has demonstrated, it is that there is nothing uniform about tax law, not one thing. We treat airlines differently than we do trucks, and we treat certain types of income differently than we do others.

This tax system of ours is riddled with disparities and variations of every conceivable kind. The income tax itself does not treat incomes alike. It is perfectly obvious that if you are a person of higher income you pay a higher percentage of tax. The tax laws that relate to small business as well as large corporate businesses actually are somewhat different. So the argument of uniformity falls by itself.

If we should say that everyone is entitled to $200,000 equivalent in tax exemption on estate taxes, if we are going to do that, why not say that every farmer and every businessman is entitled to get the extra tax credit we gave the airlines the other day? Why not? We have been voting extra little things all day long, and not all day but all month.

This bill is filled with the greatest variety of exemptions of alternative tax proposals that we could ever think of. It has more suggestions on taxes than Sears, Roebuck has on commodities. Yet we are told we ought to have uniformity. Uniformity does not apply here at all.

The question is very simple: Do we want to have an estate tax program that fits into the needs of the particular sector of this economy? Those needs relate to the farmer who is a productive citizen, to the small businessman, who is an independent entrepreneur, neither one of whom have benefited very much by the tax program as compared to some others. They get no special consideration as, let us say, a mining company does. They get little or no special consideration, as a railroad does. And yet we vote here to give railroads special tax credits. We vote here to give airlines special tax credits. We talk about recycling companies, and give them special tax credits. Nobody said that everybody got those.

All I am saying is that the Nelson amendment does not fall on its face. It helps the people it needs to help. It still gives those who have liquid estates $120,000 or the equivalent of $120,000 tax free exemption.

I think there can be an argument made that we ought not to do that, but I think that is a fair proposition. Anyway, it is the only one that is going to pass around here. That is the first thing we learn in the Senate of the United States.

More than that, it saves revenue at a time this bill needs some revenue and it gives the relief, at least in part, to those who desperately need it.

I cannot buy the idea that the way we are going to get that $200,000 from Mr. Big is if we saddle it on the back of the little guy and say, "We are going to help the farmers, the orphans, the little independent businessman" and in the meantime we help somebody who does not need the help at all.

Mr. President, when Congress established the skeleton of today's system in 1942, the present $60,000 exemption of taxable estate income was fair across the board. But since then, consumer prices have jumped by 347 percent. Now that leap in prices has introduced an uncorrected relative burden on family businesses and farms.

For those who hold financial assets—bonds, for instance—inflation is usually accounted for in the rate of return earned. For example, since 1947 the current yield on AAA corporate bonds has jumped from 2.61 to 8.83 percent.

But when wealth is held in productive physical assets, such as the capital of stores or farms, the physical productivity of the assets has probably increased only a little. The primary accounting for inflation has been in appreciation of the value of the assets themselves. Industrial machinery and equipment costs 380 percent more than in 1942. Therefore, an unchanged exemption creates an increasing disparity between the effective rate of real taxation of financial and of productive physical assets.

On August 26, 1975, I, as chairman of the Joint Economic Committee, and Senator MONDALE, of the Senate Select Committee on Small Business, held field hearings in Minnesota, as I said earlier, to determine the impact of the Federal estate and gift tax laws on small business owners and farmers. Farmers, small business owners, and estate tax experts told us how the present Federal estate and gift tax laws were undermining the efforts of the small entrepreneur. They also suggested necessary reforms that would make these laws more equitable.

Gerhard Ross, a family farmer from Fisher, Minn., explained how the paper value of his farm had grown precipitously over the past 4 years. In 1971, his farm's net worth was $242,000. He told us that:

> Largely due to the increase in crop prices and inflation of land and machinery values, my net worth jumped to $480,000 on January 1, 1974, and to $709,000 on January 1, 1975.

He went on further to explain the potentially disasterous estate tax consequences of his farm's paper value growth:

> The estate tax at this point in time is estimated at $115,000 if I die first and over $280,000 if my wife dies before I do. The net cash outflow could not be met from operating cash and a selloff would be required. It is doubtful any banker would advance my son, age 19, the necessary capital to pay my estate taxes.

John Kraft, an attorney from Olivia, Minn., added to our understanding of the farmer's plight. He, too, discussed the problem of inflated land prices. He estimated that the market value of land in Renville County, Minn., had increased 100 percent in the last 4 years.

He also discussed the farmer's unique financial position. He explained that 95 percent of the farmer's wealth is tied up in production assets. Mr. Kraft pointed out that—

> . . . farm land is a liquid asset from the point of view of obtaining immediate cash if the necessity arises, but this, of course, means the dissolution of a farm operating unit.

Cy Carpenter, President of the Minnesota Farmers Union, summed up well the need of the family farmer for reform of Federal estate and gift tax laws. He argued that farmers—

> . . . need a situation that will not require them to either obligate their operation by debt piled on top of their normal operation debt to meet an inheritance tax. Or even worse, require liquidation of all or part of their property to meet the tax assessed against their inheritance or that of other members of their family who must help to continue a single family-farming operation.

The dilemma of the small business person is quite similar to that of the family farmer. The Joint Economic 1976 Annual Report demonstrated that small business has to rely much more heavily than big business on short-term bank financing. Firms with assets under $10 million had 41 percent of their debt in short-term bank loans in the third quarter of 1975. But, at the same time, businesses with assets of $100 million to $250 million had a comparatively low 23 percent of their debt in short-term bank loans. Given the nature of small business' heavy reliance on short-term debt financing, the burden of more short-term borrowing to pay estate taxes levied on a small business could have disastrous effects on the firm's ability to operate.

If a small firm's indebtedness is especially heavy, additional borrowing to pay Federal estate taxes may not be possible. In that case, sale of the small business would be required. The prospect of such a sale had led many who own small businesses to sell out well before death to larger corporations in order to convert their relatively illiquid small business asset into a more liquid one.

Lloyd Cherne, president of Cherne Industrial, Inc., of Edina, Minn., told us how representatives of acquisition-minded large companies pointed out to owners of small ones that if they died while holding their stock, they would never be able to pay their estate taxes. Mr. Cherne admitted that—

> The big company boys were correct and they had a hot sales point going for them. In fact, once a year we have our national pollution convention. . . .
>
> There will be at least two or three that will walk by all 400 booths asking us if we want to sell. And they know what they've got going for them.

Certainly, the situation described by Mr. Cherne has played a role in a wave of business mergers that peaked at a historically high 6,123 combinations in 1969.

The tax reform bill would provide a similar-sized exemption of taxable estate income for all taxpayers. This is inappropriate. Small businessmen and farmers face unique estate problems—problems of liquidity not faced by the vast number of taxpayers. For that reason, Senator Nelson's amendment deals realistically with most taxpayers in doubling the current exemption to $120,000 of taxable estate income. Frankly, there is no justification for raising this exemption to $200,000 for everyone. Small businessmen and farmers have special and unique problems and the $200,000 exemption is needed to meet their unique circumstances.

Mr. President, I hope we vote for the Nelson amendment. I have to tell my good friend from Massachusetts I cannot support his amendment but I do hope we will support the Nelson amendment.

Mr. YOUNG. Will the Senator yield 2 minutes to me?

Mr. NELSON. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator from Wisconsin has 5 minutes left.

Mr. NELSON. How much time does the opposition have?

The PRESIDING OFFICER. The Senator from Connecticut has 4 minutes left.

Mr. RIBICOFF. I will yield to the Senator as much time as he wants.

Mr. YOUNG. Maybe I should speak up since there are only three or four Members of the Senate who are farmers. I farmed all my life and lived on a farm for 47 years. I have no other business. My three sons are farmers.

Let me mention the problem we have with the Nelson amendment, as I see it.

Mr. RIBICOFF. May we have order in the Chamber, Mr. President?

Mr. YOUNG. Much of the farm property is owned by someone who is retired. Unless he were an operator himself, as I understand it, his estate could not have the exemption when he passed this on to his son or his family. I think that is a serious defect in the Nelson amendment, though it is well intentioned.

Mr. NELSON. Will the Senator yield?

Mr. YOUNG. Yes.

Mr. NELSON. On my own time, I would like to point out to the Senator my amendment has nothing to do with the problem he raised. Senator Long, Senator Ribicoff, and the Finance Committee all agree on the farm and small business estate definitions. Whatever problem there is about that is a problem that has been considered by the Finance Committee, Senator Long, and Senator Ribicoff.

My amendment addresses itself solely to the liquid estate. Any problem the Senator raises about the business or farm sectors is applicable to the Finance Committee bill, because that is where it is. My amendment has nothing to do with that.

Mr. RIBICOFF. I say in answer that if you were not actually an operator of a farm 5 of the last 8 years, you would be excluded from the Nelson amendment.

Mr. YOUNG. That is the way I understood it.

Mr. RIBICOFF. The Senator is absolutely correct.

Mr. NELSON. The Senator's facts are in error on that.

Mr. PACKWOOD. Mr. President, if the Senator will yield, I will read the language. The Senator from Wisconsin is right; they are wrong.

Mr. NELSON. It is in the Finance Committee bill.

Mr. PACKWOOD. Our amendment specifically says—and again, the same definition applies to small businesses:

> The term "family farm" means a farm actively engaged in raising agricultural crops or livestock for profit, within the meaning of section 183, if the decedent and his relatives have been actively involved in the operation of the farm for periods aggregating 5 years within the 8 year period ending on the date of the decedent's death.

If you are disabled, if you are in a nursing home, if you are 60 years old and desire to retire, and live to be 93, and your son or brother-in-law farmed it for the last 35 years, you still get your qualification; you still have the benefit.

So have no fear that some people who own a farm but have turned it over to a son or daughter to farm are going to be treated differently from one who farms it up until the day he dies. They get the same treatment.

Mr. CASE. Mr. President, will the Senator yield briefly to me?

Mr. RIBICOFF. I yield to the Senator from New Jersey.

Mr. CASE. Mr. President, I have listened to all this debate. I cannot think anything but that this is the wrong way, utterly the wrong way to try to help either a farm enterprise or a small business. It operates arbitrarily; it cannot do justice as between the farmers themselves; and it does great injustice to all the people who are not farmers or small business people, but who need this relief just as much.

The amendment is well-intentioned, I am sure, and it is perceived to be very beneficial by people with a certain special point of view, but for the average American—and I hope I am one—certainly this is absolutely the epitome of injustice and unfair treatment to the great majority.

AMENDMENT NO. 2168

The PRESIDING OFFICER. Does the Senator from Massachusetts wish to offer his amendment?

Mr. KENNEDY. Yes. I call up my amendment.

The PRESIDING OFFICER. The clerk will state the amendment.

The assistant legislative clerk read as follows:

> The Senator from Massachusetts (Mr. Kennedy) proposes an amendment numbered 2168.

Mr. Kennedy's amendment (No. 2168) is as follows:

> On page 2, line 2, strike out "decedent." and insert in lieu thereof the following: "decedent—
>
> "(1) with respect to the estate of whom an election is made under section 2032A (relating to valuation of cetrain farm, etc., real property), or
>
> "(2) whose estate is eligible for an extension of time for payment of estate tax under section 6166.".
>
> On page 2, strike out lines 7, 8, and 9 and insert in lieu thereof the following:
>
> "(2) Specific exemption.—Section 2052 (relating to specific exemption for purposes of the estate tax) is amended by adding at the end thereof the following: "This section

does not apply in the case of an estate to which the credit provided by section 2010 is allowed.".

On page 2, beginning with line 12, strike out through line 3 on page 3, and insert in lieu thereof the following:

"(A) CREDIT FOR ESTATE DEATH TAXES.—Section 2011(b) (relating to credit for State death taxes) is amended by adding at the end thereof the following new sentence: 'For purposes of this section, in the case of an estate with respect to which the credit provided by section 2010 is allowed, the term "taxable estate" means an amount equal to the sum of $60,000 and the taxable estate'.".

On page 3, strike out lines 9 through 22, and insert in lieu thereof the following:

"(C) CREDIT FOR TAX ON PRIOR TRANSFERS.—

"(i) The first sentence of section 2013(b) is amended by inserting ', and, in the case of an estate with respect to which the credit provided by section 2010 is not allowed,' after 'estate and'.

"(ii) Subparagraph (A) of section 2013 (c) (1) is amended by inserting '2010,' after 'sections'.".

On page 4, line 5, by inserting after "section 2101" the following: "in the case of an estate which, if it were the estate of a resident United States citizen, would be eligible for the credit under section 2010.".

On page 5, strike out lines 9, 10, and 11, and insert in lieu thereof the following:

Paragraph (3) of section 2106(a) (relating to specific exemption in case of decedents nonresidents not citizens) is amended by adding at the end thereof the following:

"(C) EXCEPTION.—This paragraph does not apply in the case of an estate to which the credit provided under section 2102(c) is allowed.".

On page 5, strike lines 17 through 24, and insert in lieu thereof the following:

"(G) LIABILITY OF LIFE INSURANCE BENEFICIARIES.—The first sentence of section 2206 (relating to liability of life insurance beneficiaries) is amended by inserting ', in the case of an estate with respect to which the credit provided by section 2102 is not allowed,' after 'taxable estate and'.".

On page 6, strike out lines 1 through 10, and insert in lieu thereof the following:

"(H) LIABILITY OF RECIPIENTS OF CERTAIN PROPERTY.—The first sentence of section 2207 (relating to liability of recipient of property over which decedent had power of appointment) is amended by inserting ', in the case of an estate with respect to which the credit provided by section 2102 is not allowed,' after 'taxable estate and'.".

On page 6, beginning with line 11, strike out through line 25 on page 7.

On page 7, line 1, strike out "(J)" and insert in lieu thereof "(I)".

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Massachusetts.

Mr. KENNEDY. Mr. President, may I have 1 minute?

Mr. NELSON. I yield the Senator 1 minute.

Mr. KENNEDY. Just on the final point. With all respect—and my respect for him is very considerable—to the Senator from New Jersey, under the proposal of the Senate Finance Committee, 99 percent of the estates of this country will pay no tax.

The Senate Finance Committee amendment is going to represent $2 billion in additional costs. In the hearings, as the Senator from Wisconsin pointed out, the case has been made for the family farmer and the small businessman. To remedy that, the cost is $121 million.

I wonder why we have the tail wagging the dog? I think we ought to provide relief for those people, but I fail to understand why we ought to provide it also for wealthy Americans for whom the case has not been made—who happen to be in the top 7 percent of the estates in this Nation when we have had so many increases in social security taxes, and other taxes, why are we cutting estate taxes first? That ought to be our last priority.

That is the principal difference. The committee bill represents $2 billion, the Nelson amendment $900 million, and the Kennedy amendment $121 million. But they all achieve exactly the same thing for the small family farmer and the small businessman. The question is, how much should we provide for everybody else? I say, "nothing," because they are already in the richest 7 percent of the population, and their present estate tax burden is not unfair.

Mr. President, I ask unanimous consent to have printed in the Record the chapter from the Surrey-Peckman compendium on this issue.

There being no objection, the material was ordered to be printed in the Record, as follows:

INCREASING THE ESTATE TAX EXEMPTION

The case for not increasing the present $60,000 estate tax exemption is easily stated. The exemption already removes almost 93% of the population from payment of any estate tax. To increase the exemption is to give tax relief to the wealthiest 7% of the families in this country at the same time that the President is asking the poor to pay more social security taxes.

Increasing the exemption to $200,000, as some have proposed, would cut off almost half the revenues from the tax and would mean that less than 1% of decedents would be subject to it. Before World War II, estate and gift taxes produced 7% of federal revenues. By fiscal 1975, this already had been allowed to fall below 2%, or less than $5 billion, and there is no reason to allow the yield from these taxes to fall further.

The estate tax is an ideal source of federal revenue because it combines reliance on ability to pay with the least possible interference with taxpayers' incentives to work and invest. It allows the taxpayer to enjoy his wealth in any way he chooses while he lives and only comes into play when he can enjoy it no more.

If the estate tax bears too heavily on particular estates because of the kinds of assets they include or because of the persons to whom they will pass, the appropriate way to deal with the problem is to tailor relief to the cases in which it is needed. An increase in the exemption is a blunt instrument to deal with particular problems because it gives relief to all estates, without regard to size or the character of the assets and without regard to the needs of the beneficiaries for support from the decedent's wealth.

A. SUBSTITUTING A CREDIT FOR THE EXEMPTION

It is sometimes suggested that a credit be substituted for the exemption. This would mean that instead of taking the exemption off the highest bracket applicable to a given estate, it would be taken off the bottom brackets by giving each estate a credit for the tax produced by such bottom brackets. For example, an estate of $120,000 is taxed on $60,000 today and the tax is $9,500 (before deducting any credit for state death taxes). It would be desirable to substitute a credit of $9,500 for the present $60,000 exemption in order to limit the benefit for large estates. An estate in the top 77% bracket saves $46,200 from the exemption and would save only $9,500 if a credit were substituted in place of the exemption.

The following discussion is equally applicable to proposals to substitute a credit for the present exemption if such credit is larger than the tax on $60,000.

B. ARGUMENTS MADE FOR INCREASING THE EXEMPTION (OR CREDIT)

In the current discussion of the estate tax, the major reasons usually given for increasing the exemption are:

1. To reflect the inflation that has occurred since the $60,000 figure was set in 1942;
2. To relieve the burden on estates which include farms or small businesses which otherwise may have to be sold to pay the tax;
3. To reduce the tax for small or "moderate" estates;
4. To free executors of small estates from the necessity of preparing estate tax returns and undergoing audits by the IRS.

None of these arguments justifies an increase in the exemption.

1. Inflation

Secretary Simon testified before the House Ways and Means Committee on March 22, 1976, that adjusting the $60,000 exemption for inflation since 1942 would require that it be increased to $210,000. The Secretary doubtless is accurate with respect to the change in the purchasing power of money during this period. But it does not follow that a corresponding change in the exemption is called for.

There was no magic about the $60,000 figure when it was adopted as part of the Revenue Act of 1942 and no reason to believe it received any extended consideration by Congress. A committee report notes cryptically that prior law provided a $40,000 exemption plus an additional $40,000 exemption for life insurance, for both of which a single exemption of $60,000 was substituted.

Even if it is assumed that $60,000 was right in 1942, it doesn't follow that it would be right today after adjustment for inflation. Thus, the adoption of the marital deduction in 1948 already has provided a doubling of the amount a married taxpayer may leave his spouse free of estate tax. Moreover, since proposed changes in the marital deduction would free nearly every spouse from estate tax; the size of the exemption can only affect other family members, generally adult children. The size of the exemption should therefore turn on the desired coverage of the estate tax. There is no reason to reduce that coverage below today's level.

2. Farms and Small Businesses

A large part of the pressure for an increase in the estate tax exemption is from owners of farms and small businesses who fear that the tax will lead to forced sales of these assets. But an increase in the exemption is a wasteful and ineffective way to deal with any specialized problems created by these assets. If the problem is avoiding forced sales because of lack of liquid assets to pay the tax, the appropriate solution is not an increase in the exemption, which benefits liquid estates as well as those which are not, but rather more liberal provisions for deferred payment of the tax.

If the problem is limiting the value of farm land for estate tax purposes so as not to force its conversion into other uses, one preferable solution has already been suggested based on the transfer of development rights to the Secretary of Agriculture or to a state or local government or charitable organization. After such a transfer, development of the land for commercial or residential purposes would not be permissible and it would be valued for estate tax purposes without considering such potential uses. Any owner who wished to develop the land after development rights had been granted would have to reacquire such rights by paying the amount of estate tax foregone by the government, with interest. This approach would limit estate tax relief for farms to those which are kept out of commercial or residential development, and would continue such relief only so long as development did not occur. It would be far less costly than an increase in the exemption, which applies to all estates, whether or not they include any farm land.

The alleged problems of closely-held businesses under the estate tax have been greatly exaggerated in the pressures to increase the exemption. The estates involving closely-held businesses are able to handle the estate tax in a variety of ways: 1) Installment payment of estate tax; 2) The use of section 303 to redeem stock and thus take funds from the corporation to pay the estate tax; 3) The owners of most closely-held businesses carry insurance to provide liquidity for estate tax purposes—there is no shortage of insurance salesmen to point out the advantages of this coverage; 4) Many closely-held businesses recapitalize to provide two classes of stock—the voting stock is preferred stock and owned by the older family members and most of the value inherent in business escapes estate tax altogether by being transferred by way of gift to the children of the non-voting common stock.

3. Small or moderate estates

It is sometimes said that the exemption should be increased in order to reduce the burden on small or moderate sized estates. In view of the fact that only 7% of the population leaves any taxable estate at all, it is difficult to justify classifying any of such estates as small or moderate.

Another version of the same argument focuses not on the size of the estate, but rather on the family responsibilities of the decedent. It is said that a father who leaves a widow with young children to support cannot make adequate provision for them without incurring an estate tax. But the most effective way to give relief in this situation is to increase the maximum marital deduction, for example, to $100,000 plus one-half the adjusted gross estate, and to provide additional relief for estates whose beneficiaries include minor children of the decedent. Such selective relief is far more appropriate and far less expensive in lost revenues than giving all estates a higher exemption.

4. Freeing executors of small estates from filing requirements and audits

Preparation of the present estate tax return (Form 706) is admittedly a time-consuming task for the executor of a $60,000 estate. But reducing that burden does not require an increase in the exemption. The IRS has developed simplified income tax returns for wage earners whose income is from relatively few sources and it would be possible to develop a short-form estate tax return to ease the filing requirements in uncomplicated estates. Again, an increase in the exemption is an expensive way to accomplish the desired result.

Mr. KENNEDY. Mr. President, I am prepared to vote.

The PRESIDING OFFICER. Is all remaining time yielded back?

Mr. NELSON. I yield back the remainder of the time on my amendment.

Mr. RIBICOFF. I yield back the remainder of my time.

Mr. MUSKIE. I would ask the distinguished Senator from Massachusetts a series of questions concerning the estate tax and the impact of his proposal. First, I would ask who pays the estate tax now?

Mr. KENNEDY. Only the wealthiest individuals in the country. In 1974, only 7 percent of the decedents paid any estate tax. The present $60,000 exemption thus already insures that 93 percent of estates incur no Federal estate tax liability. Increasing the estate tax exemption to $197,000 would mean that only 1 percent of estates would pay any Federal estate tax. It is anomalous that the wealthiest country in the world now imposes an estate tax on such a small percentage of its wealthiest citizens. It is even more anomalous that an effort is under way to drastically reduce even this low percentage. In this period of severe budget pressures, a proposal to provide estate tax relief for the wealthiest families in the country reflects the wrong priorities.

Mr. MUSKIE. What would be the impact of the committee amendment in terms of lost revenue?

Mr. KENNEDY. The committee proposal would cost $2.2 billion annually. This would mean that the revenue yield of the estate tax would be reduced by 30 percent—from $7 billion to $4.8 billion. The committee proposal would reduce by almost one-third the effectiveness of a tax designed to limit the transfer of excessive accumulations of wealth in the country.

Mr. MUSKIE. Would the committee amendment have any adverse impact on charitable bequests?

Mr. KENNEDY. I believe the committee amendment could result in a significant reduction in bequests to charitable organizations. The recent report of the Filer Commission on Private Philanthropy and Public Needs indicates that charitable bequests—especially bequests to colleges and universities and social welfare organizations—are highly responsive to tax rates. If so, the proposed increase in the estate tax exemption would mean that decedents with taxable estates up to $197,000 would have no tax incentive to make bequests to charities. Yet, the decedents who will primarily benefit from the committee proposal account for almost one-third of the total current bequests to charity. Thus, the committee's proposal may reduce future charitable bequests by significant amounts, at a time when charities cannot afford the loss.

Mr. MUSKIE. Does the distinguished Senator from Massachusetts believe the committee amendment with its multi-billion-dollar revenue cost is necessary to preserve family farms and small businesses?

Mr. KENNEDY. No; I do not. Very little of the tax relief under the committee proposal would actually go to farmers and small business persons. Over 70 percent of estate assets consists of publicly traded stock in large corporations. Thus, the committee proposal primarily benefits wealthy stockholders. To assist small farms and small businesses, it is neither necessary nor desirable to provide an across-the-board reduction in estate taxes for others. Farms and small businesses deserve relief. No farm or small business should have to be sold to pay estate taxes. My amendment would provide the same full relief as the committee proposal for farms and small businesses, but it would eliminate the unjustified benefit for others. In both cases, reforms can be achieved without destroying the principle of a fair estate tax, without providing unnecessary windfalls to the wealthy, and without adding to the Federal budget deficit.

Mr. MUSKIE. I would ask the Senator one final question concerning the committee amendment. Is it justifiable as a measure to correct the estate tax exemption for inflation?

Mr. KENNEDY. No; it most certainly is not. The historical reasons for the $60,000 exemption do not necessarily require the level to be indexed for inflation. Just because the exemption was set so that the estate tax covered only 2 percent of estates up to 1950 does not mean that only 2 percent should be covered today. As with other proposals for indexing and inflation adjustments, the move would benefit only the wealthy—it would not in any way help others of more modest means, whose assets and income have also declined in real value as a result of inflation.

Mr. MUSKIE. I thank the Senator for his clear responses which I find convincing. I believe his proposal will relieve these estate tax burdens on small businessmen and family farms—those truly in need of some relief—while not overly reducing estate tax revenue collections. Therefore, I will vote for the Senator's amendment.

SUPPORT FOR ESTATE TAX REFORM

Mr. DOLE. Mr. President, I support the Finance Committee's estate tax reform package and I am pleased that it includes the "use valuation" concept I proposed for appraising farm estates. Farmers, small businessmen, and others have waited too long for changes in the burdensome Federal estate tax. Not since 1942 has the Congress addressed this issue. In the meantime, the cruel inflation tax has increased the burden on estates in all parts of the Nation.

If we enact meaningful estate tax reform legislation, we will stop the intolerable spectacle of heirs being forced to sell family farms and family businesses which their ancestors worked for generations to build. For that is precisely what is happening under current law—just so the Federal Government can get its hands on a few more thousand dollars in tax revenues.

USE VALUATION HELPS FARMERS

The new "use" valuation proposal in the amendment, which I offered in the committee, will reduce taxes on farm estates by millions of dollars each year. This special valuation method for farms is entirely justified since land values of many farm estates near urban—even small town—areas are increasing rapidly because of their potential for development. When a farm or other real property estate in such an area passes by inheritance into new ownership, the Federal estate tax regulations currently require the estate tax to be imposed on the market value of the property.

In many instances, the new owners of these farmlands—usually the family of the decedent—who wish to continue to manage the land are instead forced to sell at least a portion of it to pay the estate tax. When the selling price includes development potential, the new owner must develop the land to realize his investment. These forced sales by heirs then result in either development of the land or at best a reduction in the size of the unit. Eventually, such reductions result in uneconomic units which must then be sacrificed to development.

Permitting valuation of farm estates on the basis of their current use instead of development potential will protect our food production base. As population increases, there is a rapidly expanding need to maintain our farmland base for production of food. Expansion of urban areas makes serious inroads into this farmland base every year, and it is only because of increasing efficiency in technology that we have been able to meet expanding agriculture needs with a diminishing base. We cannot continue this way indefinitely. We must take steps to slow, or reverse this process of urban development of farmland to be able to meet our future food production needs.

SUPPORT REFORMS

Thus, I urge the Senate to enact these urgently needed and equitable estate tax reforms.

Mr. BENTSEN. Mr. President, I am deeply disturbed by the growing number of family farms and ranches and small businesses that are being forcibly liquidated just to pay excessive Federal estate taxes. The Federal estate tax was never intended to have that effect and the estate tax provisions enacted by the Senate Finance Committee will substantially alleviate this problem.

Mr. President, the family farm and ranch is vital to American agriculture. Family farming and ranching is more productive than corporate agribusiness because the man who owns the land works longer and harder. The present trend against these family owned enterprises is dangerous, and we must reverse any policy that contributes to it.

Small businessmen form the economic backbone of our Nation and are vital to our economy. It is the small businessman who provides jobs for about one-half our private work force. The survival of small businesses across our Nation is indispensable if we are to maintain health competition in our economy.

The Senate Finance Committee has agreed to several estate tax reforms which will reduce the excessive estate tax burden which threatens the survival of the family farm and small business.

First, the existing estate tax exemption would be replaced with a $30,000 credit against the estate tax which would gradually increase to a $50,000 credit by 1981. The $50,000 credit would generally have the same impact as a $200,000 exemption as compared to the current exemption of only $60,000.

Second, the marital deduction would be increased to the greater of $250,000 or 50 percent of the value of the decedent's adjusted gross estate.

Third, farms and ranches would be valued for estate tax purposes at their value as farmland rather than their value for other commercial purposes.

Fourth, the period for payment of the estate tax attributable to the decedent's interest in a farm or closely held business would be increased from 10 to 15 years. No part of the estate tax would be payable for the first 3 years; thereafter, the tax would be payable in equal installments over the next 12 years. In addition, a special 6-percent interest rate would apply to the tax attributable to the first $1 million of farm or other closely held business property. A "reasonable cause" standard for the discretionary 10-year extension for the payment of estate tax would be substituted for the existing "undue hardship" standard.

Under existing law the Internal Revenue Service often values farm and ranch land for estate tax purposes on the basis of unrealistically high market levels rather than on the land's current agricultural value. Thus, when a farmer or rancher dies, his land will be increased to a higher commercial market value if the land is close enough to a metropolitan area to be affected by speculative values. These inflated values mean higher estate taxes, and the heirs may be forced to sell the farm or ranch in order to pay them.

The Finance Committee proposal would help correct this inequity by allowing the valuation of farm and ranch land for estate tax purposes according to the land's agricultural value. The value could not be increased to reflect the value of the property for some other use, such as a shopping center, office building, or housing development.

Safeguards in the legislation prevent abuses of the alternate valuation method.

At recent hearings of the Senate Finance Committee we heard from small businessmen and farmers about the problems they face in paying Federal estate taxes. In some cases, heirs are forced to sell part or all of a family farm or business in order to pay the heavy estate tax burden. This obviously hurts the family that loses its farm or business. It also hurts the community that loses the support and concern that local ownership brings. And it hurts our National economy. When family farms and ranches are taken over by huge corporate farming operations; and when independent and innovative small businesses are taken over by large outside corporations; the healthy competition our economy needs to provide stable non-inflationary growth is undermined.

We have to remember that the present estate tax exemption of $60,000 was last revised in 1942. We are living in a far different world now than those days of World War II. Land values have since increased over 200 percent. The value of stocks has soared, and many homes have doubled and tripled in value.

Sixty thousand dollars is no longer a typical value for a middle-sized farm. Some experts estimate that a farmer earning about $10,000 a year will leave an estate valued at $320,000. An inheritance exemption of only $60,000 for him means his widow and his sons and daughters would have to sell a lot of the family farm just to pay the taxes.

The U.S. Department of Agriculture, in fact, estimates that a fourth of all farm property sold today is sold to cover the cost of the estate settlement. And one farm publication projects that 200,000 to 400,000 farms will disappear over the next 20 years if present trends continue.

The Federal estate tax was never intended to break up small family farms and ranches. After working hard all their lives, after struggling with the uncertainties of the elements, farmers and ranchers deserve better than to have their heirs forced to sell their land for taxes. And, as consumers who count on continued high agriculture production, all other Americans deserve better, too.

Mr. President, adoption of the Finance Committee's estate tax reform proposals would eliminate a major obstacle to the preservation of family farms, ranches and businesses in our Nation.

Mr. HATHAWAY. Mr. President, the committee bill is grossly misleading because:

First. Of the $2,006 billion in cost of the bill's provisions, $121 million, or 6 percent, would accrue to the benefit of all farms and small businesses held by any estate.

Of that $121 million, the Joint Committee estimates that only about one-third would accrue to the benefit of estates in which farms or small businesses constitute 65 percent or more of the estate.

In other words, those estates which could properly be called family farms or family businesses receive about 2 percent of the benefits of this proposal.

Second. The proponents of this measure cite inflation, but $60,000 was no magic number in 1942, and it is not today. The income tax is tailored to each taxpayers situation, and the problem with the estate tax is that it is not.

It was not in 1942, and it is not today.

For a young father who dies and leaves a family to support, $60,000 may be far too small an exemption. For a wealthy bachelor, with no one to support, it is probably too large an exemption.

The 1969 Treasury proposals provided for this and other situations by modifying the estate taxes to meet the particular needs of the beneficiaries.

That is what is needed here.

Instead we have a proposal to go on with all the inequities now inherent with the estate tax exemption, and just to make them larger.

This is not reform. It is an excuse to avoid real reform.

Third. It is important to remember that the present estate tax law affects only the relatively large estates in our society.

Only about 11 percent of dependents leave enough of an estate to require filing, and after the present exemptions and deductions, only about 7 or 8 percent incur any tax.

In other words, this proposal provides relief only to the wealthiest one-twelfth of all estates. The rest pay no tax at present, and so would not be affected by this law.

Fourth. Like the exemption, estate tax rates have also not been raised since 1942, and they are extremely low when compared to the tax rates for working individuals.

They begin at 3 percent for the estate tax and 2¼ percent for the gift tax. This compares with a 5.85 percent social security tax, not counting what the employer pays, and 14 percent for the individual income tax.

The estate taxes should be put more on a par with those for working individuals, not reduced further.

Fifth. The House Ways and Means Committee has worked over 3 months on an estate tax bill—about as long as the Finance Committee had to do this entire tax reform bill.

The Finance Committee spent a day of hearings and a morning of markup on the estate tax provisions.

We should consider the estate tax provisions separately, in connection with the House-passed bill, rather than as a hastily passed amendment to be tacked onto this tax reform package.

Real reform is necessary in this area. The estate and gift taxes should be integrated. A carryover basis should be provided. Rates should be adjusted. This is just to name a few, but this bill does none of these things.

Neither does the Kennedy or Nelson amendments, but I shall vote for first the one and then the other as improvements, albeit very limited, over the committee amendment. I would support estate tax reform. The Finance Committee amendment is not estate tax reform.

Mr. CULVER. Mr. President, the Senate is now addressing a genuinely fundamental issue. Are we going to create conditions which permit the preservation of the family owned farm and business? The question is a crucial one. Crucial for those who are directly involved and also crucial for the society as a whole. The entire tone and structure of our society are basically affected by the vitality of independent ownership.

Over the years, inflation has eaten up the size of the exemption which Congress passed in 1942. The Congress intended to allow for the passage of a reasonable sized farm or business to one's children without serious anxiety about the impact of estate taxes. Now, many persons find that they cannot easily pass on their estates without the sale of the family farm or business. Under the proposal before us, that would be significantly altered. In replacement of the present $60,000 exemption we would have after 4 years of phrased implementation a $50,000 credit which is equal to a $200,000 exemption. This difference would compensate for the impact of inflation which we have suffered during the last 30 years.

In addition the proposal would consider farmland at the value for which it is used. Thus, many farms, especially those near a town, would not be affected by the type of land speculation which we are seeing today in many places.

The proposal also incorporates a considerably more liberal policy toward those that do find themselves with a significant estate tax bill. One's children would have 15 years to pay the bill. This would greatly increase the likelihood that a business or farm could be kept in the family.

While the provision being voted on differs somewhat from my first preference, it will go a long way toward preserving our family farms and businesses.

For my State of Iowa and for the Nation as a whole this estate tax reform will enhance the quality of life and give a better assurance that independent enterprise and ownership will be an enduring underpinning of our democracy.

The PRESIDING OFFICER. All remaining time having been yielded back, the question is on agreeing to the amendment (No. 2168) of the Senator from Massachusetts (Mr. Kennedy). On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

The PRESIDING OFFICER. The Senate will be in order. The clerk will suspend. Senators will kindly take their seats; those who wish to converse will kindly withdraw, so that we can complete this 10-minute rollcall.

Will Senators kindly withdraw from the aisles so that the rollcall can be completed? Senators will kindly clear the well.

The clerk may proceed.

The rollcall was resumed and completed.

Mr. ROBERT C. BYRD. I announce that the Senator from Nevada (Mr. Cannon), the Senator from Indiana (Mr. Hartke), the Senator from South Dakota (Mr. McGovern), the Senator from Minnesota (Mr. Mondale), the Senator from Mississippi (Mr. Stennis), the Senator from Missouri (Mr. Symington), the Senator from California (Mr. Tunney), the Senator from Colorado (Mr. Haskell), the Senator from Washington (Mr. Magnuson), the Senator from North Carolina (Mr. Morgan), and the Senator from Georgia (Mr. Talmadge) are necessarily absent.

I also announce that the Senator from Delaware (Mr. Biden) and the Senator from Michigan (Mr. Philip A. Hart) are absent because of illness.

I further announce that, if present and voting, the Senator from North Carolina (Mr. Morgan) would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. Brock), the Senator from Arizona (Mr. Goldwater), and the Senator from Pennsylvania (Mr. Schweiker) are necessarily absent.

The result was announced—yeas 6, nays 78, as follows:

[Rollcall Vote No. 490 Leg.]

YEAS—6

Bayh
Durkin
Hathaway
Hollings
Kennedy
Muskie

NAYS—78

Abourezk
Allen
Baker
Bartlett
Beall
Bellmon
Bentsen
Brooke
Buckley
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Case
Chiles
Church
Clark
Cranston
Culver
Curtis
Dole
Domenici
Eagleton
Eastland
Fannin
Fong
Ford
Garn
Glenn
Gravel
Griffin
Hansen
Hart, Gary
Hatfield
Helms
Hruska
Huddleston
Humphrey
Inouye
Jackson
Javits
Johnston
Laxalt
Leahy
Long
Mansfield
Mathias
McClellan
McClure
McGee
McIntyre
Metcalf
Montoya
Moss
Nelson
Nunn
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Scott, Hugh
Scott, William L.
Sparkman
Stafford
Stevens
Stevenson
Stone
Taft
Thurmond
Tower
Weicker
Williams
Young

NOT VOTING—16

Biden
Brock
Cannon
Goldwater
Hart, Philip A.
Hartke
Haskell
Magnuson
McGovern
Mondale
Morgan
Schweiker
Stennis
Symington
Talmadge
Tunney

So Mr. Kennedy's amendment (No. 2168) was rejected.

The PRESIDING OFFICER. The question now recurs on the amendment of the Senator from Wisconsin and the Senator from Oregon, Mr. Nelson and Mr. Packwood. The yeas and nays have been ordered. This is a 10-minute rollcall. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. RIBICOFF. Regular order.

Mr. CURTIS. Regular order, Mr. President.

The second assistant legislative clerk resumed and concluded the call of the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Nevada (Mr. Cannon), the Senator from Indiana (Mr. Hartke), the Senator from Colorado (Mr. Haskell), the Senator from Washington (Mr. Magnuson), the Senator from South Dakota (Mr. McGovern), the Senator from Minnesota (Mr. Mondale), the Senator from North Carolina (Mr. Morgan), the Senator from Mississippi (Mr. Stennis), the Senator from Missouri (Mr. Symington), the Senator from Georgia (Mr. Talmadge), and the Senator from California (Mr. Tunney) are necessarily absent.

I also announce that the Senator from Delaware (Mr. Biden) and the Senator from Michigan (Mr. Philip Hart) are absent because of illness.

I further announce that, if present and voting, the Senator from North Carolina (Mr. Morgan) would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. Brock), the Senator from Arizona (Mr. Goldwater), and the Senator from Pennsylvania (Mr. SCHWEIKER) are necessarily absent.

The result was announced—yeas 34, nays 50, as follows:

[Rollcall Vote No. 491 Leg.]

YEAS—34

Abourezk
Allen
Bayh
Brooke
Bumpers
Clark
Cranston
Culver
Durkin
Eagleton
Glenn
Hart, Gary
Hatfield
Hathaway
Hollings
Huddleston
Humphrey
Jackson
Kennedy
Laxalt
Leahy
Mansfield
McIntyre
Metcalf
Montoya
Moss
Muskie
Nelson
Packwood
Proxmire
Randolph
Stafford
Stevenson
Taft

NAYS—50

Baker
Bartlett
Beall
Bellmon
Bentsen
Buckley
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Case
Chiles
Church
Curtis
Dole
Domenici
Eastland
Fannin
Fong
Ford
Garn
Gravel
Griffin
Hansen
Helms
Hruska
Inouye
Javits
Johnston
Long
Mathias
McClellan
McClure
McGee
Nunn
Pastore
Pearson
Pell
Percy
Ribicoff
Roth
Scott, Hugh
Scott, William L.
Sparkman
Stevens
Stone
Thurmond
Tower
Weicker
Williams
Young

NOT VOTING—16

Biden
Brock
Cannon
Goldwater
Hart, Philip A.
Hartke
Haskell
Magnuson
McGovern
Mondale
Morgan
Schweiker
Stennis
Symington
Talmadge
Tunney

So Mr. NELSON's and Mr. PACKWOOD's amendment was rejected.

UP AMENDMENT NO. 319

Mr. LONG. Mr. President, there will be one more rollcall vote, and we can get to it in a moment or two.

First, I must offer an amendment that the Senator from Colorado (Mr. HASKELL) was going to offer. This is an amendment to conform the effective dates on the generation-skipping amendments to substantially the same effective dates that are in the House bill that has been reported by the Ways and Means Committee. This provides that, in general, the provision would apply to generation-skipping transfers made on or after April 30, 1976, which is the same date in the House bill. The amendment provides that the generation-skipping proposal would not apply to generation-skipping transfers under a trust which is irrevocable on April 30, 1976, to the extent the transfer is made out of corpus added to the trust prior to that date. The generation-skipping tax would also not apply to estates of decedents dying before January 1, 1978, pursuant to a will or revocable trust in existence on April 30, 1976, and not amended, in certain respects, after that date.

I send the amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Louisiana (Mr. LONG) proposes unprinted amendment No. 319.

The amendment is as follows:

On page 54, beginning with line 9, strike out all through line 17 on page 55, and insert the following:

"(c) EFFECTIVE DATES.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to any generation-skipping transfer (within the meaning of section 2611(a) of the Internal Revenue Code of 1954) made after April 30, 1976.

"(2) EXCEPTIONS.—The amendments made by this section shall not apply to any generation-skipping transfer—

"(A) under a trust which was irrevocable on April 30, 1976, but only to the extent that the transfer is not made out of corpus added to the trust after April 30, 1976, or

"(B) in the case of a decedent dying before January 1, 1978, pursuant to a will (or revocable trust) which was in existence on April 30, 1976, and was not amended at any time after that date in any respect which will result in the creation of, providing for, or increasing the amount of, a generation-skipping transfer.

"For purposes of subparagraph (B), if the decedent on April 30, 1976, was under a mental disability to change the disposition of his property, the period set forth in such subparagraph shall not expire before the date which is 2 years after the date on which he first regains his competence to dispose of such property.".

On page 55, line 18, strike out "(4)" and insert in lieu thereof "(3)".

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

UP AMENDMENT NO. 320

Mr. LONG. Mr. President, the Senator from Nevada has an amendment to this title which is noncontroversial, and we can accept it.

Mr. LAXALT. Mr. President, I call up my amendment which is at the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Nevada (Mr. LAXALT), for himself and Mr. CANNON, proposes an unprinted amendment numbered 320.

The amendment is as follows:

At the end of title XXII, insert the following new section:

SEC. 2204. CREDIT AGAINST CERTAIN ESTATE TAXES.—

(a) IN GENERAL.—Subject to the provisions of subsections (b), (c), and (d), credit against the tax imposed under chapter 11 of the Internal Revenue Code of 1954 (relating to estate tax) with respect to the estate of LaVere Redfield shall be allowed by the Secretary of the Treasury or his delegate for the conveyance of real property located within the boundaries of the Toiyabe National Forest.

(b) AMOUNT OF CREDIT.—The amount treated as a credit shall be equal to the fair market value of the real property transferred as of the valuation date used for purposes of the tax imposed and interest thereon under chapter 11 of the Internal Revenue Code of 1954.

(c) DEED REQUIREMENTS.—The provisions of this section shall apply only if the executrixes of the estate execute a deed (in accordance with the laws of the State in which such real estate is situated) transferring title to the United States which is satisfactory to the Attorney General or his designee.

(d) ACCEPTANCE AS NATIONAL FOREST.—The provisions of this section shall apply only if the real property transferred is accepted by the Secretary of the Department of Agriculture and added to the Toiyabe National Forest. The lands shall be transferred to the Secretary of Agriculture without reimbursement or payment from the Department of Agriculture.

(e) EFFECTIVE DATE.—The provisions of this section shall be effective on the date of enactment of this Act.

Mr. LAXALT. Mr. President, the amendment which Senator CANNON and I have offered would permit the U.S. Treasury to accept portions of land held by the La Vere Redfield Estate.

The decedent, La Vere Redfield, died in September of 1974, leaving over 50,000 acres of beautiful, unspoiled forest land in the Sierra Nevada Mountains extending from Reno, Nev., to Lake Tahoe and bordering the Toiyabe National Forest.

It should go without saying that this property should be kept for future generations in its present state.

As I see it, this is a unique opportunity for Congress to preserve a tract of land of untrammeled beauty, which will rarely if ever be available again. I might add, Mr. President, that Congress has long recognized the importance of preserving the Lake Tahoe Basin and began appropriating for the protection and acquisition of lands in the Basin as early as 1925.

There is not enough in the way of liquid assets in the Redfield Estate to meet its Federal estate tax obligation of over $10 million. Consequently, the estate is now facing the difficult prospect of a forced sale. But such a sale would be a needless tragedy. The Cannon-Laxalt amendment would permit the U.S. Treasury to accept portions of land held by the Redfield Estate in lieu of its Federal estate obligation and then the property would be transferred to the Secretary of Agriculture for administration by the National Forest Service. The Forest Service's interest in acquiring these lands is both esthetic and functional because in addition to its being strikingly beautiful, the lands also have watershed value.

This transfer has the support of those at the local and State levels of government in Nevada. I ask the Senate to join in that support. If the opportunity to acquire this land by the Government in satisfaction of a debt for taxes to that government is lost, it will be a tragedy which will be justly criticized by future generations.

Mr. President, I ask for adoption of the amendment.

Mr. CANNON. Mr. President, the Cannon/Laxalt amendment would permit the U.S. Treasury to accept portions of land held by the La Vere Redfield estate so that the unspoiled forest lands can be transferred to the Toiyabe National Forest. The Forest Service has expressed a specific interest in acquiring a large portion of the Redfield lands because of the natural beauty of the lands and its proximity to the existing Toiyabe National Forest. I ask unanimous consent to have printed in the RECORD a copy of Secretary Butz's letter of February 11, 1976, to Treasury Secretary Simon in which Mr. Butz outlines his support to have these properties transferred to the Department of Agriculture for administration as National forest lands.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

FEBRUARY 11, 1976.

Hon. WILLIAM E. SIMON,
Secretary of the Treasury.

DEAR MR. SECRETARY: The purpose of this letter is to advise you of the strong interest of the Forest Service, Department of Agriculture, in acquiring lands presently owned by the estate of La Vere Redfield. These lands are located principally within the boundaries of the Toiyabe National Forest, Nevada. They consist of rugged mountain lands located in the nationally important Lake Tahoe Basin and extending to the outskirts of Reno, Nevada. Some of the lands have high public recreation values, while the majority are critical watershed lands. The lands have been offered in payment of inheritance taxes owed the United States.

The State of Nevada, Washoe County, and the City of Reno are extremely concerned that these lands may be sold into private ownership and subsequently developed in a manner detrimental to the long term public need and welfare. Their concern is understandable since a large amount of the culinary water supplies for the City of Reno originates from these lands and other intermingled ownerships. Resolutions or statements, urging arrangements be made to place the lands under administration of the Forest Service as a part of the Toiyabe National Forest are enclosed.

Federal interest in acquisition of the lands is longstanding. In the Baker Act of February 20, 1925, as amended, and the McCarran Act of February 12, 1938, Congress provided specific direction for the acquisition of these lands. With P.L. 91–148, Congress recognized the national values of the Lake Tahoe Basin and made specific provisions for protection and use of lands in the Basin.

Congress continues to recognize the desirability of acquiring these lands. During the period F.Y. 1967 through 1975, we have purchased a total of 18,910 acres of such lands at a total cost of $17,461,666 with appropriations from the Land and Water Conservation Fund. In addition, we have acquired through various land exchange authorities, including the above-mentioned Acts, an additional 5,718 acres. The value of the lands acquired by exchange was approximately $2 million. Currently, we have active exchange negotiations underway whereby another $6 million worth of recreation and watershed lands will be acquired.

There is precedent for the recommended action. Mr. Hanks of your Office of the General Counsel has already been furnished with cases whereby the United States accepted land in payment of damage claims, with the land subsequently transferred without reimbursement to the Forest Service by the Department of Justice. Mr. Hanks has also been provided with copies of correspondence whereby, in 1965, 40 acres in Alabama were transferred to the Forest Service by the Internal Revenue Service in a case where land was taken for nonpayment of taxes.

Forcing a sale of the property is difficult to justify in terms of the best public interest and existing congressional direction. A forced sale, whether by the executors of the estate or by the United States, will result in a greater discount than would normally be expected because of the large size of the tract and the small number of qualified prospective buyers. The United States will then be faced with the prospect of repurchasing the property over a period of years at, in all likelihood, much higher prices. Concurrently, there is considerable risk that, if it is sold, the property will be divided and used in such a manner that its value to the public will be lost and/or acquisition will not be possible. The Federal Property and Administrative Services Act of 1949 contains specific provisions for making certain these risks are not undertaken in the disposal of property held by Federal agencies. Over the years, these procedures have saved the Federal Government and the public a considerable amount of money.

For these reasons, we urge your favorable consideration of the proposal by the estate of La Vere Redfield to accept real property owned by them in lieu of Federal estate taxes due, and the subsequent transfer without reimbursement of the lands to the Department of Agriculture for administration as National Forest lands. The proposal provides an outstanding opportunity to carry out the long term and longstanding national objective of acquiring the lands owned by the estate and making them a part of the National Forest System. If you desire, we would be very happy to meet with you for the purpose of providing a more complete description of the lands and the considerations involved.

Sincerely,

EARL L. BUTZ,
Secretary.

Mr. CANNON. Mr. President, Senator LAXALT and I have been looking for a means to achieve this objective for some time and have discussed the problem with Treasury officials at great length. Secretary Simon on February 20, 1976, in a letter to me indicated that his department was without authority to make this administrative transfer and it would require congressional action. The Secretary pointed out that there was precedent for doing so and he referred to the Lilly estate wherein the Smithsonian Institution in the late sixties requested the Treasury Department to accept a valuable Lilly coin collection in payment of Federal estate tax liabilities. The Smithsonian and Treasury sought congressional approval and it was granted.

Senator LAXALT and I make the same request today in behalf of all of our citiizens who treasure these beautiful lands in the rugged Sierra Nevada Mountains. The properties that would be transferred to the Forest Service are unspoiled forest lands in the Sierra Nevada Mountains extending from Reno, Nev., to Lake Tahoe and bordering the Toiyabe National Forest. Those of you who have had the opportunity to visit Lake Tahoe know the beauty of this area and fully recognize the importance of preserving these lands in their natural state for future generations to enjoy. The interest of the Forest Service goes beyond the beauty of the land and its high public recreation value, the majority of the property represents critical watershed lands.

There is not nearly enough in the way of liquid assets in the Redfield estate to meet its Federal tax obligation. Therefore, the executrices are facing the difficult prospect of a forced sale whether it be by the executrices or the United States. I agree with Secretary Butz's observation that such a sale cannot be justified in view of the legislative history and direction of the land and water conservation fund. Long ago Congress recognized a national interest in the Lake Tahoe Basin and began appropriating for the protection and acquisition of lands in the basin.

If a forced sale takes place, the United States will have missed a unique opportunity to make these lands a part of the adjacent Toiyabe Forest. After the sale, the United States will probably be attempting to repurchase the lands over a period of several years at much higher prices to the taxpayer. There is also the real possibility that the lands will be divided for private commercial recreation and the public denied future enjoyment and access to the lands altogether.

I want to add that this transfer has the support of all of those at the local and State levels in Nevada. We want to protect and preserve these lands for public use and enjoyment. If our amendment is adopted, the Treasury would accept an agreed upon portion of the Redfield lands in lieu of its Federal estate obligation and then the property would be transferred to the Secretary of the Agriculture for administration by the National Forest Service. The Redfield lands are now adjacent to the Toiyabe National Forest and would become a part of that forest.

Mr. LONG. Mr. President, will the Senator yield?

Mr. LAXALT. I yield.

Mr. LONG. Mr. President, the staff has gone over the amendment, and I know of no reason why we should not take this amendment to conference; and I hope the Senate will permit us to accept it.

Mr. CURTIS. Mr. President, will the Senator yield?

Mr. LONG. I yield.

Mr. CURTIS. We have examined the amendment and concur that it should be accepted.

Mr. ABOUREZK. Mr. President, will the Senator yield for a question?

Mr. LAXALT. I yield.

Mr. ABOUREZK. Why does the Treasury have to accept the land? I thought the Forest Service would accept it, if that is where it is going.

Mr. LAXALT. We have been working on this for several months. The mechanics appear to be under existing law that the Treasury must accept the land, in view of the fact that this would be a cancellation of the Federal estate tax.

Mr. ABOUREZK. Is that the tax liability that is going to be wiped out because of the gift?

Mr. LAXALT. Yes, what we have here is the LaVere Redfield estate tax. For you who have been in the West and are familiar with the area, this is some of the finest property adjoining Lake Tahoe in the States of Nevada and California. He passed away several years ago and left this land on which there is an estimated estate tax due of some $10 million. There are not sufficient liquid assets within the estate to take care of that tax. Accordingly, our option was, and we have been working with IRS and the Forest

Service for months now, simply to trade it out.

Mr. MANSFIELD. Vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

ORDER FOR ADJOURNMENT TO 9 A.M. TOMORROW

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when the Senate adjourns tonight, it stand in adjournment until the hour of 9 o'clock tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

TAX REFORM ACT OF 1976

The Senate continued with the consideration of the bill (H.R. 10612) to reform the tax laws of the United States.

TITLE XXII

Mr. LONG. Mr. President, I ask for the yeas and nays on title XXII.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER (Mr. CHILES). The question is on agreeing to title XXII as amended. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Nevada (Mr. CANNON), the Senator from Indiana (Mr. HARTKE), the Senator from Colorado (Mr. HASKELL), the Senator from Washington (Mr. MAGNUSON), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Minnesota (Mr. MONDALE), the Senator from North Carolina (Mr. MORGAN), the Senator from Mississippi (Mr. STENNIS), the Senator from Missouri (Mr. SYMINGTON), and the Senator from California (Mr. TUNNEY) are necessarily absent.

I also announce that the Senator from Delaware (Mr. BIDEN), and the Senator from Michigan (Mr. PHILIP A. HART) are absent because of illness.

Mr. GRIFFIN. I announnce that the Senator from Tennessee (Mr. BROCK), the Senator from New Jersey (Mr. CASE), the Senator from Arizona (Mr. GOLDWATER), and the Senator from Pennsylvania (Mr. SCHWEIKER) are necessarily absent.

The result was announced—yeas 79, nays 5, as follows:

[Rollcall Vote No. 492 Leg.]

YEAS—79

Abourezk
Allen
Baker
Bartlett
Bayh
Beall
Bellmon
Bentsen
Brooke
Buckley
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Chiles
Church
Clark
Cranston
Culver
Curtis
Dole
Domenici
Durkin
Eagleton
Eastland
Fannin
Fong
Ford
Garn
Glenn
Gravel
Griffin
Hansen
Hart, Gary
Hatfield
Helms
Hruska
Huddleston
Humphrey
Inouye
Jackson
Johnston
Laxalt
Leahy
Long
Mansfield
Mathias
McClellan
McClure
McGee
McIntyre
Metcalf
Montoya
Moss
Nelson
Nunn
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Scott, Hugh
Scott, William L.
Sparkman
Stafford
Stevens
Stevenson
Stone
Taft
Talmadge
Thurmond
Tower
Weicker
Williams
Young

NAYS—5

Hathaway
Hollings
Javits
Kennedy
Muskie

NOT VOTING—16

Biden
Brock
Cannon
Case
Goldwater
Hart, Philip A.
Hartke
Haskell
Magnuson
McGovern
Mondale
Morgan
Schweiker
Stennis
Symington
Tunney

So title XXII, as amended, was agreed to.

AMENDMENT NO. 1829

Mr. INOUYE. Mr. President, I have an amendment at the desk, amendment No. 1829, an amendment to title VI, which title was previously agreed to.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Hawaii (Mr. INOUYE), for himself and Mr. GOLDWATER, proposes an amendment No. 1829.

The amendment is as follows:

On page 240, beginning with line 9, strike out through line 25 on page 242 and insert in lieu thereof the following:

The Congress affirms that Regulation 1.274-4 prescribed by the Secretary of the Treasury to carry out the provisions of section 274(c) of the Internal Revenue Code of 1954 (relating to certain foreign travel) accurately reflects the intent of the Congress in enacting that section and represents a responsible limitation on the deduction of foreign travel expenses paid or incurred in connection with attendance at business meetings and conventions held outside the United States.

Mr. INOUYE. Mr. President, my amendment would strike the provisions of section 602 of title VI. In lieu thereof it would add a provision affirming existing law.

Under the Internal Revenue Code, traveling expenses incurred in attending foreign conventions are tax deductible to the extent they are reasonable and necessary in the conduct of the taxpayer's business and directly attributable to his trade or business.

If the trip is primarily personal in nature, however, the traveling expenses to and from the destination are not deductible even if the taxpayer engages in business activities while at the destination.

Section 602 of H.R. 10612, however, would put a blanket restriction on tax deductions for expenses incurred in attending conventions held outside North America even if the agenda of the convention is so related to the taxpayer's position as to show that his attendance was for business purposes. Under certain circumstances, if the IRS were able to determine it was more reasonable to hold a convention outside of North America, the expenses incurred in attending would be tax deductible, however.

It would also deny a tax deduction for expenses incurred in attending any convention aboard a cruise ship.

In sum, Mr. President, the provisions of section 602 needlessly attempt to restrain travel abroad by Americans and offer the potential of serious harm to our economy without any corresponding justification. I therefore offer an amendment to strike those provisions and affirm existing law.

Mr. LONG. Mr. President, will the Senator yield? I had hoped we might be able to vote on the Senator's amendment tonight, but I have been notified that there will be opposition, not anticipated, on the Senator's amendment and, therefore, we will have to vote on that tomorrow when other Senators are here.

Might I suggest that rather than offer the amendment on a title that we have already voted on, that the Senator offer it at the end of the bill. I can assure the Senator that his amendment, if agreed to, it will be the view of the conferees that, in view of the fact that the Senator's amendment was agreed to at the end of the bill, anything in the bill in conflict with it would not be regarded as the Senate's position. In other words, it would not really be necessary to strike from the bill something that the committee put in. We would regard the Senator's language as part of it. That, I believe, we could discuss tomorrow, and that would then resolve any problem of anyone who might want to contend that if he wanted to oppose the amendment his rights had been prejudiced by our giving unanimous consent to the Senator to reopen this particular section.

The same effect can be achieved by simply adding the amendment at the end of the bill.

Mr. INOUYE. When would this matter be brought up?

Mr. LONG. I would suggest, and I now ask unanimous consent that this amendment be made the pending amendment immediately after we dispose of the capital gains sliding scale treatment, which is title XXVII on tomorrow.

Mr. INOUYE. That is fine, sir.

AMENDMENT NO. 2161

Mr. STEVENS. Mr. President, I have an amendment No. 2161 at the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Alaska (Mr. STEVENS) proposes amendment No. 2161.

Mr. STEVENS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following:

SEC. . EMPLOYEE STOCK OWNERSHIP PLAN REGULATIONS.

No regulations relating primarily to employee stock ownership plans prescribed by the Secretary of the Treasury and the Secretary of Labor under the Internal Revenue Code of 1954, section 301(d) of the Tax Reduction Act of 1975, title I of the Employee Retirement Income Security Act of 1974, or this Act, may be put into effect retroactively.

Mr. STEVENS. Mr. President, this is an amendment that is a compromise amendment dealing with the question of regulations that have been proposed by the Secretary of the Treasury and the Secretary of Labor and others under the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code, and this act.

What this amendment does is to say that those regulations, if they become effective, cannot be put into effect retroactively. There are people who are entering these plans now, and many of them will postpone them if they feel that the effect of these regulations could change the terms of their agreement.

I ask the Senate to adopt this amendment so that without regard to what the final regulations are, however they are amended, they will not be retroactive, and they will not affect the plans that are put into effect now or are already in effect prior to the date the regulations become effective.

Mr. LONG. Mr. President, I discussed this with the chairman of the Labor Committee, Mr. Williams, and he thought this would be agreeable. I also discussed this matter with Mr. Javits, who is very much interested in this matter, and who is a member of the Labor Committee, and he thought it would be agreeable.

I have discussed this with my colleague, Senator Curtis, and he finds no objection to it.

I would urge the Senate to agree to the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Alaska.

The amendment was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. LONG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 321

Mr. FANNIN. Was the Senator, Mr. President, going to have an amendment on the tax bill?

Mr. CULVER. Yes.

Mr. FANNIN. I apologize to the Senator.

Mr. CULVER. Mr. President, I have two amendments at the desk and I ask for their consideration en bloc.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The amendments will be considered en bloc. The clerk will report.

The legislative clerk read as follows:

The Senator from Iowa (Mr. Culver), for himself, Mr. Stevens, Mr. Stone, and Mr. Beall proposes two unprinted amendments number 321.

The amendment is as follows:

At the appropriate place insert the following new section:

Sec. Expenses of Amateur Athletes Engaging in National or International Competition.

(a) In General.—Subpart A of part IV of subchapter A of chapter 1 (relating to credits allowable) is amended by inserting before section 45 the following new section:

"Sec. 44E. Expenses of Amateur Athletes Engaging in National or International Competition.

"(a) General Rule.—There shall be allowed to an individual, as a credit against the tax imposed by this chapter for the taxable year, an amount equal to 20 percent of so much of the qualified nonreimbursed athletic expenses paid or incurred by the individual during the taxable year with respect to an amateur athlete as does not exceed $2,500.

"(b) Limitations.—

"(1) Relationship to athlete.—The credit allowed by subsection (a) shall apply only if the amateur athlete on behalf of whom the expenditures were paid or incurred is the taxpayer, the taxpayer's spouse, or any of the taxpayer's dependents (as defined in section 152).

"(2) Allowance of credit to related party.—If the amateur athlete whose expenses are taken into account for purposes of subsection (a) is not the taxpayer, the amount of the credit allowed under subsection (a) for the taxable year shall not exceed the difference between $500 and the amount of the credit allowed for the taxable year to the amateur athlete under subsection (a).

"(c) Qualified Nonreimbursed Athletic Expenses.—The term 'qualified nonreimbursed athletic expenses' means nonreimbursed expenses for training, food, coaching, travel, medical care, insurance, equipment, cost of the use of facilities for practice, and similar purposes, in connection with competition by an amateur athlete in national or international competition recognized or sanctioned by the appropriate national governing body of an amateur sports organization (recognized by the United States Olympic Committee) for the particular sport in which the competition is held.

"(d) Amateur Athlete.—For purposes of this section, the term 'amateur athlete' means an individual who—

"(1) participates as a competitor in Olympic or Pan-American trials or competition, or

"(2) participates as a competitor in world championships, national championships in the United States, or as part of a United States national team, if such competitions are sanctioned or sponsored by a national governing body which is a member of an international sports federation in the United States and is a member of the United States Olympic Committee.

An individual who is described in the preceding sentence solely by reason of participation in Olympic or Pan-American trials or in national championships shall be treated as an 'amateur athlete' only if eligibility for such participation is determined by invitation, elimination or qualifying standard."

(b) Conforming Amendment.—

(1) The table of sections for such subpart A is amended by inserting immediately before the item relating to section 45 the following:

"Sec. 44E. Expenses of Amateur Athletes Engaging In National or International Competition."

(2) Section 55(c)(2)(B) (relating to imposition of minimum tax) is amended by striking out "and" at the end of clause (x), by striking out the period at the end of clause (xi) and inserting in lieu thereof a comma and the word "and", and by adding at the end thereof the following new clause:

"(xii) section 44E (relating to credit for expenses for amateur athletes engaging in national or international competition)."

(c) Effective Date.—The amendment made by this section applies to amounts paid or incurred in taxable years beginning after the date of enactment of this Act.

At the appropriate place insert the following new section:

Sec. 2803. Exemption of Certain Amateur Athletic Organizations From Tax.

(a) In General.—Paragraph (3) of section 501(c) (relating to exempt religious, charitable, etc., organizations) is amended by inserting after "or educational purposes," the following: "or to foster national or international amateur sports competition,".

(b) Treatment of Gifts to Such Organizations for Income, Estate, and Gift Tax Purposes.—

(1) Subparagraph (B) of section 170(c)(2) (relating to definition of charitable contribution) is amended by inserting after "or educational purposes" the following: ", or to foster national or international amateur sports competition,".

(2) Paragraph (2) of section 2055(a) (relating to transfers for public, charitable, and religious uses) is amended by inserting after "the encouragement of art" the following: ", or to foster national or international amateur sports competition,".

(3) Paragraph (2) of section 2522(a) (relating to charitable and similar gifts) is amended by inserting after "or educational purposes" the following: ", or to foster national or international amateur sports competition."

(c) Effective Date.—The amendments made by this section shall apply on the day following the enactment of this Act.

Mr. CULVER. Mr. President, I ask unanimous consent that Senator Hollings be included as a cosponsor on these amendments.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CULVER. Mr. President, these two amendments hopefully will provide some assistance to our Olympic athletes and be important to our international competitive position in the world.

Senator Beall, Senator Stevens, Senator Stone, and I have served during this past year on President Ford's Commission on Olympic Sports. These two amendments that we are offering to this bill will strengthen America's participation in international sports and, most importantly, be consistent with the amateur philosophy of American sport.

Our first amendment would provide for a limited credit for an athlete or the parent or spouse of an athlete to defray nonreimbursable expenses involved in his or her training for carefully defined competitive events.

The second amendment would clarify a current ambiguity existing in the tax code concerning eligibility for tax-exempt status of various athletic organizations. Also the same section would provide for a charitable deduction for contribution to such athletic organizations.

To explain more fully, Mr. President, my first amendment would allow our best international amateur athletic competitors a tax credit for the expenses essential to their training and competition. My colleagues who serve with me on the President's Commission on Olympic Sports are joining me in cosponsoring this measure.

Our work during the course of the past year as members of the President's Commission has led us to the realization that, in many cases, financial hardships are impeding the United States from fielding its best athletes for international amateur competitions. We are examining a variety of measures designed to limit these hardships in appropriate ways. Our final report with a comprehensive range of recommendations will be submitted to the President next January. However, we are introducing one measure now which would contribute toward easing the financial burdens which have prevented athletes from reaching their full potential or forced them into early retirement.

Since the Olympic Games were revised in 1896, American amateur athletes have competed on behalf of the United States without any assistance or funding from the Government. Today, the arena of international competition in which our amateur athletes compete is limited to those elite athletes who possess the best technical skills in the world. These skills are developed at great cost and effort. In other nations, such as Russia and East Germany, governments heavily subsidize this effort. Those governments provide their athletes with training, coaching, facilities, equipment, medical care, housing, travel, and lifelong financial stability. The result is that other nations are developing the capacity to outperform the U.S. amateur competitors in a number of sports.

Because of the enormous effort of foreign nations it is increasingly difficult for American amateur athletes of a world class caliber to keep pace with international competition. Although the potential for American athletes to maintain high standards and set new world records clearly remains, we must take account of the fact that foreign skills and technology keep advancing.

In this country most athletes are supported by their own effort or that of their parents and spouses. Often this means working full time and then training an equal number of hours. In addition to financial support, these world class amateur athletes require large amounts of energy and emotional support, sacrifice, and commitment to succeed internationally. These elements of success have no dollar value. But this amendment would help with the things on which we can place a dollar value.

The purpose of this amendment is to allow a strictly certified group of highly qualified amateur athletes—not likely to exceed 10,000 in any year—a tax credit of 20 percent of up to $2,500 of nonreimbursed expenses that are essential to the performance of their sport. This class of athletes is limited to those amateur athletes who compete in Olympic or Pan American trials or competitions, national or world championships or as part of a U.S. national team, provided such events are sanctioned by a national governing body which is a member of an international sports federation or a member of the U.S. Olympic Committee. If an athlete does not participate in international competition or make the national team, he can qualify only if eligibility is determined by invitation, elimination, or a qualifying standard.

The expenses to which this amendment would apply are items such as, but not limited to, training, food, coaching, travel, medical care, insurance, equipment, and cost of the use of facilities for practice. In addition, only those expenses actually paid for by the athlete, his or her spouse, or parent, qualify. Credit for expenses that have been reimbursed to the athlete are not intended to be included in this amendment.

As members of the President's Commission on Olympic Sports, we realize that we cannot solve all of the problems in our amateur athletic system through the tax laws. We view this as an essential first step toward giving our world class amateur athletes the type of support they deserve. Other steps can and should be taken. Already in limited ways some corporations and individual businessmen are making contributions to our international athletic effort. The existing structure of regulation permits a considerable expansion of that contribution. We should do what we can to encourage that expansion.

The President's Olympic Commission is seeking to develop incentives through which the private sector will be encouraged to contribute both financially and in other ways to our international amateur athletic effort. I am confident that our final report in January will include measures of this type.

Mr. President, this amendment is an important contribution toward supporting our athletes in a manner consistent with the voluntary and amateur spirit of our international sport philosophy.

Mr. President, the purpose of this other amendment is to insure that amateur sports organizations are eligible for tax-exempt status under section 501(c) (3) and to make contributions to such organizations deductible if the organizations' primary purpose is the support and development of amateur athletes for participation in national and international competition. The activities involved include, but are not limited to, administration, competition, training, coaching, medical care and insurance, maintenance of sports facilities and equipment research, financial assistance, and dissemination of information.

Most amateur sports organizations currently qualify for tax-exempt status under various sections of the IRS code. There is, however, no specific provision that delimits the fact that these organizations are eligible for this status. Thus, current IRS policy is a source of confusion and inequity for amateur sports organizations whereby some gain favored tax-exempt status while others—equally deserving—do not.

Mr. President, the goals of most amateur sports organizations are to support and encourage the development of athletic skills and sportsmanship in American youth. Many of these organizations live a hand-to-mouth existence because they are not adequately funded to meet the goals and objectives set by themselves and expected of them by others. In the past these organizations have expended considerable resources in obtaining tax-exempt status. The failure of some of these organizations to obtain section 501(c)(3) status and to qualify to receive tax-deductible contributions has discouraged contributions to these organizations, and has deterred other organizations from going through the legal expense of applying to IRS. Passage of this amendment may well contribute to adequate funding for the activities which will be dependent on future donations.

Mr. President, the United States has a long and proud tradition in the international sports community. These organizations are the backbone of that tradition. As a result of their efforts the American public has come to expect top performance from their athletes. Our amendment would help the United States continue to compete favorably in an increasingly competitive amateur sport environment.

Mr. LONG. As I understand the explanation of the Senator from Iowa, this amendment will provide charitable tax exempt status and qualification to receive tax deductible contributions for two types of amateur sports organizations. The first type consists of national organizations which are responsible for the conduct of national and international competition, including the conducting of national championships and the selection of national teams in Olympic and Pan American sports.

The second type of organization includes national, local, and regional organizations whose primary purpose is supporting and developing amateur athletes for participation in national and international competition in Olympic and Pan American sports. These organizations provide coaching and training facilities for amateur athletes.

Under present law, organizations of both types may be exempt under section 501(c)(3) if they are associated with educational institutions or if their focus is on teaching a sport or sports to young people. However, where the organization is primarily a rulemaking body, or where it deals primarily with mature athletes, there is considerable uncertainty as to its qualifications as a section 501(c)(3) organization.

The amendment, as I understand it, is intended to clear up that uncertainty by providing that organizations whose primary purpose is fostering national or international amateur sports competition may qualify for exemption under section 501(c)(3).

Mr. CULVER. The Senator from Louisiana is correct.

I would like to emphasize one point about this provision. It is not intended to make social clubs, or organizations of casual athletes, into tax-exempt charities. Only an organization whose primary purpose is the support and development of amateur athletes for participation in international competition in Olympic and Pan American sports will qualify under this amendment. Organizations whose primary purposes are the recreation of their members or whose facilities are used primarily by casual athletes will not qualify. Also, this amendment does not supersede the process by which each of these organizations must apply to the Internal Revenue Service and establish that its program is in fact set up with the primary purpose of supporting and developing amateur athletes for participation in international competition.

Mr. LONG. I would like to make it clear that it is not intended that an athlete could get a charitable contribution deduction for an amount which, in fact, represents a payment for goods, services, or the use of facilities by the athlete.

Such payments are not intended to be

deductible. Under present law, a taxpayer cannot obtain a charitable contribution deduction for amounts paid to a section 501(c)(3) organization to the extent that such amounts are for goods, services, or the use of facilities by the taxpayer. This amendment would not affect this rule of present law, and I think that this rule will be adequate to prevent abuses.

Mr. CULVER. I thank the chairman for clarifying that point for me.

Mr. CURTIS. Will the Senator yield?

Mr. CULVER. I am very happy to yield, but before yielding, I might add that the President's Commission on Olympic Sports will be making more comprehensive recommendations, in particular by way of other forms of financial support to the American international athletic movement.

Second, we will be making recommendations concerning strengthening the organizational structure itself, and also make it possible for us to compete on a more successful basis in the international games.

I am glad to yield to the distinguished Senator from Nebraska.

Mr. CURTIS. I support the objective here. I think it is something we should do.

I would like to ask this question, Has the proposal been examined to ascertain whether or not it would interfere with the amateur standing of the athletes involved?

Mr. CULVER. Yes, it has, and we have assurances from the Counsel of the President's Commission on Olympic Sports that it would pass muster in that regard.

Mr. CURTIS. I expect to support it.

Mr. LONG. Mr. President, permit me to congratulate the Senator for the fine work he has done in this area for years.

I wondered if there might be some way those of us on the Finance Committee could be of some assistance in helping the United States regain its former standing in the Olympics.

We are doing pretty well in view of all the things I find the young people did in the recently concluded Olympics.

We are well aware of the fact this great Nation could make a better effort if it gets behind its athletes the way other nations get behind theirs.

I am satisfied that, if we made the same effort to encourage young people as the East Germans do, we would make a far better showing in the Olympics than the United States did.

I was hoping that someone would find enough time to work out some way that we could adequately encourage these young people. The Senator is to be highly commended for his diligent efforts to try to bring about a proper way to help these young people without denying them their amateur status.

I hope we can work this out with the House.

Mr. CULVER. I thank the Senator very much for his kind remarks and wish to express my appreciation to him and the members of his staff for the very valuable assistance and counsel they have provided me in shaping these amendments.

Mr. President, I yield back my time.

The PRESIDING OFFICER. The question is on agreeing to the amendments of the Senator from Iowa.

The amendments were agreed to.

Mr. CULVER. I move to reconsider the vote by which the amendments were agreed to.

Mr. CURTIS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LONG. Mr. President, we should have an additional title as a heading for the amendments adopted starting with the Stevens amendment, by the Senator from Alaska.

So I ask unanimous consent that there be inserted additional "Title XXVIII—Additional Senate Floor Amendments," and that it appear immediately before the Stevens amendment and that the Stevens and Culver amendments appear under that title.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 322

Mr. LONG. Mr. President, I send to the desk on behalf of the committee an additional amendment, actually two additional amendments. I have been authorized by the committee to offer the amendment, section 2804, Taxpayer Status of Pension Benefits Guaranty Corporation.

The amendment is as follows:

Sec. 2804. Taxable Status of Pension Benefits Guaranty Corporation.

(a) In General.—Section 4002(g)(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1302(f)(1)) is amended by inserting "by the United States (other than taxes imposed under chapter 21 of the Internal Revenue Code of 1954, relating to Federal Insurance Contributions Act, and chapter 23 of such Code, relating to Federal Unemployment Tax Act), or" immediately after "imposed".

(b) Effective Date.—The amendment made by subsection (a) takes effect on September 2, 1974.

Sec. 2805. Level Premium Plans Covering Owner-Employees.

(a) In General.—Section 415(c) (relating to limitation for defined contribution plans) is amended by adding after paragraph (6) the following new paragraph:

"(7) Certain level premium annuity contracts under plans benefiting owner-employees.—Paragraph (1)(B) shall not apply to a contribution described in section 401(e) which is made by an employer on behalf of a participant for a year to a plan which benefits an owner-employee (within the meaning of section 401(c)(3)), if—

"(A) the annual addition determined under this section with respect to the participant for such year consists solely of such contributions, and

"(B) the participant is not an active participant at any time during such year in a defined benefit plan maintained by the employer.".

(b) Effective Date.—The amendment made by this section shall apply for years beginning after December 31, 1975.

Mr. LONG. Mr. President, I ask that we have printed in the Record at this point language from the committee report explaining this provision.

There being no objection, the material was ordered to be printed in the Record, as follows:

EXPLANATION OF PROVISION

The committee amendment modifies section 4002(g)(1) of ERISA to exempt the Pension Benefit Guaranty Corporation from any Federal taxation, except with respect to taxes under the Federal Insurance Contributions Act (social security) and the Federal Unemployment Tax Act. The exemption is to extend to the PBGC both in its corporate capacity and in its capacity as a trustee for terminated retirement plans. The exemption extends to the corporation's property, franchise, capital reserves, surplus, and to its income. The exempt income is to include, of course, the income earned by corporate investments out of premium payments and to income earned by plans for which the PBGC is acting as a fiduciary.

The House bill does not contain a comparable provision.

Mr. LONG. Mr. President, this simply provides tax exemption for the Pension Benefit Guaranty Corporation from Federal taxes.

Mr. President, I am not asking the Senate to vote on this tonight. I simply want them available to the Senate tomorrow.

In addition to that, section 2805 relates to level premium plans covering owner employees and I ask tht committee language explaining that be printed in the Record at this point for the benefit of Senators.

There being no objection, the material was ordered to be printed in the Record. as follows:

EXPLANATION OF PROVISION

The amendment permits contributions to be made to an H.R. 10 plan on behalf of an owner-employee under annuity contracts despite the overall 25-percent limitation if no other amounts are added to his account for the year under any other defined contribution plan or tax-sheltered annuity maintained by the employer or a related employer and if the employee is not an active participant for the year in a defined benefit plan maintained by the employer or a related employer. Under the amendment, the overall limitations which apply where an employee participates in both a defined contribution plan and a defined benefit plan are not changed. No comparable provision is included in the House bill.

Mr. LONG. Mr. President, if there are other amendments that the Senate will be content just to accept on voice vote tonight, I will be glad to consider them.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

AMENDMENT NO. 2126

Mr. GRIFFIN. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Michigan (Mr. Griffin) proposes an amendment number 2126.

The amendment is as follows:

At the appropriate place insert the following section:

Sec. 1511. Lump-Sum Distributions From Qualified Pension, Etc., Plans.

(a) In General.—Section 402(e)(4) (relating to definitions and special rules) is amended by adding at the end thereof the following new subparagraph:

"(L) Election to treat pre-1974 participation as post-1973 participation.—For purposes of subparagraph (E) and subsection (a)(2), if a taxpayer elects (at the time and in the manner provided under regulations prescribed by the Secretary), all calendar years of an employee's active participation in all plans in which the employee has been an active participant shall be considered years of active participation by such employee after December 31, 1973. An election made under this subparagraph, once made, shall be irrevocable and shall apply to all lump-sum distributions received by the taxpayer with respect to the employee. This subparagraph shall not apply if the taxpayer received a lump-sum distribution with respect to the employee in a taxable year beginning after December 31, 1975, unless no portion of such lump-sum distribution is treated as gain from the sale or exchange of a capital asset held for more than 6 months."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to distributions and payments made after December 31, 1975, in taxable years beginning after such date.

Mr. GRIFFIN. Mr. President, as written the minimum tax provisions of the tax reform bill would change sections 402(a)(2) and 403(a)(2) of the Internal Revenue Code by reducing the taxpayer's preference income exemption and increasing the rate of tax.

While these proposed changes are designed to insure that wealthy people cannot avoid all tax liability, they also would have an unexpected effect. They would subject many retiring employees who receive lump sum distribution from qualified pension or profit sharing plans to a substantial tax, which would not be the case under the law as it stands today.

The Congress has long recognized that relief from the burden of taxing lump sum distributions in full in the year of receipt was necessary. The route originally chosen was to provide long-term capital gains treatment.

Under the Employee Retirement Income Security Act of 1974, the capital gain treatment will be phased out by treating only a part of each distribution as long-term capital gain and part as ordinary income. The phase out will depend upon the years of participation in the plan before and after 1975. The ordinary income portion is subject to 10-year averaging.

In view of the proposed changes in the minimum tax provisions, the tax on a lump sum distribution could be greater than if the entire distribution were treated as ordinary income subject to the averaging provisions.

This amendment, which has been reviewed by both the majority and minority staffs of the Committee, would resolve the problem by revising sections 402(a)(2) and 403(a)(2) of the code to permit an employee who receives a lump sum distribution from a qualified trust or annuity plan to elect to treat the total taxable amount as ordinary income subject to the 10-year averaging provisions. In other words, the employee may elect not to treat any part of the distribution as capital gain.

It is reasonable to give the employee this option. The minimum tax is designed to assure that individuals with high income pay a minimum on the tax preferences. It is appropriate to treat a long-term capital gain as a tax preference item for this purpose. However, a lump sum distribution from a qualified employee trust should not be considered in the same context. Such distributions are made solely to employees who are not, as a class, in a position to take advantage of the tax shelters which the minimum tax seeks to discourage. Moreover, the distributions represent deferred income attributable to services rendered and are made to low paid as well as highly paid employees. While Congress provided that such distributions be taxed as if they were gains from the sale of assets held for more than 6 months, such treatment was merely to provide an equitable method of taxation. To treat them as long-term capital gains for the minimum tax possible is not warranted, particularly in light of the fact that Congress considered the taxation of such distributions as recently as 1974 and prescribed a method of taxation which is designed to phase out the capital gains treatment.

The net effect of the proposed amendment is to allow the employee to account for the lump sum distribution as ordinary income and thus retain the method of taxation which Congress prescribed in 1974. This amendment would also have the effect of equating the tax treatment given pre-1974 retirement plan participants vis-a-vis post-1974 retirement plan participants.

Mr. President, this has been cleared with the people on both sides of the committee.

Mr. LONG. Mr. President, this amendment would have a very small revenue impact amount; it is what is regarded as infinitesimal. I believe it is very meritorious.

I would suggest, to protect all Senators, that in the event someone reading the RECORD might have second thoughts about the amendment, that we agree in voting we will not move to reconsider. So anyone who might read the RECORD tomorrow and have some doubt—if that should be the case, and I doubt it will be—they will have every opportunity to ask it be reconsidered and I would help to have it reconsidered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Michigan.

The amendment was agreed to.

Mr. LONG. Mr. President, I do not believe there is going to be any disagreement to the two committee amendments I sent to the desk and asked to be explained.

I suggest we use the same procedure we used with regard to the amendment by the Senator from Michigan: that we simply agree to it with the understanding that we will suport a motion to reconsider in the event any Senator finds that he disagrees with the amendments on studying the record and the explanation.

The PRESIDING OFFICER. Without objection, the amendmnts are considered and agreed to en bloc.

Mr. LONG. Mr. President, I suppose we have managed to do about as much of the Senate's business as we can at this time. I would like to say for the RECORD, for the benefit of all Senators, in my judgment the Senate can pass this bill tomorrow, and I think it should. The Senate could pass this bill by 3 o'clock if it wants to, it can pass it by 4 o'clock if it wants to, it can pass it by 5 o'clock if it wants to, or if it wants to be mean, it can pass it at midnight. I hope the Senators will accommodate one another as they have done so well in the past several hours. If so, Mr. President, I believe we can pass this bill by 3 o'clock tomorrow by simply limiting the conversation and voting on the amendments that the Senators want considered.

Mr. ROBERT C. BYRD. Will the Senator yield for a question?

Mr. LONG. I yield.

Mr. ROBERT C. BYRD. What will be the pending amendment when the Senate resumes consideration of this bill tomorrow?

Mr. LONG. We will be considering the sliding scale tax on capital gains. That is title XXVII of the bill. That is the last of the amendments proposed by the committee. Tomorrow I will ask for, and hope to obtain, a limitation of time equally divided so Senators can debate it and vote. I would hope that Senators will realize tomorrow what they realized in considerable degree today, that it does not take the Senate that long to make up its mind about something. A Senator will either be for this or against it in short order. I hope we can vote on it in less than 1 hour, but that is up to the Senate to say.

Mr. ROBERT C. BYRD. So, for the RECORD, the Senator would anticipate a vote as early as 10 o'clock?

Mr. LONG. I would hope that the Senators would be willing to vote before 10 o'clock, but at least by 10 o'clock. I would hope very strongly we would be voting on this amendment by 10 o'clock.

ADDITIONAL STATEMENTS SUBMITTED

Mr. BELLMON. Mr. President, during its consideration of the tax reform bill, the Senate has undertaken in many diverse and complicated ways to provide incentives to strengthen this Nation's free enterprise system. While many of these efforts are meritorious, they fail to get to the basic problems.

The basic problems for the American free enterprise system are many. Among them is a lack of understanding of how the free enterprise system operates on the part of many Americans who have never had the opportunity to be entrepreneurs. Another is a misunderstanding of the level and the need for profits.

The August 9, 1976, issue of U.S. News & World Report contains an article entitled "Puting Profits in Perspective—Basic Facts and Figures," which deals with this question in an understandable and highly informative manner. I believe every Member of the Senate and every American should read this article. I ask unanimous consent that it be printed in full in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

PUTTING PROFITS IN PERSPECTIVE-BASIC FACTS AND FIGURES

Business today is under growing attack in this country, and a mistaken view of profits seems to be one of the reasons.

Polls show that people generally think the inflated prices they are paying nowadays include some very fat profits for the corporations—far more than they actually receive.

Why the misunderstanding? Just how big are profits? What, in fact, are profits, and how important are they to the economy? From economists come answers to these and other questions that help describe the role of profits in the American marketplace.

How much profits do corporations really make?

For manufactures, a normal profit is about 5 cent on a dollar of sales or 11.6 per cent on the shareholders' equity. That contrasts with the public's concept of 33 per cent, based on guesses received in a recent poll.

For all corporations, profits after taxes have averaged about 6 per cent of the national income since 1929. A recent study indicates that the share of national income going to profits has been declining since World War II.

Just how much do profits come to in dollar value?

The after-tax figure averaged 61.3 billion dollars during the 1971–75 period, as the chart on these pages shows. The Economic Unit of *U.S. News & World Report* expects the total to climb to 83.5 billion this year.

What is meant by "profit"?

In the simplest terms, profit is the difference between the revenues a business takes in and the costs it incurs in producing those revenues. Or as an economist would say, profit is the payment received by the owners of the capital invested in the business—that is, the funds, machines, buildings, patents and other assets that are used to produce goods and services the company sells.

What happens to those profits?

Right off the bat, federal and State taxes on the average rake off more than 42 cents of each dollar of earnings.

From what's left, the owners—the stockholders—receive a portion in the form of dividends on their shares of stock. In the 1971–75 period, about one fourth of pretax and more than 45 per cent of the after-tax profits were used for these payments.

Dividends are expected to set a record in 1976.

The balance of the profits are reinvested in the businesses to make them more productive and more profitable.

Who are the owners of corporations?

About 25 million are individuals who hold stock in their own names. More millions are indirect owners through pension funds and life insurance.

Why should the people who provide the capital for industry be rewarded with profits?

Providing some reward seems to be the only way a society can accumulate the capital needed for its industries, unless it operates through some form of coercion. The alternative, in a socialist economy, is to raise the funds through taxation and invest them according to a government plan.

In a capitalist economy, like the U.S., investments are attracted to those industries that the market deems most valuable at the time. The market signals the need for these investments through relatively high profits in the industries that need funds. Broadly speaking, that is the role of profits from the standpoint of the whole economy.

But how does the individual capitalist look at profits?

Economists say profits have at least three functions from the investor's point of view:

They are a payment to him for putting his money into capital equipment instead of using it for consumption.

Profits also are a compensation for taking risks. Buying stocks is riskier than putting money into a bank account. The company that issued the stock may suffer a decline in profits or even go out of business, while a bank account is insured by the Government.

Finally, profit also serves to reward enterprise and invention.

But don't profits sometimes become excessive?

There is no easy way to determine what level of profits is reasonable and what is not. The economist thinks of profits as being too high if they are more than the amount needed to attract capital to industries that need funds in order to satisfy the public's demands for goods and services.

Over the long run, economists theorize, profits are not likely to be excessive if there is plenty of competition to drive prices—and profits—down when they get out of line.

Doesn't the hunger for profits encourage businessmen to sell shoddy products and pollute the environment?

There are plenty of examples of such abuses, and competition is only a partial remedy for them. In time, the dishonest competitor usually is found out by his customers, who shift their patronage to other firms. But most economists accept the view that some abuses cannot be left to the workings of the profit-oriented market system and therefore have to be dealt with through regulation.

Thus, the Federal Trade Commission keeps an eye out for misleading advertisements. Other agencies, both State and federal, set safety standards for products and put limits on pollution.

What about the Marxist idea that the profits on capital come about as a result of exploiting the workers?

It is hard to see how workers generally can be exploited if labor markets are fluid and competitive. If an employer exploits his employes by paying them less, other employers will bid them away by offering more. The original employer then is compelled to match the higher wages or go out of business for lack of labor.

The crucial question, then, is whether employers are competitive.

Studies indicate that only about 2 per cent of the labor force is in areas where the labor market is dominated by four or fewer firms—that is, localities where so few big companies account for 50 per cent or more of all the jobs.

Thus, workers typically have a choice of a variety of employers. And they take advantage of that fact. The American worker is highly mobile. People are constantly moving across the city or across the country to jobs and neighborhoods that seem more attractive than those they had.

Then why all the popular antipathy toward profits?

It stems, in part, from that misunderstanding about the level of profits.

Furthermore, says economist Paul Samuelson, "much of the hostility toward profit is really hostility toward the extremes of inequality in the distribution of income." In other words, the profit system gets blamed for the fact that some people are very poor and some others are very rich.

That is another way of saying that an economic system based on the profit motive does not eliminate all social problems. But it has enabled the U.S. to be unusually productive and innovative and to have high and rising standards of living that are broadly shared by workers as well as managers and investors.

Mr. TAFT. Mr. President, as a cosponsor of this amendment I rise in support of it and urge its approval. I have long believed that the parent who sends his child to nonpublic schools deserves a tax deduction. I believe that if some action is not taken we will see the end of our educational system as it now exists.

The collapse of our nonpublic school system would have a tragic impact on all our educational system.

In past Supreme Court cases State laws have been struck down. It is my hope that the Federal approach envisioned in this amendment will have the approval of the Court. In 1972, after the Lemon decision, I introduced legislation similar to the Buckley-Taft amendment. However no action was taken. I feel that the time to act on this matter is long overdue.

The Buckley-Taft amendment would provide an above-the-line deduction for parents who pay tuition for their children. This type of deduction, like business expenses, will allow all taxpayers to take the deduction even if they do not itemize. The amendment calls for a $1,000 deduction for college tuition, $500 deduction for secondary education, and $250 for elementary education.

The President's Commission on Nonpublic Education, chaired by the late Neil McElroy, in its final report to the Congress, stated that 10 percent of all students were enrolled in nonpublic schools. If these students were suddenly dumped into the public school system the cost to the taxpayers would be substantial. It was for this reason that the President's Commission proposed a tax credit for nonpublic education.

It is my belief that competition has played a vital role in the development of our Nation. Our industry and technology is the best in the world because of the incentive that is provided through our competitive free enterprise system. Monopolies block innovation whether it is in a Government-owned postal system, illegal corporate price fixing, or a single noncompetitive educational system.

I believe that there is no greater area of need for effective innovation and creativity than the education of our Nation's young.

As a member of the Education Subcommittee of the Labor and Public Welfare Committee I have been struggling with the problem of helping the parent of the middle class student who is paying the very high cost of college tuition. I believe that this measure, with a $1,000 tax deduction will be of significant assistance.

I urge my colleagues to accept this amendment.

Mr. BEALL. Mr. President, as a cosponsor, I rise in support of the proposal granting a tax credit for higher education expenses.

This provision which is long overdue and desperately needed by middle-income Americans provides for a $100 tax credit for higher education expenses, commencing in 1977 and increasing by $50 annually until the credit reaches its maximum of $250 in 1980.

As I travel around Maryland and in my capacity as ranking minority member of the Education Subcommittee, I find one of the issues foremost in our citizens' minds is the spiraling cost of education and how they are going to be able to finance, or assist in financing, the cost of a college education for their sons and daughters.

Over the past 5 years, according to a study by the Library of Congress, college costs in public institutions increased 40 percent and the costs in private institutions rose 35 percent until today, the average college cost is $2,790 for public and $4,568 for private institutions. For some of our private institutions, the total annual costs have reached the astronomical level of $7,000.

What this all adds up to is that middle-income families, who are the backbone of this Nation and who pay the taxes that support social programs, are caught in an economic squeeze that threatens their ability to educate their children. This squeeze results from the general inflation which has plagued society in recent years and the rising costs of higher education in particular. The situation is particularly acute where there is more than one child in college. Evidently this circumstance has increased drastically in recent years. A study by Mr. Sheldon Elliot Steinbach of the American Council on Education states:

> When there is more than one child in the family in college at the same time, the impact is intensified, and this circumstance has increased drastically in recent years. In the 1950s and early 1960s, families averaged in excess of three births per family with births occurring at intervals of under two years—sharply up from the average of two births at four-year intervals during the 1930s. This "sibling overlap" is a major hurdle for middle-income families attempting to finance higher education at least for the next decade.

Mr. President, frankly, many middle-income Americans feel that they are the "forgotten Americans." Some commentators have expressed concern that, unless policy changes and help—such as provided by this tax credit—are provided, only the children of the poor and the wealthy will be able to attend some of the higher-cost institutions.

Now, these comments should not be constructed as being against the programs and progress made in recent years to expand opportunity and improve access for lower-income students. In fact, for the first time this fall, the basic opportunity grant program—BOG's—will be available for all four classes—freshman through senior. This program—as all senators know—provides grants to lower-income students.

Great strides have been made in recent years. Minority enrollment in institutions of higher education more than doubled between 1968 and 1972, and, judging from the increased participation rate in the BOG program, it would appear that access for lower-income students is improving.

However, for those students just above the low-income level and up to $10,000, an alarming decrease in their percentage of students in higher education has occurred.

"The condition of education" 1976 edition, an HEW publication observes and I quote:

> The proportion of students from families with incomes from $4,000 to $9,999 has dropped from 47.1 percent in 1966 to 18.3 percent in 1974.

In connection with the Education Amendments of 1972, I joined in supplemental views alerting the Nation to the plight of middle-income America. I quote:

> In considering the availability of a higher education, we refer not only to those in the poverty category but also the large number of young people from middle-income families whose resources are insufficient to meet the mounting costs of a college education. We must be careful lest our campuses be occupied principally by those at the poverty level, who qualify for special aid, and those from the upper income brackets, who can afford to pay—a campus peopled only by the very rich and the very poor, pricing out the middle income, is also violative of the American system.

In the 92d Congress, I strongly supported a tax credit for higher education. Although this provision passed the Senate, it was unfortunately lost in the House-Senate conference committee.

I am also a cosponsor of S. 666, which provides credits to encourage saving for the cost of postsecondary education. Under this provision, a taxpayer would be allowed to contribute up to $250 annually for each dependent child to an "educational savings plan" and receive a tax credit equal to 20 percent of such contribution. Although I believe such a proposal also makes sense, it is for future educational expenses.

Mr. President, recently the Commissioner of Education, Terrell H. Bell, announced his decision to resign effective August 1. A major reason for the Commissioner's decision to leave his present post was that—and here I will quote from his statement:

> I will soon have three sons entering college and the financial aspects of my employment will be particularly important over the next few years. With my oldest boy entering college next fall, there is no way I can support him with the income from my present position.

Certainly, if the Commissioner of Education with a salary of $37,800 is having difficulty in financing his children's education, the college costs for the average middle-income family spell financial disaster or the inability of their children to attend college. As the New York Times stated in a recent editorial, the Nation is faced with a "clear and present danger—that college gates are being shut to increasing numbers of able, middle-class young people on economic grounds alone. Nothing less is at stake than the future of an open, upward-mobile democratic society."

Middle-income Americans with students in college need help and need it now. National policy and priorities have overlooked them for too long. It is time for Congress to respond to the problems of hard-pressed, middle-income parents as they try to pay rising education costs.

As the ranking minority member of the Education Subcommittee, I urge the enactment of this education expense tax credit, and I hope that the Senate conferees will insist on the retention of this provision in the conference committee this year.

Mr. President, I ask unanimous consent that an article on college costs from the New York Times of April 5 of this year be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD as follows:

[From the New York Times, Apr. 5, 1976]

COSTS AT LEADING COLLEGES GOING OVER $7,000 A YEAR

(By Gene I. Maeroff)

The relentless increase in the cost of going to college will continue next fall as tuitions at many of the country's leading private institutions climb over the $4,000 mark for the first time and total annual charges push above $7,000.

Increases in total costs, including room, board and expenses, as well as tuition, will vary from 5 to 12 percent at individual colleges and universities, according to a survey released yesterday by the College Entrance Examination Board.

The average cost for a resident undergraduate will be $4,568 at a private institution and $2,790 at a public institution. But for students at some highly selective, prominent institutions, costs will far exceed the averages, especially because of the higher tuitions at such schools.

Tuitions already set for the fall include those of $4,400 at Yale, $4,800 at Princeton, $4,275 at Stanford, $4,270 at Brown, $4,230 at Dartmouth, $4,150 at the Massachusetts Institute of Technology and at Wesleyan, $4,110 at Cornell, $4,100 at Harvard, the University of Pennsylvania and Middlebury and $4,000 at Columbia.

Bennington College in Vermont, which in 1973 was one of the first institutions in the United States to charge a tuition of more than $4,000, will become one of the first to exceed $5,000 in September, when tuition goes to $5,250 from $4,980.

By breaking through the psychological barrier of the $4,000 tuition level, institutions of higher education are giving fresh impetus to the debate over just how much a college can charge without pricing itself out of the market.

There is growing concern over the prospect that the cost of attending leading private colleges and universities may get so high that only the children of the very wealthy and those poor enough to qualify for extensive financial aid will be able to afford such institutions.

"The individual institutions leading the pack in terms of high tuition are somewhere on the threshold of going beyond what the market can bear and I would not be in that vanguard," said Dr. Steven Muller, president of John Hopkins in Baltimore, which is raising its tuition by $200 to $3,600.

"If we don't get a reliable, well coordinated student aid program at the state and Federal level," Dr. Boyer said, "the tuition problem will become a social disaster."

Some of the most expensive private schools are trying to offset the impact of their tuition increases by maintaining and even increasing the proportion of money they devote to student assistance.

"The Ivies and other leading institutions have not gotten the credit they deserve in this connection," said Dr. John G. Kemeny, president of Dartmouth University in New Hampshire. "What is sometimes overlooked is that the very best schools are also the ones most likely to be able to afford the strongest financial aid programs."

Franconia College, also in New Hampshire, is one of the few institutions that intends to cut tuition and total charges next year, hoping that it will help the school attract more students. Tuition will drop from $3,900 to $3,740 and total charges will be down by almost 10 percent.

"We are going to have a difficult time avoiding a deficit next year and from a budgetary standpoint we should have raised tuition much higher than we did," he said.

"But if we jack up our tuition much higher than we absolutely have to we will frighten away students," said Dr. Muller, who also heads the newly-formed National Association of Independent College and Universities. "It would also have diminishing returns because an increased proportion of each dollar we take in would have to be put into financial aid."

Adding to the despair of some observers is the fact that the costs at publicly supported institutions are rising at an even faster rate than at the private colleges.

"The answer has to be greater Federal support for the scholarship aid of students from low- and middle-income families," said Dr. Ernest L. Boyer, chancellor of the 170,000-student State University of New York, which last week announced tuition increases ranging from 12 * * *.

Despite the cost increases at most private colleges and universities there remains a feeling in many sectors that the demand to get into the prestigious institutions is still strong.

TUITION DIFFERENTIAL

"As long as an institution can be first rate and offer an excellent and distinctive program," said Dr. Hanna Gray, provost of Yale, "and as long as it is not alone in its price bracket itself in light of changing circumstances it will not price itself out of the market."

The differential in tuition is essentially what accounts for the cost margin between public and private institutions.

For instance, the average cost of room and board next fall will be $1,304 at public colleges and $1,371 at private colleges. Transportation, personal expenses, books and supplies will also cost about the same at both kinds of institutions, according to the College Board.

The two-year community colleges, attended primarily by commuting students, will still be the least expensive institutions of higher education. But pressures in many states having to increase community college tuitions are causing alarms.

"If tuition is imposed here," said Max Thompson, a student at Los Angeles City College, which is now free, "I'd have to quit school or borrow money."

The average tuition at community colleges across the country is expected to be $387.

Here are the figures on what the total costs for resident undergraduate will be next fall at a number of representative institutions around the country:

Arizona State University, $3,150; California Institute of Technology, $6,285; University of Colorado, $2,831; University of Connecticut, $3,400; Georgetown University, Washington, $5,700; Northwestern University, Illinois, $6,110; Indiana University, $3,237; Grambling College, Louisiana, $1,995; and Bowdoin College, Maine, $6,200.

Bunker Hill Community College, Massachusetts, $350; Smith College, Massachusette, $6,170; Bethany Lutheran College, Minnesota, $3,480; Central Missouri University, $1,970; Drew University, New Jersey, $5,455; Rutgers University, New Jersey, $3,200; Le Mayn College, New York, $4,350; Sarah Lawrence College, New York, $7,390; State University of New York at New Paltz, ——— and Vassar College, New York, $5,710.

Copies of the College Entrance Examination Board's report are available at $25.50 each from College Board Publication Orders, Box 2814, Princeton, N.J. 08540.

ORDER FOR ADJOURNMENT FROM TOMORROW UNTIL 8:30 A.M. MONDAY, AUGUST 9, 1976

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business tomorrow, it stand in adjournment until the hour of 8:30 a.m. on Monday, August 9, 1976.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

CALENDAR

Mr. ROBERT C. BYRD. Mr. President, Calendar Orders 1000 through and including 1052 all concern relief bills. They have all been cleared on both sides of the aisle.

I ask unanimous consent that the Senate proceed to the consideration of Calendar Orders 1000 through and including 1052.

The PRESIDING OFFICER. Without objection, it so ordered.

KELVIN SIU-MIN CHEN

The bill (S. 2959) for the relief of Kelvin Siu-Min Chen, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America of Congress assembled, That, for the purposes of the Immigration and Nationality Act, Kelvin Siu-Min Chen shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act upon payment of the required visa fee. Upon the granting of permanent residence to such alien as provided for in this Act, the Secretary of State shall instruct the proper officer to reduce by one number, during the current fiscal year or the fiscal year next following, the total number of immigrant visas and conditional entries which are made available to natives of the country of the alien's birth under paragraphs (1) through (8) of section 203(a) of the Immigration and Nationality Act.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 94–1066), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE BILL

The purpose of the bill is to grant the status of permanent residence in the United States to Kelvin Siu-Min Chen. The bill provides for the payment of the required visa fee and for an appropriate visa number deduction.

STATEMENT OF FACTS

The beneficiary of the bill is a 26-year-old native of Hong Kong and British subject who curently resides in Culver City, California. He last entered the United States on September 1, 1971 as a student. The beneficiary is single and is employed as an accountant.

A letter, with attached memorandum, dated May 10, 1976 to the Chairman of the Senate Judiciary Committee from the Commissioner of Immigration and Naturalization with reference to the bill reads as follows:

U.S. DEPARTMENT OF JUSTICE,
IMMIGRATION AND
NATURALIZATION SERVICE,
Washington, D.C., May 10, 1976.

Hon. JAMES O. EASTLAND,
Chairman, Committee on the Judiciary, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: In response to your request for a report relative to the bill (S. 2959) for the relief of Kelmin Siu-Min Chen, there is attached a memorandum of information concerning the beneficiary.

The bill would grant the beneficiary permanent residence in the United States as of the date of its enactment upon payment of the required visa fee. It would also direct that a visa number deduction be made.

The beneficiary, a native of Hong Kong, is chargeable to the nonpreference portion of the numerical limitation for immigrants and conditional entrants from countries in the Eastern Hemisphere and their dependent areas.

Sincerely,

L. F. CHAPMAN, Jr.,
Commissioner.

Enclosure.

MEMORANDUM OF INFORMATION FROM IMMIGRATION AND NATURALIZATION SERVICE FILES RE S. 2959

The beneficiary, Mr. Kelvin Sui-Min Chen, a native of Hong Kong and a British subject, was born on October 12, 1950 and is single. He resides in Culver City, California. He has earned a Master of Business Administration degree and Bachelor of Science degree in accounting from the University of Southern California at Los Angeles. He is employed by Price, Waterhouse and Company as an accountant earning an annual salary of $14,700. His assets consist of $30,000, which his father sent to him for the purpose of investing, and an automobile with a value of about $10,000. The beneficiary's mother is deceased. His father and two brothers reside in Hong Kong. The beneficiary has no one dependent upon him for support.

The beneficiary first entered the United States on July 7, 1969 as an alien in transit through the United States enroute to Canada. He next entered the United States on November 8, 1969 as a nonimmigrant visitor. On September 1, 1971, the beneficiary was admitted as a nonimmigrant student. He has remained in the United States since that time as a student, departing only for summer vacation trips to Hong Kong. He was last admitted to the United Staes on June 29, 1975 as a student and his authorized stay expired on the last day of February 1976. Deportation proceedings will be instituted
Senator Mike Mansfield, the author of the
United States for a longer time than permitted.

Senator Mike Mansfied, the author of the bill, submitted the following supporting information:

U.S. SENATE,
OFFICE OF THE MAJORITY LEADER,
Washington, D.C., May 22, 1976.

Hon. JAMES O. EASTLAND,
Chairman, Committee on the Judiciary, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This will acknowledge receipt of your May 14 correspondence concerning S. 2959, private relief legislation for Kelvin Siu-Min Chen.

Enclosed for the Subcommittee's information which I have received in support of Mr. Chen's request that he be granted permanent residence in the United States.

With best personal wishes, I am

Sincerely yours,

MIKE MANSFIELD.

Enclosure.

WELLS FARGO BANK,
TOKYO BRANCH,
Tokyo, Japan, February 5, 1976.

Senator MIKE MANSFIELD,
U.S. Senate,
Washington, D.C.

DEAR MIKE: Although it has been some time since our last meeting (August, 1972 in your Washington office), I should like to call upon you from this great distance for assistance.

When we last visited, I was Vice President and representative for Wells Fargo Bank's Hong Kong office. Subsequently, I was transferred to Tokyo where I am Vice President and General Manager of our branch. It is our bank's privilege to own a 20% interest in the Shanghai Commercial Bank, Ltd. in Hong Kong and, together with our President, I serve on its Board of Directors.

I recently returned from a board meeting at Hong Kong. While there, Mr. K. K. Chen, General Manager of the Shanghai Commercial Bank informed me that his son, Kelvin has completed his education at the University of Southern California and has been working in the training program of Price Waterhouse & Co. in Los Angeles as a staff accountant. Kelvin's present F-1 Student/Training visa expires at the end of this month (February, 1976) at which time his training program with Price Waterhouse is also completed. It is my understanding that he has initiated the appropriate effort to obtain a change in his visa status from F-1 to E-1 (Business).

The purpose of this letter to you is to seek your assistance in obtaining for Kelvin permanent residency in the U.S.—I believe it is called a green card. To the best of my knowledge this requires the sponsorship of a U.S. Senator to obtain enactment of a private bill.

I have known Kelvin and his fine family, the Chens for about six years during which time it has been my privilege to have a business association with his father. They are indeed outstanding people with a proud and honorable background. Kelvin is a well educated, accomplished young man—a credit to his family and a potential asset to his generation in our country. He brings with him, his education, proud heritage and solid family financial backing. As a permanent resident he provides our economy with educational background skills not generally available in the U.S. labor market. I refer here to his ability to combine his accounting and business education and training with his knowledge of Chinese language and writing in the rapidly expanding trade our nation is embarked upon with Asia.

I have enclosed some particulars concerning Kelvin's present situation. Could you be of assistance to him (and myself) in this matter? Any help or advice you can provide me on this should be deeply appreciated.

Kindest regards,

WICK.

The committee, after consideration of all the facts in the case, is of the opinion that the bill, S. 2959, should be enacted.

DR. LAURENCE T. GAYAO, EDITH GAYAO, AND LORRAINE GAYAO

The bill (S. 3445) for the relief of Doctor Laurence T. Gayao, his wife, Edith Gayao, and their child, Lorraine Gayao, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of the Immigration and Nationality Act, Doctor Laurence T. Gayao, his wife, Edith Gayao, and their child, Lorraine Gayao, shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act upon payment of the required visa fees. Upon the granting of permanent residence of such aliens as provided for in this Act, the Secretary of State shall instruct the proper officer to reduce by the required numbers, during the current fiscal year or the fiscal year next following, the total number of immigrant visas and conditional entries which are made available to natives of the country of the aliens' birth under paragraphs (1) through (8) of section 203(a) of the Immigration and Nationality Act.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 94–1067), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE BILL

The purpose of the bill is to grant the status of permanent residence in the United States to Doctor Laurence T. Gayao, his wife, Edith Gayao, and their child, Lorraine Gayao. The bill provides for the payment of the required visa fees and for the appropriate visa number deductions.

STATEMENT OF FACTS

The beneficiaries of the bill are natives and citizens of the Philippines. They entered the United States on March 9, 1973, and currently reside in Santa Anna, Texas, Dr. Gayao has been asked to serve as the County Health Officer and the City Health Officer for Baird, Texas. He is one of only four physicians providing medical care for the residents of Callaghan County.

A letter, with attached memorandum, dated June 7, 1973, to the Chairman of the Senate Judiciary Committee from the then Acting Commissioner of Immigration and Naturalization has reference to S. 1689, a similar bill introduced in the 93rd Congress. The information reads as follows:

U.S. DEPARTMENT OF JUSTICE, IMMIGRATION AND NATURALIZATION SERVICE,
Washington, D.C., June 7, 1973.

DEAR SENATOR: In response to your request for a report relative to the bill (S. 1689) for the relief of Doctor Laurence T. Gayao, his wife Edith Cabus Gayao and their daughter, Lorraine Gayao, there is attached a memorandum of information concerning the beneficiaries.

The bill would provide that the beneficiaries shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of its enactment, upon payment of the required visa fees. It would also direct that the appropriate visa number deductions be made.

The beneficiaries, natives of the Philippines, are chargeable to the third preference portion of the numerical limitation for immigrants and conditional entrants from countries in the Eastern Hemisphere.

Sincerely,

JAMES F. GREENE,
Acting Commissioner.

MEMORANDUM OF INFORMATION FROM IMMIGRATION AND NATURALIZATION SERVICE FILES RE S. 1689

The beneficiaries, Doctor Laurence T. Gayao, his wife Edith Cabus Gayao and their daughter Lorraine Gayao, are natives and citizens of the Philippines born February 23, 1946, May 20, 1947, and December 9, 1972, respectively. Doctor Gayao received his M.D. Degree in 1971 and Mrs. Gayao received her B.S. Degree in Medical Technology in 1969, both in the Philippines. They were married February 13, 1972 and have only one child, also a beneficiary. Prior to coming to the United States Doctor Gayao was employed as Resident and Staff Physician by the Mindinao Sanatorium and Hospital in Iligon City, Philippines. Mrs. Gayao was also employed by that institution as a Laboratory Technician. At the present time Doctor Gayao is unemployed; Mrs. Gayao is employed as a Laboratory Technician by the Ranger Park Hospital in Santa Anna, Texas earning $3 per hour or approximately $110 per week. The beneficiaries have no assets other than personal articles and clothing valued at $1,000. They have no relatives in the United States and reside in Santa Anna, Texas.

Doctor Gayao, accompanied by his wife and child, was admitted to the United States at Honolulu March 9, 1973 as a nonimmigrant to perform services of distinguished merit and ability. He came to accept employment at the Ranger Park Hospital in Santa Anna. However, he has no license to practice medicine in the United States and the Texas Board of Medical Examiners require applicants to present evidence of having filed a declaration of intention to become a citizen of the United States to qualify for examination. Doctor Gayao is not eligible to file such a declaration since he has never been admitted for permanent residence. An immigrant visa is required to gain such admission. On March 21, 1973 he filed petition for third preference status for the issuance of an immigrant visa and this was approved May 7, 1973. However, at the present time third preference immigrant visas are not available. It therefore appears Doctor Gayao will not be able to practice medicine in Texas.

Senator Lloyd Bentsen, the author of the bill, has submitted the following supporting information:

U.S. SENATE,
Washington, D.C., June 10, 1976.

Hon. JAMES O. EASTLAND,
Chairman, Senate Judiciary Committee, Dirksen Senate Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: I have received a copy of the letter provided you by the Commissioner of the Immigration and Naturalization Service concerning Dr. Laurence T. Gayao, Edith Gayao and Lorraine Gayao which were the subjects of S. 3445 submitted by me on May 18, 1976.

It is true that the bills cited by the Commissioner were tabled by the House and Senate Judiciary Committees respectively on July 31, 1973 and October 2, 1973. This action was taken, however, when Dr. Gayao voluntarily departed the country so that he might return as the beneficiary of H-I visa. Therefore, no further action was required by the Committees. Dr. Gayao is currently residing in the United States with his family on that same H-I visa, and I would hope the Committee would see fit to favorably recommend this bill for passage to allow him and his family to remain in the U.S.

Dr. Gayao is one of only four doctors in the entirety of Callaghan County and has been asked to serve both as the County Health Officer and the City Health Officer for Baird, Texas. Of the other three doctors, one is a State employee with the Abilene

State School and the other two, like Dr. Gayao, are Philippine nationals. The two Philippine doctors are also on non-immigrant visas and could possibly be, therefore, subject to the same situation in which Dr. Gayao now finds himself. Thus, it is clear that the citizens of Callaghan County would be deprived of adequate medical care should the already small number of doctors serving the area be further reduced.

It appears that he has previously complied with all requirements levied upon him and I feel that it would be in the best interests of the United States that he should be allowed to remain.

I want to thank you for your consideration of this matter.

Sincerely,

LLOYD BENTSEN.

The committee, after consideration of all the facts in the case, is of the opinion that the bill, S. 3445, should be enacted.

ORLANDO GARZON

The bill (S. 3485) for the relief of Orlando Garzon, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Orlando Garzón may be classified as a child within the meaning of section 101(a)(1)(F) of the Act, upon approval of a petition filed in his behalf by Mr. and Mrs. Arnold Lindgren, citizens of the United States, pursuant to section 204 of the Act: *Provided,* That the natural parents or brothers or sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

SEC. 2. Section 204(c) of the Immigration and Nationality Act, relating to the number of petitions which may be approved, shall be inapplicable in this case.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 94–1068), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE BILL

The purpose of the bill is to facilitate the entry into the United States as an immediate relative of the prospective adopted child of U.S. citizens, notwithstanding the fact that the prospective adoptive parents have previously had the maximum number of petitions approved.

STATEMENT OF FACTS

The beneficiary of the bill is a four-year-old native and citizen of Colombia who is currently in the custody of the Foundation for the Adoption of Abandoned Children in Bogota. The whereabouts of the beneficiary's natural parents are unknown. The prospective adoptive parents are natives and citizens of the United States. They have four natural children and five adopted children. The beneficiary is visually handicapped and suffers from post polio paralysis. The prospective adoptive parents intend to have the beneficiary treated by the University of Minnesota Hospital.

A letter, with attached memorandum, dated June 30, 1976 to the Chairman of the Senate Judiciary Committee from the Commissioner of Immigration and Naturalization with reference to the bill reads as follows:

U.S. DEPARTMENT OF JUSTICE, IMMIGRATION AND NATURALIZATION SERVICE,
Washington, D.C., June 30, 1976.

Hon. JAMES O. EASTLAND,
Chairman, Committee on the Judiciary, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: In response to your request for a report relative to the bill (S.3485) for the relief of Orlando Garzon, there is attached a memorandum of information concerning the beneficiary.

The bill would provide that the beneficiary, who is to be adopted by United States citizens, may be classified as a child and be granted immediate relative status. The bill further provides that the provision of the Immigration and Nationality Act which limits the number of petitions that may be approved for adopted children shall not be applicable in this case. The bill also provides that the natural parents or brothers or sisters of the beneficiary shall not, by virtue of such relationship, be accorded any rights, privilege or status under the Immigration and Nationality Act.

Sincerely,

L. F. CHAPMAN, Jr., *Commissioner.*

Enclosure.

MEMORANDUM OF INFORMATION FROM IMMIGRATION AND NATURALIZATION SERVICE FILES RE S. 3485

Information concerning the case was obtained from Mr. and Mrs. Arnold Lindgren, the prospective adoptive parents of the beneficiary.

The beneficiary, Orlando Garzon, was born March 10, 1972 in Bogota, Colombia. His parents are unknown. He was found abandoned and is presently in the custody of the Foundation for the Adoption of Abandoned Children, Bogota, Colombia. The beneficiary is visually handicapped and suffers from post polio paralysis in both legs. The Lindgrens stated that medical help has been offered by the University of Minnesota Hospital with the advice that the possibility of success of said treatment decreases with the passage of time.

Arnold and Joyce Lindgren, who are natives and citizens of the United States, were born on July 4, 1933 and December 16, 1934, respectively. They were married on June 8, 1957 and presently reside in Olivia, Minnesota. Mr. Lindgren is the pastor of the Cross of Calvery Lutheran Church in Olivia and earns more than $13,000 per annum. Mrs. Lindgren is a housewife. Their home is provided by the church and they have other personal property valued at $15,000. They have nine children, the first four of whom were born to them. The last five children have been adopted. They have filed two previous petitions, approved in 1973 and 1975, to accord their adopted daughters, Jin Hee Lee (Susan) and Adriana Uribe (Nicole) immediate relative status for the issuance of immigrant visas. Both of these girls are visually handicapped.

H.R. 13802 has also been introduced in the beneficiary's behalf.

Senator Walter Mondale, the author of the bill, submitted the following supporting information:

U.S. SENATE, COMMITTEE ON LABOR AND PUBLIC WELFARE,
Washington, D.C., June 24, 1976.

Hon. JAMES O. EASTLAND,
Chairman, The Judiciary Committee, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Orlando Garzon is a four year old native of Colombia, South America. Orlando is blind, has had polio and has no use of his legs. His mother has abandoned him.

FANA, who is the adoptive agency in Colombia, states that according to medical releases, the child can recover his sight if he is allowed to come to the United States and receive proper medical help; and that with special therapy and braces, the child can also recover the use of his legs, but that they do not have the equipment necessary for treatment of this child in Colombia.

My constituents, Mr. and Mrs. Arnold Lindgren, have seen the child and have made arrangements for the adoption and care of Orlando. Since his condition will deteriorate if not promptly taken care of, they are most anxious to bring the child here as promptly as possible.

Rev. and Mrs. Lindgren have already adopted two other orphans and according to reports sent me, have greatly helped to restore their health and emotional stability. Their home life shows love and respect for one another and devotion and patience with the children.

Your prompt passage of S. 3485 would be greatly appreciated. Enclosed are statements and affidavits in support of the Bill.

Sincerely,

WALTER F. MONDALE.

DR. OSCAR J. BRISENO

The bill (S. 3682) for the relief of Doctor Oscar J. Briseno, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of the Immigration and Nationality Act and section 21(e) of the Act of October 3, 1965, Doctor Oscar J. Briseno shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act upon payment of the required visa fee. Upon the granting of permanent residence to such alien as provided for in this Act, the Secretary of State shall instruct the proper officer to reduce by one number, during the current fiscal year or the fiscal year next following, the total number of immigrant visas which are made available to special immigrants as defined in section 101(a)(27)(A) of the Immigration and Nationality Act.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 94–1069), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

Date of birth: April 10, 1944, Mexico City, Mexico.

Married, three native-born U.S. citizen children.

Jasper General Hospital in Bay Springs, Mississippi is in desperate need of Dr. Briseno's services. It serves 25,000 people and until recently relied on five physicians. However, there are now only three physicians practicing in the area. Dr. Briseno performs general practice and general surgery. At the present time either are no surgical services available to the residents of Bay Springs and the surgical suite at the Jasper General Hospital has been closed.

Dr. Briseno is a highly skilled physician. His services will contribute much to Bay Springs. He entered the United States 6 years ago under a J–1 training visa and has a license to practice medicine in Illinois. However, he cannot be licensed to practice in Mississippi until he becomes a permanent resident alien and files a Declaration of Intent to become a U.S. citizen.

There is no administrative remedy available to Dr. Briseno since he is a native of the Western Hemisphere. Applicants for immigrant visas from that hemisphere face a 28-month wait before a visa may be issued and they are not permitted to remain in the United States pending visa availability.

DR. JUAN BAUTISTA LOPEZ RUIZ

The bill (S. 3683) for the relief of Dr. Juan Bautista Lopez Ruiz, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of the Immigration and Nationality Act and section 21(e) of the Act of October 3, 1965, Doctor Juan Bautista Lopez Ruiz shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act upon payment of the required visa fee. Upon the granting of permanent residence to such alien as provided for in this Act, the Secretary of State shall instruct the proper officer to reduce by one number, during the current fiscal year or the fiscal year next following, the total number of immigrant visas which are made available to special immigrants as defined in section 101(a)(27)(A) of the Immigration and Nationality Act.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 94–1070), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

Date of Birth: May 19, 1947. Nicaragua.
Married.

Dr. Lopez has a priority date of August 6, 1974 on the Western Hemisphere waiting list. However, at the present time, visas are available only to those whose priority dates are earlier than March 1, 1974. Although he has already filed a declaration of intention to become a U.S. citizen, Dr. Lopez will be unable to obtain a license to practice medicine in Mississippi until he obtains a permanent resident visa.

The services of Dr. Lopez are desperately needed at Hinds General Hospital in Jackson, Mississippi. In February, 1976 the staff of pediatricians informed the administrator of the hospital that as of June 30, 1976 they would no longer perform their duties regarding the care of the newborn in the nursery. Upon receipt of this notification, the hospital began searching for a qualified pediatrician to assume charge of the nursery. Hinds General was fortunate to find Dr. Juan Lopez, a pediatrician specializing in the field of neonatology. Efforts have been made to obtain doctors to staff the nursery until Dr. Lopez is able to obtain a license and assume full authority, but so far these efforts have been unsuccessful. The hospital faces the possibility of having to close its nursery if Dr. Lopez is unable to obtain a license to practice in the State of Mississippi.

VOJISLAV S. BOZIC, CONSTANTIN A. KRYLOV, ABDURACHMAN G. KUNTA, FATIMA S. KUNTA, NIKOLAI I. OZOLINS, EUGEN E. POSDEEFF, AND TATIANA M. WASSILIEW

The bill (S. 3702) for the relief of Vojislav S. Bozic, Constantin A. Krylov, Aburachman G. Kunta, Fatima S. Kunta, Nikolai I. Ozolins, Eugen E. Posdeeff, and Tatiana M. Wassiliew, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Vojislav S. Bozic, Constantin A. Krylov, Abdurachman G. Kunta, Fatima S. Kunta, Nikolai I. Ozolins, Eugen E. Posdeeff, and Tatiana M. Wassiliew, after being lawfully admitted to the United States for permanent residence, may be naturalized upon compliance with all the requirements of the naturalization laws, except that no prior residence or specified period of physical presence within the United States or within the jurisdiction of the naturalization court shall be required.

SEC. 2. Notwithstanding the provisions of section 212(a)(19) of the Immigration and Nationality Act, Abdurachman G. Kunta and Fatima S. Kunta may be issued visas and admitted to the United States for permanent residence if they are found to be otherwise admissible under the provisions of that Act: *Provided,* That this exemption shall apply only to grounds for exclusion of which the Department of State or the Department of Justice had knowledge prior to the enactment of this Act.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an execerpt from the report (No. 94–1071), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF THE ARMY,
Washington, D.C., November 17, 1975.
Hon. NELSON A. ROCKEFELLER,
President of the Senate.

DEAR MR. PRESIDENT: Inclosed is a draft of legislation, "For the relief of Vojislav S. Bozic, Constantin A. Krylov, Abdurachman G. Kunta, Fatima S. Kunta, Nikolai I. Ozolins, Eugen E. Posdeeff, and Tatiana M. Wassiliew."

The Office of Management and Budget advises that, from the standpoint of the Administration's program, there is no objection to the presentation of this proposal for the consideration of the Congress. The Department of the Army recommends its enactment.

PURPOSE OF THE LEGISLATION

The purpose of section 1 of the proposed bill is to provide that the persons named in the bill shall be considered to have met the requirements of the Immigration and Nationality Act concerning continuous residence and physical presence in the United States for naturalization. Section 316(a) of the Immigration and Nationality Act (8 USC 1427(a)) requires a petitioner for naturalization, after being lawfully admitted for permanent residence, to have resided continuously within the United States for at least 5 years, and, during the 5-year period immediately preceding the date of filing of the petition, to have been physically present therein for at least half the time. In addition, a petitioner is required to have resided for 6 months within the state in which the petition is filed and to reside in the United States from the date of the petition until time of admission to citizenship.

The named individuals have been employed by the United States at the United States Army Institute for Advanced Russian and East European Studies (Russian Institute) in Garmisch, Germany, from 7 to 27 years. These individuals escaped from Soviet control during or immediately following World War II, and, because of their unique qualifications, were selectively recruited to teach the Russian language and Soviet/East European affairs at the Russian Institute. At the present time, all these persons are stateless, having no attachment to the Soviet Union or other communist state, and they have long since renounced their former citizenship. All have passed rigid security investigations and all have expressed a desire to become citizens of the United States Civil Service (excepted) status was obtained for them on July 1, 1965.

These instructors have served the critical interest of the United States through preparation of Soviet/East European specialists representing all military services, the Departments of State and Defense, and other governmental agencies. Russian Institute graduates have traditionally served in key positions dealing with the development of United States foreign policy and national defense planning vis-a-vis the Warsaw Pact nations. In recognition of this service, it is considered appropriate to assist in their naturalization.

Under the current provisions of the Immigration and Nationality Act, these individuals would be required to terminate their present employment and reside in the United States for at least one year following admission to permanent residence. During this period, the United States would be deprived of their services at the Russian Institute. The proposed legislation would exempt these persons from the need to establish actual residence or to be physically present within the United States prior to naturalization. A similar exception was granted to employees of Radio Free Europe and Radio Liberty Committee under Public Law 90–215, dated December 18, 1967.

On December 4, 1972, the American Consul, Frankfurt, Germany, pursuant to the provisions of section 101(a)(27)(E) of the Immigration and Nationality Act, as amended (8 USC 1101(a)(27)(E)), granted Messrs. Bozic, Krylov, Kunta, Ozolins and Posdeeff the status of special immigrant for admission to the United States by reason of their long, faithful and important service with the United States in Europe. On September 6, 1973, the American Consul, Frankfurt, granted special immigrant status to Mrs. Wassiliew by reason of previous resident alien status.

Unfortunately, the granting of this special status to Abdurachman G. Kunta does not in and of itself permit a visa to be issued because he was found by the Department of State to be ineligible for admission to the United States under section 212(a)(19) of the Immigration and Nationality Act, as amended (8 USC 1182(a)(19)), for misrepresentation of material fact made when applying for a visa in the early 1950s. Mr. Kunta failed to reveal information concerning former Communist Party membership and service in the German Armed Forces which could have been significant in determining his eligibility for immigration to the United States at the time he was applying for such admission. At the time of this indiscretion, Mr. Kunta was under great psychological pressure because of what he feared might occur if he were required to return to the Soviet Union. However, Mr. Kunta is one of the faculty members most instrumental in the success of the Russian Institute program during the past 20 years. Since his employment at the Institute in 1950, he has written many scholarly books, articles, and papers on communist doctrine for both private and United States governmental publication. His work, writings, and conduct have demonstrated his loyalty and his dedication to the interests of the United States and his renunciation of the doctrines of the Communist Party. The Department of the Army supports his efforts to obtain United States citizenship. Section 2 of the proposed bill, therefore, would except Mr. Kunta from section 212(a) (19) of the Immigration and Nationality Act concerning visa ineligibility.

Section 2 of the proposed bill also excepts Mr. Kunta's wife, Fatima S. Kunta, from section 212(a) (19) of the Immigration and Nationality Act concerning visa ineligibility. Faced with the same psychological pressures as her husband, she, too, made misrepresentation of material facts concerning Communist Party membership when applying for a visa in the early 1950s. Since that time, she has also renounced the doctrines of the Communist Party and has demonstrated her loyalty and dedication to the interests of the United States. She has been employed as a library assistant at the Russian Institute since 1968. Once her husband is naturalized, Mrs. Kunta will be eligible for naturalization without having to satisfy the residence requirements of section 316(a) of the Immigration and Nationality Act; she is thus not included in section 1 of the proposed bill. She must, however, be lawfully admitted to the United States for permanent residence, and to obtain a visa for this purpose, the exception to section 212(a) (19) of the Immigration and Nationality Act is required.

COST AND BUDGET DATA

Enactment of this proposal will cause no increase in the budgetary requirements for the Department of the Army.

ENVIRONMENTAL AND CIVIL RIGHTS IMPACT CONSIDERATIONS

This proposal has no environmental or civil rights impact.

Sincerely,

Norman R. Augustine,
Acting Secretary of the Army.

BRIGITTE MARIE HARWOOD

The Senate proceeded to consider the bill (S. 1848) for the relief of Brigitte Marie Harwood, which had been reported from the Committee on the Judiciary with an amendment on page 1, in line 4, strike out "and paragraph (9) of section 241(a)", so as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding the provisions of paragraphs (9) and (23) of section 212(a) of the Immigration and Nationality Act, Brigitte Marie Harwood may be admitted to the United State or the Attorney General prior to the found to be otherwise admissible under the provisions of such Act. This Act applies solely to the grounds for exclusion under such paragraphs known to the Secretary of State or the Attorney General prior to the date of enactment of this Act.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the Record an excerpt from the report (No. 941072), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the Record, as follows:

U.S. Department of Justice, Immigration and Naturalization Service,
Washington, D.C., August 11, 1975.

Hon. James O. Eastland,
Chairman, Committee on the Judiciary, U.S. Senate, Washington, D.C.

Dear Mr. Chairman: In response to your request for a report relative to the bill (S. 1848) for the relief of Brigitte Marie Harwood, there is attached a memorandum of information concerning the beneficiary.

The bill would waive the provisions of the Immigration and Nationality Act which exclude from admission into the United States aliens who have been convicted for crimes involving moral turpitude, or have been convicted for violation of, or conspiracy to violate, any law or regulation governing or relating to the illicit possession or traffic in narcotic drugs or marijuana, and would authorize her admission to the United States for permanent residence, if she is otherwise admissible under the Act. It would also render her not deportable for failure to maintain her nonimmigrant status while in the United States. The bill limits the exemption granted the beneficiary to the grounds for exclusion known to the Department of State or the Department of Justice prior to the date of its enactment.

Sincerely,

L. F. Chapman, Jr.,
Commissioner.

Enclosure.

Memorandum of Information From Immigration and Naturalization Service Files Re S. 1848

The beneficiary, Brigitte Marie Harwood, a native and citizen of Germany, was born on May 17, 1952. She completed high school in Germany and was employed by a rental car agency at Mainz, Germany, from 1972 until 1974. The beneficiary is not presently employed and is dependent upon her husband for support. She is married to a United States citizen, Dennis James Harwood, and resides with him at Lockridge, Iowa. He is employed as a mechanic earning $500 per month, and their assets consist of household goods valued at $5,000. The beneficiary's parents and siblings reside in Germany, except one sister, who is a permanent resident of the United States.

The beneficiary was admitted to the United States on July 1, 1972, as a nonimmigrant visitor for pleasure, and returned to Germany in September 1972. She returned to the United States as a visitor on July 3, 1974, with an authorized period of stay to September 30, 1974. Deportation proceedings were instituted against the beneficiary on March 12, 1975, on the ground that she had remained longer than permitted. After a hearing she was found deportable as charged, and was granted the privilege of voluntary departure, with the alternative of deportation if she should fail to depart when required.

On October 8, 1973, the beneficiary was convicted of aiding and abetting in the concealment of revenue in violation of the narcotics law in the Lay Assessor's Court at the Lower Court, Mainz, Germany, and received a sentence of six months. The execution of the sentence was suspended in favor of probation. She has since received a pardon from the Ministry of Justice, Mainz, Germany, and the court records were expunged. Nevertheless, having been once convicted, she remains excludable from the United States. As the spouse of the United States citizen, she is eligible for classification as an immediate relative upon approval of a visa petition in her behalf.

Also on October 8, 1973 Mr. Harwood, the interested party, was convicted for concealment of revenue in violation of the narcotic law in the same court and sentenced to one year and six months in the Judicial Penal Institution, Mainz, Germany. He served one year imprisonment and was deported from Germany upon his release from prison.

CELEDONIO M. GAPASIN AND DELY P. GAPASIN

The Senate proceeded to consider the bill (S. 1690) for the relief of Celedonio M. Gapasin and his wife, Dely P. Gapasin, which had been reported from the Committee on the Judiciary with an amendment beginning on page 1, line 10, strike out "shall instruct the proper quota control officer to deduct two numbers from the appropriate quota for the first year that such quota is available."; and insert:

shall instruct the proper officer to reduce by the required numbers, during the current fiscal year or the fiscal year next following, the total number of immigrant visas and conditional entries which are made available to natives of the country of the aliens' birth under paragraphs (1) through (8) of section 203(a) of the Immigration and Nationality Act.

so as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of the Immigration and Nationality Act, Celedonio M. Gapasin and his wife, Dely P. Gapasin, shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act, upon payment of the required visa fees. Upon the granting of permanent residence to such aliens as provided for in this Act, the Secretary of State shall instruct the proper officer to reduce by the required numbers, during the current fiscal year or the fiscal year next following, the total number of immigrant visas and conditional entries which are made available to natives of the country of the aliens' birth under paragraphs (1) through (8) of section 203(a) of the Immigration and Nationality Act.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the Record an excerpt from the report (No. 94-1073), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the Record, as follows:

PURPOSE OF THE BILL

The purpose of the bill, as amended, is to grant the status of permanent resident in the United States to Celedonio M. Gapasin and his wife, Dely P. Gapasin. The bill provides for the payment of the required visa fees and for the appropriate visa number deductions.

STATEMENT OF FACTS

The beneficiaries of the bill are a couple, aged 39 and 35, who are natives and citizens of the Philippines. They entered the United

States August 24, 1968 as students. They presently reside in Huntsville, Alabama where the principal beneficiary has been employed as a professor in a local university since January 1973. The beneficiaries' parents, brothers and sisters reside in the Philippines, with the exception of two brothers and a sister who reside in the U.S. The sister is a naturalized citizen of the U.S. Mr. Gaspasin is the beneficiary of an approved sixth preference visa petition with a priority date of July 3, 1973.

A letter, with attached memorandum, dated November 13, 1975, to the chairman of the Senate Committee on the Judiciary from the Commissioner of Immigration and Naturalization with reference to the bill reads as follows:

U.S. Department of Justice, Immigration and Naturalization Service,
Washington, D.C., November 13, 1975
A18-266-044.
A18-267-593.
Hon. James O. Eastland,
Chairman, Committee on the Judiciary,
U.S. Senate, Washington, D.C.

Dear Mr. Chairman: In response to your request for a report relative to the bill (S. 1690) for the relief of Celedonio M. Gapasin and his wife, Dely P. Gapasin, there is attached a memorandum of information concerning the beneficiaries.

The bill would grant the beneficiaries permanent residence in the United States as of the date of its enactment, upon payment of the required visa fees. It would also direct that the appropriate visa number deductions be made.

The beneficiaries, natives of the Philippines, are chargeable to the sixth preference portion of the numerical limitation for immigrants and conditional entrants from the countries in the Eastern Hemisphere.

Sincerely,
L. F. Chapman, Jr.,
Commissioner.

Enclosure.

MEMORANDUM OF INFORMATION FROM IMMIGRATION AND NATURALIZATION SERVICE FILES RE S. 1690

The beneficiaries, Celedonio M. Gapasin and his wife, Dely P. Gapasin, natives and citizens of the Philippines, were born on March 3, 1937, and December 20, 1940, respectively. The beneficiaries were married on June 20, 1966, in the Philippines and presently reside in Huntsville, Alabama. Mr. Gapasin has been employed as a professor in a local university since January 1973. His salary is $16,400 a year and they have assets valued at $12,300.

Mr. Gapasin received a doctorate in agriculture at Pennsylvania State University in June, 1972. After obtaining his masters degree, he worked from 1963 to 1968 as a college instructor in the Philippines. Mrs. Gapasin was awarded a doctorate in entomology at Pennsylvania State University in September, 1972. She was employed by the State of Alabama from October 1972 to December 1973 as a research analyst, but has not been employed since that time. The beneficiaries' parents, brothers and sisters reside in the Philippines, with the exception of two brothers and a sister who reside in the United States. The sister is a naturalized United States citizen.

The beneficiaries were admitted to the United States on August 24, 1968, as students with authorization to remain until August 23, 1969. They were subsequently granted extensions of stay until February 28, 1974. A visa petition filed on July 3, 1973, by his employer was approved for Mr. Gapasin's sixth preference classification in the issuance of an immigrant visa. The latest information indicates that visa numbers under this preference are unavailable to natives of the Philippines.

Deportation proceedings were instituted against the beneficiaries on the grounds that they had remained in the United States for a longer time than permitted. They were accorded a hearing before an immigration judge on April 24, 1974, and were granted the privilege of voluntary departure with the alternative of deportation if they fail to depart when required.

Senator John Sparkman, the author of the bill, has submitted the following information in connection with the case:

U.S. Senate,
Committee on Foreign Relations,
Washington, D.C., May 26, 1976.
Hon. James O. Eastland,
Chairman, Senate Judiciary Committee,
Washington, D.C.

Dear Mr. Chairman: In further reference to your letter of February 25 requesting written information in support of my bill, S. 1690, for the relief of Celedonio M. Gapasin and his wife, Dely Gapasin, I submit herewith material furnished me by Dr. Gapasin. Certainly, I am hopeful that S. 1690 may receive favorable consideration.

With best wishes, I am,
Sincerely,
John Sparkman.

Enclosures.

Alabama A. & M. University,
Normal, Ala., June 19, 1973.
The District Director,
U.S. Department of Justice, Immigration and Naturalization Service, Atlanta, Ga.

Dear Sir: Dr. Celedonio M. Gapasin is presently employed at the Alabama A&M University as Associate Professor in Agri-Business Education and Extension. The high educational qualifications and varied teaching experiences of Dr. Gapasin are assets which are greatly needed by the University. His present tasks if teaching courses to undergraduate and graduate students, and serving as thesis adviser and collegiate chapter adviser of the Future Farmers of America are greatly needed, also.

The work of Dr. Gapasin in the Cooperative Extension Service as a horticulture specialist is indeed appreciated because of his primary concern with low-income families in the twelve counties of northern Alabama. The technical information he provides to the disadvantaged families through the farm agents and paraprofessionals is commendable.

These are some of the reasons, along with his desire to reside permanently in the United States, which have prompted me to petition for issuance of an immigrant visa on behalf of Dr. Gapasin. I hope that we can continue to benefit from his services in many years to come.

Sincerely yours,
R. D. Morrison, *President.*

Alabama Agricultural and Mechanical University,
Normal, Ala., June 20, 1973.
The District Director,
U.S. Department of Justice, Immigration and Naturalization Service, Atlanta, Ga.

Dear Sir: Dr. Celedonio M. Gapasin is an Associate Professor in the Department of Agribusiness Education at the Alabama A. & M. University. His services as a professor are very much needed in strengthening the graduate program in this department. It is our policy to hire terminal degree personnel whenever possible, so that we can improve our course offerings at the graduate level.

Dr. Gapasin teaches several graduate courses in vocational education and technical agriculture. He is also an advisor to several graduate students with M.S. theses and M.Ed. research papers. He works closely with other faculty members in conducting departmental studies and in preparing research proposals for funding.

As the immediate supervisor of Dr. Gapasin in the Department of Agribusiness Education, I would support his change of visa status as required by the Immigration and Naturalization Service.

Sincerely yours,
Taylor Byrd, Jr., Ph.D.,
Head, Department of Agribusiness Education.

Cooperative Extension Service,
Normal, Ala., June 19, 1973.
The District Director,
U.S. Department of Justice, Immigration and Naturalization Service, Atlanta, Ga.

Dear Sir: As the immediate supervisor of Dr. Celedonio M. Gapasin in the Cooperative Extension Service at the Alabama A. & M. University, I would like to stress the need for his services. A man with his background, qualifications and terminal degree is what we need in our extension program. He was hired primarily to help implement the extension program, which is a new service in this university. This extension program is affiliated with the Cooperative Extension Service at Auburn University, Auburn, Alabama.

Dr. Gapasin is presently working as an Extension Horticulture Specialist, in addition to his teaching duties at the university. He is in charge of several projects aimed at helping the low-income families in Northern Alabama in a comprehensive fruit and vegetable program. Some of his projects include growing blueberries, Christmas trees, and walnuts. He also visits farmers in the different counties, demonstrating and lecturing on horticulture and related subjects. He prepares publications, which provide technical information to farmers.

I am sure that Dr. Gapasin's services will be invaluable to the university and the Cooperative Extension Service. In the few months that he has worked with us, he has helped in many ways. As his supervisor, I am writing to sponsor his application for a change in visa status so that we can continue to avail of his service.

Very sincerely yours,
James I. Dawson, Ph. D.,
Dean for Extension and Head, Graduate Program in Agricultural Education.

St. Joseph's Church,
Huntsville, Ala., March 17, 1975.

Dear Mr. McClesky: The purpose of this letter is to inform you that Mr. and Mrs. Celedonio F. Gapasin have been members of our parish for the last two years and active participants in our Folk-Guitar Choir. In the time that I have known them I have found them to be people of fine character and a real asset to our community. I therefore recommend them to you for acceptance as permanent residents of our country.

Sincerely yours,
Rev. Keith Brenman, *Pastor.*

The committee, after consideration of all the facts in the case, is of the opinion that the bill (S. 1690), as amended, should be enacted.

OSCAR RENE HERNANDEZ RUSTRIAN

The Senate proceeded to consider the bill (S. 2481) for the relief of Oscar Rene Hernandez Rustrian, which had been reported from the Committee on the Judiciary with an amendment on page 1, line 7, strike "brothers and sisters" and insert "natural parents or brothers or sisters", so as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Oscar Rene Hernandez Rustrian shall be classified as the child of Mr. and Mrs. Jose Antonio Rustrian within the meaning of section 101(b)(1)(E) of such Act: *Provided,* That the natural parents or brothers or sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

SEC. 2. Notwithstanding the provisions of section 245(c) of the Act, an application for adjustment of status may be approved for Oscar Rene Hernandez Rustrian if the Attorney General finds he is otherwise eligible.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 94–1074), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

U.S. DEPARTMENT OF JUSTICE,
Washington, D.C., April 30, 1976.

Hon. JAMES O. EASTLAND,
Chairman, Committee on the Judiciary, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: In response to your request for a report relative to the bill (S. 2481) for the relief of Oscar Rene Hernandez Rustrian, there is attached a memorandum of information concerning the beneficiary.

The bill would provide that the beneficiary, who has been adopted, shall be classified as the child of Mr. and Mrs. Jose Antonio Rustrian within the meaning of Section 101(b)(1)(E) of the Immigration and Nationality Act and further provides that the brothers and sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege or status under the Act. The bill also provides that notwithstanding the provision of Section 245(c) of the Act, an application for adjustment of status may be approved for the beneficiary, if he is otherwise eligible.

Absent enactment of this bill, the beneficiary, a native of Guatemala, is chargeable to the numerical limitation for immigrants from the Western Hemisphere and is statutorily ineligible to adjust his status while in the United States and would be required to apply for a visa outside of this country.

Sincerely,

———— ————,
Commissioner.

MEMORANDUM OF INFORMATION FROM IMMIGRATION AND NATURALIZATION SERVICE FILES RE S. 2481

The beneficiary, Oscar Rene Hernandez Rustrian, a native and citizen of Guatemala, was born on March 17, 1956. He attended school in Guatemala City and in North Carolina, and he is currently enrolled in the Adult High School Diploma Program of Guilford Technical Institute, High Point, North Carolina. The beneficiary is unmarried and lives with his adoptive parents in High Point, North Carolina. He has never been employed and has no assets. The beneficiary's father is unknown. The beneficiary was abandoned by his natural mother, Maria Luz Hernandez, in Guatemala when he was about forty days old. He has no other known living relatives outside the United States.

After he was abandoned, the beneficiary was placed in the custody of Jose Antonio Rustrian and his wife, Maria C. Garcia. Rustrian. They formally adopted the beneficiary on September 26, 1975 in Superior Court, High Point, North Carolina and evidence of the adoption is attached. Mr. and Mrs. Rustrian have four natural children, three of whom are natives and citizens of Guatemala and lawful permanent residents of the United States. Their fourth child was born in High Point, North Carolina and is a United States citizen. Mr. Rustrian is employed as a welder. The family has an income of $17,729 per year and assets of $1,225 in savings and checking accounts plus an equity in their home.

The beneficiary arrived in the United States on June 25, 1970 and was admitted as a nonimmigrant visitor for pleasure. His status was changed to that of a child of a nonimmigrant industrial trainee on January 18, 1971, and he was granted extensions of stay until July 1, 1972. The beneficiary's adoptive father, upon whom his status was dependent, became a lawful permanent resident upon his admission to the United States with an immigrant visa on September 21, 1971. The remainder of the family became permanent residents on January 19, 1973. Since the beneficiary had not been adopted before the age of fourteen years, he was ineligible to qualify as an orphan and thus was unable to obtain an immigrant visa. The beneficiary has been granted the privilege of voluntary departure from the United States.

STATE OF NORTH CAROLINA,
DEPARTMENT OF HUMAN RESOURCES,
Raleigh, N.C., September 26, 1975.

Re Adoption of Rustrian, Oscar Rene.
By Rustrian, Jose Antonio Maria Concepcion Garcia.

Mr. JOSEPH P. SHORE,
Clerk, Superior Court,
Guilford County,
Greensboro, N.C.

DEAR MR. SHORE: This is to advise that the above adoption proceeding was registered through the Final Order of Adoption on September 26, 1975.

Yours truly,

JAMES A. WIGHT,
Deputy Director.

SI KON WON, ET AL.

The Senate proceeded to consider the bill (S. 2605) for the relief of Si Kon Won, his wife, Wha Jo Won, and their children, Myung Kun Won and Myung Ae Won, which had been reported from the Committee on the Judiciary with an amendment on page 1, strike out line 3 and insert "That, notwithstanding the provisions of paragraphs (14) and (19) of", so as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding the provisions of paragraphs (14) and (19) of section 212(a) of the Immigration and Nationality Act, Si Kon Won may be admitted to the United States for permanent residence if he is found to be otherwise admissible under the provisions of such Act. This section shall apply only to the grounds for exclusion under such paragraph known to the Secretary of State or the Attorney General prior to the date of enactment of this Act.

SEC. 2. For the purposes of the Immigration and Nationality Act, Si Kon Won, his wife, Wha Jo Won, and their children, Myung Kun Won and Myung Ae Won, shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act upon payment of the required visa fees. Upon the granting of permanent residence to such aliens as provided for in this Act, the Secretary of State shall instruct the proper officer to reduce by the required numbers, during the current fiscal year or the fiscal year next following, the total number of immigrant visas and conditional entries which are made available to natives of the country of the aliens' birth under paragraphs (1) through (8) of section 203 (a) of the Immigration and Nationality Act.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 94–1075), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE BILL

The purpose of the bill, as amended, is to waive the excluding provisions of existing law relating to one seeking to enter the United States for the purpose of performing skilled or unskilled labor without certification by the Secretary of Labor and to one who has sought to procure a visa by fraud in behalf of Si Kon Wom.

Section 2 of the bill would grant the status of permanent residence in the United States to the beneficiaries. The bill provides for the payment of the appropriate visa fees and for the appropriate visa number deductions.

The bill has been amended to grant the male adult beneficiary an exemption from the labor certification requirement.

STATEMENT OF FACTS

The beneficiaries of the bill are a husband and wife and their two children, all natives and citizens of Korea, ages 53, 53, 23, and 21, respectively. The adult male beneficiary entered the United States on April 6, 1969 as a visitor. On April 9, 1971, he filed an application for adjustment of status which was subsequently denied inasmuch as the accompanying application for labor certification contained information which could not be verified. His wife and daughters entered as visitors on July 20, 1969. The family currently operates a grocery store in Los Angeles in which they claim to have approximately $65,000 equity. They appear eligible to qualify for investor status; however, their application cannot be accepted since there are no visas available under the Korean non-preference limitation.

A letter, with attached memorandum, dated April 7, 1976 to the Chairman of the Senate Judiciary Committee from the Commissioner of Immigration and Naturalization with reference to the bill reads as follows:

U.S. DEPARTMENT OF JUSTICE, IMMIGRATION AND NATURALIZATION SERVICE,
Washington, D.C., April 7, 1976.

A19–888–222.
A19–888–224.
A19–888–226.
A19–888–228.

Hon. JAMES O. EASTLAND,
Chairman, Committee on the Judiciary, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: In response to your request for a report relative to the bill (S. 2605) for the relief of Si Kon Won, his wife, Wha Jo Won, and their children, Myung Kun Won and Myung Ae Won, there is attached a memorandum of information concerning the beneficiaries.

The bill would waive the provision of the Immigration and Nationality Act which excludes from admission into the United States any alien who seeks to procure, or has sought to procure, or has procured a visa or other documentation; or seeks to enter the United

States, by fraud, or by willfully misrepresenting a material fact. That bill would authorize Mr. Won's admission to the United States for permanent residence, if he is otherwise admissible under the Act. The bill also limits the exemption granted only to the grounds for exclusion under such paragraph known to the Secretary of State or the Attorney General prior to the date of its enactment.

Section 2 of the bill would grant the four beneficiaries permanent residence in the United States as of the date of its enactment upon payment of the required visa fee. It would also direct that an appropriate deduction of immigrant visa numbers be made.

Absent enactment of the bill, the beneficiaries, natives of Korea, would be chargeable to the nonpreference portion of the numerical limitation for immigrants and conditional entrants from countries of the Eastern Hemisphere.

Sincerely,

L. F. CHAPMAN, JR.,
Commissioner.

Enclosure.

MEMORANDUM OF INFORMATION FROM IMMIGRATION AND NATURALIZATION SERVICE FILES RE. S. 2605

The beneficiaries, Si Kom Won, his wife, Wha Jo Won, their son, Myung Kun Won, and their daughter, Myung Ae Won, are natives and citizens of Korea. They were born May 20, 1923, October 10, 1922, May 26, 1955 and April 26, 1953, respectively. The beneficiaries reside in Los Angeles, California where the parents operate a grocery store. The father, Si Kon Won, completed nine years of schooling in his native country and is an electrician by trade. The mother, Wha Jo (nee Lee) Won, claims no education and no special skills. They both claim to be earning about $2,000 per month and to have a $65,000 equity in the small grocery store. Both the son and daughter have completed high school and one year of college in the United States. They are not employed other than helping their parents in the family grocery. The parents and other close relatives of Mr. and Mrs. Won reside in North Korea and their situation is unknown to the beneficiaries.

The beneficiary, Si Kon Won, entered the United States on April 6, 1969 at San Juan, Puerto Rico as a visitor. He received extensions of stay until December 6, 1969. The beneficiary, Wha Jo Won, and the son and daughter entered the United States on July 20, 1969 at San Juan, Puerto Rico as visitors. They received extensions of stay until May 19, 1970. The family has been in the United States in an illegal status since that time. On April 9, 1971 Si Kon Won filed an application for adjustment of status accompanied by an approved labor certification. The application was denied on March 12, 1973 in view of the fact that an investigation revealed that the beneficiary did not have the experience as a shoe repairman which he had claimed on his application for the labor certification and application for adjustment of status. As a result of the denial of Mr. Won's application, the applications for adjustment of status for the other three beneficiaries, which were based on his application, were also denied.

On July 9, 1974 the beneficiaries were granted a hearing before an immigration judge where they renewed their applications for adjustment of status to that of permanent residents. The applications were denied and they were granted the privilege of voluntary departure on or before August 9, 1974 with the alternative of deportation if they failed to depart as required. The beneficiaries appealed the decision of the immigration judge to the Board of Immigration Appeals who upheld the judge's decision. On July 15, 1975 the 9th Circuit Court of Appeals affirmed the Service's decision. The beneficiaries are now under outstanding orders of deportation.

Senator Alan Cranston, the author of the bill, submitted the following supporting information:

U.S. SENATE,
Washington, D.C., May 6, 1976.

Hon. JAMES O. EASTLAND,
Chairman, Senate Committee on the Judiciary, U.S. Senate, Washington, D.C.

DEAR SENATOR EASTLAND: Thank you for your letter of April 20, advising of consideration of my private bill, S. 2605, for the relief of Si Kon Won, his wife, Wha Jo Won, their son, Myung Kun Won, and daughter, Myung Ae Won. The enclosed documentation and letter from the attorney, Mrs. Ruth Shamir, so clearly depicts the family's plight, there is little to add.

The family filed for adjustment of status to permanent residence April 27, 1971, under the nonpreference portion of the Korean quota when it was available. The petitions were not adjudicated, however, for three years when quota numbers were no longer available. Mr. Won entered into a shoe repair business and filed for labor clearance. However, it was insufficient income to support his family and he invested in a food market in the amount of nearly $30,000 which would exempt him from labor clearance. Assets are now approximately $65,000.

At the time I introduced the private bill the family had lived in the United Sstates about six and a half years.

The children know nothing of the language and culture of Korea. Their parents' relatives are natives of North Korea, whereabout unknown. The parents, now in their fifties, would suffer such a substantial loss of their livelihood and property if deported, as to undeniably result in a disastrous financial situation. It would be a formidable undertaking for the father to have to begin anew in Korea at his age or even to find a job.

The Won family is highly respected and contributes to church and community as is attested to by the many petitions enclosed. They provide the only food store within walking distance for low-income families.

At this time in the lives of the parents and children, to be deported to Korea with its extremely poor democratic outlook would be an extraordinary hardship, emotionally, physically, and financially. It is hoped that the Committee, considering all the factors involved, will permit the family to remain in this country which has given them peace of mind and a reasonably hopeful future.

Sincerely,

ALAN CRANSTON.

KENRICK WITHINGTON BROOKES

The Senate proceeded to consider the bill (S. 2942) for the relief of Kenrick Withington Brookes (also known as Kenrick Withington Clifton), which had been reported from the Committee on the Judiciary with an amendment: on page 1, beginning in line 9, strike out "and the provisions of section 245(e) of the Act shall be inapplicable in this case", so as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Kenrick Withington Brookes (also known as Kenrick Withington Clifton may be classified as a child within the meaning of section 101(b)(1)(F) of the Act, and a petition filed in his behalf by Mr. Kurt I. Camerud, a citizen of the United States, may be approved pursuant to section 204 of the Act: *Provided,* That the natural parents or brothers or sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 94–1076), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE BILL

The purpose of the bill, as amended, is to facilitate the entry into the United States as an immediate relative of the child to be adopted by a U.S. citizen. The purpose of the amendment is to omit reference to section 245(c) since the beneficiary is not residing in the United States.

STATEMENT OF FACTS

The beneficiary of the bill is a 15-year-old native of St. Kitts and a British subject. He currently resides there with his mother. The beneficiary has never resided in the United States. The prospective adoptive father, Kurt Iver Camerud, a United States citizen, previously resided with the beneficiary in St. Kitts in a father and son relationship. He wishes to resume this relationship in the United States.

A letter, with attached memorandum, dated May 11, 1976 to the Chairman of the Senate Judiciary Committee from the Commissioner of Immigration and Naturalization with reference to the bill reads as follows:

U.S. DEPARTMENT OF JUSTICE, IMMIGRATION AND NATURALIZATION SERVICE,
Washington, D.C., May 11, 1976.

Hon. JAMES O. EASTLAND,
Chairman, Committee on the Judiciary, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: In response to your request for a report relative to the bill (S. 2942) for the relief of Kenrick Withington Brookes (also known as Kenrick Withington Clifton), there is attached a memorandum of information concerning the beneficiary.

The bill would provide that the fifteen-year-old beneficiary who is to be adopted by a United States citizen, may be classified as a child and be granted immediate relative status.

The beneficiary, a native of St. Kitts, British West Indies, is chargeable to the nonpreference portion of the numerical limitation for immigrants and conditional entrants from countries in the Eastern Hemisphere and their dependent areas.

Sincerely,

COMMISSIONER.

Enclosure.

MEMORANDUM OF INFORMATION FROM IMMIGRATION AND NATURALIZATION SERVICE FILES RE S. 2942

Information concerning this case was obtained from Kurt Iver Camerud, the interested party in this case.

The beneficiary, Kenrick Withington Brookes (also known as Kenrick Withington Clifton) is a native of St. Kitts and a British subject. He was born December 3, 1960. The beneficiary is a student and resides in Sandy Point, St. Kitts with his mother. He has never known his father and is now supported by his mother and the interested party. The beneficiary has one full sister and six half brothers and sisters all residing in the West Indies. He has never resided in the United States.

The interested party, Kurt Iver Camerud, a native and citizen of the United States, was born March 28, 1945. He has never been married, and resides in Pocatello, Idaho. He graduated from Idaho State University and is certified by the State as a secondary teacher. He is presently pursuing graduate study at Idaho State University and is employed part-time by the Idaho Department of Health and Welfare. He is a veteran and served honorably in the United States Army. As a Peace Corps Volunteer he served as a teacher at Sandy Point, St. Kitts. His assets consists of a bank savings account of about $1,800 and a checking account with an average balance of less than $400. His monthly income of $570 is derived from Veterans Administration educational benefits in the amount of $300.

The interested party and the beneficiary resided together in Sandy Point, St. Kitts in a father and son relationship from March 1974 to July 1975, and they wish to resume this relationship in the United States.

Senator James A. McClure, the author of the bill, submitted the following supporting information:

U.S. SENATE, COMMITTEE ON
INTERIOR AND INSULAR AFFAIRS,
Washington, D.C., May 25, 1976.

Hon. JAMES O. EASTLAND,
Chairman, Committee on the Judiciary,
U.S. Senate, Washington, D.C.

DEAR CHAIRMAN EASTLAND: I am writing in response to your May 14th letter regarding my private immigration bill, S. 2942, for the relief of Kenrick Withington Brookes.

Kenrick Brookes, who is now a citizen and resident of St. Kitts, West Indies, wishes to be adopted by Mr. Kurt Iver Camerud of Pocatello, Idaho. The purpose of my bill, S. 2942 is to waive certain requirements of the Immigration and Nationality Act—expressly allowing Kenrick Brookes to be classified as a child within the meaning of section 101 (b) (1) (F) of the Act and allowing a petition filed in his behalf by Mr. Camerud to be approved pursuant to Section 204 of the Act and the provisions of Section 245(c), so that Kenrick Brookes can enter the United States and be adopted by Mr. Camerud under adoption proceedings and requirements of the State of Idaho.

Mr. Kurt Camerud developed a desire to adopt Kenrick Brookes during time spent as a Peace Corps volunteer on the island of St. Kitts. Mr. Camerud first became acquainted with Kenrick while teaching at the Sandy Point High School on the island beginning in July of 1973. They soon developed a close father-son relationship and the young boy moved in with Mr. Camerud who was residing in a house next to the boy's residence. From March of 1974 to July 1975 the relationship solidified and a decision was made by Mr. Camerud to adopt Kenrick.

The child's mother was agreeable to adoption as was the community as a whole and encouraged the adoption effort. But attempts to adopt Kenrick in St. Kitts were not successful. Local lawyers and officials concluded that it was not possible for adoption to occur under the laws of St. Kitts because Mr. Camerud was not a British subject. Mr. Camerud then sought the advice and help of the American Embassy in Bridgetown, Barbados. He was told that due to Kenrick's age, it would not be possible to take him to the U.S. as an adopted child. According to Mr. Camerud the Embassy advised that adoption take place in his home state, that a visitor's visa be obtained for Kenrick and then a change of status be filed upon Kenrick's arrival in the United States.

Following this advice, Mr. Camerud learned the requirements for Idaho adoption and began securing the necessary consent documents and other information to meet these requirements. Mr. Camerud, upon completion of his Peace Corps assignment, returned to the United States and continued to pursue adoption proceedings with the Idaho State Department of Health and Welfare Family and Children's Services. He was told that he met the requirements for legal adoption in the State of Idaho as far as possible, lacking Kenrick's physical presence. Kenrick then applied for a visitor's visa which was subsequently denied.

Mr. Camerud's only avenue at that point was to return to St. Kitts, relinquish his U.S. citizenship and apply for British (Kittician) citizenship. He has seriously considered doing this but decided it is not a viable option. Because of his strong desire to adopt Kenrick and provide him with a home and better opportunity, he contacted me and asked that I help Kenrick.

I was very impressed with Mr. Camerud's untiring efforts to adopt Kenrick. To my knowledge, every administrative procedure to effect the adoption has been attempted. Kenrick's only recourse became legislative relief. Believing special consideration was warranted, I introduced S. 2492 on February 5, 1976.

There is absolutely no question of Mr. Camerud's sincerity. I have been assured of this not only by Mr. Camerud himself and my impressions of him, but by his friends and associates, as well as the Idaho Family and Children's Services, who have assured me that as soon as the child is allowed entrance into this country, Idaho adoption requirements can be fulfilled.

I am confident Mr. Camerud would have adopted Kenrick while living in St. Kitts had it been possible under local laws. Mr. Camerud's desire to adopt Kenrick and thus provide him with hope of a better future as his son is not only based on genuine feelings that developed between the two, but, of course, a wish that Kenrick could have the chance to live his life in this country. Mr. Camerud's presence in St. Kitts as a Peace Corps volunteer is indicative of the kind of person he is. Also, within the Pocatello community he is known for his effective volunteer work with young people and his efforts to help the retarded and emotionally disturbed. His generosity toward Kenrick has been exemplified not only during the time they lived together in St. Kitts but now with Mr. Camerud's continued support of the child. And, of course, the willingness of Kenrick's mother to allow adoption is testimony of the confidence and respect with which Mr. Camerud is held.

The hardships Kenrick has endured and will endure as a citizen of St. Kitts can be said to apply to a good number of children on that island—but not all of them have the opportunity to leave and become part of an American family with all the benefits and hope that brings. In this case, a willing parent will let her son go, become part of another family, in order that the child may have a chance not available to others—thanks to Mr. Camerud.

Mr. Camerud is fully capable of supporting Kenrick and providing him with a home and educational opportunities far beyond reach of Kenrick now; Kenrick's willingness to be adopted and his desire to have a father are assured. It is my hope that the Committee favorably reports S. 2942 so Mr. Camerud and Kenrick can renew their relationship.

Please find attached a report giving the history of this case and establishing the difficult circumstances which make this kind of legislation necessary.

Sincerely,

JAMES A. MCCLURE,
U.S. Senate.

KURT I. CAMERUD,
Pocatello Idaho, February 11, 1976.

Hon. JAMES O. EASTLAND,
Senate Office Building,
Washington, D.C.

DEAR SENATOR EASTLAND: Senator James R. McClure (Idaho) has introduced before the Senate Immigration and Naturalization Subcommittee Private Bill S. 2942 on my behalf. I request your favorable consideration and action on this particular Bill.

I have supplied to Senator McClure information and documentation which I felt necessary to substantiate the necessity for private legislation in this matter. If further clarification proves necessary, please contact me through Senator McClure's office or the above address.

Yours very sincerely,

KURT I. CAMERUD.

The committee, after consideration of all the facts in the case, is of the opinion that the bill, S. 2942, as amended, should be enacted.

TERESA MARIE SALMAN

The Senate proceeded to consider the bill (S. 2956) for the relief of Teresa Marie Salman, which had been reported from the Committee on the Judiciary with an amendment on page 1, in line 5, strike out "and (F)", so as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Teresa Marie Salman may be classified as a child within the meaning of section 101(b)(1)(E) of such Act upon approval of a petition filed in her behalf by Technical Sergeant and Mrs. Eugene A. Salman, citizens of the United States, pursuant to section 204 of such Act. The natural parents and brothers and sisters of the said Teresa Marie Salman shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 94–1077), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE BILL

The purpose of the bill, as amended, is to facilitate the entry into the United States as an immediate relative of the adopted child of United States citizens. The bill has been amended to delete reference to section 101(b)(1)(F) of the Immigration and Nationality Act since it is inapplicable in this case.

STATEMENT OF FACTS

The beneficiary of the bill is a native and citizen of Taiwan. She was born on September 29, 1974, and was adopted by the interested parties on January 13, 1975. The beneficiary residing with her adoptive parents a short time after the adoption. The adoptive parents, Sergeant and Mrs. Eugene A. Salman, natives and citizens of the United States, are currently stationed on Okinawa. Sgt. Salman is scheduled to complete his tour of duty with the Air Force during the summer of 1976. He desires to have the beneficiary return with his family to the United States.

A letter, with attached memorandum, dated June 30, 1976 to the Chairman of the Senate Judiciary Committee from the Commissioner of Immigration and Naturalization with reference to the bill reads as follows:

U.S. Department of
Justice, Immigration and
Naturalization Service,
Washington, D.C., June 30, 1976.
A21-402-708.
Hon. James O. Eastland,
Chairman, Committee on the Judiciary, U.S. Senate, Washington, D.C.

Dear Mr. Chairman: In response to your request for a report relative to the bill (S. 2956) for the relief of Teresa Maria Salman, there is attached a memorandum of information concerning the beneficiary.

The bill provides that for immigration purposes the beneficiary, who has been adopted by United States citizens, may be classified as a child and granted immediate relative status upon approval of a petition filed in her behalf by her adoptive parents. It also provides that the beneficiary's natural parents or siblings shall derive no immigration benefits by virtue of such relationships.

The beneficiary, a native of the Republic of China, is chargeable to the non-preference portion of the numerical limitation for immigrants and conditional entrants from countries in the Eastern Hemisphere.

Sincerely,

L. F. Chapman, Jr.,
Commissioner.

MEMORANDUM OF INFORMATION FROM IMMIGRATION AND NATURALIZATION SERVICE FILES RE S. 2956

In formation concerning this case was obtained from Mr. and Mrs. Allen Salman, the adoptive parents and interested parties.

The beneficiary, Tereas Maria Salman, previously known as Hsiang-Chu Wei, was born September 29, 1974 in Taichung City, Taiwan. She was adopted by proxy on January 13, 1975 at Tainan. Taiwan District Court and soon after began residing with Mr. and Mrs. Salman in Okinawa. Her natural parents reside in Taiwan with four other children, and being unable to properly care for the beneficiary, consented to her adoption by the interested parties.

Mr. Eugene Allen Salman was born on April 30, 1936 at Columbus, Ohio. He graduated from high school in Erie, Pennsylvania in 1954 and the same year enlisted in the United States Marines, serving until honorably discharged on May 26, 1959. The next day he joined the United States Air Force where he presently earns $1,041 per month. He and his wife are stationed on Okinawa where he will complete his career and then return to the United States to retire in approximately summer of 1976. He lists assets of $17,000 consisting of personal property and real estate.

Mrs. Maria Alfonzina Salman was born on June 1, 1937 in Erie, Pennslyvania where she completed high school. She and her spouse were married in Erie in 1956. They have three sons and four daughters from five to fifteen years of age, all United States citizens. Mrs. Salman has never been employed.

The beneficiary will not be eligible for an immigrants visa as an immediate relative until she has been in the legal custody of and resided with her adoptive parents for two years. Her adoptive parents expect to be returning to the United States prior to the completion of the beneficiary's necessary two years of residence with them.

Senator Dale Bumpers, the author of the bill, submitted the following supporting information:

U.S. Senate, Committee on Interior and Insular Affairs,
Washington, D.C., February 26, 1976.
Re S. 2956.
Hon. James O. Eastland,
Chairman, Subcommittee on Immigration and Naturalization, Committee on the Judiciary, Dirksen Senate Office Building, Washington, D.C.

Dear Jim: I introduced S. 2956, a bill for the relief of Teresa Marie Salman, on February 16, and it was duly referred to your committee.

There are special circumstances that make this more than a routine private bill, and I would like to share them with you briefly.

Teresa Marie Salman is the adopted daughter of Technical Sergeant and Mrs. Eugene A. Salman. Sergeant and Mrs. Salman own land in Arkansas and hope to settle there when he has completed 20 years in the Air Force, a few months from now.

Sergeant Salman is now stationed in Okinawa, having arrived there in December, 1973. He and Mrs. Salman adopted Teresa Marie in January of 1975. She is a citizen of the Republic of China, having been born on Taiwan. She came to live with the Salmans on March 15, 1975.

As you know, the little girl would not be eligible for preference entry into the United States until after she has resided with the Salmans for at least two years, that is, on March 15, 1977.

The difficulty is that Sergeant Salman's 20 years will have been completed in May, 1976, and his tour of duty in Okinawa, which has already been extended once, is to expire at that time. If the little girl is not eligible to enter the United States by then, Mrs. Salman will probably have to stay in Okinawa with her, at great expense and inconvenience to the family, while Sergeant Salman returns to Arkansas to begin his new life.

This is a respectable and substantial American family with a real problem that can be solved by the private bill. The bill would simply declare that Teresa Marie is a "child" within the meaning of the relevant statutes, notwithstanding her not yet having resided with her adopted parents for two years. As is customary, the bill would also provide that Teresa Marie's natural relatives shall not enjoy any rights by reason of its passage.

At least four private laws were enacted just last year in closely similar circumstances: S. 55, private law 94-21; S. 605, private law 94-22; S. 1653, private law 94-23; and S. 447, private law 94-24.

I am writing to you now because time is of the essence in this situation. If at all possible, it would be highly desirable for this bill to be enacted on (assuming the appropriate departmental reports bear out the facts as they have been related to me) at an early date.

Your assistance and consideration would be greatly appreciated.

Sincerely,

Dale Bumpers.

The committee, after consideration of all the facts in the case, is of the opinion that the bill S. 2956, as amended, should be enacted.

ASHOK K. RAINA

The Senate proceeded to consider the bill (S. 1802) for the relief of Ashok Raine, which had been reported from the Committee on the Judiciary with an amendment on page 1, line 4, strike "Ashok Raine" and insert "Ashok K. Raina"; so as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of the Immigration and Nationality Act Ashok K. Raina shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act upon payment of the required visa fee. Upon the granting of permanent residence to such alien as provided for in this Act, the Secretary of State shall instruct the proper officer to reduce by one number, during the current fiscal year or the fiscal year next following, the total number of immigrant visas and conditional entries which are made available to natives of the country of the alien's birth under paragraphs (1) through (8) of section 203(a) of the Immigration and Nationality Act.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended so as to read:

A bill for the relief of Ashok K. Raina.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the Record an excerpt from the report (No. 94-1078), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the Record, as follows:

PURPOSE OF THE BILL

The purpose of the bill is to grant the status of permanent residence in the United States to Ashok K. Raina. The bill provides for the payment of the required visa fee and for an appropriate visa number deduction.

STATEMENT OF FACTS

The beneficiary of the bill is a 34-year-old native and citizen of India, who entered the United States on September 1, 1970, as a student. He is presently employed as an Associate Entomologist with the USDA, Cooperative State Research Service project, "Plant Germ Plasm Resources for Food Safety and Improved Quality", at Virginia State College. His selection came from a large list of applicants, being the only one qualified in economic entomology and electron microscopy. The beneficiary is chargeable to the nonpreference portion of the numerical limitation for immigrants and conditional entrants from countries in the Eastern Hemisphere.

A letter, with attached memorandum, dated September 4, 1975, to the Chairman of the Senate Committee on the Judiciary from the Commissioner of Immigration and Naturalization with reference to S. 1802, 94th Congress, reads as follows:

Virginia State College,
Petersburg, Va., June 2, 1976.
Mr. Brain Southwell,
Deputy Counsel, U.S. Senate,
Committee on the Judiciary,
Washington, D.C.

Dear Mr. Southwell: In regards to Dr. Ashok K. Raina, who is employed by this office as an Associate Entomologist, I wish to report the following:

After advertising over a period of several weeks for a Research Entomologist with unique training for our purpose, and after interviewing the three finalists, Dr. Raina was found to be the best candidate for the position.

Since selecting Dr. Raina, we have been quite pleased with his expertise in the field of entomology. He is a dedicated worker and a gentleman.

If this office can be of further assistance in regards to Dr. Raina, please feel free to solicit our assistance.

Very truly yours,

M. Q. Godley,
CSRS Director & Coordinator.

U.S. Department of Justice,
Washington, D.C., September 4, 1975.
Hon. James O. Eastland,
Chairman, Committee on the Judiciary, U.S. Senate, Washington, D.C.

Dear Mr. Chairman: In response to your request for a report relative to the immigration bill (S. 1802) for the relief of Ashok Raine, there is attached a memorandum of information concerning the beneficiary.

The bill would grant the beneficiary permanent residence in the United States as of the date of its enactment, upon payment of the required visa fee. It would also direct that a visa number deduction be made.

The beneficiary, a native of India, is chargeable to the nonpreference portion of the numerical limitation for immigrants and conditional entrants from countries in the Eastern Hemisphere.

Sincerely,

L. F. CHAPMAN,
Commissioner.

MEMORANDUM OF INFORMATION FROM IMMIGRATION AND NATURALIZATION SERVICE FILES RE S. 1802

The beneficiary, whose name is correctly spelled Ashok Raina, a native and citizen of India, was born February 28, 1942. He is married and resides in Fargo, North Dakota with his wife, who is also a native and and citizen of India. The beneficiary received a bachelor of science degree and a master of science degree in India in 1961 and 1967. He received a doctor of philosophy degree in entomology from North Dakota State University in 1974. While a graduate from 1970 to 1974, he was employed as a research assistant at North Dakota State University. He was employed with this Service's permission during the 1974–75 academic year as an assistant professor of biology at Minot State College, Minot, North Dakota for which he was paid $13,400. Since June 1975 he has been occupied writing research results, without pay, for the United States Department of Agriculture's Metabolism and Radiation Laboratory on the campus of North Dakota State University. The beneficiary is the author and co-author of nine papers published in various Indian and American scientific journals. His assets consist of $3,500 in savings, a 1972 automobile on which he owes $1,400 and personal effects. The beneficiary's two children reside with his parents in India. All are natives and citizens of India. The beneficiary has no brothers or sisters. The beneficiary's wife has no relatives in the United States.

The beneficiary was admitted to the United States as a student on September 1, 1970 and received extensions of stay, for completion of education and for practical trainng, until September 1, 1975. His wife joined him in the United States in October 1972. An application for alien employment certification as a teacher, filed by Minot State College was denied on March 6, 1975. A petition to classify the beneficiary for the issuance of a sixth preference visa was denied on May 20, 1975 for lack of labor certification.

Deportation proceedings will be instituted against the beneficiary.

KENDRICK GORDON A. BASCEM

The Senate proceeded to consider the bill (S. 2734) for the relief of Kendrick Gordon A. Bascem, which had been reported from the Committee on the Judiciary with an amendment on page 1, beginning in line 4, strike out "Kendrick Gordon A. Baseem, the son of Amy Baseem" and insert "Kendrick Gordon A. Bascom, the son of Amy Bascom", so as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of section 212(a)(14) of the Immigration and Nationality Act, Kendrick Gordon A. Bascom, the son of Amy Bascom, a lawful permanent resident of the United States, shall be deemed not to have attained the age of twenty-one years and may be issued an immigrant visa: *Provided,* That he is found to be otherwise eligible for admission to the United States as a special immigrant.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended so as to read: A bill for the relief of Kendrick Gordon A. Bascom.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 94–1079), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE BILL

The purpose of the bill, as amended, is to facilitate the entry into the United States of the son of a lawful permanent resident by deeming him to be under 21 years of age for the purposes of section 212(a)(14) of the Immigration and Nationality Act. The bill has been amended to correct the spelling of the beneficiary's last name.

STATEMENT OF FACTS

The beneficiary of the bill is a 21-year-old native and citizen of Guyana, South America, who presently resides there in a house which belongs to his mother, a lawful permanent resident of the United States since April 15, 1974. She is employed as a practical nurse in Santa Monica, Calif. The beneficiary is an unemployed student with no personal assets who is studying for a general education certificate. He has never been in the United States. His father is deceased and he has two brothers residing in the United States, one of whom is a citizen. Without the relief provided for in the bill, he will be unable to join his mother in the United States unless he obtains a labor clearance.

A letter, with attached memorandum dated April 6, 1976 to the chairman of the Senate Committee on the Judiciary from the Commissioner of Immigration and Naturalization with reference to the bill reads as follows:

U.S. DEPARTMENT OF JUSTICE, IMMIGRATION AND NATURALIZATION SERVICE,
Washington, D.C., April 6, 1976.

Hon. JAMES O. EASTLAND,
Chairman, Committee on the Judiciary, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: In response to your request for a report relative to the bill (S. 2734) for the relief of Kendrick Gordon A. Bascom, there is attached a memorandum of information concerning the beneficiary.

The bill provides that the twenty-one-year-old male beneficiary shall be deemed not to have attained the age of twenty-one years and may be issued an immigrant visa, provided that he is found to be otherwise eligible for admission to the United States as a special immigrant.

The beneficiary, a native of Guyana, is chargeable to the numerical limitation for immigrants from the Western Hemisphere.

Sincerely,

L. F. CHAPMAN, Jr., *Commissioner.*

Enclosure.

MEMORANDUM OF INFORMATION FROM IMMIGRATION AND NATURALIZATION SERVICE FILES RE S. 2734

Information concerning this case was obtained from Mrs. Amy Bascom, the beneficiary's mother and the interested party in this case.

The beneficiary, Kendrick Gordon A. (spelled) Bascom, a native and citizen of Guyana, was born July 28, 1954 and is single. He resides alone in Campbellville, Georgetown, Guyana in a house which belongs to his mother. The beneficiary is an unemployed student who has no personal assets. He is studying at Kitty College in Georgetown for a general education certificate. He has never been in the United States. The beneficiary's father is deceased. His two brothers, one of whom is a United States citizen, reside in this country.

The interested party, Amy Bascom, is the mother of the beneficiary. Mrs. Bascom, a native and citizen of Guyana, was born on December 26, 1918. She was admitted to the United States for permanent residence on April 15, 1974. She is employed as a licensed practical nurse on private duty in Santa Monica, California and earns approximately $700 per month. Her assets consist of her home in Guyana and about $1,600 in savings.

Senator Alan Cranston, the author of the bill, has submitted the following information in connection with the case:

U.S. SENATE,
COMMITTEE ON LABOR
AND PUBLIC WELFARE,
Washington, D.C., December 22, 1975.

Hon. JAMES O. EASTLAND,
Senate Committee on the Judiciary,
U.S. Senate, Washington, D.C.

DEAR SENATOR EASTLAND: On December 3, 1975, I introduced a private bill, S. 2734, for the relief of Kendrick Gordon A. Bascem.

Kendrick's mother, Mrs. Amy Bascem and most of the members of his family except a younger brother are residents in the United States. Kendick was born in Guyana, South America, on July 28, 1954. His brother, Eglon, was born April 13, 1959.

Mrs. Bascem filed a petition on behalf of her children on April 18, 1974. The Western Hemisphere quota is about 2½ years in arrears. On July 28, 1975, Kendrick reached the age of twenty-one. As an adult, under present immigration law, he is no longer eligible to enter the United States without labor clearance.

Both of the children are students. Kendrick has been promised employment immediately upon his arrival in the United States if he does not continue school. He already has taken a key-punch-operator course.

There is the possibility still that the younger boy will be eligible to immigrate by the time the priority date of September 1, 1973 is reached. However, Eglon, is greatly distressed at the prospect of leaving his brother alone.

Certainly under the present labor-clearance requirements, young Kendrick could not qualify.

Because of the fact that the Western Hemisphere does not enjoy the preference quota system as in the Eastern Hemisphere and the unfair fact that the quota is so far in arrears, it will prevent this mother from having all of her children. Surely it seems reasonable that a priority date, once established, should be honored no matter how long our Government takes to process immigration applications.

I am enclosing correspondence from Mrs. Bascem, attesting to her desire to have her children with her in the United States and her attempts to bring this about, a letter from her employer, correspondence from the State Department and the American Embassy in Guyana, a letter from a prospective employer, Mr. Wilfred P. Samson, on behalf of Kendrick, and a letter from the Los Angeles Immigration and Naturalization Service dated June 13, 1975.

It would be appreciated if you would request consideration of this bill by the Senate Subcommittee on Immigration as soon as possible in the hope that it will receive favorable consideration and the family could look forward one day to being together.

Sincerely,

ALAN CRANSTON.

Department of State,
Washington, D.C., September 3, 1975.
Hon. Alan Cranston,
U.S. Senate,
Washington, D.C.

Dear Senator Cranston: You will recall that we wrote to you on July 22 on behalf of Mrs. Amy Bascom about the visa cases of her sons, Kenrick and Eglon Bascom.

Our Embassy at Georgetown reports that Kenrick and Eglon Bascom are registered as intending immigrants with a priority date of September 1, 1973. However, Kenrick Bascom, who was born on July 28, 1954, has attained the age of twenty-one and according to the Immigration and Nationality Act, will not be able to derive any benefits for immigration purposes from his mother, Amy Bascom. Unfortunately, there are no provisions in the Act to provide relief for applicants in this situation even from humanitarian reasons. Mr. Bascom was informed of this situation by the Embassy on June 5, 1975, and Kenrick Bascom was informed that he must obtain a labor certification so that he could apply for an immigrant visa on his own merits.

The immigration law provides that an alien who is not exempt from the labor certification requirement under Section 212(a)(14) of the Act and who plans to work in the United States must first locate an offer of employment in an occupation for which there is a shortage of workers and the position must be so certified by the Department of Labor. When the labor certification is approved it will be forwarded to our Embassy at Georgetown at which time Kenrick Bascom may be registered under the Western Hemisphere limitation with the priority date noted above.

Visa numbers for August issuance under the Western Hemisphere limitation are for applicants with priority date earlier than March 15, 1973.

As it appears that Eglon Bascom will not have attained the age of twenty-one before his priority date becomes current he will be exempt from the labor certification requirement of the law. If this documentation is in order he should not encounter any difficulties in obtaining an immigrant visa to join his mother in the United States.

I am enclosing several leaflets concerning imigration procedures and requirements which you may wish to send on to your constituent. Please continue to call upon me whenever you beileve we can be helpful.

Sincerely,

Robert J. McCloskey,
Assistant Secretary for Congressional Relations.

Los Angeles, Calif., *October 21, 1975.*

Dear Senator Cranston: Thank you for your kind interest. I came into the United States on a visitor's visa. I have two sons who came in as students in 1967 after Michael the eldest obtained his permanent visa he sent me a letter inviting me. I came on the 25th June 1972. Godfred my second son was in the Army and was being sent to Germany. He called me in New York to stay with his wife and infant son. I came over to live in his home here in California and he then petitioned for me to have a permanent visa and so I was called home at the Guayana Embassy I was told that I cannot have my sons although their names appeared on the petition my son made for me. I was advised to hurry and petition for my boys so I can have Kenrick before his 21st birthday and you know the rest, Sir.

My husband was a Guyanese and I was married to him before my sons came over. The reason the younger boys could not come with me the American Consul told me I could not bring them.

So I know the question of whether I can support my sons here in California would be asked sometime.

Kenrick is still in school two of the subjects he is taking is biology and chemistry. Eglon is in a High school, he too is taking biology and chemistry with other subjects. They are prepared to take a practical nurses course when they come in, so they can be independent. Kenrick took a course at one of the best schools for key punching and he is taking music lessons. He plays the piano.

I am a practical nurse and I am always employed. Now I work through the Registries and am never out of a job. Today most people prefer to keep their parents at home and have a practical nurse take care of them rather than put them in a convalescent Home. Practical nurses are far more in demand. I am paid $175. every Friday and if I care to, I can work a few nights every week at Hospitals, Convalescent Homes or to relieve other nurses at week-ends besides this I can do "closet trimming". My sister is in the yellow pages "May's Closet Trimming." She does a beautiful job with contact paper and trimming. She lines drawers, shelves, walk in closets, etc. and she trained me in my spare time. She is willing also to train both my boys, with these condominiums going up all over California she is kept busy, right now she had to employ two men to work for her. She has trained them, Sir, believe me my boys will never be a burden to the United States Government. I promise you. Immigration laws requires a job letter for Kenrick. No one wants to give jobs letters. They want nothing to do with Immigration.

Mr. and Mrs. Samuels heard my story and offered my son a job letter at 3 dollars an hour and offer to train him to assemble and repair refrigerators. He installs and repairs the large ones seen on those large trucks and hospitals.

I was told that the Labor Dept. and Guyana Embassy will never accept such a job letter. It must be so skilled that few Americans can qualify for that job. Mr. Senator, it is impossible for Guyana to present a skilled son at age 21 years. We don't even have television in our country. The first time I turned on a T.V. set was June 1972. How can I present America with a genius at age 21. That's why we come to you, to learn to see things we only read about.

The kids in my country have to pay license for their radios.

I must thank you Sir, for your patience.

Respectfully yours,

Amy Bascom.

P.S. I got my visa at San Juan April 16th '74 and petitioned for my sons April 18, '74.

Los Angeles, Calif., *April 2, 1975.*

Dear Mrs. Cannen: Senator Alan Cranston has asked me to get in touch with you in regards to my sons in Guyana, South America.

Kenrick Gordon Alescis is the elder of the two. He was born July 28th, 1954. He will be 21 years on July 28, 1975. I was told by a male employee at the Embassy in Guyana that if I don't get Kenrick in the U.S.A. before his 21st birthday it would be very hard for me to get him after. This is distressing to me, since (all) the two older brothers are here and the youngest will be able to come. The youngest who is in Guyana with Kenrick was born on April 13th, 1959.

I am a licensed practical nurse and I am now preparing to go to become an L.V.N. That's a Licensed Vocational Nurse. I cannot attend school now because I am nervous and find I cannot concentrate on my lessons especially when I get letters from Kenrick pleading with me to get him over here when the youngest wrote telling me he was not eating a good meal and he had lost 18 pounds. I thought I would go crazy. Its not that I am neglecting to send money. My sons and my sister gives me every month and I send too. They have enough but they cook their own meals with the help of my 89 year old mother but some food items are banned from my country—some you buy under the counter when its scarce, and I know its tough on them, but my greatest concern is Kenrick. I am worried to know if he should remain because of his age.

I know I have to abide by the laws of immigration but I trust by God's Grace I will be given some consideration. Enclosed is all the information the Senator would like to have. Thank you so much.

A Grateful mother

Amy Bascom.

October 24, 1975.

Re Kenrick Bascom
Senator Cranston,
U.S. Senate, Committee on Labor and Public Welfare, Washington, D.C.

Dear Senator Cranston: I am writing this letter on behalf of Mrs. Amy Bascom and her son Kenrick Bascom. Mrs. Bascom is a member of my church and has been proven to be a very worthy and helpful individual. She has the outstanding qualities of kindness, mildness, and she is an excellent mother. Her son Kenrick is still in Guyana and and she would very much like to have him here in this country with her. It is very important to her that she raise her own child and she misses him greatly.

We were wondering if we could have your support in this matter of bringing Mrs. Bascom and Kenrick together again. If there is anything you can do in helping to obtain a special visa for him it would be greatly appreciated.

A response to this letter may be sent to Mrs. Amy Bascom, 270 N. Reno St., Los Angeles, Ca. 90026. Thanking you in advance for your attention in this matter.

Sincerely,

Frank Barber, *Minister.*

Samson's Transport
Refrigeration Service,
Los Angeles, Calif., September 4, 1975.

To: The American Embassy, Georgetown, Guyana, South America.
Subject: Employment.

I hereby certify that Samson's Transport Refrigeration Inc. located in Los Angeles, California, will provide employment to Kenrick Gordon A. Bascom upon arrival to the United States.

The nature of the employment will be: Refrigeration Mechanic Trainee, with a starting salary of $3.00 per hour, at 40 hours a week.

Sincerely,

Wilfred P. Sampson, *President.*

Sworn and submitted to before me on September 4, 1975.

C. V. Worrell, Sr.

The Committee, after consideration of all the facts in the case, is of the opinion that the bill (S. 2734), as amended, should be enacted.

DR. LESLEY B. TIOGKO SERRANO, ET AL.

The Senate proceeded to consider the bill (S. 3040) for the relief of Dr. Lesley B. Tiogko Serrano and her son, Kenneth Neil Serrano, which had been reported from the Committee on the Judiciary with an amendment on page 1, beginning in line 4, strike out "Doctor Lesley B. Tiogko Serrano and her son, Kenneth Neil Serrona", so as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of the Immigration and Nationality Act, Doctor Antonio Panganiban Serrano, his wife, Doctor Lesley B. Tiongko Serrano, and their son, Kenneth Neil Serrano, shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act upon payment of the required visa fees. Upon the granting of permanent residence to such aliens as provided for in this Act, the Secretary of State shall instruct the proper officer to reduce by the required numbers, during the current fiscal year or the fiscal year next following, the total number of immigrant visas and conditional entries which are made available to natives of the country of the aliens' birth under paragraphs (1) through (8) of section 203(a) of the Immigration and Nationality Act.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended so as to read: "A bill for the relief of Dr. Antonio Panganiban Serrano, his wife, Dr. Lesley B. Tiongko Serrano, and their son, Kenneth Neil Serrano."

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 94–1080), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE BILL

The purpose of the bill, as amended, is to grant the status of permanent residence in the United States to Doctor Lesley B. Tiongko Serrano and her son Kenneth Neil Serrano. The bill provides for the payment of the required visa fees and for appropriate visa number deductions. The bill has been amended to correct an error in the spelling of the beneficiary's name.

STATEMENT OF FACTS

The beneficiaries are mother and son, natives and citizens of the Philippines, ages 30 and 2 years, respectively. The adult beneficiary was admitted to the United States on January 22, 1976 as a temporary worker. Her son accompanied her on that date. She is presently self-employed as a medical doctor in a small community in Texas. She is one of two physicians practicing in this area.

A letter, with attached memorandum, dated June 3, 1976 to the Chairman of the Senate Judiciary Committee from the Commissioner of Immigration and Naturalization with reference to the bill reads as follows:

UNITED STATES DEPARTMENT OF JUSTICE, IMMIGRATION AND NATURALIZATION SERVICE,
Washington, D.C., June 3, 1976.

Hon. JAMES O. EASTLAND,
Chairman, Committee on the Judiciary, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: In response to your request for a report relative to the bill (S. 3040) for the relief of Doctor Lesley B. Tiogko Serrano and her son, Kenneth Neil Serrano, there is attached a memorandum of information concerning the beneficiaries. The correct spelling of Dr. Serrano's maiden name is Tiongko.

The bill would grant the beneficiaries permanent residence in the United States as of the date of its enactment, upon payment of the required visa fees. It would also direct that appropriate visa number deductions be made.

The beneficiaries, natives of the Philippines, are chargeable to the numerical limitations for immigrants and conditional entrants from countries of the Eastern Hemisphere.

Sincerely,

L. F. CHAPMAN, Jr.,
Commissioner.

Enclosure.

MEMORANDUM OF INFORMATION FROM IMMIGRATION AND NATURALIZATION SERVICE FILES RE 3040

The beneficiaries, Doctor Lesley B. Tiongko Serrano and her son, Kenneth Neil Serrano, both natives and citizens of the Philippines were born December 21, 1946 and August 14, 1973, respectively. They reside in Aspermont, Texas where Dr. Serrano is self-employed as a medical doctor. Prior to her present employment, she was previously self-employed as a medical doctor in the Philippines. She has a guaranteed income of $2,000 per month and her assets consists of her salary. She received a medical degree in the Philippines on May 14, 1972.

Dr. Serrano is married and her husband, Antonio P. Serrano, resides with her. Her parents reside in the Philippines. She has a permanent resident sister living in California.

Dr. Serrano was admitted to the United States on January 22, 1976, as a nonimmigrant temporary worker to be employed as a physician by the Stonewall Memorial Hospital, Aspermont, Texas. Beneficiary Kenneth Neil Serrano was admitted to the United States on January 22, 1976 as the child of a nonimmigrant temporary worker.

The husband of the beneficiary was admitted to the United States on October 13, 1975 as a visitor for business until October 30, 1975. He failed to depart and has been granted until June 12, 1976 to effect his departure from the United States.

Deportation proceedings have been instituted against Dr. Serrano on the ground that she failed to maintain the nonimmigrant status in which she was admitted in that she no longer has a residence in a foreign country which she has no intention of abandoning.

Senator Lloyd Bentsen, the author of the bill, submitted the following statement of support:

U.S. SENATE,
Washington, D.C., June 18, 1976.

Hon. JAMES O. EASTLAND,
Chairman, Senate Judiciary Committee, Dirksen Senate Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: I am writing concerning S. 3040 and S. 3535, private bills I introduced on behalf of Dr. Lesley B. Tiogko Serrano and her son Kenneth Neil Serrano, and Dr. Antonio P. Serrano, respectively.

Dr. Lesley Serrano is working in the small West Texas community of Aspermont where she is one of only two practicing physicians serving a three-county area with a combined population of some 6,000 people. This area has had a severe doctor shortage for many years and the City of Aspermont has tried unsuccessfully for the last decade to find U.S. physicians willing to practice there. Dr. Serrano has worked tirelessly since her arrival in Aspermont, providing quality medical care for its citizens and serving Aspermont's new hospital.

Her husband, Dr. Antonio P. Serrano, is currently doing advanced study at the University of Texas Medical School in Houston for one year. He intends to return to Aspermont at the end of that time to rejoin his wife in caring for the people of that area.

In light of the area's inability to attract qualified U.S. medical personnel and in view of the already severe doctor shortage there, I hope the Senate Judiciary Committee will see fit to approve S. 3040 and S. 3535.

Sincerely,

LLOYD BENTSEN.

After consideration of all the facts in the case, the committee is of the opinion that the bill (S. 3040) should be enacted.

PATRIÇIA ARIAS GARCIA

The Senate proceeded to consider the bill (S. 2674) for the relief of Patricia Aries Garcia, which has been reported from the Committee on the Judiciary with amendments, as follows:

On page 1 in line 4, strike out "Aries" and insert "Arias".

On page 1, in line 8, after "natural" insert "parents,".

On page 1, in line 9, strike out "Aries" and insert "Arias".

On page 2, in line 3, strike out "Aries" and insert "Arias", so as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Patricia Arias Garcia shall be classified as a child within the meaning of section 101(b)(1)(F) of such Act, upon approval of a petition filed in her behalf by Miss Victoria Garcia, a citizen of the United States, pursuant to section 204 of such Act. The natural parents, brothers and sisters of the said Patricia Aris Garcia shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

SEC. 2. Notwithstanding the provisions of section 245(c) of the Act, an application for adjustment of status may be approved for Patricia Arias Garcia if the Attorney General finds she is otherwise eligible.

The amendments were agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended so as to read: "A bill for the relief of Patricia Arias Garcia."

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 94–1081), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE BILL

The purpose of the bill, as amended, is to facilitate the adjustment of status as an immediate relative of the adopted child of a United States citizen. The purpose of the amendments is to correct an error in the spelling of the beneficiary's name and to conform with established precedents.

STATEMENT OF FACTS

The beneficiary of the bill is a 16-year-old native and citizen of Peru, who currently resides in Ann Arbor, Michigan. The beneficiary has been adopted by her maternal aunt, Victoria Garcia, who is a citizen of the United States. The natural parents of the beneficiary have irrevocably released her for adoption.

A letter, with attached memorandum, to the Chairman of the Senate Judiciary Committee from the Commissioner of Immigration and Naturalization dated March 30, 1976 with reference to the bill reads as follows:

U.S. DEPARTMENT OF JUSTICE, IMMIGRATION AND NATURALIZATION SERVICE,
Washington, D.C., March 30, 1976.

Hon. JAMES O. EASTLAND,
Chairman, Committee on the Judiciary, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: In response to your request for a report relative to the bill (S.

2674) for the relief of Patricia Aries Garcia, there is attached a memorandum of information concerning the beneficiary.

The bill provides that the fourteen-year-old beneficiary, who has been adopted by a United States citizen, may be classified as a child and granted immediate relative status upon approval of a petition to be submitted in her behalf. The bill would also permit the beneficiary, who is a native of the Western Hemisphere, to adjust her status to that of a permanent resident alien in the United States. The bill further provides that the natural brothers and sisters of the beneficiary shall not, by virtue of such relationship, be accorded any rights, privilege, or status under the Immigration and Nationality Act.

Absent enactment of the bill, the beneficiary, a native of Peru, is chargeable to the numerical limitation for immigrants from the Western Hemisphere. She is statutorily ineligible to adjust her status while in the United States and would be required to obtain a visa outside this country.

Sincerely,

L. F. Chapman, Jr.,
Commissioner.

Enclosure.

Memorandum of Information From Immigration and Naturalization Service Files RE. S. 2671

The beneficiary, whose name is spelled Patricia Arias Garcia, is a native and citizen of Peru born on April 21, 1961. She presently resides in Ann Arbor, Michigan where she attends public elementary school. The beneficiary was adopted on October 29, 1975 by her maternal aunt. Victoria Garcia. A certified copy of the final adoption order is attached. The beneficiary's natural mother lives in Peru and her natural father is a nonimmigrant student residing in Chicago, Illinois. Her natural parents are natives and citizens of Peru and have irrevocably released the beneficiary for adoption. The beneficiary has no brothers or sisters. Her maternal grandmother is a permanent resident who now resides in Detroit, Michigan.

The beneficiary's adoptive mother, Victoria Garcia, was born on March 12, 1942 in Peru and is a naturalized citizen of the United States. She is a graduate student in bi-lingual education at the University of Michigan, Ann Arbor. She is single. She receives a $3,700 annual education grant and has a savings account of $1,000 and personal effects valued at $2,500.

The beneficiary entered the United States on December 20, 1972 as a nonimmigrant visitor for pleasure. Her nonimmigrant status was changed to that of a student authorized to remain until May 30, 1974. During the summer of 1974 the beneficiary was hospitalized at public expense in Massachusetts, for a congenital dislocation of her hip. Meanwhile, Victoria Garcia, with whom the beneficiary was residing, moved from Massachusetts to Ann Arbor, Michigan, while the beneficiary remained in Massachusetts with her maternal grandmother and both were supported by public assistance payments. The beneficiary's adoptive mother states that she has now begun to make payments for the beneficiary's hospitalization.

The beneficiary's application to extend her nonimmigrant stay was denied since it was not made timely and the beneficiary was unable to maintain herself in the United States without public assistance. In December 1974 arrangements were made by the hospital staff treating the beneficiary in Massachusetts to continue the beneficiary's physical therapy in Peru where she would be cared for by her natural mother. She was required to depart from the United States by March 9, 1975 but did not depart. Deportation proceedings were instituted on the ground that she had remained in the United States for a longer time than permitted. After a hearing before an immigration judge, she was found deportable as charged.

The beneficiary's adoptive mother advised that she intends to register the beneficiary for an immigrant visa at the American Consulate, Toronto, Canada.

The adoption order referred to above is contained in the files of the Senate Judiciary Committee.

Senator Philip A. Hart, the author of the bill, submitted the following supporting information.

U.S. Senate,
Washington, D.C., May 19, 1976.

Hon. James O. Eastland,
Chairman, Subcommittee on Immigration and Naturalization, U.S. Senate, Washington, D.C.

Dear Mr. Chairman: This is in reference to S. 2674, a private immigration bill which I introduced for the relief of Patricia Arias Garcia.

Patricia came to this country in 1972 for medical purposes, for treatment of a congenital dislocation of the hip. She would like to remain to continue the medical treatment and to continue her education. Should she return to Peru, she will become a public charge, as her mother cannot support her. Recently, her final adoption by an aunt was approved, so her financial future in this country is more secure.

The enclosed letters reaffirm her need to remain here in the United States with her maternal aunt.

With best wishes,

Sincerely,

Philip A. Hart.

Enclosures.

Ann Arbor Public Schools,
Ann Arbor, Mich., January 29, 1976.

Senator Philip Hart,
Senate Office Building,
Washington, D.C.

Dear Senator Hart: I am writing to you on behalf of Patricia Garcia, named in your Bill S. 2674, and introduced in November of 1975.

I am Patty's teacher-counselor (Anchor Teacher) at Clague Intermediate School. Patty is making academic progress, but due to some special learning factors, Patty is receiving supportive education services necessary for her continued advancement. This progress can be best ensured by a prompt and positive response to your bill which will enable Patty to continue in a stable, supportive and loving home situation now provided under the care of her aunt, Miss Vicki Garcia.

Patty's future wellbeing and security rest, in my view, with her being allowed to remain in the United States where her special medical and educational needs can best be met, and from which she will continue to develop her considerable capabilities for good citizenship and a productive future.

I would appreciate your doing whatever you can to bring security and stability to Patty's future by urging a speedy and positive decision on her case.

Thank you for your consideration.

Sincerely,

Carolyle J. Towers,
Anchor Teacher.

Most Holy Trinity Rectory,
Detroit, Mich., November 25, 1975.

Hon. Philip Hart,
Senate Office Building,
Washington, D.C.

Dear Phil: This letter is written in behalf of Patricia Garcia, age 14, citizen of Peru, who is now a resident of Ann Arbor, 1697 Cram Circle and who is seeking a Special Bill in her behalf.

She came here with her grandmother for her education and health care.

She has been here as student and also a tourist and the only thing that can keep her here in school for finishing her studies is a special bill.

The family seems excellent and trustworthy.

Respectfully yours,

Father Clement Kern.

The committee, after consideration of all the facts in the case, is of the opinion that the bill, S. 2674, as amended, should be enacted.

KIM YON JIN

The Senate proceeded to consider the bill (S. 2786) for the relief of Kim Yon Jin, which had been reported from the Committee on the Judiciary with an amendment, as follows:

On page 1, in line 4, strike out "Kim Yon Jin" and insert "Yon Jin Kim".

On page 1, in line 11, after "The" insert "natural parents or".

On page 1, in line 11, strike out "Kim Yon Jin" and insert "Yon Jin Kim", so as to make the bill read: *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That, in the administration of the Immigration and Nationality Act, Yon Jin Kim may be classified as a child within the meaning of section 101(b) (1) (F) of such Act upon approval of a petition filed on her behalf by Mr. and Mrs. Ronald E. Jones, citizens of the United States, pursuant to section 204 of such Act, except that section 204(c) of such Act, relating to the number of petitions which may be approved on behalf of children, shall not apply. The natural parents or brothers and sisters of the said Yon Jin Kim shall not, by virture of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

Amend the title so as to read: "A bill for the relief of Yon Jin Kim.".

The amendments were agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended so as to read: "A bill for the relief of Yon Jin Kim."

The amendments were agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the Record an excerpt from the report (No. 94–1082), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the Record, as follows:

PURPOSE OF THE BILL

The purpose of the bill, as amended, is to facilitate the adjustment of status as an immediate relative of the child adopted by citizens of the United States. The bill has been amended to reflect the beneficiary's proper name.

STATEMENT OF FACTS

The beneficiary of the bill is a 4-year-old native and citizen of Korea who was found abandoned shortly after birth by a Korean woman, now deceased, who cared for her until November 1975. Until her departure for the United States she was cared for by U.S. military personnel. On November 14, 1975, she was adopted by Mr. and Mrs. Ronald Jones and on December 13, 1975, was admitted to the U.S. in parole status. She has resided with her adoptive parents since that date. In addition to their two natural children, the adoptive parents have two other adopted Korean children. Information is to the effect that they are financially able to care for the beneficiary.

A letter with attached memorandum, dated April 12, 1976 to the chairman of the Senate Committee on the Judiciary from the Commissioner of Immigration and Naturalization with reference to the bill reads as follows:

U.S. DEPARTMENT OF JUSTICE,
IMMIGRATION AND
NATURALIZATION SERVICE,
Washington, D.C., April 12, 1976.

Hon. JAMES O. EASTLAND,
Chairman, Committee on the Judiciary, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: In response to your request for a report relative to the bill (S. 2786) for the relief of Kim Yon Jin, there is attached a memorandum of information concerning the beneficiary.

The bill provides that the three-year-old beneficiary, who has been adopted by United States citizens, may be classified as a child and granted immediate relative status, and that the provision of the Immigration and Nationality Act, which limits the number of petitions that may be approved for adopted children, shall not be applicable in this case. The bill further provides that the brothers or sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Act.

Absent enactment of the bill, the beneficiary, a native and citizen of Korea, would be chargeable to the nonpreference portion of the numerical limitation for immigrants and conditional entrants in the Eastern Hemisphere.

Sincerely,

L. F. CHAPMAN, Jr.,
Commissioner.

Enclosure.

MEMORANDUM OF INFORMATION FROM IMMIGRATION AND NATURALIZATION SERVICE FILES RE S. 2786

Information concerning the case was obtained from Ronald Edgar Jones, the adoptive father of the beneficiary.

The beneficiary, whose correct name is Yon Jin Kim, is also known as Jennifer Ann Jones, and was born in Korea on July 25, 1972. She was found abandoned shortly after birth by a Korean woman, possibly a distant relative, now deceased, who cared for her until November 1975. Thereafter, the beneficiary was again found abandoned but was cared for by United States military personnel until her departure for the United States. Mr. and Mrs. Ronald Jones adopted the beneficiary under Korean law on November 14, 1975. A copy of the certificate of adoption is enclosed. The beneficiary was admitted to the United States on December 24, 1975 in a parole status and since that date has resided in the home of her adoptive parents in Norristown, Pennsylvania.

The adoptive parents, Ronald Edgar Jones and Leah L. Jones, are citizens of the United States born in Pennsylvania on July 24, 1934 and November 19, 1935, respectively. They were married on June 4, 1955 in Norristown, Pennsylvania. Mrs. Jones is not gainfully employed. Mr. Jones, after graduating from high school in 1952, enrolled in a two year course of instruction in radio-electronics at a local institute and was awarded a certificate of completion in 1954. From 1948 to 1965 he was employed by his father as an electronic technician, and since the later date he has been self-employed in the same capacity, operating a business of selling and servicing automobile radio and stereophonic systems. This wholly-owned business, located in Norristown, Pennsylvania, provides Mr. and Mrs. Jones with an income of $18,000 annually. Their additional assets consist of a building containing their home and business valued at $200,000; checking and savings accounts totaling $2,700; stocks and bonds valued at $6,000; and an automobile appraised at $3,200. Additionally, they own tools and equipment utilized in the business valued at $25,000 and other personal items valued at $10,000.

In addition to their two natural children, Mr. and Mrs. Jones have two previously adopted Korean children. These adopted children, a boy age eight, and a girl age five, are now naturalized citizens. Both of these children were beneficiaries of approved visa petitions submitted by Mr. and Mrs. Jones to accord the children immediate relative status in the issuance of immigrant visas.

Senator Hugh Scott, the author of the bill, has submitted the following information in connection with the case:

U.S. SENATE,
COMMITTEE OF FOREIGN RELATIONS,
Washington, D.C., July 12, 1976.

Hon. JAMES O. EASTLAND,
Senate Judiciary Committee, Subcommittee on Immigration and Naturalization, Dirksen Senate Office Building, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This is in reference to S. 2786, for the relief of Kim Yon Jin.

I am enclosing the report on this case, which explains the situation.

It would be appreciated if I could be advised when this bill is to be considered so that up-to-date information could be made available to the Subcommittee.

With personal regards,

Sincerely,

HUGH SCOTT,
U.S. Senator.

Enclosure.

WASSERMAN, ORLOW, GINSBERG
& RUBIN,
Philadelphia, Pa., June 15, 1976.

Re S. 2786—94th Congress, 1st Session Kim Yon Jin, a/k/a Jenny Jones.

Hon. HUGH SCOTT,
U.S. Senator, Old Senate Office Building, Washington, D.C.

DEAR SENATOR SCOTT: You had interested yourself in the Jones family of Norristown, and had introduced a bill for the relief of Kim Yon Jin, also known as Jenny Jones, to relieve Mr. and Mrs. Jones from the debarment of 8 U.S.C. § 1154(c). As I think you are aware, a major effort was made by the Commissioner of Immigration and the child was temporarily paroled into the United States for humanitarian reasons to assure proper medical care. Jenny arrived on Christmas Eve due to the combined efforts of the Immigration Service, the Consular Service, Staff Members of Stars and Stripes Pacific Edition, and representatives of Northwest Orient Airlines, due in a little part of course to the interest you had expressed in the situation.

Additionally, a suit had been begun in the Eastern District of Pennsylvania challenging the constitutionality of that statute and other aspects of the case. That case is presently pending before the Honorable John P. Fullam of the United States District Court for the Eastern District of Pennsylvania, Docket No. Civil Action 75-3517. I am advised by the United States Attorney however that the Government would prefer to defer action in the litigation because of the pendency of the Private Bill, and also because of the action being contemplated in the House. It is my understanding that the House has considered H.R. 4336, a matter of public legislation in the Subcommittee on Immigration, Citizenship and International Law, and that a bill will be or is being reported to the full Committee covering that subject.

Notwithstanding the action of the public legislation, however, I would earnestly solicit your further assistance in inviting the Senate Judiciary Committee's attention to the Private Bill in this case. I should be pleased to submit additional documentation as is appropriate, particularly reflecting a very substantial public interest which was aroused at the time of Jenny's entry and sympathy for relief in this sort of situation. At the present time, however, I attach copies of a medical certificate from Korea, the parole on which she entered the United States, and the medical examination at the time of her entry by an American doctor. It seems clear that the child is benefiting significantly from the care by her intended adoptive parents, but she will be subject to considerable physical abuse, if not threat to her life, if she were to have to return to Korea, and that this case is particularly sympathetic. I would also believe that the Immigration Service would be in favor of the grant of relief by way of Private Legislation in the instant case, although I have not seen any copy of any report they have rendered in connection with the Private Bill.

It is contemplated that this Bill be submitted to the Senate Subcommittee for consideration in the near future, I would appreciate a call from one of your staff aides so that immediate up-to-date information and photographs can be available for that Subcommittee consideration.

Your continued interest is deeply appreciated.

Very truly yours,

WASSERMAN, ORLOW, GINSBERG & RUBIN.
JAMES J. ORLOW.

The committee, after consideration of all the facts in the case, is of the opinion that the bill (S. 2786), as amended, should be enacted.

SUK CHIN AND HAE SUK CHIN

The bill (H.R. 1394) for the relief of Suk Chin and Hae Suk Chin, was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 94-1083), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE BILL

The purpose of the bill is to facilitate the admission into the United States as immediate relatives of alien children to be adopted by a citizen of the United States.

STATEMENT OF FACTS

The beneficiaries of the bill are natives and citizens of Korea, ages 7 and 4. They currently reside in St. Lazarus Village, Korea, with their natural parents who are afflicted with Hansen's disease. The children are coming to the United States to be adopted by Arlene Roemer, a citizen of the United States who is divorced.

A letter, with attached memorandum, dated February 26, 1975 to the Chairman of the House Judiciary Committee from the then Acting Commissioner of Immigration and Naturalization refers to H.R. 17040, a similar bill introduced in the 93rd Congress. The information reads as follows:

U.S. DEPARTMENT OF JUSTICE, IMMIGRATION AND NATURALIZATION SERVICE,
Washington, D.C., February 26, 1975.

Hon. PETER W. RODINO, Jr.,
Chairman, Committee on the Judiciary, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: In response to your request for a report relative to the bill (H.R. 1394) for the relief of Suk Chin and Hae Suk Chin, who were also the beneficiaries of (H.R. 17040) 93rd Congress, there is attached a memorandum of information concerning the beneficiaries.

The bill, if enacted, would provide that the beneficiaries, who are to be adopted by a United States citizen, may be classed as children and be granted immediate relative status. The bill further provides that the provision of the Immigration and Nationality Act which limits the number of petitions that may be approved for adopted children shall not be applicable in this case.

Absent enactment of the bill, the beneficiaries, natives of Korea, would be chargeable to the nonpreference portion of the numerical limitation for immigrants and conditional entrants from countries in the Eastern Hemisphere.

Sincerely,

James F. Greene,
Acting Commissioner.

Enclosure.

MEMORANDUM OF INFORMATION FROM IMMIGRATION AND NATURALIZATION SERVICE FILES RE H.R. 1394

Information concerning this case was obtained from Mrs. Arlene Roemer, the prospective adoptive parent of the beneficiaries.

Suk Chin and Hae Suk Chin were born on March 18, 1969 and September 24, 1971, respectively, in Korea.

The beneficiaries are presently residing in Saint Lazarus Village, Anyang, Korea with their parents, who are afflicted with Hansen's Disease and confined to a leper colony. Their father is almost completely blind and their mother has had one leg amputated. The parents are unable to care for the beneficiaries and have released them for adoption.

The interested party, Arlene Roemer, nee Sander, was born in Washington, D.C. on August 27, 1938. She was married to Derek V. Roemer, a United States citizen, on September 3, 1958, but they were divorced on August 19, 1968, because of marital discord. No children were born of this union. Mrs. Roemer adopted an orphan child, Bick Anne Roemer, at Washington, D.C. on June 26, 1974. Bick Anne was born in Saigon. Viet Nam on April 4, 1971, and paroled into the United States on September 23, 1973, and has resided with Mrs. Roemer since that time.

Mrs. Roemer, a United States citizen is employed as a staff assistant at the Department of Health, Education, and Welfare, in Washington, D.C. at a salary of $23,997.00 per annum. Her net worth is approximately $34,000.00 consisting of property and savings.

The record indicates that a home study was conducted by an approved adoption service, with favorable recommendation regarding adoption of the beneficiaries by the interested party.

The committee, after consideration of all the facts in the case, is of the opinion that the bill (H.R. 1394) should be enacted.

MEE KYUNG CHO AND HEE KYUNG CHO

The bill (H.R. 1395) for the relief of Mee Kyung Cho and Hee Kyung Cho, was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the Record an excerpt from the report (No. 94–1084), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the Record, as follows:

PURPOSE OF THE BILL

The purpose of the bill is to facilitate the admission into the United States as immediate relatives of alien children to be adopted by citizens of the United States.

STATEMENT OF FACTS

The beneficiaries of the bill are natives of Korea, ages 5 and 2. They currently reside in St. Lazarus Village, Korea, with their natural parents. Their father is afflicted with Hansen's disease. The children are coming to the United States to be adopted by Mr. and Mrs. Louis Marchese, citizens of the United States.

A letter, with attached memorandum, dated November 25, 1974 from the Commissioner of Immigration and Naturalization to the Chairman of the Committee on the Judiciary of the House of Representatives with reference to H.R. 17042, a similar bill introduced in the 93rd Congress, reads as follows:

U.S. Department of Justice, Immigration and Naturalization Service,
Washington, D.C., November 25, 1974.

Hon. Peter W. Rodino, Jr.,
Chairman, Committee on the Judiciary, House of Representatives, Washington, D.C.

Dear Mr. Chairman: In response to your request for a report relative to the bill (H.R. 17042) for the relief of Mee Kyung Cho and Hee Kyung Cho, there is attached a memorandum of information concerning the beneficiaries.

The bill provides that the beneficiaries, whose natural parents are living and who are to be adopted by United States citizens may be classified as children and be granted immediate relative status. The bill further provides that the natural parents, or brothers or sisters of the beneficiaries shall not by virtue of such relationship be accorded any right, privilege or status under the Immigration and Nationality Act.

Absent enactment of the bill, the beneficiaries, natives of Korea, are chargeable to the nonpreference portion of the numerical limitation for immigrants and conditional entrants from countries in the Eastern Hemisphere.

Sincerely,

L. F. Chapman, Jr.,
Commissioner.

Enclosure.

MEMORANDUM OF INFORMATION FROM IMMIGRATION AND NATURALIZATION SERVICE FILES RE H.R. 17042

Information concerning this case was obtained from Mr. and Mrs. Louis Marchese, the prospective adoptive parents of the beneficiaries.

The beneficiaries, Mee Kyung Cho and Hee Kyung Cho, natives and citizens of Korea, were born on January 23, 1971 and July 11, 1973, respectively. They are sisters who reside with their natural parents in St. Lazarus Village, Korea, which is a community established for lepers. Although the father is the only family member afflicted with the disease, the entire family is virtually ostracized. Thus, the parents, who are farmers, have agreed to place their only two children for adoption by an American family so that they may have a good education and better life.

The beneficiaries do not qualify for immediate relative status as children under section 101(b)(1)(F) of the Immigration and Nationality Act because both their parents are alive and supporting them. Visa applications to register them as nonpreference immigrants were approved on July 16, 1974.

Mr. and Mrs. Louis Marchese, natives and citizens of the United States, were born on July 22, 1943 and August 16, 1949, respectively. They were married on January 20. 1968. They reside in Mahopac, New York, with their son, age 4 and daughter, age 1½.

Mr. Marchese, a policeman in New York City, earns $16,500, a year. The family has a house valued at $50,000, furniture valued at $15,000, a car worth about $1,000 and savings accounts consisting of $1,300.

Reports dated October 23, 1974 and June 25, 1975 from the Department of State with reference to the instant bill and to H.R. 17042 read as follows:

Department of State,
Washington, D.C., October 23, 1974.

Hon. Peter W. Rodino, Jr.,
Chairman, Committee on the Judiciary, House of Representatives, Washington, D.C.

Dear Mr. Chairman: Reference is made to your request for a report concerning the case of Mee Kyung Cho and Hee Kyung Cho, beneficiaries of H.R. 17042, 93rd Congress.

The bill would provide for the beneficiaries' classification as a child and for granting of immediate relative status upon approval of a petition filed by Mr. and Mrs. Louis J. Marchese, American citizens. It also provides that the natural parents, brothers or sisters of the beneficiaries shall not be accorded any right privilege or status under the Immigration and Nationality Act by virtue of such relationship.

The American Embassy at Seoul, Korea has reported Cho Mee Kyung was born on January 23, 1971, and Cho Hee Kyung on July 11, 1973, both in Korea. They are prospective adoptive children of Mr. and Mrs. Louis Marchese and are registered as nonpreference intending immigrants with a priority date of July 16, 1974 under the limitation for Korea. Both beneficiaries are children of lepers and have been selected for adoption under the Operation Outreach project. Nonpreference visa numbers for applicants chargeable to Korea are currently available to those registered before June 1, 1973. It is not possible to predict when numbers will become available for the beneficiaries.

The agency handling the beneficiaries' cases has been requested to arrange for their medical examinations. If any ground of ineligibility is revealed, the Committee will be informed.

Cordially,

Linwood Holton,
Assistant Secretary for Congressional Relations.

The committee, after consideration of all the facts in the case, is of the opinion that the bill (H.R. 1395) should be enacted.

SANG KOOK GHUNG AND HWA SOON CHUNG

The bill (H.R. 1396) for the relief of Sang Kook Chung and Hwa Soon Chung, was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the Record an excerpt from the report (No. 94–1085), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the Record, as follows:

PURPOSE OF THE BILL

The purpose of the bill is to facilitate the admission into the United States as immediate relatives of alien children to be adopted by citizens of the United States.

STATEMENT OF FACTS

The beneficiaries of the bill are natives and citizens of Korea, ages 13 and 11. They currently reside in St. Lazarus Village, Korea, with their natural parents who are afflicted with Hansen's disease. The children are coming to the United States to be adopted by Mr. and Mrs. John Datz, citizens of the United States.

A letter, with attached memorandum,

dated December 5, 1974 to the Chairman of the House Judiciary Committee from the Commissioner of Immigration and Naturalization refers to H.R. 17041, a similar bill introduced in the 93rd Congress. The information reads as follows:

U.S. DEPARTMENT OF JUSTICE, IMMIGRATION AND NATURALIZATION SERVICE,
Washington, D.C., December 5, 1974.

A21 794 442.
A21 794 443.

Hon. PETER W. RODINO, Jr.,
Chairman, Committee on the Judiciary, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: In response to your request for a report relative to the bill (H.R. 17041) for the relief of Sang Kook Chung and Hwa Soon Chung, there is attached a memorandum of information concerning the beneficiaries.

The bill provides that the beneficiaries, whose natural parents are living and who are to be adopted by United States citizens, may be classified as children and be granted immediate relative status. The bill further provides that the natural parents or brothers or sisters of the beneficiaries shall not by virtue of such relationship be accorded any right, privilege or status under the Immigration and Nationality Act.

Absent enactment of the bill, the beneficiaries, natives of Korea, are chargeable to the nonpreference portion of the numerical limitation for immigrants and conditional entrants from countries in the Eastern Hemisphere.

Sincerely,

L. F. CHAPMAN, Jr., *Commissioner.*

Enclosure.

MEMORANDUM OF INFORMATION FROM IMMIGRATION AND NATURALIZATION SERVICE FILES RE 17041

Information concerning this case was obtained from Mr. and Mrs. John Datz, the prospective adoptive parents of the beneficiaries.

The beneficiaries, Sang Kook Chung and Hwa Soon Chung, natives and citizens of Korea, were born on December 27, 1962 and December 28, 1964, respectively. They are sisters who reside with and are supported by their natural parents in St. Lazarus Village, Korea. Although the beneficiaries are healthy, both their parents have leprosy and because of social prejudice toward them, would find it difficult to live outside the leper colony. Not only are the beneficiaries educational opportunities limited, but the possibilities of their marrying or working outside St. Lazarus Village are greatly diminished. Accordingly, the parents have decided that the children be adopted by an American family. The parents are poultry farmers. They have two sons, ages 24 and 16 and three other daughters, ages 22, 21, and 11. They all reside with their parents.

The beneficiaries do not qualify for immediate relative status under Section 101(b)(1)(F) of the Immigration and Nationality Act because their natural parents are alive and are supporting them. Visa applications to register the children as nonpreference immigrants were approved on August 2, 1974.

Mr. and Mrs. John Datz, who are natives and citizens of the United States, were born on April 13, 1938, and December 21, 1941, respectively. They were married on September 30, 1961. They reside in Centerport, Long Island, New York with their son, age 8 and four daughters, ages 12, 10, 6 and 3.

Mr. Datz, a marketing analyst for an aerospace company in Bethpage, New York earns $19,500 a year. The couple's assets consist of a house valued at $50,000, household furnishings valued at $3,000, two cars worth about $1,000, savings in the amount of $7,675 and stocks and bonds worth about $3,820.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., December 4, 1975.

Hon. JAMES O. EASTLAND,
Chairman, Senate Committee on the Judiciary,, Washington, D.C.

DEAR MR. CHAIRMAN: I am writing with regard to four private immigration bills that passed the House on November 18th (H.R. 1394, H.R. 1395, H.R. 1396, and H.R. 1397), and are currently pending before your Subcommittee on Immigration and Naturalization.

I introduced these bills to facilitate the adoption of eight children presently living in Korea with their parents. While the parents have been afflicted with Hansen's Disease, exhaustive medical examinations have shown that the children are healthy and do not suffer from the disease. However, the children are forced to live with their parents in isolated villages, apart from and stigmatized by Korean society.

Three couples and one signle woman, all United States citizens, have completed all pre-adoptive procedures including the necessary home studies, and are anxiously awaiting the approval of the aforementioned bills. These bills are necessary since both natural parents of each of the children in question are living.

I would sincerely appreciate it if expeditious action could be taken by your Subcommittee on these measures so that the adoptions can be completed at the earliest possible date.

Sincerely,

HAMILTON FISH, Jr.,
Member of Congress.

Congressman Edward Mezvinsky submitted additional supporting information to the Senate Judiciary Committee:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
February 2, 1976.

Hon. JAMES O. EASTLAND,
2241 Dirksen Building,
Washington, D.C.

DEAR SENATOR EASTLAND: Pending in the Senate Judiciary Committee are four private bills to classify eight children from Korea as children within the meaning of section 101 (b)(1)(f) of the Immigration and Naturalization Act.

These children are very special. Their parents suffer from Hansen's disease and they, along with their mothers and fathers, are forced to live apart from society in separate colonies. Although the children are perfectly healthy, they will have to live in this colony for the rest of their lives and must carry cards with them saying that their parents suffered from Hansen's disease, which further stigmatizes them in the community. Knowing of the abject poverty and societal rejection that their children will face, the parents, knowingly and willingly, have offered their children for adoption by American parents.

Four sets of parents, willing to reach out to offer love to children suffering half way around the world, have been waiting for over two years for their children to arrive. In fact, the parents in the United States are so anxious for their arrival that one group has already made a trip to Korea to visit their children and further reassure their natural parents that a good home is waiting in the United States.

Enclosed with this letter are copies of the reports on these bills. Except for individual differences in the personal lives of the children and their adoptive parents, they are identical. These reports outline the background of the cases as well as provide exhaustive medical proof of the desirability of bringing these children into the country. I would appreciate your giving these bills your personal attention and hope you can act on them quickly. I will be happy to speak with you to provide you with any additional information you require.

Best regards,

EDWARD MEZVINSKY.

The Senate Judiciary Committee has also received endorsements of this legislation from Senator Jacob Javits and Senator Hugh Scott. Their statements read as follows:

U.S. SENATE,
Washington, D.C., November 25, 1975.

Hon. JAMES O. EASTLAND,
Chairman, Immigration and Naturalization Subcommittee, Washington, D.C.

DEAR MR. CHAIRMAN: On November 17, the House passed four private immigration bills, H.R. 1394 through H.R. 1397.

The beneficiaries of these bills are Korean children whose parents suffer from Hansen's disease and who are coming to the United States for adoption by Americans. Three of the four sets of prospective parents are New Yorkers.

Private legislation was needed in this case since these children have living parents and therefore are not eligible to enter as nonquota immigrants who will be adopted.

I have introduced general legislation to deal with the subject of these unfortunate children, and I enclose a copy of a letter to the Attorney General on this subject which I wrote earlier this year. In the absence of Committee action on the general bill I would very much appreciate any consideration which you could give to these four specific bills. Copies of the House reports are also enclosed for your information.

Sincerely,

JACOB K. JAVITS.

U.S. SENATE,
Washington, D.C., February 17, 1976.

DEAR JIM: I have recently learned of the plight of a small number of youngsters who continue to suffer unnecessarily. They are the children of lepers in Asia.

Although U.S. medical authorities have given them a clean bill of health, the immigration authorities have denied these children, numbering eight or ten, the right to enter the country to be united either with the non-diseased parent or with their adopting parents. As a result, they continue to suffer under the most barbarous conditions as much victims of medieval prejudice as their parents.

I understand that the immigration authorities are reluctant to allow them into this country for fear of a public outcry in opposition. I think this sells the American people short. These children pose no health threat to this country.

I further understand that you might facilitate their entry by acting favorably on several private bills that are now pending. May I discuss this matter with you at your convenience?

With warm personal regards,
Sincerely,

HUGH SCOTT,
U.S. Senator.

The committee, after consideration of all the facts in the case, is of the opinion that the bill (H.R. 1396) should be enacted.

AE SOOK SONG AND MI YUN LEE

The bill (H.R. 1397) for the relief of Ae Sook Song and Mi Yun Lee, was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 94–1086), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE BILL

The purpose of the bill is to facilitate the admission into the United States as immediate relatives of alien children to be adopted by citizens of the United States.

STATEMENT OF FACTS

The beneficiaries of the bill are natives and citizens of Korea, ages 15 and 11. Each resides with her natural parents in St. Lazarus Village, Korea. The parents are afflicted with Hansen's disease. The children are coming to the United States to be adopted by Mr. and Mrs. Peter Elliott, citizens of the United States.

A letter, with attached memorandum, dated December 4, 1974 to the Chairman of the House Judiciary Committee from the Commissioner of Immigration and Naturalization refers to H.R. 17043, a similar bill introduced in the 93rd Congress. The information reads as follows:

U.S. DEPARTMENT OF JUSTICE, IMMIGRATION AND NATURALIZATION SERVICE,
Washington, D.C., December 4, 1974.

A21 794 418.
A21 794 419.
Hon. PETER W. RODINO, Jr.,
Chairman, Committee on the Judiciary, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: In response to your request for a report relative to the bill (H.R. 17043) for the relief of Ae Sook Song and Mi Yun Lee, there is attached a memorandum of information concerning the beneficiaries.

The bill provides that the beneficiaries, whose natural parents are living and who are to be adopted by United States citizens, may be classified as children and be granted immediate relative status. The bill further provides that the natural parents or brothers or sisters of the beneficiaries shall not, by virtue of such relationship, be accorded any right, privilege or status under the Immigration and Nationality Act. The bill does not waive the provision of the Immigration and Nationality Act which limits the number of petitions that may be approved for adopted children. The Committee may wish to make this amendment.

Absent enactment of the bill, the beneficiaries, natives of Korea, are chargeable to the nonpreference portion of the numerical limitation for immigrants and conditional entrants from countries in the Eastern Hemisphere.

Sincerely,

L. F. CHAPMAN, Jr.,
Commissioner.

Enclosure.

MEMORANDUM OF INFORMATION FROM IMMIGRATION AND NATURALIZATION RE H.R. 17043

Information concerning this case was obtained from Mr. and Mrs. Peter Elliott, the prospective adoptive parents of the beneficiaries.

The beneficiaries, Ae Sook Song and Mi Yun Lee, natives and citizens of Korea, were born on May 16, 1961 and October 14, 1964, respectively. Each resides with her natural parents in St. Lazarus Village, a leper community in Korea. Their parents, who are subsistent farmers, are afflicted with the disease and because of the social prejudice towards them, have little hope of improving their standard of living. Although the beneficiaries are healthy, their opportunities are limited because of the stigma of their backgrounds. The parents therefore have decided to permit the beneficiaries to be adopted by an American family. Ae Sook Song has two sisters, aged 21 and 18 and a 15-year-old brother; Mi Yun Lee has one brother who is seven-year-old. The siblings of both girls reside in St. Lazarus Village.

The beneficiaries do not qualify for immediate relative status under Section 101(b)(1)(F) of the Immigration and Nationality Act because their natural parents are alive, and are supporting them. Visa applications to register the children as nonpreference immigrants were approved on July 16, 1974.

Mr. and Mrs. Peter Elliott, who are natives of England and naturalized citizens of the United States, were born on October 8, 1924 and February 11, 1924, respectively. They were married on June 24, 1944. They were admitted to the United States as permanent residents on April 19, 1962 and were naturalized on February 16, 1968. They reside in Huntington Station, Long Island, New York with a son, age 21, from this marriage and three adopted children, who are natives and citizens of Korea. Janice, age 10 and Jonathan, age 8, who are natural sister and brother, were admitted as immediate relative immigrants on December 29, 1971. Sarah, who is 12-years-old, was admitted as a nonpreference immigrant on March 23, 1973. They have also a natural daughter, age 29, who lives in Valley Stream, New York.

Mr. Elliot, who is a car salesman in Huntington Station, earned $14,260 last year. Mrs. Elliott earns about $3,200 a year working part-time as a saleslady in a department store in Huntington Station. Their assets consist of a house valued at $39,000, household furnishings valued at $10,000, three cars worth about $3,000 and savings in the amount of $3,500.

Reports from the Department of State dated October 25, 1974 and June 25, 1975 with reference to the instant bill and H.R. 17043 read as follows:

DEPARTMENT OF STATE,
Washington, D.C., October 25, 1974.

Hon. PETER W. RODINO, Jr.,
Chairman, Committee on the Judiciary, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: Reference is made to your request for a report concerning the case of Ae Sook Song and Mi Young Lee, beneficiaries of H.R. 17043, 93rd Congress.

The bill would provide for the beneficiaries' classification as a child and for granting of immediate relative status upon approval of a petition filed by Mr. and Mrs. Peter Elliott, American citizens. It also provides that the natural parents, brothers or sisters of the beneficiaries shall not be entitled to any right, privilege or status under the Immigration and Nationality Act by virtue of such relationship.

The American Embassy at Seoul, Korea has reported that Song Ae Sook was born on May 16, 1961 and Lee My Yun on October 14, 1964, both in Korea. They are the prospective adoptive children of Mr. and Mrs. Peter Elliott and they are registered as nonpreference intending immigrants with a priority date of July 16, 1974. Both beneficiaries are the children of lepers and have been selected for adoption under the Operation Outreach project. Visa numbers for applicants chargeable to Korea are currently available to those registered before June 1, 1973. It is not possible to predict when numbers will become available for the beneficiaries.

Further information regarding the beneficaries' family ties and educational background is not available to the Embassy. The agency handling their cases has been requested to arrange for their medical examination and the Committee will be informed if a ground of ineligibility is revealed.

Cordially,

LINWOOD HOLTON,
Assistant Secretary for Congressional Relations.

JULIET ELIZABETH TOZZI

The bill (H.R. 1425) for the relief of Juliet Elizabeth Tozzi, was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 94-1087), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE BILL

The purpose of the bill is to waive the excluding provision of existing law relating to one who has been convicted of narcotics violations in behalf of the wife of a U.S. citizen.

STATEMENT OF FACTS

The beneficiary of this bill is a 25-year-old native and citizen of Great Britain who was first admitted to the United States for permanent residence at the age of 3, accompanied by her parents, in 1954. After her parents were divorced, her mother returned to England and the beneficiary made numerous trips to England and was last readmitted for permanent residence in 1967. In 1968 she suffered personal injuries in a car accident in the United States which precipitated her involvement with drugs after her return to England. On December 16, 1971, beneficiary was found ineligible to receive a visa because of convictions for possession of drugs, theft, on the grounds of drug addiction and as a person who has had prior attacks of insanity. She was readmitted to the United States under a waiver of grounds of inadmissibility in order to testify regarding the accident. Her inadmissibility due to theft and the prior attack of insanity, both of which were drug related, are waiverable administratively by reason of her relationship to United States citizens. She is married to a citizen of the United States and is the mother of their child, also a citizen of this country. A report from the United States Public Health Service indicates that her prognosis is good in view of her excellent adjustment at the present time, her good response to treatment, and her good insight and fine judgment.

A letter, with attached memorandum, dated March 14, 1974 to the chairman of the Committee on the Judiciary, House of Representatives, from the Commissioner of Immigration and Naturalization with reference to H.R. 9792, a similar bill for the relief of the same beneficiary introduced in the 93d Congress, reads as follows:

U.S. DEPARTMENT OF JUSTICE, IMMIGRATION AND NATURALIZATION SERVICE,
Washington, D.C., March 14, 1974.

Hon. PETER W. RODINO, Jr.,
Chairman, Committee on the Judiciary, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: In response to your request relative to the bill H.R. 9792 for the relief of Juliet Elizabeth Tozzi, there is attached a memorandum of information concerning the beneficiary.

The bill would waive those provisions of the Immigration and Nationality Act which excludes from admission into the United States aliens who have been convicted of a violation or regulation relating to the illicit possession or traffic in narcotic drugs and marijuana and would authorize the beneficiary's admission for permanent residence if otherwise admissible under that Act. The bill further provides that this exception should apply only to grounds of excludability of which the Department of State or the Department of Justice acknowledges prior to its enactment. It is noted that the beneficiary is presently in the United States.

As the spouse of a United States citizen, the beneficiary is eligible for immediate relative status.

Sincerely,

L. F. Chapman, Jr.,
Commissioner.

Enclosure.

MEMORANDUM OF INFORMATION FROM IMMIGRATION AND NATURALIZATION SERVICE FILES RE H.R. 9792

The beneficiary, Juliet Elizabeth Tozzi nee Kusnyer, a native and citizen of Great Britain, was born on June 16, 1951 at Swansea, Wales. She married Daniel Tozzi, a native and citizen of the United States, at Elkton, Maryland on December 29, 1972 and resides with him and their infant son in Bloomfield, New Jersey. She is a housewife who gave birth to her child October 14, 1973 in Montclair, New Jersey. She attended elementary school for about 12 years and a secretarial school in England for about 1½ years. She was previously employed in England and the United States as receptionist-typist. Her father, a native of Hungary, is a naturalized United States citizen residing in Clifton, New Jersey with his second wife and a half sister of the beneficiary. Her mother, a native and citizen of Great Britain resides in Great Britain with her second husband. The beneficiary has no other relatives in the United States than the aforementioned. Their assets consist of $20,000 per annum income from a florist business operated by Mr. Tozzi; $10,000 in savings and $10,000 in securities plus furniture valued at $6,000.

The beneficiary first entered the United States and was admitted for permanent residence on February 23, 1954. She returned to England and was subsequently readmitted on July 5, 1960. She again returned to England in 1961 and was subsequently readmitted for permanent residence on December 8, 1967. During this period she made numerous temporary departures to England due to the termination of her parents' marriage. She suffered personal injuries in an accident in 1967 following which she returned to England. When summoned to testify in the United States regarding this accident, she was granted a waiver of excludability under those provisions of the Immigration and Nationality Act rendering inadmissible persons who have had one or more attacks of insanity; aliens who are narcotic drug addicts or chronic alcoholics; aliens who have been convicted of a crime involving moral turpitude and any aliens who have been convicted of any law or regulation relating to the illicit possession of or traffic in narcotic drugs or marijuana. She was then admitted as a visitor for pleasure to testify in the accident case on January 23, 1972 and then returned to England. She was paroled indefinitely into the United States on August 19, 1973.

Grounds of excludability of the beneficiary submitted to the United States Consul at the United States Embassy at London, England reflected convictions before the Magistrate at Bristol evidencing the beneficiary was sentenced to two years probation on charges of (1) unlawful possession of dangerous drug (Cannabis Resin); (2) permit premises to be used for smoking Cannabis; (3) possession of Methedrine on October 22, 1969. Also, a charge of stealing from shop on April 14, 1971 at which time the probation order relating to the drug charge was to continue. Included was a letter from the Bristol General Hospital dated May 7, 1973, reflecting that the beneficiary started taking drugs as a result of an injury in 1968 and has since terminated the use of drugs completely.

On April 3, 1973, a petition to classify the beneficiary immediate relative status was approved and forwarded to the American Consul at London, England. As the spouse of a United States citizen, she is eligible for a waiver of the mental and criminal grounds of her excludability upon proper application.

The Department of State submitted the following report on this legislation.

Department of State,
Washington, D.C., August 13, 1974.

Hon. Peter W. Rodino, Jr.,
Chairman, Committee on the Judiciary, House of Representatives, Washington, D.C.

Dear Mr. Chairman: In reference to your request for a report concerning the case of Juliet Elizabeth Tozzi, beneficiary of H.R. 9792, 93rd Congress, there is enclosed a memorandum of information concerning the beneficiary. This memorandum has been submitted by the American Embassy at London, England, where the beneficiary was issued a nonimmigrant visa.

The bill would provide for the issuance of an immigrant visa and the beneficiary's admission for permanent residence notwithstanding her ineligibility as an alien who has been convicted of a violation of any law or regulation relating to the illicit possession of or traffic in narcotic drugs or marihuana, if she is otherwise admissible under the Immigration and Nationality Act. The relief granted is limited to a ground for exclusion known to the Department of State or the Department of Justice prior to enactment.

Cordially,

Linwood Holton,
Assistant Secretary for Congressional Relations.

Enclosure: Memorandum.

MEMORANDUM OF INFORMATION CONCERNING H.R. 9792 FOR THE RELIEF OF JULIET ELIZABETH TOZZI, SUBMITTED BY THE AMERICAN EMBASSY AT LONDON, ENGLAND

The beneficiary was born on June 16, 1951, at Swansea, South Wales. She attended school in South Wales until July 1968. In August 1968 she was employed in Somerset, England, as a typist/receptionist until July 1970. Between February 1968 and July 1968 she visited Newark, New Jersey, and was employed there as a file clerk. She is presently unemployed due to an auto accident sustained in the U.S. Her parents reside in South Wales.

The beneficiary first applied for a visitor visa in 1968, again in 1971 and 1972. On January 11, 1972, the beneficiary indicated she wished to visit the U.S. for three to four weeks to appear in a court case being held in New York on her behalf. She remained in the U.S. until December 1972, married an American citizen, and was paroled into the U.S.

On December 16, 1971, the beneficiary was found ineligible to receive a visa under the provisions of sections 212(a) (3), (5) (9) and (23) of the Immigration and Nationality Act, on the basis of a medical report submitted by the Embassy Panel Physician and for violations of certain articles of the English Penal Code. The beneficiary had been charged with (1) possession of drugs; (2) theft; and was classified Class A on the grounds of drug addiction and one or more attacks of insanity.

According to the facts reflected by the court judgment, the beneficiary, Juliet Elizabeth Kusnyer, 18 (age on October 22, 1969), "unlawfully had in her possession a substance for the time being specified in the schedule of the Drugs (Prevention of Misuse) Act 1964 namely a quantity of Methylamphetamine Hydrochloride (Methedrine) . . . ." On October 22, 1969, "not being a person licensed or authorized to be in possession of a dangerous drug to which part 1 of the Dangerous Drugs Act 1965 applied, were in possession of such a drug namely a quantity of cannabis resin . . . ." She was placed on probation for two years "under the supervision of a probation officer for City and County of Bristol. Special requirement—that defendant shall undergo non-resident treatment at Bristol Royal Infirmary under Dr. F. J. Roberts for 12 months from this date." On April 14, 1971, she was convicted of stealing "five packets of steak, 1 packet of sausages, and one Austrian Cheese of the value together of £2.16½ the property of Tesco Supermarkets . . . ." She also "stole one set of sheets and pillowcases, two tins of ham and one tin of spam of the value together of £7.22½ the property of Jones and Company Limited . . . ." She was "convicted and discharged conditionally for 2 years . . ." on both offenses.

The USPHS Medical Office submitted a report dated January 11, 1972, stating in part: "This applicant is Class A on the grounds of Drug Addiction and also a previous occurrence of one or more attack of Insanity . . . ." There are enclosed copies of the court records and the Medical Officer's findings.

The beneficiary is the recipient of an Immediate Relative Petition filed on April 2, 1973, approved on April 3, 1973, by the Immigration and Naturalization Service office in Newark, New Jersey, granting her status under Section 201(b) of the Immigration and Nationality Act as an immediate relative.

The Embassy's investigation revealed no additional derogatory information concerning the beneficiary.

MARISA MARZANO

The bill (H.R. 1507) for the relief of Marisa Marzano, was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the Record an excerpt from the report (No. 94–1088), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the Record, as follows:

PURPOSE OF THE BILL

The purpose of the bill is to facilitate the adjustment of status to permanent residence in the United States of the adopted daughter of citizens of the United States.

STATEMENT OF FACTS

The beneficiary of the bill is a 20-year-old native and citizen of Italy who was admitted to the United States as a student in 1954. She was adopted in Massachusetts on November 19, 1970 by citizens of the United States who have no natural children.

A letter, with attached memorandum, dated January 14, 1975 to the chairman of the Committee on the Judiciary, House of Representatives, from the Commissioner of Immigration and Naturalization with reference to H.R. 14734, which was a similar bill introduced in the 93rd Congress in behalf of the same alien, reads as follows:

U.S. Department of Justice Immigration and Naturalization Service,
Washington, D.C., January 14, 1974.

Hon. Peter W. Rodino, Jr.,
Chairman, Committee on the Judiciary,
House of Representatives, Washington, D.C.

Dear Mr. Chairman: In response to your request for a report relative to the bill (H.R. 14734) for the relief of Marisa Marzano, there is attached a memorandum of information concerning the beneficiary.

The bill provides that the 18-year-old beneficiary may be classified as a child and be granted immediate relative status upon approval of a petition filed by Salvatore and Margaret Marzano, citizens of the United States. It further provides that the natural parents, brothers, and sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

Absent enactment of the bill, the beneficiary, a native of Italy, would be chargeable to the nonpreference portion of the numerical limitation for immigrants and conditional entrants from countries in the Eastern Hemisphere.

Sincerely,

LEONARD F. CHAPMAN, Jr.,
Commissioner.

Enclosure.

MEMORANDUM OF INFORMATION FOR IMMIGRATION AND NATURALIZATION SERVICE FILES RE H.R. 14734

The beneficiary, Marisa Marzano, a native of Italy, was born on January 19, 1956 and is single. She resides with her adoptive parents, Salvatore and Margaret Marzano, in Rosemead, California. This is her first year of college at California State University, Los Angeles. She is not employed and has no personal assets. Her natural parents, two brothers, and one sister reside in Regina, Italy.

Salvatore Marzano, a naturalized citizen of the United States, with his wife, adopted the beneficiary on November 19, 1970, at Boston, Massachusetts. A copy of the adoption decree is attached. He has no other children. He is retired and supports himself from savings, which amount to $60,000. His only other asset is furniture valued at $3,000.

Margaret Marzano, a native and citizen of the United States, is the adoptive mother of the beneficiary. She has no other children. The beneficiary began residing with her adoptive parents in 1964 at the age of 8 years, when she came to the United States as a student. Salvatore and Margaret Marzano adopted the beneficiary, whom they have come to love as a natural child, and desire that she be educated and live in the United States. Margaret Marzano is also retired and has no assets other than those shared with her husband.

The beneficiary first entered the United States in 1964 as a nonimmigrant student. She returned to Italy to visit her natural parents during the summer of 1969 and was readmitted to the United States on September 21, 1969, as a student. Her period of authorized stay has been extended to May 2, 1975, as she is continuing in her student status. On September 23, 1971, a petition filed by Salvatore Marzano to accord the beneficiary immediate relative status was denied on the grounds that the beneficiary had attained the age of fourteen years before she was adopted.

KEVIN PATRICK SAUNDERS

The bill (H.R. 1645) for the relief of Kevin Patrick Saunders, was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 94–1090), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE BILL

The purpose of the bill is to waive the excluding provision of existing law relating to one who has been convicted for possession of dangerous drugs in behalf of the husband of a citizen of the United States.

STATEMENT OF FACTS

The beneficiary of this bill is a 47-year-old native and citizen of England who resides there with his wife, a citizen of the United States. He has been found ineligible for a visa because of a conviction in May of 1951 for possession of dangerous drugs. There is no administrative waiver of this ground for exclusion, however, the beneficiary is eligible for a waiver of his ineligibility under section 212(a)(9) of the Immigration and Nationality Act by reason of his marriage to a citizen of the United States. The beneficiary resides in England with his wife and is employed as an antique dealer. They desire to return to this country and to establish a business here and to be near his wife's father who is in ill health.

A bill for the relief of the same person passed the House of Representatives during the 93d Congress and the following information is reprinted from H. Rept. No. 93–502:

The pertinent facts in this case are contained in a letter dated May 4, 1973 from the Acting Commissioner of Immigration and Naturalization to the Chairman of the Committee on the Judiciary. That letter and accompanying memorandum read as follows:

U.S. DEPARTMENT OF JUSTICE, IMMIGRATION AND NATURALIZATION SERVICE,
Washington, D.C., May 4, 1973.

A–20482000.

Hon. PETER W. RODINO, Jr.,
Chairman, Committee on the Judiciary, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: In response to your request for a report relative to the bill (H.R. 2634) for the relief of Kevin Patrick Saunders, there is attached a memorandum of information concerning the beneficiary.

The bill would waive the provision of the Immigration and Nationality Act which excludes from admission into the United States aliens who have been convicted of a violation of law relating to narcotic drugs or marihuana and would authorize the issuance of a visa to the beneficiary and his admission to the United States for permanent residence if he is otherwise admissible under the act. The bill limits the exemption granted the beneficiary to a ground for exclusion known to the Department of State or the Department of Justice prior to the date of its enactment.

The beneficiary, a native of England, is entitled to immediate relative status as the spouse of a United States citizen.

Sincerely,

JAMES F. GREENE,
Acting Commissioner.

MEMORANDUM OF INFORMATION FROM IMMIGRATION AND NATURALIZATION SERVICE FILES RE H.R. 2634

Information concerning this case was obtained from Shirley R. Saunders, wife of the beneficiary, Kevin Patrick Saunders who was also the beneficiary of H.R. 15817, 92d Congress.

The beneficiary, a native and citizen of England, was born on June 27, 1928. He resides with his wife in Holt, Wimborne, Dorset, England, where he is the director of buying and selling for Wessex Export Traders, Ltd. He has no fixed income. His assets consist of 49 percent ownership of Wessex Export Traders, Ltd., and antique stock and personal property valued at $25,800. He attended Woodlands Secondary Grammar School, and completed matriculation class in Kent, England. From 1968 to 1969, the beneficiary was self-employed as a renovator and salesman of country cottages.

The beneficiary married Shirley R. Gann, a United States citizen, on January 28, 1968 in England. He has a son by a previous marriage whose whereabouts are unknown. His deceased parents were citizens of England. He has no brothers or sisters.

The beneficiary's last entry in the United States was on June 12, 1970 as a visitor for pleasure until June 30, 1970. He made one prior entry as a visitor on December 16, 1967, for approximately 1 month.

Information furnished by the American Embassy in London, England, reflects that the beneficiary received three separate convictions on May 9, 1951, October 16, 1951 and January 9, 1957. The convictions were for bicycle theft; breaking and entering and possession of morphine; heroin and cocaine; and conspiring to break and enter and possession of an implement of housebreaking, respectively. On February 27, 1967, the beneficiary was found to be ineligible to receive a visa on grounds that he has been convicted of a crime involving moral turpitude and that he has been convicted of a violation of law relating to narcotic drugs.

The beneficiary's wife believes that her husband's past behavior resulted from an insecure childhood in which he suffered the loss of both parents and was denied their estate by distanct relatives who reared him, but who evinced no interest in his welfare, She is convinced that he has matured and is the most honest and honorable person she knows. However, their marriage suffers because she is homesick and has been forced to reside in a country which she considers inferior to the United States.

A report dated March 27, 1973, from the Department of State on this legislation reads as follows:

DEPARTMENT OF STATE,
Washington, D.C., March 27, 1973.

Hon. PETER W. RODINO,
Chairman, Committee on the Judiciary, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: In reference to your request for a report concerning the case of Kevin Patrick Saunders, beneficiary of H.R. 2634, 93d Congress, there is enclosed a memorandum of information concerning the beneficiary. The memorandum has been submitted by the American Embassy at London, England, in whose consular jurisdiction the beneficiary resides. H.R. 15817, 92d Congress, on the beneficiary's behalf was not enacted.

The bill would provide for visa issuance and the beneficiary's admission into the United States for permanent residence notwithstanding his ineligibility as an alien who has been convicted of a violation of any law or regulation relating to the illicit possession of or traffic in narcotic drugs or marihuana, if he is otherwise admissible under the Immigration and Nationality Act. The relief granted is limited to a ground for exclusion known to the Department of State of the Department of Justice prior to enactment.

Sincerely yours,

MARSHALL WRIGHT,
Acting Assistant Secretary for Congressional Relations.

Enclosure: Memorandum.

MEMORANDUM OF INFORMATION CONCERNING H.R. 2634, 93D CONGRESS, FOR THE RELIEF OF KEVIN PATRICK SAUNDERS, SUBMITTED BY THE AMERICAN EMBASSY AT LONDON, ENGLAND

The beneficiary was born on June 27, 1928, in Portsmouth, Hampshire, England. He is presently married to the former Shirley Ruth Gann, a citizen of the United States, whose family lives in Newton Center, Mass.

A prior marriage of the beneficiary ended in divorce in early 1953. The couple have no children.

The beneficiary was found ineligible to receive a visa on February 23, 1967, under the provisions of section 212(a)(9) and (23) of the Immigration and Nationality Act, as a result of three separate convictions on five different counts. On May 9, 1951, he was convicted of stealing a bicycle and was sentenced to 2 months imprisonment. On October 16, 1951, he was convicted of (a) breaking and entering a store and stealing a large quantity of assorted drugs, and (b) being in possession of dangerous drugs (morphine, heroin, and cocaine) contrary to law. He received a sentence of 2 years imprisonment. On January 9, 1957, he was convicted of (a) conspiring to break and enter with intent to commit a felony, and (b) possession of an implement of housebreaking. He received sentences on each count of 3 years probation, to run concurrently. Two copies of each court record are enclosed.

The beneficiary is chargeable to the foreign state limitation for the United Kingdom. If a petition is filed on his behalf by his United States citizen spouse, upon its approval he will be entitled to immediate relative status. If the ineligibility under section 212(a) (23) is removed, the beneficiary would be eligible to apply to the Immigration and Naturalization Service for a waiver of his ineligibility under section 212(a) (9) under section 212(h) of the Immigration and Nationality Act.

The beneficiary underwent a medical examination on March 6, 1973, and was found to be in good health.

The Embassy's files reveal no additional derogatory information concerning the beneficiary.

An investigation is presently in progress, and should any additional derogatory information be revealed, a further report will be submitted.

MRS. MARY SAXTON (MARY NUKU)

The bill (H.R. 2278) for the relief of Mrs. Mary Saxton (Mary Nuku), was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 94–1091), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE BILL

The purpose of the bill is to grant the status of an immediate relative to Mrs. Mary Saxton (Mary Nuku) to which status she would be entitled were it not for the death of her husband, a citizen of the United States.

STATEMENT OF FACTS

The beneficiary of the bill is a 34-year-old native and citizen of Tonga who currently resides in Mishawaka, Indiana, where she is employed as an inspector and bookkeeper. On December 17, 1973 the beneficiary married a U.S. citizen who filed an immediate relative petition in her behalf. However, the petition had not been adjudicated at the time of her spouse's death on February 9, 1974.

A letter, with attached memorandum, dated November 5, 1974 to the Chairman of the House Committee on the Judiciary from the Commissioner of Immigration and Naturalization with reference to H.R. 16418, a similar bill introduced in the 93d Congress, reads as follows:

U.S. DEPARTMENT OF JUSTICE,
IMMIGRATION AND NATURALIZATION SERVICE,
Washington, D.C., November 5, 1974.
A–19734275.
Hon. PETER W. RODINO, Jr.,
Chairman, Committee on the Judiciary, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: In response to your request for a report relative to the bill (H.R. 16418) for the relief of Mrs. Mary Saxton (Mary Nuku), there is attached a memorandum of information concerning the beneficiary.

The bill would provide that the beneficiary, the widow of a citizen of the United States, may be classified as the spouse of a citizen of the United States and be granted immediate relative status.

Absent enactment of the bill, the beneficiary, a native of Tonga, would be chargeable to the nonpreference portion of the numerical limitation for immigrants and conditional entrants from countries in the Eastern Hemisphere.

Sincerely,

L. F. CHAPMAN, JR.,
Commissioner.

Enclosure.

MEMORANDUM OF INFORMATION FROM IMMIGRATION AND NATURALIZATION SERVICE FILES RE H.R. 16148

The beneficiary, Mrs. Mary Saxton (Mary Nuku), a native and citizen of Tonga, was born on October 8, 1941. She lives in Mishawaka, Ind. She completed 12 years of school in her native country and 2 years in a commercial school in the United States. The beneficiary is employed as an inspector and bookkeeper. She has earnings in the amount of $644 a month from employment and rentals.

The beneficiary married a citizen of the United States who was born on November 15, 1900. They were married on December 17, 1973 and he died on February 9, 1974. A visa petition filed by Mr. Saxton to accord her immediate relative status had not been adjudicated at the time of his death. A trust fund established by Mr. Saxton for the beneficiary is valued at $150,000. Mrs. Saxton also received real estate worth $82,000 and personal property valued at $45,700. Her parents, her brothers, and her sister live in Tonga.

The beneficiary entered the United States on January 12, 1971 as a nonimmigrant student and was authorized to remain until January 11, 1974. Deportation proceedings were instituted against her on October 8, 1974, on the grounds that she had remained longer than permitted.

A report dated May 15, 1975 to the Chairman of the House Committee on the Judiciary from the then Assistant Secretary for Congressional Relations, Department of State, reads as follows:

DEPARTMENT OF STATE,
Washington, D.C., May 15, 1975.
Hon. PETER W. RODINO, Jr.,
Chairman, Committee on the Judiciary, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: Reference is made to your request for a report concerning the case of Mrs. Mary Saxton (Mary Nuku), beneficiary of H.R. 2278, 9th Congress.

The bill would classify the beneficiary as an immediate relative without the requirement of an approved petition on her behalf.

The American Embassy at Suva, Fiji, has reported that the beneficiary was born on August 10, 1941 in Tonga. Her visa application indicated her occupation as sales girl and cashier and her marital status as single. She stated that her uncle in the United States would defray the cost of her round-trip fare. The beneficiary was issued a student visa on December 30, 1970, to enable her to study bookkeeping at an adult school for 2 years.

Sincerely,

ROBERT J. MCCLOSKEY,
Assist Secretary for Congressional Relations.

The Senate Committee on the Judiciary received the following supplemental information from the Immigration and Naturalization Service:

U.S. DEPARTMENT OF JUSTICE, IMMIGRATION AND NATURALIZATION SERVICE,
Washington, D.C., May 4, 1976.
A–19734275
Hon. JAMES O. EASTLAND,
Chairman, Committee on the Judiciary, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This refers to H.R. 2278 in behalf of Mrs. Mary Saxton (Mary Nuku). The bill passed the House of Representatives on February 3, 1976 and is now before your Committee.

In response to your recent inquiry concerning any immediate relatives of the beneficiary's late spouse, Chester Saxton, the following information was furnished by the beneficiary:

That Mr. Saxton's first wife is deceased; that there were two children from this marriage: a boy and a girl; that the boy lives in Iowa; that the girl is deceased; that the girl had children (exact number unknown); that the beneficiary has never met Mr. Saxton's children or his grandchildren and that she does not know where they reside.

According to the beneficiary, Mr. Saxton's estate has been settled and the will was not contested. The bulk of the estate went to the beneficiary while Mr. Saxton's son and grandchildren received a sizable inheritance.

Sincerely,

L. F. CHAPMAN, JR.,
Commissioner.

The committee, after consideration of all the facts in the case, is of the opinion that the bill (H.R. 2278) should be enacted.

LEONARD ALFRED BROWNRIGG

The bill (H.R. 2399) for the relief of Leonard Alfred Brownrigg, was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 94–1092), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE BILL

The purpose of the bill is to waive the excluding provision of existing law relating to one who has been convicted for possession of marihuana.

STATEMENT OF FACTS

The beneficiary of this bill is a 46-year-old native and citizen of Great Britain who was admitted to the United States for permanent residence in May of 1953. He was convicted in August of 1964 for possession of marihuana and placed on probation for five years. The record of conviction was expunged according to California law in March of 1965. The beneficiary is married to a citizen of the United States and resides in California where he is employed as a land surveyor.

The following information was contained in House Report 92–104 and House Report 93–491:

Deportation proceedings were instituted against the beneficiary on December 23, 1964, on the ground that he had been convicted in Superior Court of the State of California for the unlawful possession of marihuana. On June 28, 1965, he was found deportable on that charge. On August 17, 1965, his appeal was dismissed by the Board of Immigration Appeals. Deportation proceedings against him are pending before the Supreme Court on a writ of certiorari. A mandate before the U.S. Ninth Circuit Court of Appeals has been stayed pending the action before the Supreme Court.

U.S. DEPARTMENT OF JUSTICE, IMMIGRATION AND NATURALIZATION SERVICE,
Washington, D.C., September 9, 1966.
Hon. EMANUEL CELLER,
Chairman, Committee on the Judiciary, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This refers to H.R. 15337 in behalf of Leonard Alfred Brownrigg.

The beneficiary failed to file a petition with the Supreme Court of the United States for a writ of certiorari before July 16, 1966. The judgment of the Ninth Circuit Court of Appeals is now final.

Sincerely,

RAYMOND F. FARRELL,
Commissioner.

The following letter dated February 18, 1976 to the chairman of the Senate Committee on the Judiciary from the beneficiary of the bill reads as follows:

FEBRUARY 18, 1976.

Hon. JAMES O. EASTLAND,
Senate Office Building,
Washington, D.C.

DEAR SENATOR EASTLAND: Private Bill H.R. 2399, relieving me from deportation due to a first offense, possession of marijuana arrest in 1963, is presently before you in the Senate Judiciary Committee. This was the only time in my life I was ever arrested, and this action has been pending since 1965.

I have lived in the United States for 23 years and have been a member of the International Union of Operating Engineers for 22 years. I am presently employed by Bechtel Power Corporation in the construction of two nuclear generating stations at San Onofre, California.

My wife, Valerie, is a native-born American and it is our fondest wish to raise a family in the United States. We pray that my bill will be favorably considered by you and the Committee. If you think it would be helpful, we would be happy to fly to Washington, to meet with you and discuss this in more depth. Thank you for your time and attention.

Very truly yours,

L. A. BROWNRIGG.

The committee, after consideration of all the facts in the case, is of the opinion that the bill (H.R. 2399) should be enacted.

ALINOR ANVARI ADAMS

The bill (H.R. 2411) for the relief of Alinor Anvari Adams, was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 94–1093), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE BILL

The purpose of the bill is to facilitate the adjustment of status of the adopted child of citizens of the United States.

STATEMENT OF FACTS

The beneficiary of this bill is a 20-year-old native and citizen of Iran who entered the United States as a visitor in 1968 and changed her status to that of a student. She resides in California with her adoptive parents and is attending college. Adoption proceedings were commenced in California in 1968 but were not finalized unitl January 30, 1970, a few weeks after the beneficiary had reached her fourteenth birthday.

A letter, with attached memorandum, dated January 20, 1976 to the chairman of the Committee on the Judiciary, House of Representatives, from the Commissioner of Immigration and Naturalization with reference to the bill reads as follows:

UNITED STATES DEPARTMENT OF JUSTICE, IMMIGRATION AND NATURALIZATION SERVICE,
Washington, D.C., January 20, 1976.

Hon. PETER W. RODINO, JR.,
Chairman, Committee on the Juidiciary, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: In response to your request for a report relative to the bill (H.R. 2411) for the relief of Alinor Anvari Adams, there is attached a memorandum of information concerning the beneficiary.

The bill provides that the 19-year-old adopted daughter of Manasseh L. Adams and Shakar Adams may be classified as a child and be granted immediate relative status. The bill further provides that the natural parents or brothers or sisters of the beneficiary shall not by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

The Committee may wish to delete that portion of the bill referring to Section 245(c) of the Act, since the beneficiary is not a native of the Western Hemisphere.

Absent enactment of the bill, the beneficiary, a native of Iran, would be chargeable to the nonpreference portion of the numerical limitation for immigrants and conditional entrants from countries in the Eastern Hemisphere.

Sincerely,

LEONARD F. CHAPMAN,
Commissioner.

Enclosure.

The beneficiary, Alinor Anvari Adams, who was formerly known as Alinor Tootoonchi Anvari, a native and citizen of Iran, was born on December 23, 1955. She was adopted by Mr. and Mrs. Manasseh Adams in the Superior Court, State of California, County of San Joaquin on January 30, 1970. A copy of the adoption decree is attached. The beneficiary is the granddaughter of Mrs. Adams. She resides with her adoptive parents in Turlock, California and is attending college. She is not employed and has no assets. Her older brother is a nonimmigrant student in the United States while her natural parents reside in Iran.

The beneficiary entered the United States as a temporary visitor for pleasure on July 26, 1968, and her status was changed to that of a student on October 16, 1968. She was granted subsequent extensions of stay to July 29, 1974. Deportation proceedings will be instituted against the beneficiary on the ground that she has remained in the United States for a longer period than authorized.

Mr. Manasseh Adams, the adoptive father, was born on May 25, 1904 in Canada and has resided in the United States since 1911. Mrs. Shakar M. Adams, the adoptive mother, was born on August 15, 1906 in Iran and has resided in the United States since 1963. They both acquired United States citizenship through naturalization. They were married on May 2, 1964 at Carson City, Nevada. The interested parties own their home valued at $25,000 in Turlock, California. Mr. Adams is retired from the United States Postal Service and receives $200 a month pension plus social security retirement payments of $137 a month. Mrs. Adams gives practical nursing care to an elderly relative for which she is paid $400 a month. The Department of Social Welfare, State of California indicates that Mr. and Mrs. Adams are financially able to care for the beneficiary. The beneficiary's brother resides with the beneficiary and her adoptive parents. He is supported by his natural father.

The interested parties state that they adopted the beneficiary because she is the natural granddaughter of Mrs. Adams and because they desire to provide the beneficiary with a good education and all the benefits that she would receive through residing in the United States.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., April 16, 1976.

Hon. JAMES O. EASTLAND,
Chairman, Subcommittee on Immigration, Senate Judiciary Committee, Washington, D.C.

DEAR MR. CHAIRMAN: On April 6, 1976 the House of Representatives passed H.R. 2411, a private bill I introduced in behalf of Alinor Anvari Adams, the adopted daughter of my constituents, Mr. and Mrs. Manasseh Adams of Turlock, California.

Alinor, who is also the natural grandchild of Mrs. Adams, came to the United States for a visit in 1968. She later changed her status to student, and her grandparents, who are childless, initiated adoption proceedings. As indicated in the attached report on the bill from the House Judiciary Committee, adoption proceedings were commenced in California in 1968, but were not finalized until January 30, 1970, just a few weeks after Alinor had reached her fourteenth birthday. Because the young lady had reached her 14th birthday when adopted she could not be classified as a child within the meaning of section 101(b)(1)(F) of the Immigration and Nationality Act.

Mr. and Mrs. Adams did not realize that their adopted daughter would have difficulty in adjusting her status to permanent resident until late 1974 and they contacted me. Apparently their attorney kept assuring them that because of the adoption Alinor's status would be adjusted automatically by INS. This, of course, is not true, and the introduction of a private bill was necessary.

I urge you to take favorable action on this bill at the earliest possible date so that Alinor can be spared any further anguish because of her precarious status.

Sincerely,

B. F. SISK,
Member of Congress.

The committee, after consideration of all the facts in the case, is of the opinion that the bill (H.R. 2411) should be enacted.

MISS MALGORZATA KUZNIAREK CZAPOWSKI

The bill (H.R. 2495) for the relief of Miss Malgorzata Kuzniarek Czapowski, was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 94–1094), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE BILL

The purpose of the bill is to facilitate the adjustment of status of the adopted daughter of a citizen of the United States.

STATEMENT OF FACTS

The beneficiary of this bill is a 20-year-old native and citizen of Poland who was admitted to the United States as a visitor. She was adopted in Massachusetts on November 7, 1974 by her widowed aunt, a citizen of the United States, who has three natural daughters, ages 29, 26 and 8.

A letter, with attached memorandum, dated June 20, 1975 to the chairman of the Committee on the Judiciary, House of Representatives, from the then Acting Commissioner of Immigration and Naturalization with reference to the bill reads as follows:

U.S. DEPARTMENT OF JUSTICE, IMMIGRATION AND NATURALIZATION SERVICE,
Washington, D.C., June 20, 1975.
Hon. PETER W. RODINO, Jr.,
Chairman, Committee on the Judiciary, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: In response to your request for a report relative to the bill (H.R. 2495) for the relief of Miss Malgorzata Kuzniarek Czapowski, there is attached a memorandum of information concerning the beneficiary.

The bill would provide that the twenty-year-old beneficiary, who was legally adopted by her United States citizen maternal aunt, may be classified as a child and be granted immediate relative status.

Absent enactment of the bill, the beneficiary, a native of Poland, would be chargeable to the nonpreference portion of the numerical limitation for immigrants and conditional entrants from countries in the Eastern Hemisphere.

Sincerely,

JAMES F. GREENE,
Acting Commissioner.

Enclosure.

MEMORANDUM OF INFORMATION FROM IMMIGRATION AND NATURALIZATION SERVICE FILES RE H.R. 2495

The beneficiary, Miss Malgorzata Kuzniarek Czapowski, also known as Margorzata Kuzniarek, a native and citizen of Poland, was born on July 15, 1955. She completed eight years of grammar and three years of secondary schooling in her homeland. The beneficiary is unmarried and lives with her adoptive mother in Hyde Park, Massachusetts. She is employed as a garment worker by a clothing manufacturer, earning $90 a week. She has no assets and is supported by her adoptive mother. The beneficiary's father and married sister live in Poland.

The interested party, Mrs. Maria Czapowski, nee Klimecki, a native of Poland and a citizen of the United States by naturalization, was born February 15, 1924. She is widowed. In addition to the beneficiary, whom she adopted on November 7, 1974 through a decree of the Probate Court of Suffolk County, Boston, Massachusetts, she has three natural daughters, ages 29, 26 and 8. A copy of the adoption decree is attached. The youngest daughter resides with her. She completed seven years of elementary education in her native country. She has assets totaling $80,000 consisting of a $10,000 savings account, ten room residence valued at $40,000 and jewelry, clothing and furniture valued at $30,000. In addition, she receives an income of $400 a month from the Social Security Administration.

The beneficiary was admitted to the United States on November 20, 1973 at Boston, Massachusetts as a nonimmigrant visitor for pleasure for a period expiring February 24, 1974. She received extensions of stay to November 20, 1974. Deportation proceedings were instituted against the beneficiary on April 18, 1975, on the ground that she had remained in the United States for a longer time than permitted. After a hearing, she was found deportable as charged and was granted the privilege of voluntary departure, with the alternative of deportation if she should fail to depart when required.

A report from the Department of State on this legislation reads as follows:

DEPARTMENT OF STATE,
Washington, D.C., May 19, 1975.
Hon. PETER W. RODINO, Jr.,
Chairman, Committee on the Judiciary, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: Reference is made to your request for a report concerning the case of Malgorzata Czapowski, beneficiary of H.R. 2495, 94th Congress.

The bill would provide for the beneficiary's classification as a child and for granting of immediate relative status upon approval of a petition filed by Mrs. Maria Czapowski, an American citizen. The bill also provides that the natural brothers and sisters of the beneficiary shall not be accorded any right, privilege or status under the Immigration and Nationality Act by virtue of such relationship.

The American Consulate at Poznan has reported that the beneficiary was born Malgorzata Halina Kuzniarek at Kwidsyn, Poland on July 15, 1955. At the time of her application for a visitor visa the beneficiary was single and a waitress by occupation. She was issued a visitor's visa on August 24, 1974 for the purpose of visiting her aunt, now also her adoptive mother, for a period of three months. In connection with her visa application the consular officer determined that the circumstances of her membership in the Union of Socialist Youth (ZMS) while a student fell within the provisions of section 212 (a) (28) (I) (i) of the Act and that her membership, thus, did not render her ineligible to receive a visa.

Sincerely,

ROBERT J. MCCLOSKEY,
Assistant Secretary for Congressional Relations.

The committee, after consideration of all the facts in the case, is of the opinion that the bill (H.R. 2495) should be enacted.

CHERYL FLYNN V. COMACHO

The bill (H.R. 2118) for the relief of Cheryl Lynn V. Camacho, was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 94–1089), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE BILL

The purpose of the bill is to facilitate the admission into the United States as an immediate relative of the prospective adoptive daughter of citizens of the United States.

STATEMENT OF FACTS

The beneficiary of the bill is a 20-year-old native and citizen of the Philippines who is an orphan. She is coming to the United States for adoption by her aunt and uncle, citizens of the United States, who have adopted the beneficiary's younger brother and sister after their admission to the United States for permanent residence.

The pertinent facts in this case are contained in a letter dated September 27, 1974, from the Commissioner of Immigration and Naturalization to the chairman of the Committee on the Judiciary, House of Representatives regarding a bill pending for the relief of the same person. That letter and accompanying memorandum read as follows:

U.S. DEPARTMENT OF JUSTICE, IMMIGRATION AND NATURALIZATION SERVICE,
Washington, D.C., September 27, 1974.
A20 454 015.
Hon. PETER W. RODINO, Jr.
Chairman, Committee on the Judiciary, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: In response to your request for a report relative to the bill (H.R. 15900) for the relief or Cheryl Lynn V. Comacho, there is attached a memorandum of information concerning the beneficiary.

The bill provides that the beneficiary shall be classified as a child and granted immediate relative status upon filing of a petition in her behalf by Mr. and Mrs. Gregorio Aquino, citizens of the United States. The bill further provides that the natural parents or brothers or sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

Absent enactment of the bill, the beneficiary, a native of the Philippines, would be chargeable to the nonpreference portion of the numerical limitation for immigrants and confidential entrants from counties in the Eastern Hemisphere.

Sincerely,

L. F. CHAPMAN, Jr.,
Commissioner.

Enclosure.

MEMORANDUM OF INFORMATION FROM IMMIGRATION AND NATURALIZATION SERVICE FILES RE H.R. 15900

Information concerning this case was obtained from Mr. and Mrs. Gregorio Aquino, the interested parties.

The beneficiary, Cheryl Lynn V. Camacho, a native and citizen of the Philippines, was born August 22, 1955. She is single and resides in Quezon City, Philippines with an uncle and aunt. Her parents are deceased. Her brother and sister have been admitted to the United States as permanent residents, were adopted by, and are living with the interested parties.

Mr. Gregorio Aquino was born in Narvacan, Ilocos Sur, Philippines, on December 24, 1903. He served in the United States Army from August 2, 1942, until October 7, 1944. He entered the United States as a lawful permanent resident on April 14, 1954, and became a United States citizen through naturalization on October 8, 1957. He is employed as an insurance salesman and earns about $2,000 per year. He and his wife were married May 14, 1955. Their assets include a residence in Salinas, California valued at $35,500, in which they have an equity of $17,000, and savings in excess of $12,500. Mr. Aquino's widowed mother resides in the Philippines.

Mrs. Aquino was born February 9, 1918, in Agoo, La Union, Philippines. She was admitted to the United States as a lawful permanent resident on September 6, 1958, and, on July 14, 1964, became a United States citizen through naturalization. She was employed as a nurse from May 1963 until May 1970 and is presently receiving $203 monthly in Social Security benefits. Her parents are deceased.

Mr. and Mrs. Gregorio Aquino stated that they wished to adopt the beneficiary because she is an orphan and her brother and sister, whom they have already adopted, need her love, advice and companionship. They further stated that it is their intention to raise and educate the beneficiary with her brother and sister as their own and make them their heirs.

A letter dated October 22, 1974, to the chairman of the Committee on the Judiciary, House of Representatives, from the Assistant Secretary for Congressional Relations, U.S. Department of State, with reference to the case reads as follows:

DEPARTMENT OF STATE,
Washington, D.C., October 22, 1974.
Hon. PETER W. RODINO, Jr.,
Chairman, Committee on the Judiciary, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: Reference is made to your request for a report concerning the case of Cheryl Lynn V. Camacho, beneficiary of H.R. 15900, 93rd Congress.

The bill would provide for the beneficiary's classification as a child and for granting of immediate relative status upon approval of a petition filed by Mr. and Mrs. Gregorio Aquino, American citizens. It also provides that the natural parents, brothers or sisters of the beneficiary shall not be accorded any right, privilege or status under the Immigration and Nationality Act by virtue of such relationship.

The American Embassy at Seoul, Korea has reported that the beneficiary was born on August 22, 1955 in the Philippines. Both of her parents are deceased. She resides with her aunt at Quezon City. Her brother and sister have already been adopted by Mr. and Mrs. Aquino and reside with them in this country. The beneficiary has not been legally adopted. She is in her second year of college.

The beneficiary is not registered for immigration. Absent the enactment of H.R. 15900 she would be chargeable to the nonpreference category of the limitation for the Philippines under which numbers are not available.

The beneficiary's recent medical examination disclosed no disease, defect or disability.

Cordially,

LINWOOD HOLTON,
Assistant Secretary for Congressional Relations.

The following letter dated July 9, 1976 to the chairman of the Senate Committee on the Judiciary from the Commissioner of Immigration and Naturalization with reference to the bill reads as follows:

U.S. DEPARTMENT OF JUSTICE, IMMIGRATION AND NATURALIZATION SERVICE,
Washington, D.C., July 9, 1976.

Hon. JAMES O. EASTLAND,
Chairman, Committee on the Judiciary, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This refers to H.R. 2118 in behalf of Cheryl Lynn V. Camacho. The bill passed the House of Representatives on October 7, 1975, and is now before your Committee.

The interested parties, Mr. and Mrs. Gregorio Aquino, currently have a combined annual income of approximately $8,950, which is derived from their Social Security and his Veterans' Administration benefits and from the salary and commission earned by Mr. Aquino as an insurance salesman and in the preparation of income tax returns. Their assets include a home, currently valued at $45,000, in which they have an equity of $26,500, and savings in excess of $15,500. Their adopted son, the beneficiary's brother, is a full-time restaurant employee, earning in excess of $8,000 annually; therefore, he is not dependent upon the interested parties for his support.

Sincerely,

L. F. CHAPMAN, Jr.,
Commissioner.

The Committee, after consideration of all the facts in the case, is of the opinion that the bill (H.R. 2118) should be enacted.

PETER OLAV MESIKEPP

The bill (H.R. 2502) for the relief of Peter Olav Mesikepp, was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 94–1095), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE BILL

The purpose of this bill is to facilitate the adjustment of status to permanent residence of the adopted son of citizens of the United States.

GENERAL INFORMATION

The beneficiary is a 24-year-old native and citizen of Argentina who was adopted in California on November 29, 1971 by citizens of the United States. He entered this country as a student under the sponsorship of the Pan-American Mission and has resided with his adopted parents since shortly after his admission.

The pertinent facts in this case are contained in a letter dated May 23, 1975 from the Commissioner of Immigration and Naturalization to the Chairman of the Committee on the Judiciary. That letter and enclosures read as follows:

U.S. DEPARTMENT OF JUSTICE, IMMIGRATION AND NATURALIZATION SERVICE,
Washington, D.C., May 23, 1975.

A18–478–453.

Hon. PETER W. RODINO, Jr.,
Chairman, Committee on the Judiciary, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: In response to your request for a report relative to the bill (H.R. 2502) for the relief of Peter Olav Mesikepp, there is attached a memorandum of information concerning the beneficiary.

The bill provides that the 23-year-old adopted son of Harry Mesikepp and Aino Mesikepp, citizens of the United States, may be classified as a child and granted immediate relative status. The bill further provides that the natural parents or brothers or sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

The beneficiary, a native of Argentina, is chargeable to the numerical limitation for immigrants from the Western Hemisphere. He is statutorily ineligible to adjust his status in the United States and will be required to apply for a visa outside of this country.

Sincerely,

LEONARD F. CHAPMAN, Jr.,
Commissioner.

Enclosure.

MEMORANDUM OF INFORMATION FROM IMMIGRATION AND NATURALIZATION SERVICE FILES RE H.R. 2502

The beneficiary, Peter Olav Mesikepp, who was formerly known as Carlos Pedro Konaszezuk, a native and citizen of Argentina, was born May 30, 1951. He is single and resides with his adoptive parents, Harry and Aino Mesikepp, the interested parties, in Fresno, California. He entered the United States at Los Angeles, California, on March 3, 1968, as a nonimmigrant student for a temporary period and was thereafter authorized to remain until June 30, 1974. His widowed natural mother resides in Argentina. The beneficiary was adopted by Harry and Aino Mesikepp on November 29, 1971, in the Superior Court of the State of California, for the County of Fresno. Attached is a copy of the adoption decree. He is a college student, majoring in microbiology. He is employed part-time with a dairy in Fresno and earns approximately $120 per month.

Harry Mesikepp was born on December 29, 1917, in Estonia. He was admitted to the United States on December 23, 1951, at New York, New York, as a permanent resident. He became a citizen of the United States by naturalization on August 27, 1957. He is employed as a male nurse in Fresno and earns about $700 monthly.

Aino Mesikepp was born in Estonia on October 15, 1918. She entered the United States as a permanent resident at New York, New York, on May 4, 1949. She became a United States citizen by naturalization in 1954. Her parents reside with her and her husband in Fresno. She is employed part-time as a language instructor in Fresno, earning about $200 per month.

Mr. and Mrs. Mesikepp were married on October 4, 1958, in Fresno. Their assets consist of their residence in Fresno, valued at $30,000, rental property in Fresno from which they receive $90 monthly, and approximately $1,000 in savings.

Deportation proceedings have been initiated against the beneficiary for having remained in the United States for a longer period than authorized.

Private Bill H.R. 17361, 93rd Congress, introduced in the beneficiary's behalf, was not enacted.

BUDGETARY INFORMATION

This legislation does not provide new budget authority and no estimate or comparison has been received from the Director of the Congressional Budget Office.

OVERSIGHT STATEMENT

The Committee exercises general oversight jurisdiction with respect to all immigration and nationality matters but no specific oversight is contemplated in this instance.

Upon consideration of all the facts in this case, the Committee is of the opinion that H.R. 2502 should be enacted and accordingly recommends that the bill do pass.

LUISA MARILLAC HUGHES, ET AL.

The bill (H.R. 2565) for the relief of Luisa Marillac Hughes, Marco Antonio Hughes, Maria del Cisne Hughes, Maria Augusta Hughes, Miguel Vincente Hughes, Veronica del Rocio Hughes, and Ivan Hughes, was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 94–1096), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE BILL

The purpose of this bill is to facilitate the adjustment of status of seven adopted children of citizens of the United States.

GENERAL INFORMATION

The beneficiaries, ages 12, 7, 7, 5, 5, 4, and 10 years of age, are natives and citizens of Ecuador who were admitted to the United States as visitors on July 20, 1973, accompanied by their adoptive parents, citizens of the United States. The adoptive parents have two natural children and two other adopted alien children. They met and adopted the beneficiaries in Ecuador when the family was residing in that country. The oldest beneficiary is blind and is being taught in all subjects at the third grade level with the use of braille books and braille for writing. One of the U.S. citizens adopted children suffers severe cerebral palsy and one of the beneficiaries is mildly afflicted with cerebral palsy. Both of them are in the outpatient program at the Cerebral Palsy Foundation in Beaumont, Texas.

Certain pertinent facts in this case are contained in a report dated October 24, 1974 from the Commissioner of Immigration and Naturalization to the Chairman of the Committee on the Judiciary, regarding a bill then pending for the relief of the same person. That letter and accompanying memorandum read as follows:

U.S. DEPARTMENT OF JUSTICE,
IMMIGRATION AND NATURALIZATION SERVICE,
Washington, D.C., October 24, 1974.

A20 693 544.

Hon. PETER W. RODINO, Jr.,
Chairman, Committee on the Judiciary, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: In response to your request for a report relative to the bill (H.R. 14331) for the relief of Luisa Marillac Hughes, Marco Antonio Hughes, Maria del Cisne Hughes, Maria Augusta Hughes, Miguel Vicente Hughes, Veronica del Rocio Hughes and Ivan Hughes, there is attached a memorandum of information concerning the beneficiaries.

The bill would provide that the beneficiaries, who have been adopted by United States citizens, may be classified as children and granted immediate relative status, upon approval of a petition filed in their behalf. The bill further provides that the provisions of the Immigration and Nationality Act which limits the number of petitions that may be approved for adopted children, and which prohibits the adjustment of status to that of a permanent resident for Western Hemisphere aliens shall not be applicable in this case.

Absent enactment of the bill, the beneficiaries, natives of Ecuador, would be chargeable to the numerical limitation for immigrants from the Western Hemisphere, and would be required to apply for visas outside of this country.

Sincerely,

L. F. CHAPMAN, Jr.,
Commissioner.

Enclosure.

MEMORANDUM OF INFORMATION FROM THE IMMIGRATION AND NATURALIZATION SERVICE FILES RE H.R. 14331

Information concerning this case was obtained from Mr. James Harley Hughes, Jr. and Mrs. Kathleen Fay Hughes, the beneficiaries' adopted parents and interested parties in this case.

Beneficiary, Luisa Marillac Hughes, a native and citizen of Ecuador, was born October 16, 1962. She is blind and has no known living natural parents. She was adopted June 28, 1973, in Quito, Ecuador by the interested parties.

Beneficiaries Marco Antonio Hughes and Maria del Cisne Hughes, natives and citizens of Ecuador, were born April 30, 1967. They are natural brother and sister. They have no known living natural parents and were adopted December 21, 1972, in Quito, Ecuador by the interested parties.

Beneficiary, Maria Augusta Hughes, a native and citizen of Ecuador, was born November 15, 1969. She has no known living natural parents and was adopted October 26, 1970, in Quito, Ecuador by the interested parties.

Beneficiary, Miguel Vicente Hughes, a native and citizen of Ecuador was born January 10, 1970. He has no known living natural parents and was adopted November 26, 1970, in Quito, Ecuador by the interested parties.

Beneficiary Veronica del Rocio Hughes, a native and citizen of Ecuador, was born October 19, 1970. With consent of her natural mother, she was adopted November 27, 1972, in Quito, Ecuador by the interested parties.

Beneficiary Ivan Hughes, a native and citizen of Ecuador, was born October 14, 1964. He has no known living natural parents and was adopted November 27, 1972, in Quito, Ecuador by the interested parties.

The beneficiaries have no assets and are supported entirely by their adoptive parents. They last entered the United States July 20, 1973, at Miami, Florida, as nonimmigrant visitors and were authorized to remain in the United States until February 19, 1974. Their stay has been extended until February 19, 1975. The beneficiaries are presently residing with their adoptive parents at 106 Walker Drive, Liberty, Texas. All beneficiaries have resided with their adoptive parents since the respective dates of their adoption.

The interested parties, Mr. James Harley Hughes, Jr., and Mrs. Kathleen Fay Hughes, natives and citizens of the United States, were born April 30, 1940, and January 9, 1943, respectively. They were married June 3, 1962, and have four children born of their marriage. Mr. Hughes holds a Bachelor of Science degree from the University of Wyoming. He served two years in the United States Army and has been employed with Texaco, Inc. since October of 1966 as a petroleum engineer. Mrs. Hughes is a high school graduate and attended the University of Wyoming for one and one-half years. She is not employed. Mr. Hughes earns $1,616 a month. Their assets consist of $3,400 equity in a home and $4,000 in savings.

Mr. and Mrs. Hughes learned of the beneficiaries during his employment in Ecuador with Texaco, Inc.

The Department of State submitted the following report on this legislation:

DEPARTMENT OF STATE,
Washington, D.C., November 25, 1974.

Hon. PETER W. RODINO, Jr.,
Chairman, Committee on the Judiciary, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: Reference is made to your request for a report concerning the cases of Luisa Marillac Hughes, Marco Antonio Hughes, Maria del Cisne Hughes, Maria Augusta Hughes, Miguel Vicente Hughes, Veronica del Rocio Hughes, and Ivan Hughes, beneficiaries of H.R. 14331, 93rd Congress.

The bill would provide for the beneficiaries' classification as a child and for granting of immediate relative status upon approval of petitions filed by James H. Hughes, Junior, and Kathleen S. Hughes, American citizens. It also provides that the natural parents, brothers or sisters of the beneficiaries shall not be accorded any right, privilege or status under the Immigration and Nationality Act by virtue of such relationship. It would also waive the provision of the Act which prohibits the adjustment of status to permanent residence of natives of the Western Hemisphere.

The American Embassy at Quito, Ecuador has reported that the beneficiaries, in the order listed in the private bill on their behalf, were born on August 16, 1962; April 30, 1967; April 30, 1967; November 15, 1969; January 10, 1970; October 19, 1970; and October 14, 1964, all in Ecuador. They were legally adopted in the Ecuadoran courts by Mr. and Mrs. James H. Hughes, American citizens, during Mr. Hughes' employment as a drilling engineer for Texaco in Ecuador.

When for reasons of health, Mr. Hughes was obliged to leave Ecuador on short notice, the beneficiaries were issued visitor visas on July 18, 1973 for humanitarian reasons so that they could accompany Mr. and Mrs. Hughes to the United States.

Cordially,

LINWOOD HOLTON,
Assistant Secretary for Congressional Relations.

BUDGETARY INFORMATION

This legislation does not provide new budget authority and no estimate or comparison has been received from the Director of the Congressional Budget Office.

OVERSIGHT STATEMENT

The Committee exercises general oversight jurisdiction with respect to all immigration and nationality matters but no specific oversight is contemplated in this instance.

COMMITTEE RECOMMENDATIONS

Upon consideration of all the facts in this case, the Committee is of the opinion that H.R. 2565 should be enacted and accordingly recommends that the bill do pass.

MARIA SYLVIA MACIAS ELLIOTT

The bill (H.R. 2940) for the relief of Maria Sylvia Macias Elliott was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 94–1097), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE BILL

The purpose of the bill is to facilitate the admission into the United States for permanent residence of the adopted daughter of citizens of the United States.

STATEMENT OF FACTS

The beneficiary of the bill is a 20-year-old native and citizen of Mexico who is the adopted child of citizens of the United States. She has resided with them since 1963 when she was first admitted to the U.S. as a student and was adopted in California on March 7, 1974. The adoptive parents have an adult son and two adult daughters who are self-supporting.

A letter, with attached memorandum, dated June 27, 1975 to the chairman of the Committee on the Judiciary, House of Representatives, from the Commissioner of Immigration and Naturalization with reference to the bill reads as follows:

U.S. DEPARTMENT OF JUSTICE,
IMMIGRATION AND NATURALIZATION SERVICE,
Washington, D.C., June 27, 1975.

A21 013 357.

Hon. PETER W. RODINO, Jr.,
Chairman, Committee on the Judiciary, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: In response to your request to a report relative to the bill (H.R. 2940) for the relief of Maria Sylvia Macias Elliott, there is attached a memorandum of information concerning the beneficiary.

The bill provides that the 19-year-old beneficiary may be classified as a child and be granted immediate relative status upon approval of a petition filed by Mr. and Mrs. Raymond A. Elliott, citizens of the United States. It further provides that the natural parents, brothers, and sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

Absent enactment of the bill, the beneficiary, a native of Mexico, would be chargeable to the numerical limitation for immigrants from the Western Hemisphere. However, she is statutorily ineligible to adjust her status while in the United States and will be required to apply for a visa outside this country.

Sincerely,

L. F. CHAPMAN, Jr.,
Commisioner.

Enclosure.

MEMORANDUM OF INFORMATION FROM IMMIGRATION AND NATURALIZATION SERVICE FILES RE H.R. 2940

The beneficiary, Maria Sylvia Macias Elliott, a native of Mexico, was born on February

11, 1956 and is single. She resides with her adoptive parents, Raymond and Alyce Elliott in Lakeside, California. She is attending her first year of college at Grossmont College, La Mesa, California. She is unemployed and has negligible assets. Her natural mother, two brothers, and one sister reside in Tijuana, Baja California, Mexico. Her natural father is deceased.

Raymond A. Elliott, a 61-year-old native citizen of the United States, with his wife, adopted the beneficiary on March 7, 1974, at San Diego, California. A copy of the relating adoption decree is attached. He and his wife enjoy an annual combined income of $17,500. Their daughters are self-supporting. He is a retired computer engineer. Their assets consist of real property valued at $60,000, savings of $30,000 and personal property they value at $6,000.

Alyce Buffard Elliott, a 59-year-old native citizen of the United States, is the adoptive mother of the beneficiary. The beneficiary began residence with her adoptive parents in 1963 when she came to the United States as a student. Mr. and Mrs. Elliott state that they have come to love the beneficiary as a natural daughter and desire that she be educated and live in the United States. Mrs. Elliott is employed as a social worker by the County of San Diego and has no assets other than those shared with her husband.

The beneficiary first entered the United States in 1963 as a nonimmigrant student. She returned to her native country on many occasions in order to visit her natural mother and was, after each visit, readmitted to the United States as a returning nonimmigrant student. On September 2, 1974, the beneficiary again sought reentry to this country after a visit in Mexico and was found not to be in possession of required documentation to support her admission as a nonimmigrant. She was paroled into the United States in order to continue her education and residence with her adoptive parents. The beneficiary will be accorded a hearing to determine her admissibility.

Private Bill H.R. 15286, 93rd Congress, introduced in behalf of the beneficiary, was not enacted.

A report from the Department of State on this legislation reads as follows:

DEPARTMENT OF STATE,
Washington, D.C., November 25, 1974.
Hon. PETER W. RODINO, Jr.,
Chairman, Committee on the Judiciary, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: In reference to your request for a report concerning the case of Maria Sylvia Macias Elliott, beneficiary of H.R. 15286, 93rd Congress, there is enclosed a memorandum of information concerning the beneficiary. This memorandum has been submitted by the American Consulate General at Tijuana, Mexico, where the beneficiary was issued a nonimmigrant visa.

The bill would provide for the beneficiary's classification as a child and for granting of immediate relative status upon approval of a petition filed by Mr. and Mrs. Raymond A. Elliott, American citizens. It would also provide that the natural parents, brothers or sisters of the beneficiary shall not be accorded any right privilege or status under the Immigration and Nationality Act by virtue of such relationship.

Cordially,

LINWOOD HOLTON,
Assistant Secretary for Congressional Relations.

Enclosure: Memorandum.

SUBMITTED BY THE AMERICAN CONSULATE GENERAL AT TIJUANA

Memorandum of Information Concerning H.R. 15286, 93rd Congress For the Relief of Maria Sylvia Macias Elliott

The beneficiary was born on February 10, 1956, at San Marcas, Jalisco, Mexico. She is single. She is living at Lakeside, California, and has resided there with her adoptive parents since November 1971. Although born as Maria Sylvia Carlota Macias Ramirez, she was adopted by Mr. Raymond A. Elliott and his wife, Alice B. Elliott, and assumed the name of Elliott. She was adopted in Superior Court of California, County of San Diego, on March 7, 1974, under Decree of Adoption No. A 17640. Her mother, two brothers and a sister reside in Tijuana, Baja California, Mexico. Her natural father died in Guadalajara when she was six years old. The beneficiary attended her first year of school in the town where she was born in Jalisco, Mexico. From 1963 to 1971 she attended schools in Tijuana, Mexico. In June 1971 she began school in Lakeside, California, and she has continued her schooling there to the present time. She is currently attending Grossmont College in California. Although she was interviewed in Tijuana, the beneficiary returned to her residence in Lakeside, California, having been granted a parole by the Immigration and Naturalization Service.

The beneficiary applied for and received student visas on June 6, 1971, September 12, 1972, and August 16, 1973. However, when she applied for a student visa on August 13, 1974, it was denied because the consular believed that the beneficiary is classifiable as an intending immigrant. The beneficiary is not entitled to immigrant status and hence is ineligible for an immigrant visa under section 212(a)(14) of the Immigration and Nationality Act until she obtains a labor certification. She is chargeable to the Western Hemisphere numerical limitation.

The Consulate General has checked all available sources and no other information has been developed which would render the beneficiary ineligible to receive a visa. She has not undergone a medical examination.

The committee, after consideration of all the facts in the case, is of the opinion that the bill (H.R. 2940) should be enacted.

SUSAN ROSEMARY HARWOOD

The bill (H.R. 2941) for the relief of Susan Rosemary Harwood, was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 94–1098), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE BILL

The purpose of the bill is to deem the beneficiary to have been a returning resident alien at the time of her last entry into the United States on August 21, 1974.

STATEMENT OF FACTS

The beneficiary of the bill is a 37-year-old native and citizen of England who last entered the United States on August 21, 1974 as a visitor. She is divorced from Charles Judson Harwood, a United States citizen, and resides in Aspen, Colorado with her two United States citizen children. The beneficiary was first admitted on August 22, 1962 for permanent residence. However, she returned to England and on December 29, 1964 advised the American Embassy at London that she had abandoned her resident alien status in the United States.

A letter, with attached memorandum, dated June 25, 1975 to the Chairman of the Committee on the Judiciary of the House of Representatives from the Commissioner of Immigration and Naturalization with reference to the bill reads as follows:

U.S. DEPARTMENT OF JUSTICE, IMMIGRATION AND NATURALIZATION SERVICE,
Washington, D.C., June 25, 1975.
Re A12739973.
Hon. PETER W. RODINO, Jr.,
Chairman, Committee on the Judiciary, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: In response to your request for a report relative to the bill (H.R. 2941) for the relief of Susan Rosemary Harwood, there is attached a memorandum of information concerning the beneficiary.

The bill would grant the beneficiary returning resident alien status at the time of her return to the United States on August 21, 1974. It would have the effect of establishing her continuous lawful permanent residence since December 28, 1964.

The beneficiary, a native of England, is chargeable to the nonpreference portion of the numerical limitation for immigrants and conditional entrants from countries in the Eastern Hemisphere.

Sincerely,

L. F. CHAPMAN, Jr.,
Commissioner.

Enclosure.

MEMORANDUM OF INFORMATION FROM IMMIGRATION AND NATURALIZATION SERVICE FILES RE H.R. 2941

The beneficiary, Susan Rosemary Harwood, a native and citizen of England, was born June 8, 1938. She completed 16 years of schooling in Europe, and was employed as a secretary in England prior to her entry into the United States. She has two minor children who are natives and citizens of the United States. She is divorced from Charles Judson Harwood, a United States citizen, and resides with her children in Aspen, Colorado. The beneficiary is now unemployed but has a total income of $870 per month. This consists of $500 from her ex-father-in law, $180 child support plus $90 alimony from her ex-husband and $100 from the sale of property. Her assets consist of a 1972 automobile and personal effects. Her parents are natives and citizens of England and reside there. Her only sibling is a permanent resident of the United States.

The beneficiary was first admitted to the United States on August 22, 1962 for permanent residence. She returned to England and on September 29, 1964 advised the American Embassy at London that she had abandoned her resident alien status in the United States. The beneficiary reentered the United States as a permanent resident on December 28, 1964. In an undated letter received at the Embassy of the United States, London, England on December 29, 1972, the beneficiary advised that as of December 1971 she was no longer a resident of the United States and was a resident of Great Britain.

The beneficiary was last admitted to the United States on August 21, 1974 as a nonimmigrant visitor and was authorized to remain until February 20, 1975. She remained thereafter without authorization, and deportation proceedings will be instituted on the ground that she has remained in the United States for a longer period than permitted.

A letter dated July 15, 1975 to the chairman of the Committee on the Judiciary, House of Representatives, from the Commissioner of Immigration and Naturalization with reference to the bill reads as follows:

U.S. DEPARTMENT OF JUSTICE, IMMIGRATION AND NATURALIZATION SERVICE,
Washington, D.C., July 15, 1976.

Re A12 739 973.

Hon. PETER W. RODINO, Jr.,
Chairman, Committee on the Judiciary, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This is with further reference to H.R. 2941, a private immigration bill for the relief of Susan R. Harwood.

The author's staff has requested that the information concerning the beneficiary's current stay in the United States be expanded.

As previously reported, Mrs. Harwood was last admitted on August 21, 1974 as a visitor until February 20, 1975. During November 1974 she applied for a replacement alien registration receipt card, which evidences permanent resident status. This application was denied on January 13, 1975 because she had abandoned her residence. She was advised that as an intended immigrant she was no longer considered a bona fide visitor, and was granted until February 20, 1975 to voluntarily depart the United States in lieu of the institution of deportation proceedings. On February 18, 1975 this voluntary departure date was extended to June 15, 1975 to permit Mrs. Harwood's children to complete the school year. Since she has not departed, deportation proceedings will be instituted on the ground that she has remained in the United States for a longer time than permitted.

Sincerely,

L. F. CHAPMAN, Jr.,
Commissioner.

The committee, after consideration of all the facts in the case, is of the opinion that the bill (H.R. 2941) should be enacted.

TZE TSUN LI

The bill (H.R. 3372) for the relief of Tze Tsun Li, was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 94–1099), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE BILL

The purpose of this bill is to facilitate the admission into the United States of the prospective adoptive son of citizens of the United States.

GENERAL INFORMATION

The beneficiary of this bill is a 16-year-old native of Hong Kong, B. C. C. and is a citizen of the United Kingdom. He resides in Hong Kong with his two younger brothers and a sister, who are also coming to the United States for adoption by their uncle and aunt, citizens of the House in the 93d Congress and the following information is reprinted from H. Rept. No. 93–1330.

A bill for the relief of the same person was favorably reported to the House in the Congress and the following information is reprinted from H. Rept. No. 93–1330.

The pertinent facts in this case are contained in letters dated January 29 and February 21, 1974, from the Commissioner of Immigration and Naturalization to the Chairman of the Committee on the Judiciary which read as follows:

U.S. DEPARTMENT OF JUSTICE, IMMIGRATION AND NATURALIZATION SERVICE,
Washington, D.C., January 29, 1974.

A–20–533–906.

Hon. PETER W. RODINO, Jr.,
Chairman, Committee on the Judiciary, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: In response to your request for a report relative to the bill (H.R. 11102) for the relief of Tze Tsun Lee, there is attached a memorandum of information concerning the beneficiary.

The bill would provide that the beneficiary be classified as a child upon approval of a petition filed in his behalf by Teong Din Deer and Elenore Deer, citizens of the United States. It would further provide that the natural parents or brothers or sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

Absent enactment of the bill, the beneficiary, a native of Hong Kong, would be chargeable to the nonpreference portion of the numerical limitation for immigrants and conditional entrants from countries in the Eastern Hemisphere and alien dependent areas.

Sincerely,

L. F. CHAPMAN, Jr.,
Commissioner.

Enclosure.

MEMORANDUM OF INFORMATION FROM IMMIGRATION AND NATURALIZATION SERVICE FILES RE H.R. 11102

Information concerning this case was obtained from the interested party, Teong Din Deer, the beneficiary's uncle.

The beneficiary, Tze Tsun Lee, native of Hong Kong and citizen of the United Kingdom and Colonies, was born August 11, 1958, and is single. He, his father, two younger brothers, and a younger sister reside in Hong Kong. His mother is deceased. He is a student attending seventh grade. He is not employed. His assets are negligible, and he has no income. Partial support for the family is furnished by the interested party. The beneficiary has never been in the United States.

The interested party, a native of China and citizen of the United States, was born August 31, 1921. He graduated from high school in his native country. His father is deceased. His mother resides in Hong Kong. Two sisters reside in mainland China. He resides in Los Angeles, Calif., with his wife and an adopted daughter, both citizens of this country. A son by a previous marriage is in the United States as a permanent resident. The interested party is employed as a waiter, earning $550 monthly. He receives about $3,000 yearly from rental property in Hong Kong. He has $32,000 equity in his home, $42,000 equity in apartments, property in Hong Kong valued at $15,000, furniture and other personal property worth $5,000, and an automobile valued at $500.

The interested party was admitted to this country on October 29, 1940, as a derivative citizen under the assumed name Kay Ngon Woo. His wife, Fung Har Lee, native of China, was thereafter admitted to this country as a permanent resident based upon her husband's status. The interested party subsequently confessed his true name and illegal status in conjunction with an application for naturalization as a United States citizen. He was naturalized on September 18, 1967, based upon 2 weeks of active duty in the United States Army during 1944. He also confessed to a prior marriage in China and revealed the existence of a son from that relationship residing in Hong Kong. The son, his wife, and 3 children were subsequently admitted to the United States as permanent residents following a petition by the interested party.

The interested party states that he will provide a good home for the beneficiary. He also plans to adopt the younger brothers and the sister and bring them to the United States.

U.S. DEPARTMENT OF JUSTICE, IMMIGRATION AND NATURALIZATION SERVICE,
Washington, D.C. February 21, 1974.

A–20–533–906.

Hon. PETER W. RODINO, Jr.,
Chairman, Committee on the Judiciary, House of Representatives, Washington. D.C.

DEAR MR. CHAIRMAN. This refers to H.R. 11102 in behalf of Tze Tsun Lee.

The interested party, Teong Din Deer, states that he has initiated proceedings with the State of California to adopt the two younger brothers and sister of the beneficiary. His plans to adopt the beneficiary, however, depend upon the outcome of the private bill. Adoption absent enactment of the bill will not qualify the beneficiary for issuance of an immigrant visa.

Sincerely,

_____ _____,
Commissioner.

On April 24, 1974 the Department of State submitted a report on this legislation which reads as follows:

DEPARTMENT OF STATE,
Washington, D.C., April 24, 1974.

Hon. PETER W. RODINO, Jr.,
Chairman, Commitee on the Judiciary, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: In reference to your request for a report concerning the case of Tze Tsun Lee, beneficiary of H.R. 11102, 93d Congress, there is enclosed a memorandum of information concerning the beneficiary. This memorandum has been submitted by the American Consulate at Hong Kong, in whose consular jurisdiction the beneficiary resides.

The bill would provide for the beneficiary's classification as a child and for granting of immediate relative status upon approval of a petition filed by Teong Din Deer and Elenore Deer, American citizens. It also provides that the natural parents or brothers or sisters of the beneficiary shall not be accorded any right, privilege or status under the Immigration and Nationality Act by virtue of such relationship.

Sincerely yours,

LINWOOD HOLTON,
Assistant Secretary for Congressional Relations.

Enclosure: Memorandum.

MEMORANDUM OF INFORMATION CONCERNING H.R. 11102, FOR THE RELIEF OF TZE TSUN LEE

The beneficiary, Tze Tsun Lee (Li), was born on August 11, 1958, in Hong Kong, B.B.C. He is single, a student, and has resided since birth in Hong Kong.

Kut Cheng Li, the beneficiary's father, left the family in 1968 and reportedly went to Brazil. His whereabouts since then is unknown to them. The beneficiary's mother, Song Ho Chan, died in Hong Kong on September 20, 1972. Tze Tsun has 2 younger brothers and a sister who live at the same address with the beneficiary and Ling-Cheung Wong, a 25-year-old maternal cousin who came to Hong Kong from China on July 15, 1972 and joined the family. Shortly after his arrival, the children's mother died, and the cousin has been responsible for their care since then.

According to a local social welfare organization, the beneficiary's father was a drug addict. Even prior to his departure from Hong Kong and subsequent disappearance, financial asistance was being sent the family from the United States by Mrs. Elenore Deer, sister of beneficiary's father, and her husband, Mr. Teong Din Deer. The Deers provided regular financial support after Mr. Li's disappearance, including the purchase of the apartment in which the children and cousin live.

The International Social Service informed the Consulate General that Mr. and Mrs. Deer have begun proceedings for adoption of the beneficiary and the other three children under California State law. The Deers correspond with the family as well as assisting them financially.

No petition has been received on behalf of the beneficiary or the other siblings, who were also born in Hong Kong.

The results of the beneficiary's medical examination have not been received. If a ground of medical ineligibility is disclosed, a further report will be furnished.

BUDGETARY INFORMATION

This legislation does not provide new budget authority and no estimate or comparison has been received from the Director of the Congressional Budget Office.

OVERSIGHT STATEMENT

The committee exercises general oversight jurisdiction with respect to all immigration and nationality matters but not specific oversight is contemplated in this instance.

Upon consideration of all the facts in this case, the committee is of the opinion that H.R. 3372 should be enacted and accordingly recommends that the bill do pass.

RODERIC PATRICK STAFFORD

The bill (H.R. 4053) for the relief of Roderic Patrick Stafford was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 94–1100), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE BILL

The purpose of the bill is to waive the excluding provision of existing law relating to one who has been convicted of a violation of any law or regulation relating to the illicit possession of narcotic drugs or marihuana in behalf of the spouse of a United States citizen.

STATEMENT OF FACTS

The beneficiary of this bill is a 23-year-old native and citizen of Canada who resides there with his wife, a citizen of the United States. He has been denied an immigrant visa because of a conviction for possession of marihuana in the Bahamas when he was 16 years of age. He was sentenced to serve 1 week in a boys' industrial school and given 12 lashes.

The pertinent facts in this case are contained in a letter dated July 24, 1975, from the Commissioner of Immigration and Naturalization to the chairman of the Committee on the Judiciary. That report and accompanying memorandum read as follows:

U.S. DEPARTMENT OF JUSTICE, IMMIGRATION AND NATURALIZATION SERVICE,
Washington, D.C., July 24, 1975.

A-20642023.
Hon. PETER W. RODINO,
Chairman, Committee on the Judiciary, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: In response to the bill (H.R. 4053) for the relief of Roderic Patrick Stafford, there is attached a memorandum of information concerning the beneficiary.

The bill would waive the provision of the Immigration and Nationality Act which excludes from admission into the United States aliens who have been convicted of a violation of law relating to narcotic drugs or marihuana and would authorize the issuance of a visa to the beneficiary and his admission to the United States for permanent residence if he is otherwise admissible under this act. The bill limits the exemption granted the beneficiary to a ground for exclusion known to the Department of State or the Department of Jusice prior to the date of is enactment.

Sincerely,
L. F. CHAPMAN, Jr.,
Commissioner.

Enclosure.

MEMORANDUM OF INFORMATION FROM IMMIGRATION AND NATURALIZATION SERVICE FILES RE 4053

The beneficiary, Roderic Patrick Stafford, is a citizen of Canada by birth at Toronto on November 1, 1952. He presently resides in Toronto, where he is employed as a salesman at a salary of $15,000 per year. His assets consist of personal property valued at $5,000.

The beneficiary is married to Pamela Jo Stafford, a citizen of the United States. His widowed mother, a citizen of Canada, resides in the Bahamas. He has a brother and sister residing in the Bahamas and another brother residing in Canada.

Mr. Stafford first entered the United States as a nonimmigrant student in September 1969 and attended the Miami Florida Military Academy until May 1970. He last entered the United States in January 1972 to attend the Miami Dade Junior College. He was awarded an associate of arts degree in June 1973 and returned to Canada, where he has remained since 1974.

The beneficiary is continuing his education by taking night classes at Atkinson College in Toronto. He has advised that only half of his college credits are transferrable to Canadian schools; therefore, it will take him until 1977 to complete his studies. His wife, a high school graduate in the United States, is not permitted to enroll in college in Canada unless she returns to high school there to take prerequisite courses.

When he was 16 years old, the beneficiary was convicted in Freeport, Bahamas in August 1969, of possession of marihuana and sentenced to serve 1 week in a boys industrial school and given 12 lashes.

Mr. Stafford is the beneficiary of an immediate relative visa petition submitted by his wife and approved May 15, 1973.

A report of this legislation submitted by the Department of State includes the court record in this case and reads as follows:

DEPARTMENT OF STATE,
Washington, D.C., May 21, 1975.

Hon. PETER W. RODINO, Jr.,
Chairman, Committee on the Judiciary, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: In reference to your request for a report concerning the case of Roderic Patrick Stafford, beneficiary of H.R. 4053, 94th Congress, there is enclosed a memorandum of information concerning the beneficiary. This memorandum has been submitted by the Consulate General at Toronto, Ontaria, Canada, in whose consular jurisdiction the beneficiary resides.

The bill would provide for visa issuance and the beneficiary's admission for permanent residence notwithstanding his ineligibility as an alien who has been convicted of a violation, or a conspiracy to violate, any law or regulation relating to the illicit possession of or traffic in narcotic drugs or marihuana if he is otherwise admissible under the Immigration and Nationality Act. The relief granted is limited to a ground for exclusion known to the Department of State or the Department of Justice prior to enactment.

Cordially,
ROBERT J. MCCLOSKEY,
Assistant Secretary for Congressional Relations.

Enclosures: Memorandum with enclosure.

[Submitted by the American Consulate General at Toronto, Ontario, Canada]

MEMORANDUM OF INFORMATION

The beneficiary was born on November 1, 1952, at Toronto, Ontario, Canada. He is married to a Uinted States citizen, Pamela Jo Stafford nee Lee, whom he married November 11, 1972, at Pomano, Florida. His occupation is that of a student and he plans to continue his studies if admitted to the United States.

On February 11, 1974, the beneficiary was found ineligible to receive a visa by the United States Consulate General at Toronto, Ontario, Canada, under the provisions of Section 212(a)(23) of the Immigration and Nationality Act, as amended, as a result of his conviction, by the Magistrate's Court at Freeport, Grand Bahamas, for having in his possession, in violation of that country's narcotic laws, an undetermined amount of Indian Hemp. He was sentenced to a one week prison term at age 16.

Mr. Stafford is entitled to the status of immediate relative as the beneficiary of a petition filed by his wife on May 8, 1973, and approved by the Immigration and Naturalization Service at Miami, Florida, on May 15, 1973.

The Consulate General's investigation revealed no additional derogatory information concerning the beneficiary. The beneficiary was also found to be in good health at the time of his medical examination on February 11, 1974.

Enclosure: Statement from Stipendiary & Circuit Magistrate's Office, Freeport, Grand Bahama.

STIPENDIARY AND CIRCUIT MAGISTRATES OFFICE,
Freeport, Grand Bahama, August 24, 1973.

THE AMERICAN CONSUL,
Nassau, Bahamas.

The above-named Roderic Stafford, at the age 16 years, appeared before the Megistrate's Court, Freeport, Grand Bahama, and was charged with Being in Possession of Dangerous Drugs, namely, Indian Hemp. Contrary to section 25(5) of chapter 223. He was convicted and ordered to Fox Hill Prison for a space of 1 week and there to receive 6 strokes on entering and 6 strokes 1 week later.

Yours faithfully,
KENNETH MCALISTER,
Stipendiary and Circuit Magistrate.

The committee, after consideration of all the facts in the case, is of the opinion that the bill (H.R. 4053) should be enacted.

YOLANDA E. VEZ

The bill (H.R. 5052) for the relief of Yolanda E. Vez, was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 94–1101), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE BILL

The purpose of the bill is to facilitate the admission into the United States of the adopted daughter of a citizen of the United States and a lawfully resident alien.

STATEMENT OF FACTS

The beneficiary of the bill is a 23-year-old native and citizen of the Philippines who presently resides with her maternal grandparents in the Philippines. She was given to her adoptive mother to raise when she was 10 months old but was not formally adopted until February 24, 1969. Her natural parents and nine siblings also reside in the Philippines. She is supported by her adoptive parents, a lawfully resident alien and a citizen of the United States, who reside in Hawaii. They have no natural children but have a 15-year-old adopted son and a 19-year-old adopted daughter who is now married.

A letter, with attached memorandum, dated August 1, 1975 to the chairman of the Committee on the Judiciary, House of Representatives, from the Commissioner of Immigration and Naturalization with reference to the bill reads as follows:

U.S. DEPARTMENT OF JUSTICE, IMMIGRATION AND NATURALIZATION SERVICE,
Washington, D.C., August 1, 1975.

A19856379.

Hon. PETER W. RODINO, Jr.,
Chairman, Committee on the Judiciary, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: In response to your request for a report relative to the bill (H.R. 5052) for the relief of Yolanda E. Vez, there is attached a memorandum of information concerning the beneficiary.

The bill provides that the twenty-three year old adopted daughter of Fulgencio Vez and his wife Adelina may be classified as a child and be granted immediate relative status. The bill further provides that the provision of the Immigration and Nationality Act which limits the number of petitions and may be approved for adopted children shall not be applicable in this case. It is noted that the bill refers to Adelina Vez as a lawful permanent resident. Adelina Vez is a naturalized citizen of the United States.

Absent enactment of the bill, the beneficiary, a native of the Philippines, would be chargeable to the nonpreference portion of the numerical limitation for immigrants and conditional entrants from countries in the Eastern Hemisphere.

L. F. CHAPMAN, Jr.,
Commissioner.

Enclosure.

MEMORANDUM OF INFORMATION FROM IMMIGRATION AND NATURALIZATION SERVICE FILES RE H.R. 5052

Information concerning the case was obtained from Mr. and Mrs. Fulgencio Vez, the adoptive parents of the beneficiary.

The beneficiary, Yolanda E. Vez, a native and citizen of the Philippines, was born on July 28, 1952. She lives with her maternal grandparents in Sanitago, Ilocos Sur Philippines. She was adopted by Fulgencio and Adelina Vez in the Philippines on February 24, 1969. The beneficiary was given to Adelina Ellorin Vez to raise when ten months old. Her natural parents Sanitago Ellorin and Saturnina Torres have nine other children. The beneficiary is entirely supported by Mr. and Mrs. Vez.

The beneficiary does not qualify for immediate relative status as a child under section 101(b)(1)(F) of the Immigration and Nationality Act because she has attained her 14th birthday.

Mr. and Mrs. Fulgencio Vez are natives of the Philippines and were born on April 11, 1911 and December 16, 1922, respectively, Mr. Vez is a permanent resident of the United States while Mrs. Vez is a naturalized United States citizen. They were married on January 28, 1961. They are childless, have two adopted children—a daughter, aged 19 years, who is married and a son, aged 15 years. They all reside in Wahiawa, Hawaii.

Fulgencio Vez receives a pension of $236 a month which is bolstered by a part-time job that pays $388 a month. His spouse also works part-time at the same place for $388 a month. The assets of Mr. and Mrs. Vez consist of two homes with equities of $9,000 and a savings in the amount of $7,000.

Private bill H.R. 16862, 93rd Congress, introduced in this beneficiary's behalf, was not enacted.

A report submitted by the Department of State on May 12, 1975, with enclosures, reads as follows:

DEPARTMENT OF STATE,
Washington, D.C., May 12, 1975.

Hon. PETER W. RODINO,
Chairman, Committee on the Judiciary, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: In reference to your request for a report concerning the case of Yolanda E. Vez, beneficiary of H.R. 5052, 94th Congress, there is enclosed a memorandum of information concerning the beneficiary. This memorandum has been submitted by the American Embassy at Manila, Philippines, in whose consular jurisdiction the beneficiary resides. H.R. 16862, 93rd Congress, on the beneficiary's behalf was not enacted.

This bill would provide for the beneficiary's classification as a child and for granting of immediate relative status upon approval of a petition filed by Mr. Fulgencio Vez and his wife, Adelina, lawful permanent residents. It would also waive the provisions of the Immigration and Nationality Act relating to the number of petitions which may be approved on behalf of orphans.

Sincerely,

ROBERT J. MCCLOSKEY,
Assistant Secretary for Congressional Relations.

Enclosure: Memorandum.

SUBMITTED BY THE AMERICAN EMBASSY AT MANILA, PHILIPPINES

Memorandum of Information, Concerning H.R. 5052, 94th Congress, for the relief of Yolanda E. Vez

Yolanda Ellorin Vez was born on July 28, 1952 at Quezon City, Philippines. Her name at birth was Yolanda Ellorin. Her parents and nine siblings reside with her at Santiago, Ilocos Sur. The beneficiary is a graduate midwife, single, and has no children.

Mr. and Mrs. Fulgencio Vez and Mr. and Mrs. Juan Ellorin, residing at Wahia, Oahu, Hawaii, are the beneficiary's uncles and aunts. Mrs. Fulgencio Vez is the sister of Santiago Ellorin, Miss Vez's natural father. The beneficiary was legally adopted on February 24, 1969 by Mr. and Mrs. Vez. Two copies of the adoption decree are attached, Mrs. Vez had been taking care of Yolanda ever since she was 10 months old. The beneficiary has personally met her adoptive parents during their visits to the Philippines.

The beneficiary is chargeable to the foreign state limitation for the Philippines but is not registered as an intending immigrant. A medical examination conducted by a member of the Embassy's panel of physicians showed no medical ground for ineligibility. Routine clearance investigation revealed no derogatory information.

The committee, after consideration of all the facts in the case, is of the opinion that the bill (H.R. 5052) should be enacted.

RAFAEL STROCHLITZ WURZEL

The bill (H.R. 5500) for the relief of Rafael Strochlitz Wurzel, was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 94–1102), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE BILL

The purpose of the bill is to facilitate the admission into the United States of the adopted son of citizens of the United States.

STATEMENT OF FACTS

The beneficiary is a 24-year-old native of Bolivia who entered the United States as a student in 1967. In 1966 his natural parents were killed in an accident and the beneficiary and his brother were brought to the United States to reside with their aunt and uncle, citizens of the United States. The brother has since married a U.S. citizen and is a permanent resident of this country. The beneficiary was adopted in Connecticut on March 12, 1973. He presently is residing in Spain temporarily where he is attending medical school. Adoptive parents have stated that the adoption was not formalized until the beneficiary was 21 years of age because such action would have interfered with his inheritance rights in Argentina.

A letter, with attached memorandum, dated September 10, 1974, to the chairman of the Committee on the Judiciary, House of Representatives, from the Commissioner of Immigration and Naturalization with reference to H.R. 12272, a similar bill for the relief of the same alien introduced in the 93d Congress, reads as follows:

U.S. DEPARTMENT OF JUSTICE, IMMIGRATION AND NATURALIZATION SERVICE,
Washington, D.C., September 10, 1974.

Hon. PETER W. RODINO, Jr.,
Chairman, Committee on the Judiciary, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: In response to your request for a report relative to the bill (H.R. 12272) for the relief of Rafael Strochlitz Wurzel, there is attached a memorandum of information concerning the beneficiary.

The bill would grant the beneficiary permanent residence in the United States as of the date of its enactment, upon payment of the required visa fee. It would also direct that a visa number deduction be made.

The beneficiary, a native of Bolivia, is chargeable to the numerical limitation for immigrants from the Western Hemisphere. He is statutorily ineligible to adjust his status in the United States and would be required to apply for a visa outside of this country.

Sincerely,

L. F. CHAPMAN, Jr.,
Commissioner.

Enclosure.

MEMORANDUM OF INFORMATION FROM IMMIGRATION AND NATURALIZATION SERVICE FILES RE H.R. 12272

The beneficiary, Rafael Strochlitz Wurzel, is a native and citizen of Bolivia, who was born on June 4, 1951. His parents, who were natives and citizens of Poland, were residents of Bolivia when they were killed in an automobile accident in 1966. His uncle and aunt, Mr. and Mrs. Sigmund Strochlitz, who are citizens of the United States, assisted the beneficiary and his brother in coming to this country as students in 1967. Jaime Wurzel, brother of the beneficiary, is married to a citizens of the United States and has been a lawful permanent resident since June 18, 1974. The beneficiary was adopted by Mr. and Mrs. Strochlitz in 1973 when he was 21 years of age. He graduated from Brandeis University, Waltham, Mass., in May 1974 with the degree of Bachelor of Arts in History. He was employed between February and May 1974 as a part-time teacher receiving a salary of $10 per hour. He has $5,000 in savings and is single.

The beneficiary has had 10 prior admissions to the United States. He entered for a brief period between 1966 and 1967 and, afterwards, on nine occasions until 1973 as a student. He was last admitted to the United States on August 13, 1974, as a visitor for a temporary period until September 3, 1974.

The beneficiary has indicated his intention to leave the United States in September 1974 to enter a medical school in Madrid, Spain. Should the beneficiary fail to depart as planned, deportation proceedings will be instituted.

A letter dated October 9, 1974 to the chairman of the Committee on the Judiciary, House of Representatives, from the Commissioner of Immigration and Naturalization with reference to the case reads as follows:

U.S. Department of Justice, Immigration and Naturalization Service,
Washington, D.C., October 9, 1974.

Hon. Peter W. Rodino, Jr.,
Chairman, Committee on the Judiciary, House of Representatives, Washington, D.C.

Dear Mr. Chairman: This refers to H.R. 12272 in behalf of Rafael Strochlitz Wurzel.

The beneficiary's aunt, Mrs. Sigmund Strochlitz, has advised this office that the beneficiary departed from the United States on September 2, 1974, and is presently attending the University of Madrid in Spain.

Sincerely,

L. F. Chapman, Jr.,
Commisisoner.

Congress of the United States,
House of Representatives,
Washington, D.C., February 24, 1976.

Hon. James O. Eastland,
Chairman, Subcommittee on Immigration and Naturalization, of the Senate Committee on the Judiciary, Dirksen Building, Washington, D.C.

Dear Mr. Chairman: On February 3 the House passed H.R. 5500, a private immigration bill which I introduced to grant Rafael Strochlitz Wurtzel permanent resident status. I am writing in the hope that your subcommittee will give its careful consideration to this bill in the near future and to tell you a little about the background of this case.

Rafael Strochlitz Wurtzel is a 24 year old native of Bolivia who, following the death of both his parents in a 1966 auto crash, came to live in the U.S. with his aunt and uncle, Mr. and Mrs. Sigmund Strochlitz of New London, Connecticut, whom I have known for a number of years.

The Strochlitzes later adopted Rafael, who aside from a married brother, has no other relatives in the entire world. He considers his home to be with his adoptive family in New London where he has resided since 1967, except for the time he has been in school.

Mr. and Mrs. Strochlitz have paid for Rafael's undergraduate education at Brandeis University from which he graduated in 1974, and his current education at a medical school in Madrid, Spain. Coming home from Spain, Rafael has encountered difficulty on several occasions obtaining admission to the U.S., requiring personal intervention on his behalf with the State Department by former Congressman Robert Steele of Connecticut.

Unfortunately, Rafael's chances of receiving permanent resident status are slight under existing immigration laws given the backlog of Western Hemisphere immigrants awaiting admission to the U.S. He also faces the possibility that his native country of Bolivia may formally revoke his citizenship, since he has no intention of returning there to live.

Rafael, his adoptive parents and I remain hopeful that H.R. 5500 can be acted on favorably in the near future in order that he no longer be restrained from joining his family here in the U.S. whenever he desires. If you have any questions about this case, please don't hesitate to phone or write me.

Sincerely,

Christopher J. Dodd,
Member of Congress.

The Committee, after consideration of all the facts in the case, is of the opinion that the bill (H.R. 5500) should be enacted.

VIOLETTA CEBREROS

The bill (H.R. 5648) for the relief of Violetta Cebreros was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the Record an excerpt from the report (No. 94–1103), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the Record, as follows:

PURPOSE OF THE BILL

The purpose of the bill is to facilitate the admission into the United States of the adoptive child of citizens of the United States.

STATEMENT OF FACTS

The beneficiary of the bill is a 16-year-old native and citizen of the Philippines who resides in that country with her widowed mother and six siblings. She is coming to the United States for adoption by her aunt and uncle, citizens of the United States, who have no natural children but who have petitioned to adopt the beneficiary's younger brother.

A letter, with attached memorandum dated June 25, 1975 to the chairman of the Committee on the Judiciary from the Commissioner of Immigration and Naturalization with reference to the bill reads as follows:

U.S. Department of Justice, Immigration and Naturalization Service,
Washington, D.C., June 25, 1975.
A20–492–757.

Hon. Peter W. Rodino, Jr.,
Chairman, Committee on the Judiciary, House of Representatives, Washington, D.C.

Dear Mr. Chairman: In response to your request for a report relative to the bill (H.R. 5648) for the relief of Violette Cebreros, there is attached a memorandum of information concerning the beneficiary.

The bill provides that the fifteen-year-old beneficiary may be classified as a child and be granted immediate relative status upon approval of a petition filed by Mr. and Mrs. Leroy M. Bowman, citizens of the United States. It further provides that the natural parents, brothers, and sisters of the beneficiary shall not, by virtue of such relationships, be accorded any right, privilege, or status under the Immigration and Nationality Act.

Absent enactment of the bill, the beneficiary, a native of the Philippines, would be chargeable to the nonpreference portion of the numerical limitation for immigrants and conditional entrants from countries in the Eastern Hemisphere.

Sincerely,

L. F. Chapman, Jr.,
Commissioner.

Enclosure.

MEMORANDUM OF INFORMATION FROM IMMIGRATION AND NATURALIZATION SERVICE FILES RE H.R. 5648

Information concerning this case was obtained from Mr. and Mrs. Leroy M. Bowman, the beneficiary's prospective adoptive parents and the interested parties in this case.

The beneficiary, Violetta Cebreros, a native and citizen of the Philippines was born in October of 1959 and is single. She resides in Manila, Philippine Islands with her widowed mother and six siblings. The beneficiary is unemployed, has no personal assets, and the extent of her formal education is unknown. She has never entered the United States.

Leroy M. Bowman, a 31-year-old native citizen of the United States, with his wife, proposes to adopt the beneficiary. He is self-employed as owner/operator of an office machine sales and service firm. Mr. and Mrs. Bowman earn a combined annual income of $20,000 and their assets consist of $78,000 equity in real property and business inventory, personal property they value at $15,000 and savings of $2,000.

Susana Cebreros Bowman, a 30-year-old naturalized citizen of the United States is the paternal aunt of the beneficiary and her prospective adoptive mother. The interested parties desire to adopt the beneficiary and her three-year-old brother because their mother has been unable to properly care for her seven children since the death of their father on November 11, 1971. Mrs. Bowman is employed and has no assets other than those shared with her husband. The interested parties have seen and observed the beneficiary, but have not initiated adoption or preadoption proceedings.

She does not qualify as a "child" as defined in section 101(b)(1)(F) of the Immigration and Nationality Act because she is over the age of fourteen.

A report from the Department of State on this legislation, submitted October 9, 1975, reads as follows:

Congress of the United States,
House of Representatives,
Washington, D.C., May 5, 1976.

Hon. James O. Eastland,
Chairman, Committee on the Judiciary,
U.S. Senate, Washington, D.C.

Dear Mr. Chairman: This concerns H.R. 5648, a bill I have sponsored for the relief of Miss Violetta Cebreros, which was passed by the House of Representatives on November 18, 1975, and has been referred to your Subcommittee on Immigration. I wish to submit the following information, which is more current than that contained in the House Committee report (House Report 94–629).

Miss Cebreros is now living with friends of her prospective adoptive parents. Her address is as follows: ℅ RM–2 James L. Johnson; Box 823, USN CSP; FPO San Francisco, Calif.

Violetta's young brother, Roque, has received his immigrant visa and has now moved to the United States, where final adoption procedures are being carried out.

Naturally, my constituents, Mr. and Mrs. Leroy Bowman of Vista, California, are most anxious to be able to bring Violetta to this country to be with her brother. All preadoption requirements have been accomplished for Violetta, and the Bowmans are looking forward to having her join them in this country to complete the family circle.

I will be most grateful for the further consideration of H.R. 5648.

Sincerely,

Clair W. Burgener,
Member of Congress.

The Committee, after consideration of all the facts in the case, is of the opinion that the bill (H.R. 5648) should be enacted.

MARIA D'ARPINO

The bill (H.R. 6093) for the relief of Maria D'Arpino, was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 94-1104), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE BILL

The purpose of the bill is to waive the excluding provisions of existing law relating to one who is mentally retarded and illiterate. The bill provides for the posting of a bond to assure that the beneficiary will not become a public charge.

STATEMENT OF FACTS

The beneficiary of this bill is a 52-year-old native and citizen of Italy who was admitted to the United States as a visitor on November 11, 1970. She resides with and is supported by her United States citizen sister and brother-in-law, her only living close relatives. The beneficiary's father was a citizen of the United States and she is the beneficiary of social security survivors benefits through him, in the amount of $143 a month. The beneficiary is ineligible for adjustment of status to permanent residence because of illiteracy and mental retardation to a moderate degree. Both grounds for exclusion would have been waiverable had an application for permanent residence been processed prior to her father's death.

A letter, with attached memorandum, dated December 29, 1972, to the then Chairman of the House Judiciary Committee from the then Commissioner of Immigration and Naturalization with reference to H.R. 17189, a similar bill introduced in the 92d Congress, reads as follows:

U.S. DEPARTMENT OF JUSTICE, IMMIGRATION AND NATURALIZATION, SERVICE, OFFICE OF THE COMMISSIONER,
Washington, D.C., December 29, 1972.

A19 556 991.

Hon. EMANUEL CELLER,
Chairman, Committee on the Judiciary, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: In response to your request for a report relative to the bill (H.R. 17189) for the relief of Maria D'Arpino, there is attached a memorandum of information concerning the beneficiary.

The bill would grant the beneficiary permanent residence in the United States as of the date of its enactment upon payment of the required visa fee. It would also direct that an appropriate visa number deduction be made.

The beneficiary, a native of Italy, is chargeable to the nonpreference portion of the numerical limitation for immigrants and conditional entrants from countries in the Eastern Hemisphere.

Sincerely,

RAYMOND F. FARRELL,
Commissioner.

Enclosure.

MEMORANDUM OF INFORMATION FROM IMMIGRATION AND NATURALIZATION SERVICE FILES RE H.R. 17189

The beneficiary, Maria D'Arpino, a native and citizen of Italy, was born on June 26, 1923. She is single and resides in West Warwick, Rhode Island, with her only close relative, her sister, who is a citizen of the United States. Her father, who died ten days after the beneficiary's arrival in the United States, became a naturalized citizen of this country in 1934. Although the beneficiary was a minor at that time, she was not admitted to this country for permanent residence before January 13, 1941, and therefore did not derive United States citizenship through her father's naturalization. The beneficiary never attended school and is illiterate. She has never been employed and her only income is $112 Social Security Survivor benefits derived through her father.

The beneficiary was admitted to the United States on November 11, 1970, as a visitor until May 10, 1971. Extensions of stay were authorized until April 3, 1972. Her application for a further extension was denied on April 6, 1972, because she expressed her intention to remain in the United States permanently. She was granted to May 20, 1972, to effect her departure from the United States. Since she failed to depart, deportation proceedings were instituted against her on October 4, 1972, on the ground that she had remained in the United States for a longer time than permitted. She was accorded a hearing before a Special Inquiry Officer on October 27, 1972, and was granted the privilege of voluntary departure with the alternative of deportation if she fails to depart when required.

The beneficiary's sister was furnished with the necessary form to file a visa petition in behalf of the beneficiary, which would if approved accord her fifth preference status in the issuance of an immigrant visa. However, since the beneficiary is illiterate, she is ineligible to receive an immigrant visa and to adjust her status to that of a permanent resident pursuant to Section 245 of the Immigration and Nationality Act.

KOVILJKA C. CLENDENEN

The bill (H.R. 6392) for the relief of Koviljka C. Clendenen, was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 94-1105), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE BILL

The purpose of the bill is to facilitate the adjustment of status to permanent residence of the adopted daughter of citizens of the United States.

STATEMENT OF FACTS

The beneficiary of the bill is a 21-year-old native and citizen of Yugoslavia who was admitted to the United States as a student in 1971 and was adopted in Iowa in July of 1973 by her aunt and uncle, citizens of the United States, with whom she has resided since her admission to this country.

A letter, with attached memorandum, dated September 30, 1975 to the chairman of the Committee on the Judiciary, House of Representatives, from the Commissioner of Immigration and Naturalization with reference to the bill reads as follows:

U.S. DEPARTMENT OF JUSTICE, IMMIGRATION AND NATURALIZATION SERVICE,
Washington, D.C., September 30, 1975.

A19 274 523.

Hon. PETER W. RODINO, Jr.,
Chairman, Committee on the Judiciary, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: In response to your request for a report relative to the bill (H.R. 6392) for the relief of Koviljka C. Clendenen, there is attached a memorandum of information concerning the beneficiary and interested parties.

The bill provides that the twenty-year-old adopted daughter of Mr. and Mrs. Wilber G. Clendenen may be classified as a child and be granted immediate relative status.

Absent enactment of the bill, the beneficiary, a native of Yugoslavia, would be chargeable to the nonpreference portion of the numerical limitation for immigrants and conditional entrants from countries in the Eastern Hemisphere.

Sincerely,

L. F. CHAPMAN, Sr.,
Commissioner.

Enclosure.

MEMORANDUM OF INFORMATION FROM IMMIGRATION AND NATURALIZATION SERVICE FILES RE H.R. 6392

The beneficiary, Koviljka C. Clendenen, a native and citizen of Yugoslavia, was born December 23, 1954. She is unmarried and has resided with the interested parties since her arrival in the United States as a nonimmigrant student on September 13, 1971. She graduated from high school in the United States and recently completed two years at Kirkwood Community College, Cedar Rapids, Iowa, majoring in law enforcement. She aspires to obtain a degree in law. Her natural mother is deceased and her father still resides in Yugoslavia.

On July 18, 1973, the beneficiary was legally adopted by her aunt and uncle, the interested parties. The interested parties are the only relatives she has in the United States. A certified copy of the adoption degree is attached.

Wilbur G. and Virginia Clendenen, the interested parties, are citizens of the United States. Mr. Clendenen was born May 11, 1932, in Oneida, Iowa, and Mrs. Clendenen was born October 12, 1936, in Yugoslavia, but derived United States citizenship through her father. Both the interested parties are employed, he as a millwright and she in general office work, and have a combined annual income of over $28,000. Their combined assets, including their three bedroom home, duplex rental property, stocks, bonds, savings, and profit sharing, would amount to more than $50,000. They have double indemnity life insurance in the amount of $10,000 and $15,000 made to surviving spouse, with their adoptive daughter as alternate beneficiery. The interested parties have expressed their desire to continue supporting the beneficiary as in any normal filial relationship and assisting her in completing her college aspirations. Neither interested party has any other dependents. Mr. Clendenen's previous marriage ended in divorce in 1959, and his three offspring are grown.

Deportation proceedings have not been instituted against the beneficiary.

Senator John C. Culver submitted the following letter dated February 27, 1976 with reference to the bill:

U.S. SENATE,
Washington, D.C., February 27, 1976.

Hon. JAMES O. EASTLAND,
Chairman, Committee on the Judiciary, Dirksen Senate Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: I wish to bring to your attention a meritorious case for private relief which is now pending before the Subcommittee on Immigration and Naturalization. H.R. 6392, which has recently passed the House of Representatives, provides for the relief of Koviljka Clendenen, a young woman who now lives with her adoptive parents in Cedar Rapids, Iowa.

Miss Clendenen was born in Yugoslavia and came to the United States in 1971 at the age of 16. While she only had a fourth grade education at the time of her arrival, she has conscientiously pursued her academic studies and is currently majoring in law enforcement at Kirkwood Community College in Cedar Rapids.

I first became familiar with this case a number of years ago when I was a member of the House of Representatives. The Clendenens are respected members of the community and they will provide love and affection for Koviljka, and have the means with which to provide for her financial support. They have no other children and, in addition to being her adoptive parents, also are her natural aunt and uncle.

In my judgment, this is a case of genuine merit, and I would appreciate the Committee giving every appropriate consideration to this bill.

Best wishes.

Sincerely,

John C. Culver.

The committee, after consideration of all the facts in the case, is of the opinion that the bill (H.R. 6392) should be enacted.

DOO HOON PARK

The bill (H.R. 6687) for the relief of Doo Hoon Park, was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the Record an excerpt from the report (No. 94–1106), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the Record, as follows:

PURPOSE OF THE BILL

The purpose of the bill is to facilitate the entry of the beneficiary into the United States as an immediate relative of the U.S. citizen parents by whom he is to be adopted.

STATEMENT OF FACTS

The beneficiary of the bill is a 15-year-old native and citizen of Korea who resides in that country in a foster home. He is coming for adoption by citizens of the United States who have three other adopted alien children.

A letter with attached memorandum, dated December 29, 1976, to the chairman of the Committee on the Judiciary, House of Representatives, from the Commissioner of Immigration and Naturalization with reference to the bill reads as follows:

U.S. Department of Justice, Immigration and Naturalization Service, Office of the Commissioner,
Washington, D.C., December 29, 1975.

Hon. Peter W. Rodino, Jr.,
Chairman, Committee on the Judiciary, House of Representatives, Washington, D.C.

Dear Mr. Chairman: In response to your request for a report relative to the bill (H.R. 6637) for the relief of Doo Hoon Park, there is attached a memorandum of information concerning the beneficiary.

The bill would provide that the fifteen-year-old beneficiary, who is to be adopted by United States citizens, may be classified as a child and granted immediate relative status. The bill further provides that the natural parents or brothers or sisters of the beneficiary shall not thereafter, by virtue of such relationship, be accorded any right, privilege or status under the Immigration and Nationality Act. The bill also provides that the provision of the Immigration and Nationality Act which limits the number of petitions that may be approved for adopted children shall not be applicable to the beneficiary.

Absent enactment of the bill, the beneficiary, a native of Korea, would be chargeable to the nonpreference portion of the numerical limitation for immigrants and conditional entrants from countries in the Eastern Hemisphere.

Sincerely,

Commissioner.

Enclosure.

MEMORANDUM OF INFORMATION FROM IMMIGRATION AND NATURALIZATION SERVICE FILES RE H.R. 6687

The beneficiary, Doo Hoon Park, was born in Seoul, Korea on Juy 24, 1960 of a common-law relationship between his mother, Ok Soon Park, and an American soldier. The name and location of the father are unknown.

Korea Social Service, Inc., in Seoul, Korea has been appointed the beneficiary's legal guardian and he is presently residing with foster parents in Korea.

The prospective adoptive parents of the beneficiary are United States citizens Clarence and Rosemary Goudy, born April 10, 1939 and May 23, 1945, respectively. Mr. and Mrs. Goudy have had two previous petitions approved in 1970 to accord their adopted daughters, Sun Hyang Park and Sun Hee Park, immediate relative status for the issuance of immigrant visas. In 1973 the couple adopted a third Korean orphan, In Sook Kim, who was first adopted by another American family and then placed with the Goudys when the first family could not adjust to the adoption.

Mr. and Mrs. Goudy presently reside in Minneapolis, Minnesota where Mr. Groudy is employed as a lithographer at a salary of $20,000 a year. Mrs. Goudy is employed as an insurance underwriter at a salary of $15,000 a year. They own a home valued at $54,000 with a mortgage of $40,000, and have business assets valued at $70,000, six automobiles valued at $30,000, and personal effects. Mr. and Mrs. Goudy are physically able to have children but prefer to adopt.

A letter, with attached memorandum, dated August 26, 1975, to the chairman of the Committee on the Judiciary, House of Representatives, from the Assistant Secretary for Congressional Relations, U.S. Department of State, with reference to the bill reads as follows:

Department of State,
Washington, D.C., August 26, 1975.

Hon. Peter W. Rodino, Jr.,
Chairman, Committee on the Judiciary, House of Representatives, Washington, D.C.

Dear Mr. Chairman: In reference to your request for a report concerning the case of Doo Hoon Park, beneficiary of H.R. 6687, 94th Congress, there is enclosed a memorandum of information concerning the beneficiary. This memorandum has been submitted by the American Embassy at Seoul, Korea in whose consular jurisdiction the beneficiary resides.

The bill would provide for the beneficiary's classification as a child and for granting of immediate relative status upon approval of a petition filed by Mr. and Mrs. Clarence D. Goudy, American citizens. It also provides that the natural parents or brothers and sisters of the beneficiary shall not by virtue of such relationship, be accorded any right, privilege or status under the Immigration and Nationality Act.

It would also waive the provisions of the Immigration and Nationality Act relating to the number of petitions which may be approved on behalf of orphans.

Sincerely,

Robert J. McCloskey,
Assistant Secretary for Congressional Relations.

Enclosure.

SUBMITTED BY THE AMERICAN EMBASSY AT SEOUL, KOREA

MEMORANDUM OF INFORMATION, CONCERNING H.R. 6687 FOR THE RELIEF OF PARK DOO HOON

The beneficiary was born on July 24, 1960, in Uijongbu, Kyonggido, Korea. He is a student and presently resides with foster parents at #242 Kaneung 2-dong, Uijungboo City, Kyonggi, Korea; his welfare is under the jurisdiction of Korea Social Services, Inc., Seoul.

The beneficiary is registered as an intending immigrant chargeable to the nonpreference category of the numerical limitation for Korea, with a registration priority date of November 26, 1974. If an immigrant visa in the nonpreference category cannot be issued to him before his sixteenth birthday, he will become subject to the Labor certification requirement of Section 212(a) (14) of the Immigration and Nationality Act, as amended.

An Embassy file clerk revealed no derogatory information concerning the beneficiary.

The beneficiary underwent a medical examination on July 4, 1975, and was found to be in good health.

The committee, after consideration of all the facts in the case, is of the opinion that the bill (H.R. 6687) should be enacted.

CHRISTINE DONNELLY

The bill (H.R. 7404) for the relief of Christine Donnelly, was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the Record an excerpt from the report (No. 94–1107), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the Record, as follows:

PURPOSE OF THE BILL

The purpose of this bill is to facilitate the naturalization as a citizen of the United States of Mrs. Christine Donnelly.

GENERAL INFORMATION

The beneficiary of this bill is a 47-year-old native of Canada who was brought to the United States by her mother when she was about three months old and has resided in this country since that time. She was unaware of her alien status until she applied for Civil Service employment in May of 1974.

The pertinent facts in this case are contained in a letter dated January 20, 1976 from the Commissioner of Immigration and Naturalization to the Chairman of the Committee on the Judiciary. That letter and accompanying memorandum read as follows:

United States Department of Justice, Immigration and Naturalization Service,
Washington, D.C., January 20, 1967.

Hon. Peter W. Rodino, Jr.,
Chairman, Committee on the Judiciary, House of Representatives, Washington, D.C.

Dear Mr. Chairman: In response to your request for a report relative to the bill (H.R. 7404) for the relief of Christine Donnelly, there is attached a memorandum of information concerning the beneficiary.

The bill would waive the residence and physical presence requirements of the Immigration and Nationality Act for naturalization.

Sincerely,

Leonard F. Chapman,
Commissioner.

Enclosure.

MEMORANDUM OF INFORMATION FROM IMMIGRATION AND NATURALIZATION SERVICE FILES RE H.R. 7404

The beneficiary, Christine Donnelly, nee Jardine, was born on March 13, 1929 in Toronto, Canada. Her parents, both of whom were born in Toronto, Canada, were residents of the United States at the time of her birth. The beneficiary claims to have been brought to the United States from Canada by her mother and grandmother, on an unknown date, when she was three months of age. A record of such entry is not available.

She states that she has remained in the United States continually since then, with the exception of a one-week visit to Toronto during 1953. Ms. Donnelly resided with her parents in the United States until they divorced when she was ten years old. She continued to reside with her father, Warren T. Jardine, who became a United States citizen by naturalization on August 5, 1944. The present address and citizenship status of the beneficiary's mother, Dorothy E. Reilly, is unknown. The beneficiary graduated from high school in Bellmore, New York and married Joseph C. Donnelly, a United States citizen, on June 12, 1947. She resides with her spouse and five children in Miller Place, New York.

Throughout her life the beneficiary believed herself to be a United States citizen and exercised the privileges of a citizen. While applying for Civil Service employment in May 1974 she learned that she had not derived citizenship. On June 26, 1974, she was accorded the status of a lawful permanent resident. By virtue of her marriage to a United States citizen, she may complete the residence requirement for naturalization on June 26, 1977.

Private Bill H.R. 17174, 93rd Congress, introduced in the beneficiary's behalf, was not enacted.

BUDGETARY INFORMATION

This legislation does not provide new budget authority and no estimate or comparison has been received from the Director of the Congressional Budget Office.

OVERSIGHT STATEMENT

The Committee exercises general oversight jurisdiction with respect to all immigration and nationality matters but no specific oversight is contempated in this instance.

COMMITTEE RECOMMENDATIONS

Upon consideration of all the facts in this case, the Committee is of the opinion that H.R. 7404 should be enacted and accordingly recommends that the bill do pass.

LUIGI SANTANIELLO

The bill (H.R. 7494) for the relief of Luigi Santaniello, was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 94–1108), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE BILL

The purpose of this bill is to waive the provision of section 212(a) (9) of the Immigration and Nationality Act in behalf of Luigi Santaniello. The bill also provides that this exemption shall apply only to a ground for exclusion known to the Department of State or Justice prior to the enactment of this act.

GENERAL INFORMATION

The beneficiary is a 42-year-old native and citizen of Italy who resides there with his wife and 3 children. He and his immediate family are eligible to fourth preference status and numbers are currently available to them. The beneficiary was found ineligible to receive a visa because of his conviction of assault with a deadly weapon (a hatchet) as a result of a fight with a friend after an argument over wood they had collected. It was a situation of mutual injuries and both participants were charged. Minimum sentence of 3 months plus costs for beneficiary was suspended.

The beneficiary's mother and 2 brothers are citizens and residents of the United States.

A bill for the relief of the same person passed the House of Representatives during the 93d Congress and the following information is reprinted from House Report No. 93-488:

The pertinent facts in this case are contained in reports from the Immigration and Naturalization Service and the Department of State dated September 7, 1971, and April 15, 1972, respectively, which read as follows:

U.S. DEPARTMENT OF JUSTICE, IMMIGRATION AND NATURALIZATION SERVICE,
Washington, D.C., September 9, 1971.

Hon. EMANUEL CELLER,
Chairman, Committee on the Judiciary, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: In response to your request for a report relative to the bill (H.R. 9391) for the relief of Luigi Santaniello, there is attached a memorandum of information concerning the beneficiary.

The bill would waive the provision of the Immigration and Nationality Act which excludes from admission into the United States aliens who have been convicted of a crime involving moral turpitude, and would authorize the issuance of a visa to the beneficiary and his admission to the United States for permanent residence, if he is otherwise admissible under that Act. The bill also limits the exemption granted the beneficiary to a ground for exclusion known to the Department of State of the Department of Justice prior to the date of its enactment.

The beneficiary, a native of Italy, is chargeable to the nonpreference portion of the numerical limitation for immigrants and conditional entrants from countries in the Eastern Hemisphere.

Sincerely,
RAYMOND F. FARRELL,
Commissioner.

Enclosure.

MEMORANDUM OF INFORMATION FROM IMMIGRATION AND NATURALIZATION SERVICE FILES RE: H.R. 9391

Information concerning this case was obtained from Mrs. Cristina Santaniello, the mother of the beneficiary.

The beneficiary, Luigi Santaniello, a native and citizen of Italy, was born on November 17, 1932. He lives in Bracigliano, Salerno, Italy with his wife and three children, ages three, five and ten, who also are natives and citizens of Italy. He is employed in Italy as a handyman for different employers. He does not have any sizable amount of assets.

The beneficiary entered the United States on October 23, 1969 at Boston, Massachusetts as a transit without visa. He was involved in an auto accident in Sprinfield, Massachusetts and was granted to April 30, 1970 to effect his departure from the United States, on which date he departed at Boston, Massachusetts. The beneficiary is excludable from the United States for having been convicted in 1953 in Bracigliano, Salerno, Italy for assault with a dangerous weapon, for which he received a suspended sentence.

The beneficiary's mother was born in Springfield, Massachusetts on April 1, 1906. Her husband, who was a native and citizen of Italy, was deceased in 1949. Two of her sons are United States citizens. They are married and living in Springfield, Massachusetts. The beneficiary's mother was taken back to Italy in 1914 and lived in that country until 1962. She returned to the United States as an Italian citizen, but it has been determined that she never lost her United States citizenship. She has no independent assets and lives with her son Italo who partially supports her. She has a bi-weekly income of $60 from Old Age Assistance.

The beneficiary's mother could accord him fourth preference classification upon the filing of a petition for this preference. However, he does not appear eligible for a waiver of the ground of his excludability.

BUDGETARY INFORMATION

This legislation does not provide new budget authority and no estimate or comparison has been received from the Director of the Congressional Budget Office.

OVERSIGHT STATEMENT

The committee exercises general oversight jurisdiction with respect to all immigration and nationality matters but no specific oversight is contemplated in this instance.

Upon consideration of all the facts in this case, the committee is of the opinion that H.R. 7494 should be enacted and accordingly recommends that the bill do pass.

MISS LEONOR YOUNG

The bill (H.R. 7882) for the relief of Miss Leonor Young, was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 94–1109), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE BILL

The purpose of the bill is to facilitate the adjustment of status to permanent residence of the adopted daughter of a citizen of the United States.

STATEMENT OF FACTS

The beneficiary is a 22-year-old native and citizen of Colombia who was admitted to the United States in 1970 as a visitor and changed her status to student. She was adopted by a citizen of the United States in New Jersey on March 6, 1972. Adoptive mother was single at the time the beneficiary was adopted but is now married to a citizen of the United States. She also has custody of three children who were adopted in Colombia when she was married to another person. Those children, ages 20, 16 and 14, have all been naturalized as citizens of the United States.

A letter, with attached memorandum, date unknown, to the chairman of the Committee on the Judiciary, House of Representatives, from the Commissioner of Immigration and Naturalization with reference to H.R. 14708, a similar bill for the relief of the same alien introduced in the 93d Congress, reads as follows:

U.S. DEPARTMENT OF JUSTICE, IMMIGRATION AND NATURALIZATION SERVICE,
Washington, D.C.

A 19 387 286.

Hon. PETER W. RODINO, Jr.,
Chairman, Committee on the Judiciary, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: In response to your request for a report relative to the bill (H.R. 14708) for the relief of Leonor Young, there is attached a memorandum of information concerning the beneficiary.

The bill provides that the twenty-one year old adopted daughter of a native born United States citizen may be classified as a child and granted immediate relative status upon approval of a petition filed in her behalf by Mr. Barbara Jennings Dudrow and that the natural parents or brothers or sisters shall not be accorded any benefits or status under the Immigration and Nationality Act by virtue of such relationship. This provision does not preclude the beneficiary's stepmother from derivative benefits under the Immigration and Nationality Act.

Absent enactment of the bill, the beneficiary, a native of Colombia is chargeable to the numerical limitations for immigrants from the Western Hemisphere. However, she is statutorily ineligible to adjust her status while in the United States and will be required to apply for a visa outside of this country.

Sincerely,

L. F. CHAPMAN, Jr.,
Commissioner.

Enclosure.

MEMORANDUM OF INFORMATION FROM IMMIGRATION AND NATURALIZATION SERVICE FILE RE H.R. 14708

The beneficiary, Leonor Young, a native and citizen of Colombia was born Leonor Young Preciado on August 15, 1953.

She resides in Budd Lake, New Jersey with her adoptive mother and attends Morris County College and is in her sophomore year. The beneficiary resided with her natural parents until the death of her mother in 1963 and her father remarried a native and citizen of Colombia. Her father relinquished custody to her adoptive mother for the purpose of adoption. The beneficiary had been a pupil of her adoptive mother who taught school in Colombia. Following her entry into the United States she completed her high school education and was adopted at Morristown, New Jersey on March 6, 1972. A certified copy of the decree is attached hereto.

The interested party and adoptive mother of the beneficiary is Mrs. Barbara Dudrow formerly Jennings nee Boden a native and citizen of the United States born August 16, 1932 at Rahway, New Jersey. She earned a Bachelor of Arts degree at Drew University and a Master of Arts in counseling and guidance at Kean College. She taught art and was director of the Jefferson School in Cali, Colombia from 1968 to 1970 and is employed as a Spanish instructor by the Mount Olive Board of Education in Budd Lake, New Jersey from 1970 to the present time. Mrs. Dudrow resided in Colombia from 1958 to 1961 and in the Philippines from 1961 to 1967. She then resided in Colombia from 1967 to 1970 at which time she returned to the United States. She married Peter Jennings a native and citizen of the United States on June 5, 1954. They were divorced by mutual consent at Tlaxacala, Mexico, June 11, 1970. While married to Mr. Jennings she adopted three native Colombian children on her own petition in Bogota. They were subsequently admitted to the United States and were all naturalized citizens of the United States. Mrs. Dudrow married her current spouse, a native and citizen of the United States on August 4, 1973. Mrs. Dudrow has her own assets of $4,000 in savings; owns a $20,000 property mortgage on Florida real estate. She has $24,000 equity in her home valued at $40,000. Her annual earnings from employment are $13,500.

The beneficiary was admitted to the United States as a visitor for pleasure on August 30, 1970. Her nonimmigrant status was adjusted to that of a student on August 8, 1973 and she was granted extensions of stay until June 30, 1975.

STATE OF NEW JERSEY,
MORRIS COUNTY SURROGATE'S COURT,
Morristown, New Jersey.

Morris County, ss.

I, R. SAR MISCHIARA, Surrogate of the said County and Clerk of the Morris County Court, Probate Division, the same being a Court of Record, do hereby certify, that I have compared the foregoing copy of Judgment of Adoption of a Child by Barbara Joyce Jennings with the original record thereof now on file in this office and have found the same to be a true copy therefrom.

In testimony whereof, I have hereunto set my hand and seal of office this twenty-ninth day of June A.D. Nineteen hundred and Seventy-three.

R. SAR MISCHIARA,
Surrogate, Etc.

———— ————,
Deputy Surrogate.

OSCAR MEYERSON, Esquire,
One Maple Avenue,
Netcong, N.J. 07857
(201) 347-0014,
By: Larry I. Kron, Esquire.

MORRIS COUNTY COURT—PROBATE DIVISION

[Docket No. ———]

IN THE MATTER OF THE ACTION OF BARBARA JOYCE JENNINGS, FOR THE ADOPTION OF LEONOR YOUNG, A MINOR

JUDGMENT OF ADOPTION

The Court having considered the complaint, the written report filed by The Bureau of Children's Services and the evidence presented and being satisfied that the best interests of Leonor Young, the child sought to be adopted, who was born August 15, 1953, in Bogota, South America, would be promoted by the adoption.

It is on this 21st day of June, 1973, on motion of Larry I. Kron, attorney for the plaintiff, adjudged:

1. The said Leonor Young be adopted by the plaintiff.

2. Upon the entry of this judgment all relationships heretofore existing between the said Leonor Young and Alexander Young, the natural father, be in all respects at an end.

3. Upon the entry of this judgment all rights, duties and obligations of any person which are founded upon the relationships heretofore existing between the said Leonor Young and Alexander Young, the natural father, be in all respects at an end.

4. Upon the entry of this judgment, the relationships, rights, duties and obligations between the said Leonor Young and Barbara Joyce Jennings, her parent by adoption, be thenceforth in all respects the same as if the said Leonor Young had been born to her in lawful wedlock.

Signed: JACQUES H. GASCOYNE
JACQUES H. GASCOYNE, J.C.C.

The Department of State submitted the following report on this legislation:

DEPARTMENT OF STATE,
Washington, D.C., November 25, 1974.

Hon. PETER W. RODINO, Jr.,
Chairman, Committee on the Judiciary,
House of Representatives,
Washington, D.C.

DEAR MR. CHAIRMAN: Reference is made to your request for a report concerning the case of Miss Leonor Young, beneficiary of H.R. 14708, 93d Congress.

The bill would provide for the beneficiary's classification as a child and for granting of immediate relative status upon approval of a petition filed by Mrs. Barbara Jennings Dudrow, an American citizen. It also provides that the natural parents, brothers or sisters of the beneficiary shall not be accorded any right or status under the Immigration and Nationality Act by virtue of such relationship.

The American Consulate General at Cali, Colombia has reported that the beneficiary was born on August 15, 1953, at Bogota. She is the daughter of a well-known Cali business executive who now resides in Bogota. The beneficiary indicated on her visa application that she planned to study in the United States. Since she apparently had not yet selected the school she would attend, she was issued a visitor visa on August 4, 1970.

The Consulate's investigation revealed no information which would render the beneficiary ineligible to receive a visa.

Cordially,

LINWOOD HOLTON,
Assistant Secretary for Congressional Relations.

Congresswoman Helen S. Meyner, the author of the bill, submitted the following letter in support of the legislation:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., September 26, 1975.

Hon. JOSHUA EILBERG,
Chairman, Subcommittee on Immigration, Citizenship, and International Law, Committee on the Judiciary, Washington, D.C.

DEAR MR. CHAIRMAN: I am pleased to write this letter in support of the bill, H.R. 7882, for the relief of Miss Leonor Young.

Miss Young is the adopted daughter of Mrs. Barbara Dudrow of Wharton, New Jersey. Mrs. Dudrow became acquainted with Leonor Young while teaching in Cali, Colombia.

Leonor Young was a child born out of wedlock and although her father had raised her and taken full responsibility for her since her mother's death, she was denied any social rights as a result of the stigma of her birth in the Colombian culture. Because Leonor would have had no opportunity to grow and be a fruitful citizen in the Colombian society and because Leonor was intelligent and conscientious, Mrs. Dudrow obtained a visa for her to come to the United States in 1970. Since that time, Miss Young has successfully completed High School, having had the diligence and perseverance to do so as she knew no English, and she is presently attending college in New Mexico.

In March 1972 Leonor's father came to the United States for a visit and while here agreed before a Judge to Mrs. Dudrow's adoption of Leonor. The proceedings were started and Leonor was adopted in June 1973. The Immigration and Nationality Act, Section 101(b)(1)(E), provides that a child adopted while under the age of fourteen years who has thereafter been in the legal custody of, and resided with the adoptive parent or parents for at least two years, may be accorded immediate relative status upon approval of a visa petition by the Immigration and Naturalization Service. Since Leonor was over fourteen when she was adopted she does not meet the term "child" for "special immigrant" status.

Therefore, when Leonor's student visa is terminated she will be required to return to Colombia. Mrs. Dudrow feels that it would be totally disastrous for her daughter to return. Both socially and economically it would be hard for Leonor to sustain herself in Colombia because of her illegitimacy. If she is permitted to remain in this country as a citizen it seems evident that she will make an excellent citizen of the United States.

On May 8, 1974 my predecessor, Joseph J. Maraziti, introduced the bill, H.R. 14708, for the relief of Leonor Young. This bill is identical to my bill, H.R. 7882, which I introduced on June 12, 1975. I believe that this is a matter of longstanding urgency and deserves the full attention of the Committee on the Judiciary.

Warmest and best wishes.

Sincerely,

HELEN MEYNER.

The committee, after consideration of all the facts in the case, is of the opinion that the bill (H.R. 7882) should be enacted.

EDWARD DRAG

The bill (H.R. 7908) for the relief of Edward Drag, was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 94–1110), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE BILL

The purpose of the bill is to facilitate the adjustment of status of the adopted child of citizens of the United States.

STATEMENT OF FACTS

The beneficiary of the bill is a 19-year-old native and citizen of Poland who was admitted to the United States as a visitor and was adopted by his aunt and uncle, citizens of the United States, in January of 1974 in New York. The adoptive parents have three natural sons, ages 13, 17, and 25.

A letter, with attached memorandum, dated February 11, 1974, to the chairman of the Committee on the Judiciary, House of Representatives, from the Commissioner of Immigration and Naturalization with reference to H.R. 11574, a similar bill for the relief of the same alien introduced in the 93d Congress, reads as follows:

U.S. DEPARTMENT OF JUSTICE,
IMMIGRATION AND
NATURALIZATION SERVICE,
Washington, D.C., February 11, 1974.
A20 371 731.
HON. PETER W. RODINO, Jr.
Chairman, Committee on the Judiciary, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: In response to your request for a report relative to the bill (H.R. 11574) for the relief of Edward Drag, there is attached a memorandum of information concerning the beneficiary.

The bill provides that the sixteen-year-old adopted son of Mr. and Mrs. Zigmund Fronczak may be classified as a child and be granted immediate relative status. The bill further provides that other relatives of the beneficiary shall not, by virtue of such relationship be accorded any right, privilege, or status under the Immigration and Nationality Act.

Absent enactment of the bill, the beneficiary, a native of Poland, is chargeable to the nonpreference portion of the numerical limitation for immigrants and conditional entrants from countries in the Eastern Hemisphere.

Sincerely,
L. F. CHAPMAN, Jr.,
Commissioner.

Enclosure.

MEMORANDUM OF INFORMATION FROM IMMIGRATION AND NATURALIZATION SERVICE FILE RE H.R. 11574

The beneficiary, Edward Drag, who is also known as Edward Joseph Fronczak, a native and citizen of Poland, was born on March 20, 1957. He is single and resides with his adoptive parents in Perry, New York where he is a tenth grade student at Perry High School. The beneficiary has no assets and is supported by his adoptive parents. His natural parents are dead. His step-brother resides in Poland. The beneficiary was adopted by his uncle and aunt, Zigmund and Stella Fronczak on January 16, 1974 in the Family Court of Wyoming County, Warsaw, New York. A certified copy of the adoption order is attached.

The beneficiary does not qualify for immediate relative status as a child under Section 101(b)(1)(F) of the Immigration and Nationality Act because he has attained his 14th birthday.

The beneficiary lived in Poland until he was admitted to the United States at New York, New York on September 6, 1973 as a visitor to October 15, 1973. He received an extension of stay to January 30, 1974. Deportation proceedings have not been instituted.

Mr. Fronczak, a native and citizen of the United States, is employed as a baker at an annual wage of $8,000. Mrs. Fronczak, a native of Poland, was naturalized a United States citizen on December 5, 1956. She is employed as a machine operator at an annual wage of $5,000. Their assets consist of $25,000 in property, $13,500 in savings, $2,000 in furniture and two automobiles with a total value of $4,500. They have three sons ages, 13, 17, and 25.

The beneficiary intends to apply for a nonpreference immigrant visa at Toronto Ontario, Canada. The latest information indicates that numbers under this preference are not available at this time. It is his intention to establish a priority date for the purpose of applying for adjustment of status to that of a permanent resident when his date is reached on the visa availability list.

The committee, after consideration of all the facts in the case, is of the opinion that the bill (H.R. 7908) should be enacted.

CARMEN THOMAS

The bill (H.R. 8557) for the relief of Carmen Thomas, was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 94–1111), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE BILL

The purpose of the bill is to grant the status of an immediate relative to Carmen Thomas, to which status she would be entitled were it not for the death of her husband, a citizen of the United States.

STATEMENT OF FACTS

The beneficiary of the bill is a 25-year-old native and citizen of Guyana who currently resides in Houston, Texas with her four-year-old United States citizen daughter. The beneficiary married a United States citizen in Guyana on February 1, 1971. In March, 1974 he filed a petition to accord her immediate relative status; however, he died before the petition was adjudicated.

A letter, with attached memorandum, dated January 15, 1976 to the Chairman of the Committee on the Judiciary of the House of Representatives from the then Acting Commissioner of Immigration and Naturalization with reference to the bill reads as follows:

U.S. DEPARTMENT OF JUSTICE,
IMMIGRATION AND NATURALIZATION
SERVICE,
Washington, D.C., January 15, 1976.
A20288906.
HON. PETER W. RODINO, Jr.,
Chairman, Committee on the Judiciary, U.S. House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: In response to your request for a report relative to the bil (H.R. 8557) for the relief of Carmen Thomas, there is attached a memorandum of information concerning the beneficiary.

The bill provides that the beneficiary may be granted immediate relative status and waives the provisions of the Immigration and Nationality Act relating to the filing of a petition in her behalf.

Absent enactment of the bill, the beneficiary, a native of Guyana, is chargeable to the numerical limitation for immigrants from the Western Hemisphere. The beneficiary is statutorily ineligible to adjust her status while in the United States and will be required to apply for a visa outside of this country.

Sincerely,
JAMES F. GREENE,
Acting Commissioner.

Enclosure.

MEMORANDUM OF INFORMATION FROM IMMIGRATION AND NATURALIZATION SERVICE FILES RE H.R. 8557

The beneficiary, Carmen Thomas, a native and citizen of Guyana, was born on December 20, 1950. She graduated from junior high school and attended Carnegie School of Economics in her homeland. The beneficiary is a widow and resides in Houston, Texas with her four-year-old United States citizen daughter, Soyini. She is unemployed but receives $11,000 per year in benefits resulting from her husband's death. Her assets consist of $20,000 in bank savings.

The beneficiary married Johnnie Thomas, Jr., a United States citizen, in Guyana on February 1, 1971. In March 1974 he filed a petition to accord the beneficiary immediate relative status; however, before the petition was adjudicated, Mr. Thomas was injured on his job in Houston, Texas and died on September 26, 1974. As a result of her husband's death, the beneficiary is no longer eligible for classification as an immediate relative.

The beneficiary was admitted to the United States on October 18, 1974 as a nonimmigrant visitor for 90 days. Her application for extension of stay was denied and she was granted until February 22, 1975 to depart from the United States. This was extended to March 6, 1975. Deportation proceedings were instituted against the beneficiary on October 6, 1975 on the ground that she had remained in the United States for a longer time than permitted. At a hearing on November 11, 1975, she was found deportable as charged and was granted the privilege of voluntary departure with the alternative of deportation if she should fail to depart when required.

A report from the Department of State dated November 11, 1975 concerning this legislation reads as follows:

DEPARTMENT OF STATE,
Washington, D.C., November 11, 1975.
Hon. PETER W. RODINO, Jr.,
Chairman, Committee on the Judiciary, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: I refer to your request for a report concerning the case of Carmen Thomas, beneficiary of H.R. 8557, 94th Congress. There is enclosed a memorandum of information concerning the beneficiary. This memorandum has been submitted by the American Embassy at Georgetown where the beneficiary was issued a nonimmigrant visa.

The bill would grant immediate relative status within the meaning of section 201(b) and would waive the provisions of the Immigration and Nationality Act relating to the filing of a petition on her behalf.

Sincerely,
ROBERT J. MCCLOSKEY,
Assistant Secretary for Congressional Relations.

Enclosure:

Memorandum of information.

SUBMITTED BY THE AMERICAN EMBASSY AT GEORGETOWN, GUYANA

(Memorandum of Information—concerning H.R. 8557 for the relief of Carmen Thomas)

The beneficiary was born on December 20, 1950, at Georgetown, Guyana. She is a widow with one child, Soyini, born September 10, 1971, and is presently residing at 712½ Andrew Street, Houston, Texas 77019. The subject, who was formerly residing at 508 East Ruimveldt, Georgetown, Guyana, married Johnnie Thomas, Jr., an American citizen, on February 1, 1971.

In March 1974, Mr. Thomas filed a petition for classification of his wife as an immediate relative not subject to Western Hemisphere numerical limitations. While awaiting adjudication of the case, he was injured on the job at T. Smith & Company of Houston, Texas, and died on September 26, 1974.

As a result of his death, Mrs. Thomas is no longer eligible to benefit from immediate relative status. On October 2, 1974, she was granted a non-immigrant visa for the purpose of going to the United States to make funeral arrangements and attend to her husband's business affairs.

Mrs. Thomas received $100.96 a week in workmen's compensation. On her non-immigrant visa application, she described her profession as "seamstress". As a result of her husband's death, she is now subject to Section 212(a)(14) of the Immigration and Nationality Act. This requires prospective immigrants to obtain a job offer in the United States and a Labor Certification by the Department of Labor.

Congresswoman Barbara Jordan, the author of the bill, submitted the following supporting statement:

Congress of the United States,
House of Representatives,
Washington, D.C., January 30, 1976.
Hon. Joshua Eilberg,
Subcommittee on Immigration, Citizenship, and International Law, Committee on the Judiciary, U.S. House of Representatives, Washington, D.C.

Dear Mr. Chairman: I am pleased the Subcommittee has decided to favorably report to the full Committee my bill, H.R. 8557, for the relief of Carmen Thomas.

Mrs. Thomas, a native of Guyana, came to this country to attend the funeral of her husband, an American citizen. Her husband had previously filed application for classification of her as an immediate relative for immigration to the United States. But for the accidental death of her husband, her application would have been approved. Mrs. Thomas now resides in Houston, Texas. Without the favorable consideration of H.R. 8557, she can be deported at any time.

Mrs. Thomas is now receiving income as the result of a workman's compensation claim. The income supports herself and her American daughter. She has spent her money wisely, and, her attorney informs me, has even started a savings account. Especially in light of the tragic loss of her husband, her conduct has been exemplary.

Once again, I am pleased the Subcommittee has acted favorably on H.R. 8557, and I look forward to favorable consideration by the full Committee, the House of Representatives and the Senate.

Sincerely,

Barbara Jordan,
Member of Congress.

The committee, after consideration of all the facts in the case, is of the opinion that the bill (H.R. 8557) should be enacted.

EUGENE HOMSY PHILLIPS

The bill (H.R. 8695) for the relief of Eugene Homsy Phillips, was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the Record an excerpt from the report (No. 94–1112), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the Record, as follows:

PURPOSE OF THE BILL

The purpose of the bill is to facilitate the admission into the United States of the adopted son of citizens of the United States.

STATEMENT OF FACTS

The beneficiary of this bill is a 28-year-old native and citizen of Lebanon who was adopted in Florida in 1972 by citizens of the United States while he was in the United States as a student. The adoptive parents have no other children. The beneficiary returned to Lebanon after completing his studies in the United States and presently resides in France.

A letter, with attached memorandum, dated October 2, 1975 to the chairman of the Committee on the Judiciary, House of Representatives, from the Commissioner of Immigration and Naturalization with reference to the bill reads as follows:

U.S. Department of Justice,
Immigration and
Naturalization Service,
Washington, D.C., October 2, 1975.
A17–692–349.
Hon. Peter W. Rodino, Jr.,
Chairman, Committee on the Judiciary, House of Representatives, Washington, D.C.

Dear Mr. Chairman: In response to your request for a report relative to the bill (H.R. 8695) for relief of Eugene Homsy Phillips, there is attached a memorandum of information concerning the beneficiary.

The bill provides that the twenty-eight year old beneficiary, who is the adopted son of United States citizens, be held and considered to be their natural-born son. The bill further provides that the natural parents of the beneficiary shall not, by virtue of such parentage, be accorded any right, privilege or status under the Immigration and Nationality Act. The Committee may also wish to include the beneficiary's brother in this proviso.

Absent enactment of the bill, the beneficiary, a native of Lebanon, is chargeable to the nonpreference portion of the numerical limitation for immigrants and conditional entrants from countries in the Eastern Hemisphere.

Sincerely,

L. F. Chapman, Jr.,
Commissioner.

Enclosure.

MEMORANDUM OF INFORMATION FROM IMMIGRATION AND NATURAIZATION SERVICE FILES RE H.R. 8695

The beneficiary, Eugene Homsy Phillips, was born Eugene Joseph Homsy on July 17, 1947, in Beirut, Lebanon. His father, Joseph Homsy was born in Lebanon and resides there. His mother, Claire Chahine, was born in Lebanon and is deceased. He has one brother residing in Lebanon.

The beneficiary was admitted to the United States August 17, 1968 as a nonimmigrant student. He resided with Mr. and Mrs. J. W. Phillips in Miami, Florida; Mrs. Phillips is his father's cousin. On November 21, 1972 in the Circuit Court of the Eleventh Judicial Circuit, at Miami, Florida he was legally adopted by Mr. and Mrs. Phillips and given the name of Eugene Homsy Phillips. A copy of the adoption decree is attached.

The beneficiary received his bachelor's degree from the University of Miami in 1972 and a master's degree from the University of Georgia, in 1974. He is presently residing with his natural father in Beirut, Lebanon.

The interested parties, John W. and Olga Cowart Phillips, are citizens of the United States, born here on August 24, 1919 and November 22, 1916, respectively. They were married May 27, 1944 and no children were born to this union. Mr. Phillips has been employed as an engineer for the Florida Power and Light Company since 1952. His income is approximately $25,000 per year and he has assets of approximately $150,000 in real estate and personal property. Mrs. Phillips is not employed.

The committee, after consideration of all the facts in the case, is of the opinion that the bill (H.R. 8695) should be enacted.

MRS. KAZUKO SCILLION

The bill (H.R. 10076) for the relief of Mrs. Kazuko Scillion, was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the Record an excerpt from the report (No. 94–1113), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the Record, as follows:

PURPOSE OF THE BILL

The purpose of the bill is to grant the status of an immediate relative to Mrs. Kazuko Scillion, to which status she would have been entitled were it not for the death of her husband, a citizen of the United States.

STATEMENT OF FACTS

The beneficiary of the bill is a 34-year-old native and citizen of Japan. She was married in Okinawa on April 4, 1972 to a United States citizen serviceman who died in Okinawa on December 10, 1972. The beneficiary was admitted to the United States as a visitor and resides with her deceased husband's parents in California.

A letter, with attached memorandum, dated July 17, 1974, to the Chairman of the House Judiciary Committee from the Commissioner of Immigration and Naturalization refers to H.R. 13029, a similar bill introduced in the 93d Congress. The information reads as follows:

Department of Justice,
Immigration and
Naturalization Service,
Washington, D.C., July 17, 1974.
A–20543279.
Hon. Peter W. Rodino, Jr.,
Chairman, Committee on the Judiciary, House of Representatives, Washington, D.C.

Dear Mr. Chairman: In response to your request for a report relative to the bill (H.R. 13029) for the relief of Mrs. Kazuko Scillion, there is attached a memorandum of information concerning the beneficiary.

The beneficiary, a native of Japan, is chargeable to the nonpreference portion of the numerical limitation for immigrants and conditional entrants from countries in the Eastern Hemisphere.

Sincerely,

Enclosure.

L. F. Chapman, Jr.,
Commissioner.

MEMORANDUM OF INFORMATION FROM IMMIGRATION AND NATURALIZATION SERVICE FILES RE H.R. 13029

The beneficiary, Mrs. Kazuko Scillion, native and citizen of Japan, was born September 10, 1931, and is widowed. She has no children. Both parents are deceased. A sister and three brothers reside in Japan. She attended public school in her native country for six years. The beneficiary resides with her deceased husband's parents at Glendora, California. She is not employed. She has savings in excess of $30,000, and she receives $217 per month from a widow's military pension.

Her personal property is valued at $800.

On April 4, 1972, the beneficiary married

Terry Dean Scillion, a native-born citizen of the United States serving in the United States Armed Forces at Okinawa. He died from a noncombatant cause on December 10, 1972. She entered the United States with his body and to attend the funeral.

The beneficiary last entered the United States on September 4, 1973, as a temporary visitor. She was authorized to remain in this country until December 10, 1973. She came to the United States to live with her deceased husband's parents, at their request Deportation proceedings will be instituted against her on the ground that she has remained in the United States for a longer time than permitted.

OK JA CHOI

The bill (H.R. 11076) for the relief of Ok Ja Choi, was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 94–1114), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE BILL

The purpose of this bill is to facilitate the admission into the United States of the prospective adoptive child of citizens of the United States.

GENERAL INFORMATION

The beneficiary of this bill is a 1-year-old native and citizen of Korea who is coming to the United States for adoption by citizens of the United States who have completed the preadoption requirements in the state of Minnesota. The beneficiary is an abandoned child who is living with a foster family in Korea. The adoptive parents have no natural children but have two other adopted children.

The pertinent facts in this caes are contained in a letter dated March 23, 1976 from the Commissioner of Immigration and Naturalization to the Chairman of the Committee on the Judiciary. That letter and accompanying memorandum read as follows:

UNITED STATES DEPARTMENT OF JUSTICE, IMMIGRATION AND NATURALIZATION SERVICE,
Washington, D.C., March 23, 1976.
Hon. PETER W. RODINO, Jr.,
Chairman, Committee on the Judiciary, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: In response to your request for a report relative to the bill (H.R. 11076) for the relief of Ok Ja Choi, there is attached a memorandum of information concerning the beneficiary.

The bill would provide that the beneficiary, who is to be adopted by United States citizens, may be classified as a child and be granted immediate relative status. The bill further provides that the provision of the Immigration and Nationality Act which limits the number of petitions that may be approved for adopted children shall not be applicable in this case. The bill also provides that the natural parents or brothers or sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege or status under the Immigration and Nationality Act.

Absent enactment of the bill, the beneficiary, a native of Korea, would be chargeable to the nonpreference portion of the numerical limitation for immigrants and conditional entrants from countries in the Eastern Hemisphere.

Sincerely,
LEONARD F. CHAPMAN, Jr.,
Commissioner.

Enclosure.

MEMORANDUM OF INFORMATION FROM IMMIGRATION AND NATURALIZATION SERVICE FILES RE H.R. 11076

Information concerning the case was obtained from Mr. and Mrs. Robert Ochs, the prospective adoptive parents of the beneficiary.

The beneficiary, Ok Ja Choi, was born on or about May 1, 1975 in Korea. Her parents are unknown. She was found abandoned and is presently in the custody of the Social Welfare Society, Inc., Seoul, Korea. Her name and date of birth were assigned by that agency, Catholic Social Service, St. Paul, Minnesota, is the agency which has been involved in placing the benficiary. Their information, obtained through the agency in Korea, indicates that the beneficiary is presently living with a foster family in Taegoo, Korea, until such time as adoption arrangements can be completed.

Robert and Barbara Ochs, who are natives and citizens of the United States, were born on December 14, 1930 and November 18, 1945, respectively. They were married on April 18, 1969 and presently reside in White Bear Lake, Minnesota. Mr. Ochs is the manager of the Harry R. Ochs insurance agency of St. Paul, Minnesota and earns more than $30,000 per annum. Mrs. Ochs is a housewife. They own a home valued at $45,000 with a mortgage of $21,000 and have personal property valued at $4,000 and two automobiles valued at $3,000.

Mr. and Mrs. Ochs are physically able to have children but prefer to adopt. They have filed two previous petitions, approved in 1970 and 1972, to accord their adopted daughter Tcho Yeong Hi (Lisa), and adopted son, Pak Il Nam (Tom), immediate relative status for the issuance of immigrant visas.

A report from the Department of State, dated February 27, 1976, on this legislation reads as follows:

BUDGETARY INFORMATION

This legislation does not provide new budget authority and no estimate or comparison has been received from the Director of the Congressional Budget Office.

OVERSIGHT STATEMENT

The Committee exercises general oversight jurisdiction with respect to all immigration and nationality matters but no specific oversight is contemplated in this instance.

COMMITTEE RECOMMENDATION

Upon consideration of all the facts in this case, the Committee is of the opinion that H.R. 11076 should be enacted and accordingly recommends that the bill do pass.

DIVINA MAMUAD

The Senate proceeded to consider the bill (H.R. 5503) for the relief of Divina Mamuad, which had been reported from the Committee on the Judiciary with an amendment on page 1, in line 8, strike out "(b)".

The amendment was agreed to.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91–1115), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE BILL

The purpose of the bill, as amended, is to facilitate the admission into the United States of the adopted child of citizens of the United States. The bill has been amended in accordance with established precedents.

GENERAL INFORMATION

The beneficiary of this bill is an 8-year-old native and citizen of the Philippines who resides there with her natural parents. She is coming to the United States to reside with her aunt and uncle, United States citizens who adopted her on February 5, 1973.

The pertinent facts in this case are contained in a letter dated March 1, 1976 from the Commissioner of Immigration and Naturalization to the Chairman of the Committee on the Judiciary. That letter and accompanying memorandum read as follows:

U.S. DEPARTMENT OF JUSTICE, IMMIGRATION AND NATURALIZATION SERVICE,
Washington, D.C., March 1, 1976.
Hon. PETER W. RODINO, Jr.,
Chairman, Committee on the Judiciary, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: In response to your request for a report relative to the bill (H.R. 5503) for the relief of Divina Mamuad, there is attached a memorandum of information concerning the beneficiary.

The bill would provide for the beneficiary's classification as an adopted child and for granting of immediate relative status upon approval of a petition filed by Mr. and Mrs. Victor Mamuad, United States citizens. It would also provide that no natural parent of such adopted child shall thereafter, by virtue of such parentage, be accorded any right, privilege, or status under the Immigration and Nationality Act.

Absent enactment of the bill, the beneficiary, a native of the Philippines would be chargeable to the nonpreference portion of the numerical limitation for immigrants and conditional entrants from countries in the Eastern Hemisphere.

Sincerely,
LEONARD F. CHAPMAN,
Commissioner.

Enclosure.

MEMORANDUM OF INFORMATION FROM IMMIGRATION AND NATURALIZATION SERVICE FILES RE H.R. 5503

Information concerning the case was obtained from Naty Mamuad, the beneficiary's adoptive mother.

The beneficiary, Divina Mamuad, is a native and citizen of the Philippines, who was born on December 20, 1967. She has resided since birth at Laoag City, Philippines, where she attends the second grade at Holy Ghost Academy. She lives with her natural parents, Maurico and Manuela Bungcayao.

The beneficiary was adopted by Victor and Naty Mamuad in the City Court of Loag City, Philippines on February 5, 1973. Mrs. Mamuad, the beneficiary's aunt, had custody of the beneficiary from March 1968 until May 1969. Mr. and Mrs. Mamuad returned to the Philippines on January 26, 1973 to adopt the beneficiary and had custody of the beneficiary until March 11, 1973. They stated that they adopted the beneficiary because they cannot have children of their own.

Mr. and Mrs. Mamuad are both naturalized United States citizens who were born in the Philippines on October 17, 1908 and November 12, 1940, respectively. They were married on July 4, 1970 in Hawaii. Mrs. Mamuad is a housewife. Mr. Mamaud is retired and receives a pension of $334 a month from the City and County of Honolulu plus $274 a month in Social Security payments. They have $5,500 in savings.

A report from the Department of State, dated November 25, 1975, reads as follows:

DEPARTMENT OF STATE,
Washington, D.C., November 25, 1975.

Hon. PETER W. RODINO, Jr.,
Chairman, Committee on the Judiciary, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: In reference to your request for a report concerning the case of Divina Mamaud, beneficiary of H.R. 5503, 94th Congress, there is enclosed a memorandum of information concerning the beneficiary. This memorandum has been submitted by the American Embassy at Manila, Philippines where the beneficiary resides.

The bill would provide for the beneficiary's classification as an adopted child and for granting of immediate relative status upon approval of a petition filed by Mr. and Mrs. Victor Mamaud, American citizens. It would also provide that no natural parent of such adopted child shall thereafter, by virtue of such parentage, be accorded any right, privilege or status under the Immigration and Nationality Act.

Sincerely,

ROBERT J. MCCLOSKEY,
Assistant Secretary for Congressional Relations.

Enclosure.

Submitted by the American Embassy, Manila, Philippines.

MEMORANDUM OF INFORMATION CONCERNING H.R. 5503, 94TH CONGRESS, FOR THE RELIEF OF DIVINA MAMUAD

The beneficiary, born Divina Bongcayao on December 20, 1967, at Laoag City, was legally adopted by Mr. and Mrs. Victor Mamuad on March 5, 1973. Mrs. Mamuad is the sister of the beneficiary's father.

Divina presently resides with the natural parents and three siblings and is a grade 2 student at the Holy Spirit Academy in Laoag City. In addition to her adoptive parents, she has a grandmother and an aunt also residing in the United States.

The beneficiary is chargeable to the oversubscribed Philippine nonpreference category. However, she is not registered as an intending immigrant. She could qualify as the child of Mr. and Mrs. Mamuad only if the two-year residence requirement of section 101(b)(1)(E) of the Act had been met.

A medical examination has revealed no ground for ineligibility.

Enclosure: Copy of Adoption Decree.

BUDGETARY INFORMATION

This legislation does not provide new budget authority and no estimate or comparison has been received from the Director of the Congressional Budget Office.

OVERSIGHT STATEMENT

The Committee exercises general oversight jurisdiction with respect to all immigration and nationality matters but no specific oversight is contemplated in this instance.

COMMITTEE RECOMMENDATIONS

Upon consideration of all the facts in this case, the Committee is of the opinion that H.R. 5503 should be enacted and accordingly recommends that the bill do pass.

MRS. JEANETTE FLORES BYRNE

The Senate proceeded to consider the bill (H.R. 7832) for the relief of Mrs. Jeanette Flores Byrne, which had been reported from the Committee on the Judiciary with an amendment on page 1, in line 4, strike out "Mrs. Jeanette Flores Byrne" and insert "Mrs. Janette Flores Byrne".

The amendment was agreed to.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

The title was amended so as to read: "A bill for the relief of Mrs. Janette Flores Byrne".

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91–1116), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE BILL

The purpose of the bill, as amended, is to grant the status of an immediate relative to Mrs. Janette Flores Byrne, to which status she would have been entitled were it not for the death of her husband, a citizen of the United States. The bill has been amended to correct an error in the spelling of the beneficiary's name.

STATEMENT OF FACTS

The beneficiary of the bill is a 26-year-old native and citizen of Brazil who currently resides in Santa Monica, California. She entered the U.S. on February 8, 1972 as a visitor and on June 29, 1974 she married a United States citizen. A petition to accord the beneficiary immediate relative status was filed by her husband on August 27, 1974. It was returned on February 1, 1975 for proper documentation and had not been resubmitted at the time of the beneficiary's husband's death on May 30, 1975.

A letter, with attached memorandum, to the Chairman of the Committee on the Judiciary of the House of Representatives from the Commissioner of Immigration and Naturalization dated August 19, 1975 reads as follows:

U.S. DEPARTMENT OF JUSTICE,
IMMIGRATION AND
NATURALIZATION SERVICE,
Washington, D.C., August 19, 1975.

A-20-705-320.

Hon. PETER W. RODINO, Jr.,
Chairman, Committee on the Judiciary, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: In response to your request for a report relative to the bill (H.R. 7832) for the relief of Mrs. Jeanette Flores Byrne, there is attached a memorandum of information concerning the beneficiary.

The bill would provide that the beneficiary may be granted immediate relative status without the requirement that a petition according such status be approved on her behalf.

Absent enactment of the bill, the beneficiary, a native of Brazil, would be chargeable to the numerical limitation for immigrants from the Western Hemisphere. However, she is statutorily ineligible to adjust her status while in the United States and will be required to apply for a visa outside of this country.

Sincerely,

L. F. CHAPMAN, Jr.,
Commissioner.

Enclosure.

MEMORANDUM OF INFORMATION FROM IMMIGRATION AND NATURALIZATION SERVICE FILES RE H.R. 7832

The beneficiary, whose name is spelled Janette Flores Byrne, a native and citizen of Brazil, was born on January 2, 1948. She is widowed and resides with her sister in Santa Monica, California. She is employed as a file clerk in Los Angeles, California, receiving a salary of $625 a month.

Mrs. Byrne has no one in the United States dependent upon her for support. Her parents reside in Brazil. Her two sisters reside in the United States, one as a lawful permanent resident alien and the other as a nonimmigrant student. She attended public school in her native country for a period of fourteen years. Prior to her arrival in the United States she was employed as a teacher of retarded children for four years.

The beneficiary entered the United States on February 8, 1972, as a nonimmigrant visitor. On June 29, 1974, the beneficiary married a native United States citizen. A petition to accord the beneficiary immediate relative status was filed by her husband on August 27, 1974. The petition was returned on February 1, 1975, for proper documentation; however, it was not resubmitted as the beneficiary's husband died on May 30, 1975.

Deportation proceedings were instituted against the beneficiary on the ground that she remained in the United States for a longer time than authorized. After a hearing the beneficiary was found to be deportable and was granted the privilege of voluntary departure with the alternative of deportation if she should fail to depart when required.

A report submitted by the Department of State dated November 25, 1975 reads as follows:

DEPARTMENT OF STATE,
Washington, D.C., November 25, 1975.

Hon. PETER W. RODINO, Jr.,
Chairman, Committee on the Judiciary, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: In reference to your request for a report concerning the case of Jeanette Flores Byrne, beneficiary of H.R. 7832, 94th Congress, there is enclosed a memorandum of information concerning the beneficiary. This memorandum has been submitted by the American Consulate General at Rio de Janeiro, Brazil, where the beneficiary presumably was issued a nonimmigrant visa.

The bill would classify the beneficiary as an immediate relative and would waive the provisions of the Immigration and Nationality Act relating to the filing of a petition on the beneficiary's behalf.

Sincerely,

ROBERT J. MCCLOSKEY,
Assistant Secretary for Congressional Relations.

Enclosure: Memorandum of information.

MEMORANDUM OF INFORMATION CONCERNING H.R. 7832 FOR THE RELIEF OF MRS. JEANETTE FLORES BYRNE

(Submitted by the American Consulate General at Rio de Janeiro, Brazil)

The beneficiary was born at Vitoria da Conquista, Bahia, Brazil on January 2, 1948. She entered the United States as a visitor at Los Angeles, California in February of 1972. She married Mr. Joseph M. Byrne, an American citizen, on June 29, 1974. Mr. Byrne filed an immediate relative petition on behalf of beneficiary in July of 1974, but prior to that petition's being acted upon, Mr. Byrne died.

No record exists in the Consulate General's files of beneficiary's visa application of February, 1972.

The beneficiary is chargeable to the Western Hemisphere numerical limitation.

The Consulate General's investigation revealed no information which would render the beneficiary ineligible to receive a visa.

The committee, after consideration of all the facts in the case, is of the opinion that the bill, (H.R. 7832), as amended, should be enacted.

CARLOS MONTENEGRO GORBITZ, ET AL

The Senate proceeded to consider the bill (H.R. 10434) for the relief of Carlos Montenegro Gorbitz, doctor of medicine, Mrs. Gorbitz, and their 2-year-old son, which had been reported from the Committee on the Judiciary with an amendment to strike out all after the enacting clause and insert:

"That, for the purposes of the Immigration and Nationality Act and section 21(e) of the Act of October 3, 1965, Dr. Carlos Montenegro-Gorbitz, his wife, Maria Elena Olguin de Gorbitz, and their son, Carlos Gorbitz-Olguin shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act upon payment of the required visa fees. Upon the granting of permanent residence to such alien as provided for in this Act, the Secretary of State shall instruct the proper officer to reduce by the required numbers, during the current fiscal year or the fiscal year next following, the total number of immigrant visas which are made available to special immigrants as defined in section 101(a)(27)(A) of the Immigration and Nationality Act."

The amendments were agreed to.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

The title was amended so as to read:

"An Act for the relief of Doctor Carlos Montenegro-Gorbitz, his wife, Maria Elena Oguin de Gorbitz, and their son Carlos Gorbitz-Olguin.".

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 94-1117), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE BILL

The purpose of this bill is to grant the status of permanent residence in the United States to Dr. Carlos Montenegro-Gorbitz, his wife, and their minor child. The bill also provides for the payment of the required visa fees and for deduction of three numbers from the numerical ceiling on Western Hemisphere immigration.

GENERAL INFORMATION

The beneficiaries were admitted to the United States on temporary visas and the principal beneficiary is a neurosurgeon who is employed by Jo Ellen Smith Memorial Hospital in New Orleans, Louisiana, but cannot be licensed to practice in that state until he is a permanent resident of the United States and has made a declaration of intention to become a United States citizen.

Certain pertinent facts in this case are contained in a letter dated February 9, 1976 from the Commissioner of Immigration and Naturalization to the Chairman of the Committee on the Judiciary. That letter and accompanying memorandum read as follows:

U.S. DEPARTMENT OF JUSTICE, IMMIGRATION AND NATURALIZATION SERVICE,
Washington, D.C., February 9, 1976.

Hon. PETER W. RODINO, Jr.,
Chairman, Committee on the Judiciary, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: In response to your request for a report relative to the bill (H.R. 10434) for the relief of Carlos Montenegro-Gorbitz. Mrs. Gorbitz and their two-year-old son, there is attached a memorandum of information concerning the beneficiaries.

The bill would grant the beneficiaries permanent residence in the United States as of the date of its enactment upon payment of the required visa fees. It would also direct that a deduction of three visa numbers be made.

The beneficiaries, all natives and citizens of Peru, are chargeable to the numerical limitation for immigrants from the Western Hemisphere. They are statutorily ineligible to adjust their status in the United States and will be required to apply for visa outside of this country.

Sincerely,

L. F. CHAPMAN, Jr.,
Commissioner.

Enclosure.

MEMORANDUM OF INFORMATION FROM IMMIGRATION AND NATURALIZATION SERVICE FILES RE H.R. 10434

The beneficiaries are all natives and citizens of Peru. Carlos Rodrigo Gorbitz-Montenegro, also known as Carlos Montenegro-Gorbitz, was born December 18, 1939. His wife, Maria Elena Olguin de Gorbitz, was born on October 4, 1945. Their son, Carlos Gorbitz-Olguin, was born February 20, 1973. Dr. Gorbitz-Montenegro received a medical degree in Brazil in 1962. He completed his internship and residence in neurological surgery in the United States and was certified by the American Board of Neurological Surgery in 1971. He is employed as a neurosurgeon by the Jo Ellen Smith Memorial Hospital, New Orleans, Louisiana at a salary of $2,000 a month. He resides with his wife and child in New Orleans. They have assets of approximately $4,000. His brother and two sisters reside in Peru.

Dr. Gorbitz-Montenegro first arrived in the United States on June 20, 1965 and was admitted as a nonimmigrant exchange visitor for training in the field of medicine. At this time he was granted temporary extensions of stay until October 31, 1971. He returned to Peru in 1971 and practiced medicine there until his last admission into the United States on January 11, 1976 as a nonimmigrant temporary worker. His wife and child accompanied him and were admitted as the nonimmigrant spouse and child of a temporary worker.

The interested party, Dr. Carl F. Culicchia, is a native-born United States citizen. He is married and has five children. His income is in excess of $100,000 yearly and he has assets valued in excess of $250,000. He operates a neurological computer consulting service for eleven community hospitals which will be expanded to thirty hospitals. Dr. Culicchia has attempted to locate another doctor throughout the United States who is qualified to assist him in this consulting service but cannot.

A report from the Department of State on this legislation reads as follows:

DEPARTMENT OF STATE,
Washington, D.C., March 19, 1976.

Hon. PETER W. RODINO, Jr.,
Chairman, Committee on the Judiciary, House of Representatives.

DEAR MR. CHAIRMAN: I refer to your request for a report concerning the cases of Dr. Carlos Montenegro Gorbitz, doctor of medicine, Mrs. Gorbitz and their two-year-old son, beneficiaries of H.R. 10434, 94th Congress.

The bill would grant the beneficiaries permanent residence in the United States as of the date of enactment upon payment of the required visa fees. It also provides for the deduction of three numbers from the total number of immigrants and conditional entrants who may be admitted from the beneficiaries' country of birth.

The American Embassy at Lima, where visas were issued to the beneficiaries, has reported that the beneficiary, Dr. Carlos Montenegro Gorbitz, was born in Peru on December 18, 1939, is married and has a minor son.

On November 22, 1974 the beneficiary submitted an application as well as evidence of his qualifications as a doctor of medicine to the Embassy. The beneficiary has a priority date under the Western Hemisphere numerical limitation. Presently, immigrant visas are being issued to natives of the Western Hemisphere with priority dates earlier than November 15, 1973.

The Embassy's investigation has revealed no information which would render Dr. Gorbitz or his immediate family ineligible to receive a visa.

Sincerely yours,

ROBERT J. MCCLOSKEY,
Assistant Secretary for Congressional Relations.

BUDGETARY INFORMATION

This legislation does not provide new budget authority and no estimate or comparison has been received from the Director of the Congressional Budget Office.

OVERSIGHT STATEMENT

The Committee exercises general oversight jurisdiction with respect to all immigration and nationality matters but no specific oversight is contemplated in this instance.

COMMITTEE RECOMMENDATIONS

Upon consideration of all the facts in this case, the Committee is of the opinion that H.R. 10434 should be enacted and accordingly recommends that the bill do pass.

MRS. AFAF KANAFANI YASSINE, ET AL.

The Senate proceeded to consider the bill (H.R. 10793) for the relief of Mrs. Afaf Kanafani Yassine, Najla Yassine, Walid Yassine, Mona Yassine, and Maher Yassine, which had been reported from the Committee on the Judiciary with an amendment on page 1, to strike out all after the enacting clause and insert:

"That, for the purposes of the Immigration and Nationality Act, notwithstanding the death of Farouk Yassine on October 27, 1975, in Beirut, Lebanon, the beneficiary of a petition filed on behalf of himself and his family by his brother, Zouhair C. Yassine, a citizen of the United States, and approved on June 6, 1974, Afaf Yassine, the spouse of Farouk Yassine, and their children, Najla Yassine, Walid Yassine, Mona Yassine, and Maher Yassine shall if otherwise eligible be entitled to fifth preference status under section 203(a)(9) of such Act as of June 6, 1974.

"SEC. 2. For the purposes of his bill, Najla Yassine and Walid Yassine shall be considered under twenty-one years of age."

The amendment was agreed to.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

The title was amended so as to read:

A bill for the relief of Afaf Yassine and her children, Najla Yassine, Walid Yassine, Mona Yassine, and Maher Yassine.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 94-1118), explaining the purposes of the measure.

There being no objection, the excerpt

was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE BILL

The purpose of the bill, as amended, is to restore fifth preference status in behalf of Afaf Yassine and her children, Najla Yassine, Walid Yassine, Mona Yassine, and Maher Yassine. The purpose of the amendments is to clarify the language of the bill and to preserve the eligibility of Najla and Walid Yassine for fifth preference status since they will be over twenty-one years of age when they apply for immigrant visas.

STATEMENT OF FACTS

The beneficiaries of the bill are natives and citizens of Lebanon, a mother and her four children ages 40, 22, 21, 15, and 11, respectively. Mrs. Yassine is a widow; her husband, who was killed in Lebanon, was the beneficiary of a fifth preference visa petition filed on his behalf by his brother, a U.S. citizen. Mr. Yassine was killed before he and his family could apply for immigrant visas.

A letter, with attached memorandum, dated January 26, 1976 to the Chairman of the House Judiciary Committee from the Commissioner of Immigration and Naturalization with reference to the bill reads as follows:

U.S. DEPARTMENT OF JUSTICE,
IMMIGRATION AND
NATURALIZATION SERVICE,
OFFICE OF THE COMMISSIONER,
Washington, D.C., January 26, 1976.

Hon. PETER W. RODINO, Jr.,
Chairman, Committee on the Judiciary, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: In response to your request for a report relative to the bill (H.R. 10793) for the relief of Mrs. Afaf Kanafani Yassine, Najla Yassine, Walid Yassine, Mona Yassine, and Maher Yassine, there is attached a memorandum of information concerning the beneficiaries.

The bill would provide the beneficiaries a priority date of June 6, 1974 under the fifth preference classification for the issuance of immigrant visas to natives of Lebanon.

Absent enactment of the bill, the beneficiaries, natives of Lebanon, would be chargeable to the nonpreference portion of the numerical limitation for immigrants from countries in the Eastern Hemisphere.

Sincerely,

L. F. CHAPMAN, Jr.,
Commissioner.

Enclosure.

MEMORANDUM OF INFORMATION FROM IMMIGRATION AND NATURALIZATION SERVICE FILES RE H.R. 10793

Information concerning this case was obtained from Mr. Zouhair Yassine, the interested party, who is the brother-in-law of Mrs. Afaf Kanafani Yassine, one of the beneficiaries of the bill.

Mrs. Afaf Kanafani Yassine, a native and citizen of Lebanon was born on July 1, 1935. She is widowed and resides in Lebanon with her children. Her parents are deceased. She has three adult brothers and one adult sister residing in Lebanon. Mrs. Yassine, who attended grade and high school in Lebanon, has no skills and is not employed. Her husband, Farouk Yassine, was the beneficiary of a fifth preference visa petition filed in his behalf by his brother, Zouhair, which was approved on July 23, 1974. Farouk Yassine was killed in Lebanon in October 1975 before he and his family could apply for immigrant visas. The children, Najla, Walid, Mona, and Maher were born in Beirut on March 8, 1954, April 10, 1955, June 26, 1960, and June 23, 1964, respectively. Najla Yassine attended grade and middle school in Lebanon and completed high school in Ohio. She completed one year of college in Ohio and is presently attending college in Beirut. Walid Yassine completed grade and high school in Lebanon, one year of college in Ohio, and was taking a premedical course at American University in Beirut prior to the closing of that institute. Mona and Maher Yassine are attending high school in Lebanon. Definite information about the assets of the Yassine family is not available since the estate is still in litigation.

The interested party, Zouhair Yassine, a native of Lebanon and a naturalized citizen of the United States, was born on May 8, 1928. He is married and resides in Akron, Ohio with his wife and daughter. He received a medical degree in 1951 in Lebanon and is self-employed as an orthopedic surgeon in Akron earning $100,000 annually. His assets consist of a $50,000 equity in a home, savings accounts and mutual funds amounting to $50,000, and personal property valued at $65,000. He has no other relatives.

A report from the Department of State dated February 11, 1976 reads as follows:

DEPARTMENT OF STATE,
Washington, D.C., Februray 11, 1976.

Hon. PETER W. RODINO,
Chairman, Committee on the Judiciary, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: In reference to your request for a report concerning the cases of Mrs. Afaf Yassine, Najla Yassine, Walid Yassine, Mona Yassine and Maher Yassine, beneficiaries of H.R. 10793, 94th Congress, there is enclosed a memorandum of information concerning the beneficiaries. This memorandum has been submitted by the American Embassy at Beirut in whose consular jurisdiction the beneficaries reside.

The bill would grant the beneficiaries a priority date as of June 6, 1974, and entitle them to fifth preference foreign state limitation for Lebanon.

In view of the fact that Najla Yassine is over the age of 21 years and Walid will soon be 21 years of age, the Committee may wish to amend the bill to permit them to accompany their mother under the provisions of section 203(a)(9).

Sincerely,

ROBERT J. MCCLOSKEY,
Assistant Secretary,
for Congressional Relations.

Enclosure.

SUBMITTED BY THE AMERICAN EMBASSY AT BEIRUT, LEBANON

MEMORANDUM OF INFORMATION CONCERNING H.R. 10793, FOR THE RELIEF OF MRS. AFAF KANAFANI YASSINE, NAJLA YASSINE, WALID YASSINE, MONA YASSINE, AND MAHER YASSINE

Mrs. Afaf Yassine, nee Kanafani was born on July 1, 1935 at Beirut, Lebanon. She is a widow and presently residing at Beirut with her four children. Mrs. Yassine has two daughters, Najla Yassine, born March 10, 1954 and Mona Yassine, born June 20, 1960 and two sons, Walid Yassine, born April 8, 1955, and Maher Yassine, born June 23, 1964. The children are all single and were born in Lebanon.

Najla Yassine is presently a student. She attended high school in Akron, Ohio from 1968 until 1971 and subsequently returned to Lebanon for further studies. From September 1973 to January 1974 she attended the University of Akron, Ohio and most recently has been enrolled at the Beirut University College in Beirut, Lebanon. Mona Yassine is a high school student in Beirut. Walid Yassine attended the American University of Beirut from 1972 until 1974 and since 1974 has been employed by Middle East Airlines as a pilot. Maher Yassine is a grade school student in Beirut.

Mrs. Yassine's late husband, Mr. Farouk Yassine, died in Beirut in October 1975. At the time of his death, Mr. Yassine was the beneficiary of a fifth preference petition filed by his United States citizen brother. However, because of his death Mr. Yassine's wife and children were automatically deprived of their derivative status as fifth preference immigrants.

The beneficiaries are chargeable to the foreign state limitation for Lebanon.

The Embassy's investigation has revealed no derogatory information concerning the beneficiaries.

The committee, after consideration of all the facts in the case, is of the opinion that the bill, H.R. 10793, as amended, should be enacted.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Heiting, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the Committee on the Judiciary.

(The nominations received today are printed at the end of the Senate proceedings.)

APPROVAL OF BILL

A message from the President of the United States announced that on August 4, 1976, he approved and signed the bill (S. 2054) to amend sections 203 and 204 of the Communications Act of 1934.

MESSAGES FROM THE HOUSE

At 2:15 p.m., a message from the House of Representatives delivered by Mr. Hackney, one of its clerks, announced that the House has passed the following bill in which it requests the concurrence of the Senate:

H.R. 8401. An act to authorize cooperative arrangements with private enterprise for the provision of facilities for the production and enrichment of uranium enriched in the isotope-235, to provide for authorization of contract authority therefor, to provide a procedure for prior congressional review and approval of proposed arrangements, and for other purposes.

ENROLLED BILL SIGNED

At 5:25 p.m., a message from the House of Representatives delivered by Mr. Hackney announced that the Speaker has signed the following enrolled bill:

H.R. 14234. An act making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1977, and for other purposes.

The enrolled bill was subsequently signed by the President pro tempore.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The PRESIDING OFFICER laid before the Senate the following letters, which were referred as indicated:

AMENDMENT TO PROPOSED DISCLOSURE REGULATION

A letter from the Chairman of the Federal Election Commission transmitting an amendment to its proposed Disclosure Regulation, with explanation and justification therefor (with accompanying papers); to the Committee on Rules and Administration.

Proposed Legislation of the Environmental Protection Agency

A letter from the Administrator of the Environmental Protection Agency transmitting a draft of proposed legislation to amend the Federal Water Pollution Control Act (with accompanying papers); to the Committee on Public Works.

Report of the National Aeronautics and Space Administration

A letter from the Administrator of the National Aeronautics and Space Administration transmitting, pursuant to law, a report relating to waiving of examination of books and records of a foreign contractor (with an accompanying report); to the Committee on Armed Services.

Reports of the Comptroller General

Three letters from the Comptroller General each transmitting pursuant to law, a report entitled as follows: (1) "Tighter Controls Needed Over Payments for Laboratory Services Under Medicare and Medicaid"; (2) "Problems with the Financial Disclosure System"; (3) "Hazardous Working Conditions in Seven Federal Agencies" (with accompanying reports); to the Committee on Government Operations.

Orders of the Immigration and Naturalization Service

Three letters from the Commissioner of the Immigration and Naturalization Service transmitting, pursuant to law, copies of orders entered and list of the persons involved, and 392 reports concerning visa petitions (with accompanying papers); to the Committee on the Judiciary.

PETITIONS

The PRESIDING OFFICER laid before the Senate the following petitions which were referred as indicated:

House Concurrent Resolution No. 124 adopted by the Legislature of the State of Louisiana; to the Committee on Government Operations:

"House Concurrent Resolution No. 124

"A concurrent resolution to memorialize Congress to enact legislation which would prohibit federal regulatory agencies from promulgating, issuing, and enforcing any regulation which would have the effect of preempting and voiding any state law or local law enacted under authority of state law

"Whereas, the members of the legislature of the state of Louisiana are the duly elected representatives of the citizenry of this state and in their official representative capacity have exercised and given effect to the basic tenet of our democratic form of representative government that provides "government by the governed"; and

"Whereas, in the furtherance of the duties of their elected offices the members of this honorable body have to the best of their ability and belief complied with the expressed wishes and mandates of the people of this state with respect to the enactment of that body of statutory law which structures and orders our free society; and

"Whereas, in certain instances subsequent to the enactment of such state laws and authorizations governing local options and elections there issues forth from the appointive personnel of the federal bureaucracy regulations which purport to govern the selfsame situation and under the present jurisprudence does indeed preempt and render null and void state and local laws; and

"Whereas, such regulations are promulgated and issued by federal regulatory agencies domiciled in the District of Columbia or elsewhere than the state of Louisiana whose personnel are by singularly unfamiliar with the diverse problems and needs of the people of the state of Louisiana; and

"Whereas, the state and local laws supplanted by such ill conceived regulations are the end result of a democratic process which provides that the will of the people will be heard through, inter alia, the publication of notices, public hearings, legislative committee hearings and floor debates, and ultimately the recorded vote of an elected representative.

"Therefore, be it resolved by the House of Representatives of the Legislature of the state of Louisiana, the Senate thereof concurring, that the Congress of the United States, and in particular the Louisiana delegation thereto, is hereby memorialized to support the enactment of any legislation which would operate to prohibit the promulgation and issuance of regulations by a federal regulatory agency having the effect of preempting and rendering null and void any state law or local law enacted under the authority of state law.

"Be it further resolved that a copy of this Resolution upon its adoption shall be transmitted to the Louisiana delegation in Congress and to the clerk of the House of Representatives and the secretary of the Senate of the Congress of the United States."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. RIBICOFF, from the Committee on Government Operations, without amendment:

S. Res. 510. An original resolution authorizing supplemental expenditures by the Committee on Government Operations (for an inquiry and investigation relating to section 8) (for inquiries and investigations). Referred to the Committee on Rules and Administration.

By Mr. MOSS, from the Committee on Commerce, without amendment:

H.J. Res. 738. A joint resolution providing for Federal participation in preserving the Tule elk population in California (Rept. No. 94–1120).

By Mr. THURMOND, from the Committee on the Judiciary, without amendment:

H.R. 7896. An act to amend sections 2734a (a) and 2734b(a) of title 10, United States Code, to provide for settlement, under international agreements, of certain claims incident to the noncombatant activities of the Armed Forces, and for other purposes (Rept. No. 94–1121).

By Mr. JACKSON, from the Committee on Interior and Insular Affairs, with amendments:

S. 3283. A bill to authorize the Secretary of the Interior to construct, operate, and maintain the Oroville-Tonasket unit extension, Okanogan-Similkameen division, Chief Joseph Dam project, Washington, and for other purposes (Rept. No. 94–1122).

By Mr. HARRY F. BYRD, JR., from the Committee on Armed Services:

S. 3734. An original bill to approve the sale of certain naval vessels, and for other purposes (Rept. No. 94–1123).

By Mr. CANNON, from the Committee on Rules and Administration, without amendment:

S. Res. 404. A resolution to reimburse contestants for the Senate seat from Oklahoma for expenses incurred that were not reimbursed from other sources (Rept. No. 94–1124).

By Mr. HRUSKA, from the Committee on the Judiciary, without amendment:

H.R. 9965. An act for the relief of Boulder Daily Camera, Boulder, Colo. (Rept. No. 94–1127);

H.R. 1402. An act for the relief of John W. Hollis (Rept. No. 94–1125); and

H.R. 9414. An act for the relief of TV Facts, Rochester, N.Y. (Rept. No. 94–1126).

EXECUTIVE REPORTS OF COMMITTEES

As in executive session, the following executive reports of committees were submitted:

By Mr. STENNIS, from the Committee on Armed Services:

Fred P. Wacker, of Virginia, to be an Assistant Secretary of Defense.

Juanita Ashcraft, of California, to be an Assistant Secretary of the Air Force.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. SYMINGTON, from the Committee on Armed Services:

M. Alan Woods, of Missouri, to be an Assistant Secretary of Defense.

(The above nomination was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. TAFT, from the Committee on Armed Services:

Robert Nelson Smith, of Ohio, to be an Assistant Secretary of Defense.

(The above nomination was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. STENNIS, from the Committee on Armed Services:

Gen. Bernard William Rogers, [redacted], Army of the United States (major general, U.S. Army), for appointment as Chief of Staff, U.S. Army, under the provisions of title 10, United States Code, section 3034.

Mr. STENNIS. As in executive session, Mr. President, from the Committee on Armed Services, I report favorably the nominations of Rear Adm. Thomas J. Bigley, U.S. Navy, for appointment to the grade of vice admiral; and 20 in the Army for promotion to the grade of brigadier general (list beginning with David E. Grange); and Gen. Frederick C. Weyand, U.S. Army, to be placed on the retired list in the grade of general. I ask that these nominations be placed on the Executive Calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STENNIS. In addition, there are 582 in the Army for promotion to the grade of colonel (list beginning with Floyd C. Adams); and there are 2,346 in the Navy for permanent promotion to the grade of lieutenant (list beginning with Rex T. Aaron); and there are 1,915 in the Army for promotion to the grade of colonel and below (list beginning with Raymond A. Bragalone). There are 1,161 in the Navy for temporary promotion to the grade of chief warrant officer (list beginning with Lyle N. Aardahl); and there are 5 in the Marine Corps for promotion to the grade of captain and below (list beginning with Freddie M. Morgan); and there are 45 in the Navy for permanent and temporary appointment to the grade of commander and below (list beginning with Bruce A. Graham). Since these names have already appeared in the CONGRESSIONAL RECORD and to save the expense of printing again, I ask unanimous consent that they be ordered to lie on the Secretary's desk for the information of any Senator.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The nominations ordered to lie on the Secretary's desk were printed in the RECORD of July 19, 22, and 23, 1976, at the end of the Senate proceedings.)

Mr. WEICKER. Mr. President, as in executive session, from the Committee on Commerce, I report favorably sundry nomination in the Coast Guard which have previously been printed in the CONGRESSIONAL RECORD and I ask unanimous consent that they lie on the Secretary's desk for the information of Senators.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The nominations ordered to lie on the Secretary's desk were printed in the RECORD of August 3, 1976, at the end of the Senate proceedings.)

ENERGY CONSERVATION AND PRODUCTION ACT, H.R. 12169—CONFERENCE REPORT (REPT. NO. 94-1119)

Mr. RIBICOFF submitted a report from the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 12169) to amend the Federal Energy Administration Act of 1974 to provide for authorizations of appropriations to the Federal Energy Administration, to extend the duration of authorities under such act, and for other purposes, which was ordered to be printed.

HOUSE BILL PLACED ON THE CALENDAR

The following bill was read twice by its title and ordered placed on the calendar:

H.R. 8401. An act to authorize cooperative arrangements with private enterprise for the provision of facilities for the production and enrichment of uranium enriched in the isotope-235, to provide for authorization of contract authority therefor, to provide a procedure for prior congressional review and approval of proposed arrangements, and for other purposes.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. STENNIS (for himself and Mr. EASTLAND):

S. 3728. A bill to authorize a project for channel deepening for navigation at Gulfport Harbor, Harrison County, Miss. Referred to the Committee on Public Works.

By Mr. HOLLINGS:

S. 3729. A bill to provide for emergency allotment lease and transfer of tobacco allotments or quotas from 1976 in certain disaster areas in South Carolina. Referred to the Committee on Agriculture and Forestry.

By Mr. SYMINGTON:

S. 3730. An original bill to authorize certain construction at military installations, and for other purposes. Placed on the calendar.

By Mr. BROOKE:

S. 3731. A bill to amend title XVI of the Social Security Act to provide that the reasonable value of an individual's home, as determined for purposes of such title, shall be determined after taking into account (together with other pertinent factors) the current prevailing market prices of homes in the particular area in which such home is located; and

S. 3732. A bill to amend title XVI of the Social Security Act so as to provide that the special limitation imposed thereunder on eligibility of individuals who are in certain hospitals and other health care facilities will not be applied until the individual has been in such a hospital or other facility for at least 3 months. Referred to the Committee on Finance.

By Mr. BEALL:

S. 3733. A bill to provide for a refund of the social security taxes paid in by an individual who has attained age 65 but is not insured for benefits under title II of the Social Security Act. Referred to the Committee on Finance.

By Mr. HARRY F. BYRD, JR., from the Committee on Armed Services:

S. 3734. An original bill to approve the sale of certain naval vessels, and for other purposes. Placed on the calendar.

By Mr. KENNEDY (for himself, Mr. JAVITS, Mr. WILLIAMS, Mr. PELL, Mr. BEALL, Mr. TAFT, and Mr. STAFFORD):

S. 3735. A bill to amend the Public Health Service Act to authorize the establishment and implementation of a national influenza immunization program and to provide an exclusive remedy for persons injured as a result of inoculation with vaccine under such program. Referred to the Committee on Labor and Public Welfare.

By Mr. CHILES (for himself and Mr. STONE):

S. 3736. A bill to amend the Service Contract Act of 1965 to provide that all employees, other than bona fide executive, administrative, or professional employees shall be considered to be service employees for purposes of such act, and for other purposes. Referred to the Committee on Labor and Public Welfare.

By Mr. FANNIN (for himself, Mr. JACKSON, Mr. ABOUREZK, Mr. BARTLETT, Mr. KENNEDY, Mr. METCALF, Mr. GRAVEL, Mr. HUMPHREY, Mr. MANSFIELD, Mr. CLARK, Mr. BURDICK, Mr. GOLDWATER, Mr. CULVER, and Mr. GARN):

S. 3737. An original bill to authorize appropriations for purposes of making certain grants under the Indian Elementary and Secondary Assistance Act, the Elementary and Secondary Education Act of 1965 and the Adult Education Act. Placed on the calendar.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. SYMINGTON:

S. 3730. An original bill to authorize certain construction at military installations, and for other purposes. Placed on the calendar.

Mr. SYMINGTON. Mr. President, I introduce an original bill to authorize certain construction at military installations, and I ask unanimous consent that it be considered as having been read twice, and that it be placed on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

By Mr. BROOKE:

S. 3731. A bill to amend title XVI of the Social Security Act to provide that the reasonable value of an individual's home, as determined for purposes of such title, shall be determined after taking into account—together with other pertinent factors—the current prevailing market prices of homes in the particular area in which such home is located; and

S. 3732. A bill to amend title XVI of the Social Security Act so as to provide that the special limitation imposed thereunder on eligibility of individuals who are in certain hospitals and other health care facilities will not be applied until the individual has been in such a hospital or other facility for at least 3 months. Referred to the Committee on Finance.

Mr. BROOKE. Mr. President, I am today introducing two bills which would make needed changes in the supplemental security income—SSI—program. As you know, SSI is a program of income assistance for aged, blind, and disabled persons. The law and implementing regulations are designed to target benefits at those most in need. The law specifically limits SSI eligibility to persons whose allowable resources are valued at no more than $1,500 for an individual and $2,250 for a couple. The law further prescribes certain exclusions including a home, up to a value determined by the Secretary to be reasonable. I find that the regulations which the Secretary has set with regard to home ownership are not reasonable.

The Secretary has set a ceiling of $25,000 market value for a home. In Alaska and Hawaii the Secretary has set the limitation at $35,000.

In setting a limitation for Alaska and Hawaii which is different from the limitation prescribed for the continental United States, the Secretary acknowledges the fact that there are cost-of-living differentials which are reflected in differing market values of housing. To me, it seems inequitable to acknowledge this fact for Alaska and Hawaii, but for no other States or regions.

I agree that we must set a ceiling on the value of a home which a person can be allowed to own and still receive Federal benefits. But I do not believe that it is fair to use the same value for States such as Mississippi or Alabama where $25,000 can still buy an adequate home and California or Massachusetts, for example, where a $25,000 home is extremely modest at best.

One of the purposes of the SSI program was to establish a nationally uniform Federal program to replace many of the variations in the previously existing programs. Setting a single limitation may appear to provide uniformity, but it does not do so. In fact, it introduces an appreciable degree of variation between regions of the country. I believe that my bill goes a long way toward making uniform the eligibility criteria for persons in all areas of the United States.

My bills would permit the Secretary of HEW to adjust the limitation on the value of a home consistent with data which he has regarding regional differences in the cost of living and the current prevailing market prices of homes in the particular area in which a recipient's home is located.

My aim, and I am sure the aim of all of my colleagues, is to insure that persons who are truly in need can receive benefits and those who are not in need do not. I am shocked when I hear the occasional tale of a person with a large income or excess resources receiving public assistance benefits. But I am equally shocked when I hear of a needy person—a person with not enough income to subsist and living in a modest home which he purchased many years ago—being denied benefits. As we work to strengthen the rules and regulations of our program so that only the needy will be eligible, let us also work equally diligently to insure that all of the needy can be found eligible under the laws of our programs.

My second SSI bill relates to the eligibility of institutionalized persons for SSI benefits. When an SSI recipient enters a hospital or nursing home in which medicaid is paying more than half of his bill, his benefit is reduced to a maximum of $25 per month after one full month of institutionalization. The reason for this reduction is clear. It is assumed that other programs are providing for the individual's cost of maintenance and medical care. The $25 is meant to be for his personal expenses. In many cases, however, this provision can be very harmful to the individual involved. Frequently a person that is in a medical institution still has a household to maintain. If he intends to return to the community, it is imperative that he have the funds necessary to maintain this household. Indeed, an inability to maintain his household may actually jeopardize his ability to ever return to his home and community.

My bills would allow the full SSI benefit to continue to the end of the third month of institutionalization.

I believe that both of the bills which I have just described will enhance the integrity and responsiveness of the SSI program. I am hopeful that you will see fit to accept this legislation.

By Mr. BEALL:

S. 3733. A bill to provide for a refund of the social security taxes paid in by an individual who has attained age 65 but is not insured for benefits under title II of the Social Security Act. Referred to the Committee on Finance.

Mr. BEALL. Mr. President, I am sending to the desk legislation which would amend the Social Security Act to provide for a refund of the social security taxes paid into the trust fund by an individual who has attained the age of 65, but is not eligible to receive benefits under title II of the Social Security Act.

Mr. President, many individuals pay social security taxes without working under the system long enough to accrue a right to benefits. When these individuals reach the age of 65, they are unable to receive social security benefits. I believe that in those cases where the individual reaches the mandatory retirement age without being "fully insured" or "currently insured," they are entitled to receive, in one lump sum, a payment equal to the total social security taxes they have paid into the trust fund.

Although this sum would probably not be great, in most cases, it would help those individuals who are in need of additional resources by returning to them that portion of their previous earnings which went into the social security trust fund. I would also stress, Mr. President, that I believe there is an important issue of equity here because these individuals paid into the social security system with the objective of obtaining a specific benefit at the time of their retirement. If, because of the requirements established in the law, they do not earn such benefits, then I believe it is only fair for us to refund the money which they as individuals actually paid into the social security system during their working lifetime.

By Mr. KENNEDY (for himself, Mr. JAVITS, Mr. WILLIAMS, Mr. PELL, Mr. BEALL, Mr. TAFT, and Mr. STAFFORD):

S. 3735. A bill to amend the Public Health Service Act to authorize the establishment and implementation of a national influenza immunization program and to provide an exclusive remedy for persons injured as a result of inoculation with vaccine under such program. Referred to the Committee on Labor and Public Welfare.

NATIONAL INFLUENZA PROGRAM OF 1976

Mr. KENNEDY. Mr. President, I am joining with my colleagues on the Senate Health Subcommittee in introducing this afternoon, on a bipartisan basis, the administration's bill to implement the national swine flu immunization program. My colleagues are aware that a few months ago, the President called for a national effort to protect the American people by setting up an immunization program against a possible swine flu epidemic in the United States. The Congress reacted rapidly to the initial appeal, and within a very few days passed a special appropriation to finance the immunization campaign fully. Since that time, the Department of Health, Education, and Welfare has engaged in a lengthy series of negotiations with the vaccine manufacturers and with their insurance companies in order to resolve the question of insurance coverage.

At a hearing held before the Health Subcommittee this morning, Secretary Mathews reported to us that these efforts on the part of his Department have been frustrated at every turn by the unwillingness of the insurance companies to assume a responsible posture. Thus, the success of the program is threatened at the outset by the intransigent stand of the insurance industry.

It would seem to me that in our free enterprise system, the role of an insurance company should be to undertake insurance coverage of reasonable risks, and at a reasonable price based upon actuarial experience. Now we are told that the insurance companies apparently will not take any risk at all. It is extremely difficult to understand this position, in view of the fact that over the past 10 years the Government has been involved in the distribution of some 20 million or more influenza immunizations per year, with lawsuits amounting to appreciably less than 1 per 10 million immunizations. In rare cases of suit, settlements have been extremely modest in dollar amounts. We are told that the insurance industry will not cover the swine flu program at all, despite the extensive field trials of the new vaccines that show that they are safer than those flu vaccines employed in the past.

Thus, Mr. President, with this vital national effort at preventive medicine being held hostage and threatened with failure by the insurance industry, it would appear that our only recourse is to involve the Federal Government in covering the potential liability of all of those involved in the program; the vaccine manufacturers, the State and local public health departments, and the medical and paramedical personnel who will actually administer the immunizations. The legislation which we are introducing this afternoon on behalf of the administration seeks to accomplish this purpose, and to get the swine flu immunization campaign back into gear.

I must point out, Mr. President, that the proposed legislation is not without certain technical and legal problems. Staff members are right now meeting with legal experts from the Department of Health, Education, and Welfare in an attempt to iron out some of these difficulties.

Despite these problems, Mr. President, it is clear that there is still a chance that swine flu might break out within the United States during the coming flu season, and we must have in place and ready to go an adequate program to meet such an epidemic if and when it appears. Indeed, the President of the United States, in a letter to the leadership of the Congress this morning, has once again pointed to the critical importance of this program and the necessity for legislation to solve the insurance problems.

More disturbing than the roadblocks which have been placed in front of the swine flu program by the insurance companies' lack of public conscience, are the implications of such an industry posture for other Federal immunization programs, especially the children's immunization programs run by the Center for Disease Control. Just recently, the Congress authorized additional funds for these programs, and the Senate appropriated additional funds, because so many young children are falling behind in their polio, measles, mumps, and rubella vaccinations. At our hearing this morning, Secretary Mathews and Dr. Sencer of the Center for Disease Control told us that a consequence of the difficulties involving insurance for the swine flu program was that the Administration is now unable to obtain contracts with vaccine manufacturers for the provision of these other critically important vaccines. This is absolutely shocking, Mr. President, since while it is still unclear whether or not swine flu will appear in the United States this coming fall and winter, we can be sure that measles, rubella, mumps, and some of these other infectious diseases certainly will occur, and will threaten the health and even the lives of many of our young children. It is unthinkable that suddenly, in the middle of a long-standing program and with no valid justification in fact, the insurance companies should decide to lift the coverage of the manufacturers with respect to vaccines produced for these programs.

It is becoming more and more apparent that this curious and incomprehensible posture on the part of the insurance companies has held up implementation of the swine flu immunization program and threatens these other children's immunization programs. Not even the overriding importance of these programs to the health of the American people has apparently imposed any sense of obligation on the insurance industry. If this is the case, then I wonder, Mr. President, whether we in the Congress should not take a closer look at the role of the insurance industry in other Federal programs, and reconsider how we deal with them in the future.

By Mr. CHILES (for himself and Mr. STONE):

S. 3736. A bill to amend the Service Contract Act of 1965 to provide that all employees, other than bona fide executive, administrative, or professional employees shall be considered to be service employees for purposes of such act, and for other purposes. Referred to the Committee on Labor and Public Welfare.

Mr. CHILES. Mr. President, I am today introducing S. 3736, for myself and Senator STONE to clarify that the intent of the 1972 amendments to the Service Contract Act is to provide coverage for all blue and white collar service contract workers.

This bill is identical to H.R. 14987, introduced by Representative FRANK THOMPSON, chairman of the House Labor-Management Subcommittee.

Mr. THOMPSON's reputation in labor matters and in upholding the rights of the American worker needs no elaboration. He was instrumental in the passage of the 1972 amendments to the Service Contract Act and has held four sets of oversight hearings since that time. Mr. THOMPSON held hearings July 20, on the affect of a recent adverse decision by the District Court of the United States of the Middle District of Florida. That decision ignored the clear- and well-documented intent of the 1972 Service Contract Act amendments and effectively removed coverage for 70,000 to 100,000 service contract employees nationwide.

This bill would restore coverage to these affected employees and reaffirm the intent of Congress as it was expressed in the 1972 amendments.

During the July 20 hearing and during my own on May 17, questions were raised about the plight of professional employees and whether coverage should be extended to include them as well. Mr. THOMPSON has concluded that such an extension would not be possible this year. I personally would support such legislation, however, there is unanimity about restoring coverage to the thousands of workers adversely affected by the Middle Court decision, and we have a responsibility to act immediately to state again that it was our intent to cover blue-collar workers with the 1972 amendments.

There is no doubt that many professional employees have had the same wage busting experiences of their blue- and white-collar colleagues. Mr. THOMPSON has given me his assurance, in a letter to me, that he will take up the issue of coverage for professional employees promptly during the next session. I am hopeful that the Senate will see fit to follow his lead.

Mr. President, I ask unanimous consent to have the bill and the letter from Mr. THOMPSON printed in the RECORD.

There being no objection, the bill and letter were ordered to be printed in the RECORD, as follows:

S. 3736

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 2(a) of the Service Contract Act of 1965 (41 U.S.C. 351(a)) is amended by striking out ", as defined herein,";

(b) section 2(b) of the Service Contract Act of 1965 (41 U.S.C. 351(b)) is amended by striking out "as defined herein".

SEC. 2. Section (a)(5) of the Service Contract Act of 1965 (41 U.S.C. 351(a)(5)) is amended by inserting immediately after "section 5341" the following: "or section 5332".

SEC. 3. Section 8(b) of the Service Contract Act of 1965 (41 U.S.C. 357(b)) is amended to read as follows:

"(b) The term 'service employee' means any person employed in connection with a contract entered into by the United States and not exempted under section 7, whether negotiated or advertised, the principal purpose of which is to furnish services in the United States (other than any person employed in a bona fide executive, administrative, or professional capacity, as those terms are defined in part 541 of title 29, Code of Federal Regulations, as of July 30, 1976, and any subsequent revision of those regulations); and shall include all such persons regardless of any contractual relationship that may be alleged to exist between a contractor or subcontractor and such persons.".

SUBCOMMITTEE ON
LABOR-MANAGEMENT RELATIONS,
Washington, D.C., July 26, 1976.

Hon. LAWTON CHILES,
U.S. Senate
Dirksen Office Building,
Washington, D.C.

MY DEAR SENATOR CHILES: It is with some regret that I have decided to postpone legislative action to remedy the defects in the Service Contracts Act regarding "professional employees".

You and I agreed during your testimony before my subcommittee that this was a serious problem, which deserved remedial action. But the hard legislative truth is that we need a "veto proof" bill, and we have absolutely no assurances that should the House and Senate enact the type of Bill we both desire that it would not be vetoed at the White House.

I have made this decision after full consultation with members on both sides of the aisle here in the House, and after consultation with my counterpart in the Senate.

Our plan is to go ahead with a clean, simple bill correcting the injustice created by the decision in the Federal Electric Corporation case. Even President Nixon agreed that the 1972 amendments were intended to apply the Service Contract Act to "maintenance, computer service and support services at military installations". (emphasis supplied).

With this legislative history, I am very hopeful that we can move a limited bill in the House in the remaining weeks of this Congress. I do not think it would be possible to move a bill with additional substance.

A number of worthwhile amendments were proposed at our hearings this past week, and I am hopeful that we will be able to turn to them early in the next Congress.

Sincerely,

FRANK THOMPSON, Jr.

By Mr. FANNIN (for himself, Mr. JACKSON, Mr. ABOUREZK, Mr. BARTLETT, Mr. KENNEDY, Mr. METCALF, Mr. GRAVEL, Mr. HUMPHREY, Mr. MANSFIELD, Mr. CLARK, Mr. BURDICK, Mr. GOLDWATER, Mr. CULVER, and Mr. GARN):

S. 3737. An original bill to authorize appropriations for purposes of making certain grants under the Indian Elementary and Secondary Assistance Act, the Elementary and Secondary Education Act of 1965, and the Adult Education Act. Placed on the calendar.

Mr. FANNIN. Mr. President, on behalf of myself, Senators JACKSON, ABOUREZK, BARTLETT, KENNEDY, METCALF, GRAVEL, HUMPHREY, MANSFIELD, CLARK, BURDICK, GOLDWATER, CULVER and GARN I send to the desk a bill and ask unanimous consent to have it placed on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FANNIN. Mr. President, for the benefit of my colleagues, the legislation that I am introducing is designed to conform to H.R. 14824 which is pending before the House of Representatives. That legislation is designed to correct a serious administrative problem created by the Office of Indian Education in which 20 grantees were denied refunding because of an error in the program rating system. The purpose of introducing this bill in the Senate and placing it directly on the calendar is to expedite a request for a waiver from the Budget Committee and to facilitate immediate action on the House-passed bill when it is received in the Senate. This approach means that this legislation will not be referred to either the Senate Labor and Public Welfare Committee or the Interior and Insular Affairs Committee. This has the approval of the chairmen and ranking minority members of these committees.

With the approval of the waiver, the Senate will then be able to act without further delay. Immediate approval of the legislation is needed so that the 20 grantees affected will be able to continue their programs beyond September 1.

ADDITIONAL COSPONSORS

S. 3563

At the request of Mr. HELMS, the Senator from New Mexico (Mr. DOMENICI) was added as a cosponsor of S. 3563, to remove all legal obstacles to the use of gold clauses.

S. 3644

At the request of Mr. PEARSON, the Senator from West Virginia (Mr. RANDOLPH) was added as a cosponsor of S. 3644, to amend title XVIII of the Social Security Act.

S. 3684

At the request of Mr. BAKER, the Senator from New York (Mr. BUCKLEY) was added as a cosponsor of S. 3684, to amend the Federal Aviation Act of 1958, as amended.

AMENDMENT NO. 2148

At the request of Mr. HATFIELD, the Senator from Maryland (Mr. MATHIAS) was added as a cosponsor of amendment No. 2148, intended to be proposed to H.R. 10612, the Tax Reform Act of 1976.

SENATE RESOLUTION 510—ORIGINAL RESOLUTION REPORTED AUTHORIZING ADDITIONAL EXPENDITURES

(Referred to the Committee on Rules and Administration.)

Mr. RIBICOFF, from the Committee on Government Operations, reported the following original resolution:

S. RES. 510

Resolved, That Senate Resolution 363, agreed to March 1, 1976, is amended as follows:

(1) in section 8, strike out the amount "$250,000" and insert in lieu thereof "$296,700".

Mr. RIBICOFF, Mr. President, I am today submitting a resolution for supplemental funding for the Government Operations Subcommittee on Federal Spending Practices, Efficiency, and Open Government. This resolution is, in fact, an amendment to Senate Resolution 363, section 8, agreed to March 1, 1976.

I ask unanimous consent to have printed in the RECORD the letter to me from Senator CHILES, the chairman of the subcommittee, detailing the need for the additional funding.

The resolution was agreed to unanimously in the full committee on August 3, 1976.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

SUBCOMMITTEE ON FEDERAL SPENDING PRACTICES, EFFICIENCY, AND OPEN GOVERNMENT,
Washington, D.C., June 21, 1976.

Hon. ABRAHAM RIBICOFF,
Chairman, U.S. Senate Committee on Government Operations, Dirksen Senate Office Building, Washington, D.C.

DEAR MR CHAIRMAN: This is to request that the Government Operations Committee agree to a resolution authorizing supplemental funds for the Subcommittee on Federal Spending Practices, Efficiency and Open Government in the amount of $46,700.

This supplemental would restore the Subcommittee's budget to the level of our original request, $296,700, and is absolutely necessitated by our heavy commitment to fully investigate problems in military meat procurement.

As you may know, our investigation has revealed in public hearings a multi-million dollar waste in military beef purchasing due to bribery, fraud, corruption and a buying system built on overly-complicated specifications, poor training of inspectors and confused chain of command authorities.

We explained, at the time we presented our original request, that added funds were being requested due to "increased investigatory activities generated by uncovering gross irregularities in government procurement practices for perishables, meat for the military in particular."

The $46,700 cut from our request put us in the impossible position of either curtailing other vital legislative tasks or letting those "irregularities" remain a matter of curiosity. As we have disclosed, the situation was a bit more than irregular.

We will, however, require that the $46,700 be restored. The meat investigation has already consumed, in the three-month period March 1 through June 1, significant extra resources for three investigators' travel ($8,200); part-time support personnel ($4,375); court recording fees for ten days of executive sessions, hearings and staff interviews ($4,623); full-time investigators' salaries ($10,454); special legal consultants ($5,300); and many other related expenses.

By October, we plan to round out the investigation and submit a comprehensive reform package.

We would appreciate your favorable consideration of this request.

Sincerely,

LAWTON CHILES,
Chairman.

SENATE RESOLUTION 511—SUBMISSION OF A RESOLUTION RELATING TO THE ROMANIAN TRADE AGREEMENT

(Referred to the Committee on Finance.)

Mr. BUCKLEY submitted the following resolution:

S. RES. 511

Whereas, Section 402 of the Trade Reform Act of 1975 clearly establishes the dedication of the United States to the cause of fundamental human rights as the main purpose of the Trade Reform Act;

Whereas, such dedication has been recently reconfirmed by the signing of the Helsinki Declaration on Cooperation and Security in Europe signed also by 33 European nations and Canada;

Whereas, curtailment of the fundamental human rights and cultural freedoms persists in the Socialist Republic of Romania with special emphasis upon the national minorities, especially in the fields of education, public use of minority languages and religious liberty,

Whereas, such discrimination and oppression is repugnant to the observance of fundamental human rights and cultural freedoms,

Be it therefore resolved that it is the sense of the United States Senate that before requesting a review and extension of the 1975 United States-Romanian Trade Agreement now and in the future, the Administration shall submit a full report to Congress on fundamental human rights and cultural freedoms in Romania with special emphasis on the national minorities, showing concrete measures taken to ameliorate their situation by the Romanian Government, such report to be submitted together with the extension request to the Committee on Finance of the United States Senate.

Should no ameliorative measures occur, it is the sense of the United States Senate that the 1975 United States-Romanian Trade Agreement and the most favored nations treatment of the Socialist Republic of Romania not be extended.

SENATE RESOLUTION 512—SUBMISSION OF A RESOLUTION RELATING TO THE CONSIDERATION OF A BILL

(Referred to the Committee on the Budget.)

Mr. FANNIN. Mr. President, I submit a Senate resolution requesting a waiver under the Budget Act and ask unanimous consent to have it referred to the Senate Budget Committee for immediate consideration.

This waiver will facilitate final action by the Senate of H.R. 14824 when it is received by the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution reads as follows:

S. RES. 512

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of. Such waiver is necessary because a recent administrative decision by the Office of Indian Education (DHEW) requires additional authorization to continue funding for 20 current grantees which had been denied refunding. The FY 1977 cost of this legislation will be $1,982,000.

AMENDMENTS SUBMITTED FOR PRINTING

CIVIL SERVICE ANNUITIES AND PAY UPON REEMPLOYMENT—H.R. 3650

AMENDMENT. NO. 2169

(Ordered to be printed and to lie on the table.)

Mr. McGEE. Mr. President, the bill H.R. 3650, which has been reported by the Committee on Post Office and Civil Service and, pursuant to the Budget Act of 1974, by the Appropriations Committee, would result in a transfer of funds from Federal agencies employing civil service annuitants to the civil service retirement and disability fund.

The bill provides no increase in benefits for individuals, so it does not affect budget outlays. However, this transfer would create additional budget authority of approximately $45 million annually plus accrued interest.

Accordingly, Mr. President, I have submitted for printing an amendment to H.R. 3650 to amend the effective date of the legislation so that it would not become effective prior to the beginning of fiscal year 1977.

This amendment has no effect upon the applicability of the bill to the Senate itself, or its affect on the allowances for administrative and clerical assistants to Senators and legislative assistance to Senators. I would urge the Senate to approve the measure and permit the matters relating to senatorial allowances to be resolved by the appropriate committee, as the House of Representatives' report indicates is also the intent in the other body.

TAX REFORM ACT OF 1976—H.R. 10612

AMENDMENT NO. 2170

(Ordered to be printed and to lie on the table.)

Mr. MORGAN submitted an amendment intended to be proposed by him to the bill (H.R. 10612), supra.

AMENDMENT NO. 2170

(Ordered to be printed and to lie on the table.)

Mr. MORGAN. Mr. President, my amendment is to the Internal Revenue Code of 1954 to exempt from income taxation certain organizations operated for mutual purposes and without profit for the purposes of providing reserve funds for, and insurance of shares or deposits in certain credit unions and building and loan associations.

This amendment is aimed at extending the exemption now existing for State-sanctioned nonprofit mutual guaranty corporations organized before September 1, 1957, for the purpose of insuring building and loan corporations or associations, to include nonprofit mutual guaranty corporations organized before January 1, 1969, for the same purposes and to allow the exemption where such a nonprofit mutual guaranty corporation also insures credit unions.

In the event of dissolution of the guaranty corporation, the reserves accumulated under this exemption would be returned to the building and loans or credit unions as their membership participation appeared and would be taxed to such institutions according to law then effective.

I was interested in the creation and operation of such a nonprofit mutual guaranty corporation in North Carolina when I was serving as a Senator in the general assembly and later as attorney general. In North Carolina, the State-sanctioned nonprofit mutual guaranty corporation is supervised and audited annually by the administrator of savings and loan of the State of North Carolina.

AMENDMENT NO. 2171

(Ordered to be printed and to lie on the table.)

Mr. GRAVEL. Mr. President, today I am introducing two amendments which would reestablish a recycling tax credit similar to the one that was adopted by the Senate Finance Committee in its deliberations on the tax reform bill. These amendments keep the base period concept and phase-in provision that was contained in the committee language. In addition, they embody the Allen amendment which increased the tax credit for glass and plastics to 10 percent and the Tunney-Gravel amendment No. 2017 which established a tax credit for energy made from garbage residues.

When the Hart amendment was originally voted on, there were 30 Senators that were not here to state their views. While I do not maintain that their absence invalidates the decision reached, I would hope that my colleagues would be agreeable to holding a vote on the merits of the tax credit for recyclable materials. I would ask that debate be severely limited, perhaps 5 minutes to a side and that the vote be expedited in order to facilitate the business of the Senate.

AMENDMENTS NOS. 2172 AND 2173

(Ordered to be printed and to lie on the table.)

Mr. BARTLETT submitted two amendments intended to be proposed by him to the bill (H.R. 10612), supra.

AMENDMENT NO. 2174

(Ordered to be printed and to lie on the table.)

Mr. DURKIN. Mr. President, during the past weeks, we have struggled to adopt a tax act which will treat the citizens of this Nation fairly and equally. No group of Americans deserve the searching consideration of this body more than the elderly, who cannot provide for themselves. My amendment is designed to assist these people so that they can live the rest of their lives in dignity and pride. We have an obligation to do all in our power to enable these persons, who worked so hard for this country, to receive proper medical care and treatment and to live their lives in comfort. We should do no less.

Under the present law, Mr. President, certain nonprofit, charitable homes for the aging have been classified as private foundations under the Internal Revenue Code. Because many of these homes are not State supported, they maintain their financial existence by relying on endowments. Many of these homes receive one-third of their income from investments. As such, they must pay a 2-percent excise tax on their net investment income.

I strongly support any efforts that will curb the abuses in the funding of private foundations. I strongly support any efforts that will curb the exploitation of our Nation's elderly in profitmaking nursing homes. But we are committing a grave oversight if we lump nonprofit nursing homes into these categories. Nonprofit homes serving the elderly are not and cannot be controlled by one individual. They bear none of the characteristics of a private foundation, except one. And this characteristic is a most onerous one. They must share the financial burden which is imposed on the private foundation.

A letter from one of my constituents, Carl Gessen, president of the New Hampshire Centennial Home for the Aged provides us with the reason why this amendment should be adopted. Mr. Gessen writes that during the past 2 months, his organization was required to pay a Federal income tax of $11,006. If the homes were allowed to keep this money and expand their services to the elderly, then who suffers? Certainly not the U.S. Treasury. But who are the beneficiaries? The elderly, Mr. President, those persons who cannot afford the comforts of their own homes. There is also another beneficiary, Mr. President—those homes which are nonprofit—who exist solely for the purpose of caring for our Nation's elderly. These homes can then expand their services so that more persons are cared for with better treatment and services.

The Senate has exempted libraries and museums from this tax. Is there anyone in this Chamber who can argue that the elderly and those persons who provide for their shelter and food at no profit are less deserving?

I urge the Senate to adopt my amendment which will exempt nonprofit homes for the elderly from paying the excise tax imposed on net investment income.

AMENDMENTS NOS. 2175 AND 2176

(Ordered to be printed and to lie on the table.)

Mr. KENNEDY submitted two amendments intended to be proposed by him to the bill (H.R. 10612), supra.

AMENDMENT NO. 2177

(Ordered to be printed and to lie on the table.)

Mr. MATHIAS submitted an amendment intended to be proposed by him to Amendment No. 2082, proposed to the bill (H.R. 10612), supra.

AMENDMENT NO. 2178

(Ordered to be printed and to lie on the table.)

Mr. CRANSTON submitted an amendment intended to be proposed by him to the bill (H.R. 10612), supra.

AMENDMENT NO. 2179

(Ordered to be printed and to lie on the table.)

Mr. BELLMON submitted an amendment intended to be proposed by him to the bill (H.R. 10612), supra.

ANNOUNCEMENT OF HEARINGS

Mr. STEVENSON. Mr. President, on Friday, August 27, with the permission of the Senate, the International Finance Subcommittee of the Committee on Banking, Housing and Urban Affairs will hold hearings on S. 3454, a bill to amend the Bretton Woods Agreements Act and for other purposes. This legislation would permit the United States to ratify and implement the amendments to the articles of agreement of the International Monetary Fund agreed to in Jamaica in January of this year and to consent to an increase in the U.S. IMF quota.

Four major changes in the international monetary system were agreed to in Jamaica. One was an end to the requirement for fixed exchange rates. Floating and other exchange rate practices would be sanctioned instead. This would give legal recognition to the generalized de facto abandonment of fixed exchange rates in 1973.

The second was a reduction in the role of gold in the international monetary system. There would no longer be an official IMF gold price. Currency par values expressed in terms of gold would be ended. All other requirements for the use of gold in transactions between the Fund and its members, including payment of quota subscriptions, would be abolished. And the Fund would be authorized to dispose of all its gold holdings.

The third change was an overall increase in Fund quotas to 39 billion SDR from 29 billion SDR with a doubling of the share of total quotas held by the major oil exporting countries and a corresponding reduction in the relative shares of other members.

The fourth was an agreement to strengthen the organization and operation of the Fund, to facilitate the use of SDR's, and to liberalize access to the credit resources of the Fund.

Among the issues which the subcommittee will explore are the following:

How will floating exchange rates be managed? What principles will govern exchange market intervention? How will the obligation to avoid manipulating exchange rates to avoid balance of payments adjustments or to gain an unfair competitive advantage, be enforced?

Do the Jamaica agreements ensure that the role of gold in the international monetary system will ultimately be reduced rather than enhanced? Why was the Group of Ten arrangement on gold including the agreement not to peg the price of gold, limited to 2 years? Will pressures to protect the value and enhance the use of gold reserves lead to renewed interest in pegging the price of gold and restoring it to a central role in the international monetary system? How can the emergence of a "gold bloc" outside the Fund be avoided?

Do the Jamaica agreements ensure that SDRs will eventually become the principal international reserve asset? Why is there no agreement to reduce the role of national currencies as reserve assets? How, if at all, do the agreements address the problem of regulating international liquidity and, hence, controlling worldwide inflation? Are there sufficient constraints on credit creation in the Eurocurrency markets to instill confidence in the future stability of an international monetary system heavily dependent on the dollar?

Why was a one-third increase in IMF quotas needed at this time? Are the Fund's resources adequate to help members meet oil-induced payments problems? Are the Trust Fund and other concessionary financing facilities of the Fund appropriate devices for aiding less developed countries? Is the IMF gradually being converted into an aid-giving agency?

The hearings will begin at 10 a.m. in room 5302 of the Dirksen Senate Office building. Interested persons should contact Stanley J. Marcuss, counsel to the International Finance Subcommittee, at 202/224-8813.

ADDITIONAL STATEMENTS

THE NEW RIVER DEBATE: WILL LOBBYISTS PREVAIL?

Mr. HUGH SCOTT. Mr. President, I have today written to the editor of the Philadelphia Inquirer regarding the fate of the New River. I feel that this matter is of extreme importance, and I should like to share the editorial and my reply with my distinguished colleagues.

At this time, therefore, I ask unanimous consent that the editorial, and my reply be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

THE NEW RIVER DEBATE: WILL LOBBYISTS PREVAIL?

Remember the 94th Congress? That was the one, elected a bit over 21 months ago, which was going to give power—well, if not to the people, at least to the members of Congress, rather than leaving so much of it in the iron fists of committee and seniority monopolists.

We know of no such test which will be more significant to the realities of reform or to countervailing huge lobbying powers than the performance of the House Rules Committee when it meets at 10:30 a.m. Thursday.

At that time the committee will decide whether it will allow to be debated on the floor of the House a bill which would save the New River from destruction.

The New River, in fact, is old. It is the oldest river, by most estimates, in North America. It, or anyway the 26.5-mile stretch of it which is threatened with eternal despoliation by a short-sighted dam project, is one of the most beautiful bits of natural and gently habitated country left in America. There are tragic few such bits left.

Near the mountainous border of Virginia and North Carolina, that section of the New is a glory of free-flowing water, a treasure of prehistoric archeological remains, a fragile haven of rare wildlife, a stable and proud community of countryfolk whose forebears tended the land before the American Revolution.

It is also a temptation for the American Electric Power Company, which is trying to obliterate it under two dammed-up lakes for a peak-load, pumped-storage generating project which by the company's own submissions would be half silted-in within 20 years and virtually unproductive within 50.

The immensely influential and free-spending power lobby has been joined in its war against the New River by an even more powerful one—the AFL–CIO and its construction unions, which want jobs, dues and the reconfirmation of their power which winning the fight would yield.

In 1974, majorities in both the Senate and the House declared by votes of 49 to 19 and 196 to 181 that they wanted the New River saved from the dammers. But the Rules Committee won that round, blocking the salvation effort. The Ford Administration, through Interior Secretary Thomas S. Kleppe, has done all possible to save the river.

Now once again, the Rules Committee, or a substantial number of its 16 members who are responsive to heavy lobbying pressure, holds the fate of the New River in its hands.

None of those members are from Pennsylvania, New Jersey or Delaware, but they all have colleagues who are. And voters who are concerned for the New River or for the principle of majority rule may note that the 94th Congress soon will give way to the 95th, and that every member of the House will be reelected or replaced.

If enough constituents made clear to each congressman their demand for favorable action by the Rules Committee, or if that fails for the swift execution of a discharge petition to put the debate before the whole House, the New River could be saved, and an important blow would have been struck against minority rule for special interests' sake.

U.S. SENATE,
Washington, D.C., August 4, 1976.

Mr. CREED BLACK,
Editor, Editorial Page, The Philadelphia Inquirer, Philadelphia, Pa.

DEAR EDITOR: I am writing to commend you for your excellent editorial of August 2, "The New River debate: Will lobbyists prevail?"

You chose a timely and interesting topic—one which might have remained a regional problem, save for a few pertinent details. For example, ironically enough (as you mention), the New River is in fact believed by geologists to be the second oldest river in the world—preceded only by the Nile. Quite apart from its geological significance, the New River Valley houses numerous highly productive farms. It is to my mind one of the most beautiful regions of the entire Nation to remain yet untrammeled by the sophisticated but ill-fitting trappings of modern technology. Further, the river itself is the last essentially unpolluted, free-flowing river in the East. It is my hope that it will remain so.

The issue, as you have stated it, is clear. The American Electric Power Company wants to begin construction on its pumped storage project, and, in spite of overwhelming sentiment to save the river from disaster, the will of the power company could prevail.

I have written to the Chairman of the Senate Interior and Insular Affairs Committee, Senator Henry Jackson, to express my strong support of S. 158. If passed, this legislation would allow the New River to be considered for Wild and Scenic River status.

I should like to join THE PHILADELPHIA INQUIRER in urging concerned environmentalists "to make clear to each Congressman your demand for favorable action by the Rules Committee."

Let us join in a determination that this issue shall not drift into the back-swirls and eddies of an overburdened Congress from which it may never emerge. Let us insist that the will of the majority be done, and that the New River be preserved in its gloriously natural state for this and for the generations to come.

Sincerely,

HUGH SCOTT,
U.S. Senator.

INVASION OF CZECHOSLOVAKIA, 1968

Mr. JACKSON. Mr. President, 8 years ago, on August 21, 1968, Czechoslovakia heard for a second time the rumble of Soviet tanks and for the second time saw its hope of a modicum of democratic self-development stifled by its powerful neighbor.

To this day the tanks remain, and Czechoslovakia remains a puppet state. To us in the United States this crushing of a sister democracy is a personally felt tragedy; the crushing of this particular sister democracy poignantly so, for the independent statehood of Czechoslovakia was first proclaimed nearly 58 years ago on American soil by the great nationalist leader and first president Thomas G. Masaryk.

It is a bitter thought that while Americans of Czech and Slovak descent are taking part in our celebrations of 200 years of independent democracy, they at the same time must grieve for a state which had a bare generation of independence before falling first to the Nazi drive for control of Europe and the world and then to the Soviet drive for hegemony from the opposite direction.

The pernicious Brezhnev Doctrine which was enunciated as an ex post facto justification of the invasion of Czechoslovakia, together with the crime it attempted to justify, continues to serve as a warning to the world.

The legitimate aspirations for freedom and independence of Czechoslovaks and the other peoples of Eastern Europe are and must continue to be supported by the American people and their Government.

THE BICENTENNIAL SALUTE TO THE CAPTIVE NATIONS

Mr. BUCKLEY. Mr. President, on Sunday, July 11, at the Statue of Liberty in New York, I had the privilege of speaking at the "Bicentennial Salute to the Captive Nations," cosponsored by the National Captive Nations Committee and the AFL–CIO. As I remarked to the several thousands in attendance, "Let us never forget the liberating power of the great moral principles on which this Nation was founded and which it still uniquely represents.

"Let us resolve," I said, "to remain true to the spirit of the American Revolution, and to keep the torch of freedom burning with a brilliance that will penetrate every barrier."

There were many speeches that Sunday afternoon, but one in particular deserves the widest possible circulation—the prepared remarks of AFL–CIO President George Meany, who received a special "Liberty Award" for his life-long support of freedom and opposition to communism. Although Mr. Meany could not be personally present, his speech was read most eloquently by Sol Chaikin, president of the International Ladies Garment Workers Union.

Mr. Meany issued a clarion call, not just to the working people of America, but to all peoples in every nation to go on the offensive against communism and totalitarianism with the ideas of democracy and decency.

"There are no Statues of Liberty," he concluded, "in the captive nations of this world, only statues of despots, of dictators, and of traitors to the cause of human freedom, justice, and equality."

I ask unanimous consent that my remarks and those of George Meany be printed in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

REMARKS BY SENATOR JAMES L. BUCKLEY, JULY 11, 1976, AT THE BICENTENNIAL SALUTE TO THE CAPTIVE NATIONS STATUE OF LIBERTY

A week ago today, on this island and in this harbor, with fireworks and a procession of stately ships gathered from around the globe, we celebrated the 200th anniversary of the signing of the Declaration of Independence. We celebrated that great day as Americans, and we rejoiced in our special blessings.

Today, we are gathered here for another purpose. We meet today in the shadow of the Statute of Liberty to consider the meaning and promise of the Declaration of Independence not just for Americans, but for men and women everywhere.

We know the blessings that this land has extended to the millions who have come here in search of a new life, and new opportunities to be enjoyed in freedom—the freedom to build their lives in accordance with their own abilities, the freedom to work in dignity, to seek justice, to form families and build communities, and to worship in accordance with the dictates of their individual consciences.

But this country represents far more than the sum total of the blessings we have been privileged to enjoy; and we owe a loyalty and a duty to that larger meaning of America.

For America represents something far more important and fundamental than a particular system. The Declaration of Independence changed the course of history not because it was a political manifesto, but because it proclaimed certain moral principles of universal importance. This great document affirmed that man is endowed not by government, not by a written Constitution, but by his Creator with certain inalienable rights that no majority however large, and no government however strong, has the moral authority to diminish or destroy. It was this ringing affirmation of the primacy and dignity of the individual that was our revolutionary message to the world two hundred years ago. It was this declaration of fundamental human rights that sent sparks flying eastward across the Atlantic to ignite the fires of liberty throughout the old world.

Over the next one hundred and fifty years, it was this revolutionary message and the American example that sustained scores of millions in their struggles to emancipate themselves from age-old tyrannies. And for a long while, it seemed that we had let loose a tidal wave of freedom that would ultimately liberate the world.

But today, we know that liberty is in retreat around the globe. America's revolutionary message is being challenged by a new and dynamic totalitarian force that is pledged to stamp out every vestige of individual freedom, and to destroy every humane and civilizing value for which we stand.

That is why it is so appropriate that we should meet here today under the auspices of the American Bicentennial Committee for the Independence of the Captive Nations. For there is a connection between the American Revolution and the current fate of the captive peoples of the world that we dare not ignore. Abraham Lincoln warned us over a century ago that no nation can long survive half slave and half free. The same can be said of the times in which we live today; that our liberties cannot long survive in a world in which the frontiers of freedom are steadily being rolled back.

The greatest man now alive, Alexander Solzhenitsyn, warns us that we are locked in a mortal struggle between good and evil, and that in such a struggle there can be no compromise. We are here today to say to Alexander Solzhenitsyn and to the tens of millions of tormented men and women for whom he speaks, that we understand.

That is why we here today declare that we will not allow ourselves to be befuddled by the illusions of detente. We reject as immoral and ultimately suicidal any policy that seeks to buy peace by compromising away the liberties of other peoples. We reject any policy that would serve to consolidate the Soviet empire or to strengthen the Soviet system. We affirm our kinship with the captive peoples of the world, and declare that any American foreign policy worthy of our heritage must champion the cause of their ultimate liberation.

I want to salute the AFL–CIO and the ethnic and patriotic associations who have sponsored this occasion for having selected this time and this place to remind us, as the heirs of the American Revolution, of our duty to the cause of liberty.

As we reflect on the plight of the captive nations, let us never forget the liberating power of the great moral principles on which this nation was founded, and which it still uniquely represents. Let us resolve, then, to remain true to the spirit of the American Revolution, and to keep the torch of freedom burning with a brilliance that will penetrate every barrier, and sustain the courage and the hope of men and women everywhere who, like our forebears, are "yearning to breathe free."

REMARKS BY GEORGE MEANY, PRESIDENT, AFL–CIO, BICENTENNIAL SALUTE TO THE CAPTIVE NATIONS, JULY 11, 1976

Ladies and gentlemen: I am proud to bring you the warm greetings and wholehearted support of the AFL–CIO and its President, George Meany.

We live in an age of change—technological, as well as social, economic and political. Principles which were once unquestioned, have lost ground.

The concepts of freedom and democracy seem to be out of style—detente and appeasement seem to be the order of the day.

Yet, as I stand before you in the shadow of the Statue of Liberty, a symbol of freedom to people all over the world, in this our Bicentennial Year, I wish to state that we in the American labor movement have not lost sight of these principles.

Thirty-one years ago the peoples of central and eastern Europe celebrated the end of Nazi tyranny. Their celebrations however were short-lived. The liberators turned out to be conquerors. In short order, the nascent democratic forces in these countries were crushed by the ruthless tactics of the communists, backed by the Soviet Army.

As in the case in any totalitarian society, the trade union movement was among the first victims of the "new order". Labor leaders were imprisoned, killed or sent into exile. Other democratic leaders were eliminated by the thousand. Power, far from residing in the hands of the people, was vested in a small elite, totally subservient to Moscow. The individual was denied his basic rights and liberties.

While the documented constitutions of these states formally guarantee the exercise of fundamental human rights, in practice there is no freedom of speech, no freedom of the press, no freedom of association. The workers soon realized that their newly won freedom had expired under the new regimes.

The western world has witnessed many attempts at true liberation by the democratic forces in these countries. Uprisings in East Berlin, Hungary, Czechoslovakia, Poland, were all put down with the total support of the Soviet Army. Our concepts of individual freedom, social justice, political and economic democracy did not seem to apply to those countries falling in communist sphere of influence.

From its earliest days, the American labor movement has realized what was at stake for all people, not just the workers, in the struggle between democracy and totalitarianism. The first resolution dealing with foreign affairs called for independence and democracy for Cuba and the Cuban people. That was in 1896. In 1933, the year Hitler came to power, the AFL denounced the Nazi regimes' persecution of the Jewish population and destruction of trade unions in Germany.

Following the Allied victory in World War II, the AFL, fully cognizant of the nature of the Soviet government, established the Free Trade Union Committee to combat the new tyranny that had established itself firmly on the world stage. Today, the AFL–CIO continues in its fight against this despotism.

We realize that, despite the relaxation of tensions, the calls for detente, the nature and objectives of communism have not changed.

It has been almost one year since the United States government participated in the Conference on Security and Cooperation in Europe—or what is more commonly referred to as the "Helsinki Agreement". The ten-point "Declaration on Principles" is a grave blow to the millions of subjugated peoples behind the frontiers that the Helsinki accords said were "inviolable." The real name for that frontier, of course, is the Iron Curtain.

That, my fellow countrymen, was the Free World's gift to the Soviet Union on the 30th Anniversary of that nation's military occupation of Eastern Europe—Western recognition and legitimation of the Soviet conquest of Eastern Europe.

Next week marks the 18th observance of a Proclamation, first issued by President Eisenhower, that the third week in July of each year be designated Captive Nations Week. Public Law 86-40, established by the Eighty-Sixth Congress in 1959, authorized and requested the President to take this action.

Following the actions taken by his predecessors, President Ford, the same man who affixed his signature to the Helsinki Agreement, issued a proclamation of Captive Nations Week, 1976. Not once, in his statement of July 2nd, does President Ford mention the name of a captive nation or of a captive people. In the wake of the Nixon-Ford-Kissinger policy of appeasement, detente, and the Helsinki accords, it is apparent that the term "captive" has become politically impolite.

That, however, is not a true representation of the concern of the American people, and in particular, of the American trade union movement. We are serving notice again today, and will continue to indicate in the future, our complete and total solidarity with and moral support of captive peoples everywhere—including those of Eastern Europe.

Many years ago, Samuel Gompers said that "Human freedom is a worldwide struggle." That concern has not diminished or reached on the part of the working people of this country. There is only one value, one idea, that can form the basis of an appeal by Americans to all the other peoples of the world—an appeal that will be heard and answered. That basic idea is the defense of freedom and the extension of democracy. Not merely the preservation of democracy, but the extension of democracy.

We will never rally the peoples of the world to our side with the slogan "Leave Me Alone!" We ought not to be afraid of shaking up the status quo. We ought not to be afraid of a new world order—a world order in which democracy and decency are on the offensive.

There are no Statues of Liberty in the captive nations of this world, only statues of despots, of dictators and of traitors to the cause of human freedom, justice and equality.

QUARTERLY ADJUSTMENT OF MILK PRICE SUPPORTS

Mr. HUMPHREY. Mr. President, I wish to bring to the attention of my colleagues the August 3 release of the Department of Agriculture asking for comments relating to the level of milk price supports for the October through December quarter of the 1976–77 marketing year.

Some of my colleagues will recall that the Congress on three separate occasions included the quarterly adjustment of milk price support levels as a part of legislation which the President vetoed, with his veto not overridden. On two of these occasions the milk support level was set at 85 percent of parity and on a third occasion, the emergency farm bill of 1975, the level was set at 80 percent of parity.

I recall that the USDA on many occasions pointed out that the quarterly adjustment of support levels would be difficult to accomplish. I also recall the rapid increases in milk production costs which in recent years were running above 20 percent, with some items increasing two to three times within the space of 1 year.

When the 1-year emergency farm bill was vetoed and not overridden in the spring of 1975, Secretary Butz wrote to Representative William Wampler, ranking Republican on the House Agriculture Committee, promising a semiannual review of the milk price support levels.

When we attempted to override the President's veto of Senate Joint Resolution 121 on February 4, 1976, Secretary Butz wrote to Senator Dole promising a quarterly review of the milk price support levels.

I am happy to see that the quarterly review system has now been established, and I am proud to have helped change the Department's position. I have not noticed any serious adjustment problems on the part of the Department of Agriculture or our milk processing companies. While I feel that the present price support levels are clearly not adequate, I do feel that adjusting the support levels on a quarterly basis will be a useful step in helping our producers stay current with ever-increasing production costs.

Mr. President, I ask unanimous consent that the release by the Department be printed at this point in the Record.

There being no objection, the release was ordered to be printed in the Record, as follows:

Comments Sought by USDA on Dairy Program

Washington, August 3.—The U.S. Department of Agriculture today asked for comments on proposed determinations relating to the milk price support program for the third quarter (Oct. 1–Dec. 31) of the 1976–77 marketing year.

The general level of milk prices to producers will be considered, along with Commodity Credit (CCC) purchase prices, and terms of purchase for butter, nonfat dry milk and cheddar cheese.

Under the Agricultural Act of 1949, as amended, the Secretary of Agriculture determines a level of dairy price support between 75 and 90 percent of parity in order to assure an adequate supply. Support is provided through purchase of dairy products.

On March 3 Secretary of Agriculture Earl L. Butz announced that the support price for manufacturing milk would be increased from $7.71 to $8.13 per hundredweight, effective at the beginning of the marketing year on April 1. The Secretary also announced at that time that the support level and CCC's dairy product purchase prices would be reviewed quarterly.

There was a review of the dairy situation for the second quarter (July 1–Sept. 30). As a result of the review, it was determined that the support price for manufacturing milk would remain unchanged.

Consideration will be given to any data, views and recommendations submitted in writing by Sept. 1, to the Director, Commodity Operations Division, Agricultural Stabilization and Conservation Service, USDA, Washington, D.C. 20250.

All written submissions will be available for public inspection during regular business hours at the office of the Director, Room 5768, USDA's south building.

WELFARE REFORM

Mr. GARN. Mr. President, "welfare reform," as a phrase, is widely used and currently receiving much attention. Everyone claims to be for it—just as everyone claims to be for "fiscal integrity," "responsiveness," and "regulatory reform." Unfortunately, these phrases mean different things to different people and each voter or legislator interprets them according to his or her individual perspective, constituency, and philosopical underpinnings.

The calls for welfare reform come from disparate directions and sometimes mean different things, but there is broad agreement that change—reform—is desirable. The Democratic National Convention recently adopted a platform with a plank entitled "Welfare Reform," and the Republican National Convention will surely do the same later this month. With this broad agreement as a base, we will hopefully see some real progress—movement toward a welfare system based on fairness, hope, practicality, and flexibility—so that those who need help will receive it but also be urged toward self-sufficiency.

The Democratic welfare reform plank this year decries rules and regulations that encourage family instability, lack of work incentives, insufficient help for the working poor, the patchwork of programs that help create unfair variations and low benefit levels, and complexity. They recommend an increased Federal role, a simplified system of income maintenance and work requirements. Although I do not agree with many of these recommendations and, indeed, do not agree with some Democrats on basic problems, it is important to remember that we all have a sincere desire to find solutions and offer real help—and from this basis progress can surely be made.

The Republican welfare reform plank in 1972 called the welfare system a mess and criticized the skyrocketing costs; the tendency to drain the work incentive from the working poor; the inadequate benefits to the truly needy, the aged, and disabled; the "incentive" it offers to break up families; and the injustice and cost that threaten program support among taxpayers. My party recommended work incentives and job registration, expanded job training and child care facilities, and temporary income supplements to the working poor. Again, I may not agree with all of these recommendations—and I will be interested to hear the GOP's plan for welfare reform in 1976—but they too provide a basis for agreement and change.

Mr. President, in the spirit of reform I have heard from several constituents who have suggestions and criticisms I believe should be widely dispersed. Each has had some personal contact with the system, although none is a recipient. I hope that the problems discussed in these letters will receive attention among my colleagues, their staffs, and any others who are interested in the subject.

Mr. President, I ask unanimous consent that the letters be printed in the Record.

There being no objection, the letters were ordered to be printed in the Record, as follows:

Trendsetter Industries, Inc.,
American Fork, Utah.

Dear Senator Garn: I have heard in the past that sometimes people can make more money being on Welfare than they could working at a job, but I had not really believed this until this morning when I had my first personal experience with it.

I have just spent an hour with a young man who would like to go to work for us at a job which pays $3.00 per hour, or $520.00 per month. He has a wife and three children so his deductions for income tax, FICA etc. would amount to $37.00 leaving him with a net pay per month of $483.00. The problem is that he on welfare from which he receives $397.00 in non-taxable cash, supplemented by the Food Stamp Program which sells him stamps worth $198.00 for a cash outlay of $42.00 amounting to a subsidy of $156.00. The welfare money plus the food stamp subsidy gives him a net income of around $553.00 per month.

If he takes a job at $3.00 per hour he can still buy food stamps but from information I obtained this morning by calling the Food Stamp Administrator, he would have to pay about $142.00 to gain $198.00 in Food Stamps, making a net subsidy of $56.00. His total income if he takes the job would then be $483.00 plus $56.00 or a total of $539.00 so he has a net loss of $14.00 if he goes to work.

How can this man justify taking a job with 40 hours a week of hard labor with a net loss income of $14.00 when his alternative is to enjoy life and make more money?

It seems to me that this is a rediculous situation and that our Welfare Program is badly in need of overhaul. If this case is multiplied many times over we have a partial explanation as to why our taxes are so rediculously high.

Sincerely,

Don A. Olson.

University of Utah,
Salt Lake City, Utah.

Dear Sir: We have recently had occasion to hire a new employee in our department, and have thus interviewed and hired a delightful and competent young lady who is a single parent of 2 young children. One of her children requires clinic visits daily in our Medical Center Children's Center (at a cost of $200.00/month) and her second child of course requires day care facilities. When this young lady called Family Assistance she was told that the job would "pay too much", and she could either work part-time or quit in order to continue to obtain HEW assistance for her children. She quickly deduced that she would "earn" more money for her family by sitting home half of each day.

Each year we, as a Department, receive HEW forms to fill out dealing with our projected hiring expectations and current practices in placing women and minorities. I find these forms and HEW actual practice of its own policies difficult to resolve. Can't we provide means to care for our "women employees" (hopefully all employees) in an individual, personal, rational manner? This young woman *wants* to work and provide for her family and yet still needs some partial government aid. The HEW computer said *"no"* to her, and I must say, I am truly puzzled by your overall departmental policy. Perhaps wrongly so, and you can enlighten me.

Sincerely,

Donald F. Summers, M.D.,
Professor and Chairman,
Department of Microbiology.

Granger, Utah.

Dear Senator Garn: I felt the need to let you know just how the present welfare system is relieving (everyone) many people of any responsibility to life and other poeple.

Let me tell you bout me first. I work for the Utah State Assistance Payments Administration and am involved in the ineligibility and overpayment problem area. I am 34 years old and have worked for Utah State "welfare" for almost nine years. This letter is a result of my daughter baby sitting for a person (lady) that happened to be on public assistance. She won't pay the child for baby sitting and says we "can't sue her because she's on welfare." The disputed amount is only $1.75 but my child is learning that some situations really do shelter those that use them that way, namely public assistance. I will take the issue to small claims court for the principle of it but I know I cannot collect. Welfare grants cannot be attached and so on and so forth.

Now to what I have to say to you Senator. We both know welfare is better than nothing but at its best is not good at present. My responsibilities over the past years of working for the Department show me something really obvious. There is abolutely no responsibility attached to the receipt of public assistance. Rules and laws make it so there is almost no penalty attached to fraud. There is no, I repeat, no, responsibility that the recipient can be charged with to make his or her payments be kept correct. Recipients are urged but cannot be required to assist in their on-going eligibility. Oh yes, people furnish birth certificates, rent receipts, etc., but that isn't where the overpayments are in Utah. The overpayments are when people do not tell the agency of a marriage, a job, some type of income or other.

I think the federal government, namely Senator Jake Garn and Senator Frank Moss should get the regulations amended so responsible recipients can be responsible for their own eligibility and payments reports and if found wrong then a penalty should be there. Month after month we have overpayments because of marriages unreported, father back in the house and unreported, recipients working and not reporting it. Granted the agency makes errors but if workers weren't so busy trying to track down the above they could do a much better job.

I feel the attitude shown on the first page is prevalent in many younger recipients: You can't do anything to me because I'm on welfare. My medical is paid, I always have money and you can't touch it. That leaves no worries and the law makers and taxpayers will reap this attitude in full if something is not written into law to counteract and change the attitude. There must be responsibility attached to the receipt of money and services. With no responsibility the two are tools for play which is not compatible with the capitalistic system. The old, infirm, etc. must be guaranteed care. The young, able-bodied, male or female must be made responsible to maintain eligibility or be penalized immediately. They should share in the good or the bad of overpayments. At present they are autonomous. Civilization is just responsible people. The public is just people one at a time. As responsible public, yes "public" because with the open system of welfare you can't distinguish between recipient and nonrecipient, would put the burden on the recipient to maintain eligibility. The whole philosophy of application and review could be changed if the federal government allowed the recipient to be responsible or taken care of. What most of the population of recipients can live by is surely not too stringent for the other 15 to 20 percent.

I think that one of your priorities should be to push something along this line so it can get into law before too many people are infected with the lack of any responsibility to society.

Sincerely,

Dennis Perkins.

Citizens National Bank,
Ogden, Utah.

Dear Senator Garn: I am writing this with regards to what I feel is the increasing socialization of our nation. The growth of welfare lines and its direct relationship upon the incentive to work have me concerned very deeply. The strength of the influence of welfare hit me very hard last week when a lady with whom I have worked for the past few years decided that it was no use trying to beat the bills by working. "Why should I break my back," she said, "when welfare will give me as much as I am making now if I just sit at home?"

Sir, I realize that many people do need help, through both financial and social programs, but why can't the programs build one's self-respect by helping him to work instead of destroying it by making him a drone on society?

I understand that the Family Assistance Act provides for day care centers for the poor. Why can't the middle class receive some of these benefits, also? Is it because the poor couldn't afford to support us? Well, personally, I don't feel like I am in a position to support the poor for much longer, either. I am not against helping the needy, but why, Mr. Garn, can't they be forced to work, if they are able-bodied: Why do we, in this great land of the Protestant ethic, accept welfare plans and programs that attack one of the very fibers on which this country was built: "that all must work so all may eat."

You had my vote in November; will I have yours in the days ahead?

Gregory L. Costley.

Centerville, Utah.

Dear Senator Garn: I appreciate the way your newsletter identifies the legislation you have voted on since the last communication with a short identifying paragraph.

Recently there have been several articles indicating your support for an investigating committee to deal with the problem of welfare fraud.

May I suggest that based on the three years I spent prosecuting the several forms of welfare fraud, there are almost as many varieties as there are welfare programs. I believe that you can take the strong position you have against welfare without being identified as one who is against social programs only if it is emphasized that one of the major benefits connected with the reduction of fraud is that those who are truely deserving of assistance can be given greater benefits within the existing budget only when fraud is minimized.

If we are to help the truely needy during periods of inflation, we must take the vigorous action you call for against fraud so that those eligible for help can receive more without increasing the costs to the working middle class.

One very common form of fraud is the overpayments of benefits to mothers on the Aid to Dependent Children Program which is caused by the mother's failure to report sporadic child support payments made by absent fathers. There is a marked increase in this type of fraud just before school starts in the Fall and just before Christmas. To the extent possible, any new program developed needs to recognize some means of making fraud more painful and honesty more rewarding, perhaps through a system of incentive credits given when the recipient's account is maintained without need for financial adjustment due to investigation for a period of a year.

It may be of interest to you to know that the average duration of benefit payments for the Aid to Dependent Children Program in Utah recently was a total of 19 months from the first payment to the closing of the assistance cause by employment or marriage.

Sincerely yours,

J. Val Roberts,
Attorney at Law.

AILING GREAT LAKES SLOWLY RECOVERING

Mr. NELSON. Mr. President, there is ample evidence of the need for legislation to protect the public from toxic substances.

The July 25, 1976, issue of the Washington Post included an article by Margot Hornblower, entitled "Ailing Great Lakes Slowly Recovering." The article cites progress made in cleaning up our inland lakes and rivers, and reiterates the need for continued diligent efforts.

The Senate on March 26, 1976, passed the Toxic Substances Control Act, which included a ban on industrial uses of polychlorinated biphenyls—PCB's. The House bill, as reported from committee, eliminated this provision.

The Washington Post article underscores the urgent need for toxic substances legislation. I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

AILING GREAT LAKES SLOWLY RECOVERING

(By Margot Hornblower)

MILWAUKEE.—The Great Lakes, North America's largest freshwater reservoir and the cradle of America's industrial revolution, are slowly recovering from decades of environmental abuse.

However, while industries and cities have spent billions of dollars cleaning up the chemical and sewage wastes they pour into the lakes, enormous problems remain. Fish are poisoned by mercury, pesticides, PCBs and other dangerous chemicals. Drinking water in Lake Superior contains asbestos, a possible cancer-causing agent. Some beaches are closed because of sewage bacteria.

"In five years. we've come a long way toward cleaning up the Great Lakes," said Environmental Protection Agency Administrator Russell E. Train, after a four-day trip around the lakes.

"Tremendous resources are being brought to bear, and there are real success stories. But it is a very mixed picture. You can't cure the ills of 100 years overnight."

Ten years ago, newspaper headlines across the country decried the "death" of Lake Erie, and the lake became a national symbol of environmental destruction, sparking the fledgling ecology movement.

The lake, a 12,000-year-old inland sea, suffered from a premature aging process called "eutrophication" which threatened to turn it into a swamp.

Cities around the lake, such as Cleveland, Detroit and Buffalo, were pouring untreated sewage and phosphorous into its waters. Phosphorous, a pervasive nutrient contained in food, household detergents and fertilizers, stimulates underwater plant growth—which in turn depletes oxygen necessary for fish to survive.

Today, the dead, oxygen-depleted area which once covered 70 per cent of the lake's central basin has begun to recede. However, Lake Ontario also is suffering from eutrophication, and has not improved since 1967.

In the last five years, the United States has undertaken one of the largest public works projects in its history to build sewage treatment plants around the nation. Of the $18 billion allocated, about $5 billion is to be spent in the Great Lakes region by September, 1977.

Today, about 60 per cent of the sewage produced by Americans living along the lakes receives adequate treatment. On the Canadian side, 97 per cent of the population is served by modern treatment plants.

The lag, produced in part by federal grant red tape, by local contractor bidding squabbles and the cities' financial problems, has produced some tension between Canada and the United States. The two countries signed a treaty in 1972 pledging a joint cleanup by 1975.

Under the 1972 amendments to the Federal Water Pollution Control Act, EPA has authority to grant money for sewer plants and to require industry to restrict discharges.

In 1972, it was thought that new sewage plants could clean up the phosphorous that was killing the lakes—although environmentalists said a total ban on phosphates in detergents was needed.

Last week, Train said the treatment approach has failed. "Even as we get our sewage treatment plants on line, we're finding they don't give us adequate phosphate reduction," he said.

"I don't see any answer to the problem short of a severe limitation on phosphate detergents in the Great Lakes area." He said EPA will encourage states around the lakes to enact restrictions—so far, only Indiana, New York and Minnesota have strict phosphate laws.

Although adequate sewage treatment facilities in Great Lakes cities will not be ready until 1981 at the earliest, industry is well on its way to complying with clean water regulations by next year.

As a tribute to industries efforts, Train donned a hard hat to tour Monsanto Co.'s phosphates plant in Trenton, Mich., and Republic Steel's giant Cleveland mill.

Monsanto's products appear in such familiar items as Coca-Cola, Kent cigarettes, Colgate toothpaste and Tide detergent. In the late 1960s the plant, the largest phosphate operation in the world, was dumping 5,000 pounds of phosphate wastes a day into the Detroit River. Today, after $750,000 worth of in-plant treatment facilities, the discharge is 30 pounds a day.

Republic's largest steel mill until recently discharged oil, iron, zinc, phenol, ammonia and cyanide in 70 million gallons of water a day. A few years ago, the Cuyahoga River, which empties into Lake Erie, became so dirty from steel and chemical companies' discharges that it caught fire.

Today, Republic has spent $55 million for water treatment facilities and tests show its discharges are cleaner than the river water it takes in.

While most of the 400 industrial dischargers along the Great Lakes have agreed, often reluctantly, to comply with the water pollution control laws, 17 plants including four owned by U.S. Steel, are fighting EPA in court.

Republic Steel and Armco, owners of Reserve Mining in Silver Bay, Minn., are locked in combat with the federal government over the company's pollution of Lake Superior. Reserve has discharged 67,000 tons of taconite tailings daily for 21 years, contaminating the drinking water of Duluth with asbestos fibers, a possible carcinogen (cancer-causing agent).

Asbestos is one of a number of substances that have only recently been a focus of environmental action. "We're discovering new problems that we didn't have in mind when we started to clean up the lakes in 1972," Train said.

"The only solution we have to PCBs and other chemicals is legislation to stop them before they leave the laboratory. But until Congress passes toxic substances legislation, we have no effective handle on them."

PCBs (polychlorinated biphenyls) are a pervasive, man-made chemical found in transformers, paints, paper, plastics, refrigerators, television sets and other goods. They are known to cause birth defects and illness in humans, and are found in fish in all five of the Great Lakes.

Although Monsanto, the sole manufacturer of PCBs, has voluntarily restricted their production, PCB levels do not appear to be declining in the Great Lakes. Salmon, trout, eels, perch and other fish have been found to contain dangerous quantities, leading to warnings from state health departments and a severe crippling of the lakes' commercial fishing industry.

At a meeting last week of the International Joint Commission, which oversees U.S.-Canadian water quality, scientists revealed the presence of mirex, a suspected cancer-causing chemical, in fish and herring gull eggs in Lake Ontario.

Mercury, the pesticide dieldrin and heavy metals such as lead, zinc and nickel are also found in lake fish in hazardous concentrations.

"Lately, it's been the toxic material of the month," said EPA regional administrator Gerald Hansler. "It's discouraging to see billions of dollars spent on cleaning up sewage and to find a new chemical which you don't know how to treat."

Recent research has revealed that restricting industrial and municipal discharges is not enough: a substantial amount of water pollution is caused by airborne substances of undetermined origin. In the case of Lake Superior, it comes from as far away as St. Louis.

Phosphorous fertilizers blow off the land where farmers have spread them. PCBs are incinerated or evaporate into the atmosphere. Lead floats from automobile exhaust pipes into the lake waters.

Phosphorous from agriculture runoff is more of a problem than originally recognized, and one that cannot be as easily treated with technology as sewage disposal. EPA is undertaking educational programs with the Agriculture Department to train farmers not to overfertilize, plant too near rivers or fertilize in the fall before the snow melts and carries chemicals into the rivers.

About half of the phosphorous loading—and consequent oxygen depletion—of Lake Erie comes from agricultural, rather than urban or industrial sources. The Maumee River basin near Toledo is especially polluted from agriculture. Urban runoff—from phosphorous spread on homeowners lawns—also damages the lakes.

All the sewage problems will not be solved even when the $5 billion worth of plants are built. Most cities have combined storm sewers, so that every time it rains, water washes down the streets into the sewer system and overloads the treatment plant. The overloaded plants then discharge raw sewage into the lakes and rivers.

EPA estimates it would cost an additional $6 billion to correct combined sewer overflow problems in the Great Lakes area.

Another tough problem is where to dispose of the accumulating tons of sludge, the foul-smelling residue left over from industrial and city treatment plants. Burning sludge causes air pollution, and burying it uses up valuable land and risks seepage into ground water and rivers.

On his tour, Train visited two Great Lakes facilities to publicize innovative sewage programs. Milwaukee's Jones Island plant, which serves 1.1 million people, turns sludge into a coffee-colored, odorless lawn fertilizer called milorganite, bags it and sells it on the open market.

In Muskegon, Mich., the county sewage treatment system uses the wastes of 125,000 people, a large paper mill and several chemical plants to irrigate a 10,500 acre farm. Sandy soil retains phosphorous and nitrogen to feed the planted corn, and purifies the wastewater, which drains into a tile system and into Lake Michigan. The corn is being tested for potentially dangerous chemicals.

OREGON AIR NATIONAL GUARD UNIT WINS NATIONAL COMPETITION

Mr. HATFIELD. Mr. President, in a national weapons loading competition held at Tyndall Air Force Base in May, the Oregon Voodoo Medicine Men from the 142d Fighter Interceptor Group of Portland, Oreg., walked off with first prize and the Gen. Thomas K. McGehee trophy. The four-man team of SMSgt. Alan Kaser, and TSgts, Mark Wiebold, Joe Woodburn, and Lane Hoffman took first place with a 2,461-point total score on the strength of two near-perfect loads, a 291 out of a possible 300 on the written test, and a perfect score of 200 on the equipment and tools check.

The Voodoo Medicine Men's achievement was written up in the July 1976 issue of the National Guardsman. I would like to share that article with my colleagues, and extend my congratulations to the loading team, their commander, Col. Kenneth Solomon, and the NCOIC of the weapons loading system, CMSgt. Richard Rosenthal. I ask unanimous consent that the article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

The Voodoo Revenge

Nine months between meets is not a long time in the precision world of weapons loading competition.

But, evidently it was enough for Air Guardsmen of the 142d Fighter Interceptor Group at Portland, Oreg., to reevaluate their weapons loading techniques, correct their mistakes, and return this year to win the 1976 Aerospace Defense Command's (ADCOM) Weapons Loading Competition.

Under sunny Florida skies the four-man load team strode into Tyndall AFB and vanquished 15 other Air Force and Air Guard teams during the week-long event, held May 13–21.

Their prize? The Gen Thomas K. McGehee Trophy and all the pride and adulation that goes with being a winner.

True to their nickname, the Voodoo Medicine Men found the panacea for their 1975 ills. Team members SMSgt Alan Kaser, and TSgts Mark Wiebold, Joe Woodburn and Lane Hoffman swept to a 2,461-point total score on the strength of two near-perfect loads, a high test score and maximum points on the tools and equipment check.

Second place in the competition was won by the 5th Fighter Interceptor Squadron, an Air Force ADCOM unit from Minot AFB, N.D. They edged the third place finisher, the Air Guard's 119th Fighter Interceptor Group from Fargo, N.D., by one point. Last year's winner, an Air Guard unit from Montana, the 120th, dropped to fifth place, 61½ points behind the front runner.

The annual competition, now in its sixth year, tests the skills of crewmen who load air-to-air rockets and missiles aboard F–101 and F–106 aircraft that guard North America against enemy attack. Scoring is based on the times required to complete two loadings, the condition of required tools and equipment, and on the results of written exams given to crew members. Safety is a prime consideration.

Last year the Oregon Voodoo Medicine Men held the lead position for five days until they were overtaken by a perfect 1,000-point load score achieved by Montana's 120th FIG. The 120th eventually moved into first place and finished 18 points ahead of the 142d.

This year things were different. In previous years written test scores were released immediately. However, bad scores often had a negative impact on a team's performance. Beginning with 1976 competition, the judges decided to not release scores until the last load.

The rule change was a boon to the 142d. On the written exam they scored 291 out of a possible 300 points. In two loads they scored 985 out of a possible 1,000 points. And on the tools and equipment check they pulled through with a perfect 200 points.

While the 142d was breezing to a first-place finish, a co-ed load team representing the 119th FIG watched an upstart USAF team from neighboring Minot AFB overshadow a 119th record-setting performance and nudge into second place.

The 119th Hooligans (plus two women Hooligals) compiled an overall score of 2,437.5 compared to 2,438.5 tallied by Minot and the winning 2,461 points scored by the 142d.

The Hooligans and Hooligals set a meet record on the written examination by compiling a 295.5 team score out of a possible 300 points. They also tallied a 985 score on their second loading test and finished with a perfect 200 on their tools and equipment check.

Although certainly disappointed by their one point second-place loss to the 5th FIG, 119th team members apparently were elated by their overall high finish in the final standings (last year an all-woman Hooligal team placed 11th out of 21). Said 1976 team member, Sgt Ellen Rising, "It makes all the hours of work and practice worthwhile."

IRAN AND THE ARMS TRADE

Mr. HUMPHREY. Mr. President, today's Washington Post contains an important editorial entitled, "Iran and the Arms Trade." The editorial, referring to a recent staff report to the Subcommittee on Foreign Assistance of the Foreign Relations Committee, points out that the United States is deeply involved with Iran as a result of our military sales program, a program never debated within this administration, let alone in public. The editorial highlights a key dilemma:

> If the Shah were to use this equipment in war, the United States would be faced with a fearful choice. To leave the American technicians and experts in place would make this country an active participant in the Shah's purposes. But suddenly to withdraw technical support and resupply would risk the destruction of all U.S. relations with Iran with obvious consequences for the flow of Persian Gulf oil on which this country is increasingly dependent.

This situation deserves the attention of the highest levels of our Government, the Government of Iran, and the American public. As the editorial states:

> Above all, he (Mr. Kissinger) has an obligation to tell both the Shah and the American public under precisely what conditions Iran will get American support if those F–14s are used in combat.

Mr. President, the Foreign Relations Committee will wait to discuss this and other matters with the Secretary upon his return from Iran.

I ask unanimous consent that the editorial be printed in the Record.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

[Editorial from the Washington Post, Aug. 5, 1976]

Iran and the Arms Trade

President Nixon's decision to arm Iran was characteristic of much of his diplomacy. It was secretive. Its dismaying applications were never debated within the administration, let alone in public. It has now left the country with an implicit commitment that Americans cannot accept—and yet cannot easily reject. Condemning this kind of high-handed and irresponsible statecraft is simple enough. But working out a remedy is going to be as difficult as it is urgent.

The dimensions of this dilemma are becoming painfully clear. Iran is now this country's biggest customer for arms, buying inordinate amounts of the most advanced and complex weaponry. Iran, as a nation and a people, does not have the technological base for this kind of an armory. Keeping it in operation requires Americans, in large and conspicuous numbers, on the airfield and in the maintenance shops.

If the Shah were to use this equipment in war, the United States would be faced with a fearful choice. To leave the American technicians and experts in place would make this country an active participant in the Shah's purposes. But suddenly to withdraw technical support and resupply would risk the destruction of all U.S. relations with Iran with obvious consequences for the flow of Persian Gulf oil on which this country is increasingly dependent.

The time to consider this unpleasant prospect is before, not after, the Shah begins to use this expensive equipment that the United States has sold him. But there is no indication that the Ford administration has thought about it much, or has any policy at all. Perhaps the process of looking for an answer will be accelerated by the publication last Monday of the Senate Foreign Relations Committee's staff report on the military sales to Iran. The rising danger to American interests has been apparent, in general terms, for some time. But this report lays out the case with a wealth of detail difficult to ignore.

An example: The report notes that this country has sold Iran weapons that include the new F–14 Tomcat fighter and the Spruance class destroyer. "The F–14 system is so complicated that the United States Navy is having major difficulty keeping it operational; Iran's Spruance class destroyer will be even more sophisticated than those being procured by the U.S. Navy," this report observes. It then adds: "There is general agreement among U.S. personnel involved with the Iranian programs that it is unlikely that Iran could go to war in the next five to 10 years with its current and prospective inventory . . . without U.S. support on a day-to-day basis." Can Iran count on that support? The Shah is entitled to an answer. So are American voters.

After a venture in personal diplomacy in Teheran in early 1972, Mr. Nixon told his subordinates that the Shah was to be permitted to buy virtually any weapon short of nuclear warheads. Because of the sweeping and explicit nature of this order, all of the normal processes of review and analysis were abrogated. The only limiting factor was Iran's ability to pay. But then came the oil revolution. Iran's oil revenues in the year of Mr. Nixon's visit were a little over $2 billion; by 1974 they were up to $17.4 billion, and American arms sales to Iran were up to nearly $4 billion a year. But by then the Nixon administration, sunk deep in the Watergate scandals, had no attention to spare for marginal matters like arms policy. The lower ranks of officialdom here in Washington let the sales rush forward, mindlessly and automatically.

Iran is at the center of a notoriously instable region in which national enmities are sharp and national ambitions, nourished by a new economic power, run high. The Foreign Relations Committee's report notes that the Shah is developing close military relations with Pakistan, which, of course, is more or less continuously embroiled with India. India has nuclear weapons. Iran, by the way, is negotiating for American reactors—for peaceful purposes, everyone says.

By coincidence, Secretary of State Henry A. Kissinger arrives tonight in Teheran for two days of conversations. There is no subject before the two governments so pressing as this arms spiral. Mr. Kissinger needs to discuss with the Shah the means to limit and reduce the flow of weapons. Above all, he has an obligation to tell both the Shah and the American public under precisely what conditions Iran will get American support if those F-14s are used in combat.

FULL EMPLOYMENT AND THE BATTLE AGAINST INFLATION

Mr. GRIFFIN. Mr. President, the recent action by Congress overriding the President's veto of the public works bill underscores an important point—the need for the Federal Government to develop a sensible policy for dealing with unemployment.

I voted to override the veto of that legislation—not because it represented the best approach for dealing with unemployment—but because it represented the only real hope in this Congress for helping areas, such as my own State of Michigan, where the jobless rate remains high. The most useful feature of that bill is the countercyclical proposal, which would channel assistance to those communities hardest hit by the past recession.

But the lion's share of the $4 billion authorized by that legislation would be spread around indiscriminately for public works projects that frequently have little relation to the most serious and intransigent unemployment problems facing this country. Unfortunately, that conventional approach of throwing money at problems would be carried to its logical extreme under the massive Government spending program contemplated by S. 50, the so-called full employment bill.

S. 50 adopts a superficially appealing goal of reducing unemployment to 3 percent within 4 years—and then directs the President to propose whatever programs are necessary to achieve that goal without regard to the consequences. Quite likely, the consequences will be an unprecedented Government jobs program conservatively estimated to cost as much as $44 billion, an exodus of workers from the private sector, and an almost certain galloping inflation rate. That is enough to make the great society programs pale by comparison.

As Charles Schultz of the Brookings Institute pointed out in his testimony before the Senate Subcommittee on Unemployment, Poverty, and Migratory Labor:

> It is unrealistic to expect that the simple inclusion of a single numerical target for unemployment, would somehow force a President to take action to get there, regardless of the consequences.

Similarly, Sam Levitan of the George Washington University Center for Social Policy Studies was also critical of S. 50. In his March 21 testimony before the Senate Committee on Banking, Housing and Urban Affairs, he stated that,

> While I applaud the goals of S. 50, regrettably its provisions fall short of the mark. It establishes an unemployment target which is not likely to be realized; it ignores the changes that have occurred in the American economy since the passage of the Employment Act; it establishes a cumbersome machinery; and by failing to define terms, it confuses more than it clarifies.

Even liberal economist John Kenneth Galbraith expressed reservations about S. 50, conceding that "as full employment is approached, inflation will become more severe."

In contrast to that approach, the distinguished minority leader (Mr. HUGH SCOTT) and the junior Senator from Kansas (Mr. DOLE) have offered a constructive alternative to S. 50, which I am cosponsoring. Their bill—S. 3543, the National Full Employment and Anti-Inflation Act of 1976—would attack the unemployment problem in a much more realistic manner. While acknowledging the need to develop a national employment policy, the bill also emphasizes the importance of considering measures that reduce inflationary pressures and stimulate employment in the private sector.

Obviously, S. 3543 is not the ultimate solution to all of our unemployment woes. But, it does provide a framework for developing specific programs for dealing with such problems as regional, structural, and youth unemployment.

Instead of frustrating the positive accomplishments of this administration in promoting stable, long-term economic growth, as S. 50 would do, our legislation builds upon these efforts by developing policies that would help to energize the tremendous potential of the free enterprise system.

As the London Economist noted in its June 11 editions,

> For the rest of the 1970's there seems to be both the capacity and the productivity potential for an American "economic miracle"—if not of Japanese proportions, at least on the 1960's European scale of 5–6% real growth a year.

Indeed, since the March 1975 low, about 3.6 million people have been put back to work. And, the number of people employed in May leaped to an alltime high of 87.7 million. These figures demonstrate that, through sound fiscal policies, it is possible to lower unemployment and inflation rates at the same time.

The issue is not whether there should be full employment. The real issue is how to attain that goal without fueling the fires of inflation and without substituting make-work Government jobs for meaningful opportunities in the private sector.

To accomplish that, we must look beyond the symbolic 3-percent rallying cry, As Alan Greenspan, Chairman of the Council of Economic Advisers, cautioned in his testimony earlier this year before the Senate Banking, Housing and Urban Affairs Committee—

> When we speak of full employment our goal is not a statistic, but a labor market characterized by high employment and productivity.

If we are to effectively fight unemployment, we must recognize that it encompasses many different kinds of problems. Surveys reveal that unemployment is not just the result of discrimination or a lack of jobs. The problem is much more complex.

It is a case of discouraged people with marginal skills or persons situated in economically depressed regions.

It is young people without specific training or experience.

It is fractional unemployment—short spells of unemployment accompanying job turnover or initial entry into the labor force.

It is part-time workers at or below the poverty line with very weak job attachment and very little incentive for advancement.

In short, employment has many faces beyond a mere statistic.

The unemployment problem will not be resolved simply by providing jobs, especially short-term Government jobs of last resort, just to keep workers busy. Instead, Federal resources should be used to encourage long-term job opportunities that offer the chance for upward mobility. And, job training should be tailored to meet job market demands. S. 50 relies on massive Government hiring. The Dole-Scott bill emphasizes private employment where the most meaningful job opportunities exist.

While both bills establish objectives and a framework for dealing with unemployment, specific programs would still have to be developed. In that regard, consideration could be given to providing tax incentives to employers—especially small businesses, which account for 64 percent of the private work force—who hire new workers. Such a program would help to encourage on-the-job training.

An approach for dealing with local or regional unemployment problems, for example, is contained in the legislation that I introduced earlier this year, S. 2986, the Supplemental Community Development Employment Assistance Act of 1976. That bill would accomplish several objectives by targeting assistance to communities with the worst unemployment problems, by facilitating urban redevelopment and by creating private sector jobs.

In addition, special attention should be directed at the problems of teenagers and young adults, who constitute only one-quarter of the labor force but make up over one-half of the unemployment.

These are only a few of the approaches that should be considered. But, the Federal role should be carefully tailored to address specific employment needs, rather than a saturation bombing of the job market with Federal jobs.

Spending money recklessly in pursuit of a single, fixed numerical goal is economic nonsense. Federal efforts to promote full employment require cooperation among all segments of the economy. To achieve that purpose, the Dole-Scott bill is a step in the right direction.

THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, the fight for human rights has been an important part of our national history. Americans can be very proud of our heritage of struggle against domestic racial, religious, and economic discrimination. These efforts in the field of human rights, however, must not become a source of smug satisfaction. There is always more to be done, both here and abroad.

A quarter century ago the United Nations General Assembly endorsed the Genocide Convention, the first human rights document which that body considered. The United States was one of the principal leaders in drafting that document. Indeed, President Truman took the major leadership in pushing for a Genocide Convention. In the intervening years, every President of the United States, including Richard Nixon, has supported the Genocide Convention. Seventy-five nations, including all our major allies, have ratified this treaty. It seems an anomaly, therefore, that a nation which was a pioneer in the field of human rights would fail to ratify this basic and fundamental document of liberty.

Mr. President, I feel strongly that 1976 our Bicentennial Year, is the time to be practical and, as Woodrow Wilson once said:

> Strive to work toward becoming one of the greatest schools of civilization.

The United States must not delay any longer. The time to reassert our leadership in this field is long past due. We should act.

CORRESPONDENCE ON GOLD CLAUSE BILL

Mr. HELMS. Mr. President, I am pleased that the distinguished Senator from New Mexico (Mr. DOMENICI) has joined me as cosponsor of S. 3563.

Mr. President, I have recently been in contact with a number of businessmen, educators and bankers concerning my bill, S. 3563, a bill which would restore the right of Americans to write a clause into contracts which would provide for payment in gold or in dollars measured in gold. It is a simple freedom which should be restored, just as freedom to own gold was restored 2 years ago. It is ironic that Americans have almost unlimited freedom to enter into mutually satisfactory economic agreements. Contracts can now be written which would provide for payment in oats or copper or fish, or dollars measured in those commodities—but not gold.

Mr. President, four letters I have received raise some important arguments on the bill. They should be reviewed by all members who are interested in this important issue. These letters are from Mr. Robert Abboud, chairman of the Board of the First National Bank of Chicago, Mr. William Ballou, president of Ballou, Inc., Mr. Edward J. Baptiste, president of Liberty Advisors, Inc., and Mr. Eugene Birnbaum, vice president and chief economist of the First National Bank of Chicago.

Mr. President, I ask unanimous consent that the letters be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

THE FIRST NATIONAL BANK
OF CHICAGO,
Chicago, Ill., June 30, 1976.

Hon. JESSE HELMS,
Senator from North Carolina, U.S. Senate, Washington, D.C.

DEAR SENATOR HELMS: I read your speech of June 14th with great interest.

I frankly know of no reason why contracting parties who wish to do so should be prohibited from using a gold clause or any other payment mechanism they so choose. It is true that if the value of the currency begins to depreciate rapidly, the use of gold clauses may increase dramatically. But the alternative is for the anticipated depreciation in the value of the currency to be built into the price of the goods or services being offered for sale or, worse yet, for the goods or services to be withheld from the market altogether. I frankly don't understand how the gold clause prohibition serves any useful function. The seller will demand fair value one way or the other or not sell at all. And the use of the gold clause merely provides an alternative means of rendering what the seller might consider to be fair value.

Sincerely,

A. ROBERT ABBOUD.

BALLOU, INC.,
Ridgewood, N.J., July 1, 1976.

Subject: S3563.

Hon. JESSE HELMS,
U.S. Senator, North Carolina, Senate Office Building, Washington, D.C.

MY DEAR SENATOR: Thank you for your kindness in sending me that portion of the Congressional Record (Volume 122, No. 91) dealing with your introduction of the proposed subject legislation.

It seems that your introduction is based almost purely on a libertarian concept of the right of individuals to protect themselves through whatever financial arrangements they might make in their dealings with others, including the exercise of contractual agreements relating to future payments for commodities or services. I am in full agreement with your position.

An additional benefit of subject proposed legislation. I believe, would be a return to a more realistic, steady economic growth pattern. One of the statistics that interests me is not only the rise and fall of relative prices on stock markets and commodity exchanges (the ratios of peaks to valleys) but also the frequency with which such peaks and valleys occur. Published information shows that the frequency of stock market gyrations increases during inflationary periods. One has to look only to the history of stock market prices during the inflation in Germany following World War I, the inflation (actually two inflations) in France and our recent inflationary period, roughly commencing in the 50s and not yet ended. While rapid gyrations in pricing for stocks and commodities is of great interest to brokers and traders, it is a problem that nettles both buyers and sellers alike. The businessman who is attempting to chart the future course of an enterprise may resort to futures trading or some other hedge, but he must often avoid entering into some transactions that he might otherwise accept when the future value of the currency (the dollar) is so uncertain.

I believe that the removal of the restriction against making contracts in terms of gold, that would be afforded by passage of your proposed bill, would not only increase freedom but would actually allow a smoother operation of business and markets in general. This could result in better utilization of overall resources and could create a better atmosphere for overall employment.

I hope that our New Jersey Senators and Congressmen will support your proposed legislation.

Sincerely yours,

F. WILLIAM BALLOU.

LIBERTY ADVISORS, INC.,
Lenox, Mass., July 7, 1976.

Senator JESSE HELMS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR HELMS: Thank you for your letter of June 23, 1976, and the enclosure of your speech upon introducing a bill which would repeal the prohibition against gold clause contracts.

If you obtain the necessary support to pass your bill, you will have done an invaluable service to your country and mankind especially during a period that will rank in the history as the bench-mark of stupidity in the affairs of monetary systems. Your bill at least if passed may allow those few observant people and organizations to protect themselves against the future ravages caused by the ever increasing arrogant substitution of paper promises for specie. I shudder at the power of Congress in its awesome propensity to spend and create deficits and in turn the Federal Reserve Bank and Treasury's ability to monetize them. The responsibility at the present can truly only be shouldered by Arthur Burns, William Simon and perhaps Greenspan. Instead of devoting their efforts to educating the Administration and the Congress to the coming disastrous pitfalls of runaway inflation and subsequent collapse, they in turn contribute to the exacerbation of such a gruesome trend in their continued approval of paper IOU's as a basis of monetary order or should I say disorder.

How many Rambouillet, Jamaica or Puerto Rico conferences do we need?

I am not optimistic—until leaders such as you begin to make a major impact on your Keynesian peers.

Sincerely,

EDWARD J. BAPTISTE.

THE FIRST NATIONAL BANK OF CHICAGO,
Chicago, Ill., July 14, 1976.

Hon. JESSE A. HELMS,
Dirksen Office Building,
Washington, D.C.

DEAR SENATOR HELMS: Thank you for your interesting letter of June 23, 1976, regarding your speech before the Senate on June 14 in which you introduced a bill to repeal the prohibition against private gold clause contracts. I find myself in substantial agreement with your proposed legislation.

There are, as you know, sharply differing viewpoints on this matter. This may largely be due to a number of uncertainties regarding the future of gold as a monetary or quasi-monetary standard of value. It is my judgment, however, that repeal of the gold clause prohibition for private contracts will not significantly affect the outcome of this issue, one way or the other.

Even if, as some observers seem to believe, the use of the gold clause in contracts should become widespread, it is by no means clear that this would necessarily tend to increase the price of gold. Indeed, the use of the gold clause could serve at least to some extent as a substitute for actual transactions demands for gold. It is therefore not inconceivable that restoring the legality of gold clause contracts could, in fact, even dampen the demand for gold. Should this be the overall outcome of the repeal of the gold clause prohibition, then the price of gold might tend to decline or, at least, to be lower than otherwise. I mention this only to note just one neglected and complex issue among many possible consequences of restoring legality to the use of gold clauses in private contracts.

The enforcement of gold clause contracts was prohibited in the 1930's mainly as a result of government efforts to minimize the possibility of a serious financial disturbance subsequent to the decision to devalue the dollar significantly in terms of gold. Quite apart from questions that have been raised in some quarters regarding fundamental legal and even moral aspects of this matter, the judicial finding of the unenforceability of gold clause contracts might in those circumstances have been successful in averting some bankruptcies. Without further comment on the merits of that judicial action, the fact remains that the action did occur, and, having occurred, it constitutes a precedent which cannot be erased. Accordingly, should the gold clause again be permitted for use in private contracts, questions would probably arise regarding the credibility of its enforcement in the event of a similar circumstance occurring in the future.

I share your disposition to remove this unnecessary infringement on the freedom of Americans to negotiate contracts in accordance with their personal preferences.

Sincerely yours,

EUGENE BIRNBAUM.

THE HELSINKI ACCORDS: ONE YEAR LATER

Mr. JACKSON. Mr. President, a year ago this week, leaders of 35 nations met to sign the Final Act of of the Conference on Security and Cooperation in Europe at Helsinki, Finland. From the viewpoint of East-West relations, among the most important provisions of this accord are the commitments made to human rights, colloquially referred to as "basket III."

On the occasion of the first anniversary of this agreement, I wish to call to the attention of my colleagues in the Senate a sampling of articles which have appeared in leading American papers reviewing the progress, or more accurately the lack of progress, made in some countries in the protection of individual rights and fundamental freedoms since "basket III" was accepted at Helsinki.

Mr. President, I ask unanimous consent that the text of these articles be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Washington Star, July 19, 1976]

HELSINKI PACT A YEAR LATER: BASKET OF IDEAS OR TROUBLES?

(By Henry S. Bradsher)

There were sunny smiles, polished politeness and lots of luscious Finnish strawberries last summer in Helsinki. Everybody seemed to agree that peace, friendship and greater contact between nations was a good idea.

And so the leaders of 32 European nations, plus the United States, Canada and the Vatican, signed the Final Act of the Conference on Security and Cooperation in Europe. It talked about "promoting better relations among themselves and ensuring conditions in which the people can live in true and lasting peace."

It sounded fine, but the agreement had been hammered out in controversy between East and West. For every soaring hope expressing in Helsinki of a new era of international understanding, there were Western warnings of pitfalls ahead in turning the agreement into a working blueprint for cooperation and a Communist qualification to the written terms.

Now, a year later, the Helsinki agreement is still controversial.

It is not just the expectable argument about whether it is proving to be a half-full bottle, containing some progress in East-West relations, or a half-empty one notable mainly for its unfulfilled provisions. The very delineation of the bottle is in dispute between a Western understanding of it as a simple, straight-sided thing and a Communist attempt to define it as decidedly curved.

Two years of tough negotiations, basically pitting the North Atlantic Treaty Organization nations against the Moscow-led Warsaw Pact, produced a very qualified and yet outwardly encouraging document.

The Soviets wanted a European statement that would have the effect of ratifying the borders it grabbed during World War II and might create an illusion of peaceful harmony which would lull the Western defense effort. Using the leverage of Moscow's eagerness, the West was able to insist on humanitarian provisions despite marked Soviet reluctance to accept some of them.

Some families separated by the Communist minefields that run down central Europe have been reunited since the agreement was signed. A few more Western newspapers are available under the counters of tourist hotels in Eastern Europe, if not yet accessible to local people. Visa rules have eased a bit for journalists. And, under the heading of "confidence-building measures," advance notifications have been given of some military maneuvers.

But there has not been very much more, and even the limited number of family reunifications is of doubtful attribution to the Helsinki agreement. Some provisions of the Final Act have been unilaterally redefined by Communist leaders from straight Western interpretations to curved conformity with their usual desire to isolate their people from foreign influences. Some other provisions have been virtually ignored.

This has riled many in the West who have paid attention to humanitarian problems in Communist countries. One is a cultured lady from New Jersey with a social conscience and a seat in the House of Representatives, Millicent H. Fenwick, a Republican.

Largely as a result of her initiative, and the help of Sen. Clifford P. Case, R-N.J., and many other interested members of Congress, a commission of 12 members of Congress and three representatives of the administration has been voted into existence "to monitor the acts of the Helsinki signatories . . . with particular regard to the provisions relating to cooperation in humanitarian fields." It has not yet started work.

The Kremlin has been mightily angered by this American attempt to check up on what it does. And signs point to Henry A. Kissinger's State Department not being too happy, either, with what it apparently sees as congressional interference with its management of Soviet affairs.

The Soviet Union began in 1954, in the chilliest part of the Cold War, to seek a European security conference. Waxing and waning over the years, the idea became a massive propaganda ploy intended as a substitute for a World War II peace conference and a way of promoting "Europe for the Europeans"—meaning "Yankee go home," an unpopular idea with militarily vulnerable West Europeans.

Only when the principles of American participation and of humanitarian provisions were generally accepted did negotiations begin. The tough talks fell under three subject headings, which negotiators called "baskets" of ideas.

Basket one covers security and "confidence-building measures" like giving warnings of large-scale military maneuvers close to borders and inviting observers. Soldiers from neighboring countries have watched maneuvers near both ends of the Soviet Union's European border. The Warsaw Pact did not accept a U.S. invitation to maneuvers in West Germany, however.

No significant progress has been made toward disarmament, which was advocated in Basket One. But in general the first section, which contains sweeping statements on peace and similar lofty sentiments, has not been a problem so far.

Basket Two covers "cooperation in the field of economics, of science and technology and of the environment." There has been movement in these fields in the past year, but it is hard to single out of on-going trends toward European coordination of this type any specific action attributable to the Finnal Act. No problem here, either, if also no verifiable claims of success.

It is in "cooperation in humanitarian and other fields," Basket Three, that the trouble has arisen.

Soviet bloc nations never wanted the third basket. They wanted to restrict discussion to relations between governments on security and scientific-economic matters that could be easily controlled from Communist party central committee secretariats. It was only because the West would not play ball on those terms that the Soviets agreed to negotiate on the freer movement of people and ideas.

In accepting such negotiations, General-Secretary Leonid I. Brezhnev of the Soviet Communist Party added the significant qualification that humanitarian provisions must respect "the sovereignty, laws, and customs of each country" and serve "the mutual enrichment of peoples, increase the trust between them and promote the ideas of peace, freedom and good-neighborliness."

What that clearly meant was that Warsaw Pact nations were reserving the right to interpret for themselves whether anything they signed was applicable to their rigid systems of controlling information and the movement of people.

In the negotiations the West managed to defeat most Communist attempts to insert qualifying phrases to dilute the value of Basket Three. NATO countries were supported on most key issues by neutral nations, who rejected loaded Communist definitions of human rights.

So the Final Act was signed by Brezhnev, President Ford and other leaders last Aug. 1 in Helsinki's magnificent Finlandia Hall. But addressing the conference on the hot summer day before, Brezhnev reiterated his qualifications just as if his negotiators had never given up their points in trade for border ratification and the lulling illusion of peace in Europe.

Since the signing, this Soviet attitude has been repeatedly demonstrated by an insistence that it is an interference in Soviet bloc internal affairs for the West to push for easier contact among people or a more liberal exchange of ideas and information. What democracies consider the free flow of information would mean opening Communist doors to "anti-Soviet, subversive propaganda, materials preaching violence or stirring up national and racial strife, and pornography," one Soviet commentator said.

The Helsinki signatories "make it their aim to facilitate freer movement and contacts, individually and collectively, whether privately or officially, among persons, institutions and organizations of participating states." But when some Soviet dissidents began to quote this to authorities in Moscow, they quickly found all sorts of limiting reasons being offered—or they were simply silenced.

The combination of foreign pressure to open up their doors a crack to the fresh air of non-Communist contacts and of internal efforts to cite the Final Act against Soviet officials soured Moscow's attitude toward the agreement.

Within a few months Moscow had become defensive about it. There began a campaign, which still continues, to claim that the Soviet bloc has adhered to it faithfully but the West has not.

For instance, the controlled Communist press published all 30,000 words of the Final Act but Western governments were allegedly afraid to let their people read its terms. The fact that the document is no more tedious and boring than the usual stuff in Communist newspapers, but no commercial paper in the West would be able to sell it, was blithely ignored.

Brezhnev continued this campaign last month in his speech to the East Berlin meeting of European Communist parties. He contended that the Soviet Union is willing to exchange ideas but the West is not. "In Britain and France," he said, "they publish six-seven times less books by Soviet authors than we in the Soviet Union publish works by English and French writers," and the West shows only a small fraction as many Soviet movies as Western movies are shown in his country.

Aside from the unreadability of Soviet books—neither Tolstoy nor Solzhenitsyn qualify, only "socialist realism"—and the boredom of officially approved movies, there is a larger principle involved. The Final Act clearly opens the way to unofficial exchanges of the kind of things people want. The Soviet Union makes the revisionist argument that exchanges should be under governmental auspices, meaning that they can be controlled in accordance with Communist ideology.

This is actually an extension of what has been happening for many years. By exploiting the free enterprise system in the West, the Soviets have been able to distribute books and other materials carrying their message, but Western material is severely restricted if not entirely banned in the East.

Brezhnev went on in his June 29 speech to deny that Communist countries are closed societies. "We are open to everything truthful an honest," he said. It's all a matter of definitions, and signatures on the Final Act have not changed the definitions used by Soviet bloc leaders.

The defensive Soviet attitude on application of the Helsinki agreement has taken the form of "trying to divert attention from the real issues," according to one U.S. official who has followed the subject closely. "They use the reciprocity issue to try to cover up their refusal to let people choose for themselves."

On one aspect, the Soviets have moved from the defense to an offensive. It is radio broadcasting. The Final Act notes "the expansion in the dissemination of information broadcast by radio, and express(es) the hope for the continuation of this process." But foreign broadcasts break the Communist monopoly on what people are allowed to know.

Brezhnev charged that the two American-financed stations in West Germany broadcasting to the Soviet bloc, Radio Liberty and Radio Free Europe, "poison the international atmosphere and (are) a direct challenge to the spirit and letter of the Helsinki accords." The West considers wording of the Final Act to say the opposite.

The section on freer movement and contacts also mentions facilitating "the solution of humanitarian problems," particularly reuniting divided families. This has attracted the particular attention of people like Rep. Fenwick.

"There isn't any government department charged with looking out for human rights," she said in an interview. "No one's telling us what's happening on Basket Three." A Governmental commission was needed to bring together information from federal government branches and from private agencies here and in Europe.

Fenwick said it is necessary to focus public attention on humanitarian problems in the Soviet bloc in order to get any action. "The only thing that gets somebody out" is publicity, she said, although with some smaller East European countries quiet pressure is sometimes preferable.

She added that a second purpose of the commission is to help members of Congress judge how well Communist countries are living up to their Helsinki commitments so that this can be used to judge whether they deserve to be voted "most favored nation" privileges in trade.

Some officials see a third reason as preparing a record for the conference scheduled to be held by the 35 signatory nations to review the way the Final Act has worked out after two years. The act says preparations for the review will begin in Belgrade next June 15, with the conference to be held by the end of 1977. Considering the differences so far over the shape of the bottle as well as its contents, some observers are skeptical that the preparations will ever be completed.

Soviet sensitivity about the way the Helsinki agreement is working out was shown by a protest from Ambassador Anatoly F. Dobrynin.

Bypassing Kissinger, with whom he virtually always deals, Dobrynin told the assistant secretary of state for European affairs, Arthur A. Hartman, that the new commission was an illegal American assumption of the right to interpret the Final Act arbitrarily and unilaterally. Hartman rejected this.

But, while defending the commission against the Soviets, the State Department has appeared from Capitol Hill to be displeased with it. One muttering has been that maybe a joint congressional-executive group is unconstitutional. Hill experts deny this, since the commission is purely investigative rather than operational.

The man named by House Speaker Carl Albert as commission chairman, Dante B. Fascell, D-Fla., wants to get it to work by the end of July. So far the Departments of State, Defense and Commerce have not designated the members which the law requires them to provide, however.

Hartman will probably be named to represent State, since Fascell wants people of assistant secretary rank from the three executive departments. Kissinger's record of defending the Helsinki agreement against critics of detente makes it a delicate job for a State Department representative to have the job of giving the commission information on Soviet failures to abide by the Final Act.

[From the Chicago Tribune, Aug. 1, 1976]

Is the Promise of Helsinki Only That?

(By Peter Reddaway)

London.—Since May of this year, 35 foreign embassies in Moscow have been receiving some unusual documents. They come from a group of private Soviet citizens who are monitoring the observance of the Helsinki Agreements by their own government.

The reports concern the humanitarian provisions of the agreements. Specific subjects have been divided families, postal and telephonic communication, penal policy, and certain types of political oppression.

Soviet authorities reacted with speed and hostility to the formation of this "Public Group to promote the Observance of the Helsinki Agreements in the U.S.S.R."—to give it its full title. On May 15, three days after its first document appeared, its leader, Dr. Yury Orlov, was picked up by the KGB along a Moscow street and formally threatened with arrest. Tass, the official news agency, spoke of his "attempt to question in the eyes of the international public the sincerity of the Soviet Union's efforts to implement undeviatingly the international obligations it has assumed."

Despite such harassment, the group has issued reports which show that the Soviet Union's observance of the Helsinki agreements is more of a non-observance.

Their report on postal and telephonic communication is of special interest, because much of it concerns contacts with people in the West. It quotes the article of the Helsinki final act on how the signatories intend to facilitate contacts between people in different countries, and points out that as "free movement" in and out of the U.S.S.R is impossible for Soviet citizens, "postal and telephonic communication plays an exceptionally important role in establishing more direct contacts between people."

The report lists 43 subscribers in various cities whose phones have been cut off, some before the signing of the Helsinki final act, some after. It also points out that in certain cases, like that of Soviet dissident Andrei Sakharov, phones are not cut off but calls from abroad are either disconnected or made inaudible by jamming. And it reports on a system of calculated lying by the Moscow phone operators. These operators tell the initiators of carefully planned phone conversations: "Your number is not answering," and brazenly tough it out when told this cannot be true.

More difficult to prove, the report says, is the blocking of postal communication. Here the Soviet authorities invariably put the blame for "lost" letters from abroad on the foreign postal services. But in some cases the blocking "is more than obvious."

When, for example, the Jewish activist Vladimir Slepak went on a hunger strike in Moscow last year, American supporters sent him about 4,000 telegrams. However, "He did not receive even one."

The report describes in detail the experiences of Dr. Valentin Turchin, chairman of Amnesty International, a humanitarian organization. For some months after the group was established, normal communication took place with the secretariat of Amnesty International in London. When, in early 1975, letters ceased to be delivered, Turchin used the phone. Last December the phone was cut.

A similar fate awaited the dozens of letters sent by Turchin's group to official bodies in Sri Lanka, Spain, and Yugoslavia to help its adopted political prisoners in those countries. [Amnesty groups do not work for prisoners in their own country.] Half of these letters were sent "advice of receipt requested," but only once did the receipt card come back to the group.

Finally, Turchin's correspondence with the director of the Federation of American Scientists, Dr. Jeremy Stone, was partially blocked, and his son received only one issue of National Geographic Magazine, although American friends had taken out a year's subscription. In this case, Turchin comments, "The censors were evidently attracted by the beautiful photographs" and had an eye to the magazine's black market value.

The other reports of the monitoring group are equally well documented and point to further violations of the Helsinki agreements. The report on divided families shows that there are still hundreds of Jewish families whose reunion is prevented by the arbitrary refusal of Soviet exist visas.

The 24-page dossier on Soviet penal conditions charges "gross violations" of the Helsinki final act, as this commits the signatories to observing the international covenant on civil and political right, which, in turn, outlaws "torture and cruel, inhuman or humiliating treatment or punishment." This, as the report documents, is exactly what goes on in many Soviet prisons and forced labor camps.

In its charter, the group states its conviction that "problems of human decency and the free flow of information are directly related to problems of world security." For this reason it calls on the people whose governments signed the Helsinki agreements to form monitoring groups in each country.

Its eye is clearly fixed on the follow-up conference which will review the progress of the agreements in Belgrade in a years' time. To date, few similar groups exist, although the U.S. Congress has set one up under Millicert Fenwick [R., N.J.].

Will the reports now dropping through embassy letter boxes in Moscow stimulate the formation of some more?

[From the New York Times, August 1, 1976]

Helsinki Accord and the Soviet Union: Effects on Human Rights Seem Mixed

(By David K. Shipler)

Moscow, July 31.—The Helsinki declaration, signed a year ago by 35 heads of state appears to have had a mixed effect on human rights in the Soviet Union.

Despite the document's support for the freer movement of people and ideas, many prominent Soviet Jews are still barred from emigrating, families remain separated across international frontiers, uncounted political dissidents remain imprisoned and the Soviet people have no more discernible access to foreign ideas than before.

Yet a slight counter-current fed in part by the Helsinki declaration, has become visible in the last year, a variety of dissidents and Western diplomats believe the Soviet Government has somewhat tempered its oppressive tactics against the human rights movement. And simultaneously, the accord seems to have begun to act as a catalyst in bringing together some diverse elements of dissent.

These small trends may have no significance for the overall quality of political life; open dissenters still constitute nothing more than a fragment of the most highly-educated urban intellectuals.

But Helsinki has provided a codified set of moral principles against which the West has been able to measure Soviet behavior, much to Moscow's chagrin.

Known formally as "The final act of the conference on security and cooperation in Europe," the document signed Aug. 1, 1975, had long been sought by Moscow as final recognition of Europe's postwar boundaries particularly the partition of Germany and the incorporation of Estonia, Latvia, and Lithuania into the Soviet Union.

It also committed the signatories—33 European countries including the Soviet Union, plus the United States and Canada—to detente, further cultural and economic ties and renunciation of the use of force.

During the negotiations, the Western countries pressed for and obtained the inclusion of an additional section that came to be known colloquially as "basket three." This contained broad humanitarian provisions such as the reunification of families, the right of citizens to enter and leave countries regularly on family visits, marriage across national lines and improvements in working conditions for journalists abroad.

EXTREMELY SENSITIVE

Moscow has grown extremely sensitive to Western contentions that it has violated the humanitarian provisions, and it has made some efforts to minimize the criticism by avoiding dramatic acts likely to bring bad publicity.

Thus, for example, Yuri Orlov, physicist who heads a nine-member group monitoring compliance with the Helsinki accord, and Valentin Turchin, mathematician who is president of the Soviet chapter of Amnesty International, observed in recent interviews that during the year since Helsinki, no prominent dissidents had been arrested, though some had been picked up for questioning and released.

The last major arrests took place in April 1975, when two members of the Amnesty group, Andrei Tverdokhlebov, and Sergei Kovalev, were taken into custody. Their trials were held after Helsinki, however. Mr. Kovalev, a biologist, was sentenced in December to seven years in a labor camp to be followed by three in internal exile. In April, Mr. Tverdokhlebov, a physicist, received a lighter sentence of five years in internal exile.

In addition, Mr. Orlov said there were no new cases of dissidents placed in mental institutions, though conditions for those already there had apparently not improved. The one exception was Leonid I. Plyushch, a dissident mathematician who was released from a mental asylum last winter and allowed to leave the country.

EMIGRATION

Mr. Turchin said the Government had also "become more cautious" in removing children from religious families, a practice aimed mostly at fundamentalist Protestant sects whose members try to give their children religious instruction at home. Now cases had come to the attention of dissidents' groups since Helsinki, he said.

Furthermore, American officials report that in the first six months of this year, some 1,200 Soviet citizens were given exit visas for emigration to the United States, twice the number in the first six months of 1975, before Helsinki.

"At first, the Soviet Government tried to ignore Helsinki," Mr. Orlov said. "That's when Kovalev got a strict sentence. Then little by little, it began to change."

Mr. Turchin's explanation is that the Helsinki document sharpened Western indignation over Soviet human rights violations, "and when the Soviet leaders became aware of the indignation they had to temper their line," he said. "As a whole, I am sure without any doubts this is a positive development, this Helsinki document. While the indignation lasts, the situation will be better. When it goes down, the situation will get worse."

In other fields, Moscow has also taken some highly visible steps toward compliance. At least twice, for example, foreign countries have been notified of upcoming Soviet military maneuvers, a requirement of the declaration. Moscow has also granted multiple entry and exit visas to foreign journalists, eased the shipment of photographs and television film and relaxed internal travel restrictions slightly.

Nevertheless, these often amount to little more than cosmetic improvements. Western journalists generally find that information is no more readily available now, and Russians find political dissent no more welcome.

For example, despite official efforts to portray Soviet society as more open to Western books and films than the West is to Soviet works, it is still impossible for an ordinary Soviet citizen to buy a newspaper or magazine that offers foreign, non-Communist views. Helsinki explicitly called for the distribution of such diverse literature.

"An analysis of the relevant aspects of internal policy," Mr. Orlov's group declared in a recent statement, "convinces one that the Soviet Government does not intend to carry out its international obligations on human rights." The group said that there had been "no changes for the better" on emigration.

Dissidents still lose their jobs and their telephones for speaking out or trying to emigrate, and their children are sometimes harassed at school.

The increase in visas to the United States notwithstanding, American officials still have a list of over 100 Soviet families who have been refused permission to join relatives in the United States. There are also about half a dozen American citizens who want to leave and may not. Most of them were born in the United States and returned here many years ago; Moscow considers them Russian.

An American official said that four or five cases of separated married couples had been resolved since Helsinki, but one remains: that of Irina Astakhova McClellan, whose husband, Woodford McClellan, is a professor of Russian history at the University of Virginia. They were married in Moscow in May 1974, but since then she has been repeatedly denied an exit visa, most recently on July 9. Soviet authorities have also refused Mr. McClellan permission to come here, even for a visit.

[From the New York Times, Aug. 2, 1976]

ECHOES OF HELSINKI

(By Anthony Lewis)

LONDON, August 1.—A year ago today, in Helsinki, leaders of 35 countries signed the Final Act of the Conference on Security and Cooperation in Europe. In it they promised, among other things, to "facilitate freer movements and contacts" among people and to deal with requests for any necessary exit permits "in a positive and humanitarian spirit."

The Soviet Government's record on issues of travel and human rights is so grim that only a fatuous optimist would have expected its attitudes to be transformed by the Helsinki Declaration. But one might have hoped for amelioration of the cruelest inhumanities. Against that hope, consider the case of Mrs. Meita Lekina and her daughter Anna.

Anna Lekina, a violinist, was allowed by Soviet authorities to leave for Israel in 1974—but not to take her violin with her. Last year her mother gave the violin to a visiting friend to bring to Anna. She told Anna about this in letters and on the telephone. Shortly afterward, Mrs. Lekina was arrested and charged with the crime of smuggling her daughter's violin out of the Soviet Union.

After some time in Lubianka Prison Mrs. Lekina was held for eight months in the Serbsky Forensic Psychiatric Institute, a notorious Moscow mental hospital where many political dissidents have been confined. Members of her family were not allowed to see her, but they were told she was in good health.

Then, last fall, officials suddenly said that Mrs. Lekina was too sick to stand trial. There was a court proceeding in which she was represented by a lawyer who had never seen her. Nor did Mrs. Lekina appear. In her absence, the court found her incompetent to be tried because of mental illness.

Mrs. Lekina was sent to the psychiatric prison-hospital in Kazan, a place described in chilling terms by former "patients" who have later been allowed to leave the country. One is the poet Natalia Gorbanevskaya, who got in trouble for joining a tiny protest against the Soviet invasion of Czechoslovakia in 1968. Doctors at the Serbsky Institute asked what Czechoslovakia meant to her, diagnosed her as insane and sent her to Kazan. Of that hospital, she has said recently:

"Like all political prisoners, I was given Haloperidol (a depressant). I did not resist the pills because I knew that I would otherwise be injected, which was far worse. Even so the drug had a strong effect. I could not concentrate, could not stay either sitting or lying down, could not read or write . . ."

Meita Lekina remains confined in Kazan, so far as is known. That is the punishment, in the Soviet Union, for sending out of the country your daughter's violin: Eighteen months, to date, in "hospitals" that no civilized country would dignify with that name.

As the Lekina case makes clear, Helsinki has not significantly alleviated the official cruelties of the Soviet Union in relation to travel and human rights. People who apply for exit visas still lose their jobs. The visas are still hard to get. Enormous costs are still imposed on those who want to leave. And perhaps most terrible, in terms of human rights, political dissidents are still tormented in psychiatric jails.

But what follows from that? How should the West react to the disappointment, if not exactly the surprise, of the Soviet record since Helsinki?

It is tempting to denounce the whole notion of agreements with Moscow, but that would be a mistake. The Economist of London, a magazine that was particularly skeptical about Helsinki, gives convincing reasons in its current issue for not concluding that the struggle to get human rights provisions into that declaration was just a waste of time.

"Since last August the Soviet and East European Governments have revealed a worried new sensitivity about these matters," The Economist says. "In any East-West encounter, the Russians can no longer shut off all discussion of human rights and contacts by indignantly asserting that these are domestic matters; for, by signing last year's declaration, Mr. Brezhnev himself made them matters of legitimate international concern."

The right answer, therefore, is to keep pressing the Soviet Union to keep its promises. It eagerly sought the Helsinki conference, and in the end it had to pay a modest price for agreement on a declaration: those words about human rights. The West, meaning both individuals and governments, should take every opportunity to remind the world of the Soviet Union's failure to meet agreed standards of human decency. Europeans, perhaps because they are closer, sometimes seem to understand that better than Americans.

The story of Meita Lekina was told by Yehudi Menuhin and other musicians in a letter to The Times of London. On July 4, other artistic and political figures led a rally in Trafalgar Square to protest the continued imprisonment of Vladimir Bukovsky, the brave man who disclosed the Soviet Union's misuse of psychiatry and has spent most of the last 13 years in prisons and mental hospitals. In Europe, it is not so easy to forget a Lekina or a Bukovsky.

THE LAND AND TOMORROW

Mr. BEALL. Mr. President, recently my distinguished colleague from Maryland, Senator MATHIAS, spoke to the northeast regional meeting of the National Association of Conservation Districts. In his speech, Senator MATHIAS spoke eloquently of the need for us to preserve and protect our natural resources.

In order to do this, I believe that we must foster greater cooperation between all levels of government, and Senator MATHIAS specifically has pointed out that it is people at the local level who can make or break any environmental program.

Because of the importance of this matter, I ask unanimous consent that the full text of Senator MATHIAS' address be printed in the RECORD for the benefit of my colleagues.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

THE LAND AND TOMORROW, SPEECH BY SENATOR CHARLES McC. MATHIAS, JR., TO THE 1976 NORTHEAST REGIONAL MEETING OF THE NATIONAL ASSOCIATION OF CONSERVATION DISTRICTS, AUGUST 2, 1976

I am delighted to be with you at this picnic and to be able to take part in the 1976 northeast regional meeting of the National Association of Conservation Districts.

I feel a special bond with soil conservationists because I enjoy lending a hand on our family farm myself and I know from first hand experience what tremendous work you do. I also always enjoy being with people who are ahead of their times, who have their eyes on the future, and who are working for something positive.

Long before most people ever heard of environmental problems, you soil conservationists were hard at work preserving the land and the water, making the future possible, years ago you knew what many people are only beginning to know now and what some still don't grasp, that our natural resources are finite and fragile and must be handled with care.

Because you do care, I think you will forgive me if I introduce a somber note on this festive occasion and ask you to consider what this country will be like in the year 2000, if we continue our present headlong race to urbanize and to consume.

In the next 24 years, there will be as much new building as there has been in the entire time since the first settlement at Jamestown in 1607. What this means, according to the Senate Committee on Interior and Insular Affairs, is that urban growth by the year 2000 will have consumed new lands equal in area to New Hampshire, Vermont, Massachusetts and Rhode Island combined. And each decade until then, the ogre of urban development will gobble up an area larger than New Jersey.

Forecasts by the Urban Land Institute show that, by the turn of the century, urban land areas will have more than doubled their 1960 size, increasing from 196,953 square miles in 1960 to 486,902 square miles in 2000.

As you know better than anyone, urban sprawl is not the only threat to our farmlands and our forests, to our water resources and our air. Rural highways and roads already cover upwards of 21 million acres of land and, unless or until we call a halt, new road construction will take over 100,000 more acres of agricultural land every year.

There was a fleeting hope during the 1973 energy crisis that we would be shocked into cutting down on our fuel consumption. But it seems it's going to take more than the foul air of our cities and the hard lessons of the oil embargo to get us into focus. Detroit keeps building big cars and Americans keep mindlessly buying them. In fact, the Department of Transportation foresees a 50 percent rise in vehicle registrations and a 100 percent increase in miles traveled by 1990.

Our energy problem dictates yet another serious threat to agricultural lands—the need to find new domestic energy sources. Over 4 million acres of rural land already are given over to strip mining for coal. Now the Economic Research Council tells us that, by the year 2000, strip mining will have swallowed up an area the size of Maryland.

Add to all this the land and water that will be needed for new power plants in the next 24 years and you wonder if any open land will be left by the time we celebrate our Tricentennial.

As residents of the northeast section of the United States, you should know if you don't already know, that you are 60 percent dependent on foreign sources for your total petroleum needs and that this percentage is steadily rising.

In New England, the situation is worse, Over 90 percent of the residual oil used there to generate electricity is imported. At the time of the energy crisis, we were only importing 36 percent of our petroleum and you all remember how hard the oil embargo hit.

Today the figure nationwide is 45 percent and rising.

Obviously, this dependence must stop. But, at the same time, we cannot despoil our natural resources in a hasty, ill-conceived search for energy independence.

This much is clear: Our way of life and our rate of consumption have been based on the dangerous and false assumption that our environmental base was virtually inexhaustible.

What we do and how we live from now on must squarely acknowledge that both national and world resources are limited and delicately balanced. We have a moral obligation not to squander our natural heritage, but to respect the laws of nature and to husband our resources and replenish them where we can.

Not long ago I came across a vivid description which, if we continue to blunder and plunder our way along, may well apply to America in 2000 A.D. The author wrote:

> . . . our land, compared with what it was, is like the skeleton of a body wasted by disease. The plump soft parts have vanished, and all that remains is the bare carcass.

The writer was Plato; the time and place: Greece in the 4th century B.C.

The past, clearly, has much to teach us if we will learn.

This spring, when I visited the Middle East, I was forcibly struck by the stark contrasts between the present and the past. Cedars no longer crown the mountains of Lebanon. On the slopes of the Atlas Mountains they are planting almond trees now to renew the vegetation and halt erosion begun centuries ago when North Africa was the richest granary in the Roman Empire. Today, North Africa is a major food importing area.

In Iraq, the formerly lush valley of the Tigris and Euphrates Rivers today is barren, the soil saline. Thought by many to be the site of the Garden of Eden, this once lovely valley nurtured the Sumerian civilization to wealth and power in 4000 B.C.

The Worldwatch Institute, a group dedicated to "anticipating and drawing attention to global threats to human well-being", ascribes the valley's decline to 2000 years of Sumerian irrigation practices so destructive that they "ruined the soil so completely that it has not yet recovered."

In Syria, another granary of the ancient world, the green oasis that supports Damascus, the oldest continuously inhabited city in the world, stands in luxuriant contrast to the naked hill, Mt. Cassioun, that dominates the city and to the encroaching desert that encircles it.

Last year I flew over the Zagros and Elburz Mountains in Iran—the home of the ancient Medes and Persians, Achamenians and Sassanians. Those slopes are treeless which once provided cover to bear, lion and the profusion of wild animals which generations of Persian artists have celebrated in miniature paintings and in hunting carpets.

We have been slow to learn the lessons of the past. When the world was younger, like the young, it managed somehow to survive its heedlessness. Today it cannot.

"Few realize the extent to which the countries of the world are growing dangerously dependent on North America for food supplies, a trend to which the ecological deterioration of food production systems contributes," writes Erik P. Eckholm in a sobering appraisal of world food prospects entitled "Losing Ground."

"As recently as the mid-1930's," he reports, "Western Europe was the only continent with a grain deficit . . . one by one continents have dropped from self-sufficiency to become net importers of food . . . by the mid-seventies North America and Australia (were) the only regions with a net grain surplus."

Much of the burden of what we must do to save ourselves from the grim future I forecast will fall on you. But, in the past when you were working more or less alone to preserve the land, you proved strong and resourceful. Now, although the tasks ahead are formidable, you at least are no longer working alone. There are very few now who remain indifferent to our environmental problems. There are many eager to help if they can be shown how. If they can be given some leadership.

The current grass roots movement toward rebuilding and revitalizing State and local governments is a healthy and timely development. All three presidential contenders are so anxious to get on the grass roots bandwagon that it sometimes looks as if they're running against the presidency itself. But, at a time when so many critical choices must be made, it is important that State, regional and local governments and organizations participate fully in the decision making process and in carrying out the decisions that are made.

Concurrent with the general move toward decentralization, a very auspicious shift in priorities and responsibilities is taking place in environmental programs. What's happening to the Federal Water Pollution Control Act Amendments of 1972 is a prime example.

Because the act set very ambitious goals to be attained within a very short timeframe, most of the immediate planning and implementation fell to the Federal Government. State and local governments simply did not have the resources to implement the law. Even the Environmental Protection Agency (EPA), which had primary responsibility for implementing the law, was hard-pressed to fulfill its requirements.

EPA decided to assign priorities to its various responsibilities under the act and, for a variety of quite understandable reasons—severe time constraints, lack of necessary information and experience—the highest priorities were assigned to the most familiar area—control of point source pollution.

Now EPA is moving to meet the challenges and opportunities contained in section 208 of the Act, including addressing non-point sources and land use.

In its recent report to the Congress, the National Commission on Water Quality concluded that, although uniform application of the 1977 requirements for point sources would go far toward attaining interim water goals for 1983, "a critical factor will be the degree to which toxics, combined sewer overflows, urban storm water run-offs, agricultural run-offs, and non-point sources of water pollution are controlled."

Underscoring this point, EPA studies show that non-point source pollution equals, if not exceeds, the total contributed by all point sources. Clearly, action must go beyond point source control or the quality of our water will continue to deteriorate despite our multi-billion dollar investment in the control of municipal and industrial waste.

The great variety of non-point sources indicates that solutions, to be cost-effective and realistic, must be developed locally and regionally. The Water Commission report spoke of decentralized decision-making and urged that "responsibility and authority for administering the water quality program be clearly fixed at the lowest level where the required resources can be applied." This, of course, means State and local governments which, in turn, will have to rely heavily on established institutions that have experience of working in the field of non-point source pollution.

This means you.

There is no organization with a longer or more enviable record in water and soil management than the soil conservation districts of America. Soil conservation districts have been volunteering invaluable advice in how to apply best land management practice concepts for almost 40 years.

Already, soil conservation districts are playing a key role in the 208 planning program. Over 60 of the 155 designated regional agencies are working with soil conservation districts. District personnel are serving on regional and advisory committees helping to prepare 208 plans and applications. They are inventorying and evaluating erosion problems. They are recommending alternative treatment systems, determining costs and benefits, and playing a key role in coordinating between Government agencies.

I applaud you for what you have done in the past, for what you are doing now, and for what you will do in the future. In the last analysis, it is the people at the local action level who make or break a program.

New inter-governmental relationships to achieve public goals while preserving private rights will not be easy to work out. But that is what democracy is all about. The democratic process may seem clumsy and slow at times but it permits feed-back; it is susceptible to self-correction, and it is uniquely able to adjust to new and constantly changing circumstances.

There are two things we all must share—this earth and the future. I believe that we will find a way through the thicket of problems that beset us now, and that we will save our land and our water so that our earth and tomorrow will be worth living in.

COMPUTER ABUSES

Mr. RIBICOFF. Mr. President, the Senate Government Operations Committee is conducting a preliminary staff investigation into the problems associated with computer technology in Federal programs and private industry.

One of the problems associated with computer technology is demonstrated yesterday in a Washington Post article by reporter Bill Peterson.

The article deals with a computer expert who was sentenced to 3 months in jail for using his skills to tap classified Government computer files. The computer expert, according to the Washington Post, is now offering his services as a "security consultant" to Government agencies and private companies.

This article raises many of the issues which the committee staff is examining in preparation for public hearings.

Mr. President, I ask unanimous consent that the Washington Post article of August 4, 1976 by Bill Peterson be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

CONVICTED COMPUTER EXPERT SEEKS ROLE AS SECURITY ADVISER

(By Bill Peterson)

A computer expert who was sentenced yesterday to three months in jail for using his skills to tap classified government computer files is now offering his services as a "security consultant" to government agencies and private companies.

Bertram E. Seidlitz, who operates a small computer firm in Alexandria and who was convicted of fraud in Baltimore's U.S. District Court, is circulating letters to potential clients who might need to protect their computer from people like him.

His services, the letter says, "would be made available at no charge."

The proposal, Maryland U.S. Attorney Jarvis Finney said, "seems highly questionable, highly doubtful to me."

Seidlitz admitted it took a certain chutzpah. He said his lawyer advised against it. "His advice was to sit back and hang my head in shame," he said. "But I don't operate that way."

So far Seidlitz has not had any takers. But he is keeping the offer open because he feels the problems of security in a computer age are too often ignored.

"In the majority of cases it's either just given lip service, or it's the last thing to be dealt with," he said in an interview yesterday. "By knowing a telephone number and a few simple codes, you can get into a computer system and have access to all kinds of data."

His case, which U.S. Attorney Finney has said "signals the future of white-collar crime," is a good one in point.

Using a computer terminal and a telephone as his burglary tools, Seidlitz tapped into a computer that contained classified files of the Federal Energy Administration, according to testimony in his trial.

Physically he did not go near the computer. He simply dialed the telephone number of the computer firm in Rockville where the FEA information was stored and punched secret passwords into a keyboard computer attached to his office phone. Over a period of 3½ months, he extracted 40 rolls of computer printouts.

Seidlitz, 38, of 8629 Brae Brooke Dr., Lanham, maintains he did it to show how lax security was at Optimum Services Inc. (OSI), where the FEA records were stored. He formerly worked as a mid-level executive at the firm.

But in sentencing Seidlitz in Baltimore yesterday, U.S. District Judge Alexander Harvey II noted that neither he nor the jury accepted this argument. A prison sentence, the judge declared, was needed "to deter others who, like (the defendant), would use their technical skills to steal from computers."

He also ordered 33 months probation for Seidlitz. He was convicted of two counts of wire fraud after an eight-day trial last June. Yesterday he and his attorney, Frank M. Kratovil, said they intend to appeal the ruling, which OSI president Stan Neeley has called a "landmark" in the computer industry.

The case, the first of its type in the Washington area, is one of a growing number involving computer fraud around the country. "This is the frontier of white-collar crime," prosecutor Finney said yesterday.

The same technique employed by Seidlitz could be used to gain access to other computers. Anyone with the technology and secret access code numbers could tap into files belonging to his bank, the FBI, the Internal Revenue Service or other government agencies, Finney said.

Seidlitz said he had complained about the lack of security while employed at OSI, a complaint also voiced in a report a year ago by the General Accounting Office. He maintained the material had little value, except to prove his point.

During the trial, OSI president Neeley said the information Seidlitz obtained was valuable not because it divulged FEA secrets but because it would permit other firms to duplicate the complex system used to store FEA data. The system, he said gives OSI a competitive edge that has resulted in $30 million to $40 million in contracts.

The only reason Seidlitz was able to tap into the computer was because he was a former employee "who retained in his memory the keys to unlocking the information, Neeley said.

Seidlitz, who started tapping the computer Oct. 19, 1975, was first detected Dec. 30, 1975, when an OSI employee who was monitoring the computer noticed an unauthorized user on the line.

Company officials then contacted the C&P Telephone Co., which traced the call to Seidlitz's computer firm in Alexandria. The FBI raided his office at 300 N. Washington St. 10 days later.

ARROGANCE OF POWER

Mr. FANNIN. Mr. President, in the wake of recent revelations concerning congressional improprieties and extravagances, my office has been flooded with mail from constituents expressing shock and outrage and demanding punishment and reform.

During my two terms in the Senate, I have fought against excessive Federal spending and unnecessary Government programs which I felt were harmful to the Nation's economy and social fabric. I can, therefore, appreciate the angry mood of the taxpayers as they read horror stories about the record of the Congress and realize that their elected representatives have betrayed their trust and confidence.

Unfortunately too many critics of the Congress have become addled by the rash of newspaper accounts and the intermingling ethical and economic issues. Many people fail to discriminate between the few amoral culprits who make lurid headlines and the predominantly hard-working legislators who lead quiet, healthy lives. Moreover, they fail to differentiate between the minority of fiscal conservatives who consistently oppose Government profligacy and the irresponsible liberal majority which clings to the theory that Government spending is the cure-all for all our domestic ills. I certainly hope that this confusion among the voters will be cleared up as they listen critically to the campaign rhetoric and assess carefully the voting records of their congressional candidates.

Mr. President, one of the best written articles that I have seen on this subject appeared recently in U.S. News & World Report. I call the attention of my colleague to the well-balanced editorial by Howard Flieger in the issue of June 28 and that its complete text be printed in the Record.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

Arrogance of Power

(By Howard Flieger)

It was almost a century ago—in 1887—that Lord Acton of Great Britain observed:

"Power tends to corrupt and absolute power corrupts absolutely."

Now that the initial burst of snidities and indignation over the conduct of Rep. Wayne Hays of Ohio—who acknowledged a clandestine relationship with a young woman he had put on the public payroll—has had time to cool off, it is possible to take a more reflective look at the episode and its real meaning.

The congressman's personal conduct—distasteful to many but excused as a private affair by others—is not the heart of the matter. The taproot is the arrogance of power assumed by elected representatives of Americans who cherish their right to govern themselves through surrogates of their choice.

There is no question but what the present Congress is in ill repute. Members themselves will tell you so. Every public-opinion poll for months has reflected digust and dismay with the goings-on in Washington. It is difficult to recall a time when representative government has been the butt of such ridicule and so many cynical jokes as it is now.

It can be traced to moral indignation not only at the sexual conduct of individuals, but also at the abuse of public trust.

Certainly the overwhelming majority of members of Congress are hard-working, honorable and dedicated public servants who take seriously, and with humility, the awesome responsibility bestowed upon them by the people they represent.

Of course, most are flinty, pragmatic politicians. They wouldn't be in office if they weren't. There is nothing wrong with that. It is the natural consequence for men and women who choose careers as servants of the public.

Unfortunately, a few public servants come to regard their tenure in office as a license to do as they please, and the public be damned. This is the real moral tragedy—the arrogance of power that develops and hardens until it reaches a point where it eventually overrides responsibility to the electorate.

No matter the unblemished character of most of its individual members, this Congress has conducted itself in a way almost guaranteed to diminish its image.

The scandals involving any congressman—be he from Ohio, Texas, Arkansas, or wherever—are only symptomatic of a larger and broader offense: the hauteur of power.

A few examples:

At a time of widespread concern—even alarm—over inflation, members of Congress voted themselves a pay raise with an automatic cost-of-living escalator. They tried to do it, literally, when nobody was looking.

The *Wall Street Journal* unearthed the fact that congressmen were making phony claims for travel expenses they didn't deserve.

Trips abroad at public expense—Washington calls them "junkets"—are commonplace. Dictionaries define "junket" as "an excursion for pleasure paid for out of public funds."

Congressional staffs, which means congressional payrolls, have mushroomed beyond belief in recent years, and the skills required are not up to those of the Civil Service.

To most people, these are acts of arrogance born of entrenched power.

Any blatant disregard of their own interests has always been offensive to Americans to the tinder point of violence.

It was the arrogance of absentee power—"taxation without representation"—that ignited the American Revolution 200 years ago. Probably more than any other one factor, it was the disdain shown for others on the part of White House underlings that first weakened the foundations of the Administration of Richard M. Nixon.

These are things the members of Congress had better have in mind as they examine the conduct of their colleagues.

NEIGHBORHOODS UNITE TO HELP THEMSELVES

Mr. PERCY. Mr. President, in the past several days I have attempted to bring to the attention of my colleagues the growing interest at the grass-roots level in the concept of neighborhood preservation and revitalization. There is increasing awareness of the neighborhood as a valuable national resource and community groups all over the country are developing their own programs to preserve and improve their neighborhoods.

One such organization in Chicago is the Metropolitan Area Housing Alliance—MAHA. Under the leadership of Gale Cincotta and others, MAHA has been working long and hard to uncover and correct the conditions that contribute to neighborhood deterioration. In many instances their courage and persistence have brought about the desired changes.

On July 6, 1976, an article appeared in the New York Times discussing the idea of neighborhoods uniting to help themselves and mentioning MAHA and groups in other cities. Because of the importance of the self-help concept and because of the significant role these community organizations play in their cities, I would like to share the article with other Senators.

Mr. President, I ask unanimous consent that the New York Times article, by Ernest Holsendolph, be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Neighborhoods Unite To Help Themselves

(By Ernest Holsendolph)

Macler Shepherd and his neighbors in the shadow of the ruins of the Pruitt-Igo housing project in St. Louis are doing something no one else will do for them: They are reclaiming their houses and trying to hold their neighborhood together.

In Cleveland Heights, Ohio, a middle-class, action-minded group is trying to head off panic as blacks move for the first time into the suburb and trying to persuade the community that integration is worthwhile.

And in Chicago, Gale Cincotta, working through a citywide coalition she helped to assemble, has drawn a bead on mortgage lenders whose policies she says contribute to the downfall of central city communities.

These activities are representative of a growing movement among urban dwellers to take matters in their own hands to preserve or improve their neighborhoods. Independent of conventional political action, neighborhood groups are demonstrating a new conciousness.

NEIGHBORHOOD IMPACT

Mrs. Cincotta, emerging as something of a national leader of the neighborhood movement, put it this way:

"The question we ask, whenever we are presented with a new program, a new idea or a new law, is, 'What effect will it have on the neighborhood?'—our neighborhood or any neighborhood—because we realize that only when a neighborhood policy is applied can the cities improve."

"These groups are really a new breed of cat," said Carl Holman, president of the National Urban Coalition. "They are effective because they use property owners, shopkeepers and others in their coalition, and they do their homework. They let you know that they can use your technical help, but they insist on calling the shots."

Talks with neighborhood people who travel to Washington to lobby for urban programs, as well as visits to cities around the country, confirm that neighborhood groups are numerous and growing. They range from campaigns to fight housing deterioration to efforts to integrate peacefully, and involve the continuing battle to see that areas where poor people live get their share of city services.

Urban experts agree that, if Federal policy continues along current lines, with increasing amounts of Federal funds going to cities in block grants to be distributed by local officials, the importance of neighborhood groups will probably continue to grow.

In contrast to the 1960's, when antipoverty funds led to numerous community action groups that were able to obtain hasty concessions from city officials through sit-ins, the new groups tend to rely on carefully assembled facts to press their arguments.

Groups opposed to redlining—the practice of lending institutions to withhold mortgage and rehabilitation loans from certain blocks and neighborhoods—quote financial balance sheets showing that the lenders risked and lost much more money on real estate trusts than they did on loans to poor or marginal applicants.

Neighborhood groups nearly always avoid affiliation with political parties or politicians, choosing instead to view all of them as potential enemies who, under suitable pressure, contribute from time to time to a community's well-being.

Mr. Shepherd, touring his community in St. Louis and pointing to vast, empty stretches of land cleared but unused under urban renewal programs, said they underlined the reasons for his distrust of political decision-makers. "This is what the old politicians did to us," he said.

HIDDEN FORCES

Mrs. Cincotta, who became involved in the neighborhood struggle through her interests in the schools of the old West Side Chicago community where she grew up, learned that hidden forces had much to do with neighborhood survival, she said.

In an effort to curb redlining, she and other community leaders formed a coalition of groups, ranging from the inner city to suburban Oak Park, called the Metropolitan Area Housing Alliance, to monitor the policies of realtors, banks, Federal agencies and the city bureaucracy.

Among their accomplishments have been the exposure of policies by the Department of Housing and Urban Development that contributed to the wholesale abandonment of thousands of units of federally-insured housing because of poor administration and collaboration with "quick-buck" land speculators.

The housing coalition, in collaboration with Senator William Proxmire, Democrat of Wisconsin, who is chairman of the Senate Banking Committee, was instrumental in getting anti-redlining legislation passed earlier this year. The new law, which went into effect last week, requires that lenders post information indicating the neighborhoods where they are making loans.

The Chicago-led coalition has also won a respite from the Department of Housing and Urban Development for many homeowners trying to avoid foreclosures, and a promise to enforce Federal laws that require real estate speculators to be liable for faulty or shoddy work even after persons who purchase a house with a federally insured mortgage occupy the house.

While the coalition has been concerned with banking and Federal policy, Mr. Shepherd and his St. Louis group have been concerned mostly with assuring available housing.

Mr. Shepherd grew up in a house in St. Louis that was on the land later cleared for Pruitt-Igo, the giant public housing project that recently failed after less than 20 years of use.

"We got cleared out for Pruitt-Igo, and now 12,000 people have been cleared off the same land," Mr. Shepherd said in an interview recently. "Nobody knows what will come next."

The area that lies mostly west of the Pruitt-Igo wasteland, now vacant except for five buildings, is dotted with vacant lots, abandoned and damaged brick houses, and a startling number of neat houses that are being reclaimed through the efforts of Mr. Shepherd's organization, Jeff-Vander-Lou.

"We call ourselves a community of 'use-to-lives,'" he said, referring to the fact that most of the people are "refugees" from as many as three other areas that were "urban-renewed" out from under them.

To preserve a sense of community, Mr. Shepherd said, his group has stressed the preservation of housing, schools, and health facilities, and has worked to bring jobs into the neighborhood. Among their successes have been the following:

¶The construction of a manufacturing unit of the Brown Shoe Company in the neighborhood, with the Jeff-Vander-Lou organization that is headed by Mr. Shepherd running the training program that prepared 300 persons to work in the plant.

¶The establishment of a community health facility run by volunteer physicians who also help raise funds to operate the center.

¶The establishment of a housing production program that has created 308 new and rehabilitated units, as well as a management service that oversees the units.

¶The creation of a community newspaper—with the assistance of Proud, Inc., another self-help agency in the community—that goes to 6,000 families.

One of the more novel inventions of Mr. Shepherd's group has been a kind of halfway house for prospective homeowners. The house, called Opportunity House, is usually occupied by five or six families at a time who go through weeks of workshops in budgeting and home maintenance to help them succeed as first-time homeowners.

Blacks did not start to move into Cleveland Heights, an old community of large brick houses and modest duplexes, until six or seven years ago.

In a pattern that has now become standard, most of the blacks were moving into only three of the community's elementary school districts. It was part of a "steering" policy by real estate dealers, according to the Heights Community Congress, a coalition of neighborhood people formed in 1972.

THE CHALLENGE OF THE CHESAPEAKE BAY

Mr. BEALL. Mr. President, my distinguished colleague from Maryland, Senator MATHIAS, has long been recognized as an authority on the Chesapeake Bay. Not only does he have a close familiarity with many of the problems which confront the bay, but he has proposed far reaching solutions to these problems.

On July 30, Senator MATHIAS addressed the Natural Resources Council of America on "The Challenge of the Chesapeake Bay," and in his speech he reviewed the invaluable importance of the bay, and the abuses which the bay has been subjected to in recent years. He speaks of adverse impacts as inadequate sewage treatment facilities, disappearing wetlands, chemical discharges and loss of salinity in the bay, and he also talks of the loss of many of the creatures, such as the crab, fish and ducks, which inhabit the bay.

Fortunately, the bay has not reached a terminal state—yet. There is still time, but we must move vigorously to clean up and protect the bay for future generations.

Mr. President, I ask unanimous consent that the full text of Senator MATHIAS' speech, entitled "The Challenge of the Chesapeake Bay" before the Natural Resources Council of America be printed in the RECORD so that all who value the bay as he does can read his significant address.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

THE CHALLENGE OF THE CHESAPEAKE BAY

(Speech by Senator CHARLES McC. MATHIAS, JR., TO THE NATURAL RESOURCES COUNCIL OF AMERICA, JULY 30, 1976)

I have been fascinated by the Chesapeake Bay ever since I can remember, and so I am delighted to see representatives of so many distinguished environmental organizations determined to preserve the environmental integrity of the Chesapeake Bay. We need your concern and your best efforts.

I can recall a time when oysters, the size of a horse's hoof were abundant to the very mouth of the Susquehanna River, when crabs swarmed in all parts of the bay, and when the air was alive with the calls and the wingbeats of ducks and geese.

Those were also simpler times—times when few suspected that the growing industrial and urban activity of the Norfolk-Washington-Baltimore corridor would threaten the environmental quality that we loved so much, but understood so little.

It is to the bay itself that we must give thanks that there is still time left for us to mend our ways. But, the danger signs are everywhere:

There is massive runoff from construction sites as far away as New York and as close as Annapolis, Easton or Baltimore;

Treatment of municipal and industrial effluent is inadequate;

Wetland areas are disappearing;

Deadly chemicals are discharged daily into the bay waters;

The upper bay is losing salinity because of impoundment and regulation of the Susquehanna River; and

New power plants tax our waters and the seemingly insatiable appetite for water brings demands for more plants.

These threats have had an effect on the bay: It is not terminal, but it is consequencial and persistent.

We had a severe crab shortage this summer and in Maryland that may be more serious than an energy shortage. Many believe that the crab population is declining because we have degraded the crab's habitat.

Deadly toxic Kepone from the James River is now showing up in blue and rock fish samples in the bay.

Diving ducks, particularly the magnificent canvasback, are depleted. In fact, these beautiful birds are no longer seen on the Susquehanna flats where they once thrived. There are many reasons for the decline of the diving duck, central among them is the demise of the eel grass in the bay on which they used to feed.

The bay struggles on, fighting each new threat with its own tremendous regenerative capacity, mitigating the consequences to us of our transgressions. But each year the bay loses a little.

Today I want to discuss with you the efforts that are being made, and others that must be made in the future, if man is to live in harmony with the bay.

We recognize now that the bay is finite. Its air, water and land are limited and interrelated. To the extent you tax one of these elements beyond its capabilities, you tax them all. Land use impacts on water and air quality and all of these impact on the lives of the people of Maryland and the Nation. To talk realistically about the future of the bay, we must examine the pressures on the bay for change and what controls are available to meet them. We have to identify and assess the bay's capacities and then determine how pressures for change can be accommodated within the bay system. We can no longer be profligate with what is this Nation's most valuable estuary.

We must recognize the effect of development in the uplands on the bay. Some of the areas are too dry, some too wet or too exposed to flood, others lack some other component necessary for development. What is done in the uplands will be critical to the environmental quality of the Chesapeake Bay itself.

Thanks in large part to your efforts, both the Federal Government and the State of Maryland over the last decade have become increasingly aware of the importance of protecting the environment. In Maryland, we have tough new laws to govern air quality, water quality, sediment, wetlands, and wildlife. There has been reorganization and consolidation of environmental protection in the Department of Natural Resources and in the Department of Health and Mental Hygiene and we have seen a steady growth of professionalism in those departments. Maryland has dusted off old laws and enacted new ones. Six years ago only a handful of cases was brought under environmental statutes, now we count hundreds.

Not only has the regulatory framework been strengthened by new laws and by the commitment of those who administer these laws, but the research facilities in Maryland have also improved tremendously. Many of our new laws are based on scientific data obtained from these research facilities.

Clearly much progress has been made. We are more alert to the threats and better able to contain them than ever before. But we cannot afford to rest on our laurels. We still face formidable challenges in protecting Chesapeake Bay.

There is a frantic search underway now for sites for new power facilities. In the past, power plants have been built on free-flowing rivers so that the waters could be used as a coolant. The power plants were usually small and the volume of water available was adequate. But today's power plants are larger, in some cases by a hundred-fold, and they are voracious. They consume staggering amounts of water. The utility companies are no longer looking for free-flowing rivers, at least not in this region. Our supply of rivers of sufficient size for siting a modern power plant already is exhausted.

The focus now is on estuaries and, in Maryland and Virginia, that means the Chesapeake Bay. Estimating future energy use even on the basis of past consumption reveals that on Chesapeake Bay alone the Middle Atlantic States need at least 30 new nuclear plants the size of the Calvert Cliffs' plant. And at this point there's no reason to be optimistic about holding energy consumption down to past levels. In fact, each year we blithely squander more energy than the last in our mindless pursuit of happiness.

And there are other threats. Deadly new chemical compounds reach the market every year. Last year one of them was kepone. We could not afford kepone last year, and we cannot afford its successor this year—next year—or ever.

Sediment poses dangers that are neither as dramatic nor as visible as those posed by toxic chemicals, but they are insidious and they may well prove to be more lethal.

Sediment affects different people different ways. The shippers I talk to in Baltimore are mainly concerned with its devastating effect on shipping channels. However, the traditional solution to their problem—dredging—adversly affects the environment if it is done carelessly. To protect the Bay's fish, for instance, dredging must be curtailed in the spawning season.

We also have to devise some new way to dispose of dredge spoil. This may prove the most troublesome aspect of all, for there are very few suitable spoil disposal areas left in the Chesapeake.

Sedimentation also threatens the world of the hunter, the naturalist, and the scientist. The geese will be back in the Bay this winter and in unprecedented numbers. The sight of the geese wheeling in from nesting areas on the north slope of Alaska and the Arctic Circle is for many their most vivid memory of a visit to Chesapeake Bay.

But, we must temper our joy over the expanding goose population with the sobering realization that we are losing our ducks, particularly the diving ducks. The modified and degraded habitat responsible for their decline is caused by sedimentation.

I have spoken with pride of what Maryland has done to modernize its laws and to mobilize its best scientific talent to preserve the quality of the environment because I am encouraged by it.

There have been encouraging changes at the Federal level as well. You know this area probably better than I do but, when so much remains to be done, it lifts the spirit a little to recall even familiar accomplishments. Our national air and water quality laws were considerably strengthened in 1970 and again in 1972. Congress is determined to prevent large industries from playing off one State against another in search of a safe water to pollute. We enacted a strong coastal zone management act, which is of great assistance as Maryland seeks to protect the shoreline of the Chesapeake Bay. The Federal Government now must move to fully fund and implement this act.

I regret that to date efforts to provide a comprehensive land use package have failed. But these efforts will be renewed and I am confident that they will succeed. Such a program will complement land use efforts already underway in Maryland.

Now for some words of criticism.

There are aspects of the Federal approach which disturb me. As a member of the Senate Appropriations Committee and of its Science Subcommittee, I have an opportunity to review in detail funding levels for scientific research in the environmental area. Research has been an on-again and off-again affair. Despite my best efforts, the Federal Government has not always been a good partner to the State of Maryland.

For instance, the Annapolis field office of the Environmental Protection Agency is adversely affected by hit-and-miss funding. This office is responsible for monitoring the ambient water quality of Chesapeake Bay, Delaware Bay, Potomac estuary, and in the Norfolk area. The passage of the Federal Water Pollution Control Act Amendments in 1972 and the Ocean Dumping Marine Sanctuaries Act added considerably to the laboratory's monitoring and enforcement responsibility. The laboratory also does some monitoring and analysis work under the Clean Air Act. But in spite of the increased work load, the number of personnel at the laboratory remained constant until recently when the Congress passed my proposal for study of the bay.

I was very pleased when Environmental Protection Agency Director Russell Train announced in May that EPA would act on this congressional mandate and fund a three- to five-year program at $5 million a year to study and attack the problems of Chesapeake Bay. It was a victory for the good guys. But I refuse to let my pleasure in the outcome obscure the fact that this type of a crash program would not be needed if necessary scientific activities were funded sensibly and systematically instead of on an ad hoc basis. Clearly, we must institutionalize such programs.

Finally and most importantly we need to improve coordination between the Federal and State governments as they each seek to manage the Chesapeake Bay. We need a new governmental partnership that will insure a proper interface between State and Federal officials concerned with bay management. We have to encourage unified State and Federal approaches to the bay where neither will dominate the other.

There must also be better coordination between Maryland and Virginia. Most of the fresh water for the Chesapeake Bay comes from Maryland rivers while salt water passes through the Virginia capes. When I spoke with Virginia officials in Richmond several years ago about the need to better coordinate Bay activities, one remarked that the Chesapeake Bay reminded him of the story of the sick elephant. It seems there was a doctor to treat the elephant's foot. There was a doctor to treat the elephant's trunk. There was a doctor for the ailing pachyderm's stomach pains. But there was no doctor to treat the elephant and the elephant died.

The moral is clear: If the Chesapeake Bay is to survive, it must be addressed as an entity, as a total system, without duplication and without omission.

We, Marylanders, always think of Chesapeake Bay as part of Maryland, just as Virginians regard it as an extension of Virginia. But in reality Chesapeake Bay is the Nation's largest estuary, It is an important national resource and its battle for survival should command national attention and national support.

This meeting provides a unique opportunity for me to appeal to you as national leaders of the environmental movement to so fix your attention on Chesapeake Bay that it becomes a model for the entire Nation.

I know you can appreciate the need for more formalized contact between scientists in Maryland and Virginia, between public officials in Maryland and Virginia, and between scientists and public officials in those two States.

I know that as environmentalists you recognize the importance of encouraging thoughtful debate and of spreading it from the scientific community through public officials to all people who make a living from, or have any association with the Chesapeake Bay.

I hope then, that I can have your support for an organization I have proposed to translate ongoing Federal efforts into terms which are politically acceptable to the respective States.

This organization would establish advisory groups to represent Bay interests. Such arrangements would effectively tap scientific talents and insure that research addressed the needs of public policymakers.

Finally this organization would evaluate the many innovative ideas that have already been suggested to safeguard the bay. We need to be fully informed on such proposals as: an interstate compact, Federal gateway legislation or Federal-State task forces.

As some of you may know, the organization I have just described I proposed in my Chesapeake Bay report of 1974. It is a title II Commission for the Chesapeake Bay. Such a Commission could be created pursuant to title II of the water resources planning act of 1965. It would bring together representatives of the States and the Federal agencies who share an interest in the Chesapeake Bay. With adequate State and Federal funding, it can be the politically sophisticated and influential organization needed to coordinate Chesapeake Bay activities, to foster beneficial debate, to ensure that Federal plans for the bay deal with and respond to local concerns, and to study long-range proposals for the bay.

I have discussed this with Governor Mandel. I have also gone to Richmond to brief Governor Godwin's advisors on the importance of establishing a title II Commission. I have met with the appropriate Federal officials. At every stage, I have been pleased by the reception this idea has received. I have assurances of support from the Department of the Interior and from the Environmental Protection Agency. The Water Resources Council, which oversees Federal activities in title II commissions, is ready and willing to fully brief Maryland and Virginia as to how their needs would be addressed by such a commission.

Now all we need to do is get moving.

We may not be able to turn back the clock and return to the simple life. But we must resolve not to let the clock run out on Chesapeake Bay's problems.

The bay is surprisingly healthy considering how we have abused it. For the most part, our wetlands are not filled; our fisheries, though diminished, remain; and wildlife—from the Canada goose to the smallest life form in bay waters—still flourishes.

But, as you deliberate here, I ask that you keep an eye on the clock and on Chesapeake Bay's diving ducks.

SUPPORT FOR STUDENTS' FREEDOM OF CHOICE ACT

Mr. FANNIN. Mr. President, on June 21 of this year I introduced, together with Senators BARTLETT, CURTIS, HANSEN, HRUSKA, THURMOND, and TOWER, S. 3595, the Students' Freedom of Choice Act. This legislation would amend the National Labor Relations Act and the Railway Act to provide an exemption for working students from the requirements of compulsory union membership under the Federal labor laws.

The effect of this amendment would

be to prevent employers from discriminating against any employee who is a qualified student and refuses to join a union or pay dues or fees to a labor organization as a condition of his continued employment. In other words, the bill would provide for a genuine freedom of choice in labor relations matters for high school, technical school, and college students who wish to earn tuition or spending money through part-time or summer jobs to see them through the academic year.

Mr. President, at the time of introduction I failed to state that this legislation would not be legally required in the 20 States having right-to-work laws which are exempted under section 14(b) of the National Labor Relations Act. However, soon after my bill was offered, I received a letter from a young Indian boy, a high school student residing in Parker, Ariz., complaining of treatment he had received at the hands of union representatives when he tried to obtain part-time employment.

Mr. President, I ask unanimous consent that the letter from Randolph Fisher be printed in the Record at this point, together with my reply.

There being no objection, the material was ordered to be printed in the Record, as follows:

Parker, Ariz.,
June 24, 1976.

Dear Sirs: I am a sixteen year old Indian boy living in Parker, Arizona, on the Colorado River. I am now working a partime job with Telles Packing shed, and I was wondering weather you had to join a Union in a right to work State, because the other day we had a strike here and after the strike a Union man came around and said I had to join a Union because the Union had a contract with the company. I asked him how much it would cost to join the Union he said $63.00. And he said if I didn't join the Union I would lose my job.

Randolph Fisher.
(Age 16.)

P.S.—All I want is a job so I can go to school, and make money I don't care about the Union.

July 21, 1976.

Mr. Randolph Fisher,
Parker, Ariz.

Dear Randy: Thank you for writing to me about your recent problems with the union at Telles Packing.

As you know, Arizona is a "right-to-work" state. It has a law that protects workers like yourself from having to join a union or pay union dues or fees as a condition of employment.

Therefore, it is illegal for any union official to force you to pay membership dues in order to hold a part-time job at Telles Packing shed or anywhere else. If someone tells you that you have to pay $63.00 or any other sum to work, he is wrong. You should take the matter to your employer and file a formal complaint against the union with the Nation Labor Relations Board, through the local office of the Department of Labor. What the union is doing is unfair labor practice and is strictly prohibited by law.

I am forwarding a copy of this letter to your employer who may not be aware of the situation at his plant.

For your information, I have introduced legislation to protect students all over the country from discrimination by unions similar to the situation you encountered in Parker. Enclosed is a copy of my bill, the Students' Freedom of Choice Act, with my statement upon introducing it in the Senate. Hopefully, the Congress will take positive action to correct abuses by labor unions and protect the employment rights of young people and all other Americans seeking work in our free enterprise system.

With kind regards.

Sincerely,

Paul Fannin,
U.S. Senator.

Mr. FANNIN. Mr. President, the situation encountered by this 16-year-old Indian student is deplorable but not unusual. It is unconscionable that the union would demand of a lad with meager financial resources who is trying to make ends meet an exorbitant payment just so that he can hold a part-time job. It is unfortunate that even in a right-to-work State like Arizona students are being discriminated against by unions and employers because they fail to qualify for union membership or pay union fees or dues. It is bad enough that working students do not know their rights under current law; it is tragic that they are not afforded the protection of employment rights under the law. The purpose of my legislation is to insure that students—whether or not they live in right-to-work States—enjoy the full panoply of those rights so that they can hold a job without having to succumb to the kind of union demands or threats encountered by this Indian student.

Mr. President, clearly there is a growing recognition of the need for reform of our Federal labor laws including protection for working students from the requirements of compulsory unionism and from discrimination by employers and organized labor. I am pleased by the overwhelmingly favorable response the Students' Freedom of Choice Act has received from young people, from ordinary working citizens, from employers, and from the press. As examples of press comment, I call to the attention of my colleagues the editorials published by the Flagstaff, Ariz., Sun on July 28 and the Williamsport, Pa., publication Grit on July 11, 1976. I ask unanimous consent that the complete texts of these two editorials be printed in the Record.

There being no objection, the editorials were ordered to be printed in the Record, as follows:

[From the Flagstaff (Ariz.) Sun,
July 28, 1976]

THERE IS MERIT IN FANNIN'S BILL

Arizona Sen. Paul J. Fannin is the principal sponsor of a bill which would amend the National Labor Relations Act and the Railway Labor Act.

If Fannin's bill gets through Congress, all full-time students enrolled in a high school, college, technical or trade school would be exempted from the requirements of compulsory unionism.

In some situations, a student holding down a part-time vacation job is required to pay union dues in order to keep that job. Yet, in most instances, they cannot participate in the so-called benefits, such as health insurance, sick pay and wage increases, which have been negotiated by the union and for which compulsory dues are supposed to be used.

A great many students are working so they can get enough money to finish school. They shouldn't have to be faced with an additional hardship of paying dues in order to hang on to that job.

There is merit to Fannin's legislation. Its chance of winning Congressional approval in this election year is probably remote. It won't gain any votes and is certain to alienate certain facets of organized labor. Without dues, there are no funds to pay union bosses, and the only other recourse would be to tap the pension funds of members.

[From Grit, July 11, 1976]

DON'T PENALIZE YOUNG WORKERS

Seven Republican senators led by Paul Fannin, of Arizona, have introduced a bill to exempt working students from compulsory union membership. Both the National Labor Relations Act and the Railway Labor Act require that even temporary workers who are full-time students must join the union which represents persons in a particular work force.

Under the law, employers have no choice but to refuse employment to a worker who declines to join the union which holds exclusive bargaining rights to all jobs in a work force. In one case, a 16-year-old student in Joplin, Mo., was forced to pay an initiation fee to the retail clerks union, plus $7 a month in dues, to sack groceries on Sundays.

Students holding temporary jobs receive little or no benefit from union membership. Normally they do not qualify for health insurance. Pension rights often accrue to a worker only after he has put in 10 years or more on the job. So exacting dues from a student holding a temporary or part-time job amounts to a rip-off.

The Fannin bill would apply to students enrolled in or registered for full-time programs in secondary, vocational, or higher education. If enacted, youths would be able to keep their hard-earned dollars to pay school expenses instead of contributing to rich and powerful labor organizations.

Unfortunately, the Fannin bill is not likely to be passed. The Senate Committee on Labor and Public Welfare, which has custody of the proposal, is dominated by pro-union Democrats who have no intention of amending present laws in ways not favored by the labor barons. Job discrimination against students will continue until the public insists that this wrong be righted.

JOHN OPEL, PRESIDENT OF IBM, AND GEORGE MEANY, PRESIDENT OF AFL–CIO, ACCEPT COCHAIRMANSHIP OF INDUSTRY-LABOR COUNCIL OF THE WHITE HOUSE CONFERENCE ON HANDICAPPED INDIVIDUALS

Mr. RANDOLPH. Mr. President, I bring to the attention of our colleagues the announcement by Dr. Henry Viscardi, Jr., chairman of the National Advisory Council of the White House Conference on Handicapped Individuals that John Opel, president of IBM, and George Meany, president of AFL–CIO have accepted the cochairmanship of Industry-Labor Council of the White House Conference on Handicapped Individuals.

In a joint statement Council Cochairmen Opel and Meany said:

> Handicapped Americans are a large minority in a country dedicated to equality of opportunity and the promise of hope for all.
>
> For most—including 35 million handicapped individuals—the realization of that ideal begins with employment. Industry and labor, therefore, have a crucial interest in handicapped individuals on practical and humanitarian grounds.

The Industry-Labor Council will provide advice and support for the Conference to be held in May of 1977, as authorized by Congress and proclaimed by the President.

The Council, with members representing corporations and labor unions with demonstrated interest in the employment of handicapped persons, will conduct informational and educational activities on behalf of the Conference.

The Council will participate in deliberations of the Conference and in the drafting of findings and recommendations to be submitted to the President and Congress.

Special attention will be given to continued industry and labor efforts to satisfy requirements of the Rehabilitation Act of 1973 which mandate affirmative action in the hiring of handicapped people.

We will recall that Public Law 93-516, Rehabilitation Act Amendments of 1974, authorized the White House Conference on Handicapped Individuals "to develop recommendations and stimulate a National assessment of problems and solutions to such problems facing individuals with handicaps."

On behalf of the members of the Subcommittee on the Handicapped, which I am privileged to chair, I express our appreciation to the Council and its leaders. The White House Conference will derive the benefits from the involvement and expertise of industry and labor.

Most Americans and especially those who are handicapped, the equal opportunity begins with employment. The formation of this Council is an expression of the continuing effort by Mr. Opel, Mr. Meany, and industry and labor to assist in providing that opportunity to handicapped Americans.

THE NEED FOR A SURFACE EFFECT SHIP

Mr. TAFT. Mr. President, I would like to bring to the attention of the membership an article from Business Week magazine, "A Warship That Flies Over Water." The article describes the successful progress of the surface effect ship program. The SES promises to be an effective type of surface ship for combat against modern, nuclear-powered submarines—unlike current surface ships. The SES program is moving forward well, and, as this article notes, we should take delivery of our first oceangoing SES in 1983.

Despite the success thus far of the SES program, I do have some concern that planning may not be going forward to equip the 3,000-ton SES with a full and appropriate suite of sensors and weapons. A ship is only as effective as its sensors and weapons, and even the first ship of the class should have a full weapons and sensor suite.

Furthermore, the weapons, and most importantly, the sensor systems, particularly those for antisubmarine warfare, should be appropriate to the specific qualities of the ship. I hope adequate planning will be done along these lines, and I intend to keep careful watch to see that this is done.

Mr. President, I ask unanimous consent that the article, "A Warship That Flies Over Water," be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

A WARSHIP THAT FLIES OVER WATER

"It was an exciting moment when we broke 100 mph," says Navy Secretary J. William Middendorf II. "The ship's speedometer wasn't built to record that much speed, and it broke. At that moment I felt I was riding the wave of the future."

Middendorf was describing the high point of his ride in the Gulf of Mexico last week aboard the Navy's newest speed merchant, a 100-ton prototype, wave-skimming ship that moved on a self-generated air cushion up to 103 mph—faster than any ship has ever traveled before. Tests of two such vessels, which the Navy calls surface-effect ships (SES), have persuaded the Defense Dept., to let the Navy scale the design up to a 3,000-ton, destroyer-size ship that could be the forerunner of a fleet. A fleet of such ships, says Middendorf could be an almost perfect antisubmarine weapon and thus revolutionize naval warfare.

Until this year the chances of such a fleet seemed remote. The two 100-ton test ships had been built for the Navy back in 1972 by Aerojet-General Corp. and Bell Aerospace Co., a division of Textron Inc. But both were plagued by stability and propulsion problems. In 1974 Aerojet-General dropped out of the program, and the Navy was forced to find another contractor, Rohr Industries Inc., to take over modification and testing of the Aerojet ship. Bell continued work on the other test vessel.

CURING THE BUGS

A major goal in the modification program was to improve the strength and resiliency of the seals, or "skirts," that contain an SES's air cushion. Unlike conventional air-cushion vehicles, which lift their skirts above the water or ground, an SES has rigid, wall-like extensions that protrude into the water on both sides of the hull and stay submerged even when the ship is "flying." These solid walls add to the craft's stability, but they put great stress on the flexible seals fore and aft, which tended to crack or tear. The designers solved the problem by turning to a stronger seal material—a tightly-woven fabric of nylon or Kevlar coated with a tough rubber compound.

In recent months engineers have overcome other problems, too. They redesigned the water-intake system for the ships' gas-turbine waterjet propulsion system. And they engineered a system of sidewall vents to adjust air-cushion pressures so the vessels can move smoothly and safely at high speeds in rough seas. "Until we learned how to relieve the air-cushion pressures," says William D. O'Neil III, a Defense Dept. ship research specialist, "it was like driving fast over railroad ties."

BIDDING COMES NEXT

Invitations are now out for bids to build the 3,000-ton SES, and Congress is expected to appropriate some $48 million for the ship in the next fiscal year. The Navy will choose a contractor shortly thereafter. "We will take delivery of the first SES about 1983," Middendorf predicts. After that, he says, "we will deploy as many as possible."

In the long run, there could be several contractors building surface-effect ships, but the early choice seems to narrow down to Bell and Rohr because of their close involvement with the testing and evaluation phase. Bell President William G. Gisel expresses confidence on getting the inside track for the first big SES. "Over the past 17 years," he notes, "Bell has designed and built 16 air-cushion surface-effect ships. We have a unique capability." But Rohr is also making a hard pitch.

"The Navy program is at the top of our list of new business opportunities," says Rohr Chairman Fred W. Garry. "We see it as the first step in the development of a major new industry, one that would design and build such ships not only for the military but for commercial applications as well."

To save time on the 3,000-ton ship, existing hardware will be used wherever possible. Four gas turbines built by the Pratt & Whitney Aircraft Div. of United Technologies Corp. have already been chosen for the waterjet propulsion system, and two General Electric Co. gas turbines will run the huge fans to generate the ship's air cushion.

COMBAT ROLE

Naval officers familiar with the SES program do not feel Secretary Middendorf is exaggerating when he talks of revolutionizing naval warfare. A 3,000-ton SES, which would be much faster than today's version, could cross the Atlantic in a single day, they say. It could outrun and corner enemy submarines. And, armed with antiaircraft and antiship missiles and carrying vertical-take-off aircraft, it could be an ideal vessel for convoy protection.

Rear Admiral Edward W. Carter III, a deputy commander of the Naval Sea Systems Command, is most enthusiastic about the antisubmarine potential. "Surface-effect ships will be able to respond quickly to submarine contacts over long distances, and they will have the endurance, the sensors, and the weapons to both localize and destroy submarines," he says. In addition, an SES has capability for what the Navy calls "sprint and drift tactics." It could bob quietly in the water for long periods, with towed arrays of hydrophones listening for enemy submarines. Its engines can be started instantly, and it will have the speed not only to outrun any sub but also to dodge torpedoes.

No one expects surface-effect ships to supplant ships with conventional hulls, especially aircraft carriers. But Middendorf declares: "We entered this century with ships built in 1897 that could do 35 knots. If we do not look to the future wtih surface-effect ships, we will end the century with ships still doing 35 knots."

ADMINISTRATION'S FEEBLE RESPONSE TO BRIBERY

Mr. PROXMIRE. Mr. President, the administration has now delivered itself of a tardy and tepid proposal intended to deter improper payments overseas by U.S. business. The administration bill would require U.S. companies to report to the Secretary of Commerce payments made to foreign officials intended to commercially benefit the payor. The report would be kept secret for a year, or indefinitely if the Secretary of State unilaterally decided secrecy would be in the national interest.

This is the same Secretary of State, incidentally, who intervened in the SEC's case against Lockheed to urge the judge to seal the documents. This is the same Secretary of State who has been more concerned to protect corrupt foreign regimes from embarrassment than to deter bribery. And, of course, it is the same Department of Commerce which has a similar reporting program aimed at deterring cooperation with the Arab boycott, that has largely failed to do so, and has refused to supply the reported information to Congress.

In his statement releasing the administration proposal, President Ford argued that a disclosure approach would be easier to enforce than the outright prohibition unanimously recommended by the Senate Banking Committee in S. 3664.

It is clear that the reverse is true. To enforce a disclosure program, you would have to show that a payment had been made; that it had been made for a disclosable purpose; that it had not been reported; and, that the failure to report had been willful. Otherwise, companies could simply fail to report bribes.

The approach contained in S. 3664 is a much more simple one. It flatly prohibits payment of bribes, defined as payments or promises to pay anything of value to a foreign public official corruptly intended to influence the placement of business of legislation or regulations of a foreign government.

Enforcement is given to the SEC in the case of public corporations; to the Justice Department in the case of other persons. Actual prosecution would, of course, be initiated by the Justice Department in all cases. These are law enforcement agencies, while the Commerce Department is primarily a business promotion agency. It is the wrong agency to give enforcement powers.

I was delighted to read in today's New York Times strong editorial support for my bill and rejection of the administration's logic. As the Times notes, the administration bill falls short of the meaningful sanctions essential to stamp out bribery.

The Times also quotes an excellent article by Theodore Sorenson in the current issue of Foreign Affairs quarterly, in which Mr. Sorenson presents a compelling case for a direct criminal prohibition of bribery. Those who still believe disclosure is the preferable approach would do well to consult the Sorenson article.

I ask unanimous consent that both articles be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

THE CRIME OF BRIBERY

The Ford Administration's plan to discourage corporate bribery abroad falls short of the meaningful sanctions essential to stamp out these improper though long established business practices.

The bill submitted to Congress this week relies almost solely on a disclosure requirement: any payments to foreign officials by companies in pursuit of business opportunities must be reported to the Federal Government. Under specified conditions, this information could then be made available to foreign investigative bodies and, eventually, to the public.

To be sure, disclosure does act in itself as a strong deterrent against many types of improper payments. But another bill sponsored by Senator Proxmire, chairman of the Banking Committee, goes further to declare the payment of bribes illegal under United States law, with appropriate criminal penalties.

The Administration's reasoning in resisting a criminal prohibition is unconvincing. It would indeed be difficult to enforce in many cases, but so would disclosure requirements. Any firm bent on continuing payoff relationships with foreign authorities or buyers could manage to conceal the payments, and the Government would have a difficult time establishing that an unreported payment had in fact occurred. Further, to argue that any criminal prohibition should await internationally accepted rules, so that all exporting nations would have to operate under the same strictures, is to put off effective action to some far, indefinite—and perhaps unattainable—future.

Theodore C. Sorensen, whose New York law practice involves advising corporate clients on just these questions, makes a strong case for criminal prohibition in the current issue of Foreign Affairs quarterly. Mr. Sorensen argues that many corporate officials would actually welcome such legislation because it would make it easier for them to resist pressures.

As more and more leading American companies come forward these days to give the Securities and Exchange Commission details of improper and often illegal payments over years past, it is no longer possible to look upon the well publicized cases as isolated transgressions. A large part of world commerce seems to rest on the shabby foundation of bribery and routine payoffs; once such practices get started, it is difficult for any company to pull back on its own volition.

For its own protection, the business community—to say nothing of the broader public—needs the strongest possible Government sanctions against the corruption of everyday commerce.

IMPROPER PAYMENTS ABROAD: PERSPECTIVES AND PROPOSALS

(By Theodore C. Sorensen)

Like motherhood and apple pie (zero population growth? food additives?), corporate bribery abroad is not the simple, safe issue it seems at first blush. Sharp division and delay have characterized its consideration by the U.S. Securities and Exchange Commission, Department of Justice and Internal Revenue Service, and by several Committees of the U.S. Congress, the Organization for Economic Cooperation and Development (OECD), and the International Chamber of Commerce. In the United States, a Presidential Cabinet-level Task Force—and in the United Nations, the Committee on Transnational Corporations—have been asked to untangle the problem; but no solution is yet agreed upon.

The practice of exporters and investors offering special inducements to host country officials is at least as old as Marco Polo. But in the United States a post-Watergate climate of pitiless exposure for all suspect practices connected with government has intensified both the investigations of these payments and the oversimplified publicity given to them. Indeed the seeds of the present furor were sown in Watergate. When the Special Prosecutor traced some of the "cover-up" financing to unreported corporate campaign contributions, often transmitted through foreign "slush funds," the SEC initiated a major check on all undisclosed payments to governments and politicians, both domestic and foreign, by the publicly owned companies subject to its jurisdiction.

As a result, U.S. corporate officials have engaged in the most painful rush to public "voluntary" confession since China's Cultural Revolution. Scores of U.S.-based companies have been investigated by one or more arms of the U.S. executive branch, legislative branch, and news media—or by their own directors. Many foreign officials of varying prominence have been forced to resign, deny, or both. The going rate for bribery has reportedly fallen in some countries as fear of disclosure increases, and risen in others as officials discover the full potential of their position. Debates between businessmen asserting that only they live in the "real world" ("Of course, I'm against bribery, but . . . .") and bureaucrats asserting that only they are without sin ("No payment of any kind or size for any reason should escape . . . .") have thus far produced more heat than light.

It is to be hoped that a calmer, more long-range perspective can soon prevail. Otherwise, genuinely legitimate business practices will be inhibited by an atmosphere of fear and suspicion, generated by sweeping and hasty reactions, while those truly intent on corruption will merely wait for the emotional storm to pass.

II

Clearly, our understanding of the problem is not enhanced by the tendency in some quarters to place all the blame on those few U.S. corporations which have received the most publicity. Those engaged in the sale of arms, aircraft, oil and pharmaceuticals—all highly government-oriented businesses—may have been in the forefront; but nearly all other kinds of business have been engaging in these practices as well: privately held corporations as well as publicly owned; small as well as large; strong as well as weak; producers of civilian goods as well as of military hardware; those who buy or invest as well as those who sell; and, most importantly, companies which are based abroad as well as companies based here in the United States.

Moreover, our country has no monopoly on the resulting stain. Contrary to common assertion, nor does the Third World. Bribe recipients have served in every kind of government on virtually every continent: anti-U.S. administrations and political parties as well as pro-U.S.; democracies as well as dictatorships; communist as well as non-communist governments; and rich industrialized nations as well as poor and underdeveloped nations. Nor is the blame confined to governments and business—members of the accounting and legal professions have played a role as well.

The picture has been further distorted by an outpouring of self-serving, self-righteous hypocrisy on both sides. Among the biggest hypocrites have been the following:

Those foreign governments which since time immemorial have closed their eyes and held out their hands, but which now denounce the United States for introducing corruption to their shores;

Those U.S. politicians who professed ignorance of the illegality of the corporate campaign contributions they received (or knew others received) in cash in sealed envelopes behind a barn or men's room door, but who now insist that various company executives be prosecuted because they should have known of their subordinates' improper activities abroad;

Those agencies of the U.S. government which long knew of and even approved of barely concealed payoffs by companies engaged in favored overseas sales and investments, but which now wring their hands at the unbelievable shame of it all; and

Those U.S. and foreign newspaper commentators who long winked at free junkets and passes for newsmen, even a little extra income doing public relations for the organizations they were covering, but who now condemn the ethical standards of the business community.

Nor have those issuing sweeping condemnations always noted certain valid distinctions. Not every payment to a foreign government employee is a bribe. Nor is every corporate political contribution abroad improper. Not every foreign consultant or sales agent is corrupt or retained to perform some improper function.

Political contributions paid in cash or in secret to foreign candidates or parties are rightfully suspect. But properly recorded corporate political contributions, with no quid pro quo, are legal in many if not most of the United States; and the new Campaign Finance Reform Law, passed in the very wake of Watergate, permitted corporate-sponsored political activity in our federal elections. It is thus unfair and illogical to attack any and all participation by U.S. corporations or their subsidiaries in the political campaigns of other countries which also permit it by law.

Similarly, payments to a foreign consultant, agent, lawyer or marketer, if made in cash or not fully reported or if wholly out of proportion to his services, most likely deserve condemnation. But properly recorded payments, of an amount appropriate under the circumstances, to a qualified and responsible professional for his performance of legitimate and necessary services, may well be perfectly justifiable. To be sure, such individuals may be making the most of their personal, political, business or family ties with key government officials—a phenomenon not unfamiliar in our own country. But they also know the local language, procedures, personnel, regulations, press and sources of supplies and information. They can provide the visiting businessman with a local headquarters, communications and a means of scheduling and coordinating appointments, as well as valuable advice on strategy and presentation. Local government officials, for perfectly legitimate reasons including their sense of uneasiness in dealing with foreigners may prefer or insist upon working with a compatriot they know. The payment of a large commission to an agent is no more clear evidence of illegality than is payment of a large commission to an American real estate agent on the sale of an expensive home.

Not even all payments made to foreign government officials should be judged alike. Although U.S. statutes and judicial interpretations vary, the legal essence of *bribery* is a payment voluntarily offered for the purpose of inducing a public official to do or omit to do something in violation of his lawful duty, or to exercise his official discretion in favor of the payor's request for a contract, concession or privilege on some basis other than the merits. Many forms of payment now under attack do not constitute "bribery" under this definition.

For example, a certain amount of scoffing, much of it undoubtedly justified, has greeted the claims by some business executives that their payments to foreign officials were the result of extortion on the part of those officials, not bribery. But the courts do recognize the distinction between those payments which are voluntarily offered by someone who seeks an unlawful advantage and those which are extracted under genuine duress and coercion from an innocent victim seeking only the treatment to which he is lawfully entitled. A company which can demonstrate that it was truly confronted with an unmistakable choice between paying a corrupt foreign official, or seeing its entire investment in that country expropriated, is not paying a "bribe." (A recent U.S. Federal Court of Appeals decision reached a similar conclusion with respect to a hapless accountant indicted for having made payments to a group of threatening IRS agents.)

Nor does the above definition of bribery cover those payments, usually smaller, made by businessmen in a country where they are not prohibited, to facilitate, expedite or express appreciation for the normal, lawful performance of ministerial or procedural duties by a low-ranking government employee. "Grease" payments which help persuade the bureaucrat or functionary to do his job and continue the lawful flow of paper or goods should not be commended; but neither should they be confused with bribing that individual *not* to do his job.

Finally, there is a distinction not always easily determined, between a bribe and a relatively small sum of cash or other gift or service offered to an official by way of common courtesy or social amenity, a present put forward and accepted on the basis of amicable personal relations unconnected with the performance of his duty. Some of these payments are ethically questionable and of doubtful motivation as well; but there is a legal difference, however subtle, between the $20 bill you hand your local policeman on Christmas Eve and the $20 bill you hand him when he stops you for speeding (a difference recognized by a recent New Jersey Supreme Court decision involving a Christmas gift of cash from a builder to a municipal building inspector).

It is not easy, of course, to determine which foreign corporate political contributions, agents' fees, gifts, "grease" payments, and alleged extortion are in reality nothing more than indirect or camouflaged bribes or kickbacks. U.S. federal and state statutes frequently and justifiably prohibit or penalize these other forms of payment to public officials as well as bribes; and gray areas of interpretation will always remain. The size, form and timing of the payment, the adequacy of its disclosure, and other facts must bear on the conclusion in a doubtful case. Even then there will be countless situations in which a fair-minded investigator or judge will be hard-put to determine whether a particular payment or practice is a legitimate and permissible business activity or a means of improper influence:

Example 1. The best lawyer in a foreign town is the London-educated son of the Minister of Commerce. Should he be prevented from accepting clients who need permits from the Ministry? Should a U.S. corporation be prevented from retaining him? Would it make any difference if he were a consultant or agent instead of a lawyer? The opportunities for abuse here are undeniable but not inevitable.

Example 2. A U.S. corporation is asked by the Provincial Governor to contribute to the local Health and Welfare Fund, his favorite charity. Is this the obligation of a public-spirited company or an opportunity for covert graft?

Example 3. A U.S. corporation, already doing substantial business in a foreign country, wishes to invest as well in one of its local suppliers. The Prime Minister is the latter's principal stockholder. Would it make any difference if it were another U.S. company in which they would be investors together?

Example 4. A U.S. corporation's valuable inventory abroad is stored in a remote warehouse. The nearest police are willing to act as after-hours guards if they are paid by the corporation for their overtime services? Must a less effective and more expensive alternative be found?

Example 5. A U.S. corporation wishes to form a joint venture with a local firm owned by a member of the ruling family (not unusual or considered unethical in small countries with small elites). But see Example 1.

Example 6. A U.S. corporation, seeking to locate its plant in an impoverished land, invites the impoverished Minister of Environmental Affairs to fly to the United States at its expense for a tour of its domestic installations, reportedly to demonstrate that its proposed plant will not pollute the local air and water. At what point does its hospitality become excessive; and should this expensive trip be more permissible than contributing the cash equivalent thereof?

Example 7. A U.S. corporation is informed that the government permit for which it was bidding has already been issued to a local corporation of unknown ownership which is willing to sell it to the U.S. bidder at the bid price. If no extra payment is thus involved, does the additional step render the transaction improper?

Reasonable men and even angels will differ on the answers to these and similar questions. At the very least such distinctions should make us less sweeping in our judgments and less confident of our solutions.

III

None of this, however, alters the basic parameters of the real problem:

It is illegal for a U.S. corporation to deduct as an ordinary business expense on its U.S. income tax return any bribes, payoffs, kickbacks or other improper payments to foreign government officials, whatever the label or justification, or any political contributions, whether lawful or not; for any corporation subject to the jurisdiction of the U.S. Securities Acts to fail to include and to describe accurately all such payments (assuming they are material to the company's finances or materially indicative of its management's integrity[1]) in its various statements and periodic reports to the SEC and shareholders required by those Acts; and for any such corporation to finance these payments through secret slush funds or phony offshore corporate entities outside the normal system of financial accountability prescribed by those Acts. Neither bribery of a foreign official outside the United States nor violation of a foreign law, however, appears to violate any U.S. law.

It is unethical for a corporation to pay bribes or kickbacks to foreign officials to induce them to violate their duty—a practice subversive of sound government, sound business and sound relations between the two, no matter how deeply entrenched it may have become in the host country; a costly, wasteful interference with the free competitive market system; and a cynical, shabby technique of getting business which usually rewards the richest, most reckless and ruthless while passing on the cost to those who can afford it least.

It is unbusinesslike for a corporation to pay bribes and kickbacks, regardless of how routine a practice it may appear to be in the host country and regardless of competitive pressures. This conclusion, it should be acknowledged, is far from unanimous in the business community. (The legend persists that the Harvard Business School student who questioned the ethics of this practice was directed by his professor to enroll in the Harvard Divinity School.) Nevertheless, a large number of U.S. corporations successfully operating overseas have constantly faced and consistently resisted the pressures and temptations to make payments. Those not resisting appear in many cases to have been those too lazy to compete in honest salesmanship or too inefficient to compete on price, quality and service.

Some corporate executives have undoubtedly achieved substantial gains in the short run by these methods; some have obtained only marginal business; and some will never know if their payments were necessary or helpful or even reached the intended official's pocket. But all who paid thereby established their companies as easy marks for more demands and blackmail. All were immediately courting trouble if they reported these payments and more trouble if they did not. All were exposing their corporations and themselves to the possibility of stockholder suits, legal action by the U.S. government, the possible disclosure of proprietary information of value to their competitors as a consequence, and retaliation by the host country ranging from the cancellation of orders to the nationalization of assets. Moreover, just as a handful of dishonest door-to-door peddlers can turn an entire town against home solicitation, so the conduct of these corporations—at a time when the business community in general and multinational corporations in particular have been seeking to ward off unreasonable restrictions and suspicions—may have done a grave disservice to all who trade abroad. Surely, of all the hypocrites heard on this issue mentioned earlier, the greatest of all are those business executives who made such payments, whose corporations are now as a result in deep difficulty, but who insist they did it "for the good of the company."

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[1] The appropriate limits of "materiality," if any, under the Securities Acts in general and in cases of improper foreign payments in particular are being hotly debated as this goes to press and are beyond the scope of the article.

This is not to deny the fact that, in far too many countries for far too many years, illicit inducements have been an accepted and customary way of doing business with the government, usually through agents whom virtually every visiting businessman is expected to retain. In still other countries, such payments, if not essential, are widely tolerated and expected.

But what is customary is not thereby ethical or even inevitable. In more than one American city widespread corruption in the police department, long thought too deeply entrenched to be uprooted, has been effectively exposed and curbed. The fact that many U.S. companies have successfully avoided these activities in the very countries where it was most customary, and that others have given up business opportunities in those countries and moved elsewhere as a matter of sound business judgment, undermines the payor's usual justification that he had no alternative, that "everyone does it," and that if he didn't do it someone else would (the same excuse offered by heroin pushers). Moreover, the fact that the typical local official who takes a bribe wants it kept secret, fearing punishment in his own country if his corruption becomes known, casts doubt upon any payor's defense that he was merely playing according to "the rules of the game."

IV

All this is by way of background for a consideration of U.S. national interests in the current situation. Without a clear understanding of the scope and nature of the problem and its implications for American business, neither the desirability nor the feasibility of a workable solution can be accurately assessed.

This is particularly true in light of the presently ambivalent attitude of the federal government. While the SEC, Department of Justice and Congress rail against improper payments abroad, more mixed signals have emanated from elsewhere in the executive branch.

American Embassies around the world have long known of these practices but voiced no protests to host governments and offered no protection to honest American businessmen. Those U.S. exporters who thought they were serving their country's foreign policy interests by making under-the-table payments to friendly foreign officials and political parties were never told otherwise. Occassionally State Department officials have been even offered guidance on the names and standard fees of those agents with the best connections.

The complicity of the Department of Defense in these practices appears even greater. In quadrupling over the last decade the sale of U.S. arms abroad, the Department approved contracts financed in whole or in part by military assistance funds without too close an examination of agents' fees and other contract terms, and it undertook to "educate" contractors on the necessity and implications of such fees. These sales helped maintain production capacity in this country which the Pentagon regarded as vital, helped achieve economies of scale for its own purchases from the same companies, and helped build closer technological and political ties with the military and governmental leaders of the recipient countries.

Now, with some present orders canceled as the result of current investigations and still others in doubt, the Pentagon is fearful of losing those advantages. Other agencies are similarly fearful that unilateral U.S. government restrictions on foreign bribery will make it more difficult for American corporations to compete for orders with any less scrupulous companies from Germany, Japan, France, Great Britain, and elsewhere, with adverse effects on U.S. exports, balance of payment and employment.

The State Department is, in addition, upset by the effect of the present investigations on several friendly governments. In Italy, Japan and elsewhere, governments in an already precarious position have been shaken by these revelations of corruption. Communist and other anti-U.S. forces have exploited this evidence of immorality in capitalism and pro-Western governments. Hostility to American interests has increased. More than one foreign official friendly to the United States is fearful of ouster and is resentful of America's role in exposing these traditional practices. More than one friendly foreign newspaper has chastised the United States for broadcasting its national self-flagellation to the detriment of the Western alliance.

But those who are angry at the revelation of bribes instead of at their payment (like those angry at Woodward and Bernstein instead of at Nixon) confuse the weatherman with the weather. Even before they were uncovered, these bribes—merely by being offered and accepted—had damaged American foreign policy and made it more vulnerable to its adversaries. By engaging in such debilitating practices, U.S. businessmen, who in most countries are more visible representatives of the American way of life than our diplomats, tarnished our country's image; subverted the lawful basis of friendly governments; aggravated the economic inequities and instability that inevitably accompany this subsidization and corruption of a power elite; and rendered both the host government and our own government more susceptible to an ultimate backlash.

I doubt that the messenger will in the end be condemned for bringing the bad news. Many foreigners, without ever fully understanding Watergate, came to admire the courage and independence of the American press, courts, prosecutors and legislative branch for exposing and cleaning up that mess. I believe the same will happen here. Certainly the Communists in Italy will now have difficulty maintaining that the multinational corporations and Wall Street dominate Washington, and equal difficulty denying that it was Washington's efforts instead of their own that helped expose this corruption in Italian politics.

To be sure, notwithstanding the virtues of disclosing and thus discouraging these practices, special care should be taken by both our executive and legislative branches not to publish the names of foreign officials accused only by unsubstantiated testimony, hearsay or rumor, and not to prejudice criminal proceedings in either our country or others by the premature publication or transmittal of such names. That is a legitimate concern of the President and the Department of State that must be respected. But even greater damage to America's reputation for justice and honor than has already been caused by the current revelations could result from any appearance of a cover-up—any suspicion on the part of the legislative branches or citizenries of other countries that the U.S. government is conspiring with their governments to delay indefinitely any disclosure affecting their incumbent officials or political parties.

Imagine the reaction of the American people had the Japanese government possessed vital information on Watergate and refused to transmit it to the House Judiciary Committee's impeachment proceeding, announcing instead that such information should go exclusively to our executive branch! Yet a similar paternalistic decision has been made by our Department of State; and it is small wonder that this approach has caused the darkest suspicions in Japan about the possibilities of CIA and other U.S. government involvement in these overseas slush funds and bribes.

So let the information flow, with due respect for the rights of the accused. Little attention need be paid to complaints about damaged reputations from those foreign officials who have for years accepted bribes; or from those foreign governments that have long tolerated their receipt by their own officials or their payment by their own exporters; or from those foreign governments which are not now seriously investigating the clear evidence of such practices in their midst; or from those which are making a great show of cracking down on them with the full intention of permitting their resumption once the heat is off. Any pro-U.S. political party whose success has depended upon this kind of secret subsidy and corruption could not have been a very strong reed upon which our country could have leaned in any event.

The other principal concern of the Pentagon and other executive branch agencies is well-founded. Any unilateral U.S. restriction on foreign bribery by U.S. exporters undoubtedly will cause our arms merchants and others to lose substantial sales opportunities to their less-principled competitors, at least in the short run, particularly in some of our weaker industries. That unfortunate fact should be acknowledged. A crackdown by the United States will not be cost free.

But surely these highly vulnerable and immoral arrangements between atypical U.S. businessmen and corrupt foreign officials provide a wholly untenable and shaky basis for building our military alliances. U.S. security and stature are not increased when foreign officials are improperly induced to ignore their countries' internal needs or to distort their defense priorities by spending their limited funds (or our limited military assistance grants) on what are frequently marginal weapons systems or a kind they do not need, cannot afford to maintain or will not be able to operate.

Moreover, there was no gain to our country's balance of payments or economy when U.S. companies paid bribes to win a contract that would otherwise have gone to another U.S. company. On the contrary, the added cost of these improper contracts to the host country further weakened the market for other U.S. exporters. The fact that some American companies have succeeded in these countries without the payment of bribes is an indication that U.S. exports will not suffer all that severely from an end to such payments. Those governments desirous of obtaining U.S. technology and quality will unquestionably learn to buy our goods without any special inducement.

In short, it is on balance in the long-run interest of the United States to halt these wasteful, corrosive and indefensible payments to foreign officials by U.S.-based corporations and their subsidiaries. Such action would enable this country once again to offer moral leadership to the world, demonstrating our concern not only for the defense of society but also for the kind of society we are defending, and practicing what we preach about the free market system. It would also provide a sounder basis for our alliances, increase respect for our values, enhance our standing with more progressive elements desirous of reform, and make those governments purchasing from us less vulnerable to future political attack.

Such action would not be, as often charged, an attempt by the United States to impose its puritanical standards on the rest of the world, disregarding the sovereignty of others and policing everyone else's ethics in a hopeless attempt to reform mankind. Not at all. It would instead simply require corporations based in our own country to adhere, wherever they operated, to a standard that served U.S. national interests. Our antitrust, Trading with the Enemy, and other statutes have long been held to have similar extraterritorial application. Setting a good example does not require any other government to follow it.

Of course, it would be preferable if every commercially important government in the world not only enacted but enforced tough and comprehensive laws against the payment and receipt of bribes. That would avoid any adverse competitive consequences of unilateral U.S. action. But awaiting development of an international code by the OECD, GATT, IMF or the United Nations is laregly an excuse for delay and inaction. Most of the members of these organizations are not in agreement on what should be done, and many are not enthusiastic about doing anything. Such codes, if they were to be truly meaningful and enforced, would have to sink to the level of the lowest common denominator. Mild admonitions from the OECD and generalized resolutions from the United Nations are the best they are likely to produce.

The United States will be in a stronger position to call for action from other countries, and to embarrass or otherwise pressure any U.S. companies' competitors who are still paying bribes, after we have taken effective action against our own unethical corporations in this regard. Inasmuch as Congress is already past the halfway mark in an election-year session, enactment of new legislation may as well await a fuller determination this year of the entire range of the problem—lest American business be confronted with an incomplete statute constantanly undergoing amendment. Nevertheless it should be already clear to our Congress that our present laws are not adequate, and that action should be taken next year before public interest in the problem flags.

Apart from the illegality of deducting such payments on U.S. tax returns, the principal statutory tool by watch U.S. companies can currently be called to account is the variety of disclosure requirements in the Securities Acts. In addition, Congress has recently called for further disclosures with respect to military sales under the latest foreign aid legislation; and a similar emphasis on disclosure is contained in most of the other legislative proposals on overseas bribery.

This emphasis is well placed. Sunlight, in the memorable phrase of Justice Brandeis, is still the best disinfectant. A company legally required to expose its bribes—and thus face whatever stockholder suits, public embarrassment and government penalties may follow—is less likely to make these payments in the first place and their collaborators are less likely to demand them.

But our present disclosure laws must be strengthened: to impose more severe and certain criminal as well as civil penalties for those who fail to disclose to the appropriate U.S. government authorities any payments abroad, including legitimate political contributions and agents' fees, of a significant amount; to cover privately owned companies as well as those subject to SEC jurisdiction (indeed the SEC may not be the appropriate enforcement agency); to cover exporters of civilian as well as military goods; to cover requests received (as is true of current U.S. Commerce Department regulations concerning the Arab boycott) as well as payments made; and to prohibit more precisely the many techniques used to conceal these practices from corporate and governmental accountability systems.

Disclosure, however, cannot carry the whole burden of law enforcement. It would be illogical to punish more severely than at present the nondisclosure of an activity not now illegal under U.S. law. Moreover, when the general or stockholding public proves to be indifferent to a company's disclosures of wrongdoing, as is often the case, no penalty and no reform may follow.

The more direct and traditional approach to law enforcement is simply to outlaw the payment of bribes and kickbacks to foreign officials by all U.S. corporations and their subsidiaries. Many corporate officials would actually be relieved by such legislation; for it would better enable them to resist all temptations and pressures and to hold both their subordinates and at least their U.S. competitors to a higher standard. It would also provide a stronger legal basis for independent auditors, directors and lawyers—as well as federal authorities—to insist in suspicious cases upon a closer look at the books. It would communicate to every company and government the clearest possible statement of our national integrity.

Such a law would have to be drawn and enforced with great care and precision, carefully setting forth the distinctions between bribery and the other forms of payments described above, and not undertaking to enforce what it cannot reach without placing numerous police agents in every U.S. Embassy. Unenforced and unenforceable laws only engender disrespect.

Nor should compliance with a host country's laws be available as a defense under this new statute. Too many of those laws are ambiguous, incomprehensible or unenforced, and the United States cannot undertake to enforce them. Nor, in some countries, is compliance with the law much proof of propriety.

No matter how carefully the new statute is drafted and implemented, however, some improper practices will escape and some new ones will be invented to circumvent it. A foreign agent who acts as an independent contractor for several companies will be able, on his own initiative and with his own funds, without the knowledge or reimbursement of a principal, to make improper payments on that principal's behalf that no outside law can reach U.S. corporations wishing to avoid the law by selling to truly independent local distributors who in turn resell to the local government, complete with kickbacks, will no doubt be able to do so, at least diminishing the impact of their conduct on the United States. Extremely difficult problems of definition, fact-finding and interpretation, such as the seven examples earlier cited, will be frequent.

But the courts and Congress are not unaccustomed to drawing fine lines of distinction. Many another law now on the books is frequently violated but nevertheless desirable as a national standard, even if some violations go undetected. With a strengthened disclosure statute, whatever federal agency is enforcing the law will not be without tools to judge the legality of a suspect payment.

The new law could also regulate the use of agents. To prohibit their use would be outlandish, curbing many legitimate practices and merely causing those intent on paying bribes to conceal them elsewhere. To impose a maximum commission rate would only penalize "small-ticket" sales. But U.S.-based corporations could be required (1) to disclose to the U.S. enforcement agency not only every sizable fee or commission paid overseas but also the services for which it is paid and the recipient's qualifications therefor; (2) to instruct the agent by contract to make no payments to or for government officials and no political contributions on its behalf or with its funds; and (3) to obtain the explicit approval of the host government for that contract and for the agent's rate of compensation. Honest and qualified agents will, on the whole, accept such conditions; those intent on dishonesty will not.

Still other new legislative or executive measures could empower the executive branch to take supplementary action. Violators should be warned that the U.S. government would terminate their eligibility for government contracts and impose no obstacle to their extradition to any country possessing actual proof of their wrongdoing. Any U.S. business executive receiving from a foreign official a request or a demand for improper payments should be required to report it promptly to the U.S. Embassy, which should be required to protest vigorously to the host government. Foreign countries and companies persisting in such practices to the detriment of U.S. economic interests should be warned of the possibility of economic retaliation, ranging from termination of economic and military assistance to denial of access to our domestic markets or stock exchange listings.

Even though a strong international code is not in the offing, the Department of State should undertake to obtain in advance the approval of all affected governments for each of the legislative measures proposed above. Whatever their real feelings, they would find it difficult to object; and such a step would both dampen the cries that such legislation was imposing our standards upon the rest of the world and improve the prospects for its general effectiveness.

It is to be hoped that such laws will also be accompanied by an increased demonstration of corporate self-regulation. In light of recent revelations, this will never be an acceptable substitute for government measures. But it will still be the most effective form of regulation, if enforced, because management can establish a system of clearances for "unusual" or "potentially embarrassing" payments out in the field that no law can adequately reach. Any new legislation and its administration should thus recognize and encourage company initiatives of this kind.

That will require, however, something more than the recent public relations announcements of companies rushing to "reemphasize long-standing policy" by the issuance of new corporate practice guidelines which are either too vague to be meaningful ("do nothing unlawful or improper"); carefully designed not to interfere with their particular practices ("do not violate local law, local custom or U.S. law; make no payments to the foreign government officials responsible for our industry"); or otherwise ineffective, by design or inadvertence.

Companies no more than governments should attempt to enforce what they cannot realistically reach. But a strict, comprehensive company code should be implemented by prompt disciplinary action, including dismissal at any level for violations; by annual sworn certifications of compliance by all responsible members of management; and by a system of full disclosure to counsel and auditors as well as superiors. Such measures, if accompanied by a reduction in pressure in the field to obtain contracts by whatever means necessary, would be far more effective than the recent proposal authorizing the government to remove the chief executive of an offending company.

In evaluating governments as well as private regulation in this area, Americans should bear in mind a wise conclusion of John J. McCloy and his associates in their landmark investigation of the Gulf Oil Corporation's payments at home and abroad. "[I]t is not in the institution of rules and procedures," said that report, that the answer to this problem lies "as much as it . . . is in the tone and purpose given to the Company by its top management."

The same is true of our country.

THE STRUGGLE TO STAY HEALTHY

Mr. HOLLINGS. Mr. President, the current issue of Time magazine contains a superb Bicentennial essay entitled, "The Struggle to Stay Healthy," written by Dr. John H. Knowles, president of the Rockefeller Foundation. It is a succinct look at 200 years of medical progress, and it demonstrates the remarkable advances which have been made during these years. Indeed, it is hard to believe how far we have come in so short a span of man's history. We are a healthier people enjoying significantly longer lives than did our early American ancestors.

With equal cogency, Dr. Knowles discusses the problems which have accompanied the progress. The expanding utilization of complex medical technology, for instance, has been accompanied by a decline in the personal doctor/patient relationship. And the cost of medical care has escalated so high that many Americans cannot afford to participate in preventive health care. Serious disease can spell financial as well as personal disaster to most American families. And, in the land of plenty, nearly 25 million poor people stand in dire nutritional and medical need. The list of problems goes on.

I was interested in some of the figures cited by Dr. Knowles. He mentions that in 1904, we had in this country 160 medical schools. Today we have only 114. In spite of the qualitative improvements of these schools, the decline in number is not encouraging. I noted also the increasing percentage of foreign medical school graduates practicing in the United States—since 1959 their number has quintupled. Obviously we need to be doing a better job of opening medical educational opportunities to our own youth, with the kind of incentives that will provide the maximal distribution of doctors and health care throughout all regions of the country.

Mr. President, I commend this essay to the attention of my colleagues. I hope they will take a few minutes to read it over, and for that purpose, I ask unanimous consent that the article be printed in the CONGRESSIONAL RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From Time Magazine, Aug. 9, 1976]

THE STRUGGLE TO STAY HEALTHY

(By John H. Knowles, M.D.)

NOTE: *The following Bicentennial Essay is the eighth in a series that has been appearing periodically, surveying how we have changed in our 200 years.*

On the eve of the Revolution, there were 2.5 million people in colonial America. Virginian William Byrd wrote, "It was a Place free from those three great Scourges of Mankind—Priests, Lawyers, and Physicians." Divine aid was considered more important than that of the physician. Only through God's grace could one escape disease or survive its attack. In *The Angel of Bethesda,* the first general treatise on medicine written in the colonies, Cotton Mather advised in 1724, "Let us look upon Sin as the Cause of sickness."

Average life expectancy at birth was 34.5 years for men and 36.5 years for women. Fifty percent of deaths occurred in those under ten years of age. Infectious diseases decimated the population. Smallpox and yellow fever were most feared. Tuberculosis, cholera and dysentery, typhoid, diphtheria, measles and mumps were ever present. Malaria was as common in New England as on the Southern plantations. In 1721, almost half the population of Boston caught smallpox, and more than 7% died. Yellow fever wiped out 10% of the population of Philadelphia in 1793.

Scurvy, scrofula and scabies were common among the poor. Bathing was rare: one Quaker lady noted in her diary in 1799 that she withstood a shower bath "better than I expected, not having been wett all over at once, for 28 years past." Body lice were omnipresent, as was the disease they carried—typhus fever. Frequent births and poor obstetrics accounted for the high mortality in mothers; the death rate among black women served by midwives was lower than among whites served by physicians. Mental illness was seen as the work of the devil: the village idiot was either derided or tolerated, while the more violent were shackled and jailed.

There were 3,500 medical practitioners in the colonies when the Revolution began, of whom fewer than 200 held degrees from medical schools. One writer noted that "with a few, honorable exceptions in each city, the practitioners were ignorant, degraded and contemptible." Quacks abounded. In the North, ministers and magistrates doubled as physicians, while in the South, planters and their wives cared for the slaves. Some of these individuals brought status to the profession. The people viewed the medical profession in general, however, with a mixture of fear, contempt and amiable tolerance. There simply was little that doctors could offer, and their cures were sometimes worse than the diseases that afflicted people.

Purging, emetics and bloodletting were common remedies; surgery consisted of "cutting for stone" and amputations. With no anesthesia, the best surgeons were the ones who could cut, hack and saw most rapidly, aided by the strongest assistants to hold the patient down. Herbs and plants were extensively used in treatment. Governor John Winthrop of Massachusetts Bay prescribed a paste of wood lice, while Cotton Mather—who together with Zabdiel Boylston brought inoculation to the colonies in 1721 to prevent serious cases of smallpox—condemned the use by Boston physicians of "Leaden Bullets," to be swallowed for "that miserable Distemper which they called the Twisting of the Guts." By the early 18th century, there were only two drugs known to be specific: cinchona bark for malaria, and mercury as an antisyphilitic agent. Dr. Benjamin Rush of Philadelphia (one of four physicians to sign the Declaration of Independence) used bloodletting so extensively that even his colleagues marveled at the survival of his patients. Thomas Jefferson said in 1807, "The patient . . . sometimes gets well in spite of the medicine."

The apprentice system of medical education held sway. The apprentice might pay the master £100 annually for as long as seven years until he "qualified" to practice on his own. By the mid-18th century, more formal training began to take hold. In 1765, after a tour of medical centers in London, Paris, Padua and Edinburgh, John Morgan persuaded the College of Philadelphia to set up the first American medical school. The prototype of the British voluntary hospital was established with the founding of the Pennsylvania Hospital in 1751, the New York in 1771 and the Massachusetts General in 1811, moving the care of the sick poor and the teaching of medical students out of the almshouses. With the founding of the first mental hospital, the Virginia "insane asylum" at Williamsburg, shortly before the Revolution, the mentally ill began to be moved from jails and almshouses to state-sponsored, more humane institutions. Early on, the great cost of mental illness precluded voluntary efforts to cope for people of ordinary means.

The institutionalization of a loosely organized profession grew with the founding of state medical societies, teaching hospitals and medical schools. Largely because of the devastation caused by infectious diseases, local communities were forced to form boards of health, which established quarantine measures and tried to provide for sanitary engineering. Infectious disease was thought to be the result of noxious vapors emanating from decaying animal and vegetable matter. Therefore, in addition to isolating feverish individuals, much of the health boards' time was spent attempting to improve sewage and garbage disposal.

The 19th century in Europe saw the emergence of modern medicine. Vaccination for smallpox was introduced. The stethoscope, clinical thermometer and hypodermic syringe were developed. Morphine and quinine were isolated. Surgical instruments were perfected, antiseptic techniques were developed, and the use of ether as an anaesthetic agent was demonstrated in 1846 at the Massachusetts General Hospital—the single most important contribution of American medicine during the century. Pasteur, Koch, Klebs, Roux and Yersin established the science of bacteriology, and between 1880 and 1900 the microbial origins of numerous diseases were demonstrated. A new interest in nutrition developed.

In 1895 two events took place that would have a profound effect on the progress of American medicine: 1) the discovery of a "new kind of rays" by Roentgen, which led to the development of diagnostic radiology and X-ray therapy; and 2) the development of psychoanalytic psychiatry through the studies of Sigmund Freud. In the same way, the accurate diagnosis of many diseases was virtually impossible before the advent of two major technologies in the early part of the 20th century: 1) the chemistry of blood and bodily fluids, which made easier the study of the body's organ systems; and 2) the use of the X-ray machine and the progressive development of such radiopaque substances as barium and iodine compounds to visualize organ systems. These two advances, together with the expansion of surgery after the introduction of anesthesia and antiseptic techniques, transformed the hospital. From a passive receptacle for the sick poor, it became a house of hope and an active diagnostic and curative institution for all classes. The use of blood transfusions hastened the transformation.

The new sciences of bacteriology, biostatistics and epidemiology led to development and extensive use of vaccines, pasteurization of milk and measures for the control of disease. These advances led to a marked improvement in public health. So did the development of urban sewage-disposal and water-purification systems, the rapid transportation of fresh food and its storage under refrigeration, state food-control acts and the new concern for woman and child labor, as well as for industrial working conditions. By 1910 average life expectancy at birth had increased to 50 years.

The Progressive Era also profoundly affected health interests. Upton Sinclair's *The Jungle,* in 1906, exposed abysmal conditions in meat-packing plants. Congress responded by passing the first meat-inspection law. Samuel Hopkins Adams muckraked the patent-medicine industry, and Congress swiftly enacted the Pure Food and Drug Act.

In 1904 there were 160 medical schools with 28,142 students and 5,747 graduates annually. Abraham Flexner, an educator, not a physician, was commissioned by the Carnegie Foundation for the Advancement of Teaching to study the situation. He recommended the closing or reorganization of all substandard proprietary schools. By 1930 there were only 76 schools with a total of 21,597 students and 4,565 graduates annually. Little significant expansion of medical schools occurred for the next 20 years, but the "Flexner revolution" helped make the U.S. the world leader in biomedical science and medical education. From 1901 through 1939, the number of Nobel prizes in medicine totaled 42, of which only eight were awarded to Americans. From 1943 to 1975, Americans won 41 of the 74 prizes awarded.

With expanding knowledge and technology, an inevitable subdivision of labor occurred. The general practitioner faced extinction as medical students entered a wide variety of specialties. Specialization advanced to the point where what happened to the patient all too often depended on who saw him first. "Free market" medicine resulted in a gross geographic and functional maldistribution of doctors. There developed a severe oversupply of specialists in some areas (surgery, where work weeks declined as fees rose) and an undersupply in others (pediatric psychiatry and general practice). The g.p. declined from 64% of the total number of doctors in 1949 to 13% in 1973. Meanwhile, the number of graduates of foreign medical schools practicing in the U.S. increased from 20,575, or 8.6% of the total in 1959, to 69,000, or 20% in 1971.

The increasing use of medical technology, while markedly enhancing accuracy of diagnosis and success of treatment, was accompanied by less time spent with patients. Complaints about the dehumanizing of medical care were increasingly heard. Doctors moved their offices close to the hospital and its technology. By the 1950s the house call had virtually vanished as doctor and patient met in the emergency wards and clinics of urban teaching hospitals or in offices next door.

Acute, curative, technology-dependent medicine reached its apogee in the 1960s—and, as expectations rose, so did the costs. The expense of medical care had reached a critical stage with the Depression of 1929–32, when individuals found it increasingly difficult to pay their medical bills. The private sector in the 1930s developed the Blue Cross–Blue Shield insurance system of prepayment for hospitals and physicians. In the public sector, the Social Security mechanism and general tax revenues were used to pay the costs of the indigent sick, the disabled, the elderly and such special groups as veterans, migrant farmers and American Indians. A variety of amendments to the Social Security Act of 1935 culminated in Medicaid (a federal, state and local program for financing medical-care needs of the indigent sick) and Medicare (compulsory health insurance for the elderly). Today 21 million Americans aged 65 and over have such insurance for hospitals and extended-care costs.

The total national expenditure for health in fiscal 1975 was $118.5 billion, which included $46.6 billion for hospital care, $22.1 billion for physician services, $10.6 billion for drugs, $9 billion for nursing-home care, $7.5 billion for dentists' services, $3.5 billion for Government public health activities and $2.8 billion for medical research. Third-party payments (public and private) for medical care increased from 35% in 1950 to nearly 70% in 1975, thus leaving about 30% of the total to direct payments by the beneficiaries—a significant burden. Hospitals, physicians and drugs consumed almost 70% of the total expenditure. Gross overuse of all three has become a major problem.

The consumer movement focused on the skyrocketing costs of medical care, questioning doctors' fees and incomes, their unavailability and the amounts of unnecessary surgery. Mass media joined the assault, along with those largely liberal politicians trying to generate support for national health insurance as the antidote. The American Medical Association was increasingly viewed as a guild, mostly interested in the welfare of its own members. Nonetheless, virtually every poll of attitudes toward different occupations continues to show that the American physician ranks No. 1 and enjoys immense prestige, exceeding that of Senators and Supreme Court Justices. My doctor is great—it's *those* doctors!

Where do we stand today, and what are our prospects for health beyond 1976? Gone are the scourges of smallpox, yellow fever, tuberculosis, measles and infantile diarrhea. Life expectancy has increased from 47.3 years in 1900 to 72.4 years in 1975. Of the roughly 2 million deaths annually in the U.S. 37.8% are due to heart disease, 19.5% to cancer, 10.2% to strokes; 4.3% to lung disease (pneumonia, bronchitis and emphysema), 5.3% to accidents, 1.9% to diabetes, 1.7% to cirrhosis of the liver, 1.4% to suicide and 1.1% to homicide. But death statistics give only part of the picture. For every successful suicide, eight others (or 200,000 people) may have made the attempt. For every person who dies of cirrhosis—commonly related to alcoholism and malnutrition—at least 200 and probably 300 people can be classified as alcoholics (10 million Americans). For every accidental death, hundreds are injured, some permanently disabled. Twenty-four million Americans, 11 million of whom receive no federal food stamps, live below the federally defined poverty level, a level that does not support an adequate diet. Venereal disease has been increasing annually, with nearly 1 million cases of gonorrhea and syphilis reported last year.

Beyond death and disease statistics, there exists a steadily expanding number of the "worried well" and those with minor illnesses. Has life itself become a disease to be cured in the American culture? Some 80% of the doctor's work consists of treating minor complaints and giving reassurance. Common colds, minor injuries, gastrointestinal upsets, back pain, arthritis and psychoneurotic anxiety states account for the vast majority of visits to clinics and doctors' offices. One out of four people is "emotionally tense" and worried about insomnia, fatigue, too much or too little appetite and ability to cope with modern life. At least 10% of the population suffer from some form of mental illness, and one-seventh of these receive some form of psychiatric care. Meanwhile, the figures for longevity are the highest and for infant mortality the lowest in U.S. history, and the gap continues to narrow. We are doing better but feeling worse.

As a people, Americans have been noted for their self-criticism. I would suggest that we give at least equal time to extolling our virtues and triumphs. Let us look at both sides of the coin:

(1) We should be grateful for our medical technology and the countless lives that have been saved because of it. We should gasp at its wild abuse and overuse.

(2) We should be grateful for the markedly improved health of most Americans. We should be horrified by the unmet medical and nutritional needs of nearly 25 million poor people.

(3) We should applaud the development of health insurance mechanisms that have protected the patient from financial disaster. We can decry the fact that health insurance is a misnomer (it is disease insurance) and that so little effort and emphasis have been placed within the insurance system on the maintenance of health.

(4) We can be grateful for the quality of care given in the majority of our 7,000-plus hospitals and 1.5 million beds. We should decry our inability to avoid costly reduplication of services, build more extended-care facilities and low-cost hospitals for the chronically ill, and reduce unnecessary surgery.

(5) We can take great satisfaction that so many Americans have found fruitful work in the health system. We should worry about the low number concerned with environmental health research, health education, visiting nursing and prevention programs.

(6) We can be proud of the quality and quantity of our health-related educational system: 114 medical schools with some 33,000 full-time faculty, 50,000 students and 14,000 Doctors of Medicine graduated annually. We should decry the unbelievable cost of medical education and the precarious state of financing for schools of public health.

(7) We can applaud the activities of the National Institutes of Mental Health. We should decry the meager sums of money available for research in mental illness, which represents the nation's primary public health problem.

The next major advances in the health of the American people will result from the assumption of individual responsibility for one's own health. This will require a change in lifestyle for the majority of Americans. The cost of sloth, gluttony, alcoholic overuse, reckless driving, sexual intemperance and smoking is now a national, not an individual responsibility. These abuses are justified on the ground of individual freedom, but one man's freedom in health is another's shackle in taxes and insurance premiums.

In the 17th and 18th centuries, moral and astrological factors were supplanted by theories that attributed disease to mental states, heredity, unknown poisons, environmental factors ("airs and waters"), contagion by mysterious poisons ("miasmata") and infection by animalcules ("germs" described by the early microscopists). With Pasteur's work in the late 19th century, a unitary theory of disease developed as a natural concomitant to the germ theory of disease: single organism, single disease, single cause. With further research, we have come full circle to colonial beliefs. It is now realized that there are multiple causes of disease, involving varying combinations of genetic factors, environmental factors (levels of stress, pollutants, germs and parasites) and behavioral factors (rest, smoking, exercise, diet, alcohol and hygiene).

When all is said and done, death and disease are inevitable, and as we eradicate one scourge, another will take its place. Ethical and moral concerns will have to play an increasing role in guiding us through lives of quality. These concerns will be matched with a typically American hardheaded pragmatism that tells us health care is only one element in the quality-of-life equation and the other elements, which depend on national will and individual responsibility, are equally important, if not more so.

DISCRIMINATION IN INTERNATIONAL COMMERCE

Mr. HUGH SCOTT. Mr. President, in March Senator Schweiker and I introduced Senate Resolution 100 expressing the concern of the Senate with respect to discrimination in international commerce based on religious, racial, or ethnic grounds, and promoting the principles upon which our Nation is founded. It is also true to the Universal Declaration of Human Rights. To date, we have been joined by 30 cosponsors.

The fact that some U.S. companies have apparently bowed to economic pressures saddens me. Our resolution will stiffen the resolve of U.S. companies to resist such demands, strengthen the President's hand in opposing such practices, and hopefully, encourage other countries to take similar stands.

The U.S. Government should examine its relationships with countries that practice such discrimination, and we should justify the continuation of foreign aid, sales of defense material, or other assistance programs for the benefit of any country that persists in practicing such discrimination.

We believe this is a timely and necessary bill. We have written Chairman MAGNUSON of the Commerce Committee, uring him to take action on this important legislation. We respectfully request the support of our colleagues.

PACKERS AND STOCKYARDS ACT OF 1921

Mr. CLARK. Mr. President, last night the Senate adopted the conference report on H.R. 8410, a bill which amends the Packers and Stockyards Act of 1921, to give livestock producers a reasonable measure of protection against suffering financial losses in the event of packing house bankruptcies.

We have been working on this legislation for more than 1 year, and I am gratified that we have now completed our final action on it. I would like to take this opportunity to commend Senator HUDDLESTON, chairman of the Subcommittee on Agricultural Production, Marketing, and Stabilization of Prices for his efforts and his subcommittee's efforts to further this legislation, and the distinguished chairman of the Committee on Agriculture and Forestry, Senator TALMADGE, for his sympathy to the concerns of the committee members from livestock producing states, and his efforts on their behalf.

I am confident that the House will now give this final version of the measure equally speedy and favorable consideration, and I would hope that the President will follow suit and sign this legislation into law as soon as possible.

This is sound legislation. It has been a bipartisan effort from the beginning—Senator CURTIS, of Nebraska, and myself were its original sponsors in the Senate—and it has had the support of such diverse groups as the American National Cattlemen's Association, the National Livestock Feeders Association, the American Farm Bureau Federation, the Independent Bankers of America, the National Grange, the National Farmers Union, and the National Farmers Organization.

The reason for the broad backing this legislation has enjoyed is simple—the need for the legislation is overwhelming. Livestock producers currently have no meaningful protection against the effects of packing house bankruptcies and the more than 175 such bankruptcies which have occurred during the past 18 years have cost producers more than $46 million. The most recent—and dramatic—example of the need for corrective action was the January 1975, bankruptcy of American Beef Packers, Inc., of Omaha, Nebr., one of the Nation's 10 largest packing firms. Producers in a total of 13 States were left holding bad checks from this firm totaling over $21 million. This was a devastating loss, particularly since it came at a time when producers were already besieged by bad weather and low prices.

H.R. 8410 would prevent a reoccurrence of this kind of situation by providing that producers be paid promptly by packers for their livestock; that meat and other accounts receivable be held in trust for the unpaid sellers of livestock in the event of bankruptcy, and that packers be bonded.

Similar safeguards already exist in other segments of the industry—and in other industries—and it is right and fair that they now be extended to this area as well.

Mr. President, I stated at the outset that we have been working on this legislation for more than a year. Senator CURTIS and I, in fact, first introduced our bill on April 24, 1975—slightly over 15 months ago. That is a long time to wait for legislation of this kind, and there is a lesson for all of us, I think, in the story of the delay that we experienced.

The legislation was slowed up at a variety of points for a variety of reasons. The subject is complex and highly technical, and many of the difficulties we had were not uncommon. But the bill was also stopped dead in its tracks for many, many months when the White House suddenly went against the Department of Agriculture's recommendation of support for the bill, and announced opposition on the grounds that the bill represented an unnecessary and unwarranted expansion of Federal regulatory efforts.

The facts of the situation did not support that claim. This was more than amply demonstrated by the hearings that we held, and by the factual errors, inconsistencies and lack of knowledge contained in the administration's statements on the bill. The administration's position was clearly based wholly on general principle, without any real analysis of the empirical evidence at hand.

I have every reason to believe that this decision has now been recognized as a mistake, and that the President will now act accordingly and sign the bill. Speaking bluntly, there will be hell to pay in our livestock-producing States if he does not.

But I do not think recognition of the error in judgment that the administration made with regard to this bill should stop there and be confined to this particular case. The issue is really larger than that.

The current effort to minimize Federal interference in the marketplace and elsewhere and to do away with unwarranted extensions of Federal power is an admirable one. We are, I believe, faced with situations today where the Federal Government has become overextended, and is doing more harm than good. These situations can and should be corrected.

But this should be done intelligently, through a reasoned analysis of each situation on a case-by-case basis, or we are likely to simply compound our problems by undoing much that is good—by discarding much that should be retained, and by precluding important new steps which need to be taken. In other words, simply taking a meat ax to the Federal bureaucracy would not work. Too many innocent parties will be injured in the process.

That was the case with regard to the administration's decision against the packer bonding legislation, and I hope that those who tend to be overzealous in such matters can learn something from this example.

Mr. President, Clark Mollenhoff, the Bureau Chief of the Des Moines Register, has very ably described the administration's actions with regard to the packer bonding legislation in his latest book, "The Man Who Pardoned Nixon." So that my colleagues who may be unfamiliar with the background of this legislation might have the opportunity to study this case more closely, I ask unanimous consent that the relevant chapter of Mr. Mollenhoff's book be printed in the RECORD at this point, as well as a news story which he wrote on the same subject for the August 16, 1975, Des Moines Register.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE MAN WHO PARDONED NIXON

(By Clark R. Mollenhoff)

CHAPTER 16: DEREGULATION QUESTIONS OF COMPETENCE

When President Ford criticized the federal government for engaging in much wasteful and expensive overregulation of business, his comments had broad appeal to big business, small-business men, farmers and the average citizen, all of whom were disenchanted with government regulations and the frustration of dealing with the Washington bureaucracy.

The United States Chamber of Commerce convention cheered when he told them on April 28, 1975, that he intended to deregulate business and would examine and improve the regulatory agencies.

"There are sound estimates that government regulations have added billions of unnecessary dollars to business and consumer costs every year," President Ford said. "To reverse this trend of growing regulation, my Administration is working hard to identify and to eliminate those regulations which now cost the American people more than they provide in benefits."

Democrats and Republicans alike agreed on the need for reform, but their approaches to the problem differed widely. Those who were not demagogues realized that the pruning of unneeded regulations was a delicate job, requiring a thorough understanding of the reasons the laws were enacted in the first place, sound technical knowledge of the industry involved and a clear knowledge of conditions which had developed since the initial regulatory structure was established.

In short, decisions on deregulation would take skillful analysis by experienced, objective men. Neither novices in government or politics nor ideologues fascinated with the rhetoric of political budget cutting could be allowed to implement changes in the rules.

In May and June President Ford made additional comments on the high priority he was placing on deregulation in the battle against inflation and expanding government. However, in the summer of 1975, faced with an opportunity to demonstrate real understanding of the problems of regulation, the Ford White House bungled badly.

The issue was whether the Packers and Stockyards Act of 1921 should be amended and broadened to require bonding for meatpacking companies exempted from the initial legislation because they bought little livestock directly from farmers and ranchers. The bankruptcy of American Beef Packers Inc. in January 1975 stranded more than twelve thousand farmers and ranchers holding in excess of $22 million in worthless checks.

That catastrophic financial collapse of one of the biggest beef- and pork-packing firms in the country clearly demonstrated that the farmers needed guarantees that the checks they received for their livestock would be good when cashed.

Farm organizations, livestock organizations and eventually the packing industry itself exerted pressure for federal legislation to provide uniform packer-bonding requirements.

The four major farm organizations—the American Farm Bureau Federation, the National Farmers Union, the National Farmers Organization and the National Grange—for years had favored bringing the meat packers under the bonding provisions of the law, as had the major livestock organizations. But the packing industry, not wanting the additional burden, lobbied successfully in Congress that few meat packers were failing and that the problem was relatively insignificant.

The insolvency of American Beef brought quick action in farm-state legislatures, and within a few months more than twenty states enacted packer-bonding laws. The packing industry frantically tried to meet the requirements of the multiplicity of these state laws, which varied greatly, and it promoted federal legislation to assure uniformity.

The question of federal packer bonding was neither a political issue nor an ideological one. Senator Dick Clark, a liberal Democrat from Iowa, cosponsored packer bonding with Senator Carl Curtis, a conservative Republican from Nebraska. Likewise, on the House side, packer bonding legislation had the support of conservative Republican Representative Charles Thone, of Nebraska, and Representatives Berkley Bedell, Thomas Harkin and Neal Smith, all liberal Democrats from Iowa.

Dr. Gerald Engelman, veteran analyst for the Packers and Stockyards Administration in the Agriculture Department, Administrator Marvin McLain and Associate Administrator Glenn Bierman favored packer bonding as essential and long overdue. After consulting with Congressmen and Senators writing the legislation, they had convinced Assistant Secretary of Agriculture Richard Feltner that such protection for the farmer was necessary.

With his experts favoring it, Agriculture Secretary Earl Butz, an outspoken proponent of free enterprise, decided the proposed law should be supported and made a recommendation to that effect to the White House.

James Lynn, Director of the Office of Management and Budget (OMB), took note of the estimate of $500,000 to $800,000 in cost and routed it to the Justice Department for study.

At this point zealous amateurs took over, bringing more enthusiasm than experience or judgment to the job in their desire to display their knowledge of President Ford's priorities on government deregulation.

The packer-bonding proposals landed on the Justice Department desk of Robert D. Stewart, a twenty-six-year-old honor graduate of the University of Iowa Law School in 1974.

The young lawyer had no experience with the packers and stockyards laws, nor with the practical problems of marketing cattle, sheep or hogs. In fact, he had no farm experience at all, having been reared in Chicago and completing his undergraduate work at the University of Illinois.

Another young lawyer, Donald Fitch, who had joined the Justice Department only a few months earlier, was a native of Washington, D.C., and a graduate of the University of Mississippi Law School. Only thirty years old, he also lacked exposure to agriculture and to the problems of the Packers and Stockyards Administration.

Fortified by their ignorance, they wrote a memorandum recommending against support of packer-bonding legislation because it required spending additional federal funds while imposing expensive red tape on the meat-packing industry in contradiction of President Ford's campaign for deregulation. They were proud when their recommendation went to the top of the Justice Department with few changes, was signed by a Deputy Assistant Attorney General in the Office of Legal Counsel and was returned to OMB Director Lynn.

As a matter of routine, Lynn turned it over to a subordinate and a copy was sent to the Agriculture Department, where it eventually reached the Packers and Stockyards Division. McLain, Bierman and Engelman were shocked at the decision to oppose packer bonding, but they were more shocked at the factual errors indicating how little the Justice Department understood of the history of the packer-bonding issue or the Packers and Stockyards Act.

Meetings were arranged to explain the meat-packing business to the young Justice Department lawyers, and after several hours McLain and his aides felt they had made progress. Stewart and Fitch acknowledged the limitations in their comprehension of the problem and of the extent of bonding requirements in the existing law.

McLain's aides did not press for assurance of a reversal because they assumed that, with explanation of the facts and corrections in the understanding of the law, a reversal of recommendation would be automatic.

Bierman and Engelman felt that the inexperienced lawyers now knew why it was vital that packers be bonded to restore the credibility of the packing industry in the wake of the American Beef disaster.

Stewart said later that "they [Bierman and Engelman] were pretty upset about our memorandum, and brought us all kinds of figures and statistics on how many firms had gone out of business in the last seventeen years and how much money had been lost by farmers and ranchers."

The figure showed that more than 150 meat-packing plants owing farmers and ranchers more than $45 million had gone out of business from 1958 to 1975, and that eight packing companies, including American Beef, had gone out of business since the first of 1975.

Stewart acknowledged that Engelman and Bierman had also stressed that there were between 75 and 100 "technically insolvent" packing plants at that time which must be monitored carefully by the Packers and Stockyards Administration.

"They were quite persuasive on many points, and I believe they changed the emphasis of our thinking," Stewart admitted later. He and Fitch learned from Engelman and Bierman that all of the stockyards, commission houses and dealers who bought livestock were already covered by bonding-law provisions and that only the packers had been exempted from the bonding law in 1921.

Stewart said they also learned of changes in marketing patterns that left 85 percent of the beef sales to packers unprotected by bonding.

But, in spite of this, he and Fitch still believed there was no need for bonding packers. "In the end, we did not feel they [Engelman and Bierman] made a case that there is an overwhelming need for packer bonding. It was a matter of trying to develop a longtime policy and not one of simply reacting to the American Beef collapse when it is an unusual bankruptcy coming in the midst of the worst recession in twenty-five years."

When Engelman and Bierman left the Justice Department the lawyers in the antitrust division notified the White House that there was "no reason to back away from the original position."

Only on the morning the House Agriculture Committee hearing on the packer-bonding legislation was due to start did Secretray Butz learn that OMB and the White House had directed the Department of Agriculture to give testimony in opposition to packer bonding.

Distressed at the overruling of his recommendation with no notice, Secretary Butz called President Ford. He was unavailable, but Special Assistant to the President James Cannon took the call of protest. Cannon told Butz that President Ford had been adamantly opposed and that Butz should proceed to arrange for the department to oppose packer-bonding legislation.

Since Butz had recommended packer-bonding legislation and Assistant Secretary Feltner felt even more strongly about it, it was necessary to find another witness to give the Administration's position. McLain and his aides were the most knowledgeable, but they had consulted with members of the House and Senate writing the packer-bonding legislation.

Therefore it was necessary to reach down to the third layer, to Deputy Assistant Secretary John Damgard, in order to find someone who could read an opposition statement and not contradict a position expressed to a Congressman or Senator. Though Damgard did not relish the job, he agreed to read the statement but insisted that a Justice Department representative defend the opposition to bonding of packers.

Bruce Wilson, a Deputy Assistant Attorney General in the Antitrust Division, was tapped to present the case for the opposition to packer bonding to the subcommittee with less than two hours' notice. Understandably, Wilson made error after error on the law, the history of the Packers and Stockyards Administration and the present conditions in the packing industry. He did not understand the concern of the Congressmen who contended it was vital that there be protection for livestock men whose cattle and hogs were slaughtered within twenty-four to seventy-two hours after sale and shipped to retail meat outlets, making it impossible for them to retrieve their assets if they were paid by checks that bounced.

House and Senate Agriculture Committee members were appalled at Wilson's lack of knowledge of the livestock marketing industry and his factual inaccuracies, and yet he was stating the Administration's opposition to requirement for bonds. Had there been press interest in the hearings, the Justice Department and the Ford White House would have been subjected to widespread ridicule. As it was, only five or six reporters covered the hearings, and most of them were less well informed on the livestock industry than the Justice Department lawyers had been.

Fortunately for President Ford, only the Des Moines Register and some farm-organization publications carried comprehensive stories on the disaster of the foul-up on the packer-bonding issue.

Senator Curtis, a longtime friend of the President, was not consulted by the White House prior to the decision to oppose his bill. He said he did not intend to protest because "I am not sure there is anyone down there who would understand what I was talking about."

The Nebraska Republican planned to work with Senator Clark and other midwestern Senators to pass legislation and hoped to convince the President he should not veto it.

Representative Charles Grassley, an Iowa Republican, protested to President Ford about the Administration's opposition and pointed out that his packer-bonding bill was "written with the assistance of the Department of Agriculture."

"Responsible people in the management of packing plants were consulted," Grassley wrote. "Farm organizations were favorable. Certainly the hundreds of Iowa farm families who are holding collectively $6.6 million worth of bad checks from one recent packer bankruptcy consider this responsible legislation."

Senator Clark, upon learning of the role of the inexperienced young lawyers in Justice, declared that "the decision-making process in this instance appears to be the blind leading the blind," but he agreed with Senator Curtis that the bill would pass the Senate and House by an overwhelming margin despite White House opposition.

Senator Curtis commented, "I hope that

by the time we get the legislation through the Senate and House we will have educated the White House and OMB on this subject."

Representative Neal Smith, a veteran Iowa Democrat, said that it was "a shocking revelation" to learn of the role of Stewart and Fitch as architects of the Ford Administration's position.

"But, the final decision on the packer-bonding legislation was no more incredible than have been a number of other decisions in the agricultural field," Smith continued. "Although President Ford took Agriculture Secretary Butz' advice on the veto of the farm bill with increased prices, he did not go along with the Butz suggestion to increase the loan rates [on corn, wheat and cotton]," he said. "Equally incomprehensible in my book is the acceptance [by Ford] of the OMB opinions in opposing federal grain inspection, and the abolition of the use of nongovernment inspectors," Smith charged in referring to what he considered "unreasoned opposition" to reform demanded by the grain-inspection scandals.

A week later, White House Chief of Staff Donald Rumsfeld was still unaware of the blunders by the White House in disputing the need for bonding to protect farmers, but acknowledged the negative position as "a mistake" when the facts were related to him.

However, rather than acknowledge incompetence and reverse its position, Rumsfeld said the White House would wait until the Congress passed a packer-bonding bill and "just not veto it."

The White House hoped the problem could be glossed over without its having to admit publicly that a mistake had been made.

Fortunately for Ford and Rumsfeld, most of the newsmen were concentrating on Ford's meeting with ten major regulatory agency heads to urge the leadership to cut unneeded regulations. Ford cited four areas for agency action:

1. Assessment of the costs and benefits of major regulatory actions.
2. Reduction within six months of delays that prevent "a speedy and effective process."
3. Development of procedures more responsive and comprehensible to consumers.
4. Consideration of fundamental changes leading to deregulation where government interference "no longer makes sense."

While there was widespread agreement with President Ford's general intention to cut wasteful regulation, there was no evidence that the White House was following his blueprint for necessary regulation in the packer-bonding problem they were handling. In fact, the White House rejected the views of the experts in the Department of Agriculture who were conscientiously trying to "make procedures more responsive and comprehensible to consumers." The Ford White House demonstrated no depth understanding of the problem but was simply caught with an obsession to deregulate for the sake of deregulation.

In overriding Butz, the White House did not even extend him the courtesy of consultation before the decision was made and his request for a personal talk with President Ford was denied. James Cannon, who refused Butz' request, was as naive and unknowledgeable about farm legislation and packers and stockyards laws as the twenty-six-year-old antitrust division lawyer had been. Two weeks after forcing Agriculture to oppose the legislation, Cannon still believed the proposed change in the law would have "put the Agriculture Department in the bonding business."

"There must be some way in which these packers can get their bonds through private industry," Cannon said, protesting the key provision in the packer-bonding bills. He was surprised to learn that the recommendation did not put the Agriculture Department in the bonding business, but merely gave the Packers and Stockyards Administration authority to insist that packers be bonded through private-industry sources.

They were the same inaccuracies that had shocked Senate and House Agriculture Committee members when stressed by Deputy Attorney General Bruce Wilson a few weeks earlier.

Fumbling of the packer-bonding issue documented the poor communications and lack of expertise in the White House organization under White House Chief of Staff Donald Rumsfeld. Many Republicans believed Rumsfeld was using his position to build his own political empire as a springboard to the vice presidency and eventually the presidency.

Conservative Republicans had accused Rumsfeld to his face of jockeying his men into control in the White House and into posts in the regulatory agencies and Cabinet departments to the detriment of the Ford Administration.

Rumsfeld blandly denied the accusations month after month, always ending up in the right palce at the right time; yet his mentor, Ford, had to assume responsibility for all decisions and unfavorable political repercussions.

Don Rumsfeld had been a cheerleader on Ford's team for years, and Jerry Ford is loyal to old friends who expressed their admiration often. It seemed that every time Ford had a personnel shuffle, he dealt a winning hand to Rumsfeld.

[From the Des Moines Register, Aug. 16, 1975]

How Inexperienced Advisers Urged Ford to Oppose Packer Bonding

(By Clark Mollenhoff)

Washington, D.C.—Robert D. Stewart, a 1974 graduate of the University of Iowa Law School, was the chief architect of the Justice Department memorandum in opposition to the bonding of meat packing firms to protect livestock producers, The Register learned last week.

Stewart, 26, readily admitted that he had no experience with the Packers and Stockyards Administration laws or with the marketing of cattle or hogs until a few weeks ago when he was given the job of reviewing packer bonding proposals recommended by the Department of Agriculture.

Stewart said he has no farm experience, was reared in Chicago, Ill., and did his undergraduate work at the University of Illinois.

ACCEPTED BY FORD

The controversial memorandum authored by Stewart and Donald Fitch, 30, a lawyer who joined the Justice Department last November, went through the department with only minor changes, was sent to the Office of Management and Budget (OMB) and was then accepted by President Ford over the protests of the Agriculture Department.

Fitch, a Washington, D.C., native who was graduated from the University of Mississippi Law School in 1972, said his only exposure to agriculture or agricultural problems had been at the University of Mississippi.

He had no special courses, but said "everyone in Mississippi talks about agriculture, and you can't get away from it."

However, Fitch said he had no experience with the Packers and Stockyard Act, or the problems of livestock marketing until a few weeks ago when he was assigned to work with Stewart on the Justice Department's position on the bonding of packers.

DID NOT KNOW

Fitch said he knew nothing of the history of the Packers and Stockyards Act of 1921 that required bonding for the stockyards, commission men and dealers until he and other Justice Department lawyers met with Dr. Gerald Engelman, veteran analyst for the Packers and Stockyards Administration, and Glenn Bierman, a lawyer and associate director of the agency.

"It was our position that an administration that is seeking to deregulate business should not engage in more regulation unless there was some overwhelming reason," Fitch said. "In this case we did not feel that there were any unusual hazards for the livestock producers that other businesses do not face."

"I had no prior experience with the Packers and Stockyards Administration, and did only a limited amount of research on this project," Fitch said. "Rob Stewart did most of the research, and is the real expert on this subject."

Stewart said that he did most of the memorandum against packer bonding, and that "it went through about the way we put it together."

OVERREACTION SEEN

"I did consult with a number of other senior men in the anti-trust division," Stewart said. "Some of them have had some prior experience with the Packers and Stockyards Law."

"It seemed to us that the recommendations from the Agriculture Department were a direct reaction, and I might say an overreaction, and I might say an overreaction, to the American Beef Packers bankruptcy," Stewart said.

Stewart said that "although the figures indicate that there could be $22 million lost by livestock producers, we aren't sure about that total yet, and I'm told that there is a good chance that much of that money will be recovered."

The young lawyer said that "when you take American Beef's collapse out of it, the record of packer bankruptcy is pretty good—probably no more than about $1 million a year for the last 17 years."

OTHER INDUSTRIES

"When you compare that with the hazards of other industries, I don't believe it is bad at all," Stewart said. "If the federal government is to bond packers to protect livestock producers against all losses, we would logically get into a lot of other areas where we feel that the present bankruptcy laws are adequate."

The memorandum prepared by Stewart and Fitch was approved up through the chain of command in the anti-trust division and the legislative affairs division, was signed by A. Mitchell McConnell, Jr., deputy assistant attorney general in the office of legal counsel, and was sent to OMB Director James Lynn.

The OMB examined the Justice Department memorandum, and notified Agriculture Secretary Earl Butz that it was considering rejecting his recommendation for legislation to require the bonding of packers.

SENT TO BUTZ

The Justice Department memorandum was then sent to the Agriculture Department where Butz forwarded it to Marvin McLain, administrator of the Packers and Stockyards Administration.

McLain, Bierman, Engleman and others including Assistant Secretary of Agriculture Richard Feltner, concluded the memorandum had been prepared and reviewed by persons who had no operational knowledge of the Packers and Stockyards Laws or the unique aspects of cattle marketing.

Bierman and Engelman went to the Justice Department "to straighten them out" on the reasons why it was vital that packers be bonded to restore the credibility of the packing industry in the wake of the American Beef disaster.

"They were pretty upset about our memorandum, and brought us all kinds of figures and statistics on how many firms had gone out of business in the last 17 years and how much money had been lost by farmers and ranchers," Stewart said.

WATCHING FIRMS

The figures showed that more than 150 meat packing plants had gone out of business owing farmers and ranchers more than $45 million from 1958, and that eight packing companies including American Beef, had gone out of business since the first of this year.

Stewart said that Engelman and Bierman had also stressed that there were between 75 and 100 packing plants that are now "technically insolvent," that must be watched carefully by the Packers and Stockyards Administration.

"They were quite persuasive on many points, and I believe they changed the emphasis of our thinking," Stewart said. He said that they learned that all of the stockyards, commission house and dealers who now buy livestock are already bonded, and that the packers have been the exception to the bonding laws.

Stewart said Engleman and Bierman went over the history of the Packers and Stockyards Act and explained why changes in marketing patterns have left nearly 85 per cent of the beef sales to packers unprotected.

LONG-TIME POLICY

"In the end, we did not feel they made a case that there is an overwhelming need for packer bonding," Stewart said. "It was a matter of trying to develop a long-time policy and not one of simply reacting to the American Beef collapse when it is an unusual bankruptcy coming in the midst of the worst recession in 25 years."

Stewart said that when Engelman and Bierman left, the Justice Department lawyers decided that there was "no reason to back away from the original position" and that they notified the White House of that stand.

James Cannon, a special assistant to the President, told The Register that in the White House the memorandum was reviewed by OMB officials and by counsel Philip Buchen's office, by presidential counselor Robert Hartmann, and by the Office of Legislative Liaison as well as President Ford.

Cannon said he had personally taken the last minute call of protest from Secretary Butz after the Agriculture Department had been directed to prepare to oppose the packer bonding legislation recommended by a bipartisan block of Midwestern senators and congressmen.

Cannon said that Butz had "very strongly urged" that President Ford reverse himself and support packer bonding legislation to protect the livestock producers.

"I told Secretary Butz that the President was firm in his opposition, and that the decision has been concurred in by all of the proper people in the White House," Cannon said.

"President Ford wants to deregulate business, and the proposed legislation would have put the Agriculture Department in the bonding business," Cannon said. "There must be some way in which these packers can get their bonds through private industry."

Cannon appeared surprised to learn that the recommended legislation does not put the Agriculture Department in the bonding business, but merely gives the Packers and Stockyards Administration the authority to insist that packers be bonded through private sources.

TWO HOURS NOTICE

It was those same inaccuracies about putting the Agriculture Department in the bonding business that shocked Senate and House agriculture committee members when Bruce Wilson, the deputy attorney general in charge of the antitrust division, testified for the Ford administration.

Wilson told the House agriculture subcommittee that he had only two hours notice before being sent to the Capitol to oppose the packer bonding legislation.

House and Senate Committee members, including Senator Dick Clark (Dem., Ia.) and Representative Berkley Bedell (Dem., Ia.), were appalled at Wilson's errors and lack of knowledge of the livestock marketing industry.

Wilson was sent up to accompany John Damgard, a deputy assistant secretary of agriculture, who was sent to testify because higher officials said they could not conscientiously oppose the packer bonding legislation.

Representative Charles Grassley (Rep., Ia.) is the only member of the House or Senate who has written to President Ford protesting the opposition of packer bonding, although dozens of Midwestern senators and congressmen have publicly said they did not believe the White House understood what it was doing.

In his letter, Grassley said that his packer bonding bill and others were "written with the assistance of the Department of Agriculture."

"Responsible people in the management of packing plants were consulted," Grassley wrote. "Farm organizations were favorable. Certainly the hundreds of Iowa farm families who are holding, collectively $6.6 million worth of bad checks from one recent packer bankruptcy consider this responsible legislation."

"My question to you, Mr. President, is: Are you unalterably opposed to this sort of legislation?" Grassley wrote. "Would you veto this type of a bill if it came to your desk?"

PASSAGE SEEN

Senator Carl Curtis (Rep., Neb.) and Clark, joint sponsors of packer bonding legislation, have expressed the belief that the legislation will pass the Senate and House by an overwhelming margin despite White House opposition.

Clark said that "the decision making process on this instance appears to be the blind leading the blind. I don't know that a letter to the White House would do any good."

Curtis said he has not taken the matter to President Ford because "I hope that by the time we get the legislation through the Senate and House we will have educated the White House and OMB on this subject."

THE PENNSYLVANIA UNKNOWN ILLNESS

Mr. HUGH SCOTT. Mr. President, at least 22 Pennsylvanians have died and many more are suffering from an unknown illness. I am sure that by now the entire Nation is aware of the severity of this mysterious illness. To date, it has only affected persons who attended or were in some way connected with the American Legion Convention held recently in Philadelphia. Among the conventiongoers the number of victims continues to grow and the death toll is expected to rise before health officials can determine the cause of the disease and discover a cure.

I feel that all the people—city, State, and Federal health officials—who have taken expert and aggressive action to investigate this malady deserve our highest commendation. Although many still fear the disease, these officials have maintained a calm atmosphere while they continue their probe into the nature of the disease and possible cures for it.

I would like to extend my personal sympathies to the families of those who have died and my prayers to those who are now suffering.

PACKERS AND STOCKYARDS ACT OF 1921

Mr. DOLE. Mr. President, I support the conference report on H.R. 8410. This bill is responsive legislation dealing with the real problem of livestock producers who go unpaid for their efforts, in the event of a packer bankruptcy. It also returns the transaction of selling livestock to a "cash basis" through the bill's prompt payment provision—patterned after existing Kansas law. In recent years the time between delivery of livestock and actual receipt of payment had been lengthened through changes in marketing.

One provision of the bill as agreed to by the conferees, I feel deserves particular attention. The conferees agreed to an expanded packer definition to include any person engaged in the business of marketing meats, meat food products, or livestock products in an unmanufactured form acting as a wholesale broker, dealer or distributor in commerce. Through this provision the producers are assured these individuals will conduct their meat operations in a fair, competitive manner in competition with slaughterers, meat processors and other persons selling meat at wholesale.

I am always hesitant to allow the Federal Government to enter into a new program of overregulation. I was particularly reluctant to grant the Secretary of Agriculture authority to require reports of all wholesalers as a matter of course without justification.

I am pleased the conference report language clearly states that the conferees intend that the Secretary will engage in regulation only when it is shown to be necessary. This would include reporting requirements. With this clarification, the expanded definition should not place any additional burden of the reliable wholesaler.

VETERANS' PENSION REFORM

Mr. HUGH SCOTT. Mr. President, in these times of economic uncertainty, the Americans who suffer the most are those on restricted incomes. Their pursestrings tied by fixed pensions and social security benefits, these Americans—mostly elderly—find themselves powerless in the face of rising inflation.

Ironically, a large number of those suffering from this economic predicament are the very Americans who served our country honorably in the armed services. Unfortunately, the pension system for these patriotic servants has great weaknesses. I continually receive complaints from constituents who are caught in an economic trap where their Veterans' Administration benefits decrease when their social security benefits increase, reducing the total amount they receive. The Veterans' Administration itself has stated that the current pension system contains "inconsistencies, inequities and anomalies, which cannot be corrected unless the entire framework of the program is restructured."

The time has come for us to recognize more fully the contributions of these dedicated men and women and provide them with the minimal living standards they have earned. This need is answered by two highly commendable bills currently before Congress, S. 2635 and H.R. 14298, which would reform the veterans' benefits system. Unfortunately, the bills are now tied up in committee after having passed their respective Houses with ease.

I urge Senator Hartke and Representative Roberts, the chairmen of the Senate and House Veterans' Affairs Committees, respectively, to take whatever action they can to resolve the differences between the bills and insure that we provide our Nation's veterans with an improved, reformed veterans' system.

I am particularly pleased with the provision in both bills for a 25-percent increase in pensions for veterans aged 80 or older. This provision would primarily aid our World War I veterans, who have been neglected in the history of veterans' pensions, never having received readjustment of education benefits.

The average age of the World War I veteran today is 81. Faded visions of patriotic devotion and service to country are not enough to sustain these elderly veterans against the hard reality of having to pay their next grocery bill. We have a duty—and a duty that cannot be shirked—to repay these patriotic men and women for the service they offered in their country's cause more than half a century ago.

For their benefit, and for the benefit of all veterans, I hope that the differences between S. 2635 and H.R. 14298 can be resolved and an effective veterans' pension reform enacted.

ARMS OUT OF CONTROL

Mr. CASE. Mr. President, the publication Monday of a Senate Foreign Relations Committee report on arms sales to Iran has prompted some commentators to take another look at the difficult issue of the heavy flow of weapons to the Persian Gulf area.

I would like to call my colleague's attention to two recent editorials, including one in the Christian Science Monitor which noted:

> The Saudi Arabians are asking for as many as 2,000 sidewinder interceptor missiles for their F–5's, when experts agree such a number is excessive for the country's defense.

I ask unanimous consent that the article from the Monitor, as well as one from the Milwaukee Journal, be printed in the Record.

There being no objection, the editorials were ordered to be printed in the Record, as follows:

[From the Christian Science Monitor,
Aug. 3, 1976]

Arms Out of Control

It is encouraging that public attention has begun to focus on the spiraling of American arms sales abroad. Congress, for one, is watching this development like a hawk. But the fact remains that there is yet no serious effort within the government to look at what is being sold all over the world and to evolve a sensible policy for bringing arms sales under control. The new administration will have to give this matter the highest priority.

It should be no source of pride to the United States that it has become the largest arms seller in the world. Government-to-government exports totaled about $1.5 billion annually a decade ago; the level is now a staggering $9 billion to $10 billion a year. Moreover, the U.S. is no longer peddling hand-me-downs but the newest and highly advanced weapon systems, such as supersonic planes, submarines, and antiship missiles.

Ironically, the United States may be defeating its own goal of enhancing security throughout the world. Not only does this massive outpouring of arms fuel possibilities for regional conflict. As military and diplomatic experts are beginning to realize, and with some alarm, it will become increasingly difficult for the U.S.—or the Soviet Union—to play the role of peacemaker. The ability of the superpowers to maintain world stability is thus being eroded.

Iran is an illustration of the dangers of unrestrained arms selling. A just-released study by the Senate Foreign Relations Committee notes that the Iranians do not even have the skills to operate the sophisticated U.S. weaponry they now have and would be totally dependent on U.S. personnel if they decided to go to war. By 1980, the report estimates, there could be as many as 50,000 Americans in Iran involved mostly in arms programs.

It is doubly disturbing that there has been no close scrutiny of this program because of a secret decision by President Nixon in 1972 to sell Iran all the modern conventional arms it wanted. When one considers the volatility of the Middle East and the potential for wars and oil embargoes in the region, it is astonishing the U.S. has such an open-ended commitment.

Other arms programs are equally questionable. The Saudi Arabians are asking for as many as 2,000 Sidewinder interceptor missiles for their F–5s, when experts agree such a number is excessive for the country's defense. Fortunately, as a result of public outcry, the administration will probably scale down its arms request to Congress.

Nor is the Persian Gulf the only turbulent area where arms are accumulating at fast rate. An arms race is under way in black Africa, where the United States is eager to bolster its allies and counter the Soviet arms buildup in Somalia, Uganda, and Angola. And many "third-world" countries are acquiring submarines and missile-armed patrol boats that could be used to impede shipping.

This is not to suggest a criticism of legitimate arms programs. It makes sense for the U.S. to help friendly countries build up their forces so they can defend themselves. There is merit in fostering regional defense systems. Arms agreements often serve valid security objectives—perhaps they do in most cases.

But to accept the present government view of "the more the better" (and the Pentagon, especially, argues that arms sales help the balance of trade and keep unit costs down) is to head down a potentially dangerous path. Some hard thought ought to be given to the nature of the weapons supplied. Are the most lethal arms going to unreliable clients? To what extent are they truly defensive? If they can be used as offensive weapons, what quantity can be justified as needed?

Arms are like shiny toys these days. Everyone wants them. But, as the major supplier in the world, the United States ought to take the lead in showing that it does not intend to turn the world into an arsenal of weapons that could have disastrous consequences.

[From the Milwaukee Journal, July 30, 1976]

Time To Say "No" on Arms

The US continues to pump quantities of sophisticated arms into the Mideast as the latest decision to sell Saudi Arabia 2,000 Sidewinder missiles and possibly 400 Maverick "smart bombs" affirms. The wisdom of being a patron of the arms buildup underway in the region is highly questionable.

Certainly the Saudis, with their ample oil money, can afford the arms. Such sales help counter the outflow of dollars from the US necessary to purchase petroleum. And the US considers Saudi Arabia one of the pivots in its relationship with the Arab world. All are reasons trotted out on various occasions to justify arms sales to that country. Variations on those themes are played to explain arms merchandising in the rest of the region.

All those reasons can be considered somewhat legitimate. But they must be balanced off against the drawbacks also present. The Mideast is not the picture of stability. The US and its rival, the Soviet Union, are introducing ever more sophisticated weapons in ever increasing quantities. Each outbreak of fighting has been more intense and deadly. What level of carnage is the US willing to support?

The point is that stability in the region appears to be declining with the introduction of these arms, rather than improving. As a study called "Implications of the 1976 Arab-Israeli Military Status," published by the American Enterprise Institute, concludes: "The combination of sophisticated weapons, pre-emptive strategies, short distances, exaggerated assessments, and minimal crisis management machinery suggests the possibility that unstable military situations may take on irrational dimensions. . . ."

It is time for the US to start saying "no" to its Mideast clients. It is time also for the US to take the lead in persuading other arms sellers, particularly the Soviet Union, that it is also time for them to say "no." The superpowers too easily could be drawn into confrontation as a result of new conflict in the region.

POPPY PROGRAM THREATENED BY PROBLEMS

Mr. HUGH SCOTT. Mr. President, many of our young men have served our Nation in battle. Many returned to our shores aged by the ravages of war; others bear physical scars of battle. These disabled American veterans have earned our gratitude and support.

I have recently learned of a problem they face that may seem small to us but it is very important to the disabled veteran. As we all know, our recuperating veterans have assembled paper poppies while they recover in Veterans' Administration Hospitals across America.

Since 1922, these bright red poppies have become a traditional part of the Memorial Day remembrances for those veterans who never came home and for those who served so well. The donations received for these poppies have helped many disabled veterans and their families. The therapeutic benefits of the poppy fabrication by hospitalized veterans also should not be overlooked.

Unhappily, the poppy program's continued existence is now threatened by regulatory and legal problems.

Recently, the Civil Service Commission indicated that the minimum wage requirements and the administrative burdens of the Fair Labor Standards Act may be applied to the poppy program. The Veterans' Administration fears that patients' lawsuits may subject it to civil and criminal penalties. Due to their marginal budget, payment of minimum wages and court penalties could end the poppy program.

I feel this would be detrimental to the health and welfare of our disabled veterans. I must stress that participation in the program by the disabled veteran is entirely voluntary. This unique and innovative program enables these volunteer veterans to help their comrades and themselves. This effort conflicts with no private business and seems incapable of harm to anyone.

The poppy program should be encouraged as one of the great American volunteer programs that provide the forum for American citizens to help one another. Let us work to keep the poppy program alive by exempting it from the regulations of the Fair Labor Standards Act.

I am pleased to join Senator GRIFFIN as a cosponsor of amendment No. 2121 to the Veterans' Administration Exchange of Information Act, S. 3348, which would effect this worthwhile exemption.

HABITAT

Mr. STEVENSON. Mr. President, Doris Holleb of the University of Chicago attended the recent U.N. Conference on Human Settlements and has written a lively and perceptive account of that assemblage from 131 nations. It is a useful document for what it says about the atmospherics as well as the substantive work of that Conference. Patience is wearing thin in much of the world; the afflictions of urbanization are spreading across the third world to exacerbate unrest and misery. Mrs. Holleb's paper affords us a chance to listen, and that in itself is useful.

Mr. President, I ask unanimous consent that this document be entered in the RECORD.

There being no objection, the document was ordered to be printed in the RECORD, as follows:

HABITAT: U.N. CONFERENCE ON HUMAN SETTLEMENTS

(By Doris B. Holleb, University of Chicago, July 10, 1976)

The specter of a coming world of destitute, monster cities hung over the snow-capped peaks of Vancouver, the gleaming site of Habitat, the recent U.N. Conference on Human Settlements. Some 4,500 multi-tongued delegates from 131 nations, rich and poor, assembled in June "to exchange information about the solutions to the problems of human settlements."

This would seem work enough for any conference given the massive tangle of misery in Third World villages and shantytowns and in backwater poverty areas of the West. Set before the delegates was a sophisticated blueprint for change, prepared under the direction of the U.N. Secretary-General of Habitat, Enrique Peñalosa.

Nonetheless, the self-styled "Group of 77"—actually 113 developing nations—succeeded in diverting attention from the main work of the Conference and nearly subverted it entirely. The Group pulled out all the old chestnuts, the ritual condemnations of Israel, the "new economic order," Panama Canal negotiations. They threatened defaults on outstanding debts and expropriations of multinationals.

Habitat ended with both a bang and a whimper. The United States and 14 allies were cornered into voting against the "Declaration of Principles" because it retained phraseology with political implications "outside the scope and purpose of the Conference".

In retrospect, to dismiss the event cynically as a nonevent, as another U.N. forum for programmed assaults on our foreign policy, would be premature. Only now, two years after a comparable confrontation at the World Food Conference, are specific actions on grain reserves evolving from the recommendations of that conference.

To dismiss it as a multi-media, star-studded, intellectual gala, which it surely was, would be to overlook the most constructive work. Two further steps were taken quietly.

Prior to the final fireworks, the delegates with technocrats in tow, patiently hammered out and adopted by near consensus a remarkable set of 64 "Recommendations for National Action". These recommendations spoke plainly to acute Third World problems and tangentially to those in industrial nations. Altogether, they provided a coherent strategy for improving living conditions, country by country.

Furthermore, again by consensus, the delegates recommended the creation of a new agency "to coordinate a continuing program of international cooperation on human settlements" within the United Nations. Weary of midnight confrontations, they deferred questions about its specific location, structure and finance to the Fall meetings of the General Assembly.

The purpose of the new agency would be to help nations emphasize human settlement policies as both "the instrument and the object of development". A radical departure from past development models, programs of housing and community improvement are seen as productive investments, as a way of putting otherwise idle resources and people to work in programs of self-help. Formerly, these programs were viewed as "consumption" expenditures, presumably invidious to economic growth.

Looking back and beyond the posturings of the diplomats, what of potentially lasting value was accomplished?

Doubtless the first achievement of the Conference was that it took place at all. Conceived at the 1972 Stockholm Conference on the natural environment, Habitat was the capstone of earlier U.N. conferences. Each of these focused on a limited set of specific issues, however thorny: environmental pollution, population growth, food, the sea, the status of women. But problems in man-made environments of village, town or city have complex roots that embrace all of the above issues and more.

From the outset, it was seen as a consciousness-raisng affair. Two years of preparations involving 58 nations were required to hone a manageable agenda. After all, to be included were the many factors that affect the quality of life in human settlements—land, housing, nutrition, fertility, public utilities and services, transport and jobs—plus the very process of urbanization, its causes and effects. Before Habitat, leaders of many nations had only a dim view of what it was about, much less how the pieces fitted together at neighborhood, city, regional, national and global levels.

Since domestic policies are crucial in these issues, a formal statement of national policy was required of all participants. These documents varied in thickness and slickness, in perceptivity and veracity. But for many countries, Habitat provided the first occasion for a systematic analyis of national trends and planning strategies.

In these matters, the United States was hardly the leader of the pack. We submitted the third *Report on National Growth and Development*. The Report stopped short of formulating a "national urban growth policy", the expressed intent of the Congress when it called for biennial reports in 1970. Nevertheless, it represented a great leap forward in quality and coverage over the 1972 and 1974 Reports of the Nixon years.

The show and tell scene was illuminated by 240 films, depicting exemplary projects selected by each of the participating nations. A splendid book, *The Home of Man*, was written expressly for Habitat by Barbara Ward, distinguished economist and rapporteur of the self-styled Vancouver Symposium. The 24 luminaries of the Symposium, including such perennials as Maurice Strong, Margaret Mead, R. Buckminster Fuller, James Rouse, Lester Brown and Jean Gottman, issued an incisive, passionate report that spearheaded the "Recommendations for National Action" at the official conference. Their lectures provided the intellectual spine for festivities at the Forum, the counter-conference for 4,000 concerned anyone from everywhere at Jerico Beach across the bay.

The second advance, also along the consciousness-raising front, was to zero in on a few fundamental problems. Actual conditions, policies and politics vary wildly among the industrial democracies, centrally-planned, urbanized nations, and less developed countries in different regions. To have found any common ground for discourse, much less 64 general principles that cut across the globe is rather a feat.

What common problems did the delegates address and how?

Settlement trends in rich and poor lands diverge toward opposite poles. On the one hand, explosive rates of urban growth are found mostly in "primate" cities of the still predominantly rural Third World. Paradoxically, population and job growth have tapered off or ceased entirely in the largest metropolises of the United States, the United Kingdom and other urbanized, western and eastern European nations. Dispersal of new growth away from older centers, not concentration, is the wave of the future in most urbanized nations, planned and otherwise.

In the United States, major migrations have been taking place, from central cities to suburbs and recently to exurbs and from older industrial regions in the Northeast and Midwest to new ones in the South and West. Yet plans to guide new growth and manage decline are embryonic. Some nations, like France or Sweden, have plans that deliberately channel industry and population away from congested capitals to new, regional growth poles.

Scattered among the 64 Recommendations are a few that speak obliquely to urgent common problems in the West of reviving derelict urban cores and conserving abandoned neighborhoods, of bridging racial and class barriers, of governing vast metropolitan regions or reducing pollution and automobile congestion.

Here are examples of lofty precepts that fit Chicago, New York or London:

Urban expansion should be planned within a regional framework and coordinated with urban renewal to achieve comparable living conditions in old and new areas.

Planning for metropolitan regions should aim at an integrated approach over the territory affected by the metropolises and include all major functions. Urgent measures would include: the inclusion of institutions and revenue base commensurate with their role; modification of metropolitan boundaries to correspond to functional and natural limits. . . .

The provisions about land not only fit but pinched. They elicited a furious squawk from our sister democracies. Ultimately, language was modified to mollify the French and

Canadians. The ghost of Henry George guided the drafters of these statements:

> Land . . . a scarce and unique resource . . . cannot be treated as an ordinary asset controlled by individuals and subject to the pressures and the initiatives of the market.
>
> The use and tenure of land should be subject to public control.
>
> The unearned increment in land values resulting from public investment or decision or due to the general growth of the community must be subject to appropriate recapture by public bodies . . . unless the situation calls for new measures such as new patterns of ownership or the general acquisition of land by public bodies.

Carla Hills, the leader of the U.S. delegation, carried off the combat with poise and statesmanship. Contending from the outset that we already had such policies, she pointed out that one third of our land is publicly owned, that local zoning regulates land uses, and that taxation recaptures the "unearned" increases in value.

Considering the profits reaped in zoning changes and from extending sewers and highways, this stance raises a question that pervaded all the discussions. Did the delegates digest the meaning of the Recommendations or merely swallow them? Ironically, officials from the most corrupt regimes, where wealth is concentrated in huge land holdings, were outspoken in attacking our foreign policy but utterly silent here. Urban problems of industrial nations are all found in Third World cities, but in a global context, they are dwarfed by gut issues of sheer survival. Habitat emphasized the unmet needs of nearly three-fourths of the 4 billion people on earth that live mostly in abysmal poverty in less developed nations.

A revolutionary transformation is taking place, and urbanization is outpacing economic development. Driven from the land that can no longer support them, hundreds of millions of impoverished families have been streaming to Third World capitals in search of jobs that do not exist.

Stricken by periodic plagues and famine of biblical antiquity and subject to contemporary forms of exploitation and deprivation, they have mastered the arts of survival. They are fruitful and multiply. Preserving the folkways and bazaar economy of tribe and village, they build dense, cardboard, tincan shantytowns in vacant gullies and hills, near but separate from the modern precincts of privileged elites.

In 1974, squatters comprised between one-third to two-thirds of the entire population of most Third World capitals. From Mexico City to Calcutta, they are fast becoming the rule rather than the exception.

By 1975, half the 131 cities on earth with over a million inhabitants were in less developed nations. If skyrocketing rates of population growth and urban migration continue in Latin America, South Asia and Africa, many more will soon dot the continents. Unique in world history, these immense metropolises have primitive, village economies, transport and sanitation.

The third, certainly the main contribution of Habitat, was to lay out the pieces for staging a multifront attack on these problems. Clearly, the urban encampments of the poor, the barrios, bidonvilles and bustees of the world, cannot be eliminated. No nation could afford to build even minimal, conventional housing on such a scale. Besides, they are political tinderboxes.

Furthermore, a piecemeal approach to improving slums and shantytowns is often self-defeating. In pilot programs of "sites and services", the World Bank has found such improvements running a treadmill without, at the same time, raising living standards in the countryside. Rural migration speeds up, and urban conditions worsen.

The 64 Recommendations outlined a two-pronged approach to Third World habitats, in essence thinking big and thinking small at once. To stem migration to capital cities, nationwide plans should emphasize balanced, regional development, upgrading opportunities and living conditions in rural areas and medium-sized cities. Keep them down on the farm or nearby, with a range of projects that strengthen the network of settlements between "parasite" metropolises and isolated hamlets.

At the same time, local, self-help programs are emphasized in existing communities. The self-help route to improved living conditions will also increase employment and savings by mobilizing unskilled, underemployed workers and unused, native construction materials and techniques.

Formidable legal, technical and political obstacles to programs of self-help are recognized. There are a host of concrete recommendations about secure land tenure, promoting public participation and women's role, linking shelter, job sites and transport, extending health, nutrition and education services, and above all as the first priority, providing clean water and waste disposal facilities universally, "by 1990, if possible".

Undoubtedly, the 64 Recommendations wrapped up the most practical planning strategies to have emerged from the successes and failures of the decade. Proposals advanced by leaders of the Symposium were all incorporated in some form, except their call for a moratorium on nuclear power. Big powers were ambivalent, and small nations lust for a nuclear capability.

A bold message was beamed from Vancouver. Did Third World political leaders tune in, or was it sound and fury, signifying nothing? It remains to be seen whether high-flying rhetoric will transform national development policies, whether improvements in human settlements will henceforth become the "focus and means of development".

Barbara Ward admonished skeptics with fierce advice: "Go home and sink your teeth into the leg of your local politician. Do not let go until he does something."

FEDERAL SURPLUS PROPERTY

Mr. HUGH SCOTT. Mr. President, the national system for the equitable distribution of Federal surplus property is inefficient and burdensome. A bill I introduced to streamline this system, S. 2876, is presently in the Subcommittee on Oversight Procedures in the Senate Government Operations Committee. I ask unanimous consent that a letter I sent today to Senator NUNN, chairman of the Oversight Procedures Subcommittee be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

WASHINGTON, D.C., *August 4, 1976.*

Hon. SAM NUNN,
Chairman, Subcommittee on Oversight Procedures, Senate Government Operations Committee, Washington, D.C.

DEAR SAM: I strongly urge your subcommittee to consider expeditiously S. 2876, a bill I sponsored to amend the Federal Property and Administrative Services Act of 1949.

This legislation would eliminate duplication of functions in the distribution of federal surplus personal property. All parties involved in the surplus property program would benefit from a more centralized and efficient distribution system.

I would like to bring to your attention one major problem with the present system that was ably outlined to the House Subcommittee on Government Activities and Transportation by Fred J. Shafer of the U.S. General Accounting Office at hearings held September 30, 1975. Mr. Shafer said:

"In our recent report to this subcommittee, we discussed our observations at several institutions, mainly colleges and universities, which have received substantial amounts of excess personal property because of their grantee status. We pointed out that in some cases the property obtained was used to further the purpose of the grant or grants under which the property was acquired. However, in other cases, we observed that use of the property had no direct relationship to the grants. We also observed property that had been acquired but not put into use."

This situation persists today and this waste must be ended.

Again, I urge your assistance in having S. 2876 reported to the full Committee.

With best wishes,

Sincerely,

HUGH SCOTT,
U.S. Senator.

ORDER TO RESUME CONSIDERATION OF TAX REFORM ACT TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that after the prayer on tomorrow, the Senate resume consideration of the unfinished business.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will convene at 9 a.m. tomorrow. After the prayer, the Senate will resume consideration of the tax reform bill, which is the unfinished business, at which time the pending question will be on the adoption of the amendment which deals with the sliding scale on capital gains, title XXVII. As the distinguished manager of the bill has indicated, it is anticipated that a vote will occur, and that will be a rollcall vote certainly, on the adoption of that amendment by 10 o'clock tomorrow morning, or possibly before.

Upon the disposition of title XXVII, the Senate will resume consideration of the amendment of Mr. INOUYE, amendment No. 1829. Rollcall votes will occur throughout the day on amendments and motions relating to the tax reform bill and it is hoped that final action may occur on that bill tomorrow.

ADJOURNMENT UNTIL 9 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until 9 a.m. tomorrow.

The motion was agreed to; and at 10:35 p.m. the Senate adjourned until tomorrow, Friday, August 6, 1976, at 9 a.m.

NOMINATIONS

Executive nominations received by the Senate August 5, 1976:

THE JUDICIARY

W. Eugene Davis, of Louisiana, to be U.S. district judge for the western district of Louisiana vice Richard J. Putnam, retired.

Donald E. Walter, of Louisiana, to be U.S. district judge for the western district of Louisiana, vice Edwin F. Hunter, Jr., retired.

Herbert F. DeSimone, of Rhode Island, to be U.S. district judge for the district of Rhode Island, vice Edward William Day, retired.

EXTENSIONS OF REMARKS

SECOND DISTRICT FIREFIGHTERS SPEAK OUT

HON. FLOYD J. FITHIAN

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 5, 1976

Mr. FITHIAN. Mr. Speaker, in the area of firefighting, as in many other areas of public service, questions about proper working conditions, adequate pensions, adequate pay, and the right to collectively bargain for all of them have become important issues in cities and counties across the Nation. Firemen have strong views about what is needed to provide adequate fire protection, and what they in particular need and deserve to carry out their end of the fire safety effort. Recently, I sent a questionnaire to firemen in my district to see how they felt not only about their own needs, but about fire regulations and fire services administration in general. I think their opinions are well worth our attention.

FUNDING

Indiana firemen unanimously agreed on the questionnaire that fire services are not adequately funded. Almost all agreed this affects their salaries. Michael Knack, Jr., of Valparaiso wrote, "From talking to the general public, 90 percent agree that firefighters are underpaid. Why do the politicians ignore this fact?" Many firefighters also expressed strong concern about their recently endangered pensions, and legal restrictions which have hurt their growth. Paul Holladay of West Lafayette wrote, "firefighters worked for and deserve that which they thought they would receive upon retiring." Over 75 percent of the respondents also said they worry about insufficient injury compensation. Firefighters believe the lack of funding also harms fire safety programs in general. About 75 percent of the respondents said public education about fire and fire research suffer, and almost half said the same was true of training and equipment. Not quite two-thirds of the firemen felt insufficient funding leads to deficiencies in firefighter's protective clothing.

EMPLOYEE RIGHTS

Well over 90 percent of the respondents said firefighters should not have the right to strike, but should have binding arbitration to resolve labor disputes. Sam Moser of Valparaiso said, "Public employees should have the right to collectively bargain for wages and working conditions, but I feel that firefighters and police should not, under any circumstances, be able to strike." About one-quarter of the firefighters said that all public employees should be protected by Federal labor standards. Thirty-five percent thought the States should have control over the working hours and wages of State and municipal employees. One-third of the respondents saw merit in both approaches. Timothy Chambers of Lafayette wrote, "the States should at least have Federal guidelines to go by, but they should not be required to follow them to the letter."

BUILDING CODES

In general, the firefighters were less than enthusiastic about the effectiveness of present building codes in promoting fire safety. While just over half of the respondents felt the codes are "adequate," another 50 percent said they are lax. No one thought they were stringent. Charles Holsema of Lafayette commented that the strictness of the building codes depends on "who you are, and who you know." While half of the respondents said they could not generalize about how well contractors abide by the codes, nearly 50 percent thought they get around the codes when they can. Less than 10 percent thought contractors, in general, hold both to the letter and the spirit of the law. As far as improving building code effectiveness, well over half thought better trained inspectors would be helpful, about two-thirds felt that changing the fire marshal from an appointed to a civil service position would be helpful, and over three-quarters of the respondents said greater interaction between the fire services and the building commissions would serve the purpose. Over half felt a recent centralization of the building code in Indiana has hurt rather than helped building code effectiveness.

FIRE ACADEMY

About 75 percent of those answering the questionnaire felt that establishment of a proposed national fire academy would lead to better trained firefighters. Several people, however, objected to the proposed location. Robert Taylor of Lafayette wrote, "I was sorry that the site selection for the national fire academy was in Washington. That location will prevent a lot of people from going to the academy." Others suggested the academy be placed somewhere in a more central part of the country.

When legislation concerning firefighters and fire safety comes before Congress let us not forget the hardships faced by, nor the opinions, of firefighters. Captain Ernest Scott of Valparaiso wrote, "the firefighter is a professional the same as lawyers, doctors, and teachers." We cannot afford to ignore the firefighters' needs and professional judgments when making law in an area so vital to the public's safety and welfare.

STATEMENT BY HON. DR. SITEKE G. MWALE, MINISTER OF FOREIGN AFFAIRS OF THE REPUBLIC OF ZAMBIA

HON. ANDREW YOUNG

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 5, 1976

Mr. YOUNG of Georgia. Mr. Speaker, once again we are faced with another example of South African aggression toward other southern African nations. The latest example being her incursion into the sovereign and independent state of Zambia.

In accordance with the United Nations Resolution 300 of 1971, Zambia came before the United Nations Security Council to call for action against South Africa for her invasion of Zambian territory and the killing of Namibian and Zambian people on July 11, 1976. Mr. Speaker, I am sure that my colleagues are well aware of the outcome of that particular Security Council meeting. On July 30, the Security Council passed a resolution condemning the South African attack on Zambia with a vote of 14 in favor of the resolution and one abstention—the United States. Needless to say, our abstention further gives the United States an appearance in the eyes of black Africa of supporting the white minority-ruled government in South Africa.

Silence, in most instances, can be taken for agreement of actions or of events in question. I believe that we cannot afford to jeopardize our relationship with the vast majority of Africa for a racist few. South Africa seeks to continue its white minority domination. The injustices that exist and are perpetuated by this white minority rule should not be allowed to continue.

Mr. Speaker, we as a nation should seek to aid in the economic growth and development of African nations. Nations cannot grow and develop to their full potential if destabilizing factors such as fear of invasion or attempts to subvert their government exist. I submit the following statement presented before the Security Council by the Honorable Siteke G. Mwale, Minister of Foreign Affairs of the Republic of Zambia, because of its clear presentation of substantive information concerning the recent Zambia-South Africa occurrence. I also submit this statement in hope that my colleagues will further realize the need for a United States-Africa policy which more vigorously calls for the ending of inhumane apartheid practices.

The article follows:

STATEMENT BY HONOURABLE DR. SITEKE G. MWALE, M.P. MINISTER OF FOREIGN AFFAIRS OF THE REPUBLIC OF ZAMBIA IN THE SECURITY COUNCIL ON SOUTH AFRICAN AGGRESSION AGAINST ZAMBIA

Mr. President, allow me first of all to express the gratitude of my delegation to you and to all the members of the Security Council for having promptly acceded to our request for this meeting to consider the numerous acts of aggression committed against my country by the racist minority regime of South Africa. I am moreover grateful to you, Sir, for the warm words of welcome extended to me personally and to other members of my delegation. I also take this opportunity to congratulate you on your assumption of the high office of President of the Security Council for the month for July. My delegation looks forward to fruitful cooperation with you, as indeed with the other members of the Security Council, within the spirit of the cordial relations existing between your country and Zambia.

Permit me also to convey to you and your distinguished colleagues on the Security

Council, the greetings and best wishes of my President, His Excellency Dr. Kenneth David Kaunda.

This is a fitting occasion for me to register the deep thanks and appreciation of the Party, Government and People of the Republic of Zambia for the commitment and tireless efforts of His Excellency the Secretary-General of the United Nations, Dr. Kurt Waldheim, to the liberation of Southern Africa. The Secretary-General has, moreover, shown a deep understanding of the special problems of frontline countries in Southern Africa.

This is not the first time, Mr. President, that we have brought to the attention of the Security Council the acts of aggression perpetrated against Zambia by South Africa and other racist white minority regimes of Southern Africa.

This august Council considered in July, 1969, the aggression committed against my country by the former colonialist and fascist regime of Portugal, and inter alia, the Council strongly censured the Portuguese aggression and called upon Portugal to desist forthwith from violating the territorial integrity of, and from carrying out unprovoked raids against Zambia. In January, 1973, the Council considered the aggression committed against my country by the regime of Ian Smith in the British colony of Southern Rhodesia. In this regard, the Council, inter alia, condemned the aggression perpetrated against Zambia by the Smith illegal minority regime. The Council also addressed itself to the need for putting an immediate end to the Ian Smith illegal regime as an effective way of terminating its hostile acts against my country.

With specific regard to South Africa, on 12th October, 1971, the Security Council considered South African aggression against Zambia and unanimously adopted resolution 300 (1971) in which the Council called upon South Africa to respect fully the sovereignty and territorial integrity of Zambia. Furthermore, the Council declared that "in the event of South Africa violating the Sovereignty or Territorial Integrity of Zambia, the Security Council will meet again to examine the situation further in accordance with the relevant provisions of the Charter".

This is not the first time this year, Mr. President, that the Security Council is seized with the question of South African aggression against a sovereign and independent African country. Only a few months ago, the Council considered South Africa aggression against the People's Republic of Angola.

It is obvious, therefore, Mr. President, that the existence of white minority and racist regimes in Southern Africa constitutes a grave threat to the peace and security of the independent African countries of the region. Such a situation has implications for Africa in particular, and international peace and security in general. I need not remind this Council that those of us who are constant victims of the acts of aggression perpetrated by the white minority regimes have a duty to defend ourselves. We also reserve the right to call upon our friends to assist us. But because of our abiding faith in the United Nations, and its principles and purposes enshrined in its Charter, we have once again come to the Security Council—the organ primarily responsible for the maintenance of international peace and security—so that we can together determine an appropriate response to the numerous acts of aggression committed against my country by the arrogant, belligerent and intransigent South African white minority racist regime which, like the illegal Ian Smith regime in Southern Rhodesia, is bent on perpetuating the status quo and hence refusing to heed to demands of the African people and the international community as a whole for the establishment in the area of a just order and the respect of human dignity.

Mr. President, we view with grave seriousness the recent act of aggression committed against my country by the racist white minority regime of South Africa. This act of aggression was committed on July 11, 1976, thirty (30) kilometres inside Zambian territory, specifically, at Sialola in the Kaunga Mashi area of the Western Province. This act of aggression committed inside Zambia is a blatant and flagrant violation of our territory integrity which this Council and the entire international community should vigorously condemn. The immediate target of this violation was a South West Africa People's Organization (SWAPO) freedom fighter transit camp.

The scenario leading to the attack on the camp is that South African military aircraft, flying from the south-east to the north-west, hovered over the area and dropped armed men who planted landmines all around the camp. Subsequently, they attacked and shelled the camp.

The inhabitants of the camp hollowed out, but some of them were caught in an ambush and killed. Others died of landmines which exploded as they ran over them. The preliminary count of casualties of this senseless attack was twenty-two (22) people dead and forty-five (45) others injured. The list of those dead has since risen to twenty-four (24) and could grow as additional bodies are discovered. The area to this day remains infested with live landmines.

This diabolical act of aggression by South Africa, Mr. President, demonstrates the lack of consideration and respect of human life on the part of the white minority racist regimes of Southern Africa. But this act, Mr. President, is condemnable for two other specific reasons. Firstly, it is an act perpetrated in blatant violation of the sovereignty and territorial integrity of my country. Needless to say, this is a direct contravention of international law and the United Nations Charter. Secondly, the attack was directed at a SWAPO freedom fighter camp. I need not remind this august Council, in this regard, that South African occupation of Namibia is itself illegal. Therefore, it is cruel and totally without justification for the South African regime to attack Namibians fighting to liberate their country from the illegal occupation regime, which is flouting with impunity the authority of the United Nations.

Indeed this cruelty by the South African racist regime was recently blatantly demonstrated in the savage and shocking massacre of innocent black people, including women and children, in Soweto and other African townships in South Africa itself. The massacre, which surpasses the horrors of Sharpeville, should, together with the general aggressive and belligerent nature of the South African regime, as evidence by its wanton attacks against my country, serve notice to the international community as to the extent racist South Africa and the illegal minority regime in Southern Rhodesia are prepared to go to defend their reign of terror. It is a fact that these racist regimes have embarked on genocide against the black man in Southern Africa in order to preserve the region for themselves.

Is it any wonder, Mr. President, that South Africa in its determination to perpetuate its evil system of apartheid in Southern Africa drew up a map in which it claims the whole of Africa south of the Sahara as part of its territory for strategic and defence purposes? Is it any wonder that the racist regime has recently rammed through the racist South Africa parliament a "law" which authorizes and makes "hot pursuit" of freedom fighters as State policy and which empowers the regime to cross into any neighbouring country and violate its sovereignty and territorial integrity? Indeed, is it any wonder, Mr. President, that in utter defiance of the decisions of the United Nations, of which it is a member, South Africa continues with impunity to collaborate militarily, economically, and politically, with the illegal regime of Ian Smith in the British colony of Southern Rhodesia?

As I have already said, South Africa is illegally occupying Namibia, in utter defiance of the United Nations of which it is a member. Mr. President, more than in any other case, here you have a direct challenge to the authority of the United Nations by one of its own members. South Africa cannot escape responsibility for the deteriorating situation in Namibia and in the whole of Southern Africa. Moreover, its designs on the independent countries in the region, including all those south of the Sahara show that the regime is also expansionist in nature.

The central issue therefore, Mr. President, is black majority rule in Namibia and Zimbabwe and the destruction of apartheid in South Africa. For as long as the white minority racist regimes continue to exist in the region so long shall the international community witness repeated acts of aggression by these regimes against independent African countries, such as the one my country was subjected to on the 11th of July, 1976. Indeed, for as long as the white minority racist regimes continue to exist in the region so long will peace and security in Southern Africa remain precarious and international peace and security threatened. So, Mr. President, the challenge before the United Nations and in particular this august Council, which has the primary responsibility for the maintenance of international peace and security, is to take decisive measures to hasten the road to majority rule in Southern Africa. Failure by the international community to act decisively, can only lead to the intensification of the racial conflagration in the region which in fact has already started.

Let me emphasize here, Mr. President, that the South African aggression committed against Zambia on the 11th of July, 1976, was not an isolated incident, but was part of a series to which we have been subjected since our independence twelve (12) years ago. Because of our geopolitical position and because of our principles and commitment to the liberation of Southern Africa, we have been and remain the target of hostile acts by South Africa. Suffice it to say that this year alone we have been subjected to no less than fourteen (14) provocative acts perpetrated by South Africa. These, Mr. President, are as follows:

1. On the 19th of January, 1976, a South African aircraft twice violated our airspace at Kazungula.
2. On the 14th of February, 1976, a South African helicopter violated our airspace at Katombola.
3. On the 11th of March, 1976, a South African antipersonnel mine blew off injuring several herds of cattle at Likonda Village in Sesheke District.
4. On the 12th of March, 1976, six (6) South African soldiers crossed the border at Katima Mulilo and defaced a border sign by writing and drawing skeletons on it.
5. On the 1st of May, 1976, an innocent Zambian civilian woman at Imusho had her foot blown off by an antipersonnel mine planted by South African agents.
6. On the 3rd of May, 1976, a military vehicle was damaged beyond repair when it hit an anti-tank landmine planted by South African agents at Imusho.
7. On the 14th of May, 1976, houses were damaged when South African troops fired arms and guided anti-tank missiles from armoured cars at Sesheke Bomba.
8. On the 28th of May, 1976, South African troops fired arms at Sesheke Bomba causing serious damage to property.
9. On the 14th of June, 1976, a Zambian Government Roads Branch Office was damaged when South African troops fired mortars and guided missiles. On the same day, a

South African aircraft violated our airspace at Sesheke Boma. Again at Sesheke Boma on the same day of 14th June, 1976, a nine-year-old girl by the name of Nalishebo Ilukela was hit by South African armed forces with a bullet which went through her leg.

10. On the 16th of June, 1976, a landrover hit a South African landmine killing one soldier and seriously injuring three (3) others at Shesheke.

11. On the 20th of June, 1976, South African troops again shelled Katima Mulilo causing serious damage to property.

12. On the 7th of July, 1976, six (6) persons were severely injured when a landrover in which they were travelling hit a landmine planted by South African agents at Sinjembela.

13. On the 8th of July, 1976, one Zambian was killed and two severely injured when a landrover in which they were travelling was wrecked by a landmine planted by South African agents at Sinjembela.

14. Then, Mr. President, there is the aggression of the 11th of July, 1976, which is the most serious of them all.

The Security Council may wish to know that the white racist regime of South Africa, in collaboration with the illegal Ian Smith regime in Southern Rhodesia, has deployed air and infantry commando forces along the Caprive Strip and Kazungula borders with Zambia. These commandos have not only posed a real danger to the lives of those living closely behind the Zambian borders but have also caused havoc and created terror by actually crossing over our border and planting anti-personnel and anti-vehicle landmines which have taken a heavy toll in human life and property.

The same situation obtains on the border between Southern Rhodesia and Mozambique. The illegal regime of Ian Smith has wantonly bombed certain places in the sister Republic of Mozambique.

In addition to the acts of aggression I have just cited, the Security Council will wish to know that we in Zambia have irrefutable evidence that for a long time, South Africa has been interfering in our internal affairs. The racist regime of South Africa has, in fact, trained, financed and armed certain dissident elements in Zambia. Among the agents used by South Africa was William Chipango, who, together with some of his henchmen, was recently sentenced to death, having been convicted by our courts of law for treason. Chipango was paid by South Africa, millions of dollars with the express objective of subverting the Zambian Government. To achieve this sinister objective, Chipango was to recruit, and he did recruit, a number of collaborators who subsequently received military training in South Africa, Namibia, the then fascist Portuguese ruled Angola and Southern Rhodesia. These dissidents were trained by South African racists in sabotage, espionage and subversion.

One of William Chipango's accomplices was Bratson Mushala, a Zambian dissident who was responsible for recruitment and training of Zambian recruits in the then Portuguese fascist Angola.

Mushala went to South Africa from Angola with twenty-three (23) men armed with sophisticated weapons to lead an attack on Zambia. He entered Zambia through Senanga District in the Western Province from Namibia toward the end of 1975. Our law enforcement officers are currently searching for Mushala and his gang who are terrorizing our people. They have committed numerous murders, destroyed and stolen property.

All these activities by South Africa are designed to change our policy with regard to the liberation of Southern Africa. They are intended to put an end to our support for the liberation movements which are waging a heroic struggle for the freedom and independence of their countries.

South Africa hopes that as a result of these acts of aggression and interference in our internal affairs, Zambia will abandon SWAPO and other liberation movements of Southern Africa and sacrifice their just cause at the altar of expediency.

I wish to categorically state that these acts of aggression have only made us more united and more resolute in our support for the liberation movements and their just cause. We shall support them to the end for we believe in the legitimacy of their cause. We shall not fail nor abandon them for we also know that their struggle is in accordance with the United Nations and its resolutions. These liberation movements are fighting for the inalienable right of their people to self-determination and independence. Moreover, Mr. President, we in Zambia realize that we shall enjoy genuine peace and security only when we shall have free and independent neighbors around us. We cannot co-exist with racist white minority regimes.

I take pride in stating here publicly that Zambia will continue to render every possible form of assistance to the people of Namibia and their national liberation movement, SWAPO.

South Africa has demonstrated that it does not want a peaceful settlement of the Namibian problem; the so-called constitutional talks being held in Windhoek, Namibia, consist of its hand-picked stooges and puppets. These talks are a smokescreen to cover the diabolic intentions of the South African regime to legitimize the fragmentation of Namibia on the basis of its policy of Bantustanization. South Africa has blatantly ignored numerous Security Council resolutions on Namibia. Indeed, last January, the Security Council gave South Africa until the 31st of August, 1976, to solemnly declare its intention to withdraw from Namibia and to agree to the convening of a national election in the territory under United Nations supervision and control. However, instead of complying with this important resolution of the Security Council, South Africa has increased its oppressive rule on Namibia, has conducted whole-sale massacres of Namibians and has also stepped up its unwarranted and wanton aggression against Zambia including the violation of its airspace and territorial integrity. In committing these acts of aggression, South Africa has used the international territory of Namibia as a base.

Since South Africa is not prepared to promote genuine independence in Namibia, the rightful owners of the territory have no alternative but to struggle by all means at their disposal. They have the right to struggle for what is theirs. Those who have fled their country in order to promote the struggle, need transit facilities. It would be inhuman of us if we did not assist the victims of such racial cruelty.

We in Zambia have an obligation to the oppressed Namibians to offer these facilities. Incidents such as the bombing of a transit camp on our soil on the 11th of July, 1976, and the cold-blooded murder of Namibian patriots will not halt the struggle. The struggle will only be stopped by the total and unconditional withdrawal of South Africa from Namibia and the accession of the territory to independence as a single entity on the basis of majority rule.

The Security Council, Mr. President, can ill-afford to be aloof in the unfolding political drama in Southern Africa. Conscious of its responsibilities under the Charter, the Security Council must demonstrate its full support for .the just cause of the oppressed people of Southern Africa. Such support must include concrete action by the Council to totally isolate the white racist minority regimes of Southern Africa which are in fact merchants of death and destruction. The support must also be reflected in Security Council's sensitivity to the plight of the frontline independent African countries in Southern Africa. In rendering all possible support to the liberation movements, Zambia and other frontline States are in fact assuming the burden that should equally be the responsibility of the international community as a whole.

In the specific case before it, the Security Council must condemn in the strongest terms South Africa's wanton aggression against Zambia and the senseless, savage and cold-blooded murder of innocent people. The Council must also demand that the racist regime of South Africa henceforth respect the sovereignty and territorial integrity of Zambia as well as those of other frontline States. Moreover, the Security Council should declare in no uncertain terms that South Africa should relinquish forthwith its illegal hold on Namibia and that peace and security in Southern Africa is inextricably linked to the liberation of the region. In this regard, the Council must, therefore, express its unqualified support for SWAPO and for the other liberation movements in Southern Africa.

In making these demands, Mr. President, I wish to again remind the Security Council of its resolution 300 (1971) which I referred to at the beginning of my statement. South Africa has again violated the sovereignty and territorial integrity of my country. In resolution 300 (1971), specifically in its operative paragraph three, the Security Council declared that it would examine any recurrence of such hostile South African acts against Zambia in accordance with the relevant provisions of the United Nations Charter. This is the moment for the Council to honour its pledge. I now appeal to the Security Council to take stern and effective measures within its jurisdiction against South Africa.

I trust the Council will live up to its responsibilities. I hope to return home with a clear and sound Security Council message of solidarity with the people of Zambia and indeed with the people of other frontline States who continue to make tremendous sacrifice in the interest of the liberation of Southern Africa, a responsibility of the entire international community. The solidarity of this Council, which we hope will be reflected in the unanimous adoption of a resolution containing all our demands, would be a source of great encouragement to us. Everything must be done to isolate South Africa and other forces of evil in Southern Africa. Indeed, everything must be done to speed up the liberation of Namibia and Zimbabwe as well as the destruction of that evil policy of Apartheid so ruthlessly practised by the South African white minority regime.

TWO HUNDRED YEARS AGO TODAY

HON. CHARLES E. WIGGINS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 5, 1976

Mr. WIGGINS. Mr. Speaker, 200 years ago today, on August 5, 1776, the Continental Congress authorized the commanders of:

> All ships of war and armed vessels in the service of these states . . . to enlist into service on board the said ships and vessels, any seamen who may be taken on board any of the ships or vessels of our enemies . . .

Any captured seamen who refused to so enlist was to be held as a prisoner of war. Through such measures, Congress sought to enlist a sufficient number of seamen to man its warships and the numerous privateers it had commissioned.

IMPLEMENTATION OF THE HELSINKI ACT

HON. DONALD M. FRASER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 5, 1976

Mr. FRASER. Mr. Speaker, just over 1 year ago, the Final Act of the Conference on Security and Cooperation in Europe was signed by leaders of 35 nations at Helsinki, Finland. Such matters as educational and cultural exchanges, exchanges of information, freer emigration and travel and the reunification of families are addressed in a section of the Final Act headed, "Cooperation in Humanitarian and Other Fields." During the Conference this section came to be known colloquially as "Basket Three," and this rubric remains in use today.

The Education, Cultural Affairs and Information Committee of the North Atlantic Assembly has published a trial issue of a bulletin that reports developments in the Third Basket area. Prepared by Mr. Ruggero Orlando of Italy, rapporteur of the Subcommittee on the Free Flow of Information, the bulletin records Basket Three developments that have come to general public attention during the mid-February through mid-May, 1976, period.

The decision of Congress to establish a Commission to monitor the acts of the signatories of the act indicates the importance we attach to this agreement and especially to Basket Three. I believe my colleagues will be interested in the North Atlantic Assembly document I have described, and I include it at this point in the RECORD:

BULLETIN

I. SUMMARY

1. Information Document (T 24 CIC/FF (76) 1) summarised major developments relative to Third Basket issues during the first six months following the signing, in Helsinki on 1 August 1975, of the Final Act of the Conference on Security and Cooperation in Europe (CSCE). This trial issue of the proposed Bulletin begins where the above mentioned Information Document left off. It attempts to list those developments, positive and negative, in the Third Basket area which have occurred during the past three months (mid-February/mid-May 1976).

2. This document must be understood to be something less than a complete accounting on the question of the implementation of the humanitarian aspects of the Final Act. It covers a very limited time period, and it seeks only to list those developments which have come to general public attention. One may assume that other developments, both positive and negative, have occurred in both East and West, but have, for various reasons, gone unreported. Therefore, one would very likely need to know much more in order to present a complete account of this area.

II. INTRODUCTION

3. The third section (Basket Three) of the Final Act of the CSCE was regarded by many in the West as the most significant result of the long bargaining sessions held over a two-year period in Helsinki and Geneva. The general Western position is that détente should not be limited simply to improvements in interstate relations. Such improvements are, of course, important and very desirable, but there must also be improvements in the daily lives of the individual citizens in both the Western and Eastern countries. It is such improvement, in the view of the West, that makes détente meaningful and worth striving for. This proved to be the most difficult and controversial aspect of the Final Act on which to achieve agreement. The implementation of the humanitarian aspects of the CSCE is, therefore, regarded by many Westerners as the single most important indication of the East's commitment to, and interest in, genuine détente.

4. The West has placed great emphasis upon promoting a freer flow of people, information and ideas between East and West. In the more than nine months since the Final Act was signed, there have been many instances cited by numerous Western sources which indicate violations in the Third Basket area by the Soviet Union and the East European governments. The Soviet Union and some of the East European governments have frequently admitted that the event in question took place, but have just as frequently denied that such practice is in violation of the Final Act. These conflicting understandings of what is and what is not a violation in the Third Basket area appear to be, at least partially, the result of two very different conceptions of the meaning and purpose of a free exchange. A brief outline of these differing conceptions will perhaps be useful in assisting the reader in drawing his own conclusions from the material presented below.

5. Westerners generally regard the uninhibited flow of information, people and ideas as desirable, even crucial, so that all opinions, positions and possibilities are permitted to compete with one another for acceptance in the marketplace. Free exchange, in the Western view, would seek to make no distinction in advance between vulgar or noble ideas and progressive or reactionary exchanges. This is quite apparently not the position embraced by the political leadership in the Soviet Union, or most of the East European governments.

6. Writing in Sovetskaya Kul'tura, 20 April 1976, V. Gushchin characterised the free exchange of information and ideas as merely a guise for international reaction. Mr. Gushchin traces the origin of the free exchange doctrine back to the conclusion of World War II. He argues that influential United States political and business circles were interested in United States foreign policy goals. "These goals were in themselves no secret: to impede the spread of socialism (above all in Europe), to restrain the development of national liberation struggles in colonial and dependent countries, to keep such countries within the sphere of influence of capitalism and to win new markets". Mr. Gushchin concludes that the Western concept of free exchange of ideas is nothing more than a cosmetic for waging "a campaign of ideological subversion".

7. Given this understanding of the meaning of free exchange, it is not altogether surprising that Mr. Georgi Arbatov, influential Director of the United States of America Institute in Moscow, could argue, in an article published in Izvestia, that the humanitarian guarantees contained within the Third Basket would not mean that the Soviet Union will suddenly open its doors to all ideas. An attempt will be made to eliminate "anti-Soviet, subversive propaganda, materials preaching violence or stirring up national and racial strife, and pornography". The Soviet response in this area was perhaps most succinctly stated by L. I. Brezhnev at the recent 25th Party Congress: "There is not and cannot be any question of compromise on matters of principle, of conciliation with views and actions that conflict with communist ideology. This is out of the question".

8. The disparate understandings of the meaning and purpose of a free exchange, presented in this brief introduction, may assist in explaining why there have been so many charges and countercharges between East and West with regard to the implementation of the Third Basket.

III. DEVELOPMENTS

9. During the time period covered by this document (mid-February/mid-May 1976), the few developments which have taken place relative to the humanitarian agreements in Basket Three have been largely in the area of human contacts and, to a lesser extent, in the area of information. There have also been announcements regarding the establishment of additional groups to monitor Eastern compliance with the Third Basket of the Final Act. There appears to be nothing to report in the categories of cultural or educational exchanges during this time period.

A. New monitoring groups

10. On 5 May 1976, the United States Senate approved legislation, without opposition, which would establish an 11-member Commission to monitor Soviet and East European compliance with the Final Act of Helsinki. The sponsor of this bill, Senator Clifford P. Case, announced that the Commission would focus on human rights, or Third Basket, aspects of the Final Act. The Commission would be comprised of four members from each House of Congress and one member each from the Departments of State, Defense, and Commerce. Senator Hubert Humphrey stated that the proposed Commission would attempt to direct world attention upon the actions of the Soviet and East European governments with respect to human rights issues. This legislation would require the President of the United States to make a report every six months to the Commission on whether the nations which signed the Helsinki Declaration are indeed complying with it. "We ought to hold their feet to the fire, so to speak", Senator Humphrey said. The proposal must still be approved by the House of Representatives to become law.

11. Nine Soviet dissidents announced, on 13 May 1976, the formation of the "Group to assist fulfillment of the Helsinki Accords in the USSR". Their statement delineated their areas of major concern to be freedom of conscience and religion, and that of promoting greater human contacts and exchanges of culture and information. This group is headed by scientist Yuri Orlov and includes Mrs. Yelena Sakharov, the wife of the Nobel Prize winner Andrei Sakharov. It will undertake to inform the heads of all signatory governments of any Soviet violations.

B. Human contacts

Travel and Emigration

12. On 10 February 1976, the International Herald Tribune reported that the number of Soviet Jewish emigrants to the United States dropped from 622 in 1974 to 585 in 1975. While United States officials volunteered no explanation for this 6% decrease, Jewish activists charged that applicants for exit visas are intimidated and sometimes face loss of their jobs. They offer this as explanation for the 6% drop in applicants.

13. The World Conference on Soviet Jewry, which was concluded on 19 February 1976 in Brussels, made similar charges. Conference officials stated that the Soviet Union has refused valid applications from 80,000 Soviet Jews. Officials at this Conference estimated that approximately ¼ of the entire Jewish population of Russia—750,000 Jews—would leave if there were no fear of persecution of potential emigrants.

14. On 15 March 1976, United Press Inter-

national (UPI) reported that Poland's State Council had ratified an agreement with West Germany enabling ethnic Germans to emigrate to West Germany. Poland agreed to grant emigration permits to as many as 125,000 ethnic Germans in the next four years.

15. On the same day that the Polish-West German treaty was ratified, however, East Germany announced it would withhold accreditation to the Leipzig International Spring Trade Fair from three West German radio reporters. The journalists were employees of Deutschlandfunk and Deutsche Welle. These radio stations were charged by the East Germans with constantly interfering in the internal affairs of communist states.

16. In apparent retaliation for the above mentioned action by the East German Government, the Bonn Government announced the next day, 16 March 1976, that it would refuse landing permission to a plane scheduled to fly an East German delegation to a Communist Party Congress in Bonn.

17. Reuters then reported on 14 April 1976, that the East Germans had begun construction work on a bigger Berlin Wall. The new wall is higher and five yards closer to the line which divides the Soviet and British sectors. Just one week earlier, 7 April 1976, Craig R. Whitney, writing for the New York Times, had argued that detente "has not changed a fundamental fact of life in this country". The East German Government is not willing to open its borders for fear of losing hundreds of thousands of young East Germans. Travel to the West, Whitney concluded, is therefore restricted by the East German Government to "only a few members of the privileged elite or retired pensioners no longer needed in the working force".

18. Finally, in this area of travel and emigration, Soviet dissident historian Andrea Amalrik has reluctantly agreed to heed official suggestions that he apply for an exit visa to Israel. Reuters news service reported that Amalrik had been continuously refused permission to live in Moscow and was repeatedly harassed by police whenever he visited the capital. Amalrik is best known for his books "Will the Soviet Union survive until 1984?" and "Involuntary Journey to Siberia".

C. *Information*

Radio broadcasts

19. Mr. Sig Mickelson, President of Radio Liberty/Radio Free Europe, charged on 27 April 1976 that the jamming of Western broadcasts by the Soviet Union and East European countries is continuing unabated. The only exceptions to this, Mr. Mickelson observed, are the countries of Hungary and Rumania which do not jam the stations. The Soviet Union and the other East European countries are, Mr. Mickelson charged, in direct violation of the Helsinki Accord.

20. The position of the Soviet Union on the question of broadcasts by Radio Liberty and Radio Free Europe was recently stated in the Communist Party daily, Pravda. Pravda alleged that these stations remain CIA controlled intelligence and propaganda services, and that they broadcast "lying reports, overt slander and propaganda". The USSR therefore continues to pressure the Western governments to close these Munich-based radio stations. The view expressed in Pravda holds that the very existence and continued activity of these stations is a violation of the Final Act of Helsinki.

21. The Soviet Union also postponed a scheduled visit by British Broadcasting Corporation (BBC) Director General, Sir Charles Curran. This was the result of their displeasure over a recent BBC interview in which Alexander Solzhenitsyn discussed his book "Lenin in Zurich". The Soviet Writers Union Weekly, Literaturnaya Gazeta, explained that the BBC has been dealing unfairly with Soviet policy. This Soviet newspaper characterized BBC reports about the Soviet Union as releases into cold war "trench sickness".

Films, Newspapers and Magazines

22. Mr. Filip Yermash, Chairman of the State Committee for Cinematography in the Soviet Union, charged the West in general, and the United States in particular, with deliberately suppressing the showing of Soviet films. Mr. Yermash explained that, while Western countries purchased as many films from the Soviet Union as they sold to it, there is not adequate distribution and release of these Soviet films in the West.

23. The Soviet Union announced in February that 18 Western newspapers would be sold on Soviet newsstands this year. However, it appears that these will only be available in very small quantities and in locations not easily accessible to the average Soviet citizen.

24. The situation in this regard appears to be quite different in Poland. Polish officials have expressed pride in their record of permitting Western culture and information to circulate in the country. The Poles are apparently substantially ahead of most of the East European countries, and certainly ahead of the Soviet Union, in such areas as importing Western publications and movies. Newsweek magazine recently released figures which show that 1,105 copies of that magazines international edition are received in Poland. This figure may be compared with the 261 copies of the same magazine in the Soviet Union, 545 in Hungary and 161 in Czechoslovakia. In addition, there are reports of stacks of Le Monde and the International Herald Tribune on many downtown newsstands. Copies of these are also available in comfortable international reading rooms where anyone may read them. The selection of Western movies in Warsaw is apparently quite broad. The International Herald Tribune reports the results of a rough count which indicated 8 United States films, 2 French, 1 British, and 1 Italian available in the city of 1.3 million people.

IV. CONCLUSION

25. The preceding is deliberately presented without comment or analysis. Each reader is thus encouraged to draw his own conclusions.

ARMED FORCES APPRECIATION DAY IN ROSAMOND, CALIF.

HON. WILLIAM M. KETCHUM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 5, 1976

Mr. KETCHUM. Mr. Speaker, it is with the greatest pride and pleasure that I call to the attention of my colleagues what I consider to be an outstanding gesture on the part of my constituency. The community of Rosamond in California has proclaimed August 28 of this year to be "Armed Forces Appreciation Day," and will pay tribute to all those who serve or have served in our Armed Forces on that occasion.

Rosamond calls this tribute her "contribution to the Bicentennial," and I can think of none finer. Without the dedication, sacrifice, patriotism, and effort of our armed services personnel, there would probably not be much to celebrate this Bicentennial year. Rosamond is particularly honoring those who gave their lives to keep our Nation free, and to protect the free world. I have always said that I consider my own military service in two wars to be but a drop in the bucket toward the great debt owed my forefathers. However, I firmly believe that no single group has done more to protect America's heritage than the individuals within all branches of service. I know that my colleagues will join with me today in honoring Rosamond as that community honors the Armed Forces.

THE NO-STAMP ACT

HON. BENJAMIN S. ROSENTHAL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 5, 1976

Mr. ROSENTHAL. Mr. Speaker, the constitutional right of citizens to petition their Government is one of our most fundamental liberties. The exercise of this right can be encouraged by enabling persons to write to Members of Congress free of postage. For many Americans, particularly those on fixed incomes, a 13 cent stamp—soon to be higher—can be a burdensome cost and interfere with their right to petition. I am today introducing the "No-Stamp Act" to improve the quality of representation by further opening the channels of communication between citizens and their Federal representatives. It is entirely appropriate in the Bicentennial Year that we take this step.

The bill does the following:

First. It authorizes postage-free mail to Members of Congress from any resident of the United States.

Second. It requires that this privilege be extended only to individuals acting on their own behalf and not as instruments of a profitmaking enterprise.

Third. It calls for the Postal system to provide prestamped mailing forms for use in corresponding with Members of Congress. This will make handling of nonstamped mail easier more economical for USPS automatic mail handling equipment.

Fourth. It limits the subject matter with which a free-postage letter can deal to official Government-related purposes.

Fifth. It requires the Postal Service to send Congress an evaluation of and report on the program after one year. This will allow the Congress to decide whether no-stamp mail should be extended to correspondence with the President, Vice President, and executive agencies.

I view this bill as an important mechanism for encouraging greater segments of the public—the poor, minorities and aged to employ their right of petition by transferring equivalent costs to the Government. It especially will provide the opportunity for a congressperson to serve as a communications liaison for his own constituents on a much closer, speedier and efficient basis. Hopefully, this bill will stimulate the voices of those unheard in the past.

We are all painfully aware that the integrity of our elected and appointed officials is on trial throughout the country as never before in our history. Making it easier for constituents to communicate with their Government will ease, somewhat, the estrangement that now exists between the people and the Government that serves them. Most importantly, it will serve as a reminder that ours is an open Government—one that depends on the views and support of the people for its strength.

NATIONAL ASSOCIATION OF COUNTIES

HON. FRANK E. EVANS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 5, 1976

Mr. EVANS of Colorado. Mr. Speaker, the National Association of Counties has worked long and hard in support of H.R. 9719, the payments in lieu of taxes bill, which passed overwhelmingly today by a vote of 269 to 125.

In view of this, I wish their letter to me to be placed in the record:

NATIONAL ASSOCIATION OF COUNTIES,
Washington, D.C., August 5, 1976.

Subj: Payments-in-lieu of taxes (H.R. 9719)

Hon. FRANK E. EVANS,
House of Representatives,
Rayburn House Office Building,
Washington, D.C.

DEAR CONGRESSMAN EVANS: The National Association of Counties (NACo) actively supports the payments-in-lieu of taxes bill (H.R. 9719) that you have sponsored. NACo believes this legislation is long overdue to recognize the inequities and burdens of large holdings of federally-owned tax exempt lands.

More than a third of the U.S. land area is federally owned and escapes local taxes. Counties are hit hard by this immunity, especially in the west where in many counties 80 to 90 per cent of the land is federally owned.

NACo has long advocated "payments-in-lieu" legislation recognizing the inequities and burdens of these lands.

Despite a limited tax base these counties must provide law enforcement, road maintenance, health and other local government services countywide.

This legislation would provide nowhere near the revenue that counties would receive if the lands were taxed as if privately owned; but the "minimum payment" approach has the full backing of the NACo Public Lands Steering Committee, the NACo Western Region District, and the entire NACo membership.

This legislation has the advantages of being easy to administer and a reasonable price tag—only $115 million compared to the more than $750 million in receipts going to the federal treasury from leases on these natural resource lands.

NACo believes payments-in-lieu's time has come. This is not just a western issue. More than 1,000 counties are affected in 48 states. Payments would be limited by a per-capita limit so that no county would receive a "windfall". Payments to counties under H.R. 9719 would average only about 11 cents per acre overall. This is not asking too much.

Study after study by federal committees and commissions have demonstrated the need for this type of legislation. The Public Land Law Review Commission recommended that Congress enact payments-in-lieu legislation.

The issue is clear. Payments in lieu has been studied enough. Now is the time for a vote!

Your support is greatly appreciated.

Sincerely,

JIM EVANS,
Legislative Representative.

MATCHING FEDERAL DOLLARS FOR STATE'S SOCIAL SERVICES PROGRAM

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 5, 1976

Mr. McDONALD. Mr. Speaker, today I am introducing legislation to allow the States to use "in kind" goods and services provided by private sources as part of a State's share in matching Federal funds for the State's social services program.

Presently, under title XX of the Social Security Act, the States are unable to claim in kind services—the value of space, supplies, staff—provided by private institutions to meet the required State share of the cost of its social services programs. This prohibition does not apply, however, to in kind contributions of public institutions, which may be claimed as part of the State's share in matching Federal funds.

Not only is this unwarranted discrimination against private institutions, but it places an unnecessary burden on the States and the taxpayers. The function and value of an in kind service is the same whether provided by a private or public institution: it allows for more efficient social service programs by making use of existing facilities and personnel. The only difference is that in kind services of private institutions are funded by private sources, thus saving the taxpayers some money and, in effect, giving the State a free gift.

By being denied the use of available services provided by private institutions, States in many cases are put in the position of either discontinuing social service programs or increasing State expenditures and thus State taxes. For example, consider the following situation in my own State of Georgia. For the past 4 years the State has contracted with Berry College, a private institution, to provide day care trainers to work in the various day care centers in the area of Rome, Ga. The funds for this program came from the Appalachian Child Care Project and the State was able to claim certain in kind services from Berry College as part of its share in matching Federal funds.

Effective August 1, 1976, however, all training in the day care centers will be funded by title XX. And because of title XX's prohibition against in kind services from private institutions, either the taxpayers or Berry College will have to provide the 25 percent required match in cash. It so happens neither can afford this, and the State's day care programs in that area may have to be discontinued, even though both the State and Berry College are very eager to continue their relationship which has worked so well in the past.

The effect of the law as it presently stands is to add to the cost of social service programs and thus reduce the services available for a given amount of public funding.

Rural and non-urban areas, where public institutions often are not available, are particularly hard hit. The citizens of these areas are taxed to pay for social service programs, but are unable to use the facilities of their private institutions to compete fairly for the establishment of social service programs in their area. And to add insult to injury, they also pay state taxes to support state institutions in urban areas, the facilities of which are used as in kind services to attract social service programs away from the rural areas.

Mr. Speaker, whatever the reason for including the prohibition of in kind services from private institutions in title XX, I am sure it was not intended to add to the cost and discourage the establishment of social service programs. Removing this prohibition and allowing States to use all in kind services and goods available to them will require only a minor change in title XX, but will allow much more efficient and fair operation of the social services programs.

I urge my colleagues to give their support to this legislation.

PUERTO RICAN CONSTITUTION DAY

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 5, 1976

Mr. BIAGGI. Mr. Speaker, on July 25 we celebrated the 24th anniversary of Puerto Rico's attainment of commonwealth status within the United States. Puerto Rico's commonwealth status has been beneficial both to Puerto Rico and to the United States.

Puerto Rico became associated with the United States as a result of the Spanish-American War. Cuba also became a part of the United States as a consequence of that war. But the United States severed its ties with Cuba in 1934. Cuba then plunged into 42 years of relentless dictatorship and abysmal suffering.

The people of Puerto Rico have been more fortunate than the forlorn Cubans. The people of Puerto Rico have received the military and economic support of the United States continuously for the past 78 years. Since 1952, they have exercised the right of self-government for their own local affairs. In a difficult island economy, they have shown continued progress to improve standards of living and economic growth.

The United States has benefited greatly from the contributions Puerto Ricans have made to our society, our Government, our business, our sports, and our entertainment.

Many thousands of Puerto Ricans have fought bravely in our wars. Many Puerto Ricans have served with honor and distinction in local, State and national government.

Many own thriving small businesses.

For instance, in my home city of New York which has the largest Puerto Rican community outside the homeland, I have visited many charming bodegas—Puerto Rican style grocery store.

Many Puerto Ricans have starred in sports and in the entertainment fields. Several Puerto Rican stars are selected for All-Star games and receive awards on Academy Awards night. Who could forget the late great Roberto Clemente and his many contributions to the game of baseball?

I have a particular personal interest in Puerto Rican Constitution Day as well. I am pleased to say that my two grandchildren were born in Puerto Rico and that this is their day, too.

At this time I would like to pay a special tribute to my good friend and colleague—Mr. BENITEZ—who represents the people of Puerto Rico in Congress. I salute him and the other people of the Commonwealth on their special day.

CARTER IS UNDERSTOOD BY LINDSEY WILLIAMS AND FRANK STUMBO

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 5, 1976

Mr. ASHBROOK. Mr. Speaker, many of the liberal commentators and columnists who should know better are a part of the cabal to fit Presidential candidate Jimmy Carter in a conservative mold. This despite the fact that he has embraced virtually every liberal plank in the socialistic deck.

Fortunately, many of the good folks back home are not fooled. Two writers in local 17th District newspapers see him much clearer than do the Dave Broder and James Reston types. Frank Stumbo, editor and publisher of the Ontario, Ohio, Tribune-Courier and Lindsey Williams, columnist in the Ashland Times-Gazette and a publisher in Rittman have come forward with perceptive columns on the erstwhile Democratic candidate. They should be read by the big city media:

[From Tribune-Courier, July 29, 1976]

MORE, OR LESS GOVERNMENT?

The Democrats have now selected their standard-bearers for the 1976 presidential race, James Earl Carter and Walter Frederick Mondale are already household names.

By his careful selection of Senator Mondale of Minnesota from an impressive field of potential running mates, Jimmy Carter served notice on the American people that the two candidates were meant for each other. The question now to be answered is whether Jimmy and Fritz are meant for the American voters.

By the widest stretch of the imagination, Mr. Carter is unquestionably a walking-talking-grinning phenomenon carrying a peanut bag of political riddles, contradictions, and sleight-of-hand tricks.

All the time he was campaigning for votes during the primaries, the former Georgia Governor picked up one delegate after another by convincing voters to support him with his sing-song gospel of denouncing Washington's bureaucrasy as a "huge, wasteful, unmanageable, insensitive, bloated, bureaucratic mess."

He proposed to reorganize the government and make it run more sensitively, economically and efficiently. However, somewhere between that quaint little ol' railroad station in Plains, Ga., and Madison Square Garden, Mr. Carter was apparently de-briefed and briefed by the wild '72 McGovern bunch.

In the barrel went a smiling Southern conservative, "born-again-Christian," peanut farmer and out came a smiling Northern liberal, "born-again-Christian" peanut farmer.

And to prove his transformation the newborn liberal let loose with a litany of proposed federally sponsored programs that would have made Lyndon Johnson cringe with horror.

Mr. Carter favors pardons for draft dodgers; he promised he will do nothing to end forced busing to achieve racial balance, or abortion on demand; he favors an end to penalties for pot smoking while at the same time favors new and strong controls on gun owners.

He wants more billions to spend on a blank-check type of revenue sharing, he favors more direct aid to cities, transportation subsidies, day care centers, housing subsidies and public service jobs.

Mr. Carter would expand the welfare rolls to include the working poor and provide a "guaranteed annual income" to those on welfare.

He promises a new Consumer Protection Agency and a new cabinet-level (N.E.A. teacher-oriented) Department of Education.

He proposes a universal national health insurance program, while endorsing the Humphrey-Hawkins "WPA" bill, each of which would cost tens of billions of dollars annually.

He favors a closed union shop forcing millions of unwilling, non-union workers to join a union or not work, definitely a violation of the individual's Constitutional rights.

He supports the common situs picketing bill which would give a single union, regardless of its size, with a single grievance, power to shut down an entire work project like the Alaskan pipeline—thereby throwing tens of thousands of people out of work.

Mr. Carter's programs, instead of lessening the already gluttonous bureaucratic stranglehold on the pocketbooks of heavily tax-burdened Americans, promises to create more and bigger federal monsters than we now have to contend with.

The only area which he promises to cut expenditures is in the area of national defense.

Jimmy Carter began showing his true Potomac colors a few weeks ago, when George McGovern said he could run with enthusiasm on the '76 Democratic party platform.

What McGovern lost in '72, Carter expects to win in '76, unless the 59% of the voters in this country who call themselves conservatives are provided with an acceptable and effective alternative candidate by the Republicans next month at Kansas City.

[From Ashland Times-Gazette, July 24, 1976]

REAL JIMMY CARTER FINALLY STANDS UP

(By Lin Williams)

The real Jimmy Carter stood up last week in New York City, and both Democrats and Republicans were astounded.

Southern Democrats were dismayed to learn that their "good ole' boy" was a closet liberal, ready to embrace the expensive social programs he denounced a few weeks earlier.

Labor party Democrats were elated to discover that they had scored big after being rejected a dozen times in the primaries.

Republicans everywhere perked up and started taking nourishment even though the pollsters had solemnly pronounced their death sentence.

Revelation of Carter's true nature came with his choice of Walter "Fritz" Mondale as his running mate.

Mondale, one should remember, is the darling of labor bosses. He voted "right" on 93 of the 100 issues in Congress deemed important by Americans for Democratic Action. "We're wild about Walter," says the leader of the giant teacher's union.

It was a strange choice by Carter. Liberal, labor candidates had succumbed one-by-one to the conservative image projected by the former Georgia governor during his quest for the presidential nomination. The Democratic electorate, particularly in the South and West, had spoken forcefully on the type of man they wanted in the White House—moderate, independent, broad outlook.

Instead they were handed Fritz Mondale—radical, beholden to a special interest, enthusiastic about the tired old policies that produced rampant inflation. It was an opportunistic gambit by Carter whose former supporters now feel betrayed.

The Republicans moved quickly to "put the Fritz" on Jimmy. Within a week they began to circulate news clippings about the statements and tricks Carter authorized during his drive for the governorship. It had been a vicious campaign; but, then, that's southern politics where a century of one-party government produces supreme arrogance.

This arrogance which comes easily to autocratic politicians will either make or break Carter.

Franklin Roosevelt and John Kennedy had the right touch of arrogance—they were forgiven it, if not praised. Lyndon Johnson and Richard Nixon also had a touch of arrogance, but they were crucified.

Can Carter tread the fine line between royalty and rogue?

He grated many Democrats with the vice presidential charade of summoning seven prominent Democrats for interviews and then a public display of their servility. Yet he thrilled other Democrats with his recital of how he managed the nomination after 18 months of careful strategy and now was going to do the same in the presidential campaign, "You can depend on it."

Already a reaction is setting in.

Southern Baptists who were confidently predicted to be solidly behind a "born again" Christian may come to the conclusion Carter is a religious hypocrite.

The Rev. William K. McComas, an influential Baptist preacher in Wayne County, Ohio, criticized Carter from the pulpit last Sunday. Pastor McComas brings in his out-of-town parishioners with a dozen big buses, conducts a Christian elementary school and writes prolifically.

He wonders out loud about "Carter's strange Christian credentials."

"When asked who his favorite theologians were, Carter did not mention R. G. Lee, or W. A. Criswell or even Billy Graham," Pastor McComas pointed out. "In their place he listed Reinhold Niebuhr, Karl Barth, Paul Tillich and Soren Kierkegaard. "It's commonly known that Niebuhr has long been associated with Communist-front organizations such as the American Committee for Protection of Foreign Born Americans," McComas told his congregation.

"Carter's theologians conceived and gave birth to the "God Is Dead" movement. Barth has openly made attacks upon the Bible."

It is likely that Carter's much publicized religion and his evangelical sister's influence on him will cause problems with both traditionalists and fundamentalists. Kennedy, a Roman Catholic, had only to pacify the Protestants. Carter must carry water on both shoulders.

In the tremendous drive to gain the nomination against great odds, Carter may have overplayed his hand. As the pros say, he may have "peaked" too soon—a situation dreaded by politicians because the only direction thereafter is down.

The real Jimmy Carter may yet be the winning Carter, but it is not the old Carter we all knew and loved.

CONGRESSIONAL QUESTIONNAIRE RESULTS FOR EIGHTH DISTRICT OF PENNSYLVANIA

HON. EDWARD G. BIESTER, JR.

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 5, 1976

Mr. BIESTER. Mr. Speaker, following my customary practice, I would like to share with my colleagues the results of my recent survey of constituent opinion in the Eighth District of Pennsylvania.

The questionnaire was distributed postal patron in early June throughout Bucks and eastern Montgomery counties, and almost 20,000 responses had been received by late July. The survey was structured so respondents could express mild or strong approval/disapproval or uncertainty on each of the 21 questions raised.

In each of my 10 years of service in the House in which I have solicited opinions from constituents utilizing the postal patron questionnaire, I have found the results a valuable supplement to the other inputs—public forums, letters and personal meetings—I receive on the concerns of those whom I represent in Congress.

Mr. Speaker, at this point I would like to insert in the RECORD the results of the opinion survey:

RESULTS OF CONGRESSMAN EDWARD G. BIESTER'S 1976 CONGRESSIONAL QUESTIONNAIRE

[In percent]

	Strong no	No	Uncertain	Yes	Strong yes
FOREIGN POLICY/DEFENSE					
1. Is the present U.S. defense capability adequate to meet our security needs?	28	15	22	19	16
2. Should the United States reduce its military forces in:					
(a) Europe	28	25	10	18	19
(b) Japan	21	22	13	23	21
(c) South Korea	27	23	12	18	20
3. Soviet policies in Europe, Africa and elsewhere have raised concerns about "detente." Should the United States attempt to influence Soviet policy by:					
(a) Reducing grain sales to the U.S.S.R	11	16	9	26	38
(b) Ending strategic arms limitation talks (SALT)	33	32	14	9	12
(c) Increasing U.S. defense capabilities	15	16	13	25	31
4. Should the United States grant full diplomatic recognition to the Peoples Republic of China even if it means ending formal diplomatic relations with the Republic of China (Taiwan)?	25	23	14	22	16
5. Regarding assistance to less developed nations, should the United States:					
(a) Reschedule debts owed the United States by the very poorest of the developing nations	15	16	16	40	13
(b) Increase food and economic assistance	21	25	14	29	11
(c) Establish international reserves of raw materials we import from developing nations to help stabilize supplies and ensure relatively stable and fair prices	9	8	17	42	24
SOCIAL SECURITY					
6. Funding of the social security system is a subject of much debate. To meet anticipated future costs of the program, would you favor:					
(a) The use of general Federal revenues to help fund social security benefits	25	16	10	28	21
(b) Increasing the employee-employer social security tax rate	45	22	10	15	8
(c) Increasing the amount of earnings subject to the social security tax	30	15	9	24	22
7. Should social security recipients be permitted to marry one another without forfeiting a percentage of their individual benefits?	7	6	4	25	58
THE ECONOMY					
8. Legislation is before Congress which would prohibit, by law, unemployment in excess of 3 percent by making the Federal Government the employer of last resort. This would be in conjunction with major changes in economic and monetary policy decisionmaking, the formulation of a comprehensive national economic policy and the creation of several new Federal agencies to administer the law. Would you favor such legislation?	47	14	14	14	11
9. In combating unemployment, should the Federal Government:					
(a) Create more public service jobs	33	17	9	26	15
(b) Institute greater tax credits to stimulate business	14	15	14	33	24
(c) Continue present policies	31	26	21	17	5
CONSUMERISM					
10. Should we establish a single consumer advocate office within the Federal Government to represent consumer interests in Government decisionmaking?	15	11	10	29	35
11. Should public utilities be required to adopt rate structures which reflect the added costs of increased energy production during "peak" demand periods?	18	11	22	27	22

OUR NATION SALUTES THE PRUIKSMA FAMILY OF AMERICA UPON THE CELEBRATION OF THE PRUIKSMA BICENTENNTIAL FAMILY REUNION

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 5, 1976

Mr. ROE. Mr. Speaker, during our Bicentennial Year as we celebrate the 200th year of the birth of our Nation and reflect upon the history of our country and the good deeds of our people that have attained preeminence of our representative democracy, second to none, among all nations throughout the world, I am pleased to call your attention to the outstanding contributions the family of Pruiksma has made over the past half century plus three decades and one year to the American dream which have truly enriched the historical, educational and cultural heritage of our community, State and Nation.

On Saturday, August 14 the largest, most unique Bicentennial family reunion, nationally and internationally, will be held at the Warwick Conference Center, Warwick, N.Y. when the American Pruiksma family will gather its kinsmen from all over our Nation, Canada and from the country of their ancestors, The Netherlands, for their third family reunion picnic—The Pruiksma Bicentennial family reunion picnic.

Mr. Speaker, this tradition of the American descendants of Watze and Aukje Pruiksma and Sieger and Trijntje Pruiksma of Snieke, Friesland, The Netherlands was commenced in August 1966; the second was held in August 1971; and, again 5 years later, they will be assembling to give the family an opportunity to share not only the treasures of family reunions as they count their blessings, but the solace and comfort of family togetherness in thanksgiving to God and to America, the land of their birth.

Mr. Speaker, may I especially commend to you the members of the Pruiksma family who have been diligently working together during this past year in seeking out their family members and planning a most outstanding, memorable and exciting Bicentennial festival for their family. Members of the Pruiksma reunion committee are as follows:

GENERAL PROGRAM

The Honorable: Jacob J. Pruiksma, Walter N. Pruiksma, Ronald E. Pruiksma, Jeffrey B. Pruiksma.

REGISTRATION

Walter Brolsma, Sr., Agnes Brooks, Katharine Civitello.

RECREATION

Ronald Pruiksma, John Sisco, Walter Brolsma, Jr., Jeff Pruiksma.

SIGNS AND BANNERS

Mary Ann Pruiksma, David Pruiksma, Carol Pruiksma, Kristi Lee Pruiksma.

DUTCH ENTERTAINMENT

Harold Pruiksma, Grace Pruiksma, Barbara Smalling.

REFLECTION PERIOD

Walter N. Pruiksma, Jacob J. Pruiksma.

HOSPITALITY

Harold Pruiksma, Grace Pruiksma.

Mr. Speaker. The story of the Pruiksma family is typically American. The pioneering, enterprising, freedom-loving Pruiksma's comprised of all nationalities in all walks of life depict the story of America. With your permission I would like to insert at this point in our historical journal of Congress the story of the American Pruiksma's as related to me by Jeffrey Pruiksma, as follows:

In 1895, Watze and Aukje Pruiksma and Sieger and Trijntje Pruiksma and their families emigrated from Snieke, Friesland, the Netherlands to the United States of America. They came to a new country and a new way of life, leaving behind the old world. They came to the land of opportunity to participate in the American Dream and to secure the blessings and freedoms of this country for their prosperity.

Life was not easy for these immigrants, as it was not for many others, yet their hopes, dreams, and prayers sustained them. These Frieslanders became Americans in custom, speech and patriotism, adding ingredients to the Great Melting Pot and receiving many others in return.

Watze, Aukje, Sieger and Trijntje Pruiksma and their offspring believed and trusted in God and worshipped in the religious freedom of their new homeland. They gave thanks to Almighty God for the blessings He had bestowed on America and asked for His continued Grace. Today their offspring continue these prayers. This new land met their expectations and fulfilled their dreams beyond their expectations.

Pruiksma's have served America proudly and with distinction in the Armed Forces continuously since 1914, and as doctors, lawyers, craftsmen, teachers, plumbers, bankers, farmers, professors, clergymen, police officers, to name a few.

Members of the family now live in the following states: New Jersey, Michigan, California, Florida, New York, Virginia, Massachusetts, Colorado, Washington, Maryland, Ohio, Iowa, New Mexico, Minnesota, Illinois, Pennsylvania, Georgia, Oregon, and South Carolina.

The following nationalities have blended with the Dutch heritage to produce this new generation of Americans: English, Italian, Japanese, French Austrian, Jewish, Irish, Colombian, Swedish, Norwegian, Polish, Hungarian, German, Icelandic, Finnish, Spanish, Russian, Czech, and the American Indians of Cherokee, Shinnecock, and Iroquois.

Mr. Speaker. In extolling the vastness and grandeur of America's heritage, the spirit of '76 and the inner greatness of an American family are most poignantly manifested in the American experience of the Pruiksma family and I appreciate the opportunity to present this statement to you for reflection and thanksgiving on the importance of family life here in America during our Nation's Bicentennial Year. The Pruiksma family is indeed to be congratulated for their outstanding service to our country and the shining example they have established for all of us in their daily pursuits as Americans.

As the Pruiksma family gather together on Saturday, August 14, I know you and our colleagues here in the Congress will want to join with me in sending our warmest greetings and felicitations to all of them in national recognition of the splendor and magnificence of family life which they have gently intertwined with the wonders of the Almighty and the promising, challenging rewards of our representative democracy.

We do indeed salute the Pruiksma's for their many contributions to the quality of life here in America and extend our best wishes and warmest regards to all of them as they celebrate the Pruiksma Bicentennial Family Reunion.

OSHA—HOW TO IMPROVE A NECESSARY SAFETY PROGRAM

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 5, 1976

Mr. STARK. Mr. Speaker, the Los Angeles Times, in the second of a two-part series on occupational health and safety, has provided us with an insight into the Federal agency responsible for protecting the health of this Nation's work force.

Appearing in its June 28 editions, this Times article analyzes the administrative problems encountered by the Occupational Safety and Health Administration in trying to implement a national job safety program. Small business complaints about OSHA's unfairness and general inability to do its job effectively cannot be ignored. The Los Angeles Times has addressed a problem which calls for our attention.

Mr. Speaker, I commend this second of two articles on the problems of safeguarding the health and safety of this Nation's workers. It's a matter of universal importance.

Health Agency Fights an Uphill Battle—Wins Acceptance Grudgingly

(By Paul E. Steiger and Richard T. Cooper)

Washington.—At Rotary Club luncheons and country club bars, in trade group speeches and letters to Congress, businessmen like to describe the latest adventure with those time-wasting, rulebook-waving, profit-killing bureaucrats from the Occupational Safety and Health Administration.

There is the case, for example, of the west Texas sheet metal shop forced to post OSHA notices in both Spanish and English even though its lone Mexican-American worker could read only English. And the Denver tire maker who obediently added waist-high guard rails to a rolling press, then found they caused his workers severe back pains.

In the 5½ years since Congress created it to guard the safety and health of American workers, OSHA has been denounced not just by businessmen but by conservative economists and such political figures as President Ford, former California Gov. Ronald Reagan and Sen. Edmund S. Muskie (D-Me.).

As James D. McKevitt of the National Federation of Independent Business puts it, corporate executives tend to "come out of their offices like biting sows whenever OSHA is mentioned.

But is this picture fair? Is the agency in fact an intolerable and unnecessary intrusion into private enterprise?

A three-month Times investigation has found that, far from subjecting U.S. business to a blitzkrieg of interference, OSHA has moved slowly, falteringly, often inadequately to meet the growing threat posed by modern industrial technology to workers and the larger society. What is significant about OSHA is not what it has done wrong but what it has not done at all.

Underfunded, ill-staffed, poorly led for most of its history, a neglected stepchild with more enemies than friends, it has made only the barest beginning on its task. As even some of the agency's fiercest critics now agree, the pressing question is not how to curb OSHA but how to make it effective.

Today, occupational accidents take the lives of at least 13,000 workers a year, inflict injuries that, measured merely in economic terms, cost more than 25 million workdays lost annually, and sow the seeds of such long-term health problems as heart disease, brain damage and cancer.

And research increasingly suggests that the health hazards, at least, do not stop at the plant gate but seep out to touch families, neighborhoods, the towns and country around.

Moreover, the carnage has been taking an ominous turn for the worse. The occupational injury rate climbed from 12 time-loss injuries per million man-hours worked in 1960 to 15.2 such injuries in 1970, a rise of 27%. Since 1971, when the government installed a new statistical reporting system, injury rates have not improved and may even have gotten worse.

Comparable data do not exist for occupational health problems, but most analysts believe these rates also have been rising as a result of the proliferation of new industrial and agricultural chemicals.

Against dangers of this magnitude, the shield erected by OSHA thus far offers all the protection of a thatched roof against a hydrogen bomb.

The agency's total budget, at $116 million, is smaller than the $135 million proposed for the President's swine flu vaccination program alone. OSHA's inspection force is a relatively small 1,265 compared with its responsibility to monitor most of the nation's 5 million employers.

Where inspections have occurred, penalties often have been nonexistent or so small they have little deterrent effect.

Badgered from all sides and unsure of its support inside the government, OSHA also has often lacked the strength to overcome business resistance to the expensive abatement programs needed where some major hazards exist.

Significantly, officials of the U.S. Chamber of Commerce, the National Assn. of Manufacturers, and even the National Federation of Independent Business, which represents the small businessmen who remain OSHA's most implacable foes, now acknowledge that much of the past criticism of the agency is no longer relevant. Also, there is general agreement among these groups that OSHA should be improved, not eliminated.

"Many corporations have faced up to their occupational health and safety obligations for the first time" as a result of the act (creating OSHA), G. John Tysse of NAM said.

Surveys show 80% of all businesses have changed their operations in some way as a result of OSHA—at an aggregate cost of $4 billion to $9 billion per year in a $1.5-trillion-a-year economy.

Most telling of all, perhaps, has been the evolution of views at the White House. Early this year, as part of a general attack on the concept of government regulation as an answer to social problems President Ford publicly sympathized with those he said "would like to throw OSHA into the ocean." A special task force was created to seek ways of abolishing or replacing the agency. Recently, after an exhaustive search, the task force gave up.

"We have discarded the idea that OSHA is expendable," said Paul MacAvoy, a top Ford economic adviser who headed the task force.

It is cumbersome and inefficient for government to draft and enforce detailed health and safety procedures across the whole spectrum of U.S. business, he said in a recent interview, but there is no visible alternative.

It is not feasible to rely entirely on the voluntary good intentions of business or the variable attitudes of state and local governments, MacAvoy has concluded "There are activities in society that have to be regulated," he said, convinced OSHA can be streamlined but not eliminated.

Some of that streamlining has already begun. After a dismal childhood, OSHA seems finally to have an administrator who knows what needs to be done and, within the budgetary and other limits imposed on him, has set about doing it.

Morton Corn, a 42-year-old industrial hygiene specialist from the University of Pittsburgh, has begun weeding out unnecessary rules, focusing manpower on the most serious problems and increasing emphasis on long-neglected health hazard. He also is beefing up OSHA's ability to handle emergencies and has pledged to accelerate the once-paralyzed system for setting industrial health and safety standards.

The Occupational Safety and Health Act of 1970 is one of the most sweeping pieces of social legislation in U.S. history.

Each employer is charged with a general duty to provide "employment and a place of employment which are free from recognized hazards that are causing or are likely to cause serious physical harm to his employees." Also, employers must obey a variety of specific regulations on chemical exposures, safety equipment and operating procedures that affect workers' well-being.

A part of the Labor Department, OSHA operates much like other government regulatory agencies.

Rules and standards are adopted after public hearings have been held and scientific advice received from the National Institute of Occupational Safety and Health. Enforcement is handled by compliance officers who inspect work places unannounced, sometimes on their own initiative and sometimes in response to workers' complaints.

Violations of OSHA rules may result in fines or citations, subject to appeal to an independent national Safety and Health Review Commission, or to the courts.

In 23 states and territories, including California, the 1970 act is implemented by state agencies operating under federal supervision. Such state plans must be at least as rigorous as the federal program and Washington shares the costs 50–50. While California's plan is considered strong, the number of state plans is dwindling, since they add to a state's financial burden. Organized labor has been campaigning for an all-federal OSHA.

In December 1970, as he signed the Occupational Safety and Health Act into law. President Richard M. Nixon praised it as "one of the most important pieces of legislation . . . ever passed by the Congress."

The bill, Nixon said, represented "the American system at its best: Democrats, Republicans, the House, the Senate, the White House, business, labor, all cooperating in a common goal—the saving of lives, the avoiding of injuries, making the places of work for 55 million Americans safer and more pleasant."

Unfortunately, the words were not matched by deeds. A meager ration of money and manpower were assigned to accomplish the new act's sweeping objectives.

Nixon named as OSHA administrator George C. Guenther, a former hosiery executive who had served in the Pennsylvania government for two years before joining Nixon's Labor Department as a political appointee in 1969.

Head of a bureaucratic backwater then known as the Bureau of Labor Standards, Guenther had been responsible for administering several old, largely toothless federal safety laws. Now a potent new law was being put into his hands, but he showed little inclination to use it vigorously. In fact, there is evidence he was willing to hold back on OSHA enforcement to help Nixon win friends an political contributions in the business community.

In a confidential memo on June 14, 1972, Guenther promised to supply Nixon's campaign with details of OSHA's hiring plans so political operatives could suggest candidates for available slots. In addition, declaring "the great potential of OSHA as a sales point for fund-raising and general support by employers" had not been fully realized, Guenther asked for suggestions "on how to promote the advantages of four more years of properly managed OSHA for use in the campaign."

Guenther's memo, which surfaced during Watergate, convinced organized labor and others that the Nixon administration, despite the President's original words, actually wanted to sabotage OSHA. The result was a combative suspicion that still lingers.

Beyond Guenther's political dabbling, insider and outsiders agree that overall management of the agency was less than ideal in the early years. Letters from businessmen, union officials, even congressmen went unanswered for weeks, sometimes months—hardly a way to win friends or promote understanding.

In the crucial office responsible for drafting the rules that business must follow, almost half the 80 staffers were supervisors of one sort or another, according to James Waldo, a recently departed OSHA official.

With so many chiefs and so few followers, work that should have been done was not done, Waldo contended. "There was no system for how a standard was supposed to move through the office. It passed all belief," he said recently.

Aside from preventing this frustration, an alert standards office might have saved OSHA from its greatest single blunder thus far, the wholesale adoption of so-called consensus standards.

The consensus standards were a collection of voluntary health and safety guidelines formulated over the years by business groups.

During the congressional debate on OSHA, industry lobbyists cited these standards as models of what the private section was already doing, and as evidence that no tough federal law was needed.

Congress passed the law and, hoping to please both labor and business by getting the agency off to a fast start without controversy, it authorized OSHA to adopt any of the consensus standards without the normal hearing and review procedure. Assuming, as Congress had, that business would not object to rules it own lobbyists had been praising, OSHA dutifully incorporated the consensus standards into its rulebook.

Standards easy to ignore when voluntary now had the force of law, and to make an embarrassing problem worse, OSHA officials found they could not expunge these nuisance rules without spending a year or more on hearings and related procedures. Meanwhile, the unnecessary, or ill-explained, standards remained in force, seldom cited by inspectors but still useful as propaganda for people interested in discrediting the entire OSHA system.

The performance of OSHA Administrator Corn in the last seven months has stirred enthusiasm inside the agency, as well as among business and labor leaders.

"He's like a breath of fresh air," an OSHA official in Pennsylvania volunteered recently. Labor leaders are similarly encouraged, and the National Federation of Independent Business' McKevitt said, "They're opening doors, inviting us in now. These guys have got their heads screwed on right."

Corn's efforts, thus far so cramped for money and manpower that they are significant chiefly as symbols, have been concentrated in two areas: increasing the agency's professional capability and dispelling the resentment and suspicion that has hampered OSHA from the beginning.

In the first area, Corn has doubled the manpower of OSHA's laboratory and plans to double it again, to 100 scientists and technicians by the end of 1977. An engineering group also is being planned as further backup for inspectors in the field.

Corn is trying to redress the balance between health and safety specialists in the compliance force, hiring hygienists where possible and launching a program to train 250 more from scratch. The goal: 1,000 health specialists making inspections by late 1977 to match the 1,000 safety experts now in the field.

At the same time, efforts are being made to give the safety inspectors at least a smattering of knowledge about health hazards so they can, in effect, increase the agency's peripheral vision.

A course in "comportment" will seek to teach all OSHA inspectors how to conduct themselves professionally under stressful circumstances, such as encounters with suspicious or hostile plant managers. Interestingly enough, however, a survey in his areas by Rep. Edward W. Pattison (D-N.Y.), a sometime OSHA critic, found that as a group, employers who had been inspected have a more favorable opinion of the agency than do employers who have not, and that in more than 95% of the cases, inspectors conducted themselves in accordance with proper OSHA procedures.

To reassure organized labor, which has criticized OSHA as severely for its inadequacies as business has for its aggravations, Corn has promised to act before the November election on certain long-pending and controversial health and safety standards. He also has revived the agency's National Advisory Council, where labor has a strong voice, and has acknowledged labor's charge that OSHA has focused on trivia while neglecting serious hazards.

At the same time, Corn has expressed sympathy with the business community's fears about possibly exorbitant costs of rapid compliance with some strict health or safety standards; he has suggested he wants the rules written for maximum worker protection but will be patient while industries phase themselves into compliance.

Equally important, Corn has supported efforts to have the government offer consultative services for businessmen, especially those in firms too small to afford their own safety and health specialists. Corn has insisted, however, that he would not permit consultation to become a substitute for tough enforcement, as union leaders have feared it might.

Desirable, even obvious as these steps may seem, they are no more than a beginning. OSHA today is very close to where it was five years, 65,000 deaths, 350 million injuries and countless illnesses ago.

VOTING RIGHTS ACT REMEMBERED

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 5, 1976

Mr. RANGEL. Mr. Speaker, August 6 marks the 11th anniversary of the signing of the 1965 Voting Rights Act. I rise today in commemoration of this historic date, ever mindful of its impact on the social and political consciousness of the American people.

On the day when the House begins consideration of a bill that will expedite the voter registration procedure for all Americans, it is difficult to imagine that 11 short years ago the constitutional rights of some Americans were blatantly denied. The systematic disenfranchisement of southern blacks marks an ugly chapter in American democracy. A few facts illustrate this point.

In 1965 only 29 percent of eligible black voters in the seven covered Southern States were registered. Today, thanks in large measure to the Voting Rights Act, that percentage has doubled, an increase of well over a million new voters. The resultant increase in black political representation in the South has been significant. Certainly, the victories of the present Democratic nominee for the Presidency has won in Florida and North Carolina can be attributed directly to the participation of these once silenced voices.

There are those who say that these facts indicate that the law is no longer needed, since progress is clearly at hand. To those I say progress is a never-ending vigil; retrenchment, however, often realized at the stroke of a pen. Let it be known that efforts to undermine the effectiveness of the act will be defeated by those committed to the principles of the American Constitution.

But the time for acrimonious debate has passed. Let us commemorate this day not for the bitter struggles of the past but for the promise of a bright future.

FOREST PRACTICES

HON. ROBERT DUNCAN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 5, 1976

Mr. DUNCAN of Oregon. Mr. Speaker, I was pleased today to join my colleagues, Mr. MELCHER and others, in the cosponsorship of a forest practices bill. This legislation is the result of many months of hard work and intense research and compromise. It was reported out of the Forestry Subcommittee of the Agriculture Committee earlier this week. It combines seven bills and much legislative forethought in an effort to remedy the problems which occurred on the Monongahela National Forest in West Virginia and which would have eventually paralyzed the forest products, housing and construction industries thoughout the country.

Although this legislation is far superior to the Senate efforts in this area, I still have a few minor reservations and intend to suggest several possible amendments to clarify our intent and prevent further litigation. Much earlier this year, I sponsored H.R. 12130, a bill which I believed would set down some guidelines for the forest service on their management practices and would remedy the Monongahela decision. I hope I may be forgiven if I mention that I still believe my bill to be superior; nevertheless, and with the exceptions noted, I support this product of the subcommittee's efforts. We have reached a balance between industry and environment, between recreation, wildlife, and timber usage that should be supported by all.

JOBS AT DECENT WAGES

HON. ANDREW YOUNG

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

SPEECH OF

Monday, August 2, 1976

Mr. YOUNG of Georgia. Mr. Speaker, the present economic situation in the United States is one which allows an unhealthy amount of unemployment to exist. The Humphrey-Hawkins bill, often called the "full-employment bill," could aid in the correction of this situation. The bill would provide for coordinated economic planning at the Federal level and a jobs program, including use of the Government as an employer, to achieve a 3-percent adult unemployment rate by 1980. Unfortunately, the bill is under a considerable amount of debate between those of us who believe jobs should be made available at decent wages for our unemployed and those who believe the unemployed should take whatever jobs they can get at any wage.

Mr. Speaker, I submit the following article by Andrew Levison, the author of The Working Class Majority, because of its clear and logical presentation on the Humphrey-Hawkins bill controversy. I believe my colleagues will find it both informative and successful in presenting both sides of debate.

Mr. Levison is currently a research associate of the Martin Luther King, Jr. Center for Social Change in Atlanta, Ga. A University of Wisconsin graduate and a former blue collar worker both here and abroad, his work at the center covers research and preparation of analytical studies for the DHEW and NIMH as well as voter registration and campaigns.

The article follows:

JOBS AT DECENT WAGES

(By Andrew Levison)

ATLANTA.—The most notable feature of Congressional debate over the Humphrey-Hawkins Full Employment and Balanced Growth Act has been the lukewarm response of liberal economists. Although the bill's goal—reducing adult unemployment to 3 per cent by 1980—makes it the first major employment legislation since the mid-1960's, it has not gained the political or intellectual support that the goal of overcoming poverty and achieving social justice did ten years ago.

The stumbling block remains inflation. To many, the bill, sponsored by Senator Hubert H. Humphrey, Democrat of Minnesota, and Representative Augustus F. Hawkins, Democrat of California, simply amounts to an aggressive choice of the inflationary facet of the trade-off dilemma between unemployment and inflation, and not a solution to the problem of stable full employment. But the presence of a serious legislative proposal has focused the debate on the central practical issue: wages and full employment.

Charles L. Schultze of the Brookings Institution in Washington, for example, cited as the bill's inflationary Achilles' heel the provision that the pay for any specially created government jobs be at prevailing wages. "The 'dilemma'," said Mr. Schultz, "is that if you pay low enough wages so as not to attract many people from their existing jobs, you have a very unattractive program . . . If you set the wage somewhat higher . . . it will still exceed the wages of many people in private industry. If so, it will begin to cause an exodus from private industry and drive up wages and prices."

But what this indicates in fact is that full employment involves a profound social choice. The issue of wages divides two profoundly different conceptions of full employment and what kind of society would result from it.

The first, which might be called "laissez-faire full employment," is subscribed to by the economic advisers to the Ford Administration, the major business organizations, and defended in The Wall Street Journal. Its central notion is that full employment ought to be achieved by workers accepting whatever work is available, at whatever wages and conditions that are offered. Viewing the unregulated operation of the free market as in some sense "right," this approach carried to its logical conclusion aims at essentially forcing the unemployed to accept jobs at whatever wages will induce business to hire them.

Lowering or eliminating unemployment compensation and removing the minimum wage for teen-agers and other such measures are standard elements of these full employment proposals. The proposal of the Federal Reserve chairman, Arthur F. Burns, to employ the jobless "at a rate of pay somewhat below the minimum wage" and fund the program by reductions in unemployment compensation and other social programs is illustrative.

This "full employment" program would have the paradoxical consequence of increasing poverty even as it increased employment. The comparisons critics have made to the medieval workhouse are not unfair.

The other concept of full employment is recognizable as a genuine liberal reform. For the labor movement and church and social-action groups supporting the Humphrey-Hawkins bill, full employment means *jobs at decent* wages. Rather than accepting the currently available jobs and the resulting distribution of income as inevitable, the progressive vision of full employment insists that it is the proper function of government to modify the free market if that is necessary to provide a minimum level of decency for every American.

While this strategy does require a more equitable distribution of income, it need not entail inflation. At the simplest level, funding the entire program by a progressive tax increase would avoid any general inflationary consequences.

The Humphrey-Hawkins bill is undergoing revision, probably to include additional anti-inflation measures and a modification of the prevailing wages section. But whatever form the final version takes, the debate reveals that employment without inflation can be achieved. The issue is whether it should be done by forcing the unemployed to take low-wage jobs, using the whip of accepting reduced unemployment compensation, or by recognizing that a fairer distribution of income must be part of the overall adjustments needed to provide a job at a decent wage for all Americans.

If a dilemma is a choice between two equally distasteful alternatives, then for the millions of Americans who have not given up the hope for a just society there is no dilemma. If full employment is to be a social advance, rather than a retrogression, it must mean jobs at decent wages for the millions seeking work.

INSURANCE AGENTS SPEAK OUT

HON. FLOYD J. FITHIAN

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 5, 1976

Mr. FITHIAN. Mr. Speaker, after years of controversy, reforms in insurance law are being contemplated in State legislatures across the Nation, and now within the Congress itself. Of all those who might be affected by such reforms, few stand to gain or lose more than insurance agents themselves, and few are likely to have thought as much about how various changes are likely to affect people at all ends of the business. As Congress considers legislation affecting the insurance industry, it should tap this wealth of knowledge to the fullest degree. For this reason, I want to inform you about the results of a questionaire I sent to insurance agents in Indiana's Second Congressional District a short while ago.

SURVEY CONCLUSIONS

Returned questionnaires show insurance agents from my district are strongly opposed to any Federal supervision of the insurance industry. They are most strongly opposed to those forms of Government intervention which create debilitating paperwork, and limit the preogatives of both insurance buyers and sellers.

On the issue of no-fault insurance feelings are mixed, though most agree totally relieving drivers of liability would be disastrous. Most agree that if some form of no-fault insurance is instituted, it should be implemented at the State rather than the Federal level. Understandably, insurance men are also concerned with Federal health care policies. Changes such as the institution of Federal health care insurance, or simply more federally supported medical services would obviously have far reaching effects on their businesses. In Indiana's second district, insurance agents are generally opposed to increased Federal health care involvement. While few feel the present health care system is adequate, they do not feel more Federal funds are the answer. For the most part, they feel people can get adequate health care protection through private insurance.

SURVEY RESULTS—FEDERAL SUPERVISION

In our survey, 100 percent of the respondents opposed giving the Federal Government a larger role in insurance supervision. The most common objections by the insurance agents were along the lines of this comment by Harold Budd of Winimac, Ind.

> We feel the several states can best serve consumers and business in their locality. Federal laws that are fair for New Yorkers are very unjust for people in Pulaski County, and laws that meet our need often conflict with the needs of those in the cities.

Reaction to a Federal law which would require insurance companies to disclose all information necessary for the consumer to pick his own insurance policy confirmed the wide agreement that exists with Budd's views. Almost 90 percent of the respondents opposed such legislation. N. J. Bartholomew of Valparaiso commented that such regulations would be a useless hinderance in areas which are not highly urbanized. "A local agent in a midsize to small town simply cannot afford to engage in deceptive practices." Others felt consumers still would not be qualified to pick the best policy even with such information available, assuming they had the time to study it.

On the question of Federal regulations protecting insurance salespeople from permanently binding contracts feelings were much more mixed. Barely over 50 percent were opposed to the regulation. While even here objections to expanded Federal roles persisted, many took the view of Thomas Hatter of Monticello who said such regulations would protect both agents and consumers from existing problems.

NO-FAULT

Insurance agents' reactions to no-fault auto insurance were highly mixed. While about 60 percent of the respondents saw some merit in no-fault, over 70 saw merit in the present system. Two major concerns were expressed about no-fault insurance: First, the problem of relieving all drivers of liability, and second, the problem of finding ways to continue rewarding the good driver with the lower insurance rates he deserves. Many survey respondents commented that it would be dangerous to relieve drivers of their legal responsibilities and liabilities on public roads. As to retaining good driver rates under no-fault, N. J. Bartholomew offered the following suggestion. He said insurance companies should "retain the right of intercompany arbitration and subrogation at a later date. In this manner, we are able to spread the cost more equitably, having the poorer drivers paying proportionately more, and the better drivers paying less." Over 90 percent of the respondents felt no-fault insurance should be implemented at the State rather than the Federal level.

FEDERAL AID

Concerning Federal help with private medical expenses, reaction varied according to the method and the extent of the aid. Only about 5 percent of the respondents favored Federal funding of a comprehensive health program—whether federally or State administered. Paul Riggs of Winamac was one of many who opposed comprehensive health programs on the basis of Britain's experience:

> "National health insurance would be like England, very expensive. What we need is more doctors, not AMA policy which seems to keep the number of medical graduates low." Almost 80% of the respondents did support the idea of government help through tax credits for those suffering excessive medical expenses due to "catastrophic" illness. James Ransom of Lafayette typified negative comments on the tax credit with the comment that "tax credits are of little value to low income families."

EMPLOYEE INSURANCE

Over 70 percent of those answering the questionnaire opposed the idea of requiring employers to make private health insurance available to employees while shouldering 65 percent of the cost. Andy Harmon of Monticello commented "small business could not handle the load." Others commented that details such as the extent of the coverage, and whether or not it extended to families had to be worked out before they could take a position.

The general attitude of insurance people toward Government involvement in the industry, as reflected in my questionnaire, was best typified by the remarks of Plymouth, Indiana's Tom Leavell. He wrote:

> Congress should realize it cannot take the populace under its wing. All it can do for the public in insurance is provide incentives and penalties to steer everybody in the proper direction.

Congress should carefully examine any insurance or health legislation it considers to be certain it can truly achieve the desirable effects it intends. We should also be certain to tap the knowledge of insurance professionals so we can be sure of devising the best possible legislation in areas that might affect the insurance industry.

LEGISLATION INTRODUCED TO HELP SMALL BUSINESS

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 5, 1976

Mr. ASHBROOK. Mr. Speaker, on July 27 I introduced H.R. 14868, the Small Business Growth and Job Creation Act of 1976. The purpose of this legislation is to assist the small businessman by making needed changes in the tax laws.

A major goal of the bill is to encourage greater capital formation. Small firms have a particularly difficult time raising the capital needed to fuel their own growth.

Among other things, H.R. 14868 would increase the accumulated earnings credit to $500,000. It would raise the graduated investment tax credit to 20 percent of the cost for property costing less than $5,000 and 15 percent of the cost on the next $5,000. It would also allow every business with an inventory of less than $200,000 the option of using a cash basis to determine its taxable income.

In addition, H.R. 14868 would alter the net operating loss adjustments by permitting an 8-year carry forward for new firms. It would also raise the amount that can be claimed as ordinary loss on small business stock.

Another important change would be in the corporate tax rate. H.R. 14868 would set a graduated corporate income tax rate beginning with 10 percent on all income under $10,000 and increasing to the established corporate limit of 48 percent on all income over $400,000

Other important changes include raising the estate tax exemption and the gift tax exemption and increasing the marital deduction.

Small business plays a key role in the economic life of our country. H.R. 14868 would remove many of the present obstacles to small business. It would allow greater capital formation and encourage the continuation of small businesses by amending the present tax laws. It would also provide the incentives that will create more jobs for Americans.

This legislation has the strong support of the National Federation of Independent Business and other small-business groups. I urge the House Ways and Means Committee to consider this important legislation.

WHEN UNCLE SAM SPENDS MORE THAN HE HAS . . . WHAT HAPPENS TO HOME INTEREST RATES?

HON. ROBERT W. KASTEN, JR.

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 5, 1976

Mr. KASTEN. Mr. Speaker, a growing concern throughout the country is the rising costs associated with purchasing a home. One major cost—that of interest rates—fluctuates according to supply and demand more acutely than most other housing costs.

The Great Midwest Savings & Loan newsletter of June 30, 1976, published in Milwaukee, points out an often overlooked cause for high interest rates for home mortgages: the Federal Government.

Federal deficit spending habits create severe demand pressures for available money, thus driving up costs for everyone, including the average home buyer.

I ask that the article from the newsletter be printed at this point in the RECORD, and I hope that my colleagues will keep in mind the impact of deficit spending on not only the economy, but on individuals.

WHEN UNCLE SAM SPENDS MORE THAN HE HAS . . . WHAT HAPPENS TO HOME INTEREST RATES?

Money is like any other commodity: over the long run, if the supply remains constant but the demand for its use goes up, the cost of using it goes up too.

That's because all potential borrowers are bidding against each other for the use of the limited supply of money available.

Savings And Loans Do Not "Own" Money . . . Savers Do.

The "owners" of money to be lent for buying homes are not the S&Ls or other financial institutions. The money is owned by savers, individual or corporate, large and small. S&Ls are simply businesses set up to "rent" money from thousands of savers, and lend it out again to borrowers (at a slightly higher rate to cover the costs of doing business and provide for reserve strength.)

S&Ls, therefore, do not control the cost of money; the marketplace does.

So what do Uncle Sam's spending habits have to do with the interest rate you must pay on your home loan?

Just like the average family, when the government spends more than it takes in through taxes, it must borrow the difference.

Government Borrowing Drives Up Interest Rates.

That puts government in the position of bidding against you, the home loan borrower, for the use of available money . . . which, sooner or later, drives up the interest rates everybody must pay.

In recent years, as our national debt has skyrocketed, competition for the use of money has become more intense. Although large corporations, and state and local governments, are big borrowers on the money market, the Federal Government is the largest and most powerful competitor.

While there will always be short-term ups and downs in interest rates, what happens to them over the long haul is very directly related to how close we come to having a balanced federal budget.

Next time you find yourself thinking, Why doesn't the Federal Government do more about "(fill in your favorite politician's pet project), keep in mind that the money to pay for it will come from you—not only in the taxes that you pay, but also in the interest rates you will pay to borrow money.

It's going to take a meaningful national commitment to fisoal responsibility if the cost of money is to be kept within reach of the average home buyer.

IF I WERE THE SCIENCE ADVISER: SOME LUMINARIES HAVE THEIR SAY

HON. JOHN BRADEMAS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 5, 1976

Mr. BRADEMAS. Mr. Speaker, I insert in the RECORD the text of a most interesting article published in the August 6, 1976, issue of Science Magazine:

IF I WERE THE SCIENCE ADVISER: SOME LUMINARIES HAVE THEIR SAY

(By Constance Golden)

National Science Foundation director H. Guyford Stever has been nominated as the President's science adviser, ending a couple of months of nonsuspense about the choice. Senate confirmation hearings were scheduled for 28 July, so if all goes as planned Stever will be safely installed in the Executive Office Building by the time the Republican convention starts on 11 August.

Stever's selection was announced just as *Science* was completing a survey to find out what various people would do if they were the President's science adviser. The survey included plausible candidates for the post, such as William Baker of Bell Laboratories, as well as people who, while unlikely to be picked for the job, might be expected to have interesting ideas about it. Many of those approached declined to imagine themselves in the position, preferring to discuss the job on an impersonal basis. Here are their views on what the President's science adviser should do.

Barry Commoner, ecologist: Commoner's first act on becoming science adviser would be to "resign. I don't believe in science advice. The decisions that are based on science information are political questions that require political judgments and value judgments. It is much more important that the information be delivered, not have scientists whisper in the king's ear. . . . Pressure from an informed public is far better than an advisory system, the SST being the prime example." The test ban treaty was an example where the science adviser (Jerome Weisner) influenced the President, but it was the public that turned Congress around on the issue: "The big problem is that the agencies (such as ERDA) haven't developed an adequate procedure for developing state of the art information that could be delivered to the politicos." If there must be a science adviser, he says, his role should be strictly an educational one—"I worry about a system of advice which ends up with the elite making the political decisions. . . . It's time to break away from the whole rigid pattern that says science is so great and objective." Also, "I hope that my colleagues don't assume automatically that the thing for Carter to do if elected is to give us back what we had under Kennedy. We need fresh air throughout the whole system."

William O. Baker, physical chemist: Baker says he has been offered the job many times but prefers his present role, which he sees as bridging the federal and independent domains of science. He believes the post "has been highly useful in all its forms" and that "things would be very different without any science advisers. . . . We would have big government suffocating [science] and a bureaucracy estranged from the roots of research and discovery." Future issues, he thinks "cluster around the notion that the President will have to deal with economic stresses which were not the principal issues of the 1950's and 1960's." Science and technology will more than ever be harnessed to the service of compelling domestic political issues, such as housing, urban problems, taxes, transportation, food production, and nutrition.

Alvin Weinberg, Institute for Energy Analysis: "It depends on who the President is. In a Carter Administration . . . the President would have an exceptionally strong scientific background. The main issue needing clarification is the role of science and technology versus the OMB [Office of Management and Budget]. The first issue would be energy. Also technology assessment—the acceptability of new techniques."

Jeremy Stone, Federation of American Scientists: If pressed to imagine himself as science adviser, "I would surround myself with scientists who care, I would try to raise the scientific consciousness of the government and the social consciousness of the scientific community. And I would learn all I could about peanuts." Stone adds, "most things the President can understand fairly well. In science policy he really needs people he can trust—a sort of scientific brain lobe to read and assess all those documents and give them dispassionate appraisals."

Lester Brown, agricultural expert and world watcher: "I would be inclined to look at it in a global context. I would undertake a major study to try to identify with some accuracy what the needs are. One of the things I would look at would be the basic question of new directions, with a careful examination of the Schumacher policy—small is beautiful [English economist E. F. Schumacher is the proponent of intermediate technology]. The SST, for example, and the way the technology was sold—largely by economists " with no regard to human considerations. "We need to rethink our basic life-styles. The system eliminates exercise from our daily lives and we have to devise ways to get it back in," for example, fashioning an environment conducive to biking to work. "There are other important problems such as population. If a male chooses to take responsibility for contraception he has to use a method developed two centuries ago! This is a sad commentary on contraceptive technology." And on health: "Cancer is important, but looking around the world, far more important in epidemiological terms is schistosomiasis." Domestically, "we can't make important gains in improving health through the doctors and drugs route. Those things accessible to us are probably much more on the behavioral level." Also, "We need a basic overhaul, restructuring, and reorientation of the research establishment. We need to look around, establish what the pressing needs are—solar technology is one, the development of a solar cooking device to offset the world firewood crisis. "Brown acknowledged it was hard to imagine Ed David or Guy Stever talking up solar cookers, but "things may change. We can't divorce anything from the needs of the rest of the world."

B. F. Skinner, psychologist, author of *Beyond Freedom and Dignity:* "I would like to see someone who took more interest in the behavioral sciences . . . to see the President more familiar with what is available on human behavior. The kind of behavior modification in education, counseling, and industry has never crept into government very far. The decision-makers think of historical analogies or think what they would do in a situation—we need modern analysis of human behavior brought to problems. . . . Decision-makers don't look at all the consequences." The raising of gas prices, for example—"that saves some gas but what about all the people who are resentful about those who can drive?"

Amitai Etzioni, sociologist, director of the Center for Policy Research, Inc.: "My number one priority would be for the President to set an 'Earth NASA' dedicated to developing the programs needed to deal with domestic problems. It would involve putting together about 100 programs in the federal bureaucracy, such as RANN [Research Applied to National Needs], experimental programs at the National Bureau of Standards, the National Institute on Education—each one dealing with one leg of the elephant—big, visible, and powerful enough to R & D our domestic problems."

Garrett Hardin, human ecologist and propounder of the "tragedy of the commons": "He should have the sort of relationship with the President that Vannevar Bush had with Roosevelt—be around the White House and be available in an informal way. He would have to be a person the President had such confidence in that he could sit in on anything. . . . The important thing is to sort of lean against the President, cause him to shade his decisions some." The science advisers of the past frequently have "failed to do very much good. We need one to whom the President can say, 'Hey, Joe, what about this?' "

Margaret Mead, anthropologist: "I do not see a social scientist as science adviser. I see a natural scientist, preferably a biologist, who can relate to both the social and physical sciences. The biologist should preferably be an ecologist, with a very wide, multidisciplinary sweep." Specifically, "He would oversee U.S. initiatives in U.N. conferences, be involved with issues ranging from energy and environment to problems of biological experimentation, social and economic conditions. Economics should not be treated as a separate box. . . . I would want someone who will be thoroughly frank with the President about the resourcefulness of the scientific community to deal with a particular problem."

Theodore Roszak, author of *The Making of the Counterculture* and critic of science: As far as "immediate public policy" goes, Roszak is concerned that "disarmament is particularly a lost issue covered up by a lot of very fraudulent negotiations. I would like to see a sincere effort. I would include some undramatic forms of disarmament, like clamping down on the international arms trade. The other issue is the continuing and somewhat deceptive energy crisis. I want a real effort at conservation. We have a whole unexplored frontier of conservation and thrift. I'm worried about the development of nuclear power. It's being sold to us as a necessity when it probably is not. I have been appalled by the fraudulence surrounding everything we have said and done about energy. The whole environmental movement has been flattened under the urgency of the energy crisis. . . . I am not sure the adviser has to be someone who is a scientist per se. What about Dan Greenberg [the gadfly science journalist]—someone with a strong sense of conscience and honesty. In the whole area of conservation. I would hire Schumacher." Roszak said he had never heard of Guyford Stever.

Arthur Kornberg, Nobel laureate biochemist: Kornberg wants "what I've been propagandizing for in the last few years—the need to do more basic science. We don't know enough biology to do a proper job in spending huge amounts of money successfully on cancer, heart disease. If I had the ear of the President I would certainly push for that. . . . We do live in a society that's based on science and technology and to have accountants run it without some advice on science and technology would seem to be downright foolish." He doesn't like the "expediency of doing something that has immediate visibility," as shown in such programs as the National Science Foundation's RANN.

Dixy Lee Ray, former chairman, Atomic Energy Commission: Her "primary concern would be the public understanding of science." Science and its applications have become an "emotional area . . . knowledge always tends to override emotion." Ray would like to see "something akin to a Supreme Court in science—not an arbitration board but a hearing board" that would put everything on record and help the people arrive at their own judgments.

Willard Libby, Nobel laureate chemist: "I think we ought to support good basic research more strongly . . . the applied work is much more expensive and usually less rewarding . . . you never get the facts with applied research." In particular, "the area of chemistry called heterogeneous catalysis is very badly neglected. . . ."

Bruce Murray, astronomer, director of the Jet Propulsion Laboratory: "Science and the institutions of science are in a period of change. . . . I think the politicians are way out in front of the scientists" in perceiving this. "The hallmark of science is a high degree of arrogance. Others at least recognize that they don't understand what's happening." The science adviser "has to be someone who has risen above [parochial interests], who can help the President deal with the priesthood. I would urge the new science adviser to probe some of the unexamined assumptions about science and public policy," the assumption, for example, that science should be institutionalized and that scientists are an elite. "Scientists are unusually naive—they are changing, but only bloodily. They're as bad as the medical doctors in not really having an understanding or feeling about where we're going. There is a case to be made that institutions of all kinds are going to evolve and be internalized by society, with science becoming part of the knowledge and language of the populace. Ideally, the science adviser would be a person who is not afraid of the future and what's going on. One issue blatantly ignored is whether or not industrial societies will have to decentralize . . . things needs to be less coupled together, less interdependent, to move away from centralization, concentration, and larger and larger economic structures. I think science is going to be radically changed by the process." As for past advisers, their real usefulness has been "providing a quiet window for the budget bureau on the issues. Killing them off in 1972 removed the window. Their main value has not been advising the President but being a loyal, informed, and broadly based source. This is the best to be hoped from the new science adviser."

When Nixon abolished the post of science adviser in 1972 there were howls of anguish from the scientific community. Now they have what they wanted. Is the job symbolic or does it really make a difference? That depends not only on what the adviser advises but on whether the government is prepared to listen.

OCEAN AWARENESS

HON. LIONEL VAN DEERLIN

OF

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 5, 1976

Mr. VAN DEERLIN. Mr. Speaker, the world's population is exploding, and man faces new challenges in developing and maintaining resources to sustain himself. By the year 2000, there may be 8 billion people on earth—doubling the present population.

Clearly, we must look increasingly to the oceans for our own life support. The still largely untapped treasures of the sea will be depended on more and more in the coming years as a primary source of protein, raw materials. and energy. And as Californians know perhaps better than anyone, even the borders of the sea—our coastlines—are under tremendous and growing pressure, both as places to live and locate and to meet mounting demands for recreation, transportation and urbanization.

But properly to use the seemingly boundless resources of the ocean, we must first develop a keener understanding of the marine environment, protecting its quality and properly conserving its abundant plant and animal life.

As a San Diegan, I am especially pleased that Sea World, a San Diego-based oceanaria complex, has contributed so significantly to honing public understanding and appreciation of the sea and its multifold values.

More than 5 million people experience, learn about and enjoy the wonders of the sea at Sea World each year. The Sea World parks in three States whet public interest with attractive and educational aquatic displays, and through support of extensive marine research. As a result of these efforts, a large segment of the American public is now actively concerned about the quality of the ocean environment and its effect on our way of life.

At this point, I include an editorial published recently in the Los Angeles Times. The editorial spotlights one of the ways Sea World advances public discussion of the ocean environment.

RETHINKING THE POLITICS OF ECOLOGY

(By Richard Buffum)

Tragically, the politics of ecology, in far too many instances, has degenerated into a deceptive game that consists of convincing the public that it sees a whole elephant when it's only being shown a gnat's ear.

It's being played adroitly by the polluters, the exploiters and the environmentalists, all to the detriment of the rational management of natural resources.

This is the general opinion of a Newport Beach man, Milton C. Shedd, who parlayed a lifelong love of the sea into a great marine-related enterprise—Sea World of San Diego.

Shedd, chairman of Sea World's board of directors, is deeply concerned over this kind of emotional, irrational, fragmented approach to the massive problems of managing the environment, particularly the vast resources of the oceans of the world.

Over lunch the other day, I listened to him urge the vital necessity of shifting the nation's attention from the bad politics of ecology to enlightened ecology understanding.

For instance, he characterized as "bad politics" last week's federal ban on commercial fishermen netting yellowfin tuna when schools of porpoises are around. It is bad because it gives the illusion of solving a problem when it really complicates it.

Problems of this kind will only be solved on an international basis with cooperating nations making sound decisions based upon proper scientific data, he said.

Shedd looks upon the incredibly fecund sea—"there's more total wealth in the sea than in the land mass"—as the only practical arena where global institutions can learn to keep the peace and regulate production in such manner that every nation attains a decent standard of living and ecological balance is maintained.

He stressed the importance of the Law of the Sea conferences. "The conferences are based on the sense that the world is poised on the brink on an international gold rush to exploit the energy and mineral resources found there, and all the countries of the world want their share.

"What's at stake is a lot more than many, many wars have been fought over in the years past."

That's why he feels that it is imperative we stop playing these bad, short-sighted politics of ecology and start managing rationally the sea's resources on a global basis.

This starts, he said, with the proper accumulation of scientific data about the sea in a cooperative program between nations. "The people must believe it and act rationally upon it. Proper management can only be achieved by eliminating emotionalism."

Man has the capability of destroying himself by destroying the sea. He pointed out that growing population and overfishing, which has eliminated 20 species of food fish in the last 100 years, can be laid to a burgeoning world population which has quadrupled since 1850.

The world population in 1850 was 1 billion. "The last Sunday in April it hit 4 billion," Shedd said.

Add to this man's technological capabilities and we can annihilate the sea and ourselves. Global management, of course, poses weighty issues and problems. But they can be coped with successfully once the politics of ecology shifts from pettifogging to the rational overview.

A TRIBUTE TO MR. WALTER SURKO, JR.

HON. CHRISTOPHER J. DODD

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 5, 1976

Mr. DODD. Mr. Speaker, I would like to take this opportunity to acknowledge the workmanship and skill of Mr. Walter Surko, Jr., a resident of Stonington in the Second Congressional District of Connecticut.

Mr. Surko has received nationwide recognition through an article in People magazine, which has noted his amazing, and perhaps revolutionary lock invention. Mr. Surko, employed as the director of engineering of Emhart's Hardware division in Hartford, Conn., has devised a new type of lock which requires that the tumblers not only be raised, as in ordinary locks, but that they also be rotated to the proper angle.

Expert lock pickers have thus far failed in their efforts to pick Mr. Surko's lock. This lock is now on the market, and will perhaps make homeowners more secure behind the Surko lock.

I therefore rise in tribute to Mr. Surko's achievement, and urge him to continue such inventive efforts in the field of engineering.

THE HYDE AMENDMENT: BLATANT ECONOMIC DISCRIMINATION

HON. EDWARD W. PATTISON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 5, 1976

Mr. PATTISON of New York. Mr. Speaker, it is my understanding that the House will soon reconsider its position on the Hyde amendment to the Labor-HEW appropriations bill. As you know, that amendment would prohibit the use of any Federal funds to help pay for any abortion in the United States.

Regrettably, I was absent when this amendment first came before the House on June 28. I was attending a political dinner in my home district which had been scheduled for a Thursday evening. The House was in session later than anticipated that night and I was required to leave for home by plane at 7:30 p.m.

Had I been present for that vote, I would have opposed the proposal. Certainly, I intend to oppose it when we have our second chance to vote on it, later this month.

It troubles me, Mr. Speaker, that some people see the Hyde amendment as some sort of test of one's attitude toward abortion. Such an approach is a mistake. In my opinion, this vote really is a measure of our commitment to the idea that the Government has an obligation to help indigent citizens obtain proper medical care.

The propriety of abortions is not at issue here. That is a question that is addressed in very different legislation. It should go without saying that an appropriations bill is not the right vehicle for such a debate. Unless and until the Supreme Court is overruled, presumably by one of the proposed constitutional amendments, we must recognize that abortions are legal and proper according to the law of the land.

So, the effect of the Hyde amendment is not to prevent abortions from occurring. Instead, its effect would be to prevent only poor people from having abortions. We would be creating a hypocritical situation where there would be absolutely no restraint on the availability of abortions to anyone except poor people.

It is now our national policy to provide financial assistance, through medicaid, to those poor people who cannot afford major surgery or hospital care. I think it is a very bad idea for a group of politicians, like ourselves, to sit around and attempt to decide which operations should be funded and which should not, which persons are worthy of being permitted to have abortions and which are not.

As you know, the Senate has wisely decided to reject the Hyde amendment. Now, we are being given an opportunity to reconsider the position of the House.

I hope that we will have the sense to maintain a proper distance between politics and medicine. And I hope that we will have the sense to avoid legislating blatant economic discrimination. Therefore, I urge my colleagues to join me in voting to defeat the Hyde amendment.

FBI OUTSTANDING ORGANIZATION REGARDLESS OF ADVERSE PUBLICITY

HON. JACK EDWARDS

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 5, 1976

Mr. EDWARDS OF Alabama. Mr. Speaker, many throughout the country feel the adverse publicity the Federal Bureau of Investigation has been receiving lately could harm the effectiveness of this outstanding organization which has compiled an impressive record during this century.

This feeling is expressly profound among law enforcement officials at the State and local level.

This is not to say that wrongdoings must go uncorrected and without attention, but it is to say at the same time, we must be mindful of the good deeds and services this organization has performed for us throughout its history. The bad deeds of a few must not cause the condemnation of this entire agency.

Col. E. C. Dothard, director of the Department of Public Safety for the State of Alabama, recently wrote me about this subject and I insert his letter for the RECORD at this point:

STATE OF ALABAMA,
DEPARTMENT OF PUBLIC SAFETY,
Montgomery, July 28, 1976.

Representative JACK EDWARDS,
2439 House Office Building,
Washington, D.C.

DEAR REPRESENTATIVE EDWARDS: In the last two years, I have noted increased criticism being directed toward the Federal Bureau of Investigation and members of their past and present staff. I have heard comments and read statements from critics who are so bold as to say that the FBI threatens the very freedom and democracy we enjoy in this country.

The FBI has compiled a commendable record during its sixty-eight year history and during that period has devoted much time and resources toward the upgrading of law enforcement agencies in Alabama and throughout the nation. I feel attacks of this type serve as a detriment to the future operation and effectiveness of the agency.

From the law enforcement viewpoint, it is essential that local and state law enforcement agencies have the support and cooperation of a strong federal agency such as the FBI. Continued unjustified attacks against the FBI not only harm that agency but breed contempt, distrust and suspicion toward every law enforcement agency in this land.

Director Kelley and his agents should be commended for continuing their law enforcement activities in the midst of criticisms and attacks that have been directed toward them. I urge you to use your influence and oppose any laws which would, in effect, cripple or curtail the efforts of the FBI as they fulfill an essential role in this nation's law enforcement responsibilities.

Please let me know if I may be of service to you or your staff.

Sincerely yours,
Col. E. C. DOTHARD,
Director.

GREEK ORTHODOX CLERGY-LAITY CONGRESS MEETS IN PHILADELPHIA

HON. WILLIAM J. GREEN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 5, 1976

Mr. GREEN. Mr. Speaker, Philadelphia was recently the host city for the 23d Biennial Clergy-Laity Congress of the Greek Orthodox Archdiocese of North and South America. A series of resolutions were adopted by the Congress that reflect some of the major concerns of the American Greek Orthodox community—concerns that are shared by many Americans including myself. I would like to bring those resolutions to the attention of my colleagues:

U.S. BICENTENNIAL

Whereas in 1976 the United States of America is observing its 200th anniversary as a free and independent nation dedicated to the principles of justice, truth and democracy, and

Whereas these principles are eternally declared for all mankind by the founding fathers who authored the immortal document "The Declaration of Independence", signed in this City of Philadelphia at Independence Hall two hundred years ago this week, and

Whereas in tribute to the United States of America which has been so generous in the freedom and opportunities afforded to our Church and to our people, the Greek Orthodox Archdiocese elected to choose the City of Philadelphia to convene its 23rd Biennial Clergy-Laity Congress in tribute to the Bicentennial of America, and

Whereas the program of events, including civic ceremonies and the Congress program, afforded to us ample opportunity to convey our respect and gratitude to the American Bicentennial via prayer, song and the spoken and written word, and

Whereas the historic spirit of the Bicentennial has pervaded this 23rd Biennial Congress in the events, communications and program, and by the warm and dignified manner in which we have been received by local and State Officials, and

Whereas the historic documents of this Congress reflect our presence and tribute to the American Bicentennial,

Be it therefore resolved, That the Greek Orthodox Archdiocese of North and South America assembled in its 23rd Biennial Congress declare its tribute of gratitude to the United States of America on its two hundredth anniversary, and prayerfully commit the spiritual energies and resources of our people to its continuing advancement and welfare for the glory of God and the progress of man.

LEBANON

Whereas: The struggle in Lebanon has brought cruel suffering to the bitterly divided people of that nation, and

Whereas: The quest for peace is the responsibility of all freedom-loving people.

It is resolved that this Congress calls upon the United Nations, the Government of the United States and all responsible governments to offer every possible service and assistance to the People of Lebanon in the search for an end to that nation's unhappy conflict.

Further: We express our love and deep concern for the People of Lebanon, and offer our fervent prayers for an early and lasting peace.

HUMAN RIGHTS IN CYPRUS, ALBANIA, LEBANON; HUNGER, AND DECLINING MORALS IN OUR NATION

1. We call upon the World and National Councils of Churches, the Vatican, and the American Council of Jewish Synagogues, to concern themselves with suffering in Cyprus, Lebanon, Albania and other parts of the World where human rights and freedoms are ruthlessly suppressed or utterly denied and to appeal strongly to the Governments of Turkey, United States, Britain and to the United Nations.

2. We call upon Orthodox and all Christians to concern themselves with hunger in the world as well as with the spiritual thirst of the young, evidenced by their falling prey to pseudo-leaders who promise them a new and attractive faith and morality.

3. We call upon our Nation's political and religious leaders to keep vigilance over the declining morals of government and confidence in the nation's leadership which have rendered dangerously wide the gap between people and their leaders.

CYPRUS

Whereas the conscience of all God-fearing men and women of all faiths abhors inhuman acts of man against man, and

Whereas Turkey has committed an unprovoked and aggressive act by invading the free Republic of Cyprus, and

Whereas Turkey has brought death and destruction to the Island, and has confiscated the homes and properties of the free people of Cyprus with the result that 200,000 Cypriots have been forced to flee their homes and have become refugees living in camps, and

Whereas Turkey has desecrated the houses of worship of the free people of Cyprus, and

Whereas The Turkish authorities are refusing to comply with the repeated resolutions of the U.N. which seek to allow these people to return to their homes, and

Whereas The Turkish Government has undertaken a systematic program of settling people from Turkey in Cyprus to change the demographic character of the Island Republic of Cyprus, and

Whereas the plight of these 200,000 refugees worsens with each passing day, and

Whereas the governments of the world have a moral obligation to defend freedom, and

Whereas we are implacably opposed to governments which suppress freedom, and

Whereas we believe in the indivisibility of freedom, for no person is truly free while others are enslaved, and

Whereas we believe the negotiating table to be preferable to the battlefield, be it therefore

Resolved, That this Congress invites men and women of all faiths in the name of humanity to give their moral support to alleviate the plight of the refugees of Cyprus, and to urge the restoration of their homes and property, and be it therefore

Resolved, That this Congress address itself to the President of the United States, the U.S. Congress and to the people of the United States to exert all effort to restore to the free people of Cyprus their God-given religious and political rights that have been ruthlessly and inhumanly violated, and to shun those to whom liberty is anathema.

SUPPRESSION OF UNESCO REPORT OF CYPRUS

Whereas a UNESCO report on the looting, vandalism and desecration of Greek Orthodox Churches in the Turkish-occupied area of Cyprus has been suppressed;

Whereas the suppressed 100 page report was prepared for UNESCO by Jacques Dalibard, a world authority on religious works of art, and the contents of the suppressed report were confirmed by the subsequent investigation of John Fielding of the Manchester Guardian;

Resolved, That this Congress now goes on record condemning the suppressing of this report;

Further Resolved, That this Congress immediately urge in a telegram to UNESCO that this suppressed report be released immediately so that the entire world will know of these shocking and appalling religious desecrations and so that appropriate action may be taken by national and international bodies.

LONG BEACH AREA ATHLETES PARTICIPATE IN OLYMPICS

HON. MARK W. HANNAFORD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 5, 1976

Mr. HANNAFORD. Mr. Speaker, I take this opportunity to laud the accomplishments of 15 young men and women from the Long Beach area in southern California. Deborah A. Ayars, Jack Babashoff, Gene Davis, Lelei A. Fonoimoana, Bruce and Steve Furniss, Annette L. Hilliard, Francie Larrieu, Joan L. Lind, Mark E. Lutz, Anthony J. Montrella—swim coach—Joan K. Schmidt, Tim A. Shaw, Dwight E. Stones, and Rodney Strachan were members of the 1976 U.S. Olympic team which recently finished competition in Montreal.

I am sure that all of us in the Congress feel a deep pride in the achievements of the Olympic team at Montreal. But few of us can understand the sacrifice these athletes have made and the painfully hard work they have invested in reaching the Olympics. The Olympic athlete is the personification of self-discipline, commitment and competitive excellence, and each of these individuals represents the finest of these ideals.

It is the obligation of the Congress not only to assess the liabilities of our country, but to call attention to its assets. Men and women such as these clearly fall into the latter category. It is my privilege, therefore, to enter the names of these individuals into the RECORD of the Congress of the United States and to commend them for their outstanding achievement.

JOBS CREATION ACT

HON. BOB WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 5, 1976

Mr. BOB WILSON. Mr. Speaker, many Members of the House, including this one, have joined our distinguished colleague Representative JACK KEMP, in cosponsoring his Jobs Creation Act. A third of the House has now joined in sponsoring this innovative approach to our Nation's current economic ills. It is all too obvious that the threadbare economic wardrobe of the past four decades no longer fits the diverse needs of the 1970's.

I would like to share with the Members of the House an editorial from the August 4 Wall Street Journal and to commend the Jobs Creation Act to their careful attention.

The article follows:

THE KEMP COUNTER

Jack Kemp, who stepped down as quarterback of Buffalo's pro football team to become a hardcharging Congressman, has diagrammed a play by which the Republican team could steal the Democrats' unemployment issue. He has rounded up 132 congressional cosponsors for his Jobs Creation Act of 1975, but so far has been stiff-armed by both President Ford and Governor Reagan.

Congressman Kemp's insight is that the way to stimulate the economy is to cut taxes, especially taxes that retard job-creating investments and the savings that finance them. Thus his bill would allow individuals to take tax credits for additional savings of up to $1,000, reduce corporate tax rates, and speed up depreciation and investment credits. A provision in the companion Senate bill sponsored by Senator James McClure, and separately endorsed by Mr. Kemp, would index the personal tax schedules so that taxpayers are not pushed up into higher tax brackets by inflation.

These measures would be a tremendous spur to economic growth now and in the future. Democrats habitually denounce any cut in corporate taxes as a sop for the rich, but in fact the major beneficiaries would be the major shareholders, which are the pension funds of the workingman. Keynesians of course have a congenital bias against savings, but in fact an increase in the rate of return for capital would call out investment spending even in the short term. With a greater reward for putting people to work and a greater reward for working, there would be more work, more jobs and less unemployment.

Why should Congressman Kemp have trouble selling this to his party's presidential contenders? Chiefly because they believe that tax cuts would conflict with the priority of containing inflation. Their theory is that unemployment is the price to be paid for stopping inflation. In this view, the trick is to pare down the growth in government spending, to pare down the deficits, to allow the Fed to pare down money growth. Unemployment would be sticky in the short run, but the economy will grow in the long run.

There is much to be said for this theory, especially in contrast with Jimmy Carter's proposal to fight unemployment and worry about inflation later. With modern income support systems, unemployment is a less pressing social problem than formerly, and it seems clear to us that the recent recession and the accompanying unemployment were caused by the raging inflation. Unemployment is not likely to be reduced for very long unless there is further progress against inflation, and that clearly is the first economic priority.

Yet the conflict between this priority and Congressman Kemp's kind of tax cut is more perceived than real. There is more than a bit of Keynesian brainwashing in the standard Republican belief that tax cuts cause deficits, that deficits stimulate the economy and that a stimulated economy causes inflation. In fact, inflation is caused by excessive monetary growth. Such money growth is often stimulated by large deficits, because the Fed feels under pressure to create enough money and credit to meet the borrowing demands of both government and business. But if a tax cut directly finances business investment and thus relieves borrowing demand, the Fed could continue to restrain money and slow inflation.

In any event, it is far from clear that a tax cut will always cause a deficit. It depends on whether it succeeds in stimulating the economy enough that the lower rates yield a larger net revenue. Economist Norman B. Ture has estimated that the Kemp bill would add $151.4 billion to the GNP in the first year after the trend rate, thus increasing federal tax revenues by $5.2 billion. If all the increased productivity that would result from higher investment went into real wages, they would grow by 8.2% over the trend. Alternatively, if the productivity went entirely into employment, 7.2 million new jobs would be added. His tentative calculations show bigger advances in succeeding years.

The White House spurned the Kemp bill after the Treasury pooh-poohed such calculations, keeping its eye instead on potential losses to the federal government from lower rates. The great irony will be if Jimmy Carter is elected and succeeds in stimulating the economy by ending the double-taxing of corporate dividends, as he has promised to do.

We can't vouch for Dr. Ture's calculations, but we do respect him as an economist. As for Jack Kemp we can't help but note that his Buffalo district has a 12% unemployment rate and that he won re-election last time out with 73% of the vote. The GOP needs an employment program, and especially in terms of getting a serious debate going on the issue, it could do a lot worse than Mr. Kemp's.

THE ANTITRUST BILLS

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 5, 1976

Mr. PAUL. Mr. Speaker, on Monday, August 2, the House of Representatives passed two bills, H.R. 13489—Antitrust Civil Process Act Amendments of 1976—and H.R. 14580—Antitrust Premerger Notification Act. Both were passed under suspension of House rules, meaning that we were not permitted to amend either bill, and neither bill had to come through normal channels, that is, through the House Rules Committee. To pass a pair of bills like these, considering the far-reaching impact on the American economy that they are inevitably going to have, is little short of incomprehensible.

The first bill, H.R. 13489, transfers massive authority to the Justice Department's Antitrust Division. Admittedly, other branches of the Federal bureaucracy have powers similar to those granted to the Justice Department by this act, but why should we, as Representatives of an increasingly harassed population—voters who are tired of filling out the endless forms of Government bureaucracies—vote overwhelmingly to compound our previous errors? We should be cutting back the powers of bureaucratic agencies, not expanding them. This bill will allow the antitrust bureaucrats to conduct "fishing expeditions" by subpoenaing documents and testimonies even before it is clear whether civil penalties are warranted. The costs of compliance serve as penalties, and since most businessmen are honest, the innocent will be penalized along with the handful of guilty parties that the antitrust policemen may discover.

Economists are unable to define the word "monopoly" with any degree of precision. Prof. Murray Rothbard of the Polytechnic Institute of Brooklyn, has gone so far as to argue that there is no definition of "monopoly," except when governments create protected industries by keeping out private competitors. Yet despite the vague character of the whole concept of monopoly, Congress keeps voting increased powers to the executive bureaucracies that police large businesses whose primary "crime" is their efficiency in meeting consumer demand at the lowest possible outlay of scarce economic resources. The best way to "cure" the problems of "monopolistic economic power" is to start voting out of existence the previously passed legislation which interferes with the market's ability to remove inefficient competitors from the scene. Uncle Sam is the monopoly man.

The second bill, H.R. 14580, would require moderately sized firms to notify either the Federal Trade Commission or the Justice Department of their intention to purchase or merge with even smaller firms. These firms can be stalled for almost 2 months by either bureaucracy, giving time for bureaucrats to sift through masses of documents in a search for undefined signs of "monopoly possibilities." The denial of the common law principle of being innocent until proven guilty should be obvious. Innocent or guilty, the forms must be filled out and the documents submitted—before the first period of 30 days of snooping even begins. Innocent or guilty, all firms must comply. And what is a firm guilty of, anyway? Busing assets from another firm at a mutually agreeable price? Combining assets on a voluntar basis? What criteria of "monopolistic economic power" are there, except the "gut feeling" of some regulator or committee of regulators?

Law is being destroyed in this country. The essence of law in a free society is legal predictability, and today we are seeing the destruction of legal predictability in the massive, garbled, incomprehensible administrative laws of the Federal bureaucracies. Who can make sense out of their language? Who can read all of their rules? Congressmen certainly can not, yet we are the ones who are passing the laws that transfer authority to the brueaucracies. They, in turn, make their rule so complicated that only they are supposedly able to decipher them—and they do not agree among themselves, either. Arbitrariness is destroying the ability of businessmen to predict the outcome of disputes with the bureaucracies. All we are doing is subsidizing lawyers, inside and outside the bureaucracies.

Obviously, my distinguished colleagues do not share my fears, since the two-thirds vote necessary to pass these pieces of legislation under the suspension of the rules was easily achieved. Nevertheless, I feel compelled to offer a warning. No parasite can live when the host dies. Governments operate only so long as there are taxpayers who can and will pay their taxes. We are seeing the erosion of independent business in this country—the sources of the productivity that provides our salaries as Congressmen and the salaries of the Federal bureaucrats—and nowhere can it be seen better than in the erosion of predictable law. We have put American businessmen at the mercy of the bureaucracies. Better to be Daniel in the lions' den.

STAN SCHNEIDER'S ADDRESS TO INTERNATIONAL KIWANIS

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 5, 1976

Mr. ASHBROOK. Mr. Speaker, I recently told my colleagues of the pride we all have in Ohio over the election of my friend and constituent, Stan Schneider to the office of president of Kiwanis International. Stan is from Crestline, Ohio, and is an outstanding American.

I am including with these brief remarks the speech which Stan delivered to the Kiwanis Convention in San Diego:

THE PRESIDENT-DESIGNATE'S ANNOUNCEMENT OF THE 1976-77 THEME, OBJECTIVES, AND MAJOR EMPHASIS PROGRAM

(By Stanley E. Schneider)

A very generous tradition of Kiwanis International permits the President-designate, only a few hours after his election, to present to the International Convention the Theme, the Objectives, and the Major Emphasis Program for the coming administrative year. It is a great honor for me to do this on behalf of the Kiwanis International Board of Trustees.

First—our Major Emphasis Program for 1976-77.

Free men can no longer tolerate the soaring rate of crime which characterizes our society. We can no longer yield ground to those who have no respect for life or property. We can no longer stand by and allow fear of crime to play a daily role in our lives. Slowly but surely, fear of crime is narrowing and shrinking your world of movement and mine. When personal security can no longer be a reality, our cherished guarantees of the sanctity of the home and of freedom of movement within our communities are made meaningless by the grimmer reality of a rapidly accelerating crime rate.

What can Kiwanis do? Professional law enforcement agencies tell us with one voice that responsible citizen involvement is the key factor in reducing crime. They tell us, too, that crime will continue to erode our communities and our way of life until responsible citizens become so outraged that they resolve to become involved in lawful, carefully-structured programs to oppose crime. If Kiwanis is to merit its reputation as being the number one service organization in the world, we cannot avoid entering into the arena—and entering immediately. We must, among all organizations, lead the way in showing the public what can be done, and what must be done.

Thus, I announce to you that the 1976-77 Major Emphasis of Kiwanis International will be the Safeguard Against Crime program.

Our Safeguard Against Crime program will focus upon four objectives.

First, we will create greater understanding among all people in our communities of what can be done—the practical possibilities, and the necessity, for establishing safeguards against crime. In accomplishing this, we will make full use of the media, the distribution of printed materials, and the organization of community forums to stimulate public cooperation and public action.

Secondly, we will provide specific counsel to selected groups—especially home residents—as to equipment and practices which will help them to establish safeguards against crime. These will include counsel on identification of personal property, information on home security, and the reporting of crime and the threats of crime.

Thirdly, we will provide direct services to those who need them in setting up safeguards against crime. These can include making available such items as engraving tools for identifying property, demonstrating home security equipment, and providing the leadership for the organization of block watches or other cooperative endeavors.

Our fourth program objective will be to make every effort to bring about greater understanding of, and respect for, law enforcement and the administration of justice as our ultimate and long-range hope for bringing about a major reduction of crime and a major alleviation of fear in today's society.

My confidence that the Safeguard Against Crime program is a solid choice for Kiwanis was strongly reinforced one month ago in a conversation I had in Ottawa, Ontario, when it was my privilege to meet with the men who hold top responsibility for the Federal Bureau of Investigation and the Royal Canadian Mounted Police.

Throughout the past several months, as we have been preparing for the launching of our 1976-77 program, we have enjoyed the excellent cooperation of both of these organizations.

Our plans were thoroughly discussed in my meeting in Ottawa with Commissioner Nadon of the Royal Canadian Mounted Police and Director Kelley of the Federal Bureau of Investigation. Both of these leaders in the fight against crime spoke of the problems, not only in the United States and Canada, but throughout the civilized world. They pointed out the dire need for citizen participation in defending our homes against potential criminals and the strong role Kiwanians could play in this effort. Their considerable interest in our new program is briefly illustrated in this closing portion of our filmed discussion.

And now, I shall announce the five objectives of Kiwanis International for 1976-77.

Our first objective is: Lead the Way by Living Our Faith Daily.

As always, the starting point for every Kiwanian is a recommitment to giving primacy to the human and the spiritual.

If we live our faith daily, it follows that we will be engaged in building a better life for all people, so our second objective is: Lead the Way by Building Better Communities for a Better World.

In carrying out this objective, we will have at our side our Circle K Clubs, our Key Clubs, and thousands of other youth who will be working responsibly to build a better society. Thus, our third objective is: Lead the Way by Uniting With Youth Organizations to Motivate Responsible Citizenship.

Responsible citizenship is our only hope for making our Safeguard Against Crime program successful. That responsibility must be evidenced, however, not only in the work of organizations, but it must also be evidenced in the lives of all citizens, especially those who determine the quality of life within the home. For this reason, our fourth objective is: Lead the Way by Emphasizing Family Unity to Strengthen Respect for Life and Property.

Our fight against crime and our other major community service activities can use all of the support and cooperation we can muster—from our members, from youth, from the aging, from public officials, from kindred voluntary organizations. We have no desire or intent to operate in isolation. Our fifth objective, then, is: Lead the Way by Sharing Opportunities for Service With Others.

These five inter-related objectives provide the widest opportunity for the involvement and the leadership of every Kiwanis Club and every Kiwanian in 1976-77.

It is proper on this night that you learn something of the personal philosophy and personal priorities of the one you have today chosen to be your next President. I provide that now in announcing the Kiwanis International theme for the coming administrative year.

Kiwanis is a worldwide organization, and I pledge to you that, as its President, I shall do everything in my power to strengthen Kiwanis around the world—all that I know how to do to bring about a strengthening and an enrichment of the quality of administration and the quality of service which Kiwanis International provides its clubs and its members worldwide.

But I ask you this year to join me in an additional pledge—a pledge to move Kiwanis to the front of all other organizations in terms of the leadership we provide in our communities. In the battle against crime, I want to see the Kiwanis banner up front—everywhere. In working with youth, in serving the aging, in providing basic services to the handicapped. I want to see the Kiwanis banner up front—everywhere. The resolutions we have today adopted have significance, to be sure, as our statements of position, but they must also be realistic indicators of directions we plan to take and destinations we plan to reach in 1976-77 if the Kiwanis banner is to be seen at the front—everywhere.

This is not a time for dabbling in community service. This is not an hour for token participation. Crime threatens to encompass us. Millions throughout the world are hungry. The family is becoming less and less a cohesive unit. Morality is becoming a self-defined term in our vocabulary.

Inroads into these problems demand initiative and leaderships. Solutions call for manpower, and for coordination, and for creativity. And this is my priority challenge to every Kiwanis Club in the coming year—to be at the head of the march, to let the Kiwanis banner be at the forefront in every community.

Today, millions of men, women, and youth hunger for leadership—international leadership, national leadership, community leadership, responsible leadership—and Kiwanis must show that we are prepared to lead, prepared to be at the vanguard of those working to build a better world.

All can go. . . . from here to there,

If some would lead the way—from despair to fulfillment, from destruction to creation, from apathy to action, from fear to peace of mind.

Many wish to go. . . . from here to there,

And we shall lead the way.

Ladies and Gentlemen, our Kiwanis International Theme for 1976-77; Lead The Way!

PERSONAL EXPLANATION OF MISSED VOTES

HON. PIERRE S. (PETE) du PONT

OF DELAWARE

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 5, 1976

Mr. DU PONT. Mr. Speaker, this morning, August 5, I was in transit from Delaware and missed two recorded votes. Had I been present, I would have voted in the following manner:

Rollcall No. 608, "aye."

Rollcall No. 609, "aye."

TIME FOR A NEW AMERICAN POLICY ON KOREA

HON. DONALD M. FRASER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 5, 1976

Mr. FRASER. Mr. Speaker, U.S. involvement in South Korea continues to capture the attention of American journalists and commentators.

One of the most knowledgeable of the commentators is Edwin O. Reischauer, University Professor at Harvard, a specialist in East Asian studies and former U.S. Ambassador to Japan. His essay, "Time for a New American Policy on Korea," was published by the Christian Science Monitor on July 26, 1976.

Ambassador Reischauer has testified before Congress on U.S. policy in South Korea, and I respect his opinions. He advocates withdrawal of U.S. troops and nuclear weapons from South Korea, but in a manner that will not increase the chances of war in Korea. This withdrawal, he believes, will:

> Permit the United States to be more selective in its cooperation with, and aid to, South Korea, so that American influence would be more likely to favor the development of the sort of free and democratic society that most South Koreans hope for and that Americans believe would best contribute to a healthy and stable Korea.

Professor Reischauer's complete statement follows these remarks as does an analysis of the United States and Korean compliance with the 1953 Korean armistice agreement by another academic, Gregory Henderson, Adjunct Associate Professor of Diplomacy at the Fletcher School of Law and Diplomacy, Tufts University. Henderson served as a State Department expert on Korea for more than 16 years.

Finally I include in the RECORD two editorials, one from the Los Angeles Times, the other from the Christian Science Monitor, commnting on U.S. involvement in the Korean peninsula 23 years after the armistice. Both note the repressive nature of both Korean governments and express concern about U.S. support for the Park regime in South Korea.

Mr. Speaker, I am encouraged by the continuing debate over U.S. policies in Korea. This is the sort of issue that ought to be widely debated during the 1976 national elections.

[From the Christian Science Monitor, July 26, 1976]

TIME FOR A NEW AMERICAN POLICY ON KOREA

(By Edwin O. Reischauer)

Today marks the 23rd anniversary of the end of the Korean war, but the Korean peninsula is still one of the powder keg areas of the world, with the United States sitting on top of the keg.

North and South Korea, each big enough to rank as a middle-sized country of the world, are squared off against each other in bitter hostility. They are armed to the teeth, with about a million men together under arms and another 2 million as trained reserves. Shooting incidents occur from time to time along the border and not far away is stationed an American division, so placed as inevitably to involve the United States, should war break out again.

Around Korea are grouped in close proximity three other of the largest nations in the world—China, the Soviet Union, and Japan—all of which have fought over Korea in the past and distrust one another today. The situation is not reassuring. It is high time to take stock of what has happened in Korea and what its future may hold in store for the U.S. and for the world.

First, however, America should get rid of some mistaken notions. South Korea is no South Vietnam. Its people are solidly unified against the Communist North, still remembering its ruthlessness and cruelty when it overran most of the South during the Korean war. They have a larger military establishment than the North and are in the process of gaining equality in the air, their one area of relative weakness. They have twice the population of the North and a more vigorous economy. South Korea most certainly will not crumple, no matter how hard the North Korean dictator, Kim Il Sung, may huff and puff.

Also, neither of the two Koreas is much like most other developing countries. They share many of the characteristics that account for the extraordinary, though contrasting, successes of Japan and China in recent years. Their people are hard-working, disciplined, and skilled organizers. They have a passion for education and have all but wiped out illiteracy.

With these traits the North has made itself into the most tightly and repressively organized of all the communist states. The South has followed the trail blazed by Japan as an industrial fast-grower, although, starting later than Japan and from lower levels of technological modernization, its success is less assured, particularly in the face of the recent vast rise in prices for the energy resources and raw materials that both must import.

The South's attempt to follow the open pattern of democratic politics and freedom of expression that has worked so well in Japan has met with even less success. The movement in recent years has been away from these freedoms toward growing repression and authoritarian controls.

South Korea nonetheless has sufficiently high educational and economic levels to make a free society and democratic political institutions workable or, if these are not achieved, to operate a reasonably efficient even if cruel dictatorship of the right.

The immediate problem in Korea is not its backwardness or the danger that the South might disintegrate. The problem for the United States is the embarrassment of having served as godfather to a rightist dictatorship and being committed to its defense, even though the American people obviously would repudiate this commitment if war actually broke out. This is a very dangerous situation to be in.

To South Koreans the past 31 years since World War II have been their American period, now comparable in length to the preceding Japanese period of 35 years of colonial rule, when Japan blighted Korea national aspirations and bred a lasting hatred for Japan, but at the same time did lay the foundation and give specific shape to much of Korea's modern development. The Japanese also molded Korea to the pattern they willed for it.

In contrast, the United States has advocated one thing for Korea and produced another. Much in modern Korean society has been influenced by the U.S., and some of this the American people can take pride in. It was Christians, largely the converts of American missionaries, who once stood out as champions of independence against the Japanese, just as they are today the most fearless advocates of democracy and freedom of speech against native military rule.

Other borrowings from the United States, however, have been less desirable. The arm of government most repressive of the freedoms of Koreans both at home and abroad is the Korean Central Intelligence Agency, named for its American counterpart. Generous American aid has bred widespread corruption. And in any case the present dictatorial Korean Government is not at all what any American would wish to see in Korea.

The spotty American record is the product of both inattention and a desirable modesty in American aims. The U.S. does not feel that it should try to mastermind the future for any other people. It is ready to aid but not to dictate. Unfortunately this half-way position breeds confusion. U.S. aid often seems to others like control. Korean liberals are dispirited to see the United States increasing its military support of a regime that has destroyed their freedoms and the beginnings of Korean democracy.

What should the U.S. do now to correct this situation and reduce the dangers to itself and the world? Clearly the first step is to withdraw its troops and its nuclear weapons from South Korea. If it does not do this it will be continuing to give unconditional support to a regime that it does not believe in and will remain in danger of becoming embroiled in a war there against the wishes of the American people and the best judgment of their government.

The U.S. withdrawal, however, must be accomplished in such a way as not to increase the chances of war in Korea. It does not want a repetition of 1950, when an American pullout helped spark the invasion from the North. The withdrawal should be gradual and clearly announced in advance, so no shocks occur. The present commitment to South Korea's defense should be replaced by a more general commitment to the peace of the area.

The same sort of commitment should apply to Taiwan when the United States eventually does recognize Peking and consequently must give up its specific defense treaty with the Nationalist regime. China has clearly indicated that it is not considering military action to regain Taiwan at this time, and neither it nor the Soviet Union has the least desire to go to war over Korea.

The possibility, however vague, of American military reprisal would be a further deterrent to Chinese or Soviet military action, and North Korea would not on its own embark on a military adventure against a larger and probably stronger South, especially if there is even a small possibility of an American military response.

The U.S. withdrawal from Korea also should be accompanied by other more positive moves. It is the close involvement of China, the Soviet Union, Japan, and the United States in Korea that makes it a much greater danger to world peace than are even less stable areas in Southeast Asia or the other developing regions of the world. The U.S. should take advantage of its withdrawal to work for a four-power agreement on the neutralization of Korea from other world tensions, leaving the two Korean regimes to work on their problem of unification without fear of external pressures.

Since the American defense position in Korea often has been described as being basically in behalf of its Japanese ally, withdrawal from Korea also should be accompanied by clear reaffirmations of its commitment to Japan's defense and cooperation with Japan in all fields—a position that spokesmen of both the political parties in the U.S. have recently made clear is an accepted, supra-partisan American stand.

Finally, the withdrawal would permit the U.S. to be more selective in its cooperation with, and aid to, South Korea, so that American influence would be more likely to favor the development of the sort of free and democratic society that most South Koreans hope for and that Americans believe would best contribute to a healthy and stable Korea.

[From the Christian Science Monitor—July 26, 1976]

Prospect for Permanent Korean Peace Recedes

(By Gregory Henderson)

Twenty-three years ago this July 26, Lt. Gen. William K. Harrison for the United Nations Command and Gen. Nam Il for the (North) Korean People's Army and Chinese People's Volunteers, signed the armistice agreement in Korea.

Few events invite more urgently a backward look.

The monument of the Korean armistice is a peace unbroken in any major way since 1953, a peace stable enough to allow armed incidents to diminish to a tiny fraction of their previous rate—a record that the Middle East, for example, might well envy.

The demilitarized zone (DMZ), about 2½ miles wide and 151 miles long, although it has been tunneled under and perpetually mined, has not only reduced major armed incidents drastically but also has achieved unforeseen success in establishing a de facto national ecological preserve where—alone on this crowded peninsula—flora and fauna can flourish undisturbed. In no other way then through these special circumstances could such a zone have come into being. The Military Armistice Commission, although a charade of mutual vilification, also still operates.

So armistice endures, longer than any other in modern times. But the prospect of permanent peace recedes.

SETTLEMENT FOUNDERED

The political settlement, which the agreement specified was to follow within three months, foundered at the Geneva Conference on Far Eastern Affairs in the summer of 1954, after 50 contentious days. The trench between the Stalinist North and the anti-communist but totalitarian South is ever more strewn with verbal shot and shell.

The agreement itself also seems violated by both sides almost daily. Paragraph 13 (d) specifies that the signatories shall "cease the introduction into Korea of reinforcing combat aircraft, armored vehicles, weapons, and ammunition." As of June 1956, the Neutral Nations Supervisory Commission ceased all supervisory activities outside the DMZ. Since then arms of vastly increased strength and cost have been pumped into the peninsula. More soldiers and arms inhabit Korea per square mile than any other country of its size on the globe.

While the introduction of such weapons has been characteristic of both sides, the independent U.S. Arms Control and Disarmament Agency's figures show that the United States has poured into South Korea arms valued at nearly three times those introduced by outside communist powers into the North.

U.S. ARMS SUPPLY

The U.S. and North Korea thus not only depart from the agreement, but the U.S. also appears to have broken the word it gave in the Report of the Unified Command to the United Nations on Aug. 9, 1957, that "the United Nations Command does not intend to start an arms race." The U.S. appears, largely on the strength of its encouragement to South Korean troops to enter the Vietnam war, to have done just that.

MILITARIZATION OF SOCIETY

In addition, the U.S. has brought into South Korea—or renewed there—nearly 700 atomic weapons or warheads, including types not existing in 1953, thus apparently altering that "relative balance of military strength" that it especially undertook before the United Nations to preserve within Korea—for no responsible allegation has yet been made that atomic weapons exist in North Korea.

Such policies not only depart from the agreement but also give over to the Pentagon the implementation of understandings that should have remained under far more cautious civilian and political control. The consequence of the militarization of U.S. and North Korean policies is that Korea has come to threaten world peace not less, but far more, than it did not the period preceding the Korean war.

At the same time, these policies contribute not only to physical arms but also to the militarization of North and South Korean society—to the tendency to subordinate all politics and values to perceived confrontation and hostility.

The anniversary of the armistice agreement and its coincidence with the political party conventions in the United States offers needed opportunity to remind policymakers that behind an armistice maintained, peace ebbs; that the weapons limitations that were signed must be reinstalled, not ignored.

Finally, behind this revival of the armistice, the U.S. must persevere in its pledge to work toward the unification—and way from the hostilization—of the Korean peninsula.

Manning the Lonely Outpost

The withdrawal of the last American combat forces from Thailand has left South Korea as the one remaining outpost of U.S. military strength on the Asian mainland. About 41,000 men make up the U.S. garrison in Korea, and to maintain them costs about $750 million a year. Is a force of this size still necessary? The answer, we think, is no.

Except for a brief period in the late 1940s, U.S. troops have been stationed in South Korea since the end of World War II. They are there today technically under U.N. auspices, first provided after the 1950 invasion of the south by Communist forces from the north. But even if the U.N. command were to be dissolved, as the General Assembly might vote to do this year, the American troops could remain under this country's bilateral defense treaty with Seoul.

For both mlitary and political reasons, it would be a mistake to end entirely the U.S. military presence in South Korea. But changing circumstances dictate a phased reduction in the size of that presence, and we believe that should start soon.

For one thing, South Korea's own army has evolved into a formidable defense force. It is larger than North Korea's army, it is well-armed, and—thanks to its participation in the Vietnam war—it is experienced. What the South Koreans lack is air power equal to that of the north, and firepower of a magnitude that would persuasively deter any new aggression. A residual U.S. force stationed in South Korea and backed up by air and naval units elsewhere in the area could meet those needs.

The primary justification for the relatively large American military presence over the years has been the explicit bellicosity of the north. The Korean war was halted 23 years ago by an armistice, but no peace agreement has ever been reached. North Korea regards South Korea as an illegitimate state, and reunification of the peninsula under its banner has been a constant theme. The military threat inherent in this political aim has had to be taken seriously.

In the past year, though, the credibility of that threat has greatly diminished. Both China and the Soviet Union have made it clear that they are not interested in supporting any renewal of hostilities against South Korea. Without active help from one of the big Communist powers, North Korea could not hope to fight a successful war.

The repressive policies of the Seoul government provide another good reason for reducing U.S. force levels in Korea. The United States does not support those policies, but the large and visible American presence in the country may work to identify this country with them, to its political disadvantage.

U.S. forces in Korea could be cut back substantially without reducing in any way the American commitment to defend South Korea against aggression. That commitment exists independent of any need to keep a large U.S. garrison in Korea itself. A phased reduction in troop levels would be a realistic response to changed conditions, and plainly in American military, political and economic interests.

[From the Christian Science Monitor, July 26, 1976]

Korea After 23 Years

Twenty-three years after the end of the Korean war, Korea remains one of the two nations whose division is still a controversial issue in the aftermath of World War II. China is the other. Two others—Germany and Vietnam—have had their divisions resolved: one by a long, bitter war that ended in unification under the communist flag; the other through a series of treaties that recognized the status quo for the foreseeable future.

Today there is no likelihood that Korea will soon be unified. North Korea remains an authoritarian Communist state, submissive to neither the Soviet Union nor China but reliant on both and playing off one against the other to further its own interests. South Korea, client of the United States, is a militarily strong country firmly within the economic if not moral mainstream of the West. Both have unification as a goal, but clearly neither would agree to it except on its own terms.

Yet, given the changed situation in Asia—the end of the Vietnam war and the U.S. rapprochement with China—the time has come for some resolution of the Korea question. It remains a danger spot, for this is where the interests of the U.S., the Soviet Union and China converge. If hostilities were to break out again, the repercussions would be global, with nuclear weapons perhaps coming into play.

A change in U.S. policy is thus called for. Indeed in recent months discussion has been building in favor of a gradual pullout of American troops from the peninsula, and the case is a strong one. First, it is not seen to be in the interest of either China or the Soviet Union to start another war. Second, the South Koreans now have a formidable defense force, with more than half a million men under arms and combat experience in Vietnam, and want themselves to assume more military responsibility.

After all the United States has invested in South Korea, it can only applaud that goal. Moreover, Americans are right in questioning the extent of their support of a despotic regime which, by its own repressive policies, undermines its very strength to resist aggression. If the fanatic North and undemocratic South did get to fighting again. Americans would undoubtedly be concerned about a direct involvement with troops.

Certainly the U.S. cannot abandon its defense commitment to South Korea—this remains important to the security of Japan. But, at the least, it can make certain kinds of support contingent on a lessening of repressive measures and an observance of basic human rights by the Park regime.

Meanwhile, any resolution of the Korean question must take account of the broader goal of Asian stability and the tensions between the Soviet Union and China. Hence the best solution to the issue would seem to be an agreement between North and South Korea (as there was between East and West Germany) accompanied by a U.S., Soviet and Chinese guarantee of the neutralization of Korea.

It is toward this goal that the United States ought to be working.

COMMUNISTS ORGANIZE SUPPORT FOR CRIMINALS

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 5, 1976

Mr. McDONALD. Mr. Speaker, the discrediting of our legal system of laws, police, courts, judges, juries and jails is an unchanged goal of Marxist-Leninist revolutionaries. Communist tactics may range from terrorism—as Lenin wrote, "Some may at once undertake to kill a spy or blow up a police station. * * * Let every group learn, if it is only by beating up a policeman * * *" through wholesale smear campaigns charging corruption, brutality and frameup.

Another tactic is defending violent criminals as "victims of injustice" or "fighters against oppression." In their efforts to recruit poor people, working people and members of racial and ethnic minority groups as cannon fodder, the Marxist-Leninist intellectuals take the position that no violent criminal act against our society can be blameworthy. The Communists assert that the free enterprise economic system and our constitutional form of government which are "truly criminal," and encourage the criminals convicted in our courts to enter the vanguard ranks of revolutionary fighters to overthrow our society.

Gary Tyler is one of the current recipients for broad revolutionary support. Now 18 years old, Tyler was tried as an adult in November 1975, and convicted of the first degree murder of Timothy Weber, a 13-year-old student, during an anti-forced busing protest at the Destrehan, La., high school on October 7, 1974. Tyler received the mandatory death sentence for first degree murder; his motion for a new trial was denied in April. However Tyler was removed from death row following the recent U.S. Supreme Court decision against mandatory death penalties.

The Maoist Communist October League—OL—selected the Tyler case as an organizing issue last November, after Tyler's conviction.

The October League's Free Gary Tyler campaign has been organized through a couple of OL fronts, the Southern Conference Educational Fund—SCEF—which the OL captured from the "revisionist" Communist Party, U.S.A. 3 years ago, and through its labor oriented National Fight Back Organization—NFBO.

The October League's local New Orleans Workers Fight Back Committee, P.O. Box 52187, New Orleans, La. 70113, began soliciting money and support for the campaign shortly after OL's December National Fight Back Conference. A Committe to Free Gary Tyler, operating from P.O. Box 15810, New Orleans, La. 70121, quickly followed. The OL chapters in Atlanta, Birmingham, Boston, Chicago, Denver, Detroit, Los Angeles, New York and other cities began publicizing the case; and SCEF began building a "July 24 Southwide Coalition to Free Gary Tyler" to hold a mass demonstration in New Orleans.

October League literature reveals why the pro-Peking revolutionaries have attached themselves to the Tyler case. Sherman Miller, who got his start as an OL revolutionary in the 1972 Atlanta Mead strike and as a member of OL's Central Committee heads its Afro-American Commission, said, 'The struggle for Gary Tyler's freedom is a battle in our war against "capitalism." "Victory," he said, "depends on the militant support of the masses"; and the Tyler organizing is part of what OL terms the "struggle to win the masses to revolution and * * * to Communist leadership."

The October League's "July 24 Southwide Coalition" linked the Tyler case to other OL projects and demands such as "Self-Determination for the Afro-American Nation," with which it has revived an old CPUSA plan established at the 1928 Sixth Comintern Congress calling for the establishment of an all-black nation carved from several Southern States.

Another OL "July 24 Southwide Coalition" slogan calls for "Death to the Klan,"—not "arrest and prosecution of lawbreakers" or police surveillance of extremists. The basic similarity of extremists of all stripes is shown clearly here.

The Maoist Communist line is that the death penalty is a "weapon of capitalist rule." The October League says that the demand for an end to the death penalty is "another front of struggle for the revolutionary movement" and that the Supreme Court's decision upholding the death penalty is "a new offensive in capitalism's war against working class and minority people as well as those who rebel against the system."

Asserts the October League, "The entire court system, especially in the Deep South, still stinks of the slave system and the lynch rope. The restoration of the death penalty is a sharp reminder that we live in a bloody dictatorship of the big capitalists."

And as for Gary Tyler and the other condemned criminals in other States, according to the October League, their "only real 'crimes' are being black and a militant fighter against the system."

The Maoists' hatred for our legal system was further expressed in recent comments in the Call, the OL's "political newspaper":

> * * * the capitalist terror squads, both in their judicial robes and their white sheets, have made some retreats in the face of the militant mass support which is growing behind Gary Tyler's demand for freedom.

The retreat was the removal of Tyler from death row after the Supreme Court struck down the mandatory death sentence.

"The frameup of Gary Tyler symbolizes the themes of white supremacy, slavery and national oppression which run throughout southern history. On the other side of the picture stands the revolutionary history of the southern working people * * *."

The October League plainly states that it is of no import to their organizing effort whether or not Gary Tyler is released, whether his conviction for first degree murder is reduced to second degree or manslaughter, or whether he is eventually sentenced to life imprisonment or a lesser term. In a recent editorial—the Call, July 26, 1976, the Maoists state:

> The racist judges, employed by the big capitalists and plantation owners, will try to find a new way to enslave Gary Tyler even if the letter of their own death penalty law dictates that he should not have been tried for a capital offense as a minor. If the power of the people should prove too strong to keep Tyler behind bars, they will try to find other Black youths to frame up and murder * * *.

The October League has been seeking to promote the formation of armed vigilante groups by members of racial minorities under OL direction along the lines of the old Deacons for Defense and Justice movement. The Ku Klux Klan, which has been receiving unwarranted and not-unfavorable media attention recently and which with the end of the FBI's Cointelpro program appears to be increasing its membership, is being used by the October League and its controlled fronts as an excuse to justify revolutionary "armed self-defense against Klan terror."

The Maoist Communist police villification campaign appears to have influenced Mrs. Juanita Tyler, Gary Tyler's mother, who was quoted in the Call, July 26, 1976, as saying, "You have to rely on the people to fight the Klan. You can't call the police. They are the Klan."

On July 24, 1976, some 750 demonstrators rallied near the Louisiana Supreme Court Building and marched along Canal Street in downtown New Orleans. Among the speakers at the rally were Walter Collins, coordinator of the Gary Tyler Defense Committee and former executive director of SCEF; Bill Hampton, brother of Black Panther Party Chicago leader Fred Hampton killed in a police raid in 1969; Mrs. Juanita Tyler; Ahmad Atai, Nation of Islam—Black Muslims—Marie Galatas, Gary Tyler Defense Committee and Grass Roots Organization for Women—GROW—Terry McGillis, Fight Back Organization; Bill Rouselle, Free Southern Theater; Kurte Pellerin, NAACP Youth Council; Rev. Byron Clay, vice-president of the Louisiana branch of the Southern Christian Leadership Conference—SCLC—and Musheer Fandan representing the New Orleans chapter of the National Student Coalition Against Racism—NSCAR—a front of the Trotskyist Communist Socialist Workers Party—SWP—and its youth group, the Young Socialist Alliance—YSA. It is noted that the Moist Communists are irritated by Trotskyist Communists' attempts to "steal" the Tyler issue and compete with the OL in organizing among student, black and civil rights groups. A delegation of International Socialists, a Trotskyist splinter group, were also present.

Endorsers of the "Southwide Coalition" who presumably also endorse the coalition's extremist slogans and statements follow. The various Fight Back committees are local chapters of the OL's National Fight Back Organization. The NFBO is not a "front" in the Communist Party, U.S.A. tradition of open membership in an organization whose officers are party members; rather OL fronts are organizations for "cadre in training" totally staffed by OL functionaries. The Communist Youth Organization is the OL's official youth division.

Cheryl Todd, another endorser, was arrested with another woman, Dessie X. Woods, in June, 1975 and charged with the robbery and murder of an insurance salesman. In February Woods was convicted of manslaughter and sentenced to 12 years in prison; Cheryl Todd was convicted of theft and received a 1 to 5 year sentence. The Atlanta October League and its Atlanta Workers Committee to Fight Back used those cases as now Gary Tyler's is being used.

Robert F. Williams, an advocate and organizer of "armed self-defense," in 1961 was head of the Monroe, North Carolina NAACP chapter. He was indicted for the kidnapping of a white couple, Mr. and Mrs. Bruce Stegall, during a racial disturbance. Williams fled to Communist Cuba, then to Peking from which he wrote the Crusader. Printed and distributed by the Chinese Communists, the Crusader provided detailed encouragement for arson, bombmaking, and revolutionary mayhem in the most extreme and inflammatory terms. Williams returned to the United States via Tanzania in 1969. Living in Detroit, Williams fought extradition and received an immediate academic post from which he reportedly served as an advisor to top U.S. State Department officials in establishing relations with the Chinese Communists. Williams returned to North Carolina after a 6-year court battle in January, but all charges were dropped since Mr. Stegall had died and his widow was too ill to face the ordeal of a trial.

It is shocking to find on this endorsers list which is overwhelmingly composed of the cadre-training fronts of a Maoist Communist organization two trade union locals from my own State who certainly could not have polled their membership on whether to support a Maoist organizing ploy, and three Georgia political leaders—Atlanta City Councilman James Bond; his brother, Georgia State Senator Julian Bond; and Rev. Hosea Williams, a Georgia State Representative. The Atlanta Constitution reported on September 29, 1972, that Rev. Williams said he had refused to accept money from the OL, and that he was well aware of their Maoist-Communist politics. Now Williams' newspaper has reprinted graphics from the October League newspaper. Rev. Williams' memory appears strikingly short.

Hopefully these groups and individuals will now repudiate the October League and its goals.

The full published list of endorsers of the October League's "Southwide Coalition" which appeared on the front page of the Call (July 12 1976) follows:

SOUTHWIDE COALITION ENDORSERS

AFSCME Local 1644, Atlanta, Ga.

AFSCME Local 1624, Austin, Texas.

Atlanta Branch of the NAACP.

Atlanta National Welfare Rights Organization.

Atlanta Workers' Committee to Fight Back.

Augusta, Georgia SCLC.

Austin Fight Back Organization.

Baltimore Fight Back.

Black American Law Student Association, Athens, Ga.

James Bond, Atlanta City Councilman.

Julian Bond, Georgia State Legislator.

Tyrone Brooks, Executive Vice President, SCLC.

Charleston Fight Back Committee.

Communist Youth Organization.

Community Action League.

Daisy Crawford, TWUA Organizing Committee, Cannon Mills.

Dallas, Texas, Chapter of the Black Panther Party.

Ron Dellums, U.S. Congressman, Calif.

Friends and Families of the Inmates of Tuscaloosa County Jail, Ala.

Frank Gilbert, President, Florence, S.C. Branch NAACP.

Lennox Hines, Director of the National Conference of Black Lawyers.

Louisville, Ky., SCLC.

League of United People, Dallas.

Houston Fight Back.

Ernie McMillian, Dallas.

Eva McMillian, Dallas National Fight Back Organization.

National Lawyers Guild.

New Orleans Workers' Fight Back.

North Carolina State Chapter of the Black Panther Party.

North Florida Socialist Collective, Gainesville, Fla.

October League (M-L).

Owens-Illinois Workers Fightback, Atlanta.

People United for Justice for Prisoners, Dallas.

River City Fight Back Organization.

Dorothy Simmons, Atlanta.

South Dallas Information Center.

Southeast Region War Resisters League.

Southern Conference Educational Fund.

Southern West Virginia Fight Back Committee.

Tampa Workers Committee.

Texas State Chapter, A. Phillip Randolph Institute.

Cheryl Todd, Atlanta.

United Garment Workers Local 29, Atlanta.

University of Texas Chapter (Austin) of MECHA.

Jean Wagner, Southern Regional Vice-President of Women's International League for Peace and Freedom.

Arthur Weaver, President, Nacogdoches Branch NAACP, Texas.

Hosea Williams, Atlanta SCLC.

Robert F. Williams.

STUDENTS FROM BETH ISRAEL COMMUNITY CENTER IN MEXICO CITY VISIT UNITED STATES

HON. ABNER J. MIKVA

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 5, 1976

Mr. MIKVA. Mr. Speaker, I would like to bring to the attention of my colleagues the presence in our country of a touring group of high school students from the Beth Israel Community Center in Mexico City.

The delegation of students, who are being accompanied by Rabbi Samuel S. Lerer and his wife, Marguerite, will be traveling to a number of American cities through the middle of August.

I had an opportunity to meet with them in Chicago recently, where they were hosted by the Jewish Reconstructionist Congregation of Evanston, Ill.

The students are eager to learn firsthand about the United States and about the Jewish-American community. And despite language differences, the students are discovering, I believe, that common goals unite not only the Jewish residents of Mexico and the United States but the vast majority of all people in both countries. They are discovering that the same kind of democratic principles and spirit are major governing forces in both countries.

I hope that some of my colleagues will be able to meet with these students before they return to Mexico City and share the mutual benefits of a cross-cultural exchange of ideas and values.

THE RETURN OF THE MERCENARIES

HON. DON BONKER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 5, 1976

Mr. BONKER. Mr. Speaker, the Special Subcommittee on Investigations of the House International Relations Committee will be meeting soon to address the looming public policy question of what our Government ought to be doing about the numerous Americans who are reported to enlist as mercenaries or even recruit others, something brought dramatically to public attention by recent events in Angola.

The involvement of mercenaries in the Angolan war may seem in an immediate sense moot, but it is my belief that ascertaining certain facts and official opinions about it may be instructive in preventing our further embarrassment in related situations, such as the one brewing in Rhodesia.

I am particularly concerned that the mercenary business may violate our own neutrality law, international law, or at least a consensus of our citizens as to what constitute fair methods of undeclared war. Despite protracted investigation by the Justice Department, and expressions of concern by the State Department, still the administration seems to have done nothing to stop it. This is irksome for at least two policy reasons: First, rightly or wrongly, it looks as though the Government condones the action of mercenaries and reinforces the perception—abroad as well as at home—that some have CIA connections; and, second, it frustrates our new, positive African policy. We ought now to be considering resigning ourselves to the new government in Angola, conciliating with it both for the benefit of our companies like Gulf and Boeing who are prepared to do business as usual with it, but especially for the sake of our precarious reputation in the Third World. And as to Rhodesia, Secretary Kissinger has indicated the administration's intention to push for quick transition to majority rule, yet reports persist that American mercenaries continue to flow there with impunity to help shore up the Smith regime.

As a backgrounder on the mercenary issue, its extent and ramifications, I commend to my colleagues the following article by David Anable which appeared last November in Africa Report.

THE RETURN OF THE MERCENARIES

The following advertisement appeared in the October 15 issue of Shotgun News (published in Hastings, Nebraska): "The Rhodesian Army offers excitement and adventure. I know. I've been there. Young Americans of European ancestry write me for free details pertaining to recruiting. Frank Abbott Sweeney, 72 Creston Avenue, Tenafly, New Jersey, 07670."

Ever since this ad, and a similar one in Gun Week, appeared the replies have been pouring in. Several hundred letters have been received, according to Frank Sweeney, himself. They come from ex-Marines, ex-Special Servicemen, from gun enthusiasts, adventurers, from the discontented and the jobless.

Yough Mr. Sweeney does indeed "know." He has indeed "been there." His discharge papers from the Rhodesian Light Infantry are in order after his three years' service. Now the blonde, freckled, and fit ex-RLI corporal is hard and enthusiastically at work passing information about Rhodesia's armed forces along to all enquirers.

Mr. Sweeney is not alone. At least six American magazines—from Sports Afield to Shooting Times and Guns Magazine'—in current or recent issues have carried advertisements offering information (usually at a price of $5 or so) about opportunities in foreign military forces. The Middle East and Rhodesia are the two places to which most enquirers are directed.

This spate of advertisements is the latest symptom of American involvement in the "mercenary" business. They add to evidence that Americans are not only already serving in Rhodesia's forces but that they are still being actively recruited here for that purpose.

Not surprisingly, this is not looked upon with any great favor by Black African governments or liberation movements, who have used the United Nations as a forum in which to protest. The American Government is embarrassed by these protests. United States officials admit that if Americans are indeed shown to be fighting for Rhodesia's white minority regime, this could damage American-African relations—perhaps compromising them more seriously than does the United States' continuing importation of chrome from Rhodesia despite sanctions.

But Washington's official line is that they have no specific evidence of such American mercenary activity; that without such evidence the U.S. Government cannot apply whatever laws would be appropriate.

On October 9 Congressman Donald Fraser made a statement in the Fourth Committee of the UN General Assembly. Among other things, he said:

"My Government does not approve of participation by any American citizen in the forces of the Ian Smith regime. Our laws provide that any citizen enlisting in the armed forces of another country runs the risk of losing his U.S. citizenship. In addition he could be subjected to criminal prosecution under existing U.S. laws which provide fines and prison terms for those found guilty. If there is any specific evidence that Americans are serving in military forces under Ian Smith, my government wishes to be made aware of it in detail in order that appropriate legal action may be considered under our laws."

Now the snags to that position are: one, that a good deal of evidence already exists as to Americans serving in Rhodesia and being recruited here for such service; two, that U.S. laws about Americans serving overseas are nothing like as clean-cut as Mr. Fraser implies, and they have hardly ever been applied; and three, that if the U.S. Government does indeed start to crack down on Americans joining up in Rhodesia, then as a matter of consistency it must surely crack down on those serving elsewhere, for instance Israel.

Let us first consider the evidence of American mercenary activity.

First, there is Mr. Sweeney himself who makes no secret whatever of his three-year stint in the Third Commando, First Battalion, of the Rhodesian Light Infantry (his regimental number 727181). He is a fan of Ian Smith, of white superiority, and of the need to defend both. "If I could do anything to preserve Western civilization in the area I would do it," he says.

While rising to the rank of corporal in the RLI he met or became aware of a number of other "Yanks." In all, he says, he knew or knew of about 17 or 18. It seems unlikely that he was informed about every American there. (For instance he was not aware that Rhodesia's British South African Police had formed armed five-man patrols to watch the border areas—Police Anti-terrorist Units or PATUs). Hence it is reasonable to assume that there are at least 20 Americans serving in Rhodesia's police or military forces, maybe more.

During Mr. Sweeney's service, he says his unit several times crossed the border into Mozambique ("Porkland") to aid the Portuguese troops or to raid guerrilla camps. On patrol, he says, they caught many prisoners; most were taken back to base, but others who allegedly had committed grisly atrocities against the local population fared less well: "we shot'em right there in the bush when told not to take prisoners."

His corporal's pay amounted to about $900 tax-free, some of which he was able to save and bring back to the States (a possible sanctions infringement?). As promised, the Rhodesians repaid his airfare after he had served for six months (another possible sanctions breach?).

On his return to the United States this past August he told customs and immigration officials where he had been and what he had been doing. He showed them his discharge papers from the RLI. No action was taken against him.

On his return, Frank started enthusiastically recruiting Americans to go to Rhodesia and join up. He says he has written personally to all the several hundred people who responded to his advertisements in *Shotgun News* and *Gun Week*, telling them how to get in touch with the Rhodesian Army.

"They are looking for foreign personnel," he says. He speaks warmly of a Rhodesian Army recruiter in Salisbury, Major Nicholas Lamprecht—"he told me to get in touch with as many white applicants as I could . . . If I could get one white man over there I would feel satisfied."

Frank Sweeney's "idealistic" approach is paralleled on a more commercial basis by other Americans. For instance, another advertisement in *Shotgun News* reads:

"English-speaking former African colony is now soliciting able-bodied fighting men to serve under contract in its elite armed forces . . . send $5 for complete information." The addressee is Anubis Ltd., Post Office Box 451, Highlands, Texas 77562. This correspondent was unable to reach Anubis direct (there is no telephone number listed under that name) but other sources who were in touch with Anubis said that 50 to 100 replies had been received to the advertisement. Each respondent had received information about joining the Rhodesian armed forces.

A certain Frank Renzi of Long Beach, California, has a slightly different tack. He has placed ads in both the *Shooting Times* and *Sports Afield*. For $5 he provides information about enlistment in Oman. For a further $3 you get the Rhodesian information packet, including the address at Army headquarters, Salisbury, of Major Lamprecht. "You will please note that I am not recruiting for Rhodesia, nor do I represent them in any way," Mr. Renzi concludes piously.

Beating all these advertisements into the field, and perhaps giving some of them the idea, was a former U.S. Special Forces major, Robert K. Brown of Arvada, Colorado. Following a visit to Rhodesia last year, this tough, free-lance fighting specialist marketed information packages about Amani and Rhodesian armed forces earlier this year. After pressure was brought to bear by the Justice Department he discontinued the sales on advice of his lawyer; but not before he had sold, he says, 200 to 300 of the Rhodesian packets (one, incidently, to Frank Renzi of Long Beach, California).

Not to be deterred, Major Brown launched a new magazine during the summer, a thick, glossy, "Journal of Professional Adventures" called Soldier of Fortune. The first edition among other things contained articles about Colonel "Mad Mike" Hoare's mercenaries and their efforts to put together a contingent to go into Angola; a critique of American policy on Rhodesia; and a piece by Brown himself on how to become a mercenary in Africa, giving once again, Major Lamprecht's address in Salisbury.

Major Lamprecht's name also came up recently when a visitor to the Washington, D.C. Rhodesian Information Office enquired about openings in Rhodesia. The visitor was given a lengthy talk about Americans who had already gone to join Rhodesia's armed forces and the conditions of service there. He was also given a four-page "Careers Guide" on the Rhodesian Army which contained Major Lamprecht's address and telephone number. The visitor was told that his airfare to Rhodesia would be reimbursed if he joined up.

The Rhodesian Information Office is set up in the United States under the Foreign Agents Registration Act. American officials say that they would not hesitate to close it down if they found evidence that it was breaking American laws by, for instance, recruiting American citizens or by breaching sanctions.

Proof that Americans have joined Rhodesia's forces fell into U.S. officials' laps this past summer when John Coey of Ohio was killed in action as a medic with RLI. But these U.S. officials have tended to take the line that Mr. Coey had emigrated to Rhodesia and had subsequently been drafted into the country's army. "It's not against U.S. law for a person to visit Rhodesia," says a State Department official. "We can discourage them but can't prohibit them."

According to John Coey's mother, however, he went to Rhodesia in March of 1972 specifically to enlist. Mrs. George Coey of Hideaway Hills, Ohio, said in a telephone interview that John first joined the Special Air Service (SAS) and later switched to the RLI as a medic. She explained that John was due to be drafted into the U.S. forces at that time and going to Rhodesia "was his choice instead of Vietnam . . . The ones who committed treason were the (U.S.) Government officials by involving America in a no-win, undeclared war."

Two other Americans who have recently turned up in the area are Joe Belisario and Craig Acheson. Both now are serving six-month jail terms in Botswana after being arrested on firearms charges on September 14. The Botswana Government says they entered the country from Rhodesia and "were carrying out a mission for the Rhodesian Special Branch." Unlike Rhodesians, U.S. passport holders can enter Botswana freely for up to seven days.

Acheson and Belisario are among the leaders of "Veterans and Volunteers for Vietnam." This is a group of at least 500 vehemently anti-Communist American former servicemen who got together toward the end of the Vietnam war intending to offer their fighting expertise to Saigon. However, they hit financial obstacles and were unable to mobilize before Saigon fell.

The founder of VVV is an ex-Marine, Bart Bonner of Watertown, New York. He says that his two aides, Belisario and Acheson, left for Rhodesia in July with high hopes of joining Rhodesia's armed forces. Several other VVV members, says Bonner, also left at about the same time. Belisario told the Rand Daily Mail before leaving that he was going to Rhodesia to "fight Communism" and was taking along a list of other potential enlistees.

American officials say they have no evidence, however, that either man actually signed up in Rhodesia. Some American sources with links with Rhodesia allege that the two irritated Rhodesian officials with their "loud mouths" and were thrown out. Bonner says he has heard nothing from them; he doubts that they would have had time to get to Rhodesia, sign up, and get out on such a patrol or mission in so short a time.

Meanwhile, Botswana officials have continued to investigate the incident with considerable misgivings. They say that Rhodesian patrols have violated their border several times in recent months and are anxious that the Acheson-Belisario incident could presage Rhodesian use of Americans or other non-Rhodesians for under-cover operations.

As for VVV, some of its members say they are keen to get to Africa—if not to Rhodesia then to Angola. According to these sources, VVV is prepared to partially "reactivate" if the mercenary call goes out and send 150–200 "para-medics" to Angola.

According to U.S. officials, the laws which relate to Americans enlisting in foreign military forces have seldom been applied. Perhaps one reason for this is that they are far from comprehensive.

The main legislation in his area appears to be Title 18, United States Code 958/959/960. However, these laws deal only with enlisting, recruiting, or mounting a military expedition, within the United States. As far as I have been able to ascertain, there is no prohibition on enlisting once outside this country. Hence, presumably, those Americans who have gone to Rhodesia and then joined up are not liable to the prescribed sentence: a fine of not more than $2,000 or imprisonment for not more than three years or both.

But an American who recruits someone else in the United States or gets them to "go beyond the jurisdiction of the United States with intent to be enlisted or entered in the service of any foreign prince, state, colony, district, or people as a soldier . . ." is liable to prosecution. The sentence: a fine of not more than $1,000 or imprisonment of not more than three years or both. Hence those people advertising mercenary openings overseas could possibly be liable under this legislation—a fact which Robert K. Brown appears to have taken into account earlier this year when he stopped marketing his Oman and Rhodesia information packets. Where the legal line is drawn between recruiting and merely supplying information is not clear.

American officials say they have warned at least half a dozen Americans (including Joe Belisario) that they risk fines in jail if they enlist in Rhodesia. There appears good reason to doubt whether this information is strictly accurate.

These officials also have told such potential recruits that they could lose their citizenship. This issue, too, is legally controversial.

The Supreme Court has ruled that Americans cannot lose their citizenship unless they "effectively renounce" it. Some lawyers believe that enlistment in a foreign army, especially if this includes an oath of foreign allegiance, could amount to an effective renunciation. However, if an American is deprived of his citizenship for such a reason he has the right to contest the ruling in the U.S. court system all the way up to the Supreme Court, say Justice Department officials.

All of these legal questions at least throw some doubts upon the statement made to the UN's Fourth Committee by Congressman Fraser.

Finally, there is the question of consistency. A point made by people such as Frank Sweeney (and also by the Rhodesian Information Office to its recent visitor) is that Americans are known to go to Israel to fight in times of crisis. "What's sauce for the goose is sauce for the gander," says Sweeney. That is, the American authorities can hardly prosecute those who go to enlist in or recruit for Rhodesia unless they are equally vigilant when it comes to Israel.

In sum, there is considerable evidence that a small number of Americans are already serving in Rhodesia's armed forces—though probably far fewer than the 400 cited by some Black African liberation movements. There is abundant evidence that Americans are being recruited for, or at least supplied with information about, Rhodesia's forces.

U.S. officials, in their diplomatic embarrassment, have a good deal to say about this at the United Nations or elsewhere. But so far they have done little—either because they don't wish to, or because the available laws are inadequate, or because they are anxious about the side-effects on other prickly issues such as service in Israel.

Meanwhile the Rhodesians apparently welcome white American recruits, especially if they are ex-servicemen. "If you were a Vietnam veteran we'd love you," that visitor to the Rhodesian Information Office was told. According to Frank Sweeney, the Rhodesian Army already contains a high proportion of foreign citizens from Britain, West Germany, the United States, South Africa, and so on. What's more, he says, the Rhodesians are having to employ more women in military base jobs so as to free men for patroling the country's lengthy borders. At present there appears to be little to prevent Americans too, going to help fill the gap.

KEMP-KOCH RESOLUTION

HON. G. WILLIAM WHITEHURST

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 5, 1976

Mr. WHITEHURST. Mr. Speaker, through an inadvertent oversight, my name did not appear as a cosponsor of the Kemp-Koch resolution on Tuesday, August 3, and I would like to take this opportunity to add my own words of commendation for the courageous raid on Entebbe Airport by Israeli commandos.

I am proud to be a cosponsor of this resolution, and I hope that the committee will act promptly after the recess so that favorable action may be taken in the House well before the end of the 94th Congress.

Such heroism should not go unrecognized, because it sets an example for the whole world in taking a firm stand in opposition to acts of international terrorism. The Kemp-Koch resolution has my wholehearted support.

Thank you, Mr. Speaker.

THE BALANCE(S) OF POWER: IV (ii) STRATEGIC DEFENSIVE BALANCE

HON. JOHN BRECKINRIDGE

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 5, 1976

Mr. BRECKINRIDGE. Mr. Speaker, to continue my discussion of the strategic defensive balance in my series on the "Balance(s) of Power," I wish to insert the conclusions of a specialist in the field as expressed in a summary overview of the Soviet war-survival program—a program with ominous overtones for the United States, which has no counterpart program. The summary, which follows, is extracted from a book by Leon Gouré, "War Survival in Soviet Strategy," Coral Gables, Fla.: Center for Advanced International Studies, Uniiversity of Miami, 1976.

The summary follows at this point:

WAR SURVIVAL IN SOVIET STRATEGY

THE MISSION AND ORGANIZATION OF SOVIET CIVIL DEFENSE

The Soviet civil defense program celebrated its 43rd Anniversary in October 1975. In 1961, its name was changed from Local Anti-Air Defense (MPVO) to Civil Defense (*Grazhdanskaia Oborona*), at which time it was transformed into a national program. "General supervision over Soviet civil defense is exercised by the Council of Ministers of the USSR," which carries out the directives and the "aims and tasks" of the Politburo. In practice, the program is planned and supervised by the USSR Civil Defense of the Ministry of Defense, assisted by civil defense staffs and the chiefs of military districts.

USSR Civil Defense is said by Moscow to be a "system of all-state defense measures" and an integral part of the Soviet defense program. Its primary mission is to organize the protection of the population and of the economy from attack by nuclear, chemical and bacteriological weapons; to train and administer a large civil defense force; to instruct the entire population in civil defense on a compulsory basis and to prepare it morally and psychologically for a possible nuclear war; to assure the capability of essential elements of the economy to function in wartime and to sustain the war effort; to carry out massive post-strike rescue, damage-limiting, repair and restoration operations; and, in the interim, to participate in dealing with natural disasters.

Civil defense involves, in Soviet practice, the active participation of the Party, the state apparatus, the economic and social systems at all levels, and all elements of the population. The Deputy Chief of USSR Civil Defense noted in December 1975 that "there is likely to be no branch of the national economy, science and culture" which does not "to one degree or another deal with civil defense measures."

The program is organized along administrative-territorial lines, on the one hand, and functional-economic, on the other. The first corresponds to the state administrative structure, from the national level through union republics, autonomous republics, *krays*, provinces (*oblasts*), cities, city districts, rural districts (*rayons*), to individual workers' settlements and villages. The second follows ministerial lines and their subordinate organizations, and applies to manufacturing enterprises, transportation, communication, education, health, science, agriculture and so on. This civil defense organizations operate at all levels, from the national and republic ministries, to individual factories, schools, research institutions, collective and state farms, hospitals and other medical facilities, television, radio and telephone stations, truck parks and railroad sections and so on. The administrative heads at each level are the responsible chiefs of civil defense for their area of jurisdiction and they are assisted by full- or part-time civil defense staffs, usually made up of active or retired military personnel.

According to Soviet doctrine, civil defense requires large forces to carry out essential pre- and post-strike measures. The main civilian component is organized on a compulsory basis among workers in municipal services, industry, transportation, communications, health, public order, collective farm personnel, school personnel, etc. While no official figure has been published on the total size of the civil defense formations, they are said to include up to 70 percent of the industrial work force. Calculations indicate that altogether there are now more than 30 million civilians serving in civil defense. In addition, there is a military civil defense force, which is largely responsible for radiological and chemical monitoring and surveillance, heavy engineering and communications, and which operates in conjunction with and in support of the civilian force.

Moscow does not provide data as to expenditures on civil defense. Allocations are hidden in the budgets of the armed forces, municipalities, ministries, industrial plants, and so on. But conservative estimates in terms of what an equivalent U.S. effort would have cost over the past twenty years, that is, since the Soviets launched their shelter construction program, would amount to an average of $1 billion annually, or about $4 per person per year. With the stepping up of the program and the expansion of its scope beginning in 1972, which includes new outlays for equipment and large-scale construction, the annual cost may now be substantially larger. Most of the costs are for hardware elements because the bulk of the civil defense personnel is unpaid and the training is conducted during free time periods. It is likely, therefore, that the Soviet Union has already invested more than $20 billion in civil defense, most of it in equipment and training, shelter facilities, and in measures to harden and disperse industry.

MEASURES FOR THE PROTECTION OF THE POPULATION

The protection of the population is viewed as a key factor in assuring the war survival of the Soviet Union and its recovery from a nuclear war. Soviet spokesmen are fond of quoting Lenin to the effect that if the workers survive, "we shall save and rebuild everything." The measures include: individual means of protection, pre-attack urban evacuation and dispersal, and shelter construction.

Individual means of protection

Soviet authorities believe in the importance of protecting the population against inhaling, ingestion, or skin contact with radioactive fallout and chemical agents. Individual protection is provided by means of gas masks, protective clothing, and individual medical packets with prophylactic medication for exposure to radiation, atropine syringes and liquid for decontamination of skin surfaces. The Soviet Union manufactures gas masks for children and adults, as well as gas bags for infants. Protective clothing includes rubberized or plastic hoods, capes or shirts, pants, boots and gloves.

Full protective equipment is provided to the civil defense personnel, and gas masks are generally available to the working population and are also widely used in the training of schoolchildren and adults. Detailed instructions are published on the making of makeshift masks and protective clothing for those who may not have the full equipment.

Pre-attack urban evacuation and dispersal

Pre-attack evacuation and dispersal of residents in potential target areas are viewed as the best methods for sharply reducing casualties among the population from nuclear strikes. Dispersal applies to essential workers and their families whose services or factories will remain in operation. They are scheduled to be moved to nearby villages, so that one workshift at a time will be able to commute to the plant in the city, where it will be provided with blast shelters. Nonessential urban residents will be evacuated to more distant rural locations and small towns where they will be settled for the duration. Dispersals and evacuations are planned to be strictly controlled. Everyone will be sent to pre-assigned locations along predesignated routes. All means of transportation will be used, but no self-evacuation by individuals or independent travel will be allowed. In the resettlement areas evacuees will be housed, fed, and provided fallout shelters. Factories are assigned responsibility for assisting villages designated as resettlement areas in preparations to receive evacuees and provide feeding facilities, water supply and so on.

According to Soviet publications, pre-attack urban evacuation and dispersal may reduce losses from nuclear strikes to 5 to 8 percent of the urban population (i.e., 7.5 to 12 million out of an urban population of 151 million). Evidently, in Moscow's calculations, losses could conceivably be held below those suffered by the Soviet Union in World War II.

The scope and rate of the urban evacuation program is not specified by Soviet authorities. However, 85.4 million live in cities with a population of 100,000 or larger, and 100.1 million in cities of 50,000 or larger. Soviet civil defense manuals suggest that the evacuation is expected to be carried out in 72 hours. This would generally be within the means of Soviet transport capability. Since 1974, however, civil defense authorities have sought to expedite the rate of evacuation by requiring the younger workers and residents to walk out of the target cities in organized groups. Such an evacuation on foot is currently being practiced in factory exercises.

Shelters and fallout cover

Shelter construction in factories, public buildings and apartment buildings began in the second half of the 1950's. Particular emphasis was and continues to be on blast protection for essential industrial and service workers. During the second half of the 1960's it was decided that it was too expensive and difficult to provide effective blast shelters for all urban residents and, consequently, shelter construction continued only at industrial sites and in new public buildings. In 1974, however, it was again decided that shelter protection should be provided for all residents, with greater use being made of dual-purpose shelters. Present indications are that shelter construction in the cities and construction of fallout shelters in the rural areas have been stepped up.

A large variety of shelters are designed and built in the Soviet Union. These include separate standing, as well as special basement blast shelters, hardened to up to 100 pounds per square inch overpressure and in some cases substantially more; hastly blast shelters built of reinforced concrete pipes, plates and blocks; and fallout shelters built from a variety of available material, adapted dugouts, storage cellars, as well as subways, caves and mines. Blast shelters are equipped with double blast doors, filter ventilation systems able to deal with radioactive fallout and chemical agents, air regeneration equipment, and sometimes, bottled oxygen, emergency exits, electric power, heat, water, toilets, telephones and radios, as well as seats and bunks. Standard shelters are designed for 100 to 300 persons' occupancy, but separate standing shelters may be larger, and the Moscow subway, which has blast doors at all of its deep stations, is estimated to be able to shelter up to one million persons. Subways in other Soviet cities also appear to be designed in part or as a whole to serve as shelters.

The existence of shelters in the cities and at collective farms is reported for all the Soviet Union. Although no information is published on the total ready shelter space now in existence, there is no doubt that the cumulative construction of shelters since the mid-1950's has resulted in a shelter capacity for a large fraction of the population and that more are being added every year, especially under the stepped up shelter construction program introduced in 1974. The population is also being trained in the construction of hasty shelters, and according to Soviet plans, the entire population should be able to secure protection in either blast or fallout shelters within 72 hours of an announcement by the government that a "threatening situation" exists.

MEASURES FOR THE PROTECTION OF THE ECONOMY

Protection of the economy and assuring continuation of essential production in wartime and a capability to carry on after hostilities end are primary elements of the Soviet war-survival program. Protective measures include industrial dispersal and hardening; duplication of sources of energy and critical production facilities reducing the vulnerability of means of transportation; restricting urban growth; stockpiling fuel, raw materials, food, spare parts, etc.; and protection of agricultural supplies and livestock.

According to official Soviet sources, since 1966 at least 60 percent of all new industrial plants have been located in small towns. This dispersal program will continue during the current 1976–1980 Five-Year Plan. Particular attention is paid to the location of new industries near newly developed sources of energy and raw materials in Siberia, which the Soviet Government seeks to develop with the aid of Western, and especially U.S., technology and credits. According to USSR Minister of Defense Grechko: "The shift of production forces to the East, bringing them closer to sources of raw materials and fuel, their dispersed location by economic regions, significantly increases the defense capability of the Soviet homeland, and makes our industry less vulnerable in the event of a missile-nuclear war . . ." Similarly, Colonel-General Altunin has characterized the industrial dispersal program as a "decisive measure for ensuring the viability of the economy in wartime."

To prevent a growing concentration of industry in large cities, further construction in such cities, except for industries related to municipal services, has been prohibited by law since the late 1960's. Furthermore, efforts are to be made to remove from the cities plants which use or produce highly flammable, explosive or toxic materials. The law also calls for restricting the population growth of large cities by limiting the right of persons from the outside to come there to live.

In planning industrial dispersal and arrangements for substitutions for destroyed facilities, Soviet authorities not only include their own territory and industrial capacities, but also those of the Warsaw Pact member countries. It is specifically envisaged to substitute East European industrial capacities for those destroyed in the Soviet Union, especially in defense production. Such a plan is facilitated by the standardization of military equipment throughout the Soviet bloc.

The Soviet Civil Defense Program requires all service and industrial facilities to harden their installations. The purpose is to reduce vulnerability to secondary damage; protect the most valuable machinery; shield the electric power, steam, water and chemical conduit systems; establish underground water reservoirs, pumping and transformer stations; reinforce weak structures; protect fuel and other flammable material storage facilities; provide plants with two independent power sources or with standby generators; and so on. In transportation, plans call for the construction of road and railroad bypasses around potential target cities; the duplication of critical bridges and power installations. For communications, plans seek the development of redundant systems to ensure their operational capability in a disaster situation. Soviet literature also indicates interest in placing critical defense plants and raw material reserves underground. There are clear indications that the hardening program is very much in process of being carried out, although because of the considerable capital construction requirements, its completion will require a number of years. According to Soviet authorities, "the problem of assuring the stability of the socialist economy, its mobility and its preparedness to develop the production of weapons and military equipment in the course of an armed struggle . . . is being solved on a new, higher level."

Much attention is paid to the organization of production in such a manner that each region will be, as far as possible, self-supporting. With this in view, plans call for the duplication of unique production lines or capabilities to ensure their survival.

In order to reduce the vulnerability of cities to secondary damage and to facilitate the evacuation of their population, as well as to provide access to them by civil defense forces in a post-strike situation, Soviet urban planning has long called for the construction of wide main streets whose width must be equal to the sum of half the height of the buildings on both sides plus 15 meters, the development of greenbelts to act as firebreaks, the construction of protected water reservoirs, the expansion of public transportation systems, the location of depots of trucks, buses and other means of transportation outside the cities and so on.

Stockpiling

Soviet authorities attach great importance to the maintenance of reserves of fuel, raw materials, spare parts and food for a war situation. These reserves are widely dispersed and protected against nuclear strikes. While their exact size is a well-kept secret, indications are that the Soviet Union has on the order of one year's war reserve of grain and other foodstuffs. In addition, a considerable amount of food reserves exists in the cities (from 90 to 120 days), and more than half of the total annual grain production is kept at the farms, so that in general there will be sufficient food there to feed urban evacuees. War reserves of food are considered to be "untouchable," even when shortages occur in the Soviet grain harvest.

WARNING AND POST-STRIKE DAMAGE-LIMITING AND RESTORATION OPERATIONS

USSR Civil Defense has developed a series of nine different warning signals: a "Threatening Situation," which is a strategic warning of a possible outbreak of war and is assumed to provide several days of grace before a possible attack; a "Threatening Attack," which calls for the deployment of civil defense forces; an "Air Raid Alert," which calls for the population to take cover in shelters; a "Seal Protective Structures" signal, which calls for closing shelter doors; an "All Clear" signal, as well as a "Threat of Radioactive Contamination" warning; a "Radioactive Contamination" alert; a "Chemical Attack" alert; a "Biological Contamination" alert; and a "Threat of Flooding" warning. Each type of signal calls for specific action on the part of civil defense forces and the population, and both are trained accordingly.

USSR Civil Defense attributes special significance to post-strike rescue, damage-limiting, repair and restoration operations, and the bulk of the civil defense forces are organized and trained for this purpose. In principle, the evacuated urban civil defense formations, reinforced by rural formations and by military civil defense units, will begin such operations immediately following a nuclear strike. Their assignment is to clear access routes, monitor and survey the level of radiation or chemical contamination, and if these levels permit, to move into the strike area to rescue personnel in shelters, fight fires, repair broken water and gas mains and power lines, shore up damaged factory buildings, decontaminate access routes and work areas and, where possible, to restore damaged services and plants to production. A short-term cumulative radiation dose of 50r is considered acceptable for civil defense personnel when necessary. Helicopters are scheduled to be used to bring in heavy equipment such as pumps. Civil defense formations from destroyed plants will be assigned to assist those whose plants were only damaged, or will participate in damage limiting activities. If new strikes occur during these operations, civil defense personnel will take cover in surviving shelters, Rescue and post-strike repair actions are constantly practiced by the civil defense formations in exercises, held mainly at plants and in city districts.

POPULAR TRAINING AND INDOCTRINATION

Training of the population in civil defense is compulsory, and is designed to teach the people how to act and carry out orders, to practice self-help, to assist post-strike operations, and to develop appropriate moral-psychological and political attitudes. A particular aim of the training is to instill in the population "deep faith" in the effectiveness of civil defense measures and the possibility of surviving nuclear strikes.

Since the mid-1950's, seven compulsory civil defense courses have been given to the population, totaling 124 hours of training time. This training is for men 16 to 60 and women 16 to 55 years of age, and recent courses require demonstrations of practical skills. Members of civil defense formations receive additional training. The current 20-hour basic course instituted in 1973 for the entire population also provides for 70–90 hours of training for command-staff personnel, 36 to 44 hours for civil defense unit leaders, and 28 to 30 hours for members of civil defense formations. In addition, all participate in various exercises. Schoolchildren receive formal civil defense instruction in the second, fifth and ninth grades of ten-year secondary schools, for a total of some 57 hours, and in addition, receive training in the Pioneer summer camps, and in the course of the national military-patriotic war game program, in which 16 to 20 million children participate annually. Vocational and technical schools and institutions of higher learning provide additional civil defense training for their students.

Of particular significance is an up-grading of civil defense exercises that was initiated in 1974. While previously exercises were primarily conducted with individual civil defense units according to their special function, under the new program, all industrial installations and farms have been required to conduct "complex" exercises involving the simultaneous participation of all units in simulated pre- and post-strike situations. In addition, the residents of "micro-districts," mainly families of workers and farmers, participate in these exercises. Furthermore, following a number of tests and demonstration exercises, the plan calls for district and city-wide exercises to be held beginning in 1977.

In order to improve the quality of the training and to provide trainees with more "realistic" situations, a program of mass construction of specially equipped training sites or "villages" was introduced in 1974. These sites are built at large plants, in city and rural districts and so on. For example, one district in the Ukraine had built 16 such sites by September 1975, and planned to build 55 more during the next three years. According to Soviet sources, the cost of construction of each site ranges from some $17,000 to $100,000, depending on its size.

The current exercise program is also used to build additional shelters in cities and rural areas and to carry out measures to reduce the vulnerability of plants to secondary damage.

In support of the Soviet Civil Defense Program there is a large-scale and elaborate propaganda program conducted by the Communist Party and by the entire mass media. This includes the publication of numerous books and pamphlets in hundreds of thousands and even millions of copies, articles in the national and local press, movies, radio, television a large-scale public lecture program conducted by the "Znanie" Society, exhibits, competitions, the holding of "Civil Defense" days and so on. "International" competitions involving civil defense units from other East European countries are also frequently held. For example, in one year the Belorussian Republic press carried 1,200 articles on civil defense, the Ukrainian television stations broadcasted 460 programs devoted to civil defense, civil defense films were regularly shown to millions of viewers, and in the Moldavian Republic 1,325 lectures were given which were attended by over 100,000 persons.

BY WAY OF AN APPRAISAL

The implementation of such a large-scale and administratively complex program as Soviet civil defense is not without shortcomings and tends to be uneven. These problems are said by Soviet authorities to be due mainly to bureaucratic inertia and indifference on the part of "some" citizens. The latter, it is explained, feel that they are asked to give up their free time just to learn "the same old thing," or lack faith in the effectiveness of the protective measures. Also, administrators are accused of oversimplifying training and exercises, or of being slow in building training sites, blast shelters, etc. Industrial hardening measures are reported as sometimes neglected or as being implemented too slowly. More important, authorities acknowledge difficulties in preventing Soviet citizens from moving into large cities. Leaders of civil defense units are portrayed as sometimes poorly trained and unable to conduct effective exercises. Furthermore, no large-scale evacuation exercises for entire cities have been held so far.

Soviet publications are quite candid in pointing out these shortcomings as well as in praising those republics, cities, plants or farms which have done well in implementing the program. Of course, the publication of shortcomings serves as a means for bringing pressure to bear on culprits and to alert the local party organization to take the steps necessary to correct shortcomings.

While shortcomings are evidently undeniable, especially as the Civil Defense Program keeps changing and becoming more complex, general indications are that the program is steadily improving and that its overall effectiveness and the resultant state of readiness has grown markedly, especially in recent years. Further, new measures introduced in 1974 reflect a decision on the part of the Soviet leadership to expand and accelerate the Soviet capability for war-survival and to invest substantial additional resources into the effort, regardless of difficulties. This decision will certainly result in a further improvement in the effectiveness and readiness of the Soviet war-survival capability and is likely, therefore, to further raise the leadership's confidence in its effectiveness. Moreover, there will undoubtedly be more of the same in the future. For, as in the case of defense in general, there appears to be no point at which the leadership will consider this program as having been completed, because there will always be further measures which can be taken to ensure against possible losses and because there will continue to be a need to adapt to changes in offensive weapons technology and to new enemy strategies and capabilities.

It is, of course, not possible to assess how well USSR Civil Defense would perform in the event of a war. A great deal will depend on the efficiency of the organization as well as on the discipline of the population. New elements in the program which are designed to greatly enhance the Soviet war-survival capability will take a number of years to implement. Nevertheless, it should be kept in mind that the cumulative efforts over the past twenty years or so and the very considerable investments made over that period have already provided the Soviet Union with a considerable war-survival capability. Thus, shelter construction, especially at industrial sites, has been going on since the second half of the 1950's, and consequently a very considerable shelter capacity is already in being. According to the evidence, it appears that at the present time the Soviet Union has the necessary shelters to protect its main political, administrative and command and control elements as well as the work force—that is, all the elements deemed essential for the preservation of the system, for sustaining a war effort and for postwar recuperation. It is also evident that with a few days of warning the authorities could evacuate the great majority of urban residents from potential target areas, and provide them, as well as the rural population, with protection against fallout. The industrial dispersal program is also well along.

While there are some indications of popular skepticism in the Soviet Union regarding the effectiveness of civil defense measures, the repeated exposure of the citizenry to compulsory civil defense instruction and training and to massive civil defense propaganda and indoctrination ensures that knowledge of what to do in an emergency has become well ingrained in the majority of the population. It is reasonable, therefore, to expect that given this knowledge and the general habit of obedience to authority, Soviet citizens will follow instructions in the event of a threat of war, or in the face of an actual nuclear attack, and will put into practice what they have learned in order to increase their chances of survival. Furthermore, in such a situation the authorities, as in the past, will be prepared to take extreme measures to enforce popular obedience and discipline. It should also be kept in mind that the greater Soviet dispersal of urban centers, as against the U.S., and the existence of a large rural sector, makes the rapid evacuation of Soviet urban residents and their dispersal in the countryside quite practical, and that such evacuation, regardless of how it is accomplished, would, as all calculations show, radically reduce the likely number of casualties from nuclear strikes.

In any event, it is clear that the Soviet authorities remain determined to further develop and improve the USSR's war-survival capability. This is reflected not only in the varied concrete activities they are currently augmenting and intensifying but in their continuing appeals to the citizenry, which argue that "the entire population, all state and social organizations have an interest in fortifying and improving civil defense" because of the "tremendous role" it plays in "increasing the defense capability of the country." Therefore, "every Soviet citizen is said to have a "personal responsibility for the fulfillment of civil defense measures" and for "actively" participating in the program. In the nuclear age, it is emphasized, the "defensive might of a state is determined not only by the readiness of the armed forces to wage war," but also by the extent to which the country is prepared to survive such a war. And, "the winning of victory in a war depends in the final count on the standard of this preparation."

MYRDAL DISCUSSES STATE OF THE WORLD

HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 5, 1976

Mr. SIMON. Mr. Speaker, perhaps like many of my colleagues I accumulate a pile of printed material of one variety or another which I intend to read "some day." Sometimes that "some day" arrives and sometime periodically I simply have to throw some of these things away.

The other day, in traveling back to Illinois I had a chance to read through some of these things and I came across a statement by the distinguished Swedish sociologist Gunnar Myrdal, whose Nobel Prize for his sociological research in the United States was richly merited.

Myrdal gave a talk to the 10th annual meeting of the Lutheran Council in the USA on March 11 of this year in Philadelphia. The introductory paragraphs pertain to that Lutheran meeting and his own Lutheran heritage.

But beyond that it is as apt a statement on the state of the world as any I have seen summarized in a few paragraphs. He deals with U.S. leadership in the world in which we live. There are a few statements where some of us might disagree, but I believe all of my colleagues would profit by reading and reflecting on the observations of this 77-year-old distinguished citizen of the world.

Whether the next President of the United States is Jimmy Carter or Gerald Ford, I hope the international concerns that Gunnar Myrdal expresses in this address can be part of an inaugural address to the Nation in January of 1977, an inaugural address that can help lift the vision of our Nation, to give this Nation and the rest of the world a greater sense of direction and hope.

The address follows:

A WORRIED AMERICA

(By Gunnar Myrdal)

A LUTHERAN HERITAGE

I was asked to address you, bringing together "the past and the future" in the bicentennial year. You chose me "as one who identifies with a Lutheran heritage." That characterization touched a chord in my heart, as most surely I know that it is true. I belong to that generation of Swedes who had to read the Bible and Lutheran catechism in school—that was before public education was secularized in Sweden as it had been long before in the United States. Lutheran work and life ethics had impressed themselves on the poor but sturdy farming community in Dalecarlia, from which I stem and from which so many emigrated to America, among them my father's two older brothers. To be approached as a person in the Lutheran tradition gave your invitation a personal meaning, so I could not resist accepting it. And my message will have a more personal intonation, which I hope you will understand and tolerate.

My whole working life has been devoted to the study of economic, social and political problems in Sweden, America and the world. When I have come to insist that social science is a moral science and that economics, in particular, is political economy, I feel I have been expressing my Lutheran heritage—although, of course, the influence of other Christian churches must have moved in the same direction. In fact by stressiing that social sciences must be moral sciences I am in line with the classical doctrine as it developed in Calvinistic England and Scotland.

At that early time, a hundred or two hundred years ago, my forerunners among political economists could find their valuational moorings in the philosophies of natural right and utilitarianism, which in their turn were based on the associational psychology of hedonism, which are now in my view defunct. I had to seek other ways of ascertaining and expressing the value premises basic to my scientific work. Without going into the complex methodological problems of what social science research is and should be, to which I have devoted much of my writings, I want in this context to restrict myself to stressing that scientific study of society must allow a proper place for human valuations. It must be a moral science. The scientists has both the right and the duty to draw rational policy conclusions as to what is bad and what is good and how man and his society should be reformed.

DEVOTION TO ENLIGHTENMENT

Let me in this self-analysis go one step deeper and try to explore how the development of the world through the more than 50 years of my working life has reflected itself in my conception of this world. My experiences can be seen as typical and, indeed, are overtypical of a whole generation in our Western world, not least in America.

I—and this is true also of Alva Myrdal, with whom I have shared life and thoughts since the day we first met 56 years ago—lived through my early youth during World War I. Sweden had succeeded in keeping out of the war and so was a peaceful country in which to grow up. During that war America was not entirely different from Sweden. Even though the U.S. was brought into the war rather late, most young people of our age were not in the fighting forces, and the war went on far from its shores without implying much damage to the country. Television and radio did not exist. We read about the war in the newspapers but did not witness the ordeals of Europe in the forceful way all the horrors of the whole world are nowadays continuously thrust upon us. We could devote ourselves to our inner life of trying to find our intellectual and moral anchorage.

The period before World War I was, as I should remind you, an optimistic long period of common belief in progress. That trust in human progress colored the literature at the disposal of young people trying to orient themselves to the world. Democracy was not only a fact in some countries in Europe as in America but also the inevitable historical trend in the world. That literature took for granted that, for instance, even Germany and Russia would, over constitutional monarchies, develop into parliamentary democracies. I remember I played with certain romantic feelings for Napoleon. I could do this because the idea that one man could ever again become a dictator in a civilized country was entirely outside of what was thinkable in the literature on which we were nutured.

The huge underdeveloped regions, particularly the great poverty among the masses there, were largely beyond our horizon. The colonial power structure, assumed to be a firm and lasting fact, functioned as a shield for our consciences. If freed a Swede or an American from feeling remorse for the suffering of the peoples living in these regions, about which there was not much publicity anyhow. We succeeded in thinking of them in romantic terms, of their unfamiliar and often beautiful dresses, their dances and music, their ruins and temples and their interesting but strange religions and philosophies. This moral disengagement, broken only by the missionaries sent out by the churches, mostly of the low church varieties and not intent upon political changes, lasted until after World War II when the decolonization movement emerged as perhaps that war's most important consequence, though it had not been foreseen and still less had been an aim in the developed countries. In any case, to teen-agers in Sweden, and even to the most alert among them, the global view during World War I was restricted to the independent and advanced countries.

The war in Europe was felt to be a stupendous but unique crime which should not, and could not, be repeated. This armed conflict was called the Great War or, in America, the European War. We had not yet got into the habit of reckoning world wars in numbers! The thought held by everybody was that when the fighting was over, peace and democracy would be secured. Everybody spoke of "back to normalcy," which meant back to progress in a stable world. This is what everybody believed in and prepared himself for.

Within the narrow world view of the advanced countries was space for considerable diversity in our intellectual explorations. We could, and did, indulge in the pessimism of a Schopenhauer or in the aggressive egocentricity of a Nietzsche. Some aligned themselves with Marx. I studied him as an important classical author but was more influenced by the French and English utopian socialists who, different from Marx, were planners in the great tradition of enlightment philosophy. Indeed, I grew up under the influence of the enlightment philosophers and their followers of the 19th century and right up till World War I. The common trust in progress could prevail in this line of thought.

From the beginning this philosophical tradition, like broad Christianity, gave an optimistic conception of the world. Both trusted fundamentally in man's opportunity to improve himself and the society to improve himself and the society in which he lived. Both recognized evil but saw the prospect of the amelioration of personal and social life—in religious terms, of conversion. This is the spiritual heritage I have preserved, and it has become deeply rooted in my way of feeling and thinking.

AN AMERICAN DILEMMA

When later I studied American society from the viewpoint of the most disadvantaged group, the blacks, I formulated my value premises in terms of the ideals contained in what I called the American creed of liberty, equality, justice and the rule of law and not men. I identified these ideals with the enlightenment philosophy which 200 years ago had been so much of an inspiration for the revolution against the English crown and the founding of this country. I also stressed their roots in Christianity. The last single word in "An American Dilemma" was enlightenment, as I had decided it to be while working on the book.

The American creed was not my invention. These ideals were a living reality commonly accepted by the Americans on a high level of valuations, accepted, as I found, by the oppressors as well as the oppressed and written into the Constitutional documents. Indeed, the United States, more than any other nation I knew, had equipped itself with a definite moral code for human relations that was outspoken and clear. I sought to ascertain the facts and the casual relationships between the facts as they were toward the end of the 1930s and the beginning of the 40s. But these facts were looked upon from the viewpoint of the American creed. That system of ideals determined the questions I raised.

When the prescripts of this national ethos were not complied with but broken in a large-scale, systematic and often horrible way, this created a dilemma, which again was not my invention but an observable fact. I had to deal with morals, private and public. My study, of course, was not simply moralistic. It became a study of morals, not in morals.

America was much poorer then. Large numbers were living in destitution. Unemployment was still very high, though declining. But the nation was confident of steering in the right direction. It trusted the future and the capacity to improve itself.

At the helm was Franklin D. Roosevelt. For the first time in American history he inaugurated social reforms on a broad scale and virtually started the nation's approach to the welfare state.

Important to Roosevelt's success in bringing the nation along with him was the human touch he displayed in what he said and did. He felt for the poor and downtrodden. He stressed the need for reforms as a moral force.

"I see one-third of a nation ill-housed, ill-clad, ill-nourished," he said in his second inaugural address. He urged "moral controls . . . over blind economic forces and blindly selfish men." He talked about "social justice" and saw a "change in the moral climate of America." He stressed that "the test of our progress is not whether we add more to the abundance of those who have much, it is whether we provide enough for those who have too little."

And he had Eleanor, that unequaled lady who functioned as a sort of extra-constitutional executive-interpreter, expressing and accentuating this bent of mind.

In the American creed I saw more than a set of instrumental value premises for use in my work. In spite of continuing gross noncompliance with its prescripts, setbacks and long periods of reaction, I saw the gradual fulfillment of these ideals as a determining trend. And I found reasons to believe that this trend would continue with accelerating speed in the future. This was the optimism in the study.

At that time race relations had been in relative stagnation for six decades since the national compromise in the 1870s after the Civil War and Reconstruction. In the social sciences we are too often apt to extrapolate from what has gone before, and most of my colleagues at that time shared a static and fatalistic view of the future. They were mostly inclined to depreciate hopes in the success of reform movements and, generally, of organized efforts to change society. In this field William Graham Sumner's dictum that "stateways cannot change folkways" remained the basic preconception.

From close observation and analysis of what was happening, particularly in the South where three-quarters of the blacks then lived, I concluded that this long era of stagnation was coming to an end. I even concluded that "not since Reconstruction had there been more reason to anticipate fundamental changes in American race relations, changes that will involve a development toward American ideals."

Economic conditions for the blacks were worsening, but in all other respects their lot was gradually improving. The New Deal had speeded up this movement. Meanwhile, isolation between blacks and whites had been increasing for a long time. I could on the basis of my study of ongoing changes predict the black revolt and that it would originate in the South.

AN AMERICAN DILEMMA REVISITED

Now after more than 30 years I am back to the problems of race relations in America and attempting to write "An American Dilemma Revisited: The Racial Crisis in the United States in Perspective." I can take the findings in the old book as a firm base line for the study of the dynamics in more recent decades. I have decided to use again the ideals of the American creed as the instrumental value premises.

In what meanwhile has happened to race relations in America, I find no reason to give up my contention that a gradually ever fuller realization of the ideals contained in that national ethos is more than a selected viewpoint when observing and analyzing the facts; it is and will remain the historical trend of change in this country—in a sense the destiny of America, if it is not going to give up its essential national personality. Here I stick to my basic optimism from the Roosevelt era and, further back, to my devotion to enlightenment and what I now look upon also as my Lutheran identification.

Certainly if we take the broad view, the conditions for life and work of the blacks have improved very much during the last 35 years. The advance has had setbacks and been uneven, more pronounced for the professional middle class and to an extent for the regular working class. The advance has been less for the poor masses in the growing city slums and for many blacks still left in southern agriculture.

Again taking the broad view, the blacks' facilities for health and education have been improving. Jim Crow in the South, which at the time of "An American Dilemma" was still a firmly functioning institutional system, has crumpled and disappeared. Even there blacks are now voting. Legislation and, though less perfectly, its implementation have increasingly awarded the blacks full civil rights. At the same time, public opinion polls demonstrate a continuous improvement of the dominant white population groups' ideas about black people and how they should be treated. Interestingly, that change in attitudes is going on in the South as well as in the North. In some respects the South is advancing more rapidly than the North.

What has been happening can from one point of view be described as a change in the fundamental purpose of the liberalization process. What was a fight for civil rights has broadened into strivings for equal human rights. The reforms have come to concern all disadvantaged groups, including women.

At the same time blacks have increasingly become actors on the scene who have to consider strategy and tactics. The problem of race relations is no longer merely a "white man's problem," as realistically I could characterize it 35 years ago. Blacks, like whites, are now facing the dilemma, and their own actions have considerable influence on the development of race relations.

The broad view I have hinted at is important. Nevertheless, there is a long way to go before blacks are commonly afforded equal opportunities in the pursuit of happiness. There is still tremendously much of segregation and discrimination. Even if poverty stricken blacks are only one-third of all the poor in America, they are a much bigger proportion of the blacks. Particularly in the black ghettos all too many young people are left to grow up without hope.

A MULTIFACETED CRISIS

Meanwhile, America has now in the 1970s gone into a multifaceted crisis which is still entangling us. Economically it is manifested in what we have come to call "stagflation," with high unemployment combined with inflation of prices. As always, it hurts with particular pressures the poor. We know that the black youth in some of the city slums have a real rate of joblessness of almost 50 percent, leaving them to walk the streets hungry and without a decent way of earning a living. That crime, prostitution and traffic in drugs then can be seen as a way out should surprise nobody.

The country has also experienced the catastrophic end of an illegal, immoral and cruel war in Indochina. Meanwhile, it has had revealed a continuous sequence of gross scandals of which Watergate was only the culmination. A fortunate and healthy manifestation of America as an open democracy is that Congressmen and the mass media do their utmost not to cover up the transgressions of laws and common decency but to give the whole world and, to begin with, the American nation itself full information about what has been going on.

As a result Americans have to an unprecedented extent lost confidence in their national institutions. As the opinion polls inform us, never has people's trust in the Administration, Congress and business been at such a low ebb. And the level of participation, for instance in elections, is low. Low participation and often apathy, particularly but not exclusively among the lower classes, have always been a weakness in the workings of American democracy, but now this nonconcernedness and lack of individual responsibility for the nation are threatening to spread wider.

I am in line with the Lutheran tradition when I urge everybody who has a voice, particularly the clergy of our churches, to hold up the responsibility of the individual common citizen for what happens in the country. What America needs is not to forget what has gone wrong but to face the wrongdoings squarely and persist that they shall not happen again. In moral terms this implies the need for a catharsis.

The shameful McCarthy period, when so many of those higher up for so long kept silence, was ended when ordinary Americans on television saw how that man behaved. I don't believe something similar will happen again. But I would feel surer if I had seen more careful study about how it could ever happen.

The Vietnam War was not only a gross miscalculation, politically and militarily, but also a moral wrong inflicted by a massive use of cruel weapons, forbidden by international law, mostly against poor and innocent civilians. Again to forget about it and keep up a self-righteous and aggressive front toward the world is not enough. Americans must honestly face what for a long time they have permitted their government to do. Otherwise they will not be cured from the evil.

Again now, with all the widely publicized misdeeds of elected or appointed officials and important bodies of big corporations, to live on with the opened-up knowledge of the scandals is not enough. To be a citizen of a democratic nation implies being morally responsible for not without protest letting things happen that are wrong.

Everybody who is teaching or preaching or has a responsibility for others doing this has a particular duty to recognize evil and to lead his or her flock to recognize it and to stand up against it. The Lutheran tradition does not permit remaining noninvolved in what happens in society.

Lutheranism has a more generally benevolent and even indulgent view of people. It does not, like Calvinism, tend to keep a firm line between the redeemed and sinners. We are all sinners and need salvation. But in another sense Lutheranism is a stern religion. In my youth I was taught as the "order of grace" that generous forgiveness of sin was certain—but only after a sequence of full clarification and consciousness of sins committed, confession of guilt and contrition of heart. But even Lutherans have often tended to make things too easy by playing up the joy of conversion without stressing what must go before it: what I have called catharsis. Otherwise it becomes a fake. When evil doings have gone on without our protest, to lay them behind us and forget about them is not enough. What is at stake in the present many faceted crisis in America is nothing less than America's soul.

THE INTERNATIONAL SETTING

The crisis in America is taking place in a world threatened by truly frightful pending dangers.

The income gap between developed and underdeveloped countries is steadily widening. Our aid has been marginal and never implied any real sacrifices. Continually it has been motivated by "the United States' best interests," and these interests have been explained in terms of political, military and strategic advantages in the raging cold war. This has also determined its distribution among poor nations. The statistics on development aid have been juggled, and economists have winked at it. But even accepting the publicized figures at their face value, the aid has been decreasing—and decreasing much more than in other rich countries.

My explanation of this development is that the motivation for political action does matter. The popular disinterest in America for aiding poor countries is to me explained by the lack of appeal to ordinary Americans in terms of moral decency and compassion for the sufferings of the poor masses in the underdeveloped countries but an appeal merely in terms of national policy interests. Then when these policies misfired, as they did in Indochina, the disinterest in helping poor countries reached its present depth.

Poverty among the masses in most underdeveloped countries has been increasing and reached a culmination a few years ago during the oil and food crises. America was niggardly with its food aid, and its government felt happy because the high food prices improved its balance of trade very much. Meanwhile, hundreds of millions in underdeveloped countries went hungry, and many tens of millions starved to death.

The population explosion is still going on and will go on. Family planning will not be effective in stopping it until individual couples get a feeling that they are living in a dynamic society that gives them hope of the possibility to improve their lot. With this population development and the lack of radical reform in most underdeveloped countries, particularly in the rural communities where the large masses of these people live, the world food crisis will come back when again the crops are less favorable. The danger is that then it will gradually take on an ever more permanent and disastrous dimension.

Our environment is steadily deteriorating, poisoning the land, the waters, the plants, the animals and, indeed, our own bodies. Some efforts have been made here and there, but on the whole we have not been successful in stopping pollution. A large part of the problem is international and could only be solved by international negotiations and regulations, of which we have seen little. At the same time we are in many respects depleting mankind's nonrenewable resources. The larger part of the process is carried on by the small minority of people in the developed countries who consume by far the largest part of these and other resources.

The underdeveloped countries are raising demands for a new economic world order. Even when in some developed countries, though least so in the United States, governments are expressing sympathy for these demands, they have little response at home among their own people. And in the present stagflation their relations with the new-rich, oil-exporting countries and with each other direct their policy interests. Relations with the great majority of mankind in underdeveloped countries fall into the shadow of nonconcernedness.

Although direct confrontations have as yet been avoided between the developed countries, wars have been going on in the underdeveloped world. They have not been prevented or stopped, as they should have been according to the charter of the United Nations. Many of them, as in the Middle East, have taken on the character of "wars by proxy" between the superpowers, who have armed their sides in the struggle.

Meanwhile, the arms race is going on unabated. We all know that the costs of armaments amount to as much as the total production and income of the poorest half of mankind. In a strange "cooperation" with each other the superpowers have succeeded in stalling all disarmament negotiations or made the agreements reached narrowly partial and ineffective.

The arms race is led by the two superpowers. Together they account for 60 per cent of the world's military expenditures and for 75 per cent of the world's arms exports.

Both of them have long ago equipped themselves with enough nuclear weapons to destroy each other almost 50 times, which under the SALT agreements may soon be raised to a hundred times. In a confrontation the rest of the world will also be destroyed and quite probably the earth become uninhabitable. Toward the end of his life Bertrand Russell calculated the probability that mankind will survive the next turn of the century to 50 per cent.

The underlying idea of the nuclear arms race—that the superpowers need to "balance" each other—is totally irrational for both of them. They have long ago reached the level of needed "deterrence," the only rational motive. The military policies of the United States and the Soviet Union amount to a fantastically gross miscalculation. Either of them could safely have unilaterally stopped the nuclear arms race many years ago. And this fallacious idea of the need to "balance" each other in destructive power has become spread as self-evident to the people of America—because of what President Eisenhower in his last message to the American people called the "industrial-military complex" and what Alva Myrdal in her forthcoming comprehensive book "The Game of Disarmament" calls the "arms race within the arms race."

Wars are fought with increasing disrespect for international law established to protect the civilian population, and the war preparations are made with the same disrespect for international law and plain decency. Terror activities by organized groups are going on, endorsed by some governments and meeting no effective protests from other governments. Torture has become a regular practice in an increasing number of countries, among them close U.S. allies. Violence and crime are increasing almost everywhere. The use of drugs has been increasing. And about all this we are ever more intensively informed.

UNCHANGED CREDO

So this is the international setting within which the crisis in America develops. Irrationality and immorality go together. That morals and rational reasoning lead to the same conclusions was the firm conviction of the secular philosophy and religious teaching of my youth, and this was the basis of the trust in progress with which I was brought up.

I started out by describing how I grew up as a believer in the reform of man and his society. But I am growing old and nearing the end of my life in a situation rapidly approaching disaster.

However, my ideals have not changed. I am not prepared to give up my basic trust that human beings are good. When a realistic analysis gives a dark picture, I am not prepared to be a defeatist. The voice of me and those who share my anxieties is not strong among those who decide for nations. But till the end it should be raised in defense of our inherited ideals.

In the very last pages of "An American Dilemma" I referred to the great tradition of enlightenment and the American revolution and continued by what I called "a personal note":

"Studying human beings and their behavior is not discouraging. When the author recalls the long gallery of persons whom, in the course of this inquiry, he has come to know with the impetuous but temporary intimacy of the stranger—sharecroppers and plantation owners, workers and employers, merchants and bankers, intellectuals, preachers, organization leaders, political bosses, gangsters, black and white, men and women, young and old, Southerners and Northerners—the general observation retained is the following: Behind all outward dissimilarities, behind their contradictory valuations, rationalizations, vested interests, group allegiances and animosities, behind fears and defense constructions, behind the role they play in life and the mask they wear, people are all much alike on a fundamental level. And they are all good people. They want to be rational and just. They all plead to the conscience that they meant well even when things went wrong.

"Social study is concerned with explaining why all these potentially and intentionally good people so often make life a hell for themselves and each other when they live together, whether in a family, a community, a nation or a world. The fault is certainly not with becoming organized per se. In their formal organizations, as we have seen people invest their highest ideals. These institutions regularly direct the individual toward more cooperation and justice than he would be inclined to observe as an isolated private person. The fault is, rather, that our structures of organizations are too imperfect, each by itself, and badly integrated into a social whole.

"The rationalism and moralism which is the driving force behind social study, whether we admit it or not, is the faith that institutions can be improved and strengthened and that people are good enough to live a happier life. With all we know today, there should be the possibility to build a nation and a world where people's great propensities for sympathy and cooperation would not be so thwarted."

And this is still my credo!

REFLECTIONS ON THE BICENTENNIAL

HON. CLEMENT J. ZABLOCKI

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 5, 1976

Mr. ZABLOCKI. Mr. Speaker, on July 4 I had the pleasure of celebrating our American Bicentennial birthday in the Fourth Congressional District of Wisconsin, which I have the honor of representing in the Congress. One of the highlights of this historic day for me, and one of the most inspiring moments, was the delivery of a homily to the parishioners of Blessed Sacrament Church by Rev. Richard J. Cerpich, the principal-rector of DeSales Preparatory Seminary High School in Milwaukee.

"A celebration is remembering together who we are," Reverend Cerpich states, quoting Corita Kent. Reverend Cerpich's message to us that day reminded us who we are—citizens united in the spirit of brotherhood expressing our gratitude for, and our rededication to, the principles of liberty and equal justice for all. Reverend Cerpich also stated that our prayer this day was not unlike that made by George Washington 200 years ago when he said:

Almighty God, we make our earnest prayer that you will keep the United States in Your Holy Protection: that you will incline the hearts of the citizens to cultivate a spirit of subordination and obedience to government and entertain a brotherly love and affection for one another and for their fellow citizens of the United States at large.

Mr. Speaker, it is a pleasure for me to insert Reverend Cerpich's inspirational July 4th homily in the CONGRESSIONAL RECORD so that my colleagues may, too, read and reflect on his profound and deeply patriotic remarks:

REFLECTIONS ON THE BICENTENNIAL

One of our early great American bishops wrote these words, "Next to God is country, and next to religion is patriotism." Today on this July 4th, all of us Americans as Christians, are proud and thankful for the 200th year aniversary of our birth as a nation. God has been good to us. Our prayer today is like that of George Washington who expressed these words of faith when he heard that the Declaration of Independence had been signed, "Almighty God, we make our earnest prayer that You will keep the United States in Your Holy Protection: that You will incline the hearts of the citizens to cultivate a spirit of subordination and obedience to government and entertain a brotherly love and affection for one another and for their fellow citizens of the United States at large."

When a golden wedding anniversary is celebrated, it is an event to be remembered. Memories are the order of the day—the good times and the bad times the family shared together. The birth of a first grandchild, a death in the family, the joy of a new job, or the failure of a son to pass his board exams. The family remembers God's blessings. As Corita Kent said so well, "A celebration is remembering together who we are. And if we don't remember, we dismember. If we don't integrate, we disintegrate."

As citizens of America we celebrate God's gift to us as a republic. John Emmet Hughs states that the conception and dedication of such a republic, unique in all the history of nations, was a political adventure in the art of governing persons. We believe that our forebearers inaugurated a new era with their Declaration of Independence and subsequent Constitution.

The prophet Isaiah has the words that we like to dwell upon today. He speaks of liberty and justice for all peoples as the condition for peace. Even before our founding fathers, he prophesized the ingredients that will make any nation great. If any kingdom wants stability and prosperity, if any nation or country or state desires to be strong in purpose, lasting in spirit and smothered in brotherly care, then liberty and justice must abound so that peace is an actuality. For Isaiah, his people were looking forward to returning from exile to their native land. For us Americans, our ancestors did it the other way around—they went into exile to seek a new and promised land. Two weeks ago I had the privilege of visiting Plymouth, Massachusetts—the place where the Pilgrims landed in this country. I saw the rock, the monument, the early example of house and furniture and a replica of the Mayflower. These people came to this land for one purpose—for liberty, for freedom to worship—for peace where justice would be a reality. Have we continued that process?

Many of you have seen the movie "Doctor Zhivago". You will recall the train trips to the barren and frozen areas bordering Siberia. You might remember that on that train was a shackled political prisoner in one of the crowded box cars. He had refused to compromise his political convictions of personal freedom against the inroads of absolute tyranny. In one dramatic moment he rattles his chains and cries out: "I am the only free man here! You without chains are already slaves. These chains do not touch my freedom."

How do we value our freedom today? Are we really free? Is there truly justice and liberty? Have the goals been reached that were set by our founding fathers? We know that at the time which we commemorate, there were some Americans who were not equal and valued as total citizens—women, Blacks, Indians, white indentured servants who owned no property. How far have we come?

Today we can sing, "America, America, God shed His grace on thee, and crown thy good with brotherhood from sea to shining sea." Yet we must also realize that other phrases of this song "America, the Beautiful" have not been realized—"Thine alabaster cities gleam, undimmed with human tears". Nobody can make that boast of our cities today—we have our slums, our poverty, our broken homes, our tears. We also go about and sing about the Pilgrims "whose stern impassioned feet, a thoroughfare for freedom beat, across the wilderness."

Eugene Kennedy speaks of the "slow long miracle of Christianity." Maybe as American Christians we can say "the long, slow miracle of America." Much remains to be done. Servant Christians, like other Americans, we all must do our part. We must not state "America, love it or leave it." Rather as we begin our 3rd century "America, love it and live it." Try to live each day at a time with the ideals set by our fathers—in God we trust as he aids us. As Thomas Paine said, "These are still times that try men's souls. We still have summer soldiers and sunshine patriots." At the base of the statue of liberty the words of Emma Lazarus are quoted, "All power should be God's power at work in us to do his work.

REGULATORY REVIEW

HON. TIMOTHY E. WIRTH

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 5, 1976

Mr. WIRTH. Mr. Speaker, I recently sponsored a workshop on Government regulation for small businessmen in Boulder, Colo., that proved to be very productive, generating ideas for both congressional and local action. I would like to bring the "Federal Agency Control and Review Act" to the attention of my colleagues, as I feel it might respond to some of the concerns raised, by inserting the text of this bill into the RECORD.

H.R. 14842

A bill to provide for the regular review of certain Federal agencies and for the abolition of such agencies after such review unless Congress specifically provides for their continued existence

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal Agency Control and Review Act".

SEC. 2. For purposes of this Act—

(1) the term "agency" means any instrumentality of the United States but does not include—

(A) the legislative branch,

(B) the judicial branch, or

(C) the President and Vice President; and

(2) the term "Office" means the Office of Management and Budget.

SEC. 3. (a) The Office shall (as specified in subsection (b)) conduct a comprehensive study for not less than one year and not more than two years of each agency for purposes of evaluating such agency's organizational structure, overall efficiency, and its effectiveness in carrying out the functions and responsibilities required of it by law. Not more than thirty days after the completion of each such study, the Office shall transmit a report to the President, the Speaker of the House of Representatives, and the President pro tempore of the Senate containing—

(1) the results of such study, and

(2) any recommendation with respect to the reorganization or abolition of such agency.

(b) Except as provided in subsection (c), a study shall be conducted and a report of such study submitted—

(1)(A) in the case of each agency in existence on the date of the enactment of this Act, within the twelve-year period beginning on such date, and

(B) in the case of each agency established or substantially reorganized (as determined by the Office) after the date of the enactment of this Act, within the ten-year period beginning on the date such agency is established or substantially reorganized; and

(2) in the case of each agency with respect to which any report has been submitted pursuant to this Act (including any report previously submitted pursuant to paragraph (1) or (2) of this subsection), within the ten-year period beginning on the submission date of the immediately preceding such report.

(c) Reports shall not be submitted in any year on more than 20 per centum of all agencies.

SEC. 4. The President may submit to the Speaker of the House of Representatives and the President pro tempore of the Senate any recommendation with respect to any agency on which a report is submitted to him pursuant to section 3.

SEC. 5. (a) Any report pursuant to section 3 or any recommendation pursuant to section 4 may be referred by the Speaker of the House of Representatives and the President of the Senate to any committee in their respective Houses of Congress with jurisdiction over the subject of such report or recommendation.

(b) Any committee to which any report or recommendation on any agency is submitted pursuant to subsection (a) of this section may—

(1) conduct an investigation of such agency's organization structure, overall efficiency, and its effectiveness in carrying out the functions and responsibilities required of it by law, and

(2) within thirty days after the completion of such investigation, submit to the appropriate House of Congress its findings and any recommendation with respect to the reorganization or abolition of such agency.

SEC. 6. Unless legislation to continue the existence of any agency is enacted within any period described in section 3(b) during which the Office is required to conduct a study and submit a report with respect to such agency, such agency shall be abolished at the end of such period.

ISRAEL ENTEBBE RAID IS SANCTIONED UNDER INTERNATIONAL LAW

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 5, 1976

Mr. BIAGGI. Mr. Speaker, while all the foes of international terrorism were applauding Israel's recent daring rescue of some 100 hostages from the Entebbe Airport in Uganda, there were some who raised the spectre of doubt as to its legality under international law.

I offer for the consideration of my colleagues an article by Mr. Ernest Cuneo, a columnist for the Long Island Press, which discusses this matter. In Mr. Cuneo's assessment there is justification for Israel's action under international law. The precedent that he sites was established over 125 years ago.

We must continue to meet terrorism head on if we are to insure the very security of the world. I have long believed that the United States should suspend all forms of assistance to any nation which harbors terrorists. If this policy was universally accepted, then terrorists would soon find that they had nowhere to go.

International law, in many instances, is no more than a massive conglomeration of whim and circumstance. This must change. International law must be both strong and specific in its prohibition against terrorism and all nations must enforce these laws. Terrorism will spread unless it is confronted and stamped out now. Together we can and will free the world from this terrible blight.

Mr. Cuneo's article follows:

ACCORDING TO INTERNATIONAL LAW

(By Ernest Cuneo)

According to international law, as practiced by both the United States and Great Britain, Israel not only had the right but the duty to intervene to protect the lives of its citizens.

As a matter of fact, the United States and Great Britain came to the point of war between them over this principle in one of the most dramatic incidents in history, the case of the brig Caroline.

In the 1850s, an Irish society known as the Fenians with bases in the United States, attempted to fuel a Canadian revolt against the British rule of Canada. Among other activities, they were gun-running the Canadian border with considerable effect.

Great Britain, quite naturally, availed itself of its sovereign right to defend itself.

British intelligence reported that the Caroline, a U.S. registered ship, docked on the U.S. side of the Niagara River a few miles above the Niagara Falls, was loaded with military hardware which was intended for the Canadian rebels.

Accordingly, in dark of night, a British-Canadian force crossed the Niagara River, cut the moorings of the Caroline which was then swept over Niagara Falls by the strong current.

In subduing the crew, at least one U.S. life was taken on U.S. territory and several more lives were lost when the Caroline went over the falls to find its grave in international waters.

Two years later, a member of the British-Canadian raiding group was foolhardy enough to venture into the United States. He was promptly arrested and charged with murder in the first degree by the State of New York.

Her Brittanic Majesty's ambassador at once waited upon the U.S. secretary of state and informed him the accused was a British subject on lawful armed mission in protection of Crown and Country and demanded his forthwith release.

The secretary answered that the U.S. Government was without jurisdiction of the courts of the State of New York.

The British ambassador regretted that American lives were lost in the raid, but regretted even more that in the event the State of New York hanged the accused, his government would be forced to consider such hanging an act of war by the U.S. Government.

The U.S. secretary of state informed the British Government that the U.S. Government viewed with sympathy and understanding the position of Her Majesty's Government but was without power under the Constitution to order the courts of New York to release the accused, and still less to order a New York judge to halt the process of a New York State court.

Nevertheless, he assured the British ambassador that the United States could and would make known to the duly constituted authorities of New York State the benevolent interest of the U.S. Government on behalf of the accused.

What this meant was that while the United States was powerless to intervene in the judicial process of New York State, it was within the proper province of the U.S. Government to call the attention of the governor of New York State the extreme gravity of the murder case pending in the New York courts.

In practice, this meant that the U.S. secretary of state asked the governor of New York instantly to pardon the accused if convicted and thus assist in preventing a war.

The governor of New York agreed. However, the pardon was not necessary, since the jury returned a verdict of Not Guilty. As is perfectly obvious, Israel proceeded on this same principle of International Law and since the United States and Britain have adhered to it for over a century, they are merely standing on their own precedents in supporting Israel at the United Nations.

THE KEMP COUNTER

HON. STEVEN D. SYMMS

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 5, 1976

Mr. SYMMS. Mr. Speaker, my colleague from New York, Congressman JACK KEMP, received an enthusiastic welcome in Boise, Idaho, recently. What he talked about was jobs. He explained in terms any layman can understand, what Government does to inflate our money supply. He talked about Government's competition in the private money markets for available capital. He described the pinch businessmen find themselves in when Government sops up available capital and then makes anything left over increasingly less valuable.

The bottom line on this excellent overview of Federal economics was that all these factors combine to create massive unemployment. These promises we hear from the politicians do not make much sense in light of what JACK KEMP says about unemployment. Government cannot be trusted to create new jobs when it remains unwilling to take even the first step toward eliminating the cause of unemployment.

The Wall Street Journal recognizes, like my friends in Boise so enthusiastically did, that JACK KEMP knows what he is talking about. He and his Senate cosponsor, my friend JIM MCCLURE of Idaho, have begun a dialog on jobs that makes sense. I only can hope that the Republican Party has the foresight to make the Jobs Creation Act of 1975 an essential part of its platform for the coming election.

At this point in the RECORD, I insert the August 4, 1976, editorial from the Wall

Street Journal. The Journal is to be commended for their efforts to begin a serious debate on the future job security of the American worker:

THE KEMP COUNTER

Jack Kemp, who stepped down as quarterback of Buffalo's pro football team to become a hard-charging Congressman, has diagrammed a play by which the Republican team could steal the Democrats' unemployment issue. He has rounded up 132 congressional cosponsors for his Jobs Creation Act of 1975, but so far has been stiff-armed by both President Ford and Governor Reagan.

Congressman Kemp's insight is that the way to stimulate the economy is to cut taxes, especially taxes that retard job-creating investments and the savings that finance them. Thus his bill would allow individuals to take tax credits for additional savings of up to $1,000, reduce corporate tax rates, and speed up depreciation and investment credits. A provision in the companion Senate bill sponsored by Senator James McClure, and separately endorsed by Mr. Kemp, would index the personal tax schedules so that taxpayers are not pushed up into higher tax brackets by inflation.

These measures would be a tremendous spur to economic growth now and in the future. Democrats habitually denounce any cut in corporate taxes as a sop for the rich, but in fact the major beneficiaries would be the major shareholders, which are the pension funds of the workingman. Keynesians of course have a congenital bias against savings, but in fact an increase in the rate of return for capital would call out investment spending even in the short term. With a greater reward for putting people to work and a greater reward for working, there would be more work, more jobs and less unemployment.

Why should Congressman Kemp have trouble selling this to his party's presidential contenders? Chiefly because they believe that tax cuts would conflict with the priority of containing inflation. Their theory is that unemployment is the price to be paid for stopping inflation. In this view, the trick is to pare down the growth in government spending, to pare down the deficits, to allow the Fed to pare down money growth. Unemployment would be sticky in the short run, but the economy will grow in the long run.

There is much to be said for this theory, especially in contrast with Jimmy Carter's proposal to fight unemployment and worry about inflation later. With modern income support systems, unemployment is a less pressing social problem than formerly, and it seems clear to us that the recent recession and the accompanyinig unemployment were caused by the raging inflation. Unemployment is not likely to be reduced for very long unless there is further progress against inflation, and that clearly is the first economic priority.

Yet the conflict between this priority and Congressman Kemp's kind of tax cut is more perceived than real. There is more than a bit of Keynesian brainwashing in the standard Republican belief that tax cuts cause deficits, that deficits stimulate the economy and that a stimulated economy causes inflation. In fact, inflation is caused by excessive monetary growth. Such money growth is often stimulated by large defficts, because the Fed feels under pressure to create enough money and credit to meet the borrowing demands of both government and business. But if a tax cut directly finances business investment and thus relieves borrowing demand, the Fed could continue to restrain money and slow inflation.

In any event, it is far from clear that a tax cut will always cause a deficit. It depends on whether it succeeds in stimulating the economy enough that the lower rates yield a larger net revenue. Economist Norman B. Ture has estimated that the Kemp bill would add $151.4 billion to the GNP in the first year after the trend rate, thus increasing federal tax revenues by $5.2 billion. If all the increased productivity that would result from higher investment went into real wages, they would grow by 8.2% over the trend. Alternatively, if the productivity went entirely into employment, 7.2 million new jobs would be added. His tentative calculations show bigger advances in succeeding years.

The White House spurned the Kemp bill after the Treasury pooh-poohed such calculations, keeping its eye instead on potential losses to the federal government from lower rates. The great irony will be if Jimmy Carter is elected and succeeds in stimulating the economy by ending the double-taxing of corporate dividends, as he has promised to do.

We can't vouch for Dr. Ture's calculations, but we do respect him as an economist. As for Jack Kemp, we can't help but note that his Buffalo district has a 12% unemployment rate and that he won re-election last time out with 73% of the vote. The GOP needs an employment program, and especially in terms of getting a serious debate going on the issue, it could do a lot worse than Mr. Kemp's.

THE INVISIBLE VIETNAM VETERAN

HON. RICHARD BOLLING

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 5, 1976

Mr. BOLLING. Mr. Speaker, I would call to the attention of our colleagues the exceptionally appropriate tribute paid the Vietnam veteran by James H. Webb. Excerpts from Mr. Webb's recent address were published in the Washington Post on Wednesday, August 4, 1976.

The article follows:

THE INVISIBLE VIETNAM VETERAN

(By James H. Webb)

The most important part of an award such as this is its symbolic value as notice to the community. I don't need to elaborate in front of this assemblage about how incredibly difficult it has been for the Vietnam veteran. His anonymity and lack of positive feedback about himself and his fellow veterans have intensified all the other difficulties he has faced, including those shared by non-veterans. With the exception of a few well-publicized disaster stories, he is invisible.

To my mind, the roots of this problem go back 10 or 11 years, when the veteran suffered the irony of having people, who directly opposed both his views and his acts, become accepted as his spokesmen, in the name of the "generation gap," since he and they were from the same age group. But it's obvious that it wasn't age that separated views on Vietnam, and especially on what to do *about* it: It was culture. And the cultures that fought Vietnam have traditionally lacked access to the media and power centers of this country. As a result, their views have gone unheard and it has been presumed that, on the whole, "youth" embraced the views of the anti-war faction.

The lack of positive feedback persists. A Vietnam veteran looks for success stories within his own age group and finds that, by and large, they belong to people from one or two sub groups. Either the person managed to avoid the war altogether, with no stigma for doing so, and was able to devote full time to his field without the interruption of being in the service, or he actively opposed the war and has now converted his anti-war activities into credentials—much as the veteran of World War II did with his campaign ribbons.

The anonymity persists. I recall my most frustrating moment as a Vietnam veteran. The day after Saigon fell and it was finally over, a local newspaper ran what was tantamount to a special edition on "What Vietnam Did To America." On the front page were two human-interest stories. One detailed the frustrations of a draft resistor. The other was about a person who had quit his civil service job because he had "lost faith" in the American system of government, and then, sadly, had to become a lawyer. The center of the front section had two full pages of interviews—at least 50 of them—with people from across the entire spectrum of American cultures.

With one exception. There was not *one* interview with a Vietnam veteran. It was as if he had ceased to exist along with the government of South Vietnam—or perhaps was merely considered irrelevant in determining the effect on the rest of society of the very issue that had touched him the most directly and intensely.

And the whole notion of invisibility persists in other forms as well. We read repeated editorials and articles urging amnesty for the ones who fled. I realize that there is much room for differences of opinion on this issue, even among veterans. But no matter what a Vietnam veteran's position on the amnesty issue, he cannot help but feel the knife twist every time he reads articles that elevate the ones who fled, collectively, to the level of prophets and moral purists. The phrase that sticks in my mind, used quite often, is that they "obeyed a higher law, that of their own consciences, and fled."

The unwritten implication, again and again, is that the Vietnam veteran, who merely obeyed the "lower law," that of his country, did so out of immorality or lack of conscience. Or, to be blunt: We seem to have reached the anomaly where the very institution, and the same newspapers, who only a few years ago called for us to bleed, have now decided that we should be ashamed of our scars.

Well, I'm not ashamed of mine. And I will always believe that the individual who agonized over the incredibly complex moral and political issues of Vietnam, and then went there, displayed an equal level of conscience, and a hell of a lot more maturity, than his counterpart who fled. To *go* required an acceptance, sometimes conscious and sometimes visceral, of the premise that he was living in a nation of laws and not specially privileged people. It also required a sublimation of self to what, at least then, was perceived to be in the public good. The person who fled, no matter how great his agonizings, finally decided the issue in his own self-interest. If he had been a true "moral purist," he would have gone to jail for his beliefs .

The Vietnam veteran has a lot to be proud of. If the anti-war elements in this country had opposed the war with the same maturity and patience that he displayed in fighting it, perhaps 10,000 more of his contemporaries might be alive today. People being what they are, and emotions what *they* are, Vietnam would have been a less volatile issue, and the war would have ended sooner.

I earnestly hope that awards such as this will encourage the community to accord the Vietnam veteran with dignity and respect. He has *always* deserved it.

BICENTENNIAL YEAR TRIBUTE TO AMERICAN SMALL BUSINESSES

HON. J. WILLIAM STANTON

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 5, 1976

Mr. J. WILLIAM STANTON. Mr. Speaker, as the ranking minority member of the Subcommittee on Small Business legislation, I think it would be appropriate in this Bicentennial Year to pay tribute to the small businesses in America that have made our economic system the envy of the world.

The 97 percent of the businesses in the United States are classified as "small business." Over 50 percent of all Americans are employed in small business enterprises.

Businesses that typify this growth are numerous in my own congressional district. Just recently, I learned that some friends of mine are opening their 76th store in northeastern Ohio. This number seemed to coincide with the bicentennial spirit that abounds in our land this year. This business, Ohio Convenient Food Mart, Inc., has been just that to thousands of my constituents and in the process has provided employment for hundreds of people.

Without reservation, I say that these men, President Lawrence Loxterman and Vice Presidents John Loxterman, William Loxterman and Lee Dietrich are businessmen of the highest caliber, who have helped countless others to grow, prosper and fulfill the American dream.

It is my sincere hope that small businesses in the next 200 years will continue in the same manner that they have in the past 2 centuries of our Nation's history.

FUNERAL HOME INDUSTRY PRACTICES

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 5, 1976

Mr. WAXMAN. Mr. Speaker, recently I testified before the Federal Trade Commission, which has proposed regulations which would greatly assist the consumer in making informed decisions about funeral arrangements. I strongly support the Commission's proposals. They would put an end to a myriad of unfair and deceptive trade practices in the funeral industry which often take financial advantage of the bereaved at a time of great emotional vulnerability. These are reforms which are not only necessary but long overdue. I would therefore like to take this opportunity to share with my colleagues my thoughts on this issue:

STATEMENT OF HENRY A. WAXMAN ON FUNERAL HOME INDUSTRY PRACTICES, BEFORE THE FEDERAL TRADE COMMISSION

Mr. Chairman, my name is Henry A. Waxman. I am a Congressman from the 24th District in California, which surrounds the Beverly-Fairfax area in Los Angeles. Prior to my election to the Congress in 1974, I served for six years in the state assembly in Sacramento, and was Chairman of the Assembly Committee on Health and the Select Committee on Medical Malpractice. Because of both personal interest and the large number of senior citizens in my district, I have been intimately and actively involved in the formulation of public health care policy and consumer protection legislation. I currently serve on the House Committee on Interstate and Foreign Commerce, which has jurisdiction over the Federal Trade Commission; its Health Subcommittee; and its Subcommittee on Oversight and Investigations, which received testimony from the Commission on its regulatory activities earlier this year.

I very much appreciate the opportunity to share with you this afternoon my comments on the Commission's proposed regulations on funeral trade industry practices.

Over two million Americans die each year, throwing additional millions into the task of arranging a funeral. We have, as a society and culture, deeply ingrained notions as to what constitutes a proper and decent burial. We also have a large industry which is geared toward meeting—and shaping—these needs.

Funerals are expensive, and the funeral industry is a large one. The cost of an average funeral now runs over $2000, and is rising. After the purchase of a home and a car, a funeral is the largest expense most families confront. The funeral industry last year grossed $2.12 billion, and is expected to gross $2.8 billion by 1980.

Funeral directors are in business, and properly so, for a profit. Their customers—families and individuals—come to them, however, out of need. It is this peculiar tension which marks the relationship between funeral director and bereaved, and which has given rise to the regulations proposed by the Commission.

There is no doubt in my mind that a large proportion of funeral directors are scrupulously honest and ethical businessmen providing an essential and valued service. At the same time, the FTC's staff has uncovered, following three years of investigation and research, a consistent pattern by some funeral directors of deceptive and fraudulent practices which victimize millions. In addition, the staff has outlined a series of other retailing practices which, though not illegal, are clearly exploitative in nature.

These morbid abuses of the consumer range from typical "bait-and-switch" schemes to misrepresentations of what the law requires, from disparaging a family's concern about price to defacing the least expensive (and least profitable) caskets, from kickback arrangements for obtaining bodies from hospitals to adhering to anti-competitive and discriminatory professional codes.

There is something obscene about being robbed at the grave by an unscrupulous practitioner who takes financial advantage of a family in mourning—a time when an element of trust is so essential to emotional sustenance.

To remedy these practices, the Commission is proposing the surest approach prudence and common sense dictate: disclosure. The Commission has opted for the general rule that the more the consumer knows, the better protected he is.

The obvious thrust of these regulations therefore is to ensure that the consumer has as much information available as possible in consummating a funeral arrangement. The availability of this information serves several purposes:

It will end certain practices which rob the consumer of the ability to consider the desirability, appropriateness, or suitability of various alternative arrangements;

It will put an end to numerous unfair and deceptive marketing techniques which exploit the consumer at a time of great emotional vulnerability;

It will end a funeral director's ability to take advantage of the bereaved's ignorance of the requirements of law, health regulations, or religious custom.

Additionally, these rules are designed to protect a modicum of competition in the industry, not only between funeral homes, but between funeral homes and pre-need or memorial society arrangements. Lastly, there is established a clear enforcement authority along with the basic record-keeping requirements necessary to ensure adequate compliance.

Although funeral arrangements are marked by a host of special circumstances which set them apart from day-to-day business transactions, all the elements of a traditional vendor-consumer relationship clearly remain. Funeral directors are businessmen who know their market. They employ marketing techniques designed to maximize their sales and profits. Their customers are consumers who need to purchase goods and services.

But, the consumer is obviously in a unique position. The bereaved, as we all know, are beset with a sense of loss, numbness, and at times guilt over the death of a loved one—an emotional vulnerability which can cloud judgment and provide an opening for the predatory practitioner. Secondly, the consumer comes to the funeral director compelled by need—and the need to move quickly. It may be fairly said that those seeking funeral services are captive customers. In other commercial transactions, the consumer is able to reach more deliberate and timely judgments, particularly when such a large expense is involved. In these circumstances, however, there is little opportunity, much less the desire or incentive, to engage in comparative shopping.

Third, many have found that the consumer is generally ignorant not only of the requirements of law, health regulations, and religious custom, but also of the available alternatives of goods and services, and at what price. And there is, finally, the exceptional dual role of the funeral director himself: friend and consoler, businessman and retailer.

But at root these remain basic commercial transactions which should be governed by the same standards which are applied or should be applied to other industries. It seems to me, therefore, that the emotional dimensions of the exchange should not be permitted to enshroud the industry with practices which prevent the disclosure of information the consumer needs in order to make an informed decision on funeral arrangements.

These proposed regulations meet this basic need. That there be prior consent given the undertaker before goods and services are obtained or performed; that there be no misrepresentations of what law, public health, or religious custom requires; that merchandise be presented honestly; that there be no double-billing, exploitative markups, or "bait-and-switch" practices; that prices be readily available and prominently displayed—all these requirements are not only essential for the consumer's protection, but consistent with the best business traditions in our country.

I vigorously support these proposed rules.

I would now like to turn, Mr. Chairman, to certain selected issues.

One of the most controversial of the proposed regulations is Section 453.2(a), which prohibits enbalming without permission. Although I understand the Commission may see fit to modify the rule in order to provide flexibility in exceptional circumstances, there are two reservations about such a change I would like to share with you.

First, there is great ignorance about the need to embalm. Professor Sperlich submitted data to you in California which showed 80 percent of those surveyed did not know that embalming is not required by law or for reasons of health, and that only 27 percent did have such knowledge. The staff, in its memorandum to the Commission, has clearly documented the need for the rule. Any modification, therefore, should be narrowly drawn.

Secondly, the staff has received extensive evidence that some funeral homes routinely perform embalming even while serving communities such as Orthodox Jews, whose religious law expressly proscribes this practice. I believe there are clearly involved here basic questions of religious freedom and religious rights which cannot and must not be abridged by industry practices. As orthodox Jewish law requires burial within twenty-four hours, and as Jewish tradition has shunned viewing of the deceased, I believe it imperative that the rule requiring permission to embalm not be waived in any manner in this respect. I believe it also imperative that the Commission or the appropriate state boards vigorously enforce any current laws which prohibit such desecration of the deceased against the family's wishes.

I was a member of the California Assembly, Mr. Chairman, when we adopted the 1971 Funeral Practices Statute. Although it was a landmark bill—which was supported by the California Funeral Directors Association—it does not go as far as these proposed regulations. This Commission has already received extensive testimony at its hearings in Los Angeles which indicated that the protections afforded by these rules are necessary to redress the deficiencies in the California statute. I would respectfully refer your attention to the testimony of Mr. Keith Marsh, a former funeral director of Forest Lawn, who discussed funeral home practices in California, and Mr. Richard Fathy, counsel to the California Department of Consumer Affairs, which has endorsed these regulations.

Although Mr. Fathy outlined more than a dozen areas in which the California law does not measure up to the proposed rules—to the detriment of consumers in California—there are two major concerns I have about this.

First, Section 7685 of the California Business and Profession Code does not require that all casket prices be listed, but only that the range of prices—from the cheapest to the most expensive—be provided the customer. Such a range, though helpful, does not at all permit an informed evaluation of the available alternatives. The proposed regulations do.

Second, the state law does not require the furnishing of a price list of all goods and services on request, as provided by Section 453.5(e) of the FTC's proposed regulations. Although extensive itemization is required in California at the signing of the memorandum of agreement, the unavailability of this information at the outset robs the consumer of the ability to shop comparatively. I submit it is very difficult for the consumer to extricate himself from finalizing the contract in the minutes before it is to be signed—especially given the need to move quickly to arrange for the funeral. So even if the price is too high, the consumer may well be inhibited from getting out. The proposed regulations effectively deal with this situation.

As a Member of Congress, and as a member of the Committee on Interstate and Foreign Commerce, I am sensitive to the issue of state pre-emption. I believe that the pre-emption of state law in this area is not only consistent with the Federal regulation of interstate commerce generally, but necessary if the regulations are to meet the needs to which they are addressed. Time after time, the staff has documented that adequate laws on the state level either do not exist or are not enforced. In many states, including California, this is so because the state boards which license funeral directors and receive consumer complaints are often composed primarily or exclusively of industry representatives. These boards have, therefore, an inherent pecuniary interest in the regulations they develop, and a distinct conflict of interest in their enforcement. By the FTC's promulgating these regulations, there is developed a recourse to the Commission remedying illegal, unethical, or immoral trade practices. Moreover, the presence of an effective enforcement agency at the Federal level can only work to ensure that the state boards will operate in a more conscientious manner—to the benefit not only of the consumer but in the interest of equity and fair play within the industry as a whole. Finally, the pre-emption of state law only extends to the point of overturning state laws which are incompatible with or contravene these regulations. The state boards are hardly bypassed under this plan, but simply invited to actively embrace and participate in this new approach.

There is one addition to these regulations, Mr. Chairman, which I would like to propose: simply, that in areas with a significant number of Spanish speaking people, that all the printed information required under these regulations be provided in bilingual form. Of California's nearly 20 million residents, over ten percent or more than 2.2 million are Mexican Americans. Clearly there is a compelling need to be served. Although I am not certain which approach might be most effective, the Commission may wish to review the Voting Rights Act Extension of 1975 to study the trigger mechanism for bilingual ballots. I very much hope the Commission will be responsive to this problem.

Mr. Chairman, these proposed rules have been attacked by some as an assault of sacred funeral traditions in America. I do not see how the obtaining of consent to perform services, or requiring prices to be quoted over the phone, or prohibiting funeral homes from requiring tie-in sales of caskets with cremation—how these new standards would undermine or erode the sanctity which surrounds these moments. Although I very much doubt that the adoption of these rules will change societal mores regarding funerals, at the same time, I do not believe we should be concerned with such a question. The real issue—and the one addressed by these rules—is remedying the abuses which have surfaced. And that can be best accomplished by reaching a judgment on the quality and quantity of information available to the consumer. This is precisely what the proposed rules have done. What happens after the consumer receives this information is beyond this Commission's jurisdiction and competence—and properly so.

Thank you.

NEED FOR VETERANS PENSION REFORMS

HON. CHRISTOPHER J. DODD

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 5, 1976

Mr. DODD. Mr. Speaker, I would like to take this occasion to remind my colleagues of one of the most severe economic problems we face today—the rapidly rising cost-of-living, and the unfortunate impact it has on our veterans who must depend on fixed incomes.

One of the groups hardest hit by inflation is the retired veterans of our Armed Forces, who are often forced to accept cuts in their pensions because they receive a raise in their social security benefits.

In order that we have a basis for understanding the pension system as it now exists, it is important that we look at its historical development, and use this background for constructing a system which meets the current needs of our Nation's veterans.

Military pensions have existed in this country since the Revolutionary War, when the Continental Congress voted to grant half-pay to retired officers of the Continental Army. Pensions for enlisted men in the Revolutionary Army came in 1818.

Since then, some type of pension has been provided for veterans of every war. A definite pattern of liberalization of conditions of eligibility for pensions has appeared following the various wars and a second pattern of a decreasing time period following the war before passage of such legislation is also evident.

Current law provides pensions based on income and age or disability for certain veterans. The maximum monthly payment under the present system is $173 per month for a veteran alone and $186 per month for a veteran with one dependent.

Approximately 1.2 million survivors of wartime veterans, and the veterans themselves are expected to be receiving pensions in fiscal year 1977. The cost of these benefits will be approximately $1.2 billion.

With this background in mind, the most important question becomes the adequacy of the programs as they currently exist. Are these various programs providing the benefits they are intended to provide?

Do they, in fact, allow men and women who have honorably served this Nation in time of war, in grave peril to their personal safety, or their survivors, to have a decent degree of security in their later years?

Or do they rather represent an unending snarl of bureaucratic redtape which results in imposing added hardships and pain for our retired veterans?

I suggest that there are many cases where, sadly, the latter is true.

The correspondence I receive from my constitutents in the Second District of Connecticut indicates severe hardships are being imposed on veterans and their dependents by the current laws. These letters are from individuals who have honorably served this country but now who are caught in a situation where a rise in their social security benefits results in reduced veterans pension payments and, often, a lower overall income.

To deal with this intolerable situation, these people are being forced to take such drastic measures as selling their property and their homes.

Certainly, we would all agree that there is a need to reduce spending by the Federal Government, but veterans pensions should not be the place for such budget cuts. I feel it is incumbent upon Congress to provide these individuals with a level of income that will help meet their needs and allow them to live in dignity.

In the past year, I have supported legislation which came before Congress which I felt would help eliminate this dilemma which so many of our retired veterans face. Unfortunately, Congress good intentions did not result in legislation which ultimately ameliorated the harsh reality experienced by our veterans.

For example, last January we passed H.R. 10355, the "Veterans and Survivors Pension Interim Adjustment Act of 1975," and thus provided a 8 percent increase in veterans pensions and increased the maximum annual outside income by $300. The first month this went into effect, many veterans who also received social security found that this 8 percent increase was more than off-set by the reduction in their pensions resulting from their social security increase.

I feel it is the duty of this Congress to pass legislation that will effectively allow real increases in pensions and social security payments, and not allow one benefit to offset the other.

The House took the opportunity to aid older veterans by passing H.R. 14298, the "Veterans and Survivors Pension Adjustment Act of 1976." This bill provides a 25 percent increase in the rate of pension for a veteran who reaches the age of 80.

This legislation will allow us to respond to the needs of older veterans, many of whom feel they have been overlooked by pension and benefit reforms and will better enable them to cope with the spirally cost of living.

The legislation currently pending which has the potential for aiding the great majority of pensioners is S. 2635, the "Veterans and Survivors Pension Reform Act," which has been passed by the Senate and is currently awaiting hearings before the House Veterans Affairs Committee.

Under this bill, a minimum level of income above the poverty level would be established. A single veteran and surviving spouse with a dependent would be entitled to a maximum of $3,900 per annum before this income would adversely affect his or her pension.

For those requiring special health care, the Senate bill provides a higher level of support to reflect this additional need. An additional $1,596 per year is added for those pensioners who are housebound. Also, a limited amount of income earned by the spouse of a veteran in need of aid and attendance or permanently housebound is excluded from countable income in the Senate bill.

S. 2635 provides annual automatic cost-of-living adjustments to the minimum level of income support established by this act. For example, a 10 percent increase in the cost-of-living would automatically result in a similar percentage increase in pension for single and married pensioners to $2,970 and $4,290, respectively.

Under this pension plan, no veteran or widow receiving average cost-of-living increases in social security payments would, as a result, suffer any reduction in veterans pension payments. Social security payments beyond those required for the cost-of-living would reduce benefits but never reduce total income available to the veteran or widow.

This important measure is aimed at providing a rational, cost-effective system which assures that available tax dollars are applied to those in need, and in proportion to those needs.

It is my firm belief, Mr. Speaker, that this legislation is urgently needed in order that veterans who so courageously defended this country not be penalized by bureaucratic rules which, unfortunately, have in effect, reversed the intentions of the Congress.

For these reasons I urge my colleagues to support S. 2635 both in the Veterans Affairs Committee and on the floor of the House.

SIDEWINDERS TO SAUDI ARABIA: MORE FUEL FOR THE FIRE

HON. BENJAMIN S. ROSENTHAL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 5, 1976

Mr. ROSENTHAL. Mr. Speaker, since the 1973 Arab embargo, the oil-rich states of the Persian Gulf have engaged in the most volatile arms race in the world. In 1974, 60 percent of America's foreign military sales—$6.4 billion—went to Persian Gulf countries. The military expenditures of Saudi Arabia increased from $1.8 billion in that year to $6.3 billion in 1975. American Government-to-Government sales to Saudi Arabia in 1976 alone—$4.7 billion—exceeded the total for the previous quarter-century. Saudi Arabia now ranks third in the Middle East and 19th in the world in per capita military expenditures.

Despite the massive Saudi arms buildup of recent years, the administration is now proposing the sale of 2,000 Sidewinder missiles to Saudi Arabia. I recently wrote to the Secretary of State urging reconsideration of this transaction which, as planned, is excessive and potentially destabilizing. Such a sale would only exacerbate the Persian Gulf arms race and threaten to escalate a minor regional conflict into a wider war.

The text of my letter follows:

HOUSE OF REPRESENTATIVES,
Washington, D.C., July 23, 1976.

Hon. HENRY A. KISSINGER,
Secretary of State, Department of State, Washington, D.C.

DEAR MR. SECRETARY: I am writing to urge reconsideration of the Administration's planned sale of 2,000 Sidewinder missiles to Saudi Arabia.

The arms race in the Persian Gulf has already reached explosive proportions. Since 1973, over half of our foreign military sales have been to that region. The proposed sale would inevitably exacerbate the Gulf arms race. Once Saudi Arabia's military capability is so massively expanded, other potential foes will desire compensatory weapons. Tensions in the region will grow accordingly.

Saudi Arabia does not need an additional 2,000 Sidewinders; it can meet the military threats which confront it with the weapons it already owns. I realize that the sale of F–5 fighters implicitly assures the follow-on sale of Sidewinders, but we have already contracted to provide the Saudis with several hundred missiles for their fewer than 110 planes.

The danger in oversupply is twofold: 1) it increases the likelihood that a minor conflict with a neighbor could escalate because of perceived military superiority, and 2) it provides an opportunity to transfer weapons to a third country.

With a stockpile several times greater than it needs, Saudi Arabia could send numerous Sidewinders—with or without the F–5s—to its allies in the event of a future Middle East war. These missiles could be fitted onto MIG or Mirage fighters within days or even hours and thus end up in countries which we do not wish to possess them. If Saudi Arabia chooses to share its Sidewinders with Arab states (Jordan already has its own F–5s) against a common enemy such as Israel, the United States could do little to block or undo the transfer.

Accordingly, I intend to introduce a resolution of disapproval if the sale under consideration is sent to the Congress as currently contemplated. I and several colleagues with whom I have conferred will work vigorously to block such an excessive weapons transaction. I believe that any commitment for a more than nominal addition to the quantity now possessed and on order would be unreasonable and destabilizing. I strongly urge the Administration to reduce the quantity of missiles to a more justifiable and acceptable level.

With best personal wishes.

Sincerely,

BENJAMIN S. ROSENTHAL,
Member of Congress.

RECENT FMS TO SAUDI ARABIA

The pattern of American arms sales to Saudi Arabia has been one of massive expansion since 1973. That year's oil embargo provided the Saudis with enormous surplus funds to purchase—and the Americans with the incentive to sell—more weapons.

The dollar amounts of recent U.S. military sales to Saudi Arabia are:

[In millions]

1950–69	$161.0
1970	14.9
1971	95.8
1972	342.3
1973	84.0
1974	2,540.0
1975	1,370.0
Total, 1950–75	4,612.0
Total, 1976	4,700.0

Military sales in fiscal year 1976 alone have involved nearly every aspect of the Saudi armed forces. The major transactions have been:

[In millions]

150 M60 tanks	$118
1,000+ armored personnel carriers	124
Vulcan antiaircraft cannon	41
1,000 Maverick air-to-ground missiles	47
4,000+ Dragon anti-tank missiles	26
Al Batain Cantonement	1,450
Expansion of F–5 program	1,500
Naval Expansion at Jubail and Jiddah	594
Port facilities	300
National Guard Headquarters	158
R.S.A.F. uniforms	52.6
Ammunition	26.5

In addition to these enormous government-to-government sales are possibly $2 billion or more worth of commercial military deals. The biggest private sale came just this summer when Raytheon Corp. announced a $1.4 billion expansion of Saudi Arabia's Hawk antiaircraft missile system. Such transactions, until now free from congressional scrutiny, have contributed signicantly to the Saudi build-up.

SAUDI MILITARY NEED

The military threats confronting Saudi Arabia do not justify the vast military expansion of recent years. Israel—despite repeated Saudi provocation—has never engaged in armed conflict with Saudi Arabia. Israel would be unlikely, in case of another all-out Middle East war, to expend its limited resources on a non-contiguous nation.

Iran, the most powerful nation in the Gulf, has maintained cordial relations with Saudi Arabia in recent years. Because America supplies Iran with most of its military hardware, the United States exercises considerable influence in Terran. As a result, the administartion does not take Iran into account in computing the overall threat to Saudi Arabia.

The two Marxist states in the region, could potentially have a confrontation Iraq and the PDRY—South Yemen—could potentially have a confrontation with Saudi Arabia. But by any standard of strength—wealth, size, military capability—neither nation rivals Saudi Arabia. Moreover, Saudi relations with these neighbors is improving. The Saudi defense minister said on Sunday of this week that relations between his country and South Yemen "are improving" and "Saudi Arabia will always be their aid both in good and hard times." In all likelihood, Saudi Arabia could adequately defend itself against both Iraq and South Yemen without additional military equipment.

The sale of 2,000 Sidewinder missiles would be particularly excessive. The only Saudi aircraft which can fire the Sidewinder is the F-5. By the time the missiles are delivered in 1978, Saudi Arabia will own nearly 110 F-5's—it now has about 50. The Royal Saudi Air Force already possesses or has contracted for over 300 Sidewinders. An F-5 can carry only two Sidewinder missiles at one time.

As a result, Saudi Arabia would have a stockpile of approximately 2,000 missiles. In other words, the Saudis will have some 20 missiles per plane.

Given the weakness and/or non-belligerency of Saudi Arabia's neighbors, and the military equipment which the Saudis already possess, the Arms Control and Disarmament Agency has concluded that the proposed sale exceeds Saudi defense needs.

SAUDI BELLIGERENCY

As Saudi Arabia has grown militarily and financially powerful, it has moved from passive opposition of Israel toward militant confrontation. After meeting with envoys from Syria, Jordan and the PLO in December 1975, Saudi King Khalid pronounced that the Arabs should "liberate every inch of occupied territory—Israel—and recover the full rights of the Palestinian people." Crown Prince Fahd, the operating head of the Saudi Government, declared in late 1975 that his nation's armed forces were to be "a force in the defense of the Arab nation and of the Arab cause." Early this year, Fahd announced that his country would go to war if negotiations failed to displace Israel from the occupied territories. He issued the warning at a meeting in Riyadh of the Supreme Committee of the Arab Authority for Military Industry. The Authority was created last year by Saudi Arabia, Egypt, Qatar, and the United Arab Emirates to purchase and manufacture weapons for the Arab world.

These should not be considered idle threats. Saudi Arabia actually has shared its troops and equipment with other confrontation states. Since 1967, it has stationed 1,500 soldiers in southern Jordan. It sent an additional 1,200 Saudi troops from Jordan to Syria when the 1973 war broke out; these forces are still stationed on the Golan Heights. In November 1975, Saudi Arabia underscored its support for Damascus by sending 10,000 Saudi soldiers to stage joint maneuvers with Syrian forces. That same month, a squadron of Saudi F-5's, purchased from the United States, participated in a Syrian training exercise.

Overstocking Saudi Arabia with missiles will nurture Saudi belligerency and encourage the Saudis to settle disputes with their neighbors by force instead of by negotiation. If another Arab-Israeli war should erupt, Saudi Arabia might well become an active combatant because of its overwhelming strength.

ARMS TRANSFERS

The most serious consequence of the Sidewinder sale would be acceleration of Saudi Arabia's transformation into the arsenal of the Arab States. The Saudis have been exceedingly generous in funding arms purchases for their Arab allies. Crown Prince Fahd recently explained, for example, that financial support of Egypt "is a repayment of part of what Egypt has shouldered for the sake of all Arabs." He specified that aid to Egypt includes "supporting its military steadfastness." Fahd added that supporting the military union of Syria and Jordan and "rendering it capable of holding out and winning victory * * * is a national duty."

The Saudis are carrying out their pledges. They recently purchased 38 Mirage-III fighters, ostensibly for their own use, but in actuality for immediate transfer to Egypt. The Saudis also are paying for Egypt's purchase of six U.S. C-130 military transports. In addition, Saudi Arabia has agreed to pay $450 million for Jordan to buy an American-built Hawk missile air defense system and has purchased American arms for North Yemen. The Saudis are now attempting to buy 200 British Jaguar fighters for Cairo. If Saudi Arabia is willing to purchase weapons for allied Arab nations, it would probably be willing to transfer its hardware to them in case of war against Israel.

The Saudi defense minister has in fact acknowledged that his nation would transfer American weapons to other Arab States. Prince Sultan ben Abdel Aziz declared in 1974: "All we own are at the disposal of the Arab nation and will be used in the battle against the common enemy"—"al-adou"—the Arabic word used for Israel.

Saudi Arabia has already engaged in some weapons transfers. According to William Beecher of the Boston Globe—June 18, 1976—Saudi Arabia moved Hawk missile units to Syria during the 1973 war, along with a Saudi troop brigade.

The Sidewinder is easily transferrable. It weighs slightly over 150 pounds, is less than 10 feet long, and can be transported by truck or helicopter as well as plane. It can be uncrated, loaded onto an F-5 by two men, operational and airborne in a few hours. The Sidewinder can be adapted to fit Mig or Mirage jets which comprise most Arab air forces. Pakistan, for example, reportedly has already modified some of its Mig's to carry Sidewinders. In fact, the F-5 itself could be transferred along with the Sidewinders to Arab countries capable of flying it; the plane is specially constructed to enable foreign pilots to learn rapidly to operate it.

The formal prohibition on transfers contained in all FMS contracts is practically useless, since the U.S. Government apparently has neither the means nor the inclination to enforce such provisions. Although the State Department could lodge a protest with Saudi Arabia, the Saudis would probably be unwilling to cut off wartime aid to their allies merely to please us. It is doubtful that the United States would subsequently declare a moratorium on future military sales to Saudi Arabia and risk engendering long-lasting Saudi hostility that might precipitate another oil embargo. A forceful response to Saudi weapons transfer would counteract any benefits in improved Saudi-American relations which might have resulted from the original sale.

TENSION IN THE GULF

No one can deny that America's foreign military sales have exacerbated Persian Gulf tensions. Last year, for example, the International Institute for Strategic Studies noted that the most vigorous new arms purchasers in the Middle East are the oil-rich gulf nations. The IISS concluded that the Persian Gulf traffic in conventional weapons may be more "destabilizing" than nuclear weapons development in the United States and the Soviet Union.

Senator Edward Kennedy noted in an interview last March:

> The influx of arms into the Persian Gulf region is out of control. U.S. arms sales alone have increased dramatically from a few hundred million dollars five or six years ago to almost $7 billion this year. There is no real arms balance, no understanding of the risks of war by accident, and generally poor command and control over weapons. There is also little evidence of American leadership to avoid instability. On the contrary, our arms policy contributes to instability in this area of traditional rivalries and potential hostility. War by accident is a real possibility.

Mr. Speaker, if these Sidewinders were the only weapons sold to Saudi Arabia, there would be little cause for concern. But as we all know, this is simply another step in the over-militarization of Saudi Arabia. Recent published reports say Pentagon salesmen and the Saudis are negotiating the purchase of even more lethal weapons, including thousands of TV-guided missiles, laser-guided "smart" bombs and wire-guided anti-tank missiles. So long as arms sales remain lucrative, the Pentagon will seek to sell Iran, Saudi Arabia, and every other oil-rich sheikdom all the weapons they want. Whatever one purchases, another soon demands.

In addition to fueling the Persian Gulf weapons race, the proposed Sidewinder sale will pose a direct threat to peace in the Middle East. The only way to insure that these missiles are neither used against our allies nor sold to their enemies is to withhold them from the start.

THE HELSINKI ACCORD: FIRST ANNIVERSARY

HON. BENJAMIN S. ROSENTHAL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 5, 1976

Mr. ROSENTHAL. Mr. Speaker, the optimism which marked last August's Conference on Security and Cooperation in Europe has given way to dissension and ill will. In the year since they initialed the final declaration of the Conference, the parties to the Helsinki Accord have advanced antithetical interpretations of the human rights provisions known as Basket Three. Writing on the anniversary of the signing, Murrey Marder of the Washington Post, August 2, 1976, concluded:

> To the Soviet Union, Helsinki confirmed the "inviolability of frontiers" in Europe as they were extended under Communist rule at the end of World War II. To the Western powers, the significance of the Helsinki accord is its sections stressing the freer passage of people and ideas across frontiers. As a result, the two sides consistently collide over what each interprets as carrying out the letter or the spirit of the Helsinki accord, turning the turgid agreement into an all-purpose weapon for cross-accusation.

Members of Congress have insisted that the Soviet Union abide by its pledge to "respect human rights and fundamental freedoms, including the freedom of thought, conscience, religion, or belief, for all without distinction as to race, sex, language, or religion." We have brought pressure to bear on the Kremlin through private contacts, public disclosures, and establishment of a commission to monitor violations of the Helsinki Accord.

The Soviets have responded to congressional criticism in two ways. As Henry Bradsher of the Washington Star, mission to monitor violations of the Accord:

> Within a few months Moscow had become defensive about it. There began a campaign, which still continues, to claim that the Soviet bloc had adhered to it faithfully but that the West has not.

Few people outside the Kremlin have taken these counter-accusations seriously. If anything, the Soviet claims have underscored the moral bankruptcy of the regime.

The second Soviet response, according to Bradsher, has been:

> . . . (repeated) insistance that it is an interference in Soviet bloc internal affairs for the West to push for easier contact among people or a more liberal exchange of ideas and information.

Yet this was clearly not the understanding of the American Government when it initialled the Helsinki Accord. By joining in this international agreement, the Soviet Union transformed its human-rights practices into more than merely a domestic matter.

The record of our efforts to enforce the Accord has been mixed. As David Shipler of The New York Times, July 31, 1976, recently observed:

> Despite the document's support for the freer movement of people and ideas, many prominent Soviet Jews are still barred from emigrating, families remain separated across international frontiers, uncounted political dissidents remain imprisoned and the Soviet people have no more discernable access to foreign ideas than before.
>
> Yet a slight counter-current, fed in part by the Helsinki declaration, has become visible in the last year: a variety of dissidents and Western diplomats believe the Soviet government has somewhat tempered its oppressive tactics against the human rights movement. And, simultaneously, the accord seems to have begun to act as a catalyst in bringing together some diverse elements of dissent.

I realize, Mr. Speaker, that many Americans have experienced deep frustration in attempting to gain greater freedom for Soviet dissidents. But, as Shipler has pointed out,

> Helsinki has provided a codified set of moral principles against which the West has been able to measure Soviet behavior, much to Moscow's chagrin.

A perceptive essay by Leonard H. Marks, chairman of the United States Advisory Commission on International Educational and Cultural Affairs, has reviewed the pattern of Soviet violation of Helsinki and offered proposals for gaining greater compliance. Despite the difficulties which we may encounter, we cannot abdicate our responsibility to gain greater human rights for dissidents in the Soviet Union. The coming years will not allow us to relax our vigilance.

The article by Mr. Marks in the Washington Post, August 1, 1976, follows:

THE UNFULFILLED PROMISE OF HELSINKI

It is revealing to see what has happened to the "Basket III" provisions for human contact and informational and cultural exchanges in the "Final Act" of the Conference on Security and Cooperation in Europe, signed in Helsinki a year ago today.

The results are, in a word, disappointing. Soviet policy has been marked by tactics designed to minimize Russian compliance with these proposals. Even more discouraging, the West has been reluctant to develop strong initiatives to capitalize on Basket III.

As chairman of the U.S. Advisory Commission on International Educational and Cultural Affairs, I travelled to the Soviet Union and East Europe after Helsinki and returned with no illusions that there would be a dramatic increase in contacts. The Soviet Union had resisted the inclusion of specific, binding language. I doubted that the agreement's expression of good intentions would cause the U.S.S.R. to alter basic policies. Nevertheless, I felt that the agreement offered opportunities for positive action in this field. I made this point, together with specific recommendations, upon my return.

Since then, many of the fears about Soviet intentions have been realized. Soviet officials moved to muffle the reverberation of Basket III at home. They trotted out the old arguments against "ideological relaxation." A get-tough policy has just been instituted against dissidents or other Soviet citizens who had hoped that contacts with the West might be eased. For example, requirements for exit visas were changed; a Soviet citizen must now give up his apartment before applying to emigrate. So 15 Soviet Jews wrote U.N. Secretary General Kurt Waldheim: "If a visa is denied, which is the usual procedure of the Soviet government, the applying family is left . . . without shelter from the elements."

The Soviet government instituted a very selective policy of "compliance" with Basket III proposals. For example: Travel restrictions on foreign journalists were somewhat relaxed; they now have about as much freedom as diplomats—which is not excessive. (This, incidentally, is one Basket III issue on which the U.S. government has made strong, effective representations.) Copies of more Western newspapers have been put on sale at Moscow newsstands; this is a practice that predates Helsinki, but is now trumpeted abroad by Tass as a gesture "in the spirit of Helsinki."

At the same time, the Soviet Union has mounted a heavy propaganda campaign accusing the United States and other Western nations of violating the Basket III agreements. The campaign has included charges that we restrict circulation of Soviet films and books. And Soviet commentators have said with straight faces that U.S. shortwave news broadcasts beamed toward the U.S.S.R. are in violation.

Congress reacted to this situation several months ago. It established a 15-member commission to monitor the Helsinki accord: six congressmen, six senators, and three officials of the executive branch. Although the President signed the bill on July 3, the executive branch was clearly unenthusiastic.

While the congressional move is important, the basic initiative in this field must come from the executive branch. What can be done?

First, we should make clear that the United States gives the subject the very highest priority.

Second, we should put forward specific proposals for implementing Basket III. These proposals should be publicized widely in this country, in Europe, and to audiences in Communist countries. Our proposals should be more pragmatic, realizable, designed to attract the support of influential young professionals in Communist lands who want more "windows on the West."

What proposals?

Expanded cultural and educational exchange. Perhaps the clearest impression that I received in talks with Communist officials was their willingness to step up academic and other professional contacts. During the past years, however, there have been no proposals to expand significantly the State Department's exchanges with Eastern Europe and the Soviet Union. The administration pleads a tight budget and other priorities—and indeed knocked $5 million from the appropriation for the department's Bureau of Educational and Cultural Affairs.

Encouraging the flow of information. There is a tremendous demand for Western publications, films and other media in Communist countries. During the 1960s the U.S. Information Agency operated an innovative program known as the Informational Media Guarantee Program, which allowed some Eastern European countries to purchase American media materials with their own currencies, and at little or no cost to the United States. I recommended that this program be reinstituted. Subsequently, the proposal was endorsed by the Government Advisory Committee on International Book and Library Programs. But no implementation has been started.

Increased circulation of "America" magazine. This publication, put out by USIA, has been an effective interpreter of American ideas and events to the Soviet Union for over 30 years. Demand for copies far exceeds the supply we are allowed to sell (60,000 per month). It would seem logical to press the Soviets to allow, "in the spirit of Helsinki." an increase in circulation.

A "Western" book store in Moscow. When I raised this possibility with the U.S.S.R.'s Minister of Culture, he disarmingly replied that the U.S. could request permission to open a book store at any time, "but, of course, the Soviet government would control the selection of books." Perhaps the time is ripe to remind him that no censorship is imposed on Soviet books imported to the U.S. and that the Helsinki signatories specifically agreed "to promote wider dissemination of books."

Pressing on the human rights issue. The Helsinki accord stressed the need for free movement of people, as well as of informational materials, across national boundaries. Despite clear and copious documentation of Soviet violations of this part of the agreement, we have never insisted in the United Nations or other international forums that the Soviet Union be asked to explain its divergence from the principles of the Helsinki agreement.

Coordination with our allies. In the negotiations leading up to the Helsinki agreement, our European allies took strong positions in support of more human and informational contacts. Taken together, their contributions to the implementation of Basket III can be greater than ours. There has been little effort during the year to coordinate national initiatives designed to take advantage of the agreement's provisions.

Mobilizing private resources. The State Department has, I believe, done almost nothing during the past year to bring together representatives of American industry, public-service groups, labor unions, universities and other institutions to examine ways in which they can contribute to programs, or collaborate on activities, that might lead toward Basket III goals.

There are, of course, many other ways we can implement Basket III. There is now some urgency to our actions. Next year there will be a follow-up conference in Belgrade to review steps taken by all signatory countries to carry forward the recommendations made at Helsinki. A preparatory meeting to organize the follow-up conference is scheduled for June 15, 1977. The Soviet Union can be expected to present a well-documented case to demonstrate its "achievements" in complying with Basket III, and an equally shrill one on our alleged violations of it. We must be prepared to respond.

What we need is a positive policy backed up by concrete action, to challenge the U.S.S.R. on the real issue, the opening of all borders to more human and informational contacts, which are central to the development of peaceful relations. Our purpose should not be simply to rack up a good score in the Basket III League. It shóuld be to prove that we have put the Helsinki principles high on the agenda of East-West relations, not simply as a diplomatic exercise but as a part of our historic commitment to the free movement of men and ideas.

MR. CLIFTON B. COX COMMENTS ON OUR ECONOMIC SYSTEM

HON. JOHN J. RHODES

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 5, 1976

Mr. RHODES. Mr. Speaker, I would like to call to the attention of my colleagues a singular address made by Clifton B. Cox, Chairman and Chief Executive Officer of Armour and Company, to the graduating class of the University of Missouri School of Agriculture.

Mr. Cox lays out some trenchant observations on our free enterprise system, and the efforts of Congress to regulate and tinker with its functions. He points out some basic truths that apparently have escaped a great many Members of this body.

I urge that my colleagues take time to read these pertinent comments on our economic system as it exists today and our governmental apparatus as it intrudes on the free marketing system that makes our economy go. Text of Mr. Cox's remarks are as follows:

Speech of Mr. Clifton B. Cox Delivered to Graduating Class of University of Missouri School of Agriculture

Good morning. It is a pleasure for me to participate in the convocation exercise of this school of agriculture.

You graduates are going to hear all kinds of praise and congratulations today—all of them deserved.

But to digress for just a moment, I would like to offer my congratulations to some other people:

To the mothers who thought you had forgotten their address; to the fathers who footed a good share of the tuition bills, and are amazed to see you graduate when the only words they thought you knew were "I need money"; to the wives who worked to put a husband in this graduating class (and to the husbands who did likewise); to the brothers and sisters who were turned out of their beds when you brought six buddies home for the holidays; to the children who learned to play quietly because you were studying; and to the sweethearts who stuck with you when exam season blessed you with the disposition of a rabid polar-bear.

To all of them, I offer congratulations as well.

All of which takes not an atom of credit away from you for having successfully completed four very long, difficult years and very likely the most important four years of your life in terms of personal development and preparation.

You deserve our praise and our pride, and we give it without reservation.

Now I would like to congratulate you as well for choosing agriculture. Agriculture is not just farming in the country, nor is it just providing life sustaining food and fiber for our people. Agriculture is a vital economic base both domestically and abroad. It is the source of income for many workers in the processing and manufacturing industry.

It is basis of employment for thousands of workers in our transportation and distribution industry. And today, agriculture is even more, because it plays a major role in our international policy. Someone has pointed out recently that there are only four areas today with surplus food. These, as I rememzer, are Australia, New Zealand, Canada, and the United States. All other areas are short of food. Japan and the common market countries, India and the Mid-East, must import food. Russia needs grain. Last year, the United States exported $22 billion worth of agricultural products. This is the reason we could pay for our oil. We have the most productive agriculture in the world. So you can see you have chosen well when you selected agriculture for your career.

I have given a lot of thought to what I would say to you this morning, and I am realistic enough to know that you have bigger and better things to do today than listen to a convocation speaker. In fact, I reluctantly confess that I cannot recall who spoke at my own commencement, much less remember what was said.

While "wandering down memory lane," I got to wondering what it would be like to be 22 or 23 years old in this year of our Lord 1976, to be fresh from the classroom, perhaps going on to graduate school, but more likely going out in the world to carve a career. I wondered, given the same conditions and environment in which you have grown up, what impressions I would have of business, of government, of labor, of the media, of the church, of the moral and ethical standards of the world today. Would I sit where you are, eager to join society at large, or would I be filled with contempt? Would I be full of optimism or seething with rage?

In the years since you were freshmen, you have witnessed an inconclusive end to a vague, ill-defined war. You have witnessed the resignation of a Vice President, the abrupt departure of a President who barely escaped impeachment, and the revelation of corruption in high places.

You have seen cars lined up at gas stations for the privilege of paying 60¢ and 70¢ for a gallon of gas—and glad to get it! You have seen supply and demand work in cattle prices—up to 58¢ a pound then down to 32¢, and now to 45¢. And you have seen New York — Fun City — teeter on the brink of bankruptcy.

And don't forget pollution, wage and price controls, the bribery of influential foreign government officials, rising unemployment, galloping inflation and runaway recession.

Bombarded with all this bad news, you could yell: "Stop the world, I want to get off!" But I hope you won't.

Or you could go out and do your best to bring the whole system crashing down in order to start again from scratch. But I hope you won't do that either.

What I do hope you do is head out into the world and try to fix it without destroying it, because there is so much worth keeping, worth fighting for and worth preserving! And one of your biggest stumbling blocks is going to be the glib talkers and the prophets of doom whose greatest talent lies in an inclination to destroy.

For instance, as a businessman, I hear over and over again from these glib talkers the comment that "the free marketing system has failed."

All of a sudden, an economic system that has bankrolled this nation's growth and prosperity for 200 years, is being snidely labeled a "has been" by a bunch of economic illiterates who don't have a clue as to the function of profits or the role of a free market.

I want to tell you there's not a thing wrong with the free marketing system except what we, as a nation, have done to it. We have abused it with punitive legislation, bled it through deficit government spending, burdened it with unrealistic social welfare programs and taxed it beyond endurance.

The miracle is that it has survived at all! And that despite repeated sandbagging from all sectors, it keeps bringing the greatest range of benefits to the widest range of people.

There are no formulas or computers smart enough to dictate the production and distribution of our goods as efficiently as this is done every day by our free market system. A few years ago, we had some smart people who tried to control beef as well as other prices. Americans eat a little more than two pounds of beef per person per week. Normally, we could go to the store and fuss if the exact cut and grade of beef was not to our liking—even late on Saturday night. But when prices were controlled, people anticipated a shortage. They tried to buy an extra week's supply of beef, but there wasn't an extra week's supply on hand—counters were empty. Of course, after controls we had too much. Prices fell. Farmers or feeders lost millions.

The same could be said of gasoline. Normally, we have an average of less than a half tank of gasoline in our cars. Everyone wanted a full tank but our system did not have a full tank for everyone. Our system of free marketing is fine tuned to allocate to the exact desires of a real demand, not a controlled economy.

Free enterprise is not a perfect economic system any more than this is a perfect world inhabited by perfect human beings.

What it is, is simply the one economic system that man has devised that comes closest to balancing such questions as: "Who makes a profit?" "Who shares in it?" "How should it be used?" "Who should make the decisions?"

Like our other freedoms—free press, free speech, and freedom of religion—free enterprise sometimes hurts some people. The inefficient producer whose price is too high, for instance, will go bankrupt as the consumer flees to his competition. The old-fashioned producer will have his products made obsolete by new technology. The manufacturer of shoddy products will fall victim to the quest for quality. It is the nature of a free competitive society that this be so, since the benefits of free enterprise and a free market system far outweigh its shortcomings.

And even its supposed shortcomings are, more often than not, engineered by factors outside the system itself.

Take the matter of deficit spending by the government. Deficit spending is the single biggest causes of inflation in the United States, and it is inflation that pulls the rug out from under consumer confidence in our economic system.

We have a runaway federal bureaucracy—a government sector that is growing faster than the economy that supports it.

Just in the last 50 years, government at all levels has expanded from constituting 10% of the economy to 40% of the economy. There are, in fact, 15 million public employees in this country.

It is ironic and wryly amusing that back when we were drafting the Declaration of Independence, one of the colonists' chief complaints against King George was, "He has erected a multitude of new offices and sent hither swarms of officers to harass our people and eat out their substance."

Well, the colonists should see the governmental structure we have created today.

Even more inflationary than the machinery of government, however, is the operation of government. Government spending this year is at the rate of one billion dollars a day, and it generates a deficit of over one billion dollars a week.

Much of this debt has come about to finance social programs that far outstrip the resources available for their payment.

This is not to imply that we do not have a moral and ethical responsibility to undertake social programs, particularly for the poor and the disadvantaged, but rather that we must as a nation control the tide of social demand within limits supportable in a free market system!

There are certain premises that I have come to respect in the years I have been associated with business. They are simple, not very profound, really, but because we have too often ignored them in the past—and the present—we are hurting today.

Among them:

You cannot consume without producing.

You do not enrich the poor by impoverishing the rich.

You cannot give food to the hungry person until food first has been produced.

Profit must precede allocation.

And, it is useless to argue about how profits will be allocated if there aren't any.

The point of this rather long essay on free enterprise is not to analyze our present economy, but to urge you, as you leave the academic world, to understand that the free marketing system is continuing to deliver a standard of living unequaled in history. And I urge you to understand it, support it, work for it, reform it if necessary, but hold on to it!

I rather suspect that, despite the wholesale bad news with which your generation has been bombarded, you have a resiliency that my generation lacks. I hope that this is so, and that where your jaundiced elders see only ruin, you see instead the chance to change and grow; and that where others clamour to destroy, you have the insight and the will to preserve.

I often think that Tennyson was speaking specifically to the young when he wrote: "Come my friends . . . 'Tis not too late to seek a better world!"

Right now is a fascinating and priceless time in your lives. You still possess all the ardent enthusiasm of youth—untarnished by failure and undiminished by time. And all that buoyant zest for life is wedded to mature minds and intellects. That's an unbeatable combination. And there isn't one of us old-timers here today who doesn't envy you all that fire and determination!

The best that I can wish you this graduation morning is that you stay eternal optimists, because it is only through optimism that one finds the courage to begin a project, or a career—or finds the stamina to pick oneself up and dream a new dream. There is so much to be done—so many horizons. And you have the education, the talent and the courage to recognize what needs doing and get it done. John Adams, second president of the United States, said in Philadelphia in 1777: "You will never know how much it cost the present generation to preserve our freedom. I hope you make good use of it. If you do not, I shall repent in heaven that I ever took half the chance to preserve it." With this I close and say, "God bless you, and God-speed along the way."

TRIBUTE TO DON GARDNER, NOTED YOUNGSTOWN SPORTSCASTER

HON. CHARLES J. CARNEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 5, 1976

Mr. CARNEY. Mr. Speaker, on Friday, July 31, Don Gardner, one of Youngstown's most notable sportcasters, delivered his last regularly programed sports show on WKBN television. In honor of his many contributions, Curbstone Coaches, of which Don has been an active member and past president, announced that he will be given one of its most coveted awards. The "Contribution to Sports" Award will be presented to Don at the annual Hall of Fame-Heart Fund banquet on Sunday, October 31, at Idora Park in Youngstown, Ohio.

Don's interest in sports encompasses many fields. He got his start at Volney Rogers Field, where many of the city's athletic greats were developed. Few know it, but in his teens, Don's nickname was "Coney". He also chalked up some amateur boxing titles in the early days and continued in the mitt sport at Columbia University. He was a magna cum laude at Columbia in English and later at Pittsburgh University in education. These days, Don loves golf and plays virtually every course in the area. He also holds a title from the Youngstown Bridge Club, of which he was once president.

While Don Gardner has announced that he is going into semiretirement, I am pleased that he will continue to do the play-by-play action of the Youngstown State University football and basketball games. As Don has said:

> I would fight anyone that tried to stop me from airing the YSU football games. I think this is the year the Youngstown Penguins will show their class. They are really loaded.

When asked to name the highlight of his broadcasting career, Don always mentions the "Snow Bowl Game" of 1950 when 14 inches of snow paralyzed traffic in Youngstown and other cities. During this memorable Ohio State-Michigan game, brooms were stuck upside down on the 50-yard line, and the press box windows were frozen from all the accumulated sleet and snow.

Don launched his broadcasting career at WKBN in 1932, and then moved to his nightly 6:15 program with 43 years of longevity. During this time, he has broadcast almost every athletic pursuit, including 3 years of Ohio State games and Little League playoffs. Along with his WKBN assignment, he taught English at Princeton Junior High School and at Younstown State University.

Mr. Speaker, I count Don Gardner to be one of my very good friends whom I have known for many years. One of his lasting achievements has been to enable the Youngstown-Warren area to gain the recognition it deserves for its many contributions to the world of sports.

It is my sincere hope that in his "semi-retirement," Don and his lovely wife, Mary, will be able to spend more time traveling and visiting with their friends. I also hope he will be able to spend more time playing golf and enjoying scholastic sports as a spectator, instead of as a broadcaster. I want to personally congratulate him on a highly successful career, and extend best wishes for a long and healthy life.

CONGRESSIONAL BICENTENNIAL SALUTE TO THE SLOVAKS OF NEW JERSEY AND AMERICA IN RECOGNITION OF THEIR CONTRIBUTION TO OUR NATION'S HERITAGE

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 5, 1976

Mr. ROE. Mr. Speaker, as we celebrate the 200th anniversary of our Nation's birth and reflect upon the history of our great country and the good deeds of our people that have placed our representative democracy, second to none among all nations throughout the world, I am pleased to call your attention to the First Slovak Heritage Festival held in the State of New Jersey in commemoration of the outstanding contribution Americans of Slavonic descent have made to the quality of life in our United States of America.

It is indeed most significant and appropriate that the observance of our Bicentennial should bring a greater awareness, nationally and internationally, of the standards of excellence we have established among all peoples throughout the world in banding together as a nation comprised of all nationalities sharing the highest ideals of friendship and brotherhood in the American way of life.

Mr. Speaker. Today let me share with you two news articles pertaining to our Slovak heritage forwarded to me by a most prestigious Slovak historian, the Honorable John C. Sciranka, who is held in the highest esteem in my congressional district as the editor of the Falcon, news publication of the Slovak Catholic Sokol, America's greatest Slovak gymnastic and athletic fraternity.

With your permission I would like to insert at this point in our historical journal of Congress, the following article which appeared in the June 1976 issue of "Good Shepherd" (Dobry Pastier), official publication of the Slovak Catholic Federation of America which is published in my district in Passaic, N.J. under the editorship of Mr. Sciranka, who is also president of the Slovak Newspapermen's Association and the dean of American Slovak Journalists. This most comprehensive report on the history of the people of Slovak heritage is as follows:

Slavs Here Before the Mayflower

(By John C. Sciranka)

With Slovak Heritage Festival at Garden State Arts Center in New Jersey on May 29, 1976, also the Polish and Slovanic Festival in Reading, Pa., on the same day and numerous other Slovak and Slavonic Bicentennial celebrations throughout the United States, let us review briefly with pride that the Slavs were here before the Mayflower.

Now, let us look at the record.

First, the Slovaks are a members of a large Slavonic, often referred to as the Slav family, which numbers over 350 million in the entire world.

Ján Kolár a Slovak Protestant minister and poet is known and accepted as the archpriest of Panslavism.

There are over 42 million Americans of Slavonic origin or descent in our 50 States.

New Jersey has over 100,000 Slovaks.

These Slovaks and Slavs are proud that besides the famous Dalmatians, who are Croats from present day Yugoslavia and who accompanied Christopher Columbus on his voyage to the new world, it is most significant that a year before the Mayflower dropped anchor off the New England coast, carrying English immigrants who were to establish a Puritan theocracy in the northern wilderness, Polish and Slovak immigrants were fighting for democratic rights in the young Virginia colony.

Before relating these historical facts, let us pause with historians and fill ourselves with pride that the doughty Captain John Smith of Virginia fame, implanted his name firmly in the history of New England States several years before Captain Myles Standish appeared on that scene with the Pilgrim Fathers.

CAPTAIN JOHN SMITH

Captain John Smith fought the Turks with the Slovaks, Poles and other Christian Slavs before coming to establish Jamestown Virginia in 1607. He brought Slovaks, Poles and other craftsmen with him to the new world. Captain Smith admired the courage of the Slovaks, Poles and other Slavs with whom he fought the Turks. After winning many decorations for bravery against the Turks, he visited as a hero, Poland, Slovakia and other countries of the Austro-Hungarian Empire. And again these Slavonic warriors when they witnessed Smith's bravery, did not hesitate to join his expedition to the new world, where he headed the Virginia colony as its president. Although Smith was forced to quit the presidency of the colony, he put New England on the map. He was known as "Admiral of New England" for he commanded a two-ship expedition to the coast of New England in 1614 after his return to England with a cargo of cod fish, Smith planned to return to establish a colony in New England. No doubt, he had Slovaks, Poles and other Slavs, his faithful warriors on this expedition, for he had the greatest trust in them.

CONGRESSMAN FLOOD

The "Sunday Eagle," Passaic, N.J., July 22, 1956, under the title "Slovaks, Poles With John Smith; Aided First Building in Nation", published this interesting story:

"Congressman Daniel J. Flood (D.Pa.,) made a following noteworthy statement which gives new light on the early Polish and Slovak immigrants to this country and is recorded in the Congressional Record, July 5, 1956, Pages 5292–93, according to John C. Sciranka, of 218 Brook Ave., Passaic. Congressman Flood said: "Slovak ingenuity and craftsmanship were highly valued by the redoubtable Captain John Smith, when on September 15, 1608 the sailing ship "God Speed" sailed into Jamestown harbor with six skilled craftsman on board, two of whom, Juraj Mata and Jan Bogdan, were Slovaks. These men with four Poles, Lowicki, Stefanski, Zrenica and Sadowski, came in answer to an urgent plea by Captain John Smith to his London agents, to "send 30 carpenters, blacksmiths and bricklayers rather than a thousand of the kind we have here." "

"Congressman Flood continues: "It was largely due to skilled efforts of these craftsmen that the Jamestown colony was able to secure a foothold on the American continent." "

NEW YORK JOURNAL AMERICAN 1956

The names Mata and Bogdan are associated with the early Slovak American life, and they are purely Slovak. These names are listed as founders of many Slovak parishes and societies.

And on Thursday, July 26, 1956 the "New York Journal American" published on its editorial page, under the title "Early Americans" from the pen of this writer, also the above facts, with this addition: "Slovaks took it for granted that the first Slovak to reach America was Count Maurice de Benovsky, who came to Baltimore in 1785 at the recommendation of Benjamin Franklin. No doubt, your Polish and Slovak readers will be interested in knowing that 100 years before the birth of Benjamin Franklin, two skilled Slovak craftsmen and four Poles helped to build the first permanent settlement in the new world."

In connection with these historical facts, this is what Congressman Daniel J. Flood had to say about Count Benovsky, who was born in Vrbovce, Nitra County, Slovakia, and has many countrymen in New York City, especially Downtown in the Wall Street area, where they have a Vrbovciansky Kruzok (Circle) meeting in the restaurant of well known Slovak leader, John Mitacek: "and in the War of Revolution," continued Congressman Flood, "Slovak love for liberty was exemplified in the military exploits of Count Maurice Benovsky, who served with Pulaski at Savannah and who was born in storied Nitra, the ancient See of St. Methodius.

COUNT BENOVSKY AND BENJAMIN FRANKLIN

"Benovsky came to Baltimore, Maryland, in 1785 at the recommendation of Benjamin Franklin, our American ambassador, who met him in Paris and gave him letters of introduction to American businessmen. Benovsky came on his ship "Intrepid." Later Benovsky became king of the Madagascar, where he was mortally wounded. Now, it is, indeed, remarkable that 100 years before Benjamin Franklin's birth, two skilled Slovak craftsmen and four Poles, helped to build Jamestown, the first permanent settlement in the new world."

Arriving in 1607 to aid Captain John Smith in building Jamestown, Va., these Slavs were employed by British captain to manufacture glass beads for trading with the Indians and as workers in other crafts. U.S. Senator Prescott Bush (R. Conn.), published the writer's article on this subject in the Congressional Record on September 8, 1961. Also Congressman Charles S. Joelson (D.-N.J.) republished the writer's article "Slovak's of Patterson, N.J., Diocese" in the Congressional Record on September 22, 1961, in which it is stated "that in 1619, when the House of Burgesses met in Jamestown for the first time, the Poles and their Slav brothers, despite their vital contributions to the maintenance of the colony, were denied the right to vote. The Rebellion against this injustice quickly took organized form unless equal rights for all were restored. They won their demands and "The Court Book of the Virginia Company of London," attests, under the date of July 31, 1619; the record book of the English financial backers of the Jamestown Colony declared:

"Upon some dispute the Polonians residents in Virginia, it was agreed that they shall be enfranchised and made as free as any inhabitant there whatsoever. And because of their skill in making pitch and tar and soap ashes shall not die with them, it is agreed that some young men shall be put unto them to learn their skill and knowledge for the benefit of the country hereafter."

SLAVS IN NEW JERSEY

May we be permitted to suggest that we too take a lesson from the first colonists and train young men to take our places in the American Slovak fraternal life. We can see that the spirit of training future leaders was always the objective of our pioneers. We can see it also from the actions of Peter Stuyvesant, who, fifty years after the Jamestown experiment, as Governor of New Amsterdam, now New York, held out allurements to a group of Slavonic pioneers. Augustine Herman, first Czech (Bohemian) in America, was on his board of advisers. Herman later established Bohemian Manor in Maryland and made a first map on the state. In 1659 a group of Poles arrived and settled near Fort Orange, now New York, where their skill as tillers of the soil soon became evident.

During the same period of the Dutch occupation, Dr. Alexander Kurtiusz, a Pole whose name has become known to history as Curtius, is credited with having established the first school of secondary education in America, which subseqently became an academy at which pioneers of more than one racial strain received their early education.

In connection with this, we wish to mention Bedrich Phillipse, founder of Phillipse Manor, another Czech refugee from Holland who was very influential in Westchester County, near Tarrytown, N.Y., and his beautiful daughter Marie was courted by George Washington, father of our country.

JAN COMENIUS KOMENSKY AND MAJOR POLERECKY

Our thoughts also turn to the famous Harvard University, where the renown educator, Johannes Amos Commenius (Komensky) was invited almost three centuries ago to be its rector. Komensky was born in Moravian-Slovakia. He spent most of his youthful years in the city of Presov, metropolis of Eastern Slovakia.

Perusing the pages of history we find that Major John L. Polerecky, son of Count Andrew Polerecky of Slovakia, came to America with the French expeditionary army of

General Rochamue to fight under General George Washington. Major Polerecky remained in America after the Revolutionary War. First he resided in Boston and later settled in Maine, where he died on June 8, 1830. The famous John Hancock signed his naturalization papers as Governor of Massachusetts.

The Slovaks fought in the Civil War on the side of Abraham Lincoln and subsequent wars.

In the volume of "Passaic and its Environs" by late historian William W. Scott, Rev. Henry Loskiel, a Moravian missionary is mentioned. He was baptizing Indians in 1676 in the vicinity of Passaic. And Moravians were Slavs, who with Slovaks and Czechs formed the Great Moravian Empire, whose ruler, Rastislav, invited apostles SS. Cyril and Methodius to his domain in 863 A.D., and we are observing the eleventh centennial of this noted historical event.

Polish nobleman, Zaborowski, who was an early settler in New Amsterdam, later moved to New Jersey, where he acquired large tracts of land in Bergen County, along the Passaic River, now home of countless Slavs. The family is now known as Zabriskie. Poles have settled in Delaware with other Slavs as early as 1650, according to old records.

PRESIDENT TAFT

Reviewing all these facts, it is no wonder that the Slovaks are known as the "Yankees of Europe." The writer quotes in the booklet "Slovaks Under the Stars and Stripes," published in 1929 the late President William H. Taft, who received the American Slovaks, led by the founder of the N.S.S., Peter V. Rovnianek in Washington, D.C. in 1910, when the question: "What is your mother tongue?" was added on the Census questionnaires. This same President Taft during World War I, then as president of Yale University, addressing several thousand Slovaks in Bridgeport, Conn., stated: "The truth is, we need a little poetry among our native Americans; we need appreciation of poetic ideals; we need to have mixed with our every day humdrum life a little bit of romance that you bring from the old country and we welcome you on that account. Slovaks are the "Americans by choice." They feel for America a deep gratitude. Here many of the rights denied in their native country have been theirs unquestioned. It is on American soil that the Slovak literature has largely sprung into being; even the Slovak language has here been shaped."

Let us be inspired by these great accomplishments and continue to show even greater progress, especially in the American Slovak fraternalism during this Bicentennial Year.

Mr. Speaker, the second article, authored by the distinguished staff writer Barbara Hoagland of the Asbury Park Press, which reports on the success of New Jersey's Slovak Heritage Festival under the direction of the Slovak community of my congressional district and State of New Jersey, is as follows:

Slovaks of New Jersey Salute Bicentennial

(By Barbara Hoagland)

Holmdel Township.—Red, white and blue flags flew from the trees at the Garden State Art Center, Saturday, May 29th, as more than 5,000 gathered for the American Slovaks salute to the Bicentennial year.

It was the first Slovak Heritage Festival in New Jersey and the sun shown on it. Although obscured by clouds off and on throughout the day, the sun won out and allowed the crowd from all parts of the east coast to enjoy the day on the shaded grounds.

The Festival was prompted by the Bicentennial year activities, Albin J. Stolarik, Festival chairman, said.

"We, Slovaks, got caught up in our country's birthday celebration, like everyone else," Stolarik explained, adding that the large turnout was proof of how involved everyone has become.

"I think the Bicentennial has made every nationality more aware of its own beginnings and heritage," he said, "and today while we're stressing Slovak culture, we want people to know the part we have played in America's history."

There are 42 million Americans of Slavonic descent in the United States and 100,000 in New Jersey according to Slovak historian John C. Sciranka.

"Slavs accompanied Christopher Columbus when he landed on our shores. Polish and Slovak immigrants were fighting for democratic rights in Jamestown a year-before the Mayflower landed," Sciranka pointed out. "And needless to say we've played parts in everything that's happened to our country since then."

That the Slovaks are proud of their history was easy to see. Under the yellow and white striped tent, where the arts and crafts of their culture were displayed, poster after poster told their history. Their Slavic origin in western Europe, their wars, the merger of their country with Czechs forming Czecho-Slovakia, their immigration to America reaching its peak in 1905, and endless newspaper clippings telling of Slovak triumph and tragedy, ran the length of the huge tent. And yesterday thousands waited on lines for up to an hour to see the display.

Another crowd pleaser was the food. The lines wound around the lawn as people waited to taste holubky (stuffed cabbage), halusky (small dumplings), klobasky (sausage) and sauerkraut.

And after their long wait the Slovaks sat around on folding chairs and picnic blankets to enjoy their food and each other's company. Their laughter mingled with the aroma of klobasky and filled the air.

Meanwhile, folk dancing and singing groups performed throughout the day at the steps of the amphitheater.

The most unusual acts were a series of calisthenic drills performed by children from the Slovak Gymnastic Union Sokol, Perth Amboy, and the Slovak Catholic Sokol, Passaic.

One of the main objects of the Sokols, as they are called, is to promote physical fitness. "A country is only as strong as its citizens are fit," Andrew Venglarchik Jr., who heads the Perth Amboy group, said.

The day-long event ended with performances on the stage of the Art Center by singers Janka Guzova, a popular folk singer, and Ruzena Gregus, a member of the Manhattan Opera Chorus, and pianist, Marienka Michna.

We wish to add to this report of Miss Hoagland, that 5,000 took part in the morning and afternoon program, which commenced with ecumencial service. But another 5,000 came to the evening Pageant and paid admission from $7.00 to $3.00. Limbora and Zemplin dancing and singing ensembles enriched the program. President Ford sent his personal representative, Dr. Myron B. Kuropas, to deliver his greetings.

Mr. Speaker, I appreciate the opportunity to present the foregoing facts to you and our colleagues here in the Congress in recognition of the many achievements of our people of Slovak heritage which have truly enriched our community, State and Nation. I know you and our colleagues here in the Congress will want to join with me in extending our warmest greetings and felicitations to the Slovaks of New Jersey and America and pause for a moment of silent and pensive reflection during our Bicentennial Year on the history of the people of Slovak heritage which has now become an important and inextricable part of the history and future of America.

TRIBUTE TO WISCONSIN'S 1976 SMALL SUBCONTRACTOR OF THE YEAR: THE MILWAUKEE VALUE CO.

HON. CLEMENT J. ZABLOCKI

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 5, 1976

Mr. ZABLOCKI. Mr. Speaker, in view of the fact that we are celebrating our country's Bicentennial, it is significant to note those qualities which have best exemplified the spirit of the American people. For example, industriousness and ingenuity have long been and still are primary factors in the remarkable success story of our Nation's small businesses. Adding to those factors a strong sense of independence, hard work and dedication, small businesses have contributed much to the growth of our Nation and the well-being of our citizens.

Characterizing such a contribution is the Milwaukee Valve Co., a small business firm in my district in Milwaukee. Under the fine management of Herschel L. Seder and Max Koenigsberg the Milwaukee Valve Co. was transformed from a "broken down old company" 17 years ago into this year's selection as the Small Business Administration's Wisconsin small business subcontractor of the year.

Through their recognition of the need to spur productivity as a means of overcoming the slowed economy of the last several years, their willingness to modernize plant facilities, and their outstanding record of product innovation, Seder and Koenigsberg have demonstrated the spirit of American growth which is the byword of our Bicentennial celebrations.

As a strong supporter of efforts to protect and enhance the effectiveness of small businesses in our communities, I am proud of management and labor affiliated with the Milwaukee Valve Co., who so well illustrate the true character of the American people, and I consider it a privilege to bring further recognition to the business acumen, entrepreneurship, and successful management of the owners of this small Milwaukee business in my district.

In this respect I insert the June 7 Milwaukee Sentinel article entitled "Productivity, Growth Tied" which highlights the accomplishments and the contribution to the local community made by the Milwaukee Valve Co.:

Renewed Milwaukee Valve Young at 75

Productivity, Growth Tied

(By Roger A. Stafford)

Many of Milwaukee's most public spirited citizens are not home grown.

Some, like Herschel L. Seder and Max Koenigsberg, never do become residents, but their efforts still are directed toward the good of the community.

Seder and Koenigsberg are two Highland Park (Ill.) businessmen who purchased the Milwaukee Valve Co. from the giant Controls Company of America 17 years ago. Despite years of tradition, the South Side operation "was a broken down old company," said Seder in a recent interview.

Through the cooperative effort of new management and a dedicated work force, Seder stresses, the firm "has been put back together again" as a growing force in the Milwaukee economy.

Currently celebrating its 75th year in business. the operation at 2375 S. Burrell St. produces valves for a variety of markets and users, competing against operations many times its size. It is a far different operation than it was in 1959 when it languished as a neglected acquisition of a diversified industrial giant.

Nearly all of the equipment in the South Side operation has either been replaced or refurbished, stresses Seder. Changes range from installation of nonpolluting electric furnaces benefitting the surrounding residential neighborhood to interior painting benefitting the growing workforce.

In 1959, when the two men acquired Milwaukee Valve, it had about 75,000 square feet of office and production space. The facilities have been steadily expanded and now have about 200,000 square feet.

Under Controls Company, points out Koenigsberg, the firm's line of valves had shrunk drastically. He notes that more than 90% of the items now sold by the company were not available at the time of the acquisition.

Constant innovation has led to a unique Butterball brand unit, a butterfly valve which is easily flipped open or closed with a lever, instead of the traditional screw type arrangement.

But more important to the firm's success than either facilities modernization or product innovation has been improvement in worker productivity, which has enabled sales increases in every year under the new management, points out Seder.

He notes that prior to the acquisition he and Koenigsberg were warned to stay out of the high labor Milwaukee area. Even after the move, the two men were wooed by industrial development groups from the South, which promised many advantages.

But instead, says Seder, the two chose to rebuild the firm with an emphasis on improved productivity, the only way they see of sustaining a manufacturing operation, no matter what its location.

"In order to have employment in a high labor market, you can only do it through productivity," stresses Seder, repeating a message he gave workers 17 years ago and now would like to get across to state and national politicians.

While declining to give comparative sales figures, Seder indicates that Milwaukee Value today has more than twice the number of employes it had 17 years ago and a payroll 5 to 6 times larger. Sales of the firm showed an increase even in 1975, outperforming the economy and its competitors.

Running a successful business through increased productivity leads a manufacturer to meet local and national social needs voluntarily, indicates Seder. He points out that as Milwaukee Value returned to financial stability it was able to meet the employment needs of minorities and the requirements for employe safety and pollution control before it was ordered to do so by government agencies.

"We never take the approach of complying with any program," says Seder. Regarding minority and female employment, he says the workforce that now numbers just under 500 brought about change itself for the good of the company. "We couldn't afford the poor business practice of discriminating."

Legislators at local, state and national levels do not understand the importance of productivity to the nation's economy or they wouldn't be constantly criticizing successful business ventures, stresses Seder. As an example, he points to the often criticized Ingalls Shipbuilding Division of Litton Industries in Mississippi.

Seder indicates that he toured the Litton facility when it was being developed and saw it was designed as a highly efficient facility which would benefit the nation in the long run. He admits that the operation had problems in the beginning, but contends that most are ironed out now and the Litton unit is benefitting the area in which it operates, while providing employment in many other parts of the country.

Koenigsberg notes that Milwaukee Valve is only one of many suppliers of the Litton shipbuilding effort in the Milwaukee area. Critics of the operation are not viewing its positive benefits today, but instead are focusing on problems of the past, he believes.

Milwaukee Valve's role as a Litton supplier resulted in its selection this year as the Small Business Administration's Wisconsin small business subcontractor of the year. Litton nominated Milwaukee Valve for the recognition and the firm not only was selected as the leading government subcontractor in Wisconsin, but also ranked second in the five state Midwest region of the SBA.

The SBA recognition pleases Seder and Konigsberg, but they obviously would be even more pleased if their firm's 75th year in business produced an awareness of its contributions to the local economy.

Perhaps because they both kept their residences in Illinois, the two executives feel they have not been viewed as local entrepreneurs. But Seder, president of the firm, stresses that Milwaukee Valve has been his only manufacturing involvement since 1959 and all of his efforts have been directed toward making it a valuable part of the Milwaukee economy.

A former vice president of another valve company, Seder currently is a trustee of Johns Hopkins University and a director of a Highland Park bank. Koenigsberg, who serves as executive vice president, was formerly a vice president of the Englander Co. The two men and members of their families own all of the stock in Milwaukee Valve.

Seder and Koenigsberg will be pointing out the economic value of Milwaukee Valve to the city and state at a 75th anniversary party for employes, customers and governmental officials later this summer.

And if they still have trouble getting the message across, Seder can point out that one of his two sons in the business—James Seder, who serves as assistant to Koenigsberg—is now a bona fide Wisconsin resident.

PANAMA CANAL: CATALYST FOR RESTORATION OF NATIONAL WILL

HON. JOHN M. MURPHY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 5, 1976

Mr. MURPHY of New York. Mr. Speaker, the crucial matter of the future sovereign control of the U.S. Canal Zone and of the Panama Canal have become subjects of national debate, with the U.S. Department of State leading a massive campaign of propaganda aimed at bringing about the surrender to Panama of United States sovereignty over both the canal and its protective frome of the Canal Zone territory.

Because of the legal aspects of the questions involved, the canal issue is currently being widely discussed among members of the bar. For example, on May 27, 1976, there was a seminar in the National Lawyers Club in Washington, D.C., on the topic of "United States-Panama Negotiations for a New Canal Treaty," sponsored by the Inter-American Bar Foundation, the Fletcher School of Law and Diplomacy, the Federal Bar Association's Council on International Law, and the Inter-American Bar Association of the District of Columbia.

The principal speakers included William Barnes of the Fletcher School of Law and Diplomacy; David H. Ward, former special U.S. representative for the current treaty negotiations; Dean Camilo O. Perez of the University of Panama Law School; and Captain Franz O. Willenbucher, U.S. Navy, retired, lawyer and long-time student of Panama Canal history and legal matters.

Captain Willenbucher's carefully researched and documented address quite effectively outlined the case for retention of the U.S. presence and sovereignty over the canal. I believe his remarks will be of considerable interest to those Members of Congress who are interested in dispelling much of the misinformation which has clouded attempts at a clear understanding of a most complicated issue.

PANAMA CANAL: CATALYST FOR RESTORATION OF NATIONAL WILL

(By Franz O. Willenbucher, J. D., Captain USN (Ret.))

Presented at the Seminar on United States-Panama Negotiations for a New Canal Treaty

May 27, 1976

The major elements for the establishment and implementation of a sound United States policy, concerning the maintenance, operation, sanitation and defense of the U.S. Canal Zone and Canal, situated in the Isthmus of Panama are: (a) Continued undiluted sovereign control of the Zone by the United States, and (b) The major modernization of the existing Canal throught the completion of the temporarily suspended Third Locks Project, adapted to include a Pacific summit level terminal lake. All other matters, however important, are relatively secondary in character.

In order promptly to initiate this compelling policy, the present ill-advised negotiations with Panama for a "new" Panama Canal Treaty should be brought to a close, in an amicable a manner as possible, recognizing the colossal blunders which have thus far been committed by both the United States and Panama. At the same time, Panama should be brought to understand that the modernization program should be completed at the earliest possible time and that it (a) needs no new treaty, the existing treaty rights of the United States being fully adequate to complete the program, and b) will bring to Panama massive economic benefits, since the cost of the modernization program will be upward of $1.5 billion, much of which will, of course, be spent in Panama.

The Canal must be kept under the sovereign control of the United States: (1) Because it is not only vital to the security of our people and the people of the whole Western hemisphere; but, because its continued operation, exclusively by the United States, is essential to its survival as a free and independent nation; and (2) to fulfill our global treaty-based obligation under the Hay-Pauncefote Treaty of 1901 to operate the Canal in the interest of world shipping without discrimination at reasonable rates, in accordance with the terms of the Constantinople Convention for the Suez Canal.

The Canal çannot be successfully operated by a small technologically underdeveloped country, nor by one with inadequate financial competence, like Panama. Nor can the Canal be operated successfully in partnership with any other nation. Such an arrangement would prove in practice to be impossible and perhaps even disastrous. The Canal must be kept in operation by only one fully competent country, and that is the United States, unless the Canal were to fall into the hands of Soviet Russia which has been its design from the beginning of its existence.

The overriding question is whether the Caribbean-Gulf of Mexico sea area is to be reestablished and maintained as a vital United States national defense asset, or whether it is to become in its totality a Red-based area further to facilitate an invasion into the United States via its soft underbelly between Texas and Florida.

President Ford, less than nine years ago, on April 8, 1967, while he was House Minority Leader, wrote a letter to Dr. Donald Marquand Dozer, Republican Central Committee of Santa Barbara County, California, in which he said:

"We must protect our own national interests in the Canal Zone and throughout the world. I have expressed publicly my concern about the communist threat to the canal under lessened American authority.

"The Congress cannot ignore its responsibility to the American people as it examines and evaluates the decisions of the President in this matter."

Three months later, on July 7, 1967, House Minority Leader Ford, after reading parts of a new proposed Panama Canal Defense Treaty which had been negotiated by the Johnson Administration, obtained by the Chicago Tribune, while it was still under secrecy wraps, declared that the American people would be "shocked" at its surrender terms. The Tribune, on the next day, July 8, 1967, published the story on its first page, under a glaring headline: "Canal Pact Shocking: Rep. Ford," and subtitled: "Strengthens Red Threat, Leader Says." It quoted Minority Leader Ford as having said that "with Cuba under the control of the Soviet Union via Castro and increased communist subversion in Latin America, a communist threat to the Canal is a real danger." The situation with respect to communist infiltration into the Caribbean-Gulf of Mexico area is far worse today than it was at that time.

Senator Strom Thurmond (R–S.C.), to whom the Chicago Tribune furnished copies of the Johnson Administration treaties, read them to a shocked Senate. The Tribune quoted Senator Thurmond in its July 8, 1967 article as follows:

"The Communists first announced their intention to overthrow United States control of the canal as early as 1917. They have never lost sight of that goal. After last month's mid-East crisis, the Soviets repeated their demand that all strategic waterways be put under 'international' control. Yet that same crisis, and the shutdown of the Suez Canal by Egypt demonstrates how important it is to freedom that the Panama Canal remain in strong and responsible United States hands."

The Tribune article then reported as follows:

"Thurmond said The Tribune's revelations raise some key questions about the treaties. Among the questions that must be asked, he said, are the following:

1. Do the new treaties provide for undiluted control and operation of the canal by American authorities? 2. Do the new treaties protect the investment of 4.9 billion dollars made by United States taxpayers between 1904 and 1966? 3. Do the new treaties put American and free world interests ahead of passing consideration of Panamanian politics? 4. Do the new treaties provide for a defense agreement which would provide protection equal to that the United States now enjoys?

The furor caused by the publication of the treaties by the Chicago Tribune and their exposure by Senater Thurmond was so great that President Johnson did not submit them to the Senate for consideration for ratification, and they were rejected by the government of dictator Omar Torrijos in 1970, notwithstanding that they were lavishly beneficial to Panama in their terms of surrender by the United States.

Notwithstanding the debacle of the Johnson Administration's attempt to negotiate new Panama Canal treaties, President Nixon reestablished negotiations with Panama during 1971; and nothing much in the way of progress took place until 1973, when Ellsworth Bunker was appointed U.S. ambassador and chief negotiator. Thereafter, on February 7, 1974, Secretary of State Kissinger initiated the joint statement with Juan Antonio Tack, Minister of Foreign Affairs of the Republic of Panama City, covering eight principles to serve to guide the negotiators in the effort to conclude proposed new treaties.

President Ford took office on August 9, 1974. In an article in the Washington Post on May 19, 1976, titled: "Panama: Ford Gave Pledge," it is stated in the first paragraph as follows: "The day Gerald Ford was sworn in as President, he assured Panama's Gen. Omar Torrijos in writing that the treaty talks would continue under the 1974 guidelines that call for the eventual transfer of the Panama Canal to Panama and elimination of a permanent U.S. interest in it, according to a member of the Panamanian negotiating team (Carlos A. Lopez-Guevara). The Panamanian official said the assurance was contained in a letter to Torrijos delivered by Ambassador Ellsworth Bunker, head of the U.S. negotiators." Ambassador Bunker, on April 7, 1976, during hearings before the Panama Canal Subcommittee of the Committee on Merchant Marine & Fisheries, House of Representatives, testified that President Ford had on several occasions in writing specifically directed the State Department on the conduct of the current treaty negotiations with Panama.

These intensive activities by President Ford in furthering the negotiations on new treaties with Panama raise serious questions, when compared to his vehemently expressed opposition to the Johnson negotiated proposed treaties, especially in view of the greatly increased communist activities in the whole Caribbean area.

Opponents of the current treaty negotiations, since they involve surrender to Panama of the people's sovereignty over the Canal Zone and Canal, are convinced that the present negotiations should be terminated, and that the Government of the United States should maintain and protect its sovereign rights and jurisdiction over the canal and zone, and should in no way cede, dilute, forfeit, negotiate, or transfer any of these sovereign rights, power, authority, jurisdiction, territory or property that are indispensably necessary for the protection and security of the United States and the entire Western Hemisphere.

Thus, from its very inception, the Ford Administration has been fully committed to an unauthorized and abject surrender of the sovereign rights of the American people over the Canal Zone.

Under our system, sovereignty resides in the people; not in the President, nor in the Congress, to be negotiated away without their consent.

Several national polls indicate that more than 80% of our people oppose surrender of U.S. sovereignty over the Canal Zone. 38 Senators and 164 members of the House have co-sponsored resolutions against surrender, and the number in both Houses is now somewhat greater, especially in the House where substantially more than a majority oppose surrender.

Ambassador Bunker, in his address to the World Affairs Council, Los Angeles, California, on Dec. 2, 1975, said: "No effort to improve our policy concerning the Canal can succeed without full understanding and support of the Congress and the American people." Even had no political controversy concerning surrender to Panama taken place, the State Department's hope to persuade a majority of our people to support its proposed surrender plan would have failed; now the number of opponents has grown considerably and their opposition has solidified, until it is now evident that no amount of persuasion could result in support of the State Department's blueprint of surrender.

The Ford Administration's blueprint for surrender was exposed on October 6, 1975 by Rep. Daniel Flood, one of the nation's foremost authorities on canal matters, when he placed in the Congressional Record for all to read the exact texts of three "Conceptional" treaties negotiated in Panama by U.S. Ambassador Ellsworth Bunker with representatives of the Marxist government of Panamanian dictator, Omar Torrijos. The same three proposed treaty drafts were placed in the Congressional Record in the Senate by Senator Helms (R–N.C.).

Not one word as to these startling disclosures appeared in the news media. Had even one large newspaper or one radio-television network given this disclosure the coverage to which it was entitled, the result would have shocked the American people in the same manner and to the same degree as did the exposure of the Johnson Administration's proposed surrender treaties by the Chicago Tribune in 1967.

Not only is President Ford's determination to "give-away" this strategically essential United States national defense asset ill-advised, dangerous and unjustified; but, under Secretary of State Kissinger's insistence last fall, through the National Security Council, the President silenced the Joint Chiefs of Staff from expressing any opposition to the Administration's plans to the Congress, and thus to the American people.

To further its surrender plans, our State Department would have us believe that the Canal Zone is really Panamanian property; that the U.S. pressured Panama into giving us the Canal Zone in 1903; and that the U.S. is exploiting Panamanians, robbing them of Canal operating profits that are rightfully theirs.

The truth is that the United States never has been, and certainly is not now, a squatter occupying the Canal Zone. Instead, it is the Canal Zone's lawful owner, with full sovereign rights, power and authority over the Canal Zone and the Canal, established in three treaties with Panama: the 1903 treaty and its revisions in the treaties of 1936–39 and 1955, and twice, in 1907 and 1972, so recognized by the United States Supreme Court.

These sovereign powers were first properly acquired in the 1903 treaty from Panama—a treaty urged upon the United States by those who led Panama to her independence from Colombia, for the very purpose of establishing the Canal in their country, rather than to have it go through Nicaragua, then seriously under consideration in the United States Congress.

Sovereignty is supreme and independent power as opposed to dependent and conditional power. In order to make the tremendous investment required to build the Panama Canal, the United States had to have authority to do what was necessary and to insure the security of its investment. It received sovereign powers from Panama by treaty, paying Panama and paying all individual owners for the land and property acquired in the Zone. It received these sovereign powers in perpetuity. Nothing of Panamanian ownership was left within the Zone.

This is a United States canal, not a Panamanian canal. The United States has operated it not as a trustee for Panama, but as a trustee for the world commerce served by the Canal, although Panama is by far the greatest single beneficiary.

Through the years, the United States has sought to maintain good relations with our Panama neighbors. We have, through treaties, increased dollar payments to Panama, have returned outlying land and easements considered by the United States no longer required for the defense of the Canal, and, in mistaken gestures of friendship, we have authorized the flying of the flag of Panama alongside the United States flag in the Canal Zone.

Panama received in 1974, directly or indirectly, from the United States as the result of Canal operations, more than $236 million, an annually increasing amount. It received $342 million in foreign aid from the United States for the year 1947 through 1974. All of this, resulting solely from the Canal presence, gave to Panama with its population of about 1.63 million people, about the size of Detroit, the highest per capita income of any nation in Central America and one of the highest in Latin America.

Within the past decade, with the intensification of Marxist revolutionary activity throughout Latin America, the Government of Panama has mounted a campaign to have the United States give up its sovereignty in the Canal Zone. In January, 1964, costly rioting in Panama was accompanied by Red-led mob attacks on the Canal Zone. Canal service was not interrupted because United States forces in the Zone were able to repel the attacks.

Some high United States officials have argued that the United States can give up its sovereign powers and return the Canal Zone to Panamanian jurisdiction, keeping by treaty only the right to operate and defend the Canal. They ignore history and the realities of world power.

If the United States were to give up sovereignty and depend upon a treaty to support its presence in the Isthmus of Panama, it would merely have the same type of insecure status which Britain had before it was evicted from the Suez Canal. Were we to surrender our sovereign power over the Canal Zone, the Soviet Union would be glad to negotiate a new treaty with Panama to provide for the operation and defense of the Canal, under Soviet control. And who, except the sovereign has a right to decide how his territory will be defended?

The Canal Zone is the United States Canal Zone, bought and paid for by the United States. The proposition that a sovereign who alienates his territory has a "right" to take it back is legal nonsense.

In London, on BBC, March 1, on the Buckley "Firing Line" program, while being interviewed by very distinguished British journalists, including Malcolm Muggeridge, Aleksandr Solzhenitsyn said:

"There was a time at the beginning of the Fifties, when nuclear threat hung over the world, but the attitude of the West was like granite and the West did not yield. Today this nuclear threat still hangs over both sides, but the West has chosen the wrong path. You can be taken simply with bare hands. Why on earth, then, should one have nuclear war? If you have raised your hand and are giving in, why have nuclear war? They (Soviet Russia) will take you, simply like that, without nuclear war."

Writing in Le Monde, May 31, 1975, Solzhenitsyn said:

"The victorious Western nations have transformed themselves into vanquished nations, having ceded more countries and peoples than have ever been ceded in any surrender in any war in human history. That is why it is not speaking metaphorically to say: The Third World War has already taken place and has ended in defeat. . . . Two or three decades of peaceful coexistence (or detente I might add) as glorious as the last ones and the very concept of the West will vanish from the face of the earth."

On the opening day of the present session of Congress, Assistant Senate Majority Leader, Robert Byrd said: "Everywhere I look America is in retreat." It certainly is!

The reality is that the United States must continue to operate and defend the Canal, and that sovereignity in the Canal Zone is essential to the performance of that task. Panama's sovereignty is untrammeled in its own jurisdiction, just as that of all other countries. When it casts covetous eyes on the United States Canal Zone, we must have leaders with the courage and vision to reply to demands for weakening our sovereign control over the Zone territory with always a resounding "NO!"

The strongest substantive reasons support the necessity to terminate the present negotiations and to substitute for them the completion of the modernization program in the best interests of all concerned. Such action will also serve as the catalyst for a return of competent national leadership, and the restoration of the national will, so needed for the future security of our country!

THE KOREAN CHURCH AND THE SEARCH FOR DEMOCRACY

HON. DONALD M. FRASER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 5, 1976

Mr. FRASER. Mr. Speaker, in the June 1 issue of the RECORD, Congressman JOHN MURPHY inserted some material concerning personal and religious freedom in the Republic of Korea. The material was provided by a Catholic priest located in the United States.

I would like to place in the RECORD today a sermon delivered March 15, 1976, by Stephen Cardinal Kim and a statement of the Bishops of Korea of the same date. These documents indicate support by the church for the statement made on March 1 in which a number of Korea's religious and political leaders courageously called for a return to democracy in South Korea. President Park arrested these individuals and is trying them for violations of the emergency decrees.

In response to President Park's dictatorial methods, Congress, in the Security Assistance Act of 1976, has indicated its distress at the erosion of important civil liberties in the Republic of Korea.

The documents follow:

SERMON BY STEPHEN CARDINAL KIM

My dear brothers and sisters,

We have gathered here today for a very special reason, that is to pray. Certainly the main reason we have gathered together is to pray for the priests who have been arrested or who have been booked without physical restraint as a result of the March First Commemorative Prayer Meeting held in this very Church last week. At the same time we have gathered in order to pray for all who are suffering, and especially for the Church during these difficult times, and for the country and its leaders.

I know among us there are different opinions as to whether tonight's prayer meeting itself is right or wrong. I also have thought much about it and finally decided to hold it.

The first reason is that trouble has come to our house and it is only natural that we gather together as a family to share the anxieties of our brothers who are suffering because of that trouble. The more important reason, however, is that at the present there is nothing else we can do for our brothers who are suffering in prison, for the Church and for the country but, with one mind and heart, put ourselves in God's hands and pray for His blessings and light.

I won't say that the priests involved in this incident unconditionally did the right thing, but I do not think either that they were absolutely wrong. That is because it is clear that their actions were not aimed at overthrowing the government, and it is because I do not doubt either that they did what they did with the intention of doing their best to make this country and its people more right and just, or that they did what they did out of their religious belief, their consciences as priests, and their patriotism.

If we judge that they were at fault, we might be able to do so because of their methods or possible because they sometimes went to extremes in the prayer meetings held since the Bishop Chi incident. But I believe that their motive was right, and that it was based on their faith. I believe this because their fundamental interest was in social justice and the protection of human rights before any interest in political systems.

As a matter of fact this is the teaching of the Church. The 1971 Synod of Bishops' Statement on Justice in the World taught that the Church must do her best to realize social justice, and made it clear that "work for the realization of justice is a constitutive part of the mission of the Church." The Synod of Bishops stated, in its message on the Protection of Human Rights issued in 1974, that "the protection of human rights is today one of the Church's greatest missions." In addition, the social teachings of successive generations of Popes and the teachings of the Councils emphasize that the Church must understand salvation, not in the old, narrow sense of "saving souls", but in the broader sense of developing the whole man. It is this sense that the Church must devote Herself to making every country, in fact the whole world, more human in Christ. Therefore, the Church must do her best to plant the Gospel spirit, justice and love deep in every sphere of society—political, economic, and cultural.

It might be my own view, but I believe that the priests began this movement with the intention of putting these teachings into practice and of witnessing to these teachings with their own bodies. Even if we admit that, at times, their methods and expressions went against the grain of the Korean Church's present day understanding of her faith, I don't think that the Church should turn away from the problem they have raised. The problem they raised concerns the Church's present-day imperfect witness to the Gospel. It concerns the Church's indifference both materially and spiritually to the poor, the sick, to all our unfortunate brothers.

This is what one of the priests involved in this incident pointed out in a letter he sent to me.

In today's Gospel Jesus says, "Be compassionate as your heavenly Father is compassionate." What does "compassion" mean here? It means love for all our unfortunate brothers—the poor, the naked, the hungry, the sick, those in prison, sinners, etc. Therefore we can interpret today's Gospel reading by saying, "As your heavenly Father has a special love and compassion for these unfortunate men, so too must you."

For the Church to truly be the Church of Christ and, as the Church of Christ to be a true witness to the Gospel she must not consider her own advantage but first must exist among these people. Does the Korean Church in all it aspects exist among these people as it should? Does the Church share the sufferings of these people? Does she work to relieve them? We should take this opportunity to think deeply about this and to examine ourselves.

If we look at the Jesus of the Gospels we see clearly that first of all he was with these people. Jesus always stood on the side of the poor, the unfortunate, the oppressed and the alienated as if he had a special favoritism toward them. He did not take the side of the rich, the powerful and the proud. Jesus was clearly not the politician popular opinion expected. He was not the revolutionary popular opinion expected. Nevertheless, addressing the scribes and the pharisees, who at that time ruled over society, the Church and the people, he rebuked them and called them "Pharisees! Whitewashed Tombs!" While pointing out how they misrepresented the true way and how they oppressed and exploited the people, he called for their repentence. Because of that, Jesus incurred their hate and considered by them as a man who stirred up the people, was executed.

The Gospel says that they did such a thing thinking that it was God's will. Jesus was certainly not a politician, but in redeeming the people by truth and love from sin and from the shackles of the law and the inhuman, hypocritical institutions of the time, he intended to make a new people of God and build the Kingdom of God. To do that he first preached the Gospel to the poor, the oppressed, to those who were held in contempt and to those who were sacrificed by the system.

Having said this, let us turn our attention to the problem at hand. To whom is the Korean Church preaching the Gospel first? The Korean Catholic Church is not a rich Church. Even the membership of the city churches comes mostly from the middle and lower classes. Can we say then that the Church has preserved this image of a poor Church, of a servant Church? The Church is not rich, so why does it project that image?

The main reason is that within the consciousness of the Church, especially within the consciousness of us priests and religious there, is little, if any, concern for the poor. Our sense of sacrifice and service for the sake of the poor is too small.

Not long ago when I saw another priest voluntarily going in among the poor I had this thought. It seemed only natural that, if we take the Jesus of the Gospel as our model, we would move in with the poor and share their sufferings as this priest was doing, and yet how is it that I myself feel strange about it and how is it that within the Church today such a thing is the exception? I think this is the real problem.

Within the Korean Church today there are certainly personnel or facilities to serve the poor and the unfortunate. However, within the consciousness of the Church in Korea and also within her view and style of life these sorts of things are exceptions. For that reason, although to others it may seem that the Church is in the lead as far as social justice and the safeguarding of human rights is concerned, in reality it is the exception and the work of a few. For that reason these people while giving themselves to the work of the Church, cannot avoid feelings of disappointment and loneliness. In this aspect they resemble Christ who, deserted by his disciples, walked the road of His passion and death on the cross all by himself.

The priests involved in this present incident are following the same lonely road. Jesus was not a politician. However, because he called himself a king, they considered him a man grasping for political power. These priests have incurred a bad name under similar circumstances. Will we also accuse them so?

Jesus was executed on the cross for the crime of stirring up the people. In the same way these priests are doomed to be severely judged by the government for the crime of stirring up the people. Will we also throw stones at them in the name of the same crime? Among us there are many who hold a grudge against these priests. They will accuse them of imprudence. But before accusing them or rebuking them should we not consider whether they have more concern for the poor and the unfortunate than anyone else among us?

Are we able to judge these men properly? In line with today's Gospel, let us not recklessly judge others. If we don't then we ourselves won't be judged. Let us not condemn these men easily. If we don't then we ourselves won't be condemned. If these men have done anything wrong then let us forgive them with a generous and a brotherly love. If we do then we too will be forgiven our sins.

Although this present test is extremely painful, I think it is a reforming grace given to you and to me and to the whole Korean Catholic Church during this holy season of Lent. The Church will surely become mature through this ordeal.

As St. Paul says in Second Corinthians 4:10, so too are we able to say, "We always carry with us in our body the death of Jesus, so that the life of Jesus, too, may always be seen in our body."

Our witness to the truth of the Lord Jesus' presence within us is not proclaimed merely by word but by one's actions as well. Especially in the midst of a society that is suffocating the voice of truth, in order to bear witness to the truth there is no other way but to suffer for the truth. It is the same with witnessing to justice and love. To witness to truth, justice and love is by no means easy. Sacrificing and suffering to the extent of offering one's life, to death on the cross: these are what is inevitably demanded. I believe that the Korean Church today, more than at any other time, is being summoned to respond to this call.

If the Church takes advantage of this present situation to examine herself deeply and to renew herself by Christ's love, then she will become a true Church which confesses Christ's Passion and believes in the Resurrection.

The One who, in his life, fights and wins a battle against darkness, becomes, after his death, the light that dispels darkness. Christ was such a one, and so were our martyrs. The following teaching of Do San (Ahn Chang Ho) has been left to the people:

"Truth always has its disciple,
Justice always has its day;
Though you are killed, don't lie."

We should consider these words deeply today. Before these words, given by Do San, a teacher of our people, who devoted his whole life to our nation's independence, there can be neither loyalist group nor opposition group. All of us, without distinction: statesman or ordinary citizen, cannot but believe these words. And to that extent these words are immortal words that the entire nation must follow. If all the people take these words deeply to heart and follow them with one mind, our people will be united; unification will be achieved, and our people will become a light in world history.

In conclusion I would like to say something to those who align themselves with the priests involved in this incident. Be open to those who hold opinions different from your own; love them and forgive them. I worry that if you do wrong by condemning those who condemn you, you yourselves might receive the Lord's harsh judgment.

Jesus said, "Love your enemies!" Even from the cross Jesus loved and forgave his enemies. Only this kind of love can solve all the world's problems. Only this kind of love can save the world.

Just this morning I read a beautiful prayer that has much meaning for us and should be our prayer today; it is from Anthony Bloom's book, "Living Prayer". It is a prayer written by a Jew in a forced labor camp in Nazi Germany during World War II, and I pray it now:

"Grant peace to evil men! Announce the end of all revenge, hate and the desire for retaliation! Evil exceeds beyond measure, and human understanding no longer is able to rule. There are too many martyrs. Lord, don't measure out their suffering according to a scale of strict justice, and don't dole out to the oppressors suffering calculated according to the suffering they doled out. Repay them in a different way. To those who administered the death penalty, to the traitors, to all evil men: give courage and spiritual strength; give them humility and dignity; give them interior power and hope; give them a smile that gathers all tears and death. Send into their hearts the kind of love that is able to remain even in one's weakest moments. O Lord! We place all these things before you for the generous forgiveness of sinners. Consider the good and not the evil. Make us able to help these men when they turn away from their sins. We beg that we can help them, and not merely call for their repentence based on our recollection of their evil deeds (or what seems like a bad dream or a ghost). We desire nothing but this. Afterwards help us to be able to live as men among men; and grant peace both to evil men and to good men on this poor earth."

This is a beautiful prayer! This is a prayer of love even for one's enemies. We must, little by little, become accustomed to this kind of love.

As St. Paul says, "love covers all, believes all, hopes all, endures all. Love alone remains." I pray that this kind of love, and the God who is Love, remain with you.

Statement of the Bishops of Korea Regarding the March 1st Prayer Meeting Incident

1. As a result of the March 1st Prayer Meeting incident three priests have been arrested and four have been booked without physical detention (restraint). According to the prosecutor's announcement the priests together with a number of socially prominent persons, Protestant ministers, and former professors plotted to overthrow the government in order to seize power for themselves.

We know that these priests, since the year before last, while advocating social justice and the protection of human rights through prayer meetings, have adopted a critical attitude toward the government. In addition, we believe that these actions are an expression of a judgement based on their Christian faith and their patriotism.

Moreover, the priests have never attempted to overthrow the present government, and did not have the intention at the March 1st Prayer Meeting.

Accordingly, the fact that it was announced as if the priests involved in the incident plotted to overthrow the government truly shocked us.

2. We call on the government to deal with this incident in a fair and just trial. That means that the government guarantees all the accused charged by the prosecutor a full and adequate defense.

3. While we continue to watch carefully

the progress of this incident, we pray that the light of God's justice will be not only with the priests involved and the Church but with the government and all the people as well.

In the future prayer meetings must follow the guidelines set down by the bishops and issued on February 28, 1975.

KANSAS PHYSICIAN PROVIDES IMPORTANT EXAMPLE

HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 5, 1976

Mr. SIMON. Mr. Speaker, a few years ago our family drove down the Pan American Highway to Costa Rica. We made several stops along the way and one of them was to meet and to see the work of an American physician we had read about and heard about. He is Dr. Carroll Behrhorst who is originally from Winfield, Kans. He has pioneered in a combination of medical and social work with the Indians of the Chimaltenango area of Guatemala.

He has aptly been described as the Albert Schweitzer of this decade. World Health Organization personnel beat a path to his door.

Many nations have come to study what he has done and is doing. Someone recently sent me a copy of the magazine Contact which is put out by the Christian Medical Commission of the World Council of Churches and is published in Geneva, Switzerland.

It contains an article oy Dr. Behrhorst describing his activities. Because it indicates so clearly the kinds of sensitivities we need in the United States as well as in other nations, I am having it reprinted here for my colleagues:

THE CHIMALTENANGO DEVELOPMENT PROJECT, GUATEMALA

Guatemala is a Central American country which shares one unique feature with Bolivia and Peru: the majority of the population is Indian. In Guatemala they represent two thirds of the population, and their life style, habits and value system are still very much as they were before the Europeans came. They have held on to their culture very tenaciously and very successfully. This has to be clearly understood when you are working with them. In fact, it makes your work easier because you are dealing with people who do not try to be like you or to copy your ways. You are obligated to work with them on their terms.

Guatemala is a very poor country economically. Its gross national product is the lowest in Latin America. Only 2 percent of the children finish the sixth grade of school. Where we live, in Chimaltenango, which is the capital of a political department and only 50 km from Guatemala City, only 10 percent of the children attend school. This is because the Indian is mostly interested in practical things which he considers useful. To him it is most important that he be a useful and loving human being, and therefore it is hard for him to accept theories. For this reason he has little time for formal education, because he does not consider it very useful and, moreover, it is a part of the European culture which he is not prepared to accept.

These people have serious health problems. Malnutrition is very high, and 80–85 percent of the children are at least moderately malnourished. The death rate is also high, especially among the Indian population in the highlands of Guatemala. Approximately 50 percent of the children die before they are five years old. Another problem related to health is that of land tenure. It is estimated that 2 percent of the population own approximately 90 percent of the tillable land. Therefore, you cannot avoid this problem when dealing with the health and development of the Indian people. However, it is an extremely difficult problem to deal with, because those who own the tillable land are most reluctant to see the Indian have ownership. So, one has to move slowly in developing a model of land resettlement, but we have started, even though there is little to show for our efforts thus far.

Let me tell you how I became involved in this work. After finishing my medical education in Missouri, I was anxious to find a field of service outside the USA. One day I read an appeal in the Lutheran Witness, which is a publication of the Lutheran Church-Missouri Synod. It called for a doctor to serve in Guatemala. I telephoned the director of the Latin American section of the mission, and he told me that they were anxious to reopen a hospital which was located in the ancient capital, Antigua. After several visits to the country, I decided to settle there, but I was doubtful whether Antigua offered an opportunity for meaningful service. I suggested to the mission that we move 20 km from Antigua to the town of Chimaltenango, which is the capital of a large department, with about 200,000 population, and where the only medical facility consisted of a small clinic handling 15 patients three times a week. The place was bereft of services, whether for health, agricultural extension, or any other kind of social service.

Having made the choice to work here, it became difficult to continue with the local mission, which seemed more interested in promoting its own organization than in service to others. Nevertheless, I must admit that, though I may be critical of Christian missions and their organizations, it is they who pioneered in this field of service for others, and without their inheritance I would never have been moved to work in Guatemala; and without the help of Christian workers I would never have been able to develop our programme. I owe a great deal to Ivan Illich who has a very healthy and basic understanding of what people and communities need. His recent book, "Rebuilding Society", provides an excellent diagnosis, although I am less sure about the therapy. Two others who have helped me in the development of programme are Dr. Wolfgang Bulle, the medical director of the Lutheran Church—Missouri Synod, and the Reverend Ralph Winter of the United Presbyterian Mission, who is now teaching at the Fuller Seminary in California. I must also point out that when I talk about the programme in Chimaltenango, I am referring to the whole team of 55 workers. Some work in the hospital and clinics; others work in the medical and agricultural extension and family planning programmes. We work as a team, with each entering into the decision-making process. The doctor helps with the cleaning. The cleaners assist with injections.

In Chimaltenango we felt that we must begin by knowing the people—what they were like and what they thought they needed. This is easily said, but not so easily done. The more usual pattern is to start by recognizing that they have no medical services and putting up a building immediately, with a big sign outside "Open for service". However, we had to discipline ourselves in order to think with the people on their terms, so as to see what their needs really were and what they thought they needed. Most of us, in this kind of situation, see that children are dying of diarrhea, measles, and so on. There is a high incidence of tuberculosis. We want to start treating these people by giving immunizations, for this is what the average doctor is trained to do; and it is also very gratifying to do the things you think are needed. The only difficulty is that you are then helping people on your terms, and not on theirs. Yet if you are really going to help people and be concerned about them and love them, you must love them on their terms, not yours.

This is very difficult for a technocrat who comes out of a US medical school, because he has become accustomed to think in terms of what he can do FOR people and not what he can do WITH them. After all, we have the technological tools; so we decide that we will lower the infant mortality rate and lower the measles rate, and that people will have fewer children—but always on our terms. It rarely occurs to most of us to sit down with people and simply ask "What do you think you need?"

You might be surprised by what other people think they need. We think they need triple vaccine and more protein in their diet, and while it is true that they need these things, they are probably much more interested in other things altogether.

About three months ago, we visited a village high up on a mountain. We did have a programme for the women of the village at one time, but for various reasons it failed. There were no services of any kind available in this village, and we decided that we would try again to reactivate the womens' club. After calling the women together, we told them that we would like to work with them again, but that nothing would be done until they had an opportunity of discussing their needs with their husbands and neighbours. We knew that most of the children in this village suffered from diarrhea, but we did not want to start with a medical programme until we had first listened to the people's own expression of their needs.

A month later we returned and spoke with the women again. They did not say that they wanted medicine for diarrhea. Instead, they said: "All our chickens died." That was really a problem for them because they were 15 kilometres from the nearest market, which only opened once a week, and so meat was no longer available to them. Normally, chicken is their only source of meat. They also complained that there were no eggs for their children, and that the new eggs were good for them. They then went on to say that another need was to grow apples.

They grew well at that altitude and could be sold profitably in the market. These then were the things they needed—chickens and apples. Nothing else was discussed, and we promised to send them an agricultural extension worker who would teach them to build proper chicken houses and how to feed and immunize the chickens. And when the right time of the year comes around, he will help them plant apple trees—nothing else. When you help people on their terms, you have no acceptance problem.

You may think I have overemphasized this point, but I think it is very necessary. Even though community health programmes may look very good on paper, they often fail because they have been designed solely by professionals and have not started by helping people on their own trems. Religious organizations are often the worst offenders in this respect.

When we first began in Chimaltenango, I did nothing but walk around the town and get acquainted with the people and play with the children. Gradually I would be invited into their homes to have coffee with them or to sit down to a meal of tortillas and beans. This went on for three months until I was well-known in that town and accepted. Then we rented a building for $25 a month, so there was no investment. One hundred and twenty-five patients came that first day, and we have never had less than that number since.

They now average 200 per day. Giving curative services is no problem. It is easy to cure someone, but not so easy to keep him well. The orientation of our programs is not to think in terms of medicines or in terms of disease, but rather to think in terms of health and life, and vital life, or what Ivan Illich calls convivial living. Curing is not the important thing. It is much more important to encourage life; and this is not very difficult in Guatemala because the Indians themselves are dedicated to life. They are a very biophilic race.

They do not think in terms of death, because death is considered to be a perfectly natural thing. After some experience working with these people, we came to realize that they were in need of other services besides health care. The following list represents our present estimate of priorities:

Social injustice.
Land tenure.
Population control.
Agricultural production and marketing.
Malnutrition.
Health training.
Curative medicine.

You notice that I put curative medicine at the bottom, which is where we regard it in our list of priorities.

We soon realized that all the things I have listed above are part of a total community problem. Moreover, they are all interrelated. For instance, the incidence of tuberculosis is related to land tenure. In San Juan Comalapa, each Indian family owns a small tract of land. And so they can produce vegetables and corn. In fact, they often have more than they need for their tortillas, so that they can buy some meat occasionally and some eggs. They not only eat better, but they tend to be less crowded. Now, it is known that tuberculosis is a disease of poverty, primarily because of poor diet and crowded living conditions. On the other hand, in an area around San Martin, the land is owned by wealthy landowners, who are always white, and it is in this area that the incidence of tuberculosis is very high.

Therapists tend to think of treating tuberculosis with drugs, although they will concede that the best way to treat tuberculosis is to improve the diet. But this method of therapy is not the way to treat tuberculosis in the Department of Chimaltenango. Such treatment would have a negative effect if you simply treated the people who are clinically sick, because then you would divert too much of your energy to this technological gimmick, whereas the basic problem lies in the maldistribution of land. Until you work with that basic problem, you are probably wasting your time.

You may think you are doing something effectively, but you are not. This illustrates how you get into all kinds of activities, once you become involved in total community service. This is the reason why a doctor like myself has to become involved in a land development programme in order to make land available to farmers through our land loan programme. Some of our Indian population had to break up their families in order to go down to the south coast to work on coffee plantations. They would be away for three or four months at a time and be exposed to diseases they had never been exposed to before and would come back half sick and spend all the money that they had made in trying to get well again.

The only way we could help them was to give them loans in order to buy a small piece of land for themselves. In one project we have made money available to 56 families who now own their own land, consisting of five-acre tracts. All of them have increased their corn production at least four times, and one even increased it ten times through good land management. After the first year, most of them were able to pay back as much as a third of their loan.

The money is loaned over a five-year period at 8 percent annual interest. Repayment is no problem. The problem is to find the capital to make loans available, and we are always searching for more money to add to the loan fund for land development.

I have mentioned that Indians are a very biophilic race. They do not take kindly to limiting their families. Yet if they continue to have an average of six to eight children, the next generation is going to be in serious trouble again, in spite of the fact that they now own some land.

For this reason we have a family planning programme, but it requires patient education for people to see the consequences of overly large families.

We have a programme for the training of health promoters. It is not difficult to train people to apply and to accept a Western style of health services. The Indians are ready to accept anything which has proved itself useful and successful. They are willing to accept that a little body with high fever and a lot of cough gets more benefit from an injection of penicillin than from drinking some kind of tea or putting leaves on his chest.

In fact, they use very few so-called traditional drugs. Before we came, the Indians would purchase their Western medicines from the pharmacists, and every little town had someone who would give injections. These pharmacists were primarily indigenous. They had no idea what the patient was suffering from; they just sold him some medicine. The situation has now changed somewhat, because the Government is training health workers who visit local clinics twice a week.

But ten years ago nothing like this existed, and so we had to develop a training system so that Indians could be taught how to recognize common medical problems and how to treat them—not to be paramedical workers but actually be curers themselves and really be responsible for offering total community health services.

We have found that it is very important to be careful in the selection of those who are to be trained. Originally we took those who were recommended to us by a local priest or a Peace Corps volunteer. We have since learned that this is not the ideal way to select people. Our approach now is to assist each local community to set up a community betterment committee which includes a health committee.

Then the community health committee selects someone within that community whom we are to train. This has worked very well because it avoids some of the pitfalls that we have in the medical monopoly in the Western world. The man that we train represents the community, and the community then is responsible for him and can discipline him.

We had to withdraw one of these health promoters because the local community health committee was not happy with the way in which he was offering his services. This local committee has a list of the prices of the medicines. Each man is allowed to charge according to this price list, and the community knows what the medicine costs. In addition, he can charge a 25-cent fee for his call or for his services. Since the community is involved in setting the charges, it becomes impossible to develop a monopoly like we have in the United States and many other places in the world, where the doctor can charge any fee he likes.

Where doctors hold a monopoly, as they do in most countries, they are then able to set the fee and the conditions for their services. We wanted to get the service out of the hands of this monopoly, and so we insisted that the community which wants a community health leader must first form a committee which will be responsible for him, both during his training and later.

The training is very practical. They spend a good deal of time making rounds in the hospital and seeing actual clinical cases. They learn to know what they can do in their own village for a particular problem when they are responsible for it.

Treatment is by symptom only. They are not taught to interpret symptoms. In my experience, this is very important. When I was in Africa recently, I visited a hospital where an American doctor was training medical assistants, and he told me that when he checked their reliability, he found that they mistreated 45 percent of the patients. That is very serious indeed.

These medical assistants had received very sophisticated training, but they were getting into serious trouble bceause they were trying to interpret the symptoms in order to make a diagnosis. It is in interpreting symptoms that doctors make too many errors. A lot of them would get in less trouble if they would simply listen to the patient and then treated what he told them, instead of relying on complicated gadgets. I think it is very important to understand that in order to treat people you have to spend time listening to them.

It is a big defect in modern medicine that doctors do not take sufficient time to listen. The average patient will tell you what is wrong with him. For this reason we teach our health promoters to treat symptoms, and their reliability is quite high. In a study which was made about five years ago, 91 percent of the patients were treated properly.

If a well-trained doctor treats 91 percent of his patients properly, then he has an excellent record!

We are now developing a two-year study of the reliability and acceptability of our health promoters. We also want to know whether their position is affecting their status in the local community. You will be surprised to hear that some of those we have trained have never gone to school. However, it is not necessary to go to school to be able to practise medicine.

The complicated training which the doctor receives is perpetuated by the medical monopolists in order to continue their monopoly. One of the necessary components in the success of our programme lies in the careful supervision of each health promoter. This again is rather different from normal medical practice. The only supervision an average doctor receives is when he gets too far out of line and a lawsuit is brought against him.

If he does something very bad indeed, he might be discharged from the medical society; but that is a rare thing to happen because doctors are not very good at disciplining each other.

Our health promoters are supervised in various ways. Each one has to come for at least three days every month. On one of these days they will have to take a written examination in which they are given patients to see, and then they have to describe what they would do for this particular problem at home and what they would recommend to the family so that the problem need not recur. If they make a failing grade in the examination, they are not allowed to buy medicines for a month until they have passed the next examination. Some people would say that if they do not have medicines, other people in the village will suffer.

That may be true, but we believe that it is more important that these health promoters act in a responsible way and are capable. If they are not capable, they should not be allowed to work.

We have also used a visiting supervisor. Until three months ago, we had a British doctor doing this. He would visit each one of the health promoters and spend three days a week with him, also visiting the neighbours and looking into the quality of the promoter's work. He would note if the house of the promoter was clean and if he had adequate medicines and observe his methods for cleaning syringes, etc. We now have one of our own health promoters who has taken the place of the British doctor as a visiting supervisor, even though he had only gone through the second grade.

He is already doing a remarkable job—even better than the British doctor who went to school for 22 years. This is no reflection on the doctor but is because of the nature of the local supervisor, who is an Indian himself and can understand his fellows and discipline them more effectively. This again supports my contention that we must break down the medical monopoly if we are going to bring health care effectively to people who now have no service of any kind. When most people think of health, they think of the doctor; but the doctor actually has very little to do with health, even though he takes credit for it. Nature cures most problems.

Seventy-five to 80 percent of most illnesses are self-limiting. The patient goes to the doctor who gives him an injection or some drugs, and after about a week or ten days, nature takes care of him itself. The doctor takes credit for nature's work and is paid for it, and yet sometimes the doctor has had a negative effect because his drugs have delayed the patient's normal, natural recovery.

It will not be easy to break this medical monopoly, but perhaps in the next generation people will realize that they do not have to go to the doctor for their health. People have to be taught to take care of themselves and to know what to do when these self-limiting illnesses occur. We still need doctors to diagnose and treat some of the more complicated conditions.

Finally, let me summarize the salient features of our community programme in Chimaltenango. Some of the principles enunciated here may be of help to others who wish to start such programmes:

The concept of complete orientation to those to be served. This is the first essential step.

If you do a demographic survey, be sure it includes the questions, "What do you think your needs are?" and "How do you think we can help you?" Avoid offering services on your terms.

Community health committees of local people should first be organized and functioning before the first aspirin is given out or a band-aid put on. These grass-root committees in each community then themselves select the people to be trained to offer the services, supervise them, discipline them, report on them, and are in complete charge. The community committee will set the standards of service and the prices charged for it.

Community services are just that—total service for the whole community, including all types of services requested, depending on local needs and custom and availability of materials. The practice of medicine is only a small part of the total pattern, which includes responding to total community needs, whether that be in the field of agriculture, marketing, housing, home-crafts, nutrition, family planning, schooling, transport, etc. The hospital compound will not be possible in such a scheme, and the compound walls that do exist will be battered down so that all services and work and love freely flow in all directions.

Outside input is obviously needed in materials, manpower, headpower, direction and supervision—but always in terms of local custom and tradition, along with a complete dedication by the expatriate to training his local counterparts.

Community health promoters (or medical assistants, or dressers, or whatever label they might bear) should always be selected by the community to be served.

Training should be arranged so that the trainee can continue his usual work, continue his family and community identity, with absence from his home at a minimum. Training programmes at distant centres too often disrupt family and community identity and may corrupt the trainee with exposure to a foreign culture and life style which make return to his family and community difficult, if not impossible. If absence from home is necessary, the courses should be short, with frequent return to family and community.

Medical training demands use of clinical patient-teaching material in either a dispensary or hospital-type service, so that the clinical picture is seen and appreciated and understood.

Treatment of ailments is done by symptoms, not by diagnosis. Even people with the most sophisticated training, with years in school to understand the mechanism of disease, too often err in their interpretation of the symptoms to make the diagnosis. Our experience is that symptom treatment results in a relatively low error in management, realizing that most medical problems are rather simple and, with nature's help, actually heal themselves.

Medical training demands that the trainee know equally well what not to treat as well as what to treat and how to treat it. The future of nonprofessional curing demands that this concept not be violated.

Supervision of lay curers is obligatory, and the nature of this supervision depends on local circumstances. In the Guatemala programme this supervision is done by requiring regular attendance at clinical training sessions, regular examinations (both oral and written), regular visits by the supervisor to the health promoter's site, and regular reports from the local community health committee about the health promoter's work, its quality and acceptance and the fees charged.

Fee-for-service should be decided locally, but the central agency should not, under any circumstances, put anyone on the payroll. The community is being served, so the community pays—with no exceptions. If this work is undertaken by a mission or a church, the only people to be on the payroll should be trainers and supervisors—nobody else.